

IN THE MATTER OF APPLICATION 25720 AND)
25721 FILED BY AREA WEST INCORPORATED)
TO CHANGE THE POINT OF DIVERSION, MANNER) R U L I N G
AND PLACE OF USE OF WATERS OF SPRING)
CREEK LOCATED IN ELKO COUNTY, NEVADA.)

GENERAL: A9

Application 25720 was filed on July 20, 1970, by Area West Incorporated to change the point of diversion, place and manner of use of the waters of Spring Creek, said waters being a portion of the decreed waters under the Humboldt River Decree. The amount to be changed as stated on the application is 1.36 c.f.s. (168 acre feet). The proposed use is Recreation - Reservoir No. 1. The point of diversion is described as being in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 17, T.33N., R.57E., M.D.B.&M. and the place of use portions of the N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 17; SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 8 T.33N., R.57E., M.D.B.&M. The period of use is as decreed.

Application 25721 was filed on July 20, 1970, by Area West Incorporated to change the point of diversion, place, and manner of use of the waters of Spring Creek, said waters being a portion of the decreed waters under the Humboldt River Decree. The amount to be changed as stated on the application is 0.577 c.f.s. (71.0 acre feet). The proposed use is Recreation Reservoir No. 2. The point of diversion is described as being in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 16, T.33N., R.57E., M.D.B.&M. and the place of use portions of the SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 16, T.33N., R.57E., M.D.B.&M. The period of use is as decreed.

The above applications were protested on November 5, 1970, by Edward J. and Ethyln Harsh and on November 23, 1970, by Fred Lichins.

The grounds of the protest filed by Edward J. and Ethyln Harsh are as follows:

- "1. The vaporization would use up their water rights (lost to lower users)
 2. No restriction or impediment of natural flow of stream or channel.
 3. No disturbance of the natural setting or area of the spring outlet.
 4. There is no additional water available under any circumstances under the Humboldt decree, let alone three (3) second feet as applied for.
 5. Definitely no construction or disturbance or near the springs or creek channel."
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The grounds of the protests filed by Fred Lichens are as follows:

"There is no accurate way to account for the matter of evaporation in regard to impounding the water into reservoirs. It is my contention that the small adjudicated water right the applicant has would mainly and permanently be lost with no return flow to the channel.

I protest the construction of any new obstruction in the stream channel that will impede or restrict the normal flow of the stream.

I protest the impounding of water in any manner due to the porous and marshy condition of the soil. I strongly feel this would result in water loss.

I strongly feel that before any decisions or any changes are made that a new stream flow measurement should be made during the irrigating season to determine the actual flow of the springs before any wells are drilled or any changes made."

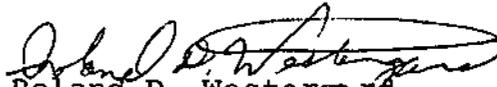
A field investigation was held on February 16, 1971. The results of the field investigation indicates that permits can be issued under Applications 25720 and 25721 subject to the following terms and conditions:

1. A permit will be issued under Application 25720 for 0.69 c.f.s. not to exceed 168.0 acre feet per season.
2. A permit will be issued under Application 25721 for 0.30 c.f.s. not to exceed 71.00 acre feet per season.
3. The source from which the waters are sought to be changed is the subject of an existing decree. Permits will be issued subject to existing rights and with the understanding that regulation and distribution will be in conformance with the Humboldt River Decree and any other existing rights.
4. The limit and extent of the beneficial use under these permits shall be determined from the actual amount of water consumed or put to beneficial use under the proposed use specified in the applications.
5. Measuring devices shall be installed as directed by the State Engineer and accurate records kept of water consumption. These records will be submitted to the State Engineer's Office on or before September 1st of each year.

RULING

The protests to the granting of permits under Applications 25720 and 25721 are herewith overruled and permits will be issued subject to the terms and conditions set forth in this ruling and further subject to all existing rights on the source.

Respectfully submitted,


Roland D. Westergard
State Engineer

RDW:PGM:jw

Dated this 22nd day of
October, 1971.