

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

IN THE MATTER OF APPLICATION 67817)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE)
WITHIN THE LAMOILLE VALLEY AREA)
HYDROGRAPHIC BASIN (045), ELKO)
COUNTY, NEVADA.)

RULING
5689

GENERAL

I.

Application 67817 was filed on July 13, 2001 by Ronald G. Seaborn and Sandra Taylor Seaborn, to appropriate 0.53 cubic feet per second of water from an underground source for irrigation and domestic purposes. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 24, and the proposed place of use is described as being located within a portion of the W $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 24, T.33N., R.57E., M.D.B.&M.¹

II.

The proposed place of use for Application 67817 is within the place of use of Proof 00459 of the Humboldt River Decree whereby making Application 67817 supplemental to Proof 00459.²

FINDINGS OF FACT

I.

The Applicants were notified by mail dated November 25, 2003, to submit additional information regarding Application 67817 to the Office of the State Engineer. No response was received from that letter. The Applicants were again notified by certified mail dated March 14, 2005, to submit additional information regarding Application 67817 to the State Engineer's Office. The Applicants were warned that failure to respond within 60 days would result in denial of the application. A properly endorsed certified mail receipt was received in the Office of the State Engineer on April 4, 2005. To date, the Applicants have expressed no interest in pursuing this application and have not submitted the additional information requested.¹ The State

¹ File No. 67817, official records in the Office of the State Engineer.

² In the matter of the Determination of the Relative Rights of the Waters of the Humboldt River Stream System and Tributaries, Case No. 2804, Sixth Judicial District Court of Nevada, In and for the County of Humboldt, 1923-1938.

Engineer finds that the Applicants were properly notified of the request for additional information regarding interest in pursuing Application 67817 and have failed to respond.

II.

The State Engineer finds that there has been no correspondence received from the Applicants in regards to this application for over 2 years.¹

CONCLUSIONS

I.

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

II.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁴

III.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:⁵

- 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 Applicants were properly notified of the requirement for additional information and have failed to submit the information to the Office of the State Engineer. The State Engineer concludes that the failure to express any interest in this application for over 2 years and the failure to submit requested information demonstrates the Applicants' lack of interest in pursuing Application 67817. The State Engineer concludes it would threaten to prove detrimental to the public interest to issue a permit under these circumstances.

³ NRS § 533.375.

⁴ NRS chapters 533 and 534.

⁵ NRS § 533.370(5).

RULING

Application 67817 is hereby denied on the grounds the issuance would threaten to prove detrimental to the public interest.

Respectfully submitted,



TRACY TAYLOR, P.E.
State Engineer

TT/TH/jm

Dated this 7th day of

December, 2006.