No. 301898 Dept. No. 3

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT

OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF WASHOE

* * * *

IN THE MATTER OF THE DETERMINATION OF THE RELATIVE RIGHTS IN AND TO THE WATERS OF MUSGROVE CREEK (aka BIG CANYON CREEK) AND ITS TRIBUTARIES IN WASHOE COUNTY,

FILED
DEC 3 2 20 PM '75
A. X C. CLERK
BY M. STAFFORD
DEPUTY

FINDINGS OF FACT, CONCLUSIONS OF LAW

JUDGMENT AND DECREE

This matter came on regularly for hearing on the 3rd day of April, 1975, before the Honorable John E. Gabrielli, District Judge presiding. Musgrove Creek and its tributaries exemplified in these proceedings, being within Washoe County, State of Nevada, and he being the Judge designated by NRS 533.165 to hear and having jurisdiction to hear the above entitled matter of the State Engineer's determination of the relative rights of the claimants to the use of the waters of the stream system of Musgrove Creek and its tributaries. The Order of Determination and all related documentary evidence had been previously filed with the Clerk of said district by the State Engineer.

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.

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

Harry W. Swainston, thereupon, at the hearing,

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offered verified affidavits, files and records of the State Engineer's Office, all contained in support of the rights of the claimants in and to the above named stream system.

On April 3, 1975, the Court, having considered the entire record and the evidence introduced and received, including the cost bill, directed the State Engineer to prepare the Findings of Fact, Conclusions of Law, and Judgment and Decree affirming the Order of Determination, in accordance with NRS 533.186.

FINDINGS OF FACT

I.

The Court Finds: That the State Engineer after due consideration and investigation decided that facts and conditions warranted the initiation of proceedings to determine the relative rights of the claimants in and to the waters of Musgrove Creek and its tributaries in Washoe County, State of Nevada. That the investigation disclosed that the waters of Musgrove Creek and its tributaries were being placed to beneficial use for irrigation, stock watering and domestic purposes as affirmed by proofs of appropriation filed in the Office of the State Engineer. That evidence contained in the title documents submitted by the claimants, relative to the land, indicates the present claimants and appropriators, Grant J. Weise, Robert G. Rogers, and James H and Yvonne Lathrop, are the successors in interest to vested water rights initiated and claimed by their predecessors.

That on October 22, 1971, the State Engineer entered an Order and made proper arrangements to proceed with the determination of the relative rights of the water users in accordance with NRS 533.090.

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That on December 2, 1971, and once each week for four succeeding weeks, the State Engineer did cause to be published a Notice of Order and Proceedings to Determine the Water Rights in and to the waters of Musgrove Creek and its tributaries in Washoe County, State of Nevada, and that notice was duly given to all claimants as required by law. That on January 6, 1972, there was filed in the Office of the State Engineer an affidavit of the record clerk of the Sparks Tribune, exemplifying the Proof of Publication of Notice of Order and Proceedings.

That the State Engineer did cause to be published on January 6, 1972, and once each week for four succeeding weeks, a Notice of Order for Taking Proofs to Determine Water Rights, in and to the waters of Musgrove Creek in Washoe County, State of Nevada, and that notice was duly given to all claimants as required by law. That on February 10, 1972, there was filed in the Office of the State Engineer an affidavit of the record clerk of the Sparks Tribune, exemplifying the Proof of Publication of the Notice of Order for Taking Proofs.

That thereafter, in accordance with NRS 533.125 The State Engineer did file in the records of his office on April 17, 1972, a request to extend the time in which proofs may be filed. That he did grant an extension of time to file proofs and that notices thereof were duly given to all claimants.

That the State Engineer, in accordance with NRS 533.140, did file in the records of his office on July 24, 1974, an Abstract of Claims, a Preliminary Order of Determination, and a Notice and Order Fixing and Setting Time and Place

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of Inspection, stating when and where the evidence taken by or filed with him and the proofs of claims were open to the inspection of all interested persons; and that notice thereof was duly given to all claimants as required by law.

That on September 25, 1974, Objections to the Preliminary Order of Determination were filed in the State Engineer's Office by Grant J. Weise.

That on December 3, 1974, a Hearing on the Objections to the Preliminary Order of Determination was held before the State Engineer of the State of Nevada pursuant to NRS 533.150.

That the State Engineer, in accordance with NRS 533.160 entered in the records of his office, on February 3, 1975, an Order of Determination defining the rights of the claimants and appropriators to the waters of Musgrove Creek and its tributaries and that notice thereof was duly given to all claimants as required by law.

That upon the filing of the certified copy of the Order of Determination and the original evidence with the Clerk of the Court of Washoe County, State of Nevada, the Court, at the request of the State Engineer, made and entered an Order on February 4, 1975, setting a time for hearing of any exception to the Order of Determination on Thursday, April 3, 1975, at 1:30 o'clock in the afternoon in the courtroom of the courthouse in Reno, Washoe County, Nevada; and that the Clerk of said Court did furnish the State Engineer with a certified copy thereof.

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

That on February 15, 1975, and once each week for four succeeding weeks, the State Engineer did cause to be published the Court Order Setting Time For Hearing, and that thereafter on March 18, 1975, there was filed in the Office of the State Engineer an affidavit of the legal clerk of the Reno Evening Gazette, exemplifying the Proof of Publication of the Court Order Setting Time For Hearing.

That 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 statutes, and that this Court had and has jurisdiction to hear and determine this matter.

II.

The Court Further Finds: That Musgrove Creek and its tributaries exemplified in these proceedings is situated wholly within Washoe County, State of Nevada.

III.

The Court Further Finds: That the names of the claimants and appropriators of the waters of Musgrove Creek and its tributaries, the source of the water supply, the manner of use of the water, the period of use, the duty of water, the diversion of water and method of use, measurement of water, stock watering and domestic use, change of place of use, and the rights of appropriation of the water, all as set forth in the Order of Determination are true, proper and correct, and all and singular, the same should be approved and confirmed.

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I. SOURCE

The headwaters of Musgrove Creek originate on the northeastern slopes of the Carson Range, approximately two miles due west of Lakeview Summit in Section 33, T.16N., R.19E.,M.D.B.& M. There ae two tributaries to Musgrove Creek being waters from Big Canyon and an unnamed stream, both originating in Section 28, T.16N., R.19E., M.D.B.& M.

Musgrove Creek flows northerly until it reaches the meadows in Washoe Vallue and it then bears northeasterly and the channel terminates near Highway 395. The stream is fed by tributaries and springs and melting snow, having a relatively high spring runoff which later recedes to an intermittent flow and frequently becomes dry in the later summer months.

II. PERIOD OF USE

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

III. DUTY OF WATER

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

Class A--Harvest crop--4.5 ac.ft./ac./season

Class B--Meadow Pasture--4.0 ac.ft./ac./season

IV. DIVERSION OF WATER AND METHOD OF USE

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 in acre feet as established herein.

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

V. 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. The claimants shall install and maintain at their own expense, substantial and easily operated regulating headgates and measuring devices in their ditch or ditches or channel. Due allowance for losses in ditches will be made by the State Engineer in the event it becomes necessary.

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

VI. STOCK WATERING AND DOMESTIC

The right to the diversion and use of water for stock watering and domestic purposes shall be continued by the claimants named herein or their successors in interest at any time during the year that stock are grazing on the range, and such diversions shall be according to the dates of priorities of such water users and limited to the quantity of water reasonably necessary for such use. If a claimant is not in priority for irrigation water then the claimant is not in priority for stock water and domestic water.

The amount of water diverted for irrigation purposes shall not be increased by any amount to be used for stock

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watering and domestic purposes, but the quantity allowed and diverted for irrigation during the irrigation season shall include water for stock watering and domestic purposes.

VII. CHANGE OF PLACE OF USE

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

VIII. RIGHTS OF APPROPRIATION

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

CONCLUSIONS OF LAW

From the evidence presented and received in this matter, and from the foregoing Findings of Fact, the Court makes the following Conclusions of Law:

I.

That the State Engineer had the right, authority and jurisdiction pursuant to Chapter 533 of NRS to make the investigation made by him, receive the proofs and maps, enter and file in his office the original Order of Determination

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and file a certified copy thereof in this Court, and to determine the relative rights of the claimants and appropriators in and to the waters of Musgrove Creek and its tributaries in Washoe County, State of Nevada; that the State Engineer duly made all orders necessary and proper in connection therewith and entered the same in his office as required by Chapter 533 of NRS. That each and every notice required by law to be given herein to the claimants and appropriators was duly served by the State Engineer in the manner and within the time required by statute, and that the notices contained all of the statements required by law, and that the claimants and appropriators of the waters of the above named stream system and its tributaries duly received the information and notices, as required by law.

II.

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

III.

That Grant J. Weise, Robert G. Rogers and James H. and Yvonne Lathrop are the only claimants of vested rights recognized in this Decree who were appropriators and users of the Waters of Musgrove Creek and its tributaries on the date the Order of Determination was filed with the Clerk of the Court, and on the date of the hearing on this matter.

IV.

That the water for irrigation is allowed to be used at any time, provided that the amount applied to the

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land during any calendar year shall not exceed the quantity in acre feet herein set forth.

V.

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

Class A--Harvest Crop--4.5 ac.ft./ac/season

Class B--Meadow Pasture-4.0 ac.ft./ac/season

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 in acre feet as established herein.

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

VII.

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

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

VIII.

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

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

IX.

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

X.

That from the Order of Determination and the documentary evidence presented at the hearing in support thereof, the Court finds that the names of the claimants and appropriators of the waters of Musgrove Creek and its tributaries,

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the source of the water supply, the manner of use of the water, the means of diversion, the points of diversion for beneficial use, the period of use, the years of priority, the cultural acreages, the places of use, the legal subdivisions, sections, townships, ranges, and the duty of water are as listed, stated and set forth.

XI.

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

JUDGMENT AND DECREE

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

I.

That the State Engineer made all necessary and proper orders as required by law, and that each and every notice required by law was duly given to the claimants and appropriators; that the claimants and appropriators had full opportunity to appear and be heard in objection to and file exceptions to the Order of Determination; that Grant J. Weise, Robert G. Rogers, and James H. and Yvonne Lathrop are the only claimants of vested water rights recognized in this Decree as appropriators of the waters of Musgrove Creek and its tributaries and that 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.

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II.

That the waters of Musgrove Creek and its tributaries are being placed to beneficial use by Grant J. Weise, Robert G. Rogers, and James H. and Yvonne Lathrop for irrigation, stock watering, and domestic purposes.

III.

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

IV.

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

Class A--Harvest Crop--4.5 ac.ft./ac./season

Class B--Meadow Pasture-4.0 ac.ft./ac./season

V.

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 alloted to them in a continuous flow, but may cumulate the same or any part thereof in rotation or periodic turn within the seasonal limits, with the approval of the Water Commissioner and subject to the control and direction of the State Engineer.

VI.

That all measurements of water diverted are to be made at a point where the main ditch enters or becomes adjacent to the land to be irrigated or as near thereto as is practicable; that

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the location, if not selected by the State Engineer, is to be approved by him. That the claimants shall install and maintain at their own expense, substantial and easily operated regulating head-gates and measuring devices in their ditch or ditches or channel. That due allowance for losses in ditches will be made by the State Engineer in the event it becomes necessary.

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

VII.

That the right to the diversion and use of water for stock watering and domestic purposes shall be continued by the claimants named herein or their successors in interest at any time during the year that stock are grazing on the range, and such diversions shall be according to the dates of priorities of such water users and limited to the quantity of water reasonably necessary for such use. If a claimant is not in priority for irrigation water, then the claimant is not in priority for stock water and domestic water.

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

VIII.

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

IX.

That the names of the claimants and appropriators of the waters of Musgrove Creek and its tributaries, the

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source of the water supply, the manner of use of the water, the means of diversion, the points of diversion for beneficial use, the period of use, the years of priority, the cultural acreages, the places of use, the legal subdivisions, sections, townships, ranges, and the duty of water are hereby adjudged as follows:

PROOF NO.: Amended 02540

CLAIMANT: Grant J. Weise

SOURCE: Musgrove Creek and Tributaries

USE: Irrigation and Stock Watering

MEANS OF DIVERSION: Concrete Boxes, Flume and Ditches

POINTS OF DIVERSION:

1. SW1/4NW1/4 Section 27, T.16N., R.19E., M.D.B. & M., or at a point from which the NW corner of said Section 27 bears N. 14° 42' 20" E., a distance of 1,462 feet.

2. SW1/4NE1/4 Section 22, T.16N., R.19E., M.D.B. & M., or at a point from which the E1/4 corner of said Section 22, bears S. 67° 43' 20" E., a distance of 2,066 feet.

3. NE1/4NE1/4 Section 22, T.16N., R.19E., M.D.B. & M., or at a point from which the E1/4 corner of said Section 22 bears S. 22° 15' E., a distance of 2,510 feet.

PRIORITY	CULTURAL ACREAGE: HARVEST	MEADOW: PASTURE:	LOCATION SUBD.	SEC.	TWP. N.	RGE. E.	DUTY OF WATER C.F.S.	AC.FT.
1858	10.0	--	NE1/4SE1/4	22	16	19	0.250	45.00
Prior to 1870	24.0	--	NE1/4SE1/4	22	16	19	0.600	108.00
Prior to 1870	--	14.8	NW1/4SE1/4	22	16	19	0.370	59.20
Prior to 1870	16.6	1.4	SW1/4NE1/4	22	16	19	0.450	80.30
Prior to 1870	40.0	--	SE1/4NE1/4	22	16	19	1.000	180.00
Prior to 1870	32.5	--	NE1/4NE1/4	22	16	19	0.813	146.25

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PROOF NO.: Amended 02540 (Continued):

PRIORITY	CULTURAL ACREAGE: HARVEST	MEADOW: PASTURE:	LOCATION SUBD.	SEC.	TWP. N.	RGE. E.	DUTY OF WATER C.F.S.	AC.FT.
Prior to 1870	15.0	--	NW1/4NE1/4	22	16	19	0.375	67.50
Prior to 1870	15.0	--	NW1/4SW1/4	23	16	19	0.375	67.50
Prior to 1870	32.2	3.8	NW1/4NW1/4	23	16	19	0.900	160.10
Prior to 1870	--	35.0	NE1/4NW1/4	23	16	19	0.875	140.00
Prior to 1870	--	33.5	NW1/4NE1/4	23	16	19	0.837	134.00
Prior to 1870	--	32.0	NE1/4NE1/4	23	16	19	0.800	128.00
1870	33.0	--	SW1/4NW1/4	23	16	19	0.825	148.50
1870	--	5.0	SE1/4NW1/4	23	16	19	0.125	20.00
1870	--	17.0	NE1/4SW1/4	23	16	19	0.425	68.00
TOTAL	218.3	142.5					9.020	1552.35

PROOF NO.: 02558

CLAIMANT: Robert G. Rogers

SOURCE: Musgrove Creek and Tributaries

USE: Irrigation, Stock Watering and Domestic

MEANS OF DIVERSION: Dams, Ditches and Pipeline

POINTS OF DIVERSION:

1. SW1/4NW1/4 Section 27, T. 16N., R.19E.,, M.D.B. & M., or at a point from which the NW corner of said Section 27, bears N. 20° 19'W., a distance of 1,491 feet.

2. *NE1/4SW1/4 Section 22, T.16N., R.19E., M.D.B.& M., or at a point from which the SW corner of said Section 22, bears S. 48° 30' W., a distance of 2,050 feet.

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3. NE1/4SW1/4 Section 22, T.16N., R.19E., M.D.B.& M., or at a point from which the SW corner of said Section 22, bears S. 35° 50' W., a distance of 2,716 feet.

4. NE1/4SW1/4 Section 22, T.16N., R.19E., M.D.B. & M., or at a point from which the SW corner of said section 22, bears S. 33° 35' W., a distance of 3,112 feet.

5. SE1/4NW1/4 Section 22, T.16N., R.19E., M.D.B.& M., or at a point from which the SW corner of said Section 22, bears S. 38° 00' W., a distance of 3,870 feet.

*Claimant Robert G. Rogers has stipulated that he will file an application to change point of diversion #2 described above, to a point on Musgrove Creek located on his property.

PRIORITY	CULTURAL ACREAGE: HARVEST	MEADOW: PASTURE:	LOCATION SUBD.	SEC.	TWP. N.	RGE. E.	DUTY OF WATER C.F.S.	AC.FT.
1870	--	9.42	NW1/4NW1/4	22	16	19	0.235	37.68
1870	0.08	27.30	NE1/4NW1/4	22	16	19	0.685	109.56
1870	11.43	2.57	NW1/4NE1/4	22	16	19	0.350	61.72
1870	9.22	--	SW1/4NE1/4	22	16	19	0.230	41.49
1870	1.52	19.28	SW1/4NW1/4	22	16	19	0.520	83.96
1870	--	20.43	SW1/4NW1/4	22	16	19	0.511	81.72
1870	--	12.49	NW1/4SW1/4	22	16	19	0.312	49.96
1870	1.10	1.06	NE1/4SW1/4	22	16	19	0.054	9.19
TOTAL	23.35	92.55					2.897	475.28

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PROOF NO.: 02775

CLAIMANTS: James H. and Yvonne Lathrop

SOURCE: Musgrove Creek and Tributaries

USE: Irrigation

MEANS OF DIVERSION: Dams and Ditches

POINTS OF DIVERSION:

1. NE1/4SW1/4 Section 22, T.16N., R.19E., M.D.B. & M., or at a point from which the SW corner of said Section 22, bears S. 35° 50' W., a distance of 2,716 feet.

2. NE1/4SW1/4 Section 22, T. 16N., R.19E., M.D.B. & M., or at a point from which the SW corner of said Section 22, bears S. 33° 35' W., a distance of 3,112 feet.

3. SE1/4NW1/4 Section 22, T.16N., R.19E., M.D.B.& M., or at a point from which the SW corner of said Section 22, bears S. 38° 00' W., a distance of 3,870 feet.

PRIORITY	CULTURAL ACREAGE: HARVEST	MEADOW: PASTURE:	LOCATION SUBD.	SEC.	TWP. N.	RGE. E.	DUTY OF WATER C.F.S.	AC.FT
1903	1.03	--	SW1/4SW1/4	15	16	19	0.026	4.64
1903	15.42	--	SE1/4SW1/4	15	16	19	0.386	69.39
1903	31.13	--	SW1/4SE1/4	15	16	19	0.778	140.08
1903	8.61	15.32	SE1/4SE1/4	15	16	19	0.598	100.03
1903	2.27	--	NW1/4NW1/4	22	16	19	0.057	10.21
1903	12.08	--	NE1/4NW1/4	22	16	19	0.302	54.36
1903	9.92	--	NW1/4NE1/4	22	16	19	0.248	44.64
1903	--	6.05	NE1/4NE1/4	22	16	19	0.151	24.20
TOTAL	80.46	21.37					*2.546	*447.55

*The lands tabulated above are permitted to use any of the runoff waste waters draining from lands of higher elevation, provided that the quantity of water placed on the subject lands from all sources shall not exceed the flow and the quantity in acre feet hereinbefore designated

DATED this 1st day of December, 1975.

John E. Gabrielli
District Judge

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

No. 301898 Dept. No. 3

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * * *

IN THE MATTER OF THE DETERMINATION OF THE RELATIVE RIGHTS IN AND TO THE WATERS OF MUSGROVE CREEK (aka BIG CANYON CREEK) AND ITS TRIBUTARIES IN WASHOE COUNTY,

_____/

STIPULATION TO AMEND FINDINGS OF FACT, CONCLUSIONS OF LAW, JUDGMENT AND DECREE

It is hereby stipulated by and among GRANT J. WEISE, SR., the LIGHTNING "W" RANCH, ROBERT G. ROGERS, and JAMES H. LATHROP, claimants herein and appropriators of the waters of Musgrove Creek and its tributaries, and the State of Nevada Division of Water Resources, that the Findings of Fact, Conclusions of Law, Judgment and Decree heretofore entered by the Court in this matter on the 1st day of December, 1975, shall be amended as follows:

A portion of Paragraph IX beinning at line 19 on page 16, and continuing through line 14 on page 17, of the Judgment and Decree shall be changed to read as follows:

"PROOF NO.: 02558

CLAIMANT: Robert G. Rogers

SOURCE: Musgrove Creek and Tributaries

USE: Irrigation, Stock Watering and Domestic

MEANS OF DIVERSION: Dams, Ditches and Pipeline

POINTS OF DIVERSION:

1. *NE 1/4 SW 1/4 Section 22, T.16N., R19E., M.D.B.&M., or at a point from which the SW corner of said Section 22, bears S. 35° 50' W., a distance of 2,716 feet.

2. *NE 1/4 SW 1/4 Section 22, T.16N., R.19E., M.D.B.&M., or at a point from which the SW corner of said Section 22, bears S. 33° 35' W., a distance of 3,112 feet.

LAW OFFICES
ALLISON, BRUNETTI, MacKENZIE & TAYLOR, LTD.
402 N. Division St.
Carson City, NV 89701

3. *SE 1/4 NW 1/4 Section 22, T.16N., R.19E., M.D.B.&M., or at a point from which the SW corner of said Section 22, bears S. 38° 00' W., a distance of 3,870 feet.

*It is understood and agreed that the three points of diversion are all located north of Franktown-Feeder Road on property owned by Robert G. Rogers."

All the other portions of the Findings of Fact, Conclusions of Law, Judgment and Decree are reaffirmed in their entirety.

DATED: March 28, 1979.

Grant J. Weise, Sr.
GRANT J. WEISE, SR.
LIGHTNING "W" RANCH

Robert G. Rogers
ROBERT G. ROGERS

James H. Lathrop
JAMES H. LATHROP

STATE OF NEVADA DIVISION OF WATER RESOURCES

By George Campbell
RICHARD H. BRYAN
Attorney General
By George Campbell
Deputy Attorney General

William J. Newman
William J. Newman
State Engineer

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No. 301898 Dept. No. 3

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * * * *

IN THE MATTER OF THE DETERMINATION OF THE RELATIVE RIGHTS IN AND TO THE WATERS OF MUSGROVE CREEK (aka BIG CANYON CREEK) AND ITS TRIBUTARIES IN WASHOE COUNTY,

/

AMENDMENT TO FINDINGS OF FACT,

CONCLUSIONS OF LAW, JUDGMENT AND DECREE

Upon reading the Stipulation of GRANT J. WEISE, SR., the LIGHTNING "W" RANCH, ROBERT G. ROGERS, and JAMES H. LATHROP, claimants herein and appropriators of the waters of Musgrove Creek and its tributaries and the State of Nevada Division of Water Resources, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that a portion of Paragraph IX beginning at line 19 on page 16 and continuing through line 14 on page 17 of the Findings of Fact, Conclusions of Law, Judgment and Decree heretofore entered by the Court on the 1st day of December, 1975, shall be and is amended to read as follows:

"PROOF NO.: 02558

CLAIMANT: Robert G. Rogers

SOURCE: Musgrove Creek and Tributaries

USE: Irrigation, Stock Watering and Domestic

MEANS OF DIVERSION: Dams, Ditches and Pipeline

POINTS OF DIVERSION:

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*It is understood and agreed that the three points of diversion are all located north of Franktown-Feeder Road on property owned by Robert G. Rogers."

DATED: April 9th, 1979.

John A. Gibraldi

DISTRICT JUDGE