

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

IN THE MATTER OF APPLICATION )  
38182 FILED TO APPROPRIATE THE )  
PUBLIC WATERS OF AN UNDERGROUND )  
SOURCE WITHIN THE RUBY VALLEY )  
HYDROGRAPHIC BASIN (176), ELKO )  
COUNTY, NEVADA. )

RULING

# 5679

GENERAL

I.

Application 38182 was filed on May 15, 1979, by Wilmer C. Hansen to appropriate 5.0 cubic feet per second of water from an underground source within the Ruby Valley Hydrographic Basin, Elko County, Nevada, for irrigation and domestic purposes within the E $\frac{1}{2}$  NE $\frac{1}{4}$  of Section 21; W $\frac{1}{2}$ , W $\frac{1}{2}$  SE $\frac{1}{4}$  of Section 22, and the NE $\frac{1}{4}$  of Section 27, T.32N., R.60E., 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 22, T. 32N., R.60E., M.D.B.&M.<sup>1</sup> Application 38182 was filed in support of Desert Land Entry Application Serial Number NVN-024632.

FINDINGS OF FACT

I.

By certified letter dated June 14, 2005, to the Applicant, current owners and listed agent, the Office of the State Engineer requested information as to whether there was still an interest in pursuing the application. The letter assigned a 30-day time frame to submit the requested information or the application would be subject to denial. The certified letter to the Applicant was returned by the United States Postal Service marked "Unclaimed" on July 12, 2005. The signed certified mail receipt from Sandra L. Sharp, Leslie B. Sharp Testamentary Trust was received in the Office of the State Engineer on June 20, 2005. The signed certified mail receipt from the agent was received in the Office of the State Engineer on June 21, 2005. The State Engineer finds there has been no expressed interest in pursuing this application

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<sup>1</sup> File No. 38182, official records in the Office of the State Engineer.

in 12 years. The State Engineer finds that no response was received to the request for information.

**II.**

Additional information was requested by the Office of the State Engineer from the Bureau of Land Management and was received on June 7, 2005. This information indicated the Desert Land Entry Application Number NVN 024632 was Rejected/Denied on November 17, 1994, and the case closed on December 13, 1994.<sup>1</sup>

**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 from the Applicant 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 waters 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 other owners have failed to submit the information requested to the State Engineer's office. The State Engineer concludes that without the additional data sufficient

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

<sup>3</sup> NRS § 533.375.

<sup>4</sup> NRS § 533.370(5).

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information is not available to properly guard the public interest. The State Engineer concludes to grant a water right to an applicant that does not express an intent to go forward with the project would threaten to prove detrimental to the public interest.

V.

The State Engineer concludes that to grant an application to appropriate the public waters for irrigation on lands the applicant does not fully own or control or where the applicant cannot demonstrate the ability to place the water to beneficial use would threaten to prove detrimental to the public interest.

**RULING**

Application 38182 is hereby denied on the grounds that its approval would threaten to prove detrimental to the public interest.

Respectfully submitted,



TRACY TAYLOR, P.E.  
State Engineer

TT/KMH/jm

Dated this 30th day of  
November, 2006.