

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

IN THE MATTER OF APPLICATION 51766 )  
FILED TO CHANGE THE PLACE OF USE OF )  
AN UNDERGROUND SOURCE WITHIN THE )  
SPRING VALLEY GROUNDWATER BASIN )  
(184), WHITE PINE COUNTY, NEVADA. )

RULING

# 4321

GENERAL

I.

Application 51766 was filed on January 14, 1988, by Richard M. Swallow and Vesta C. Swallow to change the place of use of 2.7 cubic feet per second of water previously appropriated under Permit 31653 for irrigation and domestic purposes within Sections 26, 27 and 34, T.13N., R.67E., M.D.B.&M. The point of diversion and the manner of use remain unchanged, with the point of diversion being described as located within the SE $\frac{1}{4}$ NW $\frac{1}{4}$  Section 26, T.13N., R.67E., M.D.B.&M.<sup>1</sup>

FINDINGS OF FACT

I.

On December 21, 1995, the applicants and their agent were notified by certified mail to submit additional information to the State Engineer pertaining to Application 51766. The applicants were advised that failure to respond within 60 days would result in denial of the application. The endorsed return receipt for the certified mailing to the applicants and their agent was received in the Office of the State Engineer on January 8, 1996 and January 2, 1996, respectively. The State Engineer finds no response was received to this request for additional information.

II.

The State Engineer finds that the applicant and their agent were properly notified of the request for additional information and failed to respond.<sup>1</sup>

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<sup>1</sup> File No. 51766, official records of the Office of the State Engineer.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the subject matter of this action and determination.<sup>2</sup>

II.

Before either approving or rejecting an application, the State Engineer may require such additional information from the current owner of record as will enable him to properly guard the public interest.<sup>3</sup>

III.

The State Engineer is prohibited by law from granting a change application where:<sup>4</sup>

- A. The proposed use conflicts with existing rights, or
- B. The proposed use threatens to prove detrimental to the public interest.

IV.

The applicants have failed to submit the information requested to the State Engineer's Office. The State Engineer concludes that without the requested information sufficient information is not available for the State Engineer to properly guard the public interest.

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<sup>2</sup> NRS Chapters 533 and 534.

<sup>3</sup> NRS 533.375.

<sup>4</sup> NRS 533.370(3).

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Application 51766 is hereby denied on the grounds that the applicants have not submitted the information requested by the State Engineer's Office, and that without this information granting of the application would be detrimental to the public interest.

Respectfully submitted,

  
B. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/RAD/ab

Dated this 3rd day of  
April, 1996.