

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

IN THE MATTER OF APPLICATIONS )  
31566, 31569, 31571, 31572, 31573, )  
31574, 31578, 31579, 31580, 31581, )  
31582, 31583, 31584, 31585, 31586, )  
31594, 31595, 31596, 31597, 31598, )  
31599, 31600, 31601, AND 31602 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS OF AN UNDERGROUND SOURCE )  
WITHIN THE RAILROAD VALLEY - )  
SOUTHERN PART HYDROGRAPHIC BASIN )  
(173A), NYE COUNTY, NEVADA. )

RULING

**# 5751**

GENERAL

I.

Application 31566 was filed on May 10, 1977, by Central Nevada Water Company, later assigned to Great Basin Holding Co., Inc., to appropriate 5.4 cubic feet per second (cfs) of underground water from the Railroad Valley - Southern Part Hydrographic Basin for irrigation and domestic purposes on 320 acres of land. The proposed place of use is described as being located within the S½ of Section 20, T.1N., R.53E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ SW¼ of said Section 20.<sup>1</sup>

II.

Application 31569 was filed on May 10, 1977, by Central Nevada Water Company, later assigned to Great Basin Holding Co., Inc., to appropriate 5.4 cfs of underground water from the Railroad Valley - Southern Part Hydrographic Basin for irrigation and domestic purposes on 320 acres of land. The proposed place of use is described as being located within the N¼ of Section 10, T.2N., R.53E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NW¼ of said Section 10.<sup>2</sup>

<sup>1</sup> File No. 31566, official records in the Office of the State Engineer.

<sup>2</sup> File No. 31569, official records in the Office of the State Engineer.

### III.

Application 31571 was filed on May 10, 1977, by Central Nevada Water Company, later assigned to Great Basin Holding Co., Inc., to appropriate 5.4 cfs of underground water from the Railroad Valley - Southern Part Hydrographic Basin for irrigation and domestic purposes on 320 acres of land. The proposed place of use is described as being located within the N½ of Section 17, T.2N., R.53E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NW¼ of said Section 17.<sup>3</sup>

### IV.

Application 31572 was filed on May 10, 1977, by Central Nevada Water Company, later assigned to Great Basin Holding Co., Inc., to appropriate 5.4 cfs of underground water from the Railroad Valley - Southern Part Hydrographic Basin for irrigation and domestic purposes on 320 acres of land. The proposed place of use is described as being located within the S½ of Section 14, T.1N., R.53E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ SW¼ of said Section 14.<sup>4</sup>

### V.

Application 31573 was filed on May 10, 1977, by Central Nevada Water Company, later assigned to Great Basin Holding Co., Inc., to appropriate 5.4 cfs of underground water from the Railroad Valley - Southern Part Hydrographic Basin for irrigation and domestic purposes on 320 acres of land. The proposed place of use is described as being located within the N½ of Section 14, T.1N., R.53E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NW¼ of said Section 14.<sup>5</sup>

### VI.

Application 31574 was filed on May 10, 1977, by Central Nevada Water Company, later assigned to Great Basin Holding Co., Inc., to appropriate 5.4 cfs of underground water from the

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<sup>3</sup> File No. 31571, official records in the Office of the State Engineer.

<sup>4</sup> File No. 31572, official records in the Office of the State Engineer.

<sup>5</sup> File No. 31573, official records in the Office of the State Engineer.

Railroad Valley - Southern Part Hydrographic Basin for irrigation and domestic purposes on 320 acres of land. The proposed place of use is described as being located within the S $\frac{1}{2}$  of Section 11, T.1N., R.53E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 11.<sup>6</sup>

**VII.**

Application 31578 was filed on May 10, 1977, by Central Nevada Water Company, later assigned to Great Basin Holding Co., Inc., to appropriate 5.4 cfs of underground water from the Railroad Valley - Southern Part Hydrographic Basin for irrigation and domestic purposes on 320 acres of land. The proposed place of use is described as being located within the N $\frac{1}{2}$  of Section 11, T.1N., R.53E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of said Section 11.<sup>7</sup>

**VIII.**

Application 31579 was filed on May 10, 1977, by Central Nevada Water Company, later assigned to Great Basin Holding Co., Inc., to appropriate 5.4 cfs of underground water from the Railroad Valley - Southern Part Hydrographic Basin for irrigation and domestic purposes on 320 acres of land. The proposed place of use is described as being located within the S $\frac{1}{2}$  of Section 17, T.2N., R.53E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 17.<sup>8</sup>

**IX.**

Application 31580 was filed on May 10, 1977, by Central Nevada Water Company, later assigned to Great Basin Holding Co., Inc., to appropriate 5.4 cfs of underground water from the Railroad Valley - Southern Part Hydrographic Basin for irrigation and domestic purposes on 320 acres of land. The proposed place of use is described as being located within the S $\frac{1}{2}$  of Section 7,

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<sup>6</sup> File No. 31574, official records in the Office of the State Engineer.

<sup>7</sup> File No. 31578, official records in the Office of the State Engineer.

<sup>8</sup> File No. 31579, official records in the Office of the State Engineer.

T.2N., R.53E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ SW¼ of said Section 7.<sup>9</sup>

**X.**

Application 31581 was filed on May 10, 1977, by Central Nevada Water Company, later assigned to Great Basin Holding Co., Inc., to appropriate 5.4 cfs of underground water from the Railroad Valley - Southern Part Hydrographic Basin for irrigation and domestic purposes on 320 acres of land. The proposed place of use is described as being located within the S½ of Section 8, T.2N., R.53E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ SW¼ of said Section 8.<sup>10</sup>

**XI.**

Application 31582 was filed on May 10, 1977, by Central Nevada Water Company, later assigned to Great Basin Holding Co., Inc., to appropriate 5.4 cfs of underground water from the Railroad Valley - Southern Part Hydrographic Basin for irrigation and domestic purposes on 320 acres of land. The proposed place of use is described as being located within the N½ of Section 8, T.2N., R.53E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NW¼ of said Section 8.<sup>11</sup>

**XII.**

Application 31583 was filed on May 10, 1977, by Central Nevada Water Company, later assigned to Great Basin Holding Co., Inc., to appropriate 5.4 cfs of underground water from the Railroad Valley - Southern Part Hydrographic Basin for irrigation and domestic purposes on 320 acres of land. The proposed place of use is described as being located within the S½ of Section 9, T.2N., R.53E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ SW¼ of said Section 9.<sup>12</sup>

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<sup>9</sup> File No. 31580, official records in the Office of the State Engineer.

<sup>10</sup> File No. 31581, official records in the Office of the State Engineer.

<sup>11</sup> File No. 31582, official records in the Office of the State Engineer.

<sup>12</sup> File No. 31583, official records in the Office of the State Engineer.

**XIII.**

Application 31584 was filed on May 10, 1977, by Central Nevada Water Company, later assigned to Great Basin Holding Co., Inc., to appropriate 5.4 cfs of underground water from the Railroad Valley - Southern Part Hydrographic Basin for irrigation and domestic purposes on 320 acres of land. The proposed place of use is described as being located within the N $\frac{1}{2}$  of Section 7, T.2N., R.53E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of said Section 7.<sup>13</sup>

**XIV.**

Application 31585 was filed on May 10, 1977, by Central Nevada Water Company, later assigned to Great Basin Holding Co., Inc., to appropriate 5.4 cfs of underground water from the Railroad Valley - Southern Part Hydrographic Basin for irrigation and domestic purposes on 320 acres of land. The proposed place of use is described as being located within the N $\frac{1}{2}$  of Section 9, T.2N., R.53E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of said Section 9.<sup>14</sup>

**XV.**

Application 31586 was filed on May 10, 1977, by Central Nevada Water Company, later assigned to Great Basin Holding Co., Inc., to appropriate 5.4 cfs of underground water from the Railroad Valley - Southern Part Hydrographic Basin for irrigation and domestic purposes on 320 acres of land. The proposed place of use is described as being located within the S $\frac{1}{2}$  of Section 15, T.2N., R.53E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 15.<sup>15</sup>

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<sup>13</sup> File No. 31584, official records in the Office of the State Engineer.

<sup>14</sup> File No. 31585, official records in the Office of the State Engineer.

<sup>15</sup> File No. 31586, official records in the Office of the State Engineer.

**XVI.**

Application 31594 was filed on May 10, 1977, by Central Nevada Water Company, later assigned to Great Basin Holding Co., Inc., to appropriate 5.4 cfs of underground water from the Railroad Valley - Southern Part Hydrographic Basin for irrigation and domestic purposes on 320 acres of land. The proposed place of use is described as being located within the N $\frac{1}{2}$  of Section 21, T.2N., R.53E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of said Section 21.<sup>16</sup>

**XVII.**

Application 31595 was filed on May 10, 1977, by Central Nevada Water Company, later assigned to Great Basin Holding Co., Inc., to appropriate 5.4 cfs of underground water from the Railroad Valley - Southern Part Hydrographic Basin for irrigation and domestic purposes on 320 acres of land. The proposed place of use is described as being located within the S $\frac{1}{2}$  of Section 21, T.2N., R.53E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 21.<sup>17</sup>

**XVIII.**

Application 31596 was filed on May 10, 1977, by Central Nevada Water Company, later assigned to Great Basin Holding Co., Inc., to appropriate 5.4 cfs of underground water from the Railroad Valley - Southern Part Hydrographic Basin for irrigation and domestic purposes on 320 acres of land. The proposed place of use is described as being located within the N $\frac{1}{2}$  of Section 15, T.1N., R.53E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of said Section 15.<sup>18</sup>

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<sup>16</sup> File No. 31594, official records in the Office of the State Engineer.  
<sup>17</sup> File No. 31595, official records in the Office of the State Engineer.  
<sup>18</sup> File No. 31596, official records in the Office of the State Engineer.

**XIX.**

Application 31597 was filed on May 10, 1977, by Central Nevada Water Company, later assigned to Great Basin Holding Co., Inc., to appropriate 5.4 cfs of underground water from the Railroad Valley - Southern Part Hydrographic Basin for irrigation and domestic purposes on 320 acres of land. The proposed place of use is described as being located within the S $\frac{1}{2}$  of Section 15, T.1N., R.53E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 15.<sup>19</sup>

**XX.**

Application 31598 was filed on May 10, 1977, by Central Nevada Water Company, later assigned to Great Basin Holding Co., Inc., to appropriate 5.4 cfs of underground water from the Railroad Valley - Southern Part Hydrographic Basin for irrigation and domestic purposes on 320 acres of land. The proposed place of use is described as being located within the N $\frac{1}{2}$  of Section 16, T.1N., R.53E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of said Section 16.<sup>20</sup>

**XXI.**

Application 31599 was filed on May 10, 1977, by Central Nevada Water Company, later assigned to Great Basin Holding Co., Inc., to appropriate 5.4 cfs of underground water from the Railroad Valley - Southern Part Hydrographic Basin for irrigation and domestic purposes on 320 acres of land. The proposed place of use is described as being located within the S $\frac{1}{2}$  of Section 16, T.1N., R.53E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 16.<sup>21</sup>

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<sup>19</sup> File No. 31597, official records in the Office of the State Engineer.

<sup>20</sup> File No. 31598, official records in the Office of the State Engineer.

<sup>21</sup> File No. 31599, official records in the Office of the State Engineer.

**XXII.**

Application 31600 was filed on May 10, 1977, by Central Nevada Water Company, later assigned to Great Basin Holding Co., Inc., to appropriate 5.4 cfs of underground water from the Railroad Valley - Southern Part Hydrographic Basin for irrigation and domestic purposes on 320 acres of land. The proposed place of use is described as being located within the S $\frac{1}{2}$  of Section 17, T.1N., R.53E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 17.<sup>22</sup>

**XXIII.**

Application 31601 was filed on May 10, 1977, by Central Nevada Water Company, later assigned to Great Basin Holding Co., Inc., to appropriate 5.4 cfs of underground water from the Railroad Valley - Southern Part Hydrographic Basin for irrigation and domestic purposes on 320 acres of land. The proposed place of use is described as being located within the N $\frac{1}{2}$  of Section 17, T.1N., R.53E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of said Section 17.<sup>23</sup>

**XXIV.**

Application 31602 was filed on May 10, 1977, by Central Nevada Water Company, later assigned to Great Basin Holding Co., Inc., to appropriate 5.4 cfs of underground water from the Railroad Valley - Southern Part Hydrographic Basin for irrigation and domestic purposes on 320 acres of land. The proposed place of use is described as being located within the N $\frac{1}{2}$  of Section 20, T.1N., R.53E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of said Section 20.<sup>24</sup>

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<sup>22</sup> File No. 31600, official records in the Office of the State Engineer.

<sup>23</sup> File No. 31601, official records in the Office of the State Engineer.

<sup>24</sup> File No. 31602, official records in the Office of the State Engineer.

FINDINGS OF FACT

I.

Applications 31566, 31569, 31571, 31572, 31573, 31574, 31578, 31579, 31580, 31581, 31582, 31583, 31584, 31585, 31586, 31594, 31595, 31596, 31597, 31598, 31599, 31600, 31601, and 31602 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 State of Nevada Carey Act Desert Land Entry Applications. The Office of Nevada State Lands was contacted and it was determined that the Applicant has only one Carey Act Desert Land Entry Application, #0086. Other than a listing that indicates the case file is open and pending, and that the above water rights are applicable; details of the Carey Act application were unavailable because State Lands staff was unable to locate the case file within their office or the state archives. The State Engineer finds that the Nevada State Lands case file for the Carey Act Desert Land Entry Application #0086 is pending.

II.

In November 2005, the Bureau of Land Management (BLM)-Tonopah Office was visited by staff personnel from the Office of the State Engineer to determine the status of any Federal Desert Land Entry Applications on behalf of or by the Central Nevada Water Company. It was determined that on March 17, 1981, the State of Nevada filed a Federal Desert Land Entry (DLE) Application on behalf of the Central Nevada Water Company, BLM #NVN 032309. An examination of the Ranges, Townships and Sections in BLM case file #NVN 03230901 revealed that the place of use applied for under Applications 31566, 31569, 31571, 31572, 31573, 31574, 31578, 31579, 31580, 31581, 31582, 31583, 31584, 31585, 31586, 31594, 31595, 31596, 31597, 31598, 31599, 31600, 31601, and 31602 were determined unsuitable for entry by decision on November 26, 1984. BLM case file #NVN 032309 was rejected/denied in part on June 9, 1984, and closed on July 21, 1997.<sup>1</sup> The State Engineer finds that the Desert Land Entry Application for control of the

place of use described under Applications 31566, 31569, 31571, 31572, 31573, 31574, 31578, 31579, 31580, 31581, 31582, 31583, 31584, 31585, 31586, 31594, 31595, 31596, 31597, 31598, 31599, 31600, 31601, and 31602 was rejected 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 the applications as the irrigation of 7680 acres of land, which were to be removed from federal jurisdiction by the approval of the State of Nevada Carey Act Desert Land Entry Application #0086. The State of Nevada Federal DLE with the BLM, #NVN 032309, was rejected/denied in part as unsuitable for entry for the place of use listed under Applications 31566, 31569, 31571, 31572, 31573, 31574, 31578, 31579, 31580, 31581, 31582, 31583, 31584, 31585, 31586, 31594, 31595, 31596, 31597, 31598, 31599, 31600, 31601, and 31602 and the ownership of the land requested for removal is retained by the federal government. The State Engineer finds that the purpose for which said applications were filed does not exist; therefore, the necessity to divert water, as proposed under the subject applications, does not exist.

### IV.

As noted in Finding #1, the State of Nevada Carey Act Desert Land Entry Application #0086 is open and pending. Entry to the place of use listed under Applications 31566, 31569, 31571, 31572, 31573, 31574, 31578, 31579, 31580, 31581, 31582, 31583, 31584, 31585, 31586, 31594, 31595, 31596, 31597, 31598, 31599, 31600, 31601, and 31602 will never be granted by the BLM, since the BLM has rejected the Federal DLE application from the State of Nevada; therefore, the State of Nevada, i.e., Office of Nevada State Lands, will never have the option of granting entry to these lands to the Applicant. The State Engineer finds that the purpose for which said applications were filed does not exist; therefore, the

necessity to divert water, as proposed under the subject applications, does not exist.

### CONCLUSIONS

#### I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>25</sup>

#### II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:<sup>26</sup>

- 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.

The purpose for which Applications 31566, 31569, 31571, 31572, 31573, 31574, 31578, 31579, 31580, 31581, 31582, 31583, 31584, 31585, 31586, 31594, 31595, 31596, 31597, 31598, 31599, 31600, 31601, and 31602 were filed does not exist because the Federal Desert Land Entry application with the BLM by the State of Nevada, on behalf of the Applicant, was rejected. The State Engineer concludes that to approve a water right permit for a project that does not exist would threaten to prove detrimental to the public interest.

### RULING

Applications 31566, 31569, 31571, 31572, 31573, 31574, 31578, 31579, 31580, 31581, 31582, 31583, 31584, 31585, 31586, 31594, 31595, 31596, 31597, 31598, 31599, 31600, 31601, and 31602 are

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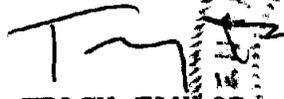
<sup>25</sup> NRS chapters 533 and 534.

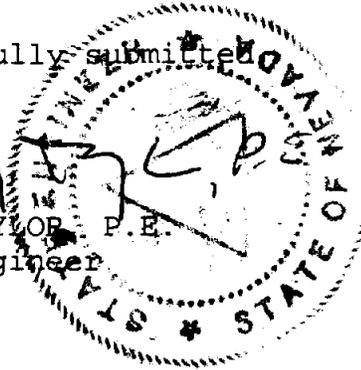
<sup>26</sup> NRS § 533.370(5).

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hereby denied on the grounds that their approval would threaten to prove detrimental to the public interest.

Respectfully submitted

  
TRACY TAYLOR, P.E.  
State Engineer



TT/WHR/jm

Dated this 26th day of

July, 2007.