

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

IN THE MATTER OF APPLICATION 47061)
FILED TO APPROPRIATE THE WATERS OF)
AN UNDERGROUND SOURCE WITHIN THE)
TRUCKEE CANYON SEGMENT GROUNDWATER)
BASIN (091), WASHOE COUNTY, NEVADA.)

RULING

4507

GENERAL

I.

Application 47061 was filed on July 8, 1983, by Allan Bergendahl to appropriate 1.0 cubic foot per second (cfs) of water from the Truckee Canyon Segment Groundwater Basin in Verdi, Nevada. The proposed manner of use is for quasi-municipal and domestic purposes within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 19 and the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 18, T.19N., R.18E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 19. Application 47061 became ready for action by the State Engineer on September 30, 1983.¹

FINDINGS OF FACT

I.

By certified letter dated August 28, 1984, the State Engineer informed the applicant that before further consideration could be given to the issuance of a permit, it would be necessary for the applicant to submit additional information concerning the annual consumptive use of the water applied for under Application 47061. The State Engineer finds that by letter dated September 28, 1984, the applicant's agent informed the State Engineer that 182 units were to be built on 22.77 acres requiring a total quantity of 182 gallons per minute of water.

II.

By letter dated October 27, 1986, the State Engineer informed the applicant that in order to continue review of the application additional information was needed regarding the development plans.

¹File No. 47061, official records in the Office of the State Engineer.

Specifically, the State Engineer requested information concerning the present zoning for the area identified as the place of use under the application, and the stage of the development process the project progressed through. The State Engineer informed the applicant that further action on Application 47061 would be withheld pending submittal of the requested information.¹ The State Engineer finds that no information was provided in response to the State Engineer's request for information.

III.

By certified letter dated July 20, 1995, the State Engineer indicated that if the applicant was still interested in pursuing the application it would be necessary to submit information regarding the current status of the project, anticipated time of completion, current zoning, and evidence the place of use is owned by the applicant.¹ The letter assigned a 30-day limit from July 20, 1995, to submit the required information or the application would be subject to denial. By letter dated September 19, 1995, William E. Nork, agent for the applicant informed the State Engineer that the Bergendahl family remained interested in pursuing Application 47061 and wished to acquire the water right for domestic use on their land in Verdi. The letter indicated that the applicant was recently deceased and that the water right had been transferred to Gloria Bergendahl.¹ The State Engineer finds that no further information was furnished in response to the State Engineer's request for specific information.

IV.

By certified letter dated December 21, 1995, the applicant was, for the fourth time, requested to submit additional information to the State Engineer's Office regarding the plans under Application 47061. The State Engineer requested information regarding the current status of the project, the anticipated time of completion, the current zoning of the proposed place of use, and evidence that the proposed place of use is owned by the applicant. The applicant was informed that failure to submit the requested

information within a 30-day time limit from December 21, 1995, would result in denial of the application.

By letter dated December 28, 1995, William E. Nork, legal counsel and agent for the applicant, informed the State Engineer that firm plans for use of the water are dependent upon approval of the application and only then will the owner be better able to address the State Engineer's request for information. The State Engineer finds that none of the requested information was furnished regarding the current status of the project, current zoning of the land or the estimated time of completion of the project. The State Engineer further finds the applicant does not have any specific plans for the development of the water applied for, but rather is seeking approval of the water right before deciding on a plan for use of said water.¹

CONCLUSIONS

I.

The State Engineer has jurisdiction over the subject matter of this action and determination.²

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.²

III.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:³

- 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.

²NRS Chapters 533 and 534.

³NRS 533.375.

IV.

When filing an application to appropriate water, Nevada Law requires an applicant indicate the purpose for which the application is made.⁴ The State Engineer concludes that the applicant has no specific identifiable plans for the use of the water applied for under Application 47061.

V.

The applicant was properly notified of the requirement of additional information concerning this application and has failed to submit the requested information. The State Engineer concludes that without the additional information requested, sufficient information is not available for the State Engineer to properly guard the public interest.

RULING

Application 47061 is hereby denied on the grounds that the applicant has no specific identifiable plans for the use of the water applied for and has not submitted the information requested by the State Engineer, and that without this information, granting of said application would be detrimental to the public interest.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/BEM/ab

Dated this 6th day of
March, 1997.

⁴NRS 533.335.