

IN THE MATTER OF APPLICATION)
29123 FILED TO CHANGE THE POINT)
OF DIVERSION OF PERMIT 13682 BY)
E. D. HALSTEAD FOR WATERS OF)
DUCKWATER CREEK, IN NYE COUNTY,)
NEVADA)

R U L I N G

1738

GENERAL:

Application 29123 was filed by E. D. Halstead on January 6, 1975 to change the point of diversion of 0.0155 c.f.s. of water from Duckwater Creek, under Permit 13682. The proposed point of diversion is described as within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 21, T.12N., R.56E., M.D.B.&M. The place of use is within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 30, T.12N., R.57E., M.D.B.&M. The period of use is from September 1st to April 30th of the following year.

This application was protested on March 17, 1975 by Karl M. Bradshaw on the grounds that "The season of use conflicts with the general irrigation season in that there is no water available between April 1st and October 31st of each year under the Duckwater Decrees".

Application 13682 was filed on April 16, 1961 by E. D. Halstead for 2.0 c.f.s. of water from Duckwater Creek for stock watering purposes. The point of diversion is described as within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 27, T.12N., R.56E., M.D.B.&M. The place of use is described as the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 30, T.12N., R.57E., M.D.B.&M. It is proposed to water 100 head of cattle and 2,000 head of sheep from September 1st to April 31st of the following year. This application was protested by Bartholomae Corporation on July 19, 1951. The protest was overruled by the State Engineer's Ruling No. 1715 and a permit was granted on August 15, 1970 for 0.0155 c.f.s. of water for stock watering purposes. The Proof of Beneficial Use was filed under this permit on December 31, 1974.

Certificate 5835, subject of Permit 16829 of record in the name of Karl Bradshaw, was issued February 19, 1965 for 3.2 c.f.s. of water from Duckwater Creek for irrigation purposes. The point of diversion is within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 34, T.12N., R.56E., M.D.B.&M. The place of use is 306.349 acres within portions of Sections 11 and 12 T.11N., R.56E., M.D.B.&M. The period of use is November 1st to March 31st of the following year. This point of diversion is approximately 2 $\frac{1}{2}$ miles downstream from the proposed point of diversion under Application 29123.

Certificate 4330, subject of Permit 13671 of record in the name of Zelma T. and Hazen Exeter, was issued February 20, 1956 for 3.0 c.f.s. of water from Duckwater Creek for winter irrigation. The point of diversion is within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 34, T.12N., R.56E., M.D.B.&M. The place of use is 140.68 acres within a portion of Section 2, T.11N., R.56E. The period of use is from November 1st to March 31st of the following year. The point of diversion is the same location as under Permit 16829.

Certificate 3036, subject of Permit 11714 of record in the name of Halstead-Forsgren Ranches, Inc., was issued March 20, 1947 for 1.19 c.f.s. of water from Duckwater Creek for irrigation purposes. The point of diversion is within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 28, T.12N., R.56E., M.D.B.&M. The place of use is 80 acres within portions of Sections 28 and 33, T.12N., R.56E. The period of use is "as decreed". This point of diversion is approximately $\frac{1}{2}$ mile downstream from the proposed point of diversion under Application 29123.

Duckwater Creek is the subject of the Averill Decrees of 1909 and 1910 and a certain stipulation of 1930 along with certain permits granted subject to decreed rights.

RULING:

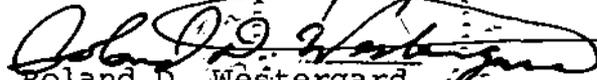
The protest to the granting of Permit 29123 is herewith overruled on the grounds that this application is to change the point of diversion on an existing water right under Permit 13682. The permit will be issued subject to the following conditions:

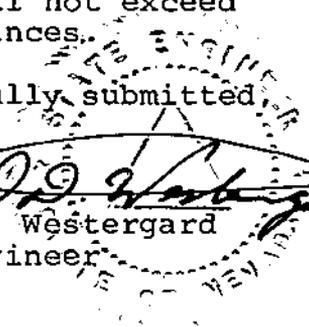
1. Subject to all existing rights on the source.
2. Subject to existing decrees on the source and with the understanding that there will be no regulation of decreed rights for the benefit of this permit.
3. With the understanding that the diversion shall not exceed the amount required to deliver 0.0155 c.f.s. or sufficient to water

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100 cattle and 2,000 sheep, to the place
of use, and the diversion shall not exceed
2.0 c.f.s. under any circumstances.

Respectfully submitted


Roland D. Westergard
State Engineer



RDW/RRD/lk

Dated this 12th day
of August, 1975.