

IN THE MATTER OF APPLICATIONS NOS.
13498 TO 13501 INCLUSIVE IN NAME OF
FALLINI BROTHERS TO CHANGE THE POINTS
OF DIVERSION AND PLACES OF USE OF
CERTAIN STOCKWATERING RIGHTS IN NYE
COUNTY, NEVADA.

RULING

On September 21, 1950 the following applications to change the points of diversion and places of use of stockwatering rights heretofore acquired were filed by Fallini Brothers.

Application No. 13498 to change the point of diversion and place of use of the waters of "Eastside Well" heretofore appropriated under Permit No. 11466, the subject of Certificate No. 3512, in the amount of 0.032 c.f.s. or sufficient to water 1000 cattle and 25 horses. The proposed point of diversion and place of use is in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 3, T. 1 N., R. 53 E. The point of diversion and place of use under Permit No. 11466 was given as being within the unsurveyed NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 6, T. 1 N., R. 54 E. Said application No. 13498 was protested December 14, 1950 by Bertrand Arambel and/or Pete Etchaverry.

Application No. 13499 to change the point of diversion and place of use of the waters of "Fred's Well" heretofore appropriated under Permit No. 11061, the subject of Certificate No. 2912, in the amount of 0.002 c.f.s. or sufficient to water 1000 cattle and 25 horses. The proposed point of diversion and place of use is in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 7, T. 1 N., R. 53 E. The point of diversion and place of use under Permit No. 11061 was given as being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 3, T. 1 N., R. 53 E. Said application No. 13499 was protested December 14, 1950 by Bertrand Arambel and/or Pete Etchaverry.

Application No. 13500 to change the point of diversion and place of use of the waters of "Buck's Water" heretofore appropriated under Permit No. 12613, the subject of Certificate No. 3325, in the amount of 0.032 c.f.s. or sufficient to water 1000 cattle and 20 horses. The proposed point of diversion and place of use is within the unsurveyed SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 9, T. 1 S., R. 54 E. and the existing point of diversion and place of use under Permit No. 12613 is within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 11, T. 1 S., R. 53 E. Said application No. 13500 was protested December 14, 1950 by Bertrand Arambel and/or Pete Etchaverry.

Application No. 13501 to change the point of diversion and place of use of the waters of "Pyramid Spring" heretofore appropriated under Permit No. 12580, the subject of Certificate No. 3384, in the amount of 0.032 c.f.s. or sufficient to water 1000 cattle and 25 horses. The proposed point of diversion and place of use is within the unsurveyed NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 22, T. 1 N., R. 52 E. and the existing point of diversion and place of use is within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 35, T. 1 N., R. 50 E. Said application

No. 13501 was protested December 14, 1950 by Bertrand Arambel and/or Pete Etchaverry.

"That your protestants, and each of them, are informed, and therefore allege that the change of the point of diversion and place of use will interfere with the vested rights of your protestants in the use of range rights and privileges, and that the change of the point of diversion and place of use will interfere with use by your protestants of the water rights of your protestants, and will cause your protestants to change the mode of operation in the handling of livestock on and near the areas near where the change of point of diversion and place of use is applied for. That the vested range rights and use of water of your protestants will be changed and modified."

It should be understood that these applications to change the points of diversion and places of use were filed not to make any physical change but to correct the legal descriptions of the points of diversion and places of use. The sources of water covered by these applications have been utilized by applicant for several years under permits to appropriate water issued by this office. The provisions of the permits were complied with and certificates of appropriation issued. The applicants, Fallini Brothers, recently discovered that the legal descriptions of these water sources, as set forth in the permits and certificates, were incorrectly located due to erroneous surveys. In order to correct such descriptions, the applications considered herein were filed.

The description of "East Side Well" under Application No. 13498 places it about three miles westerly from the location shown in Permit No. 11466; "Fred's Well" under Application No. 13499 is described as being about three miles westerly from the description given in Permit No. 11061; "Buck's Water" under Application No. 13500 is given as being located about four miles easterly from the location given under Permit No. 12613 and "Pyramid Spring" under Application No. 13501 shows this source to be located about thirteen miles easterly from the description given in Permit No. 12580.

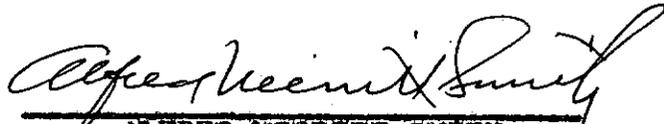
All of the sources considered here are located in Railroad Valley. Pyramid Spring, "Fred's Well" and Eastside Well are about twenty-four miles southeasterly from Warm Springs on U. S. Highway No. 6. Buck's Water is about 33 miles southeasterly from Warm Springs. The sources are located close to other water rights owned by applicants.

We fail to find any evidence that protestants have acquired any water rights in this area. We are well acquainted with the sheep operations of protestants and they have never made claim to any range rights in this general vicinity other than a trail right enroute to the Stone Cabin country. Such claimed trail right is near Warm Springs some twenty-four miles northwesterly.

RULING

It is our opinion that the granting of permits under Applications Nos. 13497 to 13501, inclusive, would not be detrimental to any existing rights. The sources covered by these applications to change, which are in reality to correct the description of old established water rights, are located in an area exclusively used by applicants. Therefore the protests to the granting of permits thereunder are herewith overruled and permits will be issued under said applications.

Respectfully submitted,


ALFRED MERRITT SMITH
State Engineer

February 7, 1951.