

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

IN THE MATTER OF APPLICATION 37762)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE NORTH FORK)
AREA HYDROGRAPHIC BASIN (44),)
ELKO COUNTY, NEVADA.)

RULING

5204

GENERAL

I.

Application 37762 was filed on April 9, 1979, by Archie Corbari, to appropriate 6.0 cubic feet per second of water from an underground source for irrigation and domestic purposes in support of a desert land entry. The place of use is located within N½ of Section 36, T.38N., R.54E., M.D.B.&M. The point of diversion is described as being located within the NW¼ NE¼ of said Section 36.¹

FINDINGS OF FACT

I.

The applicant was notified by certified mail dated November 27, 2002, to advise this office in writing if it was interested in pursuing Application 37762. The applicant was warned that failure to respond within 30 days would result in denial of the application. The certified letter was returned to the Office of the State Engineer by the U.S. Postal Service stamped "Returned To Sender".¹ To date, no information on this matter has been submitted to the State Engineer's Office. The State Engineer finds that the applicant was properly notified of the request for additional information regarding interest in pursuing Application 37762 and failed to respond.

II.

The State Engineer finds that it is the responsibility of the applicant, its agent, or their successor in interest, to keep this office informed of a current mailing address.

¹ File No. 37762, official records in the Office of the State Engineer.

III.

The State Engineer finds that there has been no correspondence from the applicant regarding Application 37762 for at least 22 years.¹

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 was properly notified of the requirement for additional information concerning this application and has failed to submit the information to the State Engineer's Office. The State Engineer concludes that the failure to express any interest in the application for over 22 years and failure to maintain a current address demonstrates the applicant's lack of interest in pursuing Application 37762. The State Engineer concludes it would threaten to prove detrimental to the public interest to issue a permit under an application for which no interest is expressed.

² NRS chapters 533 and 534.

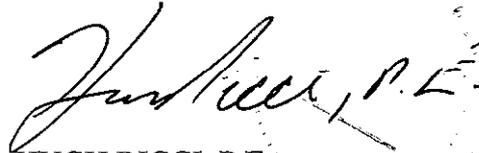
³ NRS § 533.375.

⁴ NRS § 533.370(3).

RULING

Application 37762 is hereby denied on the grounds its issuance would threaten to prove detrimental to the public interest.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/TW/jm

Dated this 6th day of
February, 2003.