

IN THE MATTER OF APPLICATIONS 24969)
AND 24979 TO DIVERT WATER FROM)
COTTONWOOD, LITTLE COTTONWOOD AND)
LAMANCE CREEKS IN HUMBOLDT COUNTY,)
NEVADA)

R U L I N G

GENERAL:

b7 Application 24969 was filed by Lyman W. Schwartz to divert 3.0 c.f.s. from Cottonwood Creek and tributaries for irrigation purposes. The point of diversion was to be NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 15, T. 42 N., R. 39 E., M.D.B.&M. and the place of use is Sections 14, 15, 22, 23, 25 and 26, 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 June 10, 1969 by Nevada Garvey Ranches, Inc., and on June 25, 1969 by C. A. Recanzone.

Application 24979 was filed by Lyman W. Schwartz to divert 2.0 c.f.s. from Lamance and Little Cottonwood Creeks for irrigation purposes. The point of diversion was to be SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 10, T. 42 N., R. 39 E., M.D.B.&M. and the place of use is all or parts of Sections 15, 22 and 23, 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 the Cottonwood Creek and tributaries, Lamance and Little Cottonwood Creeks 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

Applications 24949 and 24979 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:KAR:jls

Dated this 13th day
of October, 1969.