

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

IN THE MATTER OF APPLICATION 84269)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE LAS VEGAS)
VALLEY HYDROGRAPHIC BASIN (212),)
CLARK COUNTY, NEVADA.)

RULING
#6334

GENERAL

I.

Application 84269 was filed on August 28, 2014, by the Las Vegas Valley Water District to appropriate 0.0138 cubic feet per second with a duty of 10 acre-feet annually of water from an underground source for recreation purposes. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 32, T.20S., R.61E., M.D.B.&M. The proposed place of use is described as being located within portions of the S $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 29, SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 30, E $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 31 and the NW $\frac{1}{4}$ of Section 32, all located within T.20S., R.61E., M.D.B.&M.¹

II.

Under Question 12 of Application 84269, the Applicant states that:¹

An existing well will be equipped with a 0.5 HP pump. The pumped groundwater will be delivered via approx[imately] 1000 feet of 1 $\frac{1}{4}$ - inch PVC water line to the pond located in the northwest corner of the Las Vegas Springs Preserve Cienega (Meadows detention basin), where an existing pumping and distribution system will extract the water and deliver [it] to lined habitat ponds and associated wetlands.

The Applicant also states under Question 13 that:¹

Well MDB4 (Driller's Log #31380) has a total depth of 100 ft. bgs [below ground surface] and a current static water level of 21.84 ft. bgs. Based on lithologic logs from LVVWD Production Wells in this region, the principal aquifer is located approximately 300 ft. bgs at this location. Therefore, the water being applied for is from the shallow aquifer.

¹ File No. 84269, official records in the Office of the State Engineer.

FINDINGS OF FACT

I.

On April 15, 1992, the State Engineer entered Amended Order No. 1054 concerning the Las Vegas Valley Groundwater Basin, which Order stated that all applications for new appropriations would be denied with the following exceptions:²

1. Applications filed for commercial or industrial purposes which seek to appropriate 1,800 gallons per day or less and where the property is zoned for such purposes.
2. Applications filed for the purpose of reinstating a permit that has been cancelled and where some use has been made of the water, but only for the uses that are existing.
3. Applicants who began the process of filing an application before March 23, 1992.

II.

Application 84269 requests a new appropriation of water; however, the State Engineer finds that the Application does not fall within the enumerated exceptions to Amended Order No. 1054 for the requested new appropriation.

III.

Nevada Revised Statute § 534.050(1) requires that in designated basins, every person desiring to sink or bore a well in the basin must first obtain a permit to appropriate the water before performing any work in connection with the boring or sinking of the well. However, NRS § 534.050(2)(c) allows the State Engineer, on a showing of good cause, to waive the requirement for wells to be drilled in shallow groundwater systems and pumped to alleviate potential hazards to persons and property resulting from the rise of groundwater caused by secondary recharge. If practical, approved by the State Engineer and consistent with Chapters 533 and 534, the withdrawn water must be used for some other beneficial use. *Id.*

IV.

In Application 84269, the Applicant states under Question 13 that the water being applied for is from the shallow groundwater aquifer. It is unclear whether the Applicant is seeking a waiver pursuant to NRS § 534.050(2)(c) by its reference to the shallow

² Amended Order No. 1054, dated April 15, 1992, official records in the Office of the State Engineer.

groundwater aquifer. The State Engineer interprets the application to be such a request, and staff from the Office of the State Engineer conducted an on-site investigation of the described place of use on March 3, 2015. In the report of the field investigation, staff observed that there was no existing hazard to persons or property resulting from the rise in secondary recharge.¹ The State Engineer finds that the waiver provision of NRS § 534.050(2)(c) is not applicable to Application 84269.

CONCLUSIONS OF LAW

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.³

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:⁴

- 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 Application 84269 does not fall within any enumerated exceptions to Amended Order No. 1054 and that the Order compels the denial of Application 84269.

IV.

The State Engineer concludes that the waiver provision of NRS § 534.050(2)(c) is inapplicable to the application, as there is no existing hazard to persons or property resulting from the rise in secondary recharge that would support granting an appropriation from the shallow groundwater aquifer.

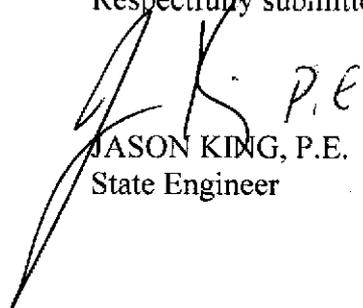
³ NRS Chapters 533 and 534.

⁴ NRS § 533.370(2).

RULING

Application 84269 is hereby denied on the grounds that there is no applicable exception to State Engineer's Amended Order No. 1054 and the waiver provision of NRS § 534.050(2)(c) is inapplicable; therefore, approval of the Application would threaten to prove detrimental to the public interest.

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 25th day of
January, 2016.