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IN THE MATTER OF APPLICATIONS NOS.)
12757 AND 12758 IN NAME OF HARVEY)
TITUS, MADISON LOCKE AND A. F.)
BORDOLI TO APPROPRIATE WATER FOR)
ESTOCKWATERING PURPOSES IN NYE COUNTY,)
NEVADA.)

RULING

Applications Nos. 12757 and 12758 were filed December 7, 1948 by Harvey Titus, Madison Locke and A. F. Bordoli to appropriate the waters of the Tule Spring and Flood Waters (Jack's Seep Wash) respectively. The proposed point of diversion under Application No. 12757 (Tule Spring) is within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 19, T. 5 N., R. 53 E., unsurveyed, and under Application No. 12758 the proposed diversion point is within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 32, T. 5 N., R. 53 E., unsurveyed. Both applications are for stockwatering purposes and such use would be in common between Locke and Titus and A. F. Bordoli.

On February 16, 1949 protests were filed to the granting of permits under these applications by Bertrand Arambel and/or Pete Etchaverry and on February 28, 1949 protests were filed by A. G. McBride, et al. The latter protest, while filed as one protest, included the following parties: A. G. McBride, Fernando Goicoechea, Smith Brothers, Dan Clark, Pedro Corta, Joe Echegaray, John Laxague, and his successors in interest, Eureka Livestock Co.

Our investigations under previous applications in this general location have showed that applicants have run cattle in common in the area appurtenant to the source of water applied for. Such use has been a continuous use over a long period of time. On July 25, 1949 a rather extensive ruling was issued by this office pertaining to a number of applications filed by Locke and Titus and which were in part protested by the protestants in this

proceeding. The protestants, all being sheepmen and all dependent upon the use of snow water, were limited as to their range use. It was found in this ruling that none of the protestants, with the possible exception of the Eureka Livestock Company, had acquired no customary use in the area within which the sources applied for herein are located.

It is therefore our opinion that the granting of permits under Applications Nos. 12757 and 12758 would not be detrimental to existing rights.

RULING

The protests to the granting of permits under Applications Nos. 12757 and 12758 are herewith overruled and permits will be issued subject to existing rights following receipt of the statutory permit fees.

Respectfully submitted,



ALFRED MERRITT SMITH
State Engineer

Dated October 20, 1949.