

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

IN THE MATTER OF APPLICATION )  
59277 FILED TO APPROPRIATE THE )  
PUBLIC WATERS OF AN UNDERGROUND )  
SOURCE WITHIN THE AMARGOSA )  
DESERT HYDROGRAPHIC BASIN (230), )  
NYE COUNTY, NEVADA. )

RULING  
**#5727**

GENERAL

I.

Application 59277 was filed on September 23, 1993, by Roger D. Gehring to appropriate 3.0 cubic feet per second from an underground source within the Amargosa Desert Hydrographic Basin, for irrigation and domestic purposes within the SW $\frac{1}{4}$  SW $\frac{1}{4}$ , SE $\frac{1}{4}$  SW $\frac{1}{4}$ , NE $\frac{1}{4}$  SW $\frac{1}{4}$  and NW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 4, T.17S., R.49E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 4, T.17S., R.49E., M.D.B.&M.<sup>1</sup>

II.

Application 59277 was timely protested by Amargosa Resources, Inc. and the U.S. Department of Interior, National Park Service on grounds not addressed in this ruling.

FINDINGS OF FACT

I.

By certified letter dated January 13, 2006, the State Engineer requested the Applicant or his agent to provide him with information by February 17, 2006, as to whether the Applicant still intended to pursue the application. By the same January 13, 2006, letter, the State Engineer also requested the Protestants inform him as to whether they intended to pursue their protests.

The letters addressed to the Applicant and his agent were returned by the United States Postal Service marked "Forwarding Order Expired." The letter to Protestant Amargosa Resources, Inc. was returned by the United States Postal Service marked "Not deliverable as addressed, unable to forward."<sup>1</sup>

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<sup>1</sup> File No. 59277, official records of the Office of the State Engineer.

The State Engineer finds it is the responsibility of the Applicant, his agent and the Protestant to keep the Office of the State Engineer informed as to a current address. The State Engineer finds there is nothing in the file since July 1998 from the Applicant or his agent indicating any intent in pursuing the application. The State Engineer finds that the Applicant was properly notified of the request for additional information. The State Engineer finds there was no response from the Applicant or his agent to the notification from the State Engineer regarding Application 59277.

### 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.

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

<sup>3</sup> NRS § 533.375.

<sup>4</sup> NRS chapter 533.370(5).

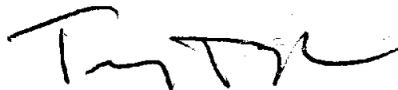
IV.

The Applicant has failed to submit the information requested to the State Engineer's office. The State Engineer concludes that without the additional data sufficient 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.

**RULING**

Application 59277 is hereby denied on the grounds that the Applicant has not submitted the data and information requested by the State Engineer's office, and that without this information granting of the application would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protest.

Respectfully submitted,



TRACY TAYLOR, P.E.  
State Engineer

TT/SJT/lt

Dated this 27th day of  
April, 2007.