

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

IN THE MATTER OF APPLICATIONS 31570 )  
AND 31587 FILED TO APPROPRIATE THE )  
PUBLIC WATERS OF AN UNDERGROUND )  
SOURCE WITHIN THE RAILROAD VALLEY )  
(SOUTHERN PART) GROUNDWATER BASIN )  
(173-A), NYE COUNTY, NEVADA. )

RULING  
**# 4646**

GENERAL

I.

Application 31570 was filed on May 10, 1977, by the Central Nevada Water Company to appropriate 5.4 cubic feet per second (cfs) of underground water for irrigation and domestic purposes within 320 acres of land described as being located within the S $\frac{1}{2}$  of Section 10, T.2N., R.53E., M.D.B. & M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 10.<sup>1</sup>

II.

Application 31587 was filed on May 10, 1977, by the Central Nevada Water Company to appropriate 5.4 cfs of underground water for irrigation and domestic purposes within 320 acres of land described as being located within the N $\frac{1}{2}$  of Section 15, T.2N., R.53E., M.D.B. & M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of said Section 15.<sup>2</sup>

FINDINGS OF FACT

I.

Applications 31570 and 31587 were filed to appropriate underground water for use upon land which was to be removed from the federal domain through the approval of a Carey Act Land entry.<sup>1,2</sup> By letter dated February 6, 1997, the United States Department of Interior, Bureau of Land Management (BLM) was requested to provide the office of the State Engineer with

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<sup>1</sup> File No. 31570, official records in the office of the State Engineer.

<sup>2</sup> File No. 31587, official records in the office of the State Engineer.

information relating to the status of the Central Nevada Water Company's Carey Act Land applications. A timely response was received from the BLM in which it indicated that the land described as the place of use under Applications 31570 and 31587 had been classified on June 9, 1984, as unsuitable for Carey Act entries. The State Engineer finds that applicant's attempt to gain control of the land contained within the respective places of use as described under Applications 31570 and 31587 has been rejected by the proper governing federal agency, and that said land is still held by the federal government.<sup>1,2</sup>

II.

A water right application is filed to request an appropriation of water to be used for a specific purpose within a well defined place of use, which is represented under Applications 31570 and 31587 as the irrigation of land which was to be removed from federal jurisdiction by the approval of the applicant's Carey Act Land entry applications. On June 9, 1984, the lands which were sought for transfer by the applicant were classified by the BLM as unsuitable for acceptance as Carey Act Land entries.<sup>1,2</sup> This classification represents a rejection of the applicant's Carey Act Land entries; therefore, the State Engineer finds that the purpose for which Applications 31570 and 31587 were filed no longer exists.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>3</sup>

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:<sup>4</sup>

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<sup>3</sup> NRS § Chapters 533 and 534.

<sup>4</sup> NRS § 533.370(3).

- A. there is no unappropriated water at the proposed source;
- B. the proposed use conflicts with existing rights; or
- C. the proposed use threatens to prove detrimental to the public interest.

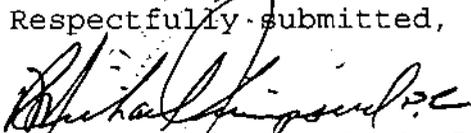
**III.**

A water right application is filed to appropriate water for a specific purpose, which in the case of Applications 31570 and 31587 is the irrigation of land which was to be transferred from the federal government to the applicant's control through the approval of the applicant's Carey Act Land entry applications. This attempt to transfer ownership of the lands described under the respective places of use as described under Applications 31570 and 31587 was terminated when the BLM rejected these lands for Carey Land Act purposes on June 9, 1984. The BLM's rejection of the applicant's Carey Act Land entries removes the specific purposes for which Applications 31570 and 31587 were filed. Therefore, the State Engineer concludes that to approve water right permits where the need to appropriate water no longer exists would not be in the public interest.

**RULING**

Applications 31570 and 31587 are hereby denied on the grounds that the approval of water right permits where the need to appropriate water no longer exists would not be in the public interest.

Respectfully submitted,

  
R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/MDB/cl

Dated this 16th day of  
July, 1998.