

IN THE MATTER OF APPLICATIONS NOS.)
13761 AND 13876 filed by B. H. ROBISON :
TO APPROPRIATE WATER FOR STOCKWATERING : RULING
PURPOSES IN WHITE PINE COUNTY, NEVADA.)

Application No. 13761 was filed on June 29, 1951 to appropriate 0.10 c.f.s. of the waters of Meadow Spring for stockwatering purposes. The proposed point of diversion and place of use are in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 31, T. 25 N., R. 68 E., M.D.B.&M. The period of use is to be from January 1st to July 1st and from October 1st to December 31st of each year.

A protest to the granting of this application was filed on October 1, 1951 by William Sellas on the grounds that he has prior rights to the waters in question.

Application No. 13876 was filed on October 18, 1951 to appropriate 0.20 c.f.s. of the waters of Canyon Spring for stockwatering purposes. The proposed point of diversion and place of use are to be in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 6, T. 24 N., R. 68 E., M.D. B.&M. The period of use is from January 1st to December 31st of each year.

A protest to the granting of this application was filed on December 10, 1951 by William Sellas on the grounds that he has a prior right to the waters in question.

GENERAL:

A field investigation in the matter of these applications was made by E. J. DeRicco, Field Deputy State Engineer, on May 15, 1952.

From previous hearings and rulings on waters in the vicinity of the springs in question, it appears that the customary range line between William Sellas and B. H. Robison is in the vicinity of the springs. Both parties claim a vested right to waters in this area. From previous rulings, the predecessors of B. H. Robison were considered as having a vested right prior in time to that of the predecessors of William Sellas. Applications Nos. 6622, 6623, 6649 and 6664, all filed by the predecessors of William Sellas, were denied on the grounds that to approve same would contravene the policy of Section 2 of the Stockwatering Act. Application No. 6665 for the waters of Evans Spring was approved on the grounds that the spring was a recently developed source, and that a vested right to its use could not exist. On February 19, 1925 Certificate No. 1505 was issued under Permit No. 6665. On the date of the investigation in the matter of Applications Nos. 13761 and 13876, Evans Spring was inspected on the ground. Said spring is located at a point about one-quarter of a mile southeast of Meadow Spring under Application No. 13761. A small dam had been constructed across a narrow Canyon to impound the waters of Evans Spring. At the time of the investigation, there was no water flowing from

the source and the entire works were covered by a dense growth of underbrush. There is no question that the source has not been used by William Sellas for many years.

On April 12, 1954 this office was notified by the Bureau of Land Management, Division of Grazing, that grazing allotments in the vicinity of Applications Nos. 13761 and 13876 have been established and that the points of diversion and places of use under said applications are within the private allotment of the Applicant, B. H. Robison.

RULING

It is the opinion of this office that B. H. Robison has a prior right to the use of the waters under Applications Nos. 13761 and 13876.

The protests to the granting of said applications are herewith overruled on the grounds that the granting thereof will not impair the value of existing rights or be detrimental to the public welfare, and on the grounds that the applicant has an exclusive grazing right within the service area of the waters in question by virtue of the grazing lease issued to him by the Bureau of Land Management.

Permits will be issued under said applications upon receipt of the statutory permit fees.

Respectfully submitted,

HUGH A. SHAMBERGER
State Engineer

By

Edmund Muth

EDMUND MUTH
Assistant State Engineer

Dated this 15th day of
April, 1954.