

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

IN THE MATTER OF APPLICATION 46488)
FILED TO APPROPRIATE THE WATERS OF)
THE SOUTH FORK OF THE HUMBOLDT RIVER))
IN DIXIE CREEK - TENMILE CREEK AREA,))
ELKO COUNTY, NEVADA.)

RULING

GENERAL

I.

Application 46488¹ was filed on December 27, 1982 by Kent L. Brown to appropriate 600 c.f.s. of water from the South Fork of the Humboldt River for Hydro Electric Power Generation purposes within the NW1/4 SE1/4, SW1/4 SE1/4, SE1/4 SW1/4, NE1/4 SW1/4 Section 4, T.32N., R.55E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SE1/4 Section 4, T.32N., R.55E., M.D.B.&M.

FINDINGS OF FACT

I.

The applicant under Application 46488 does not own or control the land described under the point of diversion or place of use of the application.²

II.

There is no indication in our records that the applicant has applied for a permit required under the Federal Energy Regulatory Commission regulations for the project described in said application.

III.

To grant an application for hydro-electric power generation on lands which the applicant does not own or control and could not demonstrate the ability to place the water to beneficial use would not be in the public interest.

¹ Public record in the office of the State Engineer.

² The ownership of Permit 48951 and Dam Permit J-237 are public records on file in the office of the State Engineer.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the matter of this action.³

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water where:⁴

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

III.

It is not in the public interest to grant Application 46488 for water on lands that applicant does not own or control and could not demonstrate the ability to place the waters to a beneficial use.

³ NRS Chapter 533.

⁴ NRS Chapter 533.370 subsection 3.

RULING

Application 46488 is hereby denied on the grounds that it would not be in the public interest to grant an application for hydro-electrical power generation on lands that the applicant does not own or control and could not demonstrate the ability to place the water to beneficial use.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/GC/pm

Dated this 24th day of
December, 1990