

IN THE MATTER OF APPLICATION 41214 )  
FILED BY JAMES COMPSTON, Jr. ON )  
MAY 1, 1980, FOR PERMISSION TO )  
APPROPRIATE THE WATERS OF UNNAMED )  
SPRING FOR COMMERCIAL PURPOSES )  
IN LYON COUNTY, NEVADA )

R U L I N G

107

Application 41214 was filed on May 1, 1980, by James Compston, Jr, for permission to appropriate 0.25 c.f.s. of water from Unnamed Spring in Lyon County, Nevada for commercial purposes. The proposed point of diversion is within SW $\frac{1}{4}$  SW $\frac{1}{4}$  Section 2, T.10N., R.23E., M.D.B. & M. The proposed place of use is within portions of Section 2, T.10N., R.23E., M.D.B. & M.

Application 41214 is the subject of a protest timely filed on September 16, 1980, by Rene L. Cardinal on the following grounds:

1. This water will not be used commercially on property presently owned by Mr. Compston.
2. Should this spring be developed sufficiently to serve in a large commercial capacity, it could have a serious affect, adversely, on the domestic wells presently serving the residents in Wellington.
3. It is requested the present use of this spring to serve "The Wellington Station Resort" be ordered to cease until such time as the state engineer makes a determiantion regarding the above application as it presently appears to be an illegal usage.

The protestant requests that the application be denied. 1/

EXISTING RIGHTS

There are no existing permitted or certificated rights for the appropriation of water from Unnamed Spring described in Application 41214. 2/

## THE PROTEST

1. Certified copy of deeds in the office of the State Engineer show that Application 41214 has been assigned to Executive Consultants Inc., which is also the owner of the land shown as the proposed place of use on Application 41214. 3/

2. Field investigation of the proposed point of diversion reveals that water is following naturally from the subject spring at a ground surface elevation which is higher than the ground surface elevation at Wellington. The spring is presently flowing in excess of the amount of water applied for. While it may be possible that wells at Wellington could impair flow in the subject spring, no possible reason can be determined that would indicate that the spring could adversely affect the wells at Wellington.

3. Item 3 is irrelevant to the statutory determinations that must be met in deciding the course of action to be taken when acting upon an application to appropriate water.

## FINDINGS OF FACT

### I

The State Engineer has jurisdiction over the parties and the subject matter of this action. 4/

### II

The State Engineer is required by statute to approve all applications which contemplate the application of water to beneficial use which do not tend to impair the value or existing rights, or to be otherwise detrimental to the public interest. 5/

### III

There are no prior rights of record on the source in the office of the State Engineer. 2/

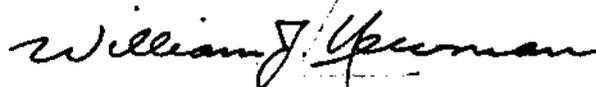
### IV

The grounds for protest are not substantiated by the facts.

RULING

The protest against Application 41214, is overruled and a permit will be issued upon payment of the statutorily required permit fees.

Respectfully submitted,



William J. Newman  
State Engineer

WJN:LCR:vjw

DATED this 26th day  
of June, 1981.

FOOTNOTES

- 1/ Public Records available in the office of the State Engineer.
- 2/ Public Records available in the office of the State Engineer.
- 3/ Public Records available in the office of the State Engineer.
- 4/ NRS 533.030.
- 5/ NRS 533.370(1).