

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

IN THE MATTER OF APPLICATION 47269)
FILED TO CHANGE THE POINT OF DIVERSION)
AND PLACE OF USE OF AN UNDERGROUND)
SOURCE WITHIN THE FISH LAKE VALLEY)
HYDROGRAPHIC BASIN (117), ESMERALDA)
COUNTY, NEVADA)

RULING

5024

GENERAL

I.

Application 47269 was filed on September 28, 1983, by Lawrence T. Atkinson to change the point of diversion and place of use of 2.70 cubic feet per second (CFS) of underground water previously appropriated under Permit 31136 for irrigation purposes within the SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ and the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 9, T.1S., R.35E., M.B.D.&M.¹ The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 9, T.1S., R.35E., M.D.B.&M.¹¹

FINDINGS OF FACT

I.

The applicant and his agent were notified by certified mail dated November 8, 2000, that additional information was needed regarding Application 47269. The return receipt from the certified letter to the agent was received in the office of the State Engineer on November 13, 2000. The certified letter to the applicant was returned by the U.S. Postal Service marked "Attempted-Not Known". The State Engineer finds that to date the information requested has not been received.¹

¹ File No. 47269, official records in the office of the State Engineer.

II.

The current owner of the place of use of Application 47269, who is the apparent successor in interest of Application 47269, was notified by certified mail dated January 26, 2001, that additional information was needed regarding Application 47269. The return receipt from this certified letter was received in the office of the State Engineer on January 30, 2001. The State Engineer finds that to date the information requested has not been received.¹

III.

The State Engineer finds that it is the responsibility of the applicant, or their successor in interest, to keep this office informed of a current mailing address.

IV.

The State Engineer finds that the applicant and his agent were properly notified of the request for additional information and failed to respond.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

² NRS chapters 533 and 534.

³ NRS § 533.375.

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;
- B. the proposed use conflicts with existing rights; or
- C. the proposed use threatens to prove detrimental to the public interest.

IV.

The applicant and his agent were properly notified of the requirement for additional information concerning this application and have failed to submit the information to the State Engineer's office. 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 47269 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 the application would threaten to prove detrimental to the public interest.

Respectfully submitted,


HUGH RICCI, P.E.
State Engineer

HR/RAD/dl

Dated this 22nd day of
May, 2001

⁴ NRS § 533.370(3).