

IN THE MATTER OF APPLICATION 35451)
TO APPROPRIATE THE WATERS OF SHEEHAN) R U L I N G
SPRINGS NO. 1, NO. 2, AND NO. 3 IN)
WASHOE COUNTY, NEVADA.)

82

GENERAL

Application 35451 was filed on May 22, 1978, in the name of H. L. Murphy and Georgia Murphy to appropriate 0.1 c.f.s. of water from Sheehan Springs No. 1, No. 2, and No. 3, all located within Lot 7 (NE $\frac{1}{4}$ NW $\frac{1}{4}$) Section 30, T.21N., R.23E., M.D.B. & M. Water is to be used for milling and domestic purposes within Lots 9, 10, 15, and 16, Section 29, and Lot 12, T.21N., R.23E., M.D.B. & M.

Timely protests to the granting of Application 35451 were filed as follows:

On August 21, 1978, in the name of Louis Garaventa on the grounds that: "Because we have used the water. Since 1905 establishes a vested right, also interferes with Certificate 2955 and Proof 01126. We own pipeline which water is transported." The protest seeks denial of Application 35451.

On December 28, 1978, in the name of DePaoli Brothers on the grounds that: "The undersigned and the predecessors in interest have utilized the waters of Sheehan Springs No. 1, No. 2, and No. 3 for the purpose of watering range livestock since before 1905 and, therefore, have a vested right which cannot be impaired. Granting of the application would impair those vested rights." The protest seeks denial of Application 35451.

Application 35451 became ready for action by the State Engineer on December 29, 1978.

A field investigation into the matter of protested Application 35451 was conducted by members of the State Engineer's office on July 31, 1979. The investigation also was attended by the applicant and by both protestants.

DISCUSSION

Records in the State Engineer's office indicate other active rights on Sheehan Springs are as follows:

Certificate 2955 was issued under Permit 10737 to Louis Garavanta and Ray Clemmons for 0.05 c.f.s. (22.59 g.p.m.) of water from Sheehan Springs No. 1, No. 2, and No. 3 for mining, milling, and domestic purposes. The points of diversion are as follows: Spring No. 1 located in Lot 10 and Springs No. 2 and 3 located in Lot 7, Section 30, T.21N., R.23E., M.D.B. & M. Water is conveyed by pipeline to an upper storage tank

located in Lot 9 (SW $\frac{1}{4}$ NW $\frac{1}{4}$) Section 29, T.21N., R.23E., M.D.B. & M. and a lower storage tank, mill, and house located in Lot 16 (NW $\frac{1}{4}$ SW $\frac{1}{4}$) said Section 29. The date of priority is October 2, 1941. Permit 10737 is abrogated by Applications 36119 and 36120.

Application 36119 was filed on November 1, 1978, by Louis and Nieves Garaventa to change the point of diversion, place of use, and manner of use of 0.0026 c.f.s. of water from Sheehan Springs No. 1, No. 2, and No. 3 appropriated under Certificate 2955 issued under Permit 10737. Water will be diverted from all three springs located within Lot 7 (NE $\frac{1}{4}$ NW $\frac{1}{4}$) Section 30, T.21N., R.23E., M.D.B. & M. The existing point of diversion from Spring No. 1 is located within Lot 10 (SE $\frac{1}{4}$ NW $\frac{1}{4}$) Section 30, T.21N., R.23E., M.D.B. & M. Springs No. 2 and No. 3 are not changed. The proposed place of use for stock watering is within Lot 7 (NE $\frac{1}{4}$ NW $\frac{1}{4}$) and Lot 12 (SE $\frac{1}{4}$ NE $\frac{1}{4}$) and domestic use in Lot 12, Section 30, T.21N., R.23E., M.D.B. & M. The application is ready for action.

Application 36120 was filed on November 1, 1978, by Louis and Nieves Garaventa to change the point of diversion, manner of use, and place of use of 0.0474 c.f.s. of water from Sheehan Springs No. 1, No. 2, and No. 3 appropriated under Certificate 2955 issued under Permit 10737. The proposed and existing points of diversion are described under Application 36119. The proposed place of use for irrigation and domestic use is within Lot 12 (SE $\frac{1}{4}$ NE $\frac{1}{4}$) Section 30, T.21N., R.23E., M.D.B. & M. The application is ready for action.

Proof of Appropriation 01126 was filed on August 8, 1912, by Joseph Heimrich claiming a vested right for water from Sheehan Spring to irrigate 3 $\frac{1}{2}$ acres within portions of Lot 11 (SW $\frac{1}{4}$ NE $\frac{1}{4}$) and Lot 12 (SE $\frac{1}{4}$ NE $\frac{1}{4}$) Section 30, T.21N., R.23E., M.D.B. & M. The point of diversion, shown on the supporting map, is located within Lot 10 (SE $\frac{1}{4}$ NW $\frac{1}{4}$) said Section 30. The extent of this claim is indeterminate.

Proof of Appropriation 03229 was filed by the DePaoli Brothers claiming a vested right for water from Sheehan Springs No. 1, No. 2, and No. 3 to water 65 head of cattle with a priority of 1895. The extent of this claim is indeterminate.

The Bureau of Land Management office has notified this office by correspondence that Louis Garaventa has a grazing permit for 85 head of cattle, and the DePaoli Brothers have a grazing permit for 100 head of cattle. Both permits are in the Olinghouse Allotment located in the vicinity of Sheehan Springs.

Mr. H. L. Murphy states in a letter dated October 25, 1979, that he doubts the combined flow of water in the pipeline from the three Sheehan Springs will produce 22.5 g.p.m. The protestants, Garaventa and DePaoli, also remarked at the investigation that the combined flow will not produce more than 20 g.p.m. (0.0446 c.f.s.).

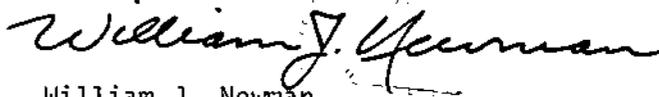
CONCLUSIONS

Evidence found during the field investigation and records contained in the State Engineer's office indicate that there is no unappropriated water available from Sheehan Springs No. 1, No. 2, and No. 3.

RULING

The protests to the granting of Application 35451 are herewith upheld and Application 35451 is hereby denied on grounds that there is no water available for appropriation and that the granting of this application would interfere with existing rights and be detrimental to the public welfare.

Respectfully submitted,



William J. Newman
State Engineer

WJN/LEP/ja

Dated this 28th day

of APRIL, 1980.