

IN THE MATTER OF APPLICATIONS)
29811, 29812 AND 29620 TO)
APPROPRIATE WATER FROM HORATH)
CORRAL SPRING, POCAHONTAS)
SPRING AND NCMAMARA SPRING,)
RESPECTIVELY, IN ESMERALDA)
COUNTY, NEVADA.)

R U L I N G

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GENERAL:

Application 29620 was filed on September 2, 1975, in the name of Kavanagh Exploration and Mining Co. to appropriate 0.1 c.f.s. of water from McNamara Spring, to be diverted within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 6, T.5S., R.40E., M.D.B. & M., for domestic use within said Section 6.

A protest to the granting of Application 29620 was filed on January 22, 1976, in the Name of Henry F. Howison for Lida Livestock Co., on the grounds that: "The Kavanagh Exploration and Mining Co. intends on getting their water from our McNamara Spring pipeline, that we installed this fall. This pipeline was installed for Lida's livestock. The water will be turned out of the pipeline during the summer. This would be done in order to hold the cattle up on the mountain during the summer, saving the flat for winter use."

A second protest to the granting of Application 29620 was filed on February 12, 1976, in the name of Rex Roark on the grounds that: "First the McNamara Spring on the galena mill site, in which is the McNamara Mine, and in noway supplies that amount of water, not to mention the fact that Mr. Howsen (sic) of Lida Livestock gave them permission to use the spring and the cabin on the property in which they are working. Mr. Leimex, about three years ago, when he represented the Fred Hughes Mining Co., stole the bridge and about 4,000 board feet of 8 x 8 timber from the mine. In all fairness to Nevada Mining we do not this kind of promotion. If you notice the filing application she filed in Section 6 in which is about three miles down the Lida Livestock pipeline, and I am sure he has no intention of letting him tap his line." Both protests seek denial of the application.

Application 29811 was filed on November 26, 1975, in the name of Kavanagh Exploration & Mining Co. to appropriate 0.10 c.f.s. of water from Horath Corral Spring to be diverted within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 1, T.5S., R.39E., M.D.B. & M., for domestic use within the same 40 acre subdivision as the point of diversion.

A protest to the granting of Application 29811 was filed April 19, 1976 by Henry F. Howison for Lida Livestock on the grounds that "We have a permanent filing on this spring. The flow of this spring is so small that we feel there is only sufficient water for livestock and wildlife use." The protest seeks denial of the application.

Application 29812 was filed on November 26, 1975, in the name of Kavanagh Exploration & Mining Co. to appropriate 1.0 c.f.s. of water from Pocahontas Spring to be diverted within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 6, T.5S., R.40E., M.D.B. & M. for mining and domestic purposes within said Section 6.

A protest to the granting of Application 29812 was filed on April 19, 1976 by Henry F. Howison for Lida Livestock on the grounds that: "We mistakingly thought we had a filing on this spring, however, when we finally located all the springs we had filings on in that area this one was not included. We do have an N-5 permit with the B.L.M. This spring was developed by and is presently in use by Lida Livestock. This spring is presently in disrepair as a result of a flash flood. This we intend to repair this summer." The protest prays that the application be "issued subject to prior use and rights."

Application 29620 became ready for action by the State Engineer's office on February 23, 1976, and Applications 29811 and 29812 became ready for action on May 17, 1976.

A field investigation into the matter of protested Applications 29620, 29811 and 29812 was conducted on August 3, 1976. As a result of that field investigation and research of records of the Nevada State Engineer's Office, the following has been determined.

McNamara Spring under Application 29620 was found to produce approximately 15 GPM (.03342 c.f.s.) and the only existing right of record on this source is Permit 11434, Certificate 3546, in the name of Henry F. and Virginia L. Howison in the amount of 0.0037 c.f.s. for stockwatering purposes. Therefore there is unappropriated water available from McNamara Spring.

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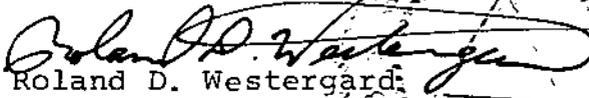
On Horath Corral Springs, under Application 29811, the spring was measured to produce approximately 7 gallons per hour (.0003 c.f.s.), while the State Engineer's records indicate that there exists on this spring Permit 11433, Certificate 3545, in the name of Henry F. and Virginia L. Howison in the amount of 0.0037 c.f.s. for stockwatering purposes. There is therefore no unappropriated water available on Horath Corral Spring.

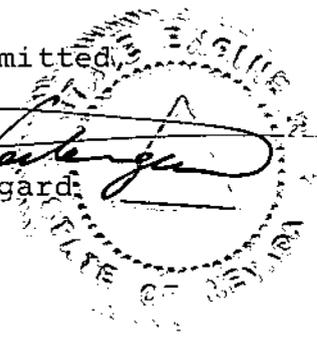
The State Engineer's records indicate that there are no existing water rights on Pocahontas Spring under Application 29812 and the flow from this source is therefore available for appropriation.

RULING:

The protest to the granting of Application 29811 is herewith upheld and Application 29811 is hereby denied on the grounds that there is no water available for appropriation and that the granting of this application would interfere with existing rights. The protests to the granting of Applications 29620 and 29812 are herewith overruled and permits will be issued subject to existing rights on these sources upon receipt of the statutory permit fees.

Respectfully submitted,


Roland D. Westergard
State Engineer



RDW/BAR/bs

Dated this 22nd day
of October, 1976.