

IN THE MATTER OF APPLICATION 14196 )  
FILED APRIL 2, 1952, BY ROSWELL M. )  
FOX TO APPROPRIATE THE WATER OF )  
ROGERS SPRINGS AND TRIBUTARIES IN )  
NYE COUNTY, NEVADA. )

R U L I N G

Application 14196 was filed for 8.0 c.f.s. of the waters of Rogers Springs and Tributaries located within the SE $\frac{1}{4}$  NW $\frac{1}{4}$  Section 18, T. 18 S., R. 51 E., for the irrigation of 720 acres of land located within portions of Section 7, T. 18 S., R. 51 E., and Sections 11, 12 and 13, T. 18 S., R. 50 E., and Domestic purposes. This application is reportedly owned by Fred Gimm but no deeds of transfer have been filed in this office.

A protest to the granting of this application was filed on January 21, 1953, by Warren O. Wagner on the grounds that he has a prior application on the source and believes there is no unappropriated water.

Existing Rights

Certificate 4443 was issued under Permit 11169 on May 11, 1956, to Warren O. Wagner for 1.5 c.f.s. of the waters of Unnamed Spring (Rogers or Jack Rabbit) for the irrigation of 70.0 acres of land and Domestic purposes.

Certificate 10 was issued under Permit 161 for 2.54 c.f.s. of the waters of Point of Rocks Spring, Jack Rabbit Spring and Barn Spring for the irrigation of 15.02 acres of land and Domestic purposes. The total duty of water from all sources is 45.06 acre-feet per year. The owners of record of this right are R. M. Tubb, G. W. Tubb, et ux, and R. M. Tubb, Jr., et ux.

An investigation in the matter of this application was made on June 23, 1961.

Rogers or Jack Rabbit Spring has a continuous flow of 1.472 c.f.s. or 1,065.43 acre-feet per year. This spring flows constantly and without variation as to the amount of water.

Opinion

It is the opinion of this office that errors exist on Certificate 4443 in regard to the amount of water and the date of priority of appropriation. The amount of water should be reduced to 0.70 c.f.s. in accordance with the law that was in effect at the time of filing the application. (Section 11 Chapter 140, Statutes of 1913). The date of priority of appropriation should be amended

to September 16, 1944.

From the existing rights on the source and from the knowledge of the flow, it can be determined that there is unappropriated water.

RULING

The protest to the granting of Application 14196 is hereby overruled and a permit will be issued subject to existing rights and further subject to the following:

- (1) Complete chain of title to the present owner.
- (2) The amount of water granted to be limited to 0.772 c.f.s.

Respectfully submitted,



Elmo J. DeRicco  
State Engineer

Dated this 15th day of  
March, 1963