

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

IN THE MATTER OF APPLICATION 43955 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS OF AN UNDERGROUND SOURCE )  
WITHIN THE SOUTH FORK OWYHEE RIVER )  
AREA GROUND WATER BASIN (35), ELKO )  
COUNTY, NEVADA. )

RULING

# 4198

GENERAL

I.

Application 43955 was filed on June 29, 1981, by BFB Enterprises, Inc. to appropriate 0.5 c.f.s. of water from an underground source for mining, milling and domestic purposes within the NE $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 19, T.44N., R.52E., M.D.B.&M. The point of diversion is described as being within the NE $\frac{1}{4}$  NE $\frac{1}{4}$  Section 19, T.44N., R.52E., M.D.B.&M.<sup>1</sup>

FINDINGS OF FACT

I.

The applicant or agent was notified by certified mail on July 16, 1984, August 23, 1984 and September 26, 1984, to submit additional information to the State Engineer's Office regarding consumptive use, specifically, requesting data concerning water conservation measures and amount of water to be recycled. The return receipts were received from the addressees on July 28, 1984, August 27, 1984 and October 3, 1984, respectively.<sup>2</sup> To date the information requested has not been received from the applicant or agent.<sup>3</sup>

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<sup>1</sup> Public record in the office of the State Engineer.

<sup>2</sup> See Certified Mail, return Receipt No's. P 718 196 527, P 616 537 831 and P 537 462 874.

<sup>3</sup> A check of the State Engineer's records indicates that no information has been received.

II.

By correspondence dated November 16, 1984, Robert L. Fallow, as agent for BFB Enterprises, Inc. notified the State Engineer that the water resources were used for domestic purposes as the well was not able to produce enough water to be used for ore processing.<sup>1</sup>

III.

On November 28, 1984, a memorandum to File 43955, by Jerry Thom, of the State Engineer's Office, granted one year postponement to submit additional information.<sup>1</sup>

IV.

The applicant and agent were notified by certified mail on June 16, 1993, to submit the additional information requested by the State Engineer's office. The return receipt was received from the addressees on June 28, 1993, June 24, 1993 and June 22, 1993 respectively.<sup>4</sup> The letter assigned a 30 day time limit to file the required information. To date the information requested has not been received from the applicant or agent.<sup>3</sup>

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action and determination.<sup>5</sup>

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.<sup>6</sup>

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<sup>4</sup> See Certified Mail, return Receipt No's. P 139 025 225, P 139 025 226 and P 139 025 227.

<sup>5</sup> NRS Chapters 533 and 534.

<sup>6</sup> NRS 533.375.

III.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:<sup>1</sup>

- A. There is no unappropriated water at the proposed source, or
- B. The proposed use conflicts with existing rights, or
- C. The proposed use threatens to prove detrimental to the public interest.

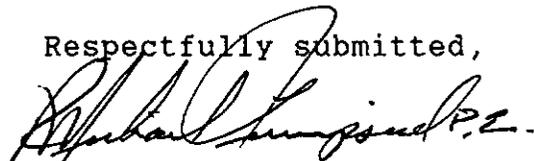
IV.

The applicant has failed to submit the information requested by the State Engineer's office. Therefore, sufficient information is not available to the State Engineer to guard the public interest properly.

RULING

Application 43955 is hereby denied on the grounds that the applicant has not submitted the information requested by the State Engineer's Office and, therefore, the granting of said application without the additional information requested would not be in the public interest.

Respectfully submitted,



E. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/DJL/pm

Dated this 29th day of  
June, 1995.

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<sup>1</sup> NRS Chapter 533.370(3).