IN THE OFFICE OF STATE ENGINEER
OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATIONS 33015 AND 33016 FILED TO APPROPRIATE THE PUBLIC WATERS OF AN UNDERGROUND SOURCE WITHIN THE PUMPERNICKEL VALLEY GROUNDWATER BASIN (065), HUMBOLDT COUNTY, NEVADA.

RULING

 # 4820

GENERAL

I.

Application 33015 was filed on August 3, 1977, by Hettie L. Louderbaugh to appropriate 6.0 cubic feet per second (cfs) of underground water for the irrigation of 160 acres of land which are described as being located within the SW¼ of Section 10, T.33N., R.40E., M.D.B.&M. The proposed point of diversion is described as being located within the SW¼ SW¼ of said Section 10.[1]

II.

Application 33016 was filed on August 3, 1977, by George A. Louderbaugh to appropriate 6.0 cfs of underground water for the irrigation of 160 acres of land which are described as being within the NW¼ of Section 10, T.33N., R.40E., M.D.B.&M. The proposed point of diversion is described as being located within the SW¼ NW¼ of said Section 10.[2]

III.

On November 16, 1977, ownership of Applications 33015 and 33016 was transferred to George A. Louderbaugh and Hettie L. Louderbaugh in the records of the office of the State Engineer.[1,2]

FINDINGS OF FACT

I.

Applications 33015 and 33016 were filed to appropriate underground water for use upon land, which was to be removed from the federal domain through the approval of the applicants' Carey

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[1] File No. 33015, official records in the office of the State Engineer.
[2] File No. 33016, official records in the office of the State Engineer.

Act Land Entry applications. 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 George A. Louderbaugh and Hettie L. Louderbaugh Carey Act Land Entry applications.[1,2] A timely response from the BLM was received in the office of the State Engineer which indicated that the BLM had no record of any Carey Act Land Entry applications having been filed in support of Applications 33015 and 33016. The State Engineer finds that the applicants have failed to initiate the procedure necessary to remove the land represented by the proposed places of use under the subject applications 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 Applications 33015 and 33016 as the irrigation of two separate 160-acre parcels of land which were to be removed from federal jurisdiction by the approval of the applicants' Carey Act Land Entry applications. The State Engineer finds that the applicants' failure to file the required Carey Act Land Entry applications removes the purposes for which Applications 33015 and 33016 were filed.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.[3]

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:[4]

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[3] NRS Chapters 533 and 534.

[4] NRS § 533.370(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.

Applications 33015 and 33016 request appropriations of water for projects which no longer exist. The State Engineer concludes that to approve permits where the need to appropriate water has ceased would threaten to prove detrimental to the public interest.

RULING

Applications 33015 and 33016 are hereby denied on the grounds that their 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.