

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

IN THE MATTER OF APPLICATIONS)
51720 AND 51721 FILED TO)
APPROPRIATE THE PUBLIC WATERS FROM)
COLD SPRING WITHIN THE COLD SPRING)
VALLEY HYDROGRAPHIC BASIN (100),)
WASHOE COUNTY, NEVADA.)

RULING

#5085

GENERAL

I.

Application 51720 was filed on December 29, 1987, by Ruth D. Mathews to appropriate 0.1 cubic foot per second of water from Cold Spring for stockwatering and domestic purposes within SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 4, T.21N., R.18E., M.D.B.&M. The proposed point of diversion is described as being located within SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 4, T.21N., R.18E., M.D.B.&M.¹

II.

Application 51721 was filed on December 29, 1987, by Ruth D. Mathews to appropriate 0.1 cubic foot per second of water from Cold Spring for quasi-municipal purposes within SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 4, T.21N., R.18E., M.D.B.&M. The proposed point of diversion is described as being located within SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 4, T.21N., R.18E., M.D.B.&M.²

III.

Applications 51720 and 51721 were timely protested on February 25, 1988, William A. Molini on behalf of the Nevada Department of Wildlife. The basis of the protest is that the spring does not have enough flow to support the new applications and existing rights while providing water for

¹ File No. 51720, official records in the office of the State Engineer.

² File No. 51721, official records in the office of the State Engineer.

the wildlife that customarily use the spring. The protestant requested that the applications be denied.

FINDINGS OF FACT

I.

The applicant and her agent were requested by certified letter dated November 22, 2000, to provide the office of the State Engineer with evidence that she still has an interest in pursuing Applications 51720 and 51721. 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 November 22, 2000, letter was returned to the office of the State Engineer with the envelope stamped "Temporarily Away" by the United States Postal Service.¹ The November 22, 2000, letter was resent to the applicant by regular mail on December 22, 2000. This letter was also returned by the United States Postal Service again stamped "Temporarily Away." The letter was sent to the applicant a third time on January 19, 2001, and it was again returned by the United States Postal Service. The certified mailing to the applicant's agent was received by said agent.¹ The State Engineer finds that to date no information indicating any further interest by the applicant in pursuing Applications 51720 and 51721 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 responsibility of the applicant 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 and her agent under Applications 51720 and 51721 were properly noticed of the opportunity to express their continued interest in pursuing Applications

51720 and 51721, but have failed to do so; therefore, Applications 51720 and 51721 may be considered for denial.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.³

II.

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

- 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 November 22, 2000, the applicant and her agent were requested by the office of the State Engineer to provide information of continued interest in pursuing Applications 51720 and 51721. The applicant was informed that 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 she intended to move forward with Applications 51720 and 51721. Therefore, the State Engineer concludes that it would not be in the public interest to approve applications that the applicant no longer intends to pursue.

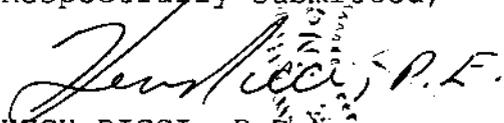
³ NRS chapter 533.

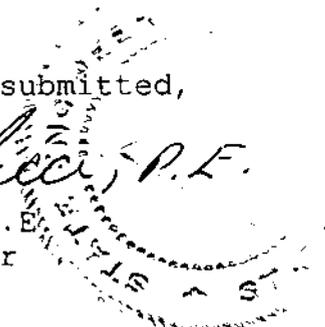
⁴ NRS § 533.370(3).

RULING

Applications 51720 and 51721 are hereby denied on the grounds that granting said applications would threaten to prove detrimental to the public interest.

Respectfully submitted,


HUGH RICCI, P.E.
State Engineer



HR/MJR/df1

Dated this 12th day of
June, 2001.