

IN THE MATTER OF APPLICATION NO. 12596)
FILED BY H. N. SHARP TO APPROPRIATE :
WATER FROM AN UNDERGROUND SOURCE, :
NYE COUNTY, NEVADA.)

RULING #157

Application No. 12596 was filed August 23, 1948 by H. N. Sharp to appropriate 1.0 c.f.s. of water from an underground source known as Well No. 1, (also known as Goat Ranch Well) for stock-watering and domestic purposes. The point of diversion and place of use are described as being within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 5, T. 3 N., R. 54 E., M.D.B.&M. The water was proposed to be used for watering 500 head of cattle and 10 horses from January 1st to December 31st of each year.

Notice of the application was duly published in the Tonopah-Times Bonanza, a newspaper in Nye County, as prescribed by law, and on February 16, 1949 a protest was filed by Bertrand Arambel and/or Pete Etchaverry to the granting of a permit under said application. The basis of said protest is quoted as follows:

"That your protestants, and each of them, are informed and believe, and therefore allege that this application, together with other and like applications protested by the undersigned, are filed for the purpose of range control; that the area adjacent to and in the general neighborhood of the said proposed application has been used for many years by your protestants and others for the winter grazing of sheep. That said area is the general grazing area of the sheepmen from the northern part of the State; that protestants believe and therefore allege that in the event of granting of said application the users of said domain, to wit, the sheepmen of the northern part of the State of Nevada, would be prohibited from coming to and upon their customary grazing areas. That in the event said territory is incorporated in and under the Taylor Grazing Act the said applicant would claim territories not heretofore owned exclusively by said applicant. That the watering of livestock, both sheep and cattle on said area has been for many years from the snows and running water produced thereby, and that all of said area has been used and appropriated under the Act of 1931 Nevada Statutes, the so-called Grazing Act or Range Control Act, Chapter 226."

On February 26, 1949 a protest was filed by A. F. Bordoli, to the granting of a permit under said application. The basis of the protest is quoted as follows:

"That the granting of said application would invade and impair the prior vested rights of Protestant; that it would impair and conflict with the value of existing rights; that it would be against public policy to grant said application, and contrary to statute; that the

Protestant and his predecessors in interest have for more than forty (40) years last past, in common with others, used and grazed the area surrounding said purported appropriation, and that the granting of said application would interfere with the customary use of Protestant and others using said range in common in their grazing of said area; that the proposed site of said appropriation is likewise at a point used by Protestant and others in moving from one part of the public domain to another, and from one livestock range to another; that the said application to appropriate is further protested on the ground that it would conflict with the rights granted to protestant pursuant to the Protestant's application for permit to appropriate the public waters of the State of Nevada, being Serial No. 11201, issued by the State Engineer on the 5th day of February, 1946."

On July 27, 1951 a field investigation was conducted by E. J. DeRicco, Field Engineer of the office of the State Engineer. Present at the investigation, in addition to Mr. DeRicco, were the following:

Howard N. Sharp	-	Applicant
Mrs. H. H. Sharp	-	Wife of Applicant
A. F. Bordoli	-	Protestant

No one was present representing Protestants Bertrand Arambel and/or Pete Etchaverry.

In the report of the Field Engineer it is reported that the well under Application No. 12596 is located about 4 miles south of a stockwatering right held by A. F. Bordoli under Certificate No. 3348, said right covering a well known as Buttes Well. It is also located about 6 miles east of a stockwatering right held by Fallini Bros. by Certificate No. 3103. This certificate covers the waters of Twin Springs Wash for stockwatering purposes.

In the field investigation it was found that the range in the area of Goat Ranch Well is an area of joint use by the cattle of A. F. Bordoli and Howard N. Sharp, and to some extent the Fallini Bros. There are no natural range barriers in the area to prevent the drift of cattle.

FINDINGS

As a result of the investigation of the Field Engineer, together with the records of this office, I find that the point of diversion under Application No. 12596 is located 4 miles south of a water right owned by A. F. Bordoli, said water right being known as Buttes Well and is located 6 miles east of a water right owned by the Fallini Bros., and that the range in the area of the point of diversion

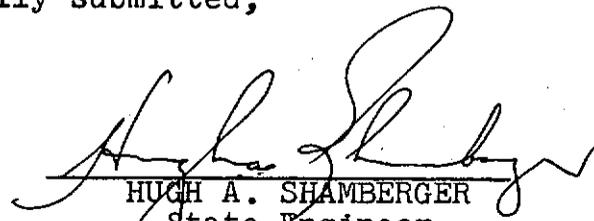
for Application No. 12596 is used jointly by H. N. Sharp, A. F. Bordoli, and Fallini Bros., and that Bertrand Arambel and/or Pete Etchaverry have not established a grazing right in that vicinity.

RULING

The protest to the granting of a permit under Application No. 12596 by Bertrand Arambel and/or Pete Etchaverry is herewith overruled.

The protest to the granting of a permit under Application No. 12596 by A. F. Bordoli is herewith sustained and said Application is herewith denied on the grounds that approval thereof would interfere with the existing rights of A. F. Bordoli and would be detrimental to the public interests.

Respectfully submitted,


HUGH A. SHAMBERGER
State Engineer

Dated this 16th day
of July, 1953.