

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

IN THE MATTER OF APPLICATION 81291 )  
FILED TO CHANGE THE POINT OF )  
DIVERSION AND PLACE OF USE OF A )  
PORTION OF THE PUBLIC WATERS OF )  
AN UNDERGROUND SOURCE WITHIN )  
THE SPRING VALLEY HYDROGRAPHIC )  
BASIN (184), WHITE PINE COUNTY, )  
NEVADA. )

**RULING**

**#6176**

**GENERAL**

**I.**

Application 81291 was filed on November 4, 2011, by George Eldridge & Son, Inc., to change the point of diversion and place of use of a portion of water heretofore appropriated under Permit 39817. The proposed use will be from January 1 to December 31 of each year. The proposed use is for irrigation and domestic. The proposed place of use is described as being located within the NE $\frac{1}{4}$  SW $\frac{1}{4}$ , NW $\frac{1}{4}$  SE $\frac{1}{4}$ , SE $\frac{1}{4}$  NW $\frac{1}{4}$ , SW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 9, T.16N., R.67E. M.D.B.&M., SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 28, NE $\frac{1}{4}$  SE $\frac{1}{4}$ , SE $\frac{1}{4}$  NE $\frac{1}{4}$ , NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 33, W $\frac{1}{2}$  W $\frac{1}{2}$  of Section 34, T.17N., R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 9, T.16N., R.67E., M.D.B.&M.<sup>1</sup>

**FINDINGS OF FACT**

**I.**

Application 81291 proposes to change a portion of Permit 39817; however, Permit 39817 was cancelled on November 7, 2011, because of failure of the Permittee to comply with the provisions of the permit. The Application for Extension of Time filed on November 3, 2010, was granted through September 18, 2011, and specifically required that the Proof of Beneficial Use and Cultural Map be filed on or before September 18, 2011. Final Notice correspondence informing the Permittee to file the Proof of Beneficial Use and Cultural Map is dated September 21, 2011. This correspondence stated that the Proof of Beneficial Use and Cultural Map must be

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<sup>1</sup> File No. 81291, official records in the Office of the State Engineer.

received within 30 days after the mailing of this notice and if not received, Permit 39817 will be cancelled. These required documents were not received and Permit 39817 was cancelled on November 7, 2011.

The State Engineer finds that to be able to consider an application to change an existing water right, the base right must be currently in good standing. In the case of Application 81291 requesting to change Permit 39817, this is not the case. The State Engineer finds that Application 81291 cannot be approved because the water under cancelled Permit 39817 is no longer available for change.

### CONCLUSIONS

#### I.

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

#### II.

The State Engineer is prohibited by law from granting a permit under a change application that requests to appropriate the public waters where:<sup>3</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
- 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>4</sup> Water already appropriated refers to water represented by a water right permit or certificate in good standing.<sup>5</sup> A review of records on file in the Office of the State Engineer has found that Permit 39817 is cancelled and is no longer valid; therefore, it is not in good standing and it cannot be used as the basis for a change application. The State Engineer concludes that Permit 39817 cannot be

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<sup>2</sup> NRS Chapters 533 and 534.

<sup>3</sup> NRS § 533.370(2).

<sup>4</sup> NRS § 533.325.

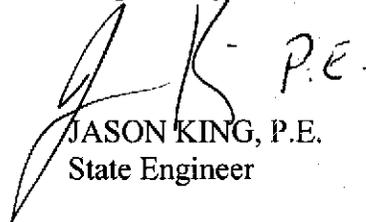
<sup>5</sup> NRS § 533.324.

used as a basis for change Application 81291; therefore, change Application 81291 is subject to denial.

**RULING**

Application 81291 is hereby denied on the grounds that no water is available under the water right permit that forms the basis for the change application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J.K. P.E.', is written over the typed name. The signature is stylized and somewhat cursive.

JASON KING, P.E.  
State Engineer

Dated this 3rd day of

May           , 2012.