

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION)
52172 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE BIG SMOKY)
VALLEY (TONOPAH FLAT))
GROUNDWATER BASIN, ESMERALDA)
COUNTY, NEVADA.)

RULING

GENERAL

I.

Application 52172 was filed on May 31, 1988, by Ag-Au Incorporated to appropriate 0.05 c.f.s. of water from an underground source for mining, milling and domestic purposes within portions of Sections 11, 12, 13 and 14, T.3N., R.38E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SW1/4 Section 12, T.3N., R.38E., M.D.B.&M.¹

FINDINGS OF FACT

I.

The applicant was notified by certified mail on September 9, 1988, to submit additional information to the State Engineer's office regarding consumptive use, specifically, requesting data concerning water conservation measures and amount of water to be recycled. The return receipt was received from the applicant on September 19, 1988 and from the agent on September 13, 1988. To date the information requested has not been received.¹

II.

Agent George H. Denson, acting on behalf of the applicant was granted a six-month postponement of further action on December 30, 1988.

¹ Public record in the office of the State Engineer.

III.

Upon expiration of the postponement, the applicant was again notified by certified mail on October 13, 1989, to submit the additional information requested by the State Engineer's office. The return receipt was received from the applicant on October 25, 1989 and from the agent on October 17, 1989. The letter assigned a 30 day time limit to file the required information or request a postponement of further action as provided by NRS 533.370, subsection 2. To date the information requested has not been received from the applicant.¹

CONCLUSIONS

I.

The State Engineer has jurisdiction of 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 guard the public interest properly.³

III.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where⁴:

- A. There is no unappropriated water at the proposed source, or
- B. The proposed use conflicts with existing rights, or
- C. The proposed use threatens to prove detrimental to the public interest.

2 NRS Chapters 533 and 534.

3 NRS 533.375.

4 NRS 533.370(3).

IV.

The applicant has failed, to date, to submit the information requested by the State Engineer's office. Therefore sufficient information is not available to the State Engineer to guard the public interest properly.

RULING

Application 52172 is herewith denied on the grounds that the applicant has not submitted the information requested by the State Engineer's office and therefore the granting of said application without the additional information requested would not be in the public interest.

Respectfully submitted,



PETER G. MORROS
State Engineer

PGM/DJL/pm

Dated this 28th day of

December, 1989