

IN THE MATTER OF APPLICATION 26722)
FILED BY ELMER A. HERBORT FOR)
PERMISSION TO APPROPRIATE WATER)
FROM AN UNDERGROUND SOURCE IN)
LANDER COUNTY, NEVADA.)

R U L I N G

GENERAL:

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Application 26722 was filed by Elmer A. Herbort on May 15, 1972 for permission to appropriate 5.0 c.f.s. of water from an underground source for irrigation and domestic purposes. The proposed point of diversion is within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 16, T.19N., R.47E., M.D.B.& M. The proposed place of use is described as 320 acres within the S $\frac{1}{2}$ S $\frac{1}{2}$, Section 16 and N $\frac{1}{2}$ N $\frac{1}{2}$, Section 21, T.19N., R.47E., M.D.B.& M.

A protest was filed under this application by Peter Damele and Sons on January 5, 1973 on the grounds that this application "conflicts with the long existing vested water rights of the protestants", this application "would prove to be detrimental to the public interest and to the interests of the existing water users in the area...", the application would "cause substantial and irreparable damage to the rights and vested rights of the protestants", the application would "lower the level of water in the area...".

Certificate 293, subject of Permit 2913, of record in the name of Peter Damele was issued December 14, 1916 for 0.26 c.f.s. of water from three small unnamed creeks for irrigation and domestic purposes. The point of diversion is within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 9, T.19N., R.47E., M.D.B.& M. The place of use is 26 acres within the E $\frac{1}{2}$ NE $\frac{1}{4}$ of said Section 9. The period of use under this certificate is April 1st to September 1st of each year.

Certificate 3180, subject of Permit 11410, of record in the name of Peter Damele, was issued January 14, 1949 for 0.017 c.f.s. of water from an underground source for watering 550 head of cattle. The point of diversion and place of use are described as within the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 9, T.19N., R.47E., M.D.B.& M.

Certificate 5737, subject of Permit 19421, was issued June 24, 1964 for 0.0156 c.f.s. of water from an underground source for watering 500 head of cattle. The point of diversion and place of use are within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 36, T.19N., R.47E., M.D.B.& M.

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The points of diversion under the above-numbered certificates are approximately 12,000 feet, 8,000 feet and 20,000 feet, respectively, from the proposed point of diversion under Application 26722.

RULING:

The protest of Application 26722 is herewith overruled on the grounds that the granting of this application will not interfere with vested or permitted rights of record in this office and a permit will be issued, subject to existing rights and upon receipt of the statutory permit fees.

Respectfully submitted,


Roland D. Westergard
State Engineer

Dated this 21st day
of June, 1973.

RDW/RRD/bs