

IN THE MATTER OF APPLICATION NO. 13354)
IN NAME OF A. W. AND L. H. CHAMPAGNE)
AND W. O. SMITH TO APPROPRIATE WATERS :
OF HAZEN SLOUGH FOR THE PROPAGATION OF :
FISH & WILDLIFE AND FOR RECREATIONAL)
PURPOSES, CHURCHILL COUNTY, NEVADA.)

RULING

Application No. 13354 was filed March 30, 1950 by A. W. Champagne, L. H. Champagne and W. O. Smith to appropriate 10.00 c.f.s. of the waters of Hazen Slough for recreational purposes, propagation of fish, bullfrogs, ducks and geese. The proposed point of diversion is given as being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 3, T. 20 N., R. 27 E. and the place of use being in Section 3, T. 20 N., R. 27 E.

On June 15, 1950 a protest was filed by George W. Frey to the granting of a permit under Application No. 13354. On July 26, 1950 a protest was received from Phil Hiibel, Project Manager of the Newlands Project. This latter protest was received too late for filing.

On August 2, 1950 a field investigation was made by Assistant State Engineer Hugh A. Shamberger and J. A. Millar, Office Engineer. Present were the applicants, A. W. Champagne and W. O. Smith; protestant George Frey and Phil Hiibel, informal protestant, who was accompanied by Harry Richards. In addition, Messrs. Early and Nielson of the State Game Commission were present.

The water applied for is from what is locally known as the Hazen Drain which drains approximately 400 acres of land in the vicinity of Hazen and which is irrigated from the Truckee Canal. The land which is irrigated is under the Newlands Project. The drain water in the so-called Hazen Drain consists of drainage from the lands irrigated and also seepage from the Truckee Canal.

On February 9, 1949 George W. Frey (the protestant herein) filed Application No. 12815 to appropriate 6.4 c.f.s. of the waters from the Hazen Drain for the irrigation of some 640 acres of land which we understand had been leased from the Truckee-Carsen Irrigation District. The point of diversion is given as being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 17, T. 20 N., R. 27 E. which is about 2 miles southwesterly (upstream) from the proposed point of diversion under Application No. 13354. On January 12, 1950 a permit was granted in the amount of 6.4 c.f.s. with the following provisions:

"This permit to appropriate drainage water is issued subject to all existing rights and subject to the continuation of such drainage. A substantial weir or other type of measuring device must be

installed and maintained to facilitate the measurement of water. The State retains the right to regulate the use of the water herein granted at any and all times."

Under Permit No. 12815 George Frey is entitled to appropriate 6.4 c.f.s. of the waters of Hazen Drain for the irrigation of 640 acres of land. This is construed to mean that the 6.4 c.f.s is to be measured where the diversion ditch first reaches the land to be irrigated, it being understood that the ditch losses must be reasonable, and further that the quantity of water used shall in all cases be limited to such water as shall reasonably be required for the beneficial use to be served.

The diversion point under Application No. 13354 is a couple of miles below the point of diversion under Permit No. 12815. The use of water under a permit issued on Application No. 13354 should not be detrimental to the interests of Mr. Frey.

It is recognized that the flow of water in the Hazen Drain is subject to the method of handling the water within the Newlands Project. It is our opinion that the Newlands Project has full control of such waters within the boundary of its jurisdiction and if they so desired could re-use the water from such drain ditch prior to its exit from the Project lands. Under such condition, we are of the opinion that the granting of a permit under Application No. 13354 would not jeopardize the rights inherent to the Newlands Project.

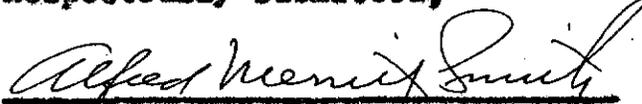
The application is for use of water from January 1st to December 31st of each year and among other things the applicants state they desire to propagate fish. On the date of the field investigation the ponds developed by applicants were dry. However, during the fall of the year they filled them, and we understand furnished good duck hunting. It is questionable in our minds if this project would support fish due to the possible lack of water during portions of the year.

RULING

In consideration of the foregoing findings, the protests of George W. Frey and Phil Hiibel, Project Manager of the Newlands Project, are herewith overruled and a permit will be issued under Application No. 13354 with the following provisions:

"Said permit to appropriate drainage water will be issued subject to all existing rights including the rights of the Newlands Project and George Frey, and further subject to the continuation of such drainage."

Respectfully submitted,


ALFRED MERRITT SMITH
State Engineer

April 23, 1951