

IN THE MATTER OF APPLICATION NO. }
 17074 FILED ON OCTOBER 23, 1956 }
 BY ARLIN DAVIDSON TO APPROPRIATE }
 THE WATER OF WILLARD CREEK IN }
 WHITE PINE COUNTY. }

AMENDED RULING

General:

Due to an error in the period of use described in our ruling of March 18, 1958, this ruling is being submitted to correct the previous ruling.

Application No. 17074 was filed to appropriate 0.75 c.f.s. of the waters of Willard Creek for mining, milling and domestic purposes. The period of use is from October 1 to May 1 of each year. In the original ruling the period of use was described as being from May 1 to October 1 of each year. A protest to the granting of this application was filed on February 14, 1957 by R. O. Heinbaugh on grounds that it would impair the value of his existing water rights.

Opinion:

Mr. R. O. Heinbaugh's existing rights to the water of this source is for irrigation purposes from May 1st to September 1st of each year. It is the opinion of this office that unappropriated water exists in the source during the non-irrigation season.

RULING

The protest to the granting of Application No. 17074 is herewith overruled on grounds that its granting will not impair the value of existing rights or be otherwise detrimental to the public welfare.

Respectfully submitted,

Edmund A. Muth
 EDMUND A. MUTH
 State Engineer.

Dated this 27th day
 of March, 1958.

must either move his works down the canyon, or he must pump water up the canyon to locations where the cattle will have access to the waters without being annoyed by the activity.

The protestants have a right to the use of the water of this source by virtue of Certificate No. 2644, issued under Permit No. 5299 for 0.0031 c.f.s. or sufficient water to water 100 head of cattle from March 15 to October 15 of each year.

At the time of the investigation, approximately 0.055 c.f.s. was flowing in the source.

Opinion:

It is the opinion of this office that there are unappropriated waters in this source, and that the location of the place of use under Application No. 15586 is a matter that must be determined by the applicant's ownership or control of the land he proposes to use. This office does not have authority under the statutes to effect the removal of private property from the vicinity of the source.

RULING

The protest to the granting of Application No. 15586 is herewith overruled on grounds that its granting will not be detrimental to the public welfare, nor will it impair the value of existing rights. A permit will be issued under said application on receipt of the statutory permit fees, subject to the following provisions:

Stockwatering facilities must be provided by the applicant, such facilities to be so located that water will be available to livestock at all times within the period from March 15 to October 15 of each year.

Respectfully submitted,

Edmund A. Muth

EDMUND A. MUTH
State Engineer.

Dated this 27th
day of March, 1957.