

IN THE MATTER OF APPLICATION 25778)
FILED BY YOUNG BROTHERS LIVESTOCK,)
INC., TO APPROPRIATE WATER FROM) RULING
KINGSTON CREEK (AKA BIG SMOKY CREEK))
IN LANDER COUNTY, NEVADA)

GENERAL:

1378
Application 25778 was filed August 26, 1970, by Young Brothers Livestock, Inc., to appropriate 2.8 c.f.s., of the waters of Kingston Creek and tributaries for irrigation and domestic use, to be diverted within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 24, T. 16 N., R. 44 E., M.D.B.&M. The place of use is described as being the S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ Section 24, T. 16 N., R. 44 E., M.D.B.&M. The period of use to be from January 1 to December 31 of each year.

Application 25778 was protested by Recreation Unlimited, Inc., on March 1, 1971, on the grounds:

1. Protestants information indicates the applicant is over appropriated for their lands presently owned and irrigated.
2. Under existing water rights of applicant, sufficient measuring and recording devices have not been installed as ordered by the State Engineer to establish present and lawful usage from Kingston Creek and tributaries.
3. Irrigation season of this area does not span the full twelve months of a year. Application should only be for the period of use.
4. Application for domestic use is not required by State Law.

The waters of Kingston Creek have been adjudicated, the decree being issued March 22, 1963.

Flow records indicate that water in excess of the total amount granted in the Kingston Creek Decree, flows in Kingston Creek.

RULING

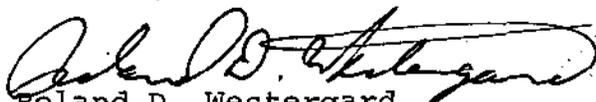
The protest to the granting of Application 25778 is herewith overruled and a permit will be issued upon receipt of the statutory permit fee, for the acreage controlled by the applicant, subject to existing rights.

The acreage in the permit for the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 24, land not controlled by the applicant, will be for 6.8 acres of harvest crop as specified in the Kingston Creek Decree.

The total acre-feet duty from all sources for lands to be issued a permit under Application 25778 is 4.0 acre-feet per acre.

The total diversion entitlement under this permit and Permit 23503 will be determined from actual diversions placed to beneficial use and will not be cumulative.

Respectfully submitted


Roland D. Westergard
State Engineer

RDW:SH:hs

Dated this 20th day of
July, 1971