

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

IN THE MATTER OF APPLICATIONS)
63213 AND 63214 FILED TO)
APPROPRIATE THE PUBLIC WATERS)
OF AN UNDERGROUND SOURCE)
WITHIN THE GRANITE SPRINGS)
VALLEY HYDROGRAPHIC BASIN)
(078), PERSHING COUNTY, NEVADA.)

RULING

#5402

GENERAL

I.

Application 63213 was filed on July 1, 1997, by William G. Anderson to appropriate 2.7 cubic feet per second (cfs) of water from an underground source for irrigation purposes in support of a Desert Land Entry. The proposed place of use is described as being 160 acres located within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 34 and the NW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 35, T.29N., R.27E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 34, T.29N., R.27E., M.D.B.&M.¹

II.

Application 63214 was filed on July 1, 1997, by William G. Anderson to appropriate 2.7 cfs of water from an underground source for irrigation purposes in support of a Desert Land Entry. The proposed place of use is described as being 160 acres located within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 35, T.29N., R.27E., 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 35, T.29N., R.27E., M.D.B.&M.²

FINDINGS OF FACT

I.

The applicant and his agent were notified by certified mail dated September 23, 2003, to submit additional information regarding Applications 63213 and 63214 to the Office of the State Engineer. The applicant was warned that failure to respond within 30

¹ File No. 63213, official records in the Office of the State Engineer.

² File No. 63214, official records in the Office of the State Engineer.

days would result in denial of the applications. The letter to the applicant was returned to the Office of the State Engineer, by the U.S. Postal Service, with a yellow sticker indicating "Forward Time Exp" and "Rtn To Send" with an alternative address for the applicant. The letter was re-sent to the address indicated on the yellow sticker on October 1, 2003, by certified mail. A properly endorsed certified mail receipt was received in the Office of the State Engineer on October 14, 2003, signed by Linda Anderson. The letter to the applicant's agent was returned to the Office of the State Engineer, by the U.S. Postal Service, stamped "Not Deliverable as Addressed" and "Unable to Forward". The letter was re-sent by certified mail to a current address for the agent and a properly endorsed certified mail receipt was received by the State Engineer on October 6, 2003.¹ 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 Applications 63213 and 63214 and have failed to respond.

II.

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

CONCLUSIONS

I.

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

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.⁴

III.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:⁵

³ NRS chapters 533 and 534.

⁴ NRS § 533.375.

⁵ NRS § 533.370(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.

IV.

The applicant and his agent were properly notified of the requirement for additional information and have failed to submit the information to the Office of the State Engineer. The State Engineer concludes that the failure to express any interest in the application demonstrates the applicant's lack of interest in pursuing Applications 63213 and 63214. The State Engineer concludes it would threaten to prove detrimental to the public interest to issue a permit under these circumstances.

RULING

Applications 63213 and 63214 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 28th day of

June, 2004.