

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

IN THE MATTER OF APPLICATION 58502)
FILED TO CHANGE THE POINT OF)
DIVERSION, PLACE OF USE AND MANNER)
OF USE OF A PORTION OF THE PUBLIC)
WATERS PREVIOUSLY CLAIMED UNDER)
PROOF V-02400, FROM AN UNDERGROUND)
SOURCE WITHIN THE PAHRUMP VALLEY)
HYDROGRAPHIC BASIN (162), NYE COUNTY,)
NEVADA.)

RULING
5687

GENERAL

I.

Application 58502 was filed on January 26, 1993, by Cal J. Lombardi to change the point of diversion, place of use and manner of use of a portion of water heretofore claimed under proof V-02400, being 0.03 cubic feet per second but not to exceed 1.0 acre-foot of water from an underground source. The application proposes to change the existing manner of use from irrigation to commercial purposes. The existing place of use is described as being located in the SE $\frac{1}{4}$ of Section 15, T.19S., R.53E., M.D.B.&M. The proposed place of use is described as being located within portions of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ and the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 34, T.19S., R.53E., M.D.B.&M. The existing point of diversion is described as being located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 14, T.19S., R.53E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 34.^{1,2}

FINDINGS OF FACT

I.

The Applicant and his agent were notified by certified mail dated August 1, 2005, to submit additional information regarding Application 58502 to the Office of the State Engineer. Specifically, the Applicant and his agent were advised that ownership must be updated on proof V-02400 through the submittal of a properly completed Report of Conveyance. The Applicant was warned that failure to respond within 60 days could

¹ File No. 58502, official records in the Office of the State Engineer.

² File No. V-02400, official records in the Office of the State Engineer.

result in denial of the application. The certified letters to the Applicant and his agent were returned to the Office of the State Engineer by the U.S. Postal Service stamped, "attempted not known" and "unclaimed", respectively. The unclaimed letter was re-sent by regular mail. A review of the application file shows that there has been no correspondence from the Applicant or his agent since a second amended application was filed on April 27, 1993, over 12 years ago. From that time forward, there is no evidence that the Applicant or his agent have submitted the necessary title documents nor have they expressed any interest in pursuing this application.^{1,2}

The State Engineer finds that the Applicant and his agent were properly notified of the request for additional information regarding Application 58502 and failed to respond. The State Engineer further finds that there has been no correspondence from the Applicant or his agent for over 12 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 a change application that requests to appropriate public waters where: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.

³ NRS chapters 533 and 534.

⁴ NRS § 533.375.

⁵ NRS § 533.370(5).

IV.

The Applicant and his agent were properly notified of the requirement for additional information and have failed to submit the information to the Office of the State Engineer. The State Engineer concludes that the failure to express any interest in the application for over 12 years and the failure to submit requested information demonstrates the Applicant's lack of interest in pursuing Application 58502. The State Engineer concludes it would threaten to prove detrimental to the public interest to issue a permit under these circumstances.

RULING

Application 58502 is hereby denied on the grounds its issuance would threaten to prove detrimental to the public interest.

Respectfully submitted,



TRACY TAYLOR, P.E.
State Engineer

TT/TW/jm

Dated this 7th day of
December, 2006.