

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

IN THE MATTER OF APPLICATIONS 82714, 82715)
AND 82716 FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE)
WITHIN THE CARSON DESERT-PACKARD)
VALLEY HYDROGRAPHIC BASIN (101A), BUENA)
VISTA VALLEY HYDROGRAPHIC BASIN (129))
AND THE CARSON DESERT HYDROGRAPHIC)
BASIN (101), PERSHING COUNTY AND)
CHURCHILL COUNTY, NEVADA.)

RULING
#6300

GENERAL

I.

Application 82714 was filed on April 12, 2013, by New Nevada Resources, LLC, to appropriate 5.0 cubic feet per second (cfs) of water from an underground source for mining, milling and domestic purposes. The proposed point of diversion is described as being located within the SW¼ SE¼ of Section 23, T.26N., R.33E., M.D.B.&M. The proposed place of use is described as being located within the following:

Carson Desert Basin 101

Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 15, 16, 17 and 18, T.24N., R.34E., M.D.B.&M.; a portion of Sections 26, 27, 28, and 29, all of Sections 31, 32, 33, 34 and a portion of Section 35, T.25N., R.34E., M.D.B.&M.

Carson Desert – Packard Valley Basin 101A

Sections 1, 2, 3, and 12, T.25N., R.33E., M.D.B.&M.; a portion of Sections 4, and 5, all of Sections 6, 7, 8, a portion of Sections 9, and 16, all of Section 17, a portion of Sections 21, 22, 26, 27, 28, and 29, T.25N., R.34E., M.D.B.&M.; Sections 23, 25, 26, 27, 33, 34, 35, and 36, T.26N., R.33E., M.D.B.&M.; a portion of Section 29, all of Sections 30, and 31, and a portion of Section 32, T.26N., R.34E., M.D.B.&M.

Buena Vista Valley Basin 129

All of Section 3, a portion of Sections 4, 5, and 9, all of Sections 10, 11, 14, 15, a portion of Sections 16, 21, and 22, all of Section 23, a portion of Sections 26, 27 and 35, T.25N., R.34E., M.D.B.&M.; all of Section 28, a portion of Sections 29, 32 and all of Section 33, T.26N., R.34E., M.D.B.&M.¹

¹ File No. 82714, official records in the Office of the State Engineer.

II.

Application 82715 was filed on April 12, 2013, by New Nevada Resources, LLC, to appropriate 5.0 cfs of water from an underground source for mining, milling and domestic purposes. The proposed point of diversion is described as being located within the NE¼ NE¼ of Section 21, T.25N., R.34E., M.D.B.&M. The proposed place of use is described as being the same place of use as identified on application 82714.²

III.

Application 82716 was filed on April 12, 2013, by New Nevada Resources, LLC, to appropriate 5.0 cfs of water from an underground source for mining, milling and domestic purposes. The proposed point of diversion is described as being located within the SE¼ SW¼ of Section 29, T.25N., R.34E., M.D.B.&M. The proposed place of use is described as being the same place of use as identified on application 82714.³

FINDINGS OF FACT

I.

Nevada Revised Statute § 533.375 provides that the State Engineer may require additional information before approval or rejection of an application. By certified letter dated August 15, 2013, the Applicant was requested to provide information to the State Engineer, including, a determination of the volume of water requested for the proposed mining and milling project. The letter requested an answer within sixty days or the applications would be subject to denial.

II.

By letter dated October 11, 2013, the Applicant responded to the request for information and replied that the mine plan had not been finalized; therefore, the quantity of water required was not available.

III.

By certified letter dated October 21, 2013, the Applicant was again requested to provide information to the State Engineer to make a determination of the volume of water requested for the proposed mining and milling project. The letter requested an answer within sixty days, and again informed the Applicant that if the questions were not answered, including a volume of water which could be justified, the State Engineer would treat the Applicant as no longer interested in pursuing Applications 82714, 82715 and 82716, and they would be denied.

² File No. 82715, official records in the Office of the State Engineer.

³ File No. 82716, official records in the Office of the State Engineer.

IV.

By letter dated December 17, 2013, Nevada Iron replied to the October 21, 2013, letter from the Office of the State Engineer. Nevada Iron stated that it had been deeded a 50% interest in the applications and did not have information on the quantity of water required. The State Engineer finds that the Applicant and Nevada Iron provided insufficient information in response to the State Engineer's requests for additional information.

V.

The place of use of Applications 82714, 82715 and 82716 constitute interbasin transfers for all three applications. Without knowing the volume of the amount of water that is to be used at the Buena Vista Mine project, the State Engineer finds he cannot determine whether an analysis of the statutory criteria for an interbasin transfer pursuant to NRS § 533.364 is necessary. The State Engineer finds it would be detrimental to the public interest to consider approving the applications without first examining all potentially applicable interbasin transfer criteria, which he cannot do without the requested information.

CONCLUSIONS

I.

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

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:⁵

- 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 despite the Applicant and Nevada Iron's responses to additional information requests of the State Engineer, the responses were largely uninformative, and were completely non-responsive regarding information concerning the volume of water requested. Where NRS § 533.375 allows the State Engineer to request additional information to properly guard

⁴ NRS Chapters 533 and 534.

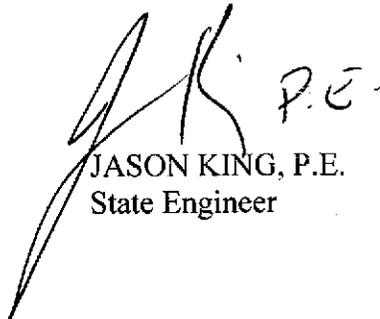
⁵ NRS § 533.370(2).

the public interest, the State Engineer concludes that granting applications in the face of incomplete and missing responses to requests for additional information would defeat the purpose of NRS § 533.375. Therefore, the State Engineer concludes that granting Applications 82714, 82715 and 82716 without the requested information would threaten to prove detrimental to the public interest.

RULING

Applications 82714, 82715 and 82716 are hereby denied on the ground that approval would threaten to prove detrimental to the public interest.

Respectfully submitted,



JASON KING, P.E.
State Engineer

Dated this 24th day of
December, 2014.