

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 National Resource Conservation Service, formerly the Soil Conservation Service. NRS 199.190 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 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"⁶⁸ 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 Philips⁶⁹, 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"⁷⁰. 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.

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

⁶⁹ 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.

⁷⁰ Transcript, 3/7/2007 p. 87.

A water claim⁷¹ was submitted by Cerrisa Feltic on behalf of the heirs of the Elizabeth Mott Ranch on August 31, 1889. Mrs. Feltic claimed "one fourth (1/4) of all the waters customarily flowing in" Mott Creek. Mrs. Feltic 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, Wheeler⁷² 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 1938⁷³ and associated mapping by staff⁷⁴ 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.

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

⁷² 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.

⁷³ See Footnote No. 50 on page 32.

⁷⁴ Reed Cozens, Engineering Technician III.

A mapping project⁷⁵ 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 Feltic water claim and Wheeler testimony in preceding paragraphs.

Mr. de Lipkau⁷⁶ 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 SE¼NW¼ 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.⁷⁷ Staff of the State Engineer's office asked the question: "Based on the same proportions?" Ms. Yturbide responded: "No, not on the same proportions."⁷⁸ 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

⁷⁵ 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.

⁷⁶ Transcript, 3/7/2007 pp. 93-94.

⁷⁷ Transcript, 3/7/2007 p.179.

⁷⁸ 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.⁷⁹

This adjudication proceeding includes the waters of Mott Creek, Taylor Creek, Cary Creek (Aka Carey Creek), Monument Creek (Aka Bulls Canyon Creek), Stuller 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, Stuller Creek, Sheridan Creek, Miller Creek (Spring), Bently Spring and Luther Creek. Barber Creek⁸⁰ (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.

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

⁸⁰ 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 0.84 cfs 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 County⁸¹. 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.

⁸¹ 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 up⁸².

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 defined⁸³.

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.

⁸² *Ryan v. Gallio*, 52 Nev. 330, 334, 286 Pac. 963 (1930).

⁸³ *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^{84 85}.

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 water⁸⁶.

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.

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

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

⁸⁶ 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.

Theodore & 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 (Shendan 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 (Stuller Creek) and Permit 7595, Certificate 1760, on the portion of the claimed place of use lying within the S $\frac{1}{2}$ NW $\frac{1}{4}$ 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 review⁸⁷ 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 (Ylurbide) 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 15th 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.

⁸⁷ 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 Theodore Weber and Katherine A. Weber claiming a vested right from Stuller 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 Stuller 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 Theodore 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 Theodore 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 Theodore Weber and Katherine A. Weber claiming a vested right from Stuller 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 review⁸⁸ 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 (Novolny) 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 15th 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

⁸⁸ 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 Nav., 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 B 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 Stuller 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 Stuller 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 Stuller Creek (aka Staltler 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 Stuller 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.⁸⁹ 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 horses⁹⁰ and domestic uses from

⁸⁹ 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.

⁹⁰ 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 review⁹¹ 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 15th 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 review⁹²

⁹¹ Refer to pages 31-41 of this document.

⁹² 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 15th 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 sheep⁹³ 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 review⁹⁴ of the proofs and their testimony and supporting evidence from the Hearing on Objections to the Preliminary Order of Determination, further research and

⁹³ 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.

⁹⁴ 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 15th 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. Rucker 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