

IN THE OFFICE OF THE STATE ENGINEER
OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATION 67803,)
FILED TO CHANGE THE MANNER OF USE)
OF THE WATERS OF COLORADO RIVER)
PREVIOUSLY REQUESTED FOR)
APPROPRIATION UNDER PERMIT 15024,)
CERTIFICATE 4344, WITHIN THE)
COLORADO RIVER VALLEY)
HYDROGRAPHIC BASIN (213), CLARK)
COUNTY, NEVADA.)

RULING
5094

GENERAL

I.

Application 67803 was filed on July 12, 2001, by the Clark County, Department of Comprehensive Planning to change the manner of use of 0.0023 cubic feet per second of Colorado River water, previously permitted for appropriation under Permit 15024, Certificate 4344. The proposed use is for wildlife watering and habitat preservation purposes within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 36, T.26S., R.65E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 36, T.26S., R.65E., M.D.B.&M.¹

FINDINGS OF FACT

I.

Application 67803 requests a change in the manner of use of surface water previously permitted for appropriation under Permit 15024, Certificate 4344. This senior water right represents the base right permit requested for change under Application 67803 which was declared null and void by State Engineer's Ruling No. 4718, which was issued on March 31, 1999. The State Engineer finds that the voiding of Permit 15024, Certificate 4344 removes the water right permit requested for change under Application 67803.

¹ File No. 67803, official records in the Office of the State Engineer.

II.

Nevada Revised Statute § 533.325 provides that an application can be filed to change the point of diversion, place of use or manner of use of water already appropriated. Water already appropriated, in reference to a change application, refers to water represented by a water right in good standing.² Where a water right permit has been declared null and void, the water right no longer exists and cannot be used to support a change application. The State Engineer finds that Permit 15024, Certificate 4344, cannot be used to support the change proposed under Application 67803.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.³

II.

The State Engineer is prohibited by law from granting a change application to appropriate the public waters where:⁴

- A. the proposed use or change conflicts with existing rights;
- B. the proposed use or change conflicts with protectible interests in domestic wells as set forth in NRS § 533.024; or
- C. the proposed use or change threatens to prove detrimental to the public interest.

III.

Application 67803 proposes to change a certificated water right that was declared null and void by the State Engineer. The State Engineer concludes that it would threaten to prove detrimental to the public interest to approve an application that requests a change of a permit that is no longer considered to be in good standing.

² NRS § 533.324.

³ NRS chapter 533.

⁴ NRS § 533.370(3).

RULING

Application 67803 is hereby denied on the grounds that the approval of an application that requests a change in a permit that no longer exists, would threaten to prove detrimental to the public interest.

Respectfully submitted,

A handwritten signature in cursive script that reads "Hugh Ricci, P.E." with a diagonal line through the "E".

HUGH RICCI, P.E.
State Engineer

HR/MB/jm

Dated this 10th day of
January, 2002.