

IN THE MATTER OF APPLICATION }
13583 FILED BY THE BARTHOLOMAE }
CORPORATION FOR THE WATERS OF }
DUCKWATER CREEK, NYE COUNTY, }
NEVADA }

R U L I N G

General:

Application 13583 was filed on December 29, 1950 by the Bartholomae Corporation for 3.4 c.f.s. of the waters of Duckwater Creek (surplus and unappropriated waters) to be diverted within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 28, T. 12N, R. 56E., M.D.B.&M. and to be used for the irrigation of 340 acres of land located within the SE $\frac{1}{4}$ Sec. 28, SW $\frac{1}{4}$ Sec. 27, NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 33, NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 34, E $\frac{1}{2}$ NW $\frac{1}{4}$ Sec. 34, T. 12N., R. 56E., M.D.B.&M. The period of use is from April 1 to October 31, of each year. This application has been assigned to William A. Bartholomae.

This application was protested on March 21, 1951, by Domingo Asumendi, on March 26, 1951 by Ed and Beatrice Halstead, on March 28, 1951 by B. F. Roberts and on April 5, 1951 by Zelma and Hazen Exeter.

An investigation in the matter of this application was made on October 6, 1966.

Under the Averill Decrees of 1909 and 1910 and the stipulation of 1930 and under Permit No. 9399 the allocated water rights amount to 29.0221 c.f.s. Our distribution records indicate that often there is insufficient water to serve the decreed and the stipulated water rights and the permitted water rights during the period of use described in the application.

Under the Decree of 1909, the owners of decreed water rights are entitled to the use of the surplus waters and such surplus waters are to be divided among them prorata according to the amounts of their several decreed rights.

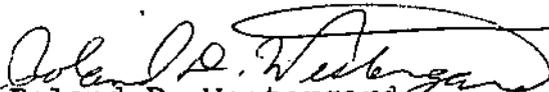
Opinion:

It is our opinion that there is insufficient water in the source during the period of use requested in the application.

RULING

The protests to the granting of Application No. 13583 are herewith sustained and Application No. 13583 is herewith denied on the grounds that there is no water subject to appropriation during the period of use requested in the application.

Respectfully Submitted,


Roland D. Westergard
Assistant State Engineer

RDW:TJS:jb

Dated This 1st Day
of April, 1967