

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

IN THE MATTER OF APPLICATION 60918 )  
FILED TO CHANGE THE POINT OF )  
DIVERSION AND PLACE OF USE OF A )  
PORTION OF THE UNDERGROUND WATER )  
PREVIOUSLY APPROPRIATED UNDER )  
PERMIT 10245, CERTIFICATE 2651 )  
WITHIN THE LAS VEGAS VALLEY )  
HYDROGRAPHIC BASIN (212), CLARK )  
COUNTY, NEVADA. )

RULING

**# 5758**

GENERAL

I.

Application 60918 was filed on February 13, 1995, by W. Howard Hoffman and Jane A. Hoffman, Trustees of the W. Howard Hoffman and Jane A. Hoffman 1988 Living Trust, to change the point of diversion and the place of use of 0.0095 cubic feet per second (cfs), not to exceed 6.88 acre-feet annually (afa). This being a portion of the water previously perfected under Permit 10245, Certificate 2651. The proposed manner of use is for the irrigation of 0.95 acres of land within portions of the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 23, T.19S. R.60E., M.D.B.&M.; in addition to a secondary domestic use.

The existing point of diversion and place of use issued under Permit 10245, Certificate 2651, is described as being within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 28, T.20S., R.61E., M.D.B.&M.<sup>1</sup>

FINDINGS OF FACT

I.

Application 60918 requests a transfer of a portion of a water right that was perfected under Permit 10245, Certificate 2651. As required by the State Engineer's regulations, the acreage that is being proposed for transfer was described on the application form and depicted upon the supporting map filed with Application 60918.<sup>2</sup> This portion of the existing place of use of Permit 10245, Certificate 2651 is comprised of Clark County

<sup>1</sup> File No. 60918, official records in the Office of the State Engineer.

<sup>2</sup> Application Map 60918, official records in the Office of the State Engineer.

Assessor's Parcel Number (APN) 139-28-304-005. The Summary of Ownership created for Permit 10245, Certificate 2651, indicates that the Applicants' currently hold title to 0.0073 cfs, not to exceed 5.315 afa of water appurtenant to 0.73 acres of land appurtenant to this specific parcel.<sup>1</sup>

Permit 10245, Certificate 2651 was the subject of a forfeiture determination that culminated in the issuance of State Engineer's Ruling No. 5545 on January 19, 2006. A conclusion was made in this ruling that, "there is clear and convincing evidence of more than five years of non-use of all the water right, except for Mr. Young's parcel," which is referenced in the ruling as APN 139-28-303-003. Having determined that the five consecutive years of non-use had occurred, the State Engineer declared Permit 10245, Certificate 2651 forfeited, with the exception of APN 139-28-303-003. As a result, an active water permit no longer exists under Permit 10245, Certificate 2651 which could support change Application 60918.<sup>3</sup> The State Engineer finds that a portion of Permit 10245, Certificate 2651, which forms the basis for change Application 60918, has been forfeited by the State Engineer; therefore, the change application cannot be granted.

#### CONCLUSIONS

##### I.

The State Engineer has jurisdiction over the parties and the subject matter of this determination.<sup>4</sup>

##### II.

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

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<sup>3</sup> File No. 10245, Certificate 2651, official records in the Office of the State Engineer.

<sup>4</sup> NRS chapters 533 and 534.

<sup>5</sup> NRS § 533.370(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.**

An application may be filed to change the point of diversion, place or manner of use of water already appropriated.<sup>6</sup> Water already appropriated, in reference to a change application, refers to water represented by a water right permit or certificate in good standing.<sup>7</sup> When the subject portion of Permit 10245, Certificate 2651 was forfeited, there was no longer an active water right to be changed by Application 60918. The State Engineer concludes it would threaten to prove detrimental to the public interest to grant a change application when the permit that supported the change has been forfeited.

**RULING**

Application 60918 is hereby denied on the grounds that the water right that formed the basis for the change application has been forfeited and cannot be used to support the change application.

Respectfully Submitted,



TRACY TAYLOR, P.E.  
State Engineer

TT/MB/jm

Dated this 13th day  
of August, 2007.

<sup>6</sup> NRS § 533.325.

<sup>7</sup> NRS § 533.324.