

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

IN THE MATTER OF APPLICATIONS )  
31439, 31440, 31441, 31442, 31443, 31444 )  
AND 31445 FILED TO APPROPRIATE )  
THE PUBLIC WATERS OF AN )  
UNDERGROUND SOURCE WITHIN )  
THE RAILROAD VALLEY (NORTHERN )  
PART) HYDROGRAPHIC BASIN (173B), )  
NYE COUNTY, NEVADA. )

**RULING**  
**#6199**

**GENERAL**

**I.**

Application 31439 was filed on May 3, 1977, by Silver Spike Exploration Co., Inc., and later assigned to Great Basin Land Co., a Nevada Corporation, to appropriate 10.8 cubic feet per second (cfs) of water from an underground source for irrigation and domestic purposes. Information contained in the file indicates that the application was filed in support of a Carey Act application. The proposed place of use is described as being all of Section 13, T.5N., R.54E., M.D.B.&M. The proposed point of diversion is described as being located within NW $\frac{1}{4}$  NE $\frac{1}{4}$  of said Section 13.<sup>1</sup>

**II.**

Application 31440 was filed on May 3, 1977, by Silver Spike Exploration Co., Inc., and later assigned to Great Basin Land Co., a Nevada Corporation, to appropriate 10.8 cfs of water from an underground source for irrigation and domestic purposes. Information contained in the file indicates that the application was filed in support of a Carey Act application. The proposed place of use is described as being all of Section 11, T.5N., R.54E., M.D.B.&M. The proposed point of diversion is described as being located within NE $\frac{1}{4}$  NW $\frac{1}{4}$  of said Section 11.<sup>2</sup>

**III.**

Application 31441 was filed on May 3, 1977, by Silver Spike Exploration Co., Inc., and later assigned to Great Basin Land Co., a Nevada Corporation, to appropriate

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<sup>1</sup> File No. 31439, official records in the Office of the State Engineer.

<sup>2</sup> File No. 31440, official records in the Office of the State Engineer.

10.8 cfs of water from an underground source for irrigation and domestic purposes. Information contained in the file indicates that the application was filed in support of a Carey Act application. The proposed place of use is described as being all of Section 25, T.5N., R.54E., M.D.B.&M. The proposed point of diversion is described as being located within NW¼ NE¼ of said Section 25.<sup>3</sup>

IV.

Application 31442 was filed on May 3, 1977, by Silver Spike Exploration Co., Inc., and later assigned to Great Basin Land Co., a Nevada Corporation, to appropriate 10.8 cfs of water from an underground source for irrigation and domestic purposes. Information contained in the file indicates that the application was filed in support of a Carey Act application. The proposed place of use is described as being all of Section 24, T.5N., R.54E., M.D.B.&M. The proposed point of diversion is described as being located within NW¼ NE¼ of said Section 24.<sup>4</sup>

V.

Application 31443 was filed on May 3, 1977, by Silver Spike Exploration Co., Inc., and later assigned to Great Basin Land Co., a Nevada Corporation, to appropriate 10.8 cfs of water from an underground source for irrigation and domestic purposes. Information contained in the file indicates that the application was filed in support of a Carey Act application. The proposed place of use is described as being all of Section 14, T.5N., R.54E., M.D.B.&M. The proposed point of diversion is described as being located within NE¼ NW¼ of said Section 14.<sup>5</sup>

VI.

Application 31444 was filed on May 3, 1977, by Silver Spike Exploration Co., Inc., and later assigned to Great Basin Land Co., a Nevada Corporation, to appropriate 10.8 cfs of water from an underground source for irrigation and domestic purposes. Information contained in the file indicates that the application was filed in support of a Carey Act application. The proposed place of use is described as being all of Section 12,

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<sup>3</sup> File No. 31441, official records in the Office of the State Engineer.

<sup>4</sup> File No. 31442, official records in the Office of the State Engineer.

<sup>5</sup> File No. 31443, official records in the Office of the State Engineer.

T.5N., R.54E., M.D.B.&M. The proposed point of diversion is described as being located within NW¼ NE¼ of said Section 12.<sup>6</sup>

## VII.

Application 31445 was filed on May 3, 1977, by Silver Spike Exploration Co., Inc., and later assigned to Great Basin Land Co., a Nevada Corporation, to appropriate 10.8 cfs of water from an underground source for irrigation and domestic purposes. Information contained in the file indicates that the application was filed in support of a Carey Act application. The proposed place of use is described as being all of Section 23, T.5N., R.54E., M.D.B.&M. The proposed point of diversion is described as being located within NE¼ NW¼ of said Section 23.<sup>7</sup>

## FINDINGS OF FACT

### I.

A review of records in the Office of the State Engineer show that the place of use described in the applications is public land managed by the United States Department of the Interior, Bureau of Land Management (BLM).<sup>8</sup> Applications 31439, 31440, 31441, 31442, 31443, 31444 and 31445 were filed over 35 years ago in an effort to obtain entry to federally controlled public lands under the Carey Act. Information from State Lands indicates that the Carey applications were cancelled on August 1, 1984.<sup>1</sup> The BLM shows Application No. NVN-32338 as associated with the subject water right applications and indicates that this application is still active in their records, but there is no evidence that any entry has been authorized.<sup>1</sup> By letter of November 8, 2005, the Applicant indicated that it had been in contact with the BLM and was informed that its rights under Carey applications were effectively subordinated by the BLM's land planning process. The Applicant indicated that it was encouraged by the BLM to attempt to purchase the desired lands if they were specified for disposal.<sup>1</sup>

The State Engineer finds the Applicant does not own or control the land described under the place of use of Applications 31439, 31440, 31441, 31442, 31443, 31444 and

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<sup>6</sup> File No. 31444, official records in the Office of the State Engineer.

<sup>7</sup> File No. 31445, official records in the Office of the State Engineer.

<sup>8</sup> United States Bureau of Land Management, "Quinn Canyon Range", 1:100,000-scale topographic map, Land Records Version 4.12, <[http://www.nv.blm.gov/LandRecords/map.php?quad=quinn\\_canyon\\_range](http://www.nv.blm.gov/LandRecords/map.php?quad=quinn_canyon_range)>.

31445. The State Engineer also finds that the Carey Act application, for which these water right applications were filed, has been cancelled by State Lands. The State Engineer finds that the Applicant has been given over 35 years to obtain entry to the lands and has failed to do so.

**II.**

Applications 31439, 31440, 31441, 31442, 31443, 31444 and 31445 were filed to appropriate groundwater from the Railroad Valley Hydrographic Basin – Northern Part over 35 years ago. When applications to appropriate groundwater are filed they are generally considered in the order that they are filed, because the filing date sets the priority of the water right if it is approved. An abstract of the basin shows that Applications 31439, 31440, 31441, 31442, 31443, 31444 and 31445 are blocking the Office of the State Engineer from taking action on 43 applications that were filed later in time.<sup>9</sup> The State Engineer finds that to continue to withhold action would be detrimental to the interests of the applicants that filed later in time. The State Engineer finds that an inordinate amount of time has passed for the Applicant to resolve any outstanding issues regarding entry to the lands and delaying any further action on these applications would threaten to prove detrimental to the public interest.

**CONCLUSIONS**

**I.**

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>10</sup>

**II.**

Nevada Revised Statute § 533.030 provides water may be appropriated for beneficial use and not otherwise. Nevada Revised Statute § 533.035 provides that beneficial use shall be the basis, the measure and the limit of the right to the use of water. The State Engineer concludes that the applicant cannot place the applied for water to beneficial use.

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<sup>9</sup> Nevada Division of Water Resources' Water Rights Database, Hydrographic Basin Summary, Railroad Valley-Northern Part Hydrographic Basin (173B), August 30, 2012, official records in the Office of the State Engineer.

<sup>10</sup> NRS Chapters 533 and 534.

**III.**

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:<sup>11</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 protectable 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 State Engineer concludes that the Applicant does not own or control the lands described under Applications 31439, 31440, 31441, 31442, 31443, 31444 and 31445. The State Engineer further concludes that to grant an application to appropriate the public waters where the applicant does not own or control the lands would not be in the public interest.

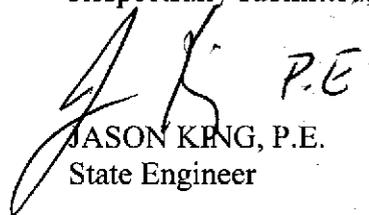
**V.**

The Applicant has had over 35 years to gain entry to the public lands and has failed. The State Engineer concludes that no permits can be issued under these circumstances and to delay action any longer would threaten to prove detrimental to the public interest.

**RULING**

Applications 31439, 31440, 31441, 31442, 31443, 31444 and 31445 are hereby denied on the grounds that the Applicant cannot place the water to beneficial use and their issuance would threaten to prove detrimental to the public interest.

Respectfully submitted,

 P.E.  
JASON KING, P.E.  
State Engineer

Dated this 10th day of  
October, 2012.

<sup>11</sup> NRS § 533.370(2).