

IN THE MATTER OF APPLICATION TO CHANGE 35450)
FILED BY MARILYN H. HITE FOR THE WATERS OF)
AN UNDERGROUND SOURCE, CLARK COUNTY, NEVADA)

R U L I N G

218

GENERAL

Application 35450 was filed on May 19, 1978 by Marilyn H. Hite to change the point of diversion of a portion of water heretofore appropriated under Permit 2303, Certificate 398.

The water is to be diverted within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 6, T.22S., R.62E., M.D.B. & M. Water was heretofore diverted under Permit 2303, Certificate 398, within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 1, T.22S., R.61E., M.D.B. & M. The proposed place of use under Application 35450 is within the W $\frac{1}{2}$ of the S $\frac{1}{2}$ of Government Lot 6, Section 6, T.22S., R.62E., M.D.B. & M., 10 acres. The amount of water to be changed is 0.07 c.f.s. for irrigation purposes from January 1st to December 31st of each year.

Application 35450 was protested on August 18, 1978 by William and Harry Gravelle on the following grounds:

"That there has been an adjudication of water rights by the District Court in Las Vegas; that Mary Habbart was given her rights on Well No. 2303. The said decree is now being prepared and will be sent along to prove the proper adjudication as to the interest which belongs to the Habbart Trust. This application is in derogation of the Trust's water rights."

Application 2303 was filed on December 28, 1911 to appropriate 4.0 c.f.s. of water for irrigation and domestic use on 160 acres located within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 1, T.22S., R.61E. and Lots 5 and 6 of the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ Section 6, T.22S., R.62E., M.D.B. & M. The point of diversion was described as being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 1, T.22S., R.61E., M.D.B. & M. The period of use under the application is January 1st to December 31st of each year.

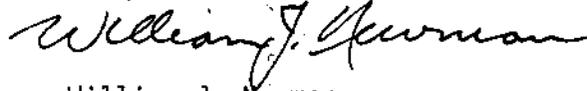
On October 30, 1912 a permit was issued under this application and subsequently on December 16, 1918, Certificate 398 was issued in the amount of 0.60 c.f.s. for 60 acres within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 1, T.22S., R.61E., M.D.B. & M. and Lot 6 Section 6, T.22S., R.62E., M.D.B. & M.

Beginning on June 1, 1921, certified deeds of transfer were submitted to the Office of the State Engineer completing the chain of title from Mrs. Alice Passno to Marilyn H. Hite for a portion of the water originally appropriated under Permit 2303, Certificate 398. The final deed completing the transfer was submitted to the Office of the State Engineer on August 26, 1977 assigning title of a portion of the Permit 2303, Certificate 398 from Arthur M. Lellis to Marilyn H. Hite. These records are available in the Office of the State Engineer and are made a part of this ruling by reference.

RULING

The protest to the granting of Application 35450 is overruled and a permit will be granted under Application 35450 subject to all existing rights. The diversion under Permit 35450 will be limited to 0.06 c.f.s. to be used on 10 acres in the W $\frac{1}{2}$ of the S $\frac{1}{2}$ of Government Lot 6, Section 6, T.22S., R.62E., M.D.B. & M. for irrigation purposes.

Respectfully submitted,



William J. Newman
State Engineer

WJN/PGM/dh

Dated this 18th day

of January, 1979.