

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

IN THE MATTER OF APPLICATION 42397)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE SNAKE VALLEY)
HYDROGRAPHIC BASIN (195), WHITE)
PINE COUNTY, NEVADA.)

RULING

#5287

GENERAL

I.

Application 42397 was filed on September 5, 1980, by Ralph E. Ashby to appropriate 5.6 cubic feet per second of water from an underground source for irrigation purposes. The proposed place of use is 320 acres described as being located within the W $\frac{1}{2}$ of Section 33, T.14N., R.70E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 33, T.14N., R.70E., M.D.B.&M.¹

II.

The application was timely protested by Fredrick Baker of Baker Ranches on the following grounds:¹

The granting of this application would conflict and interfere with existing prior water rights in the area.

FINDINGS OF FACT

I.

The applicant and its agents were notified by certified mail dated March 5, 2003, to submit additional information to the State Engineer's office. The applicant was warned that failure to respond within 30 days would result in denial of the application. A properly endorsed certified receipt from agent James P. Haddan was received in the Office of the State Engineer on March 7, 2003. The certified letter to the applicant was returned to the Office of the State Engineer by the U.S. Postal Service stamped, "Unclaimed". This letter was re-sent by regular mail on April 8, 2003. The certified

letter sent to agent Paul Clint was returned to the Office of the State Engineer by the U.S. Postal Service stamped, "Attempted – Not Known" and "No Such Street". The State Engineer finds that the applicant and its agents were properly notified of the request for additional information regarding their interest in pursuing Application 42397 and have failed to respond.

II.

The State Engineer finds that there has been no correspondence from the applicant regarding Application 42397 for at least 21 years.¹

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.²

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.³

III.

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

- 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 agents were properly notified of the request for additional information concerning interest in this application and have failed to submit this information to the State Engineer's office. The State Engineer concludes that the failure

¹ File No. 42397, official records in the Office of the State Engineer.

² NRS chapters 533 and 534.

³ NRS § 533.375.

⁴ NRS § 533.370(3).

to express any interest in the application for over 21 years and failure to submit additional information demonstrates the applicant's lack of interest in pursuing Application 42397. 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

Application 42397 is hereby denied on the grounds its issuance would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protest.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/TW/jm

Dated this 6th day of
October, 2003.