

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

5257

IN THE MATTER OF APPLICATION 23144 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS OF BUENA VISTA CREEK WITHIN )  
THE BUENA VISTA VALLEY HYDROGRAPHIC )  
BASIN (129), PERSHING COUNTY, )  
NEVADA. )

RULING

**#5257**

GENERAL

I.

Application 23144 was filed on May 20, 1966, by Jimmie and Leona Ferrara to appropriate 5.0 cubic feet per second of water from Buena Vista Creek for irrigation and domestic purposes. The proposed place of use is 1280 acres described as being located within the W $\frac{1}{2}$  of Section 34, all of Section 27, and the W $\frac{1}{2}$  of Section 26, T.30N., R.35E., M.D.B.&M. The proposed point of diversion is described as being located within NE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 25, T.30N., R.34E., M.D.B.&M.<sup>1</sup>

II.

The application was timely protested by George H. and June Kyler on the grounds that granting the application would interfere with vested water rights and rightaways.<sup>1</sup>

III.

The present owners of record of Application 23144 are Robert Don and Ruth E. Knight.

FINDINGS OF FACT

I.

The applicants were notified by certified mail dated February 26, 2003, to submit additional information to the State Engineer's Office and to advise this office in writing if they were interested in pursuing Application 23144. The applicants were warned that failure to respond within 30 days would result in

<sup>1</sup> File No. 23144, official records in the Office of the State Engineer.

denial of the application. The certified letter to the applicants was returned to the Office of the State Engineer by the U.S. Postal Service stamped "No Such Address." The State Engineer finds that the applicants were properly notified of the request for additional information regarding interest in pursuing Application 23144 and have failed to respond.

**II.**

The State Engineer finds that it is the responsibility of the applicants, their agent, or their 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 23144 for at least 24 years.<sup>1</sup>

**CONCLUSIONS**

**I.**

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

**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.<sup>3</sup>

**III.**

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

- A. there is no unappropriated water at the proposed source;
- B. the proposed use or change conflicts with existing rights;

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<sup>2</sup> NRS chapter 533.

<sup>3</sup> NRS § 533.375.

<sup>4</sup> 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 applicants 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 24 years and failure to submit additional information demonstrates the applicants' lack of interest in pursuing Application 23144. 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 23144 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 6th day of  
June, 2003.