

IN THE MATTER OF APPLICATIONS NOS.)
8741, 13482, 13485, 13486, 13487, :
AND 13488 FILED BY THE BARTHOLOMAE :
CORPORATION.)

RULING

Application No. 8741 was filed by the Segura Brothers on November 7, 1928 to appropriate 0.25 c.f.s. of water from an underground source (Segura Well) for stockwatering and domestic purposes. The point of diversion and the place of use are described as being in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 8, T. 16 N., R. 51 E., M.D.B.&M. The water is to be used for watering 4,000 head of sheep from January 1st to December 31st of each year. This application was protested on October 10, 1929 by Henry Palma, Jr. on the following grounds: "..... that the Segura Well is within three miles of Cerrutti Well No. 2, application No. 7290, that affiant has a subsisting right to water range live stock, under Permit No. 7290 "Cerutti Well No. 2", and in sufficient numbers to utilize substantially all that portion of the public range readily available to livestock watering at that place". This application has been assigned to the Bartholomae Corporation.

Application No. 13482 was filed on September 11, 1950 by the Bartholomae Corp. to change the manner of use of Certificate No. 1492 issued under Permit No. 7290. There has been no change in the point of diversion or the place of use, which are located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 17, T. 16 N., R. 51 E., M.D.B.&M., or the period of use, which is from April 1st to December 1st of each year. This application was filed to change .0375 c.f.s. of the waters of Cerruti Well No. 2, heretofore used for the watering of 6,000 sheep to the watering of 6,000 sheep or 1,200 cattle. A protest against the granting of this application was filed on November 24, 1950 by Bertrand Arambel and/or Pete Etcheverry on grounds; that the change of manner of use will interfere with the vested rights in the use of the protestants range rights and privileges; that it will interfere with their water rights; that it will cause the 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, and that the vested range rights and use of water of the protestants will be changed and modified. On December 18, 1950 a protest was received against the granting of this application from Fernando Goicoechea, et al, but the protest was received too late for filing and was placed in the file for whatever value it may have. The grounds for said protest are as follows: "..... personally and through their predecessors in interest, have vested rights to all the waters applied 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. 13485 was filed September 11, 1950 by the Bartholomae Corp. to change the manner of use of Certificate No. 1777 issued under Permit No. 4124. There has been no change in the point of diversion or the place of use, which are located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 34, T. 16 N., R. 51 E., M.D.B.&M., or in the period of use, which is from April 1st to November 30th of each year. This application was filed to change 0.0156 c.f.s. of the waters of Upper Davis Spring heretofore used for the watering of 2,500 sheep to the watering of 500 cattle or 2,500 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, et al. The grounds for these protests are identical to those described under Application No. 13482.

Application No. 13486 was filed on September 11, 1950 by the Bartholomae Corp. to change the manner of use of Certificate No. 1778 issued under Permit No. 4125. This proposed change does not change the point of diversion or place of use, which are located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 26, T. 16 N., R. 51 E., M.D.B.&M., or the period of use, which is from April 1st to November 30th of each year. This application was filed to change 0.0156 c.f.s. of the waters of Lower Davis Spring heretofore used for the watering of 2,500 sheep to the watering of 500 cattle or 2,500 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, et al. The grounds for these protests are identical to those listed under Application No. 13482.

Application No. 13487 was filed on September 11, 1950 by the Bartholomae Corp. to change the manner of use of Certificate No. 1779 issued under Permit No. 4126. There has been no change in the point of diversion or the place of use, which is located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 35, T. 16 N., R. 51 E., M.D.B.&M., or the period of use, which is from April 1st to November 30th of each year. This application was filed to change 0.0156 c.f.s. of the waters of Kinkead Spring heretofore used for the watering of 2,500 sheep to the watering of 500 cattle or 2,500 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, et al. The grounds for these protests are identical to those listed under Application No. 13482.

Application No. 13488 was filed on September 11, 1950 by the Bartholomae Corp. to change the manner of use of Certificate No. 1780 issued under Permit No. 4127. The proposed change has not changed the point of diversion or the place of use, which are located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 3, T. 15 N., R. 51 E., M.D.B.&M., or the period of use, which is from July 1st to December 1st of each year. This application was filed to change 0.006 c.f.s. of the waters of Number Four Spring heretofore used for the watering of 1,000 sheep to the watering of 200 cattle or 1,000 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, et al. The grounds for these protests are identical to those listed under Application No. 13482.

On June 22, 1951, a letter from the State Engineer informed applicants and protestants that a field investigation would be made on Wednesday, July 11, 1951. It was suggested that the interested parties meet the representative from the State Engineer's office at 8:00 a.m. in front of the Eureka County Court House on the above-mentioned date.

The following individuals were present at the investigation:

- E. J. DeRicco - For the State Engineer.
- Bertrand Arambel - For protestants Arambel and Etcheverry.
- Orville R. Wilson - Attorney for Bertrand Arambel and Pete Etcheverry and Fernando Goicoechea, et al, protestants.
- W. Howard Gray - Attorney for Bartholomae Corp., applicant.
- John Wright - For Bartholomae Corp., applicant.

The party held a discussion of the applications on the afternoon of July 10, 1951 and went over the area involved on the following morning.

FINDINGS

From the field investigation and records of the State Engineer's office, in particular, the testimony presented in the formal hearing of the matter of Applications Nos. 12170 and 12213, that the protestants claim no grazing rights in the area involved.

That the protestants do make claim to a clearly defined trail right along Fenstermaker Channel.

That the ruling of the State Engineer dated May 5, 1950 in regard to Applications Nos. 12170 and 12213 does recognize the trail right of the protestants.

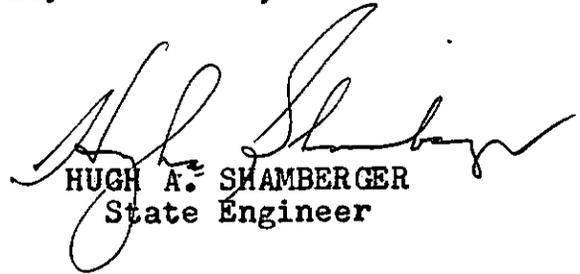
That the above-mentioned ruling does determine that the Bartholomae Corporation has a definite range right in the area of Applications Nos. 8741, 13482, 13485, 13486, 13487 and 13488, and that change of manner of use will not effect existing rights.

That evidence to substantiate grazing rights in this area has been presented in the previous hearing and ruling has been issued by the State Engineer.

RULING

The protests to the granting of permits on Applications Nos. 8741, 13482, 13485 to 13488, inclusive, are herewith overruled and permits will be granted following receipt of the statutory permit fees.

Respectfully submitted,


HUGH A. SHAMBERGER
State Engineer

January 10, 1952