

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

IN THE MATTER OF APPLICATIONS)
31357, 31358, 31359, 31360, 31361,)
31362 AND 31363 FILED TO)
APPROPRIATE THE PUBLIC WATERS OF AN)
UNDERGROUND SOURCE WITHIN THE WHITE)
RIVER VALLEY HYDROGRAPHIC BASIN)
(207), WHITE PINE COUNTY, NEVADA.)

RULING

4921

GENERAL

I.

Application 31357 was filed on April 22, 1977, by the White River Water and Agriculture Development Association to appropriate 6.0 cubic feet per second (cfs) of underground water for irrigation and domestic purposes within 313.28 acres of land located within the E1/2 W1/2; Lot 3 SW1/4; Lot 4 SW1/4; Lot 2 NW1/4; E1/2 Lot 1 NW1/4; Lot 8 NW1/4; and Lot 9 NW1/4, all within Section 31, T.11N., R.62E., M.D.B.&M. The proposed point of diversion is described as being located within the NE1/4 SW1/4 of said Section 31.¹

II.

Application 31358 was filed on April 22, 1977, by the White River Water and Agriculture Development Association to appropriate 6.0 cfs of underground water for irrigation and domestic purposes within 320 acres of land located within the SE1/4 and the NE1/4 of Section 31, T.11N., R.62E., M.D.B.&M. The proposed point of diversion is described as being located within the NE1/4 SE1/4 of said Section 31.²

¹ File Number 31357, official records in the office of the State Engineer.

² File Number 31358, official records in the office of the State Engineer.

III.

Application 31359 was filed on April 22, 1977, by the White River Water and Agriculture Development Association to appropriate 6.0 cfs of underground water for irrigation and domestic purposes within 317.50 acres of land located within the SE1/4 SW1/4, and the SE1/4 NE1/4 of Section 30 and the W1/2 NW1/4 of Section 29, all within T.11N., R.62E., M.D.B.&M. The proposed point of diversion is described as being located within the SW1/4 SE1/4 of said Section 30.³

IV.

Application 31360 was filed on April 22, 1977, by the White River Water and Agriculture Development Association to appropriate 6.0 cfs of underground water for irrigation and domestic purposes within 320 acres of land located within the N1/2 SW1/4 and the NW1/4 of Section 32, and the W1/2 SW1/4 of Section 29, all within T.11N., R.62E., M.D.B.&M. The proposed point of diversion is described as being located within the NW1/4 NW1/4 of said Section 32.⁴

V.

Application 31361 was filed on April 22, 1977, by the White River Water and Agriculture Development Association to appropriate 6.0 cfs of underground water for irrigation and domestic purposes within 320 acres of land located within the E1/2 of Section 32, T.11N., R.62E., M.D.B.&M. The proposed point of diversion is described as being located within the NE1/4 NE1/4 of said Section 32.⁵

³ File Number 31359, official records in the office of the State Engineer.

⁴ File Number 31360, official records in the office of the State Engineer.

⁵ File Number 31361, official records in the office of the State Engineer.

VI.

Application 31362 was filed on April 22, 1977, by the White River Water and Agriculture Development Association to appropriate 6.0 cfs of underground water for irrigation and domestic purposes within 320 acres of land located within the E1/2 SW1/4 and the SE1/4 of Section 29, and the W1/2 SW1/4 of Section 28, all within T.11N., R.62E., M.D.B.&M. The proposed point of diversion is described as being located within the SE1/4 SE1/4 of said Section 29.⁶

VII.

Application 31363 was filed on April 22, 1977, by the White River Water and Agriculture Development Association to appropriate 6.0 cfs of underground water for irrigation and domestic purposes within the E1/2 NW1/4 and the NE1/4 of Section 29 and the W1/2 NW1/4 of Section 28, both within T.11N., R.62E., M.D.B.&M. The proposed point of diversion is described as being located within the SE1/4 NE1/4 of said Section 29.⁷

VIII.

Applications 31357, 31358, 31359, 31360, 31361, 31362, and 31363 were timely protested by Elizabeth L. Baker on the following grounds:¹

It would lower or deplete the water source and supply on our ranch used for irrigation and domestic purposes.

FINDINGS OF FACT

I.

Applications 31357, 31358, 31359, 31360, 31361, 31362 and 31363 were 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 Land Entry applications. By letter dated July 6, 1999, the Nevada Division of State Lands

⁶ File Number 31362, official records in the office of the State Engineer.

⁷ File Number 31363, official records in the office of the State Engineer.

notified the State Engineer that the Carey Act Land Entries associated with Applications 31357, 31358, 31359, 31360, 31361, 31362 and 31363 had been cancelled.¹ The State Engineer finds that the applicant's attempt to gain control of the places of use described under Applications 31357, 31358, 31359, 31360, 31361, 31362 and 31363 has been rejected by the proper governing state agency.

II.

A water right application is filed to appropriate water for a specific purpose, which in the case of Applications 31357, 31358, 31359, 31360, 31361, 31362 and 31363 is for the irrigation of land that was to be removed from federal control and transferred to the applicant through the filing and approval of its Carey Act Land Entry applications. The Carey Act Land Entry applications filed by the White River Water and Agriculture Development Association were cancelled by the Nevada Division of State Lands with the ownership of the land requested for removal retained by the federal government. The State Engineer finds that the purposes for which Applications 31357, 31358, 31359, 31360, 31361, 31362 and 31363 were filed no longer exist, therefore, the necessity to divert water as proposed under the subject applications has ceased.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁶

⁶ NRS chapters 533 and 534.

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:⁹

- 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.

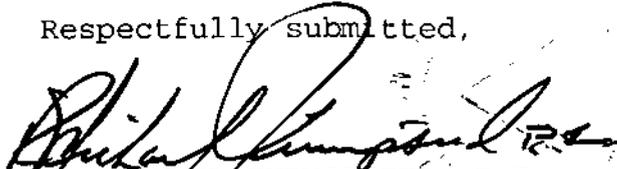
III.

Applications 31357, 31358, 31359, 31360, 31361, 31362 and 31363 request appropriations of water for projects that do not 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 31357, 31358, 31359, 31360, 31361, 31362 and 31363 are hereby denied on the grounds that their approval would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protests.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MDB/cl

Dated this 5th day of
May, 2000.

⁹ NRS § 533.370(3).