

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

IN THE MATTER OF APPLICATION 34422, )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS OF AN UNDERGROUND )  
SOURCE WITHIN THE NORTHERN PART )  
- RAILROAD VALLEY HYDROGRAPHIC )  
BASIN (173B), NYE COUNTY, NEVADA. )

**RULING**

**#5647**

**GENERAL**

**I.**

Application 34422 was filed on October 26, 1977, by the Cleveland Ranch, Inc., later assigned to Great Basin Land Co., Inc., to appropriate 10.4 cubic feet per second of underground water from the Northern Part - Railroad Valley Hydrographic Basin for irrigation and domestic purposes on 640 acres of land within Section 8, T.11N., R.57E., M.D.B.&M. The proposed point of diversion is described as being located within NW¼ of said Section 8.<sup>1</sup>

**FINDINGS OF FACT**

**I.**

Application 34422 was 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-Desert Land Entry Application. The only Carey Act-Desert Land Entry Application by Cleveland Ranch for the Northern Part - Railroad Valley Hydrographic Basin Hydrographic Basin is State Lands #0007. In October 2005 the Division of Nevada State Lands was requested to provide information to the Office of the State Engineer relating to the current status of Cleveland Ranch, Inc., Carey Act Application #0007. Records received from the Division of Nevada State Lands indicated that the Applicant's Carey Act-Desert Land Entry Application for the Northern Part - Railroad Valley Hydrographic Basin was cancelled on August 14,

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<sup>1</sup> File No. 34422, official records in the Office of the State Engineer.

1984.<sup>1</sup> The State Engineer finds that the Applicant's Carey Act-Desert Land Entry Application, State Lands #0007 has been terminated by the proper governing agency.

## II.

On March 17, 1981, the State of Nevada filed a Desert Land Entry Application with the Bureau of Land Management, (BLM) Case #NVN 032335. The "Remarks" section on the BLM's Serial Register page indicates that this filing was on behalf of Cleveland Ranch, Inc., State Land Application #0007. In August 2005 the Ely Office of the BLM was requested by telephone to provide information to the Office of the State Engineer regarding the current status of the State of Nevada Desert Land Entry Application #NVN 032335. A faxed response from the BLM was received on August 5, 2005, in the Office of the State Engineer that indicated the lands requested under Water Right Application 34422, Section 8, T.11N. R.57E., were not included in State of Nevada's Desert Land Entry Application #0007.<sup>1</sup> On November 4, 2005, the BLM - Ely Office was e-mailed a request to verify the finding that Section 8, T.11N. R.57E., was not included in State of Nevada's Desert Land Entry Application #0007 and to see if any filings had been made on Section 8, T.11N. R.57E. An e-mailed response on November 30, 2005, confirmed that there are no past or present Carey Act or federal Desert Land Entry applications filed for Section 8, T.11N. R.57E.<sup>1</sup>The State Engineer finds that the Applicant's attempt to gain control of the places of use described under Application 34422 has never been submitted to 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 Applications 34422 as the irrigation of 640 acres of land, which were to be removed from federal jurisdiction by the approval of the Applicant's respective Carey Act-Desert Land Entry Application, State Lands #0007. The Desert Land Entry application filed by the State of Nevada, BLM Case #NVN 032335, on behalf of Cleveland Ranch, Inc. did not include Section 8, T.11N., R.57E and the ownership of the land requested for removal is retained by the federal government. The State Engineer finds that the

purpose for which Application 34422 was filed no longer exists; therefore, the necessity to divert water as proposed under the subject 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 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.

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 Application 34422 as the irrigation of 640 acres of land, which were to be removed from federal jurisdiction by the approval of a Carey Act-Desert Land Entry Application. The Desert Land Entry application filed by the State of Nevada, BLM Case #NVN 032335, on behalf of Cleveland Ranch, Inc., did not include Section 8, T.11N., R.57E. and the ownership of the land requested for removal is retained by the federal government. The State Engineer concludes that to approve a water right permit for projects where the applicant cannot place the water to beneficial use would threaten to prove detrimental to the public interest.

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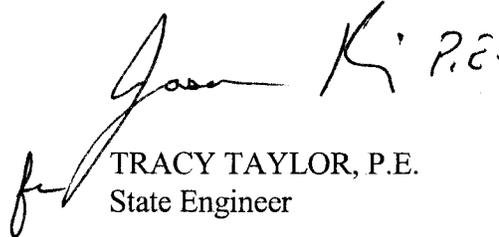
<sup>2</sup> NRS chapters 533 and 534.

<sup>3</sup> NRS § 533.370(5).

**RULING**

Application 34422 is hereby denied on the grounds that its approval would threaten to prove detrimental to the public interest.

Respectfully submitted,

  
TRACY TAYLOR, P.E.  
State Engineer

TT/WHR/jm

Dated this 25th day of

August, 2006.