

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

IN THE MATTER OF APPLICATION 65625)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE IMLAY AREA)
HYDROGRAPHIC BASIN (72), PERSHING)
COUNTY, NEVADA.)

RULING

5619

GENERAL

I.

Application 65625 was filed on October 25, 1999, by Tim and Margarita J. DeLong as Co-Trustees under the Tim DeLong Family Trust Agreement to appropriate 0.0155 cubic feet per second of water from an underground source for stockwatering purposes. The proposed place of use is described as being located within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 20, T.31N., R.32E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 20.¹

II.

Application 65625 was timely protested by the United States Department of Interior, Bureau of Land Management on the following grounds:¹

The application is for a stockwater well on public land, managed by the Winnemucca District of the BLM. The applicant has not received authorization to develop the range improvement project in question. Authorization for this project will not be considered until such time that the pending litigation, involving SB96, is resolved.

FINDINGS OF FACT

I.

The Applicants and their agent were notified by certified mail dated April 21, 2006, to submit additional information regarding Application 65625 to the State Engineer's office. The Applicants were warned that failure to respond within 30 days might result in denial of the application. Properly endorsed certified mail receipts were received from the Applicants and their agent on April 25 and April 26, 2006,

¹ File No. 65625, official records in the Office of the State Engineer.

respectively. A review of the application file shows that the last correspondence from the Applicants or their agent was over 6 years ago. From that time forward, there is no evidence within the application file indicating that the Applicants are interested in pursuing this application. In addition, the Applicants have failed to submit the additional information requested by certified mail.¹

The State Engineer finds that the Applicants were properly notified of the request for additional information regarding interest in pursuing Application 65625 and failed to respond. The State Engineer further finds that there has been no correspondence from the Applicants for over 6 years.

CONCLUSIONS

I.

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

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.³

III.

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

IV.

The Applicants and their 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 6 years and the failure to submit requested information demonstrates

² NRS chapters 533 and 534.

³ NRS § 533.375.

⁴ NRS § 533.370(5).

Ruling
Page 3

the Applicants' lack of interest in pursuing Application 65625. The State Engineer concludes it would threaten to prove detrimental to the public interest to issue a permit under these circumstances.

RULING

Application 65625 is hereby denied on the grounds its issuance would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protest.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/TW/jm

Dated this 26th day of

May, 2006.