

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

IN THE MATTER OF APPLICATION )  
67444 FILED TO APPROPRIATE THE )  
PUBLIC WATERS OF AN )  
UNDERGROUND SOURCE WITHIN )  
THE SODA SPRINGS VALLEY - )  
EASTERN PART HYDROGRAPHIC )  
BASIN (121A), MINERAL COUNTY, )  
NEVADA. )

**RULING**

**# 5321**

**GENERAL**

**I.**

Application 67444 was filed on April 24, 2001, by Charter Resources International to appropriate 1.1 cubic feet per second of water from an underground source for mining, milling and domestic purposes. The proposed place of use is described as being located within portions of Sections 7 and 18, T.6N., R.35E., and within portions of Sections 13, 22, 23, 24, 27, 28, 32 and 34, T.6N., R.34E., M.D.B.&M. The proposed point of diversion is described as being located within the NW¼ NE¼ of Section 7, T.6N., R.35E., M.D.B.&M.<sup>1</sup>

**II.**

Application 67444 was timely protested by the USDI Bureau of Land Management (BLM) on the following grounds.<sup>1</sup>

The applicant has filed a water right application for mining and milling purposes on federal land managed by the BLM. Though the applicant has recorded a mining claim, they have not submitted a plan of operations to the BLM. The applicant does not have legal entry to the site, therefore, will not be able to show proof of completion or proof of beneficial use of the water right. The BLM would consider withdrawal of the protest if an adequate plan of operations is submitted to and approved by the BLM.

Therefore the Protestant requests that the application be Denied and that an order be entered for such relief as the State Engineer deems just and proper.

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<sup>1</sup> File No. 67444, official records in the Office of the State Engineer.

### III.

Application 67444 was timely protested by the Wilfred Buffington on the following grounds.<sup>1</sup>

My application to appropriate water No. 65675 was turned down in March 2000, [The] Board said the valley was over allocated, I never heard of Order 824, as I see it, it is unfair and discriminating. Our Desert Land Entry [*sic*] was filed in 1929 and all 4 wells were there in 1931, one well goes back to [the] 1870s for the Chinese Labor at New Boston. We have had this ranch since 1947 [*sic*] We filed a [*sic*] application in 1976, thay [*sic*] turned us down because the Carey Act application was a head [*sic*] of us.

Therefore the protestant requests that the application be denied, or equal rights, subject to prior rights and that an order be entered for such relief as the State Engineer deems just and proper.

### FINDINGS OF FACT

#### I.

Once a water right application is accepted for filing in the Office of the State Engineer, it is assigned a serial number, under which all documents and correspondence associated with this specific water right are filed. Information derived from this file is used to identify the names and addresses of those parties that must be contacted in matters regarding the application. Should changes in ownership and addresses occur, it is the applicant's responsibility to advise the State Engineer of these changes. An examination of the file created under Application 67444 identifies at least three addresses associated with Charter Resources International. The State Engineer finds that it is the applicant's responsibility to designate and maintain a valid current mailing address in the records of the Office of the State Engineer.

#### II.

Application 67444 requests an appropriation of underground water for a mining, milling and domestic operation.<sup>1</sup> When considering an application that requests this manner of use, the State Engineer often requires the applicant to provide a more detailed description of the project and its anticipated water usage. The State Engineer finds that the original mineral processing information contained within Application 67444 is insufficient and must be supplemented with additional justification and consumptive use data.

### III.

By certified mail dated June 19, 2001, the applicant was noticed at its address, as stated on the application, to submit updated justification and consumptive use data. A signed receipt for this certified letter was received in the Office of the State Engineer on June 25, 2001. By certified mail dated October 9, 2002, and December 12, 2002, the applicant was noticed at its multiple addresses to submit updated justification and consumptive use data. The applicant was also advised that a failure to submit this information within sixty days from the date of each of these latter two notices would subject Application 67444 to possible denial. A signed receipt for the certified letter dated December 12, 2002, was received in the Office of the State Engineer. To this date, no response to three requests for additional updated information has been received from the applicant.<sup>1</sup> The State Engineer finds that the applicant has been properly noticed at its address of record of the need to provide additional information regarding Application 67444, and has failed to do so; therefore, Application 67444 is subject to denial.

### CONCLUSIONS

#### I.

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

#### II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:<sup>3</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.

#### III.

The applicant was properly noticed by the Office of the State Engineer to submit additional information concerning Application 67444. This request was made with the

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<sup>2</sup> NRS § 533 and 534.

<sup>3</sup> NRS § 533.370(3).

understanding that a failure to respond would represent a lack of interest on the applicant's part to complete the application. To this date, no updated information relevant to Application 67444 has been submitted to the Office of the State Engineer. The State Engineer concludes that the applicant has not expressed any interest in pursuing Application 67444; therefore, it can be considered for denial.

**RULING**

Application 67444 is hereby denied on the grounds that the approval of an application that the applicant has no intention of pursuing would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protests.

Respectfully submitted,



HUGH RICCI, P.E.  
State Engineer

HR/DJL/jm

Dated this 20th day of  
February, 2004.