

IN THE MATTER OF APPLICATIONS NOS. )  
 12565 AND 12566 FILED BY THE MT. ROSE )  
 UP-SKI CORPORATION TO CHANGE THE POINT : RULING  
 OF DIVERSION OF THE WATERS HERETOFORE :  
 APPROPRIATED UNDER PERMIT NO. 11346 )  
 IN WASHOE COUNTY, NEVADA. )

Description of Applications:

Applications Nos. 12565 and 12566 were filed on August 4, 1948 by the Mt. Rose Up-Ski Corporation to change the point of diversion of 0.017 c.f.s. and 0.013 c.f.s., respectively, of water heretofore appropriated under claim of vested right as set forth under Permit No. 11346. The proposed diversions are to be made from Unnamed Springs (tributary to Brown's Creek) within the SW $\frac{1}{4}$  SE $\frac{1}{4}$  and NW $\frac{1}{4}$  SW $\frac{1}{4}$  Section 17, T. 17 N., R. 19 E., M.D.B.&M. The existing diversion is being made from Tamarack Creek (tributary to Brown's Creek) within the NW $\frac{1}{4}$  SW $\frac{1}{4}$  Section 17, T. 17 N., R. 19 E., M.D.B.&M. as set forth in Permit No. 11346. The existing and proposed place of use is within the N $\frac{1}{2}$  SW $\frac{1}{4}$ , NW $\frac{1}{4}$  SE $\frac{1}{4}$  and S $\frac{1}{2}$  NE $\frac{1}{4}$  of said Section 17. The water is to be used for domestic purposes from January 1st to December 31st of each year.

Protests to the granting of these applications were filed on November 9, 1954 by Theodora Winters Longabaugh, individually and as one of the administratrices of the estates of Lewis Winters and Archie C. Winters, both deceased, on the following grounds:

That the vested right claimed by the applicant on the source does not exist; that the entire flow of Brown's Creek Basin has been appropriated and beneficially used by the protestants and their predecessors for more than 70 years; that the entire flow is insufficient for existing needs; that Application No. 11346 upon which these applications are predicated, could only have been issued subject to the existing rights of the protestant and that Application No. 11346, as well as Applications Nos. 12565 and 12566, constitute an invasion and impairment of the vested right of the protestants.

General:

A field investigation in the matter of these applications was made by J. A. Millar, Office Engineer, and E. J. DeRicco, Field and Office Engineer, on September 29, 1949. From said investigation it was found that the springs in question are located in a small basin on the south side of Mt. Rose in Washoe County. The springs are tributary to Tamarack Creek which in turn flows into a small lake in the basin known as "Grass Lake". When there is sufficient flow in the Tamarack Creek watershed, Grass Lake overflows into Brown's Creek. There is very little surface flow from the springs but the applicant has developed them and piped them into a tank which

serves the Sky Tavern Hotel with domestic water. It was found that the consumptive use of water from these springs is very low and that the developments made by the applicant actually increase the contribution of these springs to the stream system.

Applications Nos. 12565 and 12566 were filed to change the point of diversion of a portion of the waters under Permit No. 11346.

Permit No. 11346 was filed by the Mt. Rose Up-Ski Corporation to change the point of diversion, manner and place of use of  $1\frac{1}{2}$  miner's inches of water purchased from Robison Neemar, who through his predecessors in interest, L. A. and Neva Sauer, claims a vested water right on the source for irrigation purposes in Washoe Valley. The vested water right claimed is not a matter of record in this office and the extent of said right has never been determined.

Opinion:

It is the opinion of this office that the question of vested water right on this source is not an issue in this ruling. Applications Nos. 12565 and 12566 were filed to change an existing water right under Permit No. 11346. Said existing water right was issued subject to existing rights.

From the field investigation it was found that the proposed change will not impair the value of existing rights or be detrimental to the public welfare.

RULING

The protests to the granting of Applications Nos. 12565 and 12566 are herewith overruled and permits will be issued thereunder.

Respectfully submitted,

HUGH A. SHAMBERGER  
State Engineer

By *Edmund Muth*

EDMUND MUTH  
Assistant State Engineer

Dated this 16th day  
of February, 1955.