

Mr. Dorrington-11

convey water from the creek to this particular tract.

Mr. J. T. Donnelly, a cowboy who is familiar with the range previous to 1889, knows the location of the Indian tracks and states that they were within the boundaries of this forty and also knows of Indian cattle in their round-ups. Macash Tomoque stated in conversation with him that when the cattle were taken to the railroad after the Duck Valley was established, there were some head which they did not get. His cattle increased to about fifty head when the whole herd was wiped out in the cold winter of '89 and '90. Mr. Donnelly knew of these cattle and knew of the Indians' ownership of this herd, as he frequently rode in and around the place. One of the best witnesses is Mr. Dick Smith, of Duck Valley, sixty-one years of age. He came into this valley May 26, 1872, and the town of Elko in 1876. He brought a number of horses from Salt Lake City in 1875 and worked for a Mr. Giding. He lost track of his horses, went to look for them and discovered them in the midst of the grain field of the Indians, at the Indian village, which was within the boundaries of this tract. He states that he did not stay at that time to interview any of the Indians, as he was new to the country and on account of this trepass, to use his expression, he "got away as soon as he could with his

Mr. Dorrington-12

horses for fear they would raise hell with him".

The best witness of all is Mr. Sam Sims, a brother of Stanley Sims. He will state that the Indians have occupied this land since the time he can remember and he is about thirty-eight years of age. Before he knew that I desired to make him a witness he stated that he had told his father and his brother Stanley that they were making a mistake in interfering with the Indians in regard to that land, as the Indians had always lived there. I said to him "I see no possibility of settling this matter out of court, and I guess I will have to ask you to come to Carson to testify in the matter". He replied, "I guess I should not have said what I did, but I am willing to go and take oath to what I have said". Other testimony could have been got but it seems to me that this should be sufficient, when read in connection with the other data set forth by correspondence and in the reports of myself and Mr. H. T. Johnson, from field observations taken during the month of June, 1917.

I succeeded in getting a saddle horse for use in visiting various ranches for the purpose of interviewing prospective witnesses. While waiting between visits I determined to investigate Crystal Lake, the body of water which Mr. McBride appears to rely upon to a large extent

Mr. Derrington-13

as a source of water for irrigation in the latter part of the season. This lake lies high up in the mountains about six miles from the lands proposed to be irrigated from its waters. The trail is very steep and difficult to negotiate, by which it is reached. Mr. Eren Vaughn, rancher living near by, volunteered to go with me, as he was familiar with the location. We had great difficulty in finding the trail on account of the avalanches and snow slides during the winter past. After a hard and difficult ride and walk, leading our horses, we reached the lake. It is said to be 25 acres in extent and 67 feet deep at the deepest point. It lies in a volcanic or glaciated basin, surrounded on three sides by almost perpendicular walls of granite. As a lake it is very clear and beautiful and abounds in fish, which were planted by Mr. Vaughn about twenty years ago. As an irrigation prospect for storing water I consider it a joke. There is no water shed worth mentioning and the entire amount of water, according to my judgment, would be from the sole source of the melting of snow in its narrow basin. There are no springs of any volume for the amount of water flowing from the lake could only be estimated in gallons as the small weir which had apparently been installed for getting measurement in high water would not record any amount of water in inches and the outflow could only be

Mr. Dorrington-14

measured by estimating in gallons. I think the outflow would not exceed fifteen gallons per minute. The idea of tapping the lake by a tunnel at a lower level I consider prohibitive on account of the expense and only the amount of water contained in the basin of the lake would be secured. The long run from the lake to the land to be irrigated would be made over the rocky bed of Overland Creek and much of the water would certainly be lost through absorption and evaporation. Parties who have been familiar with the capacity of this lake, as it is often visited in summer, consider the use of it for irrigation purposes absurd and impracticable. The only evidence of work on or about it so far is an open cut 150 feet long, averaging 3 feet deep, and from 3 to 5-1/2 feet wide, through the granite rock wall. This is closed at the outlet of the lake by a very flimsy structure of 7/8 inch boards. The water line on the shore indicates that about 2 feet in depth over the surface has been impounded. Reducing this to acre feet, 2 feet in depth over a 13 acre surface will show only a limited amount of water as an irrigation asset.

      Owing to the inaccessibility of this lake for <sup>over</sup> eight months in the year and the difficulty of reaching it the other four, it admits of a wide play of the imagination of parties interested in the use of its waters, therefore it can readily be seen that it might be made a great talking

Mr. Dorrington-15

point to assist in putting over a 2000 acre desert land reclamation proposition.

This trip was made with considerable difficulty and fatigue and no little risk, but I considered that the end justified the means and felt very well repaid for my visit, as I found just exactly what I expected to find.

Photographs showing the lake and surroundings are submitted herewith.

They were threshing oats and wheat on the Hebride-landed land. The oats crop was very light and showed a very great lack of timely irrigation. I inquired of the superintendent the reason why considerable of the area had not been reached by irrigation water and said I did not see why the Indians should interfere with the ditch that watered this tract. He replied that they did not but that he was sick when it should have been irrigated. I asked him where the ditch was that the Indians had interfered with. He said it was the ditch known as the "Indian Ditch", the extension of which furnished water for the tract of land west of the road upon which he lived. I saw no evidence of crops on this land, other than pasturage. After he made this complaint I went over every foot of the Indian Ditch from the Indian ranch down and readily discovered the

Mr. Dorrington-16

trouble. The ditch was banked full of sand and silt and would only carry an inch or so in depth of water, and the driving of a wagon or even the walking of a horse across its banks would cause a break. I did not discuss this with the superintendent but I met Mr. McBride in line on my way out and called his attention to this. He admitted that there was practically no ditch there, as he had gone over it recently, but still contended that he found a spot where the Indians had built a dam across the ditch and turned the water out on Indian lands which should have gone to theirs. No division of time or water apparently has ever been made in regard to this old Indian ditch, and I fail to see how a common use of this ditch could be made without more or less friction. I am of the opinion that my impressions gained during my visit this summer were correct that much of the complaint in regard to cutting ditches arises from incompetence in handling the water by employees of the company, who take this method of shielding themselves and their incompetence by laying the blame upon the Indians.

In this connection I might state that I moved about the neighborhood with a great deal of freedom, as I did not care who knew what my business was, therefore I had more or less conversation with the neighboring ranchers and I found that public sentiment is all in favor of the

Mr. Dorrington-16

Indians, except that of those directly interested in the irrigation project. It would be next to impossible for these ranchers to get their work done without the Indians of Ruby Valley, as it is almost entirely out of the question to get white labor from the outside. Indeed I found that the entire threshing crew on the McBride-Wines ranch were Indians and two Indian women were working making full hands and receiving equal pay with the men. The wages paid were ample, \$8.00 per day and board, and the treatment given the Indians was all that could be desired. Other white ranchers informed me without my asking a question that they could not do without the Indians to do their work, especially in irrigating and haying, also cattle feeding, as all their cattle are fed throughout the winter. Photographs are submitted showing threshing on the McBride ranch.

I had quite an interesting visit with Mr. Samuel S. Wines, brother of Stanley Wines, who is mentioned in the controversy, and the son of Ira S. Wines, who is the claimant of the 40 acre tract also claimed by the Indians. He occupies his father's ranch. On my previous visit I suspected that at least a portion of the land withdrawn by executive order for the use of these Indians might be enclosed within the boundaries of this ranch. Mr. Wines and I found a certain corner and I discovered that I suspected, the eighty acre tract withdrawn by executive

Mr. Dorrington-17

order was entirely within their fences. I told Mr. Wines that on account of so much friction with the Indians I would say nothing about it to them but should have to report it and advised him to remove his fences. On account of the dry ground and the difficulty of doing this, he stated that he would take up the matter with his father first and I told him that if they were removed at the opening of next spring there would probably be nothing said about it, but the wisest course he could pursue would be to have it done by that time. This eighty acres is excellent land and if water could be secured would be quite valuable.

I made an interesting discovery in regard to the use of the waters of Overland Creek on the Indian allotments. I was informed by Jack Frost, an educated and intelligent Indian, that the Indians built the high line ditch and used water on their lands one year previous to the McBride and Wines people. While the McBride people had made their application and it had been granted, they apparently made no use of the water until the Indians had done so. The Indians showed great ingenuity in building this ditch. Willows are already growing along its banks. Jack Frost asked me if I knew how they came to be there. I replied I supposed they drifted in by means of the water. He said, "No, when we laid out the ditch we had



Dr. Dorrington-18

no instruments but our eyes and drove green willow sage  
all along the course of the ditch. We constructed the  
ditch and immediately turned in the water, and they began to  
grow." This is in marked contrast with the methods employed  
by the whites. The Indian Ditch runs along the hillside  
and swings around the heads of the ravines and is really  
quite a work of engineering. It seems to me this should  
establish a priority of right in the use of water in behalf  
of the Indians, at least upon these small tracts now in  
cultivation upon their allotments.

130  
On my way out I examined the land books  
at Elko and find that Township 30 North, Range 50 East,  
was surveyed and plotted and accepted by the Surveyor  
General Marsh 29, 1870. On this township plot I note  
that the surveyor indicates a small rectangular field in  
cultivation which covers the Northeast corner of the 40  
acres in dispute. I also note that he marks Head's house  
within a short distance of this 40. Colonel Head was in  
charge of these Indians, according to the affidavit of the  
Hon. W. S. Bowley of Elko, Nevada, in 1867. The surveyor  
also marks a ditch directly through the middle of the 40  
acre tract. These legends indicate that somebody was busy  
on and around that tract at a very early date.

Mr. Dorrington-19

I succeeded in getting transportation by auto from Ruby Valley to Elko at the same rate as charged by the stage company, which enabled me to get Captain Dave easily and safely back to the railroad in less than half a day, much to my relief. Later I returned him safely to his home at Pyramid Lake.

I have reported conditions affecting the water matters as to the relation they bear to the reclamation of those desert land entries to Mr. George Hayward, Chief of the Field Division, of the General Land Office at San Francisco, calling his attention to the situation and making certain recommendations. A copy of this letter is submitted herewith. I find that the survey party which we thought were operating in that vicinity had finished their work and gone through. It appears that they were working under the direction of the Forest Service. I could find no report of their work in the office of the Forest Supervisor at Elko, who advised me to write to the Ogden office, which I did, requesting any information the party might have affecting the corners of the lands in controversy, in Township 30 North, Range 50 East. A copy of this letter is also submitted herewith.

I also discovered that Mr. Bessel, who had homesteaded the 110 acres at Elko, formerly withdrawn for

Mr. Dorrington-20

school purposes for the Eiko Indians, had not complied with the law and immediately notified the Commissioner of Indian Affairs by wire, advising him of the situation, recommending that action be taken at once to restore this land to its original condition, as indications I observed pointed to future use of this land by these Indians. I received assurance by wire that the Office had acted, according to my suggestion. In the meantime I followed this matter up by letter, explaining the situation in full. A copy of these telegrams and this letter are also submitted.

I consider now that after we have submitted my findings to the U. S. District Attorney that I have accomplished all that can be done at present in clarifying the Ruby Valley situation.

Very truly yours,

*Wm. H. ...*  
Special Supervisor.