

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

IN THE MATTER OF APPLICATION 43067)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF THE BIG SMOKY VALLEY-)
NORTHERN PART HYDROGRAPHIC BASIN)
(137B), NYE COUNTY, NEVADA.)

RULING

5149

GENERAL

I.

Application 43067 was filed on January 8, 1981, by Henry Williams to appropriate 2.0 cubic feet per second of water from an underground source for irrigation purposes on 6.58 acres within the W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 29, T.11N., R.43E., M.D.B.&M. The proposed point of diversion is described as being located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 29, T.11N., R.43E., M.D.B.&M.¹

II.

On August 13, 1981, Application 43067 was assigned in the records of the Office of The State Engineer to David L. and Barbara Jo Chaney.¹

III.

Application 43067 was timely protested by Richard Carver-Carver Ranch on the following grounds:

Page 63 of Water Resources Bulletin #41, State of Nev. Dept of Natural Resources, Division of Water Resources, states as a general rule, spacing between all high yield irrigation wells should be at least 0.5 mile and depending on the aquifer and pumping conditions, distances up to 1 mile are recommended. My pumping units affected with an 0.5 mile are 16866, 18840, 41148, 41950, 41151, 41152, within 1 mile 40621, 40622.

Therefore the protestant requests that the application be denied.

¹ File no. 43067, official records in the Office of the State Engineer.

FINDINGS OF FACT

I.

On June 24, 2002, a letter was sent by certified mail to the applicants and their agent requesting an indication of the applicants' intention to continue to pursue Application 43067. The applicants were allowed thirty days from the date of the letter to submit the requested information. The certified mailing to the applicants was returned to the Office of the State Engineer by the U.S. Postal Service as "unclaimed." The certified mailing to the applicants' agent was returned by the U.S. Postal Service as "refused." The applicants were warned that failure to provide the requested information regarding an interest in pursuing Application 43067 could result in denial of said application. The State Engineer finds that no response was received to the request for information.

II.

To this date, no response to the State Engineer's request for information has been received. The State Engineer finds that the failure of the applicants to submit information allows Application 43067 to be considered for denial.

III.

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

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 an application to appropriate the public waters where:³

² NRS chapters 533 and 534.

³ NRS § 533.370(3).

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

III.

The State Engineer concludes that the applicants have failed to provide evidence of a continued interest in Application 43067; therefore, said application can be denied.

IV.

The State Engineer concludes that the approval of an application in which the applicants have no intention of pursuing would threaten to prove detrimental to the public interest.

RULING

Application 43067 is hereby denied on the grounds that the applicants have failed to provide evidence of a continued interest in pursuing said application, and without this information granting the application would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protest.

Respectfully submitted,


HUGH RICCI, P.E.
State Engineer

HR/BM/jm

Dated this 24th day of
September, 2002.