

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

IN THE MATTER OF APPLICATIONS 38356)
AND 38357 FILED TO APPROPRIATE THE)
WATERS OF AN UNDERGROUND SOURCE)
WITHIN THE HOT CREEK VALLEY)
HYDROGRAPHIC BASIN (156), NYE)
COUNTY, NEVADA.)

RULING

4935

GENERAL

I.

Application 38356 was filed on June 18, 1979, by Effie M. Gergen to appropriate 2.7 cubic feet per second (cfs) of underground water for the irrigation of 160 acres of land that are described as being located within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ and the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 34 and the SW $\frac{1}{4}$ NW $\frac{1}{4}$ and the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 35, all within T.7N., R.50E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 35.¹

II.

Applications 38357 was filed on June 18, 1979, by Effie M. Gergen to appropriate 2.7 cfs of underground water for the irrigation of 160 acres of land that are described as being located within the SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ and the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 35, T.7N., R.50E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 35.²

III.

Application 38356 and 38357 were submitted under the signature of Arnold Wood on behalf of Effie M. Gergen.^{1,2}

¹ File Number 38356, official records in the office of the State Engineer

² File Number 38357, official records in the office of the State Engineer

FINDINGS OF FACT

I.

All permits approved by the State Engineer are issued subject to the payment of the statutory permit fees. On September 8, 1994, Effie M. Gergen and Arnold Wood were advised by the office of the State Engineer that Applications 38356 and 38357 were ready to be approved. Both parties were also advised that in accordance with NRS § 533.435 it would be necessary to submit the statutory permit fees in the sum of \$2,860.00 to the office of the State Engineer. A second request for permit fees was sent by certified mail to the applicant and Arnold Wood at their respective addresses of record on November 5, 1999. This request also contained a warning to the parties that a failure to timely submit the fees would result in the possible denial of Applications 38356 and 38357. A receipt for the certified mailing endorsed by Bill Gergen was received in the office of the State Engineer. The certified letter to Arnold Wood was returned with the envelope stamped "Addressee Unknown" by the United States Postal Service. An additional final notice dated April 25, 2000, requesting the permit fees was sent to Effie N. Gergen c/o Arnold C. Wood at an alternate address. A receipt for this certified mailing endorsed by Alison Wood was received in the office of the State Engineer. To this date, no response to any of the requests for permit fees has been received. The State Engineer finds that the permit filing fees required under Applications 38356 and 38357 have not been collected by the office of the State Engineer.

CONCLUSIONS

I.

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

³ NRS chapters 533 and 534.

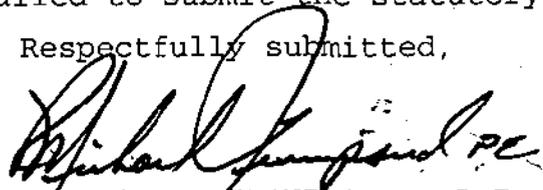
II.

All water right permits are issued subject to the payment of the statutory permit fees. On three occasions, the office of the State Engineer advised the applicant that Applications 38356 and 38357 were ready to be approved. The applicant was also advised that before the permits could be issued it would be necessary to submit the permit fees in accordance with NRS § 533.435. No response or payment of fees has been received in the State Engineer's office. The State Engineer concludes that the applicant has failed to submit the statutory permit fees required for the issuance of Permits 38356 and 38357, therefore, said applications must be denied.

RULING

Applications 38356 and 38357 are hereby denied on the grounds that the applicant has failed to submit the statutory permit fees.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MDB/cl

Dated this 13th day of
June, 2000.