

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

IN THE MATTER OF APPLICATION 5534)
FILED TO CHANGE THE POINT OF)
DIVERSION AND PLACE OF USE OF)
WATER FROM THE WALKER RIVER IN)
THE SMITH VALLEY BASIN (107),)
LYON COUNTY, NEVADA.)

RULING

4571

GENERAL

I.

Application 5534 was filed on June 10, 1919, by the Schreck Brothers to change the point of diversion and place of use of 0.8 cubic foot per second of water from the West Walker River for the domestic purposes and the irrigation of 80 acres of land described as the E $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 19, T.11N., R.24E., M.D.B.&M. The application proposed to change the point of diversion from the Burbank Ditch in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 2, T.10N., R.23E., to the West Walker Ditch in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 2, T.10N., R.23E.¹

FINDINGS OF FACT

I.

By letter dated December 6, 1920, the State Engineer requested a certified copy of a deed to bring title of the E $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 19 to the Schreck Brothers from the Plymouth Company, a supporting map showing exactly what land in the E $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 19 has water rights, and a clarification of some of the information found on the original application form. The State Engineer finds no response to this request was ever submitted.¹

II.

By certified letter dated March 20, 1969, and received by the applicant on March 22, 1969, the State Engineer informed the applicant that he needed to clear up the application and requested the applicant to inform the State Engineer as to whether it was still interested in the application.¹ The State Engineer finds

¹ File No. 5534, official records in the office of the State Engineer.

that in 1969 several pieces of correspondence went back and forth between a representative for the applicant, the State Engineer and the Walker River Irrigation District, but nothing in the file provides a response to the State Engineer's inquiry as to whether the applicant had an interest in pursuing the application.

III.

By letter dated December 22, 1989, the State Engineer's office inquired if the Schreck Brothers still had interest in Application 5534. The State Engineer finds the letter was returned by the United States Postal Service stamped "Addressee Unknown".¹

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and 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 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.

² NRS Chapter 533.

³ NRS § 533.375.

⁴ NRS § 533.370(3).

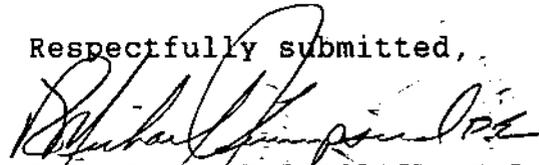
IV.

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 5534 is hereby denied on the grounds that the applicant has not submitted the information requested by the State Engineer's Office and that without this information the granting of a permit under this application would be detrimental to the public interest.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/CAB/ab

Dated this 3rd day of
October, 1997.