

IN THE MATTER OF APPLICATION)
28645 FILED BY KENNETH A. SILVER)
FOR PERMISSION TO APPROPRIATE)
WATER FROM SILVER QUEEN SPRING)
IN NYE COUNTY, NEVADA.)

R U L I N G

135

GENERAL:

Application 28645 was filed by Kenneth A. Silver on September 6, 1974 for permission to appropriate 1.5 c.f.s. from Silver Queen Spring for mining and domestic purposes. Silver Queen Spring is located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 23, T.9N., R.39E., M.D.B.& M. The proposed place of use is in the NW $\frac{1}{4}$ of Section 23, T.9N., R.39E., M.D.B.& M.

Application 28645 was protested by the United States of America, Forest Service, on January 17, 1975, on the grounds that "the proposed point of diversion is on National Forest land. The spring is presently used for wildlife, approximately 20 wild horses and 50 permitted cattle. The continuous use for livestock watering since earliest pioneer times of approximately .0016 c.f.s. constitutes a vested right for the water needed for livestock watering purposes. We allege that there is not 1.5 second feet of water available for appropriation after subsisting rights established by livestock use has been satisfied."

A field investigation was held on May 19, 1975 by members of the Division of Water Resources. At that time, the flow of the spring was approximated at less than 5.0 gallons per minute.

The records of the State Engineer's office indicate that there are no other rights of record on the source.

RULING:

The protest filed under Application 28645 is herewith overruled on the grounds that there is unappropriated water available at this source. A permit will be issued under this application upon receipt of the statutory permit fees.

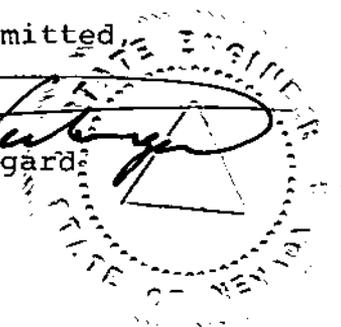
This permit does not extend to the permittee the right of ingress or egress on public, private or corporate lands. This permit is also issued subject to all valid existing rights on the source. The permittee is limited

Application 28645
Ruling
Page 2

to the amount the spring will produce, but in no case shall the total duty of water exceed 50 million gallons annually. This permit is also issued subject to provisions made for the watering of wildlife and stock that frequent the area of the spring.

Respectfully submitted,


Roland D. Westergard
State Engineer



RDW/JLL/bs

Dated this 17th

day of July, 1975.