

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

IN THE MATTER OF APPLICATIONS 10913,))
10914, 12528, 17207, 17605, 17723,))
19076, 24908, 25857, 25896, 26071,))
26072, 26105, 26112, 26165, 26166,))
26266, 26268, 26398, 26399, 26430,))
45676, 45677, 45679, 45681, 45682,))
45683, 45684 AND 45685, FILED TO))
APPROPRIATE THE PUBLIC WATERS FROM))
SURFACE SOURCES IN SPRING VALLEY,))
WHITE PINE COUNTY, NEVADA.))

RULING

3860

GENERAL

I.

Application 10913¹ was filed on January 9, 1943, by George Eldridge to appropriate 3.0 cfs of water from Kalamazoo Creek for irrigation and domestic purposes on 240 acres of land within the SE1/4 Section 22, and the W1/2 SW1/4 Section 23, T.20N., R.66E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SE1/4 Section 28, T.20N., R.66E., M.D.B.&M.

Application 10914¹ was filed on January 9, 1943, by George Eldridge to appropriate 1.0 cfs of water from Muncy Creek for irrigation and domestic purposes on 160 acres of land within the SE1/4 Section 22, and the W1/2 SW1/4 Section 23, T.20N., R.66E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SE1/4 Section 15, T.20N., R.66E., M.D.B.&M.

Application 12528¹ was filed on July 7, 1948, by B.H. Robison to appropriate 12.0 cfs of water from Kalamazoo Creek for irrigation and domestic purposes on 600 acres of land within Sections 11, 12, 13 and 14, T.19N., R.66E., M.D.B.&M. The point of diversion is described as being within the NW1/4 NE1/4 Section 34, T.20N., R.66E., M.D.B.&M. The current owner of record is Reed B. Robison aka Reed Robison.

¹ Public record in the office of the State Engineer.

Application 17207¹ was filed on March 11, 1957, by Delbert D. Eldridge to appropriate 42 acre feet (storage) of water from Kalamazoo Creek for irrigation of 320 acres of land within the SE1/4 SE1/4 Section 13, E1/2 NE1/4, NE1/4 SE1/4 Section 24, T.20N., R.66E., Lot 1 (NW1/4 NW1/4), Lot 2 (SW1/4 NW1/4), Lot 3 (NW1/4 SW1/4), NE1/4 SW1/4 all in Section 19, T.20N., R.67E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SE1/4 Section 23, T.20N., R.66E., M.D.B.&M.

Application 17605¹ was filed on July 10, 1958, by George Eldridge to appropriate 10.0 cfs of water from Kalamazoo Creek for irrigation purposes on 240 acres of land within the SE1/4 Section 22, W1/2 SW1/4 Section 23, T.20N., R.66E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SW1/4 Section 28, T.20N., R.66E., M.D.B.&M. The present owner of record is George Eldridge and Son Inc.

Application 17723¹ was filed on November 21, 1958 by Mrs. Richard Bate c/o George Eldridge to appropriate 10.0 cfs of water from Bassett Creek for irrigation of 1840 acres of land within the NW1/4, W1/2 NE1/4, W1/2 SW1/4, NE1/4 SW1/4, NW1/4 SE1/4 Section 1, N1/2 NE1/4 Section 2, T.18N., R.66E.; E1/2 W1/2, W1/2 SE1/4, NE1/4 NE1/4 Section 24, NE1/4 SW1/4 Section 25, SE1/4 Section 26, E1/2 SW1/4, SE1/4, E1/2 NE1/4 Section 35, NW1/4, W1/2 SW1/4 Section 36, T.19N., R.66E.; SW1/4 NW1/4 Section 30, T.19N., R.67E., M.D.B.&M. The point of diversion is described as being within the NW1/4 NE1/4 Section 10, T.18N., R.66E., M.D.B.&M. The current owner of record is George H. and Mary A. Eldridge.

Application 19076¹ was filed on July 29, 1960, by B.H. Robison to appropriate 7.0 cfs of water from Bassett Creek for irrigation of 960 acres of land within the SE1/4 SW1/4, SW1/4 SE1/4 Section 1, NW1/4, W1/2 NE1/4, NW1/4 SE1/4 Section 12, T. 18N., R. 66E.; NW1/4 and SE1/4, Section 25, SE1/4 NE1/4 Section 26, NE1/4, E1/2 SW1/4, SW1/4 SE1/4, NE1/4 SE1/4 Section 36, T.19N., R.66E.; W1/2 NW1/4, SE1/4 NW1/4 Section 31, T.19N., R.67E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NE1/4 Section 10, T.18N., R.66E., M.D.B.&M. The current owner of record is Reed B. Robison aka Reed Robison.

Application 24908¹ was filed on February 13, 1969, by B.H. Robison to appropriate 10.0 cfs of water from Kalamazoo Creek for irrigation of 1080 acres of land within the NW1/4 NW1/4, E1/2 W1/2, E1/2, Section 11, NW1/4, W1/2 NE1/4, N1/2 SW1/4, SW1/4 SW1/4 Section 12, NW1/4 NW1/4 Section 13, N1/2 NE1/4, NE1/4 NW1/4 SW1/4 NE1/4 Section 14, all in T.19N., R.66E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SE1/4 Section 34, T.20N., R.66E., M.D.B.&M. The current owner of record is Reed B. Robison aka Reed Robison.

Application 25857¹ was filed on November 9, 1970, by B.H. Robison, to appropriate 3.0 cfs of water from Bassett Creek for irrigation of 560 acres of land within the SE1/4 SW1/4, SW1/4 SE1/4, Section 1, NW1/4, W1/2 NE1/4, SE1/4 NE1/4, N1/2 SE1/4, SE1/4 SE1/4 Section 12, T.18N., R.66E.; SW1/4 NW1/4, NW1/4 SW1/4 Section 7, T.18N., R.67E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SE1/4 Section 3, T.18N., R.66E., M.D.M. The current owner of record is Reed B. Robison aka Reed Robison.

Application 25896¹ was filed on December 21, 1970, by B.H. Robison to change the point of diversion and place of use of 4.0 cfs of water heretofore appropriated under Permit 11301 to irrigate 400 acres of land within the W1/2 NW1/4, SE1/4 NW1/4, S1/2 NE1/4, N1/2 SE1/4, SE1/4 SE1/4, Section 12, T.18N., R.66E.; SW1/4 NW1/4, NW1/4 SW1/4 Section 7, T.18N., R.67E., M.D.B.&M. The new point of diversion is described as being within the SE1/4 SE1/4 Section 3, T.18N., R.66E., M.D.B.&M. The current owner of record is Reed B. Robison aka Reed Robison.

Application 26071¹ was filed on April 22, 1971, by George Eldridge & Son, Inc. to appropriate 3.0 cfs of water from Bassett Springs for irrigation and domestic purposes for 240 acres of land within the E1/2 NW1/4, W1/2 NE1/4, NW1/4 SE1/4, NE1/4 SW1/4 Section 1, T.18N., R.66E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SW1/4 Section 1, T.18N. R.66E., M.D.B.&M.

Application 26072¹ was filed on April 23, 1971, by George Eldridge & Son, Inc. to appropriate 10.0 cfs of water from Odger's Creek for irrigation and domestic purposes for 1000 acres of land within the W1/2 NW1/4, SW1/4 Section 19, W1/2 W1/2, NE1/4 NW1/4, SE1/4 SW1/4 Section 30, N1/2 N1/2 Section 31, T.18N., R.67E., E1/2 SE1/4 Section 24, E1/2 E1/2, NW1/4 NE1/4, W1/2 SE1/4, Section 25, T.18N., R.66E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SE1/4 Section 23, T.18N., R.66E., M.D.B.&M.

Application 26105¹ was filed on May 5, 1971, by George Eldridge & Son, Inc. to appropriate 7.5 cfs of water from Piermont Creek for irrigation and domestic purposes for 440 acres of land within the E1/2 NW1/4, E1/2 SW1/4, W1/2 SE1/4 Section 24, NE1/4 Section 25, T.19N., R.66E., SW1/4 NW1/4 Section 30, T.19N., R.67E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SE1/4 Section 23, T.19N., R.66E., M.D.B.&M.

Application 26112¹ was filed on May 10, 1971, by B.H. Robison to appropriate 8.0 cfs of water from Piermont Creek for irrigation of 1500 acres of land within the NW1/4, SE1/4 Section 25, E1/2 NE1/4 Section 26, E1/2, E1/2 SW1/4 Section 36 T.19N., R.66E.; SW1/4 SW1/4 Section 30, T.19N., R.67E.; NW1/4 NW1/4, S1/2 NW1/4, SW1/4, SW1/4 SE1/4 Section 31, T.19N., R.67E.; N1/2 NW1/4 Section 6, T.18N., R.67E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NE1/4 Section 26, T.19N., R.66E., M.D.B.&M. The current owner of record is Reed B. Robison, aka Reed Robison.

Application 26165¹ was filed on June 9, 1971, by B.H. Robison to appropriate 2.0 cfs of water from Meadow Creek for irrigation of 1000 acres of land within portions of Sections 11, 12, 13 and 14, T19N., R.66E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NE1/4 Section 15, T.19N., R.66E., M.D.B.&M.

Application 26166¹ was filed on June 9, 1971, by B.H. Robison to appropriate 4.0 cfs of water from North Creek for irrigation of 1000 acres of land within portions of Sections 11,

12, 13 and 14 T.19N., R.66E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SE1/4 Section 15, T.19N., R.66E., M.D.B.&M.

Application 26266¹ was filed on August 23, 1971, by George Eldridge & Son, Inc. to appropriate 3.2 cfs of water from Bassett Creek for irrigation of 240 acres of land within the W1/2 W1/2 Section 1, T.18N., R.66E.; E1/2 E1/2 Section 35, E1/2 NW1/4 Section 36, SW1/4 NE1/4 Section 25, E1/2 SE1/4 Section 26, T.19N., R.66E.; SW1/4 NW1/4 Section 30, T.19N., R.67E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SE1/4 Section 3, T.18N., R.66E., M.D.B.&M.

Application 26268¹ was filed on August 23, 1971, by B.H. Robison to appropriate 2.0 cfs of water from Keegan Hayfield Spring #3 for irrigation of 800 acres of land within the E1/2 SW1/4, E1/2 Section 36, T.19N., R.66E.; W1/2 W1/2 (Lots 1, 2, 3 and 4), SE1/4 NW1/4, E1/2 SW1/4, SW1/4 SE1/4, Section 31, T.19N., R.67E.; N1/2 NW1/4 (Lots 3 and 4) Section 6, T.18N., R.67E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SW1/4 Section 36, T.19N., R.66E., M.D.B.&M.

Application 26398¹ was filed on November 9, 1971, by B.H. Robison to appropriate 2.0 cfs of water from Keegan Hayfield Springs #2 for irrigation of 800 acres of land within the E1/2 SW1/4, E1/2 Section 36, T.19N., R.66E.; W1/2 W1/2 (Lots 1, 2, 3 and 4), SE1/4 NW1/4, E1/2 SW1/4, SW1/4 SE1/4 Section 31, T.19N., R.67E.; N1/2 NW1/4 (Lots 3 and 4) Section 6, T.18N., R.67E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SW1/4 Section 36, T.19N., R.66E., M.D.B.&M.

Application 26399¹ was filed on November 9, 1971, by B.H. Robison to appropriate 2.0 cfs of water from Keegan Hayfield Spring #1 for irrigation of 800 acres of land within the E1/2 SW1/4, E1/2, Section 36, T.19N., R.66E.; W1/2 W1/2 (Lots 1, 2, 3 and 4), SE1/4 NW1/4, E1/2 SW1/4, SW1/4 SE1/4 Section 31, T.19N., R.67E.; N1/2 NW1/4 (Lots 3 and 4), Section 6, T.18N., R.67E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SW1/4 Section 36, T.19N., R.66E., M.D.B.&M.

Application 26430¹ was filed on December 6, 1971, by George Eldridge & Son, Inc. to appropriate 2.0 cfs of water from Bassett Springs (North) for irrigation of 400 acres of land within the E1/2 SE1/4, Section 26, SW1/4 Section 25, NW1/4 Section 36, E1/2 NE1/4 Section 35, all in T.19N., R.66E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SE1/4 Section 26, T.19N., R.66E., M.D.B.&M.

Application 45676¹ was filed on May 17, 1982, by George Eldridge & Son, Inc. to appropriate 15.0 cfs of water from Kalamazoo Creek for hydroelectric purposes within the E1/2 SW1/4, Section 22, T.20N., R.66E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SW1/4 Section 28, T.20N., R.66E., M.D.B.&M.

Application 45677¹ was filed on May 17, 1982, by George Eldridge & Son, Inc. to appropriate 20.0 cfs of water from Muncy Creek for hydroelectric purposes within the E1/2 SW1/4, Section 22, T.20N., R.66E., M.D.B.&M. The point of diversion is described as being within the SE1/4 NW1/4 Section 16, T.20N., R.66E., M.D.B.&M.

Application 45679¹ was filed on May 17, 1982, by George Eldridge & Son, Inc. to appropriate 40.0 cfs of water from Bassett Creek for hydroelectric purposes within the W1/2 NE1/4, Section 2, T.18N., R.66E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NE1/4 Section 10, T.18N., R.66E., M.D.B.&M.

Application 45681¹ was filed on May 19, 1982, by Reed B. Robison to appropriate 40.0 cfs of water from McCoy Creek for hydroelectric purposes within the N1/2 SE1/4, Section 1, T.17N., R.66E., M.D.B.&M. The point of diversion is described as being within the SW1/4 SW1/4 Section 35, T.18N., R.66E., M.D.B.&M.

Application 45682¹ was filed on May 19, 1982, by Reed B. Robison to appropriate 15.0 cfs of water from Kalamazoo Creek for hydroelectric purposes within the NW1/4 NW1/4, Section 11, T.19N., R.66E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SW1/4 Section 28, T.20N., R.66E., M.D.B.&M.

Application 45683¹ was filed on May 19, 1982, by Reed B. Robison to appropriate 30.0 cfs of water from Piermont Creek for hydroelectric purposes within the NE1/4 NE1/4, Section 26, T.19N., R.66E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NE1/4 Section 28, T.19N., R.66E., M.D.B.&M.

Application 45684¹ was filed on May 19, 1982, by Reed B. Robison to appropriate 10.0 cfs of water from Meadow Creek for hydroelectric purposes within the NE1/4 NW1/4, Section 14, T.19N., R.66E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SW1/4 Section 9, T.19N., R.66E., M.D.B.&M.

Application 45685¹ was filed on May 19, 1982, by Reed B. Robison to appropriate 20.0 cfs of water from Odgers Creek for hydroelectric purposes within the SW1/4 SW1/4, Section 24, T.18N., R.66E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NE1/4 Section 27, T.18N., R.66E., M.D.B.&M.

II.

Application 10914² was protested on May 10, 1943 by Grand Deposit Mining Company on the following grounds:

"There is no surplus water in the flow from Muncy Creek as Grand Deposit Mining Company is using all the water from Muncy Creek for beneficial use on its ranch in the mouth of Muncy Creek and for domestic purposes. Wherefore protestant prays that the application be denied."

Application 12528² was protested on November 5, 1948 by George Eldridge on the following grounds:

"The application does not apply for the water to come from his half of Kalamazoo Creek. (1) that there is no unappropriated water in Kalamazoo Creek; (2) the granting of the application number 12528 would impair and intend to impair the existing rights of protestant and would be detrimental to the public

² Public record in the office of the State Engineer under the subject application.

welfare. Wherefore, protestant prays that the application if granted be issued only on a fifty-fifty division of the creek, and that the use of water herein claimed by protestant be confirmed and that an order be entered establishing said right and for such other relief as the State Engineer deems just and proper."

Application 17207² was protested on May 22, 1957, by Burton H. Robison on the following grounds:

"That the protestant, personally and through his predecessors in interest, has had and now has stock watering and irrigations rights in and to one-half of all the waters applied for for irrigation purposes; that Burton H. Robison is the owner of one-half of the waters of Kalamazoo Creek and that granting said permit applied for by the applicant, Delbert D. Eldridge, would violate and destroy the protestant's subsisting rights in one-half the waters of Kalamazoo Creek; that the waters from the proposed source of supply are appurtenant to and have been used by the protestant and his predecessors in interest for stock watering purposes and irrigation purposes on the Burton H. Robison ranch; that said property is situate in the County of White Pine, State of Nevada. That the use of the waters applied for by applicant will conflict with the rights of the protestant in his customary use of the water. Wherefore protestant prays that the application be denied."

Application 17605² was protested by Burton H. Robison on January 12, 1959, on the following grounds:

"That the protestant, personally and through his predecessors in interest, has had and now has stock watering and irrigation rights in and to one-half of all the waters applied for irrigation purposes; that Burton H. Robison is the owner of one-half of the waters of Kalamazoo Creek and that granting said permit applied for by the applicant, George Eldridge, would violate and destroy the protestant's subsisting rights in one-half the waters of Kalamazoo Creek; that the waters from the proposed source of supply are appurtenant to and have been used

by the protestant and his predecessors in interest for stock watering purposes and irrigation purposes on the Burton H. Robison ranch; that said property is situate in the County of White Pine, State of Nevada. That the use of the waters applied for by applicant will conflict with the rights of the protestant in the customary use of the water. Wherefore the protestant prays that the application be denied."

Application 19076² was protested on June 27, 1961, by George Eldridge on the following grounds:

"The normal flow of Bassett Creek is fully adjudicated. All high water, waste water, flood water and seepage waters are fully covered by Application No. 17592 filed by Mrs. Richard Bate c/o George Eldridge and in good standing in the office of the State Engineer of Nevada. There is, therefore, no water available or open for appropriation. Wherefore the protestant prays the application be denied."

Application 24908² was protested on June 23, 1969, by George Eldridge and Son Inc. on the following grounds:

"That the granting of said application would impair and conflict with the value of existing rights; that it would be against public policy to grant such Application, and contrary to statute; that the granting of said Application would interfere with the customary use of Protestant's existing water rights, represented by Application No. 10913 and Application No. 17605; that the granting of said application is in violation and in derogation of that certain Order of Determination In The Matter of the Determination of the Relative Rights in and to the Waters of Kalamazoo Creek and its Tributaries in White Pine County, Nevada, filed In the Office of the State Engineer of the State of Nevada under date of November 4, 1947, wherein the State Engineer determined as follows:

'Junior Rights

The waters of the Kalamazoo Creek stream system are fully utilized for irrigation, stockwatering and domestic purposes and no person or persons other than George H. Eldridge and

B.H. Robison and their successors in interest shall be entitled to receive any water from said Kalamazoo Creek stream system for irrigation purposes.' Wherefore protestant prays that the application be denied."

Application 25857² was protested on February 25, 1971 by George Eldridge & Sons, Inc. on the following grounds:

"1. The adjudication on Bassett Creek still indicates there is no surplus water available. 2. The protestant has pending an application for 10 cfs year-around from the waters of Bassett Creek, which application should be ruled on prior to the above application. 3. Protestant has a first permit for 7.78 cfs in the spring and summer and has installed a pipe so as to make the highest and best use of their water rights on this creek. 4. The Notice of Application is published in the wrong county, since Bassett Creek is located in White Pine County and the publication is in Elko County. 5. The applicant, B.H. Robison, has other applications pending which he has never pursued to finality and his application simply confuses the orderly use of the waters of Bassett Creek. 6. If any such application should be granted applicant should be required to transmit the waters by installing a pipe which is the only efficient way to use waters of that creek in that area. Wherefore protestant prays that the application be denied."

Application 25896² was protested on February 25, 1971, by George Eldridge & Sons, Inc. on the following grounds:

"1. It is believed to grant this application would divert water belonging to the corporation from the high water and winter water channel used by it. 2. There is no diversion box nor provision made for one which would provide a means for the protestant to obtain its water from the old channel. 3. In order to make the highest and best use of the waters if permission be granted on the above application, it should require

the applicant to install a pipe to transmit his water from the point of diversion to the point of use. Wherefore The protestant prays that the application be denied."

Application 26071² was protested on September 13, 1971, by B.H. Robison on the following grounds:

"That protestant and his predecessors in interest has appropriated the waters of these springs, more commonly referred to as Keegan Springs, for his beneficial use since the year 1886 and protestant has a vested right therein. Protestant further states that the right to use the waters from these springs are presently subject to those certain legal proceedings in the Seventh Judicial District Court in White Pine County, Nevada. Wherefore protestant prays that the application be denied."

Application 26072² was protested on September 13, 1971 by B.H. Robison on the following grounds:

"That said protestant and his predecessors in interest have beneficially used all the water of Odger's Creek prior to the year 1885 and therefore protestant has a vested right thereto. Wherefore protestant prays that the application be denied."

Application 26105² was protested on September 13, 1971 by B.H. Robison on the following grounds:

"The undersigned, on behalf of protestant, is informed and believes, and therefore states to be a fact that protestant and his predecessors in interest, have a vested right to the waters of Piermont Creek, having beneficially used all the water of Piermont Creek on properties owned by protestant in Spring Valley, Nevada, said protestant and his predecessors in interest having appropriated such waters prior to 1892. Wherefore protestant prays that the application be denied."

Application 26112² was protested November 15, 1971, by George Eldridge & Son, Inc. on the following grounds:

"1. To convey water from the proposed point of diversion to the proposed point of use would necessitate the crossing of lands owned by protestant; the applicant has no right of way across protestant's property; any such right of way across protestant's property would severely injure protestant's use of their property. 2. Protestant by means of vested rights in Application No. 26105 has priority to the water of Piermont Creek. 3. The applicant previously made application covering the same ground as now proposed to be irrigated (Application #20895) and applicant proved up on only 135 acres. 4. The waters of Piermont Creek are fully appropriated. 5. Any water at the proposed point of diversion other than Piermont Creek waters constitute waste water from previous irrigation utilizing the water of the unnamed spring (as mentioned in Application No. 26263), and Basset Creek. Wherefore protestant prays that the application be denied."

Application 26266² was protested on December 27, 1971, by B.H. Robison on the following grounds:

"There have been many dry years in the area involved and thus, in some years, there is insufficient water to satisfy existing, decreed and permitted rights. Further, this system has been fully appropriated insofar as the establishment of any stable economic operation dependent upon the waters is concerned. The waters of this stream have been heretofore fully appropriated. Wherefore protestant prays that the application be denied."

Application 24630² was protested on October 13, 1972, by B.H. Robison on the following grounds:

"The waters of this source have been used on lands of the Protestant for many years prior to 1905 and a Vested Right is claimed. To grant this Application would endanger the irrigation rights of the Protestant. Therefore the protestant prays that the application be denied."

FINDINGS OF FACT

I.

A Settlement Agreement³ dated February 4, 1983, between George Eldridge and Son, Inc., a Nevada Corporation, Delbert David Eldridge and Elva J. Eldridge, his wife, first party and Reed B. Robison, second party was admitted into evidence as State Exhibit one at the hearing in the matter of the determination of the Relative rights in and to the waters of Kalamazoo Creek held in the Seventh Judicial District Court at the State of Nevada, in and for the County of White Pine on September 29, 1983. The agreement settled certain differences pertaining to water rights affecting the parties in Spring Valley.

II.

Under Item 2(A) of the settlement agreement³ the Robison water rights were identified as one half the use of Kalamazoo Creek, all of the rights filed in the name of Robison for Trail Canyon Creek, Fandango Creek, Meadow Creek, North Creek, Rams Horn Creek, Piermont Creek, Odger's Creek, McCoy Creek, Keegan Springs (those springs on and south of the fenceline along the northerly edge of the S1/2 S1/2 Section 1, T.18N., R.66E., M.D.B.&M.) and South Keegan Hayfield Spring.

Under Item 2(B) of said Settlement Agreement, the Eldridge rights were identified as one half the use of Kalamazoo Creek, all of the rights filed in the name of Eldridge for Muncy Creek, Garden Creek, Bassett Creek, Gordon Creek, Little Nigger Creek, North Spring Valley drainage channel up to where it enters the Eldridge Desert Land Entry parcel located generally in Section 19, T.29N., R.66E., M.D.B.&M., Foster Sloughs (two such sloughs located generally in Sections 33 and 34, T.17N., R.67E., M.D.B.&M.

³ Public record in the office of the State Engineer under the Kalamazoo Creek Decree Case No. 5436 in the Seventh Judicial District Court State of Nevada County of White Pine.

III.

Item 5 of the agreement³ provides: "That the parties hereto transfer interest, make applications for appropriations for recognized rights and withdraw protests to accomplish the intent of this agreement and that such necessary transfers, applications and withdrawals be made or initialed by no more than 365 days after the date of this Agreement. No action was filed with the State Engineer's office to affect the provisions of the agreement.

IV.

A letter⁴ was sent to Delbert Eldridge dated October 19, 1990, asking him if he wishes to pursue his objections to Applications 24908 and 26112. If he did not, a letter of withdrawal of his protests was requested. A telephone response⁴ from Eldridge on October 26, 1990, indicated he thought the agreement nullified his protests.

V.

Certified letters⁵ were sent to Delbert Eldridge and Reed B. Robison on September 6, 1991, identifying the subject applications all except two of which had been held in abeyance pending completion of the terms of the agreement. The applicant and/or protestant were given a period of 60 days to complete the terms of the agreement as illustrated in the letter or indicate if they had any interest in pursuing the applications or protests to same.

There were no responses to the letter filed with this office, Certified mail receipts signed by the addressee's were returned to this office.

⁴ Public record of the office of the State Engineer under Application 24908.

⁵ Public record in the office of the State Engineer under the subject applications.

VI.

There was no response to a certified letter⁶ to the Grand Deposit Mining Corporation dated September 13, 1991 requesting any interest in pursuing the protest to Application 10914. The certified letter was returned stamped "insufficient address, no such street."

VII.

The State Engineer finds that it would not be in the public interest to approve the subject applications when the applicant and/or protestant failed to provide the requested information and failed to comply with the terms of the agreement.

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action.⁷

II.

The State Engineer may request additional information before approval or rejection of an application.⁸

III.

There has been no response to request for additional information from the applicant and/or protestant of applications 10913, 10914, 12528, 17207, 17605, 17723, 19076, 24908, 25857, 25896, 26071, 26072, 26105, 26112, 26165, 26166, 26266, 26268, 26398, 26399, 26430, 45676, 45677, 45679, 45681, 45682, 45683, 45684 and 45685.

⁶ Public record in the office of the State Engineer under Application 10914.

⁷ NRS Chapter 533.

⁸ NRS 533.375.

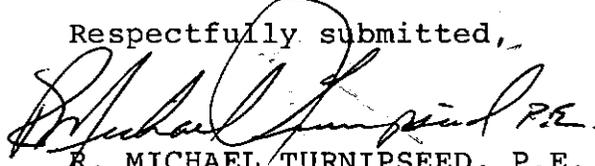
IV.

It would not be in the public interest for the State Engineer to approve the subject applications when the applicant and or protestant failed to provide the requested information.

RULING

Applications 10913, 10914, 12528, 17207, 17605, 17723, 19076, 24908, 25857, 25896, 26071, 26072, 26105, 26112, 26165, 26166, 26266, 26268, 26398, 26399, 26430, 45676, 45677, 45679, 45681, 45682, 45683, 45684 and 45685 are hereby denied on the grounds that the applicant and protestant have not responded to a request for additional information and therefore the granting of said applications would not be in the public interest.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/GC/pm

Dated this 6th day of
January, 1992.