

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

IN THE MATTER OF APPLICATION )  
37942 FILED TO APPROPRIATE THE )  
PUBLIC WATERS OF A SURFACE )  
SOURCE AND APPLICATION 39927 )  
FILED TO CHANGE THE POINT OF )  
DIVERSION AND PLACE OF USE OF )  
APPLICATION 37942 BOTH WITHIN )  
THE PINE VALLEY HYDROGRAPHIC )  
BASIN (53), ELKO COUNTY, NEVADA. )

**RULING**

**# 5815**

**GENERAL**

**I.**

Application 37942 was filed on April 18, 1979, by Floyd C. Slagowski and later assigned to Slagowski Ranches, Inc., to appropriate 0.05 cubic feet per second (cfs) from Woodcamp Spring for stockwatering purposes. The proposed place of use is described as being located within the E $\frac{1}{2}$  SW $\frac{1}{4}$  of Section 6, T.28N., R.53E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 6, T.28N., R.53E., M.D.B.&M.<sup>1</sup>

**II.**

Application 39927 was filed on December 10, 1979, by Floyd C. Slagowski and later assigned to Slagowski Ranches, Inc., to change the point of diversion and place of use of 0.05 cfs under Application 37942 for stockwatering purposes. If approved, the source of water would change from Woodcamp Spring to Woodcamp Spring #2. The new proposed place of use is described as being located within the NE $\frac{1}{4}$  SW $\frac{1}{4}$ , SE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 6, T.28N., R.53E., M.D.B.&M. The new proposed point of diversion is described as being located within the SE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 6, T.28N., R.53E., M.D.B.&M.<sup>2</sup>

**III.**

Applications 37942 and 39927 were timely protested by the United States Bureau of Land Management on the grounds that the springs are subject to Public Water Reserve No. 107

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<sup>1</sup> File No. 37942, official records in the Office of the State Engineer.

<sup>2</sup> File No. 39927, official records in the Office of the State Engineer.

and Application 39927 was also timely protested by Joe Pieretti Ranches on the grounds that the springs are outside the Applicant's grazing allotment.<sup>1,2</sup>

### **FINDINGS OF FACT**

#### **I.**

When an application is filed for stockwatering purposes on a source located upon public lands managed by the United States Bureau of Land Management (BLM), an analysis is performed to determine the location of the proposed point of diversion and place of use. Knowing the exact location of the point of diversion and place of use is important for the purpose of determining whether the source of water is within the Applicant's grazing allotment.

On April 27, 2005, the Nevada Division of Water Resources conducted an on-site, informal field investigation. The Elko Field Office of the BLM provided a topographical map showing the grazing allotment boundaries. In addition, the application maps and 7.5' quad maps from the United States Geological Survey (USGS) were used to locate Woodcamp Spring and Woodcamp Spring #2 in the field.

Woodcamp Spring (App. 37942) is located near the boundary between the Indian Springs Allotment and the Pony Creek Allotment. The boundary is clearly indicated by a fence line. The spring was located and water was flowing in the spring area towards a nearby stock tank. The field investigation, including photographs of the spring, indicates that both the spring and stock tank are on the north side of the fence line within the Indian Springs Allotment.<sup>3</sup>

Woodcamp Spring #2 (App. 39927) was located to the south of Woodcamp Spring and water was flowing from the spring down a drainage towards a stock tank adjacent to a flowing creek. In examining the BLM allotment map, it was determined that Woodcamp Spring #2 was well within the Pony Creek Allotment.<sup>4</sup>

Previous correspondence from the BLM indicated that the Applicant was the authorized permittee for the Pony Creek Allotment and the BLM Elko field office confirmed this information. It was also confirmed that the Applicant is not the authorized permittee for the Indian Springs Allotment.<sup>5</sup>

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<sup>3</sup> See, Informal Field Investigation, April 27, 2005, File No. 37942, official record in the Office of the State Engineer.

<sup>4</sup> See, Informal Field Investigation, April 27, 2005, File No. 39927, official record in the Office of the State Engineer.

<sup>5</sup> Verbal Communication, Elko Field Office, BLM, April 27, 2005.

The State Engineer finds that Application 37942 is located in the Indian Springs Allotment and Application 39927 is located within the Pony Canyon Allotment. The State Engineer further finds that the Applicant is the grazing permittee within the Pony Canyon Allotment but is not a grazing permittee within the Indian Springs Allotment.

**II.**

Application 39927 proposes to move the point of diversion and place of use of Application 37942 from outside of the Applicant's grazing allotment to a new point of diversion and place of use within his grazing allotment (from Woodcamp Spring to Woodcamp Spring No. 2). It is the general policy of the Division of Water Resources to disallow changes of surface water rights from one surface water source to some other independent surface water source. For example, a water right could not be transferred from the Humboldt River to the Carson River or vice-versa, because the water originates from different sources. In this case, Woodcamp Spring and Woodcamp Spring No. 2 are unrelated and are not tributary to each other; they are entirely separate water sources.

The State Engineer finds the proposed change in point of diversion from Woodcamp Spring to Woodcamp Spring No. 2 cannot be allowed as each spring is a separate source of water and must be filed on independently.

**CONCLUSIONS**

**I.**

The State Engineer has jurisdiction over the parties and the subject matter of this determination.<sup>6</sup>

**II.**

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:<sup>7</sup>

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

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<sup>6</sup> NRS chapter 533.

<sup>7</sup> NRS § 533.370 (5).

**III.**

Application 37942 was filed to appropriate water for stockwatering purposes from Woodcamp Spring, which is located on public land within the Indian Springs grazing allotment. The Applicant is not a permittee or range user for this allotment. The State Engineer concludes that the Applicant does not meet the requirements of NRS § 533.503; therefore, Application 37942 is subject to denial.

**IV.**

Application 39927 was filed to change the point of diversion and place of use of Application 37942. The State Engineer concludes that Woodcamp Spring and Woodcamp Spring No. 2 are not tributary and are separate sources of water; therefore, the proposed change under Application 39927 cannot be allowed and would threaten to prove detrimental to the public interest.

**RULING**

Application 37942 is hereby denied under the provisions of NRS § 533.503. Application 39927 is hereby denied on the grounds that its approval would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protests.

Respectfully submitted,



TRACY TAYLOR, P.E.  
State Engineer

TT/TW/jm

Dated this 14th day of

January, 2008.