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

IN THE MATTER OF APPLICATION 84234)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE)
WITHIN THE BIG SMOKY VALLEY –)
TONOPAH FLAT HYDROGRAPHIC BASIN)
(137A), ESMERALDA COUNTY, NEVADA.)

RULING

#6359

GENERAL

I.

Application 84234 was filed on August 13, 2014, by WK Mining (USA) Ltd. to appropriate 2.0 cubic feet per second of water, not to exceed 1,000 acre-feet annually (afa), from an underground source for mining, milling and domestic purposes. The proposed point of diversion is described as being located within the NW¼ SE¼ of Section 33, T.3N., R.42E., M.D.B.&M. The proposed place of use is described as being located within the S½ of Section 32, the S½ of Section 33 and the S½ of Section 34, T.3N., R.42E., and Sections 3, 4, 5, 8, 9, 10 and the W½ of Section 11, T.2N., R.42E., M.D.B.&M.[1]

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The perennial yield of a groundwater reservoir may be defined as the maximum amount of groundwater that can be withdrawn each year over the long term without depleting the groundwater reservoir.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

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[1] File No. 84234, 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 Big Smoky Valley – Tonopah Flat Hydrographic Basin is approximately 6,000 afa.[3] The committed groundwater resource in the form of permits and certificates issued by the State Engineer to appropriate underground water from the Big Smoky Valley – Tonopah Flat Hydrographic Basin currently exceeds 23,195.60 afa.[4] The State Engineer finds that the existing groundwater rights in the Big Smoky Valley – Tonopah Flat Hydrographic Basin exceed the perennial yield of the groundwater basin.

CONCLUSIONS OF LAW

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.[5]

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:[6]

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 Big Smoky Valley – Tonopah Flat Hydrographic Basin currently exceed the groundwater basin's estimated perennial yield. The State Engineer concludes that there is no unappropriated water available in the quantities necessary to satisfy Application 84234. Because there is no unappropriated water available, the State Engineer concludes that the approval of the subject application would result in the

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[3] F.E. Rush and C.V. Schroer, *Water Resources of Big Smoky Valley, Lander, Nye, and Esmeralda Counties, Nevada* , Water Resources Bulletin No. 41, (Department of Conservation and Natural Resources, Division of Water Resources and U.S. Department of the Interior, Geological Survey), 1971.

[4] Nevada Division of Water Resources' Water Rights Database, Hydrographic Basin Summary, Big Smoky Valley – Tonopah Flat (137A) Hydrographic Basin (137A), accessed July 11, 2016, official records in the Office of the State Engineer, available at *http://water.nv.gov/data/underground/.*

[5] NRS Chapters 533 and 534.

[6] NRS § 533.370(2).

withdrawal of groundwater in excess of the perennial yield of the Big Smoky Valley – Tonopah Flat Hydrographic Basin, would conflict with existing rights and would threaten to prove detrimental to the public interest.

RULING

Application 84234 is hereby denied on the grounds that there is no unappropriated water available at the source and that use of water under the application would conflict with existing rights and would threaten to prove detrimental to the public interest.

Respectfully submitted,

JASON KING, P.E.
State Engineer

Dated this 1st day of
September, 2016.