

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

IN THE MATTER OF APPLICATION 47738 FILED)
TO APPROPRIATE THE PUBLIC WATERS OF AN)
UNDERGROUND SOURCE WITHIN THE BIG SMOKEY)
VALLEY GROUNDWATER BASIN (NORTHERN PART))
(137B), LANDER COUNTY, NEVADA.)

RULING

4494

GENERAL

I.

Application 47738 was filed on March 2, 1984, by Brigham Rigby Young to appropriate 5.4 cubic feet per second (cfs) of water from the Big Smokey Valley Groundwater Basin (Northern Part) for irrigation and domestic purposes within the SW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, and the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10 and within the W $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 15, T.16N., R.44E., M.D.B.&M. The point of diversion is described as being located within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 15. Application 47738 became ready for action by the State Engineer on July 28, 1984.¹

FINDINGS OF FACT

I.

Records and information available to the State Engineer indicate that Application 47738 was filed in support of a Desert Land Entry Application. By letter dated June 13, 1989, the United States Department of the Interior, Bureau of Land Management, informed the State Engineer that lands the applicant petitioned to be classified for agricultural purposes under the Desert Land Act were classified as unsuitable for desert land entry. Therefore, the above referenced land would be retained in Federal ownership. The State Engineer finds that the applicant is unable to place the water applied for to beneficial use as proposed in Application 47738.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and of the subject matter of this action and determination.²

¹File No. 47738, official records in the Office of the State Engineer.

²NRS Chapters 533 and 534.

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:³

1. there is no unappropriated water at the proposed source, or
2. the proposed use conflicts with existing rights, or
3. the proposed use threatens to prove detrimental to the public welfare.

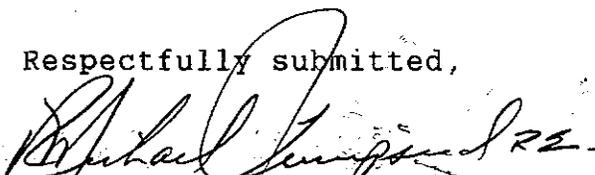
III.

The State Engineer concludes that the applicant does not own or control the land identified as the place of use under Application 47738. The State Engineer further concludes that to grant an application to appropriate public water for irrigation on lands the applicant does not own or control or where the applicant cannot demonstrate the ability to place the water to beneficial use would not be in the public interest.

RULING

Application 47738 is hereby denied on the grounds that to grant an application for irrigation purposes on land that the applicant does not own or control and cannot demonstrate the ability to place the water to beneficial use would threaten to prove detrimental to the public interest.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/BEM/ab

Dated this 14th day of
February, 1997.

³NRS 533.370(3).