

IN THE MATTER OF APPLICATION 41612)
FILED BY RICHARD AND MORRIS CARPENTER)
TO APPROPRIATE WATER FROM AN UNNAMED)
SPRING IN WHITE PINE COUNTY, NEVADA)

R U L I N G

178 B

INTRODUCTION

Protested Application 41612 was filed to appropriate water from an unnamed spring for irrigation and domestic purposes in White Pine County, Nevada.

FINDINGS OF FACT

I

Application 41612 was filed on June 30, 1980 by Richard and Morris Carpenter to appropriate 0.11 c.f.s. of water from an unnamed spring for irrigation and domestic purposes. The point of diversion is described as within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 35, T.19N., R.61E., M.D.M. The place of use is 10 acres within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ of the said Section 35.

II

Application 41612 is the subject of a timely protest filed on December 5, 1980 by George J. Allen and Julia R. Casole on the following grounds, to wit: "It will impair and conflict with current domestic water use, developed from a tunnel located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 26, T.19N., R.61E., M.D.B.&M. which has been in use since the 1920's."

CONCLUSIONS

I

The State Engineer has jurisdiction of the parties and the subject matter of this action. 1/

II

The State Engineer is required by statute to approve all applications made in proper form where:

- a) All fees have been paid which contemplate the application of water to beneficial use, or
- b) Where the proposed use does not intend to impair the value of existing rights, or
- c) Be otherwise detrimental to the public welfare. 2/

III

There are no other rights of record for the appropriation of water from the source described under Application 41612. 3/

IV

There are no rights of record for the appropriation of water within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 26, T.19N., R.61E., M.D.M. 4/

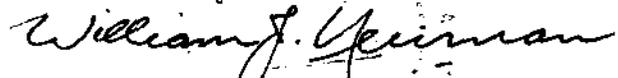
V

An examination of the 7.5 minute U.S. Geological Survey Illipah 1 NE., Nev. topographic map shows the drainage from the unnamed spring under Application 41612 to be to the northwest and not toward the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 26, T.19N., R.61E., M.D.M. 5/

RULING

The protest to the granting of Application 41612 is herewith overruled on the grounds that the granting will not tend to impair the value of existing rights. A permit will be granted to Application 41612 upon payment of the permit fee required by statute.

Respectfully submitted,



William J. Newman
State Engineer

WJN/bc

Dated this 7th day of

MAY, 1981.

FOOTNOTES

1. NRS 533.030, subsection 1.
2. NRS 533.370, subsection 1.
3. Public records available for examination in the office of the State Engineer.
4. Public records available for examination in the office of the State Engineer.
5. Public record available for examination in the office of the State Engineer.