

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

IN THE MATTER OF APPLICATIONS )  
35006, 35007, AND 35008 FILED TO )  
APPROPRIATE THE PUBLIC WATERS )  
OF SPRING SOURCES WITHIN THE HOT )  
CREEK VALLEY HYDROGRAPHIC )  
BASIN (156), NYE COUNTY, NEVADA. )

RULING  
**# 5218**

GENERAL

I.

Application 35006 was filed on February 16, 1978, by Chet Meyer, to appropriate 1.0 cubic foot per second (cfs) of water from Cress Spring for irrigation and domestic purposes. The place of use is 120 acres within the S $\frac{1}{2}$  SE $\frac{1}{4}$  of Section 23 and the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 24, T.8N., R.49E., M.D.B.&M. The point of diversion is described as being located within the SW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 22, T.8N., R.49E., M.D.B.&M.<sup>1</sup>

II.

Application 35007 was filed on February 16, 1978, by Chet Meyer, to appropriate 1.0 cfs of water from Pat Spring for irrigation purposes. The place of use is 120 acres within the S $\frac{1}{2}$  SE $\frac{1}{4}$  of Section 23 and the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 24, T.8N., R.49E., M.D.B.&M. The point of diversion is described as being located within the NE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 21, T.8N., R.49E., M.D.B.&M.<sup>2</sup>

III.

Application 35008 was filed on February 16, 1978, by Chet Meyer, to appropriate 2.03 cfs of water from Upper Warm Spring for irrigation purposes. The place of use is 120 acres within the S $\frac{1}{2}$  SE $\frac{1}{4}$  of Section 23 and the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 24, T.8N., R.49E., M.D.B.&M. The point of diversion is described as being located within the SE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 21, T.8N., R.49E., M.D.B.&M.<sup>3</sup>

<sup>1</sup> File No. 35006, official records in the Office of the State Engineer.

<sup>2</sup> File No. 35007, official records in the Office of the State Engineer.

<sup>3</sup> File No. 35008, official records in the Office of the State Engineer.

**IV.**

Applications 35006, 35007, and 35008 were timely protested by the U.S.D.I. Bureau of Land Management (BLM) primarily on the grounds that approval of the applications would harm the riparian habitat around the springs and that the applicant has not obtained any permits to develop the springs or convey the water across public or private lands.<sup>1,2,3</sup>

**V.**

Applications 35006, 35007, and 35008 were timely protested by Colvin and Son primarily on the grounds that vested rights for stockwatering and irrigation is claimed on the springs and Cress Spring is located on land owned by the protestant.<sup>1,2,3</sup>

**FINDINGS OF FACT**

**I.**

The applicant and agent were notified by certified mail dated December 4, 2002, to advise this office in writing if it was interested in pursuing Applications 35006, 35007, and 35008. The applicant and agent were warned that failure to respond within 30 days would result in denial of the applications. The certified letters were returned by the U. S. Postal Service to the Office of the State Engineer stamped "Returned To Sender".<sup>1</sup> To date, no information on this matter has been submitted to the State Engineer's Office. The State Engineer finds that the applicant and its agent were properly notified of the request for additional information regarding Applications 35006, 35007, and 35008.

**II.**

The State Engineer finds that it is the responsibility of the applicant, its agent, or their successor in interest, to keep this office informed of a current mailing address.

**III.**

The State Engineer finds that there has been no correspondence from the applicant regarding Applications 35006, 35007, and 35008 for at least 24 years.<sup>1</sup>

## CONCLUSIONS

### I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>4</sup>

### II.

Before either approving or rejecting an application, the State Engineer may require such additional information as will enable him to properly guard the public interest.<sup>5</sup>

### III.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:<sup>6</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.

### IV.

The applicant and agent were properly notified of the requirement for additional information concerning these applications and have failed to submit the information to the State Engineer's Office. The State Engineer concludes that the failure to express any interest in these applications for over 24 years and failure to maintain a current address demonstrates the applicant's lack of interest in pursuing Applications 35006, 35007, and 35008. The State Engineer concludes it would threaten to prove detrimental to the public interest to issue permits under applications for which no interest is expressed.

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<sup>4</sup> NRS chapter 533.

<sup>5</sup> NRS § 533.375.

<sup>6</sup> NRS § 533.370(3).

RULING

Applications 35006, 35007, and 35008 are hereby denied on the grounds their issuance would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protests.

Respectfully submitted,



HUGH RICCI, P.E.  
State Engineer

HR/TW/jm

Dated this 19th day of  
February, 2003.