

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

IN THE MATTER OF APPLICATION     )  
37010 FILED TO APPROPRIATE     )  
THE PUBLIC WATERS OF AN         )  
UNDERGROUND SOURCE WITHIN     )  
THE THOUSAND SPRING VALLEY     )  
MONTELLO-CRITTENDEN CREEK     )  
AREA HYDROGRAPHIC BASIN       )  
(189(D)), ELKO COUNTY, NEVADA.   )

**RULING**  
**#5365**

**GENERAL**

**I.**

Application 37010 was filed on March 14, 1979, by Michael Kay Kimber, to appropriate 5.0 cubic feet per second of water from an underground source for irrigation purposes in support of a Desert Land Entry. The proposed place of use is described as being 240 acres located within the S½ NE¼, SE¼ of Section 34, T.40N., R.69E., M.D.B.&M. The point of diversion is described as being located within NE¼ NW¼ of Section 34, T.40N., R.69E., M.D.B.&M.<sup>1</sup>

**FINDINGS OF FACT**

**I.**

The applicant and his agent were notified by certified mail dated December 16, 2003, to submit additional information regarding Application 37010 to the State Engineer's office. The applicant was warned that failure to respond within 30 days would result in denial of the application. The certified letter to the applicant was returned to the Office of the State Engineer by the U.S. Postal Service stamped "PO Box # Required for Delivery in Wells NV 89835". A review of Application 37010 shows there is no post office box listed for the applicant. Rather, the address listed on the application is the agent's address. A properly endorsed certified mail receipt from the applicant's agent was received in the Office of the State Engineer on December 22, 2003. To date, the applicant and his agent have expressed no interest in pursuing this application and have not submitted the additional information requested.<sup>1</sup> The State Engineer finds that

---

<sup>1</sup> File No. 37010, official records in the Office of the State Engineer.

the applicant and his agent were properly notified of the request for additional information regarding interest in pursuing Application 37010 and have failed to respond.

**II.**

The State Engineer finds that there has been no correspondence from the applicant for over 18 years.<sup>1</sup> The State Engineer finds that it is the responsibility of the applicant or his agent to keep this office advised of a current mailing address.

**CONCLUSIONS**

**I.**

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>2</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>3</sup>

**III.**

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:<sup>4</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 his agent were properly notified of the requirement for additional information 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 the application for over 18 years and the failure to submit requested information demonstrates the applicant's lack of interest in pursuing Application 37010. The State

---

<sup>2</sup> NRS chapters 533 and 534.

<sup>3</sup> NRS § 533.375.

<sup>4</sup> NRS § 533.370(4).

Engineer concludes it would threaten to prove detrimental to the public interest to issue a permit under these circumstances.

**RULING**

Application 37010 is hereby denied on the grounds its issuance would threaten to prove detrimental to the public interest.

Respectfully submitted,



HUGH RICCI, P.E.  
State Engineer

HR/TW/jm

Dated this 8th day of  
June, 2004.