

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

IN THE MATTER OF APPLICATIONS 42326)
AND 42327 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE SPRING VALLEY)
HYDROGRAPHIC BASIN (184), WHITE PINE)
COUNTY, NEVADA..)

RULING

#5358

GENERAL

I.

Application 42326 was filed on August 28, 1980, by John G. Woodrum, to appropriate 5.4 cubic feet per second (cfs) of water from an underground source for irrigation and domestic purposes in support of a Desert Land Entry (DLE). The place of use is 320 acres described as being located within W½ of Section 7, T.11N., R.67E., M.D.B.&M. The point of diversion is described as being located within NW¼ NW¼ of said Section 7.¹

II.

Application 42327 was filed on August 28, 1980, by John G. Woodrum, to appropriate 5.4 cfs of water from an underground source for irrigation and domestic purposes in support of a DLE. The place of use is 320 acres described as being located within W½ of Section 7, T.11N., R.67E., M.D.B.&M. The point of diversion is described as being located within NE¼ SW¼ of said Section 7.²

FINDINGS OF FACT

I.

A review of records in the Office of the State Engineer shows that the place of use described in the applications is public land managed by the United States Department of the Interior, Bureau of Land Management (BLM).³ By letter dated July 31, 1992, the BLM informed the Office of the State Engineer that the land described under the place of use of Applications 42326 and 42327 was unsuitable for entry. The State Engineer finds the applicant

¹ File No. 42326, official records in the Office of the State Engineer.

² File No. 42327, official records in the Office of the State Engineer.

³ United States Bureau of Land Management, "Garrison", 1:100,000-scale topographic map, revised 1990.

does not own or control the land described under the place of use of Applications 42326 and 42327 and the land has been deemed unsuitable for entry by the BLM.

II.

The applicant and his agent were notified by certified mail dated November 26, 2003, to submit additional information regarding Applications 42326 and 42327 to the State Engineer's Office. Specifically, the applicant was informed of the determination by the BLM indicating the land was unsuitable for entry and the applicant was instructed to send a written response to the Office of the State Engineer verifying the status of any entries/applications, exchanges, and/or possible purchases associated with the described place of use. The applicant was warned that failure to respond within 30 days would result in denial of the application. The certified letters, sent to the applicant and his agent, were returned to the Office of the State Engineer by the U.S. Postal Service stamped "Attempted Not Known". To date, the applicant and his agent have expressed no interest in pursuing the applications and have not submitted the additional information requested.¹ The State Engineer finds that the applicant and his agent were properly notified of the request for additional information and have failed to respond.

III.

The State Engineer finds that it is the responsibility of the applicant or his agent to keep this office informed of a current mailing address.

IV.

The State Engineer finds that there has been no correspondence from the applicant or his agent for over 22 years.^{1,2}

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁴

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.⁵

⁴ NRS chapters 533 and 534.

⁵ NRS § 533.375.

III.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:⁶

- 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 and have failed to submit the information to the State Engineer's office. The State Engineer concludes that the failure to express any interest in the applications for over 22 years and the failure to submit requested information demonstrates the applicant's lack of interest in pursuing Applications 42326 and 42327. The State Engineer concludes it would threaten to prove detrimental to the public interest to issue permits under these circumstances.

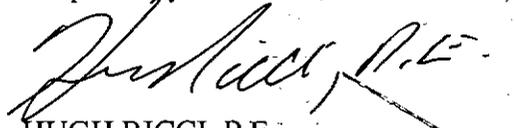
V.

The State Engineer concludes that approval of water right applications in support of DLE's, where the BLM has determined the land to be unsuitable for entry, would not be in the public interest.

RULING

Applications 42326 and 42327 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 3rd day of

June, 2004.

⁶ NRS § 533.370(4).