

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

IN THE MATTER OF APPLICATION 43007)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF ELDORADO CANYON ANTELOPE)
CREEK, LOVELOCK VALLEY, PERSHING)
COUNTY, NEVADA.)

RULING

3852

GENERAL

I.

Application 43007 was filed on December 24, 1980, by James R. and Verner C. Biggs to appropriate 2.0 c.f.s. of water from Eldorado Canyon - Antelope Creek for mining, milling and domestic purposes within the SE1/4 SE1/4 SW1/4 Section 25, T.31N., R.33E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NE1/4 Section 36, T.31N., R.33E., M.D.B.&M.¹

FINDINGS OF FACT

I.

The applicant was notified by certified mail on July 17, 1984, on August 28, 1984, and on May 10, 1990, 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. No return receipt was received on the July 17, 1984 letter.¹ The return receipts were received from the addressee for the August 28, 1984 and May 10, 1990, letters.² To date the information requested has not been received from the applicant.³

¹ Public record in the office of the State Engineer.

² See Certified Mail, return Receipt No. P 616 538 187 and P 560 206 019.

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

II.

The applicant and agent were notified by certified mail on August 6, 1990, to submit the additional information requested by the State Engineer's office. The return receipt was received from the applicant on August 6, 1990.⁴ The notice sent to the agent was returned by the U.S. Postal Service as undeliverable.¹ The letter assigned a 30 day time limit to file the required information as provided by NRS 533.370, subsection 2. To date the information requested has not been received from the applicant or agent.³

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action and determination.⁵

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.⁶

III.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:⁷

- 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.

⁴ See Certified Mail, return Receipt No. P 560 206 141.

⁵ NRS Chapters 533 and 534.

⁶ NRS 533.375.

⁷ NRS 533.370(3).

IV.

The applicant has 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 43007 is hereby 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,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/DJL/pm

Dated this 10th day of
December, 1991