

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

IN THE MATTER OF APPLICATION 84829 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS OF AN UNDERGROUND SOURCE )  
WITHIN THE BUENA VISTA VALLEY )  
HYDROGRAPHIC BASIN (129), PERSHING )  
COUNTY, NEVADA. )

**RULING**  
**#6370**

**GENERAL**

**I.**

Application 84829 was filed on February 10, 2015, by Meck-Tec, Inc., Sandra Meck to appropriate 2.5 cubic feet per second, not to exceed 1,000 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 SW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 22, T.31N., R.34E., M.D.B.&M. The proposed place of use is described as being located within portions of the SW $\frac{1}{4}$  of Section 14, S $\frac{1}{2}$  of Section 15, E $\frac{1}{2}$  of Section 21, all of Section 22, and the NW $\frac{1}{4}$  of Section 27, T.31N., R.34E., M.D.B.&M.<sup>1</sup>

**II.**

Application 84829 was timely protested by the Lovelock Meadows Water District on grounds not to be considered in this ruling.

**FINDINGS OF FACT**

**I.**

Nevada Revised Statute (NRS) § 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 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.

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<sup>1</sup> File No. 84829, official records in the Office of the State Engineer.

## II.

The perennial yield of a groundwater reservoir may be defined as the maximum amount of groundwater that can be withdrawn each year over the long term without depleting the groundwater reservoir.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.<sup>2</sup>

The Division of Water Resources estimates that the perennial yield of the Buena Vista Valley Hydrographic Basin is approximately 10,000 acre-feet.<sup>3</sup> The committed groundwater resource in the form of permits and certificates issued by the State Engineer to appropriate underground water from the Buena Vista Valley Hydrographic Basin currently exceeds 23,000 afa.<sup>4</sup> The State Engineer finds that existing groundwater rights in the Buena Vista Valley Hydrographic Basin exceed the perennial yield of the groundwater basin.

## III.

On October 2, 1979, State Engineer's Order No. 732 was issued designating the Buena Vista Groundwater Basin as a basin coming under the provisions of NRS Chapter 534.<sup>5</sup>

By State Engineer's Order No. 1276, dated May 23, 2016, the State Engineer ordered that all new applications filed to appropriate water from a groundwater source pursuant to Chapter 534 within the designated Buena Vista Valley subject to certain exceptions, would be denied.<sup>6</sup> The

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

<sup>3</sup> O.J. Loeltz., et al., *Geology and Ground-Water Resources of Buena Vista Valley, Pershing County, Nevada*, Water Resources Bulletin No. 13, (State of Nevada, Office of the State Engineer and United States Geological Survey), p. 7, 1955.

<sup>4</sup> Nevada Division of Water Resources' Water Rights Database, Hydrographic Basin Summary, Buena Vista Valley Hydrographic Basin (129), accessed September 14, 2016, official records in the Office of the State Engineer, available at <http://water.nv.gov/data/underground/>.

<sup>5</sup> State Engineer's Order No. 732, dated October 2, 1979, official records in the Office of the State Engineer.

<sup>6</sup> State Engineer's Order No. 1276, dated May 23, 2016, official records in the Office of the State Engineer.

State Engineer finds that Application 84829 for mining, milling and domestic purposes is not within the enumerated exceptions in State Engineer's Order 1276.<sup>7</sup>

### **CONCLUSIONS OF LAW**

#### **I.**

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>8</sup>

#### **II.**

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:<sup>9</sup>

- 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 committed groundwater resources of the Buena Vista Valley Hydrographic Basin exceed the groundwater basin's estimated perennial yield; therefore, the State Engineer concludes there is no unappropriated water at the source.

#### **IV.**

Application 84829 for mining, milling and domestic is not within any exception to State Engineer's Order No. 1276, which ordered that all new appropriations within the Buena Vista Valley Hydrographic Basin be denied. The State Engineer concludes that granting Application 84829 would be contrary to State Engineer's Order No. 1276, and therefore threatens to prove detrimental to the public interest.

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<sup>7</sup> State Engineer's Order No. 1276, dated May 23, 2016, official records in the Office of the State Engineer.

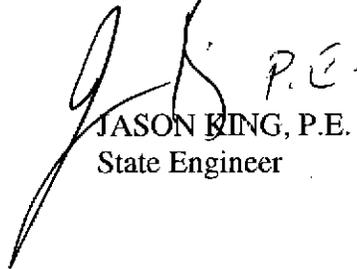
<sup>8</sup> NRS Chapters 533 and 534.

<sup>9</sup> NRS § 533.370(2).

**RULING**

Application 84829 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. No ruling is made on the merits of the protest.

Respectfully submitted,



JASON KING, P.E.  
State Engineer

Dated this 18th day of  
October, 2016.