

IN THE MATTER OF APPLICATIONS NOS. )  
12076, 12077 and 12078 FILED BY )  
M. E. GROUT TO APPROPRIATE THE WATERS :  
OF TAMARISK SPRING, ROCK HILL WELL :  
AND UNDERGROUND SOURCE, RESPECTIVELY, :  
FOR STOCKWATERING PURPOSES, ESMERALDA )  
COUNTY, NEVADA. )

RULING

Application No. 12076 was filed November 15, 1947 by M. E. Grout to appropriate the waters of Tamarisk Spring at a point within the NW $\frac{1}{4}$  NE $\frac{1}{4}$  Section 5, T. 1 N., R. 36 E., M.D.M. This application was protested February 9, 1948 by A. J. Blackley,

Application No. 12077 was filed November 15, 1947 by M. E. Grout to appropriate the waters of Rock Hill Well at a point within the NW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 2, T. 3 N., R. 36 E. Said application was protested March 6, 1948 by S. H. Manor.

Application No. 12078 was filed November 15, 1947 by M. E. Grout to appropriate the waters from an underground source at a point within the SE $\frac{1}{4}$  NW $\frac{1}{4}$  Section 30, T. 3 N., R. 36 E. This application was protested February 18, 1948 by A. J. Blackley.

On September 29, 1948 a field investigation was made on these applications by Hugh A. Shamberger, Assistant State Engineer. Others present during the investigation were: M. E. Grout, applicant; Rex Clark, Successor in interest to protestant; A. J. Blackley, and his ranch manager, George Riley; S. H. Manor, protestant; and Ed. Giles, State Water-Right Surveyor.

The source applied for by Mr. Grout under application No. 12076 and named Tamarisk Spring, is the same source known as Gap Spring and filed for by Mr. A. J. Blackley under application No. 11966. Said source lies about five miles easterly from Red Spring on which protestant Blackley has Permit No. 11846 for stockwatering purposes. The State Engineer will grant a permit under said application No. 11846 in name of A. J. Blackley, and therefore application No. 12076 will have to be denied.

Under application No. 12078, Mr. Grout proposes to develop water by drilling a well which would be located near the northerly boundary of Columbus Salt Marsh and about one mile westerly from the old town of Columbus. This application was protested by A. J. Blackley. The nearest water right held by A. J. Blackley would be at Gap Spring under Permit No. 11966 when issued.

Gap Spring is located about 8 miles southerly from the proposed point of diversion under application No. 12078. Between these two points lies the Columbus Salt Marsh. From observations on the ground, it appears that the range surrounding this proposed point of diversion is very poor although applicant stated the range improves in the hills to the north. Applicant Grout asks for sufficient water to water 400 head of cattle the year round. It is the opinion of the State Engineer that this range could best serve as a winter range and fails to see where protestant would be harmed if a permit were issued for the watering of no more than 100 head of cattle during the winter months.

Under application No. 12077 Mr. Grout proposes to pump water from an existing well dug many years ago by the Tonopah-Goldfield Railroad Company. This well is located on railroad property about 50 feet easterly from the centerline of Highway No. 95. Said application was protested by S. H. Manor on the grounds that he is the owner of Rock Hill Spring which lies about six miles to the east of the proposed diversion under application No. 12077, and that he has ranged this area for many years.

Protestant Manor stated that once in every few years there is a good stand of sand grass on the slopes lying between the proposed diversion by Mr. Grout, and Rock Hill Spring which is the westerly edge of the Manor range. When there is feed on this slope, Mr. Manor states that his cattle drift down from Rock Hill Spring. The State Engineer finds that the granting of a permit under application No. 12077 in a limited amount for a limited period would not be detrimental to existing rights.

It might be well to point out that it is quite likely that this area will come under the jurisdiction of the Bureau of Land Management early in 1949. The amount of any grazing permit or lease that the Bureau will give to any stockmen will be based on prior usage and commensurable property. Therefore the amount of stock that may range in this area by virtue of a permit granted under application No. 12077 may be subject to change under the Bureau of Land Management, depending of course on the amount of available range that was not used during the priority period.

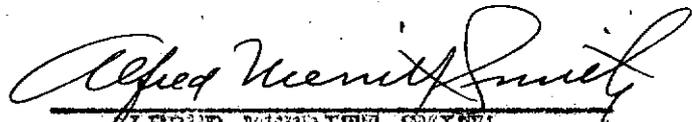
It is therefore the Order of the State Engineer that: The protest of A. J. Blackley on application No. 12076 be sustained and that said application be denied on the grounds that the granting thereof would contravene the provisions of Section 2 of the 1925 Stockwatering Act.

The protest of A. J. Blackley on application No. 12078 be overruled and that a permit be granted to M. E. Grout upon payment of the statutory permit fee for sufficient water to water 100 head of cattle between November 1st and April 1st of the following year.

The protest of S. H. Manor on Application No. 12077 be overruled and that a permit be granted to M. E. Grout upon payment of the statutory permit fee for sufficient water to water 100 head of cattle between November 1st and April 1st of the following year.

It is to be understood that the granting of Permit No. 12077 and 12078 is not to be construed as in any way affecting the right of protestants or others in using the surrounding range in such manner as may have been established by customary use.

Respectfully submitted,



ALFRED MERRITT SMITH  
State Engineer

Dated October 19, 1948.