

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION 48440)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNNAMED SPRING IN)
MARY'S RIVER AREA, ELKO COUNTY,))
NEVADA.

RULING

GENERAL

Application 48440 was filed on September 26, 1984, by Don and Martha Sims to appropriate 1.0 c.f.s. of water from an unnamed spring for stockwatering purposes within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 12, T.38N., R.59E., M.D.B.&M. The point of diversion is described as being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 12, T.38N., R.59E., M.D.B.&M.¹

FINDINGS OF FACTS

I.

Field examination of this spring by the Elko office of the Division of Water Resources discloses that this spring is near and tributary to Mary's River which is tributary to the Humboldt River.²

II.

The Sixth Judicial District Court has determined that there is no unappropriated water in the Humboldt River or its tributaries.³

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action and determination.⁴

¹ Public record in the office of the State Engineer.

² Memo attached to file 48440 on file in the office of the State Engineer.

³ Humboldt River Decree (Bartlett Decree) Finding of Fact No. 44, p. 28.

⁴ NRS 533.025 and 533.030 (1).

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:⁵

- A. There is no appropriated water at the proposed source, or
- B. The proposed use conflicts with existing rights, or
- C. The proposed use threatens to prove detrimental to the public interest.

RULING

Pursuant to the foregoing Findings of Fact and Conclusions, Application 48440 is hereby denied on the grounds that the granting of the application would conflict with and impair the value of existing rights.

Respectfully submitted,



PETER G. MORROS
State Engineer

PGM/MT/II

Dated this 22nd day of

February, 1985.

⁵ NRS 533.370 (3).