

IN THE MATTER OF APPLICATION
21186 FILED BY MAE K. BRADSHAW }
FOR THE WATERS OF DUCKWATER }
CREEK, NYE COUNTY, NEVADA }

R U L I N G

GENERAL:

1738
Application 21186 was filed on April 9, 1963 by Mae K. Bradshaw for 5.4 c.f.s. of the waters of Duckwater Creek to be diverted within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 2, T. 11N., R. 56E., M.D.B.&M. and to be used for irrigation of 320 acres located within W $\frac{1}{2}$ E $\frac{1}{2}$ and E $\frac{1}{2}$ W $\frac{1}{2}$ Section 25, T. 11N., R. 56E., M.D.B.&M. The period of use under the application is from November 1 to March 31, of the following year. This application is filed to support DLE NEV 060294 which was allowed on July 16, 1963.

This application was protested on October 21, 1963, by Ed and Beatrice Halstead.

An investigation was made on October 6, 1966.

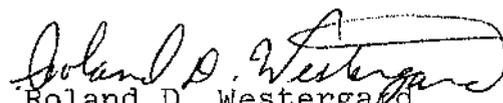
It is the local custom in the Duckwater area to divert water on meadows of native grasses allowing the water to freeze, thereby forming an accumulated ice pack. During the winter and early spring thaws, in addition to the waters of Big Warm Springs, there is an additional large head of water provided by the melting ice packs.

Duckwater Creek is the subject of the Averill Decrees of 1909 and 1910, a certain stipulation of 1930 and certain permits. Even through the Decree of 1909 provides that "surplus water.....shall be divided.....pro-rata according to the amounts of their several rights and appropriations----", there is unappropriated water during the period of use requested on the application, because of the custom described above.

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. Westergaard
Assistant State Engineer

RDW:TJS:jb

DATED THIS 17th DAY

OF May, 1967.