

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

IN THE MATTER OF APPLICATION)
32022 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE WHITE RIVER)
VALLEY HYDROGRAPHIC BASIN (207),)
WHITE PINE COUNTY, NEVADA.)

RULING

#5520

GENERAL

I.

Application 32022 was filed on June 13, 1977, by Robert L. Gardner to appropriate 2.7 cubic feet per second of water from an underground source within the White River Valley Hydrographic Basin, White Pine County, Nevada, for irrigation and domestic purposes within the E $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 25, T.12N., R.61E. and the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 30, T.12N., R.62E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 19, T.12N., R.62E., M.D.B.&M.¹ Application 32022 was filed in support of a Carey Land Act Application.

FINDINGS OF FACT

I.

By certified letter dated February 4, 2005, to the applicant and his agent, the Office of the State Engineer requested the applicant to provide information as to whether he still had an interest in pursuing the application. The letter assigned a 30-day time frame to submit the requested information or the application would be subject to denial. The certified letter to the applicant was returned by the United States Postal Service marked "attempted, not known" and the certified mail receipt for the letter sent to the agent was received in the Office of the State Engineer on February 14, 2005. The State Engineer finds that it is the responsibility of the applicant or its successor in interest to keep this office informed of a current mailing

¹ File No. 32022, official records in the Office of the State Engineer.

address. The State Engineer finds neither the applicant nor his agent have expressed an interest in pursuing this application in 28 years. The State Engineer finds that no response was received to the request for information.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 from the applicant 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 waters 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 has failed to submit the information requested to the State Engineer's office. The State Engineer concludes that without the additional data sufficient information is not available to properly guard the public interest. The State Engineer concludes to grant a water right to an applicant that

² NRS chapters 533 and 534.

³ NRS § 533.375.

⁴ NRS § 533.370(4).

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does not express an intent to go forward with the project would threaten to prove detrimental to the public interest.

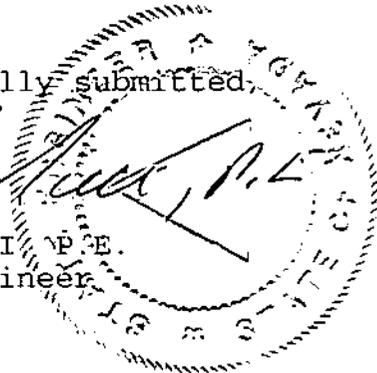
RULING

Application 32022 is hereby denied on the grounds that the applicant has not submitted the data and information requested by the State Engineer's office, and that without this information granting of the application would threaten to prove detrimental to the public interest.

Respectfully submitted,



HUGH RICCI P.E.
State Engineer



HR/SJT/jm

Dated this 19th day of
September, 2005.