

IN THE MATTER OF APPLICATION 13400 FILED BY
HENRY McCLEARY TIMBER COMPANY ON JUNE 2, 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 DECEMBER 14, 1950 BY FRED B.
STEWART, et al, AND BY RUDOLPH H. SCHWARTZ.

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:

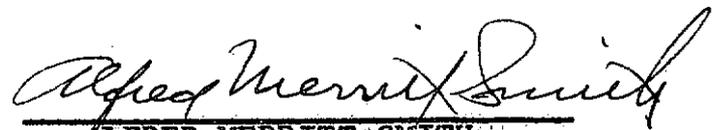
"That the waters of the stream system are fully appropriated and that there is no surplus water for irrigation during the irrigation season".

It is the opinion of the State Engineer that the protests of Fred B. Stewart, et al, and Rudolph H. Schwartz should be sustained and that Application 13400 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 13400 filed June 2, 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.