

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

IN THE MATTER OF APPLICATION 35854 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS OF AN UNDERGROUND SOURCE AND )  
APPLICATION 39530 FILED TO CHANGE )  
THE POINT OF DIVERSION AND PLACE OF )  
USE OF APPLICATION 35854 WITHIN THE )  
LAKE VALLEY HYDROGRAPHIC BASIN )  
(183), LINCOLN COUNTY, NV )

RULING

**#5221**

GENERAL

I.

Application 35854 was filed on September 6, 1978, by Imperial Farms Land and Cattle Company, Inc. to appropriate 0.25 cubic feet per second of water from Fortification Well for stockwatering and domestic purposes for use within Section 22, T.7N., R.67E., 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 said Section 22.<sup>1</sup>

II.

Application 39530 was filed on November 5, 1979, by Imperial Farms Land and Cattle Company, Inc. to change the point of diversion and place of use of 0.25 cubic feet per second of the water filed for under Application 35854 for stockwatering and domestic purposes for use within the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 22, T.7N., R.67E., 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 said Section 22.<sup>2</sup>

III.

Application 39530 was timely protested by the United States Department of the Interior, Bureau of Land Management (BLM) on the grounds that the applicant has not applied for nor received a

<sup>1</sup> File No. 35854, official records in the Office of the State Engineer.

<sup>2</sup> File No. 39530, official records in the Office of the State Engineer.

permit to drill well on BLM land, and if the application is for existing well, BLM drilled and placed an improvement on well and financed the maintenance costs, and the well is also on U.S. Government land.

**FINDINGS OF FACT**

**I.**

The applicant and its agent were notified by certified mail dated September 26, 2002, to advise the Office of the State Engineer in writing if it was interested in pursuing Applications 35854 and 39530. The applicant and its agent were warned that failure to respond within thirty (30) days would result in denial of the applications. The certified letters to the applicant and its agent were returned by the U. S. Postal Service stamped "Returned To Sender", "attempted not known" and "moved left no address."<sup>1</sup>

To date, no information on this matter has been submitted to the State Engineer's office. The State Engineer finds that the applicant and its agent were properly notified of the request for additional information regarding interest in Applications 35854 and 39530 and failed to respond.

**II.**

The State Engineer finds that it is the responsibility of the applicant and its agent, or their successors in interest, to keep this office informed of a current mailing address.

**CONCLUSIONS**

**I.**

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

---

<sup>3</sup> NRS § 533 and 534.

**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.<sup>4</sup>

**III.**

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:<sup>5</sup>

- 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 these applications and have failed to submit the information to the State Engineer's office in a timely manner. The failure to maintain a current address or express any interest in the applications demonstrates the applicant's lack of interest in pursuing Applications 35854 and 39530. The State Engineer concludes it would threaten to prove detrimental to the public interest to issue permits under applications for which no interest is expressed.

---

<sup>4</sup> NRS § 533.375.

<sup>5</sup> NRS § 533.370(3).

**RULING**

Applications 35854 and 39530 are hereby denied on the grounds that the applicant has not expressed any interest in pursuing the applications and has not submitted the information requested by the State Engineer's office and that without this information the granting of the applications would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protest to Application 39530.

Respectfully submitted,



HUGH RICCI, P.E.  
STATE ENGINEER

HR/TW/dl

Dated this 25th day of  
February, 2003