

IN THE MATTER OF APPLICATION NO. 16357)
FILED BY LEROY A. WINTERS AND WHICH WAS : RULING
PROTESTED BY MISS CLARA J. FULSTONE)

General:

Application No. 16357 was filed April 7, 1955 by Leroy A. Winters to appropriate 3.5 c.f.s. of water from an underground source. This application was protested September 9, 1955 by Miss Clara J. Fulstone.

A field investigation was made September 16, 1955 and a memorandum report of the investigation is attached as a part of this ruling.

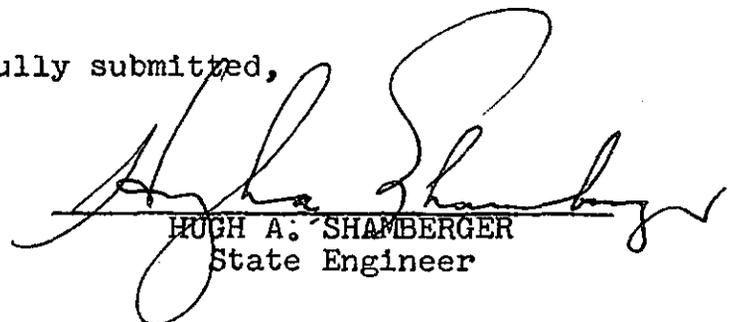
Opinion and Decision:

It is the opinion of the State Engineer that the stockwatering rights of Miss Clara J. Fulstone will not be adversely affected by the proposed development. However, should the development under Application No. 16357 interfere with the prior stockwatering rights of Miss Fulstone, it will be necessary for the Permittee and/or his successors to provide stockwatering facilities that will satisfy the existing right.

RULING

The protest of Miss Clara J. Fulstone is overruled and a permit will be issued under Application No. 16357 upon receipt of the statutory fee.

Respectfully submitted,



HUGH A. SHAMBERGER
State Engineer

Dated this 18th day
of January, 1956.

MEMORANDUM

Application No. 16357 was filed on April 7, 1955 by Leroy A. Winters to appropriate 3.5 second-feet of the waters of an underground source for the irrigation of 143.7 acres of land in Lot 2 of the NW $\frac{1}{4}$ (W $\frac{1}{2}$ NW $\frac{1}{4}$) of Sec. 7, T. 14 N., R. 20 E., and E $\frac{1}{2}$ NE $\frac{1}{4}$ of Sec. 12, T. 14 N., R. 19 E., M.D.B.&M. The point of diversion is described as being within the S $\frac{1}{2}$ of Lot 2 (SW $\frac{1}{4}$ NW $\frac{1}{4}$) of Sec. 7, T. 14 N., R. 20 E. This application was protested on September 9, 1955 by Clara J. Fulstone on the following grounds:

"That this proposed appropriation will injure and interfere with my existing vested rights to certain springs situated in Sec. 7, T. 14 N., R. 20 E. (used to water stock for 70 years), and water rights under Certificate No. 589 issued Dec. 6, 1909 to Chas. R. Lewis, now held by me by virtue of deeds to C. L. Fulstone deceased and from C. L. Fulstone to me. Said deeded water right situated in NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sec. 12, T. 14 N., R. 19 E."

On Friday, September 16, 1955 an investigation was made by a representative of this office. Those present at the investigation were:

Mrs. Harry R. Schneider	-	Representing Clara J. Fulstone, Protestant
Leroy A. Winters	-	Applicant
D. K. Jewett	-	State Engineer's Office

The springs in question lie in the bottom of a draw, or small canyon in the hills just east of Jack's Valley, Nevada. Lewis Spring, which is held by the Protestant under Certificate No. 589, is situated in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 12, T. 14 N., R. 19 E. toward the head of the draw. Fulstone springs on which the Protestant claims a vested right, consisted of three springs, according to Range Maps on file in the Office of the State Engineer. The first of these springs was situated in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 4, T. 14 N., R. 20 E; the second spring was roughly 900 feet on down the draw in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Sec. 7; the third was about the same distance farther on just in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 7.

At the time of the investigation no evidence of these springs was found. The floor of the draw seemed to be one continuous seep from Lewis Spring to a point about where the second Fulstone Spring was reported to have been. Apparently the flow from the springs has decreased to the point that they cannot be distinguished from the seep. In the area where the third, or lowest spring should be, there is nothing but a dry gravel bed.

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Mrs. Schneider stated that the main purpose of Miss Fulstone's protest was to have something of record in the event that pumping from the applicant's well caused the springs to stop flowing.

The proposed point of diversion under Application No. 16357 is within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 7, T. 14 N., R. 20 E. near the NE corner of the subdivision. This location is approximately one-half mile northerly from the draw in which the springs lie and possibly one hundred feet higher in elevation.

Recommendations:

In view of the foregoing facts, it is recommended that a permit be granted under Application No. 16357.

Respectfully submitted,

/s/ D. K. Jewett
D. K. Jewett
Field and Office Engineer

September 22, 1955