

IN THE MATTER OF APPLICATION 28539 )  
FILED BY ROBERT AND DOROTHY DICKENSON )  
FOR PERMISSION TO APPROPRIATE (STORE) )  
WATER FROM ILLIPAH CREEK IN WHITE PINE )  
COUNTY, NEVADA. )

R U L I N G

GENERAL:

Application 28539 was filed by Robert and Dorothy Dickenson on July 22, 1974, for permission to store 675 acre-feet of water from Illipah Creek for irrigation purposes. The proposed point of diversion is within the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 13, T.17N.,R.58E., M.D.B.&M. The proposed place of use is described as 597 acres of land within portions of Sections 9, 10, 11, 12, T.17N.,R.59E., M.D.B.&M.

This application was protested August 19, 1974, by Thomas E. Rosevear on the grounds: "That it would impair and conflict with the value of existing rights; that it would be against public policy to grant said application, would be contrary to statute; that the granting of said application would interfere with the customary use of protestant's existing water rights." This application was protested on August 21, 1974, by Gardner Ranch, Inc., and by Walter Rosevear on the same grounds as specified above.

The following water rights are of record in this office from Illipah Creek:

Proof 02541, of record in the name of Jesse Gardner, was filed May 10, 1965, claiming the use of 2.0 c.f.s. of water from Illipah Creek for stock watering (1900 - 1910 1,000 head of livestock, 1910 - 1920 2,000 head of livestock, 1920 - 1950 2,000 head of livestock by Moorman and 1,000 head of livestock by White River Users) purposes. The point of diversion is described as within the NW $\frac{1}{4}$  SE $\frac{1}{4}$  Section 9, T.17N.,R.59E., M.D.B.&M. The place of use is described as Cottonwood Reservoir within the NE $\frac{1}{4}$  NE $\frac{1}{4}$  Section 11, T.16N., R.59E., M.D.B.&M.

Proof 02542, of record in the name of Jesse Gardner, was filed May 10, 1965, claiming the use of 2.0 c.f.s. of water from Illipah Creek for stock watering (1900 - 1910 1,000 head of livestock, 1910 - 1920 2,000 head of livestock, 1920 - 1950 2,000 head of livestock by Moorman and 1,000 head of livestock by White River Users) purposes. The point of diversion is described as within the NW $\frac{1}{4}$  SE $\frac{1}{4}$  Section 9, T.17N.,R.59E., M.D.B.&M. The place of use is described as Jakes Pond in the NW $\frac{1}{4}$  SW $\frac{1}{4}$  Section 19, T.17N.,R.60E., unsurveyed.

Proof 02543, of record in the names of Tom and Walter Rosevear and Jesse Gardner, was filed May 10, 1965, claiming the use of 2.0 c.f.s. of water from Illipah Creek for stock watering (1900 - 1910 1,000 head of livestock, 1910 - 1920 2,000 head of livestock, 1920 - 1950 2,000 head of livestock by Moorman and 1,000 head of livestock by White River Users) purposes. The point of diversion is described as within the NW $\frac{1}{4}$  SE $\frac{1}{4}$  Section 9, T.17N.,R.59E., M.D.B.&M. The place of use is described as Walde Pond within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  Section 21, T.17N.,R.60E., M.D.B.&M.

Certificate 1853, subject of Permit 8147, of record in the name of Robert and Dorothy Dickenson, was issued September 21, 1932, for 0.6376 c.f.s. of water from Illipah Creek flood waters for irrigation purposes. The point of diversion is within the SE $\frac{1}{4}$  NE $\frac{1}{4}$  Section 9, T.17N.,R.59E., M.D.B.&M. The place of use is 63.76 acres within portions of the E $\frac{1}{2}$  NE $\frac{1}{4}$  Section 10, W $\frac{1}{2}$  NW $\frac{1}{4}$  and NE $\frac{1}{4}$  NW $\frac{1}{4}$  Section 11, T.17N.,R.59E., M.D.B.&M. The period of use is from May 1st to August 31st of each year.

Certificate 4708, subject of Permit 11947, of record in the names of Robert and Dorothy Dickenson, was issued April 9, 1958, for 1/3 of the flow of Illipah Creek for irrigation purposes. The two points of diversion are described as within the NW $\frac{1}{4}$  SE $\frac{1}{4}$  Section 9, and NE $\frac{1}{4}$  NW $\frac{1}{4}$  Section 10, T.17N.,R.59E., M.D.B.&M. The place of use is described as 155.3 acres within portions of NE $\frac{1}{4}$  NW $\frac{1}{4}$ , NE $\frac{1}{4}$  Section 10 and N $\frac{1}{2}$  NW $\frac{1}{4}$ , SW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 11, T.17N.,R.59E., M.D.B.&M. The period of use is from January 1st to December 31st of each year. This certificate changed the point of diversion and place of use of a portion of a decreed right on Illipah Creek as entered in the District Court of White Pine County, May 16, 1887. This certificate was limited to a diversion not to exceed 3.0 c.f.s of water.

Certificate 3756, subject of Permit 13426, of record in the name of Gardner Ranches, Inc. was issued January 21, 1952, for 0.063 c.f.s. of water from Illipah Creek, or sufficient to water 2,000 head of cattle and 25 horses. The point of diversion is within the NE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 9, T.17N.,R.59E., M.D.B.&M. The place of use is Cottonwood Reservoir within the NE $\frac{1}{4}$  NE $\frac{1}{4}$  Section 11, T.16N.,R.59E., M.D.B.&M. The period of use is from October 1st to June 15th of the following year.

Certificate 3757, subject of Permit 13584, of record in the name of Gardner Ranches, Inc., was issued January 21, 1952, for 0.063 c.f.s. of water from Illipah Creek, or sufficient to water 2,000 head of cattle and 25 horses.

The point of diversion is within the NE $\frac{1}{4}$  NW $\frac{1}{4}$  Section 10, T.17N.,R.59E., M.D.B.&M. The place of use is Walde Pond within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  Section 21, T.17N.,R.60E., unsurveyed.

Certificate 4517, subject of Permit 13372, of record in the name of Robert and Dorothy Dickenson, was issued May 23, 1957, to store 176.52 acre-feet of water annually from Illipah Creek for irrigation purposes. The point of diversion is within the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 13, T.17N.,R.58E., M.D.B.&M. The place of use is 155.3 acres within portions of NE $\frac{1}{4}$  NW $\frac{1}{4}$ , NE $\frac{1}{4}$  Section 10, N $\frac{1}{2}$  NW $\frac{1}{4}$ , SW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 11, T.17N.,R.59E., M.D.B.&M.

Illipah Creek was the subject of a civil suit between Jacob Harris vs. Alica Shekell, Joseph Oneto, August Biggio, John Gheradello and John Anderson on May 16, 1887 in the District Court of the State of Nevada, County of White Pine. The Court Decree proportioned the flow to: Jacob Harris, the entire flow of the stream for the first 7 $\frac{1}{2}$  days of each month during irrigation season; Alice Shekell, the entire flow of the stream for the second 7 $\frac{1}{2}$  days of each month during the irrigation season; John Anderson, the entire flow of the stream for the third 7 $\frac{1}{2}$  days of the irrigation season and John Anderson, for the fourth 7 $\frac{1}{2}$  days of the irrigation season. The Decree required each user to allow enough water for domestic purposes for man and beast to go by.

A field investigation was held under the protests filed under Application 28539 on October 22, 1974.

#### RULING

The protests filed under this application are hereby overruled on the grounds that there is unappropriated water from the waters available for appropriation (storage), the granting of this application would not interfere with existing rights, and would not be contrary to statutes. A permit will be issued subject to existing rights, upon receipt of the statutory permit fees.

Respectfully submitted,

  
Roland D. Westergard  
State Engineer.

RDW:RRD:jw

Dated this 23rd day of  
January, 1975.