

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

IN THE MATTER OF APPLICATIONS 52451 )  
AND 53687 FILED TO APPROPRIATE THE )  
PUBLIC WATERS OF AN UNDERGROUND )  
SOURCE WITHIN THE PARADISE VALLEY )  
GROUNDWATER BASIN (69), HUMBOLDT )  
COUNTY, NEVADA. )

RULING

**# 4224**

GENERAL

I.

Application 52451 was filed on August 31, 1988, by Paradise Valley Mining, Inc., to appropriate 0.5 cfs of water from an underground source for mining, milling and domestic purposes for use within the NE $\frac{1}{4}$  NE $\frac{1}{4}$  Section 18, and N $\frac{1}{2}$  Section 17, T.38N., R.40E., M.D.B.&M. The point of diversion is described as being within the NE $\frac{1}{4}$  NE $\frac{1}{4}$  Section 18, T.38N., R.40E., M.D.B.&M.<sup>1</sup>

II.

Application 53687 was filed on July 17, 1989, by Paradise Valley Mining, Inc., to appropriate 2.0 cfs of water from an underground source for mining, milling and domestic purposes for use within the NE $\frac{1}{4}$  NE $\frac{1}{4}$  Section 18, and N $\frac{1}{2}$  Section 17, T.38N., R.40E., M.D.B.&M. The point of diversion is described as being within the NE $\frac{1}{4}$  NE $\frac{1}{4}$  Section 18, T.38N., R.40E., M.D.B.&M.<sup>2</sup>

FINDINGS OF FACT

I.

The State Engineer finds that on June 19, 1991, the applicant and its agent were notified by certified mail to submit additional justification data and information concerning the annual consumptive use of water for mining and milling purposes under the applications, and that the return receipt was received from the agent.<sup>1,2</sup>

II.

The State Engineer finds that no information was received in response to the request from the applicant or its agent.<sup>1,2</sup>

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<sup>1</sup> File No. 52451, official records in the Office of the State Engineer.

<sup>2</sup> File No. 53687, official records in the Office of the State Engineer.

III.

The State Engineer finds that the applicant and its agent were again notified by certified mail on May 19, 1995, to submit the additional information requested by the State Engineer's Office, and the return receipt was received from the agent, from Paradise Valley Mining, Inc., at an address of 5200 S. Main Street, Salt Lake City, but returned as addressee unknown from the address of record in the Office of the State Engineer for Paradise Valley Mining, Inc.<sup>1,2</sup> The letter requesting additional information informed the applicant and its agent that the applicant had a 30 day time limit in which to file the required information or request a postponement of further action as provided by NRS 533.370(2), otherwise the State Engineer would assume the applicants was no longer interested in pursuing the applications and appropriate action would be taken regarding denial of the applications.<sup>1,2</sup>

IV.

The State Engineer finds it is the responsibility of the applicant or his successor in interest to keep the Office of the State Engineer informed of their current mailing address.

V.

The State Engineer finds that to date the information requested has not been received from the applicant.<sup>1,2</sup>

VI.

In correspondence of May 22, 1995, from Michael D. Buschelman, agent of record for the applicant, Mr. Buschelman notified the State Engineer's Office that he had attempted, but had been unable, to contact Paradise Valley Mining, Inc. The State Engineer finds that despite repeated attempts by the State Engineer to contact Paradise Valley Mining, Inc., the requested information has not been submitted by the applicant.<sup>1,2</sup>

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>3</sup>

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<sup>3</sup> NRS Chapters 533 and 534.

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.<sup>4</sup>

III.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:<sup>5</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.

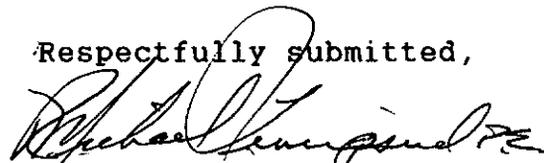
IV.

The applicant has failed to submit the information requested to the State Engineer's Office. The State Engineer concludes that without the additional data sufficient information is not available to properly guard the public interest.

RULING

Applications 52451 and 53687 are hereby denied on the grounds that the applicant has not submitted the data and information requested by the State Engineer's Office, and that without this information granting of the applications would be detrimental to the public interest.

Respectfully submitted,

  
R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/SJT/DJL/pm

Dated this 11th day of  
October, 1995.

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<sup>4</sup> NRS 533.375.

<sup>5</sup> NRS Chapter 533.370(3).