

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

IN THE MATTER OF APPLICATION)
13182 FILED TO APPROPRIATE THE)
PUBLIC WATERS FROM HILLSIDE)
SPRING WITHIN THE DIXIE)
VALLEY HYDROGRAPHIC BASIN)
(128), CHURCHILL COUNTY,)
NEVADA.)

RULING

#5164

GENERAL

I.

Application 13182 was filed on December 1, 1949, by Thomas Ormachea to appropriate 0.25 cubic feet per second of water from Hillside Spring for stockwatering and domestic purposes. The place of use is described as being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 29, T.23N., R.38E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 29, T.23N., R.38E., M.D.B.&M.¹

FINDINGS OF FACT

I.

Application 13182 was timely protested by Clyde B. Stark on the grounds that he has improved and used the spring for the last three years and prior to that development there was insufficient water to water any livestock.¹

II.

The applicant and his agent were notified by certified mail dated August 20, 2002, to advise this office in writing if they were interested in pursuing Application 13182. The applicant was warned that failure to respond within 30 days would result in denial of the application. The certified letters were sent to both addresses on file. The letters were returned by the U.S. Postal Service stamped "Returned To Sender, No Such Number".

To date, no information on this matter has been submitted to the State Engineer's Office. The State Engineer finds that the applicant was properly notified of the request for additional information regarding interest in pursuing Application 13182 and failed to respond.

III.

The State Engineer finds that it is the responsibility of the applicant, 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 of the subject matter of this action and determination.²

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.³

III.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:⁴

- 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.

IV.

The applicant and his agent were properly notified of the requirement for additional information concerning interest in this application and have failed to submit the information to the State Engineer's Office. The State Engineer concludes that the failure to maintain a current mailing address or express any interest in the application in over 40 years demonstrates the applicants lack of interest in pursuing Application 13182. The State Engineer concludes it would threaten to prove detrimental to the public interest to issue a permit under an application for which no interest is expressed.

¹ File No. 13182, official records in the Office of the State Engineer.

² NRS chapter 533.

³ NRS § 533.375.

⁴ NRS § 533.370(3).

RULING

Application 13182 is hereby denied on the grounds its issuance 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/TW/jm

Dated this 17th day of

October, 2002.