

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

IN THE MATTER OF APPLICATION 35440
FILED TO APPROPRIATE THE PUBLIC
WATERS OF AN UNDERGROUND
SOURCE WITHIN THE IONE VALLEY
HYDROGRAPHIC BASIN (135), NYE
COUNTY, NEVADA.

RULING

#5361

GENERAL

I.

Application 35440 was filed on May 17, 1978, by Carol C. Light, to appropriate 2.7 cubic feet per second of water from an underground source for irrigation and domestic purposes in support of a Carey Act Application. The proposed place of use is described as being 160 acres located within the S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 30, T.12N., R.38E., M.D.B.&M. The point of diversion is described as being located within Lot 2 of Section 30, T.12N., R.38E., M.D.B.&M.¹

FINDINGS OF FACT

I.

The applicant was notified by certified mail dated November 4, 2003, to submit additional information regarding Application 35440 to the State Engineer's office. The applicant was warned that failure to respond within 30 days would result in denial of the application. A properly endorsed certified mail receipt was received in the Office of the State Engineer on November 7, 2003. To date, the applicant has expressed no interest in pursuing this application and has not submitted the additional information requested.¹ The State Engineer finds that the applicant was properly notified of the request for additional information regarding interest in pursuing Application 35440 and has failed to respond.

¹ File No. 35440, official records in the Office of the State Engineer.

II.

The State Engineer finds that there has been no correspondence from the applicant for over 23 years.¹

CONCLUSIONS

I.

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

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.³

III.

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

- 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 was properly notified of the requirement for additional information and has failed to submit the information to the State Engineer's Office. The State Engineer concludes that the failure to express any interest in the application for over 23 years and the failure to submit requested information demonstrates the applicant's lack of interest in pursuing Application 35440. The State Engineer concludes it would threaten to prove detrimental to the public interest to issue a permit under these circumstances.

² NRS chapters 533 and 534.

³ NRS § 533.375.

⁴ NRS § 533.370(4).

RULING

Application 35440 is hereby denied on the grounds its issuance would threaten to prove detrimental to the public interest.

Respectfully submitted,

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

HUGH RICCI, P.E.
State Engineer

HR/TW/jm

Dated this 4th day of
June, 2004.