

IN THE MATTER OF APPLICATION NO. 12518)
FILED BY NEVIN MUNSON TO APPROPRIATE :
WATER FROM WHITE RIVER FOR IRRIGATION ;
PURPOSES.)

RULING

Application No. 12518 was filed on June 28, 1948 by Nevin Munson for permission to appropriate 3.0 c.f.s. of the waters of White River at a point in the SW $\frac{1}{2}$ SW $\frac{1}{2}$ Section 11, T. 12 N., R. 60 E., M.D.B.&M., or at a point from which the N.E. corner of said Section 11 bears N. 48° 55' E., 6360 feet to be used for the irrigation of 200 acres of land in SW $\frac{1}{2}$ NE $\frac{1}{2}$ and E $\frac{1}{2}$ NE $\frac{1}{2}$ Section 11; NW $\frac{1}{2}$ NW $\frac{1}{2}$ Section 12; S $\frac{1}{2}$ SW $\frac{1}{2}$ and N $\frac{1}{2}$ SE $\frac{1}{2}$ Section 1, T. 12 N., R. 60 E., M.D.B.&M. The period of use is given as being from October 1st to April 1st of the following year of each year (winter irrigation). The application was published according to law in the Ely Daily Times. Protest against the granting of the application was filed August 27, 1948 by J. A. Rosevear, Walter Rosevear, Jess Gardner and Wm. C. Goodman.

Letter of protest against the granting of the application, signed by Albert Gubler, Leland Hendrix, W. A. Reid, George W. Fawcett and Ernest H. Gubler, was received on August 17, 1948. Instructions to protestants to legally perfect the protest was ignored.

A field investigation was made of this application on August 20, 1949 in accordance with letter of August 12, 1949.

Appearances at the investigation were F. N. Dondero, Deputy State Engineer; E. J. DeRicco, Office and Field Engineer; of the Nevada State Engineer's Office; Nevin Munson, applicant; W. C. Goodman, Walter Duval, foreman for the W. C. Goodman ranch; J. A. Rosevear, Walter Rosevear and Jess Gardner for protestants. No appearances were made by the informal protestants, Albert Gubler, et al.

WATER SUPPLY:

White River originates on the easterly slope of the White Pine Range of mountains (White Mountains). It has many tributaries including Smith Creek (also known as Cottonwood, or Ellison Creek) which enters White River immediately below U. S. 50 Highway and about one-half mile above the W. Rosevear-Goodman ranches. Springs at Preston and Lund are also tributaries. The flow reaches its flood stages during the rainy and melting snow periods and dwindles to a normal flow of about two to five c.f.s. at the upper ranches during the latter part of summer.

Protest of J. A. Rosevear, et al is based on the grounds that there is no unappropriated water at the source named in the application and that the granting of the application would be detrimental to their determined relative rights to the waters of White River and its tributaries, as established by the Seventh Judicial District Court of the State of Nevada in and for the County of White Pine, by decree entered as of December 4, 1922.

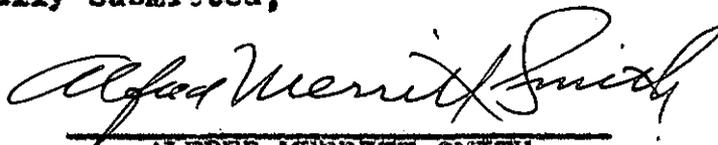
It is found that protestants' rights in and to the waters of White River for the non-irrigation season between September 15th and April 1st of the following year of each year, consists of 0.025 c.f.s. for stockwatering and domestic uses, as set in Decree entitled "In the Matter of the Determination of the Relative Rights in and to the Waters of White River and its Tributaries in White Pine County", entered as of December 4, 1922 in the District Court of the Seventh Judicial District of the State of Nevada, in and for White Pine County.

It is also found that during the winter storms and the early run-off from melting snows, White River discharges much water, far in excess of that required to satisfy the rights of protestants.

RULING

It is my opinion that there is no conflict in the use of the waters applied for under Application No. 12518 with the existing rights of protestants, J. A. Rosevear, Walter Rosevear, Jess Gardner and Wm. C. Goodman; therefore the protest is overruled. A permit will be granted under Application No. 12518 of Nevin Munson, subject to the existing rights. The permit shall be limited to a direct diversion of three (3.0) c.f.s. and not to exceed 100 acre-feet for any one month during the period from October 1st to April 1st of the following year of each year, and in no event shall it exceed a total amount of 300 acre-feet for the stated period.

Respectfully submitted,



ALFRED MERRITT SMITH
State Engineer

Dated January 31st, 1950.