

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

#1307

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 January 14, 2020.¹

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 December 17, 2019, approximately 1,755 acre-feet of appropriated groundwater rights are committed from the Cold Spring Valley Hydrographic Basin.⁵

WHEREAS, of the 1,755 acre-feet of appropriated groundwater rights located within Cold Spring Valley, approximately 1,708 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 irrigation claims and 4.93 acre-feet of valid vested stockwater claims for a total of 1,104 acre-feet in the Cold Spring Valley Hydrographic Basin.⁷

¹ Notice of Hearing, September 11, 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 December 17, 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.

WHEREAS, the total groundwater commitments, including existing appropriations and vested claims determined to be valid in the Preliminary Order of Determination total approximately 2,859 acre-feet.

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 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 1,104 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

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.

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

WHEREAS, the predominate manner of use of water within the Cold Spring Valley being quasi-municipal use is utilized for the purpose of serving the residential population of the basin, which in 2010 was 8,544 persons.¹¹

WHEREAS, within the Cold Spring Valley, there are approximately 3,110 individual households, and of those, 83.8-percent of those households are owner occupied.¹²

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.

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.

¹¹ See United States Census Data available at <https://www.census.gov/quickfacts/fact/table/coldspringscdpnevada/PST045218> (last accessed December 10, 2019).

¹² *Id.*

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 has a duty to exercise caution where there is uncertainty and that the exercise of such caution is particularly prudent where the existing reliance on a water resource is by households where mismanagement may subject such communities to curtailment or regulation of water rights by priority of rights.

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

WHEREAS, the State Engineer finds that he has a duty to take proactive steps to assure the best management practices exist in a basin so as to prevent against perpetuating or imposing an avoidable problem.

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 existing 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.¹³

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 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.¹⁴

¹³ NRS 532.120.

¹⁴ NRS 534.120(1).

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 December 18, 2019, for review, pending a Decree in the Cold Spring Valley adjudication 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.
2. Any stakeholder with interests that may be affected by water right development within the Cold Spring Valley Hydrographic Basin may file a report in the Office of the State Engineer in Carson City, Nevada, no later than the close of business on Tuesday, March 31, 2020. Reports filed with the Office of the State Engineer should address:
 - a. The perennial yield of the Cold Spring Valley Hydrographic Basin, defined as the quantity of groundwater that may be withdrawn from the Basin each year over the long-term without depleting the groundwater reservoir;
 - b. Whether the quantity of groundwater that may be withdrawn each year over the long-term is sufficient to meet the needs of the current commitments within the Cold Spring Valley Hydrographic Basin; and,

- c. Whether the location of groundwater withdrawals and recharge within the Cold Spring Valley Hydrographic Basin impact the quantity of water that may be sustainably developed within the Basin.
3. The State Engineer may, in his discretion, schedule an administrative hearing no later than the month of May 2020 to take comment on the submitted reports.



TIM WILSON, P.E.

State Engineer

Dated at Carson City, Nevada this

20th day of December, 2019.