

IN THE MATTER OF APPLICATION 25166 )  
FILED ON JULY 22, 1969, BY RECREATION )  
UNLIMITED, INC. TO APPROPRIATE )  
1.0 C.F.S. OF WATER FROM NATURAL )  
SPRINGS IN LANDER COUNTY, NEVADA. )

R U L I N G

137B Recreation Unlimited, Inc. filed Application 25166 on July 22, 1969, to appropriate 1.0 c.f.s. of water from natural springs for quasi-municipal (subdivision) purposes. The proposed point of diversion is located within the SE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 3, T.16N., R.43E., M.D.B.&M. The proposed place of use is described as follows: NE $\frac{1}{4}$  Sec. 35, N $\frac{1}{2}$ S $\frac{1}{2}$  and S $\frac{1}{2}$ N $\frac{1}{2}$  Sec. 36, T.16N., R.43E.; S $\frac{1}{2}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$  and NE $\frac{1}{4}$  Sec. 31, and the W $\frac{1}{2}$ SW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{2}$ NW $\frac{1}{4}$  and W $\frac{1}{2}$ NE $\frac{1}{4}$ , Sec. 29, T.16N., R.44E., all Mount Diablo Meridian.

The application states that the water is to be used for residential homes, estimated to total 1,200 units eventually.

A letter was received on June 23, 1970, from Recreation Unlimited, Inc. stating that Application 25166 was in error and that the amount of water applied for should have read 50 gallons per minute rather than 1.0 c.f.s. as stated in the application.

Application 25166 was protested on January 6, 1970, by Young Brothers Livestock Co., Inc. on the grounds that:  
I. the proposed source is a tributary of Kingston Creek;  
II. that Kingston Creek and its tributaries have been adjudicated; III. that Young Brothers Livestock, Inc. is the successor in interest to Lawrence E., Frank M., and Grace Schmidtlien, claimants whose relative rights were determined by the said adjudication; and IV. the granting of Application 25166 would prejudice and impair the decreed rights of the protestant, and other water rights prior in time to Application 25166.

A field investigation in the matter of Application 25166 was held on June 16, 1970.

There are no rights of record to appropriate water from the source described. The proposed source is about 250 feet higher in elevation and 700 feet in a southwesterly direction from Kingston Creek. It is in an area of abundant surface seepage in the bottom of a gully which leads to Kingston Creek. There are no indications of a surface flow to Kingston Creek, however, it is probable that subsurface flow is contributed to the waters of Kingston Creek.

The waters of Kingston Creek have been adjudicated, the Decree having been entered on March 22, 1963. The decree does not include a statement that Kingston Creek is fully appropriated, and flow records indicate that Kingston Creek flows in excess of the appropriations determined in the decree.

RULING

The protest of Application 25166 is overruled on the grounds that there is unappropriated water in the source and that existing rights will not be damaged or impaired by the granting of a permit under the application. A permit will be issued subject to existing rights and further limited to an appropriation of 0.1150 c.f.s. (50 gallons per minute), upon payment of the statutory permit fees.

Respectfully submitted,

  
Roland D. Westergard  
State Engineer

RDW:JCP:jw

Dated this 3rd day of  
September, 1970.