

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

IN THE MATTER OF APPLICATION 48639)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE)
WITHIN THE STEPTOE VALLEY)
HYDROGRAPHIC BASIN (179), WHITE)
PINE COUNTY, NEVADA.)

RULING

4886

GENERAL

I.

Application 48639 was filed on December 18, 1984, by Gregory J. Chachas to appropriate 3.3 cubic feet per second of underground water for irrigation and domestic purposes upon 200 acres of land described as being located within the S1/2 SE1/4 and the SE1/4 SW1/4 of Section 19, and the S1/2 SW1/4 of Section 20, all within T.21N., R.64E., M.D.B.&M. The proposed point of diversion is described as being located within the NE1/4 SE1/4 of said Section 19.¹

FINDINGS OF FACT

I.

Application 48639 was filed to appropriate underground water for use upon land that was to be removed from the federal domain through the approval of a Desert Land Entry application. On January 19, 1994, a decision letter was issued by the United States Department of the Interior, Bureau of Land Management (BLM), which indicated that the Desert Land Entry application associated with Application 48639 had been granted by the BLM. During the application review process, it was determined by the office of the State Engineer that Application 48639 requested an appropriation of water from a point of diversion that was previously permitted under an existing water right, that being Permit 55031. By letter dated February 24, 1994, the applicant was

¹ File Number 48639, official records in the office of the State Engineer.

requested by the office of the State Engineer to provide said office with a copy of any well sharing agreement that may be in effect between him and the owner of Permit 55031. On September 25, 1997, the applicant was again requested to provide the office of the State Engineer with evidence that he had legal access to the well site. The applicant was also cautioned that a failure to respond to this second request within thirty days from the date of the letter would result in the denial of Application 48639. A final request for additional information, which contained a similar warning, was sent by certified mail to the applicant and to the Ely District office of the BLM on February 8, 2000. Endorsed receipts for the certified mailings were received in the State Engineer's office. All attempts to obtain information relating to Application 48639 also failed to generate a response from the applicant. Information was received from the BLM which indicated that the Desert Land Entry filed by Gregory J. Chachas in association with Application 48639 had been cancelled by the BLM in June 1998.¹ The State Engineer finds that the applicant's failure to provide the information requested by the office of the State Engineer allows Application 48639 to be considered for denial.

II.

A water right application is filed to appropriate water for a specific purpose, which in the case of Application 48639 is for the irrigation of 200 acres of land that were to be removed from federal control and transferred to the applicant through the filing and approval of a Desert Land Entry application. The State Engineer finds that the BLM's cancellation of the Gregory J. Chachas Desert Land Entry application removes the purpose for which Application 48639 was filed.

CONCLUSIONS

I.

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

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:³

- A. there is no unappropriated water at the proposed source;
- B. the proposed use conflicts with existing rights; or
- C. the proposed use threatens to prove detrimental to the public interest.

III.

The applicant has been requested on several occasions to provide the State Engineer with additional information relating to Application 48639. These requests were made with the understanding that a failure to respond in a timely manner would represent a lack of interest on the applicant's part in pursuing the subject application. To this date, no response regarding this matter has been received in the office of the State Engineer. The State Engineer concludes that the approval of an application that the applicant has no interest in pursuing would threaten to prove detrimental to the public interest.

IV.

Application 48639 requests an appropriation of water for a project that does not exist. The State Engineer concludes that to approve a permit where the need to appropriate water has ceased would threaten to prove detrimental to the public interest.

² NRS chapters 533 and 534.

³ NRS § 533.370(3).

RULING

Application 48639 is hereby denied on the grounds that its approval would threaten to prove detrimental to the public interest.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MDB/cl

Dated this 24th day of
March, 2000.