

IN THE MATTER OF APPLICATION NO. 13828 FILED BY
JOHN MANZONIE TO APPROPRIATE THE WATERS OF AN
UNDERGROUND SOURCE, AND APPLICATION NO. 13829
FILED BY GAILIN MANZONIE, ET AL TO APPROPRIATE
THE SURPLUS FLOW OF DUCKWATER CHANNEL FOR
IRRIGATION AND DOMESTIC PURPOSES IN NYE COUNTY,
NEVADA.

RULING

173 Application No. 13828 was filed on September 10, 1951 by John Manzonie to appropriate 3.0 c.f.s. of water from an underground source for irrigation and domestic purposes. The point of diversion is located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 32, T. 10 N., R. 57 E., M.D.B.&M., and the place of use is 400 acres of land in the E $\frac{1}{2}$ SW $\frac{1}{4}$ Section 31, T. 10 N., R. 57 E., M.D.B.&M. and N $\frac{1}{2}$ Section 6, T. 9 N., R. 57 E., M.D.B.&M.

On October 30, 1952 a protest to the granting of this application was filed by H. N., James and Leroy Sharp on the grounds that the granting of said application would interfere with the stock-grazing privileges of the protestant on the Federal range.

Application No. 13829 was filed on September 10, 1951 by Gailin, Johnny, Dellie and John Manzonie to appropriate 10.0 c.f.s. of the surplus flow in Duckwater Channel for irrigation and domestic purposes. The point of diversion is to be located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 30, T. 10 N., R. 57 E., M.D.B.&M., and the place of use is 720 acres of land in the E $\frac{1}{2}$ SW $\frac{1}{4}$ Section 31, T. 10 N., R. 57 E., M.D.B.&M., and all of Section 6, T. 9 N., R. 57 E., M.D.B.&M.

On October 30, 1952 a protest to the granting of this application was filed by Ed. Halstead on the grounds that the granting of said application would be contrary to public policy and would be detrimental to the existing rights of said protestant.

On October 30, 1952 a protest to the granting of this application was filed by H. N., James and Leroy Sharp on the grounds identical to those of their protest to the granting of Application No. 13828.

On November 5, 1952 a protest to the granting of this application was filed by Domingo Asumendi on the grounds identical to those described in the protest of Ed. Halstead. This protest was received too late for filing as a formal protest. The last day for filing protests under Application No. 13829 was November 2, 1952.

A field investigation in the matter of these applications was held by E. J. DeRicco, Field Deputy State Engineer, on October 23, 1953. The following parties were present for the investigation:

- Dellie Manzonie - Applicant under 13829; also representing John Manzonie, Applicant under 13828
- Gailin Manzonie - Applicant under 13829; also representing John Manzonie, Applicant under 13828
- H. N. Sharp - Protestant under Applications Nos. 13828 & 13829

Leroy Sharp	-	Protestant under Applications 13828 & 13829
James Sharp	-	" " " " " "
Ed. Halstead	-	Protestant under Application No. 13829
Mrs. Ed. Halstead	-	" " " "
Domingo Asumendi	-	Informal Protestant under Application 13829
Frank Roberts	-	Water User on Duckwater Creek

General:

From the results of the investigation it was found that:

- (1) The upper users on Duckwater Creek, namely Domingo Asumendi, Ed. Halstead and Frank Roberts, are primarily concerned with Application No. 13829. They feel that if the application is granted they will be compelled to release any surplus flow in Duckwater Creek to satisfy said application.
- (2) Protestants H. N., Leroy and James Sharp hold a grazing permit from the Federal Government on the land to be irrigated. They feel that the granting of applications Nos. 13828 and 13829 will result in the fencing of the land to be irrigated which in turn will deprive them of grazing lands they have customarily used.
- (3) Application No. 13828 has been filed on an existing artesian well. The following water right on said well is of record in this office:

Certificate No. 1206 issued under Permit No. 6165 for 0.3687 c.f.s., or 176.98 acre-feet per annum for irrigation and domestic purposes. The point of diversion is located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 32, T. 10 N., R. 57 E., M.D.B.&M. and the place of use is 36.87 acres of land in the E $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 31, T. 10 N., R. 57 E., M.D.M. This certificate has been assigned to John Manzonie.

Findings:

It is the findings of the State Engineer that:

- (1) The granting of a permit under Application 13829 will not impair the value of existing rights on Duckwater Creek, providing that said permit is issued subject to existing rights, and further providing that the permit to appropriate water is predicated on the presence of available water at the point of diversion and would not obligate the decreed water users of Duckwater Creek in any way as to the continuance of such flow of water.

- (2) The land to be irrigated under Applications Nos. 13828 and 13829 has been applied for under the Desert Land Act and the application for land has been approved by the Department of Interior. Any action that may be taken on the applications for water will not affect the applicants' privilege of fencing the land.

RULING

Application No. 13828:

The protest to the granting of Application No. 13828 is herewith overruled and a permit will be granted under said application following receipt of the statutory permit fee.

Application No. 13829:

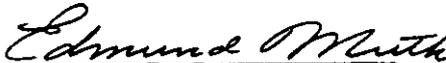
The protests to the granting of Application No. 13829 are herewith overruled and a permit will be granted under said application on receipt of the statutory permit fee, subject to the following provisions:

- (1) This appropriation is predicated on the presence of available water at the point of diversion and will not obligate the decreed water users of Duckwater Creek in any way as to the continuance of such flow of water.

Respectfully submitted,

HUGH A. SHAMBERGER
State Engineer

/ By


EDMUND MUTH
Assistant State Engineer

Dated this 30th day
of December, 1953.