

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

IN THE MATTER OF APPLICATION 32205)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE KELLEY CREEK)
AREA VALLEY HYDROGRAPHIC BASIN)
(66), HUMBOLDT COUNTY, NEVADA.)

RULING

#5320

GENERAL

I.

Application 32205 was filed on June 22, 1977, by Carl and Helen Hammond to appropriate 6.0 cubic feet per second of water from an underground source for irrigation and domestic purposes. The proposed place of use is described as being about 320 acres located within portions of Sections 34 and 35, T.37N., R.41E., M.D.B.&M. and portions of Section 3, T.36N., R.41E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 34, T.37N., R.41E., M.D.B.&M.¹

II.

Application 32205 was timely protested by Cecil E. and Jo Christison on the following grounds:¹

It is our opinion based on long-standing, first-hand experience with the property in question, that the proposed well would severely [sic] deplete and possibly eliminate nearby natural springs, which are of critical importance to our cattle ranching operation. We feel that the underlying water table which would be utilized under this permit is highly volatile, based on experiences with two other incidents in which water sources (a. natural spring, and b. shallow windmill-driven well) were completely dried up resulting from new gravel-packed irrigation wells drilled in nearby areas. As water is such a precious item, especially in these drought years, we feel compelled to protest the projected well in order to protect our limited natural springs. Also-we feel first priority in well permits in this area should be given to already privately owned land suitable for tilling.

¹ File No. 32205, official records in the Office of the State Engineer.

FINDINGS OF FACT

I.

The applicants and their agent were notified by certified mail dated August 12, 2003, to submit additional information regarding Application 32205 to the Office of the State Engineer. The applicants were warned that failure to respond within 30 days would result in denial of the application. The certified letter to the applicants was returned to the Office of the State Engineer by the U.S. Postal Service stamped "Returned to Sender" and written on the envelope was "Not At This Address". The certified letter to the agent was returned to the Office of the State Engineer by the U.S. Postal Service stamped "Unclaimed". The unclaimed letter was re-sent by regular mail.¹ To date, the applicants and their agent have expressed no interest in pursuing this application and have not submitted the additional information requested. The State Engineer finds that the applicants and their agent were properly notified of the request for additional information regarding interest in pursuing Application 32205 and failed to respond.

II.

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

III.

The State Engineer finds that there has been no correspondence from the applicants or their agent regarding Application 32205 for at least 25 years.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 as will enable him to properly guard the public interest.³

² NRS chapters 533 and 534.

³ NRS § 533.375.

III.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water 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 applicants and their agent were properly notified of the requirement for additional information and have failed to submit the information to the Office of the State Engineer. The State Engineer concludes that the failure to express any interest in the application for over 25 years and failure to maintain a current address demonstrates the applicants' lack of interest in pursuing Application 32205. The State Engineer concludes it would threaten to prove detrimental to the public interest to issue a permit under these circumstances.

RULING

Application 32205 is hereby denied on the grounds its issuance would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protest.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/TW/jm

Dated this 20th day
of February, 2004.

⁴ NRS § 533.370(3).