

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

IN THE MATTER OF APPLICATION 54472 FILED )  
TO APPROPRIATE THE PUBLIC WATERS FROM )  
AN UNDERGROUND SOURCE WITHIN THE )  
GABBS VALLEY GROUNDWATER BASIN (122), )  
NYE COUNTY, NEVADA. )

**RULING**

**# 4860**

**GENERAL**

**I.**

Everett E. Loving filed Application 54472 on February 23, 1990, to appropriate 0.50 cubic feet per second (c.f.s) of water from an underground source for milling and mining purposes. The proposed point of diversion is described as being located within the NW¼ SE¼ of Section 32, T.11N., R.37E., M.D.B.&M. The proposed place of use is described as being the W½ NE¼ NW¼ SE¼ of Section 32, T.11N., R.37E., M.D.B.&M. Application 54472 became ready for action on May 26, 1990.<sup>1</sup>

**FINDINGS OF FACT**

**I.**

By certified letter dated March 28, 1990, the State Engineer requested additional mining justification information from the applicant. The March 28, 1990, letter was mailed to the current address on file for the applicant. A properly endorsed receipt is on file for this letter.<sup>1</sup> The office of the State Engineer received no informational response. An additional request for updated mining justification information was sent to the applicant and his agent dated February 26, 1998. The letter assigned a 30-day time limit from February 26, 1998, to submit the information. The letter to the applicant was returned by the U.S. Postal Service marked as "Attempted-Not Known". A properly endorsed receipt is on file for the letter to the agent.<sup>1</sup> The State Engineer finds that the required information has never been submitted. The State Engineer further finds that the applicant and his agent by certified letter were properly noticed of the request for additional information and that to date no information has been received in response.

<sup>1</sup> File No. 54472, official records in the office of the State Engineer.

II.

A review of assignment of ownership records on file in the office of the State Engineer indicates that no transfer of ownership documents have been received to date to change the ownership of Application 54472. The State Engineer finds that Everett E. Loving remains the owner of record of the said application and as the current owner of record he and his agent were properly noticed of the need for additional information.

**CONCLUSIONS**

I.

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

II.

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

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

III.

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.<sup>4</sup>

IV.

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

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<sup>2</sup> NRS Chapters 533 and 534.

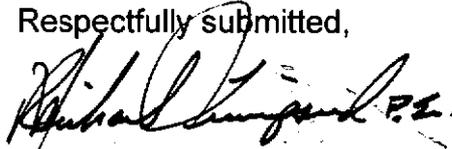
<sup>3</sup> NRS § 533.370 (3).

<sup>4</sup> NRS § 533.375.

**RULING**

Application 54472 is hereby denied on the grounds that the applicant has not submitted the information requested by the State Engineer and that without this information, the approval of said application would threaten to prove detrimental to the public interest.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/DJL/cl

Dated this 2nd day of  
March, 2000.