

IN THE MATTER OF APPLICATION 11086 )  
FILED ON MARCH 15, 1944 BY FRED S., )  
AND FERN L. TALCOTT TO APPROPRIATE )  
THE WATERS OF BUENA VISTA CREEK FOR )  
IRRIGATION PURPOSES LOCATED IN )  
PERSHING COUNTY, NEVADA )

R U L I N G

General:

Application 11086 was filed on March 15, 1944 by Fred S. and Fern L. Talcott to appropriate 2.0 c.f.s. of water from Buena Vista Creek for irrigation purposes. The point of diversion is described as being within the NW $\frac{1}{4}$  NE $\frac{1}{4}$  Section 25, T. 30 N., R. 34 E., M.D.B. & M. The place of use is described as 200 acres within the E $\frac{1}{2}$  Section 27, T. 30 N., R. 35 E., M.D.B. & M. The period of use is from January 1st to December 31st of each year.

This application was protested on July 12, 1944 by Jack H. Kerscher; on July 17, 1944 by Annie N. Thacker and Clarence Ernst; on July 25, 1944 by A. W. Evers; on August 2, 1944 by Frank Davidson; and informally on August 7, 1944 by O. L. Sheppard and J. E. Thornton.

The general grounds of the protests are that there would be interference with vested rights on Buena Vista Creek and that there is insufficient water to satisfy existing rights and the proposed appropriation.

A field investigation in the matter of the above application was held on May 11, 1966.

The limit and extent of the claims of vested rights on Buena Vista Creek have not been determined. The protestants claim vested rights on cultivated lands above and below the point of diversion under Application 11086. Measurements taken indicated a flow of 3.24 c.f.s. at the proposed point of diversion. This point is downstream from areas of use within the canyon.

The successors in interest to the only claim of vested right of record downstream from the proposed point of diversion have entered numerous complaints about flooding and excessive quantities of water from Buena Vista Creek damaging their property.

It is our opinion that water from Buena Vista Creek reaching the point of diversion under Application 11086 is available for appropriation and that the granting of Application 11086 will not impair the value of existing rights or be otherwise detrimental to the public welfare, provided the permit is

issued subject to existing rights and with the provision that no right of access, ingress, egress, or no rights of way are granted by issuance of the permit.

The protests to Application 11086 are herewith overruled and a permit will be issued subject to existing rights upon receipt of the statutory permit fee. Nothing in this ruling shall be taken to grant any right of access, ingress, egress, or rights of way.

Respectfully submitted,

  
Roland D. Westergard  
Assistant State Engineer

RDW:PGM:kd

Dated this 23<sup>rd</sup> day of  
May, 1966.