

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

IN THE MATTER OF APPLICATION)
4228 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF A SURFACE)
SOURCE WITHIN THE SMITH)
VALLEY HYDROGRAPHIC BASIN)
(107), DOUGLAS COUNTY, NEVADA.)

RULING

#5347

GENERAL

I.

Application 4228 was filed on November 22, 1916, by the Plymouth Land and Stock Company, to appropriate 20 cubic feet per second of water from the West Walker River for irrigation and domestic purposes. The proposed place of use is described as being 2,000 acres located within portions of Sections 3, 8, 9, 10, 16, 17, 30 and 31, T.11N., R.24E., and a portion of Section 36, T.11N., R.23E., M.D.B.&M. The proposed point of diversion is described as being located within the NW¼ NE¼ of Section 10, T.10N., R.23E., M.D.B.&M.¹

FINDINGS OF FACT

I.

The applicant and its agent were notified by certified mail dated October 24, 2003, to submit additional information regarding Application 4228 to the State Engineer's office. 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 "Insufficient Address". The certified letter to the agent was returned to the Office of the State Engineer, by the U.S. Postal Service, stamped "Addressee Unknown". To date, the applicant and its agent have expressed no interest in pursuing this application and have not submitted the additional information requested.¹ The State Engineer finds that the applicant and its agents were properly notified of the request for additional information regarding interest in pursuing Application 4228 and have failed to respond.

¹ File No. 4228, official records in the Office of the State Engineer.

II.

The State Engineer finds that there has been no correspondence from the applicant or its agent regarding Application 4228 for at least 34 years.¹ The State Engineer finds that it is the responsibility of the applicant or its agent to keep this office informed of a current mailing address.

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;
- 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 its agent were properly notified of the requirement for additional information and have failed to submit the information to the State Engineer's office. The State Engineer concludes that the failure to express any interest in the application for over 34 years and the failure to maintain a current mailing address demonstrates the applicant's lack of interest in pursuing Application 4228. The State Engineer concludes it would threaten to prove detrimental to the public interest to issue a permit under these circumstances.

² NRS chapter 533.

³ NRS § 533.375.

⁴ NRS § 533.370(4).

RULING

Application 4228 is hereby denied on the grounds its issuance would threaten to prove detrimental to the public interest.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/TW/jm

Dated this 16th day of

April, 2004.