

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATIONS 38279 )  
AND 38304 FILED TO APPROPRIATE THE )  
PUBLIC WATERS OF TABOR CREEK IN )  
MARY'S RIVER AREA, ELKO COUNTY, )  
NEVADA. )

RULING

GENERAL

Application 38279 was filed on June, 7, 1979, by Victor Bellars Myers to appropriate 5.4 c.f.s. of water from Tabor Creek for irrigation and domestic purposes on 320 acres of land within the W1/2 Section 16, T.38N., R.60E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NW1/4 Section 16, T.38N., R.60E., M.D.B.&M.<sup>1</sup>

Application 38304 was filed on June 8, 1979, by Matthew Alexander Thomson to appropriate 5.4 c.f.s. of water from Tabor Creek for irrigation and domestic purposes on 320 acres of land within the W1/2 Section 21, T.38N., R.60E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SW1/4 Section 21, T.38N., R.60E., M.D.B.&M.<sup>1</sup>

FINDINGS OF FACT

I.

Tabor Creek, identified as the source of water under Applications 38279 and 38304 is tributary to the Humboldt River.<sup>2</sup>

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action.<sup>3</sup>

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<sup>1</sup> Public record in the office of the State Engineer.

<sup>2</sup> The Humboldt River Adjudication 1923-1938. The Bartlett Decree Findings of Fact No. 38, p. 27, Humboldt County Nevada.

<sup>3</sup> NRS 533.325.

II.

The State Engineer is prohibited by law from granting a permit where:

- A. there is no unappropriated water in 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.<sup>4</sup>

III.

In the Bartlett Decree for the Humboldt River Adjudication, the Court states under Findings of Fact No. 44 that the stream system is fully appropriated.<sup>5</sup>

**RULING**

Applications 38279 and 38304 are hereby denied on the grounds there is no unappropriated water in the source as set forth in the Final Judgment and Decree of the Humboldt River Adjudication and further that the granting of the applications would tend to impair the value of existing rights.

Respectfully submitted



Peter G. Morros  
State Engineer

PGM/MT/bl

Dated this 23rd day of  
January, 1985.

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<sup>4</sup> NRS 533.370, subsection 3.

<sup>5</sup> The Humboldt River Adjudication 1923-1938. The Bartlett Decree Findings of Fact No. 44, p. 28, Humboldt County Nevada.