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IN THE MATTER OF APPLICATION 13321 FILED BY
HENRY McCLEARY TIMBER COMPANY ON MARCH 17, 1950
TO APPROPRIATE TWO HUNDRED (200) CUBIC FEET PER
SECOND OF THE WATERS OF MARTIN CREEK AND TRIBU-
TARIES BETWEEN JANUARY 1st AND DECEMBER 31st
OF EACH YEAR. THIS APPLICATION WAS PROTESTED
ON JULY 7, 1950 BY FRED B. STEWART, et al, JOHN
BERNIE, E. W. GONDRA, & G. CERRI AND ON JULY 22,
1950 BY BULLHEAD CATTLE COMPANY.

RULING

Martin 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:

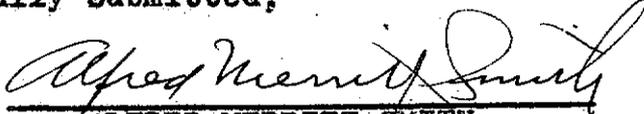
"That the waters of the stream system are fully
appropriated and that there is no surplus water
for irrigation during the irrigation season".

It is the opinion of the State Engineer that the protests of
Fred B. Stewart, et al; John Bernie; E. W. Gondra; G. Cerri and the
Bullhead Cattle Company should be sustained and that Application 13321
of the Henry McCleary Timber Company be denied in conformity with the
Decree, on the grounds that there is no unappropriated water in Martin
Creek and tributaries.

RULING

Application 13321, filed March 17, 1950 by the Henry McCleary
Timber Company for the waters of Martin Creek and tributaries is denied
on the grounds that there is no unappropriated water in the source.

Respectfully submitted,


ALFRED MERRITT SMITH
State Engineer