



**DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF WATER RESOURCES**

901 South Stewart Street, Suite 2002
Carson City, Nevada 89701-5250
(775) 684-2800 • Fax (775) 684-2811
<http://water.nv.gov>

July 29, 2019

NOTICE OF HEARING

Re: Notice Of Public Hearing Regarding Proposed Order Affecting Water Rights In
The Cold Spring Valley Hydrographic Basin (100) Within Washoe County, Nevada

Dear Water Right Holder:

The State Engineer has set a hearing to receive public comment on a proposed order affecting water rights in the Cold Spring Valley Hydrographic Basin (100). **The public hearing will be held 9:00 a.m., Wednesday, September 11, 2019, at the Tahoe Hearing Room, Nevada Division of Water Resources at 901 S. Stewart Street, Suite 2002, Carson City, Nevada.**

Written comments will also be accepted. A copy of the proposed order is enclosed and available on the Nevada Division of Water Resources' website at <http://water.nv.gov> under the "Recent News" column. If you do not have internet access and would like a copy of the proposed order, please contact the Division of Water Resources at (775) 684-2800.

We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please write the Nevada Division of Water Resources at 901 S. Stewart Street, Suite 2002, Carson City, Nevada, 89701, or call (775) 684-2800. We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the hearing. If special arrangements for the hearing are required, please notify me at the above address or phone number at least five working days before the hearing.

You may also contact the Division if you have questions concerning the public hearing scheduled in this matter.

Sincerely,

A handwritten signature in blue ink that reads "Melissa L. Flatley".

Melissa L. Flatley, Esq.
Chief Hearings Section

MLF/jm
Enclosure

SERVICE LIST

Jack Bacon
3295 S. Virginia Street
Reno, NV 89502
Certified Mail
9214 7969 0099 9790 1629 0493 88

Keith Everett
8020 Walegra Road, Unit 1176
Antelope, CA 95843-5783
Certified Mail
9214 7969 0099 9790 1629 0494 01

Charles L. and Christine Overbay
3240 Sun Cloud Court
Reno, NV 89506
Certified Mail
9214 7969 0099 9790 1629 0494 25

Great Basin Water Company
1240 E. State Street, Suite 115
Pahrump, NV 89048
Certified Mail
9214 7969 0099 9790 1629 0494 63

Bordertown, Inc.
c/o McGinley and Associates, Inc.
815 Masetro Drive
Reno, NV 89511
Certified Mail
9214 7969 0099 9790 1629 0497 15

Parampreet Investments, LLC
c/o McGinley and Associates, Inc.
815 Masetro Drive
Reno, NV 89511
Certified Mail
9214 7969 0099 9790 1629 0495 62

Heinz Holdco, LLC
777 South Center St., Suite 105
Reno, NV 89501
Certified Mail
9214 7969 0099 9790 1629 0495 86

cc: Washoe County Commissioners
Division of Water Resources, E-mail
Sam Monteleone, E-mail
Thomas K. Gallagher, P.E., E-mail
Capitol Reporters, E-mail

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

PROPOSED INTERIM ORDER

**ESTABLISHING A TEMPORARY MORATORIUM ON THE REVIEW OF, AND
ACTION ON, SUBDIVISION MAPS OR OTHER SUBMISSIONS CONCERNING
DEVELOPMENT AND CONSTRUCTION SUBMITTED TO THE STATE ENGINEER
IN THE COLD SPRING VALLEY HYDROGRAPHIC BASIN (100)**

I. BASIN DESIGNATION AND ORDERS

WHEREAS, the Cold Spring Valley Hydrographic Basin was designated pursuant to Nevada Revised Statute (NRS) Chapter 534 by Order 606 dated January 18, 1977.

WHEREAS, on April 22, 2010, by Order 1206, the State Engineer established a program pursuant to NRS § 534.350 allowing a public water system to receive credits for the addition of new customers to its system served by a domestic well or eligible to drill a domestic well prior to July 1, 1993.

II. COLD SPRING VALLEY ADJUDICATION

WHEREAS, on February 3, 2016, the Heinz Ranch Land Company, LLC, petitioned the State Engineer to adjudicate the water rights of Cold Spring Valley. The State Engineer issued Order 1277 on June 1, 2016, commencing, the adjudication of the Cold Spring Valley Hydrographic Basin, pursuant to NRS § 533.090.

WHEREAS, on August 1, 2016, by Order 1278 the State Engineer commenced the taking of Proofs of Appropriation as provided for under NRS § 533.110.

WHEREAS, on February 27, 2019, the State Engineer issued the Preliminary Order of Determination in the Matter of the Determination of the Relative Rights in and to the Waters of Cold Spring Valley, Hydrographic Basin No. 100, Washoe County Nevada (hereafter "Preliminary Order of Determination").

WHEREAS, the hearing on Objections to the Preliminary Order of Determination is scheduled for August 21-22, 2019.¹

III. COLD SPRING VALLEY RULINGS

WHEREAS, the State Engineer has received and considered multiple applications seeking to appropriate groundwater in Cold Spring Valley.² However, the State Engineer has consistently found that the available perennial yield of Cold Spring Valley is 500 acre-feet and that the groundwater commitments exceed the available water supply.³

IV. COLD SPRING VALLEY HYDROGRAPHIC BASIN

WHEREAS, the State Engineer estimates the perennial yield of the Cold Spring Valley Hydrographic Basin is 500 acre-feet.⁴

WHEREAS, as of July 26, 2019, 2,860.03 acre-feet of groundwater rights are committed from the Cold Spring Valley Hydrographic Basin.⁵

WHEREAS, of the 2,860.03 acre-feet of groundwater rights located within Cold Spring Valley, 1,707.96 acre-feet are permitted and certificated for quasi-municipal manner of use.⁶

WHEREAS, the Preliminary Order of Determination identified 1,099.10 acre-feet of valid supplemental vested groundwater claims in the Cold Spring Valley Hydrographic Basin.⁷

WHEREAS, supplemental groundwater rights are water rights that are available to fulfill the difference between a water right holder's surface water right delivery and the full duty of

¹ Notice of Hearing, July 16, 2019.

² See State Engineer Rulings 1429, 1430, 2038, 2141, 2042, 2142, 2157, 2227, 2265, 2300, 2387, 2420, 3062, 4560, 4561, 4567, 4568, 4569, 4570, 4766, and 4880, official records in the Office of the State Engineer.

³ *Id.*

⁴ F.E. Rush and P.A. Glancy, *Water-Resources Appraisal of the Warm Springs-Lemmon Valley Area, Washoe County, Nevada*, Water Resources Bulletin No. 43, (Department of Conservation and Natural Resources, Division of Water Resources and U.S. Department of the Interior, Geological Survey), 1967.

⁵ Nevada Division of Water Resources' Water Rights Database, Hydrographic Area Summary, Cold Spring Valley Basin (100), accessed July 26, 2019, official records in the Office of the State Engineer, available at <http://water.nv.gov/DisplayHydrographicGeneralReport.aspx?basin=100>.

⁶ *Id.*

⁷ See Preliminary Order of Determination, Exhibit A.

water the holder of the water right is authorized to divert under the terms of their right. In years where a surface water supply is sufficient to fulfill the total water right, no groundwater use is permitted; however, in extremely dry years, a water right holder may be authorized to divert as much as 100 percent of the supplemental groundwater right if there is no surface water to satisfy the water right.

WHEREAS, there remains great uncertainty as the total groundwater commitments within Cold Spring Valley resulting from the Cold Spring Valley adjudication proceedings, which are not yet determined.

WHEREAS, until such time as the adjudication proceedings are concluded and a final determination is made as to the quantification of the vested groundwater claims, there remains the potential for an additional 1,099.10 acre-feet of groundwater, or more, of additional claims to use of the groundwater within Cold Spring Valley.⁸

WHEREAS, the State Engineer has not determined, and cannot until the conclusion of the adjudication, the quantity of vested supplemental groundwater rights that will, on average, be relied upon to satisfy the totality of the surface water right(s). This quantity of water will have to be considered as a component of the total committed groundwater rights within Cold Spring Valley.⁹

WHEREAS, the State Engineer does not conduct annual groundwater pumpage inventories in Cold Spring Valley; however, groundwater pumpage for quasi-municipal use within the basin for calendar year 2017 equals 1,313.16 acre-feet of groundwater use.¹⁰

⁸ The Objections to the Preliminary Order of Determination submitted by Heinz Holdco LLC submitted on May 3, 2019, seeks an expansion of the vested claims, including vested groundwater claims, based upon the State Engineer's calculations, which if accepted may increase the vested groundwater claims and associated commitments in the Cold Spring Valley Hydrographic Basin.

⁹ The historic average of necessary groundwater needed to make-up the difference between the surface water deliveries and the historic water rights has not been determined, and that calculation is necessary to determine what additional groundwater commitments exist within Cold Spring Valley Hydrographic Basin.

¹⁰ As reported by Great Basin Water Company, who is the holder of all quasi-municipal rights in the basin, official records in the Office of the State Engineer.

V. AUTHORITY AND NECESSITY

WHEREAS, NRS § 533.024(1)(c) directs the State Engineer “to consider the best available science in rendering decisions concerning the availability of surface and underground sources of water in Nevada.”

WHEREAS, given that the State Engineer must use the best available science and manage the water resources in the Cold Spring Valley Hydrographic Basin, consideration of any development of long-term, permanent, uses that could ultimately be curtailed due to lack of water availability must be examined with great caution.

WHEREAS, the perennial yield of the Cold Spring Valley Hydrographic Basin is 500 acre-feet, and existing water rights within the basin exceed the perennial yield of the basin.

WHEREAS, the urbanization and development in the basin continues and uncertainty as to the quantity of water under vested groundwater claims before the State Engineer cannot be determined with finality until the conclusion of the Cold Spring Valley adjudication proceedings.

WHEREAS, existing groundwater pumping within the Cold Spring Valley Hydrographic Basin is documented to be at least 1,313.16 acre-feet in 2017, with the majority of that water serving residential developments within the Basin.

WHEREAS, the State Engineer must consider that any new development will be reliant on the groundwater supply for innumerable years to come.

WHEREAS, there is great uncertainty as to the precise extent of the development of existing appropriations of groundwater within Cold Spring Valley that may occur without conflicting with senior rights.

WHEREAS, the State Engineer is empowered to make such reasonable rules and regulations as may be necessary for the proper and orderly execution of the powers conferred by law.¹¹

WHEREAS, within an area that has been designated by the State Engineer, as provided for in NRS Chapter 534, where, in the judgment of the State Engineer, the groundwater basin is

¹¹ NRS § 532.120.

being depleted, the State Engineer in his or her administrative capacity may make such rules, regulations and orders as are deemed essential for the welfare of the area involved.¹²

VI. ORDER

NOW THEREFORE, IT IS HEREBY ORDERED that:

1. During the pendency of this Interim Order:
 - a. A temporary moratorium is issued holding in abeyance decisions on any subdivision or other submission concerning development and construction (hereafter “project”) submitted to the State Engineer after July 26, 2019, for review, pending a Decree in the Cold Spring Valley adjudication so to allow the State Engineer to determine the quantity of groundwater available without conflicting with senior rights and assuring an available water supply exists to serve the needs for the anticipated life of the project.
 - b. The State Engineer may review and grant approval if a showing can be made to the State Engineer’s satisfaction that an adequate and sustainable supply of water, other than groundwater within the Cold Spring Valley Hydrographic Basin, is available to meet the needs and anticipated life of the project.

TIM WILSON, P.E.
Acting State Engineer

Dated at Carson City, Nevada this

_____ day of _____, _____.

¹² NRS § 534.120(1).