

IN THE MATTER OF APPLICATION 19494
FILED FOR THE WATERS OF KINGS SPRINGS
BY M. D. MILLER AND F. L. ROBERTS IN
ORMSBY COUNTY, NEVADA. }

RULING

General:

Application 19494 was filed on January 27, 1961 by M. D. Miller and F. L. Roberts for 10 second-feet of the waters of Kings Springs to be diverted within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 23, T. 15 N., R. 19 E., M.D.B.&M., and used for mining, milling, and domestic purposes within the N $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 23, T. 15 N., R. 19 E., M.D.B.&M.

This application was protested on May 22, 1961, by Borda Land and Sheep Company on the following grounds: "Protestant is the owner and holder of a pre-existing vested right in and to all the waters of Kings Springs".

An investigation in the matter of this application was made on October 14, 1964.

Opinion:

Since the predecessors of the Borda Land and Sheep Company were not a party to that decree entered November 14, 1885, in the District Court of the Second Judicial District of the State of Nevada in and for the County of Ormsby, wherein the extent and relative rights of the parties in and to the waters of Kings Canyon Creek were defined, it can be assumed that the Kings Springs were not considered as tributary to the Kings Canyon Creek.

However, from the amount of water flowing from the springs it is apparent that if these waters were not diverted and used they would be tributary to Kings Canyon Creek. From this it can be assumed that the irrigation of these lands was commenced before or at least at approximately the same time the lands under Kings Canyon Creek were irrigated.

It is the opinion of this office that the Borda Land and Sheep Company are holders of vested rights on the source and that the granting of this application would tend to impair the value of that vested right.

RULING

The protest to the granting of Application 19494 is herewith sustained and the application is denied on the

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grounds that its granting would tend to impair the value of existing rights, the limit and extent of which have not been determined.

Respectfully submitted,

GEORGE W. HENNEN
State Engineer

BY:


Roland D. Westergard
Assistant State Engineer

Dated this 22nd day of

January, 1965.

RDW/TJS/wij