

unappropriated water flows in Trail Creek; and

That the following described water rights on this source are all prior in time to Application No. 16424 and must be satisfied before any diversion can be made under said application:

Certificate No. 3734 was issued to the late Rex B. Clark under Permit No. 10856, filed to change the point of diversion, manner and place of use of 0.111 c.f.s. of the waters of Trail Creek formerly appropriated under Certificate No. 561, Permit No. 3154. The point of diversion is within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 2, T. 1 S., R. 33 E., M.D.B.&M. The place of use is within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 6, T. 1 S., R. 34 E., M.E.B.&M. The manner of use - mining and domestic purposes, and the period of use is from March 1st to November 1st of each year.

Application No. 12935 was filed by the late Rex B. Clark on May 27, 1949 to change the manner of use and place of use of 0.015 c.f.s. of the waters of Trail Creek, heretofore appropriated under Certificate No. 3734 issued under Permit No. 10856. The point of diversion is to be within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 2, T. 1 S., R. 33 E., M.D.B.&M. The water is to be conveyed to the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 2, T. 1 S., R. 33 E., and the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 6, T. 1 S., R. 34 E., M.D.B.&M. where it will be used for stockwatering and domestic purposes from April 1st to September 30th of each year.

Certificate No. 2990 was issued to E. L. Cord under Permit No. 11486 to change the point of diversion of 0.47 c.f.s. or 171 acre feet per season of the waters of Trail Creek formerly appropriated under Permit No. 9667. The new point of diversion is designated as being within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 12, T. 1 S., R. 33 E., M.D.B.&M. The period of use is from March 1st to September 1st of each year, and the water is used for irrigation purposes on 47.0 acres of land within the N $\frac{1}{2}$ SW $\frac{1}{4}$ Section 8, T. 1 S., R. 34 E., M.D.B.&M.

Certificate No. 3709 was issued to the late Rex B. Clark under Permit No. 12608 for 0.0025 c.f.s. of the waters of Trail Creek for the watering of 80 head of cattle. The point of diversion and place of use are designated as being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 11, T. 1 S., R. 33 E., M.D.B.&M., unsurveyed. The period of use is from June 15th to September 15th of each year.

That any water developed by the proposed project of concrete lining the channel of Trail Creek by the applicant will be considered as

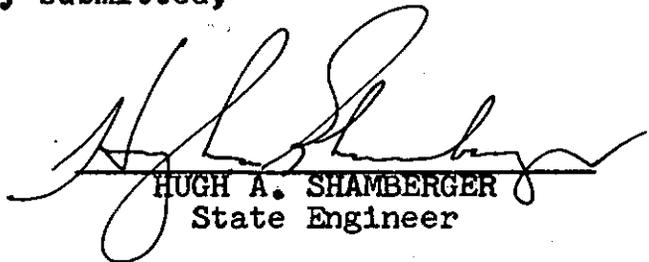
new water and no demands can be made on such water to satisfy existing water rights.

RULING

It is the opinion of this office that the granting of a permit under Application No. 16424 will not impair the value of existing rights, or be otherwise detrimental to the public welfare. A permit will be issued under said application upon receipt of the statutory permit fee, subject to the following provisions:

1. This permit is issued subject to all existing rights.
2. The amount of water under this permit, which the permittee may claim as new developed water, must be supported by substantial engineering proof that will leave no doubt that such development has actually taken place in the amount claimed.

Respectfully submitted,


HUGH A. SHAMBERGER
State Engineer

Dated this 9th day of
February, 1956.