

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

IN THE MATTER OF APPLICATION 42067)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE SNAKE VALLEY)
HYDROGRAPHIC BASIN (195), WHITE)
PINE COUNTY, NEVADA.)

RULING
5237

GENERAL

I.

Application 42067 was filed on August 15, 1980, by Steven J. Anderton to appropriate 5.6 cubic feet per second of water from an underground source for irrigation purposes. The proposed place of use is 320 acres described as being located within Lots 2, 3, 4, 5, 6, 7, 8, 9, and 12 of Section 1, T.12N., R.70E., M.D.B.&M. The proposed point of diversion is described as being located within Lot 4 of said Section 1.¹

II.

The application was timely protested by Fredrick Baker of Baker Ranches, Inc., on the grounds that, "The granting of this application would conflict and interfere with existing prior water rights in the area."¹

FINDINGS OF FACT

I.

A review of records in the Office of the State Engineer indicates that Application 42067 was filed in support of a Desert Land Entry (N-29654).¹ The United States Department of the Interior, Bureau of Land Management notified the State Engineer that the Desert Land Entry Application has been closed and the proposed place of use classified as unsuitable for agricultural development.¹ The State Engineer

¹ File No. 42067, official records in the Office of the State Engineer.

finds the applicant does not own or control the land described as under the place of use of the application.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.²

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:³

- 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.

III.

Application 42067 was filed in support of a Desert Land Entry Application that has been rejected by the BLM; therefore, the applicants do not own or control the land described as the place of use under the application and cannot demonstrate the ability to place the water to beneficial use. The State Engineer concludes that to grant an application to appropriate the public waters for irrigation on lands the applicant does not own or control or where the applicant cannot demonstrate the ability to place the water to beneficial use would not be in the public interest.

² NRS chapters 533 and 534.

³ NRS § 533.370(3).

RULING

Application 42067 is hereby denied on the grounds its issuance would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protest.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/TW/jm

Dated this 9th day of
May, 2003.