

IN THE MATTER OF APPLICATION NO. 10431
IN THE NAME OF WALDO BOZARTH AND OSCAR
RUDNICK FILED TO APPROPRIATE THE WATERS
OF CARTIER SPRING FOR IRRIGATION PURPOSES
IN ESMERALDA COUNTY, NEVADA.

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RULING

Description of Application:

Application No. 10431 was filed on October 17, 1939 by Archie Daniels to appropriate 1.0 c.f.s. of the waters of Cartier Spring for irrigation purposes. The point of diversion is located within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 35, T. 5 S., R. 40 E., M.D.B.&M., and the place of use is within the N $\frac{1}{2}$ SE $\frac{1}{4}$ and the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 35. The period of use is from April 1 to September 30th of each year. This application has been assigned to Waldo Bozarth and Oscar Rudnick.

Protests to the granting of this application were filed as follows:

August 23, 1940 by the American Trust Company on grounds that the protestant and their predecessors in interest have used the waters of this source for more than forty years and that they have a prior appropriation on the source under Permit No. 5918.

August 30, 1940 by E. B. O'Berg on grounds that the Daniels Bros. are cattle ranchers, not farmers; they have three farms on the other side of Lida Summit with plenty of water that they have allowed to revert to nature; and they hold most of the springs in the area of this source. The protest was also based on the grounds that Mr. O'Berg has the land and needs the water for irrigation.

General:

In addition to this application the following filings have been made on this source:

Certificate No. 574, issued under Permit No. 5918, was issued to the Goldfield Consolidated Water Company for 0.25 c.f.s. of the waters of Cartee Spring for town supply purposes. The point of diversion is described as being within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 35, T. 5 S., R. 40 E., M.D.B.&M. This certificate, through a Judgment and a Decree of Foreclosure and Sale, has been assigned to Clifford A. Smith.

Application No. 12073 was filed on November 14, 1947 by the Ohio Mines Corporation to appropriate 1.0 c.f.s. of

the waters of Cartier Spring for mining, milling and domestic purposes. The point of diversion is to be within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 35, T. 5 S., R. 40 E., M.D.B.&M. The place of use is to be within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 7; T. 7 S., R. 42 E., M.D.B.&M. This application was protested on November 5, 1948 by James Daniels on grounds that the protestant has for many years past utilized this water in connection with his livestock and ranching operations, and that he has a prior filing on the source under Application No. 10431. No action has been taken on this application to date. At the present time the Ohio Mining Corporation is not operating and Application No. 12073 will be held in abeyance for whatever value it may have.

Field Investigation:

A field investigation in the matter of Application No. 10431 was made in the fall of 1947 by Edmund Muth, Deputy State Engineer. From said investigation it was found that the Goldfield Consolidated Water Company had discontinued water services to the town of Goldfield in the year 1937 due to the freezing and destruction of its pipelines. It was also found that the Water Company's pipelines from Cartier Spring had been removed and that no beneficial use was being made of the water with the exception of possible livestock watering.

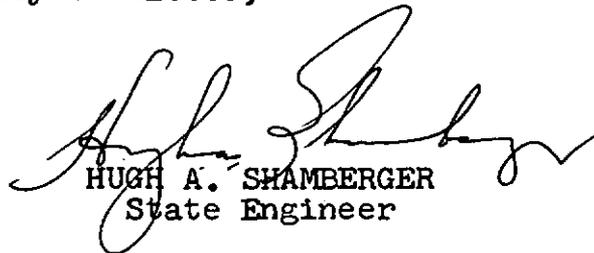
Opinion:

It is the opinion of this office that the use of water under Certificate No. 574 has been abandoned and as there are no other existing rights on the source the waters of Cartier Spring are subject to appropriation.

RULING

The protests to the granting of Application No. 10431 are herewith overruled on grounds that the granting of a permit under said application will not impair the value of existing rights or be otherwise detrimental to the public welfare. A permit will be issued thereunder upon receipt of the statutory permit fee.

Respectfully submitted,


HUGH A. SHAMBERGER
State Engineer

Dated this 27th day
of April, 1955.