

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

IN THE MATTER OF APPLICATION 34416)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE NORTHERN PART)
- RAILROAD VALLEY HYDROGRAPHIC)
BASIN (173B), NYE COUNTY, NEVADA.)

RULING

#5648

GENERAL

I.

Application 34416 was filed on October 26, 1977, by Cleveland Ranch, Inc., later assigned to Great Basin Land Co., Inc., to appropriate 10.4 cubic feet per second of underground water from the Northern Part - Railroad Valley Hydrographic Basin for irrigation purposes on 640 acres of land within Section 32, T.11N., R.57E., M.D.B.&M. The proposed point of diversion is described as being located within NW¹/₄ NW¹/₄ of said Section 32.¹

FINDINGS OF FACT

I.

Application 34416 was 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. The only Carey Act-Desert Land Entry application by Cleveland Ranch for Northern Part - Railroad Valley Hydrographic Basin is #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 #0007. Records received from the Division of Nevada State Lands indicated that the Application #0007 for the Northern Part - Railroad Valley Hydrographic Basin was cancelled on August 14, 1984. The State Engineer finds that the Applicant's Carey Act-Desert Land Entry Application, State Lands #0007 has been terminated by the proper governing agency.

¹ File No. 32416, official records in the Office of the State Engineer.

II.

On March 17, 1981, the State of Nevada filed a Desert Land Entry Application with the Bureau of Land Management, (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. In August 2005 the Ely Office of the BLM was contacted by telephone to provide information to the Office of the State Engineer regarding the current status of the State of Nevada-Desert Land Entry Application #NVN 032335. A timely faxed response from the BLM was received on August 5, 2005, in the Office of the State Engineer that indicated, that a portion of the lands requested under Water Right Application 34416, the E½ of Section 32, T.11N., R.57E. M.D.B.&M. were not included in the State of Nevada's Desert Land Entry Application #NVN 032335 and that the remainder W½ of Section 32, T.11N., R.57E. was determined to be unsuitable for Desert Land Entry. This resulted in the rejection/denial of a portion of the State of Nevada's Carey Act-Desert Land Entry Application, #NVN 032335, and this portion, #NVN 032335/03, of the case was closed by the BLM on February 22, 1985. The State Engineer finds that the Applicant's attempt to gain control of the places of use described under Application 34416 has been terminated by the proper governing federal agency.

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 34416 as the irrigation of 640.00 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 federal Desert Land Entry application filed by Nevada State, BLM Case #NVN 032335, on behalf of Cleveland Ranch, Inc., was denied in part for unsuitability. The other part of the proposed place of use was never applied for entry. The State Engineer finds that the purpose for which Application 34416 was filed no longer exists; therefore, the necessity to divert water as proposed under the subject application has ceased.

IV.

In October 2005 the BLM - Ely Office was requested to provide information to the Office of the State Engineer relating to the existence of any Desert Land Entry applications by or on behalf of Great Basin Land Co., Inc. On October 27, 2005, an e-mail response received from the BLM indicated that Great Basin Land Co., Inc. had no past or present applications for Section 32, T.11N., R.57E. M.D.B.&M., filed by themselves or by the State of Nevada on its behalf. The State Engineer finds that Great Basin Land Co., Inc., the State of Nevada, and Cleveland Ranch, Inc., have no pending Carey Act-Desert Land Entry or federal Desert Land Entry Applications on file with the BLM for Section 32, T.11N., R.57E. M.D.B.&M.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.²

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:³

- 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 34416 as the irrigation of 640 acres of land, which were to be removed from federal jurisdiction by the approval of the Applicant's respective Carey Act-Desert Land

² NRS chapters 533 and 534.

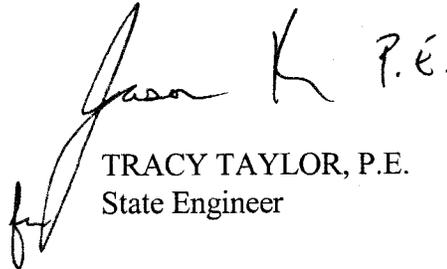
³ NRS § 533.370(5).

Entry Application, State Lands #0007. The Desert Land Entry application filed by the State of Nevada, BLM Case #NVN 032335, on behalf of Cleveland Ranch, Inc., was in part denied for unsuitability. The Applicant did not apply for entry for the other portion of the proposed place of use. The State Engineer concludes that to approve a water right permit for a project where the applicant cannot place the water to beneficial use would threaten to prove detrimental to the public interest.

RULING

Application 34416 is hereby denied on the grounds that the approval would threaten to prove detrimental to the public interest.

Respectfully submitted,



TRACY TAYLOR, P.E.
State Engineer

TT/WHR/jm

Dated this 25th day of
August, 2006.