

IN THE MATTER OF APPLICATION 30279 )  
FILED TO CHANGE THE POINT OF )  
DIVERSION AND PLACE OF USE OF A )  
PORTION OF THE HALSTEAD 3RD RIGHT )  
UPON THE DECREED WATERS OF )  
DUCKWATER CREEK IN RAILROAD VALLEY, )  
NYE COUNTY, NEVADA. )

RULING

GENERAL

Application 30279<sup>1</sup> was filed on May 25, 1976, by Halstead-Forsgren Ranches, Inc., to change the point of diversion and place of use of 2.0 c.f.s. of water described as a portion of the Halstead third right under the Duckwater Creek Decree and used for irrigation and domestic purposes.

The proposed point of diversion is the SW1/4 SW1/4 Section 34, T.12N., R.56E., M.D.B.&M., and the place of use is 120 acres within the E1/2 SE1/4 Section 2 and the SW1/4 SW1/4 Section 1 in T.12N., R.56E., M.D.B.&M.

The existing point of diversion is the NE1/4 SW1/4 Section 21, T.12N., R.56E., and the place of use is 149 acres within portions of Sections 21, 27 and 28, all in T.12N., R.56E., M.D.B.&M.

In Application 30279 under remarks, Item 15, it states "the applicant will use the 2.0 c.f.s. on the proposed place of use from May 1st to September 15th of each year and return the water to the decreed place of use during the remainder of the time".

Protests to granting Application 30279 were timely filed by Karl and Mae Bradshaw and by Cleve Sprouse and by Flying Diamond Ranches, Inc.<sup>2</sup>

The basis of the protests is that granting the referenced application would adversely affect existing decreed rights and would cause problems with water measurements under the decree.

A field investigation<sup>3</sup> in the matter of Application 30279 was made on June 3, 1979.

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<sup>1</sup> Application 30279 is a public record on file in the office of the State Engineer.

<sup>2</sup> Copies of the protests are filed with Application 30279 in the office of the State Engineer.

<sup>3</sup> A report of the field investigation is filed with Application 30279 in the office of the State Engineer.

Present for the investigation were Edward Halstead and Richard Forman representing the Halstead-Forsgren Ranches, Inc; Vic Hill and Mike Buschelman representing the Division of Water Resources.

It was reported that it would be difficult to dry up the existing place of use because of sub-irrigation.

It was also noted that there is no existing easement to convey the water to the proposed place of use.

Mr. Halstead and Mr. Forman stated that they felt existing rights would not be adversely affected by the proposed change because: 1) an additional 2.0 c.f.s. would remain in the channel on down to the proposed point of diversion; 2) drainage water from the existing place of use ends up approximately at the proposed point of diversion; 3) others have similar situations to that proposed by Mr. Halstead in this application.

On June 24, 1981, the Duckwater Commissioner indicated that approval of Application 30279 wouldn't be that much of a problem. However it should be conditioned upon drying up the existing place of use.<sup>4</sup>

#### CONCLUSIONS

##### I.

The State Engineer has jurisdiction of<sup>5</sup> the parties and the subject matter of this application.

##### II.

There is no evidence or information available to indicate that the proposed change of the point of diversion and place of use in Application 30279 would adversely affect existing rights on Duckwater Creek in Railroad Valley, Nye County, Nevada.

#### RULING

1. The information on record supports a finding that the proposed change of use of water of Duckwater Creek will not adversely affect existing rights.

2. The protests to Application 30279 are hereby overruled and a permit will be issued subject to the following conditions:

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<sup>4</sup> A note containing the opinion of the Duckwater Commissioner is filed in Application 30279 in the office of the State Engineer.

<sup>5</sup> NRS 533.325.

- A. The applicant will stand any transportation loss to convey the water to the proposed place of use.
- B. No water shall be conveyed to the new place of use until the existing place of use is dried up.
- C. The approval of this permit does not imply granting of any easements to a right-of-way for a ditch on lands not owned by the applicant.

Respectfully submitted,



Peter G. Morros  
State Engineer

PGM/GC/bl

Dated this 2nd day of

APRIL, 1984.