

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

IN THE MATTER OF APPLICATION 4084)
FILED TO APPROPRIATE THE PUBLIC)
WATERS FROM DRY CREEK, WITHIN THE)
SALMON FALLS CREEK AREA)
HYDROGRAPHIC BASIN (040), ELKO)
COUNTY, NEVADA.)

RULING

5000

GENERAL

I.

Application 4084 was filed on July 31, 1916, by Lon Welch to appropriate 1.60 cubic feet per second (cfs) of water from Dry Creek for irrigation and domestic purposes within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 16, and the NW $\frac{1}{4}$ SW $\frac{1}{4}$, of Section 15, both in T.42N., R.62E., M.D.B.&M. The proposed point of diversion is described as being located within SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 16, T.42N., R.62E., M.D.B.&M.¹

FINDINGS OF FACT

I.

The applicant was requested by certified letter dated May 29, 1998, to provide the office of the State Engineer with evidence that he still has an interest in pursuing Application 4084. The applicant was 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 May 29, 1998, letter was returned to the office of the State Engineer with the envelope stamped "Attempted not Known" by the United States Postal Service.¹ The State Engineer finds that to date no information indicating any further interest by the applicant in pursuing Application 4084 has been received in the office of the State Engineer.

¹ File No. 4084, official records 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 owner of record under Application 4084 was properly noticed of the opportunity to express his continued interest in pursuing Application 4084, but has failed to do so; therefore, Application 4084 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 a permit 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 May 29, 1998, the applicant was requested by the office of the State Engineer to provide information of continued interest that he may have in pursuing Application 4084. The applicant was 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 applicant failed to provide any indication

² NRS chapter 533.

³ NRS § 533.370(3).

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that he intends to move forward with Application 4084. Therefore, the State Engineer concludes that it would threaten to prove detrimental to the public interest to approve an application which the applicant no longer intends to pursue.

RULING

Application 4084 is hereby denied on the grounds that granting said application would threaten to prove detrimental to the public interest.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/MJR/cl

Dated this 23rd day of
January, 2001.