

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

IN THE MATTER OF APPLICATION)
63662 FILED TO CHANGE THE)
POINT OF DIVERSION AND PLACE)
OF USE OF A PORTION OF THE)
UNDERGROUND WATER PREVIOUSLY)
APPROPRIATED UNDER PERMIT)
57649 WITHIN THE PAHRUMP)
VALLEY HYDROGRAPHIC BASIN)
(162), NYE COUNTY, NEVADA.)

RULING

5245

GENERAL

I.

Application 63662 was filed on December 29, 1997, by Bruce and Michele Taylor to change the point of diversion and place of use of 0.0143 cubic feet per second (cfs), a portion of underground water previously appropriated under Permit 57649. The manner of use is for the irrigation of 0.8 acres within the E $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 33, T.20S., R.53E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 33.¹

II.

Permit 57649 was issued on August 23, 1993, to John O. Parko, for the diversion of 0.3169 cfs, not to exceed 88.5 acre-feet annually, for the irrigation of 17.7 acres within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 36, T.21S., R.53E., M.D.B.&M. The water right represented by Permit 57649 has been through a series of title assignments and change applications.²

¹ File No. 63662, official records in the Office of the State Engineer.

² File No. 57649, official records in the Office of the State Engineer.

FINDINGS OF FACT

I.

The State Engineer shall not consider a change application for approval unless the owner of the change application can demonstrate title to the permit that forms the basis for the change application. A review of records in the Office of the State Engineer shows that the applicants do not own the portion of Permit 57649, which forms the basis for change Application 63662; therefore, the State Engineer finds Application 63662 can be considered for denial.

II.

The State Engineer finds that before either approving or rejecting an application, the State Engineer may require such additional information as will enable him to properly guard the public interest.³ By letter dated March 5, 1999, the applicants were requested to submit appropriate documents to update the ownership of record and show title to the portion of Permit 57649, which forms the basis for change Application 63662. The State Engineer finds that the applicants failed to respond.¹

III.

By certified mail dated July 28, 2000, the applicants and their agent, were requested to update the ownership of record and show title to the portion of Permit 57649, which forms the basis for change Application 63662. The applicants and their agent were warned that failure to respond within 30 days would result in denial of the application. The certified mail to the applicants was returned by the U.S. Postal Service marked "Unclaimed." The letter was re-sent to the applicants by regular mail on August 23, 2000. A properly endorsed certified mail receipt was received from

³ NRS § 533.375.

the applicants' agent on July 31, 2000.¹ To date, no information on this matter has been submitted to the State Engineer's Office. The State Engineer finds that the applicants and their agent were properly notified of the request for additional information and failed to respond.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁴

II.

The State Engineer is prohibited by law from granting a change application to appropriate the public waters where:⁵

- A. there is no unappropriated water at the proposed source;
- B. the proposed use or change conflicts with existing rights;
- C. the proposed use or change conflicts with protectible interests in existing domestic wells as set forth in NRS § 533.024; or
- D. the proposed use or change threatens to prove detrimental to the public interest.

III.

The State Engineer concludes that the applicants failed to respond to requests for additional information and sufficient information is not available to properly guard the public interest.

IV.

The State Engineer concludes that to approve an application to change a water right that is not in the name of the applicants would threaten to prove detrimental to the public interest.

⁴ NRS chapters 533 and 534.

⁵ NRS § 533.370(3).

RULING

Application 63662 is hereby denied on the grounds that to grant a permit under this application would threaten to prove detrimental to the public interest.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/CB/jm

Dated this 19th day of
May, 2003.