

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

IN THE MATTER OF APPLICATION 43844 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS AN UNDERGROUND SOURCE )  
WITHIN THE UPPER REESE RIVER )  
HYDROGRAPHIC BASIN (56), LANDER )  
COUNTY, NEVADA. )

**RULING**

**# 5236**

**GENERAL**

**I.**

Application 43844 was filed on June 4, 1981, by Milton E. Lotspeich 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 place of use is 320 acres within the NE $\frac{1}{4}$  of Section 32 and the NW $\frac{1}{4}$  of Section 33, T.19N., R.43E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 32, T.19N., R.43E., M.D.B.&M.<sup>1</sup>

**FINDINGS OF FACT**

**I.**

The applicant and his agent were notified by certified mail dated January 14, 2003, to advise this office in writing if the applicant was interested in pursuing Application 43844. The applicant and his agent were warned that failure to respond within 30 days would result in denial of the application. The certified letters to the applicant and agent were returned by the U. S. Postal Service stamped "Returned To Sender, Unclaimed and Attempted Not Known", respectively.<sup>1</sup> To date, no information on this matter has been submitted to the State Engineer's office. The State Engineer finds that the applicant and his agent were properly notified of the request for additional information regarding Application 43844.

**II.**

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

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<sup>1</sup> File No. 43844, official records in the Office of the State Engineer.

### III.

The State Engineer finds that there has been no correspondence from the applicant or his agent, regarding Application 43844, for at least 19 years.<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.

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.<sup>3</sup>

#### III.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:<sup>4</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.

#### 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 the failure to express any interest in this application for over 19 years and failure to maintain a current address demonstrates the applicant's lack of interest in pursuing Application 43844. The State Engineer concludes it would threaten to prove detrimental to the public interest to issue permits under an application for which no interest is expressed.

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

<sup>3</sup> NRS § 533.375.

<sup>4</sup> NRS § 533.370(3).

**RULING**

Application 43844 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 9th day of  
May, 2003.