

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

IN THE MATTER OF APPLICATION 48566)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE)
WITHIN THE BIG SMOKY VALLEY -)
NORTHERN PART HYDROGRAPHIC BASIN)
(137B), NYE COUNTY, NEVADA.)

RULING
5620

GENERAL

I.

Application 48566 was filed on November 28, 1984, by Smokey Valley Geothermal, Inc. to appropriate 2.4 cubic feet per second of underground water in the Big Smoky Valley – Northern Part Hydrographic Basin, Nye County, Nevada. The proposed manner of use is for geothermal power purposes within the SW¼ SW¼ of Section 28, T.12N., R.43E., M.D.B.&M. The proposed point of diversion is described as being located within the SW¼ SW¼ of Section 28, T.12N., R.43E, M.D.B.&M.¹

FINDINGS OF FACT

I.

By certified letter dated May 24, 1985, Smokey Valley Geothermal, Inc. was advised by the Office of the State Engineer that geothermal permits required spent fluids to be injected back into the groundwater system and their proposed plan to recycle spent geothermal waters to irrigation would require additional water right applications to appropriate water for another major use. The Applicant was requested to provide additional information concerning its injection plan. A signed certified mail receipt was returned to the Office of the State Engineer on May 29, 1985. No response was received from Smokey Valley Geothermal, Inc.¹ The State Engineer finds that the Applicant was properly noticed at its correct address of record of the need to provide additional information in the subject application but has failed to do so; therefore, Application 48566 can be considered for denial.

¹ File No. 48566, official records in the Office of the State Engineer.

II.

By letter dated April 18, 2000, Smokey Valley Geothermal, Inc. was requested by the Office of the State Engineer to submit written evidence of a continued interest in Application 48566. Copies of this letter were also sent to the Applicant's agent of record and to all listed officers of the corporation. All parties were advised that a response to this request must be received in the Office of the State Engineer by June 30, 2000. The Applicant was also advised that a failure to respond within the allotted time period would result in the consideration of Application 48566 with the evidence available. The letter to the Applicant was returned to the Office of the State Engineer by the U.S. Postal Service as undeliverable and no response has been received from the Applicant's agent or any corporate officer.¹ The State Engineer finds that the Applicant has been properly noticed at its correct address of record of the need to provide written evidence of a continued interest in the subject application but has failed to do so; therefore, Application 48566 can be considered for denial.

III.

The State Engineer finds that there has been no correspondence from the Applicant or its agent for over 20 years.¹

CONCLUSIONS

I.

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

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.

² NRS chapters 533 and 534.

³ NRS § 533.370(4).

III.

The Applicant has been requested to provide the State Engineer with additional information. No written response to any prior request for additional information has ever been received in the Office of the State Engineer and there has been no correspondence from the Applicant or its agent for over 20 years.. The State Engineer concludes that the failure to express any interest in the application for over 20 years and the failure to submit requested information demonstrates the Applicant's lack of interest in pursuing Application 48566. The State Engineer concludes it would threaten to prove detrimental to the public interest to issue a permit under these circumstances..

RULING

Application 48566 is hereby denied on the grounds that its approval would threaten to prove detrimental to the public interest.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/WHR/jm

Dated this 31st day of
May, 2006.