

IN THE MATTER OF APPLICATION 7929)
FILED NOVEMBER 12, 1926, BY UNITED)
CATTLE AND PACKING CO. TO APPRO-)
PRIATE THE WATERS OF RYE PATCH)
CHANNEL IN NYE COUNTY, NEVADA.)

R U L I N G

GENERAL

Application 7929 was filed November 12, 1926, by United Cattle and Packing Co. to appropriate 10 c.f.s. of water from Rye Patch Channel for stockwatering, irrigation and domestic purposes. Four proposed points of diversion are stated in the application as follows: SE $\frac{1}{4}$ SE $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 31; NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 30; and NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 19, all in T.4N., R.44E., M.D.B.&M. The application does not state the number of cattle which are to be watered; but it does state that 100 acres in the NW $\frac{1}{4}$ Sec. 5, T.3N., R.44E., are to be irrigated from the diversion located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 31. The application was published using this point of diversion. The owners of record of Application 7929 are F. H. Arcularius, a 1/3 interest, and Frank G. and Howard Arcularius, a 2/3 interest.

Application 7929 was protested by W. A. Marsh on February 12, 1927, by Oline C. Stewart on February 22, 1927; by Joseph A. Barrego on February 22, 1927, and by J. B. Nay on March 13, 1927. In general, the protestants claimed historic use of the site for stockwatering, thereby establishing a vested right.

A field investigation was made by the Division of Water Resources on June 19, 1932, which resulted eventually in the withdrawal of the protests of J. B. Nay and Oline C. Stewart on January 8, 1945, and that of Joseph A. Barrego on January 25, 1945. The protest of W. A. Marsh was to have been withdrawn in accordance with an agreement made between the applicant and the protestant, but there is no record of this having been done.

On April 11, 1969, a letter was mailed via certified mail to Mr. Marsh, requesting an expression of interest as to his protest against Application 7929. The letter was returned stamped "Unclaimed."

There are no other rights of record for the waters of Rye Patch Channel.

This office has been advised by the Bureau of Land Management that Frank G. Arcularius and Albert Hooper have grazing privileges in the area of the proposed diversion.

RULING

The protest to Application 7929 is hereby over-ruled, and a permit will be issued, subject to existing rights, upon payment of the statutory permit fees.

Respectfully submitted,


ROLAND D. WESTERGARD
State Engineer

RDW:JCP:jw

Dated this 24th day of
July, 1969.