

IN THE MATTER OF 23419 TO CHANGE THE)
POINT OF DIVERSION AND PLACE OF USE)
OF A PORTION OF THE WATER HERETOFORE)
APPROPRIATED UNDER PERMIT 23167,)
HUALAPAI FLAT, WASHOE COUNTY, NEVADA.)

R U L I N G

GENERAL:

34/ Application 23419 was filed on September 27, 1966 by Art McKay to change the point of diversion and place of use of the portion of water heretofore appropriated under Permit 23167. This application is to change 4.5 c.f.s. from a well located within Lot 5, Sec. 1, T. 35 N., R. 23 E., to a well located within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 12, T. 35 N., R. 23 E., M.D.B.&M. The proposed place of use under this application is within Lots 2, 3 and 5, Sec. 1, T. 35 N., R. 23 E., and the W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ Sec. 36, T. 36 N., R. 23 E.

Permit 23167 was filed on June 7, 1966 by Art and Viola McKay to appropriate 6.5 c.f.s. of the waters of an underground source within Lot 5, Sec. 1, T. 35 N., R. 23 E., M.D.B.&M., for the irrigation of 439.28 acres located within Lots 2, 3 and 5, Sec. 1, T. 35 N., R. 23 E., W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 36, T. 36 N., R. 23 E. The permit was granted under this application on September 19, 1967.

Application 23419 was protested on February 2, 1967 by Rex and Ethel Clemens on the following grounds: "Protestants are the beneficiaries of a Trust Deed covering the N $\frac{1}{2}$ Sec. 12, T. 35 N., R. 23 E., M.D.B.&M. Applicant has not secured permission from Protestants to appropriate water from the well which is on the above mentioned land which is held in trust for them under a Trust Deed dated April 1, 1962, recorded June 13, 1962, filing No. 361002, wherein Pioneer Title Insurance Co. of Nevada is Trustee. Granting of the application will greatly depreciate the value of the property covered by said Trust Deed."

The point of diversion under Application 23419 is for an existing well which is also the subject of Permit 21970 in the name of Moore Equipment Co., Inc. The place of use of Permit 21970 is Lots 6, 7, 8, 9, 10, 11, 12 and 13, Sec. 1, T. 35 N., R. 23 E., M.D.B.&M. Permit 21970 was granted after the predecessor of Moore Equipment Co., Inc. had filed in this office a certified copy of a Right of Entry and Possession which would allow for the construction of the well and conveyance of the water to the lands in said Section 1. The well was drilled in April of 1964 and has been pumped in each irrigation season since.

Moore Equipment Co., Inc., has executed a non-exclusive easement for constructing, operating and maintaining a pipeline for the conveyance of the water from this well over other real property owned by the Moore Equipment Co., Inc. to the place of use. This non-exclusive easement includes the use of the Right of Entry and Possession granted to the Moore Equipment Co., Inc's. predecessor.

OPINION:

It is our opinion that the granting of this application will not impair the value of existing rights or be otherwise detrimental to the public welfare.

RULING:

The Protest to the granting of Application 23419 is hereby overruled on the grounds that its granting will not impair the value of existing rights or be otherwise detrimental to the public welfare.

Respectfully submitted,


Roland D. Westergard
State Engineer

RDW:WJN:m

Dated this 1st day of
December, 1967.