

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

IN THE MATTER OF APPLICATION)
54233 FILED TO CHANGE THE)
POINT OF DIVERSION AND PLACE)
OF USE OF THE PUBLIC WATERS OF)
AN UNDERGROUND SOURCE,)
HERETOFORE APPROPRIATED UNDER)
PERMIT 46954, WITHIN THE NORTH)
FORK AREA HYDROGRAPHIC BASIN)
(44), ELKO COUNTY, NEVADA.)

RULING

#5779

GENERAL

I.

Application 54233 was filed on December 14, 1989, by Charles C. King, Eric A. Jamieson, Gene C. Davis, and Charles J. King, Trustees under Trust Document for the benefit of Sam Lawson, to change the point of diversion and place of use of 2.7 cubic feet per second of water from an underground source heretofore appropriated under Permit 46954 within the North Fork Area Hydrographic Basin, for irrigation purposes within portions of the SW $\frac{1}{4}$ of Section 16, and the NW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 17, T.41N., R.54E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 21, T.41N., R.54E., M.D.B.&M.¹

FINDINGS OF FACT

I.

By certified letter dated January 6, 2006, to the Applicants and their agent, the Office of the State Engineer requested the Applicants to provide information as to whether they still had 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.

¹ File No. 54233, official records in the Office of the State Engineer.

The certified letter to the Applicants was returned by the United States Postal Service marked "attempted not known" and the signed certified mail receipt from the agent was received in the Office of the State Engineer on January 13, 2006. The State Engineer finds that it is the responsibility of the Applicants, their agent or successor in interest to keep this office informed of a current mailing address. The State Engineer finds the Applicants have not expressed an interest in pursuing this application in over 16 years. The State Engineer finds that no response was received to the request for information.¹

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 from the applicant 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 waters 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.

² NRS chapters 533 and 534.

³ NRS § 533.375.

⁴ NRS § 533.370(5).

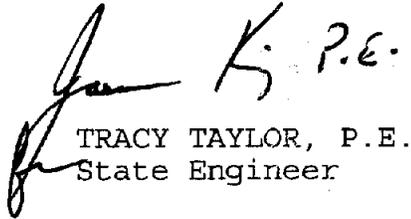
IV.

The Applicants have 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 applicants that do not express an intent to go forward with the project would threaten to prove detrimental to the public interest.

RULING

Application 54233 is hereby denied on the grounds that the Applicants have 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.

Respectfully submitted,

 P.E.
TRACY TAYLOR, P.E.
State Engineer

TT/KE/lt

Dated this 7th day of
September, 2007.