

IN THE MATTER OF APPLICATION 24578)
FILED BY ROBERT M. TUBB TO APPROPRIATE)
THE WATERS OF DEEP OR BIG SPRING IN) R U L I N G
NYE COUNTY, NEVADA)

GENERAL:

Application 24578 was filed July 15, 1968, by Robert M. Tubb to appropriate 1.20 c.f.s. of the waters of Deep or Big Spring for irrigation and domestic use. The point of diversion is described as being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 19, T. 18 S., R. 51 E., and the place of use is described as 14.80 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, and 2.95 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 24, T. 18 S., R. 50 E., M.D.B.&M. The period of use is from January 1 to December 31 of each year.

Under Remarks, Application 24578 states "This is the water apportioned per certificate #4484, and applying to change the place of use per #24449. Since the applicant of #24449 has not used the water for a period exceeding 5 years, the water is being applied for by Robert M. Tubb to use on the 17.75 acres originally certificated."

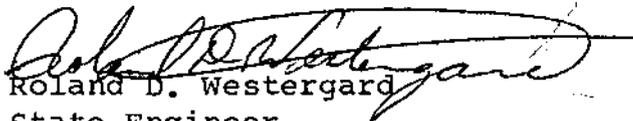
Application 24449 was filed by Roy L. Wilbur to change the place of use of a portion of Certificate 4484 for 1.50 c.f.s., or not to exceed 134.3 acre feet per annum, of the waters of Deep or Big Spring for irrigation and domestic use. Application 24449 was protested by Robert M. Tubb on the grounds "The applicant has not used the water apportioned to 2.95 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ and 14.80 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, both in Section 24, T. 18 S., R. 50 E., M.D.B.&M., for a total of 17.75 acres, for a period in excess of five (5) years and therefore, has abandoned the right to its use."

By a ruling dated October 14, 1968, the State Engineer stated "-----the granting of the permit under Application 24449, will not conflict with or impair the value of existing rights or be detrimental to the public interest or contrary to statutes. The field investigation disclosed no intent of abandonment and the withholding of ingress and egress by physical means does not constitute grounds for abandonment." By this ruling the protest to Application 24449 was overruled by the State Engineer, stating "The protest to the granting of Application 24449 is hereby overruled and a permit will be issued subject to existing rights."

RULING

Application 24578 is herewith denied on the grounds that the water applied for is already appropriated under Permit 24449 and Certificate 4484.

Respectfully submitted,


Roland D. Westergard
State Engineer

RDW:SH:jls

Dated this 10th day

of January, 1969