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IN THE MATTER OF APPLICATION NO. 11867.)
FILED JUNE 2, 1947 BY M. A. MORLEY)
TO APPROPRIATE 0.10 C.F.S. OF THE WATERS : RULING
OF A SPRING FOR MINING AND DOMESTIC)
PURPOSES, AND WHICH WAS PROTESTED BY)
JOE CAPURRO, NOVEMBER 14, 1947)

Application No. 11867 was filed June 2, 1947 by M. A. Morley for permission to appropriate 0.10 c.f.s. of the waters from a spring, at a point in $N\frac{1}{2} NW\frac{1}{4} SE\frac{1}{4}$ Section 30, T. 20 N., R. 20 E., M.D.B. and M. (on Hidden Valley Placer Claim No. 2) or at a point from which the N.E. Corner of said Section 30, bears N. $28^{\circ} 15' 30''$ E., 3,282.53 feet, for mining and domestic purposes on $N\frac{1}{2} NW\frac{1}{4} SE\frac{1}{4}$ (Hidden Valley Placer Claim No. 2) and $W\frac{1}{2} NE\frac{1}{4} SE\frac{1}{4}$ (Hidden Valley Placer Claim No. 1) T. 20 N., R. 20 E., M.D.B. &M.

The application was published as required by law in the Sparks Tribune, a news paper of general circulation, in the County where this appropriation is made and published once a week for five consecutive weekly issues beginning with the first issue on October 28, 1948 and ending in the November 25, 1947 issue.

Protest against the granting of this application was filed November 14, 1947 by Joe Capurro on the grounds:

That he owns the $NW\frac{1}{4} SE\frac{1}{4}$ Section 30, T. 20 N., R. 20 E., M.D.B. and M. upon which the water source in question is located together with the $SE\frac{1}{4} NW\frac{1}{4}$; $NE\frac{1}{4} SW\frac{1}{4}$ and $SW\frac{1}{4} SW\frac{1}{4}$ of said Section 30.

That on March 24, 1936 he acquired this 160 acre area from D. W. Dunkle, Treasurer of Washoe County.

That he has used the water of this source for watering livestock that ranged in this area by virtue of a permit from the Bureau of Land Management to the extent of grazing 1250 head of sheep.

On November 20, 1947, a copy of the protest was mailed to Mr. M. A. Morley.

On August 27, 1948 a field investigation was made by F. N. Dondero, Office Engineer in company with M. A. Morley applicant, Joe Capurro, protestant, Charles L. Richards, Attorney for Mr. Morley and Charles J. Gault, Rancher for Joe Capurro.

The point of diversion of water consisted of a recently dug shallow hole at the very bottom of a dry channel, with a short narrow cut into the Southerly side. The hole was full of water but none flowing out, although evidence showed that earlier in the morning water flowed down the natural channel for a distance of about 30 feet. A rock wall about four feet high on the upper side of the hole; back filled with dirt extending a short distance across the channel formed a dam by which flood waters are directed into a narrow ditch around the Northerly side of the hole, thence back to the channel. From the hole the channel extends about one-quarter of a mile upward to Joe Capurro's proposed point of diversion under his pending Application No. 12074, Fulton Spring and extending considerable distance downward. Vegetation principally salt grass appears on both sides of the channel, giving evidence of a shallow water table. Capurro and Morley agreed that water flows in the channel during the spring season and abnormally wet seasons.

At about 300 feet downward from the hole on the North-easterly side of the channel at Mr. Morley's House is a well equipped with a windmill for domestic water.

No authentic evidence was produced at the investigation over the question of, whether or not Mr. Capurro owned the N $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 30, T. 20 N., R. 20 E., M.D.B.&M. on which is located the proposed point of diversion and comprising Hidden Valley Placer Claim No. 2, being a portion of the proposed place of use.

Nevada State Land Office shows this land together with adjoining land was patented May 2, 1901 to Marcia Bragg being listed as Patent No. 4482. Mr. Capurro stated that he optioned this land together with adjoining land described in his protest to a certain Mr. Gipford with title guaranteed by Washoe County Title Guarantee Co.

It appears that, aside from the ownership, the application could be approved, as no conflict is apparent between mining and stockwatering.

The question now arises over whether or not the application if granted, can be perfected within the legal time limits. This question must be seriously considered at this time. It appears that the granting of the application would lead to no end of confusion and litigation. Perhaps no effort would be made by applicant, to obtain right of ways or right to mine on privately owned land to the extent, that work cannot be commenced, completed and water placed to beneficial use as required by law. It is our aim to set some time limit, for applicant to acquire the necessary rights, to enter the privately owned land, to clear the way for the water project.

Therefore in this particular case, the application will be held in abeyance for sixty days, from date hereof, for applicant to acquire by peaceful means, the necessary rights to enter upon the land in question freely and unobstructed together with all legal evidence of such transations properly filed for record in this office, for the purpose of paving the way for this proposed appropriation.

Upon completion of the above requirements within the specified time the protest will then be overruled and a permit issued, otherwise the application will be denied.

Respectfully submitted,

(Signed) Alfred Merritt Smith
ALFRED MERRITT SMITH
State Engineer

Dated this 28th day of September 1948.
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