

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

IN THE MATTER OF APPLICATIONS)
67844 AND 67845 FILED TO CHANGE)
THE POINT OF DIVERSION, MANNER OF)
USE AND PLACE OF USE OF AN)
UNDERGROUND SOURCE HERETOFORE)
APPROPRIATED UNDER PERMIT 30918,)
CERTIFICATE 10396 WITHIN THE FISH)
LAKE VALLEY HYDROGRAPHIC BASIN)
(117), ESMERALDA COUNTY, NEVADA.)

RULING

5186

GENERAL

I.

Application 67844 was filed on July 26, 2001, by Norman R. Williams to change the point of diversion, manner and place of use of 0.0894 cubic feet per second (cfs) of underground water previously appropriated under Permit 30918, Certificate 10396, for commercial purposes within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 23, T.3S., R.35E., M.D.B.&M.¹ The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 23.¹

II.

Application 67845 was filed on July 26, 2001, by Norman R. Williams to change the point of diversion, manner and place of use of 0.0894 cfs of underground water previously appropriated under Permit 30918, Certificate 10396, for commercial purposes within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 23, T.3S., R.35E., M.D.B.&M.¹ The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 23.²

FINDINGS OF FACT

I.

The applicant and agent were notified by certified mail dated September 10, 2002, that additional information was needed regarding Applications 67844 and 67845, and that the applicant had not responded to the State Engineer's letter of January 3, 2002,

¹ File No. 67844, official records in the Office of the State Engineer.

² File No. 67845, official records in the Office of the State Engineer.

regarding title issues. The return receipt from the certified letter to the applicant was received in the Office of the State Engineer on October 7, 2002. The return receipt from the certified letter to the agent was received in the Office of the State Engineer on September 12, 2002. The State Engineer finds that to date the information requested has not been received.^{1,2}

II.

The State Engineer finds that the applicant and agent were properly notified of the request for additional information and failed to respond.^{1,2}

CONCLUSIONS

I.

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

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.⁴

III.

The State Engineer is prohibited by law from granting a permit under a change application that requests to appropriate the public waters where:⁵

- 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 agent were properly notified of the requirement for additional information concerning these applications and have failed to submit the information to the State Engineer's Office. The State Engineer concludes that without the information

³ NRS chapters 533 and 534.

⁴ NRS § 533.375.

⁵ NRS § 533.370(3).

requested sufficient information is not available for the State Engineer to properly guard the public interest.

RULING

Applications 67844 and 67845 are hereby denied on the grounds that the applicant has not submitted the information requested by the State Engineer's Office and that without this information the granting of the applications would threaten to prove to be detrimental to the public interest.

Respectfully submitted,


HUGH RICCI, P.E.
State Engineer

HR/RAD/jm

Dated this 10th day of
December, 2002.