

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

IN THE MATTER OF APPLICATIONS)
32023, 32664, 32665, 32666 and)
32667 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE WHITE RIVER)
VALLEY HYDROGRAPHIC BASIN (207),)
NYE AND WHITE PINE COUNTIES,)
NEVADA.)

RULING

4926

GENERAL

I.

Application 32023 was filed on June 13, 1977, by Robert L. Gardner to appropriate 2.7 cubic feet per second (cfs) of underground water for irrigation and domestic purposes within 160 acres of land located within the E1/2 NE1/4 and the NE1/4 SE1/4 of Section 25, T.12N., R.61E., M.D.B.&M. and the NW1/4 SW1/4 of Section 30, both within T.12N., R.62E., M.D.B.&M. The proposed point of diversion is described as being located within the NW1/4 NE1/4 of said Section 30.¹

II.

Application 32664 was filed on July 5, 1977, by James Richard Hardcastle to appropriate 2.7 cfs of underground water for irrigation and domestic purposes within 160 acres of land located within the SE1/4 SW1/4 and the S1/2 SE1/4 of Section 19, and the SW1/4 SW1/4 of Section 20, all within T.6N., R.62E., M.D.B.&M. The proposed point of diversion is described as being located within the SW1/4 SW1/4 of said Section 20.²

III.

Application 32665 was filed on July 5, 1977, by Wenona Ruth Hardcastle to appropriate 2.7 cfs of underground water for irrigation and domestic purposes within 160 acres of land located within the NE1/4 SW1/4 and the N1/2 SE1/4 of Section 19, and the

¹ File Number 32023, official records in the office of the State Engineer.

² File Number 32664, official records in the office of the State Engineer.

NW1/4 SW1/4 of Section 20, all within T.6N., R.62E., M.D.B.&M. The proposed point of diversion is described as being located within the NW1/4 SW1/4 of said Section 20.³

IV.

Application 32666 was filed on July 5, 1977, by Ronald James Hardcastle to appropriate 2.7 cfs of underground water for irrigation and domestic purposes within 160 acres of land located within Lot 1 and Lot 2, S1/2 NE1/4 of Section 5, T.6N., R.62E., M.D.B.&M. The proposed point of diversion is described as being located within Lot 1 of said Section 5.⁴

V.

Application 32667 was filed on July 5, 1977, by Donald Mark Hardcastle to appropriate 2.7 cfs of underground water for irrigation and domestic purposes within 160 acres of land located within the SE1/4 NW1/4 and the S1/2 NE1/4 of Section 19, and the SW1/4 NW1/4 of Section 20, all within T.6N., R.62E., M.D.B.&M. The proposed point of diversion is described as being located within the SW1/4 NW1/4 of said Section 20.⁵

FINDINGS OF FACT

I.

Applications 32023, 32664, 32665, 32666 and 32667 were filed to appropriate underground water for use upon land that was to be removed from the federal domain through the approval of the applicants' respective Carey Act Land Entry applications. By letter dated July 6, 1999, the Nevada Division of State Lands informed the office of the State Engineer that the Carey Act Land Entry applications associated with water right Applications 32023, 32664, 32665, 32666 and 32667 had been cancelled. The State Engineer finds that the applicants' attempts to gain control of the places of use described under Applications 32023, 32664,

³ File Number 32665, official records in the office of the State Engineer.

⁴ File Number 32666, official records in the office of the State Engineer.

⁵ File Number 32667, official records in the office of the State Engineer.

32665, 32666 and 32667 have been terminated 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 32023, 32664, 32665, 32666 and 32667 is for the irrigation of land that was to be removed from federal control and transferred to the applicants through the filing and approval of their respective Carey Act Land Entry applications. The State Engineer finds that the Nevada Division of State Lands cancellation of the applicants' respective Carey Act Land Entry applications removes the purpose for which water right Applications 32023, 32664, 32665, 32666 and 32667 were filed.

CONCLUSIONS

I.

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

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:⁷

- 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.

⁶ NRS chapters 533 and 534.

⁷ NRS § 533.370(3).

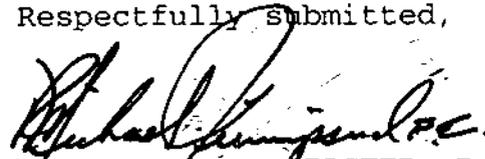
III.

Applications 32023, 32664, 32665, 32666 and 32667 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 32023, 32664, 32665, 32666 and 32667 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 12th day of
May, 2000.