

IN THE MATTER OF APPLICATION NO.)
12356 FILED BY ARMANDO A. FRANCISCO :
TO APPROPRIATE UNDERGROUND WATER FOR :
STOCKWATERING PURPOSES, NYE COUNTY, :
NEVADA)

RULING

Application No. 12356 was filed March 23, 1948 by Armando A. Francisco to appropriate 0.05 c.f.s. of underground water from an existing well located within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 22, T. 10 N., R. 43 E. for the watering of two hundred head of cattle between September 1st to May 1st of the following years.

On July 3, 1948 a protest was filed by Emma G. Robers and Harry E. Rogers against the granting of a permit under said application number 12356 on the grounds that they and their predecessors in interest have ranged cattle in the area within which the proposed point of diversion is located for the past sixty years, and that the granting of a permit would be against public interests.

On September 28, 1948 a field investigation was held on this application by Hugh A. Shamberger, Assistant State Engineer. Others present were the following:

Armando A. Francisco - applicant
Emma Rogers - protestant
Hamilton Ott
Peter Bertolino
S. H. Manor

From the information obtained at the investigation, it appears that the well located at the proposed point of diversion was drilled by Hamilton Ott in 1943. The well is 60 feet deep and the water stands at 51.8 feet below the top of the casing which is about six inches above the ground surface. The applicant intends, should a permit be granted, to install a windmill and pump, together with troughs. At the present time the applicant has about one hundred cattle and during the present season he had a forest permit to run twenty-five head of cattle in the forest to the west.

From Miss Roger's statement, and also from the records of the office of State Engineer, it is evident that the protestants have a certain range use in this area. It was stated by Miss Rogers that they have a forest permit for 650 head of cattle

between June and October 1st and during the fall, winter and spring their cattle range in Big Smoky Valley as far south as Millers which is about forty miles southerly from the proposed point of diversion under application No. 12356.

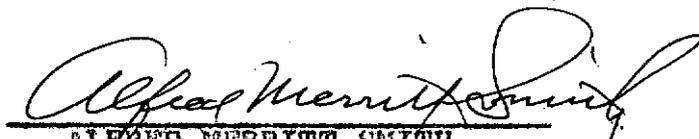
The nearest water right of record owned by the protestants is evidenced by Certificate No. 1935 issued under Permit No. 8099 to appropriate the waters of Palo Alto Spring which is located about eleven miles in a southerly direction from the well applied for by applicant. Coyote Holes and Peavine reservoir are located about ten miles in a southerly direction, but there are no rights of record on these sources. The Francisco ranch, which has been in the family since 1886 is located about four miles northerly and contain several wells some of which are artesian.

Due to the fact that there apparently has been no water development by protestant within at least ten miles of the well from which Mr. Francisco proposes to divert water, the range has not been utilized to its fullest advantage. The State Engineer finds that the granting of application No. 12356 would not impair the existing rights of protestant.

Section 63 Chapter 140 Statutes of 1913 provides that the State Engineer shall approve all applications where the proposed use does not tend to impair the value of existing rights, or be otherwise detrimental to the public welfare. It appearing to the State Engineer that the granting of a permit under application number 12356 would not be detrimental to the public welfare, the protest of Emma G. Rogers and Harry E. Rogers is herewith overruled and a permit will be issued to applicant Francisco upon payment of the statutory permit fee of \$10.00.

The granting of a permit under said application No. 12356 is not to be construed as in any way affecting the right of the protestant named herein in using the surrounding range as established by customary use.

Respectfully submitted,


ALFRED MERRITT SMITH
State Engineer

Dated this 19th day of October, 1948.