

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

IN THE MATTER OF APPLICATION 13763)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE)
WITHIN LITTLE FISH LAKE VALLEY)
HYDROGRAPHIC BASIN (150), NYE COUNTY,)
NEVADA AND APPLICATION 13816 FILED TO)
APPROPRIATE THE PUBLIC WATERS OF AN)
UNDERGROUND SOURCE WITHIN ANTELOPE)
VALLEY HYDROGRAPHIC BASIN (151),)
EUREKA COUNTY, NEVADA)

RULING

5033

GENERAL

I.

Application 13763 was filed on July 9, 1951, by Segura Brothers to appropriate 0.50 cubic feet per second of water from an underground source for stockwatering purposes within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 26, T.13N., R.50E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 26.¹

II.

Application 13816 was filed on August 27, 1951, by Segura Brothers to appropriate 0.25 cubic feet per second of water from an underground source for stockwatering purposes within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 26, T.16N., R.50E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 26.²

III.

Application 13763 was timely protested by A.G. McBride on the grounds that he claimed a vested right to the water, and the granting of the application would conflict with that right and his grazing rights.¹

¹ File No. 13763, official records in the office of the State Engineer.

² File No. 13816, official records in the office of the State Engineer.

IV.

Application 13816 was timely protested by Bartholomae Corporation on the grounds that the granting of the application would conflict with existing rights of the protestant and interfere with the protestant's grazing rights.²

FINDINGS OF FACT

I.

By letter dated May 17, 1996, the State Engineer requested the applicants to advise the office of the State Engineer if they were interested in pursuing Application 13816. The State Engineer indicated that failure to respond within 30 days of the date of the letter may result in the denial of the application. The State Engineer finds that the applicants' agent informed the office that Segura Brothers no longer owns the land and not to expect a reply.

II.

The applicants and their agent, were notified by certified mail dated May 22, 2000, that additional information was needed regarding Applications 13763 and 13816. The return receipt from the certified letter to the applicant was received in the office of the State Engineer on May 30, 2000. Neither the certified letter to the agent or the associated return receipt was returned to the office of the State Engineer. The State Engineer finds that to date the information requested has not been received.^{1, 2}

III.

The State Engineer finds that the applicant and its agent were properly notified of the request for additional information and failed to respond.^{1, 2}

CONCLUSIONS

I.

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

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.⁴

III.

The State Engineer is prohibited by law from granting a permit under 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.

IV.

The applicant and its 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.

³ NRS chapters 533 and 534.

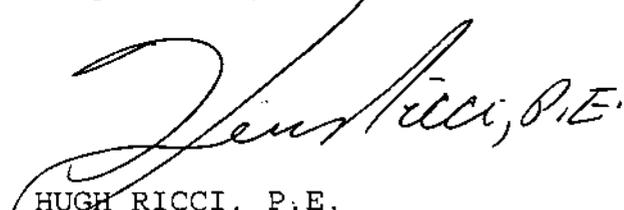
⁴ NRS § 533.375.

⁵ NRS § 533.370(3).

RULING

Applications 13763 and 13816 are hereby denied on the grounds that the applicants have not submitted the information requested by the State Engineer's office and that without this information the granting of the applications would threaten to prove detrimental to the public interest. No determination is made on the merits of the protests.

Respectfully submitted,


HUGH RICCI, P.E.
State Engineer

HR/RAD/hf

Dated this 6th day of
June, 2001.