

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

IN THE MATTER OF APPLICATION)
82701 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF BENT SPRING,)
AKA UNNAMED SPRING, WITHIN THE)
CARSON VALLEY HYDROGRAPHIC)
BASIN (105), DOUGLAS COUNTY,)
NEVADA.)

RULING

#6274

GENERAL

I.

Application 82701 was filed on April 8, 2013, by Bentley Family Trust, James W. Bentley Trustee, to appropriate 0.20 cubic feet per second (cfs), not to exceed 144.8 acre-feet annually (afa), of water for recreation purposes from Bent Spring, a.k.a. Un-Named Spring, which is the same source as certificated under Permit 67826, described as being located within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 16, T.12N., R.19E. M.D.B.&M. The proposed place of use is described as being located within portions of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 14, T.12N., R.19E., M.D.B.&M.¹

FINDINGS OF FACTS

I.

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 spring in question.

Currently there is one certificated water right for the proposed source, Permit 67826, Certificate 19169, for which was approved 0.060 cfs but not to exceed 1.80 afa, which is currently owned by Peter B. and Polly D. Pitsker.²

II.

Based upon measurements made during a field investigation for proof of beneficial use conducted in October 2007, prior to the certificate that was issued for Permit 67826, staff from

¹ File No. 82701, official records in the Office of the State Engineer.

² File No. 67826, official records in the Office of the State Engineer.

the Office of the State Engineer determined that the source only produced 0.027 cfs, or 12 gallons per minute using a 5-gallon bucket and stopwatch below the pond outlet. However, on April 16, 2006, the Permittee measured 28 gallons per minute, or 0.063 cfs using the same method but at the inlet of the pond. The State Engineer finds that Bent Spring barely produces adequate flow to satisfy Permit 67826, Certificate 19169.

CONCLUSION

I.

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

II.

The State Engineer is prohibited by law from granting a permit under an application 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.

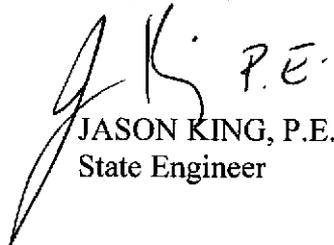
III.

The State Engineer concludes that there is no unappropriated water at the proposed source and therefore Application 82701 is subject to denial.

RULING

Application 82701 is hereby denied on the grounds that there is no unappropriated water at the source.

Respectfully Submitted


JASON KING, P.E.
State Engineer

Dated this 11th day of

April, 2014.

³ NRS Chapter 533.

⁴ NRS § 533.370(2).