

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

IN THE MATTER OF APPLICATION 10667)
FILED TO APPROPRIATE THE PUBLIC)
WATERS FROM JARBIDGE RIVER WITHIN)
THE JARBIDGE RIVER AREA)
HYDROGRAPHIC BASIN (039), ELKO)
COUNTY, NEVADA.)

RULING

4955

GENERAL

I.

Application 10667 was filed on May 24, 1941, by Roy E. Smith to appropriate 450.0 cubic feet per second (cfs) of water from East Fork Jarbidge River for irrigation purposes within the Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 17, 18, 19, 20, 21, 28, 29, 30, 31, 32 and 33, T.12S., R.15E., B.M., and all of Sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and the S $\frac{1}{4}$ of Section 12, T.13S., R.15E., B.M., all in Twin Falls County, Idaho. The proposed point of diversion is described as being located within NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 17, T.47N., R.59E., M.D.B.&M.¹

FINDINGS OF FACT

I.

By letter dated October 19, 1943, the applicant was requested to advise the office of the State Engineer if he was interested in pursuing Application 10667. The State Engineer was asked to withhold action at that time due to conditions growing out of the war.¹ By letter dated June 8, 1951, the applicant was again requested to advise the office of the State Engineer as to whether he was still interested in pursuing Application 10667 and the applicant again responded that he desired the State Engineer to withhold

¹ File No. 10667, official records in the office of the State Engineer.

action.¹ The State Engineer finds that post-1951 the applicant never expressed any further interest in the application.

II.

The applicant was requested by certified letter dated June 27, 2000, to provide the office of the State Engineer with evidence that he still has an interest in pursuing Application 10667. 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. The June 27, 2000, 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 10667 has been received in the office of the State Engineer.

III.

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 10667 was properly noticed of the opportunity to express their continued interest in pursuing Application 10667, but has failed to do so; therefore, Application 10667 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

² NRS chapter 533.

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

III.

On June 27, 2000, the applicant was requested by the office of the State Engineer to provide information of continued interest that he may have in pursuing Application 10667. 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 10667. Therefore, the State Engineer concludes that it would not be in the public interest to approve an application which the applicant no longer intends to pursue.

RULING

Application 10667 is hereby denied on the grounds that granting said application would threaten to prove detrimental to the public interest.

Respectfully submitted,


HUGH RICCI, P.E.
State Engineer

HR/MJR/cl

Dated this 8th day of

August, 2000.

³ NRS § 533.370(3).