

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

IN THE MATTER OF APPLICATION 54599)
FILED TO CHANGE THE POINT OF)
DIVERSION AND PLACE OF USE OF A)
PORTION OF THE UNDERGROUND WATER)
PREVIOUSLY APPROPRIATED UNDER)
PERMIT 13690, CERTIFICATE 5305)
WITHIN THE PAHRUMP VALLEY)
HYDROGRAPHIC BASIN (162), NYE)
COUNTY, NEVADA.)

RULING

#5057

GENERAL

I.

Application 54599 was filed on March 26, 1990, by Louis A. Bunce and Lucille B. Bunce to change the point of diversion and place of use of 0.07 cubic feet per second (cfs), a portion of underground water previously appropriated under Permit 13690, Certificate 5305. The manner of use is for irrigation of 3.582 acres and domestic purposes within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 34, T.19S., R.53E., M.D.B. & M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 34.¹

II.

Certificate 5305, issued on May 7, 1962, under Permit 13690 to Kenneth Harold Moorhead, allows for the diversion of 1.0 cfs, not to exceed 312.5 acre-feet annually, for the irrigation of 62.5 acres within the NW $\frac{1}{4}$ of Section 1, T.21S., R.53E., M.D.B. & M. The point of diversion is described as being located within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 1. The water right represented by Permit 13690, Certificate 5305, has been through a series of title assignments and change applications.²

¹ File No. 54599, official records in the office of the State Engineer.

² File No. 13690, official records in the office of the State Engineer.

FINDINGS OF FACT

I.

The State Engineer finds from records in his office that the applicants under Application 54599, Louis A. Bunce and Lucille B. Bunce, do not own a portion of Permit 13690, Certificate 5305, which they have requested for change under Application 54599.²

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.

By letter dated March 18, 1992, the applicants under Application 54599, Louis A. Bunce and Lucille B. Bunce, were requested to provide a complete chain of title for Permit 13690, Certificate 5305, to aid in the review and processing of Application 54599.¹ The State Engineer finds the applicants did not provide information to establish title to Permit 13690, Certificate 5305.

IV.

By letter dated June 27, 1992, Hafen & Hafen Realty Company, agent for Louis A. Bunce and Lucille B. Bunce, inquired as to Application 54599.¹ By letter dated July 9, 1992, the State Engineer's office replied and advised the applicants' agent that processing of Application 54599 would continue when the chain of title was brought up to date. The State Engineer finds that no answer to this letter has been received.¹

V.

On December 30, 1998, Ronald and Sandra Adams attempted to transfer Application 54599 and Permit 13690 into their names. By certified letter dated August 18, 1999, the State Engineer's office requested documents to complete a chain of title to Ronald and Sandra Adams for Permit 13690. The

³ NRS § 534.375.

return receipt for certified mail was signed for by Rodney Copenhauer on August 20, 1999. The State Engineer finds that no answer to this letter has been received.²

VI.

By certified letter dated February 28, 2000, the State Engineer's office requested documents to complete a chain of title for the processing of Application 54599 from Louis A. Bunce and Lucille B. Bunce. The return receipt for the certified mail was signed by Sandra Adams on March 10, 2000. The State Engineer finds that no answer to this letter has been received.¹

VII.

By letter dated April 18, 2000, the State Engineer's office again advised Ronald and Sandra Adams of the need for a chain of title for the processing of Application 54599. The State Engineer finds that no answer to this letter has been received.¹

CONCLUSIONS

I.

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

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 change application to appropriate the public waters where:⁵

- 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.

⁴NRS chapters 533 and 534.

⁵NRS § 533.370(3).

IV.

The applicants under Application 54599 have not shown title to the portion of Permit 13690, Certificate 5305, which the application proposes to change. The applicants under Application 54599 were properly notified and requested to provide a complete chain of title under Permit 13690, Certificate 5305, for the processing of the application. The State Engineer concludes that the applicants failed to respond to the request for additional information, and sufficient information is not available to properly guard the public interest; therefore, to grant a permit under Application 54599 would threaten to prove detrimental to the public interest.

RULING

Application 54599 is hereby denied on the grounds that to grant a permit under the application without proof of title to the water right sought to be changed 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.