

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

IN THE MATTER OF APPLICATION 85534)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE)
WITHIN THE DESERT VALLEY)
HYDROGRAPIC BASIN (31), HUMBOLDT)
COUNTY, NEVADA.)

RULING
#6353

GENERAL

I.

Application 85534 was filed on October 20, 2015, by Melvin Leslie Hummel to appropriate 0.0092834 cubic feet per second of water from an underground source for the stockwatering of 300 head of cattle from January 1st to December 31st of each year. The proposed point of diversion is described as being located within the NW¼ NE¼ of Section 16, T.38N., R.32E., M.D.B.&M. The proposed place of use is described as being located within the NW¼ NE¼ of Section 16 and the NE¼ NW¼ of Section 9, T.38N., R.32E., M.D.B.&M.¹

FINDINGS OF FACT

I.

Nevada Revised Statute § 533.370(2) provides that the State Engineer must reject an application where there is no unappropriated water in the proposed source of supply. In determining the amount of groundwater available for appropriation in a given hydrographic basin, the State Engineer relies on available hydrologic studies to provide relevant data to determine the perennial yield of a hydrographic basin. The perennial yield of a groundwater reservoir may be defined as the maximum amount of groundwater that can be withdrawn each year over the long term without depleting the groundwater reservoir.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. 85534, 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 estimates that the perennial yield of the Desert Valley Hydrographic Basin is approximately 9,000 acre-feet annually (afa).³ The committed groundwater resource in the form of permits and certificates issued by the State Engineer to appropriate underground water from the Desert Valley Hydrographic Basin is currently 38,586 afa.⁴ The State Engineer finds that the existing groundwater rights in the Desert Valley Hydrographic Basin exceed the perennial yield of the groundwater basin.

II.

State Engineer's Order No. 535 designated the Desert Valley Hydrographic Basin as a groundwater basin in need of additional administration pursuant to NRS § 534.030.⁵

State Engineer's Order No. 1269 curtailed new appropriations in the Desert Valley Hydrographic Basin with the following exceptions:⁶

1. Those wells drilled for domestic purposes and defined by NRS § 534.013.
2. Those applications for environmental permits filed pursuant to NRS §§ 533.437 to 533.4377, inclusive.
3. Those applications for temporary appropriations of groundwater for establishing fire-resistant vegetative cover filed pursuant to NRS § 533.436.
4. Those applications filed for temporary stockwater use pursuant to NRS § 533.504 that seek appropriation of less than two acre-feet of water annually.
5. Those applications filed to increase diversion rate only, with no corresponding increase in duty of water.
6. Those applications filed for non-consumptive uses.

The State Engineer finds that none of the enumerated exceptions within Order No. 1269 apply to Application 85534.

CONCLUSIONS OF LAW

I.

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

³ Jon O. Nowlin, *Ground-Water Quality in Nevada – A Proposed Monitoring Program, Open-File Report 78-768*, (United States Geological Survey), p. 191, 1986.

⁴ Nevada Division of Water Resources' Water Rights Database, Hydrographic Basin Summary, Desert Valley Hydrographic Basin (31), July 7, 2016, official records in the Office of the State Engineer, available at <http://water.nv.gov/data/underground/>.

⁵ State Engineer's Order No. 535, dated May 9, 1975, official records in the Office of the State Engineer.

⁶ State Engineer's Order No. 1269, dated December 2, 2015, official records in the Office of the State Engineer.

⁷ NRS Chapters 533 and 534.

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 Desert Valley Hydrographic Basin greatly exceed the basin's estimated perennial yield; therefore, the State Engineer concludes that there is no unappropriated water at the source of supply.

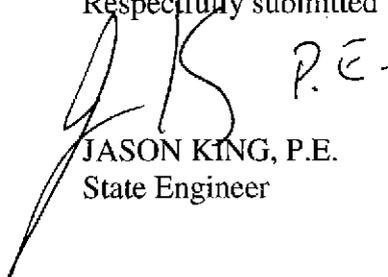
IV.

Application 85534 requests a new appropriation of groundwater but does not come within any enumerated exception to State Engineer Order No. 1269. The State Engineer concludes that approval of the application would be contrary to Order No. 1269, and therefore the application would threaten to prove detrimental to the public interest.

RULING

Application 85534 is hereby denied on the grounds that there is no unappropriated water at the source of supply and approval of the application would threaten to prove detrimental to the public interest.

Respectfully submitted

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

Dated this 4th day of
August, 2016.

⁸ NRS § 533.370(2).