

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

IN THE MATTER OF APPLICATION 55652 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS FROM AN UNDERGROUND )  
SOURCE WITHIN THE DIXIE VALLEY )  
HYDROGRAPHIC BASIN (128), PERSHING )  
COUNTY, NEVADA. )

**RULING**  
**# 5837**

**GENERAL**

**I.**

Application 55652 was filed on January 17, 1991, by Sheldon W. Lamb and Isabel H. Lamb to appropriate 10 cubic feet per second of water from an underground source for irrigation and domestic purposes within Lot 2 and Lot 3 of Section 5, T.25N., R.38E., and the SE $\frac{1}{4}$  SW $\frac{1}{4}$  and SW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 32, T.26N., R.38E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$  SE $\frac{1}{4}$  of said Section 32.<sup>1</sup>

**II.**

The application was timely protested by Raymond Jerry Kelly on grounds not considered in this ruling.<sup>1</sup>

**FINDINGS OF FACT**

**I.**

Application 55652 was filed by the Applicant for the irrigation of 159 acres within the described place of use in January of 1991. The application was protested in April of 1991. A review of the application file shows that considerable effort was expended by the Office of the State Engineer to resolve the protest and come to a decision on the application. However, in 1995, it was ultimately decided that no further action could be taken on this application until the senior underground applications within the Dixie Valley Hydrographic Basin have been resolved.<sup>1</sup>

In an effort to deal with long-standing applications that were filed but received no further action, on March 9, 2007, a certified letter was sent to the Applicant to determine

---

<sup>1</sup> File No. 55652, official records in the Office of the State Engineer.

whether there was a continued interest in pursuing Application 55652. In response to the certified letter, relatives of the Applicant contacted the Office of the State Engineer and indicated that the property was no longer owned by the Lambs and as such, they were no longer interested in pursuing the application.<sup>1</sup>

To verify this information, the Pershing County Assessor's Office was contacted by phone. The assessor confirmed that the Applicant does not own the land described under the point of diversion and place of use of Application 55652.<sup>1</sup>

The State Engineer finds that the Applicant does not own or control the land at the proposed point of diversion and place of use under Application 55652.

### CONCLUSIONS

#### I.

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

#### II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:<sup>3</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.

#### III.

The State Engineer concludes that the Applicant does not own or control the land at the described locations under Application 55652. The State Engineer further concludes that to grant an application to appropriate the public waters where the Applicant does not own or control the lands would threaten to prove detrimental to the public interest.

---

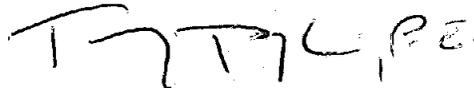
<sup>2</sup> NRS chapter 533 and 534.

<sup>3</sup> NRS § 533.370(5).

RULING

Application 55652 is hereby denied on the grounds that its approval would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protest.

Respectfully submitted,



TRACY TAYLOR, P.E.  
State Engineer

TT/TW/jm

Dated this 11th day of

April, 2008.