

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

IN THE MATTER OF APPLICATIONS 45996)
FILED TO APPROPRIATE AND 46612 FILED)
TO CHANGE THE POINT OF DIVERSION)
AND PLACE OF USE OF THE PUBLIC)
WATERS OF A SURFACE SOURCE WITHIN)
THE CARSON VALLEY HYDROGRAPHIC)
BASIN (105), DOUGLAS COUNTY, NEVADA.)

RULING

#5658

GENERAL

I.

Application 45996 was filed on August 3, 1982, by Victor L. or Janet L. Buron to appropriate 100 cubic feet per second (cfs) of water from the Carson River for power generation purposes. The proposed place of use is described as being located within Section 25, T.12N., R.20E., M.D.B.&M. The point of diversion is described as being located within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 25.¹

II.

Application 46612 was filed on February 4, 1983, by Victor L. or Janet L. Buron to change the point of diversion and place of use of Carson River water previously requested for appropriation under Application 45996. The proposed place of use is described as being located within SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 25, T.12N., R.20E., 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 25.²

III.

Application 45996 was timely protested by Michael Springer, Robert Shane Murphy (Western River Guides Association) and David L. Pruett on grounds that will not be considered in this ruling.¹ Application 46612 was also timely protested by Michael Springer and Robert Shane Murphy (Western River Guides Association) on grounds that will not be considered in this ruling.²

¹ File No. 45996, official records in the Office of the State Engineer.

² File No. 46612, official records in the Office of the State Engineer.

FINDINGS OF FACT

I.

The Applicants and their agent were notified by certified mail dated July 27, 2005, to submit additional information regarding Applications 45996 and 46612 to the State Engineer's office. The Applicants were warned that failure to respond within 30 days would result in denial of the applications. The U.S. Postal Service returned the certified letter sent to the Applicants to the Office of the State Engineer with the word "Refused" written on the front of the envelope. The letter was re-sent via regular mail to the Applicant's address of record. A properly endorsed certified mail receipt was received from the certified letter to the Applicants' agent on August 1, 2005. A review of the application files shows no correspondence has been received from the Applicant or their agent for over 21 years. From that time forward, the Applicants have expressed no interest in pursuing these applications and has not submitted the additional information requested by certified mail dated July 27, 2005.^{1,2}

The State Engineer finds that the Applicants and their agent were properly notified of the request for additional information regarding interest in pursuing Applications 45996 and 46612 and failed to respond. The State Engineer further finds that there has been no correspondence from the Applicant for over 21 years.¹

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.³

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.⁴

III.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:⁵

³ NRS chapter 533.

⁴ NRS § 533.375.

⁵ NRS § 533.370(5).

- 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.

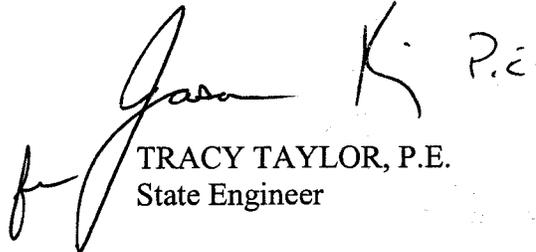
IV.

The Applicants and their agent were properly notified of the requirement for additional information and 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 21 years and the failure to submit requested information demonstrates the Applicants' lack of interest in pursuing Applications 45996 and 46612. The State Engineer concludes it would threaten to prove detrimental to the public interest to issue a permit under these circumstances.

RULING

Applications 45996 and 46612 are hereby denied on the grounds their issuance would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protests.

Respectfully submitted,

 P.E.
TRACY TAYLOR, P.E.
State Engineer

TT/TW/jm

Dated this 5th day of

September, 2006