

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

IN THE MATTER OF APPLICATIONS 17316, 17317)
AND 17330 FILED TO APPROPRIATE THE PUBLIC)
WATERS OF ASPEN SPRINGS, INDIAN ROCK)
SPRINGS AND GRANITE SEEPS, RESPECTIVELY)
WITHIN THE CARSON VALLEY GROUND WATER)
BASIN (105), DOUGLAS COUNTY, NEVADA.)

RULING
4202

GENERAL

I.

Application 17316 was filed on June 26, 1957, by Frank H., Ida M., Franklin H., Florence M. and John M. Baker and Helen B. Currie to appropriate 1.0 c.f.s. of water from Aspen Springs (several springs) for mining, milling and domestic purposes within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 20, T.13N., R.19E., M.D.B.&M. The point of diversion is described as being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 20, T.13N., R.19E., M.D.B.&M.¹

II.

Application 17317 was filed on June 26, 1957, by Frank H., Ida M., Franklin H., Florence M. and John M. Baker and Helen B. Currie to appropriate 0.5 c.f.s. of water from Indian Rock Springs for mining, milling and domestic purposes within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 20, T.13N., R.19E., M.D.B.&M. The point of diversion is described as being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 20, T.13N., R.19E., M.D.B.&M.¹

III.

Application 17330 was filed on July 12, 1957, by Frank H., Ida M., Franklin H., Florence M. and John Baker and Helen B. Currie to appropriate 1.0 c.f.s. of water from Granite Seeps for mining, milling and domestic purposes within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 20, T.13N., R.19E., M.D.B.&M. The point of diversion is described as being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 20, T.13N., R.19E., M.D.B.&M.¹

¹ Public record in the office of the State Engineer.

IV.

Application 17316, 17317 and 17330, were protested by Milton Edward Bacon on October 30, October 30, and October 21, 1957, respectively on the following grounds:

That the said Aspen Springs, Indian Rock Spring and Granite Seeps are tributaries to what is sometimes known as Daggett, Haines, or Kingsbury Creek, and that the waters from the sources applied for are a part or portion of said Creek; that the undersigned protestant has the vested rights to the use of all the waters of said Creek for Irrigation, domestic and stockwatering purposes, with the exception of those portions of water from said Creek which is allocated and proportionally shared with Ernest Bartels, Frederick Ruppel, and except for a certain amount used by George Roulette on his property; that the undersigned protestant and his predecessors have used and beneficially applied the waters of said Creek, including all its tributaries, since the year 1857; that there is no surplus or unappropriated water of said springs or in said spring system; that the undersigned protestant owns and irrigates portions of over 335 acres in Sections 26 and 27, located in T.13N., R.19E., M.D.B.&M.

The undersigned further requests that until such rights have been determined by the adjudication of the stream system, no water applications shall be granted.

Wherefore protestant prays that the application be denied.

V.

The protestant, Milton Edward Bacon, was notified by certified mail on March 25, 1994, to inform the State Engineer in writing if protestant wanted to continue the processing of protests previously filed in 1957, for Application 17316, 17317 and 17330.² The letter assigned a 30 day time limit to notify the State Engineer of protestant's intent regarding protest processing. A properly

² See certified mail, return Receipt No. P 398 485 790.

endorsed notice of receipt is on file in the office of the State Engineer.¹ Milton Edward Bacon, the protestant, submitted a letter on March 31, 1994, withdrawing the protest to Application 17316, 17317 and 17330.¹ The State Engineer finds that protests to the granting of Application 17316, 17317 and 17330 were withdrawn.

FINDINGS OF FACT

I.

The applicants, Bakers and Currie and agent, J. A. Miller, were notified by certified mail on March 25, 1994, to submit additional information to the State Engineer's office regarding consumptive use, specifically requesting data concerning water conservation measures and amount of water to be recycled. The certified notice to the applicants was returned by the U.S. Postal Service labelled "No Such Number" and "Attempted - Not Known."³ The certified notice to agent J. A. Miller was returned by the U.S. Postal Service labelled "Attempted - Not Known."⁴ The notice assigned a 30 day time limit to submit the required information. The State Engineer finds that to date the information requested has not been received from the applicant.⁵

CONCLUSIONS

I.

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

II.

Before either approving or rejecting an application, the State Engineer may require such additional information as will enable him to guard the public interest properly.⁷

³ See Certified Mail, return Receipt No. P 398 485 788.

⁴ See Certified Mail, return Receipt No. P 398 485 789.

⁵ A check of the records of the State Engineer indicates that no information has been received.

⁶ NRS Chapters 533 and 534.

⁷ NRS 533.375.

III.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:⁸

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

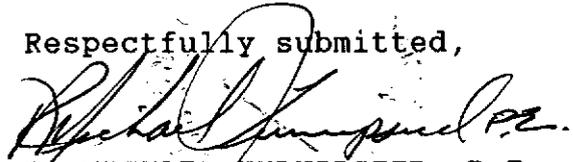
IV.

The applicant has failed to submit the information requested to the State Engineer's Office. Therefore, sufficient information is not available for the State Engineer to guard the public interest properly.

RULING

Applications 17316, 17317 and 17330 are hereby denied on the grounds that the applicant has not submitted the information requested by the State Engineer's Office and, therefore, the granting of said applications without the additional information requested would not be in the public interest. No findings is made on the validity of the protests.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/DJL/pm

Dated this 5th day of
July, 1995.

⁸ NRS Chapter 533.370(3).