

IN THE MATTER OF APPLICATION)
24981 TO DIVERT WATER FROM)
MARTIN CREEK, IN HUMBOLDT COUNTY,))
NEVADA)

R U L I N G

GENERAL:

69 Application 24981 was filed by Cerri Brothers to divert 3.0 c.f.s. from Martin Creek for irrigation purposes. The point of diversion was to be SE $\frac{1}{2}$ SE $\frac{1}{2}$ Section 15, T. 42 N., R. 40 E., M.D.B.&M. and the place of use is SW $\frac{1}{2}$ and SE $\frac{1}{2}$ Section 20, T. 42 N., R. 40 E., M.D.B.&M. The period of use is to be from January 1st to April 1st.

A protest to the granting of a permit under the above application was filed June 10, 1969 by Nevada Garvey Ranches, Inc.

The waters of Martin 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 24981 is 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.