

1 IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
2 STATE OF NEVADA IN AND FOR THE COUNTY OF ESMERALDA

3 - - - oOo - - -

4 IN THE MATTER OF THE DETERMINATION OF) No. 4269
5 THE RELATIVE RIGHTS IN AND TO THE WATERS) Date filed May 2, 1969
6 OF TRAIL CANYON CREEK AND ITS TRIBUTARIES) BY [Signature]
7 IN ESMERALDA COUNTY, STATE OF NEVADA)

8 FINDINGS OF FACT, CONCLUSIONS OF LAW

9 JUDGMENT AND DECREE

10 This matter came on regularly for hearing on the 23rd
11 day of December, 1968, before Honorable Kenneth L. Mann, District
12 Judge of the above-entitled court presiding, the entire stream
13 system being within Esmeralda County, State of Nevada, and he
14 being the Judge designated by NRS 533.165 to hear and having
15 jurisdiction to hear the above-entitled matter, upon the State
16 Engineer's determination of the relative rights of the petitioner
17 and claimant to the use of the waters of the stream system of
18 Trail Canyon Creek and its tributaries, which Order of Determina-
19 tion and all related documentary evidence had been filed by the
20 State Engineer. There being no exceptions to the Order of Deter-
21 mination filed or otherwise submitted to the Court at least 5 days
22 prior to the date set for hearing as provided for under NRS
23 533.170 by the claimant or petitioner or any other person or
24 persons, the matter was submitted to the Court for its decision.

25 Roland D. Westergard, Nevada State Engineer and
26 Starr Hill, Jr., Surface Water Engineer, appeared in the hearing
27 and proceedings on behalf of the State of Nevada and the office of
28 the State Engineer. Edward C. Reed, Esq., appeared on behalf of
29 the claimant, Frank Seminario, Inc.

30 The record disclosed that all claimants had received a
certified copy of the Court Order setting forth the Time and Place

1 for Hearing on the Order of Determination.

2 The State Engineer thereupon, at the hearing, offered
3 and there were received in evidence in support of the rights of
4 the claimants, as set forth in the Order of Determination,
5 verified affidavits, files and records of the State Engineer's
6 Office respecting the rights of the claimants in and to the above-
7 named stream system.

8 The Court, having duly considered the entire record, the
9 evidence introduced and received, directed that Findings of Fact,
10 Conclusions of Law, and Judgement and Decree be entered
11 accordingly.

12 FINDINGS OF FACT

13 I.

14 That on December 8, 1964, Frank Seminario, Inc., a water
15 user on Trail Canyon Creek and its tributaries, filed with the
16 State Engineer of the State of Nevada, a petition requesting the
17 determination of the relative rights of petitioner and other
18 claimants to the waters of Trail Canyon Creek and its tributaries,
19 thereto, situate in Esmeralda County, State of Nevada.

20 That the State Engineer thereupon and in accordance with
21 the provisions of NRS 533.090, made an investigation of the facts
22 and conditions of and concerning the above-named stream system and
23 its tributaries for the purpose of disclosing whether the determina-
24 tion of such rights were justified, and filed his report thereon
25 in the Office of the State Engineer of the State of Nevada. The
26 report of the facts and conditions disclosed that a determination
27 of the relative rights was justified, and the State Engineer made
28 and entered his order on August 29, 1966, granting the petition
29 for the determination of such relative rights in and to the waters
30 of Trail Canyon Creek and its tributaries.

1 That as a result of the State Engineer's investigation
2 report, it was found that the waters of Trail Canyon Creek and
3 its tributaries are being placed to beneficial use for domestic,
4 industrial and commercial purposes in Basalt, Dicalite and
5 Coaldale and for stock watering purposes on range land, as
6 affirmed by Proof of Appropriation 02619, filed in the Office of
7 the State Engineer. Evidence contained in the title documents
8 submitted by the claimant, relative to ownership of the Candelaria
9 pipe line, and use of waters from Trail Canyon Creek, indicates
10 the present claimant and appropriator, Frank Seminario, Inc. is
11 the successor in interest to vested rights initiated by its
12 predecessors in interest.

13 That on the 9th day of September, 1966, and once each week
14 for four succeeding weeks, the State Engineer did cause to be
15 published a Notice of Order and Proceedings to Determine Water
16 Rights in and to the waters of Trail Canyon Creek and its
17 tributaries in Esmeralda County, State of Nevada, and that notice
18 was duly given to all claimants as required by law. That on the
19 10th day of October, 1966, there was filed in the Office of the
20 State Engineer an affidavit of the publisher of the Tonopah Times-
21 Bonanza and Goldfield News, exemplifying the Proof of Publication
22 of Notice of Order and Proceedings.

23 That the State Engineer did cause to be published on the
24 25th day of November, 1966, and once each week for four succeeding
25 weeks, a Notice of Order for Taking Proofs to Determine Water
26 Rights, in and to the waters of Trail Canyon Creek and its
27 tributaries in Esmeralda County, State of Nevada, and that notice
28 was duly given to all claimants as required by law. That on the
29 27th day of December, 1966, there was filed in the Office of the
30 State Engineer an affidavit of the publisher of the Tonopah

1 Times-Bonanza and Goldfield News, exemplifying the Proof of
2 Publication of Notice of Order for Taking Proofs.

3 That the State Engineer, in accordance with NRS 533.140,
4 did enter and file in the records of his office, on the 17th
5 day of July, 1968, an Abstract of Claims, a Preliminary Order of
6 Determination and Notice and Order Fixing and Setting Time and
7 Place of Inspection, stating when and where the evidence taken by
8 or filed with him and the proofs of claims shall be open to the
9 inspection of all interested persons; and that notice thereof was
10 duly given to all claimants as required by law.

11 That the State Engineer, in accordance with NRS 533.160,
12 entered in the records of his office, on the 23rd day of October,
13 1968, an Order of Determination defining the rights of the
14 claimant and appropriator to the waters of Trail Canyon Creek and
15 its tributaries and that notice thereof was duly given to all
16 claimants as required by law.

17 That upon the filing of the certified copy of the Order
18 of Determination and original evidence with the Clerk of the
19 Court of Esmeralda County, State of Nevada, the Court, at the
20 request of the State Engineer, made and entered an Order on the
21 6th day of November, 1968, setting a time for the hearing of any
22 exceptions to the Order of Determination, on Monday, the 23rd day
23 of December, 1968, at 10:00 o'clock in the morning, at the county
24 Court House at Goldfield, Nevada; and that the Clerk of said
25 Court did furnish the State Engineer with a certified copy thereof.

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

29 That on the 22nd day of November, 1968 and once each
30 week for four succeeding weeks, the State Engineer did cause to

1 be published, the Court Order Setting Time for Hearing, and that
2 thereafter on the 23rd day of December, 1968, there was filed
3 with the State Engineer an affidavit of the publisher of the
4 Tonopah Times-Bonanza and Goldfield News, exemplifying the Proof
5 of Publication of the Court Order Setting Time for Hearing.

6 The Court finds that all and singular, the Proceedings,
7 Orders and Notices required by Chapter 533 of NRS were duly had,
8 made and given as required by law, and that all and singular the
9 matters and things contained in the record were done, performed,
10 given and made in strict compliance with the statute, and that
11 this Court had and has jurisdiction to hear and determine this
12 matter.

13 II.

14 The Court Further Finds: That Trail Canyon Creek and
15 its tributaries are situated wholly within Esmeralda County,
16 State of Nevada.

17 III.

18 The Court Further Finds: That the name of the claimant
19 and appropriator, the period of use, the diversion of water and
20 method of use, measurement of water, stock watering and domestic
21 use, change of place of use and the rights of appropriation of
22 the water, all as set forth in the Order of Determination, are
23 true, proper and correct, and all and singular the same should be
24 approved and confirmed.

25 I. PREFACE

26 That on December 8, 1964, Frank Seminario, Inc., a
27 water user on Trail Canyon Creek and its tributaries, filed with
28 the State Engineer of the State of Nevada a petition requesting
29 the determination of the relative rights of petitioner and other
30 claimants to the waters of Trail Canyon Creek and its tributaries

1 thereto, situate in Esmeralda County, State of Nevada.

2 On August 6th and 8th, 1963, L. Edward Parmenter,
3 Adjudication Engineer, Thomas J. Smales, then Assistant Office
4 Engineer, conducted a field investigation of the source. They
5 found that facts and conditions justified the granting of the
6 petition and that proper arrangements should be initiated to
7 proceed with such determination.

8 On August 29, 1966, the State Engineer entered an Order
9 granting the petition and made proper arrangements to proceed
10 with the determination of the relative rights of the water users
11 in accordance with NRS 533.090.

12 The claimant and appropriator did not sign a waiver of
13 notices as permitted under NRS 533.215. On November 21, 1966,
14 the State Engineer entered a Notice of Order for Taking Proofs to
15 Determine Water Rights.

16 II. CLAIMANTS

17 Investigations disclosed that the waters of Trail Canyon
18 Creek and its tributaries are being placed to beneficial use for
19 domestic, industrial and commercial purposes in Basalt, Dicalite
20 and Coaldale and for stock watering purposes on range land, as
21 affirmed by Proof of Appropriation 02619, filed in the Office of
22 the State Engineer. Evidence contained in the title documents
23 submitted by the claimant, relative to ownership of the Candelaria
24 pipeline, and use of waters from Trail Canyon Creek, indicates the
25 present claimant and appropriator, Frank Seminario, Inc., is the
26 successor in interest to vested rights initiated by its pre-
27 decessor in interest.

28 III. SOURCE

29 Trail Canyon Creek heads on the northeast slope of
30 Boundary Peak, in the White Mountains, the highest peak in the

1 State. It flows through rugged mountains for 8 miles and then
2 enters Wildhorse Flat and dissipates after traversing an
3 additional 3 miles. It is fed by snow melt from the high mountains
4 as well as numerous springs in the watershed, the largest spring
5 being Dyke Spring in Section 10, T. 1 S., R. 33 E., M.D.B.&M.
6 Trail Canyon Creek has a high spring runoff due to melting snows
7 and then recedes to a minimum flow from the springs for the re-
8 mainder of the year.

9 IV. PERIOD OF USE

10 The use of the water for domestic, industrial, commercial
11 and stockwatering purposes is for a year around use.

12 V. DIVERSION OF WATER AND METHOD OF USE

13 Dyke Spring, a tributary of Trail Canyon Creek, has a
14 masonry structure constructed around the spring to confine the
15 spring water and allow its diversion into a 5 inch spiral riveted
16 steel pipe. The water is transported by means of a pipeline, con-
17 sisting of both 4 inch and 5 inch diameter pipes, from its source
18 at Dyke Spring to the points of diversion along the line.

19 The first point of diversion from the Candelaria pipe-
20 line is at stockwater trough No. 1 in Section 1, T. 1 N., R.
21 33 E., where a 2 inch diameter pipe and valve divert the water
22 from the main line into a semi-cylindrical water trough 10 feet
23 long and 4 feet in diameter. The flow into the trough is regu-
24 lated by a float valve.

25 The second point of diversion is at stockwater trough
26 No. 2 in Section 36, T. 2 N., R. 33 E., where a 2 inch diameter
27 pipe diverts the water from the main line to a circular trough,
28 6 feet in diameter and 3 feet high. There is no valve in the
29 main line and water is made to flow into the trough by shutting
30 the valve at the Dicalite diversion further down the main line

1 and the back pressure thus created forces the water into the
2 trough.

3 The third point of diversion is at stockwater trough
4 No. 3 in Section 25, T. 2 N., R. 33 E. A 2 inch diameter pipe
5 and valve divert the water from the main line into a semi-
6 cylindrical water trough 10 feet long and 3 feet in diameter.
7 The flow into the trough is regulated by a float valve.

8 The fourth point of diversion from the pipeline is at the
9 Basalt junction box in Section 25, T. 2 N., R. 33 E. A valve
10 diverts the water into a 3 inch diameter pipeline that transports
11 it to the town of Basalt, where it supplies water for six to
12 twenty house trailers and a picnic and rest area with six water
13 hydrants. Two houses are supplied by the Basalt pipeline. Also
14 on this line is a valve with a takeoff to fill a storage tank,
15 the water being used by Dicalite to supply the sprinkler truck
16 that wets down the haulage roads.

17 The fifth point of diversion from the pipeline is at the
18 Dicalite junction box in Section 25, T. 2 N., R. 33 E. A control
19 valve here allows water to be diverted to Dicalite by means of a
20 2 inch diameter pipeline. This line supplies a 50,000 gallon
21 storage tank, a settling pond reservoir and the domestic needs of
22 forty employees and their families living at Dicalite.

23 Coaldale secures its drinking water supply from Dicalite
24 and has done so since 1930. It is transported by a water truck
25 to Coaldale where it is the only drinking water for twelve motel
26 units, fifteen trailers, one bar, one cafe and one service sta-
27 tion.

28 The main line is stubbed off immediately beyond the
29 Dicalite junction box and water no longer continues in the pipe-
30 line to the Candelaria reservoir and points beyond. The portion

1 of the pipeline from Dicalite to Candelaria was dismantled during
2 World War II.

3 The pipeline from Dyke Spring to the mining camp of
4 Candelaria was constructed in 1881-1882. Water was stored in a
5 concrete reservoir above Candelaria and piped to the townsite and
6 used by the inhabitants for domestic use and milling, as it was
7 the only source of water in the area. It was also piped seven
8 miles beyond Candelaria to Redlich where it supplied the Tonopah
9 and Goldfield Railroad until the removal of the railroad in 1940.

10 Prior to the existence of Basalt, water was piped from
11 the Candelaria pipeline to the Carson and Colorado Railroad near
12 the present site of Basalt. The railroad was constructed in
13 1880-1883 and abandoned during the 1930's.

14 VI. MEASUREMENT OF WATER

15 All measurements of amounts of water diverted are to be
16 made at a point in the Candelaria pipeline immediately adjacent to
17 and outside of the masonry collection box constructed over Dyke
18 Spring.

19 VII. CHANGE OF PLACE OF USE

20 All water allotted under this Order shall be appurtenant
21 to the place of use designated herein. Any water user desiring
22 to change the point of diversion, manner of use or place of use of
23 the waters allotted herein must make application to the State
24 Engineer for permission to make the change pursuant to NRS 533.345.

25 VIII. RIGHTS OF APPROPRIATION

26 From the Order of Determination and the evidence, both
27 oral and documentary, submitted in support thereof, the Court
28 finds that the name of the claimant and appropriator of the waters
29 of Trail Canyon Creek and its tributaries, the source of the water
30 supply, the means of diversion, the points of diversion for

1 beneficial use, the year of priority, the places of use, the legal
2 subdivisions, sections, townships and ranges are as listed, stated
3 and set forth.

4 CONCLUSIONS OF LAW

5 From the evidence presented and received in this matter,
6 and from the foregoing FINDINGS OF FACT, the Court makes the
7 following Conclusions of Law:

8 I.

9 That the State Engineer had the right, authority and
10 jurisdiction pursuant to Chapter 533 of NRS to make the investi-
11 gations made by him, conduct the hearings had by him, receive
12 the proofs and maps, hear the evidence presented to him, and
13 prepare, make, enter and file in his office the original Order of
14 Determination and file a certified copy thereof in this Court,
15 and to determine the relative rights of claimants and appropria-
16 tors in and to the waters of Trail Canyon Creek and its
17 tributaries in Esmeralda County, State of Nevada; that the State
18 Engineer duly made all orders necessary and proper in connection
19 therewith and entered the same in his office as required by
20 Chapter 533 of NRS; that each and every notice required by law
21 to be given to the claimants and appropriators was duly served by
22 the State Engineer in the manner and within the time required by
23 statute, and that the notices contained all of the statements
24 required by law, and that the claimants and appropriators of the
25 waters of the above-named stream system and its tributaries duly
26 received the information and notices, as required by law.

27 II.

28 That the Fifth Judicial Court of the State of Nevada,
29 in and for the County of Esmeralda, had and has jurisdiction to
30 hear and try this matter, and has jurisdiction to find, make and

1 enter the foregoing Findings of Fact and these Conclusions of Law,
2 and enter its Decree herein.

3 III.

4 That Frank Seminario, Inc., is the only claimant of
5 vested rights to the waters of Trail Canyon Creek and its
6 tributaries on the date the Order of Determination was filed
7 with the Clerk of this Court, and on the date of the trial and
8 hearing of this matter.

9 IV.

10 That the use of the water for domestic, industrial,
11 commercial and stockwatering purposes is for a year around use.

12 V.

13 That the claimant shall have the right to divert from
14 the following points of diversion and for the following uses:

15 Dyke Spring, a tributary of Trail Canyon Creek, has a
16 masonry structure constructed around the spring to confine the
17 spring water and allow its diversion into a 5 inch spiral
18 riveted steel pipe. The water is transported by means of a
19 pipeline, consisting of both 4 inch and 5 inch diameter pipes,
20 from its source at Dyke Spring to the points of diversion along
21 the pipeline.

22 The first point of diversion from the Candelaria pipe-
23 line is at stockwater trough No. 1 in Section 1, T. 1 N., R.
24 33 E., where a 2 inch diameter pipe and valve divert the water
25 from the main line into a semi-cylindrical water trough 10 feet
26 long and 4 feet in diameter. The flow into the trough is regu-
27 lated by a float valve.

28 The second point of diversion is at stockwater trough
29 No. 2 in Section 26, T. 2 N., R. 33 E., where a 2 inch diameter
30 pipe diverts the water from the main line to a circular trough,

1 6 feet in diameter and 3 feet high. There is no valve in the main
2 line and water is made to flow into the trough by shutting the
3 valve at the Dicalite diversion further down the main line and the
4 back pressure thus created forces the water into the trough.

5 The third point of diversion is at stockwater trough No.
6 3 in Section 25, T. 2 N., R. 33 E. A 2 inch diameter pipe and
7 valve divert the water from the main line into a semi-cylindrical
8 water trough 10 feet long and 3 feet in diameter. The flow into
9 the trough is regulated by a float valve.

10 The fourth point of diversion from the pipeline is at
11 the Basalt junction box in Section 25, T. 2 N., R. 33 E. A valve
12 diverts the water into a 3 inch diameter pipeline that transports
13 it to the town of Basalt, where it supplies water for six to
14 twenty house trailers and a picnic and rest area with six water
15 hydrants. Two houses are supplied by the Basalt pipeline. Also
16 on this line is a valve with a takeoff to fill a storage tank,
17 the water being used by Dicalite to supply the sprinkler truck
18 that wets down the haulage roads.

19 The fifth point of diversion from the pipeline is at the
20 Dicalite junction box in Section 25, T. 2 N., R. 33 E. A con-
21 trol valve here allows water to be diverted to Dicalite by means
22 of a 2 inch diameter pipeline. This line supplies a 50,000
23 gallon storage tank, a settling pond reservoir and the domestic
24 needs of forty employees and their families living at Dicalite.

25 Coaldale secures its drinking water supply from Dicalite
26 and has done so since 1930. It is transported by a water truck
27 to Coaldale where it is the only drinking water for twelve motel
28 units, fifteen trailers, one bar, one cafe and one service
29 station.

30 The main line is stubbed off immediately beyond the

1 Dicalite junction box and water no longer continues in the pipe-
2 line to the Candelaria reservoir and points beyond. The portion
3 of the pipeline from Dicalite to Candelaria was dismantled during
4 World War II.

5 The pipeline from Dyke Spring to the mining camp of
6 Candelaria was constructed in 1881-1882. Water was stored in a
7 concrete reservoir above Candelaria and piped to the townsite and
8 used by the inhabitants for domestic use and milling, as it was
9 the only source of water in the area. It was also piped seven
10 miles beyond Candelaria to Redlich where it supplied the Tonopah
11 and Goldfield Railroad until the removal of the railroad in 1940.

12 Prior to the existence of Basalt, water was piped from
13 the Candelaria pipeline to the Carson and Colorado Railroad near
14 the present site of Basalt. The railroad was constructed in
15 1880-1883 and abandoned during the 1930's.

16 VI.

17 That all measurements of amounts of water diverted are
18 to be made at a point in the Candelaria pipeline immediately
19 adjacent to and outside of the masonry collection box constructed
20 over Dyke Spring.

21 VII.

22 That all water allotted in the Decree shall be appurtenant
23 to the places of use designated therein. Any water user desiring
24 to change the point of diversion, manner of use or place of use
25 of the waters allotted herein must make application to the State
26 Engineer for permission to make the change pursuant to NRS
27 533.345.

28 VIII.

29 That from the Order of Determination and the evidence,
30 both oral and documentary, submitted in support thereof, the

1 Court finds that the name of the claimant and appropriator of
2 the waters of Trail Canyon Creek and its tributaries, the source
3 of the water supply, the means of diversion, the points of
4 diversion for beneficial use, the year of priority, the places of
5 use, the legal subdivisions, sections, townships and ranges are
6 as listed, stated and set forth.

7 IX.

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

11 JUDGMENT AND DECREE

12 THEREFORE, BY REASON OF THE FINDINGS OF FACT AND CON-
13 CLUSIONS OF LAW HEREINBEFORE SET FORTH, IT IS ORDERED, ADJUDGED
14 AND DECREED BY THE COURT AS FOLLOWS:

15 I.

16 That the State Engineer made all necessary and proper
17 orders as required by law, and that each and every notice
18 required by law was duly given to the claimants and appropriators;
19 that the claimants and appropriators had full opportunity to
20 appear and be heard in objection to and file exceptions to the
21 Order of Determination; that the claimant and appropriator, Frank
22 Seminario, Inc., is the only claimant of vested rights to the waters
23 of Trail Canyon Creek and its tributaries and this Decree deter-
24 mines the limit and extent of all vested water rights on the source

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

28 II.

29 That the waters of Trail Canyon Creek and its tributaries
30 are being placed to beneficial use by Frank Seminario, Inc., for

1 domestic, industrial and commercial purposes in Basalt, Dicalite
2 and Coaldale and for stockwatering purposes on range land.

3 III.

4 That the use of the water for domestic, industrial,
5 commercial and stockwatering purposes is for a year around use.

6 IV.

7 That the claimant shall have the right to divert from the
8 following points of diversion and for the following uses:

9 Dyke Spring, a tributary of Trail Canyon Creek, has a
10 masonry structure constructed around the spring to confine the
11 spring water and allow its diversion into a 5 inch spiral riveted
12 steel pipe. The water is transported by means of a pipeline, con-
13 sisting of both 4 inch and 5 inch diameter pipes, from its source
14 at Dyke Spring to the points of diversion along the pipeline.

15 The first point of diversion from the Candelaria pipe-
16 line is at stockwater trough No. 1 in Section 1, T. 1 N., R.
17 33 E., where a 2 inch diameter pipe and valve divert the water
18 from the main line into a semi-cylindrical water trough 10 feet
19 long and 4 feet in diameter. The flow into the trough is regu-
20 lated by a float valve.

21 The second point of diversion is at stockwater trough
22 No. 2 in Section 36, T. 2 N., R. 33 E., where a 2 inch diameter
23 pipe diverts the water from the main line to a circular trough,
24 6 feet in diameter and 3 feet high. There is no valve in the
25 main line and water is made to flow into the trough by shutting
26 the valve at the Dicalite diversion further down the main line
27 and the back pressure thus created forces the water into the
28 trough.

29 The third point of diversion is at stockwater trough
30 No. 3 in Section 25, T. 2 N., R. 33 E. A 2 inch diameter pipe

1 and valve divert the water from the main line into a semi-
2 cylindrical water trough 10 feet long and 3 feet in diameter.
3 The flow into the trough is regulated by a float valve.

4 The fourth point of diversion from the pipeline is at
5 the Basalt junction box in Section 25, T. 2 N., R. 33 E. A valve
6 diverts the water into a 3 inch diameter pipeline that transports
7 it to the town of Basalt, where it supplies water for six to
8 twenty house trailers and a picnic and rest area with six water
9 hydrants. Two houses are supplied by the Basalt pipeline. Also
10 on this line is a valve with a takeoff to fill a storage tank,
11 the water being used by Dicalite to supply the sprinkler truck
12 that wets down the haulage roads.

13 The fifth point of diversion from the pipeline is at the
14 Dicalite junction box in Section 25, T. 2 N., R. 33 E. A con-
15 trol valve here allows water to be diverted to Dicalite by means
16 of a 2 inch diameter pipeline. This line supplies a 50,000
17 gallon storage tank, a settling pond reservoir and the domestic
18 needs of forty employees and their families living at Dicalite.

19 Coaldale secures its drinking water supply from Dicalite
20 and has done so since 1930. It is transported by a water truck
21 to Coaldale where it is the only drinking water for twelve motel
22 units, fifteen trailers, one bar, one cafe and one service sta-
23 tion.

24 The main line is stubbed off immediately beyond the
25 Dicalite junction box and water no longer continues in the pipe-
26 line to the Candelaria reservoir and points beyond. The portion
27 of the pipeline from Dicalite to Candelaria was dismantled during
28 World War II.

29 The pipeline from Dyke Spring to the mining camp of
30 Candelaria was constructed in 1881-1882. Water was stored in a

1 concrete reservoir above Candelaria and piped to the townsite and
2 used by the inhabitants for domestic use and milling, as it was
3 the only source of water in the area. It was also piped seven
4 miles beyond Candelaria to Redlich where it supplied the Tonopah
5 and Goldfield Railroad until the removal of the railroad in 1940.

6 Prior to the existence of Basalt, water was piped from
7 the Candelaria pipeline to the Carson and Colorado Railroad near
8 the present site of Basalt. The railroad was constructed in
9 1880-1883 and abandoned during the 1930's.

10 V.

11 That all measurements of amounts of water diverted are to
12 be made at a point in the Candelaria pipeline immediately adjacent
13 to and outside of the masonry collection box constructed over
14 Dyke Spring.

15 VI.

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

21 VII.

22 That the name of the claimant and appropriator of the
23 waters of Trail Canyon Creek and its tributaries, the source
24 of the water supply, the means of diversion, the points of
25 diversion for beneficial use, the year of priority, the places
26 of use, the legal subdivisions, sections, townships and ranges
27 are hereby adjudged as follows:
28
29
30

1 PROOF NO.: 02619
2 CLAIMANT: Frank Seminario, Inc.
3 SOURCE: Trail Canyon Creek and Tributaries
4 USE: Industrial, Commercial, Domestic and Stockwatering
5 MEANS OF DIVERSION: Masonry Box and Pipeline.
6 POINT OF DIVERSION: Dyke Spring, SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 10, T. 1 S.,
7 R. 33 E., M.D.B. &M. (unsurveyed), or at a
8 point from which the NE corner of Section 1,
9 T. 1 S., R. 33 E., bears N. 56° 48' E., a
10 distance of 14,380 feet.
11 PERIOD OF USE: January 1 to December 31 of each year.

12 It is hereby determined that there are no vested rights
13 to the waters of Trail Canyon Creek other than those of Dyke
14 Spring.

15 The claimants are hereby granted the right to divert 60
16 g.p.m. of the flow of Dyke Spring into the Candelaria pipeline.

17 The date of priority of this vested right is 1881.

18 The places of use of the vested right are determined to
19 be:

20 Stockwater trough No. 1 - NE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 1, T. 1 N., R. 33 E., MDB&M.
21 Stockwater trough No. 2 - SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 36, T. 2 N., R. 33 E., MDB&M.
22 Stockwater trough No. 3 - SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 25, T. 2 N., R. 33 E., MDB&M.
23 Basalt - Sec. 26, T. 2 N., R. 33 E., MDB&M.
24 Dicalite - Sec. 29, T. 2 N., R. 34 E., MDB&M.
25 Coaldale - Sec. 17, T. 2 N., R. 37 E., MDB&M.

26 DONE IN OPEN COURT THIS 2nd DAY OF May
27 A.D. 1969.

28
29
30
KENNETH L. MANN
KENNETH L. MANN
District Judge