

IN THE MATTER OF APPLICATION)
28525 FILED BY DANNER MINES INC.)
FOR PERMISSION TO APPROPRIATE)
WATER FROM WOODY CANYON CREEK)
IN PERSHING COUNTY, NEVADA)

R U L I N G

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GENERAL:

Application 28525 was filed by Danner Mines Inc. on July 16, 1974 for permission to appropriate 0.15 c.f.s. of water from Woody Canyon Creek for mining, milling and domestic purposes. The proposed point of diversion is within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 11, T.34N., R.33E., M.D.B.&M. The proposed place of use is within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 2, T.34N., R.33E., M.D.B.&M. This application was ready for action for issuance of a permit on February 21, 1975.

A protest was filed on February 11, 1975 by Souza's Flying M Ranch on the grounds that "Your protestant has, by itself and by its predecessors in interest, for many years been using the waters of Woody Canyon Creek for watering of range cattle; --- your protestant would not want any water right granted to applicant to interfere with the prior vested right of your protestant, nor would your protestant want applicant's wasted waters, if any, to be accessable to protestant's cattle on the public range".

The protestant requested the permit be issued subject to protestant's prior rights and with protective measures.

A field investigation was held on March 11, 1975 under this protest. The following are water rights of record from Woody Canyon Creek:

Certificate 4235 subject of Permit 14882 of record in the name of C & M Ranch Company was issued July 20, 1955 for 0.0125 c.f.s. of water for stock watering purposes. The point of diversion is within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 11, T.34N., R.33E., M.D.B.&M. The place of use is within the same subdivision as the point of diversion for watering 400 head of cattle. This point of diversion is approximately 300 feet down stream from the proposed point of diversion under Application 28525. No works of diversion were noted during the field investigation.

Permit 28805 filed October 15, 1974 by Danner Mines Inc. was issued February 10, 1975 for 0.15 c.f.s. of water

from Woody Canyon Creek (South Fork) for mining, milling and domestic purposes. The point of diversion is within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 12, T.34N., R.33E., M.D.B.&M. The place of use is the N $\frac{1}{2}$ N $\frac{1}{2}$ and SW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 12.

Permit 28806 filed October 15, 1974 in the name of Danner Mines Inc. was issued February 10, 1975 for 0.15 c.f.s. of water from Woody Canyon Creek (North Fork) for mining, milling and domestic purposes. The point of diversion is within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 1, T.34N., R.33E., M.D.B.&M. The place of use is the same as under Permit 28805.

The applicant stated that the permit, if granted, would not utilize the entire flow of the stream at the point of diversion and further that provisions would be made for an adequate supply of stock water.

RULING:

The protest filed under Application 28525 is herewith overruled on the grounds that there is unappropriated water from the source and a permit will be issued subject to existing prior rights upon receipt of statutory permit fees; with the further provision that any water return to the stream channel will be undiminished in quality.

Respectfully submitted,


Roland D. Westergard
State Engineer

RDW/RRD/lk

Dated this 10th day
of June, 1975.