

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

IN THE MATTER OF APPLICATIONS)
46651 AND 49786 FILED TO)
APPROPRIATE THE PUBLIC WATERS OF)
POLE CANYON SPRING AND WILLARD)
SPRING WITHIN THE PLEASANT)
VALLEY HYDROGRAPHIC BASIN (194),)
WHITE PINE COUNTY, NEVADA.)

RULING

5742

GENERAL

I.

Application 46651 was filed on February 18, 1983, by J. Willard Henriod to appropriate 1.0 cubic foot per second of water from Pole Canyon Spring within the Pleasant Valley Hydrographic Basin for irrigation purposes within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, and the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 17, and the W $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 16, all in T.21N., R.70E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 30, T.21N., R.70E., M.D.B.&M.¹

II.

Application 49786 was filed on March 25, 1986, by J. Willard Henriod to appropriate 5.0 cubic feet per second of water from Willard Spring within the Pleasant Valley Hydrographic Basin for irrigation purposes within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 7, SW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 8, W $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 16, N $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 17 and the N $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 18, all in T.21N., R.70E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 17, T.21N., R.70E., M.D.B.&M.²

FINDINGS OF FACT

I.

By certified letter dated January 10, 2006, to the Applicant and his agent the Office of the State Engineer requested the Applicant to provide information as to whether there was still an

¹ File No. 46651, official records in the Office of the State Engineer.

² File No. 49786, official records in the Office of the State Engineer.

interest in pursuing the applications. The letter assigned a 30-day time frame to submit the requested information or the applications would be subject to denial. The certified letter receipt to the Applicant was signed by Merle Henriod and returned by the United States Postal Service and received in the Office of the State Engineer on February 3, 2006. However, the certified letter to the Applicant was returned to the Office of the State Engineer on February 8, 2006, stamped "Deceased, Unable to Forward." The certified letter to the agent was returned by the United States Postal Service stamped "No Such Number" and was received in the Office of the State Engineer on January 20, 2006. The State Engineer finds no interest was expressed in pursuing the applications and none has been expressed in 23 and 20 years, respectively.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.³

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.⁴

III.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:⁵

- 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

³ NRS chapter 533.

⁴ NRS § 533.375.

⁵ NRS § 533.370(5).

D. the proposed use or change threatens to prove detrimental to the public interest.

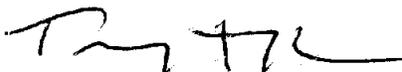
IV.

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

Applications 46651 and 49786 are 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 applications would threaten to prove detrimental to the public interest.

Respectfully submitted,



TRACY TAYLOR, P.E.
State Engineer

TT/KMH/lt

Dated this 16th day of

May, 2007.