

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

IN THE MATTER OF APPLICATION 42691)
FILED TO CHANGE THE POINT OF)
DIVERSION AND PLACE OF USE THE PUBLIC)
WATERS FROM LAKE TAHOE WITHIN THE)
LAKE TAHOE BASIN HYDROGRAPHIC BASIN)
(090), DOUGLAS COUNTY, NEVADA.)

RULING

#5210

GENERAL

I.

Application 42691 was filed on October 20, 1980, by Whispering Pines of Glenbrook, a limited partnership, to change the point of diversion and place of use 0.25 cubic feet per second, not to exceed 106 acre-feet annually, of water previously appropriated under Permit 6500, Certificate 2078-1, from Lake Tahoe for quasi-municipal purposes within the S½ of Lot No. 4 and the N½ of Lot No.3 of Section 15, T.14N., R.18E., M.D.B.&M. The proposed point of diversion is described as being located within Lot No.3 of Section 15, T.14N., R.18E., M.D.B.&M.¹

FINDINGS OF FACT

I.

By letter dated March 27, 1981, the applicant was informed that the chain of title they had submitted did not transfer Certificate 2078-1 into their ownership. The State Engineer finds the applicant was further advised that this office would withhold further action on Application 42691 pending a response.

II.

The applicant was requested by certified letter dated September 23, 1999, to provide the Office of the State Engineer with evidence that he still has an interest in pursuing Application 42691. The applicant was also informed that if a response was not received within 60 days from the date of the

¹ File No. 42691, official records in the Office of the State Engineer.

letter the application may be considered for denial. The September 23, 1999, letter was returned to the office of the State Engineer with the envelope stamped "Return to Sender Attempted Not Known" by the United States Postal Service.¹ The State Engineer finds that to date no information indicating any further interest by the applicant in pursuing Application 42691 has been received in the office of the State Engineer.

III.

It has been a long standing policy within the Office of the State Engineer that it is the applicant's responsibility to inform said office of any changes that may occur in the ownership and address associated with a specific water right application. The State Engineer finds that the owner of record under Application 42691 was properly noticed of the opportunity to express their continued interest in pursuing Application 42691, but has failed to do so; therefore, Application 42691 may be considered for denial.

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 a permit 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.

² NRS chapter 533.

³ NRS § 533.370(3).

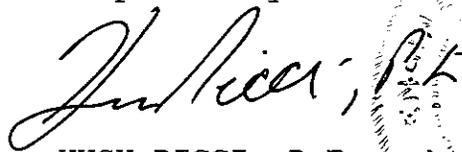
III.

On September 23, 1999, the applicant was requested by the Office of the State Engineer to provide information of continued interest that he may have in pursuing Application 42691. The applicant was informed that failure to respond to the request would represent a lack of interest in this matter and would result in said application being considered for denial. The applicant failed to provide any indication that he intended to move forward with Application 42691. Therefore, the State Engineer concludes that it would not be in the public interest to approve an application that the applicant no longer intends to pursue.

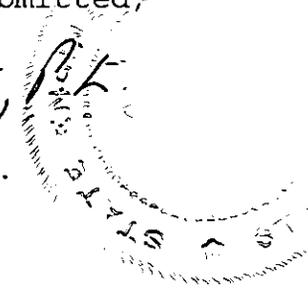
RULING

Application 42691 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/MJR/dl

Dated this 10th day of
February, 2003.