

**IN THE OFFICE OF THE STATE ENGINEER
OF THE STATE OF NEVADA**

IN THE MATTER OF APPLICATION)
77224 FILED TO APPROPRIATE THE)
PUBLIC WATERS OF WILLY BILLY)
SPRING WITHIN THE BOULDER FLAT)
HYDROGRAPHIC BASIN (61), EUREKA)
COUNTY, NEVADA.)

RULING

6027

GENERAL

I.

Application 77224 was filed on July 11, 2008, by Palisade Ranch, Inc., to appropriate 0.1 cubic feet per second of water from Willy Billy Spring for stock-water purposes. The proposed place of use is described as being located within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 32, T.32N., R.51E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 32, T.32N., R.51E., M.D.B.&M.¹

II.

Application 46298 was filed on November 5, 1982, by Palisade Ranch, Inc., to appropriate 0.1 cubic feet per second of water from Willy Billy Spring for stock-water and domestic purposes. The proposed place of use was described as being located within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 32, T.32N., R.51E., M.D.B.&M. The proposed point of diversion was described as being located within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 32, T.32N., R.51E., M.D.B.&M. Application 46298 was denied by the State Engineer in Ruling No. 3658, on December 27, 1989.²

FINDINGS OF FACT

I.

The remarks section of Application 77224 indicates that the site would be cleaned and improved to provide water for 300 head of cattle from natural spring drainage. By letter received on July 11, 2008, the Applicant indicated that the previous denial of Application 46298 had been precipitated by the lack of a grazing permit being issued from the Bureau of Land Management (BLM) and that BLM personnel would submit updated information to the Office of the State Engineer showing Palisade Ranch, Inc., to be an authorized range user. By letter dated July 15,

¹ File No. 77224, official records in the Office of the State Engineer.

² File No. 46298, official records in the Office of the State Engineer.

2008, the Office of the State Engineer requested information from BLM regarding the authorized range user for the place of use under Application 77224. The BLM response was submitted on July 28, 2008, and indicated that Palisade Ranch, Inc., is the range user for 351 cattle from April 1 – December 31, within the Palisade allotment. On October 23, 2009, the Office of the State Engineer researched the land owner records for the area under Application 77224 on the Eureka County Assessor's website. The data inquiry shows the BLM as the current land owner. The State Engineer finds that BLM shows Palisade Ranch, Inc., is the current range user on the land associated with Application 77224 for Willy Billy Spring.

II.

The proposed point of diversion, place of use and manner of use for Application 77224 is essentially identical to that of previously denied Application 46298. Application 46298 was denied on grounds that it would not be in the public interest to grant a permit where the applicant cannot demonstrate the ability to place the water to beneficial use and that the source is tributary to the Humboldt River stream system, a fully appropriated system.^{3,4} The State Engineer finds that Applications 46298 and 77224 were filed for the same source, which is tributary to the Humboldt River stream system. The State Engineer finds the Humboldt River is a fully appropriated system; thus, there is no water available for appropriation and to grant Application 77224 would conflict with existing rights.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁵

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:⁶

- A. there is no unappropriated water at the proposed source;
- B. the proposed use or change conflicts with existing rights;

³ *In the Matter of the Determination of the Relative Rights of the Waters of the Humboldt River Stream System and Tributaries*, Case No. 2804, Sixth Judicial District Court of Nevada, In and for the County of Humboldt, Findings of Fact 44, 1923-1938.

⁴ State Engineer's Ruling No. 3658, December 27, 1989, official records in the Office of the State Engineer.

⁵ NRS Chapter 533.

⁶ NRS § 533.370(5).

- C. the proposed use or change conflicts with protectible interests in existing domestic wells as set forth in NRS § 533.024; or
- D. the proposed use or change threatens to prove detrimental to the public interest.

III.

The State Engineer concludes the proposed source is tributary to the Humboldt River stream system, a fully appropriated system; thus, there is no water available for appropriation and granting the application would conflict with existing rights.

RULING

Application 77224 is hereby denied on the grounds that the source is tributary to the Humboldt River stream system, there is no water available for appropriation and that the granting of additional water from a fully appropriated system would conflict with existing rights and threaten to prove detrimental to the public interest.

Respectfully submitted,

K.O. Taylor P.E.

TRACY TAYLOR, P.E.
State Engineer

for

Dated this 8th day of

March, 2010.