

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

IN THE MATTER OF APPLICATIONS )  
32030, 32031, 32032, 32035 AND 32036 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS OF AN UNDERGROUND )  
SOURCE WITHIN THE SPRING VALLEY )  
HYDROGRAPHIC BASIN (184), WHITE )  
PINE COUNTY, NEVADA. )

**RULING**

**#5425**

**GENERAL**

**I.**

Application 32030 was filed on June 13, 1977, by Cleveland Ranch, Inc., and later assigned to Silver State Land Company, LLC, to appropriate 10.2 cubic feet per second (cfs) of water from an underground source for irrigation purposes in support of a Carey Act. The proposed place of use is 640 acres described as being located within Section 14, T.14N., R.66E., M.D.B.&M. The proposed point of diversion is described as being located within the NW¼ NE¼ of said Section 14.<sup>1</sup>

**II.**

Application 32031 was filed on June 13, 1977, by Cleveland Ranch, Inc., and later assigned to Silver State Land Company, LLC, to appropriate 10.2 cfs of water from an underground source for irrigation purposes in support of a Carey Act. The proposed place of use is 640 acres described as being located within Section 23, T.14N., R.66E., M.D.B.&M. The proposed point of diversion is described as being located within the NW¼ NE¼ of said Section 23.<sup>2</sup>

**III.**

Application 32032 was filed on June 13, 1977, by Cleveland Ranch, Inc., and later assigned to Silver State Land Company, LLC, to appropriate 10.2 cfs of water from an underground source for irrigation purposes in support of a Carey Act. The proposed place of use is 640 acres described as being located within Section 24, T.14N., R.66E.,

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<sup>1</sup> File No. 32030, official records in the Office of the State Engineer.

<sup>2</sup> File No. 32031, official records in the Office of the State Engineer.

M.D.B.&M. The proposed point of diversion is described as being located within the NW¼ NE¼ of said Section 24.<sup>3</sup>

#### IV.

Application 32035 was filed on June 13, 1977, by Cleveland Ranch, Inc., and later assigned to Silver State Land Company, LLC, to appropriate 10.2 cfs of water from an underground source for irrigation purposes in support of a Carey Act. The proposed place of use is 640 acres described as being located within Section 13, T.14N., R.66E., M.D.B.&M. The proposed point of diversion is described as being located within the NW¼ NE¼ of said Section 13.<sup>4</sup>

#### V.

Application 32036 was filed on June 13, 1977, by Cleveland Ranch, Inc., and later assigned to Silver State Land Company, LLC, to appropriate 10.2 cfs of water from an underground source for irrigation purposes in support of a Carey Act. The proposed place of use is 640 acres described as being located within Section 26, T.14N., R.66E., M.D.B.&M. The proposed point of diversion is described as being located within the NW¼ NE¼ of said Section 26.<sup>5</sup>

### FINDINGS OF FACT

#### I.

A review of records in the Office of the State Engineer indicates that Applications 32030, 32031, 32032, 32035 and 32036 were filed in support of a Carey Act application. On December 1, 2003, Joe D. Cobell of the Nevada Division of State Lands, informed the State Engineer that the Carey Act application supported by water right Applications 32030, 32031, 32032, 32035 and 32036 had been cancelled.<sup>1</sup> The State Engineer finds that upon cancellation of the Carey Act application the purpose for which the water right applications were filed ceased to exist.

#### II.

A review of records in the Office of the State Engineer show that the place of use described in the applications is public land managed by the United States Department of

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<sup>3</sup> File No. 32032, official records in the Office of the State Engineer.

<sup>4</sup> File No. 32035, official records in the Office of the State Engineer.

<sup>5</sup> File No. 32036, official records in the Office of the State Engineer.

the Interior, Bureau of Land Management (BLM).<sup>6</sup> By letter dated January 30, 2004, the BLM informed the Office of the State Engineer that the lands involved are still managed by the BLM and there have been no attempts by the current owner of the water applications to obtain the land.<sup>1</sup> The State Engineer finds the applicant does not own or control the land described under the place of use of Applications 32030, 32031, 32032, 32035 and 32036.

### III.

On December 1, 2003, the Office of the State Engineer obtained information from the Nevada Secretary of State's office verifying that Silver State Land, LLC, was incorporated on March 10, 1998. The Office of the State Engineer also received information from the Nevada Secretary of State's office regarding the corporate status of Silver State Land, LLC. This information shows that Silver State Land, LLC, is currently classified as a revoked corporate entity in the State of Nevada.

Nevada Revised Statute 533.325 provides that only a "person" can file an application to appropriate water. In general usage, a "person" is defined to be a human being, firm, labor organization, partnership, association, corporation, legal representative, trustee, etc.<sup>7</sup>

Nevada Revised Statute § 0.039 provides that except as otherwise expressly provided in a particular statute or required by the context, "person" means a natural person, any form of business or social organization, and any other non-governmental legal entity including, but not limited to, a corporation, partnership, association, trust or unincorporated organization. The term does not include a government, governmental agency or political subdivision of a government. Nevada Revised Statute § 533.010 defines person as used in chapter 533 to include the United States and the State of Nevada. Nevada Revised Statute § 534.014 defines person to include any municipal corporation, power district, political subdivision of this or any state, or an agency of the United States Government.

The State Engineer finds that upon revocation of the incorporation status of the applicant, Silver State Land, LLC, by the Nevada Secretary of State, the applicant ceased to be a "person" and thereby became ineligible to apply for a water right. The State

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<sup>6</sup> United States Bureau of Land Management, "Ely", 1:100,000-scale topographic map, BLM Edition 1996.

<sup>7</sup> Black's Law Dictionary, 1028(5<sup>th</sup> ed. 1979).

Engineer further finds that the revoked status of Silver State Land, LLC, now disqualifies it from obtaining a water right permit under Nevada water law.

### CONCLUSIONS

#### I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>8</sup>

#### II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:<sup>9</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 applicant filed Applications 32030, 32031, 32032, 32035 and 32036 in support of a Carey Act application that was cancelled by the Nevada Division of State Lands. The State Engineer concludes that the water right applications filed in support of the cancelled Carey Act application are no longer necessary; as such, the applications are subject to denial.

#### IV.

The applicant does not own or control the land described under the place of use of the applications. The State Engineer concludes that to grant applications to appropriate the public waters where the applicant does not own or control the land would not be in the public interest.

#### V.

The applicant is a corporation that is currently classified as a revoked entity by the Nevada Secretary of State's office. The State Engineer concludes that upon the revocation of Silver State Land, LLC's incorporation status, the applicant became

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<sup>8</sup> NRS chapters 533 and 534.

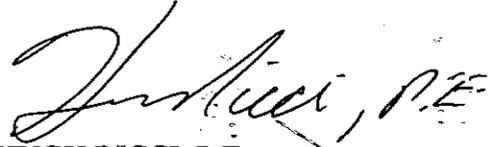
<sup>9</sup> NRS § 533.370(4).

ineligible to apply for a water right in the State of Nevada. Therefore, to grant a water right to an applicant no longer entitled to apply for a water right would threaten to prove detrimental to the public interest.

**RULING**

Applications 32030, 32031, 32032, 32035 and 32036 are hereby denied on the grounds their issuance would threaten to prove detrimental to the public interest.

Respectfully submitted,



HUGH RICCI, P.E.  
State Engineer

HR/TW/jm

Dated this 20th day of  
September, 2004.