

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

IN THE MATTER OF APPLICATIONS)
47288 AND 47289 FILED TO)
APPROPRIATE AND APPLICATIONS)
49676 AND 49677 FILED TO CHANGE)
THE PLACE OF USE OF THE PUBLIC)
WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE BIG SMOKY)
VALLEY (NORTHERN PART))
HYDROGRAPHIC BASIN (137B),)
LANDER COUNTY, NEVADA.)

RULING

#5388

GENERAL

I.

Application 47288 was filed on October 3, 1983, by J. Lavar Young to appropriate 5.4 cubic feet per second (cfs) of water from an underground source for irrigation and domestic purposes in support of a Desert Land Entry. The proposed place of use is 320 acres described as being located within the S $\frac{1}{2}$ S $\frac{1}{2}$ of Section 32, T.18N., R.45E., M.D.B.&M. and the N $\frac{1}{2}$ N $\frac{1}{2}$ of Section 5, T.17N., R.45E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 2, T.17N., R.44E., M.D.B.&M.¹

II.

Application 47289 was filed on October 3, 1983, by Janet D. Young to appropriate 5.4 cfs of water from an underground source for irrigation and domestic purposes in support of a Desert Land Entry. The proposed place of use is 320 acres described as being located within the S $\frac{1}{2}$ N $\frac{1}{2}$ and N $\frac{1}{2}$ S $\frac{1}{2}$ of Section 32, T.18N., R.45E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 32, T.18N., R.45E., M.D.B.&M.²

III.

Application 49676 was filed on February 3, 1986, by J. Lavar Young to change the place of use of Application 47288. The proposed place of use is described as being

¹ File No. 47288, official records in the Office of the State Engineer.

² File No. 47289, official records in the Office of the State Engineer.

located within the N½ of Section 5, T.17N., R. 45E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NE¼ of Section 2, T.17N., R.44E., M.D.B.&M.³

IV.

Application 49677 was filed on February 3, 1986, by Janet D. Young to change the place of use of Application 47289. The proposed place of use is described as being located within the S½ of Section 32, T.18N., R. 45E., M.D.B.&M. The proposed point of diversion is described as being located within the NW¼ SW¼ of Section 32, T.18N., R.45E., M.D.B.&M.⁴

FINDINGS OF FACT

I.

A review of the records in the Office of the State Engineer indicates that Applications 47288 and 47289 were filed in support of Desert Land Entries. Applications 49676 and 49677 were filed to make minor changes in the place of use of Applications 47288 and 47289.⁵ The United States Department of the Interior, Bureau of Land Management, notified the State Engineer that J. Lavar Young and D. Young relinquished the Desert Land Entry Applications corresponding to water right Applications 47288 and 47289 on March 24, 1997.¹ On July 8, 2003, Chuck Lark of the BLM informed the State Engineer that the Desert Land Entries supported by water right Applications 49676 and 49677 had been withdrawn.³ The State Engineer finds upon relinquishment of the Desert Land Entries that the purpose for which the water right applications were filed ceased to exist.

CONCLUSIONS

I.

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

³ File No. 49676, official records in the Office of the State Engineer.

⁴ File No. 49677, official records in the Office of the State Engineer.

⁵ Remarks section of Applications 49676 and 49677, official records in the Office of the State Engineer.

⁶ NRS chapters 533 and 534.

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:⁷

- 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
- D. the proposed use or change threatens to prove detrimental to the public interest.

III.

The applicants filed Applications 47288, 46289, 49676 and 49677 in support of Desert Land Entry Applications that were relinquished/withdrawn. The State Engineer concludes that the water right applications filed in support of the relinquished/withdrawn Desert Land Entries are no longer necessary; as such, approval of the applications would not be in the public interest and the applications are subject to denial.

RULING

Applications 47288, 47289, 49676 and 49677 are hereby denied on the grounds their issuance would threaten to prove detrimental to the public interest.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/TW/jm

Dated this 18th day of
June, 2004.

⁷ NRS § 533.370(4).