November 24, 1997
HC 33, Box 33950
Ely, NV 89301

Mr. Michael Turnipseed
Nevada State Engineer
Division of Water Resources
Capitol Complex
123 W. Nye Lane
Carson City, Nevada 89710

Dear Mr. Turnipseed,

I am writing for George Eldridge & Son, Inc. (GE&S) formally requesting state determination of relative rights in and to the waters of Cleve Creek and its tributaries in North Spring Valley, White Pine County. GE&S holds several early certificates for the use of water from this stream system; those rights for nearly fifty years have been, and contrary to our protests are still being, partially or fully denied through unlawful upstream diversions by prior and current owners of the Cleveland Ranch and others.

Certificate #'s 134 and 1325, granted in the name of our earliest predecessor Edwin E. Foster, carry priorities of 1913 and 1928, respectively. Junior to our rights is extensive irrigation of upstream acreage developed on the Cleveland Ranch during the period 1913-1997.

It is and has been our belief that resolution of such matters are best accomplished through discussion and negotiation between the parties; due to the ranch's and the state's enormous expense inherent in such an undertaking, we've always considered adjudication of the system as a last resort. We've approached Cleveland Ranch owners off and on since we purchased the Foster and Davis properties in 1950, seeking their recognition of our rights on the stream system, with little success--development of their lands continues while our lands dry up.

A field investigator from your office in 1950 reviewed the facts surrounding then-recent construction of a ditch on the Cleveland Ranch which severely impaired our downstream prior rights. Forty-seven years later that ditch still exists, denying us beneficial use in spite of the investigator's findings that the ditch should be removed.

<u>Since 1950 the owner(s) of the Cleveland Ranch have:</u>

(1) constructed numerous ditches and dams on the eastern side of the ranch, in addition to the ditch mentioned above, to expand their irrigated area; those ditches reduce or prevent water reaching our points of diversion,

(2) with disregard for our prior rights, recently constructed two gravity-pipeline sprinkler systems, one of which extensively serves previously-unirrigated lands, for which we believe there have been neither applications filed nor permits granted,

(3) expanded surface irrigation of mostly-subirrigated acreage on the south end of the ranch, a portion of which may be federal land, and

(4) to varying degrees depending upon ranch policies of the time, wilfully and unlawfully denied GE&S exercise of its certificated prior water rights by diverting water from its former courses to channels which don't serve our points of diversion, as evidenced by dams and channeling on the extreme eastern end of their private land.

We met with the current Cleveland Ranch owners in September, 1995 to again review the situation seeking a peaceful resolution--they adamantly asserted that they wouldn't change water management on the ranch except pursuant to an official order. They direct their ranch manager(s), we've been told, to not let any water exit the Cleveland Ranch downstream--if the owners should discover water flowing downstream from their land they will consider their manager derelict in his duties. We believe this policy leads to their exceeding a reasonable duty upon all lands they irrigate, which could well be a waste of water.

Additionally, over the last several decades there have been several small dams constructed by others across the natural channels, on federal land, between Cleveland Ranch and our points of diversion. Those dams have served to spread any instream flows onto federal grazing lands to increase productivity on the affected grazing allotment, which has no permitted or vested right in that flow other than possible livestock water rights, further impairing our ability to make downstream beneficial use.

We respectfully request that you and your staff, after review of the record and other information you may gather, order that the relative rights in Cleve Creek and its tributaries be determined and distributed. We also request that, as an interim measure, your office order the removal of all upstream diversions on this system which are known to unlawfully impair our certificated rights.

Thank you for your consideration.

Sincerely,

Delbert D. Eldridge

Delbert Eldridge, President

George Eldridge & Son, Inc.

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