

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATIONS 46615,
46616 AND 46800 FILED TO APPROPRIATE)
THE PUBLIC WATERS OF THE COLORADO)
RIVER IN THE COLORADO RIVER VALLEY)
BASIN, CLARK COUNTY, NEVADA.)

RULING

GENERAL

Application 46615 was filed on February 7, 1983, by William G. Bennett and William N. Pennington to appropriate 0.5 c.f.s. of water from the Colorado River for quasi-municipal purposes within portions of Government Lots 3 and 4, Section 13, T.32S., R.66E., M.D.B.&M. The point of diversion is described as being within Government Lot 4 Section 13, T.32S., R.66E., M.D.B.&M.¹

Application 46616 was filed on February 7, 1983, by William G. Bennett and William N. Pennington to appropriate 0.5 c.f.s. of water from the Colorado River for quasi-municipal purposes within portions of Government Lots 3 and 4, Section 13, T.32S., R.66E., M.D.B.&M. The point of diversion is described as being within Government Lot 3, Section 13, T.32S., R.66E., M.D.B.&M.¹

Application 46800 was filed on April 8, 1983, by William G. Bennett and William N. Pennington to change the place of use of 0.5 c.f.s. of water from the Colorado River heretofore applied for under Application 46616. The proposed use is for quasi-municipal purposes within portions of the SW1/4 NW1/4, SE1/4 NW1/4, Government Lots 2, 3 and 4, Section 13, T.32S., R.66E., M.D.B.&M. The existing place of use is portions of Governments Lots 3 and 4, Section 13, T.32S., R.66E., M.D.B.&M. The point of diversion is described as being within the Government Lot 3, Section 13, T.32S., R.66E., M.D.B.&M.¹

FINDINGS OF FACT

I.

On June 13, 1986, the Office of the State Engineer requested information from the Colorado River Commission regarding the status of any contracts or negotiations to execute a contract between said Commission and the applicant for the beneficial use of Colorado River water.¹

II.

On July 30, 1986, the State Engineer received a reply from the Colorado River Commission stating that:¹

¹ Public record in the office of the State Engineer.

"Regarding applications #46615 and #46616 filed by Bennett and Pennington, please be advised the Commission is considering the termination of Bennett and Pennington's contract for the diversion of Colorado River water. This will be an agenda item for the Commission meeting scheduled for August 22, 1986. I will notify you of their decision."

III.

On September 25, 1986, the State Engineer received a letter from the Colorado River Commission concerning Applications 46615 and 46616 stating:¹

"Please be advised the Colorado River Commission, at their meeting of August 22, 1986, terminated the contract with Bennett and Pennington, dated March 10, 1983, for the diversion of Colorado River water."

CONCLUSIONS

I.

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

II.

The State Engineer is prohibited by law³ from granting a permit under an application to appropriate the public waters where:

- A. There is no unappropriated 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.

III.

NRS 533.372 states that the State Engineer shall not approve any application or issue any permit to appropriate the waters of the Colorado River held in trust by the Colorado River Commission except after approval of the application by the Commission.

IV.

The Colorado River Commission's termination of the contract for the diversion of Colorado River water prima facie evidence of the lack of approval by said Commission for the appropriation and diversion of Colorado River water.

² NRS Chapter 533.

³ NRS 533.370(3).

V.

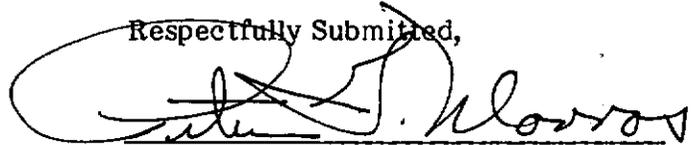
The approval by the State Engineer of an application to appropriate and divert Colorado River water for which there is no contract approved by the Colorado River Commission would be contrary to NRS 533.372 and therefore detrimental to the public interest.

RULING

Applications 46615 and 46616 are hereby denied on the grounds that the granting of said applications without the approval of the Colorado River Commission would be contrary to NRS 533.372 and therefore detrimental to the public interest.

Application 46800 is hereby denied on the grounds that there is no appropriation of water under the application it proposes to change.

Respectfully Submitted,



PETER G. MORROS
State Engineer

PGM/DLW/bl

Dated this 17th day of
November, 1986.