

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

IN THE MATTER OF APPLICATIONS 49591 AND )  
49592 FILED TO APPROPRIATE THE PUBLIC )  
WATERS OF AN UNNAMED SPRING AND STREAM )  
WITHIN THE PILOT CREEK VALLEY GROUNDWATER )  
BASIN (191), AND APPLICATION 49593 FILED )  
TO APPROPRIATE THE PUBLIC WATERS OF AN )  
UNDERGROUND SOURCE WITHIN THE THOUSAND )  
SPRINGS VALLEY MONTELLO-CRITTENDEN CREEK )  
AREA (MONTELLO VALLEY) GROUNDWATER BASIN )  
(189D), ELKO COUNTY, NEVADA. )

RULING  
# 4508

GENERAL

I.

Application 49591 was filed on December 18, 1985, by John E. Tybo to appropriate water from an unnamed spring and stream for stockwater and domestic purposes within Sections 4 and 9, T.38N., R.70E., M.D.B.&M. and within Sections 32 and 33, T.39N., R.70.E., M.D.B.&M. The point of diversion is described as being located within Lot 6, Section 9, T.38N., R.70E., M.D.B.&M. Application 49591 became ready for the State Engineer's action on April 11, 1986.<sup>1</sup>

II.

Application 49592 was filed on December 18, 1985, by John E. Tybo to appropriate water from an unnamed spring and stream for irrigation and domestic purposes within portions of the NE $\frac{1}{4}$  and the N $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 32, T.39N., R.70E., M.D.B.&M. The point of diversion is described as being located within Lot 6 of Section 9, T.38N., R.70E., M.D.B.&M. Application 49592 became ready for the State Engineer's action on April 11, 1986.<sup>2</sup>

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<sup>1</sup>File No. 49591, official records in the Office of the State Engineer.

<sup>2</sup>File No. 49592, official records in the Office of the State Engineer.

III.

Application 49593 was filed on December 18, 1985, by John E. Tybo to appropriate water from an underground source for irrigation and domestic purposes within portions of the NE $\frac{1}{4}$  and the N $\frac{1}{2}$  NW $\frac{1}{4}$  of Section 32, T.39N., R.70E., M.D.B.&M. The point of diversion is described as being located within the SE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 32, T.39N., R.70E., M.D.B.&M. Application 49593 became ready for the State Engineer's action on April 11, 1986.<sup>3</sup>

FINDINGS OF FACT

I.

By certified letter dated October 21, 1996, the applicant and his agent were informed that the State Engineer was purging the files of older applications and were asked to advise the State Engineer within thirty days if the applicant wished to pursue Applications 49591, 49592 and 49593. The endorsed return receipts for the certified mailings to the applicant and his agent were received in the Office of the State Engineer on October 25, 1996, and October 28, 1996, respectively.<sup>1</sup> The State Engineer finds that no response was received to the request for additional information.

II.

In a December 27, 1996, telephone conversation with William Nisbet, agent for the applicant, the State Engineer was advised that Mr. Nisbet had written a follow-up letter to the applicant regarding the State Engineer's letter of October 21, 1996. Mr. Nisbet reported that he did not receive a response to his follow-up letter. The State Engineer finds that the applicant and his agent were properly notified of the request for additional information and failed to respond.

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<sup>3</sup>File No. 49593, official records in the Office of the State Engineer.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and of the subject matter of this action and determination.<sup>4</sup>

II.

Before either approving or rejecting an application, the State Engineer may require such additional information as will enable him to properly guard the public interest.<sup>5</sup>

III.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:<sup>6</sup>

- A. there is no unappropriated water at 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.

IV.

The applicant was properly notified of the requirement for additional information concerning this application and has failed to submit the information to the State Engineer's Office. The State Engineer concludes that without the information requested, sufficient information is not available for the State Engineer to properly guard the public interest.

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<sup>4</sup>NRS Chapters 533 and 534.

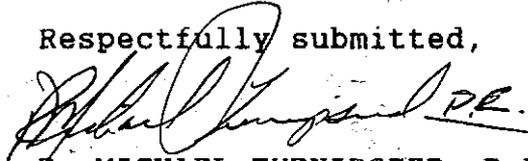
<sup>5</sup>NRS 533.375.

<sup>6</sup>NRS 533.370(3).

RULING

Applications 49591, 49592 and 49593 are hereby denied on the grounds that the applicant has not submitted the information requested by the State Engineer's Office and that without this information the granting of the applications would be detrimental to the public interest.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/RAD/ab

Dated this 6th day of  
March, 1997.