

IN THE MATTER OF APPLICATION NO. 13136)
IN THE NAME OF ODELL THOMAS DUNKIN TO :
APPROPRIATE UNDERGROUND WATER IN FISH :
LAKE VALLEY, ESMEERALDA COUNTY, NEVADA.)

R U L I N G

Application No. 13136 was filed November 1, 1949 by Odell Thomas Dunkin to appropriate 4.0 c.f.s. of underground water for the irrigation of 320 acres of land. The proposed point of diversion is located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 20, T. 1 S., R. 35 E.

The notice of this application was duly published in the Goldfield News, as provided by law, and on June 12, 1950 a protest was filed by E. L. Cord to the granting of a permit under said application. The basis of said protest is as follows:

"That the granting of the above referred to application would impair and tend to impair the value of existing water rights now owned by E. L. Cord, and would conflict with the existing rights of protestant, and would threaten to prove detrimental to the public interests. That the underground waters are insufficient to satisfy all of the existing water rights and the waters which applicant seeks to appropriate, and that there is in substance and effect no unappropriated waters in the proposed underground source of supply."

On July 3, 1950 a protest was filed by Rex B. Clark to the granting of the permit under said application. The basis of his protest is as follows:

"That there is no unappropriated water in the area covered by the application; that the land upon which the proposed well is to be drilled is covered by a prior filing made by this protestant for grazing purposes based upon the Arlemont Ranch now owned by this protestant; that the homestead entry on which the water is to be used has not been approved and has been protested because of a prior lease filing covering the same land made by this protestant. That the granting of this application would be against public policy in that the protestant is informed and believes and therefore alleges on information and belief that water can not be developed on this tract in sufficient quantities at an economic cost to warrant the granting of the application, and that it is not a feasible project."

The matter of action on this application is now before this office.

ACTION BY THE BUREAU OF LAND MANAGEMENT

On September 25, 1950 the Bureau of Land Management, through the Nevada Land and Survey Office, issued its decision on homestead and desert land applications filed in Fish Lake Valley. The application of Odell Thomas Dunkin was among those held for rejection for the reason the application did not embrace lands that contained good soil in sufficient amount to constitute an economic unit.

The decision was affirmed by the Director of the Bureau of Land Management on April 9, 1951, and the decision became final and the applications were closed on October 22, 1951.

RULING

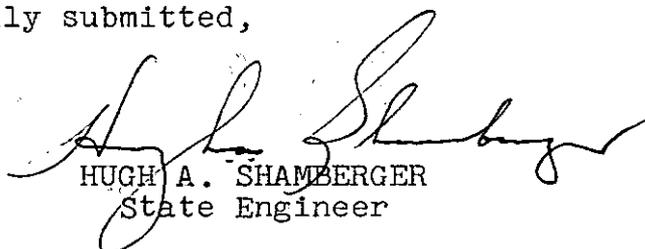
Under the ruling of the Bureau of Land Management the application for desert land entry by Odell Thomas Dunkin was rejected and finally closed on October 22, 1951.

By ruling of the Bureau of Land Management, the contentions of the protestant, Rex B. Clark, are sustained in part, and the protest is herewith sustained; however, the statement that there is no unappropriated ground water is overruled as such finding has not been established.

The protest of E. L. Cord, based on the grounds that there is no unappropriated ground water, is overruled as such finding has not been established.

Application No. 13136 to appropriate water by Odell Thomas Dunkin is denied as there is no land available to the applicant.

Respectfully submitted,


HUGH A. SHAMBERGER
State Engineer

January 18, 1952.