

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

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

- - - - oOo - - - -

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

No. 182,418  
Dept. No. 1

**FILED**  
JUL 11, 4:02 PM '60  
By W. L. LIVERMORE  
DEPUTY

FINDINGS OF FACT, CONCLUSIONS OF LAW. BROWN, Clerk  
JUDGMENT AND DECREE

This matter came on regularly for hearing on the 11th day of July, 1960, before Honorable Grant L. Bowen, District Judge of the above-entitled Court presiding, the entire stream system 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 Order of Determination of the relative rights of the petitioner and claimants to the use of the waters of the stream system of Franktown Creek and its Tributaries, which Order of Determination had been duly filed by the State Engineer. Exceptions and objections to the Order of Determination were duly filed by Frank W. List, Franktown Irrigation Company and Marlette Lake Company. Thereafter, Marlette Lake Company, a Nevada Corporation, exceptant and party in interest, duly moved this Court for summary judgment pursuant to Rule 56 of the Nevada Rules of Civil Procedure; (1) In favor of the State Engineer in accordance with his Order of Determination; (2) In favor of said exceptant Marlette Lake Company for the relief demanded in its exceptions; and (3) In favor of the State Engineer and said exceptant Marlette Lake Company dismissing the exceptions filed by Frank W. List and Franktown Creek Irrigation Company, a Nevada Corporation. The State

**RECEIVED**  
OCT 11 1966  
DEPT. OF CONS. AND  
NAT. RES.

1 Engineer, having duly mailed and published the Order of this Court,  
2 setting the hearing on the above-entitled matter on the 20th day of  
3 November, 1959, and said hearing having been duly continued, and  
4 all jurisdictional matters precedent to said hearing having been  
5 resolved, and the above-entitled matter, including the matters of  
6 said motion for summary judgment, the State Engineer's Order of  
7 Determination, and all exceptions thereto on file herein, having  
8 duly come before this Court on the 4th day of May, 1960, for  
9 statutory hearing, as provided by the Nevada Rules of Civil Pro-  
10 cedure and Section 533.170, Nevada Revised Statutes, as amended,  
11 and all parties in interest, claimants and exceptants, being before  
12 the Court by counsel of record, and the Court having jurisdiction  
13 of the subject matter of and persons interested in the cause, and  
14 the Court having duly considered said matters, taking into account  
15 all the pleadings, depositions, admissions, affidavits, exhibits,  
16 and other files and records in this proceeding, and the arguments  
17 of counsel, and having duly rendered its decision on file herein,  
18 it was ordered, adjudged and decreed that the motion for summary  
19 judgment of Marlette Lake Company, exceptant and party in interest  
20 herein, be and the same was, in all respects granted.

21 It was further ordered, adjudged and decreed that the Order  
22 of Determination of the State Engineer be, and the same was,  
23 affirmed, save and except for modification thereof in accordance  
24 with the exceptions of the Marlette Lake Company on file herein;  
25 (1) As to substitution of Marlette Lake Company for Virginia City  
26 Water Company; (2) As to enlargement of points of diversion to  
27 include the additional points set forth in said exceptions; (3)  
28 As to the restatement of the footnote in the State Engineer's Order  
29 of Determination dealing with relative priorities and in accordance  
30 with said exceptions; and (4) Save and except by such further

1 modification as may be warranted, if at all, upon taking of further  
2 proof by the State Engineer on the sole question of proper defini-  
3 tion of place of use of the waters constituting the 10 c.f.s.  
4 adjudicated to Marlette Lake Company, and the State Engineer was  
5 ordered and directed to present to this Court forthwith proposed  
6 Findings of Fact, and Decree with presentation and service thereof,  
7 and attention to such other matters as may be required in connec-  
8 tion therewith, all in accordance with the applicable statutes in  
9 such case made and provided.

10 It was further ordered, adjudged and decreed that the  
11 exceptions heretofore filed by Marlette Lake Company be and the  
12 same were granted save and except for the matter of place of use  
13 hereinabove provided.

14 It was further ordered, adjudged and decreed that the  
15 exceptions heretofore filed by Frank W. List and Franktown Creek  
16 Irrigation Company be and the same were dismissed, with prejudice,  
17 in their entirety.

18 William Paul, Esq., Deputy Attorney General of the State of  
19 Nevada, Edmund A. Muth, State Engineer, and Elmo J. DeRocco,  
20 Assistant State Engineer of the office of the State Engineer,  
21 State of Nevada, appeared in the hearing and proceedings in behalf  
22 of the State of Nevada and the office of the State Engineer. John  
23 S. Halley, Esq., appeared on behalf of Franktown Creek Irrigation  
24 Company and Kenneth P. Dillon, Esq., appeared on behalf of claimant  
25 Marlette Lake Company.

26 The record disclosed that petitioner and all claimants have  
27 received a certified copy of the Order setting forth the time and  
28 place for hearing on the Order of Determination.

29 The Deputy Attorney General thereupon, at the hearing,  
30 offered and there were received in evidence in support of the rights

1 of the petitioner and claimants, as set forth in the Order of  
2 Determination, verified affidavits, files and records of the State  
3 Engineer's office respecting the rights of the petitioner and other  
4 claimants of the above-named stream system. The records and files  
5 of the State Engineer's office were identified and produced in  
6 evidence.

7 The Court, having duly considered the entire record and  
8 evidence introduced, and in accordance with the Court's prior  
9 decision on the motion for summary judgment above referred to, and  
10 being duly advised in the premises, now makes and enters its  
11 Findings of Fact, Conclusions of Law, and Judgment and Decree.

12 FINDINGS OF FACT

13 I.

14 That on September 14, 1951, Alvin H. Cliff, president of  
15 the Franktown Creek Irrigation Company, filed with the State  
16 Engineer of the State of Nevada, a petition requesting the deter-  
17 mination of the relative rights of claimants in and to the waters  
18 of Franktown Creek and its Tributaries in Washoe County, Nevada.

19 That the State Engineer thereupon and in accordance with  
20 the provisions of NRS 533.090, made an investigation of the facts  
21 and conditions of and concerning the above-named stream system for  
22 the purpose of disclosing whether the determination of such rights  
23 was justified, and filed his report thereon in the office of the  
24 State Engineer of the State of Nevada. The report of the facts  
25 and conditions disclosed that a determination of the relative  
26 rights was justified, and the State Engineer made and entered his  
27 Order on November 7, 1951, granting the petition for the determi-  
28 nation of such relative rights in and to the waters of Franktown  
29 Creek and its Tributaries.

30 That petitioner, all claimants and appropriators, being

1 less than ten in number, in conformity with NRS 533.215, waived in  
2 writing the provisions of the above-mentioned act with reference to  
3 Notices and the Service and Publication thereof.

4 That as a result of the State Engineer's investigation  
5 report, it was found that the waters of Franktown Creek and its  
6 Tributaries are being placed to beneficial use for irrigation,  
7 stockwatering and domestic purposes on ranches which were served  
8 by the Franktown Creek Irrigation Company and also by the Virginia  
9 City Water Company, the latter having transferred its interest to  
10 the Marlette Lake Company, for municipal, commercial and industrial  
11 purposes. The Proofs of Appropriation filed indicate the present  
12 claimants and appropriators are the successors in interest to  
13 vested rights initiated by their predecessors.

14 That on the 19th day of February, 1952, the State Engineer  
15 did publish the Notice of Order and Proceedings to Determine Water  
16 Rights in and to the waters of Franktown Creek and its Tributaries,  
17 in Washoe County, State of Nevada. That there was filed in the  
18 office of the State Engineer an affidavit of the publisher of the  
19 Reno Evening Gazette exemplifying the proof of publication of  
20 Notice of Order and Proceedings.

21 That the State Engineer, in accordance with NRS 533.140,  
22 did enter and file in the records of his office, on the 14th day  
23 of May, 1959, a Preliminary Order of Determination and that notice  
24 thereof was duly given to all claimants. That thereafter, on the  
25 30th day of September, 1959, the State Engineer, in accordance  
26 with NRS 533.160, entered in the records of his office, an Order  
27 of Determination defining the rights to the waters of Franktown  
28 Creek.

29 That upon the filing of the Order of Determination with the  
30 Clerk of the Court of Washoe County, State of Nevada, the Court

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

made and entered an Order on the 5th day of October, 1959, setting a time for the hearing of any exceptions to the Order of Determination, on Friday, the 20th day of November, 1959, at 10:00 o'clock in the forenoon, at the County Court House at Reno, Nevada.

That the State Engineer, in accordance with NRS 533.165, gave notice to the claimants, by service of a certified copy of the Order setting the time for hearing.

The Court finds that all and singular the proceedings, orders and notices required by Chapter 533 of NRS were duly had, made and given as required by law, and that all and singular the matters and things contained in the record were done, performed, given and made in strict compliance with the statute, and that this Court had and has jurisdiction to hear and determine this matter.

That within the statutory time allowed by law, exceptions were filed to the Order of Determination by Frank W. List, the Franktown Irrigation Company and Marlette Lake Company.

That thereafter, Marlette Lake Company, a Nevada Corporation, one of exceptants herein, duly moved this Court for summary judgment, pursuant to Rule 56 of Nevada Rules of Civil Procedure; (1) in favor of the State Engineer in accordance with his Order of Determination; (2) in favor of said exceptants for the relief demanded in its exceptions; and (3) in favor of the State Engineer and said exceptant dismissing the exceptions filed by Frank W. List and Franktown Creek Irrigation Company; supporting said motion with various affidavits on file herein, together with a memorandum of points and authorities in support thereof; and exceptant Frank W. List, in representing to the Court, through his counsel of record, that he had withdrawn his exceptions, had no

1 objection to the dismissal thereof, and no intention of opposing  
2 the aforesaid motion for summary judgment, and Franktown Creek  
3 Irrigation Company, also an exceptant, having submitted to the  
4 Court its points and authorities in opposition to the aforesaid  
5 motion for summary judgment, and said Marlette Lake Company having  
6 submitted to the Court certain further points and authorities by  
7 way of reply, and the State Engineer having duly mailed and  
8 published the Order of this Court setting a hearing on the above-  
9 entitled matter on the 20th day of November, 1959, and said hearing  
10 having been duly continued, and all jurisdictional matters prece-  
11 dent to said hearing having been resolved and the above-entitled  
12 matter, including the matters of said motion for summary judgment,  
13 the State Engineer's Order of Determination, and all exceptions  
14 thereto on file herein, having duly come before this Court on the  
15 4th day of May, 1960, for statutory hearing as provided by the  
16 Nevada Rules of Civil Procedure of Section 533.170, Nevada Revised  
17 Statutes, as amended, and all parties in interest, claimants and  
18 exceptants, being before the Court by counsel of record, and the  
19 Court having jurisdiction of the subject matter of and persons  
20 interested in the cause, and the Court having duly considered said  
21 matter, taking into account all the pleadings, depositions,  
22 admissions, affidavits, exhibits and other files and records in  
23 this proceeding, and the arguments of counsel, and having duly  
24 rendered its decision on file herein.

25 It was heretofore, by this Court, ordered, adjudged and  
26 decreed that the motion for summary judgment of Marlette Lake  
27 Company, exceptant, be in all respects granted.

28 It was by this Court further ordered, adjudged and decreed  
29 that the Order of Determination of the State Engineer be affirmed,  
30 save and except for modification thereof, in accordance with the

1 exceptions of the Marlette Lake Company on file herein; (1) as to  
2 substitution of Marlette Lake Company for Virginia City Water Com-  
3 pany; (2) as to enlargement of points of diversion to include the  
4 additional points set forth in said exceptions; (3) as to the  
5 restatement of the footnote in the State Engineer's Order of De-  
6 termination dealing with relative priorities and in accordance with  
7 said exceptions; and (4) save and except by such further modifica-  
8 tion as may be warranted, if at all, upon taking of further proof  
9 by the State Engineer on the sole question of proper definition of  
10 the place of use of the waters constituting the ten c.f.s. adjudi-  
11 cated to Marlette Lake Company, and the State Engineer was ordered  
12 and directed to present to this Court forthwith proposed Findings  
13 of Fact, Conclusions of Law and Decree with presentation of service  
14 thereof, and attention to such other matters as may be required in  
15 connection herewith, all in accordance with the applicable statutes  
16 in such case made and provided.

17 It was further ordered, adjudged and decreed that the  
18 exceptions heretofore filed by Marlette Lake Company be and the  
19 same were granted, save and except for the matter of place of use  
20 hereinabove provided for.

21 It was further ordered, adjudged and decreed that the  
22 exceptions heretofore filed by Frank W. List and Franktown Creek  
23 Irrigation Company be and the same were dismissed with prejudice  
24 in their entirety.

25 II.

26 The Court Further Finds: That Franktown Creek and its  
27 Tributaries are situated wholly within Washoe County, State of  
28 Nevada.

29 The Court Further Finds: That the names of the claimants  
30 and appropriators, the duty of water, the measurement of water, the

1 length of the irrigation season, stockwatering and domestic use of  
2 the water, the change of the place of use, and the rights of  
3 appropriation, all as set forth in the Order of Determination, as  
4 ordered amended by this Court, are true, proper and correct, and  
5 all and singular the same should be approved and confirmed.

6 I. PREFACE

7 On September 14, 1951, Alvin H. Cliff, president of the  
8 Franktown Creek Irrigation Company, submitted a petition to the  
9 State Engineer requesting a determination of the relative rights  
10 of claimants in and to the waters of Franktown Creek and its tribu-  
11 taries, Washoe County, Nevada. On October 4, 1951, Robert S.  
12 Leighton, Assistant State Engineer, and Elmo J. DeRiesco, Field and  
13 Office Engineer, conducted an investigation and found that facts  
14 and conditions justified the granting of said petition. On Novem-  
15 ber 7, 1951, the State Engineer entered an Order granting the  
16 petition and made proper arrangements to proceed with the determi-  
17 nation in accordance with Chapter 533 of NRS.

18 All claimants and appropriators, being less than ten in  
19 number, in conformity with NRS 533.215, waived in writing the  
20 provisions of the above-mentioned act with reference to notices  
21 and the service of publication thereof.

22 II. CLAIMANTS

23 The investigation above referred to disclosed that the  
24 waters of Franktown Creek and its Tributaries were being placed to  
25 beneficial use for irrigation, stockwatering and domestic purposes  
26 on ranches which were served by the Franktown Creek Irrigation  
27 Company, and also by the Virginia City Water Company, which said  
28 latter company has transferred its interest to Marlette Lake  
29 Company, for municipal, commercial and industrial purposes. The  
30 Proofs of Appropriation filed in the office of the State Engineer

1 indicate and claim that the present claimants and appropriators  
2 are the successors in interest to vested rights initiated by their  
3 predecessors.

4 **III. SOURCE**

5 Franktown Creek and its Tributaries are located on the  
6 eastern slope of the Sierra Nevada Mountains and are fed from  
7 melting snows and springs. Typical of Nevada's mountain streams  
8 they have a high spring run-off which recedes during the summer  
9 months to a limited continuous flow.

10 **IV. DUTY OF WATER**

11 The seasonal rainfall, the numerous springs in the irrigated  
12 area and the fluctuating water levels in Washoe Lake contribute to  
13 a sub-irrigation condition on a large portion of the cultivated  
14 lands. This condition has been taken into consideration in  
15 establishing the duty of water in this Order.

16 The duty of water is herein fixed as follows:

17 Class A-----Harvest Crop-----3.0 acre-feet per acre per season  
18 Class B-----Meadow Pasture-----1.5 acre-feet per acre per season

19 The maximum allowable diversion herein fixed is 2.0 c.f.s.  
20 for each 100 acres irrigated. Due to the characteristics of the  
21 stream flow, the claimants herein named or their successors in  
22 interest shall be allowed to increase the rate of direct flow  
23 diversion to the maximum herein allowed to satisfy any immediate  
24 needs of growing crops and they may at their own option rotate  
25 the allotted water between the various fields having a decreed  
26 water right at such times and in such quantities as is necessary  
27 to place the water to the greatest beneficial use.

28 **V. MEASUREMENT OF WATER**

29 All water diverted from Franktown Creek and its Tributaries  
30 for irrigation purposes shall be measured at a point where the  
water enters or becomes adjacent to the land to be irrigated, or

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

as near thereto as practical.

Substantial headgates and weirs must be installed to facilitate the measurement of water.

VI. IRRIGATION SEASON

Water for irrigation purposes may be diverted at any time throughout the year, provided that the total amount diverted during any calendar year shall not exceed the duty in acre-feet as established herein.

VII. STOCKWATERING AND DOMESTIC

The claimants named herein, or their successors in interest, in conjunction with the rights to the use of water for irrigation purposes, shall be entitled to a reasonable diversion and use of water for stockwatering and domestic purposes at any time during the year.

VIII. USE BY MARLETTE LAKE COMPANY

The waters of Hobart Creek, one of the tributaries to Franktown Creek, have historically been diverted and used by Marlette Lake Company and its predecessors in interest, for domestic, industrial, commercial and municipal uses since August, 1871. These waters are presently being used by priority of appropriation to beneficial use under date of August, 1871, and under the terms of a certain agreement dated September 11, 1878, between The Virginia and Gold Hill Water Company and H. L. Perkins, et al., the interest of The Virginia and Gold Hill Water Company having been duly acquired by Marlette Lake Company. Pursuant to this agreement, H. L. Perkins, et al., granted, bargained, sold and released to the Virginia and Gold Hill Water Company, by deed dated October 21, 1878, all of their right, title and interest in and to all of the waters of Franktown Creek and its Tributaries (including Hobart Creek) situated in the County of Washoe, State

1 of Nevada, having sources upon the eastern slopes of the Sierra  
2 Nevada Mountains at and above certain flume intersections with  
3 Franktown Creek and its said Tributaries. This deed was duly  
4 recorded in the Clerk's Office of the County of Washoe on October  
5 24, 1878 in Volume 7 of Deeds at pages 5 and 6.

6 Pursuant to this agreement and deed, Marlette Lake Company  
7 as successor in interest to the Virginia and Gold Hill Water  
8 Company is presently entitled to divert and perpetually use at all  
9 times the whole of the waters naturally flowing in Franktown Creek  
10 and each and all of its tributaries (including Hobart Creek) at  
11 and above the lower Red House Diversion in the NE $\frac{1}{4}$  SW $\frac{1}{4}$  Section 32,  
12 T. 16 N., R. 19 E., M.D.B. and M.

13 The waters arising in the Hobart Creek Watershed are  
14 impounded in Hobart Reservoir which has a present capacity of 110  
15 acre feet and is located within the NE $\frac{1}{4}$  Section 5, T. 15 N., R. 19  
16 E., M.D.B. and M., and are released into the natural channel of  
17 Hobart Creek which conveys them in a northwesterly direction to a  
18 smaller reservoir which is the upper Red House Diversion point in  
19 the SW $\frac{1}{4}$  SE $\frac{1}{4}$  Section 32, T. 16 N., R. 19 E., M.D.B. and M. The  
20 waters from the eastern slopes of the Sierra Nevada Mountains in  
21 the Franktown Creek watershed proper are diverted into the Tunnel  
22 Flume of Marlette Lake Company at various points of diversion,  
23 comingled in the past and to some extent presently, with water  
24 from Marlette Lake and/or other areas, and conveyed to Hobart  
25 Creek at a point above said upper Red House Diversion.

26 These waters are then diverted at points Nos. 1 and 2 set  
27 out in Proof No. 02419, and conveyed by pipeline to two tanks  
28 situated in the NE $\frac{1}{4}$  Section 3, T. 15 N., R. 19 E., M.D.B. and M.,  
29 from which they are conveyed by siphon and pipeline to the general  
30 area comprising Virginia City, Gold Hill, Silver City and Carson

1 City, all within the State of Nevada.

2 **IX. CHANGE OF PLACE OF USE**

3 All irrigation water allotted under this Order shall be  
4 appurtenant to the place or places of use designated herein. Any  
5 water user desiring to change the point of diversion, manner and  
6 place of use of the waters allotted herein must make application  
7 to the State Engineer for permission to change pursuant to law.

8 **X. RIGHTS OF APPROPRIATION**

9 From the Order of Determination as amended by judgment of  
10 this Court, and the evidence, both oral and documentary, submitted  
11 in support thereof, the Court finds that the names of the claimants  
12 and appropriators of the waters of Franktown Creek and its Tribu-  
13 taries, the source of the water supply, the means of diversion, the  
14 points of diversion for beneficial use, the year of priority, the  
15 cultural acreages and places of use, the legal subdivisions,  
16 sections, townships, ranges and the duty of water are all as listed,  
17 stated and set forth.

18 **CONCLUSIONS OF LAW**

19 From the evidence presented and received in this matter,  
20 and from the foregoing FINDINGS OF FACT, the Court makes the  
21 following Conclusions of Law:

22 I.

23 That the State Engineer had the right, authority and juris-  
24 diction pursuant to Chapter 513 of NRS, to make the investigations  
25 made by him, conduct the hearings had by him, receive the proofs  
26 and maps, hear the evidence presented to him, and prepare, make,  
27 enter and file in his office the original Order of Determination  
28 and file a certified copy thereof in this Court, and to determine  
29 the Order of Determination, the relative rights of claimants and  
30 appropriators in and to the waters of Franktown Creek and its

1 Tributaries in Washoe County, State of Nevada; that the State  
2 Engineer duly made all orders necessary and proper in connection  
3 therewith and entered the same in his office as required by  
4 Chapter 533 of NRS; that each and every notice required by law to  
5 be given herein to the claimants and appropriators was duly served  
6 by the State Engineer in the manner and within the time required  
7 by statute, and that the notices contained all of the statements  
8 required by law, and that the claimants and appropriators of the  
9 waters of the above-named stream system and its tributaries duly  
10 received the information and notices required by law herein.

11 II.

12 That the Second Judicial District Court of the State of  
13 Nevada, in and for the County of Washoe, had and has jurisdiction  
14 to hear and try this matter, and has jurisdiction to find, make  
15 and enter the foregoing Findings of Fact and these Conclusions of  
16 Law, and enter its Decree herein.

17 III.

18 That Franktown Creek Irrigation Company and Marlette Lake  
19 Company constitute the claimants and the only claimants who were  
20 and now are appropriators and users of the waters of Franktown  
21 Creek and its Tributaries on the date the Order of Determination  
22 was filed with the Clerk of this Court, and on the date of the  
23 trial and hearing of this matter.

24 IV.

25 That Marlette Lake Company and Franktown Creek Irrigation  
26 Company, as claimants and appropriators of the waters of Franktown  
27 Creek and its Tributaries, by and through the means of diversion  
28 named, and their successors in interest, are claimants and ap-  
29 propriators of and to the waters of the above-named stream system;  
30 that Marlette Lake Company and Franktown Creek Irrigation Company

1 and their predecessors in interest continuously from the date of  
2 appropriation or priority, when such water was available for bene-  
3 ficial use, diverted all of such quantity of water from Franktown  
4 Creek and its Tributaries and applied the same to beneficial use  
5 as alleged in the Order of Determination.

6 V.

7 That the duty of water should be fixed in the Decree as  
8 follows:

9 Class A-----Harvest Crop-----3.0 acre-feet per acre per season  
10 Class B-----Meadow Pasture-----1.5 acre-feet per acre per season  
11 with a maximum allowable diversion of 2.0 c.f.s. for each 100  
12 acres irrigated. This duty to be subject to change or alteration  
13 within a period of three years after entry of the Decree, as  
14 provided for in NRS 533.210.

15 VI.

16 That all waters allotted in the Decree shall be appurtenant  
17 to the place or places of use designated therein, and in the event  
18 that any water user desiring to change the place of use of the  
19 waters allotted herein, must make application to the State Engineer  
20 for permission to make the change pursuant to law.

21 VII.

22 That except where specifically otherwise ordered herein  
23 or in the Decree, the Order of Determination made, filed and  
24 caused to be entered of record in this matter by the State Engineer,  
25 should be affirmed.

26 JUDGMENT AND DECREE

27 I.

28 That the State Engineer made all necessary and proper orders  
29 herein as required by law, and that each and every notice required  
30 by law, was duly given to the claimants and appropriators; that the

1 claimants and appropriators had full opportunity to appear and be  
2 heard in objection to and file exceptions to the Order of Determination herein; that the claimants and appropriators are the only  
3 claimants and appropriators of the waters of Franktown Creek and  
4 its Tributaries.  
5

6 That the Court has full and complete jurisdiction to hear,  
7 try and determine this matter and to make and enter herein this  
8 Decree.

9 II.

10 That the flow of water from Franktown Creek and its Tributaries is being placed to beneficial use for irrigation, stock-watering and domestic purposes on ranches which are served by the Franktown Creek Irrigation Company and also by the Marlette Lake Company for municipal, commercial and industrial purposes. That the Proofs of Appropriation filed in the office of the State Engineer claim vested rights initiated by their predecessors.  
11  
12  
13  
14  
15  
16

17 III.

18 That the duty of water is hereby adjudged, decreed and  
19 fixed at:

20 Class A-----Harvest Crop-----3.0 acre-feet per acre per season  
21 Class B-----Meadow Pasture-----1.5 acre-feet per acre per season  
22 with a maximum allowable diversion of 2.0 c.f.s. for each 100  
23 acres irrigated; that the duty may be changed or altered by the  
24 Court within a period of three years after entry of this Decree as  
25 provided by NRS 533.210; that the claimants or their successors  
26 in interest shall be allowed to increase the rate of direct flow  
27 diversion to the maximum as herein allowed, to satisfy any immediate needs of the growing crops and they may at their own option  
28 rotate the allotted water between the various fields having a  
29 decreed water right at such times and in such quantities as is  
30 necessary to place the water to the greatest beneficial use.

IV.

1 That all water diverted from Franktown Creek and its  
2 Tributaries for irrigation purposes shall be measured at a point  
3 where the water enters or becomes adjacent to the land to be  
4 irrigated or as near thereto as practicable.

V.

5  
6 Substantial headgates and weirs must be installed wherever  
7 necessary to insure and facilitate the proper measurement, control  
8 and distribution of water in accordance with the rights herein  
9 defined.

10 VI.

11 That water for irrigation purposes may be diverted at any  
12 time throughout the year, provided that the total amount diverted  
13 during any calendar year shall not exceed the duty in acre-feet  
14 as established herein.

15 VII.

16 That the claimants or their successors in interest shall be  
17 entitled to a reasonable diversion and use of water for stockwater-  
18 ing and domestic purposes at any time during the year, provided  
19 that the total amount diverted during any calendar year shall not  
20 exceed the duty in acre-feet as established herein.

21 VIII.

22 That all waters allotted under this Order shall be  
23 appurtenant to the place or places of use designated herein.  
24 That any water user desiring to change the point of diversion,  
25 manner and place of use of the waters allotted herein must make  
26 application to the State Engineer for permission to make the  
27 change pursuant to law.

28 IX.

29 That no person or persons holding a right of appropriation  
30 not herein vested is entitled to receive any water from Franktown

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

Creek or its Tributaries to the detriment of the rights herein defined.

x.

That the names of the claimants and appropriators of Franktown Creek and its Tributaries, being the source of water supply, the means of diversion from the source of supply for beneficial use, the points of diversion, the year of priority, the cultural acreage, or place of use, the use, the period of use, the legal subdivisions, sections, townships and ranges, the duty of water, and the number of cubic feet of water per second per acre irrigated by the claimants and appropriators are hereby adjudged as follows, to-wit:

Proof No. 02395

Claimant: Franktown Creek Irrigation Company

Source : Franktown Creek

Use : Irrigation, Stockwatering and Domestic

Means of Diversion : Dams, Weirs and Ditches

Points of Diversion:

1. NE $\frac{1}{4}$  NW $\frac{1}{4}$  Section 9, T. 16 N., R. 19 E., N.D.B.&M.,  
or at a point from which the E $\frac{1}{4}$  corner of said  
Section 9 bears S. 60° 05' 05" E., 3,782.6 feet.
2. SW $\frac{1}{4}$  SE $\frac{1}{4}$  Section 4, T. 16 N., R. 19 E., N.D.B.&M.,  
or at a point from which the E $\frac{1}{4}$  corner of Section  
9, T. 16 N., R. 19 E., bears S. 28° 12' 30" E.,  
3,168.8 feet.
3. SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 4, T. 16 N., R. 19 E., N.D.B.&M.,  
or at a point from which the E $\frac{1}{4}$  corner of Section  
9, T. 16 N., R. 19 E., bears S. 21° 42' 20" E.,  
3,028.4 feet.
4. SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 4, T. 16 N., R. 19 E., N.D.B.&M.,  
or at a point from which the E $\frac{1}{4}$  corner of Section  
9, T. 16 N., R. 19 E., bears S. 11° 19' 55" E.,  
2,751.8 feet.
5. SW $\frac{1}{4}$  SW $\frac{1}{4}$  Section 3, T. 16 N., R. 19 E., N.D.B.&M.,  
or at a point from which the E $\frac{1}{4}$  corner of Section  
9, T. 16 N., R. 19 E., bears S. 20° 03' 15" W.,  
3,025.0 feet.
6. SE $\frac{1}{4}$  SW $\frac{1}{4}$  Section 3, T. 16 N., R. 19 E., N.D.B.&M.,  
or at a point from which the E $\frac{1}{4}$  corner of Section  
9, T. 16 N., R. 19 E., bears S. 23° 14' 35" W.,  
3,548.3 feet.

Class of Culture: Grain, Alfalfa, Hay, Pasture, Orchard,  
Garden and Lawn

Period of Use : January 1st to December 31st

PRI- ORITY	CULTURAL ACREAGE		SUB.	SEC.	TWP.	RGE.	DUFFY OF WATER	
	HARVEST	PASTURE					UPS	ACRE-FEET
1855		19.82	NE $\frac{1}{4}$ SW $\frac{1}{4}$	2	16N	19E	0.40	29.73
"		20.38	NW $\frac{1}{4}$ SW $\frac{1}{4}$	2	16N	19E	0.41	30.57
"	3.26	36.83	SW $\frac{1}{4}$ SW $\frac{1}{4}$	2	16N	19E	0.80	65.03
"		40.25	SE $\frac{1}{4}$ SW $\frac{1}{4}$	2	16N	19E	0.81	60.37
"		21.20	NE $\frac{1}{4}$ SE $\frac{1}{4}$	3	16N	19E	0.42	31.80
"	0.95	20.36	NW $\frac{1}{4}$ SE $\frac{1}{4}$	3	16N	19E	0.43	33.39
"	20.08	20.07	SW $\frac{1}{4}$ SE $\frac{1}{4}$	3	16N	19E	0.80	90.35
"	19.25	20.86	SE $\frac{1}{4}$ SE $\frac{1}{4}$	3	16N	19E	0.80	89.04
"	22.29	0.24	NE $\frac{1}{4}$ SW $\frac{1}{4}$	3	16N	19E	0.45	67.23
"	12.46		NW $\frac{1}{4}$ SW $\frac{1}{4}$	3	16N	19E	0.25	37.38
"	4.84	12.95	SW $\frac{1}{4}$ SW $\frac{1}{4}$	3	16N	19E	0.36	33.95
"	21.80	16.09	SE $\frac{1}{4}$ SW $\frac{1}{4}$	3	16N	19E	0.76	89.54
"	17.30	22.62	NE $\frac{1}{4}$ NE $\frac{1}{4}$	10	16N	19E	0.80	86.07
"	28.32	11.67	NW $\frac{1}{4}$ NE $\frac{1}{4}$	10	16N	19E	0.80	102.53
"	37.52		SW $\frac{1}{4}$ NE $\frac{1}{4}$	10	16N	19E	0.75	112.56
"	40.04		SE $\frac{1}{4}$ NE $\frac{1}{4}$	10	16N	19E	0.80	120.12
"	17.52	1.20	NE $\frac{1}{4}$ NW $\frac{1}{4}$	10	16N	19E	0.37	54.36
"	5.70	.23	NW $\frac{1}{4}$ NW $\frac{1}{4}$	10	16N	19E	0.12	17.45
"	20.88	4.04	SW $\frac{1}{4}$ NW $\frac{1}{4}$	10	16N	19E	0.50	68.70
"	31.32		SE $\frac{1}{4}$ NW $\frac{1}{4}$	10	16N	19E	0.63	93.96
"	17.22	18.11	NE $\frac{1}{4}$ SW $\frac{1}{4}$	10	16N	19E	0.71	78.83
"	32.02		NW $\frac{1}{4}$ SW $\frac{1}{4}$	10	16N	19E	0.64	96.06
"	18.17		SW $\frac{1}{4}$ SW $\frac{1}{4}$	10	16N	19E	0.36	54.51
"	33.79	3.26	SE $\frac{1}{4}$ SW $\frac{1}{4}$	10	16N	19E	0.74	105.26
"	11.21	10.70	NE $\frac{1}{4}$ SE $\frac{1}{4}$	10	16N	19E	0.44	49.68
"	1.74	37.22	NW $\frac{1}{4}$ SE $\frac{1}{4}$	10	16N	19E	0.78	61.05
"	0.90	37.54	SW $\frac{1}{4}$ SE $\frac{1}{4}$	10	16N	19E	0.77	59.01
"	2.22	11.87	SE $\frac{1}{4}$ SE $\frac{1}{4}$	10	16N	19E	0.28	24.47
"		7.27	SW $\frac{1}{4}$ NE $\frac{1}{4}$	11	16N	19E	0.15	10.91

PRI-ORITY	CULTURAL ACREAGE		SUB.	SEC.	TWP.	RGE.	DUTY OF WATER	
	HARVEST	PASTURE					CFS	ACRE-FEET
1855	1.45	36.61	NE $\frac{1}{4}$ NW $\frac{1}{4}$	11	16N	19E	0.76	59.27
"	7.41	32.59	NW $\frac{1}{4}$ NW $\frac{1}{4}$	11	16N	19E	0.80	71.11
"	40.00		SW $\frac{1}{4}$ NW $\frac{1}{4}$	11	16N	19E	0.80	120.00
"	22.27	17.73	SE $\frac{1}{4}$ NW $\frac{1}{4}$	11	16N	19E	0.80	93.40
"	15.22	23.73	NE $\frac{1}{4}$ SW $\frac{1}{4}$	11	16N	19E	0.78	81.25
"	37.62		NW $\frac{1}{4}$ SW $\frac{1}{4}$	11	16N	19E	0.75	112.86
"	11.92	2.13	SW $\frac{1}{4}$ SW $\frac{1}{4}$	11	16N	19E	0.28	38.95
"	5.48	34.23	SE $\frac{1}{4}$ SW $\frac{1}{4}$	11	16N	19E	0.79	67.78
"		25.06	NW $\frac{1}{4}$ SE $\frac{1}{4}$	11	16N	19E	0.50	37.59
"		35.19	SW $\frac{1}{4}$ SE $\frac{1}{4}$	11	16N	19E	0.70	52.79
"		26.64	NW $\frac{1}{4}$ NE $\frac{1}{4}$	14	16N	19E	0.53	39.96
"		19.76	SW $\frac{1}{4}$ NE $\frac{1}{4}$	14	16N	19E	0.40	29.64
"		37.03	NE $\frac{1}{4}$ NW $\frac{1}{4}$	14	16N	19E	0.74	55.94
"	7.79	1.75	NW $\frac{1}{4}$ NW $\frac{1}{4}$	14	16N	19E	0.19	23.99
"	3.08	15.15	SW $\frac{1}{4}$ NW $\frac{1}{4}$	14	16N	19E	0.36	31.96
"		39.45	SE $\frac{1}{4}$ NW $\frac{1}{4}$	14	16N	19E	0.79	59.17
"		11.92	NW $\frac{1}{4}$ SW $\frac{1}{4}$	14	16N	19E	0.24	17.88
"		13.24	NE $\frac{1}{4}$ SW $\frac{1}{4}$	14	16N	19E	0.26	19.86
"		8.15	NW $\frac{1}{4}$ SE $\frac{1}{4}$	14	16N	19E	0.16	12.22
"	28.04	3.49	NE $\frac{1}{4}$ NE $\frac{1}{4}$	15	16N	19E	0.63	89.36
"	28.31	7.31	NW $\frac{1}{4}$ NE $\frac{1}{4}$	15	16N	19E	0.71	95.89
"	38.06		SW $\frac{1}{4}$ NE $\frac{1}{4}$	15	16N	19E	0.76	114.18
"	19.59	12.94	SE $\frac{1}{4}$ NE $\frac{1}{4}$	15	16N	19E	0.65	78.18
"	40.00		NE $\frac{1}{4}$ NW $\frac{1}{4}$	15	16N	19E	0.80	120.00
" 13.18	17.26		NW $\frac{1}{4}$ NW $\frac{1}{4}$	15	16N	19E	0.26	39.54
" <del>13.18</del>	31.94		SW $\frac{1}{4}$ NW $\frac{1}{4}$	15	16N	19E	0.64	95.82
"	39.15		SE $\frac{1}{4}$ NW $\frac{1}{4}$	15	16N	19E	0.78	117.45
"	39.82		NE $\frac{1}{4}$ SW $\frac{1}{4}$	15	16N	19E	0.80	119.46
"	37.02	2.45	NW $\frac{1}{4}$ SW $\frac{1}{4}$	15	16N	19E	0.79	114.73
"	31.11	1.24	SW $\frac{1}{4}$ SW $\frac{1}{4}$	15	16N	19E	0.65	95.19

PRI- ORITY	CULTURAL ACREAGE		SUB.	SEC.	TWP.	RGE.	DUTY OF WATER	
	HARVEST	PASTURE					CFS	ACRE-FEET
1855	35.31	2.51	SE $\frac{1}{4}$ SW $\frac{1}{4}$	15	16N	19E	0.76	109.69
"	19.39	9.13	NE $\frac{1}{4}$ SE $\frac{1}{4}$	15	16N	19E	0.57	71.86
"	39.99		NW $\frac{1}{4}$ SE $\frac{1}{4}$	15	16N	19E	0.80	119.97
"	36.81	3.17	SW $\frac{1}{4}$ SE $\frac{1}{4}$	15	16N	19E	0.80	115.18
"	28.72	1.52	SE $\frac{1}{4}$ SE $\frac{1}{4}$	15	16N	19E	0.60	88.44
"	0.11		NE $\frac{1}{4}$ NE $\frac{1}{4}$	16	16N	19E	0.01	0.33
"	2.27		SE $\frac{1}{4}$ NE $\frac{1}{4}$	16	16N	19E	0.05	6.81
"	6.12		NE $\frac{1}{4}$ SE $\frac{1}{4}$	16	16N	19E	0.12	18.36
"	18.50		SE $\frac{1}{4}$ SE $\frac{1}{4}$	16	16N	19E	0.37	55.50
"	3.32		NE $\frac{1}{4}$ NE $\frac{1}{4}$	21	16N	19E	0.07	9.96
"	6.05		NE $\frac{1}{4}$ NE $\frac{1}{4}$	22	16N	19E	0.12	18.15
"	9.92		NW $\frac{1}{4}$ NE $\frac{1}{4}$	22	16N	19E	0.20	29.76
"	12.08		NE $\frac{1}{4}$ NW $\frac{1}{4}$	22	16N	19E	0.24	36.24
"	12.56		NW $\frac{1}{4}$ NW $\frac{1}{4}$	22	16N	19E	0.25	37.68
<b>TOTALS</b>	<b>1150.49</b>	<b>818.90</b>					<b>39.39</b>	<b>4679.86</b>

Proof No. 02419

Claimant: Marlette Lake Company, a Nevada corporation.

Source: Hobart Creek (tributary to Franktown Creek) and certain waters in the Franktown Creek Watershed proper having sources in the eastern slopes of the Sierra Nevada Mountains at and above Red House.

Use: Municipal, Commercial, Industrial and Domestic

Means of Diversion: Dams, Flumes and Pipelines

- Points of Diversion:
1. SW $\frac{1}{4}$  SE $\frac{1}{4}$  Section 32, T. 16 N., R. 19 E., N.D.B.&M., or at a point from which the SE corner of said Section 32 bears S. 68° 03' E., 2,674 feet.
  2. NE $\frac{1}{4}$  SW $\frac{1}{4}$  Section 32, T. 16 N., R. 19 E., N.D.B.&M., or at a point from which the SE corner of said Section 32 bears S. 55° 18' E., 3,531 feet.
  3. NE $\frac{1}{4}$  SW $\frac{1}{4}$  section 30, T. 16 N., R. 19 E., N.D.B.&M., or at a point from which the SE corner of section 32, T. 16 N., R. 19 E., bears S. 50° 27' 25" E., 11,058 feet.
  4. NE $\frac{1}{4}$  SW $\frac{1}{4}$  section 30, T. 16 N., R. 19 E., N.D.B.&M., or at a point from which the SE corner of section 32, T. 16 N., R. 19 E., bears S. 52° 07' 40" E., 10,711 feet.
  5. SE $\frac{1}{4}$  SW $\frac{1}{4}$  section 30, T. 16 N., R. 19 E., N.D.B.&M., or at a point from which the SE corner of section 32, T. 16 N., R. 19 E., bears S. 52° 57' 20" E., 10,606 feet.
  6. SE $\frac{1}{4}$  SW $\frac{1}{4}$  section 30, T. 16 N., R. 19 E., N.D.B.&M., or at a point from which the SE corner of section 32, T. 16 N., R. 19 E., bears S. 56° 51' 50" E., 10,300 feet.
  7. NE $\frac{1}{4}$  NW $\frac{1}{4}$  section 31, T. 16 N., R. 19 E., N.D.B.&M., or at a point from which the SE corner of section 32, T. 16 N., R. 19 E., bears S. 60° 30' E., 9,848 feet.
  8. SW $\frac{1}{4}$  NE $\frac{1}{4}$  section 31, T. 16 N., R. 19 E., N.D.B.&M., or at a point from which the SE corner of section 32, T. 16 N., R. 19 E., bears S. 65° 04' 24" E., 8,196 feet.
  9. NW $\frac{1}{4}$  SE $\frac{1}{4}$  section 31, T. 16 N., R. 19 E., N.D.B.&M., or at a point from which the SE corner of section 32, T. 16 N., R. 19 E., bears S. 70° 11' 40" E., 7,687 feet.

10. SW $\frac{1}{4}$  SE $\frac{1}{4}$  section 31, T. 16 N., R. 19 E., M.D.B. & M., or at a point from which the SE corner of section 32, T. 16 N., R. 19 E., bears S. 80°09'20" E., 7,195 feet.
11. SW $\frac{1}{4}$  SE $\frac{1}{4}$  section 31, T. 16 N., R. 19 E., M.D.B. & M., or at a point from which the SE corner of section 32, T. 16 N., R. 19 E., bears S. 81°35'40" E., 7,114 feet.
12. SE $\frac{1}{4}$  SE $\frac{1}{4}$  section 31, T. 16 N., R. 19 E., M.D.B. & M., or at a point from which the SE corner of section 32, T. 16 N., R. 19 E., bears S. 79°32'30" E., 5,814 feet.
13. SW $\frac{1}{4}$  SW $\frac{1}{4}$  section 32, T. 16 N., R. 19 E., M.D.B. & M., or at a point from which the SE corner of section 32, T. 16 N., R. 19 E., bears S. 79°18'15" E., 5,000 feet.

Place of Use : Within the cities of Virginia City, Gold Hill, Silver City and Carson City

Period of Use : January 1st to December 31st

Amount of Appropriation : 10.0 c.f.s.

\*Priority of Appropriation : August, 1871

Manner of Use: The waters of Hobart Creek as above defined under "Source" may be stored in Hobart Creek Reservoir, or any enlargement thereof or supplement thereto, and they may be released and diverted at any and all times and in the quantities necessary to satisfy any demand on the distribution system providing the amount of appropriation described herein, which is computed on an annual continuous flow basis, is not exceeded.

\* The priority of appropriation under this proof is consistent with and established by an agreement between the predecessors of the claimant and the predecessors of Franktown Creek Irrigation Company, dated September 11, 1878, and a deed, dated October 21, 1878, executed and delivered pursuant to said agreement, whereby the predecessors of Franktown Creek Irrigation Company conveyed to the predecessor of the claimant all of the former's right, title and interest to all of the waters of the stream known as Franktown Creek situated in Washoe County, Nevada, having its sources upon the eastern slopes of the Sierra Nevada Mountains and running thence to Washoe Lake, into which its waters are discharged, which naturally flow in the said stream or any of the tributaries at

and above a point where the said stream is intersected by a flume of The Virginia and Gold Hill Water Company, thereby subjecting the priorities of the predecessors in interest of Franktown Creek Irrigation Company, which are earlier in time, to the priority of the predecessors of the claimant, which is later in time.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17

Done in open Court this 11 day of July,  
1960.

~~GRANT L. BOWEN~~

**GRANT L. BOWEN, DISTRICT JUDGE**

STATE OF NEVADA, }  
COUNTY OF WASHOE. } ss.

I. H. K. BROWN, County Clerk and ex-officio Clerk of the Second Judicial District Court of the State of Nevada, in and for Washoe County, said court being a court of record, having a common law jurisdiction, and a clerk and a seal, do hereby certify that the foregoing is a full, true and correct copy of the original, FINDINGS OF FACT, CONCLUSIONS OF LAW,

JUDGMENT AND DECREE IN CASE NUMBER 182418

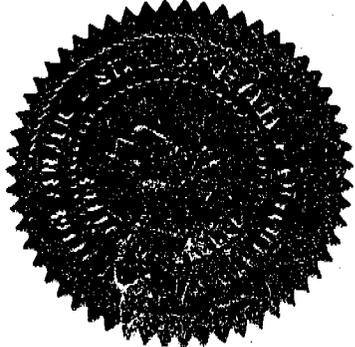
IN THE MATTER OF THE DETERMINATION OF THE RELATIVE RIGHTS IN AND TO THE WATERS OF FRANKTOWN CREEK AND ITS TRIBUTARIES IN WASHOE COUNTY, STATE OF NEVADA

which now remains on file and of record in my office at Reno, in said County.

IN TESTIMONY WHEREOF, I have hereunto set my

hand and affixed the seal of said court, at Reno,  
this 10 day of  
October, A. D. 19 66.

H. K. Brown, Clerk.  
By D. H. ... Deputy.



ARTICLES OF INCORPORATION

of

FRANKTOWN CREEK IRRIGATION CO.

KNOW ALL MEN BY THESE PRESENTS:

That we, the undersigned, have this day voluntarily associated ourselves together for the purpose of forming a corporation under the laws of the State of Nevada, and for this purpose do make, adopt and certify the following as our Articles of Incorporation:

ARTICLE I.

The name of the corporation is:

FRANKTOWN CREEK IRRIGATION CO.

ARTICLE II.

The location of the principal office of said corporation in the State of Nevada is 211 First National Bank Building, Branch, Corner of First and Virginia Streets, Reno, Washoe County, Nevada.

ARTICLE III.

The purposes for which this corporation is formed are:

(1) To take, acquire, buy, own, sell and lease water and water rights, construct and maintain ditches, canals, dams, reservoirs, and structures in connection with storage of water, and all easements and rights in respect of water and the uses of water appurtenant to any lands together with all lands and rights-of-way necessary or proper for the purposes aforesaid for for other purposes; to use the water or to dispose of the same to be used by others and to control, manage and use the ditches, canals and other works aforesaid.

(2) To distribute among the stockholders the waters of Franktown Creek and its tributaries. No water acquired by this corporation shall be used on any other land than such as may at the time be

owned or possessed by its stockholders or one or more of them. It is provided further that this corporation shall not use such water or its properties as a public utility company, but solely for the use and benefit of the stockholders for domestic purposes and for the irrigation of their respective lands and for stock watering purposes.

(3) To acquire by appropriation, purchase or otherwise the waters of Franktown Creek, situated on the West Slope of Mount Rose, Washoe County, State of Nevada, together with the waters of North Creek, and by ditch, canal or conduit, convey the waters of North Creek into Franktown Creek, and thereafter distribute the waters of Franktown Creek to the stockholders and share holders of this corporation.

(4) To construct, operate and maintain canals, ditches and reservoirs, and generally, to do any and all things necessary or proper to be done in conducting the business of acquiring and supplying to its stockholders and share holders with water for irrigation and domestic use and other useful and beneficial purposes.

(5) To make application to the State Engineer for adjudication of all water rights owned or acquired by it, and to do and perform every act necessary to perfect final adjudication of such water or stream system.

(6) To furnish, sell, lease, give and supply water to all land owned by its stockholders upon such terms as it may deem fit, and to make such By-Laws, rules and regulations as it may deem proper and necessary for the management and for the use and distribution of the water under its control.

(7) To issue certificates of stock of such form and device as the Board of Directors may direct, and each owner of the capital stock shall be entitled to receive from, become the owner thereof, and have delivered to him from Franktown Creek and its tributaries, water for domestic purposes and for the irrigation of lands owned by said stockholder and lying under and to be served from said Franktown Creek

in the following amount, to-wit: For each share of the capital stock issued, one sixty-sixth (1/66) part or portion of the water flowing and carried in Franktown Creek, so long as said amount of water shall be used upon the land described in the certificate of stock. Shares of stock so issued shall not be transferred except for the land for which it is issued, and a conveyance of the land shall legalize a transfer of the stock to the purchaser. No water shall be delivered to anyone not the owner of stock in this corporation. Before any stock issued may be transferred, there shall be presented to the Secretary proof that the land served with water has been conveyed to the purchaser of the stock.

(8) The foregoing clauses shall be construed both as to powers and objects, and it is hereby expressly declared and provided that the foregoing enumeration of specific powers of this corporation shall not be held to limit or restrict in any manner the powers of this corporation authorized by statute, and that this corporation shall have all the powers authorized by the Statutes of the State of Nevada. Nothing herein contained, however, shall be construed to authorize this corporation to operate as a public utility or banking business within the State of Nevada.

#### ARTICLE IV.

That this corporation is authorized to issue only one class of stock, the total number of which is Sixty Six (66) shares of the par value of One Hundred Dollars (\$100.00) each. Said stock may be issued by the corporation from time to time for such consideration as may be fixed by the Board of Directors thereof.

#### ARTICLE V.

The capital stock of this corporation shall be assessable, and the Board of Directors shall have the power to fix, charge and collect from the stockholders, assessments for construction, maintenance

and distribution charges and other necessary expenses or costs in the discretion of the Board of Directors based upon the number of shares of stock held by each person or proportionate to the amount of water used, or owned, or by both of such methods or by assessment upon the capital stock levied in accordance with the law, or by such other method as may be prescribed in the By-Laws of said corporation.

ARTICLE VI.

No period is limited for the duration of the existence of this corporation, but such existence shall be perpetual.

ARTICLE VII.

The members of the governing board shall be styled Directors, and the number thereof shall not be less than three (3), nor more than seven (7), and the Board of Directors may from time to time increase the number of Directors, but the number of Directors shall not be reduced at any time to less than three (3).

ARTICLE VIII.

A resolution in writing, signed by all the members of the Board of Directors shall be and constitute action by said Board to the effect therein expressed, with the same force and effect as though such resolution had been passed by the same vote of a duly convened meeting, and it shall be the duty of the Secretary to record such resolution in the Minute Book of the company under its proper date.

ARTICLE IX.

The names and post office addresses of each of the incorporators signing these Articles of Incorporation are as follows:

<u>NAMES:</u>	<u>ADDRESSES:</u>
DR. GEORGE LEONARD	Franktown, Nevada.
HENRY HEIDENREICH	Franktown, Nevada.
ALVIN CLIFF	Franktown, Nevada.

ARTICLE X.

The names and addresses of the persons who are appointed to act as the first Directors and to hold office until the selection and qualification of their successors, are as follows:

<u>NAMES:</u>	<u>ADDRESSES:</u>
Dr. George Leonard	Franktown, Nevada.
Alvin Cliff	" "
Henry Heidenreich	" "
William Pedroli	" "
R. F. I. Raymond	" "

ARTICLE XI.

The Board of Directors is empowered to adopt a code of By-Laws for the government of the corporation, and to amend or repeal any section or the whole thereof, and its acts in so doing shall have full force and effect unless the same is vacated and set aside at the regular annual meeting of the stockholders or at a special meeting called and noticed for that purpose.

IN WITNESS WHEREOF, we have hereunto set our hands and seals

this \_\_\_\_\_ day of \_\_\_\_\_, 1947.

\_\_\_\_\_  
DR. GEORGE LEONARD

\_\_\_\_\_  
HENRY HEIDENREICH

\_\_\_\_\_  
ALVIN CLIFF

STATE OF NEVADA, )  
                          : ss.  
County of Washoe. )

On this \_\_\_\_\_ day of \_\_\_\_\_, 1947, before me, the undersigned, a Notary Public in and for the above named County and State,

duly commissioned, personally appeared DR. GEORGE LEONARD, HENRY HEIDENREICH, and ALVIN CLIFF, known to me to be the persons described in and whose names are subscribed to, and who executed the foregoing instrument, and they, and each of them, acknowledged to me that they executed the same for the uses and purposes and conditions therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year in this certificate first above written.

---

Notary Public  
In and for the County of Washoe,  
State of Nevada.

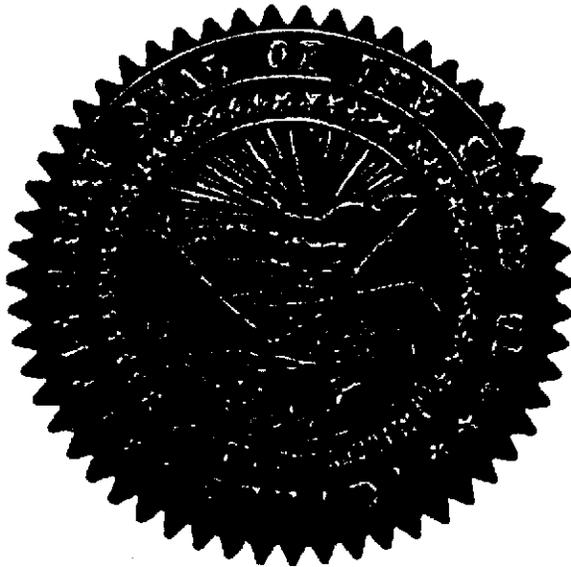
My commission expires: \_\_\_\_\_

State of Nevada



Department of State

I, JOHN KOONTZ, Secretary of State of the State of Nevada, do hereby certify that WASHOE RANCHES IRRIGATION CO. did on the THIRD day of DECEMBER, 1969, file in this office the original Articles of Incorporation; that said Articles are now on file and of record in the office of the Secretary of State of the State of Nevada, and further, that said Articles contain all the statements of facts required by the law of said State of Nevada.



In Witness Whereof, I have hereunto set my hand and affixed the Great Seal of State, at my office in Carson City, Nevada, this THIRD day of DECEMBER, A. D. 1969.

*John Koontz*  
Secretary of State

By \_\_\_\_\_, Deputy

of  
FRANKTOWN CREEK IRRIGATION CO.

KNOW ALL MEN BY THESE PRESENTS:

That we, the undersigned, have this day voluntarily associated ourselves together for the purpose of forming a corporation under the laws of the State of Nevada, and for this purpose do make, adopt and certify the following as our Articles of Incorporation:

ARTICLE I.

The name of the corporation is:

FRANKTOWN CREEK IRRIGATION CO.

ARTICLE II.

The location of the principal office of said corporation in the State of Nevada is 211 First National Bank Building, Branch, Corner of First and Virginia Streets, Reno, Washoe County, Nevada.

ARTICLE III.

The purposes for which this corporation is formed are:

(1) To take, acquire, buy, own, sell and lease water and water rights, construct and maintain ditches, canals, dams, reservoirs and structures in connection with storage of water, and all easements and rights in respect of water and the uses of water appurtenant to any lands together with all lands and rights-of-way necessary or proper for the purposes aforesaid or for other purposes; to use the water or to dispose of the same to be used by others and to control, manage and use the ditches, canals and other works aforesaid.

(2) To distribute among the stockholders the waters of Franktown Creek and its tributaries. No water acquired by this corporation shall be used on any other land than such as may at the time be

provided further that this corporation shall not use such water or its properties as a public utility company, but solely for the use and benefit of the stockholders for domestic purposes and for the irrigation of their respective lands and for stock watering purposes.

(3) To acquire by appropriation, purchase or otherwise the waters of Franktown Creek, situate on the West Slope of Slide Mountain Washoe County, State of Nevada, together with the waters of North Creek and by ditch, canal or conduit, convey the waters of North Creek into Franktown Creek, and thereafter distribute the waters of Franktown Creek to the stockholders and share holders of this corporation.

(4) To construct, operate and maintain canals, ditches and reservoirs, and generally, to do any and all things necessary or proper to be done in conducting the business of acquiring and supplying to its stockholders and share holders with water for irrigation and domestic use and other useful and beneficial purposes.

(5) To make application to the State Engineer for adjudication of all water rights owned or acquired by it, and to do and perform every act necessary to perfect final adjudication of such water for stream system.

(6) To furnish, sell, lease, give and supply water to all land owned by its stockholders upon such terms as it may deem fit, and to make such By-Laws, rules and regulations as it may deem proper and necessary for the management and for the use and distribution of the water under its control.

(7) To issue certificates of stock of such form and device as the Board of Directors may direct, and each owner of the capital stock shall be entitled to receive from, become the owner thereof, and have delivered to him from Franktown Creek and its tributaries, water for domestic purposes and for the irrigation of lands owned by said stockholder and lying under and to be served from said Franktown Creek

issued, one-sixty-sixth (1/66) part or portion of the water flowing and carried in Franktown Creek, (so long as said amount of water shall be used upon the land described in the certificate of stock. Shares of stock so issued shall not be transferred except for the land for which it is issued, and a conveyance of the land shall legalize a transfer of the stock to the purchaser. No water shall be delivered to anyone not the owner of stock in this corporation. Before any stock issued may be transferred, there shall be presented to the Secretary proof that the land served with water has been conveyed to the purchaser of the stock.

(8) The foregoing clauses shall be construed both as to powers and objects, and it is hereby expressly declared and provided that the foregoing enumeration of specific powers of this corporation shall not be held to limit or restrict in any manner the powers of this corporation authorized by statute, and that this corporation shall have all the powers authorized by the Statutes of the State of Nevada. Nothing herein contained, however, shall be construed to authorize this corporation to operate as a public utility or banking business within the State of Nevada.

#### ARTICLE IV.

That this corporation is authorized to issue only one class of stock, the total number of which is Sixty Six (66) shares of the par value of One Hundred Dollars (\$100.00) each. Said stock may be issued by the corporation from time to time for such consideration as may be fixed by the Board of Directors thereof.

#### ARTICLE V.

The capital stock of this corporation shall be assessable, and the Board of Directors shall have the power to fix, charge and collect from the stockholders, assessments for construction, maintenance

and distribution charges and other necessary expenses or costs in the discretion of the Board of Directors based upon the number of shares of stock held by each person or proportionate to the amount of water used, or owned, or by both of such methods or by assessment upon the capital stock levied in accordance with the law, or by such other method as may be prescribed in the By-Laws of said corporation.

#### ARTICLE VI.

No period is limited for the duration of the existence of this corporation, but such existence shall be perpetual.

#### ARTICLE VII.

The members of the governing board shall be styled Directors, and the number thereof shall not be less than three (3), nor more than seven (7), and the Board of Directors may from time to time increase the number of Directors, but the number of Directors shall not be reduced at any time to less than three (3).

#### ARTICLE VIII.

A resolution in writing, signed by all the members of the Board of Directors shall be and constitute action by said Board to the effect therein expressed, with the same force and effect as though such resolution had been passed by the same vote of a duly convened meeting, and it shall be the duty of the Secretary to record such resolution in the Minute Book of the company under its proper date.

#### ARTICLE IX.

The names and post office addresses of each of the incorporators signing these Articles of Incorporation are as follows:

##### NAMES:

DR. GEORGE LEONARD

WILLIAM PEDROLI

##### ADDRESSES:

Franktown, Nevada.

Franktown, Nevada.

ARTICLE X.

The names and addresses of the persons who are appointed to act as the first Directors and to hold office until the selection and qualification of their successors, are as follows:

NAMES:

ADDRESSES:

Dr. George Leonard

Franktown, Nevada

Alvin Cliff

Henry Heidenreich

William Pedrolli

R. F. I. Raymond

J. L. Jackson

ARTICLE XI.

The Board of Directors is empowered to adopt a code of By-Laws for the government of the corporation, and to amend or repeal any section or the whole thereof, and its acts in so doing shall have full force and effect unless the same is vacated and set aside at the regular annual meeting of the stockholders or at a special meeting called and noticed for that purpose.

IN WITNESS WHEREOF, we have hereunto set our hands and seals

this 19<sup>th</sup> day of June, 1947.

*George Leonard*

DR. GEORGE LEONARD

*William Pedrolli*

WILLIAM PEDROLLI

*Alvin Cliff*

ALVIN CLIFF

STATE OF NEVADA, )

County of Washoe. )

On this 19<sup>th</sup> day of June, 1947, before me, the undersigned, a Notary Public in and for the above named County and State,

duly commissioned, personally appeared DR. GEORGE LEONARD, WILLIAM  
PEDROLI and ALVIN CLIFT, known to me to be the persons described  
in and whose names are subscribed to, and who executed the foregoing  
instrument, and they, and each of them, acknowledged to me that they  
executed the same for the uses and purposes and conditions therein  
mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed  
my Official Seal the day and year in this certificate first above  
written.



Notary Public  
In and for the County of Washoe,  
State of Nevada

My commission expires: Nov 25 1950

WILLIAMS BROS. INCORPORATED

03

FRANKTOWN CREEK IRRIGATION CO.



Presented by the request of  
W. A. DISKIN

RENO, NEVADA

JAN 27 1917

JOHN GUNZ, Secretary of State



*W. A. Williams*  
Secretary of State

No. 318-107-12500 within fee

OFFICE OF  
JOHN KOONTZ  
SECRETARY OF STATE

THE STATE OF NEVADA  
  
DEPARTMENT OF STATE

I, JOHN KOONTZ, the duly elected, qualified and acting Secretary of State of the State of Nevada, do hereby certify that the annexed is a true, full and correct transcript of the original Articles of Incorporation of

FILED

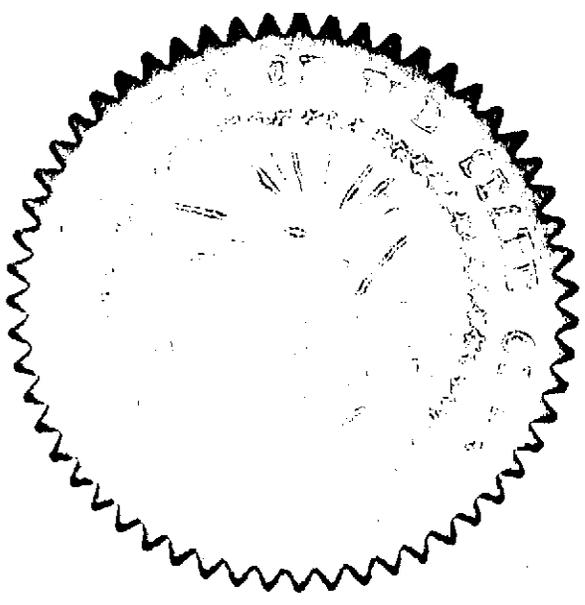
WASHOE RANCHES IRRIGATION CO.

DEC 4 9 00 AM '69

H. K. BROWN, CLERK  
BY S. Vielle  
DEPUTY

as the same appears on file and of record in this office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of State, at my office in Carson City, Nevada, this 3RD day of DECEMBER A. D. 19 69



John Koontz  
Secretary of State  
By \_\_\_\_\_  
Deputy

ARTICLES OF INCORPORATION

DEC 3 1969

OF

JOHN KOONTZ - SECRETARY OF STATE

WASHOE RANCHES IRRIGATION CO.

*John Koontz*  
No. 3392-67

KNOW ALL MEN BY THESE PRESENTS:

That we, the undersigned, have this day voluntarily associated ourselves together for the purpose of forming a corporation under the laws of the State of Nevada, and for this purpose do make, adopt and certify the following as our Articles of Incorporation:

ARTICLE I.

The name of the corporation is:

WASHOE RANCHES IRRIGATION CO.

ARTICLE II.

The location of the principal office of said corporation in the State of Nevada is 2025 MeadowView Lane, Reno, Washoe County, Nevada.

ARTICLE III.

The purposes for which this corporation is formed are:

(1) To hold nine (9) shares of the capital stock of FRANKTOWN CREEK IRRIGATION CO., a corporation organized and existing under the laws of the State of Nevada, said nine (9) shares of Franktown Creek Irrigation Co. representing the ownership of a 9/66ths part or portion of the flow of the waters of Franktown Creek and its tributaries and to distribute among the stockholders said waters represented by said nine (9) shares of the capital stock of Franktown Creek Irrigation Co. No water acquired by this corporation shall be used on any other land than such as may at the time be owned or possessed by the stockholders of this corporation or one or more of them and said waters shall be used on a part or portion of the

1 following described property situate in the County of Washoe,  
2 State of Nevada, and more particularly described as follows:

3 All that certain piece or parcel of land situate in  
4 the County of Washoe, State of Nevada, being all that  
5 portion of Sections 10, 11, 14 and 15, Township 16  
North, Range 19 East, M.D.B. & M., that is described  
as follows:

6 BEGINNING at a point on the Easterly right-of-way  
7 line of U. S. Highway 395, from which point the  
8 West Quarter Section Corner of Section 10, Township  
9 16 North, Range 19 East, M.D.B. & M., bears North  
10 86°39'40" West a distance of 1754.62 feet; thence  
11 along said Easterly right-of-way line, North 12°28'  
12 00" West a distance of 1487.09 feet; thence leaving  
13 said Easterly right-of-way line, North 89°54'59"  
14 East, along the South line of parcel conveyed to  
15 Emily Pentz Wood by Deed recorded in Book 186 of  
16 Deeds, Page 341 and in Book 226 of Deeds, Page 436,  
17 Washoe County, Nevada, records, a distance of  
18 369.88 feet to a point on the centerline of the  
19 now abandoned V. & T. right-of-way; thence South  
20 0°03'59" West a distance of 36.37 feet along the  
21 centerline of the now abandoned V. & T. right-of-  
22 way to a point; thence leaving said centerline,  
23 South 89°03'54" East, along the South line of  
24 parcel conveyed to Melvin Robison, et al, by Deed  
25 recorded as Document No. 341326, Washoe County,  
26 Nevada, records, a distance of 1440.42 feet;  
27 thence South 0°08'03" West a distance of 668.17  
28 feet; thence South 89°22'20" East a distance of  
29 4682.10 feet; thence North 0°10'15" East a distance  
30 of 114.50 feet; thence North 89°54'59" East a  
distance of 1326.13 feet; thence South 0°11'06"  
West a distance of 3817.31 feet; thence North  
88°51'22" West a distance of 4888.77 feet; thence  
North 0°03'30" West a distance of 2881.77 feet;  
thence North 88°56'00" West a distance of 2593.16  
feet to THE POINT OF BEGINNING. Said parcel of  
land contains 488.643 acres, more or less,

it being specifically understood, however, that the ownership  
by any person of a part or portion of the above-described  
property does not entitle such person to any of the water  
rights of this corporation unless such person is a stockholder  
of this corporation.

It is provided further that this corporation shall  
not use such waters or its properties as a public utility  
company but solely for the use and benefit of the stockholders  
for domestic purposes and for the irrigation of their

1        respective lands and for stock watering purposes.

2                (2) To take, acquire, buy, own, sell and lease water  
3 and water rights, construct and maintain ditches, canals, dams,  
4 reservoirs, and structures in connection with storage of water,  
5 and all easements and rights in respect of water and the uses  
6 of water appurtenant to any lands together with all lands and  
7 rights-of-way necessary or proper for the purposes aforesaid  
8 or for other purposes; to use the water or to dispose of the  
9 same to be used by others and to control, manage and use the  
10 ditches, canals and other works aforesaid.

11                (3) To construct, operate and maintain canals,  
12 ditches and reservoirs, and generally, to do any and all things  
13 necessary or proper to be done in conducting the business of  
14 acquiring and supplying to its stockholders and shareholders  
15 with water for irrigation and domestic use and other useful  
16 and beneficial purposes.

17                (4) To make application to the State Engineer for  
18 adjudication of all water rights owned or acquired by it, and  
19 to do and perform every act necessary to perfect final  
20 adjudication of such water or stream system.

21                (5) To furnish, sell, lease, give and supply water  
22 to all land owned by its stockholders upon such terms as it  
23 may deem fit, and to make such By-Laws, rules and regulations  
24 as it may deem proper and necessary for the management and for  
25 the use and distribution of the water under its control.

26                (6) To issue certificates of stock of such form  
27 and device as the Board of Directors may direct, and each  
28 owner of the capital stock shall be entitled to receive from,  
29 become the owner thereof, and have delivered to him from  
30 Franktown Creek and its tributaries water for domestic purposes

1 and for the irrigation of land owned by said stockholder and  
2 lying under and to be served from said Franktown Creek in the  
3 following amounts, to-wit: For each share of the capital  
4 stock, one two-hundredths (1/200) part or portion of nine  
5 sixty-sixths (9/66ths) (represented by a Certificate for nine  
6 (9) shares of the stock of Franktown Creek Irrigation Co.) of  
7 the water flowing and carried in Franktown Creek so long as  
8 said amount of water shall be used upon the land described  
9 in the certificate of stock. Shares of stock so issued shall  
10 not be transferred except for the land for which it is issued,  
11 and a conveyance of the land shall legalize a transfer of the  
12 stock to the purchaser. No water shall be delivered to anyone  
13 not the owner of stock in this corporation. Before any stock  
14 issued may be transferred, there shall be presented to the  
15 Secretary proof that the land served with water has been  
16 conveyed to the purchaser of the stock.

17 (7) The foregoing clauses shall be construed both  
18 as to powers and objects, and it is hereby expressly declared  
19 and provided that the foregoing enumeration of specific powers  
20 of this corporation shall not be held to limit or restrict in  
21 any manner the powers of this corporation authorized by  
22 statute, and that this corporation shall have all the powers  
23 authorized by the Statutes of the State of Nevada. Nothing  
24 herein contained, however, shall be construed to authorize  
25 this corporation to operate as a public utility or banking  
26 business within the State of Nevada.

27 ARTICLE IV

28 That this corporation is authorized to issue only  
29 one class of stock, the total number of which is two hundred (200)  
30 shares of the par value of ONE HUNDREDDOLLARS (\$100.00)

1 each. Said stock may be issued by the corporation from time  
2 to time for such consideration as may be fixed by the Board  
3 of Directors thereof.

4 ARTICLE V.

5 The capital stock of this corporation shall be  
6 assessable, and the Board of Directors shall have the power to  
7 fix, charge and collect from the stockholders, assessments for  
8 construction, maintenance and distribution charges and other  
9 necessary expenses or costs in the discretion of the Board of  
10 Directors based upon the number of shares of stock held by  
11 each person or proportionate to the amount of water used,  
12 or owned, or by both of such methods or by assessment upon  
13 the capital stock levied in accordance with the law, or by  
14 such other method as may be prescribed in the By-Laws of  
15 said corporation.

16 ARTICLE VI.

17 No period is limited for the duration of the  
18 existence of this corporation, but such existence shall be  
19 perpetual.

20 ARTICLE VII.

21 The members of the governing board shall be styled  
22 Directors, and the number thereof shall not be less than three  
23 (3), nor more than seven (7), and the Board of Directors may  
24 from time to time increase the number of Directors, but the  
25 number of Directors shall not be reduced at any time to less  
26 than three (3).

27 ARTICLE VIII.

28 A resolution in writing, signed by all the members  
29 of the Board of Directors shall be and constitute action by  
30 said Board to the effect therein expressed, with the same

1 forcetand effect as though such resolution had been passed by  
2 the same vote of a duly convened meeting, and it shall be the  
3 duty of the Secretary to record such resolution in the Minute  
4 Book of the company under its proper date.

5 ARTICLE IX.

6 The names and postoffice addresses of each of the  
7 incorporators signing these Articles of Incorporation are  
8 as follows:

9 <u>NAMES</u>	<u>ADDRESSES</u>
10 MICHAEL K. HALLEY	75 Southridge Drive 11 Reno, Nevada
12 NORMA M. CASTELLIC	5450 South Virginia St. 13 Reno, Nevada
14 LEE STRELZ	3411 Bryan Street 15 Reno, Nevada.

16 ARTICLE X.

17 The names and addresses of the persons who are  
18 appointed to act as the first Directors and to hold office  
19 until the selection and qualification of their successors,  
20 are as follows:

21 <u>NAMES</u>	<u>ADDRESSES</u>
22 WM. L. BLOOM	2025 Meadow View Lane, 23 Reno, Nevada,
24 M. E. WILSON	2025 Meadow View Lane, 25 Reno, Nevada,
26 BETTY SPRENGER	1150 Monroe Street, 27 Reno, Nevada.

28 ARTICLE XI.

29 The Board of Directors is empowered to adopt a code  
30 of By-Laws for the government of the corporation, and to amend  
or repeal any section or the whole thereof, and its acts in so  
doing shall have full force and effect unless the same is  
vacated and set aside at the regular annual meeting of the



BY-LAWS  
of  
FRANKTOWN CREEK IRRIGATION CO.  
(A Nevada Corporation)

-----

ARTICLE I.

OFFICES

The principal office shall be at 211 First National Bank Building, First & Virginia Streets, Reno, Washoe County, Nevada, and branch offices may be established at such other place or places as may be fixed by the Board of Directors.

ARTICLE II.

SEAL

The corporate seal of this company is shown by the impress, as follows:

ARTICLE III.

MEETING OF STOCKHOLDERS

Where Held

Section 1. All meetings of stockholders shall be held at

the office of the company at 211 First National Bank Building, First & Virginia Streets, Reno, Washoe County, Nevada, unless the meeting be especially called at a branch office.

#### QUORUM

Section 2. Stockholders may vote at all meetings, either in person, or by proxy in writing. A majority in amount of the stock issued and outstanding shall be requisite at every meeting to constitute a quorum. Proxies for meetings at which elections are held shall be filed with the Secretary three (3) days before the meeting.

#### ANNUAL MEETING

Section 3. The annual meeting of the stockholders of this company in each year shall be held at 211 First National Bank Building, First & Virginia Streets, Reno, Washoe County, Nevada, on the <sup>second</sup> first Monday in September of each year, if not a legal holiday, in the state in which such meeting is to be held, and if a legal holiday, on the next business day thereafter. At such annual meeting the stockholders present, in person or by proxy, shall elect by ballot a board of six (6) directors to serve for one year and until their successors shall be elected and qualified, each stockholder being entitled to one vote, in person or by proxy, at every annual or special meeting of the stockholders, for each share of stock standing registered in his or her name on the 10th day preceding the meeting, exclusive of the day of such meeting.

## ORDER OF BUSINESS

Section 4. At the annual meeting of stockholders the order of business shall be as follows:

(1) Calling of Roll; (2) Proof of Notice of meeting; (3) Reports of Officers; (4) Appointment of Inspectors of Election; (5) Election of Directors; (6) Miscellaneous.

## NOTICE

Section 5. Written notice of the annual meeting shall be mailed to each stockholder of record entitled to vote thereat at his address, as the same appears on the stock books of the company, at least ten (10) days prior to the meeting.

## LIST OF STOCKHOLDERS

Section 6. A full list of the stockholders entitled to vote at the ensuing election, arranged in alphabetical order, with the residence of each and the number of shares held by each, shall be prepared by the Secretary and filed in the principal office of the company in Reno, Nevada, at least thirty (30) days before every election, and shall at all times during the usual hours for business be open to the examination of any stockholder, or other person entitled to vote at such meeting.

## SPECIAL MEETINGS

Section 7. Special meetings of the stockholders may be called by the President, and shall be called at the request in

writing or by a vote of a majority of the Board of Directors, or at the request in writing of stockholders of record owning a majority in amount of the entire capital stock of the company issued and outstanding. A written notice stating the day, and hour and place of meeting, and generally the nature of the business to be transacted, shall be sent by the Secretary, or other person designated by the President or Board of Directors or stockholders requesting the meeting, to each stockholder of record, entitled to vote at such meeting, at least ten (10) days, exclusive of the day of mailing, before the date of every special meeting of stockholders, at such address as appears on the stockbooks of the company.

#### ARTICLE IV.

##### BOARD OF DIRECTORS

##### Number of Directors

Section 1. A board of six (6) directors shall have the management of the business of the company.

##### First Meeting

Section 2. The first meeting of each Board of Directors, for the purpose of electing officers and transacting any other business which may come before the meeting, shall be held without notice, immediately after the annual meeting of stockholders, at which said directors are elected.

##### Regular Meeting

Section 3. Regular meetings of the Board of Directors shall be held without notice at the hour of 2:00 o'clock P. M.

at the office of the company at Reno, Nevada, on the second Monday of each month, if not a legal holiday, and if a legal holiday, on the next business day thereafter.

#### Quorum

Section 4. A majority of the whole Board of Directors shall be present at each meeting to constitute a quorum for the transaction of any business.

#### Special Meetings

Section 5. Special meetings of the Board of Directors may be called by the President or by any two Directors on two (2) days' notice given by the Secretary to each Director.

### ARTICLE V.

#### OFFICERS

##### Election

Section 1. The Board of Directors shall annually elect, at its first meeting after the annual meeting of stockholders, a President, a Vice-President, a Secretary and Treasurer, all of whom shall hold office for the term of one year, and until their successors are elected and qualified. The President shall be chosen from among the Directors.

##### President

Section 2. The President shall be the chief executive officer of the company. He shall preside at all meetings of stockholders and directors, and shall have the general and active management of the business of the company. He, or the Vice-President,

together with the Secretary shall sign certificates of stock and script certificates.

#### Vice-President

Section 3. The corporation may have one or more Vice-Presidents, as the Board of Directors may from time to time deem advisable, and they shall have such powers and shall perform such duties as the Board of Directors from time to time shall fix.

#### Secretary

Section 4. The Secretary shall attend all meetings of the Board of Directors and stockholders, and act as Secretary thereof. He shall perform such other duties as may be prescribed by the Board of Directors. In the absence of the Secretary from any meeting of stockholders or the Board of Directors, the records of the proceedings of such meeting shall be kept and authenticated by such other person as may be appointed for that purpose at said meeting. One person may hold the combined office of Secretary and Treasurer.

#### Treasurer

Section 5. The Treasurer shall have the custody of all funds and securities of the company which may come into his hands. He may, when necessary or proper, endorse on behalf of the company for collection, notes, checks or other obligations. He shall deposit all funds of the company in such depositories as the Board of Directors may designate. When authorized by the Board of Directors, he shall sign checks of the company and pay out and dispose of the funds in his custody.

His books and accounts shall be subject to inspection by any member of the Board at any time and he shall from time to time, as directed by the Board, render a statement of his cash account and of all other accounts for which he is responsible. He shall keep a full and accurate account of the moneys received and paid out by him for the company. He shall perform the acts incident to the position of Treasurer, subject to the control of the Board of Directors, and if so required, shall give bond for the faithful discharge of his duties in such sum as the Board shall require.

#### Checks and Depositary

Section 6. All funds of the company on deposit with designated depositaries, shall be subject to the check of the corporation, signed by such officer or officers as the Board may designate. The Board may designate one or more persons, not officers or directors, to sign checks of the company.

#### Vacancies and Resignations

Section 7. If the office of any Director or Officer becomes vacant by reason of death, resignation, disqualification, or otherwise, or if the vacancy in the office of Director arises by reason of an increase in the number of Directors, the Board of Directors, or the Directors then in office, although less than a quorum, by a majority vote may choose a successor to fill the vacancy, in which event the person so chosen shall hold office for the unexpired term. Each resignation by an officer or Director shall take effect at the time the same is presented to the Board of Directors, or at such later time as may be specified therein.

### Other Officers

Section 8. The Board of Directors may appoint such other officers from time to time as they deem necessary, and may confer upon them such powers as they may see fit. The duties of one officer may at any time be delegated to any other officer by the Board of Directors. All officers and agents shall be subject to removal at any time by the affirmative vote of a majority of the whole Board of Directors.

Section 9. The Board of Directors shall have power to do all things which this corporation is empowered to do by law and make all rules and regulations which they deem necessary for the governing of this company and the use of its waters and ditches.

Section 10. It shall be the duty of the Board of Directors to direct and provide means for distribution of waters and to regulate and control the same and all canals, ditches and headgates belonging to this company.

Section 11. In order that the waters of Franktown Creek be equitably distributed to the stockholders of this corporation, the Board may employ a watermaster during each year and pay with corporate money a reasonable compensation for such services to be fixed by the Board. Said employment to commence each year at the beginning of the irrigation season and to continue each year as long as the same may be necessary. It shall be the duty of the watermaster so employed to take charge of and care for the ditches, canals and headgates and to attend to all diversions of water and

distribution thereof; to cause to be turned out into side ditches of the respective stockholders such portion of the water flowing in Franktown Creek as the number of shares of capital stock owned by such stockholders bears a ratio to the whole number of shares of capital stock issued by this company; to do all things to promote the equitable distribution of the waters of Franktown Creek among said stockholders.

ARTICLE VI.

SHARES AND THEIR TRANSFER

Certificates

Section 1. The certificates for shares of the capital stock of this corporation shall be in such form and device as the Board of Directors may direct, and each owner of the capital stock shall be entitled to receive and have delivered to him from Franktown Creek and its tributaries water for irrigation and domestic purposes on the lands owned by said stockholder and lying under and served from said Franktown Creek in the following amount: For each share of the capital stock issued,  $1/66$  part or portion of the water flowing from Franktown Creek so long as said amount of water shall be used upon the lands described in the certificate of stock, and each certificate of stock issued shall particularly describe the lands to which the water is to be applied. Shares of stock so issued shall not be transferred except for the land for which it is issued. Before any stock issued may be transferred, there shall be presented to the secretary proof that the land served with water has been conveyed to the purchaser of the stock. Each certificate shall

be signed by the president, or vice-president, and also by the secretary, and shall not be valid unless so signed. All certificates shall be consecutively numbered. The name of the person owning the shares represented thereby, with the number of such shares and the date of issue, shall be entered on the company's books. All certificates surrendered shall be cancelled and no new certificates issued until the former certificates for the same number of shares shall have been surrendered and cancelled.

#### Transfers

Section 2. Transfers of stock shall be made upon the books of the company upon surrender and cancellation of the certificate for such shares and proof of the transfer of the land as indicated in the preceding paragraph.

#### Addresses

Section 3. Every stockholder shall furnish the secretary with an address at which notice of meetings and all other notices may be served or mailed to him. In default thereof, notice may be addressed to him at his last known address, or residence, or at the office of the company in Reno, Nevada.

#### Lost or Destroyed Certificates

Section 4. The Board of Directors may direct a new certificate or certificates of stock to be issued in place of any certificate or certificates theretofore issued by the company alleged to have been destroyed or lost, and the Board of Directors, when authorizing such issue, of a new certificate or certificates, may,

in their discretion, and as a condition precedent to the issuance thereof, require the owner of such lost or destroyed stock certificate or certificates, or his legal representative, to give the company a bond in such sum as they may direct as indemnity against any claim that may be made against the company.

#### ARTICLE VII.

The fiscal year of the company shall begin on the 1st day of January and end on the 31st day of December.

#### ARTICLE VIII.

##### NOTICE

Whenever notice is required by statute or by these By-Laws to be given to the stockholders or directors, or to any of them, or to any officer of the company, personal notice is not meant unless expressly stated; and any notice so required shall be deemed to be sufficient if given by depositing the same in the post office in a sealed postpaid wrapper, addressed to such stockholder, director or officer, at his usual residence or place of business, or at his address as given upon the stock books of the company, or by sending same by telegram so addressed; and such notice shall be deemed to have been given at the time when the same is delivered to the telegraph office or deposited in the post office. Any stockholder, director or officer of the company may waive notice of any annual or special meeting of the stockholders or of the Board of Directors. Meetings of the stockholders may be held at any time without notice, when all the stockholders are present in person or by proxy. Meetings of the Directors may be held without notice when all of

the members are present. Directors present at any meeting of the Board shall be deemed to have waived notice of the time, place and objects of such meeting.

#### ARTICLE IX.

No officers or agent of this corporation shall make or enter into any agreement, contract or obligation binding this corporation in any sum or amount in excess of One Hundred Fifty Dollars (\$150.00), unless such officer or agent be duly authorized by the Board of Directors so to do.

#### ARTICLE X.

Whenever all parties entitled to vote at any meeting, whether of directors, or stockholders, or of the executive committee, consent, either in writing on the records of the meeting, or by filing with the secretary, or by presence at such meeting, and oral consent entered on the minutes, or by taking part in the deliberations of the meeting without objection, the doings of such meeting shall be as valid as if had at a meeting regularly called and noticed, and at any such meeting any business may be transacted which is not excepted from the written consent or to the consideration of which no objection for want of notice is made at the time, and if any meeting be irregular for want of notice, or consent, provided a quorum is present at such meeting, the proceedings of such meeting may be ratified and approved and rendered likewise valid, and the irregularity or defect therein waived by writing signed by all parties having a right to vote at such meeting, and such consent or approval of stockholders may be by proxy or power of attorney in writing.

ARTICLE XI.

ASSESSMENTS

This corporation is not organized for profit, but for the purpose of owning and distributing water of Franktown Creek, and in order to provide for the payment of debts and expenses, the corporation may make such reasonable assessments as may be necessary, either by way of maintenance charges or by assessment upon the capital stock of the corporation. The Board may provide that the cost of distribution and maintenance may be paid either in a single amount on the first day of April of each year or it may be paid in installments. The corporation shall have power to borrow money for the purpose of meeting its obligations. The cost of distribution and maintenance charge shall be and they are hereby made and constitute a lien upon the shares of stock upon the water rights represented thereby, and upon the lands described in said shares of stock, and the corporation may enforce said lien by suit or in any manner prescribed by the corporation laws of the state of Nevada. The treasurer of the corporation on or before the first Monday in April of each year shall present to the Board of Directors a budget approximating the amount of money necessary to pay maintenance and distribution costs, and the Board shall immediately thereafter by assessment levied upon each stockholder raise the necessary amount to provide for said budget so presented provided, however, the Board may increase or decrease the amount set forth by said treasurer.

ARTICLE XII.

The Directors shall have the power from time to time to alter, amend, or repeal these by-laws, or any part or portion thereof. In such case, the proposed alteration or amendment must be proposed at a regular meeting and adopted at a subsequent meeting by majority vote. All amendments shall be copied into the book of By-laws and shall not be valid until so copied. The stockholders by an affirmative vote of two-thirds of the issued and outstanding stock may at any annual or regular, or at any special meeting of which notice is given; alter or amend the By-laws or any part or portion thereof.

FRANKTOWN CREEK IRRIGATION CO.

By Alvin H. Leff  
President.

Nancy E. Heidenreich  
Secretary.

John Lewis Jackson

William Paduoli

R. F. Raymond

George Leonard

MINUTES OF MEETING OF DIRECTORS

FRANKTOWN CREEK IRRIGATION CO.

Immediately following a meeting of the stockholders of Franktown Creek Irrigation Co., a meeting of the Board of Directors of this corporation was held at the Cliff Brothers' ranch in Washoe Valley on Thursday, the 10th day of July, 1969, at the hour of 8 o'clock P. M.

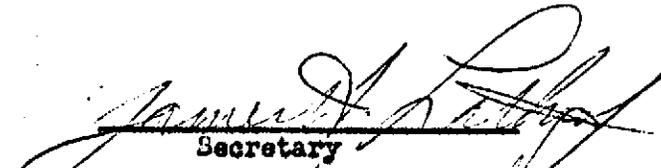
The directors whose names appear below were present and participated in the meeting.

The following resolution was adopted:

**RESOLVED:** That this corporation approve the formation of a corporation to be known as WASHOE RANCHES IRRIGATION CO., which will be organized by filing the proposed Articles of Incorporation of Washoe Ranches Irrigation Co. as being in the best interests of this corporation, the same being in keeping with the consensus of the meeting of the majority of the stockholders and directors held in Mr. Halley's office some months ago; it being understood that if Mr. Halley feels some changes should be made in said proposed articles of incorporation before the filing of same, he will make such changes prior to the filing thereof with the Secretary of State.

A copy of the proposed articles of incorporation were ordered attached to three copies of these minutes and thereupon to become a part thereof.

There being no further business to come before the meeting, the same was adjourned.

  
Secretary

Donald A. Cliff

Wm. Pedroli

John K. Whithead

Dean D. Miller

MINUTES OF MEETING OF STOCKHOLDERS

FRANKTOWN CREEK IRRIGATION CO.

Pursuant to call by the President mailed to each stockholder of the corporation on June 26, 1969, a meeting of the stockholders of Franktown Creek Irrigation Co. was held at the Cliff Brothers' ranch in Washoe Valley on Thursday, the 10th day of July, 1969, at the hour of 7:30 PM.

The stockholders whose names appear below were present and participated in the meeting.

A discussion was had in connection with various matters having to do with this corporation, the stockholders being in accord with the substance thereof.

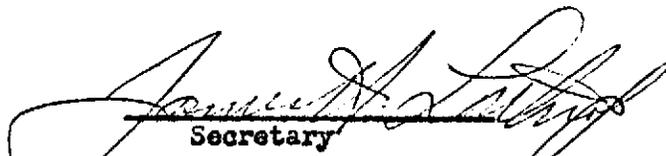
The matter of the organization of a corporation to be known as WASHOE RANCHES IRRIGATION CO., which corporation will own the nine (9) shares of stock of Franktown Creek Irrigation Co. presently belonging to Washoe Ranches was discussed, and proposed articles of incorporation drawn by James J. Halley, of the law firm of Halley and Halley, were presented at the meeting, and after discussion, the following resolution was adopted:

RESOLVED: That this corporation approve the formation of a corporation to be known as WASHOE RANCHES IRRIGATION CO., which will be organized by filing the proposed Articles of Incorporation of WASHOE RANCHES IRRIGATION CO. as being in the best interests of this corporation, the same being in keeping with the consensus of the meeting of the majority of the stockholders and directors held in Mr. Halley's office some months ago; it being understood that if Mr. Halley feels some changes should be

Page Two  
Stockholders Minutes  
July 10, 1969

made in said proposed articles of incorporation before the filing of same, and he will make such changes prior to the filing thereof with the Secretary of State.

There being no further business to come before the meeting, the same was adjourned.

  
Secretary

Donald A. Cliff  
W W Padon  
J S Bar cattle co.  
By Don K. Whithead, 449

Dean D. Miller  
Washoe Ranches  
By: Art Wilson

Notice of Meeting to Stockholders of  
FRANKTOWN CREEK IRRIGATION CO.

Date: July 10, 1969

Time: 7:30 p.m.

Place: Cliff Brothers Ranch

JHL:sjm

Donald Cliff, President