

IN THE MATTER OF APPLICATION 12073,)
FILED BY OHIO MINES CORPORATION TO)
APPROPRIATE WATER FROM CARTIER SPRING)
IN ESMERALDA COUNTY)

R U L I N G

GENERAL:

Application 12073 was filed on November 14, 1947 by Ohio Mines Corporation to appropriate 1.0 c.f.s. of water from Cartier Spring for mining, milling and domestic purposes from January 1st to December 31st of each year. The proposed point of diversion is within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 35, T. 5 S., R. 40 E., M.D.B.&M. The proposed place of use is within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 7, T. 7 S., R. 42 E. The owner of record is Ohio Mines Corporation.

Application 12073 was protested on November 5, 1948 by James Daniels on the following grounds, "That there is no unappropriated water in the source. That the protestant has for many years past utilized this water in connection with his livestock and ranching operations. That protestant also has a prior filing on this source of water supply and that to grant this application would invade and impair the prior rights of protestant."

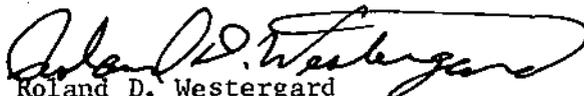
The only right of record for the waters of the source is Certificate 574, issued under Permit 5918, to the Goldfield Consolidated Water Co., which granted the right to appropriate 0.25 c.f.s. of water from "Cartee" Spring for Town Supply Purposes, including Domestic, Mining and Manufacturing Purposes. The point of diversion is given as "near the center of the N. line of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 35, T. 5 S., R. 40 E., M.D.B.&M. There is little doubt that this is the same source, in spite of the name discrepancy, and the ambiguity of the description of the point of diversion. The date of priority of appropriation is Dec. 22, 1919, and the owner of record is Clifford A. Smith, trustee.

A field investigation in the matter of the Application 12073 was held on October 6, 1969.

RULING

The protest against Application 12703 is over-ruled, and a permit will be issued, subject to existing rights, upon payment of the statutory permit fees.

Respectfully submitted,


Roland D. Westergard
State Engineer

RDW:JCP:jls

Dated this 21st day
of January, 1970.