

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

IN THE MATTER OF APPLICATION 57523 FILED)
TO APPROPRIATE THE PUBLIC WATERS OF AN)
UNDERGROUND SOURCE WITHIN THE LAS VEGAS)
ARTESIAN BASIN, CLARK COUNTY, NEVADA)

RULING
4122

GENERAL

I.

Application 57523 was filed April 28, 1992 by Gordon Averbook to appropriate 0.05 c.f.s. (cubic feet per second) of water from an underground source for commercial purposes for a 2500 square feet office complex and landscaping. The proposed complex will be located in a portion of the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 18, T.22S., R.61E., M.D.B.&M. The point of diversion is described as being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 18. Application 57523 became ready for the State Engineer's action July 31, 1992.¹

II.

The State Engineer in his administrative capacity is herewith empowered to make such rules, regulations and orders as are deemed essential for the welfare of the area involved.²

III.

The State Engineer issued Order No. 1054 on March 23, 1992, stating that as of the date of the Order, applications filed to appropriate groundwater pursuant to NRS 534.120 within the designated Las Vegas Artesian Basin, will be denied.³

After a Public Administrative Hearing April 13, 1992 the State Engineer issued Amended Order 1054 on April 15, 1992 in which three (3) exceptions to original Order No. 1054 were stated. Exception number 1 on page 2 of the amended Order specifically states:

¹ Public record in the office of the State Engineer, Application 57523.

² NRS 534.120.

³ Public record in the office of the State Engineer, Order No. 1054.

"Applications filed for commercial or industrial purposes which seek to appropriate 1,800 gallons per day or less and where the property is zoned for such purpose shall be processed and subject to NRS Chapter 533 and 534."⁴

FINDINGS OF FACT

I.

The applicant was requested by certified mail February 10, 1993 to submit additional information to the State Engineer's office concerning Application 57523. The applicant was requested to provide specific information describing water consuming devices and landscaping planned for the complex so that annual water consumption could be determined.⁵

The return receipt from the certified mail shows that the letter was received by the applicant on February 19, 1993.⁵ To date there has been no reply from the applicant regarding Application 57523.¹

A copy of the February 10, 1993 letter was sent to the applicant's agent, Fulstone Enterprises, Inc. To date, there has been no response from the agent regarding Application 57523.¹

The State Engineer finds that the applicant did not respond to the request for additional information.

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action and determination under the provisions of NRS 533.325, and NRS 533.335.

⁴ Public record in the office of the State Engineer, Amended Order No. 1054.

⁵ Public records in the office of the State Engineer, letter dated February 10, 1993 and Certified Mail Return Receipt P 019 021 705, filed in Application 57523.

II.

Before either approving or rejecting an application, the State Engineer may require such additional information as will enable him to guard the public interest properly.⁶

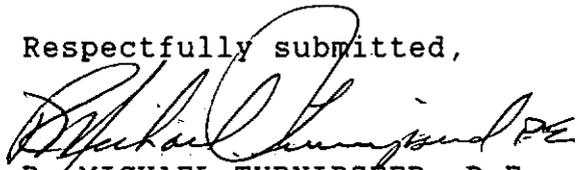
III.

The applicant has been properly notified of the requirement for additional information concerning Application 57523 and has failed to submit the required information to the State Engineer's office. Therefore, sufficient information is not available to the State Engineer to properly guard the public interest or to determine if Application 57523 is in compliance with Amended Order No. 1054.

RULING

Application 57523 is hereby denied on the grounds that the applicant has not submitted the information requested under authority of NRS 533.375.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/CAB/pm

Dated this 29th day of
June, 1994.