

IN THE MATTER OF APPLICATION NO. 15763  
FILED BY JESSE GARDNER TO CHANGE THE  
POINT OF DIVERSION AND PLACE OF USE OF  
WATER HERETOFORE APPROPRIATED UNDER  
PERMIT NO. 12518 IN WHITE PINE COUNTY,  
NEVADA.

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RULING

Description of Application:

Application No. 15763 was filed on August 11, 1954 by Jesse Gardner to change the point of diversion and place of use of 3.0 c.f.s. of water heretofore appropriated under Permit No. 12518.

Diversion is to be made from White River at a point in the NE $\frac{1}{4}$  NE $\frac{1}{4}$  Section 11, T. 12 N., R. 60 E., M.D.B.&M. Water will be conveyed to 200 acres of land within NW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 12; S $\frac{1}{2}$  SW $\frac{1}{4}$ , N $\frac{1}{2}$  SE $\frac{1}{4}$  and SE $\frac{1}{4}$  NE $\frac{1}{4}$  Section 1, T. 12 N., R. 60 E., M.D.M. and NW $\frac{1}{4}$  SW $\frac{1}{4}$ , and NW $\frac{1}{4}$  Section 6, T. 12 N., R. 61 E., M.D.M. and there used for irrigation purposes from October 1st to December 31st and from January 1st to April 1st of each year.

The water desired to be changed is diverted from White River under Permit No. 12518 at a point within the SW $\frac{1}{4}$  SW $\frac{1}{4}$  Section 11, T. 12 N., R. 60 E., M.D.B.&M. and conveyed to 200 acres of land within SW $\frac{1}{4}$  NE $\frac{1}{4}$  and E $\frac{1}{2}$  NE $\frac{1}{4}$  Section 11; NW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 12, and S $\frac{1}{2}$  SW $\frac{1}{4}$  and N $\frac{1}{2}$  SE $\frac{1}{4}$  Section 1, T. 12 N., R. 60 E., M.D.B.&M. and there used for irrigation purposes from October 1st to December 31st and from January 1st to April 1st of each year.

A protest to the granting of this application was filed on December 6, 1954 by Albert Gubler and Leland Hendrix on the grounds that this application will interfere with the winter water users of White River slough.

General:

The area in which the water is to be used under Application No. 15763 is known as "Upper" White River and the area in which the protestants use said water is known as the "White River Slough".

This area has been the subject of several field investigations by this office. From said investigations it has been found that the diversions from the White River Slough are at least twelve miles downstream from the diversions on Upper White River; that the main sources of water for the slough are Preston Big Springs and Lund Springs, together with their tributaries; that the flow of White River is seldom great enough to contribute to the flow of the White River Slough, and that when sufficient water is flowing in White River to contribute to the slough, due to topographical conditions and the extent of culture, the upper users cannot, by diversion of such water, prevent it from returning to the White River channel with sufficient loss in flow to cause damage to the users in the White River slough area.



Another factor that must be considered in this ruling is that the applicant, by virtue of Permit No. 12518, possesses a right to divert water from White River and that Application No. 15763 has been filed to change the point of diversion and the place of use of said right. The proposed change consists of moving the point of diversion down stream approximately one mile, abandoning all lands under Permit No. 12518 which are located above the new point of diversion, and adding an area which lies below the lands irrigated under Permit No. 12518. The majority of the lands to be irrigated have a summer water right under the White River Decree.

Opinion:

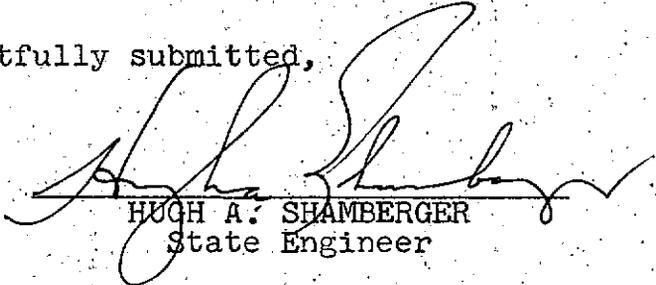
It is the opinion of this office that the proposed change under Application No. 15763 will not adversely affect the protestant's water right on the White River Slough, and that the proposed winter use on the applicants land will increase the beneficial use of these waters.

RULING

The protest to the granting of Application No. 13763 is herewith overruled on the grounds that the proposed change will not impair the value of existing rights or be detrimental to the public welfare. A permit will be issued under this application on receipt of the statutory permit fee, subject to the following provisions:

The permit shall be limited to a direct diversion of 3.0 c.f.s. and not to exceed 100 acre-feet for any one month during the period from October 1st to April 1st of the following year, and in no event shall it exceed a total amount of 300 acre-feet for the stated period.

Respectfully submitted,

  
HUGH A. SHAMBERGER  
State Engineer

Dated this 20th day  
of January, 1955.