

IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF PERSHING

* * * * *

IN THE MATTER OF THE DETERMINATION)
OF THE RELATIVE RIGHTS IN AND TO THE)
WATERS OF GOLCONDA CANYON CREEK AND ITS)
TRIBUTARIES IN PERSHING COUNTY,)
STATE OF NEVADA.)

Filed Dec 6 19 76
Gladys Nelson
Clerk
D. Spradlin
Deputy

FINDING OF FACT, CONCLUSIONS OF LAW
JUDGMENT AND DECREE

This matter came on regularly for hearing on the 15th day of July, 1976, before the Honorable Llewellyn A. Young, District Judge presiding, the portion of Golconda Canyon Creek and its tributaries exemplified in these proceedings, being within Pershing 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, of the State Engineer's determination of the relative rights of the petitioner and claimants to the use of the waters of the stream system of Golconda Canyon Creek and its tributaries, which Order of Determination and all related documentary evidence had been previously filed by the State Engineer. There being exceptions filed to the Order of Determination pursuant to NRS 533.170, the matter was submitted to the Court for its decision.

Harry W. Swainston, Deputy Attorney General, Starr Hill, Jr., Surface Water Engineer and L. Edward Parmenter, Adjudication Engineer, appeared in the hearing and proceedings on behalf of the State of Nevada and the office of the State Engineer. Merwyn H. Brown, Esq., appeared on behalf of the

1 Estate of Manuel Chabagno and Bruce Bowen, Esq., appeared on
2 behalf of Robert Vesco, the successor in interest to Chet Meyer.

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

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

11 The Court, having duly considered the entire record
12 and the evidence introduced and received, directed that
13 FINDINGS OF FACT, CONCLUSIONS OF LAW and JUDGMENT AND DECREE
14 be prepared.

15 FINDINGS OF FACT

16 I.

17 That on August 11, 1969, Chet Meyer, a water user
18 of the waters of Golconda Canyon Creek, submitted a petition
19 requesting the determination of the relative rights of the
20 petitioner and other claimants to the waters of Golconda Canyon
21 Creek and its tributaries, situate in Pershing County, State
22 of Nevada.

23 That the State Engineer's investigation report re-
24 vealed that the waters of Golconda Canyon Creek and its tribu-
25 taries are being placed to beneficial use for irrigation,
26 domestic and stock watering purposes. That the report of
27 the facts and conditions disclosed that a determination of
28 the relative rights was justified, and the State Engineer made
29 and entered his Order on January 9, 1970 granting the petition.

30 That on the 15th day of January, 1970, and once each

1 week for four succeeding weeks, the State Engineer did cause
2 to be published a Notice of Order and Proceedings to Determine
3 Water Rights in and to the waters of Golconda Canyon Creek
4 and its tributaries in Pershing County, State of Nevada, and
5 that notice was duly given to all claimants as required by
6 law. That on the 27th day of February, 1970, there was filed
7 in the Office of the State Engineer an affidavit of the Pub-
8 lisher of the Review-Miner, exemplifying the Proof of Publication
9 of Notice of Order and Proceedings to Determine Water Rights.

10 That the State Engineer did cause to be published
11 on the 12th day of March, 1970, and once each week for four
12 succeeding weeks, a Notice of Order for Taking Proofs to
13 Determine Water Rights in and to the waters of Golconda Canyon
14 Creek and its tributaries in Pershing County, State of Nevada,
15 and that notice was duly given to all claimants as required by
16 law. That on the 16th day of April, 1970, there was filed in
17 the Office of the State Engineer an affidavit of the Publisher
18 of the Review-Miner, exemplifying the Proof of Publication of the
19 Notice of Order for Taking Proofs to Determine Water Rights.

20 That thereafter, in accordance with NRS 533.125,
21 the State Engineer did file in the records of his office on
22 July 1, 1970, a request to extend the time in which proofs
23 may be filed. That he did grant an extension of time to file
24 proofs and that notice thereof was given to all claimants.

25 That the State Engineer, in accordance with NRS
26 533.140, did enter and file in the records of his office,
27 on the 21st day of June, 1971, an Abstract of Claims, a
28 Preliminary Order of Determination and Notice and Order Fixing
29 and Setting Time and Place of Inspection, stating when and
30 where the evidence taken or filed with him and the proofs

1 of claims were open to the inspection of all interested
2 persons; and that notice thereof was duly given to the claim-
3 ants as required by law.

4 That the State Engineer, in accordance with NRS
5 533.160 entered in the records of his office, on the 1st day
6 of September, 1971, an Order of Determination defining the
7 rights of the claimants and appropriators to the waters of
8 Golconda Canyon Creek and its tributaries and that notice
9 thereof was duly given to the claimants as required by law.

10 That upon the filing of the certified copy of the
11 Order of Determination and the original evidence with the
12 Clerk of the Court of Pershing County, State of Nevada, the
13 Court, at the request of the State Engineer, made and entered
14 an Order on the 10th day of September, 1971, setting a time
15 for hearing of any exceptions to the Order of Determination
16 on Wednesday, the 24th day of November, 1971, at 10:00 o'clock
17 in the forenoon in the court room of the Court House at
18 Lovelock, Pershing County, Nevada; and that the Clerk of said
19 Court did furnish the State Engineer with a certified copy
20 thereof.

21 That the State Engineer, in accordance with NRS
22 533.165, gave notice to the claimants by service of a certi-
23 fied copy of the Court Order Setting Time for Hearing.

24 That on the 23rd day of September, 1971, and once
25 each week for four succeeding weeks, the State Engineer did
26 cause to be published the Court Order Setting Time for Hearing,
27 and that thereafter on the 29th day of November, 1971, there
28 was filed in the Office of the State Engineer an affidavit
29 of the Co-publisher of the Review-Miner, exemplifying the Proof
30 of Publication of the Court Order Setting Time for Hearing.

1 That on November 19, 1971 the State Engineer received
2 notice from Attorney Harvey Dickerson that the Hearing on the
3 Order of Determination had been continued from November 24,
4 1971, until the early part of 1972.

5 That the Court, at the request of the State Engineer,
6 set the time for hearing of any exceptions to the Order of
7 Determination for Tuesday, the 30th day of May, 1972, at
8 9:30 o'clock in the forenoon, in the court room of the Court
9 House at Lovelock. That the State Engineer gave notice to the
10 claimants by service of a certified letter directing attention
11 to the new date set for hearing on the Order of Determination.

12 That on May 16, 1972, the District Judge signed an
13 Order vacating the May 30th hearing date and Ordered that the
14 parties confer and agree to a suitable date for a hearing of
15 the matter.

16 That a copy of the Notice of Objections to the Order
17 of Determination by claimant Chet Meyer, was filed in the
18 Office of the State Engineer on May 23, 1973, as provided
19 under NRS 533.170.

20 That on July 27, 1973, the Court, at the request of
21 the State Engineer, made and entered an Order setting a time
22 for hearing of any exceptions to the Order of Determination
23 for Friday the 19th day of October, 1973, at 10:00 o'clock
24 in the forenoon, in the court room of the Court House at Love-
25 lock, Pershing County, Nevada. That the State Engineer gave
26 notice to the claimants by service of a certified letter dir-
27 ecting attention to the new date set for hearing of the Order
28 of Determination.

29 That on October 16, 1973, Attorney Harvey Dickerson
30 advised the State Engineer by telephone that the hearing

1 scheduled for October 19, 1973, had been continued and that
2 no new date had been set.

3 That on February 1, 1974, the Court, at the request
4 of the State Engineer, made and entered an Order setting a
5 time for hearing of any exceptions to the Order of Determination
6 for Friday the 19th day of April, 1974, at 10:00 o'clock in
7 the morning, in the court room of the Court House at Lovelock,
8 Pershing County, Nevada. That the State Engineer gave notice
9 to the claimants by service of a certified letter directing
10 attention to the new date set for hearing of the Order of
11 Determination.

12 That on April 15, 1974, Attorney Bruce Bowen advised
13 the State Engineer that the Court had agreed to reschedule
14 the hearing set for April 19, 1974.

15 That on April 13, 1976, the Court, at the request of
16 the State Engineer, made and entered an Order setting a time
17 for hearing of any exceptions to the Order of Determination
18 for Thursday the 15th day of July, 1976, at 10:00 o'clock in
19 the forenoon, in the court room of the Court House in Lovelock,
20 Pershing County, Nevada. That the State Engineer gave notice
21 to the claimants by service of a certified letter directing
22 attention to the new date set for hearing of the Order of
23 Determination.

24 That on July 15, 1976, a proceeding was held to hear
25 exceptions to the Order of Determination, at which time the
26 successors in interest of the claimants stipulated that an
27 agreement had been entered into which resolved the exceptions
28 to the Order of Determination.

29 That the Court finds that all and singular, the
30 Proceedings, Orders, and Notices required by Chapter 533 of

1 NRS were duly had, made, and given as required by law, and
2 that all and singular, the matters and things contained in the
3 record were done, performed, given and made in strict com-
4 pliance with the statutes, and that this Court had and has
5 jurisdiction to hear and determine this matter.

6 II.

7 The Court Further Finds: That the portion of
8 Golconda Canyon Creek and its tributaries exemplified in
9 these proceedings, is situated wholly within Pershing County,
10 State of Nevada.

11 III.

12 The Court Further Finds: That the names of the
13 claimants and appropriators, the source of water supply, the
14 period of use, the duty of water, the diversion of water and
15 method of use, the measurement of water, the domestic and
16 stock watering use, the change of place of use, and the rights
17 of appropriation of the water, all as set forth in the Order
18 of Determination are true, proper and correct, and all and
19 singular, the same should be approved and confirmed as follows:

20 PREFACE

21 On January 9, 1970, the State Engineer entered an
22 Order granting the petition and made proper arrangements to
23 proceed with the determination of the relative rights of the
24 water users in accordance with NRS 533.090.

25 On March 6, 1970, the State Engineer entered a
26 Notice of Order for Taking Proofs to Determine Water Rights.

27 CLAIMANTS

28 The investigation disclosed that the waters of
29 Golconda Canyon Creek and its tributaries were being placed
30 to beneficial use on the lands of Manual Chabagno for irrigation,

1 stock watering and domestic purposes, and by Chet Meyer for
2 irrigation and stock watering purposes. Evidence contained
3 in the title documents and proofs of appropriation submitted
4 by the present claimants relative to the land, indicates they
5 are successors in interest to vested rights initiated by their
6 predecessors.

7 SOURCE

8 Golconda Canyon Creek and its tributaries are sit-
9 uated within Pershing County on the west slope of the Tobin
10 Range, approximately fifty miles south of Winnemucca. The
11 stream flows in a westerly direction a distance of approxi-
12 mately five miles into Pleasant Valley. It has a high spring
13 runoff from melting snow and recedes to a minimum flow, dis-
14 charged from many springs, for the remainder of the year.

15 PERIOD OF USE

16 The irrigation season shall begin on March 1st and
17 extend through October 31st of each year.

18 DUTY OF WATER

19 There are two general areas of use of the waters of
20 Golconda Canyon Creek and tributaries; one area being in
21 Golconda Canyon within Sections 9, 10 and 11, T.28N., R.39E.,
22 M.D.B. & M., and the other area being 3 to 4 miles northwesterly
23 in the valley in Section 5, T.28N., R.39E., M.D.B. & M.

24 Because of the gravelly soil in the upper Golconda
25 Canyon area, the seasonal duty of water from Golconda Canyon
26 Creek and its tributaries in this area is herein fixed and
27 shall not exceed:

- 28 Class A - - Harvest Crop - - - - - 5.0 ac.ft./ac./season
29 Class B - - Meadow Pasture - - - - - 3.0 ac.ft./ac./season
30 Class C - - Diversified Pasture - - 1.0 ac.ft./ac./season

1 The lower area in the valley has a finer textured
2 soil and the seasonal duty of water from Golconda Canyon
3 Creek and its tributaries for this area is herein fixed and
4 shall not exceed:

5 Class A - - Harvest Crop - - - - - 4.0 ac.ft./ac./season

6 DIVERSION OF WATER AND METHOD OF USE

7 The claimants shall have the right to divert 2.5
8 cubic feet per second of water per 100 acres of land irrigated,
9 but not to exceed the seasonal duty as established herein.

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

16 MEASUREMENT OF WATER

17 All measurements of water diverted are to be made
18 at a point where the main ditch enters or becomes adjacent
19 to the land to be irrigated or as near thereto as practicable;
20 the location if not selected by the State Engineer, to be
21 approved by him. The water users shall install and maintain
22 at their own expense, substantial and easily operated regu-
23 lating headgates and measuring devices in the ditch or ditches
24 or channel. Due allowance for losses in ditches will be made
25 by the State Engineer in case it becomes necessary.

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

28 STOCK WATERING AND DOMESTIC

29 The right to the diversion and use of water for
30 stock watering and domestic purposes by claimant, Manuel Chabagno

1 or his successor in interest, and for stock watering purposes
2 by claimant Chet Meyer or his successor in interest, shall
3 be continued at any time during the year. Such diversions shall
4 be according to the dates of priorities of the claimants and
5 limited to the quantity of water reasonably necessary for such
6 use.

7 The amount of water diverted for irrigation purposes
8 shall not be increased by any amount to be used for stock
9 watering and domestic purposes.

10 CHANGE OF PLACE OF USE

11 All water allotted in the Decree shall be appurtenant
12 to the place of use designated herein. Any water user de-
13 siring to change the point of diversion, manner of use or place
14 of use of the waters allotted herein, must make application
15 to the State Engineer for permission to make the change pursuant
16 to NRS 533.345.

17 RIGHTS OF APPROPRIATION

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

27 CONCLUSIONS OF LAW

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

I.

1
2 That the State Engineer has the right, authority and
3 jurisdiction pursuant to Chapter 533 of NRS to make the investi-
4 gation made by him, receive the proofs and maps, enter and file
5 in his office the original Order of Determination and file a
6 certified copy thereof in this Court, and to determine the rel-
7 ative rights of the claimants and appropriators in and to the
8 waters of Golconda Canyon Creek and its tributaries in Pershing
9 County, State of Nevada; that the State Engineer duly made all
10 orders necessary and proper in connection therewith and entered
11 the same in his office as required by Chapter 533 of NRS;
12 that each and every notice required by law to be given herein
13 to the claimants and appropriators was duly served by the
14 State Engineer in the manner and within the time required by
15 Statute, and that the notices contained all the statements
16 required by law, and that the claimants and appropriators of
17 the waters of the above-named stream system and its tributaries
18 duly received the information and notices, as required by law.

II.

20 That the Sixth Judicial District Court of the State
21 of Nevada, in and for the County of Pershing, had and has
22 jurisdiction to hear and try this matter, and has jurisdiction
23 to find, make and enter the foregoing Findings of Fact and
24 these Conclusions of Law and enter its Decree herein.

III.

26 That Manuel Chabagno and Chet Meyer were the only
27 claimants of vested rights who were appropriators and users
28 of the waters of Golconda Canyon Creek and its tributaries on
29 the date the Order of Determination was filed with the Clerk
30 of the Court.

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IV.

That the irrigation season shall being on March 1st and extend through October 31st of each year.

V.

That there are two general areas of use of the waters of Golconda Canyon Creek and tributaries; one area being in Golconda Canyon within Sections 9, 10 and 11, T.28N., R.39E., M.D.B.& M., and the other area being 3 to 4 miles northwesterly in the valley in Section 5, T.28N., R.39E., M.D.B.& M.

That because of the gravelly soil in the upper Golconda Canyon area, the seasonal duty of water from Golconda Canyon Creek and its tributaries in this area is herein fixed and shall not exceed:

- Class A - - Harvest Crop - - - - - 5.0 ac.ft./ac./season
- Class B - - Meadow Pasture - - - - - 3.0 ac.ft./ac./season
- Class C - - Diversified Pasture- - 1.0 ac.ft./ac./season

That the lower area in the valley has a finer textured soil and the seasonal duty of water from Golconda Canyon Creek and its tributaries for this area is herein fixed and shall not exceed:

- Class A - - Harvest Crop - - - - - 4.0 ac.ft./ac./season

VI.

That the claimants shall have the right to divert 2.5 cubic feet per second of water per 100 acres of land irrigated, but not to exceed the seasonal duty as established herein.

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

1 to the control and direction of the State Engineer.

2 VII.

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

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

14 VIII.

15 That the right to the diversion and use of water for
16 stock watering and domestic purposes by claimant, Manuel
17 Chabagno or his successor in interest, and for stock watering
18 purposes by claimant Chet Meyer or his successor in interest,
19 shall be continued at any time during the year. That such
20 diversions shall be according to the dates of priorities of
21 the claimants and limited to the quantity of water reasonably
22 necessary for such use.

23 That the amount of water diverted for irrigation pur-
24 poses shall not be increased by any amount to be used for
25 stock watering and domestic purposes, but the quantity allowed
26 and diverted for irrigation during the irrigation season shall
27 include water for domestic and stock watering purposes.

28 IX.

29 That all water allotted under the Decree shall be
30 appurtenant to the place of use designated herein. That any

1 water user desiring to change the point of diversion, manner
2 of use or place of use of the waters allotted herein, must
3 make application to the State Engineer for permission to make
4 the change pursuant to NRS 533.345.

5 X.

6 That from the Order of Determination and the docu-
7 mentary evidence submitted in support thereof, the Court finds
8 that the names of the claimants and appropriators of the waters
9 of Golconda Canyon Creek and its tributaries, the source of
10 the water supply, the means of diversion, the points of diver-
11 sion for beneficial use, the periods of use, the years of
12 priority, the cultural acreages, the places of use, the legal
13 subdivisions, sections, townships, ranges, and the duty of
14 water are as listed, stated and set forth:

15 XI.

16 That the Order of Determination made, filed and
17 caused to be entered of record in this matter by the State
18 Engineer, should be affirmed, and that the agreement resolving
19 the exceptions to the Order of Determination be incorporated
20 by reference in the Court's Decree.

21 JUDGMENT AND DECREE

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

25 I.

26 That the State Engineer made all necessary and
27 proper orders as required by law, and that each and every
28 notice required by law was duly given to the claimants and
29 appropriators; that the claimants and appropriators had full
30 opportunity to appear and be heard in objection to and file

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exception to the Order of Determination, that Manuel Chabagno and Chet Meyer are the only claimants of vested rights recognized in this Decree as appropriators of the waters of Golconda Canyon Creek and its tributaries and this Decree determines the limit and extent of all vested water rights on the source.

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

II.

That the flow of water from Golconda Canyon Creek and its tributaries was placed to beneficial use by Manuel Chabagno and Chet Meyer, claimants of record in the Decree, for irrigation, domestic and stock watering purposes.

III.

That the irrigation season shall begin on March 1st and extend through October 31st of each year.

IV.

That there are two general areas of use of the waters of Golconda Canyon Creek and its tributaries, one area being in Golconda Canyon within Sections 9, 10 and 11, T.28N., R.39E., M.D.B. & M., and the other area being 3 to 4 miles northwesterly in the valley in Section 5, T.28N., R.39E., M.D.B. & M.

That because of the gravelly soil in the upper Golconda Canyon area, the seasonal duty of water from Golconda Canyon Creek and its tributaries in this area is herein fixed and shall not exceed:

- Class A - - Harvest Crop - - - - - 5.0 ac.ft./ac./season
- Class B - - Meadow Pasture - - - - 3.0 ac.ft./ac./season
- Class C - - Diversified Pasture - - 1.0 ac.ft./ac./season

1 That the lower area in the valley has a finer tex-
2 tured soil and the seasonal duty of water from Golconda Canyon
3 Creek and its tributaries for this area is herein fixed and
4 shall not exceed:

5 Class A - - Harvest Crop - - - - - 4.0 ac.ft./ac./season

6 V.

7 That the claimants shall have the right to divert
8 $2\frac{1}{2}$ cubic feet per second of water per 100 acres of land irri-
9 gated, but not to exceed the seasonal duty as established
10 herein.

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

17 VI.

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

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

29 VII.

30 That the right to the diversion and use of water for

1 stock watering and domestic purposes by claimant Manuel Chabagno
2 or his successor in interest, and for stock watering purposes
3 by claimant Chet Meyer or his successor in interest, shall be
4 continued at any time during the year. That such diversions
5 shall be according to the dates of priorities of the claimants
6 and limited to the quantity of water reasonably necessary for
7 such use.

8 That the amount of water diverted for irrigation
9 purposes shall not be increased by any amount to be used for
10 stock watering and domestic purposes, but the quantity allowed
11 and diverted for irrigation during the irrigation season
12 shall include water for stock watering and domestic purposes.

13 VIII.

14 That all water allotted under this Decree shall be
15 appurtenant to the place of use designated herein. That any
16 water user desiring to change the point of diversion, manner
17 of use or place of use of the waters allotted herein, must
18 make application to the State Engineer for permission to make
19 the change pursuant to NRS 533.345.

20 IX.

21 That the names of the claimants and appropriators
22 of the waters of Golconda Canyon Creek and its tributaries,
23 the source of the water supply, the means of diversion, the
24 points of diversion for beneficial use, the period of use,
25 the years of priority, the cultural acreages, the places of use,
26 the legal subdivisions, sections, townships, ranges, and duty
27 of water are hereby adjudged as follows:

28 PROOF NO.: Second Amended 01409
29 CLAIMANT: Manuel Chabagno
30 SOURCE: Golconda Canyon Creek and Tributaries

1 PROOF NO.: Second Amended 01409 (Continued)
 2 USE: Irrigation, Stock Watering & Domestic
 3 MEANS OF DIVERSION: Dam and Ditches
 4 POINT OF DIVERSION: SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 11, T.28N., R.39E.,
 5 M.D.B. & M., or at a point from which
 6 the E $\frac{1}{4}$ corner of said Section 11 bears
 7 S. 85° 24' E., a distance of 1,354.03
 8 feet.

PRIOR- ITY	CULTURAL ACREAGE			LOCATION			DUTY OF WATER		
	HARV- EST	MEADOW PASTURE	DIV. PASTURE	SUBD.:	SEC.:	TWP.:	RGE.:	C.F.S.	AC.FT.
10	1870	8.15		SE $\frac{1}{4}$ NW $\frac{1}{4}$	10	28N	39E	0.204	40.75
11	1870	2.15		NE $\frac{1}{4}$ SW $\frac{1}{4}$	10	28N	39E	0.054	10.75
12	1870	3.16		SW $\frac{1}{4}$ NE $\frac{1}{4}$	10	28N	39E	0.079	15.80
13	1870	13.20		NW $\frac{1}{4}$ SE $\frac{1}{4}$	10	28N	39E	0.330	66.00
14	1870	6.73	4.07	NE $\frac{1}{4}$ SE $\frac{1}{4}$	10	28N	39E	0.270	45.86
15	1870	1.16	2.47	SE $\frac{1}{4}$ SE $\frac{1}{4}$	10	28N	39E	0.091	13.21
16	1870	6.73		NW $\frac{1}{4}$ SW $\frac{1}{4}$	11	28N	39E	0.168	33.65
17	1870	16.30		SW $\frac{1}{4}$ SW $\frac{1}{4}$	11	28N	39E	0.408	81.50
18	1870	14.40		SE $\frac{1}{4}$ SW $\frac{1}{4}$	11	28N	39E	0.360	72.00
19	1870	3.44		NE $\frac{1}{4}$ SW $\frac{1}{4}$	11	28N	39E	0.086	17.20
20	1870	13.53	3.16	NW $\frac{1}{4}$ SE $\frac{1}{4}$	11	28N	39E	0.417	70.81
21	1870	0.39		SW $\frac{1}{4}$ SE $\frac{1}{4}$	11	28N	39E	0.010	1.95
22	1870		1.15	SW $\frac{1}{4}$ NE $\frac{1}{4}$	11	28N	39E	0.029	1.15
23	1870		0.40	SE $\frac{1}{4}$ NE $\frac{1}{4}$	11	28N	39E	0.010	0.40
24	1870		0.68	NE $\frac{1}{4}$ SE $\frac{1}{4}$	11	28N	39E	0.017	0.68
25	TOTAL	89.34	6.54	5.39				2.533	471.71

27 PROOF NO.: 02685
 28 CLAIMANT: Manuel Chabagno
 29 SOURCE: Golconda Canyon Springs
 30 USE: Irrigation, Stock Watering and Domestic

1 PROOF NO.: 02685 (Continued)
 2 MEANS OF DIVERSION: Dams and Ditch
 3 POINTS OF DIVERSION: 1. SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 10, T.28N., R.39E.,
 4 M.D.B. & M. or at a point from which
 5 the W $\frac{1}{4}$ corner of said Section 10
 6 bears S. 81° 21' W., a distance of
 7 1,865.73 feet.
 8 2. NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 10, T.28N., R.39E.,
 9 M.D.B. & M. or at a point from which
 10 the W $\frac{1}{4}$ corner of said Section 10
 11 bears N. 85° 00' W., a distance of
 12 2,513 feet.

PRIORITY	CULTURAL ACREAGE HARVEST:	SUBD.:	LOCATION			DUTY OF WATER	
			SEC.:	TWP.:	RGE.:	C.F.S.	AC.FT.
1870	6.10	NE $\frac{1}{4}$ NE $\frac{1}{4}$	9	28N	39E	0.153	30.50
1870	2.47	NW $\frac{1}{4}$ NW $\frac{1}{4}$	10	28N	39E	0.062	12.35
1870	<u>0.46</u>	SW $\frac{1}{4}$ NW $\frac{1}{4}$	10	28N	39E	<u>0.011</u>	<u>2.30</u>
TOTAL	9.03					0.226	45.15

16 PROOF NO.: 02228
 17 CLAIMANT: Manuel Chabagno
 18 SOURCE: Golconda Canyon Spring
 19 USE: Stock Watering
 20 MEANS OF DIVERSION: Natural Seep Area
 21 POINT OF DIVERSION: NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 10, T.28N., R.39E.,
 22 M.D.B. & M., or at a point from which
 23 the E $\frac{1}{4}$ corner of said Section 10 bears
 24 N. 83° 24' E., a distance of 2,850 feet.
 25 PERIOD OF USE: January 1 to December 31 of each year.
 26 PRIORITY: 1880
 27 AMOUNT OF APPROPRIATION: 0.001875 c.f.s. or sufficient to
 28 water 60 cattle.
 29 DESCRIPTION OF WORKS OF DIVERSION, MANNER AND PLACE OF USE:
 30 Cattle are watered at the spring at
 the point of diversion described
 above.

1 PROOF NO.: 02686
 2 CLAIMANT: Manuel Chabagno
 3 SOURCE: Golconda Canyon Creek
 4 USE: Stock Watering
 5 MEANS OF DIVERSION: Natural Channel
 6 POINT OF DIVERSION: The natural channel of Golconda Canyon
 7 Creek between a point in the NE $\frac{1}{4}$ NE $\frac{1}{4}$
 8 Section 9, T.28N., R.39E., M.D.B.& M.,
 9 from which the NE corner of said Section
 10 9 bears N. 58° 09' E., a distance of
 11 1,153.16 feet, and a point in the NE $\frac{1}{4}$
 12 SE $\frac{1}{4}$ Section 5, T.28N., R.39E., M.D.B.& M.
 13 from which the S $\frac{1}{4}$ corner of Section 4,
 14 T.28N., R.39E., M.D.B.& M., bears S.
 15 62° 04' E., a distance of 4,163.04 feet.

12 PERIOD OF USE: January 1 to December 31 of each year.
 13 PRIORITY: 1870
 14 AMOUNT OF APPROPRIATION: 0.008375 c.f.s. or sufficient to water
 15 250 cattle, 10 horses and 40 sheep.
 16 DESCRIPTION OF WORKS OF DIVERSION, MANNER AND PLACE OF USE.
 17 Stock are watered in the reach of the
 18 natural channel of Golconda Canyon
 19 Creek situated between the two points
 20 described above traversing through
 21 portions of Section 9, 4 and 5, T.28N.,
 22 R.39E., M.D.B.& M.
 23 NOTE: Proof No. 02686 is subject to an agreement which is
 24 attached to this Decree and incorporated herein as
 25 if set forth here verbatim.

22 PROOF NO.: 01514 and Amended 01514
 23 CLAIMANT: Chet Meyer
 24 SOURCE: Golconda Canyon Creek
 25 USE: Irrigation and Stock Watering
 26 MEANS OF DIVERSION: Concrete Dam, Pipeline and Ditches
 27 POINT OF DIVERSION: SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 4, T.28N., R.39E.,
 28 M.D.B.& M., or at a point from which
 29 the SE corner of said Section 4 bears
 30 S. 87° 06' 30" E., a distance of
 1,990 feet.

PRIOR- ITY :	CULTURAL ACREAGE HARVEST	SUBD.:	LOCATION			DUTY OF WATER	
			SEC.:	TWP.:	RGE.:	C.F.S.	AC.FT.
1872	7.27	Lot 3 (NE $\frac{1}{2}$ NW $\frac{1}{4}$)	5	28N	39E	0.182	29.08
1900	9.03	Lot 3 (NE $\frac{1}{2}$ NW $\frac{1}{4}$)	5	28N	39E	0.226	36.12
1900	1.14	Lot 4 (NW $\frac{1}{2}$ NW $\frac{1}{4}$)	5	28N	39E	0.029	4.56
1900	<u>0.50</u>	Lot 2 (NW $\frac{1}{2}$ NE $\frac{1}{4}$)	5	28N	39E	<u>0.012</u>	<u>2.00</u>
TOTAL	17.94					0.449	71.76

Note: Proof Nos. 01514 and Amended 01514 are subject to an agreement which is attached to this Decree and incorporated herein as if set forth here verbatim.

DATED THIS 7th DAY OF December, 1976

Lewellyn D. Jones
DISTRICT JUDGE

AGREEMENT

THIS AGREEMENT made and entered into this 15th day of November, A.D. 1975, by and between ROBERT C. VESCO, successor in interest to Chet Meyer, of Pershing County, Nevada, the party of the first part, and ALBERT CHABAGNO, as Administrator of the Estate of Manuel Chabagno, Deceased, of the City of Winnemucca, County of Humboldt, State of Nevada, the party of the second part,

WITNESSETH: WHEREAS, Roland D. Westergard, State Engineer of the State of Nevada, filed his Order of Determination In The Matter Of The Determination Of The Relative Rights In And To The Waters Of Golconda Canyon Creek And Its Tributaries, in Pershing County, Nevada, on June 21st, 1971, and

WHEREAS, Chet Meyer, the predecessor in interest of Robert C. Vesco, filed his Notice of Objections to the Order of Determination, in the above mentioned matter, on the 23rd day of May, A. D. 1972; and

WHEREAS, the parties hereto attended a field investigation by representatives of the State Engineer on the 24th day of April, A. D. 1974, and as a result of such meeting and field investigation, the said party of the first part has withdrawn the Notice of Objections to the Order of Determination, as a result of which the Order of Determination as filed by the State Engineer may be adopted and confirmed by the Court; and

WHEREAS, the parties hereto desire to enter into an Agreement with the intention and purpose of conserving water after the water rights of Manuel Chabagno, now deceased, as determined by the Court, have been satisfied, whereby the said party of the first part may utilize in the existing pipeline under Proof of Appropriation 01514 and Amended 01514, any water flowing down Golconda Canyon Creek,

REF'D & BOWEN
ATTY IN LAW
ARLINGTON-RICE BUILDING
280 SOUTH ARLINGTON AVENUE
RENO, NEVADA

1 NOW, THEREFORE, THIS AGREEMENT WITNESSETH: That for
2 and in consideration of the premises and other mutual valuable
3 consideration, each to the other, which is hereby acknowledged,
4 the said parties hereto do hereby agree as follows, to-wit:

5 1. In order to obtain the benefits of the within
6 agreement, the said party of the first part shall maintain at
7 his sole cost and expense the existing dam and improvements
8 thereto in the SW $\frac{1}{2}$ SE $\frac{1}{2}$, Section 4, Township 28 North, Range
9 39 East, M.D.B.&M., sufficient to form an adequate stock watering
10 hole behind said dam to be used by the said party of the second
11 part.

12 2. In order to obtain the benefits of the within
13 agreement, the said party of the first part shall maintain at
14 his sole cost and expense either the trough or other sufficient
15 stock watering device in the NE $\frac{1}{2}$ SE $\frac{1}{2}$, Section 5, Township 28 North,
16 Range 39 East, M.D.B.&M., to be used by the said party of the
17 second part.

18 3. To the extent water is available at the said dam,
19 it is the intention of this agreement to assure the said party
20 of the second part at the dam and at the trough, sufficient
21 water to satisfy the rights granted under Proof No. 02686 for
22 stock watering under said Order of Determination, and to allow
23 the said party of the first part to utilize any water over and
24 above any water necessary to satisfy the rights granted under
25 Proof No. 02686.

26 This agreement shall be binding on the heirs, successors
27 and assigns of the respective parties hereto.

28 IN WITNESS WHEREOF, the said parties hereto have
29 hereunto set their hands this 15th day of November, 1975.

30 Robert C. Vesco
Robert C. Vesco, successor
in interest to Chet Meyer

Albert Chabagno
Albert Chabagno, Administrator of
Estate of Manuel Chabagno, deceased

1 STATE OF NEVADA)
2 COUNTY OF Washoe) SS.

3 On November 15, 1975, personally
4 appeared before me, a Notary Public, ROBERT C. VESCO, who
5 acknowledged that she executed the above instrument.

6  LORETTA L. TIFFANY
7 Notary Public — State of Nevada
8 Washoe County
My Commission Expires Mar. 8, 1977
Loretta L. Tiffany
Notary Public

9 STATE OF NEVADA)
10 COUNTY OF Humboldt) SS.

11 On November 15, 1975, personally
12 appeared before me, a Notary Public, ALBERT CHABAGNO, who
13 acknowledged that he executed the above instrument.

14 *Albert Chabagno*
15 Notary Public

16  GLORIA G. EROWN
17 Notary Public — State of Nevada
18 Humboldt County
19 My Commission Expires April 28, 1976

REED & TOWEN
ATTORNEYS AT LAW
ARLINGTON-RIDGE BUILDING
280 SOUTH ARLINGTON AV.
RENO, NEVADA