

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

IN THE MATTER OF APPLICATION 46736)
FILED TO APPROPRIATE THE UNDERGROUND)
WATERS OF THE ELKO SEGMENT GROUNDWATER)
BASIN (049), ELKO COUNTY, NEVADA.)

RULING

4738

GENERAL

I.

Application 46736 was filed on March 14, 1983, by Donald E. and Arletta G. Sherlock to appropriate 1.0 cubic foot per second of water from an underground source for commercial greenhouse purposes within the S½ N½ NE¼ of Section 28, T.34N., R.55E., M.D.B.&M. The proposed point of diversion is described as being located within the NW¼ NE¼ of said Section 28.¹

FINDINGS OF FACT

I.

By certified letter dated September 6, 1994, the State Engineer inquired as to whether the applicants were still interested in pursuing application 46736. A properly endorsed receipt for the certified mailing was received in the office of the State Engineer on September 15, 1994. By certified letter dated February 5, 1999, the State Engineer again inquired as to whether the applicants were still interested in pursuing Application 46736. The certified mail receipt was returned by the U.S. Postal Service marked "Insufficient Address". By certified letter dated March 25, 1999, the applicants were again requested to indicate any interest in pursuing said application. A properly

¹ File No. 46736, official records in the office of the State Engineer.

endorsed receipt for the certified mailing was received in the office of the State Engineer on April 2, 1999.

II.

The State Engineer finds that on two separate occasions the applicants were requested by the office of the State Engineer to provide said office with evidence of a continued interest in pursuing Application 46736. The State Engineer finds that the applicants were notified at the current address of record of the need for additional information, and on both occasions the applicants were cautioned that a failure to respond would result in said application being considered for denial. The State Engineer further finds that the applicants failure to respond to his requests for information represents a lack of continued interest in the matter of Application 46736 and said application must be denied.

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;

² NRS Chapters 533 and 534.

³ NRS § 533.370(3).

- B. the proposed use conflicts with existing rights;
or
- C. the proposed use threatens to prove detrimental to
the public interest.

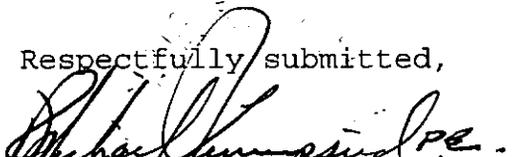
III.

On two separate occasions, the applicants were requested by the office of the State Engineer to provide information concerning any continued interest which they may have in pursuing Application 46736. The applicants were informed on both occasions that a failure to respond to the request would represent a lack of interest in this matter and would result in said application being considered for denial. To date, the applicants have failed to provide any indication that they intend to move forward with 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 applicants no longer intend to pursue.

RULING

Application 46736 is hereby denied on the grounds that it would threaten to prove detrimental to the public interest to approve an application which the applicants no longer intend to pursue.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MLN/cl

Dated this 2nd day of
June, 1999.