

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

IN THE MATTER OF APPLICATIONS)
65695, 65696 AND 65697 FILED TO)
APPROPRIATE THE PUBLIC WATERS)
OF AN UNDERGROUND SOURCE)
WITHIN THE SNAKE VALLEY)
HYDROGRAPHIC BASIN (195), WHITE)
PINE COUNTY, NEVADA.)

RULING

#5213

GENERAL

I.

Application 65695 was filed on December 6, 1999, by Minex LLC, to appropriate 2.3 cubic feet per second of water for mining, milling and related activities, which may include domestic uses. The proposed place of use is described as being within portions of Sections 13, 14, 22, 23, 24, 25, 26 and 27, T.15N., R.68E. and portions of Sections 18 and 19, T.15N., R.69E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 23.¹

II.

Application 65696 was filed on December 6, 1999, by Minex LLC, to appropriate 2.3 cubic feet per second of water for mining, milling and related activities, which may include domestic uses. The proposed place of use is described as being within portions of Sections 13, 14, 22, 23, 24, 25, 26 and 27, T.15N., R.68E. and portions of Sections 18 and 19, T.15N., R.69E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 23.²

III.

Application 65697 was filed on December 6, 1999, by Minex LLC, to appropriate 2.3 cubic feet per second of water for mining, milling and related activities, which may include domestic uses. The proposed place of use is described as being within portions of Sections 13, 14, 22, 23, 24, 25,

¹ File No. 65695, official records in the Office of the State Engineer.

26 and 27, T.15N., R.68E. and portions of Sections 18 and 19, T.15N., R.69E., M.D.B.&M. The proposed point of diversion is described as being located within the SE¼ NE¼ of said Section 23.³

IV.

Applications 65695, 65696 and 65697 were timely protested by the United States National Park Service on many grounds related to the Great Basin National Park.¹

FINDINGS OF FACT

I.

Once a water right application is accepted for filing in the Office of the State Engineer, it is assigned a serial number, under which all the documentation and correspondence associated with this specific water right application is filed. This record of information is used to identify the names and addresses of those parties that must be contacted regarding the application. Should changes in ownership and addresses occur, it is the applicant's responsibility to advise the State Engineer of these changes in accordance with the Nevada Revised Statutes and the policies of the Office of the State Engineer. The State Engineer finds that a valid transfer of title has never occurred under Applications 65695, 65696 and 65697; therefore, the original permittee remains the recognized owner of record.

II.

Applications 65695, 65696 and 65697 request an appropriation of water for a mining and milling operation that was originally expected to require 1,620 acre-feet of water annually.¹ When considering an application that requests this manner of use, the State Engineer often requires the applicant to provide a more detailed description of the project and its anticipated water usage. The State Engineer finds the initial information contained within Applications 65695, 65696 and 65697 must be supplemented with updated justification and consumptive use data.

III.

By certified letters dated October 9, 2002, the applicant and its agent were noticed at their respective addresses of record of the need to submit updated justification and consumptive use data. Both parties were also requested to update the ownership, address and agent information associated

² File No. 65696, official records in the Office of the State Engineer.

³ File No. 65697, official records in the Office of the State Engineer.

with the subject applications. The applicant was also advised that a failure to submit this information within 60 days from the date of the letter would subject the applications to possible denial. The envelope containing the notice sent to the applicant's Nevada address was returned to the Office of the State Engineer, with a notation that the forwarding address had expired. A signed receipt for a second identical notice sent to the applicant's forwarding address in Colorado was received by the State Engineer's office on November 1, 2002. A signed receipt from the applicant's agent was received by the State Engineer's office on October 28, 2002. The State Engineer finds that the applicant and its agent have been requested to provide additional information regarding the subject application, and have failed to do so; therefore, Applications 65695, 65696 and 65697 can be considered for denial.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁴

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:⁵

- 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.

III.

The applicant and its agent were properly notified of the requirement to submit additional information regarding Applications 65695, 65696 and 65697 and have failed to do so. The State Engineer concludes that the approval of applications that the applicant has no intention of pursuing would threaten to prove detrimental to the public interest.

⁴ NRS chapters 533 and 534.

⁵ NRS § 533.370(3).

RULING

Applications 65695, 65696 and 65697 are hereby denied on the grounds that their approval would threaten to prove to be detrimental to the public interest. No ruling is made on the merits of the protests.

Respectfully submitted,


HUGH RICCI, P.E.
State Engineer

HR/MB/jm

Dated this 10th day of
February, 2003.