

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

IN THE MATTER OF APPLICATION 49441 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS FROM SURFACE RUNOFF WITHIN )  
THE LEMMON VALLEY (WESTERN PART) )  
HYDROGRAPHIC BASIN (092A), WASHOE )  
COUNTY, NEVADA. )

RULING

# 5006

GENERAL

I.

Application 49441 was filed on October 10, 1985, by Upland Industries Corporation to appropriate 1.0 cubic feet per second of water from surface runoff for quasi-municipal purposes within portions of Sections 30 & 31, T.21N., R.19E., M.D.B.&M. The proposed point of diversion is described as being located within NW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 31, T.21N., R.19E., M.D.B.&M.<sup>1</sup>

FINDINGS OF FACT

I.

The applicant and its agent were requested by certified letter dated November 14, 2000, to provide the office of the State Engineer with evidence that the applicant still has an interest in pursuing Application 49441. 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 November 14, 2000, letter was returned to the office of the State Engineer with the envelope stamped "Not at this Address" by the United States Postal Service.<sup>1</sup> The letter to the agent was returned indicating "No Such Number".<sup>1</sup> The State Engineer finds that to date no information indicating any further interest by

<sup>1</sup> File No. 49441, official records in the office of the State Engineer.

the applicant in pursuing Application 49441 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 applicant under Application 49441 was properly noticed of the opportunity to express its continued interest in pursuing Application 49441, but has failed to do so; therefore, Application 49441 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 November 14, 2000, the applicant was requested by the office of the State Engineer to provide information of continued interest that it may have in pursuing Application 49441. The applicant was informed that failure to respond to the request would represent a lack of interest in this

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

<sup>3</sup> NRS § 533.370(3).

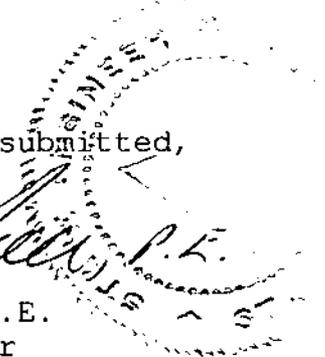
matter and would result in said application being considered for denial. The applicant failed to provide any indication that it intended to move forward with Application 49441. Therefore, the State Engineer concludes that it would not be in the public interest to approve an application that the applicant no longer intends to pursue.

**RULING**

Application 49441 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/dl

Dated this 16th day of  
March, 2001.