

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

IN THE MATTER OF APPLICATIONS)
45939 AND 46374 FILED TO)
APPROPRIATE THE PUBLIC WATERS)
OF SPRING SOURCES WITHIN THE)
EAGLE VALLEY HYDROGRAPHIC)
BASIN (104), CARSON CITY, NEVADA.)

RULING

5825

GENERAL

I.

Application 45939 was filed on July 16, 1982, by Roger David Noteware to appropriate 0.20 cubic feet per second (cfs) of water from an unnamed spring for quasi-municipal purposes. The proposed place of use is described as being a 2.7 acre parcel of land lying within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 18, T.15N., R.20E., M.D.B.&M. The point of diversion is described as being located within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 18.¹

II.

Application 46374 was filed on July 16, 1982, by Roger David Noteware to appropriate 0.18 cfs of water from an unnamed spring for irrigation purposes. The proposed place of use is described as being a 2.7 acre parcel of land lying within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 18, T.15N., R.20E., M.D.B.&M. The point of diversion is described as being located within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 18.²

III.

Applications 45939 and 46374 were timely protested by Carson City on the following grounds:¹

1. The subject spring is located in the Eagle Valley Ground Water Basin which has been designated as being a critical groundwater basin by the State Engineer. Any diversion of water which is now contributing to ground water recharge would directly effect Carson City as the majority holder of underground water rights in the already overappropriated Eagle Valley Ground Water Basin.
2. The place of use is immediately adjacent to existing City water lines.

¹ File No. 45939, official records in the Office of the State Engineer.

² File No. 46374, official records in the Office of the State Engineer.

FINDINGS OF FACT

I.

The Applicant was notified by certified mail dated January 3, 2003, to submit additional information regarding Application 45939 to the State Engineer's office. The Applicant was required to respond within 30 days from the date of the notice and was warned that a failure to express a continued interest would result in denial of the application. The certified mailing to the Applicant was returned to the Office of the State Engineer by the U.S. Postal Service marked, "unclaimed." The letter was re-sent by regular mail to the address provided by the Applicant on the application form. A review of the application file shows that the last correspondence from the Applicant was received over 23 years ago. From that time forward, there is no evidence within the application file that the Applicant is interested in pursuing this application. In addition, the Applicant has failed to submit any additional information as requested by the Office of the State Engineer.¹

The State Engineer finds that the Applicant was properly notified of the request for additional information regarding his interest in pursuing Application 45939 and has failed to respond. The State Engineer further finds that there has been no correspondence from the Applicant for over 23 years.

II.

Application 46374 was filed on a second spring within the same 2.7 acres described in Application 45939. While Application 45939 was filed to provide water for three homes, Application 46374 was filed to provide water for irrigation on the same described place of use. A review of the application file shows that the last item in the file is a properly endorsed certified mail receipt, received in the Office of the State Engineer on April 4, 1983, regarding notification to the Applicant that Application 46374 was protested. There is no other correspondence within the application file.

The State Engineer finds that the Applicant has failed to express any intent to move forward with the proposed project under Application 46374 since at least 1983.

III.

The protest indicates that the proposed place of use is within the service area of Carson City Utilities, the local water purveyor for the Carson City area. A review of the map filed in support of Applications 45939 and 46374 show the exact location of the

springs and of the 2.7-acre parcel comprising the proposed place of use. Based on this map, an informal field investigation was conducted. The field investigation revealed that most of the proposed place of use has been developed with housing and the springs could not be located. Within the proposed 2.7-acre place of use, there appears to only be one lot that has not been developed. The lot is advertised for sale for the development of a single-family home and municipal water, sewer, and other utility connections are available.³

The State Engineer finds that the land encompassing the proposed place of use has been developed and the project as proposed in the applications is no longer viable. The State Engineer finds that the proposed project is within the water service area of Carson City Utilities and to approve a quasi-municipal use within the service area of an existing water purveyor capable of serving the project would threaten to prove detrimental to the public interest.

CONCLUSIONS

I.

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

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.⁵

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.

³ Informal Field Investigation, March 7, 2007, File No. 45939, official record in the Office of the State Engineer.

⁴ NRS chapter 533.

⁵ NRS § 533.375.

⁴ NRS § 533.370(5).

IV.

The Applicant was properly notified of the requirement for additional information regarding his proposed project and has failed to submit the information to the State Engineer's office. The State Engineer concludes that the failure to express any interest in the applications for over 23 years and the failure to submit requested information demonstrates the Applicant's lack of interest in pursuing Applications 45939 and 46374.

V.

An informal field investigation of the 2.7-acre of land described in the applications and on the supporting map show that the property has already been developed with the exception of one lot. The undeveloped lot is within the water service area of the Protestant and the evidence suggests that any home developed on this lot is capable of being served by the water purveyor. There was no evidence of flowing springs at the described locations and therefore, flow measurements could not be made to determine the suitability of the springs regarding potential water production.⁶

The State Engineer concludes it would threaten to prove detrimental to the public interest to issue any permits under these circumstances.

RULING

The protests are upheld and Applications 45939 and 46374 are hereby denied on the grounds their issuance would threaten to prove detrimental to the public interest.

Respectfully submitted,



TRACY TAYLOR, P.E.
State Engineer

TT/TW/jm

Dated this 4th day of
April, 2008.

⁶ Informal Field Investigation, March 7, 2007, File No. 45939, official record in the Office of the State Engineer.