

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

IN THE MATTER OF APPLICATION)
64032 FILED TO APPROPRIATE THE)
PUBLIC WATERS FROM A)
RESERVOIR ON WILLOW CREEK)
AND WILLOW CREEK WITHIN THE)
IMLAY AREA HYDROGRAPHIC)
BASIN (72), PERSHING COUNTY,)
NEVADA.)

RULING

5157

GENERAL

I.

Application 64032 was filed on April 14, 1998, by Gordon Peterson to appropriate 0.25 cubic feet per second of water from a surface water source for mining and milling purposes. The proposed place of use is described as the E $\frac{1}{2}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ of Section 34, T.32N., R.36E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 34, T.32N., R.36E., M.D.B.&M.¹

II.

The application was timely protested by Audrey Harmon c/o John Harmon on the grounds that the waters of Willow Creek are fully appropriated, that the granting of the application would adversely affect existing rights, and that the granting of Application 64032 would tend to prove detrimental to the public interest.

FINDINGS OF FACT

I.

The applicant and agent were notified by certified mail dated March 16, 1999, to submit additional information to this office in support of Application 64032. Properly endorsed receipts for the certified mailings are on file for applicant and his agent. No information was received from the applicant or agent.

The applicant and agent were notified by certified mail dated June 13, 2002, to advise this office in writing if they were still interested in pursuing Application 64032 and to submit the additional justification data that was requested by the March 16, 1999, letter. The applicant and agent were warned that failure to respond within 60 days could

result in denial of the application. Properly endorsed receipts for the certified mailings are on file for applicant and his agent.¹

To date, no information on this matter has been submitted to the State Engineer's Office. The State Engineer finds that the applicant and agent were properly notified of the request for additional information regarding interest in pursuing Application 64032 and failed to respond.

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

III.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:⁴

- 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.

IV.

The applicant and agent were properly notified of the requirement for additional information concerning this application and have failed to submit the information to the State Engineer's Office. The State Engineer concludes that the failure to respond affirms the applicant's lack of interest in pursuing Application 64032.

¹ File No. 64032, official records in the Office of the State Engineer.

² NRS chapter 533.

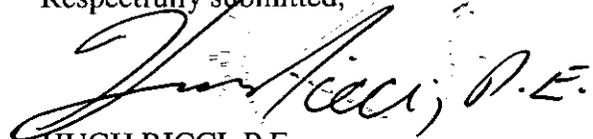
³ NRS § 533.375.

⁴ NRS § 533.370(3).

RULING

Application 64032 is hereby denied on the grounds that the applicant or his agent have not submitted the information requested by the State Engineer's Office and that 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/TW/jm

Dated this 25th day of
September, 2002.