

IN THE MATTER OF APPLICATION 19751 )  
FILED BY BENGOA RANCHING COMPANY, )  
INC. FOR WASTE WATER IN KINGS RIVER )  
VALLEY, HUMBOLDT COUNTY, NEVADA. )

R U L I N G

General:

Application 19751 was filed on April 14, 1961 by Bengoa Ranching Company, Inc. for 1.5 c.f.s. of the waste waters from the N $\frac{1}{2}$  NW $\frac{1}{4}$  Section 14, and the W $\frac{1}{2}$  Section 11, T. 45 N., R. 33 E. The proposed diversion of these waste waters is within the NW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 13, T. 45 N., R. 33 E. The water is to be used for the irrigation of 360 acres.

FOA

This waste water would be from the lands irrigated by Permits 21330, 21331 and 21322 in the name of the Rio King Land and Investment Company. These permits are for waters from an underground source.

Opinion:

The courts have held in the matter of Bidleman v. Short, 38 Nev. 467, 470, 150 Pac. 834 (1915) that:

"waste waters are not subject to appropriation so as to establish a permanent right therein, as in the case of an appropriation of the waters of a natural stream".

In Ryan v. Gallio, 52 Nev. 330, 344, 345-348, 286 Pac. 963 (1930); In re Bassett Creek and Its Tributaries, 62 Nev. 461, 469, 155 Pac. (2d) 324 (1945) the courts held that:

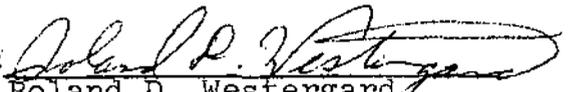
"waste water is subject to capture and use, but that is the limit and extent of the right, and such water is not subject to appropriation under the statutory procedure relating to the appropriation of waters of watercourses".

Ruling:

Application 19751 is herewith denied on the grounds that waste water is not subject to appropriation.

Respectfully submitted,

GEORGE W. HENNEN  
State Engineer

by:   
Roland D. Westergard  
Assistant State Engineer

Dated this 4th day of  
January, 1966.