

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

IN THE MATTER OF APPLICATION 42097)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE)
WITHIN THE SNAKE VALLEY)
HYDROGRAPHIC BASIN (195), WHITE)
PINE COUNTY NEVADA.)

RULING

#5252

GENERAL

I.

Application 42097 was filed on August 15, 1980, by Dorothy N. Tidwell, in support of Desert Land Entry N-30765, to appropriate 5.6 cubic feet per second of water from an underground source for irrigation purposes. The proposed place of use is 320 acres described as being located within N $\frac{1}{2}$ of Section 24, T.13N., R.70E., M.D.B.&M. The proposed point of diversion is described as being located within NE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 24.¹

II.

The application was timely protested by Fredrick Baker of Baker Ranches, Inc., on the grounds that the granting of the application would conflict and interfere with existing prior water rights in the area.¹

FINDINGS OF FACT

I.

The applicant and her agent were notified by certified mail dated March 3, 2003, to submit additional information to the State Engineer's Office and to advise this office in writing if she was interested in pursuing Application 42097. The applicant was warned that failure to respond within 30 days would result in denial of the application. The certified letter to the applicant was returned to the Office of the State Engineer by the U.S.

¹ File No. 42097, official records in the Office of the State Engineer.

5252

Postal Service stamped "No Such Address." The certified letter to the agent was returned to the Office of the State Engineer by the U.S. Postal Service stamped "Attempted - Not Known" and "No Such Number." The State Engineer finds that the applicant and her agent were properly notified of the request for additional information regarding interest in pursuing Application 42097 and have failed to respond.

II.

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

III.

The State Engineer finds that there has been no correspondence from the applicant regarding Application 42097 for at least 19 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;

² NRS chapters 533 and 534.

³ NRS § 533.375.

⁴ NRS § 533.370(3).

- 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 her agent were properly notified of the request for additional information concerning interest in this application and have failed to submit this information to the State Engineer's Office. The State Engineer concludes that the failure to express any interest in the application for over 19 years and failure to maintain a current mailing address demonstrates the applicant's lack of interest in pursuing Application 42097. 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.

RULING

Application 42097 is hereby denied on the grounds that its issuance 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/dl

Dated this 5th day of

June, 2003.