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VENT_276



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Minden, Nevada 89423
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4/12/13

Jason King, P.E.
State Engineer
Nevada Division of Water Resources
901 S. Stewart Street, Suite 2002
Carson City, Nevada 89701

Via Hand Delivery

Re: Vested Rights Thompson (Taft) Springs-V-01115, Eureka County, Nevada

Dear Mr. King,

We have recently updated the filings on the ranch held by Mr. Daniel Venturacci and submitted amended proofs regarding this matter, we have also prepared a vested use analysis associated with the discharge from the springs that have dried up due to the over pumping/appropriation by Junior Groundwater permit holders within the basin. After reviewing the various reports prepared by the USGS it has come to our attention that the springs were derived from "*a circulating groundwater source*" and hence, these springs, are ripe for the mitigation of the loss of the senior water right within the hydrographic basin. In compliance with the various water users and Eureka County we agree that it is the duty of the State Engineer to comply with determining the vested use of these spring rights and therefore we have prepared a significant amount of analysis regarding the vested use on the subject lands held by Mr. Venturacci.

81825 is pending with your office requesting supplemental underground water rights to replace the springs sharing the same priority, based upon order 1126, this application should be deemed to be an appropriation for mitigation water for the loss of water from the spring sources. We are very anxious to get this application granted for the 607.93 acres of land as soon as effectively possible with the understanding that this replaces only a portion of the historical spring discharge area.

By supplementing the record with the attached documents sufficient evidence has been provided that illustrates that the spring discharge, within this area, has substantially exceeded the amount of the water requested under this application.

In order to provide a detailed record, I have been working with Mr. Venturacci in compiling documents from the Eureka County Recorders office concerning water claims and 1907 evidence of proofs. I also have been researching the Government Land Offices' records concerning the field notes that went along with the survey of 1879. I was able to ascertain the field notes that performed was prepared in conjunction with the 1879 survey of the area including the subject lands. The map that was of record illustrates the areal extent of the spring discharge area whereas the notes provide support of the mapping. In the following sections analysis is provided that will aid in the affirmation of the water use.

GLO Plat (Exhibit 1) and Survey Notes (Exhibit 2):

The place of the use for the water rights is illustrated per the attached map. On this map, highlighted in green is the Place of Use (POU) of 81825 and is also inclusive of the vested right claim and the underground mitigation filings pending with your office. What is obvious is that the POU falls well within the area mapped by the survey of 1879 indicating the extent of the area the surveyor refers to as "meadow". The filed survey notes also help support his findings, per the following excerpts:

1. Rather than going through each measurement (Converted from Rod lengths to Feet) one can see that the accuracy of the area delineated on the map as irrigated ground can be quickly validated as provided in the survey notes.
2. Designated on the map is the "Taft Ditch" that was constructed by George Taft (see Water Locations page 36 attached) that extends in a southeasterly direction from the "lake" constructed on the property to regulate the discharge from the spring sources. Taft stated that the ditch was constructed 2 miles in length and was 4' wide by 3' deep with construction commencing in April of 1879. The date of the survey is shown as August 16, 1879 and the ditch was completed at this time. The conveyance to the north is illustrated as "Taft Creek" with a ditch extending from this watercourse elbowed to the south.
3. The General Description was provided at the end of the survey notes from which I have transcribed the following:

"The South East portion of this Township is high Sage Brush land that cannot be irrigated from any creeks or Springs in the Valley and the Eastern portion is hilly and Mountainous-

The remainder is good agricultural land, well watered and a considerable portion natural Meadow. A part of the Township is now occupied and under cultivation." Emphasis added.

Records of the Eureka County Recorder (Summary):

Attached are a series of documents that provide additional insight to the vested use of the property:

Book 1 Page 36 (Exhibit 3):

Water Claim from George Taft-1889-320 acres:

1. Construction began on the ditch and the lake on April, 1879. This does not provide the actual date of priority of the subject springs as there were prior owners to the property that actually put the water to beneficial use. The claim established under this recorded document specifies 320 acres of production*

***It must be noted that the two methods of establishing a patent were through either the Desert Land Entry (DLE) program or through the Carey Act. The DLE was limited to 320 acres and the Carey Act, 160 acres. In these instances it was necessary to provide documentation as to the establishment of crop production on the property and demonstration of the water source. Typically, water claims will be limited to either a recordation of water use based upon the amount of property in which they were seeking a patent-either 160 acres or 320 acres. Cumulatively these "homesteads" were cumulated over a number of years by having family members secure the patents and accumulate the same into one family holding. It was not beyond the earlier settlers to use "straw buyers" to purchase property with the intent of conveying ownership at a later time to the ultimate owner of the property.**

Book 1 Page 41 (Exhibit 4):

Water Claim Nels Toft and John Aiken-1894-320 acres

For clarification it should be noted that John Aiken entered into a lease/purchase agreement with Nels Toft for the acquisition of the subject property and that this partnership, albeit brief, never resulted in a sale to Aiken and ultimately Toft received the ultimate use of the water and the land.

Book 1 Page 69-Horse Canyon 50 acres (Exhibit 5):

Water Claim for Nels Toft, proof #01114-50 acres.

Book 1 Page 70 and 71 (Exhibit 6 and 7):

Water Claim for Nels Toft for 148.30 acres as described. Signed by W.M Kearney, State Engineer, December 11, 1912.

Additional acreage added equal to 6.0 acres under separate section page 71 and 72 (Exhibit 7).

The total acreage is equal to 154.30 acres.

Summary:

Total amount of acreage under the water filings result in a total acreage of 794.30 acres, which exceeds the requested place of use under 81825 by 186 acres. The Field Survey of 1879 illustrates that the property encompassed considered meadow that is *"good agricultural land, well watered and with a considerable portion natural meadow."* He further states that a part of the **township** is now occupied and under cultivation. The 1879 survey, plotted using the place of use under application 81825, is illustrated entirely within the meadow area with the exception of those areas just east of the spring discharge area. This correlates well with the historical use of the property and the documentation provided in the previous report.

The extent of the discharge area associated with this region covered a vast area within the northeast portion of the groundwater basin. The amounts of water requested under the mitigation permits represent a portion of the groundwater discharge area. The numerous springs and seeps located on these properties were in improved meadows used for grazing, hay production and the raising of hay crops such as alfalfa.

Based upon the supplemental information and the information compiled within the previous reports we would request that the State Engineer take action on the pending application and continue to seek remedy to recognize the senior water rights in the basin and seek such action that would enable the current property owner to perfect his senior status. We applaud the action of the state engineer to date and will continue to work with you on this matter to its fruition. Thank you for your consideration.

Regards,

A handwritten signature in blue ink, appearing to read "George M. Thiel". The signature is fluid and cursive, with a large initial "G" and "T".

George M. Thiel, P.E., S.W.R.S
Principal Engineer

Cc: Steve Walmsley, Adjudication Section
Daniel Venturacci
Brent Kolvet, Esq.

146

1877

P. Bowdoy T 23 N. R 54 E

Sagebrush

August 16th 1877

From the Cor. to Townships 23 and 24
North Ranges 53 and 54 East. I saw
between said Townships
East Between Sect. 6 and 31

Cor. 16th 45' E38.17
(629.81')

Sera charred post 4' long 3" wide
12" in ground, in mound 2' high
with pits 24x18x12" marked
1/4 S. for 1/4 Sec Cor

78.17
(1289.81')

Sera charred post 4 1/2' long 4x4 in
12" in ground, in mound 2 1/2' high
with pits 24x18x12 in marked
for Cor to Secs. 5-6-31 and 32
Kana level. Soil 2 1/2' note
Sagebrush

138

147

N. Boundary T 23 N. R 54 E

East Between Sec. 5 and 32

Tan. 16° 45' E

40.00
(660.00')

Set charred post $4\frac{1}{2}$ long $3\frac{1}{2}$ wide
 $12\frac{1}{2}$ in ground, in mound & high
 with pits $24 \times 18 \times 12$ in marked
 for $\frac{1}{4}$ Sec. Cor. Cater Meadow N $74\frac{1}{2}$ W

64.00
(1056.00')80.00
(1320.00')

Salts Creek $20\frac{1}{2}$ wide N
 Set charred post $4\frac{1}{2}$ long 4×4 in
 $12\frac{1}{2}$ in ground, in mound $2\frac{1}{2}$ high
 with pits $24 \times 18 \times 12$ in marked
 for Cor. to Sec. 4-5-32 and 33
 Lava level ~ Soil $1\frac{1}{2}$ into
 Meadow and Sage brush

East Between Sects 4 and 33

Tan. 16° 45' E

40.00
(660')

Set charred post $4\frac{1}{2}$ long $3\frac{1}{2}$ wide
 $12\frac{1}{2}$ in ground, in mound & high
 with pits $24 \times 18 \times 12$ in marked

148
N. Boundary T 23 N. R 54 E 139

80.00
(1326')

1/4 S. for 1/4 Sec Cor
Searched post 4 1/2' long 4 x 4 in
12" in ground, in mound 2 1/2' high
with pits 24 x 18 x 12" marked
for Cor to Secs 3, 4, 33 and 34
Said level - Soil 1; rate
Meadow

East Between Secs 3 and 34

Cor. 16° 45' E

40.00
(660')

Searched post 4' long 3" wide
12" in ground, in mound 2' high
with pits 24 x 18 x 12 in marked
1/4 S. for 1/4 Sec Cor. Hence Telegraph
Station house bears N 57° E
13' 1/2" dist

45.00
(742')

Leave Meadow W of N and E of S

52.00
(828')

Road N and S

57.00
(940.50)

Creek 8" wide N. E.

140

149

N. Boundary T 23 N. R 54 E

60.00
(990')

Road N and E.

76.00
(1254')Base of Diamond Mountains
bear N and E around80.00
(1320')

Set a Limestone 17x14x10 in 12^{ms} in
ground, in stone mound with pits
24x18x12 in marked 4 notches on
N and E notches on E for corner to
Sec: 2 ~ 3 ~ 34 and 35 on North
side of Old Overland Pass bears
off a little N of E
Land mostly level - Soil 1/2 acre
Meadow and Sage brush
August 18th 1879

General Description

The South East portion of this
Township is high Sage brush

M. D. D.

land that cannot be irrigated
from any creeks or Springs in
the Valley and the Eastern portion
is hilly and mountainous -

The remainder is good agri-
cultural land, well watered
and a considerable portion National
Meadow. A part of the Township
is now occupied and under cul-
tivation

X

Book 1 Water Locations

and the consolidated spring water from the Gundersen Water Works and from the town of Gundersen and said water is composed of from five to fifteen inches in the Wm. W. Ley Gundersen, Canada (read)
 State of Nevada
 County of Esmeralda

Wm. W. Ley being first duly sworn says that he has heard and read the above and foregoing notice of his claim to the water as therein described and that the same is true of his own knowledge except those matters therein stated in form of affidavit and belief and as to those matters and things he believes it to be true.

Subscribed and sworn to before me this 31st day of August 1887,

(Signature)

Benj. Saunders

Notary Public Esmeralda Co. Nev.

Recorded at the Request of Wm. W. Ley August 31st A.D. 1887 at 5 minutes past 10 P.M. W. S. Brown Recorder by W. S. Brown Deputy.

Notice of Water Rights Claim

Know all men by these Presents that I, George W. Taft do hold and claim to hold all the water contained in Dismal and Springs Esmeralda County Nevada situated on S. 31st of Sec. 8, Township 23 Range 5th East in Dismal Valley Esmeralda Co. Nev. by virtue of construction of dam directly below said springs, making a lake and constructing a ditch from the West end of said Lake of the width of 4 feet and 3/4 ft deep remaining wholly for 2 miles and surrounding the same and 320 acres of land for irrigating purposes said construction was commenced in April 1879 and continuous ever since and water appropriated there said ditch ever since, Post Office address Esmeralda, Esmeralda Co. Nevada.

George W. Taft

Subscribed and sworn to before me this 1st day of September 1887,

W. S. Brown

Recorder Esmeralda Co. Nev.

Recorded at the Request of George W. Taft Sept 1st A.D. 1887 at 55 minutes past 2 P.M. W. S. Brown Recorder by W. S. Brown Deputy.

Book 1 Water Locations

Notice of Water Right
of Mary E. Franer

Notice is hereby given that the undersigned a citizen of the United States, has this day located and hereby claims all the water now flowing or that may hereafter be developed in Parker Creek formerly called Birch Creek on the West side of Antelope Valley in Eureka County, Nevada and that she intends to use the same for agricultural purposes, to wit: the irrigation of a tract of land in section 25 T. 18 N. R. 49 E and section 20 T. 18 N. R. 52 E. W. 1/4.

Antelope Valley Eureka County

Mary E. Franer

Jan'y 15 1894.

Witness Walter J. Long

Recorded at the request of Mrs Franer Jan'y

20th AD 1894 at 40 Minutes past 2 pm.

Wm Spinner Recorder

Notice of Water Location
of R. Sadler and R. Bailey

Union District Eureka Co Nevada July 21st 1894

This is to certify that we the undersigned have this day located the Waters of Union Creek for agricultural purposes and for watering stock Cattle and Horses, This location is made subject to using the water for mining purposes.

R. Sadler

R. Bailey

Recorded at the request of R. Sadler July 25. 1894 at 20 mins past 9 am in Liber A of Water Locations Page 41 Records of Eureka, Eureka County Nev

Wm Spinner

Recorder

Notice of Water Right
of John C. Aiken
and Nelson Post

Notice is hereby given that we the undersigned citizens of the United States have this day located and hereby claim all the water flowing or may hereafter be developed in two certain Springs located about 24 miles below Dan Dingles and thence two miles South East at the head of four mile Cañon, in Eureka County, State of Nevada, and that we intend to use the same for agricultural purposes to wit: to irrigate a tract of land containing 20 acres and for watering stock Cattle and Horses.

John C. Aiken

Nelson Post

Eureka Nev Aug 14th 1894.

Recorded at the request of John C. Aiken August 14th 1894 at 20 Mins past 9 am

Wm Spinner Recorder

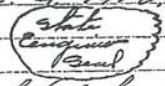
Book 1 Water Locations

Examined R. P. Jones

Description of use other than irrigation stock watering and domestic purposes.

The right to water hereby determined is limited to irrigation, stock watering and domestic purposes, and the use is restricted to the place where acquired and to the purpose for which acquired, and is dependent upon beneficial use of such water.

In witness whereof, I W. M. Kearney, State Engineer of Nevada, have hereunto set my hand and the seal of my office, this 23rd day of November, A. D. 1912.



W. M. Kearney
State Engineer

Given and filed for at the request of W. M. Kearney this 11 day of December, 1912 at 3 o'clock P.M.

Edgar Cather, Recorder
July 9 1906

State of Nevada }
to } Proof No. 01114, Certificate Record No. 38
Nela Trift } Book 7, Page 38.

The state of Nevada Certificate of appropriation of water whereof Nela Trift was presented to the State Engineer of the state of Nevada Proof of appropriation of water from Green Canyon through the Trift ditch for irrigation, stock (and domestic) purposes, the point of diversion being and lying in the SW 1/4 of SW 1/4 of Sec. 11 T. 23. N. R. 54 E. M. D. B. Y. M. and being S. 42 5/4' E. 146.5 feet from the 1/4 cor. between Sec. 10 and 11, T. 23 N. R. 54 E. M. D. B. Y. M. Esmeralda County, State of Nevada. Now given by that the State Engineer, under the provisions of Section 12, Chapter XVIII, Statutes of 1907 was determined the amount of such appropriation as follows:

Name of appropriator Nela Trift
Postoffice address Birch, Esmeralda Co. Nevada
Amount of appropriation (50) fifty + 0/100 acres
Special priority number on main stream --- one ---
Priority number on ---
Amount of River appropriations --- none ---
Amount of equal priority --- none ---
Date of appropriation A. D. 1880
Description of irrigated land 576 acres in the NE 1/4 of Sec. 9, and 32.4 acres in the NW 1/4 of Sec. 10, all in T. 23. N. R. 54 E. M. D. B. Y. M.
Description of use other than irrigation, stock watering and domestic purposes.
The right to water hereby determined is

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Limited to irrigation, stock-raising and domestic purposes, and the use is restricted to the place where acquired and to the purpose for which acquired, and is dependent upon beneficial use of such water.

As testimony whereof I W. M. Kearney, State Engineer of Nevada, have hereunto set my hand and the seal of my office, this 23rd day of November A.D. 1912.

W. M. Kearney

W. M. Kearney

Witness my hand and seal at the request of W. M. Kearney, State Engineer, this 18 day of December 1912.
Edgar Cather, Recorder
July 9, 1907.

State of Nevada }
to } Prof. No. 01115. Certificate Filed No. 37
W. M. Kearney } Book 2 Page 27

The State of Nevada
Certificate of appropriation of water
Whereas, W. M. Kearney, was presented to the State Engineer of the State of Nevada Proof of appropriation of water from Taft Spring through the Taft ditch for irrigation (and domestic) purposes, the point of diversion being and lying in the N.E. 1/4 of S.E. 1/4 of Sec. 3, and the N.W. 1/4 of S.E. 1/4 of Sec. 3 in T. 23 N. R. 54 E. M. D. B.Y.M. Esmeralda County, State of Nevada.

and from you that the State Engineer, under the provisions of sections 18, Chapter 84, III, Statutes of 1907, was determined the amount of such appropriation as follows:

- Name of appropriator W. M. Kearney
- Postoffice address Esmeralda Co. Nevada
- Amount of appropriation (148.30) One hundred forty-eight and 3/10 acres.
- Senior priority number on main stream - One
- Priority number on -
- Amount of prior appropriations none
- Date of appropriation a. d. 1880.
- Description of irrigated land 21.8 acres in the N.E. 1/4 of Sec. 3, 3.18 acres in N. 1/2 of N.W. 1/4 of Sec. 10, 59.87 acres in the S.W. 1/4 of Sec. 3, 17.34 acres in the S.E. 1/4 of Sec. 3, 16.11 acres in the S. 1/2 of N.W. 1/4 of Sec. 3, all in T. 23 N. R. 54 E. M. D. B.Y.M.
- Description of use other than irrigation, stock raising and domestic purpose.
- The right to water hereby determined is limited to irrigation, stock raising and domestic purpose.

Book 1 Water Locations

and the use is restricted to the place where acquired and to the purpose for which acquired, and is dependent upon beneficial use of such water.

In testimony whereof I W. M. Kearney, State Engineer of Nevada, have hereunto set my hand and the seal of my office, this 25th day of November, A. D. 1912.

W. M. Kearney
State Engineer.

Given and filed at the request of W. M. Kearney, this 10 day of December, 1912.

Edgar Eathum, Recorder
1912.

State of Nevada }
to } Prof. W. O. H. S. Certified Grant No. 20.
Wela Truff } Book 2, Page 70.

The State of Nevada
Certificate of appropriation of water
wherein Wela Truff was presented to the State
Engineer of the State of Nevada Proof of appropriation
of water from Truff Springs through the Truff
ditch for irrigation (and domestic) purposes, the first
of division being and lying in the NE 1/4 of SE 1/4
of Sec. 3, T. 23 N. R. 24 E. M. D. 8 & M. Esmeralda County,
State of Nevada

Now known to the State Engineer, under the provision
of Section 14 Chapter XVIII, Statute of 1907 was determined
the amount of such appropriation as follows:

Name of appropriator Wela Truff.
Post office address Dingle Esmeralda Co Nevada.
Amount of appropriation (a) Six and 3/10 acres.
Stream priority number on main stream Two
Priority number on
Amount of prior appropriation (148.3) One thousand
forty-eight & 3/10 acres
Amount of equal priority --- none ---

State of appropriation A. D. 1911.
Description of irrigated land 2.76 acres in the
NE 1/4 of SE 1/4 and 2.24 acres in the NW 1/4 of SE 1/4
of Sec. 3 in T. 23 N. R. 24 E. M. D. 8 & M.

Description of use other than irrigation stock
raising and domestic purposes.
The right to water hereby determined is limited
to irrigation, stock raising and domestic
purposes and the use is restricted to the place
where acquired and to the purpose for which
acquired, and is dependent upon beneficial
use of such water.

W. M. Kearney
State Engineer

Book 1 Water Locations

Englund
S. F. Jones

An testimony which I W. M. Kearney, State Engineer of Nevada, have furnished at my residence and the seat of my office, this 25th day of November A. D. 1912.

W. M. Kearney
State Engineer

Given and filed at the request of W. M. Kearney this 11 day of December, 1912.

Edgar C. Carter,
Recorder

File 9809

State of Nevada }
to }
James Fegantini } Prof. No. 21083, Certificate of Qual. No. 11
Rank 2, Page 41

The state of Nevada certifies of appropriation of water when James Fegantini was presented to the State Engineer of the State of Nevada Proof of appropriation of water from Snake Creek through the Fegantini Ditch for irrigation (and domestic) purposes, the point of diversion being and lying in the S.E. 1/4 of S.W. 1/4 of Sec. 36, T. 19, N. R. 54, E. M. D. B. & M. White Pine County, State of Nevada, Nevada, that the State Engineer under the provisions of Section 18, Chapter XV, Statute of 1907, has determined the amount of such appropriation as follows:

Name of appropriator James Fegantini
Post office address Carson, Churchill Co Nevada
amount of appropriation (85) Eighty-five and 1/100
General priority number on main stream One
Priority number on _____
amount of prior appropriation none
amount of equal priority none
date of appropriation Jan. 4 1899

Description of irrigated land 40.0 acres in the N. 1/2 of N.E. 1/4, and 15.0 acres in the E. 1/2 of NE 1/4 of Sec. 1, T. 19 N. R. 54 E. 20.0 acres in the S. 1/2 of S.E. 1/4, and 10.0 acres in the S.E. 1/4 of S.W. 1/4 of Sec. 36, T. 19 N. R. 54 E. M. D. B. & M.

Description of use other than irrigation stock watering and domestic purposes.
The right to water hereby determined is limited to irrigation, stock watering, and domestic purposes and the use is restricted to the place where acquired and to the purpose for which acquired and is dependent upon beneficial use of such water.

An testimony which I W. M. Kearney

Englund
S. F. Jones

Englund
S. F. Jones