

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

IN THE MATTER OF APPLICATION 54140)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE)
WITHIN ANTELOPE VALLEY GROUNDWATER)
BASIN (106), DOUGLAS COUNTY, NEVADA.)

RULING

4846

GENERAL

I.

Application 54140 was filed on November 2, 1989, by E.J. Nicholson to appropriate 1.0 cubic feet per second of water from an underground source for quasi-municipal purposes within the S½ of Section 1, the SE¼ SE¼ of Section 2, and all of Section 12, all within T.19N., R.22E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ SW¼ of Section 12, T.10N., R.22E., M.D.B.&M.¹

FINDINGS OF FACT

I.

The current owner of record of Application 54140, Topaz Land Corporation, and the agent for the owner of record, Alex J. Flangas, were notified by certified mail dated August 18, 1999, requesting information regarding a conflict between Application 54140 and Applications 57681 through 57686, inclusive, and 57716 filed by Topaz Mutual Company, Inc. The return receipts from the certified letters were received from Topaz Land Corporation and Alex J. Flangas on August 25, 1999, and August 31, 1999, respectively. The State Engineer finds that to date the information requested has not been received.¹

II.

The State Engineer finds that the applicant and its agent were properly notified of the request for additional information and failed to respond.¹

CONCLUSIONS

I.

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

¹ File No. 54140, official records in the office of the State Engineer.

² NRS Chapters 533 and 534.

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.³

III.

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

- 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.

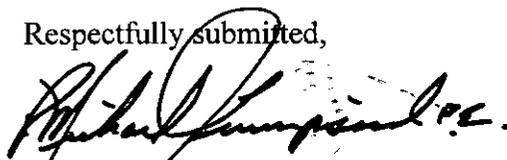
IV.

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

RULING

Application 54140 is hereby denied on the grounds that the applicant has not submitted the information requested by the State Engineer's office and that without this information the granting of the application would threaten to prove detrimental to the public interest.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/RAD/cl

Dated this 28th day of
January, 2000.

³ NRS § 533.375.

⁴ NRS § 533.370(3).