

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

IN THE MATTER OF APPLICATION)
64775 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE TRACY SEGMENT)
HYDROGRAPHIC BASIN (083),)
WASHOE COUNTY, NEVADA.)

RULING

5182

GENERAL

I.

Application 64775 was filed on January 15, 1999, by Black Rock Investors to appropriate 0.173 cubic feet per second, not to exceed a duty of 125.0 acre-feet annually (afa), of underground water. The proposed manner and place of use is for mining, milling and domestic purposes within Section 7, T.20N., R.24E., 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 7.¹

II.

Title to Application 64775 was assigned to Lonnell Josephine Buck, Trustee of the George & Lonnell Buck 1994 Trust, in the records of the Office of the State Engineer on June 8, 2001.¹

III.

Application 64775 was timely protested by Washoe County on the following grounds.¹

Granting of this application would be detrimental to existing rights and consequently contrary to public interest.

Washoe County owns and operates the Stampmill Estates water system and owns associated water rights Permits 35581 and 35582 with a total combined duty of 111.8 MGA (343.10 AFA). Said water rights are committed for water service to eighty-nine recorded lots within Stampmill Estates, Units 1 through 7. The remaining

¹ File No. 64775, official records in the Office of the State Engineer.

portion of these permits remains committed for water service to the lots within the Stampmill Estates tentative map.

Application 64775 proposes to appropriate 125.00 acre-feet (new appropriation) for mining, milling, and domestic purposes. It is Washoe County's understanding that the appropriation proposed under this application and the water appropriated under Permit 63973, with a duty of 125.00 acre-feet, will be used for the dewatering of a gravel pit on property adjacent to Stampmill Estates. It should be noted that this proposed use does not coincide with the permitted use under Permit 63973, "quasi-municipal" use. Furthermore, the well associated with Application 64775 is 1500-2000 feet to the southeast of the permitted point of diversion of Permit 35582, and less than 1 mile from the permitted point of diversion of Permit 35581.

Washoe County contends that granting this application would adversely impact our wells described herein by severely lowering the ground water table and impacting water quality.

FINDINGS OF FACT

I.

Application 64775 requests an appropriation of underground water for an aggregate processing operation that was originally estimated by the applicant to require a duty of water equal to 125 afa.¹ When considering an application that requests this manner of use, the Office of the State Engineer often requires the applicant to provide a more detailed description of the project and its anticipated water usage. By certified letters dated May 14, 1999, and October 2, 2001, the applicant and its successor in interest were advised at their respective addresses of record, that additional justification data would be required before a decision could be made on whether to approve or deny Application 64775. The October 2, 2001, letter also contained a warning to the applicant that a failure to respond in a timely manner would signal a lack of continued interest in pursuing the application, resulting in its denial. This letter and its warning did not

prompt a timely response from the applicant, leaving the State Engineer's technical questions unanswered. The State Engineer finds that the applicant was properly noticed at her address of record to provide additional information to the Office of the State Engineer and has failed to do so, and that this failure represents a lack of interest in pursuing the project proposed under Application 64775.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.²

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:³

- 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.

On separate occasions, the original applicant and its successor in interest were requested to provide additional information regarding Application 64775 to the Office of the State Engineer. The most recent request clearly advised the applicant that the penalty for failure to tender a timely response would be the denial of the application. This call for additional data was not answered, demonstrating a lack of continued interest in completing Application 64775. Given this, the State Engineer

² NRS chapter 533 and 534.

³ NRS § 533.370(3).

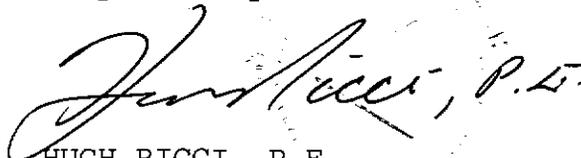
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concludes that the approval of an application that the applicant has no intention of completing would threaten to prove detrimental to the public interest.

RULING

Application 64775 is hereby denied on the grounds that its approval would threaten to prove detrimental to the public interest. No ruling is made on the specific issues contained within Washoe County's protest.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/MDB/jm

Dated this 27th day of
November, 2002.