

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

IN THE MATTER OF APPLICATIONS)
16985 AND 17244 FILED TO)
APPROPRIATE THE PUBLIC WATERS FROM)
THE EAST FORK JARBIDGE RIVER AND)
TRIBUTARIES, WITHIN THE JARBIDGE)
RIVER HYDROGRAPHIC BASIN (039),)
ELKO COUNTY, NEVADA.)

RULING
5002

GENERAL

I.

Application 16985 was filed on July 16, 1956, by Blue Gulch Irrigation Company to appropriate 30,000 acre-feet annually of water from the East Fork Jarbidge River and tributaries for irrigation and domestic purposes within Sections 1 through 11, 14, 15, 16, E $\frac{1}{2}$ of Section 17, 22, 23, 34, 35, and portions of Sections 26 and 27, T.9S., R.13E., B.M., and Sections 1, 2, 3, 10, W $\frac{1}{2}$ of Section 11, 14, 15, 22, 23, N $\frac{1}{2}$ of Section 26, 34, SW $\frac{1}{4}$ of Section 35, T.9S., R.12E., B.M., and portions of the E $\frac{1}{2}$ T.8S., R.12E., B.M., lying east of the Saylor Creek Aerial Gunnery Range, Idaho. The proposed point of diversion is described as being located within NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 9, T.46N., R.59E., M.D.B.&M.¹

II.

Application 17244 was filed on April 17, 1957, by Blue Gulch Irrigation Company to appropriate 30,000 acre-feet annually of water from the East Fork Jarbidge River and tributaries for irrigation and domestic purposes within the Sections 1 through 11, 14, 15, 16, E $\frac{1}{2}$ of Section 17, 22, 23, 34, 35, and portions of Sections 26 and 27, T.9S., R.13E., B.M., and Sections 1, 2, 3, 10, W $\frac{1}{2}$ of Section 11, 14, 15,

¹ File No. 16985, official records in the office of the State Engineer.

22, 23, N½ of Section 26, 34, SW¼ of Section 35, T.9S., R.12E., B.M., and portions of the E½, T.8S., R.12E., B.M. lying east of the Saylor Creek Aerial Gunnery Range, Idaho. The proposed point of diversion is described as being located within NE¼ SW¼ of Section 9, T.46N., R.59E., M.D.B.&M.²

FINDINGS OF FACT

I.

The applicant was requested by certified letter dated June 27, 2000, to provide the office of the State Engineer with evidence that it still has an interest in pursuing Applications 16985 and 17244. The applicant was also informed that if a response was not received within 60 days from the date of the letter the applications may be considered for denial. The June 27, 2000, letter was returned to the office of the State Engineer with the envelope stamped "Addressee Unknown" 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 Applications 16985 and 17244 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 owner of record under Applications 16985 and 17244 was properly noticed of the opportunity to express its continued interest in pursuing Applications 16985 and 17244, but has failed to

² File No. 17244, official records in the office of the State Engineer.

do so; therefore, Applications 16985 and 17244 may be considered for denial.

CONCLUSIONS

I.

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

II.

The State Engineer is prohibited by law from granting a permit 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.

III.

On June 27, 2000, the applicant was requested by the office of the State Engineer to provide information of continued interest that it may have in pursuing Applications 16985 and 17244.. 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 applications being considered for denial. The applicant failed to provide any indication that it intends to move forward with Applications 16985 and 17244. Therefore, the State Engineer concludes that it would not be in the public interest to approve an application which the applicant no longer intends to pursue.

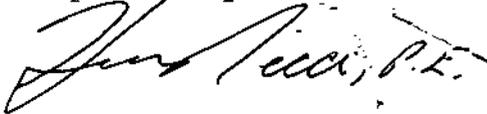
³ NRS chapter 533.

⁴ NRS § 533.370(3).

RULING

Applications 16985 and 17244 are hereby denied on the grounds that granting said applications 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.