

IN THE MATTER OF APPLICATION)
22643 FILED FOR UNDERGROUND)
WATERS OF STONE CABIN VALLEY,)
NYE COUNTY, NEVADA.)

R U L I N G

Application 22643 was filed on June 16, 1965, by Otis F. Burchett to appropriate 5.4 c.f.s. of the waters of an underground source to be diverted within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 29, T. 3 N., R. 48 E., and to be used for the irrigation of 320 acres within the S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ Section 29 and N $\frac{1}{2}$ NW $\frac{1}{4}$ Section 32, T. 3 N., R. 48 E.

This application was protested on December 6, 1965, by P. T. P., Inc. on the following grounds:

"1. That Protestant has stock water wells near the location of above and the allowance of the application will draw down the water table, denying the use of the stock water wells to its owner.

2. That the use of said well will deprive Protestant of rights to graze on the public domain already established and maintained from existing stock waters of Protestant, and which are prior in right."

An investigation in the matter of this application was made on January 10, 1966.

The records in the office of the State Engineer disclose that John J. Casey is the holder of Certificate 4228 issued for 0.31 c.f.s. for the waters of an underground source located within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 32, T. 3 N., R. 48 E. The location of this well is within a portion of the place of use of Application 22643.

Application 22643 was filed in support of Desert Land Entry 061601. Because of the conflict with the existing stock water right the applicant was allowed to amend his Desert Land Entry so as to delete the N $\frac{1}{2}$ NW $\frac{1}{4}$ Section 32, and to substitute in its place the W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 29, T. 3 N., R. 48 E.

No protest was lodged with the Bureau of Land Management by P. T. P., Inc. regarding the substitution of lands.

The applicant, Otis F. Burchett, filed Application 23749 to change the point of diversion and place of use of Application 22643.

The place of use of Application 23749 is described as being the S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 29, T. 3 N., R. 48 E.

No protest against the granting of this application was filed.

OPINION:

It is our opinion that P. T. P., Inc. is not the owner of record of Certificate 4228 issued under Permit 13549. We do recognize, however, that Certificate 4228 is a valid water right and the granting of Application 22643 would conflict with this right. However, the simultaneous approval of Application 23749 with Application 22643 would resolve that conflict, and that such simultaneous approval of both applications would not tend to impair the value of existing rights or be otherwise detrimental to the public welfare.

RULING:

The protest against the granting of Application 22643 is hereby overruled with the understanding that the granting of Application To Change 23749 shall be considered simultaneously with the granting of Application 22643 and that nothing shall be gained by the approval of Application 22643 except the date of priority.

Respectfully submitted,


ROLAND D. WESTERGARD
State Engineer

RDW:TJS:jw

Dated this 2nd day

of January, 1968