

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

IN THE MATTER OF APPLICATION 43918)
FILED TO APPROPRIATE THE UNDERGROUND)
WATERS OF MARY'S CREEK AREA GROUNDWATER)
BASIN (052), ELKO COUNTY, NEVADA.)

RULING

4737

GENERAL

I.

Application 43918 was filed on June 18, 1981, by Elmer Barrows, and Melvin R. and Rachel S. Jones to appropriate 4.0 cubic foot per second of water from an underground source for geothermal industrial purposes within the SW $\frac{1}{4}$ of Section 33, T.33N., R.52E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 33.¹

II.

On February 4, 1994, the ownership of Melvin R. and Rachel S. Jones' interest in Application 43918 was assigned to Newmont Gold Company in the records of the office of the State Engineer.¹

III.

On June 29, 1995, a letter was received from Newmont Gold Company stating that Newmont Gold Company relinquishes all interest in Application 43918 to Elmer Barrows, co-applicant.¹

FINDINGS OF FACT

I.

By letter dated February 11, 1999, the office of the State Engineer inquired as to whether the applicant was still interested in pursuing Application 43918. The letter was returned by the

¹ File No. 43918, official records in the office of the State Engineer.

U.S. Postal Service marked "Attempted-Not Known". The letter was re-sent and was again returned by the U.S. Postal Service marked "Attempted-Not Known".¹

II.

The State Engineer finds that on two separate occasions, the applicant was requested by the office of the State Engineer to provide said office with evidence of a continued interest in pursuing Application 43918. The State Engineer finds that the applicant was correctly notified at the address of record of the need for additional information. The State Engineer further finds that it is the responsibility of the applicant to keep this office informed of his current mailing address and the failure to provide a current address represents a lack of continued interest in pursuing the application.

CONCLUSIONS

I.

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

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:³

- A. there is no unappropriated water at the proposed source;
- B. the proposed use conflicts with existing rights;
or

² NRS Chapters 533 and 534.

³ NRS § 533.370(3).

- C. the proposed use threatens to prove detrimental to the public interest.

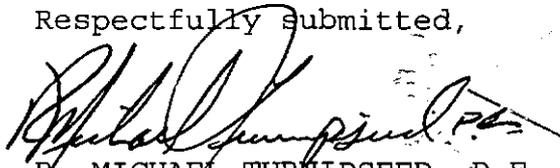
III.

On two separate occasions, the office of the State Engineer sent letters requesting additional information. On both occasions, the letters were returned by the U.S. Postal Service "Attempted-Not Known". The applicant has failed to keep the office of the State Engineer informed of his current mailing address and, therefore, has failed to provide any indication that he intends to pursue the project envisioned under said application. The State Engineer concludes that it threatens to prove detrimental to the public interest to approve an application which the applicant no longer intends to pursue.

RULING

Application 43918 is hereby denied on the grounds that it would threaten to prove detrimental to the public interest to approve an application which the applicant no longer intends to pursue.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MLN/cl

Dated this 2nd day of

June, 1999.