

IN THE MATTER OF APPLICATION 25154 )  
FILED ON JULY 15, 1969, BY H. B. MICHAEL )  
BATESEL TO APPROPRIATE WATER FROM AN UNDER-) )  
GROUND SOURCE IN DOUGLAS COUNTY; AND APPLI-) )  
CATION 25206 FILED BY BIG HORN INVESTMENT )  
INC. TO APPROPRIATE WATER FROM AN UNDER-) )  
GROUND SOURCE IN DOUGLAS COUNTY. )

R U L I N G

GENERAL:

*105*  
*W. H. Roach*  
Application 25154 was filed on July 15, 1969, by H. B. Michael Batesel to appropriate 2 c.f.s. of water from an underground source for quasi-municipal (subdivision) and domestic purposes. The proposed point of diversion is from an existing well within the NE $\frac{1}{4}$ SW $\frac{1}{4}$  Section 7, T.14N., R.20E., M.D.B.&M.,

The proposed place of use is described as being within the E $\frac{1}{2}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , and NW $\frac{1}{4}$ SE $\frac{1}{4}$  of the said Section 7. It was proposed to use the water for 180 home sites and 25 commercial lots.

Application 25206 was filed on August 14, 1969, by Big Horn Investment Inc. to appropriate 4.0 c.f.s. of water from an underground source within the NE $\frac{1}{4}$ SW $\frac{1}{4}$  Section 7, T.14N., R.20E., for quasi-municipal and domestic purposes. The proposed place of use is within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ , and NE $\frac{1}{4}$ SW $\frac{1}{4}$  of the said Section 7.

The proposed point of diversion in both applications is identical, and is from an existing well.

Application 25154 was protested on September 29, 1969, by Ruby Roach representing both herself and a group of some 12 other property owners within the proposed place of use on the following grounds: That the permit be granted to the legal owner only subject to the system being inspected to comply with the health code; inspected for a cement seal and the well casing being above the ground. Application 25154 was also protested by Jack W. Bay, President, Big Horn Investment Inc. on August 14, 1969. His protest states: "We own the real estate on which said well is located, as well as the land on which a 40,000 gallon water tank is located and which is a part of an existing water system in the area. We are under obligation to supply water to some 35 parcels of land occupied or to be occupied by trailers or homes. The existing system would not warrant additional usage and it would be taxing the well and system beyond its capabilities. We have over \$30,000 invested in this system at the present time."

Application 25206 was protested on January 8, 1970, by Michael Batesel on the following grounds: That granting of a permit will damage and impair existing rights; that there is no unappropriated water in the source, that it will be damaging and impair existing property values and that it will be detrimental to the public welfare. Application 25206 was further protested on March 5, 1970, by Lawrence M. Roach, Jr. on behalf of himself and some 6 other property owners within the described place of use on the same grounds as stated in the protest of Ruby Roach against Application 25154, with the further request that, if a permit were granted, application to change the point of diversion, manner of use or place of use never be granted to the applicant. A field investigation was made in the matter of Applications 25154 and 25206 on May 6, 1970. At that time the respective applicants stated that they were engaged in negotiations to resolve their differences and requested that further action be delayed pending completion of the negotiations.

Application 25206 has been assigned to Vista Grande Inc.; and Application 25154 was assigned to Bill M. Green, followed by an assignment from Bill M. Green to Vista Grande Inc. All of the foregoing assignments were made a matter of record in this office on February 16, 1972. Subsequent to the transfers outlined above Vista Grande Inc. withdrew Application 25154 and the protest of Michael Batesel against Application 25206 became moot by reason of transfer of interest to a common owner.

Mr. Roach has indicated his personal willingness to withdraw his interest in the protest filed by him against Application 25206, but has not been able to contact the other property owners in whose behalf he filed the protest to obtain their assent.

RULING

The protest of Lawrence M. Roach, Jr., et al, against Application 25206 is overruled as it is not addressed to matters within the authority of the State Engineer. A permit will be granted, subject to existing rights, upon payment of the required statutory permit fees.

Respectfully submitted,

  
Roland D. Westergard  
State Engineer

RDW:JCP:jw

Dated this 16th day of  
March, 1972.