

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

IN THE MATTER OF APPLICATION 8409)
FILED TO APPROPRIATE THE PUBLIC)
WATERS FROM SHEEP SPRING, WITHIN)
DESERT VALLEY HYDROGRAPHIC BASIN)
(031), HUMBOLDT COUNTY, NEVADA.)

RULING

4687

GENERAL

I.

Application 8409 was filed on December 17, 1927, by George B. Noble to appropriate 0.5 cubic feet per second (cfs) of water from Sheep Spring for stockwatering purposes within the NW¼ NW¼ of Section 5, T.36N., R.32E., M.D.B.&M. The proposed point of diversion is described as being located within the NW¼ NW¼ of said Section 5.¹

II.

Application 8409 was timely protested on March 7, 1928, by John V. Mueller on the grounds that "there is no unappropriated water. The use of any water would be a violation of the 'stock watering act.'"¹

FINDINGS OF FACT

I.

The applicant was requested by certified letter dated May 27, 1928, to provide the office of the State Engineer with evidence that he still has an interest in pursuing Application 8409. The applicant was also informed that if a response was not received within 60 days from the date of the letter the application may be considered for denial.

¹ File No. 8409, official records in the office of the State Engineer.

The May 27, 1998, letter was returned to the office of the State Engineer with the envelope stamped "Insufficient Address" by the United States Postal Service.¹ The State Engineer finds that to date, no information indicating any further interest by the applicant in pursuing Application 8409 has been received in the office of the State Engineer.

II.

It has been a long standing policy within the office of the State Engineer that it is the applicant's responsibility to inform said office of any changes which may occur in the ownership and address associated with a specific water right application. The State Engineer finds that the owner of record under Application 8409 was properly noticed of the opportunity to express their continued interest in pursuing Application 8409, but has failed to do so; therefore, Application 8409 may be considered for denial.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.²

II.

The State Engineer is prohibited by law from granting a permit to appropriate the public waters where:³

- A. there is no unappropriated water at the proposed source;
 - B. the proposed use conflicts with existing rights;
- or

² NRS § Chapters 533 and 534.

³ NRS § 533.370(3).

- C. the proposed use threatens to prove detrimental to the public interest.

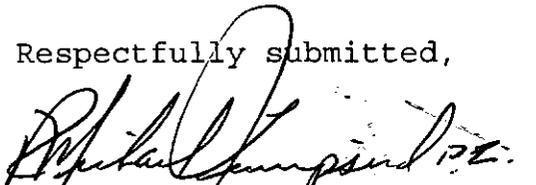
III.

On May 27, 1998, the applicant was requested by the office of the State Engineer to provide information of continued interest that he may have in pursuing Application 8409. The applicant was informed that a failure to respond to the request would represent a lack of interest in this matter and would result in said application being considered for denial. The applicant failed to provide any indication that he intends to move forward with Application 8409. Therefore, the State Engineer concludes that it would not be in the public interest to approve an application for which the applicant no longer intends to pursue.

RULING

Application 8409 is hereby denied on the grounds that granting said application would not be in the public interest. No ruling is made on the merits of the protest.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MJR/cl

Dated this 10th day of
December, 1998.