

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

IN THE MATTER OF APPLICATION 13387)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE)
WITHIN THE LITTLE SMOKY VALLEY-)
NORTHERN PART HYDROGRAPHIC BASIN)
(155A), WHITE PINE COUNTY, NEVADA)

RULING

5044

GENERAL

I.

Application 13387 was filed on May 26, 1950, by the Duckwater Shoshone Tribe to appropriate 0.016 cubic feet per second of water from an underground source for stockwatering purposes within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 15, T.16N., R.54E., 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 15.¹

II.

Application 13387 was timely protested by the Bartholomae Corporation on the grounds that the application, if granted, would infringe upon the senior range rights and water rights of the protestant.¹

FINDINGS OF FACT

I.

By letter dated May 15, 1962, the State Engineer's office requested the Nevada Indian Agency to indicate whether the applicant was still interested in pursuing Application 13387. The State Engineer finds that it was noted in the file that on June 8, 1962, Jim Long from the Indian Service called and asked that action be withheld for one year.

¹ File No. 13387, official records in the office of the State Engineer.

II.

By letter dated January 28, 1965, the State Engineer's office again requested information as to whether the applicant was still interested in pursuing Application 13387. The State Engineer finds that by reply of February 17, 1965, he was again requested to withhold action on Application 13387.

III.

The applicant was notified by certified mail dated May 22, 2000, that additional information was needed regarding Application 13387. The applicant was further informed that failure to respond within 60 days of the date of the letter might result in denial of the application. The return receipt from the applicant for this certified letter was received in the office of the State Engineer on May 30, 2000. The State Engineer finds that to date the information requested has not been received.¹

IV.

The State Engineer finds that the applicant was properly notified of the request for additional information 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

² NRS chapters 533 and 534.

³ NRS § 533.375.

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 was properly notified of the requirement for additional information concerning this application and has failed to submit the information 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.

⁴ NRS § 533.370(3).

RULING

Application 13387 is hereby denied on the grounds that the applicant has not submitted the information requested by the State Engineer's office and without this information the granting of the application would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protest.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/RAD/hf

Dated this 18th day of
July, 2001.