

IN THE MATTER OF APPLICATION NO. 11964  
IN NAME OF D. V. ROMEOS TO APPROPRIATE  
THE WATERS OF BILLY GOAT SPRING IN WHITE  
PINE COUNTY, NEVADA, FOR STOCKWATERING  
PURPOSES.

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RULING

Application No. 11964 was filed August 14, 1947 by D. V. Romeos to appropriate 0.10 c.f.s. of the waters of Billy Goat Spring for the watering of 1000 head of sheep and 100 head of goats. The proposed point of diversion is within the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 28, T. 18 N., R. 63 E., M.D.M.

A protest to the granting of a permit under said application was filed October 29, 1947 by the City of Ely. The basis of such protest is as follows:

1. That there is no unappropriated water at the source stated in said application, and
2. That protestant, as the successor in title of Ely Water Company, is the owner of what is known as the Georgetown Ranch and that the proposed source of application is within the range area appurtenant to said ranch and used by cattle belonging to M. B. Bybee, a lessee of protestant.

On October 10, 1948 a field investigation was made by F. N. Dondero, Deputy State Engineer.

The protestant was represented by a Mr. Bybee, brother of M. B. Bybee, who is a lessee of protestant. Mr. Dondero was advised by Mr. Bybee that their cattle do not range any further north than Hercules Gap and east of Egan Range of mountains and therefore was not further interested in said protest.

Accompanying Mr. Dondero on the field investigation, in addition to Mr. Bybee, was the applicant, D. V. Romeos, and Mr. John Lusetti who is the owner of Certificate No. 837 issued under Permit No. 6059 on Lusetti Spring for the watering of 200 head of cattle. Lusetti Spring is located about 50 feet westerly from Billy Goat Spring.

Mr. Romeos has sheep and goats and has been allotted a range area easterly from Billy Goat Spring, the spring lying near the westerly edge of his range allotment. Both Billy Goat and Lusetti Springs are located in Rattlesnake Canyon which slopes very steeply towards Steptoe Valley and is flanked by steep slopes on both sides. Mr. Lusetti has range rights westerly from Lusetti Spring and which includes a natural valley.

According to the report of the field investigation, the area in the immediate vicinity of Billy Goat and Lusetti Springs is so steep and rocky that it is of little value as range. Cattle would not naturally range in this area due to such conditions. Starting with Billy Goat Spring and easterly down Rattlesnake Canyon there are several springs which have been developed by Mr. Romeos and which have been diverted into stockwatering troughs and being used by Mr. Romeos.

It is our opinion that the granting of a permit under Application No. 11964 would not effect the rights of Mr. Lusetti if Mr. Romeos restricted his range use easterly from Billy Goat Spring. Since Mr. Romeos herds his sheep, the matter of keeping them easterly from Billy Goat Spring should not be difficult.

Whether or not the cattle of Mr. Lusetti, ranging in the valley westerly from Billy Goat and Lusetti Spring, water at the several springs in Rattlesnake Canyon other than Lusetti Spring, we do not know. It may be that cattle would trail to these springs for water and then return to the valley. If so, a permit under Application No. 11964 could not prejudice such right.

#### RULING

Being of the opinion that the granting of a permit under Application No. 11964 would not be detrimental to the rights of protestant, and other existing rights, providing Mr. Romeos does not range his sheep and goats westerly of Billy Goat Spring, the protest of the City of Ely is hereby overruled and a permit will be granted under Application No. 11964 subject to all existing rights on the source and further subject to the provisions that at no time will Applicant Romeos range his stock westerly from Billy Goat Spring to the detriment of existing rights.

Respectfully submitted,



ALFRED MERRITT SMITH  
State Engineer

November 3, 1950.