

IN THE MATTER OF APPLICATION 41198)
TO APPROPRIATE THE WATER FROM)
WILDCAT SPRING FOR IRRIGATION AND)
DOMESTIC PURPOSES BY ROBERT E. AND)
VELDA J. BRITTON WITHIN WARM)
SPRINGS VALLEY, WASHOE COUNTY,)
NEVADA.)

RULING

GENERAL

Application 41198 was filed on April 29, 1980, by Robert E. and Velda J. Britton to appropriate 0.25 c.f.s. of water from Wildcat Spring for irrigation and domestic purposes.¹ The point of diversion is described as being within the NE1/4 NE1/4 of Section 30, T.21N., R.22E., M.D.B.&M., and the place of use is 40 acres within the N1/2 of Section 30, T.21N., R.22E., M.D.B.&M. The period use is from January 1st to December 31st of each year.

FINDINGS OF FACT

I.

Cottonwood Creek, located in Warm Springs Valley, is a perennial stream fed by snow accumulation and springs from nearby mountains.

II.

Wildcat Spring, identified as the source of water in Application 41198, is part of the headwaters of Cottonwood Creek.²

III.

Existing certificated and permitted water rights of record for Cottonwood Creek, located in Warm Springs Valley, Washoe County, Nevada, are as follows:

1. Permit 15326, Certificate 5055, was issued for 590 acre-feet per annum of flood waters for irrigation of 159.71 acres.³ The period of use is from January 1 to December 31. The owner of record is Pratt Properties, Inc.

¹ Public record in the office of the State Engineer under Application to Appropriate 41198.

² Public record in the office of the State Engineer under memo dated July 9, 1984, filed in Application to Appropriate 41198. USGS 7.5 Minute Quadrangle Map - Spanish Peak, Nevada, dated 1980.

³ Public record in the office of the State Engineer under Permit 15326, Certificate 5055.

2. Permit 40829 was issued for 0.25 c.f.s. for irrigation and domestic purposes.⁴ The period of use is from January 1 to December 31. The owner of record is Howard C. and Judith E. Strasser.
3. Permit 40830 was issued for 0.25 c.f.s. for stockwatering purposes.⁵ The period of use is from January 1 to December 31. The owner of record is Howard C. and Judith E. Strasser.

IV.

It appears, as a result of examination of office records and field investigation, there is likelihood of processing claims of vested rights for stockwatering and/or irrigation from Cottonwood Creek at such time as an adjudication procedure is initiated.

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action.⁶

II.

The State Engineer is prohibited by statute from granting a permit where:⁷

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

III.

Approval of Application 41198 would allow diversion of water upstream from all existing rights of record on Cottonwood Creek and cause a substantial decrease in a primary spring source for the stream.

⁴ Public record in the office of the State Engineer under Permit 40829.

⁵ Public record in the office of the State Engineer under Permit 40830.

⁶ NRS 533.325.

⁷ NRS 533.370, subsection 3.

RULING

Application 41198 is hereby denied on the grounds that it would conflict with and impair existing rights on the source and be detrimental to the public interest.

Respectfully submitted



Peter G. Morros
State Engineer

PGM/GC/bl

Dated this 8th day of
AUGUST, 1984.