

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

IN THE MATTER OF APPLICATIONS 32473)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE)
WITHIN PUMPERNICKEL GROUNDWATER)
BASIN (065), HUMBOLDT COUNTY,)
NEVADA.)

RULING

4811

GENERAL

I.

Application 32473 was filed on June 29, 1977, by Milo Jacobsen to appropriate 2.7 cubic feet per second of underground water for domestic purposes and the irrigation of 160 acres of land which are described as being located within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ and the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 2, T.33N., R.40E., M.D.B.&M., and the S $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 35, T.34N., R.40E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 35.¹

FINDINGS OF FACT

I.

Application 32473 was filed to appropriate underground water for use upon land, which was to be removed from the federal domain through the approval of the applicant's Carey Act Land Entry application. By letter dated September 8, 1999, the United States Department of the Interior, Bureau of Land Management (BLM) was requested to provide information to the office of the State Engineer relating to the current status of the Milo Jacobsen Carey Act Land Entry application.¹ A timely response from the BLM was received in the office of the State Engineer which indicated that the BLM had no record of a Carey Act Land Entry application having been filed in support of Application 32473. The State Engineer finds that the applicant has failed to initiate the procedure necessary to remove the land represented by the proposed place of

use under the subject application from federal control, therefore, said land remains under federal jurisdiction.

II.

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 Application 32473 as the irrigation of 160 acres of land which were to be removed from federal jurisdiction by the approval of the applicant's Carey Act Land Entry application. The State Engineer finds that the applicant's failure to file the required Carey Act Land Entry application removes the purpose for which Application 32473 was filed.

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 conflicts with existing rights; or
- C. the proposed use threatens to prove detrimental to the public interest.

III.

Application 32473 requests an appropriation of water for a project that does not exist. The State Engineer concludes that to

¹ File No. 32473, official records in the office of the State Engineer.

² NRS Chapters 533 and 534.

³ NRS § 533.370(3).

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approve a permit where the need to appropriate water has ceased would threaten to prove detrimental to the public interest.

RULING

Application 32473 is hereby denied on the grounds that its approval would threaten to prove detrimental to the public interest.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.

State Engineer

RMT/MDB/cl

Dated this 7th day of
December, 1999.