

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

IN THE MATTER OF APPLICATION 42506)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE MONITOR VALLEY)
- NORTHERN PART HYDROGRAPHIC)
BASIN (140A), NYE COUNTY, NEVADA.)

RULING
#5375

GENERAL

I.

Application 42506 was filed on September 23, 1980, by Gerald Corbin to appropriate 5.4 cubic feet per second of water from an underground source for irrigation purposes in support of a Desert Land Entry Application. The proposed place of use is described as being 320 acres of land located within the W½ of Section 15, T.15N., R.47E., M.D.B.&M. The point of diversion is described as being located within SW¼ NW¼ of Section 15, T.15N., R.47E., M.D.B.&M.¹

FINDINGS OF FACT

I.

The applicant and his agent were notified by certified mail dated December 16, 2003, to submit additional information regarding Application 42506 to the State Engineer's office. The applicant was warned that failure to respond within 30 days would result in denial of the application. The certified letter to the applicant was returned to the Office of the State Engineer by the U.S. Postal Service stamped "Unclaimed". The letter was re-sent to the applicant by regular mail on January 9, 2004. The certified letter to the applicant's agent was also returned to the Office of the State Engineer by the U.S. Postal Service stamped "Attempted Not Known". To date, the applicant and his agent have expressed no interest in pursuing this application and have not submitted the additional information requested.¹ The State Engineer finds that the applicant and his agent were properly notified of the request for additional information regarding interest in pursuing Application 42506 and have failed to respond.

¹ File No. 42506, 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 The State Engineer finds that it is the responsibility of the applicant or his agent to keep the Office of the State Engineer advised of a current mailing address.

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 and his agent were properly notified of the requirement for additional information 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 the application for over 23 years and the failure to submit requested information demonstrates the applicant's lack of interest in pursuing Application 42506. 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 42506 is hereby denied on the grounds its issuance would threaten to prove detrimental to the public interest.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Hugh Ricci, P.E.", is written over a faint circular stamp.

HUGH RICCI, P.E.
State Engineer

HR/TW/jm

Dated this 17th day of
June, 2004.