

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

IN THE MATTER OF APPLICATIONS 65883 )  
AND 65884 FILED TO APPROPRIATE THE )  
PUBLIC WATERS OF AN UNDERGROUND )  
SOURCE WITHIN THE WARM SPRINGS )  
VALLEY HYDROGRAPHIC BASIN (084), )  
WASHOE COUNTY, NEVADA. )

**RULING**  
**#5286**

**GENERAL**

**I.**

Application 65883 was filed on January 19, 2000, by Intermountain Pipeline, Ltd., to appropriate 6.0 cubic feet per second (cfs) of underground water from a geothermal reservoir for industrial (power generation) purposes within the NE<sup>1</sup>/<sub>4</sub>, NE<sup>1</sup>/<sub>4</sub> NW<sup>1</sup>/<sub>4</sub>, and SE<sup>1</sup>/<sub>4</sub> NW<sup>1</sup>/<sub>4</sub> of Section 22, T.23N., R.20E., M.D.B.& M. The proposed point of diversion is described as being located in the SE<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub> of said Section 22.<sup>1</sup>

**II.**

Application 65884 was filed on January 19, 2000, by Intermountain Pipeline, Ltd., to appropriate 6.0 cfs of underground water from a geothermal reservoir for industrial (power generation) purposes within the NE<sup>1</sup>/<sub>4</sub>, NE<sup>1</sup>/<sub>4</sub> NW<sup>1</sup>/<sub>4</sub>, and SE<sup>1</sup>/<sub>4</sub> NW<sup>1</sup>/<sub>4</sub> of Section 22, T.23N., R.20E., M.D.B.& M. The proposed point of diversion is described as being located in the NE<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub> of said Section 22.<sup>2</sup>

**III.**

Applications 65883 and 65884 were timely protested by Washoe County requesting that the applications be denied on the following grounds:<sup>1,2</sup>

- There is no unappropriated water in the source of supply;
- Granting of these applications would be detrimental to the public interest;
- Granting of these applications would be detrimental to existing rights.

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<sup>1</sup> File No. 65883, official records in the Office of the State Engineer.

<sup>2</sup> File No. 65884, official records in the Office of the State Engineer.

## **FINDINGS OF FACT**

### **I.**

The applicant and its agent were notified by mail dated March 27, 2000, to submit additional justification data and information to the State Engineer's office concerning the annual consumptive use of water under Applications 65883 and 65884. A time limit of ninety days was assigned for submission of the requested information. The State Engineer finds that the applicant was properly noticed of the request for additional information and that to date no information has been received in response to that request.<sup>1,2</sup>

### **II.**

The applicant and its agent were again notified by mail dated July 5, 2002, to submit the previously requested information. A time limit of ninety days was assigned for submission of a response. The applicant responded by mail received in the State Engineer's office on August 13, 2002, and stated that negotiations were underway with an unnamed consortium for the construction of a power plant. The applicant further stated in part, "...I do not have the specifics you asked for in your letter." The applicant requested that the applications be held in abeyance for 4-6 months in order to garner the appropriate information.<sup>1,2</sup> The State Engineer finds this letter indicated the applicant has no project to support Applications 65883 and 65884.

### **III.**

The applicant and its agent were again notified by mail dated November 20, 2002, to submit the previously requested information. A new due date of December 10, 2002, was assigned for submission of a response in deference to the request for additional time. The applicant, its agent and an additional agent were re-notified by certified mail dated January 15, 2003, to submit the previously requested information. A further extension of the due date was made to February 28, 2003, for the submission of a response or the applications would be subject to denial. Properly endorsed return receipts were received from the addressees on January 21, January 22 and January 23, 2003, respectively.<sup>1,2</sup> The State Engineer finds that the applicant and its agent were properly noticed of the request for additional information and that to date no information has been received in response to that request.

## CONCLUSIONS

### I.

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

### II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters 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.

### III.

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>5</sup>

### IV.

The applicant and its agents were properly notified of the requirement for additional information concerning these applications and have failed to submit the requested 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.

### V.

The applicant has stated that, "...I do not have the specifics you asked for in your letter" and requested the State Engineer hold the applications in abeyance. The State Engineer concludes that Nevada water law requires an applicant have an intended beneficial use of the waters upon which it has filed an application.<sup>6</sup> The State Engineer concludes that an applicant must provide satisfactory proof of having a reasonable expectation to apply the water to the intended beneficial use with reasonable diligence and the applicant has no such proof. The State

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<sup>3</sup> NRS chapters 533 and 534.

<sup>4</sup> NRS § 533.370(3).

<sup>5</sup> NRS § 533.375.

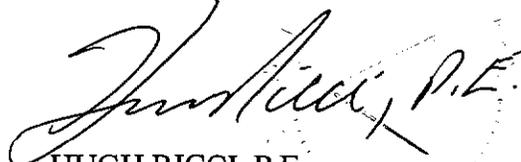
<sup>6</sup> NRS § 533.370(1)(c).

Engineer concludes that the applicant has been given sufficient time to pursue a project for beneficial use and submit proof of such a project.

**RULING**

Applications 65883 and 65884 are hereby denied on the grounds that the applicant has no beneficial use for the waters applied for and to hold the applications in abeyance threatens to prove detrimental to the public interest. No ruling is made on the merits of the protest.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Hugh Ricci, P.E.", is written over a faint circular official seal.

HUGH RICCI, P.E.  
State Engineer

HR/MA/jm

Dated this 6th day

of October 2003.