

WRID, Lyon County and Bowman Protestants

EXHIBIT

178

Nevada State Engineer Ruling 1749A entered July 28, 1970

Ruling #1749 A

STATE OF NEVADA
DIVISION OF WATER RESOURCES
STATE ENGINEER

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In the Matter of Applications:

24944, 24951, 25014, 25015,
25016, 25017, 25018 and 25236.

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REPORTER'S TRANSCRIPT OF PROCEEDINGS

Held before

ROLAND D. WESTERGARD,
State Engineer.

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Held in

District Courtroom
Lyon County Courthouse
Yerington, Nevada

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Tuesday, July 28, 1970

10:10 o'clock, a. m.

Reported by: Harold Krabbenhoft, CSR.

1 would like to take the application of the Walker River Irriga-
2 tion District on the East Walker and Main Walker Rivers. Mr.
3 Rowntree in his testimony this morning, as pointed out by Mr.
4 Laxalt, indicated there was an old, pending application on the
5 East Walker River to appropriate waters by the Walker River
6 Irrigation District. This in fact, as it indicates, remarks in
7 the application would indicate that the proposal on the intent
8 was to store waters under that prior application. What this
9 essentially means is that the decree sets forth direct diversion
10 rights on the Walker River, on the East Walker and Main River.
11 There are some prior rights and applications to store addition-
12 al water on the East Walker River, but there are in fact no
13 intervening rights for direct diversion of the East Walker
14 River for those supplies over and above the decree. I there-
15 fore overrule the protest of the Walker River Development
16 Company to Application 25018 and grant it to the Walker River
17 Irrigation District, subject, of course, to all existing rights
18 on the stream system.

19 The next application to be considered -- I'm sorry
20 if I said 25018. That should have been 25017. Next we come to
21 25018 by the Walker River Irrigation District to appropriate
22 waters out of West Walker River. Again, as reported by Mr.
23 Rowntree and Mr. Laxalt this morning, there has been since
24 1919 an application pending to appropriate waters of the West
25 Walker River, direct diversion, in the amount of 3,000 second
26 feet. Subsequent rights in the form of the Hoyer Canyon and the

1 storage application have been issued, with a later priority
2 than this 1919 right. Also in accordance with the testimony of
3 Mr. Rowntree this morning, in answer to questions not only by
4 Mr. Laxalt but by myself, he indicated there was no intent of
5 the District for duplication, and in our view this 25018 would
6 be in effect a duplication of the prior filing of the Walker
7 River Irrigation District, so in accordance with the testimony,
8 I hereby deny Application 25018 by the Walker River Irrigation
9 District to appropriate waters of the West Walker River.

10 There is a matter of application, somewhat out of
11 order now, 25014, which was filed by Fred M. Fulstone, Jr.,
12 to appropriate waters of Desert Creek, which is, of course, a
13 tributary to the Walker River Stream System. It was not
14 pointed out in the testimony, it was alluded to in a letter by
15 Mr. Arbuthnot, but in June of 1956 a similar application,
16 number 16970, was filed by Fred M. Fulstone, Jr., to appropri-
17 ate flood and surplus waters of Desert Creek. Investigations
18 were held by the then State Engineer, and this prior applica-
19 tion was denied on the grounds that the protest to the granting
20 of Application No. 16970 are sustained and the application is
21 denied on the grounds that its granting would impair the value
22 of existing rights and be detrimental to the public welfare.
23 With this prior denial and considering all of the circumstances,
24 it is my ruling that the more recent application for Fred M.
25 Fulstone, Jr., on Desert Creek, namely 25014, be denied on the
26 similar grounds as to the denial of the previous State Engineer.