

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

IN THE MATTER OF APPLICATION 38387)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE)
WITHIN THE DUCK LAKE VALLEY)
GROUNDWATER BASIN (016), WASHOE)
COUNTY, NEVADA.)

RULING

#4873

GENERAL

I.

Application 38387 was filed on June 20, 1979, by Melvin A. and Mary Stevenson to appropriate 1.5 cubic feet per second of water from an underground source for irrigation and domestic purposes within 151 acres of land located within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 2, portions of the SE $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 3, NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 10, the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 11 all within T.36N., R.18E., M.D.B.&M., and portions of Tracts 37 and 38 of a dependent resurvey. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 3, T.36N., R.18E., M.D.B.&M.¹

FINDINGS OF FACT

I.

By letter dated October 12, 1999, the applicants and their agent were requested by the office of the State Engineer to provide evidence of a continued interest in pursuing Application 38387. The applicants were allowed thirty days from the date of the letter to submit the requested information to the State Engineer's office with the caution that their failure to timely do so would result in the denial of Application 38387. A properly endorsed receipt for the certified mailing to the applicants' agent was timely received in the office of the State Engineer. The envelope containing the certified notice to the applicants was

¹ File Number 38387, official records in the office of the State Engineer.

returned to the office of the State Engineer on October 15, 1999, marked with the notation, "Deceased". The State Engineer finds that one or perhaps both of the applicants under Application 38387 are deceased.

II.

The applicants were requested by certified letter dated October 12, 1999, to provide the State Engineer with evidence of a continued interest in pursuing Application 38387. The applicants were also cautioned that a failure to timely submit this information would result in the denial of the application. It is unclear, based upon the notation found on the returned envelope, whether one or both of the applicants are deceased. An examination of the records of the office of the State Engineer failed to locate any request by a surviving partner or any successor in interest to update the ownership or address records associated with Application 38387. To this date, no response to the State Engineer's request for information has been received in the State Engineer's office. The State Engineer finds that the applicants' failure to submit the necessary information allows Application 38387 to be considered for denial.

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.

The State Engineer concludes that the applicants, their agent and any possible successors have failed to provide evidence of a continued interest in Application 38387, therefore, said application must be denied.

RULING

Application 38387 is hereby denied on the grounds that the applicants have failed to provide evidence of a continued interest in pursuing said application, and without this information granting the application would threaten to prove detrimental to the public interest.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.

State Engineer

RMT/MDB/cl

Dated this 8th day of
March, 2000.