

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

IN THE MATTER OF APPLICATION 58386 FILED)  
TO CHANGE THE PLACE OF USE, MANNER OF )  
USE AND POINT OF DIVERSION OF A PORTION )  
OF THE UNDERGROUND WATERS PREVIOUSLY )  
APPROPRIATED UNDER PERMIT 14576, )  
CERTIFICATE 5329 WITHIN THE PAHRUMP )  
VALLEY GROUNDWATER BASIN (162), NYE )  
COUNTY, NEVADA. )

**RULING**

**# 4805**

**GENERAL**

**I.**

Application 58386 was filed on December 10, 1992, by Kenneth W. Brown and Odile A. Brown to change the point of diversion, place and manner use of 0.0063 cubic feet per second, but not to exceed 3.0 acre-feet annually, a portion of Permit 14576, Certificate 5329, for irrigation and domestic purposes within portions of the SW $\frac{1}{4}$  SW $\frac{1}{4}$  and SE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 34, T.19S., R.53E., M.D.B.&M.. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 34, T.19S., R.53E., M.D.B.&M.<sup>1</sup>

**FINDINGS OF FACT**

**I.**

The applicants were notified by letter May 8, 1998, that no action could be taken on Application 58386 until the chain of title of the base water right, Permit 14576, Certificate 5329, was complete. The applicants were requested to advise the State Engineer if they were still interested in pursuing Application 58386.<sup>2</sup>

On March 8, 1999, the applicants were notified by certified mail that no action could be taken if the information requested in the May 8, 1998, letter was not submitted to the State Engineer's office. The applicants were given 60 (sixty) days to

<sup>1</sup> File No. 58386, official records in the office of the State Engineer.

<sup>2</sup> File No. 14576, official records in the office of the State Engineer.

respond to the State Engineer's request for additional information, with the understanding that a failure to timely do so would result in the denial of Application 58386.<sup>2</sup>

The certified letter of March 8, 1999, was also sent to Theodore L. Blosser, whom after a review of Permit 14576, Certificate 5329, was determined to be the owner of record prior to transferring most of his interest in Permit 14576, Certificate 5329 to other parties. Mr. Blosser remains owner of 3.85 acre-feet of Permit 14576, Certificate 5329. All other owners of record of Permit 14576, Certificate 5329 had either filed applications to change, requested extensions of time, or have had their portions forfeited.<sup>1</sup>

The certified mailing to the applicant was returned by the United States Postal Service labeled "Return to Sender - Forwarding Order Expired", on March 19, 1999. On March 17, 1999, the State Engineer received the return receipt from Mr. Blosser.<sup>2</sup> To this date no information regarding this matter has been submitted to the office of the State Engineer therefore, Application 58386 can be considered for denial.

#### CONCLUSIONS

##### I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>3</sup>

##### II.

Before either approving or rejecting an application, the State Engineer may require such additional information from the current owner of record as will enable him to properly guard the public interest.<sup>4</sup>

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<sup>3</sup> NRS Chapters 533 and 534.

<sup>4</sup> NRS § 533.375

**III.**

The State Engineer is prohibited by law from granting an application to change the public waters where:<sup>5</sup>

- A. the proposed use conflicts with existing rights; or
- B. the proposed use threatens to prove detrimental to the public interest.

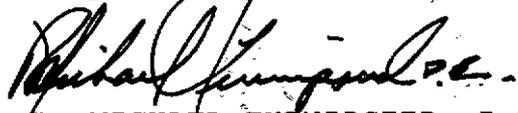
**IV.**

The applicants have failed to submit the information requested to the State Engineer's office. The State Engineer concludes that without the requested information sufficient information is not available for the State Engineer to properly guard the public interest.

**RULING**

Application 58386 is hereby denied on the grounds that the applicants have failed to submit the information requested by the State Engineer's office, and that without this information granting of the application would be detrimental to the public interest.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/KWH/cl

Dated this 16th day of  
November, 1999.

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<sup>5</sup> NRS § 533.370(3).