

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

IN THE MATTER OF APPLICATION )  
67876 FILED TO CHANGE THE POINT )  
OF DIVERSION, PLACE AND MANNER )  
OF USE OF A PORTION OF WATER )  
FROM AN UNDERGROUND SOURCE )  
PREVIOUSLY APPROPRIATED UNDER )  
PERMIT 45313, WITHIN THE TRACY )  
SEGMENT HYDROGRAPHIC BASIN )  
(83), STOREY COUNTY, NEVADA. )

**RULING**

**#6136**

**GENERAL**

**I.**

Application 67876 was filed on August 1, 2001, by Charles C. Chisholm c/o Nevada Hydrocarbon, Inc. to change the point of diversion, manner and place of use of 0.1051 cubic feet per second or 2.084 million gallons annually, a portion of water previously appropriated under Permit 45313. The source of water is from an underground source and the proposed manner of use is for industrial purposes. The proposed place of use is described as being located within portions of the NW $\frac{1}{4}$  NW $\frac{1}{4}$  and the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 14, and the SE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 11, all in T.19N., R.21E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 11, T19N., R.21E., M.D.B.&M.<sup>1</sup>

**FINDINGS OF FACT**

**I.**

By letter dated March 5, 2003, the Office of the State Engineer requested information from the Applicant's agent due to a conflict of ownership of the water rights described by this change application. A second letter was sent on March 21, 2005, requesting additional documentation to support the original deed package submitted. No further information was received by the Office of the State Engineer to refute the initial finding so the ownership of the water right sought to be changed has not been changed.

By certified letter to the Applicant's agent dated May 6, 2011, the Office of the State Engineer requested information as to whether the Applicant still had an interest in pursuing the application and documentation to support ownership of the water right sought to be changed.

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<sup>1</sup> File No. 67876, official records in the Office of the State Engineer.

The letter assigned a 60-day time frame to submit the requested information and indicated that failure to do so would subject the application to denial. The receipt for the certified letter to the agent was signed on May 9, 2011, and returned by the U.S. Postal Service to the Office of the State Engineer. A copy of the letter was also sent to the Applicant. An e-mail from the Applicant's agent received on May 10, 2011, stated that they had been discharged as agent for Nevada Hydrocarbon and the successors-in-interest to Mr. Chisholm's water rights and were no longer serving as the agent for the Applicant.

To this date, no paperwork has been submitted to the Office of the State Engineer by any of the involved parties to substantiate ownership or to give this office further information with which to act on Application 67876.

### **CONCLUSIONS**

#### **I.**

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

#### **II.**

Before either approving or rejecting an application, the State Engineer may require such additional information from the applicant 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 a change application that requests to appropriate the public waters 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 has failed to submit the information requested by the Office of the State Engineer. The State Engineer concludes that without the additional data, sufficient information

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

<sup>3</sup> NRS § 533.375.

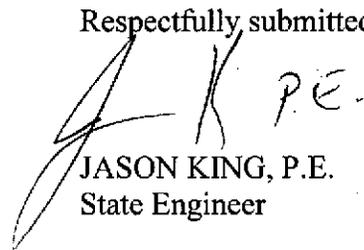
<sup>4</sup> NRS § 533.370(5).

is not available to properly guard the public interest. The State Engineer concludes to grant a water right to an applicant who does not express the intent to go forward with the project or has failed to prove ownership interest in said water right would threaten to prove detrimental to the public interest.

**RULING**

Application 67876 is hereby denied on the grounds that its approval would threaten to prove detrimental to the public interest.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J.K. P.E.', is written over the typed name. The signature is stylized and somewhat cursive.

JASON KING, P.E.  
State Engineer

Dated this 5th day of  
August, 2011.