

IN THE MATTER OF APPLICATION 21174)
FILED BY BRYAN S. ROBISON FOR 1.0)
C.F.S. OF THE WATERS OF BIG WASH)
SPRING)

R U L I N G

General:

Application 21174 was filed by Bryan S. Robison to appropriate 1.0 c.f.s. of the waters of Big Wash Spring for irrigation and domestic purposes. The point of diversion is described as being in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 19, T. 14 N., R. 70 E., M.D.B.&M. and the place of use is described as the N $\frac{1}{2}$ SE $\frac{1}{4}$ and the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 19, NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 20, T. 14 N., R. 70 E., M.D.B.&M. The period of use is the year round.

A protest to the granting of Application 21174 was filed on December 19, 1963, by George Robison on the following grounds:

- (1) that the protestant has pumped water out of the spring to irrigate his orchard for the past fifteen years and, therefore, claims a vested right by his beneficial use of the waters for his orchard.
- (2) that the spring raises on the protestant's land and the spring waters, when not in use irrigating the orchard, have run in the slough subirrigating both banks of the slough and thereby raising the allotted feed which his livestock have pastured on for many years.
- (3) that the protestant's livestock have used the spring waters for stockwatering purposes as long as anyone can remember.
- (4) Bryan Robison or no one else has ever made any beneficial use except as specified in Nos. 1, 2 and 3 and except in the early part of the spring when there were high waters running into the spring and slough from higher grounds.

A field investigation in the matter of 21174 was made on August 19, 1964, and the following determined.

1. Big Wash Spring is definitely a tributary of Weaver Creek.
2. Big Wash Spring itself is located on the property of Mr. George Robison.
3. There was evidence of old diversions above the source of Big Wash Spring but these diversions had apparently been abandoned for some time.
4. There is a possibility of vested rights, especially stockwatering.

5. At the time of the field investigation Mr. Bryon Robison was putting the water to beneficial use. The waters were not being used by Mr. George Robison other than stockwatering purposes and evidence showed that these waters had not been used for irrigation for some time on Mr. George Robison's land.
6. At the time of the field investigation there was unappropriated water in the Weaver Creek channel.
7. The granting of a permit under application 21174 will not impair the value of existing rights or otherwise be detrimental to the public welfare provided that the permit is granted subject to existing rights.

RULING

The protest to the granting of Application 21174 is hereby overruled on the grounds that the granting of this application will not impair the value of existing rights or otherwise be detrimental to the public welfare. A permit will be issued under this application in the amount of 1.0 c.f.s. subject to existing rights.

Nothing in this ruling shall be taken to grant any rights of ingress and egress to the applicant, Bryon Robison.

Respectfully submitted,

ELMO J. DeRICCO
State Engineer

BY


GEORGE W. HENNEN
Assistant State Engineer

Dated this 16th day of

September, 1964