

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

IN THE MATTER OF APPLICATION 58487)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF KIOUS SPRING LOCATED WITHIN)
THE SNAKE VALLEY GROUNDWATER BASIN)
(195), WHITE PINE COUNTY, NEVADA.)

RULING

4690

GENERAL

I.

Application 58487 was filed on January 19, 1993, by the Baker General Improvement District to appropriate 0.1114 cubic feet per second (cfs) of water from Kious Spring for quasi-municipal and domestic purposes within Sections 11, 12, 13 and 24, T.13N., R.69E., M.D.B.&M. and Sections 4, 5, 6, 7, 8, 9, 16, 17, 18, 19, 20, 21, 28 and 29, T.13N., R.70E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 19, T.13N., R.70E., M.D.B.&M.¹

FINDINGS OF FACT

I.

Application 7245 was filed on November 9, 1924, by Glen A. Bellander to appropriate 0.05 cfs of water from Kious Spring for stockwatering purposes. Certificate 1336 was issued under Permit 7245 on February 27, 1928, for 0.0156 cfs or sufficient water for 2,500 sheep. Ownership of Permit 7245 was assigned to Wayne D. Gonder in the records of the State Engineer on January 13, 1994. The State Engineer finds that 0.0156 cfs of the flow of water

¹ File No. 58487, official records in the office of the State Engineer.

from Kious Spring is currently committed under a certificated water right permit.²

II.

On August 6, 1998, an informal field investigation was conducted by personnel from the office of the State Engineer at the proposed point of diversion. The purpose of the investigation, was to determine if water was available for appropriation under Application 58487. At the time of the field investigation no measurable flow was observed leaving the spring area and it was the recommendation of the investigating party that Application 58487 be denied on the grounds that there was no additional water available for appropriation from Kious Spring.¹ The State Engineer finds based upon the observations made during the August 1998 field investigation that by late summer, the flow of Kious Spring is reduced to a point where there is no surface water available for appropriation, above and beyond that already committed under Permit 7245, Certificate 1336.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.³

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:⁴

² File No. 7245, official records in the office of the State Engineer.

³ NRS Chapter 533.

⁴ NRS § 533.370.

- A. there is no unappropriated water at the proposed source;
- B. the proposed use conflicts with existing rights; or
- C. the proposed use threatens to prove detrimental to the public interest.

III.

Application 58487 requests an additional appropriation of water from a spring source whose limited flow is fully appropriated under Permit 7245, Certificate 1336. The State Engineer concludes that there is no additional water available for appropriation from Kious Spring, therefore, Application 58487 must be denied.

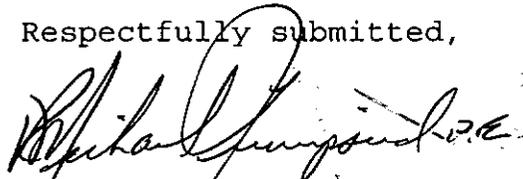
IV.

The flow of Kious Spring is currently fully committed under an existing certificated water right permit. The State Engineer concludes that the approval of Application 58487 would conflict with an existing water right on the same source.

RULING

Application 58487 is hereby denied on the grounds that there is no unappropriated water at the source and that its approval would conflict with an existing water right.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.

State Engineer

RMT/MDB/cl

Dated this 15th day of
December, 1998.