

IN THE MATTER OF APPLICATION 34980)
FILED TO APPROPRIATED WATER FROM)
AN UNNAMED SPRING IN BUENA VISTA)
VALLEY, PERSHING COUNTY, NEVADA)

R U L I N G

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GENERAL

Application 34980 was filed on February 13, 1978, by Richard Horton for permission to appropriate 0.11 c.f.s., from an unnamed spring for irrigation and domestic purposes. The point of diversion is located within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 36, T.31N, R.36E, M.D.M. The place of use is described as 160 acres located within the SE $\frac{1}{4}$ of Section 36, T.31N, R.36E, M.D.M. The water is proposed to be used from January 1st through December 31st of each year.

A timely protest against the granting of Application 34980 was filed on June 16, 1978 by the U.S. Department of Interior, Bureau of Land Management. The protest was made on the following grounds: "The subject spring is an improved water source located on public land. Granting of a permit would be adverse to the public interest since 5 deer use the facility yearlong, as do 50 licensed cattle from April 1 through December 31 each year and 10 wild horses yearlong".

Proof of Appropriation 03028 was filed on June 16, 1978, coincidentally with the protest against Application 34980, by the U.S. Department of the Interior, Bureau of Land Management, claiming a vested right to the use of the waters of the same source for wildlife, stock watering and wild horse purposes.

There are no appropriative rights of record on the source, and no claims of vested rights have been filed except for Proof of Appropriation 03028, described above. The source described in Application 34980 has not been adjudicated, and no vested rights have been established in accordance with Chapter 533 of Nevada Revised Statutes.

R U L I N G

The protest against Application 34980 is hereby overruled on the finding of the State Engineer that there is water available in the source for appropriation; and that the proposed appropriation will not be detrimental to existing rights, or otherwise detrimental to the public interest. A permit will be issued, subject to existing rights, upon payment of the statutorily required permit fees, with the provision that granting of a permit does not thereby grant rights of ingress or egress to the Federal range.

Respectfully submitted,


Roland D. Westergaard
State Engineer

Dated this 28th day of
December, 1978.

RDW:BAR:jf