

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

IN THE MATTER OF APPLICATION)
52660 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE LONG VALLEY)
HYDROGRAPHIC BASIN (100-A),)
WASHOE COUNTY, NEVADA.)

RULING

#5484

GENERAL

I.

Application 52660 was filed on October 25, 1988, by the Reno Park Water Company to appropriate 1.0 cubic foot per second of underground water from the Long Valley Hydrographic Basin, Washoe County, Nevada. The proposed manner of use is for quasi-municipal and domestic purposes within all of Section 9 and portions of Sections 15, 16, 17, 19, 20, 21, 28, 29, 30 and 34, all within T.21N., R.18E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 30. Information provided by the applicant within the remarks section of the application indicates that the water is to be commingled with additional water rights held by the Reno Park Water Company to serve 310 residential lots.¹

II.

Application 52660 was timely protested by Evans Ranch, Inc. and by the Northern Nevada Land Co., Inc. upon grounds that will not be considered in this ruling.¹

FINDINGS OF FACT

I.

Once a water right application has been filed in the Office of the State Engineer it is assigned a serial number under which a

¹ File No. 52660, official records in the Office of the State Engineer.

file is created. As the application advances through the State Engineer's permitting process, its progress can be traced through the information contained within the water right file. If the record of information specific to Application 52660 is examined it can be seen that it passed through the State Engineer's initial application review and proceeded to the publication period. In accordance with the statutory provisions, a notice of application was published in the Reno Gazette-Journal for the prescribed period of time. It was during this stage of the permitting process that two formal protests were timely filed in opposition to Application 52660.

Once a written protest has been filed and accepted in the Office of the State Engineer, no further action can be taken on the application until the protest is either withdrawn, resolved or overruled. By letter dated February 9, 1989, the applicant was notified by certified mail that the protests had been received. This date marks a milepost in the history of this application, since it begins a prolonged period of inactivity, during which no additional written information was received from the applicant or the protestants. It must be noted, that the Office of the State Engineer cannot modify its written records to reflect changes in ownership, agents or addresses, unless it is timely notified of these changes by the public.

The complete lack of correspondence between February 9, 1989, and February 10, 2005, not only represents a failure to demonstrate a continued interest in the water right application, it also leaves the State Engineer's office in the position of having to assume that the ownership and contact information has not changed from that stated on the original application form. Based upon this dated information, a service list was created and utilized to notify the applicant and protestant of the scheduling of an administrative hearing in the matter of protested Application 52660. The intent of this hearing was to acquire additional testimony and evidence relating to the application and protest issues. A notice stating the time and place of the

hearing was sent by certified mail on January 26, 2005, to the applicant and protestants using their addresses of record. Due to the fact that several other protested water right applications were included on the hearing notice, a number of parties not directly associated with the applicant and protestants were also included on the service list. The notice sent to the Reno Park Water Company was returned to the Office of the State Engineer unclaimed, with the notation that the forwarding address had expired. The notice addressed to the Northern Nevada Land Company, was also returned unclaimed by the protestant, with the envelope stamped "No Such Street", by the United States Postal Service.

The notice sent to Evans Ranch was returned to the Office of the State Engineer unclaimed and re-sent by regular mail on February 25, 2005. The only response to the hearing notice that gave specific mention to Application 52660 was received from Utilities Inc. (UIN), whose letter stated that they were not a party to the proceedings on Application 52660, and that it assumed that, "[T]he respective applicant, or any developer who is required to convey water rights to UIN, will take any and all appropriate actions to pursue such applications."¹ This letter represents the sum total of all correspondence relating to Application 52660 during the past fifteen years. The State Engineer finds that if the lack of response to the hearing notice is added to the applicant's failure to maintain a correct address and its fifteen years of silence, the only conclusion that can be made is that the applicant, if it still even exists under the name of Reno Park Water Company, has no interest in Application 52660.

CONCLUSIONS

I.

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

² NRS chapters 533 and 534.

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:³

- A. there is no unappropriated water at the proposed source;
- B. the proposed use conflicts with existing rights;
- C. the proposed use conflicts with protectible interests in existing domestic wells as set forth in NRS § 533.024; or
- D. the proposed use threatens to prove detrimental to the public interest.

III.

The history of Application 52660 speaks for itself, in that it is dominated by a total lack of interest on the applicant's part in pursuing the application. This being the case, the State Engineer concludes that the approval of a water right application that the applicant has no intent of pursuing would threaten to prove detrimental to the public interest.

RULING

Application 52660 is hereby denied on the grounds that its approval would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protests.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/MDB/jm

Dated this 4th day of
May, 2005.

³ NRS § 533.370(4).