

Memorandum

To: 45-10969
CC: 45-4191A
From: Jeanie Robertson
Date: 1/18/2007
Re: Disallowal

While reviewing 45-4191A for a settlement with Manning Ranches, I noticed there **was** some Evidence of Priority submitted for the well in file 45-10969. It was an Electric Service Agreement with Ennis Matthews dated June 23, 1959. The only problem was that the legal description of the well on the agreement was the SENE of Section 33, **T12S**, R22E. This well is claimed in the NESESE of Section 33, **T13S**, R22E. (different township) Question is whether or not there was a mistake in the legal description of the service agreement?

I disallowed this claim based on no Evidence of Priority. I also disallowed 45-4191A, originally filed by Matthews and now owned by Manning, for the same reason. I have since received affidavits on the well and am recommending 45-4191A for 16 acres and 0.32 cfs with a priority date of 4/1/1960.

This claim, 45-10969, was also against 45-4191 and the remarks stated that there was a well agreement with Matthews dated 1975 for 1/3 of the capacity. Nelson's, who filed the original claim, are now on city water, and supposedly sold 1.37 ac and the well agreement to Jerry and Sarah Zollinger in 1999. I contacted Sarah in 2002 and she said they irrigate 2-3 ac of pasture but I am not sure of the source. Manning claims no one else uses the well. I sent her an ownership change form but we have never received anything back.

0.6 cfs was originally claimed under 45-4191. A theoretical calculation showed a possible 0.46 cfs capacity. I recommended 0.32 to Manning, thus leaving the claimed 0.04 cfs under 45-10969 available. If the Zollinger's wanted to motion the court to set the disallowed partial decree aside, they may be able to get the right re-instated but would probably need to file a transfer to change the place of use and possibly even the point of diversion.