

IN THE MATTER OF APPLICATIONS NOS.)
13481, 13483, 13484, 13489 AND):
13490 IN THE NAME OF BARTHOLOMAE): RULING
CORPORATION, EUREKA COUNTY, NEVADA.)

Description of Applications

Application No. 13481 was filed by the Bartholomae Corporation on September 11, 1950 to change the manner of use of Certificate No. 1491 issued under Permit No. 7289. There is to be no change in the point of diversion or place of use which are located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 25, T. 17 N., R. 50 E., M.D.B.&M., or in the period of use which is from April 1st to December 1st of each year. This application was filed to change 0.0375 c.f.s. of the waters of Cerruti Well #1 heretofore used for the watering of 6000 sheep to the watering of 6000 sheep or 1200 cattle. On November 24, 1950 a protest against the granting of this application was filed by Bertrand Arambel and/or Pete Etcheverry on the following grounds:

"That your protestants, and each of them, are informed, and therefore allege that the change of the manner of use will interfere with the vested rights of your protestants in the use of range rights and privileges, and that the change of the manner of use will interfere with use by your protestants of the water rights of your protestants, and will cause your protestants to change the mode of operation in the handling of livestock on and near the areas near where the change of manner of use is applied for. That the vested range rights and use of water of your protestants will be changed and modified."

On December 18, 1950 this application was also protested by Fernando Goicoechea and Sons, et al, on the following grounds:

"That the undersigned, personally and through their predecessors in interest, have vested rights to all the waters applied for for stockwatering purposes; that the use of said waters applied for by applicant would violate and destroy the undersigned's grazing rights as established by them under the Nevada Grazing Act of 1931, and would violate the subsisting rights of the undersigned created and established pursuant to the Water for Livestock Act of 1925, and would violate in particular rights of undersigned defined by Section 5581, N.C.L., Supp. 1931-1941, and Sections 7979 through 7984, N.C.L. 1929; that applicant does not have rights under either the Nevada Grazing Act of 1931, or the Water for Livestock Act of 1925, in numbers allowing for the said additional water herein applied for. That the use of said waters by applicant will seriously conflict with the right of the undersigned, and their customary use of the range and waters."

Application No. 13483 was filed by the Bartholomae Corporation on September 11, 1950 to change the manner of use of Certificate No. 1594 issued under Permit No. 8753. There is to be no change in the point of diversion or place of use which are located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 11, T. 17 N., R. 52 E., M.D.M., or in the period of use which is from Jan. 1st to Dec. 31st of each year. This application was filed to change the manner of use of 0.06 c.f.s. of the waters of Hoover Springs heretofore used for the watering of 10,000 sheep to the watering of 2000 cattle or 10,000 sheep. Protests against the granting of this application were filed on November 24, 1950 by Bertrand Arambel and/or Pete Etcheverry and on December 18, 1950 by Fernando Goicoechea and Sons, et al. The grounds for these protests are identical to those described under Application No. 13481.

Application No. 13484 was filed by the Bartholomae Corporation on September 11, 1950 to change the manner of use of Certificate No. 1598 issued under Permit No. 8514. There is to be no change in the point of diversion or place of use which are located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 14, T. 17 N., R. 52 E., M.D.M., or the period of use which is from January 1st to December 31st of each year. This application was filed to change the manner of use of 0.06 c.f.s. of the waters of Rock Spring heretofore used for the watering of 10,000 sheep to the watering of 10,000 sheep or 2000 cattle. Protests against the granting of this application were filed on November 24, 1950 by Bertrand Arambel and/or Pete Etcheverry and on December 18, 1950 by Fernando Goicoechea and Sons, et al. The grounds for these protests are identical to those described under Application No. 13481.

Application No. 13489 was filed by the Bartholomae Corporation on September 11, 1950 to change the manner of use of Certificate No. 2192 issued under Permit No. 9095. There is to be no change in the point of diversion or place of use which are located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 22, T. 17 N., R. 51 E., M.D.M., or in the period of use which is from April 1st to July 1st and October 1st to December 15th of each year. This application was filed to change 0.0438 c.f.s. of the waters of Maybe Well heretofore used for the watering of 7000 sheep to the watering of 1400 cattle or 7000 sheep. Protests against the granting of this application were filed on November 24, 1950 by Bertrand Arambel and/or Pete Etcheverry and on December 18, 1950 by Fernando Goicoechea and Sons, et al. The grounds for these protests are identical to those described under Application No. 13481.

Application No. 13490 was filed by the Bartholomae Corporation on September 11, 1950 to change the manner of use of Certificate No. 2193 issued under Permit No. 9096. There is to be no change in the point of diversion or the place of use which are located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 3, T. 17 N., R. 51 E., M.D.M., or in the period of use which is from April 1st to July 1st and October 1st to December 15th of each year. This application was filed to change the manner of use of 0.0438 c.f.s. of the waters of Big Pump Well heretofore used for the watering of 7000 sheep to the watering of 1400 cattle or

7000 sheep. Protests against the granting of this application were filed on November 24, 1950 by Bertrand Arambel and/or Pete Etcheverry and on December 18, 1950 by Fernando Goicoechea and Sons, et al. The grounds for these protests are identical to those described under Application No. 13481.

From the field investigation made on July 11, 1951 in the matter of Applications Nos. 8741, 13482, 13485, 13486, 13487 and 13488, filed by the Bartholomae Corporation, and from the formal hearing in the matter of Applications Nos. 12170 to 12213, inclusive, sufficient information has been obtained on the past grazing use in the area involved by the applications previously described to issue this ruling without further investigation.

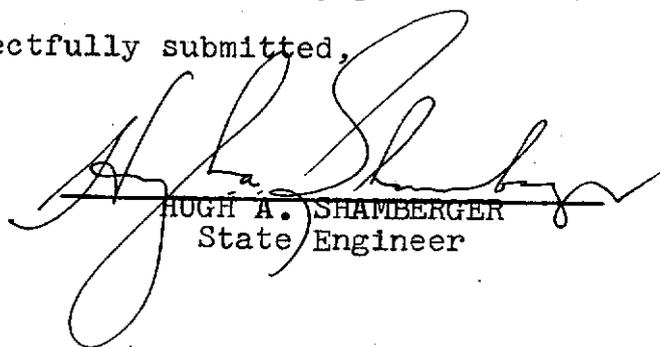
FINDINGS

From the field investigation and records of the State Engineer's office, in particular, the testimony presented in the formal hearing in the matter of Applications Nos. 12170 to 12213, inclusive, the protestants claim no grazing rights in the area involved; that the protestants do make claim of a clearly defined trail right from Lone Mountain southerly to the mouth of Fenstermaker Channel, thence southwesterly up said channel to near its head and then running easterly to Deep Well; that the ruling of the State Engineer dated May 5, 1950 in the matter of Applications Nos. 12170 to 12213, inclusive, does recognize the trail right of the protestants; that the above-mentioned ruling does determine that the Bartholomae Corporation has a definite range right in the area of Applications Nos. 13481, 13483, 13484, 13489 and 13490 and that the change in the manner of use will not affect existing rights; that evidence to substantiate grazing rights in this area has been presented in the previous hearing and rulings issued by the State Engineer.

RULING

The protests to the granting of Applications Nos. 13481, 13483, 13484, 13489 and 13490 are herewith overruled and permits will be granted following receipt of the statutory permit fees.

Respectfully submitted,


HUGH A. SHAMBERGER
State Engineer

September 11, 1952.