

IN THE MATTER OF APPLICATION NO. 17342 FILED ON AUGUST 5, 1957, BY B. H. ROBISON TO APPROPRIATE THE WATERS OF GARDEN CREEK FOR IRRIGATION PURPOSES IN WHITE PINE COUNTY, NEVADA.

RULING

General:

Application No. 17342 was filed to appropriate 2.0 c.f.s. of the waters of Garden Creek to be diverted at a point within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 34, T. 19 N., R. 66E., M.D.B.&M., and conveyed to 160 acres of land within Section 25, T. 19 N., R. 66E., M.D.B.&M. A protest to the granting of this application was filed on January 6, 1958, by Mary E. Bate on grounds that it would impair and conflict with the value of existing rights.

The waters of Bassett Creek and its tributaries have been adjudicated and a decree was entered on this source by the 7th Judicial District Court on October 10, 1945, Case No. 4404. In the decree it was found that Garden Creek is "a small stream that flows only during the spring months, and which is considered a tributary to Bassett Creek".

On July 13, 1946, the State Engineer issued a ruling in the matter of Applications Nos. 11029 and 11301 filed by B. H. Robison to appropriate the waters of Bassett Creek. The ruling denied Application No. 11029 and granted Application No. 11301 subject to several provisions. One of the provisions was "that following the issuance of a permit under Application No. 11301 in the amount specified the waters of Bassett Creek shall be considered fully appropriated". The ruling was appealed by the applicant on August 9, 1946.

Opinion:

It is the opinion of this office that Garden Creek is an intermittent stream and that the flow of this source is fully appropriated.

RULING

The protest to the granting of Application No. 17342 is sustained and Application No. 17342 is denied on grounds that its granting will impair the value of existing rights and would be detrimental to the public welfare.

Respectfully submitted,

Edmund A. Muth

EDMUND A. MUTH
State Engineer

Dated this 10th day of
May, 1960.