

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

IN THE MATTER OF APPLICATION 41232)
FILED TO APROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE)
WITHIN FISH LAKE VALLEY HYDROGRAPHIC)
BASIN (117), ESMERALDA COUNTY, NEVADA.)

RULING

5040

GENERAL

I.

Application 41232 was filed on May 2, 1980, by John Casey to appropriate 0.7 cubic feet per second of water from an underground source for domestic purposes within portions of Section 4, T.3S., R.35E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 4, T.3S., R.35E., M.D.B.&M.¹

FINDINGS OF FACT

I.

To the State Engineer's knowledge, the applicant is deceased. The applicant's agent and the Executor of the Estate were notified by certified mail dated November 1, 2000, to inform the State Engineer whether there was still an interest in pursuing Application 41232. The applicant's agents were also informed that failure to respond may result in the denial of the application. The return receipts from these certified letters were received in the office of the State Engineer on November 3, 2000, and November 6, 2000. The State Engineer finds that to date no interest has been expressed in pursuing Application 41232.¹

¹ File No. 41232, official records in the office of the State Engineer.

II.

The State Engineer finds that the applicant's agents were properly notified of the request to express a continued interest in Application 41232 and failed to respond.¹

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and 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 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;
- B. the proposed use conflicts with existing rights; or
- C. the proposed use threatens to prove detrimental to the public interest.

IV.

The applicant's agents were properly notified of the request to express if there was a continued interest in this application and have failed to respond. The State Engineer concludes that without the information requested sufficient information is not available for the State Engineer to properly guard the public interest.

² NRS chapters 533 and 534.

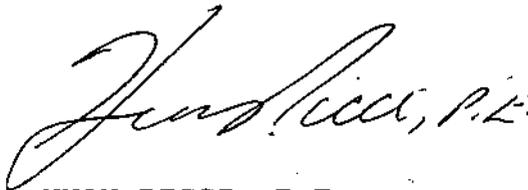
³ NRS § 533.375.

⁴ NRS § 533.370(3).

RULING

Application 41232 is hereby denied on the grounds that the applicant's agents have not expressed a continued interest in pursuing Application 41232; therefore, the granting of a permit under the application would threaten to prove detrimental to the public interest.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/RAD/hf

Dated this 19th day of
June, 2001.