

IN THE MATTER OF APPLICATION NO.)
22333 FILED TO APPROPRIATE WATER)
FROM A SPRING IN HUMBOLDT COUNTY,)
NEVADA.)

R U L I N G

GENERAL:

Application No. 22333 was filed on November 18, 1964, by Henry and Candida Marcuerquiaga for 0.01 c.f.s. of water from a spring for stock watering and domestic purposes. The proposed place of use is described as the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 21, Township 46 North, Range 34 East, M.D.B. & M. and the proposed point of diversion is located within the same 160 acre parcel or at a point from which the SE corner of said Section 21 bears South 62° 43' East, a distance of 428 feet.

The FINDINGS OF FACT, CONCLUSIONS OF LAW, JUDGEMENT AND DECREE in the Matter of the Relative Rights in and to the Waters of Kings River and its Tributaries in Humboldt County, State of Nevada, Case No. 6513, was affirmed and filed on March 10, 1966, in the District Court of the Sixth Judicial District of the State of Nevada, County of Humboldt.

The Decree concludes that the entire waters of the stream system known as Kings River and its tributaries are fully appropriated, and there is no further surplus water for irrigation during the irrigating season. The Decree further concludes that water for irrigation purposes may be diverted at any time throughout the year and that the claimants named in the Decree may use water for stock watering and domestic purposes according to the dates of priority of the irrigation right of such claimant.

The Decree also concludes that Henry and Candida Marcuerquiaga have a water right from Horse Creek, a tributary to Kings River.

A field investigation in the matter of Application 22333 was made on August 25, 1966. It was determined that the spring referred to in Application 22333 rises within the channel of Horse Creek.

OPINION:

It is the opinion of this office that since the spring referred to in Application 22333 rises in the channel of Horse Creek, a tributary to Kings River, there is no water available for appropriation since the aforementioned Decree concludes that the entire waters of the stream system known as Kings River and its tributaries are fully appropriated. Further, it is the opinion of this office that the applicants under Application 22333 have a right to water their stock from said spring according to the dates of priority of their irrigation right from Horse Creek.

RULING

Application 22333 is herewith denied on the grounds that there is no unappropriated water in the proposed source.

Dated this 15th day
of December, 1966.

Respectfully submitted,

GEORGE W. HENNEN
STATE ENGINEER

RDW:BJV:jw

BY:


Roland D. Westergard
Assistant State Engineer