

IN THE MATTER OF APPLICATION NO. 13461)
FILED BY KNUD NIELSEN TO APPROPRIATE :
WATERS FROM ROCK CREEK IN LANDER COUNTY)

RULING

Application No. 13461 was filed by Knud Nielsen on August 14, 1950 to appropriate 1.80 c.f.s. of the waters of Rock Creek in Crum Canyon for irrigation and domestic purposes. The point of diversion is described as being in SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 5, T. 30 N., R. 46 E., M.D.M., and the place of use is 160 acres in the NW $\frac{1}{4}$ Sec. 36, T. 31 N., R. 45 E., M.D.M.

This application was protested on November 10, 1950 by Charles Grue. The protest states in part: "Three months of the year this creek is unfit for domestic purposes. If this application for water is approved, it would prohibit any dumping of any nature, mining or otherwise. Gravel sluicing has been done here since 1914 and I have used it since 1932 myself".

This application was also protested on December 13, 1950 by the Blue Dick Sheep Company and the basis of protest was as follows: "That the diversion and appropriation applied for will deprive protestants of their established and vested right for stockwatering purposes at the source, which right was initiated by the predecessors in interest of protestants and has been seasonally maintained, and the said waters put to beneficial use for stockwatering purposes".

On August 10, 1951 a field investigation was conducted by E. J. DeRicco, field engineer.

The following people were present:

E. J. DeRicco	-	Field engineer representing the office of the State Engineer.
Charles Grue	-	Protestant.
Domingo Calzacorta	-	Protestant representing the Blue Dick Sheep Co.
Knud Nielsen	-	Applicant.

In the report of the field engineer it was pointed out that at that time Knud Nielsen was the only user of the waters of Rock Creek.

The records in the office of the State Engineer reveal two other filings on these waters. Application No. 7686 was filed by N. H. Getchell on April 5, 1926 to appropriate 2.4 c.f.s. for irrigation purposes. There has been no action taken on this application. Proof No. 01034 was filed by Rosa Chiara on April 13, 1911 and an amended proof was filed by her successor in interest, N. H. Getchell, on July 16, 1934. The proof claimed a vested right in waters of Rock Creek for irrigation.

Knud Nielsen stated, that he purchased the water right and ranch from N. H. Getchell. Since the time of the investigation certified copies of deeds have been filed to substantiate this claim.

Domingo Calzacorta stated, that the Blue Dick Sheep Company claims a vested right to waters of Rock Creek for stockwatering purposes and the stockwatering would make the waters unfit for domestic use.

Charles Grue, stated he had no objection to the use of the waters for irrigation but felt that his mining use would make the waters unfit for domestic use.

FINDINGS

From the report of the field engineer and from the records of the State Engineer, I find, that Knud Nielsen is owner of all water rights of record for the waters of Rock Creek prior to his Application No. 13461.

That the protestants make claim of vested rights, Charles Grue for mining and the Blue Dick Sheep Company for stockwatering. That the protestants do not protest the use of the water for irrigation but protest the use of it for domestic purposes as their operations may pollute the water.

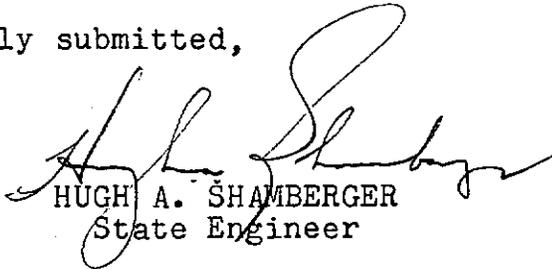
RULING

The protest of Charles Grue is herewith overruled as no vested right has been established.

The protest of the Blue Dick Sheep Company is herewith overruled as the granting of permit is subject to existing rights.

Application No. 13461 for permit to appropriate waters of Rock Creek for irrigation and domestic purposes is granted subject to prior existing rights.

Respectfully submitted,


HUGH A. SHAMBERGER
State Engineer

January 18, 1952