

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

IN THE MATTER OF APPLICATIONS )  
15616 AND 15617 FILED TO )  
APPROPRIATE THE PUBLIC WATERS FROM )  
CHERRY CREEK AND PRETTY CREEK, )  
WITHIN THE QUINN RIVER VALLEY )  
HYDROGRAPHIC BASIN (033A), )  
HUMBOLDT COUNTY, NEVADA. )

RULING

# 4688

GENERAL

I.

Application 15616 was filed on April 28, 1954, by Henry McErquiaga to appropriate 5.0 cubic feet per second (cfs) of water from Cherry Creek for irrigation and domestic purposes within the W $\frac{1}{2}$  NW $\frac{1}{4}$  of Section 27, T.43N., R.36E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of said Section 27.<sup>1</sup>

II.

Application 15617 was filed on April 28, 1954, by Henry McErquiaga to appropriate 5.0 cfs of water from Pretty Creek for irrigation and domestic purposes within the W $\frac{1}{2}$  NW $\frac{1}{4}$  of Section 27, T.43N., R.36E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of said Section 27.<sup>2</sup>

III.

Application 15616 was timely protested on October 28, 1954 by Raimundo Erquiaga on the grounds "[t]hat all of the waters of Cherry Creek are required to serve the vested

<sup>1</sup> File No. 15616, official records in the office of the State Engineer.

<sup>2</sup> File No. 15617, official records in the office of the State Engineer.

water rights and permitted water rights of the protestant's ranch, called the 'Crowley Creek Ranch'. That additional water does not exist to serve the requested rights of the above application."<sup>1</sup>

IV.

Application 15617 was timely protested on October 28, 1954 by Claude L. Ellison on the grounds "[t]hat the protestant has vested rights in and to the waters of Pretty Creek which waters are appurtenant to that portion of the protestant's ranch called the 'West Burn Flat'. That the granting of this application will interfere with his vested rights".<sup>2</sup>

FINDINGS OF FACT

I.

The applicant was requested by certified letter dated May 27, 1998, to provide the office of the State Engineer with evidence that he still has an interest in pursuing Applications 15616 and 15617. The applicant was also informed that if a response was not received within 60 days from the date of the letter, the applications may be considered for denial. The May 27, 1998, letter was returned to the office of the State Engineer with the envelope stamped "Attempted-Not Known" by the United States Postal Service.<sup>1</sup> To date, no information indicating any further interest by the applicant in pursuing Applications 15616 and 15617 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 Applications 15616 and 15617 was properly noticed of the opportunity to express their continued interest in pursuing Applications 15616 and 15617, but has failed to do so; therefore, Applications 15616 and 15617 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>3</sup>

II.

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

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

---

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

<sup>4</sup> NRS § 533.370(3).

Ruling

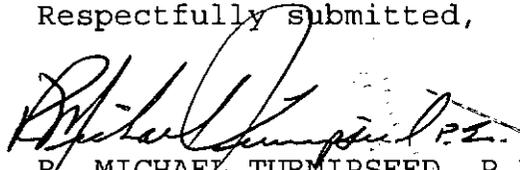
Page 4

15616 and 15617. 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 applications being considered for denial. The applicant failed to provide any indication that he intends to move forward with Applications 15616 and 15617. Therefore, the State Engineer concludes that it would not be in the public interest to approve applications for which the applicant no longer intends to pursue.

RULING

Applications 15616 and 15617 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/MJR/cl

Dated this 10th day of

December, 1998.