

IN THE MATTER OF APPLICATION NO. 10672
IN NAME OF FORT PIERCE, INC. TO APPROPRIATE UNDERGROUND WATER FROM SAN JOSE TUNNEL, EGAN CANYON, WHITE PINE COUNTY, NEVADA.

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RULING

Application No. 10672 was filed May 26, 1941 by Fort Pierce, Inc. to appropriate 1.0 c.f.s. of the waters from the San Jose Tunnel which flows into Egan Canyon. The proposed point of diversion is in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 14, T. 23 N., R. 62 E., M.D.M. The proposed use is for mining, milling and domestic purposes.

A protest to the granting of a permit under said application was filed August 18, 1941 by C. L. Johnson. The basis of the protest was that the water flowing from this tunnel in Egan Canyon had for many years made up a point of the nominal flow of water in said canyon and that the waters of such Egan Canyon had been fully utilized for many years for irrigation purposes.

Protestant's claim to a vested right is evidenced by Proof of Appropriation No. 01136 filed in 1912 by Giacomo Pietrini, a predecessor of Protestant C. L. Johnson.

On March 16, 1950 a petition was received to adjudicate the waters of Egan Creek and its tributaries. Said petition was submitted by K. A. Barton, successor to Protestant C. L. Johnson. In connection with this investigation, a field investigation was made by Assistant State Engineer Hugh A. Shamberger on April 7, 1950. No evidence was visible of any activity of applicant Fort Pierce, Inc. and all attempts to locate said applicant has failed.

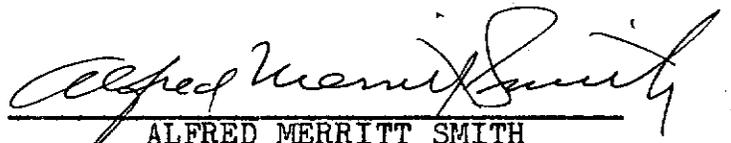
It was apparent that said applicant is no longer interested.

The use of the same water for mining and milling purposes and for irrigation purposes oftentimes does not conflict and where such multiple use can be made without impairment to the prior use, it has been the practice of this office to grant permits for such additional use. However, in this instance, we are of the opinion that said Application No. 10672 can be denied due to the fact that all attempts to locate applicant have failed, which indicates that said applicant is no longer interested.

RULING

In accordance with the above, Application No. 10672 of Fort Pierce, Inc. is herewith denied on the grounds that said applicant is no longer interested.

Respectfully submitted,


ALFRED MERRITT SMITH
State Engineer

August 1, 1950.