

IN THE MATTER OF APPLICATIONS 26127)
AND 26162 TO APPROPRIATE THE WATERS)
OF MINOLETTI AND PRESTON CREEK BY)
LAVERNE D. AND EUNICE M. MACHACEK)
IN EUREKA COUNTY, NEVADA.)

R U L I N G

GENERAL:

I Application 26127 was filed on May 12, 1971, by LaVerne D. and Eunice M. Machacek to appropriate 5.4 c.f.s. of water from Minoletti Creek in the SE $\frac{1}{2}$ NE $\frac{1}{2}$ Section 36, T.21N., R.53E., M.D.B.&M. The place of use is 320 acres in the N $\frac{1}{2}$ Section 36, T.21N., R.53E., M.D.B.&M.

I Application 26162 was filed on June 8, 1971, by LaVerne D. and Eunice M. Machacek to appropriate 9.4 c.f.s. of water from Preston Creek in the NW $\frac{1}{2}$ NW $\frac{1}{2}$, Sec.6, T.20N., R.54E., M.D.B.&M., for irrigation purposes. The place of use is 600 acres in Lots 9, 10, 11, and 12, Section 1, T.20N., R.53E., M.D.B.&M., and Lots 1,2,3 and 4, N $\frac{1}{2}$ N $\frac{1}{2}$, SW $\frac{1}{2}$ Section 36, T.21N., R.53E., M.D.B.&M.

Protests to the granting of these applications were filed on December 6, 1971, by Labarry and Labarry Company. The grounds of the protest were that "..... the granting of said application would interfere with the customary use of Protestant's grazing of said areas and Protestant's existing water rights."

A field investigation in the matter of these applications was made on April 11, 1972.

Minoletti and Preston Creeks develop on the western slopes of the Diamond Mountains and flow into Diamond Valley. Overflow waters from Preston Creek presently flow onto the applicants' lands where they are used for irrigation purposes when available. Overflow waters from Minoletti Creek presently flow into the valley to the north of the applicants' lands.

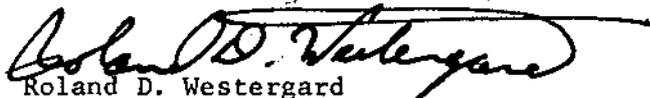
The applicants propose to divert the waters of Preston Creek into the channel of Cottonwood Creek which lies to the south of Preston Creek. The water is then to flow downstream approximately $\frac{3}{4}$ of a mile to a desilting pond. The point of diversion of Application 26162 is located at the desilting pond.

The applicants propose to divert to the waters of Minoletti Creek, under Application 26127 into a draw to the south of the existing stream channel where it will flow down to be picked up by a contour ditch and enter the applicants' property near the E $\frac{1}{2}$ corner of Section 36, T.21N., R.53E., M.D.B.&M. The point of diversion under Application 26127 is located where the water enters the applicants' property.

RULING

Applications 26127 and 26162 are herewith denied on the grounds that the proposed points of diversion are not located on the existing natural stream channels of the respective sources.

Respectfully submitted,


Roland D. Westergard
State Engineer

RDW:BLR:ga

Dated this 5th day
of May, 1972