

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

IN THE MATTER OF APPLICATION 47522)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE)
WITHIN THE MARYS RIVER AREA)
GROUNDWATER BASIN (042), ELKO)
COUNTY, NEVADA.)

RULING

4786

GENERAL

I.

Application 47522 was filed on December 19, 1983, by Robert E. Rogan and Vivian Gayle Rogan to appropriate 2.4 cubic feet per second of water from an underground source for the irrigation of 120 acres of land within the N $\frac{1}{2}$ NW $\frac{1}{4}$ and the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 20, T.39N., R.62E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 20.

II.

Application 47522 was timely protested by Dahl, Inc., and Ernest Uhlig and Herbert Uhlig, dba Uhlig Ranches on the following grounds:¹

Dahl Incorporated has a pending application for permission to appropriate underground public water approximately three miles from the site described in Application Number 47522. Said pending application is Number 47490. UHLIG RANCHES holds a permit of appropriation of underground waters, number 36129. The site of the well is within one mile of the protested application. Protesting Parties are informed and believe that, if Application Number 47522 is approved, such approval will jeopardize Protesting Parties' pending application and present permit rights.

¹ File No. 47522, official records in the office of the State Engineer.

FINDINGS OF FACT

I.

The applicants and their agent were requested by certified letters dated June 8, 1999, to provide the office of the State Engineer with evidence that they still had an interest in pursuing Application 47522. The applicants as well as their agent were also informed that if a response was not received within 30 days from the date of the notice, the application would be considered for denial.

The June 8, 1999, letter addressed to the applicants was returned to the office of the State Engineer with the envelope stamped "Attempted, Not Known" by the United State Postal Service. To date, no information regarding this matter has been received from the applicant in the office of the State Engineer.

A timely response was received from the applicant's agent which indicated that the agent had been unable to contact the applicants. No interest in completing Application 47522 was expressed by the agent. The State Engineer finds that neither the applicants or their agent have provided any evidence of a continued interest in Application 47522.

II.

It has been a long standing policy within the office of the State Engineer that it is the applicant's responsibility to inform said office of any changes which may occur in the ownership and address associated with a specific water right. The State Engineer finds that the owners of record under Application 47522 were properly noticed of the opportunity to express their continued interest in pursuing Application 47522, but have failed to do so; therefore, Application 47522 may be considered for denial.

CONCLUSIONS

I.

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

II.

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

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

III.

On June 8, 1999, the applicants and their agent were requested by the office of the State Engineer to provide information of any continued interest in pursuing Application 47522. They were also informed that a failure to respond to this request would represent a lack of interest in this matter and would result in said application being considered for denial. The applicants failed to provide any indication that they intend to move forward with Application 47522. Therefore, the State Engineer concludes that it would not be in the public interest to approve an application which the applicants no longer intend to pursue.

² NRS Chapter 533 and 534.

³ NRS § 533.370(3).

RULING

Application 47522 is hereby denied on the grounds that granting said application would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protest.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.

State Engineer

RMT/MDB/cl

Dated this 8th day of
September, 1999.