

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

IN THE MATTER OF APPLICATIONS 28854,)
28859, 28860, 28892, 28894, 29106,)
45636, 45637 AND 45876 FILED TO)
APPROPRIATE THE PUBLIC WATERS OF)
VARIOUS SURFACE SOURCES LOCATED)
WITHIN THE SPRING VALLEY GROUNDWATER)
BASIN (184), WHITE PINE COUNTY,)
NEVADA.)

RULING

4614

GENERAL

I.

Application 28854 was filed on October 29, 1974, by Richard M. Swallow to appropriate 5.0 cubic feet per second (cfs) of water from Ridge Creek. The proposed manner of use is for irrigation and domestic purposes, more specifically, the irrigation of 160 acres of primary land located within the NE $\frac{1}{4}$ of Section 34, and 390 acres of supplemental land located within the N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 27, and the SW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 26, all within T.13N., R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 18, T.13N., R.68E., M.D.B.&M.¹

II.

Application 28859 was filed on November 1, 1974, by Richard M. Swallow to appropriate 5.0 cfs of water from Pine Creek to be used for irrigation and domestic purposes within the same primary and supplemental places of use described under Application 28854. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 18, T.13N., R.68E., M.D.B.&M.²

III.

Application 28860 was filed on November 1, 1974, by Richard M. Swallow to appropriate 5.0 c.f.s. of water from Spring Creek for irrigation and domestic purposes within the same primary and

¹ File No. 28854, official records in the office of the State Engineer.

² File No. 28859, official records in the office of the State Engineer.

supplemental places of use described under Applications 28854 and 28859. The proposed point of diversion is described as being located within the NW¼ NE¼ of Section 32, T.13N., R.68E., M.D.B.&M.³

IV.

Application 28892 was filed on November 8, 1974, by Richard M. Swallow to appropriate 10.0 cfs of water from Williams Canyon Creek for irrigation and domestic purposes within the same primary and supplemental places of use as described under Applications 28854, 28859 and 28860. The proposed point of diversion is described as being located within the NE¼ SE¼ of Section 32, T.13N., R.68E., M.D.B.&M.⁴

V.

Application 28894 was filed on November 8, 1974, by Richard M. Swallow to appropriate 10.0 cfs of water from Dry Canyon Creek for irrigation and domestic purposes within the same primary and supplemental places of use described under Applications 28854, 28859, 28860 and 28892. The proposed point of diversion is described as being located within the NE¼ NE¼ of Section 8, T.12N., R.68E., M.D.B.&M.⁵

VI.

Application 29106 was filed on December 27, 1974, by Richard M. Swallow to appropriate 0.5 cfs of water from Lower Meadow Seeps #5 for irrigation and domestic purposes within the same primary and secondary places of use described under Applications 28854, 28859, 28860, 28892 and 28894. The proposed point of diversion is

³ File No. 28860, official records in the office of the State Engineer.

⁴ File No. 28892, official records in the office of the State Engineer.

⁵ File No. 28894, official records in the office of the State Engineer.

described as being located within the SW¼ SW¼ of Section 25, T.13N., R.67E., M.D.B.&M.⁶

VII.

Application 45636 was filed on May 7, 1982, by Richard M. Swallow to appropriate 5.0 cfs of water from Williams Canyon Creek for irrigation and domestic purposes within the S¼ of Sections 27 and 28, T.14N., R.67E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ SE¼ of Section 32, T.13N., R.68E., M.D.B.&M.⁷

VIII.

Application 45637 was filed on May 7, 1982, by Richard M. Swallow to appropriate 5.0 cfs of water from Dry Canyon Creek for irrigation purposes within the same place of use as described under Application 45636. The proposed point of diversion is described as being located within the NE¼ NE¼ of Section 8, T.12N., R.68E., M.D.B.&M.⁸

IX.

Application 45876 was filed on June 25, 1982, by Richard M. Swallow to appropriate all surplus and unappropriated water not to exceed 10.0 cfs of water from Pine Creek Ditch for irrigation purposes within the same place of use described under Applications 45636 and 45637. The proposed point of diversion is described as being located within the SW¼ SE¼ of Section 26, T.13N., R.67E., M.D.B.&M.⁹

⁶ File No. 29106, official records in the office of the State Engineer.

⁷ File No. 45636, official records in the office of the State Engineer.

⁸ File No. 45637, official records in the office of the State Engineer.

⁹ File No. 45876, official records in the office of the State Engineer.

X.

All of the subject applications were timely protested by interested parties on various grounds.¹⁻⁹

FINDINGS OF FACT

I.

The applicant was requested by certified letters dated December 2, 1997, and December 22, 1997, to provide the office of the State Engineer with evidence of any continued interest he may have in pursuing Applications 28854, 28859, 28860, 28892, 28894 29106, 45636, 45637 and 45876. The applicant was also cautioned that if a response was not received within 30 days from the date of each letter the applications would be subject to denial. A properly endorsed receipt for the December 2, 1997, certified mailing was received in the office of the State Engineer on December 15, 1997. The envelope for the December 22, 1997 mailing was returned to the State Engineer's Office stamped "Unclaimed" by the U.S. Postal Service. To date, no response has been received from the applicant concerning this matter. The State Engineer finds that the applicant has been provided an opportunity to express his continued interest in pursuing the subject applications, but has failed to do so; therefore, said applications may be considered for denial.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.¹⁰

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:¹¹

- A. there is no unappropriated water at the proposed source;
- B. the proposed use conflicts with existing rights; or

¹⁰ NRS Chapter 533.

¹¹ NRS § 533.370(3).

C. the proposed use threatens to prove detrimental to the public interest.

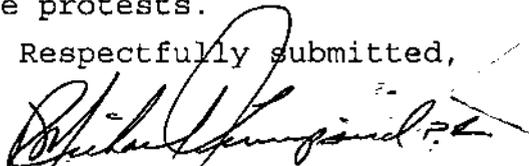
III.

On December 2 and 22, 1997, the applicant was requested by the office of the State Engineer to provide information concerning any continued interest which he may have in pursuing the subject applications. The applicant was cautioned on both occasions that a failure to respond to the requests would represent a lack of interest in this matter and would result in Applications 28854, 28859, 28860, 28892, 28894, 29106, 45636, 45637 and 45876 being subject to denial. The applicant failed to provide any indication that he intends to move forward with these applications; therefore, the State Engineer concludes that it would not be in the public interest to approve applications which the applicant no longer intends to pursue.

RULING

Applications 28854, 28859, 28860, 28892, 28894, 29106, 45636, 45637 and 45876 are hereby denied on the grounds that granting said applications would not be in the public interest. No ruling is made on the merits of the protests.

Respectfully submitted,


R. Michael Turnipseed, P.E.
State Engineer

RMT/MDB/cl

Dated this 18th day
of March, 1998.