

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

IN THE MATTER OF APPLICATION 42533)
FILED TO APPROPRIATE THE PUBLIC WATERS)
OF BENCH CREEK, WITHIN THE COWKICK)
VALLEY GROUNDWATER BASIN (126),)
CHURCHILL COUNTY, NEVADA.)

RULING

4425

GENERAL

I.

Application 42533 was filed on September 26, 1980, by Frank W. Lewis to appropriate 2.2 cubic feet per second (cfs) of water from Bench Creek for mining, milling and domestic purposes within the NW $\frac{1}{4}$ of Section 29, T.19N., R.36E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 29.¹

FINDINGS OF FACT

I.

By certified letter dated May 12, 1995, the State Engineer's Office requested the applicant provide additional justification data and information concerning the annual consumptive use of water at the proposed mining and milling project. The return receipt was received in the State Engineer's Office on June 16, 1995.¹

On May 31, 1996, the applicant's agent was notified by certified mail to submit the additional justification data and information to the State Engineer. The return receipt was received in the State Engineer's Office on June 10, 1996. The State Engineer finds that no response has been received to either request for information.

¹File No. 42533, official records in the Office of the State Engineer.

CONCLUSIONS

I.

The State Engineer has jurisdiction over 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 from the owner of record as will enable him to properly guard the public interest.³

III.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:⁴

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

²NRS Chapter 533.

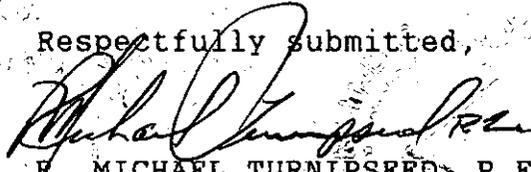
³NRS 533.375.

⁴NRS 533.370(3).

RULING

Application 42533 is hereby denied on the grounds that the applicant failed to submit the data and 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/MDB/ab

Dated this 10th day of
September, 1996.