

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

IN THE MATTER OF SANDY- )  
MESQUITE VALLEY EDUCATIONAL )  
FOUNDATION AND THE ALLEGED )  
UNPERMITTED DOMESTIC WELL )  
WITHIN MESQUITE VALLEY (SANDY )  
VALLEY) HYDROGRAPHIC BASIN )  
(163), CLARK COUNTY, NEVADA. )

**FINDING OF ALLEGED  
VIOLATION  
ORDER NO. 1234**

**LEGAL**

**I.**

The State Engineer, under the authority of Nevada Revised Statute (NRS) Chapters 532, 533 and 534, has the power and duty to enforce the provisions of NRS Chapters 533 and 534.

**II.**

Nevada Revised Statute § 533.481 provides that in addition to any other penalty provided by law, the State Engineer may, after notice and opportunity for a hearing, require a person who violates any provision of NRS Chapter 533 or any permit, certificate, order or decision issued or regulation adopted by the State Engineer pursuant to NRS Chapter 533 or NRS § 532.120 to: (a) pay an administrative fine not to exceed \$10,000 per day for each violation as determined by the State Engineer and/or (b) in the case of an unauthorized use or willful waste of water in violation of NRS § 533.460 or an unlawful diversion of water in violation of NRS § 533.463 or any other violation of NRS Chapter 533 that, as determined by the State Engineer, results in an unlawful use, waste or diversion of water, replace not more than 200 percent of the water used, wasted or diverted.

**III.**

Nevada Revised Statute § 534.193 provides that in addition to any other penalty provided by law, the State Engineer may, after notice and opportunity for a hearing, require a person who violates any provision of NRS Chapter 534 or any permit, order or decision issued or regulation adopted by the State Engineer pursuant

to NRS Chapter 534 or NRS § 532.120 to: (a) pay an administrative fine not to exceed \$10,000 per day for each violation as determined by the State Engineer and/or (b) in the case of an unlawful waste of water in violation of NRS § 534.070, or any other violation of NRS Chapter 534 that, as determined by the State Engineer, results in an unlawful use, waste or diversion of water, replace not more than 200 percent of the water used, wasted or diverted.

#### IV.

Nevada Revised Statute § 534.020(1) establishes that all underground waters within the boundaries of the State belong to the public, and, subject to all existing rights to the use thereof, are subject to appropriation for beneficial use only under the laws of this State relating to the appropriation and use of water and not otherwise. Additionally, Nevada Administrative Code (NAC) § 534.427(2)(a) requires that a well, other than a well drilled for a domestic purpose, must be plugged in the manner prescribed in NAC § 534.420 if the Division of Water Resources has not issued a permit or waiver for the well.

#### FACTS

##### I.

Permit 66545 was issued for quasi-municipal use of 0.049 cubic feet per second (cfs), but not to exceed 23.8 acre-feet annually (afa). Proof of Application of Water to Beneficial Use was filed by the permittee and Certificate 18997 was issued on February 22, 2013, for 0.049 cfs, but not to exceed 23.8 afa. Sandy-Mesquite Valley Educational Foundation (Respondent) is the owner of record. In support of issuing Certificate 18997, an informal field investigation for Proof of Beneficial Use was conducted by staff of the Division of Water Resources (Division) on August 12, 2011. During the field investigation, a second, unpermitted well that had been drilled as a domestic well in December 1989, was discovered on site and within the place of use of Permit 66545, Certificate 18997. Division staff determined that this well was also serving water within the place of use, in addition to the well drilled for Permit 66545, Certificate 18997. Location of the unpermitted domestic well is described by Well Driller's Report (Well Log) Number 33698, as being within the

SE¼ SE¼, of Section 31, T.24S., R.57E., M.D.B.&M., further described as being within Clark County Assessor Parcel Number (APN) 201-31-801-015.<sup>1,2</sup>

**II.**

On December 23, 2011, the Office of the State Engineer sent a certified letter to the Respondent requiring that all extractions from the unpermitted domestic well for quasi-municipal purposes cease and desist. The Respondent was also informed that, because no primary residential structure existed within the Place of Use of Permit 66545, the property was not entitled to a domestic well and that unless a water right permit was issued by the Office of the State Engineer for use of water from the well, the unpermitted domestic well must be plugged and abandoned pursuant to NAC Chapter 534. The letter established a 30-day time frame in which to submit an approvable plan to the Office of the State Engineer for correcting the alleged violation and warned that failing to take such action could result in additional enforcement actions as provided for under NAC Chapter 532. The signed certified mail receipt was received in the Office of the State Engineer on January 3, 2012.<sup>1</sup>

**III.**

An approvable plan for correcting the alleged violations was not received in the Office of the State Engineer within the time frame established in the December 23, 2011, letter.

**IV.**

Pursuant to NAC Chapter 532, a certified letter was sent to the Respondent on February 17, 2012, setting forth the alleged violation and possible actions to correct the violation. The alleged violation was described as the presence of a domestic well when no domestic use was observed. Four options for correcting the alleged violation were presented in the warning letter. The letter established a 30-day time frame in which to submit to the State Engineer an approvable plan for correcting the alleged violation and that the corrective actions must be completed by June 4, 2012. The letter warned that failing to take such actions could result in

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<sup>1</sup> File No. 66545, official records in the Office of the State Engineer.

<sup>2</sup> File No. AV 44, official records in the Office of the State Engineer.

additional enforcement actions as provided for under NAC Chapter 532. The signed certified mail receipt was received in the Office of the State Engineer on February 27, 2012.<sup>1</sup>

V.

On March 14, 2012, a letter was received in the Office of the State Engineer that indicated the Respondent's intention to plug and abandon the unpermitted domestic well and that the work would be completed by June 4, 2012. By letter dated March 15, 2012, the Respondent was informed that the Office of the State Engineer approved the plan of action to plug and abandon the unpermitted domestic well and reiterated that the timeline to complete the corrective action was June 4, 2012.<sup>2</sup>

VI.

The Office of the State Engineer conducts annual groundwater pumpage inventories in the Mesquite Valley (Sandy Valley) Hydrographic Basin (163). During a site visit on September 12, 2013, to read the totalizing meter for Permit 66545, Certificate 18997, Division staff observed no evidence that the unpermitted domestic well had been plugged. A search of the records of the Office of the State Engineer failed to match the unpermitted domestic well with a Well Driller's Plugging Report from a Nevada licensed well driller. There is no evidence that the unpermitted domestic well has been plugged and abandoned.<sup>2,3,4</sup>

VII.

A review of the records of the Office of the State Engineer finds that no application for water right has been filed for the unpermitted domestic well. There is no evidence that the well has a legal use.<sup>5</sup>

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<sup>3</sup> Field notes for *Ground Water Pumpage Inventory Mesquite (Sandy) Valley 2013, No. 163*, official records in the Office of the State Engineer.

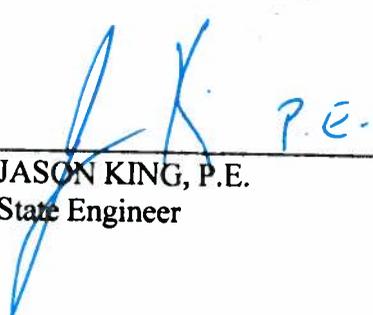
<sup>4</sup> Nevada Division of Water Resources' Well Log Database, December 6, 2013, official records in the Office of the State Engineer.

<sup>5</sup> Nevada Division of Water Resources' Water Rights Database, December 6, 2013, official records in the Office of the State Engineer.

**FINDING**

The State Engineer finds that, in violation of NRS § 534.020(1) and NAC § 534.427(2)(a), the Respondent has failed to plug and abandon, or otherwise make legal the unpermitted domestic well located within SE¼ SE¼, of Section 31, T.24S., R.57E., M.D.B.&M., further described as being within APN 201-31-801-015. To correct the alleged violation the Respondent must:

1. Retain a Nevada licensed well driller to plug and abandon the unpermitted domestic well in accordance with NAC Chapter 534; or
2. Take the statutory, regulatory and procedural actions necessary to effect the approval of an application to appropriate water, for diversion rate only, from the unpermitted domestic well, to be supplemental to Permit 66545, for the manner and place of use to which the water will be placed; or
3. Acquire water rights of sufficient quantity to account for the actual use of water and take the statutory, regulatory and procedural actions necessary to effect the approval of an application to change the acquired water rights to the unpermitted domestic well for the manner and place of use to which the water will be placed; or
4. A combination thereof.

  
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JASON KING, P.E.  
State Engineer

Dated this 7th day of  
January, 2014.

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

**1234**

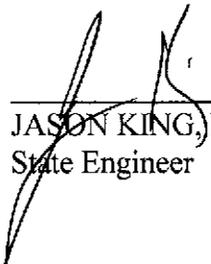
**VIOLATION ORDER**

**WHEREAS**, on the basis of the attached Finding of Alleged Violation, which is hereby made a part of this Violation Order, the State Engineer has determined that Sandy-Mesquite Educational Foundation (Respondent) is in violation of Nevada Revised Statute (NRS) § 534.020(1) and Nevada Administrative Code (NAC) §534.427(2)(a) and is subject to the provisions of NRS §§ 533.481 and 534.193.

**NOW, THEREFORE, IT IS HEREBY ORDERED** that the Respondent must:

1. **Within one week of the date of this order**, inform the Division of Water Resources (Division) of the Respondent's intent to comply with this order and schedule a meeting with Division staff.
2. **Within 30 days of the date of this order, at a time and location to be determined**, meet with Division staff to present and discuss an approvable mitigation plan, which sets forth the circumstances under which the Respondent will comply with the requirements set forth in the Finding of Alleged Violation.
3. **Within 45 days of the date of this order**, submit to the Division an approvable, written mitigation plan, which sets forth the circumstances under which the Respondent will comply with the requirements set forth in the Finding of Alleged Violation.

4. **Within 180 days of the date of this order**, comply with the requirements set forth in the Finding of Alleged Violation.

  
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JASON KING, P.E.  
State Engineer

Dated this 7<sup>th</sup> day of  
January, 2014 .