

IN THE MATTER OF APPLICATION
22545 FILED BY ROBERT L.
HARBECKE ON APRIL 16, 1965
FOR THE WATERS OF WILLARD CREEK
LOCATED IN WHITE PINE COUNTY,
NEVADA.

R U L I N G

General:

Application 22545 was filed on April 16, 1965 for 2.7 c.f.s. of the waters of Willard Creek for irrigation and domestic purposes. The point of diversion is described as being within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 15, T. 13N., R. 67E., M.D.B.&M. and the place of use 160 acres in the NW $\frac{1}{4}$ Sec. 22, T. 13N., R. 67E., M.D.B.&M. The period of use is from January 1st to December 31st.

This application was protested on May 18, 1965 by John W. Helm on the following grounds:

"That it would impair and conflict with the value of existing vested rights which are now owned and controlled by the protestant. Also on the grounds that the stream system is fully appropriated."

Existing claims and rights on the source are as follows:

Proof 02077

Owner of Record - Adams-McGill Co., Inc.

Use - Stockwatering

Point of diversion - SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 29, T. 14N., R. 67E.,
M.D.B.&M.

Permit 17017 - Certificate 4673

Owner of Record - R. O. Heinbaugh

Use - irrigation (31.82 acres)

Amount - 0.3182 c.f.s.

Point of diversion - NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 6, T. 13N., R. 68E.,
M.D.B.&M.

Permit 1052 - Certificate 244

Owner of Record - Production Credit Corporation of
Berkeley.

Amount - 0.20 c.f.s.

Use - Irrigation, stockwatering and domestic (20.0 ac.)

Permit 8804 - Certificate 1967

Owner of Record - Production Credit Corporation of
Berkeley.

Use - Stockwatering

Amount - 0.032 c.f.s.

Point of diversion - NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 6, T. 13N., R. 68E.,
M.D.B.&M.

On October 3, 1966 a field investigation in the above matter was held.

On October 23, 1956 Arlin Davidson filed Application 17074 to appropriate water from Willard Creek for mining, milling, and domestic purposes. This application was subsequently allowed with the period of use being October 1st to May 1st of the following year. The opinion in the ruling issued at this time was that there was no unappropriated water in Willard Creek during the irrigation season. This permit was cancelled on January 22, 1960 because of failure to comply with the provisions of permit.

Application 17169 was filed by Arlin Davidson on February 1, 1957 for the waters of Willard Creek for mining, milling and domestic purposes. The period of use under this application was from May 1st to October 1st of each year. This application was subsequently denied on the grounds that it would impair the value of existing rights and be detrimental to the public welfare. The ruling also contained the opinion that the waters of Willard Creek are fully appropriated during the irrigation season.

The proposed points of diversion under Application 17169 and 17074 were described as being in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 6, T. 13N., R. 68E., M.D.B.&M. This was upstream or above the points of diversion and cultivated lands under Certificates 4673 and 244. An appropriation at this point would apparently have impaired existing rights. There was no evidence of additional water users between the above described cultivated lands and the proposed point of diversion under Application 22545. The point of diversion under 22545 is approximately 2 miles southwest and downstream from any existing rights of record.

In addition to Application 22545 Robert L. Harbecke filed Application 22544 for the waters of an underground source to water the same 160 acres as that covered under Application 22545. This application is also ready for action and has not been protested.

Opinion:

The nature of the flow of Willard Creek is common to most mountain streams in the state in as much as the heavy or peak flows occur in the spring of the year. The drainage basin of Willard Creek is within the Wheeler Peak area of the Snake Creek range with elevations in excess of 13,000 feet. Conditions in the field indicated that the flow from Willard Creek would reach the point of diversion under 22545 only during these periods of high runoff. Since the point of diversion under Application 22545 is downstream from any existing rights, it is the opinion of this office that water reaching this point would be surplus and subject to appropriation. It is the intention of this office to grant a permit under Application 22544 also for the waters of an underground source thereby allowing another source of water for the place of use described under these applications. By granting a permit under 22545 it should be understood that the permit will be subject to existing rights and availability of the water at the point of diversion after existing rights are served.

22545

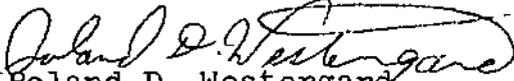
(2)

Ruling

The protest to Application 22545 is herewith overruled on the grounds that the granting of a permit will not impair the value of existing rights or otherwise be detrimental to the Public Welfare.

A permit will be issued under Application 22545 upon receipt of the statutory permit fee and will be further issued subject to existing rights and availability of the water at the point of diversion after existing rights are served.

Respectfully Submitted,


Roland D. Westergard
Assistant State Engineer

RDW:PGM:jb

Dated This 20th Day

of February 1967