

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

IN THE MATTER OF APPLICATIONS 32897,)
32898, and 36158 FILED TO APPROPRIATE)
THE PUBLIC WATERS OF AN UNDERGROUND)
SOURCE WITHIN NEWARK VALLEY)
HYDROGRAPHIC BASIN (154), WHITE PINE)
COUNTY, NEVADA)

RULING

5029

GENERAL

I.

Application 32897 was filed on July 22, 1977, by Daniel R. Smith to appropriate 2.7 cubic feet per second of water from an underground source for irrigation and domestic purposes within the NW $\frac{1}{4}$ of Section 34, T.19N., R.55E., M.D.B.&M.¹ The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 34.¹ Application 32897 was filed in support of a Carey Land Act Application.

II.

Application 32898 was filed on July 22, 1977, by Jerry Douglas Smith to appropriate 2.7 cubic feet per second of water from an underground source for irrigation and domestic purposes within the SW $\frac{1}{4}$ of Section 34, T.19N., R.55E., M.D.B.&M.² The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 34.² Application 32898 was filed in support of a Carey Land Act Application.

¹ File No. 32897, official records in the office of the State Engineer.

² File No. 32898, official records in the office of the State Engineer.

III.

Application 36158 was filed on November 13, 1978, by John Gutwein to appropriate 2.7 cubic feet per second of water from an underground source for irrigation and domestic purposes within the NW¼ of Section 27, T.19N., R.55E., M.D.B.&M.³ The proposed point of diversion is described as being located within the NW¼ NW¼ of said Section 27.³ Application 36158 was filed in support of a Carey Land Act Application.

FINDINGS OF FACT

I.

By letter dated February 24, 2000, the Nevada Division of State Lands informed the State Engineer that the Carey Act applications tied to water right Applications 32897, 32898, and 36158 had been cancelled. The State Engineer finds the purpose for which Applications 32897, 32898, and 36158 were filed no longer exist.

II.

The applicants under Applications 32897, 32898, and 36158 were notified by certified mail dated May 4, 2000, that additional information was needed regarding their applications.^{1,2,3} The certified letters to the applicants were returned by the U.S. Postal Service each with a stamp indicating that the current address of the addressee is unknown.^{1,2,3} The State Engineer finds that to date the information requested has not been received.

³ File No. 36158, official records in the office of the State Engineer.

III.

The agent for the applicants under Applications 32897, 32898, and 36158 was notified by certified mail dated September 27, 2000, that additional information was needed regarding these applications.^{1,2,3} The return receipt from this certified letter was received in the office of the State Engineer on October 6, 2000.¹ The State Engineer finds that to date the information requested has not been received.

IV.

The State Engineer finds that it is the responsibility of the applicants, or their successors-in-interest to keep this office informed of a current mailing address.

V.

The State Engineer finds that the applicants and their agent were properly notified of the request for additional information and failed to respond.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and subject matter of this action and determination.⁴

II.

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.⁵

⁴ NRS chapters 533 and 534.

⁵ NRS § 533.375.

III.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:⁶

- 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.

IV.

Applications 32897, 32898, and 36158 request appropriations of water for projects that no longer exist. The State Engineer concludes that to approve permits where the need to appropriate water has ceased would threaten to prove detrimental to the public interest.

V.

The applicants and their agent were properly notified of the requirement for additional information concerning these applications and have failed to submit the information to the State Engineer's office. The State Engineer concludes that without the information requested sufficient information is not available for the State Engineer to properly guard the public interest.

⁶ NRS § 533.370(3).

RULING

Applications 32897, 32898, and 36158 are hereby denied on the grounds that the applicants or their agent have not submitted the information requested by the State Engineer's office and without this information the granting of the applications would threaten to prove detrimental to the public interest. The applications are also denied on the grounds that without a project their approval would threaten to prove detrimental to the public interest.

Respectfully submitted,



HUGH RICCI, P.E.

State Engineer

HR/RAD/hf

Dated this 29th day of
May, 2001.