

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

IN THE MATTER OF APPLICATION 29588)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF A SURFACE SOURCE)
WITHIN THE BIG SMOKY VALLEY -)
NORTHERN PART HYDROGRAPHIC)
BASIN (137B), NYE COUNTY, NEVADA.)

RULING

#5656

GENERAL

I.

Application 29588 was filed on August 19, 1975, by Richard L. and Margaret A. Carver to appropriate 3.25 cubic feet per second of water from Broad Creek for irrigation and domestic purposes. The proposed place of use is described as being 214.2 acres located within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 20, and the NW $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 29, T.11N., R.43E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 30, T.11N., R.43E., M.D.B.&M.¹

II.

Application 29588 was timely protested by Wine Glass, Inc. on grounds not considered in this ruling.¹

FINDINGS OF FACT

I.

The Applicants and their agent were notified by certified mail dated February 23, 2005, to submit additional information regarding Application 29588 to the State Engineer's office. The Applicants were warned that failure to respond within 30 days would result in denial of the application. A properly endorsed certified mail receipt was received from the Applicants on March 7, 2005, signifying receipt of the certified notice. The certified mailing to the agent was returned to the Office of the State Engineer by the U.S. Postal Service stamped, "Attempted - Not Known". A review of the application file shows that the last correspondence from the Applicants was over 28 years ago. From that time forward, there is no evidence within the application file that the Applicants are

¹ File No. 29588, official records in the Office of the State Engineer.

interested in pursuing this application. In addition, the Applicants and their agent have failed to submit the additional information requested.¹

The State Engineer finds that the Applicants and their agent were properly notified of the request for additional information regarding interest in pursuing Application 29588 and failed to respond. The State Engineer further finds that there has been no correspondence from the Applicants for over 28 years.

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 Applicants and their 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 application for over 28 years and the failure to submit requested information demonstrates the Applicants' lack of interest in pursuing Application 29588. The State Engineer concludes it would threaten to prove detrimental to the public interest to issue a permit under these circumstances.

² NRS chapter 533.

³ NRS § 533.375.

⁴ NRS § 533.370(5).

RULING

Application 29588 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,

Handwritten signature of Tracy Taylor, P.E. in black ink.

TRACY TAYLOR, P.E.
State Engineer

TT/TW/jm

Dated this 1st day of
September, 2006.