

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

IN THE MATTER OF APPLICATION 53209 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS OF AN UNDERGROUND SOURCE )  
WITHIN THE INDEPENDENCE VALLEY )  
GROUNDWATER BASIN (036), ELKO )  
COUNTY, NEVADA. )

RULING

# 4365

GENERAL

I.

Application 53209 was filed on April 28, 1989, by Horizon Gold Shares, Inc. to appropriate 1.114 cubic feet per second (cfs) of water from an underground source for irrigation purposes within the NE $\frac{1}{4}$  NW $\frac{1}{4}$ ; the NW $\frac{1}{4}$  NE $\frac{1}{4}$ ; and the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 12, T.39N., R.51E., M.D.B.&M. The point of diversion is described as being located within the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 3, T.39N., R.51E., M.D.B.&M. Application 53209 became ready for the State Engineer's action on October 13, 1989.<sup>1</sup>

FINDINGS OF FACT

I.

On December 15, 1995, the applicant was notified by certified mail to submit additional information to the State Engineer before further consideration could be given towards the issuance of any permit.<sup>1</sup> The certified letter was returned by the Post Office on December 21, 1995, stamped "return to sender" with a hand written message "out of business". The State Engineer finds that the applicant was properly notified and that it failed to respond to the request for additional information.

II.

The State Engineer finds that it is the responsibility of the applicant or its successor in interest to keep this office informed as to a current mailing address.

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<sup>1</sup>File No. 53209, official records in the Office of the State Engineer.

**III.**

On January 8, 1996, L. Ron Percivalle, who acted as agent for Horizon Gold Shares, Inc. with regard to the filing of the original application, was contacted by letter to inquire as to his knowledge of the applicant's interest in pursuing this application. By letter dated January 31, 1996, L. Ron Percivalle informed the State Engineer that he no longer acts as agent for Horizon Gold Shares, Inc., and as far as he knew the project no longer existed. The State Engineer finds that no interest in pursuing this application was shown by either the applicant or the agent.

**CONCLUSIONS**

**I.**

The State Engineer has jurisdiction over the parties and of 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 as will enable him to properly guard the public interest.

**III.**

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:<sup>3</sup>

- 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 applicant has been properly notified of the requirement for additional information concerning this application and has failed to submit the required information to the State Engineer's

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

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

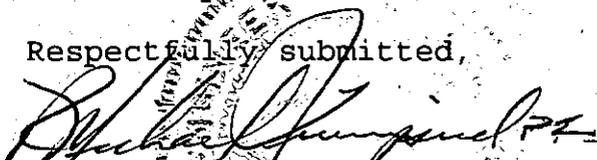
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Office. The State Engineer concludes that without the additional information, sufficient information is not available to properly guard the public interest.

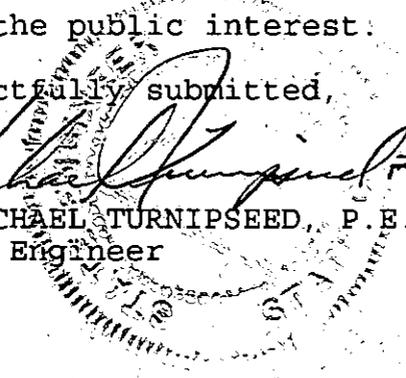
**RULING**

Application 53209 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 the granting of the application would be detrimental to the public interest.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.  
State Engineer



RMT/TW/bk

Dated this 2nd day of  
July, 1996.