

IN THE MATTER OF APPLICATION NO. 13842)
IN NAME OF WILLIAM A. JONES TO APPRO-)
PRIATE WATER FROM AN UNDERGROUND SOURCE : RULING
FOR IRRIGATION PURPOSES, EUREKA, COUNTY,)
NEVADA.)

153
Application No. 13842 was filed September 17, 1951 by William A. Jones to appropriate 3.5 c.f.s. of water from an underground source for irrigation and domestic purposes. The proposed point of diversion is within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 4, T. 21 N., R. 54 E. and the proposed place of use was given as being 320 acres of land within the N $\frac{1}{2}$ Section 4, T. 21 N., R. 54 E.

Notice of said application was published in the Eureka Sentinel, a newspaper published in Eureka County, and within the statutory period of time, as required by law for the filing of protests, a protest was filed on December 21, 1951 by Raymond Labarry to the granting of a permit under Application No. 13842.

On June 22, 1951 a field investigation was conducted by this office on Applications Nos. 13649 and 13650 to appropriate ground water for irrigation purposes. The points of diversion under these applications were in the same general vicinity as the point of diversion under Application No. 13842 being considered here. The protestant, Raymond Labarry, was also a protestant under Applications Nos. 13649 and 13650 and was present at the aforesated field investigation, along with others.

The well from which water is sought to be appropriated under Application No. 13842 was already drilled and was being used and was visited at the time of the field investigation.

The protest of Raymond Labarry was as follows:

"That the granting of the above application would impair the value of existing rights owned by protestant, and would be otherwise detrimental to the public welfare in that protestant and his father, doing business under the name of Labarry and Son, are the owners of certain water rights, range rights, and other rights and privileges which would be greatly impaired, endangered and in effect made valueless by the granting of said application; that the use of the waters for irrigation upon the particular ground referred to in the application would be of less value than the present use to which underground waters are being placed, and would therefor become detrimental to the public welfare."

Applicant William A. Jones filed an application with the Nevada Land & Survey Office, Bureau of Land Management, for permit to



explore for water for irrigation purposes pursuant to the Act of Congress approved October 22, 1919 (41 Stat. 293), entitled "An Act to Encourage the Reclamation of Certain Arid Lands in the State of Nevada, and for other Purposes," as amended by the Act of September 22, 1922 (42 Stat. 1012). This act is commonly known as the "Pittman Act". The Nevada Land & Survey office, after making an examination, determined that the lands were suitable for the raising of crops and granted a permit to Mr. Jones with the provision that active operations be begun for the development of underground water within six months from date of approval. Subsequently, and between June 28th and July 2nd, 1949, Mr. William A. Jones drilled a 12 inch well to a depth of 73 feet.

Agriculture, along with stock raising and mining, represent the basic industries of this State. The development of these industries should be encouraged as much as possible. Very seldom do these interests conflict. It is true, of course, that the development of a farm on land formerly in the public domain and used for grazing purposes would prevent grazing on the area embraced in the farm. However, such lands that are suitable for farming, and where water is available, would be of far greater worth for the raising of crops than for grazing purposes, and the public welfare would be benefited.

In a great number of our desert valleys a limited amount of land can be developed for agricultural purposes. It will be the policy of this office to encourage such development to the limit of the available land and water. As stated, such development would be small in comparison with the area of the valley and the loss of range use should not be detrimental to the livestock operators.

The position of the Federal Government relative to classifying land as between grazing and agricultural purposes, is set forth in Section 7 of the Taylor Grazing Act. It provides in general that when land is found to be more valuable or suitable for the production of agricultural crops than for the production of native grasses, that such lands can be opened for disposal in accordance with the applicable public land laws. In the instant case, the Bureau of Land Management, through the Nevada Land and Survey Office, found the land embraced herein suitable for agricultural production and granted Applicant Jones a permit to explore for water. Said applicant, having developed a suitable supply of water, filed Application No. 13842 with this office to appropriate such water for beneficial use.

There is very little, if any, public domain in Nevada upon which someone doesn't have grazing privileges. If we were to take the position that an application to appropriate water for irrigation purposes should be denied on the grounds that such grazing rights would be infringed upon, then there would be little, if any, agricultural development in the many desert valleys of this State.

Investigations as to the availability of ground water in Diamond Valley indicates that there is a considerable amount that could be withdrawn without exceeding the average replenishment.

FINDINGS

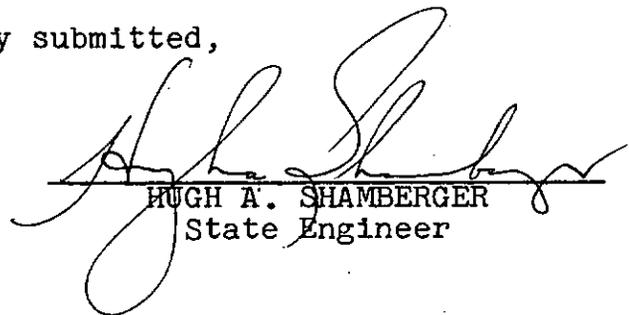
In consideration of the report of the field engineer, together with other studies made in the area, and the records of this office, we find that:

- (1) Applicant William A. Jones is the owner of a Pittman land entry and has developed underground water and is presently irrigating some of the land covered by his entry; and
- (2) That there is unappropriated ground water in the area more than sufficient to satisfy the amount requested in Application No. 13842; and
- (3) That the use of such water for the purposes set forth in said application, i.e. the irrigating of crops is of high value and will benefit the economic structure of Nevada; and
- (4) That the granting of a permit under Application No. 13842 will not impair existing rights.

RULING

Pursuant to our findings, the protest to the granting of a permit under Application No. 13842 is herewith overruled and a permit will be granted thereunder, subject to existing rights, following receipt of the statutory fee for issuance thereof.

Respectfully submitted,



HUGH A. SHAMBERGER
State Engineer

June 6, 1952.