

IN THE MATTER OF APPLICATION 38746 )  
FILED BY REX BERLAND MONGOLD ON )  
AUGUST 6, 1979, FOR PERMISSION TO )  
APPROPRIATE THE WATERS OF FISH LAKE )  
VALLEY WASH FOR IRRIGATION PURPOSES )  
IN ESMERALDA COUNTY, NEVADA. )

R U L I N G

Application 38746 was filed on August 6, 1979, by Rex Berland Mongold for permission to appropriate 1.0 c.f.s. of water from Fish Lake Valley Wash in Esmeralda County, Nevada, for irrigation and domestic purposes. The proposed point of diversion is within Tract 38, T.4S., R.36E., M.D.B. & M. The proposed place of use is within portions of Sections 26 and 27, T.4S., R.36E., M.D.B. & M.

Application 38746 is the subject of a protest timely filed on May 9, 1980, by Harry Livermore on the following grounds:

- (A) He is asking for one second foot of water and he has less than 40 acres of land.
- (B) Land is already covered by valid water Permit 38516.

The protestant requests that the application be denied. 1/

EXISTING RIGHTS

There are no existing permitted or certificated rights for the appropriation of water from Fish Lake Valley Wash. 2/

There is, however, pending Application 38765 filed by V. Irene Wallace on August 9, 1979, for permission to appropriate 4.5 c.f.s. of water from Fish Lake Valley Wash at a point within the NW $\frac{1}{4}$  SE $\frac{1}{4}$  Section 15, T.4S., R.36E., M.D.B. & M., for irrigation purposes. The place of use is described as being 240 acres located in the NE $\frac{1}{4}$  Section 16, and the N $\frac{1}{2}$  NE $\frac{1}{4}$  Section 21, both in T.4S., R.36E., M.D.B. & M. 3/

The point of diversion and place of use described in Application 38765 is downstream from that described in Application 38746.

FINDINGS OF FACT

I

The State Engineer has jurisdiction over the parties and the subject matter of this action. 4/

II

The State Engineer is required by statute to approve all applications which contemplate the application of water to beneficial use which do not tend to impair the value of existing rights, or to be otherwise detrimental to the public interest. 5/

III

There are no prior rights of record on the source in the office of the State Engineer. 2/

RULING

The protest against Application 38746 is overruled on the grounds that there is unappropriated water in the source, and a permit will be issued upon payment of the statutorily required permit fees.

Respectfully submitted,



William J. Newman  
State Engineer



WJN/LCR/gk

Dated this 22nd day  
of JUNE, 1981.

FOOTNOTES

- 1/ Public Records available in the office of the State Engineer.
- 2/ Public Records available in the office of the State Engineer.
- 3/ Public Records available in the office of the State Engineer.
- 4/ NRS 533.030.
- 5/ NRS 533.370(1).