

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

IN THE MATTER OF APPLICATIONS 55308,)
55309, 55310, 55311, 55312, 55313,)
55314, 56987, 56988, 56989 AND 56990)
FILED TO APPROPRIATE THE PUBLIC WATERS)
FROM UNDERGROUND SOURCES WITHIN THE)
DIXIE VALLEY GROUNDWATER BASIN (128),)
CHURCHILL COUNTY, NEVADA.)

RULING

4483

GENERAL

I.

Applications 55308, 55309, 55310, 55311, 55312, 55313 and 55314 were filed on September 20, 1990, by Horizon Gold Shares, Inc. to appropriate 1.0 cubic feet per second (cfs) each of water from underground sources for mining, milling and domestic purposes within Sections 11, 12, 13 and 14, T.23N., R.35E., M.D.B.&M. The points of diversion are described as being located within the NW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 14, T.23N., R.35E., M.D.B.&M.¹

II.

Applications 56987, 56988, 56989 and 56990 were filed on December 10, 1991, by Horizon Gold Corporation to appropriate a total of 33 cfs of water from underground sources for dewatering, mining, milling and domestic purposes within Sections 1, 11, 12 and 14, T.23N., R.35E., M.D.B.&M.² The points of diversion are described as being located within the NW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 14.

¹File Nos. 55308 through 55314, inclusive, official records in the Office of the State Engineer.

²File Nos. 56987 through 56990, inclusive, official records in the Office of the State Engineer.

FINDINGS OF FACT

I.

These applications were filed for the proposed Dixie-Comstock Mine and Heap Leach Project. By letter dated October 5, 1992, W. Wright Parks, III, agent for Horizon Gold Corporation, notified the State Engineer that the applicant was waiting for a Bureau of Land Management decision on whether the project would be approved due to complications with the wilderness study area.¹ By letter dated September 8, 1993, Mr. Parks, notified the State Engineer that the final contract concerning the dewatering ditch across U.S. Navy Lands would be completed in the very near future.¹

The State Engineer finds that no further update on the resolution of these land entry and control problems has been received by the State Engineer's Office.

II.

Information provided by the Nevada Secretary of State indicates that Horizon Gold Shares, Inc. changed its name to Horizon Gold Corporation, subsequently changed to Horizon Resources Corporation, and its license to do business in Nevada was revoked on March 1, 1996.¹ By telephone conversation with John Watson of Horizon Resources Corporation on April 4, 1996, additional addresses for the applicant and its agent were obtained by the State Engineer's Office.¹ The State Engineer finds that the applicant and agent were notified by certified mail dated July 2, 1996, to submit additional justification data and information to the State Engineer's Office concerning the officers and status of the corporation, the project feasibility, the updated addresses for the applicant and agents, and the resolution of contractual difficulties regarding U.S. Navy lands. Properly endorsed return receipts were received from all addressees except Horizon Gold Corporation (Mill Street address).¹ The return mail receipt was returned by the United States Postal Service labelled "Returned to Sender - Forwarding Order Expired".

A 90-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 was properly notified of the request for additional information and to date no information has been received in response to the request for updated information. The State Engineer further finds that the July 2, 1996, letter requesting the additional information established that failure to comply within 90 days would result in the denial of the applications.¹

III.

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

CONCLUSIONS

I.

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

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.⁴

III.

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

- A. there is no unappropriated water at the proposed source, or
- B. the proposed use conflicts with existing rights, or

³NRS Chapters 533 and 534.

⁴NRS 533.375.

⁵NRS 533.370(3).

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.

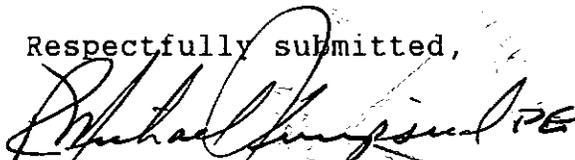
V.

It is the responsibility of any subsequent purchaser of the property or interest in these applications to file a report of conveyance with the State Engineer.⁶ The State Engineer concludes that the applicant was properly noticed based on the addresses currently on file in the Office of the State Engineer.

RULING

Applications 55308 through 55314, inclusive, and 56987 through 56990, inclusive, 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.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/DJL/ab

Dated this 31st day of
December, 1996.

⁶NRS 533.384.