

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

IN THE MATTER OF APPLICATION 45715 AND)  
APPLICATION 45716 FILED TO APPROPRIATE)  
THE PUBLIC WATERS OF AN UNDERGROUND )  
SOURCE WITHIN THE CARSON DESERT )  
GROUNDWATER BASIN (101), CHURCHILL )  
COUNTY, NEVADA. )

RULING

# 4363

GENERAL

I.

Application 45715 was filed on May 24, 1982, by Val King to appropriate 1.0 cubic foot per second (cfs) of water from an underground source for commercial and domestic purposes within the S½ of Lot 4, Section 6, T.19N., R.31E., M.D.B.&M. The proposed point of diversion is described as being located within the S½ of Lot 4, Section 6, T.19N., R.31E., M.D.B.&M.<sup>1</sup>

II.

Application 45716 was filed on May 24, 1982, by Val King to appropriate 1.0 cfs of water from an underground source for commercial and domestic purposes within the S½ of Lot 4, Section 6, T.19N., R.31E., M.D.B.&M. The proposed point of diversion is described as being located within the S½ of Lot 4, Section 6, T.19N., R.31E., M.D.B.&M.<sup>2</sup>

III.

Applications 45715 and 45716 were timely protested by Marvin A. Weishaupt, Randy Weishaupt, Rodney Weishaupt and Maureen Weishaupt, Karl Weishaupt, and Edward W. and Grace L. Viera, on several grounds and for a variety of reasons.<sup>1,2</sup>

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<sup>1</sup> File No. 45715, official records of the Office of the State Engineer.

<sup>2</sup> File No. 45716, official records of the Office of the State Engineer.

FINDINGS OF FACT

I.

By letter dated March 12, 1991, the State Engineer requested the applicant respond within 30 days with additional information regarding the contemplated consumptive use of water under the applications. The letter was returned by the United States Postal Service as undeliverable.

II.

The applicant was again notified by certified mail dated December 5, 1995, to submit additional information to the State Engineer's Office concerning the project, more specifically, any development plan which may have been prepared to date. The applicant was informed that a response was due within 60 days from the date of the letter and that failure to respond would result in denial of the subject applications. The letter was returned by the United States Postal Service as returned to sender, unknown.<sup>1,2</sup>

III.

The applicant was once again notified by certified mail dated April 5, 1996, to submit additional information to the State Engineer's Office concerning any development plans which have been prepared to date. That applicant was informed that a response was due within 60 days from the date of the letter and that failure to respond would result in denial of the subject applications. The letter was returned by the United States Postal Service as forward order expired.

IV.

The State Engineer finds it is the responsibility of the applicant or its successor in interest to keep the Office of the State Engineer informed as to a current address.

**CONCLUSIONS**

**I.**

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>3</sup>

**II.**

Before either approving or rejecting an application, the State Engineer may require such additional information from the current owner of record as will enable him to properly guard the public interest.<sup>4</sup>

**III.**

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

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

**IV.**

The applicant has failed to submit the information requested to the State Engineer's Office. The State Engineer concludes that without the information requested, sufficient information is not available for the State Engineer to properly guard the public interest.

**RULING**

Application 45715 and Application 45716 are hereby denied on the grounds that the applicant has not submitted the data and information requested by the State Engineer's Office, and that without this information the granting of these applications would

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<sup>3</sup> NRS Chapters 533 and 534.

<sup>4</sup> NRS 533.375.

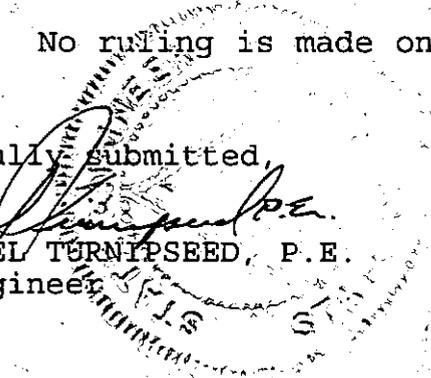
<sup>5</sup> NRS 533.370(3).

Ruling  
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be detrimental to the public interest. No ruling is made on the merits of the individual protests.

Respectfully submitted,

  
R. MICHAEL TURNIPSEED, P.E.  
State Engineer



RMT/MDB/bk

Dated this 13th day of

June, 1996.