

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

IN THE MATTER OF APPLICATION 41017)
FILED TO APPROPRIATE THE UNDERGROUND)
WATERS OF THE DIXIE CREEK-TENMILE)
CREEK AREA GROUNDWATER BASIN (48),)
ELKO COUNTY, NEVADA.)

RULING

4251

GENERAL

I.

Application 41017 was filed on April 4, 1980, by Robert T. Rosenbaum, Jr. and Darlene C. Rosenbaum to appropriate 5.0 cubic feet per second (cfs) of water from an underground source for the irrigation of 350 acres located within portions of Sections 9, 16 and 21, T.33N., R.56E., M.D.B.&M. The point of diversion is described as being within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 21, T.33N., R.56E., M.D.B.&M. Application 41017 seeks to appropriate water for the irrigation of land obtained under the Desert Land Entry Act.¹

FINDINGS OF FACT

I.

The applicants, Mr. and Mrs. Rosenbaum and agent, William Nisbet were notified by certified mail, dated May 11, 1993, that their application to appropriate water for a D.L.E. would not be approved.¹ The applicants were requested to submit additional information to the State Engineer's Office regarding whether they still intended to pursue Application 41017. The State Engineer finds that the information requested has not been received from the applicant or agent.¹

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.²

¹ File No. 41017, official records in the Office of the State Engineer.

² 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.³

III.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:⁴

- 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 information requested, sufficient information is not available for the State Engineer to properly guard the public interest.

RULING

Application 41017 is hereby denied on the grounds that the applicant has not submitted the information requested by the State Engineer's Office and, that without this additional information the granting of the application would be detrimental to the public interest.

Respectfully submitted,


E. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/JCP/ab

Dated this 7th day of
December, 1995.

³ NRS 533.375.

⁴ NRS 533.370(3).