

IN THE MATTER OF APPLICATION)
35718 TO APPROPRIATE WATER)
FROM AN UNDERGROUND SOURCE IN)
IONE VALLEY, NYE COUNTY,)
NEVADA.)

R U L I N G

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Application 35718 was filed August 9, 1978 in the name of Zeno Mines for 1.5 c.f.s. of water from an underground source. The point of diversion is described in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 28, T.13N., R.39E., M.D.B.&M. and the place of use is portions of Sections 28 and 33 of said Township and Range. The proposed manner of use is mining.

This application was protested by Everett E. Loving and prays that the application be denied on the following grounds: "The ground that Zeno Mines is claiming the water application is on lease from Everett Loving, he also owns the 10" casing of the well in question,"

A field investigation into this matter was conducted May 22, 1979. It revealed that the lease referred to in Mr. Loving's protest had been terminated; that Zeno Mines does presently lease placer claims in the vicinity which overlap a portion of the lode claims controlled by Mr. Loving; and that the well described under Application 35718 is located on Mr. Loving's lode claims and is some 3500 feet from the proposed mill site of Zeno Mines. It was also shown that recent judicial ruling confirmed the validity of both the mining claims of Zeno Mines and Mr. Loving.

A review of the records of the State Engineer show that there are no water rights of record on the well under Application 35718 nor within at least a $\frac{1}{2}$ -mile radius of it. The field investigation further affirmed this fact by all interested parties acknowledging the non-existence of valid water rights in the vicinity.

RULING

The protest to the granting of Application 35718 is herewith overruled on the grounds that its granting would not impair existing rights and water is available for appropriation. A permit will be issued upon receipt of statutory permit fees with the understanding that it does not extend to the permittee the right of ingress and egress

on public, private or corporate lands not under the control of the permittee. No ruling is hereby made as to the ownership of the well in question.

Respectfully submitted,

William J. Newman

William J. Newman
State Engineer

WJN:TFH:jw

Dated this 31st day

of July, 1979.