

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

IN THE MATTER OF APPLICATION )  
70908 FILED TO APPROPRIATE )  
THE PUBLIC WATERS OF AN )  
UNDERGROUND SOURCE WITHIN )  
THE WHITE RIVER VALLEY )  
HYDROGRAPHIC BASIN (207), )  
WHITE PINE COUNTY, NEVADA. )

**RULING**  
**# 5596**

**GENERAL**

**I.**

Application 70908 was filed on March 1, 2004, by Orvan and Jolynn Maynard to appropriate 2.5 cubic feet per second of water from an underground source for irrigation and domestic purposes. The proposed place of use is described as 114.08 acres located within portions of the W½ of Section 28 and portions of the E½ of Section 29, T.12N., R.62E., M.D.B.&M. The proposed point of diversion is described as being located within NE¼ SE¼ of said Section 29.<sup>1</sup>

**II.**

Application 70908 was timely protested by Nevada Land and Resource Company (NLRC) on the grounds that it has senior water right applications in White River Valley that are currently ready for action and are paired with Carey Act applications (NLRC is the successor to Silver State Land Company, LLC). It alleged that NLRC is working extensively with the Bureau of Land Management to acquire control of public lands underneath the Carey Act applications through public auctions. NLRC further alleged that the applicant has sufficient water from both the Lund Irrigation and Water Company and the Preston Irrigation Company to irrigate the stated place of use (“double dipping”).<sup>2</sup>

**FINDINGS OF FACT**

**I.**

Nevada Revised Statute § 533.357 provides that when two or more applications are made to appropriate ground water for irrigation purposes from what appears to be the

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<sup>1</sup> File No. 70908, official records in the Office of the State Engineer.

<sup>2</sup> Ibid.

same groundwater basin the State Engineer shall observe the following order of priority in acting on the applications, according to the status of the applicant and the intended place of use: (1) an owner of land for use on that land; (2) an owner of land for use on adjacent land for which he intends to file an application under the Carey Act of the Desert Land Entry Act, 43 U.S.C. §§ 321 et seq.; (3) any other person whose application is preparatory to proceeding under the Carey Act or the Desert Land Entry Act. The State Engineer finds this provision of Nevada Water Law provides the basis for which he can act on this application, which is junior in priority to the many pending Carey Act and Desert Land Entry Act applications pending in this groundwater basin.

## II.

The perennial yield of the White River Valley Hydrographic Basin has been established as 37,000 acre-feet annually.<sup>3</sup> Existing permits and certificates issued for the use of ground water from the White River Valley total less than 33,000 acre-feet annually.<sup>4</sup> The State Engineer finds the duty of water permitted for irrigation in the White River Valley is 4.0 acre-feet per acre from any and all sources; thus, the water necessary to support the appropriation for this 114.08 acres is 456.32 acre-feet annually from any and all sources. The State Engineer finds, since the applicants have surface water rights, any water use permitted under the application could only be made if those surface water sources were unavailable, and that these groundwater rights are fully supplemental to the surface water rights. The State Engineer finds there is unappropriated ground water available in this hydrographic basin in an amount sufficient to grant this application.

## CONCLUSIONS

### I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>5</sup>

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<sup>3</sup> Nowlin, Jon, Ground-water Quality in Nevada – A Proposed Monitoring Program, Open File Report 78-768, United States Geological Survey, p. 201.

<sup>4</sup> Hydrologic Basin Abstract, Water Rights Database, February 2, 2005, official records in the Office of the State Engineer.

<sup>5</sup> NRS chapters 533 and 534.

**II.**

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:<sup>6</sup>

- 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 protectible 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 State Engineer finds Nevada Revised Statute § 533.357 provides him the authority to act on this junior application for irrigation while senior Carey Act or Desert Land Entry Act applications are pending in the hydrographic basin.

**RULING**

The protest to Application 70908 is hereby overruled and the application is approved subject to existing rights and payment of the statutory permit fees.

Respectfully submitted,



HUGH RICCI, P.E.  
State Engineer

HR/jm

Dated this 14th day of  
March, 2006.

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<sup>6</sup> NRS § 533.370(4).