

IN THE MATTER OF APPLICATION 13320 FILED BY  
HENRY McCLEARY TIMBER COMPANY ON MARCH 17, 1950  
TO APPROPRIATE ONE HUNDRED (100) CUBIC FEET PER  
SECOND OF THE WATERS OF COTTONWOOD CREEK AND  
TRIBUTARIES BETWEEN JANUARY 1ST AND DECEMBER 31ST  
OF EACH YEAR. THIS APPLICATION WAS PROTESTED ON  
JULY 7, 1950 BY FRED B. STEWART, et al; RUDOLPH H.  
SCHWARTZ; JACK FORGNONE; AND E. C. & H. L. LYE.

RULING

Cottonwood Creek and its tributaries is one of the principal tributary streams of the Little Humboldt River stream system. (See Findings of Fact V, page 8 of the printed copy of the Decree in Case No. 3157 in the Sixth Judicial District Court of the State of Nevada entitled "In the Matter of the Determination of the Relative Rights in and to the Waters of the Little Humboldt River and its Tributaries in Humboldt and Elko Counties".) We quote paragraph 7 from page 73 of the Decree just referred to:

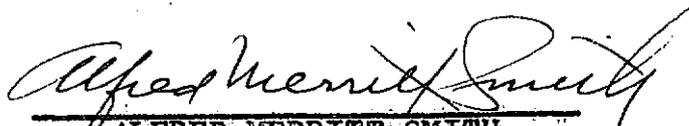
"That the waters of the stream system are fully appropriated and there is no surplus water for irrigation during the irrigation season".

It is the opinion of the State Engineer that the protests of Fred B. Stewart, et al; Rudolph H. Schwartz; Jack Forgnone and E. C. and H. L. Lye should be sustained and that Application 13320 of the Henry McCleary Timber Company be denied in conformity with the Decree, on the grounds that there is no unappropriated water in Cottonwood Creek and Tributaries.

RULING

Application 13320, filed March 17, 1950 by the Henry McCleary Timber Company for the waters of Cottonwood Creek and tributaries is denied on the grounds that there is no unappropriated water in the source.

Respectfully submitted,

  
ALFRED MERRITT SMITH  
State Engineer

January 23, 1951.