

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

IN THE MATTER OF APPLICATION 62368)
FILED TO CHANGE THE POINT OF)
DIVERSION AND PLACE OF USE OF WATER)
PREVIOUSLY APPROPRIATED UNDER)
PERMIT 19197, CERTIFICATE 6675,)
WITHIN THE AMARGOSA DESERT)
HYDROGRAPHIC BASIN (230), NYE)
COUNTY, NEVADA.

RULING

#5082

GENERAL

I.

Application 62368 was filed on August 8, 1996, by Jimmy W. and Esther W. Richardson to change the point of diversion and place of use of 0.078 cubic feet per second (CFS), not to exceed 7.02 acre-feet annually (afa), a portion of the underground water previously appropriated under Permit 19197, Certificate 6675, for irrigation and domestic purposes within a portion of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 22, T.16S., R.49E., M.B.D.&M.¹ The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 22, T.16S., R.49E., M.D.B.&M.¹

FINDINGS OF FACT

I.

The applicants and their agent were notified by certified mail dated January 11, 2000, to file with the State Engineer a Report of Conveyance for the water under Permit 19197, requested to be changed under Application 62368. The return receipt from the certified letter to the applicants was received in the office of the State Engineer on January 18, 2000. The return receipt from the certified letter to the agent could not be found; however, the agent, Lisle Lowe, reported in a telephone conversation with Richard Davis, a staff engineer employed by this division, that he was unable to provide the requested information because he was not authorized by the applicants to do so.

The State Engineer finds that to date the information requested has not been received.¹

II.

The applicants and their agent were again notified by certified mail dated November 9, 2000, that a Report of Conveyance was needed regarding Application 62368. The return receipt from the certified letter to the applicants was received in the office of the State Engineer on November 20, 2000. The return receipt from the certified letter to the agent could not be found

III.

The State Engineer finds that the applicants and their agent were properly notified of the request for a Report of Conveyance to bring the ownership of Permit 19197 into their names and failed to respond.¹

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and of 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 change application to appropriate the public waters where:⁴

- 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 fourth in NRS § 533.024; or
- C. the proposed use or change threatens to prove detrimental to the public interest.

¹ File No. 62368, official records in the office of the State Engineer.

² NRS Chapters 533 and 534.

³ NRS § 533.375.

⁴ NRS § 533.370(3).

IV.

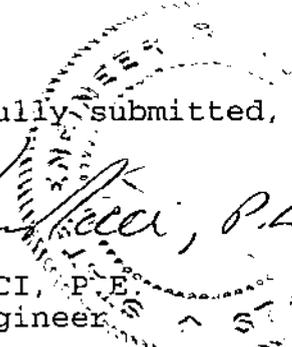
The applicants and their agent were properly notified of the requirement for a Report of Conveyance to update the ownership of Permit 19197 into their names and have failed to submit the information to the State Engineer's Office. The State Engineer concludes that it would threaten to prove detrimental to the public interest to approve an application that the applicant no longer intends to pursue. The State Engineer finds he cannot approve a change application due to the fact that the applicants have not brought title into their names for the water they sought to change.

RULING

Application 62368 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/RAD/dl

Dated this 7th day of
November, 2001