

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

IN THE MATTER OF APPLICATION 51827)
FILED TO CHANGE THE POINT OF)
DIVERSION OF A PORTION OF)
UNDERGROUND WATER PREVIOUSLY)
APPROPRIATED UNDER PERMIT 39162,)
TRACY CANYON SEGMENT HYDROGRAPHIC)
BASIN (91), WASHOE COUNTY, NEVADA.)

RULING

#5510

GENERAL

I.

Application 51827 was filed on February 11, 1988, by the Mogul Water Company to change the point of diversion of a portion of Permit 39162. The water is proposed to be used for quasi-municipal purposes within portions of Sections 11, 14 and 15, T.19N., R.18E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NE¼ of Section 14, T.19N., R.18E., M.D.B.&M.¹

FINDINGS OF FACT

I.

On August 9, 2000, the applicant withdrew Permit 39162. As a result, water no longer exists under Permit 39162 to support change Application 51827. The State Engineer finds that Permit 39162, which forms the basis for change Application 51827, has been withdrawn by the applicant; therefore, the change application cannot be granted.

CONCLUSIONS

I.

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

II.

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

¹ File No. 51827, official records in the Office of the State Engineer.

² NRS chapters 533 and 534.

³ NRS § 533.370(4).

- 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.

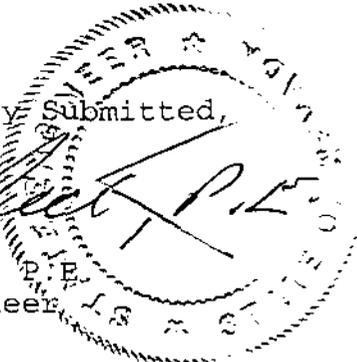
An application may be filed to change the point of diversion, place or manner of use of water already appropriated.⁴ Water already appropriated, in reference to a change application, refers to a water represented by a water right permit or certificate in good standing.⁵ When the water right permit was withdrawn, there was no longer a permit to be changed by Application 51827. The State Engineer concludes it would threaten to prove detrimental to the public interest to grant a change application when the permit that supported the change has been withdrawn.

RULING

Application 51827 is hereby denied on the grounds that the water right that formed the basis for the change application has been withdrawn, is no longer an active water right and cannot be used to support the change application.

Respectfully Submitted,


HUGH RICCI, P.E.
State Engineer



HR/SJT/jm

Dated this 13th day
of September, 2005.

⁴ NRS § 533.325.
⁵ NRS § 533.324.