

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

IN THE MATTER OF APPLICATIONS 32241, )  
32242, 32251, 32256, 32257, 32258, 32259, )  
32260, 32265, 32266, AND 32267 FILED TO )  
APPROPRIATE THE PUBLIC WATERS OF )  
AN UNDERGROUND SOURCE WITHIN )  
THE NORTHERN PART - RAILROAD )  
VALLEY HYDROGRAPHIC BASIN (173B), )  
NYE COUNTY, NEVADA. )

**RULING**  
**#5645**

**GENERAL**

**I.**

Application 32241 was filed on June 23, 1977, by Flying Diamond Ranches, Inc., later assigned to Great Basin Holding Co., Inc., to appropriate 10.8 cubic feet per second (cfs) of underground water from the Northern Part - Railroad Valley Hydrographic Basin for irrigation and domestic purposes on 640 acres of land located within Section 1, T.10N., R.57E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$  NE $\frac{1}{4}$  of said Section 1.<sup>1</sup>

**II.**

Application 32242 was filed on June 23, 1977, by Flying Diamond Ranches, Inc., later assigned to Great Basin Holding Co., Inc., to appropriate 10.8 cfs of underground water from the Northern Part - Railroad Valley Hydrographic Basin for irrigation and domestic purposes on 640 acres of land within Section 2, T.10N., R.57E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$  NE $\frac{1}{4}$  of said Section 2.<sup>2</sup>

**III.**

Application 32251 was filed on June 23, 1977, by Flying Diamond Ranches, Inc., later assigned to Great Basin Holding Co., Inc., to appropriate 2.7 cfs of underground water from the Northern Part - Railroad Valley Hydrographic Basin for irrigation and domestic purposes on 160

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<sup>1</sup> File No. 32241, official records in the Office of the State Engineer.

<sup>2</sup> File No. 32242, official records in the Office of the State Engineer.

acres of land within the SW $\frac{1}{4}$  Section 16, T.11N., R.57E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 16.<sup>3</sup>

**IV.**

Application 32256 was filed on June 23, 1977, by Flying Diamond Ranches, Inc., later assigned to Great Basin Holding Co., Inc., to appropriate 10.8 cfs of underground water from the Northern Part - Railroad Valley Hydrographic Basin for irrigation and domestic purposes on 640 acres of land within Section 21, T.11N., R.57E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$  NE $\frac{1}{4}$  of said Section 21.<sup>4</sup>

**V.**

Application 32257 was filed on June 23, 1977, by Flying Diamond Ranches, Inc., later assigned to Great Basin Holding Co., Inc., to appropriate 2.70 cfs of underground water from the Northern Part - Railroad Valley Hydrographic Basin for irrigation and domestic purposes on 160 acres of land within the SW $\frac{1}{4}$  of Section 22, T.11N., R.57E., M.D.B.&M. The proposed point of diversion is described as being located within SW $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 22.<sup>5</sup>

**VI.**

Application 32258 was filed on June 23, 1977, by Flying Diamond Ranches, Inc., later assigned to Great Basin Holding Co., Inc., to appropriate 2.70 cfs of underground water from the Northern Part - Railroad Valley Hydrographic Basin for irrigation and domestic purposes on 160 acres of land within SW $\frac{1}{4}$  of Section 26, T.11N., R.57E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 26.<sup>6</sup>

**VII.**

Application 32259 was filed on June 23, 1977, by Flying Diamond Ranches, Inc., later assigned to Great Basin Holding Co., Inc., to appropriate 10.8 cfs of underground water from the Northern Part - Railroad Valley Hydrographic Basin for irrigation and domestic purposes on 640 acres of land within Section 27, T.11N., R.57E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$  NE $\frac{1}{4}$  of said Section 27.<sup>7</sup>

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<sup>3</sup> File No. 32251, official records in the Office of the State Engineer.

<sup>4</sup> File No. 32256, official records in the Office of the State Engineer.

<sup>5</sup> File No. 32257, official records in the Office of the State Engineer.

<sup>6</sup> File No. 32258, official records in the Office of the State Engineer.

<sup>7</sup> File No. 32259, official records in the Office of the State Engineer.

### VIII.

Application 32260 was filed on June 23, 1977, by Flying Diamond Ranches, Inc., later assigned to Great Basin Holding Co., Inc., to appropriate 10.8 cfs of underground water from the Northern Part - Railroad Valley Hydrographic Basin for irrigation and domestic purposes on 640 acres of land within Section 28, T.11N., R.57E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$  NE $\frac{1}{4}$  of said Section 28.<sup>8</sup>

### IX.

Application 32265 was filed on June 23, 1977, by Flying Diamond Ranches, Inc., later assigned to Great Basin Holding Co., Inc., to appropriate 10.8 cfs of underground water from the Northern Part - Railroad Valley Hydrographic Basin for irrigation and domestic purposes on 640 acres of land within Section 33, T.11N., R.57E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$  NE $\frac{1}{4}$  of said Section 33.<sup>9</sup>

### X.

Application 32266 was filed on June 23, 1977, by Flying Diamond Ranches, Inc., later assigned to Great Basin Holding Co., Inc., to appropriate 10.8 cfs of underground water from the Northern Part - Railroad Valley Hydrographic Basin for irrigation and domestic purposes on 640 acres of land within Section 34, T.11N., R.57E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$  NE $\frac{1}{4}$  of said Section 34.<sup>10</sup>

### XI.

Application 32267 was filed on June 23, 1977, by Flying Diamond Ranches, Inc., later assigned to Great Basin Holding Co., Inc., to appropriate 10.8 cfs of underground water from the Northern Part - Railroad Valley Hydrographic Basin for irrigation and domestic purposes on 640 acres of land within Section 35, T.11N., R.57E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$  NE $\frac{1}{4}$  of said Section 35.<sup>11</sup>

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<sup>8</sup> File No. 32260, official records in the Office of the State Engineer.

<sup>9</sup> File No. 32265, official records in the Office of the State Engineer.

<sup>10</sup> File No. 32266, official records in the Office of the State Engineer.

<sup>11</sup> File No. 32267, official records in the Office of the State Engineer.

## FINDINGS OF FACT

### I.

Applications 32241, 32242, 32251, 32256, 32257, 32258, 32259, 32260, 32265, 32266, and 32267 were filed to appropriate underground water for use upon land that was to be removed from the federal domain through the approval of the Flying Diamond Ranches, Inc.'s Carey Act-Desert Land Entry Application, State Lands #0505. In October 2005 the Division of Nevada State Lands was requested to provide information to the Office of the State Engineer relating to the current status of the Applicant's Carey Act Application. Records received from the Division of Nevada State Lands indicated that the Applicant's Carey Act-Desert Land Entry Application, State Lands #0505 was cancelled on June 14, 1985.<sup>1, 2,3,4,5,6,7,8,9,10,11</sup> The State Engineer finds that the Carey Act-Desert Land Entry Application, State Lands #0505, by Flying Diamond Ranches, Inc., has been terminated by the proper governing agency.

### II.

In October 2005 the Bureau of Land Management – Ely Office (BLM) was requested to provide information to the Office of the State Engineer relating to the current status of the Applicant's Carey Act-Desert Land Entry Application. E-mailed records received on October 24, 2005, indicated that there were no pending applications with the BLM for the lands identified under Applications 32241, 32242, 32251, 32256, 32257, 32258, 32259, 32260, 32265, 32266, and 32267.<sup>1, 2,3,4,5,6,7,8,9,10,11</sup> The State Engineer finds that neither Flying Diamond Ranches, Inc., the State of Nevada, nor Great Basin Holding Co., Inc. have any Carey Act-Desert Land Entry or federal Desert Land Entry applications on file with the BLM for the proposed places of use.

### III.

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 32241, 32242, 32251, 32256, 32257, 32258, 32259, 32260, 32265, 32266, and 32267 as the irrigation of 5,600 acres of land that were to be removed from federal jurisdiction by the approval of the Applicant's Carey Act-Desert Land Entry Application, State Lands #0505. A record search by the Office of the State Engineer could not locate any BLM records where the Applicant or its successors have any pending Desert Land Entry applications; therefore, the federal government retains the ownership of the land requested for removal. The State Engineer finds that the purpose

for which Applications 32241, 32242, 32251, 32256, 32257, 32258, 32259, 32260, 32265, 32266, and 32267 were filed no longer exists; therefore, the necessity to divert water as proposed under the subject applications has ceased.

### CONCLUSIONS

#### I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>12</sup>

#### II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:<sup>13</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.

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 32241, 32242, 32251, 32256, 32257, 32258, 32259, 32260, 32265, 32266, and 32267 as the irrigation of 5,600 acres of land, which were to be removed from federal jurisdiction by the approval of the Applicant's respective Carey Act-Desert Land Entry Application, State Lands #0505. A record search by the Office of the State Engineer could not locate any BLM records where the Applicant, or its successors, had any pending Desert Land Entry applications; therefore, the federal government retains the ownership of the land requested for removal and the necessity to divert water as proposed under the subject applications do not exist. The State Engineer concludes that to approve water right permits for a project where the applicant cannot place the water to beneficial use would threaten to prove detrimental to the public interest.

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<sup>12</sup> NRS chapters 533 and 534.

<sup>13</sup> NRS § 533.370(5).

**RULING**

Applications 32241, 32242, 32251, 32256, 32257, 32258, 32259, 32260, 32265, 32266, and 32267 are hereby denied on the grounds that their approval would threaten to prove detrimental to the public interest.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'T. Taylor', with a long horizontal flourish extending to the right.

TRACY TAYLOR, P.E.  
State Engineer

TT/WHR/jm

Dated this 25th day of

August, 2006.