

IN THE MATTER OF APPLICATION 46918)
FILED BY JACK D. AND RHONDA L.)
FERRIS AND GEORGE M. AND CHRISTINE)
M. THIEL TO APPROPRIATE THE WASTE,)
FLOOD, SEEPS AND TAILWATERS IN)
CARSON VALLEY, NEVADA.)

RULING

GENERAL

Application 46918¹ was filed on May 17, 1983, by Jack D. and Rhonda L. Ferris, George M. Thiel and Christine M. Thiel for permission to appropriate 2.0 c.f.s. of water from waste, flood, seeps and tailwaters in a ditch for irrigation of 40 acres of land. The proposed point of diversion is within the SE1/4 SE1/4 Section 30, T.14N., R.20E., M.D.B.&M. The proposed place of use is the SE1/4 SE1/4 Section 30, T.14N., R.20E., M.D.B.&M.

No protests to the granting of Application 46918 were filed. The application became ready for action on October 8, 1983.

FINDINGS OF FACT

I.

The source of water for Application 46918 is from an extension of the Heyburn ditch which is used to convey return irrigation flows to the Carson River and also to dewater certain pasture land south of the river. The ditch extension was constructed after 1968 according to the USGS Topographic Map entitled "Genoa, Nev.", dated 1968.²

II.

In the opinion used by Bruce R. Thompson, U.S. District Judge, in U.S. vs. Alpine Land and Reservoir Co., et al.,³ "the Decree does not differentiate between water right land irrigated by direct diversions and water right land irrigated by return flows. The return flow method should be encouraged as it appears to be a more economical, practical method of water distribution than hundreds of small-direct diversion ditches".

¹ Application 46918 is a public record on file in the office of the State Engineer.

² A 7.5 minute U.S. quadrangle map entitled "Genoa, Nevada, 1968 (#571D).

³ U.S. vs. Alpine Land and Reservoir Company, et al., Final Decree, U.S. District Court for the State of Nevada, Civil No. D-183 BRT, U.S. District Judge Opinion, pg. 30.

III.

In the findings of fact of U.S. vs. Alpine Land and Reservoir Co., et al., the decree states:⁴ "The Carson River and its tributaries are interstate streams and the waters of the Carson River and its tributaries are fully appropriated".

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action.⁵

II.

The State Engineer is prohibited by law from granting a permit where:⁶

- A. there is no unappropriated water in the source, or
- B. its proposed use or change conflicts with existing rights, or
- C. the proposed use threatens to prove detrimental to the public interest.

III.

The source of water described in Application 46918 is from a ditch that is part of the Carson River system.

⁴ U.S. vs. Alpine Land and Reservoir Co., et al., Final Decree, U.S. District Court for the State of Nevada, Civil No. D-183 BRT, Findings of Fact, pg. 1.

⁵ NRS 533.325.

⁶ NRS 533.370, subsection 3.

RULING

Application 46918 is hereby denied on the grounds that the Carson River system is fully appropriated and that approval of diversion of return flows would conflict with and impair the value of existing rights.

Respectfully submitted



Peter G. Morros
State Engineer

PGM/GC/bl

Dated this 10th day of
JULY, 1984.