

IN THE MATTER OF APPLICATION NO. 13340 )  
IN NAME OF FRANK HARRINGTON TO APPRO- :  
PRIATE WATER FROM "A SPRING" FOR IRRIGA- : RULING  
TION PURPOSES, ELKO COUNTY, NEVADA. )

Application No. 13340 was filed March 28, 1950 by Frank Harrington to appropriate 1.0 c.f.s. of the waters of "a spring" for the irrigation of 100 acres of land within the N $\frac{1}{2}$  NW $\frac{1}{4}$  and SE $\frac{1}{4}$  NW $\frac{1}{4}$  Section 24, T. 38 N., R. 61 E. The proposed point of diversion is at the source and is located within the NW $\frac{1}{4}$  NE $\frac{1}{4}$  Section 24, T. 38 N., R. 61 E. Protests to the granting of a permit under this application were filed as follows:

May 11, 1950 by John A. Hunt.

June 28, 1950 by Metropolis Grazing Association.

The basis of the protest by John A. Hunt is on the grounds that the spring applied for is located on ground belonging to him and was used for stockwatering during the time the area was fenced. That in 1920 he moved away and during his absence the fence was gradually taken down; that he gave permission to several stockraisers to enter his land to water their livestock and that any additional use by Mr. Harrington would impair his claim of vested right to the use of this water for stockwatering purposes.

The protest of the Metropolis Grazing Association is on the following grounds:

1. That said spring is one of the natural sources of the Humboldt River and is a portion of said water shed and has been the subject of adjudication in the Humboldt River system.
2. That the waters of said spring are a portion of the vested rights of the protestants.

On August 28, 1950 a field investigation was made on this application by Edmund Muth, Special Deputy. Applicant and all protestants were present in person or represented by counsel. The report of the field investigation is as follows:

"Application 13340 is for the waters of a spring. The spring area is within the NW $\frac{1}{4}$  NE $\frac{1}{4}$  of Sec. 24, T. 38 N., R. 61 E. on privately owned land now reportedly belonging to Mr. Ensign Hill and formerly belonging to Mr. John A. Hunt. Water from this spring flows in a natural channel onto the lands of the applicant, Mr. Frank Harrington. The flow of the spring is so small that it seems unlikely that the water ever reached the Humboldt River in sufficient quantity to affect the river supply. On the day of the investigation something less than 0.10 c.f.s. (estimated) was reaching the Harrington lands.

The protestants claim a vested stockwatering right in the spring. No other use was claimed and there was no evidence of any effort having been made to place the water to any other use other than the work done by Mr. Harrington on his property. There is a small surplus of water subject to appropriation.

It is my opinion that the application should be granted subject to any existing stockwatering rights and with the definite understanding that the granting of the permit does not, in itself, grant any right to enter upon the privately owned land on which the spring is located.

#### RULING

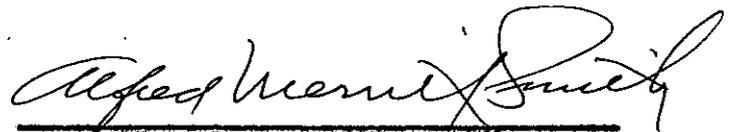
In accordance with the recommendations set forth in the report of field investigation, the protests to the granting of a permit under application No. 13340 are overruled and a permit will be granted, following receipt of the statutory permit fee, subject

to the following provisions:

1. That such permit is subject to all existing stock-watering rights on the source, and

2. That such permit does not grant to applicant any right to enter the privately owned land on which the spring is located.

Respectfully submitted,



ALFRED MERRITT SMITH  
State Engineer

Dated this 14th day of September, 1950.