

assert that they have historically maintained a dry dam on Alvey Wash and are entitled to continue this practice. The State Engineer and certain of the other users allege that while there is some return flow and natural accretion to the stream it is not sufficient to satisfy the various rights along Alvey Wash during the irrigation season, and that it has not been the historical practice to place dry dams across this stream and that protestants are not entitled to any such right.

3. ZELMA WILSON

A. Zelma Wilson asserts that the proposed award of a water right to J.C. & Lillie Spencer under Water User's Claim No. 1180 is invalid, and that said claimants have not established a right to the use of the waters of Alvey Wash by adverse use or by any other means, and any right which may have been established has been lost by non-use. In the alternative, protestant alleges that if J.C. & Lillie Spencer have any right to the waters of Alvey Wash, such right is secondary in priority to all of protestant's rights from this source and could not exceed the irrigation requirements for fifteen acres of land.

B. Protestant claims a water right for the irrigation of sixty acres of land under Water User's Claim No. 3 with a June 9, 1909, priority. The State Engineer alleges that Water User's Claim No. 3 is limited to the water requirements of fifty acres of land with a flow of .50 c.f.s. as set forth in Certificate No. 235. The State Engineer further alleges that said Certificate is supplemented by Water User's Claim No. 1272 with a 1915 priority, and protestant is entitled to irrigate an additional ten acres of land under Water User's Claim No. 1440 with a 1917 priority. However, the State Engineer alleges that Water User's Claims Nos. 1272 and 1440 are predicated upon adverse use and that there is no basis for an earlier priority or additional use under said Claims. The State Engineer further alleges that said claims are in accord with the information received by the State Engineer from the protestant and other users at a Hearing con-