

IN THE MATTER OF APPLICATION NO. 13496  
IN NAME OF ADDISON BROWN TO APPROPRIATE  
UNDERGROUND WATER FOR MILLING AND DOMESTIC  
PURPOSES, MINERAL COUNTY, NEVADA.

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RULING

12A Application No. 13496 was filed September 18, 1950 by Addison Brown to appropriate 0.50 c.f.s. of ground water for milling and domestic purposes. The proposed point of diversion is from an existing well, locally known as "Hanlon's Well", and being located within the SW $\frac{1}{4}$  SE $\frac{1}{4}$  Section 34, T. 8 N., R. 34 E. The place of use is to be within the same subdivision.

On November 24, 1950 a protest to the granting of a permit under this application was filed by the County of Mineral, through the Board of County Commissioners. The grounds stated in the protest are as follows:

"That the rights of Addison Brown in and to said water, if such he ever had, which is not admitted, but denied, have been forfeited or abandoned because of non-user for more than five (5 years); That said well and water, for which application is made, is the sole and exclusive property of the County of Mineral; that said water was duly dedicated to the perpetual use of the public by Hon. J. Emmett Walsh pursuant to an Act of Congress, approved March 2nd, 1867, on the 5th day of May, 1926; That the public health and welfare of the inhabitants of the town of Luning will be materially affected adversely if such application is granted."

On June 30, 1952 a field investigation was made by Messrs. Elmo DeRicco and D. K. Jewett of the State Engineer's office. Others in attendance were:

L. L. Harrison	- Chairman, Board of Mineral Co. Commissioners
D. L. Hermansen	- Mineral County Commissioner
L. E. Blaisdell	- District Attorney of Mineral County
C. E. Weaver	- Mineral County Assessor
Wesley Van Schoick	- Luning Water Manager
E. J. DeRicco	- Representing the office of State Engineer
D. K. Jewett	- Representing the office of State Engineer

The applicant, Addison Brown, was not present, nor was he represented.

Hanlon's well is located on Main Street in the town of Luning on land which, according to the Board of County Commissioners, belongs to the town. It is a hand-dug well, approximately 125 feet deep. It was originally equipped with a windmill and tank, the remains of which are still present. It is now equipped with a 1 $\frac{1}{2}$  H.P. Wagner electric motor and Meyer's cylinder pump with a bore of 2  $\frac{3}{4}$  inches and stroke of 9

inches, which delivers approximately seven gallons per minute.

The well was originally filed on by Frank S. Gillham on January 29, 1925 under Application No. 7295. A certificate was issued on October 24, 1929 for 0.000774 second feet, or 500 gallons per day for domestic purposes. The certificate was assigned to Addison Brown by Bill of Sale on September 17, 1934.

The protestants stated that they have been using Hanlon's well in conjunction with another well ("Town Well") approximately 900 feet north, continuously for a period of at least ten years for the town of Luning's water supply.

It being the desire of the office of State Engineer to allow Mr. Addison Brown every chance to submit any evidence he so desired, a letter was sent to him on August 4, 1952 informing him that the investigation had been held and that he should submit any evidence that he thought should be brought to the attention of this office. Writing the report of the field investigation was held up for a period of two months during which time no correspondence whatever was received from Mr. Brown.

FINDINGS OF FACT:

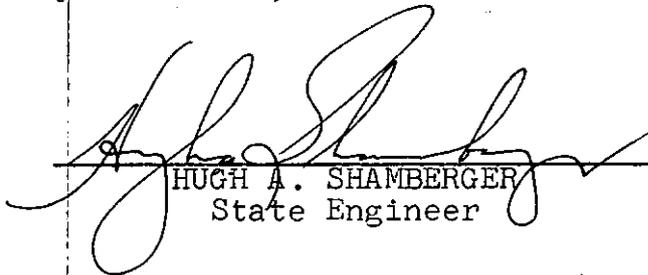
From the information before us, it appears that the proposed point of diversion under Application No. 13496 (Hanlon's Well) is located on a public street within the town of Luning. This being the case, it would be difficult for the applicant to obtain a right-of-way to convey the water to the place of use if objected to by the Board of County Commissioners. It further appears that the water right under Certificate No. 1591, issued under Permit No. 7295, may have been lost by abandonment due to failure of the holder of such right to place water to beneficial use for a period in excess of five years.

The applicant's failure to be present at the investigation, or to respond to a letter written to him on August 4, 1952 indicates that he is no longer interested in this application.

RULING

For the foregoing reasons, the protest to the granting of a permit under Application No. 13496 is herewith sustained and said application is herewith denied.

Respectfully submitted,

  
HUGH A. SHAMBERGER  
State Engineer

Dated this 26th day of  
November, 1952.