

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

IN THE MATTER OF APPLICATION 56012)
FILED TO APPROPRIATE THE PUBLIC)
WATERS FROM AN UNNAMED SPRING)
WITHIN THE LEMMON VALLEY)
HYDROGRAPHIC BASIN (92-A) WASHOE)
COUNTY, NEVADA.)

RULING

#6077

GENERAL

I.

Application 56012 was filed on March 20, 1991, by Paul C. and Mary H. Hofmann to appropriate 0.10 cubic feet per second of water from an unnamed spring for irrigation and domestic purposes. The proposed place of use is described as being located within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 11, T.20N., R.18E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 11.¹

FINDINGS OF FACT

I.

Application 56012 proposes to divert water from what it indicates is an unnamed spring located within the hydrologic boundaries of the Lemmon Valley Hydrographic Basin.

On September 17, 1993,² personnel from the Office of the State Engineer visited the source and observed that the "spring" was dry. It was then recommended the site be visited in one year. By letter dated September 3, 2009, the State Engineer inquired as to whether the Applicant was still interested in the application.¹ On September 11, 2009, Mr. Hofmann called the Office of the State Engineer and indicated that he was still interested in pursuing the application. He was advised a field investigation would be conducted in the Spring of 2010. A second field investigation was performed on May 12,

¹ File No. 56012, official records in the Office of the State Engineer.

² See, Report of Field Investigation No. 1127, File No. 56012, official records in the Office of the State Engineer.

2010.³ At that time, the pit at the source was half full of water; however, it was noted that no inflow or outflow was observed, which would indicate the source is not a flowing spring. It was noted that the site consists of a pit measuring 8' by 15' that is about 6' deep containing about 3' of water and that the source appears to be nothing more than a pit that was apparently excavated in a soggy spot in the meadow and allowed to fill with groundwater, the level of which is relatively near the surface of the ground. The State Engineer finds the source of the water is not an unnamed spring, but rather groundwater that seeps to the surface due to the excavation.

II.

The Lemmon Valley Hydrographic Basin is a groundwater basin that has been of much concern to many State Engineers for decades. The basin was first designated pursuant to State Engineer's Order No. 391 on July 14, 1971, as a basin in need of additional administration. The State Engineer has consistently denied applications for new appropriations of water in Lemmon Valley due to the fact that annual recharge is not adequate to meet the demands of existing water rights, much less new appropriations.⁴ In State Engineer's Ruling No. 2209, the State Engineer recognized the critical nature of the groundwater resource development in Lemmon Valley and pursued a policy of strict regulation of water rights. By State Engineer's Order No. 388, issued in May 1971, the State Engineer issued a moratorium on the issuance of any new permits in Lemmon Valley. The State Engineer finds that the groundwater that either seeps into this pit and the water caught by the pit that then seeps into the groundwater basin are necessary to appropriation by existing water rights in the basin. The State Engineer finds there is no unappropriated water in the basin and to issue a permit under this application would interfere with existing rights.

³ See, Report of Field Investigation No. 1127, File No. 56012, official records in the Office of the State Engineer.

⁴ See, State Engineer's Ruling Nos. 1837 and 1838 dated April 26, 1972, Ruling No. 2209, dated April 15, 1977, Ruling No. 2271, dated November 8, 1976, Ruling No. 2385, dated August 7, 1978, Ruling No. 2540, dated May 2, 1980, Ruling No. 2570, dated July 11, 1980, Ruling No. 2638, dated April 27, 1981, Ruling No. 2708, dated August 24, 1981, Ruling No. 2748, dated February 3, 1982, Ruling No. 5302, dated October 17, 2003, official records in the Office of the State Engineer.

III.

The Applicant has applied to use this water for the irrigation of four acres of land. The pit measured 8' by 15' and was about 3' deep at the time of one field investigation and was dry at the time of another field investigation. In northern Nevada, irrigation water rights are issued at a total duty of 4 acre feet per acre; therefore, the quantity of water in this pit is not even sufficient to irrigate a piece of land 8' by 15' and if the water was withdrawn from this pit it appears that it would quickly empty and dry up. The State Engineer finds there is insufficient water at the source for the proposed use.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁵

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:⁶

- 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 water at the source sufficient to satisfy the requirements of the requested appropriation and that to issue a permit under the application would interfere with existing rights and threaten to prove detrimental to the public interest.

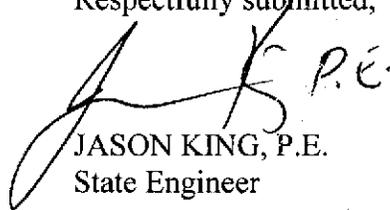
⁵ NRS Chapters 533 and 534.

⁶ NRS § 533.370(5).

RULING

Application 56012 is hereby denied on the grounds that there is no unappropriated water in the source, the water at the source is insufficient to satisfy the requested appropriation, and that granting thereof would threaten to prove detrimental to the public interest.

Respectfully submitted,


JASON KING, P.E.
State Engineer

Dated this 6th day of
December, 2010.