

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

IN THE MATTER OF APPLICATION 51852 FILED )  
TO APPROPRIATE THE UNDERGROUND WATERS )  
AND APPLICATIONS 52593 AND 52594 FILED TO )  
CHANGE THE POINT OF DIVERSION OF )  
APPLICATION 51852, DIXIE CREEK-TEN MILE )  
CREEK AREA (48), ELKO COUNTY, NEVADA. )

RULING

**# 4286**

GENERAL

I.

Application 51852 was filed on February 19, 1988, by Western Hills, Inc. to appropriate 3.0 cubic feet per second (cfs) from an underground source, for quasi-municipal use for a proposed 1,000 unit subdivision located within the N $\frac{1}{2}$  Section 3, T.32N., R.55E., M.D.B.&M. The proposed point of diversion is located within the SW $\frac{1}{4}$  NW $\frac{1}{4}$  of said Section 3.<sup>1</sup>

Applications 52593 and 52594 were each filed on October 11, 1988, by Western Hills, Inc. to change the point of diversion of 1.5 cfs of the underground waters applied for in Application 51852. The proposed use is quasi-municipal, for the proposed 1,000 unit subdivision described above. The proposed points of diversion are located within the NW $\frac{1}{4}$  NW $\frac{1}{4}$  and the NW $\frac{1}{4}$  NE $\frac{1}{4}$ , respectively, of said Section 3.<sup>2</sup>

FINDINGS OF FACT

I.

In a certified letter dated November 22, 1995, the Applicant and his agent were notified that additional information was required before the State Engineer could take action on Applications 51852, 52593, and 52594. The State Engineer required

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<sup>1</sup> File No. 51852, official records in the Office of the State Engineer.

<sup>2</sup> File Nos. 51852 and 51853, official records in the Office of the State Engineer.

information concerning the Applicant's financial ability and intention to construct the project and place the water to beneficial use.<sup>2</sup> The letter further advised the applicant and his agent that if the information was not received by December 29, 1995, Applications 51852, 52593, and 52594 would be held for denial.<sup>3</sup>

The State Engineer finds that the information requested of the Applicant has not been received. The State Engineer further finds that without this information, he is unable to guard the public interest properly.

#### CONCLUSIONS

##### I.

The State Engineer has jurisdiction over the subject matter of this action.<sup>4</sup>

##### II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters of Nevada where:<sup>5</sup>

- A. There is no unappropriated water at the proposed source;
- B. The proposed use conflicts with existing rights; or
- C. The proposed use threatens to prove detrimental to the public interest.

##### III.

Before either approving or rejecting an application, the State Engineer may require such additional information as will enable him to guard the public interest properly.<sup>6</sup>

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<sup>3</sup> File No. 51852, official records in the Office of the State Engineer.

<sup>4</sup> NRS 533.

<sup>5</sup> NRS 533.370.

<sup>6</sup> NRS 533.375

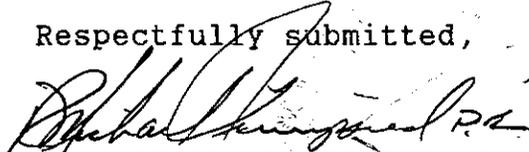
IV.

The Applicant has failed to submit the information requested to the State Engineer. The State Engineer concludes that without the information requested, the Applicant's financial ability and intention to complete the project and place the water to beneficial use cannot be confirmed. Lacking this information, the State Engineer is unable to guard the public interest properly. Therefore, Applications 51852, 52593 and 52594 must be denied.

RULING

Applications 51852, 52593, and 52594 are hereby denied on the grounds that the Applicant has not submitted the information requested by the State Engineer and without this information, the approval of said Applications would threaten to prove detrimental to the public interest.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/JCP/ab

Dated this 17th day of  
January, 1996.