

IN THE MATTER OF APPLICATION NO. }
25038 TO DIVERT WATER FROM HANDY }
CREEK, IN HUMBOLDT COUNTY, NEVADA. }

R U L I N G

GENERAL:

69 Application 25038 was filed by Lewis E. and Ruby Miller to divert 3.10 cfs from Handy Creek for irrigation purposes. The point of diversion was to be NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 21 and NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 22, T. 42 N., R. 39 E., M.D.B.&M., and the place of use is SW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ Section 22; NE $\frac{1}{4}$ Section 27, all in 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 on August 18, 1969 by N. B. Ranches, Inc.

The waters of Handy 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 25038 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:WJN:jb

Dated This 10th Day

of October, 1969.