

IN THE MATTER OF APPLICATION)
23145 FILED BY JIMMIE AND LEONA)
FERRARA TO CHANGE THE POINT OF)
DIVERSION OF WATER HERETOFORE)
APPROPRIATED UNDER CERTIFICATE)
2458.)

R U L I N G

GENERAL:

Application 23145 was filed May 20, 1966, by Jimmie and Leona Ferrara to change the point of diversion of 1.0 c.f.s. of the waters of Buena Vista Creek, to be diverted within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 25, T.30N., R.34E., M.D.B.&M., to be used for domestic purposes and the irrigation of 100 acres within the W $\frac{1}{2}$ NW $\frac{1}{4}$ and N $\frac{1}{2}$ SW $\frac{1}{4}$ Section 26, T.30N., R.35E., M.D.B.&M.

This application is to change the point of diversion of waters heretofore appropriated under Certificate 2458. Certificate 2458 was issued under an application filed June 25, 1914, by S. B. Thornton, for 1.00 c.f.s. of the waters of Buena Vista Creek, to be diverted within NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 22, T.30N., R.35E., M.D.B.&M. The waters are to be used for the irrigation of 100 acres in W $\frac{1}{2}$ NW $\frac{1}{4}$ and N $\frac{1}{2}$ SW $\frac{1}{4}$ Section 26, T.30N., Range 35 E., M.D.B.&M.

A protest to Application 23145 was filed September 12, 1966, by George H. and June Kyler, on the grounds that the application "Would interfere with vested rights and rights-a ways."

Jimmie and Leona Ferrara are successors in interest to lands and water rights previously owned by S. B. Thornton.

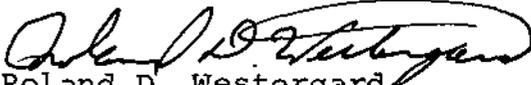
Application ²³¹⁴⁵~~23211~~ would move the point of diversion of certificated right 2458 upstream on Buena Vista Creek a distance of approximately four miles. The other downstream user is senior in priority, would not be affected and did not protest Application 23145.

RULING

The protest to the granting of Application ²³¹⁴⁵~~23211~~ is herewith overruled on the grounds that the permit will be issued subject to existing rights and protestants vested rights are senior in priority and therefore can not be adversely affected.

This ruling does not and the permit to be issued will not grant the right of ingress or egress or any rights of way to the applicant.

Respectfully submitted,


Roland D. Westergard
State Engineer

RDW:SH:jw

Dated this 8th day of
May, 1970.