

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

IN THE MATTER OF APPLICATION 15809 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS FROM WILDER CREEK, WITHIN )  
THE PUEBLO VALLEY HYDROGRAPHIC )  
BASIN (001), HUMBOLDT COUNTY, )  
NEVADA. )

RULING

# 4686

GENERAL

I.

Application 15809 was filed on September 23, 1954, by Darlene L. Holloway to appropriate 4.0 cubic feet per second (cfs) of water from Wilder Creek for irrigation purposes within the SW $\frac{1}{4}$  NE $\frac{1}{4}$ , NW $\frac{1}{4}$  SE $\frac{1}{4}$  and SW $\frac{1}{4}$  of Section 32, and the E $\frac{1}{2}$  SE $\frac{1}{4}$ , Section 31, T.40S., R.36E., W.B.&M. The proposed point of diversion is described as being located within Lot 3 of Section 5, T.47N., R.31E., M.D.B.&M.<sup>1</sup>

II.

Application 15809 was timely protested on November 24, 1954, by E. H. Heller on the grounds that "there is no unappropriated water in Wilder Creek upon which to base an application and any attempt to appropriate such waters will necessarily encroach upon the rights of the protestant."

FINDINGS OF FACT

I.

The applicant was requested by certified letter dated May 27, 1958, to provide the office of the State Engineer with evidence that he still has an interest in pursuing Application 15809. The applicant was also informed that if

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<sup>1</sup> File No. 15809, official records in the office of the State Engineer.

a response was not received within 60 days from the date of the letter the application may be considered for denial. The May 27, 1998, letter was returned to the office of the State Engineer with the envelope stamped "Not deliverable as addressed unable to forward" by the United States Postal Service.<sup>1</sup> The State Engineer finds that to date no information indicating any further interest by the applicant in pursuing Application 15809 has been received in the office of the State Engineer.

II.

It has been a long standing policy within the office of the State Engineer that it is the applicant's responsibility to inform said office of any changes which may occur in the ownership and address associated with a specific water right application. The State Engineer finds that the owner of record under Application 15809 was properly noticed of the opportunity to express their continued interest in pursuing Application 15809, but has failed to do so; therefore, Application 15809 may be considered for denial.

CONCLUSIONS

I.

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

II.

The State Engineer is prohibited by law from granting a permit to appropriate the public waters where:<sup>3</sup>

- A. there is no unappropriated water at the proposed source;

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

<sup>3</sup> NRS § 533.370(3).

- B. the proposed use conflicts with existing rights;  
or
- C. the proposed use threatens to prove detrimental to  
the public interest.

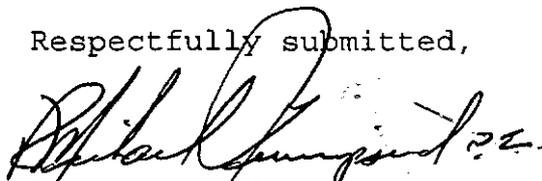
**III.**

On May 27, 1998, the applicant was requested by the office of the State Engineer to provide information of continued interest that he may have in pursuing Application 15809. The applicant was informed that a failure to respond to the request would represent a lack of interest in this matter and would result in said application being considered for denial. The applicant failed to provide any indication that he intends to move forward with Application 15809. Therefore, the State Engineer concludes that it would not be in the public interest to approve an application for which the applicant no longer intends to pursue.

**RULING**

Application 15809 is hereby denied on the grounds that granting said application would not be in the public interest. No ruling is made on the merits of the protest.

Respectfully submitted,

  
R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/MJR/cl

Dated this 10th day of  
December, 1998.