

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

IN THE MATTER OF APPLICATION 54968 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS OF AN UNDERGROUND SOURCE )  
WITHIN KOBEH VALLEY GROUNDWATER BASIN )  
(139), EUREKA COUNTY, NEVADA. )

RULING

# 4440

GENERAL

I.

Application 54968 was filed on June 18, 1990, by Eureka Livestock Company to appropriate 1.0 cubic foot per second (cfs) of water from an underground source for mining, milling and domestic purposes within portions of T.21N., R.50E.; T.22N., R.50E.; T.21N., R.51E., and T.22N., R.51E., M.D.B.&M. The point of diversion is described as being located within the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 20, T.22N., R.51E., M.D.M.<sup>1</sup>

FINDINGS OF FACT

I.

The applicant and agent were notified by certified mail on June 18, 1991, to submit additional information to the State Engineer's Office regarding the consumptive use of water under the application. By letter dated September 27, 1991, Richard W. Forman, acting as agent for Eureka Livestock Company requested a one-year postponement of action on Application 54968. The State Engineer finds that by letter dated October 17, 1991, a one-year postponement of further action on Application 54968 was granted.

II.

By certified letter from the State Engineer's Office dated April 19, 1993, the applicant and agent were notified that the one-year postponement of action on Application 54968 had expired. The applicant and agent were again requested to submit the additional information as had been requested on June 18, 1991. By letter dated May 11, 1993, Richard W. Forman, acting as agent for Eureka

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<sup>1</sup>File No. 54968, official records in the Office of the State Engineer.

Livestock Company requested another one-year postponement of action on Application 54968. The State Engineer finds that by letter dated June 9, 1993, a second one-year postponement of further action on Application 54968 was granted.

III.

By certified letter from the State Engineer's Office dated June 13, 1995, the applicant and agent were notified that the second one-year postponement of action on Application 54968 had expired. The applicant and agent were again requested to submit the additional information as requested on June 18, 1991. The letter assigned a 60-day time limit to file the required information, and informed the applicant and agent that if the requested information was not received the application would be considered for denial. The applicant and agent were further notified that no further postponement would be granted. The State Engineer finds that to date the information requested has not been received from the applicant or agent.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the subject matter of this action and determination.<sup>2</sup>

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>3</sup>

III.

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

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<sup>2</sup>NRS Chapters 533 and 534.

<sup>3</sup>NRS 533.375.

<sup>4</sup>NRS 533.370(3).

- 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.

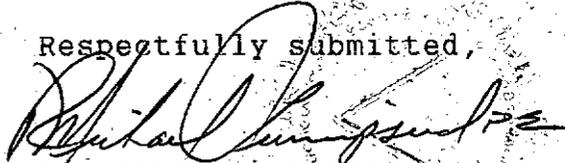
IV.

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

RULING

Application 54968 is hereby denied on the grounds that the applicant failed to submit the information requested by the State Engineer's Office and that without this information the granting of the application would be detrimental to the public interest.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P. E.  
State Engineer

RMT/DJL/ab

Dated this 25th day of  
September, 1996.