

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

IN THE MATTER OF APPLICATION)
72632 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF BEAR CREEK)
LOCATED WITHIN THE WASHOE)
VALLEY HYDROGRAPHIC BASIN)
(89), WASHOE COUNTY, NEVADA.)

RULING

#6263

GENERAL

I.

Application 72632 was filed on April 14, 2005, by Robert and Dorothy Ramsdell to appropriate 1.0 cubic feet per second of water from Bear Creek. The proposed point of diversion is described as being located within the SW¼ SE¼ of Section 22, T.16N., R.19E., M.D.B.&M. The proposed manner and place of use is described as being for storage in three ponds located within the SW¼ SE¼ and NW¼ SE¼ of Section 22, T.16N., R.19E., M.D.B.&M.¹

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 there is sufficient information contained within the records of the Office of the State Engineer to gain a full understanding of the issues regarding Application 72632 and a hearing on this matter is not required.

II.

On March 14, 2003, the Ramsdell Limited Partnership, later assigned to the Ramsdell Family Revocable Trust, filed Change Application 69734 to change the place and manner of use of a 51.40 acre-feet portion of the waters of Musgrove Creek and Tributaries, originally filed under Proof of Appropriation No. V-02540, into ponds located within their parcels being fed by Musgrove

¹ File No. 72632, official records in the Office of the State Engineer.

Creek. Musgrove Creek was previously adjudicated pursuant to Nevada Revised Statutes (NRS) § 533.090 *et seq.*, by the Second Judicial District Court of Nevada.²

Application 72632 proposes to appropriate the waters of Bear Creek. Bear Creek is an intermittent water source at best, that flows down the natural contours of the hillside and into the same three-pond system storing Musgrove Creek water. The State Engineer finds that there is insufficient water within the Bear Creek source to approve the appropriation. The State Engineer further finds that Bear Creek's flow, if any, is tributary to the fully appropriated Musgrove Creek.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and of the subject matter of this action and determination.³

II.

The State Engineer is prohibited by law from granting a permit to appropriate the public waters where:⁴

- 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 there is no unappropriated water available from Lewers Creek (a.k.a. Musgrove Creek) and any of its tributaries, including Bear Creek, and that granting Application 72634 would conflict with existing rights.

²*Findings of Fact, Conclusions of Law, Judgment and Decree, In the Matter of the Determination of the Relative Rights In and To the Waters of Lewers Creek (a.k.a. Musgrove Creek) and Its Tributaries in Washoe County Nevada, Second Judicial District Court of Nevada, Case No. 301866, (August 18, 1976).*

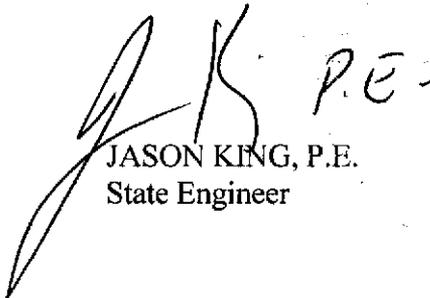
³ NRS Chapter 533.

⁴ NRS § 533.370(2).

RULING

Application 72632 is hereby denied on the grounds that there is no unappropriated water at the proposed source and that it would conflict with existing rights.

Respectfully submitted,



JASON KING, P.E.
State Engineer

Dated this 12th day of
February, 2014