

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

IN THE MATTER OF APPLICATION )  
64507, FILED TO CHANGE THE POINT )  
OF DIVERSION) PLACE OF USE AND )  
MANNER OF USE OF THE )  
UNDERGROUND WATERS OF THE )  
CARSON VALLEY HYDROGRAPHIC )  
BASIN (105), DOUGLAS COUNTY, )  
NEVADA. )

RULING

# 5197

GENERAL

I.

Application 64507 was filed on October 7, 1998, by the Town of Minden to change the point of diversion, place of use, and manner of use of 12.30 acre-feet annually (afa), a portion of the underground waters previously appropriated under Permit 17300, Certificate 5063. The proposed manner of use is Municipal. The existing manner of use is Industrial (gravel plant and domestic). The proposed place of use is:

Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35, and 36, T.14N., R.19E., M.D.B.&M.

Sections 1, 2, 3, E $\frac{1}{2}$  Section 4, NE $\frac{1}{4}$  and NW $\frac{1}{4}$  SE $\frac{1}{4}$ , and E $\frac{1}{2}$  SE $\frac{1}{4}$  Section 9, Sections 10, 11, 12, 13, 14, 15, and E $\frac{1}{2}$  NE $\frac{1}{4}$ , and E $\frac{1}{2}$  SE $\frac{1}{4}$  Section 16, and E $\frac{1}{2}$  NE $\frac{1}{4}$ , and E $\frac{1}{2}$  SE $\frac{1}{4}$  Section 21, Sections 22, 23, 24, 25, 26, 27, E $\frac{1}{2}$  Section 28, E $\frac{1}{2}$  Section 33, Sections 34, 35, and 36, T.13N., R.19E., M.D.B.&M.

Sections 1, 2, 3, NE $\frac{1}{4}$  and NW $\frac{1}{4}$  SE $\frac{1}{4}$  and E $\frac{1}{2}$  SE $\frac{1}{4}$  Section 4, Sections 10, 11, 12, 13, 14, 15, the NE $\frac{1}{4}$  and portions of the NW $\frac{1}{4}$ , SE $\frac{1}{4}$  and the SW $\frac{1}{4}$  of Section 22, Sections 23, 24, and 25, the NE $\frac{1}{4}$  and portions of NW $\frac{1}{4}$ , SW $\frac{1}{4}$ , and SE $\frac{1}{4}$  Section 26, NE $\frac{1}{4}$  and portions of NW $\frac{1}{4}$  and SE $\frac{1}{4}$  of Section 36, T.12N., R.19E., M.D.B.&M.

Sections 1 through 36, T.12N., R.20E., M.D.B.&M.

Sections 1 through 36, T.13N., R.20E., M.D.B.&M.

W $\frac{1}{2}$  Section 5, Sections 6, 7, 8, and Sections 13 through 36, T.14N., R.20E., M.D.B.&M.

Sections 18, 19, 30, and 31, T.14N., R.21E., M.D.B.&M.

Sections 6, 7, 18, 19, 30, and 31, T.13N., R.21E., M.D.B.&M.

Sections 6, 7, 18, 19, and 30, T.12N., R.21E., M.D.B.&M., all in Douglas County, Nevada.

The existing place of use is within a portion of the SW¼ SE¼ Section 30, T.13N., R.20E., M.D.B.&M. The proposed point of diversion is described as being located within the SE¼ NW¼ of Section 29, T.13N., R.20E., M.D.B.&M. The existing point of diversion is described as being located within the SW¼ SE¼ of Section 30, T.13N., R.20E., M.D.B.&M.<sup>1</sup>

## II.

Certificate 5063 was issued on December 30, 1960, under Permit 17300 for 1.0 cubic feet per second for industrial (gravel plant and domestic) purposes.<sup>2</sup>

### FINDINGS OF FACT

#### I.

Records in the State Engineer's Office show that State Engineer's Ruling 5097 forfeited the water to be changed under Certificate 5063 on January 11, 2002.<sup>3</sup> Due to the forfeiture, water no longer exists under Certificate 5063 to support change Application 64507. The State Engineer finds that Application 64507 cannot be approved because the base right certificate has been forfeited.

### 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>

- 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

<sup>1</sup> File No. 64507, official records in the Office of the State Engineer.

<sup>2</sup> File No. 17300, official records in the Office of the State Engineer.

<sup>3</sup> Ruling No. 5097, official records in the Office of the State Engineer.

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

<sup>5</sup> NRS § 533.370(3).

- 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, manner or place 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> Where a water right certificate has been forfeited, the water right is no longer valid; it is not in good standing and cannot be used to support a change application. The State Engineer concludes that Certificate 5063 is not in good standing and cannot support change Application 64507.

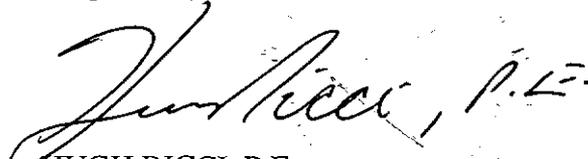
**IV.**

The State Engineer has ruled that Certificate 5063, which Application 64507 seeks to change, is forfeited. Therefore, the base right is no longer in good standing and cannot be changed by Application 64507. The State Engineer concludes that Application 64507 must be denied.

**RULING**

Application 64507 is hereby denied on the grounds that to grant a permit to change a forfeited water right would threaten to prove detrimental to the public interest.

Respectfully submitted,

  
HUGH RICCI, P.E.  
State Engineer

HR/TW/jm

Dated this 10th day of  
January, 2003.

<sup>6</sup> NRS § 533.325.

<sup>7</sup> NRS § 533.324.