

WATER OVERLAND CREEK
Desert Land Entries
Certain Whites and Indians.

Revs. Nev.

October 25, 1917.

Mr. George Hayworth,
Chief Field Division,
512 Custom House,
San Francisco, Cal.

Dear Mr. Hayworth:

I will greatly appreciate a copy or an extract therefrom, if proper, of the report of the special agent, who reported on the Desert Land Entries of the following

William Reinken, Elko, Nevada, T 30 N, R 59 E, filed August 20, 1911, serial # 06359, Elko 0546.
Hazel C. Winee, S 29, T 30 N, R 59 E, filed December 1, 1914, serial # 01800.
Ethel McBride, S 30, T 30 N, R 59 E, serial # 01801, filed December 1, 1914.
Also S 30, T 30 N, R 59 E, filed December 1, 1914, serial # 01800, possibly by Mrs. W. A. Reinken.
Also S 30, T 30 N, R 59 E, filed December 9, 1911, serial # 06311, possibly by Stanley P. Winas.

The records of the Elko Land Office on October 20, 1917, showed that no certificates had been granted for these Desert Land Entries. The Desert Land Entry of B. G. McBride, entryman in the same group proposed to reclaim their land through use of the water of Overland Creek, shows certificate granted February 20, 1917. Certain Shoshone Indians have been using the waters of Overland Creek for an indefinite but long time. Also several other Indians have been using the waters from the same creek, apparently since the date of the granting of the application of B. G. McBride, for 20 second feet of water from Overland Creek, but it appears they were actually using the water on their land at least one year before any of the above named parties had their so-called canal built or using any water from this source for the reclamation of their land.

A suit is now being instituted in the U. S. Court at Carson to determine the land and water rights of these Indians, which rights are denied by the above named entryman. No adjudication of the waters of Overland Creek has ever been made through the office of the State Engineer, but it is supposed that these suits will be speedily brought to trial and the adjudication of the water rights on this stream

Mr. Hayworth-2

will readily follow.

I think it would work no hardship on these entrymen to deny their certificates until the water rights on Overland Creek are adjudicated, and the rights of the Indians legally determined.

Mr. McBride, the engineer for these entrymen, appears to lay great stress upon the storing of water in Crystal Lake, which lies in a volcanic or other depression in the Ruby Mountains, about six miles from the entry referred to, one source of Overland Creek.

I rode to the top of the mountains on October 17, 1917, and made an examination of this lake. It certainly contains no great amount of water for any amount of irrigation. It is only 13 acres in extent. Other engineers have reported that the depth of the deepest spot was 67 feet. There is practically no water shed to speak of. It is apparently supplied by the melting of the snows, which drift into its basin and is hemmed in by almost perpendicular walls.

Mr. McBride speaks of a project to drive a tunnel through solid granite rock for the purpose of tapping the lake near its bottom and thus utilize the waters. It appears to me that the expense of such a tunnel would make the cost of the water far in excess of any value for irrigation purposes on ordinary farms. Besides the water would have to run about six miles through rocky creek bed and much of it dissipate through evaporation and absorption, and but little would ever reach the lands to be reclaimed. At present the only evidence of work upon this project is an open cut through the rim of the basin enclosing the lake, about 100 feet long, averaging 2 feet in depth, about 3 to 3-1/2 feet in width, closed by a very flimsy headgate built from 7/8 inch boards.

If your field man who investigated this project comprising the above named entries placed such confidence upon this part of the project as a source of water for reclamation of these parties' entries, from a statement made by their engineer, without personally inspecting the lake and ascertaining the facts, he was undoubtedly much misled, although the fact that the certificate was issued only on the desert land entries of B. G. McBride appears to indicate that your field man has sized up the situation and has reported the facts as he found them. It is only practical to reach this lake from July 1 to November 1, on account of the snow and ice.

Mr. Hayworth-3

I would respectfully suggest that certificates be not granted to these entrymen until other and further investigation is made by your office, and the waters of Overland Creek be adjudicated by the State Engineer and the rights of these Indians definitely determined through legal processes.

Yours very truly,

Special Supervisor.

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
HUMBOLDT NATIONAL FOREST

ADDRESS HERE TO
FOREST SUPERVISOR
AND REFER TO

May 20, 1915.

ELKO, NEVADA.

November 1, 1915.

Mr. Lawrence B. Cress,
United States Forest Service,
Elko, Nevada.

Dear Sir:

We have, by reference from the District Office, a letter from you asking for information concerning the surveys in Lily Valley. This is the matter that I think we talked over when you were in this office.

In order that we could furnish you all of the information we have, we have written the ranger in charge of the District nearest the land where you desire the information and he has given us what is information but which I do not believe is the exact information you desire. However, a copy of his letter is being sent you herewith. This information together with the information we gave you when in the office here, is all the information concerning the surveys in question that we have at this time. We shall be glad to assist you in any way that we can to secure the desired information, and if there is anything we can do to assist you we will be glad for you to advise us.

Very truly yours,


George W. Smith,
Forest Supervisor.

Asst. Forester - West Park

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
WASATCH NATIONAL FOREST

Pleasant Grove, Utah.

December 2 1917.

Mr. Lorenzo D. Creel,
Special Supervisor,
U. S. Indian Service,
Reno, Nevada.

Dear Sir:

Reference is made to your letter of December 2:

From 1911 to 1915 I was assigned duty on the Ruby Forest, and during that period I spent considerable time in Ruby Valley of each year, but you have evidently been misinformed to the extent that I knew that Stanley Wines forcibly entered the enclosure that was maintained by the Indians and removed the hay from the same.

Whether or not the land entered by Mr. Wines was known to be within his entry prior to 1915, I am not in a position to say, however it was my understanding that the Indians had been using the land in question prior to this time but had known that the land belonged to Mr. Wines, for some reason I do not remember, Mr. Wines instructed the Indians not to cut the hay asheretofore.

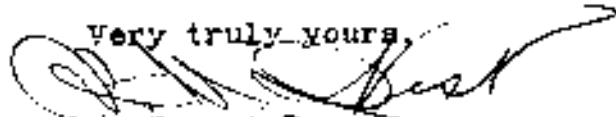
The following would be in a better position to know the fact than I.

J. C. Smith, Lurline, Nevada.
Oren and Roy Vaughn Ruby Valley, P.O.

W. J. Gardner Ruby Valley, Nevada.

These men live adjacent to the Wines ranch and are familiar with the surrounding conditions.

Very truly yours,



W. J. Gardner

Forest Ranger.

Memo, Nev. January 18th, 1918.

Mr. William Woodburn,
U. S. District Attorney,
Reno, Nevada.

Dear Mr. Woodburn:--

Since our conversation this morning, I have examined the files of this office for the purpose of determining whether we have any evidence in them to show that B. G. McBride, Stanley F. Wine, and other whites implicated in the controversy with the Ruby Valley Indians, have any corporate name, and fail to find anything showing such to be the case. The correspondence from those parties all appears to be signed by B. G. McBride, or Cantwell and Carwell, or Edwin Gaine, as attorneys for B. G. McBride and others.

Everything in relation to water rights, seems to show that the filing was made in the name of B. G. McBride, personally, and he, himself, stated this to me. All complaints in reference to the particular forty acres in controversy mention Stanley F. Wine as the one who was the offending party.

Very truly yours,

L. A. DORRINGTON,
Special Agent in charge

By Young & Co. Inc.
Special Supervisor.

Irrigation
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JUL 17 1918

Capt. E. G. McBride,
220 B Street, S. E.,
Washington, D. C.

My dear Captain McBride:

The Office is in receipt, by reference of the Chief Engineer, of your letter of April 25, 1918, regarding the water rights of certain Indians, principally members of the Timoko family, in Ruby Valley, Nevada.

Action on the matter has been withheld for the purpose of securing additional data. From the facts now before the Office it seems that Special Agent Lorenzo D. Creel called at your office in Elko, Nevada, on or about June 4, 1917, for the purpose of discussing the rights of the Indians; that Mr. Creel had previously discussed the matter, generally, with your attorney, Mr. Edward Caine, the intention being to work out some adjustment satisfactory to all parties concerned for submission to the local United States Attorney at Reno.

The rights of the Indians hinge largely on the title to a particular forty-acre tract, described as the NE¹/₄ of the NE¹/₄ of Section 25, Township 30 North, Range 58 East, N. D. M., which was certified to the State of Nevada in 1897, and which one Stanley L. Wines now claims under a "contract of purchase" from the State. June 29, 1916, the matter was placed in the hands of the Department of Justice, with a view of recovering title to the tract in question on the ground that certification to the State was improperly allowed, it appearing that the tract in question had been occupied and cultivated for more than forty years by certain Indians. It seems also that Mr. Creel had several interviews regarding the matter with the United States District Attorney

at Reno, Mr. Woodburn, in whose hands the matter was placed by the Department of Justice.

Information at this end of the line as to details regarding the matter is somewhat meager and the Office is not in a position to definitely accept suggestions looking to a settlement. It would be preferred if you or your attorney will submit any definite propositions you may have to make to the local United States Attorney at Reno, who is representing the Indians interested.

With reference to your suggestion that the rights of the Indians in and to the waters of Overland Creek be submitted to the State Engineer for adjudication, it may be said that the property rights of the Indians and the protection of such rights is a Federal question which, generally, in the absence of specific legislation by Congress is not subject to state laws or the jurisdiction of state tribunals.

Very truly yours,

(Signed) E. B. Merrill

7-212-16

Assistant Commissioner.

REMO AGENCY.

Reno, Nevada,
July 14, 1919.

Major G. W. Ingalls,
4354 Alabama Street,
San Diego, California.

My dear Major:

Your letter of the second to Mr. Pohland was handed to me on my return from a trip. As to your first questions would say that I turned your communication to Commissioner Wells over to Colonel Dorrington, shortly before he went to Schurz to take charge during the transfer of Superintendents. Just what action he took, I am unable to say, but will assure you that the Colonel is very judicial in his methods, but appreciates your kindly sympathy and anxiety to do something for not only the Ruby Valley Indians, but for any and all Indians wherever they may be.

The Ruby Valley land case involving the 40 acres claimed by Timokes, Mr. Woodburn assured me, had been settled by the McBride Wines people who claim the land, agreeing to deed the land to Timokes. I at once corrected him by requesting that the deed should be made to the United States of America for the use and benefit of the Timokes and other Ruby Valley Indians. This involved the making up of a new deed and sending it for signature and you know how slowly those things come when it is far from any notary or proper officer to acknowledge signatures.

In addition to this Colonel Dorrington and I met Mr. Edward T. Caine, Attorney for the McBride Wines people who laughingly informed us that the case had been settled by the Government getting all the satisfaction asked for. This will mean that no trial will be necessary at Carson as first thought as we got what we wanted without going to trial, which the defendants did not desire, therefore you or no other witness will be needed on this particular case. It certainly was

gratifying to me to know that you were willing to appear on behalf of the Indians. With you and the old Indians at Ruby Valley and Captain Dave Hanson acting as interpreter, the white people realized that they would look like 50 cents, Mexican, before the United States Court in trying to get 40 acres of land from a poor bunch of Indians when the whites already own most of the valley.

Assuring you of the gratitude of myself, Mr. Fehland and Colonel Derrington for your kind offers of assistance and hoping that your health is rapidly improving, we are

Yours very sincerely,

L. A. Derrington,

Special Agent in Charge.

Special Supervisor.

LEO:MP