

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

IN THE MATTER OF APPLICATION 11615)
FILED TO APPROPRIATE THE PUBLIC)
WATERS FROM NORTH CREEK AND)
TRIBUTARIES WITHIN THE LAKE TAHOE)
BASIN HYDROGRAPHIC BASIN (090),)
WASHOE COUNTY, NEVADA.)

RULING

5034

GENERAL

I.

Application 11615 was filed on June 17, 1946, by Henry E. Heidenreich, Roy F. Heidenreich and Edwin E. Heidenreich to appropriate 12.0 cubic feet per second of water from North Creek and tributaries for irrigation and domestic purposes within Sections 1, 2, 3, 4, 9, 10, 11, 14, 15, 16, 21, 22 and 23, T.16N., R.19E., M.D.B.&M. The proposed points of diversion are described as being located within SW¹/₄ SW¹/₄ and SE¹/₄ SW¹/₄ of Section 26, T.17N., R.18E., M.D.B.&M.¹

II.

Application 11615 was assigned on July, 29, 1966, to Franktown Creek Irrigation Company.

III.

Application 11615 was timely protested on August 22, 1946, by Neva Winters Sauer, Theodora W. Longabaugh and Theodora W. Longabaugh, as Administratrix of the Estates of Lewis Winters, and Archie C. Winters. The basis of the protest is that granting this application would impair prior rights and would promote litigation with the protestant. The protestant requested that the application be denied.

¹ File No. 11615, official records in the office of the State Engineer.

FINDINGS OF FACT

I.

The applicant and its agent were requested by certified letter dated February 8, 2001, to provide the office of the State Engineer with evidence that it still has an interest in pursuing Application 11615. 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 February 8, 2001, letters were returned to the office of the State Engineer with the envelopes stamped "Return to Sender 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 11615 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 responsibility of an applicant and its agent 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 11615 was properly noticed of the opportunity to express its continued interest in pursuing Application 11615, but has failed to do so; therefore, Application 11615 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 February 8, 2001, the applicant was requested by the office of the State Engineer to provide information of continued interest that it may have in pursuing Application 11615. The applicant was informed that 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 that it intends to move forward with Application 11615. 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.

² NRS chapter 533.

³ NRS § 533.370(3).

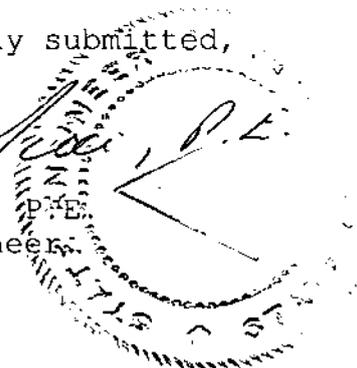
RULING

Application 11615 is hereby denied on the grounds that granting said application would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protests.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer



HR/MJR/df1

Dated this 12th day of

June, 2001.