

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

IN THE MATTER OF APPLICATION 12964 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS FROM AN UNNAMED SPRING, )  
WITHIN THE SUMMIT LAKE VALLEY )  
HYDROGRAPHIC BASIN (027), HUMBOLDT )  
COUNTY, NEVADA. )

RULING

# 4988

GENERAL

I.

Application 12964 was filed on June 13, 1949, by Vern R. Parman and Ralph G. Parman, known as the Parman Brothers to appropriate 0.05 cubic feet per second of water from an unnamed spring for stockwatering and domestic purposes within the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 26, T.42N., R.25E., M.D.B.&M. The proposed point of diversion is described as being located within NE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 26, T.42N., R.25E., M.D.B.&M.<sup>1</sup>

II.

By letter dated November 12, 1949, the United States Department of Interior, Bureau of Land Management requested the State Engineer to hold Application 12964 in abeyance until such time as the adjudication of the federal range containing the proposed point of diversion and place of use was settled. This request was granted by the State Engineer on October 21, 1949.<sup>1</sup>

III.

Application 12964 was timely protested on September 19, 1949, by C.W. Fick on the grounds that can be summarized as follows:

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<sup>1</sup> File No. 12964, official records in the office of the State Engineer.

1. The granting of the application would adversely affect the protestants prior vested water rights.
2. The granting of the application would violate public policy and be contrary to statute.
3. The granting of the application would interfere with the protestants historic use of the surrounding range.

**FINDINGS OF FACT**

**I.**

The applicants were requested by certified letter dated September 22, 2000, to provide the office of the State Engineer with evidence that they still have an interest in pursuing Application 12964. The applicants were also informed that if a response was not received within 60 days from the date of the letter the application may be considered for denial. The September 22, 2000, letter was returned to the office of the State Engineer with the envelope stamped "Addressee Unknown" by the United States Postal Service.<sup>1</sup> The State Engineer finds that to date no information indicating any further interest by the applicants in pursuing Application 12964 has been received in the office of the State Engineer.

**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 application. The State Engineer finds that the owners of record under Application 12964 were properly noticed of the opportunity to express their continued interest in pursuing Application 12964, but have failed to do so; therefore, Application 12964 may be considered for denial.

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 to appropriate the public waters where:<sup>3</sup>

- 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 September 22, 2000, the applicants were requested by the office of the State Engineer to provide information of continued interest that they may have in pursuing Application 12964. The applicants were informed that a failure to respond to the 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 12964. Therefore, the State Engineer concludes that it would not be in the public interest to approve an application for which the applicants no longer intend to pursue.

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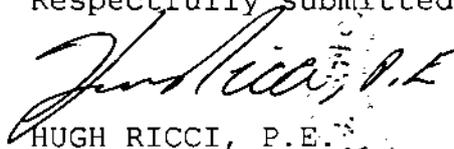
<sup>2</sup> NRS chapter 533.

<sup>3</sup> NRS § 533.370(3).

RULING

Application 12964 is hereby denied on the grounds that granting said application would not be in the public interest. No ruling is made on the merits of the protest.

Respectfully submitted,



HUGH RICCI, P.E.  
State Engineer

HR/MJR/cl

Dated this 22nd day of  
December, 2000.