

IN THE MATTER OF APPLICATION 31206)
TO APPROPRIATE WATER FROM A SPRING)
IN LANDER COUNTY, NEVADA.)

R U L I N G

GENERAL:

Application 31206 was filed on March 21, 1977, in the name of George L. or Leona B. Wood to appropriate 1.0 c.f.s. of water from a spring located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 35, T.16N., R.43E., M.D.B.&M. The water is to be used for quasi-municipal and domestic purposes in 40 single family dwellings located in the NE $\frac{1}{4}$ Section 35, S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ Section 36, T.16N., R.43E., M.D.B.&M. This application became ready for action on June 24, 1977.

A timely protest to the granting of Application 31206 was filed on May 16, 1977 by Pat Robeson, Secretary-Treasurer Kingston Lodge Co., Inc. This protest seeks denial of the application on the grounds that: "1. My predecessors have continuously used this water since prior to 1905 for irrigation and domestic purposes. 2. The granting of this application would deny water to Kingston Lodge - Kingston Management Association and the Town of Kingston. 3. We have continuously used this water for domestic and Quasi-Municipal purposes since 1968."

A timely protest to the granting of this application was also filed by Owen Ulph, Bear Trap Ranch, Lamoille, Nevada, on June 3, 1977. This protest seeks denial of the application on the grounds that: "1. I own the property that the spring originates on - being the southwest $\frac{1}{4}$ of the southwest $\frac{1}{4}$ of the northeast $\frac{1}{4}$ of Section 35 T. 16 North, Range 43 East, M.D.B.&M. 2. I own property that the spring serves. Lot 21 Block P KT #5 and was given this property by deed ordered by the court (Third Judicial District Court of the State of Nevada) on June 22, 1976. 3. My predecessors have continuously used this water since prior to 1905 for irrigation and domestic purposes. 4. The granting of this application would deny water to myself - Kingston Lodge - Kingston Management Association and the Town of Kingston. 5. There is no access to this water except across my land."

Mr. Owen Ulph filed another protest to the granting of Application 31206 on June 3, 1977 on behalf of Kingston Management Association, Mr. Ulph Chairman. This protest seeks denial of the application on the grounds that: "1. This water is a tributary of Kingston Creek and is thereby under Court decreed rights by adjudication. 2. The original 1.4 c.f.s. of Kingston Creek and it's tributaries belong to KMAI and the Town of Kingston. 3. This water has been continuously used by our predecessors since prior to 1905. 4. The granting of

this application would deny water to Kingston Lodge - Kingston Management Association and the Town of Kingston.

5. No access except across private property."

A field investigation in the matter of protested Application 31206 was held on August 3, 1977. The source was found to be about 250 feet higher in elevation and 700 feet in a south-westerly direction from Kingston Creek. It is in an area of abundant surface seepage at the head of a gulley which leads to Kingston Creek. There are no indications of a surface flow to Kingston Creek, however, it is probable that subsurface flow is contributed to the waters of Kingston Creek.

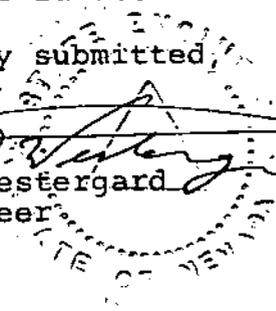
There are no rights of record to appropriate water from the source described. The waters of Kingston Creek have been adjudicated, the Decree having been entered on March 22, 1963. Records of stream flow on Kingston Creek indicate sufficient water to satisfy existing rights.

RULING:

The protests to the granting of Application 31206 are hereby overruled on the grounds that its granting would not tend to impair the value of existing rights or be otherwise detrimental to the public welfare. A permit will be issued for 0.5 c.f.s., not to exceed 14.6 m.g.a., subject to existing rights, upon receipt of the statutory permit fees. The permit will also be issued subject to the understanding that it does not extend to the permittee the right of ingress and egress on public, private or corporate lands.

Respectfully submitted,


Roland D. Westergard
State Engineer



RDW/TFH/lp

Dated this 9th day
of November 1977.