

IN THE MATTER OF APPLICATION)
29664 TO APPROPRIATE WATER)
FROM EAST SPRING IN NYE COUNTY,)
NEVADA.)

R U L I N G

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GENERAL:

Application 29664 was filed September 22, 1975 in the name of B. L. Hedgcoth to appropriate 1.5 c.f.s. of water from East Spring, to be diverted within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 34, T.13N., R.39E., M.D.B.& M. and to be used for mining, milling and domestic purposes within Sections 34 and 35 of said Township and Range.

A protest to the granting of Application 29664 was filed on December 22, 1975 in the name of Bartley O'Toole on the grounds that: "There are two prior water rights on this spring. I think Application 29664 should be denied so that the residents of Ione are guaranteed an ample water supply."

A second protest was filed January 5, 1976, by Jack M. Gardner, President, Grizzly Oil Co. and Friar Oil Corporation. This protest was filed on the grounds that: "In platting the point of diversion it appears that the source is actually Shamrock Spring, which is fully appropriated by Shamrock Mines Co. That there is no water available at the point of diversion and that the Shamrock Spring water has historically and is now being fully utilized. The protestants hold a lease on part of the Shamrock Mines Company claims and property and are presently running a tunnel wherein water is being used for drilling, domestic and other uses. Further, any water not used by the protestants has been used by the residents of Ione through arrangements with Shamrock Mines Co. or by American Beryllium and Oil Co. in the development of the claims and property not leased to the protestants."

A third protest was filed on January 12, 1976, in the name of Carl D. Worthington on the grounds that: "This water is presently being used for domestic use. Another company has prior mill rights already, and I feel this spring does not yield that much water."

A fourth protest was filed January 16, 1976, in the name of American Beryllium and Oil Corporation on the grounds that: "The protestant believes that this appropriation covers the Shamrock Spring belonging to the Shamrock Mines Company and alleges that there is no

such quantity of water available as 1.5 c.f.s. and further that all the water from the spring is and has been fully used since being appropriated by Shamrock Mines Co. The protestant has a lease on all of Shamrock Mines Co. claims and property and have essentially sub-leased part of the property to Friar Oil Corporation and Grizzly Oil Company who under a joint venture are presently running tunnel on the property and are using the water in drilling and for other uses. The protestant has and is using the water in the development of the remaining claims and property it has not sub-leased. Further, water not used by the protestant or its lessee has been and is used by the residents of Ione under arrangements with the Shamrock Mines Company."

A fifth protest was filed on January 19, 1976, in the name of Johnny R. Wilson on the grounds that: "Said water would be diverted from water already used for domestic purposes."

Application 29664 became ready for action by the State Engineer's office on January 19, 1976. On January 20, 1976, following the ready for action deadline, a letter of protest was received from Carl H. Bronn, President of Shamrock Mines and was filed as an informal protest. Mr. Bronn's letter protests the granting of Application 29664 on the grounds that "the waters sought may be, or may interfere with, the waters appropriated - and beneficially used - Under Certificate No. 1521. Two facts provide the basis of this protest: Surveys for the respective points of diversion are tied to different markers, and both sections and surveys tend not to be precise. The waters of East Spring may stem from the same source as waters of the Shamrock Spring."

All five of the above described protests and Mr. Bronn's letter of protest seek denial of Application 29664.

A field investigation into the matter of protested Application 29664 was conducted by members of the State Engineer's office on August 2, 1976, which was attended by the applicant and by all of the protestants or an authorized representative. The rate of flow at that time was measured to be approximately 20.9 gallons per minute (a very small amount of seepage could not be measured), and it is believed that this flow is relatively constant

during the entire year. Of that flow, 10 gpm is being diverted into a buried 1½" plastic pipeline for domestic service to the town of Ione, with the balance of flow being allowed to flow down the natural channel of the spring.

Records of the office of the State Engineer indicate that there are two water rights on East Spring. Permit 25497 was issued on February 6, 1971, in the name of B. L. Hedgorth in the amount of 0.03 c.f.s. to provide quasi-municipal service to Ione. Also, Certificate 1521, presently of record in the name of Shamrock Mines Co., was issued February 21, 1929, under Permit 7668 in the amount of 0.0833 c.f.s. to provide water for mining and milling purposes at the Ione mill and for domestic use in Ione. The source of water under Certificate 1521 is called Ione Spring rather than East Spring, and the point of diversion is described as being located within the NW¼ NE¼ Sec. 34, T.13N., R.39E., M.D.B.& M. rather than the NE¼ SW¼ of said Sec. 34. However, it is the opinion of the State Engineer, based upon physical evidence in the field and based upon historical knowledge of residents of Ione, that an error was made in describing the location of Ione Spring and that it is one and the same source as East Spring as described under Permit 25497 and Application 29664.

OPINION

The total amount of water allowed under Permit 25497 and Certificate 1521 is 0.1133 c.f.s., or 50.85 g.p.m. As previously described, the flow of East Spring was measured to be approximately 20.9 gallons per minute. The existing rights on this source already exceed the spring's flow by 30 gpm, and it is therefore the opinion of the State Engineer that there is no excess water from this source available for appropriation.

RULING

The protests to the granting of Application 29664 are hereby upheld, and the application is herewith denied

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on the grounds that the granting of the application would interfere with existing rights and be otherwise detrimental to the public interest.

Respectfully submitted,


Roland D. Westergard
State Engineer

RDW/BAR/bs

Dated this 22nd day
of October, 1976.

