

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

IN THE MATTER OF APPLICATION )  
72433 FILED TO APPROPRIATE THE )  
WATERS OF AN UNDERGROUND SOURCE )  
WITHIN THE UPPER REESE RIVER )  
VALLEY HYDROGRAPHIC BASIN (56), )  
LANDER COUNTY, NEVADA. )

RULING

**#5718**

GENERAL

I.

Application 72433 was filed on March 30, 2005, by Richard W. Smucker and Jean Smucker to appropriate 2.5 cubic feet per second, not to exceed 627.8 acre-feet annually of underground water for irrigation purposes within the SW $\frac{1}{4}$  of Section 8, T.18N., R.42E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 8.<sup>1</sup>

FINDINGS OF FACT

I.

Under the provisions established under NRS § 533.435, the State Engineer shall collect a specified fee for the issuance of a permit requesting an appropriation of water. The State Engineer finds that before a permit can be issued under Application 72433 the statutory permit fee must be collected.

II.

The Applicant was notified by letter dated July 7, 2005, that Application 72433 was ready to be approved. The Applicant was also noticed of the need to submit the statutory permit fee in the amount of \$1,405.60 to the Office of the State Engineer within sixty days from the date of the letter. The Applicant was also cautioned that a failure to submit the requested fee in a timely manner would result in Application 72433 being subject to denial.<sup>1</sup>

<sup>1</sup> File No. 72433, official records in the Office of the State Engineer.

On September 19, 2005, the Applicant was again served notice by certified mail that the requested fees must be submitted. This notice allotted the Applicant an additional thirty days from the date of the notice to submit the statutory permit fee in the amount of \$1,405.60 to the Office of the State Engineer. The Applicant was again cautioned that a failure to submit the requested fee in a timely manner would result in Application 72433 being subject to denial. A properly endorsed certified mail receipt was received in the Office of the State Engineer signifying the Applicant's receipt of the September 19, 2005, notice.<sup>1</sup>

A review of the application file indicates that the Applicant sent two partial payments in the amount of \$234.26 each. The Applicant also requested that the State Engineer's office accept similar partial payments over a six-month period up to the total amount due. These checks were returned to the Applicant with an explanatory letter indicating that the State Engineer's office is unable to accept partial payments for permit fees. The Applicant was given an additional sixty days from the last letter of September 26, 2005, to submit the full amount of the required permit fees or the application would be subject to denial.<sup>1</sup>

The State Engineer finds that the Applicant was properly noticed of the requirement to submit the required permit fees in a timely manner and has failed to do so; therefore, Application 72433 must be considered for denial.

#### CONCLUSIONS

##### I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>2</sup>

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

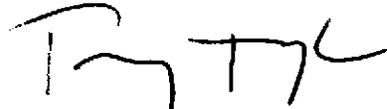
II.

The State Engineer is required by NRS § 533.435 to collect a fee for the issuance of a permit. The State Engineer concludes that as the statutory fee was not submitted to the Division of Water Resources a permit cannot be granted under Application 72433.

RULING

Application 72433 is hereby denied on the grounds that the Applicant has failed to submit the full permit fee required under the provision of NRS § 533.435.

Respectfully submitted,



TRACY TAYLOR, P.E.  
State Engineer

TT/TW/jm

Dated this 15th day of  
February, 2007.