

IN THE MATTER OF APPLICATION NO. 14643)
FILED BY THE BIG CREEK MINING AND MILLING :
COMPANY TO APPROPRIATE THE WATERS OF PONY : RULING
CANYON CREEK IN LANDER COUNTY, NEVADA.)

Description of Application:

Application No. 14643 was filed on November 28, 1952 by the Big Creek Mining and Milling Company to appropriate 2.0 c.f.s. of water from an Underground Source (Clifton Tunnel, a tributary of Pony Creek) for mining, milling and domestic purposes. The point of diversion is described as being in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 19, T. 19 N., R. 44 E., M.D.B.&M. and the place of use is within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 19.

Protests to the granting of this application were filed as follows:

On December 23, 1953 by Ida Gandolfo on grounds that the protestant has watered livestock on the source for thirty years.

On December 28, 1953 by Don L. Gandolfo on grounds that the protestant has used the water for the watering of his livestock for many years.

On January 18, 1954 by Austin Rodeo Association on grounds that the water has been used at the rodeo corrals for the past six years and has other public values in the watering of range stock.

Informally protested on January 28, 1954 by St. John Laborde (protest received too late for filing as a formal protest) on grounds that the protestant has watered three bands of sheep from the source since 1915; that Application No. 14643 is along the course, or in the immediate vicinity of a customary driving route for his sheep, and that the waters of said source are used for stockwatering when the sheep are moved from one range to another.

General:

On September 16, 1954 a field investigation in the matter of Application No. 14643 was made by D. K. Jewett, office engineer. From said investigation it was found that stock water along the entire length of Pony Creek; that Ida Gandolfo and St. John Laborde claim a vested right to water livestock on the stream; that the flow of water from Clifton Tunnel would never exceed 0.25 c.f.s., and that there will be a very low consumptive use of water under the proposed milling process.

Certificate No. 2813, Permit No. 10956, has been issued on this source to H. R. Fisher and W. L. Peterson for mining, milling and domestic purposes. It was found at the investigation that the mill and pipelines under this certificate have been removed from the site.

RULING

It is the opinion of this office that a permit can be granted under Application No. 14643 without impairing the value of existing rights on the source. Therefore a permit will be issued under said application on receipt of the statutory fee, subject to the following provisions:

- (1). The permit shall not be granted for more than 0.25 c.f.s.
- (2). The permit shall be granted subject to existing rights.
- (3). The permit shall be granted with the understanding that the water shall be returned to the stream in an unpolluted condition fit for stockwatering purposes.

Respectfully submitted,

HUGH A. SHAMBERGER
State Engineer

By *Edmund Muth*

EDMUND MUTH
Assistant State Engineer

Dated this 17th day
of February, 1955.