

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

IN THE MATTER OF APPLICATIONS)
46275, 46276, AND 48276 FILED TO)
APPROPRIATE THE PUBLIC WATERS OF AN)
UNDERGROUND SOURCE WITHIN THE)
SPRING VALLEY HYDROGRAPHIC BASIN)
(184), WHITE PINE COUNTY, NEVADA.)

RULING

4986

GENERAL

I.

Application 46275 was filed on October 27, 1982, by Vesta C. Swallow to appropriate 5.4 cfs of underground water for the irrigation of 320 acres of land within the NW $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ and the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 27, T.13N., R.67E., M.D.B.&M. The proposed point of diversion is described as being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 27.¹

II.

Application 46276 was filed on October 27, 1982, by Vesta C. Swallow to appropriate 5.4 cfs of underground water for the irrigation of 320 acres of land located within the NW $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ and the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 27, T.13N., R.67E., M.D.B.&M. The proposed point of diversion is described as being within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 27.²

III.

Application 48276 was filed on August 6, 1984, by Vesta C. Swallow to change the point of diversion and the place of use of 5.4 cfs (cubic feet per second) of underground water previously applied for under Application 46276. The proposed manner of use is for irrigation purposes within the SW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ and the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 35, T.13N., R.67E., M.D.B.&M. The proposed point of diversion is described as being within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 35, T.13N., R.67E., M.D.B.&M. The existing place of use

¹ File Number 46275, official records in the office of the State Engineer.

was within the NW $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ and the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 27, T.13N., R.67E., M.D.B.&M. The existing point of diversion is described as being within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 27, T.13N., R.67E., M.D.B.&M.³

IV.

Applications 46275, 46276, and 48276 were filed to provide a source of irrigation water for land that was to be withdrawn from the control of the federal government through the approval of Desert Land Entry applications.

FINDINGS OF FACT

I.

By certified letters dated May 11, 2000, and June 20, 2000, the applicant was requested by the office of the State Engineer to submit written evidence of a continued interest in Applications 46275, 46276, and 48276. The applicant was allowed thirty days from the date of the respective letters to submit the requested information to the office of the State Engineer with the condition that her failure to timely do so would result in the denial of Applications 46275, 46276, and 48276. Identical certified letters were also sent to the applicant's agent and to Vesta C. Brown at their respective addresses of record. Properly endorsed receipts were received from the latter, with the applicant's letter returned to the office of the State Engineer stamped, "Not Deliverable as Addressed, Unable to Forward", by the United States Postal Service. To this date, no response to the May 11, 2000, or the June 20, 2000, letters has been received from any of the noticed parties.¹ The State Engineer finds that the applicant has been properly noticed at her correct address of record of the need to provide written evidence of a continued interest in the subject applications but has failed to do so, therefore Applications 46275, 46276, and 48276 can be considered for denial.

² File Number 46276, official records in the office of the State Engineer.

³ File Number 48276, official records in the office of the State Engineer.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁴

II.

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

- 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 Applications 46275, 46276, and 48276. 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 applications. 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 applications that the applicant has no interest in pursuing would threaten to prove detrimental to the public interest.

⁴ NRS chapters 533 and 534.

⁵ NRS § 533.370(3).

RULING

Applications 46275, 46276, and 48276 are hereby denied on the grounds that their approval would threaten to prove detrimental to the public interest.

Respectfully submitted,

Hugh Ricci, P.E.

HUGH RICCI, P.E.

State Engineer

HR/MDB/cl

Dated this 20th day of
December, 2000.