

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

IN THE MATTER OF APPLICATIONS 42434)
AND 42436 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE INDEPENDENCE)
VALLEY HYDROGRAPHIC BASIN (036),)
ELKO COUNTY, NEVADA.)

RULING
5364

GENERAL

I.

Application 42434 was filed on September 15, 1980, by Peter M. Mori to appropriate 6.0 cubic feet per second (cfs) of water from an underground source for irrigation and domestic purposes within 320 acres of land located within the N $\frac{1}{2}$ SE $\frac{1}{4}$, Lot 1, and the S $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 1, T.39N., R.51E., M.D.B.&M., and Lots 4, 5 and 6 of Section 6, T.39N., R.52E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 1.¹

II.

Application 42436 was filed on September 15, 1980, by Sam W. Mori to appropriate 6.0 cfs of water from an underground source for irrigation and domestic purposes within 320 acres of land located within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 36, T.40N., R.51E., M.D.B.&M, and Lots 2, 3 and 4, the S $\frac{1}{2}$ NW $\frac{1}{4}$ and the N $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 1, T.39N., R.51E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 36.²

FINDINGS OF FACT

I.

By certified letters dated March 4, 2003, and September 9, 2003, the respective applicants were requested by the Office of

¹ File No. 42434, official records in the Office of the State Engineer.

² File No. 42436, official records in the Office of the State Engineer.

the State Engineer to provide evidence of a continued interest in pursuing Applications 42434 and 42436. Each applicant was allowed thirty days from the date of the letter to submit the requested information to the State Engineer's office with the caution that a failure to timely do so would result in the denial of Applications 42434 and 42436. Properly endorsed receipts for the certified notices to the applicants were timely received in the Office of the State Engineer. To this date, no information regarding this matter has been received in the State Engineer's office.^{1,2} The State Engineer finds that the applicants have been properly noticed at their correct address of the need to provide evidence of a continued interest in pursuing Applications 42434 and 42436 and have failed to do so.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.³

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters 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.

III.

The applicants were requested by the State Engineer to provide additional information relating to any continued interest

³ NRS chapters 533 and 534.

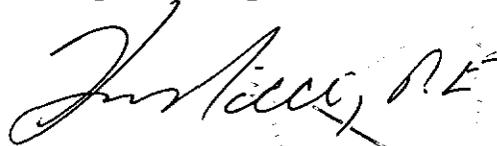
⁴ NRS § 533.370(4).

that they may have in pursuing Applications 42434 and 42436. The State Engineer also cautioned the applicants that a failure to timely submit this information would result in the denial of these applications. To this date, no information relevant to this matter has been received in the Office of the State Engineer. The State Engineer concludes that to approve water right applications in which the applicants have no further interest in pursuing would threaten to prove detrimental to the public interest.

RULING

Applications 42434 and 42436 are hereby denied on the grounds that the applicants have failed to provide additional information to the State Engineer and that their approval would threaten to prove detrimental to the public interest.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/MDB/jm

Dated this 8th day of
June, 2004.