

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

IN THE MATTER OF APPLICATIONS)
39469 AND 39470 TO APPROPRIATE)
THE WATERS OF WINTERS SPRING)
AND DAVIS SPRING LOCATED)
WITHIN THE WASHOE VALLEY)
HYDROGRAPHIC BASIN (089),)
WASHOE COUNTY, NEVADA.)

RULING

#5437

GENERAL

I.

Application 39469 was filed on November 1, 1979, by the United States of America-Forest Service to appropriate 0.15 cubic feet per second (cfs) of water from Winters Spring for recreation and domestic purposes within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 20, T.17N., R.19E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 29, T.17N., R.19E., M.D.B.&M.¹

II.

Application 39470 was filed on November 1, 1979, by the United States of America-Forest Service to appropriate 0.10 cfs of water from Davis Spring for recreation and domestic proposed purposes within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 20, T.17N., R.19E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 29, T.17N., R.19E., M.D.B.&M.²

FINDINGS OF FACT

I.

Applications 39469 and 39470 are located within the Washoe Valley Hydrographic Basin. Application 39469 proposes to divert 0.15 cfs from Winters Spring. Application 39470 proposes to divert 0.10 cfs from Davis Spring. The proposed uses for both applications are for recreation and domestic purposes at the Slide Mountain Ski Area. The State Engineer finds that Winters Spring and Davis Spring originate on the eastern slopes of Slide Mountain in the Carson Range and are at the headwaters of

¹ File No. 39469, official record in the Office of the State Engineer.

² File No. 39470, official record in the Office of the State Engineer.

Winters Creek and Davis Creek, respectively. The State Engineer further finds that Winters Creek and Davis Creek and their tributaries were adjudicated and decreed by the District Court of the Second Judicial District in and for the County of Washoe.^{3,4} The State Engineer further finds that the Winters Creek and Davis Creek Decrees state that the source of water for both creeks are derived from springs and melting snow.

II.

The State Engineer finds in a review of the Winters Creek and Davis Creek Decrees that the flow rates needed to satisfy the decreed rights are 13.3226 cfs and 21.714 cfs, respectively. The State Engineer finds that the waters of Winters Creek and Davis Creek are beneficially used for irrigation, stockwatering and domestic purposes.

III.

An informal field investigation was conducted on November 5, 2001, by staff of the Office of the State Engineer. During their visit measurements of the spring charge from each spring was made. The flow rates recorded were 0.0149 cfs and 0.0013 cfs, for Winters Spring and Davis Springs, respectively.⁵

IV.

Applications 39469 and 39470 are requesting to appropriate 0.15 cfs and 0.10 cfs of water from Winters Spring and Davis Spring, respectively. The State Engineer finds based on the records in his office and the data collected by his staff that there is no additional water available from either spring to satisfy any new appropriations and the decreed rights of which Winters Spring and Davis Spring are at the headwaters of Winters Creek and Davis Creek, respectively.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁶

³ In the Matter of the Determination of the Relative Rights of the Users in and to the Waters of Winters Creek and its Tributaries in Washoe County, Nevada, Case No. 322675, Second Judicial District Court of Nevada in and for the County of Washoe, November 22, 1978.

⁴ In the Matter of the Determination of the Relative Rights in and to the Waters of Davis Creek and its Tributaries in Washoe County, Nevada, Case No. 322630, Second Judicial District Court of Nevada in and for the County of Washoe, November 1, 1977.

⁵ Report of Field Investigation, by Ken Chambers and Polly Swainston, dated November 20, 2001.

⁶ NRS § chapter 533.

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:⁷

- A. there is no unappropriated water at the proposed source;
- B. the proposed use or change would conflict with existing rights;
- C. the proposed use or change conflicts with protectible interests in domestic wells as set forth in NRS § 533.024; or
- D. the proposed use or change threatens to prove detrimental to the public interest.

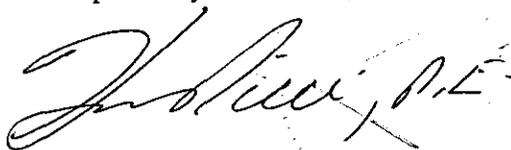
III.

Winters Spring and Davis Spring are at the headwaters of Winters Creek and Davis Creek, respectively. The relative rights to the waters of Winters Creek and Davis Creek and their tributaries were adjudicated and decreed by the District Court of the Second Judicial District in and for the County of Washoe. The State Engineer concludes that the approval of an additional appropriation of water from either Winters Spring or Davis Spring would conflict with and adversely affect existing rights and threaten to prove detrimental to the public interest.

RULING

Applications 39469 and 39470 are hereby denied on the grounds that the granting thereof would adversely affect existing rights and prove detrimental to the public interest.

Respectfully Submitted,



HUGH RICCI, P.E.
State Engineer

HR/KH/jm

Dated this 22nd day

of October 2004.

⁷ NRS § 533.370(4).