

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

IN THE MATTER OF APPLICATIONS 50468)
AND 50469 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF SHERIDAN CREEK)
AND BARBER CREEK WITHIN THE)
CARSON VALLEY HYDROGRAPHIC BASIN)
(105), DOUGLAS COUNTY, NEVADA.)

RULING
#6270

GENERAL

I.

Application 50468 was filed on January 2, 1987, by David H. and Margaret Jones Biggs to appropriate 0.014 cubic feet per second (cfs), not to exceed 10 acre-feet annually (afa), of water for irrigation and domestic purposes. The Applicant proposes to irrigate 2.5 acres of land from Barber Creek. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 15, T.12N., R.19E., M.D.B.&M. The proposed place of use is described as being located within a portion of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 15.¹

II.

Application 50469 was filed on January 2, 1987, by David H. and Margaret Jones Biggs to appropriate 0.014 cfs, not to exceed 10 afa, of water for irrigation and domestic purposes. The Applicant proposes to irrigate 2.5 acres of land from Sheridan Creek. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 15, T.12N., R.19E., M.D.B.&M. The proposed place of use is described as being located within a portion of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 15.²

III.

Application 50468 was timely protested by Dominic J. Germano on the grounds that Barber Creek is fully appropriated and no water is available at the source of the supply.¹

¹ File No. 50468, official records in the Office of the State Engineer.

² File No. 50469, official records in the Office of the State Engineer.

IV.

Application 50469 was timely protested by Joseph Lodato on the grounds that the application would adversely affect existing rights.²

FINDINGS OF FACT

I.

After review of Application 50468, the proposed point of diversion was found to be on the south fork of Sheridan Creek, not Barber Creek, as stated in the application. Barber Creek is also known as Jobs Canyon Creek, which is the next stream to the south of Sheridan Creek as shown on the application map for Permits 64308-64314.³

II.

Before an application to appropriate water can be considered for approval, it must be determined that there is sufficient unappropriated water available at the source and that the 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 stream in question. There is an ongoing adjudication of claims to vested rights in Carson Valley (“Carson Valley Adjudication”), which adjudication includes Sheridan Creek and its tributaries.⁴ Based on the review of the *Final Order of Determination* in the Carson Valley Adjudication, the State Engineer finds that Sheridan Creek is fully appropriated under existing water rights.⁵ The State Engineer finds that there is no additional water available to satisfy the requested appropriation of 0.014 cfs requested by Application 50468 from the south fork of Sheridan Creek, nor is there water available to satisfy the requested appropriation of 0.014 cfs by Application 50469 from the north fork of Sheridan Creek.

³ File Nos. 64308-64314, official records in the Office of the State Engineer.

⁴ *In the Matter of the Determination of the Relative Rights In and To the Waters of Mott Creek et al.*, Case No. 08-CV-0363, Ninth Judicial District Court of Nevada, In and For the County of Douglas.

⁵ See Final Order of Determination at pp. 193-4, Table 6 (August 14, 2008).

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁶

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:⁷

- 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.

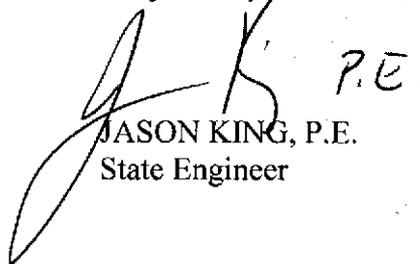
III.

The State Engineer concludes that there is no unappropriated water at the proposed source to support the approval of Applications 50468 and 50469; therefore, the applications are subject to denial.

RULING

The protests to Applications 50468 and 50469 are upheld and Applications 50468 and 50469 are hereby denied on the grounds that their approval would conflict with existing water rights and would threaten to prove detrimental to the public interest.

Respectfully submitted,

 P.E.
JASON KING, P.E.
State Engineer

Dated this 7th day of
March, 2014.

⁶ NRS Chapter 533.

⁷ NRS § 533.370(2).