

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

IN THE MATTER OF APPLICATIONS 46832,)
46844 AND 46845 FILED TO APPROPRIATE)
THE PUBLIC WATERS OF A SURFACE SOURCE)
WITHIN THE COLORADO RIVER VALLEY)
BASIN, CLARK COUNTY, NEVADA.)

RULING

4509

GENERAL

I.

Application 46832 was filed on April 27, 1983, by Desert River, Inc. to appropriate 2.0 cubic feet per second (cfs) of the surface waters of the Colorado River for quasi-municipal and domestic purposes within all of fractional Section 24, T.32S., R.66E., M.D.B.&M., excepting therefrom the $W\frac{1}{2}$ $NW\frac{1}{4}$ of Section 24, the North 786.00 feet of Government Lots 5 and 6 within Section 24, and the parcel of land identified by Document 0783163, Book 975, Official Records of Clark County.¹

II.

Application 46844 was filed on May 3, 1983, by Sahara-Nevada Corporation to appropriate 0.2 cfs of the surface waters of the Colorado River for commercial and domestic purposes within Parcels 3 and 4 of Government Lots 5 and 6, Section 24, T.32S., R.66E., M.D.B.&M.²

III.

Application 46845 was filed on May 3, 1983, by Sahara-Nevada Corporation to appropriate 1.0 cfs of the surface waters of the Colorado River for commercial and domestic purposes within Parcels 3 and 4 of Government Lots 5 and 6, Section 24, T.32S., R.66E., M.D.B.&M.³

¹File No. 46832, official records in the Office of the State Engineer.

²File No. 46844, official records in the Office of the State Engineer.

³File No. 46845, official records in the Office of the State Engineer.

FINDINGS OF FACT

I.

On November 24, 1922, the Colorado River Compact was signed and allocated the waters of the Colorado River between the upper basin states of Wyoming, Colorado, Utah and New Mexico, and the lower basin states of Nevada, Arizona and California.⁴ The Boulder Canyon Project Act, effective June 25, 1929, apportioned the waters of the lower basin states, and gave to the Secretary of the United States Department of the Interior the right to contract with users of Colorado River water.⁵ Pursuant to Section 5 of the Act, the Secretary of the Interior is to contract with water users for all water allocated to each state in the lower basin. The State Engineer finds that direct appropriations of Colorado River water from the State of Nevada's allotment of said water are not made pursuant to Nevada's statutory process for appropriating water found in NRS Chapter 533, but rather are made pursuant to contracts with the Secretary of the Interior.⁶

II.

The State Engineer finds that NRS 538.171 provides that applications for the original appropriation of Colorado River waters must be made to the Colorado River Commission and not to the Nevada State Engineer.⁷ The State Engineer further finds that NRS 538.171 clarifies that the State Engineer has no authority as it pertains to the original appropriation and use of the waters of the Colorado River.

⁴43 U.S.C.S. §6171 (1980).

⁵43 U.S.C.S. §617d (1980).

⁶See Nevada Attorney General Opinion No. 88-16, dated December 13, 1988.

⁷NRS 538.171.

CONCLUSIONS OF LAW

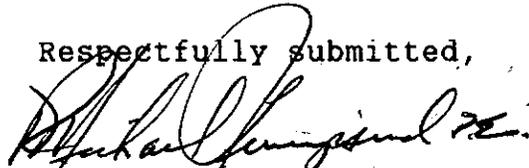
I.

The State Engineer has no jurisdiction over the original appropriation of water from the Colorado River. As these applications are for the original appropriation of water from the Colorado River, the State Engineer has no jurisdiction to grant said applications.

RULING

Applications 46832, 46844 and 46845 are hereby denied on the grounds that the State Engineer has no jurisdiction over the waters requested for appropriation and cannot grant applications for the original appropriation of the waters of the Colorado River.

Respectfully submitted,



E. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/BC/ab

Dated this 6th day of
March, 1997.