

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

IN THE MATTER OF APPLICATION 84188 FILED)
TO APPROPRIATE THE PUBLIC WATERS OF AN)
UNDERGROUND SOURCE WITHIN THE LOWER)
REESE RIVER VALLEY HYDROGRAPHIC BASIN)
(59), LANDER COUNTY, NEVADA.)

RULING
#6323

GENERAL

I.

Application 84188 was filed on July 29, 2014, by GLL Pits LLC to appropriate 0.223 cubic feet per second, not to exceed 70 acre-feet annually (afa) of water from an underground source for mining and milling purposes. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 17, T.31N., R.44E., M.D.B.&M. The proposed place of use is described as being located within the S $\frac{1}{2}$ NE $\frac{1}{4}$ of said Section 17.¹ The Applicant specified in the remarks section of Application 84188 that the estimated life of the operation is 35 years or less.

FINDINGS OF FACT

I.

The perennial yield of a groundwater reservoir may be defined as the maximum amount of groundwater that can be withdrawn each year over the long term without depleting the groundwater reservoir.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

¹ File No. 84188, official records in the Office of the State Engineer.

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

The Division of Water Resources' estimated combined perennial yield of the Lower Reese River Valley Hydrographic Basin and the Whirlwind Valley Hydrographic Basin is approximately 20,000 acre-feet.³ The committed groundwater resource in the form of permits and certificates issued by the State Engineer to appropriate underground water from the Lower Reese River Valley Hydrographic Basin currently totals approximately 39,662 afa, of which 22,079 afa is temporary for mining and milling purposes.⁴ Similarly, the committed groundwater resources in the Whirlwind Valley Hydrographic Basin totals 4,404 afa of which 1,672 afa is for mining and milling purposes. These total 44,066 afa, or 20,315 afa excluding mining and milling purposes.⁵ The State Engineer finds that existing groundwater rights in the Lower Reese River Valley Hydrographic Basin and the Whirlwind Valley Hydrographic Basin exceed the combined perennial yield of the groundwater basins.

II.

Nevada Revised Statute (NRS) § 533.371 states that the State Engineer shall reject an application and refuse to issue a permit to appropriate water for a specified period if the State Engineer determines that the proposed use is not temporary. Modernly, permits for mining and milling in the Lower Reese River Valley Hydrographic Basin have been issued as temporary appropriations where the permit periods range from 15 down to 7 years.⁶ Application 84188 requests an appropriation for a specified period of 35 years – the expected life of the operation. When compared to the most recent mining and milling permits issued in the basin for finite periods of 7 years, the State Engineer finds that Application 84118, which requested a time period five times that amount, is not temporary.

³ T.E. Eakin, R.D. Lamke, *Hydrologic Reconnaissance of the Humboldt River Basin, Nevada*, Water Resources Bulletin No. 32, (Department of Conservation and Natural Resources), p. 58, 1966.

⁴ Nevada Division of Water Resources' Water Rights Database, Hydrographic Basin Summary, Lower Reese River Valley Hydrographic Basin (59), October 26, 2015, official records in the Office of the State Engineer.

⁵ Nevada Division of Water Resources Water Rights Database, Hydrographic Basin Summary, Whirlwind Valley Hydrographic Basin (60), October 26, 2015, official records in the Office of the State Engineer.

⁶ See Permit 68683 (15 years); Permit 74898 (10 years); Permit 74899 (10 years); Permit 75022 (10 years); Permit 75128 (10 Years); Permit 80341 (7 years); Permit 80342 (7 years), official records in the Office of the State Engineer.

CONCLUSIONS OF LAW

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁷

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:⁸

- 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 Lower Reese River Valley Hydrographic Basin and Whirlwind Valley Hydrographic Basin exceed the groundwater basins' estimated combined perennial yield; therefore, the State Engineer concludes there is no unappropriated water at the source.

IV.

Having found that the specified period of 35 years requested by Application 84188 is not temporary, the State Engineer concludes that NRS § 533.371 requires that the Application be rejected and a permit refused.

RULING

Application 84188 is hereby denied on the grounds that the use requested is not temporary and that there is no unappropriated water at the source.

Respectfully submitted,

 P.E.
JASON KING, P.E.
State Engineer

Dated this 13th day of
November, 2018.

⁷ NRS Chapters 533 and 534.

⁸ NRS § 533.370(2).