

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

IN THE MATTER OF APPLICATION 81067 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS OF SIEGEL CREEK WITHIN THE )  
SPRING VALLEY HYDROGRAPHIC BASIN )  
(184), WHITE PINE COUNTY, NEVADA. )

**RULING**  
**#6232**

**GENERAL**

**I.**

Application 81067 was filed on August 12, 2011, by the Southern Nevada Water Authority to appropriate 0.40 cubic feet per second (cfs), not to exceed 290 acre-feet annually (afa), of the waters of Siegel Creek for irrigation of 72.5 acres of land from January 1<sup>st</sup> to December 31<sup>st</sup> of each year. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 31, T.22N., R.66E., M.D.B.&M. The proposed place of use is described as being located within the NW $\frac{1}{4}$  of Section 9, T.21N., R.66E., M.D.B.&M.<sup>1</sup>

**II.**

Application 81067 was timely protested by Ely Shoshone Tribe, Confederated Tribes of the Goshute Reservation, Duckwater Shoshone Tribe on many grounds, including the assertion that there is insufficient water in the proposed source of supply and the use of the water would conflict with existing rights.<sup>1</sup>

**III.**

Application 81067 was timely protested by the Great Basin Water Network on many grounds including that the use of the water would conflict with existing rights.<sup>1</sup>

**IV.**

Application 81067 was timely protested by Kim G. Bundy (Clarence A. Bundy Family Trust) on the grounds that there is insufficient water in the drainage to allow additional water rights due to insufficient and inconsistent drainage to satisfy their existing water rights under Permit 3433 and Claim of Vested Right V-01686.<sup>1</sup>

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<sup>1</sup> File No. 81067, official records in the Office of the State Engineer.

**V.**

Application 81067 was timely protested by the White Pine County-District Attorney's Office and the United States Department of the Interior, Bureau of Land Management on grounds not related; tax issues, rural economics, oil and gas leasing, mining claims, and grazing permits.<sup>1</sup>

**FINDINGS OF FACT**

**I.**

Nevada Revised Statute § 533.365(4) provides that it is within the State Engineer's discretion to determine whether a public administrative hearing is necessary to address the merits of a protest to an application to appropriate the public waters of the State of Nevada. The State Engineer finds that sufficient evidence is available in the records of the Office of the State Engineer to evaluate the merits of Application 81067 and its associated protests and a hearing is not necessary.

**II.**

The State Engineer finds that many of the asserted protest grounds are not relevant to the request to appropriate water for the irrigation of 72.5 acres of land and need not be considered as the application is being denied due to the unavailability of water.

**III.**

Before an application to appropriate water from a surface water source can be considered for approval, it must be determined that there is sufficient unappropriated water available at the source and that the proposed appropriation will not conflict with existing water rights. One of the initial steps in making this determination is to identify all active water rights on the source in question. The Office of the State Engineer has created and maintains a water rights database to allow research of existing water rights. A recent review of this database identified two existing water rights on Siegel Creek, being Permit 3433, Certificate 1210, with a diversion rate of 0.726 cfs, a seasonal duty of 261.36 acre-feet from April 1<sup>st</sup> through October 1<sup>st</sup> of each year to irrigate 72.6 acres. The second water right is represented by Claim of Vested Right V-01686, with a calculated minimum diversion rate of 0.55 cfs, and a seasonal duty of 179.6 acre-feet from April 20<sup>th</sup> through September 20<sup>th</sup> of each year to irrigate 44.9 acres. Therefore, the total committed resource of Siegel Creek is 1.278 cfs and 440.96 acre-feet during the common irrigation season from April through October.

Stream flow measurements of Siegel Creek show an average flow rate of 1.1 cfs in the records of the Office of the State Engineer.<sup>2</sup> The State Engineer finds that 1.278 cfs of the flow of Siegel Creek is committed under existing water rights. This gives evidence that Siegel Creek may be fully appropriated.

#### IV.

An inventory of underground, as well as surface water of the Spring Valley Hydrographic Basin was conducted and the *Spring Valley Hydrographic Basin 10-184 NRS § 533.364 Inventory* (Inventory) was published in August 2011.<sup>3</sup> One requirement of the Inventory is to provide a snap-shot in time of the water availability within the groundwater basin, including its surface water sources. The Inventory included Siegel Creek and the Inventory lists 731.21 afa (approximately 1.01 cfs) as the estimated average annual stream flow of Siegel Creek. The State Engineer finds the estimated average annual discharge of 731.21 afa to be overestimated on an annual basis and did not consider lower stream flows outside of the spring freshet, which is significantly less than calculated in the Inventory.

The State Engineer finds that the water claimed under Claim of Vested Right V-01686 and Permit 3433, Certificate 1210, to be the senior most rights on Siegel Creek and must be fulfilled prior to the diversion of water under any junior right such as Application 81067. The State Engineer finds the described point of diversion under Application 81067 is approximately two miles upstream of the point of diversion under Permit 3433, Certificate 1210. The State Engineer finds that an additional appropriation, and in particular one approximately two miles upstream of the point of diversion under Permit 3433, Certificate 1210 would conflict with the existing right.

Based on the record of stream flow data and the existing water rights on the source, the State Engineer finds Siegel Creek to be fully appropriated and that no additional appropriation of water can be considered from this source.

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<sup>2</sup> Nevada Division of Water Resources' Spring and Stream Flow Database, July 10, 2013, available online at [http://water.nv.gov/data/stream\\_flow](http://water.nv.gov/data/stream_flow); official records in the Office of the State Engineer.

<sup>3</sup> *Spring Valley Hydrographic Basin 10-184 NRS § 533.364 Inventory*, August 2011, p. A-100, official records of the Office of the State Engineer.

**CONCLUSIONS**

**I.**

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

**II.**

The State Engineer is prohibited by law from granting a permit under a change application that requests to appropriate public waters where:<sup>5</sup>

- 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 protectable 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.

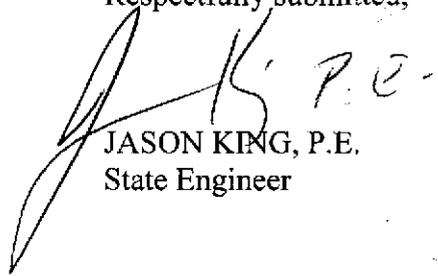
**III.**

The State Engineer concludes that from the stream flow measurements of Siegel Creek, and the committed resource under Claim of Vested Right V-01686 and Permit 3433, Certificate 1210, that Siegel Creek is fully appropriated and no additional water is available for appropriation. In addition, the State Engineer concludes that approval of Application 81067 would conflict with existing water rights.

**RULING**

The protests to Application 81067 are upheld in part and Application 81067 is hereby denied on the grounds that there is no unappropriated water at the source and its approval would conflict with existing rights. No ruling is made on the merits of the remaining protest issues.

Respectfully submitted,



JASON KING, P.E.  
State Engineer

Dated this 6th day of  
August, 2013.

<sup>4</sup> NRS Chapter 533.  
<sup>5</sup> NRS § 533.370(2).