

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

IN THE MATTER OF APPLICATIONS 36951, )  
36955, 36956, 36957, 36958 AND 36959 FILED )  
TO APPROPRIATE THE PUBLIC WATERS OF )  
VARIOUS SURFACE SOURCES WITHIN THE )  
QUINN RIVER VALLEY HYDROGRAPHIC )  
BASIN - McDERMITT SUBAREA AND )  
OROVADA SUBAREA (33A AND 33B), )  
HUMBOLDT COUNTY, NEVADA. )

**RULING**

**#5638**

**GENERAL**

**I.**

Application 36951 was filed on March 13, 1979, by Nevada Garvey Ranches, Inc. to appropriate 0.0062 cubic feet per second (cfs) of water from the Spring No. 18 for stock and domestic purposes within the SW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 25, T.46N., R.34E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$  NE $\frac{1}{4}$  of said Section 25.<sup>1</sup>

**II.**

Application 36955 was filed on March 13, 1979, by Nevada Garvey Ranches, Inc. to appropriate 0.0062 cfs of water from the Spring No. 22 for stock and domestic purposes within the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 32, T.46N., R.35E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 32.<sup>2</sup>

**III.**

Application 36956 was filed on March 13, 1979, by Nevada Garvey Ranches, Inc. to appropriate 0.0062 cfs of water from the Spring No. 23 for stock and domestic purposes within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 32, T.46N., R.35E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 32.<sup>3</sup>

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<sup>1</sup> File No. 36951, official records in the Office of the State Engineer.

<sup>2</sup> File No. 36955, official records in the Office of the State Engineer.

<sup>3</sup> File No. 36956, official records in the Office of the State Engineer.

**IV.**

Application 36957 was filed on March 13, 1979, by Nevada Garvey Ranches, Inc. to appropriate 0.0062 cfs of water from the Spring No. 24 for stock and domestic purposes within the SW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 4, T.45N., R.35E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$  NW $\frac{1}{4}$  of said Section 4.<sup>4</sup>

**V.**

Application 36958 was filed on March 13, 1979, by Nevada Garvey Ranches, Inc. to appropriate 0.0062 cfs of water from the Spring No. 25 for stock and domestic purposes within the SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 22, T.46N., R.35E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$  SE $\frac{1}{4}$  of said Section 22.<sup>5</sup>

**VI.**

Application 36959 was filed on March 13, 1979, by Nevada Garvey Ranches, Inc. to appropriate 0.0062 cfs of water from the Spring No. 26 for stock and domestic purposes within the SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 23, T.46N., R.35E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$  SE $\frac{1}{4}$  of said Section 23.<sup>6</sup>

**VII.**

Applications 36951, 36955, 36956, 36957, 36958 and 36959 were timely protested by the United States Bureau of Land Management on the general grounds that the water sources are public water reserves (PWR 107) mandated for multiple use management of the public lands as outlined in the Federal Land Policy and Management Act of 1976 and the Taylor Grazing Act of 1934.<sup>1,2,3,4,5,6</sup>

**FINDINGS OF FACT**

**I.**

The Applicant was informed by letter dated December 2, 2002, that additional information regarding Applications 36951, 36955, 36956, 36957, 36958 and 36959 was required. Specifically, the Applicant was informed that the BLM had notified the Office of the State Engineer that the current federal grazing allotment permittee under these applications was Jordan Meadows, LLC, and not the Applicant. The Applicant was advised that our office would need

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<sup>4</sup> File No. 36957, official records in the Office of the State Engineer.

<sup>5</sup> File No. 36958, official records in the Office of the State Engineer.

<sup>6</sup> File No. 36959, official records in the Office of the State Engineer.

confirmation that they are in fact authorized to graze cattle on the federal grazing allotment containing Applications 36951, 36955, 36956, 36957, 36958 and 36959. To date, there has been no response to this letter.<sup>1,2,3,4,5,6</sup>

The Applicant and its agent were notified a second time, by certified mail dated July 6, 2005, to submit additional information regarding Applications 36951, 36955, 36956, 36957, 36958 and 36959 to the Office of the State Engineer. The Applicant was warned that failure to respond within 60 days could result in denial of the applications. The U.S. Postal Service returned the certified letter sent to the Applicant's agent stamped, "return to sender, not deliverable as addressed, unable to forward." Properly endorsed certified mail receipts were received from the certified letter addressed to the Applicant on July 8, 2005.<sup>1</sup>

A review of the application files shows that the last correspondence received from the Applicant was a request to update their mailing address dated July 22, 1996. From that time forward, the Applicant has expressed no interest in pursuing these applications, has not responded to the letter of December 2, 2002, and has not submitted the additional information requested by certified mail dated July 6, 2005.<sup>1,2,3,4,5,6</sup>

The State Engineer finds that the Applicant and its agent were properly notified of the request for additional information regarding a continued interest in pursuing Applications 36951, 36955, 36956, 36957, 36958 and 36959 and they have failed to respond. The State Engineer further finds that there has been no correspondence from the Applicant or its agent for over 9 years.<sup>1</sup>

### CONCLUSIONS

#### I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>7</sup>

#### II.

Before either approving or rejecting an application, the State Engineer may require such additional information as will enable him to properly guard the public interest.<sup>8</sup>

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<sup>7</sup> NRS chapter 533.

<sup>8</sup> NRS § 533.375.

**III.**

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:<sup>4</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.

**IV.**

The Applicant and its agent were properly notified of the requirement for additional information and have failed to submit the information to the Office of the State Engineer. The State Engineer concludes that the failure to express any interest in the application for over 9 years and the failure to submit the requested information demonstrates the Applicant's lack of interest in pursuing Applications 36951, 36955, 36956, 36957, 36958 and 36959. The State Engineer concludes it would threaten to prove detrimental to the public interest to issue a permit under these circumstances.

**RULING**

Applications 36951, 36955, 36956, 36957, 36958 and 36959 are hereby denied on the grounds their issuance would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protest.

Respectfully submitted,



TRACY TAYLOR, P.E.  
State Engineer

TT/TW/jm

Dated this 9th day of

August, 2006.

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<sup>4</sup> NRS § 533.370(5).