

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

IN THE MATTER OF APPLICATION)
44107 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF UNNAMED)
SPRING WITHIN THE PYRAMID)
LAKE VALLEY HYDROGRAPHIC)
BASIN (81), WASHOE COUNTY,)
NEVADA.)

RULING
5583

GENERAL

I.

Application 44107 was filed on June 30, 1981, by David G. and Patricia T. Pumphrey, and later assigned to Harry O. and Salley C. Miller, to appropriate 1.0 cubic foot per second of water from an unnamed spring for quasi-municipal and domestic purposes. The proposed place of use is described as being located within all of Section 13 lying southerly of the Pyramid Lake Indian Reservation boundary, a portion of Section 24, T.23N., R.21E., M.D.B.&M. and all of Sections 18, 19, 20 and 21 lying southerly of the Pyramid Lake Indian Reservation boundary, and portions of Sections 28 and 29, T.23N., R.22E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 19, T.23N., R.22E., M.D.B.&M.¹

FINDINGS OF FACT

I.

The applicants and their agent were notified by certified mail dated February 25, 2005, to submit additional information regarding Application 44107 to the State Engineer's office. The applicants were warned that failure to respond within 30 days would result in denial of the application. The applicants' certified letter was returned to the Office of the State Engineer, by the U.S. Postal Service, and was stamped "Refused". The letter was re-sent by regular mail on March 15, 2005. The U.S. Postal Service returned the agent's certified letter to the Office of the State Engineer, with a sticker on the letter indicating that the U.S. Postal Service was unable to forward the letter.¹

¹ File No. 44107, official records in the Office of the State Engineer.

The State Engineer finds that the applicants and their agent were properly notified of the request for additional information regarding Application 44107 and failed to provide the requested information.

II.

The State Engineer finds that there has been no correspondence from the applicants or their agent in regards to this application for over 15 years.¹ The State Engineer finds that it is the responsibility of the applicants or their agent to keep this office informed of a current mailing address.

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 permit under an application to appropriate the public water 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 applicants and their agent were properly notified of the requirement for additional information and have failed to submit the information to the State Engineer's office. The State Engineer concludes that the failure to submit the requested information demonstrates the applicants' lack of interest in pursuing Application 44107. The State

² NRS chapter 533.

³ NRS § 533.375.

⁴ NRS § 533.370(4).

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Engineer concludes it would threaten to prove detrimental to the public interest to issue a permit under these circumstances.

RULING

Application 44107 is hereby denied on the grounds its issuance would threaten to prove detrimental to the public interest.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/TW/jm

Dated this 10th day of

March, 2006.