

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

IN THE MATTER OF APPLICATION 67848)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE)
WITHIN THE DIXIE CREEK/TENMILE)
CREEK AREA HYDROGRAPHIC BASIN)
(048), ELKO COUNTY, NEVADA.)

RULING
#5467

GENERAL

I.

Application 67848 was filed on July 30, 2001, by Elko County, Nevada, to appropriate 0.50 cubic feet per second of water from an underground source for road construction and dust abatement purposes. The proposed point of diversion and proposed place of use are described as being located within the SE¼ SW¼ of Section 11, T.33N., R.56E., M.D.B.&M.¹

II.

State Engineer's Order No. 1120 dated April 2, 1996, denies all new water right applications to appropriate water from the groundwater source within a portion of the Dixie Creek-Tenmile Creek Area Groundwater Basin with the following exceptions:²

1. Those applications for any purpose except irrigation, which seeks to appropriate 4000 gallons per day or less.
2. Those applications for environmental permits filed pursuant to NRS 533.437.
3. Those applications filed for water from the geothermal aquifer.

FINDINGS OF FACT

I.

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

¹ File No. 67848, official records in the Office of the State Engineer.

² State Engineer's Order No. 1120, official records in the Office of the State Engineer.

³ NRS § 533.375.

The applicant was notified by certified mail dated December 27, 2001, to submit additional information regarding Application 67848 to the State Engineer's office. The applicant was warned that failure to respond within 60 days would result in denial of the application. A properly endorsed certified mail receipt from the applicant was received in the Office of the State Engineer on January 10, 2002. To date, the applicant has expressed no interest in pursuing this application and has not submitted the additional information requested.¹ The State Engineer finds that the applicant was properly notified of the request for additional information regarding interest in pursuing Application 67848 and failed to respond.

II.

The State Engineer finds the proposed point of diversion and proposed place of use under Application 67848 are within the area described in State Engineer's Order No. 1120.²

III.

The State Engineer finds that there has been no correspondence from the applicant in regard to Application 67848 for over 2 years.¹

CONCLUSIONS

I.

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

II.

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

- 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.

⁴ NRS chapters 533 and 534.

⁵ NRS § 533.370(4).

III.

The applicant was properly notified of the requirement for additional information and has failed to submit the information to the State Engineer's office. The State Engineer concludes that the failure to express any interest in these applications for over 2 years and the failure to submit the requested information demonstrates the applicant's lack of interest in pursuing Application 67848. The State Engineer concludes it would threaten to prove detrimental to the public interest to issue a permit under these circumstances.

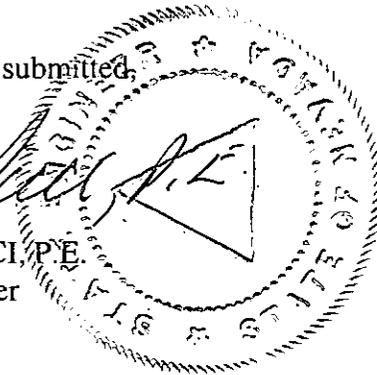
RULING

Application 67848 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/TH/jm

Dated this 11th day of
January, 2005.