

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

IN THE MATTER OF APPLICATION 41965)
FILED TO APPROPRIATE THE PUBLIC WATERS))
OF AN UNDERGROUND SOURCE WITHIN THE)
LITTLE SMOKY VALLEY - NORTHERN PART -)
GROUNDWATER BASIN, EUREKA COUNTY,)
NEVADA.)

RULING

GENERAL

I.

Application 41965. was filed on August 1, 1980, by Windfall Venture to appropriate 1.0 c.f.s. of water from an underground source for mining, milling and domestic purposes within the NW1/4 SW1/4 Section 14, T.18N., R.53E., and SE1/4 SE1/4 Section 2, T.18N., R.53E., M.D.B.&M.¹ The point of diversion is described as being within the NW1/4 SW1/4 Section 14, T.18N., R.53E., M.D.B.&M.¹

FINDINGS OF FACT

I.

The owner of record was notified by mail on August 4, 1983, 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.

II.

The owner of record and agents were notified by certified mail on January 18, 1984, July 17, 1984, February 5, 1985 and on December 23, 1986,² to submit the additional information requested by the State Engineer's office. The letters 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 owner of record or agents.³

¹ Public record in the office of the State Engineer.

² See Certified Notice return Receipt No's. P 264 099 964, P 264 099 963, P 616 538 432, P 665 704 926 and P 245 227 715

³ A check of the record of the State Engineer indicates that no information has been received.

III.

The owner of record and agents were again notified by certified mail on March 8, 1990, to submit the additional information requested by the State Engineer's office. Properly endorsed return receipts were received from W.L. Wilson, Idaho Mining Corporation and Jonathan R. Caldwell.⁴ The letters sent to Windfall Venture, Western Windfall, Ltd., Transwestern Mining Company-Keith Brogoitti and Transwestern Mining Company-William F. Price were returned by the post office as undeliverable.⁵ The letters 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 owner of record or agents.³

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action and determination.⁶

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.⁷

⁴ See Certified Notice return Receipt No's. P 560 207 403, P 560 207 397 and P 560 207 402.

⁵ Undelivered envelopes with U.S. Postal Service stamp in file 41965. Public record in the Office of the State Engineer.

⁶ NRS Chapters 533 and 534.

⁷ NRS 533.375.

III.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:⁸

- 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.

IV.

The owner of record and agents have failed 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 41965 is hereby denied on the grounds that the owner of record 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,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/DJL/pm

Dated this 30th day of
May, 1990

⁸ NRS 533.370(3).