

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

IN THE MATTER OF APPLICATION 37896 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS OF AN UNDERGROUND SOURCE )  
WITHIN THE BLACK ROCK DESERT )  
GROUNDWATER BASIN (028), HUMBOLDT )  
COUNTY, NEVADA. )

RULING

#4875

GENERAL

I.

Application 37896 was filed on April 12, 1979, by Bill Delong to appropriate 6.0 cubic feet per second (cfs) of underground water for irrigation purposes on 160 acres of land within the NE $\frac{1}{4}$  NE $\frac{1}{4}$ , SE $\frac{1}{4}$  NE $\frac{1}{4}$ , SW $\frac{1}{4}$  NE $\frac{1}{4}$  and the NE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 25, T.40N., R.30E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of said Section 25.<sup>1</sup>

FINDINGS OF FACT

I.

Application 37896 was filed to appropriate 6.0 cfs of underground water for the irrigation of 160 acres of land that was to be removed from federal control through the approval of the applicant's Carey Land Act application. On July 19, 1985, the Division of State Lands was informed by the applicant's agent that Bill De Long and DeLong Ranches, Inc., were no longer interested in pursuing the removal of the subject land through the approval of a Carey Act Entry and were negotiating with the BLM to acquire the land through a purchase from the federal government. Accordingly, the Carey Act Entry associated with Application 37896 was cancelled by the proper regulatory agency on July 29, 1985.

II.

By letter dated November 9, 1999, the office of the State Engineer requested the BLM to provide information relating to the status of the land that the applicant had selected for purchase. A

timely response was received from the BLM that indicated that it had no actions pending for that parcel of land. The State Engineer finds that the control of the place of use described under Application 37896 remains with the federal government and that the need to appropriate water as envisioned under said application has ceased.

### CONCLUSIONS

#### I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>2</sup>

#### II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:<sup>3</sup>

- 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 37896 was filed to irrigate 160 acres of land that was to be initially removed from the control of the federal government through the approval of the applicants' Carey Land Act application. At the applicant's request, this attempt to acquire title was cancelled and replaced with an attempt to purchase the land from the BLM. Information received from the BLM fourteen years after the cancellation of the Carey Act application indicates that the BLM has no actions pending for this property. The applicants' lack of control of the subject property removes

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<sup>1</sup> File Number 37896, official records in the office of the State Engineer.

<sup>2</sup> NRS Chapters 533 and 534.

<sup>3</sup> NRS § 533.370(3).

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the purpose for which Application 37896 was filed. The State Engineer concludes that it would not be in the public interest to approve an appropriation of water for a project that no longer exists.

**RULING**

Application 37896 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 8th day of  
March, 2000.