

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

IN THE MATTER OF APPLICATIONS 30053 )  
AND 30197 FILED TO APPROPRIATE THE )  
PUBLIC WATERS OF HOT CREEK )  
SPRINGS WITHIN THE OWYHEE RIVER )  
AREA HYDROGRAPHIC BASIN (037), )  
ELKO COUNTY, NEVADA. )

**RULING**  
**# 5178**

**GENERAL**

**I.**

Application 30053 was filed on March 5, 1976, by Archie F. Cobari, Jr. to appropriate 2.0 cubic feet per second (cfs) of water from Hot Creek Springs for stockwatering purposes. The place of use is described as being located within the SE $\frac{1}{4}$  SE $\frac{1}{4}$ , SE $\frac{1}{4}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$ , E $\frac{1}{2}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$ , NW $\frac{1}{4}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$ , E $\frac{1}{2}$  SW $\frac{1}{4}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$ , SW $\frac{1}{4}$  SW $\frac{1}{4}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 4, T.43N., R.55E., M.D.B.&M. The point of diversion is described as being located within the SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 4, T.43N., R.55E., M.D.B.&M.<sup>1</sup>

**II.**

Application 30197 was filed on April 29, 1976, by Archie F. Cobari, Jr. to appropriate 2.0 cfs of water from Hot Creek Springs for quasi-municipal purposes. The place of use is described as being within the SE $\frac{1}{4}$  SE $\frac{1}{4}$ , SE $\frac{1}{4}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$ , E $\frac{1}{2}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$ , NW $\frac{1}{4}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$ , E $\frac{1}{2}$  SW $\frac{1}{4}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$ , SW $\frac{1}{4}$  SW $\frac{1}{4}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 4, T.43N., R.55E., M.D.B.&M. The point of diversion is described as being located within the SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 4, T.43N., R.55E., M.D.B.&M.<sup>2</sup>

**FINDINGS OF FACT**

**I.**

The applicant and his agent were notified by certified mail dated September 18, 2002, to advise this office in writing if they were interested in pursuing Applications 30053 and 30197. The applicant and his agent were warned that failure to respond within 30 days would result in the denial of the applications. The certified letters to the

<sup>1</sup> File No. 30053, official records in the Office of the State Engineer.

<sup>2</sup> File No. 30197, official records in the Office of the State Engineer.

applicant were returned to the Office of the State Engineer by the U. S. Postal Service stamped "Returned To Sender". A properly endorsed certified mail receipt was received from the agent on October 1, 2002.<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 was properly notified of the request for additional information regarding his interest in pursuing Applications 30053 and 30197 and failed to respond.

## II.

The State Engineer finds that it is the responsibility of the applicant and his agent, or their successors 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>3</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>4</sup>

### III.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:<sup>5</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 these applications and have failed to submit the

---

<sup>3</sup> NRS § 533.

<sup>4</sup> NRS § 533.375.

<sup>5</sup> NRS § 533.370(3).

information to the State Engineer's Office. The State Engineer concludes that the failure to maintain a current address or express any interest in the applications demonstrates the applicant's lack of interest in pursuing Applications 30053 and 30197. The State Engineer concludes it would threaten to prove detrimental to the public interest to issue a permit under an application for which no interest is expressed.

**RULING**

Applications 30053 and 30197 are hereby denied on the grounds their issuance would threaten to prove detrimental to the public interest.

Respectfully submitted,

  
HUGH RICCI, P.E.  
State Engineer

HR/TW/jm

Dated this 19th day of  
November, 2002.