

STATE OF NEVADA

OFFICE OF THE STATE ENGINEER

# ORDER OF DETERMINATION

IN THE MATTER OF THE DETERMINATION OF THE RELATIVE

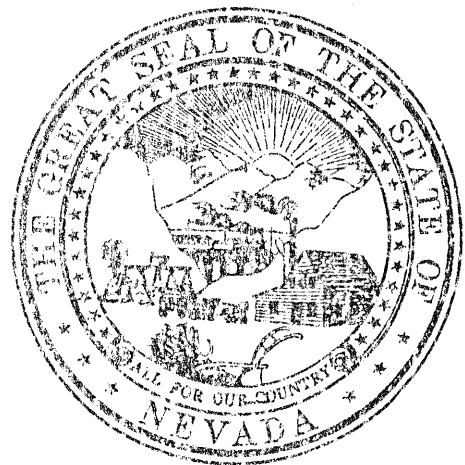
RIGHTS IN AND TO THE WATERS OF

MONITOR VALLEY - SOUTHERN PART (140-B)

NYE COUNTY, NEVADA

R. MICHAEL TURNIPSEED, P.E.  
STATE ENGINEER

SEPTEMBER 15, 1998




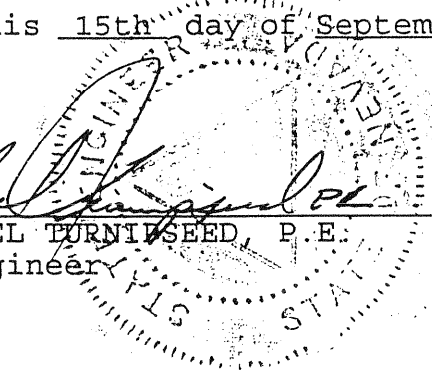
CERTIFICATION OF STATE ENGINEER

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I, R. Michael Turnipseed, State Engineer of the State of Nevada, duly appointed and qualified, having charge of the records and files of the office of the State Engineer, do hereby certify that the following is a full, complete and true copy of the Order of Determination defining the relative rights in and to the waters of Monitor Valley - Southern Part (140-B), Nye County, Nevada. This Order of Determination was prepared and filed in this office on the 15th day of September, 1998.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Carson City, Nevada this 15th day of September, 1998.

  
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R. MICHAEL TURNIPSEED, P. E.  
State Engineer




ADJUDICATION OF  
THE WATERS OF MONITOR VALLEY - SOUTHERN PART

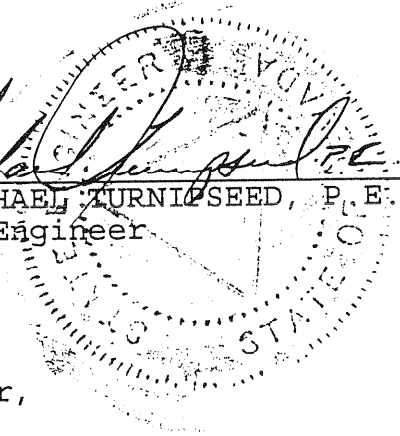
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NYE COUNTY, NEVADA

Presented herewith is the Order of Determination defining the relative rights in and to the waters of Monitor Valley - Southern Part (140-B), Nye County, Nevada.

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

  
R. MICHAEL TURNICSEED, P. E.  
State Engineer



Made, filed, and caused to be entered of record in the office of the State Engineer, this 15th day of September, 1998.

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STATE OF NEVADA  
OFFICE OF THE STATE ENGINEER

IN THE MATTER OF THE DETERMINATION OF  
THE RELATIVE RIGHTS IN AND TO THE  
WATERS OF MONITOR VALLEY - SOUTHERN  
PART (140-B), NYE COUNTY, NEVADA

ORDER OF DETERMINATION

I. GENERAL

On October 15, 1981, a petition was filed in the office of the State Engineer by E. Wayne Hage requesting a determination of the relative rights of the claimants to the waters of Meadow Creek, Corcoran Creek, Andrew's Creek, Pine Creek, Pasco Creek, Mosquito Creek, Barley Creek, and their tributaries, as well as all other waters flowing into or arising in Monitor Valley south of Township 13 North, Nye County, Nevada.

On February 26, 1982, the State Engineer sent a notice by certified mail to persons identified as owning land within the subject area stating that a petition had been filed requesting an adjudication of the streams in Monitor Valley by persons claiming rights to use the water. The notice set forth that a field investigation would be held to determine if the petition for adjudication was justified.

On March 19, 1982, a field investigation was conducted by Larry Reynolds, Chief of the Adjudication and Surface Water Section of the Division of Water Resources. The Report of Field Investigation prepared on June 9, 1982, recommended that the State Engineer enter an order granting the petition and proceed to adjudicate each stream

and spring simultaneously and separately. The Report of Field Investigation recommended adjudication of all water sources in Monitor Valley south of Township 13 North, M.D.B. & M., between the hydrographic boundaries formed by the crest of the Toquima Range of mountains on the west in Ranges 44½ and 45 East, M.D.B. & M. to the crest of the Monitor Range of mountains to the east within Range 48 East, M.D.B. & M. and generally north of Township 8 North, M.D.B. & M.

On June 15, 1982, the State Engineer entered Order No. 789 granting the petition requesting the adjudication of the water. In accordance with the provisions of Nevada Revised Statutes § 533.090 through 533.320, inclusive, on June 15, 1982, the State Engineer also entered an Order initiating the proceedings for the determination of the relative rights in and to all waters in Southern Monitor Valley, Nye County, Nevada.

The State Engineer then prepared the Notice of Order and Proceedings to Determine Water Rights requiring all those making claims to rights in the waters of Monitor Valley to make proof of their claims. The notice was published on June 24, July 1, 8, 15, and 22, 1982, in the Tonopah Times - Bonanza & Goldfield News, a newspaper of general circulation within the boundaries of the hydrographic basin.

The State Engineer next prepared Order No. 791 establishing September 20, 1982, as the date the State Engineer would commence taking proof of claims of the rights in and to the waters of the system, and establishing September 23, 1983, as the final date for filing said proofs in the office of the State Engineer. The Order

was published on August 12, 19, 26, September 2, and 9, 1982, in the Tonopah Times - Bonanza & Goldfield News, a newspaper of general circulation within the boundaries of the hydrographic basin.

On August 5, 1982, the State Engineer sent by certified mail to each potential claimant that could be reasonably ascertained an Order equivalent to the one published for public notice setting forth the date the State Engineer would commence taking proof of claims to the rights in and to the waters of the system, and setting forth the final date for filing said proofs in the office of the State Engineer.

On September 23, 1983, the State Engineer sent by certified mail to each potential claimant that could be reasonably ascertained a notice extending the final date for filing said proofs in the office of the State Engineer to September 25, 1984. On February 9, 1990, the State Engineer issued Order No. 1020, based on a request by the United States Department of Agriculture - Forest Service, Toiyabe National Forest,<sup>1</sup> re-opening the period for filing claims and proofs of appropriation in the matter of the Monitor Valley Adjudication. On the same date, the State Engineer sent by certified mail to each potential claimant a copy of the Order re-opening the period for the filing of all documents in the subject adjudication in the office of the State Engineer through February 28, 1991.

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<sup>1</sup>In 1989, Public Law 101-195 created the Alta Toquima and the Table Mountain Wilderness areas and said law directed the U.S. to participate and assert any wilderness claims to water in adjudications of water rights.

On February 12, 1991, the State Engineer granted a further extension of time until February 28, 1992, for the filing of all documents in the subject adjudication. On February 9, 1993, the State Engineer granted an additional extension of time for the filing of all documents in the subject adjudication until February 28, 1994.

Field investigations of the hydrographic system, ditches diverting water, and lands irrigated therefrom were conducted on November 30, and December 1 through 2, 1993, September 13 through 15, 1994, June 12 through 16, 1995, and November 6 through 8, 1995. The field investigators' observations and measurements were reduced to reports of field investigations. Surveys and their corresponding maps were caused to be executed and submitted by the claimants to the office of the State Engineer.

Pursuant to Nevada Revised Statute § 533.140, on February 15, 1996, the State Engineer issued the Abstract of Claims, the Preliminary Order of Determination, and the Notice of Order Fixing and Setting Time and Place of Inspection in the matter of the subject adjudication. Copies of the aforementioned documents were sent to all claimants on February 15, 1996. On February 22, 1996, an Amended Table of Rights of Appropriators in the Preliminary Order of Determination was issued, and mailed to all claimants on March 4, 1996. As set forth in Nevada Revised Statute § 533.140, the period of time for inspection of documents was established as April 1, 1996, through April 30, 1996.



Objections to the Preliminary Order of Determination were filed in accordance with provisions of Nevada Revised Statute § 533.145 by the U.S. Department of the Interior - Bureau of Land Management ("BLM"), E. Wayne and Jean N. Hage ("Hages"), Store Safe Redlands (aka RO Ranch), and the U.S. Department of Agriculture - Forest Service ("USFS").

Pre-hearing briefing took place during June and July 1996, and a Pre-hearing Conference was held on August 13, 1996.

After all parties of interest were properly noticed, a public administrative hearing on the objections to the Preliminary Order of Determination was held before the State Engineer on January 7 through 9, 1997, and March 17 through 21, 1997.

## **II. WATER SOURCES & FLOWS**

The sources of water which are the subject of this adjudication are all located within Nye County, Nevada, and consist of ground water and all the streams and springs in Monitor Valley south of Township 13 North, M.D.B. & M. between the hydrographic boundaries formed by the crest of the Toquima Range of mountains to the west within Ranges 44½ and 45 East, M.D.B. & M. to the crest of the Monitor Range of mountains to the east within Range 48 East, M.D.B. & M. and generally north of Township 8 North, M.D.B. & M.

The Monitor Valley Adjudication-Southern Part includes Pasco Creek (aka Cook Creek, Tucker Creek, Pasqual Creek or Pablo Canyon Creek), Pine Creek, Andrew's Creek, Corcoran Creek (aka Corcoran Canyon Creek, Widow Smith Creek or Smith Creek), Meadow Canyon Creek, Morgan Creek, Mosquito Creek, Barley Creek, and numerous

spring sources occurring along the slopes of the Toquima and Monitor Range of mountains.

The streams and springs that are the subject of this adjudication are fed from melting snow from the upper elevations of the Toquima and Monitor Range of mountains. 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. During years of excess runoff, flow from these streams reaches Dry Lake, a terminal playa lake located at the north end of the southern part of Monitor Valley within Township 13 North, Range 47 East, M.D.B. & M.

The runoff-altitude relationship is the dominant factor affecting stream discharge and flow rates. United States Geological Survey ("USGS") studies have shown that precipitation increases with elevation for mountain ranges in the state of Nevada. Isohyetal analysis shows that the drainages with a greater percentage of their area exceeding 11,000 feet above mean sea level (MSL) in the Toquima Range and exceeding 10,000 feet above MSL in the Monitor Range produce more runoff. A brief description of drainages where irrigation use was claimed within the adjudication area follows below.

The Pasco Creek drainage basin is located on the west side of Monitor Valley and drains from the northeast corner of Mount Jefferson in the Toquima Range. The drainage area is located in elevation from 7,600 feet to 11,370 feet above MSL. The basin is 3.93 square miles in area. The streams generally flow in an

easterly direction with the majority of the slopes facing north to east.

The stream flow of Pasco Creek (aka Cook Creek, Tucker Creek, Pasqual Creek or Pablo Canyon Creek) was estimated by comparing its drainage area to that of Pine Creek, a measured stream. The average estimated flow rate of Pasco Creek ranged from 0.25 cubic feet per second (cfs) during the month of February to 4.1 cfs during the month of June. Predicted crop-water demand was theoretically satisfied during the months of April through July. Stream flow does not theoretically satisfy crop-water demand during the months of August through October of each year. Actual observations of flow made during the field inspections showed that Pasco Creek is dry during a large portion of the months of September through March.

The Pine Creek drainage basin is located on the west side of Monitor Valley and drains from the east slopes of Mount Jefferson in the Toquima Range. The drainage area is located in elevation from 7,560 feet at the USGS gaging station to 11,941 feet above MSL. The basin is 12.16 square miles in area. The streams generally drain in an easterly direction with a fairly even distribution of north and south aspect slopes.

The stream flow in Pine Creek is continuously recorded at a stream gaging station operated by the USGS. The measured average flow rate ranged from 0.98 cfs during the month of December to 24.1 cfs during the month of June. Predicted crop-water demand was theoretically satisfied during the months of May and June. Stream

flow does not adequately satisfy crop-water demand during the months of April and July through October of each year.

The Andrew's Creek drainage basin is located on the west side of Monitor Valley and drains from the east slopes of Mount Jefferson in the Toquima Range. The drainage area is located in elevation from 7,350 feet at the USGS gaging station to 11,941 feet above MSL. The basin is 7.92 square miles in area. The streams generally drain in an easterly to northeasterly direction. Andrew's Creek is diverted into the Pine Creek drainage basin near the western boundary of Pine Creek Ranch.

The stream flow in Andrew's Creek was estimated by comparing its drainage area to that of Pine Creek where flows are measured. The estimated average flow rate ranged from 0.53 cfs during the month of February to 8.76 cfs during the month of June. Predicted crop-water demand was theoretically satisfied during the months of May and June. Stream flow does not adequately satisfy crop-water demand during the months of April and July through October of each year.

The Corcoran Creek (aka Corcoran Canyon Creek, Widow Smith Creek or Smith Creek) drainage basin is located on the west side of Monitor Valley and drains from lower elevation hills east of the ridge of Mount Jefferson in the Toquima Range. The drainage area is located in elevation from 7,260 feet to 9,760 feet above MSL. The basin is 9.81 square miles in area. The streams generally drain in a southeasterly direction with an equal distribution of north and south aspect slopes. This drainage basin is located in

the rain shadow of Mount Jefferson and is not subject to the same magnitude and duration of spring-time flows as the other drainage basins originating from the 10,000 to 11,000 feet above MSL elevation zones. Many springs located in the upper reaches of the drainage basin make up the flow in Corcoran Creek.

The stream flow in Corcoran Creek was estimated by comparing its drainage area to that of Pine Creek where flows are measured. The estimated average flow rate ranged from 0.25 cfs during the months of September through March to 1.5 cfs during the month of June. Predicted crop-water demand was theoretically satisfied during the months of April through June. Stream flow does not adequately satisfy crop-water demand during the months of July through October of each year.

The Meadow Canyon Creek drainage basin is located on the west side of Monitor Valley and originates from the southeasterly slopes of Mount Jefferson in the Toquima Range. The drainage area is located in elevation from 7,300 feet to 11,560 feet above MSL. The basin is 26.63 square miles in area. The streams generally drain in a southerly and then southeasterly direction and are dominated by south aspect slopes. During the 1993 and 1994 field investigations, no flow was observed beyond the mouth of the canyon. In 1995 Meadow Canyon Creek was observed to be flowing at approximately 1 cfs beneath the main north-south road through Monitor Valley located one mile below the mouth of the canyon.

The major tributaries to Meadow Canyon Creek are Bull Frame and Antone Creeks which enter from the south side of the Meadow Canyon

Creek stream channel. These streams are the primary source of springtime runoff, but have been observed during the field investigations to be dry during late summer through the winter months. Base flow in these streams is produced from spring sources in the upper and lower meadow areas.

The stream flow in Meadow Canyon Creek was estimated by comparing its drainage area to that of Pine Creek during the snow melt period. The estimated average flow rate ranged from 0.49 cfs during the month of February to 8.04 cfs during the month of June. Predicted crop-water demand is theoretically satisfied during the months of April through July. Stream flow does not adequately satisfy crop-water demand during the months of August through October of each year.

The Mosquito Creek drainage basin is located on the east side of Monitor Valley and drains from the west slopes of Table Mountain in the Monitor Range. The drainage area is located in elevation from 7,200 feet at the USGS gaging station to 10,888 feet above MSL. The basin is 15.1 square miles in area. The streams drain to the west with the majority of the slope aspects facing west.

The stream flow in Mosquito Creek is continuously recorded at the stream gaging station located on Mosquito Creek operated by the USGS. Discharge ranged from an average minimum of 0.5 cfs during the month of January to an average maximum of 7.56 cfs during the month of June. Stream flow does not adequately satisfy crop-water demand during any of the months of the predicted growing season.

The Morgan Creek drainage basin is located on the east side of Monitor Valley and drains from the northwest corner of Table Mountain in the Monitor Range. The drainage area is located in elevation from 7,350 feet to 10,725 feet above MSL. The basin is 4.23 square miles in area. The streams flow in a northwesterly to westerly direction with the majority of the slope aspects facing north.

The stream flow in Morgan Creek was estimated by comparing the drainage area to that of Mosquito Creek. Estimated average discharge of Morgan Creek ranged from 0.12 cfs during the months of January and February to 1.75 cfs during the month of June. Predicted crop-water demand is theoretically satisfied during the months of April through October; however, stream flow may not adequately satisfy crop-water demand during late summer and early fall due to the potential intermittent nature of this stream.

The Barley Creek drainage basin is located on the east side of Monitor Valley and drains from the south slopes of Table Mountain in the Monitor Range. The drainage is comprised of north to south oriented glacially formed canyons containing Barley and Cottonwood Creeks. The drainage area is located in elevation from 7,233 feet at the National Forest and Barley Creek Ranch boundary to 10,640 feet above MSL. The basin is 38.2 square miles in area. The streams drain to the south and then proceed westerly and finally northerly along the axis of the southern part of Monitor Valley. The majority of the slope aspects are divided between east and west.

The stream flow in Barley Creek was estimated by comparing the drainage area to that of Mosquito Creek where flows are measured. Estimated average discharge ranged from 0.8 cfs during the month of January to 12.1 cfs during the month of June. Predicted crop-water demand is theoretically satisfied during the months of May and June. Stream flow may not adequately satisfy crop-water demand during the months of April and July through October. Observations of flow during field investigations support the historic evidence that the flow in Barley Creek tends to occur as spring floods which rapidly recedes to extremely low to zero flow later in the summer.

The field investigations and analysis demonstrated that runoff from streams in the southern part of Monitor Valley with a large percentage of their drainage area located in elevations above 10,000 feet above MSL occurs mainly during May through mid-July in average years. After mid-July stream flows diminish to the point where they are not able to meet the crop consumptive use demands for the remainder of the irrigation season. The runoff period is brief in drainages with all of the drainage area below 10,000 feet above MSL.

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

Objections to the Preliminary Order of Determination were filed in accordance with Nevada Revised Statute § 533.145 and are summarized as follows:



A. Objections of United States Department of the Interior,  
Bureau of Land Management.

1. The BLM objected to Proof Nos. V-01183 through V-01186, inclusive, V-02325,<sup>2</sup> V-02357, V-02359, V-04465, V-04466, V-05736, V-05739, V-05740, V-05741, V-05743, Permit 2213 (Certificate 414), and Permit 43014 (Certificate 11437) being determined valid in the Preliminary Order of Determination for the following reasons:

- a. the claimants failed to show title & exclusive use, and the evidence does not support this title and/or use;
- b. the claimants have no federal grazing permits; therefore, no beneficial use of these water rights is occurring by non-federal claimants;
- c. the claims for irrigation of public lands cannot be recognized as neither irrigation nor access for irrigation has ever been authorized by the BLM on the public lands; therefore, no water rights should be recognized for this purpose;
- d. the use of the public lands for grazing sheep has never been allowed by permit; therefore, no water rights should be recognized for this purpose; and,
- e. the quantity of water recognized for livestock watering is for a number of livestock greater than authorized to use public lands.

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<sup>2</sup>There is no such claim as V-02325 filed in this adjudication.

2. The BLM objected to the criteria used to establish an implied federal reserved water right known as a public water reserve ("PWR") created pursuant to the Executive Order No. 107, dated April 17, 1926, specifically:

- a. the BLM objects to the State Engineer's standard that a water source not capable of producing at least 1,800 gallons per day cannot qualify as PWR; and
- b. the amount was determined by the State Engineer without input from federal agencies, and sources capable of producing 283 gallons per day should qualify as a PWR source.

3. The BLM also objected to the State Engineer's rejection of those reserved right claims filed under Proof Nos. R-04525, R-04526, R-04527, for the following reasons:

- a. the claims were filed as reserved right claims, but were rejected by the State Engineer based on a rationale for vested right claims;
- b. the purpose listed on the rejected claims for PWRs was for livestock and wildlife, and even if the State Engineer rejects the claims for wildlife he should still recognize the claims for livestock use as valid; and,
- c. the PWR claims should have a priority date junior to the other vested water right claims on the source

where there is excess water available for those reserved right claims.

4. The BLM objected to the specific language of Section IX of the Preliminary Order of Determination identified as "Stockwater, Domestic, and Mining", because:

- a. it was unsure of the intent of the section, it is stated that the limit and extent of stockwatering claims have not been determined even though in Section XI the Order specifies quantities of water and season of use; and,
- b. it is unclear by this section if the State Engineer is actually confirming vested rights for stockwatering.

5. The BLM objects to Section XI "Rights of Appropriators" wherein the State Engineer listed stockwater claims by livestock class, number and period of use, because:

- a. the listing of these claims is contradictory to the statements made in Section IX;
- b. the livestock class, number and season of use differ significantly from the current livestock class, number and season of use authorized under federal grazing permits;
- c. the livestock classes listed have never been authorized and the numbers are in excess of historical authorizations; and

d. the period of use is specifically listed while in Section IX it states that the period of use is year long.

B. Objections of E. Wayne and Jean N. Hage.

1. The Hages object to the recognition of any water rights in the name of the United States on those water sources covered by judicial decrees issued by the Fifth Judicial District Court, State of Nevada. Decree 588 issued in 1879 addressed the waters in the Meadow Canyon Creek drainage basin, and Decree 5038 issued in 1942 addressed the waters in the Barley Creek, Mosquito Creek, Pine Creek, Pasco Creek, Corcoran Creek, and Andrew's Creek drainage basins, and granted to Hages' predecessor in interest all the water in the identified sources. The Hages argue that the Decrees are controlling and that the determinations in those Decrees cannot be overridden by an administrative agency; therefore, no water rights on those stream systems can be granted to the United States.

The Hages specifically object to the following:

a. In the Preliminary Order of Determination, the State Engineer recognizes the Hages as the owners of a water right on MacAfee, Peterson, Box and House Springs, but then makes a determination that the USFS is entitled to water rights at those springs under Proof Nos. R-04176 through R-04179, inclusive. The right to the water of these sources was granted to Hages' predecessor in interest pursuant to Decree

588 and these sources are tributary to Meadow Creek; therefore, no water right can be granted to the United States on these sources.

- b. Decree 5038 granted vested water rights to Hages' predecessors in interest, but then water rights were granted in the Preliminary Order of Determination to the United States and others on that water source.
- (i) The Hages specifically objected to the State Engineer recognizing a water right in the Preliminary Order of Determination under Proof No. V-02327 filed by the Perchetti/Bottom, et al. to the water of Pasco Creek. They argue that Decree 5038 awarded all water in Pasco Creek and Pasquel Spring to Hages' predecessor in interest prior to the homesteading of 92.85 acres of land in Pasco Canyon in 1915 by a Mr. Claude Mealman who was Perchetti/Bottoms', et al. predecessor in interest and that a claim to the water made by Mr. Mealman was rejected in the 1942 Decree.
- (ii) The Hages objected to Proof No. V-04170 filed by James Wolfe to the water of Barley Creek on the grounds that Decree 5038 recognized a right to 0.665 cfs of water, but the Preliminary Order of Determination recognized a right to 2.2 cfs of water at the same site.

(iii) The Hages objected to the State Engineer recognizing a water right under Proof No. R-07326 filed by the BLM on an unnamed spring as it is in conflict with Decree 5038, and because the United States acknowledged during the pendency of that decree that it knew of no claims to those waters. Thus, the United States should be estopped from making any claim now. Further, that the PWR claim is in conflict with the intent of the Executive Order and authorizing statute as they were intended to prevent the appropriation of unappropriated lands, on which the water resource arises, and there is no unappropriated water in the source to claim.

(iv) The Hages object to the State Engineer recognizing the claims filed by the USFS for administrative sites as those sites are not federal withdrawals of land, pursuant to said Decree all waters were appropriated prior to any valid reservation, Proof Nos. R-04175, R-04180 and R-04181 are in conflict with said Decree, the Organic Administration Act of 1897 did not purport to create a water right for all purposes, and the United States cannot reserve water since it does not own the water nor could water be reserved under the Stock Water Reservoir Site Act of January 13, 1897.

C. Objections of United States Forest Service.

The USFS objected to the State Engineer recognizing the following claims:

**Hage:** Proof Nos. V-01091 (irrigation, stockwater), V-01183 (irrigation, stockwater), V-01184 (irrigation, stockwater), V-01185 (irrigation, stockwater), V-01186 (irrigation, stockwater), V-04463 (stockwater), V-04465 (irrigation, stockwater), V-04466 (irrigation, stockwater), V-05738 (stockwater), V-05739 (irrigation, stockwater), Permit 2213 (irrigation, stockwater), Permit 2244 (irrigation), Permit 3361 (supplemental irrigation), Permit 3362 (supplemental irrigation), Permit 3406 (irrigation), Permit 4784 (irrigation), Permit 4785 (irrigation), Permit 26756 (irrigation) and Permit 26757 (irrigation)<sup>3</sup>;

**Perchetti/Bottoms, et al.:** Proof No. V-02327 (irrigation);

**Store Safe Redlands:** Proof Nos. V-02355 (stockwater), V-02357 (stockwater), V-02359 (stockwater), V-05532 (irrigation, stockwater), V-05694 (stockwater), V-05695 (stockwater), V-05696 (stockwater), V-05697 (stockwater), V-05698 (stockwater), V-05736 (stockwater), V-05740 (stockwater), V-05741 (stockwater), V-05742 (stockwater), V-05743 (stockwater), V-05744 (stockwater), V-05745 (stockwater), V-05746 (stockwater), V-07044 (stockwater); and

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<sup>3</sup>Permits 2244 and 4785 were objected to, however, neither of those permits were identified in the Preliminary Order of Determination.

**Wolfe:** Proof No. V-04170 (irrigation, stockwater), Permit 767 (irrigation).

1. The USFS objects to the issuance of stockwater rights to private grazing permittees on federal lands as those private permittees have no right or claim to an interest in federal property or resources associated with permitted use of federal property, and it is prohibited under the terms of federal grazing permits and law.

2. The USFS also objected to the issuance of stockwater rights which are appurtenant to the cattle which use the federal estate instead of being appurtenant to the federal land where the intended federal benefit from grazing occurs.

3. The USFS objected to those identified proofs or permits determined to be valid, because:

- a. the claimants failed to establish a proper chain of title and exclusive use nor does the evidence support title and/or use;
- b. the proofs or permits demonstrate an illegal or expanded use and change in point of diversion and place of use;
- c. the historical record does not support the priority dates, irrigated acres claimed, season of use or uses;
- d. the water right has been abandoned or forfeited;



- e. the amount of water determined necessary for irrigation exceeds the duty of water established in the Preliminary Order of Determination;
- f. the use of water will interfere with the proper management and use of federal property in violation of federal and state law; and
- g. the claimant no longer has a valid federal grazing permit; therefore, no beneficial use of the waters is occurring by the non-federal claimants.

4. The USFS objects to the rejection of federal claims to reserved water rights for instream flow purposes necessary to meet the forest reservation purposes under the Organic Administration Act of 1897, 16 U.S.C. § 471a-543h, identified as Proof Nos. R-04182, R-04183, R-04184, R-04185, R-04186, R-04187 and R-04188, on the grounds that the denial of the claims is contrary to federal and state law and the facts, and interferes with the purposes of the federal reserve and proper management and use of federal property.

5. The USFS objects to the rejection of federal claims for instream flow purposes claimed under the Multiple-Use Sustained-Yield Act of 1960, 16 U.S.C. § 528-531, identified as Proof Nos. R-04189, R-04190 and R-04191, on the grounds that the denial of the claims is contrary to federal and state law and the facts, and interferes with the purposes of the federal reserve, and proper management and use of federal property.

6. The USFS objects to the rejection of federal claims filed for stock and wildlife purposes under state law identified as Proof Nos. V-03255-03259, inclusive, V-03312, V-03313, V-03745-03758, inclusive, V-03772, V-03774, V-03775, V-03777-03784, inclusive, V-03786, V-03787, V-03789, V-03790, V-03792-03797, inclusive, V-03799-03802, inclusive, V-03804, V-03805, V-03807-03813, inclusive, V-03815, V-03816, V-03820-03822, inclusive, V-03824-03831, inclusive, V-03833-03836, inclusive, V-03841-03844, inclusive, V-03846, V-03848, V-03854-03858, inclusive, V-03860-03862, inclusive, V-03865, V-03867-03872, inclusive, V-03875, V-03876, V-03880, V-03881, V-03886-03901, inclusive, V-03903-03919, inclusive, V-03922-03926, inclusive, V-03929-03934, inclusive, V-03938-03940, inclusive, V-03942-03947, inclusive, V-04024, V-04029, V-04047-04059, inclusive, V-04093, V-04099-04101, inclusive, V-04108-04116, inclusive, and V-04126 on the grounds that the rejection of these claims is contrary to federal and state law, contrary to the facts, and interferes with the proper management and use of federal property. In addition, the USFS objects on the grounds that the State Engineer failed to properly consider the factual basis for a state water right in the name of the United States.

7. The USFS objects to the language in Section IX "Stockwater, Domestic and Mining" in the Preliminary Order of Determination on the grounds that it is unclear whether the State Engineer intended to issue a vested water right for stockwatering purposes associated with federal livestock grazing permits or

whether the claims were listed for informational purposes only. If the State Engineer's intent was to issue a vested water right, the USFS objects to the issuance of a private water right on these National Forest lands as contrary to federal and state law, contrary to the facts, as interfering with the property rights of the United States, and as contrary to the terms of any federal grazing permit.

8. The USFS objects to the failure to include two permits of the United States, Permit Numbers 10689 and 20632, for waters used at the Forest Service Pine Creek Campground.

9. The USFS objects to the listing of livestock classes, numbers and season of use as it is contradictory to Section IX and differs significantly from the current livestock, class, number and season of use authorized under livestock grazing permits on the National Forest.

D. Objections of Store Safe Redlands (aka RO Ranch).

1. Store Safe Redlands objects to the language in Section IX "Stockwater, Domestic and Mining" of the Preliminary Order of Determination that states that the limit and extent of the rights claimed for watering livestock have not been determined and are listed for informational purposes only on the grounds that the limit and extent of rights claimed for stockwater have been determined as they are fully described in the Preliminary Order of Determination. Therefore, the language in Section IX that they have not been determined is incorrect and should be excluded from the Order of Determination.

2. Store Safe Redlands also objects to the language in Section IX "Stockwater, Domestic and Mining" of the Preliminary Order of Determination that states the season of use may be further limited by grazing permits issued by the appropriate federal agency and it should be excluded from the Order of Determination as it is unclear as to its meaning, it implies an improper abdication of the State Engineer's authority to federal agencies contrary to law, and would perhaps implicate a Fifth Amendment takings under the U.S. Constitution.

#### IV. PRE-HEARING CONFERENCE

At the Pre-hearing Conference, the State Engineer ruled that he has the authority under Nevada law to recognize vested rights to water livestock irrespective of land ownership, and that livestock water rights would be adjudicated by the number of livestock, source, ownership and priority date without a specified quantity of water. The State Engineer further ruled that he recognized the applicability of the implied reservation of water rights doctrine established by the case of U.S. v. Winters, 207 U.S. 564 (1908), and its progeny, and that under this doctrine the federal government obtains a water right to fulfill the primary purposes of a federal reservation with a priority date as of the date of the federal reservation. However, he further recognized that existing water rights that pre-date any water rights that may be claimed pursuant

to the implied reservation of rights doctrine are superior to any reserved rights of the federal government.<sup>4</sup>

The State Engineer also ruled that he recognized the reserved rights claimed by the USFS under the Organic Administration Act of 1897 as defined in the case of U.S. v. New Mexico, 438 U.S. 696, 57 L.Ed.2d 1052, 98 S.Ct. 3012 (1978), to effectuate the primary purposes of the Toiyabe National Forest of timber production and watershed protection. The State Engineer qualified that this purpose includes conserving water flows for downstream use and furnishing a continuous supply of timber, and instream flows to maintain stream channels to the extent reserving such flows benefits downstream users. The amount of any such flows was to be determined by the evidence and testimony presented at the hearing.

The State Engineer declined, based on the decision in U.S. v. New Mexico, to recognize implied reserved water rights under the Multiple-Use Sustained-Yield Act of 1960 as that act broadened the purpose of the national forests so that they are administered for uses secondary to the primary purposes for which the Toiyabe National Forest was reserved. Therefore, those purposes do not qualify as sufficient to support a water right claimed under the implied reservation of rights doctrine.<sup>5</sup>

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<sup>4</sup>Transcript pp 8-10, Pre-hearing Conference, public administrative hearing on objections to Preliminary Order of Determination before the State Engineer, August 13, 1996, (hereinafter, "Transcript"). (Transcript will also hereinafter be used to identify the transcript of the hearing on the objections to the Preliminary Order of Determination.)

<sup>5</sup>Transcript, pp. 10-11, August 13, 1996.

The State Engineer further ruled that he recognized the reserved water right claims filed under the Nevada Wilderness Protection Act of 1989<sup>6</sup> as the 1989 Act expressly reserved a quantity of water sufficient to fulfill the purposes of the wilderness areas created with a priority date of December 5, 1989, to any waters then unappropriated at the time necessary to fulfill the primary purposes of the reservation. Any said wilderness claims recognized include claims to instream flows<sup>7</sup> for recreational, scenic, scientific, educational, conservation and historical uses.<sup>8</sup>

As to the issue of whether two prior state court Decrees of 1879 and 1942 are binding on the United States, the State Engineer found that the elements of res judicata had not been met.<sup>9</sup>

#### V. FINDINGS OF FACT AND CONCLUSIONS

After review and consideration of evidence, testimony provided at the public administrative hearing on the objections to the Preliminary Order of Determination, and all relevant files in the State Engineer's office, the State Engineer makes the following findings and conclusions.

##### A. RES JUDICATA, COLLATERAL ESTOPPEL, EQUITABLE ESTOPPEL, LACHES AND WAIVER REGARDING DECREE 588 ISSUED IN 1879 AND DECREE 5038 ISSUED IN 1942 BY THE FIFTH JUDICIAL DISTRICT COURT, STATE OF NEVADA

Claimants E. Wayne and Jean N. Hage object to the recognition of any water rights in the name of the United States or anyone else outside those rights recognized on the water sources covered by the

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<sup>6</sup>Public Law 101-195, 103 Stat. 1784, December 5, 1989.

<sup>7</sup>Transcript, pp. 9-11, August 13, 1996.

<sup>8</sup>Transcript, pp. 11-12, August 13, 1996.

<sup>9</sup>Transcript, pp. 13-14, August 13, 1996.

judicial Decrees issued by the Fifth Judicial District Court, State of Nevada. Specifically, Decree 588 issued in 1879 addressed the waters in the Meadow Canyon Creek drainage basin, including MacAfee Spring (aka Q Spring)<sup>10</sup>, Peterson Spring, Box Spring and House Spring, and Decree 5038 issued in 1942 addressed the waters in the Barley Creek, Mosquito Creek,<sup>11</sup> Pine Creek, Pasco Creek, Corcoran Creek and Andrew's Creek drainage basins, including Scuffe Spring, Upper Scuffe Spring and Unnamed Spring identified under Proof No. R-07326. The Hages argue those Decrees granted to their predecessor in interest all the water in the identified sources, and the determinations in those Decrees are controlling and cannot be overridden by an administrative agency. Therefore, no water rights on those stream systems can be recognized in the name of the United States or anyone else if not already recognized in either Decree.

It should be noted that Decree 588<sup>12</sup> grants all the waters that naturally flow through Meadow Canyon Creek to one Peter Peterson, and further enjoins any and all persons claiming under them from diverting or obstructing the natural flow or channel of said stream or from interfering with the springs or natural flow of said springs that discharge their waters into Meadow Canyon Creek during the months of May, June, July, August, September and October of each year.

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<sup>10</sup>Transcript, p. 124, January 6, 1997.

<sup>11</sup>The decree does not mention Mosquito Creek by name, but lands identified in the decree can only be served water by Mosquito Creek.

<sup>12</sup>Exhibit No. 16, public administrative hearing on objections to Preliminary Order of Determination before the State Engineer, January 7, 1997, (hereinafter "Exhibits").

Decree 5038<sup>13</sup> granted to United Cattle and Packing Company all water and vested water rights, including stockwatering rights, range water rights, appurtenant or incident to specific parcels of land described in T.10N., R.46E., T.10N., R.47E., T.11N., R.46E., T.11N., R.47E., T.12N., R.46E., T.12N., R.47E., T.13N., R.46E., T.13N., R.47E., M.D.B.& M. Decree 5038 also granted to United Cattle and Packing Company certain vested and permitted water rights specifically described as:

1. Northumberland Spring - all water in Northumberland Spring located in Section 7, T.12N., R.46E.;
2. Pasco Creek (aka Cook Creek, Tucker Creek, Pasqual Creek and Pablo Canyon Creek, Pasquel Spring) - all water in Pablo Canyon Creek located in Sections 4, 5, and 6, T.11N., R.46E.;
3. Pine Creek - all water in Pine Creek located in Section 19, and 4 miles easterly and 7 miles westerly, T.11N., R.46E.;
4. Warm Springs - waters to be jointly used with the owners of Scuffee Ranch located in Section 12, T.11N., R.46E.;
5. Barley Creek - 90% of the water in Barley Creek located in Section 12, northerly 20 miles along the course of the creek, the balance of the water right belonging to the adjoining neighbor, but that said waters of Barley Creek are at all times subject to and subordinate to the right of one Ellen Nay as granted under Nevada Application 360 and being the right to appropriate 0.665 cfs of water from Barley Creek from April 1st

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<sup>13</sup>Exhibit No. 1, January 7, 1997.



through September 30th of each year for stock, irrigation and other beneficial uses;

6. Corcoran Creek - all water located in that area beginning in Section 30, running three miles easterly and four miles westerly, T.10N., R.46E., M.D.B.&M.

While the Hages argue that Decree 5038 adjudicated to their predecessor in interest all the waters of Mosquito Creek, nowhere in that Decree is any mention made of Mosquito Creek. However, lands described within the Decree are located within the townships and ranges in which Mosquito Creek and its tributaries naturally flow.

At the Pre-hearing Conference, the State Engineer ruled that the elements of res judicata had not been met; however, the parties requested further briefing on whether the doctrines of res judicata and collateral estoppel applied which the State Engineer allowed.

The Supreme Court of Nevada has set out the conditions under which a party, or those in privity with a party, are barred from relitigating an issue or a cause of action. The Court stated that:

[f]or res judicata to apply, three elements must be present: (1) the issue decided in the prior litigation must be identical to the issue presented in the current action; (2) the initial ruling must have been on the merits and have become final; and (3) the party against whom the judgment is asserted must have been a party or in privity with a party to the prior litigation.<sup>14</sup>

"The doctrine of collateral estoppel operates to preclude parties or their privities from relitigating issues previously litigated and

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<sup>14</sup>Pully v. Preferred Risk Mutual Insurance Co., 897 P.2d 1101, 1102-1103. (Nev. 1995).

actually determined in a prior proceeding."<sup>15</sup> "The party invoking collateral estoppel must show first that the issue was actually litigated in the first proceeding and necessarily determined, and second, that the parties in the second proceeding are the same or in privity with those in the first proceeding."<sup>16</sup>

1. EXPRESS OR IMPLIED RESERVED RIGHTS

The issue of reserved water rights presented in the current adjudication is not identical to the issues presented in the prior litigation as the claims of implied or express reserved rights of the United States were not presented in the previous actions. The implied-reservation-of-water-rights doctrine did not even exist in law until after the United States Supreme Court 1908 decision in Winters v. United States<sup>17</sup> (applicable to Indian reservations) and was not extended to public lands reserved for non-Indian governmental purposes until a United States Supreme Court decision in 1963.<sup>18</sup>

Since the doctrine of implied reserved water rights with respect to national forests was not even established at the time of either Decree, the United States could not have asserted those types of claims in the previous litigation. The United States was not a party in the previous litigation nor could any other party to those previous cases have asserted the implied or express reserved rights

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<sup>15</sup>Marine Midland Bank v. Monroe, 104 Nev. 307, 308, 756 P.2d 1193 (1988).

<sup>16</sup>Ibid.

<sup>17</sup>Winters v. United States, 207 U.S. 564, 52 L.Ed. 340 (1908).

<sup>18</sup>Arizona v. California, 373 U.S. 546, 10 L.Ed 2d 542, 83 S.Ct. 1468 (1963), reh. den. 375 U.S. 892, 11 L.Ed.2d 122, 84 S.Ct. 144.

claims on behalf of the United States; thus, no party could be in privity with the United States with regard to those claims.

Prior to the enactment of the McCarran Amendment in 1952,<sup>19</sup> under the principles of sovereign immunity, the United States was exempt from the jurisdiction of state district court water right proceedings. Thus, there was no statutory authority waiving the United States' sovereign immunity which would have allowed it to be involuntarily joined as a party in the prior cases which resulted in Decrees 588 and 5038.

"Until the enactment of the McCarran Amendment, [footnote omitted] however, the prior appropriation system in Colorado could not be applied to the adjudication or administration of water rights of the United States, because Congress had not consented to the determination of such water rights by state courts. As a sovereign, the United States was privileged to withhold such consent."<sup>20</sup>

[T]his Court noted that the sovereign immunity of the United States created an anomaly in the adjudication of water rights:

"We have a situation in which the federal sovereign claims water rights which are nowhere formally listed, which are not the subject of any decree or permit and which, therefore, are etheric in large part to the person who has reason to know and evaluate the extent of his priorities to the use of water. To have these federal rights in a state of uncorrelated mystery is frustrating and completely contrary to orderly procedure - and this is equally true from the standpoint of the United States as well as Colorado and its citizenry." (Citation omitted.)

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<sup>19</sup>43 U.S.C. § 666.

<sup>20</sup>U.S. v. City and County of Denver, 656 P.2d 1, 8 (Colo. 1982).

By enacting the McCarran Amendment, Congress waived the sovereign immunity of the United States to involuntary joinder as a party in state court general water rights adjudications.<sup>21</sup>

Both state court actions and decrees at issue here preceded passage of the McCarran Amendment, and since the United States could not have been forced to be a party to the litigation it is not bound by the decrees as to its claims of implied or express reserved water rights. Just because the United States may have been able to join in the previous litigation does not mean that it had to become a party because, as a sovereign, the United States was privileged to withhold such consent.<sup>22</sup> The State Engineer concludes that the doctrine of res judicata does not preclude the United States from asserting the claims of reserved rights it asserts in this proceeding.

The analysis as to why collateral estoppel does not apply to the claims of reserved rights is the same as that regarding res judicata and will not be repeated except to say that the issue of express or implied reserved rights was not decided in the prior litigation nor was the United States a party or in privity with a party who could assert those claims. The State Engineer concludes that the doctrine of collateral estoppel does not preclude the United States from asserting the claims of reserved rights it asserts in this proceeding.

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<sup>21</sup>U.S. v. City and County of Denver, 656 P.2d 1, 8-9 (Colo. 1982).

<sup>22</sup>U.S. v. City and County of Denver, 656 P.2d 1, 8 (Colo. 1982).

## 2. VESTED RIGHT CLAIMS

The USFS claims that since the water sources are on the public land, and the cattle used the public land in the National Forests (as discussed later even before the National Forests existed), the vested stockwater rights are appurtenant to that National Forest land and not to the cattle. The State Engineer finds that the same analysis of sovereign immunity and inability to join the United States until passage of the McCarran Amendment is also applicable to the claims of vested rights. Furthermore, the United States raises an issue in its objections in this proceeding that was not raised in the previous cases, that is, its belief that stockwater rights should not be granted to private citizens on the public lands through cattle which are authorized to use the public lands, but rather that the rights are appurtenant to the federal lands where the intended federal benefit from grazing occurs and, therefore, should be granted to the United States.

Since the federal government had formerly been immune from suit to determine its water rights, its absence from all previous adjudications was privileged, and accordingly, it is neither bound or prejudiced by the priorities determined therein.<sup>23</sup> The State Engineer finds the United States has raised issues that were not previously litigated and concludes that the doctrines of res judicata and collateral estoppel do not preclude the United States from asserting the claims of vested water rights it asserts in this proceeding.

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<sup>23</sup>U.S. v. City and County of Denver, 656 P.2d, 1, 15 (Colo. 1982).

3. PERCHETTI/BOTTOMS, ET AL.

The Hages objected to Proof No. V-02327 filed by the Perchetti/Bottoms, et al. to waters in Pasco Creek which was recognized in the Preliminary Order of Determination.

Proof No. V-02327 was filed on June 15, 1944, by Charles E. and Lena E. McLeod of Smokey Valley, Nye County, Nevada, claiming a vested right with a priority date of prior to 1885 from Pasco Creek to irrigate 22.18 acres of land. Ownership of Proof No. V-02327 was assigned, effective January 7, 1994, to Robert W. Perchetti, Ira N. Jacobson, Steven Carpenter, Anthony J. Perchetti, and Bottom Family Trust, Robert M. Bottom and Sharon G. Bottom, Trustees.

Decree 5038 issued in 1942 awarded all the water in Pasco Creek to the plaintiff, United Cattle & Packing Company, the predecessor to the Hages. Decree 5038 does not list Perchetti/Bottoms', et al. predecessor in interest for this proof nor did the original claimant Mr. McLeod intervene or participate in the proceedings resulting in Decree 5038. The Hages argue that Decree 5038 entered by the Fifth Judicial District Court, State of Nevada, awarded all waters of Pasco Creek and Pasquel Spring to Hages' predecessor in interest, and that the claim to the waters made by original claimant Mr. Mealman and his predecessors in interest was rejected in the 1942 Decree. The State Engineer agrees with these arguments. The civil judicial proceedings that resulted in Decree 5038 included constructive notice to all persons of the matters therein contained.

Said notice of the proceedings was properly published and served on those listed in the Decree.<sup>24</sup>

A person who is a land owner in this state is responsible for being cognizant of actions initiated by others affecting the status of their property. Constructive notice was provided to Perchetti/Bottoms', et al. predecessors in interest during the proceeding resulting in Decree 5038.<sup>25</sup> Therefore, the predecessors of Perchetti/Bottoms, et al. were in privity to those who had constructive notice of the civil suit. The State Engineer finds that the issue decided in the Decree litigation is identical to the issue being decided here, that is, who has the right to the use of the waters of Pasco Creek. The State Engineer finds the previous decision was on the merits and final, and that any person claiming a right to use the waters of Pasco Creek on the Perchetti/Bottoms', et al. property is in privity with any of the previous holders of that property. The State Engineer finds the doctrines of res judicata and collateral estoppel apply. The State Engineer finds that the claim of a vested water right for the irrigation of 22.18 acres on the Perchetti/Bottoms', et al. property is subject to Decree 5038, and determines that the claim be rejected in this Order in accordance with Decree 5038.

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<sup>24</sup>Exhibit Nos. 1 and 91, January 6, and March 21, 1997.

<sup>25</sup>Exhibit No. 91, March 21, 1997.

#### 4. WOLFE

The Hages objected to Proof No. V-04170 filed by James Wolfe claiming a right to use the waters of Barley Creek which was recognized in the Preliminary Order of Determination.

Proof No. V-04170 was filed on July 6, 1984, by James Wolfe claiming a vested right with a priority date of 1868 from Barley Creek for 2.2 cfs for irrigation purposes. A supporting map was filed on July 6, 1984, which illustrated 162.01 acres of land under cultivation.

Decree 5038 issued in 1942 recognized a water right from Barley Creek in the amount of 0.665 cfs for irrigation, stockwater, and domestic purposes with a period of use from April 1st to September 30th under Permit 767, Certificate 360. In the records of the State Engineer, Carillo Industries is the owner of record of Permit 767, Certificate 360. The State Engineer finds that while Mr. Wolfe testified that he is the owner of Barley Creek Ranch<sup>26</sup> he has never completed the statutory process for having said water right assigned to him in the records of the State Engineer.

Decree 5038 provides that the water right under Permit 767, Certificate 360, has first right of use of the water of Barley Creek with the remainder of the water available for all others identified in the Decree. The Decree was on the merits and final, both parties are in privity with a party to the prior litigation, and the Decree was sufficiently specific as to that quantity awarded to Mr. Wolfe's

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<sup>26</sup>Transcript p. 890, March 19, 1997.



predecessor in interest. The amount of 0.665 cfs under Permit 767, Certificate 360, has a priority date of December 30, 1907; however, Decree 5038 provides that all other rights are subordinate to Permit 767, Certificate 360. Decree 5038 divided the remainder of the flow in a manner such that 90% was for the plaintiff and the balance was for the adjoining neighbors. The Hages are now the owners of all the lands covered by the 90/10 split and are entitled to all the natural flow, except that under Permit 767, Certificate 360. The State Engineer finds that the doctrines of res judicata and collateral estoppel are applicable to Proof No. V-04170.

The State Engineer finds that Carillo Industries is entitled to no more water than provided for under Permit 767, Certificate 360, from Barley Creek and rejects Proof No. V-04170 filed by Mr. Wolfe. However, the permittee under Permit 767, Certificate 360, has the first right of appropriation from Barley Creek in accordance with Decree 5038.

#### **5.     EQUITABLE ESTOPPEL**

The Hages assert that the doctrine of estoppel should apply to prevent the United States from asserting claims in contradiction to Decrees 588 and 5038 because the United States should have intervened in those proceedings. The Hages specifically object to Proof No. R-07326 filed by the BLM on an unnamed spring arguing it is in conflict with Decree 5038, and that the United States acknowledged during the pendency of that decree that it knew of no claims to those waters. Thus, the United States should be estopped from making any claim now.

The USFS contends that when the government holds interests in trust for the general public the government cannot be estopped by unauthorized acts of its agents and employees. The Hages argue the estoppel cases cited by the USFS deal with situations where the United States is acting in its sovereign capacity, but he believes that here it is actually acting in its proprietary capacity. Therefore, the general rule that estoppel cannot be asserted to bar a sovereign is inapplicable and estoppel should defeat the governments claim to ownership of property.

The Supreme Court has ruled on the application of estoppel against the United States to bar assertion of rights to federal property, and the estoppel doctrine was held not to apply in U.S. v. California.

The Government, which holds its interest here as elsewhere in trust for all people, is not to be deprived of those interests by the ordinary court rules designed particularly for private disputes over individually owned pieces of property; and officers who have no authority at all to dispose of Government property cannot by their conduct cause the Government to lose its valuable rights by their acquiescence, laches, or failure to act.<sup>27</sup>

As previously noted, prior to the passage of the McCarran Amendment, Congress had not consented to the determination of the United States' water rights by state courts, and as a sovereign, the United States was privileged to withhold such consent.<sup>28</sup> The Hages' belief as to what should have been done is not the issue. The issue is whether the United States should be estopped from asserting its

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<sup>27</sup>U.S. v. California, 332 U.S. 19, 39-40, 91 L.Ed. 1889, 67 S.Ct. 1658 (1947).

<sup>28</sup>U.S. v. City and County of Denver, 656 P.2d 1, 8 (Colo. 1982).

claims now, and the State Engineer finds it should not be so precluded. The State Engineer concludes that the United States is not estopped in this proceeding from asserting the claims of water rights it has filed on those streams covered by Decree 5038.

#### 6. WAIVER, LACHES

The Hages in their Post-hearing Brief also presents arguments as to why the doctrines of waiver and laches should apply to the United States' claims to the waters adjudicated under Decrees 588 and 5038. Nevada Revised Statute § 533.150(4) provides that the evidence in an administrative hearing on any objections to a preliminary order of determination be limited to the subjects enumerated in any objections filed and to the preliminary order of determination. The Hages' theories of laches and waiver were raised for the first time in the post-hearing briefs; therefore, the State Engineer does not consider them relevant or timely and will not address them as valid objections.

#### B. IMPLIED RESERVED RIGHTS FOR INSTREAM FLOWS UNDER THE ORGANIC ADMINISTRATION ACT OF 1897

The United States Supreme Court has long held that when the federal government withdraws land from the public domain and reserves it for a federal purpose the government by implication also reserves appurtenant water then unappropriated to the extent needed to accomplish the purpose of the reservation.<sup>29</sup> "In determining whether there is a federally reserved water right implicit in a federal reservation of public land, the issue is whether the

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<sup>29</sup>Cappaert v. U.S., 426 U.S. 128, 48 L.Ed.2d 523, 534, 96 S.Ct. 2062 (1976).

government intended to reserve unappropriated and thus available water. Intent is inferred if the previously unappropriated waters are necessary to accomplish the purposes for which the reservation was created."<sup>30</sup> "The implied-reservation-of-water doctrine, however, reserves only that amount of water necessary to fulfill the purpose of the reservation, no more."<sup>31</sup> Each time the United States Supreme Court has applied the implied-reservation-of-water doctrine it has carefully examined both the asserted water right and the specific purposes for which the land was reserved and concluded that without the water the purposes of the reservation would be entirely defeated.<sup>32</sup>

This careful examination is required both because the reservation is implied, rather than expressed, and because of the history of congressional intent in the field of federal-state jurisdiction with respect to allocation of water. Where Congress has expressly addressed the question of whether federal entities must abide by state water law, it has almost invariably deferred to the state law. (Citation omitted.) Where water is necessary to fulfill the very purposes for which a federal reservation was created, it is reasonable to conclude, even in the face of Congress' express deference to state water law in other areas, that the United States intended to reserve the necessary water. Where water is only valuable for a secondary use of the reservation, however, there arises the contrary inference that Congress intended, consistent with its other views, that the United States would acquire water in the same manner as any other public or private appropriator.<sup>33</sup>

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<sup>30</sup>Ibid.

<sup>31</sup>Id. at 535.

<sup>32</sup>United States v. New Mexico, 438 U.S. 696, 57 L.Ed.2d 1052, 1057, 98 S.Ct. 3012 (1978).

<sup>33</sup>Id. at 1058.

National forests in the United States are authorized to be reserved under the Organic Administration Act of 1897.<sup>34</sup> The USFS argues that the State Engineer need not look past the Organic Administration Act of 1897 to determine whether an implied reserved water right exists for instream channel maintenance on the Toiyabe National Forest. However, the State Engineer does not believe this is a correct statement of the law. To determine if an implied reserved water right exists, one must not only examine the primary purposes of forests reservations set forth in the Organic Administration Act of 1897, but must also review the specific documents reserving each national forest and the specific primary purpose for which that particular forest was reserved. The Organic Administration Act of 1897, as interpreted by the United States Supreme Court,<sup>35</sup> indicated the primary purposes for which national forests may be reserved out of the public domain, but it is not the Organic Administration Act which creates any implied reserved water right, but rather, it is the actual reservation of a particular national forest itself.

For example, in the Cappaert case,<sup>36</sup> the Supreme Court looked at the very specific purpose for which Devil's Hole National Monument was reserved by reviewing the 1952 Proclamation which set aside the reservation. The Supreme Court's analysis of whether an implied reserved water right existed at the Devil's Hole National

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<sup>34</sup>Act of June 4, 1897, Ch. 2, 30 Stat. 34 (1897).

<sup>35</sup>U.S. v. New Mexico, 438 U.S. 696, 57 L.Ed.2d 1052, 98 S.Ct. 3012 (1978).

<sup>36</sup>Cappaert v. U.S., 426 U.S. 128, 48 L.Ed.2d 523, 534, 96 S.Ct. 2062 (1976).

Monument was not based upon the Act for the Preservation of American Antiquities which authorized the President to declare the tract of land surrounding Devil's Hole a national monument, but rather was based upon the specific proclamation which reserved the monument from the public domain and the intent of that reservation. It is the actual act of Congress or Presidential proclamation which reserves the specific national monument or national forest at issue and not the authorizing legislation by which water rights are implied to be reserved. The determination of an implied reserved water right cannot be accomplished without also looking at the reason for the specific reservation. "Such an examination and tailoring of the reserved right is necessary 'because the reservation is implied, rather than explicit, and because of the congressional intent in the field of federal-state jurisdiction with respect to allocation of water.'"<sup>37</sup>

For each federal claim of a reserved water right, the trier of fact must examine the documents reserving the land from the public domain and the underlying legislation authorizing the reservation; determine the precise federal purposes to be served by such legislation; determine whether water is essential for the primary purposes of the reservation; and finally determine the precise quantity of water - the minimal need as set forth in *Cappaert and New Mexico* - required for such purposes.<sup>38</sup>

**1. UNDERLYING LEGISLATION AUTHORIZING A NATIONAL FOREST RESERVATION - ORGANIC ADMINISTRATION ACT OF 1897**

It was not until the 1960's and 1970's that the courts began to look at reserved rights for federal enclaves such as national forests. The Supreme Court in the case of *U.S. v. New Mexico* and

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<sup>37</sup>*U.S. v. City and County of Denver*, 656 P.2d 1, 19 (Colo. 1982).

<sup>38</sup>*U.S. v. City and County of Denver*, 656 P.2d 1, 20 (Colo. 1982).

its progeny provide a good history regarding the Organic Administration Act of 1897 and national forest reservations. The cases establish the following history.

During the last half of the nineteenth century, forests on the public lands were seriously endangered by logging, **grazing**, and fires. *New Mexico*, 438 U.S. at 705, 98 S.Ct. at 3017. As the **forest cover** was depleted, Congress and the United States Department of the Interior became concerned that stream flow **for irrigation purposes** would be compromised. See S.Exec.Doc. No. 28, 43d Cong., 1st Sess.2-4 (1874); H.R.Rep. No. 259, 43d Cong., 1st Sess. 6-7, 20-25 (1874). Experience in Europe demonstrated that the **depletion of forest areas** surrounding the headwaters of rivers removed the **natural vegetative cover that ordinarily reduced evaporation and slowed snowmelt and water flow in the rivers** during the spring. *Id.* When the natural forces regulating stream flow were removed, rapid snowmelt in the spring caused immediate flooding and an inevitable drought in later months when a steady supply of water was most needed for irrigation. See 1 F. Hough, *Report Upon Forestry* 288 (1878).<sup>39</sup> (Emphasis added.)

In response to the depredations on the forest land, Congress enacted the Creative Act of March 3, 1891, ch. 561, § 24, 26 Stat. 1095, 1103 (1891), [footnote omitted] which authorized the President to "set apart and reserve [lands], in any state or Territory having public land bearing forests, in any part of the public lands **wholly or in part covered with timber or undergrowth, whether of commercial value or not**, as public reservations..." 16 U.S.C. § 471 (repealed 1976). Although the purpose of the Creative Act was not made explicit, the legislative history of the 1891 Act makes clear that **its purpose was to preserve natural forest cover** in an effort to maintain uniform water flows in streams. [Footnote omitted.]<sup>40</sup> (Emphasis added.)

The report of the Secretary of Agriculture in 1892 reflected the Congressional concerns:

There can hardly be any doubt, however, as to what objects and considerations should be kept in view in reserving such lands and withdrawing them from private occupancy. These are first

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<sup>39</sup>U.S. v. Jesse, 744 P.2d 491, 494-495 (Colo. 1987).

<sup>40</sup>U.S. v. Jesse, 744 P.2d at 495.

and foremost of economic importance, not only for the present but more specifically for the future prosperity of the people residing near such reservations, namely, *first, to assure a continuous forest cover of the soil on mountain slope and crests for the purpose of preserving or equalizing water flows in streams which are to serve for purposes of irrigation, and to prevent formation of torrents and soil washing; second, to assure a continuous supply of wood material from the timbered areas by cutting judiciously and with a view to reproduction.* H.R.Exec.Doc. No. 2, 52d Cong., 1st Sess. pt. 6, at 224 (1892) (emphasis added.)<sup>41</sup>

Despite reservations of forest lands under the Creative Act, depletion of the forest cover continued, as the new national forests were not adequately protected and irresponsible and indiscriminate logging continued. *New Mexico*, 438 U.S. at 706, 98 S.Ct. at 3017. Comprehensive legislation on the national forests languished in Congress from 1894 to 1896 [footnote omitted] until widespread withdrawals of forest land by President Cleveland angered many western constituents and prompted Congress to enact the Organic Administration Act of 1897, Ch. 2, 30 Stat. 34 (1897) (the Organic Act) (codified as amended at 16 U.S.C. § § 475-482 (1976)). *Id.* The Organic Act defined the purposes for which national forests could be reserved and provided a charter for forest management and economic uses within the forests, and provided in pertinent part:

*No public forest reservation shall be established, except to improve and protect the forest within the reservation, or for the purpose of securing favorable conditions of water flows, and to furnish a continuous supply of timber for the use and necessities of citizens of the United States; but it is not the purpose or intent of these provisions, or of the Act providing for such reservations, to authorize the inclusion therein of lands more valuable for the mineral therein, or for agricultural purposes, than for forest purpose.*<sup>42</sup>

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<sup>41</sup>U.S. v. Jesse, 744 P.2d at 495.

<sup>42</sup>U.S. v. Jesse, 744 P.2d at 496.



[I]n *United States v. New Mexico*, 438 U.S. 696, 98 S.Ct. 3012, 57 L.Ed.2d 1052 (1978), the Supreme Court rejected claims for reserved instream water rights [under the Multiple Use Sustained Yield Act] and held that the Organic Act and its predecessor bills evidence a congressional intent to reserve the national forest for only two purposes: (1) to secure favorable conditions of water flows, and (2) to furnish a continuous supply of timber for the use and necessities of the people. 438 U.S. at 707-08, 98 S.Ct. at 3017-18.<sup>43</sup>

Review of the Organic Administration Act itself and its legislative history evidences that Congress authorized the national forest system principally as a means of enhancing the quantity of water for those irrigating areas off the particular forests, and enhancing the quantity of timber that would be available to support present and future prosperity of people residing near such reservations. It was the forest cover which was the central concern, i.e., wood for people to use and forests to cover the soil to regulate the flow of water and prevent floods and erosion. The Government in this adjudication argues that within this framework Congress intended to reserve water for instream channel maintenance, i.e., minimum stream flows to support streamside vegetation, and high flushing flows to move sediment through the system.

## 2. DOCUMENTS RESERVING THESE NATIONAL FORESTS FROM THE PUBLIC DOMAIN

As the courts have indicated, besides looking at the authorizing legislation, in this case the Organic Administration Act of 1897, the State Engineer must also review the specific legislation setting aside the forests reservations at issue here to determine whether any implied reserved water right exists and the

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<sup>43</sup>U.S. v. Jesse, 744 P.2d at 497.

scope of any such right. When the national forests comprising the Toiyabe National Forest<sup>44</sup> were reserved from the public domain, the language of the reservations merely stated that the public lands in the state of Nevada being reserved were in part covered by timber, and it appeared that the public good would be promoted by setting apart said lands as a public reservation or national forest.<sup>45</sup>

The forests at issue here were reserved from the public domain on March 1st and April 15, 1907.<sup>46</sup> A 1907 letter from the Forest Supervisor<sup>47</sup> and a chapter out of the 1911 Supervisor's Annual Forest Plan for the Toiyabe National Forest<sup>48</sup> demonstrate the specific reasons these forests were reserved. Those documents focus on the condition of the range<sup>49</sup> indicating that the years preceding had been exceedingly dry, that the condition of the forests was bad so far as forage was concerned, that the Toiyabe Range had been badly overgrazed as a whole, the Toquima Range had been abused along

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<sup>44</sup>The Monitor, Toiyabe and Toquima National Forests were consolidated into the Toiyabe National Forest on July 2, 1908. Exhibit No. 63, March 19, 1997.

<sup>45</sup>Exhibit Nos. 60, 61, 62, March 19, 1997.

<sup>46</sup>The State Engineer notes that the U.S. in several claims on the Toiyabe National Forest asserted a priority date of April 15, 1907, (ex., claim R-04177); however, as demonstrated in Exhibit No. 60, March 19, 1997, the Toiyabe National Forest was set aside on March 1, 1907, and not April 15, 1907. The Monitor and Toquima National Forests were reserved on April 15, 1907. See Exhibit Nos. 61 and 62, March 19, 1997.

<sup>47</sup>Exhibit No. 46, March 17, 1997.

<sup>48</sup>Exhibit No. 47, March 17, 1997.

<sup>49</sup>In the free-for-all race for the best forage, large areas of range now within the Toiyabe National Forest were badly over-grazed. In the Supervisor's Annual Grazing Report for 1909, a request was made for a scientific investigation to determine practical means for reseeding this range. Old settlers who had used the range continuously for many years all agreed that range conditions had improved very noticeably since the creation of the Forest. See, Exhibit No. 47, pp. 14-15, March 17, 1997.

the foothills, and the Monitor Range had been overgrazed in parts.<sup>50</sup> The November 20, 1907, letter from the Forest Supervisor in Austin, Nevada, to the Forest Service Forester in Washington D.C. further enlightens us as to what activities prompted the reservation of these forests.

In former years these ranges were occupied solely by cattle men. In those days the usual local agreements as to the division of the range were in existence and were recognized. Then came the pioneer sheep man with a small flock, and after him came others, until within the past few years (1905-6-7) the cow man has practically been driven from the range. It is the same old story that has been sent up from every public range where sheep and cattle attempt to work in the same township. The sheep men and their flocks have become more numerous, and finally disregarding any and all rights belonging to other range users, the sheep men have encroached even to the fences of the patented lands in the low foot hills.

The plan of grazing has been to winter the sheep in the deserts lying to the south of these Forests. As spring comes on the sheep work north to the country lying about thirty miles north of Austin, where the lambing and sheering takes place. As soon as the lambs can travel they are started south again along the top of the Toiyabe range. The best feeding ground is at the head of the north fork of the Reese river and Twin canons. Every flock owner has tried to reach the country first. It is a race from the start. The result has been to literally cut the surface of the Toiyabe range into sheep trails, the bottoms of which in places are several inches below the roots of the grass and weeds. You will realize more fully what the condition is when I state that in 1906 ninety-six thousand sheep made the trip from the north end to the south end and back to the starting point through the narrow Toiyabe range. They have cut the gravelly soil very badly.<sup>51</sup>

The Toquima range has always been a cattle grazing ground. There is very little water near the north end of the Forest, that which exists being in the narrow canons. The complaint is made that as the sheep work south in the fall they travel the foothills in the district now

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<sup>50</sup>Exhibit No. 46, pp. 1-2, March 17, 1997.

<sup>51</sup>Exhibit No. 46, pp. 2-3, March 17, 1997.

comprising the National Forest, and when a watering is found they feed in and atound [sic] [around] the canon until the feed is exhausted and the water poluted [sic] to an extent that the cattle will not use it. This fall I notified the sheep owners to keep off the Forest area in traveling south and am arranging to station a Guard at Hot Springs to enforce the order.<sup>52</sup>

The letter from the Forest Supervisor just quoted also indicated that wild horses were destroying the range, that the Toiyabe Forest is lightly covered by Pinon pine and Mahogany, and that it should be ideal cattle range.

The Forest Supervisor's letter informs us that a substantial battle was going on between the nomadic sheep owners or herders, who were committing great damage to the forage on the range and to the private interests of land owners with substantial investments in homes, and the local cattlemen. The sheepmen utterly refused to recognize the rights of cattle owners to the range, and those cattlemen and ranchmen seriously objected to allowing transient flock owners to acquire range rights. "Local residents welcome Forest administration solely upon the ground that they need protection in range matters. They feel that they will be driven out of the country unless it is given, and as a matter of fact there is very little reason for the existence of National Forests here aside from water-shed and grazing protection."<sup>53</sup> This analysis is supported by a public document published by the United States Department of Agriculture in 1933 entitled The Public Domain of

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<sup>52</sup>Exhibit No. 46, p. 3, March 17, 1997.

<sup>53</sup>Exhibit No. 46, pp. 8-9, March 17, 1997.

Nevada and Factors Affecting Its Use<sup>54</sup> which stated that "[t]he national forests of Nevada were established at the request of the resident stockmen, who keenly felt the need for a means of keeping nomadic sheep off summer ranges."<sup>55</sup>

The State Engineer finds there is no indication that the National Forests at issue here were set aside for the primary purpose of timber production. The evidence indicates that the only other authorized primary purpose under the Organic Administration Act to be served was watershed protection which equates to forage and livestock management. The State Engineer concludes that the history of these forests indicates that the primary purpose of watershed protection was protection of the land itself from being badly cut up and overgrazed by sheep, and this primary purpose had nothing to do with the claims alleged by the USFS in this proceeding of minimal instream flows to support riparian vegetation and high flushing flows to move sediment through the system. The evidence indicates that the only watershed protection issue regarding these National Forests was protection of the forest forage cover in support of the cattlemen who had base home ranches<sup>56</sup> downstream which supported their operations.

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<sup>54</sup>United States Department of Agriculture, The Public Domain in Nevada and Factors Affecting Its Use, Technical Bulletin No. 301, Washington, D.C. 1933.

<sup>55</sup>Id. at 35.

<sup>56</sup>The base home ranch are the lands held in fee simple.

3. WATER IS NOT ESSENTIAL TO THE PRIMARY PURPOSE OF THESE FEDERAL RESERVATIONS.

The USFS argues that what is meant by watershed protection, i.e., securing favorable conditions of water flows, is protecting the physical integrity of stream channels and requires an implied reserved water right for a minimum base flow to support streamside vegetation and periodic high flows to transport sediment through the stream system. At the Pre-hearing Conference, the State Engineer stated that he recognized reserved rights claimed by the USFS under the Organic Administration Act of 1897 as defined in U.S. v. New Mexico<sup>57</sup> to effectuate the primary purpose of the Toiyabe National Forest of watershed protection, including instream flows to maintain stream channels, but only to the extent reserving such flows benefits downstream users.<sup>58</sup>

The USFS' witness Mr. Schmidt, qualified as an expert in Forest Service watershed management, testified that he was familiar with the history surrounding the mandate of the Forest Service in the Organic Administration Act to protect watersheds and the great concern was a linkage between the denuding of the forests and water conditions.<sup>59</sup> Mr. Schmidt testified as to reports that suggested the U.S.' concern was the heavy cutting of the forests in the west, fire, and other activities were going to cause damage,<sup>60</sup> and that there were concerns about forest management, i.e., the relationship

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<sup>57</sup>U.S. v. New Mexico, 438 U.S. 696, 57 L.Ed.2d 1052, 98 S.Ct. 3012 (1978).

<sup>58</sup>Transcript, pp. 9-10, August 13, 1996.

<sup>59</sup>Transcript, pp. 440-448, January 9, 1997.

<sup>60</sup>Transcript, p. 440, January 9, 1997.

of the destruction of forests to flooding and other damage.<sup>61</sup> In 1891 the first reservation act was passed,<sup>62</sup> and in 1897 the Organic Administration Act gave much more specific direction as to why forest reserves should be established and the purposes of those reserves.<sup>63</sup> After the Organic Administration Act was passed, the first document Mr. Schmidt was aware that described how forests would be operated indicated they were to be managed for sustainable long-term forest production.<sup>64</sup> Mr. Schmidt testified that it is his understanding long-term forest production implied watershed management in its full context, including the stream system. However, he provided no evidence to support the implication that included the stream system except to say it was his understanding when he took it up in 1964.

The USFS claims an implied reserved water right exists for a minimum base flow to protect streamside vegetation and a water right for periodic high flows to transport sediment through the stream system, i.e., flushing flows. The USFS' testimony provided through Mr. Schmidt to support an instream implied reserved water right indicated intact stream channels and their streamside vegetation reduce floods<sup>65</sup> by dissipating the energy that would otherwise move downstream causing damage in both the national forest and downstream. Further, that intact stream channels and riparian

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<sup>61</sup>Transcript, p. 440, January 9, 1997.

<sup>62</sup>The Creative Act of March 3, 1891, Ch. 561, § 24, 26 Stat 1095, 1103 (1891).

<sup>63</sup>Transcript, p. 441, January 9, 1997.

<sup>64</sup>Transcript, p. 443, January 9, 1997.

<sup>65</sup>Transcript, pp. 447-456, January 9, and March 17, 1997.

vegetation have greater channel storage and contact time which provides flows later in the season, and a riparian corridor can work as a firebreak. However, Mr. Schmidt further testified he was not aware of any studies in the Monitor Valley to support his statement that riparian vegetation would increase the water yield, and further noted the U.S.D.A. Soil Conservation Service once supported spraying willows in stream systems with chemicals to increase water yield.<sup>66</sup>

Mr. Schmidt did not provide evidence of how any of these minimum instream flows would actually benefit a downstream user in terms of water supply. He did not supply any evidence of how these minimum flows related to the watershed protection issue of overgrazing in these forests. The watershed protection issue in these particular National Forests was overgrazing, not trees and streamside vegetation. In fact, Mr. Schmidt testified it was not until the 1970's that the USFS began to even think about instream flows, and the term itself is a modern term.<sup>67</sup>

Dr. Chambers for the USFS testified that streamside vegetation maintains and restores stream channel form and function, provides protection from stream bank and flood plain erosion, can increase water storage thereby moderating flood impacts, and creates perennial streams and improves water quality.<sup>68</sup> Like Mr. Schmidt, Dr. Chambers' testimony never made a link between floods being an issue or streamside vegetation being part of the primary purpose for which these forests were reserved, nor did she refute that

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<sup>66</sup>Transcript, pp. 575-577, March 18, 1997.

<sup>67</sup>Transcript, pp. 749, 755, March 18, 1997.

<sup>68</sup>Transcript, p. 654, March 18, 1997.



vegetation historically was removed to increase the water yield of the system for downstream users. Dr. Chambers' testimony did not sufficiently demonstrate how this streamside vegetation increases water yield to the downstream user in any significant quantity outside the forest boundary or prevents destructive floods in the area of the lands of the downstream citizen in this adjudication. Although the State Engineer believes there may be some benefit to wildlife and fisheries by providing streamside vegetation, he has a difficult time tying these goals to the primary purpose for which the Toiyabe National Forest was created. The State Engineer does not believe the implied reservation of water rights doctrine should apply or Congress intended to reserve water for this purpose. It must never be forgotten as the reserved rights doctrine is raised by implication it must be strictly applied.

As to the U.S.' claims for implied reserved water rights for high water flushing flows, Mr. Schmidt stated high flows were needed for channel maintenance to convey sediment through the stream system.<sup>69</sup> Mr. Potyondy presented the bulk of the testimony on behalf of the USFS to support its implied reserved water right in-stream flow claims to the high flows needed to flush sediments out of stream channels, but did not provide any evidence of how this flushing benefitted the downstream user. While claiming an implied reserved water right, Mr. Potyondy indicated the USFS was going to

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<sup>69</sup>Transcript, pp. 485, 507-508, March 17, 1997.

rely on "natural channel processes to do that work because it's the most efficient and probably the only practical way of doing this."<sup>70</sup>

The State Engineer does not believe when Congress established the national forest system to provide forest cover to regulate flood water that Congress ever conceived high flushing flows were needed to move sediment through the stream system. There is nothing in the legislative history of the Organic Administration Act of 1897 to support the theory an implied reserved water right exists for this purpose. In fact, movement of sediment downstream was part of the ill that Congress was trying to prevent. Natural high water years will accomplish this function. The State Engineer will not recognize an implied reserved water right as he sees no benefit to the downstream user, it is not essential to the primary purpose of these reservations, and the purpose of the reservation will not be entirely defeated without such an implied right. As noted by Mr. Potyondy, the understanding of what constitutes favorable conditions of flow is changing over time because our scientific understanding changes over time.<sup>71</sup> It is not what we in the modern world believe that determines an implied reserved water right, but rather it was the intent of Congress at the time the Organic Administration Act of 1897 was enacted, and at the time these forest reservations were set aside in 1907.

From a review of the history of the Organic Administration Act of 1897 and the legislation setting aside these forests, it is

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<sup>70</sup>Transcript, p. 596, March 18, 1997.

<sup>71</sup>Transcript, p. 636, March 18, 1997.

perfectly clear that the historical concern was forest cover, i.e., grasses and shrubs, and not the new concept of streamside vegetation for stream channel maintenance or high flushing flows. The evil that Congress sought to prevent in 1897 was the denuding of forests in conjunction with the forage cover which when in place regulated water flows for downstream use and provided trees for the prosperity of the nation. The concern was not riparian vegetation to stabilize stream banks, to hold water and to flush pollutants. While the State Engineer personally believes the goals the USFS now seeks to implement are valuable, he does not believe they were part of the concept for which national forests were reserved and do not warrant the granting of an implied reserved water right.

The State Engineer concludes that the USFS did not provide sufficient evidence that these instream flow claims are essential to the primary purpose of these particular reservations which was watershed protection, which included forage that had been overgrazed. The State Engineer concludes the USFS did not provide evidence sufficient to prove that any instream flows would benefit the downstream user nor would the purpose of the reservations be entirely defeated without them. The water that is essential to the primary purpose of these reservations is the rain or snow that falls on the areas that supports forage for grazing.

**C. IMPLIED RESERVED WATER RIGHTS FOR ADMINISTRATIVE SITES  
WITHIN THE NATIONAL FORESTS**

The Hages objected to Proof Nos. R-04175 through R-04181, inclusive, filed by the USFS for administrative sites on the grounds those sites were not set aside by federal withdrawals of land, all

waters were appropriated prior to any valid reservation, the Organic Administration Act of 1897 did not purport to create a water right for all purposes, and the United States cannot reserve water it does not own nor could water be reserved under the Stock Water Reservoir Site Act of January 13, 1897.

The State Engineer finds the Hages' argument concerning the issue of the inability of the United States to reserve water it does not own is without merit based on a multitude of United States Supreme Court and other court decisions that recognize the doctrine of implied reservation of water rights.<sup>72</sup>

In determining whether there is a federally reserved water right implicit in a federal reservation of public land, the issue is whether the Government intended to reserve unappropriated and thus available water. Intent is inferred if the previously unappropriated waters are necessary to accomplish the purposes for which the reservation was created.<sup>73</sup>

The State Engineer finds that the administrative sites in this adjudication are all within the boundaries of the National Forests at issue. The State Engineer finds that it is not necessary that a reservation within a reservation be declared for an administrative site.

At the time these National Forests were reserved there was quite a battle going on between the nomadic sheep herder and the resident stockmen. The point of these forests being established was to protect the forests from overgrazing and to assist the cattlemen

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<sup>72</sup> See Winters v. United States, 207 U.S. 564 (1908); Arizona v. California, 373 U.S. 546 (1963); Cappaert v. United States, 426 U.S. 128 (1976); U.S. v. City and County of Denver, 656 P.2d 1, (Colo. 1982).

<sup>73</sup>Cappaert v. U.S., 48 L.Ed.2d at 534.

with keeping the nomadic sheepmen off the range. As has already been noted, the Forest Supervisor had to establish guards to prevent the sheepmen from taking tens of thousands of sheep through the country. When Congress established these forests in 1907 it must have contemplated management, since how else could the sheepmen be kept off the forests, and that meant a place for the person managing those forests to stay. One could not actively manage a problem of competing grazing interests without having persons stationed there to perform that task. Monitor Valley is a long way from any community by the standard means of travel today, the automobile. By horseback in 1907, it took days to ride out to some of the places where management of the resource took place. The precise federal purpose to be served on these forests was watershed protection through the prevention of overgrazing. The State Engineer finds management of these forests was contemplated and intended by Congress within the primary purposes of these reservations, management was essential to the primary purposes for which these particular forests were reserved, and without that management the purposes for which these forests were reserved would be entirely defeated. The State Engineer concludes an implied reserved water right exists for these administrative sites if there is unappropriated water available, but not for all the uses claimed by the USFS.

"The implied-reservation-of-water doctrine reserves only that amount of water necessary to fulfill the purpose of the reservation,

no more."<sup>74</sup> The primary purpose of these National Forests was watershed protection through the management of over grazing. Any person stationed at the administrative sites needed water for domestic (culinary, bathing), and domestic animal purposes. The State Engineer finds the quantity of water necessary for domestic (culinary, bathing) purposes, and the watering of domestic animals is a de-minimus amount. The State Engineer finds that the quantity of water for domestic purposes is 50 gallons per person per day and the amount for watering of the associated livestock is 20 gallons per animal per day. However, as a junior water right holder the USFS must provide access to the waters to any senior water right holder.

The State Engineer finds an implied reserved water right for irrigation is not necessary since the domestic animals used by the forest manager could be grazed on the same forage they were protecting for the cattlemen. If irrigation of lands in and around the administrative sites does not occur it will not defeat the primary purpose of the reservation. The State Engineer finds that the diversion rates claimed for irrigation purposes are not de-minimus and would impair prior existing water rights and water rights subject to Decrees 588 and 5038. Therefore, the State Engineer finds that the portion of the reserved water right claims filed by the USFS for irrigation purposes must be rejected.

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<sup>74</sup>Cappaert v. U.S., 48 L.Ed.2d at 535.

## 1. MEADOW CANYON CREEK ADMINISTRATIVE SITE.

The USFS claims filed for reserved water rights for the Meadow Canyon Creek administrative site are under Proof Nos. R-04176 (Meadow Spring), R-04177 (Triple Spring), R-04178 (Q Spring), and R-04179 (Box Spring). In addition, the USFS has an existing water right under Permit 10606, Certificate 2914, from an unnamed spring for domestic purposes within the Meadow Canyon Creek administrative site.

Proof No. R-04176 was filed on September 25, 1984, and amended on September 25, 1985, by the USFS claiming a reserved right with a priority date of April 15, 1907, from Meadow Spring for 0.002 cfs from May 1 to October 31, 0.132 cfs from June 1 to August 31, and 0.002 cfs from September 1 to October 31 of each year. The types of uses claimed are domestic (200 person days/yr.) from May 1 through May 31, stockwatering (50 horse days/mo.) from May 1 through October 31, and irrigation (5 acres of pasture) from June 1 through August 31 of each year for the purpose of administering programs of watershed protection within the Toiyabe National Forest.

Proof No. R-04177 was filed on September 25, 1984, by the USFS claiming a reserved right with a priority date of April 15, 1907, from Triple Springs for 0.501 cfs from May 1 to September 30, and 0.001 cfs from October 1 to October 31 of each year. The types of uses claimed are stockwatering (450 horse days/mo.) from May 1 through October 31, and irrigation (20 acres of pasture) from May 1 through September 30 of each year for the purpose of administering programs of watershed protection within the Toiyabe National Forest.

Proof No. R-04178 was filed on September 25, 1984, by the USFS claiming a reserved right with a priority date of April 15, 1907, from Q Spring for 0.001 cfs from April 1 through April 30, 0.502 cfs from May 1 through September 30, 0.002 cfs from October 1 through October 31, and 0.001 cfs from November 1 through November 30 of each year. The types of uses claimed are domestic (100 person days/mo.) from April 1 through November 30, stockwatering (450 horse days/mo.) from May 1 through October 31, and irrigation (20 acres of pasture) from May 1 through September 30 of each year for the purpose of administering programs of watershed protection within the Toiyabe National Forest.

Proof No. R-04179 was filed on September 25, 1984, by the USFS claiming a reserved right with a priority date of April 15, 1907, from Box Spring for 0.501 cfs from May 1 to October 31, and 0.011 cfs from October 1 to October 31 of each year. The types of uses claimed are stockwatering (450 horse days/mo.) from May 1 through September 30, and irrigation (20 acres of pasture) from May 1 through September 30 of each year for the purpose of administering programs of watershed protection within the Toiyabe National Forest.

The USFS filed Application 10606 on December 26, 1940, to appropriate the waters of an unnamed spring (aka Meadow Spring or House Spring) located in the NE¼ SW¼ Section 21, T.10N., R.45E., M.D.B &M. Application 10606 was permitted and subsequently issued a certificate on November 19, 1945, for domestic purposes in the amount of 0.001 cfs for the Meadow Canyon administrative site. At the time Application 10606 was filed, the Hages' predecessor did not



protest the issuance of said appropriation and the USFS has since continued to use the unnamed spring. The determination of the limit and extent of the water right under Permit 10606, Certificate 2914, has been previously determined as evidenced by the proof of beneficial use and the subsequent certificate of appropriation issued by the State Engineer. The State Engineer finds the unnamed spring under Permit 10606, Certificate 2914, to be the same spring source as Meadow Spring under Proof No. R-04176. In the event the Court recognizes a reserved right for the Meadow Canyon Creek administrative site, Permit 10606, Certificate 2914, is supplemented by Proof No. R-04176.

The priority system for allocating water rights in Nevada allows for junior appropriators to have water from a source once the needs of senior appropriators are met. The State Engineer finds that the waters subject to Decree 588 are senior in priority to any of the reserved water right claims filed by the USFS.

Since the quantities necessary for domestic and stockwatering purposes are de-minimus, the State Engineer finds there is unappropriated water available on the various sources for the USFS administrative sites since use of the de-minimus amounts of water will not impair prior existing rights, and both junior and senior rights can be exercised during the same time periods. The State Engineer determines that Proofs R-04176, R-04177, R-04178, R-04179 are deemed valid for domestic and livestock purposes only, and concludes that the portion of the reserved claims for irrigation purposes must be rejected consistent with the previous analysis.

## 2. BARLEY CREEK AND SCUFFE'S ADMINISTRATIVE SITES

The claim for a reserved water right for the Barley Creek administrative site is under Proof No. R-04175 (Barley Creek). The claims for a reserved water right for the Scuffe's administrative site are under Proof Nos. R-04180 (Scuffe's Spring) and R-04181 (Upper Scuffe's Spring).

Proof No. R-04175 was filed on September 25, 1984, and amended on September 25, 1985, by the USFS claiming a reserved right with a priority date of April 15, 1907, from Barley Creek for 0.002 cfs from May 1 through October 31 of each year. The types of uses claimed are domestic (100 person days/yr.) and stockwatering (50 horse days/mo.) for the purpose of administering programs of watershed protection within the Toiyabe National Forest.

Proof No. R-04180 was filed on September 25, 1984, and amended on September 25, 1985, by the USFS claiming a reserved right with a priority date of April 15, 1907, from Scuffe's Spring for 0.002 cfs from May 1 through May 31, 0.602 cfs from June 1 to August 31, and 0.002 cfs from September 1 through October 31 of each year. The types of uses claimed are domestic (200 person days/yr.) from May 1 through October 31, stockwatering (50 horse days/mo.) from May 1 through October 31, and irrigation (25 acres of pasture) from June 1 through October 31 of each year for the purpose of administering programs of watershed protection within the Toiyabe National Forest.

Proof No. R-04181 was filed on September 25, 1984, and amended on September 25, 1985, by the USFS claiming a reserved right with a priority date of April 15, 1907, from Upper Scuffe's Spring for

0.002 cfs from May 1 through May 31, 0.602 cfs from June 1 to August 31, and 0.002 cfs from September 1 through October 31 of each year. The types of uses claimed are domestic (200 person days/yr.) from May 1 through October 31, stockwatering (50 horse days/mo.) from May 1 through October 31, and irrigation (25 acres of pasture) from June 1 through October 31 of each year for the purpose of administering programs of watershed protection within the Toiyabe National Forest.

The priority system for allocating water rights in Nevada allows for junior appropriators to have water from a source once the needs of senior appropriators are met. The State Engineer finds that the waters subject to Decree 5038 are senior in priority to any of the reserved water right claims filed by the USFS.

Since the quantities necessary for domestic and stockwatering purposes are de-minimus, the State Engineer finds there is unappropriated water available on the various sources and use of the de-minimus amounts of water will not impair prior vested rights, and both junior and senior rights can be exercised during the same time periods.

The State Engineer determines that the Proofs R-04175, R-04180, and R-04181 are deemed valid for domestic and livestock purposes only, and concludes that the portion of Proofs R-04180 and R-04181 for irrigation purposes must be rejected consistent with the previous analysis.

D. IMPLIED RESERVED RIGHTS UNDER THE MULTIPLE-USE SUSTAINED-YIELD ACT OF 1960

The USFS claims implied reserved water rights under the Multiple-Use Sustained-Yield Act<sup>75</sup> ("MUSYA") with a priority date of 1960 for water necessary to fulfill the "additional" purposes for which the national forests were declared to be established and administered, i.e., fisheries resources.

The MUSYA provides:

It is the policy of the Congress that the national forests are established and shall be administered for outdoor recreation, range, timber, watershed, and wildlife and fish purposes. The purposes of this Act [16 USCS §§ 528-531] are declared to be supplemental to, but not in derogation of, the purposes for which the national forests were established as set forth in the Act of June 4, 1897 (16 USC 475).

The USFS argues that the very first sentence of the MUSYA unequivocally recognized establishment of the national forests for five purposes and there should be little serious dispute the MUSYA reserved the national forests for five purposes rather than the two found in the Organic Act.

The Supreme Court in U.S. v. New Mexico found:

The House Report accompanying the 1960 legislation, however, indicates that recreation, range, and "fish" purposes are "to be supplemental to, but not in derogation of, the purposes for which the national forests were established" in the Organic Administration Act of 1897.<sup>76</sup>

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[T]he "reserved rights doctrine" is a doctrine built on implication and is an exception to Congress' explicit deference to state water law in other areas. Without

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<sup>75</sup>16 U.S.C. § 528 et seq.

<sup>76</sup>U.S. v. New Mexico, 438 U.S. 696, 57 L.Ed.2d 1052, 1065, 98 S.Ct. 3012 (1978).

legislative history to the contrary, we are led to conclude that Congress did not intend in enacting the Multiple-Use Sustained-Yield Act of 1960 to reserve water for the secondary purposes there established. [Footnote omitted.] A reservation of additional water could mean a substantial loss in the amount of water available for irrigation and domestic use, thereby defeating Congress' principal purpose in securing favorable conditions of water flow. Congress intended the national forests to be administered for broader purposes after 1960 but there is no indication that it believed the new purposes to be so crucial as to require a reservation of additional water. By reaffirming the primacy of a favorable water flow, it indicated the opposite intent.<sup>77</sup>

The State Engineer concludes that the additional purposes set forth under MUSYA are secondary<sup>78</sup> and not the primary purposes for which national forests are reserved. Therefore, the State Engineer will not recognize implied reserved water rights under the Multiple-Use Sustained-Yield Act of 1960 for fishery resource purposes.

**E. EXPRESS RESERVED RIGHTS UNDER THE NEVADA WILDERNESS PROTECTION ACT OF 1989**

The Hages objected to the award of any water rights to the USFS on the grounds that his predecessors in interest had been awarded all waters of certain sources under Decrees 588 and 5038 issued by the Fifth Judicial District Court of Nevada. However, the Hages in their objection did not specifically identify Proof Nos. R-07220 and R-07221 as claims to which he was objecting. Proof Nos. R-07220 and R-07221 are the claims filed by the USFS for the Alta Toquima and Table Mountain Wilderness areas, respectively, for wildlife, public, administrative, instream flow and non-consumptive in situ uses. The State Engineer finds that since there is no specific objection filed

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<sup>77</sup>U.S. v. New Mexico, 57 L.Ed.2d at 1066.

<sup>78</sup>See also, U.S. v. City and County of Denver, 656 P.2d 1, 24-27 (Colo. 1982).

the Hages are precluded from objecting to the water rights recognized under these claims.

In the Nevada Wilderness Protection Act of 1989<sup>79</sup>, Congress expressly reserved a quantity of water sufficient to fulfill the purposes of the wilderness areas created by the Act with a priority date of 1989, but noted that the administration of the wilderness was subject to valid existing rights.

Dr. Chambers' testimony that these two wilderness areas are essentially preserved in their natural condition was unrefuted.<sup>80</sup> The USFS did not provide any evidence on what Congress meant by expressly reserving a quantity of water sufficient to fulfill the primary purpose of a wilderness reservation.

Wilderness areas are considered to be untrammelled by man, retaining a primeval character and are to be protected and managed so as to preserve their natural and pristine condition. The State Engineer finds that a recognition of a reserved water right for wilderness means all the surface water will remain in its natural state and flow through the system after the historical uses of prior existing water rights are satisfied. The State Engineer finds that any water granted for wilderness purposes cannot be manipulated by the activities of man, must remain in its pristine natural state, be non-consumptive; however, he recognizes de-minimus consumptive uses by wildlife and the public. The administrative uses are not clearly defined and administration of the wilderness is carried out by the

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<sup>79</sup>Public Law 101-195, 103 Stat. 1784, Dec. 5, 1989.

<sup>80</sup>Transcript, pp. 386-387, January 9, 1997.

USFS which has administrative sites in the National Forest and such uses will not be recognized. The State Engineer determines the claim Nos. R-07220 and R-07221 for reserved water rights for the wilderness areas are valid claims as modified with a priority date of December 5, 1989.

**F. PUBLIC WATER RESERVES CREATED PURSUANT TO EXECUTIVE ORDER NO. 107, DATED APRIL 17, 1926**

The Hages requested the State Engineer take administrative notice of a decision of the Fifth Judicial District Court of Idaho, In Re Snake River Basin Adjudication, issued December 9, 1996, that held that Executive Order No. 107 - Public Water Reserve ("PWR 107") did not imply a reservation of water by the federal government, but rather that the purpose of the reservation was to prevent the monopolization of land surrounding water holes to allow grazing access to watering sites.

The Memorandum Decision and Order which the Hages requested the State Engineer to administratively notice has since been overturned. Therefore, the State Engineer declines to take administrative notice of said decision. However, the Hages presented the arguments that led up to that decision and they will be considered.

The Hages argue that PWR 107 was intended to prevent the appropriation of land, not water, and even if the withdrawal of land was accompanied by an intent to reserve water, the water source was fully appropriated prior to the date of the reservation. The Hages also argue that no water was reserved as it was not necessary for the primary purpose of the reservation.

The Federal Land Policy and Management Act ("FLPMA")<sup>81</sup> provides that all withdrawals in force on the date of enactment shall remain in force until specifically changed in accordance with the Act. The State Engineer finds no evidence was presented to indicate any relevant withdrawals in this adjudication have specifically been changed in accordance with FLPMA.

The executive order, Public Water Reserve 107, provides:

"Every smallest legal subdivision of public land surveys which is vacant, unappropriated, unreserved public land and contains a spring or waterhole and all land within one quarter mile of every spring or waterhole, located on unsurveyed public land, be and the same is hereby withdrawn from settlement, location, sale or entry, and reserved for public use in accordance with the provisions of Section 10 of the Act of December 29, 1916."

That executive order does not expressly state an intention to reserve water in public springs or waterholes and to withdraw it from appropriation under state law. *Cf. Cappaert v. United States, supra* (express reservation of water pool by proclamation). The water court, however, found that subsequent Department of Interior regulations enacted pursuant to 43 U.S.C. § 300 reserved an amount of water minimally necessary to "prevent the monopolization of vast land areas in the arid states by providing a source of drinking water for animal and human consumption."

We agree that the federal government has reserved rights to provide a watering supply for animal and human consumption. The Stock Raising Homestead Act of 1916 gave the Department of Interior authority to regulate public springs and waterholes so that no person could monopolize or control vast areas of western land by homesteading the only available water supply. [Footnote omitted.] Regulations later enacted by the Department of the Interior recognized the limited domestic drinking and

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<sup>81</sup>43 USC § 1701 et seq.



stockwatering purposes of the 1926 reservation.<sup>82</sup> It is also significant that the Department of the Interior, under the legislation providing for public water reserves, construed its authority as only granting control of access to the lands withdrawn. [Footnote omitted.] The law of prior appropriation still governs the allocation of excess waters. It appears to us that the reservation documents indicate no intent to reserve the entire yield of public springs and waterholes involved here. Nothing in the statute or its legislative history indicates a congressional intent to open public springs and waterholes to the many public uses which the United States is now claiming.<sup>83</sup>

The State Engineer agrees with the Colorado Court that a public water reserve includes an implied reservation of water. In every instance where the implied-reservation-of-rights doctrine arises it is from a reservation of land, otherwise there would be no issue of whether the land reservation also had an implied reservation of water. The State Engineer finds the issues in this adjudication are whether the springs upon which the BLM filed PWR 107 claims are important springs or water holes which make them special by their location, whether there is unappropriated water, and whether the water source has enough flow to support human and animal consumption.

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<sup>82</sup>The Department of Interior's most recent pronouncement on springs and waterholes is codified in 43 C.F.R. § 2311.0-3(a)(2) (1980):  
"2. *Purpose of withdrawal.* The Executive Order of April 17, 1926, was designed to preserve for general public use and benefit unreserved public lands containing water holes or other bodies of water needed or used by the public for watering purposes. It is not therefore to be construed as applying to or reserving from homestead or other entry lands having small springs or water holes affording only enough water for the use of one family and its domestic animals. It withdraws those springs and water holes capable of providing enough water for general use for watering purposes."

<sup>83</sup>U.S. v. City and County of Denver, 656 P.2d 1, 31-32 (Colo. 1983).

The State Engineer has previously held that if a spring source is not capable of producing at least 1,800 gallons per day (gpd) (the quantity of water the Nevada legislature has determined is necessary to supply one domestic unit) it cannot qualify as a public water reserve source. The BLM in its objection stated that sources capable of producing 283 gpd should qualify as public water reserves, but did not put forth any evidence at the hearing on objections to the Preliminary Order of Determination to support its objection. The State Engineer determines that the quantification of 1,800 gpd is not a requirement to qualify as a PWR 107 claim in this Order. The State Engineer determines that claims of reserved water rights under a PWR 107 are recognized as viable claims in a general adjudication under the guidelines outlined below:

- 1) The federal reserved right created by PWR 107 has a priority date of April 17, 1926, the date of the Executive Order, unless the subject spring or waterhole came into existence after that date, but before October 21, 1976.

- 2) PWR 107 claims cannot divert or displace a water right vested under Nevada law prior to April 17, 1926.

- 3) PWR 107 claims do not pertain to artificially developed water sources and are limited to only human and animal consumption.

- 4) The quantity of water reserved from a particular source is the minimum quantity required to prevent monopolization of the water source and meet the primary purpose of the reservation. The State Engineer has established that

"important springs" be so isolated and of satisfactory quality to satisfy the need for human and animal consumption.

A duty (annual quantity) is not given in this Order in accordance with the criteria for PWR 107 claims. A specific quantity is not necessary to make a spring special and unique. However, it cannot be a seep or a wet spot. Since its location is unique its use cannot be changed.

The State Engineer's determinations in the Preliminary Order of Determination regarding the PWR 107 reserved right claims filed by the BLM were objected to by both the BLM and the Hages. The BLM objected to the rejection of claims of reserved rights under Proof Nos. R-04525, R-04526 and R-04527. The Hages objected to the recognition of Proof No. R-07326 as it is in conflict with decreed water and a claim to water was not the intent of the Executive Order.

Proof Nos. R-04525, R-04526 and R-04527 were filed for reserved rights for stockwatering and wildlife purposes at the time the Preliminary Order of Determination was issued. The State Engineer rejected these proofs in the Preliminary Order of Determination based on the fact that the stated uses of stockwatering and wildlife are not valid for PWR 107 claims. In light of this determination, a letter dated September 11, 1996, was sent to the State Engineer from the office of the Solicitor for the United States Department of the Interior in which the BLM modified the purposes of the claims to be consistent with the purposes for which the public water reserves were established. In addition, a request was made by the BLM during

the public administrative hearing on the objections to the Preliminary Order of Determination to change the manner of use as outlined in the letter to human and animal consumption. This request was allowed by the State Engineer and the BLM claims under Proof Nos. R-04525, R-04526 and R-04527 were modified to reflect the purposes to be for human and animal consumption.<sup>84</sup>

In addition to those claims, the BLM filed claims for public water reserves under Proof Nos. R-07320, R-07321, R-07323, R-07324, R-07325 and R-07326 for domestic and stockwatering purposes which were determined to be valid claims in the Preliminary Order of Determination.

Proof No. R-04525 is filed by the BLM for waters of an unnamed spring in the SE¼ SE¼ of Section 33, T.12N., R.47E., M.D.B.&M. The Hages filed Proof No. V-04465 for irrigation, stockwater and domestic purposes with a priority of 1874 from Mosquito Creek and its tributaries. The claim lists numerous points of diversion for stockwatering purposes of which point of diversion #21 describes the source as Desception Spring. The waters of Mosquito Creek and its tributaries are the subject of Decree 5038 and Proof No. V-04465 and are recognized as a vested right in the Decree. The State Engineer finds that Proof No. V-04525 would displace a prior vested right and be in conflict with Decree 5038. The State Engineer finds that Proof No. V-04525 is for the same spring source as claimed under Proof No. V-04565 that is the subject of Decree 5038 and must be rejected.

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<sup>84</sup>Transcript, p. 206, January 7, 1997.

The BLM also filed two other PWR 107 claims under Proof Nos. R-04526 and R-07320 within the SE¼ NE¼ Section 1, T.8N., R.46E., M.D.B.&M. The State Engineer finds that the BLM is entitled to only one public water reserve claim per 40 acre subdivision. Therefore, the State Engineer determines that only one of the two proofs on this source can be recognized and Proof No. R-04526 be rejected in this Order and Proof No. R-07320 be recognized.

The BLM also filed as PWR 107 reserved right claims Proof Nos. R-07323 and R-07325 which both are located within the SW¼ SE¼ of Section 9, T.13N., R.47E., M.D.B.&M. The State Engineer finds that the BLM is entitled to only one public water reserve claim per 40 acre subdivision. Therefore, the State Engineer determines that only one of the two proofs on this source can be recognized and Proof No. R-07325 be rejected in this Order and Proof No. R-07323 be recognized.

The Hages objected to the State Engineer's recognition of Proof No. R-07326 since the water claimed is from the same source known as Warm Springs upon which a water right was previously awarded to Hages' predecessor in interest in Decree 5038. BLM's Proof No. R-4527 is described as being located in the same 40 acre subdivision as Proof No. R-07326 and on the same source of water. Proof Nos. R-04527 and R-07326 are for the same waters as described in Proof No. V-04463 filed by the Hages' claiming a vested right with a priority date of 1874 for stockwater and domestic purposes.

Decree 5038 describes the Warm Springs as being located in Section 12, T.11N., R.46E., M.D.B.&M.<sup>85</sup> However, testimony provided at the hearing on the objections to the Preliminary Order of Determination indicated that Warm Springs was misidentified in the Decree and is actually located in an area that borders between the NW¼ of Section 5 and the NE¼ of Section 6, T.11N., R.47E., M.D.B.&M. The point of diversion under Proof No. V-04463 is described as being located in the SE¼ NE¼ of Section 6, T.11N., R.47E., M.D.B.&M. The points of diversion under Proof Nos. R-04527 and R-07326 are described as being located in the SW¼ NW¼ of Section 5, T.11N., R.47E., M.D.B.&M.

The State Engineer finds the description of Warm Springs in Decree 5038 is in error and the claims filed under Proof Nos. R-04527, R-07326 and V-04463 are all filed on the same source of water as previously decreed. The State Engineer finds there is no unappropriated water from Warm Springs and the water quality is not fit for human consumption and determines that Proof Nos. R-04527 and R-07326 must be rejected. The State Engineer finds Proof No. V-04463 to be the vested water right recognized in Decree 5038.

Proof Nos. R-07321 and R-07324 were recognized in the Preliminary Order of Determination, have no competing claims filed on them, were not objected to and are determined to be valid in this Order. Consistent with the purposes of a public water reserve, the State Engineer finds that Proof Nos. R-07320, R-07321, R-07323, and R-07324 are recognized as claims for human and animal consumption.

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<sup>85</sup>Transcript, pp. 357-359, January 8, 1997.

#### G. PRIVATE RIGHTS ON PUBLIC LANDS

The USFS objects to the issuance of stockwater rights to private grazing permittees on federal lands on the grounds that those private permittees have no right or claim to an interest in federal property or resources associated with permitted use of federal property, and it is prohibited under the terms of federal grazing permits and law. The USFS also objected to the issuance of stockwater rights which are appurtenant to the cattle which use the federal estate instead of being appurtenant to the federal land where the intended federal benefit from grazing occurs. The USFS further objected to those identified proofs or permits determined to be valid, specifically alleging that:

- (a) the claimants failed to establish a proper chain of title and exclusive use nor does the evidence support title and/or use;
- (b) the proofs or permits demonstrate an illegal or expanded use and change in point of diversion and place of use;
- (c) the historical record does not support the priority dates, irrigated acres claimed, season of use or uses;
- (d) the water right has been abandoned or forfeited;
- (e) the amount of water determined necessary for irrigation exceeds the duty of water established in the Preliminary Order of Determination;
- (f) the use of water will interfere with the proper management and use of federal property in violation of federal and state law; and

(g) the claimant no longer has a valid federal grazing permit; therefore, no beneficial use of the waters is occurring by the non-federal claimants.

1. PRIVATE RIGHTS OR CLAIMS TO AN INTEREST IN "FEDERAL PROPERTY" OR RESOURCES ASSOCIATED WITH PERMITTED USE OF FEDERAL PROPERTY

The USFS argues that it is seeking to fulfill the directives of Congress by acquiring state water rights that enable the government to operate its grazing program on the national forest and it cannot allow private individuals to thwart the directives of Congress and monopolize the grazing land of the national forests by acquiring exclusively-owned stockwatering rights on the national forests. The USFS alleges that as a matter of law a private party may not own water rights for stockwatering purposes where the point of diversion and place of use are on the national forests.

The ranchers who settled this part of Nevada were there long before the USFS even existed and had been beneficially using the waters for stockwatering and irrigation purposes. Under the prior appropriation system of acquiring water rights, the earliest documented use is of critical importance in establishing a right of use. The State Engineer finds that the water the USFS is arguing about is not "federal property."

Notwithstanding its ownership of water forming part of the public domain, the United States for a period of years silently acquiesced in the creation of private appropriative rights in water on the public domain under customary local uses. [Citation omitted.] When it was confronted with the customary system of water allocation in the West, however, the federal government was relegated to the position of recognizing accomplished facts and, in a series of statutes passed in the last half of the nineteenth century, Congress rejected the alternative of



a general federal water law. [Citation omitted.] In 1866, Congress provided statutory protection to water users who had relied upon the customary legal system in the western states for allocating water by prior appropriation. The Act of July 26, 1866 (1866 Act) provided:

"[W]henever, by priority of possession, rights to the use of water for mining, agricultural, manufacturing, or other purposes, have vested and accrued, and the same are recognized by the local customs, laws, and the decisions of courts, the possessors and owners of such vested rights shall be maintained and protected in the same; ...Next, the Act of July 9, 1870 made it clear that the rights of patentees of federal lands were subject to the appropriative rights recognized by the 1866 Act...Finally, the Desert Land Act of 1877 reaffirmed the rule that private rights in waters on the public domain were to be governed by the appropriative doctrine...

By virtue of these acts, Congress determined that water rights on the public domain could be acquired under state law embodying the appropriation doctrine. [Citation omitted.] It thereby largely acquiesced in comprehensive state control over the appropriation of water, including water on federal lands, at least with respect to rights that could be asserted by private appropriators. [Footnote omitted.] The United States Supreme Court has interpreted these acts as expressing congressional recognition of and acquiescence in water rights law developed by the western states:

"Congress intended [by these acts] 'to recognize as valid the customary law with respect to the use of water which had grown up among the occupants of the public land under the peculiar necessities of their condition.'" *California v. United States*, 438 U.S. 645, 656, 98 S.Ct. 2985, 2991, 57 L.Ed.2d 1018, 1027 (1978).<sup>86</sup>

The USFS argues that while the Mining Act of 1866 and the Desert Land Act of 1877 generally acquiesced to the private appropriation of water for mining, manufacturing and agricultural

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<sup>86</sup>United States V. City and County of Denver, 656 P.2d 1, 7-8 (Colo. 1982).

purposes, they do not allow the private acquisition of stockwater sources for use on the federal public land.

The Mining Act of 1866 provides in relevant part:

Whenever, by priority of possession, rights to the use of water for mining, agriculture, manufacturing, or other purposes have vested and accrued, and the same are recognized and acknowledged by the local customs, laws and the decisions of courts, the possessors and owners of such vested rights shall be maintained and protected in the same....<sup>87</sup>

The Desert Land Act provides in pertinent part:

all surplus water over and above such actual appropriation and use, together with the water of all [,] lakes, rivers and other sources of water supply upon the public lands and not navigable, shall remain and be held free for the appropriation and use of the public for irrigation, mining and manufacturing purposes subject to existing rights.<sup>88</sup>

The USFS notes that these statutes are often cited for the general proposition that the acquisition and use of water on the public domain is governed by state law,<sup>89</sup> and argues that although this statement is sound as a general matter, it is not true when applied to stockwatering rights. The USFS argues that the provisions were not intended to apply to stockwatering on the public lands, and even if they did encompass stockwatering they were superseded by subsequent, more specific directives of Congress which preclude the issuance of private stockwatering rights on public

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<sup>87</sup>Act of July 26, 1866, ch. 262, § 9, 14 Stat. 253, codified at 30 USC § 51.

<sup>88</sup>Act of March 3, 1877, ch. 107, 19 Stat. 377, codified, as amended at 43 USC § 321.

<sup>89</sup>See Ca. v. U.S., 438 U.S. 645, 653-663 (1978); Federal Power Comm. v. Oregon, 349 U.S. 435 (1955); Ca. Ore. Power Co. v. Beaver Portland Cement Co., 295 U.S. 142 (1935); U.S. v. Rio Grande Dam and Irrigation Co., 174 U.S. 690, 19 S.Ct. 770 (1889).

lands. The USFS argues that since these statutes did not specifically state "stockwater" it was excluded from the provisions which separated the water from the land.

However, this legal argument is completely contradictory to a statement made by the United States Department of Agriculture in 1933 which said that stockwatering was within the definition of agriculture. In a United States Department of Agriculture Bulletin<sup>90</sup> the following is found:

The mining law of 1866 established the principle of the right to put water to beneficial use outside its natural channels without returning it undiminished in quantity, as required by riparian law. It also established the priority-of-use right, which is so important for irrigation. This law was primarily written to settle the mining troubles and to give properties worth millions of dollars a legal status. Much of the California mining was placer mining and required water to wash out the gold. So the customs and their change to laws took care of mining water rights and included the use of water for agriculture as well. Waters used for mining and agricultural purposes were recognized as under the jurisdiction of the State. Later expansions of the meaning of the phraseology **have included stock water** along with the waters used for mining and agriculture. It is now possible under the existing State water laws for an applicant to have allotted to his use by the State engineer the water - wells, spring, or seeps - found on the public lands, **without the need of owning the land upon which it arises.**<sup>91</sup> (Emphasis added.)

The same publication just quoted has other references which show that the USFS recognized the ownership of private stockwater rights on the public lands. It notes that "[w]hen the ranges were occupied by cattle alone, such **privately owned watering places** did exert a measure of control over the surrounding public range

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<sup>90</sup>U.S. Dept. of Agriculture, The Public Domain of Nevada, Technical Bulletin No. 301, p. 33 (1933).

<sup>91</sup>Id. at 32.

lands... [but] [t]his control disappeared when it was learned that sheep could run over such ranges in winter wherever sufficient snow could be found to supply them with water."<sup>92</sup> (Emphasis added.)

With the other dry-land States, Nevada was granted control of its natural waters by the law of 1866 ..., and for many years its citizens appropriated irrigation and stock waters (along with those used for mining and smelting) without any very definite regulations. In 1905 the State legislature passed a law establishing a method of obtaining the right to put waters to beneficial use. Water appropriations that were already established at the time of the passage of this act were recognized as vested rights, for both irrigation and stock water. Future appropriations, under this law, are to be made through the State engineer, who keeps a record of all official allotments.<sup>93</sup>

It does not get much clearer that the private stockman can hold water on the public lands than the Supreme Court's holding in U.S. v. New Mexico wherein it ruled:

The United States contends that, since Congress clearly foresaw stockwatering on national forests, reserved rights must be recognized for this purpose. The New Mexico courts disagreed and held that any stockwatering rights **must be allocated under state law to the individual stockwaterers. We agree.** (Emphasis added.)

While Congress intended the national forests to be put to a variety of uses, including stockwatering, not inconsistent with the two principal purposes of the forests, stockwatering was not itself a direct purpose of reserving the land. [Footnote omitted.] If stockwatering could not take place on the Gila National Forest, Congress' purposes in reserving the land would not be defeated. Congress, of course, did intend to secure favorable water flows, and one of the uses to which the enhanced water supply was intended to be placed was probably stockwatering. But Congress intended the water supply from the Rio Mimbres to be located among private appropriators under state law. [Citation omitted.] There is no indication in the legislative histories of any of the forest Acts that Congress foresaw any need for the

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<sup>92</sup>Id. at 18.

<sup>93</sup>Id. at 19.

Forest Service to allocate water for stockwatering purposes, a task to which state law is well suited.<sup>94</sup>

In the files of the office of the State Engineer is a letter dated September 25, 1961, wherein the BLM stated that the State Engineer should grant the water right to the present range user.<sup>95</sup> USFS manuals for administering watershed and air management on lands they control have recognized the protection of possessors and owners of rights to water for mining, agriculture, manufacturing or other purposes.<sup>96</sup> While the BLM and the USFS may differ on this position, the State Engineer finds no relevance in the difference in that position. Congress separated the water from the land, and has a long history of deference to state regulation of the water resources within its boundaries.

While the United States Government has apparently changed its position regarding who should own the stockwater rights on the federal lands, this shift in position cannot change the history that for over 100 years stockmen have owned the stockwater rights on the public lands. The Taylor Grazing Act at 43 U.S.C. 315(b) recognized the existence of prior privately owned water rights on the public lands and the continued existence of those rights in the very fact that it recognizes a preference for grazing permits to go to landowners within or near the grazing district engaged in the livestock business or who own water rights. The Act also states

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<sup>94</sup>U.S. v. New Mexico, 438 U.S. 696, 57 L.Ed.2d 1052, 1066-1067, 98 S.Ct. 3012 (1978).

<sup>95</sup>File No. 17320, official records in the office of the State Engineer.

<sup>96</sup>Exhibit Nos. 28 and 35, January 7, 1997.

that nothing in the Act shall be construed in any way to diminish or impair any right to possession or use of water for agriculture that was vested under existing law validly affecting the public lands. For the United States to now argue that stockwater does not come under the definition of agriculture goes completely against history and law. The State Engineer finds that both history and law support issuance of water rights to private persons for stockwatering on the public lands and concludes that stockwatering rights may be granted to private citizens on the public lands, including those lands encompassed by the national forests.

## 2. CLAIMANTS CHAIN OF TITLE AND PROOF OF USE.

The USFS and the BLM argue that the claimants failed to show title and exclusive use and the evidence does not support title and/or use.

The non-federal claimants chain of title to the privately held base home ranch for the proofs filed in this proceeding pertain to lands that in some instances were patented and in others are possessory claims to lands controlled by the federal government.

The State Engineer is authorized and is responsible for maintaining water right files and accompanying documents. Water rights transfer with the land to which they pertain unless there is a specific reservation of the water rights in the document of transfer.<sup>97</sup> The documents submitted to support the claims of vested rights in this adjudication proceeding are the only evidence available to the State Engineer. Documents which convey an interest

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<sup>97</sup>Zolezzi v. Jackson, 72 Nev. 150, 297 P.2d 1081 (1956).

in land with appurtenant water rights include the right to beneficially use the water sources incidental to those patented lands.

The record of the ownership transfer of the lands included in the various proofs is the only documentation on file in the office of the State Engineer to determine if the claimant is the successor in interest to the individual that first put the subject waters to beneficial use. The State Engineer finds that the private claimants in this adjudication are the successors in interest and are deemed to be the recipient of the vested water rights as evidenced by the documents filed demonstrating their chains of title.

### 3. BENEFICIAL USE WITHOUT CURRENT GRAZING PERMIT

The USFS objected to the determination of vested water rights wherein the non-federal claimants no longer have a valid federal grazing permit, because no beneficial use of the waters is occurring by the non-federal claimants.

The State Engineer finds that the claims filed in this proceeding are for vested water rights held by the successors to the early stockmen who grazed the range livestock<sup>98</sup> on the public range<sup>99</sup> wherein the beneficial use was occurring prior to 1905 is prior to control of the public lands by the federal entities that currently issue grazing permits. The State Engineer concludes that the claims filed for vested water rights for stockwatering purposes wherein the ability of the claimant to put the waters to beneficial

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<sup>98</sup>NRS § 533.485(2).

<sup>99</sup>NRS § 533.485(1).

use is currently impaired does not invalidate the claims filed for watering livestock. The issues concerning various actions by the USFS are before another court and not the subject of this proceeding.<sup>100</sup>

#### 4. FORFEITURE OR ABANDONMENT

The USFS argues that certain claimants have either abandoned or forfeited their water rights as claimed. The elements necessary to prove either were not produced by the USFS during the hearing. Therefore, the State Engineer finds that the claims of abandonment and forfeiture by the USFS are not substantiated in the record.

#### 5. IRRIGATION

The filings by non-federal claimants for irrigation purposes in some instances have claimed portions of places of use controlled by the federal government. The non-federal claimants in this proceeding are the successors in interest to the original appropriators who diverted and put to beneficial use various streams and springs that existed and crossed the federal public lands. Irrigation occurred on the open public lands even though the claimants had no title to the place of use. Early settlement occurred on these unsurveyed public lands in this state and throughout the west. Local customs and laws adopted the prior appropriation system of acquiring waters rights by those who were early settlers on the public domain. The early settlers obtained patents to these lands, once surveyed, and the State Engineer must recognize the pre-statutory water rights that irrigated these lands.

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<sup>100</sup>Transcript, pp. 140, 170, January 7, 1997.



The lands were patented by 40 acre parcels or 40 acre subdivisions. In some cases, the irrigated lands remain on the fractions of corners of a 40 acre subdivision that remains in the public domain. The State Engineer finds that in these cases it is the beneficial user, a successor to the original appropriator, that is entitled to the water right on these lands. It was he and not the United States that originally diverted the water and he, not the United States, that has been the benefactor of the beneficial use.

These acts of settlement were later recognized by Congress through its legislation. Acts of Congress recognized appropriations of water on the public range for various purposes including agriculture that had been only tacitly recognized before. The State Engineer finds that the waters of the subject adjudication are non-navigable waters and that the Congressional legislation enacted specifically defined irrigation as an allowable use of the water on the public range.

Even though the original settlers were trespassers on the public range, the federal government did not act to evict them and this lack of action allowed for the conveyance of possessory titles to land and water rights acquired to pass from one holder to another. Some of these possessory claims to land eventually came into private ownership through patents that did not necessarily include the entire place of use where historical irrigation was occurring. The conveyance of possessory rights on the public range for irrigation or stockwater would transfer in the same manner as water appurtenant to private lands. A settler in good faith might

convey his possessory interest in the land and in the water right appurtenant thereto by voluntary surrender to one who takes possession from him. The transferee became vested with all the rights his predecessor had in the premises.<sup>101</sup>

The lands where the possessory claimants and initial appropriators originally irrigated were on unsurveyed public lands and the boundaries of those lands did not necessarily have definite metes and bounds. However, these appropriations already made on the public lands and recognized by Congress were a confirmation of the right to insist on the use of the waters to the extent necessary for beneficial purposes for the entire place of use before any control of the public domain was exerted by the federal government. The State Engineer finds that the claims for irrigation wherein portions of the places of use claimed are lands controlled by the federal government are viable claims unless otherwise determined in this Order. It is the beneficial user of the water who is recognized as having a valid vested water right.

#### 6. SHEEP GRAZING

The BLM objects to the determination of vested water right claims for sheep since sheep use has never been authorized in any grazing permits within the subject area.

The use of the public lands for grazing of sheep was occurring before exertion of plenary control by the federal government. The Taylor Grazing Service, the predecessor to BLM, came into existence after 1905. Therefore, no management or specific control of the

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<sup>101</sup>Hindman v. Rizor, 21 Org. 112, 116-118, 27 Pac. 13 (1891).

grazing practices were in effect at the time the vested rights originated. The determination of the vested claims for stockwatering purposes included sheep as one of the types of animals historically watered in the subject adjudication area prior to the creation of the National Forests in 1907.<sup>102</sup> The sheep and cattle were competing for the same forage which led to the welcoming of the federal government to give some control over who had the right to the forage.<sup>103</sup> A review of the 1894 assessment roll of Nye County, Nevada, indicates that cattle and sheep were two types of stock animals owned by predecessors to claimants in this proceeding.<sup>104</sup> The claims for sheep grazing are based on the historical use and not a forage analysis.<sup>105</sup> The claims filed for irrigation purposes may include stockwatering and it is these claimants' predecessors who developed water and grazed their sheep on the public range. The State Engineer finds that sheep were historically watered on these public lands, and claims will be recognized for this type of beneficial use. The claims filed for irrigation purposes may include stockwatering which may include sheep. Claims for stockwatering purposes only also may include sheep as opposed to just cattle. The State Engineer finds claims for vested water rights for sheep are valid unless otherwise determined in this Order.

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<sup>102</sup>Exhibit Nos. 46, 60, 61, 62, and 74, March 17-22, 1997.

<sup>103</sup>Technical Bulletin No. 301, U.S. Dept. Ag. 1933, p.19.

<sup>104</sup>See, Proof No. V-01184, abstract of deeds, surveys and taxes, Nye County, Nevada Taxes 1894 for Ernst & Esser.

<sup>105</sup>Transcript, p. 925, March 19, 1997.

7. QUANTITIES, LIVESTOCK CLASS, NUMBER AND SEASON EXCEED MODERN GRAZING PERMITS OR ARE IN EXCESS OF HISTORICAL AUTHORIZATION

The BLM objected to the claims for vested water rights wherein the claimed numbers of animals are greater than were authorized to use the public lands. The claims filed by the non-federal claimants are for the numbers and type of animals that were historically on the public range prior to any grazing regulations. Livestock are opportunistic animals and will consume water from various sources in varying quantities depending on the available feed within the grazing area which may now include federal grazing allotments. The amount of water an animal consumes depends on the season and how much moisture is available in the feed. These grazing allotments change in size, numbers and season according to the management practices of the federal entity engaged in controlling those lands over time. Use of the limitations set forth in grazing permits is not a correct quantification of a prestatutory water right. The State Engineer finds that the historical number and type of stock will be the limiting factor. No specific quantity is given on any particular source since livestock will be in different parts of the range at different times of the year and consume water at different rates. The amount of water allotted for irrigation purposes includes the amount necessary for stockwater, but is not additive in the total amount recommended for irrigation purposes. The period of use for stockwatering is year long even when the irrigation right is for a shorter period of time.

**8. USE OF WATER WILL INTERFERE WITH THE PROPER MANAGEMENT AND USE OF FEDERAL PROPERTY IN VIOLATION OF FEDERAL AND STATE LAW**

The USFS argues that the use of water will interfere with the proper management and use of federal property in violation of federal and state law. The use of the waters claimed in this adjudication occurred prior to the creation of the National Forests in the subject adjudication area and prior to any control or management by the USFS. Acts of Congress have recognized historical uses of water throughout. The recommendation of a vested water right to a non-federal claimant on federal lands is based on the authority provided to the State Engineer under Nevada Revised Statutes chapter 533. The State Engineer finds that the USFS' ability to manage its lands in modern times is an issue entirely separate and distinct from the recognition of valid historical water rights.

**H. PRELIMINARY ORDER OF DETERMINATION LANGUAGE IN SECTION IX**

As noted in the section of this Order on objections, the BLM, the USFS and Store Safe Redlands object to the language in Section IX of the Preliminary Order of Determination. The claims of vested water rights for stockwatering purposes are based on the current claimants' and their predecessors in interests' grazing of livestock and consumptive use of water on the public range prior to 1905 and said rights are being determined in this Order of Determination.

The period of use claimed is for the time of the year livestock historically grazed the public range and consumed water from the sources claimed by the resident stockmen. The livestock grazed and

consumed water over areas where more than one water source exists; however, all of the livestock do not drink at the same time from the same source. The livestock are opportunistic and will consume water from the nearest available water source. The individual claims for a vested water right identify the numbers, types, and times of the year that the specific water source has been used prior to the permitting and statutory regulation of the water sources and public range. The grouping of the claims for stockwatering purposes by the non-federal claimants allows the State Engineer to determine the maximum number and kind of animals for each claimant's entire stockwater claim. The numbers, types, locations and times of the year that livestock are using the public range and private lands will vary from year to year. Therefore, the State Engineer finds that the period of use for the watering of livestock to be from January 1 to December 31 of each year, unless otherwise specified.

The intent of these proceedings is to determine the limit and extent of the vested claims for stockwatering purposes whether or not in conjunction with a right to use water for irrigation. The State Engineer finds the limit and extent of the vested rights claimed for the watering of livestock shall be sufficiently determined by specifying the number and kind of animals to be watered or which have been watered.<sup>106</sup> The State Engineer finds that the maximum quantity of water for stockwatering purposes whether a permitted right or a vested right is 20 gallons per day per head for cattle and horses and 4 gallons per day for sheep. The

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<sup>106</sup>NRS § 533.490.

language of this Order has been modified in the sections that pertain to the stockwater claims to reflect the State Engineer's determinations.

**I. REJECTION OF USFS CLAIMS OF STOCKWATER AND WILDLIFE UNDER STATE LAW**

The USFS argues that the denial of its vested right claims for wildlife and stockwatering purposes under state law is contrary to state and federal law, and contrary to previous adjudications wherein the State Engineer has awarded vested water right claims for these purposes to the United States.

The USFS has been previously awarded vested water rights for the watering of livestock by state decree in Nevada on water sources located within the boundaries of National Forests where the USFS had not placed the cattle on the public lands, but rather its claims were through a user in trespass on the public lands. Vested water rights in the name of the USFS for stockwatering purposes were recognized in the Ophir Creek Adjudication<sup>107</sup> and the Hunts Creek Adjudication.<sup>108</sup>

The adjudications the USFS references were either completed or nearly completed prior to the time the United States Supreme Court issued its decision in the case of U.S. v. New Mexico<sup>109</sup>. In that case, the Supreme Court held:

The United States issues permits to private cattle owners to graze their stock on the Gila National Forest and

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<sup>107</sup>Decree, Second Judicial District Court, State of Nevada, Washoe County, Case No. 319562, dated February 15, 1984.

<sup>108</sup>Decree, Fifth Judicial District Court, State of Nevada, Nye County, Case No. 8118, dated January 23, 1978.

<sup>109</sup>438 U.S. 696, 57 L.Ed.2d 1052, 1066, 98 S.Ct. 3012 (1978).

provides for stockwatering at various locations along the Rio Mimbres. The United States contends that, since Congress clearly foresaw stockwatering on national forests, reserved rights must be recognized for this purpose. The New Mexico courts disagreed and held that any stockwatering rights must be allocated under state law to individual stockwaterers. We agree.<sup>110</sup> (Emphasis added).

In the Ophir Creek adjudication, the State Engineer had filed the Order of Determination with the District Court in 1976, however, a final decree was not issued by the Court until 1984. Therefore, the State Engineer's determinations pre-dated the New Mexico decision.

The USFS cites to a brief filed by a deputy attorney general representing the State Engineer in the Hunts Creek Adjudication wherein the deputy argued vested water rights for stockwatering could be initiated by a trespasser on the public lands and should be awarded to the United States.<sup>111</sup> The State Engineer now rejects the analysis that stockwater rights should be awarded to the U.S. based on the Supreme Court decision in the New Mexico case. Further, there were no competing claims in those decrees between the stockmen and the United States as to who should hold the vested stockwatering rights.

The State Engineer finds that the non-federal claimants whose title traces back to the original homesteader is the person to whom the vested water right for stockwatering should be granted and not

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<sup>110</sup>57 L.Ed.2d at 1066.

<sup>111</sup>State Engineer's Points and Authorities, In the Matter of the Determination of the Relative Rights in and to the Waters of Hunts Creek and its Tributaries, Nye County, Nevada, dated April 27, 1974.



the United States. The USFS has not shown through a chain of title it is the successor in interest to the original stockmen whose cattle grazed the public lands and consumed the waters found on those lands. The USFS is attempting to derive its claim from the cattle that were on the range, and not from the cattlemen. Neither the USFS nor the U.S. owned livestock which consumed those waters, the owners of the livestock were private individuals. The State Engineer determines that the proofs filed by the USFS claiming vested water rights for stockwatering purposes are invalid and must be rejected.

The State Engineer finds that the use of water by wildlife prior to 1905 will not be recognized as a beneficial use of water which can support a claim for a vested water right. The United States was not managing the land for wildlife purposes; therefore, the use of water by native animals in their natural state will not be considered as valid grounds to support a claim to water.

**J. FAILURE TO INCLUDE PERMITS 10689 AND 20632**

The USFS argued that the failure to include two permitted rights owned by the United States was objectionable.

Permit 10689, Certificate 2879, is for domestic and recreational purposes from an unnamed spring. Permit 20632, Certificate 6316, is for domestic purposes from Pine Creek. Both of the certificated water rights are for use at the USFS Pine Creek Campground.

All appropriative certificated rights, including Permits 10689 and 20632, in the adjudication area have been included in this Order

of Determination for the sole purpose of indicating current existing certificated water rights on the relevant sources.

#### VI. WATER RIGHTS DETERMINED TO BE VALID

The field investigations conducted by personnel from the office of the State Engineer disclosed that the waters of Pasco Creek, Pine Creek, Andrew's Creek, Corcoran Creek, Meadow Canyon Creek, Morgan Creek, Mosquito Creek, Barley Creek, and numerous springs and underground water located within the boundaries of the adjudication area were being placed to beneficial use for irrigation, mining, stockwatering, and domestic purposes.

The ownership of the right to divert the waters of Meadow Canyon Creek and its tributaries was determined in Peter Peterson v. D.R. Humphrey, James Butterfield and S.S. Butterfield, Case No. 588, Fifth Judicial District Court, State of Nevada, July 1879. In addition, the waters of Pine Creek, Barley Creek, Corcoran Creek, and other sources were determined in United Cattle & Packing Company, a Corporation, v. John Doe Smith, et. al., Case No. 5038, Fifth Judicial District Court, State of Nevada, January 28, 1942.

The certificated rights and Proofs of Appropriation summarized below were determined to be valid or partially valid water rights. These proofs and certificates are described in detail in Section XV, Relative Rights of Appropriators.

#### Proof No. V-01091

Proof No. V-01091 was filed by John W. McCann and is currently assigned to E. Wayne and Jean N. Hage claiming a vested water right from Meadow Canyon Creek and its branches, Antone Creek and Bull

Frame Creek, to irrigate 70 acres of land. No supporting map was filed at the time of the original proof filing. An amended proof and supporting map were filed on June 12, 1985, by E. Wayne and Jean N. Hage claiming a vested right with a priority date of 1874 for the irrigation of 150.22 acres of land, including water for livestock and domestic purposes from the waters of the Meadow Canyon Creek drainage. In addition to irrigation, stockwatering was claimed from Soldier Spring, Rebellion Spring, Lower Rebellion Spring, Anderson Spring, Pipe Organ Spring, Lone Pine Spring, Peterson Spring, MacAfee Spring, Box Spring, Hage Meadow Spring, Little Table Mountain Spring, Bull Frame Spring, Brando Spring, McCann Spring, Humphrey Spring, Badger Spring, Wayne's Spring, Cinibar Spring, Flower Spring, Warren Spring, Side Hill Spring, Ryecroft Spring, Side Rock Spring, Santos Spring and Sage Hen Spring all located within the Meadow Canyon Creek drainage. The ownership of the right to divert the waters of Meadow Canyon Creek was determined to be held by Peter Peterson, predecessor to claimants E. Wayne and Jean N. Hage in Peter Peterson v. D.R. Humphrey, et. al., Case No. 588 Fifth Judicial District Court, State of Nevada, July 1879. The amount of water awarded in Decree 588 was only that amount necessary for beneficial uses on lands irrigated by Plaintiff Peterson, the predecessor to the Hages. At the time Decree 588 was issued, the lands controlled by Mr. Peterson within the Meadow Canyon Creek drainage consisted of 160 acres described in Survey 843 recorded on p. 243, in Book "B", Surveys Nye County, Nevada, and 120 acres in the SE $\frac{1}{4}$  NW $\frac{1}{4}$ , Lots 3 & 4 in Section 1, T.9N., R.45E., M.D.B.&M.

Decree 588 recognized 120 acres in said Section 1,<sup>112</sup> and only 100 acres<sup>113</sup> of lands described in Survey 843. Survey 843 does not give a legal description for the lands encompassed, however, the State Engineer finds those lands to be located along both sides of Meadow Canyon Creek within portions of Sections 27, 34, 35, and 36 of T.10N., R.45E., and Section 1, T.9N., R.45E., M.D.B.&M. The USFS stipulated on the record that there are water rights appurtenant to the lands described above.<sup>114</sup> The State Engineer finds that the lands described above in the amount of approximately 220 acres are the lands that are covered by the waters subject to Decree 588.

The language of Decree 588 states the waters are for irrigation and domestic purposes, but it did not specifically state the waters are for stockwatering; however, the predecessor to the Hages was growing crops that would feed livestock. In awarding all the waters in Meadow Canyon Creek for irrigation and domestic purposes, the State Engineer finds that Decree 588 included water for stockwatering purposes.

In this Order, a vested water right with a priority date of 1868 for 150.22 acres of irrigated land, including stockwatering and domestic purposes, from the above-named sources within the Meadow Canyon Creek drainage is determined to be valid. Proof No. V-01091 substantiates the findings in Decree 588.

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<sup>112</sup>Exhibit No. 98, March 21, 1997.

<sup>113</sup>Exhibit No. 95, March 21, 1997.

<sup>114</sup>Transcript, p.140, January 7, 1997.

Proof No. V-01183

Proof No. V-01183 was filed by the Nye County Land & Livestock Co. and is currently assigned to E. Wayne and Jean N. Hage claiming a vested water right with a priority date of 1879 from the South Fork of Smith Creek to irrigate 240 acres of land and for stockwatering and domestic purposes. A supporting map was filed by the Nye County Land and Livestock Co. on December 31, 1912,<sup>115</sup> which illustrated 280 acres of land with 58.1 acres under cultivation. An amended proof and supporting maps were filed on June 12, 1985, by E. Wayne and Jean N. Hage claiming a vested right with a priority date of 1874 from Smith Creek, for the irrigation of 521.74 acres of land. Stockwatering is also claimed from Ruth's Spring, Corcoran Divide Spring, Arkansas Spring, Smith Spring, Corcoran Spring, Brown Trout Spring, Sheep Spring, Hooper Spring, Rodear Spring, Stone House Spring and Garden Spring all located within the Smith Creek drainage. Personnel of the office of the State Engineer conducted field investigations on December 1, 1993, and June 13, 1995, and found evidence of irrigation on 76.37 acres. The priority date of 1874 listed in the amended claim is supported by documents filed in the office of the State Engineer. In this Order a vested water right with a priority date of 1874 for 76.37 acres of irrigated land, including stockwatering and domestic purposes, from the above-named

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<sup>115</sup> Proof No. V-01183 was first received in the office of the State Engineer on September 30, 1912, and was returned to the claimant for correction on October 3, 1912. Corrected Proof No. V-01183 was received in the office of the State Engineer on December 28, 1912, and subsequently filed January 14, 1913.

sources within the Smith Creek drainage is determined to be valid. Proof No. V-01183 substantiates the findings in Decree 5038.

Proof No. V-01184

Proof No. 01184 was filed by the Nye County Land & Livestock Co. and is currently assigned to E. Wayne and Jean N. Hage claiming a vested water right from Pine Creek through the White Sage Irrigation Ditch to irrigate 161.36 acres of land. A supporting map was filed by the Nye County Land & Livestock Co. on December 31, 1913, which illustrated 320 acres of land with 80.3 acres under cultivation. An amended proof and supporting maps were filed on June 12, 1985, by E. Wayne and Jean N. Hage claiming a vested right for the irrigation of 80.3 acres of land, including stockwatering purposes, from the waters of the Pine Creek drainage. The place of use claimed is supplemented by waters under Proof No. V-05739 and Permit 2213, Certificate 414. Personnel of the office of the State Engineer conducted field investigations on December 2, 1993, and June 14, 1995, and found evidence of irrigation of 80.3 acres. In this Order a vested water right with a priority date of 1878 for 80.3 acres of irrigated land and stockwatering purposes from the waters of the Pine Creek drainage diverted through the White Sage Irrigation Ditch under Proof No. V-01184 is determined to be valid. Proof No. V-01184 substantiates the findings in Decree 5038.

Proof No. V-01185

Proof No. V-01185 was filed by the Nye County Land & Livestock Co. and is currently assigned to E. Wayne and Jean N. Hage claiming a vested water right from Pine Creek to irrigate 1,160 acres of

land, including stockwater and domestic purposes. A supporting map was filed by the Nye County Land and Livestock Co. on January 14, 1913, which illustrated 1,204.5 acres of land with 755.9 acres under cultivation. An amended proof and supporting maps were filed on June 12, 1985, by E. Wayne and Jean N. Hage claiming a vested right for the irrigation of 2,911.21 acres of land from the waters of the Pine Creek drainage. A portion of the place of use claimed is supplemented by Proof No. V-01186 and Permit 3406, Certificate 742. Stockwatering is claimed from Log Road Spring, Ghost Spring, Howard's Spring, Fiddler Spring, Little North Fork Spring, Big North Fork Spring, Cow Canyon Spring, Oddie Spring, Mill Site Spring, Big South Fork Spring #1 & #2, Ernst Spring, McMonigal Spring, Lake Spring, Summit Trail Spring, Little South Fork Spring and Andrews Pass Spring all located within the Pine Creek drainage. Personnel of the office of the State Engineer conducted field investigations on December 1, 1993, and June 13, 1995, and found evidence of irrigation of 1,156.67 acres. In this Order a vested water right with a priority date of 1874 for 1,156.67 acres of irrigated land, including stockwatering and domestic purposes, from the above-named sources within the Pine Creek drainage is determined to be valid. Proof V-01185 substantiates the findings in Decree 5038.

**Proof No. V-01186**

Proof No. V-01186 was filed by the Nye County Land & Livestock Co. and is currently assigned to E. Wayne and Jean N. Hage claiming a vested water right from Andrew's Creek to irrigate the same 1,160 acres of land as shown on Proof No. V-01185. A supporting map was

filed by the Nye County Land and Livestock Co. on January 14, 1913, which illustrated 1,204.5 acres of land with 755.9 acres under cultivation. An amended proof and supporting maps were filed on June 12, 1985, by E. Wayne and Jean N. Hage claiming a vested right for the irrigation of 3,100.23 acres of land, including stockwatering and domestic purposes, from the waters of the Andrew's Creek drainage. The place of use claimed is supplemented by Proof No. V-01185 and Permit 3406, Certificate 742. Stockwatering is also claimed from Cook Spring, Trail Crossing Spring, Big Andrews Spring, White Rock Spring, Little Andrews Spring, Trail Canyon Spring, Windy Pass Spring, Mahogany Spring, Deer Hollow Spring #1, Deer Hollow Spring #2 and Laura's Spring all located within the Andrew's Creek drainage. Personnel of the office of the State Engineer conducted field investigations on December 1, 1993, and June 13, 1995, and found evidence of irrigation of 1,051.38 acres from Andrew's Creek which may also be irrigated from Pine Creek. In this Order a vested water right with a priority date of 1874 for 1,051.38 acres of irrigated land, including stockwatering and domestic purposes, from the above-named sources within the Andrew's Creek drainage is determined to be valid. Proof V-01186 substantiates the findings in Decree 5038.

**Proof No. V-02355**

Proof No. V-02355 was filed by the Monitor Livestock Co. and is currently assigned to James R. Boyce and Christine D. Boyce claiming a vested water right from Lower Wadsworth Creek and its tributaries to water 1,061 head of cattle, 251 horses and 15,500 sheep. In this



Order a vested water right with a priority date of 1871 for stockwatering purposes from Lower Wadsworth Creek is determined to be valid.

Proof No. V-02357

Proof No. V-02357 was filed by the Monitor Livestock Co. and is currently assigned to James R. Boyce and Christine D. Boyce claiming a vested water right from Mill Canyon Creek to water 500 head of cattle, 50 horses and 3,000 sheep. In this Order a vested water right for stockwatering purposes with a priority date of 1866 from Mill Canyon Creek is determined to be valid.

Proof No. V-02359

Proof No. V-02359 was filed by the Monitor Livestock Co. and is currently assigned to James R. Boyce and Christine D. Boyce claiming a vested water right from Lower Morgan Creek and its tributaries to water 1,061 head of cattle, 251 horses and 15,500 sheep. In this Order a vested water right with a priority date of 1871 from Lower Morgan Creek and its tributaries for stockwatering purposes is determined to be valid.

Proof No. V-04174

Proof No. V-04174 was filed by the Monitor Ranching Corporation and is currently assigned to Stephen C. Wilmans, III claiming a vested right from unnamed springs to water 1,000 head of cattle and 3,000 sheep. In this Order a vested water right with a priority date of 1877 for stockwatering purposes from the unnamed springs is determined to be valid. This is the same spring as Proof No. V-05745.

Proof No. V-04463

Proof No. V-04463 was filed by E. Wayne and Jean N. Hage and is currently assigned to HRH Nevada Resources, Ltd. claiming a vested water right from Warm Springs to water 1,000 head of cattle, 34 horses, 12,000 sheep and for domestic purposes. The State Engineer finds that the description of Warm Spring identified in Decree 5038 to be incorrect and the location is as claimed under this proof. In this Order a vested water right with a priority date of 1866 for domestic and stockwatering purposes from Warm Springs is determined to be valid. Proof V-04463 substantiates the findings in Decree 5038.

Proof No. V-04465

Proof No. V-04465 was filed by E. Wayne and Jean N. Hage claiming a vested water right from Mosquito Creek for the irrigation of 5,456.01 acres of land, including stockwatering and domestic purposes. Stockwatering is claimed from Haystack Spring #1, Breakout Spring, Will James Spring, Hooper's Trap Spring, Drop Off Spring, Scorpion Spring, Margaret Spring, Ramona Spring, Highpoint Spring, Rodear Flat Spring, Hailstorm Spring, Cut Off Spring, Dry Lake Spring, Northtrail Spring, Bach Spring, Jean's Spring, Johnson Spring, Reed Spring, Arrowhead Spring, Left Fork Spring, Deseption Spring, Stienenger Spring, Borreggo Spring, Stampede Spring, Hage Spring, Stuper Spring, Ambush Spring, Kay Spring, Runaway Spring, Fourmile Spring, Lookout Spring, Haystack Flat Spring, Sundown Spring, Aspen Spring, Dark Horse Spring, Sheep Trough Spring, Kincaide Spring, Sleet Storm Spring, United Spring, Stoedick Spring

#1, Stoedick Spring #2, Keough Spring, Weir Spring, George's Spring, Norway Spring, Nichols Spring, Clayton Spring, George Camp Spring, Tybo Spring, Upset Spring, Glover Spring, Marsh Spring, Danville Spring, Clinton Spring, Tightspot Spring, Waterfall Spring, Kaiser Spring, Hardway Spring, Dutchman Spring, Uncle Bill's Spring, Hardrock Spring, Surveyor Spring, Andy's Spring, Upper Coffee Pot Spring, Coffee Pot Spring, Last Chance Spring, Smokey Spring and Lower Haystack Spring all located within the Mosquito Creek drainage. Supporting maps were filed by E. Wayne and Jean N. Hage on June 12, 1985, which illustrated 5,456.01 acres of land under cultivation and showed the sixty-eight spring sources. Personnel of the office of the State Engineer conducted a field investigation on September 13, 1994, and found evidence of irrigation of 2,377.16 acres of which a portion are described in Decree 5038. In this Order a vested water right with a priority date of 1874 for 2,377.16 acres of irrigated land, including stockwatering and domestic purposes, from the above-named sources within the Mosquito Creek drainage is determined to be valid. Proof V-04465 substantiates the findings in Decree 5038. Permit 4784, Certificate 1212 and Permit 4785, Certificate 1213, supplement this Proof.

**Proof No. V-04466**

Proof No. V-04466 was filed by E. Wayne and Jean N. Hage claiming a vested water right from Barley Creek for the irrigation of 2,654.87 acres of land, including stockwatering and domestic purposes. Stockwatering is claimed from Tragedy Spring, Upper Scuffe Spring, Lee's Camp Spring, Cavanaugh Spring, Scuffe Spring,

Hide Out Spring, Hold Up Spring, Wilson Spring, Rim Spring, Merlino Spring, Switchback Spring, Red Rock Spring, South Point Spring and Lower Haystack Spring all located within the Barley Creek drainage. A supporting map was filed by E. Wayne and Jean N. Hage on June 12, 1985, which illustrated 2,654.87 acres of land under cultivation and showed the fourteen spring sources. Personnel of the office of the State Engineer conducted a field investigation on June 15, 1994, and found evidence of irrigation on 951.61 acres. In this Order a vested water right with a priority date of 1874 for 951.61 acres of irrigated land, including stockwatering and domestic purposes, from the above-named sources within the Barley Creek drainage is determined to be valid. Proof V-04466 substantiates the findings in Decree 5038.

**Proof No. V-05532**

Proof No. V-05532 was filed by Store Safe Redlands Associates Ltd., A Partnership, dba Rock Springs Ranch, and is currently assigned to Stephen C. Wilmans, III claiming a vested water right from Morgan Creek for the irrigation of 70 acres of land, including stockwatering and domestic purposes. An amended proof and supporting maps were filed on February 28, 1992, by Store Safe Redlands Assoc., Ltd. claiming a vested right with a priority date of 1871 from Morgan Creek for the irrigation of 18.1 acres of land. Personnel of the office of the State Engineer conducted a field investigation on November 6, 1995, and found evidence of irrigation on 18.1 acres. In this Order a vested water right with a priority of date 1871 for 18.1 acres of irrigated land, including

stockwatering and domestic purposes, from Morgan Creek and its tributaries is determined to be valid.

Proof No. V-05694

Proof No. V-05694 was filed by Store Safe Redlands Associates, a Partnership, dba Rock Springs Ranch and is currently assigned to James R. Boyce and Christine D. Boyce claiming a vested water right from Brandy's Spring to water 500 head of cattle, 50 horses, and 3,000 sheep. In this Order a vested right with a priority date of 1865 for stockwatering purposes from Brandy's Spring is determined to be valid.

Proof No. V-05695

Proof No. V-05695 was filed by Store Safe Redlands Associates, a Partnership, dba Rock Springs Ranch and is currently assigned to James R. Boyce and Christine D. Boyce claiming a vested water right from Kip's Spring to water 500 head of cattle, 50 horses and 3,000 sheep. In this Order a vested water right with a priority date of 1865 for stockwatering purposes from Kip's Spring is determined to be valid.

Proof No. V-05696

Proof No. V-05696 was filed by Store Safe Redlands Associates, a Partnership, dba Rock Springs Ranch and later assigned to James R. Boyce and Christine D. Boyce claiming a vested water right from JT's Spring to water 500 head of cattle, 50 horses and 3,000 sheep. In this Order a vested water right with a priority date of 1865 for stockwatering purposes from JT's Spring is determined to be valid.

Proof No. V-05697

Proof No. V-05697 was filed by Store Safe Redlands Associates, a Partnership, dba Rock Springs Ranch and is currently assigned to James R. Boyce and Christine D. Boyce claiming a vested water right from Barbara's Spring to water 500 head of cattle, 50 horses, and 3,000 sheep. In this Order a vested water right with a priority date of 1865 for stockwatering purposes from Barbara's Spring is determined to be valid.

Proof No. V-05698

Proof No. V-05698 was filed by Store Safe Redlands Associates, a Partnership, dba Rock Springs Ranch and is currently assigned to James R. Boyce and Christine D. Boyce claiming a vested water right from David's Spring to water 500 head of cattle, 50 horses and 3,000 sheep. In this Order a vested water right with a priority date of 1865 for stockwatering purposes from David's Spring is determined to be valid.

Proof No. V-05736

Proof No. V-05736 was filed by Store Safe Redlands Associates, a Partnership, dba Rock Springs Ranch and is currently assigned to James R. Boyce and Christine D. Boyce claiming a vested water right with a priority date prior to 1939 from Dry Lake Well (hand dug) to water 1,500 head of cattle, 410 horses and 13,000 sheep. In this Order a vested water right with a priority date of prior to 1939 for stockwatering purposes from Dry Lake Well is determined to be valid.

**Proof No. V-05738**

Proof No. V-05738 was filed by E. Wayne Hage and Jean N. Hage and is currently assigned to the original claimant and HRH Nevada Resources, Ltd. claiming a vested water right with a priority date of 1866 from Combination Springs to water 672 head of cattle, 8 horses and 4,722 sheep. In this Order a vested water right with a priority date of 1866 for stockwatering purposes from Combination Springs is determined to be valid.

**Proof No. V-05739**

Proof No. V-05739 was filed by E. Wayne and Jean N. Hage claiming a vested water right with a priority date of 1869 from Pasco Creek, Pasco Spring and its tributaries for 1.6 cfs to irrigate 80.30 acres, including stockwatering and domestic purposes. The water is diverted into the Pasco Ditch and White Sage Ditch and is supplemented by Proof No. V-01184 and Permit 2213, Certificate 414. Personnel of the office of the State engineer conducted field investigations on December 2, 1993, and June 14, 1995, and found evidence of irrigation on 80.3 acres. In this Order a vested water right with a priority date of 1869 for 80.3 acres of irrigated land, including stockwatering and domestic purposes, from the waters of Pasco Creek, Pasco Spring and its tributaries diverted through the Pasco and White Sage Irrigation Ditches is determined to be valid. Proof No. V-05739 substantiates the findings in Decree 5038.

**Proof No. V-05740**

Proof No. V-05740 was filed by Store Safe Redlands Associates, a Partnership, dba Rock Springs Ranch and is currently assigned to

Stephen C. Wilmans, III claiming a vested water right with a priority date of 1874 from Dry Lake Springs (SW) to water 1,500 head of cattle, 410 horses and 13,000 sheep. In this Order a vested water right with a priority date of 1874 for stockwatering purposes from Dry Lake Springs (SW) is determined to be valid.

Proof No. V-05741

Proof No. V-05741 was filed by Store Safe Redlands Associates, a Partnership, dba Rock Springs Ranch and is currently assigned to Stephen C. Wilmans, III claiming a vested water right with a priority date of 1874 from Dry Lake Springs (NE) to water 1,500 head of cattle, 410 horses and 13,000 sheep. In this Order a vested water right with a priority date of 1874 for stockwatering and domestic uses from the Dry Lake Springs (NE) is determined to be valid.

Proof No. V-05742

Proof No. V-05742 was filed by Store Safe Redlands Associates, a Partnership, dba Rock Springs Ranch and is currently assigned to James R. and Christine D. Boyce claiming a vested water right with a priority date of 1871 from Upper Morgan Creek and its tributaries to water 1,061 head of cattle, 251 horses and 15,500 sheep. In this Order a vested water right with a priority date of 1871 for stockwatering purposes from Upper Morgan Creek is determined to be valid.

Proof No. V-05743

Proof No. V-05743 was filed by Store Safe Redlands Associates, a Partnership, dba Rock Springs Ranch and is currently assigned to



Stephen C. Wilmans, III claiming a vested water right with a priority date of 1871 from Upper Wadsworth Creek and its tributaries to water 1,061 head of cattle, 251 horses and 15,500 sheep. In this Order a vested water right with a priority date of 1871 for stockwatering purposes from Upper Wadsworth Creek and its tributaries is determined to be valid.

**Proof No. V-05744**

Proof No. V-05744 was filed by Store Safe Redlands Associates, a Partnership, dba Rock Springs Ranch and is currently assigned to James R. Boyce and Christine D. Boyce claiming a vested water right with a priority date of 1874 from Northumberland Spring to water 1,590 head of cattle, 419 horses and 13,300 sheep. In this Order a vested water right with a priority date of 1874 for stockwatering purposes from Northumberland Spring is determined to be valid.

**Proof No. V-05745**

Proof No. V-05745 was filed by Store Safe Redlands Associates, a Partnership, dba Rock Springs Ranch and is currently assigned to Stephen C. Wilmans, III claiming a vested water right with a priority date of 1888 from Water Canyon Springs to water 2,055 head of cattle, 254 horses and 13,000 sheep. In this Order a vested water right with a priority date of 1888 for stockwatering purposes from Water Canyon Springs is determined to be valid. This is the same spring as Proof No. V-04174.

**Proof No. V-05746**

Proof No. V-05746 was filed by Store Safe Redlands Associates, a Partnership, dba Rock Springs Ranch and is currently assigned to

Stephen C. Wilmans, III claiming a vested water right with a priority date of 1871 from Morgan Spring to water 1,061 head of cattle, 251 horses and 15,500 sheep. In this Order a vested water right with a priority date of 1871 for stockwatering purposes from Morgan Spring is determined to be valid.

Proof No. V-07044

Proof No. V-07044 was filed by Store Safe Redlands Associates, Ltd., a Partnership, dba Rock Springs Ranch claiming a vested right with a priority date of 1874 from Durfee Spring to water 1,590 head of cattle, 419 horses and 13,300 sheep. In this Order a vested right with a priority date of 1874 for stockwatering purposes from Durfee Spring is determined to be valid.

Proof Nos. R-07220 and R-07221 for Wilderness Areas

Proof Nos. R-07220 and R-07221 were filed by the United States of America-Forest Service for the Alta Toquima and Table Mountain Wilderness Areas, respectively. The Alta Toquima Wilderness Area is located on the west drainage divide which separates Southern Monitor Valley and Little Fish Lake Valley. Black Rock Canyon lies within Little Fish Lake Valley, and any claim to these waters is excluded from this adjudication. The Table Mountain Wilderness Area is located within the east drainage divide which separates Southern Monitor Valley and Big Smoky Valley. The uses will be recognized as set forth in the specific section above on wilderness areas. The date of priority is December 5, 1989, the date of the Nevada Wilderness Act of 1989. In this Order a reserved water right with

a priority of December 5, 1989, for wilderness purposes under Proof Nos. R-07220 and R-07221 are determined to be valid, as modified.

PWR 107 CLAIMS

Claims of reserved water rights under a Public Water Reserve 107, Executive Order of April 17, 1926, are recognized as viable claims in a general adjudication under the guidelines outlined previously in this Order.

The proofs described below meet said criteria for public water reserves. Therefore, in this Order, PWR 107 reserved water rights for human and animal consumption with a priority date of April 17, 1926, are determined to be valid for the proofs described below.

Proof No. R-07320

Proof No. R-07320 was filed by the BLM claiming a reserved right with a priority date of April 17, 1926, for 0.01 cfs from an Unnamed Spring for human and animal consumption.

Proof No. R-07321

Proof No. R-07321 was filed by the BLM claiming a reserved right with a priority date of April 17, 1926, for 0.01 cfs from an Unnamed Spring for human and animal consumption.

Proof No. R-07323

Proof No. R-07323 was filed by the BLM claiming a reserved right with a priority date of April 17, 1926, for 0.01 cfs from Monitor Lake 4 for human and animal consumption.

Proof No. R-07324

Proof No. R-07324 was filed on February 28, 1994, by the BLM claiming a reserved right with a priority date of April 17, 1926, for 0.01 cfs from Monitor Lake 3 for human and animal consumption.

USFS ADMINISTRATIVE SITES

The following proofs were filed for reserved water rights for the USFS administrative sites and the water used under these proofs is claimed as necessary to perform the primary purpose of the forest reservation. In this Order the determination of a reserved water right for Meadow Canyon Creek, Scuffe's, and Barley Creek administrative sites are determined to be valid for the following proofs.

Proof No. R-04175

Proof No. R-04175 was filed by the USFS claiming a reserved right from Barley Creek for watershed protection within the Barley Creek administrative site. In this Order a reserved water with a priority of April 15, 1907, for domestic and stockwatering purposes is determined to be valid.

Proof No. R-04176

Proof No. R-04176 was filed by the USFS claiming a reserved right from Meadow Spring (aka House Spring and Unnamed spring) for watershed protection within the Meadow Canyon Creek administrative site. In this Order a reserved water right with a priority of April 15, 1907, for domestic and stockwatering purposes is determined to be valid.

Proof No. R-04177

Proof No. R-04177 was filed by the USFS claiming a reserved right from Triple Springs (aka Peterson Spring) for watershed protection within the Meadow Canyon Creek administrative site. In this Order a reserved water right with a priority of April 15, 1907, for stockwatering purposes is determined to be valid.

Proof No. R-04178

Proof No. R-04178 was filed by the USFS claiming a reserved right from Q Spring (aka MacAfee Spring) for watershed protection within the Meadow Canyon Creek administrative site. In this Order a reserved water with a priority of April 15, 1907, for domestic and stockwatering purposes is determined to be valid.

Proof No. R-04179

Proof No. R-04179 was filed by the USFS claiming a reserved right from Box Spring for watershed protection within the Meadow Canyon Creek administrative site. In this Order a reserved water right with a priority of April 15, 1907, for stockwatering purposes is determined to be valid.

Proof No. R-04180

Proof No. R-04180 was filed by the USFS claiming a reserved right from Scuffe's Spring for watershed protection within the Scuffe's administrative site. In this Order a reserved water right with a priority of April 15, 1907, for domestic and stockwatering purposes is determined to be valid.

Proof No. R-04181

Proof No. R-04181 was filed by the USFS claiming a reserved right from Upper Scuffe's Spring for watershed protection within the Scuffe's administrative site. In this Order a reserved water right with a priority of April 15, 1907, for domestic and stockwatering purposes is determined to be valid.

APPROPRIATIVE WATER RIGHTS

Permit 767, Certificate 360

Permit 767, Certificate 360, was issued to Mrs. Charles Goldbach and is currently assigned to Carillo Industries for 0.665 cfs of water from Barley Creek for the irrigation of 66.5 acres of land. In this Order the water right under Permit 767, Certificate 360, for 0.665 cfs of water to irrigate 66.5 acres is recognized. In accordance with Decree 5038, the water right under this Certificate is to be satisfied prior to any other water rights on Barley Creek.

Permit 2213, Certificate 414

Permit 2213, Certificate 414, was issued to the Tonopah Banking Corporation and is currently assigned to E. Wayne and Jean N. Hage for 0.318 cfs of water from Pasco Creek for the irrigation of 31.81 acres of land, and stockwatering and domestic purposes. In this Order Permit 2213, Certificate 414, for irrigation, stockwater and domestic purposes is recognized.

Permit 2244, Certificate 436

Permit 2244, Certificate 436, was issued to S.P. Santos and is currently assigned to E. Wayne and Jean N. Hage for 0.35 cfs of

water from Meadow Creek for the irrigation of 35 acres of land. In this Order Permit 2244, Certificate 436, for irrigation and domestic purposes is recognized.

**Permit 3361, Certificate 2606**

Permit 3361, Certificate 2606, was issued to William A. Marsh and is currently assigned to E. Wayne and Jean N. Hage for 1.205 cfs of water from Barley Creek and its tributaries (Meadow Creek and Widow Smith Creek) for the irrigation of 120.5 acres of land. In this Order Permit 3361, Certificate 2606, for irrigation and domestic purposes from Barley Creek and its tributaries is recognized.

**Permit 3362, Certificate 2556**

Permit 3362, Certificate 2556, was issued to Mary E. Marsh and is currently assigned to E. Wayne and Jean N. Hage for 2.651 cfs of water from Barley Creek and its tributaries for the irrigation of 265.1 acres of land. In this Order Permit 3362, Certificate 2556, for irrigation purposes from Barley Creek and its tributaries is recognized.

**Permit 3406, Certificate 742**

Permit 3406, Certificate 742, was issued to Tim Hooper "Indian" and is currently assigned to E. Wayne and Jean N. Hage for 1.2005 cfs of water from Andrew's Creek for the irrigation of 120.05 acres of land. In this Order Permit 3406, Certificate 742, for irrigation and domestic purposes from Andrew's Creek is recognized.

**Permit 3440, Certificate 3212**

Permit 3440, Certificate 3212, was issued to the Monitor Valley Land and Cattle Co. and is currently assigned to Warren C. Hunt, Ethelyn Hunt, Donald B. Hunt and Esther Cecielia Hunt for 0.124 cfs of water from Northumberland Springs for the irrigation of 12.40 acres of land. In this Order Permit 3440, Certificate 3212, for irrigation purposes from Northumberland Springs is recognized.

**Permit 4784, Certificate 1212**

Permit 4784, Certificate 1212, was issued to Essie Scuffe and is currently assigned to E. Wayne and Jean N. Hage for 2.3626 cfs of water from Mosquito Creek for the irrigation of 236.26 acres of land. In this Order Permit 4784, Certificate 1212, for irrigation purposes from Mosquito Creek is recognized.

**Permit 4785, Certificate 1213**

Permit 4785, Certificate 1213, was issued to Joe Scuffe and is currently assigned to E. Wayne and Jean N. Hage for 3.2 cfs of water from Mosquito Creek for the irrigation of 320 acres of land. In this Order Permit 4785, Certificate 1213, for irrigation purposes from Mosquito Creek is recognized.

**Permit 5809, Certificate 2628**

Permit 5809, Certificate 2628, was issued to Wm. A. Marsh and is currently assigned to M.C. and Grace Winfield for 0.003 cfs of water from Combination Springs for stockwatering purposes. In this Order Permit 5809, Certificate 2628, for stockwatering purposes from Combination Springs is recognized.



Permit 10606, Certificate 2914

Permit 10606, Certificate 2914, was issued to the USFS for 0.001 cfs of water from an unnamed spring for domestic purposes at the Meadow Creek Ranger Station. In this Order Permit 10606, Certificate 2914, for domestic purposes from an unnamed spring is recognized.

Permit 10689, Certificate 2879

Permit 10689, Certificate 2879, was issued to the USFS for 0.001 cfs of water from an unnamed spring for domestic and recreational purposes at the Pine Creek Campground. In this Order Permit 10689, Certificate 2879, for domestic and recreational purposes from an unnamed spring is recognized.

Permit 20632, Certificate 6316

Permit 20632, Certificate 6316, was issued to the USFS for 0.004 cfs of water from Pine Creek for domestic (campground) purposes. In this Order Permit 20632, Certificate 6316, for domestic purposes from Pine Creek is recognized.

Permit 26756, Certificate 10862

Permit 26756, Certificate 10862, was issued to Howard E. Arcularius and is currently assigned to E. Wayne and Jean N. Hage for 5.4 cfs of water from Pine Creek for the irrigation of 278.17 acres of land. In this Order Permit 26756, Certificate 10862, for irrigation and domestic purposes from Pine Creek is recognized.

Permit 26757, Certificate 10863

Permit 26757, Certificate 10863, was issued to Frank G. Arcularius and is currently assigned to E. Wayne and Jean N. Hage

for 5.4 cfs of water from Pine Creek for the irrigation of 258.75 acres of land. In this Order Permit 26757, Certificate 10863, for irrigation and domestic purposes from Pine Creek is recognized.

Permit 27971, Certificate 11169

Permit 27971, Certificate 11169, was issued to Idaho Mining Corporation (a Nevada Corporation) and is currently assigned to Western States Minerals Corporation for 0.0669 cfs of water from an underground source for mining, milling and domestic purposes. In this Order Permit 27971, Certificate 11169, for mining, milling and domestic purposes from an underground source is recognized.

Permit 27973, Certificate 11170

Permit 27973, Certificate 11170, was issued to Idaho Mining Corporation (a Nevada Corporation) and is currently assigned to Western States Minerals Corporation for 1.0 cfs of water from a spring-fed pond for mining purposes. In this Order Permit 27973, Certificate 11170, for mining purposes from an underground source is recognized.

Permit 28118, Certificate 9929

Permit 28118, Certificate 9929, was issued to IMCO Services and is currently assigned to All Minerals Corporation for 0.3 cfs of water from an underground source for mining and milling purposes. In this Order Permit 28118, Certificate 9929, for mining and milling purposes from an underground source is recognized.

Permit 40676, Certificate 13331

Permit 40676, Certificate 13331, was issued to Monitor Valley Ranching Corp. and is currently assigned to James R. Boyce and

Christine D. Boyce for 0.0062 cfs of water from an underground (Dry Lake Well) source for stockwatering purposes. In this Order Permit 40676, Certificate 13331, for stockwatering purposes from an underground source is recognized.

Permit 43014, Certificate 11437

Permit 43014, Certificate 11437, was issued to E. Wayne Hage and Jean N. Hage for 0.0094 cfs of water from an underground source for stockwatering purposes. In this Order Permit 43014, Certificate 11437, for stockwatering purposes from an underground source is recognized.

Permit 43786, Certificate 12604

Permit 43786, Certificate 12604, was issued to Cyprus Mines Corporation and is currently assigned to Western States Minerals Corporation for 0.134 cfs of water from an underground source for mining, milling and domestic purposes. In this Order Permit 43786, Certificate 12604, for mining, milling and domestic purposes from an underground source is recognized.

Permit 47602, Certificate 12624

Permit 47602, Certificate 12624, was issued to Cyprus Northumberland Mining Company and is currently assigned to Western States Minerals Corporation for 0.426 cfs of water from an underground source for mining, milling and domestic purposes. In this Order Permit 47602, Certificate 12624, for mining, milling and domestic purposes from an underground source is recognized.

Permit 48411, Certificate 12307

Permit 48411, Certificate 12307, was issued to E. Wayne and Jean N. Hage for 0.009 cfs of water from an underground source for stockwatering purposes. In this Order Permit 48411, Certificate 12307, for stockwatering purposes from an underground source is recognized.

Permit 50244, Certificate 14276

Permit 50244, Certificate 14276, was issued to the Nye County Board of Commissioners for 0.056 cfs of water from an underground source for quasi-municipal purposes. In this Order Permit 50244, Certificate 14276, for quasi-municipal purposes from an underground source is recognized.

**VII. REJECTED and WITHDRAWN PROOFS**

The Proofs of Appropriation identified below are rejected in this Order of Determination for the reason(s) herein. These Proofs are not included in SECTION XV, "RIGHTS OF APPROPRIATORS".

Proof No. V-02327

Proof No. V-02327 was filed on June 15, 1944, by Charles E. and Lena E. McLeod claiming a vested right with a priority date of 1885 from Pasco Creek to irrigate 22.18 acres of land. A supporting map was filed by Charles E. and Lena E. McLeod on June 15, 1944, which illustrated 22.18 acres of land under cultivation. Ownership of Proof No. V-02327 was assigned, effective January 7, 1994, to Robert W. Perchetti (1/12 undivided interest), Ira N. Jacobson (1/12 undivided interest), Steven Carpenter (1/6 undivided interest), Anthony J. Perchetti (1/6 undivided interest) and the Bottom Family

Trust, Robert M. Bottom and Sharon G. Bottom, Trustees (1/2 undivided interest). The waters described in the claim are subject to a civil Decree issued in 1942 and the doctrines of res judicata and collateral estoppel were previously determined to be applicable. In this Order Proof V-02327 for a vested right for 22.18 acres of irrigated land, including stockwatering and domestic purposes, from Pasco Creek must be rejected in accordance with Decree 5038.

Proof No. V-04170

Proof No. V-04170 was filed by James Wolfe claiming a vested right with a priority date of 1868 from Barley Creek to irrigate 162.01 acres of land, including stockwatering and domestic purposes. It was previously determined in this Order that the doctrines of res judicata and collateral estoppel are applicable to this claim. Therefore, in accordance with Decree 5038, the State Engineer determines that proof No. V-04170 must be rejected.

USFS claims for instream flows,  
stockwater, and wildlife purposes

The USFS filed numerous claims of vested and reserved rights for instream flow, stockwatering, and wildlife purposes. The State Engineer determined these claims to be invalid. Therefore, these proofs filed for reserved and vested water rights must be rejected in this Order.

A listing of the rejected proofs is given below:

Proof Nos. V-03255, V-03256, V-03257, V-03258, V-03259, V-03312, V-03313, V-03745, V-03746, V-03747, V-03748, V-03749, V-03750, V-03751, V-03752, V-03753, V-03754, V-03755, V-03756, V-03757, V-03758, V-03772, V-03774, V-03775, V-03777, V-03778, V-

03779, V-03780, V-03781, V-03782, V-03783, V-03784, V-03786, V-  
03787, V-03789, V-03790, V-03792, V-03793, V-03794, V-03795, V-  
03796, V-03797, V-03799, V-03800, V-03801, V-03802, V-03804, V-  
03805, V-03807, V-03808, V-03809, V-03810, V-03811, V-03812, V-  
03813, V-03815, V-03816, V-03820, V-03821, V-03822, V-03824, V-  
03825, V-03826, V-03827, V-03828, V-03829, V-03830, V-03831, V-  
03833, V-03834, V-03835, V-03836, V-03841, V-03842, V-03843, V-  
03844, V-03846, V-03848, V-03854, V-03855, V-03856, V-03857, V-  
03858, V-03860, V-03861, V-03862, V-03865, V-03867, V-03868, V-  
03869, V-03870, V-03871, V-03872, V-03875, V-03876, V-03880, V-  
03881, V-03886, V-03887, V-03888, V-03889, V-03890, V-03891, V-  
03892, V-03893, V-03894, V-03895, V-03896, V-03897, V-03898, V-  
03899, V-03900, V-03901, V-03903, V-03904, V-03905, V-03906, V-  
03907, V-03908, V-03909, V-03910, V-03911, V-03912, V-03913, V-  
03914, V-03915, V-03916, V-03917, V-03918, V-03919, V-03922, V-  
03923, V-03924, V-03925, V-03926, V-03929, V-03930, V-03931, V-  
03932, V-03933, V-03934, V-03938, V-03939, V-03940, V-03942, V-  
03943, V-03944, V-03945, V-03946, V-03947, V-04024, V-04029, V-  
04047, V-04048, V-04049, V-04050, V-04051, V-04052, V-04053, V-  
04054, V-04055, V-04056, V-04057, V-04058, V-04059, V-04093, V-  
04099, V-04100, V-04101, V-04108, V-04109, V-04110, V-04111, V-  
04112, V-04113, V-04114, V-04115, V-04116, V-04126, R-04182, R-  
04183, R-04185, R-04186, R-04187, R-04188, R-04189, R-04190, and R-  
04191.

Proof No. R-04184 was withdrawn by the USFS on March 17, 1997.<sup>116</sup>

#### PWR 107 FILINGS

The BLM filed numerous claims for reserved water rights under Executive Order 107 for Public Water Reserves. The State Engineer determined the following PWR claims to be invalid. Therefore, Proof Nos. R-04525, R-04526, R-04527, R-07325, and R-07326 filed for reserved water rights are rejected in this Order.

#### VIII. PERIOD OF USE

The period of use was determined from National Oceanic and Atmospheric Administration records for the frost free period for the Snowball Ranch weather station located northeast of Monitor Valley and at a similar elevation range. The number of frost free days for that area is estimated to be 120 days. An additional month was added to the beginning and end of the frost free season to allow for early spring wetting of the soil and to be able to take advantage of years with warm fall weather.

The period of use for irrigation shall begin on April 1<sup>st</sup> and extend through October 31<sup>st</sup>, unless otherwise noted. The period of use for irrigation in Decree 588 is from May 1<sup>st</sup> to October 31<sup>st</sup>. The period of use for irrigation in Decree 5038 is from April 1<sup>st</sup> to October 31<sup>st</sup>. The period of use for stockwatering, domestic and all other manners of use shall be from January 1<sup>st</sup> to December 31<sup>st</sup> of each year, unless otherwise noted.

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<sup>116</sup> Transcript, pp. 481-482, March 17, 1997.

## IX. DUTY OF WATER

Duty of water was determined by utilizing data from the USGS gaging stations located on Pine and Mosquito Creeks, and pasture crop consumptive use estimates published in the "Consumptive Use of Irrigation Water by Crops in Nevada"<sup>117</sup> and "Nevada Irrigation Guide"<sup>118</sup>. Crop consumptive use, assuming a full water supply, is determined to be approximately 22 inches per season. Given the fact that water is not available from the source for the entire season, consumptive use from applied water (diverted from the source) is somewhat less. This information was then applied in the estimation of consumptive use.

Water duty is based on average monthly crop-water demand for meadow pasture and monthly water availability from each water source. When crop-water demand exceeds supply for a given month the supply volume in acre-feet is utilized. When supply of water exceeded crop-water demand for a given month the demand volume in acre-feet is utilized. Supply generally exceeds demand during May, June and a portion of July. Crop-water demand during the months of April, August, September and October is greater than the flow in all streams in Southern Monitor Valley. During these months, meadow pasture receives its water from storage, i.e., soil moisture or ground water.

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<sup>117</sup>Houston, C.E., Consumptive Use of Irrigation Water By Crops In Nevada, Bulletin 185, University of Nevada, Reno (June 1950).

<sup>118</sup>Nevada Irrigation Guide, U.S. Dept. of Agriculture, Soil Conservation Service, Reno, Nevada.



The seasonal duty of water on lands irrigated from Pasco Creek, Pine Creek, Andrew's Creek, Corcoran Creek, Meadow Canyon Creek, Morgan Creek, Mosquito Creek and Barley Creek and their tributaries was calculated using the preceding method. Monthly streamflow is estimated on all streams except Pine Creek and Mosquito Creek, where stream gage records exist. All of the estimates are based on years with average precipitation and stream flow. Discharge records from the two gaged streams indicate that years of above average precipitation have yielded up to three times the normal runoff. Therefore, it is reasonable to allow a duty of water in excess of the consumptive use of the historical crop of native meadow pasture in order to account for years with above average runoff and a fifty percent irrigation efficiency for ditch loss and flood irrigation. Therefore, the duty of water for all lands irrigated under the proofs in this Order from streams located in Southern Monitor Valley is herein fixed and shall not exceed 3.0 acre-feet/acre/season, unless otherwise specified under existing permitted and/or certificated water right appropriations or court decrees.

**X. DIVERSION OF WATER**

Historically, diversion of water in Southern Monitor Valley has been accomplished via earthen, rock, canvas, gabion and board dams located in the stream channel where the diversion ditch begins. The nature of the stream systems and wide variation in flows do not constitute the immediate need for regulation. Therefore, it is not necessary to maintain a measuring device or mechanical headgate for diversions on Pasco Creek, Pine Creek, Andrew's Creek, Corcoran

Creek, Meadow Canyon Creek, Morgan Creek, Mosquito Creek and Barley Creek. The diversions of water by the respective parties to which they are recognized are to be up to the extent and in the amount and manner determined, or allowed by permits at the times set forth in this Order or in the permits which have been issued by the State Engineer.

The State Engineer may order proper diversion structures and measuring devices installed in order to accomplish proper distribution in the event it becomes necessary.

The State Engineer may order a rotation method of irrigation, if it is determined that stream discharge can no longer satisfy crop-water demand during the irrigation season. True rotation does not violate the doctrine of priority, but is a variation in its administration. The methodology employed, if rotation is invoked, will be determined by the State Engineer.

Diversion rates for proofs of appropriation were determined based on the crop requirement for the month of highest demand for land irrigated from a specific source. The diversion rates for appropriative rights are as issued. A fifty percent (50%) efficiency rate was assumed for flood irrigation which doubles the flow rate for the volume of water necessary to satisfy the monthly crop requirement.

#### **XI. MEASUREMENT OF WATER**

Measurement of water delivered for consumptive uses is to be made at a point where the main ditch or stream enters or becomes adjacent to the land to be irrigated or as near thereto as

practicable; the location, if not selected by the State Engineer, is to be approved by him. Measurements of diversion rates are to be made at the point at which water is diverted from the natural channel to a ditch, pipeline or other means of conveyance to the place of use. As stated earlier, measurement devices are not required at this time. The State Engineer reserves the right to require the installation of measuring devices.

### **XII. STOCKWATERING, DOMESTIC and MINING**

The limit and extent of the rights claimed and certificates issued for mining, watering livestock and domestic purposes shall be according to the dates of priorities of such users and limited to the quantity of water reasonably necessary for such use. If a claimant is not in priority for irrigation water, that claimant is not in priority for stockwater and domestic water. The amount of water diverted for irrigation purposes shall not be increased by any amount to be used for stockwatering and domestic purposes, but the quantity allowed and diverted for irrigation during the irrigation season shall include water for stockwatering and domestic purposes. The number and type of livestock shall be a sufficient measure for determination of the quantity of water under each claim. Additionally, livestock are opportunistic and will consume water from various sources and varying quantities depending on available feed. Therefore, individual claims for watering stock in a range area that contain multiple water sources have been grouped together so that the total combined duty does not exceed the amount necessary for the number of animals within the range area and will be the

limit and extent of the water right. The period of use for mining, stockwatering and domestic purposes shall be from January 1st to December 31st of each year unless otherwise noted.

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

All water allotted under this Order shall be appurtenant to the place of use designated herein. Any water user desiring to change the point of diversion, manner of use or place of use of the waters allotted herein must make application to the State Engineer for permission to make a change pursuant to NRS § 533.345.

The amount of water allowed to be changed shall not exceed the amount of water available for beneficial use during a year of average runoff. For streams which do not have sufficient data to accurately represent actual runoff characteristics and volumes, additional studies may be deemed necessary by the State Engineer prior to the approval or denial of any application to change. The change applications for ground water will be subject to additional determination and evaluation with respect to the effects on existing water rights and the resource within the groundwater basin.

**XIV. ENTRY TO INVESTIGATE and RETENTION OF JURISDICTION**

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

Once decreed, the State Engineer requests the Court expressly reserve jurisdiction over all matters the subject of this adjudication.

XV. RIGHTS OF APPROPRIATORS

The proofs and appropriative water rights described in the following tables are determined by the State Engineer to be valid in this Order of Determination.

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.									
V-01091	E. WAYNE & JEAN N. HAGE	MEADOW CANYON CREEK AND TRIBUTARIES	NW¼NE¼ SEC. 21, T.10N., R.45E., M.D.B.&M., N.40°58'04"W, 19,537.53 FT. FROM THE NE¼ COR. SEC. 2, T.9N., R.45E., M.D.B.&M.	MAY 1 TO OCT. 31 PER DECREE 588	IRRIGATION STOCKWATER DOMESTIC 1874	24	3	450.66									
PLACE OF USE 40 ACRE DESCRIPTIONS																	
SECTION	TOWN-SHIP	RANGE	N			E			S			W			ACRES PER SECTION		
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			
1	T. 9 N., R. 45 E.		0.25	4.71	10.62	4.85	10.54	13.01	0.48	0.48	13.01	0.48	0.48	7.62	5.83	7.96	50.34
21	T. 10 N., R. 45 E.					0.06		0.53	1.84					17.28	8.03	1.89	46.96
27	T. 10 N., R. 45 E.							0.40	9.01					3.44	4.53		24.35
28	T. 10 N., R. 45 E.								2.41								15.32
35	T. 10 N., R. 45 E.													4.91	2.58	3.01	10.50
36	T. 10 N., R. 45 E.												2.75				2.75
TOTAL ACRES:																	
150.22																	
REFER TO APPENDIX A FOR SPRING SOURCE DESCRIPTIONS FOR STOCKWATERING. PROOF NOS. V-01091, V-01183, V-01184, V-01185, V-01186, V-04485, V-04486 V-05738, AND V-05739 SHALL BE LIMITED TO 672 HEAD OF CATTLE, 4,722 SHEEP AND 8 HORSES DISTRIBUTED ON ALL SOURCES.																	

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.									
V-01183	E. WAYNE & JEAN N. HAGE	SMITH CREEK (AKA WIDOW SMITH CREEK, AND SOUTH FORK WIDOW SMITH CREEK)	SW¼NW¼ SEC. 28, T.10N., R.46E., M.D.B.&M., N.83°38'W, 4,616.0 FT. FROM THE E¼ COR. SAID SEC. 28.	APR. 1 TO OCT. 30	IRRIGATION STOCKWATER DOMESTIC 1874	4.5	3	229.11									
PLACE OF USE 40 ACRE DESCRIPTIONS																	
SECTION	TOWN-SHIP	RANGE	N			E			S			W			ACRES PER SECTION		
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			
27	T. 10 N., R. 46 E.										2.41	13.54	12.68	24.10	4.76	17.33	70.06
28	T. 10 N., R. 46 E.															1.55	6.31
TOTAL ACRES:																	
76.37																	
REFER TO APPENDIX A FOR SPRING SOURCE DESCRIPTIONS FOR STOCKWATERING. PROOF NO. V-01091 REGARDING STOCKWATERING.																	



PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.							
V-01186	E. WAYNE & JEAN N. HAGE	ANDREW'S CREEK & TRIBUTARIES	SW 1/4 NW 1/4 SEC. 30, T. 11 N., R. 46 E., M.D.B. & M., S. 21° 2' W. 4,352.00 FT. FROM THE E 1/4 COR. SEC. 19, T. 11 N., R. 46 E., M.D.B. & M.	APR. 1 TO OCT. 30	IRRIGATION STOCKWATER DOMESTIC 1874	24	3	3154.14							
PLACE OF USE															
40 ACRE DESCRIPTIONS															
SECTION	TOWN-SHIP	RANGE	ACRES PER SECTION												REMARKS
			N			E			S			W			
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
10	T. 11 N., R. 46 E.		2.75			25.16						23.65		2.01	96.21
11	T. 11 N., R. 46 E.												39.27		119.37
14	T. 11 N., R. 46 E.			2.29	38.79						39.02				40.67
15	T. 11 N., R. 46 E.		39.06		1.61										232.28
16	T. 11 N., R. 46 E.		39.06		37.23	1.84					36.33	18.44			141.50
17	T. 11 N., R. 46 E.										5.28				21.52
20	T. 11 N., R. 46 E.											11.02	8.90	37.03	141.50
21	T. 11 N., R. 46 E.		38.71	31.54	8.15	13.88	13.32	17.91							0.00
22	T. 11 N., R. 46 E.							26.81							123.51
26	T. 12 N., R. 46 E.														25.81
35	T. 12 N., R. 46 E.														103.11
			39.9	38.88								33.54	25.23	36.31	147.40
			TOTAL ACRES:												1051.38

REFER TO APPENDIX A FOR SPRING SOURCE DESCRIPTIONS FOR STOCKWATERING

REFER TO REMARKS UNDER PROOF NO. V-01091 REGARDING STOCKWATERING. SHADED ACREAGE IS SUPPLEMENTED BY PROOF NO. V-01185 AND PERMIT 3406, CERT. 742



PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.								
V-02355	JAMES R. BOYCE & CHRISTINE D. BOYCE	LOWER WADSWORTH CREEK AND TRIBUTARIES	NW/4NE/4 SEC. 27, T.13N., R.47E., M.D.B.&M. S.49°28'E. 17,620 FT. FROM THE NW COR. OF SEC. 17, T.13N., R.47E., M.D.B.&M.	OCT. 1 TO MAY 31	STOCKWATER 1871											
PLACE OF USE																
40 ACRE DESCRIPTIONS																
SECTION	TOWN-SHIP	RANGE	N. E.				S. W.				S. E.				STOCKWATER UNDER PROOF NOS. V-02355, V-02357 V-02359, V-05694-98, V-05736, V-05742 AND V-05744 SHALL BE LIMITED TO 1,580 HEAD OF CATTLE, 15,500 SHEEP AND 419 HORSES DISTRIBUTED ON ALL SOURCES.	
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
16	T. 13 N., R. 47 E.						X	X	X	X	X	X	X	X		
21	T. 13 N., R. 47 E.		X								X	X	X	X		
22	T. 13 N., R. 47 E.		X			X	X	X	X	X	X	X	X	X		
23	T. 13 N., R. 47 E.						X	X	X	X	X	X	X	X		
25	T. 13 N., R. 47 E.						X	X	X	X	X	X	X	X		
26	T. 13 N., R. 47 E.		X				X	X	X	X	X	X	X	X		
27	T. 13 N., R. 47 E.		X				X	X	X	X	X	X	X	X		
36	T. 13 N., R. 47 E.		X				X	X	X	X	X	X	X	X		
30	T. 13 N., R. 48 E.						X	X	X	X	X	X	X	X		
PLACE OF USE																
40 ACRE DESCRIPTIONS																
SECTION	TOWN-SHIP	RANGE	N. E.				S. W.				S. E.				STOCKWATER 1866	
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
1	T. 13 N., R. 46 E.						X	X	X	X	X	X	X	X		
PLACE OF USE																
40 ACRE DESCRIPTIONS																
SECTION	TOWN-SHIP	RANGE	N. E.				S. W.				S. E.					REFER TO REMARKS UNDER PROOF NO. V-02355 REGARDING STOCKWATERING
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
1	T. 13 N., R. 46 E.						X	X	X	X	X	X	X	X		

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.		
V-02359	JAMES R. BOYCE & CHRISTINE D. BOYCE	(LOWER) MORGAN CREEK & TRIBUTARIES	NE 1/4 SEC. 21, T. 12N., R. 47E., M.D.B.&M., S. 84°23'W. 8,613 FT. FROM THE NE COR. OF SEC. 22, T. 12N., R. 47E., M.D.B.&M.	OCT. 1 TO MAY 31	STOCKWATER 1871					
PLACE OF USE 40 ACRE DESCRIPTIONS										
SECTION	TOWN-SHIP	RANGE	N E S W			N E S W			REMARKS REFER TO REMARKS UNDER PROOF NO. V-02355 REGARDING STOCKWATERING.	
			NE	NW	SE	SW	NE	NW		SE
20	T. 12 N., R. 47 E.		X	X						
21	T. 12 N., R. 47 E.		X	X						
22	T. 12 N., R. 47 E.		X	X						
23	T. 12 N., R. 47 E.		X	X						
V-04174	STEPHEN C. WILMANS, III	UNNAMED SPRINGS	NE 1/4 SEC. 27, T. 13N., R. 46E., M.D.B.&M., N. 14°51'W. 2,203 FT. FROM THE SE COR. OF SAID SEC. 27.	APR. 1 TO SEPT. 30	STOCKWATER 1877					
PLACE OF USE 40 ACRE DESCRIPTIONS										
SECTION	TOWN-SHIP	RANGE	N E S W			N E S W			REMARKS THIS PROOF REPRESENTS THE SAME SPRINGS AS PROOF NO. V-05745. PROOF NOS. V-04174, V-05532, V-05740, V-05741, V-05743, V-05745, AND V-05746 SHALL BE LIMITED TO 2,055 HEAD OF CATTLE, 15,500 SHEEP AND 410 HORSES DISTRIBUTED ON ALL SOURCES	
27	T. 13 N., R. 46 E.						X			

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.							
R-04175	UNITED STATES OF AMERICA - FOREST SERVICE	BARLEY CREEK	SE x SW ¼ SEC. 10, T. 09N., R. 47E., M.D.B.&M., N. 73°00'W, 12,700 FT. FROM THE BARLEY HORIZONTAL CONTROL STATION.	MAY 1 TO OCT. 31	WATERSHED PROTECTION APRIL 15, 1907 DOMESTIC STOCKWATERING	0.002		0.026							
PLACE OF USE 40 ACRE DESCRIPTIONS															
SECTION	TOWNSHIP	RANGE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	REMARKS
10	T. 9 N.	R. 47 E.									X				FEDERAL RESERVED WATER RIGHT UNDER THE ORGANIC ADMINISTRATION ACT OF 1897. WATER IS USED WITHIN BARLEY CREEK ADMINISTRATIVE SITE FOR WATERSHED PROTECTION
PLACE OF USE 40 ACRE DESCRIPTIONS															
SECTION	TOWNSHIP	RANGE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	REMARKS
21	T. 10 N.	R. 45 E.									X				FEDERAL RESERVED WATER RIGHT UNDER THE ORGANIC ADMINISTRATION ACT OF 1897. WATER IS USED WITHIN MEADOW CANYON ADMINISTRATIVE SITE FOR WATERSHED PROTECTION. SAME AS PERMIT 10606, CERTIFICATE 2914.



PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.																																																																
R-04179	UNITED STATES OF AMERICA - FOREST SERVICE	BOX SPRING	NW 1/4 SEC. 31, T. 10N., R. 48E., M.D.B.&M., N 27°00' E, 14,000 FT. FROM THE SE COR. OF SAID SEC. 31.	MAY 1 TO SEPT. 30	WATERSHED PROTECTION APRIL 15, 1907 STOCKWATERING	0.001		0.126																																																																
<table border="1" style="width:100%; text-align:center;"> <tr> <th colspan="9">PLACE OF USE</th> <th rowspan="2">ACRES PER SECTION</th> <th rowspan="2">REMARKS</th> </tr> <tr> <th colspan="9">40 ACRE DESCRIPTIONS</th> </tr> <tr> <th>SECTION</th> <th>TOWN-SHIP</th> <th>RANGE</th> <th>N</th> <th>E</th> <th>N</th> <th>W</th> <th>S</th> <th>E</th> <th>NE</th> <th>NW</th> <th>SW</th> <th>SE</th> <th>NE</th> <th>NW</th> <th>SW</th> <th>SE</th> <th>S</th> <th>E</th> <th colspan="3">FEDERAL RESERVED WATER RIGHT UNDER THE ORGANIC ADMINISTRATION ACT OF 1897. WATER IS USED WITHIN MEADOW CANYON ADMINISTRATIVE SITE FOR WATERSHED PROTECTION</th> </tr> <tr> <td>31</td> <td>T. 10 N.</td> <td>R. 48 E.</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </table>									PLACE OF USE									ACRES PER SECTION	REMARKS	40 ACRE DESCRIPTIONS									SECTION	TOWN-SHIP	RANGE	N	E	N	W	S	E	NE	NW	SW	SE	NE	NW	SW	SE	S	E	FEDERAL RESERVED WATER RIGHT UNDER THE ORGANIC ADMINISTRATION ACT OF 1897. WATER IS USED WITHIN MEADOW CANYON ADMINISTRATIVE SITE FOR WATERSHED PROTECTION			31	T. 10 N.	R. 48 E.																			
PLACE OF USE									ACRES PER SECTION	REMARKS																																																														
40 ACRE DESCRIPTIONS																																																																								
SECTION	TOWN-SHIP	RANGE	N	E	N	W	S	E	NE	NW	SW	SE	NE	NW	SW	SE	S	E	FEDERAL RESERVED WATER RIGHT UNDER THE ORGANIC ADMINISTRATION ACT OF 1897. WATER IS USED WITHIN MEADOW CANYON ADMINISTRATIVE SITE FOR WATERSHED PROTECTION																																																					
31	T. 10 N.	R. 48 E.																																																																						

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.																																																																
R-04180	UNITED STATES OF AMERICA - FOREST SERVICE	SCUFFE'S SPRING	NE 1/4 SEC. 07, T. 10N., R. 48E., M.D.B.&M., S 87°00' E, 4,500 FT. FROM THE SW COR. OF SEC. 31, T11N., R. 48E., M.D.B.&M.	MAY 1 TO OCT. 31	WATERSHED PROTECTION APRIL 15, 1907 STOCKWATERING	0.002		0.033																																																																
<table border="1" style="width:100%; text-align:center;"> <tr> <th colspan="9">PLACE OF USE</th> <th rowspan="2">ACRES PER SECTION</th> <th rowspan="2">REMARKS</th> </tr> <tr> <th colspan="9">40 ACRE DESCRIPTIONS</th> </tr> <tr> <th>SECTION</th> <th>TOWN-SHIP</th> <th>RANGE</th> <th>N</th> <th>E</th> <th>N</th> <th>W</th> <th>S</th> <th>E</th> <th>NE</th> <th>NW</th> <th>SW</th> <th>SE</th> <th>NE</th> <th>NW</th> <th>SW</th> <th>SE</th> <th>S</th> <th>E</th> <th colspan="3">FEDERAL RESERVED WATER RIGHT UNDER THE ORGANIC ADMINISTRATION ACT OF 1897. WATER IS USED WITHIN SCUFFE'S ADMINISTRATIVE SITE FOR WATERSHED PROTECTION</th> </tr> <tr> <td>7</td> <td>T. 10 N.</td> <td>R. 48 E.</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </table>									PLACE OF USE									ACRES PER SECTION	REMARKS	40 ACRE DESCRIPTIONS									SECTION	TOWN-SHIP	RANGE	N	E	N	W	S	E	NE	NW	SW	SE	NE	NW	SW	SE	S	E	FEDERAL RESERVED WATER RIGHT UNDER THE ORGANIC ADMINISTRATION ACT OF 1897. WATER IS USED WITHIN SCUFFE'S ADMINISTRATIVE SITE FOR WATERSHED PROTECTION			7	T. 10 N.	R. 48 E.																			
PLACE OF USE									ACRES PER SECTION	REMARKS																																																														
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SECTION	TOWN-SHIP	RANGE	N	E	N	W	S	E	NE	NW	SW	SE	NE	NW	SW	SE	S	E	FEDERAL RESERVED WATER RIGHT UNDER THE ORGANIC ADMINISTRATION ACT OF 1897. WATER IS USED WITHIN SCUFFE'S ADMINISTRATIVE SITE FOR WATERSHED PROTECTION																																																					
7	T. 10 N.	R. 48 E.																																																																						

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.											
R-04181	UNITED STATES OF AMERICA - FOREST SERVICE	UPPER SCUFFE'S SPRING	SEXSEX. SEC. 31, T. 11N., R. 48E., M.D.B.&M., N.78°00'E, 4.600 FT. FROM THE SW COR. OF SAID SEC. 31.	MAY 1 TO OCT. 31	WATERSHED PROTECTION APRIL 15, 1907  DOMESTIC STOCKWATERING	0.002		0.033											
PLACE OF USE 40 ACRE DESCRIPTIONS																			
SECTION	TOWNSHIP	RANGE	NE	NW	E	SE	N	SW	NE	NW	SW	SE	S	E	SW	SE			
31	T. 11 N.	R. 48 E.																	
									FEDERAL RESERVED WATER RIGHT UNDER THE ORGANIC ADMINISTRATION ACT OF 1987. WATER IS USED WITHIN SCUFFE'S ADMINISTRATIVE SITE FOR WATERSHED PROTECTION										
PLACE OF USE 40 ACRE DESCRIPTIONS																			
SECTION	TOWNSHIP	RANGE	NE	NW	E	SE	N	SW	NE	NW	SW	SE	S	E	SW	SE			
6	T. 11 N.	R. 47 E.																	
									PROOF NOS. V-04463 AND V-05738 SHALL BE LIMITED TO 1,000 HEAD OF CATTLE, 12,000 SHEEP AND 34 HORSES										

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.									
V-04465	E. WAYNE & JEAN N. HAGE	MOSQUITO CREEK & TRIBUTARIES	NW 1/4 NE 1/4 SEC. 31, T. 12N., R. 47E., M.D.B.&M., N.68°10'E. 1856 FT. FROM THE NE COR. SAID SEC. 31.  SW 1/4 NE 1/4 SEC. 32, T. 12N., R. 47E., M.D.B.&M., S.64°05'E. 3890 FT. FROM THE NW COR. SAID SEC. 32.  SE 1/4 SE 1/4 SEC. 32, T. 12N., R. 47E., M.D.B.&M., N.79°01'E. 4590 FT. FROM THE SW COR. SAID SEC. 32.	JAN. 1. TO DEC. 31	IRRIGATION STOCKWATER DOMESTIC 1874	22	3	7131.48									
PLACE OF USE																	
40 ACRE DESCRIPTIONS																	
SECTION	TOWN-SHIP	RANGE	PLACE OF USE												ACRES PER SECTION	REMARKS	
			40 ACRE DESCRIPTIONS														
13	T. 12 N., R. 46 E.		NE	NW	SE	SW	NE	NW	SE	SW	NE	NW	SE	SW	SE	95.01	
24	T. 12 N., R. 46 E.		18.18		10.61		12.62	26.59	16.24	39.09	20.23	78.89	8.22	361.27	9.27		
25	T. 12 N., R. 46 E.		19.21	1.84	10.61											21.57	
36	T. 12 N., R. 46 E.		22.73		26.06											26.16	
5	T. 12 N., R. 47 E.		28.28		11.17											100.40	
6	T. 12 N., R. 47 E.															39.45	
7	T. 12 N., R. 47 E.															26.28	
8	T. 12 N., R. 47 E.															63.76	
18	T. 12 N., R. 47 E.															67.73	
19	T. 12 N., R. 47 E.															8.22	
29	T. 12 N., R. 47 E.															9.27	
30	T. 12 N., R. 47 E.															361.27	
31	T. 12 N., R. 47 E.															9.27	
32	T. 12 N., R. 47 E.															381.47	
REFER TO REMARKS UNDER PROOF NO. V-01081 REGARDING STOCKWATERING.																	
SHADED ACREAGE IS SUPPLEMENTED BY PERMIT 4784, CERT. 1212, AND PERMIT 4785, CERT. 1213.																	
PERMITS 4784 AND 4785 ARE NOT SUPPLEMENTAL TO EACH OTHER.																	
REFER TO REMARKS UNDER PROOF NO. V-01081 REGARDING STOCKWATERING.																	
SHADED ACREAGE IS SUPPLEMENTED BY PERMIT 4784, CERT. 1212, AND PERMIT 4785, CERT. 1213.																	
PERMITS 4784 AND 4785 ARE NOT SUPPLEMENTAL TO EACH OTHER.																	
TOTAL ACRES: 2377.16																	

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.												
V-04466	E. WAYNE & JEAN N. HAGE	BARLEY CREEK & TRIBUTARIES (MEADOW CANYON CREEK & WIDOW SMITH CREEK)	NW¼NW¼ SEC. 06, T. 10N., R. 47E., M.D.B.&M., S. 29°41'E. 1183 FT. FROM THE NW COR. SAID SEC. 6.  SW¼SE¼ SEC. 01, T. 10N., R. 46E., M.D.B.&M., N. 88°40'E. 910 FT. FROM THE S¼ COR. SAID SEC. 1.  NW¼SE¼ SEC. 13, T. 10N., R. 46E., M.D.B.&M., S. 14°11'39E. 3029.63 FT. FROM THE N¼ COR. SAID SEC. 13.  SE¼SW¼ SEC. 36, T. 10N., R. 46E., M.D.B.&M., N. 82°53'E. 1,814.00 FT. FROM THE SW COR. SAID SEC. 36.	JAN. 1 TO DEC. 31	IRRIGATION STOCKWATER DOMESTIC 1874	24	3	2854.83												
PLACE OF USE 40 ACRE DESCRIPTIONS																				
SECTION	TOWN-SHIP	RANGE	ACRES PER SECTION												REMARKS					
			NE	NW	SE	SW	NE	NW	SE	SW	NE	NW	SE	SW	NE	NW	SE	SW		
1	T. 10 N.	R. 46 E.	38.30	7.40	29.60										30.30			0.70	36.30	142.60
12	T. 10 N.	R. 46 E.	39.90	19.31	39.10	39.80									39.39	39.29	39.35	39.35	295.49	
6	T. 10 N.	R. 47 E.																		64.70
7	T. 10 N.	R. 47 E.																		115.10
18	T. 10 N.	R. 47 E.																		33.88
36	T. 11 N.	R. 46 E.	20.90	39.80	39.80	25.70	14.00	5.90	0.20						35.90	37.00	34.90	39.44	294.54	
31	T. 11 N.	R. 47 E.																		5.30
			TOTAL ACRES:												951.61					

REFER TO APPENDIX A FOR SPRING  
SOURCE DESCRIPTIONS FOR STOCKWATERING

REFER TO REMARKS UNDER  
PROOF NO. V-01091 REGARDING  
STOCKWATERING.

SHADED ACREAGE IS  
SUPPLEMENTED BY PERMIT  
3361, CERT. 2808; AND PERMIT 3362 CERT. 2556.  
PERMITS 3361 AND 3362 ARE NOT  
SUPPLEMENTAL TO EACH OTHER.



PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.						
V-06532	STEPHEN C. WILMANS, III	MORGAN CREEK & TRIBUTARIES	NW¼NW¼ SEC. 23, T. 12N., R. 47E., M.D.B.&M., S. 58°54'E. 1,408 FT. FROM THE NW COR. OF SAID SEC. 23.  NE¼NW¼ SEC. 23, T. 12N., R. 47E., M.D.B.&M., S. 67°01'E. 2,070 FT. FROM THE NW COR. OF SAID SEC. 23.	APR. 1 TO OCT. 31	IRRIGATION STOCKWATER DOMESTIC 1871	5.0	3	54.30						
PLACE OF USE 40 ACRE DESCRIPTIONS														
SECTION	TOWN-SHIP	RANGE	N E S W N W S W N E N W S W S W S E N E N W S W S E				ACRES PER SECTION							
22	T. 12 N., R. 47 E.		NE	NW	SE	SW	NE	NW	SE	SW	SE	6.70	6.70	6.70
23	T. 12 N., R. 47 E.						0.20	11.20				11.40	11.40	18.10
TOTAL ACRES:												18.10		
REFER TO REMARKS UNDER PROOF NO. V-04174 REGARDING STOCKWATERING														

PROOF NO.	CLAIMANT	SOURCE	POINTS(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.	
V-05694	JAMES R. BOYCE & CHRISTINE D. BOYCE	BRANDY'S SPRING	SE 1/4 SW 1/4 SEC. 36, T.13N., R.46E., M.D.B.&M., N.58°51'W. 17,180 FT. FROM THE W 1/4 COR. SEC. 9, T.12N., R.46E., M.D.B.&M.	MAY 1 TO NOV. 30	STOCKWATER 1865				
PLACE OF USE 40 ACRE DESCRIPTIONS									
SECTION	TOWN-SHIP	RANGE	N E N W			S W S E			REMARKS REFER TO REMARKS UNDER PROOF NO. V-02355 REGARDING STOCKWATERING
36	T. 13 N.	R. 46 E.	NE	NW	SE	SW	SE	SW	
							X		

PROOF NO.	CLAIMANT	SOURCE	POINTS(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.	
V-05695	JAMES R. BOYCE & CHRISTINE D. BOYCE	KIP'S SPRING	SW 1/4 NE 1/4 SEC. 15, T.13N., R.46E., M.D.B.&M., S.70°19'W. 7,540 FT. FROM THE NE COR. OF SEC. 14, T.13N., R.46E., M.D.B.&M.	MAY 1 TO NOV. 30	STOCKWATER 1865				
PLACE OF USE 40 ACRE DESCRIPTIONS									
SECTION	TOWN-SHIP	RANGE	N E N W			S W S E			REMARKS REFER TO REMARKS UNDER PROOF NO. V-02355 REGARDING STOCKWATERING
15	T. 13 N.	R. 46 E.	NE	NW	SE	SW	SE	SW	
						X			

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.	
V-05696	JAMES R. BOYCE & CHRISTINE D. BOYCE	JT'S SPRING	NW $\frac{1}{4}$ SW $\frac{1}{4}$ SEC. 5, T.13N., R.46E., M.D.B.&M., N.32°35'W, 28,100 FT. FROM THE SE COR. OF SEC. 27, T.13N., R.46E., M.D.B.&M.	MAY 1 TO NOV. 30	STOCKWATER 1865				
PLACE OF USE									
40 ACRE DESCRIPTIONS									
SECTION	TOWN-SHIP	RANGE	N E N W			S E S W			REMARKS
5	T. 13 N.	R. 46 E.	NE	NW	SW	SE	NW	SW	
ACRES PER SECTION									
REFER TO REMARKS UNDER PROOF NO. V-02355 REGARDING STOCKWATERING									

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.	
V-05697	JAMES R. BOYCE & CHRISTINE D. BOYCE	BARBARA'S SPRING	NE $\frac{1}{4}$ SE $\frac{1}{4}$ SEC. 6, T.13N., R.46E., M.D.B.&M., N.32°56'W, 28,600 FT. FROM SE COR. OF SEC. 27, T.13N., R.46E., M.D.B.&M.	MAY 1 TO NOV. 30	STOCKWATER 1865				
PLACE OF USE									
40 ACRE DESCRIPTIONS									
SECTION	TOWN-SHIP	RANGE	N E N W			S E S W			REMARKS
6	T. 13 N.	R. 46 E.	NE	NW	SW	SE	NW	SW	
ACRES PER SECTION									
REFER TO REMARKS UNDER PROOF NO. V-02355 REGARDING STOCKWATERING									

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.																																																						
V-05698	JAMES R. BOYCE & CHRISTINE D. BOYCE	DAVID'S SPRING	NW 1/4 SEC. 6, T.13N., R.46E., M.D.B.&M., N.36°12'W., 29,880 FT. FROM THE SE COR. OF SEC. 27, T.13N., R.46E., M.D.B.&M.	MAY 1 TO NOV. 30	STOCKWATER 1865																																																									
<p style="text-align: center;">PLACE OF USE 40 ACRE DESCRIPTIONS</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td rowspan="2">SECTION</td> <td rowspan="2">TOWN-SHIP</td> <td rowspan="2">RANGE</td> <td colspan="4">N. E.</td> <td colspan="4">N. W.</td> <td colspan="4">S. W.</td> <td colspan="4">S. E.</td> </tr> <tr> <td>NE</td><td>NW</td><td>SW</td><td>SE</td> <td>NE</td><td>NW</td><td>SW</td><td>SE</td> <td>NE</td><td>NW</td><td>SW</td><td>SE</td> <td>NE</td><td>NW</td><td>SW</td><td>SE</td> </tr> <tr> <td>6</td> <td>T. 13 N.</td> <td>R. 46 E.</td> <td></td><td></td><td></td><td></td> <td></td><td></td><td></td><td></td> <td></td><td></td><td></td><td></td> <td></td><td></td><td></td><td></td> </tr> </table>									SECTION	TOWN-SHIP	RANGE	N. E.				N. W.				S. W.				S. E.				NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	6	T. 13 N.	R. 46 E.																
SECTION	TOWN-SHIP	RANGE	N. E.				N. W.					S. W.				S. E.																																														
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE																																												
6	T. 13 N.	R. 46 E.																																																												
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PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.																																																						
V-05736	JAMES R. BOYCE & CHRISTINE D. BOYCE	DRY LAKE WELL	NW 1/4 SW 1/4 SEC. 28, T.13N., R.47E., M.D.B.&M.	JAN. 1 TO DEC. 31	STOCKWATER PRIOR TO 1939																																																									
<p style="text-align: center;">PLACE OF USE 40 ACRE DESCRIPTIONS</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td rowspan="2">SECTION</td> <td rowspan="2">TOWN-SHIP</td> <td rowspan="2">RANGE</td> <td colspan="4">N. E.</td> <td colspan="4">N. W.</td> <td colspan="4">S. W.</td> <td colspan="4">S. E.</td> </tr> <tr> <td>NE</td><td>NW</td><td>SW</td><td>SE</td> <td>NE</td><td>NW</td><td>SW</td><td>SE</td> <td>NE</td><td>NW</td><td>SW</td><td>SE</td> <td>NE</td><td>NW</td><td>SW</td><td>SE</td> </tr> <tr> <td>29</td> <td>T. 13 N.</td> <td>R. 47 E.</td> <td></td><td></td><td></td><td></td> <td></td><td></td><td></td><td></td> <td></td><td></td><td></td><td></td> <td></td><td></td><td></td><td></td> </tr> </table>									SECTION	TOWN-SHIP	RANGE	N. E.				N. W.				S. W.				S. E.				NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	29	T. 13 N.	R. 47 E.																
SECTION	TOWN-SHIP	RANGE	N. E.				N. W.					S. W.				S. E.																																														
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE																																												
29	T. 13 N.	R. 47 E.																																																												
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PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.																																																																														
V-05738	E. WAYNE HAGE AND JEAN N. HAGE & HRH NEVADA RESOURCES, INC.	COMBINATION SPRINGS	SE $\frac{1}{4}$ NE $\frac{1}{4}$ SEC. 25, T.09N., R.45E., M.D.B.&M., N.18°25'W. 3,270 FT. FROM THE SE COR. OF SAID SEC. 25.	JAN. 1 TO DEC. 31	STOCKWATER 1866																																																																																	
<p style="text-align: center;">PLACE OF USE 40 ACRE DESCRIPTIONS</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td rowspan="2">SECTION</td> <td rowspan="2">TOWN-SHIP</td> <td rowspan="2">RANGE</td> <td colspan="4">N</td> <td colspan="4">E</td> <td colspan="4">S</td> <td rowspan="2">ACRES PER SECTION</td> <td rowspan="2">REMARKS</td> </tr> <tr> <td>NE</td><td>NW</td><td>SW</td><td>SE</td> <td>NE</td><td>NW</td><td>SW</td><td>SE</td> <td>NE</td><td>NW</td><td>SW</td><td>SE</td> </tr> <tr> <td>25</td> <td>T. 9 N.</td> <td>R. 45 E.</td> <td></td><td></td><td></td><td></td> <td></td><td></td><td></td><td></td> <td></td><td></td><td></td><td></td> <td></td> <td>REFER TO REMARKS UNDER PROOF NO. V-01091 REGARDING STOCKWATERING FOR THE HAGE PORTION AND PROOF NO. V-04463 FOR THE HRH NV. RES. PORTION</td> </tr> </table>									SECTION	TOWN-SHIP	RANGE	N				E				S				ACRES PER SECTION	REMARKS	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	25	T. 9 N.	R. 45 E.														REFER TO REMARKS UNDER PROOF NO. V-01091 REGARDING STOCKWATERING FOR THE HAGE PORTION AND PROOF NO. V-04463 FOR THE HRH NV. RES. PORTION																																
SECTION	TOWN-SHIP	RANGE	N				E					S				ACRES PER SECTION	REMARKS																																																																					
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25	T. 9 N.	R. 45 E.														REFER TO REMARKS UNDER PROOF NO. V-01091 REGARDING STOCKWATERING FOR THE HAGE PORTION AND PROOF NO. V-04463 FOR THE HRH NV. RES. PORTION																																																																						
V-05739	E. WAYNE HAGE AND JEAN N. HAGE	PASCO CREEK PASCO SPRING & TRIBUTARIES	SE $\frac{1}{4}$ NW $\frac{1}{4}$ SEC. 06, T.11N., R.46E., M.D.B.&M., N.07°53'25"W. 3,726 FT. FROM THE S $\frac{1}{4}$ COR. OF SAID SEC. 06.	MAY 1 TO SEPT. 30	IRRIGATION STOCKWATER DOMESTIC 1869	1.6	3	240.90																																																																														
<p style="text-align: center;">PLACE OF USE 40 ACRE DESCRIPTIONS</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td rowspan="2">SECTION</td> <td rowspan="2">TOWN-SHIP</td> <td rowspan="2">RANGE</td> <td colspan="4">N</td> <td colspan="4">E</td> <td colspan="4">S</td> <td rowspan="2">ACRES PER SECTION</td> <td rowspan="2">REMARKS</td> </tr> <tr> <td>NE</td><td>NW</td><td>SW</td><td>SE</td> <td>NE</td><td>NW</td><td>SW</td><td>SE</td> <td>NE</td><td>NW</td><td>SW</td><td>SE</td> </tr> <tr> <td>32</td> <td>T. 12 N.</td> <td>R. 46 E.</td> <td></td><td></td><td></td><td></td> <td></td><td></td><td></td><td></td> <td></td><td></td><td></td><td></td> <td>66.30</td> <td rowspan="2">SHADED ACREAGE IS SUPPLEMENTED BY PERMIT 2213, CERTIFICATE 414 AND PROOF NO. V-01184. REFER TO REMARKS UNDER PROOF NO. V-01091 REGARDING STOCKWATERING</td> </tr> <tr> <td>33</td> <td>T. 12 N.</td> <td>R. 46 E.</td> <td></td><td></td><td></td><td></td> <td></td><td></td><td></td><td></td> <td>1.38</td><td>12.62</td> <td>14.00</td> <td>80.30</td> </tr> <tr> <td colspan="3"></td> <td colspan="12" style="text-align: center;">TOTAL ACRES:</td> <td>80.30</td> <td></td> </tr> </table>									SECTION	TOWN-SHIP	RANGE	N				E				S				ACRES PER SECTION	REMARKS	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	32	T. 12 N.	R. 46 E.													66.30	SHADED ACREAGE IS SUPPLEMENTED BY PERMIT 2213, CERTIFICATE 414 AND PROOF NO. V-01184. REFER TO REMARKS UNDER PROOF NO. V-01091 REGARDING STOCKWATERING	33	T. 12 N.	R. 46 E.									1.38	12.62	14.00	80.30				TOTAL ACRES:												80.30	
SECTION	TOWN-SHIP	RANGE	N				E					S				ACRES PER SECTION	REMARKS																																																																					
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE																																																																								
32	T. 12 N.	R. 46 E.													66.30	SHADED ACREAGE IS SUPPLEMENTED BY PERMIT 2213, CERTIFICATE 414 AND PROOF NO. V-01184. REFER TO REMARKS UNDER PROOF NO. V-01091 REGARDING STOCKWATERING																																																																						
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			TOTAL ACRES:												80.30																																																																							

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY: PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.
V-05740	STEPHEN C. WILMANS, III	DRY LAKE SPRINGS (SW)	SW 1/4 SEC. 17, T.13N., R.47E., M.D.B.&M., S.40°02' E. 5,276 FT. FROM THE NW COR. OF SAID SEC. 17.	JAN. 1 TO DEC. 31	STOCKWATER 1874			
PLACE OF USE 40 ACRE DESCRIPTIONS								
SECTION	TOWN-SHIP	RANGE	N E N W N W N W N W N W		N E N W N W N W N W		N E N W N W N W N W	
17	T. 13 N.	R. 47 E.						
ACRES PER SECTION								
REMARKS								
REFER TO REMARKS UNDER PROOF NO. V-04174 REGARDING STOCKWATERING								
V-05741	STEPHEN C. WILMANS, III	DRY LAKE SPRINGS (NE)	SW 1/4 SEC. 9, T.13N., R.47E., M.D.B.&M., N.81°45' E. 6,622 FT. FROM THE SW COR. OF SEC. 8, T.13N., R.47E., M.D.B.&M.	JAN. 1 TO DEC. 31	STOCKWATER 1874			
PLACE OF USE 40 ACRE DESCRIPTIONS								
SECTION	TOWN-SHIP	RANGE	N E N W N W N W N W N W		N E N W N W N W N W		N E N W N W N W N W	
9	T. 13 N.	R. 47 E.						
ACRES PER SECTION								
REMARKS								
REFER TO REMARKS UNDER PROOF NO. V-04174 REGARDING STOCKWATERING								

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.											
V-05742	JAMES R. BOYCE & CHRISTINE D. BOYCE	UPPER MORGAN CREEK & TRIBUTARIES	A POINT ON THE NORTH-SOUTH CENTER SECTION LINE, SEC. 23, T.12N., R.47E., M.D.B.&M., S.01°00'E. 1,138 FEET FROM THE N¼ COR. OF SAID SEC. 23.	MAY 1 TO NOV. 30	STOCKWATER 1871														
PLACE OF USE																			
40 ACRE DESCRIPTIONS																			
SECTION	TOWN-SHIP	RANGE	40 ACRE DESCRIPTIONS												ACRES PER SECTION	REMARKS			
			N. 40			E. 40			S. 40			W. 40							
			NE	NW	SE	SW	NE	NW	SE	SW	NE	NW	SE	SW	NE	NW	SE	SW	
23	T. 12 N.	R. 47 E.	X																
24	T. 12 N.	R. 47 E.	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
19	T. 12 N.	R. 48 E.	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
20	T. 12 N.	R. 48 E.																	
28	T. 12 N.	R. 48 E.	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
29	T. 12 N.	R. 48 E.	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
30	T. 12 N.	R. 48 E.	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
31	T. 12 N.	R. 48 E.	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
32	T. 12 N.	R. 48 E.	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
33	T. 12 N.	R. 48 E.	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X

REFER TO REMARKS UNDER PROOF NO. V-02355 REGARDING STOCKWATERING

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.									
V-05743	STEPHEN C. WILMANS, III	WADSWORTH CREEK & TRIBUTARIE (UPPER)	A POINT ON THE WEST LINE SEC. 31, T. 13N., R. 48E., M.D.B.&M., S. 17°14'40"W., 19,204.2 FEET FROM THE E½ COR. SEC. 7, T. 13N., R. 48E., M.D.B.&M.	MAY 1 TO NOV. 30	STOCKWATER 1871												
PLACE OF USE																	
40 ACRE DESCRIPTIONS																	
SECTION	TOWN-SHIP	RANGE	N				E				S				ACRES PER SECTION	REMARKS	
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			
5	T. 12 N., R. 48 E.		X	X	X	X	X	X	X	X	X	X	X	X	X		REFER TO REMARKS UNDER PROOF NO. V-04174 REGARDING STOCKWATERING
6	T. 12 N., R. 48 E.		X	X	X	X	X	X	X	X	X	X	X	X	X		
7	T. 12 N., R. 48 E.		X	X	X	X	X	X	X	X	X	X	X	X	X		
8	T. 12 N., R. 48 E.		X	X	X	X	X	X	X	X	X	X	X	X	X		
9	T. 12 N., R. 48 E.		X	X	X	X	X	X	X	X	X	X	X	X	X		
16	T. 12 N., R. 48 E.		X	X	X	X	X	X	X	X	X	X	X	X	X		
17	T. 12 N., R. 48 E.		X	X	X	X	X	X	X	X	X	X	X	X	X		
20	T. 12 N., R. 48 E.		X	X	X	X	X	X	X	X	X	X	X	X	X		
21	T. 12 N., R. 48 E.		X	X	X	X	X	X	X	X	X	X	X	X	X		
22	T. 12 N., R. 48 E.		X	X	X	X	X	X	X	X	X	X	X	X	X		
28	T. 12 N., R. 48 E.		X	X	X	X	X	X	X	X	X	X	X	X	X		
29	T. 13 N., R. 48 E.																
30	T. 13 N., R. 48 E.																
31	T. 13 N., R. 48 E.		X	X	X	X	X	X	X	X	X	X	X	X	X		
32	T. 13 N., R. 48 E.		X	X	X	X	X	X	X	X	X	X	X	X	X		



PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.	
V-05744	JAMES R. BOYCE & CHRISTINE D. BOYCE	NORTHUMBERLAND SPRING	NE¼ SEC. 8, T. 12N., R. 46E., M.D.B.&M., S. 35°37'W. 438 FT. FROM THE E¼ COR. OF SAID SEC. 8,	JAN. 1 TO DEC. 31	STOCKWATER 1874				
PLACE OF USE 40 ACRE DESCRIPTIONS									
SECTION	TOWN-SHIP	RANGE	N E N W SE NE NW SW SE NE NW SW SE				S E S W SW SE		REFER TO REMARKS UNDER PROOF NO. V-02355 REGARDING STOCKWATERING
8	T. 12 N.	R. 46 E.							
ACRES PER SECTION									
REMARKS									
V-05745	STEPHEN C. WILMANS, III	WATER CANYON SPRINGS	NE¼ SEC. 27, T. 13N., R. 46E., M.D.B.&M., S. 70°44'W. 739 FT. FROM THE E¼ COR. OF SAID SEC. 27,	JAN. 1 TO DEC. 31	STOCKWATER 1888				
PLACE OF USE 40 ACRE DESCRIPTIONS									
SECTION	TOWN-SHIP	RANGE	N E N W SE NE NW SW SE NE NW SW SE				S E S W SW SE		REFER TO REMARKS UNDER PROOF NO. V-04174 REGARDING STOCKWATERING
26	T. 13 N.	R. 46 E.							
27	T. 13 N.	R. 46 E.							
ACRES PER SECTION									
REMARKS									

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.												
V-05746	STEPHEN C. WILMANS, III	MORGAN SPRING	SW $\frac{1}{4}$ NE $\frac{1}{4}$ SEC. 21, T. 12N., R. 48E., M.D.B.&M., S. 29°30'W., 28.510 FT. FROM THE NE COR. OF SEC. 36, T. 13N., R. 48E., M.D.B.&M.	MAY 1 TO NOV. 30	STOCKWATER 1871															
PLACE OF USE 40 ACRE DESCRIPTIONS																				
SECTION	TOWN-SHIP	RANGE	NE NW N E S W SW SE NE NW N W SW SE NE NW S E SW SE																ACRES PER SECTION	REMARKS
21	T. 12 N., R. 48 E.		X																	REFER TO REMARKS UNDER PROOF NO. V-04174 REGARDING STOCKWATERING

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.												
V-07044	STORE SAFE REDLANDS ASSOC., LTD, A PARTNERSHIP, DEB ROCK SPRINGS RANCH	DURFEE SPRING	SW $\frac{1}{4}$ NW $\frac{1}{4}$ SEC. 19, T. 13N., R. 46E., M.D.B.&M. (PROTRACTED)	JAN. 1 TO DEC. 31	STOCKWATER 1874															
PLACE OF USE 40 ACRE DESCRIPTIONS																				
SECTION	TOWN-SHIP	RANGE	NE NW N E S W SW SE NE NW N W SW SE NE NW S E SW SE																ACRES PER SECTION	REMARKS
19	T. 13 N., R. 46 E.		X																	SUFFICIENT TO WATER 1,590 HEAD OF CATTLE, 13,300 SHEEP, AND 419 HORSES.

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.																																						
R-07220	UNITED STATES OF AMERICA - FOREST SERVICE	ALL WATERS WITHIN THE BOUNDARIES OF THE ALTA TOQUIMA WILDERNESS	NO DIVERSION ALLOWED	JAN. 1 TO DEC. 31	WILDERNESS DEC. 5, 1989	SEE REMARKS	SEE REMARKS	SEE REMARKS																																						
<p style="text-align: center;">PLACE OF USE 40 ACRE DESCRIPTIONS</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td rowspan="2">SECTION</td> <td rowspan="2">TOWN-SHIP</td> <td rowspan="2">RANGE</td> <td colspan="2">N</td> <td colspan="2">E</td> <td colspan="2">S</td> <td colspan="2">W</td> <td colspan="2">SE</td> </tr> <tr> <td>NE</td><td>NW</td><td>SE</td><td>SW</td><td>NE</td><td>NW</td><td>SE</td><td>SW</td><td>NE</td><td>NW</td><td>SE</td><td>SW</td> </tr> <tr> <td colspan="13" style="text-align: center;">T. N. R. E.</td> </tr> </table> <p style="text-align: center;">ALTA TOQUIMA WILDERNESS ESTABLISHED BY THE NEVADA WILDERNESS PROTECTION ACT OF 1989. (PUB. L. 101-195; 103 STAT. 1784) VOLUME AND DIVERSION RATES OF WATER ARE NOT QUANTIFIED. THIS IS A NON-CONSUMPTIVE USE OF ALL WATER FLOWING IN ITS NATURAL STATE, EXCLUDING ADMINISTRATIVE SITES</p>									SECTION	TOWN-SHIP	RANGE	N		E		S		W		SE		NE	NW	SE	SW	NE	NW	SE	SW	NE	NW	SE	SW	T. N. R. E.												
SECTION	TOWN-SHIP	RANGE	N		E		S					W		SE																																
			NE	NW	SE	SW	NE	NW	SE	SW	NE	NW	SE	SW																																
T. N. R. E.																																														

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.																																						
R-07221	UNITED STATES OF AMERICA - FOREST SERVICE	ALL WATERS WITHIN THE BOUNDARIES OF THE TABLE MOUNTAIN WILDERNESS	NO DIVERSION ALLOWED	JAN. 1 TO DEC. 31	WILDERNESS DEC. 5, 1989	SEE REMARKS	SEE REMARKS	SEE REMARKS																																						
<p style="text-align: center;">PLACE OF USE 40 ACRE DESCRIPTIONS</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td rowspan="2">SECTION</td> <td rowspan="2">TOWN-SHIP</td> <td rowspan="2">RANGE</td> <td colspan="2">N</td> <td colspan="2">E</td> <td colspan="2">S</td> <td colspan="2">W</td> <td colspan="2">SE</td> </tr> <tr> <td>NE</td><td>NW</td><td>SE</td><td>SW</td><td>NE</td><td>NW</td><td>SE</td><td>SW</td><td>NE</td><td>NW</td><td>SE</td><td>SW</td> </tr> <tr> <td colspan="13" style="text-align: center;">T. N. R. E.</td> </tr> </table> <p style="text-align: center;">TABLE MOUNTAIN WILDERNESS ESTABLISHED BY THE NEVADA WILDERNESS PROTECTION ACT OF 1989. (PUB. L. 101-195; 103 STAT. 1784) VOLUME AND DIVERSION RATES OF WATER ARE NOT QUANTIFIED. THIS IS A NON-CONSUMPTIVE USE OF ALL SURFACE WATER FLOWING IN ITS NATURAL STATE, EXCLUDING ADMINISTRATIVE SITES</p>									SECTION	TOWN-SHIP	RANGE	N		E		S		W		SE		NE	NW	SE	SW	NE	NW	SE	SW	NE	NW	SE	SW	T. N. R. E.												
SECTION	TOWN-SHIP	RANGE	N		E		S					W		SE																																
			NE	NW	SE	SW	NE	NW	SE	SW	NE	NW	SE	SW																																
T. N. R. E.																																														

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.											
R-07320	U.S.D.I. BUREAU OF LAND MANAGEMENT	UNNAMED SPRING (8N46-1)	LOT 6 (SE&NE¼) SEC. 1, T. 08N., R. 48E., M.D.B.&M., S. 41°53' W. 1,840 FT. FROM THE NE COR. OF SAID SEC. 1.	JAN. 1 TO DEC. 31	HUMAN & ANIMAL CONSUMPTION APRIL 17, 1926	0.010													
PLACE OF USE 40 ACRE DESCRIPTIONS																			
SECTION	TOWN-SHIP	RANGE	N	E	N	W	N	E	S	E	N	W	S	E	N	W	S	E	
1	T. 8 N.	R. 46 E.	NE	NW	SW	SE	LOT 6	NE	NW	SW	SE	SE	NW	SW	SE	NE	NW	SW	SE
REMARKS PUBLIC WATER RESERVE.																			
PLACE OF USE 40 ACRE DESCRIPTIONS																			
SECTION	TOWN-SHIP	RANGE	N	E	N	W	N	E	S	E	N	W	S	E	N	W	S	E	
17	T. 13 N.	R. 47 E.	NE	NW	SW	SE	UNNAMED SPRING (13N47-17)	NE	NW	SW	SE	SE	NW	SW	SE	NE	NW	SW	SE
REMARKS PUBLIC WATER RESERVE.																			

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.
R-07323	U.S.D.I. BUREAU OF LAND MANAGEMENT	MONITOR LAKE 4	SW 1/4 SEC. 09, T. 13N., R. 47E., M.D.B.&M., N. 80°37'E. 8,160 FT. FROM THE SW COR. SEC. 8, T. 13N., R. 47E., M.D.B.&M.	JAN. 1 TO DEC. 31	HUMAN & ANIMAL CONSUMPTION APRIL 17, 1926	0.010		
PLACE OF USE								
40 ACRE DESCRIPTIONS								
SECTION	TOWN-SHIP	RANGE	N E N W S E N W S E N W S E			S E S E S E		
9	T. 13 N., R. 47 E.							
REMARKS								
PUBLIC WATER RESERVE.								

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.
R-07324	U.S.D.I. BUREAU OF LAND MANAGEMENT	MONITOR LAKE 3	NE 1/4 SEC. 09, T. 13N., R. 47E., M.D.B.&M., N. 77°23'E. 7,980 FT. FROM THE SW COR. SEC. 8, T. 13N., R. 47E., M.D.B.&M.	JAN. 1 TO DEC. 31	HUMAN & ANIMAL CONSUMPTION APRIL 17, 1926	0.010		
PLACE OF USE								
40 ACRE DESCRIPTIONS								
SECTION	TOWN-SHIP	RANGE	N E N W S E N W S E N W S E			S E S E S E		
9	T. 13 N., R. 47 E.							
REMARKS								
PUBLIC WATER RESERVE.								

PERMIT NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.
PERMIT: 767 CERT.: 360	CARILLO INDUSTRIES	BARLEY CREEK	ON THE E. LINE OF THE SW $\frac{1}{4}$ SW $\frac{1}{4}$ SECTION 10; 800 FEET W. OF E. LINE OF NE $\frac{1}{4}$ NW $\frac{1}{4}$ SECTION 16; 1150 FEET E. OF E. LINE NE $\frac{1}{4}$ NE $\frac{1}{4}$ SECTION 16; 200 FEET E. OF NW COR. OF THE S $\frac{1}{2}$ SW $\frac{1}{4}$ SEC. 8. ALL IN T.9N., R.47E., M.D.B.&M.	APR. 1 TO SEPT. 30	IRRIGATION & DOMESTIC DEC. 30, 1907	0.665	3	199.50
REMARKS: DUTY BY STATUTE								

PLACE OF USE													ACRES PER SECTION	REMARKS				
40 ACRE DESCRIPTIONS																		
SECTION	TOWN-SHIP	RANGE	N			E			S			W			S	E		
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE				
7	T. 9 N.	R. 47 E.															1.80	1st PRIORITY BY DECREE 5038.
8	T. 9 N.	R. 47 E.													S $\frac{1}{2}$	16.20	33.80	
9	T. 9 N.	R. 47 E.													7.50	7.50	7.50	
16	T. 9 N.	R. 47 E.															14.60	
17	T. 9 N.	R. 47 E.															8.80	
													TOTAL ACRES:	66.50				

PERMIT NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.
PERMIT: 2213 CERT.: 414	E. WAYNE & JEAN N. HAGE	PASCO CREEK (AKA COOK OR TUCKER CREEK)	SW $\frac{1}{4}$ NW $\frac{1}{4}$ SEC. 6, T.11N., R.46E.,	APR. 1 TO AUG. 1	IRRIGATION STOCKWATER & DOMESTIC SEPT. 19, 1911	0.318	2.44	77.56

PLACE OF USE													ACRES PER SECTION	REMARKS				
40 ACRE DESCRIPTIONS																		
SECTION	TOWN-SHIP	RANGE	N			E			S			W			S	E		
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE				
32	T. 12 N.	R. 46 E.															31.81	SHADED ACREAGE IS SUPPLEMENTED BY WATER UNDER PROOF NOS. V-01184 AND V-05739.
													TOTAL ACRES:	31.81				

PERMIT NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.
PERMIT: 2244 CERT.: 436	E. WAYNE & JEAN N. HAGE	MEADOW CREEK	400 FT. DUE SOUTH OF THE 1/4 SEC. CORNER ON THE NORTH BOUNDARY OF SEC. 7, T. 9N., R. 46E., M.D.B.&M.	MAY 1 TO OCT. 1	IRRIGATION & DOMESTIC OCT. 16, 1911	0.35	3	105.00
PLACE OF USE 40 ACRES PER SECTION								
SECTION	TOWN-SHIP	RANGE	N E N W SW SE NE NW SW SE NE NW SW SE S E			ACRES PER SECTION		
7	T. 9 N. R. 46 E.		10.00					10.00
8	T. 9 N. R. 46 E.		15.00					25.00
			TOTAL ACRES:			35.00		
REMARKS								
PERMIT NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.
PERMIT: 3361 CERT.: 2806	E. WAYNE & JEAN N. HAGE	BARLEY CREEK AND TRIBUTARIES (MEADOW CREEK & WIDOW SMITH CREEK)	SW 1/4 SE 1/4 SEC. 1, T. 10N., R. 46E., M.D.B.&M., S. 88°40'W. 910.0 FT. FROM S 1/4 COR. SAID SEC. 1.	APR. 1 TO JUL. 31	SUPPLEMENTAL IRRIGATION & DOMESTIC APR. 23 1915	1.205	2.44	294.00
PLACE OF USE 40 ACRES PER SECTION								
SECTION	TOWN-SHIP	RANGE	N E N W SW SE NE NW SW SE NE NW SW SE S E			ACRES PER SECTION		
1	T. 10 N. R. 46 E.		31.40					102.50
6	T. 10 N. R. 47 E.		4.60	7.60	5.90			18.00
			TOTAL ACRES:			120.50		
REMARKS								
SHADED ACREAGE IS SUPPLEMENTED BY WATER UNDER PROOF NO. V-04466.								

PERMIT NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.																																																																						
PERMIT: 3362 CERT.: 2556	E. WAYNE & JEAN N. HAGE	BARLEY CREEK AND TRIBUTARIES	NW 1/4 NW 1/4 SEC. 6, T. 10N., R. 47E., M.D.B.&M., N. 29° 41' W., 1,183.0 FT. FROM NW COR. SAID SEC. 6.	APR. 1 TO JUL. 31	SUPPLEMENTAL IRRIGATION APR. 23, 1915	2.651	1.80	478.00																																																																						
PLACE OF USE 40 ACRE DESCRIPTIONS																																																																														
SECTION	TOWN-SHIP	RANGE	PLACE OF USE												ACRES PER SECTION	REMARKS																																																														
			<table border="1" style="width:100%; text-align:center;"> <tr> <td colspan="3">N</td> <td colspan="3">E</td> <td colspan="3">S</td> <td colspan="3">W</td> <td colspan="3">SE</td> </tr> <tr> <td>NE</td><td>NW</td><td>SW</td><td>SE</td><td>NE</td><td>NW</td><td>SW</td><td>SE</td><td>NE</td><td>NW</td><td>SW</td><td>SE</td><td>NE</td><td>NW</td><td>SW</td><td>SE</td> </tr> <tr> <td>18.70</td><td>35.50</td><td>38.90</td><td>23.80</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td> </tr> <tr> <td colspan="15">TOTAL ACRES:</td> </tr> </table>												N			E			S			W			SE			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	18.70	35.50	38.90	23.80													TOTAL ACRES:															265.10 265.10	SHADED ACREAGE IS SUPPLEMENTED BY WATER UNDER PROOF NO. V-04486.
N			E			S			W			SE																																																																		
NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE																																																															
18.70	35.50	38.90	23.80																																																																											
TOTAL ACRES:																																																																														
PERMIT NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.																																																																						
PERMIT: 3406 CERT.: 742	E. WAYNE & JEAN N. HAGE	ANDREW CREEK	IN THE EAST PART OF THE SE 1/4 SW 1/4 SEC. 21, T. 11N., R. 46E., M.D.B.&M.	APR. 1 TO OCT. 31	IRRIGATION DOMESTIC 5626	1.2005	3.00	360.15																																																																						
PLACE OF USE 40 ACRE DESCRIPTIONS																																																																														
SECTION	TOWN-SHIP	RANGE	PLACE OF USE												ACRES PER SECTION	REMARKS																																																														
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N			E			S			W			SE																																																																		
NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE																																																															
39.80		11.00	29.25																																																																											
TOTAL ACRES:																																																																														



PERMIT NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.						
PERMIT: 3440 CERT: 3212	WARREN C. HUNT, ETHELYN HUNT, DONALD B. HUNT AND ESTHER CECELIA HUNT	NORTHUMBERLAND SPRINGS	NE 1/4 SEC. 08, T. 12N., R. 48E., M.D.B.&M., S. 06°08'E. 2,313.7 FT. FROM THE SE COR. SAID SEC. 08.	MAR. 1 TO OCT. 31	IRRIGATION JUN. 15, 1915	0.124	4.86	60.15						
PLACE OF USE 40 ACRE DESCRIPTIONS														
SECTION	TOWN-SHIP	RANGE	N. W. N. E. N. W. N. E. N. W. N. E.			S. W. S. E. S. W. S. E. S. W. S. E.			ACRES PER SECTION					
9	T. 12 N., R. 46 E.		NE	NW	SW	SE	NE	NW	SW	SE	12.40	12.40	12.40	TOTAL ACRES:
PLACE OF USE 40 ACRE DESCRIPTIONS														
PERMIT NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.						
PERMIT: 4784 CERT: 1212	E. WAYNE AND JEAN N. HAGE	MOSQUITO CREEK	SW 1/4 SEC. 32, T. 12N., R. 47E., M.D.B.&M., S. 64°05'E. 3,890 FT. FROM THE NW COR. SAID SEC. 32.	MAR. 1 TO NOV. 1	IRRIGATION DEC. 17, 1917	2.3626	4.80	1134.05						
PLACE OF USE 40 ACRE DESCRIPTIONS														
SECTION	TOWN-SHIP	RANGE	N. W. N. E. N. W. N. E. N. W. N. E.			S. W. S. E. S. W. S. E. S. W. S. E.			ACRES PER SECTION					
29	T. 12 N., R. 47 E.		NE	NW	SW	SE	NE	NW	SW	SE	17.84	17.84	17.84	TOTAL ACRES:
32	T. 12 N., R. 47 E.		NE	NW	SW	SE	NE	NW	SW	SE	40.00	40.00	40.00	TOTAL ACRES:
PLACE OF USE 40 ACRE DESCRIPTIONS														
REMARKS														
SHADED ACREAGE IS SUPPLEMENTED BY WATER UNDER PROOF NO. V-04465														

PERMIT NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.								
PERMIT: 4785 CERT.: 1213	E. WAYNE AND JEAN N. HAGE	MOSQUITO CREEK	NW 1/4 SEC. 31, T. 12N., R. 47E., M.D.B.&M., S. 68°10'W, 1,856 FT. FROM THE NE COR. SAID SEC. 31.	MAR. 1 TO NOV. 1	IRRIGATION DEC. 17, 1917	3.2	4.80	1536.00								
PLACE OF USE 40 ACRE DESCRIPTIONS																
SECTION	TOWN-SHIP	RANGE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	ACRES PER SECTION	REMARKS
30	T. 12 N., R. 47 E.														12.00	SHADED ACREAGE IS SUPPLEMENTED BY WATER UNDER PROOF NO. V-04465
31	T. 12 N., R. 47 E.		40.00				40.00	40.00	40.00	40.00	40.00				200.00	
TOTAL ACRES:															320.00	
PLACE OF USE 40 ACRE DESCRIPTIONS																
SECTION	TOWN-SHIP	RANGE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	ACRES PER SECTION	REMARKS
25	T. 9 N., R. 45 E.															0.003 CFS OR SUFFICIENT TO WATER 90 HEAD OF CATTLE AND HORSES

PERMIT NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.	
10606 CERT.: 2914	UNITED STATES OF AMERICA, FOREST SERVICE	UNNAMED SPRING	M.D.B.&M., N.45°47'W, 26.652 FT. FROM SE COR. OF SEC. 1, T.9N., R.46E., M.D.B.&M.	APR. 1 TO DEC. 1	MEADOW CR. RANGER STATION DOMESTIC DEC. 26, 1940	0.001		0.55	
PLACE OF USE 40 ACRE DESCRIPTIONS									
SECTION	TOWN-SHIP	RANGE	N E N W SW SE NE NW SW SE				S E S W NW SW SE		DOMESTIC USE FOR THE MEADOW CREEK RANGER STATION. SAME AS PROOF R-04176
21	T. 10 N., R. 45 E.								
ACRES PER SECTION									
REMARKS									

PERMIT NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.	
10689 CERT.: 2879	UNITED STATES OF AMERICA, FOREST SERVICE	UNNAMED SPRING	NW 1/4 SEC. 13, T.11N., R.46E., M.D.B.&M., S.74°18'E, 8.742.8 FT. FROM THE SW COR. OF SEC. 17, T.11N., R.46E., M.D.B.&M.	MA1 TO OCT. 31	RECREATIONAL & DOMESTIC JULY 1, 1941	0.001		0.55	
PLACE OF USE 40 ACRE DESCRIPTIONS									
SECTION	TOWN-SHIP	RANGE	N E N W SW SE NE NW SW SE				S E S W NW SW SE		DOMESTIC USE FOR THE USFS PINE CREEK CAMPGROUND
13	T. 11 N., R. 45 E.								
ACRES PER SECTION									
REMARKS									

PERMIT NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.				
PERMIT: 20632 CERT.: 6316	UNITED STATES OF AMERICA, FOREST SERVICE, REGION 4	PINE CREEK	NW 1/4 SEC. 13, T. 11N., R. 45E., M.D.B.&M., S. 38° 10.8' E., 3,985.7 FT. FROM THE COMMON CORNER OF THE SE COR. OF SEC. 12, & NE COR. OF SEC. 13, T. 11N., R. 45E., M.D.B.&M.	APR. 15 TO NOV. 15	DOMESTIC (CAMPGROUND) AUG. 10, 1962	0.004		1.71				
PLACE OF USE 40 ACRE DESCRIPTIONS												
SECTION	TOWN-SHIP	RANGE	NE	NW	SW	SE	N	W	SE	SW	SE	SE
13	T. 11 N.	R. 45 E.										
ACRES PER SECTION												
DOMESTIC USE FOR THE USFS PINE CREEK CAMPGROUND												
PERMIT NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.				
PERMIT: 26756 CERT.: 10862	E. WAYNE AND JEAN N. HAGE	PINE CREEK	SW 1/4 NW 1/4 SEC. 18, T. 11N., R. 46E., M.D.B.&M., N. 00° W., 385.72 FT. FROM THE W 1/4 COR. SAID SEC. 18.	JAN. 1 TO DEC. 31	IRRIGATION & DOMESTIC JUN. 2, 1972	5.4		497.26				
PLACE OF USE 40 ACRE DESCRIPTIONS												
SECTION	TOWN-SHIP	RANGE	NE	NW	SW	SE	N	W	SE	SW	SE	SE
3	T. 11 N.	R. 46 E.										
9	T. 11 N.	R. 46 E.										
10	T. 11 N.	R. 46 E.										
ACRES PER SECTION												
TOTAL ACRES: 278.17												

PERMIT NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.
PERMIT: 26757 CERT.: 10863	E. WAYNE AND JEAN N. HAGE	PINE CREEK	SW 1/4 NW 1/4 SEC. 18, T. 11N., R. 46E., M.D.B.&M., N. 00°W. 385.72 FT. FROM THE W 1/4 COR. SAID SEC. 18.	JAN. 1 TO DEC. 31	IRRIGATION & DOMESTIC JUN. 2, 1972	5.4	HARVEST: 4.00 MEADOW PASTURE: 2.00 DIVERS. PASTURE: 1.50	776.53

PLACE OF USE													ACRES PER SECTION	REMARKS	
40 ACRE DESCRIPTIONS															
SECTION	TOWN-SHIP	RANGE	N			E			S			W			TOTAL ACRES:
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
3	T. 11 N., R. 46 E.														80.00
4	T. 11 N., R. 46 E.														139.36
9	T. 11 N., R. 46 E.														39.39
TOTAL ACRES: 258.75															

PERMIT NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.
PERMIT: 27971 CERT.: 11169	WESTERN STATES MINERALS CORPORATION	UNDERGROUND	NE 1/4 SE 1/4 SEC. 24, T. 13N., R. 45E., M.D.B.&M., N. 29°33'06"W. 23,026.53 FT. FROM E 1/4 COR. OF SEC. 8, T. 12N., R. 46E., M.D.B.&M.	JAN. 1 TO DEC. 31	MINING AND MILLING AND DOMESTIC DEC. 26, 1973	0.0669		15.77 MILLION GALLONS ANNUALLY

PLACE OF USE													ACRES PER SECTION	REMARKS	
40 ACRE DESCRIPTIONS															
SECTION	TOWN-SHIP	RANGE	N			E			S			W			TOTAL ACRES:
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
24	T. 13 N., R. 45 E.		X												
19	T. 13 N., R. 46 E.														
TOTAL ACRES: 40.0															

THE TOTAL COMBINED DUTY OF WATER ISSUED UNDER THIS CERTIFICATE AND ANY CERTIFICATES ISSUED UNDER PERMITS 27973, CERT. 11170; 43786, CERT. 12804; AND 47602, CERT. 12624 SHALL NOT EXCEED 40.0 MILLION GALLONS ANNUALLY.

PERMIT NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.																																																																		
27973 CERT.: 11170	WESTERN STATES MINERALS CORPORATION	SPRING-FED POND	NW¼NW¼ SEC. 19, T. 13N., R. 46E., M.D.B.&M., N. 29°33'06"W, 23,028.53 FT. FROM EX. COR. OF SEC. 8, T. 12N., R. 46E., M.D.B.&M.	JAN. 1 TO DEC. 31	MINING DEC. 26, 1973	1.0		15.77 MILLION GALLONS ANNUALLY																																																																		
<p style="text-align: center;">PLACE OF USE 40 ACRE DESCRIPTIONS</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th rowspan="2">SECTION</th> <th rowspan="2">TOWN-SHIP</th> <th colspan="4">RANGE</th> <th colspan="4">N</th> <th colspan="4">E</th> </tr> <tr> <th>NE</th> <th>NW</th> <th>SW</th> <th>SE</th> <th>NE</th> <th>NW</th> <th>SW</th> <th>SE</th> <th>NE</th> <th>NW</th> <th>SW</th> <th>SE</th> </tr> </thead> <tbody> <tr> <td>24</td> <td>T. 13 N., R. 45 E.</td> <td>X</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>19</td> <td>T. 13 N., R. 46 E.</td> <td></td> <td></td> <td></td> <td></td> <td>X</td> <td>X</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table> <p style="text-align: center;">ACRES PER SECTION</p> <p>THE TOTAL COMBINED DUTY OF WATER ISSUED UNDER THIS CERTIFICATE AND ANY CERTIFICATES ISSUED UNDER PERMITS 27971, CERT. 11189, 43786, CERT. 12604, AND 47602, CERT. 12624 SHALL NOT EXCEED 40.0 MILLION GALLONS ANNUALLY.</p>									SECTION	TOWN-SHIP	RANGE				N				E				NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	24	T. 13 N., R. 45 E.	X																		19	T. 13 N., R. 46 E.					X	X												
SECTION	TOWN-SHIP	RANGE				N					E																																																															
		NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE																																																													
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		NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE																																																													
9	T. 12 N., R. 46 E.																																																																									

PERMIT NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.			
PERMIT: 40676 CERT.: 13331	JAMES R. BOYCE & CHRISTINE D. BOYCE	UNDERGROUND (DRY LAKE WELL)	NW¼SW¼ SEC. 29, T. 13N., R. 47E., M.D.B.&M., N 81°E, 16,950 FT. FROM SW COR. OF SEC. 26, T. 13N., R. 46E., M.D.B.&M.	JAN. 1 TO DEC. 31	STOCKWATER	0.0062		SEE REMARKS			
PLACE OF USE											
40 ACRE DESCRIPTIONS											
SECTION	TOWN-SHIP	RANGE	N E	N W	SE	SW	SE	SW	SE	SW	SE
29	T. 13 N.	R. 47 E.									
ACRES PER SECTION											
REMARKS											
SUFFICIENT TO WATER 200 HEAD OF CATTLE.											

PERMIT NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.			
PERMIT: 43014 CERT.: 11437	E. WAYNE AND JEAN N. HAGE	UNDERGROUND	NW¼NE¼ SEC. 20, T. 12N., R. 47E., M.D.B.&M., S. 78°01'15"W, 1,777.08 FT. FROM THE NE COR. OF SAID SEC. 20.	JUN. 1 TO DEC. 31	STOCKWATER	0.0094		SEE REMARKS			
PLACE OF USE											
40 ACRE DESCRIPTIONS											
SECTION	TOWN-SHIP	RANGE	N E	N W	SE	SW	SE	SW	SE	SW	SE
20	T. 12 N.	R. 47 E.									
ACRES PER SECTION											
REMARKS											
SUFFICIENT TO WATER 300 HEAD OF CATTLE.											

PERMIT NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.			
PERMIT: 43786 CERT.: 12604	WESTERN STATES MINERALS CORPORATION	UNDERGROUND	NEX&NX SEC. 24, T.13N., R.46E., M.D.B.&M., N.25°37'56"W, 26,134.37 FT. FROM E½ COR. OF SEC. 8, T.12N., R.46E., M.D.B.&M.	JAN. 1 TO DEC. 31	MINING MILLING AND DOMESTIC DEC. 26, 1973	0.134		16.43 MILLION GALLONS ANNUALLY			
PLACE OF USE 40 ACRE DESCRIPTIONS											
SECTION	TOWN-SHIP	RANGE	N. E. N. W. S. E. S. W. N. E. N. W. S. E. S. W.			S. E. N. E. N. W. S. E. S. W.			THE TOTAL COMBINED DUTY OF WATER ISSUED UNDER THIS CERTIFICATE AND ANY CERTIFICATES ISSUED UNDER PERMITS 27971, CERT. 11169; 27972, CERT. 11170; AND 47602, CERT. 12624 SHALL NOT EXCEED 40.0 MILLION GALLONS ANNUALLY.		
13	T. 13 N., R. 45 E.		NE	NW	SW	SE	NE	NW		SW	SE
24	T. 13 N., R. 45 E.		X		X					X	X
18	T. 13 N., R. 46 E.						X	X			
19	T. 13 N., R. 46 E.						X	X		X	
ACRES PER SECTION											
REMARKS											
PERMIT NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.			
PERMIT: 47602 CERT.: 12624	WESTERN STATES MINERALS CORPORATION	UNDERGROUND	NEX&NX SEC. 24, T.13N., R.45E., M.D.B.&M., N.25°37'56"W, 26,134.37 FT. FROM E½ COR. OF SEC. 8, T.12N., R.46E., M.D.B.&M.	JAN. 1 TO DEC. 31	MINING MILLING AND DOMESTIC JAN. 25, 1984	0.426		52.39 MILLION GALLONS ANNUALLY			
PLACE OF USE 40 ACRE DESCRIPTIONS											
SECTION	TOWN-SHIP	RANGE	N. E. N. W. S. E. S. W. N. E. N. W. S. E. S. W.			S. E. N. E. N. W. S. E. S. W.			THE TOTAL COMBINED DUTY OF WATER ISSUED UNDER THIS CERTIFICATE AND ANY CERTIFICATES ISSUED UNDER PERMITS 27971, CERT. 11169; 27972, CERT. 11170; AND 43786, CERT. 12604 SHALL NOT EXCEED 40.0 MILLION GALLONS ANNUALLY.		
13	T. 13 N., R. 45 E.		NE	NW	SW	SE	NE	NW		SW	SE
24	T. 13 N., R. 45 E.		X		X					X	X
18	T. 13 N., R. 46 E.						X	X			
19	T. 13 N., R. 46 E.						X	X		X	
ACRES PER SECTION											
REMARKS											



PERMIT NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.
PERMIT: 48411 CERT: 12307	E. WAYNE AND JEAN N. HAGE	UNDERGROUND	NE 1/4 SEC. 7, T. 12N., R. 47E., M.D.B.M., S. 60°04'20"E, 1,549.7 FT. FROM THE N 1/4 COR. OF SAID SECTION.	NOV. 15 TO JUNE 1	STOCKWATER SEPT. 18, 1984	0.009		SEE REMARKS
PLACE OF USE 40 ACRE DESCRIPTIONS								
SECTION	TOWN-SHIP	RANGE	N E N W SW SE NE NW SW SE NE NW SW SE		S E S E S E		REMARKS	
7	T. 12 N., R. 47 E.		X				SUFFICIENT TO WATER 300 HEAD OF CATTLE.	

PERMIT NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.
PERMIT: 50244 CERT: 14276	BOARD OF NYE COUNTY COMMISSIONERS	UNDERGROUND	SW 1/4 NW 1/4 SEC. 25, T. 9N., R. 45E., M.D.B.M., N. 13°36'E, 638 FT. FROM THE W 1/4 COR. OF SAID SEC. 25.	JAN. 1 TO DEC. 31	QUASI-MUNICIPAL	0.056		1.81 MILLION GALLONS ANNUALLY
PLACE OF USE 40 ACRE DESCRIPTIONS								
SECTION	TOWN-SHIP	RANGE	N E N W SW SE NE NW SW SE		S E S E S E		REMARKS	
25	T. 9 N., R. 45 E.		X				WATER TO BE USED FOR FIRE PROTECTION AND DUST CONTROL WITHIN THE TOWN OF BELMONT.	
26	T. 9 N., R. 45 E.		X					

APPENDIX A: STOCKWATER SOURCE DESCRIPTION.

PROOF NO.:	SOURCE NAME	POINT OF DIVERSION 40 ACRE PARCEL DESCRIPTION
01091	E. WAYNE & JEAN N. HAGE	
CLAIMANT:  DRAINAGE AREA:	SOLDIER SPRING REBELLION SPRING LOWER REBELLION SPRING ANDERSON SPRING PIPE ORGAN SPRING	SECTION: 9 ,T. 10 N. ,R. 45 E. NW ¼ SW ¼ SECTION: 16 ,T. 10 N. ,R. 45 E. SE ¼ NE ¼ SECTION: 15 ,T. 10 N. ,R. 45 E. SW ¼ NW ¼ SECTION: 15 ,T. 10 N. ,R. 45 E. SW ¼ NW ¼ SECTION: 15 ,T. 10 N. ,R. 45 E. SW ¼ NE ¼
USE:	LONE PINE SPRING PETERSON SPRING MACAFEE SPRING	SECTION: 14 ,T. 10 N. ,R. 45 E. SW ¼ NE ¼ SECTION: 20 ,T. 10 N. ,R. 45 E. SE ¼ NE ¼ SECTION: 20 ,T. 10 N. ,R. 45 E. NE ¼ NE ¼
STOCKWATER	BOX SPRING HAGE MEADOW SPRING LITTLE TABLE MOUNTAIN SPRING BULL FRAME SPRING	SECTION: 21 ,T. 10 N. ,R. 45 E. NW ¼ SW ¼ SECTION: 21 ,T. 10 N. ,R. 45 E. SW ¼ SE ¼ SECTION: 23 ,T. 10 N. ,R. 45 E. NE ¼ SE ¼ SECTION: 29 ,T. 10 N. ,R. 45 E. SW ¼ SE ¼
PRIORITY DATE:  1874	BRANDO SPRING MCCANN SPRING HUMPHREY SPRING BADGER SPRING WAYNE'S SPRING CINIBAR SPRING	SECTION: 27 ,T. 10 N. ,R. 45 E. NW ¼ NE ¼ SECTION: 27 ,T. 10 N. ,R. 45 E. SW ¼ NE ¼ SECTION: 27 ,T. 10 N. ,R. 45 E. NE ¼ NE ¼ SECTION: 26 ,T. 10 N. ,R. 45 E. SW ¼ NE ¼ SECTION: 26 ,T. 10 N. ,R. 45 E. NW ¼ NE ¼ SECTION: 32 ,T. 10 N. ,R. 45 E. NE ¼ SW ¼
REMARKS:  STOCKWATER SOURCES FILED UNDER PROOF OF APPROPRIATION FOR IRRIGATION.	FLOWER SPRING WARREN SPRING SIDE HILL SPRING RYECROFT SPRING SIDE ROCK SPRING SANTOS SPRING SAGE HEN SPRING	SECTION: 33 ,T. 10 N. ,R. 45 E. NE ¼ SW ¼ SECTION: 33 ,T. 10 N. ,R. 45 E. SE ¼ NE ¼ SECTION: 33 ,T. 10 N. ,R. 45 E. NE ¼ SE ¼ SECTION: 34 ,T. 10 N. ,R. 45 E. SW ¼ SE ¼ SECTION: 5 ,T. 9 N. ,R. 45 E. NE ¼ SW ¼ SECTION: 5 ,T. 9 N. ,R. 45 E. NW ¼ SE ¼ SECTION: 3 ,T. 9 N. ,R. 45 E. SW ¼ NW ¼

APPENDIX A: STOCKWATER SOURCE DESCRIPTION.

PROOF NO.:	SOURCE NAME	POINT OF DIVERSION 40 ACRE PARCEL DESCRIPTION
01183 E. WAYNE & JEAN N. HAGE	RUTH'S SPRING	SECTION: 2 ,T. 10 N. ,R. 45 E. SW ¼ SE ¼
SMITH CREEK AKA WIDOW SMITH CREEK, SOUTH FORK WIDOW SMITH CREEK	CORCORAN DIVIDE SPRING	SECTION: 13 ,T. 10 N. ,R. 45 E. SE ¼ SW ¼
	ARKANSAS SPRING	SECTION: 13 ,T. 10 N. ,R. 45 E. NE ¼ SE ¼
	SMITH SPRING	SECTION: 18 ,T. 10 N. ,R. 46 E. NW ¼ SW ¼
	CORCORAN SPRING	SECTION: 18 ,T. 10 N. ,R. 46 E. NE ¼ SW ¼
	BROWN TROUT SPRING	SECTION: 18 ,T. 10 N. ,R. 46 E. SE ¼ SW ¼
USE: STOCKWATER	SHEEP SPRING	SECTION: 24 ,T. 10 N. ,R. 45 E. NW ¼ NW ¼
	HOOPER SPRING	SECTION: 24 ,T. 10 N. ,R. 45 E. SE ¼ NE ¼
	RODEAR SPRING	SECTION: 19 ,T. 10 N. ,R. 46 E. NW ¼ NW ¼
PRIORITY DATE: 1874	STONE HOUSE SPRING	SECTION: 20 ,T. 10 N. ,R. 46 E. NE ¼ NW ¼
REMARKS: STOCKWATER SOURCES FILED UNDER PROOF OF APPROPRIATION FOR IRRIGATION.	GARDEN SPRING	SECTION: 28 ,T. 10 N. ,R. 46 E. SW ¼ NW ¼

APPENDIX A: STOCKWATER SOURCE DESCRIPTION.

PROOF NO.:	POINT OF DIVERSION 40 ACRE PARCEL DESCRIPTION	SOURCE NAME
01185	9 .T. 11 N. .R. 45 E. SW ¼ NW ¼	LOG ROAD SPRING
E. WAYNE & JEAN N. HAGE	10 .T. 11 N. .R. 45 E. SE ¼ NW ¼	GHOST SPRING
PINE CREEK AND TRIBUTARIES	10 .T. 11 N. .R. 45 E. NE ¼ SE ¼	HOWARD'S SPRING
	11 .T. 11 N. .R. 45 E. SW ¼ SW ¼	FIDDLER SPRING
USE: STOCKWATER	17 .T. 11 N. .R. 45 E. SE ¼ SE ¼	LITTLE NORTH FORK SPRING
	15 .T. 11 N. .R. 45 E. SW ¼ SW ¼	BIG NORTH FORK SPRING
	15 .T. 11 N. .R. 45 E. SE ¼ SE ¼	COW CANYON SPRING
	18 .T. 11 N. .R. 46 E. SE ¼ SE ¼	ODDIE SPRING
	21 .T. 11 N. .R. 45 E. SW ¼ SW ¼	MILL SITE SPRING
PRIORITY DATE: 1874	22 .T. 11 N. .R. 45 E. NW ¼ SW ¼	BIG SOUTH FORK SPRING #1
	22 .T. 11 N. .R. 45 E. NW ¼ SW ¼	BIG SOUTH FORK SPRING #2
	23 .T. 11 N. .R. 45 E. SE ¼ NW ¼	ERNST SPRING
	24 .T. 11 N. .R. 45 E. NE ¼ SE ¼	MCMONIGAL SPRING
	29 .T. 11 N. .R. 45 E. NE ¼ NW ¼	LAKE SPRING
	29 .T. 11 N. .R. 45 E. SW ¼ SE ¼	SUMMIT TRAIL SPRING
REMARKS: STOCKWATER SOURCES FILED UNDER PROOF OF APPROPRIATION FOR IRRIGATION.	28 .T. 11 N. .R. 45 E. SW ¼ NE ¼	LITTLE SOUTH FORK SPRING
	25 .T. 11 N. .R. 45 E. NW ¼ NW ¼	ANDREWS PASS SPRING

APPENDIX A: STOCKWATER SOURCE DESCRIPTION.

PROOF NO.:	SOURCE NAME	POINT OF DIVERSION 40 ACRE PARCEL DESCRIPTION
01186	E. WAYNE & JEAN N. HAGE	
CLAIMANT:	COOK SPRING	SECTION: 26 ,T. 11 N. ,R. 45 E. SE ¼ SW ¼
DRAINAGE AREA:	TRAIL CROSSING SPRING	SECTION: 26 ,T. 11 N. ,R. 45 E. SE ¼ SE ¼
	BIG ANDREWS SPRING	SECTION: 34 ,T. 11 N. ,R. 45 E. SE ¼ NW ¼
	WHITE ROCK SPRING	SECTION: 33 ,T. 11 N. ,R. 45 E. SE ¼ SE ¼
	LITTLE ANDREWS SPRING	SECTION: 34 ,T. 11 N. ,R. 45 E. NW ¼ SE ¼
USE:	TRAIL CANYON SPRING	SECTION: 31 ,T. 11 N. ,R. 46 E. SW ¼ SE ¼
	WINDY PASS SPRING	SECTION: 3 ,T. 10 N. ,R. 45 E. NE ¼ NW ¼
	MAHAGONY SPRING	SECTION: 3 ,T. 10 N. ,R. 45 E. NE ¼ SE ¼
PRIORITY DATE:	DEER HOLLOW SPIRNG #1	SECTION: 3 ,T. 10 N. ,R. 45 E. SE ¼ NE ¼
1874	DEER HOLLOW SPRING #2	SECTION: 3 ,T. 10 N. ,R. 45 E. SE ¼ NE ¼
	LAURA'S SPRING	SECTION: 2 ,T. 10 N. ,R. 45 E. SW ¼ NE ¼
REMARKS:	STOCKWATER SOURCES FILED UNDER PROOF OF APPROPRIATION FOR IRRIGATION.	

APPENDIX A: STOCKWATER SOURCE DESCRIPTION.

PROOF NO.:	SOURCE NAME	POINT OF DIVERSION 40 ACRE PARCEL DESCRIPTION
04465	HAYSTACK SPRING #1	SECTION: 33 ,T. 11 N. ,R. 47 E. NE ¼ SE ¼
CLAIMANT: E. WAYNE & JEAN N. HAGE	BREAKOUT SPRING	SECTION: 36 ,T. 11 N. ,R. 47 E. NW ¼ SW ¼
DRAINAGE AREA: MOSQUITO CREEK AND TRIBUTARIES	WILL JAMES SPRING	SECTION: 1 ,T. 10 N. ,R. 47 E. NE ¼ NW ¼
USE: STOCKWATER	HOOPER'S TRAP SPRING	SECTION: 3 ,T. 10 N. ,R. 47 E. SE ¼ NW ¼
PRIORITY DATE: 1874	DROP OFF SPRING	SECTION: 2 ,T. 10 N. ,R. 47 E. SE ¼ NE ¼
REMARKS: STOCKWATER SOURCES FILED UNDER PROOF OF APPROPRIATION FOR IRRIGATION.	SCORPION SPRING	SECTION: 1 ,T. 10 N. ,R. 47 E. SE ¼ NW ¼
	MARGARET SPRING	SECTION: 1 ,T. 10 N. ,R. 47 E. SW ¼ SE ¼
	RAMONA SPRING	SECTION: 13 ,T. 10 N. ,R. 47 ½ E. NE ¼ SW ¼
	HIGHPOINT SPRING	SECTION: 11 ,T. 10 N. ,R. 47 E. NW ¼ SW ¼
	RODEAR FLAT SPRING	SECTION: 13 ,T. 10 N. ,R. 47 ½ E. NE ¼ NW ¼
	HAILSTORM SPRING	SECTION: 24 ,T. 10 N. ,R. 47 ½ E. SW ¼ NW ¼
	CUT OFF SPRING	SECTION: 24 ,T. 10 N. ,R. 47 ½ E. SE ¼ NW ¼
	DRY LAKE SPRING	SECTION: 12 ,T. 10 N. ,R. 47 E. SE ¼ NW ¼
	NORTHTRAIL SPING	SECTION: 36 ,T. 12 N. ,R. 47 E. NE ¼ NW ¼
	BACH SPRING	SECTION: 36 ,T. 12 N. ,R. 47 E. SE ¼ NE ¼
	JEAN'S SPRING	SECTION: 36 ,T. 12 N. ,R. 47 E. NW ¼ SW ¼
	JOHNSON SPRING	SECTION: 35 ,T. 12 N. ,R. 47 E. SE ¼ NE ¼
	REED SPRING	SECTION: 2 ,T. 11 N. ,R. 47 E. NE ¼ SE ¼
	ARROWHEAD SPRING	SECTION: 1 ,T. 11 N. ,R. 47 E. SW ¼ NE ¼
	LEFT FORK SPRING	SECTION: 1 ,T. 11 N. ,R. 47 E. NE ¼ SE ¼
	DESEPTION SPRING	SECTION: 33 ,T. 11 N. ,R. 47 E. SE ¼ SE ¼
	STIENENGER SPRING	SECTION: 11 ,T. 11 N. ,R. 47 E. NE ¼ NW ¼
	BORREGGO SPRING	SECTION: 11 ,T. 11 N. ,R. 47 E. NW ¼ SE ¼
	STAMPEDE SPRING	SECTION: 12 ,T. 11 N. ,R. 47 E. NE ¼ NE ¼
	HAGE SPRING	SECTION: 12 ,T. 11 N. ,R. 47 E. NE ¼ SE ¼
	STUPER SPRING	SECTION: 13 ,T. 11 N. ,R. 47 E. NW ¼ SW ¼
	AMBUSH SPRING	SECTION: 13 ,T. 11 N. ,R. 47 E. SE ¼ SW ¼
	KAY SPRING	SECTION: 13 ,T. 11 N. ,R. 47 E. SE ¼ SW ¼
	RUNAWAY SPRING	SECTION: 23 ,T. 11 N. ,R. 47 E. SE ¼ SE ¼
	FOURMILE SPRING	SECTION: 24 ,T. 11 N. ,R. 47 E. NW ¼ NE ¼
	LOOKOUT SPRING	SECTION: 24 ,T. 11 N. ,R. 47 E. SW ¼ NE ¼
	HAYSTACK FLAT SPRING	SECTION: 28 ,T. 11 N. ,R. 47 E. NE ¼ SE ¼
	SUNDOWN SPRING	SECTION: 26 ,T. 11 N. ,R. 47 E. NW ¼ NE ¼

APPENDIX A: STOCKWATER SOURCE DESCRIPTION.

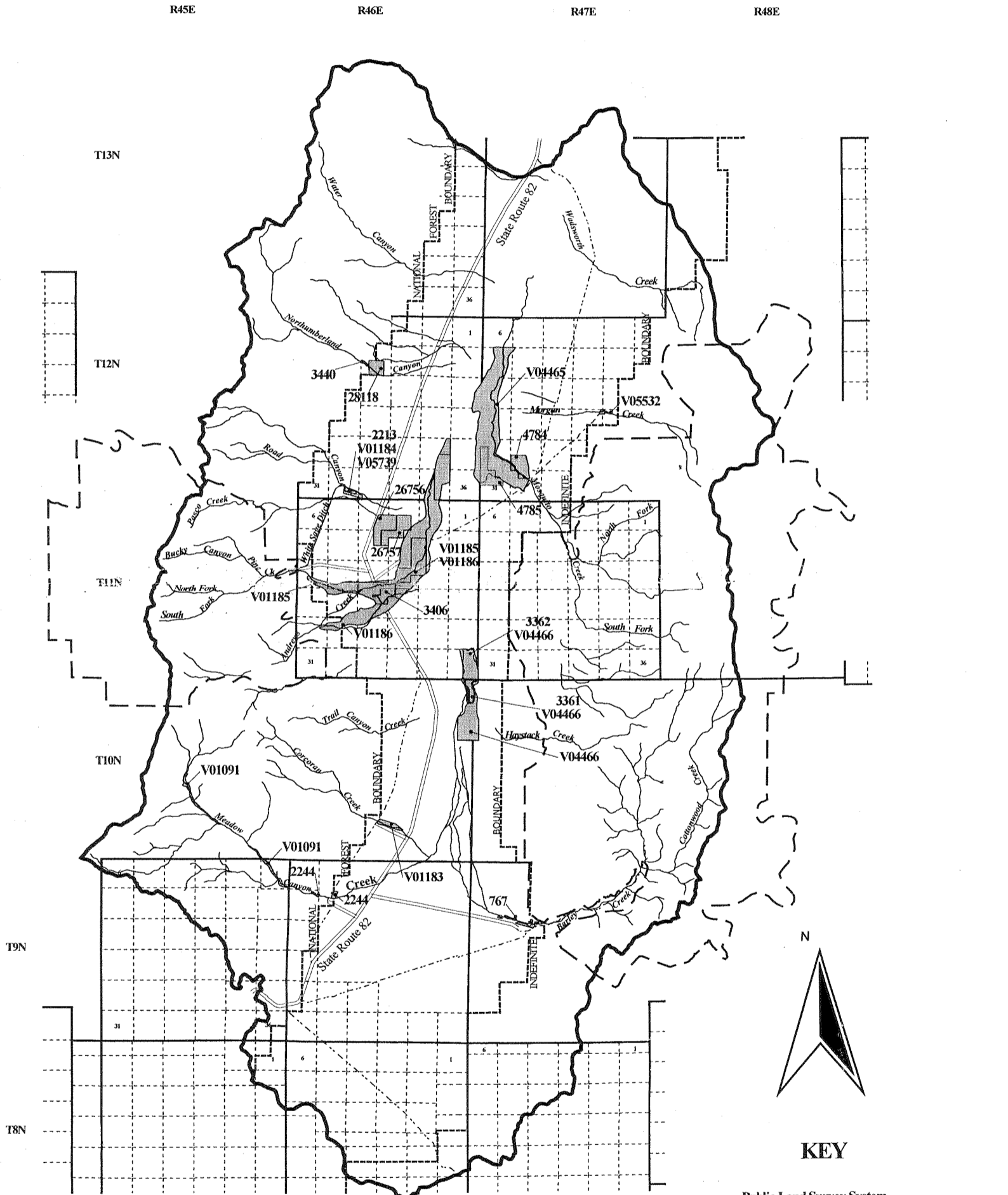
PROOF NO.:  04465	ASPEN SPRING	SECTION:	31	T.	12	N.	R.	48	E.	SW	1/4	NW	1/4
	DARK HORSE SPRING	SECTION:	31	T.	12	N.	R.	48	E.	SW	1/4	NE	1/4
	SHEEP TROUGH SPRING	SECTION:	32	T.	12	N.	R.	48	E.	SW	1/4	SW	1/4
	KINCAIDE SPRING	SECTION:	6	T.	11	N.	R.	48	E.	SE	1/4	SW	1/4
	SLEET STORM SPRING	SECTION:	6	T.	11	N.	R.	48	E.	SW	1/4	NE	1/4
	UNITED SPRING	SECTION:	8	T.	11	N.	R.	48	E.	SE	1/4	NW	1/4
	STOEDICK SPRING #1	SECTION:	8	T.	11	N.	R.	48	E.	SE	1/4	SE	1/4
	STOEDICK SPRING #2	SECTION:	8	T.	11	N.	R.	48	E.	SW	1/4	SE	1/4
	KEOUGH SPRING	SECTION:	18	T.	11	N.	R.	48	E.	NW	1/4	NW	1/4
	WEIR SPRING	SECTION:	17	T.	11	N.	R.	48	E.	SW	1/4	NW	1/4
	GEORGE'S SPRING	SECTION:	17	T.	11	N.	R.	48	E.	SE	1/4	NW	1/4
	NORWAY SPRING	SECTION:	17	T.	11	N.	R.	48	E.	NE	1/4	NW	1/4
	NICHOLS SPRING	SECTION:	17	T.	11	N.	R.	48	E.	NE	1/4	NW	1/4
	CLAYTON SPRING	SECTION:	17	T.	11	N.	R.	48	E.	NW	1/4	NE	1/4
	GEORGE CAMP SPRING	SECTION:	17	T.	11	N.	R.	48	E.	NE	1/4	SW	1/4
	TYBO SPRING	SECTION:	19	T.	11	N.	R.	48	E.	NW	1/4	NE	1/4
	UPSET SPRING	SECTION:	19	T.	11	N.	R.	48	E.	NW	1/4	SE	1/4
	GLOVER SPRING	SECTION:	19	T.	11	N.	R.	48	E.	SW	1/4	SE	1/4
	MARSH SPRING	SECTION:	20	T.	11	N.	R.	48	E.	NW	1/4	NE	1/4
	DANVILLE SPRING	SECTION:	20	T.	11	N.	R.	48	E.	SE	1/4	NE	1/4
	CLINTON SPRING	SECTION:	30	T.	11	N.	R.	48	E.	SE	1/4	NE	1/4
	TIGHTSPOT SPRING	SECTION:	30	T.	11	N.	R.	48	E.	NE	1/4	NE	1/4
	WATERFALL SPRING	SECTION:	29	T.	11	N.	R.	48	E.	NW	1/4	NW	1/4
	KAISER SPRING	SECTION:	29	T.	11	N.	R.	48	E.	SW	1/4	NW	1/4
	HARDWAY SPRING	SECTION:	31	T.	11	N.	R.	48	E.	NW	1/4	NE	1/4
	DUTCHMAN SPRING	SECTION:	31	T.	11	N.	R.	48	E.	NE	1/4	NE	1/4
	UNCLE BILL'S SPRING	SECTION:	25	T.	11	N.	R.	47	E.	SE	1/4	NW	1/4
	HARDROCK SPRING	SECTION:	25	T.	11	N.	R.	47	E.	NW	1/4	NE	1/4
	SURVEYOR SPRING	SECTION:	25	T.	11	N.	R.	47	E.	SE	1/4	SW	1/4
	ANDY'S SPRING	SECTION:	36	T.	11	N.	R.	47	E.	NE	1/4	NE	1/4
UPPER COFFEE POT SPRING	SECTION:	35	T.	11	N.	R.	47	E.	NW	1/4	SE	1/4	
COFFEE POT SPRING	SECTION:	35	T.	11	N.	R.	47	E.	SE	1/4	SW	1/4	
LAST CHANCE SPRING	SECTION:	35	T.	11	N.	R.	47	E.	SW	1/4	SW	1/4	
SMOKEY SPRING	SECTION:	24	T.	11	N.	R.	47	E.	NE	1/4	SW	1/4	
LOWER HAYSTACK SPRING	SECTION:	16	T.	10	N.	R.	47	E.	NE	1/4	NW	1/4	

APPENDIX A: STOCKWATER SOURCE DESCRIPTION.

PROOF NO.:	SOURCE NAME	POINT OF DIVERSION 40 ACRE PARCEL DESCRIPTION
04466		
CLAIMANT:	E. WAYNE & JEAN N. HAGE	
DRAINAGE AREA:	TRAGEDY SPRING UPPER SCUFFE SPRING LEE'S CAMP SPRING CAVENAUGH SPRING SCUFFE SPRING HIDE OUT SPRING HOLD UP SPRING WILSON SPRING RIM SPRING MERLINO SPRING SWITCHBACK SPRING RED ROCK SPRING SOUTH POINT SPRING LOWER HAYSTACK SPRING	SECTION: 33 .T. 11 N. .R. 48 E. NW ¼ NW ¼ SECTION: 31 .T. 11 N. .R. 48 E. SE ¼ SE ¼ SECTION: 32 .T. 11 N. .R. 48 E. NW ¼ SW ¼ SECTION: 12 .T. 10 N. .R. 47 ½ E. SE ¼ SE ¼ SECTION: 7 .T. 10 N. .R. 48 E. NE ¼ SW ¼ SECTION: 8 .T. 10 N. .R. 48 E. NE ¼ SW ¼ SECTION: 13 .T. 10 N. .R. 47 ½ E. SE ¼ SW ¼ SECTION: 18 .T. 10 N. .R. 48 E. SW ¼ SW ¼ SECTION: 19 .T. 10 N. .R. 48 E. NW ¼ NE ¼ SECTION: 25 .T. 10 N. .R. 47 ½ E. NW ¼ NE ¼ SECTION: 30 .T. 10 N. .R. 48 E. SE ¼ SW ¼ SECTION: 30 .T. 10 N. .R. 48 E. NE ¼ NE ¼ SECTION: 29 .T. 10 N. .R. 48 E. SE ¼ SW ¼ SECTION: 16 .T. 10 N. .R. 47 E. NE ¼ NW ¼
USE:	STOCKWATER	
PRIORITY DATE:	1874	
REMARKS:	STOCKWATER SOURCES FILED UNDER PROOF OF APPROPRIATION FOR IRRIGATION.	



# MONITOR VALLEY, NEVADA HYDROGRAPHIC BASIN 140-B, SOUTHERN PART



### IRRIGATION PROOFS AND PERMITS

Proof No. V-01091	Permit 767	Certificate 360
Proof No. V-01183	Permit 2213	Certificate 414
Proof No. V-01184	Permit 2244	Certificate 436
Proof No. V-01185	Permit 3361	Certificate 2606
Proof No. V-01186	Permit 3362	Certificate 2556
Proof No. V-04465	Permit 3406	Certificate 742
Proof No. V-04466	Permit 3440	Certificate 3212
Proof No. V-05532	Permit 4784	Certificate 1212
Proof No. V-05739	Permit 4785	Certificate 1213
	Permit 26756	Certificate 10862
	Permit 26757	Certificate 10863
	Permit 28118	Certificate 9929

### KEY

- Public Land Survey System
- Section Line
  - Township/Range Line
  - ==== Major Road
  - Minor Road
  - Wilderness Areas
  - National Forest Service Boundary
  - Hydrographic Boundary
  - Hydrology
  - Place of Use
  - Irrigated Acreage