

IN THE MATTER OF APPLICATION NO. 13649)
IN NAME OF ALBERT L. JONES TO APPROPRIATE : : RULING
WATERS FROM AN UNDERGROUND SOURCE FOR : :
IRRIGATION PURPOSES, EUREKA COUNTY, NEVADA.)

Application No. 13649 was filed March 2, 1951 by Albert L. Jones to appropriate 1.25 c.f.s. of water from an underground source for irrigation and domestic purposes. The proposed point of diversion is within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 33, T. 22 N., R. 54 E. and the proposed place of use was given as being 320 acres of land within the E $\frac{1}{2}$ Sec. 33 of said township and range.

Notice of said application was published in the Eureka Sentinel, a newspaper published in Eureka County, and within the statutory period of time, as required by law for the filing of protests, a protest was filed on April 23, 1951 by Labarry and Labarry Company to the granting of a permit under Application No. 13649.

On June 22, 1951 a field investigation was conducted by E. J. DeRicco, field engineer of the office of State Engineer. This investigation also covered Application No. 13650 filed for the same purpose and within the same general area. In addition to Mr. DeRicco, the following interested parties were in attendance:

W. H. Gray	-	Attorney at Law, representing Labarry and Labarry Company, Protestants.
Raymond Labarry, Sr.	-	Partner in the Labarry and Labarry Company, Protestant.
Raymond Labarry, Jr.	-	Partner in the Labarry and Labarry Company, Protestant.
Orville R. Wilson	-	Attorney at Law, representing Bertrand Arambel and/or Pete Etcheverry, Informal Protestants.
Bertrand Arambel	-	Representing himself and Pete Etcheverry, Informal protestants.
Jim Ithurralde	-	Appearing for Bertrand Arambel.
Albert L. Jones	-	Applicant under 13649
Robert Stucki	-	Applicant under 13650

The protest of Labarry and Labarry Company is based on the following grounds:

"The proposed use tends to impair the value of existing rights owned by protestant, and that the granting of said permit would be detrimental to the public welfare in that the water applied for would be used in a manner which would infringe upon the grazing rights of protestant."

Applicant Jones filed an application with the Nevada Land & Survey Office, Bureau of Land Management, for permit to explore for water for irrigation purposes pursuant to the Act of Congress approved October 22, 1919 (41 Stat. 293), entitled "An Act to Encourage the Reclamation of Certain Arid Lands in the State of Nevada, and for Other Purposes," as amended by the Act of September 22, 1922 (42 Stat. 1012). This act is commonly known as the "Pittman Act". The Nevada Land & Survey office, after making an examination, determined that the lands were suitable for the raising of crops and granted a permit to Mr. Jones with the provision that active operations be begun for the development of underground water within six months from date of approval. Subsequently, and between July 5th and July 9th, 1949, Mr. Jones drilled a 12 inch well to a depth of 190 feet. On the date of the investigation, namely June 22, 1951, it was observed that Mr. Jones was irrigating about 80 acres of land and his crops appeared to be in excellent condition.

Agriculture, along with stock raising and mining, represent the basic industries of this State. The development of these industries should be encouraged as much as possible. Very seldom do these interests conflict. It is true, of course, that the development of a farm on land formerly in the public domain and used for grazing purposes would prevent grazing on the area embraced in the farm. However, such lands that are suitable for farming and where water is available would be of far greater worth for the raising of crops than for grazing purposes, and the public welfare would be benefited.

In a great number of our desert valleys a limited amount of land can be developed for agricultural purposes. It will be the policy of this office to encourage such development to the limit of the available land and water. As stated, such development would be small in comparison with the area of the valley and the loss of range use should not be detrimental to the live stock operators.

The position of the Federal Government relative to classifying land as between grazing and agricultural purposes, is set forth in Section 7 of the Taylor Grazing Act. It provides in general that when land is found to be more valuable or suitable for the production of agricultural crops than for the production of native grasses, that such lands can be opened for disposal

in accordance with the applicable public land laws. In the instant case, the Bureau of Land Management, through the Nevada Land and Survey Office, found the land embraced herein suitable for agricultural production and granted Applicant Jones a permit to explore for water. Said applicant, having developed a suitable supply of water, filed Application No. 13649 with this office to appropriate such water for beneficial use.

There is very little, if any, public domain in Nevada upon which someone doesn't have grazing privileges. If we were to take the position that an application to appropriate water for irrigation purposes should be denied on the grounds that such grazing rights would be infringed upon, then there would be little, if any, agricultural development in the many desert valleys of this State.

Investigations as to the availability of ground water in Diamond Valley indicates that there is a considerable amount that could be withdrawn without exceeding the average replenishment.

FINDINGS

In consideration of the report of the field engineer, together with other studies made in the area, and the records of this office, we find that:

- (1) Applicant Albert L. Jones is the owner of a Pittman land entry and has developed underground water and is presently irrigating about 80 acres of crop lands; and
- (2) That there is unappropriated ground water in the area more than sufficient to satisfy the amount requested in Application No. 13649; and
- (3) That the use of such water for the purposes set forth in said application, i.e. for the irrigation of crops is of high value and will benefit the economic structure of Nevada; and
- (4) That the granting of a permit under Application No. 13649 will not unduly impair existing rights.

RULING

Pursuant to our findings, the protest to the granting of a permit under Application No. 13649 is herewith overruled and a permit will be granted thereunder, subject to existing rights, following receipt of the statutory fee for issuance thereof.

Respectfully submitted,

August 17, 1951.


HUGH A. SHAMBERGER
State Engineer