

IN THE MATTER OF APPLICATIONS NOS. 14301
FILED BY JOHN P. PIELER AND 14631 FILED BY
MILO SMITH AND JESSE GARDNER TO APPROPRIATE
THE WATERS OF DEER SPRING IN WHITE PINE
COUNTY, NEVADA.

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RULING

Application No. 14301 was filed on May 19, 1952 by John P. Pieler to appropriate 0.25 c.f.s. of the waters of Deer Spring for the irrigation of two acres of land and for domestic purposes. The point of diversion and place of use are described as being in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 25, T. 19 N., R. 59 E., M.D.B.&M. The period of use for domestic purposes is from January 1st to December 31st and for irrigation purposes from April 1st to October 31st of each year.

The notice of application was published in the Daily Times, a newspaper of general circulation in White Pine County, Nevada, as prescribed by law.

On August 13, 1952 a protest was filed by Milo W. Smith to the granting of a permit under said application. The grounds of said protest are quoted as follows:

"That the granting of said application would impair and tend to impair the value of existing rights now owned by the said MILO W. SMITH, and that the granting of said application would be detrimental to the public welfare; that the granting of said permit would infringe upon the prior established rights of the said MILO W. SMITH, including the range rights and the right to water livestock in and upon and at the source of water described in said application, to-wit, Deer Springs."

Application No. 14631 was filed on November 20, 1952 by Milo W. Smith and Jesse Gardner to appropriate 0.10 c.f.s. of the waters of Deer Spring for stockwatering purposes. The point of diversion and the place of use are described as being in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 25, T. 19 N., R. 59 E., M.D.B.&M. The water was proposed to be used for the watering of 150 head of cattle from June 1st to November 1st of each year.

The notice of application was published in the Daily Times, a newspaper of general circulation in White Pine County, Nevada, as prescribed by law.

On February 18, 1953 a protest was filed by John P. Pieler requesting that a permit be issued under Application No. 14631 subject to the prior rights of Application No. 14301. The grounds of said protest are quoted as follows:

"That the protestant has made a previous application No. 14301 on this same identical source of water which has not so far been allowed, and also the ground immediately surrounding the spring is legally held as a millsite claim by the Protestant."

On October 24, 1952 a field investigation in the matter of Application No. 14301 was conducted by E. J. DeRicco, Field Deputy State Engineer in the office of State Engineer. Present at the investigation, in addition to Mr. DeRicco, were the following parties:

Milo W. Smith - Protestant
Bill Smith - Son of Protestant
Jesse Gardner - Cattleman who operates in the Deer Springs area with Mr. Smith
John P. Pieler - Applicant
Jess Kirk - Range Manager, Division of Grazing, Bureau of Land Management.

Findings:

From the report of the field engineer, and from records in this office, I find that Deer Springs was developed in about the year 1936 by a CCC Camp in the area and that prior to Application No. 14301 no one had appropriated the water legally. The spring is located near the northern boundary of a Taylor Grazing allotment allotted to Jesse Gardner and Milo W. Smith. The applicant, John P. Pieler, has provided facilities for the watering of livestock drifting in to the spring and does not object to their watering, providing they do not injure his right to the use of the water. John P. Pieler, by virtue of his Application No. 14301, has prior right to the use of the waters of this source.

RULING

Application No. 14301 - the protest to the granting of Application No. 14301 is herewith overruled and a permit will be issued under this application on receipt of the statutory permit fee.

Application No. 14631 - On receipt of the statutory permit fee a permit will be granted under this application subject to the prior right of Application No. 14301.

Respectfully submitted,

HUGH A. SHAMBERGER
State Engineer

BY *Edmund Muth*

EDMUND MUTH
Assistant State Engineer

Dated this 24th day of
March, 1953.