

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

IN THE MATTER OF APPLICATIONS 82999 )  
AND 83000 FILED TO CHANGE THE )  
MANNER OF USE OF A PORTION OF THE )  
UNDERGROUND WATER PREVIOUSLY )  
APPROPRIATED UNDER PERMITS 31208 )  
AND 40892, RESPECTIVELY, WITHIN THE )  
BUENA VISTA HYDROGRAPHIC BASIN )  
(129), PERSHING COUNTY, NEVADA. )

**RULING**  
**#6266**

**GENERAL**

**I.**

Application 82999 was filed on August 5, 2013, by Charles and Carlinda A. Kendricks requesting a change in the manner of use of 0.10 cubic feet per second, not to exceed 2.62 acre-feet seasonally, that being a portion of the underground water previously appropriated under Permit 31208. The proposed manner of use is described as being for the stock watering of 200 head of cattle. The existing manner of use is for irrigation and domestic purposes. Neither the existing point of diversion nor place of use are proposed for change, with the well site remaining in the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 28, and the place of use within Sections 27, 28, W $\frac{1}{2}$  of Section 26, and the W $\frac{1}{2}$  of Section 34, all within T.30N., R.35E., M.D.B.&M.<sup>1</sup>

**II.**

Application 83000 was filed on August 5, 2013, by Charles and Carlinda A. Kendricks requesting a change in the manner of use of 0.10 cubic feet per second, not to exceed 5.27 acre-feet annually, that being a portion of the underground water previously appropriated under Permit 40892. The proposed manner of use is described as being for the stock watering of 200 head of cattle. The existing manner of use is for irrigation purposes. Neither the point of diversion nor place of use are proposed for change, with the well site remaining in the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 27, and the place of use within Sections 27, 28, W $\frac{1}{2}$  of Section 26, and the W $\frac{1}{2}$  of Section 34, all within T.30N., R.35E., M.D.B.&M.<sup>2</sup>

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<sup>1</sup> File No. 82999, official records in the Office of the State Engineer.

<sup>2</sup> File No. 83000, official records in the Office of the State Engineer.

### III.

Applications 82999 and 83000 were timely protested by Dean Iveson, on the following grounds.<sup>1,2</sup>

The well is adjacent to the Protestant's domestic well and with the drop in the static level of the water in the Buena Vista Valley water basin this continuously running water will effect the level on my domestic well. Several domestic well [sic] up and down Buena Vista Valley have already gone dry and had to be re-drilled. Many of the ranchers have had to lower windmills and irrigation wells due to the drop in the aquifer levels.

### FINDINGS OF FACT

#### I.

Nevada Revised Statute (NRS) § 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 a water right application. The State Engineer finds that in the case of Applications 82999 and 83000, there is sufficient information contained within the records of the Office of the State Engineer to gain a full understanding of the issues and a hearing on this matter is not required.

#### II.

The Protestant contends that the change from irrigation to stock watering will have a negative impact on his existing domestic well. While the amounts proposed for change are small, the linear distance that separates the Iveson well from the point of diversion described under Application 83000 is less than 260 feet.<sup>3</sup>

The Kendricks' water right holdings in Buena Vista Valley are extensive and include multiple irrigation permits. During 2012, a pump test was performed on several of the Kendricks' agricultural wells. The results of this test were summarized in a Technical Memorandum that was submitted to the State Engineer's office.<sup>3</sup> While the memorandum does not directly address the Iveson well, it is useful in that it provides acceptable values for the hydraulic parameters for the aquifer underlying the areas of interest.

A separate hydrologic study specific to Applications 82999 and 83000 was undertaken by the Applicant's agent, and was presented in an Answer to the Protests.<sup>3</sup> Two pumping scenarios were presented with the following assumptions made:

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<sup>3</sup> File No. 82999, Answer to protests filed against Application 82999 and 83000, official records in the Office of the State Engineer.

1. Application 82999

Q = 45 gallons per minute (gpm) for six months

Drawdown at Iveson Well was estimated to be 0.05 ft.

Q = 3 gpm for six months

Drawdown at Iveson Well was estimated to be 0.003 ft.

2. Application 83000

Q = 45 gpm for twelve months

Drawdown at Iveson Well was estimated to be 0.12 ft.

Q = 3 gpm for twelve months

Drawdown at Iveson Well was estimated to be 0.01 ft.

The State Engineer agrees with this analysis and finds that the change in manner of use proposed by the Applicants would not have an adverse impact on the Protestant's domestic well.

**III.**

The Iveson protest refers to the Applicants' wells as, "continuous running water." Ordinarily, water right permits are issued with a specific diversion rate that is capped by a seasonal or annual duty of water. The State Engineer finds, should the subject applications be approved, the Applicants would be limited to appropriating the annual or seasonal water duties issued with each permit.

**CONCLUSIONS**

**I.**

The State Engineer has jurisdiction over the parties and subject matter of this action and determination.<sup>4</sup>

**II.**

The State Engineer is prohibited by law from granting a permit under a change application that requests to appropriate the public waters where:<sup>5</sup>

- 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.

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<sup>4</sup> NRS Chapters 533 and 534.

<sup>5</sup> NRS § 533.370(2).

**III.**

The State Engineer concludes that the approval of the manner of use change requested by the Applicants would not have an adverse impact on the Iveson domestic well.

**IV.**

Applications 82999 and 83000 request a change in the manner of use of minor portions of the Applicants' existing irrigation permits. The State Engineer finds that approval of the Application would not threaten to prove detrimental to the public interest.

**RULING**

The protests to Applications 82999 and 83000 are hereby overruled and Application 82999 and Application 83000 are approved subject to existing rights, and the payment of the statutory permit fees.

Respectfully submitted,

 P.E.  
JASON KING  
State Engineer

Dated this 7th day of  
March, 2014