

IN THE MATTER OF APPLICATIONS NOS. 13081 AND 13083)
IN NAME OF SEGURA BROTHERS TO APPROPRIATE THE : RULING
WATERS OF FIELD SPRING AND PEAK SPRING, RESPECTIVELY, :
FOR STOCKWATERING PURPOSES, EUREKA COUNTY, NEVADA.)

(5) Application No. 13081 was filed October 10, 1949 by Segura Brothers to appropriate 0.25 c.f.s. of the waters of Field Spring for the watering of 8000 sheep and 150 cattle the year around. The proposed point of diversion and place of use is given as being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 25, T. 16 N., R. 50 E.

Application No. 13083 was filed October 10, 1949 by Segura Brothers to appropriate 0.25 c.f.s. of the waters of Peak Spring for the watering of 8000 sheep and 150 cattle from January 1 to December 31 of each year. The proposed point of diversion and place of use is given as being within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 20, T. 15 N., R. 51 E.

Notices of said applications were duly published in the Eureka Sentinel and within the time prescribed by law for the filing of protests Bartholomae Corporation filed protests to the granting of permits under Applications Nos. 13081 and 13083.

The basis of the protest filed under Application No. 13081 is briefly as follows:

"That the proposed use conflicts with the existing rights of protestant in that the proposed point of diversion is situated within the range commonly used by protestant for the grazing of livestock; that protestant has presently pending before the State Engineer an application for water rights which would serve the same grazing area, and that;

Protestant has heretofore acquired by deed the right to use the range which would be serviced by Application No. 13081, said right to use the range was acquired from Ardans and Esain."

The protest to the granting of a permit under Application No. 13083 was on the grounds that:

"The proposed use of water would conflict with existing rights and threaten to prove detrimental to the public interest in that the location of Peak Spring is within one mile of the boundary of the area which protestant has sought to obtain under lease from the United States Government; and

That to grant the application would be to permit the applicant to use range which has heretofore been used by protestant and its predecessors in interest."

On August 1, 1951 a protest to the granting of a permit under Application No. 13083 was received from Bertrand Arambel and/or Pete Etcheverry through their attorney, Orville R. Wilson. Said document was received too late for filing as a protest.

On June 22, 1951 a field investigation was conducted by E. J. DeRicco, Field Engineer of the office of State Engineer. Present at the investigation, in addition to Mr. DeRicco, were the following:

Orville R. Wilson	-	Attorney at Law, representing Bertrand Arambel and Pete Etcheverry.
Bertrand Arambel	-	Representing himself and Pete Etcheverry.
Robert Wright	-	Representing the Bartholomae Corporation

Applicants Segura Brothers were not present at the investigation but were contacted the following day by Mr. DeRicco.

In the report of the Field Engineer it is stated that Application No. 13081 is located about one-half mile west of the boundary of the range now owned by the Bartholomae Corporation and the granting of this application would allow the Segura cattle to graze in an area they have sold to the Corporation. This filing is located less than one-half mile northeast of Certificate No. 2319 issued to Fernando Segura under Permit No. 8953 and $1\frac{1}{2}$ miles southeast of Permit No. 12194 issued to the Bartholomae Corporation. From a water right standpoint, the division between the Segura and Bartholomae ranges is located between Certificate No. 2319 and Permit No. 12194. The granting of this application would therefore allow the Segura Brothers to graze in an area north of their present grazing area, which would injure the Bartholomae Corporation's range right in the vicinity of Permit No. 12194.

In connection with Application No. 13083 the Field Engineer reported that this application is located about one-quarter of a mile west of the range sold to Bartholomae Corporation by Fernando Segura and the granting of this application would allow the Segura Brothers to graze on range they have sold their interest in. The granting of this application would also permit the Segura Brother's cattle and sheep to graze in an area claimed by Bertrand Arambel and/or Pete Etcheverry by virtue of their water right on Sheep Spring under Certificate No. 488.

It was the recommendation of the Field Engineer that Applications Nos. 13081 and 13083 be denied for the reasons stated above.

FINDINGS:

As a result of the investigation of the Field Engineer and his recommendations, together with the records of this office I find that: the proposed point of diversion under Application No. 13081 is about one-half mile west of the boundary of the range controlled by Protestant Bartholomae Corporation and that the granting of a permit under said application would allow the Segura stock to graze within the area that they sold to said protestant. That the proposed point of diversion is less than one-half mile northeast of Certificate No. 2319 issued under Permit No. 8953 in name of Fernando Segura and about one and one-half miles southeast of Permit No. 12194 issued to the Bartholomae Corporation. That the granting of a permit under Application No. 13081 would be detrimental to existing rights.

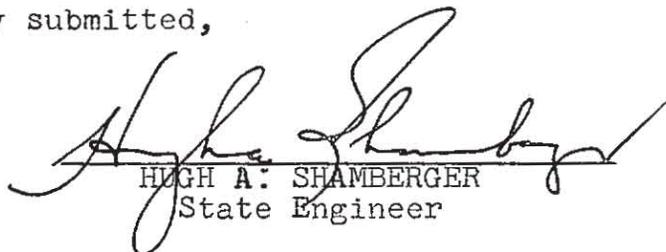
I further find that the proposed point of diversion under Application No. 13083 is located about one-quarter of a mile westerly of the range sold to said protestant by Fernando Segura and about one-half mile westerly of Sheep Spring on which Certificate No. 488 was issued under Permit No. 3076 and now claimed by Bertrand Arambel and/or Pete Etcheverry. That the granting of a permit under said Application No. 13083 would permit applicant to graze stock in the area now controlled by Bartholomae Corporation and also in an area claimed by Bertrand Arambel and/or Pete Etcheverry by virtue of Certificate No. 488.

RULING

Application No. 13081 - The protest to the granting of a permit under Application No. 13081 is herewith sustained and said application is herewith denied on the grounds that the approval thereof would substantially interfere with the existing rights of Bartholomae Corporation and would be detrimental to the public welfare.

Application No. 13083 - The protest to the granting of a permit under Application No. 13083 is herewith sustained and said application is herewith denied on the grounds that the approval thereof would substantially interfere with the existing rights of Bartholomae Corporation and the rights of Bertrand Arambel and/or Pete Etcheverry, and further would be detrimental to the public interests.

Respectfully submitted,


HUGH A. SHAMBERGER
State Engineer

August 20, 1951.