

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

IN THE MATTER OF APPLICATION 83153)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE SMITH VALLEY)
HYDROGRAPHIC BASIN (107), LYON)
COUNTY, NEVADA.)

RULING

#6352

GENERAL

I.

Application 83153 was filed on October 10, 2013, by Custom Details, LLC, to appropriate 0.5 cubic feet per second, not to exceed 39.125 acre-feet annually (afa), of water from an underground source for mining, milling and domestic purposes. The proposed point of diversion is described as being located within the NW¼ NE¼ of Section 20, T.13N., R.24E., M.D.B.&M. The proposed place of use is described as being located within the SW¼ SE¼ of Section 8, T.13N., R.24E., M.D.B.&M.¹

FINDINGS OF FACT

I.

The perennial yield of a groundwater reservoir may be defined as the maximum amount of groundwater that can be withdrawn each year over the long term without depleting the groundwater reservoir.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 utilized for beneficial use. The perennial yield cannot be more than the natural recharge to a groundwater basin and in 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.²

¹ File No. 83153, official records in the Office of the State Engineer.

² Office of the State Engineer, *Water for Nevada, State of Nevada Water Planning Report No. 3*, p. 13, Oct. 1971.

The Division of Water Resources estimates that the perennial yield of the Smith Valley Hydrographic Basin is approximately 17,000 afa.³ The committed groundwater resource in the form of permits and certificates issued by the State Engineer to appropriate underground water from the Smith Valley Hydrographic Basin currently exceeds 55,000 afa.⁴ The State Engineer finds that the existing groundwater rights in the Smith Valley Hydrographic Basin exceeds the perennial yield of the groundwater basin.

II.

In State Engineer's Order No. 1126, dated February 4, 1997, the State Engineer ordered that all new applications filed to appropriate water from a groundwater source pursuant to Chapter 534 within the designated Smith Valley Basin subject to certain exceptions, would be denied. The State Engineer finds that Application 83153 for mining and milling is not within the enumerated exceptions in Order 1126.⁵

CONCLUSIONS OF LAW

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁶

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:⁷

- 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.

³ F.E. Rush and C.V. Schroue, *Geohydrology of Smith Valley, Nevada, with Special Reference to the Water-Use Period 1953-72*, Water Resources Bulletin No. 43 (Nevada Department of Conservation and Natural Resources, Division of Water Resources), p. 50, 1976.

⁴ Nevada Division of Water Resources' Water Rights Database, Hydrographic Basin Summary, Smith Valley Hydrographic Basin (107), accessed May 5, 2016, official records in the Office of the State Engineer, available at <http://water.nv.gov/data/underground/>.

⁵ State Engineer's Order No. 1126, dated February 4, 1997, official records in the Office of the State Engineer.

⁶ NRS Chapters 533 and 534.

⁷ NRS § 533.370(2).

III.

The committed groundwater resource of the Smith Valley Hydrographic Basin exceeds the groundwater basin's estimated perennial yield. The State Engineer concludes that there is no unappropriated water at the proposed source.

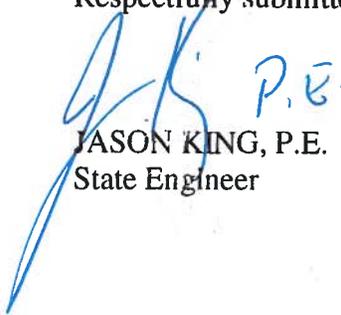
IV.

Application 85153 for mining and milling is not within any exception to State Engineer's Order No. 1126, which ordered that all new appropriations in the Smith Valley Hydrographic Basin be denied. The State Engineer concludes that granting Application 85153 would be contrary to Order No. 1126, and therefore threatens to prove detrimental to the public interest. .

RULING

Application 85153 is hereby denied on the grounds that there is no unappropriated water at the source and granting the application would threaten to prove detrimental to the public interest.

Respectfully submitted,



JASON KING, P.E.
State Engineer

Dated this 20th day of
July, 2016