

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

IN THE MATTER OF APPLICATION 57878 FILED)
TO CHANGE THE POINT OF DIVERSION, PLACE)
OF USE AND MANNER OF USE OF A PORTION OF)
PERMIT 22145, CERTIFICATE 7755, WITHIN THE)
PAHRUMP VALLEY HYDROGRAPHIC BASIN)
(162), NYE COUNTY, NEVADA.)

RULING

4963

GENERAL

I.

Application 57878 was filed July 24, 1992, by Central Nevada Utilities Company to change the point of diversion, place of use and manner of use of 0.09 cubic feet per second (cfs), not to exceed 6.65 acre-feet annually (afa), a portion of the underground water previously appropriated under Permit 22145, Certificate 7755. The proposed point of diversion is described as being located within the NE¼ NE¼ of Section 31, T.20S., R.54E., M.D.B.&M. The proposed manner of use is for municipal purposes within Central Nevada Utilities Company's service area as certified by the Public Service Commission of Nevada (Public Utilities Commission).¹

FINDINGS OF FACT

I.

Permit 22145 was issued October 7, 1964, for irrigation and domestic purposes to Victor A. Kunz. Certificate 7755 was issued March 3, 1972, for 1.505 cfs, not to exceed 111.40 afa, for the irrigation of 22.28 acres. Tim Hafen Ranches, Inc., acquired Permit 22145, Certificate 7755, from Victor A. Kunz and Erma F. Kunz by Grant, Bargain and Sale Deed, dated January 13, 1975.

On October 24, 1979, the State Engineer approved the Mesa Oeste Estates subdivision as to water quantity for 232 lots to be served by domestic wells based on water from Permits 19228, 22145 and 24568.² Tim Hafen Ranches, Inc., relinquished 93.66 acres, a total of 468.30 afa from Permits 19228, 22145 and 24568 by quitclaim

¹ File No. 57878, official records in the office of the State Engineer.

² State Engineer's subdivision review number 1778F, File Nos. 19228, 22145, 24568, official records in the office of the State Engineer

deed, Nye County Recorder No. 12689, to the State of Nevada to support the use of domestic wells. Of the 93.66 acres relinquished for the Mesa Oeste Estates subdivision, 18.22 acres or 91.1 afa were from Permit 22145.³

On February 8, 1991, Tim Hafen Ranches, Inc., quitclaimed 6.65 afa of water from Permit 22145 to Central Nevada Utilities Company, Nye County Recorder No 279033.⁴

II.

By letter dated December 17, 1997, the State Engineer forfeited Permit 22145, Certificate 7755, pursuant to NRS § 534.090 due to non-use of the water from 1985 through 1992 and no appeal was timely appealed from the declaration of forfeiture.⁵ Therefore, the forfeiture of Permit 22145, Certificate 7755, is final. The State Engineer finds the forfeiture of Permit 22145, Certificate 7755, which occurred prior to the filing of Application 57878, left no valid remaining water right under said Permit to support the change requested under Application 57878.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁶

II.

Nevada Revised Statute § 533.345(1) 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 permit or certificate in good standing.⁷ Where a permit has been forfeited, the water right is no longer valid; thus, it is not in good standing and cannot be used to support a change application. The State Engineer concludes that in the case of change Application 57878 the underlying certificate has been forfeited; therefore, no water right exists that can be used to support the change application.

³ File No. 19928, official records in the office of the State Engineer.

⁴ File No. 22145, official records in the office of the State Engineer.

⁵ File No. 22145, official records in the office of the State Engineer.

⁶ NRS chapters 533 and 534.

⁷ NRS § 533.324.

RULING

Application 57878 is hereby denied on the grounds that due to the forfeiture of Permit 22145, Certificate 7755, no water right exists that can be changed by Application 57878.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/KWH/cl

Dated this 25th day of
August, 2000.