

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

IN THE MATTER OF APPLICATION 46021 )  
FILED TO APPROPRIATE THE PUBLIC WATERS )  
OF NO NAME SPRING, WITHIN THE BOULDER )  
FLAT GROUNDWATER BASIN (061), EUREKA )  
COUNTY, NEVADA. )

RULING

# 4427

GENERAL

I.

Application 46021 was filed on August 16, 1982, by Ruth C. Smith to appropriate 0.0028 cubic feet per second (cfs) of surface water from No Name Spring for domestic purposes. The place of use is within a portion of the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 28, T.32N., R.51E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 28.<sup>1</sup>

FINDINGS OF FACT

I.

By certified letter dated October 11, 1995, The applicant was advised that the proposed point of diversion under Application 46021 was identical or in close proximity to the point of diversion under Permit 6487, Certificate 1200, currently held in the records of the Office of the State Engineer in the names of M.R. and Christine Healy. The applicant was requested that if the water source is the same to provide written authorization or an agreement from the Healys allowing the applicant to appropriate water from the common source. The applicant was also requested to provide information regarding her control of the land comprising the place of use and an updated water use requirement.

A 60-day time period was allowed for submittal of the information, and the applicant was informed that failure to respond in a timely manner would be viewed as a lack of interest in pursuing the application.<sup>1</sup> The endorsed return receipt for the

<sup>1</sup>File No. 46021, official records in the Office of the State Engineer.

certified mailing was received in the Office of the State Engineer on October 30, 1995. The State Engineer finds that the applicant has failed to respond to the request for information.

CONCLUSIONS

I.

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

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.<sup>3</sup>

III.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:<sup>4</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 failed to submit the information requested by 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.

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<sup>2</sup>NRS Chapter 533.

<sup>3</sup>NRS 533.375.

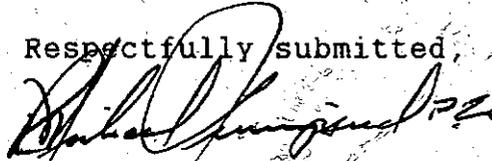
<sup>4</sup>NRS 533.370(3).

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Application 46021 is 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 application would be detrimental to the public interest.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/MDB/ab

Dated this 10th day of  
September, 1996.