

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

IN THE MATTER OF APPLICATIONS)
55153, 55154, AND 55155 FILED TO)
APPROPRIATE THE PUBLIC WATERS OF AN)
UNDERGROUND SOURCE WITHIN THE)
RAILROAD VALLEY NORTHERN PART)
HYDROGRAPHIC BASIN (173-B), NYE)
COUNTY, NEVADA.)

RULING

5109

GENERAL

I.

Application 55153 was filed on August 3, 1990, by Petro Source Corp. to appropriate 0.05 cubic feet per second (cfs) of underground water from the Railroad Valley Northern Part Hydrographic Basin, Nye County, Nevada. The proposed manner of use is for industrial and domestic purposes within the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 24, T.9N., R.56E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 24.¹

II.

Application 55154 was filed on August 3, 1990, by Petro Source Corp. to appropriate 0.112 cfs of underground water from the Railroad Valley Northern Part Hydrographic Basin, Nye County, Nevada. The proposed manner of use is for industrial and domestic purposes within the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 24, T.9N., R.56E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 24.²

III.

Application 55155 was filed on August 3, 1990, by Petro Source Corp. to appropriate 0.112 cfs of underground water from

¹ File No. 55153, official records in the Office of the State Engineer.

² File No. 55154, official records in the Office of the State Engineer.

the Railroad Valley Northern Part Hydrographic Basin, Nye County, Nevada. The proposed manner of use is for industrial and domestic purposes within the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 24, T.9N., R.56E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 24.³

IV.

Applications 55153, 55154, and 55155 were timely protested by the United States Department of the Interior, National Park Service on grounds that are not relevant to the issue being addressed in this ruling.^{1,2,3}

FINDINGS OF FACT

I.

By letter dated June 6, 2001, the applicant was requested by the Office of the State Engineer to submit written evidence of a continued interest in Applications 55153, 55154 and 55155. The applicant was advised that a response to this request must be received in the Office of the State Engineer within thirty days from the date of the June 6, 2001, letter. The applicant was also advised that a failure to respond within this allotted time period would result in the denial of Applications 55153, 55154, and 55155. The envelope containing the June 6, 2001, letter was returned to the Office of the State Engineer stamped, "Not Deliverable As Addressed", by the United States Postal Service. A similar certified letter was sent on January 8, 2002 to the applicant's agent of record. A receipt for the certified mailing to the applicant's agent was received in the office of the State Engineer on January 14, 2002. To this date, no response to either letter has been received in the Office of the State Engineer.^{1,2,3} The State Engineer finds that the applicant has been properly noticed at its correct address of record of the need to provide written evidence of a continued interest in the subject

³ File No. 55155, official records in the Office of the State Engineer.

applications, but have failed to do so; therefore, Applications 55153, 55154, and 55155 can be considered for denial.

CONCLUSIONS

I.

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

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:⁵

- A. there is no unappropriated water at the proposed source;
- B. the proposed use or change conflicts with existing rights;
- C. the proposed use or change conflicts with protectible interests in existing domestic wells as set forth in NRS § 533.024; or
- D. the proposed use or change threatens to prove detrimental to the public interest.

III.

The applicant and its agent have been requested to provide the State Engineer with additional information relating to Applications 55153, 55154, and 55155. This request was made with the understanding that a failure to respond in a timely manner would represent a lack of interest on the applicant's part in pursuing the subject applications. To this date, no response regarding this matter has been received in the Office of the State Engineer. The State Engineer concludes that the approval of applications that the applicant has no interest in pursuing would threaten to prove detrimental to the public interest.

⁴ NRS chapters 533 and 534.

⁵ NRS § 533.370(3).

RULING

Applications 55153, 55154, and 55155 are hereby denied on the grounds that their approval would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protests.

Respectfully submitted,


HUGH RICCI, P.E.
State Engineer

HR/MB/jm

Dated this 7th day of
March, 2002.