

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

IN THE MATTER OF APPLICATION 53336)
FILED TO CHANGE THE POINT OF)
DIVERSION, PLACE OF USE, AND MANNER)
OF USE OF THE WATERS OF THE TRUCKEE)
RIVER PREVIOUSLY APPROPRIATED UNDER)
TRUCKEE RIVER DECREE CLAIM 625½)
WITHIN THE TRACY SEGMENT)
HYDROGRAPHIC BASIN (083), WASHOE)
COUNTY, NEVADA.)

RULING

#5064

GENERAL

I.

Application 53336 was filed on June 1, 1989, by Trust No. 111 and Trust No. 112 to change the point of diversion, place of use, and manner of use of 0.0615 cubic feet per second (cfs), not to exceed 7.4 acre-feet annually, that being a portion of the water right established under Claim 625½ of the Orr Ditch Decree. The proposed manner and place of use is for industrial purposes within the NW¼ NE¼, NE¼ NW¼, SE¼ NW¼, SW¼ NW¼ and the NW¼ NW¼ of Section 11, T.19N., R.21E., M.D.B.&M. The existing manner and place of use was for decreed purposes within 1.6 acres of land located within the NE¼ SE¼ of Section 2, T.19N., R.21E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NW¼ of Section 11, T.19N., R.21E., M.D.B.&M.¹

FINDINGS OF FACT

I.

By certified letter dated May 23, 2000, the applicant and its agent were requested by the office of the State Engineer to submit written evidence of a continued interest in Application 53336. Both parties were advised that a response to this request must be received in the office of the State Engineer within thirty days from the date of the letter. The noticed parties were also advised

¹ File No. 53336, official records in the office of the State Engineer.

that a failure to timely respond to this request would result in a possible denial of Application 53336. Properly endorsed receipts for the State Engineer's certified mailings were received from representatives of the applicant or its agent. To this date, no response to the May 23, 2000, letter has been received from either the applicant and its agent.¹ The State Engineer finds that the applicant has been properly noticed at its correct address of the need to provide written evidence of a continued interest in the subject application but has failed to do so; therefore, Application 53336 can be considered for denial.

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 a change application to appropriate the public waters where:³

- A. the proposed use or change conflicts with existing rights;
- B. the proposed use or change conflicts with protectible interests in domestic wells as set forth in NRS § 533.024; or
- C. the proposed use or change threatens to prove detrimental to the public interest.

III.

The applicant has been requested to provide the State Engineer with additional information relating to Application 53336. This request was 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

² NRS chapter 533.

³ NRS § 533.370(3).

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.

RULING

Application 53336 is hereby denied on the grounds that its approval would threaten to prove detrimental to the public interest.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/MDB/hf

Dated this 4th day of
September, 2001.