

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

IN THE MATTER OF APPLICATIONS 42310 )  
AND 42311 FILED TO APPROPRIATE THE )  
PUBLIC WATERS AN UNDERGROUND )  
SOURCE WITHIN THE SPRING VALLEY )  
HYDROGRAPHIC BASIN (184), WHITE )  
PINE COUNTY, NEVADA. )

**RULING**

**#5384**

**GENERAL**

**I.**

Application 42310 was filed on August 28, 1980, by Patricia A. Schroeder, to appropriate 5.4 cubic feet per second (cfs) of water from an underground source for irrigation and domestic purposes in support of a Desert Land Entry (DLE). The place of use is 320 acres described as being located within E $\frac{1}{2}$  of Section 19, T.11N., R.67E., M.D.B.&M. The point of diversion is described as being located within SW $\frac{1}{4}$  NE $\frac{1}{4}$  of said Section 19.<sup>1</sup>

**II.**

Application 42311 was filed on August 28, 1980, by Patricia A. Schroeder, to appropriate 5.4 cfs of water from an underground source for irrigation and domestic purposes in support of a DLE. The place of use is 320 acres described as being located within E $\frac{1}{2}$  of Section 19, T.11N., R.67E., M.D.B.&M. The point of diversion is described as being located within SW $\frac{1}{4}$  SE $\frac{1}{4}$  of said Section 19.<sup>2</sup>

**FINDINGS OF FACT**

**I.**

A review of records in the Office of the State Engineer show that the place of use described in the application is public land managed by the United States Department of the Interior, Bureau of Land Management (BLM).<sup>3</sup> By letter dated July 31, 1992, the BLM informed the Office of the State Engineer that the land described under the place of use of Applications 42310 and 42311 was unsuitable for entry. The State Engineer finds

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<sup>1</sup> File No. 42310, official records in the Office of the State Engineer.

<sup>2</sup> File No. 42311, official records in the Office of the State Engineer.

<sup>3</sup> United States Bureau of Land Management, "Garrison", 1:100,000-scale topographic map, revised 1990.

the applicant does not own or control the land described under the place of use of Applications 42310 and 42311 and the land has been deemed unsuitable for entry by the BLM.

## II.

The applicant and her agent were notified by certified mail dated November 25, 2003, to submit additional information regarding Applications 42310 and 42311 to the State Engineer's Office. Specifically, the applicant was informed of the determination by the BLM indicating the land was unsuitable for entry and the applicant was instructed to send a written response to the Office of the State Engineer verifying the status of any entries/applications, exchanges, and/or possible purchases associated with the described place of use. The applicant was warned that failure to respond within 30 days would result in denial of the application. The certified letters, sent to the applicant and her agent, were returned to the Office of the State Engineer by the U.S. Postal Service stamped "Attempted Not Known". Additionally, written on the envelope of the letter to the applicant, was "No such person lived in this address". To date, the applicant and her agent have expressed no interest in pursuing this application and have not submitted the additional information requested.<sup>1</sup> The State Engineer finds that the applicant and her agent were properly notified of the request for additional information and have failed to respond.

## III.

The State Engineer finds that it is the responsibility of the applicant or her agent to keep this office informed of a current mailing address.

## IV.

The State Engineer finds that there has been no correspondence from the applicant or his agent for over 22 years.<sup>1,2</sup>

## CONCLUSIONS

### I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>4</sup>

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<sup>4</sup> NRS chapters 533 and 534.

## 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>5</sup>

## III.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:<sup>6</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 her 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 22 years and the failure to submit requested information demonstrates the applicant's lack of interest in pursuing Applications 42310 and 42311. The State Engineer concludes it would threaten to prove detrimental to the public interest to issue permits under these circumstances.

## V.

The State Engineer concludes that approval of water right applications in support of DLE's, where the BLM has determined the land to be unsuitable for entry, would not be in the public interest.

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<sup>5</sup> NRS § 533.375.

<sup>6</sup> NRS § 533.370(4).

**RULING**

Applications 42310 and 42311 are hereby denied on the grounds their issuance would threaten to prove detrimental to the public interest.

Respectfully submitted,



HUGH RICCI, P.E.  
State Engineer

HR/TW/jm

Dated this 18th day of  
June, 2004.