

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

IN THE MATTER OF APPLICATION 67743)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE)
WITHIN THE IMLAY AREA HYDROGRAPHIC)
BASIN (072), PERSHING COUNTY,)
NEVADA.)

RULING

5618

GENERAL

I.

Application 67743 was filed on July 6, 2001, by Donald V. Esenarro and Dusti D. Esenarro, as Trustees, of the Donald V. Esenarro and Dusti D. Esenarro 1994 Trust, in addition to Guy Chamberlin and Gay Chamberlin to appropriate 0.25 cubic feet per second of underground water from the Imlay Area Hydrographic Basin. The proposed manner of use is for commercial purposes within the NE¼ of Section 5, T.32N., R.35E., M.D.B.&M. The proposed point of diversion is described as being within the SW¼ NE¼ of said Section 5.¹

FINDINGS OF FACT

I.

Since the initial filing of this application, several issues have been raised regarding a replacement well and clarification of title. These concerns were brought forth in a letter sent to the Applicants and their agent on February 9, 2006. The intent of this letter was to acquire additional information from the Applicants that would allow the review of the application to proceed. The Applicants were also advised that a written response must be submitted to the Office of the State Engineer within thirty days of the date of the letter or the application would be considered for denial.

¹ File No. 67743, official records in the Office of the State Engineer.

The receipts for the certified letters were returned to the Office of the State Engineer in a timely manner, signifying that all parties had been properly noticed at their correct mailing addresses. To this date, no response from the Applicants has been received in the State Engineer's office. The State Engineer finds that the Applicants have chosen not to respond to the request for additional information, and that this course of action represents a lack of interest in pursuing Application 67743.

CONCLUSIONS

I.

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

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:³

- A. there is no unappropriated water at the proposed source;
- B. the proposed use conflicts with existing rights;
- C. the proposed use conflicts with protectible interests in existing domestic wells as set forth in NRS § 533.024; or
- D. the proposed use threatens to prove detrimental to the public interest.

III.

The Applicants have been requested to provide the State Engineer with additional information relating to Application 67743. This request was made with the understanding that a failure to respond in a timely manner would represent a lack of interest on the Applicants' part in pursuing the subject application. To this date, no response regarding this matter has been received in the Office of the State Engineer. The State Engineer concludes that the approval of an application that the

² NRS chapter 533 and 534.

³ NRS § 533.370(5).

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Applicants have no interest in pursuing would threaten to prove detrimental to the public interest.

RULING

Application 67743 is hereby denied on the grounds that its approval would threaten to prove detrimental to the public interest.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/MB/jm

Dated this 26th day of
May, 2006.