

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

IN THE MATTER OF APPLICATION 39975 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS OF AN UNDERGROUND )  
SOURCE WITHIN THE MONITOR VALLEY )  
SOUTHERN PART HYDROGRAPHIC )  
BASIN (140(B)), NYE COUNTY, NEVADA. )

**RULING**

**#5373**

**GENERAL**

**I.**

Application 39975 was filed on December 14, 1979, by Carolyn W. Winegar, to appropriate 7.4 cubic feet per second of water from an underground source for irrigation purposes in support of a Desert Land Entry. The proposed place of use is described as being 320 acres located within the W $\frac{1}{2}$  of Section 35, T.10N., R.46E., 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 35, T.10N., R.46E., M.D.B.&M.<sup>1</sup>

**FINDINGS OF FACT**

**I.**

The applicant and her agent were notified by certified mail dated December 16, 2003, to submit additional information regarding Application 39975 to the State Engineer's office. The applicant was warned that failure to respond within 30 days would result in denial of the application. The certified letter to the applicant was returned to the Office of the State Engineer, by the U.S. Postal Service, stamped "No Such Number". The certified letter to the applicant's agent was returned to the Office of the State Engineer, by the U.S. Postal Service, marked "Insufficient Address". To date, the applicant and her agent have expressed no interest in pursuing this application and have not submitted the additional information requested.<sup>1</sup> The State Engineer finds that the applicant and her agent were properly notified of the request for additional information regarding interest in pursuing Application 39975 and have failed to respond.

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<sup>1</sup> File No. 39975, official records in the Office of the State Engineer.

**II.**

The State Engineer finds that there has been no correspondence from the applicant or his agent in regards to this application for over 23 years.<sup>1</sup> The State Engineer finds that it is the responsibility of the applicant or her agent 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>2</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>3</sup>

**III.**

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:<sup>4</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 her 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 these applications for over 23 years and the failure to submit requested information demonstrates the applicant's lack of interest in pursuing Application 39975. The State Engineer concludes it would threaten to prove detrimental to the public interest to issue permits under these circumstances.

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<sup>2</sup> NRS chapters 533 and 534.

<sup>3</sup> NRS § 533.375.

<sup>4</sup> NRS § 533.370(4).

**RULING**

Application 39975 is hereby denied on the grounds its issuance would threaten to prove detrimental to the public interest.

Respectfully submitted,



HUGH RICCI, P.E.  
State Engineer

HR/TW/jm

Dated this 11th day of  
June, 2004.