

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

IN THE MATTER OF APPLICATION)
70274 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE CARSON DESERT)
- PACKARD VALLEY HYDROGRAPHIC)
BASIN (101A), PERSHING COUNTY,)
NEVADA.)

RULING
5634

GENERAL

I.

Application 70274 was filed on July 29, 2003, by Alfonso and Myhrna Tenente to appropriate 1.12 cubic feet per second of water from an underground source within the Carson Desert - Packard Valley Hydrographic Basin, Pershing County, Nevada, for irrigation and domestic purposes within the S½ NE¼, N½ SE¼, E½ NE¼ SW¼, SE¼ SW¼, and W½ SW¼ SE¼ of Section 31, T.28N., R.34E., M.D.B.&M. The proposed point of diversion is described as being located within the SW¼ NW¼ of Section 32, T.28N., R.34E., M.D.B.&M.¹

II.

Application 70274 was timely protested by USDI Bureau of Land Management, Winnemucca Field Office on the grounds that the point of diversion is on land managed by the Winnemucca Field Office and that the Applicant has not been authorized to enter public land or secured a right of way.

FINDINGS OF FACT

I.

By certified letter dated May 20, 2005, the Office of the State Engineer requested the Applicant and their agent to provide information as to whether they have secured the right of way to access the point of diversion and if they still had an interest in pursuing the application. The letter assigned a sixty-day time frame to submit the requested information or

¹ File No. 70274, official records in the Office of the State Engineer.

the application would be subject to denial. The certified mail receipts for the letters sent to the Applicant and their agent were received in the Office of the State Engineer on May 24, 2005. The State Engineer finds that no response was received to the request for information.¹ The State Engineer finds neither the Applicant nor their agent have expressed an interest in pursuing this application.

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 from the Applicant 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 waters 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 Applicant has failed to submit the information requested to the State Engineer's office. The State Engineer concludes that without the additional data sufficient information is not available to properly guard the public

² NRS chapters 533 and 534.

³ NRS § 533.375.

⁴ NRS § 533.370(5).

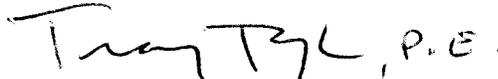
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interest. The State Engineer concludes to grant a water right to an applicant that does not express an intent to go forward with the project would threaten to prove detrimental to the public interest.

RULING

Application 70274 is hereby denied on the grounds that the Applicant has not submitted the information requested by the State Engineer's office, and that without this information granting of the application would threaten to prove detrimental to the public interest.

Respectfully submitted,



TRACY TAYLOR, P.E.
State Engineer

TT/MJW/jm

Dated this 2nd day of
August, 2006.