

IN THE MATTER OF APPLICATION NO. 13404 IN)
THE NAME OF V. J. BARNDT TO APPROPRIATE THE :
WATERS OF SIX MILE CREEK FOR IRRIGATION AND :
DOMESTIC PURPOSES IN NYE COUNTY, NEVADA.)

RULING #155

Application No. 13404 was filed on June 6, 1950 by V. J. Barndt to appropriate 1.60 c.f.s. of the waters of Six Mile Creek for irrigation and domestic purposes. The proposed point of diversion is to be in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 12, T. 8 N., R. 50 E., M.D.B.&M. and the place of use is to be 160 acres in the SW $\frac{1}{4}$ Section 13, T. 8 N., R. 50 E., M.D.M.

A protest to the granting of a permit under said application was filed on September 27, 1950 by Bill Palmer, Edward T. Murphy and Milton C. Murphy, dba Palmer Murphy Cattle Company, on the following grounds:

"That Protestants and their predecessors in interest have for more than thirty (30) years last past beneficially used the range and existing water rights of Protestants, in, upon, and appurtenant to said SIX MILE CREEK; that they are the owners of and in possession of a prior right thereon under permit No. 5045, issued by the State Engineer of the State of Nevada; that the Applicant has no right whatsoever in and upon said SIX MILE CREEK, or appurtenant thereto; and that the granting of the application to the Applicant will materially affect and invade the established prior and paramount rights of the Protestants in and to said SIX MILE CREEK and the range appurtenant thereto."

On June 27, 1951 a field investigation in the matter of this application was made by J. A. Millar, Office Engineer of the office of the State Engineer. Present at the investigation were V. J. Barndt and his family, Applicant under Application No. 13404; Mrs. Ralph Crouse and her family appearing for V. J. Barndt; and C. A. Blair, successor in interest to the Protestant, Palmer-Murphy Cattle Company,

The report of the field investigation discloses that the waters of Six Mile Creek are fully appropriated under Permit No. 5045 which was assigned to C. A. Blair, and that due diligence was not exercised in placing the water appropriated under Permit No. 5045 to beneficial use by the predecessors of C. A. Blair. The office engineer recommended that an extension of time for a period of one year be granted under Permit No. 5045. If the water appropriated under said permit is put to beneficial use during that period the protest against the granting of Application No. 13404 is to be sustained and the application is to be denied.

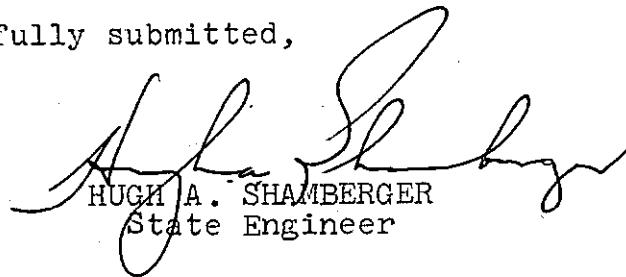
On July 15, 1952 a proof of beneficial use was filed by C. A. Blair under Permit No. 5045 and on October 15, 1952 certificate No. 3891 was issued to the permittee for sufficient water to irrigate 21 acres of land under the permit.

Further investigation disclosed that the land to be irrigated under Application No. 13404 is open Government land.

RULING

In accordance with the recommendation of the office engineer, and from the additional information obtained by investigations in this office, the protest to the granting of a permit under Application No. 13404 is sustained and said application is herewith denied on the grounds that the waters of Six Mile Creek are fully appropriated; that the applicant does not have title to the lands on which he plans to use the water, and that the approval of this application would be detrimental to existing rights.

Respectfully submitted,


HUGH A. SHAMBERGER
State Engineer

Dated this 8th day of
July, 1953.