

**IN THE OFFICE OF THE STATE ENGINEER**

IN THE MATTER OF APPLICATION 51987)  
FILED TO APPROPRIATE WATER FROM A)  
SPRING IN THE MAGGIE CREEK DRAINAGE,) )  
ELKO COUNTY, NEVADA. )

**RULING**

**GENERAL**

I.

Application 51987 was filed on April 6, 1988, by John M. Bednorz - B&B Locksmith Inc. to appropriate 0.1 c.f.s. of water from an unnamed spring for mining and milling purposes within the N $\frac{1}{2}$  Section 5, T.36N., R.53E., M.D.B&M. The point of diversion is described as being within the SE $\frac{1}{4}$  NW $\frac{1}{4}$  Section 5, T.35N., R.53E., M.D.B.&M.<sup>1</sup>

II.

The application was advertised for the statutory period and subsequently protested by the U.S. Bureau of Land Management on the grounds that "Mr. Bednorz dba B&B Locksmith does not have a mineral claim upon the Public Lands situated in T.36N., R.53E, Section 5, therefore, he is not authorized to conduct mining or milling activities. If Mr. Bednorz's mineral deposits are located on the parcel of private land located at T.36N., R.53E, Section 5 SW $\frac{1}{4}$ NE $\frac{1}{4}$ , he is not authorized to transport waters upon the Public Land to this private holding."<sup>1</sup>

**FINDINGS OF FACT**

I.

The State Engineer requested additional information from the applicant as to his intent to acquire claims and/or a right-of-way to pipe the spring across public lands,<sup>2</sup> and gave the applicant sixty (60) days to reply.

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<sup>1</sup> Public record in the office of the State Engineer.

<sup>2</sup> See letter in file 51987 dated October 28, 1988, Certified Mail No. P 124 704 025 under authority in NRS 533.375.

II.

The State Engineer has received no response, written or otherwise since the information was requested.

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action.<sup>3</sup>

II.

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, or
- B. The proposed use or change conflicts with existing rights, or
- C. The proposed use or change threatens to prove detrimental to the public interest.

III.

Before either approving or rejecting an application, the State Engineer may require such additional information as will enable him to guard the public interest properly.<sup>5</sup>

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<sup>3</sup> NRS 533.

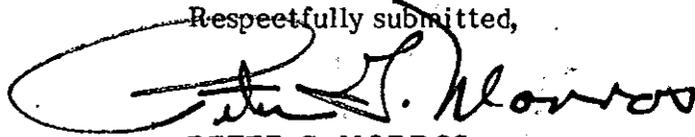
<sup>4</sup> NRS Chapter 533.370.

<sup>5</sup> NRS 533.375

RULING

Application 51987 is hereby denied on the grounds that the applicant failed to supply the additional information and to grant the application without the additional information would not be in the public interest. No ruling is made on the grounds of the protest.

Respectfully submitted,



PETER G. MORROS  
State Engineer

PGM/RMT/bk

Dated this 28th day of  
February, 1989.