

IN THE MATTER OF APPLICATION 18656 FILED)
BY THE NEVADA FISH AND GAME COMMISSION)
TO APPROPRIATE THE STORE WATER FROM)
KINGSTON CREEK (AKA Big Smoky Creek) IN)
LANDER COUNTY, NEVADA)

R U L I N G

GENERAL:

137B
Application 18656 was filed March 18, 1960, by the Nevada Fish and Game Commission to appropriate and store 150 acre feet of the waters of Kingston Creek for fishing and recreational purposes. The point of diversion is described as being in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 8, T. 16N., R. 43E., M.D.B.&M. The period of use is from January 1 to December 31 of each year.

The application was protested May 10, 1960, by Elvin F. Beard on the grounds "there is insufficient water available to supply the vested rights of the ranches below. That the building of a reservoir would reduce the amount of water below due to waste from evaporation."

Application 18656 was protested May 10, 1960, by Lawrence Schmidtlein on the grounds that he claimed a vested right to the waters of Kingston Creek and that the stream was in the process of being adjudicated.

The waters of Kingston Creek have been adjudicated, the decree being issued March 22, 1963.

A field investigation was made of the protested application on August 2, 1967.

Flow records indicate that the water in excess of the total amount granted in the Kingston Creek Decree, flows in Kingston Creek.

RULING

The protests to the granting of Application 18656 are herewith overruled and a permit will be issued upon receipt of the statutory permit fee, subject to all existing rights on the source.

A suitable measuring device must be installed above the point of diversion and a similar measuring device must be installed below the reservoir outlet, the locations to be approved by the State Engineer.

Respectfully Submitted,


Roland D. Westergard
State Engineer

RDW:SH:jb

Dated This 31st Day
of July 1968