

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

IN THE MATTER OF APPLICATION 45165)
FILED TO CHANGE THE PLACE OF USE OF)
AN UNDERGROUND SOURCE WITHIN THE)
FISH LAKE VALLEY HYDROGRAPHIC BASIN)
(117), ESMERALDA COUNTY, NEVADA.)

RULING

#5061

GENERAL

I.

Application 45165 was filed on December 30, 1981, by Fred Maurer to change the place of use of 2.70 cubic feet per second of underground water previously appropriated under Permit 27060, Certificate 9582, for irrigation and domestic purposes within the S $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{4}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 23, T.4S., R.36E., M.D.B.&M.¹ The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 23.¹

FINDINGS OF FACT

I.

The applicant and agent were notified by certified letter dated November 1, 2000, that additional information regarding this application was necessary. On November 27, 2000, the applicant's grandson, John Maurer responded that it was his intent to purchase the proposed place of use under Application 45165 from the Bureau of Land Management. Subsequently, John Maurer was requested by certified letter dated December 5, 2000, to provide the State Engineer with documentation prior to March 1, 2001, that he had initiated the purchase of the subject land. The return receipt from this certified letter was received in the office of the State Engineer on December 11, 2000. It was later discovered that this office failed to send a copy of the December 5, 2000 letter to the applicant's agent, this error being corrected by a certified letter to the agent dated

¹ File No. 45165, official records in the office of the State Engineer.

March 28, 2001. The return receipt from this certified letter was received in the office of the State Engineer on March 30, 2001. The State Engineer finds that to date, the information requested has not been received.¹

II.

The State Engineer finds that the applicant and his agent were properly notified of the request for additional information and failed to respond.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 as will enable him to properly guard the public interest.³

III.

The State Engineer is prohibited by law from granting a change application to appropriate the public waters where:⁴

- A. the proposed use or change conflicts with existing rights;
- B. the proposed use or change conflicts with protectible interests in existing domestic wells as set forth in NRS § 533.024; or
- C. the proposed use or change threatens to prove detrimental to the public interest.

IV.

The applicant and his agent were properly notified of the requirement for additional information concerning this application and have failed to submit the information to the State Engineer's Office. The State Engineer concludes that without the information requested sufficient information is not available for the State Engineer to properly guard the public interest.

² NRS chapters 533 and 534.

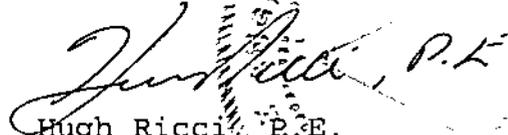
³ NRS § 533.375.

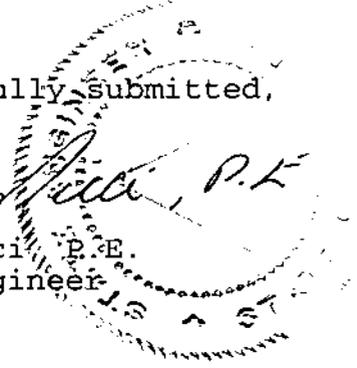
⁴ NRS § 533.370 (3).

RULING

Application 45165 is hereby denied on the grounds that the applicant does not control the proposed place of use and has declined to provide documentation to the State Engineer's Office that the applicant is actively pursuing control of the place of use.

Respectfully submitted,


Hugh Ricci, P.E.
State Engineer



HR/RAD/dl

Dated this 4th day of
September, 2001.