

IN THE MATTER OF APPLICATIONS NO. 24999 }
AND 25002 TO DIVERT WATER FROM MULLINIX }
CREEK AND INDIAN CREEK, RESPECTIVELY, IN }
HUMBOLDT COUNTY, NEVADA. }

R U L I N G

GENERAL:

Application 24999 was filed by Clarence C. Story to divert 8.0 cfs from Mullinix Creek for irrigation purposes. The point of diversion was to be SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 35, T. 43 N., R. 39 E., M.D.B.&M., and the place of use is portion W $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ Section 1; E $\frac{1}{2}$ E $\frac{1}{2}$ Section 11, and all of Section 12, all in T. 42 N., R. 39 E., M.D.B.&M. The period of use is to be from October 1st to April 1st of the following year.

A protest to the granting of a permit under the above application was filed August 18, 1969 by N. B. Ranches, Inc.

Application 25002 was filed by Clarence C. Story to divert 6.0 cfs from Indian Creek for Irrigation purposes. The point of diversion was to be SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 25, T. 43 N., R. 39 E., M.D.B.&M., and the place of use is portions of W $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ Section 1; E $\frac{1}{2}$ E $\frac{1}{2}$ Section 11, all of Section 12, all in T. 42 N., R. 39 E., M.D.B.&M. The period of use is to be from October 1st to April 1st of the following year.

A protest to the granting of a permit under the above application was filed August 18, 1969 by N. B. Ranches, Inc.

The waters of Mullinix Creek and Indian Creek are tributary to the Little Humboldt River, and the decreed rights to these waters are included in Decree No. 3157, In the Matter of the Determination of the Relative Rights in and to the Waters of the Little Humboldt River and its Tributaries in Humboldt and Elko Counties. The decree provides, in part, "That the waters of the stream system are fully appropriated and that there is no surplus water for irrigation during the irrigating season." "...that the State Engineer shall have the right, power and authority to direct that said irrigating season shall begin earlier or later, because of the changes in climatic conditions and because of fluctuation in and to the waters of the stream system, giving due regard to the early run-off..."

RULING

Application 24999 and 25002 are hereby denied on the grounds that any time that waters of the Little Humboldt River or its tributaries are to be available and used for irrigation, the State Engineer has the authority to open the irrigating season. Once the irrigating season has been opened, under the terms of Decree No. 3157, there is no surplus or unappropriated water for irrigation.

Respectfully submitted,


Roland D. Westergard
State Engineer

RDW:WJN:jb
Dated This 10th Day
of October, 1969.