

IN THE MATTER OF APPLICATIONS 36730,)
36734, 36735, 36736, 36738, 36739,)
36741, 36742, and 36744 FILED FOR THE)
WATERS OF NINE UNNAMED SPRINGS IN)
BLACK ROCK DESERT, HUMBOLDT COUNTY,)
NEVADA)

R U L I N G

GENERAL

Application 36730 was filed on February 12, 1979, by Kenneth H. and Doris N. Earp to appropriate 0.012 c.f.s. of the waters of an unnamed spring to be diverted within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 24, T.41N., R.26E., M.D.B. & M., and to be used for stockwatering and domestic purposes within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 24, T.41N., R.26E., M.D.B. & M. 1/

Application 36734 was filed on February 12, 1979, by Kenneth H. and Doris N. Earp to appropriate 0.012 c.f.s. of the waters of an unnamed spring to be diverted within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 35, T.41N., R.26E., M.D.B. & M., and to be used for stockwatering and domestic purposes within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 35, T.41N., R.26E., M.D.B. & M. 1/

Application 36735 was filed on February 12, 1979, by Kenneth H. and Doris N. Earp to appropriate 0.012 c.f.s. of the waters of an unnamed spring to be diverted within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 2, T.40N., R.26E., M.D.B. & M., and to be used for stockwatering and domestic purposes within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 2, T.40N., R.26E., M.D.B. & M. 1/

Application 36736 was filed on February 12, 1979, by Kenneth H. and Doris N. Earp to appropriate 0.012 c.f.s. of the waters of an unnamed spring to be diverted within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 2, T.40N., R.26E., M.D.B. & M., and to be used for stockwatering and domestic purposes within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 2, T.40N., R.26E., M.D.B. & M. 1/

Application 36738 was filed on February 12, 1979, by Kenneth H. and Doris N. Earp to appropriate 0.012 c.f.s. of the waters of an unnamed spring to be diverted within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 1, T.40N., R.26E., M.D.B. & M., and to be used for stockwatering and domestic purposes within the S $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 1, T.40N., R.26E., M.D.B. & M. 1/

Application 36739 was filed on February 12, 1979, by Kenneth H. and Doris N. Earp to appropriate 0.012 c.f.s. of the waters of an unnamed spring to be diverted within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 2, T.40N., R.26E., M.D.B. & M., and to be used for stockwatering and domestic purposes within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 1, T.40N., R.26E., M.D.B. & M. 1/

Application 36741 was filed on February 12, 1979, by Kenneth H. and Doris N. Earp to appropriate 0.012 c.f.s. of the waters of an unnamed spring to be diverted within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 2, T.40N., R.26E., M.D.B. & M., and to be used for stockwatering and domestic purposes within NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 1, T.40N., R.26E., M.D.B. & M. 1/

Application 36742 was filed on February 12, 1979, by Kenneth H. and Doris N. Earp to appropriate 0.012 c.f.s. of the waters of an unnamed spring to be diverted within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 35, T.41N., R.26E., M.D.B. & M., and to be used for stockwatering and domestic purposes within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 35, T.41N., R.26E., M.D.B. & M. 1/

Application 36744 was filed on February 12, 1979, by Kenneth H. and Doris N. Earp to appropriate 0.012 c.f.s. of the waters of an unnamed spring to be diverted within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 35, T.41N., R.26E., M.D.B. & M., and to be used for stockwatering and domestic purposes within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 35, T.41N., R.26E., M.D.B. & M. 1/

FINDINGS OF FACT

I

The unnamed spring identified as the source of water in Application 36730 is tributary to the North Fork of Battle Creek. 2/

II

The unnamed spring identified as the source of water under Application 36734 is tributary to the South Fork of Battle Creek. 2/

III

The unnamed spring identified as the source of water under Application 36735 is tributary to the South Fork of Battle Creek. 2/

IV

The unnamed spring identified as the source of water under Application 36736 is tributary to the South Fork of Battle Creek. 2/

V

The unnamed spring identified as the source of water under Application 36738 is tributary to the South Fork of Battle Creek. 2/

VI

The unnamed spring identified as the source of water under Application 36739 is tributary to the South Fork of Battle Creek. 2/

VII

The unnamed spring identified as the source of water under Application 36741 is tributary to the South Fork of Battle Creek. 2/

VIII

The unnamed spring identified as the source of water under Application 36742 is tributary to the South Fork of Battle Creek. 2/

IX

The unnamed spring identified as the source of water under Application 36744 is tributary to the South Fork of Battle Creek. 2/

X

The "Battle Creek System" includes Battle Creek situate in the westerly part of Humboldt County, Nevada, on the easterly slope of the Black Rock Mountains, flowing in a general southeasterly direction, together with all its tributaries and all springs tributary to it. 3/

CONCLUSIONS

I

The State Engineer has jurisdiction of the parties and subject matter of these applications. 4/

II

The State Engineer is prohibited by law from granting a permit where:

1. There is no unappropriated water in the source, or
2. Where its proposed use or change conflicts with existing rights, or
3. Where the proposed use threatens to prove detrimental to the public interest. 5/

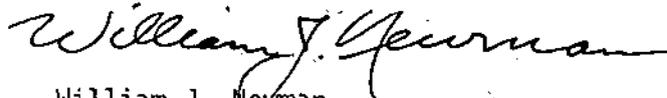
III

The Battle Creek decree states that: "The waters of the Battle Creek stream system are fully utilized for irrigation, stockwatering and domestic purposes and no person or persons other than B. F. Porter Estate and its successors shall be entitled to receive any water from said Battle Creek stream system." 6/

RULING

Applications 36730, 36734, 36735, 36736, 36738, 36739, 36741, 36742, and 36744 are herewith denied on the grounds that there is no unappropriated water in the source.

Respectfully submitted,



William J. Newman
State Engineer

WJN/KN/gk

Dated this 23rd day
of OCTOBER, 1980.

137

FOOTNOTES

1. Public records on file in the office of the State Engineer.
2. U.S.G.S. 7½ Minute Quadrangle Map "Burnt Springs" (125B)
3. Battle Creek Decree, p. 4, Case No. 4190, filed November 18, 1946, Humboldt County
4. NRS 533.025 and NRS 533.030, Subsection 2
5. NRS 533.370, Subsection 4
6. Battle Creek Decree, p. 9, Case No. 4190, filed November 18, 1946, Humboldt County