

IN THE MATTER OF APPLICATION)
16891 FILED BY MILTON E. BACON)
ON MARCH 29, 1956 TO APPROPRIATE) R U L I N G
THE WATERS OF BROCKLISS SLOUGH)
IN DOUGLAS COUNTY, NEVADA)

GENERAL:

Application 16891 was filed by Milton E. Bacon on March 29, 1956, for permission to appropriate 7.35 c.f.s. of water from Brockliss Slough at a point located within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 26, T.13N., R.19E., M.D.B. & M. for the irrigation of 160 acres of land located within the SW $\frac{1}{4}$ of same section. The proposed period of use is from March 1st to September 30th of each year.

Application 16891 was protested by H. F. Dangberg Land and Live Stock Company on January 4, 1957 on the following grounds:

"1. There are no unappropriated waters in Brockliss Slough during the irrigation season stated in the application.

2. Brockliss Slough is a part of the Carson River Stream system, and there are no unappropriated waters in the Carson River Stream System during the said irrigation season.

3. Any water flow in Brockliss Slough at the proposed point of diversion is a part of the Carson River Stream System and are fully appropriated and are used by downstream appropriators; that such waters do not constitute drainage, seepage or waste waters from the West Carson River or any other source.

4. The applicant cannot obtain a permit to appropriate drainage, seepage or waste waters.

5. The proposed diversion and use will impair the value of existing rights.

6. The proposed diversion and use will be detrimental to the public welfare.

7. The proposed diversion will interfere with existing rights."

In addition, the protestant alleges that he is the owner of certain lands, a description of which is attached to and made a part of the protest.

The record shows that a field investigation was held in this matter on November 12, 1957 and that, as a result of the investigation, H. F. Dangberg Land and Live Stock Company withdrew their protest based on the following stipulations:

1. No diversion shall be made on any main or subsidiary stream.
2. Priority shall be as of the date of application.

A letter dated February 19, 1958 to this effect was received in this office on February 20, 1958 from the H. F. Dangberg Land and Live Stock Company.

On March 13, 1958, the applicant, Mr. Bacon, called on this office with reference to the withdrawal of the protest. As near as can be determined from the record, withdrawal of the protest and action on the Application was held in abeyance at Mr. Bacon's request.

Upon receipt of Mr. Bacon's affirmative response regarding interest in this application, a second field investigation was held in the matter of Application 16891 on November 21, 1972.

The following summarizes the rights of record for the appropriation of water from Brockliss Slough.

Certificate 415 has been issued under Permit 1667 for the appropriation of 1.0 c.f.s. of water from Brockliss Slough through the Hansen Ditch for the irrigation of 100 acres of land in portions of Section 35, T.13N., R.19E., M.D.B. & M. The owner of record is William N. Hansen.

Certificate 191 has been issued under Permit 1680 for the appropriation of 0.4504 c.f.s. of water from Brockliss Slough through "Ditches 1 and 2", for the irrigation of 45.04 acres of land in portions of Section 34, T.13N., R.19E., M.D.B. & M. The owner of record is H. D. Allerman

Both of the above mentioned appropriations have their points of diversion to the South (upstream) of the proposed diversion under Application 16891.

In addition to the appropriations listed above, there are two pending applications for the appropriation of water from Brockliss Slough at points to the North of all the above appropriations. These are Application 26130 and 26131, filed by Carl W. Kidman on May 13, 1971 to appropriate 7.0 c.f.s. of water each from East Brockliss Slough (26130) and West Brockliss Slough (26131) for irrigation purposes.

DISCUSSION

The topographic maps of the U. S. Geological Survey, which depict both the West and East Forks of the Carson River, show a complex system of diversions, irrigation ditches and drainage ditches (or sloughs) of which the two branches of Brockliss Slough are a part, by which most of the un-diverted flows of the two branches of the Carson River and return irrigation waters eventually reach the swamp area near Wally's Hot Springs in Section 22, T.13N., R.19E., M.D.B. & M. The waters are in turn reunited to form the main stem of the Carson River, which then flows in a generally Northeasterly directions to its eventual terminus in Lahontan Reservoir.

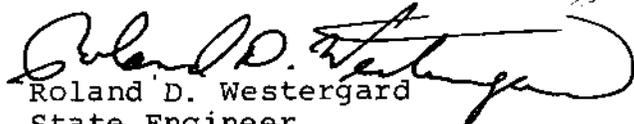
There has been considerable damming of channels, construction of diversion boxes and realignment of channels in the area, so that it is extremely difficult to determine precisely what is now or what has been the main stem of the West or East Forks of the Carson River.

The proposed Carson River Decree, U. S. v. Alpine Land and Reservoir Company, No. D.-183, U. S. District Court in and for the State of Nevada, enumerates many diversions from "Brockliss Slough" and the decree describes the source as "Brockliss Slough Branch of West Carson Fork - Carson Valley, Nevada" and further goes on to head the tabulation as "Brockliss Slough now the main river channel branches South in the SE Corner, NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 29, T.12N., R.20E., M.D.B.&M.

RULING

The proposed source of water is a part of and tributary to the Carson River Stream System. Application 16891 is denied on the grounds that approval of a direct diversion appropriation from the period of March 1st to September 30th of each year would conflict with and impair the value of existing rights.

Respectfully submitted,


Roland D. Westergard
State Engineer

Dated this 20th
day of June, 1973.

RDW/JCP/bs