

Re data for  
report on  
Mono Lake  
survey.

, Sept. 2, 1915.

Mr. H. K. Palmer,

Assistant Engineer, U.S.I.S.,

Big Pine, Calif.

Dear Mr. Palmer:-

I am in receipt of your map and report on the Mono Lake survey, and think it covers the situation except that I wish you would procure a census of the Indians affected. This should show the number, age and sex, with a short description showing their ability or lack of it to take care of the land. Show the number of cattle and horses they own, to give an idea of their advancement.

It would also be advisable to procure photographs of them if possible, and of the cultivated fields and other improvements. The status of the Indian land should also be definitely given. Try and procure a history of the Indians in question.

With respect to the map, I think we should also have a map showing the location and extent of the land which the whites propose to irrigate, also the location of the proposed canals.

I have filed your report and map in the office, and when you have secured the additional data we can complete the report.

Very respectfully,

*L. R. Olney*  
Supt. of Irrigation.

CRO/AR

(COPY)

Irrigation DEPARTMENT OF THE INTERIOR  
49977-18  
J T R WASHINGTON

JUL 11 1918

Dear Mr. Attorney General:

The Department is in receipt of your letter of June 11, 1918, transmitting a communication received by you from Special Assistant John F. Truesdell, reporting on the following cases:

Mono County Irrigation Company v. Adam Farrington et al., No. 2089, which has to do with Lee Vining Creek.

Archibald Farrington v. J. S. Cain et al., No. 2090, having to do with Parker Creek.

Archibald Farrington v. J. S. Cain et al., No. 2091, having to do with Rush Creek, - all three cases being in the Superior Court of the State of California.

In commenting on these cases Mr. Truesdell states:

"The decrees themselves will show with accuracy just what rights were given to the Indians, but for convenience I may say here that in the Lee Vining Creek case, Jameson, the Indian, has an allotment of 160 acres, and that only one-third of this could be irrigated. The stream in that case was divided into two parts. The normal flow, so-called, of 1400 inches, was apportioned among the appropriators apparently on the basis of half an inch per acre and all were given the same priority. Of this first right, the Indian was given 25 inches, which, under careful management, probably would be sufficient for his fifty odd acres of irrigable land. As a matter of fact, I understand that he has only irrigated, according to the proof, from five to eight

acres. The so-called flood flow was also apportioned and the Indian was given 35 inches as his share of that. In the Rush Creek case, all of the Indian defendants, including the dead man, John Cluett, but excluding Joe McLaughlin, were given 50 inches a piece and Joe McLaughlin was given 60 inches. Here the Indians were given a first right. The information as to area susceptible of irrigation, area actually irrigated, etc., upon which these figures were arrived at, I have not had, but I have no reason to think that the figures in this case were come to upon less information or are less liberal than those in the Lee Vining case. If I am right as to this, the Indians have in each case been given enough water to irrigate all of the lands that they now have in cultivation and perhaps enough to irrigate all that is susceptible of cultivation. If the latter is the case, obviously the wise thing to do is to let the matter stand as it is.

Taking active steps to change the situation by suit would in my view only be warranted if the Interior Department feels that these individual Indians or some of them have not received as much water as they now need or are very sure to need in the near future. Even in that case a suit would probably not be warranted unless the getting of all the water now needed or likely to be needed was as a practical matter likely to be interfered with. This is a high, cold region, and it may well be that irrigation schemes thought promising when these suits were brought have been abandoned, and that the Indians' use of all the water that they can possibly put on their land is not now in any danger of being prevented."

Mr. Truesdell touches briefly on the question of the jurisdiction of State courts over Indian property,

intimating that the decrees in these cases may not prove binding either against the Indians or the United States should it be found that the rights of the Indians are not sufficiently recognized thereby; yet it appears that the Indians have at least sufficient water for their present and immediate prospective needs, in view of which fact Mr. Fruesdell suggests the inadvisability of further action in the cases at this time.

With this conclusion this Department agrees. Should the need for further action by your Department in connection with these cases arise in the future they will be again brought to your attention.

Cordially yours,

(Sgd.) S. C. Hopkins,

7-2114-5

Assistant Secretary.

The Honorable

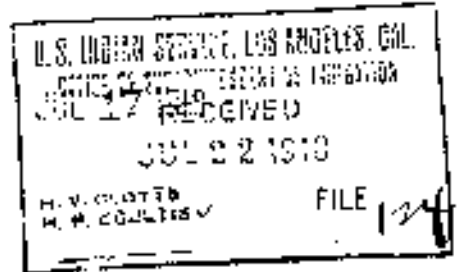
The Attorney General.

Inclosure 22396.

REFER IN REPLY TO THE FOLLOWING:

Irrigation  
 49977-18  
 P L S

**DEPARTMENT OF THE INTERIOR**  
**OFFICE OF INDIAN AFFAIRS**  
 WASHINGTON



Mr. Herbert W. Clotts,  
 Supervising Engineer.

My dear Mr. Clotts:

There are enclosed herewith for your information copies of the judgments and decrees in the Superior Court of the State of California, in and for Mono County, in the cases entitled Cain Irrigation Company, a corporation, Plaintiff, vs. J.S. Cain et al., Defendants, and Mono County Irrigation Company, a corporation, Plaintiff, vs. Adam Farrington et al., Defendants, respectively, and a copy of Department letter dated July 11, 1918, to the Attorney General relative to these cases.

Very truly yours,

*E. P. Mearns*  
 Assistant Commissioner.

7-350-15

*1.351 4-20-18*  
*M. L. S.*

Re Rush &  
Le Vining Creek  
Decrees, etc.

July 23, 1918.

Mr. John F. Truesdell,

Special Assistant to the  
U. S. Attorney General,

732 Equitable Bldg.,

Denver, Colorado.

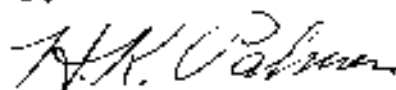
Dear Sir:

Copies of the Rush Creek and Le Vining Creek Decrees, (Superior Court of Mono County Nos. 2091 and 2089) have been sent to us, with copy of an extract of your letter to the Attorney General.

I have looked over these decrees carefully in regard to the amount of water given to the Indians, and find that, in the case of Rush Creek, the Indians have been granted practically the amount I recommended, so far as irrigating the low lands along the creek. In my report to Mr. Olberg, 1915, I suggested that certain lands above the creek bottom would have to be irrigated by filling enlargements on these private ditches. Should this be done and the Indians irrigate all the land susceptible of irrigation, that would require approximately 4-1/2 sec. ft. based on the duty of water of 75 acres per second foot. Neglecting the small, isolated tracts above the rim of the canyon, the Indians will require only 3.45 sec. ft. for the irrigation of the lands, that is, the creek bottom, whereas this decree gives them 3.6 sec. ft. As it is very unlikely that they would ever irrigate the small tracts outside the canyon, I think that we can consider the decree sufficiently liberal and let the matter stand as it is.

We have an extra copy here of report to Mr. Olberg, and in case you would like to include it in your files we could send it to you, but it is my impression that you may not care to bother with this case further. In case you would like this copy, kindly let us know and we will send it to you

Yours truly,



Assistant Engineer.

HKP/AR

~~San Francisco~~

12

Mr. Clutter

This matter pertains to the adjustment of water to the Indians in the Mono Lake region. Both and I made the survey for this in 1915 and the results will be found in report #8. (Water conditions along Park Creek, Mono Co. Calif.)

I think the Indians received a pretty fair deal. The facts of the decree referring to the Indians have been marked with red ink.

A copy of this report #80 was given the M.S. Attorney in S.F. (Mono Co. is in the Northern Judicial District of California) but now was sent to Fresno. I suspect he does not care to clutter his files with it now, which is the reason I make as I did.

H.K.P.

We did not make any survey on Let's name Creek.



DEPARTMENT OF THE INTERIOR

UNITED STATES INDIAN IRRIGATION SERVICE

Re  
Water Appli-  
cation #1026,  
Nevada-Calif.  
Power Co.,  
Rush Creek,  
Mono Co., Cal.

SUPERINTENDENT OF IRRIGATION  
528 FEDERAL BUILDING  
LOS ANGELES, CAL.

September 6th, 1918.

State Water Commission,  
Call Building,  
San Francisco, Calif.

Gentlemen:-

Regarding application #1026 by the Nevada-California Power Company for 3763 acre feet per annum of the water of Rush Creek, Mono County, for power purposes, I wish to call your attention to the fact that the Indians along Rush Creek have a vested right to 3.6 sec. ft. which has been acknowledged in the suit of the Cain Irrigation Company vs. J. S. Cain, et al., Superior Court of Mono County, #2091, Sept. 20, 1915.

The land in question is described as follows:

The  $\frac{3}{4}$  of the  $\frac{SW}{4}$  Sec. 13;  $\frac{NE}{4}$  of the  $\frac{NE}{4}$  Sec. 23; the  $\frac{NW}{4}$  of the  $\frac{NW}{4}$  and the  $\frac{W}{2}$  of the  $\frac{SW}{4}$  of Sec. 24; the  $\frac{NE}{4}$  of the  $\frac{NW}{4}$  of Sec. 25; the  $\frac{E}{2}$  of the  $\frac{NE}{4}$  of Sec. 25; the  $\frac{SW}{4}$  of the  $\frac{SE}{4}$  and the  $\frac{SE}{4}$  of the  $\frac{SW}{4}$  of Sec. 26; and the  $\frac{NE}{4}$  of the  $\frac{NW}{4}$  of Sec. 35; T 1 N, R 26 E, M.D.M. The  $\frac{E}{2}$  of the  $\frac{NE}{4}$  of Sec. 9, and the  $\frac{W}{2}$  of the  $\frac{NW}{4}$  of Sec. 10, T 1 S, R 26 E, H. D. M.

Yours truly.

HVC:WSP

*Herbert C. Oltz*  
Supervising Engineer.

COMMUNICATIONS

IRVING MARTIN  
W. A. JOHNSONE  
A. F. CHANDLER, PRESIDENT  
J. H. A. PATTEN, SECRETARY

# STATE WATER COMMISSION

OF

## CALIFORNIA

SIXTH FLOOR CALL BUILDING  
74 NEW MONTGOMERY ST.  
SAN FRANCISCO

EX OFFICIO

GOVERNOR WILLIAM D. STEPHENSON  
STATE ENGINEER W. K. HOLLER

L. D. BONNETT, ATTORNEY  
TELEPHONE BATTERY 1087

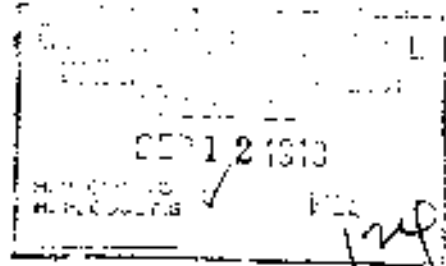
ADDRESS ALL COMMUNICATIONS TO THE  
STATE WATER COMMISSION

September  
Eleventh  
1918

Re  
Water Appli-  
cation #1026,  
Nevada-Calif.  
Power Co.  
Rush Creek,  
Mono Co., Cal.

In re Application No. 1026.

Herbert V. Clotts  
Supervising Engineer  
U.S. Indian Irrigation Service  
528 Federal Building  
Los Angeles, California



Dear Sir:

I wish to acknowledge receipt of your letter of September 6th relative to the application of the Nevada-California Power Company. Your letter will receive the attention of the commission.

Yours very truly,

*Josephine A. Patten*  
Secretary.

JAP/J

U. S. BUREAU OF REVENUE, LOS ANGELES, CALIF.  
DIVISION OF TAX COLLECTION  
RECEIVED  
SEP 17 1918  
H. V. CLUTTS  
H. P. COLLINS  
FILE

Bishop, California. September 14. 1918.

State Water Commission of California.  
Sixth Floor, Call Building.  
74, New Montgomery Street.  
San Francisco, California.

Sirs:-

Your attention is respectfully called to the application to appropriate water by the Nevada-California Power Company, Cheyenne, Wyoming, 3763 acre feet per annum of the waters of Rush Creek, tributary to Mono Lake, Mono County for the generation of electric power. No. 1026.

In connection with this, I would refer to the following Indian allotments located on Rush Creek, with a view that the granting of the application affect the water rights of the Indians concerned, to no appreciable extent.

Fee Foster----- Allotment described as follows:  
NE 1/4 NE 1/4 Sec 23 NW 1/4 NW 1/4 Sec 24, and  
S 1/2 SW 1/4 Sec 15, T.1.S.R. 26 E. 160 acres.

John Clonette---Allotment described as follows:  
SW 1/4 SW 1/4 Sec 24. NW 1/4 NW 1/4 Sec 25, and  
E 1/2 NE 1/4 Sec 26 T.1. S.R. 26 E.M.D.M. 160 acres

Louis B. Murphy--Allotment described as follows:  
SE 1/4 SW 1/4 SW 1/4 SE 1/4 Sec 26 NE 1/4 NW 1/4  
Sec 25 T.1. S.R. 26 E. 120 acres.

Joe McLaughlin---Allotment described as follows:  
E 1/2 of the NE 1/4 of Sec 9. W 1/2 NW 1/4 Sec 10,  
T.1.S.R. 26 E.M.D.M. 160 acres.

Very truly yours.

*Ray P. Barrett*  
Superintendent.

Copy to Indian Irrigation Service.  
Los Angeles, Calif.

12  
Re- Vested Right  
Lee Vining Creek  
Mono Co., Cal.  
Water Application #1071

Dec 16, 1918

State Water Commission,  
San Francisco, Cal.

Gentlemen:-

I wish to notify you that Henry Jamison (Indian) claims a vested right to  $\frac{1}{2}$  second foot of the water of Lee Vining Creek, Mono Co., Cal. This water is used on the following tract of land:-

~~SE $\frac{1}{4}$  of SE $\frac{1}{4}$ , sec. 4~~

E $\frac{1}{2}$  of NW $\frac{1}{2}$  and NE $\frac{1}{2}$  of SW $\frac{1}{2}$ , sec. 9, T 1 N, R 26 E. M.D.M.

This right has been recognized in decree #2089,  
Superior Court of Mono County, Dec. 1, 1914  
"Mono County Irrigation Co. vs Adam Harrington et al"

Yours truly

*H.K. Palmer*  
Assistant Engineer

COMMISSIONERS:

IRVING MARTIN  
W. A. JOHNSTONE  
A. F. CHANDLER, PRESIDENT  
JOSEPHINE A. PATTER, SECRETARY

STATE WATER COMMISSION  
OF  
CALIFORNIA

SIXTH FLOOR CALL BUILDING  
74 NEW MONTGOMERY ST.  
SAN FRANCISCO

GOVERNOR WILLIAM D. STEPHENSON  
STATE ENGINEER W. F. McCLURE  
L. D. BONNETT, ATTORNEY  
TELEPHONE BUTER 1087

ADDRESS ALL COMMUNICATIONS TO THE  
STATE WATER COMMISSION

December 17, 1918.

Application 1071.

Mr. H. K. Palmer, Asst. Engr.,  
U. S. Indian Irrigation Service,  
528 Federal Building,  
Los Angeles, California.

RECEIVED
DEC 18 1918
FILE

Dear Sir:

This office is in receipt of your letter of December 16th, regarding water right of Henry Jamison (Indian) on Lee Vining Creek in Mono County.

A notation has been made on our records and you will be notified of any applications for the waters of this stream.

Yours very truly,

*Josephine A. Patten*  
Secretary.

GWD/P

DEPARTMENT OF THE INTERIOR  
UNITED STATES INDIAN SERVICE

Reno  
Nevada  
April  
Ninth  
1920.

Mr. Herbert V. Clotte,  
Supervising Engineer  
United States Indian Service,  
Los Angeles, California.

My dear Mr. Clotte:-

This will be presented by and will introduce Mr. James B. Clover of your city. Mr. Clover is an Irrigation Engineer of very large experience. His work has been fruitful in results. In a conference with him recently it was learned that quite a number of Indians have probably been very much discriminated against in the matter of Water rights throughout much of California. Mr. Clover was requested, at the conclusion of the conference, to call at your office in Los Angeles and give you an account of his observation and knowledge in the premises to the end that any rights heretofore withheld from Indians may be accorded, if possible, by the proper proceedings.

It is believed you will find Mr. Clover, as I have, very much a gentleman and will be pleased to have you meet.

With kind personal regards and continued very best wishes, I am always

Very sincerely,

*H. W. Dunnington*  
Special Agent.

#826  
Investment  
L.A.