

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

IN THE MATTER OF APPLICATION 33017 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS OF AN UNDERGROUND SOURCE )  
WITHIN THE PUMPERNICKEL VALLEY )  
GROUNDWATER BASIN (065), HUMBOLDT )  
COUNTY, NEVADA. )

**RULING**

**# 4815**

**GENERAL**

**I.**

Application 33017 was filed on August 3, 1977, by Lillian E. Vaughn to appropriate 6.0 cubic feet per second of underground water for irrigation purposes on 160 acres of land described as being within the SE $\frac{1}{4}$  of Section 9, T.33N., R.40E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$  SE $\frac{1}{4}$  of said Section 9.<sup>1</sup>

**FINDINGS OF FACT**

**I.**

Application 33017 was filed to appropriate underground water for use upon land that was to be removed from the federal domain through the approval of a Carey Act Land Entry application. By letter dated September 8, 1999, the United States Department of the Interior, Bureau of Land Management (BLM) was requested to provide information to the office of the State Engineer relating to the current status of the Lillian E. Vaughn Carey Act Land Entry application.<sup>1</sup> A timely response from the BLM was received in the office of the State Engineer which indicated that the BLM had no record of a Carey Act Land Entry application being filed in support of Application 33017. The State Engineer finds that the applicant has failed to initiate the procedure necessary to remove

<sup>1</sup> File No. 33017, official records in the office of the State Engineer.

the land representing the proposed place of use under the subject application from federal control, therefore, said land remains under federal jurisdiction.

**II.**

A water right application is filed to appropriate water for a specific purpose which in the case of Application 33017 is for the irrigation of 160 acres of land that were to be removed from federal control and transferred to the applicant through the filing and approval of a Carey Act Land Entry application. The State Engineer finds that the applicant's failure to file the required Carey Act Land Entry application removes the purposes for which Application 33017 was filed.

**CONCLUSIONS**

**I.**

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>2</sup>

**II.**

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:<sup>3</sup>

- 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.**

Application 33017 requests an appropriation of water for a project which does not exist. The State Engineer concludes that to approve a permit where the need to appropriate water has ceased would threaten to prove detrimental to the public interest.

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<sup>2</sup> NRS Chapters 533 and 534.

<sup>3</sup> NRS § 533.370(3).

RULING

Application 33017 is hereby denied on the grounds that its approval would threaten to prove detrimental to the public interest.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.

State Engineer

RMT/MDB/cl

Dated this 7th day of  
December, 1999.