

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

IN THE MATTER OF APPLICATIONS 58674)
AND 58675 FILED TO CHANGE A PORTION)
OF THE UNDERGROUND WATERS OF THE)
PAHRUMP VALLEY GROUNDWATER BASIN)
(162), NYE COUNTY, NEVADA.)

RULING

4227

GENERAL

I.

Applications 58674 and 58675 were each filed on March 29, 1993, by Edith Ryan, to each change the point of diversion, place and manner of use of 0.133 cubic feet annually (AFA), a portion of the underground waters heretofore appropriated under Permit 14946, Certificate 5528. The proposed manner of use under each application is quasi-municipal to serve 55 residential lots located within the S $\frac{1}{2}$ SW $\frac{1}{4}$ Section 5, T.20S., R.53E., M.D.B.&M. The proposed points of diversion are identified as located within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 5.¹

On April 26, 1963, Certificate 5528, was issued under Permit 14946 for the irrigation of 73.4 acres, located within the S $\frac{1}{2}$ SW $\frac{1}{4}$ of said Section 5. The existing point of diversion is located within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 5.² That portion of Permit 14946, Certificate 5528, which is the base right to Applications 58674 and 58675, was issued for the irrigation of 25.07 acres located within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 5.¹

II.

On October 11, 1995, the State Engineer ruled that the portion of Permit 14946, Certificate 5528, serving as the base right to Applications 58674 and 58675, was declared forfeited.³

¹ File Nos. 58674 and 58675, official records in the Office of the State Engineer.

² File No. 14946, official records in the Office of the State Engineer.

³ State Engineer's Ruling No. 4219, dated October 11, 1995, official records in the Office of the State Engineer.

FINDINGS OF FACT

I.

Applications 58674 and 58675 seek to change the point of diversion, place and manner of use of a portion of Permit 14946, Certificate 5528.¹ This portion of Permit 14946, Certificate 5528 was declared forfeited in State Engineer's Ruling No. 4219.³ The State Engineer finds that the base right supporting Applications 58674 and 58675 was forfeited.

CONCLUSIONS

I.

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

II.

An Application may be filed to change the point of diversion, manner or place of use of water already appropriated.⁵ Water already appropriated includes a water right, either a permit or certificate, that is in good standing.⁶ Where a certificate has been forfeited, the water right is no longer valid, thus, it cannot be used to support a change application.

III.

The State Engineer concludes that because Permit 14946, Certificate 5528, was forfeited, no water right exists in Permit 14946, Certificate 5528, that can be changed by Applications 58674 and 58675. Therefore, Applications 58674 and 58675 must be denied.

⁴ NRS 533 and 534.

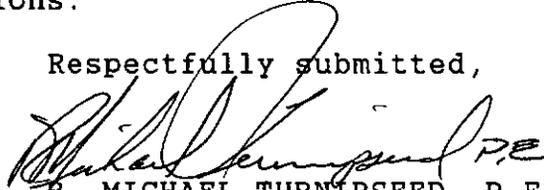
⁵ NRS 533.325.

⁶ NRS 533.324.

RULING

Applications 58674 and 58675 are hereby denied on the grounds that the base right is forfeited and no water right exists that can be changed by said applications.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/JCP/pm

Dated this 17th day of
October, 1995.