

IN THE MATTER OF APPLICATIONS)
29758, 29759 AND 29760 FILED BY)
MAY, STONE AND WOOFER FOR THE)
WATERS OF LOST CABIN SPRING, MULE)
SPRING AND C.C. SPRING (AKA ROCK)
SPRING), RESPECTIVELY; LOCATED)
IN CLARK COUNTY, NEVADA.)

R U L I N G

INTRODUCTION

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Application 29758 was filed on November 12, 1975 by May, Stone and Woofter to appropriate 0.001 c.f.s. of water from Lost Cabin Spring for stock watering purposes (400 cattle). The point of diversion is described as being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 36, T.21S., R.56E., M.D.B.&M. and the place of use is described as being within the same subdivision. The period of use is from January 1 to December 31 of each year.

Application 29759 was filed on November 12, 1975 by May, Stone and Woofter to appropriate 0.10 c.f.s. of water from Mule Spring for stock watering purposes (400 cattle). The point of diversion is described as being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 15, T.22S., R.57E., M.D.B.&M. The place of use is described as within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 15; NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 28 T.22S., R.57E. and the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 6, T.23S., R.57E., M.D.B.&M. The period of use is from January 1 to December 31 of each year.

Application 29760 was filed on November 12, 1975 by May, Stone and Woofter to appropriate 0.0046 c.f.s. of water from C.C. Spring (aka Rock Spring) for stock watering purposes (400 cattle). The point of diversion is described as being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 9, T.21S., R.57E., M.D.B.&M. The place of use is within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 9, T.21S., R.57E. The period of use is from January 1 to December 31 of each year.

Protests to the granting of these applications were filed by the Nevada State Parks System. A field investigation in the matter of these applications was conducted by personnel of the Division of Water Resources on April 1, 1976.

A hearing in the matter of these applications was held before the State Engineer on June 16, 1976. The attorney

for the applicants, Mr. Roy Woofter, made certain motions at the conclusions of the hearing which the State Engineer indicated that a ruling on the motions would not be rendered until such time as a decision and ruling in the matter of the applications is submitted.

FINDINGS OF FACT

I.

The applicants May, Stone and Woofter are duly authorized by law to submit applications to appropriate the public waters of the State of Nevada.

II.

Applications 29758, 29759 and 29760 were filed on November 12, 1975 by May, Stone and Woofter to appropriate the waters of Lost Cabin Spring, Mule Spring and C.C. Spring, respectively, for stock watering purposes. The location of the springs is at the base of the west slope and on the west slope of what is known as the Spring Mountains located in Clark County, Nevada.

III.

Protests to Applications 29758, 29759 and 29760 were duly filed as required by law by the Nevada State Parks System under the signature of Nolan F. Keil, Administrator. The protests prayed that the applications be denied on the grounds set out in the protests. The protests are made a part of this ruling by reference.

IV.

After due notice to all parties by certified letter dated March 19, 1976 a field investigation was held by personnel of the Division of Water Resources in the matter of these applications and protests. Information was gathered at the field investigation and submitted to the State Engineer.

V.

After due notice to all parties by certified letter dated May 18, 1976 a hearing in the matter of the applications and the protests contained herein was held by the State Engineer on Wednesday, June 16, 1976 in the new state office building located at 2501 East Sahara, Las Vegas, Nevada. Extensive evidence, testimony and arguments were presented at the hearing.

VI.

Application 29758 has its source described as Lost Cabin Spring located in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 1, T.22S., R.57E., M.D.B.&M. The records of the State Engineer's office, information gathered at the field investigation and evidence and testimony taken at the hearing indicate that the source Lost Cabin Spring is one and the same as the source described under Permit 11452, Certificate 2972 on the records of the office of the State Engineer.

VII.

The points of diversion under the subject applications are on sources which are the subject of existing water rights as described:

Mule Spring

Permit 1500, Certificate 106

Amount - 0.05 cfs

Use - Stock watering and domestic (500 to 800 cattle)

Place of Use - within the same subdivision as the point of diversion.

Owner of Record - Sandstone Land and Cattle Co.

Permit 17187, Certificate 4917

Amount - 0.0033 cfs

Use - Stock watering (150 cattle)

Place of Use - SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 28, T.22S., R.57E. and
SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 5, T.23S., R.57E., M.D.B.&M.

Owner of Record - Nevada State Parks System

Mule Spring (Continued)

Permit 29608, Certificate 5753
Amount - 0.002 cfs
Use - Stock watering (150 cattle)
Place of Use - SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 17, T.22S., R.57E.
Owner of Record - Nevada State Parks System

C.C. Spring (aka Rock Spring)

Permit 11459, Certificate 2979
Amount - 0.0046 cfs
Use - Stock watering and domestic (150 cattle)
Place of Use - NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 9, T.21S., R.57E.
Owner of Record - Nevada State Parks System

Lost Cabin Spring (aka Lower Ranch Spring)

Permit 11452, Certificate 2972
Amount - 0.0046 cfs
Use - Stock watering and domestic (150 cattle)
Place of Use - SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 1, T.22S., R.56E.
Owner of Record - Nevada State Parks System

VIII.

There are existing water rights on all the sources described in the subject applications. There is no unappropriated water at the sources as evidenced by information gathered at the field investigation, measurements made by the personnel of the Division of Water Resources and evidence submitted at the hearing before the State Engineer.

Measurements were made by personnel of the Division of Water Resources, Las Vegas Branch Office, on April 8, 1976 on Lost Cabin Spring and Mule Spring. Lost Cabin Spring measured 0.75 gallons per minute and Mule Spring measured 1.25 gallons per minute. Protestants Exhibit No. 3, prepared by the Desert Research Institute titled "Reconnaissance Study of Water and Botanical Resources of Spring Mountain Ranch and Pine Creek Site of Red Rock Recreational Area, Clark County, Nevada" contains measurements on Mule Spring and Lower Ranch Spring. On

September 9, 1974 Mule Spring showed a flow of 0.9 gallons per minute and on October 20, 1974 Lower Ranch Spring (aka Lost Cabin Spring) showed a measurement of 1 gallon per minute. These measurements are considerably less than approved appropriations under existing rights. No measurements were made on C.C. Spring (aka Rock Spring) as the flow was very minimal and difficult to measure.

IX.

The granting of these applications would tend to conflict and interfere with existing water rights.

X.

The applicants do not own or control the range on which they intend to place the water to beneficial use. Testimony taken at the hearing and documentation from the Bureau of Land Management in Las Vegas, Nevada indicates that no range rights will be issued for the area adjacent to the springs for the purposes of stock grazing.

CONCLUSIONS

1. The State Engineer has jurisdiction of the parties and the subject matter of this action.
2. The State Engineer is prohibited by law from granting a permit where:
 - a. there is no unappropriated water at the proposed source or
 - b. the proposed use conflicts with existing rights or
 - c. the proposed use threatens to impair the value and be detrimental to the public welfare.
3. There is no unappropriated water at the sources.

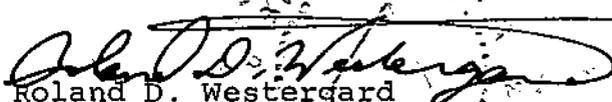
4. The proposed appropriations under the subject applications would tend to conflict with existing rights and tend to prove detrimental to the public welfare.

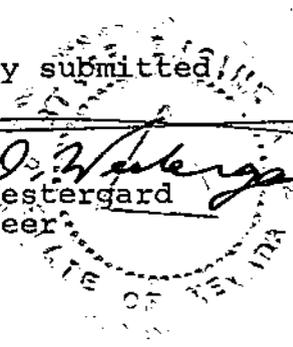
RULING

Applications 29758, 29759 and 29760 are denied on the grounds that the proposed appropriation and use of water applied for would tend to impair the value of existing rights; there is no unappropriated water at the sources; that the applicants do not own or control the range that they plan to place the water to beneficial use on; and to allow the proposed applications under such conditions would be detrimental to the public interest and welfare.

The motion by Counsel for the applicants to strike the testimony given by Mr. Blakemore, Mr. Rodney Jackson and Mr. Robert McQuivey is denied on the grounds that the testimony was relevant and pertinent to the issues of the extent of appropriation of water and affects on existing water rights.

Respectfully submitted,


Roland D. Westergard
State Engineer



RDW/PGM/lk

Dated this 3rd day
of August, 1976.