

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

IN THE MATTER OF APPLICATIONS)
37372, 37373, 37374, AND 37375 FILED)
TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE PLEASANT)
VALLEY HYDROGRAPHIC BASIN)
(194), WHITE PINE COUNTY, NEVADA.)

RULING
#5471

GENERAL

I.

Application 37372 was filed on March 30, 1979, by J. Willard Henriod, to appropriate 2.8 cubic feet per second (cfs) of water from an underground source for irrigation and domestic purposes in support of a Desert Land Entry (DLE). The proposed place of use is described as being located within the S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 17, T.21N., R.70E., M.D.B.&M. The proposed point of diversion is described as being located within NW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 17.¹

II.

Application 37373 was filed on March 30, 1979, by J. Willard Henriod, to appropriate 1.5 cfs of water from an underground source for irrigation and domestic purposes in support of a Desert Land Entry (DLE). The proposed place of use is described as being located within the W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 34, T.22N., R.69E., M.D.B.&M. The proposed point of diversion is described as being located within SW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 34.²

III.

Application 37374 was filed on March 30, 1979, by J. Willard Henriod, to appropriate 2.8 cfs of water from an underground source for irrigation purposes in support of a Desert Land Entry (DLE). The proposed place of use is described as being located within the W $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 16 and the SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 17,

¹ File No. 37372, official records in the Office of the State Engineer.

² File No. 37373, official records in the Office of the State Engineer.

T.21N., R.70E., M.D.B.&M. The proposed point of diversion is described as being located within NE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 17.³

IV.

Application 37375 was filed on March 30, 1979, by J. Willard Henriod, to appropriate 2.8 cfs of water from an underground source for irrigation and domestic purposes in support of a Desert Land Entry (DLE). The proposed place of use is described as being located within the N $\frac{1}{2}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 7, the SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 8, the N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 17 and the NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 18, T.21., R.70E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 7, T21N. R70E., M.D.B.&M.⁴

FINDINGS OF FACT

I.

By letter dated December 4, 1991, the Bureau of Land Management (BLM) informed the Office of the State Engineer that the DLE applications filed in conjunction with water right applications 37372, 37374, and 37375 were closed and the applicant was listed as deceased. On December 4, 2003, the Nevada Division of Water resources asked the BLM if there had been any attempts by the applicant or his successor(s) in interest to obtain a Desert Land Entry, land exchange, or land purchase for any of the public lands listed under the place of use of Applications 37372, 37373, 37374, and 37375. In response, the BLM stated, by letter dated January 30, 2004, "There have been no attempts by the current owner of the water right applications you referred to in your letters to obtain any land actions as you described."¹ The State Engineer finds the DLE applications filed with the BLM in support of these applications have been closed and no new attempts have been made to re-file for entry; therefore, the purpose for which the water right applications were filed no longer exists.

II.

The applicant and his agent were notified by certified mail dated March 2, 2004, to submit additional information regarding Applications 37372, 37373, 37374 and 37375 to the State Engineer's office. Specifically, the applicant was informed of the determination by the BLM that the DLE applications were closed and the applicant was

³ File No. 37374, official records in the Office of the State Engineer.

⁴ File No. 37375, official records in the Office of the State Engineer.

asked to send a written response to the Office of the State Engineer expressing a continued interest in the applications and verifying the status of any entries/applications, exchanges, and/or possible purchases associated with the described place of use. The applicant was warned that failure to respond within 30 days would result in denial of the applications. The certified letters, sent to the applicant and his agent, were returned to the Office of the State Engineer by the U.S. Postal Service stamped "Deceased" and "Not Deliverable as Addressed", respectively. 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 and failed to respond.

III.

The State Engineer finds that it is the responsibility of the applicant, the applicant's agent, or any successor to the applicant to keep this office informed of a current mailing address.

IV.

The State Engineer finds that there has been no correspondence from the applicant or his agent for over 18 years.^{1,2}

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁵

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.⁶

III.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:⁷

⁵ NRS chapters 533 and 534.

⁶ NRS § 533.375.

⁷ NRS § 533.370(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 18 years and the failure to submit requested information demonstrates the applicant's lack of interest in pursuing Applications 37372, 37373, 37374, and 37375. The State Engineer concludes it would threaten to prove detrimental to the public interest to issue permits under these circumstances.

V.

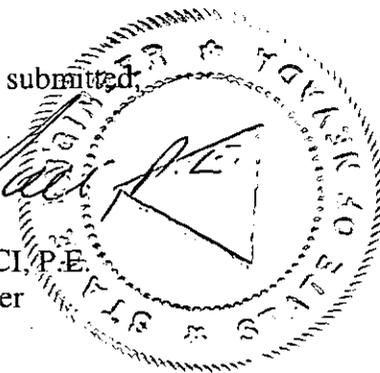
The State Engineer concludes that approval of water right applications in support of DLE's, where the DLE applications have been closed by the BLM, would threaten to prove detrimental to the public interest.

RULING

Applications 37372, 37373, 37374, and 37375 are hereby denied on the grounds their issuance would threaten to prove detrimental to the public interest.

Respectfully submitted,


HUGH RICCI, P.E.
State Engineer



HR/TW/jm

Dated this 12th day of
January, 2005.