

IN THE MATTER OF APPLICATION NO. 12935
FILED BY REX B. CLARK TO CHANGE THE
MANNER AND PLACE OF USE OF WATERS HERE-
TOFORE APPROPRIATED UNDER PERMIT NO. 10856
FOR THE WATERS OF TRAIL CREEK IN ESMERALDA
COUNTY, NEVADA.

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RULING

Description of Application:

On May 27, 1949 the late Rex B. Clark filed Application No. 12935 to change the manner and place of use of 0.015 c.f.s. of the waters of Trail Creek heretofore appropriated under Permit No. 10856. The proposed point of diversion was given as being in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 2, T. 1 S., R. 33 E., M.D.B.&M., and the place of use to be within 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 would be used for watering 500 head of cattle from April 1st to September 30th of each year.

On January 7, 1949 E. L. Cord filed protest to the granting of this application on the grounds that the change of manner and place of use would conflict with existing rights of protestant; that the granting of said application would prove detrimental to the public interest for the reason the use of water for stockwatering purposes at the proposed places of use would cause an over-grazing of the range adjacent thereto and serviced by said waters in that it would cause a concentration of livestock in a limited area; that the granting of said application would be detrimental to and would impair the value of existing grazing rights now used by protestant, and that the granting of said application would interfere with the right of protestant to trail his cattle from the public domain to the forest reserve under forest reserve permits now held by said protestant.

General:

On April 26, 1956 this office received a letter from Edward C. Reed, Jr., attorney representing the Rex B. Clark Estate, requesting the State Engineer to delete and eliminate from the original application the proposed place of use described in the application as being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 6, T. 1 S., R. 34 E., M.D.B.&M., and that he retain in the application the place of use described as being in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 2, T. 1 S., R. 33 E., M.D.B.&M.

On April 30, 1956 this office received a letter from the Forest Supervisor of the Inyo National Forest at Bishop, California concerning range use within the service area of Application No. 12935. The letter contained the following information:

"The Inyo National Forest has issued a grazing permit to Mrs. Rex B. Clark for 80 head of cattle in the Trail Canyon allotment, which includes the Government owned



land adjacent to the area in question in Sec. 2, T. 1 S., R. 33 E., M.D.M. This permit covers the period from June 16 to September 30.

"Mr. E. L. Cord does not have a grazing permit in the Trail Canyon allotment."

Opinion:

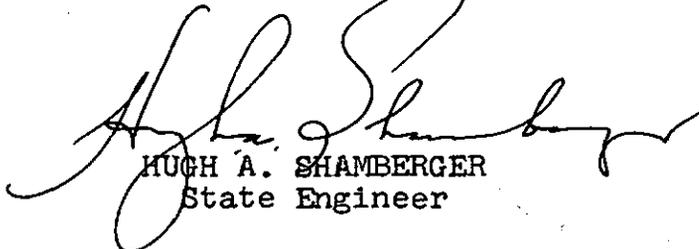
It is the opinion of this office that the granting of Permit No. 12935 will not interfere with the existing rights of the protestant insofar as the protestant does not have a grazing right within the service area of the proposed place of use under the application.

RULING

The protest to the granting of Application No. 12935 is herewith overruled. A permit will be issued under said application, subject to the following provisions:

1. The place of use will be limited to the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 2, T. 1 S., R. 33 E., M.D.B.&M.
2. The permit will be limited to the watering of 80 head of cattle, and the period of use will be limited to the period covering June 16 to September 30 of each year.

Respectfully submitted,


HUGH A. SHAMBERGER
State Engineer

Dated this 11th day
of May, 1956.