

1 Case No. 8774

2 Dept. No. II

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IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

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IN AND FOR THE COUNTY OF LANDER

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IN THE MATTER OF THE)
DETERMINATION OF THE RELATIVE)
RIGHTS IN AND TO THE WATERS OF)
SMITH CREEK AND TRIBUTARIES IN)
LANDER COUNTY, NEVADA)

**NOTICE OF ENTRY OF FINDINGS OF
FACT, CONCLUSIONS OF LAW,
JUDGMENT AND DECREE**

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13 PLEASE TAKE NOTICE that Findings of Fact, Conclusions of Law, Judgment and Decree was
14 entered by the Court on November 28, 2001. A copy of same is attached hereto.

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DATED this 5th day of December, 2001.

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By: Paul G. Taggart

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CASE NO. 8774

DEPT. NO. II

FILED

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IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF LANDER
CLADYS BURRIS
COURT CLERK

IN THE MATTER OF THE DETERMINATION OF) FINDINGS OF FACT
THE RELATIVE RIGHTS IN AND TO THE) CONCLUSIONS OF LAW,
WATERS OF SMITH CREEK AND ITS) JUDGMENT AND
TRIBUTARIES IN LANDER COUNTY, NEVADA.) DECREE

INTRODUCTION

On June 17, 1999, a certified copy of the State Engineer's Order of Determination was filed with this Court in the above-entitled matter along with documentation that the State Engineer has complied with each of the statutory steps required in the adjudication process.

Pursuant to NRS 533.165 the Court issued an amended order On May 12, 1999, setting July 27, 1999, as the time for hearing objections to the State Engineer's Order of Determination. The Court further ordered all parties aggrieved or dissatisfied with said Order of Determination to file notice of exceptions to such Order of Determination by July 15, 1999, as provided under NRS 533.170

No parties filed exceptions with this Court to the State Engineer's Order of Determination. On July 27, 1999, this Court entered an order affirming the State Engineer's Order of Determination in its entirety.

I.

FINDINGS OF FACT

A. On May 17, 1941, a petition was submitted by Jewelle C. Parman to the State Engineer requesting the determination of the relative rights of claimants to the

waters of Smith Creek and its tributaries in Lander County, Nevada.

B. As a result of field investigations, conducted by the State Engineer on July 29, 1941, and September 29, 1977, it was found that the facts and conditions justified such determination and on October 26, 1977, the State Engineer entered an order granting the petition and proceeded with the determination of the relative rights of the water users in accordance with NRS § 533.090.

C. The State Engineer received and filed in the records of the Division of Water Resources, maps, statements of claims and supporting documents as to claims of use of water from said stream system required under the provisions of chapter 533 of the Nevada Revised Statutes.

D. The claimants upon said stream system are as set forth herein.

E. In accordance with the provision of chapter 533 of the Nevada Revised Statutes, the State Engineer prepared and filed his Preliminary Order of Determination defining the rights of the claimants to the waters of the Smith Creek stream system.

F. The minimum 20-day inspection period required by NRS § 533.140 was held October 20, 1986, to November 10, 1986, at the office of the State Engineer Carson City, Nevada.

G. The State Engineer did not receive an objection to the Preliminary Order of Determination by any of the claimants or any person claiming an interest in the subject stream system, therefore no public administrative hearing was necessary.

H. The State Engineer issued the Order of Determination on February 2, 1987. The Order of

Determination along with all other orders, proceedings and notices provided under NRS chapter 533 were duly entered as required by law and filed with the clerk of this Court.

I. In accordance with NRS § 533.090 through NRS § 533.265, this Court has jurisdiction to hear and determine this matter.

J. Smith Creek and its tributaries, the subject of these proceedings, are situated wholly within Lander County, Nevada.

K. The names of the claimants and appropriators of the waters of Smith Creek and its tributaries, the sources of the water supply, the period of use, the duty of water, the diversion of water, measurement of water, the method of use, (irrigation, stock watering, and domestic) changes of place of use and rights of appropriators of the water, all as set forth in the Order of Determination under consideration herein, are true and proper and should be approved and confirmed.

L. The vested claims to the waters of Smith Creek as hereinafter identified were placed to beneficial use prior to March 1, 1905, and have been and are being placed to beneficial use at this time. Deeds of record in the State Engineer's office show that the claimant and appropriator set forth herein is the successor in interest to the herein determined and adjudged vested and appropriated rights to the waters of Smith Creek.

M. The headwaters of Smith Creek originate near Desatoya Peak on the east slope of the Desatoya Range of mountains in the southeastern part of T.18N., R.38E., M.D.B.&M. Smith Creek flows in an easterly direction to approximately the middle of the south boundary of T.18N., R.39E., M.D.B.&M. where it turns in a southeasterly

direction into Smith Creek Valley where it terminates in a dry lake some 15 air miles from its source. It is considered perennial in character from the many springs along its route as well as from the snowmelt that contributes to the stream system. The area encompassed in this adjudication proceeding is various springs and other sources of water within the watershed for Smith Creek. Plate 1 delineates the area under consideration in this proceeding.

N. The period of use for irrigation purposes begins on March 1st and extends through October 1st of each year, unless otherwise noted. The period of use for stock watering, domestic and all other manners of use is from January 1st to December 31st of each year, unless otherwise noted.

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

	<u>Acre-Feet per acre per season</u>
CLASS A Harvest Crop	4.00
CLASS B Meadow Pasture	3.00
CLASS C Diversified Pasture	1.00

P. 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 herein.

Q. 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 claimant shall install and maintain, at his own expense, substantial and easily operated regulating headgates and measuring devices

in the ditch or ditches or channel and reservoir. The State Engineer will make allowance for losses in ditches in case it becomes necessary.

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

S. Stock watering and domestic uses:

1. The right to the diversion and use of water for stock watering and domestic purposes shall be continued by the claimant named herein or his successors in interest at any time during the year that stock are grazing on the range and such diversions shall be according to the date of priority of such user and limited to the quantity of water reasonably necessary for such use.
2. 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 shall include water for stock watering and domestic purposes.
3. The quantity of water diverted and used for stock watering purposes is limited by specifying the kind and number of stock being watered.

T. Reservoirs:

Application 10170 was approved on April 26, 1938, to store 2,000 acre-feet of water in a reservoir created by the construction of an earth filled dam across the channel of Smith Creek. The reservoir is determined to be regulatory in nature and may be used to collect and store

water annually and consistent with the terms of Permit 10170, Certificate 2764. The aggregate amount of water diverted from the reservoir is not to exceed the total duty of water herein fixed for the lands served by said reservoir.

U. The relationship of vested water rights and water rights acquired through the appropriative process for the same place of use are characterized as supplemental. These supplemental water rights may augment, or take the place of other water rights when those water rights are unavailable or not of sufficient quantity to meet the needs of the water right holder, but are not cumulative or constitute any additional duty. The water rights characterized as supplemental in this proceeding are not intended to expand upon the maximum allowable duty of water on any place of use of any vested water rights or appropriative water right. The Court finds that the Order of Determination did not reflect the supplemental nature of the claims of vested water rights and the appropriative water rights acquired through the statutory process. In determining the limit and extent of the water rights in this proceeding, clarifying the supplemental nature defines the water rights for certainty. The clarification of the supplemental rights and the limit and extent of these water rights is reflected in the table of rights.

V. Declaration of full appropriation:

From the record of this adjudication proceeding and record of permits issued by the State Engineer, it is hereby determined that the waters of Smith Creek and its tributaries are fully appropriated during the irrigation season.

W. The U. S. Department of Interior, Bureau of Land Management (BLM) filed Proof V-02993 claiming a vested water right for stock water and wildlife propagation from the natural channel of Smith Creek and its tributaries where the stream system is on public lands. In the Order of Determination, the State Engineer rejected Proof V-02993. The State Engineer's decision is based on the facts that the BLM did not demonstrate that it is connected through title to the original trespassers who perfected vested stock water rights on the public lands prior to 1905 nor did they manage the public lands for wildlife propagation prior to 1905 or many years thereafter. Accordingly, the State Engineer properly rejected the claim filed by the BLM for vested stock and wildlife water rights.

X. The Smith Creek Ranch Company, Ltd. is the holder of all the claims of vested rights and appropriative rights, with the exception of one rejected claim filed by the United States of America, Bureau of Land Management. Since the Order of Determination did not establish a priority date for the claim filed under Proof V-03148, on July 27, 1999, this Court instructed the State Engineer and the claimant to establish a priority date for said claim. The claimant and the State Engineer have agreed that the priority date under Proof V-03148 is 1863. The Court finds that this decree shall reflect a priority date of the year 1863 under Proof V-03148. A copy of the Court's Order is attached as Exhibit A to this Decree.

Y. Change of place of use:

All water allotted under this 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 first file an application with the State Engineer pursuant to the provisions of Nevada Revised Statutes 533.345 and be granted a permit by the State Engineer. Change of manner of use applications from irrigation use to any other use shall be allowed only for the net consumptive use as determined by the State Engineer on a case-by-case basis.

II.

CONCLUSIONS OF LAW

From the record on file in this case and from the foregoing Findings of Fact, the Court makes the following Conclusions of Law:

A. The State Engineer had the authority under chapter 533 of the Nevada Revised Statutes to conduct the investigations made by him, receive the proofs and maps, enter and file in his office the Order of Determination, file a certified copy thereof in this Court, and determine the relative rights of the claimants in and to the waters of Smith Creek and its tributaries, Lander County, Nevada. The State Engineer duly made all orders necessary and proper in connection therewith and entered same in his office as required by chapter 533 of the Nevada Revised Statutes.

B. Each and every notice required by law to be given to the claimants and appropriators was duly served by the State Engineer in the manner and within the time required by law, the notices contained all the information required by law, and the claimants and appropriators of the waters of Smith Creek and its tributaries, duly received the information and notices as required by law.

hear this matter and to make and enter the foregoing Findings of Fact and Conclusions of Law and further enters its Decree as set forth hereinafter.

D. The priorities for the proofs filed in this proceeding are fixed by years and where the years are the same, the priorities are equal.

E. All water allotted under this 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 Nevada Water Law.

F. The period of use for all irrigation water rights awarded in this proceeding is from March 1st through October 1st of each year, unless otherwise noted. The period of use for stock watering, domestic and all other manners of use is from January 1st through December 31st of each year, unless otherwise noted.

G. The measurements of diverted water are to be made at a location to be approved by the State Engineer and the parties shall install and maintain, at their own expense, substantial and easily operated regulating diversion structures and measuring devices.

H. Because livestock are opportunistic and will consume water from various sources and in varying quantities depending on available feed and season of use, the number of animals specifies the limit and extent of the rights claimed for watering of livestock and not the quantity of water. Therefore, claims for livestock watering are determined for priority date, maximum number of animals, location, and ownership.

I. The State Engineer is granted the right to enter the premises of any party where any water source or use of water awarded as a result of this proceeding is situated at any reasonable hour of the day for the purpose of investigating and carrying out the duties required for the administration of this Decree.

J. The duty of water is as specified above and in the following tabulation of the final determination of the relative rights determined in this proceeding. To the extent appropriative rights are listed in the following tabulation, they are not decreed water rights and are provided for informational purposes only in order to establish their relationship to the water rights determined and decreed as a result of this proceeding.

K. Rights Of Appropriation:

The following tabulation lists the final determination of the relative rights determined in this proceeding:

**SMITH CREEK ADJUDICATION
TABLE OF WATER RIGHTS**

PROOF NO.	CLAIMANT	SOURCE	POINTS OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.
V-02033	SMITH CREEK RANCH COMPANY, LTD.	SMITH CREEK	1. OLD STATION DITCH: NE $\frac{1}{4}$ SE $\frac{1}{4}$ SEC. 3, T. 17N., R. 39E., M.D.B.&M. 2. HAY RANCH DITCH: NW $\frac{1}{4}$ SE $\frac{1}{4}$ SEC. 7, T. 17N., R. 40E., M.D.B.&M. 3. MAESTRETTI DITCH: SE $\frac{1}{4}$ NE $\frac{1}{4}$ SEC. 32, T. 18N., R. 39E., M.D.B.&M. 4. MOORE DITCH: NE $\frac{1}{4}$ NW $\frac{1}{4}$ SEC. 31, T. 18N., R. 39E., M.D.B.&M. 5. LITTLE MEADOW & FRANKLIN DITCHES: NW $\frac{1}{4}$ NW $\frac{1}{4}$ SEC. 31, T. 18N., R. 39E., M.D.B.&M. 6. BARTLETT DITCH: NW $\frac{1}{4}$ NE $\frac{1}{4}$ SEC. 36, T. 18N., R. 38E., M.D.B.&M.	MAR. 1 TO OCT. 1	IRRIGATION STOCK WATER DOMESTIC 1863	14,460	*4.00 **3.00 ***1.00	TOTAL: 1862.98 ACRE-FEET * HARVEST: 1255.24 ACRE-FEET ** MEADOW PASTURE: 514.86 ACRE-FEET *** DIVERSIFIED PASTURE: 92.88 ACRE-FEET

V-02033 (cont.)		PLACE OF USE 40 ACRE DESCRIPTIONS												ACRES PER SECTION	REMARKS		
SECTION	TOWN-SHIP	RANGE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			
HARVEST CROP ACREAGE																	
36	.T. 18 N., R. 38 E.		6.38	0.17												6.55	HARVEST CROP DUTY: 4.0 ACRE-FEET PER ACRE.
31	.T. 18 N., R. 39 E.		15.83	13.01	1.52	11.36										41.72	MEADOW PASTURE DUTY: 3.0 ACRE-FEET PER ACRE.
32	.T. 18 N., R. 39 E.		5.39	1.02		11.44	15.75				0.34					33.94	DIVERSIFIED PASTURE DUTY: 1.0 ACRE-FOOT PER ACRE.
33	.T. 18 N., R. 39 E.					0.76	2.37	22.47	3.81		1.52	20.99	0.34	14.97		67.23	
7	.T. 17 N., R. 40 E.										37.63	19.07	3.74	19.05		79.49	* TOTAL HARVEST CROP ACREAGE: 313.81
8	.T. 17 N., R. 40 E.							8.46	37.50	31.81	7.11					84.88	** TOTAL MEADOW PASTURE ACREAGE: 171.62 *** TOTAL DIVERSIFIED PASTURE ACREAGE: 92.88
MEADOW PASTURE ACREAGE																	
33	.T. 18 N., R. 39 E.															8.21	
34	.T. 18 N., R. 39 E.								7.78							7.78	
3	.T. 17 N., R. 39 E.					3.05	10.32									13.37	
8	.T. 17 N., R. 40 E.							15.34	1.43	3.38	32.60					98.38	THIS PROOF IS SUPPLEMENTAL TO PROOFS V-02015 AND V-03148 AND IS SUPPLEMENTED BY PERMIT 10170. CERTIFICATE 2764. REFER TO TABLE ON PAGE 28 FOR A SUMMARY OF SUPPLEMENTAL IRRIGATION RIGHTS.
17	.T. 17 N., R. 40 E.		4.21	31.07		8.60										43.88	
DIVERSIFIED PASTURE ACREAGE																	
24	.T. 17 N., R. 39 E.			2.89												2.89	
19	.T. 17 N., R. 40 E.				8.84	5.29	38.10	22.89	3.14	11.73						89.99	
															TOTAL ACRES CLAIMED:	578.31	

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.
V-02576	SMITH CREEK RANCH COMPANY, LTD.	VAN SICKLE SPRING NO. 5	SW¼NE¼ SEC. 7, T.17N., R.38E., M.D.B.&M.	JAN.1 TO DEC. 31	STOCK WATER 1863	0.005		

V-02576 (cont.)		PLACE OF USE 40 ACRE DESCRIPTIONS												ACRES PER SECTION	REMARKS					
SECTION	TOWN-SHIP	RANGE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
7	T. 17 N., R. 38 E.				X															SUFFICIENT TO WATER 150 HEAD OF CATTLE.

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.
V-02577	SMITH CREEK RANCH COMPANY, LTD.	VAN SICKLE SPRING NO. 6	SE $\frac{1}{4}$ SW $\frac{1}{4}$ SEC. 18, T.17N., R.38E., M.D.B.&M.	JAN.1 TO DEC. 31	STOCK WATER 1863	0.005		

V-02576 (cont.)		PLACE OF USE 40 ACRE DESCRIPTIONS												ACRES PER SECTION	REMARKS					
SECTION	TOWN-SHIP	RANGE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
18	T. 17 N., R. 38 E.																		X	SUFFICIENT TO WATER 150 HEAD OF CATTLE.

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.
V-02578	SMITH CREEK RANCH COMPANY, LTD.	VAN SICKLE SPRING NO. 7	SE $\frac{1}{4}$ SE $\frac{1}{4}$ SEC. 18, T.17N., R.38E., M.D.B.&M.	JAN.1 TO DEC. 31	STOCK WATER 1863	0.005		

V-02585 (cont.)		PLACE OF USE												ACRES PER SECTION	REMARKS		
40 ACRE DESCRIPTIONS																	
SECTION	TOWN-SHIP	RANGE	N		E		S		W		SE		SW		S	E	SUFFICIENT TO WATER 150 HEAD OF CATTLE.
17	T. 17 N., R. 38 E.		NE	NW	SE	SW	NE	NW	SE	SW	NE	NW	SE	SW			

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.
V-02586	SMITH CREEK RANCH COMPANY, LTD.	VAN SICKLE SPRING NO. 15	SE $\frac{1}{4}$ SW $\frac{1}{4}$ SEC. 17, T.17N., R.38E., M.D.B.&M.	JAN. 1 TO DEC. 31	STOCK WATER 1863	0.005		

V-02585 (cont.)		PLACE OF USE												ACRES PER SECTION	REMARKS		
40 ACRE DESCRIPTIONS																	
SECTION	TOWN-SHIP	RANGE	N		E		S		W		SE		SW		S	E	SUFFICIENT TO WATER 150 HEAD OF CATTLE.
17	T. 17 N., R. 38 E.		NE	NW	SE	SW	NE	NW	SE	SW	NE	NW	SE	SW			

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.
V-02587	SMITH CREEK RANCH COMPANY, LTD.	VAN SICKLE SPRING NO. 16	NE $\frac{1}{4}$ SW $\frac{1}{4}$ SEC. 23, T.18N., R.38E., M.D.B.&M.	JAN. 1 TO DEC. 31	STOCK WATER 1863	0.005		

V-02587 (cont.)		PLACE OF USE 40 ACRE DESCRIPTIONS												ACRES PER SECTION	REMARKS	
SECTION	TOWN- SHIP	RANGE	NE	NW	SE	SW	NE	NW	SE	SW	NE	NW	SE	SW	SE	SUFFICIENT TO WATER 150 HEAD OF CATTLE.
23	T. 18 N., R. 38 E.															

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.
V-02600	SMITH CREEK RANCH COMPANY, LTD.	VAN SICKLE SPRING NO. 17	SE ¹ / ₄ NW ¹ / ₄ SEC. 3, T.17N., R.38E., M.D.B.&M.	JAN. 1 TO DEC. 31	STOCK WATER 1863	0.005		

V-02587 (cont.)		PLACE OF USE 40 ACRE DESCRIPTIONS												ACRES PER SECTION	REMARKS	
SECTION	TOWN- SHIP	RANGE	NE	NW	SE	SW	NE	NW	SE	SW	NE	NW	SE	SW	SE	SUFFICIENT TO WATER 150 HEAD OF CATTLE.
3	T. 17 N., R. 38 E.															

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.
V-02601	SMITH CREEK RANCH COMPANY, LTD.	VAN SICKLE SPRING NO. 18	NW ¹ / ₄ SW ¹ / ₄ SEC. 33, T.18N., R.38E., M.D.B.&M.	JAN. 1 TO DEC. 31	STOCK WATER 1863	0.005		

V-02601 (cont.)		PLACE OF USE 40 ACRE DESCRIPTIONS												ACRES PER SECTION	REMARKS	
SECTION	TOWN-SHIP	RANGE	NE	NW	SE	SW	NE	NW	SE	SW	NE	NW	SE	SW	SE	SUFFICIENT TO WATER 150 HEAD OF CATTLE.
33	.T. 17 N., R. 38 E.															

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.
V-02602	SMITH CREEK RANCH COMPANY, LTD.	VAN SICKLE SPRING NO. 19	SW1/4 SW1/4 SEC. 4, T.17N., R.38E., M.D.B.&M.	JAN.1 TO DEC. 31	STOCK WATER 1863	0.005		

V-02601 (cont.)		PLACE OF USE 40 ACRE DESCRIPTIONS												ACRES PER SECTION	REMARKS	
SECTION	TOWN-SHIP	RANGE	NE	NW	SE	SW	NE	NW	SE	SW	NE	NW	SE	SW	SE	SUFFICIENT TO WATER 150 HEAD OF CATTLE.
4	.T. 17 N., R. 38 E.															

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.
V-02603	SMITH CREEK RANCH COMPANY, LTD.	VAN SICKLE SPRING NO. 20	SW1/4 SW1/4 SEC. 8, T.17N., R.38E., M.D.B.&M.	JAN.1 TO DEC. 31	STOCK WATER 1863	0.005		

V-02603 (cont.)		PLACE OF USE 40 ACRE DESCRIPTIONS												ACRES PER SECTION	REMARKS		
SECTION	TOWN-SHIP	RANGE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			
8	T. 17 N., R. 38 E.				X												SUFFICIENT TO WATER 150 HEAD OF CATTLE.

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.
V-02604	SMITH CREEK RANCH COMPANY, LTD.	VAN SICKLE SPRING NO. 21	NW $\frac{1}{4}$ SW $\frac{1}{4}$ SEC. 9, T.17N., R.38E., M.D.B.&M.	JAN.1 TO DEC. 31	STOCK WATER 1863	0.005		

V-02605		PLACE OF USE 40 ACRE DESCRIPTIONS												ACRES PER SECTION	REMARKS		
SECTION	TOWN-SHIP	RANGE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			
9	T. 17 N., R. 38 E.												X				SUFFICIENT TO WATER 150 HEAD OF CATTLE.

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.
V-02605	SMITH CREEK RANCH COMPANY, LTD.	VAN SICKLE SPRING NO. 22	SW $\frac{1}{4}$ SW $\frac{1}{4}$ SEC. 9, T.17N., R.38E., M.D.B.&M.	JAN.1 TO DEC. 31	STOCK WATER 1863	0.005		

V-02605 (cont.)		PLACE OF USE 40 ACRE DESCRIPTIONS												ACRES PER SECTION	REMARKS
SECTION	TOWN- SHIP	RANGE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	SUFFICIENT TO WATER 150 HEAD OF CATTLE.
9	T. 17 N., R. 38 E.														

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.
V-02606	SMITH CREEK RANCH COMPANY, LTD.	VAN SICKLE SPRING NO. 23	NE $\frac{1}{4}$ NW $\frac{1}{4}$ SEC. 16, T. 17N., R. 38E., M.D.B.&M.	JAN. 1 TO DEC. 31	STOCK WATER 1863	0.005		

V-02606		PLACE OF USE 40 ACRE DESCRIPTIONS												ACRES PER SECTION	REMARKS
SECTION	TOWN- SHIP	RANGE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	SUFFICIENT TO WATER 150 HEAD OF CATTLE.
16	T. 17 N., R. 38 E.														

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ ACRE	TOTAL AC.-FT.
V-02607	SMITH CREEK RANCH COMPANY, LTD.	VAN SICKLE SPRING NO. 24	SE $\frac{1}{4}$ SEC. 17, T. 17N., R. 38E., M.D.B.&M.	JAN. 1 TO DEC. 31	STOCK WATER 1863	0.005		

V-02607 (cont.)		PLACE OF USE 40 ACRE DESCRIPTIONS												ACRES PER SECTION	REMARKS	
SECTION	TOWN-SHIP	RANGE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	ACRES PER SECTION	REMARKS
17	T. 17 N., R. 38 E.															SUFFICIENT TO WATER 150 HEAD OF CATTLE.

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.
V-02608	SMITH CREEK RANCH COMPANY, LTD.	VAN SICKLE SPRING NO. 25	NE $\frac{1}{4}$ SE $\frac{1}{4}$ SEC. 21, T.17N., R.38E., M.D.B.&M.	JAN. 1 TO DEC. 31	STOCK WATER 1863	0.005		

V-02609		PLACE OF USE 40 ACRE DESCRIPTIONS												ACRES PER SECTION	REMARKS	
SECTION	TOWN-SHIP	RANGE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	ACRES PER SECTION	REMARKS
21	T. 17 N., R. 38 E.															SUFFICIENT TO WATER 150 HEAD OF CATTLE.

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.
V-02609	SMITH CREEK RANCH COMPANY, LTD.	VAN SICKLE SPRING NO. 26	NW $\frac{1}{4}$ NW $\frac{1}{4}$ SEC. 27, T.17N., R.38E., M.D.B.&M.	JAN. 1 TO DEC. 31	STOCK WATER 1863	0.005		

V-02611 (cont.)		PLACE OF USE 40 ACRE DESCRIPTIONS												ACRES PER SECTION	REMARKS	
SECTION	TOWN-SHIP	RANGE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	ACRES PER SECTION	REMARKS
22	T. 17 N., R. 38 E.		X													SUFFICIENT TO WATER 150 HEAD OF CATTLE.

PROOF NO.	CLAIMANT	SOURCE	POINTS OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.
V-02614	SMITH CREEK RANCH COMPANY, LTD.	SCHOOL HOUSE SPRINGS	SE $\frac{1}{4}$ NW $\frac{1}{4}$ SEC. 32, T.18N., R.39E., M.D.B.&M., N.82°16'W. 3150.00 FT. FROM E/W COR. OF SAID SECTION 32.	JAN. 1 TO DEC. 31	STOCK WATER 1863	0.005		

V-02611 (cont.)		PLACE OF USE 40 ACRE DESCRIPTIONS												ACRES PER SECTION	REMARKS	
SECTION	TOWN-SHIP	RANGE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	ACRES PER SECTION	REMARKS
32	T. 18 N., R. 39															SUFFICIENT TO WATER 150 HEAD OF CATTLE.

PROOF NO.	CLAIMANT	SOURCE	POINTS OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.
V-02615	SMITH CREEK RANCH COMPANY, LTD.	SCHOOL HOUSE SPRINGS	SE $\frac{1}{4}$ NW $\frac{1}{4}$ SEC. 32, T.18N., R.39E., M.D.B.&M., N.82°16'W. 3150.00 FT. FROM E/W COR. OF SAID SECTION 32.	MAR. 1 TO OCT. 1	IRRIGATION DOMESTIC 1863	11.680	*4.00 **3.00 ***1.00	TOTAL: 722.33 ACRE-FEET *HARVEST CROP: 297.80 ACRE-FEET ** MEADOW PASTURE: 47.97 ACRE-FEET *** DIVERSIFIED PASTURE: 376.56 ACRE-FEET

V-02615 (cont.)		PLACE OF USE 40 ACRE DESCRIPTIONS												ACRES PER SECTION	REMARKS	
SECTION	TOWN-SHIP	RANGE	NE	NW	SE	SW	NE	NW	SE	SW	NE	NW	SE			SW
HARVEST CROP ACREAGE																
3	T. 17 N., R. 39 E.						3.05	10.32								
32	T. 18 N., R. 39 E.			1.02												
33	T. 18 N., R. 39 E.								0.76	2.37	22.47	3.81	15.00	0.34	14.97	59.72
DIVERSIFIED PASTURE ACREAGE																
3	T. 17 N., R. 39 E.		5.00	25.00			30.95	29.68	20.00	36.00						146.63
4	T. 17 N., R. 39 E.		4.00	35.00	2.00											41.00
32	T. 18 N., R. 39 E.			15.98							15.66					31.64
33	T. 18 N., R. 39 E.						14.24	3.63	16.53	32.19	18.00	9.00		36.66	14.82	145.07
34	T. 18 N., R. 39 E.									12.22						12.22
MEADOW PASTURE ACREAGE																
33	T. 18 N., R. 39 E.															8.21
34	T. 18 N., R. 39 E.									7.78						7.78
TOTAL ACRES CLAIMED: 467.00																

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.
V-03148	SMITH CREEK RANCH COMPANY, LTD.	SMITH CREEK	1. SW/4NE/4 SEC. 31, T. 18N., R. 39E., M.D.B.&M., N.76°45'00"W, 2,660.00 FT. FROM E/W COR. OF SAID SECTION 31. 2. SW/4NE/4 SEC. 31, T. 18N., R. 39E., M.D.B.&M., N.74°59'W, 2,255.00 FT. FROM E/W COR. OF SAID SECTION 31. 3. SW/4NE/4 SEC. 31, T. 18N., R. 39E., M.D.B.&M., N.74°02'W, 1,965.00 FT. FROM E/W COR. OF SAID SECTION 31. 4. SW/4NE/4 SEC. 31, T. 18N., R. 39E., M.D.B.&M., N.66°02'W, 1,560.00 FT. FROM E/W COR. OF SAID SECTION 31.	MAR. 1 TO OCT. 1	IRRIGATION STOCK WATER DOMESTIC 1863	9.680	*4.00 **3.00 ***1.00	TOTAL: 733.81 ACRE-Feet * HARVEST CROP: 295.76 ACRE-Feet ** MEADOW PASTURE: 187.38 ACRE-Feet *** DIVERSIFIED PASTURE: 250.67 ACRE-Feet

PROOF NO.	CLAIMANT	SOURCE	POINT(S) OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.
V-03148 (cont.)			<p>5. SE$\frac{1}{4}$NE$\frac{1}{4}$ SEC. 31, T.18N., R.39E., M.D.B.&M., N.40°35'W, 520.00 FT. FROM E$\frac{1}{4}$ COR. OF SAID SECTION 31.</p> <p>6. SE$\frac{1}{4}$NW$\frac{1}{4}$ SEC. 32, T.18N., R.39E., M.D.B.&M., N.75°30'E, 1,900.00 FT. FROM W$\frac{1}{4}$ COR. OF SAID SECTION 32.</p> <p>7. NE$\frac{1}{4}$NE$\frac{1}{4}$ SEC. 04, T.17N., R.39E., M.D.B.&M., S.15°29'W, 1,705.00 FT. FROM S1/16 COR. OF COMMON TO SECTIONS 33 AND 34, T.18N., R.39E., M.D.B.&M.</p> <p>8. SW$\frac{1}{4}$NW$\frac{1}{4}$ SEC. 3, T.17N., R.39E., M.D.B.&M., S.13°05'E, 2,800.00 FT. FROM S1/16 COR. OF COMMON TO SECTIONS 33 AND 34, T.18N., R.39E., M.D.B.&M.</p> <p>9. SE$\frac{1}{4}$NW$\frac{1}{4}$ SEC. 3, T.17N., R.39E., M.D.B.&M., S.25°15'E, 3,735.00 FT. FROM S1/16 COR. OF COMMON TO SECTIONS 33 AND 34, T.18N., R.39E., M.D.B.&M.</p> <p>10. SW$\frac{1}{4}$SW$\frac{1}{4}$ SEC. 2, T.17N., R.39E., M.D.B.&M., S.45°53'31"E, 9,083.96 FT. FROM S1/16 COR. OF COMMON TO SECTIONS 33 AND 34, T.18N., R.39E., M.D.B.&M.</p> <p>11. SW$\frac{1}{4}$SE$\frac{1}{4}$ SEC. 33, T.18N., R.39E., M.D.B.&M., S.85°06'W, 2,460.00 FT. FROM S1/16 COR. OF COMMON TO SECTIONS 33 AND 34, T.18N., R.39E., M.D.B.&M.</p>					

PROOF NO.	CLAIMANT	SOURCE	POINTS OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.										
PER. 7470 CERT. 2526	SMITH CREEK RANCH COMPANY, LTD.	DALTON SPRING	NW¼NE¼ SEC. 13, T.17N., R.38E., M.D.B.&M., S.11°55'W, 11,225.00 FT. FROM NE COR. OF SECTION 1, T.17N., R.38E., M.D.B.&M.	APR. 1 TO DEC. 1	STOCK WATER AUG. 6, 1925	0.016												
PLACE OF USE 40 ACRE DESCRIPTIONS																		
SECTION TOWN-SHIP	RANGE	N E NE NW SW SE NE NW SW SE NE NW SW SE				S E NE NW SW SE												
13	T. 17 N., R. 38 E.	X																SUFFICIENT TO WATER 2,500 SHEEP.
ACRES PER SECTION									REMARKS									
PROOF NO.	CLAIMANT	SOURCE	POINTS OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.										
PER. 7471 CERT. 2527	SMITH CREEK RANCH COMPANY, LTD.	WHITE ROCK SPRING	SW¼NE¼ SEC. 26, T.17N., R.38E., M.D.B.&M., N.24°32'W, 9600.00 FT. FROM SW COR. OF SECTION 36, T.17N., R.38E., M.D.B.&M.	APR. 1 TO DEC. 1	STOCK WATER AUG. 6, 1925	0.016												
PLACE OF USE 40 ACRE DESCRIPTIONS																		
SECTION TOWN-SHIP	RANGE	N E NE NW SW SE NE NW SW SE NE NW SW SE				S E NE NW SW SE												
26	T. 17 N., R. 38 E.	X																SUFFICIENT TO WATER 2,500 SHEEP.
ACRES PER SECTION									REMARKS									

PROOF NO.	CLAIMANT	SOURCE	POINTS OF DIVERSION	YEARLY PERIOD OF USE	PURPOSE & PRIORITY	FLOW CFS	DUTY AC.-FT./ACRE	TOTAL AC.-FT.								
PER. 10170 CERT. 2764	SMITH CREEK RANCH COMPANY, LTD.	SMITH CREEK	SE1/4NW1/4 AND SW1/4NW1/4 SEC. 31, T.18N., R.39E., M.D.B.&M., N.38°05'E. 4090.00 FT. FROM SW COR. OF SAID SECTION 31.	MAR. 1 TO OCT. 1	IRRIGATION DOMESTIC SEPT. 22, 1937			2000.00 STORAGE								
PLACE OF USE																
40 ACRE DESCRIPTIONS																
SECTION	TOWN-SHIP	RANGE	N. E.			N. W.			S. E.			S. W.			ACRES PER SECTION	REMARKS
			NE	NW	SE	NE	NW	SE	NE	NW	SE	NE	NW	SE		
31	T. 18 N.	R. 39 E.			13.01										28.84	DAM NO. NV-001000
32	T. 18 N.	R. 39 E.			5.39	11.44	15.75		0.34						33.94	THIS PERMIT IS SUPPLEMENTAL TO PROOFS V-02033, V-02615 AND V-03148.
33	T. 18 N.	R. 39 E.				0.76	2.37		1.52	20.99	0.34	23.18			75.44	STORAGE IS TO OCCUR JANUARY 1 THROUGH DECEMBER 31 OF EACH YEAR. STORAGE IS NOT TO EXCEED 2,000 ACRE-FEET PER YEAR.
34	T. 18 N.	R. 39 E.									7.78				7.78	REFER TO TABLE ON PAGE 28 FOR A SUMMARY OF SUPPLEMENTAL IRRIGATION RIGHTS.
3	T. 17 N.	R. 39 E.							3.05	10.32					13.37	
7	T. 17 N.	R. 40 E.													79.49	
8	T. 17 N.	R. 40 E.													183.26	
17	T. 17 N.	R. 40 E.	4.21	31.07					23.80	38.93	35.19	39.71			43.88	
24	T. 17 N.	R. 39 E.			2.89										2.89	
19	T. 17 N.	R. 40 E.				8.84	5.29	38.10	22.89	3.14	11.73				89.99	
TOTAL ACRES CLAIMED:														558.88		

III.

DECREE

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the relative rights of the users in and to the waters of Smith Creek and its tributaries, Lander County, Nevada, be and are determined as stated above.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that each and every water user and claimant of the waters of Smith Creek and its tributaries, Lander County, Nevada, and each of their agents, attorneys, servants and employees and their successors-in-interest and every person or persons acting in aid or assistance of the said parties and each of them is hereby perpetually enjoined and restrained as follows:

A. From at any time diverting or using any water of Smith Creek and its tributaries, Lander County, Nevada, herein above-mentioned except to the extent and amount and in the manner and at the time or times set by this decree for each claim or that which is allowed by permits which have been or may hereafter be granted by the State Engineer of the State of Nevada.

B. From diverting in excess of the amounts as specified and provided in this Decree or allowed by permits which have been or may hereafter be granted by the State Engineer of the State of Nevada.

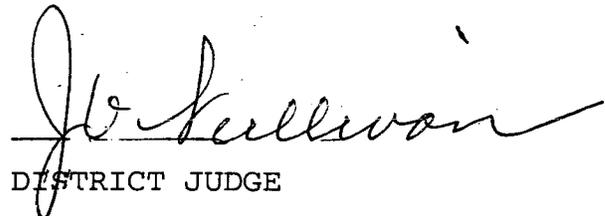
C. From diverting from the natural channel and from using any of the said water in any other manner or for any other purpose or purposes or upon any other land or lands than as provided and prescribed by the terms of this Decree or by a permit granted or that may hereafter be granted by the State Engineer of the State of Nevada.

D. From diverting from the natural channel and from using any of the said water at any other time or times than as specified and provided by the terms of this Decree or by permits that may hereafter be granted by the State Engineer of the State of Nevada.

E. From, in any manner, meddling with, opening, closing, changing, injuring or otherwise interfering with any headgates, weirs, water box, flume or other measuring device placed, installed or established by the State Engineer or under his authority or direction unless such act be done by the permission or authority of the water commissioner or the State Engineer, and during the period of regulation or control of said water by the State Engineer or if not done during such period, then by virtue of the allowances, authority, terms and provisions of this Decree or by a permit granted or that may hereafter be granted by the State Engineer.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that all enforcement rights set forth in this Court's Decree affirming the Order of the State Engineer dated February 2, 1987, are fully incorporated herein and this Court expressly reserves sole and continuing jurisdiction over any disputes arising under this Decree and over the continuing administration of this Decree.

Dated this 13th day of November 2001.


DISTRICT JUDGE

1 CERTIFICATE OF SERVICE

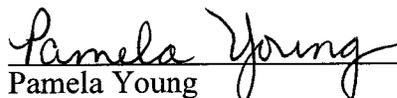
2 I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that
3 on this day I deposited for mailing, first class postage prepaid, a true and correct copy of the foregoing
4 NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW, JUDGMENT AND
5 DECREE, addressed as follows:

6 United States Department of Interior
7 Bureau of Land Management
8 Post Office Box 12000
9 Reno, Nevada 89502-7147

10 Michael F. Mackedon, Esq.
11 Mackedon, McCormick & King
12 Post Office Box 1203
13 Fallon, Nevada 89407-1203

14 Stephen G. Bartell, Trial Attorney
15 United States Department of Justice
16 Environment and Natural Resources Division
17 Post Office Box 663
18 Washington, D.C. 20044-0663

19 Dated: December 7, 2001.

20 
21 Pamela Young