

IN THE MATTER OF APPLICATION NO.)
12105 IN NAME OF ALLISON SMITH :
TO CHANGE THE MANNER AND PLACE OF :
USE OF A PORTION OF PERMIT 10822)

RULING

Application No. 12105 was filed November 20, 1947 by Allison Smith to change the manner and place of use of 0.0125 c.f.s. of underground water appropriated under Permit 10822 from quasi-municipal and domestic use to stockwatering and domestic use. Under the application it was proposed to water 400 head of cattle. Said application was protested December 29, 1947 by W. W. Whitaker and on January 2, 1948 by A. D. Drumm, Jr. Both protests were based on the grounds that the source was located on range belonging to them. In addition, the protest of W. W. Whitaker was based on the fact that he was the owner of various water rights in the vicinity of the proposed point of diversion.

The records of the office of State Engineer show several stockwatering rights in the near vicinity of the proposed point of diversion under Application No. 12105. Protestant Whitaker is the owner of stockwatering rights from Frank's Well No. 1, Frank's Well No. 2, and Gabbs Valley Well under Permits 6739, 6896 and 10400, respectively. These wells are located from $3\frac{1}{2}$ to 5 miles northwesterly from the Smith application. In addition, Mr. Whitaker has a permit on Hawley Well lying about $5\frac{1}{2}$ miles northeasterly and an application under Serial No. 8112 for underground water located $1\frac{1}{2}$ miles northeasterly. The Yomba Shoshone Tribe has a permit under Serial No. 11469 for underground water located about 4 miles southwesterly. Mr. Whitaker also has an application under

Serial No. 12066 to appropriate water from Kelly's Well which is located near Permit No. 11469. There is no information in this office which would indicate any water or range rights in name of Protestant Drumm in this immediate vicinity.

In 1943 Permit No. 10822 was granted to Allison Smith to appropriate 0.50 c.f.s. of water from a well located within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 28, T. 12 N., R. 36 E. for quasi-municipal and domestic purposes. No proofs have been filed under this permit to date and the permittee has been keeping said permit in good order by the filing of extensions of time. Application No. 12105 was filed to change the manner and place of use of a portion of the 0.5 c.f.s. granted under Permit No. 10822.

The protests against the granting of a permit under Application No. 12105 are sustained and said application is herewith denied on the grounds that the granting thereof would contravene the provisions of Section 2 of the 1925 Stockwatering Act and would be detrimental to existing range rights.

Respectfully submitted,


ALFRED FERRITT SMITH
State Engineer

July 11, 1949