

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

IN THE MATTER OF APPLICATION 25535 FILED )  
TO APPROPRIATE THE PUBLIC WATERS OF WHITE )  
ROCK CREEK WITHIN THE SOUTH FORK OWYHEE )  
RIVER AREA GROUNDWATER BASIN (35), ELKO )  
COUNTY, NEVADA. )

RULING  
# 4201

GENERAL

I.

Application 25535 was filed on April 9, 1970, by Blue Jacket Mining Company to appropriate 0.5 cfs of water from White Rock Creek for mining and milling purposes within the NE $\frac{1}{4}$  NE $\frac{1}{4}$  Section 19, T.44N., R.52E., M.D.B.&M. The point of diversion is described as being within the NE $\frac{1}{4}$  NE $\frac{1}{4}$  Section 19, T.44N., R.52E., M.D.B.&M.<sup>1</sup>

II.

Application 25535 was protested by C. H. Jackson, Jr. and Ann G. Jackson dba Petan Company, by agent Orville R. Wilson, on the following grounds:

1. That Applicant cannot apply said waters to beneficial use for the requested purpose.
2. That Protestants are possessed of a vested right to the aforesaid waters for the purpose applied for, in that Protestants own the Edgemont patented mining claims and unpatented mining claims, together with a vested right acquired before 1905 to the waters of White Rock Creek for the purpose of producing power and electric energy to serve said mining claims, and also domestic power use at or about said site.
3. That Protestants have vested rights acquired before 1905 to all of the waters of White Rock Creek for the purpose of irrigation, stock water and domestic use and have applied said waters to beneficial use.
4. That the granting of the above-described Application would impair the value of the existing water rights of Protestants for power purposes and would depreciate the

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<sup>1</sup> Public record in the office of the State Engineer.

value and potential mining operations on the Edgemont Mining Claims owned by Protestants.

5. That granting this Application would impair the value of existing water rights of Protestants for irrigation, stock water and domestic use and would cause a loss to Protestants by curtailing their ranching and livestock raising operations.

Wherefore, Protestants pray that the Application be denied, and for such other relief as the State Engineer deems just and proper.

#### FINDINGS OF FACT

##### I.

The applicant and agent, were notified by certified mail on February 8, 1995, to submit additional information to the State Engineer's office regarding consumptive use, specifically, requesting data concerning water conservation measures and amount of water to be recycled. The return receipts were received from the addressees on February 15, 1995 and on February 13, 1995, respectively.<sup>1</sup> It is the responsibility of the applicant or his successor in interest to keep this office informed of applicant's current mailing address. The State Engineer finds that to date the information requested has not been received from the applicant or agent.<sup>2</sup>

#### CONCLUSIONS

##### I.

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

##### II.

Before either approving or rejecting an application, the State Engineer may require such additional information as will enable him to guard the public interest properly.<sup>4</sup>

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<sup>2</sup> A check of the records of the State Engineer indicates that no information has been received.

<sup>3</sup> NRS Chapters 533 and 534.

<sup>4</sup> NRS 533.375.

III.

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

- A. There is no unappropriated water at the proposed source, or
- B. The proposed use conflicts with existing rights, or
- C. The proposed use threatens to prove detrimental to the public interest.

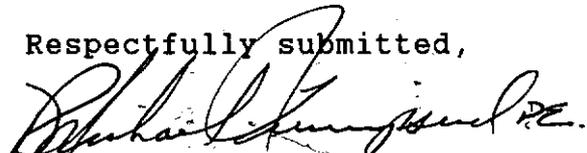
IV.

The applicant has failed to submit the information requested to the State Engineer's Office. Therefore, sufficient information is not available for the State Engineer to guard the public interest properly.

RULING

Application 25535 is hereby denied on the grounds that the applicant has not submitted the information requested by the State Engineer's Office. The granting of said application without the additional information requested would not be in the public interest. No finding is made on the protest.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/DJL/pm

Dated this 5th day of  
July, 1995.

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<sup>5</sup> NRS Chapter 533.370(3).