

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

IN THE MATTER OF APPLICATION)
48615 FILED TO APPROPRIATE THE)
PUBLIC WATERS AN UNDERGROUND)
SOURCE WITHIN THE SURPRISE)
VALLEY HYDROGRAPHIC BASIN (14),)
WASHOE COUNTY, NEVADA.)

RULING

#5281

GENERAL

I.

Application 48615 was filed on December 3, 1984, by Gary R. Borst or Patricia A. Borst to appropriate 6.0 cubic feet per second of water from an underground source for irrigation and domestic purposes. The place of use is 500 acres described as being located within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 20, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ of Section 21, NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 28, and the NE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 29, all within T.38N., R.18E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 21, T. 38N., R.18E., M.D.B.&M.¹ The application indicates the place of use comprises private lands and land being offered for sale by the U.S., Bureau of Land Management.

FINDINGS OF FACT

I.

The applicants and their agent were notified by certified mail dated February 7, 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 48615. The applicants were warned that failure to respond within 30 days would result in denial of the application. Properly endorsed certified letter receipts were returned to the Office of the State Engineer by the U.S. Postal Service.¹ To date, there has been no response from the applicants or their agent. The State Engineer finds that the applicants were properly notified of the request for additional information regarding interest in pursuing Application 48615 and have failed to respond.

¹ File No. 48615, official records in the Office of the State Engineer.

II.

The State Engineer finds that there has been no correspondence from the applicants regarding Application 48615 for at least 17 years.¹

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 under an application 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.

III.

The applicants and their agent were properly notified of the requirement 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 17 years and failure to respond to the request for additional information demonstrates the applicants' lack of interest in pursuing Application 48615. 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 § 533.370(3).

RULING

Application 48615 is hereby denied on the grounds its issuance would threaten to prove detrimental to the public interest.

Respectfully submitted,

A handwritten signature in cursive script that reads "Hugh Ricci, P.E.". The signature is written in black ink and is positioned above the printed name and title.

HUGH RICCI, P.E.
State Engineer

HR/TW/jm

Dated this 10th day of
September, 2003.