

IN THE MATTER OF APPLICATIONS NOS.
13835 AND 13836 FILED BY PETER FABBI
TO APPROPRIATE WATER FROM UNNAMED
SPRINGS FOR IRRIGATION PURPOSES IN
ESMERALDA COUNTY, NEVADA.

RULING

Application No. 13835 was filed on September 12, 1951 by Peter Fabbi to appropriate 2.0 c.f.s. of water from an Unnamed Spring for irrigation purposes. The point of diversion is to be in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 24, T. 2 S., R. 35 E., M.D.M., and the place of use is 200 acres of land in the N $\frac{1}{2}$ NW $\frac{1}{4}$ Section 24; NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 23, and S $\frac{1}{2}$ SW $\frac{1}{4}$ Section 13, T. 2 S., R. 35 E., M.D.M.

Application No. 13936 was filed on September 12, 1951 by Peter Fabbi to appropriate 1.0 c.f.s. of water from an Unnamed Spring for irrigation purposes. The point of diversion is to be in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 24, T. 2 S., R. 35 E., M.D.B.&M. and the place of use is 140 acres of land in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 24; SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 23, T. 2 S., R. 35 E., M.D.M.

Protests to the granting of the above described applications were filed as follows:

Application

- 13835 - On Dec. 28, 1951 by F. J. Willemann
- On Feb. 1, 1952 by Kenny Searles. (This protest was received too late for filing as a formal protest.)

- Application - On Nov. 16, 1951 by F. J. Willemann
13836 - On Feb. 1, 1952 by Kenny Searles. (This protest was received too late for filing as a formal protest.)

The grounds for all of the protests are similar. The protestants claim a vested right to the waters of the springs in question and feel that the granting of said applications would impair the value of their existing rights.

On May 15, 1953 a field investigation in the matter of these applications was made by E. J. DeRicco, Field Deputy State Engineer, and D. K. Jewett, Office Engineer, of the office of the State Engineer.

From the investigation it was found that said springs rise on land owned by Peter Fabbi and flow into the Fish Lake stream system; that Peter Fabbi claims a vested right to the use of the waters of these springs, and that the applications in question were not filed to obtain a new water right but to insure the continued use of said waters on the lands to which they are appurtenant..

It was also found that a critical shortage of water exists in the Fish Lake stream system, and that sufficient water was not available to irrigate the existing cultivated acreages serviced by said stream system.

OPINION

It is the opinion of this office that the waters of the Fish Lake stream system are fully appropriated by use prior to March 1, 1905 and that no surplus of water exists in said stream system which would be open to appropriation by application.

RULING

Applications Nos. 13835 and 13836 are herewith denied on the grounds that the granting thereof would impair the value of existing rights and be detrimental to the public welfare.

Respectfully submitted,

HUGH A. SHAMBERGER
State Engineer

By *Edmund Muth*

EDMUND MUTH
Assistant State Engineer

Dated this 24th day
of February, 1954.