

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

IN THE MATTER OF APPLICATION 84484T)
FILED TO CHANGE THE POINT OF)
DIVERSION AND PLACE OF USE OF A)
PORTION OF WATER OF AN)
UNDERGROUND SOURCE PREVIOUSLY)
APPROPRIATED UNDER CLAIM OF)
VESTED RIGHT V04568 WITHIN THE)
SNAKE VALLEY HYDROGRAPHIC BASIN)
(195), WHITE PINE COUNTY, NEVADA.)

RULING

#6304

GENERAL

I.

Application 84484T was filed on October 29, 2014, by Granite Peak Properties, L.C., to change the point of diversion and place of use of 6.0 acre-feet annually, a portion of water claimed under Proof of Appropriation V04568 (Proof V04568). The proposed point of diversion is described as being located within Lot 2 of Section 24, T.10N., R.70E., M.D.B.&M. The existing point of diversion is described as being located within Lot 5 of Section 24, T.10N., R.70E., M.D.B.&M. The proposed place of use is described as being located within portions of Lots 1, 2, 8-13, 17-20 of Section 12; Lots 1-9, 12-19 of Section 13; Lots 2-8, 13-17, SW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ and the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 24; Lots 4-7, 15, 16, SW $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 25, all in T.10N., R.70E., M.D.B.&M. The existing place of use is described as being located within portions of the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 24.¹

II.

Proof V04568 was filed on May 12, 1986, by the Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-Day Saints, a Utah Corporation sole, later assigned to Granite Peak Properties, L.C., to appropriate 1.0 cubic foot per second (cfs) of water from an underground source for stock watering purposes. The proposed point of

¹ File No. 84484T, official records in the Office of the State Engineer.

diversion is described as being located within the NE¼ NW¼ of Section 24, T.10N., R.70E., M.D.B.&M.²

FINDINGS OF FACT

I.

The State Engineer finds that Proof V04568 is an unadjudicated claim to a vested right to underground percolating water.³

II.

Nevada Revised Statute § 534.100(1) provides that a vested right to underground percolating water is one acquired prior to March 25, 1939. Proof V04568 states the construction of work began in 1970 and that the well was not recorded but was used for one year for irrigation.² The State Engineer finds that on its face, Proof V04568 fails to state facts that meet the statutory requirement of a vested right which was acquired prior to March 25, 1939.

III.

The State Engineer finds there is no requirement outside of an adjudication to determine the validity of a proof of appropriation where the proof admits a priority date after the statutory date to establish a vested right. Therefore, the State Engineer finds for purposes of acting on Application 84484T, the base right is not in good standing and the temporary change application must be denied.

CONCLUSIONS OF LAW

I.

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

II.

The State Engineer concludes that Proof V04568 is facially infirm and therefore cannot serve as the base right for a temporary change of the right by Application 84484T.

² File No. V04568, official records in the Office of the State Engineer.

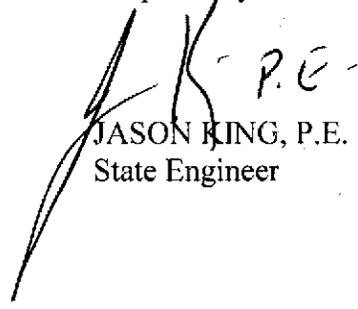
³ The State Engineer finds that the claimant's statement that electric and power were available at the site of the well suggests the use of a pump, which indicates that Applicant's claim of vested right is to percolating groundwater rather than an artesian source.

⁴ NRS Chapters 533 and 534.

RULING

Application 84484T is hereby denied on the grounds that the base right is an unadjudicated claim to a vested right which is facially infirm, and therefore, cannot support a temporary change of the right.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'JK P.E.', is written over the typed name and title.

JASON KING, P.E.
State Engineer

Dated this 2nd day of
March, 2015.