

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

IN THE MATTER OF APPLICATIONS 54481 AND)  
54482 FILED TO APPROPRIATE THE PUBLIC )  
WATERS OF AN UNDERGROUND SOURCE WITHIN )  
THE BLACK MOUNTAINS AREA GROUND WATER )  
BASIN, CLARK COUNTY, NEVADA. )

RULING  
**# 4113**

GENERAL

I.

Application 54481 was filed on February 26, 1990, by Charles Heisen to appropriate 3.0 c.f.s. of water from an underground source for sand and gravel operation purposes within Sections 27 and 35, T.21S., R.63E., M.D.B.&M. The point of diversion is described as being within the NW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 27, T.21S., R.63E., M.D.B.&M.<sup>1</sup>

II.

Application 54482 was filed on February 26, 1990, by Charles Heisen to appropriate 3.0 c.f.s. of water from an underground source for mining purposes within Sections 27 and 35, T.21S., R.63E., M.D.B.&M. The point of diversion is described as being within the NW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 27, T.21S., R.63E., M.D.B.&M.

III.

Applications 54481 and 54482 were timely protested on August 30, 1990, by Steven Ainsworth, P.E. of Lake of Las Vegas Joint Venture on the following grounds:

Granting of the applicant's water right is expected to unreasonably lower the pumping level, or water table at the protestant's point of diversion granted under Permit #52738. Granting of the applicant's water right could also unreasonably lower the pumping level at other points of diversion which are pending approval of the State Engineer (46029, 46030, 53829, 53830, 53831).

Therefore the protestant requests that the application be Denied and than an order be entered for such relief as the State Engineer deems just and proper.<sup>1</sup>

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<sup>1</sup> Public record in the office of the State Engineer.

FINDINGS OF FACT

I.

The applicant, Charles Heisen was notified by certified mail on February 9, 1994, to submit additional information to the State Engineer's office regarding consumptive use, specifically, requesting data concerning water conservation measures and amount of water to be recycled.<sup>2</sup> The letter assigned a 30 day time limit to file the required information. The return receipt was received from the addressee on February 17, 1994.<sup>3</sup> To date the information requested has not been received from the applicant or agent.<sup>4</sup> The State Engineer finds that the applicant has not supplied sufficient information for him to guard the public interest.

II.

On March 8, 1994, Mr. Charles Heisen notified the Division of Water Resources by telephone that he did not have the additional information requested by the State Engineer but would be refiling mining claims.<sup>5</sup> By correspondence dated March 9, 1994, Mr. Charles Heisen requested an additional 30 days to submit the mining information previously requested by the State Engineer by certified mail of February 9, 1994.<sup>1</sup> On April 22, 1994, the Division of Water Resources phoned Charles Heisen to inquire if he was submitting the additional information previously requested by the State Engineer by certified mail of February 9, 1994. A message was left on the answering machine requesting he contact the Division of Water Resources.<sup>6</sup> On April 22, 1994, Mr. Charles Heisen notified the Division of Water Resources by telephone that

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<sup>2</sup> Authority to request additional information found in NRS 533.375.

<sup>3</sup> See Certified Mail, return Receipt No's. P 398 485 657.

<sup>4</sup> A check of the records of the State Engineer indicates that no information has been received.

<sup>5</sup> See Office Memorandum dated March 8, 1994.

<sup>6</sup> See Office Memorandum dated April 22, 1994.

he was unable to submit the information previously requested by the State Engineer by certified mail of February 9, 1994.<sup>6</sup> The State Engineer finds that the applicant still has not supplied sufficient information for him to guard the public interest.

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action and determination.<sup>7</sup>

II.

Before either approving or rejecting an application, the State Engineer may require such additional information as will enable him to guard the public interest properly.<sup>8</sup>

III.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:<sup>9</sup>

- A. There is no unappropriated water at the proposed source, or
- B. The proposed use conflicts with existing rights, or
- C. The proposed use threatens to prove detrimental to the public interest.

IV.

The applicant has failed to submit the information requested to the State Engineer's Office. Therefore, sufficient information is not available for the State Engineer to guard the public interest properly.

RULING

Applications 54481 and 54482 are hereby denied on the grounds that the applicant has not submitted the information requested by the State Engineer's Office and, therefore, the granting of said applications without the additional information requested would not

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<sup>7</sup> NRS Chapters 533 and 534.

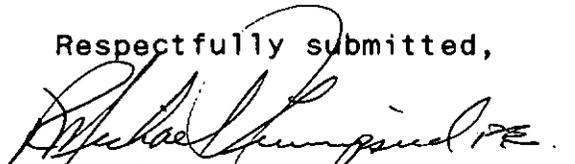
<sup>8</sup> NRS 533.375.

<sup>9</sup> NRS Chapter 533.370(3).

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be in the public interest. No finding is made on the of the protest submitted by Stephen Ainsworth, P.E. of Lake of Las Vegas Joint Venture.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/DJL/pm

Dated this 2nd day of  
May, 1994.