

IN THE MATTER OF APPLICATION )  
22746 FILED TO CHANGE THE )  
POINT OF DIVERSION OF WATER )  
HERETOFORE APPROPRIATED UNDER) )  
PERMIT 14066, NYE COUNTY, )  
NEVADA. )

R U L I N G

General:

Application 22746 was filed on August 31, 1965 by Kenneth R. Davis to change the point of diversion of 2.5 c.f.s. of water heretofore appropriated under Permit 14066. The source of water is underground and the proposed point of diversion is within the NE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 19, T. 16 S., R. 49 E., M.D.B. & M., or at a point from which the E $\frac{1}{4}$  corner of said Section 19 bears N. 45° E., a distance of 70 feet. Application 22746 was protested on November 2, 1965 by Tracy W. Smith on the grounds that: "Permit No. 14066 is for a non-existent well and should not be relocated to a non-producing well location." This matter was investigated on January 12, 1966. Present at the investigation were:

Mr. and Mrs. Tracy W. Smith, Protestants  
Samuel Spieser, and  
Bennett J. Vasey, representing the applicant  
F. W. Thorne, and  
Roland D. Westergard, Division of Water Resources

The Proof of Beneficial Use filed under Permit 14066 on January 25, 1961 indicates that water was beneficially used on 160 acres within the SE $\frac{1}{4}$  Section 19, T. 16 S., R. 49 E., M.D.B. & M. The map submitted in support of the Proof of Beneficial Use was filed on January 25, 1961 and indicates that 160 acres of wheat were irrigated within the SE $\frac{1}{4}$  of said Section 19 by sprinklers; however, the well location shown on the cultural map is within the NE $\frac{1}{4}$  SE $\frac{1}{4}$  of said Section 19 or at a point from which the E $\frac{1}{4}$  corner of said Section 19 bears N. 45° E., a distance of 70 feet. The point of diversion under Permit 14066 was described as within the NE $\frac{1}{4}$  SE $\frac{1}{4}$  of said Section 19, at a point from which the E $\frac{1}{4}$  corner of said Section 19 bears N. 45° 0' E., a distance of 1,835 feet. Harry H. Hughes, Water Right Surveyor and Agent for the permittee under Permit 14066 was advised by letters of February 1, April 17 and May 26, 1961 that an application to change the point of diversion would

be required. Application 19915 was filed on June 12, 1961 but was cancelled on November 20, 1964 for failure to comply with the provisions of the Permit.

No evidence of a well could be found at the site described in Permit 14066. The investigation disclosed that there is an existing well at the location described in Application 22746. There was no pump or motor at the well site. It appeared that the SE $\frac{1}{4}$  of Section 19, T. 16 S., R. 49 E., M.D.B. & M., had never been cleared or cultivated. Procedures of filing application to change to correct the point of diversion when a well is drilled at a point other than at the point described in the application were explained.

Opinion:

It is our opinion that the Proof of Beneficial Use and cultural map filed January 25, 1961 by a licensed water right surveyor must be recognized as the surveyor in question, Mr. Hughes, is deceased. It is a further opinion that there would not be adverse affects from allowing application 22746 to correct the point of diversion. However, because the purpose is merely to correct the point of diversion, the time for filing proofs under Permit 22746 must be restricted.

RULING

The protest to Application 22746 is herewith overruled and a permit will be issued including the provision that the proofs of Commencement, Completion and Beneficial Use and a new supporting cultural map, must be filed in acceptable form, accurately describing cultivated acreages and physical conditions within 90 days of the date of this ruling. No extensions of time will be granted for filing Proofs and supporting cultural map. If the conditions of this ruling are not satisfied, Permits 14066 and 22746 will be cancelled.

Dated this 3rd day of  
February, 1966.

Respectfully submitted,

  
Roland D. Westergaard  
Assistant State Engineer

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