

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

IN THE MATTER OF APPLICATION 58127 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS FROM AN UNDERGROUND SOURCE )  
WITHIN THE CARSON DESERT GROUNDWATER )  
BASIN (101), CHURCHILL COUNTY, NEVADA.)

RULING

# 4562

GENERAL

I.

Application 58127 was filed on September 24, 1992, by Hodges Transportation, Inc. to appropriate 0.01 cubic foot per second (cfs) of the underground waters of the Carson Desert Groundwater Basin, Churchill County, Nevada, for stockwatering purposes within the NE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 34, T.17N., R.27E., M.D.B.&M. The point of diversion is described as being located within the NE $\frac{1}{4}$  SE $\frac{1}{4}$  of said Section 34.<sup>1</sup>

FINDINGS OF FACT

I.

By letter dated December 5, 1995, the applicant was notified that the State Engineer had been informed by the Bureau of Land Management that the "Cline Well", identified as the point of diversion in the application, is not the physical location described in the application. The applicant was instructed that it could file a change application or if it was no longer interested in pursuing the application, it could be withdrawn. The State Engineer finds that a telephone call was received on December 13, 1995, from Mr. Al Hallie of Hodges Transportation, Inc., wherein he stated that the applicant would inform the State Engineer as to its intentions for Application 58127. The State Engineer further finds the applicant never informed the State Engineer as to its intentions.

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<sup>1</sup> File No. 58127, official records in the office of the State Engineer.

II.

The applicant was notified by certified mail dated February 13, 1996, to submit information regarding Hodges Transportation, Inc.'s intentions for Application 58127. A 30-day time limit was assigned for the submission of a response or the application would be subject to denial. A properly endorsed return receipt was received from the addressee on February 20, 1996. The State Engineer finds no response was received from the applicant.

III.

The applicant was again notified by certified mail dated July 11, 1997, to submit the previously requested information. A 30-day time limit was assigned for the submission of a response or the application would be subject to denial. A properly endorsed return receipt was received from the addressee on July 17, 1997. The State Engineer finds that the applicant was properly notified and that to date no information has been received in response to the request for information.

CONCLUSIONS OF LAW

I.

The State Engineer has jurisdiction over the parties and of 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 applicant 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>

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<sup>2</sup> NRS Chapters 533 and 534.

<sup>3</sup> NRS § 533.375.

<sup>4</sup> NRS § 533.370(3).

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- 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.

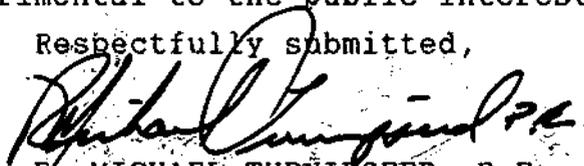
The applicant failed to submit the information requested by the State Engineer's office. The State Engineer concludes, without the information requested, sufficient information is not available for the State Engineer to properly guard the public interest.

The State Engineer concludes that the applicant was properly noticed and failed to submit the information requested.

RULING

Application 58127 is hereby denied on the grounds that the applicant failed to submit the 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,

  
E. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/CN/ab

Dated this 3rd day of  
September, 1997.