

IN THE MATTER OF APPLICATIONS NOS.)
 12164 AND 12165 IN NAME OF CLARK BARTON)
 AND A. E. YOST TO APPROPRIATE THE WATERS : RULING
 OF BOX CANYON CREEK AND FREEMAN CREEK,)
 RESPECTIVELY, CHURCHILL COUNTY, NEVADA.)

Application No. 12164 was filed January 14, 1948 to appropriate 3.2 c.f.s. of the waters of Box Canyon Creek for the irrigation of 320 acres of land in the N $\frac{1}{2}$ Section 21, T. 20 N., R. 34 E., unsurveyed. The proposed point of diversion is to be within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 8, T. 20 N., R. 34 E.

Application No. 12165 was filed January 14, 1948 to appropriate 3.2 c.f.s. of the waters of Freeman Creek for the irrigation of 320 acres of land within the S $\frac{1}{2}$ Section 21, T. 20 N., R. 34 E., unsurveyed.

These applications were protested July 27, 1948 by Kent Land and Livestock Company and on July 21, 1948 by J. B. and Katie Reynolds.

On January 14, 1948 a field investigation was made on these applications. Those present were:

A. E. Yost	-	Representing Applicants
J. B. Reynolds	-	Protestant
Ira H. Kent	-	Representing Protestant, Kent Land & Livestock Co.
E. J. DeRicco	-	Field Engineer, Office of State Engineer

WATER RIGHTS OF RECORD:

The following water rights are of record in the Office of State Engineer:

Certificate No. 1676 issued under Permit No. 8873 for the waters of Jobs Basin Spring for the watering of 3000 sheep, 200 cattle and 100 horses in the name of Protestant, Kent Land & Livestock Company. The point of diversion is located about two miles upstream from the proposed point of diversion under Application No. 12165.

Permit No. 11523 is in name of Protestants, J. B. and Katie Reynolds to appropriate 10.0 c.f.s. of the waters of Dixie Valley Creek and Tributaries for the irrigation of lands in Section 24, T. 21 N., R. 34 E. The point of diversion under this permit is in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 3, T. 20 N., R. 34 E.

REPORT OF FIELD INVESTIGATION:

As a result of the field investigation, it was found that the waters of Freeman Creek applied for under Application No. 12165 is tributary to Dixie Valley Creek, the source of the water applied for under Permit No. 11523, in name of Protestant Reynolds. It was found that the waters of Box Canyon Creek, applied for under Application No. 12164 was not a tributary to Dixie Valley Creek.

Our records fail to disclose any right of record in name of Kent Land & Livestock Company below the proposed points of diversion under Application Nos. 12164 and 12165. However, it may be possible that certain vested rights exist that have not been made of record.

It was recommended that Application No. 12164 be approved and that Application No. 12165 should be denied on the grounds that the granting of a permit thereunder would conflict with existing rights of Protestant Reynolds.

RULING

It is the ruling of this office that Application No. 12164 be approved, following receipt of the statutory permit fee of \$21.00, with the provisions that stockwatering facilities be provided below the proposed point of diversion.

It is the further ruling of this office that Application No. 12165 to appropriate the waters of Freeman Creek be denied on the grounds that approval thereof would conflict with existing rights and be detrimental to the public welfare.

Respectfully submitted,


ALFRED MERRITT SMITH
State Engineer

March 7, 1950.