VII

Section 41, Chapter 67, Session Laws of 1919 provides in part as follows: "Rights to the use of the unappropriated public water in the State may be acquired by appropriation, in the manner hereinafter provided, and not otherwise."

This clause has never been interpreted by the Courts of this State but the State Engineer has always interpreted the same to mean that unless a water user made application to the State Engineer as provided by Statute, he obtained no priority as against a subsequent applicant, even though he placed water to beneficial use. For that reason all persons claiming water rights which have been initiated since 1903 without covering the same by application have been determined to have no right to the use of such water. The question as to whether or not beneficial use will give title to the use of water without application having been made therefor should be settled. The list of persons making claims to the use of water since 1903 and the facts as determined by the State Engineer relative thereto are tabulated herewith. These persons, corporations, or associations are determined to have no right to the water which they claim.