

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

IN THE MATTER OF APPLICATIONS 6580)
AND 6581 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF A SURFACE SOURCE)
WITHIN THE COLORADO RIVER VALLEY)
BASIN, CLARK COUNTY, NEVADA.)

RULING
4506

GENERAL

I.

Application 6580 was filed on October 27, 1921, by Southern California Edison Company to appropriate 12,731,000 acre-feet of the surface waters of the Colorado River for generation of electric power and domestic purposes. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 12, T.21S., R.65.E., M.D.B.&M., Clark County, Nevada.¹

II.

Application 6581 was filed on October 27, 1921, by Southern California Edison Company to appropriate 18,000 cubic feet per second of the surface waters of the Colorado River for generation of electric power and domestic purposes. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 12, T.21S., R.65.E., M.D.B.&M., Clark County, Nevada.²

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.³ 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

¹File No. 6580, official records in the Office of the State Engineer.

²File No. 6581, official records in the Office of the State Engineer.

³43 U.S.C.S. §6171 (1980).

States Department of the Interior the right to contract with users of Colorado River water.⁴ 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.⁵

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.⁶ 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.

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.

⁴43 U.S.C.S. §617d (1980).

⁵See Nevada Attorney General Opinion No. 88-16, dated December 13, 1988.

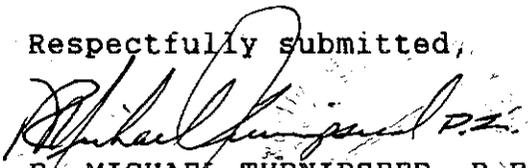
⁶NRS 538.171.

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Applications 6580 and 6581 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,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/BC/ab

Dated this 6th day of
March, 1997.