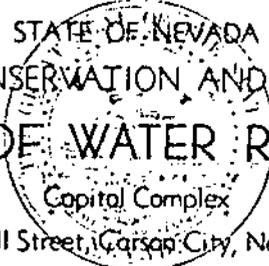


STATE OF NEVADA  
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES  
DIVISION OF WATER RESOURCES



201 South Fall Street, Carson City, Nevada 89710

In reply refer to  
No.

32692, 35487, 35488, 35489, 35490

Address All Communications to  
the State Engineer, Division  
of Water Resources  
Telephone (702) 885-4380

November 30, 1978

Mary Dorlene and Arthur Stephen Barnes  
Post Office Box 205  
Wadsworth, Nevada 89442  
Certified Mail No. 165146

83

Southern Pacific Land Company  
1 Market Plaza  
San Francisco, California 94105  
Certified Mail No. 165147

Ladies and Gentlemen:

The following applications were filed to appropriate underground  
water from the Tracy Segment, Nevada:

APPLICANT

32692 Mary Dorlene and Arthur Stephen Barnes  
35487 Southern Pacific Land Company  
35488 Southern Pacific Land Company  
35489 Southern Pacific Land Company  
35490 Southern Pacific Land Company

A Hearing before the State Engineer was held November 27, 1978.

An oral Ruling was made at the Hearing and the above applications  
were denied. A copy of the endorsed application is enclosed.

Very truly yours,

  
Roland D. Westergard  
State Engineer

RDW/jv  
Enclosure  
cc: Ted Longseth, Southern Pacific Land Company  
First National Bank Bldg.  
Reno, Nevada  
Certified Mail No. 165148

1 been mentioned today, to change the manner and use, operation  
2 of use, point of diversion of rights that have already been  
3 appropriated. And that question was really not addressed  
4 as to the possibility of perfecting a significant quantity  
5 of these rights through applications to change.

6           Anyway, with that in mind, the fact that the  
7 approved appropriations substantially exceed the estimates  
8 of ground-water recharge; and in consideration of the pro-  
9 visions of NRS 534.120, I am going to rule that irrigation  
10 cannot considered a preferred use within the Tracy Segment  
11 ground-water basin.

12           So, with that, let me proceed to some determina-  
13 tions on each one of the applications.

14           First, No. 32692, in the name of the Barnes, was  
15 for irrigation purposes, and it is, therefore, my ruling  
16 that this application for irrigation purposes cannot be con-  
17 sidered a preferred use, and is necessarily denied, in this  
18 basin where approved appropriations exceed estimates of  
19 recharge available.

20           Moving next to the second application under consid-  
21 eration, which is 34624, in the name of Fred G. and Bertha  
22 Manha, I accept the testimony of Mr. Manha that it was not  
23 his intent originally to file this application for irriga-  
24 tion purposes, but I think that is further demonstrated by  
25 his Exhibit 1, or Exhibit A, which is a copy of an applica-  
26 tion to change, which demonstrates his intent--I think not

1 only demonstrates his intent, but confirms his intent that  
2 the original proposed use of water in this area was for some  
3 sort of quasi-municipal or commercial-type use.

4 Application 34624 will not be denied outright,  
5 but it will be denied as far as any use of water under that  
6 application for irrigation purposes; with the further under-  
7 standing that the application to change will necessarily be  
8 pursued in the amount of water to be allowed; and if, in  
9 fact, any water can be allowed under that change, it will  
10 have to be made at the time the application to change is  
11 ready for action.

12 Moving next to 34752 and 34754, in the name of  
13 the SCI Corporation, we will approve these applications;  
14 and, I think, logically pursue the suggestions that Mr.  
15 Scott made, and that is a joint review between the represen-  
16 tatives of our office and the applicants, or their represen-  
17 tatives, after test drilling has been completed, to assure  
18 that the proposed appropriations can be demonstrated as to  
19 not have an adverse effect upon the Truckee River stream  
20 system.

21 The specifics as to requirements for well construc-  
22 tion, and so forth, will not be set forth at this time, but  
23 the applicant should be aware that there will be certain  
24 conditions placed on the permits.

25 Further, I would like to note at this time that  
26 this action to approve these applications is in no way

1 intended to supersede the authority of the local entities,  
2 particularly Storey County, and any zoning changes that may  
3 be before them. And I would certainly request that the  
4 applicants not represent to the local officials that the  
5 action of the State Engineer is in any way intended to make  
6 the determination that rightfully and logically and legally  
7 is within the scope of their authority.

8 Moving next, then, to 34841, Waligora--I hope I  
9 am pronouncing that right--this was an application for  
10 commercial use. The application itself indicated that a  
11 campground was to be built. I don't think it would be fair  
12 to penalize the applicant and deny this on the basis that  
13 the proposed use has changed from campground to some other  
14 type of commercial use, so we will approve the application,  
15 with the understanding, further, that this will in no way  
16 have any effect or be intended to affect the decisions of  
17 the local entities and what approval may be necessary.

18 Again, the quantities of water that are allowed,  
19 and so forth, will be determined at the time a permit is  
20 issued. But I do want you to at least know they will be  
21 approved.

22 Next, with the ones we heard testimony next-to-the-  
23 last on, is the Canyon Estates, Incorporated. There are  
24 two applications there. My ruling is that the application,  
25 as indicated by the expert witness, will be limited not to  
26 exceed 750 living units; and also not to exceed 500 acre-feet

1 per year.

2 We would like the applicants to consider some sort  
3 of management scheme, where water is withdrawn as far as  
4 possible from the river. And that should be a consideration  
5 in their development proposals.

6 I am also somewhat concerned that these applica-  
7 tions--and probably some of the others--will be the subject  
8 of a subdivision-review process. And I think you should be  
9 made aware--and it is intended to be incorporated as part  
10 of my ruling--that, in fact, the test drilling, and so  
11 forth, indicate that insufficient water can be developed  
12 to satisfy the number of units allowed, that at the time the  
13 subdivision proposal is before the State Engineer, we will  
14 require results of the pump tests and some sort of a hydro-  
15 logic report to confirm that, in fact, quantities of water  
16 are available; and, if they are not, through the subdivision-  
17 review process, these permits may be restricted considerably,  
18 and the quantity of water reduced from the amount that was  
19 initially granted, if, in fact, that quantity of water cannot  
20 be developed.

21 Moving next to 35487, 488, 489 and 90--these are  
22 applications by Southern Pacific Land Company for irrigation  
23 purposes--consistent with my finding at the outset, these  
24 applications will be denied on the grounds that irrigation  
25 cannot be considered a preferred use in this designated basin  
26 and, further, on the grounds that the approved appropriations

1 exceed estimates of ground water to the Tracy Segment  
2 ground-water basin; and further denied on the basis that  
3 there was substantial information and evidence presented  
4 here that the Southern Pacific Land Company does, in fact,  
5 place the water requested to beneficial use for irrigation  
6 purposes.

7           There have been no applications filed to change  
8 the manner of use. We accept the statement of the represen-  
9 tatives that this may be contemplated, but one of the things  
10 that the State Engineer must consider in approving an  
11 application is a demonstrated intent to place the water to  
12 beneficial use for the purpose which the water has been  
13 applied for.

14           I think this can be distinguished from Mr. Manha's  
15 case, where he has, in fact, filed an application to change;  
16 and gave testimony that his original intent was not for  
17 irrigation.

18           And while I believe the testimony by Southern  
19 Pacific Land Company, as demonstrated by the letter to a  
20 proposed lessee that the original intent was for agricultural  
21 purposes, on that basis, they are herewith denied.

22           Moving next to 35529, Mary Gullo Spiteri, this  
23 application will be approved for commercial purposes in an  
24 amount considered necessary for a bar, restrooms and 50-room  
25 motel.

26           Again, there may be construction requirements set

1       forth for the well to be drilled.

2               Next, 35581, 82 and 83. These are the ones in the  
3 name of Keever. These applications will be approved for an  
4 amount considered necessary. And I believe the testimony  
5 was 280 acre-feet annually. These, again, will be viewed  
6 in the same light as those by the Canyon Estates, in that,  
7 if the test drilling, and so forth, indicates there is not  
8 sufficient water available to serve the proposed subdivisions,  
9 they may have to be scaled down at that time.

10               I think that that addresses all of the issues.

11               With that understanding and explanation, just let  
12 me express my appreciation for your attendance here, and  
13 participation. That concludes the hearing.

14  
15                               ---o0o---