

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

IN THE MATTER OF APPLICATION )  
31374 FILED TO APPROPRIATE )  
THE PUBLIC WATERS OF AN )  
UNDERGROUND SOURCE WITHIN )  
THE WHITE RIVER VALLEY )  
HYDROGRAPHIC BASIN (207), )  
WHITE PINE COUNTY, NEVADA. )

**RULING**

**# 5322**

**GENERAL**

**I.**

Application 31374 was filed on April 25, 1977, by Arthur Hexem to appropriate 2.7 cubic feet per second of water from an underground source for irrigation and domestic purposes in support of a Carey Act Land Application. The proposed place of use is described as being the SW<sup>1</sup>/<sub>4</sub> of Section 20, T.11N., R.62E., M.D.B.&M. The proposed point of diversion is described as being located within the NE<sup>1</sup>/<sub>4</sub> SW<sup>1</sup>/<sub>4</sub> of said Section 20.<sup>1</sup>

**FINDINGS OF FACT**

**I.**

The applicant and his agent were notified by certified mail dated August 13, 2003, to submit additional information regarding Application 31374 to the State Engineer's office. The applicant was warned that failure to respond within 30 days would result in denial of the application. Properly endorsed certified mail receipts were received in the Office of the State Engineer from the applicant and his agent on August 25 and August 28, 2003, respectively. To date, the applicant and his agent have expressed no interest in pursuing this application and have not submitted the additional information requested. The State Engineer finds that the applicant and his agent were properly notified of the request for additional information regarding interest in pursuing Application 31374 and failed to respond.

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<sup>1</sup> File No. 31374, official records in the Office of the State Engineer.

**II.**

The State Engineer finds that there has been no correspondence from the applicant or his agent regarding Application 31374 for at least 26 years.<sup>1</sup>

**CONCLUSIONS**

**I.**

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>2</sup>

**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.<sup>3</sup>

**III.**

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

- 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 and have failed to submit the information to the State Engineer's Office. The State Engineer concludes that the failure to express any interest in the application for over 26 years demonstrates the applicant's lack of interest in pursuing Application 31374. The State Engineer concludes it would threaten to prove detrimental to the public interest to issue a permit under these circumstances.

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<sup>2</sup> NRS chapters 533 and 534.

<sup>3</sup> NRS § 533.375.

<sup>4</sup> NRS § 533.370(3).

**RULING**

Application 31374 is hereby denied on the grounds its issuance would threaten to prove detrimental to the public interest.

Respectfully submitted,



HUGH RICCI, P.E.  
State Engineer

HR/TW/jm

Dated this 20th day

of February, 2004.