

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

IN THE MATTER OF APPLICATION)
49933 FILED TO APPROPRIATE)
PUBLIC WATER FROM A SURFACE)
SOURCE WITHIN THE CARSON VALLEY)
HYDROGRAPHIC BASIN (105),)
DOUGLAS COUNTY, NEVADA.)

RULING

#5851

GENERAL

I.

Application 49933 was filed on June 19, 1986, by Margaret Bay, Trustee for Margaret Bay Trust to appropriate 0.10 cubic feet per second (cfs) of water from No Name Spring within the Carson Valley Hydrographic Basin for quasi-municipal and domestic purposes. The proposed place of use is described as being located within the SE $\frac{1}{4}$ NE $\frac{1}{4}$, and the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 4, T.13N., R.19E., M.D.B.&M. or Lot 4 of the Genoa Estates subdivision. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 4, T.13N., R.19E., M.D.B.&M.¹

II.

Application 49933 was timely protested by the Genoa Cemetery Board, Rufus Adams, President on the following grounds:

Protestant is the owner of all water flowing from the Un-Named Spring, the subject of Application 49933. Protestant claims a vested right to all the waters of the flow. Protestant is the successor in interest to the Haines Ranch, which ranch first appropriated the waters of the Un-Named Spring more than 100 years ago.

FINDINGS OF FACT

I.

By certified letter dated July 31, 2007, to the Applicant, the Office of the State Engineer made request as to whether there was still an interest in pursuing the application. The letter assigned a 30-day time frame to submit the requested information

¹ File No. 49933, official records in the Office of the State Engineer.

or the application would be subject to denial. The signed certified letter receipt was received in the Office of the State Engineer on August 9, 2007. A letter from the Applicant was timely received in the Office of the State Engineer on August 27, 2007, expressing that the Applicant intends to pursue the application.

Once a water right application is protested, its progress through the State Engineer's permitting process is stopped until there is a resolution to the protest. In the case of Application 49933, resolution of the protest was accomplished through a field investigation conducted by representatives of the State Engineer's office on September 14, 2007.

On September 14, 2007, a field investigation² was conducted. The spring and collection box were located and the flow was measured. The collection box was made of concrete and in good condition. The iron output pipe has been modified; a section of iron pipe has been removed and replaced with PVC pipe and a bypass valve as shown in the field investigation report. The State Engineer finds that the flow out of the bypass valve was measured at 4 gallons per minute or 0.0089 cfs.

II.

After review of the records of the Office of the State Engineer, the State Engineer finds that there are existing rights on this spring source as illustrated in the table below:

Water Right	Owner	Status	Acres	Duty(AFA)	(cfs)
22869	Margaret Bay Trust	Certificate		0.41	0.003 3
V02659	Genoa Cemetery Association	Proof of Appropriation	8.55	34.2	0.5
V03298	Rufus W. Adams	Proof of Appropriation			

² See Field Investigation No. 1083

V04642	Rufus W. Adams	Proof of Appropriation	4.7	18.8	0.5
V04643	Rufus W. Adams	Proof of Appropriation	75.88		0.5

The investigation revealed three non adjudicated claims of vested right use and one certificated right that currently require more flow than No Name Spring is producing.³ The State Engineer finds the field investigation concluded that the flow from No Name Spring does not produce adequate flow to satisfy Application 49933.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁴

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:⁵

- 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.

The State Engineer concludes that there is no unappropriated water at the proposed source and therefore Application 49933 is subject to denial.

³ Field Investigation No. 1083, official records in the Office of the State Engineer.

⁴ NRS chapters 533 and 534.

⁵ NRS § 533.370(5).

RULING

The protest is upheld in part and Application 49933 is hereby denied on the grounds that there is insufficient water at the source.

Respectfully submitted,



TRACY TAYLOR, P.E.
State Engineer

TT/KMH/jm

Dated this 16th day of
May, 2008.