

IN THE MATTER OF APPLICATIONS 23104 AND)
23116 FILED TO APPROPRIATE WATER FROM AN)
UNDERGROUND SOURCE IN SPRING VALLEY,)
PERSHING COUNTY, NEVADA.)

R U L I N G

GENERAL:

Application 23104 was filed April 22, 1966 by Wabash Mines Corporation to appropriate 5.0 c.f.s. of water from an underground source for mining and milling purposes. The point of diversion described in the application is within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 35, T. 29N., R. 34E., M.D.B.&M., and the place of use is said Section 35.

Application 23116 was filed May 2, 1966 by Wabash Mines Corporation to appropriate 5.0 c.f.s. of water from an underground source for mining and milling purposes. The point of diversion described in the application is within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 35, T. 29N., R. 34E., M.D.B.&M., and the place of use is said Section 35.

The above applications were protested on September 30, 1966 by Theodore Berry. The protests were based on Mr. Berry's claims that he had, at one time, done work on the water covered by the applications, that he was the first to file on the water in Spring Valley, that he had several times made use of the water and intended to do so in the future, and that, at one time, Nevada Silver States Mining Company had leased the water from him and had done many thousands of dollars of work.

The only water rights, of record in this office in the name of Theodore H. Berry, are Permits 22285 and 22286.

Permit 22285 was approved April 30, 1965 to change the place of use of 3.0 c.f.s. of water from an underground source which was previously appropriated under Permit 17293. The point of diversion is described as being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 34, T. 29N., R. 34E., M.D.B.&M. The existing well, covered by Permit 22285, is approximately 650 feet west of the existing well proposed to be covered under Application 23116 and approximately 2450 feet southwest of the existing well proposed to be covered under Application 23104.

Permit 22286 was approved April 30, 1965 to change the place of use of 0.118 c.f.s. of water from an underground source which was previously appropriated under Permit 10545 - Certificate 3327. The point of diversion is described as being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 34, T. 29N., R. 34E., M.D.B.&M. The existing well covered by Permit 22285 is approximately 650 feet west of the existing well proposed to be covered under Application 23116 and approximately 2450 feet southwest of the existing well proposed to be covered under Application 23104.

The existing wells proposed to be covered under Applications 23104 and 23116 were, at one time, covered under Permits 22226 and 22227, respectively, filed by Silver State Consolidated Mines Company. Permits 22226 and 22227 were withdrawn January 3, 1966.

A field investigation regarding the subject Applications was made June 30, 1967.

OPINION:

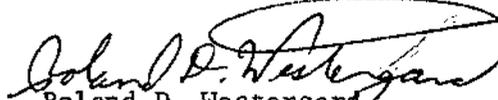
The results of the field investigation indicate that the approval of Applications 23104 and 23116 will not impair the value of existing rights. Static water levels are high in the existing wells drilled in the Basin and actual consumptive use is low.

RULING

The protests to the granting of Applications 23104 and 23116 are herewith overruled on the grounds that the granting of the subject Applications will not impair the value of existing rights or otherwise be detrimental to the public welfare. Permits will be issued under the Applications subject to existing rights upon receipt of the statutory permit fees with the understanding that the amount of water granted in the permits will be limited to that amount needed to mine and process the ore.

Nothing in this ruling shall be taken to infer the granting of any rights of ingress and egress to the Applicant.

Respectfully submitted,


Roland D. Westergard
State Engineer

RDW:BJV:dih

Dated this 11th day
of July 1967