

IN THE MATTER OF APPLICATION
20856 FILED BY KARL BRADSHAW }
FOR THE WATERS OF DUCKWATER }
CREEK, NYE COUNTY, NEVADA }

R U L I N G

GENERAL

03 Application 20856 was filed on November 19, 1962 for 2.2 c.f.s. of the waters of Duckwater Creek to be diverted within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 11, T. 11N., R. 56E., M.D.B.&M. and to be used for the irrigation of 320 acres located within the E $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ Sec. 11, NW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 12, T. 11N., R. 56E., M.D.B.&M. Period of use under this application is from November 1st to March 31st of the following year.

This application was protested on July 22, 1963, by Ed and Beatrice Halstead.

An investigation in the matter of Application 20856 was made on October 6, 1966.

It is the local custom of the Duckwater area to divert water in the winter season on field of native grasses allowing it to freeze into an accumulated ice pack. During the winter and early spring thaws in addition to the waters of Big Warm Spring there is an additional large head of water provided by the melting of the ice. Duckwater Creek is the subject of the Averill Decrees of 1909 and 1910, the certain stipulation of 1930 and certain permits. Even though the Averill Decree of 1909 provides that "surplus waters.....be divided.....pro-rata according to the amounts of their several rights----", there is unappropriated water during the period of use requested in the application due to the custom above described.

RULING

The protest to the granting of this application is hereby overruled and a permit will be issued subject to existing rights and decrees and with the understanding that there will be no regulation of decreed rights for the benefit of this permit.

Respectfully Submitted,


Roland D. Westergard
Assistant State Engineer

RDW:TJS:jb

DATED THIS 17th DAY

OF May, 1967.