

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

IN THE MATTER OF APPLICATIONS 52245,)
52246, 52247, 52248 AND 52249 FILED)
TO APPROPRIATE THE PUBLIC WATERS OF)
AN UNDERGROUND SOURCE WITHIN THE)
INDEPENDENCE VALLEY GROUNDWATER)
BASIN (36), ELKO COUNTY, NEVADA.)

RULING

4383

GENERAL

I.

Applications 52245, 52246, 52247, 52248 and 52249 were filed on June 17, 1988, by L. Ron Percivalle as agent for Horizon Gold Shares, Inc. to appropriate 3.0 cubic feet per second each of water from an underground source for mining and milling purposes. The place of use for these applications was extensive; located within T.39N., T.40N., R.51E., and T.40N., R.52E., M.D.B.&M. Applications 52245 through 52249, inclusive, were protested by George R. E. Boucher for the Board of County Commissioners as the Trustees of the Tuscarora Water District on April 13, 1989.¹

FINDINGS OF FACT

I.

The applicant, Horizon Gold Shares, Inc. and its agent, L. Ron Percivalle were notified by certified mail dated March 17, 1989, to submit additional justification data and information to the State Engineer's Office concerning the annual consumptive use of water for mining and milling purposes under the applications. Properly endorsed return receipts were received from the addressees. The State Engineer finds that the applicant was properly noticed and that to date no information was received in response to the request for information.¹

II.

The applicant, Horizon Gold Shares, Inc. and its agents of record, L. Ron Percivalle, and William M. Donovan were notified by

¹ File Nos. 52245 through 52249, inclusive, official records of the Office of the State Engineer.

certified mail dated January 24, 1995, to submit the previously requested information. A sixty-day time limit was assigned for the submission of a response or the applications would be subject to denial. The State Engineer finds that the applicant and its agent were properly notified and that to date no information was received in response to the request for information.

CONCLUSIONS

I.

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

II.

Before either approving or rejecting an application, the State Engineer may require such additional information from the owner of record as will enable him to properly guard the public interest.³

III.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:⁴

- 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.

² NRS Chapters 533 and 534.

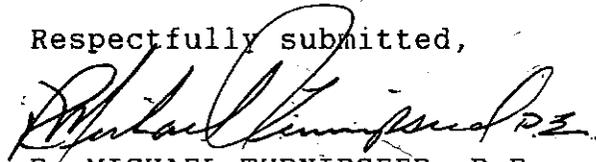
³ NRS 533.375.

⁴ NRS 533.370(3).

RULING

Applications 52245, 52246, 52247, 52248 and 52249 are hereby denied on the grounds that the applicant failed to submit the data and information requested by the State Engineer's Office and that without this information the granting of the applications would be detrimental to the public interest. No finding is made on the merits of the protests.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/DJL/ab

Dated this 31st day of
July, 1996.