

IN THE MATTER OF APPLICATION NO. 16140
FILED BY HAROLD W. AND AZALIA K. BAKER
TO APPROPRIATE WATER FROM A DRAIN DITCH
FOR IRRIGATION PURPOSES IN LYON COUNTY,
NEVADA.

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RULING

Description of Application:

Application No. 16140 was filed on February 25, 1955 by Harold W. and Azalia K. Baker to appropriate 4.0 c.f.s. of water from a drain ditch (drainage and seepage water which originates from the main Walker River). The water is to be diverted from its source at a point in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 31, T. 15 N., R. 25 E., M.D.B.&M. and to be used for irrigation purposes on approximately 458.41 acres of land within the N $\frac{1}{2}$ NW $\frac{1}{4}$ Section 31; SW $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ Section 30, T. 15 N., R. 25 E.; E $\frac{1}{2}$ SE $\frac{1}{4}$ Section 25; NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 36, T. 15 N., R. 24 E., M.D.B.&M. The period of use is from April 1st to November 1st of each year.

A protest to the granting of this application was filed on August 1, 1955 by John and Paul Gallagher on the following grounds:

1. "That waste waters are not subject to appropriation.
2. "That in the event the right to appropriate was granted, an unreasonable burden would be placed on the land of upstream users, in that they would thereafter be obligated to drain their land in the same manner in which drainage was being made at the time of the grant of the appropriation; or upon their failure to do so would be faced with a prospect of litigation.
3. "That the said John Gallagher and Paul Gallagher, as previous users of the waste waters in question, before the present method of diversion was instituted, have a real interest in the subject application."

General:

A field investigation in the matter of this application was conducted on October 13, 1955. From said investigation, and from records in this office, it was found that the applicant proposes to appropriate drainage and seepage water from a drain constructed by the Rosaschi and Nagel ranches in 1953. The drain was constructed by the above-named ranches for the purpose of draining inundated land and to lower water tables to a point where the lands could be cultivated successfully. The waters in said drain are dumped onto the land proposed to be irrigated under Application No. 16140; that prior



to the construction of the Rosaschi-Nagel drain, a drain completed by the Indian reservation in 1947 conveyed water onto the Nagel property where it inundated a portion of his lands and over-flowed into the Perazo (also known as Gallagher) slough. The waters in the Perazo slough are beneficially used by the protestants; that prior to the completion of the Indian drain the natural flow of the Indian reservation drainage water by-passed the Nagel ranch and flowed onto the property of the applicant where it was placed to beneficial use; that all appropriations of record on this source are upstream from the proposed point of diversion under Application No. 16140; and, that the seepage water in this source comes from a ground water source and must be considered new water that is unappropriated at the proposed point of diversion under Application No. 16140 and subject to appropriation.

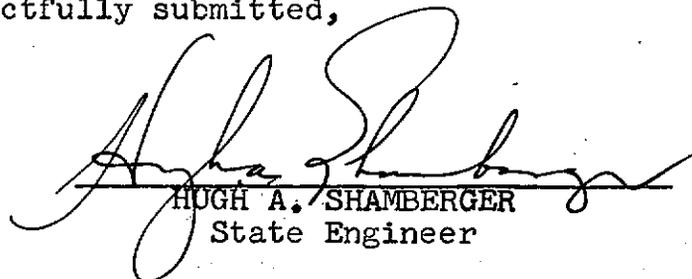
RULING

The protest to the granting of Application No. 16140 is hereby overruled on the grounds that the granting thereof 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. Subject to existing rights on the source.
2. No continuation of flow can be demanded by the permittee. The amount of water to be diverted is limited to the amount of water available at the point of diversion and not to exceed 4.0 c.f.s.
3. The duty of water from all sources on the land to be irrigated shall not exceed the seasonal duty as established by the Walker River Decree.

Respectfully submitted,


HUGH A. SHAMBERGER
State Engineer

Dated this 5th day of
March, 1956.