

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

No. 310683

Dept. No. 3

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * * *

IN THE MATTER OF THE DETERMINATION)
OF THE RELATIVE RIGHTS IN AND TO)
THE WATERS OF BROWNS CREEK AND ITS)
TRIBUTARIES IN WASHOE COUNTY, STATE)
OF NEVADA)

FINDINGS OF FACT, CONCLUSIONS OF LAW
JUDGMENT AND DECREE

This matter came on regularly for hearing on the 6th day of May, 1976, before the Honorable John E. Gabrielli, District Judge presiding, the portion of Browns Creek and its tributaries exemplified in these proceedings, being within Washoe County, State of Nevada, and he being the Judge designated by NRS 533.165 to hear and having jurisdiction to hear the above-entitled matter, upon the State Engineer's determination of the relative rights of the petitioner and claimants to the use of the waters of the stream system of Browns Creek and its tributaries, which Order of Determination and all related documentary evidence had been filed by the State Engineer. There being no exceptions to the Order of Determination filed or otherwise submitted to the Court by the claimants, petitioners, or any other person or persons at least 5 days prior to the date set for hearing as provided for under NRS 533.170, the matter was submitted to the Court for its decision.

Harry W. Swainston, Deputy Attorney General, Starr Hill, Jr., Surface Water Engineer, L. Edward Parmenter,

2 Adjudication Engineer and Timothy Holt, Hydraulic Engineer,
3 appeared in the hearing and proceedings on behalf of the State
4 of Nevada and the office of the State Engineer.

5 The record disclosed that the claimants had received
6 a certified copy of the Court Order Setting Time for Hearing
7 on the Order of Determination.

8 Harry W. Swainston, thereupon, at the hearing, offered
9 verified affidavits, files and records from the State Engineer's
10 office, all contained in the Order of Determination, which were
11 entered as evidence in support of the rights of the claimants
12 in and to the above-named stream system.

13 The Court, having duly considered the entire record
14 and the evidence introduced and received, directed that Findings
15 of Fact, Conclusions of Law, and Judgment and Decree be entered
16 accordingly.

17 FINDINGS OF FACT

18 I.

19 That on April 21, 1958, Robert L. McDonald submitted
20 a petition on behalf of Edward W. Scripps, II, a water user of
21 Browns Creek, requesting the determination of the relative
22 rights of the petitioner and other claimants to the waters of
23 Browns Creek, Winters Creek, Davis Creek, Ophir Creek and their
24 tributaries, and Fish Hatchery Spring, situate in Washoe County,
25 State of Nevada.

26 That as a result of the State Engineer's investigation
27 report, it was found that the waters of Browns Creek and its
28 tributaries are being placed to beneficial use for irrigation,
29 domestic, stock watering and recreational purposes. That
30 evidence contained in the title documents submitted by the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

claimants, relative to the land, indicates the present claimants and appropriators are successors in interest to vested rights initiated by their predecessors. That the report of the facts and conditions disclosed that a determination of the relative rights was justified, and the State Engineer made and entered his order on June 12, 1958, granting the petition.

That on the 21st day of June, 1958, and once each week for four succeeding weeks, the State Engineer did cause to be published a Notice of Order and Proceedings to Determine Water Rights in and to the waters of Browns Creek and its tributaries in Washoe County, State of Nevada, and that notice was duly given to all claimants as required by law. That on the 22nd day of June, 1958, there was filed in the office of the State Engineer an affidavit of the principal clerk of the Nevada State Journal, exemplifying the Proof of Publication of Notice of Order and Proceedings.

That the State Engineer did cause to be published on the 13th day of November, 1971, and once each week for four succeeding weeks, a Notice of Order for Taking Proofs to Determine Water Rights, in and to the waters of Browns Creek and its tributaries in Washoe County, State of Nevada, and that notice was duly given to all claimants as required by law. That on the 15th day of December, 1971, there was filed in the office of the State Engineer an affidavit of the legal clerk of The Nevada State Journal, exemplifying the Proof of Publication of the Notice of Order for Taking Proofs to Determine Water Rights.

That thereafter, in accordance with NRS 533.125, the State Engineer did file in the records of his office on April 6, 1972, April 7, 1972, April 10, 1972, April 13, 1972, May 16, 1972 and May 30, 1972, requests to extend the time in which proofs

1 may be filed. That he did grant extensions of time to file
2 proofs and that notices thereof were duly given to all claimants.

3 That thereafter, in accordance with NRS 533.130, the
4 State Engineer did file in the records of his office on February
5 28, 1975 and April 13, 1976, petitions to intervene in these
6 proceedings. That Proof 02850 was filed by the Mt. Rose Develop-
7 ment Co. on March 31, 1975, and Proof 01872 was filed by Phillip
8 H. and Lois J. Atherton on April 13, 1976, and he did permit the
9 petitioners to intervene in the proceedings.

10 That the State Engineer, in accordance with NRS 533.140,
11 did enter and file in the records of his office on the 15th
12 day of September, 1975, an Abstract of Claims, a Preliminary
13 Order of Determination, and a Notice and Order Fixing and
14 Setting Time and Place of Inspection, stating when and where the
15 evidence taken or filed with him and the proofs of claims were
16 open to the inspection of all interested persons; and that
17 notice thereof was duly given to the claimants as required by
18 law.

19 That the State Engineer, in accordance with NRS
20 533.160 entered in the records of his office, on the 31st day
21 of December, 1975, an Order of Determination defining the rights
22 of the claimants and appropriators to the waters of Browns
23 Creek and its tributaries and that notice thereof was duly
24 given to the claimants as required by law.

25 That upon the filing of the certified copy of the
26 Order of Determination and the original evidence with the Clerk
27 of the Court of Washoe County, State of Nevada, the Court, at
28 the request of the State Engineer, made and entered an Order on
29 the 23rd day of February, 1976, setting a time for hearing of
30 any exceptions to the Order of Determination on Thursday, the

1 6th day of May, 1976, at 1:30 o'clock of the afternoon in the
2 courtroom of the Court House in Reno, Washoe County, Nevada; and
3 that the Clerk of said Court did furnish the State Engineer with
4 a certified copy thereof.

5 That the State Engineer, in accordance with NRS
6 533.165, gave notice to the claimant by service of a certified
7 copy of the Court Order Setting Time for Hearing.

8 That on the 10th day of March, 1976, and once each
9 week for four succeeding weeks, the State Engineer did cause to
10 be published the Court Order Setting Time for Hearing, and that
11 thereafter on the 8th day of April, 1976, there was filed in
12 the office of the State Engineer an affidavit of the legal clerk
13 of The Nevada State Journal, exemplifying the Proof of Publication
14 of the Court Order Setting Time for Hearing.

15 That the Court finds that all and singular, the
16 Proceedings, Orders and Notices required by Chapter 533 of NRS
17 were duly had, made and given as required by law, and that all
18 and singular, the matters and things contained in the record
19 were done, performed, given and made in strict compliance with
20 the statute, and that this Court had and has jurisdiction to
21 hear and determine this matter.

22 II.

23 The Court Further Finds: That the portion of Browns
24 Creek and its tributaries exemplified in these proceedings, is
25 situated wholly within Washoe County, State of Nevada.

26 III.

27 The Court Further Finds: That the name of the
28 claimants and appropriators, the source of water supply, the
29 period of use, the duty of water, the diversion of water and
30 method of use, measurement of water, domestic, stock watering

1 and recreation use, change of place of use, and the rights of
2 appropriation of the water, all as set forth in the Order of
3 Determination are true, proper and correct, and all and singular,
4 the same should be approved and confirmed, as follows:

5 I. PREFACE

6 On June 12, 1958, the State Engineer entered an Order
7 for the determination of the relative rights of the water
8 users in accordance with NRS 533.090.

9 On October 22, 1971, the State Engineer entered a
10 Notice of Order for Taking Proofs to Determine Water Rights.

11 II. CLAIMANTS

12 The investigation disclosed that the waters of Browns
13 Creek and its tributaries were being placed to beneficial use
14 on the lands of claimants for irrigation, domestic, stock
15 watering and recreation purposes. Evidence contained in the
16 title documents and the proofs of appropriation submitted by
17 the present claimants relative to the land, indicates they are
18 successors in interest to vested rights initiated by their
19 predecessors.

20 III. SOURCE

21 The headwaters of Browns Creek drain from the northern
22 slopes of Slide Mountain. The creek flows easterly down the
23 Carson Range and terminates in Steamboat Creek in Pleasant
24 Valley. Midway in its course, Browns Creek receives water from
25 a ditch conveying water from Galena Creek and a short distance
26 downstream from the entry of this ditch, water is diverted to
27 Washoe Valley. Browns Creek is fed by springs and melting
28 snow, having a relatively high spring runoff which later recedes
29 to a minimal flow during the summer.

30 IV. PERIOD OF USE

1 Water for irrigation is allowed to be used at any time
2 during the year provided that the amount applied to the land
3 during any calendar year shall not exceed the quantity in acre
4 feet herein set forth.

5 V. DUTY OF WATER

6 The seasonal duty of water on lands irrigated from
7 Browns Creek and its tributaries is herein fixed and shall not
8 exceed:

9	Class A	Harvest Crop	4.5 ac.ft./ac./season
10	Class B	Meadow Pasture	4.0 ac.ft./ac./season
11	Class C	Diversified Pasture	3.5 ac.ft./ac./season

12 Vested rights have been granted herein to the claimant
13 of waters from Browns Creek to compensate for evaporation losses
14 of Joy Lake under Proof 02750. The mean annual evaporation for
15 the area has been determined by the Soil Conservation Service
16 Central Lahontan Basin Report of June 1969, to be 48 inches.

17 Evaporation loss 4.0 ac.ft./ac./season

18 VI. DIVERSION OF WATER AND METHOD OF USE

19 The claimants shall have the right to divert 2.5
20 cubic feet per second of water per 100 acres of land irrigated
21 with the exception of Third Amended Proof 02442, Second Amended
22 Proof 02747, Amended Proof 02757, Amended Proof 02812 and Proof
23 02850.

24 The rate of diversion for Third Amended Proof 02442,
25 Amended Proof 02757 and Amended Proof 02812 are limited by the
26 size of the diversion ditch conveying water to the places of
27 use, to an amount less than 2.5 cubic feet per second.

28 Second Amended Proof 02747 and Proof 02850 are
29 limited to the diversion rate specified in the deeds of con-
30 veyance of their vested rights.

1 that stock are grazing thereon.

2 The amount of water diverted for irrigation purposes
3 shall not be increased by any amount to be used for domestic,
4 stock watering and recreation purposes, but the quantity
5 allowed and diverted for irrigation during the irrigation
6 season shall include water for these uses.

7 IX. CHANGE OF PLACE OF USE

8 All water allotted in the Decree shall be appurtenant
9 to the place of use designated herein. Any water user desiring
10 to change the point of diversion, manner of use, or place of
11 use of the waters allotted herein, must make application to
12 the State Engineer for permission to make the change pursuant
13 to NRS 533.345.

14 X. RIGHTS OF APPROPRIATION

15 From the Order of Determination and the documentary
16 evidence submitted in support thereof, the Court finds that
17 the names of the claimants and appropriators of the waters of
18 Browns Creek and its tributaries, the source of the water supply,
19 the means of diversion, the points of diversion for beneficial
20 use, the period of use, the years of priority, the cultural
21 acreages, the places of use, the legal subdivision, sections,
22 townships, ranges, and the duty of water are as listed, stated
23 and set forth.

24 CONCLUSIONS OF LAW

25 From the evidence presented and received in this
26 matter, and from the foregoing FINDINGS OF FACT, the Court makes
27 the following CONCLUSIONS OF LAW.

28 I.

29 That the State Engineer has the right, authority and
30 jurisdiction pursuant to Chapter 533 of NRS to make the

1 investigation made by him, receive the proofs and maps, enter
2 and file in his office the original Order of Determination and
3 file a certified copy thereof in this Court, and to determine
4 the relative rights of the claimants and appropriators in and
5 to the waters of Browns Creek and its tributaries in Washoe
6 County, State of Nevada; that the State Engineer duly made all
7 orders necessary and proper in connection therewith and entered
8 the same in his office as required by Chapter 533 of NRS; that
9 each and every notice required by law to be given herein to the
10 claimants and appropriators was duly served by the State
11 Engineer in the manner and within the time required by statute,
12 and that the notices contained all of the statements required
13 by law, and that the claimants and appropriators of the waters
14 of the above-named stream system and its tributaries duly
15 received the information and notices, as required by law.

16 II.

17 That the Second Judicial District Court of the State
18 of Nevada, in and for the County of Washoe, had and has juris-
19 diction to hear and try this matter, and has jurisdiction to
20 find, make and enter the foregoing Findings of Fact and these
21 Conclusions of Law and enter its Decree herein.

22 III.

23 That the State of Nevada, Department of Fish and
24 Game, City of Reno and County of Washoe, Nevada, Mountain
25 Resort Corporation, John Jay Casey, William C. and Gloria A.
26 Borden, Lee B. and Margaret E. Smith, Maria Pagni and Pagni
27 Brothers, State of Nevada, Department of Highways, Mt. Rose
28 Development Co., United States of America, Forest Service and
29 Lois J. and Phillip H. Atherton are the only claimants of
30 vested rights recognized in this Decree who were and are now

1 appropriators and users of the waters of Browns Creek and its
2 tributaries on the date the Order of Determination was filed
3 with the Clerk of the Court, and on the date of the trial and
4 hearing of this matter.

5

6

IV.

7

8

9

10

11

12

V.

13

14

15

That the seasonal duty of water on lands irrigated
from Browns Creek and its tributaries is herein fixed and
shall not exceed:

16

17

18

Class A	Harvest Crop	4.5 ac.ft./ac./season
Class B	Meadow Pasture	4.0 ac.ft./ac./season
Class C	Diversified Pasture	3.5 ac.ft./ac./season

19

20

21

22

23

24

That vested rights have been granted herein to the
claimant of waters from Browns Creek to compensate for evapora-
tion losses of Joy Lake under Proof 02750. That the mean
annual evaporation for the area has been determined by the
Soil Conservation Service Central Lahontan Basin Report of
June 1969, to be 48 inches.

25

26

Evaporation loss	4.0 ac.ft./ac./season
------------------	-----------------------

27

VI.

28

29

30

That the claimants shall have the right to divert
2.5 cubic feet per second of water per 100 acres of land irrigated
with the exception of Third Amended Proof 02442, Second Amended

1 Proof 02747, Amended Proof 02757, Amended Proof 02812 and Proof
2 02850.

3 That the rate of diversion of Third Amended Proof
4 02442, Amended Proof 02757 and Amended Proof 02812 are limited
5 by the size of the diversion ditch conveying water to the
6 places of use, to an amount less than 2.5 cubic feet per second.

7 That Second Amended Proof 02747 and Proof 02850 are
8 limited to the diversion rate specified in the deeds of con-
9 veyance of their vested rights.

10 That the total amount of water diverted by any
11 claimant in these proceedings shall not exceed the annual duty
12 in acre feet as established herein.

13 That the claimants or their successors in interest
14 will not be required to take or use the amount of water allotted
15 to them in a continuous flow, but may cumulate the same or
16 any part thereof in rotation or periodic turn within the
17 seasonal limits, with the approval of the water commissioner
18 and subject to the control and direction of the State Engineer.

19
20 VII.

21 That all measurements of water diverted are to be
22 made at a point where the main ditch enters or becomes adjacent
23 to the land to be irrigated or as near thereto as is practicable;
24 that the location, if not selected by the State Engineer, to
25 be approved by him. That the claimants shall install and
26 maintain at their own exepnse, substantial and easily operated
27 regulating headgates and measuring devices in their ditch or
28 ditches or channel. That due allowance for losses in ditches
29 will be made by the State Engineer in the event it becomes
30 necessary.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

That the priorities are fixed by years and where the years are the same, the priorities are equal.

VIII.

That the right to the diversion and use of the water for domestic, stock watering and recreation purposes shall be continued by the claimants named herein or their successors in interest at any time during the year, except as otherwise specified under stock watering rights of appropriation, and such diversions shall be according to the dates of priorities of such users and limited to the quantity of water reasonably necessary for such use. That, on unpatented lands the period of use will coincide with the time that stock are grazing thereon.

That the amount of water diverted for irrigation purposes shall not be increased by any amount to be used for domestic, stock water and recreational purposes, but the quantity allowed and diverted for irrigation during the irrigation season shall include water for these uses.

IX.

That all water allotted in the Decree shall be appurtenant to the place of use designated herein. That 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 the change pursuant to NRS 533.345.

X.

That from the Order of Determination and the

1 documentary evidence submitted in support thereof, the Court
2 finds that the names of the claimants and appropriators of the
3 waters of Browns Creek and its tributaries, the source of the
4 water supply, the means of diversion, the points of diversion
5 for beneficial use, the periods of use, the years of priority,
6 the cultural acreages and places of use, the legal subdivisions,
7 sections, townships, ranges, and the duty of water are as
8 listed, stated and set forth.

9

10

XI.

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

That the Order of Determination made, filed and caused to be entered of record in this matter by the State Engineer should be affirmed.

JUDGMENT AND DECREE

THEREFORE, BY REASON OF THE FINDINGS OF FACT, AND CONCLUSIONS OF LAW HEREINBEFORE SET FORTH, IT IS ORDERED, ADJUDGED AND DECREED BY THE COURT AS FOLLOWS:

19

20

21

22

23

24

25

26

27

28

29

30

I.

That the State Engineer made all necessary and proper orders as required by law, and that each and every notice required by law was duly given to the claimants and appropriators; that the claimants and appropriators had full opportunity to appear and be heard in objection to and file exceptions to the Order of Determination; that the claimants and appropriators are the only claimants and appropriators of the waters of Browns Creek and its tributaries and this Decree determines the limit and extent of all vested water rights on the source.

That the Court has full and complete jurisdiction to

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

hear, try and determine this matter and to make and enter herein, this Decree.

II.

That the flow of water from Browns Creek and its tributaries is being placed to beneficial use by the State of Nevada, Department of Fish and Game, City of Reno and County of Washoe, Nevada, Mountain Resort Corporation, John Jay Casey, William C. and Gloria A. Borden, Lee B. and Margaret E. Smith, Maria Pagni and Pagni Brothers, State of Nevada, Department of Highways, Mt. Rose Development Co., United States of America, Forest Service and Lois J. and Phillip H. Atherton for irrigation, domestic, stock watering and recreation purposes.

III.

That water for irrigation is allowed to be used at any time during the year provided that the amount applied to the land during any calendar year shall not exceed the quantity in acre feet herein set forth.

IV.

That the seasonal duty of water on lands irrigated from Browns Creek and its tributaries is herein fixed and shall not exceed:

Class A	Harvest Crop	4.5 ac.ft./ac./season
Class B	Meadow Pasture	4.0 ac.ft./ac./season
Class C	Diversified Pasture	3.5 ac.ft./ac./season

That vested rights have been granted herein to the claimant of waters from Browns Creek to compensate for

1 evaporation losses of Joy Lake under Proof 02750. That the
2 mean annual evaporation for the area where Joy Lake is
3 situated has been determined by the U. S. Soil Conservation
4 Service Central Lahontan Basin Report of June 1959, to be
5 equal to 48 inches.

6 Evaporation loss 4.0 ac.ft./ac./season

7
8 V.

9 That the claimants shall have the right to divert
10 2.5 cubic feet per second of water per 100 acres of land
11 irrigated with the exception of Third Amended Proof 02442,
12 Second Amended Proof 02747, Amended Proof 02757, Amended
13 Proof 02812 and Proof 02850, that have diversion rates less
14 than this amount.

15 That the rate of diversion for Third Amended Proof
16 02442, Amended Proof 02757 and Amended Proof 02812 is limited
17 by the size of the existing diversion ditch that conveys water
18 to the places of use for these three proofs, to a maximum
19 amount of 1.093 cubic feet per second.

20 That the diversion rate for Second Amended Proof
21 02747 and Proof 02850 is limited to the amount that is
22 specifically set forth in each of the two deeds conveying
23 vested rights to the grantees.

24 That the total amount of water to be diverted by
25 any claimant that is a party to these proceedings shall not
26 exceed the annual duty of water in acre feet as is established
27 herein.

28 That the claimants or their successors in interest
29 will not be required to take or use the amount of water allotted
30 to them in a continuous flow, but may cumulate the same or any

1 part thereof in rotation or periodic turn within the seasonal
2 limits, with the approval of the water commissioner and subject
3 to the control and direction of the State Engineer.

4 VI.

5 That all measurements of water diverted are to be
6 made at a point where the main ditch enters or becomes adjacent
7 to the land to be irrigated or as near thereto as is practicable;
8 that the location, if not selected by the State Engineer, to be
9 approved by him. That the water user shall install and maintain
10 at his own expense substantial and easily operated regulating
11 headgates and measuring devices in their ditch or ditches or
12 channel. That due allowance for losses in ditches will be made
13 by the State Engineer in the event it becomes necessary.

14 That priorities are fixed by years and where the
15 years are the same, the priorities are equal.

16 VII.

17 That the right to the diversion and use of the water for
18 domestic, stock watering and recreation purposes shall be con-
19 tinued by the claimants named herein or their successors in
20 interest at any time during the year, except as otherwise
21 specified under stock watering rights of appropriation, and such
22 diversions shall be according to the dates of priorities of
23 such users and limited to the quantity of water reasonably
24 necessary for such use. That if a claimant is not in priority
25 for irrigation water, then the claimant is not in priority for
26 domestic, stock watering and recreation purposes.

27 That the amount of water diverted for irrigation
28 purposes shall not be increased by any amount to be used for
29 domestic, stock watering and recreation purposes, but the
30 quantity allowed and diverted for irrigation during the

1 irrigation season shall include water for these uses.

2 VIII.

3 That all water allotted in this Decree shall be
4 appurtenant to the place of use designated herein. That any
5 water user desiring to change the point of diversion, manner of
6 use or place of use of the waters allotted herein, must make
7 application to the State Engineer for permission to make the
8 change pursuant to NRS 533.345.

9 IX.

10 That the name of the claimants and appropriators of
11 the waters of Browns Creek and its tributaries, the source of
12 the water supply, the means of diversion, the points of diversion
13 for beneficial use, the period of use, the years of priority, the
14 cultural acreages and places of use, the legal subdivision,
15 sections, township, ranges, and duty of water are hereby
16 adjudged as follow:

17 PROOF NO.: Third Amended 02442
18 CLAIMANT: State of Nevada, Department of
Fish and Game
19 SOURCE: Browns Creek and Tributaries
20 USE: Irrigation
21 MEANS OF DIVERSION: Dams and Ditches
22 POINT OF DIVERSION: NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 15, T.17N., R.19E.,
23 M.D.B.&M., or at a point from which
24 the E $\frac{1}{4}$ corner of said section 15
25 bears N. 78° 40' E., a distance of
2010 feet.

PRIORITY:	CULTURAL ACREAGE	LOCATION			DUTY OF WATER	
		DIVERSIFIED PASTURE	SUBD.:	SEC.:	TWP. RGE.	AC.
			N.	E.	C.F.S.:	FT.
28	1858	1.1	NW $\frac{1}{4}$ NE $\frac{1}{4}$	25	17 19	3.85
29	1858	13.6	NE $\frac{1}{4}$ NW $\frac{1}{4}$	25	17 19	47.60
30	1858	8.6	SE $\frac{1}{4}$ NW $\frac{1}{4}$	25	17 19	30.10

STATE OF NEVADA
DIVISION OF WATER
RESOURCES
DEPARTMENT OF
CONSERVATION AND
NATURAL RESOURCES
NVE BUILDING
201 S. FALL STREET
CARSON CITY, NEVADA
89701
2801A

1	PRIORITY:	CULTURAL ACREAGE		LOCATION			DUTY OF WATER		
		DIVERSIFIED	PASTURE	SUBD.:	SEC.:	TWP.	RGE.	C.F.S.:	AC.
2						N.	E.		FT.
3	1858	8.8	SW $\frac{1}{4}$ NW $\frac{1}{4}$	25		17	19		30.80
4	1858	1.1	NW $\frac{1}{4}$ SE $\frac{1}{4}$	25		17	19		3.85
5	1858	8.8	NE $\frac{1}{4}$ SW $\frac{1}{4}$	25		17	19		30.80
6	1858	26.4	NW $\frac{1}{4}$ SW $\frac{1}{4}$	25		17	19		92.40
7	1858	6.8	SW $\frac{1}{4}$ SW $\frac{1}{4}$	25		17	19		23.80
8	1858	20.3	SE $\frac{1}{4}$ SE $\frac{1}{4}$	26		17	19		71.05
9	1858	1.5	SW $\frac{1}{4}$ SE $\frac{1}{4}$	26		17	19		5.25
10	1858	<u>4.6</u>	NE $\frac{1}{4}$ SE $\frac{1}{4}$	26		17	19		<u>16.10</u>
11	TOTAL	101.6							*0.201*355.60

12 *The capacity of the conveyance facilities has been deter-
 13 mined to be 1.093 c.f.s. The allowable diversion is based
 14 on the percentage of acreage irrigated.

15 Some of the lands listed above also receive water from
 16 sources other than Browns Creek. The total quantity of
 17 water placed on these lands from all sources shall not
 18 exceed the quantity in acre feet tabulated above for
 19 each parcel.

18 PROOF NO. Second Amended 02747
 19 CLAIMANTS: City of Reno and County of Washoe, Nevada
 20 SOURCE: Browns Creek and Tributaries
 21 USE: Irrigation
 22 MEANS OF DIVERSION: Dam and Ditches
 23 POINT OF DIVERSION: NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 15, T.17N., R.19E.,
 24 M.D.B.&M., or at a point from which
 25 the E $\frac{1}{4}$ corner of said Section 15
 bears N. 84° 16' 24" E., a distance
 of 2,121.5 feet.

26	PRIORITY:	CULTURAL ACREAGE		LOCATION			DUTY OF WATER		
		MEADOW	PASTURE	SUBD.	SEC.:	TWP.	RGE.	C.F.S.:	AC.
27						N.	E.		FT.
28	1858	<u>2.35</u>		NE $\frac{1}{4}$ NW $\frac{1}{4}$	26	17	19	<u>0.013</u>	<u>9.40</u>
29	TOTALS	2.35						0.013	9.40

30 This order recognizes and confirms Certificate 4685

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

issued under Permit 12566 and hereby incorporates the provisions of that certificate in the above proof of appropriation.

PROOF NO.: 02750

CLAIMANT: Mountain Resort Corporation

SOURCE: Browns Creek and Tributaries

USE: Stock Watering and Recreation

MEANS OF DIVERSION: Dam and Ditch

POINT OF DIVERSION: NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 15, T.17N., R.19E., M.D.B.&M., or at a point from which the E $\frac{1}{4}$ corner of said Section 15 bears N. 85° 05' E., a distance of 2,134.94 feet.

PLACE OF USE: E $\frac{1}{4}$ SE $\frac{1}{4}$ Section 15, T.17N., R.19E., M.D.B.&M.

PRIORITY: 1877

Proof 02750 claims right to the water of Browns Creek for retention of Joy Lake for recreation and stock watering use.

The affidavit of Leo F. Saude states that Joy Lake was used for stock watering and fishing purposes for as long as he could remember, which he states was at least as early as 1915.

The statement of W. H. Joy, on June 13, 1879, recorded in Washoe County Records, Page 330, Book "B" Surveys, describes his intent to construct a ditch and flume at Washoe City. He identified the origin of the ditch as Joy Lake.

The kind and number of animals are not listed for the stock watering use.

Proof 02750 states that the area of Joy Lake is approximately 3.5 acres. The mean annual evaporation for Joy Lake is 48 inches as determined by the Soil Conservation Service Central Lahontan Basin Report of June 1969. A vested right of 14.0 acre feet per year is hereby determined for Joy Lake to provide for evaporation losses only, with a priority of 1877.

The diversion rate to Joy Lake as determined by the capacity of the inflow ditch is 1.015 c.f.s.

The outlet of Joy Lake is uncontrolled and the allowable diversion is the net difference between the inflow and the outflow.

20.

19931: C-6007 UG
 35694 Changed
 - 02764
 C 12763

1 PROOF NO.: Amended 02757
 2 CLAIMANT: John Jay Casey
 3 SOURCE: Browns Creek and Tributaries
 4 USE: Irrigation, Domestic and Stock
 5 Watering
 6 MEANS OF DIVERSION Dams and Ditches
 7 POINT OF DIVERSION: NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 15, T.17N., R.19E.,
 8 M.D.B.M., or at a point from which
 9 the E $\frac{1}{4}$ corner of said Section 15
 10 bears N. 78° 40' E., a distance of
 11 2,010 feet.

PRIORITY:	CULTURAL ACREAGE		LOCATION	TWP. RGE.			DUTY OF WATER	
	HARV-EST	DIVERSIFIED PASTURE		SUED.:	SEC.:	N. E.		AC.
							FE.	
12	1858	- -	2.3	NE $\frac{1}{4}$ SW $\frac{1}{4}$	25	17	19	8.06
13	1858	- -	10.7	NW $\frac{1}{4}$ SW $\frac{1}{4}$	25	17	19	37.45
14	1858	- -	37.6	SW $\frac{1}{4}$ NW $\frac{1}{4}$	25	17	19	131.60
15	1858	- -	17.9	SE $\frac{1}{4}$ NW $\frac{1}{4}$	25	17	19	62.65
16	1858	- -	1.8	NE $\frac{1}{4}$ NW $\frac{1}{4}$	25	17	19	6.30
17	1858	- -	1.7	NW $\frac{1}{4}$ NW $\frac{1}{4}$	25	17	19	5.95
18	1858	- -	5.4	SE $\frac{1}{4}$ SE $\frac{1}{4}$	26	17	19	18.90
19	1858	0.1	23.6	SW $\frac{1}{4}$ SE $\frac{1}{4}$	26	17	19	83.05
20	1858	9.6	1.4	SE $\frac{1}{4}$ SW $\frac{1}{4}$	26	17	19	48.10
21	1858	1.7	- -	SW $\frac{1}{4}$ SW $\frac{1}{4}$	26	17	19	7.65
22	1858	4.5	- -	NW $\frac{1}{4}$ SW $\frac{1}{4}$	26	17	19	20.25
23	1858	39.4	- -	NE $\frac{1}{4}$ SW $\frac{1}{4}$	26	17	19	177.30
24	1858	13.6	26.4	NW $\frac{1}{4}$ SE $\frac{1}{4}$	26	17	19	153.60
25	1858	- -	37.0	NE $\frac{1}{4}$ SE $\frac{1}{4}$	26	17	19	129.50
26	1858	0.2	39.8	SE $\frac{1}{4}$ NE $\frac{1}{4}$	26	17	19	140.20
27	1858	33.1	6.9	SW $\frac{1}{4}$ NE $\frac{1}{4}$	26	17	19	173.10
28	1858	40.0	- -	SE $\frac{1}{4}$ NW $\frac{1}{4}$	26	17	19	180.00
29	1858	6.9	- -	SW $\frac{1}{4}$ NW $\frac{1}{4}$	26	17	19	31.05
30	1858	3.2	- -	NW $\frac{1}{4}$ NW $\frac{1}{4}$	26	17	19	14.40

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

PROOF NO. : Amended 02757 (Continued)

PRIORITY:	CULTURAL ACREAGE		LOCATION			DUTY OF WATER	
	HARV- EST	DIVERSIFIED PASTURE	SUBD.:	SEC.:	TWP., RGE., N. E.	C.F.S.:	AC. FT.
1858	27.5	- -	NE $\frac{1}{4}$ NW $\frac{1}{4}$	26	17 19		125.55
1858	27.9	- -	NW $\frac{1}{4}$ NE $\frac{1}{4}$	26	17 19		123.75
1858	<u>7.0</u>	<u>11.7</u>	NE $\frac{1}{4}$ NE $\frac{1}{4}$	26	17 19		<u>72.45</u>
TOTALS	214.7	224.2				*0.806	*1750.85

*The capacity of the conveyance facilities has been determined to be 1.093 c.f.s. The allowable diversion is based on the percentage of acreage irrigated.

Some of the lands listed above also receive water from sources other than Browns Creek. The total quantity of water placed on these lands from all sources shall not exceed the quantity in acre feet tabulated above for each parcel.

PROOF NO. : 02758
 CLAIMANT'S: William C. Borden & Gloria A. Borden
 SOURCE: Browns Creek and Tributaries
 USE: Irrigation and Stock Watering
 MEANS OF DIVERSION: Dam and Ditches
 POINT OF DIVERSION: NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 15, T.17N., R.19E., M.D.B.&M., or at a point from which the E $\frac{1}{2}$ corner of said Section 15 bears N. 85° 47' E., a distance of 2,137.9 feet.

PRIORITY:	CULTURAL ACREAGE		LOCATION			DUTY OF WATER	
	MEADOW	PASTURE	SUBD.:	SEC.:	TWP., RGE., N. E.	C.F.S.:	AC. FT.
1858	<u>2.2</u>		SE $\frac{1}{4}$ SW $\frac{1}{4}$	23	17 19	<u>.055</u>	<u>8.80</u>
TOTAL	2.2					.055	8.80

1 PROOF NO.: Amended 02759
 2 CLAIMANTS: Lee B. and Margaret E. Smith
 3 SOURCE: Browns Creek and Tributaries
 4 USE: Irrigation and Stock Watering
 5 MEANS OF DIVERSION: Dam and Ditches
 6 POINT OF DIVERSION: NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 15, T.17N., R.19E.,
 7 M.D.B.&M., or at a point from which
 8 the E $\frac{1}{4}$ corner of said Section 15
 9 bears N. 85° 47' E., a distance of
 10 2,137.9 feet.

PRIORITY:	CULTURAL ACREAGE		LOCATION			DUTY OF WATER	
	MEADOW	PASTURE	SUBD.:	SEC.:	TWP. RGE. N. E.	C.F.S.:	AC. FT.
11 1858	0.44		SE $\frac{1}{4}$ SW $\frac{1}{4}$	23	17 19	.011	1.76
12 1858	<u>0.47</u>		SW $\frac{1}{4}$ SE $\frac{1}{4}$	23	17 19	<u>.012</u>	<u>1.88</u>
13 TOTAL	0.91					.023	3.64

15 PROOF NO.: Amended 02764
 16 CLAIMANTS: Maria Pagni and Pagni Brothers,
 17 William, Elio, Relio, Albert and
 18 Roy, a Partnership.
 19 SOURCE: Browns Creek and Tributaries
 20 USE: Irrigation and Stock Watering
 21 MEANS OF DIVERSION: Dam and Ditches
 22 POINT OF DIVERSION: NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 13, T.17N., R.19E.,
 23 M.D.B.&M., or at a point from which
 24 the E $\frac{1}{4}$ corner of said Section 13
 25 bears N. 79° 28' E., a distance of
 26 1,019 feet.

PRIORITY:	CULTURAL ACREAGE		LOCATION			DUTY OF WATER	
	MEADOW	PASTURE	SUBD.:	SEC.:	TWP. RGE. N. E.	C.F.S.:	AC. FT.
27 1862	2.42		NE $\frac{1}{4}$ SE $\frac{1}{4}$	13	17 19	.061	9.68
28 1862	<u>2.73</u>		SE $\frac{1}{4}$ NE $\frac{1}{4}$	13	17 19	<u>.062</u>	<u>10.92</u>
29 TOTAL	5.15					.129	20.60

1 PROOF NO.: Amended 02812
 2 CLAIMANT: State of Nevada, Department of Highways
 3 SOURCE: Browns Creek and Tributaries
 4 USE: Irrigation and Stock Watering
 5 MEANS OF DIVERSION: Dam and Ditches
 6 POINT OF DIVERSION: NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 15, T.17N., R.19E.,
 7 M.D.B.S.M., or at a point from which
 8 the E $\frac{1}{4}$ corner of said Section 15
 9 bears N. 78° 40' E., a distance of
 10 2,010 feet.

PRIORITY:	CULTURAL ACREAGE		LOCATION			DIFTY OF WATER C.F.S.:AC.FT.
	MEADOW PASTURE		SUBD.:	SEC.:	TWP. RGE. N. E.	
11 1858	0.33		NE $\frac{1}{4}$ NW $\frac{1}{4}$	26	17 19	1.32
12 1858	0.33		NW $\frac{1}{4}$ NW $\frac{1}{4}$	26	17 19	1.32
13 1858	4.96		SW $\frac{1}{4}$ NW $\frac{1}{4}$	26	17 19	19.84
14 1858	0.05		SE $\frac{1}{4}$ NW $\frac{1}{4}$	26	17 19	0.20
15 1858	<u>0.92</u>		NW $\frac{1}{4}$ SW $\frac{1}{4}$	26	17 19	<u>3.62</u>
16 TOTAL	6.59					*0.013*26.36

17 *The capacity of the conveyance facilities has been
 18 determined to be 1.093 c.f.s. The allowable diversion
 19 is based on the percentage of acreage irrigated.

20 Some of the lands listed above also receive water
 21 from sources other than Browns Creek. The total
 22 quantity of water placed on those lands from all
 23 sources shall not exceed the quantity in acre feet
 24 tabulated above for each parcel

23 PROOF NO.: 02850
 24 CLAIMANT: Mt. Rose Development Co.
 25 SOURCE: Browns Creek and Tributaries
 26 USE: Irrigation
 27 MEANS OF DIVERSION: Rock Dam and Ditches
 28 POINT OF DIVERSION: NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 15, T.17N., R.19E.,
 29 M.D.B.&N., or at a point from which the
 30 E $\frac{1}{4}$ corner of said Section 15 bears N.
 85° 54' E., a distance of 2,133 feet.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

PROOF NO.: 02850 (Continued)

PRIORITY:	CULTURAL ACREAGE		LOCATION			DUTY OF WATER			
	MEADOW	PASTURE	SUBD.:SEC.:	TWP.	RGE.	N.	E.	C.F.S.	AC.FT.
1858	4.52		NE $\frac{1}{4}$ NW $\frac{1}{4}$	26	17	19		0.025	18.08
TOTAL	4.52							0.025	18.08

This Order recognizes and confirms Certificate 4222 under Permit 11346 and Certificate 4684 under Permit 12565 and hereby incorporates the provisions of those certificates in the above proof of appropriation.

PROOF NO.: 02872

CLAIMANT: Phillip H. and Lois J. Atherton

SOURCE: Browns Creek and Tributaries

USE: Irrigation and Stock Watering

MEANS OF DIVERSION: Dam and Ditch

POINT OF DIVERSION: NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 15, T.17N., R.19E., M.D.B.&M., or at a point from which the E $\frac{1}{4}$ corner of said Section 15 bears N. 85° 47' E., a distance of 2,137.9 feet.

PRIORITY:	CULTURAL ACREAGE		LOCATION			DUTY OF WATER			
	HAR-VEST	MEADOW PASTURE	SUBD.:SEC.:	TWP.	RGE.	N.	E.	C.F.S.	AC.FT.
1865	0.65	5.45	SE $\frac{1}{4}$ SW $\frac{1}{4}$	23	17	19		0.153	24.73
TOTAL	0.65							0.153	24.73

PROOF NO.: Amended 02741

CLAIMANT: U.S.A. - Forest Service

SOURCE: Browns Creek and Tributaries

USE: Stock Watering

MEANS OF DIVERSION: Stream Channel

POINT OF DIVERSION: The natural channel of Browns Creek between a point in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 16, T.17N., R.19E., M.D.B.&M., from which the W $\frac{1}{4}$ corner of said Section 16 bears N. 32° 30' W., a

1 PROOF NO.: Amended 02741 (Continued)

2 distance of 800 feet, and a point in

3 the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 16 from

4 which the W $\frac{1}{4}$ corner of said Section

5 16 bears N. 72° 05' W., a distance of

6 2,750 feet. Also, the natural channel

7 of Browns Creek between a point on the

8 west boundary of the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section

9 16, T.17N., R.19E., M.D.B.&M., from

10 which the W $\frac{1}{4}$ corner of said Section 16

11 bears N. 78° 30' W., a distance of

12 4,000 feet and a point on the east

13 section line of said Section 16 from

14 which the W $\frac{1}{4}$ corner of said Section 16

15 bears N. 78° 10' W., a distance of

16 5,400 feet.

17 PERIOD OF USE: May 1st through November 30th of each

18 year.

19 PRIORITY: 1880

20 AMOUNT OF APPROPRIATION: 0.00156 c.f.s. or sufficient to

21 water 50 cattle

22 DESCRIPTION OF WORKS OF DIVERSION, MANNER AND PLACE OF USE:

23 Cattle are watered from the natural

24 stream channel, and the location

25 is described above under point of

26 diversion.

18 PROOF NO.: Second Amended 02748

19 CLAIMANTS: City of Reno and County of Washoe,

20 Nevada

21 SOURCE: Grass Lake and Tributaries, all

22 being tributary to Browns Creek.

23 USE: Stock Watering

24 MEANS OF DIVERSION: Natural Lake

25 POINT OF DIVERSION: Grass Lake is situated in the NW $\frac{1}{4}$

26 SE $\frac{1}{4}$ Section 17, T.17N., R.19E., M.D.B.&M.

27 PERIOD OF USE: May 1st through November 30th of each

28 year

29 PRIORITY: 1878

30 AMOUNT OF APPROPRIATION: 0.02188 c.f.s. or sufficient to water

3,500 sheep

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

PROOF NO.: Second Amended 02748 (Continued)
DESCRIPTION OF WORKS OF DIVERSION, MANNER AND PLACE OF USE:
Sheep are watered from Grass Lake
and tributaries, the location being
described above.

DONE IN OPEN COURT THIS 16th DAY OF
August, A.D. 1976

15/ John E. Gabrielli
DISTRICT JUDGE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

No. 310683

Dept. No. 3

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

* * * *

IN THE MATTER OF THE DETERMINATION)
OF THE RELATIVE RIGHTS IN AND TO)
THE WATERS OF BROWNS CREEK AND ITS)
TRIBUTARIES IN WASHOE COUNTY, STATE)
OF NEVADA)

FINDINGS OF FACT, CONCLUSIONS OF LAW
JUDGMENT AND DECREE

This matter came on regularly for hearing on the 6th day of May, 1976, before the Honorable John E. Gabrielli, District Judge presiding, the portion of Browns Creek and its tributaries exemplified in these proceedings, being within Washoe County, State of Nevada, and he being the Judge designated by NRS 533.165 to hear and having jurisdiction to hear the above-entitled matter, upon the State Engineer's determination of the relative rights of the petitioner and claimants to the use of the waters of the stream system of Browns Creek and its tributaries, which Order of Determination and all related documentary evidence had been filed by the State Engineer. There being no exceptions to the Order of Determination filed or otherwise submitted to the Court by the claimants, petitioners, or any other person or persons at least 5 days prior to the date set for hearing as provided for under NRS 533.170, the matter was submitted to the Court for its decision.

Harry W. Swainston, Deputy Attorney General, Starr Hill, Jr., Surface Water Engineer, L. Edward Parmenter,

1 Adjudication Engineer and Timothy Holt, Hydraulic Engineer,
2 appeared in the hearing and proceedings on behalf of the State
3 of Nevada and the office of the State Engineer.

4 The record disclosed that the claimants had received
5 a certified copy of the Court Order Setting Time for Hearing
6 on the Order of Determination.

7 Harry W. Swainston, thereupon, at the hearing, offered
8 verified affidavits, files and records from the State Engineer's
9 office, all contained in the Order of Determination, which were
10 entered as evidence in support of the rights of the claimants
11 in and to the above-named stream system.

12 The Court, having duly considered the entire record
13 and the evidence introduced and received, directed that Findings
14 of Fact, Conclusions of Law, and Judgment and Decree be entered
15 accordingly.

16
17 FINDINGS OF FACT

18 I.

19 That on April 21, 1958, Robert L. McDonald submitted
20 a petition on behalf of Edward W. Scripps, II, a water user of
21 Browns Creek, requesting the determination of the relative
22 rights of the petitioner and other claimants to the waters of
23 Browns Creek, Winters Creek, Davis Creek, Ophir Creek and their
24 tributaries, and Fish Hatchery Spring, situate in Washoe County,
25 State of Nevada.

26 That as a result of the State Engineer's investigation
27 report, it was found that the waters of Browns Creek and its
28 tributaries are being placed to beneficial use for irrigation,
29 domestic, stock watering and recreational purposes. That
30 evidence contained in the title documents submitted by the

1 claimants, relative to the land, indicates the present claimants
2 and appropriators are successors in interest to vested rights
3 initiated by their predecessors. That the report of the facts
4 and conditions disclosed that a determination of the relative
5 rights was justified, and the State Engineer made and entered
6 his order on June 12, 1958, granting the petition.

7 That on the 21st day of June, 1958, and once each
8 week for four succeeding weeks, the State Engineer did cause
9 to be published a Notice of Order and Proceedings to Determine
10 Water Rights in and to the waters of Browns Creek and its
11 tributaries in Washoe County, State of Nevada, and that notice
12 was duly given to all claimants as required by law. That on
13 the 22nd day of June, 1958, there was filed in the office of the
14 State Engineer an affidavit of the principal clerk of the Nevada
15 State Journal, exemplifying the Proof of Publication of Notice
16 of Order and Proceedings.

17 That the State Engineer did cause to be published on
18 the 13th day of November, 1971, and once each week for four
19 succeeding weeks, a Notice of Order for Taking Proofs to Deter-
20 mine Water Rights, in and to the waters of Browns Creek and its
21 tributaries in Washoe County, State of Nevada, and that notice
22 was duly given to all claimants as required by law. That on the
23 15th day of December, 1971, there was filed in the office of
24 the State Engineer an affidavit of the legal clerk of The Nevada
25 State Journal, exemplifying the Proof of Publication of the
26 Notice of Order for Taking Proofs to Determine Water Rights.

27 That thereafter, in accordance with NRS 533.125, the
28 State Engineer did file in the records of his office on April 6,
29 1972, April 7, 1972, April 10, 1972, April 13, 1972, May 16, 1972
30 and May 30, 1972, requests to extend the time in which proofs

1 may be filed. That he did grant extensions of time to file
2 proofs and that notices thereof were duly given to all claimants.

3 That thereafter, in accordance with NRS 533.130, the
4 State Engineer did file in the records of his office on February
5 28, 1975 and April 13, 1976, petitions to intervene in these
6 proceedings. That Proof 02850 was filed by the Mt. Rose Develop-
7 ment Co. on March 31, 1975, and Proof 01872 was filed by Phillip
8 H. and Lois J. Atherton on April 13, 1976, and he did permit the
9 petitioners to intervene in the proceedings.

10 That the State Engineer, in accordance with NRS 533.140,
11 did enter and file in the records of his office on the 15th
12 day of September, 1975, an Abstract of Claims, a Preliminary
13 Order of Determination, and a Notice and Order Fixing and
14 Setting Time and Place of Inspection, stating when and where the
15 evidence taken or filed with him and the proofs of claims were
16 open to the inspection of all interested persons; and that
17 notice thereof was duly given to the claimants as required by
18 law.

19 That the State Engineer, in accordance with NRS
20 533.160 entered in the records of his office, on the 31st day
21 of December, 1975, an Order of Determination defining the rights
22 of the claimants and appropriators to the waters of Browns
23 Creek and its tributaries and that notice thereof was duly
24 given to the claimants as required by law.

25 That upon the filing of the certified copy of the
26 Order of Determination and the original evidence with the Clerk
27 of the Court of Washoe County, State of Nevada, the Court, at
28 the request of the State Engineer, made and entered an Order on
29 the 23rd day of February, 1976, setting a time for hearing of
30 any exceptions to the Order of Determination on Thursday, the

1 6th day of May, 1976, at 1:30 o'clock of the afternoon in the
2 courtroom of the Court House in Reno, Washoe County, Nevada; and
3 that the Clerk of said Court did furnish the State Engineer with
4 a certified copy thereof.

5 That the State Engineer, in accordance with NRS
6 533.165, gave notice to the claimant by service of a certified
7 copy of the Court Order Setting Time for Hearing.

8 That on the 10th day of March, 1976, and once each
9 week for four succeeding weeks, the State Engineer did cause to
10 be published the Court Order Setting Time for Hearing, and that
11 thereafter on the 8th day of April, 1976, there was filed in
12 the office of the State Engineer an affidavit of the legal clerk
13 of The Nevada State Journal, exemplifying the Proof of Publication
14 of the Court Order Setting Time for Hearing.

15 That the Court finds that all and singular, the
16 Proceedings, Orders and Notices required by Chapter 533 of NRS
17 were duly had, made and given as required by law, and that all
18 and signular, the matters and things contained in the record
19 were done, performed, given and made in strict compliance with
20 the statute, and that this Court had and has jurisdiction to
21 hear and determine this matter.

22 II.

23 The Court Further Finds: That the portion of Browns
24 Creek and its tributaries exemplified in these proceedings, is
25 situated wholly within Washoe County, State of Nevada.

26 III.

27 The Court Further Finds: That the name of the
28 claimants and appropriators, the source of water supply, the
29 period of use, the duty of water, the diversion of water and
30 method of use, measurement of water, domestic, stock watering

1 and recreation use, change of place of use, and the rights of
2 appropriation of the water, all as set forth in the Order of
3 Determination are true, proper and correct, and all and singular,
4 the same should be approved and confirmed, as follows:

5 I. PREFACE

6 On June 12, 1958, the State Engineer entered an Order
7 for the determination of the relative rights of the water
8 users in accordance with NRS 533.090.

9 On October 22, 1971, the State Engineer entered a
10 Notice of Order for Taking Proofs to Determine Water Rights.

11 II. CLAIMANTS

12 The investigation disclosed that the waters of Browns
13 Creek and its tributaries were being placed to beneficial use
14 on the lands of claimants for irrigation, domestic, stock
15 watering and recreation purposes. Evidence contained in the
16 title documents and the proofs of appropriation submitted by
17 the present claimants relative to the land, indicates they are
18 successors in interest to vested rights initiated by their
19 predecessors.

20 III. SOURCE

21 The headwaters of Browns Creek drain from the northern
22 slopes of Slide Mountain. The creek flows easterly down the
23 Carson Range and terminates in Steamboat Creek in Pleasant
24 Valley. Midway in its course, Browns Creek receives water from
25 a ditch conveying water from Galena Creek and a short distance
26 downstream from the entry of this ditch, water is diverted to
27 Washoe Valley. Browns Creek is fed by springs and melting
28 snow, having a relatively high spring runoff which later recedes
29 to a minimal flow during the summer.

30 IV. PERIOD OF USE

1 Water for irrigation is allowed to be used at any time
2 during the year provided that the amount applied to the land
3 during any calendar year shall not exceed the quantity in acre
4 feet herein set forth.

5 V. DUTY OF WATER

6 The seasonal duty of water on lands irrigated from
7 Browns Creek and its tributaries is herein fixed and shall not
8 exceed:

9	Class A	Harvest Crop	4.5 ac.ft./ac./season
10	Class B	Meadow Pasture	4.0 ac.ft./ac./season
11	Class C	Diversified Pasture	3.5 ac.ft./ac./season

12 Vested rights have been granted herein to the claimant
13 of waters from Browns Creek to compensate for evaporation losses
14 of Joy Lake under Proof 02750. The mean annual evaporation for
15 the area has been determined by the Soil Conservation Service
16 Central Lahontan Basin Report of June 1969, to be 48 inches.

17 Evaporation loss 4.0 ac.ft./ac./season

18 VI. DIVERSION OF WATER AND METHOD OF USE

19 The claimants shall have the right to divert 2.5
20 cubic feet per second of water per 100 acres of land irrigated
21 with the exception of Third Amended Proof 02442, Second Amended
22 Proof 02747, Amended Proof 02757, Amended Proof 02812 and Proof
23 02850.

24 The rate of diversion for Third Amended Proof 02442,
25 Amended Proof 02757 and Amended Proof 02812 are limited by the
26 size of the diversion ditch conveying water to the places of
27 use, to an amount less than 2.5 cubic feet per second.

28 Second Amended Proof 02747 and Proof 02850 are
29 limited to the diversion rate specified in the deeds of con-
30 veyance of their vested rights.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

The total amount of water diverted by any claimant in these proceedings shall not exceed the annual duty in acre feet as established herein.

The claimants or their successors in interest will not be required to take or use the amount of water allotted to them in a continuous flow, but may cumulate the same or any part thereof in rotation or periodic turn within the seasonal limits, with the approval of the water commissioner and subject to the control and direction of the State Engineer.

VII. MEASUREMENT OF WATER

All measurements of water diverted are to be made at a point where the main ditch enters or becomes adjacent to the land to be irrigated, or as near thereto as is practicable; the location, if not selected by the State Engineer, to be approved by him. The claimants shall install, and maintain at their own expense, substantial and easily operated regulating headgates and measuring devices in their ditch or ditches or channel. Due allowance for losses in ditches will be made by the State Engineer in the event it becomes necessary.

Priorities are fixed by years and where the years are the same, the priorities are equal.

VIII. DOMESTIC, STOCK WATERING AND RECREATION

The right to the diversion and use of water for domestic, stock watering and recreation purposes shall be continued by the claimants named herein or their successors in interest at any time during the year, except as otherwise specified under stock watering rights of appropriation, and such diversions shall be according to the dates of priorities of such users and limited to the quantity of water reasonably necessary for such use. On unpatented lands the period of use will coincide with the time

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

that stock are grazing thereon.

The amount of water diverted for irrigation purposes shall not be increased by any amount to be used for domestic, stock watering and recreation purposes, but the quantity allowed and diverted for irrigation during the irrigation season shall include water for these uses.

IX. CHANGE OF PLACE OF USE

All water allotted in the Decree 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 the change pursuant to NRS 533.345.

X. RIGHTS OF APPROPRIATION

From the Order of Determination and the documentary evidence submitted in support thereof, the Court finds that the names of the claimants and appropriators of the waters of Browns Creek and its tributaries, the source of the water supply, the means of diversion, the points of diversion for beneficial use, the period of use, the years of priority, the cultural acreages, the places of use, the legal subdivision, sections, townships, ranges, and the duty of water are as listed, stated and set forth.

CONCLUSIONS OF LAW

From the evidence presented and received in this matter, and from the foregoing FINDINGS OF FACT, the Court makes the following CONCLUSIONS OF LAW.

I.

That the State Engineer has the right, authority and jurisdiction pursuant to Chapter 533 of NRS to make the

1 investigation made by him, receive the proofs and maps, enter
2 and file in his office the original Order of Determination and
3 file a certified copy thereof in this Court, and to determine
4 the relative rights of the claimants and appropriators in and
5 to the waters of Browns Creek and its tributaries in Washoe
6 County, State of Nevada; that the State Engineer duly made all
7 orders necessary and proper in connection therewith and entered
8 the same in his office as required by Chapter 533 of NRS; that
9 each and every notice required by law to be given herein to the
10 claimants and appropriators was duly served by the State
11 Engineer in the manner and within the time required by statute,
12 and that the notices contained all of the statements required
13 by law, and that the claimants and appropriators of the waters
14 of the above-named stream system and its tributaries duly
15 received the information and notices, as required by law.

16 II.

17 That the Second Judicial District Court of the State
18 of Nevada, in and for the County of Washoe, had and has juris-
19 diction to hear and try this matter, and has jurisdiction to
20 find, make and enter the foregoing Findings of Fact and these
21 Conclusions of Law and enter its Decree herein.

22 III.

23 That the State of Nevada, Department of Fish and
24 Game, City of Reno and County of Washoe, Nevada, Mountain
25 Resort Corporation, John Jay Casey, William C. and Gloria A.
26 Borden, Lee B. and Margaret E. Smith, Maria Pagni and Pagni
27 Brothers, State of Nevada, Department of Highways, Mt. Rose
28 Development Co., United States of America, Forest Service and
29 Lois J. and Phillip H. Atherton are the only claimants of
30 vested rights recognized in this Decree who were and are now

1 appropriators and users of the waters of Browns Creek and its
2 tributaries on the date the Order of Determination was filed
3 with the Clerk of the Court, and on the date of the trial and
4 hearing of this matter.

5
6 IV.

7 That water for irrigation is allowed to be used at
8 any time during the year provided that the amount applied to
9 the land during any calendar year shall not exceed the quantity
10 in acre feet herein set forth.

11
12 V.

13 That the seasonal duty of water on lands irrigated
14 from Browns Creek and its tributaries is herein fixed and
15 shall not exceed:

16	Class A.	Harvest Crop	4.5 ac.ft./ac./season
17	Class B	Meadow Pasture	4.0 ac.ft./ac./season
18	Class C	Diversified Pasture	3.5 ac.ft./ac./season

19 That vested rights have been granted herein to the
20 claimant of waters from Browns Creek to compensate for evapora-
21 tion losses of Joy Lake under Proof 02750. That the mean
22 annual evaporation for the area has been determined by the
23 Soil Conservation Service Central Lahontan Basin Report of
24 June 1969, to be 48 inches.

25	Evaporation loss	4.0 ac.ft./ac./season
----	------------------	-----------------------

26
27 VI.

28 That the claimants shall have the right to divert
29 2.5 cubic feet per second of water per 100 acres of land irrigated
30 with the exception of Third Amended Proof 02442, Second Amended

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

Proof 02747, Amended Proof 02757, Amended Proof 02812 and Proof 02850.

That the rate of diversion of Third Amended Proof 02442, Amended Proof 02757 and Amended Proof 02812 are limited by the size of the diversion ditch conveying water to the places of use, to an amount less than 2.5 cubic feet per second.

That Second Amended Proof 02747 and Proof 02850 are limited to the diversion rate specified in the deeds of conveyance of their vested rights.

That the total amount of water diverted by any claimant in these proceedings shall not exceed the annual duty in acre feet as established herein.

That the claimants or their successors in interest will not be required to take or use the amount of water allotted to them in a continuous flow, but may cumulate the same or any part thereof in rotation or periodic turn within the seasonal limits, with the approval of the water commissioner and subject to the control and direction of the State Engineer.

VII.

That all measurements of water diverted are to be made at a point where the main ditch enters or becomes adjacent to the land to be irrigated or as near thereto as is practicable; that the location, if not selected by the State Engineer, to be approved by him. That the claimants shall install and maintain at their own expense, substantial and easily operated regulating headgates and measuring devices in their ditch or ditches or channel. That due allowance for losses in ditches will be made by the State Engineer in the event it becomes necessary.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

That the priorities are fixed by years and where the years are the same, the priorities are equal.

VIII.

That the right to the diversion and use of the water for domestic, stock watering and recreation purposes shall be continued by the claimants named herein or their successors in interest at any time during the year, except as otherwise specified under stock watering rights of appropriation, and such diversions shall be according to the dates of priorities of such users and limited to the quantity of water reasonably necessary for such use. That, on unpatented lands the period of use will coincide with the time that stock are grazing thereon.

That the amount of water diverted for irrigation purposes shall not be increased by any amount to be used for domestic, stock water and recreational purposes, but the quantity allowed and diverted for irrigation during the irrigation season shall include water for these uses.

IX.

That all water allotted in the Decree shall be appurtenant to the place of use designated herein. That 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 the change pursuant to NRS 533.345.

X.

That from the Order of Determination and the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

documentary evidence submitted in support thereof, the Court finds that the names of the claimants and appropriators of the waters of Browns Creek and its tributaries, the source of the water supply, the means of diversion, the points of diversion for beneficial use, the periods of use, the years of priority, the cultural acreages and places of use, the legal subdivisions, sections, townships, ranges, and the duty of water are as listed, stated and set forth.

XI.

That the Order of Determination made, filed and caused to be entered of record in this matter by the State Engineer should be affirmed.

JUDGMENT AND DECREE

THEREFORE, BY REASON OF THE FINDINGS OF FACT, AND CONCLUSIONS OF LAW HEREINBEFORE SET FORTH, IT IS ORDERED, ADJUDGED AND DECREED BY THE COURT AS FOLLOWS:

I.

That the State Engineer made all necessary and proper orders as required by law, and that each and every notice required by law was duly given to the claimants and appropriators; that the claimants and appropriators had full opportunity to appear and be heard in objection to and file exceptions to the Order of Determination; that the claimants and appropriators are the only claimants and appropriators of the waters of Browns Creek and its tributaries and this Decree determines the limit and extent of all vested water rights on the source.

That the Court has full and complete jurisdiction to

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

hear, try and determine this matter and to make and enter herein, this Decree.

II.

That the flow of water from Browns Creek and its tributaries is being placed to beneficial use by the State of Nevada, Department of Fish and Game, City of Reno and County of Washoe, Nevada, Mountain Resort Corporation, John Jay Casey, William C. and Gloria A. Borden, Lee B. and Margaret E. Smith, Maria Pagni and Pagni Brothers, State of Nevada, Department of Highways, Mt. Rose Development Co., United States of America, Forest Service and Lois J. and Phillip H. Atherton for irrigation, domestic, stock watering and recreation purposes.

III.

That water for irrigation is allowed to be used at any time during the year provided that the amount applied to the land during any calendar year shall not exceed the quantity in acre feet herein set forth.

IV.

That the seasonal duty of water on lands irrigated from Browns Creek and its tributaries is herein fixed and shall not exceed:

Class A	Harvest Crop	4.5 ac.ft./ac./season
Class B	Meadow Pasture	4.0 ac.ft./ac./season
Class C	Diversified Pasture	3.5 ac.ft./ac./season

That vested rights have been granted herein to the claimant of waters from Browns Creek to compensate for

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

evaporation losses of Joy Lake under Proof 02750. That the mean annual evaporation for the area where Joy Lake is situated has been determined by the U. S. Soil Conservation Service Central Lahontan Basin Report of June 1969, to be equal to 48 inches.

Evaporation loss 4.0 ac.ft./ac./season

V.

That the claimants shall have the right to divert 2.5 cubic feet per second of water per 100 acres of land irrigated with the exception of Third Amended Proof 02442, Second Amended Proof 02747, Amended Proof 02757, Amended Proof 02812 and Proof 02850, that have diversion rates less than this amount.

That the rate of diversion for Third Amended Proof 02442, Amended Proof 02757 and Amended Proof 02812 is limited by the size of the existing diversion ditch that conveys water to the places of use for these three proofs, to a maximum amount of 1.093 cubic feet per second.

That the diversion rate for Second Amended Proof 02747 and Proof 02850 is limited to the amount that is specifically set forth in each of the two deeds conveying vested rights to the grantees.

That the total amount of water to be diverted by any claimant that is a party to these proceedings shall not exceed the annual duty of water in acre feet as is established herein.

That the claimants or their successors in interest will not be required to take or use the amount of water allotted to them in a continuous flow, but may cumulate the same or any

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

part thereof in rotation or periodic turn within the seasonal limits, with the approval of the water commissioner and subject to the control and direction of the State Engineer.

VI.

That all measurements of water diverted are to be made at a point where the main ditch enters or becomes adjacent to the land to be irrigated or as near thereto as is practicable; that the location, if not selected by the State Engineer, to be approved by him. That the water user shall install and maintain at his own expense substantial and easily operated regulating headgates and measuring devices in their ditch or ditches or channel. That due allowance for losses in ditches will be made by the State Engineer in the event it becomes necessary.

That priorities are fixed by years and where the years are the same, the priorities are equal.

VII.

That the right to the diversion and use of the water for domestic, stock watering and recreation purposes shall be continued by the claimants named herein or their successors in interest at any time during the year, except as otherwise specified under stock watering rights of appropriation, and such diversions shall be according to the dates of priorities of such users and limited to the quantity of water reasonably necessary for such use. That if a claimant is not in priority for irrigation water, then the claimant is not in priority for domestic, stock watering and recreation purposes.

That the amount of water diverted for irrigation purposes shall not be increased by any amount to be used for domestic, stock watering and recreation purposes, but the quantity allowed and diverted for irrigation during the

1 irrigation season shall include water for these uses.

2 VIII.

3 That all water allotted in this Decree shall be
4 appurtenant to the place of use designated herein. That any
5 water user desiring to change the point of diversion, manner of
6 use or place of use of the waters allotted herein, must make
7 application to the State Engineer for permission to make the
8 change pursuant to NRS 533.345.

9 IX.

10 That the name of the claimants and appropriators of
11 the waters of Browns Creek and its tributaries, the source of
12 the water supply, the means of diversion, the points of diversion
13 for beneficial use, the period of use, the years of priority, the
14 cultural acreages and places of use, the legal subdivision,
15 sections, township, ranges, and duty of water are hereby
16 adjudged as follow:

17 PROOF NO.: Third Amended 02442
18 CLAIMANT: State of Nevada, Department of
Fish and Game
19 SOURCE: Browns Creek and Tributaries
20 USE: Irrigation
21 MEANS OF DIVERSION: Dams and Ditches
22 POINT OF DIVERSION: NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 15, T.17N., R.19E.,
23 M.D.B.&M., or at a point from which
24 the E $\frac{1}{4}$ corner of said Section 15
25 bears N. 78° 40' E., a distance of
26 2010 feet.

PRIORITY:	CULTURAL ACREAGE		LOCATION			DUTY OF WATER	
	DIVERSIFIED PASTURE		SUBD.:	SEC.:	TWP. RGE. N. E. C.F.S.:	AC. FT.	
27	1858	1.1	NW $\frac{1}{4}$ NE $\frac{1}{4}$	25	17 19		3.85
28	1858	13.6	NE $\frac{1}{4}$ NW $\frac{1}{4}$	25	17 19		47.60
29	1858	8.6	SE $\frac{1}{4}$ NW $\frac{1}{4}$	25	17 19		30.10

	PRIORITY:	CULTURAL ACREAGE		LOCATION			DUTY OF WATER	
		DIVERSIFIED PASTURE		SUBD.:	SEC.:	TWP. N.	RGE. E.	C.F.S.:
3	1858	8.8	SW $\frac{1}{4}$ NE $\frac{1}{4}$	25	17	19		30.80
4	1858	1.1	NW $\frac{1}{4}$ SE $\frac{1}{4}$	25	17	19		3.85
5	1858	8.8	NE $\frac{1}{4}$ SW $\frac{1}{4}$	25	17	19		30.80
6	1858	26.4	NW $\frac{1}{4}$ SW $\frac{1}{4}$	25	17	19		92.40
7	1858	6.8	SW $\frac{1}{4}$ SW $\frac{1}{4}$	25	17	19		23.80
8	1858	20.3	SE $\frac{1}{4}$ SE $\frac{1}{4}$	26	17	19		71.05
9	1858	1.5	SW $\frac{1}{4}$ SE $\frac{1}{4}$	26	17	19		5.25
10	1858	4.6	NE $\frac{1}{4}$ SE $\frac{1}{4}$	26	17	19		16.10
11	TOTAL	101.6						*0.201*355.60

12 *The capacity of the conveyance facilities has been determined to be 1.093 c.f.s. The allowable diversion is based on the percentage of acreage irrigated.

13

14 Some of the lands listed above also receive water from sources other than Browns Creek. The total quantity of water placed on these lands from all sources shall not exceed the quantity in acre feet tabulated above for each parcel.

15

16

17

18 PROOF NO. Second Amended 02747

19 CLAIMANTS: City of Reno and County of Washoe, Nevada

20 SOURCE: Browns Creek and Tributaries

21 USE: Irrigation

22 MEANS OF DIVERSION: Dam and Ditches

23 POINT OF DIVERSION: NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 15, T.17N., R.19E., M.D.B.&M., or at a point from which the E $\frac{1}{4}$ corner of said Section 15 bears N. 84° 16' 24" E., a distance of 2,121.5 feet.

24

25

	PRIORITY:	CULTURAL ACREAGE		LOCATION			DUTY OF WATER	
		MEADOW PASTURE		SUBD.	SEC.:	TWP. N.	RGE. E.	C.F.S.:
28	1858	2.35	NE $\frac{1}{4}$ NW $\frac{1}{4}$	26	17	19	0.013	9.40
29	TOTALS	2.35					0.013	9.40

This order recognizes and confirms Certificate 4685

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

issued under Permit 12566 and hereby incorporates the provisions of that certificate in the above proof of appropriation.

PROOF NO.: 02750

CLAIMANT: Mountain Resort Corporation

SOURCE: Browns Creek and Tributaries

USE: Stock Watering and Recreation

MEANS OF DIVERSION: Dam and Ditch

POINT OF DIVERSION: NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 15, T.17N., R.19E., M.D.B.&M., or at a point from which the E $\frac{1}{4}$ corner of said Section 15 bears N. 85° 05' E., a distance of 2,134.94 feet.

PLACE OF USE: E $\frac{1}{2}$ SE $\frac{1}{4}$ Section 15, T.17N., R.19E., M.D.B.&M.

PRIORITY: 1877

Proof 02750 claims right to the water of Browns Creek for retention of Joy Lake for recreation and stock watering use.

The affidavit of Leo F. Sauer states that Joy Lake was used for stock watering and fishing purposes for as long as he could remember, which he states was at least as early as 1915.

The statement of W. H. Joy on June 13, 1879, recorded in Washoe County Records, Page 330, Book "B" Surveys, describes his intent to construct a ditch and flume at Washoe City. He identified the origin of the ditch as Joy Lake.

The kind and number of animals are not listed for the stock watering use.

Proof 02750 states that the area of Joy Lake is approximately 3.5 acres. The mean annual evaporation for Joy Lake is 48 inches as determined by the Soil Conservation Service Central Lahontan Basin Report of June 1969. A vested right of 14.0 acre feet per year is hereby determined for Joy Lake to provide for evaporation losses only, with a priority of 1877.

The diversion rate to Joy Lake as determined by the capacity of the inflow ditch is 1.015 c.f.s.

The outlet of Joy Lake is uncontrolled and the allowable diversion is the net difference between the inflow and the outflow.

1 PROOF NO.: Amended 02757
 2 CLAIMANT: John Jay Casey
 3 SOURCE: Browns Creek and Tributaries
 4 USE: Irrigation, Domestic and Stock
 5 Watering
 6 MEANS OF DIVERSION: Dams and Ditches
 7 POINT OF DIVERSION: NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 15, T.17N., R.19E.,
 8 M.D.B.&M., or at a point from which
 9 the E $\frac{1}{4}$ corner of said Section 15
 bears N. 78° 40' E., a distance of
 2,010 feet.

PRIORITY:	CULTURAL ACREAGE		LOCATION			DUTY OF WATER		
	HARV- EST	DIVERSIFIED PASTURE	SUED.:	SEC.:	TWP. RGE. N. E.	C.F.S.:	AC. FT.	
12	1858	--	2.3	NE $\frac{1}{4}$ SW $\frac{1}{4}$	25	17	19	8.05
13	1858	--	10.7	NW $\frac{1}{4}$ SW $\frac{1}{4}$	25	17	19	37.45
14	1858	--	37.6	SW $\frac{1}{4}$ NW $\frac{1}{4}$	25	17	19	131.60
15	1858	--	17.9	SE $\frac{1}{4}$ NW $\frac{1}{4}$	25	17	19	62.65
16	1858	--	1.8	NE $\frac{1}{4}$ NW $\frac{1}{4}$	25	17	19	6.30
17	1858	--	1.7	NW $\frac{1}{4}$ NW $\frac{1}{4}$	25	17	19	5.95
18	1858	--	5.4	SE $\frac{1}{4}$ SE $\frac{1}{4}$	26	17	19	18.90
19	1858	0.1	23.6	SW $\frac{1}{4}$ SE $\frac{1}{4}$	26	17	19	83.05
20	1858	9.6	1.4	SE $\frac{1}{4}$ SW $\frac{1}{4}$	26	17	19	48.10
21	1858	1.7	--	SW $\frac{1}{4}$ SW $\frac{1}{4}$	26	17	19	7.65
22	1858	4.5	--	NW $\frac{1}{4}$ SW $\frac{1}{4}$	26	17	19	20.25
23	1858	39.4	--	NE $\frac{1}{4}$ SW $\frac{1}{4}$	26	17	19	177.30
24	1858	13.6	26.4	NW $\frac{1}{4}$ SE $\frac{1}{4}$	26	17	19	153.60
25	1858	--	37.0	NE $\frac{1}{4}$ SE $\frac{1}{4}$	26	17	19	129.50
26	1858	0.2	39.8	SE $\frac{1}{4}$ NE $\frac{1}{4}$	26	17	19	140.20
27	1858	33.1	6.9	SW $\frac{1}{4}$ NE $\frac{1}{4}$	26	17	19	173.10
28	1858	40.0	--	SE $\frac{1}{4}$ NW $\frac{1}{4}$	26	17	19	180.00
29	1858	6.9	--	SW $\frac{1}{4}$ NW $\frac{1}{4}$	26	17	19	31.05
30	1858	3.2	--	NW $\frac{1}{4}$ NW $\frac{1}{4}$	26	17	19	14.40

STATE OF NEVADA
 DIVISION OF WATER
 RESOURCES
 DEPARTMENT OF
 CONSERVATION AND
 NATURAL RESOURCES
 MYE BUILDING
 201 W. FALL STREET
 CARSON CITY, NEVADA
 89701

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

PROOF NO.: Amended 02757 (Continued)

PRIORITY:	CULTURAL ACREAGE		LOCATION			DUTY OF WATER		
	HARV-EST	DIVERSIFIED PASTURE	TWP.	RGE.	SEC.:	N. E.	C.F.S.:	AC. FT.
1858	27.5	- -	NE $\frac{1}{4}$ NW $\frac{1}{4}$	26	17	19		125.55
1858	27.9	- -	NW $\frac{1}{4}$ NE $\frac{1}{4}$	26	17	19		123.75
1858	<u>7.0</u>	<u>11.7</u>	NE $\frac{1}{4}$ NE $\frac{1}{4}$	26	17	19		<u>72.45</u>
TOTALS	214.7	224.2					*0.866	*1750.85

*The capacity of the conveyance facilities has been determined to be 1.093 c.f.s. The allowable diversion is based on the percentage of acreage irrigated.

Some of the lands listed above also receive water from sources other than Browns Creek. The total quantity of water placed on these lands from all sources shall not exceed the quantity in acre feet tabulated above for each parcel.

PROOF NO.: 02758
 CLAIMANTS: William C. Borden & Gloria A. Borden
 SOURCE: Browns Creek and Tributaries
 USE: Irrigation and Stock Watering
 MEANS OF DIVERSION: Dam and Ditches
 POINT OF DIVERSION: NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 15, T.17N., R.19E., M.D.B.&M., or at a point from which the E $\frac{1}{4}$ corner of said Section 15 bears N. 85° 47' E., a distance of 2,137.9 feet.

PRIORITY:	CULTURAL ACREAGE		LOCATION			DUTY OF WATER		
	MEADOW	PASTURE	TWP.	RGE.	SEC.:	N. E.	C.F.S.:	AC. FT.
1858	<u>2.2</u>		SE $\frac{1}{4}$ SW $\frac{1}{4}$	23	17	19	<u>.055</u>	<u>8.80</u>
TOTAL	2.2						.055	8.80

1 PROOF NO.: Amended 02759
 2 CLAIMANTS: Lee B. and Margaret E. Smith
 3 SOURCE: Browns Creek and Tributaries
 4 USE: Irrigation and Stock Watering
 5 MEANS OF DIVERSION: Dam and Ditches
 6 POINT OF DIVERSION: NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 15, T.17N., R.19E.,
 7 M.D.B.&M., or at a point from which
 8 the E $\frac{1}{4}$ corner of said Section 15
 9 bears N. 85° 47' E., a distance of
 10 2,137.9 feet.

PRIORITY:	CULTURAL ACREAGE		LOCATION			DUTY OF WATER	
	MEADOW PASTURE		SUBD.:	SEC.:	TWP. RGE. N. E.	C.F.S.:	AC.FT.
11 1858	0.44		SE $\frac{1}{4}$ SW $\frac{1}{4}$	23	17 19	.011	1.76
12 1858	<u>0.47</u>		SW $\frac{1}{4}$ SE $\frac{1}{4}$	23	17 19	<u>.012</u>	<u>1.88</u>
13 TOTAL	0.91					.023	3.64

15 PROOF NO.: Amended 02764
 16 CLAIMANTS: Maria Pagni and Pagni Brothers,
 17 William, Elio, Relio, Albert and
 18 Roy, a Partnership.
 19 SOURCE: Browns Creek and Tributaries
 20 USE: Irrigation and Stock Watering
 21 MEANS OF DIVERSION: Dam and Ditches
 22 POINT OF DIVERSION: NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 13, T.17N., R.19E.,
 23 M.D.B.&M., or at a point from which
 24 the E $\frac{1}{4}$ corner of said Section 13
 25 bears N. 79° 28' E., a distance of
 26 1,019 feet.

PRIORITY:	CULTURAL ACREAGE		LOCATION			DUTY OF WATER	
	MEADOW PASTURE		SUBD.:	SEC.:	TWP. RGE. N. E.	C.F.S.:	AC.FT.
27 1862	2.42		NE $\frac{1}{4}$ SE $\frac{1}{4}$	13	17 19	.061	9.68
28 1862	<u>2.73</u>		SE $\frac{1}{4}$ NE $\frac{1}{4}$	13	17 19	<u>.068</u>	<u>10.92</u>
29 TOTAL	5.15					.129	20.60

1 PROOF NO.: Amended 02812
 2 CLAIMANT: State of Nevada, Department of Highways
 3 SOURCE: Browns Creek and Tributaries
 4 USE: Irrigation and Stock Watering
 5 MEANS OF DIVERSION: Dam and Ditches
 6 POINT OF DIVERSION: NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 15, T.17N., R.19E.,
 7 M.D.B.&M., or at a point from which
 8 the E $\frac{1}{4}$ corner of said Section 15
 9 bears N. 78° 40' E., a distance of
 10 2,010 feet.

PRIORITY:	CULTURAL ACREAGE		LOCATION			DUTY OF WATER	
	MEADOW PASTURE		SUBD.:	SEC.:	TWP. RGE. N. E.	C.F.S.:	AC. FT.
11	1858	0.33	NE $\frac{1}{4}$ NW $\frac{1}{4}$	26	17 19		1.32
12	1858	0.33	NW $\frac{1}{4}$ NW $\frac{1}{4}$	26	17 19		1.32
13	1858	4.96	SW $\frac{1}{4}$ NW $\frac{1}{4}$	26	17 19		19.84
14	1858	0.05	SE $\frac{1}{4}$ NW $\frac{1}{4}$	26	17 19		0.20
15	1858	<u>0.92</u>	NW $\frac{1}{4}$ SW $\frac{1}{4}$	26	17 19		<u>3.68</u>
16	TOTAL	6.59					*0.013*26.36

17 *The capacity of the conveyance facilities has been
 18 determined to be 1.093 c.f.s. The allowable diversion
 19 is based on the percentage of acreage irrigated.

20 Some of the lands listed above also receive water
 21 from sources other than Browns Creek. The total
 22 quantity of water placed on these lands from all
 23 sources shall not exceed the quantity in acre feet
 24 tabulated above for each parcel

23 PROOF NO.: 02850
 24 CLAIMANT: Mt. Rose Development Co.
 25 SOURCE: Browns Creek and Tributaries
 26 USE: Irrigation
 27 MEANS OF DIVERSION: Rock Dam and Ditches
 28 POINT OF DIVERSION: NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 15, T.17N., R.19E.,
 29 M.D.B.&M., or at a point from which the
 30 E $\frac{1}{4}$ corner of said Section 15 bears N.
 85° 54' E., a distance of 2,133 feet.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

PROOF NO.: 02850 (Continued)

PRIORITY:	CULTURAL ACREAGE		LOCATION			DUTY OF WATER			
	MEADOW	PASTURE	SUBD.:SEC.:	TWP.	RGE.	N.	E.:	C.F.S.:	AC.FT.
1858	4.52		NE $\frac{1}{4}$ NW $\frac{1}{4}$	26	17	19		0.025	18.08
TOTAL	4.52							0.025	18.08

This Order recognizes and confirms Certificate 4222 under Permit 11346 and Certificate 4684 under Permit 12565 and hereby incorporates the provisions of those certificates in the above proof of appropriation.

PROOF NO.: 02872

CLAIMANT: Phillip H. and Lois J. Atherton

SOURCE: Browns Creek and Tributaries

USE: Irrigation and Stock Watering

MEANS OF DIVERSION: Dam and Ditch

POINT OF DIVERSION: NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 15, T.17N., R.19E., M.D.B.&M., or at a point from which the E $\frac{1}{4}$ corner of said Section 15 bears N. 85° 47' E., a distance of 2,137.9 feet.

PRIORITY:	CULTURAL ACREAGE		LOCATION			DUTY OF WATER			
	HAR-VEST	MEADOW PASTURE	SUBD.:SEC.:	TWP.	RGE.	N.	E.:	C.F.S.:	AC.FT.
1865	0.65	5.45	SE $\frac{1}{4}$ SW $\frac{1}{4}$	23	17	19		0.153	24.73
TOTAL	0.65							0.153	24.73

PROOF NO.: Amended 02741

CLAIMANT: U.S.A? - Forest Service

SOURCE: Browns Creek and Tributaries

USE: Stock Watering

MEANS OF DIVERSION: Stream Channel

POINT OF DIVERSION: The natural channel of Browns Creek between a point in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 16, T.17N., R.19E., M.D.B.&M., from which the W $\frac{1}{4}$ corner of said Section 16 bears N. 32° 30' W., a

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

PROOF NO.: Amended 02741 (Continued)

distance of 800 feet, and a point in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 16 from which the W $\frac{1}{4}$ corner of said Section 16 bears N. 72° 05' W., a distance of 2,750 feet. Also, the natural channel of Browns Creek between a point on the west boundary of the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 16, T.17N., R.19E., M.D.B.&M., from which the W $\frac{1}{4}$ corner of said Section 16 bears N. 78° 30' W., a distance of 4,000 feet and a point on the east section line of said Section 16 from which the W $\frac{1}{4}$ corner of said Section 16 bears N. 78° 10' W., a distance of 5,400 feet.

PERIOD OF USE: May 1st through November 30th of each year.

PRIORITY: 1880

AMOUNT OF APPROPRIATION: 0.00156 c.f.s. or sufficient to water 50 cattle

DESCRIPTION OF WORKS OF DIVERSION, MANNER AND PLACE OF USE:
Cattle are watered from the natural stream channel, and the location is described above under point of diversion.

PROOF NO.: Second Amended 02748

CLAIMANTS: City of Reno and County of Washoe, Nevada

SOURCE: Grass Lake and Tributaries, all being tributary to Browns Creek.

USE: Stock Watering

MEANS OF DIVERSION: Natural Lake

POINT OF DIVERSION: Grass Lake is situated in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 17, T.17N., R.19E., M.D.B.&M.

PERIOD OF USE: May 1st through November 30th of each year

PRIORITY: 1878

AMOUNT OF APPROPRIATION: 0.02188 c.f.s. or sufficient to water 3,500 sheep

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

PROOF NO.: Second Amended 02748 (Continued),
DESCRIPTION OF WORKS OF DIVERSION, MANNER AND PLACE OF USE:
Sheep are watered from Grass Lake and tributaries, the location being described above.

DONE IN OPEN COURT THIS 18th DAY OF
August, A.D. 1976.

/s/ John E. Gabrielli
DISTRICT JUDGE