

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

IN THE MATTER OF APPLICATION 64340)
FILED TO CHANGE THE POINT OF)
DIVERSION OF WATER PREVIOUSLY)
APPROPRIATED FROM THE PUBLIC)
WATERS OF LAMOILLE CREEK WITHIN)
THE LAMOILLE VALLEY HYDROGRAPHIC)
BASIN (45), ELKO COUNTY, NEVADA.)

RULING

4887

GENERAL

I.

Application 64340 was filed on July 24, 1998, by Jan M. and Francis A. Rockwell to change the point of diversion of 24 acre-feet annually of water from Lamoille Creek, a portion of water previously appropriated under Claim 00405, Humboldt River Adjudication, Edwards Decree at pages 52 & 103, for irrigation purposes within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 19, T.33N., R.58E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 19, T.33N., R.58E., M.D.B.&M.¹

FINDING OF FACT

I.

The applicants were requested by certified letter dated January 21, 2000, to file with the office of the State Engineer a Report of Conveyance for the waters under Claim 00405 requested to be changed under Application 64340. The applicants were also informed that if a response was not received within 30 days from the date of the letter, Application 64340 may be denied. A properly endorsed return receipt for the January 21, 2000, certified letter was returned to the office of the State Engineer.¹ To date, no

¹ File No. 64340, official records in the office of the State Engineer.

Report of Conveyance for Claim 00405 has been received in the office of the State Engineer.

The State Engineer finds that the owner of record under Application 64340 was properly noticed that title to Claim 00405 needed to be updated, but has failed to do so. Therefore, Application 64340 may be considered for denial.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.²

II.

The State Engineer is prohibited by law from granting a change application to appropriate the public waters where:³

A. the proposed use conflicts with existing rights; or

B. the proposed use threatens to prove detrimental to the public interest.

III.

On January 21, 2000, the applicants were requested by the office of the State Engineer to file a Report of Conveyance to bring title into their names for the waters under Claim 00405 sought to be changed. The applicants were informed that a failure to respond to the request would represent a lack of interest in this matter and would result in said application being considered for denial. The applicants failed to provide any indication that they intend to file a Report of Conveyance. Therefore, the State Engineer concludes that it would threaten to prove

² NRS chapter 533.

³ NRS § 533.370.

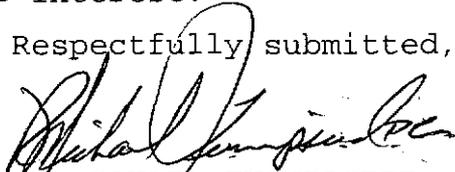
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detrimental to the public interest to approve an application which the applicants no longer intend to pursue. The State Engineer finds he cannot approve a change application where the applicants have not brought title into their name for the waters sought to be changed.

RULING

Application 64340 is hereby denied on the grounds that granting said application would threaten to prove detrimental to the public interest.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MJR/cl

Dated this 24th day of
March, 2000.