

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

IN THE MATTER OF APPLICATION)
8405 FILED TO APPROPRIATE THE)
PUBLIC WATERS FROM MULE)
SHOE SPRING WITHIN THE DRY)
LAKE VALLEY HYDROGRAPHIC)
BASIN (181), LINCOLN COUNTY,)
NEVADA.)

RULING
5172

GENERAL

I.

Application 8405 was filed on December 8, 1927, by M.L. McClure to appropriate 0.5 cubic feet per second of water from Mule Shoe Spring for stockwatering and domestic purposes. The place of use is the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 15, T.6N., R.64E., M.D.B.&M. The point of diversion is described as being located within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 15.¹

II.

The current owner of record is the Imperial Farms and Cattle Co., Inc.¹

III.

Application 8405 was timely protested by J.L. Whipple on the following grounds:

First that Mule Shoe Spring is located in the three mile limmet [sic] of Side Hill Spring of which I hold Deeds to said Land and watter [sic]
Second I have had Cattle Wattering [sic] at said Mule Shoe Spring for the last Twenty Four years, And have used range for grazing Cattle for the same length of time

WHEREFORE protestant prays that the application be Denied

FINDINGS OF FACT

I.

The owner of record and its agent were notified by certified mail dated September 11, 2002, to advise this office in writing if they were interested in pursuing Application 8405. The owner of record and its agent were warned that failure to respond within 30

¹ File No. 8405, official records in the Office of the State Engineer.

days would result in denial of the application. The certified letters were returned by the United States Post Office stamped "Returned To Sender".¹

To date, no information on this matter has been submitted to the State Engineer's Office. The State Engineer finds that the current owner of record and its agent were properly notified of the request for additional information regarding interest in pursuing Application 8405 and failed to respond.

II.

The State Engineer finds that it is the responsibility of the owner of record and its agent, 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.

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.

² NRS chapter 533.

³ NRS § 533.375.

⁴ NRS § 533.370(3).

IV.

The owner of record and its 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 respond affirms the owner of record and its agent's lack of interest in pursuing Application 8405.

RULING

Application 8405 is hereby denied on the grounds that the owner of record and its agent have not submitted the information requested by the State Engineer's Office and that without this information the granting of the application would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protest claim.

Respectfully submitted,


HUGH RICCI, P.E.
State Engineer

HR/TW/jm

Dated this 19th day of
November, 2002.