

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

IN THE MATTER OF APPLICATION 84125)
FILED TO CHANGE THE POINT OF)
DIVERSION AND PLACE OF USE OF THE)
PUBLIC WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE IMLAY AREA)
HYDROGRAPHIC BASIN (72), PERSHING)
COUNTY, NEVADA.)

RULING

#6302

GENERAL

I.

Application 84125 was filed on July 18, 2014, by Florida Canyon Mining, Inc. to change the point of diversion and place of use of 0.6104 cubic feet per second, with an annual duty not to exceed 200 acre-feet that being a portion of the underground water heretofore appropriated under Permit 57097. The existing point of diversion is located at the Florida Canyon Mine, more specifically, the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 3, T.31N., R.33E., M.D.B.&M., and it is the Applicant's intention to transfer a portion of this permit to its Standard Mine operation located approximately 5 miles to the south, within the Sections 25 and 26, 34 through 36, T.31N., R.33E., and Section 1, T.30N, R.33E., M.D.B.&M. The proposed point of diversion is identified as Well WS-1 located within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 35, T.31N., R.33E.¹

II.

Application 84125 was timely protested by the Lovelock Meadows Water District (District), on grounds as summarized below.¹

1. The proposed water right application will unreasonably lower static water levels in the basin and adversely affect the District's existing water rights.
2. There is no unappropriated groundwater available in the Oreana sub-basin and the southern portion of the Imlay Basin.
3. The District is a 318 entity, which provides municipal water service to the Lovelock Valley and the City of Lovelock. The proposed use and underlying discharge may very well degrade the District's permits, and the application would harm the public

¹ File No. 84125, official records in the Office of the State Engineer.

interest by potentially requiring increased fees for the District's constituents to compensate the loss of current or expected revenue.

FINDINGS OF FACT

I.

Nevada Revised Statute 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 Application 84125 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 in this matter is not required.

II.

The first two protest grounds address the availability of unappropriated water and lowering of the static groundwater level. Application 84125 is an application to change water previously appropriated and accounted for in the Imlay Area. Application 84125 does not seek an additional appropriation of water from the Oreana Subarea and does not increase the groundwater demand in either basin; therefore, the State Engineer need not make a finding of unappropriated water.

III.

Protestant argues that the proposed use and discharge may degrade its existing rights and the public interest is harmed by potential increase to compensate for the loss of current or future revenue. Further it is unclear how the proposed change of an existing water right will allegedly cause the loss of current or expected revenue for the Protestant. The State Engineer finds this protest issue too vague to find that harm to the public interest will result from the change proposed by Application 84125.

CONCLUSIONS OF LAW

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.²

II.

The State Engineer is prohibited by law from granting a change application to appropriate the public waters where:³

² NRS Chapters 533 and 534.

³ NRS § 533.370(2).

- 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.

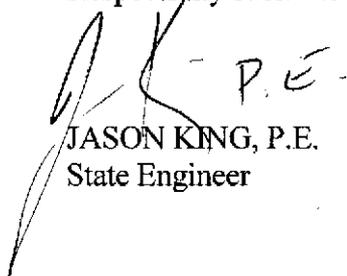
The State Engineer concludes that approval of Application 84125 will not conflict with existing rights or threaten to prove detrimental to the public interest.

RULING

The protest to Application 84125 is overruled and Application 84125 is hereby approved subject to:

- 1. Existing rights; and
- 2. Payment of the statutory permit fee.

Respectfully submitted,



JASON KING, P.E.
State Engineer

Dated this 6th day of
February, 2015.