

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

IN THE MATTER OF APPLICATION 63319 )  
FILED TO APPROPRIATE THE UNDERGROUND )  
WATER OF THE ALKALI SPRING VALLEY )  
GROUNDWATER BASIN (142), ESMERALDA )  
COUNTY, NEVADA. )

RULING

# 4748

GENERAL

I.

Application 63319 was filed on August 12, 1997, by Reina G Corporation to appropriate 5.0 cubic feet per second of water from an underground source for mining and milling purposes within the SW¼ NE¼ of Section 21, T.2S., R.42E., M.D.B. & M.<sup>1</sup> The proposed point of diversion is described as being located within the SW¼ NE¼ of said Section 21. Application 63319 became ready for the State Engineer's action on November 1, 1997.<sup>1</sup>

FINDINGS OF FACT

I.

By certified letter dated January 13, 1998, the applicant and its agent were requested to submit additional justification data and information to the State Engineer's office concerning the annual consumptive use of the water. The endorsed receipts for the certified mailings were received in the office of the State Engineer on January 20, 1998. The State Engineer finds that no response was received to the letter requesting additional information.<sup>1</sup>

II.

By certified letter dated April 27, 1998, the applicant and its agent were again asked to provide the requested information pertaining to Application 63319. The applicant and its agent were advised that action on the application would be withheld for sixty (60) days from the date of the letter, and were advised that failure to respond would result in the assumption the applicant was no longer interested in pursuing the application.<sup>1</sup> The endorsed return receipts for the certified letters were received in the

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<sup>1</sup> File No. 63319, official records in the office of the State Engineer.

office of the State Engineer on May 4, 1998. The State Engineer finds that on August 3, 1998, a 60-day extension of time was granted to respond to the letter requesting additional information.<sup>1</sup>

**III.**

By certified letter dated March 31, 1999, the applicant's agent was again asked to provide the requested information pertaining to Application 63319. The agent was advised that action on the application would be withheld for thirty (30) days from the date of the letter, and was advised that failure to respond would result in the assumption the applicant was no longer interested in pursuing the application.<sup>1</sup> The endorsed return receipt for the certified letter was received in the office of the State Engineer on April 9, 1999. The State Engineer finds that the applicant's agent was properly notified of the request for additional information and failed to respond.<sup>1</sup>

**IV.**

By certified letter dated May 6, 1999, the applicant and its agent were again requested to submit additional justification data and information to the State Engineer's office concerning the annual consumptive use of the water. The endorsed receipts for the certified mailings were received in the office of the State Engineer on May 12, 1999. The State Engineer finds that no response was received to the letter requesting additional information.<sup>1</sup>

**CONCLUSIONS**

**I.**

The State Engineer has jurisdiction over the parties and 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

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

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>:

- 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.

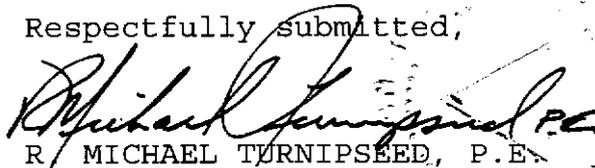
**IV.**

The applicant and its agent were repeatedly and properly notified of the requirement for additional information concerning this application and have failed to submit the information to the State Engineer. The State Engineer concludes that without the requested information sufficient information is not available for the State Engineer to properly guard the public interest.

**RULING**

Application 63319 is hereby denied on the grounds that the applicant has not submitted the information requested by the State Engineer and that without this information the granting of the application would threaten to prove detrimental to the public interest.

Respectfully submitted,

  
R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/SJT/cl

Dated this 14th day  
of July, 1999.

<sup>3</sup> NRS Chapter 533.375.

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