

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

IN THE MATTER OF APPLICATION)
55268 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE BLACK MOUNTAINS)
AREA HYDROGRAPHIC BASIN (215),)
CLARK COUNTY, NEVADA.)

RULING

#5345

GENERAL

I.

Application 55268 was filed on September 13, 1990 by Three Kids Enterprises, Inc. to appropriate 5.0 cubic feet per second (cfs) and 2,016.25 acre-feet annually (AFA) of underground water for quasi-municipal purposes within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 26, SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 34, NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 35, all located within T.21S, R.63E. M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 26.¹

FINDINGS OF FACT

I.

The applicant, through its agent, was notified by certified mail dated July 9, 2002, that additional information was needed regarding Application 55268. Specifically, the applicant was asked to provide a detailed hydrogeological report addressing two critical issues. First, does the aquifer under the proposed development have the capacity to continually provide the required 1,188 AFA without significantly impacting adjacent water users and secondly, is the aquifer under the proposed development an isolated aquifer or is it connected to the Black Mountains Area Hydrographic Basin (215) that is subject to recharge. The applicant was asked to respond within forty-five (45) days with an estimate as to when the report would be submitted.¹

¹ File No. 55268, official records in the Office of the State Engineer.

The applicant responded by letter dated August 22, 2002, and stated, "This is in response to your letter dated July 9, 2002. At this present time we are awaiting bids from several companies on the scope of work requested by your department. We anticipate receiving the bids and submitting the requested report within 90 days of this letter." A review of records on file in the Office of the State Engineer show that to date, no such report has been submitted.¹

The State Engineer finds that over a year has past since the applicant stated that the hydrogeological report would be submitted. The State Engineer finds that the applicant and its agent have failed to submit the requested hydrogeological report.²

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 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.

IV.

The applicant and its agent were properly notified of the requirement for additional information concerning this application

² NRS chapters 533 and 534.

³ NRS § 533.375.

⁴ NRS § 533.370(4).

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and have failed to submit the information to the State Engineer's office. The State Engineer concludes that without the information requested sufficient information is not available for the State Engineer to properly guard the public interest.

RULING

Application 55268 is hereby denied on the grounds that the applicant and its agent have not submitted the information requested by the State Engineer's office and that without this information the granting of the application would threaten to prove detrimental to the public interest.

Respectfully submitted,


HUGH RICCI, P.E.
State Engineer

HR/RAD/jm

Dated this 15th day of
April, 2004.