

527

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

IN THE MATTER OF APPLICATION 43431 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS OF AN UNDERGROUND )  
SOURCE WITHIN THE SNAKE VALLEY )  
HYDROGRAPHIC BASIN (195), WHITE )  
PINE COUNTY, NEVADA. )

RULING

**#5272**

GENERAL

I.

Application 43431 was filed on March 30, 1981, by Shanna A. Erickson in support of Desert Land Entry N-29651 to appropriate 6.0 cubic feet per second of water from an underground source for irrigation and domestic purposes. The proposed place of use is 320 acres described as being located within the S½ of Section 36, T.14N., R.70E., M.D.B.&M. The proposed point of diversion is described as being located within the NW¼ SE¼ of said Section 36.<sup>1</sup>

II.

The application was timely protested by Fredrick Baker of Baker Ranches, Inc. on the following grounds:<sup>1</sup>

The granting of this application would conflict and interfere with existing prior water rights in the area.

FINDINGS OF FACT

I.

The applicant and her agent were notified by certified mail dated March 5, 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 43431. 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. Postal Service stamped, "Unclaimed". The letter was re-sent by regular mail on

<sup>1</sup> File No. 43431, official records in the Office of the State Engineer.

March 28, 2003. A properly endorsed certified receipt from the applicant's agent was received in the Office of the State Engineer on March 10, 2003. The State Engineer finds that the applicant and her agent were properly notified of the request for additional information regarding interest in pursuing Application 43431 and have failed to respond.

**II.**

The State Engineer finds that there has been no correspondence from the applicant regarding Application 43431 for at least 18 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;
- 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 18 years and failure to submit additional information demonstrates the applicant's lack of interest in pursuing Application 43431.

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<sup>2</sup> NRS chapters 533 and 534.

<sup>3</sup> NRS § 533.375.

<sup>4</sup> NRS § 533.370(3).

Ruling  
Page 3

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 43431 is hereby denied on the grounds 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/jm

Dated this 29th day of

August, 2003.