

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

IN THE MATTER OF APPLICATION 42395)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE)
WITHIN THE SNAKE VALLEY)
HYDROGRAPHIC BASIN (195), WHITE)
PINE COUNTY NEVADA.)

RULING

#5254

GENERAL

I.

Application 42395 was filed on September 5, 1980, by Donald R. Fielden to appropriate 6.0 cubic feet per second of water from an underground source for irrigation purposes. The proposed place of use is 320 acres described as being located within E½ of Section 36, T.13N., R.70E., M.D.B.&M. The proposed point of diversion is described as being located within SW¼ SE¼ of said Section 36.¹

II.

The application was timely protested by Fredrick Baker of Baker Ranches on the grounds that the granting of the application would conflict and interfere with existing water rights in the area.¹

FINDINGS OF FACT

I.

The applicant and his agents were notified by certified mail dated March 3, 2003, to submit additional information to the State Engineer's Office and to advise this office in writing if he was interested in pursuing Application 42395. The applicant was warned that failure to respond within 30 days would result in denial of the application. A properly endorsed certified receipt

¹ File No. 42395, official records in the Office of the State Engineer.

from the applicant was received in the Office of the State Engineer on March 7, 2003. The certified letters to the agents returned to the Office of the State Engineer by the U.S. Postal Service stamped "Attempted - Not Known No Such Number" and "Not Deliverable as Addressed, Unable to Forward." The State Engineer finds that the applicant and his agents were properly notified of the request for additional information regarding interest in pursuing Application 42395 and have failed to respond.

II.

The State Engineer finds that there has been no correspondence from the applicant regarding Application 42395 for over 20 years.¹

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

² NRS chapters 533 and 534.

³ NRS § 533.375.

⁴ NRS § 533.370(3).

- D. the proposed use or change threatens to prove detrimental to the public interest.

IV.

The applicant and his agents were properly notified of the request for additional information concerning interest in this application and have failed to submit this information to the State Engineer's Office. The State Engineer concludes that the failure to express any interest in the application for over 20 years and failure to submit additional information demonstrates the applicant's lack of interest in pursuing Application 42395. 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.

RULING

Application 42395 is hereby denied on the grounds that 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/dl

Dated this 5th day of

June, 2003.