

IN THE MATTER OF APPLICATION NO. 12612)
 FILED BY R. H. BURNEY TO APPROPRIATE :
 WATER FROM FISH LAKE FOR IRRIGATION : RULING
 PURPOSES IN ESMERALDA COUNTY, NEVADA.)

Application No. 12612 was filed by R. H. Burney to appropriate 7.0 c.f.s. of the waters of Fish Lake for irrigation purposes. The point of diversion is to be within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 25, T. 2 S., R. 35 E., M.D.B.&M., and the place of use is 640 acres of land in the SE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 13, T. 2 S., R. 35 E., M.D.M.; W $\frac{1}{2}$ W $\frac{1}{2}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 18; SE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 7, and NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 8, T. 2 S., R. 36 E., M.D.M.

Protests to the granting of this application were filed as follows:

- On June 9, 1949 by Marco Chiatovich
- On May 11, 1949 by Peter Fabbi
- On May 31, 1949 by E. L. Cord

The grounds for all of the protests are similar. The protestants claim a vested right to the use of the waters of Fish Lake by use prior to March 1, 1905 and in the protest of E. L. Cord a prior right by virtue of Application No. 11275 is also claimed.

On June 6, 1949 a field investigation in the matter of this application was made by F. N. Dondero, Deputy State Engineer, and E. J. DeRicco, Field and Office Engineer, of the Office of the State Engineer. Said investigation disclosed that approximately 1300 acres of land were being irrigated by Fish Lake and its tributaries. The flow of Fish Lake was measured at 3.4 c.f.s. No attempt was made to measure its tributary springs.

On May 15, 1953 a field investigation in the matter of Applications Nos. 13835 and 13836, filed by Peter Fabbi to appropriate water from Unnamed Springs in Fish Lake Valley, was made by E. J. DeRicco, Field Deputy State Engineer, and D. K. Jewett, Office Engineer. Said investigation disclosed that the springs in question are tributary to the Fish Lake Stream System. It was also found that a critical shortage of water existed in the Fish Lake stream system for the irrigation of the existing cultural land being serviced by said stream system

OPINION

It is the opinion of this office that the waters of Fish Lake and its tributaries are fully appropriated by existing rights initiated prior to March 1, 1905.

RULING

Application No. 12612 is herewith denied on the grounds that the granting thereof would tend to impair the value of existing rights and be detrimental to the public welfare.

Respectfully yours,

HUGH A. SHAMBERGER
State Engineer

By *Edmund Muth*

EDMUND MUTH
Assistant State Engineer

Dated this 24th day
of February, 1954.