

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

IN THE MATTER OF APPLICATION 45969 )  
FILED TO CHANGE THE POINT OF )  
DIVERSION AND PLACE OF USE OF A )  
PORTION OF THE UNDERGROUND WATER )  
PREVIOUSLY APPROPRIATED UNDER PERMIT )  
19441, CERTIFICATE 5866 WITHIN THE )  
PAHRUMP VALLEY HYDROGRAPHIC BASIN )  
(162), NYE COUNTY, NEVADA. )

**RULING**

**# 5056**

**GENERAL**

**I.**

Application 45969 was filed on July 22, 1982, by Harley C. or Beth Ann Ketring to change the point of diversion and place of use of 0.114 cubic foot per second (cfs), not to exceed 50.0 acre-feet annually (afa), a portion of the underground water previously appropriated under Permit 19441, Certificate 5866. The manner of use is for domestic purposes and the irrigation of 10 acres within the NW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 28, T.19S., R.53E., 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 said Section 28.<sup>1</sup>

**II.**

Certificate 5866 was issued on March 16, 1965, under Permit 19441 to Simkins – Daniels, a partnership, allowing for the diversion of 0.91 cfs, not to exceed 400.0 afa, for the irrigation of 80 acres within the NE $\frac{1}{4}$  SE $\frac{1}{4}$  and the NW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 28, T.19S., R.53E., M.D.B. & M. The point of diversion is described as being located within the NE $\frac{1}{4}$  SE $\frac{1}{4}$  of said Section 28. The water right represented by Permit 19441, Certificate 5866, has been through a series of title assignments and change applications.<sup>2</sup>

**FINDINGS OF FACT**

**I.**

The State Engineer finds from records in his office that the applicants, Harley C. or Beth Ann Ketring, do not own a portion of 19441. Certificate 5866, which is proposed for change under the application.<sup>2</sup>

<sup>1</sup> File No. 45969, official records in the office of the State Engineer.

<sup>2</sup> File No. 19441, official records in the office of the State Engineer.

## II.

Before either approving or rejecting the application, the State Engineer may require such additional information as will enable him to properly guard the public interest.<sup>3</sup>

## III.

By certified letter dated March 17, 1983, the applicant under Application 45969 was requested to provide additional information concerning deeds previously submitted to complete the chain of title for Permit 19441, Certificate 5866, for the review and processing of Application 45969. The letter was returned marked "Return to Sender, Forwarding Expired". The letter was then re-sent by regular mail on March 24, 1983.<sup>1</sup>

On May 9, 1983, part of the requested information was received, but a complete chain of title could not be developed.<sup>1</sup>

By letter dated November 12, 1985, the applicant under Application 45969 was advised that the chain of title could not be completed, and requested that Mr. Ketring advise the State Engineer's office if he no longer had interest in the application. The State Engineer finds that no answer to this letter has been received.<sup>1</sup>

## IV.

By certified letter dated July 21, 1999, the State Engineer's office requested documents from Harley C. or Beth Ann Ketring to complete a chain of title for Permit 19441, Certificate 5866, for the processing of Application 45969. A copy of this letter was sent certified mail to agent, Richard L. Hafen. The return receipts for certified mail were signed by Beth Ann Ketring on July 26, 1999, and R. L. Hafen on July 30, 1999.<sup>2</sup>

A deficient and incomplete Report of Conveyance attempting to complete the chain of title under Permit 19441, Certificate 5866 was received August 20, 1999. The Report of Conveyance with a letter explaining the deficiencies and requesting resubmittal within 60 days was sent to the applicants by certified mail dated July 24, 2000. The return receipt for the certified mail was signed by Harley C. Ketring on July 26, 2000. The State Engineer finds that no answer to this letter has been received. On November 1, 2000, the State Engineer closed action concerning the Report of Conveyance received August 20, 1999, and refunded the filing fee.<sup>2</sup>

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<sup>3</sup> NRS § 533.375.

## CONCLUSIONS

### I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>4</sup>

### 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.<sup>3</sup>

### III.

The State Engineer is prohibited by law from granting a change application to appropriate the public waters where:<sup>5</sup>

- A. the proposed use or change conflicts with existing rights;
- B. the proposed use or change conflicts with protectible interests in domestic wells as set forth in NRS 533.024; or
- C. the proposed use or change threatens to prove detrimental to the public interest.

### IV.

The applicants under Application 45969 were properly notified and requested to provide a complete chain of title under Permit 19441, Certificate 5866, for the processing of the application. The applicants failed to respond to the requests for information. The State Engineer concludes that the applicants have not shown title to the portion of Permit 19441, Certificate 5866, which Application 45969 proposes to change; therefore, to grant a permit under Application 45969 would threaten to prove detrimental to the public interest.

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<sup>4</sup> NRS chapters 533 and 534.

<sup>5</sup> NRS § 533.370(3).

RULING

Application 45969 is hereby denied on the grounds that to grant a permit under the application would threaten to prove detrimental to the public interest.

Respectfully submitted,



HUGH RICCI, P.E.  
State Engineer

HR/CB/hf

Dated this 10th day of  
August, 2001.