

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

IN THE MATTER OF APPLICATION 58790)
FILED TO APPROPRIATE THE PUBLIC WATERS)
FROM AN UNDERGROUND SOURCE WITHIN)
THE EASTGATE VALLEY AREA GROUNDWATER)
BASIN (127), CHURCHILL COUNTY, NEVADA.)

RULING
4557

GENERAL

I.

Application 58790 was filed on April 26, 1993, by Richard A. Olson to appropriate 0.45 cubic foot per second of water from an underground source for mining, milling and domestic purposes within portions of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 33 and portions of the SW $\frac{1}{4}$ Section 34, T.16N., R.37E., M.D.B.&M.. Application 58790 was timely protested by Robert L. Spreeuw on May 11, 1993, with said protest withdrawn on June 17, 1994.¹

The State Engineer sent notification to Robert L. Spreeuw by certified mail on October 25, 1994, assigning Robert L. Spreeuw as the current owner of record for Application 58790.

FINDINGS OF FACT

I.

The applicant was notified by certified mail dated July 7, 1994, to submit additional justification data and information to the State Engineer's office concerning the annual consumptive use of water for mining and milling purposes. A properly endorsed return receipt was received from the addressee on July 25, 1994.¹ The State Engineer finds that the applicant was properly noticed and no information was received in response to the request for information.

II.

Ownership of Application 58790 was assigned to Robert L. Spreeuw effective July 7, 1994. Robert L. Spreeuw was notified by certified mail dated November 29, 1995, to submit additional

¹ File No. 58790, official records in the office of the State Engineer.

justification data and information to the State Engineer's office concerning the annual consumptive use of water for mining and milling purposes. A properly endorsed return receipt was received from the addressee on December 1, 1995.¹

III.

The applicant was again notified by certified mail dated April 17, 1997, to submit the previously requested information. A 30-day time limit was assigned for the submission of a response or the application would be subject to denial.¹ A properly endorsed return receipt was received from the addressee on April 21, 1997. The State Engineer finds that the applicant was properly notified and that to date no information was received in response to the request for information.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and of 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 from the owner of record as will enable him to properly guard the public interest.³

III.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:⁴

- A. there is no unappropriated water at the proposed source, or
- B. the proposed use conflicts with existing rights, or

² NRS Chapters 533 and 534.

³ NRS § 533.375.

⁴ NRS § 533.370(3).

- C. the proposed use threatens to prove detrimental to the public interest.

The original applicant and subsequent new owner both failed to submit the information requested by the State Engineer's office. The State Engineer concludes, without the information requested, sufficient information is not available for the State Engineer to properly guard the public interest.

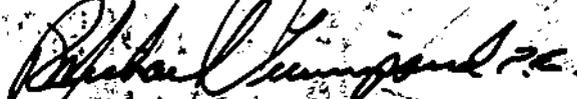
IV.

The State Engineer concludes that the applicants were properly noticed and failed to submit the information requested.

RULING

Application 58790 is hereby denied on the grounds that the applicants failed to submit the data and information requested by the State Engineer's office and that without this information the granting of the application would be detrimental to the public interest.

Respectfully submitted,



F. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/DJL/ab

Dated this 15th day of
August, 1997.

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STATE ENGINEER
AUG 15 1997
253