

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

IN THE MATTER OF APPLICATIONS)
48691, 48692, 48693, 48695 AND)
48696 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF VARIOUS SPRING)
SOURCES WITHIN THE EMIGRANT)
VALLEY, AKA GROOM LAKE VALLEY,)
HYDROGRAPHIC BASIN (158A), AND)
APPLICATION 48694 FILED TO)
APPROPRIATE THE PUBLIC WATERS)
OF A SPRING SOURCE WITHIN THE)
PENoyer VALLEY, HYDROGRAPHIC)
BASIN (170), ALL LOCATED WITHIN)
LINCOLN COUNTY, NEVADA.)

RULING

5184

GENERAL

I.

Application 48691 was filed on January 10, 1985, by D/4 Enterprises, Inc. to appropriate 0.04 cubic feet per second (cfs) of water from an unnamed spring for stockwatering purposes within a portion of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 33, T.5S., R.55 $\frac{1}{2}$ E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 33.¹

II.

Application 48692 was filed on January 10, 1985, by D/4 Enterprises, Inc. to appropriate 0.01 cfs of water from an unnamed spring for stockwatering purposes within a portion of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 18, T.6S., R.55 $\frac{1}{2}$ E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 18.²

¹ File No. 48691, official records in the Office of the State Engineer.

² File No. 48692, official records in the Office of the State Engineer.

III.

Application 48693 was filed on January 10, 1985, by D/4 Enterprises, Inc. to appropriate 0.01 cfs of water from an unnamed spring for stockwatering purposes within a portion of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 20, T.7S., R.55 $\frac{1}{2}$ E., 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 16, T.7S., R. 55 $\frac{1}{2}$ E, M.D.B.&M.³

IV.

Application 48694 was filed on January 10, 1985, by D/4 Enterprises, Inc. to appropriate 0.01 cfs of water from an unnamed spring for stockwatering purposes within a portion of the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 1, T.5S., R.55E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 1.⁴

V.

Application 48695 was filed on January 10, 1985, by D/4 Enterprises, Inc. to appropriate 0.02 cubic feet per second of water from an unnamed spring for stockwatering purposes within a portion of the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 18, T.5S., R.55 $\frac{1}{2}$ E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 18.⁵

VI.

Application 48696 was filed on January 10, 1985, by D/4 Enterprises, Inc. to appropriate 0.01 cfs of water from an unnamed spring for stockwatering purposes within a portion of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 5, T.6S., R.55 $\frac{1}{2}$ E.,

³ File No. 48693, official records in the Office of the State Engineer.

⁴ File No. 48694, official records in the Office of the State Engineer.

⁵ File No. 48695, official records in the Office of the State Engineer.

M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ SE¼ of said Section 5.⁶

VII.

Applications 48691, 48692, 48693, 48695 and 48696 were timely protested by William C. Calkins of the U.S. Department of Interior, Bureau of Land Management, on the following grounds.^{1,2,3,5,6}

Water from this source was reserved by Executive Order of April 17, 1926 (PWR #107) for the purpose of providing human and animal consumption.

WHEREFORE protestant prays that the application be Denied

FINDINGS OF FACT

I.

The applicant and its agent were notified by certified mail dated June 11, 2002, that additional information was needed regarding Applications 48691 through 48696, inclusive. The applicant was further warned that failure to respond within 30 days might result in denial of the applications. The State Engineer finds that the return receipt from the certified letter to the applicant was received in the Office of the State Engineer on June 24, 2002, and that the applicant failed to respond to this letter. The State Engineer finds that this certified letter mailed to the agent was returned to the Office of the State Engineer by the U. S. Postal Service stamped "Return to sender, ATTEMPTED, NOT KNOWN".¹

⁶ File No. 48696, official records in the Office of the State Engineer.

II.

The State Engineer finds that the applicant and its agent were properly notified of the request for additional information and failed to respond.^{1,2,3,4,5,6}

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁷

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.⁸

III.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:⁹

- 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 its agent were properly notified of the requirement for additional information concerning this application and have failed to submit the information to the State Engineer's Office. The State Engineer concludes that without the information requested sufficient

⁷ NRS chapter 533.

⁸ NRS § 533.375.

⁹ NRS § 533.370(3).

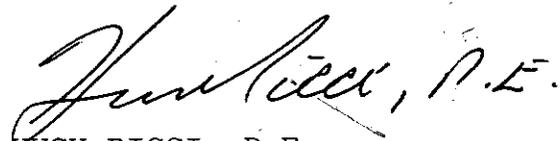
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information is not available for the State Engineer to properly guard the public interest.

RULING

Applications 48691 through 48696, inclusive, are hereby denied on the grounds that the applicant 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.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/RAD/jm

Dated this 27th day of
November, 2002.