

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION 47228)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF A SPRING IN THE NORTHERN)
PART OF BIG SMOKY VALLEY, LANDER)
COUNTY, NEVADA.)

RULING

GENERAL

Application 47228 was filed on September 6, 1983, by Crested Butte Silver Mining, Inc., to appropriate 1.0 c.f.s. of water from a spring for mining purposes within the NW1/4 Section 27, T.16N., R.43E., M.D.B.&M. The point of diversion is described as being within the NW1/4 NW1/4 Section 27, T.16N., R.43E., M.D.B.&M. The period of use is from January 1st to December 31st of each year.¹

FINDINGS OF FACT

I.

The source of water for Application 47228 is a spring located in Victorine Canyon which is tributary to Kingston Creek.²

II.

Kingston Creek, located in Lander County, has been declared fully appropriated in the Findings of Fact, Conclusions of Law, Judgment and Decree, dated March 22, 1963.³

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action.⁴

¹ Public record in the office of the State Engineer under Application 47228.

² A 15 minute U.S. Quadrangle Map entitled "Millett Ranch, Nev." 1956 (582).

³ Kingston Creek Decree, p. 10, Case No. 3073, filed March 22, 1963, Third Judicial District Court, Lander County, Nevada.

⁴ NRS 533.325.

II.

The State Engineer is prohibited by law from granting a permit where:

- A. there is no unappropriated water in the proposed source, or
- B. the proposed use conflicts with existing rights, or
- C. the proposed use threatens to prove detrimental to the public interest.⁵

III.

The source of water described in Application 47228 is from a spring that is tributary to Kingston Creek which has been declared fully appropriated.

RULING

Application 47228 is hereby denied on the grounds that Kingston Creek and its tributaries are fully appropriated and that approval of said application would conflict with and impair the value of existing rights.

Respectfully submitted



Peter G. Morros
State Engineer

PGM/GC/bl

Dated this 31st day of

December, 1984.

⁵ NRS 533.370, subsection 3.