

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

IN THE MATTER OF APPLICATION 43846 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS OF AN UNDERGROUND )  
SOURCE WITHIN THE UPPER REESE )  
RIVER HYDROGRAPHIC BASIN (56), )  
LANDER COUNTY, NEVADA. )

RULING

# 5234

GENERAL

I.

Application 43846 was filed on June 4, 1981, by Wayne L. Wahl to appropriate 5.4 cubic feet per second of water from an underground source for irrigation purposes. The application was filed to support a Desert Land Entry. The proposed place of use is 320 acres within the S $\frac{1}{2}$  of Section 33, T.19N., R.43E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 33, T.19N., R.43E., M.D.B.&M.<sup>1</sup>

FINDINGS OF FACT

I.

The applicant and his agents were notified by certified mail dated January 14, 2003, to advise this office in writing if the applicant was interested in pursuing Application 43846. The applicant was warned that failure to respond within 30 days would result in denial of the application. Properly endorsed receipts for the certified mailings to Ross & Ross and Wayne L. Wahl, were received in the Office of the State Engineer on January 16 and January 30, 2003, respectively. The certified letters to L. Guagliardo and Lewis R. Morse were returned to the Office of the State Engineer by the U. S. Postal Service stamped "Returned To Sender attempted, not known".<sup>1</sup>

The Office of the State Engineer received a response from the applicant on February 24, 2003. The applicant wrote, "Thank you for your notice but I am not able to proceed with this parcel at this time." The State Engineer finds that it is not in the public

<sup>1</sup> File No. 43846, official records in the Office of the State Engineer.

interest to postpone action on this application any longer and the applicant has expressly stated that he is not interested in pursuing the application at this time.<sup>1</sup>

**CONCLUSIONS**

**I.**

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>2</sup>

**II.**

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:<sup>3</sup>

- A. there is no unappropriated water at the proposed source;
- B. the proposed use or change conflicts with existing rights;
- C. the proposed use or change conflicts with protectible interests in existing domestic wells as set forth in NRS § 533.024; or
- D. the proposed use or change threatens to prove detrimental to the public interest.

**III.**

The applicant has informed the State Engineer that he is not able to proceed at this time. The State Engineer concludes it would threaten to prove detrimental to the public interest to issue a permit under an application for which the applicant is not ready to proceed with good faith and reasonable diligence to place the water to beneficial use.

**RULING**

Application 43846 is hereby denied on the grounds its issuance would threaten to prove detrimental to the public interest.

Respectfully submitted,



HUGH RICCI, P.E.  
State Engineer

HR/TW/jm

Dated this 5th day of

May, 2003.

<sup>2</sup> NRS chapters 533 and 534.

<sup>3</sup> NRS § 533.370(3).