

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

IN THE MATTER OF APPLICATION 78435)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE BUFFALO VALLEY)
HYDROGRAPHIC BASIN (131), LOCATED)
WITHIN LANDER COUNTY, NEVADA.)

RULING

#6240

GENERAL

I.

Application 78435 was filed on May 4, 2009, by General Gold Corporation to appropriate 2.01 cubic feet per second (cfs) not to exceed 1,428 acre-feet annually of water from an underground source in the Buffalo Valley Hydrographic Basin for mining and milling purposes. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 17, T.30N., R.43E., M.D.B.&M. The proposed place of use is described as being located within the N $\frac{1}{2}$ and SW $\frac{1}{4}$, of Section 17, T.30N., R.43E., M.D.B.&M.¹

II.

Application 78435 was timely protested by Newmont USA Limited, on the following grounds:¹

1. The proposed Point of Diversion (POD) may negatively affect Newmont's approved Plan of Operation and pending amendments by the BLM Battle Mountain Field Office.
2. The proposed POD's required infrastructure may interfere with Newmont's existing infrastructure. (pipelines and power lines).
3. The proposed POD may interfere with Newmont's production wells that are necessary for operations at the Phoenix Mine.
4. Pumping at the proposed POD may interfere with an existing groundwater remediation project.

¹ File No. 78435, official records in the Office of the State Engineer.

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 an application to appropriate the public waters of the State of Nevada. The State Engineer finds that in the case of protested Application 78435, 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 on this matter is not required.

II.

Every permit issued by the State Engineer contains conditions that establish the guidelines under which the appropriation of water can occur. Permits issued for appropriations of underground water for mining and milling purposes are often conditioned on the provision that the approval of the permit does not waive any requirements that may be imposed by state and federal agencies. Application 78435 was protested in part on grounds that the proposed point of diversion may negatively affect Newmont's approved Plan of Operation and pending amendments by the Bureau of Land Management (BLM). The State Engineer finds that any issue regarding Newmont's approved Plan of Operation would be addressed by the BLM.

III.

Application 78435 was protested in part on grounds that the required infrastructure may interfere with Newmont's existing infrastructure of pipelines and power lines. The State Engineer finds that the Applicant's and Protestant's infrastructure is beyond the purview of the Office of the State Engineer and will not be considered as part of this ruling.

IV.

Application 78435 was protested in part on grounds that the proposed point of diversion may interfere with Newmont's production wells that are necessary for operations at the Phoenix Mine.

A hydrologic review conducted by the Office of the State Engineer found that the nearest well controlled by the Protestant is 4,378 feet from the Applicant's proposed point of diversion. The review concluded that the depth of drawdown was not expected to interfere with production at the Protestant's well. The State Engineer finds that Application 78435 will not interfere with Newmont's production wells.

V.

Nevada Revised Statute (NRS) § 533.365(1) provides that any person may file a written protest against the granting of an application, setting forth with reasonable certainty the grounds of such protest. Application 78435 was protested in part on grounds that the pumping at the proposed point of diversion may interfere with an existing groundwater remediation project. The Protestant did not identify any remediation project and therefore, failed to set forth with reasonable certainty that a remediation project will be affected. The State Engineer finds that there are no protest grounds asserted sufficient to deny Application 78435.

VI.

The applicant stated in a letter dated April 29, 2009, that the estimated project life span will be 10 years and the consumptive use of water for the proposed mining project will be 315 million gallons annually (966.70 acre- feet annually).¹

CONCLUSIONS

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 an application to appropriate the public waters where:³

- A. there is no unappropriated water at the proposed source;
- B. the proposed use or change conflicts with existing rights;

² NRS Chapters 533 and 534.

³ NRS § 533.370(2).

- 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.

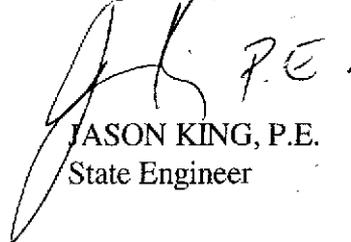
III.

The State Engineer concludes that Application 78435 will not interfere with Newmont's existing production wells. No ruling is made on the merits of the remaining protest issues.

RULING

The protest is overruled and Application 78435 is hereby approved for mining and milling purposes subject to existing rights and the payment of the statutory permit fees.

Respectfully submitted,



JASON KING, P.E.
State Engineer

Dated this 2nd day of
October, 2013.