

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

IN THE MATTER OF APPLICATIONS)
81967, 81968, AND 81969 FILED TO)
APPROPRIATE THE PUBLIC WATERS)
OF AN UNDERGROUND SOURCE)
WITHIN THE INDEPENDENCE VALLEY)
HYDROGRAPHIC BASIN (188), ELKO)
COUNTY, NEVADA.)

RULING

#6229

GENERAL

I.

Application 81967 was filed on June 15, 2012, by Pequop Conservancy, LLC to appropriate 4.5 cubic feet per second (cfs), not to exceed 1,074 acre-feet annually (afa), of water from an underground source for irrigation purposes. The proposed point of diversion is described as being located within the NE¼ SE¼ of Section 15, T.37N., R.64E., M.D.B.&M. The proposed place of use is described as 268.50 acres located within the S½ of Section 15, NE¼ of Section 21, and the NW¼ of Section 23, T.37N., R.64E., M.D.B.&M.¹

II.

Application 81968 was filed on June 15, 2012, by Pequop Conservancy, LLC to appropriate 4.5 cfs, not to exceed 1,074 afa, of water from an underground source for irrigation purposes. The proposed point of diversion is described as being located within the NW¼ SE¼ of Section 15, T.37N., R.64E., M.D.B.&M. The proposed place of use is the same as described under Application 81967.²

III.

Application 81969 was filed on June 15, 2012, by Pequop Conservancy, LLC to appropriate 4.50 cfs, not to exceed 1,074 afa, of water from an underground source for irrigation purposes. The proposed point of diversion is described as being located within

¹ File No. 81967, official records in the Office of the State Engineer.

² File No. 81968, official records in the Office of the State Engineer.

the NW¼ NW¼ of Section 23, T.37N., R.64E., M.D.B.&M. The proposed place of use is the same as described under Application 81967.³

IV.

It is indicated under Item 13 Miscellaneous Remarks, under Applications 81967, 81968, and 81969, that the waters under these applications are to be co-mingled with the waters under Permits 78262, 78263, and 78264 for a total combined duty of 2,160.00 afa for the irrigation of 540 acres within the proposed place of use.^{1, 2, 3}

V.

Applications 81967, 81968, and 81969 were timely protested by Martha P. Hoots on the grounds as summarized below:^{1, 2, 3}

Independence Valley is a fully appropriated basin and there is no unappropriated water at the proposed source. Appropriating additional waters of Independence Valley will burden the already limited water resources and perpetuate current drought conditions by effecting surface and underground water. The potential adverse impact will be on existing uses within Independence Valley and adjacent water basins including the existing rights of Protestant.

FINDINGS OF FACT

I.

Nevada Revised Statutes § 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 sufficient evidence is available in the records of the Office of the State Engineer to evaluate the merits of Applications 81967, 81968, and 81969 and their associated protests and a hearing is not necessary.

II.

The perennial yield of a groundwater reservoir may be defined as the maximum amount of groundwater that can be salvaged each year over the long term without depleting the groundwater reservoir. Perennial yield is ultimately limited to the maximum amount of natural discharge that can be salvaged for beneficial use. The perennial yield cannot be more than the natural recharge to a groundwater basin and in

³ File No. 81969, official records in the Office of the State Engineer.

some cases is less. If the perennial yield is exceeded, groundwater levels will decline and steady-state conditions will not be achieved, a situation commonly referred to as groundwater mining. Additionally, withdrawals of groundwater in excess of the perennial yield may contribute to adverse conditions such as water quality degradation, storage depletion, diminishing yield of wells, increased economic pumping lifts, and land subsidence.⁴

The Division of Water Resources estimates that the perennial yield of the Independence Valley Hydrographic Basin is approximately 9,000 afa.⁵ The committed groundwater resource in the form of permits and certificates issued by the State Engineer to appropriate underground water from the Independence Valley Hydrographic Basin currently totals about 9,050 afa of which 2,900 afa is temporary for milling and mining.⁶ The State Engineer finds that the existing permanent groundwater rights in the Independence Valley Hydrographic Basin do not exceed the perennial yield of the groundwater basin.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁷

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:⁸

- 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

⁴ Office of the State Engineer, *Water for Nevada, State of Nevada Water Planning Report No. 3*, p. 13, Oct. 1971.

⁵ Office of the State Engineer, *Water for Nevada, State of Nevada Water Planning Report No. 3*, p. 24, Oct. 1971.

⁶ Nevada Division of Water Resources' Water Rights Database, Hydrographic Basin Summary, Independence Valley Hydrographic Basin (188), April 15, 2013, official records in the Office of the State Engineer.

⁷ NRS Chapters 533 and 534.

⁸ NRS § 533.370(2).

- D. the proposed use or change threatens to prove detrimental to the public interest.

III.

The State Engineer concludes that the committed permanent groundwater resources of Independence Valley do not exceed the perennial yield and, therefore, there is unappropriated water at the source.

IV.

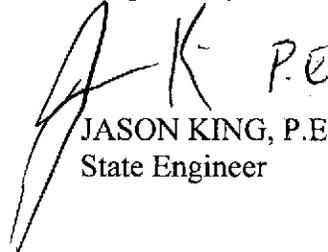
The State Engineer concludes that Applications 81967, 81968, and 81969 are new appropriations and approval would not conflict with existing rights and would not threaten to prove detrimental to the public interest.

RULING

The protests to the granting of Applications 81967, 81968, and 81969 are hereby overruled and they are hereby approved subject to:

1. the payment of the statutory permit fee; and
2. existing water rights on the source.

Respectfully submitted,


JASON KING, P.E.
State Engineer

Dated this 5th day of
July, 2013