

IN THE MATTER OF APPLICATION )  
26130 AND 26131, FILED BY )  
CARL W. KIDMAN ON MAY 13, 1971 )  
TO APPROPRIATE WATER FROM )  
BROCKLISS SLOUGH FOR )  
IRRIGATION PURPOSES IN )  
DOUGLAS COUNTY, NEVADA )

R U L I N G

GENERAL:

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Application 26130 was filed on May 13, 1971 by Carl W. Kidman for permission to appropriate 7.0 c.f.s. of water from Brockliss Slough (West Channel) for the irrigation of 280 acres of land. The proposed point of diversion is within the SW $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 15, T.13N., R.19E., M.D.B. & M. The proposed place of use is 280 acres located within a portion of Section 10, 14, and 15, all located in T.13N., R.19E.

Application 26131 was filed on May 13, 1971 by Carl W. Kidman for permission to appropriate 7.0 c.f.s. of water from Brockliss Slough (East Channel) for the irrigation of 280 acres of land. The proposed point of diversion is within the SW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 22, T.13N., R.19E., M.D.B. & M. and the lands proposed to be irrigated are 280 acres within Sections 14, 15, 22 and 23 of the same township.

The proposed place of use under Application 26130 is within the E $\frac{1}{2}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$  Section 10; NE $\frac{1}{4}$  NE $\frac{1}{4}$ , SE $\frac{1}{4}$  NE $\frac{1}{4}$ , SW $\frac{1}{4}$  NE $\frac{1}{4}$ , E $\frac{1}{2}$  NW $\frac{1}{4}$ , NE $\frac{1}{4}$  and SE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 15; a portion of the NW $\frac{1}{4}$  NW $\frac{1}{4}$ , SW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 14, all in T.13N., R.19E.

Under Application 26131, the proposed place of use is SW $\frac{1}{4}$  of the NE $\frac{1}{4}$ , a portion of the SE $\frac{1}{4}$  NE $\frac{1}{4}$ , a portion of the NE $\frac{1}{4}$  NE $\frac{1}{4}$ , in Section 22; portion of the NW $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 23; the SE $\frac{1}{4}$  SE $\frac{1}{4}$ , NW $\frac{1}{4}$  SE $\frac{1}{4}$ , NE $\frac{1}{4}$  SE $\frac{1}{4}$  in Section 15; a portion of the SW $\frac{1}{4}$  SW $\frac{1}{4}$ , a portion of the NW $\frac{1}{4}$  SW $\frac{1}{4}$ , a portion of the NE $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 14, all in T.13N., R.19E., M.D.B. & M.

The proposed places of use under the two applications are not contiguous, that under Application 26130 lying north of that under Application 26131.

East and West Brockliss Sloughs are part of and tributary to the Carson River. They are relatively narrow, sinuous channels which lie generally to the North of the West Fork of the Carson River and West of the East Fork of the Carson River. The sources are waters either directly from the East and West Forks of the Carson River, return flows from lands irrigated from the East and West Forks of the Carson River, tributaries to the West Fork of the Carson River, and numerous springs, some of which are hot, rising along and within the Brockliss Sloughs.

Mr. Kidman proposes an extensive project of excavation of each of the sloughs for the purpose of better drainage of the lands to be irrigated, reclamation of some land, and augmentation of the water supply presently available to irrigate the lands. He also claims that some benefits may be realized from the project in that large volumes of water might be handled in times of high waters.

A Field Investigation was made in the matter of Applications 26130 and 26131 on August 17, 1972. Following are listed existing rights of record for appropriation of water from Brockliss Sloughs:

Certificate No. 415 has been issued under Permit No. 1667 for the appropriation of 1.0 c.f.s. of water from Brockliss Slough through the Hansen Ditch for the irrigation of 100 acres of land in portions of Section 35, T.13N., R.19E., M.D.B. & M. The owner of record is William M. Hansen. The point of diversion and place of use are South (upstream) of the proposed points of diversion and place of use under Applications 26130 and 26131.

Certificate No. 191 has been issued under Permit No. 1680 for the appropriation of 0.4504 c.f.s. of water from Brockliss Slough "Ditches 1 and 2", for the irrigation of 45.04 acres of land in portions of Section 34, T.13N., R.19E., M.D.B. & M. It is likewise South of the proposed diversions. The owner of record is H. D. Allerman.

Finally, Application 16891 was filed on March 29, 1956 by Milton E. Bacon to appropriate 7.35 c.f.s. of water from Brockliss Slough at a point in the SW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 27, T.13N., R.19E., M.D.B. & M. to irrigate 100 acres in portions of the SW $\frac{1}{4}$  of the NE $\frac{1}{4}$  and NE $\frac{1}{4}$  of the same Section 27. This application was protested by H. F. Dangberg Land and Livestock Co.; subsequently, the protest was conditionally withdrawn subject to the stipulation that no diversion shall be made from any main or subsidiary stream and priorities shall be date of application. Action on the withdrawal of the protest was held in abeyance at the request of Mr. Bacon in March of 1958.

#### DISCUSSION

The topographic maps of the U. S. Geological Survey, which depict both the West and East Forks of the Carson River, show a complex system of diversions, irrigation ditches and drainage ditches (or sloughs) of which Brockliss Slough is a part, by which most of the undiverted waste and return waters of the system eventually reach a swamp area near Wally's Hot Springs in Section 22, T.13N., R.19E., M.D.B. & M. The waters are there reunited to form the main stem of the Carson River which then flows in a general Northeasterly direction to its eventual terminus in Lake Lahontan.

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There has been considerable damming of channels, construction of diversion boxes, and realignment of channels in the area, so that it is extremely difficult to determine precisely what is now or what has been the main stem of either branch of the Carson River.

The proposed Carson River Decree, under U. S. v. Alpine Land and Reservoir Co. enumerates many diversions from "Brockliss Slough", and the decree describes the source of water as "Brockliss Slough branch of West Fork - Carson Valley, Nevada", and further goes on to head the tabulation in the proposed decree as "Brockliss Slough, now the main river channel, branches south in the SE corner NW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 29, T.12N., R.20E.,". Examination of Geological Survey's quadrangles, published in 1956, indicate that the same conditions prevailed at that date.

It is concluded that the source of water described in Applications 26130 and 26131, that is to say, Brockliss Slough, is part of the Carson River System.

RULING

The proposed source of waters sought to be appropriated under Applications 26130 and 26131 is a part of and tributary to the Carson River System. Applications 26130 and 26131 are hereby denied on the grounds that approval of direct diversion appropriations would conflict with and impair the value of existing rights.

Respectfully submitted,

  
Roland D. Westergard  
State Engineer

Dated this 20th day  
of June, 1973.

RDW/JCP/bs