

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

IN THE MATTER OF APPLICATIONS )  
65152, 65153 AND 65154 FILED TO )  
APPROPRIATE THE PUBLIC WATERS )  
FROM AN UNDERGROUND SOURCE )  
WITHIN THE MAGGIE CREEK AREA )  
HYDROGRAPHIC BASIN (51), EUREKA )  
COUNTY, NEVADA. )

**RULING**

**# 5333**

**GENERAL**

**I.**

Application 65152 was filed on May 27, 1999, by Coastal Power Company to appropriate 5.0 cubic feet per second (cfs) of water from an underground source for industrial (cooling for power generation) purposes. The application further specifies that the point of diversion is an existing Newmont Gold Company dewatering well. The proposed place of use is located within Sections 19 and 29, T.33N., R.52E., 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 35, T.34N., R.51E., M.D.B.&M.<sup>1</sup>

**II.**

Application 65153 was filed on May 27, 1999, by Coastal Power Company to appropriate 5.0 cfs of water from an underground source for industrial (cooling for power generation) purposes. The application further specifies that the point of diversion is an existing Newmont Gold Company dewatering well. The proposed place of use is located within Sections 19 and 29, T.33N., R.52E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 35, T.34N., R.51E., M.D.B.&M.<sup>2</sup>

**III.**

Application 65154 was filed on May 27, 1999, by Coastal Power Company to appropriate 5.0 cfs of water from an underground source for industrial (cooling for power generation) purposes. The application further specifies that the point of diversion is an

---

<sup>1</sup> File No. 65152, official records in the Office of the State Engineer.

<sup>2</sup> File No. 65153, official records in the Office of the State Engineer.

existing Newmont Gold Company dewatering well. The proposed place of use is located within Sections 19 and 29, T.33N., R.52E., M.D.B.&M. The proposed point of diversion is described as being located within the SW¼ SW¼ of Section 25, T.34N., R.51E., M.D.B.&M.<sup>3</sup>

#### IV.

Applications 65152, 65153 and 65154 were timely protested by Eureka County, Boyd Ranch, LLC, Bobby G. Whitlock and Patricia L. Whitlock, and the Pershing County Water Conservation District of Nevada on various grounds.<sup>1, 2, 3</sup>

#### FINDINGS OF FACT

##### I.

The applicant and its agents were notified by certified mail dated October 31, 2002, to submit additional information regarding interest in pursuing the applications to this office. The applicant was warned that failure to respond within 30 days could result in denial of the applications. Properly endorsed receipts for the certified mailings are on file for the applicant and agents.<sup>1</sup>

To date, no information on this matter has been submitted to the Office of the State Engineer. The State Engineer finds that the applicant and its agents were properly notified of the request for additional information regarding interest in pursuing Applications 65152, 65153 and 65154 and failed to respond.

#### CONCLUSIONS

##### I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>4</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>5</sup>

---

<sup>3</sup> File No. 65154, official records in the Office of the State Engineer.

<sup>4</sup> NRS chapters 533 and 534.

<sup>5</sup> NRS § 533.375.

**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 agents were properly notified of the requirement for additional information concerning these applications and have failed to submit the information to the Office of the State Engineer. The State Engineer concludes that the failure to respond affirms the applicant's lack of interest in pursuing Applications 65152, 65153 and 65154.

**RULING**

Applications 65152, 65153 and 65154 are hereby denied on the grounds that the applicant or its agents have not submitted the information requested by the Office of the State Engineer and that without this information the granting of the applications would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protests.

Respectfully submitted,



HUGH RICCI, P.E.  
State Engineer

HR/TW/jm

Dated this 4th day  
of March, 2004.

---

<sup>4</sup> NRS § 533.370(3).