

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE  
DETERMINATION OF THE RELATIVE IN  
AND TO THE WATERS OF MOTT CREEK,  
TAYLOR CREEK, CARY CREEK  
(AKA CAREY CREEK), MONUMENT  
CREEK, AND BULLS CANYON, STUTLER  
CREEK (AKA STATTLER CREEK),  
SHERIDAN CREEK,  
GANSBERG SPRING, SHARPE SPRING,  
WHEELER CREEK NO. 1,  
WHEELER CREEK NO. 2, MILLER  
CREEK, BEERS SPRING, LUTHER  
CREEK AND VARIOUS UNNAMED  
SOURCES IN CARSON VALLEY,  
DOUGLAS VALLEY, NEVADA,

J.W. BENTLEY AND MARYANN  
BENTLEY, TRUSTEES OF THE BENTLEY  
FAMILY 1995 TRUST,

Appellants,

vs.

THE STATE OF NEVADA OFFICE OF THE  
STATE ENGINEER; HALL RANCHES,  
LLC; THOMAS J. SCYPHERS;  
KATHLEEN M. SCYPHERS; FRANK  
SCHARO; SHERIDAN CREEK  
EQUESTRIAN CENTER, LLC, a Nevada  
limited liability company; DONALD S.  
FORRESTER; KRISTINA M. FORRESTER;  
RONALD R. MITCHELL; AND GINGER G.  
MITCHELL,

Respondents.

Supreme Court Case No. 59188

District Court Case No. CV0363

DOCKETING STATEMENT  
CIVIL APPEALS

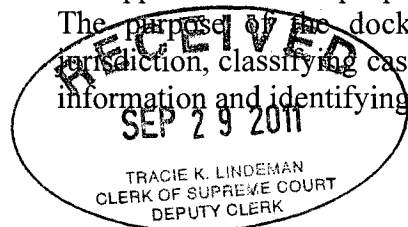
**FILED**

SEP 29 2011

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *K. Malone*  
DEPUTY CLERK

GENERAL INFORMATION

All appellants not in proper person must complete this docketing statement. NRAP 14(a).  
The purpose of the docketing statement is to assist the Supreme Court in screening  
jurisdiction, classifying cases for en banc, panel, or expedited treatment, compiling statistical  
information and identifying parties and their counsel.



## WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to attach requested documents, fill out the statement completely, or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. *See KDI Sylvan Pools v. Workman*, 107 Nev. 340, 3.44, 810 P.2d. 1217, 1220(1991). Please use tab dividers to separate any attached documents.

1. Judicial District: Ninth Department: I  
County: Douglas Judge: David Gamble  
District Ct. Case No. 08-CV-0363-D

2. **Attorney filing this docketing statement:**

Attorney: Michael L. Matuska Telephone: (775) 782-7171  
Firm: Brooke Shaw Zumpft  
Address: 1590 Fourth Street, Minden, NV 89423

Client(s): J.W. Bentley and Maryann Bentley, Trustees of the Bentley Family  
1995 Trust

**If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.**

3. **Attorney(s) representing respondent(s):**

Attorney: Thomas J. Hall Telephone: (775) 348-7011  
Firm:  
Address: 305 South Arlington Avenue, P.O. Box 3948, Reno, NV 89505-3948

Client(s): Hall Ranches, LLC, thomas J. Scyphers, Kathleen M. Scyphers,  
Frank Scharo, Sheridan Creek Equestrian Center, LLC, Donald S.  
Forrester, Kristina M. Forrester, Ronald R. Mitchell, and Ginger G.  
Mitchell

Attorney: Bryan Stockton Telephone: (775) 348-7011  
Deputy Attorney General  
Firm: Nevada Office of the Attorney General  
Address: 100 North Carson Street, Carson City NV 89701-4717

Client(s): Office of the Nevada State Engineer

4. **Nature of disposition below (check all that apply):**

- |  |  |
|--|--|
| <input type="checkbox"/> Judgment after bench trial  | <input type="checkbox"/> Grant/Denial of NRCP 60(b)            |
| <input type="checkbox"/> Judgment after jury verdict | <input checked="" type="checkbox"/> Grant/Denial of injunction |
| <input type="checkbox"/> Summary judgment            | <input type="checkbox"/> Grant/Denial of declaratory relief    |
| <input type="checkbox"/> Default judgment            | <input type="checkbox"/> Review of agency determination        |
| <input type="checkbox"/> Dismissal                   | <input type="checkbox"/> Divorce decree:                       |
| <input type="checkbox"/> Lack of jurisdiction        | <input type="checkbox"/> Original                              |
| <input type="checkbox"/> Failure to state a claim    | <input type="checkbox"/> Modification                          |
| <input type="checkbox"/> Failure to prosecute        | <input type="checkbox"/> Other disposition (specify) _____     |
| <input type="checkbox"/> Other (specify) _____       |  |

5. **Does this appeal raise issues concerning any of the following?**

- |  |   |
|--|---|
| <input type="checkbox"/> Child custody | <input type="checkbox"/> Termination of parental rights               |
| <input type="checkbox"/> Venue         | <input checked="" type="checkbox"/> Grant/Denial of injunction or TRO |
| <input type="checkbox"/> Adoption      | <input type="checkbox"/> Juvenile matters                             |

6. **Pending and prior proceedings in this court.** List the name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

J.W. Bentley and Maryann Bentley, Trustees of the Bentley Family 1995 Trust v. The Ninth Judicial District Court of the State of Nevada, et al.  
Docket No. 56351

J.W. Bentley and Maryann Bentley, Trustees of the Bentley Family 1995 Trust v. The State of Nevada Office for the State Engineer; Hall Ranches, LLC, et al.  
Docket No. 56551

7. **Pending and prior proceedings in other courts.** List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition: N/A

8. **Nature of the action.** Briefly describe the nature of the action, including a list of the causes of action pleaded, and the result below:

This appeal concerns a water rights adjudication proceeding. Bentley is in a unique position in that it enjoys the right to divert (but not consume) water from Sheridan Creek above and beyond its allocated amount pursuant to a Water Diversion and Use Agreement ("Diversion Agreement") that was recorded in the Official Records of Douglas County, Nevada, on 27 March 1987. The water is to be diverted through Bentley's ponds and then returned to the creek and ditch system for use by other claimants. Intervenor filed multiple motions to have the lower court override that Diversion Agreement and instead impose a rotation schedule. On 18 June 2010, the lower court granted Intervenor's motion(s) and entered an Order which effectively restrained Bentley's diversion of the amount already adjudicated in its favor in the Final Order of Determination and any other diversions under the recorded Diversion Agreement. As a result, Bentley gets the full flow of water from the North Branch of Sheridan Creek 1.6 days out of the twenty-one (21) day rotation cycle. There is no statutory basis or need for this Order, and it was entered without any evidentiary hearing, or a requirement for Intervenor to post a bond. Bentley appeals from this Order as if it were a temporary restraining order and/or a preliminary injunction.

9. **Issues on appeal.** State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

1. Whether the order for a rotation schedule is a form of temporary restraining order or preliminary injunction.
2. Whether the Appellant should have been granted the due process and procedural safeguards required by NRCP 65 prior to the issuance of the order.
3. Whether there is any statutory basis for the order.
4. Whether Respondents failed to join necessary parties to this subproceeding.
5. Whether the preliminary injunction alters the status quo.
6. Whether there is any factual basis for the preliminary injunction.

10. **Pending proceedings in this court raising the same or similar issues.** If you are aware of any proceeding presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket number and identify the same or similar issues raised: N/A

11. **Constitutional issues.** If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130.

- ☒ N/A
- ☐ Yes
- ☐ No

If not, explain:

To the extent this case may raise constitutional questions, the State of Nevada is already a party.

12. **Other issues.** Does this appeal involve any of the following issues?

- ☐ Reversal of well-settled Nevada precedent (on an attachment, identify the case(s))
- ☐ An issue arising under the United States and/or Nevada Constitutions
- ☒ A substantial issue of first impression
- ☒ An issue of public policy
- ☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions
- ☐ A ballot question

If so, explain:

Whether, in a water rights adjudication proceeding, the lower court can mandate a rotation schedule over the objection of some of the affected parties, especially when

doing so enjoins the Appellant's diversions under the Final Order of Determination and an earlier Diversion Agreement.

13. **Trial.** If this action proceeded to trial, how many days did the trial last? No

Was it a bench or jury trial? N/A

14. **Judicial disqualification.** Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice? No

#### **TIMELINESS OF NOTICE OF APPEAL**

15. **Date of entry of written judgment or order appeal from April 15, 2011 and AMENDED June 20, 2011.** Attach a copy. If more than one judgment or order is appealed from, attach copies of each judgment or order from which this appeal is taken.

(a) If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

16. **Date written notice of entry of judgment or order served June 20, 2011.** Attach a copy, including proof of service, for each order or judgment appealed from.

Was service by:

- ☐ Delivery  
☒ Mail

17. **If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCSP 50(b), 52(b), or 59),**

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

<input type="checkbox"/> NRCSP 50(b)	Date served _____	By delivery <input type="checkbox"/> or by mail <input type="checkbox"/>	Date filing _____
<input type="checkbox"/> NRCSP 52(b)	Date served _____	By delivery <input type="checkbox"/> or by mail <input type="checkbox"/>	Date filing _____
<input type="checkbox"/> NRCSP 59	Date served _____	By delivery <input type="checkbox"/> or by mail <input type="checkbox"/>	Date filing _____

**Attach copies of all post-trial tolling motions.**

**NOTE: Motions made pursuant to NRCSP 60 or motions for rehearing or reconsideration do not toll the time for filing a notice of appeal.**

(b) Date of entry of written order resolving tolling motion: N/A  
**Attach a copy**

(c) Date written notice of entry of order resolving tolling motion served: N/A  
**Attach a copy, including proof of service.**

Was service by:

- ☐ Delivery  
☐ Mail (specify)

18. **Date notice of appeal filed: July 21, 2011.**

(a) If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

19. **Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a), NRS 155.190, or other: NRAP 4(a)**

#### **SUBSTANTIVE APPEALABILITY**

20. **Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:**

- |                                     |                       |                          |  |
|-------------------------------------|-----------------------|--------------------------|--|
| <input type="checkbox"/>            | NRAP 3A(b)(1)         | <input type="checkbox"/> | NRS 155.190 (specify subsection) _____ |
| <input type="checkbox"/>            | NRAP 3A(b)(2)         | <input type="checkbox"/> | NRS 38.205 (specify subsection) _____  |
| <input checked="" type="checkbox"/> | NRAP 3A(b)(3)         | <input type="checkbox"/> | NRS 703.376                            |
| <input type="checkbox"/>            | Other (specify) _____ |                          |  |

Explain how each authority provides a basis for appeal from the judgment or order:

The 15 April 2011 order restrains Appellant's right to divert its adjudicated and undisputed water rights, except in compliance with that order, in violation of the Final Order of Determination. This order also restrains Appellant's right to additional diversions pursuant to the earlier recorded Diversion Agreement.

**COMPLETE THE FOLLOWING SECTION ONLY IF MORE THAN ONE CLAIM FOR RELIEF WAS PRESENTED IN THE ACTION (WHETHER AS A CLAIM, COUNTERCLAIM, CROSS-CLAIM, OR THIRD-PARTY CLAIM) OR IF MULTIPLE PARTIES WERE INVOLVED IN THE ACTION.**

**Attach separate sheets as necessary.**

21. **List all parties involved in the action in the district court:**

Initiating Party/Plaintiff: State of Nevada ex. rel Office of the State Engineer

Excepting Party/Defendant: (to this subproceeding only) J.W. Bentley and Maryann Bentley, Trustees of the Bentley Family 1995 Trust

///

Intervenors: Hall Ranches, LLC, thomas J. Scyphers, Kathleen M. Scyphers, Frank Scharo, Sheridan Creek Equestrian Center, LLC, Donald S. Forrester, Kristina M. Forrester, Ronald R. Mitchell, and Ginger G.Mitchell

- (a) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, e.g., formally dismissed, not served, or other: N/A

22. **Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims, and the trial court's disposition of each claim, and how each claim was resolved (i.e., order, judgment, stipulation), and the date of disposition of each claim. Attach a copy of each disposition.**

The Office of the State Engineer is effectively the Claimant in this water rights adjudication matter. Appellant's rights to the waters of Sheridan Creek have been adjudicated and resolved, subject only to small exceptions that are the subject of continued proceedings in the lower court and which are not at issue for purposes of this appeal. However, on request from six (6) other claimants to the waters of Sheridan Creek, the lower court mandated that all parties observe a rotation schedule. This order necessarily enjoins any diversions outside of the rotation schedule. This includes Appellant's adjudicated rights and other diversion rights granted under a previously recorded Diversion Agreement. The lower court did so without statutory authority, notice, due process, evidentiary hearing, or a requirement for the complaining parties to post a bond.

The complaining parties further initiated an action to quiet title to the Diversion Agreement by way of affirmative defenses in a non-conforming pleading, (See **Exhibit 23(d)**). That pleading is the subject of the original writ proceedings No. 56351.

23. **Attach copies of the last-filed version of all complaints, counterclaims, and/or cross-claims filed in the district court.**

Exhibit 23(a): Final Order of Determination dated 14 August 2008

Exhibit 23(b): Notice of Exceptions and Exceptions to Final Order of Determination dated 10 December 2008

Exhibit 23(c): Amended Notice of Exceptions to Final Order of Determination dated 25 March 2009

Exhibit 23(d): Response and Objections to Notice of Exceptions and Exceptions to Final Order of Determination dated 19 November 2009

24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action below?

☐ Yes  
☒ No

25. If you answered "No" to question 24, complete the following:

- (a) Specify the claims remaining pending below:

All claims in Appellant's Exceptions and Amended Exceptions and Intervenors' Initial Pleading/Affirmative Defenses. See, Exhibits 23(b), 23(c), and 23(d).

- (b) Specify the parties remaining below:

Appellants: J.W. Bentley and Maryann Bentley, Trustees of the Bentley Family 1995 Trust

Respondents: The State of Nevada Office of the State Engineer; Hall Ranches, LLC; Thomas J. Syphers; Kathleen M. Scyphers; Frank Scharo; Sheridan Creek Equestrian Center, LLC; Donald S. Forrester; Kristina M. Forrester; Ronald R. Mitchell; and Ginger G. Mitchell

- (c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Yes  
☒ No

**If "Yes", attach a copy of the certification or order, including any notice of entry and proof of service.**

- (d) Did the district court make any express determination, pursuant to NRCP 54(b), that there is no just reason for delay and express direction for the entry of judgment?

☐ Yes  
☒ No

26. If you answered "No" to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):

The order is independently appealable under NRAP3A(b)(3).

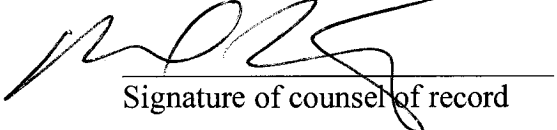
## VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

J.W. Bentley and Maryann Bentley,  
Trustees of the Bentley Family 1995 Trust  
Name of appellant

9/28/11  
Date

Michael L. Matuska, Esq.  
Name of counsel of record

  
Signature of counsel of record

Nevada, Douglas County  
State and county where signed

# CERTIFICATE OF SERVICE

I certify that on the 29<sup>th</sup> day of September 2011, I served a copy of this completed docketing statement upon all counsel of record:

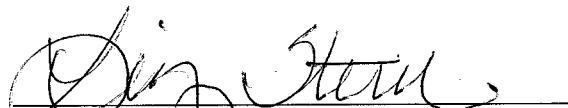
- ☐ By personally serving it upon him/her; or
- ☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Bryan L. Stockton  
Deputy Attorney General  
100 North Carson Street  
Carson City, NV 89701

Thomas J. Hall, Esq.  
305 South Arlington Avenue  
P.O. Box 3948  
Reno NV 89505-3948

William E. Nork  
Settlement Judge  
825 West 12th Street  
Reno NV 89503

Dated this 29<sup>th</sup> day of September 2011.

  
LIZ STERN, ALS



**EXHIBIT 15**

1 Case No. 08-CV-0363-D

2 Dept. No. I

RECEIVED  
APR 13 2011  
DOUGLAS COUNTY  
DISTRICT COURT CLERK

2011 APR 15 AM 10:16

FILED  
DOUGLAS COUNTY  
DISTRICT COURT CLERK

3  
4  
5  
6 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7  
8 IN AND FOR THE COUNTY OF DOUGLAS

9 In the Matter of the Determination  
of the relative rights in and to the  
10 Waters of Mott Creek, Taylor Creek,  
Cary Creek (aka Carey Creek),  
Monument Creek, and Bulls Canyon,  
11 Stutler Creek (aka Stattler Creek),  
Sheridan Creek, Gansberg Spring,  
12 Sharpe Spring, Wheeler Creek No. 1,  
Wheeler Creek No. 2, Miller Creek,  
13 Beers Spring, Luther Creek and  
various unnamed sources in Carson  
14 Valley, Douglas Valley, Nevada.

ORDER

15 THIS MATTER comes before the Court upon a Motion For  
16 Extension of Time submitted by J.W. Bentley and MaryAnn  
17 Bentley, Trustees of the Bentley Family Trust 1995 Trust  
18 (hereinafter referred to as "Bentley"). The following have  
19 opposed the Motion: Donald S. Forrester and Kristina M.  
20 Forrester, Hall Ranches, LLC, Thomas J. Scyphers and  
21 Kathleen M. Scyphers, Frank Scharo, Sheridan Creek Equestrian  
22 Center, LLC, and Ronald R. Mitchell and Ginger G. Mitchell  
23 (hereinafter referred to collectively as "Intervenors").

24 Bentley requests an extension of time to submit written  
25 opposition to Intervenors' Second Motion For Division of Water.  
26 Prior to Bentley's request being filed, the Court received a  
27  
28

1 Partial Opposition To Second Motion For Division Of Water  
2 filed by the State Engineer. That partial opposition supports  
3 the overall request to impose a rotation schedule for the 2011  
4 irrigation season, pertaining to the waters of Sheridan Creek -  
5 North Division, but proposes a different rotation schedule than  
6 the one sought within Intervenor's Second Motion For Division  
7 of Water. According to the State Engineer, his "proposed  
8 rotation schedule allows for a more efficient distribution of  
9 water. In addition, the Pestana parcel should not be included  
10 at the present time as the property is not currently being  
11 actively irrigated and all water right holders should share  
12 equally in the excess created by the current non-use of water."  
13 Partial Opposition To Second Motion For Division Of Water,  
14 p. 2, lines 7-10.  
15

16 Given the requested delay sought by Bentley, in briefing  
17 the pending motion, and having examined all relevant pleadings  
18 and papers on file herein, the Court now enters the following  
19 order, good cause appearing:

20 The deadline to file Bentley's written opposition to the  
21 Intervenor's Second Motion For Division of Water is hereby  
22 extended to May 2, 2011. In the meantime, given that the 2011  
23 irrigation schedule has already begun, the schedule proposed by  
24 the State Engineer, as attached to the Partial Opposition, is  
25 to be implemented as of the date of this Order by the State  
26 Engineer until the pending motion has been fully briefed  
27  
28

1 and can be examined further by the Court.

2 IT IS SO ORDERED.

3 Dated this 15 day of April, 2011.

4

5

6



DAVID R. GAMBLE  
District Judge

7

8 Copies served by mail and fax this 15th day of April, 2011 to:

9 Bryan L. Stockton, Esq.  
10 Deputy Attorney General  
State of Nevada  
11 100 North Carson Street  
Carson City, NV 89701  
12 Fax: 775-684-1103

13 Thomas J. Hall, Esq.  
P. O. Box 3948  
14 Reno, NV 89505  
Fax: 775-348-7211

15 Michael L. Matuska, Esq.  
16 P. O. Box 2860  
Minden, NV 89423  
17 Fax: 775-782-3081

18

19

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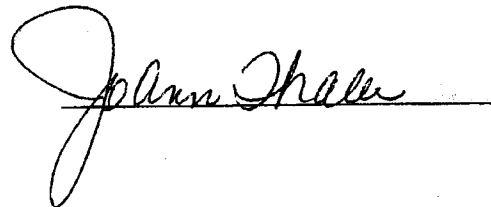
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**EXHIBIT 16**

FILED

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JUN 17 2011

DOUGLAS COUNTY  
DISTRICT COURT CLERK

Case No.: 08-CV-0363-D

2011 JUN 20 AM 10:55

Dept. No.: I

TED THUAN  
CLERK

This document does not contain personal information.  
K. WILFERT DEPUTY

IN THE NINTH JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA

IN AND FOR THE COUNTY OF DOUGLAS

In the Matter of the Determination of the )  
Relative Rights in and to the Waters of Mott )  
Creek, Taylor Creek, Cary Creek (aka Carey )  
Creek), Monument Creek, and Bulls Canyon, )  
Stutler Creek (aka Stattler Creek), Sheridan )  
Creek, Gansberg Spring, Sharpe Spring, )  
Wheeler Creek No. 1, Wheeler Creek No. 2, )  
Miller Creek, Beers Spring, Luther Creek and )  
Various Unnamed Sources in Carson Valley, )  
Douglas Valley, Nevada. )

ORDER

This matter comes before the Court on the *Ex Parte* Motion of J.W. BENTLEY and MARYANN BENTLEY, Trustees of the Bentley Family 1995 Trust ("Bentley") to shorten time for HALL RANCHES, LLC, THOMAS J. SCYPHERS and KATHLEEN M. SCYPHERS, FRANK SCHARO, SHERIDAN CREEK EQUESTRIAN CENTER, LLC, a Nevada Limited Liability Company, and DONALD S. FORRESTER and KRISTINA M. FORRESTER, RONALD R. MITCHELL and GINGER G. MITCHELL (collectively, "Intervenors") to file an opposition the Motion to Amend Division of Water filed by the Nevada State Engineer on 10 July 2011. Bentley further requests an interim order approving the amended rotation schedule pending any opposition from the Intervenors, as was done on Intervenors' previous Motion for Division of Water pending receipt of an opposition from Bentley.

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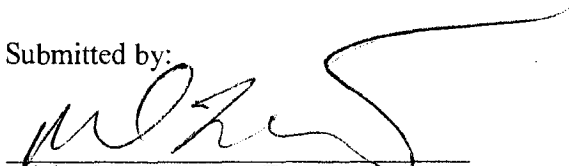
1 Based on the foregoing, and for good cause shown, IT IS HEREBY ORDERED that the  
2 Nevada State Engineer's Motion to Amend Division of Water is GRANTED. The rotation  
3 schedule set forth in that motion shall adopted effective immediately. This order may be  
4 reconsidered upon receipt of an opposition from Intervenor, if any. Any such opposition shall be  
5 filed on or before 6/24, 2011.

6 **IT IS SO ORDERED.**

7 DATED this 20 day of June 2011.

8  
9  
10   
11 **DISTRICT COURT JUDGE**

12 Submitted by:

13   
14 Michael L. Matuska, Esq.  
15 State Bar No. 5711  
16 BROOKE · SHAW · ZUMPF  
17 1590 4<sup>th</sup> Street/P.O. Box 2860  
18 Minden NV 89423  
19 (775) 782-7171  
20 (775) 782-3081 (Fax)  
21  
22  
23  
24  
25  
26  
27  
28

BROOKE · SHAW · ZUMPFT  
POST OFFICE BOX 2860  
MINDEN, NEVADA 89423  
(775) 782-7171

FILED

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JUN 20 2011

DOUGLAS COUNTY  
DISTRICT COURT CLERK

Case No.: 08-CV-0363-D

2011 JUN 20 PM 4:16

Dept. No.: I

TED THIRAN  
CLERK

This document does not contain personal information of any person. DEPUTY

IN THE NINTH JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF DOUGLAS

In the Matter of the Determination of the )  
Relative Rights in and to the Waters of Mott )  
Creek, Taylor Creek, Cary Creek (aka Carey )  
Creek), Monument Creek, and Bulls Canyon, )  
Stutler Creek (aka Stattler Creek), Sheridan )  
Creek, Gansberg Spring, Sharpe Spring, )  
Wheeler Creek No. 1, Wheeler Creek No. 2, )  
Miller Creek, Beers Spring, Luther Creek and )  
Various Unnamed Sources in Carson Valley, )  
Douglas Valley, Nevada. )

(Re: Proofs V-06305, V-06306, V-06307  
and V-06308)

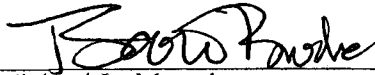
NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that on 20 June 2011, the Court entered its ORDER in the  
above-entitled matter, a copy of which is attached hereto as *Exhibit 1*.

DATED this 20<sup>th</sup> day of June 2011.

BROOKE · SHAW · ZUMPFT

By:

  
Michael L. Matuska  
State Bar No. 5711  
1590 4<sup>th</sup> Street/P.O. Box 2860  
Minden NV 89423  
(775) 782-7171  
(775) 782-3081 (Fax)

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of BROOKE · SHAW · ZUMPFT and that on the 20<sup>th</sup> day of June 2011, I served a true and correct copy of the preceding document entitled **NOTICE OF ENTRY OF ORDER** addressed to:

Bryan L. Stockton  
Deputy Attorney General  
100 North Carson Street  
Carson City, NV 89701  
775/684-1103 (FAX)

Thomas J. Hall, Esq.  
305 South Arlington Avenue  
P.O. Box 3948  
Reno NV 89505-3948  
775/348-7211 (FAX)

☒ **BY U.S. MAIL:** I deposited for mailing in the United States mail, with postage fully prepaid, an envelope containing the above-identified document at Minden, Nevada, in the ordinary course of business.

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LIZ STERN, ALS

# **EXHIBIT 1**

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K. V. L. DEPUTY

IN THE NINTH JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF DOUGLAS

In the Matter of the Determination of the )  
Relative Rights in and to the Waters of Mott )  
Creek, Taylor Creek, Cary Creek (aka Carey )  
Creek), Monument Creek, and Bulls Canyon, )  
Stutler Creek (aka Stattler Creek), Sheridan )  
Creek, Gansberg Spring, Sharpe Spring, )  
Wheeler Creek No. 1, Wheeler Creek No. 2, )  
Miller Creek, Beers Spring, Luther Creek and )  
Various Unnamed Sources in Carson Valley, )  
Douglas Valley, Nevada. )

ORDER

This matter comes before the Court on the *Ex Parte* Motion of J.W. BENTLEY and MARYANN BENTLEY, Trustees of the Bentley Family 1995 Trust ("Bentley") to shorten time for HALL RANCHES, LLC, THOMAS J. SCYPHERS and KATHLEEN M. SCYPHERS, FRANK SCHARO, SHERIDAN CREEK EQUESTRIAN CENTER, LLC, a Nevada Limited Liability Company, and DONALD S. FORRESTER and KRISTINA M. FORRESTER, RONALD R. MITCHELL and GINGER G. MITCHELL (collectively, "Intervenors") to file an opposition the Motion to Amend Division of Water filed by the Nevada State Engineer on 10 July 2011. Bentley further requests an interim order approving the amended rotation schedule pending any opposition from the Intervenors, as was done on Intervenors' previous Motion for Division of Water pending receipt of an opposition from Bentley.

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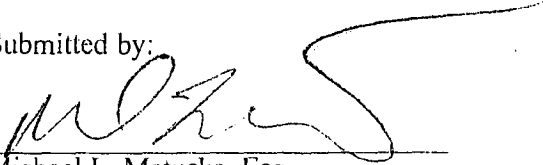
1 Based on the foregoing, and for good cause shown, IT IS HEREBY ORDERED that the  
2 Nevada State Engineer's Motion to Amend Division of Water is GRANTED. The rotation  
3 schedule set forth in that motion shall adopted effective immediately. This order may be  
4 reconsidered upon receipt of an opposition from Intervenor, if any. Any such opposition shall be  
5 filed on or before 6/24, 2011.

6  
7 **IT IS SO ORDERED.**

8 DATED this 20 day of June 2011.

9  
10   
11 **DISTRICT COURT JUDGE**

12 Submitted by:

13   
14 Michael L. Matuska, Esq.  
15 State Bar No. 5711  
16 BROOKE · SHAW · ZUMPFT  
17 1590 4<sup>th</sup> Street/P.O. Box 2860  
18 Minden NV 89423  
19 (775) 782-7171  
20 (775) 782-3081 (Fax)  
21  
22  
23  
24  
25  
26  
27  
28



**EXHIBIT 23(a)**

**EXHIBIT 23(a)**

IN THE OFFICE OF THE STATE ENGINEER  
OF THE STATE OF NEVADA

**FINAL ORDER OF DETERMINATION**

IN THE MATTER OF THE DETERMINATION OF THE RELATIVE RIGHTS IN AND  
TO THE WATERS OF MOTT CREEK, TAYLOR CREEK, CARY CREEK (AKA  
CAREY CREEK), MONUMENT CREEK, BULLS CANYON, STUTLER CREEK  
(AKA STATTLER CREEK), SHERIDAN CREEK, GANSBERG SPRING, SHARPE  
SPRING, WHEELER CREEK NO. 1, WHEELER CREEK NO. 2, MILLER CREEK,  
BEERS SPRING, LUTHER CREEK AND VARIOUS UNNAMED SOURCES IN  
CARSON VALLEY, DOUGLAS COUNTY, NEVADA.

TRACY TAYLOR, P.E.  
STATE ENGINEER  
August 14, 2008



## CERTIFICATION OF STATE ENGINEER

\*\*\*\*\*

I, Tracy Taylor, State Engineer of the State of Nevada, duly appointed and qualified, having charge of the records and files of the office of the State Engineer, do hereby certify that the following is a full, complete and true copy of the Final Order of Determination in and to the waters of Mott Creek, Taylor Creek, Cary Creek (AKA Carey Creek), Monument Creek, Bulls Canyon, Stutler Canyon (AKA Stattler Creek), Sheridan Creek, Gansberg Spring, Sharpe Spring, Beers Spring, Autumn Hills Spring, Wheeler Creek No. 1, Wheeler Creek No. 2, Luther Creek and various unnamed sources in Carson Valley, Douglas County, Nevada. This Final Order of Determination was prepared and filed in this office on the 14<sup>th</sup> day of August, 2008.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Carson City, Nevada this 14<sup>th</sup> day of August, 2008.

Tracy Taylor, P.E.

TRACY TAYLOR, P.E.  
STATE ENGINEER

ADJUDICATION

\*\*\*\*\*

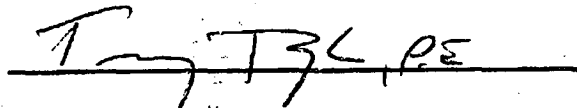
CARSON VALLEY

DOUGLAS COUNTY, NEVADA

\*\*\*\*\*

Presented herewith is the Final Order of Determination defining the rights in and to the waters of Mott Creek, Taylor Creek, Cary Creek (AKA Carey Creek), Monument Creek, Bulls Canyon, Stutler Creek (AKA Stattler Creek), Sheridan Creek, Gansberg Spring, Sharpe Spring, Wheeler Creek No. 1, Wheeler Creek No. 2, Miller Creek, Beers Spring, Luther Creek and Various Unnamed Sources in Carson Valley, Douglas County, Nevada.

This Final Order is prepared under the provisions of chapter 533 of the Nevada Revised Statutes.



Tracy Taylor, P.E.

State Engineer

Made, filed and caused to be

Entered in this office of the

State Engineer this 14<sup>th</sup> day

of August, 2008.

## TABLE OF CONTENTS

### FINAL ORDER OF DETERMINATION

Section No.	Section Description	Page No.
I.	GENERAL	1
II.	OBJECTIONS TO THE PRELIMINARY ORDER OF DETERMINATION	3
III.	FIELD INVESTIGATIONS	41
IV.	WATER SOURCES AND FLOWS	41
V.	ANALYSIS OF THE CLAIMS AND THEIR RESPECTIVE SOURCES FOR DETERMINATION OF DIVERSION RATES AND DUTIES	45
VI.	IRRIGATION RETURN FLOW, DRAIN AND WASTE WATERS	47
VII.	AVAILABLE WATERS	48
VIII.	PROOFS DETERMINED TO BE VALID	49
IX.	CERTIFICATED WATER RIGHTS	88
X.	SUPERCEDED PROOF	92
XI.	REJECTED PROOF	92
XII.	STOCKWATERING AND DOMESTIC USES	93
XIII.	PERIOD OF USE	93
XIV.	DUTY OF WATER	94
	1. Diversion Rates	94
	2. Supplemental Definition	95
	3. Rotation and use of water	95
XV.	MEASUREMENT OF WATER	95
XVI.	CHANGE IN POINT OF DIVERSION, MANNER, AND PLACE OF USE	95
XVII.	ENTRY TO INVESTIGATE	96

## TABLE OF CONTENTS

<b>Section No.</b>	<b><u>FINAL ORDER OF DETERMINATION</u> Section Description</b>	<b>Page No.</b>
XVIII.	TABLE OF RELATIVE RIGHTS OF APPROPRIATION	97
XIX.	STATE ENGINEER'S FINAL DETERMINATION	185
XX.	STREAM AND SPRING SYSTEM TABLES	186
	1. Taylor Creek and Unnamed Spring Diversions	187
	2. Mott Creek	187
	3. Cary (AKA Carey, Monument, and Bull) Creek Diversions	191
	4. Wheeler Creek No. 1 & 2 Diversions	191
	5. Stutler Creek- Commingled with the North Diversion of Sheridan Creek	192
	6. Sheridan Creek, North and South Diversions	193
	7. Miller Spring and Creek	195
	8. Springs Arising on the West Side of Foothill Road on the Heritage Ranch	197
	9. Luther Creek	206
XXI.	FIGURES.	207
	1. Unnamed Spring Reference Guide	208
	2. Heritage Ranch Spring Area Schematic	209
	3. Mott Creek Diversion Schematic	210
	4. Heritage Ranch Place of Use	211
XXII.	INDICES	212
	1. Proof/Permit Number Index	213
	2. Source Index	219
	3. Owner Index	225

**IN THE MATTER OF THE DETERMINATION OF THE RELATIVE RIGHTS IN AND TO THE WATERS OF MOTT CREEK, TAYLOR CREEK, CARY CREEK (AKA CAREY CREEK), MONUMENT CREEK, AND BULLS CANYON, STUTLER CREEK (AKA STATTLER CREEK), SHERIDAN CREEK, GANSBERG SPRING, SHARPE SPRING, WHEELER CREEK NO. 1, WHEELER CREEK NO. 2, MILLER CREEK, BEERS SPRING, LUTHER CREEK AND VARIOUS UNNAMED SOURCES IN CARSON VALLEY, DOUGLAS COUNTY, NEVADA.**

**I. GENERAL**

On June 5, 1987, a petition was filed in the Office of the State Engineer requesting a determination of the relative rights of the claimants to the waters of Sheridan Creek, Douglas County, Nevada. This request was followed by an Order, dated, June 17, 1987, from the Ninth Judicial District Court in and for Douglas County, State of Nevada, requiring the State Engineer to proceed with the same.

The State Engineer considered the scope of other surface waters in Carson Valley and after close study of the evidence and locality determined the facts and conditions warranted the initiation of proceedings for determination of the relative rights of the claimants to the waters that drain into the Carson Valley from the Eastern slope of the Carson Range of mountains.

On October 22, 1990, the State Engineer entered Order No. 1031 initiating the proceedings to determine the relative rights of claimants of vested rights to waters located in T.12N., R.19E., M.D.B.&M. A copy of the Order was sent by certified mail to persons identified as owning land within the subject area that could be potential claimants. The notice was published on November 1, 8, 15, 22, and 29, 1990, in the Record-Courier located in Gardnerville, Nevada, a newspaper of general circulation within the boundaries of the subject adjudication area.

The State Engineer next prepared Order No. 1034 establishing January 11, 1991, as the date the State Engineer would commence taking proof of claims of the rights in and to the waters of the described sources, and establishing March 18, 1993, as the final date for filing said proofs in the Office of the State Engineer. The notice was published on January 17, 24, 31 and February 7 and 14, 1991, in the Record-Courier located in Gardnerville, Nevada, a newspaper of general circulation within the boundaries of the subject adjudication area.

On March 10, 1993, the State Engineer sent by certified mail to each potential claimant that could be reasonably ascertained a notice extending the

final date for filing said proofs in the Office of the State Engineer to March 18, 1994. Surveys and corresponding maps were caused to be executed and submitted by the claimants to the Office of the State Engineer. Nevada Revised Statute § 533.100 states that the map must depict the following:

- (a) The course of the stream.
- (b) The location of each ditch or canal diverting water therefrom, together with the point of diversion thereof.
- (c) The area and outline of each parcel of land upon which the water of the stream has been employed for the irrigation of crops or pasture.
- (d) The kind of culture upon each of the parcels of land.

On June 12, 2006, the State Engineer issued an Abstract of Claims, The Preliminary Order of Determination and Notice of Order Fixing and Setting Time and Place of Inspection in the Matter of the subject adjudication pursuant to NRS § 533.140. A copy of the aforementioned documents was sent to all claimants. The time for inspection was from August 15, 2006 to September 15, 2006, (Saturday, Sunday and legal holidays excluded) from 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 5:00 p.m. of each day in the Office of the State Engineer in Carson City, Nevada. The letter further stated: "If no objections are received on or before September 15, 2006, the Order of Determination will be prepared and filed in accordance with the provisions of the NRS §§ 533.160 and 533.165."

Objections to the Preliminary Order of Determination are to be filed in the Office of the State Engineer on or before September 15, 2006, in accordance with NRS § 533.145.

A letter, dated September 15, 2006, from Paul G. Taggart was submitted to the State Engineer, Tracy Taylor, P.E., requesting "an extension of time of sixty (60) days for filing objections to the Preliminary Order of Determination".

An extension of time for the filing of objections to "the close of business on October 6, 2006" was granted as set forth in a letter, dated September 20, 2006, from Robert H. Zeisloft, P.E., Chief, Surface Water & Adjudication Sections.

Objections to the Preliminary Order of Determination were filed in accordance with provisions of Nevada Revised Statute § 533.145 by Elizabeth and Eric Park; by B.J. Vasey, P.E., PLS, on behalf of Edward Groenendyke; by Paul G. Taggart, Esq., on behalf of Jerald R. Jackson, Trustee of the Jerald R. Jackson 1975 Trust, as amended, and Irene M. Windholz, Trustee of the Irene M. Windholz Trust, dated 8/11/92; by B.J. Vasey, PE, PLS, on behalf Myles S. Douglas and Amy B. Douglas as Grantors and Trustees of the Bartholomew Family Trust; by John G. Stone on behalf of the current owners, Mr. and Mrs. McKay; by Ross E. de Lipkau, Attorney, on behalf of Gerald R. Novotny and Jeanne M. Moss-Novotny Trustees of the Novotny Family Trust Dated February 9, 1984; Donald E. Brooks, Co-Trustee, and Lynnette L. Brooks, Co-Trustee;

Bernard D. and Margaret W. Benz, as agents for the Mottsville Cemetery Association; by B.J. Vasey, PE, PLS, on behalf of Don F. & Carolyn L. Ahern; by B.J. Vasey, PE, PLS, on behalf Destination Sports Inc. Et Al; Donna Buddington; by B.J. Vasey, PE, PLS, on behalf of the Bartholomew Family Trust; by Jennifer Yturbide, Esq., on behalf of Thomas M. Yturbide and Paula J. Yturbide, Trustees of the Yturbide 1991 Family Trust.

All parties of interest were properly noticed by letter, dated January 16, 2007, titled "**NOTICE OF HEARING**", stating: "the hearing to consider said objections will convene at **9:00 a.m., Monday, March 5, 2007, continuing through Friday, March 9, 2007, at the Division of Water Resources, Hearing Room, 901 South Stewart, Second Floor, Carson City, Nevada.**"

After all parties of interest were properly noticed, a public administrative hearing on the objections to the Preliminary Order of Determination was held before representatives of the State Engineer on March 5 and March 7, 2007.

## **II. OBJECTIONS TO THE PRELIMINARY ORDER OF DETERMINATION**

Objections to the Preliminary Order of Determination were filed in accordance with NRS § 533.145 and are summarized below:

- i. Objection filed in regard to Proof of Appropriation V-06350 by Elizabeth and Eric Park submitted September 29, 2006:  
"The existing proof submitted" by Tom Yturbide for the waters of Mott Creek "shows irrigation ditches using the property V-06351 as historical water usage for the entire 10 acre parcel not complete usage on the property V-06350. Object to the objection submitted September 15, 2006 by Jennifer Yturbide ESQ Minden NV 89423"
- ii. Objection filed in regard to Proof of Appropriation V-08850 on behalf of Edward Groenendyke, by B.J.Vasey, P.E., PLS:  
"The purpose of this letter is to object to the subject Preliminary Order of Determination on behalf of the Owner of Record of Proof V-08850.  
Unnamed Spring (A) described in V-08850 can irrigate the entire 37.97 acres by direct diversion as described in the Proof. The reduction in acreage from 37.97 acres to 26.69 acres (11.28 acres) described on Pages 47 and 131 is incorrect because the area north of the drainage ditch as depicted on the beneficial use map filed under Permits 24918-9 is irrigated out of a 6-inch pipe under Foothill Road on the north side of the Groenendyke property.

The point at which the water discharges onto said property is shown on the Schematic drawing on Page 195 of the Preliminary Order. The 6" pipeline was also described in a letter dated September 12, 1996 signed by R. Michael Turnipseed, State Engineer (copy enclosed). Turnipseed's letter also refers to a statement by Matt Benson and recorded Document 262415 on file in your office which describe historic irrigation practices of the Heritage Ranch.

The duty shown as being owned by Groenendyke under Permit 24919 – Certificate 7842 in Turnipseed's letter is 58.19 acre feet and we request that the duty shown on Page 130 under Proof V-08850 also be at least 58.19 acre feet and the acre feet per acre adjusted to reflect the 37.97 acres as the Place of Use.

On Page 131 we request that the Place of Use in the NW NE be changed to 13.41 acres and the SW NE to 14.0 acres as shown in the original Claim. We also request that the Total Acres Claimed be changed to 37.97 acres.

We also request that the note on Page 131 be revised regarding the reduction or acreage from 37.97 acres to 26.69 acres and under Remarks state that 12.43 acres (1.15 AC NE NW, 6.39 AC NW NE, 4.89 AC SW NE) is not supplemental to Proof V-02856."

See attached letter, dated September 12, 1996, from R. Michael Turnipseed, P.E., State Engineer to Jerald R. Jackson.

- iii. Objection filed in regard to Proofs of Appropriation V-09264, V-09265, V-09266, V-09267, V-09268, V-09269, V-09270, V-02856, V-06342, V-06343, V-06344, V-06345 and Permits Nos. 24918, C-7843, and 24919, C-7842, on behalf of Jerald R. Jackson, Trustee of the Jerald R. Jackson 1975 Trust, as amended, and Irene M. Windholz, Trustee of the Irene M. Windholz Trust, dated 8/11/92, by Paul G. Taggart, Esq.:

**"I. Drain and Waste Rights to Unnamed Jackson Spring "A" and Any Unnamed Creek that Issues There From.**

Claimants seek clarification by the State Engineer that the Preliminary Order of Determination intended to create only drain and waste rights to Jackson Unnamed Spring "A" under the following claims: V-09264, V-09265, V-09266, V-09267, V-09268, V-09269 and V-09270.

In the event the State Engineer does not confirm that these vested claims are solely for drain and waste, claimants object to the

granting of prime supply water rights under these vested claims, for the following reasons:

A. These rights are properly considered drain and waste uses because they are served downstream from the uses that are adjudicated under Proofs Nos. V-06342, V-06343, V-06344, and V-06345.

B. No competent evidence exists regarding the proper priority date for these claims; therefore, they should be considered junior in priority to Proofs Nos. V-06342, V-06343, V-06344, and V-06345.

**"II. Stock Watering Rights."**

"Claimants object to the rejection of stock watering rights as it relates to Proofs V-02856 (if at all), V-06342, V-06343, V-06344, V-06345; and Permits Nos. 24918 C-7843 and 24919 C-7842." The waters of the referenced Unnamed Springs were first put to beneficial use in 1853. In his "Evaluation of Vested Water Right [sic] from an Unnamed Spring in Alpine County, California" (a copy of which is attached hereto as Exhibit A and incorporated herein by this reference), Milton L. Sharp, P.E., as a consultant to the Jackson/Windholz Trusts, began his report by making the following declaration:

This report and the accompanying map have been prepared for the purpose of supporting a claim of vested right by Jerald R. Jackson, Trustee, Jerald R. Jackson 1975 Trust, to the waters originating from an unnamed spring located in Alpine County, California, only about 200 feet west of the Nevada-California State Line. The spring is located on the easterly slope of the Carson Range, a portion of the Sierra Nevada Mountains, so that water originating from the spring flows naturally into the Carson Valley in Douglas County, Nevada, and all of the water has been and is now used beneficially on land located in Douglas County, Nevada for agricultural irrigation, **stock watering** and domestic purposes. The unnamed spring, other water sources referred to in this report and lands referred to are all located within Section 26, township 12 North, Range 19 East, Mount Diablo Meridian. The unnamed spring is located within the SW $\frac{1}{4}$ NW $\frac{1}{4}$  of said Section 26, and is referred to in this report as the Unnamed Spring (SW $\frac{1}{4}$ NW $\frac{1}{4}$ , Sect. 26). Location of the Unnamed Spring, topographic features in the vicinity, property delineation and other significant features are indicated on the attached map. (Sharp, page 1, emphasis added.)

Therefore, stock watering has always been associated with the water from this spring.

Mr. Sharp next addressed the history of these uses.

Historically, the land owned by Jerald R. Jackson, Trustee, was a part of a ranch referred to as the Heritage Ranch or the old Berrum Ranch. The Heritage Ranch land has been under cultivation since the early days of white settlement in the Carson Valley, extending back to the 1850's [sic]. (See Section 5.) The old original ranch house is located adjacent to Foothill Road on the Jackson property as indicated on the attached map. The Jackson property is the most westerly part of the old Heritage Ranch or Berrum Ranch and is in close proximity to the Unnamed Spring (SW $\frac{1}{4}$ NW $\frac{1}{4}$ , Sect. 26). (Sharp, page 4.)

As the Berrum Ranch was divided over time, it continued to be farmed and it continued to have livestock that included horses and cattle. The area of the former Heritage Ranch that is still owned by the Claimants and subject to Proofs V-02856, 06342, 06343, 06344, and 06345 is entitled to water 25 head of cattle and four horses. (See Affidavit of Jerald R. Jackson, attached hereto as Exhibit B and incorporated herein by this reference.) The following elaboration from the Sharp report confirms the integrity of the claims of all such vested rights:

Historical documents and publications indicate that agricultural activity, including irrigation, began in the Carson Valley during the 1850's and 1860's. Mormon settlers began cultivation and irrigation of land along the foothills of the Carson Range as early as 1851. One historian, Grace Dangberg, states that the land in the vicinity of the town of Sheridan, a few miles north of the Jackson property, was cultivated in the early 1850's (ref. no. 9). Fred Settlemyer, a pioneer rancher, states in his "recollections" that 3,000 to 4,000 acres were irrigated in the Carson Valley in the early 1850's (ref. no. 8). The land which later become [sic] know [sic] as the Berrum Ranch and later the Heritage Ranch was part of the early agricultural development. (Sharp, pp. 6-7.)

The claim of vested right to the waters of the Unnamed Spring (SW $\frac{1}{4}$ NW $\frac{1}{4}$ , Sect. 26) for irrigation and domestic use on the land owned by Jerald R. Jackson is justified as follows:

1. The land which was formerly known as the Berrum Ranch or the Heritage Ranch, including the land owned by Jackson, was developed and irrigated during the early settlement and development of the Carson Valley.
2. The diversion from the spring to the Jackson land and to the old ranch house was established prior to 1890 during

the original development of the land. The historical record indicates that all of the water was diverted from the spring.

3. Physical conditions establish that the Unnamed Creek (NW¼NW¼, NE¼NW¼, Sect. 26) exists as a source of water separate from the Unnamed Spring.
4. Nevada State Engineer appropriation of water from the Unnamed Spring in 1972 is superseded by the vested right claim, but the appropriation and supporting map verify continued existence of the pipeline diversion and use of the waters on land now owned by Jerald R. Jackson.

The Jackson vested right should provide for a date of priority of use coinciding with the earliest date of agricultural development in Carson Valley, established as 1852 in the Barber Creek Decree. The vested right should provide for domestic use, **stock watering** and irrigation of 22.26 acres with a duty of 4.0 acre feet per acre from all sources. (Sharp, pp. 11-12; emphasis added.)

**"III. Rotation Schedule."**

"A. Claimants object to the requirement of a rotation schedule pertaining to any water rights claimed under V-06342, V-06343, V-06344 and V-06345, because these water rights are primary to all other water rights at the source."

"B. Should the State Engineer determine that there is more than one priority user on Unnamed Spring "A" or on any unnamed creek flowing therefrom, then Claimants seek confirmation by the State Engineer that the Preliminary Order of Determination does not preclude establishing a rotation schedule for water use."

Respectfully, Claimants also draw to the attention of the State Engineer the Affidavits and statements made by long-time ranchers and residents of the Carson Valley and of the vicinity of the subject properties, in related and unrelated Objections; the court records and testimony; and the maps submitted, as well as all applicable filings and archival data on file with the Office of the State Engineer, without limitation.

Dated this 16<sup>th</sup> day of October, 2006.

Also, included is the following exhibit to the Jackson objection to the Preliminary Order of Determination.

EXHIBIT B

AFFADAVIT OF JERALD R. JACKSON

STATE OF NEVADA       )  
                                  )       SS.  
COUNTY OF DOUGLAS   )

I, JERALD R. JACKSON, hereby swear (or affirm) under penalties of perjury, that the follow assertions are true of my personal knowledge:

1. I am the Trustee of the Jerald R. Jackson 1975 Trust, as amended 8/11/92, and I make this Affidavit as such Trustee and on behalf of such trust, as amended, as well as on behalf of Irene M. Wildholz, Trustee of the Irene M. Windholz Trust dated 8/11/92, which two trusts are the owners of 100% of the water rights for which Proofs V-02856, V-06342, V-06343, V-06344, V-06345 are being submitted; that I have read the within Objection to Preliminary Order of Determination, and know the contents thereof; that it is true to the best of my own knowledge, except as to those matters stated therein on information and belief, and that as to such matters, I believe it to be true.

2. Since I, as Trustee of the above-referenced Jerald R. Jackson 1975 Trust, and Irene M. Windholz, as Trustee of the Irene M. Windholz Trust, acquired ownership of the real property to which the water rights which are the subject of the above-referenced Proofs are appurtenant, Ms. Windholz, as Trustee, and I, as Trustee, have run, continually, at least 25 head of cattle and between 2 and 4 horses for the past 16 years, prior to which the Heritage Ranch, operated by Matt and Ken Benson, and the Berrum Ranch, since 1853, ran as many and more cattle and horses on the subject real property.

3. I respectfully ask, through the within Objection, that the State Engineer and the Division of Water Resources revise the Preliminary Order of Determination to recognize the stock watering rights that have been enjoyed and used continually for more than 150 years on the areas of the said ranches that are still owned by Claimants and , subject to Proofs, that the Claimants should be entitled to continue to divert and use for the stock watering continually of including but not limited to 25 head of cattle, 2 to 4 head of horses, or the equivalent other, similar stock.

4. I have personal knowledge of the foregoing and could and would so testify if called as a witness.

Signature on Original  
Jerald R. Jackson

SIGNED AND SWORN TO (or affirmed)  
Before me on October 16, 2006,  
by JERALD R. JACKSON.

Signature on Original  
NOTARY PUBLIC

Notary Stamp on Original

- iv. Objection filed in regard to Proofs of Appropriation V-02856, V-06321 and V-06322 on behalf Myles S. Douglas and Amy B. Douglas as Grantors and Trustees of the Bartholomew Family Trust by B.J. Vasey, PE, PLS:  
"Dear Mr. Walmsley:

As we discussed at our meeting September 5, 2007, we submitted request to the Division of Water Resources to assign a portion of Proof Nos. 02856, 06321 and 06322 from Nevada Mountain View, LLC, to Myles D. Douglas and Amy B. Douglas as Grantors and Trustees of the Bartholomew Family Trust on May 23, 2006.

On March 10, 2006, we submitted requests to the Division to assign all of Proof 06331 from Casteel and all of Proof 06335 from Clelland to Bartholomew Trust.

The Preliminary Order of Determination indicates that Nevada Mountain View, LLC owns a portion of Proof Nos. 02856, 06321 and 06322 and that Harold and Viola Casteel and Charles E. and Fay E. Clelland own Proof Nos. 06331 and 06335, respectively.

The purpose of this letter is to request that the final Order of Determination indicate the present ownership of Proof Nos. 02856, 06321, 06322, 06331 and 06335 as indicated in the aforementioned requests for assignment."

In response to this objection the State Engineer has reviewed the associated reports of conveyance, and changed the owner of record for Proof Nos. 02856, 06321, 06322, 06331, and 06335. This Final Order of Determination now currently reflects the ownership requested above.

- v. Untimely objection filed on December 5, 2006 regarding Proof of Appropriation No. V-06349, by John G. Stone on behalf of the current owners, Mr. and Mrs. McKay:

"On behalf of the current owners of the property in the NE $\frac{1}{4}$  of the NW $\frac{1}{4}$  Section 3, T12N,R19E, I would like to draw your attention to an apparent error in the distribution schedule on pp17 and Table 2 (p158) in the preliminary Order of Determination dated May 22, 2006

Irrespective of the actual acres irrigated, the purchase contract whereby we acquired the property in 1986 specifically indicated the purchase of " $\frac{1}{4}$  of  $\frac{1}{4}$  of the water rights from Mott Creek". Inasmuch as the original Mott/Allerman holding enjoys a full  $\frac{1}{4}$  of the flow of Mott Creek, the rotation schedule should be adjusted to reflect our original purchase."

The State Engineer has taken administrative notice of this objection; however due to the untimely filing of this objection, it was not reviewed in the hearing of protests for the Preliminary Order of Determination.

- vi. Amended Objections, regarding Proof of Appropriation V-06350, filed on behalf of Gerald R. Novotny and Jeanne M. Moss-Novotny Trustees of the Novotny Family Trust Dated February 9. 1984, by Ross E. de Lipkau, Attorney:

"1. A portion of proof of appropriation, 06350, now owned by the Thomas M. and Paul J. Yturbide, Trustees of the Yturbide 1991 Family Trust has been diverted in a "triangular" fashion, as to ensure that the water continuously flows through the Yturbide property irrespective of whether or not it is allowed to receive water, under the rotation schedule. The Yturbide Trust is lawfully entitled to place his water to a beneficial use, but only pursuant to the rotation schedule established the State Engineer. The rotation schedule of this particular branch being 25 percent of the entire flow of Mott Creek is not objectionable. Rather, the entire flow is, as has occurred in recent times, been diverted by the Yturbide Trust to ensure that it flows through its property at all times. This is a waste of water, and allows the Yturbide Trust to gain an unfair advantage over the other water uses to this particular branch of Mott Creek. Water belonging to others is being consumed by the unlawful use of the Yturbide Trust.

The State Engineer should therefore order the Yturbide Trust to restore the flow of Mott Creek flow to its historic course.

The Novotny Trust has no further objections to the Preliminary Order of Determination."

- vii. Objection in regard to Proof of Appropriation V-06365 filed by Donald E. Brooks, Co-Trustee, and Lynnette L. Brooks, Co-Trustee:  
"RE: Objections to Water Rights Proposals of the Relative Rights in and to the waters of Luther Creek in Carson Valley, Douglas County, Nevada.  
Proof No. V-06365."

"(1) In the Abstract of Claims, it is shown as 59.20 acres claimed, and in the Preliminary Order of Determination, it is shown as 43.61 total acres claimed, a Reduction of 17.59 acres. In discussing this matter with Mr. Walmsley of your office, he has determined that the 59.20 acres shown in the Abstract of Claims, is in fact the true acreage."

"(2) According to the plot map, (attached, please note the area marked in RED,) there are approximately 7 acres that were not included that are irrigated, and we would appreciate them being included in our acreage that should give us a total of approximately 66.20 acres."

After further review of the evidence submitted, the State Engineer has determined that due to an error comparing claimed acreage to the Douglas County Assessor's parcel maps, 59.20 acres is the correct acreage for this Proof of Appropriation. However, the State Engineer finds that due to the lack of submitted evidence and the submission of an amended supporting map drawn by a licensed State Water Rights Surveyor the State Engineer has determined that the additional 7 acres requested shall be denied in the Final Order of Determination.

- viii. Objection/Correction request filed in regard to Proof of Appropriation V-05819 by Bernard D. and Margaret W. Benz, as agents for the Mottsville Cemetery Association:

"Request for Correction, Proof V-05819 of MCA

re: 05/22/2006 Preliminary Order of Determination, Mott Creek"

"I wish to call to your attention an apparent error in the subject Proof, as to the diversion source from which the subject water is drawn.

Table 2, Mott Creek Diversions, pg. 158, showing subject Proof as drawing waters from the Third Diversion, is incorrect. In reality this usage draws water from the Southern Diversion (sic). The irrigation pipe for this Proof is tapped into the Southern Diversion's (sic) sand settling tank located immediately below the four way diversion box. Apparently, such has been the case for at least as long as the existing diversion and sand boxes have been in existence.

Your attention to this error correction will be greatly appreciated."

A hearing of objections to the Preliminary Order of Determination was held by staff<sup>1</sup> of the State Engineer's Office on March 5, 2007. The State Engineer finds that the location of the pipeline for the Mottsville Cemetery is as stated in your correction request. The table has been corrected for publication in the Final Order of Determination.

- ix. Objection filed in regard to Proof of Appropriation V-02858 on behalf of Don F. & Carolyn L. Ahern, by B.J. Vasey, PE, PLS:

"The subject proof claimed a vested right to stock water use in addition to irrigation, but did not indicate the number and type of stock watered.

The present owner of Parcel 1219-25-002-002 (portion) which is covered under the proof has requested that the Preliminary Order of Determination be changed to reflect the use of stock water for sixty (60) cattle and ten (10) horses under Proof V-02858 on Parcel 1219-25-002-002."

A hearing of objections to the Preliminary Order of Determination was held by staff of the State Engineer's Office on March 5, 2007. The State Engineer finds that the number and type of livestock claimed is consistent with historic stock watering use on the acreage irrigated under Proof of Appropriation No. V-02858, therefore, this claim is modified to include seventy (70) head of livestock.

- x. Objection filed in regard to Proof of Appropriation V-06316 on behalf of Destination Sports Inc. Et Al, by B.J. Vasey, PE, PLS:

"The subject proof claimed a vested right to stock water use in addition to irrigation, but did not indicate the number and type of stock watered.

The present owner of Parcel 1219-03-001-075, has requested that the Preliminary Order of Determination be changed to reflect the use of stock water for sixty (60) cattle under Proof V-06316 on Parcel 1219-03-001-075."

A hearing of objections to the Preliminary Order of Determination was held by staff<sup>1</sup> of the State Engineer's Office on March 5, 2007. The State Engineer finds that the number and type of livestock

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<sup>1</sup> Kelvin Hickenbottom, P.E., Deputy State Engineer, Bob Zeisloft, P.E., Manager II, and Steve Walmsley, Staff Engineer III.

claimed is consistent with historic stock watering use on the acreage irrigated under Proof of Appropriation No. V-06316, therefore, this claim is modified to include sixty (60) head of livestock.

**xi. Objection filed in regard to Proof of Appropriation V-06319 by Donna Buddington:**

"I am filing an objection to the Preliminary Order of Determination of the relative water rights on and to Mott Creek. The report is dated 5/22/06 and states that objections should be received by 9/15/06. My concern is regarding proof V-06319 on page twenty-three. The proof was filed on 3/18/94 by Glen and Sue Ellen Wright claiming a vested interest in Mott Creek for irrigation of 10.0 acres of land. Domestic and stock water uses are also claimed. I am the current owner of record Donna Buddington. A vested right for 10.0 acres of irrigation and domestic uses from the above named source is established under this proof. However under section IX the portion for stock water use was denied. It is to this denial I object and I ask that stock watering be reinstated in this proof.

Kelvin Hickenbottom of your office explained to me that the denial was a result of an omission by the Wrights to state the type and number of stock and livestock which receive water on this property. He said I could correct that omission by sending this letter stating that ten horses always have been, and hopefully always will be watered off of the irrigation ditch.

I am particularly anxious that the stock water provision be established because the flowing, and therefore ice-free water, in the ditch is essential to the health of my stock in the winter months. As the demographics in these ranch lands have changed problems have arisen. Our new upstream neighbor, who does not keep stock, feels he has a right to use the water in the winter months to flush his recently constructed ornamental pond. This was a hardship for us last year because he refused to release the water to its customary termination. I realize that you all want nothing to do with neighborhood squabbles, but a denial of stock water lessens my position for the coming winter. My hope and desire is to use my allocated water for best use practices maintaining my pasture grass and health of my stock. Thank you for reinstating my right to stock water."

A hearing of objections to the Preliminary Order of Determination was held by staff<sup>1</sup> of the State Engineer's Office on March 5, 2007. The State Engineer finds that the number and type of livestock claimed is consistent with historic stock watering use on the acreage irrigated under Proof of Appropriation No. V-06319, therefore, this claim is modified to include ten (10) head of livestock.

- xii. Objection filed in regard to Proofs of Appropriation V-06331 and V-06335 on behalf of the Bartholomew Family Trust, by B.J. Vasey, PE, PLS: "The subject Proofs claimed a vested right to stock water use in addition to irrigation, but did not indicate the number and type of stock watered.

The present owner of these Proofs has requested that the Preliminary Order of Determination be changed to reflect the use of stock water for six (6) horses under Proof V-06331 and Proof V-06335."

A hearing of objections to the Preliminary Order of Determination was held by staff<sup>1</sup> of the State Engineer's Office on March 5, 2007. The State Engineer finds that the number and type of livestock claimed is consistent with historic stock watering use on the acreage irrigated under Proof of Appropriation Nos. V-06331 and V-06335, therefore, these claims are modified to include six (6) head of livestock.

- xiii. Objection filed in regard to Proofs of Appropriation V-06350 and V-06351 on behalf of Thomas M. Yturbide and Paula J. Yturbide, Trustees of the Yturbide 1991 Family Trust, by Jennifer Yturbide, Esq.:

"1. Claimant is in agreement with the State Engineer's determination that the existing diversion box located on the Yturbide property be used for the continued distribution of the Mott Creek waters. (Preliminary Order of Determination, discussion under Proof V-05314 at pages 16-17.) The Objections to the Preliminary Order of Determination filed on behalf of the Novotny Trust on August 30, 2006, by Parsons Behle & Latimer should be disregarded and dismissed outright because the objection is not supported by factual allegations, evidence, and verified affidavit of the Objector, his agent or attorney as required by NRS 533.145(2).

2. **Stock Watering Rights:** Claimant objects to the rejection of stock watering rights as it relates to Proofs V-06350 and V-06351. The Mott Creek stream was first put to beneficial use by the Mott family in 1852. A few years after the Mott Family settled the land,

in 1855, George H. Goddard, the civil engineer employed by the State of California to survey the Carson Valley area, wrote that: "[t]he farming establishment of Mr. Mott and his sons surpassed all the rest (in the Carson Valley) not only in size, and the amount of land under cultivation, but in its valuable improvements and large amount of stock." (Goddard, George H., Report of a survey of a portion of the Old Carson and Johnson immigrant roads over the Sierra Nevada. Annual Report of the Surveyor General of California. Document No. 5, Senate Session of 1856, pp. 88-186.) By historical accounts, the Mott family livestock included a vast heard of cattle, oxen and horses. The livestock were fed hay and grain grown on the land, and watered from Mott Creek waters. As the Mott ranch was divided over time, it continued to be farmed and continued to have livestock that included horses and cattle. The area of the prior Mott Ranch owned by Claimant and subject to Proofs V-06350 and V-06351 is entitled to water 12 head of cattle and horses.

3. **Rotation Schedule:** Claimant seeks clarification of the Preliminary Order of Determination. According the Claimant's reading of the Order, on a seven-day rotation schedule, Claimant is entitled to distribution of water from Friday 6:00 a.m. until Friday at 6:00 p.m. pursuant to Proof V-06350. Additionally, pursuant to Proof V-06351, Claimant is entitled to share distribution of water from Friday at 6:00 p.m. until Saturday 6:00 a.m. with Neuffer. Claimant and Neuffer's predecessor in interest, Ladell Allerman, owned approximately 30 acres, more or less. She sold 20 acres to Yturbide and 10 acres to Neuffer during the pendency of the proceedings before the State Water Engineer. Allerman conveyed 2/3 of her interest in Mott Creek water to Claimant (Yturbide Family Trust) and 1/3 of her interest in Mott Creek water to Neuffer. (See Grant Deed attached as Exhibit A from Allerman to Neuffer, recorded in the Douglas County Official Book of Records at Book 0194, Page 3843 as Document 328017.) Therefore, if both of the subject Proofs are entitled to a full day of distribution of water (or 24 hours), 2/3 of the allotted should be given Claimant for a total of 16 of the 24 hours, from Friday at 6:00 a.m. until Friday at 10:00 p.m. Claimant seeks clarification because other parties to the seven-day rotation have taken the position that Neuffer's successor in interest, the Parks, are entitled to the water for 12 hours (from Friday at 6:00 p.m. until 6:00 a.m. on Saturday). Clarification would be

appreciated to avoid future misunderstandings. Claimant also requests clarification whether the 7-day rotation schedule could be modified by mutual agreement of all the parties as to the length of the rotation schedule, and time of commencement.

- 5. Reconsideration of Determination in Light of the Weight of Evidence Submitted:** The Preliminary Order essentially establishes that the right to distribution and the rotation schedule for division of Mott Creek waters is based upon raw acreage that was put to beneficial use prior to 1905. While the task before the State Engineer was weighty, the ultimate finding and the division of the water did not give due consideration to the significant evidence submitted on the historical patterns and practices of irrigation, crops, the lay of the land, and the percentage of land found in wet areas that were unlikely to have been irrigated (except perhaps, for argument sake, on rare occasions). Please see September 1, 2006 letter from Bruce R. Scott, P.E. of Resource Concepts, Inc. attached hereto and incorporated herein as Exhibit B. Also, please give reconsideration to the historical summary provided by John Stone herein, the Affidavits submitted by long time ranchers in the vicinity of the subject properties, court records and testimony, and maps submitted."

#### **FINDINGS OF FACT AND CONCLUSIONS**

After review and consideration of evidence, testimony at the public administrative hearing held by staff<sup>1</sup> of the State Engineer's Office on March 5 & 7, 2007, to the objections to the Preliminary Order of Determination, and all relevant files in the State Engineer's office, the following is determined:

#### **Objections regarding Unnamed Springs (A), (B), (C) and (D) located within the old Heritage Ranch and the Green Acres Subdivision:**

In order to avoid further confusion regarding the names and locations of spring sources that provide water to the Heritage Ranch and the Green Acres Subdivision these sources are given the following standard descriptions which will apply to all claims submitted for these sources. These descriptions are utilized throughout the remainder of the Final Order of Determination (see Figure 1):

**Spring (A):** Is located in Alpine County, California, in the SW $\frac{1}{4}$  NW $\frac{1}{4}$  Sec. 26, T.12N., R.19E., M.D.B.&M. Spring "A" is further described as

the northern most and western most spring in the Unnamed(A), (B), (C) & (D) Spring complex.

**Spring (B):** Exists entirely in Douglas County, Nevada, located in the SE $\frac{1}{4}$  NW $\frac{1}{4}$  Sec. 26, T.12N., R.19E., M.D.B.&M. and is the second most western spring in the Unnamed Spring complex, situated west of spring (D) and north of spring (C).

**Spring (C):** Exists entirely in Douglas County Nevada, with the greater portion located in the SE $\frac{1}{4}$  NW  $\frac{1}{4}$  Sec. 26, T.12N., R.19E., M.D.B.&M. and the lesser portion lying in the SW $\frac{1}{4}$  NE $\frac{1}{4}$  Sec. 26, T.12N., R.19E. M.D.B.&M. Spring (C) is further described as the southernmost spring in the unnamed spring complex.

**Spring (D):** Exists entirely in Douglas County Nevada, with a greater portion lying in the SE $\frac{1}{4}$  NW $\frac{1}{4}$  Sec. 26, T.12N., R.19E., M.D.B.&M. and the lesser portion lying in the SW $\frac{1}{4}$  NE $\frac{1}{4}$  Sec. 26, T.12N., R.19E., M.D.B.&M. Spring (D) is further described as the largest (area) of the unnamed spring complex, and is situated east of spring (B) and north of spring (C).

**A. Edward Groenendyke objection to the Preliminary Order of Determination:**

An objection to the Preliminary Order of Determination regarding Proof V-08850 as filed by B.J. Vasey, P.E., PLS on behalf of Edward Groenendyke. The basis of the objection is acreage that can be irrigated from Unnamed Spring (A), the duty of water and irrigated acreage.

Mr. Vasey testified that the entire 37.97 acres claimed under Proof of Appropriation No. V-08850 is able to be irrigated from "Unnamed Spring (A)".<sup>2</sup> Cross-examination by Paul Taggart, Esq., did not produce any evidence to refute the 37.97 acres ability to be irrigated from Unnamed Spring (A).<sup>3</sup> A formal field investigation of the water sources and irrigated acreage was conducted on July 26, 2007, as an extension of the March 5, 2007, hearing. The field investigation revealed that 12.43 acres of land lying to the north of the northeast trending drain ditch that bisects the Groenendyke under this claim is irrigated exclusively from "Unnamed Spring (A)". The remaining acreage located to the south and east of

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<sup>2</sup> Transcript, pp. 8-12, public administrative hearing on objections to the Preliminary Order of Determination before the State Engineer, March 5, 2007. Hereafter Transcript 3/5/2007

<sup>3</sup> Transcript 3/5/2007, pp. 12-15.

the described drain ditch consists of 25.54 acres irrigated by "Unnamed Spring (B)".

Unnamed Spring (B), hereafter referred to as "Unnamed Spring (D)" (Refer to spring descriptions/locations on pages 16-17), is the water source for Proof V-06321, 40.36 acres; Proof V-06323, 40.35 acres; and Proof V-08850, 25.54 acres; for a total of 106.25 acres. Proof of Appropriation V-02856 claims a diversion rate of 3.5 cfs for the irrigation of 117.6 acres. Monthly flow measurements were conducted during the 1997<sup>4</sup> and 1998<sup>5</sup> irrigation seasons by staff of the Division of Water Resources. The measurements from this spring source ranged from a low of 1.45 cfs in July of 1998 to a high of 4.17 cfs in June of 1997. A flow rate from Unnamed Spring (D) of 1.20 cfs during the 198-day growing season will provide a duty of 4.0 acre-feet per acre on the original 117.6 acres. A flow rate of 1.45 cfs will provide 4.83 acre-feet per acre, 3.50 cfs will provide a duty of 11.67 acre-feet per acre and 4.17 cfs will provide a duty of 13.90 acre-feet per acre. The standard consumptive use figure for irrigated crops in northern Nevada is 4.0 acre-feet per acre. Pasture grass, native hay, and various grain types require substantially less water than alfalfa. The dominant crop type within the area of these water claims is pasture grass. The TR-21<sup>6</sup> and FAO Blaney-Criddle<sup>7</sup> methods were utilized to establish consumptive use values<sup>8</sup> for "Pasture" based on climatic conditions in the Minden area of Nevada. The TR-21 method estimated a consumptive use value of 26.7 inches and the FAO method estimated 39.8 inches. These values convert to a seasonal irrigation requirement that ranges from 2.23 acre-feet per acre and 3.32 acre-feet per acre, respectively. Actual consumptive use is considered to be somewhere between these two numbers.

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<sup>4</sup> 1997 CARSON VALLEY STREAMFLOW MEASUREMENT REPORT, Mark Beutner, Andrea Squatrito, March 27, 1998.

<sup>5</sup> 1998 CARSON VALLEY STREAMFLOW MEASUREMENT REPORT, Mark Beutner, Andrea Squatrito, April 21, 1999.

<sup>6</sup> Irrigation Water Requirements, SCS Technical Release 21, Revised September 1970.

<sup>7</sup> FAO Irrigation and Drainage paper No. 24, Crop Water Requirements, Revised 1977.

<sup>8</sup> NEVADA IRRIGATION GUIDE, United States Department of Agriculture, Soil Conservation Service, Reno, Nevada, (NV210-VI-NVIG, Sept. 1981), § Part 683 – Water Requirements, NV683-50.

Aerial photography from 1938<sup>9</sup>, 1939-1940<sup>10</sup>, and 1954<sup>11</sup> illustrate equivalent vegetative and irrigation patterns within the confines of all irrigated acreage within the Heritage Ranch and Green Acres subdivision areas.

The State Engineer determines that it would not be suitable irrigation practice to apply more water than is necessary to irrigate pasture/harvest lands as listed under Proof V-06321, Proof V-06323, and Proof V-08850. The NEVADA LAW OF WATER RIGHTS<sup>12</sup> authored by Wells A. Hutchins states:

*Needs of appropriator.* – The appropriative right is restricted to the quantity of water actually needed for irrigation, watering of stock, domestic use, or other beneficial purpose for which the appropriation is made.(cite omitted) It is recognized that the quantity of water varies with the seasons, and that a decree that authorizes the diversion of specific quantity at all time regardless of necessity is erroneous.(cite omitted) The appropriator is entitled to enough water for his reasonable needs;(cite omitted) but any quantity of water diverted in excess of existing needs is not taken in exercise of a right, but is part of the water to which junior appropriators are entitled.(cite omitted)

The State Engineer further finds that the 3.5 cfs from Unnamed Spring (D) used for the irrigation of the above listed acreage yields 3 times the volume of water necessary for the irrigation of the existing and historic crops on this acreage.

The State Engineer determines that Unnamed Spring (A) is the primary source of water for the following claims: Proof V-06342, 7.20 acres; Proof V-08850, 12.43 acres; Proof V-06322, 2.47 acres; Proof V-06325, 2.54 acres; Proof V-06326, 2.50 acres; Proof V-06327, 4.90 acres; Proof V-06328, 5.55 acres; Proof V-06329, 5.22 acres; Proof V-06330, 5.08 acres; Proof V-06331, 4.88 acres; Proof V-06333, 4.98 acres; Proof V-06334, 2.55 acres; Proof V-07486,

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<sup>9</sup> CARSON VALLEY BOTTOM LANDS, NEVADA, BPB – 13 – 92, dated 10-20-38.

<sup>10</sup> CARSON VALLEY DISTRICT, NEVADA, QUADRANGLE NUMBER 20 B, PHYSICAL SURVEYS 1939-1940.

<sup>11</sup> Unknown origin, possibly Carson Valley Conservation District or Soil Conservation Service, dated 9-5-54, flight line 3-16, GS-VEV.

<sup>12</sup> Hutchins, Wells A., L.L.B. THE NEVADA LAW OF WATER RIGHTS, Production Economics Research Branch, Agricultural Research Service, United States Department of Agriculture, 1955.

4.86 acres; Proof V-09264, 2.53 acres; Proof V-09265, 2.55 acres; Proof V-09266, 5.18 acres; Proof V-09270, 5.18 acres; for a total of 80.60 acres. The State Engineer finds that the duty of water for the described acreage is 2.43 acre-feet per acre from Unnamed Spring (A) with the understanding that the total duty of water shall be limited to 4.0 acre-feet per acre from any and/or all sources.

Paragraph No. 2 of the objection requests that the duty of water "under Permit 24919 – Certificate 7842 in Turnipseed's letter is 58.19 acre feet and we request that the duty shown on Page 130 under Proof V-08850 also be at least 58.19 acre feet and the acre feet per acre adjusted to reflect the 37.97 acres as the Place of Use." Proof of Appropriation V-08850 claims a vested water right from both Unnamed Spring (A) and Unnamed Spring (D). Permit 24919, Certificate 7842, is certificated for the waters of Unnamed Spring (A) for irrigation purposes within the same place of use as claimed under Proof V-08850. Both water sources, Unnamed Spring (A) and Unnamed Spring (D), are claimed by Proof of Appropriation Nos. V-06321, V-06323, V-06342, V-06345 (claimed as 'UNNAMED SPRING, DESIGNATED JACKSON SPRING "D" '), and V-08850. Permit 24918, Certificate 7843, and Proof of Appropriation No. V-02856 claim water from an Unnamed Spring, also known as "Unnamed Spring "B" or Jackson Spring "D", for irrigation purposes within the same or portions of the place of use as the aforementioned proofs in the preceding sentence.

The information contained in Permits 24918 and 24919 and Proof of Appropriation V-02856<sup>13</sup> was reviewed and considered in determining the final disposition of Proof Nos. V-06321, V-06323, V-06342, V-06345 and V-08850. The State Engineer determines that it would not be prudent to attempt to administer the waters of the two spring sources under a minimum of three layers of permits and claims of vested rights. Therefore, the State Engineer determines that Permit 24918, Certificate 7843; Permit 24919, Certificate 7842; and Proof of Appropriation V-02856 are superseded by Proof of Appropriation Nos. V-06321, V-06323, V-06342, V-06345 and V-08850.

The State Engineer determines that the duty of water for Proof V-08850 shall be limited to 2.43 acre-feet per acre from Unnamed Spring (A) for the 12.43 acres lying north of the diagonal drainage ditch for a total of 30.20 acre-feet of water. The 25.54 acres of land lying to the south of said diagonal ditch are determined to have a duty of water of 4.00 acre-feet per acre from Unnamed Spring (D) for a total of 102.16 acre-feet of water. The State Engineer determines that Proof V-08850 shall be limited to a total duty of 132.36 acre-feet of water on the north and south sides of the dividing ditch.

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<sup>13</sup> Public record in the Office of the State Engineer.

Finally, the State Engineer determines that Unnamed Spring (A) is physically capable of being diverted to any area within the 37.97 acres claimed under Proof V-08850. The State Engineer determines that water from Unnamed Spring (A) is not necessary for the irrigation of the 25.54 acres lying south of the diagonal ditch under this claim and Proofs V-06321 and V-06323 based on prior findings within the scope of this objection to the Preliminary Order of Determination. The State Engineer further determines that the commingling of Unnamed Spring (A) with Unnamed Spring (D) directs excessive water onto lands irrigated by the claims referred to in this paragraph. These waters then become drain and waste that may or may not be able to be effectively utilized by claimants within the Green Acres Subdivision.

Mr. Brant Honkanen testified<sup>14</sup> that the reason that his grandfather purchased Lot 4 within the Green Acres Subdivision "was because it had the best water rights." Mr. Honkanen stated that the water from the "spring" {referring to Unnamed Spring (D)} flowed on a continuous basis over the "last 40 years"<sup>19</sup> through the Groenendyke property to the point where it intersected the south ditch that supplies water from Unnamed Spring (A) and Miller Creek near the center of the south line of the Honkanen property (APN 1219-26-001-031). Mr. Honkanen said that the stream of water from Unnamed Spring (D) created "a natural pond"<sup>15</sup> at the confluence of the south Green Acres ditch and the diagonal ditch that flows through the Groenendyke property (APN 1219-26-001-035). Mr. Honkanen's description of the confluence of the Unnamed Spring (D) and the South Green Acres Ditch was confirmed during the July 26, 2007, field investigation.<sup>16</sup>

A field investigation<sup>17</sup> of the irrigation system conducted on August 6, 1992, revealed that the spring source, "Unnamed Spring D", aka Jackson Spring "D", claimed under Proofs V-02856, V-08850, V-06321 and V-06323 was capable of being diverted approximately 150 feet north from the claimed point of diversion. The water was transmitted to the east through a culvert beneath Foothill Road and into the "bisecting ditch" that separates the north and south portions of Proof V-08850. Water was also transmitted through the Foothill Road culvert from a spring and swamp area that now comprises the "Jackson Pond"

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<sup>14</sup> Transcript, 3/5/2007, p. 124.

<sup>15</sup> Transcript, 3/5/2007, p. 125.

<sup>16</sup> Report of Field Investigation No. 1081, In the Matter of a Complaint Regarding Water Distribution from Unnamed Creek/Unnamed Spring to the Green Acres Subdivision, Carson Valley, Douglas County, Nevada, dated Aug. 24, 2007.

<sup>17</sup> Field Investigation No. 916, dated Nov. 30, 1992, Public Record in the Office of the State Engineer.

that was the primary issue of the aforementioned field investigation. The existence and location of this diversion and associated culvert/headgate substantiates the Honkanen testimony referred to in the preceding paragraph.

Staff<sup>18</sup> of the State Engineer's Office has observed that the construction of the pond near the southeast corner of the Jackson property precludes the ability to divert water through the headgate and existing culvert that routes water through the "bisecting ditch" through the Groenendyke property. The preceding findings are resolved in the subsequent State Engineer's Order:

**The State Engineer therefore orders the reconstruction of the headgates and distribution system. The design and construction plans of the diversion/distribution structures are subject to the approval of the State Engineer prior to commencement of construction.**

The State Engineer finds that the subdivision of the land that once comprised the two separate ranches that are the subject of this objection precludes the ability to irrigate the acreage in the manner that is completely consistent with the historic practices that were in effect prior to the 1960's.

Based on the preceding findings, the State Engineer finds that any flow from Unnamed Spring (D) in excess of 1.5 cfs<sup>19</sup> shall be divided in a 60%/40% split with 40% of the water above 1.5 cfs diverted to the north through the diversion and culvert in the aforementioned paragraph, thence, flow to the east beneath Foothill Road and through the ditch that bisects the acreage listed under Proof V-08850. This water will intersect the ditch that flows from west to east along the south boundary of the Green Acres subdivision at a point near the middle of the south boundary of the irrigated acreage under Proof V-09264. The water from Unnamed Spring (D) shall have a direct diversion right, and will be available for use during the rotation schedule as set forth for Unnamed Spring (A) with the exception of Claims V-06321, V-06323, V-06334, V-06342, V-06345, and V-08850 that cannot physically receive water from this diversion. The remaining 60% of the flow in excess of 1.5 cfs will remain in the ditch that provides water to Heritage Ranch water users under Claims V-06321, V-06323 and V-08850.

The State Engineer determines that Hutchins definition of the "Needs of appropriator" as discussed on page 19 of this Final Order precludes the use of water from Unnamed Spring (A) to supplement flows from Unnamed Spring (D)

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<sup>18</sup> Steve Walmsley, Staff Engineer III and Reed Cozens, Engineering Technician III.

<sup>19</sup> 1.5 cfs will yield a potential duty of water of 5.5 acre-feet per acre over a 198 day growing season for Claims V-06321, V-06323 and V-08850.

that are in excess of what is considered a reasonable duty of water to accomplish the needs of the irrigators under Claims V-06321, V-06323 and V-08850. Therefore, the State Engineer finds that Unnamed Spring (A) shall henceforth be appurtenant to lands described under Proof V-06342, 7.20 acres; Proof V-08850, 12.43 acres; Proof V-06322, 2.47 acres; Proof V-06325, 2.54 acres; Proof V-06326, 2.50 acres; Proof V-06327, 4.90 acres; Proof V-06328, 5.55 acres; Proof V-06329, 5.22 acres; Proof V-06330, 5.08 acres; Proof V-06331, 4.88 acres; Proof V-06333, 4.98 acres; Proof V-06334, 2.55 acres; Proof V-07486, 4.86 acres; Proof V-09264, 2.53 acres; Proof V-09265, 2.55 acres; Proof V-09266, 5.18 acres; Proof V-09270, 5.18 acres; for a total of 80.60 acres.

The State Engineer determines that water from Unnamed Spring (A) can be distributed over the entire 37.97 acres claimed under Proof V-08850. The State Engineer finds that the 12.43 acres lying north of the bisecting ditch receive water as a direct diversion from Unnamed Spring (A). The State Engineer determines that the primary source of water for the 25.54 acres lying south of said ditch is Unnamed Spring (D). The State Engineer finds that commingling the waters of Unnamed Spring (A) with the waters of Unnamed Spring (D) is not necessary for the irrigation of lands that are exclusively irrigated by said Spring (D). Further, the State Engineer determines that the commingling of Unnamed Spring (A) water with the waters of Unnamed Spring (D) allows the application of more water than is necessary to adequately irrigate land covered by said Unnamed Spring (D), therefore, the State Engineer concludes that the continued use of Unnamed Spring (A) water to supplement Unnamed Spring (D) constitutes a waste of water that is not allowed under Chapter 533 of the Nevada Water Law.<sup>20,21</sup>

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<sup>20</sup> **NRS 533.530 Unlawful diversion and waste of water; penalty.**

1. It is an unlawful use and waste of water for any person during the irrigating season:

(a) To divert and conduct the water, or portion thereof, of any river, creek, or stream into any slough, dam or pond and retain, or cause the water to be held or retained therein, without making any other use of the water; or

(b) To divert and conduct the water, or portion thereof, away from any river, creek or stream, and run or allow the water to run to waste on sagebrush or greasewood land.

□ The irrigation of unimproved pasture which has a surface water right shall not be deemed to be a waste of water.

2. Any person who wastes water in violation of any of the provisions of subsection 1 is guilty of a misdemeanor.

Further discussion regarding a rotation schedule for the waters of Unnamed Spring (A) and Unnamed Spring (D) will be covered under the Jackson objection: "Objection filed in regard to Proofs of Appropriation V-09264," et al.

**B. Jerald R. Jackson objection to the Preliminary Order of Determination:**

An objection to the Preliminary Order of Determination regarding Proofs of Appropriation V-09264, V-09265, V-09266, V-09267, V-09268, V-09269, V-09270, V-02856, V-06342, V-06343, V-06344, V-06345 and Permits Nos. 24918, C-7843, and 24919, C-7842, was filed by Paul G. Taggart, Esq. on behalf of Jerald R. Jackson, et al. The basis of the objection is clarification of "drain and waste rights, priority date, exclusion of stock watering rights and the inclusion of the claimant's proofs in the rotation schedule.

In response to objection section I. **Drain and Waste Rights to Unnamed Jackson Spring "A" and Any Unnamed Creek that Issues Therefrom.**

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[1:48:1889; C § 430; RL § 4721; NCL § 8006] + [2:48:1889; C § 431; RL § 4722; NCL § 8007]—(NRS A 1967, 609; 1983, 352)

<sup>21</sup> **NRS 533.070 Quantity of water appropriated limited to amount reasonably required for beneficial use; duties of State Engineer in connection with water diverted or stored for purpose of irrigation.**

1. The quantity of water from either a surface or underground source which may hereafter be appropriated in this state shall be limited to such water as shall reasonably be required for the beneficial use to be served.

2. Where the water is to be diverted for irrigation purposes, or where the water is to be stored for subsequent irrigation purposes, the State Engineer in determining the amount of water to be granted in a permit to appropriate water shall take into consideration the irrigation requirements in the section of the State in which the appropriation is to be made. The State Engineer shall consider the duty of water as theretofore established by court decree or by experimental work in such area or as near thereto as possible. He shall also consider the growing season, type of culture, and reasonable transportation losses of water up to where the main ditch or channel enters or becomes adjacent to the land to be irrigated, and may consider any other pertinent data deemed necessary to arrive at the reasonable duty of water. In addition, in the case of storage of water, reservoir evaporation losses should be taken into consideration in determining the acre-footage of storage to be granted in a permit.

[11:140:1913; A 1945, 87; 1943 NCL § 7899]

A hearing of objections to the Preliminary Order of Determination was held by the staff of the State Engineer's Office on March 5, 2007. A formal field investigation of the water sources and irrigated acreage was held on July 26, 2007, as an extension of the March 5, 2007, hearing. The field investigation revealed that Proofs of Appropriation V-09267, V-09268, and V-09269 do not receive water from Unnamed Spring (A)<sup>22</sup>; therefore the State Engineer determines that Unnamed Spring (A) is not a valid source of water for said Proofs of Appropriation. However, the State Engineer has determined that Proofs of Appropriation V-09265, V-09266 and V-09270 can receive water from Unnamed Spring (A) as a direct diversion. It was the intent of the Preliminary Order of Determination to describe Unnamed Spring (A) as a primary source of water to V-09265, V-09266 and V-09270, and remains the intent of this Final Order of Determination to describe the same. Culture maps from the U.S. Geologic Survey show homogenous vegetation on the parcels of land that make up the Heritage Ranch and the Green Acres subdivision prior to 1905<sup>23</sup>. In addition, aerial photography from 1938, 1939-1940, and 1954<sup>24</sup> illustrate equivalent vegetative and irrigation patterns within the confines of all irrigated acreage within the Heritage Ranch and Green Acres subdivision areas.

In response to objection section II. **Stock Watering Rights.**

The State Engineer determines that stockwatering shall be appurtenant to Proofs of Appropriation V-06342, V-06343, V-06344, and V-06345. The use of this stockwater shall be subject to the guidelines set forth in this Final Order of Determination (see Sec. XII, Stockwater and Domestic Use, pg. 93).

Under "Section II" of the objection it states that Proofs "V-06342, V-06343, V-06344, V-06345" are all appurtenant to the entire "22.26 acres" acres of land. Further investigation of these claims resulted in a reconfiguration of acreage based on ground able to be irrigated by the separate spring sources under the aforementioned claims. Proof V-06342 is appurtenant to 7.20 acres, Proof V-06343 is appurtenant to 9.73 acres of which 7.20 acres are supplemental to Proof V-06342, Proof V-06344 is appurtenant to 2.98 acres of stand-alone subirrigated land, and Proof V-06345 is appurtenant to 13.35 acres of subirrigated land. Therefore, the State Engineer finds that the total acreage irrigated under Proofs V-06342, V-06343, V-06344 and V-06345 shall be limited to 26.60 acres. The State Engineer determines that stand-alone acreage that is

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<sup>22</sup> Unnamed Spring (A) is the same source of Jackson Spring "A".

<sup>23</sup> U.S. Geologic Survey Hydrographic Branch, Map Dated July 27, 1904.

<sup>24</sup> Public record on file in the Office of the State Engineer.

irrigated by direct diversion under Proof V-06342 is 7.20 acres with a duty of 2.43 acre-feet per acre.

Research of the Humboldt River Adjudication indicated that lands that are subirrigated by springs or are classified as "swamp area" are subject to the following restriction: "Swamp area. No water to be diverted from the creek for this area until the same becomes dry or is drained."<sup>25</sup> Under Claim No. 00502<sup>26</sup> of the aforementioned decree with regard to Deering Creek and Ackler Creek the court states that: "No water is to be diverted until swamp becomes dry or is drained." While the court recognized that this ground is productive and is acknowledged under the Bartlett Decree for the waters of the Humboldt River and its tributaries, no duty of water is recognized until such time the necessity to divert water and irrigate this land arises due to the loss of subirrigation or the drying of swamp land.

Claim No. 574<sup>27</sup> of the Orr Ditch Decree states that a portion of the acreage "of these areas are swamp for which no water is to be diverted until same is drained or becomes dry." This bracketed clause pertains to portions of the acreage that are decreed as "Wild Hay" under the decree.

The State Engineer finds that land is subirrigated under Proofs V-06343, V-06344 and V-06345 with stock watering allowed. A duty of 2.8 acre-feet per acre<sup>28</sup> will be allowed at any time the subirrigated ("swamp") land under the aforementioned proofs becomes dry by any natural occurrence. The State Engineer finds that the artificial draining and drying of the subirrigated acreage would be injurious to all other water users that obtain their irrigation water from these spring areas, therefore; it is not allowed under the Final Order of Determination. The Nevada Irrigation Guide recommends that "A practical actual consumptive use value probably lies between the values obtained by the TR-21 and FAO Blaney-Criddle methods" of crop water consumptive use

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<sup>25</sup> In the matter of the Determination of the Relative Rights of the Waters of the Humboldt River Stream System and Tributaries, Case No. 2804, Sixth Judicial District Court of Nevada, In and for the County of Humboldt, 1923-1938. See Claim No. 00454, Bartlett Decree, p. 185, (Humboldt Decree).

<sup>26</sup> Humboldt Decree, Claim No. 00502, Bartlett Decree, p. 192.

<sup>27</sup> Final Decree, *United States of America vs. Orr Water Ditch Company, et al.*, Equity (D. Nev. 1944), Claim No. 574, p. 58, (Orr Ditch Decree).

<sup>28</sup> Nevada Irrigation Guide, United States Department of Agriculture, Soil Conservation Service, Reno, Nevada (NV210-VI-NVIG, Sept. 1981), Part 683 - Water Requirements, Subpart F - Tables NV683-51.(Nevada Irrigation Guide).

determination.<sup>29</sup> Refer to pages 70 and 71 of the Final Order of Determination for a more detailed description of land irrigated under these claims.

In response to objection section III. **Rotation Schedule.**

The State Engineer determines that a rotation schedule is needed for the fair and objective distribution of water in and around the Green Acres subdivision, including the Heritage or Berrum Ranch. This rotation schedule shall be based on historic evidence, field investigations made by staff from the Nevada Division of Water Resources, testimony from the hearing on the objections and soils data made available through the United States Department of Agriculture.

Historic evidence compiled by the Office of the State Engineer shows that the Heritage or Berrum Ranch was operated as a combined place of use that shared water from the several spring sources that support the irrigated acreage. Since this land has subsequently been parceled and divided into many different pieces, the only fair and equitable solution to distribute water is based on a rotation schedule. The rotation schedule devised for this area will start with the highest (elevation) user of the water system and move down stream until it reaches the end user. This rotation schedule will be based upon time, not water quantity. In this way all participants in the rotation schedule of this water will receive an equitable distribution of water based upon the water available at the time. In essence, during times of water shortage, all participants will share in the shortage; likewise, during times of ample supply, all participants will receive excess water.

Observations were made by Staff<sup>30</sup> of the Division of Water Resources during the field investigation July 26, 2007, that supported the need of a rotation schedule. During this investigation statements were made by those most familiar with the use of water, for particular parcels, in and around the Green Acres Subdivision. The statement of water usage for the Green Acres parcels is as follows:

"The next parcel visited is owned by Gena Guerriero, APN 1219-26-001-024. Mike Catherwood, acting as agent, stated that this parcel is irrigated by the northerly Miller Creek ditch that supplies water to the Green Acres Subdivision. He stated that it

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<sup>29</sup> Nevada Irrigation Guide, Part 683-Water Requirements, NV683.2(b)(8), paragraph (8).

<sup>30</sup> Steve Walmsley, Staff Engineer III and Reed Cozens, Engineering Technician III.

took approximately ½ day to irrigate the 2.51 acre parcel based on a 10 to 14 day rotation period.<sup>31</sup>

"Continuing east, the next parcel visited is owned by Pedro and Margaret M. Villalobos, APN 1219-26-001-032. Mr. Villalobos stated that water is diverted at the southwest corner of his parcel from the south Green Acres irrigation ditch. The water then flows in a north to northeasterly direction to irrigate the 2.55 acre parcel. Mr. Villalobos said that it takes him approximately ½ day to 18 hours to adequately irrigate his parcel as stated under oath in the hearing on objections to the Preliminary Order of Determination.<sup>32</sup>

"The next lot that was visited was the fourth parcel on the north side of the street, APN 1219-26-001-025, owned by the Libbon's. Mr. Libbon stated that his property currently receives an 11 hour rotation of Miller Creek water every two weeks and he is "a happy guy".<sup>33</sup>

"Mr. Douglas called at an earlier date and said that he would not be able to attend the field investigation. In Lieu of a personal appearance he submitted an Email to the State Engineer's Office, dated Tuesday, July 24, 2007, 3:40 P.M. The Email stated:

"Dear Steve

This is in follow up to our telephone conversation yesterday concerning the water distribution within the Green Acres Subdivision. As we discussed, our trust, the Bartholomew Family Trust, and our LLC, Nevada Mountain View own three (3) properties in the area in question known as the Green Acres Subdivision.

Property #1, [Source Unnamed Spring B] 605 Skyhawk Ranch Rd, is the twenty plus acre parcel on which our home and ranch are located.

This parcel flood irrigates from a ditch on the southern border of the property known to you along side of Black Bear Rd. We irrigate from this source about 4 days every three (3) weeks, which has been the cycle here for the last seven years that we have owned the property and was the cycle of last owner as well. Russell Scossa has been managing this for us.

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<sup>31</sup> State Engineer Field Investigation No. 1081, p. 7.

<sup>32</sup> State Engineer Field Investigation No. 1081, p. 7.

<sup>33</sup> State Engineer Field Investigation No. 1081, p. 10.

Property #2, [Source Unnamed Spring "A"] five acres, is the parcel immediately adjacent to parcel one and in front and to the west along Green Acres Rd. It irrigates from a ditch between these two properties and flood irrigates about every two to three weeks for two days.

Property #3, [Source Unnamed Spring "A"] 534 Green Acres, is 2.5 acres with a home and irrigates from a pump in the adjacent ditches when they are full.

This is as accurate a description of our flood irrigation practices as I can describe. If you have any further questions please do not hesitate to contact me. Thank you for your assistance with this matter.

Respectfully,

Myles & Amy Douglas for The Bartholomew Family Trust and Nevada Mountain View, LLC<sup>34</sup>

"At approximately 1:35 P.M. staff and claimants arrived at APN 1219-23-002-013, also known as the Catherwood property... He said that he takes 24 hours to fully irrigate his land [approximately 5 acres] using this method of irrigation."<sup>35</sup>

"After leaving the Catherwood property, the Water Resource's staff and the remaining claimants visited the eighth parcel on the south side of the street, APN 1219-23-002-014. This parcel is owned by Mr. Gary Casteel Jr. Mr. Casteel said that he uses water from Unnamed Creek and that with two head gates it takes approximately 24 hours to irrigate five acres."<sup>36</sup>

"The ninth parcel on the south side of Green Acres Drive is owned by Myles S. and Amy B. Douglas, APN 1219-24-002-010. Mike Catherwood stated that this property, takes approximately 24 hours to irrigate [approximately 5 acres] from the South Green Acres Ditch. Mr. Casteel also supported this time period."<sup>37</sup>

"At approximately 2:00 P.M. the staff from the Division of Water Resources and the remaining claimants visited APN 1219-24-002-005, also known as the Della Rosa property... Mr.

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<sup>34</sup> State Engineer Field Investigation No. 1081, p. 11-12.

<sup>35</sup> State Engineer Field Investigation No. 1081, p. 14.

<sup>36</sup> State Engineer Field Investigation No. 1081, p. 14.

<sup>37</sup> State Engineer Field Investigation No. 1081, p. 15.

Villalobos said that this practice takes about 12 hours [to irrigate approximately 2.5 acres].<sup>38</sup>

"The next to last parcel visited was the Currie property, also known as APN 1219-24-002-014. Mr. Currie stated that it takes approximately 12 hours to irrigate his parcel [approximately 5 acres].<sup>39</sup>

"The last parcel visited during the field investigation was APN 1219-24-002-009, also known as the property of Stephen H. and Patricia Christian... He said that it takes approximately two (2), fifteen (15) hour days to completely irrigate his land [approximately 5 acres].<sup>40</sup>

"Staff of the State Engineer's Office questioned Mr. Jackson regarding the amount of time necessary to irrigate the acreage around the Old Berrum Ranch House. Mr. Jackson stated that he would defer to evidence and testimony presented in the Hearing for Objections to the Preliminary Order of Determination. He said that he had carefully prepared for the hearing and wished to stand on the record created at that time.<sup>41</sup>

During the hearing held March 5, 2007, Jerry Jackson stated: "Two to three times is about what it takes to get an adequate watering, two to three two-day sessions with the gap in the middle of two to three days between each one."<sup>42</sup>

The United States Department of Agriculture, Natural Resources Conservation Service, describes two soil types associated with lands irrigated from Unnamed Spring (A). These soils types are listed as Ophir, sandy gravelly loam, with 0 to 2 percent slope and Ophir, sandy gravelly loam, with 2 to 8 percent slope.<sup>43</sup> Consideration of the slope variances was made in the rotation schedule (see rotation schedule Table 8). Acreage with greater slopes are allotted additional hours due to decreased infiltration rates that coincide with increased potential runoff rates on similar soil types.

A rotation schedule was developed based on the preceding observations and testimony of the parties affected by the distribution of water under Proof V-06322, 2.47 acres; Proof V-06325, 2.54 acres; Proof V-06326, 2.50 acres; Proof

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<sup>38</sup> State Engineer Field Investigation No. 1081, p. 15.

<sup>39</sup> State Engineer Field Investigation No. 1081, p. 15.

<sup>40</sup> State Engineer Field Investigation No. 1081, p. 16.

<sup>41</sup> State Engineer Field Investigation No. 1081, p. 5.

<sup>42</sup> Transcript 3/5/2007, p. 35.

<sup>43</sup> USDA/NRCS Soils Data Mart, NV773, Douglas County Area.

V-06327, 4.90 acres; Proof V-06328, 5.55 acres; Proof V-06329, 5.22 acres; Proof V-06330, 5.08 acres; Proof V-06331, 4.88 acres; Proof V-06333, 4.98 acres; Proof V-06334, 2.55 acres; Proof V-06342, 7.20 acres; Proof V-07486, 4.86 acres; Proof V-08850, 12.43 acres; Proof V-09264, 2.53 acres; Proof V-09265, 2.55 acres; Proof V-09266, 5.18 acres; and Proof V-09270, 5.18 acres.

Refer to Table 8 for a source by source breakdown of the water claims associated with springs associated with irrigated acreage within the Heritage Ranch and Green Acres Subdivision. Also, see Table 8 for the rotation schedule for Unnamed Spring (A).

**Mott Creek Objections regarding Proofs V-05314, V-06313, V-06349, V-06350 and V-06351:**

**Park Objection:**

An objection to the Preliminary Order of Determination was filed by Elizabeth and Eric Park regarding the shared rotation of Mott Creek water with the Yturbides.<sup>44</sup>

**Stone Objection on behalf of McKay:**

An untimely objection was filed on December 5, 2006, regarding Proof of Appropriation No. V-06349, by John G. Stone on behalf of the current owners. Mr. Stone stated that there is an "apparent error in the distribution schedule" and that the distribution of water within the original Mott Creek Ranch should be controlled by "purchase contract". Mr. Stone states that when he acquired the property in 1986 "the purchase contract" "specifically indicated the purchase of  $\frac{1}{4}$  of  $\frac{1}{4}$  of the water rights from Mott Creek."<sup>45</sup>

The State Engineer has taken administrative notice of this objection; however due to the untimely filing of this objection, it was not reviewed in the hearing of protests for the Preliminary Order of Determination.

**Novotny Objection:**

An objection to Proof of Appropriation V-06350 filed on behalf of Gerald R. Novotny and Jeanne M. Moss-Novotny Trustees of the Novotny Family Trust

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<sup>44</sup> Refer to page 3 of this Final Order of Determination.

<sup>45</sup> Letter, dated Dec. 1, 2006, to Hugh Ricci, State Engineer, from John G. Stone. Refer to page 10 of this Final Order of Determination.

Dated February 9, 1984, by Ross E. de Lipkau, Attorney, requests the removal of the "loop ditch" or "triangular" ditch located within the Yturbide property. Mr. de Lipkau further requests that the Yturbides only receive stock water during their respective allotment of time within the "rotation schedule" and that "the Yturbide Trust to restore the flow of Mott Creek flow to its historic course", i.e., the ditch located within the Allerman Road and ditch easement.<sup>46</sup>

**Yturbide Objection:**

An objection was filed in regard to Proofs of Appropriation V-06350 and V-06351 on behalf of Thomas M. Yturbide and Paula J. Yturbide, Trustees of the Yturbide 1991 Family Trust, by Jennifer Yturbide, Esq.: The Yturbides support the location of the existing diversion box on the "loop ditch" located on their property. They request stock watering for 12 head of cattle and 12 head of horses within the place of use of Proof V-06350 and V-06351.<sup>47</sup>

The Yturbides seek clarification of the rotation schedule regarding shared time with the Parks predecessors, the Neuffers. The Yturbides request a shared rotation with the Parks based on a joint filing of Proof V-06351 with the Yturbides. The Yturbides further seek a 2/3 (Yturbide), 1/3 (Park), division of water based on the Grant Deed from Allerman to Neuffer and a Court Order No. 28332, described below.

The Yturbides request that the length of the rotation schedule be lengthened to greater than 12 hours and greater than seven day rotation schedule.

The Yturbides request that historical irrigation practices be reviewed in light of historical evidence and soil/water characteristics within the confines of the original Mott Ranch.

A hearing of objections to the Preliminary Order of Determination regarding the second (going from north to south) ¼-split of Mott Creek was held

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<sup>46</sup> Refer to page 10 of this Final Order of Determination.

<sup>47</sup> Refer to pages 14-16 of this Final Order of Determination.

by the staff<sup>48</sup> of the State Engineer's Office on March 7, 2007. The State Engineer has reviewed the historical record submitted in support of claims V-05314, V-06313, V-06349, V-06350 and V-06351 and finds that the existing evidence supports a priority date of 1852 for all of the aforementioned Proofs of Appropriation.

The State Engineer finds that Mott Creek is equally split into an equal four way division of the stream with  $\frac{1}{4}$  of the flow going to four separate ranches as follows: 1. Northern Diversion - Proofs V-06369 and V-06370. 2. Second Diversion from North to South - V-05314, V-06313, V-06349, V-06350 and V-06351. 3. Third Diversion from North to South - V-05049, V-06315 and V-06316. 4. Southern Diversion - V-05070, V-05819 (Mottsville Cemetery), V-06226, V-06317, V-06318, V-06319, V-06831, V-09039 and V-09263. This decision is pursuant to the agreement between the four ranches as they existed in 1952 that allotted one-fourth ( $\frac{1}{4}$ ) of the flow of Mott Creek to each ranch.<sup>49</sup>

The original objection by the Parks (V-06351) was to the shared rotation of water with the Yturbides (V-06350). This controversy precipitated a deed<sup>50</sup>, dated January 14, 1994, from LaDell (Philips) Allerman, a single woman, and Michael Philips, a single man, to Mark C. Neuffer and Susan L. Neuffer, husband and wife. The deed states: "TOGETHER WITH one-third ( $\frac{1}{3}$ ) of the total water rights allotted to APN 19-060-52 from which the subject property has been partitioned, as such water rights may be further determined according to the final order of adjudication by the Nevada Department of Conservation and Natural Resources, State Engineer, and as currently set forth in the Stipulation of Counsel issued in the Ninth Judicial District Court of the State of Nevada in and for the County of Douglas, Case No. 25256..."

A copy of the case of Ladell Philips, Plaintiff, v. Michael W. Philips, Order Partitioning Real Property, Case No. 28332, Ninth Judicial District Court of

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<sup>48</sup> Susan Joseph-Taylor, Hearing Officer; Kelvin Hickenbottom, P.E., Deputy State Engineer, Bob Zeisloft, P.E., Manager II, and Steve Walmsley, Staff Engineer III.

<sup>49</sup> Book G, p. 566, Doc. No. 8714, Ditch and Water Claims, Douglas Co. Recorder's Office.

<sup>50</sup> Exhibit No. 14, Item No. 18, Yturbide, Bk.0394, Pg.0654, Doc. No. 331491, also referred to as Bk.0194, Pg.3843, Doc. No. 328017, Douglas County Recorder's Office, submitted during the Public Hearing on Wednesday, March 7, 2007 Carson City, Nevada.

Nevada, June 30, 1993, is filed as a supporting document under Proof V-06351.<sup>51</sup> Item No. 4 of the decree states: "The water rights appurtenant to the real property described in Paragraph 1" (refers to the original parcel of land prior to division and sale to the Yturbides and Neuffers) "hereinabove shall be prorated between the parcels as follows: (a) One-third (1/3) of the total appurtenant water rights shall be allotted to Parcel A" (currently, Parks) "described in Paragraph 2 hereinabove; and, (b) Two-thirds of the total appurtenant water rights shall be allotted to Parcel B" (currently, Yturbide) "described in Paragraph 3 hereinabove."

The deed<sup>52</sup>, dated September 28, 1993, from Ladell Allerman to Thomas M. Yturbide and Paula J. Yturbide, Trustees of the Yturbide 1991 Family Trust, dated August 1, 1991, transferred the 19.91 acres, further described as Douglas County APN 19-060-52 (current APN's 1219-03-001-073, 057). The deed states: "TOGETHER WITH all water rights appurtenant to the land conveyed herein including but not limited to the rights of L.A. Philips, as successor in interest to Hiram Mott, the Mott heirs, et al. under Petition No. 94662 as filed with the State Engineer appurtenant to said land."

Proof of Appropriation V-06351 was submitted in the names of "Mark C. and Susan L. Neuffer, and Thomas M. and Paula J. Yturbide, Trustees of The Yturbide 1991 Family Trust Dated August 1, 1991". The land on which said proof was submitted was owned by the Neuffers at the time the claim was submitted. The Neuffers subsequently sold the land with appurtenances to the current owners of record, Eric Song J. Park and Elizabeth Park, Douglas County Assessor's Parcel No. 1219-03-001-060. By Nevada Revised Statute 111.167, water rights are presumed to transfer with the land to which appurtenant, unless the Grantor in conveyance documents specifically reserves the water rights.<sup>53</sup>

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<sup>51</sup> Public Record in the Office of the State Engineer.

<sup>52</sup> Exhibit No. 14, Item No. 17, Yturbide, Bk.0998, Pg.6499, Doc. No. 319101, Douglas County Recorder's Office, submitted during the Public Hearing on Wednesday, March 7, 2007 Carson City, Nevada.

<sup>53</sup> **NRS 111.167 Presumption of conveyance with land: Water rights, permits, certificates and applications appurtenant to land.** Unless the deed conveying land specifically provides otherwise, all:

1. Applications and permits to appropriate any of the public waters;
2. Certificates of appropriation;
3. Adjudicated or unadjudicated water rights; and

Document No. 0647194<sup>54</sup> is a Grant, Bargain and Sale Deed that transfers the above described property "with all tenements, hereditaments and appurtenances, including easements and water rights, if any, thereto belonging or appertaining" to the Park parcel.

The State Engineer finds that Mott Creek water under Claim V-06351 is appurtenant to land owned by the Parks and shall be assigned a separate time allocation in the rotation schedule. The State Engineer does not make a determination regarding the removal of the Yturbide Trust from Proof V-06351. This is a separate matter to be resolved by the two parties or through the court system.

The State Engineer finds that the water appurtenant to the Yturbide parcels (APN 1219-03-001-057, Paul Joseph Yturbide; APN 1219-03-001-073, 1991 Yturbide Trust) and the Park parcel (APN 1219-03-001-060) shall be further allocated as set forth in the aforementioned Case No. 28332, Ninth Judicial District Court of Nevada. The decree allocates 1/3 of the water to parcel A (Parks) and 2/3 to parcel B (Yturbide). The final rotation schedule will be adjusted to be in compliance with the court decree.

An aerial photograph<sup>55</sup>, dated 9-13-89, Frame No. 4-14, was flown for Douglas County by Cooper Aerial of Nevada, Las Vegas, Nevada. In this photograph the contested "loop ditch" on the Yturbide property; APN 1219-03-001-073, is clearly evident. A line that parallels the current Allerman Lane is also evidenced, but it is not supported by phreatophytic vegetation that is associated with a waterway. The aforementioned line is interpreted to be a fence that continues on the north side of the irrigation ditch that parallels Allerman Lane. A second aerial photograph<sup>56</sup>, dated 6-1-77, clearly illustrates the "loop ditch" within

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4. Applications or permits to change the place of diversion, manner of use or place of use of water, which are appurtenant to the land are presumed to be conveyed with the land.

(Added to NRS by 1995, 438)

<sup>54</sup> Official records of the Douglas County, Nevada, Recorder's Office, BK-605, PG-8040, 3 pgs.

<sup>55</sup> Public record in Proof V-06313, Aerial Photograph Section, vol. 5 of 5, dated 9-13-89, Douglas County, No. 4-14, Cooper Aerial of Nevada.

<sup>56</sup> CARSON VALLEY AERIAL MAPPING PROJECT, Carson Valley Conservation District, Douglas County, Nevada, Genge Aerial Surveys, 6220 24<sup>th</sup> Street,

the southwest corner of the Yturbide claim. A final photograph<sup>57</sup>, dated 10-20-38, also illustrates the "loop ditch" with a continuation of the ditch to the north from the northernmost point of the "loop".

Based on the unbiased evidence of the preceding aerial photographs, the State Engineer determines that the "loop ditch" located within the southwest corner of Proof V-06350 existed prior to the eventual parceling of the Allerman (Mott) Ranch. Therefore, the State Engineer does not require the removal of the "loop ditch" and the requested relocation of the ditch into the Allerman Lane ditch right-of-way as set forth in the Novotny objection and the Davis objection<sup>58</sup> to the Preliminary Order of Determination. The State Engineer further finds that the watering of stock under Claim V-06350 is a *de minimus* use of water and will have no effect on the amount of irrigation water delivered to the other claimants within this ¼ split of Mott Creek. To put it into further perspective, the watering of livestock for the 12 head of horses at 20 gallons per day per head will utilize a maximum of 240 gallons per day. If the ¼ split of Mott Creek is receiving 1 cfs (cubic foot per second) that generates 645,000 gallons of water per day. 240 gallons/645,000 gallons equals 0.037% of the total flow in the stream. Finally, the State Engineer finds that when a large tract of land is parceled into smaller lots, each lot will have characteristics unique to each subdivision. The Yturbide parcel happened to have the "loop ditch" in place prior to said parceling. Therefore, the Yturbide's will have an advantage in stock water availability over other land owners of portions of the original Mott Ranch.

The State Engineer finds that it is not practical to keep all of the ditches charged in order to provide stock water to all of the downstream owners within the Mott Ranch. Water should be stored in ponds for stock watering purposes when a party is not in rotation. The State Engineer further determines that storage of water shall occur only when a claimant is in priority in the rotation schedule.

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Sacramento, California, Sheet 4 of 51. Public record in the Office of the State Engineer,

<sup>57</sup> Public record in the Office of the State Engineer, aerial photograph obtained from the Carson Valley Conservation District office on an unknown date, Photo No. BPB-13-89, dated 10-20-38.

<sup>58</sup> Transcript, p. 30, public administrative hearing on objections to the Preliminary Order of Determination before the State Engineer, March 7, 2007. (Hereafter Transcript, 3/7/2007).

The final argument regards the rotation schedule and historically irrigated acreage for each of the claimants. Ms. Yturbide testified that "a twelve hour rotation does not work." When each party irrigated under the 25% ( $\frac{1}{4}$ ) schedule, her client had the opportunity to saturate more ground even though the rotation didn't come back for three weeks.<sup>59</sup> Ms. Yturbide argues that the soil type on the Yturbide land is comprised of soil type no. 642<sup>60</sup>, described as Ophir gravelly sandy loam, 2 to 8 percent slopes, that is granular and better drained with a much lower water holding capacity.<sup>61</sup> Bruce Scott consultant for the Yturbides; further testifies under direct examination by Ms. Yturbide that this soil requires a greater head of water and a longer period of time for the water to be pushed over the "642" soil type.<sup>62</sup> Review of the map which illustrates the location of the different soil types indicates that the 642 soil covers most of the Yturbide land, all of the Park land, the north and eastern half of the McKay parcel, the north part and eastern 2/3 of the Novotny parcel and the south central and northwest part of the Davis land.

Mr. Scott continued to be directly examined by Ms. Yturbide regarding soil types and their location on the five (5) parcels of land. Mr. Scott states that the northeast corner of the map, also known as the northeast corner of the Davis parcel is comprised of a 555<sup>63</sup> soil type, Kimmerling clay loam, clay substratum. The Natural Resource Conservation Service classifies this soil as poorly drained, moderately low to moderately high (0.06 to 0.20 in/hr) capacity to transmit water, a 12 to 24 inch depth to water and subject to occasional flooding.<sup>64</sup> Mr. Scott testifies that this land is subject to flooding.<sup>65</sup> Mr. Scott goes on to identify the 622 and 431 soil types on the Davis land as clayier soils with a higher water holding capacity and less permeability.<sup>66</sup> The 431 soil type is identified as Shalcar family peat.<sup>67</sup> This soil is very poorly drained with a depth to the water table at zero (0) inches.

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<sup>59</sup> Transcript, 3/7/2007 p. 48.

<sup>60</sup> USDA/NRCS Soils Data Mart, NV773, Douglas County Area.

<sup>61</sup> Transcript, 3/7/2007 p. 73.

<sup>62</sup> Transcript, 3/7/2007 p. 76.

<sup>63</sup> Transcript, 3/7/2007 p. 76.

<sup>64</sup> USDA/NRCS Soils Data Mart, NV773, Douglas County Area.

<sup>65</sup> Transcript, 3/7/2007 p. 77.

<sup>66</sup> Transcript, 3/7/2007 p. 79.

<sup>67</sup> USDA/NRCS Soils Data Mart, NV773, Douglas County Area.

The State Engineer finds that the testimony and evidence regarding soil types and their associated characteristics are well supported by exhibits and verified by publications and electronic data available from the Natural Resource Conservation Service, formerly the Soil Conservation Service. NRS 533.035 states that "beneficial use shall be the basis, the measure and the limit of the right to the use of water." Evidence and testimony regarding water demand based on the physical characteristics of the land does not answer the question regarding "beneficial use". While scientific data is a useful tool in determining the potential land use, it is not necessarily what occurred on the acreage.

"Affidavits"<sup>68</sup> that were submitted by Harold Feil, dated October 1990; Helen C. Clark and Janice H. Hansen, dated November 24, 1990; Knox Johnson, dated November 8, 1990; Edwin C. Sarman, dated November 23, 1990; and Michael Philips<sup>69</sup>, not dated, but notarized by Ann M. Wilson, Notary Public; all show similar patterns of irrigation based on their knowledge of the Mott Ranch while it was still a single entity being utilized solely for agricultural purposes. Mr. Davis objected to the aforementioned documents being referred to as "affidavits"<sup>70</sup> NRS 199.190 states: "The making of a deposition, certificate or affidavit shall be deemed to be complete when it is subscribed and sworn to or affirmed by the defendant with intent that it be uttered or published as true." Based on this definition the State Engineer is in agreement with Mr. Davis' objection that these documents do not meet the requirements to be qualified as "affidavits" under the definition of the law. The State Engineer also recognizes that these documents were solicited and written by individuals that are laymen and not trained as attorneys with an intimate knowledge of the statutes. Although none of these individuals were alive prior to 1905, they do provide insight into the operation and practices of the Mott Ranch prior to it being parceled and the use of the land changed to meet the needs and desires of the current owners of record.

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<sup>68</sup> Public record in the Office of the State Engineer filed under Proof of Appropriation No. V-06349.

<sup>69</sup> Evidence submitted with the post hearing brief, Titled: SUPPLEMENTAL SUBMISSION IN SUPPORT OF OBJECTIONS TO THE PRELIMINARY ORDER, by Jennifer Yturbide, Attorney for Yturbide Trust, dated April 9, 2007. Also, Hearing Exhibit 16 from the public administrative hearing on objections to the Preliminary Order of Determination before the State Engineer, March 7, 2007.

<sup>70</sup> Transcript, 3/7/2007 p. 87.

A water claim<sup>71</sup> was submitted by Cerrisa Fettic on behalf of the heirs of the Elizabeth Mott Ranch on August 31, 1889. Mrs. Fettic claimed "one fourth ( $\frac{1}{4}$ ) of all the waters customarily flowing in" Mott Creek. Mrs. Fettic further states:

"Claimants own and are entitled to divert, have and use for stock, domestic and irrigating purposes as aforesaid, the amount, quantity and portion of and interest in all of the water of said stream hereinbefore mentioned that is to say one fourth of all said waters and Abt- one hundred acres (more or less) of land lie under said stream and ditches and flume and may be irrigated therefrom and Abt- 100 acres are irrigated by waters of said stream through said ditches and claimants have no other means of irrigating said land, than said waters aforesaid, and claimants require to irrigate said land and for domestic and stock purposes all the water and interest in water herein claimed."

Referring to the Motts, Wheeler<sup>72</sup> testified: "In 1855 they must have had 60 acres of grain besides the hay lands that were irrigated. The north field only was irrigated." Review of the aerial photography from 1938<sup>73</sup> and associated mapping by staff<sup>74</sup> of the State Engineer's Office revealed that harvest acreage was 52 acres. This is indicated by well groomed fields with a grid system of ditches and lines of cultivation running in a north/northwest direction perpendicular to Allerman Lane. The dimensions of the acreage are approximately 2,400 feet running from the southwest corner of Claim V-06350 in an east/northeasterly direction along Allerman Lane to the south end of a north/northwest trending fence line located approximately 450 feet from the southwest corner of Claim V-05314. The roughly rectangular acreage has an approximate overall width of 1,050 feet running in a north/northwest direction perpendicular to Allerman Lane. This acreage can be coordinated with the "60 acres of grain" described by Wheeler.

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<sup>71</sup> Book B, Page 88, Ditch and Water Claims, Douglas County Recorder's Office, Douglas County, State of Nevada.

<sup>72</sup> P. 14 of Wheeler testimony, Taylor et al. vs. Jones, June 1, 1871, and Taylor et al. vs. Alvey, June 2, 1871, Second Judicial District Court, Douglas County, Nevada.

<sup>73</sup> See Footnote No. 50 on page 32.

<sup>74</sup> Reed Cozens, Engineering Technician III.

A mapping project<sup>75</sup> conducted in 1904 by the U.S. Geological Survey, Hydrographic Branch, Reclamation Service, illustrates irrigated acreage within Carson Valley from the East and West Forks of the Carson River and stream and spring sources flowing from and arising along the eastern side of the Carson Range of mountains. Irrigated acreage is illustrated by north to south trending solid and dashed lines. Acreage that is comprised of non-irrigated ground, i.e., brush and forest land, swamp land, shallow water table, corrals, stack yards, etc. is illustrated by "blank" areas on the map. Based on this map the State Engineer finds that 102.83 acres were irrigated within the claimed place of use claimed under Proofs V-05314, V-06313, V-06349, V-06350 and V-06351. The State Engineer finds that this acreage is consistent with the Fetic water claim and Wheeler testimony in preceding paragraphs.

Mr. de Lipkau<sup>76</sup> argued that Permit 60682 is supplemental to Mott Creek water rights claimed under Proof V-06350. Mr. de Lipkau argues that Permit 60682 should be counted as water not needed from Mott Creek for the irrigation of the Yturbide property. Permit 60682 was issued for the irrigation of 6.0 acres of land located within the SE $\frac{1}{4}$ NW $\frac{1}{4}$  Section 3, T.12N., R.19E., M.D.B.&M. Item No. 15 of the permit states: "The groundwater right to be granted under this Application is not to be supplemental to any surface water rights." The State Engineer finds that the final place of use of this right has not been determined by the filing of the Proof of Beneficial Use under said permit. The State Engineer also finds that the determination of the final disposition of pre-statutory water use from Mott Creek has nothing to do with underground water that may or may not be supplemental to this claim.

All of the parties to the protest stipulated to change the current 7-day rotation schedule to a 14-day schedule.<sup>77</sup> Staff of the State Engineer's office asked the question: "Based on the same proportions?" Ms. Yturbide responded: "No, not on the same proportions."<sup>78</sup> The State Engineer determines that although all parties stipulated to a 14-day rotation schedule, they are still not in total agreement with the proportional division of water based on the decisions set forth in the Preliminary Order of Determination. Therefore, the State Engineer

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<sup>75</sup> Map No. 489, U. S. Geological Survey, Hydrographic Branch, Reclamation Service, Truckee-Carson Project Nev. received on July 27, 1904, L.H. Taylor, with letter July 18, 1904, Public record in the Office of the State Engineer.

<sup>76</sup> Transcript, 3/7/2007 pp. 93-94.

<sup>77</sup> Transcript, 3/7/2007 p.179.

<sup>78</sup> Transcript, 3/7/2007 p.180.

finds that an 18-day schedule will be a preferable compromise for all parties. Refer to the attachment to Table 2. Titled "1/4 FLOW OF MOTT CREEK ROTATION SCHEDULE, 2ND DIVERSION FROM NORTH TO SOUTH".

The State Engineer has reevaluated the findings set forth in the Preliminary Order of Determination based on the protests, testimony, evidence presented during the hearing, review of the claims and their supporting evidence, aerial photography and historic mapping of the Carson Valley's irrigated lands. Therefore, the State Engineer finds that Proof of Appropriation V-05314 is reduced to 7.61 acres of irrigated land with the balance of the land able to be irrigated by any drain and waste water that may occur from irrigation of land located up-gradient, V-06313 remains at 40.00 acres, V-05349 remains at 32.26 acres, V-05350 remains at 12.96 acres and V-05351 remains at 10.00 acres.

### **III. FIELD INVESTIGATIONS**

Field investigations of the various springs and streams; the ditch systems diverting water, and the lands irrigated therefrom were conducted by staff of the Office of the State Engineer on various dates including April 5, 1996; May 3, 1996; May 10, 30 and 31, 1996; August 16, 1996; September 30, 1996; July 1 and 2, 1997; July 30, 1997; September 4 and 5, 1997; October 2 and 3, 1997; April 28, 1998; May 6 and 7, 1998; June 11, 12 and 16, 1998; July 16 and 17, 1998; August 11 and 12, 1998; September 8, 10, 11, 16, 18 and 24, 1998; October 14 and 15, 1998; November 2, 1998; August 26, 1999 and July 26, 2007.

The field investigators' observations and measurements were reduced to reports of field investigation and are on file in the Office of the State Engineer.

### **IV. WATER SOURCES AND FLOWS**

The sources of water that are the subject of this adjudication are located within Douglas County, Nevada, and consist of the springs and streams in Carson Valley located within or adjacent to T.12N., R.19E., M.D.B.&M. The area of the drainage basins in this proceeding begins at the north boundary of T.12N., R.19E., M.D.B.&M. and runs south to the northern portions of Sections 9 and 10, T.11N., R.19E., M.D.B.&M., in California. The west boundary is the drainage divide between Carson Valley and the Lake Tahoe Basin, also described as the crest of the Carson Range of mountains. The east boundary is generally

described as adjacent and including a small portion of lands irrigated by the Carson River system under the Alpine Decree.<sup>79</sup>

This adjudication proceeding includes the waters of Mott Creek, Taylor Creek, Cary Creek (Aka Carey Creek), Monument Creek (Aka Bulls Canyon Creek), Stutler Creek (Aka Stattler Creek), Sheridan Creek, Gansberg Spring, Sharpe Spring, Wheeler Creek No. 1, Wheeler Creek No. 2, Miller Creek, Bently Spring, Luther Creek and various unnamed sources occurring along the eastern slope of the Carson Range.

The streams that are the subject of this adjudication are fed from springs and melting snow located in the upper elevations of the Carson Range. The streams generally flow in an easterly direction from the crest of the Carson Range into the Carson Valley. Typical of Nevada's mountain streams, the runoff peaks in the spring and then recedes during the summer months until there is minimal or zero flow.

Elevation and the size of the watershed are the two dominant factors affecting stream discharge and flow rates. The watershed yield will be heavily dependent on winter snowfall and varies accordingly from year to year. The watershed discharge is further dependent on the physical and geological differences that affect runoff within each watershed.

Individual springs and spring complexes are part of the hydrologic system and occur at the base of the Carson Range and along the Genoa fault zone. The fault trends from north to south along the base of the east side of the Carson Range.

A brief description of the major drainages listed from north to south is as follows: Taylor Creek, Mott Creek, Cary Creek, Wheeler Creek No. 1, Wheeler Creek No. 2, Stutler Creek, Sheridan Creek, Miller Creek (Spring), Bently Spring and Luther Creek. Barber Creek<sup>80</sup> (Jobs Canyon Creek) is located within the first described area under this adjudication; however, this stream system is not part of this proceeding, since it was previously adjudicated. The decreed waters of Barber Creek are intertwined and commingled with other sources of water in this proceeding and are described for continuity of the area being adjudicated.

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<sup>79</sup> Final Decree, U.S. v. Alpine Land and Reservoir Co., Civil No. D-183 (D.Nev. 1980) ("Alpine Decree").

<sup>80</sup> Final Decree, In the Matter of the Determination of the Relative Rights to the Waters of Barber Creek and Its Tributaries in Douglas County, Nevada, Judicial District Court of the State of Nevada, in and for the County of Douglas, May 27, 1921. Docket No. 255. (Hereafter "Barber Creek Decree")

The Taylor Creek drainage basin begins at an elevation of approximately 8,240 feet above Mean Sea Level (MSL) and terminates at the diversion located at elevation 4,880 feet and east of Nevada State Highway Route 207. The drainage basin has an area of 0.70 square miles. The basin is bounded on the north by the Daggett and Corsser Creek drainages and to the south by the Mott Creek drainage. During field investigations personnel of the Office of the State Engineer obtained stream flow measurements that ranged from 0.23 cubic feet per second (cfs) to 0.41 cfs.

The Mott Creek drainage basin begins at an elevation of 10,067 feet above MSL on Monument Peak and terminates at the diversion located at elevation 4,920 feet and south and west of Nevada State Highway Route 207. The drainage basin has an area of 2.08 square miles. The basin is bounded on the north by the Daggett and Taylor Creek drainages and to the south by the Cary Creek drainage basin. Personnel of the Office of the State Engineer and the United States Geological Survey, hereafter U.S.G.S., obtained stream flow measurements that ranged from 0.33 cfs to 7.34 cfs.

The Cary Creek drainage basin begins at an elevation of 10,067 feet above MSL on Monument Peak and terminates at the diversion located at elevation 4,990 feet and one half mile west of Foothill Road. The drainage basin has an area of 2.34 square miles. The basin is bounded on the north by the Mott Creek drainage basin and to the south by the Wheeler Creek No. 1 drainage basin. Personnel of the Office of the State Engineer and the U.S.G.S. obtained stream flow measurements that ranged from 1.89 cfs to 2.35 cfs.

The Wheeler Creek No. 1 drainage basin begins at an elevation of 9,530 feet above MSL and terminates at the diversion located at elevation 5,600 feet and west of Foothill Road. The drainage basin has an area of 0.50 square miles. The basin is bounded on the north by the Cary Creek drainage basin and to the south by the Stutler Creek and Wheeler Creek No. 2 drainage basins. Personnel of the Office of the State Engineer and the U.S.G.S. obtained stream flow measurements that ranged from 0.84cfs to 1.44 cfs.

The Wheeler Creek No. 2 drainage basin begins at an elevation of 8,040 feet above MSL and terminates at the diversion located at elevation 5,000 feet and east of the southwest corner of Section 10, T.12N., R.19E., M.D.B.&M. The drainage basin has an area of 0.44 square miles. The basin is bounded on the north by the Wheeler Creek No. 1 drainage basin and to the south by the Stutler Creek drainage basin. Stream measurements included Wheeler Creek No. 1 flows that were diverted into the Wheeler Creek No. 2 channel. Therefore, there are no separate measurements of the discharge of Wheeler Creek No. 2.

The Stutler Creek drainage basin begins at an elevation of 10,080 feet above MSL and terminates at the diversion located at elevation 4,820 feet and

just west of Foothill Road. The drainage basin has an area of 1.89 square miles. The basin is bounded on the north by the Wheeler Creek No. 1 and Wheeler Creek No. 2 drainages and to the south by the Sheridan Creek and Barber Creek drainages. Personnel of the Office of the State Engineer and the U.S.G.S. obtained stream flow measurements that ranged from 0.18 cfs to 1.68 cfs.

The Sheridan Creek drainage basin begins at an elevation of 9,731 feet above MSL and terminates at the diversion located at an elevation of 4,810 feet and just west of Foothill Road. The drainage basin has an area of 1.01 square miles. The basin is bounded on the north by the Stutler Creek drainage and to the south by the Barber Creek drainage. Several springs located on what is known as the historic Jobs Peak Ranch make up a majority of the flow throughout the year. Personnel of the Office of the State Engineer and the U.S.G.S. obtained stream flow measurements that ranged from 0.36 cfs to 4.30 cfs.

Barber Creek drainage basin begins at an elevation of 10,823 feet above MSL on Jobs Sister Peak and terminates at the diversion located at elevation 4,810 feet and just west of Foothill Road. The drainage basin has an area of 3.14 square miles. The basin is bounded on the north by the Stutler Creek and Sheridan Creek drainages and to the south by the Luther Creek drainage.

Miller Creek begins as a spring at the base of the Carson Range. The primary source of the water is from the spring source and not derived from surface runoff. Personnel of the U.S.G.S. obtained gaging station and stream flow measurements that ranged from 0.24 cfs to 3.30 cfs.

Bently Spring begins as a meadow area where the spring discharges into a shallow canyon at the base of the Carson Range. The primary source of the water is from the spring source and not derived from surface runoff. Personnel of the Office of the State Engineer obtained stream flow measurements that ranged from 0.022 cfs to 0.106 cfs.

The Luther Creek drainage basin begins at an elevation of 10,633 feet above MSL on Jobs Sister Peak and terminates at the diversion located at elevation 5,100 feet and three-fourths of a mile southwest of Foothill Road. The drainage basin has an area of 4.39 square miles. The basin is bounded on the north by the Barber Creek and small-unnamed drainages and to the south by the Fredericksburg Canyon drainage. Personnel of the Office of the State Engineer and the U.S.G.S. obtained stream flow measurements that ranged from 0.77 cfs to 13.70 cfs.

The Office of the State Engineer measured the flows of other sources of water within the area encompassed by this adjudication. The records of the measurements of these additional springs and streams are included in this

proceeding and are available for review in the reports of field investigations and stream flow measurements on file in the Office of the State Engineer.

#### **V. ANALYSIS OF THE CLAIMS AND THEIR RESPECTIVE SOURCES FOR DETERMINATION OF DIVERSION RATES AND DUTIES**

The State Engineer determines that many of the sources of water are not always of sufficient flow during the irrigation season to fulfill the amounts claimed under the proofs claiming a vested water right and certificates of appropriation. The field investigations, stream-flow measurements, the records of the Office of the State Engineer and the supporting documents filed together with their respective proofs were all considered in determining the limit and extent of the vested water rights claimed in this proceeding. These records included the U.S.G.S. Hydrographic Branch Reclamation Service Truckee-Carson Project Nev., July 27, 1904, and the 1938 U.S. Department of Agriculture, Soil Conservation Service Aerial Photographs of Carson Valley. These records may be reviewed at the Office of the State Engineer. The "TABLE OF RELATIVE RIGHTS OF APPROPRIATORS" represents a compilation of the Proofs and Permits accepted by the State Engineer in the determination of the relative rights in this proceeding.

The State Engineer recognizes that prior to this proceeding, historic practices, existing agreements and other documents, including civil decrees, have allowed the users of the various stream systems within the subject adjudication to distribute and use the water accordingly.

There are three existing civil decrees within the area under this adjudication for the waters of Mott Creek and Luther Creek. The State Engineer recognizes that the existing civil decrees are controlling and any determinations made in this proceeding will be made accordingly.

On June 3, 1871, portions of the waters of Mott Creek were decreed pursuant to a civil action between A. M. Taylor, et al. v. David Jones in the Second Judicial District Court of the State of Nevada in and for Douglas County<sup>81</sup>. David Jones was awarded three-sixteenths of all the water flowing in Mott Creek for irrigation purposes. Also on June 3, 1871, a separate civil decree on Mott Creek between Alvin M. Taylor, et al. v. R. D. Alvey in the Second Judicial District Court of the State of Nevada in and for Douglas County, Nevada, awarded R. D. Alvey 3 miners inches of the flow.

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<sup>81</sup> Currently the Ninth Judicial District Court of the State of Nevada in and for Douglas County.

The State Engineer finds that the successors in interest to these two civil decrees on Mott Creek are the claimants receiving water from the southernmost diversion of the four-way split. The State Engineer determines that the vested water rights previously decreed under both judicial decrees equate to approximately one-quarter of the available flow of Mott Creek and are claimed under Proofs V-05070, V-06317, V-06318, and V-06319 in this proceeding.

The waters of Luther Creek were previously decreed on May 27, 1874, pursuant to a civil action between James Hannum and A. A. Hannum, his wife, plaintiffs v. William M. Cary and W. H. H. Cary in the Second Judicial District Court of the State of Nevada in and for Douglas County, Nevada. Wherein, the plaintiffs were awarded one-third of the natural flow of Luther Creek. The State Engineer finds that the successors in interest to this civil decree on Luther Creek are the claimants receiving water from the two-way split. The State Engineer determines that the claimants receiving their respective portion of the available flow of Luther Creek under Proofs V-02858, V-06363, V-06364, V-06365, and V-06366 represent the vested water rights previously decreed.

A review of the language of these three civil decrees on Mott and Luther Creeks indicates that the available waters are divided by parts; however, no description of specific points of diversion, the names and locations of the ditches or the places of use under each decree were provided. The State Engineer finds that many essential items necessary to define the decreed water rights are omitted from these decrees. The State Engineer determines that his analysis of the claims filed in this proceeding relative to those two sources of water for the points of diversion, places and manners of use further clarifies and defines the water rights previously decreed.

The claimants in this proceeding that filed claims for these waters have referred to these civil decrees, various agreements and historical practices, all of which have been considered in determining how the available waters are distributed and in some cases commingled with other sources of water, for distribution for the claimed beneficial uses. The State Engineer determines that the execution of agreements and the transfer of the title of ownership of claims of vested water rights between private parties bind only those parties named. The State Engineer further determines that a document conveying title to land that includes appurtenant water rights that are vested is for only that amount that can be established and determined through an adjudication process; however, the conveyance of title of the claimed vested water right does not define the limit and extent of said claim.

The State Engineer determines that a deed conveying a right to a percentage or part of the flow does not entitle the grantee to that amount of water under a claim of a vested water right until such claim is determined as to the limit and extent according to state law. The State Engineer also determines that the division of the available waters by parts and percentages is not the standard of measurement of a water right and is not a sufficient method to determine the limit and extent of a claim of vested water right. The standard in Nevada is in cubic feet per second as required under NRS § 533.065. *Ramelli v. Sorgi*, 38 Nev. 552, 149 Pac. 71, 154 Pac. 73 (1915).

The State Engineer has examined the conditions surrounding the claimed sources of water, points of diversion and places of use and determined that a number of claims of vested water rights are intertwined and in some cases are supplemental sources for other claims of vested water rights and/or certificated water rights in this proceeding. The analysis of those springs, streams and tributaries relative to the respective proofs can be found in Appendix A under Section XVII.

#### **VI. IRRIGATION RETURN FLOW, DRAIN AND WASTE WATERS**

Several claimants filed proofs for irrigation uses wherein the sources of water are a combination of direct diversions, return flows and waste waters. Waste water has been previously defined by the Nevada Supreme Court to consist of surplus water running off from irrigated ground, not consumed by the process of irrigation, or which the irrigated land would not take up<sup>82</sup>.

Waste waters are not subject to appropriation so as to establish a permanent right therein, as is the case of an appropriation of the waters of a natural stream. Water seeping from irrigated land onto the adjoining land of another person was held subsequently to be waste water as so defined<sup>83</sup>.

Return flows are waters diverted for irrigation or other uses and applied to an area, which is not consumed by evaporation or transpiration, that return to the stream from which they were diverted, or to some other stream, or that would do so if not intercepted by some obstacle. Thus, return waters include both waste and seepage waters and may be collected in drainage ditches then reused for irrigation before reaching another source or point of collection without losing its character as return flow.

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<sup>82</sup> Ryan v. Gallio, 52 Nev. 330, 334, 286 Pac. 963 (1930).

<sup>83</sup> In re Bassett Creek and Its Tributaries, 62 Nev. 461, 465-466, 155 P.2d 324 (1945).

The user of the waste water that has escaped or drained from the lands of others, or is being conveyed therefrom in ditches, does not become vested with any control over the ditches of the upper owner or of the water flowing therein, nor can he require the owner to continue or to maintain conditions so as to supply the appropriation of waste water at any time or in any quantity, when acting in good faith<sup>84 85</sup>.

The Nevada Supreme Court found that the right that a claimant acquires to waste water is a temporary right only to whatever water escapes from the ditches, diversions or lands of others, and which cannot find its way back to its natural stream channel or ditch. The use of this waste water does not carry with it the right to any specific quantity of water<sup>86</sup>.

The ability to use the irrigation return flows after the initial beneficial use occurs is only available for use after the prior rights have been met and are outside of the place of use served by the primary diversion of water.

The State Engineer determines that no diversion rate is recognized for the irrigation proofs claiming natural overflow and subirrigation. The State Engineer further determines that no flow rate is recognized for irrigation return flows that may include waste or drain water. The duty for proofs claiming these as sources of water shall not exceed the acre-foot per acre duty established herein. In Section VII Proofs Determined To Be Valid lists the claims for irrigation return flow, i.e., drain and waste waters that the State Engineer has determined to be valid.

## **VII. AVAILABLE WATERS**

The State Engineer determines that the streams and springs named herein are fully appropriated under the claims of vested rights and/or under existing certificates issued by the State Engineer and that in the average year, as shown by the flows in the described stream and spring systems there is no surplus water for irrigation or any additional consumptive uses.

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<sup>84</sup> Ryan v. Gallio, 52 Nev. 330, 344-345, 286 Pac. 963 (1930)

<sup>85</sup> In re Bassett Creek and Its Tributaries, 62 Nev. 461, 466, 155 P. 2d 324 (1945).

<sup>86</sup> Ryan v. Gallio, 52 Nev. 330, 344, 286 Pac. 963 (1930).

## **VIII. PROOFS DETERMINED TO BE VALID**

The field investigations conducted by personnel for the Office of the State Engineer disclosed that the waters of Mott Creek, Taylor Creek, Cary Creek (AKA Carey Creek), Monument Creek and Bulls Canyon, Stutler Creek (AKA Stattler Creek), Sheridan Creek, Gansberg Spring, Sharpe Spring, Wheeler Creek No.1, Wheeler Creek No. 2, Miller Creek, Bently Spring, Luther Creek, and various unnamed sources located within the boundaries of the adjudication area were being placed to beneficial use for irrigation, stock watering, power, and domestic purposes.

The proofs of appropriation summarized below were determined to be valid or partially valid vested water rights established prior to March 1, 1905. The certificated water rights are listed for informational purposes and to assist in the interpretation of the proofs filed in this adjudication. The State Engineer determines that the limit and extent of the proofs filed in this proceeding and the existing certificated water rights perfected under the applicable statutes are described in detail in Section XVI, Table of Relative Rights of Appropriators.

For a complete listing of all of the claims of vested rights submitted in response to this proceeding, or any other filing in the Office of the State Engineer, such as permits and certificates, refer to the Abstract of Claims.

### **PROOFS OF APPROPRIATION.**

**Proof V-02430** was filed on February 21, 1958, by Frank J. Judd claiming a vested right from Palmer Swamp for irrigation of 20.70 acres of land. In this Final Order of Determination, a vested right for 20.70 acres of irrigation from the above-named source is established under this proof with the corresponding diversion rate reduced to 0.21 cfs

**Proof V-02857** was filed on April 23, 1975, by The Heritage Ranch, E. J. McGah owner, claiming a vested right from an unnamed spring for irrigation of 163.00 acres of land. The current owners of record are Ted & Judy Gaines and Robert D. & Wanda D. Shockey, Hanson Trust, Dated April 2, 1980, and the Wild Goose Limited Partnership. In this Final Order of Determination, a vested right for 163.00 acres of irrigation from the above-named source is established under this proof. The proof is partially supplemental to Proof V-02858. See Table No. 8 for diversion rate and duty of water.

**Proof V-02858** was filed on April 23, 1975, by The Heritage Ranch, E. J. McGah owner, claiming a vested right from Luther Creek for irrigation of 278.4 acres of land. Domestic and stock watering uses are also claimed. The current owners of record are Ted & Judy Gaines, Robert D. & Wanda D. Shockey, Hanson Trust, Dated April 2, 1980, Robert H. and Arlene M. Brown Family Trust as of April 19, 2000 and Wild Goose Limited Partnership. In this Final Order of Determination, a vested right for 278.4 acres of irrigation, stock water for sixty (60) cattle and ten (10) horses and domestic purposes from the above-named source is established under this proof. See Section XII for the portion of the claim for stock water use. This proof is partially supplemental to Proof V-02857. See Table No. 9 for diversion rate and duty of water. See Section II for the State Engineer's response to any objection pertaining to this Proof of Appropriation.

**Proof V-04594** was filed on June 1, 1987, by Joseph S. Lodato claiming a vested right from Sheridan Creek (North & South Diversions) for irrigation of 16.0 acres of land. The current owners of record are Joseph S. Lodato, the Sapp 1993 Trust, Allan D. Sapp, Trustee, and Theodore & Katherine A. Weber. The State Engineer determines that the total acres of land owned by Joseph S. Lodato, the Sapp Trust, and Theodore & Katherine A. Weber is approximately 22.93 acres based on records that are on file in the office of the County Recorder, Douglas County, Nevada. The State Engineer further determines that after reviewing the historical records on file in the Office of the State Engineer and field investigations by personnel of the Office of the State Engineer that the entire 22.93 acres were irrigated prior to 1905.

Mr. Lodato received a certified letter, dated May 7, 1996, requesting a cultural map and an amended proof if necessary. The certified mail receipt was signed and dated May 8, 1996, by J. S. Lodato. A second letter, non-certified, dated May 8, 1997, requesting the same was sent to Joseph S. Lodato and R. O. Anderson Engineering, the last known agent for the claimant. Staff of this office made several phone calls and at least two (2) meetings were held at the Office of the State Engineer with the claimant regarding the filing of the map and amended proof. The State Engineer finds that neither the claimant nor his agent filed an amended proof and supporting map delineating the exact location and size of the claimed acreage.

The State Engineer determines that 22.93 acres are irrigated under Proof V-04594 and not 16.0 acres as originally claimed. The State Engineer further determines that under Proof V-04594 the current owners of record tied to the amount of historically irrigated land from Sheridan Creek are Joseph S. Lodato, five (5) acres, the Sapp 1993 Trust, five (5) acres, and Theodore & Katherine A. Weber, 12.93 acres.

Theadore & Katherine A. Weber filed Proof V-06306 for the waters of Sheridan Creek. The Webers and Lodato reconfigured the original Douglas County Assessor's Parcels subsequent to the filing of Proofs V-04594 and V-06306. The Webers submitted documentation to this office of a purchase of land and appurtenant water rights from Mr. Lodato in the amount of eleven (11) acres under Proof V-04594 that was confirmed by the Office of the State Engineer. The Webers filed Proof V-06306 (Sheridan Creek) that is for the same source and for a portion of the claimed place of use as determined under Proof V-04594. The State Engineer determines that Proof V-06306 filed by the Webers supersedes rights held in their name under Proof V-04594. Therefore, no rights are recognized under Proof V-04594 for irrigation of land claimed under Proof V-06306.

In this Final Order of Determination, a vested right for 10.0 acres of irrigation from the above-named sources for the Joseph S. Lodato portion on Douglas County Assessor Parcel (APN), 1219-14-002-006, and for the Sapp 1993 Trust Allan D. Sapp, Trustee on APN 1219-14-002-005 is established under this proof. This proof is partially supplemented by Proof V-06505 (Stutler Creek) and Permit 7595, Certificate 1760, on the portion of the claimed place of use lying within the S½ NW¼ Section 14, T.12N., R.19E., M.D.B.&M. See Table No. 6 for diversion rate and duty of water.

**Proof V-05049** was filed on November 16, 1989, by John D. Turner and Bessie N. Turner claiming a vested right from Mott Creek and an Unnamed Stream for irrigation of 15.80 acres of land. Domestic and stock watering is also claimed. The current owner of record is the Benz Family Trust. In this Final Order of Determination, a vested right for 15.80 acres of irrigation and domestic uses from the above-named sources is established under this proof. See Section XII for the portion of the claim for stock water use. See Table No. 2 for diversion rate and duty of water.

**Proof V-05070** was filed on December 5, 1989, by Lorilyn V. and Randall R. Chitwood claiming a vested right from Mott Creek for irrigation of 7.071 acres of land. Domestic and stock watering of 12 head of livestock is also claimed. In this Final Order of Determination, a vested right for 7.071 acres of irrigation, stock water for 12 head of livestock and domestic uses from the above-named source is established under this proof. This proof is partially supplemented by underground water under Permit 63414. See Table No. 2 for diversion rate and duty of water.

**Proof V-05314** was filed May 23, 1991, by David B. Davis and Sharon L. Davis claiming a vested right from Mott Creek for irrigation of 56.39 acres of land. Domestic and stock watering is also claimed.

In this Final Order of Determination, a vested right for 7.61 acres of irrigation, stock water for 60 head of livestock and domestic uses from the above-named source is established under this proof. This proof is supplemented by underground water under Permit 56296, Certificate 14890, for 20 acre-feet of water within the entire claimed place of use. This proof is further limited to the waters of Mott Creek on an eighteen-day rotating schedule; see Table No. 2 and accompanying rotation schedule. See Section XII for the portion of the claim for stock water use. See Table No. 2 for schedule, diversion rate and duty of water.

Proofs V-05314, V-06313, V-06349, V-06350, and V-06351 are the claims filed for the waters of Mott Creek consisting of the flow originating from the second diversion from the north to south as described in Table No. 2. A review<sup>87</sup> of the proofs and their testimony and supporting evidence from the Hearing on Objections to the Preliminary Order of Determination, further research and findings by the Office of the State Engineer and taking into consideration the Orders of the court, the State Engineer determines that Proofs V-05314, V-06313, V-06349, V-06350, and V-06351 will be on a eighteen-day rotation schedule. The distribution of water will begin with Proof V-06350 (Yturbide) starting on the first day (April 1) of the irrigation season at 5:00 pm until the fourth day at 10:00 am, Proof V-06351 (Parks) from the fourth day at 10:00 am until the fifth day at 6:00 pm, Proof V-06349 (McKay) from the fifth day at 6:00 pm until the eleventh day at 12:00 pm, Proof V-06313 (Novotny) from the eleventh day at 12:00 pm until the eighteenth day at 8:00 am and Proof V-05314 (Davis) from the eighteenth day at 8:00 am until nineteenth/first day at 5:00 pm. This rotation schedule shall continue until the end of the irrigation season on October 15<sup>th</sup> of each year. No changes to the rotation schedule shall be allowed unless by mutual written, signed and recorded agreement by all parties subject to this distribution timetable.

**Proof V-05819** was filed on October 26, 1992, by Mottsville Cemetery Association claiming a vested right from Mott Creek for irrigation of 3.16 acres of land. Domestic use is also claimed. In this Final Order of Determination, a vested right for 3.16 acres of irrigation and domestic uses from the above-named source is established under this proof. See Table No. 2 for diversion rate and duty of water. See section II for the State Engineer's response to any objection pertaining to this Proof of Appropriation.

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<sup>87</sup> Refer to pages 31-41 of this document.

**Proof V-06226** was filed on December 28, 1993, by John W. and Erma Nawratil claiming a vested right from Mott Creek for irrigation of 8.29 acres of land. Domestic and stock watering uses are also claimed. Current owners of record are Edward J. Hayes and Constance G. Hayes. In this Final Order of Determination, a vested right for 8.29 acres of irrigation and domestic uses from the above-named source is established under this proof. This proof is supplemented by underground water under Permit 27331, Certificate 9514. See Section XII for the portion of the claim for stock water use. See Table No. 2 for diversion rate and duty of water.

**Proof V-06264** was filed on January 28, 1994, by The Rodgers Family Trust claiming a vested right from Sheridan Creek (South Diversion) for irrigation of 40.20 acres of land. Stock watering of 40 to 60 head of cattle is also claimed. In this Final Order of Determination, a vested right for 40.20 acres of irrigation uses from the above-named source is established under this proof. The stock watering right is established and determined under Proof V-06265. This proof is supplemental to water under the Barber Creek Decree. See Table No. 6 for diversion rate and duty of water.

**Proof V-06265** was filed on January 28, 1994, by The Rodgers Family Trust claiming a vested right from Sheridan Creek (South Diversion) for stock watering of 40 to 60 head of cattle. In this Final Order of Determination, a vested right for stock watering of 60 head of cattle from the above-named source is established under this proof. This proof is supplemental to water under the Barber Creek Decree. See Table No. 6 for diversion rate and duty of water.

**Proof V-06305** was filed on March 16, 1994, by Theadore Weber and Katherine A. Weber claiming a vested right from Stutler Creek for irrigation of 10.36 acres of land. Domestic and stock watering uses are also claimed. The State Engineer determines that a portion of the claimed acreage in the NW¼ SW¼ Section 14, T.12N., R.19E., M.D.B.&M. cannot be irrigated by Stutler Creek. This acreage is irrigated by the South diversion of Sheridan Creek and is under Proof V-06306. In this Final Order of Determination, a vested right for 9.61 acres of irrigation and domestic uses from the above-named source is established under this proof. The State Engineer determines that the portions of lands claimed under Proof V-04594 to which the Webers are owners of a portion, are the same claimed place of use under this proof; however, these lands will not receive any additional diversion or duty under Proof V-04594. This proof is totally supplemental to Proof V-06306 and is partially supplemented by Permit

7595, Certificate 1760, on the portion of the claim lying within the S½ NW¼ of Section 14, T.12N., R.19E., M.D.B.&M. The stock water right from this source is established and determined under Proof V-06308. See Table No. 5 for diversion rate and duty of water.

**Proof V-06306** was filed on March 16, 1994, by Theadore Weber and Katherine A. Weber claiming a vested right from Sheridan Creek (North & South Diversions) for irrigation of 12.93 acres of land. Domestic and stock watering uses are also claimed. In this Final Order of Determination, a vested right for 12.93 acres of irrigation and domestic uses from the above-named source is established under this proof. The stock water right from this source is established and determined under Proof V-06307. The State Engineer determines that the portions of lands claimed under Proof V-04594 to which the Webers are owners of a portion, are the same claimed place of use under this proof, however; these lands will not receive any additional diversion or duty under Proof V-04594. This proof is partially supplemental to Proof V-06305 and is partially supplemented by Permit 7595, Certificate 1760, on the portion of the claim lying within the S½ NW¼ of Section 14, T.12N., R.19E., M.D.B.&M. See Table No. 6 for diversion rate and duty of water.

**Proof V-06307** was filed on March 16, 1994, by Theadore Weber and Katherine A. Weber claiming a vested right from Sheridan Creek (North & South Diversions) for stock watering of 4 head of cattle, 6 head of horses and 12 sheep. In this Final Order of Determination, a vested right for stock watering of 22 head of livestock from the above-named source is established under this proof. This proof is supplemental to Proof V-06308. See Table No. 6 for diversion rate and duty of water.

**Proof V-06308** was filed on March 16, 1994, by Theadore Weber and Katherine A. Weber claiming a vested right from Stutler Creek for stock watering of 4 head of cattle, 6 head of horses and 12 sheep. In this Final Order of Determination, a vested right for stock watering of 22 head of livestock from the above-named source is established under this proof. This proof is supplemental to Proof V-06307. See Table No. 6 for diversion rate and duty of water.

**Proof V-06309** was filed on March 16, 1994, by Donald S. Forrester and Kristina M. Forrester claiming a vested right from Sheridan Creek for irrigation of 60.87 acres (North Diversion) and 9.90 acres (South Diversion) of land. Domestic and stock watering uses are also claimed. In this Final Order of Determination, a vested right for 70.77 acres of irrigation and domestic uses from the above-

named source is established under this proof. This proof is partially supplemental to Proof V-06310 and supplemented by Permit 7595, Certificate 1760, on the 60.87 acre portion. See Section XII for the portion of the claim for stock water use. See Table No. 6 for diversion rate and duty of water.

**Proof V-06310** was filed on March 16, 1994, by Donald S. Forrester and Kristina M. Forrester claiming a vested right from Stutler Creek for irrigation of 60.87 acres of land. Domestic and stock watering uses are also claimed. In this Final Order of Determination, a vested right for 60.87 acres of irrigation and domestic uses from the above-named source is established under this proof. This proof is supplemental to Proof V-06309 and supplemented by Permit 7595, Certificate 1760. See Section XII for the portion of the claim for stock water use. See Table No. 5 for diversion rate and duty of water.

**Proof V-06311** was filed on March 16, 1994, by Robert S. and June E. Severson claiming a vested right from Stutler Creek for irrigation of 16.61 acres of land. Domestic and stock watering uses are also claimed. In this Final Order of Determination, a vested right for 16.61 acres of irrigation and domestic uses from the above-named source is established under this proof. This proof is supplemental to Proof V-06312 and supplemented by Permit 7595, Certificate 1760. See Section XII for the portion of the claim for stock water use. See Table No. 5 for diversion rate and duty of water.

**Proof V-06312** was filed on March 16, 1994, by Robert S. and June E. Severson claiming a vested right from Sheridan Creek for irrigation of 16.61 acres of land. Domestic and stock watering uses are also claimed. In this Final Order of Determination, a vested right for 16.61 acres of irrigation and domestic uses from the above-named source is established under this proof. This proof is supplemental to Proof V-06311 and supplemented by Permit 7595, Certificate 1760. See Section XII for the portion of the claim for stock water use. See Table No. 6 for diversion rate and duty of water.

**Proof V-06313** was filed on March 17, 1994, by Donald J. Dubin and Pamela J. Dubin and currently owned by Canyon Creek Equestrian Center claiming a vested right from Mott Creek for irrigation of 40.0 acres of land. Domestic and stock watering of an undisclosed number of livestock is also claimed. The current owner of record is Dubin Investment Group LLC.

In this Final Order of Determination, a vested right for 40.0 acres of irrigation and domestic uses from the above-named source is established under this proof. This proof is partially supplemented by an underground source under Permit 63382

for irrigation and Permit 59096 for stock watering purposes. This proof is further limited to the waters of Mott Creek on a eighteen-day rotating schedule; see Table No. 2 and accompanying rotation schedule. See Section XII for the portion of the claim for stock water use. See Table No. 2 for schedule, diversion rate and duty of water.

Proofs V-05314, V-06313, V-06349, V-06350, and V-06351 are the claims filed for the waters of Mott Creek consisting of the flow originating from the second diversion from the north to south as described in Table No. 2. A review<sup>88</sup> of the proofs and their testimony and supporting evidence from the Hearing on Objections to the Preliminary Order of Determination, further research and findings by the Office of the State Engineer and taking into consideration the Orders of the court, the State Engineer determines that Proofs V-05314, V-06313, V-06349, V-06350, and V-06351 will be on a eighteen-day rotation schedule. The distribution of water will begin with Proof V-06350 (Yturbide) starting on the first day (April 1) of the irrigation season at 5:00 pm until the fourth day at 10:00 am, Proof V-06351 (Parks) from the fourth day at 10:00 am until the fifth day at 6:00 pm, Proof V-06349 (McKay) from the fifth day at 6:00 pm until the eleventh day at 12:00 pm, Proof V-06313 (Novotny) from the eleventh day at 12:00 pm until the eighteenth day at 8:00 am and Proof V-05314 (Davis) from the eighteenth day at 8:00 am until nineteenth/first day at 5:00 pm. This rotation schedule shall continue until the end of the irrigation season on October 15<sup>th</sup> of each year. No changes to the rotation schedule shall be allowed unless by mutual written, signed and recorded agreement by all parties subject to this distribution timetable.

**Proof V-06315** was filed on March 18, 1994, by Mottsville Limited Partnership II claiming a vested right from Mott Creek for irrigation of 60.0 acres of land. Domestic and stock watering uses are also claimed. In this Final Order of Determination, a vested right for 60.0 acres of irrigation and domestic uses from the above-named source is established under this proof. See Section XII for the portion of the claim for stock water use. See Table No. 2 for diversion rate and duty of water.

**Proof V-06316** was filed on March 18, 1994, by Douglas and Amelia Hellman claiming a vested right from Mott Creek for irrigation of 40.0 acres of land. Domestic and stock watering uses are also claimed. In this Final Order of Determination, a vested right for 40.0 acres of irrigation, stock water for sixty (60) cattle and domestic uses from the above-named source is established under this

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<sup>88</sup> Refer to pages 31-41 of this document.

proof. See Section XII for the portion of the claim for stock water use. See Table No. 2 for diversion rate and duty of water.

**Proof V-06317** was filed on March 18, 1994, by Dan and Betty Mirtle and later assigned to William H. and Lois Catherine Gray claiming a vested right from Mott Creek for irrigation of 20.0 acres of land. Domestic and stock watering uses are also claimed. In this Final Order of Determination, a vested right for 20.0 acres of irrigation and domestic uses from the above-named source is established under this proof. This proof is supplemented by underground water under Permit 27331, Certificate 9514. See Section XII for the portion of the claim for stock water use. See Table No. 2 for diversion rate and duty of water.

**Proof V-06318** was filed on March 18, 1994, by Norman and Shirley Melnikoff claiming a vested right from Mott Creek for irrigation of 20.0 acres of land. Domestic and stock watering of 20 head of cattle and 6 horses are also claimed. In this Final Order of Determination, a vested right for 20.0 acres of irrigation, domestic and stock watering of 26 head of livestock from the above-named source is established under this proof. This proof is supplemented by groundwater under Permit 61056. See Table No. 2 for diversion rate and duty of water.

**Proof V-06319** was filed on March 18, 1994, by Glenn and Sue Ellen Wright claiming a vested right from Mott Creek for irrigation of 10.0 acres of land. Domestic and stock watering uses are also claimed. The current owner of record is Donna Buddington. In this Final Order of Determination, a vested right for 10.0 acres of irrigation, stock water for ten (10) head of livestock and domestic uses from the above-named source is established under this proof. This proof is supplemented by underground water under Permit 27331, Certificate 9514; however, the claimant is not an owner of record of said certificate in the Office of the State Engineer. See Section XII for the portion of the claim for stock water use. See Table No. 2 for diversion rate and duty of water.

**Proof V-06320** was filed on March 18, 1994, by William R. Tomerlin Trust dated August 11, 1976, claiming a vested right from Wheeler Creek No. 1 and Wheeler Creek No. 2 for irrigation of 94.11 acres of land. Domestic and stock watering of 32 head of cattle, 32 calves and 1 happy bull are also claimed. The State Engineer determines that irrigation of the entire 94.11 acres claimed is not established under this proof based on a 1904 map produced by the U.S.G.S. Hydrographic Branch Reclamation Service Truckee-Carson Project Nev., July 27, 1904, depicting areas under irrigation and aerial photos taken in 1938 by the

U.S.D.A. Soil Conservation Service for the areas of land encompassed by this proceeding. In this Final Order of Determination, a vested right for 49.10 acres of irrigation, domestic and stock watering of 65 head of livestock from the above-named sources is established under this proof. This proof is supplemented by Permit 24806, Certificate 7584; Permit 24807, Certificate 7583; Permit 25601, Certificate 7586; which are all surface water sources and by an underground source under Permit 25409, Certificate 7585. See Table No. 4 for diversion rate and duty of water.

**Proof V-06321** was filed on March 18, 1994, by the Granat Revocable Trust of October 18, 1985, and portions were later assigned to Myles S. Douglas and Amy B. Douglas, as Grantors and Trustees of the Bartholomew Family Trust, dated November 21, 2001, and Henry Edward Warg and Geraldine Gardner Revocable Trust, dated October 27, 2003, claiming a vested right from Unnamed Spring A, Unnamed Spring B [hereafter Unnamed Spring (D)]; (see figure 1 for the naming convention of the Unnamed Springs) and Luther Creek (Return Flow) for irrigation of 40.36 acres of land. Domestic and stock watering of 116 head of cattle and 6 horses are also claimed. In this Final Order of Determination, a vested right for 40.36 acres of irrigation, domestic and stock water for 122 head of livestock from is established under this proof. The State Engineer determines that water rights are recognized as a direct diversion from Unnamed Spring (D) described as follows: The first 1.50 cfs from Unnamed Spring (D) is allocated to Proofs V-06321, V-06323 and V-08850. Flow in excess of 1.50 cfs shall be divided in a 60%/40% split, with 40% being routed through the diversion to the north that flows beneath Foothill Road to the east and directs water through the "Bisecting Ditch" under claim V-08850 entering the Green Acres subdivision via the south Green Acres Ditch located on APN 1219-26-001-031. The 40% portion will be used to supplement Unnamed Spring (A) flow within the same rotation schedule for said Unnamed Spring (A) as applied to Proofs V-06322, V-06325, V-06326, V-06327, V-06328, V-06329, V-06330, V-06331, V-06333, V-06334, V-07486, V-09264, V-09265, V-09266 and V-09270. No water right from Unnamed Spring (A) is established under this proof. The State Engineer also determines that no water rights are recognized from Luther Creek (Return Flow). This water shall be treated as "drain and waste" water that can be utilized when water from said source is available. The State Engineer determines that this proof claims the same sources of water and a portion of the place of use described under Proof V-02856, Permit 24918, Certificate 7843, and Permit 24919, Certificate 7842, therefore, this proof supersedes that portion of said proof and certificates. The portion of this proof claiming a right to Unnamed Spring (D) and Luther Creek (Return Flow) is clarified in Table Nos. 8 and 9. See Table Nos. 8 and 9

for diversion rate and duty of water. See Section II for the State Engineer's response to any objection pertaining to this Proof of Appropriation.

**Proof V-06322** was filed on March 18, 1994, by Granat Revocable Trust of October 18, 1985, and portions were later assigned to Myles S. Douglas and Amy B. Douglas, as Grantors and Trustees of the Bartholomew Family Trust, dated November 21, 2001, claiming a vested right from Miller Creek, Unnamed Creek {Unnamed Spring (A)} and Spring Area {Unnamed Spring (D)} for irrigation of 2.47 acres of land. Domestic and stock watering uses are also claimed. In this Final Order of Determination, a vested right for 2.47 acres of irrigation and domestic uses from the above-named sources is established under this proof. See Section XII for the portion of the claim for stock water use. The State Engineer determines that this proof claims the same sources of water and a portion of the place of use described under Permit 24525, Certificate 8136, and Permit 24526, Certificate 8137; therefore, this proof supersedes that portion of said certificates. The State Engineer determines that the users of Miller Creek are subject to a rotation schedule and that this proof claims a place of use that is part of the Green Acres Subdivision, which is to receive water four (4) consecutive days out of every fourteen (14). The State Engineer further determines that Miller Creek is subject to a 4 day rotation for Green Acres water users and a 10 day rotation for the Scossa Ranch every 14 days. The State Engineer also determines that water rights are recognized as a direct diversion from Unnamed Spring (D) described as follows: The first 1.50 cfs from Unnamed Spring (D) is allocated to Proofs V-06321, V-06323 and V-08850. Flow in excess of 1.50 cfs shall be divided in a 60%/40% split, with 40% being routed through the diversion to the north that flows beneath Foothill Road to the east and directs water through the "Bisecting Ditch" under claim V-08850 entering the Green Acres subdivision via the south Green Acres Ditch located on APN 1219-26-001-031. The 40% portion will be used to supplement Unnamed Spring (A) flow within the same rotation schedule for said Unnamed Spring (A) as applied to Proofs V-06322, V-06325, V-06326, V-06327, V-06328, V-06329, V-06330, V-06331, V-06333, V-06334, V-07486, V-09264, V-09265, V-09266 and V-09270. Refer to Table 8 for the distribution table as it pertains to the rotation schedule for Unnamed Spring (A) and the 60%/40% division of the irrigation water from Unnamed Spring (D). The portion of this proof claiming a right to Miller Creek, Unnamed Spring (A) and Unnamed Spring (D) is clarified in Table Nos. 7 and 8. See Table Nos. 7 and 8 for diversion rate, duty of water and rotation schedules.

**Proof V-06323** was filed on March 18, 1994, by Prather Family Trust of 10/31/1985, and was later assigned to The Abbott Family Trust of September 9, 2004, claiming a vested right from Unnamed Spring (A), Unnamed Spring (D) and Luther Creek (Return Flow) for irrigation of 40.35 acres of land. Domestic and stock watering uses are also claimed. In this Final Order of Determination, a vested right for 40.35 acres of irrigation and domestic uses is established under this proof. The State Engineer determines that water rights are recognized as a direct diversion from Unnamed Spring (D) described as follows: The first 1.50 cfs from Unnamed Spring (D) is allocated to Proofs V-06321, V-06323 and V-08850. Flow in excess of 1.50 cfs shall be divided in a 60%/40% split, with 40% being routed through the diversion to the north that flows beneath Foothill Road to the east and directs water through the "Bisecting Ditch" under claim V-08850 entering the Green Acres subdivision via the south Green Acres Ditch located on APN 1219-26-001-031. The 40% portion will be used to supplement Unnamed Spring (A) flow within the same rotation schedule for said Unnamed Spring (A) as applied to Proofs V-06322, V-06325, V-06326, V-06327, V-06328, V-06329, V-06330, V-06331, V-06333, V-06334, V-07486, V-09264, V-09265, V-09266 and V-09270. No water right from Unnamed Spring (A) is established under this proof. See Table Nos. 7 and 8 for diversion rate, duty of water and rotation schedules. See Section XII for the portion of the claim for stock water use. The State Engineer determines that this proof claims the same sources of water and a portion of the places of use described under Proof V-02856, Permit 24918, Certificate 7843, and Permit 24919, Certificate 7842; therefore, this proof supersedes that portion of said proof and certificates. The State Engineer also determines that no water rights are recognized from Luther Creek (Return Flow). This water shall be treated as "drain and waste" water that can be utilized when water from said source is available. The portion of this proof claiming a right to the springs and Luther Creek return flow is clarified in Table Nos. 8 and 9, respectively. See Table Nos. 8 and 9 for diversion rate and duty of water.

**Proof V-06324** was filed on March 18, 1994, by Theodore G. and Priscilla J. Pithoud claiming a vested right from Miller Creek for irrigation of 2.53 acres of land. Domestic and stock watering uses are also claimed. In this Final Order of Determination, a vested right for 2.53 acres of irrigation and domestic uses from the above-named source is established under this proof. See Section XII for the portion of the claim for stock water use. The State Engineer determines that the users of Miller Creek are subject to a rotation schedule and that this proof claims a place of use that is part of the Green Acres Subdivision, which is to receive water four (4) consecutive days out of every fourteen (14). The State Engineer further determines that this proof claims the same source of water and a portion

of the place of use described under Permit 24525, Certificate 8136, therefore, this proof supersedes that portion of said certificate. The use and rotation of Miller Creek is clarified in Table No. 7. See Table No. 7 for diversion rate and duty of water.

**Proof V-06325** was filed on March 18, 1994, by Robert M. and Sylvia L. Farkas claiming a vested right from Miller Creek, Unnamed Creek {Unnamed Spring (A)} and Spring Area {Unnamed Spring (D)} for irrigation of 2.54 acres of land. Domestic and stock watering uses are also claimed. In this Final Order of Determination, a vested right for 2.54 acres of irrigation and domestic uses from the above-named sources is established under this proof. See Section XII for the portion of the claim for stock water use. The State Engineer determines that this proof claims the same sources of water and a portion of the places of use described under Permit 24525, Certificate 8136, and Permit 24526, Certificate 8137, therefore, this proof supersedes that portion of said certificates. The State Engineer further determines that the users of Miller Creek are subject to a rotation schedule and that this proof claims a place of use that is part of the Green Acres Subdivision, which is to receive water four (4) consecutive days out of every fourteen (14). The State Engineer also determines that water rights are recognized as a direct diversion from Unnamed Spring (D) described as follows: The first 1.50 cfs from Unnamed Spring (D) is allocated to Proofs V-06321, V-06323 and V-08850. Flow in excess of 1.50 cfs shall be divided in a 60%/40% split, with 40% being routed through the diversion to the north that flows beneath Foothill Road to the east and directs water through the "Bisecting Ditch" under claim V-08850 entering the Green Acres subdivision via the south Green Acres Ditch located on APN 1219-26-001-031. The 40% portion will be used to supplement Unnamed Spring (A) flow within the same rotation schedule for said Unnamed Spring (A) as applied to Proofs V-06322, V-06325, V-06326, V-06327, V-06328, V-06329, V-06330, V-06331, V-06333, V-06334, V-07486, V-09264, V-09265, V-09266 and V-09270. Refer to Table 8 for the distribution table as it pertains to the rotation schedule for Unnamed Spring (A) and the 60%/40% division of the irrigation water from Unnamed Spring (D). The portion of this proof claiming a right to Miller Creek, Unnamed Spring (A) and Unnamed Spring (D) is clarified in Table Nos. 7 and 8. See Table Nos. 7 and 8 for diversion rate, duty of water and rotation schedules.

**Proof V-06326** was filed on March 18, 1994, by the Robert J. Church and Judith M. Church Family Trust dated April 2, 1991, currently owned by Jeanne C. Nelson Revocable Trust, claiming a vested right from Miller Creek and Unnamed Creek {Unnamed Spring (A)} for irrigation of 2.50 acres of land. Domestic and

stock watering uses are also claimed. In this Final Order of Determination, a vested right for 2.50 acres of irrigation and domestic uses from the above-named sources and Unnamed Spring (D) is established under this proof. See Section XII for the portion of the claim for stock water use. The State Engineer determines that this proof claims the same source of water and a portion of the place of use described under Permit 24525, Certificate 8136, therefore, this proof supersedes that portion of said certificate. The State Engineer further determines that the users of Miller Creek are subject to a rotation schedule and that this proof claims a place of use that is part of the Green Acres Subdivision, which is to receive water four (4) consecutive days out of every fourteen (14). See Table Nos. 7 and 8 for diversion rate and duty of water. The State Engineer also determines that water rights are recognized as a direct diversion from Unnamed Spring (D) described as follows: The first 1.50 cfs from Unnamed Spring (D) is allocated to Proofs V-06321, V-06323 and V-08850. Flow in excess of 1.50 cfs shall be divided in a 60%/40% split, with 40% being routed through the diversion to the north that flows beneath Foothill Road to the east and directs water through the "Bisecting Ditch" under claim V-08850 entering the Green Acres subdivision via the south Green Acres Ditch located on APN 1219-26-001-031. The 40% portion will be used to supplement Unnamed Spring (A) flow within the same rotation schedule for said Unnamed Spring (A) as applied to Proofs V-06322, V-06325, V-06326, V-06327, V-06328, V-06329, V-06330, V-06331, V-06333, V-06334, V-07486, V-09264, V-09265, V-09266 and V-09270. Refer to Table 8 for the distribution table as it pertains to the rotation schedule for Unnamed Spring (A) and the 60%/40% division of the irrigation water from Unnamed Spring (D). The portion of this proof claiming a right to Miller Creek, Unnamed Spring (A) and Unnamed Spring (D) is clarified in Table Nos. 7 and 8. See Table Nos. 7 and 8 for diversion rate, duty of water and rotation schedules.

**Proof V-06327** was filed on March 18, 1994, by Thomas S. Kelly, currently owned by Blaise and Leslie Carrig claiming a vested right from Miller Creek, Unnamed Creek {Unnamed Spring (A)} and two spring areas {Unnamed Spring (D) & (B)} for irrigation of 4.90 acres of land. Domestic and stock watering uses are also claimed. In this Final Order of Determination, a vested right for 4.90 acres of irrigation and domestic uses from Miller Creek, Unnamed Spring (A), and Unnamed Spring (D) is established under this proof. See Section XII for the portion of the claim for stock water use. The State Engineer determines that this proof claims the same sources of water and a portion of the places of use described under Permit 24525, Certificate 8136, and Permit 24526, Certificate 8137, therefore, this proof supersedes that portion of said certificates. The State Engineer further determines that the users of Miller Creek are subject to a

rotation schedule and that this proof claims a place of use that is part of the Green Acres Subdivision, which is to receive water four (4) consecutive days out of every fourteen (14). The State Engineer also determines that water rights are recognized as a direct diversion from Unnamed Spring (D) described as follows: The first 1.50 cfs from Unnamed Spring (D) is allocated to Proofs V-06321, V-06323 and V-08850. Flow in excess of 1.50 cfs shall be divided in a 60%/40% split, with 40% being routed through the diversion to the north that flows beneath Foothill Road to the east and directs water through the "Bisecting Ditch" under claim V-08850 entering the Green Acres subdivision via the south Green Acres Ditch located on APN 1219-26-001-031. The 40% portion will be used to supplement Unnamed Spring (A) flow within the same rotation schedule for said Unnamed Spring (A) as applied to Proofs V-06322, V-06325, V-06326, V-06327, V-06328, V-06329, V-06330, V-06331, V-06333, V-06334, V-07486, V-09264, V-09265, V-09266 and V-09270. Refer to Table 8 for the distribution table as it pertains to the rotation schedule for Unnamed Spring (A) and the 60%/40% division of the irrigation water from Unnamed Spring (D). The portion of this proof claiming a right to Miller Creek, Unnamed Spring (A) and Unnamed Spring (D) is clarified in Table Nos. 7 and 8. See Table Nos. 7 and 8 for diversion rate, duty of water and rotation schedules.

**Proof V-06328** was filed on March 18, 1994, by Wayne A. and Sharon W. Currie, and later assigned to Paul D. and Ellen Marienthal claiming a vested right from Miller Creek, Unnamed Creek {Unnamed Spring (A)} and two spring areas {Unnamed Spring (D) & (B)} for irrigation of 5.55 acres of land. Domestic and stock watering uses are also claimed. In this Final Order of Determination, a vested right for 5.55 acres of irrigation and domestic uses from the above-named sources is established under this proof. See Section XII for the portion of the claim for stock water use. The State Engineer determines that this proof claims the same sources of water and a portion of the places of use described under Permit 24525, Certificate 8136, and Permit 24526, Certificate 8137; therefore, this proof supersedes that portion of said certificates. The State Engineer further determines that the users of Miller Creek are subject to a rotation schedule and that this proof claims a place of use that is part of the Green Acres Subdivision, which is to receive water four (4) consecutive days out of every fourteen (14). The State Engineer also determines that water rights are recognized as a direct diversion from Unnamed Spring (D) described as follows: The first 1.50 cfs from Unnamed Spring (D) is allocated to Proofs V-06321, V-06323 and V-08850. Flow in excess of 1.50 cfs shall be divided in a 60%/40% split, with 40% being routed through the diversion to the north that flows beneath Foothill Road to the east and directs water through the "Bisecting Ditch" under claim V-08850 entering the

Green Acres subdivision via the south Green Acres Ditch located on APN 1219-26-001-031. The 40% portion will be used to supplement Spring (A) flow within the same rotation schedule for said Spring (A) as applied to Proofs V-06322, V-06325, V-06326, V-06327, V-06328, V-06329, V-06330, V-06331, V-06333, V-06334, V-07486, V-09264, V-09265, V-09266 and V-09270. Refer to Table 8 for the distribution table as it pertains to the rotation schedule for Unnamed Spring (A) and the 60%/40% division of the irrigation water from Unnamed Spring (D). The portion of this proof claiming a right to Miller Creek, Unnamed Spring (A) and Unnamed Spring (D) is clarified in Table Nos. 7 and 8. See Table Nos. 7 and 8 for diversion rate, duty of water and rotation schedules.

**Proof V-06329** was filed on March 18, 1994, by William M. Coffee, currently owned by David J. and Anne Dellarosa claiming a vested right from Miller Creek, Unnamed Creek {Unnamed Spring (A)} and two spring areas {Unnamed Spring (D) & (B)} for irrigation of 5.22 acres of land. Domestic and stock watering uses are also claimed. The current owner of record is the William M. Coffee, Trustee, Coffee Family Trust Dated August 3, 1973. In this Final Order of Determination, a vested right for 5.22 acres of irrigation and domestic uses from the above-named sources is established under this proof. See Section XII for the portion of the claim for stock water use. The State Engineer determines that this proof claims the same sources of water and a portion of the places of use described under Permit 24525, Certificate 8136, and Permit 24526, Certificate 8137; therefore, this proof supersedes that portion of said certificates. The State Engineer determines that the users of Miller Creek are subject to a rotation schedule and that this proof claims a place of use that is part of the Green Acres Subdivision, which is to receive water four (4) consecutive days out of every fourteen (14). The State Engineer also determines that water rights are recognized as a direct diversion from Unnamed Spring (D) described as follows: The first 1.50 cfs from Unnamed Spring (D) is allocated to Proofs V-06321, V-06323 and V-08850. Flow in excess of 1.50 cfs shall be divided in a 60%/40% split, with 40% being routed through the diversion to the north that flows beneath Foothill Road to the east and directs water through the "Bisecting Ditch" under claim V-08850 entering the Green Acres subdivision via the south Green Acres Ditch located on APN 1219-26-001-031. The 40% portion will be used to supplement Unnamed Spring (A) flow within the same rotation schedule for said Unnamed Spring (A) as applied to Proofs V-06322, V-06325, V-06326, V-06327, V-06328, V-06329, V-06330, V-06331, V-06333, V-06334, V-07486, V-09264, V-09265, V-09266 and V-09270. Refer to Table 8 for the distribution table as it pertains to the rotation schedule for Unnamed Spring (A) and the 60%/40% division of the irrigation water from Unnamed Spring (D). The portion of this

proof claiming a right to Miller Creek, Unnamed Spring (A) and Unnamed Spring (D) is clarified in Table Nos. 7 and 8. See Table Nos. 7 and 8 for diversion rate, duty of water and rotation schedules.

**Proof V-06330** was filed on March 18, 1994, by Gary B. and Claudia A. Casteel claiming a vested right from Miller Creek, Unnamed Creek {Unnamed Spring (A)} and a spring area {Unnamed Spring (D)} for irrigation of 5.08 acres of land. Domestic and stock watering uses are also claimed. In this Final Order of Determination, a vested right for 5.08 acres of irrigation and domestic uses from the above-named sources is established under this proof. See Section XII for the portion of the claim for stock water use. The State Engineer determines that this proof claims the same sources of water and a portion of the places of use described under Permit 24525, Certificate 8136, and Permit 24526, Certificate 8137; therefore, this proof supersedes that portion of said certificates. The State Engineer further determines that the users of Miller Creek are subject to a rotation schedule and that this proof claims a place of use that is part of the Green Acres Subdivision, which is to receive water four (4) consecutive days out of every fourteen (14). The State Engineer also determines that water rights are recognized as a direct diversion from Unnamed Spring (D) described as follows: The first 1.50 cfs from Unnamed Spring (D) is allocated to Proofs V-06321, V-06323 and V-08850. Flow in excess of 1.50 cfs shall be divided in a 60%/40% split, with 40% being routed through the diversion to the north that flows beneath Foothill Road to the east and directs water through the "Bisecting Ditch" under claim V-08850 entering the Green Acres subdivision via the south Green Acres Ditch located on APN 1219-26-001-031. The 40% portion will be used to supplement Unnamed Spring (A) flow within the same rotation schedule for said Unnamed Spring (A) as applied to Proofs V-06322, V-06325, V-06326, V-06327, V-06328, V-06329, V-06330, V-06331, V-06333, V-06334, V-07486, V-09264, V-09265, V-09266 and V-09270. Refer to Table 8 for the distribution table as it pertains to the rotation schedule for Unnamed Spring (A) and the 60%/40% division of the irrigation water from Unnamed Spring (D). The portion of this proof claiming a right to Miller Creek, Unnamed Spring (A) and Unnamed Spring (D) is clarified in Table Nos. 7 and 8. See Table Nos. 7 and 8 for diversion rate, duty of water and rotation schedules.

**Proof V-06331** was filed on March 18, 1994, by Harold and Viola Casteel, c/o Gary Casteel and later assigned to the Bartholomew Family Trust claiming a vested right from Miller Creek, Unnamed Creek {Unnamed Spring (A)} and a spring area {Unnamed Spring (D)} for irrigation of 4.88 acres of land. Domestic and stock watering uses are also claimed. In this Final Order of Determination, a

vested right for 4.88 acres of irrigation, stock water for six (6) horses and domestic uses from the above-named sources is established under this proof. See Section XII for the portion of the claim for stock water use. The State Engineer determines that this proof claims the same sources of water and a portion of the places of use described under Permit 24525, Certificate 8136, and Permit 24526, Certificate 8137; therefore, this proof supersedes that portion of said certificates. The State Engineer further determines that the users of Miller Creek are subject to a rotation schedule and that this proof claims a place of use that is part of the Green Acres Subdivision, which is to receive water four (4) consecutive days out of every fourteen (14). The State Engineer also determines that water rights are recognized as a direct diversion from Unnamed Spring (D) described as follows: The first 1.50 cfs from Unnamed Spring (D) is allocated to Proofs V-06321, V-06323 and V-08850. Flow in excess of 1.50 cfs shall be divided in a 60%/40% split, with 40% being routed through the diversion to the north that flows beneath Foothill Road to the east and directs water through the "Bisecting Ditch" under claim V-08850 entering the Green Acres subdivision via the south Green Acres Ditch located on APN 1219-26-001-031. The 40% portion will be used to supplement Unnamed Spring (A) flow within the same rotation schedule for said Unnamed Spring (A) as applied to Proofs V-06322, V-06325, V-06326, V-06327, V-06328, V-06329, V-06330, V-06331, V-06333, V-06334, V-07486, V-09264, V-09265, V-09266 and V-09270. Refer to Table 8 for the distribution table as it pertains to the rotation schedule for Unnamed Spring (A) and the 60%/40% division of the irrigation water from Unnamed Spring (D). The portion of this proof claiming a right to Miller Creek, Unnamed Spring (A) and Unnamed Spring (D) is clarified in Table Nos. 7 and 8. See Table Nos. 7 and 8 for diversion rate, duty of water and rotation schedules.

**Proof V-06332** was filed on March 18, 1994, by Jacqueline and Frederick R. Hill claiming a vested right from Miller Creek and Unnamed Creek {Unnamed Spring (A)} for irrigation of 2.54 acres of land. Domestic and stock watering uses are also claimed. The current owner of record is Judy Gaines. In this Final Order of Determination, a vested right for 2.54 acres of irrigation and domestic uses from Miller Creek is established under this proof. The State Engineer determines that this land cannot receive water from "Unnamed Creek", therefore, no water right is established from this source. The State Engineer determines that this proof claims the same sources of water and a portion of the place of use described under Permit 24525, Certificate 8136; therefore, this proof supersedes that portion of said certificates. The State Engineer further determines that the users of Miller Creek are subject to a rotation schedule and that this proof claims a place of use that is part of the Green Acres Subdivision, which is to receive water

four (4) consecutive days out of every fourteen (14). See Table Nos. 7 and 8 for diversion rate and duty of water.

**Proof V-06333** was filed on March 18, 1994, by Kevin J. and Linda M. O'Connell, current owners are Richard C. and Sandra J. Ferguson, claiming a vested right from Miller Creek, Unnamed Creek {Unnamed Spring (A)} and a spring area {Unnamed Spring (D)} for irrigation of 4.98 acres of land. Domestic and stock watering uses are also claimed. In this Final Order of Determination, a vested right for 4.98 acres of irrigation and domestic uses from Miller Creek, Unnamed Spring (A) and Unnamed Spring (D) is established under this proof. See Section XII for the portion of the claim for stock water use. The State Engineer further determines that this proof claims the same sources of water and a portion of the places of use described under Permit 24525, Certificate 8136, and Permit 24526, Certificate 8137; therefore, this proof supersedes that portion of said certificates. The State Engineer further determines that the users of Miller Creek are subject to a rotation schedule and that this proof claims a place of use that is part of the Green Acres Subdivision, which is to receive water four (4) consecutive days out of every fourteen (14). The State Engineer also determines that water rights are recognized as a direct diversion from Unnamed Spring (D) described as follows: The first 1.50 cfs from Unnamed Spring (D) is allocated to Proofs V-06321, V-06323 and V-08850. Flow in excess of 1.50 cfs shall be divided in a 60%/40% split, with 40% being routed through the diversion to the north that flows beneath Foothill Road to the east and directs water through the "Bisecting Ditch" under claim V-08850 entering the Green Acres subdivision via the south Green Acres Ditch located on APN 1219-26-001-031. The 40% portion will be used to supplement Unnamed Spring (A) flow within the same rotation schedule for said Unnamed Spring (A) as applied to Proofs V-06322, V-06325, V-06326, V-06327, V-06328, V-06329, V-06330, V-06331, V-06333, V-06334, V-07486, V-09264, V-09265, V-09266 and V-09270. Refer to Table 8 for the distribution table as it pertains to the rotation schedule for Unnamed Spring (A) and the 60%/40% division of the irrigation water from Unnamed Spring (D). The portion of this proof claiming a right to Miller Creek, Unnamed Spring (A) and Unnamed Spring (D) is clarified in Table Nos. 7 and 8. See Table Nos. 7 and 8 for diversion rate, duty of water and rotation schedules.

**Proof V-06334** was filed on March 18, 1994, by Pedro and Margaret Villalobos claiming a vested right from Miller Creek and Unnamed Creek {Unnamed Spring (A)} for irrigation of 2.55 acres of land. Domestic and stock watering uses are also claimed. In this Final Order of Determination, a vested right for 2.55 acres of irrigation and domestic uses from Miller Creek and Unnamed Spring (A) is

established under this proof. See Section XII for the portion of the claim for stock water use. The State Engineer determines that this proof claims the same source of water and a portion of the place of use described under Permit 24525, Certificate 8136, and Permit 24526, Certificate 8137; therefore, this proof supersedes that portion of said certificates. The State Engineer further determines that the users of Miller Creek are subject to a rotation schedule and that this proof claims a place of use that is part of the Green Acres Subdivision, which is to receive water four (4) consecutive days out of every fourteen (14). See Table Nos. 7 and 8 for diversion rate and duty of water.

**Proof V-06335** was filed on March 18, 1994, by Charles E. and Fay E. Clelland and later assigned to the Bartholomew Family Trust claiming a vested right from Miller Creek and Spring Area for irrigation of 2.53 acres of land. Domestic and stock watering uses are also claimed. In this Final Order of Determination, a vested right for 2.53 acres of irrigation, stock water for six (6) horses and domestic uses from Miller Creek is established under this proof. The "Spring Area" is further described as being located within the SE $\frac{1}{4}$ NW $\frac{1}{4}$  SEC. 26, T.12N., R.19E., M.D.B.&M. on Douglas County Assessor's Parcel No. 1219-26-001-014. The State Engineer determines that this land cannot receive water from the "Spring Area", therefore, no water right is established from this source. The State Engineer determines that this proof claims the same source of water and a portion of the place of use described under Permit 24525, Certificate 8136; therefore, this proof supersedes that portion of said certificate. The State Engineer further determines that the users of Miller Creek are subject to a rotation schedule and that this proof claims a place of use that is part of the Green Acres Subdivision, which is to receive water four (4) consecutive days out of every fourteen (14). See Table Nos. 7 and 8 for diversion rate and duty of water. See section II for the State Engineer's response to any objection pertaining to this Proof of Appropriation.

**Proof V-06336** was filed on March 18, 1994, by Ron Mitchell and Ginger Mitchell claiming a vested right from Sheridan Creek (North Diversion) for irrigation of 10.37 acres of land. Domestic and stock watering uses are also claimed. In this Final Order of Determination, a vested right for 10.37 acres of irrigation and domestic uses from the above-named source is established under this proof. See Section XII for the portion of the claim for stock water use. This proof is supplemental to Proof V-06337. See Table No. 6 for diversion rate and duty of water.

**Proof V-06337** was filed on March 18, 1994, by Ron Mitchell and Ginger Mitchell claiming a vested right from Stutler Creek for irrigation of 10.37 acres of land. Domestic and stock watering uses are also claimed. In this Final Order of Determination, a vested right for 10.37 acres of irrigation and domestic uses from the above-named source is established under this proof. See Section XII for the portion of the claim for stock water use. This proof is supplemental to Proof V-06336. See Table No. 5 for diversion rate and duty of water.

**Proof V-06338** was filed on March 18, 1994, by Ernest E. Pestana, Trustee of the Pestana 1986 Family Trust claiming a vested right from Stutler Creek for irrigation of 23.76 acres of land. Domestic and stock watering uses are also claimed. In this Final Order of Determination, a vested right for 23.76 acres of irrigation and domestic uses from Stutler Creek (aka Stattler Creek) is established under this proof. See Section XII for the portion of the claim for stock water use. This proof is supplemental to Proof V-06339 and supplemented by Permit 7595, Certificate 1760. See Table No. 5 for diversion rate and duty of water.

**Proof V-06339** was filed on March 18, 1994, by Ernest E. Pestana, Trustee of the Pestana 1986 Family Trust claiming a vested right from Sheridan Creek (North Diversion) for irrigation of 23.76 acres of land. Domestic and stock watering uses are also claimed. In this Final Order of Determination, a vested right for 23.76 acres of irrigation and domestic uses from the above-named source is established under this proof. See Section XII for the portion of the claim for stock water use. This proof is supplemental to Proof V-06338 and supplemented by Permit 7595, Certificate 1760. See Table No. 6 for diversion rate and duty of water.

**Proof V-06340** was filed on March 18, 1994, by Donald T. Hall and Peggy Hall claiming a vested right from Sheridan Creek (North Diversion) for irrigation of 22.03 acres of land. Domestic and stock watering uses are also claimed. In this Final Order of Determination, a vested right for 22.03 acres of irrigation and domestic uses from the above-named source is established under this proof. See Section XII for the portion of the claim for stock water use. This proof is supplemental to Proof V-06341 and supplemented by Permit 7595, Certificate 1760. See Table No. 6 for diversion rate and duty of water.

**Proof V-06341** was filed on March 18, 1994, by Donald T. Hall and Peggy Hall claiming a vested right from Stutler Creek for irrigation of 22.03 acres of land. Domestic and stock watering uses are also claimed. In this Final Order of

Determination, a vested right for 22.03 acres of irrigation and domestic uses from the above-named source is established under this proof. See Section XII for the portion of the claim for stock water use. This proof is supplemental to Proof V-06340 and supplemented by Permit 7595, Certificate 1760. See Table No. 5 for diversion rate and duty of water.

**Proof V-06342** was filed on March 18, 1994, by the Jerald R. Jackson 1975 Trust as amended on 8-11-1992 and the Irene M. Windholz Trust, dated 8-11-1992 claiming a vested right from an Unnamed Spring (A) (Designated Jackson Spring "A") for irrigation of 22.56 acres of land. Domestic and stock watering uses are also claimed. In this Final Order of Determination, the State Engineer determines that a vested right for 7.20 acres of irrigation and domestic uses from the above-named source is established under this proof. See Section XII for the portion of the claim for stock water use. The State Engineer determines that this proof claims the same sources of water and a portion of the places of use described under Permit 24918, Certificate 7843, and Permit 24919, Certificate 7842; and Proof V-02856; therefore, this proof supersedes those portions of said certificates and said proof. This proof is supplemented by Proofs V-06343 on the accepted 7.20 acres. See Table No. 8 for diversion rate and duty of water. See Section II for the State Engineer's response to any objection pertaining to this Proof of Appropriation.

**Proof V-06343** was filed on March 18, 1994, by the Jerald R. Jackson 1973 Trust as amended on 8-11-1992 and the Irene M. Windholz Trust, dated 8-11-1992 claiming a vested right from an Unnamed Spring (B) (Designated Jackson Spring "B") for irrigation of 22.56 acres of land. Domestic and stock watering uses are also claimed. The State Engineer determines that the claimed place of use is reduced to 2.53 acres of subirrigated land; therefore no duty or diversion rate is established under this proof from said source. In this Final Order of Determination, the State Engineer finds that a vested right is established for subirrigation of 2.53 acres within the confines of the spring area and provides up to 11.30 acre-feet of supplemental water for the irrigation of the 7.20 acres specified under Proof V-06342. The State Engineer determines that domestic use from the above-named source is established under this proof. See Section XII for the portion of the claim for stock water use. The State Engineer determines that this proof claims the same sources of water and a portion of the places of use described under Permit 24918, Certificate 7843, and Permit 24919, Certificate 7842; and Proof V-02856; therefore, this proof supersedes those portions of said certificates and said proof. See Table No. 8 for diversion rate

and duty of water. See Section II for the State Engineer's response to any objection pertaining to this Proof of Appropriation.

**Proof V-06344** was filed on March 18, 1994, by the Jerald R. Jackson 1973 Trust as amended on 8-11-1992 and the Irene M. Windholz Trust, dated 8-11-1992 claiming a vested right from an Unnamed Spring (C) (Designated Jackson Spring "C") for irrigation of 1.88 acres of land. Domestic and stock watering uses are also claimed. The State Engineer determines that the claimed place of use is subirrigated; therefore no duty or diversion rate is established under this proof from said source. [Subirrigation occurs where a spring or seep arises under and irrigates a meadow/pasture without the necessity for water to be physically diverted.] In this Final Order of Determination, the State Engineer determines that a vested right for 2.98 acres of subirrigation from the above-named source is established under this proof. See Section XII for the portion of the claim for stock water use. The State Engineer further determines that this proof claims the same sources of water and a portion of the places of use described under Permit 24918, Certificate 7843, and Permit 24919, Certificate 7842; therefore, this proof supersedes that portion of said certificates. See Table No. 8 for diversion rate and duty of water. See Section II for the State Engineer's response to any objection pertaining to this Proof of Appropriation.

**Proof V-06345** was filed on March 18, 1994, by the Jerald R. Jackson 1973 Trust as amended on 8-11-1992 and the Irene M. Windholz Trust, dated 8-11-1992 claiming a vested right from an Unnamed Spring (Designated Jackson Spring "D") for irrigation of 22.56 acres of land. Domestic and stock watering uses are also claimed. The State Engineer determines that the claimed place of use is subirrigated; therefore no duty or diversion rate is established under this proof from said source. Subirrigation occurs where a spring or seep arises under and irrigates a meadow/pasture without the necessity for water to be physically diverted. In this Final Order of Determination, the State Engineer determines that a vested right for 13.35 acres of subirrigation from the above-named source is established under this proof. See Section XII for the portion of the claim for stock water use. The State Engineer further determines that this proof claims the same sources of water and a portion of the places of use described under Permit 24918, Certificate 7843, and Permit 24919, Certificate 7842, therefore, this proof supersedes that portion of said certificates. See Table No. 8 for diversion rate and duty of water. See section II for the State Engineer's response to any objection pertaining to this Proof of Appropriation.

**Proof V-06346** was filed on March 18, 1994, by Joy Whipple (aka Joy S. Smith) claiming a vested right from Stutler Creek for irrigation of 24.94 acres of land. Domestic and stock watering uses are also claimed. In this Final Order of Determination, a vested right for 24.94 acres of irrigation and domestic uses from the above-named source is established under this proof. See Section XII for the portion of the claim for stock water use. This proof is supplemental to Proof V-06347 and supplemented by Permit 7595, Certificate 1760. See Table No. 5 for diversion rate and duty of water.

**Proof V-06347** was filed on March 18, 1994, by Joy Whipple (aka Joy S. Smith) claiming a vested right from Sheridan Creek (North Diversion) for irrigation of 24.94 acres of land. Domestic and stock watering uses are also claimed. In this Final Order of Determination, a vested right for 24.94 acres of irrigation and domestic uses from the above-named source is established under this proof. See Section XII for the portion of the claim for stock water use. This proof is supplemental to Proof V-06346 and supplemented by Permit 7595, Certificate 1760. See Table No. 6 for diversion rate and duty of water.

**Proof V-06348** was filed on March 18, 1994, by Daniel R. and Laurel C. Hickey claiming a vested right from Unnamed Springs for irrigation of 5.83 acres of land. Domestic and stock watering uses are also claimed. In this Final Order of Determination, a vested right for 5.83 acres of irrigation and domestic uses from the above-named source is established under this proof.<sup>89</sup> See Section XII for the portion of the claim for stock water use.

**Proof V-06349** was filed on March 18, 1994, by John G. and Anne M. Stone, Trustees of "The Stone Family Trust 1982", and the land is currently owned by Maddi's Ranch, LLC a Nevada Limited Liability Company [50%] and Duane J. Bertuzzi and Katherine M. McKay [50%], claiming a vested right from Mott Creek for irrigation of 33.46 acres of land. Domestic and stock watering uses are also claimed.

In this Final Order of Determination, a vested right for 33.46 acres of irrigation, stock water for 38 head of cattle or horses<sup>90</sup> and domestic uses from

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<sup>89</sup> The State Engineer recognizes that the point of diversion and place of use claimed under Proof V-06348 is in Section 33, T.13N., R.19E., M.D.B. & M. The State Engineer determines that there are no competing filings of record for the source of water claimed and that he may include Proof V-06348 in this adjudication proceeding without injury.

<sup>90</sup> Transcript 3/7/2007, p.215

the above-named source is established under this proof. See Section XII for the portion of the claim for stock water use. This proof is further limited to the waters of Mott Creek on an eighteen-day rotating schedule, see Table No. 2 for schedule, diversion rate and duty of water.

Proofs V-05314, V-06313, V-06349, V-06350, and V-06351 are the claims filed for the waters of Mott Creek consisting of the flow originating from the second diversion from the north to south as described in Table No. 2. A review<sup>91</sup> of the proofs and their testimony and supporting evidence from the Hearing on Objections to the Preliminary Order of Determination, further research and findings by the Office of the State Engineer and taking into consideration the Orders of the court, the State Engineer determines that Proofs V-05314, V-06313, V-06349, V-06350, and V-06351 will be on a eighteen-day rotation schedule. The distribution of water will begin with Proof V-06350 (Yturbide) starting on the first day (April 1) of the irrigation season at 5:00 pm until the fourth day at 10:00 am, Proof V-06351 (Parks) from the fourth day at 10:00 am until the fifth day at 6:00 pm, Proof V-06349 (McKay) from the fifth day at 6:00 pm until the eleventh day at 12:00 pm, Proof V-06313 (Novotny) from the eleventh day at 12:00 pm until the eighteenth day at 8:00 am and Proof V-05314 (Davis) from the eighteenth day at 8:00 am until nineteenth/first day at 5:00 pm. This rotation schedule shall continue until the end of the irrigation season on October 15<sup>th</sup> of each year. No changes to the rotation schedule shall be allowed unless by mutual written, signed and recorded agreement by all parties subject to this distribution timetable.

**Proof V-06350** was filed on March 18, 1994, by Thomas M. and Paula J. Yturbide, Trustees of the Yturbide 1991 Family Trust dated August 1, 1991, claiming a vested right from Mott Creek for irrigation of 12.96 acres of land. Domestic and stock watering uses are also claimed.

In this Final Order of Determination, a vested right for 12.96 acres of irrigation, stock water for 12 head of cattle or horses or equivalent consumption by sheep and domestic uses from the above-named source is established under this proof. See Section XII for the portion of the claim for stock water use. This proof is further limited to the waters of Mott Creek on an eighteen-day rotating schedule, see Table No. 2 for schedule, diversion rate and duty of water.

Proofs V-05314, V-06313, V-06349, V-06350, and V-06351 are the claims filed for the waters of Mott Creek consisting of the flow originating from the second diversion from the north to south as described in Table No. 2. A review<sup>92</sup>

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<sup>91</sup> Refer to pages 31-41 of this document.

<sup>92</sup> Refer to pages 31-41 of this document.

of the proofs and their testimony and supporting evidence from the Hearing on Objections to the Preliminary Order of Determination, further research and findings by the Office of the State Engineer and taking into consideration the Orders of the court, the State Engineer determines that Proofs V-05314, V-06313, V-06349, V-06350, and V-06351 will be on a eighteen-day rotation schedule. The distribution of water will begin with Proof V-06350 (Yturbide) starting on the first day (April 1) of the irrigation season at 5:00 pm until the fourth day at 10:00 am, Proof V-06351 (Parks) from the fourth day at 10:00 am until the fifth day at 6:00 pm, Proof V-06349 (McKay) from the fifth day at 6:00 pm until the eleventh day at 12:00 pm, Proof V-06313 (Novotny) from the eleventh day at 12:00 pm until the eighteenth day at 8:00 am and Proof V-05314 (Davis) from the eighteenth day at 8:00 am until nineteenth/first day at 5:00 pm. This rotation schedule shall continue until the end of the irrigation season on October 15<sup>th</sup> of each year. No changes to the rotation schedule shall be allowed unless by mutual written, signed and recorded agreement by all parties subject to this distribution timetable.

**Proof V-06351** was filed on March 18, 1994, by Mark C. and Susan L. Neuffer, and Thomas M. and Paula J. Yturbide, Trustees of the Yturbide 1991 Family Trust dated August 1, 1991, and the land is currently owned by Eric Song J. Park and Elizabeth Park, claiming a vested right from Mott Creek for irrigation of 10.0 acres of land. Domestic and stock watering uses are also claimed.

In this Final Order of Determination, a vested right for 10.0 acres of irrigation, stock watering for 10 head of cattle, 2 horses and 15 sheep<sup>93</sup> and domestic uses from the above-named source is established under this proof. See Section XII for the portion of the claim for stock water use. This proof is further limited to the waters of Mott Creek on an eighteen-day rotating schedule, see Table No. 2 for schedule, diversion rate and duty of water.

Proofs V-05314, V-06313, V-06349, V-06350, and V-06351 are the claims filed for the waters of Mott Creek consisting of the flow originating from the second diversion from the north to south as described in Table No. 2. A review<sup>94</sup> of the proofs and their testimony and supporting evidence from the Hearing on Objections to the Preliminary Order of Determination, further research and

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<sup>93</sup> Evidence submitted with the post hearing brief, Titled: SUPPLEMENTAL SUBMISSION IN SUPPORT OF OBJECTIONS TO THE PRELIMINARY ORDER, by Jennifer Yturbide, Attorney for Yturbide Trust, dated April 9, 2007.

<sup>94</sup> Refer to pages 31-41 of this document.

findings by the Office of the State Engineer and taking into consideration the Orders of the court, the State Engineer determines that Proofs V-05314, V-06313, V-06349, V-06350, and V-06351 will be on a eighteen-day rotation schedule. The distribution of water will begin with Proof V-06350 (Yturbide) starting on the first day (April 1) of the irrigation season at 5:00 pm until the fourth day at 10:00 am, Proof V-06351 (Parks) from the fourth day at 10:00 am until the fifth day at 6:00 pm, Proof V-06349 (McKay) from the fifth day at 6:00 pm until the eleventh day at 12:00 pm, Proof V-06313 (Novotny) from the eleventh day at 12:00 pm until the eighteenth day at 8:00 am and Proof V-05314 (Davis) from the eighteenth day at 8:00 am until nineteenth/first day at 5:00 pm. This rotation schedule shall continue until the end of the irrigation season on October 15<sup>th</sup> of each year. No changes to the rotation schedule shall be allowed unless by mutual written, signed and recorded agreement by all parties subject to this distribution timetable.

**Proof V-06352** was filed on March 18, 1994, by Donald A. Toussau claiming a vested right from Taylor Creek for irrigation of 5.79 acres of land. Domestic and stock watering uses are also claimed. In this Final Order of Determination, a vested right for 5.79 acres of irrigation and domestic uses from the above-named source is established under this proof. See Section XII for the portion of the claim for stock water use. This proof is totally supplemental to Proof V-06353. See Table No. 1 for diversion rate and duty of water.

**Proof V-06353** was filed on March 18, 1994, by Donald A. Toussau claiming a vested right from Unnamed Springs for irrigation of 7.32 acres of land. Domestic and stock watering uses are also claimed. In this Final Order of Determination, a vested right for 7.32 acres of irrigation and domestic uses from the above-named source is established under this proof. See Section XII for the portion of the claim for stock water use. This proof is partially supplemental to Proof V-06352. The total combined duty of water under this proof and Proof V-06352 shall not exceed 4.0 acre-feet per acre on the 5.79 acres described under Proof V-06352. See Table No. 1 for diversion rate and duty of water.

**Proof V-06354** was filed on March 18, 1994, by The Schwake Family Trust claiming a vested right from Cary Creek for irrigation of 226.08 acres of land. Domestic, power generation, storage and stock watering of 140 head of livestock including cattle, horses and hogs are also claimed. The State Engineer determines that the claimed storage is in a reservoir that was constructed under Dam Permit J-50, dated October 22, 1959. Therefore, the portion of the claim for storage use is not recognized as a vested claim by the State Engineer. Proofs V-

06354 and V-06355 are subject to an agreement dated July 1, 1918, in Book E., Page 337, Agr., Douglas County Recorder's Office. The State Engineer determines that the agreement divided the flow of Cary Creek between the parties and that 0.37 cfs known as the Glover Right was once part of V-06355 has since been abrogated by Permit 10983, Certificate 2937. In this Final Order of Determination, a vested right for 226.08 acres of irrigation, domestic, power generation, and stock watering of 140 head of livestock from the above-named source is established under this proof. This proof is supplemental to Permit 10983, Certificate 2937, Permit 12532, Certificate 3293 (groundwater), and supplemental to a portion of Carson River Claims 627 and 628 under the Alpine Decree. See Table No. 3 for diversion rate and duty of water.

**Proof V-06355** was filed on March 18, 1994, by Roland and Joan P. Dreyer claiming a vested right from Cary Creek for irrigation of 266.24 acres of land. Domestic, storage and stock watering of 300 head of livestock are also claimed. The State Engineer determines that no priority date or amount of water stored for irrigation has been specified; therefore, no vested right is recognized for storage. In this Final Order of Determination, a vested right for 266.24 acres of irrigation, domestic, and stock watering of 300 head of livestock from the above-named source is established under this proof. A portion of this claim in the amount of 0.37 cfs has been abrogated by Permit 10983, Certificate 2937, known as the Glover water right. This proof is supplemented by ground water under Permit 19039, Certificate 5982, Permit 19170, Certificate 5981 and Permit 20765, Certificate 6512 and supplemental to a portion of Carson River Claims 625 and 626 under the Alpine Decree. See Table No. 3 for diversion rate and duty of water.

**Proof V-06356** was filed on March 18, 1994, by Archibald Hart III & Kathy Duvall Hart claiming a vested right from Sheridan Creek (North Diversion) and tributaries for irrigation of 5.10 acres of land. Domestic uses associated with the Sheridan House Hotel and Saloon and stockwatering uses are also claimed. The current owners of record are Allan D. Sapp & Patricia J. Sapp. In this Final Order of Determination, a vested right for 5.10 acres of irrigation and domestic uses from the above-named sources is established under this proof. See Section XII for the portion of the claim for stock water use. See Table No. 6 for diversion rate and duty of water.

**Proof V-06357** was filed on March 18, 1994, by Donald L. and Toni M. Rooker claiming a vested right from Sheridan Creek (South Diversion) for irrigation of 34.70 acres of land. Domestic and stock watering of 35 to 50 head of livestock is

also claimed. In this Final Order of Determination, a vested right for 34.70 acres of irrigation and domestic from the above-named source is established under this proof. The stock water right is established and determined under Proof V-06358. This proof is supplemental to waters under the Barber Creek Decree. See Table No. 6 for diversion rate and duty of water.

**Proof V-06358** was filed on March 18, 1994, by Donald L. and Toni M. Rooker claiming a vested right from Sheridan Creek (South Diversion) for stock watering of 35 to 50 head of livestock. In this Final Order of Determination, a vested right for stock watering of 50 head of livestock from the above-named source is established under this proof. This proof is supplemental to waters under the Barber Creek Decree. See Table No. 6 for diversion rate and duty of water.

**Proof V-06359** was filed on March 18, 1994, by Dennis R. and Therese S. Buckley claiming a vested right from Sheridan Creek (South Diversion) for stock watering of 20 to 30 head of livestock. In this Final Order of Determination, a vested right for stock watering of 30 head of livestock from the above-named source is established under this proof. This proof is supplemental to waters under the Barber Creek Decree. See Table No. 6 for diversion rate and duty of water.

**Proof V-06360** was filed on March 18, 1994, by Dennis R. and Therese S. Buckley claiming a vested right from Sheridan Creek (South Diversion) for irrigation of 18.0 acres and stock watering of 20 to 30 head of livestock. In this Final Order of Determination, a vested right for irrigation of 18.0 acres from the above-named source is established under this proof. The stock water right is established and determined under V-06359. This proof is supplemental to waters under the Barber Creek Decree. See Table No. 6 for diversion rate and duty of water.

**Proof V-06361** was filed on March 18, 1994, by Stephen Ray & Lucette Simon and Paul P. & Morene L. Simon claiming a vested right from Sheridan Creek (South Diversion) for stock watering of 30 to 40 head of livestock. In this Final Order of Determination, a vested right for stock watering of 40 head of livestock from the above-named source is established under this proof. This proof is supplemental to waters under the Barber Creek Decree. See Table No. 6 for diversion rate and duty of water.

**Proof V-06362** was filed on March 18, 1994, by Stephen Ray & Lucette Simon and Paul P. & Morene L. Simon claiming a vested right from Sheridan Creek

(South Diversion) for irrigation of 32.60 acres and stock watering of 30 to 40 head of livestock. In this Final Order of Determination, a vested right for irrigation of 32.60 acres from the above-named source is established under this proof. The stock water right is established and determined under Proof V-06361. This proof is supplemental to waters under the Barber Creek Decree. See Table No. 6 for diversion rate and duty of water.

**Proof V-06363** was filed March 18, 1994, by Sue A. Gardner claiming a vested right from Luther Creek for irrigation of 87.50 acres. Domestic and stock watering uses are also claimed. The current owners of record are Robert D. and Wanda D. Shockey. The State Engineer determines that the physical acreage of land within the claimed place of use is 7.53 acres less than that claimed based on records of surveys filed in the office of the Douglas County Recorder's Office and confirmed by staff of the Office of the State Engineer. In this Final Order of Determination, a vested right for irrigation of 79.97 acres and domestic purposes from the above-named source is established under this proof. The stock watering right is established and determined under Proof V-06364. See Table No. 9 for diversion rate and duty of water.

**Proof V-06364** was filed March 18, 1994, by Sue A. Gardner claiming a vested right from Luther Creek for stock watering of 80 to 100 head of livestock. The current owners of record are Robert D. and Wanda D. Shockey. In this Final Order of Determination, a vested right for stock watering of 100 head of livestock from the above-named source is established under this proof. See Table No. 9 for diversion rate and duty of water. See Section XII for stockwatering.

**Proof V-06365** was filed March 18, 1994, by Ted and Judy Gaines claiming a vested right from Luther Creek for irrigation of 59.20 acres. Domestic and stock watering uses are also claimed. The current owners of record are Brooks Family Trust Agreement dated, February 18, 1992. After review of Douglas County Assessor's parcels and the map filed in support of this claim the State Engineer determines that the 15.59 acres that was not allowed in the Final Order is hereby reinstated and the objection to the order is affirmed. In this Final Order of Determination, a vested right for irrigation of 59.20 acres and domestic purposes is established under this proof from the above-named source. The stock water right is established and determined under Proof V-06366. See Table No. 9 for diversion rate and duty of water. See section II for the State Engineer's response to any objection pertaining to this Proof of Appropriation.

**Proof V-06366** was filed March 18, 1994, by Ted and Judy Gaines claiming a vested right from Luther Creek for stock watering of 100 to 120 head of livestock. The current owners of record are Brooks Family Trust Agreement, dated February 18, 1992. In this Final Order of Determination, a vested right for stock watering of 120 head of livestock from the above-named source is established under this proof. See Table No. 9 for diversion rate and duty of water. See Section XII for stockwatering.

**Proof V-06367** was filed on March 18, 1994, by the Scossa Brothers claiming a vested right from Miller Creek, Bently Spring and Other Unnamed Springs for irrigation of 213.30 acres. Domestic and stock watering uses are also claimed. In this Final Order of Determination, a vested right for irrigation of 213.30 acres and domestic uses from the above-named sources is established under this proof. The stock water right is established and determined under Proof V-06368. The State Engineer determines that the users of Miller Creek are subject to a rotation schedule with the understanding that land irrigated under this proof is to receive water ten (10) consecutive days out of every fourteen (14). This proof is supplemental to water under the Barber Creek Decree and Proof V-06371 and supplemented by Permit 24557, Certificate 8079, and a portion of Permit 24201, Certificate 6813, an underground water right. See Table No. 7 for diversion rate and duty of water.

**Proof V-06368** was filed on March 18, 1994, by Scossa Brothers claiming a vested right from Miller Creek, Bently Spring and Other Unnamed Springs for stock watering of 400-500 head of cattle, 25 bulls, and 20 horses. In this Final Order of Determination, a vested right for stock watering of 545 head of livestock from the above-named sources is established under this proof. This proof is supplemental to Proof V-06372. The State Engineer determines that the users of Miller Creek are subject to a rotation schedule and that this proof claims a place of use that is to receive water ten (10) days out of every fourteen (14). See Table No. 7 for diversion rate and duty of water. See Section XII for stockwatering.

**Proof V-06369** was filed on March 18, 1994 by Helen M. Clark Trust claiming a vested right from Mott Creek for stock watering of 80 to 120 head of livestock. The current owners of record are Michael Steven Bellik, Terry A. Gallagher, Janice G. Hansen, Bettie Kennard Kanelos Trust, and Erik & Myrna J. Vindum. In this Final Order of Determination, a vested right for stock watering of 120 head of livestock from the above-named source is established under this proof. See

Table No. 2 for diversion rate and duty of water. See Section XII for stockwatering.

**Proof V-06370** was filed on March 18, 1994, by Helen M. Clark Trust claiming a vested right from Mott Creek for irrigation of 126.9 acres. Domestic and stock watering uses are also claimed. The current owners of record are Michael Steven Bellik, Terry A. Gallagher, Janice G. Hansen, Bettie Kennard Kanelos Trust, and Erik & Myrna J. Vindum. In this Final Order of Determination, a vested right for irrigation of 126.9 acres and domestic uses from the above-named source is established under this proof. The stock water right is established and determined under Proof V-06369. See Table No. 2 for diversion rate and duty of water.

**Proof V-06371** was filed on March 18, 1994, by Scossa Brothers claiming a vested right to waste and drain waters from Luther Creek, Miller Creek, the Fredericksburg Ditch and various unnamed springs for irrigation of 292.10 acres. Stock watering is also claimed. The State Engineer determines that a vested right for the above-named sources is established with the understanding that this water may be utilized when available and that no duty or diversion rate is established under this proof. In this Final Order of Determination, a vested right for irrigation of 292.10 acres from the above-named sources is established under this proof. The stock water right is established and determined under Proof V-06372. This proof is supplemental to water under the Barber Creek Decree and Proof V-06367 and supplemented by Permit 24557, Certificate 6813, and a portion of Permit 24201, Certificate 6813, an underground water right. See Table Nos. 7 and 9 for diversion rate and duty of water.

**Proof V-06372** was filed on March 18, 1994, by Scossa Brothers claiming a vested right to waste and drain waters from Luther Creek, Miller Creek, the Fredericksburg ditch and various unnamed springs for stock watering of 400 to 500 head of cattle, 25 bulls, and 20 horses. In this Final Order of Determination, a vested right for stock watering of 545 head of livestock from the above-named sources is established under this proof. This proof is supplemental to Proof V-06368. See Table Nos. 7 and 9 for diversion rate and duty of water.

**Proof V-06831** was filed on March 18, 1994, by the Honkanen Family Trust, Norman E. and Maria A. Honkanen, Trustees, claiming a vested right from Mott Creek for irrigation of 6.92 acres. Domestic and stock watering uses are also claimed. The current owner of record is the Rock Island Corporation. In this Final Order of Determination, a vested right for irrigation of 6.92 acres and domestic

uses from the above-named source is established under this proof. See Section XII for the portion of the claim for stock water use. See Table No. 2 for diversion rate and duty of water.

**Proof V-07486** was filed on January 25, 1996, by Michael Catherwood and Robin L. Catherwood claiming a vested right from Miller Creek, Unnamed Creek {Unnamed Spring (A)}, and Spring Areas {Unnamed Spring (D)} for irrigation of 4.86 acres. Domestic and stock watering is also claimed. In this Final Order of Determination, a vested right for irrigation of 4.86 acres and domestic uses from the above-named sources is established under this proof. See Section XII for the portion of the claim for stock water. The State Engineer determines that the users of Miller Creek are subject to a rotation schedule and that this proof claims a place of use that is part of the Green Acres Subdivision, which is to receive water four (4) consecutive days out of every fourteen (14). The State Engineer further determines that this proof claims the same source of water and a portion of the place of use described under Permit 24525, Certificate 8136 and Permit 24526, Certificate 8137, therefore, this proof supersedes that portion of said certificates. The State Engineer also determines that water rights are recognized as a direct diversion from Unnamed Spring (D) described as follows: The first 1.50 cfs from Unnamed Spring (D) is allocated to Proofs V-06321, V-06323 and V-08850. Flow in excess of 1.50 cfs shall be divided in a 60%/40% split, with 40% being routed through the diversion to the north that flows beneath Foothill Road to the east and directs water through the "Bisecting Ditch" under claim V-08850 entering the Green Acres subdivision via the south Green Acres Ditch located on APN 1219-26-001-031. The 40% portion will be used to supplement Unnamed Spring (A) flow within the same rotation schedule for said Unnamed Spring (A) as applied to Proofs V-06322, V-06325, V-06326, V-06327, V-06328, V-06329, V-06330, V-06331, V-06333, V-06334, V-07486, V-09264, V-09265, V-09266 and V-09270. Refer to Table 8 for the distribution table as it pertains to the rotation schedule for Unnamed Spring (A) and the 60%/40% division of the irrigation water from Unnamed Spring (D). The portion of this proof claiming a right to Miller Creek, Unnamed Spring (A) and Unnamed Spring (D) is clarified in Table Nos. 7 and 8. See Table Nos. 7 and 8 for diversion rate, duty of water and rotation schedules.

**Proof V-08850** was filed on August 30, 1996, by the Groenendyke Family Trust dated March 2, 1978, claiming a vested right from Unnamed Spring (A) and Unnamed Spring (D), and Luther Creek return flow for irrigation of 37.97 acres. Domestic use and stock watering of 15 horses and 15 cattle is also claimed.

The State Engineer determines that the duty of water for Proof V-08850

shall be limited to 2.43 acre-feet per acre from Unnamed Spring (A) for the 12.43 acres lying north of the diagonal drainage ditch for a total of 30.20 acre-feet of water per 198 day irrigation season. The 25.54 acres of land lying to the south of said diagonal ditch are determined to have a duty of water of 4.00 acre-feet per acre from Unnamed Spring (D) for a total of 102.16 acre-feet of water. The State Engineer determines that Proof V-08850 shall be limited to a total duty of 132.36 acre-feet of water on the north and south sides of the dividing ditch.

The State Engineer determines that Unnamed Spring (A) is physically capable of being diverted to any area within the 37.97 acres claimed under Proof V-08850. The State Engineer determines that water from Unnamed Spring (A) is not necessary for the irrigation of the 25.54 acres lying south of the diagonal ditch under this claim and Proofs V-06321 and V-06323 based on findings within Section II of the Preliminary Order of Determination. The State Engineer further determines that the commingling of Unnamed Spring (A) with Unnamed Spring (D) directs excessive water onto lands irrigated exclusively by Unnamed Spring (D).<sup>95</sup>

The State Engineer determines that water From Unnamed Spring (A) shall be the primary source of water to the 12.43 acres located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$  and NE $\frac{1}{4}$ NW $\frac{1}{4}$ , all located within Sec. 26, T.12N., R.19E. M.D.B.&M. This acreage is further described as the acreage located north and west of the northeasterly flowing ditch (located on Douglas county APN 1219-26-001-035), that originates in the southwest corner of APN 1219-26-001-035. The State Engineer also determines that water rights are recognized as a direct diversion from Unnamed Spring (D) described as follows: The first 1.50 cfs from Unnamed Spring (D) is allocated to Proofs V-06321, V-06323 and V-08850. Flow in excess of 1.50 cfs shall be divided in a 60%/40% split, with 40% being routed through the diversion to the north that flows beneath Foothill Road to the east and directs water through the "Bisecting Ditch" under claim V-08850 entering the Green Acres subdivision via the south Green Acres Ditch located on APN 1219-26-001-031. The 40% portion will be used to supplement Unnamed Spring (A) flow within the same rotation schedule for said Unnamed Spring (A) as applied to Proofs V-06322, V-06325, V-06326, V-06327, V-06328, V-06329, V-06330, V-06331, V-06333, V-06334, V-07486, V-09264, V-09265, V-09266 and V-09270. The applicant shall be able to utilize Luther Creek "drain and waste" water when it is available, but no direct diversion right is established from said Luther Creek. The State Engineer further determines that this proof claims the same sources of water and a portion of the places of use described under Permit 24918, Certificate 7843; Permit 24919, Certificate 7842; and Proof V-02856, therefore,

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<sup>95</sup> Pages 17-23, Final Order of Determination.

this proof supersedes that portion of said certificates and Proof V-02856. See Table Nos. 8 and 9 for diversion rate and duty of water.

An objection was filed on September 15, 2006, regarding the irrigated acreage accepted under this claim. See Section II for the State Engineer's response to any objection pertaining to this Proof of Appropriation.

**Proof V-09039** was filed on November 19, 1998, by Tom E. Mason and Sharon J. Mason claiming a vested right from Mott Creek for irrigation of 0.22 acres. Domestic and stock water are also claimed. In this Final Order of Determination, a vested right for irrigation of 0.22 acres and domestic purposes from the above-named source is established under this proof. See Section XII for the portion of the claim for stock water use. See Table No. 2 for diversion rate and duty of water.

#### **PROOFS ENTERED PURSUANT TO NRS § 533.125**

Nevada Revised Statutes § 533.125 (2) provides that "upon neglect or refusal of any person to make proof of his claim or rights in or to the waters of said stream system, as required by this chapter, prior to the expiration of the period fixed by the State Engineer during which proofs may be filed, the State Engineer shall determine the right of such person from said evidence as he may obtain or may have on file in his office in the way of maps, plats, surveys and transcripts, and exceptions to such determinations may filed in court, as provided in this chapter."

The State Engineer determines that based on information available there are lands within the area encompassed by this adjudication in which claims of vested water rights for irrigation uses could have been filed. The State Engineer further determines that there are a number of parcels adjacent to the south right of way of Mottsville Lane and others in an area known as the Green Acres Subdivision that did not file claims for the waters of Mott Creek and the combined flows of Miller Creek and Unnamed Spring (A), respectively. No permitted rights from Mott Creek exist on the parcels adjacent to Mottsville Lane. The State Engineer determines that the lot owners that did not file a proof claiming a vested water right within the Green Acres Subdivision currently have water rights appurtenant to their respective parcels under Permit 24525, Certificate 8136 (Miller Creek), and Permit 24526, Certificate 8137 (Unnamed Creek). The State Engineer finds that in instances where an existing water right was acquired through the appropriative process and a proof of appropriation is determined to be valid for the same source(s) of water, manner and place of use, that a proof of

appropriation would supersede the right acquired through the statutory permitting process.<sup>96</sup> Therefore, pursuant to NRS § 533.125 the State Engineer has submitted a proof of appropriation on behalf of the current owners of record in the Douglas County Assessor's office for the following parcels:

**Proof V-09263** was filed on June 23, 2000, by the State Engineer's office claiming a vested right from Mott Creek for irrigation of 8.73 acres within Douglas County APN'S 1219-03-002-082, 1219-03-002-083 and 1219-03-002-084 in the names of Brett A. & Karen A. Kimball; Robert Chudnow and Linda Sawyer-Chudnow (Parcels 1219-03-002-083 and 1219-03-002-084), respectively. Records on file in the Douglas County Assessor's Office indicate that Thomas C. & Anna L. Pasinger are current owners of record of Douglas County APN 1219-03-002-084. In this Final Order of Determination, a vested right for irrigation of 8.73 acres from the above-named source is established under this proof. See Table No.2 for diversion rate and duty of water.

**Proof V-09264** was filed on June 23, 2000, by the State Engineer's office claiming a vested right from Miller Creek and Unnamed Creek {Unnamed Spring (A)} for irrigation of 2.53 acres within Douglas County APN 1219-26-001-031 in the name of Tyne Honkanen & Marshall Kyle. In this Final Order of Determination, a vested right for irrigation of 2.53 acres from the above-named source is established under this proof. The State Engineer determines that this proof claims the same source of water and a portion of the place of use described under Permit 24525, Certificate 8136 and Permit 24526, Certificate 8137; therefore, this proof supersedes that portion of said certificate. The State Engineer further determines that the users of Miller Creek are subject to a rotation schedule and that this proof claims a place of use that is part of the Green Acres Subdivision, which is to receive water four (4) consecutive days out of every fourteen (14). The State Engineer also determines that water rights are recognized as a direct diversion from Unnamed Spring (D) described as follows: The first 1.50 cfs from Unnamed Spring (D) is allocated to Proofs V-06321, V-06323 and V-08850. Flow in excess of 1.50 cfs shall be divided in a 60%/40% split, with 40% being routed through the diversion to the north that flows beneath Foothill Road to the east and directs water through the "Bisecting Ditch" under claim V-08850 entering the Green Acres subdivision via the south Green Acres

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<sup>96</sup> NRS § 533.430. Every permit and certificate of appropriation granted by the State Engineer under any permit upon any stream system which shall have been adjudicated under the provisions of NRS § 533.090 to NRS 533.325, inclusive, is subject to existing rights and the decree.

Ditch located on APN 1219-26-001-031. The 40% portion will be used to supplement Unnamed Spring (A) flow within the same rotation schedule for said Unnamed Spring (A) as applied to Proofs V-06322, V-06325, V-06326, V-06327, V-06328, V-06329, V-06330, V-06331, V-06333, V-06334, V-07486, V-09264, V-09265, V-09266 and V-09270. Refer to Table 8 for the distribution table as it pertains to the rotation schedule for Unnamed Spring (A) and the 60%/40% division of the irrigation water from Unnamed Spring (D). The portion of this proof claiming a right to Miller Creek, Unnamed Spring (A) and Unnamed Spring (D) is clarified in Table Nos. 7 and 8. See Table Nos. 7 and 8 for diversion rate, duty of water and rotation schedules. See Section II for the State Engineer's response to any objection pertaining to this Proof of Appropriation.

**Proof V-09265** was filed on June 23, 2000, by the State Engineer's office claiming a vested right from Miller Creek and Unnamed Creek {Unnamed Spring (A)} for irrigation of 2.55 acres within a portion of Douglas County APN 1219-24-002-009 in the name of Stephen H. & Patricia Christian. In this Final Order of Determination, a vested right for irrigation of 2.55 acres from the above-named source is established under this proof. The State Engineer determines that this proof claims the same sources of water and a portion of the places of use described under Permit 24525, Certificate 8136, and Permit 24526, Certificate 8137; therefore, this proof supersedes that portion of said certificates. The State Engineer further determines that the users of Miller Creek are subject to a rotation schedule and that this proof claims a place of use that is part of the Green Acres Subdivision, which is to receive water four (4) consecutive days out of every fourteen (14). The State Engineer also determines that water rights are recognized as a direct diversion from Unnamed Spring (D) described as follows: The first 1.50 cfs from Unnamed Spring (D) is allocated to Proofs V-06321, V-06323 and V-08850. Flow in excess of 1.50 cfs shall be divided in a 60%/40% split, with 40% being routed through the diversion to the north that flows beneath Foothill Road to the east and directs water through the "Bisecting Ditch" under claim V-08850 entering the Green Acres subdivision via the south Green Acres Ditch located on APN 1219-26-001-031. The 40% portion will be used to supplement Unnamed Spring (A) flow within the same rotation schedule for said Unnamed Spring (A) as applied to Proofs V-06322, V-06325, V-06326, V-06327, V-06328, V-06329, V-06330, V-06331, V-06333, V-06334, V-07486, V-09264, V-09265, V-09266 and V-09270. Refer to Table 8 for the distribution table as it pertains to the rotation schedule for Unnamed Spring (A) and the 60%/40% division of the irrigation water from Unnamed Spring (D). The portion of this proof claiming a right to Miller Creek, Unnamed Spring (A) and Unnamed Spring (D) is clarified in Table Nos. 7 and 8. See Table Nos. 7 and 8 for diversion rate,

duty of water and rotation schedules. See Section II for the State Engineer's response to any objection pertaining to this Proof of Appropriation.

**Proof V-09266** was filed on June 23, 2000, by the State Engineer's office claiming a vested right from Miller Creek and Unnamed Creek {Unnamed Spring (A)} for irrigation of 5.18 acres within Douglas County APN 1219-24-002-007 in the name of John Minasian. In this Final Order of Determination, a vested right for irrigation of 5.18 acres from the above-named source is established under this proof. The State Engineer determines that this proof claims the same sources of water and a portion of the places of use described under Permit 24525, Certificate 8136, and Permit 24526, Certificate 8137; therefore, this proof supersedes that portion of said certificates. The State Engineer further determines that the users of Miller Creek are subject to a rotation schedule and that this proof claims a place of use that is part of the Green Acres Subdivision, which is to receive water four (4) consecutive days out of every fourteen (14). The State Engineer also determines that water rights are recognized as a direct diversion from Unnamed Spring (D) described as follows: The first 1.50 cfs from Unnamed Spring (D) is allocated to Proofs V-06321, V-06323 and V-08850. Flow in excess of 1.50 cfs shall be divided in a 60%/40% split, with 40% being routed through the diversion to the north that flows beneath Foothill Road to the east and directs water through the "Bisecting Ditch" under claim V-08850 entering the Green Acres subdivision via the south Green Acres Ditch located on APN 1219-26-001-031. The 40% portion will be used to supplement Unnamed Spring (A) flow within the same rotation schedule for said Unnamed Spring (A) as applied to Proofs V-06322, V-06325, V-06326, V-06327, V-06328, V-06329, V-06330, V-06331, V-06333, V-06334, V-07486, V-09264, V-09265, V-09266 and V-09270. Refer to Table 8 for the distribution table as it pertains to the rotation schedule for Unnamed Spring (A) and the 60%/40% division of the irrigation water from Unnamed Spring (D). The portion of this proof claiming a right to Miller Creek, Unnamed Spring (A) and Unnamed Spring (D) is clarified in Table Nos. 7 and 8. See Table Nos. 7 and 8 for diversion rate, duty of water and rotation schedules. See Section II for the State Engineer's response to any objection pertaining to this Proof of Appropriation.

**Proof V-09267** was filed on June 23, 2000, by the State Engineer's office claiming a vested right from Miller Creek and Unnamed Creek {Unnamed Spring (A)} for irrigation of 2.78 acres within Douglas County APN 1219-26-001-026 in the name of Andrew & Linda Hackler. In this Final Order of Determination, a vested right for irrigation of 2.78 acres from Miller Creek is established under this proof. The State Engineer determines that this land cannot receive water from

"Unnamed Creek", therefore, no water right is established from this source. The State Engineer determines that this proof claims the same source of water and a portion of the place of use described under Permit 24525, Certificate 8136; therefore, this proof supersedes that portion of said certificate. The State Engineer further determines that the users of Miller Creek are subject to a rotation schedule and that this proof claims a place of use that is part of the Green Acres Subdivision, which is to receive water four (4) consecutive days out of every fourteen (14). See Table No. 7 for diversion rate and duty of water. See Section II for the State Engineer's response to any objection pertaining to this Proof of Appropriation.

**Proof V-09268** was filed on June 23, 2000, by the State Engineer's office claiming a vested right from Miller Creek and Unnamed {Unnamed Spring (A)} Creek for irrigation of 2.66 acres within Douglas County APN 1219-26-001-025 in the name of Terry & Cindy Libbon. In this Final Order of Determination, a vested right for irrigation of 2.66 acres from Miller Creek is established under this proof. The State Engineer determines that this land cannot receive water from "Unnamed Creek", therefore, no water right is established from this source. The State Engineer determines that this proof claims the same source of water and a portion of the place of use described under Permit 24525, Certificate 8136; therefore, this proof supersedes that portion of said certificate. The State Engineer further determines that the users of Miller Creek are subject to a rotation schedule and that this proof claims a place of use that is part of the Green Acres Subdivision, which is to receive water four (4) consecutive days out of every fourteen (14). See Table No. 7 for diversion rate and duty of water. See Section II for the State Engineer's response to any objection pertaining to this Proof of Appropriation.

**Proof V-09269** was filed on June 23, 2000, by the State Engineer's office claiming a vested right from Miller Creek and Unnamed Creek {Unnamed Spring (A)} for irrigation of 2.51 acres within Douglas County APN 1219-26-001-024 in the name of Richard E. & Dorothy J. Muriset. In this Final Order of Determination, a vested right for irrigation of 2.51 acres from Miller Creek is established under this proof. The State Engineer determines that this land cannot receive water from "Unnamed Creek", therefore, no water right is established from this source. The State Engineer determines that this proof claims the same source of water and a portion of the place of use described under Permit 24525, Certificate 8136; therefore, this proof supersedes that portion of said certificate. The State Engineer further determines that the users of Miller Creek are subject to a rotation schedule and that this proof claims a

place of use that is part of the Green Acres Subdivision, which is to receive water four (4) consecutive days out of every fourteen (14). See Table Nos. 7 and 8 for diversion rate and duty of water. See Section II for the State Engineer's response to any objection pertaining to this Proof of Appropriation.

**Proof V-09270** was filed on June 23, 2000, by the State Engineer's office claiming a vested right from Miller Creek and Unnamed Creek {Unnamed Spring (A)} for irrigation of 5.18 acres within Douglas County APN'S 1219-24-002-008 and 1219-24-002-009 (portion) in the name of Stephen H. & Patricia Christian. In this Final Order of Determination, a vested right for irrigation of 5.18 acres from the above-named source is established under this proof. The State Engineer determines that this proof claims the same sources of water and a portion of the places of use described under Permit 24525, Certificate 8136, and Permit 24526, Certificate 8137; therefore, this proof supersedes that portion of said certificates. The State Engineer further determines that the users of Miller Creek are subject to a rotation schedule and that this proof claims a place of use that is part of the Green Acres Subdivision, which is to receive water four (4) consecutive days out of every fourteen (14). The State Engineer also determines that water rights are recognized as a direct diversion from Unnamed Spring (D) described as follows: The first 1.50 cfs from Unnamed Spring (D) is allocated to Proofs V-06321, V-06323 and V-08850. Flow in excess of 1.50 cfs shall be divided in a 60%/40% split, with 40% being routed through the diversion to the north that flows beneath Foothill Road to the east and directs water through the "Bisecting Ditch" under claim V-08850 entering the Green Acres subdivision via the south Green Acres Ditch located on APN 1219-26-001-031. The 40% portion will be used to supplement Unnamed Spring (A) flow within the same rotation schedule for said Unnamed Spring (A) as applied to Proofs V-06322, V-06325, V-06326, V-06327, V-06328, V-06329, V-06330, V-06331, V-06333, V-06334, V-07486, V-09264, V-09265, V-09266 and V-09270. Refer to Table 8 for the distribution table as it pertains to the rotation schedule for Unnamed Spring (A) and the 60%/40% division of the irrigation water from Unnamed Spring (D). The portion of this proof claiming a right to Miller Creek, Unnamed Spring (A) and Unnamed Spring (D) is clarified in Table Nos. 7 and 8. See Table No. 7 for diversion rate, duty of water and rotation schedules. See Section II for the State Engineer's response to any objection pertaining to this Proof of Appropriation.

#### **IX. CERTIFICATED WATER RIGHTS**

The following list of certificated water rights is for surface water sources within the area encompassed in this adjudication proceeding. These

appropriations were acquired and perfected pursuant to Chapter 533 of the Nevada Revised Statutes.

**Permit 7595, Certificate 1760**, is for the water of Gansberg Spring to irrigate 157 acres. The current owners of record are James Rolph III & June Irene Rolph, Robert D. Dunn & Evelyn W. Dunn, James D. Doornink & Edna Doornink, Lois S. Jones, James O. Tomerlin, William R. Tomerlin, L. J. Hanavan, Emile P. Hastert, and Roderick J. and Patricia L. Smith. This certificated water right is supplemental to Proofs V-04594, V-06305, V-06306, V-06309, V-06310, V-06311, V-06312, V-06338, V-06339, V-06340, V-06341, V-06346, and V-06347.

**Permit 10033, Certificate 3417**, is for the waters of Sharpe Spring for domestic use and to irrigate the landscaping associated with a single-family residence. The current owners of record are David and Evelyne Harvey.

**Permit 10983, Certificate 2937**, is for the waters of Carey Creek (Cary Creek) to irrigate 161.6 acres and includes stock watering and domestic uses. The owner of record is Melvin Schwake. This water right abrogated a portion of Proof V-06355 and is known as the Glover Right. The storage of the waters is in a reservoir under Dam Permit J-50. This certificated water right is supplemental to V-06354 and supplemented by an underground source under Permit 12532, Certificate 3293. See Table No. 3 for diversion rate and duty of water.

**Permit 18720, Certificate 5961**, is for the waters of an Unnamed Spring to irrigate 5.71 acres and domestic use. The owners of record are the Bently Family Limited Partnership; Darwin K. Ellis and Elizabeth D. Ellis; Darwin V. Ellis and Linda T. Ellis.

**Permit 21569, Certificate 6910**, is for the waters of Bently Springs to irrigate 0.76 acres and domestic use. The current owner of record is the Bently Family Limited Partnership.

**Permit 24525, Certificate 8136**, is for the waters of Miller Creek to irrigate 76.63 acres. The current owners of record are, Bartholomew Family Trust, dated November 21, 2001, Richard E. Burns and Sharon A. Brown, Casteel Corporation, Michael Catherwood and Robin L. Catherwood, Wayne A. Currie and Sharon W. Currie, David J. Della Rosa and Anne Della Rosa, John and Helen Dinell, Judy Gaines, Edward Groenendyke, Eric G. and Tyne Honkanen, Waldermar B. Hylander and Meribeth D. Hylander, Thomas S. Kelly, Paul D. and Ellen Marienthal, Luther J. and Hugh L. Martin, John Minasian, Kevin J.

O'Connell and Linda M. O'Connell, Virginia Owen, The Revocable Trust of Jeanne C. Nelson, dated June 2, 2000, Peter Villalobos. Proofs V-06322, V-06324, V-06325, V-06326, V-06327, V-06328, V-06329, V-06330, V-06331, V-06332, V-06333, V-06334, V-06335, V-07486, V-09264, V-09265, V-09266, V-09267, V-09268, V-09269, and V-09270 totally supersede this certificate. See Table No. 7 for diversion rates and duty of water.

**Permit 24526, Certificate 8137**, is for the waters of an Unnamed Creek to irrigate 53.50 acres. The current owners of record are the Bartholomew Family Trust, dated November 21, 2001, Richard E. Brown and Sharon A. Burns, Casteel Corporation, Michael and Robin L. Catherwood, Wayne A. and Sharon W. Currie, David J. and Anna Della Rosa, Thomas S. Kelly, Paul D. and Ellen Marienthal, Luther J. and Hugh L. Martin, John Minasian, Kevin J. and Linda M. O'Connell and Virginia Owen. Proofs V-06322, V-06325, V-06327, V-06328, V-06329, V-06330, V-06331, V-06333, V-07486, V-09264, V-09265, V-09266, V-09267, V-09268, V-09269, and V-09270 totally supersede this certificate. See Table No. 8 for diversion rates and duty of water.

**Permit 24557, Certificate 8079**, is issued for the waters of Miller Creek to irrigate 171.20 acres. The current owners of record are Eugene and Alex Scossa. This permit is supplemental to Proofs V-06367 and V-06371. Therefore, the State Engineer determines that Permit 24557, Certificate 8079, is superseded by Proof of Appropriation Nos. V-06367 and V-06371. See Table No. 7 for diversion rates and duty of water.

**Permit 24566, Certificate 8740**, is for the waters of Autumn Hills Spring for domestic use for one dwelling and a guesthouse. The current owner of record is Bently Family Limited Partnership.

**Permit 24806, Certificate 7584**, is for the waters of Wheeler Creek No. 1 to irrigate 94.11 acres. The current owner of record is the William R. Tomerlin Trust dated August 11, 1976. This certificate is supplemental to Proof V-06320 and is supplemented by Permit 24807, Certificate 7583, Permit 25409, Certificate 7585 (underground source), and Permit 25601, Certificate 7586. See Table No. 4 for diversion rates and duty of water.

**Permit 24807, Certificate 7583**, is for the waters of Wheeler Creek No. 2 to irrigate 94.11 acres. The current owner of record is the William R. Tomerlin Trust Dated August 11, 1976. This certificate is supplemental to Proof V-06320 and is

supplemented by Permit 24806, Certificate 7584, underground Permit 25409, Certificate 7585 and Permit 25601, Certificate 7586. See Table No. 4 for diversion rates and duty of water.

**Permit 24918, Certificate 7843**, is for the waters of an Unnamed Spring to irrigate 141.68 acres. The current owners of record are Jerald R. Jackson 1975 Trust as amended August 11, 1992, and the Irene M. Windholz Trust, dated August 11, 1992, Nevada Mountain View LLC, Groenendyke Family Trust dated March 2, 1978, The Prather Family Trust of 10/31/1985, JSD Trust dated 2-11-1992, Jill S. Deeter, Trustee. Proofs V-06321, V-06323, V-06342, V-06343, V-06344 (portion), V-06345, and V-08850 totally supersede this certificate. See Table Nos. 8 for diversion rates and duty of water.

**Permit 24919, Certificate 7842**, is for the waters of an Unnamed Spring to irrigate 141.68 acres. The current owners of record are the Jerald R. Jackson 1975 Trust as amended August 11, 1992, and the Irene M. Windholz Trust, dated August 11, 1992, Nevada Mountain View LLC, Groenendyke Family Trust Dated March 2, 1978, The Prather Family Trust of 10/31/1985, JSD Trust Dated 2-11-1992, Jill S. Deeter, Trustee. This permit is superseded by Proofs V-06321, V-06323, V-06342, V-06343, V-06344 (portion), V-06345, and V-08850. See Table No. 8 for diversion rates and duty of water.

**Permit 25409, Certificate 7585**, is for the waters of an underground source to irrigate 54.34 acres. The current owner of record is the William R. Tomerlin Trust, dated August 11, 1976. This certificate is supplemental to Proof V-06320 and is supplemented by Wheeler Creek Nos. 1 and 2 filed under Permit 24806, Certificate 7584, Permit 24807, Certificate 7583, and Permit 25601, Certificate 7586.

**Permit 25601, Certificate 7586**, is for the waters of Wheeler Creek No. 1 to irrigate 94.11 acres. The current owner of record is the William R. Tomerlin Trust, dated August 11, 1976. This certificate is supplemental to Proof V-06320 and is supplemented by Permit 24806, Certificate 7584, Permit 24807, Certificate 7583, and underground Permit 25409, Certificate 7585.

**Permit 28884, Certificate 9281**, is for the waters of an Unnamed Spring for the irrigation of 5.46 acres and domestic purposes. The current owners of record are Alan K. and Patricia M. Harris.

**Permit 35626, Certificate 9549**, is for the waters of Castle Garden Spring for domestic use, fire protection and to irrigate 8.20 acres. The current owners of record are Frederic J. Nimis and Concha P. Nimis.

**Permit 36087, Certificate 9885**, is for the waters of Ellis Spring for domestic use and to irrigate 0.49 acres. The current owners of record are Frederic J. Nimis and Concha P. Nimis.

#### **X. SUPERCEDED PROOF**

**Proof V-02856** was filed on April 23, 1975, by The Heritage Ranch, E. J. McGah owner, claiming a vested right from an unnamed spring for irrigation of 117.90 acres of land. The current owners of record are the Jerald R. Jackson 1975 Trust, as amended August 11, 1992, and the Irene M. Windholz Trust, dated August 11, 1992; Nevada Mountain View LLC, Prather Family Trust of 10/31/1985, Groenendyke Family Trust, Dated March 2, 1978, and JSD Trust, Dated 2/11/92, Jill S. Deeter, Trustee. In this Final Order of Determination, Proof V-02856 is entirely superseded by Proofs V-06321, V-06323, V-06344, and V-08850. See section II for the State Engineer's response to any objection pertaining to this Proof of Appropriation.

#### **XI. REJECTED PROOF**

**Proof V-09253** was filed April 19, 2000, by Rodney Jones claiming a vested right from Castle Garden Spring for irrigation of 2.0 acres. Other claimed uses are storage for fire control, incidental irrigation of surrounding property and wildlife purposes. The proof indicates the source of water claimed is the same source of water as that under Permit 35626, Certificate 9549. The proof further details that the claimant has historically received up to 5 gallons per minute as overflow from the water source under said certificate. The proof gives a date of construction of works of approximately July 1, 1980.

A review of the records in the Office of the State Engineer for the claimed source of water revealed that Permit 19756 was originally filed in 1961 and subsequently cancelled in 1967. Work to develop Castle Spring began prior to June 24, 1964, the filing date of Proof of Completion of Work under Permit 19756. Permit 35626, Certificate 9549, filed in 1978, described the works of diversion to be already completed. The State Engineer determines that under

Proof V-09253 the claimed source of water is the overflow water from a spring developed in the 1960's that has an existing certificated water right with a priority date of July 14, 1978. The State Engineer further determines that the works of diversion as claimed under Proof V-09253 was not constructed prior to March 1, 1905, and no corroborating documentation accompanied the claim establishing beneficial use of the water prior to said date. Therefore, the State Engineer finds that this proof of appropriation does not establish a claim of vested water right and must be rejected. Since, Proof V-09253 is rejected it is not reflected in Section XVI Table of Relative Rights of Appropriators.

## **XII. STOCK WATERING AND DOMESTIC USES**

The limit and extent of the rights claimed for watering livestock and domestic purposes are the limits that are claimed individually or claimed as additional uses in claims for irrigation purposes and shall be continued by the claimants named herein, or their successors in interest at any time during the year, and such diversions shall be according to the dates of priorities of such users and limited to the quantity of water reasonably necessary for such use. If a claimant is not in priority for irrigation water, that claimant is not in priority for stock and/or domestic water. The amount of water diverted for irrigation purposes shall not be increased by any amount to be used for stock watering and domestic purposes, but the quantity allowed and diverted for irrigation during the irrigation season shall include water for stock watering and domestic purposes. The number and type of livestock shall be a sufficient measure for determination of the quantity of water under each claim for stock watering purposes. The period of use for stock watering and domestic purposes shall be from January 1<sup>st</sup> to December 31<sup>st</sup> of each year as further described below.

The State Engineer determines that the right to the diversion and use of water for stock watering and domestic purposes shall be appurtenant to all claimants of irrigation rights mentioned herein, or their successors in interest at any time during the year. The number and type of livestock watered shall be governed by the traditional carrying capacity of the land and subject to any applicable permits or regulation by State, Federal and local agencies.

## **XIII. PERIOD OF USE**

The period of use was determined from the Nevada Irrigation Guide (1981) developed by the U.S.D.A. Soil Conservation Service (currently known as the Natural Resources and Conservation Service), Reno, Nevada.

The period of use for irrigation is from April 1<sup>st</sup> to October 15<sup>th</sup> of each year, unless otherwise noted. The period use for any other manner of use is from January 1<sup>st</sup> to December 31<sup>st</sup> of each year unless otherwise specified.

#### **XIV. DUTY OF WATER**

The quantity of water actually needed for irrigation, stock watering, domestic use, or other beneficial purposes is restricted to the duty necessary throughout the period of use that varies with the seasons and beneficial use shall be the basis, measurement and the limit of the right to the use of water.<sup>97</sup> With respect to irrigation, water duty was determined by utilizing data collected within the adjudication area by the Office of the State Engineer from recent flow measurements on various streams and springs, U.S. Geological Survey Gaging Stations located on Miller Spring, Jobs Canyon Creek (Barber Creek), and consumptive use estimates for alfalfa, grain and pasture crops published in the Nevada Irrigation Guide (1981) by the U.S.D.A. Soil Conservation Service (currently known as the Natural Resources and Conservation Service), Reno, Nevada.

The comparison between water availability and potential demand indicates that during many years there is probably not enough water available during the irrigation season to satisfy full irrigation duty for all of the lands which have a claim to water in this proceeding. Water duty is based on years with average precipitation, stream flow and seasonal crop water demand for alfalfa for all water sources in this proceeding.

The duty of water for all lands irrigated under the proofs in this Final Order of Determination, from springs and streams located within the area under adjudication in Carson Valley, Douglas County, Nevada, is herein fixed and shall not exceed:

ALL CLASSES 4.0 ACRE-FEET PER ACRE PER SEASON  
UNLESS OTHERWISE SPECIFIED.

##### **1. Diversion Rates**

Historically, diversions of water in Carson Valley have been accomplished via pipelines and concrete, earthen, rock, canvas, gabion and board dams located in the stream channel where the diversion ditch or pipeline begins. The diversion rates are to be measured in cubic feet per second for each claim or certificated water right pursuant to NRS § 533.065 and shall not exceed that specified herein or previously under the appropriative process.

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<sup>97</sup> NRS § 533.035.

## **2. Supplemental Definition**

The relationship of water rights characterized by the State Engineer in this Final Order of Determination, as supplemental to other claims of vested water rights and supplemented by existing appropriative rights, and other existing decreed water rights, that are appurtenant to the same property are not cumulative and do not add additional duty. The supplemental rights may augment, or take the place of other water rights when those water rights are unavailable or not in sufficient quantity to meet the needs of the water right holder. The water rights characterized as supplemental in this proceeding are not intended to expand upon the maximum allowable duty of water on any place of use of any vested water rights or appropriative water right.

## **3. Rotation and Use of Water**

Claimants of vested water rights and those owners of water rights acquired through the appropriative process from a common supply may rotate the use of water to which they are collectively entitled based on an agreement, so as to not injure nonparticipants or infringe upon their water rights, which is subject to approval by the State Engineer. The purpose is to enable irrigators to exercise their water rights more efficiently, and thus to bring about a more economical use of available water supplies in accordance with their dates of priority. NRS § 533.075.

## **XV. MEASUREMENT OF WATER**

All measurements of water diverted are to be made at a point where the main ditch or stream enters or becomes adjacent to the land to be irrigated or as near thereto as practicable. The location, if not selected by the State Engineer, is to be approved by him. Measuring devices are not required at this time. The State Engineer reserves the right to require the installation of measuring devices in order to accomplish proper distribution in the event it becomes necessary.

## **XVI. CHANGE IN POINT OF DIVERSION, MANNER AND PLACE OF USE**

All water allotted under this Final Order of Determination shall be appurtenant to the place of use designated herein, NRS § 533.040. Any water user desiring to change the point of diversion, manner of use or place of use of the waters allotted herein must make application to the State Engineer for permission to make a change pursuant to NRS § 533.325 and 533.345. Furthermore any change in Manner of Use will be limited to the consumptive use of the water right.

The amount of water under a proposed change application shall not exceed the amount of water available for beneficial use during a year of average runoff. For streams, which do not have sufficient data to accurately represent actual runoff characteristics and volumes, the State Engineer prior to the approval or denial of any application to change, may deem additional studies necessary.

The volume of water allowed to be changed shall not exceed the duty of water as decreed under the terms and conditions of this adjudication proceeding.

#### **XVII. ENTRY TO INVESTIGATE**

The State Engineer or authorized personnel shall have the right to enter the premises of any owner or proprietor where any stream, spring or well mentioned in this Final Order of Determination is situated at any reasonable hour of the day for the purposes of investigating and carrying out the duties required for administration as provided for under Nevada Water Law.

**XIX. TABLE OF RELATIVE RIGHTS TO APPROPRIATOR.**

The certificated water rights existing within the area under this adjudication proceeding are listed in the following tabulation; however, they are not decreed water rights and are provided for informational purposes to link their relationship to other water rights determined as a result of this proceeding. The proofs establishing a vested claim and appropriative water rights described in the following tables are determined by the State Engineer to be valid in this Final Order of Determination.

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.												
V-02430	FRANK J. JUDD	PALMER SWAMP	SW¼SE¼ SEC. 14, T.12N., R.19E., M.D.B.&M.																	
				APR.1 TO OCT. 15	IRRIGATION	0.210	4.00	82.8												
					1897															
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS													
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E					STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
14	T. 12 N.,	R. 19 E.													15.30	5.40		20.70		
TOTAL ACRES ALLOTTED:																	20.70			

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.
V-02857	TED GAINES AND JUDY GAINES ROBERT O. AND WANDA D. SHOCKEY HANSON TRUST, DATED APRIL 2, 1980 WILD GOOSE LIMITED PARTNERSHIP	UNNAMED SPRING "C"	SE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.47°37'14"E, 3,508.0 FT. FROM NW COR. OF SAID SECTION 26.					
				APR.1 TO OCT. 15	IRRIGATION	3.000	4.00	652.00
					1853			

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

V-02857 (cont.)		PLACE OF USE 40 ACRE DESCRIPTIONS												ACRES PER SECTION	REMARKS				
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
25	T. 12 N.,	R. 19 E.		29.00	3.50		26.40	11.60	30.50	16.90								117.90	STOCKWATER IS ALSO RECOGNIZED. SEE SEC. XII PROOF V02858 SUPPLEMENTS THIS PROOF WITH THE EXCEPTION OF 1.40 ACRES IN THE SE¼NE¼ AND 15.40 ACRES IN THE SW¼NE¼ SECTION 26, T. 12N., R. 19E., M.D.B.&M.
26	T. 12 N.,	R. 19 E.	0.70		15.40	29.00												45.10	
TOTAL ACRES ALLOTTED																		163.00	
DOUGLAS COUNTY APN'S 1219-25-001-006, 007; AND 1219-26-001-037, 038 (PORTIONS).																			

96

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.
V-02858	TED GAINES AND JUDY GAINES ROBERT D. AND WANDA D. SHOCKEY HANSON TRUST DATED APRIL 2, 1980 WILD GOOSE LIMITED PARTNERSHIP ROBERT H. AND ARLENE M. BROWN FAMILY TRUST	LUTHER CREEK	PRIMARY (WEST) DIVERSION: NE¼SE¼ SEC. 35, T.12N., R.19E., M.D.B.&M., S.13°21'16"W. 3072.0 FT. FROM NE COR. OF SAID SECTION 35, IN ALPINE COUNTY, CALIFORNIA.  SECONDARY (EAST) DIVERSION: SW¼NW¼ SEC. 36, T.12N., R.19E., M.D.B.&M., S.07°05'10"E. 2163.0 FT. FROM NW COR. OF SAID SECTION 36, IN ALPINE COUNTY, CALIFORNIA.	APR. 1 TO OCT. 15	IRRIGATION	* 1,670	4.00	597.60
				JAN. 1 TO DEC. 31	DOMESTIC	** 5,000	4.00	516.00
					1853			

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

V-02858 (cont.)		PLACE OF USE 40 ACRE DESCRIPTIONS																ACRES PER SECTION	REMARKS
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E				
25	T. 12 N.,	R. 19 E.		29.00	3.50		26.40	11.60	30.50	16.90	20.60			18.90	1.60	33.40	36.50	18.00	246.90
26	T. 12 N.,	R. 19 E.	0.70			30.40									0.40				31.50
																			278.40
																			STOCKWATER IS ALSO RECOGNIZED FOR 70 HEAD OF LIVESTOCK, SEE SEC. XII
																			NORTH DIVERSION: * 1/5 OF 10 C.F.S. IS APPURTENANT TO 149.4 ACRES LOCATED WITHIN THE S½NE¼ AND NW¼ SECTION 25 AND E½NE¼ AND NE¼SE¼ SECTION 26, T.12N., R.19E., M.D.B.&M. PROOF V02857 SUPPLEMENTS THIS PORTION OF THIS PROOF WITH THE EXCEPTION OF 1.40 ACRES IN THE SE½NE¼ AND 0.40 ACRE IN THE NE¼SE¼ SECTION 26, T.12N., R.19E., M.D.B.&M.
																			SOUTH DIVERSION: ** 1/2 OF 10 C.F.S. IS APPURTENANT TO 129 ACRES LOCATED WITHIN THE E½SW¼ AND SE¼ SECTION 25, T.12N., R.19E., M.D.B.&M.
																			NORTH DIVERSION: DOUGLAS COUNTY APN'S 1219-25-002-001 AND 1219-26-001-037& 038 (PORTIONS).
																			SOUTH DIVERSION: DOUGLAS COUNTY APN 1219-25-002-002 (PORTION), 1219-25-002-001 AND 1219-26-001-037& 038 (PORTIONS).

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.
V-04594	JOSEPH S. LODATO SAPP 1993 TRUST, ALAN D. SAPP TRUSTEE	SHERIDAN CREEK (NORTH AND SOUTH DIVERSIONS) AND STUTLER CREEK	SHERIDAN CREEK NE¼SE¼ SEC. 15, T.12N., R.19E., M.O.B.&M., N.72°20'31"E. 5,412.47, FROM SW COR. OF SAID SECTION 15.  STUTLER CREEK SE½NE¼ SEC. 16, T.12N., R.19E., M.D.B.&M., N.42°56'27"W. 1,573.88 FT. FROM SE COR. OF SAID SECTION 16.	APR.1 TO OCT. 15	IRRIGATION 1852 FOR SHERIDAN CR. 1905 FOR STUTLER CR.	* 0.013 ** 0.086 *** 0.010	14.00 10.25	40.00 2.50

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

V-04594 (cont.)		PLACE OF USE 40 ACRE DESCRIPTIONS																ACRES PER SECTION	REMARKS
SECTION	TOWN- SHIP	RANGE	NE				NW				SW				SE				
14	T. 12 N.,	R. 19 E.									0.25	0.88	3.12	5.75				10.00	STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII ACREAGE IS DETERMINED BY THE STATE ENGINEER'S OFFICE FROM THE BOUNDARY LINE ADJUSTMENT MAP FOR DOUGLAS COUNTY ASSESSOR'S PARCELS 1219-14-001-0013 AND 1219-14-002-005, 006. THE MAP WAS FILED ON JAN. 4, 1996, IN THE COUNTY RECORDER'S OFFICE IN BOOK 196, PAGE 787, DOCUMENT NO. 378278.  PROOFS V06305 AND V06306 WERE FILED BY THEODORE AND KATHERINE A. WEBER FOR THE WATERS OF STUTLER AND SHERIDAN CREEKS, RESPECTIVELY. THEREFORE, PROOFS V06305-6 SUPERCEDE PROOF V04594 ON ACREAGE OWNED BY THE WEBERS.  0.25 ACRES IN THE SW $\frac{1}{4}$ NW $\frac{1}{4}$ AND 0.88 ACRES IN THE SE $\frac{1}{4}$ NW $\frac{1}{4}$ SECTION 14, T.12N., R.19E., M.D.B.&M. ARE IRRIGATED WITH COMMINGLED WATER FROM STUTLER CREEK UNDER THIS PROOF AND GANSBERG SPRING UNDER PERMIT 7595, CERTIFICATE 1760.  THE TOTAL COMBINED DUTY OF WATER SHALL NOT EXCEED 4.00 ACRE-Feet PER ACRE OF WATER FROM ALL WATER SOURCES.  DOUGLAS COUNTY APN'S 1219-14-002-005, 006.
TOTAL ACRES ALLOTTED																			10.00
<p>* 0.013 C.F.S. IRRIGATES 0.25 ACRES IN THE SW<math>\frac{1}{4}</math>NW<math>\frac{1}{4}</math> AND 0.88 ACRES IN THE SE<math>\frac{1}{4}</math>NW<math>\frac{1}{4}</math> FROM THE NORTH SPLIT OF SHERIDAN CREEK.  ** 0.097 C.F.S. IRRIGATES 3.12 ACRES IN THE NE<math>\frac{1}{4}</math>SW<math>\frac{1}{4}</math> AND 5.75 ACRES IN THE NW<math>\frac{1}{4}</math>SW<math>\frac{1}{4}</math> FROM THE SOUTH SPLIT OF SHERIDAN CREEK.  *** 0.010 C.F.S. FROM STUTLER CREEK IS APPURTENANT TO THE ACREAGE DESCRIBED UNDER "REMARKS".  † DUTY OF WATER FROM SHERIDAN CREEK.  ‡ DUTY OF WATER FROM STUTLER CREEK.</p>																			

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.
V-05049	BENZ FAMILY TRUST	MOTT CREEK & UNNAMED STREAM	NE $\frac{1}{4}$ SE $\frac{1}{4}$ SEC. 04, T.12N., R.19E., M.D.B.&M., S.04°30'W. 3,400.00 FT. FROM NE COR. OF SAID SECTION 04.  NW $\frac{1}{4}$ SW $\frac{1}{4}$ SEC. 03, T.12N., R.19E., M.D.B.&M., S.11°E. 3,450.00 FT. FROM NW COR. OF SAID SECTION 03.	APR. 1 TO OCT. 15	IRRIGATION	0.166	4.00	63.20
				JAN. 1 TO DEC. 31	DOMESTIC			
					1852			

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

V-05049 (cont.)		PLACE OF USE 40 ACRE DESCRIPTIONS												ACRES PER SECTION	REMARKS				
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E				STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII DOUGLAS COUNTY APN 1219-03-002-067.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
3	T. 12 N.,	R. 19 E.									10.56						5.24		
TOTAL ACRES ALLOTTED																		15.80	

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.
V-05070	LORILYN V. AND RANDALL R. CHITWOOD	MOTT CREEK	NE 1/4 SEC. 04, T. 12N., R. 19E., M.D.B.&M., S. 14° 15' 43" W. 767.47 FT. FROM E 1/4 COR. OF SAID SECTION 04.	APR. 1 TO OCT. 15 JAN. 1 TO DEC. 31 JAN. 1 TO DEC. 31	IRRIGATION DOMESTIC STOCK WATER 1853	0.105	4.00	28.28

PLACE OF USE 40 ACRE DESCRIPTIONS												ACRES PER SECTION	REMARKS						
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E				DOMESTIC AND STOCK WATER SUFFICIENT TO WATER 12 HEAD OF LIVESTOCK IS INCLUDED. THIS PROOF IF PARTIALLY SUPPLEMENTED BY PERMIT 63414, UNDERGROUND WATER. DOUGLAS COUNTY APN 1219-03-002-064.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
3	T. 12 N.,	R. 19 E.												2.071			5.00		
TOTAL ACRES ALLOTTED																		7.071	

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT/ ACRE	TOTAL AC.-FT.
V-05314	DAVID B. DAVIS AND SHARON L. DAVIS	MOTT CREEK	FOUR WAY SPLIT OF STREAM: NE¼SE¼ SEC. 04, T.12N., R.19E., M.D.B.&M., S.03°30'20"W. 3,386.85 FT. FROM NE COR. OF SAID SECTION 04.  TWO WAY SPLIT OF PRECEEDING SPLIT: NW¼SW¼ SEC. 03, T.12N., R.19E., M.D.B.&M., S.10°52'41"E. 3,426.70 FT. FROM NW COR. OF SAID SECTION 03.  SPLIT TO ALLERMAN SUCCESSORS: SE¼NW¼ SEC. 03, T.12N., R.19E., M.D.B.&M., S.35°58'55"E. 2,901.46 FT. FROM NW COR. OF SAID SECTION 03.	APR.1 TO OCT. 15 JAN. 1 TO DEC.31	IRRIGATION DOMESTIC 1852	0.091	4.00	30.44

PLACE OF USE						ACRES PER SECTION	REMARKS													
40 ACRE DESCRIPTIONS																				
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E					
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
3	T. 12 N., R. 19 E.			3.61	4.00													7.61	STOCKWATER IS ALSO RECOGNIZED. SEE SEC. XII THIS PROOF IS SUPPLEMENTED BY PERMIT 56296, CERTIFICATE 14890, UNDERGROUND WATER.	
TOTAL ACRES ALLOTTED																			7.610	DOUGLAS COUNTY APN 1219-03-001-062.
																				THIS PROOF IS FURTHER LIMITED TO THE WATERS OF MOTT CREEK ON A ROTATION SCHEDULE SEE TABLE 2

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF ND.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.											
V-05819	MOTTSTVILLE CEMETERY ASSOCIATION	MOTT CREEK	NE½SE½ SEC. 04, T.12N., R.19E., M.D.B.&M., S.12°45'30"W. 763 FT. FROM E¼ COR. OF SAID SECTION 04.	APR.1 TO OCT. 15 JAN. 1 TO DEC.31	IRRIGATION DOMESTIC 1859	0.047	4.00	12.64											
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS												
SECTION	TOWN-SHIP	RANGE	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
3	T. 12 N., R. 19 E.									0.59	2.44	0.13							3.16
TOTAL ACRES ALLOTTED																		3.16	STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII) DOMESTIC USE IS FOR DRINKING WATER FOR VISITORS TO THE CEMETERY.

PROOF ND.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.
V-06226	EDWARD J. HAYES AND CONSTANCE G. HAYES	MOTT CREEK	PRIMARY DIVERSION: NE½SE½ SEC. 04, T.12N., R.19E., M.D.B.&M., S.12°45'W. 763 FT. FROM E¼ COR. OF SAID SECTION 04.  SECONDARY DIVERSION: SE½SW¼ SEC. 03, T.12N., R.19E., M.D.B.&M., S.51°49'E. 2,906 FT. FROM W¼ COR. OF SAID SECTION 03.	APR.1 TO OCT. 15 JAN. 1 TO DEC.31	IRRIGATION DOMESTIC 1853	0.123	4.00	33.16

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

V-06226 (cont.)															PLACE OF USE 40 ACRE DESCRIPTIONS															ACRES PER SECTION	REMARKS
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E					STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII THIS PROOF IS SUPPLEMENTED BY PERMIT 27331, CERTIFICATE 9514, UNDERGROUND. DOUGLAS COUNTY APN 1219-03-002-065.											
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE													
3	T. 12 N.,	R. 19 E.												1.25				7.04	8.29												
TOTAL ACRES ALLOTTED																			8.29												

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.														
V-06264	THE RODGERS FAMILY TRUST	SHERIDAN CREEK SOUTH DIVERSION	PRIMARY DIVERSION: NE½SE¼ SEC. 15, T.12N., R.19E., M.D.B.&M., N.03°08'W. 1,647 FT. FROM SE COR. OF SAID SECTION 15.  SECONDARY DIVERSION: NW¼SW¼ SEC. 14, T.12N., R.19E., M.D.B.&M., N.13°37'E. 1,716 FT. FROM SW COR. OF SAID SECTION 14.	APR.1 TO OCT. 15	IRRIGATION 1871	0.390	4.00	160.80														
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS															
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E							
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE				
14	T. 12 N.,	R. 19 E.														6.60			29.10	2.50	40.20	STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XI A PORTION OF THIS PROOF IS SUPPLEMENTAL TO BARBER CREEK DECREED RIGHTS. DOUGLAS COUNTY APN 1219-14-002-021.
TOTAL ACRES ALLOTTED																			40.20			

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.											
V-06285	THE RODGERS FAMILY TRUST	SHERIDAN CREEK (SOUTH DIVERSION)	PRIMARY DIVERSION: NE¼SE¼ SEC. 15, T.12N., R.19E., M.O.B.&M., N.03°08'W. 1,647 FT. FROM SE COR. OF SAID SECTION 15.  SECONDARY DIVERSION: NW¼SW¼ SEC. 14, T.12N., R.19E., M.D.B.&M., N.13°37'E. 1,716 FT. FROM SW COR. OF SAID SECTION 14.	JAN. 1 TO DEC. 31	STOCK WATER 1871		SEE SECTION XII OF THE FINAL ORDER OF DETERMINATION.												
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS												
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E				SUFFICIENT WATER FOR 60 HEAD OF LIVESTOCK, SEE SECTION XII.  A PORTION OF THIS PROOF IS SUPPLEMENTAL TO BARBER CREEK DECREED RIGHTS. DOUGLAS COUNTY APN 1219-14-002-021.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
14	T. 12 N.	R. 19 E.												X				X	

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.
V-06305	THEADORE AND KATHERINE A. WEBER, HUSBAND AND WIFE AS JOINT TENANTS	STUTLER CREEK	SE¼NE¼ SEC. 16, T.12N., R.19E., M.D.B.&M., N.07°10'24"W. 2,892.59 FT. FROM SE COR. OF SAID SECTION 16.	APR.1 TO OCT. 15 JAN 1, TO DEC. 31	IRRIGATION DOMESTIC 1905	0.040	* 1.49	** 15.44

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

V-06305 (cont.)		PLACE OF USE 40 ACRE DESCRIPTIONS																ACRES PER SECTION		REMARKS
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E					
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
14	T. 12 N.	R. 19 E.							7.67	1.94								9.61	STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII * THE TOTAL COMBINED DUTY UNDER THIS PROOF, PROOF V06306 AND PERMIT 7595, CERTIFICATE 1760 SHALL NOT EXCEED 4.0 ACRE-FEET PER ACRE FROM ANY AND/OR ALL SOURCES. **DUTY OF WATER IS BASED ON THE DIVERSION RATE EXPANDED OVER A 198 DAY GROWING SEASON. LAND WITHIN THE N½ SECTION 14 IS SUPPLEMENTAL TO PROOF V06306 AND SUPPLEMENTED BY PERMIT 7595, CERTIFICATE 1760. A BOUNDARY LINE ADJUSTMENT MAP FOR DOUGLAS COUNTY ASSESSOR'S PARCELS 19-200-09, 10 AND 11 WAS FILED ON JAN. 4, 1996, IN THE COUNTY RECORDER'S OFFICE IN BOOK 196, PAGE 787, DOCUMENT NO. 378278. ACREAGE PRIOR TO THE LOT BOUNDARY LINE ADJUSTMENT WAS AS FOLLOWS: 7.60 ACRES IN THE SW¼NW¼ SEC. 14 2.76 ACRES IN THE SE¼NW¼ SEC. 14 2.57 ACRES IN THE NW¼SW¼ SEC. 14 DOUGLAS COUNTY APN 1219-14-001-013.	
TOTAL ACRES ALLOTTED																	9.61			

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIDRITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.
V-06306	THEADORE AND KATHERINE A. WEBER, HUSBAND AND WIFE AS JOINT TENANTS	SHERIDAN CREEK (NORTH DIVERSION)	NE¼SE¼ SEC. 15, T.12N., R.19E., M.D.B.&M., N.72°20'31"E, 5.412.47. FROM SW COR. OF SAID SECTION 15.	APR. 1 TO OCT. 15	IRRIGATION	* 0.153	† 4.00	51.72
				JAN. 1 TO DEC.31	DOMESTIC			
					1952			

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

V-06306 (cont.)		PLACE OF USE 40 ACRE DESCRIPTIONS												ACRES PER SECTION	REMARKS					
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E					STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII ↑ THE TOTAL COMBINED DUTY UNDER THIS PROOF, PROOF V06305 AND PERMIT 7595, CERTIFICATE 1760 SHALL NOT EXCEED 4.0 ACRE-FEET PER ACRE. LAND WITHIN THE N¼ SECTION 14 IS SUPPLEMENTAL TO PROOF V06305 AND IS SUPPLEMENTED BY PERMIT 7595, CERTIFICATE 1760. ACREAGE IS DETERMINED BY THE STATE ENGINEER'S OFFICE FROM THE BOUNDARY LINE ADJUSTMENT MAP FOR DOUGLAS COUNTY ASSESSOR'S PARCELS 19-200-09, 10 AND 11. THE MAP WAS FILED ON JAN. 4, 1996, IN THE COUNTY RECORDER'S OFFICE AS BOOK 196, PAGE 787, DOCUMENT NO. 378278. ACREAGE PRIOR TO THE LOT BOUNDARY LINE ADJUSTMENT WAS AS FOLLOWS: 7.60 ACRES IN THE SW¼NW¼ SEC. 14 2.76 ACRES IN THE SE¼NW¼ SEC. 14 2.57 ACRES IN THE NW¼SW¼ SEC. 14 DDUGLAS COUNTY APN 1219-14-001-013.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
14	T. 12 N.,	R. 19 E.							7.67	1.94				3.32					12.93	TOTAL ACRES ALLOTTED 12.93
* Current irrigation practices indicate that all of the water utilized under this claim from Sheridan Creek originate from the north division of said stream . Therefore, all water delivery to this parcel shall henceforth be from the north split of Sheridan Creek.																				

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.
V-06307	THEADORE AND KATHERINE A. WEBER, HUSBAND AND WIFE AS JOINT TENANTS	SHERIDAN CREEK NORTH DIVERSION AND SOUTH DIVERSION	NEX¼SE¼ SEC. 15, T.12N., R.19E., M.D.B.&M.	JAN. 1 TO DEC. 31	STOCK WATER 1905		SEE SECTION XII OF THE FINAL ORDER OF DETERMINATION.	

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

V-06307 (cont.)			PLACE OF USE 40 ACRE DESCRIPTIONS												ACRES PER SECTION		REMARKS			
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E					SUFFICIENT WATER FOR 22 HEAD OF LIVESTOCK. SUPPLEMENTAL TO PROOF V06308. DOUGLAS COUNTY APN 1219-14-001-013.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
14	T. 12 N.	R. 19 E.							X											
15	T. 12 N.	R. 19 E.													X					

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPDSE & PRIORITY	FLOW CFS	DUTY AC.-FT/J ACRE	TOTAL AC.-FT.										
V-06308	THEADORE AND KATHERINE A. WEBER, HUSBAND AND WIFE AS JOINT TENANTS	STUTLER CREEK	SE1/4 SEC. 16, T.12N., R.19E., M.D.B.&M.	JAN. 1 TO DEC. 31	STOCK WATER 1905		SEE SECTION XII DF THE FINAL ORDER OF DETERMINATION.											
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS											
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E			
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
14	T. 12 N.,	R. 19 E.							X									
15	T. 12 N.,	R. 19 E.													X			
							SUFFICIENT WATER FOR 22 HEAD OF LIVESTOCK. SUPPLEMENTAL TO PROOF V06307. DOUGLAS COUNTY APN 1219-14-001-013.											

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIDRITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.
V-06309	DONALD S. FORRESTER AND KRISTINA M. FORRESTER, HUSBAND AND WIFE AS JOINT TENANTS.	SHERIDAN CREEK **NORTH DIVERSION **SOUTH DIVERSION	NE1/4 SEC. 15, T.12N., R.19E., M.D.B.&M., N.72°20'31"E, 5,412.47 FT. FROM SW COR. OF SAID SECTION 15.	APR. 1 TO OCT. 15 JAN. 1 TO DEC. 31	IRRIGATION DOMESTIC 1852	*0.719 **0.096	4.00 4.00	243.48 39.60

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

V-06309 (cont.)		PLACE OF USE 40 ACRE DESCRIPTIONS																ACRES PER SECTION	REMARKS			
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E							
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE				
ACREAGE IRRIGATED FROM THE NORTH DIVERSION																						
14	T. 12 N.,	R. 19 E.		2.42	8.89		3.73		10.58	35.25									60.87	STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII THE TOTAL COMBINED DUTY UNDER THIS PROOF, PROOF V06310 AND PERMIT 7595, CERTIFICATE 1760 SHALL NOT EXCEED 4.0 ACRE-FEET PER ACRE		
ACREAGE IRRIGATED FROM THE SOUTH DIVERSION																						
14	T. 12 N.,	R. 19 E.								4.53						5.37		9.90	THIS PROOF IS PARTIALLY SUPPLEMENTAL TO PROOF V06310 AND SUPPLEMENTED BY PERMIT 7595, CERTIFICATE 1760.			
TOTAL ACRES ALLOTTED																			70.77	DOUGLAS COUNTY APN 1219-14-001-012 AND A PORTION OF 1219-14-001-008.		

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.
V-06310	DONALD S. FORRESTER AND KRISTINA M. FORRESTER, HUSBAND AND WIFE AS JOINT TENANTS.	STUTLER CREEK	SE $\frac{1}{4}$ NE $\frac{1}{4}$ SEC. 16, T.12N., R.19E., M.D.B.&M., N.07°10'24"W. 2,892.59 FT. FROM THE SE COR. OF SAID SECTION 16. THE WATERS OF STUTLER CREEK ARE THEN CONVEYED THROUGH A PIPELINE TO A POINT IN THE SE $\frac{1}{4}$ SE $\frac{1}{4}$ SEC. 15, T.12N., R.19E., M.D.B.&M., WHERE THE WATERS OF STUTLER CREEK ARE COMMINGLED WITH THE WATERS OF SHERIDAN CREEK IN THE NORTH SHERIDAN CREEK CHANNEL. THE COMMINGLED WATERS ARE DIVERTED FROM THE SHERIDAN CREEK CHANNEL AT A POINT IN THE NE $\frac{1}{4}$ SE $\frac{1}{4}$ SEC. 15, T.12N., R.19E., M.D.B.&M., N.72°20'31"E. 5,412.47 FT. FROM THE SW COR. OF SAID SECTION 15.	APR.1 TO OCT. 15 JAN. 1 TO DEC.31	IRRIGATION DOMESTIC 1905	0.250	* 1.49	90.70

### TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

V-06310 (cont.)														PLACE OF USE 40 ACRE DESCRIPTIONS								ACRES PER SECTION		REMARKS			
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E						STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII						
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE									
14	T. 12 N., R. 19 E.			2.42	8.89			3.73		10.58	35.25								60.87	* THE TOTAL COMBINED DUTY UNDER THIS PROOF, PROOF V06309 AND PERMIT 7595, CERTIFICATE							
																			TOTAL ACRES ALLOTTED		60.87	1760 SHALL NOT EXCEED 4.0 ACRE-FEET PER ACRE.					
																					THIS PROOF IS SUPPLEMENTAL TO PROOF V06309 AND IS SUPPLEMENTED BY PERMIT 7595, CERTIFICATE 1760.						
																					DDUGLAS COUNTY APN 1219-14-001-012 AND A PORTION OF 1219-14-001-008.						

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.
V-06311	ROBERT S. AND JUNE E. SEVERSON, HUSBAND AND WIFE AS JOINT TENANTS  THOMAS J. SCYPHERS AND KATHLEEN M. SCYPHERS	STUTLER CREEK	SE¼NE¼ SEC. 16, T.12N., R.19E., M.D.B.&M., N.07°10'24"W. 2,892.59 FT. FROM THE SE COR. OF SAID SECTION 16. THE WATERS OF STUTLER CREEK ARE THEN CONVEYED THROUGH A PIPELINE TO A POINT IN THE SE¼SE¼ SEC. 15, T.12N., R.19E., M.D.B.&M., WHERE THE WATERS OF STUTLER CREEK ARE COMMINGLED WITH THE WATERS OF SHERIDAN CREEK IN THE NORTH SHERIDAN CREEK CHANNEL. THE COMMINGLED WATERS ARE DIVERTED FROM THE SHERIDAN CREEK CHANNEL AT A POINT IN THE NE¼SE¼ SEC. 15, T.12N., R.19E., M.D.B.&M., N.72°20'31"E. 5,412.47 FT. FROM THE SW COR. OF SAID SECTION 15.	APR.1 TO OCT. 15 JAN. 1 TO DEC.31	IRRIGATION DOMESTIC 1905	0.070	* 1.49	24.75

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

V-06311 (cont.)		PLACE OF USE 40 ACRE DESCRIPTIONS												ACRES PER SECTION	REMARKS					
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E					STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII * THE TOTAL COMBINED DUTY UNDER THIS PROOF, PROOF V06312 AND PERMIT 7595, CERTIFICATE 1760 SHALL NOT EXCEED 4.0 ACRE-FEET PER ACRE THIS PROOF IS SUPPLEMENTAL TO PROOF V06312 AND IS SUPPLEMENTED BY PERMIT 7595, CERTIFICATE 1760. DOUGLAS COUNTY APN'S 1219-14-001-004, SCYPERS; 1219-14-001-005, SEVERSON.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
14	T. 12 N.,	R. 19 E.		0.03	0.02		15.69			0.87								16.61		
TOTAL ACRES ALLOTTED																			16.61	

PROOF NO.	CLAIMANT	SOURCE	PDINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.												
V-06312	ROBERT S. AND JUNE E. SEVERSON HUSBAND AND WIFE, AS JOINT TENANTS; THOMAS J. SCYPHERS AND KATHLEEN M. SCYPHERS	SHERIDAN CREEK (NORTH DIVERSION)	NE½SE¼ SEC. 15, T.12N., R.19E., M.D.B.&M., N.72°20'31"E, 5,412.47 FT. FROM THE SW COR. OF SAID SECTION 15.																	
				APR.1 TO OCT. 15	IRRIGATION	0.196	* 4.00	66.44												
				JAN. 1 TO DEC.31	DOMESTIC															
					1852															
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS													
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E				16.61	STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII * THE TOTAL COMBINED DUTY UNDER THIS PROOF, PROOF V06311 AND PERMIT 7595, CERTIFICATE 1760 SHALL NOT EXCEED 4.0 ACRE-FEET PER ACRE. THIS PROOF IS SUPPLEMENTAL TO PROOF V06311 AND IS SUPPLEMENTED BY PERMIT 7595, CERTIFICATE 1760. DOUGLAS COUNTY APN'S 1219-14-001-004, SCYPHERS; 1219-14-001-005, SEVERSON.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
14	T. 12 N.,	R. 19 E.		0.03	0.02		15.69			0.87								16.61		
TOTAL ACRES ALLOTTED																			16.61	

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.
V-06313	DUBIN INVESTMENT GROUP, LLC PROPERTY OWNED BY: CANYON CREEK EQUESTRIAN CENTER	MOTT CREEK	FOUR WAY SPLIT OF STREAM: NE½SE¼ SEC. 04, T.12N., R.19E., M.D.B.&M., S.03°03'20"W. 3,386.86 FT. FROM NE COR. OF SAID SECTION 04.  TWO WAY SPLIT OF STREAM: NW¼SW¼ SEC. 03, T.12N., R.19E., M.D.B.&M., S.10°52'41"E. 3,246.70 FT. FROM NW COR. OF SAID SECTION 03.  SPLIT TO ALLERMAN SUCCESSORS: SE¼NW¼ SEC. 03, T.12N., R.19E., M.D.B.&M., S.35°58'55"E. 2,901.46 FT. FROM NW COR. OF SAID SECTION 03.	APR.1 TO OCT. 15	IRRIGATION	0.481	4.00	160.00
				JAN. 1 TO DEC.31	DOMESTIC			
				JAN. 1 TO DEC.31	STOCK WATER			
					1852			

PLACE OF USE 40 ACRE DESCRIPTIONS																	ACRES PER SECTION	REMARKS		
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E					
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
3	T. 12 N., R. 19 E.			27.00	13.00													40.00	THIS PROOF IS ALSO RECOGNIZED. SEE SEC. XII THIS PROOF IS FURTHER LIMITED TO THE WATERS OF MOTT CREEK ON A ROTATION SCHEDULE SEE TABLE 2	
																	TOTAL ACRES ALLOTTED	40.00	THIS PROOF IS SUPPLEMENTED BY PERMIT 59096, UNDERGROUND, STOCK WATER, AND PARTIALLY SUPPLEMENTED BY PERMIT 63382, UNDERGROUND, IRRIGATION ON 3.75 ACRES. DOUGLAS COUNTY APN 1219-03-001-061.	

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPDSE & PRIORITY	FLOW CFS	DUTY AC.-FT/J ACRE	TOTAL AC.-FT.												
V-06315	MOTTSVILLE LIMITED PARTNERSHIP II	MOTT CREEK	NE¼SE¼ SEC. 04, T.12N., R.19E., M.D.B.&M., S.58°14'04"W. 6,420.37 FT. FROM NE COR. OF SECTION 03, T.12N., R.19E., M.D.B.&M.	APR.1 TO OCT. 15	IRRIGATION	0.630	4.00	240.00												
				JAN. 1 TO DEC.31	DOMESTIC															
					1852															
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS													
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E				ACRES	REMARKS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
3	T. 12 N., R. 19 E.		0.30		21.80	16.30				2.90	1.60				0.10	17.00				
TOTAL ACRES ALLOTTED																			60.00	STOCKWATER IS ALSO RECOGNIZED. SEE SEC. XII DOUGLAS COUNTY APN'S 1219-03-001-063, 064; 1219-03-002-085.

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT/J ACRE	TOTAL AC.-FT.												
V-06316	DOUGLAS AND AMELIA HELLMAN	MOTT CREEK	NE¼SE¼ SEC. 04, T.12N., R.19E., M.D.B.&M., S.58°14'04"W. 6,420.37 FT. FROM NE COR. OF SECTION 03, T.12N., R.19E., M.O.B.&M.	APR.1 TO OCT. 15 JAN. 1 TO DEC.31	IRRIGATION DOMESTIC 1852	0.420	4.00	160.00												
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS													
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E				ACRES	REMARKS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
2	T. 12 N., R. 19 E.								8.10					0.40						
3	T. 12 N., R. 19 E.					19.20									10.30	2.00			31.50	
TOTAL ACRES ALLOTTED																			40.00	STOCKWATER IS ALSO RECOGNIZED FOR 60 HEAD OF LIVESTOCK. SEE SEC. XII DOUGLAS COUNTY APN 1219-03-001-065.

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.
V-06317	WILLIAM H. GRAY AND LOIS CATHERINE GRAY	MOTT CREEK	NE½E¼ SEC. 04, T.12N., R.19E., M.D.B.&M., S.14°15'43"W. 767.47 FT. FROM E¼ COR. OF SAID SECTION 04.	APR.1 TO OCT. 15 JAN. 1 TO DEC.31	IRRIGATION DOMESTIC 1852	0.296	4.00	80.00

PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS												
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E				STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII THIS PROOF IS SUPPLEMENTED BY PERMIT 27331, CERTIFICATE 9514, UNDERGROUND.  THE CLAIMANT IS NOT THE OWNER OF RECORD OF SAID CERTIFICATE. DOUGLAS COUNTY APN 1219-03-002-087.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
3	T. 12 N.,	R. 19 E.													17.30		2.70	20.00	
															TOTAL ACRES ALLOTTED				20.00

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.
V-06318	NORMAN AND SHIRLEY MELNIKOFF, HUSBAND AND WIFE AS JOINT TENANTS	MOTT CREEK	NE½E¼ SEC. 04, T.12N., R.19E., M.D.B.&M., S.14°15'43"W. 767.47 FT. FROM E¼ COR. OF SAID SECTION 04.	APR.1 TO OCT. 15 JAN. 1 TO DEC.31 JAN. 1 TO DEC.31	IRRIGATION DOMESTIC STOCK WATER 1852	0.296	4.00	80.00

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

V-06318 (cont.)		PLACE OF USE 40 ACRE DESCRIPTIONS																ACRES PER SECTION	REMARKS	
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E					DOMESTIC AND STOCK WATERING OF OF 26 HEAD OF LIVESTOCK.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
3	T. 12 N.,	R. 19 E.													4.20	7.90	4.40	3.50	20.00	THIS PROOF IS SUPPLEMENTED BY PERMIT 81056, UNDERGROUND.
TOTAL ACRES ALLOTTED																			20.00	DOUGLAS COUNTY APN 1219-03-002-086.

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT/ ACRE	TOTAL AC.-FT.												
V-06319	DOONNA BUDDINGTON	MOTT CREEK	NE½SE¼ SEC. 04, T.12N., R.19E., M.D.B.&M., S.14°15'43"W. 767.47 FT. FROM E¼ COR. OF SAID SECTION 04.	APR.1 TO OCT. 15 JAN. 1 TO DEC.31	IRRIGATION DOMESTIC 1852	0.148	4.00	40.00												
PLACE OF USE 40 ACRE DESCRIPTIONS					ACRES PER SECTION	REMARKS														
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E					STOCKWATER IS ALSO RECOGNIZED FOR 10 HEAD OF LIVESTOCK, SEE SEC. XII
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
2	T. 12 N.,	R. 19 E.										3.90							3.90	THIS PROOF IS SUPPLEMENTED BY PERMIT 27331, CERTIFICATE 9514, UNDERGROUND.
3	T. 12 N.,	R. 19 E.													6.10				6.10	
TOTAL ACRES ALLOTTED																			10.00	DOUGLAS COUNTY APN 1219-03-002-088.

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT/ ACRE	TOTAL AC.-FT.								
V-06320	WILLIAM R. TOMERLIN TRUST DATED AUG. 11, 1976	WHEELER CREEK NO. 1 AND WHEELER CREEK NO. 2	* WHEELER CREEK NO. 1 NW¼SW¼ SEC. 10, T.12N., R.19E., M.D.B.&M., S.00°45'E. 1,000 FT. FROM W¼ COR. OF SAID SECTION 10.  ** WHEELER CREEK NO. 2 SW¼SW¼ SEC. 10, T.12N., R.19E., M.D.B.&M., S.03°40'E. 2,640 FT. FROM W¼ COR. OF SAID SECTION 10.	APR.1 TO OCT. 15	IRRIGATION	* 0.652	4.00	196.40								
				JAN. 1 TO DEC.31	DOMESTIC	** 1.174										
				JAN. 1 TO DEC.31	STOCK WATER											
					1852											
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS									
SECTION	TOWN- SHIP	RANGE	N E		N W		S W		S E							
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
9	T. 12 N.,	R. 19 E.										0.50			0.50	
10	T. 12 N.,	R. 19 E.									5.80	28.50	13.70	0.60	48.60	
TOTAL ACRES ALLOTTED															49.10	
DOMESTIC AND STOCK WATERING FOR 32 HEAD OF CATTLE, 32 CALVES AND 1 HAPPY BULL.  THE STATE ENGINEER DETERMINES THAT ACREAGE AND DUTY BE REDUCED AS REFLECTED IN THE "PLACE OF USE" DESCRIPTION BASED ON MAP NO. 4891, "U.S. GEOLOGICAL SURVEY, HYDROGRAPHIC BRANCH, RECLAMATION SERVICE, FOR THE TRUCKEE-CARSON PROJECT NEV.", DATED JULY 27, 1904, AND AERIAL PHOTOS OF CARSON VALLEY BOTTOM LANDS, DATED OCT. 20, 1938.  THIS PROOF IS SUPPLEMENTED BY PERMIT 24806, CERTIFICATE 7584; PERMIT 24807, CERTIFICATE 7583; PERMIT 25601, CERTIFICATE 7586 AND AN UNDERGROUND SOURCE UNDER PERMIT 25409, CERTIFICATE 7585. THE STATE ENGINEER DETERMINES THAT NO ADDITIONAL DUTY OR DIVERSION RATE ARE ALLOWED ON LANDS IRRIGATED FROM THE SAME WATER SOURCE UNDER A PROOF OF APPROPRIATION AND PERMITTED RIGHTS. THEREFORE, THE TOTAL DUTY OF WATER SHALL NOT EXCEED 4.00 ACRES-FEET PER ACRE FROM ANY AND/OR ALL SOURCES.																

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

V-06320 (cont.)		DOUGLAS COUNTY APN'S 1219-10-002-011, 012, 013, 018 AND THE EAST PART OF PARCEL 1219-09-002-004.					
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PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.
V-06321	MYLES S. DOUGLAS AND AMY B. DOUGLAS, AS GRANTORS AND TRUSTEES OF THE BARTHOLOMEW FAMILY TRUST, DATED NOVEMBER 21, 2001  HENRY EDWARD WARG AND GERALDINE GARDNER REVOCABLE TRUST, DATED OCT. 27, 2005	UNNAMED SPRING (D)-DIRECT DIVERSION, LUTHER CREEK - RETURN FLOW	**UNNAMED SPRING (D) SE1/4NW1/4 SEC. 26, T.12N., R.19E., M.D.B.&M., S.53°15'E., 3,300 FT. FROM NW COR. OF SAID SECTION 26.	APR. 1 TO OCT. 15	IRRIGATION	*1.50	4.00	96.24
			JAN. 1 TO DEC. 31	DOMESTIC				
			LUTHER CREEK - RETURN FLOW NE1/4SE1/4 SEC. 35, T.12N., R.19E., M.D.B.&M., S.13°21'16"W, 3,072 FT. FROM NE COR. OF SAID SECTION 35.	The State Engineer determines that no vested right is established from Luther Creek for "drain and waste" water only. No diversion rate or duty is allowed under this proof. See Section V.				

PLACE OF USE 40 ACRE DESCRIPTIONS														ACRES PER SECTION	REMARKS					
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E					
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
24	T. 12 N.	R. 19 E.											4.00	12.30					16.30	DOMESTIC AND STOCK WATERING FOR 122 HEAD OF LIVESTOCK.
25	T. 12 N.	R. 19 E.					13.60	10.46											24.06	THE TOTAL COMBINED DUTY OF WATER SHALL NOT EXCEED 4.0 ACRE-FEET PER ACRE FROM ANY AND/OR ALL SOURCES.
TOTAL ACRES ALLOTTED																			40.36	

\* 1.50 CFS IS THE MINIMUM FLOW RATE FROM UNNAMED SPRING (D) AND IS TO BE USED IN A ROTATION SCHEME OF IRRIGATING LAND UNDER PROOFS V-06321, V-06323 AND V-08850. FLOW IN EXCESS OF 1.5 CFS SHALL BE DIVIDED IN A 60%/40% SPLIT WITH 40% OF THE WATER ABOVE 1.5 CFS DIVERTED THROUGH THE DIVERSION TO THE NORTH THAT FLOWS BENEATH FOOTHILL ROAD TO THE EAST AND DIRECTS WATER THROUGH THE "BISECTING DITCH" UNDER CLAIM NO. V-08850. 60% OF THE FLOW IN EXCESS OF 1.5 CFS WILL REMAIN IN THE DITCH THAT PROVIDES WATER TO HERITAGE RANCH WATER USERS UNDER CLAIMS V-06321, V-06323 AND V-08850. REFER TO TABLE 8 FOR THE DISTRIBUTION TABLE AS IT PERTAINS TO THE 60%/40% DIVISION OF THE IRRIGATION WATER FROM UNNAMED SPRING (D).

THE STATE ENGINEER DETERMINES THAT THIS PROOF SUPERCEDES PERMIT 24918, CERTIFICATE 7843, "UNNAMED SPRING", AND PERMIT 24919, CERTIFICATE 7842, "UNNAMED SPRING", AND PROOF V02856 ON THE CLAIMED 40.36 ACRES.  
DDUGLAS COUNTY APN'S 1219-25-001-001, 002.

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.							
V-06322	GRANAT REVOCABLE TRUST OF 10-18-85 MYLES S. DOUGLAS AND AMY B. DOUGLAS GRANTORS AND TRUSTEES OF THE BARTHOLOMEW FAMILY TRUST, DATED NOVEMBER 21, 2001	MILLER CREEK, UNNAMED SPRING (A) & UNNAMED SPRING (D)	* MILLER CREEK NE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.82°27'34"E. 1,982.63 FT. FROM NW COR. OF SAID SECTION 26.	APR.1 TO OCT. 15	IRRIGATION	* 0.085	* 2.71	6.69							
				JAN. 1 TO DEC.31	DOMESTIC	** 0.008	** 2.43	6.00							
				1853		***	***	***							
			The State Engineer determines that Miller Creek is subject to a 4 day rotation for Green Acres water users and a 10 day rotation for the Scossa Ranch every 14 days.												
			** UNNAMED SPRING (A) NE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.65°20'28"E. 2,614.06 FT. FROM NW COR. OF SAID SECTION 26.	Unnamed Creek is the same water source as Jackson Spring "A" under Proof V06342.											
			***UNNAMED SPRING (D) SE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.47°37'14"E. 3,608 FT. FROM NW COR. OF SAID SECTION 26.	The State Engineer determines that a vested right is established from Unnamed Spring (D) for 40% of the balance of the flow after the first 1.5 cfs is delivered to Claims V-06321, V-06323 and V-08650. See Section V.											
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS								
SECTION	TOWN-SHIP	RANGE	N E		N W		S W		S E		STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII  THE TOTAL COMBINED DUTY OF WATER SHALL NOT EXCEED 4.0 ACRE-FEET PER ACRE FROM ANY AND/OR ALL SOURCES.  THE STATE ENGINEER DETERMINES THAT THIS PROOF SUPERCEDES PERMIT 24525, CERTIFICATE 8136, "MILLER CREEK", AND PERMIT 24526, CERTIFICATE 8137, "UNNAMED CREEK", ON THE CLAIMED 2.47 ACRES.  THE WEST PORTION OF LOT 10 ON THE SUPPORTING MAP, PORTION OF DOUGLAS COUNTY APN 1219-25-001-001 LOCATED WITHIN THE GREEN ACRES SUBDIVISION.				
			NE	NW	SW	SE	NE	NW	SW	SE		NE	NW	SW	SE
24	T. 12 N., R. 19 E.											2.47			
TOTAL ACRES ALLOTTED											2.47				
***REFER TO THE ROTATION SCHEOLE UNDER TABLE 8 FOR UNNAMED SPRING (A).  ***The first 1.50 cfs from Unnamed Spring (D) is allocated to Proofs V-06321, V-06323 and V-08850. Flow in Excess of 1.50 cfs shall be divided in a 60%/40% split, with 40% being routed through the diversion to the north, that flows beneath Foothill Road to the east and directs water through the "Bisecting Ditch" under claim V-08850. The 40% portion will be used to supplement Spring (A) flow within the samerotatation schedule for said spring (A) as applied to Proofs V-06322, V-06325, V-06326, V-06327, V-06328, V-06329, V-06330, V-06331, V-06333, V-06334, V-07486, V-09264, V-09285, V-09286 and V-09270. Refer to Table 8 for the distribution table as it pertains to the 60%/40% division of the irrigation water from Unnamed Spring (D).															

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.												
V-06323	THE ABBOTT FAMILY TRUST OF SEPTEMBER 9, 2004	UNNAMED SPRING (D)-DIRECT DIVERSION, LUTHER CREEK - RETURN FLOW	**UNNAMED SPRING (D) SE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.53°15'E., 3,300 FT. FROM NW COR. OF SAID SECTION 26.	APR.1 TO OCT. 15	IRRIGATION	*	*	*												
				JAN. 1 TO DEC.31	DOMESTIC	**1.50	4.00	161.40												
					1853															
			*LUTHER CREEK - RETURN FLOW NE¼SE¼ SEC. 35, T.12N., R.19E., M.D.B.&M., S.13°21'16"W. 3,072 FT. FROM NE COR. OF SAID SECTION 35.	The State Engineer determines that a vested right is established from Luther Creek for "drain and waste" water only. No diversion rate or duty is allowed under this proof. See Section V.																
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS													
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E				STOCKWATER IS ALSO RECOGNIZED. SEE SEC. XII	
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
25	T. 12 N., R. 19 E.							17.44											17.44	THE TOTAL COMBINED DUTY OF WATER SHALL NOT EXCEED 4.0 ACRE-FEET PER ACRE FROM ANY AND/OR ALL SOURCES.
26	T. 12 N., R. 19 E.		22.61			0.30													22.91	
TOTAL ACRES ALLOTTED																			40.35	THE STATE ENGINEER DETERMINES THAT THIS PROOF SUPERCEDES THAT PORTION OF PERMIT 24918, CERTIFICATE 7843 "UNNAMED SPRING", AND PERMIT 24919, CERTIFICATE 7842, "UNNAMED SPRING", AND PROOF V02856 ON THE CLAIMED 40.35 ACRES. DOUGLAS COUNTY APN 1219-26-001-036.
* 1.50 CFS IS THE IS THE MINIMUM FLOW RATE FROM UNNAMED SPRING (D) AND IS TO BE USED IN A ROTATION SCHEME OF IRRIGATING LAND UNDER PROOFS V-06321, V-06323 AND V-06850. FLOW IN EXCESS OF 1.5 CFS SHALL BE DIVIDED IN A 60%/40% SPLIT WITH 40% OF THE WATER ABOVE 1.5 CFS DIVERTED THROUGH THE DIVERSION TO THE NORTH THAT FLOWS BENEATH FOOTHILL ROAD TO THE EAST AND DIRECTS WATER THROUGH THE "BISECTING DITCH" UNDER CLAIM NO. V-06850. 60% OF THE FLOW IN EXCESS OF 1.5 CFS WILL REMAIN IN THE DITCH THAT PROVIDES WATER TO HERITAGE RANCH WATER USERS UNDER CLAIMS V-06321, V-06323 AND V-06850. REFER TO TABLE 8 FOR THE DISTRIBUTION TABLE AS IT PERTAINS TO THE 60%/40% DIVISION OF THE IRRIGATION WATER FROM UNNAMED SPRING (D).																				

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.												
V-06324	EDWARD GROENENDYKE	MILLER CREEK	NE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.82°27'34"E. 1,982.63 FT. FROM NW COR. OF SAID SECTION 26.	APR.1 TO OCT. 15 JAN. 1 TO DEC.31	IRRIGATION DOMESTIC 1853	0.066	2.71	6.86												
The State Engineer determines that Miller Creek is subject to a 4 day rotation for Green Acres water users and a 10 day rotation for the Scossa Ranch every 14 days.																				
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS													
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E					STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII  THE TOTAL COMBINED DUTY OF WATER SHALL NOT EXCEED 4.0 ACRE-FEET PER ACRE FROM ANY AND/OR ALL SOURCES.  THE STATE ENGINEER DETERMINES THAT THIS PROOF SUPERCEDES PERMIT 24525, CERTIFICATE 8136, "MILLER CREEK", ON THE CLAIMED 2.52 ACRES.  X - LOT 1 ON THE SUPPORTING MAP. DDUGLAS COUNTY APN 1219-26-001-034.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
26	T. 12 N.,	R. 19 E.					2.53											2.53		
TOTAL ACRES ALLOTTED																		2.53		

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.											
V-06325	RICHARD E. BROWN & SHARON E. BURNS	MILLER CREEK, UNNAMED SPRING (A) AND UNNAMED SPRING (D)	* MILLER CREEK NE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.82°27'34"E, 1,982.63 FT. FROM NW COR. OF SAID SECTION 26.	APR.1 TO OCT. 15	IRRIGATION	* 0.066	* 2.71	6.89											
			JAN. 1 TO DEC.31	DOMESTIC	** 0.006	** 2.43	6.17												
			1853	***	***	***	***												
			The State Engineer determines that Miller Creek is subject to a 4 day rotation for Green Acres water users and a 10 day rotation for the Scossa Ranch every 14 days.																
			** UNNAMED SPRING (A) NE¼NW¼ SEC. 26, T.12N., R.19E., M.O.B.&M., S.65°20'28"E, 2,614.06 FT. FROM NW COR. OF SAID SECTION 26.	Unnamed Spring (A) is the same water source as Jackson Spring "A" under Proof V06342.															
			***UNNAMED SPRING (D) SE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.47°37'14"E, 3,508 FT. FROM NW COR. OF SAID SECTION 26.	The State Engineer determines that a vested right is established from Unnamed Spring (D) for 40% of the balance of the flow after the first 1.5 cfs is delivered to Claims V-06321, V-06323 and V-08850. See Section V.															
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS												
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E				STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII  THE TOTAL COMBINED DUTY OF WATER SHALL NOT EXCEED 4.0 ACRE-FEET PER ACRE FROM ANY AND/OR ALL SOURCES.  THE STATE ENGINEER DETERMINES THAT THIS PROOF SUPERCEDES PERMIT 24525, CERTIFICATE 8136, "MILLER CREEK", AND PERMIT 24526, CERTIFICATE 8137, "UNNAMED CREEK", ON THE CLAIMED 2.54 ACRES.  X - LOT 6 ON THE SUPPORTING MAP. DOUGLAS COUNTY APN 1219-26-001-029.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
24	T. 12 N., R. 19 E.		X	X															
TOTAL ACRES ALLOTTED																			2.54
**REFER TO THE ROTATION SCHEDULE UNDER TABLE 8 FOR UNNAMED SPRING (A).																			
***The first 1.50 cfs from Unnamed Spring (D) is allocated to Proofs V-06321, V-06323 and V-08850. Flow in Excess of 1.50 cfs shall be divided in a 60%/40% split, with 40% being routed through the diversion to the north, that flows beneath Foothill Road to the east and directs water through the "Bisecting Ditch" under claim V-08850. The 40% portion will be used to supplement Spring (A) flow within the same rotation schedule for said spring (A) as applied to Proofs V-06322, V-06325, V-06326, V-06327, V-06328, V-06329, V-06330, V-06331, V-06333, V-06334, V-07486, V-09264, V-09265, V-09266 and V-09270. Refer to Table 8 for the distribution table as it pertains to the 60%/40% division of the irrigation water from Unnamed Spring (D).																			

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.											
V-06326	JEANNE C. NELSON REVOCABLE TRUST	MILLER CREEK UNNAMED SPRING (A) & UNNAMED SPRING (D)	* MILLER CREEK NE½NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.82°27'34"E, 1,982.63 FT. FROM NW COR. OF SAID SECTION 26.	APR.1 TO OCT. 15	IRRIGATION	* 0.065	* 2.71	6.76											
				JAN. 1 TO DEC.31	DOMESTIC	** 0.006	** 2.43	6.08											
				1853	---	---	---												
			The State Engineer determines that Miller Creek is subject to a 4 day rotation for Green Acres water users and a 10 day rotation for the Scossa Ranch every 14 days.																
			** UNNAMED SPRING (A) NE½NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.65°20'28"E, 2,614.06 FT. FROM NW COR. OF SAID SECTION 26.	Unnamed Spring (A) is the same water source as Jackson Spring "A" under Proof V06342.															
			***UNNAMED SPRING (D) SE½NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.47°37'14"E, 3,508 FT. FROM NW COR. OF SAID SECTION 26.	The State Engineer determines that a vested right is established from Unnamed Spring (D) for 40% of the balance of the flow after the first 1.5 cfs is delivered to Claims V-06321, V-06323 and V-06850. See Section V.															
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS												
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E				STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
24	T. 12 N.	R. 19 E.	X	X														2.50	THE TOTAL COMBINED DUTY OF WATER SHALL NOT EXCEED 4.0 ACRE-FEET PER ACRE FROM ANY AND/OR ALL SOURCES.
TOTAL ACRES ALLOTTED																			
**REFER TO THE ROTATION SCHEDULE UNDER TABLE 8 FOR UNNAMED SPRING (A).																			THE STATE ENGINEER DETERMINES THAT THIS PROOF SUPERCEDES PERMIT 24525, CERTIFICATE 8136, "MILLER CREEK", AND PERMIT 24526, CERTIFICATE 8137, "UNNAMED CREEK", ON THE CLAIMED 2.54 ACRES.
***The first 1.50 cfs from Unnamed Spring (D) is allocated to Proofs V-06321, V-06323 and V-06850. Flow in Excess of 1.50 cfs shall be divided in a 60%/40% split, with 40% being routed through the diversion to the north, that flows beneath Foothill Road to the east and directs water through the "Bisecting Ditch" under claim V-06850. The 40% portion will be used to supplement Spring (A) flow within the same rotation schedule for said spring (A) as applied to Proofs V-06322, V-06325, V-06326, V-06327, V-06328, V-06329, V-06330, V-06331, V-06333, V-06334, V-07486, V-09264, V-09265, V-09266 and V-09270. Refer to Table 8 for the distribution table as it pertains to the 60%/40% division of the irrigation water from Unnamed Spring (D).																			
X - LOT 5 ON THE SUPPORTING MAP. DOUGLAS COUNTY APN 1219-26-001-030.																			

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.											
V-06327	BLAISE & LESLIE CARRIG	MILLER CREEK, UNNAMED SPRING (A) & UNNAMED SPRING (D)	* MILLER CREEK NE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.82°27'34"E. 1,982.63 FT. FROM NW COR. OF SAID SECTION 26.	APR.1 TO OCT. 15	IRRIGATION	* 0.128	* 2.71	13.28											
				JAN. 1 TO DEC.31	DOMESTIC	** 0.012	** 2.43	11.91											
				1853 ***															
			The State Engineer determines that Miller Creek is subject to a 4 day rotation for Green Acres water users and a 10 day rotation for the Scossa Ranch every 14 days.																
				** UNNAMED SPRING (A) NE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.65°20'28"E. 2,614.06 FT. FROM NW COR. OF SAID SECTION 26.	Unnamed Spring (A) is the same water source as Jackson Spring "A" under Proof V06342.														
	***UNNAMED SPRING (D) SE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.47°37'14"E. 3,508 FT. FROM NW COR. OF SAID SECTION 26.	The State Engineer determines that a vested right is established from Unnamed Spring (D) for 40% of the balance of the flow after the first 1.5 cfs is delivered to Claims V-06321, V-06323 and V-08850. See Section V.																	
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS												
SECTION	TOWN-SHIP	RANGE	NE				NW				SW				SE				STOCKWATER IS ALSO RECOGNIZED. SEE SEC. XII THE TOTAL COMBINED DUTY OF WATER SHALL NOT EXCEED 4.0 ACRE-FEET PER ACRE FROM ANY AND/OR ALL SOURCES.  THE STATE ENGINEER DETERMINES THAT THIS PROOF SUPERCEDES PERMIT 24525, CERTIFICATE 8136, "MILLER CREEK", AND PERMIT 24526, CERTIFICATE 8137, "UNNAMED CREEK", ON THE CLAIMED 4.90 ACRES.  X - LOT 16 ON THE SUPPORTING MAP. DOUGLAS COUNTY APN 1219-23-002-012.
23	T. 12 N., R. 19 E.		NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
26	T. 12 N., R. 19 E.	X																X	
TOTAL ACRES ALLOTTED 4.90																			
**REFER TO THE ROTATION SCHEDULE UNDER TABLE 8 FOR UNNAMED SPRING (A).																			
***The first 1.50 cfs from Unnamed Spring (D) is allocated to Proofs V-06321, V-06323 and V-08850. Flow in Excess of 1.50 cfs shall be divided in a 60%/40% split, with 40% being routed through the diversion to the north, that flows beneath Foothill Road to the east and directs water through the "Bisecting Ditch" under claim V-08850. The 40% portion will be used to supplement Spring (A) flow within the same rotation schedule for said spring (A) as applied to Proofs V-06322, V-06325, V-06326, V-06327, V-06328, V-06329, V-06330, V-06331, V-06333, V-06334, V-07486, V-09264, V-09265, V-09266 and V-09270. Refer to Table 8 for the distribution table as it pertains to the 60%/40% division of the irrigation water from Unnamed Spring (D).																			

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.							
V-06328	WAYNE A. & SHARRON W. CURRIE	MILLER CREEK, UNNAMED SPRING (A) & UNNAMED SPRING (D)	* MILLER CREEK NE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.82°27'34"E. 1,982.63 FT. FROM NW COR. OF SAID SECTION 26.												
				APR. 1 TO OCT. 15	IRRIGATION	* 0.145	* 2.71	15.04							
				JAN. 1 TO DEC. 31	DOMESTIC	** 0.013	** 2.43	13.49							
					1853	***	***	***							
			The State Engineer determines that Miller Creek is subject to a 4 day rotation for Green Acres water users and a 10 day rotation for the Scossa Ranch every 14 days.												
			** UNNAMED SPRING (A) NE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.65°20'28"E. 2,614.06 FT. FROM NW COR. OF SAID SECTION 26.	Unnamed Spring (A) is the same water source as Jackson Spring "A" under Proof V06342.											
			***UNNAMEO SPRING (D) SE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.47°37'14"E. 3,508 FT. FROM NW COR. OF SAID SECTION 26.	The State Engineer determines that a vested right is established from Unnamed Spring (D) for 40% of the balance of the flow after the first 1.5 cfs is delivered to Claims V-06321, V-06323 and V-08850. See Section V.											
PLACE OF USE 40 ACRE DESCRIPTIONS							ACRES PER SECTION	REMARKS							
SECTION	TOWN-SHIP	RANGE	N E		N W		S W		S E		STOCKWATER IS ALSO RECOGNIZED. SEE SEC. XII  THE TOTAL COMBINED DUTY OF WATER SHALL NOT EXCEED 4.0 ACRE-FEET PER ACRE FROM ANY AND/OR ALL SOURCES.  THE STATE ENGINEER DETERMINES THAT THIS PROOF SUPERCEDES PERMIT 24525, CERTIFICATE 8136, "MILLER CREEK", AND PERMIT 24526, CERTIFICATE 8137, "UNNAMED CREEK", ON THE CLAIMED 5.55 ACRES.  X - LOT 13 ON THE SUPPORTING MAP, DDUGLAS COUNTY APN 1219-24-002-006.				
			NE	NW	SW	SE	NE	NW	SW	SE		NE	NW	SW	SE
24	T. 12 N.,	R. 19 E.											X	X	
TOTAL ACRES ALLOTTED											5.55				
***REFER TO THE ROTATION SCHEDULE UNDER TABLE 8 FOR UNNAMED SPRING (A).  ***The first 1.50 cfs from Unnamed Spring (D) is allocated to Proofs V-06321, V-06323 and V-08650. Flow in Excess of 1.50 cfs shall be divided in a 60%/40% split, with 40% being routed through the diversion to the north, that flows beneath Foothill Road to the east end directs water through the "Bisecting Ditch" under claim V-08650. The 40% portion will be used to supplement Spring (A) flow within the same rotation schedule for said spring (A) as applied to Proofs V-06322, V-06325, V-06326, V-06327, V-06328, V-06329, V-06330, V-06331, V-06333, V-06334, V-07486, V-09264, V-09265, V-09266 and V-09270. Refer to Table 6 for the distribution table as it pertains to the 60%/40% division of the irrigation water from Unnamed Spring (D).															

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF ND.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT/J ACRE	TOTAL AC.-FT.											
V-06329	DAVID J. & ANNE OELLA ROSA	MILLER CREEK, UNNAMED SPRING (A) & UNNAMED SPRING (D)	* MILLER CREEK NE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.82°27'34"E. 1,982.63 FT. FROM NW COR. OF SAID SECTION 26.																
				APR.1 TO OCT. 15	IRRIGATION	* 0.136	* 2.71	14.15											
				JAN. 1 TO DEC.31	DOMESTIC	** 0.012	** 2.43	12.68											
				1853	***	***	***												
			The State Engineer determines that Miller Creek is subject to a 4 day rotation for Green Acres water users and a 10 day rotation for the Scossa Ranch every 14 days.																
			** UNNAMED SPRING (A) NE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.65°20'28"E. 2,614.06 FT. FROM NW COR. OF SAID SECTION 26.	Unnamed Spring (A) is the same water source as Jackson Spring "A" under Proof V06342.															
			***UNNAMED SPRING (D) SE¼NW¼ SEC. 26, T.12N., R.19E., M.O.B.&M., S.47°37'14"E. 3,508 FT. FROM NW COR. OF SAID SECTION 26.	The State Engineer determines that a vested right is established from Unnamed Spring (D) for 40% of the balance of the flow after the first 1.5 cfs is delivered to Claims V-06321, V-06323 and V-08850. See Section V.															
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS												
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E				STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII  THE TOTAL COMBINED DUTY OF WATER SHALL NOT EXCEED 4.0 ACRE-FEET PER ACRE FROM ANY AND/OR ALL SOURCES.  THE STATE ENGINEER DETERMINES THAT THIS PROOF SUPERCEDES PERMIT 24525, CERTIFICATE 8136, "MILLER CREEK", AND PERMIT 24526, CERTIFICATE 8137, "UNNAMED CREEK", ON THE CLAIMED 5.22 ACRES.  X - LOT 14 ON THE SUPPORTING MAP. DOUGLAS COUNTY APN 1219-24-002-005.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
24	T. 12 N.	R. 19 E.											X						
TOTAL ACRES ALLOTTED																			5.22
The 5.22 acres listed as the place of use of this proof includes a sixty (60) foot easement located on the west boundary of Douglas County APN 19-290-15.  **REFER TO THE ROTATION SCHEDULE UNDER TABLE 8 FOR UNNAMED SPRING (A).  ***The first 1.50 cfs from Unnamed Spring (D) is allocated to Proofs V-06321, V-06323 and V-08850. Flow in Excess of 1.50 cfs shall be divided in a 60%/40% split, with 40% being routed through the diversion to the north, that flows beneath Foothill Road to the east and directs water through the "Bisecting Ditch" under claim V-08850. The 40% portion will be used to supplement Spring (A) flow within the same rotation schedule for said spring (A) as applied to Proofs V-06322, V-06325, V-06326, V-06327, V-06328, V-06329, V-06330, V-06331, V-06333, V-06334, V-07486, V-09264, V-09265, V-09266 and V-09270. Refer to Table 8 for the distribution table as it pertains to the 60%/40% division of the irrigation water from Unnamed Spring (D).																			

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SDURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.											
V-06330	GARY B. AND CLAUDIA A. CASTEEL	MILLER CREEK, UNNAMED SPRING (A) & UNNAMED SPRING (D)	* MILLER CREEK NE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.82°27'34"E, 1,982.63 FT. FROM NW COR. OF SAID SECTION 26.	APR.1 TO OCT. 15	IRRIGATION	* 0.133	* 2.71	13.77											
				JAN. 1 TO DEC.31	DOMESTIC	** 0.012	** 2.43	12.34											
				1853	***	***	***	***											
			The State Engineer determines that Miller Creek is subject to a 4 day rotation for Green Acres water users and a 10 day rotation for the Scossa Ranch every 14 days.																
			** UNNAMED SPRING (A) NE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.65°20'28"E, 2,614.06 FT. FROM NW COR. OF SAID SECTION 26.	Unnamed Spring (A) is the same water source as Jackson Spring "A" under Proof V06342.															
			***UNNAMED SPRING (D) SE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.47°37'14"E, 3,508 FT. FROM NW COR. OF SAID SECTION 26.	The State Engineer determines that a vested right is established from Unnamed Spring (D) for 40% of the balance of the flow after the first 1.5 cfs is delivered to Claims V-06321, V-06323 and V-08850. See Section V.															
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS												
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E				STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII  THE TOTAL COMBINED DUTY OF WATER SHALL NOT EXCEED 4.0 ACRE-FEET PER ACRE FROM ANY AND/OR ALL SOURCES.  THE STATE ENGINEER DETERMINES THAT THIS PROOF SUPERCEDES PERMIT 24525, CERTIFICATE 8136, "MILLER CREEK", AND PERMIT 24526, CERTIFICATE 8137, "UNNAMED CREEK", ON THE CLAIMED 5.08 ACRES.  X - LOT 8 DN THE SUPPORTING MAP. DOUGLAS COUNTY APN 1219-23-002-014.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
23	T. 12 N., R. 19 E.																	X	
24	T. 12 N., R. 19 E.												X						
25	T. 12 N., R. 19 E.								X										
26	T. 12 N., R. 19 E.		X																
TOTAL ACRES ALLOTTED																		5.08	
**REFER TO THE ROTATION SCHEDULE UNDER TABLE 8 FOR UNNAMED SPRING (A).																			
***The first 1.50 cfs from Unnamed Spring (D) is allocated to Proofs V-06321, V-06323 and V-08850. Flow in Excess of 1.50 cfs shall be divided in a 60%/40% split, with 40% being routed through the diversion to the north, that flows beneath Foothill Road to the east end directs water through the "Bisecting Ditch" under claim V-08850. The 40% portion will be used to supplement Spring (A) flow within the same rotation schedule for said spring (A) as applied to Proofs V-06322, V-06325, V-06326, V-06327, V-06329, V-06330, V-06331, V-06333, V-06334, V-07486, V-09264, V-09265, V-09266 and V-09270. Refer to Table 8 for the distribution table as it pertains to the 60%/40% division of the irrigation water from Unnamed Spring (D).																			

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.											
V-06331	BARTHOLOMEW FAMILY TRUST	MILLER CREEK, UNNAMED SPRING (A) & UNNAMED SPRING (D)	* MILLER CREEK NE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.82°27'34"E. 1,982.63 FT. FROM NW COR. OF SAID SECTION 26.	APR.1 TO OCT. 15	IRRIGATION	* 0.128	* 2.71	13.22											
			JAN. 1 TO DEC.31	DOMESTIC	** 0.011	** 2.43	11.86												
			1853					***	***	***									
			The State Engineer determines that Miller Creek is subject to a 4 day rotation for Green Acres water users and a 10 day rotation for the Scossa Ranch every 14 days.																
			** UNNAMED SPRING (A) NE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.65°20'28"E. 2,614.06 FT. FROM NW COR. OF SAID SECTION 26.	Unnamed Spring (A) is the same water source as Jackson Spring "A" under Proof V06342.															
			***UNNAMED SPRING (D) SE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.47°37'14"E. 3,508 FT. FROM NW COR. OF SAID SECTION 26.	The State Engineer determines that a vested right is established from Unnamed Spring (D) for 40% of the balance of the flow after the first 1.5 cfs is delivered to Claims V-06321, V-06323 and V-08850. See Section V.															
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS												
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E				STOCKWATER IS ALSO RECOGNIZED FOR 6 HEAD OF LIVESTOCK. SEE SEC. XII
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
24	T. 12 N.	R. 19 E.											X						
25	T. 12 N.	R. 19 E.						X											
TOTAL ACRES ALLOTTED																		4.88	
**REFER TO THE ROTATION SCHEDULE UNDER TABLE 8 FOR UNNAMED SPRING (A).																			
***The first 1.50 cfs from Unnamed Spring (D) is allocated to Proofs V-06321, V-06323 and V-08850. Flow in Excess of 1.50 cfs shall be divided in a 60%/40% split, with 40% being routed through the diversion to the north, that flows beneath Foothill Road to the east and directs water through the "Bisecting Ditch" under claim V-08850. The 40% portion will be used to supplement Spring (A) flow within the same rotation schedule for said spring (A) as applied to Proofs V-06322, V-06325, V-06326, V-06327, V-06328, V-06329, V-06330, V-06331, V-06333, V-06334, V-07486, V-09264, V-09265, V-09266 and V-09270. Refer to Table 8 for the distribution table as it pertains to the 60%/40% division of the irrigation water from Unnamed Spring (D).																			
THE STATE ENGINEER DETERMINES THAT THIS PROOF SUPERCEDES PERMIT 24525, CERTIFICATE 8136, "MILLER CREEK", AND PERMIT 24526, CERTIFICATE 8137, "UNNAMED CREEK", ON THE CLAIMED 4.88 ACRES.																			
X - LOT 9 ON THE SUPPORTING MAP. DOUGLAS COUNTY APN 1219-24-002-010.																			

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLDW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.
V-06332	JUDY GAINES	MILLER CREEK	* MILLER CREEK NE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.82°27'34"E. 1,982.63 FT. FROM NW COR. OF SAID SECTION 26.					
				APR.1 TO OCT. 15	IRRIGATION	* 0.066	* 2.71	6.88
				JAN. 1 TO DEC.31	DOMESTIC			
				1853				
The State Engineer determines that Miller Creek is subject to a 4 day rotation for Green Acres water users and a 10 day rotation for the Scossa Ranch every 14 days.								

PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS
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SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E					STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII  THE TOTAL COMBINED DUTY OF WATER SHALL NOT EXCEED 4.0 ACRE-FEET PER ACRE FROM ANY AND/OR ALL SOURCES.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
26	T. 12 N.,	R. 19 E.		X			X											2.54	THE STATE ENGINEER DETERMINES THAT THIS PROOF SUPERCEDES PERMIT 24525, CERTIFICATE 8136, "MILLER CREEK", ON THE CLAIMED 2.54 ACRES.  X - LOT 2 ON THE SUPPORTING MAP, DOUGLAS COUNTY APN 1219-26-001-033.	
TOTAL ACRES ALLOTTED 2.54																				

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.											
V-06333	RICHARD C. & SANDRA J. FERGUSON	MILLER CREEK, UNNAMED SPRING (A) & UNNAMED SPRING (D)	* MILLER CREEK NE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.82°27'34"E, 1,982.63 FT. FROM NW COR. OF SAID SECTION 26.	APR. 1 TO OCT. 15	IRRIGATION	* 0.130	* 2.71	13.50											
				JAN. 1 TO DEC.31	DOMESTIC	** 0.012	** 2.43	12.10											
				1853	***	***	***	***											
			The State Engineer determines that Miller Creek is subject to a 4 day rotation for Green Acres water users and a 10 day rotation for the Scossa Ranch every 14 days.																
			** UNNAMED SPRING (A) NE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.85°20'28"E, 2,614.06 FT. FROM NW COR. OF SAID SECTION 26.	Unnamed Spring (A) is the same water source as Jackson Spring "A" under Proof V06342.															
			***UNNAMED SPRING (D) SE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.47°37'14"E, 3,508 FT. FROM NW COR. OF SAID SECTION 26.	The State Engineer determines that a vested right is established from Unnamed Spring (D) for 40% of the balance of the flow after the first 1.5 cfs is delivered to Claims V-06321, V-06323 and V-08850. See Section V.															
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS												
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E				STOCKWATER IS ALSO RECOGNIZED. SEE SEC. XII  THE TOTAL COMBINED DUTY OF WATER SHALL NOT EXCEED 4.0 ACRE-FEET PER ACRE FROM ANY AND/OR ALL SOURCES.  THE STATE ENGINEER DETERMINES THAT THIS PROOF SUPERCEDES PERMIT 24525, CERTIFICATE 8136, "MILLER CREEK", AND PERMIT 24526, CERTIFICATE 8137, "UNNAMED CREEK", ON THE CLAIMED 4.98 ACRES.  X - LOT 7 ON THE SUPPORTING MAP. DOUGLAS COUNTY APN 1219-26-001-028.
23	T. 12 N.,	R. 19 E.	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
26	T. 12 N.,	R. 19 E.	X															X	
TOTAL ACRES ALLOTTED																			
4.98																			
**REFER TO THE ROTATION SCHEDULE UNDER TABLE 8 FOR UNNAMED SPRING (A).																			
***The first 1.50 cfs from Unnamed Spring (D) is allocated to Proofs V-06321, V-06323 and V-08850. Flow in Excess of 1.50 cfs shall be divided in a 60%/40% split, with 40% being routed through the diversion to the north, that flows beneath Foothill Road to the east and directs water through the "Bisecting Ditch" under claim V-08850. The 40% portion will be used to supplement Spring (A) flow within the same rotation schedule for said spring (A) as applied to Proofs V-06322, V-06325, V-06326, V-06327, V-06328, V-06329, V-06330, V-06331, V-06333, V-06334, V-07486, V-09264, V-09265, V-09266 and V-09270. Refer to Table 8 for the distribution table as it pertains to the 60%/40% division of the Irrigation water from Unnamed Spring (D).																			

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.												
V-06334	PEDRO AND MARGARET VILLALOBOS	MILLER CREEK & UNNAMED SPRING (A)	* MILLER CREEK NE½NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.82°27'34"E. 1,982.63 FT. FROM NW COR. OF SAID SECTION 26.	APR.1 TO OCT. 15	IRRIGATION	* 0.067	* 2.71	6.91												
				JAN. 1 TO DEC.31	DOMESTIC	** 0.006	** 2.43	6.20												
				1853 The State Engineer determines that Miller Creek is subject to a 4 day rotation for Green Acres water users and a 10 day rotation for the Scossa Ranch every 14 days.																
			** UNNAMED SPRING (A) NE½NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.65°20'28"E. 2,614.06 FT. FROM NW COR. OF SAID SECTION 26.		Unnamed Spring (A) is the same water source as Jackson Spring "A" under Proof V06342.															
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS													
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E					
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
26	T. 12 N., R. 19 E.			2.55															2.55	
																			TOTAL ACRES ALLOTTED	2.55
**REFER TO THE ROTATION SCHEDULE UNDER TABLE 8 FOR UNNAMED SPRING (A).																			STOCKWATER IS ALSO RECOGNIZED FOR 6 HEAD OF LIVESTOCK. SEE SEC. XII	
																			THE TOTAL COMBINED DUTY OF WATER SHALL NOT EXCEED 4.0 ACRE-FEET PER ACRE FROM ANY AND/OR ALL SOURCES.	
																			THE STATE ENGINEER DETERMINES THAT THIS PROOF SUPERCEDES PERMIT 24525, CERTIFICATE 8136, "MILLER CREEK", AND PERMIT 24526, CERTIFICATE 8137, "UNNAMED CREEK", ON THE CLAIMED 4.98 ACRES.	
																			X - LOT 3 ON THE SUPPORTING MAP. DOUGLAS COUNTY APN 1219-26-001-032.	

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.											
V-06335	BARTHOLOMEW FAMILY TRUST	MILLER CREEK	* MILLER CREEK NE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.82°27'34"E. 1,982.63 FT. FROM NW COR. OF SAID SECTION 26.	APR.1 TO OCT. 15 JAN. 1 TO DEC.31	IRRIGATION DOMESTIC 1853	* 0.068	* 2.71	6.86											
The State Engineer determines that Miller Creek is subject to a 4 day rotation for Green Acres water users and a 10 day rotation for the Scossa Ranch every 14 days.																			
PLACE OF USE 40 ACRE DESCRIPTIONS					ACRES PER SECTION	REMARKS													
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E				STOCKWATER IS ALSO RECOGNIZED FOR 6 HEAD OF LIVESTOCK, SEE SEC. XII  THE TOTAL COMBINED DUTY OF WATER SHALL NOT EXCEED 4.0 ACRE-Feet PER ACRE FROM ANY AND/OR ALL SOURCES.  THE STATE ENGINEER DETERMINES THAT THIS PROOF SUPERCEDES PERMIT 24525, CERTIFICATE 8136, "MILLER CREEK", ON THE CLAIMED 2.53 ACRES.  X - LDT 17 ON THE SUPPORTING MAP. DOUGLAS COUNTY APN 1219-26-001-027.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
23	T. 12 N.,	R. 19 E.															X	X	
26	T. 12 N.,	R. 19 E.	X	X															
					TOTAL ACRES ALLOTTED				2.53										

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.
V-06336	RON MITCHELL AND GINGER MITCHELL, HUSBAND AND WIFE AS JOINT TENANTS	SHERIDAN CREEK NORTH DIVERSION	NE¼SE¼ SEC. 15, T.12N., R.19E., M.D.B.&M., N.72°20'31"E. 5,412.47 FT. FROM SW COR. OF SAID SECTION 15.	APR.1 TO OCT. 15 JAN. 1 TO DEC.31	IRRIGATION DOMESTIC 1852	0.123	4.00	41.48

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

V-06336 (cont.)															PLACE OF USE 40 ACRE DESCRIPTIONS				ACRES PER SECTION	REMARKS
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E				STOCKWATER IS ALSO RECOGNIZED. SEE SEC. XII THE TOTAL COMBINED DUTY OF WATER SHALL NOT EXCEED 4.0 ACRE-FEET PER ACRE FROM ANY AND/OR ALL SOURCES. THIS PROOF IS SUPPLEMENTAL TO PROOF V06337. DOUGLAS COUNTY APN 1219-14-001-011.	
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
14	T. 12 N.,	R. 19 E.			10.26											0.11				
															TOTAL ACRES ALLOTTED				10.37	

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.
V-06337	RON MITCHELL AND GINGER MITCHELL, HUSBAND AND WIFE AS JOINT TENANTS	STUTLER CREEK	SE¼NE¼ SEC. 16, T.12N., R.19E., M.D.B.&M., N.07°10'24"W. 2,892.59 FT. FROM SE COR. OF SAID SECTION 16. THE WATERS OF STUTLER CREEK ARE THEN CONVEYED THROUGH A PIPELINE TO A POINT IN THE SE¼SE¼ SEC. 15, T.12N., R.19E., M.D.B.&M., WHERE THE WATERS OF STUTLER CREEK ARE COMMINGLED WITH THE WATERS OF SHERIDAN CREEK IN THE SHERIDAN CREEK CHANNEL. THE COMMINGLED WATERS ARE DIVERTED FROM THE SHERIDAN CREEK CHANNEL AT A POINT IN THE NE¼SE¼ SEC. 15, T.12N., R.19E., M.D.B.&M., N.72°20'31"E. 5,412.47 FT. FROM SW COR. OF SAID SECTION 15.	APR. 1 TO OCT. 15	IRRIGATION	0.043	* 1.49	15.45
				JAN. 1 TO DEC. 31	DOMESTIC			
					1905			

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

V-06337 (cont.)		PLACE OF USE 40 ACRE DESCRIPTIONS																ACRES PER SECTION	REMARKS
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E				STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII * THE TOTAL COMBINED DUTY OF WATER SHALL NOT EXCEED 4.0 ACRE-FEET PER ACRE FROM ANY AND/OR ALL SOURCES.  THIS PROOF IS SUPPLEMENTAL TO PROOF V06336. DOUGLAS COUNTY APN 1219-14-001-011.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
14	T. 12 N.,	R. 19 E.			10.26											0.11		10.37	
TOTAL ACRES ALLOTTED																			10.37

PRODF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPDSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.
V-06338	ERNEST E. PESTANA, TRUSTEE OF THE PESTANA 1986 FAMILY TRUST	STUTLER CREEK	SE¼NE¼ SEC. 16, T.12N., R.19E., M.D.B.&M., N.07°10'24"W. 2,892.59 FT. FROM SE COR. OF SAID SECTION 16. THE WATERS OF STUTLER CREEK ARE THEN CONVEYED THROUGH A PIPELINE TO A POINT IN THE SE¼SE¼ SEC. 15, T.12N., R.19E., M.D.B.&M., WHERE THE WATERS OF STUTLER CREEK ARE COMMINGLED WITH THE WATERS OF SHERIDAN CREEK IN THE SHERIDAN CREEK CHANNEL. THE COMMINGLED WATERS ARE DIVERTED FROM THE SHERIDAN CREEK CHANNEL AT A POINT IN THE NE¼SE¼ SEC. 15, T.12N., R.19E., M.D.B.&M., N.72°20'31"E. 5,412.47 FT. FROM SW COR. OF SAID SECTION 15.	APR.1 TO OCT. 15 JAN. 1 TO DEC.31	IRRIGATION DOMESTIC 1905	0.100	* 1.49	35.40

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

V-06338 (cont.)		PLACE OF USE 40 ACRE DESCRIPTIONS												ACRES PER SECTION	REMARKS					
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E					STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII  * THE TOTAL COMBINED DUTY OF WATER SHALL NOT EXCEED 4.0 ACRE-FEET PER ACRE FROM ANY AND/OR ALL SOURCES.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
14	T. 12 N.,	R. 19 E.						7.42	15.62											23.04
15	T. 12 N.,	R. 19 E.				0.72														0.72
															TOTAL ACRES ALLOTTED				23.76	THIS PROOF IS SUPPLEMENTAL TO PROOF V06339 AND IS SUPPLEMENTED BY PERMIT 7595, CERTIFICATE 1760. DOUGLAS COUNTY APN 1219-14-001-014.

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPDSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.												
V-06339	ERNEST E. PESTANA, TRUSTEE OF THE PESTANA 1986 FAMILY TRUST	SHERIDAN CREEK (NORTH DIVERSION)	NE¼SE¼ SEC. 15, T.12N., R.19E., M.D.B.&M., N.72°20'31"E, 5,412.47 FT. FROM SW COR. OF SAID SECTION 15.	APR.1 TO OCT. 15 JAN. 1 TO DEC.31	IRRIGATION DOMESTIC 1852	0.281	* 4.00	95.04												
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS													
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E					STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII  * THE TOTAL COMBINED DUTY OF WATER SHALL NOT EXCEED 4.0 ACRE-Feet PER ACRE FROM ANY AND/OR ALL SOURCES.  THIS PROOF IS SUPPLEMENTAL TO PROOF V06338 AND IS SUPPLEMENTED BY PERMIT 7595, CERTIFICATE 1760. DOUGLAS COUNTY APN 1219-14-001-014.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
14	T. 12 N.,	R. 19 E.						7.42	15.62										23.04	
15	T. 12 N.,	R. 19 E.				0.72													0.72	
TOTAL ACRES ALLOTTED																			23.76	

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.											
V-06340	DONALD T. HALL AND PEGGY HALL, HUSBAND AND WIFE AS JOINT TENANTS.	SHERIDAN CREEK (NORTH DIVERSION)	NE¼SE¼ SEC. 15, T.12N., R.19E., M.D.B.&M., N.72°20'31"E. 5,412.47 FT. FROM SW COR. OF SAID SECTION 15.																
				APR.1 TO OCT. 15	IRRIGATION	0.260	* 4.00	88.12											
				JAN. 1 TO DEC.31	DOMESTIC														
					1852														
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS												
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E				STOCKWATER IS ALSO RECDGNIZED. SEE SEC. XII  * THE TOTAL COMBINED DUTY OF WATER SHALL NOT EXCEED 4.0 ACRE-FEET PER ACRE FROM ANY AND/OR ALL SOURCES.  THIS PROOF IS SUPPLEMENTAL TO PROOF V06341 AND IS SUPPLEMENTED BY PERMIT 7595, CERTIFICATE 1760.  DOUGLAS COUNTY APN 1219-14-001-003.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
14	T. 12 N., R. 19 E.						8.88	11.88	1.17	0.10									
TOTAL ACRES ALLOTTED																		22.03	

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT/J ACRE	TOTAL AC.-FT.											
V-06341	DONALD T. HALL AND PEGGY HALL, HUSBAND AND WIFE AS JOINT TENANTS.	STUTLER CREEK	SE½NE¼ SEC. 16, T.12N., R.19E., M.D.B.&M., N.07°10'24"W. 2,892.59 FT. FRDM SE COR. OF SAID SECTION 16. THE WATERS OF STUTLER CREEK ARE THEN CONVEYED THROUGH A PIPELINE TO A POINT IN THE SE½SE¼ SEC. 15, T.12N., R.19E., M.D.B.&M., WHERE THE WATERS OF STUTLER CREEK ARE COMMINGLED WITH THE WATERS OF SHERIDAN CREEK IN THE SHERIDAN CREEK CHANNEL. THE COMMINGLED WATERS ARE DIVERTEO FROM THE SHERIDAN CREEK CHANNEL AT A POINT IN THE NE½SE¼ SEC. 15, T.12N., R.19E., M.D.B.&M., N.72°20'31"E. 5,412.47 FT. FROM SW COR. OF SAID SECTION 15.	APR.1 TO OCT. 15	IRRIGATION	0.090	* 1.49	32.82											
				JAN. 1 TO DEC.31	DOMESTIC														
					1905														
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS												
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E				STOCKWATER IS ALSO RECOGNIZED. SEE SEC. XII  * THE TOTAL COMBINED DUTY OF WATER SHALL NOT EXCEED 4.0 ACRE-Feet PER ACRE FRDM ANY AND/OR ALL SOURCES.  THIS PROOF IS SUPPLEMENTAL TO PROOF V06340 AND IS SUPPLEMENTED BY PERMIT 7595, CERTIFICATE 1760.  DOUGLAS COUNTY APN 1219-14-001-003.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
14	T. 12 N.,	R. 19 E.					8.88	11.88	1.17	0.10									
TOTAL ACRES ALLOTTEE																		22.03	

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF ND.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.												
V-06342	JERALD R. JACKSON 1975 TRUST AS AMENDED AUGUST 11, 1992, AND IRENE M. WINDHOLZ TRUST DATED AUGUST 11, 1992	UNNAMED SPRING (A). DESIGNATED JACKSON SPRING "A"	SW¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.25°57'43"E. 1,548.41 FT. FROM NW COR. OF SAID SECTION 26.	APR. 1 TO OCT. 15 JAN. 1 TO DEC.31	IRRIGATION STOCK WATER 1853	0.053	* 2.43	17.50												
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS													
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E					STOCKWATER IS ALSO RECOGNIZED. SEE SEC. XII  * THE TOTAL COMBINED DUTY OF WATER UNDER THIS PROOF AND PROOFS V06343 AND A PORTION OF V02856 SHALL NOT EXCEED A DUTY OF 4.00 ACRE-FEET PER ACRE.  THIS PROOF WILL SUPERCEDE A PORTION OF V02856 ON 0.40 ACRES LOCATED WITHIN THE NE¼NW¼ SECTION 26, T.12N., R.19E., M.D.B.&M. AND 5.50 ACRES LOCATED WITHIN THE SE¼NW¼ SECTION 26, T.12N., R.19E., M.D.B.&M.  THIS PROOF SUPERCEDES PERMIT 24918, CERTIFICATE 7843 AND PERMIT 24919, CERTIFICATE 7842, & PROOF V-02856  DOUGLAS COUNTY APN'S 1219-26-001-044,043 39,019,018.00
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
26	T. 12 N.	R. 19 E.					1.25			5.95									7.20	
TOTAL ACRES ALLOTTED																			7.20	
After further investigation of the irrigation system, it was determined that only 7.20 acres can be irrigated by Unnamed Spring (A). This is further described as 7.20 acres west of Foothill Road going west to the ditch that runs in a south/southeasterly direction to the western extreme of the pond constructed in 1992. The land under the footprint of the pond was sub-irrigated marsh-land prior to the construction of said pond. Therefore, the water source that offsets evaporative loss from the pond is made up from the spring area that was excavated during construction. This area corresponds with the acreage claimed under Proof of Appropriation V-02856, filed on April 23, 1975.																				
**REFER TO THE ROTATION SCHEDULE UNDER TABLE 8 FOR UNNAMED SPRING (A).																				

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.														
V-06343	JERALD R. JACKSON 1975 TRUST AS AMENDED AUGUST 11, 1992, AND IRENE M. WINDHOLZ TRUST DATED AUGUST 11, 1992	UNNAMED SPRING (B), DESIGNATED JACKSON SPRING "B"	SE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.44°31'52"E. 2,414.38 FT. FROM NW COR. OF SAID SECTION 26.	APR.1 TO OCT. 15	IRRIGATION	0.100	*1.57	**11.30														
				JAN. 1 TO DEC.31	STOCK WATER	**	**	**														
					1853																	
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS															
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E					STOCKWATER IS ALSO RECOGNIZED FOR 29 HEAD OF LIVESTOCK. SEE SEC. XII.		
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE				
26	T. 12 N., R. 19 E.						1.25			8.48									9.73	**THE STATE ENGINEER DETERMINED THAT THE ACREAGE UNDER THIS CLAIM IS SUBIRRIGATED. NO WATER IS DIVERTED FROM THE SOURCE TO IRRIGATE THIS ACREAGE. THEREFORE, THIS LAND IS GRANTED A VESTED RIGHT FOR 2.53 ACRES OF SUBIRRIGATION AND NO DIVERSION RATE OR DUTY IS ESTABLISHED UNDER THIS CLAIM.		
																			TOTAL ACRES ALLOTTED	9.73	THIS PROOF SUPERCEDES A PORTION OF V02856 ON 0.40 ACRES LOCATED WITHIN THE NE¼NW¼ SECTION 26, T.12N., R.19E., M.D.B.&M. AND 5.50 ACRES LOCATED WITHIN THE SE¼NW¼ SECTION 26, T.12N., R.19E., M.D.B.&M.	
																						THIS PROOF SUPERCEDES PERMIT 24918, CERTIFICATE 7843 AND PERMIT 24919, CERTIFICATE 7842.
The collection ditch from this spring on the supporting map is shown to flow in a southerly direction. It actually runs to the north.																						
* THIS PROOF PROVIDES SUPPLEMENTAL WATER TO THE 7.20 ACRES IRRIGATED UNDER PROOF V06342 WITH THE UNDERSTANDING THAT THE TOTAL COMBINED DUTY OF WATER ON SAID 7.20 ACRES SHALL NOT EXCEED **11.30 ACRE-FEET FROM ANY AND/OR ALL SOURCES																						

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.											
V-06344	JERALD R. JACKSON 1975 TRUST AS AMENDED AUGUST 11, 1992, AND IRENE M. WINDHOLZ TRUST DATED AUGUST 11, 1992	UNNAMED SPRING (C). DESIGNATED JACKSON SPRING "C"	SE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.39°47'45"E. 3,097.65 FT. FROM NW COR. OF SAID SECTION 26.	APR.1 TO OCT. 15	IRRIGATION	*	*	*											
					STOCK WATER														
					1853														
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS												
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
26	T. 12 N., R. 19 E.									2.98									2.98
TOTAL ACRES ALLOTTED																			2.98
																			STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII
																			* THE STATE ENGINEER DETERMINES THAT THE ACREAGE UNDER THIS CLAIM IS SUBIRRIGATED.
																			NO WATER IS DIVERTED FROM THE SOURCE TO IRRIGATE THIS ACREAGE. THEREFORE, THIS LAND IS GRANTED A VESTED RIGHT FOR 2.98 ACRES OF SUB-IRRIGATION AND NO DIVERSION RATE OR DUTY OF WATER IS ESTABLISHED UNDER THIS CLAIM.
																			THIS PROOF SUPERCEDES A PORTION OF PERMIT 24918, CERTIFICATE 7843 AND A PORTION OF PERMIT 24919, CERTIFICATE 7842.
																			DOUGLAS COUNTY APN'S 1219-26-001-010-001, 012, 013, 014(PART).

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.											
V-06345	JERALD R. JACKSON 1975 TRUST AS AMENDED AUGUST 11, 1992, AND IRENE M. WINDHOLZ TRUST DATED AUGUST 11, 1992	UNNAMED SPRING (D), DESIGNATED JACKSON SPRING "D"	SE $\frac{1}{4}$ NW $\frac{1}{4}$ SEC. 26, T.12N., R.19E., M.D.B.&M., S.42°16'44"E. 3.023.20 FT. FROM NW COR. OF SAID SECTION 26.	APR.1 TO OCT. 15 JAN. 1 TO DEC.31	IRRIGATION STOCK WATER 1853	*	*	*											
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS												
SECTION	TOWN-SHIP	RANGE	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
26	T. 12 N.	R. 19 E.			1.04					12.31									13.35
TOTAL ACRES ALLOTTED																			13.35
<p>STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII</p> <p>* THE STATE ENGINEER DETERMINES THAT THE ACREAGE UNDER THIS CLAIM IS SUBIRRIGATED. NO WATER IS DIVERTED FROM THE SOURCE TO IRRIGATE THIS ACREAGE. THEREFORE, THIS LAND IS GRANTED A VESTED RIGHT FOR 13.35 ACRES OF SUBIRRIGATION AND NO DIVERSION RATE OR DUTY OF WATER IS ESTABLISHED UNDER THIS CLAIM.</p> <p>THIS PROOF SUPERCEDES A PORTION OF V02856 ON 0.40 ACRES LOCATED WITHIN THE NE<math>\frac{1}{4}</math>NW<math>\frac{1}{4}</math> SECTION 26, T.12N., R.19E., M.D.B.&amp;M. AND 5.50 ACRES LOCATED WITHIN THE SE<math>\frac{1}{4}</math>NW<math>\frac{1}{4}</math> SECTION 26, T.12N., R.19E., M.D.B.&amp;M.</p> <p>THIS PROOF ALSO SUPERCEDES PERMIT 24918, CERTIFICATE 7843 AND PERMIT 24919, CERTIFICATE 7842.</p> <p>ODUGLAS COUNTY APN'S 1219-28-001-014, 018-019.</p>																			

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLDW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.												
V-06346	JOY WHIPPLE (AKA JOY S. SMITH)	STUTLER CREEK	SEX¼ SEC. 16, T.12N., R.19E., M.D.B.&M., S.07°10'24"E. 2,892.59 FT. FROM SE COR. OF SAID SECTION 16.																	
				APR.1 TO OCT. 15	IRRIGATION	0.100	* 1.49	37.16												
				JAN. 1 TO DEC.31	DOMESTIC															
					1905															
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS													
SECTION	TDWN-SHIP	RANGE	N E				N W				S W				S E					STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII * THE TOTAL COMBINED DUTY OF WATER SHALL NOT EXCEED 4.0 ACRE-FEET PER ACRE FROM ANY AND/OR ALL SOURCES.  THIS PROOF IS SUPPLEMENTAL TO PROOF V-06347 AND IS SUPPLEMENTED BY PERMIT 7595, CERTIFICATE 1760. DOUGLAS COUNTY APN'S 1219-14-001-001-002, 1219-15-001-022.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
14	T. 12 N.,	R. 19 E.						18.73											18.73	
15	T. 12 N.,	R. 19 E.	6.21																6.21	
TOTAL ACRES ALLOTTED																			24.94	

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.
V-06347	JOY WHIPPLE (AKA JOY S. SMITH)	SHERIDAN CREEK NORTH DIVERSION	NE¼ SEC. 15, T.12N., R.19E., M.D.B.&M., N.72°20'31"E. 5,412.47 FT. FROM SW COR. OF SAID SECTION 15.					
				APR.1 TO OCT. 15	IRRIGATION	0.295	* 4.00	99.76
				JAN. 1 TO DEC.31	DOMESTIC			
					1852			

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.
V-06347	JOY WHIPPLE (AKA JOY S. SMITH)	SHERIDAN CREEK NORTH DIVERSION	NE¼SE¼ SEC. 15, T.12N., R.19E., M.D.B.&M., N.72°20'31"E. 5,412.47 FT. FROM SW COR. OF SAID SECTION 15.	APR.1 TO OCT. 15	IRRIGATION	0.295	* 4.00	99.76
				JAN. 1 TO DEC.31	DOMESTIC			
					1852			

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

V-06347 (cont.)		PLACE OF USE 40 ACRE DESCRIPTIONS												ACRES PER SECTION	REMARKS					
SECTION	TDWN- SHIP	RANGE	N E				N W				S W				S E					STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
14	T. 12 N., R. 19 E.							18.73										18.73	* THE TOTAL COMBINED DUTY OF WATER SHALL NOT EXCEED 4.0 ACRE-FEET PER ACRE FROM ANY AND/OR ALL SOURCES.	
15	T. 12 N., R. 19 E.	6.21																6.21	THIS PROOF IS SUPPLEMENTAL TO PROOF V-06346 AND IS SUPPLEMENTED BY PERMIT 7595, CERTIFICATE 1760. DOUGLAS COUNTY APN'S 1219-14-001-001-002. 1219-15-001-022.	
															TOTAL ACRES ALLOTTED		24.94			

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT/ ACRE	TOTAL AC.-FT.												
V-06348	DANIEL R. AND LAUREL C. HICKEY	UNNAMED SPRING	N½SE¼ SEC. 33, T.13N., R.19E., M.D.B.&M., N.32°26'33"W, 1,660.28 FT. FROM SE COR. OF SAID SECTION 33.																	
				APR.1 TO OCT. 15	IRRIGATION	0.200	4.00	23.32												
				JAN. 1 TO DEC.31	DOMESTIC															
					1889															
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS													
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E				STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII  DOUGLAS COUNTY APN'S 1319-33-002-020 , 1319-34-002-010.	
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
33	T. 13 N.,	R. 19 E.													4.42					4.42
34	T. 13 N.,	R. 19 E.										1.41								1.41
TOTAL ACRES ALLOTTED																		5.83		

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.												
V-06349	MADDI'S RANCH LLC	MOTT CREEK	NE½SE¼ SEC. 04, T.12N., R.19E., M.D.B.&M., S.13°00'W. 763 FT. FROM E¼ COR. OF SAID SECTION 04.  NW¼SW¼ SEC. 03, T.12N., R.19E., M.D.B.&M., S.41°15'E. 961 FT. FROM W¼ COR. OF SAID SECTION 03.	APR.1 TO OCT. 15	IRRIGATION	0.402	4.00	133.84												
				JAN. 1 TO DEC.31	DOMESTIC															
					1852															
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS													
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E				33.46	STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII THIS PROOF IS FURTHER LIMITED TO THE WATERS OF MOTT CREEK ON A ROTATION SCHEDULE REFER TO TABLE NO. 2
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
3	T. 12 N., R. 19 E.			33.46															33.46	
TOTAL ACRES ALLOTTED																			33.46	DOUGLAS COUNTY APN 1219-03-001-058-059.

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.
V-06350	THOMAS M. AND PAULA J. YTURBIDE, TRUSTEES OF THE YTURBIDE 1991 FAMILY TRUST DATED AUGUST 1, 1991	MOTT CREEK	PRIMARY DIVERSION: NE½SE¼ SEC. 04, T.12N., R.19E., M.D.B.&M., S.13°00'W. 763 FT. FROM E¼ COR. OF SAID SECTION 04.  SECONDARY DIVERSION: NW¼SW¼ SEC. 03, T.12N., R.19E., M.D.B.&M., S.41°15'E. 961 FT. FROM W¼ COR. OF SAID SECTION 03.	APR.1 TO OCT. 15	IRRIGATION	0.184	4.00	51.84
				JAN. 1 TO DEC.31	DOMESTIC			
					1852			

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

V-06350 (cont.)		PLACE OF USE 40 ACRE DESCRIPTIONS												ACRES PER SECTION	REMARKS					
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E					STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII THIS PROOF IS FURTHER LIMITED TO THE WATERS OF MOTT CREEK ON A ROTATION SCHEDULE SEE TABLE 2 DOUGLAS COUNTY APN 1219-03-001-073.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
3	T. 12 N.,	R. 19 E.								12.96								12.96		
															TOTAL ACRES ALLOTTED		12.96			

PROOF ND.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT/J ACRE	TOTAL AC.-FT.											
V-06351	ERIC SONG J. & ELIZABETH PARK	MOTT CREEK	PRIMARY DIVERSION: NE¼SE¼ SEC. 04, T.12N., R.19E., M.D.B.&M., S.13°00'W. 763 FT. FROM EX COR. OF SAID SECTION 04.  SECONDARY DIVERSION: NW¼SW¼ SEC. 03, T.12N., R.19E., M.D.B.&M., S.41°15'E. 961 FT. FROM W¼ COR. OF SAID SECTION 03.	APR.1 TO OCT. 15	IRRIGATION	0.088	4.00	40.00											
				JAN. 1 TO DEC.31	DOMESTIC														
					1852														
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS												
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E				STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII THIS PROOF IS FURTHER LIMITED TO THE WATERS OF MOTT CREEK ON A ROTATION SCHEDULE SEE TABLE 2 DOUGLAS COUNTY APN 1219-03-001-060.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
3	T. 12 N.,	R. 19 E.								10.00								10.00	
															TOTAL ACRES ALLOTTED		10.00		

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.												
V-06352	DONALD A. TOUSSAU	TAYLOR CREEK	NE $\frac{1}{4}$ NE $\frac{1}{4}$ SEC. 04, T.12N., R.19E., M.D.B.&M., S.49°20'W. 999 FT. FROM NE COR. OF SAID SECTION 04.	APR. 1 TO OCT. 15	IRRIGATION	0.100	4.00	23.16												
				JAN. 1 TO DEC. 31	DOMESTIC															
					PRIOR TO 1905															
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS													
SECTION	TOWN-SHIP	RANGE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	TOTAL ACRES	REMARKS
4	T. 12 N., R. 19 E.		5.47			0.32													5.79	STOCKWATER IS ALSO RECOGNIZED. SEE SEC. XII
TOTAL ACRES ALLOTTED																			5.79	THE TOTAL COMBINED DUTY UNDER THIS PROOF AND PROOF V06353 SHALL NOT EXCEED 4.0 ACRE-FEET PER ACRE FROM ANY AND/OR ALL SOURCES ON THE 5.79 ACRE PORTION UNDER THIS PROOF.
																				THIS PROOF MAY INCLUDE PORTIONS OF DOUGLAS COUNTY APN'S 1219-04-001-011-013, 018-019, 021-022, 026, 033-035 AND A PORTION OF THE TAYLOR CREEK ROAD RIGHT OF WAY.

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.											
V-06353	DONALD A. TOUSSAU	UNNAMED SPRINGS	NE½NE¼ SEC. 04, T.12N., R.19E., M.D.B.&M., S.40°13'W. 1,157 FT. FROM NE COR. OF SAID SECTION 04.  SE½NE¼ SEC. 04, T.12N., R.19E., M.D.B.&M., S.31°06'W. 1,845 FT. FROM NE COR. OF SAID SECTION 04.  SE¼NE¼ SEC. 04, T.12N., R.19E., M.D.B.&M., S.29°19'W. 1,552 FT. FROM NE COR. OF SAID SECTION 04.  SE¼NE¼ SEC. 04, T.12N., R.19E., M.D.B.&M., S.27°37'W. 2,013 FT. FROM NE COR. OF SAID SECTION 04.	APR.1 TO OCT. 15	IRRIGATION	0.060	*3.22	23.57											
				JAN. 1 TO DEC.31	DOMESTIC														
					PRIOR TO 1905														
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS												
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4	T. 12 N., R. 19 E.		5.47			1.85													7.32
TOTAL ACRES ALLOTTED																			7.32
STOCKWATER IS ALSO RECDGNIZED, SEE SEC. XII																			
* THE TOTAL COMBINED DUTY UNDER THIS PROOF AND PROOF V06352 SHALL NOT EXCEED 4.0 ACRE-Feet PER ACRE FROM ANY AND/OR ALL SOURCES ON THE 5.79 ACRE PORTION UNDER PROOF V06352.																			
THIS PROOF MAY INCLUDE PDRIONS OF DOUGLAS COUNTY APN'S 1219-04-001-011-013, 016-019, 021-022, 025, 033-035 AND A PORTION OF THE TAYLOR CREEK ROAD RIGHT DF WAY.																			

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT/J ACRE	TOTAL AC.-FT.
V-06354	THE SCHWAKE FAMILY TRUST	CARY CREEK	ORIFICE NE¼SE¼ SEC. 09, T.12N., R.19E., M.D.B.&M., S.87°06'W. 602 FT. FROM E¼ COR. OF SAID SECTION 9.  DIVIDE BOX NE¼SE¼ SEC. 09, T.12N., R.19E., M.D.B.&M., S.86°57'19"W. 565 FT. FROM E¼ COR. OF SAID SECTION 09.	APR.1 TO OCT. 15 JAN. 1 TO DEC.31 JAN. 1 TO DEC.31 JAN. 1 TO DEC.31	IRRIGATION DOMESTIC STOCK WATER 1852 POWER PRODUCTION PRIOR TO 1900	* 2.000	** 3.47	784.50

PLACE OF USE 40 ACRE DESCRIPTIONS																ACRES PER SECTION	REMARKS				
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E						
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			
2	T. 12 N., R. 19 E.											2.54	31.29							33.83	SUFFICIENT WATER FOR 140 HEAD OF LIVESTOCK. * THIS PROOF IS SUBJECT TO THE JULY 1, 1918, AGREEMENT, "GLOVER AGREEMENT", IN BOOK E, PAGE 337, AGR., DOUGLAS COUNTY RECORDER'S OFFICE, LANGUAGE IN THIS PROOF AND PROOF V06355 STIPULATES THAT SCHWAKE WILL RECEIVE 0.37 C.F.S. PLUS 1/3 OF THE REMAINING FLOW AND DREYER WILL RECEIVE 2/3 OF THE FLOW UNDER THIS PROOF OF CARY CREEK LESS 0.37 C.F.S. ON LANDS DESCRIBED UNDER PROOF V06355.  THIS PROOF IS SUPPLEMENTAL TO PORTIONS OF ALPINE DECREE CLAIM NOS. 627 AND 628 AND IS SUPPLEMENTED BY PERMIT 10983, CERTIFICATE 2937, CARY CREEK; AND PERMIT 12532, CERTIFICATE 3293, UNDERGROUND.  ** THE TOTAL COMBINED DUTY OF WATER SHALL NOT EXCEED 4.0 ACRE-FEET PER ACRE FROM ANY AND/OR ALL SOURCES.  DOUGLAS COUNTY APN'S: 1219-02-000-016-018, 1219-03-002-089-094, 1219-10-001-036-045, 1219-11-001-001-004.
3	T. 12 N., R. 19 E.															19.62	34.23			53.85	
10	T. 12 N., R. 19 E.		40.90	34.25	15.85	9.49														100.49	
11	T. 12 N., R. 19 E.						1.83	35.82	0.26											37.91	
TOTAL ACRES ALLOTTED																228.08					

The State Engineer determines that the storage claimed under this proof is from a facility constructed under Permit J-50, APPLICATION FOR APPROVAL OF THE PLANS AND SPECIFICATIONS FOR THE CONSTRUCTION, RECONSTRUCTION OR ALTERATION OF A DAM, dated October 22, 1959. The dam site is described as an existing borrow pit with no indication of prior use for water storage is indicated; therefore, no vested right is recognized for storage.

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.
V-06355	ROLAND AND JOAN P. DREYER	CARY CREEK	DIVIDE BOX: NE¼SE¼ SEC. 09, T.12N., R.19E., M.D.B.&M., S.88°57'19"W, 565 FT. FROM E¼ COR. OF SAID SECTION 09.	APR.1 TO OCT. 15 JAN. 1 TO DEC.31 JAN. 1 TO DEC.31	IRRIGATION DOMESTIC STOCK WATER 1652	* 3.630	** 4.00	1064.96

PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS													
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E					SUFFICIENT WATER FOR 300 HEAD OF LIVESTOCK. A PORTION OF THIS CLAIM HAS BEEN ABROGATED BY PERMIT 10983, CERTIFICATE 2937.  * THIS PROOF IS SUBJECT TO THE JULY 1, 1918, AGREEMENT, "GLOVER AGREEMENT", IN BOOK E, PAGE 337, AGR., DOUGLAS COUNTY RECORDER'S OFFICE AND LANGUAGE IN THIS PROOF AND PROOF V06354 STIPULATES THAT SCHWAKE WILL RECEIVE 0.37 C.F.S. PLUS 1/3 OF THE REMAINING FLOW UNDER PROOF V06354 AND DREYER WILL RECEIVE 2/3 OF THE FLOW OF CARY CREEK LESS 0.37 C.F.S. UNDER THIS PROOF.  THIS PERMIT IS SUPPLEMENTAL TO PORTIONS OF ALPINE DECREE CLAIM NOS. 625 AND 626 AND IS SUPPLEMENTED BY PERMIT 19039, CERTIFICATE 5982; PERMIT 19170, CERTIFICATE 5981; PERMIT 20765, CERTIFICATE 6512.  ** THE TOTAL COMBINED DUTY OF WATER SHALL NOT EXCEED 4.0 ACRE-FEET PER ACRE FROM ANY AND/OR ALL SOURCES.  DOUGLAS COUNTY APN'S: 1219-10-002-056, 1219-10-001-046, 1219-11-001-005, 1219-10-002-058, 1219-09-002-003.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
10	T. 12 N.,	R. 19 E.			9.10	29.24									40.00	9.53	11.33	32.10	131.30	
11	T. 12 N.,	R. 19 E.					17.31	4.26	40.00	34.96	0.20	32.71	5.50						134.94	
TOTAL ACRES ALLOTTED																			266.24	

The State Engineer determines that no priority date or amount of water stored for irrigation has been specified; therefore, no vested right is recognized for storage.

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.											
V-06356	ALLEN D. SAPP AND PATRICIA J. SAPP	SHERIDAN CREEK (NORTH DIVERSION) AND TRIBUTARIES	SW¼SE¼ SEC. 15, T.12N., R.19E., M.D.B.&M., N.65°09'23"W. 2,070.25 FT. FROM SE COR. OF SAID SECTION 15.  NW¼SW¼ SEC. 14, T.12N., R.19E., M.D.B.&M., N.12°50'48"E. 2,380.20 FT. FROM SE COR. OF SECTION 15, T.12N., R.19E., M.D.B.&M.	APR.1 TO OCT. 15	IRRIGATION	0.060	4.00	20.40											
				JAN. 1 TO DEC.31	DOMESTIC														
					1860														
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS												
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E				STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII DOMESTIC AND CULINARY USES ASSOCIATED WITH THE SHERIDAN HOUSE HOTEL AND SALOON.  DOUGLAS COUNTY APN: 1219-14-002-003 & 005.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
14	T. 12 N., R. 19 E.													5.10					5.10
TOTAL ACRES ALLOTTED																5.10			

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.
V-06357	DONALD L. AND TONI M. ROOKER	SHERIDAN CREEK (SOUTH DIVERSION)	PRIMARY DIVERSION: NE¼SE¼ SEC. 15, T.12N., R.19E., M.D.B.&M., N.03°08'W. 1,647 FT. FROM SE COR. OF SAID SECTION 15.  SECONDARY DIVERSION: NW¼SW¼ SEC. 14, T.12N., R.19E., M.D.B.&M., N.13°37'E. 1,716 FT. FROM SW COR. OF SAID SECTION 14.	APR.1 TO OCT. 15	IRRIGATION	0.337	4.00	138.60
				JAN. 1 TO DEC.31	DOMESTIC			
					1871			

151

V-06357 (cont.)													PLACE OF USE 40 ACRE DESCRIPTIONS													ACRES PER SECTION		REMARKS	
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E														
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE											
14	T. 12 N.,	R. 18 E.									15.80	2.60	0.50	0.70		14.50	0.60		34.70										
																		TOTAL ACRES ALLOTTED		34.70									
																			SEE PROOF V06358 FOR STOCK WATER. SUPPLEMENTAL TO WATER RIGHTS UNDER THE BARBER CREEK DECREE. DOUGLAS COUNTY APN'S: 1219-14-002-061, 010.										

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.										
V-06358	DONALD L. AND TONI M. ROOKER	SHERIDAN CREEK (SOUTH DIVERSION)	PRIMARY DIVERSION: NE¼SE¼ SEC. 15, T.12N., R.19E., M.D.B.&M., N.03°08'W. 1.647 FT. FROM SE COR. OF SAID SECTION 15.  SECONDARY DIVERSION: NW¼SW¼ SEC. 14, T.12N., R.19E., M.D.B.&M., N.13°37'E. 1.716 FT. FROM SW COR. OF SAID SECTION 14.	JAN. 1 TO DEC.31	STOCK WATER 1871		SEE SECTION XII.											
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS											
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E			
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
14	T. 12 N., R. 19 E.										X	X	X	X		X	X	
						SUFFICIENT WATER FOR 50 HEAD OF LIVESTOCK. SUPPLEMENTAL TO WATER RIGHTS UNDER THE BARBER CREEK DECREE. DOUGLAS COUNTY APNS: 1219-14-002-061, 016.												

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.											
V-06359	DENNIS R. AND THERESE S. BUCKLEY	SHERIDAN CREEK (SOUTH DIVERSION)	PRIMARY DIVERSION: NE¼SE¼ SEC. 15, T.12N., R.19E., M.D.B.&M., N.03°08'W. 1,647 FT. FROM SE COR. OF SAID SECTION 15.  SECONDARY DIVERSION: NW¼SW¼ SEC. 14, T.12N., R.19E., M.D.B.&M., N.13°37'E. 1,716 FT. FROM SW COR. OF SAID SECTION 14.	JAN. 1 TO DEC.31	STOCK WATER 1871		SEE SECTION XII												
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS												
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E				SUFFICIENT WATER FOR 30 HEAD OF LIVESTOCK. SUPPLEMENTAL TO WATER RIGHTS UNDER THE BARBER CREEK DECREE. DOUGLAS COUNTY APN: 1219-14-002-020.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
14	T. 12 N., R. 19 E.										X				X		X	X	

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.
V-06360	DENNIS R. AND THERESE S. BUCKLEY	SHERIDAN CREEK (SDUTH DIVERSION)	PRIMARY DIVERSION: NE¼SE¼ SEC. 15, T.12N., R.19E., M.D.B.&M., N.03°08'W. 1,647 FT. FROM SE COR. OF SAID SECTION 15.  SECONDARY DIVERSION: NW¼SW¼ SEC. 14, T.12N., R.19E., M.D.B.&M., N.13°37'E. 1,716 FT. FROM SW COR. OF SAID SECTION 14.	APR.1 TO OCT. 15	IRRIGATION 1871	0.175	4.00	72.00

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

V-06380 (cont.)		PLACE OF USE 40 ACRE DESCRIPTIONS												ACRES PER SECTION	REMARKS
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				SEE PROOF V-06359 FOR STOCK WATER SUPPLEMENTAL TO WATER RIGHTS UNDER THE BARBER CREEK DECREE. DOUGLAS COUNTY APN: 1219-14-002-020.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
14	T. 12 N.,	R. 19 E.									1.80			7.90	18.00
TOTAL ACRES ALLOTTED														18.00	

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.											
V-06361	STEPHEN RAY AND LUCETTE SIMON PAUL P. AND MORENE L. SIMON	SHERIDAN CREEK (SDUTH DIVERSION)	PRIMARY DIVERSION: NE¼SE¼ SEC. 15, T.12N., R.19E., M.D.B.&M., N.03°08'W. 1,647 FT. FROM SE COR. OF SAID SECTION 15.  SECONDARY DIVERSION: NW¼SW¼ SEC. 14, T.12N., R.19E., M.D.B.&M., N.13°37'E. 1,716 FT. FROM SW COR. OF SAID SECTION 14.	JAN. 1 TO DEC. 31	STOCK WATER 1871		SEE SECTION XII.												
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS												
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E				SUFFICIENT WATER FOR 40 HEAD OF LIVESTOCK. SUPPLEMENTAL TO WATER RIGHTS UNDER THE BARBER CREEK DECREE. DOUGLAS COUNTY APN: 1219-14-002-007.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
14	T. 12 N.,	R. 19 E.										X			X		X	X	

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.											
V-06362	STEPHEN RAY AND LUCETTE SIMON PAUL P. AND MORENE L. SIMDN	SHERIDAN CREEK (SOUTH DIVERSION)	PRIMARY DIVERSION: NE½SE¼ SEC. 15, T.12N., R.19E., M.D.B.&M., N.03°08'W. 1,647 FT. FROM SE COR. OF SAID SECTION 15.  SECONDARY DIVERSION: NW¼SW¼ SEC. 14, T.12N., R.19E., M.D.B.&M., N.13°37'E. 1,716 FT. FROM SW COR. OF SAID SECTION 14.	APR.1 TO OCT. 15	IRRIGATION 1871	0.316	4.00	130.40											
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS												
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E				SEE PROOF V-06361 FOR STOCK WATER. SUPPLEMENTAL TO WATER RIGHTS UNDER THE BARBER CREEK DECREE.  DOUGLAS COUNTY APN: 1219-14-002-007.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
14	T. 12 N.,	R. 19 E.									14.20	5.00				13.20	0.20		
TOTAL ACRES ALLOTTED																	32.60		

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.
V-06363	ROBERT D. AND WANDA D. SHOCKLEY	LUTHER CREEK	PRIMARY DIVERSION: NE½SE¼ SEC. 35, T.12N., R.19E., M.D.B.&M., S.13°21'16"W. 3072.0 FT. FROM NE COR. OF SAID SECTION 35, IN ALPINE COUNTY, CALIFORNIA.  SECONDARY DIVERSION: NE½SE¼ SEC. 28, T.12N., R.19E., M.D.B.&M., N.07°07'W. 1,471 FT. FROM SE COR. OF SAID SECTION 28.	APR.1 TO OCT. 15 JAN. 1 TO DEC.31	IRRIGATION DOMESTIC 1865	* 2.160	4.00	319.88

# TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

V-06363 (cont.)														PLACE OF USE 40 ACRE DESCRIPTIONS										ACRES PER SECTION	REMARKS
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E										
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE							
25	T. 12 N.,	R. 19 E.			23.00				4.88	23.36	18.82	5.08					4.83			79.97	SEE PROOF V-06364 FOR STOCK WATER. * 1/3 OF 10 C.F.S. APPURTENANT TO 79.97 OF 123.58 ACRES LOCATED WITHIN THE SW¼NE¼, S½NW¼, NW¼SE¼ AND W¼SW¼ SECTION 25, SE¼NW¼ AND NE¼SE¼ SECTION 26, T.12N., R.19E., M.D.B.&M. DOUGLAS COUNTY APN'S 1219-25-002-001 and 1219-25-001-008.				
TOTAL ACRES ALLOTTED																		79.97							
Acreage is illustrated on the Douglas County Assessor's Parcel plat as 40.00 acres for parcel * 1219-25-002-001 and 40.00 acres for parcel * 1219-25-001-008. The sum of acreage for this area under this claim is 87.5 acres. The 87.5 acres exceeds the 80.00 acres within APN's * 1219-25-002-001 and * 1219-25-001-008. Therefore, acreage was recalculated by the State Engineer's office as reflected in the "PLACE OF USE - 40 ACRE DESCRIPTIONS". * Note: Douglas County APN 19-300-19 and the west forty (40) acres of APN 19-300-37 have been reconfigured into two (2) forty (40) acre parcels numbered 1219-25-002-001 and 1219-25-001-008.																									

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPDSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.											
V-06364	ROBERT D. AND WANDA D. SHOCKEY	LUTHER CREEK	<p>PRIMARY DIVERSION: NE¼SE¼ SEC. 35, T.12N., R.19E., M.D.B.&amp;M., S.13°21'16"W. 3072.0 FT. FROM NE COR. OF SAID SECTION 35, IN ALPINE COUNTY, CALIFORNIA.</p> <p>SECONDARY DIVERSION: NE¼SE¼ SEC. 26, T.12N., R.19E., M.D.B.&amp;M., N.07°07'W. 1,471 FT. FROM SE COR. OF SAID SECTION 26.</p>	JAN. 1 TO DEC. 1	STOCK WATER 1865		SEE SECTION XII.												
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS												
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E				SUFFICIENT WATER FOR 100 HEAD OF LIVESTOCK. DOUGLAS COUNTY APN'S 1219-25-002-001, 008.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
25	T. 12 N.,	R. 19 E.			X				X	X	X	X				X			

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.
V-06365	BROOKS FAMILY TRUST AGREEMENT DATED FEBRUARY 18, 1992	LUTHER CREEK	PRIMARY DIVERSION: NE¼SE¼ SEC. 35, T.12N., R.19E., M.D.B.&M., S.13°21'16"W. 3072.0 FT. FROM NE COR. OF SAID SECTION 35, IN ALPINE COUNTY, CALIFORNIA.  SECONDARY DIVERSION: NE¼SE¼ SEC. 28, T.12N., R.19E., M.D.B.&M., N.07°07'W. 1,471 FT. FRDM SE OF COR. SAID SECTION 26.	APR.1 TO OCT. 15	IRRIGATION	* 1.18	4.00	236.80
				JAN. 1 TO DEC.31	DOMESTIC			
					1865			

PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS													
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E					
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
25	T. 12 N.	R. 19 E.							4.60				35.50	3.90					44.00	SEE PROOF V-06366 FOR STOCK WATER.  * 1/3 OF 10 C.F.S. APPURTENANT TO 43.61 OF 123.58 ACRES LOCATED WITHIN THE SW¼NE¼, SW¼NW¼, NW¼SE¼ AND W¼SW¼ SECTION 25, SE¼NW¼ AND NE¼SE¼ SECTION 26, T.12N., R.19E., M.D.B.&M., PORTION OF DOUGLAS COUNTY APN 1219-26-002-013
26	T. 12 N.	R. 19 E.															15.20	15.20		
TOTAL ACRES ALLOTTED																			59.20	

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.											
V-06366	BROOKS FAMILY TRUST AGREEMENT DATED FEBRUARY 18, 1992	LUTHER CREEK	PRIMARY DIVERSION: NE¼SE¼ SEC. 35, T.12N., R.19E., M.D.B.&M., S.13°21'16"W. 3072.0 FT. FROM NE COR. OF SAID SECTION 35, IN ALPINE COUNTY, CALIFORNIA.  SECONDARY DIVERSION: NE¼SE¼ SEC. 26, T.12N., R.19E., M.D.B.&M., N.07°07'W. 1,471 FT. FROM SE COR. OF SAID SECTION 26.	JAN. 1 TO DEC. 31	STOCK WATERING 1885		SEE SEC. XII												
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS												
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E				SUFFICIENT WATER FOR 120 HEAD OF LIVESTOCK. PORTION OF DOUGLAS COUNTY APN 1219-26-002-013.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
25	T. 12 N., R. 19 E.								X			X	X						
26	T. 12 N., R. 19 E.														X				

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.
V-06367	SCOSSA BROTHERS	MILLER CREEK, BEERS SPRING AND OTHER UNNAMED SPRINGS	* MILLER CREEK NW¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.65°10'E. 1,069.01 FT. FROM NW COR. OF SAID SECTION 26.  ** BEERS SPRING NW¼SE¼ SEC. 22, T.12N., R.19E., M.D.B.&M., S.84°02'W. 2,184.0 FT. FROM THE E¼ COR. OF SAID SEC. 22.	APR.1 TO OCT. 15 JAN. 1 TO DEC.31	IRRIGATION DOMESTIC 1852	* 2.000 ** 0.150	* 2.71 ** 0.27	578.04 57.591
The State Engineer determines that Miller Creek is subject to a 4 day rotation for Green Acres water users and a 10 day rotation for the Scossa Ranch every 14 days.								

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

V-06367 (cont.)		PLACE OF USE 40 ACRE DESCRIPTIONS														ACRES PER SECTION	REMARKS				
SECTION	TDWN- SHIP	RANGE	N E				N W				S W				S E						
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			
23	T. 12 N.	R. 19 E.			1.00	10.20					14.20				20.80	40.00	35.00	37.00	26.40	184.60	SEE PROOF V-06368 FOR STOCK WATER.
24	T. 12 N.	R. 19 E.										5.00	9.20							14.20	THE TOTAL COMBINED DUTY OF WATER SHALL NOT EXCEED 4.0 ACRE- FEET PER ACRE FRDM ANY AND/DR ALL SDURCES.
26	T. 12 N.	R. 19 E.			2.50			12.00												14.50	THIS PROOF SUPERCEDES PERMIT 24557.
TOTAL ACRES ALLOTTED																				213.30	CERTIFICATE 8079, MILLER CREEK AND IS SUPPLEMENTAL TO PROOF V06371. SUPPLEMENTS WATER UNDER THE BARBER CREEK DECREE, SUPPLEMENTED BY PERMIT 24557, CERT. 6815, AND PERMIT 24201, CERT. 6813 DOUGLAS COUNTY APN 1219-23-002-010, 011.

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.
V-06368	SCOSSA BROTHERS	MILLER CREEK, BEERS SPRING AND OTHER UNNAMED SPRINGS	* MILLER CREEK NW¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.65°10'E. 1,069.01 FT. FROM NW COR. OF SAID SECTION 26.  BEERS SPRING NW¼SE¼ SEC. 22, T.12N., R.19E., M.D.B.&M., S.84°02'W 2,184.0 FT. FROM THE E¼ COR. OF SAID SEC. 22.	JAN. 1 TO DEC. 1  The State Engineer determines that Miller Creek is subject to a 4 day rotation for Green Acres water users and a 10 day rotation for the Scossa Ranch every two (2) weeks.	STOCK WATER 1852		SEE SECTION XII.	

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

V-06368 (cont.)			PLACE OF USE 40 ACRE DESCRIPTIONS												ACRES PER SECTION	REMARKS			
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E				SUFFICIENT WATER FOR 545 HEAD OF LIVESTOCK. THIS PROOF SUPERCEDES PERMIT 24557, CERTIFICATE 8079, MILLER CREEK THIS PROOF IS SUPPLEMENTAL TO PROOF V06372. DOUGLAS COUNTY APN'S 1219-23-002-010, 011; 1219-22-002-001.
PORTIONS OF THIS SECTION																			
22	T. 12 N., R. 19 E.																		
23	T. 12 N., R. 19 E.				X	X						X			X	X			
24	T. 12 N., R. 19 E.											X	X						
26	T. 12 N., R. 19 E.				X				X										

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT/J ACRE	TOTAL AC.-FT.											
V-06369	MICHAEL STEVEN BELLIK TERRY A. GALLAGHER JANICE G. HANSEN BETTIE KENNARD KANELOS TRUST ERIK AND MYRNA J. VINDUM	MOTT CREEK	PRIMARY DIVERSION: NE¼SE¼ SEC. 04, T.12N., R.19E., M.D.B.&M., S.12°45'W. 763 FT. FROM E¼ COR. OF SAID SECTION 04.  SECONDARY DIVERSION: SW¼SW¼ SEC. 34, T.13N., R.19E., M.D.B.&M., N.89°56'E. 779 FT. FROM SW COR. OF SAID SECTION 34.	JAN. 1 TO DEC. 1	STOCK WATER 1853		SEE SECTION XII.												
PLACE OF USE 48 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS												
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E				SUFFICIENT WATER FOR 120 HEAD OF LIVESTOCK. DOUGLAS COUNTY APN'S 1319-34-002-023 THROUGH 028.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
34	T. 13 N.,	R. 19 E.									X	X	X	X	X	X	X	X	

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.												
V-06370	MICHAEL STEVEN BELLIK TERRY A. GALLAGHER JANICE G. HANSEN BETTIE KENNARD KANELOS TRUST ERIK AND MYRNA J. VINDUM	MOTT CREEK	PRIMARY DIVERSION: NE¼SE¼ SEC. 04, T.12N., R.19E., M.D.B.&M., S.12°45'W. 763 FT. FROM E¼ COR. OF SAID SECTION 04.  SECONDARY DIVERSION: SW¼SW¼ SEC. 34, T.13N., R.19E., M.D.B.&M., N.89°56'E. 779 FT. FROM SW COR. OF SAID SECTION 34.	APR.1 TO OCT. 15 JAN. 1 TO DEC.31	IRRIGATION DOMESTIC 1853	1.100	3.40	431.46												
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS													
SECTION	TOWN-SHIP	RANGE	NE				NW				SW				SE				SEE PROOF V-06369 FOR STOCK WATERING. DOUGLAS COUNTY APN'S 1319-34-002-023 THROUGH 028.	
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
34	T. 13 N.,	R. 19 E.												25.00	40.20			40.00		21.70
TOTAL ACRES ALLOTTED																			126.90	

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.												
V-06371	SCOSSA BROTHERS	LUTHER CREEK, MILLER CREEK, FREDERICKSBURG DITCH, AND VARIOUS UNNAMED SPRINGS. WASTE AND DRAIN WATER FROM THESE SOURCES.	DIVERSION NO. 1 NW¼SE¼ SEC. 23, T.12N., R.19E., M.D.B.&M., N.54°04'21"E. 3,968 FT. FROM SW COR. OF SAID SECTION 23.  DIVERSION NO. 2 SW¼SE¼ SEC. 23, T.12N., R.19E., M.D.B.&M., N.73°40'15"E. 3,241 FT. FROM SW COR. OF SAID SECTION 23.  DIVERSION NO. 3 NE¼SW¼ SEC. 24, T.12N., R.19E., M.D.B.&M., N.79°43'00"E. 7,400 FT. FROM SW COR. OF SAID SECTION 23.  DIVERSION NO. 4 SE¼SE¼ SEC. 23, T.12N., R.19E., M.D.B.&M., N.86°42'17"E. 4,129 FT. FROM SW COR. OF SAID SECTION 23.  DIVERSION NO. 5 NW¼NE¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.88°03'16"E. 3,123 FT. FROM SW COR. OF SAID SECTION 23.	APR.1 TO OCT. 15  The State Engineer determines that a vested right is established from these sources for "drain and waste" water only. No diversion rate or duty is allowed. See Section V.	IRRIGATION 1852															
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS													
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E					
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
23	T. 12 N., R. 19 E.				1.00	10.20									40.00	21.80	24.40	27.60	125.00	SEE PROOF V-06372 FOR STOCK WATERING.
24	T. 12 N., R. 19 E.				34.30	2.70			21.30	32.50	20.00	40.20	13.90	1.80					166.70	THIS PROOF SUPERCEDES PERMIT 24557, CERTIFICATE 8079, MILLER CREEK.
28	T. 12 N., R. 19 E.			0.40															0.40	THIS PROOF IS SUPPLEMENTAL TO PROOF V06372.
TOTAL ACRES ALLOTTED																			292.10	DOUGLAS COUNTY APN'S 1219-23-002-010-011.
																				SUPPLEMENTS WATER UNDER THE BARBER CREEK DECREE. SUPPLEMENTED BY PERMIT 24557, CERT. 6815, AND PERMIT 24201, CERT. 6813

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.
V-06372	SCOSSA BROTHERS	LUTHER CREEK, MILLER CREEK, FREDERICKSBURG DITCH, AND VARIOUS UNNAMED SPRINGS.  WASTE AND DRAIN WATER FROM THESE SOURCES.	DIVERSION NO. 1  NW¼SE¼ SEC. 23, T.12N., R.19E., M.D.B.&M., N.54°04'21"E, 3,968 FT. FROM SW COR. OF SAID SECTION 23.   DIVERSION NO. 2  SW¼SE¼ SEC. 23, T.12N., R.19E., M.D.B.&M., N.73°40'15"E, 3,241 FT. FROM SW COR. OF SAID SECTION 23.   DIVERSION NO. 3  NE¼SW¼ SEC. 24, T.12N., R.19E., M.D.B.&M., N.79°43'00"E, 7,400 FT. FROM SW COR. OF SAID SECTION 23.   DIVERSION NO. 4  SE¼SE¼ SEC. 23, T.12N., R.19E., M.D.B.&M., N.86°42'17"E, 4,129 FT. FROM SW COR. OF SAID SECTION 23.   DIVERSION NO. 5  NW¼NE¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.88°03'16"E, 3,123 FT. FROM SW COR. OF SAID SECTION 23.	JAN. 1 TO DEC. 31	STOCK WATER  1852			
						SEE SEC. XII		
						The State Engineer determines that a vested right is established from these sources for "drain and waste" water only. No diversion rate or duty is allowed. See Section V.		

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

V-06372 (cont.)		PLACE OF USE 40 ACRE DESCRIPTION												ACRES PER SECTION	REMARKS					
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E					SUFFICIENT TO WATER 545 HEAD OF LIVESTOCK, SEE SECTION XII.  THIS PROOF SUPERCEDES PERMIT 24557, CERTIFICATE 8079, MILLER CREEK  DOUGLAS COUNTY APN'S 1219-23-002-010, 011; 1219-22-002-001.  SUPPLEMENTS WATER UNDER THE BARBER CREEK DECREE. SUPPLEMENTED BY PERMIT 24557, CERT. 6815, AND PERMIT 24201, CERT. 6813
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
23	T. 12 N., R. 19 E.				X	X									X	X	X	X		
24	T. 12 N., R. 19 E.				X	X			X	X	X	X								
26	T. 12 N., R. 19 E.			X																

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.																
V-06831	LARRY & JDYCE H. LACKEY	MOTT CREEK	NE¼SE¼ SEC. 04, T.12N., R.19E., M.D.B.&M., S.14°15'43"W. 767.47 FT. FROM E¼ COR. OF SAID SECTION 04.																					
				APR.1 TO OCT. 15	IRRIGATION	0.107	4.00	27.68																
				JAN. 1 TO DEC.31	DOMESTIC																			
					1852																			
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS																	
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E									
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE						
3	T. 12 N.,	R. 19 E.														2.36		1.33	3.23		6.92	STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII		
																					TOTAL ACRES ALLOTTED		6.92	

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLDW CFS	DUTY AC.-FT/J ACRE	TOTAL AC.-FT.											
V-07486	MICHAEL CATHERWOOD AND ROBIN L. CATHERWOOD	MILLER CREEK, UNNAMED SPRING (A) & UNNAMED SPRING (D)	* MILLER CREEK NE¼NW¼ SEC. 28, T.12N., R.19E., M.D.B.&M., S.82°27'34"E. 1,982.63 FT. FROM NW COR. OF SAID SECTION 26.  ** UNNAMED SPRING (A) NE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.65°20'28"E. 2,614.06 FT. FROM NW COR. OF SAID SECTION 26.  ***UNNAMED SPRING (D) SE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.47°37'14"E. 3,508 FT. FROM NW COR. OF SAID SECTION 26.	APR. 1 TO OCT. 15	IRRIGATION	* 0.127	* 2.71	5.10											
				JAN. 1 TO DEC.31	DOMESTIC	** 0.011	** 2.43	11.81											
					1853	***	***	***											
				The State Engineer determines that Miller Creek is subject to a 4 day rotation for Green Acres water users and a 10 day rotation for the Scossa Ranch every 14 days.															
				Unnamed Spring (A) is the same water source as Jackson Spring "A" under Proof V06342.															
					The State Engineer determines that a vested right is established from Unnamed Spring (D) for a direct diversion right, subject to the delivery rates described in the Final Order of Determination														
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS												
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E				STOCKWATER IS ALSO RECOGNIZED. SEE SEC. XII.  THE TOTAL COMBINED DUTY OF WATER SHALL NOT EXCEED 4.0 ACRE-FEET PER ACRE FROM ANY AND/OR ALL SOURCES.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
23	T. 12 N.	R. 19 E.																X	
24	T. 12 N.	R. 19 E.											X						
TOTAL ACRES ALLOTTED																		4.86	THE STATE ENGINEER DETERMINES THAT THIS PROOF SUPERCEDES PERMIT 24525, CERTIFICATE 8136, "MILLER CREEK", AND PERMIT 24526, CERTIFICATE 8137, "UNNAMED CREEK".  X - LOT 15 ON THE SUPPORTING MAP. DOUGLAS COUNTY APN 1219-23-002-013.
**REFER TO THE ROTATION SCHEDULE UNDER TABLE 8 FOR UNNAMED SPRING (A).																			
***The first 1.50 cfs from Unnamed Spring (D) is allocated to Proofs V-06321, V-06323 and V-08850. Flow in Excess of 1.50 cfs shall be divided in a 60%/40% split, with 40% being routed through the diversion to the north, that flows beneath Foothill Road to the east and directs water through the "Bisecting Ditch" under claim V-08850. The 40% portion will be used to supplement Spring (A) flow within the same rotation schedule for said spring (A) as applied to Proofs V-06322, V-06325, V-06326, V-06327, V-06328, V-06329, V-06330, V-06331, V-06333, V-06334, V-07486, V-09264, V-09265, V-09266 and V-09270. Refer to Table 8 for the distribution table as it pertains to the 60%/40% division of the irrigation water from Unnamed Spring (D).																			

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.
V-08850	GROENENDYKE FAMILY TRUST DATED MARCH 2, 1978	UNNAMED SPRING (A) - DIRECT DIVERSION, UNNAMED SPRING (D) & LUTHER CREEK - RETURN FLOW	* UNNAMED SPRING (A) SW¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.24°E. 1,550 FT. FROM NW COR. OF SAID SECTION 26.  **UNNAMED SPRING (D) SE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.47°37'14"E. 3,508 FT. FROM NW COR. OF SAID SECTION 26.  LUTHER CREEK RETURN FLOW NE¼SE¼ SEC. 35, T.12N., R.19E., M.D.B.&M., S.13°21'16"W. 3,072 FT. FROM NE COR. OF SAID SECTION 35.	APR. 1 TO OCT. 15	IRRIGATION	*0.089	* 2.43	30.20
				JAN. 1 TO DEC.31	DOMESTIC	**1.50	4.00	102.16
				JAN. 1 TO DEC.31	STOCK WATER	STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII		
				1853				
				Unnamed Spring (A) is the same water source as Jackson Spring "A" under Proof V06342. This spring is the soul source of water for land lying north of the northeasterly flowing drain that bisects this parcel. The State Engineer determines that e vested right is established from Unnamed Spring (D) for a direct diversion right from the ditch from said spring area for use only on lands located on the south side of the northeasterly trending drain ditch that bisects this parcel of land. Unnamed Spring "A" water cannot be commingled with this source.				
The State Engineer determines that a vested right is established from Luther Creek for "drain and waste" water only. No diversion rate or duty is allowed. See Section V.								

166

V-08850 (cont.)																	PLACE OF USE 40 ACRE DESCRIPTIONS										ACRES PER SECTION	REMARKS
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E					SUFFICIENT TO WATER 30 HEAD OF LIVESTOCK. SEE SECTION XII.								
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE										
LAND IRRIGATED FROM UNNAMED SPRING (A)																			THE TOTAL COMBINED DUTY OF WATER SHALL NOT EXCEED 4.0 ACRE-FEET PER ACRE FROM ANY AND/OR ALL SOURCES.  THE STATE ENGINEER DETERMINES THAT THIS PROOF SUPERCEDES PERMIT 24918, CERTIFICATE 7843, "UNNAMED SPRING", AND PERMIT 24919, CERTIFICATE 7842, "UNNAMED SPRING", AND PROOF V-02656.  DOUGLAS COUNTY APN 1219-26-001-035.									
26	T. 12 N.	R. 19 E.		6.39	4.89		1.15										12.43											
LAND IRRIGATED FROM UNNAMED SPRING (D)																												
26	T. 12 N.	R. 19 E.	6.77	7.02	9.11	2.64											25.54											
LUTHER CREEK RETURN FLOW																			TOTAL ACRES ALLOTTED	37.97								
26	T. 12 N.	R. 19 E.	6.77			2.64											9.41											
*REFER TO THE ROTATION SCHEDULE UNDER TABLE 8 FOR UNNAMED SPRING (A).																												
UNNAMED SPRING (A), (D) AND LUTHER CREEK RETURN FLOWS:																												
UNNAMED SPRING (A) is the exclusive source of water for 6.39 acres located within the NW¼NE¼, 4.89 acres within the SW¼NE¼ and 1.15 acres within the NE¼NW¼ Sec. 28, T.12N., R.19E., M.D.B.&M. lying north of the drainage ditch shown running in a northeasterly direction through the acreage listed in this claim.																												
UNNAMED SPRING "D" is appurtenant to 6.77 acres located within the NE¼NE¼, 7.02 acres within the NW¼NE¼, 9.11 acres within the SW¼NE¼ and 2.64 acres within the SE¼NE¼ Sec. 26, T.12N., R.19E. M.D.B.&M. lying south of the drainage ditch shown running in a northeasterly direction through the acreage listed in this claim.																												
LUTHER CREEK RETURN FLOW is listed as being appurtenant to 6.77 acres located within the NE¼NE¼ and 2.64 acres within the SE¼NE¼ Sec. 26, T.12N., R.19E., M.D.B.&M. Return flow is not restricted to this acreage, but may only be used downgradient from the point at which it enters the claimed acreage. Collection and pumping upgradient is not consistent with historic or current use of this water.																												
*1.50 CFS IS THE IS THE MINIMUM FLOW RATE FROM UNNAMED SPRING (D) AND IS TO BE USED IN A ROTATION SCHEME OF IRRIGATING LAND UNDER PROOFS V-06321, V-06323 AND V-08850. FLOW IN EXCESS OF 1.5 CFS SHALL BE DIVIDED IN A 80%/40% SPLIT WITH 40% OF THE WATER ABOVE 1.5 CFS DIVERTED THROUGH THE DIVERSION TO THE NORTH THAT FLOWS BENEATH FOOTHILL ROAD TO THE EAST AND DIRECTS WATER THROUGH THE "BISECTING DITCH" UNDER CLAIM NO. V-08850. 60% OF THE FLOW IN EXCESS OF 1.5 CFS WILL REMAIN IN THE DITCH THAT PROVIDES WATER TO HERITAGE RANCH WATER USERS UNDER CLAIMS V-06321, V-06323 AND V-08850. REFER TO TABLE 8 FOR THE DISTRIBUTION TABLE AS IT PERTAINS TO THE 80%/40% DIVISION OF THE IRRIGATION WATER FROM UNNAMED SPRING (D).																												

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF ND.	CLAIMANT	SDURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT/J ACRE	TOTAL AC.-FT.											
V-09039	TOM E. MASON AND SHARON J. MASON	MOTT CREEK	NE¼SE¼ SEC. 04, T.12N., R.19E., M.D.B.&M., S.14°15'43"W. 767.47 FT. FROM E¼ COR. OF SAID SECTION 04.	JAN. 1 TO DEC. 31	DOMESTIC, GARDEN AND LAWN 1852	0.002	3.59	0.79											
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS												
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E				STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII DOUGLAS COUNTY APN 1219-03-002-060.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
3	T. 12 N., R. 19 E.																	0.22	0.22
TOTAL ACRES ALLOTTED																			0.22

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PRODF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.													
V-09263	BRETT A. & KAREN A. KIMBALL ROBERT CHUDNOW AND LINDA SAWYER-CHUDNOW	MOTT CREEK	NE½SE¼ SEC. 04, T.12N., R.19E., M.D.B.&M., S.14°15'43"W. 767.47 FT. FROM E¼ COR. OF SAID SECTION 04.																		
				APR.1 TO OCT. 15	IRRIGATION	0.135	4.00	34.91													
					1852																
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS														
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E					STOCKWATER IS ALSO RECOGNIZED. SEE SEC. XII  NO PROOF OF APPROPRIATION IS FILED ON THIS ACREAGE LOCATED AS DESCRIBED IN THE SHADED INSERT AND IN THE PLACE OF USE DESCRIPTION. THEREFORE, THE STATE ENGINEER DETERMINES THAT IN ORDER TO ISSUE A COMPLETE AND ACCURATE SUMMARY OF THE HISTORIC USE OF THE WATERS OF MOTT CREEK, A CLAIM IS SUBMITTED ON BEHALF OF THE CURRENT OWNER(S) OF RECORD BY THE OFFICE OF THE STATE ENGINEER.  * THE SUM OF THE IRRIGATED ACREAGE CANNOT EXCEED THE 8.728 ACRES AS DESCRIBED BY THE DOUGLAS COUNTY ASSESSOR'S OFFICE UNDER DOUGLAS COUNTY APN'S 1219-03-002-082, 084.	
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			
3	T. 12 N.,	R. 19 E.										1.80				1.72		5.01	0.20		8.73
TOTAL ACRES ALLOTTED																			* 8.73		
This land is described as Douglas County Assessor's Parcels 1219-03-002-082, 084, being 8.728 acres located within portions of the NE¼SW¼, SE¼SW¼, NW¼SE¼ and SW¼SE¼, Section 3, T.12N., R.19E., M.D.B.&M. The State Engineer determines that water has been diverted from Mott Creek and placed to beneficial use on this acreage based on Map No. 4891, U.S. Geological Survey, Hydrographic Branch, Reclamation Service, for the Truckee-Carson Project, Nev., Dated July 27, 1904 and 1938 Aerial photos of Carson Valley Bottom Land, dated Oct. 20, 1938. This proof is filed pursuant to NRS § 533.125.																					
Acreage within each forty (40) acre parcel was calculated with an electronic planimeter to within 0.072 acres. The acreage was then proportionally reduced within each forty (40) acre subdivision to equal 8.728 acres.																					

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPDSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.											
V-09264	TYNE HONKANEN & MARSHALL KYLE	MILLER CREEK UNNAMED SPRING (A) & UNNAMED SPRING (D)	* MILLER CREEK NE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.82°27'34"E. 1,982.63 FT. FROM NW COR. OF SAID SECTION 26.  ** UNNAMED SPRING (A) NE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.85°20'28"E. 2,614.06 FT. FROM NW COR. OF SAID SECTION 26. ***UNNAMED SPRING (D) SE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.47°37'14"E. 3,508 FT. FROM NW COR. OF SAID SECTION 26.	APR.1 TO OCT. 15	IRRIGATION 1853	* 0.066 ** 0.006 ***	* 2.71 ** 2.43 ***	6.86 6.15 ***											
				The State Engineer determines that Miller Creek is subject to a 4 day rotation for Green Acres water users and a 10 day rotation for the Scossa Ranch every 14 days.															
				Unnamed Spring (A) is the same water source as Jackson Spring "A" under Proof V06342.															
				The State Engineer determines that a vested right is established from Unnamed Spring (D) for a direct diversion right, subject to the delivery rates described in the Final Order of Determination															
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS												
SECTION	TOWN-SHIP	RANGE	NE				NW				SW				SE				
26	T. 12 N.,	R. 19 E.				2.53												2.53	
**REFER TO THE ROTATION SCHEDULE UNDER TABLE 8 FOR UNNAMED SPRING (A).										TOTAL ACRES ALLOTTED				2.53					
This land is described as Douglas County Assessor's Parcel 1219-26-001-031, being 2.53 acres located within a portion of the NW¼NE¼ Section 26, T.12N., R.19E., M.D.B.&M. The State Engineer determines that water has been diverted from Miller Creek and Unnamed Spring (A) and placed to beneficial use on this acreage based on Map No. 4891, "U.S. Geological Survey, Hydrographic Branch, Reclamation Service, for the Truckee-Carson Project, Nev.", Dated July 27, 1904 and 1938 Aerial photos of Carson Valley Bottom Land, dated Oct. 20, 1938 and the fact that all of the acreage in the Green Acres subdivision was formerly the same ranch. This proof is filed pursuant to NRS § 533.125.										STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII									
***The first 1.50 cfs from Unnamed Spring (D) is allocated to Proofs V-06321, V-06323 and V-08850. Flow in Excess of 1.50 cfs shall be divided in a 60%/40% split, with 40% being routed through the diversion to the north, that flows beneath Foothill Road to the east and directs water through the "Bisecting Ditch" under claim V-08850. The 40% portion will be used to supplement Spring (A) flow within the same rotation schedule for said spring (A) as applied to Proofs V-06322, V-06325, V-06326, V-06327, V-06328, V-06329, V-06330, V-06331, V-06333, V-06334, V-07486, V-09264, V-09265, V-09266 and V-09270. Refer to Table 8 for the distribution table as it pertains to the 60%/40% division of the irrigation water from Unnamed Spring (D).										THE TOTAL COMBINED DUTY OF WATER SHALL NOT EXCEED 4.0 ACRE-FEET PER ACRE FROM ANY AND/OR ALL SOURCES.									
										THE STATE ENGINEER DETERMINES THAT THIS PROOF SUPERCEDES PERMIT 24525, CERTIFICATE 8136, "MILLER CREEK", AND PERMIT 24526, CERTIFICATE 8137, "UNNAMED CREEK", ON THE CLAIMED 4.98 ACRES.									
										LDT 4 ON THE SUPPORTING MAP. DOUGLAS COUNTY APN 1219-26-001-031.									

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLDW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.								
V-09265	STEPHEN H. & PATRICIA CHRISTIAN	MILLER CREEK UNNAMED SPRING (A) & UNNAMED SPRING (D)	* MILLER CREEK NE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.82°27'34"E. 1,982.63 FT. FROM NW COR. OF SAID SECTION 26.  ** UNNAMED SPRING (A) NE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.65°20'28"E. 2,614.06 FT. FROM NW COR. OF SAID SECTION 26.  ***UNNAMED SPRING (D) SE¼NW¼ SEC. 26, T.12N., R.19E., M.O.B.&M., S.47°37'14"E. 3,508 FT. FROM NW COR. OF SAID SECTION 26.													
				APR.1 TO OCT. 15	IRRIGATION	* 0.067	* 2.71	6.91								
					1853	** 0.006	** 2.43	6.20								
						***	***	***								
				The State Engineer determines that Miller Creek is subject to a 4 day rotation for Green Acres water users and a 10 day rotation for the Scoosa Ranch every 14 days.												
Unnamed Spring (A) is the same water source as Jackson Spring "A" under Proof V06342.																
The State Engineer determines that a vested right is established from Unnamed Spring (D) for a direct diversion right, subject to the delivery rates described in the Final Order of Determination																
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS									
SECTION	TOWN-SHIP	RANGE	N E		N W		S W		S E		STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII  THE TOTAL COMBINED DUTY OF WATER SHALL NOT EXCEED 4.0 ACRE-FEET PER ACRE FROM ANY AND/OR ALL SOURCES.  THE STATE ENGINEER DETERMINES THAT THIS PROOF SUPERCEDES PERMIT 24525, CERTIFICATE 8136, "MILLER CREEK", AND PERMIT 24526, CERTIFICATE 8137, "UNNAMED CREEK".  LOT 10 ON THE SUPPORTING MAP. DOUGLAS COUNTY APN 1219-24-002-009 (PORTION). LOTS HAVE BEEN RECONFIGURED TO SHOW THAT CHRISTIAN ALSO OWNS 2.57 ACRES UNDER PROOF V-09270.					
			NE	NW	SW	SE	NE	NW	SW	SE		NE	NW	SW	SE	
24	T. 12 N.	R. 19 E.											X	X		
TOTAL ACRES ALLOTTED 2.55																
***REFER TO THE ROTATION SCHEDULE UNDER TABLE 8 FOR UNNAMED SPRING (A). This land is described as Douglas County Assessor's Parcel 1219-24-002-009 (PORTION), being 2.55 acres located within a portion of the SE¼SW¼ Section 24, T.12N., R.19E., M.D.B.&M. The State Engineer determines that water has been diverted from Miller Creek and Unnamed Creek and placed to beneficial use on this acreage based on Map No. 4891, "U.S. Geological Survey, Hydrographic Branch, Reclamation Service, for the Truckee-Carson Project, Nev.", Dated July 27, 1904 and 1938 Aerial photos of Carson Valley Bottom Land, dated Oct. 20, 1938 and the fact that all of the acreage in the Green Acres subdivision was formerly the same ranch. This proof is filed pursuant to NRS § 533.125. ***The first 1.50 cfs from Unnamed Spring (D) is allocated to Proofs V-06321, V-06323 and V-08850. Flow in Excess of 1.50 cfs shall be divided in a 60%/40% split, with 40% being routed through the diversion to the north, that flows beneath Foothill Road to the east and directs water through the "Bisecting Ditch" under claim V-08850. The 40% portion will be used to supplement Spring (A) flow within the same rotation schedule for said spring (A) as applied to Proofs V-06322, V-06325, V-06326, V-06327, V-06328, V-06329, V-06330, V-06331, V-06333, V-06334, V-07486, V-09264, V-09265, V-09266 and V-09270. Refer to Table 8 for the distribution table as it pertains to the 60%/40% division of the irrigation water from Unnamed Spring (D).																

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.												
V-09266	JOHN MINASIAN	MILLER CREEK UNNAMED SPRING (A) & UNNAMED SPRING (D)	* MILLER CREEK NE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.82°27'34"E. 1,982.63 FT. FROM NW COR. OF SAID SECTION 26.  ** UNNAMED SPRING (A) NE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.65°20'28"E. 2,814.06 FT. FROM NW COR. OF SAID SECTION 26.  ***UNNAMED SPRING (D) SE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.47°37'14"E. 3,508 FT. FROM NW COR. OF SAID SECTION 26.	APR.1 TO OCT. 15	IRRIGATION	* 0.135	* 2.71	14.04												
					1853	** 0.012	** 2.43	12.59												
						***	***	***												
				The State Engineer determines that Miller Creek is subject to a 4 day rotation for Green Acres water users and a 10 day rotation for the Scossa Ranch every 14 days.  Unnamed Spring (A) is the same water source as Jackson Spring "A" under Proof V06342.  The State Engineer determines that a vested right is established from Unnamed Spring (D) for a direct diversion right, subject to the delivery rates described in the Final Order of Determination																
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS													
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E				STOCKWATER IS ALSO RECOGNIZED. SEE SEC. XII	
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
26	T. 12 N.,	R. 19 E.												5.18				5.18		
** REFER TO THE ROTATION SCHEDULE UNDER TABLE 8 FOR UNNAMED SPRING (A).																			TOTAL ACRES ALLOTTED	5.18
This land is described as Douglas County Assessor's Parcel 1219-24-002-007, being 5.18 acres located within a portion of the SE¼SW¼ Section 24, T.12N., R.19E., M.D.B.&M. The State Engineer determines that water has been diverted from Miller Creek and Unnamed Creek and placed to beneficial use on this acreage based on Map No. 4891, "U.S. Geological Survey, Hydrographic Branch, Reclamation Service, for the Truckee-Carson Project, Nev.", Dated July 27, 1904 and 1938 Aerial photos of Carson Valley Bottom Land, dated Oct. 20, 1938 and the fact that all of the acreage in the Green Acres subdivision was formerly the same ranch. This proof is filed pursuant to NRS § 533.125.																			THE STATE ENGINEER DETERMINES THAT THIS PROOF SUPERCEDES PERMIT 24525, CERTIFICATE 8136, "MILLER CREEK", AND PERMIT 24526, CERTIFICATE 6137, "UNNAMED CREEK".	
***The first 1.50 cfs from Unnamed Spring (D) is allocated to Proofs V-06321, V-06323 and V-08850. Flow in Excess of 1.50 cfs shall be divided in a 60%/40% split, with 40% being routed through the diversion to the north, that flows beneath Foothill Road to the east and directs water through the "Bisecting Ditch" under claim V-08850. The 40% portion will be used to supplement Spring (A) flow within the same rotation schedule for said spring (A) as applied to Proofs V-06322, V-06325, V-06328, V-06327, V-06328, V-06329, V-06330, V-06331, V-06333, V-06334, V-07488, V-09264, V-09265, V-09266 and V-09270. Refer to Table 8 for the distribution table as it pertains to the 60%/40% division of the irrigation water from Unnamed Spring (D).																			LOT 12 ON THE SUPPORTING MAP. DOUGLAS COUNTY APN 1219-24-002-007.	

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.											
V-09267	ANDREW & LINDA HACKLER	MILLER CREEK	* MILLER CREEK NE $\frac{1}{4}$ NW $\frac{1}{4}$ SEC. 26, T.12N., R.19E., M.D.B.&M., S.82°27'34"E. 1,982.63 FT. FROM NW COR. OF SAID SECTION 26.	APR. 1 TO OCT. 15	IRRIGATION	* 0.073	* 2.71	7.53											
				1853 The State Engineer determines that Miller Creek is subject to a 4 day rotation for Green Acres water users and a 10 day rotation for the Scossa Ranch every 14 days.															
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS												
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E				STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII THE TOTAL COMBINED DUTY OF WATER SHALL NOT EXCEED 4.0 ACRE-FEET PER ACRE FROM ANY AND/OR ALL SOURCES. THE STATE ENGINEER DETERMINES THAT THIS PROOF SUPERCEDES PERMIT 24525, CERTIFICATE 8136 "MILLER CREEK". X - LOT 18 ON THE SUPPORTING MAP. DOUGLAS COUNTY APN 1219-26-001-026.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
23	T. 12 N., R. 19 E.																X		
26	T. 12 N., R. 19 E.			X															
TOTAL ACRES ALLOTTED 2.78																			
This land is described as Douglas County Assessor's Parcel 1219-26-001-026, being 2.78 acres located within portions of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 24, and NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 26, T.12N., R.19E., M.D.B.&M. The State Engineer determines that water has been diverted from Miller Creek and placed to beneficial use on this acreage based on Map No. 4891, "U.S. Geological Survey, Hydrographic Branch, Reclamation Service, for the Truckee-Carson Project, Nev.", Dated July 27, 1904 and 1938 Aerial photos of Carson Valley Bottom Land, dated Oct. 20, 1938 and the fact that all of the acreage in the Green Acres subdivision was formerly the same ranch. This proof is filed pursuant to NRS § 533.125.																			

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.											
V-09268	TERRY & CINDY LIBBON	MILLER CREEK	* MILLER CREEK NE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.82°27'34"E. 1,982.63 FT. FROM NW COR. OF SAID SECTION 26.	APR. 1 TO OCT. 15	IRRIGATION	* 0.070	* 2.71	7.21											
				1853	The State Engineer determines that Miller Creek is subject to a 4 day rotation for Green Acres water users and a 10 day rotation for the Scossa Ranch every 14 days.														
PLACE OF USE 40 ACRE DESCRIPTIONS					ACRES PER SECTION	REMARKS													
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E				STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII  THE TOTAL COMBINED DUTY OF WATER SHALL NOT EXCEED 4.0 ACRE-Feet PER ACRE FROM ANY AND/OR ALL SOURCES.  THE STATE ENGINEER DETERMINES THAT THIS PROOF SUPERCEDES PERMIT 24526, CERTIFICATE 6136, "MILLER CREEK"  LOT 19 ON THE SUPPORTING MAP. DOUGLAS COUNTY APN 1219-26-001-025.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
26	T. 12 N., R. 19 E.			2.66														2.66	
TOTAL ACRES ALLOTTED																			2.66
This land is described as Douglas County Assessor's Parcel 1219-26-001-025, being 2.66 acres located within a portion of the NW¼NE¼ Section 26, T.12N., R.19E., M.D.B.&M. The State Engineer determines that water has been diverted from Miller Creek and placed to beneficial use on this acreage based on Map No. 4891, "U.S. Geological Survey, Hydrographic Branch, Reclamation Service, for the Truckee-Carson Project, Nev.", Dated July 27, 1904 and 1938 Aerial photos of Carson Valley Bottom Land, dated Oct. 20, 1938 and the fact that all of the acreage in the Green Acres subdivision was formerly the same ranch. This proof is filed pursuant to NRS § 533.125.																			

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.											
V-09269	RICHARD E. & DOROTHY J. MURSET	MILLER CREEK	* MILLER CREEK NE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.82°27'34"E, 1,982.63 FT. FROM NW COR. OF SAID SECTION 26.	APR. 1 TO OCT. 15	IRRIGATION	* 0.066	* 2.71	6.80											
				1853															
				The State Engineer determines that Miller Creek is subject to a 4 day rotation for Green Acres water users and a 10 day rotation for the Scosse Ranch every 14 days.															
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS												
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E				STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII  THE TOTAL COMBINED DUTY OF WATER SHALL NOT EXCEED 4.0 ACRE-FEET PER ACRE FROM ANY AND/OR ALL SOURCES.  THE STATE ENGINEER DETERMINES THAT THIS PROOF SUPERCEDES PERMIT 24525, CERTIFICATE 8136, "MILLER CREEK".  LOT 20 ON THE SUPPORTING MAP. DOUGLAS COUNTY APN 1219-26-001-024.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
26	T. 12 N., R. 19 E.			2.51														2.51	
TOTAL ACRES ALLOTTED 2.51																			
This land is described as Douglas County Assessor's Parcel 1219-26-001-024, being 2.51 acres located within a portion of the NW¼NE¼ Section 26, T.12N., R.19E., M.D.B.&M. The State Engineer determines that water has been diverted from Unnamed Creek and placed to beneficial use on this acreage based on Map No. 4891, "U.S. Geological Survey, Hydrographic Branch, Reclamation Service, for the Truckee-Carson Project, Nev.", Dated July 27, 1904 and 1938 Aerial photos of Carson Valley Bottom Land, dated Oct. 20, 1938 and the fact that all of the acreage in the Green Acres subdivision was formerly the same ranch. This proof is filed pursuant to NRS § 533.125.																			

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.													
V-09270	STEPHEN H. & PATRICIA CHRISTIAN	MILLER CREEK AND UNNAMED SPRING (A) & UNNAMED SPRING (D)	* MILLER CREEK NE½NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.82°27'34"E, 1,982.63 FT. FROM NW COR. OF SAID SECTION 26.	APR.1 TO OCT. 15	IRRIGATION	* 0.135	* 2.71	14.04													
			** UNNAMED SPRING (A) NE½NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.85°20'28"E, 2,614.06 FT. FROM NW COR. OF SAID SECTION 26.		1853	** 0.012 ***	** 2.43 ***	12.59 ***													
			***UNNAMED SPRING (D) SE½NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.47°37'14"E, 3,508 FT. FROM NW COR. OF SAID SECTION 26.																		
			The State Engineer determines that Miller Creek is subject to a 4 day rotation for Green Acres water users and a 10 day rotation for the Scossa Ranch every 14 days.  Unnamed Spring (A) is the same water source as Jackson Spring "A" under Proof V06342.  The State Engineer determines that a vested right is established from Unnamed Spring (D) for a direct diversion right, subject to the delivery rates described in the Final Order of Determination																		
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS														
SECTION	TOWN-SHIP	RANGE	N E				N W				S W				S E				STOCKWATER IS ALSO RECOGNIZED, SEE SEC. XII		
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			
24	T. 12 N., R. 19 E.														5.18					THE TOTAL COMBINED DUTY OF WATER SHALL NOT EXCEED 4.0 ACRE-FEET PER ACRE FROM ANY AND/OR ALL SOURCES.	
** REFER TO THE ROTATION SCHEDULE UNDER TABLE 8 FOR UNNAMED SPRING (A).																TOTAL ACRES ALLOTTED				5.18	THE STATE ENGINEER DETERMINES THAT THIS PROOF SUPERCEDES PERMIT 24525, CERTIFICATE 8136, "MILLER CREEK", AND PERMIT 24526, CERTIFICATE 8137, "UNNAMED CREEK".  LOT 11 ON THE SUPPORTING MAP. DOUGLAS COUNTY APN 1219-24-002-008, 009 (PORTIONS).
This land is described as Douglas County Assessor's Parcels 1219-24-002-008, 009 (PORTIONS), being 5.18 acres located within a portion of the SE½SW¼ Section 24, T.12N., R.19E., M.D.B.&M. The State Engineer determines that water has been diverted from Miller Creek and Unnamed Creek and placed to beneficial use on this acreage based on Map No. 4891, "U.S. Geological Survey, Hydrographic Branch, Reclamation Service, for the Truckee-Carson Project, Nev.", Dated July 27, 1904 and 1938 Aerial photos of Carson Valley Bottom Land, dated Oct. 20, 1938 and the fact that all of the acreage in the Green Acres subdivision was formerly the same ranch. This proof is filed pursuant to NRS § 533.125.																					
***The first 1.50 cfs from Unnamed Spring (D) is allocated to Proofs V-06321, V-06323 and V-08850. Flow in Excess of 1.50 cfs shall be divided in a 60%/40% split, with 40% being routed through the diversion to the north, that flows beneath Foothill Road to the east and directs water through the "Bisecting Ditch" under claim V-08850. The 40% portion will be used to supplement Spring (A) flow within the same rotation schedule for said spring (A) as applied to Proofs V-06322, V-06325, V-06326, V-06327, V-06328, V-06329, V-06330, V-06331, V-06333, V-06334, V-07486, V-09264, V-09265, V-09266 and V-09270. Refer to Table 8 for the distribution table as it pertains to the 60%/40% division of the irrigation water from Unnamed Spring (D).																					

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PERMIT NO.	CLAIMANT	SDURCE	PDINT(S) OF DIVERISION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.											
7595 CERT.: 1760	JAMES ROLPH III & JUNE IRENE ROLPH; ROBERT D. DUNN & EVELYN W. DUNN; JAMES D. DOORNINK & EDNA DOORNINK; LOIS S. JONES; JAMES O. TOMERLIN AND WILLIAM R. TOMERLIN; L. J. HANAVAN; EMILE P. HASTERT; RODERICK J. SMITH & PATRICIA L. SMITH; THOMAS J. SCYPHERS AND KATHLEEN M. SCYPHERS.	GANSBERG SPRING	SE 1/4 SEC. 16, T. 12N., R. 19E., M.D.B.&M.	APR. 15 TO OCT. 15	IRRIGATION & DOMESTIC DEC. 7, 1925	1.570		571.98											
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS												
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
14	T. 12 N.,	R. 19 E.					40.00	40.00	37.00	40.00									157.00
TOTAL ACRES ALLOTTED																			157.00
GANSBERG SPRING WATER IS COMMINGLED IN. THE SAME PIPELINE AS STUTLER CREEK PRIOR TO BEING COMMINGLED WITH THE NORTH SPLIT OF SHERIDAN CREEK.																			
JAMES & JUNE IRENE ROLPH AND ROBERT & EVELYN DUNN HAVE BEEN ASSIGNED 1.56 CFS AND 568.34 AFA TO IRRIGATE 156 ACRES. JAMES AND EDNA DOORNINK HAVE BEEN ASSIGNED 0.01 CFS WITH 3.64 AFA TO IRRIGATE 1.0 ACRE.																			
THIS PERMIT IS SUPPLEMENTAL TO PROOFS V04594, V06305, V06306, V06309, V06310, V06311, V06312, V06338, V06339, V06340, V06341, V06346 AND V06347.																			
DOUGLAS COUNTY APN'S AS FOLLOWS: JONES: 1219-15-002-049, 1219-14-001-001, 002; ROLPH & DUNN: 1219-14-001-003, 005, 012, 013, 014, 015; 1219-14-001-002, 004, 005, 006; DOORNINK: 1219-15-002-036 TOMERLINS: 1219-15-001-026, 027, 028; HANAVAN: BOLEN CIRCLE RIGHT OF WAY; HASTERT: 1219-15-001-025; SMITH: 1219-15-001-040.																			

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PERMIT ND.	CLAIMANT	SDURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT/ ACRE	TOTAL AC.-FT.											
10033 CERT.: 3417	DAVID AND EVELYNE HARVEY	SHARPE SPRING	SW½SE¼ SEC. 16, T.12N., R.19E., M.D.B.&M., S.39°50'W. 2,870 FT. FROM E¼ COR. OF SAID SECTION 16.	JAN. 1 TO DEC. 31	IRRIGATION & DOMESTIC OCT. 7, 1936	0.050													
PLACE DF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS												
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16	T. 12 N.	R. 19 E.															X	X	WATER UNDER THIS PERMIT SERVES A RESIDENCE AND THE ASSOCIATED LANDSCAPING.

PERMIT ND.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLDW CFS	DUTY AC.-FT/ ACRE	TOTAL AC.-FT.											
10983 CERT.: 2937	MELVIN SCHWAKE	CARY CREEK	NE¼SE¼ SEC. 9, T.12N., R.19E., M.D.B.&M., S.87°06'W. 602 FT. FROM E¼ COR. OF SAID SECTION 9.	JAN. 1 TO DEC. 31	IRRIGATION STOCK WATERING & DOMESTIC 1873	0.370	0.90	145.44											
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS												
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
3	T. 12 N.	R. 19 E.														19.6	33.6	53.20	THIS APPLICATION WAS MADE TO CHANGE THE POINT OF DIVERSION AND PLACE OF USE OF THE WATERS OF CARY CREEK CLAIMED UNDER PROOF OF APPROPRIATION V06355 PRIOR TO THE FILING OF SAID PROOF.  CARY CREEK IRRIGATION WATER IS STORED IN A RESERVOIR UNDER DAM PERMIT J-50. THIS PERMIT IS SUPPLEMENTAL TO PROOF V06354 AND IS SUPPLEMENTED BY PERMIT 12532, CERTIFICATE 3293, UNDERGROUND.
10	T. 12 N.	R. 19 E.	40.00	39.60	18.80	10.00											108.40		
TOTAL ACRES ALLOTTED																	161.60		

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PERMIT NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.											
18720 CERT.: 5961	BENTLY FAMILY LIMITED PARTNERSHIP: DARWIN K. ELLIS AND ELIZABETH D. ELLIS; DARWIN V. ELLIS AND LINDA T. ELLIS	UNNAMED SPRING	NE¼NE¼ SEC. 09, T.12N., R.19E., M.D.B.&M., S.37°40'28"W. 1,649.45 FT. FROM NE COR. OF SAID SECTION 09.	JAN. 1 TO DEC. 31	IRRIGATION & DOMESTIC APR. 13, 1960	0.050	4.00	22.64											
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS												
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
9	T. 12 N.,	R. 19 E.	4.00			1.71													5.71
TOTAL ACRES ALLOTTED																5.71			

PERMIT NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.											
21569 CERT.: 6910	BENTLY FAMILY LIMITED PARTNERSHIP	BENTLY SPRINGS	SE¼NE¼ SEC. 09, T.12N., R.19E., M.D.B.&M., N.49°53'30"W. 1,072.47 FT. FROM E¼ COR. OF SAID SECTION 09.	JAN. 1 TO DEC. 31	IRRIGATION & DOMESTIC OCT. 7, 1963	0.010	4.00	3.04											
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS												
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
9	T. 12 N.,	R. 19 E.				0.76													0.76
TOTAL ACRES ALLOTTED																0.76			

# TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PERMIT NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.											
24566 CERT.: 8740	BENTLY FAMILY LIMITED PARTNERSHIP	AUTUMN HILLS SPRING	SW¼NE¼ SEC. 09, T.12N., R.19E., M.D.B.&M., N.66°11'14"W. 1,844.08 FT. FROM E¼ COR. OF SAID SECTION 09.	JAN. 1 TO DEC. 31	DOMESTIC JUL. 3, 1968	0.016		365,000 GALLONS ANNUALLY											
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS												
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E				REMARKS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
9	T. 12 N.,	R. 19 E.			X														
																			USE IS FOR 1 SINGLE FAMILY DWELLING.

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PERMIT NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.
24806 CERT.: 7584	WILLIAM R. TOMERLIN TRUST DATED AUG. 11, 1976	WHEELER CREEK NO. 1	NW¼SW¼ SEC. 10, T.12N., R.19E., M.D.B.&M., S.00°45'E. 1,000 FT. FROM W¼ COR. OF SAID SECTION 10.	JAN. 1 TO DEC. 31	IRRIGATION DEC. 10, 1968	1,250	4.00	376.44

PLACE OF USE 40 ACRE DESCRIPTIONS																ACRES PER SECTION	REMARKS					
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E							
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE				
10	T. 12 N.,	R. 19 E.											38.31	31.20	14.90	9.70					94.11	A PORTION WAS ABROGATED BY PERMIT 25601.  THIS PERMIT IS SUPPLEMENTAL TO PORTIONS OF OF THE LAND IRRIGATED BY WHEELER CREEK NOS. 1 & 2 FILED UNDER PERMIT 24807, CERTIFICATE 7583 PERMIT 25601, CERTIFICATE 7586; PERMIT 25409, CERTIFICATE 7585, UNDERGROUND; AND PROOF NO. V-06320.
																TOTAL ACRES ALLOTTED				94.11		

PERMIT NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.
24807 CERT.: 7583	WILLIAM R. TOMERLIN TRUST DATED AUG. 11, 1976	WHEELER CREEK NO. 2	SW¼SW¼ SEC. 10, T.12N., R.19E., M.D.B.&M., S.03°40'E. 2,840 FT. FROM W¼ COR. OF SAID SECTION 10.	JAN. 1 TO DEC. 31	IRRIGATION DEC. 10, 1968	2,250	4.00	376.44

# TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

24807 CERT.: 7583 (cont.)	PLACE OF USE 40 ACRE DESCRIPTIONS																ACRES PER SECTION	REMARKS	
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E				THIS PERMIT IS SUPPLEMENTAL TO PORTIONS OF OF THE LAND IRRIGATED BY WHEELER CREEK NOS. 1 & 2 FILED UNDER PERMIT 24806, CERTIFICATE 7584; PERMIT 25601, CERTIFICATE 7586; PERMIT 25409, CERTIFICATE 7585, UNDERGROUND; AND PROOF NO. V-06320.
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
10	T. 12 N.,	R. 19 E.									38.31	31.20	14.90	9.70					
TOTAL ACRES ALLOTTED																		94.11	

PERMIT NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSIDN	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.
25409 CERT.: 7586	WILLIAM R. TOMERLIN TRUST DATED AUG. 11, 1976	UNDERGROUND	SW¼SE¼ SEC. 10, T.12N., R.19E., M.D.B.&M., N.00°31'46"E. 1,733.4 FT. FROM S¼ COR. OF SAID SECTION 10.	JAN. 1 TO DEC. 31	IRRIGATION DEC. 10, 1966	1.670	4.00	217.36

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PERMIT NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.											
28884 CERT.: 9281	ALAN K. & PATRICIA M. HARRIS	UNNAMED SPRING	NE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&M., S.73°47'40"E. 2,356.24 FT. FROM NW COR. OF SAID SECTION 26.	JAN. 1 TO DEC. 31	IRRIGATION NOV. 6, 1974	0.090	4.00	21.80											
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS												
SECTION	TOWN- SHIP	RANGE	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
26	T. 12 N., R. 19 E.			1.58			3.88											5.46	
TOTAL ACRES ALLOTTED																		5.46	

35626 CERT.: 9549	FREDERIC J. NIMIS AND CONCHA P. NIMIS	CASTLE GARDEN SPRING	SE¼NE¼ SEC. 09, T.12N., R.19E., M.D.B.&M., S.26°36'01"W. 2,090.08 FT. FROM NE COR. OF SAID SECTION 09.	JAN. 1 TO DEC. 31	IRRIGATION DOMESTIC & FIRE PROTECTION JUL. 14, 1978	0.080	4.00	32.80											
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS												
SECTION	TOWN- SHIP	RANGE	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
9	T. 12 N., R. 19 E.					8.20												8.20	
TOTAL ACRES ALLOTTED																		8.20	

TABLE OF RELATIVE RIGHTS TO APPROPRIATORS

PERMIT NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.											
36087 CERT.: 9885	FREDERIC J. NIMIS AND CONCHA P. NIMIS	ELLIS SPRING	SE 1/4 NE 1/4 SEC. 09, T. 12N., R. 19E., M.D.B.&M., N. 46° 45' W. 1,583 FT. FRDM E 1/4 COR. OF SAID SECTION 09.	JAN. 1 TO DEC. 31	IRRIGATION & DOMESTIC OCT. 23, 1978	0.011	4.00	1.96											
PLACE OF USE 40 ACRE DESCRIPTIONS						ACRES PER SECTION	REMARKS												
SECTION	TOWN- SHIP	RANGE	N E				N W				S W				S E				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
9	T. 12 N.,	R. 19 E.				0.49												0.49	
TOTAL ACRES ALLOTTED																		0.49	

**XIX. STATE ENGINEER'S FINAL DETERMINATION.**

It is the determination of the State Engineer that the waters from all sources in this Final Order of Determination are declared fully appropriated with no water for future appropriations .

**XX. STREAM AND SPRING SYSTEM TABLES.**

- 1. TAYLOR CREEK AND UNNAMED SPRING DIVERSION**
- 2. MOTT CREEK**
- 3. CARY (AKA CAREY, MONUMENT AND BULL) CREEK  
DIVERSIONS**
- 4. WHEELER CREEK NO. 1 & 2 DIVERSIONS**
- 5. STUTLER CREEK- COMMINGLED WITH THE NORTH  
DIVERSION OF SHERIDAN CREEK**
- 6. SHERIDAN CREEK, NORTH AND SOUTH DIVERSIONS**
- 7. MILLER SPRING AND CREEK**
- 8. SPRINGS ARISING ON THE WEST SIDE OF FOOTHILL  
ROAD ON THE HERITAGE RANCH WITHIN SECTION 26,  
T.12N., R.19E., M.D.B.&M.**
- 9. LUTHER CREEK**

**TABLE 1. TAYLOR CREEK AND UNNAMED SPRING DIVERSIONS.**

PROOF NUMBER	ACREAGE ACCEPTED	FINAL ORDER DIVERSION RATE* IN C.F.S.	DUTY: ACRE-FEET PER ACRE	DUTY: TOTAL ACRE-FEET
V-06352 - TAYLOR CR.	5.79	0.100	4.00	23.16
V-06353 - UNNAMED SP.	7.32	0.060	3.22	23.57
<b>TOTALS:</b>	<b>7.32</b>			<b>23.57</b>
Total acreage irrigated under Proofs V-06352 and V-06353 is 7.32 acres. Taylor Creek (V-06352) totally supplements the Unnamed Springs (V-06353) on 5.79 acres out of 7.32 acres. No distinct division of the supplemental versus the non-supplemental land is illustrated on the supporting map.				
*Note: These diversion rates and duties are based on a 198 day irrigation season beginning April 1 and ending October 15 of each year. Duties are also based on crop water requirements for alfalfa, pasture grass and spring grain.				

**TABLE 2. MOTT CREEK DIVERSIONS FOR INDIVIDUAL CLAIMANTS  
AND EACH 25% HISTORICAL FLOW SPLIT.**

PROOF AND PERMIT NUMBERS	ACREAGE ACCEPTED	FINAL ORDER DIVERSION RATE IN C.F.S.	DUTY: ACRE-FEET PER ACRE	DUTY: TOTAL ACRE-FEET
<b>1. NORTHERN DIVERSION</b>				
V-06369	N/A	N/A	N/A	N/A
V-06370	126.900	1.100	3.40	431.46
<b>TOTALS:</b>	<b>126.900</b>	<b>1.100</b>		<b>431.46</b>
<b>2. SECOND DIVERSION FROM NORTH TO SOUTH.</b>				
V-05314	7.610	0.091	4.00	30.44
V-06313	40.000	0.481	4.00	160.00

TABLE 2. cont. MOTT CREEK DIVERSIONS FOR INDIVIDUAL CLAIMANTS AND EACH 25% HISTORICAL FLOW SPLIT.				
PROOF AND PERMIT NUMBERS	ACREAGE ACCEPTED	FINAL ORDER DIVERSION RATE IN C.F.S.	DUTY: ACRE-FEET PER ACRE	DUTY: TOTAL ACRE-FEET
V-06349	33.460	0.402	4.00	133.84
V-06350	**12.96	**0.184	4.00	51.84
V-06351	**10.00	**0.092	4.00	40.00
<b>TOTALS:</b>	<b>104.030</b>	<b>1.250</b>		<b>416.12</b>
<b>3. THIRD DIVERSION FROM NORTH TO SOUTH.</b>				
V-05049	15.800	0.171	4.00	63.20
V-06315	60.000	0.648	4.00	240.00
V-06316	40.000	0.432	4.00	160.00
<b>TOTALS:</b>	<b>115.800</b>	<b>1.250</b>		<b>463.20</b>
<b>4. SOUTHERN DIVERSION.</b>				
V-05070	7.071	0.105	4.00	28.28
V-05819	3.160	0.047	4.00	12.64
V-06226	8.290	0.123	4.00	33.16
V-06317	20.000	0.296	4.00	80.00
V-06318	20.000	0.296	4.00	80.00
V-06319	10.000	0.148	4.00	40.00
V-06831	6.920	0.102	4.00	27.68
V-09039	0.220	0.003	N/A	1.45
V-09263	8.730	0.129	4.00	34.92
<b>TOTALS:</b>	<b>84.391</b>	<b>1.250</b>		<b>338.13</b>
<b>GRAND TOTALS:</b>	<b>431.121</b>	<b>4.850</b>		<b>1648.91</b>
1. The diversion rates for each ¼ split of Mott Canyon Creek are based on a spring and early summer average stream flow of 5.000 c.f.s. and not acreage within the ¼ split. Flow and diversion rates during periods of drought and middle to late irrigation season will generally be less than the rates determined in the Final Order of Determination. Therefore; all parties will have to share the water shortage during periods of low flow. The total combined diversion for any of the four splits can be used in its' entirety in a rotation system of irrigation. These diversion rates do not exempt any of the parties from the 1952 agreement that				

**TABLE 2. cont. MOTT CREEK DIVERSIONS FOR INDIVIDUAL CLAIMANTS  
AND EACH 25% HISTORICAL FLOW SPLIT.**

specifies  $\frac{1}{4}$  of the flow of Mott Canyon Creek be diverted to each of the four ranches that are subject to said agreement.

2. Second Diversion from North to South: In order to insure an equitable division of water under Proofs V-05314, V-06313 V-06349, V-06350 and V-06351 said proofs will be subject to the rotation schedule included in Table 2.

\*Note: These diversion rates and duties are based on a 198 day irrigation season beginning April 1 and ending October 15 of each year. Duties are also based on crop water requirements for alfalfa, pasture grass and spring grain.

\*\*Note: Proofs of Appropriation V-06350 and V-06351 subject to Ninth Judicial District Court of Nevada, Case No. 25256, Ladell Philips, Plaintiff, v. Michael Phillips, Partitioning Real Property.

**Table 2. cont. Mott Creek Second Diversion From North to South Rotation Schedule**

<b>Day 1</b> V-06350 Starts 5 PM	<b>Day 2</b> V-06350	<b>Day 3</b> V-06350	<b>Day 4</b> V-06350 Ends 10 AM  V-06351 Starts 10 AM	<b>Day 5</b> V-06351 Ends 6 PM  V-06349 Starts 6 PM
<b>Day 6</b> V-06349	<b>Day 7</b> V-06349	<b>Day 8</b> V-06349	<b>Day 9</b> V-06349	<b>Day 10</b> V-06349
<b>Day 11</b> V-06349 Ends 12 PM  V-06313 Starts 12 PM	<b>Day 12</b> V-06313	<b>Day 13</b> V-06313	<b>Day 14</b> V-06313	<b>Day 15</b> V-06313
<b>Day 16</b> V-06313	<b>Day 17</b> V-06313	<b>Day 18</b> V-06313 Ends 8 AM  V-05314 Starts 8 AM	<b>Day 19 (1)</b> V-05314 Ends 5 PM	

<b>Proof No.</b>	<b>APN</b>	<b>% of Total Hours</b>	<b>Duty</b>	<b>Total # of hours</b>
V-06350	1219-03-001-073	**15%	51.84	65.00
V-06351	1219-03-001-060	**7%	40.00	30.00
V-06349	1219-03-001-059, 058	32%	133.84	138.00
V-06313	1219-03-001-061	38%	160.00	164.00
V-05314	1219-03-001-062	7%	30.44	33.00

\*\* Based on one-third, two-third agreement, Case No. 28332, Ninth Judicial District Court of Nevada.

**TABLE 3. CARY (AKA CAREY, MONUMENT OR BULL) CREEK DIVERSIONS.**

PROOF AND PERMIT NUMBERS	ACREAGE ACCEPTED	FINAL ORDER DIVERSION RATE* IN C.F.S.	DUTY: ACRE-FEET PER ACRE	DUTY: TOTAL ACRE-FEET
V-06354	226.08	2.00	3.47	784.50
V-06355	266.24	3.63	4.00	1064.96
PERMIT 10983	**161.6	0.37	0.90	145.44
<b>TOTALS:</b>	<b>492.32</b>	<b>6.00</b>		<b>1969.28</b>

\*\*Total acreage irrigated under Proofs V-06354, V-06355 and Permit 10983, Certificate 2937 is 492.32 acres. Permit 10983 Certificate 2937 is totally supplemental to Proof V-06354. Therefore, the duty of water shall not exceed 4.0 acre-feet per acre per season or 904.32 acre-feet per season from any and/or all sources. These proofs are subject to the July 1, 1918 agreement between B.L. Park, Wm. Glover, Agnes Glover and John Christiansen, in Book E., Page 337 Agr., Douglas County Records Office. Based on the agreement and Proofs V-06354 and V-06355, Schwake will receive 0.37 c.f.s. plus 1/3 of the remaining flow and Dreyer will receive 2/3 of the flow less than the 0.37 c.f.s.

\*Note: These diversion rates and duties are based on a 198 day irrigation season beginning April 1 and ending October 15 of each year. Duties are also based on high flow measurements during the early part of the irrigation season of slightly greater than 6.0 c.f.s. Actual flow rates will diminish throughout the irrigation season to a fraction of this rate.

**TABLE 4. WHEELER CREEK NO. 1 & 2 DIVERSIONS.**

PROOF NUMBER	ACREAGE ACCEPTED	FINAL ORDER DIVERSION RATE* IN C.F.S.	*DUTY: ACRE-FEET PER ACRE	DUTY: TOTAL ACRE-FEET
V-06320 - WHEELER CR. #1	49.10	0.652	4.00	196.40
V-06320 - WHEELER CR. #2	-	1.174	4.00	
<b>TOTALS:</b>	<b>49.10</b>			<b>196.40</b>

**TABLE 4. cont. WHEELER CREEK NO. 1 & 2 DIVERSIONS.**

PROOF NUMBER	ACREAGE ACCEPTED	FINAL ORDER DIVERSION RATE* IN C.F.S.	*DUTY: ACRE-FEET PER ACRE	DUTY: TOTAL ACRE-FEET
PER. 24806, CERT. 7584	-	1.25	4.00	376.44
PER. 24807, CERT. 7583	-	2.25	4.00	376.44
PER. 25601, CERT. 7586	-	1.25	4.00	376.44
In order to be consistent with existing Permits 24806, 24807 and 25601 Proof of Appropriation V-06320 is issued with the diversion rates proportional to the certificated permits. There is only one claimant for all of the water from Wheeler Creek #1 and #2.				
Note: These diversion rates and duties are based on a 198 day irrigation season beginning April 1 and ending October 15 of each year. Duties are also based on crop water requirements for alfalfa, pasture grass and spring grain.				

**TABLE 5. STUTLER CREEK - COMMINGLED WITH  
THE NORTH DIVERSION OF SHERIDAN CREEK.**

PROOF NUMBER	ACREAGE ACCEPTED	FINAL ORDER DIVERSION RATE IN C.F.S.	DUTY: ACRE-FEET PER ACRE	DUTY: TOTAL ACRE-FEET
V-04594	10.00	0.010	0.25	2.50
V-06305	10.36	0.040	1.49	15.44
V-06310	60.87	0.250	1.49	90.70
V-06311	16.61	0.070	1.49	24.74
V-06337	10.37	0.043	1.49	15.45
V-06338	23.76	0.100	1.49	35.40
V-06341	22.03	0.090	1.49	32.82
V-06346	24.94	0.100	1.49	37.16
<b>TOTALS:</b>	<b>178.94</b>	<b>0.703</b>		<b>254.21</b>

**TABLE 5. cont. STUTLER CREEK - COMMINGLED WITH  
THE NORTH DIVERSION OF SHERIDAN CREEK.**

None of the flow measurements conducted on Stutler Creek supported the rates estimated by the Milton Sharp P.E. Report of March, 1993. The channel configuration does not show any evidence of sustained flows in excess of those measured in 1997 and 1998 by staff of the Office of the State Engineer. Also, the four(4) inch diameter pipeline is not capable of carrying the proposed diversion plus the diversion from Gansberg Spring. Therefore, the diversion rate is reduced to the maximum flow measurement conducted on October 3, 1997.

Note: These diversion rates and duties are based on a 198 day irrigation season beginning April 1 and ending October 15 of each year. Duties are also based on crop water requirements for alfalfa, pasture grass and spring grain.

**TABLE 6. SHERIDAN CREEK - NORTH AND SOUTH DIVERSIONS.**

PROOF NUMBER	ACREAGE ACCEPTED	FINAL ORDER DIVERSION RATE IN C.F.S.	DUTY: ACRE-FEET PER ACRE	DUTY: TOTAL ACRE-FEET
<b>1. NORTH DIVERSION.</b>				
V-04594	1.13	0.013	4.00	4.52
V-06306	12.93	0.153	4.00	51.72
V-06307	NA	NA	NA	NA
V-06309	60.87	0.719	4.00	243.48
V-06312	16.61	0.196	4.00	66.44
V-06336	10.37	0.123	4.00	41.48
V-06339	23.76	0.281	4.00	95.04
V-06340	22.03	0.260	4.00	88.12
V-06347	24.94	0.295	4.00	99.76
V-06356	5.10	0.060	4.00	20.40
<b>TOTALS:</b>	<b>177.74</b>	<b>2.100</b>		<b>710.96</b>

<b>TABLE 6. cont. SHERIDAN CREEK - NORTH AND SOUTH DIVERSIONS.</b>				
<b>PROOF NUMBER</b>	<b>ACREAGE ACCEPTED</b>	<b>FINAL ORDER DIVERSION RATE IN C.F.S.</b>	<b>DUTY: ACRE-FEET PER ACRE</b>	<b>DUTY: TOTAL ACRE-FEET</b>
<b>2. SOUTH DIVERSION.</b>				
V-04594	8.87	0.086	4.00	35.48
V-06307	NA	NA	NA	NA
V-06309	9.90	0.096		
V-06357	34.70	0.337	4.00	138.80
V-06358	NA	NA	NA	NA
V-06359	NA	NA	NA	NA
V-06360	18.00	0.175	4.00	72.00
V-06361	NA	NA	NA	NA
V-06362	32.60	0.316	4.00	130.40
V-06264	40.20	0.390	4.00	160.80
V-06265	NA	NA	NA	NA
<b>TOTALS:</b>	<b>144.270</b>	<b>1.400</b>		<b>537.48</b>
<b>GRAND TOTALS:</b>	<b>322.01</b>			<b>1248.440</b>
The diversion rates for the north and south split of Sheridan Creek are based on a spring and early summer average stream flow of 3.5 c.f.s. Flow and diversion rates during periods of drought and middle to late irrigation season will generally be less than the rates determined in the Preliminary Order of Determination. Therefore, all parties will have to share the water shortage during periods of low flow. The total diversion from either the north or south split can be used in its entirety in a rotation system of irrigation.				
A deed described as Book Q, Page 44, of the records of the Douglas County Recorder's Office states that ½ interest in Sheridan Creek was deeded with the land described as being the S½ Section 14, T.12N., R.19E., M.D.B.&M. located west of the Park and Bull Ditch. This deed is applied to the proofs filed for water from the south split of Sheridan Creek. The State Engineer determines that further documentation in the form of an agreement or court decree will be necessary to justify an equal split of Sheridan Creek.				
Note: These diversion rates and duties are based on a 198 day irrigation season beginning April 1 and ending October 15 of each year. Duties are also based on crop water requirements for alfalfa, pasture grass and spring grain.				

**TABLE 7. MILLER SPRING AND CREEK CLAIMS FOR THE SCOSSA RANCH  
AND THE GREEN ACRES SUBDIVISION.**

<b>PROOF AND PERMIT NO.'S</b>	<b>ACREAGE ACCEPTED</b>	<b>FINAL ORDER DIVERSION RATE IN C.F.S.</b>	<b>DUTY: ACRE-FEET PER ACRE</b>	<b>DUTY: TOTAL ACRE-FEET</b>	<b>BIWEEKLY SCHEDULE</b>
V-06322	2.47	0.065	2.71	6.69	**4 DAYS
V-06324	2.53	0.066	2.71	6.86	**4 DAYS
V-06325	2.54	0.066	2.71	6.89	**4 DAYS
V-06326	2.50	0.065	2.71	6.78	**4 DAYS
V-06327	4.90	0.128	2.71	13.28	**4 DAYS
V-06328	5.55	0.145	2.71	15.04	**4 DAYS
V-06329	5.22	0.136	2.71	14.15	**4 DAYS
V-06330	5.08	0.133	2.71	13.77	**4 DAYS
V-06331	4.88	0.128	2.71	13.22	**4 DAYS
V-06332	2.54	0.066	2.71	6.88	**4 DAYS
V-06333	4.98	0.130	2.71	13.50	**4 DAYS
V-06334	2.55	0.067	2.71	6.91	**4 DAYS
V-06335	2.53	0.066	2.71	6.86	**4 DAYS
* V-06367	213.30	2.000	2.71	578.04	10 DAYS
V-07486	4.86	0.127	2.71	5.10	**4 DAYS
V-09264	2.53	0.066	2.71	6.86	**4 DAYS
V-09265	2.55	0.067	2.71	6.91	**4 DAYS
V-09266	5.18	0.135	2.71	14.04	**4 DAYS
V-09267	2.78	0.073	2.71	7.53	**4 DAYS
V-09268	2.66	0.070	2.71	7.21	**4 DAYS
V-09269	2.51	0.066	2.71	6.80	**4 DAYS
V-09270	5.18	0.135	2.71	14.04	**4 DAYS
<b>TOTALS:</b>	<b>289.82</b>	<b>2.000</b>		<b>777.36</b>	<b>14 DAYS</b>
<b>SUB-TOTAL OF GREEN ACRES CLAIMS:</b>	<b>76.52</b>	<b>2.000</b>		<b>199.32</b>	<b>**4 DAYS</b>

**TABLE 7. cont. MILLER SPRING AND CREEK CLAIMS FOR THE SCOSSA RANCH  
AND THE GREEN ACRES SUBDIVISION.**

PROOF AND PERMIT NO.'S	ACREAGE ACCEPTED	FINAL ORDER DIVERSION RATE IN C.F.S.	DUTY: ACRE-FEET PER ACRE	DUTY: TOTAL ACRE-FEET	BIWEEKLY SCHEDULE
* V-06368 (STOCK)	N/A	N/A	N/A	N/A	N/A
* V-06371	292.10	N/A	N/A	N/A	N/A
* V-06372 (STOCK)	N/A	N/A	N/A	N/A	N/A
* Scossa Ranch claims.					
**4 consecutive days of diversion from Miller Spring are to be shared amongst all owners listed under "Biweekly schedule.					
The diversion rate for Miller Spring is based on U.S.G.S. gaging station records from 1989 through 1997. Average flow for the period of record is 0.87 c.f.s. During non-drought flows in excess of 2.0 c.f.s. occurred 10% or less of the water year. Flows ranged from 0.24 c.f.s. on September 16, 1991, to a high of 3.3 c.f.s. on September 26, 1995. The period of record is heavily influenced by more drought years than wet years. Therefore; in order to allow full use of a highly variable water source the State Engineer determines that the total diversion be limited to 2.0 c.f.s. Flow rates during periods of drought and middle to late irrigation season will be generally less than the rates determined in the Final Order of Determination. Therefore; all parties will have to share the water shortage during periods of low flow.					
76.52 acres of irrigation are claimed under Proofs V-06322, V-06324, V-06325, V-06326, V-06327, V-06328, V-06329, V-06330, V-06331 V-06332, V-06333, V-06334, V-06335 and V-07486 and Douglas County APN's 1219-26-001-031; 1219-26-002-009 (PORTION); 1219-26-002-008 (PORTION), 009 (ALL); 1219-24-002-007, 1219-26-001-026, 1219-26-001-025 and 1219-26-001-024 if all land owners within Green Acres filed Proofs of Appropriation. Several owners within the Green Acres Subdivision failed to file a Proof of Appropriation. Per NRS § 533.125 (2) the State Engineer filed Proofs of Appropriation as follows APN 1219-26-001-031, V-09264; APN 1219-24-002-009 (portion), V-09265; 1219-24-002-008, 009 (portions), V-09270; 1219-24-002-007, V-09266; 1219-26-001-025 (portion), V-09267; 1219-26-001-025, V-09268; and 1219-26-001-024, V-09269.					
In conclusion the State Engineer determines that Proof V-06367 shall be allotted the entire flow of Miller Creek for 10 days out of each bi-weekly (14 day) rotation schedule. The State Engineer determines that Proofs V-06322, V-06324, V-06325, V-06326, V-06327, V-06328, V-06329, V-06330, V-06331, V-06332, V-06333, V-06334, V-06335, V-07486, V-09264, V-09265, V-09266, V-09267, V-09268, V-09269 and V-09270 shall be allotted the entire flow of Miller Creek for 4 days out of each bi-weekly (14 day) rotation schedule. Rights under Permit 24525, Certificate 8136, for the waters of Miller Creek will subject to the same rotation schedule as the proofs.					
Note: These diversion rates and duties are based on a 198 day irrigation season beginning April 1 and ending October 15 of each year. Duties are also based on crop water requirements for alfalfa, pasture grass and spring grain.					
** Deed recorded June 1, 1916 in Book P of Deeds page 260 in the Douglas County Recorder's Office.					

**TABLE 8. SPRINGS ARISING ON THE WEST SIDE OF FOOTHILL ROAD  
ON THE HERITAGE RANCH WITHIN SECTION 26, T.12N., R.19E., M.D.B.&M.**

PROOF AND PERMIT NUMBERS	ACREAGE ACCEPTED	FINAL ORDER DIVERSION RATE IN C.F.S.	**DUTY: ACRE-FEET PER ACRE	DUTY: TOTAL ACRE-FEET
<b>1. UNNAMED SPRING "A" (aka "UNNAMED STREAM") -SW¼ NW¼ SEC. 26, T.12N., R.19E., M.D.B.&amp;M</b>				
V-06322	2.47	0.006	2.43	6.00
V-06325	2.54	0.006	2.43	6.17
V-06326	2.50	0.006	2.43	6.08
V-06327	4.90	0.012	2.43	11.91
V-06328	5.55	0.013	2.43	13.49
V-06329	5.22	0.012	2.43	12.68
V-06330	5.08	0.012	2.43	12.34
V-06331	4.88	0.011	2.43	11.86
V-06333	4.98	0.012	2.43	12.10
V-06334	2.55	0.006	2.43	6.20
V-06342	7.20	0.017	2.43	17.50
V-07486	4.86	0.011	2.43	11.81
V-08850	12.43	0.089	2.43	30.20
V-09264	2.53	0.006	2.43	6.15
V-09265	2.55	0.006	2.43	6.20
V-09266	5.18	0.012	2.43	12.59
V-09270	5.18	0.012	2.43	12.59
<b>TOTALS:</b>	<b>80.60</b>	<b>0.250</b>		<b>195.86</b>

**TABLE 8 cont. SPRINGS ARISING ON THE WEST SIDE OF FOOTHILL ROAD  
ON THE HERITAGE RANCH WITHIN SECTION 26, T.12N., R.19E., M.D.B.&M.**

PROOF AND PERMIT NUMBERS	ACREAGE ALLOTTED	FINAL ORDER DIVERSION RATE IN C.F.S.	**DUTY: ACRE-FEET PER ACRE	DUTY: TOTAL ACRE-FEET
<b>2. UNNAMED SPRING "B" - SE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&amp;M.</b>				
V-06343	2.53	SUB-IRRIGATED	NO DUTY	NONE
V-06343‡	7.20	SUPPLEMENTAL	NO DUTY	NONE
V-08850	{25.54}	DRAIN & WASTE	NO DUTY	NONE
<b>TOTALS:</b>	<b>9.73</b>		<b>NO DUTY</b>	
‡ Water from Unnamed Spring "B" may be utilized to supplement the flow rate from Unnamed Spring "A" when irrigating the 7.20 acres described under Proof V-06342 due to the fact that they commingle in the same collection box. The waters of Unnamed Spring "B" shall be allowed to flow to the south and commingle with the waters of Unnamed Spring "D" when Proof V-06342 is not in rotation priority.				
{ } Acreage that does not have a direct diversion right and is subject to "drain and waste" water use from this source.				
<b>3. UNNAMED SPRING "C" - SE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&amp;M.</b>				
V-02857	163.00	3.000	4.00	652.00
This portion of the spring complex is diverted into a southeasterly flowing ditch where it becomes supplemental to a portion of Proof V-02858.				
V-06321	{40.36}	DRAIN & WASTE	NO DUTY	NONE
V-06323	{40.35}	DRAIN & WASTE	NO DUTY	NONE
V-06344	2.98	SUB-IRRIGATED	NO DUTY	NONE
V-08550	{9.41}	DRAIN & WASTE	NO DUTY	NONE
<b>TOTALS:</b>	<b>165.98</b>	<b>3.000</b>	<b>4.00</b>	<b>652.00</b>
Acreage denoted within brackets "{ }" is not considered as part of the acreage irrigated by direct diversion from the listed source, therefore, no duty or diversion rate is associated with these claims.				

**TABLE 8 cont. SPRINGS ARISING ON THE WEST SIDE OF FOOTHILL ROAD  
ON THE HERITAGE RANCH WITHIN SECTION 26, T.12N., R.19E., M.D.B.&M.**

PROOF AND PERMIT NUMBERS	ACREAGE ALLOTTED	FINAL ORDER DIVERSION RATE IN C.F.S.	**DUTY: ACRE-FEET PER ACRE	DUTY: TOTAL ACRE-FEET
<b>4. UNNAMED SPRING "D" - SE¼NW¼ SEC. 26, T.12N., R.19E., M.D.B.&amp;M.</b>				
V-06321	40.36		4.00	161.44
V-06323	40.35		4.00	161.40
V-08550	25.54		4.00	102.16
V-06322		*VARIABLE	SEE #4	*VARIABLE
V-06325		*VARIABLE	SEE #4	*VARIABLE
V-06327		*VARIABLE	SEE #4	*VARIABLE
V-06328		*VARIABLE	SEE #4	*VARIABLE
V-06329		*VARIABLE	SEE #4	*VARIABLE
V-06330		*VARIABLE	SEE #4	*VARIABLE
V-06331		*VARIABLE	SEE #4	*VARIABLE
V-06333		*VARIABLE	SEE #4	*VARIABLE
V-06335		*VARIABLE	SEE #4	*VARIABLE
V-06345	13.35	SUB-IRRIGATED	NO DUTY	NONE
<b>TOTALS:</b>	<b>119.60</b>			<b>425.00</b>
The diversion rate for each spring is based on flow measurements conducted by personnel of the Office of the State Engineer. Flow and diversion rates during periods of drought and middle to late irrigation season will generally be less than the rates determined in the Final Order of Determination. Therefore, all parties will have to share the water shortage during periods of low flow.				
Note: These diversion rates and duties are based on a 198 day irrigation season beginning April 1 and ending October 15 of each year. Duties are also based on crop water requirements for alfalfa, pasture grass and spring grain.				

**TABLE 8 cont. SPRINGS ARISING ON THE WEST SIDE OF FOOTHILL ROAD  
ON THE HERITAGE RANCH WITHIN SECTION 26, T.12N., R.19E., M.D.B.&M.**

\*\* The maximum duty of water is 4.00 acre-feet per acre from any and/or all sources. The duty from Unnamed Spring "A" for the total irrigated acreage is 2.43 acre-feet per acre on land that is not irrigated by Unnamed Spring (D) during the 198 day irrigation season.

1. The total practicable discharge from Unnamed Spring "A" under the listed proofs is 0.50 c.f.s.

Review of a 1938 aerial photographs indicates that the acreage claimed and supported by the map filed under Permit 24918 is the correct representation of the irrigated acreage with the exception of acreage adjustments under Proofs V06342, V-06343 V-06344 and V-06345. This also complies with Map No. 4891 drawn by the "U.S. Geological Survey, Hydrographic Branch Reclamation Service, for the Truckee-Carson Project Nev.", dated July 27, 1904.

2. Spring Area "B" is collected in a ditch at the base of the spring area and flows to the north to the structure designated as "CONTROL BOX AND VALVE" located on the south line of the NE $\frac{1}{4}$ NW $\frac{1}{4}$  Section 26, T.12N., R.19E., M.D.B.&M. Water from this ditch can be diverted directly from the collection ditch or placed into the ditch that runs from the valve box in a south/southeasterly direction toward the channel running from 'Unnamed Spring Area "D" to the pond. The supporting map for Proof V-06343 shows water flowing in a southerly direction adjacent to the east side of Unnamed Spring Area (B). The correct direction of flow is to the north. Proof V-06343 claims water from the portion of the spring source located within the SE $\frac{1}{4}$  NW $\frac{1}{4}$ , Sec.26 T.12N., R.19E., M.D.B.&M. that flows in a northerly direction to the "CONTROL VALVE AND BOX" as depicted on said supporting map. Water from this source then flows in a south/southeasterly direction where it commingles with water from 'Unnamed Spring Area (D). Unnamed Spring (B) may be used to supplement the flow rate for land irrigated under Proof V-06342 during the prescribed rotation schedule.

3. Spring Area "C" is a sub-irrigated meadow overlying a spring source. This water right shall be limited to 2.98 acres within the SE $\frac{1}{4}$ NW $\frac{1}{4}$  Section 26, T.12N., R.19E., M.D.B.&M. Water from this source flows southeast to east into the Heidtman Ditch and is claimed under Proof V-02857 for irrigation of 163.00 acres located within the W $\frac{1}{2}$ NE $\frac{1}{4}$  and NW $\frac{1}{4}$  Section 25; and NE $\frac{1}{4}$ NE $\frac{1}{4}$  and S $\frac{1}{2}$ NE $\frac{1}{4}$  Section 26, T.12N., R.19E., M.D.B.&M. This source is diverted via the Heidtman Ditch and is not a direct diversion source for Proof V-06321, Proof V-06323 and Proof V-08850. Any water from this source is considered as "drain and waste" water under the preceding proofs and does not receive a diversion rate or duty. The spring as claimed under Proof V-06344 sub irrigates 2.53 acres of pasture. The acreage can be used to graze livestock or be harvested. No physical diversion of water is necessary to irrigate this acreage. Therefore, no diversion rate or duty shall be assigned to Proof V-06344 even though this land retains the right to be sub irrigated.

**TABLE 8 cont. SPRINGS ARISING ON THE WEST SIDE OF FOOTHILL ROAD  
ON THE HERITAGE RANCH WITHIN SECTION 26, T.12N., R.19E., M.D.B.&M.**

4. Spring Area "D" discharges through multiple channels and eventually into a collection ditch that provides irrigation water for Proofs V-06321, V-06323 and V-08850. A portion of this water is routed through the pond located on APN's 1219-26-001-18 and 1219-26-001-19. Pond overflow is returned to the collection ditch just to the west of Foothill Road and upstream of a wooden headgate that was used to back water through a second headgate and into a culvert that directs water to the north and beneath Foothill Road through a large culvert located to the east of the east end of the aforementioned pond. The water flows through ditch that bisects Proof V-08850 and into the irrigation ditch that flows along the south boundary of the Green Acres Subdivision at a point near the center of the south property boundary of APN 1219-26-001-031. A measuring device shall be installed downstream of the lower headgate in the main channel of the collection ditch. The headgate shall be regulated to allow a minimum flow of 1.5 c.f.s. into the southerly irrigation ditch that provides water for Proofs V-06321, V-06323 and V-08850. Any flow above this rate shall be diverted through the headgate that controls the lateral ditch (culvert) to the north. This water shall be available as "excess flow" for irrigation under Proofs V-06322, V-06325, V-06326, V-06327, V-06328, V-06329, V-06330, V-06331, V-06333, V-06334, V-07486, V-09264, V-09265, V-09270. No separate rotation schedule shall be applied to the water from Unnamed Spring (D) classified as "excess flow". This water shall be utilized as set forth in the rotation schedule for Unnamed Spring (A) as it applies to the aforementioned proofs. Any water not utilized for irrigation shall continue to the next water user to make up water for their direct diversion claims.

Table 8. cont.

## UNNAMED SPRING "A" ROTATION SCHEDULE

Day 1	Day 2	Day 3	Day 4	Day 5
V-06342 Starts 6:00 AM	V-06342	V-06342 Ends 6 PM V-08850 Starts 6 PM	V-08850	V-08850
Day 6	Day 7	Day 8	Day 9	Day 10
V-08850	V-08850	V-08850 Ends 6 PM V-06334 Starts 6:00 PM	V-06334 Ends 6:00 AM V-09264 Starts 6:00 AM V-09264 Ends 6:00 PM V-06326 Starts 6:00 PM	V-06326 Ends 6:00 AM V-06325 Starts 6 AM V-06325 Stops 6 PM V-06333 Starts 6:00 PM
Day 11	Day 12	Day 13	Day 14	Day 15
V-06333 Ends 6:00 PM V-06330 Starts  6:00 PM	V-06330 Ends 6:00 PM V-06331 Starts  (APN 1219-24-002-010) 6:00 PM	V-06331 Ends 6:00 PM V-06322 Starts  (APN 1219-25-001-001) 6:00 PM	V-06322 Ends 6:00 AM V-09265 Starts  6:00 AM	V-09265 Ends 6:00 AM V-09270 Starts  6:00 AM V-09270 Ends 6:00 PM V-06327 Starts 6:00 PM
Day 16	Day 17	Day 18	Day 19	Day 20
V-06327 Ends 6:00 PM V-07486 Starts 6:00 PM	V-07486 Ends 6:00 PM V-06329 Starts 6:00 PM	V-06329 Ends 6:00 PM V-06328 Starts 6:00 PM	V-06328 Ends 6:00 PM V-09266 Starts 6:00 PM	V-09266 Ends 6:00 PM

Table 8. cont.

Proof No.	APN	Soil Type*	~Acreage	Total # of hours
V-06342	1219-26-001-044	642	7	60
V-08850	1219-26-001-035	642	12.5	120
V-06334	1219-26-001-032	641	2.5	12
V-09264	1219-26-001-031	641	2.5	12
V-06326	1219-26-001-030	641	2.5	12
V-06325	1219-26-001-029	641	2.5	12
V-06333	1219-26-001-028	641	5	24
V-06330	1219-23-002-014	641	5	24
V-06331	1219-24-002-010	641	5	24
V-06322	1219-25-001-001	641	2.5	12
V-09265	1219-24-002-009	641	5	24
V-09270	1219-24-002-008	641	2.5	12
V-06327	1219-23-002-012	641	5	24
V-07486	1219-23-002-013	641	5	24
V-06329	1219-24-002-005	641	5	24
V-06328	1219-24-002-014	641	5	24
V-09266	1219-24-002-007	641	5	24

\*The United States Department of Agriculture, Natural Resources Conservation Service, describes two soil types associated with lands irrigated from Unnamed Spring (A). These soils types are listed as ophir, sandy, gravelly, loam with 0 to 2 percent slope (641) and ophir, sandy, gravelly, loam with 2 to 8 percent slope (642) (USDA/NRCS Soils Data Mart, NV773, Douglas County Area).

## UNNAMED SPRING "D" DELIVERY RATES

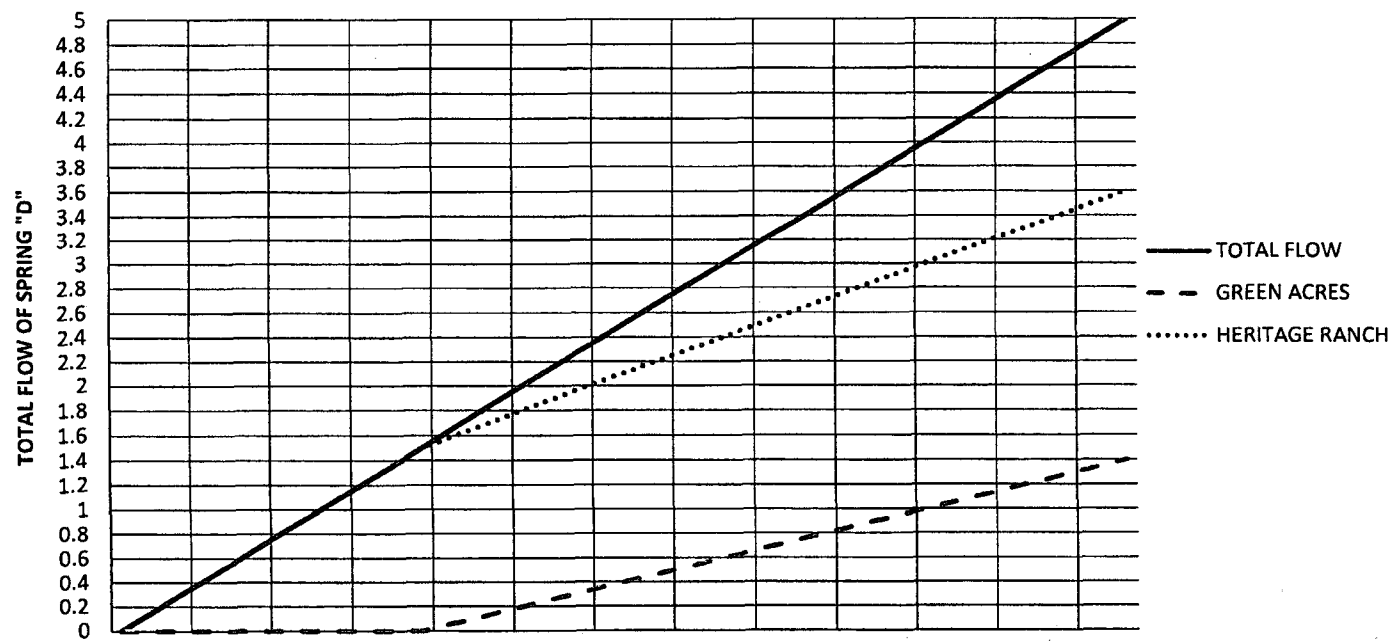


Table 8. Cont.

**UNNAMED SPRING "D" DISTRIBUTION RATES**

TOTAL FLOW	GREEN ACRES	HERITAGE RANCH	REMARKS
0	0.0	0.0	Water from Unnamed Spring "D" is to be proportionally distributed to the Green Acres subdivision when the total flow from Unnamed Spring "D" is greater than 1.5 CFS. Proportional rates based on a 60/40 split of irrigatable land.
0.2	0.0	0.2	
0.4	0.0	0.4	
0.6	0.0	0.6	
0.8	0.0	0.8	
1	0.0	1.0	Water from Unnamed Spring "D" is to be directly diverted to the Green Acres Subdivision, via the diagonal, northeast trending ditch that confluences with the south Green Acres ditch located on APN 1219-26-001-031.
1.2	0.0	1.2	
1.4	0.0	1.4	
1.6	0.0	1.6	
1.8	0.1	1.7	
2	0.2	1.8	Where applicable the rotation schedule of Unnamed Spring "D" water shall be subject to the same rotation schedule as Unnamed Spring "A".
2.2	0.3	1.9	
2.4	0.4	2.0	
2.6	0.4	2.2	
2.8	0.5	2.3	
3	0.6	2.4	
3.2	0.7	2.5	
3.4	0.8	2.6	
3.6	0.8	2.8	
3.8	0.9	2.9	
4	1.0	3.0	
4.2	1.1	3.1	
4.4	1.2	3.2	
4.6	1.2	3.4	
4.8	1.3	3.5	
5	1.4	3.6	

**TABLE 9. LUTHER CREEK CLAIMS.**

PROOF AND PERMIT NUMBERS	ACREAGE ACCEPTED	FINAL ORDER DIVERSION RATE IN C.F.S.	DUTY: ACRE-FEET PER ACRE	DUTY: TOTAL ACRE-FEET
V-02858-west	149.40	5.00	4.00	597.60
V-02858-east	129.00	1.67	4.00	516.00
V-06363	79.97	2.16	4.00	319.88
V-06364 (SHOCKEY)	NA	NA	NA	NA
V-06365	59.20	1.18	4.00	263.80
V-06365 (BROOKS)	NA	NA	NA	NA
V-06371	NA	DRAIN & WASTE	NA	NA
V-06372 (SCOSSA)	NA	DRAIN & WASTE	NA	NA
V-06321	NA	DRAIN & WASTE	NA	NA
V-06323	NA	DRAIN & WASTE	NA	NA
V-08850	NA	DRAIN & WASTE	NA	NA
<b>TOTALS:</b>	<b>417.57</b>	<b>10.007</b>	<b>4.00</b>	<b>1697.28</b>
Miscellaneous flow measurements by U.S. Geological Survey and the Office of the State Engineer beginning on September 27, 1976 and ending on June 16, 1998, ranged from a low of 0.77 c.f.s. on July 6, 1992, to a high of 13.7 c.f.s. on July 12, 1983. Therefore, total available flow in Luther Creek is based on a high flow of 10.0 c.f.s. Available flow in average runoff years and from middle to late in the irrigation season will be substantially less than the amount issued in the Final Order of Determination. Water distribution will continue to be controlled by the LUTHER CREEK DECREE, 2nd Judicial District, State of Nevada, Douglas County: Hannum v. Cary-May 27th, 1874.				
Claim V-02858: 1/2 of the flow of Luther Creek is appurtenant to 129.0 acres located within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ and SE $\frac{1}{4}$ SE $\frac{1}{4}$ , Section 25, T.12N., R.19E., M.D.B.&M. 1/6 of the flow of Luther Creek is appurtenant to 149.4 acres located within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$ , Section 25; NW $\frac{1}{4}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ and SE $\frac{1}{4}$ NW $\frac{1}{4}$ , Section 26, T.12N., R.19E., M.D.B.&M.				
Claims V-06363 and V-06365: 1/3 of the flow of Luther Creek is appurtenant to 139.17 acres located within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ and SE $\frac{1}{4}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 25; SE $\frac{1}{4}$ NW $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 26, T.12N., R.19E., M.D.B.&M. Acreage is reduced for these claims due to discrepancies on the supporting map found when compared to Douglas County Assessor's parcel maps and redrafting in the State Engineer's Office.				
Note: These diversion rates and duties are based on a 198 day irrigation season beginning April 1 and ending October 15 of each year. Duties are also based on crop water requirements for alfalfa, pasture grass and spring grain.				

## **XXI. FIGURES.**

- 1. UNNAMED SPRING REFERENCE GUIDE**
- 2. HERITAGE RANCH SPRING AREA SCHEMATIC**
- 3. MOTT CREEK DIVERSION SCHEMATIC**
- 4. HERITAGE RANCH PLACE OF USE**

Figure 1

# Unnamed Springs Reference Guide T.12N., R.19E., Sec. 26, M.D.B.&M.

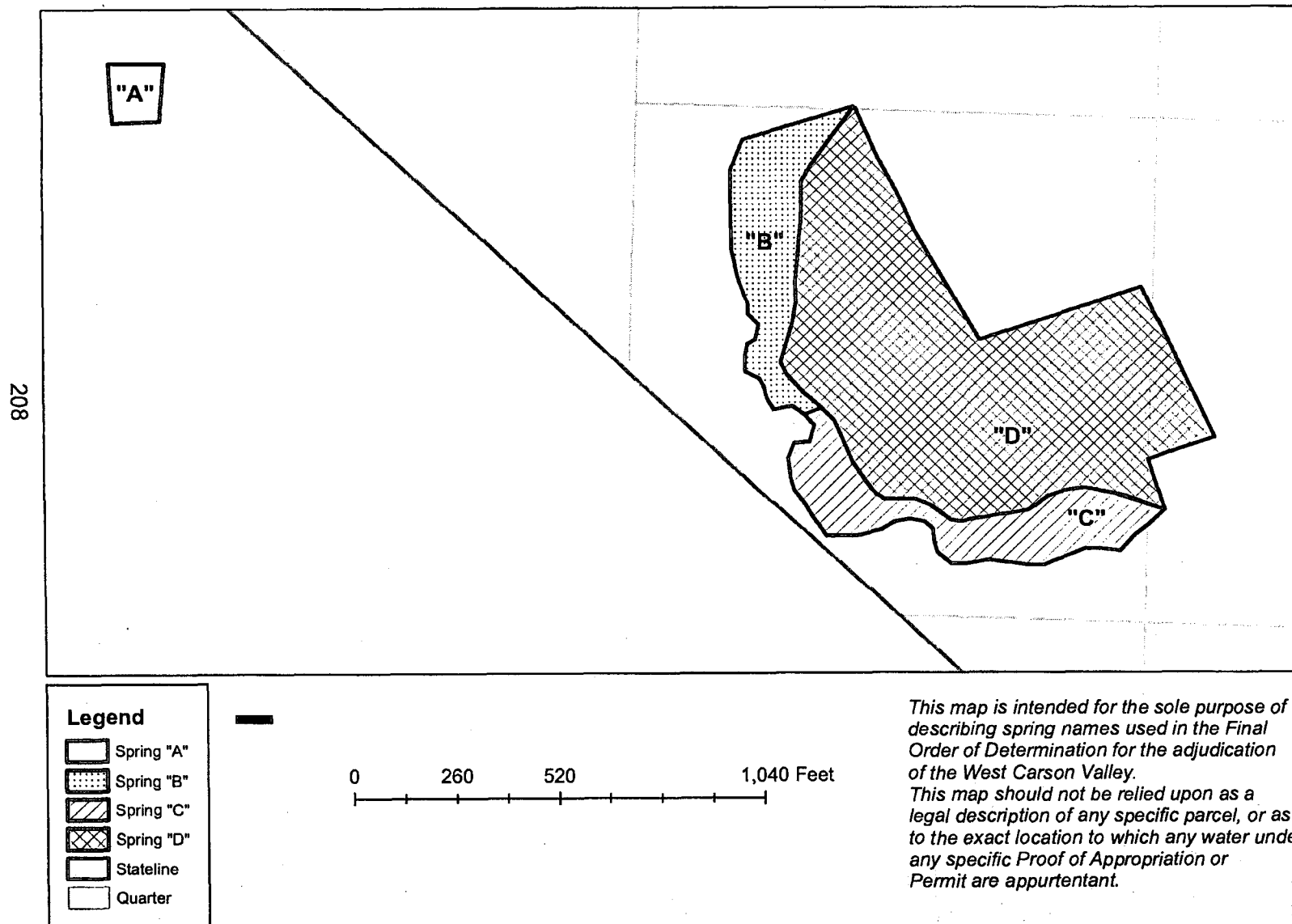


Figure 2

# HERITAGE RANCH SPRING AREA SCHEMATIC

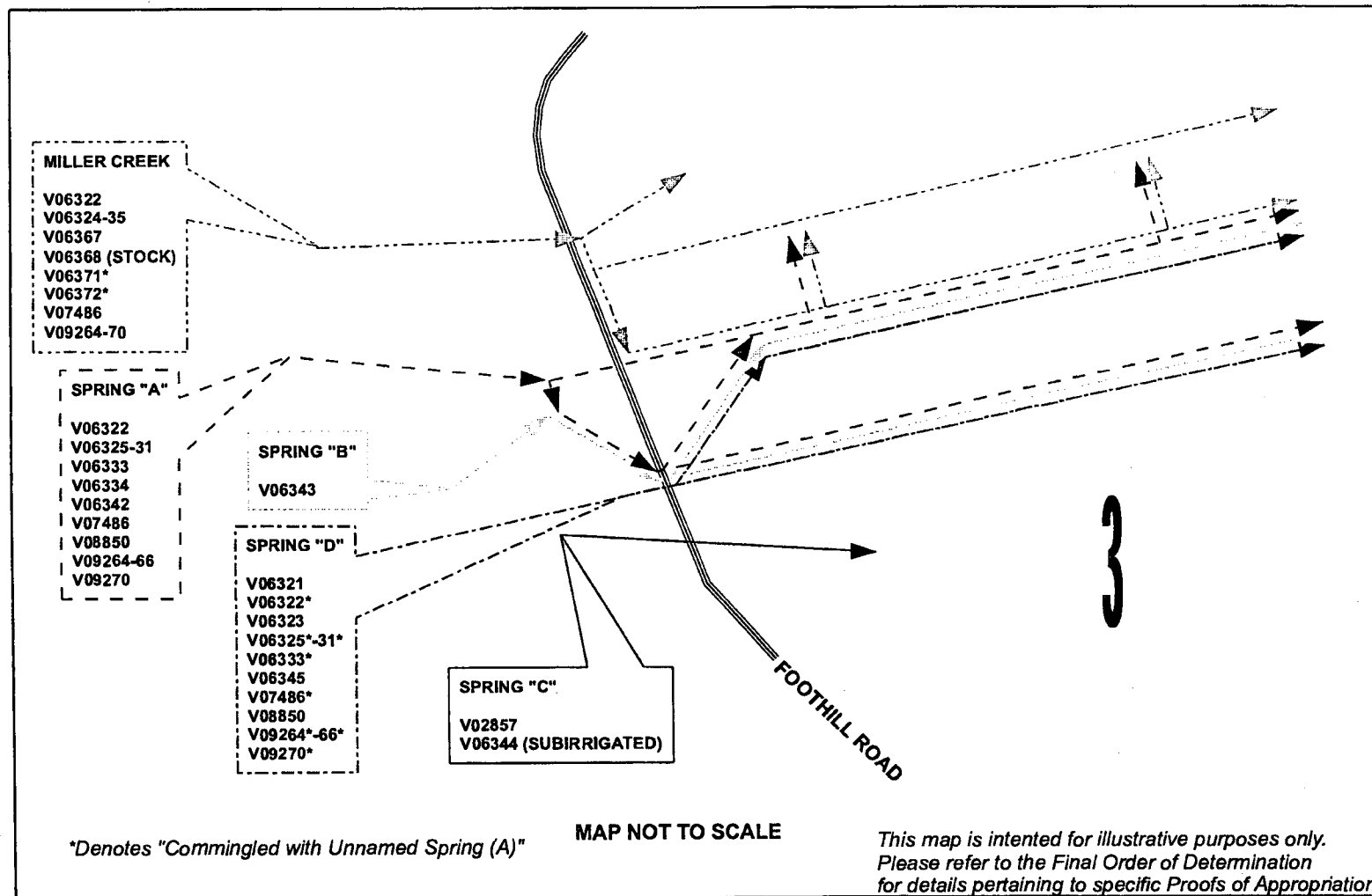
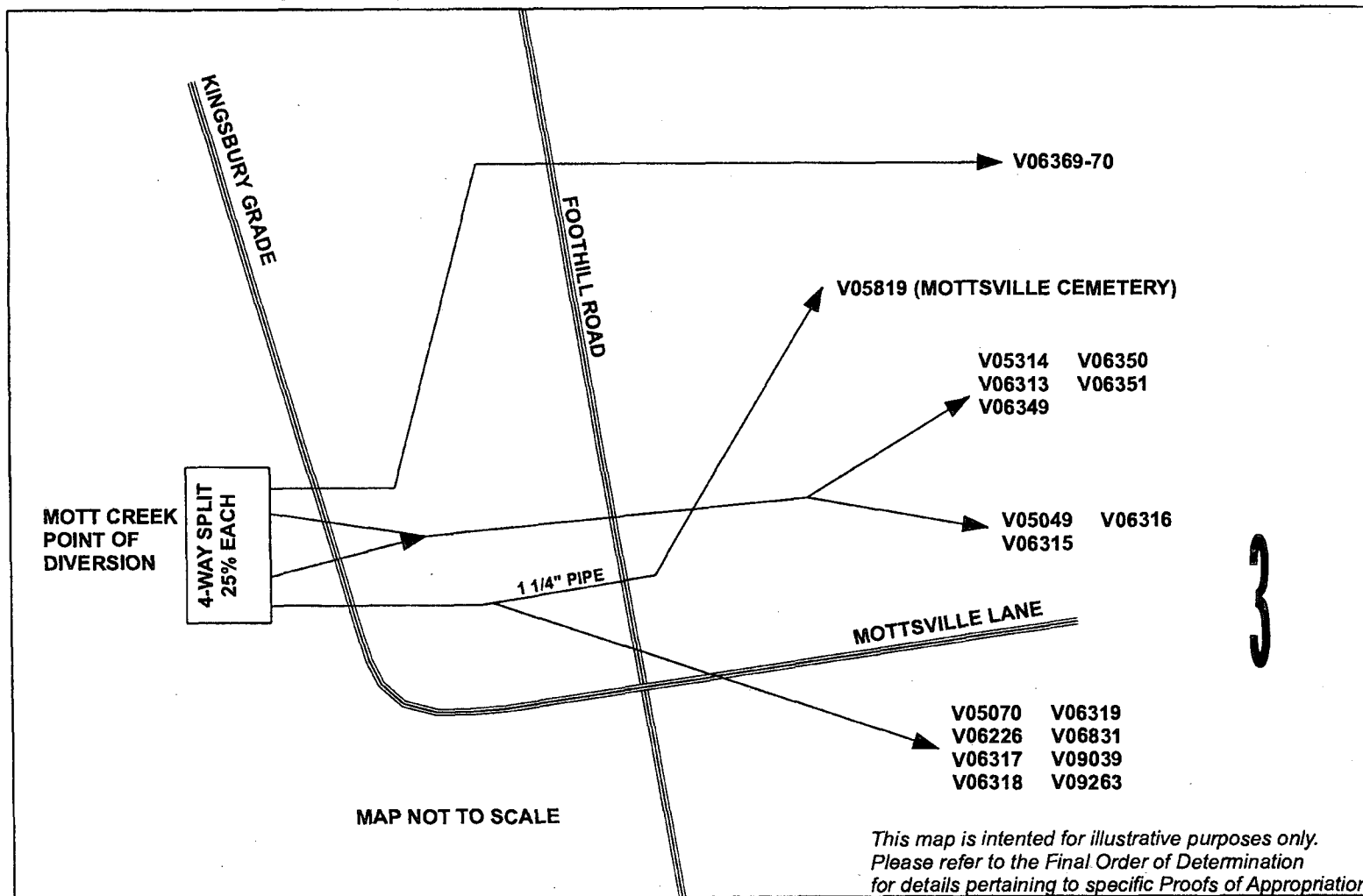
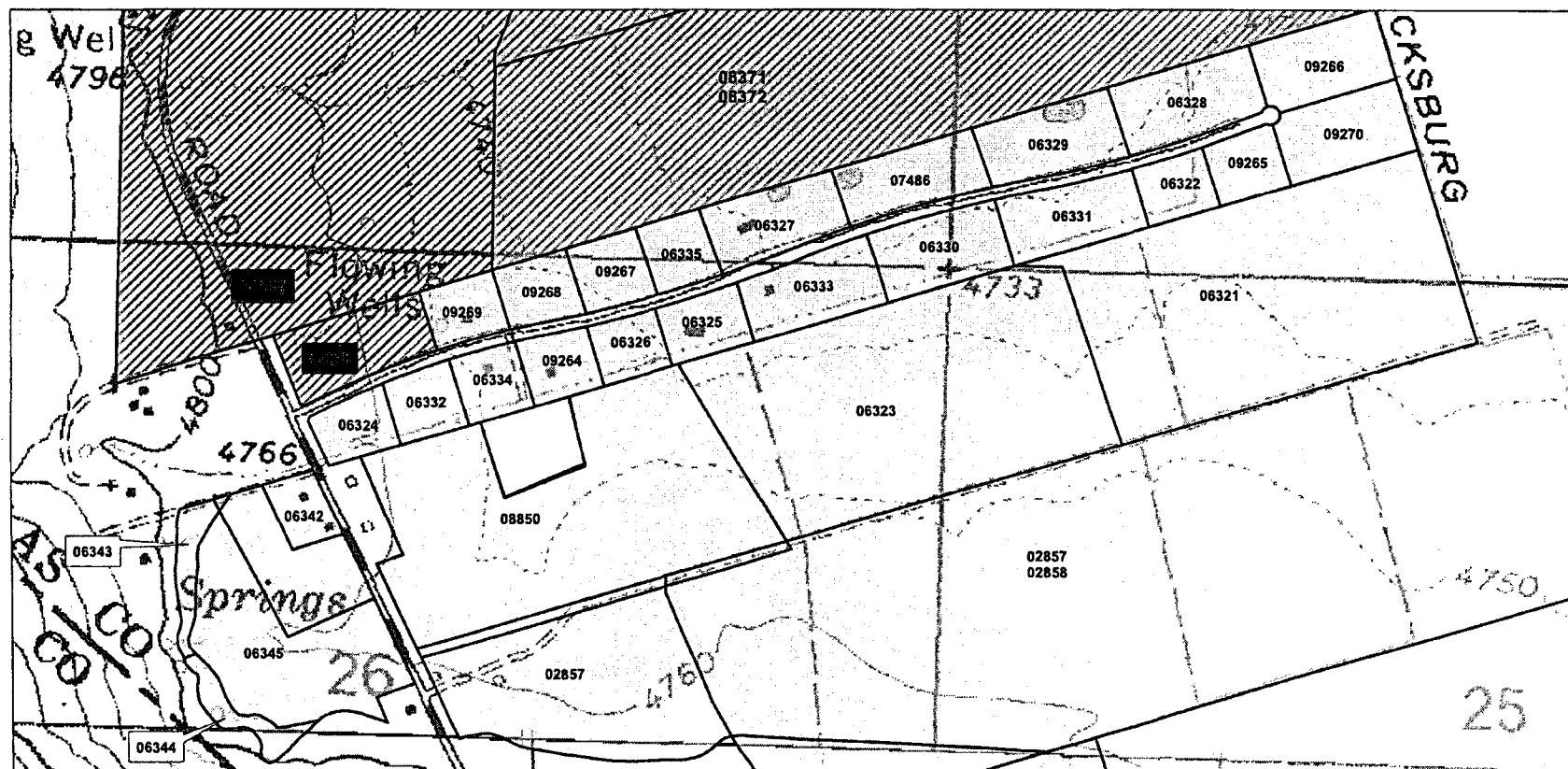


Figure 3

# MOTT CREEK DIVERSION SCHEMATIC



## HERITAGE RANCH PLACE OF USE



**Map Compiled by: R.A. Cozens**  
**April 2, 2008**

### Legend



### Proofs of Appropriation



## Permits

211

*This map is intended solely for the purpose of illustrating acreage to which water rights were allocated by the Final Order of Determination for the Mott Creek Et Al. Adjudication, Douglas County, Nevada and for no other purpose. This map should not be relied upon as a legal description for any specific Proof of Appropriation or Permit.*

0      250      500      1,000

Feet

**XXII. INDICES.**

- 1. PROOF/PERMIT NUMBER INDEX**
- 2. SOURCE INDEX**
- 3. OWNER INDEX**

# 1. PROOF/PERMIT NUMBER INDEX

PROOF/PERMIT NO.	OWNER OF RECORD	SOURCE	PAGE NOS.
V-02430	JUDD, FRANK J.	PALMER SWAMP	49, 98
V-02856	GROENENDYKE FAMILY TRUST	UNNAMED SPRINGS	92
V-02856	WINDHOLZ, IRENE M., TRUST	UNNAMED SPRINGS	92
V-02856	NEVADA MOUNTIAN VIEW LLC	UNNAMED SPRINGS	92
V-02856	PRATHER FAMILY TRUST	UNNAMED SPRINGS	92
V-02856	JSD TRUST	UNNAMED SPRINGS	92
V-02856	DEETER, JILL S.	UNNAMED SPRINGS	92
V-02857	GAINES, TED AND JUDY	UNNAMED SPRING	49, 98
V-02857	HANSON TRUST	UNNAMED SPRING	49, 98
V-02857	SHOCKEY, ROBERT D. AND WANDA D.	UNNAMED SPRING	49, 98
V-02857	WILD GOOSE LIMITED PARTNERSHIP	UNNAMED SPRING	49, 98
V-02858	BROWN, ROBERT H. AND ARLENE M. BROWN FAMILY TRUST	LUTHER CREEK	50, 99
V-02858	GAINES, TED AND JUDY	LUTHER CREEK	50, 99
V-02858	HANSON TRUST	LUTHER CREEK	50, 99
V-02858	SHOCKEY, ROBERT D. AND WANDA D.	LUTHER CREEK	50, 99
V-02858	WILD GOOSE LIMITED PARTNERSHIP	LUTHER CREEK	50, 99
V-04594	LODATO, JOSEPH S.	SHERIDAN CREEK	50, 100
V-04594	SAPP 1993 TRUST, ALAN D. SAPP, TRUSTEE	SHERIDAN CREEK	50, 100
V-05049	BENZ FAMILY TRUST	MOTT CREEK & UNNAMED STREAM	51, 101
V-05070	CHITWOOD, LORILYN V. AND RANDALL R.	MOTT CREEK	51, 102
V-05314	DAVIS, DAVID B. AND SHARON L.	MOTT CREEK	52, 103
V-05819	MOTTSVILLE CEMETERY ASSOCIATION	MOTT CREEK	52, 104
V-06226	HAYES, EDWARD J. AND CONSTANCE G.	MOTT CREEK	53, 104
V-06264	RODGERS FAMILY TRUST	SHERIDAN CREEK	53, 105
V-06265	RODGERS FAMILY TRUST	SHERIDAN CREEK	53, 106
V-06305	WEBER, THEADORE AND KATHERINE A., HUSBAND AND WIFE	STUTLER CREEK	53, 106
V-06306	WEBER, THEADORE AND KATHERINE A., HUSBAND AND WIFE	SHERIDAN CREEK	54, 107
V-06307	WEBER, THEADORE AND KATHERINE A., HUSBAND AND WIFE AS JOINT TENANTS	SHERIDAN CREEK	54, 108
V-06308	WEBER, THEADORE AND KATHERINE A., HUSBAND AND WIFE	STUTLER CREEK	54, 109
V-06309	FORRESTER, DONALD S. AND KRISTINA M., HUSBAND AND WIFE AS JOINT TENANTS.	SHERIDAN CREEK	54, 109
V-06310	FORRESTER, DONALD S. AND KRISTINA M., HUSBAND AND WIFE AS JOINT TENANTS.	STUTLER CREEK	55, 110
V-06311	SEVERSON, ROBERT S. AND JUNE E., HUSBAND AND WIFE AS JOINT TENANTS	STUTLER CREEK	55, 111
V-06312	SEVERSON, ROBERT S. AND JUNE E., HUSBAND AND WIFE AS JOINT TENANTS	SHERIDAN CREEK	55, 112
V-06313	DUBIN INVESTMENT GROUP, LLC	MOTT CREEK	55, 113

# 1. PROOF/PERMIT NUMBER INDEX

V-06315	MOTTSVILLE LIMITED PARTNERSHIP II	MOTT CREEK	56, 114
V-06316	HELLMAN, DOUGLAS AND AMELIA	MOTT CREEK	56, 114
V-06317	GRAY, WILLIAM H. AND LOIS CATHERINE	MOTT CREEK	57, 115
V-06318	MELNIKOFF, NORMAN AND SHIRLEY, HUSBAND AND WIFE AS JOINT TENANTS	MOTT CREEK	57, 115
V-06319	BUDDINGTON, DONNA	MOTT CREEK	57, 116
V-06320	TOMERLIN, WILLIAM R. TRUST	WHEELER CREEK NO. 1 AND WHEELER CREEK NO. 2	57, 117
V-06321	DOUGLAS, MYLES S. AND AMY B.	UNNAMED SPRING (A), UNNAMED SPRING (D) & LUTHER CREEK -	58, 118
V-06321	GARDNER, GERALDINE REVOCABLE TRUST	UNNAMED SPRING (A), UNNAMED SPRING (D) & LUTHER CREEK -	58, 117
V-06321	WARG, HENRY EDWARD	UNNAMED SPRING (A), UNNAMED SPRING (D) & LUTHER CREEK -	58, 117
V-06322	DOUGLAS, MYLES S. AND AMY B.	UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	59, 119
V-06322	GRANAT REVOCABLE TRUST OF 10/18/85	UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	59, 119
V-06323	ABBOTT FAMILY TRUST	UNNAMED SPRING (A), UNNAMED SPRING (D) & LUTHER CREEK -	60, 120
V-06324	GROENENDYKE, EDWARD	MILLER CREEK	60, 121
V-06325	BROWN E. RICHARD AND BURNS, E. SHARON	UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	61, 122
V-06326	GEANNE C. NELSON REVOCABLE TRUST	UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	61, 123
V-06327	CARRIG, BLAISE AND LESLIE	UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	62, 124
V-06328	MARIENTHAL, PAUL D. AND ELLEN	UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	63, 125
V-06329	DELLA ROSA, DAVID J. AND ANNE	UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	64, 126
V-06330	CASTEEL, GARY B. AND CLAUDIA A.	UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	65, 127
V-06331	BARTHOLOMEW FAMILY TRUST	UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	65, 128
V-06332	GAINES, JUDY	MILLER CREEK	66, 129
V-06333	FERGUSON, RICHARD C. AND SANDRA J.	UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	67, 130
V-06334	VILLALOBOS, PEDRO AND MARGARET	MILLER CREEK & UNNAMED SPRING (A)	67, 131
V-06335	BARTHOLOMEW FAMILY TRUST	MILLER CREEK	68, 132
V-06336	MITCHELL, RON AND GINGER, HUSBAND AND WIFE	SHERIDAN CREEK	68, 131
V-06337	MITCHELL, RON AND GINGER, HUSBAND AND WIFE	STUTLER CREEK	69, 133
V-06338	PESTANA, ERNEST E., TRUSTEE OF THE PESTANA 1986 FAMILY TRUST	STUTLER CREEK	69, 134
V-06339	PESTANA, ERNEST E., TRUSTEE OF THE PESTANA 1986 FAMILY TRUST	SHERIDAN CREEK	69, 135
V-06340	HALL, DONALD T. AND PEGGY, HUSBAND AND WIFE	SHERIDAN CREEK	69, 136
V-06341	HALL, DONALD T. AND PEGGY, HUSBAND AND WIFE	STUTLER CREEK	69, 137
V-06342	JACKSON, JERALD R., 1975 TRUST	UNNAMED SPRING (A)	70, 138
V-06342	WINDHOLZ, IRENE M., TRUST	UNNAMED SPRING (A)	70, 138
V-06343	JACKSON, JERALD R., 1975 TRUST	UNNAMED SPRING (B)	70, 139
V-06343	WINDHOLZ, IRENE M., TRUST	UNNAMED SPRING (B)	70, 139
V-06344	JACKSON, JERALD R., 1975 TRUST	UNNAMED SPRING (C)	71, 140

# 1. PROOF/PERMIT NUMBER INDEX

V-06344	WINDHOLZ, IRENE M., TRUST	UNNAMED SPRING (C)	71, 141
V-06345	JACKSON, JERALD R., 1975 TRUST	UNNAMED SPRING (D)	71, 141
V-06345	WINDHOLZ, IRENE M., TRUST	UNNAMED SPRING (D)	71, 141
V-06346	WHIPPLE, JOY (AKA JOY S. SMITH)	STUTLER CREEK	72, 142
V-06347	WHIPPLE, JOY (AKA JOY S. SMITH)	SHERIDAN CREEK	72, 142
V-06348	HICKEY, DANIEL R. AND LAUREL C.	UNNAMED SPRING	72, 143
V-06349	MADDI'S RANCH LLC	MOTT CREEK	72, 144
V-06350	THOMAS M. AND PAULA J. YTURBIDE, TRUSTEES OF THE YTURBIDE 1991 FAMILY TRUST	MOTT CREEK	73, 144
V-06351	PARK, ERIC SONG J. AND ELIZABETH	MOTT CREEK	74, 145
V-06352	TOUSSAU, DONALD A.	TAYLOR CREEK	75, 146
V-06353	TOUSSAU, DONALD A.	UNNAMED SPRINGS	75, 147
V-06354	SCHWAKE FAMILY TRUST	CARY CREEK	75, 148
V-06355	DREYER, ROLAND AND JOAN P.	CARY CREEK	76, 149
V-06356	SAPP, ALLAN D. AND PATRICIA J.	SHERIDAN CREEK AND TRIBUTARIES	76, 150
V-06357	ROOKER, DONALD L. AND TONI M.	SHERIDAN CREEK	76, 150
V-06358	ROOKER, DONALD L. AND TONI M.	SHERIDAN CREEK	77, 151
V-06359	BUCKLEY, DENNIS R. AND THERESE S.	SHERIDAN CREEK	77, 152
V-06360	BUCKLEY, DENNIS R. AND THERESE S.	SHERIDAN CREEK	77, 152
V-06361	SIMON, STEPHEN RAY AND LUCETTE; SIMON, PAUL P. AND MORENE L.	SHERIDAN CREEK	77, 153
V-06362	SIMON, STEPHEN RAY AND LUCETTE; SIMON, PAUL P. AND MORENE L.	SHERIDAN CREEK	77, 154
V-06363	SHOCKEY, ROBERT D. AND WANDA D.	LUTHER CREEK	78, 154
V-06364	SHOCKEY, ROBERT D. AND WANDA D.	LUTHER CREEK	78, 155
V-06365	BROOKS FAMILY TRUST AGREEMENT	LUTHER CREEK	78, 156
V-06366	BROOKS FAMILY TRUST AGREEMENT	LUTHER CREEK	79, 157
V-06367	SCOSSA BROTHERS	MILLER CREEK, BEERS SPRING AND OTHER UNNAMED SPRINGS	78, 157
V-06368	SCOSSA BROTHERS	MILLER CREEK, BEERS SPRING AND OTHER UNNAMED SPRINGS	79, 158
V-06369	BELLIK, MICHAEL STEVEN	MOTT CREEK	79, 158
V-06369	GALLAGHER, TERRY A.	MOTT CREEK	79, 158
V-06369	HANSEN, JANICE G.	MOTT CREEK	79, 158
V-06369	KANELOS, BETTIE KENNARD, TRUST	MOTT CREEK	79, 159
V-06369	VINDUM, ERIK AND MYRNA J.	MOTT CREEK	79, 159
V-06370	BELLIK, MICHAEL STEVEN	MOTT CREEK	80, 160
V-06370	GALLAGHER, TERRY A.	MOTT CREEK	80, 160
V-06370	HANSEN, JANICE G.	MOTT CREEK	80, 160
V-06370	KANELOS, BETTIE KENNARD, TRUST	MOTT CREEK	80, 160

# 1. PROOF/PERMIT NUMBER INDEX

V-06370	VINDUM, ERIK AND MYRNA J.	MOTT CREEK	80, 160
V-06371	SCOSSA BROTHERS	LUTHER CREEK, MILLER CREEK, FREDERICKSBURG DITCH WASTE	80, 161
V-06372	SCOSSA BROTHERS	LUTHER CREEK, MILLER CREEK, FREDERICKSBURG DITCH WASTE	80, 162
V-06831	LACKEY, LARRY AND JOYCE H.	MOTT CREEK	80, 163
V-07486	CATHERWOOD, MICHAEL AND ROBIN L.	UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	81, 164
V-08850	GROENENDYKE FAMILY TRUST	UNNAMED SPRING (A), UNNAMED SPRING (D) AND LUTHER CREEK	81, 165
V-09039	MASON, TOM E. AND SHARON J.	MOTT CREEK	83, 167
V-09253	JONES, RODNEY	CASTLE SPRING	92
V-09263	CHUDNOW, ROBERT & LINDA SAWYER-CHUDNOW	MOTT CREEK	84, 168
V-09263	KIMBALL, BRENT A. & KAREN A.	MOTT CREEK	84, 168
V-09264	HONKANEN, TYNE	UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	84, 169
V-09264	KYLE, MARSHALL	MILLER CREEK	84, 169
V-09265	CHRISTIAN, STEPHEN H. & PATRICIA	UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	85, 170
V-09266	MINASIAN, JOHN	UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	86, 171
V-09267	HACKLER, ANDREW & LINDA	MILLER CREEK	86, 172
V-09268	LIBBON, TERRY & CINDY	MILLER CREEK	87, 173
V-09269	MURiset, RICHARD E. & DOROTHY J.	MILLER CREEK	87, 174
V-09270	CHRISTIAN, STEPHEN H. & PATRICIA	UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	88, 175
PER. 7595, CERT. 1760	DOORNINK, JAMES D. & EDNA	GANSBERG SPRING	89, 176
PER. 7595, CERT. 1760	DUNN, ROBERT D. & EVELYN W.	GANSBERG SPRING	89, 176
PER. 7595, CERT. 1760	HANAVAN, L. J.	GANSBERG SPRING	89, 176
PER. 7595, CERT. 1760	HASTERT, EMILE P.	GANSBERG SPRING	89, 176
PER. 7595, CERT. 1760	JONES, LOIS S.	GANSBERG SPRING	89, 176
PER. 7595, CERT. 1760	ROLPH, JAMES III & JUNE IRENE	GANSBERG SPRING	89, 176
PER. 7595, CERT. 1760	SMITH, RODERICK J. & PATRICIA L.	GANSBERG SPRING	89, 176
PER. 7595, CERT. 1760	TOMERLIN, JAMES O. & WILLIAM R.	GANSBERG SPRING	89, 176
PER. 10033, CERT. 3417	HARVEY, DAVID AND EVELYNE	SHARPE SPRING	89, 177
PER. 10983, CERT. 2937	SCHWAKE, MELVIN	CAREY CREEK	89, 177
PER. 18720, CERT. 5961	BENTLY FAMILY LIMITED PARTNERSHIP	UNNAMED SPRING	90, 178
PER. 18720, CERT. 5961	ELLIS, DARWIN K. AND ELIZABETH D.	UNNAMED SPRING	90, 178
PER. 18720, CERT. 5961	ELLIS, DARWIN V. AND LINDA T.	UNNAMED SPRING	90, 178
PER. 21569, CERT. 6910	BENTLY FAMILY LIMITED PARTNERSHIP	BENTLY SPRINGS	90, 178
PER. 24525 CERT. 8136	BROWN, RICHARD E. AND BURNS, SHARON A.	MILLER CREEK	90
PER. 24525 CERT. 8136	CASTEEL CORPORATION	MILLER CREEK	90
PER. 24525 CERT. 8136	CATHERWOOD, MICHAEL AND ROBIN L.	MILLER CREEK	90

# 1. PROOF/PERMIT NUMBER INDEX

PER. 24525 CERT. 8136	CURRIE, WAYNE A. AND SHARON W.	MILLER CREEK	90
PER. 24525 CERT. 8136	DELLA ROSA, DAVID J. AND ANNE	MILLER CREEK	90
PER. 24525 CERT. 8136	GAINES, JUDY	MILLER CREEK	90
PER. 24525 CERT. 8136	GROENENDYKE, EDWARD	MILLER CREEK	90
PER. 24525 CERT. 8136	KELLY, THOMAS S.	MILLER CREEK	90
PER. 24525 CERT. 8136	MINASIAN, JOHN	MILLER CREEK	90
PER. 24525 CERT. 8136	NELSON, JEANNE C.	MILLER CREEK	90
PER. 24525 CERT. 8136	O'CONNELL, KEVIN J. AND LINDA M.	MILLER CREEK	90
PER. 24525 CERT. 8136	VILLALOBOS, PEDRO AND MARGARET	MILLER CREEK	90
PER. 24525 CERT. 8136	BARTHOLOMEW FAMILY TRUST	MILLER CREEK	90
PER. 24525 CERT. 8136	MARIENTHAL, PAUL D. AND ELLEN	MILLER CREEK	90
PER. 24525 CERT. 8136	DINEL, JOHN AND HELEN	MILLER CREEK	90
PER. 24525 CERT. 8136	HONKANEN, TYNE AND ERIC G.	MILLER CREEK	90
PER. 24525 CERT. 8136	HYLANDER, WALDEMAR B. AND MARIBETH D.	MILLER CREEK	90
PER. 24525 CERT. 8136	MARTIN, LUTHER J. AND HUGH L.	MILLER CREEK	90
PER. 24525 CERT. 8136	OWEN, VIRGINIA	MILLER CREEK	90
PER. 24526 CERT. 8137	BROWN, RICHARD E. AND BURNS, SHARON A.	UNNAMED SPRING	90
PER. 24526 CERT. 8137	CASTEEL CORPORATION	UNNAMED CREEK	90
PER. 24526 CERT. 8137	CATHERWOOD, MICHAEL AND ROBIN L.	UNNAMED CREEK	90
PER. 24526 CERT. 8137	CURRIE, WAYNE A. AND SHARON W.	UNNAMED CREEK	90
PER. 24526 CERT. 8137	DELLA ROSA, DAVID J. AND ANNE	UNNAMED CREEK	90
PER. 24526 CERT. 8137	KELLY, THOMAS S.	UNNAMED CREEK	90
PER. 24526 CERT. 8137	MARTIN, LUTHER J. AND HUGH L.	UNNAMED CREEK	90
PER. 24526 CERT. 8137	MINASIAN, JOHN	UNNAMED CREEK	90
PER. 24526 CERT. 8137	BARTHOLOMEW FAMILY TRUST	UNNAMED CREEK	90
PER. 24526 CERT. 8137	O'CONNELL, KEVIN J. AND LINDA M.	UNNAMED CREEK	90
PER. 24526 CERT. 8137	OWEN, VIRGINIA	UNNAMED CREEK	90
PER. 24526 CERT. 8137	MARIENTHAL, PAUL D. AND ELLEN	UNNAMED CREEK	90
PER. 24557 CER. 8079	SCOSSA, EUGENE AND ALEX	MILLER CREEK	90
PER. 24566 CERT. 8740	BENTLY FAMILY LIMITED PARTNERSHIP	AUTUMN HILLS SPRING	90, 179
PER. 24806 CERT. 7584	TOMERLIN, WILLIAM R., TRUST	WHEELER CREEK NO. 1	90, 180
PER. 24807 CERT. 7583	TOMERLIN, WILLIAM R., TRUST	WHEELER CREEK NO. 2	90, 180
PER. 24918 CERT. 7843	JACKSON, JERALD R., 1975 TRUST	UNNAMED SPRING	91
PER. 24919 CERT. 7842	JACKSON, JERALD R., 1975 TRUST	UNNAMED SPRING	91
PER. 25409 CERT. 7585	TOMERLIN, WILLIAM R., TRUST	UNDERGROUND	91, 181

# 1. PROOF/PERMIT NUMBER INDEX

PER. 25601, CERT. 7586	TOMERLIN, WILLIAM R., TRUST	WHEELER CREEK NO. 1	91, 182
PER. 28884, CERT. 9281	HARRIS, ALAN K. & PATRICIA M.	UNNAMED SPRING	91, 183
PER. 35626, CERT. 9549	NIMIS, FREDERIC J. AND CONCHA P.	CASTLE GARDEN SPRING	92, 183
PER. 36087, CERT. 9885	NIMIS, FREDERIC J. AND CONCHA P.	ELLIS SPRING	92, 184

## 2. SOURCE INDEX

SOURCE	PROOF/PERMIT NO.	OWNER OF RECORD	PAGE NOS.
AUTUMN HILLS SPRING	PER. 24566, CERT. 8740	BENTLY FAMILY LIMITED PARTNERSHIP	90, 179
BENTLY SPRINGS	PER. 21569, CERT. 6910	BENTLY FAMILY LIMITED PARTNERSHIP	90, 178
CAREY CREEK	PER. 10983, CERT. 2937	SCHWAKE, MELVIN	89, 177
CARY CREEK	V-06354	SCHWAKE FAMILY TRUST	75, 148
CARY CREEK	V-06355	DREYER, ROLAND AND JOAN P.	76, 149
CASTLE GARDEN SPRING	PER. 35626, CERT. 9549	NIMIS, FREDERIC J. AND CONCHA P.	92, 183
CASTLE SPRING	V-09253	JONES, RODNEY	92
ELLIS SPRING	PER. 36087, CERT. 9885	NIMIS, FREDERIC J. AND CONCHA P.	92, 184
GANSBERG SPRING	PER. 7595, CERT. 1760	DOORNINK, JAMES D. & EDNA	89, 176
GANSBERG SPRING	PER. 7595, CERT. 1760	DUNN, ROBERT D. & EVELYN W.	89, 176
GANSBERG SPRING	PER. 7595, CERT. 1760	HANAVAN, L. J.	89, 176
GANSBERG SPRING	PER. 7595, CERT. 1760	HASTERT, EMILE P.	89, 176
GANSBERG SPRING	PER. 7595, CERT. 1760	JONES, LOIS S.	89, 176
GANSBERG SPRING	PER. 7595, CERT. 1760	ROLPH, JAMES III & JUNE IRENE	89, 176
GANSBERG SPRING	PER. 7595, CERT. 1760	SMITH, RODERICK J. & PATRICIA L.	89, 176
GANSBERG SPRING	PER. 7595, CERT. 1760	TOMERLIN, JAMES O. & WILLIAM R.	89, 176
LUTHER CREEK	V-02858	BROWN, ROBERT H. AND ARLENE M. BROWN FAMILY TRUST	50, 99
LUTHER CREEK	V-02858	GAINES, TED AND JUDY	50, 99
LUTHER CREEK	V-02858	HANSON TRUST	50, 99
LUTHER CREEK	V-02858	SHOCKEY, ROBERT D. AND WANDA D.	50, 99
LUTHER CREEK	V-02858	WILD GOOSE LIMITED PARTNERSHIP	50, 99
LUTHER CREEK	V-06363	SHOCKEY, ROBERT D. AND WANDA D.	78, 154
LUTHER CREEK	V-06364	SHOCKEY, ROBERT D. AND WANDA D.	78, 155
LUTHER CREEK	V-06365	BROOKS FAMILY TRUST AGREEMENT	78, 156
LUTHER CREEK	V-06366	BROOKS FAMILY TRUST AGREEMENT	79, 157
LUTHER CREEK, MILLER CREEK, FREDERICKSBURG DITCH WASTE	V-06371	SCOSSA BROTHERS	80, 161
LUTHER CREEK, MILLER CREEK, FREDERICKSBURG DITCH WASTE	V-06372	SCOSSA BROTHERS	80, 162
MILLER CREEK	V-06324	GROENENDYKE, EDWARD	60, 121
MILLER CREEK	V-09264	KYLE, MARSHALL	84, 169
MILLER CREEK	V-09267	HACKLER, ANDREW & LINDA	86, 172
MILLER CREEK	V-09268	LIBBON, TERRY & CINDY	87, 173
MILLER CREEK	V-09269	MURISSET, RICHARD E. & DOROTHY J.	87, 174
MILLER CREEK	PER. 24525 CERT. 8136	BROWN, RICHARD E. AND BURNS, SHARON A.	90
MILLER CREEK	PER. 24525 CERT. 8136	CASTEEL CORPORATION	90

## 2. SOURCE INDEX

MILLER CREEK	PER. 24525 CERT.8136	MINASIAN, JOHN	90
MILLER CREEK	PER. 24525 CERT.8136	BARTHOLOMEW FAMILY TRUST	90
MILLER CREEK	PER. 24525 CERT.8136	MARIENTHAL, PAUL D. AND ELLEN	90
MILLER CREEK	PER. 24525 CERT.8136	DINEL, JOHN AND HELEN	90
MILLER CREEK	PER. 24525 CERT.8136	HONKANEN, TYNE AND ERIC G.	90
MILLER CREEK	PER. 24525 CERT.8136	HYLANDER, WALDEMAR B. AND MARIBETH D.	90
MILLER CREEK	PER. 24525 CERT.8136	MARTIN, LUTHER J. AND HUGH L.	90
MILLER CREEK	PER. 24525 CERT.8136	OWEN, VIRGINIA	90
MILLER CREEK	PER. 24557 CER. 8079	SCOSSA, EUGENE AND ALEX	90
MILLER CREEK	V-06332	GAINES, JUDY	66, 129
MILLER CREEK	V-06335	BARTHOLOMEW FAMILY TRUST	68, 132
MILLER CREEK	PER. 24525 CERT.8136	CATHERWOOD, MICHAEL AND ROBIN L.	90
MILLER CREEK	PER. 24525 CERT.8136	CURRIE, WAYNE A. AND SHARON W.	90
MILLER CREEK	PER. 24525 CERT.8136	DELLA ROSA, DAVID J. AND ANNE	90
MILLER CREEK	PER. 24525 CERT.8136	GAINES, JUDY	90
MILLER CREEK	PER. 24525 CERT.8136	GROENENDYKE, EDWARD	90
MILLER CREEK	PER. 24525 CERT.8136	KELLY, THOMAS S.	90
MILLER CREEK	PER. 24525 CERT.8136	NELSON, JEANNE C.	90
MILLER CREEK	PER. 24525 CERT.8136	O'CONNELL, KEVIN J. AND LINDA M.	90
MILLER CREEK	PER. 24525 CERT.8136	VILLALOBOS, PEDRO AND MARGARET	90
MILLER CREEK & UNNAMED SPRING (A)	V-06334	VILLALOBOS, PEDRO AND MARGARET	67, 131
MILLER CREEK, BEERS SPRING AND OTHER UNNAMED SPRINGS	V-06367	SCOSSA BROTHERS	78, 157
MILLER CREEK, BEERS SPRING AND OTHER UNNAMED SPRINGS	V-06368	SCOSSA BROTHERS	79, 158
MOTT CREEK	V-05070	CHITWOOD, LORILYN V. AND RANDALL R.	51, 102
MOTT CREEK	V-05819	MOTTSVILLE CEMETERY ASSOCIATION	52, 104
MOTT CREEK	V-06226	HAYES, EDWARD J. AND CONSTANCE G.	53, 104
MOTT CREEK	V-06315	MOTTSVILLE LIMITED PARTNERSHIP II	56, 114
MOTT CREEK	V-06316	HELLMAN, DOUGLAS AND AMELIA	56, 114
MOTT CREEK	V-06318	MELNIKOFF, NORMAN AND SHIRLEY, HUSBAND AND WIFE AS JOINT TENANTS	57, 115
MOTT CREEK	V-06319	BUDDINGTON, DONNA	57, 116
MOTT CREEK	V-06369	BELLIK, MICHAEL STEVEN	79, 158
MOTT CREEK	V-06369	GALLAGHER, TERRY A.	79, 158
MOTT CREEK	V-06369	HANSEN, JANICE G.	79, 158
MOTT CREEK	V-06369	KANELOS, BETTIE KENNARD, TRUST	79, 159
MOTT CREEK	V-06369	VINDUM, ERIK AND MYRNA J.	79, 159

## 2. SOURCE INDEX

MOTT CREEK	V-05314	DAVIS, DAVID B. AND SHARON L.	52, 103
MOTT CREEK	V-06313	DUBIN INVESTMENT GROUP, LLC	55, 113
MOTT CREEK	V-06317	GRAY, WILLIAM H. AND LOIS CATHERINE	57, 115
MOTT CREEK	V-06349	MADDI'S RANCH LLC	72, 144
MOTT CREEK	V-06350	THOMAS M. AND PAULA J. YTURBIDE, TRUSTEES OF THE YTURBIDE 1991 FAMILY TRUST	73, 144
MOTT CREEK	V-06351	PARK, ERIC SONG J. AND ELIZABETH	74, 145
MOTT CREEK	V-06370	BELLIK, MICHAEL STEVEN	80, 160
MOTT CREEK	V-06370	GALLAGHER, TERRY A.	80, 160
MOTT CREEK	V-06370	HANSEN, JANICE G.	80, 160
MOTT CREEK	V-06370	KANELOS, BETTIE KENNARD, TRUST	80, 160
MOTT CREEK	V-06370	VINDUM, ERIK AND MYRNA J.	80, 160
MOTT CREEK	V-06831	LACKEY, LARRY AND JOYCE H.	80, 163
MOTT CREEK	V-09039	MASON, TOM E. AND SHARON J.	83, 167
MOTT CREEK	V-09263	CHUDNOW, ROBERT & LINDA SAWYER-CHUDNOW	84, 168
MOTT CREEK	V-09263	KIMBALL, BRENT A. & KAREN A.	84, 168
MOTT CREEK & UNNAMED STREAM	V-05049	BENZ FAMILY TRUST	51, 101
PALMER SWAMP	V-02430	JUDD, FRANK J.	49, 98
SHARPE SPRING	PER. 10033, CERT. 3417	HARVEY, DAVID AND EVELYNE	89, 177
SHERIDAN CREEK	V-04594	LODATO, JOSEPH S.	50, 100
SHERIDAN CREEK	V-04594	SAPP 1993 TRUST, ALAN D. SAPP, TRUSTEE	50, 100
SHERIDAN CREEK	V-06264	RODGERS FAMILY TRUST	53, 105
SHERIDAN CREEK	V-06265	RODGERS FAMILY TRUST	53, 106
SHERIDAN CREEK	V-06306	WEBER, THEADORE AND KATHERINE A., HUSBAND AND WIFE	54, 107
SHERIDAN CREEK	V-06307	WEBER, THEADORE AND KATHERINE A., HUSBAND AND WIFE AS JOINT TENANTS	54, 108
SHERIDAN CREEK	V-06309	FDRRESTER, DONALD S. AND KRISTINA M., HUSBAND AND WIFE AS JOINT TENANTS.	54, 109
SHERIDAN CREEK	V-06312	SEVERSON, ROBERT S. AND JUNE E., HUSBAND AND WIFE AS JOINT TENANTS	55, 112
SHERIDAN CREEK	V-06336	MITCHELL, RON AND GINGER, HUSBAND AND WIFE	68, 131
SHERIDAN CREEK	V-06339	PESTANA, ERNEST E., TRUSTEE OF THE PESTANA 1986 FAMILY TRUST	69, 135
SHERIDAN CREEK	V-06340	HALL, DONALD T. AND PEGGY, HUSBAND AND WIFE	69, 136
SHERIDAN CREEK	V-06347	WHIPPLE, JOY (AKA JOY S. SMITH)	72, 142
SHERIDAN CREEK	V-06357	ROOKER, DONALD L. AND TONI M.	76, 150
SHERIDAN CREEK	V-06358	ROOKER, DONALD L. AND TONI M.	77, 151
SHERIDAN CREEK	V-06359	BUCKLEY, DENNIS R. AND THERESE S.	77, 152
SHERIDAN CREEK	V-06360	BUCKLEY, DENNIS R. AND THERESE S.	77, 152
SHERIDAN CREEK	V-06361	SIMON, STEPHEN RAY AND LUCETTE; SIMON, PAUL P. AND MORENE L.	77, 153

## 2. SOURCE INDEX

SHERIDAN CREEK	V-06362	SIMON, STEPHEN RAY AND LUCETTE; SIMON, PAUL P. AND MORENE L.	77, 154
SHERIDAN CREEK AND TRIBUTARIES	V-06356	SAPP, ALLAN D. AND PATRICIA J.	76, 150
STUTLER CREEK	V-06305	WEBER, THEODORE AND KATHERINE A., HUSBAND AND WIFE	53, 106
STUTLER CREEK	V-06308	WEBER, THEODORE AND KATHERINE A., HUSBAND AND WIFE	54, 109
STUTLER CREEK	V-06310	FORRESTER, DONALD S. AND KRISTINA M., HUSBAND AND WIFE AS JOINT TENANTS.	55, 110
STUTLER CREEK	V-06338	PESTANA, ERNEST E., TRUSTEE OF THE PESTANA 1986 FAMILY TRUST	69, 134
STUTLER CREEK	V-06341	HALL, DONALD T. AND PEGGY, HUSBAND AND WIFE	69, 137
STUTLER CREEK	V-06346	WHIPPLE, JOY (AKA JOY S. SMITH)	72, 142
STUTLER CREEK	V-06311	SEVERSON, ROBERT S. AND JUNE E., HUSBAND AND WIFE AS JOINT TENANTS	55, 111
STUTLER CREEK	V-06337	MITCHELL, RON AND GINGER, HUSBAND AND WIFE	69, 133
TAYLOR CREEK	V-06352	TOUSSAU, DONALD A.	75, 146
UNDERGROUND	PER. 25409, CERT. 7585	TOMERLIN, WILLIAM R., TRUST	91, 181
UNNAMED CREEK	PER. 24526 CERT. 8137	CASTEEL CORPORATION	90
UNNAMED CREEK	PER. 24526 CERT. 8137	CATHERWOOD, MICHAEL AND ROBIN L.	90
UNNAMED CREEK	PER. 24526 CERT. 8137	CURRIE, WAYNE A. AND SHARON W.	90
UNNAMED CREEK	PER. 24526 CERT. 8137	DELLA ROSA, DAVID J. AND ANNE	90
UNNAMED CREEK	PER. 24526 CERT. 8137	KELLY, THOMAS S.	90
UNNAMED CREEK	PER. 24526 CERT. 8137	MARTIN, LUTHER J. AND HUGH L.	90
UNNAMED CREEK	PER. 24526 CERT. 8137	MINASIAN, JOHN	90
UNNAMED CREEK	PER. 24526 CERT. 8137	BARTHOLOMEW FAMILY TRUST	90
UNNAMED CREEK	PER. 24526 CERT. 8137	O'CONNELL, KEVIN J. AND LINDA M.	90
UNNAMED CREEK	PER. 24526 CERT. 8137	OWEN, VIRGINIA	90
UNNAMED CREEK	PER. 24526 CERT. 8137	MARIENTHAL, PAUL D. AND ELLEN	90
UNNAMED SPRING	V-02857	GAINES, TED AND JUDY	49, 98
UNNAMED SPRING	V-02857	HANSON TRUST	49, 98
UNNAMED SPRING	V-02857	SHOCKEY, ROBERT D. AND WANDA D.	49, 98
UNNAMED SPRING	V-02857	WILD GOOSE LIMITED PARTNERSHIP	49, 98
UNNAMED SPRING	V-06348	HICKEY, DANIEL R. AND LAUREL C.	72, 143
UNNAMED SPRING	PER. 18720, CERT. 5961	BENTLY FAMILY LIMITED PARTNERSHIP	90, 178
UNNAMED SPRING	PER. 18720, CERT. 5961	ELLIS, DARWIN K. AND ELIZABETH D.	90, 178
UNNAMED SPRING	PER. 18720, CERT. 5961	ELLIS, DARWIN V. AND LINDA T.	90, 178
UNNAMED SPRING	PER. 24918 CERT. 7843	JACKSON, JERALD R., 1975 TRUST	91
UNNAMED SPRING	PER. 24919 CERT. 7842	JACKSON, JERALD R., 1975 TRUST	91
UNNAMED SPRING	PER. 28884, CERT. 9281	HARRIS, ALAN K. & PATRICIA M.	91, 183
UNNAMED SPRING	PER. 24526 CERT. 8137	BROWN, RICHARD E. AND BURNS, SHARON A.	90

## 2. SOURCE INDEX

UNNAMED SPRING (A)	V-06342	JACKSON, JERALD R., 1975 TRUST	70, 138
UNNAMED SPRING (A)	V-06342	WINDHOLZ, IRENE M., TRUST	70, 138
UNNAMED SPRING (A), UNNAMED SPRING (D) & LUTHER CREEK -	V-06321	DOUGLAS, MYLES S. AND AMY B.	58, 118
UNNAMED SPRING (A), UNNAMED SPRING (D) & LUTHER CREEK -	V-06321	GARDNER, GERALDINE REVOCABLE TRUST	58, 117
UNNAMED SPRING (A), UNNAMED SPRING (D) & LUTHER CREEK -	V-06321	WARG, HENRY EDWARD	58, 117
UNNAMED SPRING (A), UNNAMED SPRING (D) & LUTHER CREEK -	V-06323	ABBOTT FAMILY TRUST	60, 120
UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	V-06322	DOUGLAS, MYLES S. AND AMY B.	59, 119
UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	V-06322	GRANAT REVOCABLE TRUST OF 10/18/85	59, 119
UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	V-06325	BROWN E. RICHARD AND BURNS, E. SHARON	61, 122
UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	V-06326	GEANNE C. NELSON REVOCABLE TRUST	61, 123
UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	V-06327	CARRIG, BLAISE AND LESLIE	62, 124
UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	V-06328	MARIENTHAL, PAUL D. AND ELLEN	63, 125
UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	V-06329	DELLA ROSA, DAVID J. AND ANNE	64, 126
UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	V-06330	CASTEEL, GARY B. AND CLAUDIA A.	65, 127
UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	V-06331	BARTHOLOMEW FAMILY TRUST	65, 128
UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	V-06333	FERGUSON, RICHARD C. AND SANDRA J.	67, 130
UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	V-07486	CATHERWOOD, MICHAEL AND ROBIN L.	81, 164
UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	V-09264	HONKANEN, TYNE	84, 169
UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	V-09265	CHRISTIAN, STEPHEN H. & PATRICIA	85, 170
UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	V-09266	MINASIAN, JOHN	86, 171
UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	V-09270	CHRISTIAN, STEPHEN H. & PATRICIA	88, 175
UNNAMED SPRING (A), UNNAMED SPRING (D) AND LUTHER CREEK	V-08850	GROENENDYKE FAMILY TRUST	81, 165
UNNAMED SPRING (B)	V-06343	JACKSON, JERALD R., 1975 TRUST	70, 139
UNNAMED SPRING (B)	V-06343	WINDHOLZ, IRENE M., TRUST	70, 139
UNNAMED SPRING (C)	V-06344	JACKSON, JERALD R., 1975 TRUST	71, 140
UNNAMED SPRING (C)	V-06344	WINDHOLZ, IRENE M., TRUST	71, 141
UNNAMED SPRING (D)	V-06345	JACKSON, JERALD R., 1975 TRUST	71, 141
UNNAMED SPRING (D)	V-06345	WINDHOLZ, IRENE M., TRUST	71, 141
UNNAMED SPRINGS	V-02856	GROENENDYKE FAMILY TRUST	92
UNNAMED SPRINGS	V-02856	WINDHOLZ, IRENE M., TRUST	92
UNNAMED SPRINGS	V-02856	NEVADA MOUNTIAN VIEW LLC	92
UNNAMED SPRINGS	V-02856	PRATHER FAMILY TRUST	92
UNNAMED SPRINGS	V-02856	JSD TRUST	92
UNNAMED SPRINGS	V-02856	DEETER, JILL S.	92
UNNAMED SPRINGS	V-06353	TOUSSAU, DONALD A.	75, 147

## 2. SOURCE INDEX

WHEELER CREEK NO. 1	PER. 24806, CERT. 7584	TOMERLIN, WILLIAM R., TRUST	90, 180
WHEELER CREEK NO. 1	PER. 25601, CERT. 7586	TOMERLIN, WILLIAM R., TRUST	91, 182
WHEELER CREEK NO. 1 AND WHEELER CREEK NO. 2	V-06320	TOMERLIN, WILLIAM R. TRUST	57, 117
WHEELER CREEK NO. 2	PER. 24807, CERT. 7583	TOMERLIN, WILLIAM R., TRUST	90, 180

### 3. OWNER OF RECORD INDEX

OWNER OF RECORD	PROOF/PERMIT NO.	SOURCE	PAGE NOS.
ABDDTT FAMILY TRUST	V-06323	UNNAMED SPRING (A), UNNAMED SPRING (D) & LUTHER CREEK -	60, 120
BARTHOLOMEW FAMILY TRUST	V-06331	UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	65, 128
BARTHOLOMEW FAMILY TRUST	V-06335	MILLER CREEK	68, 132
BARTHOLOMEW FAMILY TRUST	PER. 24525 CERT. 8136	MILLER CREEK	90
BARTHOLOMEW FAMILY TRUST	PER. 24526 CERT. 8137	UNNAMED CREEK	90
BELLIK, MICHAEL STEVEN	V-06369	MOTT CREEK	79, 158
BELLIK, MICHAEL STEVEN	V-06370	MOTT CREEK	80, 160
BENTLY FAMILY LIMITED PARTNERSHIP	PER. 18720, CERT. 5961	UNNAMED SPRING	90, 178
BENTLY FAMILY LIMITED PARTNERSHIP	PER. 21569, CERT. 6910	BENTLY SPRINGS	90, 178
BENTLY FAMILY LIMITED PARTNERSHIP	PER. 24566, CERT. 8740	AUTUMN HILLS SPRING	90, 179
BENZ FAMILY TRUST	V-05049	MOTT CREEK & UNNAMED STREAM	51, 101
BROOKS FAMILY TRUST AGREEMENT	V-06365	LUTHER CREEK	78, 156
BROOKS FAMILY TRUST AGREEMENT	V-06366	LUTHER CREEK	79, 157
BROWN E. RICHARD AND BURNS, E. SHARON	V-06325	UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	61, 122
BROWN, RICHARD E. AND BURNS, SHARON A.	PER. 24525 CERT. 8136	MILLER CREEK	90
BROWN, RICHARD E. AND BURNS, SHARON A.	PER. 24526 CERT. 8137	UNNAMED SPRING	90
BROWN, ROBERT H. AND ARLENE M. BROWN FAMILY TRUST	V-02858	LUTHER CREEK	50, 99
BUCKLEY, DENNIS R. AND THERESE S.	V-06359	SHERIDAN CREEK	77, 152
BUCKLEY, DENNIS R. AND THERESE S.	V-06360	SHERIDAN CREEK	77, 152
BUDDINGTON, DONNA	V-06319	MOTT CREEK	57, 116
CARRIG, BLAISE AND LESLIE	V-06327	UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	62, 124
CASTEEL CORPORATION	PER. 24525 CERT. 8136	MILLER CREEK	90
CASTEEL CORPORATION	PER. 24526 CERT. 8137	UNNAMED CREEK	90
CASTEEL, GARY B. AND CLAUDIA A.	V-06330	UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	65, 127
CATHERWDOD, MICHAEL AND ROBIN L.	V-07486	UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	81, 164
CATHERWOOD, MICHAEL AND ROBIN L.	PER. 24525 CERT. 8136	MILLER CREEK	90
CATHERWOOD, MICHAEL AND ROBIN L.	PER. 24526 CERT. 8137	UNNAMED CREEK	90
CHITWOOD, LORILYN V. AND RANDALL R.	V-05070	MOTT CREEK	51, 102
CHRISTIAN, STEPHEN H. & PATRICIA	V-09265	UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	85, 170
CHRISTIAN, STEPHEN H. & PATRICIA	V-09270	UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	88, 175
CHUDNOW, ROBERT & LINDA SAWYER-CHUDNOW	V-09263	MOTT CREEK	84, 168
CURRIE, WAYNE A. AND SHARON W.	PER. 24525 CERT. 8136	MILLER CREEK	90
CURRIE, WAYNE A. AND SHARON W.	PER. 24526 CERT. 8137	UNNAMED CREEK	90
DAVIS, DAVID B. AND SHARON L.	V-05314	MOTT CREEK	52, 103

### 3. OWNER OF RECORD INDEX

OWNER OF RECORD	PROOF/PERMIT NO.	SOURCE	PAGE NOS.
DEETER, JILL S.	V-02856	UNNAMED SPRINGS	92
DELLA ROSA, DAVID J. AND ANNE	V-06329	UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	64, 126
DELLA ROSA, DAVID J. AND ANNE	PER. 24525 CERT. 8136	MILLER CREEK	90
DELLA ROSA, DAVID J. AND ANNE	PER. 24526 CERT. 8137	UNNAMED CREEK	90
DINEL, JOHN AND HELEN	PER. 24525 CERT. 8136	MILLER CREEK	90
DOORNINK, JAMES D. & EDNA	PER. 7595, CERT. 1760	GANSBERG SPRING	89, 176
DOUGLAS, MYLES S. AND AMY B.	V-06321	UNNAMED SPRING (A), UNNAMED SPRING (D) & LUTHER CREEK -	58, 118
DOUGLAS, MYLES S. AND AMY B.	V-06322	UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	59, 119
DREYER, ROLAND AND JOAN P.	V-06355	CARY CREEK	76, 149
DUBIN INVESTMENT GROUP, LLC	V-06313	MOTT CREEK	55, 113
DUNN, ROBERT D. & EVELYN W.	PER. 7595, CERT. 1760	GANSBERG SPRING	89, 176
ELLIS, DARWIN K. AND ELIZABETH D.	PER. 18720, CERT. 5961	UNNAMED SPRING	90, 178
ELLIS, DARWIN V. AND LINDA T.	PER. 18720, CERT. 5961	UNNAMED SPRING	90, 178
FERGUSON, RICHARD C. AND SANDRA J. FORRESTER, DONALD S. AND KRISTINA M., HUSBAND AND WIFE AS JOINT TENANTS.	V-06333	UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	67, 130
FORRESTER, DONALD S. AND KRISTINA M., HUSBAND AND WIFE AS JOINT TENANTS.	V-06309	SHERIDAN CREEK	54, 109
FORRESTER, DONALD S. AND KRISTINA M., HUSBAND AND WIFE AS JOINT TENANTS.	V-06310	STUTLER CREEK	55, 110
GAINES, JUDY	V-06332	MILLER CREEK	66, 129
GAINES, JUDY	PER. 24525 CERT. 8136	MILLER CREEK	90
GAINES, TED AND JUDY	V-02857	UNNAMED SPRING	49, 98
GAINES, TED AND JUDY	V-02858	LUTHER CREEK	50, 99
GALLAGHER, TERRY A.	V-06369	MOTT CREEK	79, 158
GALLAGHER, TERRY A.	V-06370	MOTT CREEK	80, 160
GARDNER, GERALDINE REVOCABLE TRUST	V-06321	UNNAMED SPRING (A), UNNAMED SPRING (D) & LUTHER CREEK -	58, 117
GEANNE C. NELSON REVOCABLE TRUST	V-06326	UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	61, 123
GRANAT REVOCABLE TRUST OF 10/18/85	V-06322	UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	59, 119
GRAY, WILLIAM H. AND LDIS CATHERINE	V-06317	MOTT CREEK	57, 115
GROENENDYKE FAMILY TRUST	V-02856	UNNAMED SPRINGS	92
GROENENDYKE FAMILY TRUST	V-08850	UNNAMED SPRING (A), UNNAMED SPRING (D) AND LUTHER CREEK	81, 165
GROENENDYKE, EDWARD	V-06324	MILLER CREEK	60, 121
GROENENDYKE, EDWARD	PER. 24525 CERT. 8136	MILLER CREEK	90
HACKLER, ANDREW & LINDA	V-09267	MILLER CREEK	86, 172
HALL, DONALD T. AND PEGGY, HUSBAND AND WIFE	V-06340	SHERIDAN CREEK	69, 136
HALL, DONALD T. AND PEGGY, HUSBAND AND WIFE	V-06341	STUTLER CREEK	69, 137

### 3. OWNER OF RECORD INDEX

OWNER OF RECORD	PROOF/PERMIT NO.	SOURCE	PAGE NOS.
HANAVAN, L. J.	PER. 7595, CERT. 1760	GANSBERG SPRING	89, 176
HANSEN, JANICE G.	V-06369	MOTT CREEK	79, 158
HANSEN, JANICE G.	V-06370	MOTT CREEK	80, 160
HANSON TRUST	V-02858	LUTHER CREEK	50, 99
HANSON TRUST	V-02857	UNNAMED SPRING	49, 98
HARRIS, ALAN K. & PATRICIA M.	PER. 28884, CERT. 9281	UNNAMED SPRING	91, 183
HARVEY, DAVID AND EVELYNE	PER. 10033, CERT. 3417	SHARPE SPRING	89, 177
HASTERT, EMILE P.	PER. 7595, CERT. 1760	GANSBERG SPRING	89, 176
HAYES, EDWARD J. AND CONSTANCE G.	V-06226	MOTT CREEK	53, 104
HELLMAN, DOUGLAS AND AMELIA	V-06316	MOTT CREEK	56, 114
HICKEY, DANIEL R. AND LAUREL C.	V-06348	UNNAMED SPRING	72, 143
HONKANEN, TYNE	V-09264	UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	84, 169
HONKANEN, TYNE AND ERIC G.	PER. 24525 CERT. 8136	MILLER CREEK	90
HYLANDER, WALDEMAR B. AND MARIBETH D.	PER. 24525 CERT. 8136	MILLER CREEK	90
JACKSON, JERALD R., 1975 TRUST	V-06342	UNNAMED SPRING (A)	70, 138
JACKSON, JERALD R., 1975 TRUST	V-06343	UNNAMED SPRING (B)	70, 139
JACKSON, JERALD R., 1975 TRUST	V-06344	UNNAMED SPRING (C)	71, 140
JACKSON, JERALD R., 1975 TRUST	V-06345	UNNAMED SPRING (D)	71, 141
JACKSON, JERALD R., 1975 TRUST	PER. 24918 CERT. 7843	UNNAMED SPRING	91
JACKSON, JERALD R., 1975 TRUST	PER. 24919 CERT. 7842	UNNAMED SPRING	91
JONES, LOIS S.	PER. 7595, CERT. 1760	GANSBERG SPRING	89, 176
JONES, RODNEY	V-09253	CASTLE SPRING	92
JSD TRUST	V-02856	UNNAMED SPRINGS	92
JUDD, FRANK J.	V-02430	PALMER SWAMP	49, 98
KANELOS, BETTIE KENNARD, TRUST	V-06369	MOTT CREEK	79, 159
KANELOS, BETTIE KENNARD, TRUST	V-06370	MOTT CREEK	80, 160
KELLY, THOMAS S.	PER. 24525 CERT. 8136	MILLER CREEK	90
KELLY, THOMAS S.	PER. 24526 CERT. 8137	UNNAMED CREEK	90
KIMBALL, BRENT A. & KAREN A.	V-09263	MOTT CREEK	84, 168
KYLE, MARSHALL	V-09264	MILLER CREEK	84, 169
LACKEY, LARRY AND JOYCE H.	V-06831	MOTT CREEK	80, 163
LIBBON, TERRY & CINDY	V-09268	MILLER CREEK	87, 173
LODATO, JOSEPH S.	V-04594	SHERIDAN CREEK	50, 100

### 3. OWNER OF RECORD INDEX

OWNER OF RECORD	PROOF/PERMIT NO.	SOURCE	PAGE NOS.
MADDI'S RANCH LLC	V-06349	MOTT CREEK	72, 144
MARIENTHAL, PAUL D. AND ELLEN	V-06328	UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	63, 125
MARIENTHAL, PAUL D. AND ELLEN	PER. 24525 CERT. 8136	MILLER CREEK	90
MARIENTHAL, PAUL D. AND ELLEN	PER. 24526 CERT. 8137	UNNAMED CREEK	90
MARTIN, LUTHER J. AND HUGH L.	PER. 24525 CERT. 8136	MILLER CREEK	90
MARTIN, LUTHER J. AND HUGH L.	PER. 24526 CERT. 8137	UNNAMED CREEK	90
MASON, TOM E. AND SHARON J.	V-09039	MOTT CREEK	83, 167
MELNIKOFF, NORMAN AND SHIRLEY, HUSBAND AND WIFE AS JOINT TENANTS	V-06318	MOTT CREEK	57, 115
MINASIAN, JOHN	V-09266	UNNAMED SPRING (A), UNNAMED SPRING (D) & MILLER CREEK	86, 171
MINASIAN, JOHN	PER. 24525 CERT. 8136	MILLER CREEK	90
MINASIAN, JOHN	PER. 24526 CERT. 8137	UNNAMED CREEK	90
MITCHELL, RON AND GINGER, HUSBAND AND WIFE	V-06336	SHERIDAN CREEK	68, 131
MITCHELL, RON AND GINGER, HUSBAND AND WIFE	V-06337	STUTLER CREEK	69, 133
MOTTSVILLE CEMETERY ASSOCIATION	V-05819	MOTT CREEK	52, 104
MOTTSVILLE LIMITED PARTNERSHIP II	V-06315	MOTT CREEK	56, 114
MURSET, RICHARD E. & DOROTHY J.	V-09269	MILLER CREEK	87, 174
NELSON, JEANNE C.	PER. 24525 CERT. 8136	MILLER CREEK	90
NEVADA MOUNTAIN VIEW LLC	V-02856	UNNAMED SPRINGS	92
NIMIS, FREDERIC J. AND CONCHA P.	PER. 35626, CERT. 9549	CASTLE GARDEN SPRING	92, 183
NIMIS, FREDERIC J. AND CONCHA P.	PER. 36087, CERT. 9885	ELLIS SPRING	92, 184
O'CONNELL, KEVIN J. AND LINDA M.	PER. 24525 CERT. 8136	MILLER CREEK	90
O'CONNELL, KEVIN J. AND LINDA M.	PER. 24526 CERT. 8137	UNNAMED CREEK	90
OWEN, VIRGINIA	PER. 24525 CERT. 8136	MILLER CREEK	90
OWEN, VIRGINIA	PER. 24526 CERT. 8137	UNNAMED CREEK	90
PARK, ERIC SONG J. AND ELIZABETH	V-06351	MOTT CREEK	74, 145
PESTANA, ERNEST E., TRUSTEE OF THE PESTANA 1986 FAMILY TRUST	V-06338	STUTLER CREEK	69, 134
PESTANA, ERNEST E., TRUSTEE OF THE PESTANA 1986 FAMILY TRUST	V-06339	SHERIDAN CREEK	69, 135
PRATHER FAMILY TRUST	V-02856	UNNAMED SPRINGS	92
RODGERS FAMILY TRUST	V-06264	SHERIDAN CREEK	53, 105
RODGERS FAMILY TRUST	V-06265 PER. 7595, CERT. 1760	SHERIDAN CREEK	53, 106
ROLPH, JAMES III & JUNE IRENE		GANSBERG SPRING	89, 176
ROOKER, DONALD L. AND TONI M.	V-06357	SHERIDAN CREEK	76, 150
ROOKER, DONALD L. AND TONI M.	V-06358	SHERIDAN CREEK	77, 151

### 3. OWNER OF RECORD INDEX

OWNER OF RECORD	PROOF/PERMIT NO.	SOURCE	PAGE NOS.
SAPP 1993 TRUST, ALAN D. SAPP, TRUSTEE	V-04594	SHERIDAN CREEK	50, 100
SAPP, ALLAN D. AND PATRICIA J.	V-06356	SHERIDAN CREEK AND TRIBUTARIES	76, 150
SCHWAKE FAMILY TRUST	V-06354	CARY CREEK	75, 148
SCHWAKE, MELVIN	PER. 10983, CERT. 2937	CAREY CREEK	89, 177
SCOSSA BROTHERS	V-06367	MILLER CREEK, BEERS SPRING AND OTHER UNNAMED SPRINGS	78, 157
SCOSSA BROTHERS	V-06368	MILLER CREEK, BEERS SPRING AND OTHER UNNAMED SPRINGS	79, 158
SCOSSA BROTHERS	V-06371	LUTHER CREEK, MILLER CREEK, FREDERICKSBURG DITCH WASTE	80, 161
SCOSSA BROTHERS	V-06372	LUTHER CREEK, MILLER CREEK, FREDERICKSBURG DITCH WASTE	80, 162
SCOSSA, EUGENE AND ALEX SEVERSON, ROBERT S. AND JUNE E., HUSBAND AND WIFE AS JOINT TENANTS	PER. 24557 CER. 8079	MILLER CREEK	90
SEVERSON, ROBERT S. AND JUNE E., HUSBAND AND WIFE AS JOINT TENANTS	V-06311	STUTLER CREEK	55, 111
SEVERSON, ROBERT S. AND JUNE E., HUSBAND AND WIFE AS JOINT TENANTS	V-06312	SHERIDAN CREEK	55, 112
SHOCKEY, ROBERT D. AND WANDA D.	V-02857	UNNAMED SPRING	49, 98
SHOCKEY, ROBERT D. AND WANDA D.	V-02858	LUTHER CREEK	50, 99
SHOCKEY, ROBERT D. AND WANDA D.	V-06363	LUTHER CREEK	78, 154
SHOCKEY, ROBERT D. AND WANDA D.	V-06364	LUTHER CREEK	78, 155
SIMON, STEPHEN RAY AND LUCETTE; SIMON, PAUL P. AND MORENE L.	V-06361	SHERIDAN CREEK	77, 153
SIMON, STEPHEN RAY AND LUCETTE; SIMON, PAUL P. AND MORENE L.	V-06362	SHERIDAN CREEK	77, 154
SMITH, RODERICK J. & PATRICIA L. THOMAS M. AND PAULA J. YTURBIDE, TRUSTEES OF THE YTURBIDE 1991 FAMILY TRUST	PER. 7595, CERT. 1760	GANSBERG SPRING	89, 176
TOMERLIN, JAMES O. & WILLIAM R.	V-06350	MOTT CREEK	73, 144
TOMERLIN, WILLIAM R., TRUST	PER. 7595, CERT. 1760	GANSBERG SPRING	89, 176
TOMERLIN, WILLIAM R., TRUST	PER. 24806, CERT. 7584	WHEELER CREEK NO. 1	90, 180
TOMERLIN, WILLIAM R., TRUST	PER. 24807, CERT. 7583	WHEELER CREEK NO. 2	90, 180
TOMERLIN, WILLIAM R., TRUST	PER. 25409, CERT. 7585	UNDERGROUND	91, 181
TOMERLIN, WILLIAM R., TRUST	PER. 25601, CERT. 7586	WHEELER CREEK NO. 1	91, 182
TOMERLIN, WILLIAM R. TRUST	V-06320	WHEELER CREEK NO. 1 AND WHEELER CREEK NO. 2	57, 117
TOUSSAU, DONALD A.	V-06352	TAYLOR CREEK	75, 146
TOUSSAU, DONALD A.	V-06353	UNNAMED SPRINGS	75, 147
VILLALOBOS, PEDRO AND MARGARET	V-06334	MILLER CREEK & UNNAMED SPRING (A)	67, 131
VILLALOBOS, PEDRO AND MARGARET	PER. 24525 CERT. 8136	MILLER CREEK	90
VINDUM, ERIK AND MYRNA J.	V-06369	MOTT CREEK	79, 159
VINDUM, ERIK AND MYRNA J.	V-06370	MOTT CREEK	80, 160
WARG, HENRY EDWARD	V-06321	UNNAMED SPRING (A), UNNAMED SPRING (D) & LUTHER CREEK -	58, 117
WEBER, THEADORE AND KATHERINE A., HUSBAND AND WIFE	V-06305	STUTLER CREEK	53, 106

### 3. OWNER OF RECORD INDEX

OWNER OF RECORD	PROOF/PERMIT NO.	SOURCE	PAGE NOS.
WEBER, THEADORE AND KATHERINE A., HUSBAND AND WIFE	V-06306	SHERIDAN CREEK	54, 107
WEBER, THEADORE AND KATHERINE A., HUSBAND AND WIFE	V-06308	STUTLER CREEK	54, 109
WEBER, THEADORE AND KATHERINE A., HUSBAND AND WIFE AS JOINT TENANTS	V-06307	SHERIDAN CREEK	54, 108
WHIPPLE, JOY (AKA JOY S. SMITH)	V-06346	STUTLER CREEK	72, 142
WHIPPLE, JOY (AKA JOY S. SMITH)	V-06347	SHERIDAN CREEK	72, 142
WILD GOOSE LIMITED PARTNERSHIP	V-02857	UNNAMED SPRING	49, 98
WILD GOOSE LIMITED PARTNERSHIP	V-02858	LUTHER CREEK	50, 99
WINDHOLZ, IRENE M., TRUST	V-02856	UNNAMED SPRINGS	92
WINDHOLZ, IRENE M., TRUST	V-06342	UNNAMED SPRING (A)	70, 138
WINDHOLZ, IRENE M., TRUST	V-06343	UNNAMED SPRING (B)	70, 139
WINDHOLZ, IRENE M., TRUST	V-06344	UNNAMED SPRING (C)	71, 141
WINDHOLZ, IRENE M., TRUST	V-06345	UNNAMED SPRING (D)	71, 141



**EXHIBIT 23(b)**

**EXHIBIT 23(b)**

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Case No.: 08-CV-0363

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M. DIAGGINI

This document does not contain personal information of any person.

IN THE NINTH JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF DOUGLAS

In the Matter of the Determination of the  
Relative Rights in and to the Waters of Mott  
Creek, Taylor Creek, Cary Creek (aka Carey  
Creek), Monument Creek, and Bulls Canyon,  
Stutler Creek (aka Stattler Creek), Sheridan  
Creek, Gansberg Spring, Sharpe Spring,  
Wheeler Creek No. 1, Wheeler Creek No. 2,  
Miller Creek, Beers Spring, Luther Creek and  
Various Unnamed Sources in Carson Valley,  
Douglas Valley, Nevada.

NOTICE OF EXCEPTIONS AND  
EXCEPTIONS TO FINAL ORDER OF  
DETERMINATION

(Re: Proofs V-06305, V-06306, V-06307  
and V-06308)

Hearing Date: April 1, 2009  
Time: 9:00 a.m.

COME NOW J.W. BENTLEY and MARYANN BENTLEY, Trustees of the Bentley  
Family Trust 1995 Trust ("Bentley"), by and through their counsel of record, Michael L. Matuska,  
Brooke · Shaw · Zumpft, and for exceptions to the *Final Order of Determination*, do hereby state  
as follows:

I.

BACKGROUND

On 5 May 2006, Bentley purchased a parcel of land located in Douglas County, Nevada,  
from Theodore Weber and Katherine Weber. A copy of the deed is provided herewith as  
*Exhibit 1*. Said parcel contains 12.93 +/- acres of land and is identified alternatively as  
APN 1219-14-001-013 and Adjusted Parcel 1 as shown on the Record of Survey to Accompany a  
Boundary Line Adjustment that was filed in the Official Records of Douglas County, Nevada on  
4 January 1986. at Book 196, Page 787, Document No. 378278. A copy of the Record of Survey

///

///

1 is provided herewith as *Exhibit 2*. As demonstrated by the Record of Survey, the Bentley parcel  
2 straddles the quarter section line between the NW ¼ of Sec. 14 and SW ¼ of Sec. 14 in T. 12 N.,  
3 R. 19 E.

4 On 16 March 1994, prior to Bentley's purchase of the above-identified parcel, the Webers  
5 filed the following Proof(s) of Appropriation:

6 Proof of Appropriation of Water for Irrigation V-06305 to irrigate 10.36 acres of land in  
7 the NW ¼ of Sec. 14, T. 12N, R. 19 E from Stutler Creek.

8 Proof of Appropriation of Water for Irrigation V-06306 to irrigate 12.93 acres of land from  
9 Sheridan Creek. This included the same 10.83 acres in the NW ¼ of Sec. 14 T. 12N, R. 19 E  
10 identified in Proof V-06305 in the NW ¼ of Sec. 14, as well as the remaining 2.57 acres located in  
11 the SW ¼ of Sec. 14, T. 12 N, R. 19 E.

12 Proof of Appropriation of Water for Stock Watering or Wildlife Purposes V-06307. This  
13 Proof explains that the purpose is to divert stockwater from Sheridan Creek through ponds located  
14 on the property for stockwater purposes as agreed in a series of diversion agreements referenced in  
15 the Proof.

16 Proof of Appropriation of Water for Stock Watering or Wildlife Purposes V-06308. This  
17 Proof explains that the purpose is to divert stockwater from Stutler Creek through ponds located  
18 on the property for stockwater purposes as agreed in a series of diversion agreements referenced in  
19 the Proof.

20 The records on file the Office of the Nevada State Engineer have all been updated to show  
21 the Bentleys as the owners of the above-identified Proofs. The Bentley parcel also benefits from  
22 additional water rights to Gansberg Springs according to Permit No. 7595/Cert. No. C-1760.  
23 Records of ownership will be updated to reflect Bentley's ownership in these water rights.

## 24 II.

### 25 EXCEPTION NO. 1 – DIVERSION SCHEDULE (PROOFS V-06307 and V-06308)

26 Bentley is informed and believes that the Office of the State Engineer has created a  
27 diversion schedule for the waters from Sheridan Creek, Stutler Creek and Gansberg Springs that is  
28 not contained in the *Final Order of Determination*. The diversion schedule would presumably

1 affect the Proofs and acreages identified in Tables 5 and 6 at pages 192 and 193. In fact, Bentley's  
2 diversion rights under Proofs V-06307 and V-06308 for Appropriation of Water for Stock or  
3 Wildlife Purposes should not be subject to a diversion schedule. Rather, Bentley's diversion  
4 rights are set forth in a series of diversion agreements between Bentley's predecessor(s)-in-interest  
5 and the predecessor(s)-in-interest to the owners of the other properties identified in Tables 5 and 6.  
6 Those diversion agreements are specifically identified in Proofs V-06307 and V-06308. The most  
7 recent and presumably final diversion agreement is also provided herewith as *Exhibit 3*.

8 Accordingly, Tables 5 and 6, and Part VIII "Proofs Determined to Be Valid" should be  
9 amended to note that all diversion rights from Stutler Creek and the North Branch of Sheridan  
10 Creek are subject to this diversion agreement and the Bentley property should be exempt from the  
11 diversion schedule to the extent of diverting water through the ponds for stock watering and/or  
12 wildlife purposes, all of which is described as a non-consumptive use.

### 13 III.

#### 14 EXCEPTION NO. 2 – Add all Proofs to Adjudication Map

15 The Adjudication Map to support the *Final Order of Determination* only identifies Proofs  
16 V-06305 and V-06306 appurtenant to the Bentley parcel. The map should further identify Proofs  
17 V-06307 and V-06308, especially in light of the fact that those Proofs provide rights to a  
18 continuous flow for Bentley's stock/wildlife ponds under diversion agreements that are exempt  
19 from the forthcoming diversion schedule.

### 20 IV.

#### 21 EXCEPTION NO. 3 – Correct Typographical Error.

22 P. 51, pertaining to Proof V-04594 (which has been superseded in part by the Proofs  
23 discussed herein) contains a reference to Proof V-06065. In fact, Proof V-063065 pertains to

24 ///

25 ///

26 ///

27 ///

28 ///

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1 diversions from the Humboldt River Basin and should likely be viewed as a typographical error.

2 The correct reference should presumably be Proof V-06305 (Stutler Creek).

3 Respectfully submitted,

4 DATED this 10<sup>th</sup> day of December 2008.

BROOKE · SHAW · ZUMPFT

By: 

Michael L. Matuska  
State Bar No. 5711

BROOKE · SHAW · ZUMPF  
POST OFFICE BOX 2860  
MINDEN, NEVADA 89423  
(775) 782-7171

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of BROOKE · SHAW · ZUMPF  
and that on the 10th day of December 2008, I served a true and correct copy of the preceding  
document entitled **NOTICE OF EXCEPTIONS AND EXCEPTIONS TO FINAL ORDER OF  
DETERMINATION** addressed to:

STATE OF NEVADA  
Department of Conservation and Natural Resources  
Division of Water Resources  
Office of the State Engineer  
901 South Stewart Street, Suite 2002  
Carson City NV 89701

☒ **BY U.S. MAIL:** I deposited for mailing in the United States mail, with  
postage fully prepaid, an envelope containing the above-identified document at Minden, Nevada,  
in the ordinary course of business.

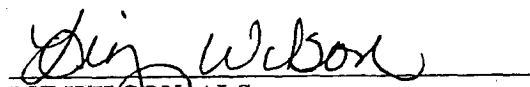
☐ **BY MESSENGER SERVICE:** I delivered the above-identified document to  
Reno-Carson Messenger Service for delivery to the offices of the addressee.

☐ **BY FACSIMILE:** I transmitted via facsimile from the offices of Brooke · Shaw  
· Zumpft the above-identified document in the ordinary course of business to the individual and  
facsimile numbers indicated.

☐ **BY EMAIL:** I transmitted via internet from the offices of Brooke · Shaw · Zumpft  
the above-identified document in the ordinary course of business to the individuals and email  
addresses indicated.

☐ **BY HAND DELIVERY:** I hand delivered an envelope containing the above-  
identified document to the addressee stated above, in the ordinary course of business.

☐ **BY FEDERAL EXPRESS OVERNIGHT DELIVERY.**

  
LIZ WILSON, ALS

# **EXHIBIT 1**

## EXHIBIT "A"

All that certain lot, piece, parcel or portion of land situate, lying and being within the West ½ of Section 14, Township 12 North, Range 19 East, M.D.M., Douglas County, Nevada, more particularly described as follows:

All that portion of Parcels 1, 2 and 3, as shown on the Parcel Map filed for record in Book 687, at Page 3496, as Document No. 157268, Official Records of Douglas County, Nevada, described as follows:

COMMENCING at the Southwest corner of Parcel 3, as shown on the aforesaid map;

Thence along the Southwesterly line of Parcels 2 and 3 of said map, North 24°47'53" West, a distance of 335.33 feet to the Southwest corner of aforesaid Parcel 1, which point is the TRUE POINT OF BEGINNING;

Thence continuing along the Southwesterly line of said parcel North 25°53'28" West, a distance

of 495.70 feet to the Northwestern corner of said parcel;

Thence along the Northwestern line of said parcel North 64°05'08" East, a distance of 1,120.70

feet to the Northeasterly corner of said parcel;

Thence along the Northeasterly line of said Parcels 1 and 3 South 25°05'38" East, a distance of

519.63 feet;

Thence leaving said line South 78°28'21" West, a distance of 424.88 feet;

Thence South 00°00'00" West, a distance of 167.20 feet;

Thence South 70°19'13" West, a distance of 632.57 feet to the TRUE POINT OF BEGINNING.

The Basis of Bearing of this description is the Southeasterly line of Parcel 3, which bears North 70°37'51" East, as shown on the Parcel Map filed for record in Book 687, at Page 3496, as Document No. 157268, Official Records of Douglas County, Nevada.

APN: 1219-14-001-013

Per NRS 111.312, this legal description was previously recorded January 4, 1996, in Book 196, Page 793, as Document No. 378281, Official Records.

### WATER RIGHTS

Being old assessor's parcel number 19-200-09 specifically described as 12.96 acres of land T 12N R19E 514 PCL1. Along with property goes the following water rights.

9 acres in the SW 1/4 of NW 1/4 of Sec. 14, T. 12, R 19E  
2 acres in the SW 1/4 of NW 1/4 of Sec. 14, T. 12, R. 19E  
as shown on the attached map and filed for under proof of Vested Right #04594.

## **EXHIBIT 2**

**LANDY'S CERTIFICATE**  
I, Paul "Doc" Landy, a Professional Land Surveyor registered in the State of Nevada, hereby state that:

- Paul D. Ziegler P. L. & 8200  
Paul D. Ziegler

**BASE OF MAP:**  
The base of Survey of this map is the meandered line of Parcel 1 of Section 14, T27N, R1E, as shown on the Parcel Map Label Parcel, and is shown on map date 12/28/88, Official Records of Lincoln County, Oregon.

• Fuel pump is seized

(B-1) Forward Map Labels Permit, Book 007, page 3408, document number 152264. OFFICE of the Director of the Bureau of Land Management, U.S. Department of the Interior, Washington, D.C. 20013.

1022  
that property comes from the original  
source step (b-1) was found to be true  
3 but to a full set of source position.  
It was assumed that these errors had  
been caused from the original location  
and were therefore and corrected.

### FRANK ROBERTS'S MESSAGE

I, C. B. JOHNSON, Douglas County Engineer, do hereby state that I have reviewed and approved this map.

Ch. J. Smith \_\_\_\_\_ Date \_\_\_\_\_  
Oyle Inspector, F.E. \_\_\_\_\_  
Daguer County Engineer

**FRONT TAX COLLECTOR'S OFFICE**

1. Barbara J. Reed, Jackson County Clerk-Treasurer and Ex-officio Tax Collector, do hereby certify that all property taxes on the land are due and have been paid. ADJG 14-200-04, 10 & 11

Barbara J. Reed 1-4-76  
Barbara J. Reed Date  
Poulsbo County Clerk-Recorder  
By: J. Whitworth, Sr. Deputy

**100% MONEY BACK GUARANTEE**

- [illegible]

Joseph A. Ladd  
A.P. 11-10-10  
A.P. 11-10-10

*Theresa Carter*  
Deputy Mayor  
Arlington, VA 22204

*[Signature]*  
Robert A. Dyer  
JAN 22 1964

State of Nevada 1

\_\_\_\_\_

On the 26<sup>th</sup> day of September, 1961, personally appeared before me, Robert Gordon, a Notary Public, Joseph E. Larkin, personally known to me (it proved to me the truth of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he executed it.

1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 2679, 26

My commission expires 12-25-98

Date of Forest 1,

County of Denver, )  
ss: I, \_\_\_\_\_, )  
County Clerk, do hereby certify )  
that the foregoing is a true and )  
correct copy of the original )  
of record in my office. )  
In testimony whereof, I have hereunto )  
set my hand and the seal of said )  
County at the City and County of )  
Denver, this \_\_\_\_\_ day of )  
\_\_\_\_\_, 19\_\_\_\_. )  
\_\_\_\_\_, )  
County Clerk. )  
\_\_\_\_\_, )  
County Clerk. )

On the 22nd day of September, 1961, personally appeared before me, Victor A. Bertolino,  
a Notary Public, Theodore and Katherine A. Weber, personally known to me (as  
proved to me on the basis of satisfactory evidence) to be the persons whose  
names are subscribed to this instrument, and acknowledged that they were

**Where are you and why?**

Henry Public  
By \_\_\_\_\_

© 2004 Blackwell Publishing Ltd, *Journal of Internal Medicine* 255: 103–110

That he received the 4th day of January 1966 at 24 minutes and 3 seconds P.M. in Book 196 of Official Records at page 787

Approved Number 378-278 Recorded at the request of East African Wildl. C.  
Paula Kavanagh, Dept.

Record of Survey to Accompany a  
Boundary Line Adjustment for  
Joseph S. Ladato  
portions of the W 1/2 of Section 14  
Township 12 North, Range 19 East  
Mount Diablo Meridian  
Douglas County, Nevada

Sheet 1 of 1 sheet

14-12-19

378278

**EXHIBIT 3**

12- P.O. Box 1511  
Nevada 89423

WATER DIVERSION AND USE AGREEMENT

THIS AGREEMENT is entered into by and between JUNE IRENE BARTLETT, who took title as June Irene Rolph, NANCY ROLPH WELCH, GERALD F. WHITMIRE and PAMELA F. J. WHITMIRE, husband and wife as joint tenants, hereafter referred to as "Grantors" and JOSEPH S. LODATO, hereafter referred to as "Grantee", based upon the following facts:

1. Grantors are the owners of real property located in Douglas County, Nevada, as well as the owners of water rights which are appurtenant to, certificated or adjudicated to the benefit of the property owned by them in Douglas County, Nevada.
2. Grantee is the owner of real property located in Douglas County, Nevada, which was purchased heretofore from Grantors.
3. Grantors own and enjoy the right to use waters from Sheridan Creek.
4. There are no downstream users of water from these creeks, after this water is used by Grantors.
5. Grantee desires to divert some or all of the water from Sheridan Creek, onto his property, to be used in a non-consumptive manner to maintain water levels in ponds on Grantee's property, and thereafter to cause the water to be diverted back to the property of Grantors for irrigation purposes.

6. Grantors have agreed to such an arrangement, on the terms and conditions which follow.

THEREFORE, based upon the recital of facts set forth above, which are incorporated in the body of this agreement by reference, and the covenants and conditions which follow hereinafter, the parties do agree as follows:

A. For valuable consideration, receipt of which is hereby acknowledged by Grantors, Grantors do hereby give and grant to Grantee, as a covenant running to the benefit of the land described in Exhibit "A" attached hereto, the right to divert one hundred percent (100%) of the water from Sheridan Creek, onto the Exhibit "A" property, in perpetuity.

B. This grant is specifically made on the condition that the water will be used by Grantee in a non-consumptive fashion, to maintain water levels in a series of streams and ponds on the Exhibit "A" property, after which time it will be re-diverted to the irrigation ditches of Grantors.

C. Grantors are granted the right, upon reasonable notice, to have access to the Exhibit "A" property to ensure that the limitations set forth herein regarding use are being adhered to by Grantee.

D. Grantee is hereby given the right of access to other property of Grantors, in order to ensure that the water may be diverted to Grantee's property.

B. This grant of right to divert and use water includes the right of Grantee to divert the Sheridan Creek water from the natural creekbed or water course on the west side of Foothill Road and in an easement granted pursuant to Exhibit "B" which is attached hereto, and to return to the natural water course on property owned by Grantee just east of that 50-foot roadway and utility easement shown on Exhibit "C" which is attached hereto and incorporated herein by reference.

F. This promise to permit the use and diversion of water is intended to be and is made by Grantors to be a covenant running with the land, and the benefits thereof may be enjoyed by the heirs and assigns of Grantee, and subsequent owners of the Exhibit "A" property.

G. This agreement shall be binding upon and inure to the benefit of the heirs, administrators, executors and assigns of the parties hereto.

H. This agreement may be terminated by Grantors in the event a Court of competent jurisdiction determines that the Grantee has been violating the terms hereof, to the detriment of Grantors.

I. The interpretation and enforceability of this agreement shall be determined by the laws of the State of Nevada, and in the event a law suit is brought to enforce or

interpret this agreement, the prevailing party shall be awarded reasonable attorney's fees against the party not prevailing.

IN WITNESS WHEREOF, the parties have set their hands the day and year set forth below.

Date: \_\_\_\_\_

JUNE IRENE BARTLETT, who took  
title as June Irene Rolph

Date: \_\_\_\_\_

NANCY ROLPH WELCH

Date: 6/9/86

Gerald F. Whitmire  
GERALD F. WHITMIRE

Date: 6-9-86

Pamela F. J. Whitmire  
PAMELA F. J. WHITMIRE

Date: \_\_\_\_\_

Joseph S. Lodato  
JOSEPH S. LODATO

STATE OF \_\_\_\_\_ )

COUNTY OF \_\_\_\_\_ ) ss.

On \_\_\_\_\_, 1986, personally appeared before me, a notary public, JUNE IRENE BARTLETT, personally known to me to be the person who executed the above instrument, and acknowledged to me that she executed the same for the purposes therein stated.

\_\_\_\_\_  
Notary Public

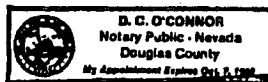
152147

BOOK 387 PAGE 2729

STATE OF Nevada )  
COUNTY OF Douglas ) ss.

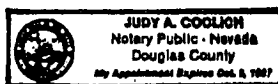
On June 9, 1986, personally appeared before  
me, a notary public, PAMELA F. J. WHITMIRE, personally known to  
me to be the person who executed the above instrument, and  
acknowledged to me that she executed the same for the purposes  
therein stated.

D.C. O'Connor  
Notary Public

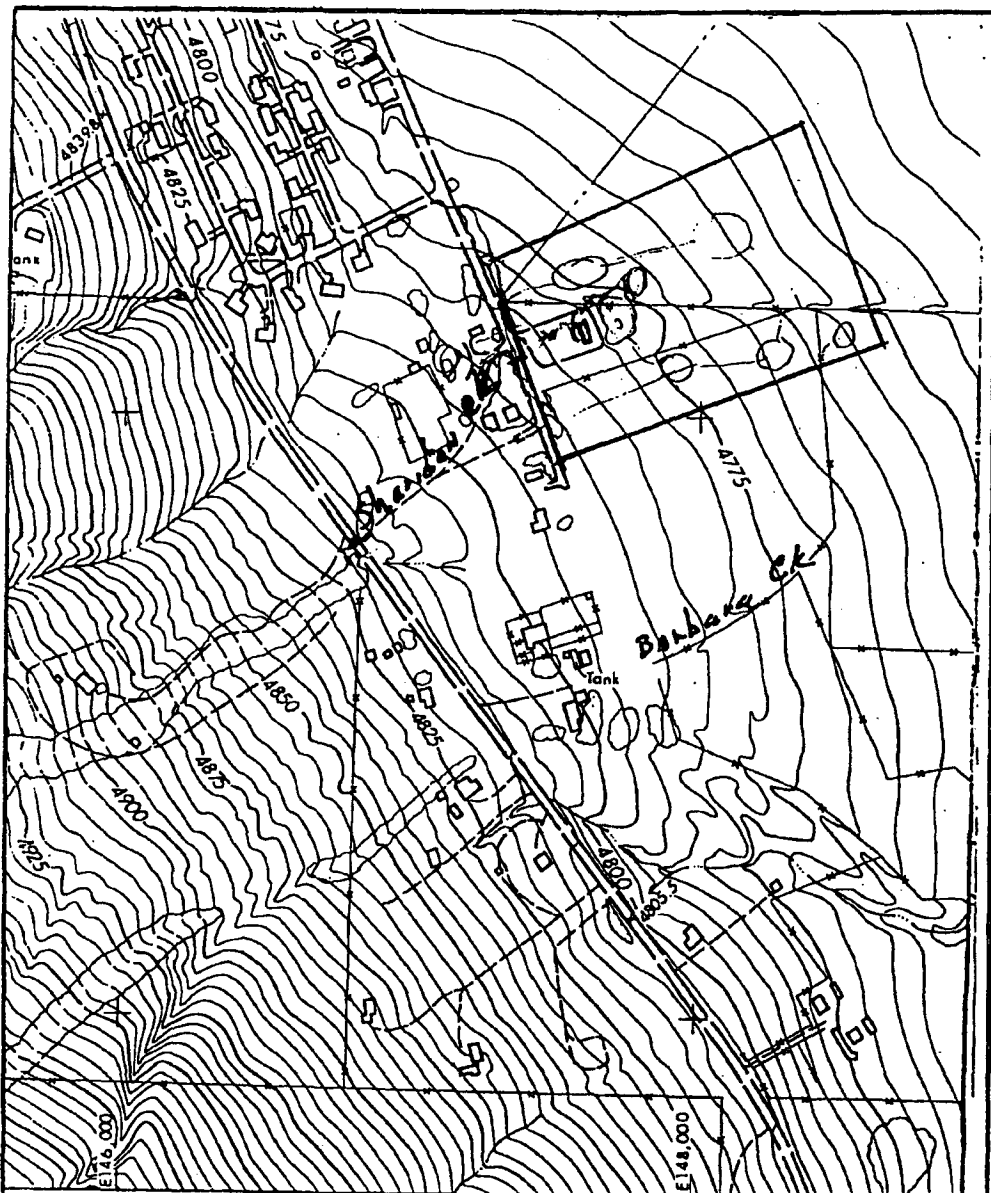


STATE OF Nevada )  
COUNTY OF Douglas ) ss.

On June 9<sup>th</sup>, 1986, personally appeared before  
me, a notary public, JOSEPH S. LODATO, personally known to me to  
be the person who executed the above instrument, and  
acknowledged to me that he executed the same for the purposes  
therein stated.



Judy A. Coolidge  
Notary Public



PROJECT

Scale: 1" = 400' 152147  
Contour Interval: 5'  
Date of Photography: 6-1-77 387 PAGE 2731

EXHIBIT "A"

A parcel of land lying in a portion of the South 1/2 of the Northwest 1/4 and the North 1/2 of the Southwest 1/4 of Section 14, Township 12 North, Range 19 East, M.D.B.&M., Douglas County, Nevada, further described as follows:

BEGINNING at the Southwest corner of Parcel 1 (Jones Ranch Survey) and the Southwest corner of a 1.246 acre parcel of the Rolph residence, which lies on an easterly 50 foot right-of-way extension of Sheridan Lane from which the North one-quarter corner of said Section 14, bears North 34°22'30" East, 3571.08 feet; thence South 24°49'00" East, 334.72 feet; thence North 70°37'51" East, 1120.70 feet; thence North 25°05'38" West 958.85 feet; thence South 64°05'08" West 1120.70 feet to the Easterly 50 foot easement of Sheridan Lane Extension; thence along said easement South 25°54'52" East, 496.34 feet to the Point of Beginning.

TOGETHER with an easement for ingress and egress fifty (50) feet wide along the westerly side of a line more particularly described as follows:

BEGINNING at the intersection of the easterly side of Sheridan Lane and the southerly side of Bolen Circle; thence running South 25°54'52" East, 728.00 feet, situate in the County of Douglas, State of Nevada.

EXCEPTING THEREFROM an irrigation easement five (5) feet in width, located in the Northwest 1/4 of the Southwest 1/4 of Section 14, Township 12 North, Range 19 East M.D.B.&M., in Douglas County, Nevada, the centerline of an existing irrigation ditch being more particularly described as follows:

BEGINNING at a point from which the Southwest Corner of the parcel described in Document No. 64911, filed in the office of Douglas County Recorder bears South 25°54'52" East, a distance of 349.90 feet; said point being on the Easterly line of Sheridan Lane; thence North 89°45'00" East, a distance of 286.39 feet to a point on the Westerly line of an existing pond; thence North 88°39'49" East, a distance of 172.66 feet to a point on the Easterly side of said pond; thence North 81°56'51" East, a distance of 42.43 feet; thence South 06°12'18" West, a distance of 12.64 feet; thence North 83°28'21" East, a distance of 79.45 feet; thence South 89°50'46" East, a distance of 490.17 feet; thence South 24°36'11" East, a distance of 6.24 feet; thence North 89°37'20" East, a distance of 59.47 feet; thence North 89°59'01" East, a distance of 16.07 feet; thence South 47°29'25" East, a distance of 9.05 feet; thence North 89°20'58" East, a distance of 226.82 feet to the Point of Ending, from which the Southwest corner of the above mentioned parcel bears South 75°21'13" West, a distance of 1270.74 feet.

The side lines of the above described easement are to be forelengthened or foreshortened to meet the called beginning.

152147

BOOK 387 PAGE 2732





**EXHIBIT 23(c)**

**EXHIBIT 23(c)**

FILED

RECEIVED

MAR 25 2009

DOUGLAS COUNTY  
DISTRICT COURT CLERK

Case No.: 08-CV-0363

2009 MAR 25 PM 4: 28

Dept. No.: I

TED THIRAN

CLERK  
BY GREGORY

This document does not contain personal information of any person.

IN THE NINTH JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA

IN AND FOR THE COUNTY OF DOUGLAS

In the Matter of the Determination of the  
Relative Rights in and to the Waters of Mott  
Creek, Taylor Creek, Cary Creek (aka Carey  
Creek), Monument Creek, and Bulls Canyon,  
Stutler Creek (aka Stattler Creek), Sheridan  
Creek, Gansberg Spring, Sharpe Spring,  
Wheeler Creek No. 1, Wheeler Creek No. 2,  
Miller Creek, Beers Spring, Luther Creek and  
Various Unnamed Sources in Carson Valley,  
Douglas Valley, Nevada.

AMENDED NOTICE OF EXCEPTIONS  
AND EXCEPTIONS TO FINAL ORDER  
OF DETERMINATION

(Re: Proofs V-06305, V-06306, V-06307  
and V-06308)

Hearing Date: April 1, 2009  
Time: 9:00 a.m.

COME NOW J.W. BENTLEY and MARYANN BENTLEY, Trustees of the Bentley  
Family Trust 1995 Trust ("Bentley"), by and through their counsel of record, Michael L. Matuska,  
Brooke · Shaw · Zumpft, and for exceptions to the *Final Order of Determination*, do hereby state  
as follows:

I.

BACKGROUND

On 5 May 2006, Bentley purchased a parcel of land located in Douglas County, Nevada,  
from Theodore Weber and Katherine Weber. A copy of the deed is provided herewith as  
*Exhibit 1*. Said parcel contains 12.93 +/- acres of land and is identified alternatively as  
APN 1219-14-001-013 and Adjusted Parcel 1 as shown on the Record of Survey to Accompany a  
Boundary Line Adjustment that was filed in the Official Records of Douglas County, Nevada, on  
4 January 1986, at Book 196, Page 787, Document No. 378278. A copy of the Record of Survey

///

///

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MINDEN, NEVADA 89423  
(775) 782-7171

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1 is provided herewith as *Exhibit 2*. As demonstrated by the Record of Survey, the Bentley parcel  
2 straddles the quarter section line between the NW ¼ of Sec. 14 and SW ¼ of Sec. 14 in T. 12 N.,  
3 R. 19 E.

4 On 16 March 1994, prior to Bentley's purchase of the above-identified parcel, the Webers  
5 filed the following Proof(s) of Appropriation:

6 Proof of Appropriation of Water for Irrigation V-06305 to irrigate 10.36 acres of land in  
7 the NW ¼ of Sec. 14, T. 12N, R. 19 E from Stutler Creek (*Exhibit 3*).

8 Proof of Appropriation of Water for Irrigation V-06306 to irrigate 12.93 acres of land from  
9 Sheridan Creek. This included the same 10.83 acres in the NW ¼ of Sec. 14 T. 12N, R. 19 E  
10 identified in Proof V-06305 in the NW ¼ of Sec. 14, as well as the remaining 2.57 acres located in  
11 the SW ¼ of Sec. 14, T. 12 N, R. 19 E (*Exhibit 4*).

12 Proof of Appropriation of Water for Stock Watering or Wildlife Purposes V-06307. This  
13 Proof explains that the purpose is to divert stockwater from Sheridan Creek through ponds located  
14 on the property for stockwater purposes as agreed in a series of diversion agreements referenced in  
15 the Proof (*Exhibit 5*).

16 Proof of Appropriation of Water for Stock Watering or Wildlife Purposes V-06308. This  
17 Proof explains that the purpose is to divert stockwater from Stutler Creek through ponds located  
18 on the property for stockwater purposes as agreed in a series of diversion agreements referenced in  
19 the Proof (*Exhibit 6*).

20 The records on file the Office of the Nevada State Engineer have all been updated to show  
21 the Bentleys as the owners of the above-identified Proofs. The Bentley parcel also benefits from  
22 additional water rights to Gansberg Springs according to Permit No. 7595/Cert. No. C-1760.  
23 Records of ownership will be updated to reflect Bentley's ownership in these water rights.

## 24 II.

### 25 EXCEPTION NO. 1 – DIVERSION SCHEDULE (PROOFS V-06307 and V-06308)

26 Bentley is informed and believes that the Office of the State Engineer is likely to impose a  
27 diversion schedule/rotation for the waters from Sheridan Creek, Stutler Creek and Gansberg  
28 Springs that is not contained in the *Final Order of Determination*. The rotation would presumably

1 relate to the Proofs and acreages identified in Tables 5 and 6 at pages 192 and 193. In fact,  
2 Bentley's diversion rights under Proofs V-06307 and V-06308 for Appropriation of Water for  
3 Stock or Wildlife Purposes should not be subject to a rotation. Rather, Bentley's diversion rights  
4 are set forth in a series of diversion agreements between Bentley's predecessor(s)-in-interest and  
5 the predecessor(s)-in-interest to the owners of other properties identified in Tables 5 and 6. Those  
6 diversion agreements are specifically identified in Proofs V-06307 and V-06308. The most recent  
7 and presumably final diversion agreement is also provided herewith as *Exhibit 7*.

8 Accordingly, Tables 5 and 6, and Part VIII "Proofs Determined to Be Valid" should be  
9 amended to note that all diversion rights from the North Branch of Sheridan Creek (as well as  
10 Stutler Creek and Gansberg Springs (to the extent those sources are also diverted through the  
11 North Branch of Sheridan Creek) are subject to this diversion agreement and the Bentley property  
12 should be exempt from the rotation to the extent of diverting water through the ponds for stock  
13 watering and/or wildlife purposes, all of which is described as a non-consumptive use and returned  
14 to the irrigation ditches.

### 15 III.

#### 16 EXCEPTION NO. 2 – Add all Proofs to Adjudication Map

17 The Adjudication Map to support the *Final Order of Determination* only identifies Proofs  
18 V-06305 and V-06306 appurtenant to the Bentley parcel. The map should further identify Proofs  
19 V-06307 and V-06308, especially in light of the fact that those Proofs provide rights to a  
20 continuous flow for Bentley's stock/wildlife ponds under diversion agreements that are exempt  
from the forthcoming diversion schedule.

### 21 IV.

#### 22 EXCEPTION NO. 3 – Correct Typographical Error

23 P. 51, pertaining to Proof V-04594 (which has been superseded in part by the Proofs  
24 discussed herein) contains a reference to Proof V-06505. In fact, Proof V-06505 pertains to  
25 diversions from the Humboldt River Basin and should likely be viewed as a typographical error.  
26 The correct reference should presumably be Proof V-06305 (Stutler Creek) (*Exhibit 3*).

27 ///

28 ///

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V.

EXCEPTION NO. 4 – Correct Acreage

P. 53 pertaining to Proof V-06305 (Stutler Creek) was submitted for 10.36 acres of land, but approved for only 9.61 acres. This is also reflected in the Table of Relative Rights to Appropriators, p. 107. However, this conflicts with Part XX, Table 5 (Stutler Creek – Commingled with the North Diversion of Sheridan Creek) which shows 10.36 approved acres. In fact, because the waters of Stutler Creek are diverted through the North Branch of Sheridan Creek, and there is no discernible way to distinguish the Stutler Creek waters from the Sheridan Creek waters, the acreage approved under Proof V-06305 (Stutler Creek) should be the same as the acreage approved under Proof V-06306 (Sheridan Creek) – 12.93.

VI.

EXCEPTION NO. 5 – Install Diversion Device

The waters of Stutler Creek and Gansberg Springs are channeled into Sheridan Creek, which in turn splits into two (2) branches. Bentley's diversion rights are obtained from the North Branch of Sheridan Creek, which also delivers the commingled waters of Stutler Creek and Gansberg Springs. At this time, only crude, natural devices (i.e., rocks) are employed to direct the waters to the North and South Branches of Sheridan Creek. Bentley requests that the Office of the State Engineer commission the installation of a device sufficient to measure and deliver accurate diversions between the North and South Branches of Sheridan Creek, and to ensure that waters of Gansberg Springs and Stutler Creek are not diverted down the South Branch of Sheridan Creek.

Respectfully submitted.

DATED this 25<sup>th</sup> day of March 2009.

BROOKE · SHAW · ZUMPFT

By: 

Michael L. Matuska  
State Bar No. 5711  
BROOKE · SHAW · ZUMPFT  
1590 4<sup>th</sup> Street/P.O. Box 2860  
Minden NV 89423  
(775) 782-7171  
(775) 782-3081 (Fax)

BROOKE · SHAW · ZUMPF  
POST OFFICE BOX 2860  
MINDEN, NEVADA 89423  
(775) 782-7171

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of BROOKE · SHAW · ZUMPF  
and that on the 25<sup>th</sup> day of March 2009, I served a true and correct copy of the preceding  
document entitled **AMENDED NOTICE OF EXCEPTIONS AND EXCEPTIONS TO FINAL**  
**ORDER OF DETERMINATION** addressed to:

STATE OF NEVADA  
Department of Conservation and Natural Resources  
Division of Water Resources  
Office of the State Engineer  
901 South Stewart Street, Suite 2002  
Carson City NV 89701

☒ **BY U.S. MAIL:** I deposited for mailing in the United States mail, with  
postage fully prepaid, an envelope containing the above-identified document at Minden, Nevada,  
in the ordinary course of business.


☐ **BY MESSENGER SERVICE:** I delivered the above-identified document to  
Reno-Carson Messenger Service for delivery to the offices of the addressee.

☐ **BY FACSIMILE:** I transmitted via facsimile from the offices of Brooke · Shaw  
· Zumpft the above-identified document in the ordinary course of business to the individual and  
facsimile numbers indicated.

☐ **BY EMAIL:** I transmitted via internet from the offices of Brooke · Shaw · Zumpft  
the above-identified document in the ordinary course of business to the individuals and email  
addresses indicated.

☐ **BY HAND DELIVERY:** I hand delivered an envelope containing the above-  
identified document to the addressee stated above, in the ordinary course of business.

☐ **BY FEDERAL EXPRESS OVERNIGHT DELIVERY.**

  
LIZ WILSON, ALS

**EXHIBIT 1**

Recording Requested By  
Marquis Title & Escrow Inc.  
A.P. NO. 1219-14-001-013  
Escrow No. 260163-VM  
R.P.T.T. \$5,070.00

WHEN RECORDED MAIL TO:  
Mr. & Mrs. J.W. Bentley  
26482 Valpariso  
Mission Viejo, CA 92691

MAIL TAX STATEMENT TO:  
Same as Above

DOC # 0674437  
05/08/2006 03:26 PM Deputy: KLJ  
OFFICIAL RECORD  
Requested By:  
MARQUIS TITLE & ESCROW

Douglas County - NV  
Werner Christen - Recorder  
Page: 1 Of 2 Fee: 15.00  
BK-0506 PG- 3496 RPTT: 5070.00



### GRANT, BARGAIN and SALE DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

THEADORE WEBER and KATHERINE A. WEBER, husband and wife as joint tenants

do(es) hereby GRANT, BARGAIN and SELL to

J.W. BENTLEY AND MARYANN BENTLEY, Trustees of the BENTLEY FAMILY TRUST 1995 TRUST,

the real property situate in the County of Douglas, State of Nevada, described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF FOR LEGAL  
DESCRIPTION AND WATER RIGHTS DESCRIPTION

TOGETHER with all tenements, hereditaments and appurtenances, including easements and water  
rights, if any, thereto belonging or appertaining, and any reversions, remainders, rents, issues or  
profits thereof.

Dated: 05/05/06

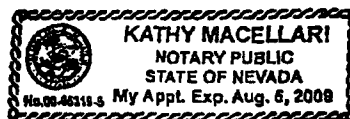
Theadore Weber  
THEADORE WEBER

Katherine A. Weber  
KATHERINE A. WEBER

STATE OF Nevada  
COUNTY OF Douglas

This instrument was acknowledged before me on May 5, 2006 by THEADORE  
WEBER and KATHERINE A. WEBER.

Kathy Macellari  
Notary Public



35

## EXHIBIT "A"

All that certain lot, piece, parcel or portion of land situate, lying and being within the West ½ of Section 14, Township 12 North, Range 19 East, M.D.M., Douglas County, Nevada, more particularly described as follows:

All that portion of Parcels 1, 2 and 3, as shown on the Parcel Map filed for record in Book 687, at Page 3496, as Document No. 157268, Official Records of Douglas County, Nevada, described as follows:

COMMENCING at the Southwest corner of Parcel 3, as shown on the aforesaid map;

Thence along the Southwesterly line of Parcels 2 and 3 of said map, North 24°47'53" West, a distance of 335.33 feet to the Southwest corner of aforesaid Parcel 1, which point is the TRUE POINT OF BEGINNING;

Thence continuing along the Southwesterly line of said parcel North 25°53'28" West, a distance

of 495.70 feet to the Northwestern corner of said parcel;

Thence along the Northwestern line of said parcel North 64°05'08" East, a distance of 1,120.70

feet to the Northeast corner of said parcel;

Thence along the Northeast line of said Parcels 1 and 3 South 25°05'38" East, a distance of

519.63 feet;

Thence leaving said line South 78°28'21" West, a distance of 424.88 feet;

Thence South 00°00'00" West, a distance of 167.20 feet;

Thence South 70°19'13" West, a distance of 632.57 feet to the TRUE POINT OF BEGINNING.

The Basis of Bearing of this description is the Southeasterly line of Parcel 3, which bears North 70°37'51" East, as shown on the Parcel Map filed for record in Book 687, at Page 3496, as Document No. 157268, Official Records of Douglas County, Nevada.

APN: 1219-14-001-013

Per NRS 111.312, this legal description was previously recorded January 4, 1996, in Book 196, Page 793, as Document No. 378281, Official Records.

### WATER RIGHTS

Being old assessor's parcel number 19-200-09 specifically described as 12.96 acres of land T 12N R19E 514 PCL1. Along with property goes the following water rights.

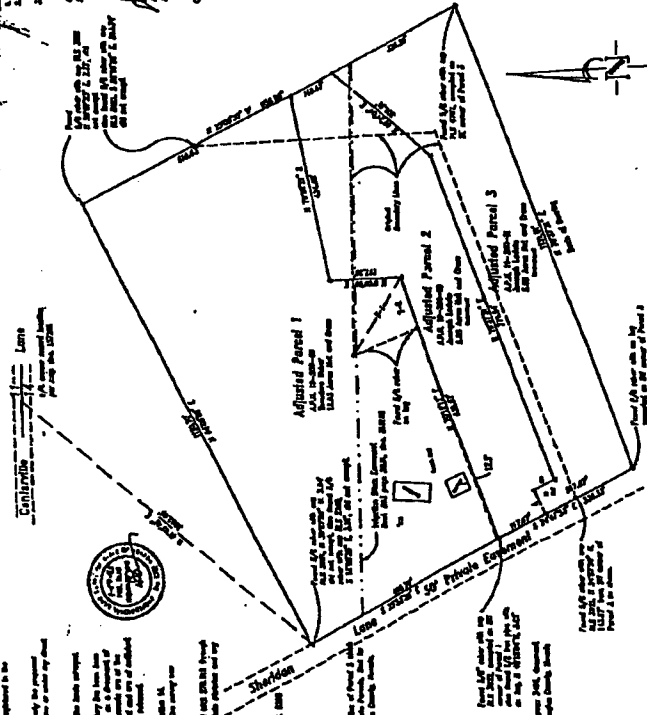
9 acres in the SW 1/4 of NW 1/4 of Sec. 14, T. 12, R 19E

2 acres in the SW 1/4 of NW 1/4 of Sec. 14, T. 12, R. 19E

as shown on the attached map and filed for under proof of Vested Right #04594.

**EXHIBIT 2**

378278



1. All persons and especially those of the Federal Judiciary have been asked to be vigilant in the use of all the electronic devices as a document is created, stored, transmitted, and received. The use of the devices must be limited to what is needed for the case, and the transmission of any data must be encrypted and the data must be protected with the use of the necessary laws and comply the policies, standards and use of the devices.
2. The Federal Judiciary must be vigilant in the use of the devices, and the use of the devices must be limited to what is needed for the case, and the transmission of any data must be encrypted and the data must be protected with the use of the necessary laws and comply the policies, standards and use of the devices.
3. The Federal Judiciary must be vigilant in the use of the devices, and the use of the devices must be limited to what is needed for the case, and the transmission of any data must be encrypted and the data must be protected with the use of the necessary laws and comply the policies, standards and use of the devices.
4. The Federal Judiciary must be vigilant in the use of the devices, and the use of the devices must be limited to what is needed for the case, and the transmission of any data must be encrypted and the data must be protected with the use of the necessary laws and comply the policies, standards and use of the devices.
5. The Federal Judiciary must be vigilant in the use of the devices, and the use of the devices must be limited to what is needed for the case, and the transmission of any data must be encrypted and the data must be protected with the use of the necessary laws and comply the policies, standards and use of the devices.

100-44-10000  
 For Your Signature  
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 a. b. c. 1000  
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CLINT BUCKLEY BUREAU  
1000 East 1st, Suite 200  
Portland, ME 04101  
Tel: 207/525-1234  
Fax: 207/525-1235

11

Record of Survey to Accompany a  
Boundary Line Adjustment for  
Joseph S. Lodaño  
portions of the W 1/2 of Section 14,  
Township 12 North, Range 18 East  
Mount Diablo Meridian  
Douglas County, Nevada

State of Texas

14-12-19

**EXHIBIT 3**

AMENDED

Filing Serial No. 06305

STATE OF NEVADA

PROOF OF APPROPRIATION OF WATER FOR IRRIGATION

Source Stutler Canyon Creek

Name of natural water source (use separate proofs for each major source)

The water is diverted from its source via a diversion structure, pipeline & unnamed

Name of ditch, flume or pipe line

ditches.

at the following point(s) within the SE 1/4 of Section 16, T. 12 N., R. 19 E.

List all points of diversion from this source, appending a sheet if necessary

M.D.M.

See attachment

Describe as being within a 40-acre subdivision of public survey, and by course and distance to a section corner. If on unsurveyed land, it should be stated

(1) Name of claimant Theadore Weber & Katherine A. Weber, husband & wife as joint tenants.

Address Box 601, Minden, County of Douglas

State of Nevada 89423 Telephone No. (702) 265-5021

(2) The means of diversion employed diversion structure, pipeline, ditches. (See attachment.)

Dam and ditch, pipe line, flume, etc.

(3) The date of the survey of ditch, canal, or pipe line was April 7, 1928 (See Attachment.)

(4) The construction of the ditch or other works was begun prior to March 1, 1905

and completed prior to March 1, 1905

(5) The dimensions of the ditch or canal as originally constructed were: Width on bottom.....feet, width

4" dia. pipeline. (See attachment.)

on top.....feet, depth.....feet, on a grade of.....feet per thousand feet.

(6) The conduit ~~has~~ (has not) been enlarged. See attachment.

NOTE—If enlargement or extension of ditch was made, supply information under (7) and (8)

(7) The work of enlargement of the ditch or canal was begun.....and

See attachment for information regarding  
completed.....relocation of pipeline.

(8) The dimensions of the ditch or canal as enlarged are: Width on bottom.....feet, width on top

.....feet, depth.....feet, on a grade of.....feet per thousand feet.

(9) The claimant is ~~(is not)~~ an owner in the above-described conduit.

6.10 percent. (See attachment.)

If claimant is an owner in the conduit, state interest held on this line

(10) The nature of the title to the land for which the water right is claimed is fee title

(11) Crops of alfalfa, native hay, diversified pasture  
have been grown upon the land irrigated. (e.g. alfalfa, native hay, grain, orchard, meadow or diversified pasture)

(12) The water has been used for irrigation from May 1 to October 15  
of each year. Day of month Day of month

(13) List the year of priority for acreages irrigated prior to March 1, 1905, from all points of diversion previously described, with corresponding subdivisions, appending extra sheets if necessary.

1905, 7.60 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$  of Sec 14, T 12N, R 19 E.  
Year

1905, 2.76 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$  of Sec 14, T 12N, R 19 E.

....., ..... acres in the ..... of Sec ....., T ....., R ..... E.

....., ..... acres in the ..... of Sec ....., T ....., R ..... E.

....., ..... acres in the ..... of Sec ....., T ....., R ..... E.

....., ..... acres in the ..... of Sec ....., T ....., R ..... E.

....., ..... acres in the ..... of Sec ....., T ....., R ..... E.

....., ..... acres in the ..... of Sec ....., T ....., R ..... E.

....., ..... acres in the ..... of Sec ....., T ....., R ..... E.

....., ..... acres in the ..... of Sec ....., T ....., R ..... E.

....., ..... acres in the ..... of Sec ....., T ....., R ..... E.

....., ..... acres in the ..... of Sec ....., T ....., R ..... E.

....., ..... acres in the ..... of Sec ....., T ....., R ..... E.

....., ..... acres in the ..... of Sec ....., T ....., R ..... E.

....., ..... acres in the ..... of Sec ....., T ....., R ..... E.

....., ..... acres in the ..... of Sec ....., T ....., R ..... E.

....., ..... acres in the ..... of Sec ....., T ....., R ..... E.

....., ..... acres in the ..... of Sec ....., T ....., R ..... E.

....., ..... acres in the ..... of Sec ....., T ....., R ..... E.

....., ..... acres in the ..... of Sec ....., T ....., R ..... E.

(14) The maximum acreage irrigated in any year was 10.36 acres.

(15) The water claimed has (has not) been used for irrigation each and every year since the right was initiated.

0695

(16) The years during which no water was used for irrigation or during which the full water right was not used were See attachment  
If water was not used, or used in reduced quantity at any time, full information as to causes and duration of non-use should be given, appending a sheet if necessary

(17) The claimant's water right was (was not) recorded in the office of the County Recorder of Douglas County, said record being at page 10.36 of Book 10.36 of 10.36, and being a claim for all appurtenant rights of water for the irrigation of 10.36 acres of land in the following legal subdivisions:

NOTE—Failure to record in the county in no way invalidates a water right, but if ditch or right was so recorded, supply full information under (17)

(18) Water from the source given and through the works described is also used for the following purposes other than irrigation:  
Stock watering and domestic, January 1 through December 31 of each year

(19) The character of the soil is gravelly sandy loam A continuous flow of 1244 cubic feet of water per second has been used to irrigate 10.36 acres of land and 4.0 acre-feet per acre per annum have been used to irrigate the crops.  
(Sandy, gravelly, loam)

(20) Remarks Theodore and Katherine A. Weber claim vested right to 6.10 percent of the waters of Stutler Canyon Creek for irrigation during the period May 1 to October 15 annually to irrigate 10.36 acres.

See attachment for complete description of claim of water right.

The undersigned, being first duly sworn, deposes and says that the facts relative to the appropriation of water by \_\_\_\_\_ are full and correct to the best of his knowledge and belief.

If proof is not made by claimant, deponent should state on this line by virtue of what authority he represents the claimant

*Theodore Weber*  
Theodore Weber  
*Katherine A. Weber*  
Katherine A. Weber  
Telephone No. (702) 265-5021

Subscribed and sworn to before me this 28th day of September, 1996



Notary Public in and for the County of Nevada

My commission expires June 22, 2000

**\$100 FILING FEE MUST ACCOMPANY PROOF**

ORIGINAL

Filing Serial No. 06305

STATE OF NEVADA

PROOF OF APPROPRIATION OF WATER FOR IRRIGATION

Source Stutler Canyon Creek

Name of natural water source (use separate proofs for each major source)

The water is diverted from its source via a diversion structure, pipeline & unnamed  
Name of ditch, flume or pipe line ditches  
at the following point(s) within the SE 1/4 of Section 16, T.12N., R.19E., M.D.M.  
List all points of diversion from this source, appending a sheet if necessary

Describe as being within a 40-acre subdivision of public survey, and by course and distance to a section corner. If on unsurveyed land, it should be stated

(1) Name of claimant Theodore Weber & Katherine A. Weber, husband & wife  
as joint tenants.

Address Box 601, County of Douglas

Minden,  
State of Nevada 89423 Telephone No. (702) 265-5021

(2) The means of diversion employed diversion structure, pipeline, ditches. (See  
Dam and ditch, pipe line, flume, etc. attachment.)

(3) The date of the survey of ditch, canal, or pipe line was April 7, 1928 (See attachment.)

(4) The construction of the ditch or other works was begun prior to March 1, 1905

and completed prior to March 1, 1905. (See attachment.)

(5) The dimensions of the ditch or canal as originally constructed were: Width on bottom.....feet, width  
4" dia. pipeline. (See attachment.)  
on top.....feet, depth.....feet, on a grade of.....feet per thousand feet.

(6) The conduit ~~has~~ (has not) been enlarged. See attachment.

NOTE—If enlargement or extension of ditch was made, supply information under (7) and (8)

(7) The work of enlargement of the ditch or canal was begun.....and  
See attachment for information regarding  
completed.....relocation of pipeline.

(8) The dimensions of the ditch or canal as enlarged are: Width on bottom.....feet, width on top  
.....feet, depth.....feet, on a grade of.....feet per thousand feet.

(9) The claimant is (is not) an owner in the above-described conduit.  
6.10 percent. (See attachment.)

If claimant is an owner in the conduit, state interest held on this line

- (10) The nature of the title to the land for which the water right is claimed is..... fee title.....

- (11) Crops of alfalfa; native hay; diversified pasture  
have been grown upon the land irrigated. (e.g. alfalfa, native hay, grain, orchard, meadow or diversified pasture)

- (12) The water has been used for irrigation from May 1 to October 15  
of each year. Day of month Day of month

- (13) List the year of priority for acreages irrigated prior to March 1, 1905, from all points of diversion previously described, with corresponding subdivisions, appending extra sheets if necessary.

1905, 10.36 acres in the NW<sup>1</sup> of Sec. 14, T. 12, R. 19 E.  
Year

....., ..... acres in the..... of Sec....., T....., R.....E.

....., ..... acres in the ..... of Sec ....., T. ...., R. .... E.

....., ..... acres in the ..... of Sec ....., T....., R..... E.

....., ..... acres in the ..... of Sec. ...., T. ...., R. .... E.

-----, ----- acres in the ----- of Sec. -----, T. -----, R. ----- E.

..... acres in the ..... of Sec....., T....., R.....E.

....., ..... acres in the ..... of Sec ....., T. ...., R. .... E.

....., ..... acres in the..... of Sec....., T....., R..... E.

Notes in the \_\_\_\_\_ of Sec. \_\_\_\_\_, T. \_\_\_\_\_, R. \_\_\_\_\_ E.

.....of Sec....., T....., R.....E.

... of Sec. ...., T. ...., R. .... E.

\_\_\_\_\_ of Sec. \_\_\_\_\_, T. \_\_\_\_\_, R. \_\_\_\_\_ E.

\_\_\_\_\_ of Sec. \_\_\_\_\_, T. \_\_\_\_\_, R. \_\_\_\_\_ E.

.....of Sec....., T....., R.....E.

....., ..... of Sec....., T....., R.....E.

....., .....acres in the.....of Sec....., T....., R.....E.

....., ..... acres in the ..... of Sec. ...., T. ...., R. .... E.

....., .....acres in the.....of Sec....., T....., R.....E.

....., ..... acres in the ..... of Sec....., T....., R.....E.

- (14) The maximum acreage irrigated in any year was 10.36 acres.

- (15) The water claimed has (has not) been used for irrigation each and every year since the right was initiated.**

(16) The years during which no water was used for irrigation or during which the full water right was not used

were See attachment

If water was not used, or used in reduced quantity at any time, full information as to causes and duration of non-use should be

given, appending a sheet if necessary

(17) The claimant's water right was (was not) recorded in the office of the County Recorder of

Douglas County, said record being at page \_\_\_\_\_ of Book \_\_\_\_\_ of

\_\_\_\_\_, and being a claim for all appurtenant rights

\_\_\_\_\_ of water for the irrigation of 10.36

acres of land in the following legal subdivisions:

\_\_\_\_\_  
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\_\_\_\_\_

NOTE—Failure to record in the county in no way invalidates a water right, but if ditch or right was so recorded, supply full information under (17)

(18) Water from the source given and through the works described is also used for the following purposes other than irrigation:

Stock watering and domestic, January 1 through December 31 of each  
year.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(19) The character of the soil is gravelly sandy loam A continuous flow of 1244 cubic  
(Sandy, gravelly, loam)

feet of water per second has been used to irrigate 10.36 acres of land and 4.0  
acre-feet per acre per annum have been used to irrigate the crops.

(20) Remarks Theadore and Katherine A. Weber claim vested right to 6.10  
percent of the waters of Stutler Canyon Creek for irrigation during  
the period May 1 to October 15 annually to irrigate 10.36 acres.

See attachment for complete description of claim of water right.

The undersigned, being first duly sworn, deposes and says that the facts relative to the appropriation of water  
by \_\_\_\_\_ are full and correct to the best of his knowledge  
and belief.

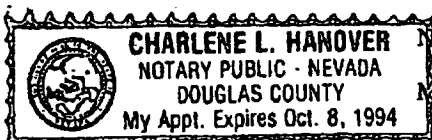
\_\_\_\_\_ If proof is not made by claimant, deponent should state on this line by virtue of what authority he represents the claimant

Theodore Weber  
THEODORE WEBER

Katherine A. Weber  
KATHERINE A. WEBER

Telephone No. (702) 265-5021

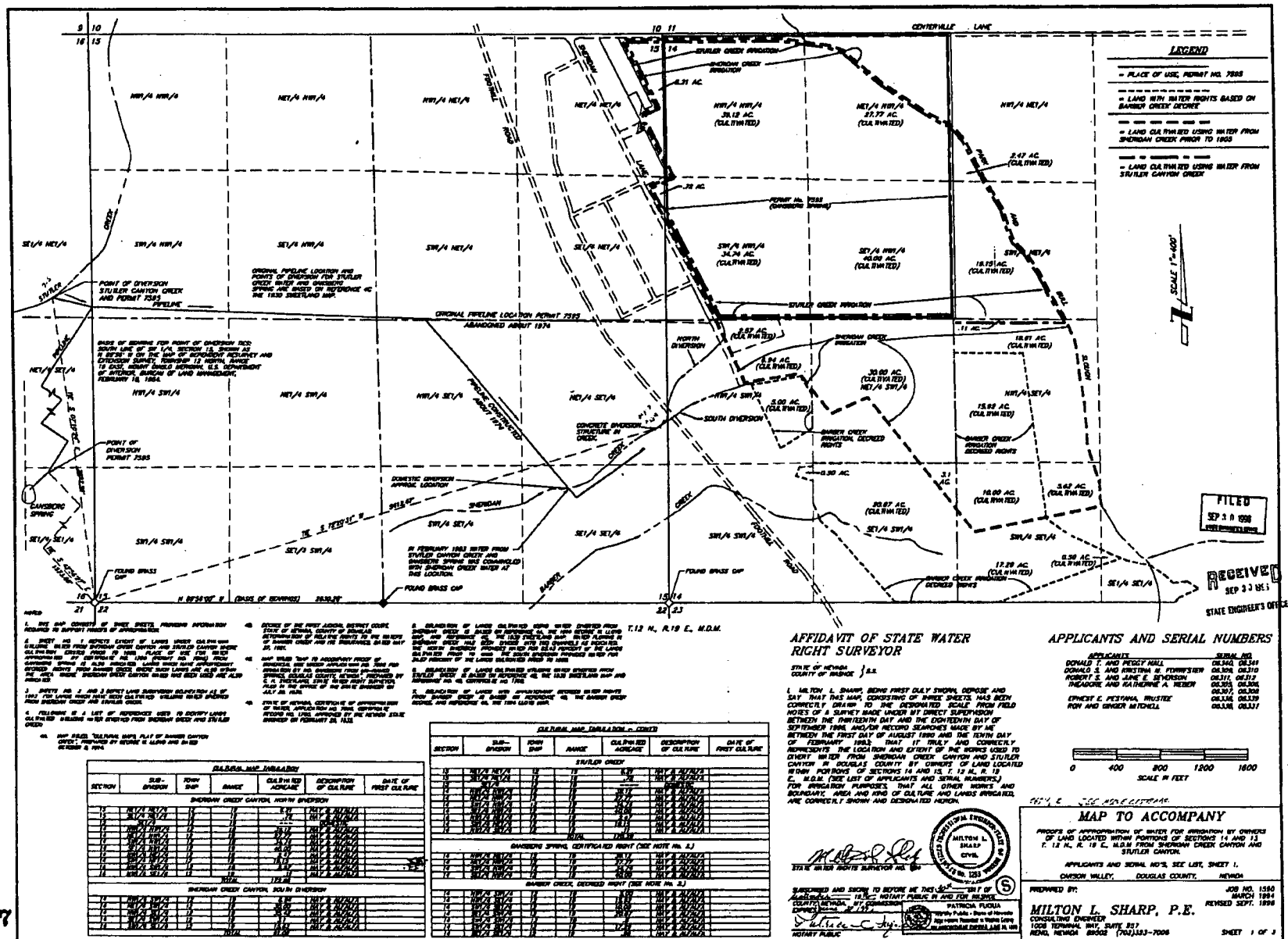
Subscribed and sworn to before me this 16th day of March, 19 94

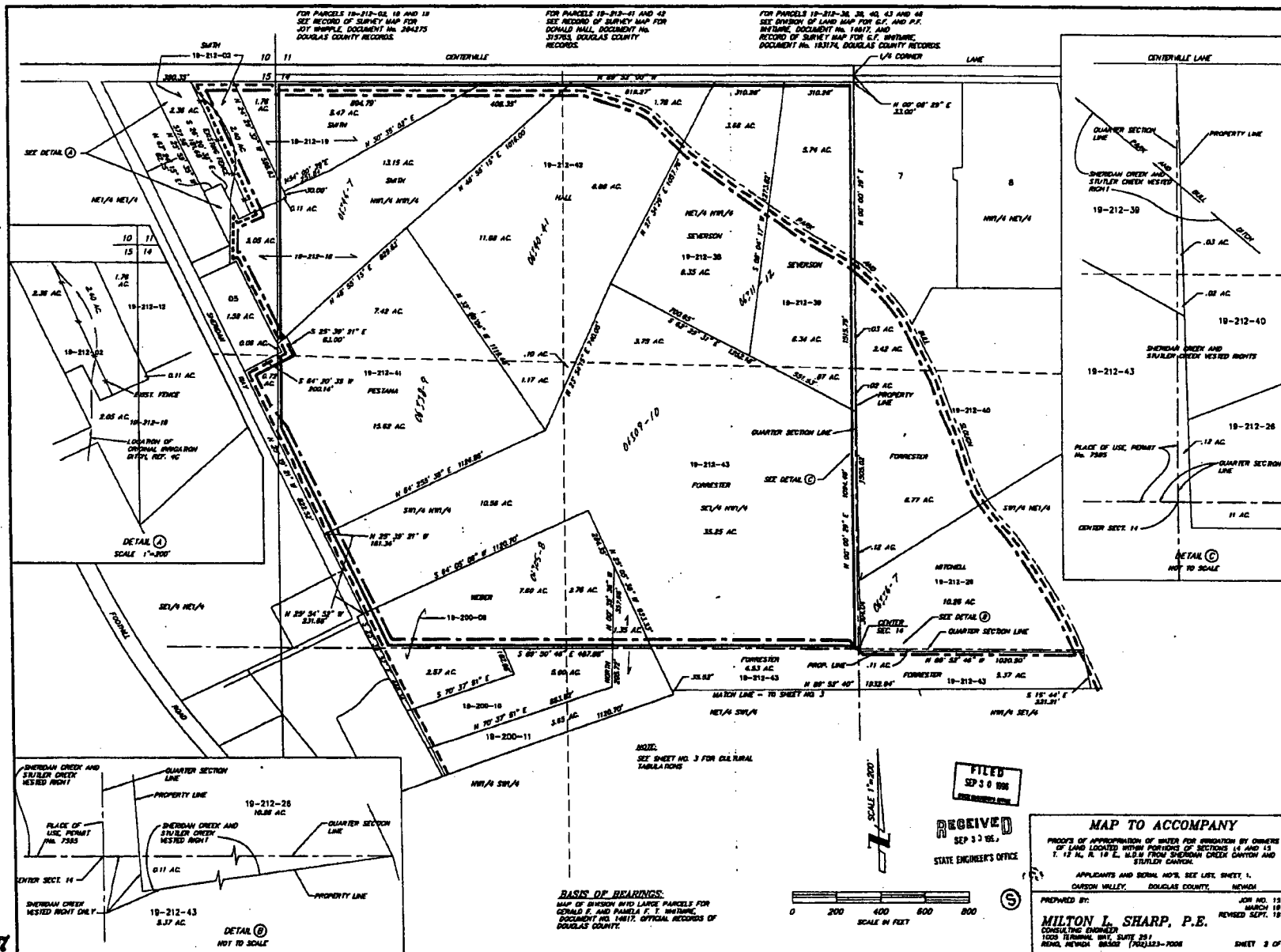


Notary Public in and for the County of Douglas

My commission expires \_\_\_\_\_

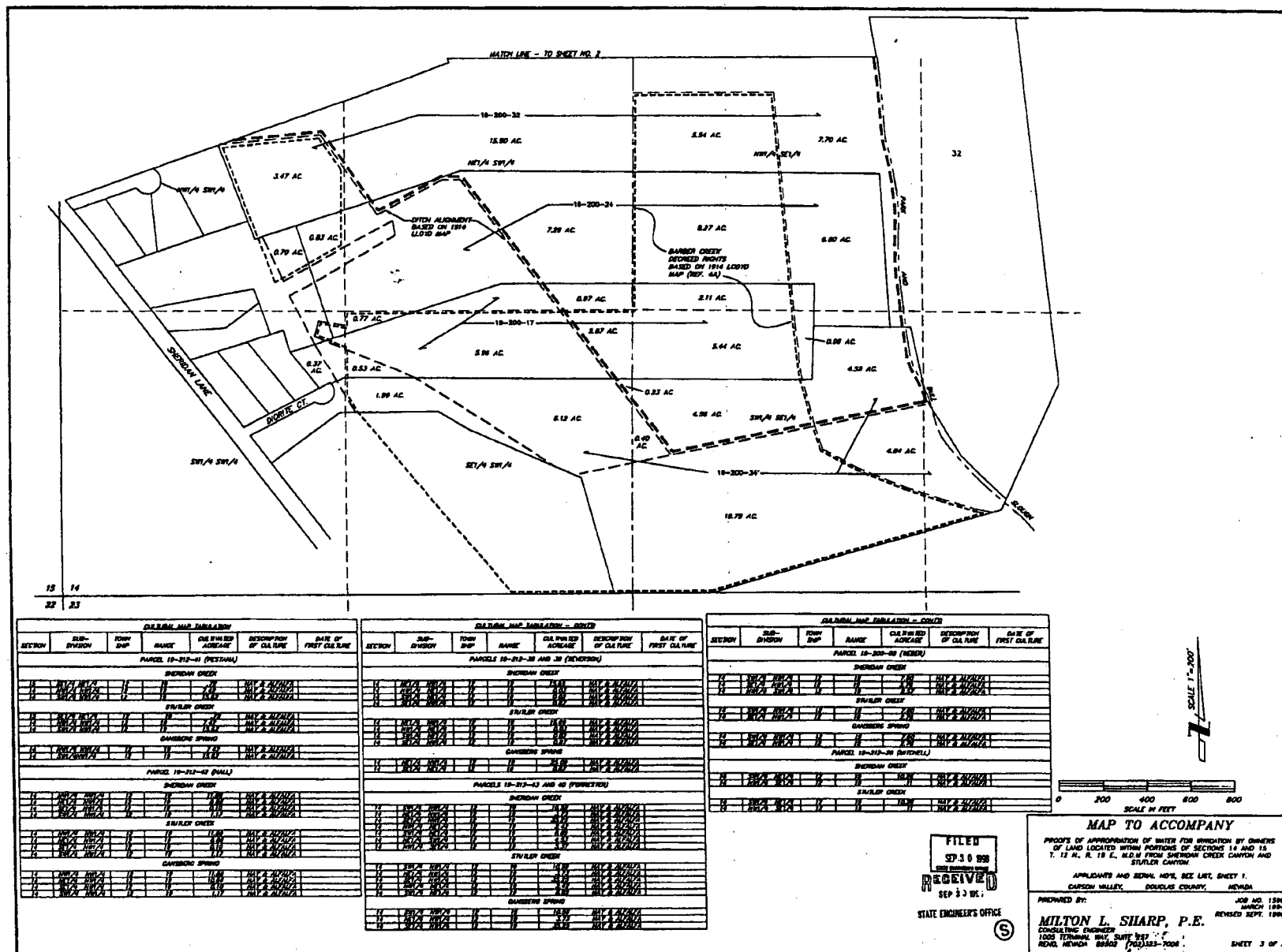
**\$100 FILING FEE MUST ACCOMPANY PROOF**





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06341 06340 06339 06998 06937 06336 06312 06311 06310 06309 06308 06307 06306, 06305

**EXHIBIT 4**

AMENDED

Filing Serial No. 06306

STATE OF NEVADA

PROOF OF APPROPRIATION OF WATER FOR IRRIGATION

Source Sheridan Creek  
Name of natural water source (use separate proofs for each major source)  
 The water is diverted from its source via a concrete diversion structure and unnamed  
Name of ditch, flume or pipe line ditches  
 at the following point(s) within the NESE $\frac{1}{4}$  of Section 15, T.12N., R.19E., M.D.M.  
List all points of diversion from this source, appending a sheet if necessary  
from which the southwest corner of said Section 15 bears S72° 20' 31" W  
 Describe as being within a 40-acre subdivision of public survey, and by course and distance to a section corner. If on unsurveyed land, it should be stated  
a distance of 5,412.47 feet.

(1) Name of claimant Theodore Weber and Katherine A. Weber, husband & wife  
 as joint tenants.  
 Address Box 601, Minden, County of Douglas

State of Nevada 89423 Telephone No. (702...) 265-5021

(2) The means of diversion employed diversion structure, ditches (See attachment.)  
Dam and ditch, pipe line, flume, etc.

(3) The date of the survey of ditch, canal, or pipe line was April 7, 1928 (See attachment.)

(4) The construction of the ditch or other works was begun prior to March 1, 1905  
 and completed prior to March 1, 1905 (See attachment.)

(5) The dimensions of the ditch or canal as originally constructed were: Width on bottom 4 ± feet, width  
 on top 6 ± feet, depth 1.5 ± feet, on a grade of 33 ± feet per thousand feet.

(6) The conduit ~~has~~ (has not) been enlarged.  
 NOTE—If enlargement or extension of ditch was made, supply information under (7) and (8)

(7) The work of enlargement of the ditch or canal was begun \_\_\_\_\_ and  
 completed \_\_\_\_\_

(8) The dimensions of the ditch or canal as enlarged are: Width on bottom \_\_\_\_\_ feet, width on top  
 \_\_\_\_\_ feet, depth \_\_\_\_\_ feet, on a grade of \_\_\_\_\_ feet per thousand feet.

(9) The claimant is ~~(is not)~~ an owner in the above-described conduit.

7.5 percent, North Diversion. (See attachment.)

If claimant is an owner in the conduit, state interest held on this line

(10) The nature of the title to the land for which the water right is claimed is fee title

(11) Crops of alfalfa, native hay, diversified pasture  
have been grown upon the land irrigated. (e.g. alfalfa, native hay, grain, orchard, meadow or diversified pasture)

(12) The water has been used for irrigation from May 1 to October 15  
of each year. Day of month Day of month

(13) List the year of priority for acreages irrigated prior to March 1, 1905, from all points of diversion previously described, with corresponding subdivisions, appending extra sheets if necessary.

1852 .7.60 acres in the SW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub> of Sec. 14, T. 12N., R. 19 E.  
Year

1852, 2.76 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$  of Sec. 14, T. 12N., R. 19 E.

1852, 2.57 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$  of Sec. 14, T. 12N, R. 19 E.

..... acres in the ..... of Sec. ...., T. ...., R. .... E.

....., ..... acres in the ..... of Sec. ...., T. ...., R. .... E.

..... acres in the ..... of Sec. ...., T. ...., R. .... E.

....., ..... acres in the ..... of Sec. ...., T. ...., R. .... E.

..... acres in the ..... of Sec. ...., T. ...., R. .... E.

....., ..... acres in the ..... of Sec ....., T ....., R ..... E.

....., ..... acres in the ..... of Sec. ...., T. ...., R. .... E.

.....acres in the.....of Sec. ...., T....., R.....E.

....., ..... acres in the ..... of Sec. ...., T. ...., R. .... E.

....., ..... acres in the ..... of Sec. ...., T. ...., R. .... E.

\_\_\_\_\_ acres in the \_\_\_\_\_ of Sec \_\_\_\_\_, T. \_\_\_\_\_, R. \_\_\_\_\_ E.

..... acres in the ..... of Sec. ...., T. ...., R. .... E.

....., ..... acres in the ..... of Sec. ...., T. ...., R. .... E.

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....., .....acres in the.....of Sec....., T....., R.....E.

....., ..... acres in the ..... of Sec. ...., T. ...., R. .... E.

....., ..... acres in the ..... of Sec. ...., T. ...., R. .... E.

(14) The maximum acreage irrigated in any year was 12.93 acres.

(15) The water claimed has (has not) been used for irrigation each and every year since the right was initiated.

06300

- (16) The years during which no water was used for irrigation or during which the full water right was not used

were See attachment

If water was not used, or used in reduced quantity at any time, full information as to causes and duration of non-use should be given, appending a sheet if necessary

- (17) The claimant's water right was (was not) recorded in the office of the County Recorder of

\_\_\_\_\_ County, said record being at page \_\_\_\_\_ of Book \_\_\_\_\_ of

\_\_\_\_\_, and being a claim for all appurtenant rights

\_\_\_\_\_ of water for the irrigation of 12.93

acres of land in the following legal subdivisions:

NOTE—Failure to record in the county in no way invalidates a water right, but if ditch or right was so recorded, supply full information under (17)

- (18) Water from the source given and through the works described is also used for the following purposes other than irrigation:

Stock watering and domestic, January 1 through December 31 of each  
year.

- (19) The character of the soil is gravelly sandy loam A continuous flow of 1553 cubic

(Sandy, gravelly, loam)

feet of water per second has been used to irrigate 12.93 acres of land and 4.0 acre-feet per acre per annum have been used to irrigate the crops.

(20) Remarks Theodore and Katherine A. Weber claim vested right to 7.50  
percent of 65.43 percent of the waters of Sheridan Creek (North  
Diversion) for irrigation during the period of May 1 to October 15  
annually to irrigate 12.93 acres.

See attachment for more complete description of claim of vested  
right.

The undersigned, being first duly sworn, deposes and says that the facts relative to the appropriation of water  
by \_\_\_\_\_ are full and correct to the best of his knowledge  
and belief.

If proof is not made by claimant, deponent should state on this line by virtue of what authority he represents the claimant

Theodore Weber  
Theodore Weber  
Katherine A. Weber  
Telephone No. (702) 265-5021

Subscribed and sworn to before me this 28<sup>th</sup> day of September, 1996.



Notary Public in and for the County of Nevada

My commission expires June 22, 2000

STATE ENGINEERS OFFICE

96 SEP 30 PM 3:15

\$100 FILING FEE MUST ACCOMPANY PROOF

RECEIVED

ORIGINAL

Filing Serial No.

06306

STATE OF NEVADA

PROOF OF APPROPRIATION OF WATER FOR IRRIGATION

Source Sheridan Creek  
Name of natural water source (use separate proofs for each major source)

The water is diverted from its source via a concrete diversion structure and unnamed  
Name of ditch, flume or pipe line ditches.  
at the following point(s) within the NE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 15, T.12N., R.19E., M.D.M.  
List all points of diversion from this source, appending a sheet if necessary

Describe as being within a 40-acre subdivision of public survey, and by course and distance to a section corner. If on unsurveyed land, it should be stated

(1) Name of claimant Theodore Weber and Katherine A. Weber, husband & wife  
as joint tenants.

Address Box 601, County of Douglas  
Minden,

State of Nevada 89423 Telephone No. (702) 265-5021

(2) The means of diversion employed diversion structure, ditches (See attachment.)  
Dam and ditch, pipe line, flume, etc.

(3) The date of the survey of ditch, canal, or pipe line was April 7, 1928 (See attachment.)

(4) The construction of the ditch or other works was begun prior to March 1, 1905  
and completed prior to March 1, 1905 (See attachment)

(5) The dimensions of the ditch or canal as originally constructed were: Width on bottom 4 +/- feet, width  
on top 6 +/- feet, depth 1.5 +/- feet, on a grade of 3.3 +/- feet per thousand feet.

(6) The conduits ~~has~~ (has not) been enlarged.  
NOTE—If enlargement or extension of ditch was made, supply information under (7) and (8)

(7) The work of enlargement of the ditch or canal was begun \_\_\_\_\_ and  
completed \_\_\_\_\_

(8) The dimensions of the ditch or canal as enlarged are: Width on bottom \_\_\_\_\_ feet, width on top  
\_\_\_\_\_ feet, depth \_\_\_\_\_ feet, on a grade of \_\_\_\_\_ feet per thousand feet.

(9) The claimant is ~~(owner)~~ an owner in the above-described conduit.

7.50 percent, North Diversion (See attachment)  
If claimant is an owner in the conduit, state interest held on this line

(10) The nature of the title to the land for which the water right is claimed is fee title

(11) Crops of alfalfa, native hay, diversified pasture  
have been grown upon the land irrigated. (e.g. alfalfa, native hay, grain, orchard, meadow or diversified pasture)

(12) The water has been used for irrigation from May 1 to October 15  
of each year. Day of month Day of month

(13) List the year of priority for acreages irrigated prior to March 1, 1905, from all points of diversion previously described, with corresponding subdivisions, appending extra sheets if necessary.

..1852...., 10.36...acres in the NE~~1~~.....of Sec.14....., T...12..., R...19...E.

Year  
1852 2.57 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$  of Sec. 14, T. 12, R. 19 E.

....., ..... acres in the ..... of Sec. ...., T. ...., R. .... E.

....., ..... acres in the..... of Sec....., T....., R.....E.

....., ..... acres in the ..... of Sec. ...., T. ...., R. .... E.

....., ..... acres in the ..... of Sec....., T....., R.....E.

....., ..... acres in the..... of Sec. ...., T. ...., R. .... E.

....., ..... acres in the ..... of Sec. ...., T. ...., R. .... E.

....., ..... acres in the..... of Sec....., T....., R.....E.

....., ..... acres in the ..... of Sec. ...., T. ...., R. .... E.

..... acres in the ..... of Sec....., T....., R.....E.

....., ..... acres in the ..... of Sec. ...., T. ...., R. .... E.

....., ..... acres in the..... of Sec....., T....., R.....E.

..... acres in the ..... of Sec. ...., T. ...., R. .... E.

..... acres in the ..... of Sec. ...., T. ...., R. .... E.

..... acres in the ..... of Sec. ...., T. ...., R. .... E.

....., ..... acres in the ..... of Sec....., T....., R.....E.

..... acres in the ..... of Sec....., T....., R.....E.

....., ..... acres in the ..... of Sec....., T....., R.....E.

..... acres in the ..... of Sec. ...., T. ...., R. .... E.

(14) The maximum acreage irrigated in any year was.....12.93.....acres.

(15) The water claimed has (has not) been used for irrigation each and every year since the right was initiated.



(20) Remarks Theodore and Katherine A. Weber claim vested right to 7.50 percent of 65.43 percent of the waters of Sheridan Creek (North Diversion) for irrigation during the period May 1 to October 15 annually to irrigate 12.93 acres.

See attachment for more complete description of claim of vested right.

The undersigned, being first duly sworn, deposes and says that the facts relative to the appropriation of water by \_\_\_\_\_ are full and correct to the best of his knowledge and belief.

1994 MAR 16

STATE ENGINEERS OFFICE

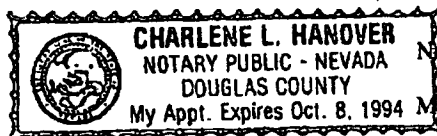
proof is not made by claimant, deponent should state on this line by virtue of what authority he represents the claimant

Theodore Weber  
THEODORE WEBER  
KATHERINE A. WEBER

Telephone No. (702) 265-5021

Subscribed and sworn to before me this 16th day of March, 1994.

Charlene L. Hanover



Notary Public in and for the County of Douglas

My commission expires

**\$100 FILING FEE MUST ACCOMPANY PROOF**

**EXHIBIT 5**

06307

Serial No. ....

## STATE OF NEVADA

# PROOF OF APPROPRIATION OF WATER FOR STOCK WATERING OR WILDLIFE PURPOSES

- (1) Name of claimant Theadore & Katherine A. Weber husband & wife as joint tenants

P.O. Box 601

of Minden

Street and No. or P.O. Box No.

City or town

Nevada, 89423

State and Zip Code No.

- (2) Source of water Sheridan Creek

Name of natural water source.

- (3) The water is diverted by via a concrete diversion structure & unnamed ditches -

Dam, ditch, pipe lines, natural channel, spring area, etc.

See Attachment AA

- (4) The water is diverted at the following point(s) within the NE1/4 SE1/4 of section 15, T.12N

Describe as being within a 40-acre subdivision of public survey, and by course and distance to a section corner. If on unsurveyed land it should be stated.

R. 19 E., M.D.M.

Diversion over a channel reach must be described by course and distance to a section corner for both the beginning and end of such reach.

- (5) The water is impounded in Pond and Natural channel

Troughs, tanks, pools, reservoir, natural channel, etc.

- (6) The construction of the ditch or other works was begun Natural channel prior to 1905

Natural channel prior to 1905

Date

and completed Pond prior to 1970

See Attachment

Date

- (7) The nature of the claimant's title to the land upon which the source of water and place of use

are located is Fee Title

Patented, deced, public domain with grazing permit, etc.

- (8) The claimant's water right was 640, 886 recorded in the office of the County Recorder of

Douglas

County, at Page 641of Book 886of 138680& 138680

NOTE—Failure to record in the county in no way invalidates a water right, but if water right was so recorded, supply full information under (8).

2726-2733

387

152147

See Attachment B &amp; C



06301

Remarks his permission to divert all of his share of Sheridan Creek water thru pond on Parcel B for non-consumptive use and back to his land for irrigation. This agreement was for perpetuity, for which a fee was paid.

Also showed up in an title search <sup>to</sup> attached

The undersigned, being first duly sworn, deposes and says that the facts relative to the appropriation of water by are full and correct to the best of his knowledge and belief.

If proof is not made by claimant, deponent should state on this line by virtue of what authority he represents the claimant.

Claimant

Telephone No. (702) 265-5021

By

*Theodore Weber*  
THEODORE WEBER  
P.O. Box 601

*Katherine A. Weber*  
KATHERINE A. WEBER

Street and No., or P.O. Box No.

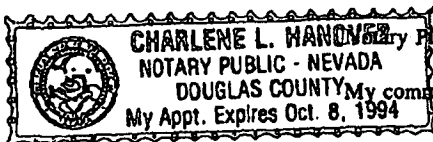
Minden NV 89423

City, State, Zip Code No.

Telephone No. (702) 265-5021

Subscribed and sworn to before me this 16TH day of MARCH, 1994.

*Charlene L. Manover*



Notary Public in and for the County of Douglas  
My commission expires  
My Appt. Expires Oct. 8, 1994

**\$50 FILING FEE MUST ACCOMPANY PROOF**

## **EXHIBIT 6**

Serial No. **06308**

STATE OF NEVADA  
**PROOF OF APPROPRIATION OF WATER FOR STOCK WATERING  
OR WILDLIFE PURPOSES**

- (1) Name of claimant Theodore and Katherine A. Weber husband & wife as joint tenant:

P.O. Box 601 of Minden  
Street and No. or P.O. Box No. City or town  
Nevada 89423  
State and Zip Code No.

- (2) Source of water Stutler Canyon Creek  
Name of natural water source.  
(3) The water is diverted by diversion structure, pipeline & unnamed ditches-See  
Attachment AA Dam, ditch, pipe line, natural channel, spring area, etc.

- (4) The water is diverted at the following point(s) within the SE1/4 NE1/4 of Section 16,  
Describe as being within a 40-acre subdivision of public survey, and by course and distance to a section corner. If on unsurveyed land it should be stated.  
T. 12 N., R. 19 E., M.D.M.  
Diversion over a channel reach must be described by course and distance to a section corner for both the beginning and end of such reach.

- (5) The water is impounded in Pond and natural channel  
Troughs, tanks, pools, reservoir, natural channel, etc.  
(6) The construction of the ditch or other works was begun Natural channel prior to 1905  
and completed Pond prior to 1970  
Date

- (7) The nature of the claimant's title to the land upon which the source of water and place of use  
are located is Fee Title  
Patented, deeded, public domain with grazing permit, etc.

- (8) The claimant's water right was ~~(was not)~~ recorded in the office of the County Recorder of  
Douglas County, at Page 641 of Book 886 of 138680 &  
NOTE—Failure to record in the county in no way invalidates a water right, but if water right was so recorded, supply full information under (8).

2726-2733 387 152147

(9) The approximate number of animals watered by the claimant during the first year 1987,  
Date  
was 4 cattle 6 horses 12 sheep or wildlife (describe) large #'s of ducks, geese & fish  
Other

The watering was conducted during each of the following months Jan. 1 thru Dec. 31

(10) The approximate number of animals watered by the claimant in subsequent years was as follows:

Same as above

If water was not used, or used in reduced quantity at any time, full information as to causes and duration of non-use should be given.

(11) The amount of water which has been necessary to be diverted for this purpose has been  
60% of flow in the summer months and 95 % in the winter months.  
cubic feet per second.

448.83 gallons per minute equals 1 cubic foot per second.

(12) The works are located at within the NE 1/4 SE 1/4 of section 15, T. 12N., R. 19E., M. D. M.  
Describe as being within a 40-acre subdivision, section, township and range of public survey. If on unsurveyed

Pond Location + Diversion is SW 1/4 of N.W 1/4 of Sec. 14  
had, it should be stated.

T. 12, R. 19E. Twp. K. W. M. D. M.

Remarks We are asking for the diversion based on the following: Attachment A-  
Purchase agreement-where seller June Rolph gave the right to non-consumptive  
diversion of surface water rights for a pond located on Parcel B of property.  
Attachment B- Water diversion and use agreement filing #138680 Book 886 Page 640  
641 whereas June Rolph gives her permission to Gerald Whitmire to run his 1/2  
interest in Sheridan Creek thru the Old Crowell Ranch and Mr. Whitmire gives his  
permission to Mr. Lodato to divert his 1/2 interest in Sheridan Creek through the  
pond located on Parcel B. Attachment C- Water diversion and use agreement  
filing #152147 Book 387, Pages 2726 to 2733. In this agreement Mr. Whitmire gives

06358

Remarks his permission to divert all of his share of Sheridan Creel water thru pond on Parcel B for non-consumptive use and back to his land for irrigation. This agreement was for pepetuity, for which a fee was paid.

Also showed up in our title search (attached)

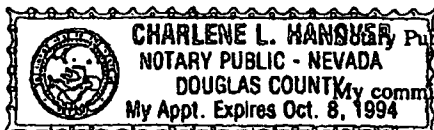
The undersigned, being first duly sworn, deposes and says that the facts relative to the appropriation of water by are full and correct to the best of his knowledge and belief.

If proof is not made by claimant, deponent should state on this line by virtue of what authority he represents the claimant.

Telephone No. (702) 265-5021

By Theodore Weber  
THEODORE WEBER  
P.O. Box 601  
Street and No., or P.O. Box No.  
Minden, NV 89423  
City, State, Zip Code No.  
Telephone No. (702) 265-5021

Subscribed and sworn to before me this 16TH day of MARCH, 1994.



Public in and for the County of Douglas

**\$50 FILING FEE MUST ACCOMPANY PROOF**

**EXHIBIT 7**

12-  
P.O. Box 1511  
Nevada 89023

WATER DIVERSION AND USE AGREEMENT

THIS AGREEMENT is entered into by and between JUNE IRENE BARTLETT, who took title as June Irene Rolph, NANCY ROLPH WELCH, GERALD P. WHITMIRE and PAMELA P. J. WHITMIRE, husband and wife as joint tenants, hereafter referred to as "Grantors" and JOSEPH S. LODATO, hereafter referred to as "Grantee", based upon the following facts:

1. Grantors are the owners of real property located in Douglas County, Nevada, as well as the owners of water rights which are appurtenant to, certificated or adjudicated to the benefit of the property owned by them in Douglas County, Nevada.
2. Grantee is the owner of real property located in Douglas County, Nevada, which was purchased heretofore from Grantors.
3. Grantors own and enjoy the right to use waters from Sheridan Creek.
4. There are no downstream users of water from these creeks, after this water is used by Grantors.
5. Grantee desires to divert some or all of the water from Sheridan Creek, onto his property, to be used in a non-consumptive manner to maintain water levels in ponds on Grantee's property, and thereafter to cause the water to be diverted back to the property of Grantors for irrigation purposes.

6. Grantors have agreed to such an arrangement, on the terms and conditions which follow.

THEREFORE, based upon the recital of facts set forth above, which are incorporated in the body of this agreement by reference, and the covenants and conditions which follow hereinafter, the parties do agree as follows:

A. For valuable consideration, receipt of which is hereby acknowledged by Grantors, Grantors do hereby give and grant to Grantee, as a covenant running to the benefit of the land described in Exhibit "A" attached hereto, the right to divert one hundred percent (100%) of the water from Sheridan Creek, onto the Exhibit "A" property, in perpetuity.

B. This grant is specifically made on the condition that the water will be used by Grantee in a non-consumptive fashion, to maintain water levels in a series of streams and ponds on the Exhibit "A" property, after which time it will be re-diverted to the irrigation ditches of Grantors.

C. Grantors are granted the right, upon reasonable notice, to have access to the Exhibit "A" property to ensure that the limitations set forth herein regarding use are being adhered to by Grantee.

D. Grantee is hereby given the right of access to other property of Grantors, in order to ensure that the water may be diverted to Grantee's property.

E. This grant of right to divert and use water includes the right of Grantee to divert the Sheridan Creek water from the natural creekbed or water course on the west side of Foothill Road and in an easement granted pursuant to Exhibit "B" which is attached hereto, and to return to the natural water course on property owned by Grantee just east of that 50-foot roadway and utility easement shown on Exhibit "C" which is attached hereto and incorporated herein by reference.

F. This promise to permit the use and diversion of water is intended to be and is made by Grantors to be a covenant running with the land, and the benefits thereof may be enjoyed by the heirs and assigns of Grantee, and subsequent owners of the Exhibit "A" property.

G. This agreement shall be binding upon and inure to the benefit of the heirs, administrators, executors and assigns of the parties hereto.

H. This agreement may be terminated by Grantors in the event a Court of competent jurisdiction determines that the Grantee has been violating the terms hereof, to the detriment of Grantors.

I. The interpretation and enforceability of this agreement shall be determined by the laws of the State of Nevada, and in the event a law suit is brought to enforce or

interpret this agreement, the prevailing party shall be awarded reasonable attorney's fees against the party not prevailing.

IN WITNESS WHEREOF, the parties have set their hands the day and year set forth below.

Date: \_\_\_\_\_

JUNE IRENE BARTLETT, who took  
title as June Irene Rolph

Date: \_\_\_\_\_

NANCY ROLPH WELCH

Date: 6/9/86

Gerald F. Whitmire  
GERALD F. WHITMIRE

Date: 6-9-86

Joseph S. Lodato  
JOSEPH S. LODATO

Date: \_\_\_\_\_

Joseph S. Lodato  
JOSEPH S. LODATO

STATE OF \_\_\_\_\_ )

COUNTY OF \_\_\_\_\_ ) ss.

On \_\_\_\_\_, 1986, personally appeared before me, a notary public, JUNE IRENE BARTLETT, personally known to me to be the person who executed the above instrument, and acknowledged to me that she executed the same for the purposes therein stated.

\_\_\_\_\_  
Notary Public

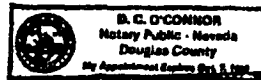
152147

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STATE OF Nevada }  
COUNTY OF Douglas } ss.

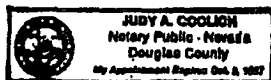
On June 9, 1986, personally appeared before  
me, a notary public, PAMELA F. J. WHITMIRE, personally known to  
me to be the person who executed the above instrument, and  
acknowledged to me that she executed the same for the purposes  
therein stated.

P.F. J. Whitmire  
Notary Public

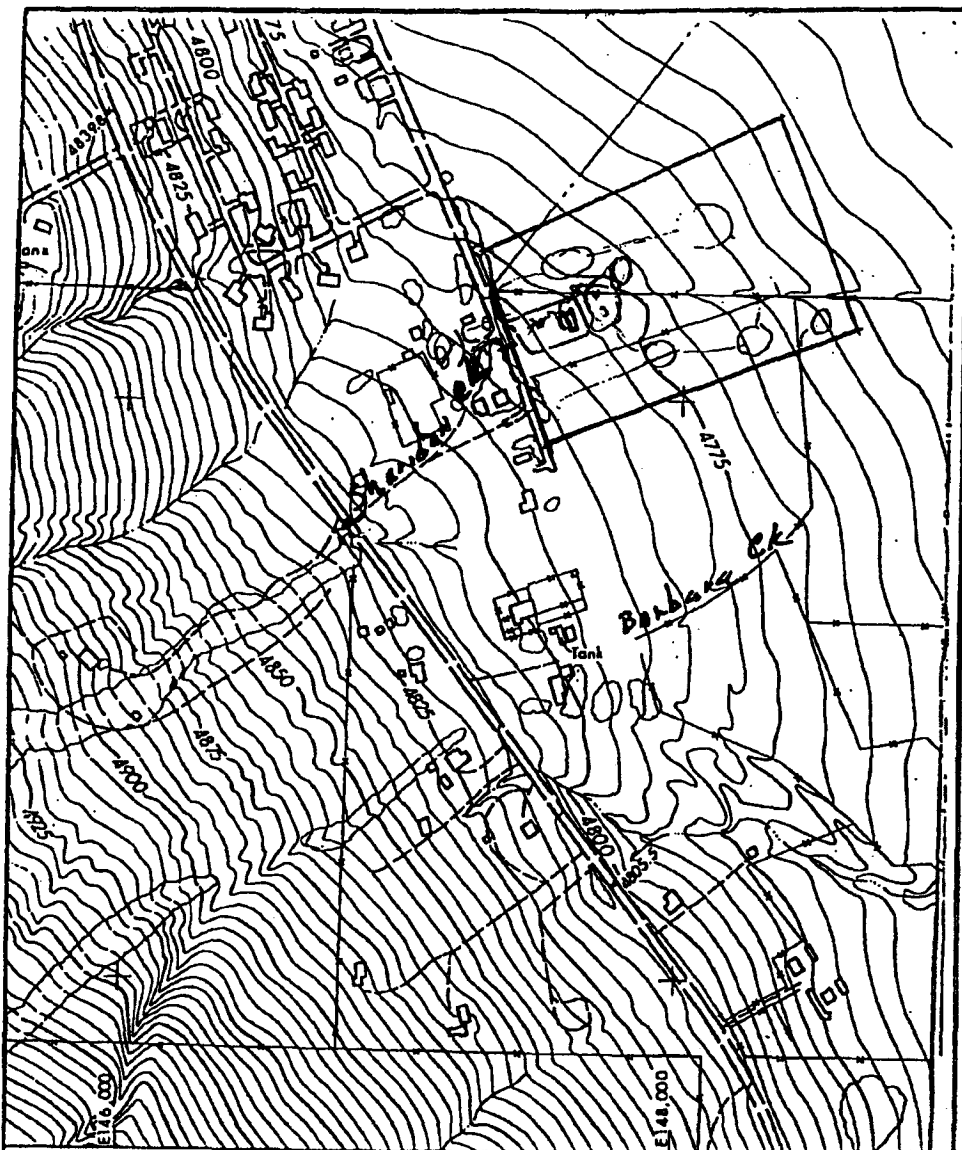


STATE OF Nevada }  
COUNTY OF Douglas } ss.

On June 9th, 1986, personally appeared before  
me, a notary public, JOSEPH S. LODATO, personally known to me to  
be the person who executed the above instrument, and  
acknowledged to me that he executed the same for the purposes  
therein stated.



Judy A. Coolidge  
Notary Public



PROJECT

Scale: 1" = 400' 152147  
Contour Interval: 5'  
Date of Photography: 6-1-77  
50'W 387 PAGE 2731

EXHIBIT "A"

A parcel of land lying in a portion of the South 1/2 of the Northwest 1/4 and the North 1/2 of the Southwest 1/4 of Section 14, Township 12 North, Range 19 East, M.D.B.&M., Douglas County, Nevada, further described as follows:

BEGINNING at the Southwest corner of Parcel 1 (Jones Ranch Survey) and the Southwest corner of a 1.246 acre parcel of the Rolph residence, which lies on an easterly 50 foot right-of-way extension of Sheridan Lane from which the North one-quarter corner of said Section 14, bears North 34°22'30" East, 3571.08 feet; thence South 24°49'00" East, 334.72 feet; thence North 70°37'51" East, 1120.70 feet; thence North 25°05'38" West 958.85 feet; thence South 64°05'08" West 1120.70 feet to the Easterly 50 foot easement of Sheridan Lane Extension; thence along said easement South 25°54'52" East, 496.34 feet to the Point of Beginning.

TOGETHER with an easement for ingress and egress fifty (50) feet wide along the westerly side of a line more particularly described as follows:

BEGINNING at the intersection of the easterly side of Sheridan Lane and the southerly side of Bolen Circle; thence running South 25°54'52" East, 728.00 feet, situate in the County of Douglas, State of Nevada.

EXCEPTING THEREFROM an irrigation easement five (5) feet in width, located in the Northwest 1/4 of the Southwest 1/4 of Section 14, Township 12 North, Range 19 East M.D.B.&M., in Douglas County, Nevada, the centerline of an existing irrigation ditch being more particularly described as follows:

BEGINNING at a point from which the Southwest Corner of the parcel described in Document No. 64911, filed in the office of Douglas County Recorder bears South 25°54'52" East, a distance of 349.90 feet; said point being on the Easterly line of Sheridan Lane; thence North 89°45'00" East, a distance of 286.39 feet to a point on the Westerly line of an existing pond; thence North 88°39'49" East, a distance of 172.66 feet to a point on the Easterly side of said pond; thence North 81°56'51" East, a distance of 42.43 feet; thence South 06°12'18" West, a distance of 12.64 feet; thence North 83°28'21" East, a distance of 79.45 feet; thence South 89°50'46" East, a distance of 490.17 feet; thence South 24°36'11" East, a distance of 6.24 feet; thence North 89°37'20" East, a distance of 59.47 feet; thence North 89°59'01" East, a distance of 16.07 feet; thence South 47°29'25" East, a distance of 9.05 feet; thence North 89°20'58" East, a distance of 226.82 feet to the Point of Ending, from which the Southwest corner of the above mentioned parcel bears South 75°21'11" West, a distance of 1270.74 feet.

The side lines of the above described easement are to be forelengthened or foreshortened to meet the called beginning.

152147

BOOK 387 PAGE 2732





**EXHIBIT 23(d)**

**EXHIBIT 23(d)**

1 Case No.: 08-CV-0363-D

2 Dept. No.: I

3 Thomas J. Hall, Esq.  
4 Nevada State Bar No. 675  
5 305 South Arlington Avenue  
6 Post Office Box 3948  
7 Reno, Nevada 89505  
8 Telephone: 775-348-7011  
9 Facsimile: 775-348-7211

10 **IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
11 **IN AND FOR DOUGLAS COUNTY**

12 In the Matter of the Determination of  
13 the Relative Rights in and to the  
14 Waters of Mott Creek, Taylor Creek,  
15 Cary Creek (aka Carey Creek), Monument  
16 Creek, and Bulls Canyon, Stutler Creek  
17 (aka Stattler Creek), Sheridan Creek,  
18 Gansberg Spring, Sharpe Spring,  
19 Wheeler Creek No., 1 Wheeler Creek  
20 No. 2, Miller Creek, Beers Spring,  
21 Luther Creek and Various Unnamed  
22 Sources in Carson Valley, Douglas  
23 Valley, Nevada.

24 **RESPONSE AND OBJECTIONS TO NOTICE OF EXCEPTIONS AND EXCEPTIONS**  
25 **TO FINAL ORDER OF DETERMINATION**

26 Comes now, HALL RANCHES, LLC, a Nevada Limited Liability  
27 Company, THOMAS J. SCYPHERS and KATHLEEN M. SCYPHERS, FRANK  
28 SCHARO, SHERIDAN CREEK EQUESTRIAN CENTER, LLC, a Nevada Limited  
Liability Company, DONALD S. FORRESTER and KRISTINA M.  
FORRESTER, and RONALD R. MITCHELL and GINGER G. MITCHELL  
("Intervenors"), by and through their counsel, THOMAS J. HALL,

1 ESQ., and in response to the Notice of Exceptions and Exceptions  
2 to the Final Order of Determination filed herein on December 11,  
3 2008, assert the following affirmative defenses as follows:

4 **AFFIRMATIVE DEFENSES**

5 **FIRST AFFIRMATIVE DEFENSE**

6 The Notice of Exceptions and Exceptions to Final Order of  
7 Determination fails to state any claims upon which relief can be  
8 granted.

9 **SECOND AFFIRMATIVE DEFENSE**

10 The lands of Intervenor lie downstream from the lands of  
11 Bentley and the uses and proposed uses by Bentley as described  
12 in their Exceptions conflict with the rights of the Intervenor  
13 herein.

14 **THIRD AFFIRMATIVE DEFENSE**

15 The Water Diversion and Use Agreement is unenforceable.

16 **FOURTH AFFIRMATIVE DEFENSE**

17 The Water Diversion and Use Agreement is unenforceable  
18 under the Nevada Statute of Frauds.

19 **FIFTH AFFIRMATIVE DEFENSE**

20 The use by Bentley to fill a new pond on their property  
21 violates the Water Diversion and Use Agreement, even if  
22 enforceable.

23 **SIXTH AFFIRMATIVE DEFENSE**

24 Bentley holds no permit for the new larger pond, in  
25 violation of NRS 533.525.

1 WHEREFORE, Intervenor respectfully request as follows:

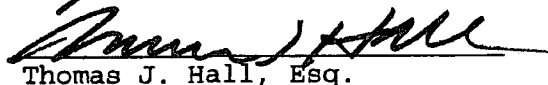
2 1. That the Bentleys take nothing by their Notice of  
3 Exceptions and Exceptions to Final Order of Determination;

4 2. That Bentleys' Notice of Exceptions and Exceptions to  
5 Final Order of Determination be dismissed;

6 3. That the Court award the Intervenor their costs and a  
7 reasonable attorney fee.

8 DATED this 19<sup>th</sup> day of November, 2009.  
9

10 LAW OFFICES OF THOMAS J. HALL

11  
12 

13 Thomas J. Hall, Esq.  
14 Nevada State Bar No. 675  
15 305 South Arlington Avenue  
16 Post Office Box 3948  
17 Reno, Nevada 89505  
18 Telephone: 775-348-7011  
19 Facsimile: 775-348-7211

20 **AFFIRMATION**

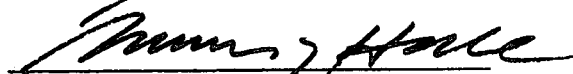
21 (Pursuant to NRS 239B.030)

22 Case No. 08-CV-0363-D

23 The undersigned does hereby affirm that the preceding  
24 document, Response and Objections to Notice of Exceptions and  
25 Exceptions to Final Order of Determination, does not contain the  
26 social security number of any person.

27 DATED this 19th day of November, 2009.

28 LAW OFFICES OF THOMAS J. HALL

  
THOMAS J. HALL, ESQ.

**CERTIFICATE OF SERVICE BY MAIL**

I certify that I am an employee of Thomas J. Hall, Esq., and that on this date, pursuant to NRCP 5(b), I placed in the U.S. Mail, postage prepaid, a true and correct copy of the Response and Objections to Notice of Exceptions and Exceptions to Final Order of Determination, addressed to:

Brooke, Shaw, Sumpft  
Michael L. Matuska, Esq.  
Post Office Box 2860  
Minden, Nevada 89423

Thomas J. Scyphers  
Kathleen M. Scyphers  
1304 S. Aylesbury Court  
Gardnerville, Nevada 89460

State of Nevada  
Department of Conservation and  
Natural Resources  
Division of Water Resources  
901 S. Stewart Street, Suite 2002  
Carson City, Nevada 89701

Donald S. Forrester  
Kristina M. Forrester  
913 Sheridan Lane  
Gardnerville, Nevada 89460

Bryan L. Stockton, Esq.  
Deputy Attorney General  
100 North Carson Street  
Carson City, Nevada 89701

Frank Scharo  
Post Office Box 1225  
Minden, Nevada 89423

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Misti Hale