

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

IN THE MATTER OF APPLICATIONS 25908)
AND 25909 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF THE MARYS RIVER)
WITHIN THE MARYS RIVER AREA GROUND-)
WATER BASIN (42) ELKO COUNTY,)
NEVADA.)

RULING

4366

GENERAL

I.

Application 25908 was filed January 14, 1971, by Robert E. and Peter E. Marble to appropriate 130.0 cubic feet per second (c.f.s.) of water from the Marys River for irrigation purposes within various portions of Sections 12, 13, 14, 15, 22, 23, 27 and 28, T.36N., R.58E.; Sections 4, 5, 6, 7 and 8, T.36N., R.59E.; Sections 1, 12, 13, 24, 25, 32, 33, and 36, T.37N., R.59E.; Sections 1, 2, 11, 12, 13, 14, 23, 24, 25, 26, 35 and 36, T.38N., R.59E.; Sections 26 and 35, T.39N., R.59E.; Sections 7, 18, 19 and 30, T.37N., R.60E.; Sections 19, 20, 29, 30 and 32, T.40N., R.60E.; and Sections 7, 18, 19, 30 and 31, T.41N., R.60E., M.D.B.&M. The point of diversion is described as being located within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 5, T.42N., R.59E., M.D.B.&M. Application 25908 became ready for the State Engineer's action on April 19, 1971.¹

II.

Application 25909 was filed January 14, 1971, by Robert E. and Peter E. Marble to store 15,000.0 acre-feet of water from the Marys River within portions of Sections 25 and 36, T.43N., R.58E.; Sections 30, 31 and 32, T.43N., R.59E.; and Sections 5, 6 and 8, T.42N., R.59E., M.D.B.&M. The point of diversion is described as being located within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 5, T.42N., R.59E.,

¹File No. 25908, official records in the Office of the State Engineer.

M.D.B.&M. Application 25909 became ready for the State Engineer's action on April 19, 1971.²

FINDINGS OF FACT

I.

The current owner of record of Applications 25908 and 25909 being United States of America, U.S.D.I., Bureau of Land Management was notified by certified mail on May 6, 1996, to advise the State Engineer's Office within thirty days of May 6, 1996, regarding the status of its plans to construct the dam identified under the applications. The return receipt from the certified letter was received from the addressee on May 13, 1996. The State Engineer finds that to date the information requested has not been received from the United States of America, U.S.D.I., Bureau of Land Management.

II.

The State Engineer finds that the applicant was properly notified of the request for additional information and failed to respond.^{1, 2}

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and of the subject matter of this action and determination.³

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.⁴

²File No. 25909, official records in the office of the State Engineer.

³NRS Chapters 533 and 534.

⁴NRS 533.375.

III.

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 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.

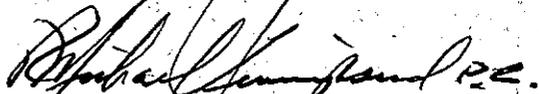
IV.

The applicant was properly notified of the requirement for additional information concerning this application and has failed to submit the information to the State Engineer's Office. The State Engineer concludes that without the information requested, sufficient information is not available for the State Engineer to properly guard the public interest.

RULING

Applications 25908 and 25909 are hereby denied on the grounds that the applicant has not submitted the information requested by the State Engineer's Office and that without this information, the granting of the application would be detrimental to the public interest.

Respectfully submitted,


E. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/RAD/bk

Dated this 2nd day of
July, 1996.

⁵NRS 533.370(3)