

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

IN THE MATTER OF APPLICATION)
54993 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF A SURFACE)
SOURCE WITHIN THE PLEASANT)
VALLEY HYDROGRAPHIC BASIN)
(130), PERSHING COUNTY, NEVADA.)

RULING

#5487

GENERAL

I.

Application 54993 was filed on June 26, 1990, by Diana Vesco to appropriate 2.0 cubic feet per second of surface water from Peavine Creek for the irrigation of 320 acres of land within the NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 26 and the SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 25, T.29N., R.38E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 25, T.29N., R.38E., M.D.B.&M.¹

FINDINGS OF FACT

I.

Application 54993 was filed to appropriate surface water for use upon land that was to be removed from the federal domain through the approval of the applicant's respective Desert Land Entry Application, BLM Case #NVN 5400201. On January 3, 2005, the United States Department of the Interior, Bureau of Land Management (BLM), Winnemucca Office was contacted by telephone to provide information to the Office of the State Engineer relating to the current status of the Diana Vesco Desert Land Entry Application #NVN 5400201. A timely faxed response from the BLM was received later on January 3, 2005, in the Office of the State Engineer, which indicated that the applicant's Desert Land Entry application was rejected on March 18, 1997, and the case file closed on March 31, 1997. The State Engineer finds that the

¹ File No. 54993, official records in the Office of the State Engineer.

applicant's attempt to gain control of the place of use described under Application 54993 has been terminated by the proper governing federal agency.

II.

A water right application is filed to request an appropriation of water to be used for a specific purpose within a well defined place of use, which is represented under Application 54993 as the irrigation of two 160 acre parcels of land, which were to be removed from federal jurisdiction by the approval of the applicant's respective Desert Land Entry application. The Desert Land Entry application was closed by the BLM with the ownership of the land requested for removal retained by the federal government. The State Engineer finds that the purpose for which Application 54993 was filed no longer exists; therefore; the necessity to divert water as proposed under the subject application has ceased.

CONCLUSIONS

I.

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

II.

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

- 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.

² NRS chapters 533.

³ NRS § 533.370(4).

III.

A water right application is filed to appropriate water for a specific purpose, which in the case of Application 54993 is the irrigation of two 160-acre parcels of land that were to be transferred from the federal government to the applicant's control through the approval of her Desert Land Entry application. This attempt to transfer ownership of the land described within the place of use under Application 54993 was terminated when the BLM rejected the applicant's Desert Land Entry application. The BLM's closure of the subject Desert Land Entry application removes the purpose for which Application 54993 was filed. The State Engineer concludes that to approve a water right permit for a project that no longer exists would threaten to prove detrimental to the public interest.

RULING

Application 54993 is hereby denied on the grounds that its approval would threaten to prove detrimental to the public interest.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/WHR/jm

Dated this 2nd day of
June, 2005.