

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

IN THE MATTER OF APPLICATIONS)
41513, 42582, 42584, 42585, 42589,)
42590 AND 42593 FILED TO)
APPROPRIATE THE PUBLIC WATERS OF)
VARIOUS SURFACE WATER SOURCES)
WITHIN THE PILOT CREEK VALLEY)
HYDROGRAPHIC BASIN (191), ELKO)
COUNTY, NEVADA.)

RULING
5781

GENERAL

I.

Application 41513 was filed on June 13, 1980, by Bill Wall and later assigned to Simplot Land and Cattle Company to appropriate 6.0 cubic feet per second (cfs) of water from an unnamed spring within the Pilot Creek Valley Hydrographic Basin, for irrigation and domestic purposes within the N $\frac{1}{2}$ of Section 35, T.37N., R.69E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 31, T.37N., R.70E., M.D.B.&M.¹

II.

Application 42582 was filed on October 6, 1980, by Bill Wall and later assigned to Simplot Land and Cattle Company to appropriate 6.0 cfs of water from an unnamed spring within the Pilot Creek Valley Hydrographic Basin, for irrigation and domestic purposes within Sections 3 and 4, T.36N., R.69E., and Sections 33 and 34, T.37N., R.69E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 1, T.36N., R.69E., M.D.B.&M.²

III.

Application 42584 was filed on October 6, 1980, by Bill Wall and later assigned to Simplot Land and Cattle Company to appropriate 6.0 cfs of water from an unnamed spring within the

¹ File No. 41513, official records in the Office of the State Engineer.

² File No. 42582, official records in the Office of the State Engineer.

Pilot Creek Valley Hydrographic Basin, for irrigation and domestic purposes within Sections 3 and 4, T.36N., R.69E., and Sections 33 and 34, T.37N., R.69E., M.D.B.&M. The proposed point of diversion is described as being located within the NW¼ NE¼ of Section 12, T.36N., R.69E., M.D.B.&M.³

IV.

Application 42585 was filed on October 6, 1980, by Bill Wall and later assigned to Simplot Land and Cattle Company to appropriate 6.0 cfs of water from an unnamed spring within the Pilot Creek Valley Hydrographic Basin, for irrigation and domestic purposes within Sections 3 and 4, T.36N., R.69E., and Sections 33 and 34, T.37N., R.69E., M.D.B.&M. The proposed point of diversion is described as being located within the SW¼ SE¼ of Section 12, T.36N., R.69E., M.D.B.&M.⁴

V.

Application 42589 was filed on October 6, 1980, by Bill Wall and later assigned to Simplot Land and Cattle Company to appropriate 6.0 cfs of water from an unnamed spring within the Pilot Creek Valley Hydrographic Basin, for irrigation and domestic purposes within Sections 3 and 4, T.36N., R.69E., and Sections 33 and 34, T.37N., R.69E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ SW¼ of Section 35, T.37N., R.69E., M.D.B.&M.⁵

VI.

Application 42590 was filed on October 6, 1980, by Bill Wall and later assigned to Simplot Land and Cattle Company to appropriate 6.0 cfs of water from an unnamed spring within the Pilot Creek Valley Hydrographic Basin, for irrigation and domestic purposes within Sections 3 and 4, T.36N., R.69E., and Sections 33

³ File No. 42584, official records in the Office of the State Engineer.

⁴ File No. 42585, official records in the Office of the State Engineer.

⁵ File No. 42589, official records in the Office of the State Engineer.

and 34, T.37N., R.69E., M.D.B.&M. The proposed point of diversion is described as being located within the NW¼ NW¼ of Section 6, T.36N., R.70E., M.D.B.&M.⁶

VII.

Application 42593 was filed on October 6, 1980, by Bill Wall to appropriate 6.0 cfs of water from Horse Canyon Creek within the Pilot Creek Valley Hydrographic Basin, for irrigation and domestic purposes within Section 25, T.37N., R.69E., M.D.B.&M. The proposed point of diversion is described as being located within the NW¼ SE¼ of Section 19, T.37N., R.70E., M.D.B.&M.⁷

FINDINGS OF FACT

I.

By certified letter dated January 10, 2006, to the Applicant and its agent, the Office of the State Engineer requested the Applicant to provide information as to whether there was still an interest in pursuing the applications. The letter assigned a 30-day time frame to submit the requested information or the applications would be subject to denial. Properly endorsed return receipts for the certified letter to the Applicant and its agent were received in the Office of the State Engineer on January 17, 2006. An examination of the records contained in File Nos. 41513, 42582, 42584, 42585, 42589, 42590 and 42593 show that there has been no response to the request for additional information.¹

The State Engineer finds that no response was received to the request for information.

II.

A review of the records contained in File Nos. 41513, 42582, 42584, 42585, 42589, 42590 and 42593 show that there has been no correspondence from the Applicant or its agent since ownership of the applications was updated in 1988. Over 18 years have passed

⁶ File No. 42590, official records in the Office of the State Engineer.

⁷ File No. 42593, official records in the Office of the State Engineer.

and there is nothing in the record to indicate the Applicant's continued interest in these applications. The certified letters sent to the Applicant and its agent at their respective addresses of record on January 10, 2006, have failed to elicit any response, despite the properly endorsed return receipts signifying the certified letters were received.¹

The State Engineer finds that the Applicant and its agent have been afforded the opportunity to demonstrate an active interest in Applications 41513, 42582, 42584, 42585, 42589, 42590 and 42593, and have failed to pursue this option. Without the Applicant demonstrating an active interest in pursuing the applications, the State Engineer finds that the Applicant has not demonstrated any intent to pursue beneficial use of the waters applied for under the applications.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁸

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.⁹

III.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:¹⁰

- 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

⁸ NRS chapter 533.

⁹ NRS § 533.375.

¹⁰ NRS § 533.370(5).

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.

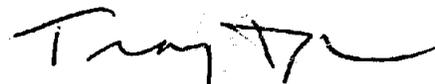
IV.

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

RULING

Applications 41513, 42582, 42584, 42585, 42589, 42590 and 42593 are 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 applications would threaten to prove detrimental to the public interest.

Respectfully submitted,



TRACY TAYLOR, P.E.
State Engineer

TT/KMH/lt

Dated this 1st day of
May, 2007.