

IN THE MATTER OF APPLICATION NO. )  
25346 FILED NOVEMBER 5, 1969, TO )  
APPROPRIATE 2.0 C.F.S. OF THE )  
WATERS OF PINE CREEK FOR MINING, )  
MILLING, AND DOMESTIC PURPOSES, )  
IN LYON COUNTY, NEVADA. )

R U L I N G

GENERAL:

Application No. 25346 was filed by R. H. Lummus, Louis Doyle, James G. Goldsworthy, and Myron James Goldsworthy to appropriate 2.0 c.f.s. of water from Pine Creek, in the SW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 32, T. 10 N., R. 26 E., M.D.B. & M. for mining, milling and domestic purposes. The proposed place of use is within the S $\frac{1}{2}$ S $\frac{1}{2}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$  Section 31 and W $\frac{1}{2}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$  Section 32, T. 10 N., R. 26 E., M.D.B. & M.

Protests to the granting of a permit under this application were filed as follows:

a. On January 21, 1970, by W. J. Cavanaugh of Crown Development and Mining Company.

b. On February 27, 1970, by Eldred L. Lane of Wheeler Mining Company.

c. On March 6, 1970, by United States of America, Forest Service.

Reply was filed on March 26, 1970, by applicants, in answer to allegations of each protestant.

An informal hearing was held in the matter of Application No. 25346, by representatives of the Division of Water Resources, on Friday, March 27, 1970, at 10:00 a.m.

The major allegations by protestants were that the proposed diversion would render inadequate and conflict with existing vested rights, and limit and deprive existing permitted rights in the course of gradual development.

Existing rights of record in this office on the source within the watercourse of Pine Grove Canyon are:

a. Permit 24518 was issued to W. J. Cavanaugh on August 14, 1969, to appropriate 1.0 c.f.s. of water from Pine Grove Canyon for mining, milling and domestic purposes. The point of diversion is described as being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$  Section 32, T. 10 N., R. 26 E., M.D.B. & M. The place of use is described as S $\frac{1}{2}$  NW $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$  and NE $\frac{1}{4}$ NE $\frac{1}{4}$  said Section 32.

b. Permit 24812 was issued to W. J. Cavanaugh on August 13, 1969, to appropriate 1.0 c.f.s. of water from Pine Grove Springs for mining, milling, and domestic purposes. The point of diversion is described as being within the SE $\frac{1}{4}$  NW $\frac{1}{4}$  Section 32, T. 10 N., R. 26 E., M.D.B. & M. The place of use is the same as described under Permit 24518, with the addition of SE $\frac{1}{4}$  NW $\frac{1}{4}$  said Section 32.

c. Proof of Appropriation 02669 was filed by the United States of America, Forest Service, claiming 0.004 c.f.s. of water from Pine Grove Spring for stock watering purposes. The point of diversion is described as being within the SE $\frac{1}{4}$  NW $\frac{1}{4}$  Section 32, T. 10 N., R. 26 E., M.D.B. & M. The place of use is within the same 40 acre legal subdivision as the point of diversion.

#### RULING

The protests to the granting of Application 25346 are herewith overruled on the grounds that there is unappropriated water in the source, and the granting of a permit under Application 25346 will not impair existing rights or be otherwise detrimental to the public welfare.

A permit will be issued, upon receipt of the statutory permit fee, subject to existing rights, and further subject to the following provisions:

1. Return water from the applicant's plant operation shall be returned to the natural channel at a point or points upstream from the point of diversion as described under Permit 24812.
2. The claim of a right to the use of water for stock watering purposes by the U. S. Forest Service as evidenced by Proof of Appropriation No. 02669 is recognized, and permittee will conduct his operations in such a manner that the use of water as claimed, or as determined by adjudication, will not be impaired either in quality or quantity.

Ruling of Application 25346  
Page Three

3. No right of ingress or egress to land either corporate or public is granted by the approval of this application.

Respectfully submitted,

  
Roland D. Westergard  
State Engineer

RDW:JCP:kjm

Dated this 15th day of  
June, 1970.