

IN THE MATTER OF APPLICATION )  
23635 FILED BY THE AMERICAN )  
EXPLORATION AND MINING COMPANY )  
TO APPROPRIATE THE WATERS OF )  
FOSTER SPRING FOR MINING, )  
MILLING AND DOMESTIC USE IN )  
LANDER COUNTY, NEVADA )

R U L I N G

GENERAL:

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Application 23635 was filed January 20, 1967, by the American Exploration and Mining Company (Amex) to appropriate 0.030 c.f.s. of the water of Foster Spring for mining, milling and domestic use, to be diverted within the SE $\frac{1}{4}$  NE $\frac{1}{4}$  Section 19, T. 27 N., R. 48 E., M.D.B. & M. The place of use to be in Sections 18, 19, and 30, T. 27 N., R. 48 E., and Sections 13 and 24, T. 27 N., R. 47 E., M. D. B. & M. The Application was protested April 4, 1967, by Allen and Helen A. Russell on the grounds that Amex was in trespass at the point of diversion and place of storage of the water.

Certificate 3999 was issued November 27, 1953, to Dan Fillippini for 0.018 c.f.s. or sufficient to water 500 cattle and 60 horses from this same spring. No other Applications or Proofs of Appropriation have been filed on this spring.

An agreement has been worked out with Half Circle Ranch Co., the successor in interest to Dan Fillippini, by Amex to use the overflow from the stock watering trough in their mining operations.

A field investigation was made August 3, 1967, and was attended by both the applicant and protestant. The spring was determined to flow 0.018 c.f.s.

RULING

The protest to the granting of Application 23635 is herewith overruled. A Permit will be issued under Application 23635 upon receipt of the statutory Permit fee. The Permit will be issued subject to all existing rights on the source.

Respectfully submitted,

*Roland D. Westergard*  
Roland D. Westergard  
State Engineer

RDW:SH:jw

Dated this 18th day  
of October, 1967