

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

IN THE MATTER OF APPLICATION 40980 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS OF AN UNDERGROUND SOURCE )  
WITHIN PANACA VALLEY HYDROGRAPHIC )  
BASIN(203), LINCOLN COUNTY, NEVADA. )

RULING

**#5060**

GENERAL

I.

Application 40980 was filed on March 31, 1980, by Don Scott and Marcia P. Wadsworth to appropriate 3.60 cubic feet per second of water from an underground source for irrigation purposes within the SW $\frac{1}{4}$  SE $\frac{1}{4}$  and SE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 17, the SW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 18, the NE $\frac{1}{4}$  NW $\frac{1}{4}$  and NW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 20, all within T.2S., R.68E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$  SE $\frac{1}{4}$  of said Section 18.<sup>1</sup>

FINDINGS OF FACT

I.

By letter dated November 2, 1983, the State Engineer's office informed the applicants and their agent that Application 40980 covered land which was appurtenant to a separate water right permit which appeared to be owned by someone else. The applicants were informed that before the State Engineer could proceed with processing Application 40980 they needed to establish ownership to the parcel of land in question. The State Engineer finds no response was received from the applicants.

II.

The applicants and their agent were requested by certified mail dated March 2, 2001, to inform the State Engineer whether there was still an interest in pursuing Application 40980. The applicants and their agent were also informed that failure to respond within thirty days may result in the denial of the

<sup>1</sup> File No. 40980, official records in the office of the State Engineer.

application. The return receipt from the certified letter to the applicants was received in the office of the State Engineer on March 8, 2001. The certified letter to their agent was returned to the office of the State Engineer on March 9, 2001, marked "Deceased". The State Engineer finds that to date, no interest has been expressed in pursuing Application 40980.<sup>1</sup>

**III.**

The State Engineer finds that the applicants were properly noticed of the request to express a continued interest in Application 40980 and failed to respond.<sup>1</sup>

**CONCLUSIONS**

**I.**

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>2</sup>

**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.<sup>3</sup>

**III.**

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:<sup>4</sup>

- A. there is no unappropriated water at the proposed source;
- B. the proposed use conflicts with existing rights;
- C. the proposed use conflicts with protectible interests in existing domestic wells as set forth in NRS § 533.024 or
- D. the proposed use threatens to prove detrimental to the public interest.

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<sup>2</sup> NRS chapters 533 and 534.

<sup>3</sup> NRS § 533.375.

<sup>4</sup> NRS § 533.370(3).

IV.

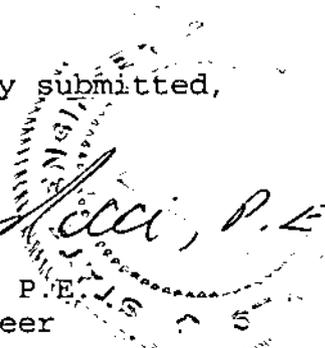
The applicants were properly noticed of the request to express a continued interest in this application and have failed to respond. The State Engineer concludes that without the information requested sufficient information is not available for the State Engineer to properly guard the public interest.

RULING

Application 40980 is hereby denied on the grounds that the applicants have not expressed a continued interest in pursuing Application 40980; therefore, the granting of a permit under the application would threaten to prove detrimental to the public interest.

Respectfully submitted,

  
HUGH RICCI, P.E.  
State Engineer



HR/RAD/d1

Dated this 4th day of  
September, 2001.