

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

IN THE MATTER OF APPLICATION 62319 FILED)
TO CHANGE THE POINT OF DIVERSION, PLACE)
OF USE AND MANNER OF USE OF A PORTION)
OF UNDERGROUND WATER PREVIOUSLY)
APPROPRIATED WITHIN THE PAHRUMP VALLEY)
HYDROGRAPHIC BASIN (162), NYE COUNTY,)
NEVADA.)

RULING

4989

GENERAL

I.

Application 62319 was filed on July 24, 1996, by Gregory D. Forsberg, Jr. and Martha C. Forsberg to change the point of diversion, place of use and manner of use of 0.007 cubic feet per second (cfs), not to exceed 3 acre-feet annually (afa), a portion of underground water previously appropriated under Permit 18364, Certificate 5505. The proposed manner of use is to provide water service for quasi-municipal use for three home sites located within the SE¼ NE¼ of Section 18, T.21S., R.54E., M.D.B.& M. The proposed point of diversion is described as being located within the SE¼ NE¼ of said Section 18.¹

II.

Certificate 5505 was issued on April 12, 1963, under Permit 18364 for 1.78 cfs, but not to exceed 800 afa, for the irrigation of 160 acres. The water rights represented by Permit 18364, Certificate 5505, have been through a series of divisions, title assignments, a change application, and partial withdrawal and relinquishments.²

FINDINGS OF FACT

I.

The State Engineer finds from records in his office that the applicants, Gregory D. Forsberg, Jr. & Martha C. Forsberg, do not own a portion of Permit 18364, Certificate 5505, to support change Application 62319.²

¹ File No. 62319, official records in the office of the State Engineer.

² File No. 18364, official records in the office of the State Engineer.

II.

Records in the State Engineer's office show that a permit has been granted for an application to change 0.01 cfs, 4.5 afa, of Permit 18364, Certificate 5505.^{2,3} Records also show that a total of 1.770 cfs, 795.50 afa, has been withdrawn and relinquished to support the development of subdivisions.² The State Engineer finds that the total amount of water removed under the change permit, withdrawal, and relinquishments equals 1.780 cfs, 800.00 afa, leaving no valid water right remaining under Permit 18364, Certificate 5505, to support change Application 62319.

CONCLUSIONS

I.

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

II.

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

- A. the proposed use conflicts with existing rights; or
- B. the proposed use threatens to prove detrimental to the public interest.

III.

The State Engineer concludes that Permit 18364, Certificate 5505, is abrogated and there is no water right remaining under the Certificate to support the changes proposed by Application 62319.

IV.

The State Engineer concludes that to grant a permit for Application 62319 when no water right exists under the certificate to support the application would conflict with existing rights and would threaten to prove detrimental to the public interest.

³ File No. 61405, official records in the office of the State Engineer.

⁴ NRS chapters 533 and 534.

⁵ NRS § 533.370(3).

RULING

Application 62319 is hereby denied on the grounds that to grant a permit to change another permit that is abrogated and has no existing water right would conflict with existing rights and would threaten to prove detrimental to the public interest.

Respectfully submitted,



HUGH RICCI, P.E.

State Engineer

HR/CAB/cl

Dated this 22nd day of
December, 2000.