

J. Rodney Dansie

From: "J. Rodney Dansie" <roddansie@msn.com>
Date: Monday, May 13, 2013 7:25 PM
To: "J. Rodney Dansie" <roddansie@msn.com>
Cc: "richard Dansie" <richarddansie@gmail.com>
Subject: REPLY TO WATER RIGHT NO. 59-5383 (F66661) letter dated APRIL 22, 2012 HI-Country Estates Rain maker- Matthew E. Jensen

To Kent Jones State Engineer

Dear Mr. Jones, This is a response to the above referenced letter of Concern on request for extension of time on a fixed time application for water right.

Mr. Smith and Mr. Jensen are now the operators, managers lawyers and rain Makers for Smith - Hartvigensen PLLC. and all 111 lot owners of HI-Country Estates Phase one HOA. I request that there letter NOT be considered in granting an extension of time on the Fixed Time Application F66661 .

The State Engineer granted the water right and a certificate of beneficial use for the referenced water right. Richard Dansie still has no other culinary water for his home and part of his lot and needs to continue the use of his well as stated in the Certificate of Beneficial use. Richard does use some irrigation water from WR59-1249 for yard irrigation however there is no over lap on the usage and there is no culinary water for his home and part of his lot unless his water right is extended and there is no other water company that will provide that water at the present time. Please grant his requested extension of time for his fixed use application. (Please see copy of HI-Country Estates Phase Association Quarterly Meeting Minutes May 6, 2013 Item 4. Page one -copy attached. HI Country has failed to provide 12,000,000 gallons of water to the Dansies and Richard Dansie as per court of appeals decision July 29, 2011 (Copy of decision in the file 59-1608) Matter of water is under litigation. HI-Country is in violation of the Court of appeals order at the present time.

It may be a good idea to review the file on HIC-HOA water right 59-1608 Order of the state engineer dated 3/1/2010 to determine if there is beneficial use of that water right since only approximately 1/4 of that water right has ever been used by HI-Country Estates. We would request that a full review of that file and order of the state engineer made to determine if 3/4s of the water right should be vacated back to the people of the state of utah. Hi-Country water purchases all of there additional water needs and the water right is no longer needed or legal. This water right is over 50 years old and the requested water has NEVER been put to beneficial use as required water law.

Thanks for you help in this matter and if a hearing is to be held I would like to Attend and present additional information on my request and additional information on WR. 59-1608 and lack of beneficial use of that water right.

RECEIVED
MAY 16 2013
WATER RIGHTS
SALT LAKE

5/13/2013

Respectfully submitted this 13, day of May 2013.

A handwritten signature in black ink that reads "Richard Dansie". The signature is written in a cursive, slightly slanted style.

Richard Dansie 801 -455-92155
7070 West 13090 South
Herriman, Utah

CC: Rod Dansie
7198 West 13090 South
Herriman, Utah 84096 801-254-4364

Attachments July 19, 2011 court of appeals opinion in file 50-1608

Hi-Country HOA May 6, 2013 Meeting minues
Order of the stae engineer 3/1/2010 WR 59-1608 (A33130)

5/13/2013

7. Architectural Control Committee – Ron Benson stated that one letter was sent to a homeowner regarding the temporary trailer on his property. That was several months ago and as of this date nothing has been done remove it. Further action to remove the trailer will be taken.
8. Water company Report - Brad Barlocker mentioned once again that Herriman City has taken over the management and operation of the HOA water company. He mentioned that the water meters were last read in November of 2012. If meter readings done this month show more than 10,000 gallons used monthly since that time, the lot/homeowner will be charged accordingly. Brad also mentioned that back flow preventers should be installed, especially by those watering animals such as horses. Since many in the HOA do not have backflow preventers installed in their systems, the key issue is to prevent siphoning of contaminated water into the water distribution system. This is most easily accomplished by making certain that any hose be installed with an air gap between the hose end and any container. Do not leave hoses in water troughs when the water in the hose is turned off.
The Water Company has authorized Herriman City to clean the water tanks. They have not been cleaned for a number of years and the Water Board was able to arrange to have the tanks cleaned along with those of Phase II at a much reduced cost. The Water System is now and will continue to be chlorinated. It was mentioned that remotely read meters will be installed within the next few years. Current meters are aging and some may start to give incorrect readings. Henrie Cohen of lot 55 asked about rate increased since he is on a well. Brad noted that he has a standby fee and that could increase as it has over the past years.
9. Community Affairs – Terree Kay said there was nothing to report.
10. New Business – Randy Crane asked that people with barking dogs to please keep them under control. It was mentioned that Animal Control or the Unified Police Department could be notified and steps taken through those entities. There are laws about both noise at certain times and disturbing the peace generally. Randy suggested that a first step should be notifying the dog owner of the problem and asking for a voluntary solution. County agencies can step in if the owner is uncooperative.

Steve Maxfield asked what votes would have been taken if there had been a quorum. Noel Williams said that the only thing that would have been subject to a vote was the approval of the minutes. Notice must be given before meetings where a vote on HOA documents is scheduled.
11. The gathering ended at 8 p.m.

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GARY R. HERBERT
Governor
GREG BELL
Lieutenant Governor

State of Utah
DEPARTMENT OF NATURAL RESOURCES
Division of Water Rights

MICHAEL R. STYLER KENT L. JONES
Executive Director *State Engineer/Division Director*

ORDER OF THE STATE ENGINEER

On Extension of Time Request

For Application to Appropriate Water Number 59-1608 (A33130)

MAR 1 2010

Application to Appropriate Water Number 59-1608 (A33130), in the name of Hi-Country Estates Homeowner's Association, was filed on May 19, 1961, to appropriate 0.5 cfs or 182.56 acre-feet of water from points located: (1) Well - South 2015 feet and West 1198 feet from the N¼ Corner of Section 4, T4S, R2W, SLB&M (existing 8-inch well, 258 feet deep); (2) Well - South 1000 feet and East 2150 feet from the W¼ Corner of Section 4, T4S, R2W, SLB&M (existing 8-inch well, 480 feet deep); (3) Well - South 1520 feet and West 1050 feet from the N¼ Corner of Section 4, T4S, R2W, SLB&M (10-inch well, 100-500 feet deep). The water is to be used for the irrigation of 25.99 acres (sole supply of 25.99 acres) from April 1 to October 31, the indoor domestic requirements of 100 equivalent domestic units from January 1 to December 31, and the stockwatering requirements of 200 head of livestock (in cattle or horses or equivalent species) from January 1 to December 31. The application was approved on September 21, 1964, and proof of beneficial use was last due on April 30, 2004.

The applicant has filed for an extension of time within which to file proof with the State Engineer stating that one well has been developed and water is being delivered to some users; however, additional time is needed to fully place the water to use and complete the application.

Upon review of this file it is noted that this application was originally approved for the irrigation of 45.64 acres of land with 182.56 acre-feet of water to be diverted. This was based on an irrigation duty of 4.0 acre-feet per acre. A subsequent change application (a6569) was approved to change the nature of use to 100 families, 200 horses and the irrigation of 25.99 acres of land. The uses were quantified for a total diversion of 182.56 acre-feet of water. This quantification was determined using 0.73 acre-foot per family and a 4.0 acre-feet per acre duty ($100 \text{ EDU} \times 0.73 \text{ AF} + 200 \text{ ELU} \times 0.028 \text{ AF} + 25.99 \text{ acres} \times 4.0 \text{ AF/acre} = 182.56 \text{ AF}$). Since this change (a6569) was approved the State Engineer has established policies that allow for the diversion of 0.45 acre-foot per equivalent domestic use and 5.0 acre-feet per acre duty. The approved uses under this application have not changed and the beneficial uses still allowed under this application are the domestic use of 100 families, the watering of 200 equivalent livestock, and the irrigation of 25.99 acres. However, the quantification of the amount of water to be diverted under this application is $180.55 \text{ acre-feet} (100 \text{ EDU} \times 0.45 \text{ AF} + 200 \text{ ELU} \times 0.028 \text{ AF} + 25.99 \text{ acres} \times 5.0 \text{ AF/acre} = 180.55 \text{ AF})$.

Based on this information, this application should reflect the diversion of 180.55 acre-feet of water to be used for the 100 equivalent domestic uses, 200 equivalent livestock uses, and the irrigation of 25.99 acres.

ORDER OF THE STATE ENGINEER
Extension of Time to Submit Proof
Application to Appropriate Water Number 59-1608 (A33130)
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Notice of the extension request was published in the Deseret News on February 12 and 19, 2004. No protests were received.

The applicant is advised that, under the provisions of Section 73-3-12, Utah Code Annotated, and in the case of extension requests for a "public agency," the State Engineer may grant extensions of time ". . . if the applicant shows reasonable and due diligence in completing the appropriation; or a reasonable cause for delay in completing the appropriation," and "[t]he state engineer shall consider the holding of an approved application by a public water supplier or wholesale electrical cooperative to meet the reasonable future water or electricity requirements of the public to be reasonable and due diligence in completing the appropriation for the purposes of this section for 50 years from the date on which the application is approved." In granting this extension request, it is the opinion of the State Engineer that the applicant has satisfied the requirements of Section 73-3-12 and this extension request can be granted.

It is, therefore, **ORDERED** and an extension of time within which to submit proof is **GRANTED** on Application to Appropriate Water 59-1608 (A33130) to and including September 30, 2014, which is the end of the 50-year period. The applicant is cautioned that future requests for extension of time beyond this extension must meet the additional requirements set out by statutes extant at the time of filing for an extension beyond 50 years from the date of approval of the appropriation.

This extension is granted in accordance with the law, which states "Within the time set by the state engineer under Subsection 73-3-10(5), an applicant shall construct works, if necessary; apply the water to beneficial use; and file proof with the state engineer in accordance with Section 73-3-16." It is earnestly recommended that you complete your development and submit Proof of Beneficial Use at the earliest possible date.

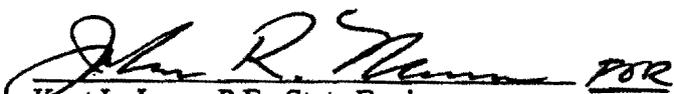
It is the applicant's responsibility to maintain a current address with this office and to update ownership of their water right. Please notify this office immediately of any change of address or for assistance in updating ownership.

Your contact with this office, should you need it, is with the Utah Lake/Jordan River Regional Office. The telephone number is 801-538-7240.

This Order is subject to the provisions of Administrative Rule R655-6-17 of the Division of Water Rights and to Sections 63G-4-302, 63G-4-402, and 73-3-14 of the Utah Code which provide for filing either a Request for Reconsideration with the State Engineer or an appeal with the appropriate District Court. A Request for Reconsideration must be filed with the State Engineer within 20 days of the date of this Order. However, a Request for Reconsideration is not a prerequisite to filing a court appeal. A court appeal must be filed within 30 days after the date of this Order, or if a Request for Reconsideration has been filed, within 30 days after the date the Request for Reconsideration is denied. A Request for Reconsideration is considered denied when no action is taken 20 days after the Request is filed.

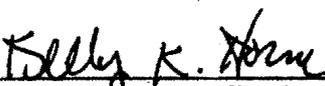
ORDER OF THE STATE ENGINEER
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Dated this 1 day of March, 2010.


Kent L. Jones, P.E., State Engineer
BY: John R. Mann, P.E., Assistant State Engineer

Mailed a copy of the foregoing Order this 1 day of March, 2010 to:

Hi-Country Estates Homeowner's Association
13300 South 7370 West (Box 127)
Riverton, UT 84065

BY: 
Kelly K. Home, Applications/Records Secretary