

IN THE MATTER OF APPLICATIONS)
29337 AND 29754 TO APPROPRIATE)
WATER FROM ANTLER SPRING IN)
WASHOE COUNTY, NEVADA.)

R U L I N G

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GENERAL:

Application 29337 was filed on April 7, 1975 in the name of Merle and Marlene Winburn to appropriate 1.0 c.f.s. of water from Antler Spring, the point of diversion being located within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 19, T.18N., R.19E., M.D.B. & M., for quasi-municipal and domestic service to 20 cabin-type residences to be located within the N $\frac{1}{2}$ NE $\frac{1}{4}$ Section 30, T.18N., R.19E., M.D.B. & M.

A timely protest to the granting of Application 29337 was filed on June 9, 1975 by Bruce Bowen, acting as agent for downstream water users on Thomas Creek, on the grounds that: "The spring in this application is tributary to Thomas Creek and would divert water from water right owners on Thomas Creek, under the Truckee River Decree, on downstream users. Bruce Bowen is acting as agent for the following: Elmo Pecetti, Budd Pecetti, Wilbur D. May, Roy Casazza, A. V. Ricciardi." Application 29337 became ready for action by the State Engineer on June 30, 1975.

Application 29754 was filed on November 6, 1975, in the name of Merle and Marlene Winburn to appropriate 1.0 c.f.s. of water from Antler Spring, the point of diversion being the same as Application 29337, for quasi-municipal and domestic service to 15 cabin-type residences to be located within the E $\frac{1}{2}$ NW $\frac{1}{4}$ Section 29, T.18N., R.19E., M.D.B. & M.

A timely protest to the granting of Application 29754 was filed on December 19, 1975, by Bruce Bowen, acting as agent for downstream water users on Thomas Creek, on exactly the same grounds as cited above under the protest of Application 29337. Application 29754 became ready for action by the State Engineer on February 2, 1976.

Permit 24803 was previously issued on May 29, 1969, in the name of Merle and Marlene Winburn in the amount of 1.0 c.f.s. of water, not to exceed 6.88 million gallons per annum based on 1250 gpd per unit, from Antler Spring, the point of diversion being the same as Applications 29337 and 29754, for quasi-municipal service to 15 cabin type residences located within the same place of use as that of Application 29754 (E $\frac{1}{2}$ NW $\frac{1}{4}$ Sec. 29). The deadline for the filing of the Proof of

Beneficial Use under the terms of the permit was December 29, 1975, and accordingly a proof was received by the State Engineer's office on January 23, 1976, within the 30-day statutory grace period following the deadline for filing. This proof indicates that a total of 12 residences are being served under the permit, which is 3 units less than the total number which would have been allowed. A certificate will be issued under Permit 24803 in the amount of 0.06 c.f.s. as claimed by the proof to have been diverted to beneficial use, and in the amount of 5.475 mga, again based upon 1250 gpd per unit.

Previous field investigations by members of the State Engineer's office have confirmed that Antler Spring is within the same watershed as Thomas Creek, and that with sufficient flow it would become tributary to Thomas Creek. At such time as Antler Spring produces a flow of 0.06 c.f.s. or less it is the opinion that such flow would not reach Thomas Creek and that at such time as there is sufficient flow to reach Thomas Creek the diversion of 0.06 c.f.s. would not significantly affect the amount which in fact becomes tributary. In addition, the water diverted under Permit 24803 is conveyed by plastic pipeline for a distance of approximately 4250 feet to the place of use, eliminating loss by seepage and evaporation. It is therefore further the opinion of the State Engineer that the diversion and use of water under Permit 24803 may be considered as salvaging water which would have no doubt been lost through seepage and evaporation before becoming tributary to Thomas Creek.

However, it is also the opinion of the State Engineer that any diversion of flow from Antler Spring in addition to that amount originally allowed under Permit 24803 would be an interference with a flow which would become tributary to Thomas Creek, and would thus be an interference with the existing rights established under the Truckee River Decree.

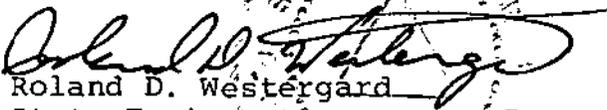
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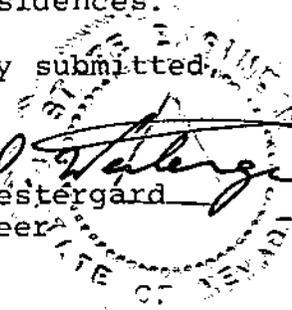
The protest to the granting of Application 29337 is herewith upheld. Application 29337 is hereby denied on the grounds that the granting of the application would tend to interfere with existing rights and be otherwise detrimental to the public welfare.

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The protest to the granting of Application 29754 is herewith overruled on the grounds that there is sufficient unappropriated water from Antler Spring to serve a total of 15 residences. A permit will be issued under Application 29754, upon receipt of the statutory permit fee, in the amount of 0.06 c.f.s., not to exceed 1.37 million gallons per annum for quasi-municipal and domestic service to 3 residences.

Respectfully submitted,


Roland D. Westergard
State Engineer



RDW/BAR/bs

Dated this 12th day
of October, 1976.