

**STATE OF NEVADA
OFFICE OF THE STATE ENGINEER**

**McCONNELL CREEK, DOG CREEK, HORSE CREEK,
FALLS CREEK, PINE CREEK AND BUFFALO CREEK
ADJUDICATION**

**IN THE MATTER OF THE DETERMINATION OF THE
RELATIVE RIGHTS IN AND TO THE WATERS OF
McCONNELL CREEK, DOG CREEK, HORSE CREEK, FALLS CREEK,
PINE CREEK, BUFFALO CREEK AND THEIR TRIBUTARIES IN
HUMBOLDT COUNTY, NEVADA**

ORDER OF DETERMINATION

**PETER G. MORROS
STATE ENGINEER
Carson City, Nevada**

ADJUDICATION OF

**McCONNELL CREEK, DOG CREEK, HORSE CREEK, FALLS CREEK,
PINE CREEK, BUFFALO CREEK AND THEIR TRIBUTARIES**

* * * *

HUMBOLDT COUNTY, NEVADA

Presented herewith is the Order of Determination defining the rights to the waters of McConnell Creek, Dog Creek, Horse Creek, Falls Creek, Pine Creek, Buffalo Creek and their tributaries in Humboldt County, Nevada.

This Order is prepared under the provisions of Chapter 533 of NRS.



**PETER G. MORROS
State Engineer**

Made, filed, and caused to be entered of record in the office of the State Engineer, this 23rd day of October, 1985.

CERTIFICATION OF STATE ENGINEER

I, Peter G. Morros, State Engineer of the State of Nevada, duly appointed and qualified, having charge of the records and files of the office of the State Engineer, do hereby certify that the following is a full, complete and true copy of the Order of Determination in and to the waters of McConnell Creek, Dog Creek, Horse Creek, Falls Creek, Pine Creek, Buffalo Creek and their tributaries in Humboldt County, Nevada. This Order of Determination was prepared and filed in this office on the 23rd day of October, 1985.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Carson City, Nevada this 23rd day of October, 1985.


PETER G. MORROS
State Engineer

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**IN THE OFFICE OF THE STATE ENGINEER
OF THE STATE OF NEVADA**

**IN THE MATTER OF THE DETERMINATION)
OF THE RELATIVE RIGHTS IN AND TO THE)
WATERS OF McCONNELL CREEK, DOG)
CREEK, HORSE CREEK, FALLS CREEK, PINE)
CREEK AND BUFFALO CREEK AND THEIR)
TRIBUTARIES IN HUMBOLDT COUNTY,)
STATE OF NEVADA.)**

I. GENERAL

On August 4, 1976, a petition was submitted by Eleanore A. Wiedmann to the State Engineer requesting the determination of the relative rights of claimants to the waters of McConnell Creek, Dog Creek, Horse Creek, Falls Creek, Pine Creek and Buffalo Creek and their tributaries in Humboldt County, Nevada.

On January 27, 1977, the State Engineer entered Orders granting the petition and made proper arrangements to proceed with the determination of the relative rights of the water users in accordance with NRS 533.090.

II. CLAIMANTS

A field investigation by the State Engineer's office, conducted on August 4, 1976, disclosed that the waters of McConnell Creek, Dog Creek, Horse Creek, Falls Creek, Pine Creek and Buffalo Creek and their tributaries were being placed to beneficial use on lands in the Quinn River Valley for irrigation and stockwatering purposes.

Evidence contained in title documents, affidavits and proofs of appropriations submitted by the present claimant and petitioner indicate that Frank David and Janet C. Echave are successors in interest to vested rights initiated by their predecessors.

McCONNELL CREEK

Proof 0712 was filed by Humboldt Cattle Company on January 22, 1910, as a claim of vested right for irrigation of up to 1400 acres from McConnell Creek, Horse creek and Falls Creek. No map was filed with this proof. A priority date of 1873 was claimed for 480 acres in Section 15, T.42N., R.37E., M.D.B.&M., as the first irrigated land. The present owners of record for the proof are Frank David and Janet C. Echave.

Proof 02219 was filed on November 21, 1929, by Ellison Ranching Company, claiming vested rights for 432.25 acres from McConnell Creek and Horse Creek. The acreage is located in Sections 15, 16 and 21, T.42N., R.37E., M.D.B.&M. A priority date of earlier than 1873 was claimed for 14.5 acres in the SE1/4 NE1/4 of Section 15, T.42N., R.37E., M.D.B.&M., as first irrigated. A map supporting Proof 02219 was filed also on November 21, 1929, delineating the acres irrigated and the ditch systems used. Water was also claimed for stockwater. The proof's present owners of record are Frank David and Janet C. Echave.

Proof 02939 was filed on July 6, 1977, by Eleanore A. Wiedmann, claiming vested rights for 756.5 acres of irrigated land from McConnell Creek with a priority prior to 1873. Stockwater was also claimed. The land is located in Sections 15, 16, 21 and 22, T.42N., R.37E., M.D.B.&M. A map supporting this claim was filed on July 11, 1977. The proof's present owners of record are Frank David and Janet C. Echave.

Proof 02948 was filed on July 22, 1977, by the United States of America, Forest Service, claiming vested rights for stockwater from McConnell Creek and its tributaries. A priority of 1876 was claimed for approximately 1000 cattle and 100 horses, all along the natural channel.

Proof 02949 was filed on July 22, 1977, by the United States of America, Forest Service, claiming a vested right for instream flow for fish and wildlife propagation, all along the natural channel including headwaters.

Proof 02991 was filed on November 30, 1977, by the United States of America, U.S.D.I., Bureau of Land Management, Winnemucca District, claiming vested rights for stockwater from McConnell Creek. A map supporting the proof was filed on November 30, 1977. A priority of 1859 was claimed for 38,438 cattle, 5,212 horses, 383 mules, 26,741 sheep and 1,848 deer and other wildlife in all of Humboldt County.

Application 6357 was filed on December 9, 1920, by T.F. Minor and Blanch Minor. Certificate 3176 was issued for 4.8 c.f.s. or 1454 acre-feet of water from McConnell Creek and flood and surplus water from Buffalo Creek Ranch to irrigate 477.3 acres in Section 30, T.42N., R.37E., M.D.B.&M. The present owners of record are Howard Burnell Huttman and Vivian Claire Huttman.

Application 8524 was filed on April 24, 1928, by Lewis R. Persson. Certificate 2083 was issued for 0.453 c.f.s. or 301.4 acre-feet from McConnell Creek to irrigate 45.3 acres in Section 10, T.42N., R.37E., M.D.B.&M. The present owner of record is Woodrow and Rilda Eriksen.

DOG CREEK

Proof 02938 was filed on July 6, 1977, by Eleanore A. Wiedmann, claiming vested rights for 756.5 acres of irrigated land from Dog Creek with a priority prior to 1873. Stockwatering was also claimed. The land is located in Sections 15, 16, 21 and 22, T.42N., R.37E., M.D.B.&M. A map supporting this claim was filed on July 11, 1977. The present owners of record are Frank David and Janet C. Echave.

Proof 02945 was filed on July 22, 1977, by the United States of America, Forest Service, claiming vested rights for stockwater from Dog Creek and its tributaries. A priority of 1876 was claimed for approximately 1000 cattle and 100 horses along the natural channel.

Proof 02985 was filed on November 30, 1977, by the United States of America, U.S.D.I., Bureau of Land Management, Winnemucca District, claiming vested rights for stockwatering from Dog Creek. A map supporting the proof was filed on November 30, 1977. A priority of 1859 was claimed for 38,438 cattle, 5,212 horses, 383 mules, 26,741 sheep and 1,848 deer and other wildlife in all of Humboldt County.

HORSE CREEK

Proof 0712 was filed by Humboldt Cattle Company on January 22, 1910, as a claim of vested right for irrigation of up to 1400 acres from McConnell Creek, Horse creek and Falls Creek. No map was filed with this proof. A priority date of 1873 was claimed for 480 acres in Section 15, T.42N., R.37E., M.D.B.&M., as the first irrigated land. The present owners of record for the proof are Frank David and Janet C. Echave.

Proof 02219 was filed on November 21, 1929, by Ellison Ranching Company, claiming vested rights for 432.25 acres from McConnell Creek and Horse Creek. The acreage is located in Sections 15, 16 and 21, T.42N., R.37E., M.D.B.&M. A priority date of earlier than 1873 was claimed for 14.5 acres in the SE1/4 NE1/4 of Section 15, T.42N., R.37E., M.D.B.&M., as first irrigated. A map supporting Proof 02219 was filed also on November 21, 1929, delineating the acres irrigated and the ditch systems used. Water was also claimed for stockwater. The proof's present owners of record are Frank David and Janet C. Echave.

Proof 02937 was filed on July 6, 1977, by Eleanore A. Wiedmann, claiming 756.5 acres of irrigated land from Horse Creek with a priority of "prior to 1873". Stockwater was also claimed. The land is located in Sections 15, 16, 21 and 22, T.42N., R.37E., M.D.B.&M. A map supporting this claim was filed on July 11, 1977. The present owners of record are Frank David and Janet C. Echave.

Proof 02946 was filed on July 22, 1977, by the United States of America, Forest Service, claiming vested rights for stockwater from Horse Creek and tributaries. A priority of 1876 was claimed for 1000 cattle and 100 horses, all along the natural channel.

Proof 02947 was filed on July 22, 1977, by the United States of America, Forest Service, claiming a vested right with a priority of April 1, 1911, for instream flow from Horse Creek for fish and wildlife propagation, all along the natural channel including head waters.

Proof 02988 was filed on November 30, 1977, by the United States of America, U.S.D.I., Bureau of Land Management, Winnemucca District, claiming vested rights for stockwatering from Horse Creek. A map supporting the proof was filed on November 30, 1977. A priority of 1859 was claimed for 38,438 cattle, 5,212 horses, 383 mules, 26,741 sheep and 1,848 deer and other wildlife in all of Humboldt County.

FALLS CREEK

Proof 0712 was filed by Humboldt Cattle Company on January 22, 1910, as a claim of vested right for irrigation of up to 1400 acres from McConnell Creek, Horse creek and Falls Creek. No map was filed with this proof. A priority date of 1873 was claimed for 480 acres in Section 15, T.42N., R.37E., M.D.B.&M., as the first irrigated land. The present owners of record for the proof are Frank David and Janet C. Echave.

Proof 02218 was filed on November 21, 1929, by Ellison Ranching Company, as a claim of vested right from Falls Creek to irrigate 300.26 acres in Sections 15, 21 and 22, T.42N., R.37E., M.D.B.&M. Water was also claimed for stockwater. A priority date of earlier than 1873 was claimed. A map was filed on November 21, 1929, delineating the acreages and showing the ditch systems. The present owners of record are Frank David and Janet C. Echave.

Proof 02936 was filed on July 6, 1977, by Eleanore A. Wiedmann, as a claim of vested right to irrigate 756.5 acres from Falls Creek. Stockwatering was also claimed. The acreage is located in Sections 15, 16, 21 and 22, T.42N., R.37E., M.D.B.&M. A priority of "prior to 1873" was claimed. The present owners of record are Frank David and Janet C. Echave.

Proof 02942 was filed on July 22, 1977, by the United States of America, Forest Service, claiming vested rights for stockwater from Falls Creek and its tributaries. A priority of 1876 was claimed for approximately 1000 cattle and 100 horses, all along the natural channel.

Proof 02943 was filed on July 22, 1977, by the United States of America, Forest Service, claiming a vested right with a priority of April 1, 1911, for instream flow for fish and wildlife propagation in Falls Creek, all along the natural channel including head waters.

Proof 02987 was filed on November 30, 1977, by the United States of America, U.S.D.I., Bureau of Land Management, Winnemucca District, claiming vested rights for stockwatering from Falls Creek. A map supporting the proof was filed on November 30, 1977. A priority of 1859 was claimed for 38,438 cattle, 5,212 horses, 383 mules, 26,741 sheep and 1,848 deer and other wildlife in all of Humboldt County.

PINE CREEK

Proof 02935 was filed on July 6, 1977, by Eleanore A. Wiedmann, claiming vested rights for 731.5 acres of irrigated land from Pine Creek with a priority of "prior to 1873". Stockwatering was also claimed. The land is located in Sections 15, 16, 21 and 22, T.42N., R.37E., M.D.B.&M. A map supporting this claim was filed on July 11, 1977. The present owners of record are Frank David and Janet C. Echave.

Proof 02944 was filed on July 22, 1977, by the United States of America, Forest Service, claiming vested rights for stockwater from Pine Creek and its tributaries. A priority of 1876 was claimed for approximately 1000 cattle and 100 horses, all along the natural channel.

Proof 02989 was filed on November 30, 1977, by the United States of America, U.S.D.I., Bureau of Land Management, Winnemucca District, claiming vested rights for stockwatering from Pine Creek. A map supporting the proof was filed on November 30, 1977. A priority of 1859 was claimed for 38,438 cattle, 5,212 horses, 383 mules, 26,741 sheep and 1,848 deer and other wildlife in all of Humboldt County.

BUFFALO CREEK

Proof 0711 was filed by Humboldt Cattle Company on January 22, 1910, as a claim of vested right for water from Buffalo Creek to irrigate up to 1400 acres in Sections 15, 16, 21, 22 and 27, T.42N., R.37E., M.D.B.&M. No map was filed to support the proof. The present owners of record are Frank David and Janet C. Echave. The first irrigation was made prior to 1868 for an unknown number of acres in Section 22, T.42N., R.37E., M.D.B.&M.

Proof 02220 was filed on November 21, 1929, by Ellison Ranching Company, as a claim of vested right from Buffalo Creek with a priority of "prior to 1873" to irrigate 178.99 acres from Ditch #2; 237.60 acres from Ditch #3 and 153.09 acres from Ditch #4. The acreage is located in Sections 21, 22 and 27, T.42N., R.37E., M.D.B.&M. A claim for stockwater was also made. A map was filed on November 21, 1929, delineating the acreages and showing the ditch systems. The present owners of record are Frank David and Janet C. Echave.

Proof 02934 was filed on July 6, 1977, by Eleanore A. Wiedmann, as a claim of vested right from Buffalo Creek with a priority of "prior to 1873" to irrigate 1036.44 acres in Sections 15, 16, 21 and 22, T.42N., R.37E., M.D.B.&M. A claim of stockwater was also made. A map supporting the proof was filed on July 11, 1977. The present owners of record are Frank David and Janet C. Echave.

Proof 02940 was filed on July 22, 1977, by the United States of America, Forest Service, as a claim of vested right for stockwater from Buffalo Creek and its tributaries. A priority of 1876 was claimed for approximately 1000 cattle and 100 horses, all along the natural channel.

Proof 02941 was filed on July 22, 1977, by the United States of America, Forest Service, claiming a vested right with a priority of April 1, 1911, for instream flow from Buffalo Creek for fish and wildlife propagation, all along the natural channel including head waters.

Proof 02982 was filed on November 30, 1977, by the United States of America, U.S.D.I., Bureau of Land Management, Winnemucca District, claiming vested rights for stockwatering from Buffalo Creek. A map supporting the proof was filed on November 30, 1977. A priority of 1859 was claimed for 38,438 cattle, 5,212 horses, 383 mules, 26,741 sheep and 1,848 deer and other wildlife in all of Humboldt County.

Application 6357 was filed on December 9, 1920, by T.F. Minor and Blanch Minor. Certificate 3176 was issued for 4.8 c.f.s. or 1454 acre-feet of water from McConnell Creek and flood and surplus water from Buffalo Creek Ranch to irrigate 477.3 acres in Section 30, T.42N., R.37E., M.D.B.&M. The present owners of record are Howard Burnell Huttman and Vivian Claire Huttman.

A field investigation was made on February 15, 1982, by the State Engineer's office to review the additional claims of vested rights and the present condition of all the stream systems under this adjudication. The Buffalo Ranch is recipient to all the claims of vested rights under the present ownership of Frank David and Janet C. Echave.

Unless otherwise noted, Proofs 02934 through 02939, filed by Eleanor A. Wiedmann, which claim a total of 1792.94 acres, supersede all earlier claims of vested rights on the Buffalo Ranch.

Irrigation of the four portions of the Ranch is accomplished by various combinations of the six streams.

The most northerly portion of the ranch, which consists of the S1/2 of the N1/2, N1/2 of the S1/2, SW1/4 SW1/4 of Section 15; the S1/2 NE1/4 of Section 16; and the NW1/4 NW1/4 of Section 22, T.42N., R.37E., M.D.B.&M., is irrigated from McConnell, Horse, Dog and Falls Creeks.

Proceeding south, the next portion of the ranch consisting of the S1/2 S1/2 of Section 15, SE1/4 SE1/4 of Section 16; NW1/4, NW1/4 SW1/4 of Section 21; and N1/2 N1/2 of Section 22, T.42N., R.37E., M.D.B.&M., is irrigated from McConnell, Dog, Horse, Falls, Pine and Buffalo Creeks.

Further south, the next portion consisting of the S1/2 NE1/4, W1/2 SE1/4, N1/2 SW1/4 and S1/2 NW1/4 of Section 22, T.42N., R.37E., M.D.B.&M., is irrigated from Buffalo and Pine Creeks.

The most southern portion consisting of the SE1/4 NE1/4, W1/2 SE1/4 and S1/2 SW1/4 of Section 22; the SE1/4, S1/2 NE1/4 and NE1/4 SW1/4 of Section 21, T.42N., R.37E., M.D.B.&M., is irrigated from Buffalo Creek.

A small segment, located in the NE1/4 SW1/4 of Section 21, T.42N., R.37E., M.D.B.&M., is irrigated from Pine, Falls, Horse, Dog and McConnell Creeks.

In the Preliminary Order of Determination, Proofs 02940, 02942, 02944, 02945 and 02946, filed by the United States of America, Forest Service, were rejected for failure by the claimant to show it was a successor in interest to those persons or entities who actually put the water to beneficial use prior to 1905.

Proofs 02941, 02943, 02947 and 02949, filed by the United States of America, Forest Service, for instream flow for fish and wildlife propagation, were rejected on the grounds there was no evidence that the subject streams or lands through which the streams flow were managed for fish and wildlife purposes prior to 1905 or for many years thereafter.

Proofs 02982, 02985, 02987, 02988, 02989 and 02991, filed by the United States of America, U.S.D.I., Bureau of Land Management, were rejected for failure by the claimant to show it was a successor in interest to those persons or entities who actually put the water to beneficial use prior to 1905.

Objections to the Preliminary Order of Determination were filed on January 30, 1984, by the United States of America, Forest Service. The objections were stated as follows:

"There is nothing in State law that requires a claimant to prove it is a successor in interest to those who originally put the water to beneficial use. The Forest Service can show use of the water back to 1876 when the land was public domain and condoned trespass took place. Therefore, rejecting Forest Service claims based on succession is in error.

Second, use of water for instream flows to secure favorable condition of water flows is a valid reserved water right use of water and has been confirmed and validated by the Supreme Court in the Mimbres decision - United States vs. New Mexico, 438 U.S. 696 (1978), the claimed instream flows are to maintain riparian vegetation and to stabilize the banks of the stream channel in order to avoid erosion and subsequent sedimentation and damage to downstream lands and improvements."

A hearing of objections to the Preliminary Order of Determination was held by the State Engineer on June 8, 1984.

Exhibits and testimony were presented at the hearing and post hearing briefs were filed by the Forest Service and Frank David and Janet C. Echave.

Proofs 02941, 02943, 02947 and 02949, which were claims for instream flows filed by the United States of America, Forest Service, were withdrawn from consideration at their request.

Six amended proofs, submitted by the Forest Service as amendments to Proofs 02940, 02942 and 02944 filed for stockwatering from Buffalo, Falls and Pine Creeks, were accepted for consideration at the hearing for the objections to the Preliminary Order of Determination.

Proofs 02934 through 02939, filed in behalf of the Buffalo Creek Ranch, were amended to include domestic water as an additional manner of use at the hearing for the objections to the Preliminary Order of Determination.

After review and consideration of the evidence and testimony, the following is determined:

The proofs for instream flow claims were withdrawn by the Forest Service on the basis that the adjudication is limited to a determination of vested rights and, as such, federal reserved water right claims could not be considered. However the Forest Service maintains that "certain claims" do exist as established by Presidential Proclamation on April 1, 1911.

The limitation of vested water right claimants in this adjudication is not borne out by a provision of NRS 533.090 which allows "one or more water users of any stream or stream system to petition the state engineer requesting the determination of the relative rights of the various claimants to the waters thereof" and by NRS 533.145, which provides that the rights to be determined are those of "any person claiming any interest in the stream systems involved in the determination of relative rights to the use of water...". (Emphasis added.)

The Forest Service claims for instream flow as a vested or reserved right are inconsistent with United States v. New Mexico, 438 U.S. 696 (1978), where the United States Supreme Court, citing, with approval, the New Mexico Supreme Court decision which was affirmed, stated that "national forests could only be created 'to insure favorable conditions of water flow and to furnish a continuous supply of timber' and not for the purposes upon which the United States was now basing its asserted reserved rights in a minimum instream flow", and that "...stockwatering was not the purpose for which the national forests were created".¹

The United States of America, Forest Service, maintains it is the owner of all vested stockwater rights in the Santa Rosa National Forest (now Humboldt National Forest) appropriated by the original ranchers who obtained grazing permits from the United States Forest Service authorizing them to graze their livestock.

There is no record or evidence made available to the State Engineer that any water rights were transferred to the United States of America, Forest Service, in the Santa Rosa National Forest (now Humboldt National Forest) by the original livestock owners or their successors in interest.

The Forest Service cannot succeed to an interest in any stockwater right established through actual use by others on subject lands prior to 1905 without at least some legally binding instrument of transfer from the actual originator of the vested right.

Accordingly, a vested right for stockwatering is not established under Proofs 02940, 02942, 02944, 02945, 02946 and 02948 in this Order.

The manner of use of Proofs 02934, 02935, 02936, 02937, 02938 and 02939 is hereby amended in this Order to include irrigation, stockwatering and domestic use.

III. SOURCE

The headwaters of McConnell, Buffalo, Pine, Falls, Dog and Horse Creeks originate in the southwest slopes of the Santa Rosa Mountains at the 8000 foot level. The creeks flow westerly into the Quinn River Valley.

The creeks are fed by tributaries and melting snow and have a relatively high spring runoff which later recedes to intermittent flows in average years.

IV. PERIOD OF USE

The irrigation season set forth in claimants' proofs begins on March 15 and extends through July 15 of each year with the exception of Permit 6357, Certificate 3176, and Permit 8524, Certificate 2083.

¹ United States v. New Mexico, 438 U.S. 697 at 705-706.

The irrigation season is, therefore, herein fixed as being from March 15 through July 15 of each year, except when climatic conditions are such that irrigation during said period would not be in accordance with good husbandry and actual beneficial use of water, in which event, the State Engineer shall determine, by examination, the proper date for beginning of the irrigation season and shall set the date, giving notice to all concerned. The setting of the date shall be for the sole purpose of administration and distribution of water from the various stream systems under consideration herein. When the date of beginning of the irrigation season is changed from that fixed as above by order of the State Engineer, the date of the end of the irrigation season shall be determined by the State Engineer after examination, with notice to all parties.

V. DUTY OF WATER

The seasonal duty of water on lands irrigated from McConnell, Dog, Horse, Pine, Falls and Buffalo Creeks and their tributaries is herein fixed and shall not exceed:

Class A.....Harvest Crop	4.00 acre-feet/acre/season
Class B.....Meadow Pasture	3.00 acre-feet/acre/season
Class C.....Diversified Pasture	1.00 acre-foot/acre/season

VI. DIVERSION OF WATER AND METHOD OF USE

The claimant 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 under Article XI, Rights of Appropriation.

VII. MEASUREMENT OF WATER

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

VIII. STOCKWATERING AND DOMESTIC

The right to the diversion and use of water for stockwatering and domestic purposes shall be continued by the claimants named herein or their successors in interest at any time during the year. Stockwatering shall be allowed at any time that stock are present on the decreed lands described herein, or are grazing on the range, and such diversions shall be limited to the quantity of water reasonably necessary for such use.

The amount of water diverted for irrigation purposes shall not be increased by any amount to be used for stockwatering but the quantity allowed and diverted for irrigation during the irrigation season shall include water for stockwatering and domestic purposes.

IX. CHANGE OF PLACE OF USE

All water allotted under this order shall be appurtenant to the place of use designated herein. Any water user desiring to change the point of diversion, manner of use or place of use of the waters allotted herein must make an application to the State Engineer for permission to make the change pursuant to Nevada Revised Statute 533.345.

X. DECLARATION OF FULL APPROPRIATION

From the record of this adjudication proceeding and records of permits issued by this office, it is hereby determined that the waters of McConnell Creek, Dog Creek, Horse Creek, Falls Creek, Pine Creek and Buffalo Creek and their tributaries are fully appropriated during the irrigation season.

XL RIGHTS OF APPROPRIATION

The following tabulation lists the rights as determined by this Order: (An * indicates that the land described immediately thereafter is also irrigated from other streams addressed in this order. The water allocated to these lands is the total duty of water from all sources.)

PROOF NO.: 02934
CLAIMANT: Frank David and Janet C. Echave
SOURCE: Buffalo Creek and Tributaries
USE: Irrigation and Stockwater
MEANS OF DIVERSION: Dam, Natural Channel and Ditches
POINTS OF DIVERSION:

1. SE1/4 NE1/4 Section 36, T.42N., R.37E., M.D.B.&M., or at a point from which the North 1/4 corner of said Section 36 bears N. 43 degrees 02' 30" W., at 2215.4 feet.
2. NW1/4 NE1/4 Section 36, T.42N., R.37E., M.D.B.&M., or at a point from which the North 1/4 corner of said Section 36 bears N. 43 degrees 02' 30" W., at 1710.2 feet.
3. SE1/4 NE1/4 Section 26, T.42N., R.37E., M.D.B.&M., or at a point from which the East 1/4 corner of said Section 26 bears S. 77 degrees 18' E., at 750.7 feet.

PRIOR- ITY	CULTURAL ACREAGE			LOCATION			DUTY OF WATER		
	HARVEST	MEADOW PASTURE	DIVER- SIFIED PASTURE	SUB.:	SEC.:	TWP. N.	RGE.: E.	C.F.S.:	AC.FT.:
1873	*40.00			SE1/4SE1/4	15	42	37	1.0	160.00
1873	*40.00			SW1/4SE1/4	15	42	37	1.0	160.00
1873	*40.00			SE1/4SW1/4	15	42	37	1.0	160.00
1873	*36.95			SW1/4SW1/4	15	42	37	.924	147.80
1873	* 2.50			SW1/4SW1/4	15	42	37	.063	10.00
1873	* 4.96			SE1/4SE1/4	16	42	37	.124	19.84
1873	*22.50			NW1/4NE1/4	21	42	37	.563	90.00
1873	*32.88			NE1/4NE1/4	21	42	37	.822	131.52
1873	* 4.63			SE1/4NE1/4	21	42	37	.116	18.52
1873	* 5.29			SW1/4NE1/4	21	42	37	.132	21.16
1873			*40.00	NW1/4SW1/4	21	42	37	1.0	40.00
1873			40.00	NE1/4SW1/4	21	42	37	1.0	40.00
1873	15.54			SE1/4NE1/4	21	42	37	.388	62.16
1873	3.97			SW1/4NE1/4	21	42	37	.099	15.88
1873	40.00			NW1/4SE1/4	21	42	37	1.0	160.00
1873	39.77			NE1/4SE1/4	21	42	37	.994	159.08
1873	20.20			SE1/4SE1/4	21	42	37	.505	80.80
1873	18.00			SW1/4SE1/4	21	42	37	.450	72.00
1873	*30.74			NW1/4NW1/4	22	42	37	.769	122.96
1873	*40.00			NE1/4NW1/4	22	42	37	1.0	160.00
1873	*40.00			SE1/4NW1/4	22	42	37	1.0	160.00
1873	*40.00			SW1/4NW1/4	22	42	37	1.0	160.00
1873	*40.00			NW1/4NE1/4	22	42	37	1.0	160.00
1873	*40.00			NE1/4NE1/4	22	42	37	1.0	160.00
1873	*24.62			SE1/4NE1/4	22	42	37	.616	98.48
1873	*40.00			SW1/4NE1/4	22	42	37	1.0	160.00
1873	*40.00			NW1/4SE1/4	22	42	37	1.0	160.00
1873	* 2.80			NE1/4SE1/4	22	42	37	.07	11.20
1873	* 5.75			SE1/4SE1/4	22	42	37	.144	23.00

PRIOR- ITY	CULTURAL ACREAGE			LOCATION			DUTY OF WATER		
	HARVEST	MEADOW PASTURE	DIVER- SIFIED PASTURE	SUB.:	SEC.:	TWP. N.	RGE.: E.	C.F.S.:	AC.FT.:
1873	*38.81			SW½SE½	22	42	37	.970	155.24
1873	*32.23			NW½SW½	22	42	37	.805	128.92
1873	*39.34			NE½SW½	22	42	37	.984	157.36
1873	34.38			SE½SW½	22	42	37	.860	137.52
1873	7.00			NW½NW½	22	42	37	.175	28.00
1873	9.59			SE½NE½	22	42	37	.240	38.36
1873	30.47			NE½SE½	22	42	37	.762	121.88
1873	37.15			SE½SE½	22	42	37	.929	148.60
1873	.66			SE½SW½	22	42	37	.017	2.64
1873	<u>15.71</u>			SW½SW½	22	42	37	<u>.393</u>	<u>62.84</u>
TOTALS	956.44		<u>80.00</u>					25.914	3905.76

PROOF NO.: 02935
 CLAIMANT: Frank David & Janet C. Echave
 SOURCE: Pine Creek and Tributaries
 USE: Irrigation and Stockwater
 MEANS OF DIVERSION: Earth Dam, Natural Channel and Ditches
 POINTS OF DIVERSION:

1. SE1/4 SE1/4 Section 23, T.42N., R.37E., M.D.B.&M., or at a point from which the SE corner of said Section 23 bears S. 70 degrees 30' E., at 610 feet.
2. SW1/4 SW1/4 Section 23, T.42N., R.37E., M.D.B.&M., or at a point from which the SW corner of said Section 23 bears S. 18 degrees 38' W., at 1369.1 feet.

PRIOR- ITY	CULTURAL ACREAGE			LOCATION			DUTY OF WATER		
	HARVEST	MEADOW PASTURE	DIVER- SIFIED PASTURE	SUB.:	SEC.:	TWP. N.	RGE.: E.	C.F.S.:	AC.FT.:
1873	*40.00			SE½SE½	15	42	37	1.0	160.00
1873	*40.00			SW½SE½	15	42	37	1.0	160.00
1873	*40.00			SE½SW½	15	42	37	1.0	160.00
1873	*36.95			SW½SW½	15	42	37	.924	147.80
1873	* 4.96			SE½SE½	16	42	37	.124	19.84
1873	*22.50			NW½NE½	21	42	37	.563	90.00
1873	*32.88			NE½NE½	21	42	37	.822	131.52
1873	* 4.63			SE½NE½	21	42	37	.116	18.52
1873	* 5.29			SW½NE½	21	42	37	.132	21.16
1873			*40.00	NW½SW½	21	42	37	1.0	40.00
1873			*10.00	NE½SW½	21	42	37	.25	10.00
1873	*30.74			NW½NW½	22	42	37	.769	122.96
1873	*40.00			NE½NW½	22	42	37	1.0	160.00
1873	*40.00			SE½NW½	22	42	37	1.0	160.00

PRIOR- ITY	CULTURAL ACREAGE			LOCATION			DUTY OF WATER		
	HARVEST	MEADOW PASTURE	DIVER- SIFIED PASTURE	SUB.:	SEC.:	TWP. N.	RGE.:	C.F.S.:	AC.FT.:
1873	*40.00			SW¼NW¼	22	42	37	1.0	160.00
1873	*40.00			NW¼NE¼	22	42	37	1.0	160.00
1873	*40.00			NE¼NE¼	22	42	37	1.0	160.00
1873	*24.62			SE¼NE¼	22	42	37	.616	98.48
1873	*40.00			SW¼NE¼	22	42	37	1.0	160.00
1873	*40.00			NW¼SE¼	22	42	37	1.0	160.00
1873	* 2.80			NE¼SE¼	22	42	37	.07	11.20
1873	* 5.75			SE¼SE¼	22	42	37	.144	23.00
1873	*38.81			SW¼SE¼	22	42	37	.970	155.24
1873	*32.23			NW¼SW¼	22	42	37	.806	128.92
1873	*39.34			NE¼SW¼	22	42	37	.984	157.36
TOTALS	681.50		50.00					18.290	2776.00

PROOF NO.:

02936

CLAIMANT:

Frank David and Janet C. Echave

SOURCE:

Falls Creek and Tributaries

USE:

Irrigation and Stockwater

MEANS OF DIVERSION:

Dam, Natural Channel and Ditches

POINTS OF DIVERSION:

1. NE1/4 SE1/4 Section 19, T.42N., R.38E., M.D.B.&M., or at a point from which the East 1/4 corner of Section 24, T.42N., R.37E., M.D.B.&M., bears N. 84 degrees 01' W., at 5226.6 feet.
2. NE1/4 NW1/4 Section 23, T.42N., R.37E., M.D.B.&M., or at a point from which the North 1/4 corner of said Section 23 bears N. 8 degrees 37' E., at 115.0 feet.

PRIOR- ITY	CULTURAL ACREAGE			LOCATION			DUTY OF WATER		
	HARVEST	MEADOW PASTURE	DIVER- SIFIED PASTURE	SUB.:	SEC.:	TWP. N.	RGE.:	C.F.S.:	AC.FT.:
1873	*27.05			SW¼NW¼	15	42	37	.676	108.20
1873	*32.65			SE¼NW¼	15	42	37	.816	130.60
1873	*22.20			SW¼NE¼	15	42	37	.555	88.80
1873	*14.60			SE¼NE¼	15	42	37	.365	58.40
1873	*20.00			NW¼SE¼	15	42	37	.5	80.00
1873	*20.00			NE¼SE¼	15	42	37	.5	80.00
1873	*40.00			NW¼SW¼	15	42	37	1.0	160.00
1873	*40.00			NE¼SW¼	15	42	37	1.0	160.00
1873	* 2.50			SW¼SW¼	15	42	37	.063	10.00
1873	*20.00			NW¼SE¼	15	42	37	.5	80.00
1873	*20.00			NE¼SE¼	15	42	37	.5	80.00
1873	*40.00			SE¼SE¼	15	42	37	1.0	160.00
1873	*40.00			SW¼SE¼	15	42	37	1.0	160.00

PRIOR- ITY	CULTURAL ACREAGE			LOCATION				DUTY OF WATER	
	HARVEST	MEADOW PASTURE	DIVER- SIFIED PASTURE	SUB.:	SEC.:	TWP. N.	RGE.: E.	C.F.S.:	AC.FT.:
1873	*40.00			SE½SW½	15	42	37	1.0	160.00
1873	*36.95			SW½SW½	15	42	37	.924	147.80
1873	* 4.96			SE½SE½	16	42	37	.124	19.84
1873	*20.80			SE½NE½	16	42	37	.52	83.20
1873	*28.60			SW½NE½	16	42	37	.715	114.40
1873	*13.15			NE½SE½	16	42	37	.329	52.60
1873	*22.50			NW½NE½	21	42	37	.563	90.00
1873	*32.88			NE½NE½	21	42	37	.822	131.52
1873	* 4.63			SE½NE½	21	42	37	.116	18.52
1873	* 5.29			SW½NE½	21	42	37	.132	21.16
1873			*40.00	NW½SW½	21	42	37	1.0	40.00
1873			*10.00	NE½SW½	21	42	37	.25	10.00
1873	* 7.00			NW½NW½	22	42	37	.175	28.00
1873	*30.74			NW½NW½	22	42	37	.769	122.96
1873	*40.00			NE½NW½	22	42	37	1.0	160.00
1873	*40.00			NW½NE½	22	42	37	1.0	160.00
1873	*40.00			NE½NE½	22	42	37	1.0	160.00
TOTALS	706.50		50.00					18.914	2876.00

PROOF NO.:

02937

CLAIMANT:

Frank David and Janet C. Echave

SOURCE:

Horse Creek and Tributaries

USE:

Irrigation and Stockwater

MEANS OF DIVERSION:

Dam, Natural Channell and Ditches

POINTS OF DIVERSION:

1. SE1/4 SE1/4 Section 18, T.42N., R.38E., M.D.B.&M., or at a point from which the East 1/4 corner of Section 13, T.42N., R.37E., M.D.B.&M., bears N. 76 degrees 33' W., at 5425 feet.
2. NE1/4 SE1/4 Section 13, T.42N., R.37E., M.D.B.&M., or at a point from which the East 1/4 corner of said Section 13 bears N. 24 degrees 30' E., at 632 feet.
3. SE1/4 SE1/4 Section 14, T.42N., R.37E., M.D.B.&M., or at a point from which the East 1/4 corner of Section 13, T.42N., R.37E., M.D.B.&M., bears N. 78 degrees 29' 10" E., at 6450.5 feet.
4. SW1/4 SE1/4 Section 14, T.42N., R.37E., M.D.B.&M., or at a point from which the East 1/4 corner of Section 13, T.42N., R.37E., M.D.B.&M., bears N. 77 degrees 55' E., at 6765 feet.
5. SW1/4 SW1/4 Section 14, T.42N., R.37E., M.D.B.&M., or at a point from which the South 1/4 corner of said Section 14 bears S. 62 degrees E., at 1840 feet.
6. NE1/4 SW1/4 Section 14, T.42N., R.37E., M.D.B.&M., or at a point from which the NW corner of said Section 14 bears N. 31 degrees 15' W., at 3265 feet.

PRIOR- ITY	CULTURAL ACREAGE			LOCATION				DUTY OF WATER	
	HARVEST	MEADOW PASTURE	DIVER- SIFIED PASTURE	SUB.:	SEC.:	TWP. N.	RGE.:	C.F.S.:	AC.FT.:
1873	*27.05			SW¼NW¼	15	42	37	.676	108.20
1873	*32.65			SE¼NW¼	15	42	37	.816	130.60
1873	*22.20			SW¼NE¼	15	42	37	.555	88.80
1873	*14.60			SE¼NE¼	15	42	37	.365	58.40
1873	*20.00			NW¼SE¼	15	42	37	.5	80.00
1873	*20.00			NE¼SE¼	15	42	37	.5	80.00
1873	*40.00			NW¼SW¼	15	42	37	1.0	160.00
1873	*40.00			NE¼SW¼	15	42	37	1.0	160.00
1873	* 2.50			SW¼SW¼	15	42	37	.063	10.00
1873	*20.00			NW¼SE¼	15	42	37	.5	80.00
1873	*20.00			NE¼SE¼	15	42	37	.5	80.00
1873	*40.00			SE¼SE¼	15	42	37	1.0	160.00
1873	*40.00			SW¼SE¼	15	42	37	1.0	160.00
1873	*40.00			SE¼SW¼	15	42	37	1.0	160.00
1873	*36.95			SW¼SW¼	15	42	37	.924	147.80
1873	* 4.96			SE¼SE¼	16	42	37	.124	19.84
1873	*20.80			SE¼NE¼	16	42	37	.52	83.20
1873	*28.60			SW¼NE¼	16	42	37	.715	114.40
1873	*13.15			NE¼SE¼	16	42	37	.329	52.60
1873	*22.50			NW¼NE¼	21	42	37	.563	90.00
1873	*32.88			NE¼NE¼	21	42	37	.822	131.52
1873	* 4.63			SE¼NE¼	21	42	37	.116	18.52
1873	* 5.29			SW¼NE¼	21	42	37	.132	21.16
1873			*40.00	NW¼SW¼	21	42	37	1.0	40.00
1873			*10.00	NE¼SW¼	21	42	37	.25	10.00
1873	* 7.00			NW¼NW¼	22	42	37	.175	28.00
1873	*30.74			NW¼NW¼	22	42	37	.769	122.96
1873	*40.00			NE¼NW¼	22	42	37	1.0	160.00
1873	*40.00			NW¼NE¼	22	42	37	1.0	160.00
1873	*40.00			NE¼NE¼	22	42	37	1.0	160.00
TOTALS	756.50		50.00					18.924	2876.00

PROOF NO.:

02938

CLAIMANT:

Frank David and Janet C. Echave

SOURCE:

Dog Creek and Tributaries

USE:

Irrigation and Stockwater

MEANS OF DIVERSION:

Earth Dam and Ditch

POINTS OF DIVERSION:

1. NE1/4 NE1/4 Section 18, T.42N., R.38E., M.D.B.&M. (unsurveyed), or at a point from which the SE corner of Section 12, T.42N., R.37E., M.D.B.&M., bears S. 89 degrees 41' 15" W., at 5007.9 feet.
2. NW1/4 NW1/4 Section 14, T.42N., R.37E., M.D.B.&M., or at a point from which the NW corner of said Section 14 bears N. 27 degrees 14' W., at 1490 feet.

PRIOR- ITY	CULTURAL ACREAGE			LOCATION				DUTY OF WATER	
	HARVEST	MEADOW PASTURE	DIVER- SIFIED PASTURE	SUB.:	SEC.:	TWP. N.	RGE.: E.	C.F.S.:	AC.FT.:
1873	*27.05			SW½NW½	15	42	37	.676	108.20
1873	*32.65			SE½NW½	15	42	37	.816	130.60
1873	*22.20			SW½NE½	15	42	37	.555	88.80
1873	*14.60			SE½NE½	15	42	37	.365	58.40
1873	*20.00			NW½SE½	15	42	37	.5	80.00
1873	*20.00			NE½SE½	15	42	37	.5	80.00
1873	*40.00			NW½SW½	15	42	37	1.0	160.00
1873	*40.00			NE½SW½	15	42	37	1.0	160.00
1873	* 2.50			SW½SW½	15	42	37	.063	10.00
1873	*20.00			NW½SE½	15	42	37	.5	80.00
1873	*20.00			NE½SE½	15	42	37	.5	80.00
1873	*40.00			SE½SE½	15	42	37	1.0	160.00
1873	*40.00			SW½SE½	15	42	37	1.0	160.00
1873	*40.00			SE½SW½	15	42	37	1.0	160.00
1873	*36.95			SW½SW½	15	42	37	.924	147.80
1873	* 4.96			SE½SE½	16	42	37	.124	19.84
1873	*20.80			SE½NE½	16	42	37	.52	83.20
1873	*28.60			SW½NE½	16	42	37	.715	114.40
1873	*13.15			NE½SE½	16	42	37	.329	52.60
1873	*22.50			NW½NE½	21	42	37	.563	90.00
1873	*32.88			NE½NE½	21	42	37	.822	131.52
1873	* 4.63			SE½NE½	21	42	37	.116	18.52
1873	* 5.29			SW½NE½	21	42	37	.132	21.16
1873			*40.00	NW½SW½	21	42	37	1.0	40.00
1873			*10.00	NE½SW½	21	42	37	.25	10.00
1873	* 7.00			NW½NW½	22	42	37	.175	28.00
1873	*30.74			NW½NW½	22	42	37	.769	122.96
1873	*40.00			NE½NW½	22	42	37	1.0	160.00
1873	*40.00			NW½NE½	22	42	37	1.0	160.00
1873	*40.00			NE½NE½	22	42	37	1.0	160.00
TOTALS	706.50		50.00					18.914	2876.00

PROOF NO.:

02939

CLAIMANT:

Frank David and Janet C. Echave

SOURCE:

McConnell Creek

USE:

Irrigation and Stockwater

MEANS OF DIVERSION:

Earth Dam, Natural Channel and Ditch

POINTS OF DIVERSION:

1. SW1/4 NW1/4 Section 8, T.42N., R.38E., M.D.B.&M. (unsurveyed), or at a point from which the SE corner of Section 12, T.42N., R.37E., M.D.B.&M., bears S. 61 degrees 22' E., at 7431.7 feet.

PRIOR- ITY	CULTURAL ACREAGE			LOCATION				DUTY OF WATER	
	HARVEST PASTURE	MEADOW PASTURE	DIVER- SIFIED PASTURE	SUB.:	SEC.:	TWP. N.	RGE.: E.	C.F.S.:	AC.FT.:
1873	*27.05			SW½NW½	15	42	37	.676	108.20
1873	*32.65			SE½NW½	15	42	37	.816	130.60
1873	*22.20			SW½NE½	15	42	37	.555	88.80
1873	*14.60			SE½NE½	15	42	37	.365	58.40
1873	*20.00			NW½SE½	15	42	37	.5	80.00
1873	*20.00			NE½SE½	15	42	37	.5	80.00
1873	*40.00			NW½SW½	15	42	37	1.0	160.00
1873	*40.00			NE½SW½	15	42	37	1.0	160.00
1873	* 2.50			SW½SW½	15	42	37	.063	10.00
1873	*20.00			NW½SE½	15	42	37	.5	80.00
1873	*20.00			NE½SE½	15	42	37	.5	80.00
1873	*40.00			SE½SE½	15	42	37	1.0	160.00
1873	*40.00			SW½SE½	15	42	37	1.0	160.00
1873	*40.00			SE½SW½	15	42	37	1.0	160.00
1873	*36.95			SW½SW½	15	42	37	.934	147.80
1873	* 4.96			SE½SE½	16	42	37	.124	19.84
1873	*20.80			SE½NE½	16	42	37	.52	83.20
1873	*28.60			SW½NE½	16	42	37	.715	114.40
1873	*13.15			NE½SE½	16	42	37	.329	52.60
1873	*22.50			NW½NE½	21	42	37	.563	90.00
1873	*32.88			NE½NE½	21	42	37	.822	131.52
1873	* 4.63			SE½NE½	21	42	37	.116	18.52
1873	* 5.29			SW½NE½	21	42	37	.132	21.16
1873			*40.00	NW½SW½	21	42	37	1.0	40.00
1873			*10.00	NE½SW½	21	42	37	.25	10.00
1873	* 7.00			NW½NW½	22	42	37	.175	28.00
1873	*30.74			NW½NW½	22	42	37	.769	122.96
1873	*40.00			NE½NW½	22	42	37	1.0	160.00
1873	*40.00			NW½NE½	22	42	37	1.0	160.00
1873	*40.00			NE½NE½	22	42	37	1.0	160.00
TOTALS	706.50		50.00					18.914	2876.00

PERMIT NO.: 6357
CERTIFICATE OF APPROPRIATION: 3176
OWNER OF RECORD: Howard Burnell Huttman and Vivian Claire Huttman
SOURCE: McConnell and Buffalo Creeks
USE: Irrigation and Domestic
MEANS OF DIVERSION: Minor Ditch
POINT OF DIVERSION:

1. At a point about 40 feet north of the South 1/4 corner of Section 20, T.42N., R.37E., M.D.B.&M., and from which the SE corner of Section 21, T.42N., R.37E., M.D.B.&M., bears S. 89 degrees 43' E., at 7923 feet.

PERIOD OF USE: April 1st to September 1st
PRIORITY: December 9, 1920
AMOUNTY OF APPROPRIATION: 4.8 c.f.s. or 1454 acre-feet per season

DESCRIPTION OF LAND TO WHICH WATER IS APPURTENANT:

40.0 acres in NE1/4 NE1/4 Section 30, T.42N., R.37E., M.D.B.&M.
37.3 acres in SE1/4 NE1/4 Section 30, T.42N., R.37E., M.D.B.&M.
80.0 acres in N1/2 NE1/4 Section 30, T.42N., R.37E., M.D.B.&M.
160.0 acres in SE1/4 Section 30, T.42N., R.37E., M.D.B.&M.
80.0 acres in E1/2 NW1/4 Section 30, T.42N., R.37E., M.D.B.&M.
80.0 acres in E1/2 SW1/4 Section 30, T.42N., R.37E., M.D.B.&M.

477.3 Acres Total

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PERMIT NO.: 8524
CERTIFICATE OF APPROPRIATION: 2083
OWNER OF RECORD: Woodrow Eriksen and Rilda Eriksen
SOURCE: McConnell Creek
USE: Irrigation and Domestic
MEANS OF DIVERSION: McConnell Ditch
POINT OF DIVERSION:

1. SE1/4 NW1/4 Section 8, T.42N., R.38E., M.D.B.&M. (unsurveyed), or at a point from which the East 1/4 corner of Section 12, T.42N., R.37E., M.D.B.&M., bears N. 81 degrees 35' E., at 7203 feet.

PERIOD OF USE: January 1st to December 31st
PRIORITY: April 24, 1928
AMOUNTY OF APPROPRIATION: 0.453 c.f.s. or 301.4 acre-feet per season

DESCRIPTION OF LAND TO WHICH WATER IS APPURTENANT:

39.1 acres in NW1/4 SE1/4 Section 10, T.42N., R.37E., M.D.B.&M.
6.2 acres in SW1/4 SE1/4 Section 10, T.42N., R.37E., M.D.B.&M.

45.3 Acres Total