

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

IN THE MATTER OF APPLICATION 38128 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS OF AN UNDERGROUND SOURCE )  
WITHIN THE LOVELOCK VALLEY - )  
OREANA SUBAREA HYDROGRAPHIC BASIN )  
(73A), PERSHING COUNTY, NEVADA. )

**RULING**

**#5657**

**GENERAL**

**I.**

Application 38128 was filed on May 10, 1979, by Vernon L. and Beverly J. Andrae to appropriate 1.75 cubic feet per second of water from an underground source for irrigation purposes. The proposed place of use is described as being 80 acres located within the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 4 and the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 9, T.29N., R.33E., M.D.B.&M. The point of diversion is described as being located within the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 4.<sup>1</sup>

**FINDINGS OF FACT**

**I.**

The Applicants and their agent were notified by certified mail dated July 1, 2005, to submit additional information regarding Application 38128 to the State Engineer's office. The Applicants were warned that failure to respond within 30 days would result in denial of the application. The certified letters to the Applicants and their agent were returned to the Office of the State Engineer by the U.S. Postal Service stamped, "Forward Order Expired" and "Not Deliverable As Addressed, Unable To Forward", respectively. A review of the application file shows that the last correspondence from the Applicants was received on October 26, 1979, over 26 years ago. From that time forward, the Applicants have expressed no interest in pursuing this application and have not submitted the additional information as requested.<sup>1</sup>

---

<sup>1</sup> File No. 38128, official records in the Office of the State Engineer.

The State Engineer finds that the Applicants and their agent were properly notified of the request for additional information regarding interest in pursuing Application 38128 and they have failed to respond. The State Engineer further finds that there has been no correspondence from the Applicants for over 26 years.<sup>1</sup>

### CONCLUSIONS

#### I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>2</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>3</sup>

#### 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 Applicants and their agent were properly notified of the requirement for additional information and they 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 26 years and the failure to submit requested information demonstrates the Applicants' lack of interest in pursuing Application 38128. The State Engineer concludes it would threaten to prove detrimental to the public interest to issue a permit under these circumstances.

---

<sup>2</sup> NRS chapters 533 and 534.

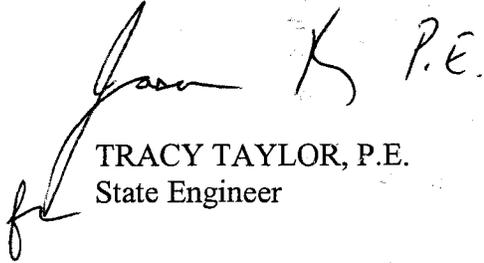
<sup>3</sup> NRS § 533.375.

<sup>4</sup> NRS § 533.370(5).

**RULING**

Application 38128 is hereby denied on the grounds its issuance would threaten to prove detrimental to the public interest.

Respectfully submitted,

 P.E.

TRACY TAYLOR, P.E.  
State Engineer

TT/TW/jm

Dated this 5th day of  
September, 2006.