

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

IN THE MATTER OF APPLICATIONS )  
34420, 34421, 34423 AND 34424 FILED TO )  
APPROPRIATE THE PUBLIC WATERS OF )  
AN UNDERGROUND SOURCE WITHIN )  
THE NORTHERN PART - RAILROAD )  
VALLEY HYDROGRAPHIC BASIN (173B), )  
NYE COUNTY, NEVADA. )

**RULING**

**#5646**

**GENERAL**

**I.**

Application 34420 was filed on October 26, 1977, by the Cleveland Ranch, Inc., later assigned to Great Basin Land Co., Inc., to appropriate 10.4 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 described as being located within Section 18, T.11N., R.57E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of said Section 18.<sup>1</sup>

**II.**

Application 34421 was filed on October 26, 1977, by the Cleveland Ranch, Inc., later assigned to Great Basin Land Co., Inc., to appropriate 10.4 cfs of underground water from the Northern Part - Railroad Valley Hydrographic Basin for irrigation and domestic purposes on 640 acres of land described as being located within Section 19, T.11N., R.57E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of said Section 19.<sup>2</sup>

**III.**

Application 34423 was filed on October 26, 1977, by the Cleveland Ranch, Inc., later assigned to Great Basin Land Co., Inc., to appropriate 10.4 cfs of underground water from the Northern Part - Railroad Valley Hydrographic Basin for irrigation and domestic purposes on 640

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<sup>1</sup> File No. 32420, official records in the Office of the State Engineer.

<sup>2</sup> File No. 32421, official records in the Office of the State Engineer.

acres of land described as being located within Section 7, T.11N., R.57E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of said Section 7.<sup>3</sup>

#### IV.

Application 34424 was filed on October 26, 1977, by the Cleveland Ranch, Inc., later assigned to Great Basin Land Co., Inc., to appropriate 10.4 cfs of underground water from the Northern Part - Railroad Valley Hydrographic Basin for irrigation and domestic purposes on 640 acres of land described as being within Section 20, T.11N., R.57E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of said Section 20.<sup>4</sup>

### FINDINGS OF FACT

#### I.

Applications 34420, 34421, 34423 and 34424 were filed to appropriate underground water for use upon land that was to be removed from the federal domain through the approval of the Applicant's Carey Act-Desert Land Entry Application, State Lands #0007. 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 Cleveland Ranch, Inc., Carey Act Application. Records received from the Division of Nevada State Lands indicated that a portion of the Applicant's Carey Act-Desert Land Entry Application for the Northern Part - Railroad Valley Hydrographic Basin was cancelled on June 12, 1986, because the United States Department of Interior, Bureau of Land Management (BLM) determined Sections 7, 18, 19, and 20, T.11N., R.57E., M.D.B.&M., to be unsuitable for land entry.<sup>1, 2, 3, 4</sup> The State Engineer finds that the portion of the Applicant's Carey Act-Desert Land Entry Application, State Lands #0007 that corresponds to Applications 34420, 34421, 34423 and 34424 has been terminated by the proper governing agency.

#### II.

In August 2005 the BLM - Ely Office was contacted by telephone to provide information to the Office of the State Engineer regarding the current status of the Carey Act-Desert Land Entry Applications in Sections 7, 18, 19, and 20, T.11N., R.57E., M.D.B.&M. A faxed response from the BLM was received on August 5, 2005, in the Office of the State Engineer, which indicated that on

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<sup>3</sup> File No. 32423, official records in the Office of the State Engineer.

<sup>4</sup> File No. 32424, official records in the Office of the State Engineer.

March 17, 1981, the State of Nevada filed a Carey Act-Desert Land Entry Application with the BLM Case #NVN 032335. The "Remarks" section on the BLM's Serial Register page indicates this filing was on behalf of Cleveland Ranch, Inc., State Land Application #0007. A review of the Serial Register page revealed the lands requested under Water Right Applications 34420, 34421, 34423, and 34424 were not a part of the Nevada State Carey Act- Desert Land Entry Application #NVN 032335.<sup>1, 2, 3, 4</sup> The State Engineer finds that the Applicant's attempts to gain control of the places of use described under Applications 34420, 34421, 34423, and 34424 was not a part of the State of Nevada Carey Act-Desert Land Entry Application, #NVN 032335, filed on behalf of Cleveland Ranch, Inc.

### III.

In August 2005 the BLM - Ely Office was contacted by telephone to provide information to the Office of the State Engineer regarding the current status of Carey Act-Desert Land Entry Applications in Sections 7, 18, 19, and 20, T.11N., R.57E., M.D.B.&M. A faxed response from the BLM was received on August 5, 2005, in the Office of the State Engineer that indicated for the lands requested under water right Applications 34420, 34421, 34423 and 34424 they were applied for by a different applicant. On March 17, 1981, the State of Nevada filed a Carey Act-Desert Land Entry Application, BLM Case #NVN 032336. The "Remarks" section on the BLM's Serial Register page indicates this filing was on behalf of GMGGJ, State Land Application #0008, which is pending. GMGGJ has never made application for water rights for Sections 7, 18, 19, and 20, T.11N., R.57E., M.D.B.&M.<sup>1, 2, 3, 4</sup> The State Engineer finds that an applicant other than Cleveland Ranch, Inc., or Great Basin Land Co., Inc., is attempting to gain control, with the proper governing agency, of the places of use described under Applications 34420, 34421, 34423, and 34424.

### IV.

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 34420, 34421, 34423, and 34424 as the irrigation of 2,560 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 #0007. The Carey Act-Desert Land Entry application filed by the State of Nevada on behalf of Cleveland Ranch, Inc., BLM Case #NVN 032335, did not include the lands described under Applications 34420, 34421, 34423, and 34424; therefore, the ownership of the land

requested for removal was retained by the federal government.<sup>1, 2, 3, 4</sup> The State Engineer finds that the purpose for which Applications 34420, 34421, 34423, and 34424 were filed no longer exists; therefore, the necessity to divert water as proposed under the subject applications has ceased.

V.

In November 2005 the BLM - Ely Office was requested to provide additional information to the Office of the State Engineer relating to a letter of cancellation, in the Office of Nevada State Lands files dated June 12, 1986, where it was stated that the BLM had determined Sections 7, 18, 19, and 20, T.11N., R.57E., M.D.B.&M. to be unsuitable for land entry. On November 30, 2005, an e-mail response from the BLM indicated the only applicable correspondence found was a letter on April 16, 1986, that notified the Division of Nevada State Lands that the case file for GMGGJ, State Lands #0008, BLM #NVN 032336, was under court injunction by the Wildlife Federation. This lawsuit has languished since then, and the lands have never been classified as suitable or unsuitable.<sup>1, 2, 3, 4</sup> The State Engineer finds that this lawsuit does not involve Cleveland Ranch, Inc., State Lands #0007, or BLM Case #NVN 032335.

**CONCLUSIONS**

I.

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

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters 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.

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

<sup>6</sup> NRS § 533.370(5).

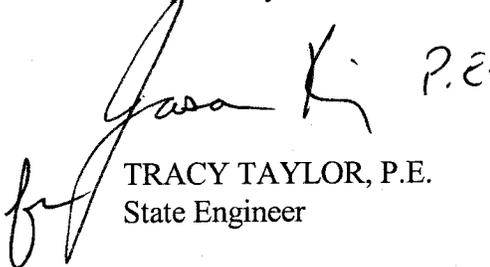
III.

The Carey Act-Desert Land Entry application filed by the State of Nevada on behalf of Cleveland Ranch, Inc., State Lands #0007, BLM Case #NVN 032335, did not include the lands described under Applications 34420, 34421, 34423, and 34424; therefore, the ownership of the lands requested for removal are retained by the federal government, and the necessity to divert water as proposed under the subject applications has ceased. The State Engineer concludes that to approve water right permits for projects where the applicant cannot place the water to beneficial use would threaten to prove detrimental to the public interest.

**RULING**

Applications 34420, 34421, 34423, and 34424 are hereby denied on the grounds that their approval would threaten to prove detrimental to the public interest.

Respectfully submitted,

 P.E.  
TRACY TAYLOR, P.E.  
State Engineer

TT/WHR/jm

Dated this 25th day of

August, 2006.