

IN THE MATTER OF APPLICATION 20750 )  
 FILED BY ANTONE J. FRADE TO APPRO- )  
 PRIATE UNDERGROUND WATER FOR IRRI- )  
 GATION AND DOMESTIC PURPOSES IN LYON )  
 COUNTY, NEVADA. )

R U L I N G

General

Application 20750 was filed on September 26, 1962, for 6.34 c.f.s. from an underground source at a point within SW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 24, T. 13 N., R. 25 E., M.D.B.&M., for the irrigation of 480 acres within NE $\frac{1}{4}$  Section 19, SE $\frac{1}{4}$  Section 18, SW $\frac{1}{4}$  Section 17, T. 13 N., R. 26 E., M.D.B.&M., and for domestic purposes. That portion of the place of use within E $\frac{1}{2}$  NE $\frac{1}{4}$  Section 19, T. 13 N., R. 26 E., M.D.B.&M., is under Desert Land Entry Nevada-031869.

A protest to the granting of this application was filed on November 9, 1962, by Henry H. Washburn on the following grounds:

- "1. When water transported across my property, it causes high water table in my fields.
2. Irrigation on this new land causes high water table which damages my fields.
3. Ground proposed irrigate does not have water right.
4. This well will draw underground water which should be saved for existing water right ground.
5. After being instructed by the State Engineer not to apply this water until permit was issued, he has continued to irrigate this non-water right ground."

Application 19101 was filed on August 3, 1960, by Antone J. Frade to appropriate water from the well described in Application 20750. The proposed place of use under Application 19101 was 675 acres within NE $\frac{1}{4}$  Section 23, NW $\frac{1}{4}$  Section 24, T. 13 N., R. 25 E., M.D.B.&M., SE $\frac{1}{4}$  Section 18, portions of NE $\frac{1}{4}$  Section 19, and SW $\frac{1}{4}$  Section 17, T. 13 N., R. 26 E., M.D.B.&M. Permit 19101 was issued on May 5, 1961, for 5.4 c.f.s. to be used in conjunction with present water supplies and limited to supplemental use and appurtenant to 312 acres having existing water rights.

Application 19159 was filed on August 29, 1960, by Antone J. Frade to appropriate 10.00 c.f.s. from an underground source at a point within SW $\frac{1}{4}$  SE $\frac{1}{4}$  Section 18, T. 13 N., R. 26 E., M.D.B.&M., for the irrigation of 560 acres within E $\frac{1}{2}$  Section 18, NW $\frac{1}{4}$  and a portion of SW $\frac{1}{4}$

Section 17, T. 13 N., R. 26 E., M.D.B.&M., and for domestic purposes.

Opinion

It is the opinion of this office that due to the location of the proposed well under Application 19159, and due to the fact as emphasized by the protestant to Application 20750 that there is a high water table in this area, a permit can be issued under Application 19159 with no adverse affects on the underground water supply. It would then be consistent with present policy to issue a permit under Application 20750 to supplement lands within SE $\frac{1}{4}$  Section 18 and SW $\frac{1}{4}$  Section 17, T. 13 N., R. 26 E., M.D.B.&M., under Application 19159.

The remaining area within the place of use under Application 20750 is the NE $\frac{1}{4}$  Section 19, T. 13 N., R. 26 E., M.D.B.&M. It is the opinion of this office that due to the location of the proposed appropriation and further due to the relative date of priority of Application 20750 and other rights granted for water for irrigation purposes from an underground source within the immediate area, a permit for 160 acres within NE $\frac{1}{4}$  Section 19, T. 13 N., R. 26 E., M.D.B.&M., which do not have existing water rights, can be issued without interfering with existing rights or without being detrimental to the public welfare. This opinion is further substantiated by the fact that a permit to be issued under Application 20750 would be secondary to Permit 19101, and that in a year of limited surface water supply, water from the well under Permit 19101 and Application 20750 would be used to supplement land under Permit 19101 and that water would be available for use for lands under Application 20750 in years of ample water supply.

It is a further opinion of this office that the matter of transporting water to be appropriated across protestant's property is an issue to be settled by the parties and that the State Engineer has no authority to rule on this matter.

RULING

The protest to the granting of Application 20750 is herewith overruled on the grounds that its granting will not tend to impair the value of existing rights or be otherwise detrimental to the public welfare. A permit will be granted, subject to existing rights, upon receipt of the statutory permit fee.

Respectfully submitted,  
*Elmo J. DeRicco*  
Elmo J. DeRicco  
State Engineer

Dated this 12th day of  
April, 1963.