

IN THE MATTER OF APPLICATIONS 27732)
AND 27733, FILED BY DIAMOND LAND AND)
CATTLE CO., TO APPROPRIATE AND STORE)
WATER FROM GARDEN VALLEY CREEK (AKA)
PETE HANSON CREEK AND HENDERSON CREEK))
IN EUREKA COUNTY, NEVADA.)

R U L I N G

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GENERAL:

Application 27732 was filed September 4, 1973, by Diamond Land and Cattle Co., to appropriate 20 c.f.s. of the waters of Garden Valley Creek and tributaries for irrigation use, to be diverted within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 31, T.26N., R.51E., M.D.B. & M. The place of use is described as being 2160 acres in portions of T.26N., R.50E.; T.26N., R.51E.; T.27N., R.50E.; T.27N., R.51E., M.D.B. & M. The period of use to be from January 1 to December 31 of each year.

Application 27733 was filed September 4, 1973, by Diamond Land and Cattle Co., to store 890 acre feet of the waters of Garden Valley Creek and tributaries in a reservoir soon to be constructed, which will be an enlargement of an existing reservoir. The point of diversion, place of use and period of use to be the same as Application 27732, described above.

Applications 27732 and 27733 were protested by Joe Pieretti on November 6, 1973, on the grounds:

The water sought for appropriation contributes to the supply in Pine Valley Creek. The protestant has water rights on Pine Valley Creek.

There is no unappropriated water in Pine Valley Creek or its tributaries. Therefore, the proposed use conflicts with existing rights.

The waters of Garden Valley Creek (aka Pete Hanson Creek and Henderson Creek) are presently being adjudicated.

OPINION:

It is the opinion of this office that:

1. The occasional flood waters of Garden Valley Creek are not a sufficiently dependable supply and insufficient water is contributed to Pine

Creek for Garden Valley Creek to be considered a tributary. This is confirmed by the fact that Garden Valley Creek was not included in the Humboldt River adjudication.

2. Water reaches Pine Creek from Garden Valley Creek only at flood stage when there is already sufficient water in Pine Creek to serve all prior rights on Pine Creek.

RULING

The protest to the granting of Applications 27732 and 27733 is herewith overruled and permits will be issued upon receipt of the statutory permit fee. The permits will be issued subject to all existing rights on the source. Water will be allowed to be stored at any time during the year under Permit 27732 but can be released or diverted for irrigation under both Permits 27732 and 27733 only during the period of March 15th to November 1st of each year.

Respectfully submitted,


Roland D. Westergard
State Engineer

Dated this 21st day
of March, 1974.

RDW/SH/bs