

AFFIDAVIT OF SETTLEMENT AND IMPROVEMENT.
 (Indian Allottee)

STATE OF NEVADA } SS.
 COUNTY OF NYE }

TIM HOOPER (Indian), being first duly sworn, deposes and says, that he is the same identical person who made filing 08984, approved January 22, 1915, covering the S¹/₂ NE¹/₄ and the E¹/₂ NE¹/₄ of Sec. 21; and the NW¹/₄ NE¹/₄ of Sec. 22, T. 11 N., R. 46 E., M. D. 11, 160 acres, under Section 4 of the act of February 9, 1887 (24 Stat., 398), and the amendments thereof.

That he first made settlement on said land in June, 1914, and that since that time he has occupied and improved said land and has the following improvements, to-wit: That he has a substantial house for himself and family about 12 X 17 ft. in size, a barn of poles, chinked and plastered with adobe clay about 15 X 22 ft. in size; a corral for horses and other stock; a corral or fenced enclosure surrounding his hay stack, feeding racks for stock, plows, harrows, and other tools for cultivation, has all of said land enclosed by a wire fence, except a portion of NE¹/₄ NE¹/₄ of said Sec. 21; that he has built about 1¹/₂ miles of ditch from Andrew Creek, and extending across his land to and onto the NW¹/₄ of NE¹/₄ of said Sec. 22. That in addition he has built about 3/4 of a mile of ditch from Dry Creek to Andrew Creek, to catch and transmit to his main ditch the flood waters of the former creek. That he has built two small ditches from seepage springs rising in the western part of the NE¹/₄ of NE¹/₄ of the said Sec. 21 for the partial irrigation of his hay meadow. That the main ditch from Andrew Creek, and laterals therefrom, will irrigate the entire tract of 160 acres, and that the entire tract is smooth, arable land, every square foot of which can be put in cultivation. That he has now in cultivation and reclaimed about 58.3 acres of hay meadow from which hay is annually cut and stacked, about 9.2 acres in garden, potatoes and other food crops, about 9.5 acres of grain, with a small tract grubbed and prepared for alfalfa, or a total of about 76 acres. That all of the foregoing mentioned improvements, except the ditch from Dry creek and the small ditches from springs, are fully shown on a map on file in the U. S. Land Office at Carson City, Nev., in the office of the State Engineer at Carson City, Nev. and in the office of L. A. Dorrington, Special Indian Agent, Reno, Nev.

The undersigned further deposes and says that he has not cultivated as much land as he wished, and has had a partial failure of crops, due to the fact that he has been deprived of the waters of Andrew Creek through the diversion of said waters by a nearby cattle company to the irrigation by them of vacant public lands, as well as by the wastage of said waters on vacant sage-brush lands.

Deponent says in addition that he has about 12 acres of land cleared for irrigation in the NE¹/₄ of NE¹/₄ of Sec. 22; that he now has on the ranch lumber for a new dwelling house which he is about to erect, and that he owns 25 head of horses and 14 head of cattle. (Signed) TIM HOOPER

Subscribed and sworn to before me this second day of April, A. D. 1918. (Signed) CHAS. TINDALL LAWRENCE

My Com. expires
 March 7, 1919.

Notary Public.

SEAL.

COCORATIVE AFFIDAVIT.

STATE OF NEV. D.,) SS.
 COUNTY OF NYE.)

GEORGE A. WIST and CHARLES A. HUMPHREY
 being first duly sworn, each for himself and not for the other,
 deposes and says, that he is personally acquainted with TIM HOOPER,
 the Indian making the above affidavit, and with the land upon which
 the said Tim Hooper has made filing, and has carefully read the
 foregoing affidavit and certifies from personal knowledge and
 observation, that the same is true in every particular and that the
 improvements have been made upon the land described in said affi-
 davit, as stated by him. Further, that the said Tim Hooper is
 an industrious Indian of good character, who, as far as possible
 is providing for the education in the public schools of his own
 sons and other young Indian relatives.

(Signed) GEORGE A. WIST

" CHARLES A. HUMPHREY.

Subscribed and sworn to before me this 2nd day of April,
 A.D. 1919.

SEAL.

(Signed) CHAS. GINDALE LAWRENCE
 Notary Public

*Original recorded
Nov 29/18*

EXHIBIT "B"

November
Twenty Sixth
1918

Hon. Seymour Case,
State Engineer,
Carson City, Nev.

My dear Mr. Case:

Referring to case No. 4376 in re the decision of Hon. J. G. Bohrughan, State Engineer, in the informal hearing on the water application of Jim Hooper to appropriate certain waters of Pine Creek situated in Tp. 11, N. R. 46 E. of the NW¹ Sec. 21 under date of March 27th, 1917, and protested by the United Cattle & Packing Company of Tonopah, Nevada, under date of April 24th, 1917, an informal hearing of which was held June 20th, 1918, at Tonopah, Nevada. Would say that the decision of the State Engineer at this hearing directed that a weir should be installed in Pine Creek in order that this office might determine the flow thereof, which should be done at the expense of the United States government, but at the same time promising the assistance of a deputy connected with this office.

I did not request the services of this deputy on account of the difficulty of arranging a date and the very considerable expense and inconvenience to make the trip. Mr. Ira Murdoch, the Manager of the United Cattle & Packing Company, and I installed the structure described in the bulletin giving directions and estimates issued by your office. The specifications were strictly followed except as to putting a floor in the weir, which owing to the character of the soil, we deemed unnecessary. The face of the structure however was firmly embedded in the bottom of the Creek about two feet below the bottom. We diverted the flow of the Creek and excavated the natural channel and enlarged it into a pond about fifteen feet wide by thirty feet in length; built the structure and returned the Creek to its natural channel.

On Sunday, November 3rd, the flow of the stream was approximately one second foot. It is worthy of note however that this flow was almost entirely absorbed by the soil before it reached the road at the ranch where it allowed water barely enough for stock purposes. There is undoubtedly considerable loss. To justly determine the amount of water lost between the point where this wier is located, which is located above all the diversion points, that another wier should be installed in the creek near where it enters the meadow and cultivated lands of the Pine Creek Ranch.

The location of the wier is near the exit of Pine Creek from its ganyon, about one and a half miles from the ranch house. It is about fifteen feet above the point where the company diverts a portion of the water to serve the lands controlled by the Company, about four miles distance, known locally as the "Barley Field." I think the location of the wier and the structure itself will appeal to you or your deputies as the best possible to do under the circumstances.

No arrangement was made during the hearing referred to above to take the measurements and keep a record. I presume the State Engineer intended to provide for this through his office, and we shall assume this to be done by you. Possibly it might be found practicable to install an automatic gauge through the cooperation of the U. S. G. S. However, the situation may not demand this additional expense. We have no authority to incur it. Therefore this report is submitted covering the conditions up to date in order that you may be prepared to plan to carry out the plan of your predecessor, if such were made, or arrange for measurements to be kept through a sufficient length of time to determine the flow of the creek.

I would suggest that this office be kept informed from time to time of the flow of the stream in order that it may be made a matter of record.

While this work was done in the interests of Tim Hooper, we regard the interests of Spud, Fishermen and Alec Mike, as of far greater importance, as it involves the happiness and interests of about twenty individuals, who are depending upon the surplus waters of Pine Creek for homes.

Tim Hooper now states that it is the waters of Andrews Creek he wishes, and not Pine Creek. He will undoubtedly make further efforts in that direction. In justice to the United Cattle & Packing Company, I might say that its representatives have apparently displayed a fair spirit throughout the course of this controversy and been exceptionally accommodating in every respect. They transported all the material free from Tonopah to the ranch; the foreman and em-

ployees joined hands with the Indians and myself in doing all the work, and the best of feeling prevailed.

However, I desire to say in this connection that I believe its protest against Alec Mike's application should be disallowed for this reason:- after the waters of Pine Creek pass the boundaries of the company's lands they certainly can have no control over them, and such water is, as I have mentioned, what Alec Mike wishes although I have not seen his application. His lands adjoin those of the company with only a fence between them. The natural slope of the land causes the water to run toward his land for the most part. However, I believe the only suitable spot for a garden he has might call for a small dam near the exit of the water from the company's ranch. I would respectfully request that the company's protest be not allowed to stand until a representative from your office has had an opportunity to examine the situation upon the ground. Alec Mike has a very large family and is an industrious and law abiding Indian. If his application is no detriment to the company, he is deserving of the most careful consideration from your office.

Hoping that the information given is sufficient, and awaiting your further action in the premises, I am

Yours sincerely,

L. A. DORRINGTON,
Special Ind. Agt. in Charge.

By

Foreman Hill
SPECIAL SUPERVISOR.



STATE OF NEVADA
ENGINEER'S OFFICE

SEYMOUR CASE,
STATE ENGINEER
WM. W. COLEMAN,
DEPUTY STATE ENGINEER
FARVIN P. JONES,
CHIEF CLERK

CARSON CITY NOV. 18, 1918.

Subject:

In replying, refer to

Mr. Lorenzo D. Creel,
% U. S. Indian Service,
Gazette Bldg.,
Reno, Nevada.

My dear Mr. Creel:-

Enclosed find list of the filings of record
in this office for water of Pine Creek in Nye Co.,
which you requested when in the office Saturday. The
list was prepared by one of our Clerical force and I
have not had an opportunity to check it carefully, but
trust that it contains the information you desire.

Yours very truly,

Seymour Case

SC:JW



STATE OF NEVADA
ENGINEER'S OFFICE

SEYMOUR CASE,
STATE ENGINEER
W. W. COLLMAN,
DEPUTY STATE ENGINEER
MARVIN P. JONES,
CHIEF CLERK

CARSON CITY NOV. 7, 1911

Subject: Pine Creek

In replying, refer to No. 4378, 1911

Mr. Lorenzo L. Greel,
Special Supervisor, U.S. Indian Service,
Gazette Bldg.,
Reno, Nevada.

My Dear Mr. Greel:

Letters of the 26th and 27th insts., of Mr. D. A. Dorrington, Special Indian Agent in Charge, by yourself, and describing in full the situation on Pine Creek in Eya County and describing the weir recently constructed in the stream, are received.

We note that your department has complied with the condition imposed by former state engineer Jernighan in connection with the application, No. 4378, of Wm. Hooper and others and that you have not in the letter by you this office to have the measurements taken and to be applied in any suit manner that may be decided upon. Accordingly we shall, as soon as the matter can be reached in Reno, Nevada, call on you or other call on you at Reno, Nevada, to have measurements taken at the weir.

Relative to the protest of the United Lumber & Packing Company against application No. 4378 of Wm. Hooper and others will advise that no action will be taken on that protest until after due notice to all parties concerned, including yourself, and that in any event no action will be taken pending your efforts to adjust the question with the protestant. Should you not be able to reach a satisfactory understanding with the protestant we shall endeavor to have an early field investigation made so that the protest can be disposed of as soon as possible.

Yours very truly,

Seymour Case
State Engineer

SC:CF