

IN THE MATTER OF APPLICATION 22395)
FILED FOR THE WATERS OF WRIGHT) R U L I N G
CANYON IN PERSHING COUNTY, NEVADA)

General:

73A
Application 22395 was filed on January 21, 1965 by William G. and Celia F. Kirkbride for 3.0 c.f.s. of the waters of Wright Canyon to be diverted within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 11, T. 29 N., R. 33 E., M.D.B.&M. The place of use under this application is 400 acres within the W $\frac{1}{2}$ NE $\frac{1}{4}$ and S $\frac{1}{2}$ Section 21, T. 29 N., R. 33 E. The applicant proposes to construct a small dam in Wright Canyon and divert the waters by means of an eight inch buried plastic pipe line a distance of 9,620 feet to the place of use. At this point he proposes to construct a 100 acre-foot reservoir for accumulating the flow and releasing it in larger heads.

This application was protested on April 30, 1965 by the City of Lovelock, on the following grounds:

"That the City of Lovelock is the owner of a vested right in all of the water and water rights of Wright Canyon, Pershing County, Nevada and of all creeks and streams, flowing or to flow therein, including the water of Wright Canyon."

An investigation in the matter of this application was made on June 3, 1965.

Existing Rights:

Permit 3774 in the name of the City of Lovelock was issued for 2.0 c.f.s. of the waters of Wright's Canyon Creek. The proof of beneficial use was filed under this application on January 20, 1919 but no certificate has ever been issued under this permit

Vested rights which were made of record by the filing of Proofs of Appropriation are Proof 01430 and Proof 01430-A.

The sources claimed by these proofs are Wright's and Little Rocky Creeks. Proof 01430 claims a total of 70.8 acres. Proof 01430-A claims a total of 46.44 acres.

The City of Lovelock is the owner of record of Certificate 3599 issued under Permit 4304. This permit was issued to change the point of diversion, manner and place of use of a vested right. This permit was issued, "*** subject to prior rights and for such amount of water as may later be decreed under the original appropriation to which the application refers." The Certificate of Appropriation was issued for 0.50 c.f.s.

Permit 4304 was to change the water from the irrigation of 210 acres to municipal and domestic purposes. Since the certificate was issued for 0.5 c.f.s. it cannot be determined whether or not the remaining vested right is still in existence. It is also impossible to determine whether Proofs 01430 and 01430-A were to support the vested right being changed or whether they were in addition to the vested right being changed. The only method of determining the existence of and extent of these vested rights is through a statutory adjudication proceeding.

Opinion:

Because the limit and extent of the vested rights have not been determined it is not possible for this office to sustain or overrule the protest of the City of Lovelock. At the time of the investigation there was water available for diversion by the applicant, since the City of Lovelock was not using water as described in the permits nor was it being used for the irrigation of their vested rights.

It is the opinion of this office that the granting of Application 22395 will not impair the value of existing rights or be otherwise detrimental to the public welfare.

RULING

No ruling is made on the grounds of the protest of the City of Lovelock. A permit will be granted under this application subject to prior rights and with the understanding that if at the time of an adjudication of Wright's Canyon Creek the adjudication sustains the protest of the City of Lovelock that

this permit will be without effect or force.

Respectfully submitted,

George W. Hennen
State Engineer

By: *Roland D. Westergard*
Roland D. Westergard
Assistant State Engineer

RDW:TJS:wij

Dated this 9th day of
July, 1965.