

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

IN THE MATTER OF APPLICATION)
67300 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE ANTELOPE)
VALLEY-SOUTHERN PART HYDROGRAPHIC)
BASIN (186A), ELKO COUNTY,)
NEVADA.)

RULING

#5777

GENERAL

I.

Application 67300 was filed on March 5, 2001, by the U.S.D.I. Bureau of Land Management, Elko Field Office to appropriate 0.0019 cubic feet per second of water from an underground source (Kinsley Well) within the Antelope Valley-Southern Part Hydrographic Basin, for wildlife and wildhorses within all of Section 4, the SE¼ of Section 5 and the NW¼ of Section 9, T.26N., R.68E., M.D.B.&M. The proposed point of diversion is described as being located within the SE¼ NW¼ of Section 4, T.26N., R.68E., M.D.B.&M.¹

II.

Application 67300 was timely protested by the County of Elko, Nevada on grounds that will not be considered in this ruling.

FINDINGS OF FACT

I.

By certified letter dated January 20, 2006, the Office of the State Engineer requested the Applicant to provide information as to whether there was still 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. The signed certified letter receipt to the Applicant was returned and received in the Office of the State Engineer on January 26, 2006. The State Engineer finds the Applicant has not expressed an interest in pursuing this application in 5 years. The State Engineer has had no correspondence from the Applicant in 5

¹ File No. 67300, official records in the Office of the State Engineer.

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.

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.

² NRS chapters 533 and 534.

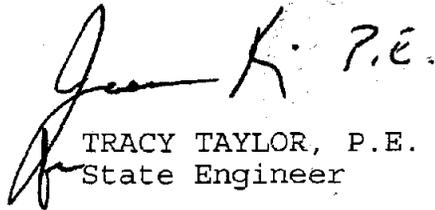
³ NRS § 533.375.

⁴ NRS § 533.370(5).

RULING

Application 67300 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,

 P.E.

TRACY TAYLOR, P.E.
State Engineer

TT/KMH/lt

Dated this 6th day of

September, 2007.