

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

IN THE MATTER OF APPLICATION )  
43389 FILED TO APPROPRIATE THE )  
PUBLIC WATERS FROM SILVER )  
DYKE SPRING WITHIN THE )  
RHODES SALT MARSH VALLEY )  
HYDROGRAPHIC BASIN (119), )  
MINERAL COUNTY, NEVADA. )

RULING

# 5153

GENERAL

I.

Application 43389 was filed on March 25, 1981, by Donald Edward Bull to appropriate 0.5 cubic feet per second of water from Silver Dyke Spring for mining and domestic purposes. The proposed place of use is described as the SE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 14, T.5N., R.34E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 9, T.5N., R.34E., M.D.B.&M.<sup>1</sup>

II.

Application 43389 was assigned on October 19, 1982, in the records of the Office of the State Engineer to Gordon R. Bull.

III.

Application 43389 was timely protested by Warren L. Hendrix on the following grounds:

This spring was originally filed on on Aug, 10, 1916 by Atkins Kroll and has been used since then for domestic use by persons mining at the Silver Dyke Mine. It is my believe [sic] there is not enough water at this spring to warrent [sic] a washing operation for sheelite recovery.

Therefore the protestant requests that the application be denied.<sup>1</sup>

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<sup>1</sup> File No. 43389, official records in the Office of the State Engineer.

## FINDINGS OF FACT

### I.

The current owner of record, Gordon R. Bull, and agent James P. Haddan were notified by certified mail dated June 12, 2002, that additional information was required before the application could be processed. The applicant and agent were warned that failure to respond within 60 days could result in denial of the application. A properly endorsed receipt for the certified mailing to James P. Haddan was received in the Office of the State Engineer June 17, 2002. The letter sent to Gordon R. Bull was returned by the post office stamped "UNCLAIMED RETURNED TO SENDER". On July 9, 2002, the letter to Gordon R. Bull was resent by regular mail. The letter was returned by the post office stamped "FORWARDING ORDER EXPIRED".<sup>1</sup>

To date, no information on this matter has been submitted to the State Engineer's Office. The State Engineer finds that the applicant and agent were properly notified of the request for additional information on Application 43389 and failed to respond.

### II.

The State Engineer finds that it is the responsibility of the applicant, or their successor in interest, to keep this office informed of a current mailing address.

## 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 to properly guard the public interest.<sup>3</sup>

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<sup>2</sup> NRS chapter 533.

<sup>3</sup> NRS § 533.375.

**III.**

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

- A. there is no unappropriated water at the proposed source;
- B. the proposed use or change conflicts with existing rights;
- C. the proposed use or change conflicts with protectible interests in existing domestic wells as set forth in NRS § 533.024; or
- D. the proposed use or change threatens to prove detrimental to the public interest.

**IV.**

The applicant and his agent were properly notified of the requirement for additional information concerning this application and have failed to submit the information to the State Engineer's Office. The State Engineer concludes that the failure to respond affirms the applicant's lack of interest in pursuing Application 43389.

**RULING**

Application 43389 is hereby denied on the grounds that the applicant or his agent has not submitted the information requested by the State Engineer's Office and that without this information the granting of the application would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protest claim by Warren L. Hendrix.

Respectfully submitted,

  
HUGH RICCI, P.E.  
State Engineer

HR/TW/jm

Dated this 25th day of  
September, 2002.

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<sup>4</sup> NRS § 533.370(3).