

4TH AMENDED

THE STATE OF NEVADA  
 PROOF OF APPROPRIATION OF WATER FOR IRRIGATION

Source Bruneau River  
Name of natural water source (use separate proofs for each major source)

The water is diverted from its source via Unnamed Ditches  
Name of ditch, flume or pipe line

at the following point(s) P.O.D. #1, within the NE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 26, T. 43 N., R. 57 E., MDM,  
List all points of diversion from this source, appending a sheet if necessary

at a point from which the NE corner of Section 35, T. 43 N., R. 57 E., MDM, bears S. 23°10' E., 2,415  
Describe as being within a 40-acre subdivision of public survey, and by course and distance to a section corner. If on unsurveyed  
feet.  
land, it should be stated

P.O.D. #2, within the NW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 26, T. 43 N., R. 57 E., MDM, at a point from which the NE corner of Section 35, T. 43 N., R. 57 E., MDM, bears S. 27°00' E., 5,376 feet.

P.O.D. #3, within the NE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 26, T. 43 N., R. 57 E., MDM, at a point from which the NE corner of section 35, T. 43 N., R. 57 E., MDM, bears S. 27°34' E., 5,877 feet.

P.O.D. #4, within the SW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 15, T. 43 N., R. 57 E., MDM, at a point from which the NE corner of Section 35, T. 43 N., R. 57 E., MDM, bears S. 30°53' E., 12,957

P.O.D. #5, within the SW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 15, T. 43 N., R. 57 E., MDM, at a point from which the NE corner of Section 35, T. 43 N., R. 57 E., MDM, bears S. 30°18' E., 13,239 feet.

P.O.D. #6, within the NW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 17, T. 45 N., R. 57 E., (unsurveyed) MDM, at a point from which the NW corner of Section 18, T. 45 N., R. 57 E., MDM, bears N. 60°31' W., 5,888 feet.

P.O.D. #7, within the SE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 18, T. 45 N., R. 57 E., (unsurveyed) MDM, at a point from which the NW corner of said Section 18 bears N. 67°31' W., 5,456 feet.

P.O.D. #8, within the NW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 7, T. 45 N., R. 57 E., (unsurveyed) MDM, at a point from which the SE corner of Section 36, T. 46 N., R. 57 E., MDM, bears N. 15°30' W., 6,182 feet.

P.O.D. #9, within the NW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 7, T. 45 N., R. 57 E., (unsurveyed) MDM, at a point from which the SE corner of Section 36, T. 46 N., R. 57 E., MDM, bears N. 12°54' W., 6,204 feet.

P.O.D. #10, within the SW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 4, T. 46 N., R. 56 E., MDM, at a point from which the NW corner of said Section 4, bears N. 54°20' W., 5,115 feet.

P.O.D. #11, within the SE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 32, T. 47 N., R. 56 E., MDM, at a point from which the SE corner of said Section 32, bears S. 80°06' E., 2,760 feet.

*56 On 7-27-1999*

*56 On 7-27-1999*

**P.O.D. #12**, within the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 32, T. 47 N., R. 56 E., MDM, at a point from which the W $\frac{1}{4}$  corner of said Section 32, bears N. 64°00' W., 2,395 feet.

**P.O.D. #13**, within the SE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 30, T. 47 N., R. 56 E., MDM, at a point from which the SE corner of said Section 30, bears S. 10°11' E., 161.24 feet.

**P.O.D. #14**, within the NW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 32, T. 47 N., R. 56 E., MDM, at a point from which the NW corner of said Section 32, bears N. 71°56' W., 601 feet.

**P.O.D. #15**, within the SE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 29, T. 47 N., R. 56 E., MDM, at a point from which the N $\frac{1}{4}$  corner of Section 20, T. 47 N., R. 56 E., MDM, bears N. 0°40' E., 6,945 feet.

**P.O.D. #16**, within the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 20, T. 47 N., R. 56 E., MDM, at a point from which the N $\frac{1}{4}$  corner of said Section 20, bears N. 07°03' E., 3,536 feet.

(1) Name of claimant State of Nevada, Department of State Lands for and on behalf of the Nevada

Department of Wildlife

Address Nevada Department of State Lands, 505 East King, Carson City, County of Carson City

State of Nevada 898710

Address Nevada Department of Wildlife, 1100 Valley Road, Reno, County of Washoe

State of Nevada 89520

Name of claimant Howard Ranches

Address Rowland Rt., Box 14, County of \_\_\_\_\_

State of Bruneau, Idaho 83604

Name of claimant Newmont Gold Company

Address PO BOx 669, County of Elko

State of Carlin, Nevada 89822

(2) The means of diversion employed diversion dam and ditches

Dam and ditch, pipe line, flume, etc.

(3) The date of the survey of ditch, canal, or pipe line was May 27, 1977

(4) The construction of the ditches or other works was begun 1894

and completed 1904 .

(5) The dimensions of the ditch or canal as originally constructed were: Width on bottom \_\_\_\_\_

feet, width on top \_\_\_\_\_ feet, depth \_\_\_\_\_ feet, on a grade of \_\_\_\_\_ feet per thousand feet. (Unknown)

(6) **The conduit has been enlarged. (improved)**

NOTE - If enlargement or extension of ditch was made, supply information under (7) and (8)

(7) **The work of enlargement of the ditch or canal was begun** unknown  
**and completed** \_\_\_\_\_ .

(8) **The dimensions of the ditch or canal as enlarged are: Width on bottom** \_\_\_\_\_ **feet, width on top** \_\_\_\_\_ **feet, depth** \_\_\_\_\_ **feet, on a grade of** \_\_\_\_\_ **feet per thousand feet. (unknown)**

(9) **The claimant is an owner in the above-described conduit.**

**Total interest**

If claimant is an owner in the conduit, state interest held on this line

(10) **The nature of the title to the land for which the water right is claimed is** \_\_\_\_\_

**Fee Title**

Fee simple, public domain, etc.

(11) **Crops of** Meadow Hay, Meadow (Pasture), and Diversified Pasture  
**have been grown upon the land irrigated. (e.g. alfalfa, native hay, grain, orchard, meadow or diversified pasture)**

(12) **The water has been used for irrigation from** April 1 **to** October 31  
**of each year.** Day of month Day of month

(13) **List the year of priority for acreages irrigated prior to March 1, 1905, from all points of diversion previously described, with corresponding subdivisions, appending extra sheets if necessary.**

<u>P.O.D.</u>	<u>SEC.</u>	<u>1/4 1/4</u>	<u>T. N.</u>	<u>R. E.</u>	<u>ACRES</u>	<u>TYPE OF CULTURE</u>	<u>DATE OF CULTURE</u>
1	26	NE SE	43	57	2.98	Pasture	1894
1	26	SE NE	43	57	5.20	Harvest	1894
1	26	SE NE	43	57	7.60	Pasture	1894
1	26	SW NE	43	57	7.93	Harvest	1894
1	26	SW NE	43	57	1.16	Pasture	1894
1	26	NE NE	43	57	0.34	Harvest	1894
1	26	NW NE	43	57	26.20	Harvest	1894
1	26	NE NW	43	57	3.31	Harvest	1894
1	23	SW SE	43	57	2.98	Harvest	1894
1	23	SW SE	43	57	12.48*	Harvest	1894
1	23	SE SW	43	57	11.66*	Harvest	1894
1	23	NW SE	43	57	1.24*	Harvest	1894
1	23	NE SW	43	57	25.12*	Harvest	1894
1	23	NW SW	43	57	1.32*	Harvest	1894
1	23	SE NW	43	57	8.84*	Harvest	1894
1	23	SW NW	43	57	35.37*	Harvest	1894
1	22	SE NE	43	57	11.90*	Harvest	1894
1	23	NW NW	43	57	6.19*	Harvest	1894
1	22	NE NE	43	57	31.40*	Harvest	1894

1	22	NW NE	43	57	5.62*	Harvest	1894
1	15	SE SE	43	57	32.23**	Harvest	1894
1	15	SE SE	43	57	3.72**	Pasture	1894
1	15	SW SE	43	57	1.65**	Harvest	1894
1	15	NE SE	43	57	1.49**	Harvest	1894 39.09
2	26	NW NE	43	57	1.65	Harvest	1894
2	26	NE NW	43	57	0.33	Harvest	1894
2	23	SW SE	43	57	12.48*	Harvest	1894
2	23	SE SW	43	57	3.89*	Harvest	1894
2	23	NW SE	43	57	1.24*	Harvest	1894
2	23	NE SW	43	57	17.60*	Harvest	1894
2	23	SE NW	43	57	8.84*	Harvest	1894
2	23	SW NW	43	57	30.91*	Harvest	1894
2	22	SE NE	43	57	10.99*	Harvest	1894
2	23	NW NW	43	57	6.19*	Harvest	1894
2	22	NE NE	43	57	31.40*	Harvest	1894
2	22	NW NE	43	57	5.62*	Harvest	1894
2	15	SE SE	43	57	32.23**	Harvest	1894
2	15	SE SE	43	57	3.72**	Pasture	1894
2	15	SW SE	43	57	1.65**	Harvest	1894
2	15	NE SE	43	57	1.49**	Harvest	1894 163.37
3	26	NE NW	43	57	0.17	Harvest	1894
3	23	SE SW	43	57	7.77*	Harvest	1894
3	23	NE SW	43	57	7.52*	Harvest	1894
3	23	NW SW	43	57	1.32*	Harvest	1894 22.15
3	23	SW NW	43	57	4.46*	Harvest	1894
3	22	SE NE	43	57	0.91*	Harvest	1894
4	15	SW SE	43	57	0.99	Pasture	1894
4	15	SE SE	43	57	0.95	Pasture	1894
4	15	NE SE	43	57	7.19	Harvest	1894
4	15	NE SE	43	57	5.46	Pasture	1894
4	14	NW SW	43	57	2.23	Harvest	1894
4	14	SW NW	43	57	11.90**	Harvest	1894
4	15	SE NE	43	57	21.40**	Harvest	1894 43.6
4	15	SE NE	43	57	5.79* *	Pasture	1894
4	14	NW NW	43	57	5.54**	Harvest	1894
4	15	NE NE	43	57	26.45**	Harvest	1894
4	15	NE NE	43	57	5.70**	Pasture	1894
5	15	SW SE	43	57	2.73	Pasture	1894
5	15	SE SE	43	57	0.25	Pasture	1894
5	15	NW SE	43	57	8.60	Pasture	1894
5	15	NE SE	43	57	15.45	Pasture	1894 39.34
5	15	SW NE	43	57	3.23	Pasture	1894
5	15	SE NE	43	57	13.22	Pasture	1894
5	15	NE NE	43	57	7.69	Pasture	1894

\*Acreages may receive water from additional points of diversion.

**\*\* Acreages may receive water from Willow Creek, Proof 03526.**

**Ditches #1 through #5 is 124.84 acres with an additional 151.14 acres which also can be irrigated from Ditches #1, #2, and #3. Also 115.87 acres which can be irrigated from Willow Creek. A grand total of 391.85 acres from Ditches #1 through #5.**

<u>P.O.D.</u>	<u>SEC.</u>	<u>1/4 1/4</u>	<u>T. N.</u>	<u>R. E.</u>	<u>ACRES</u>	<u>TYPE OF CULTURE</u>	<u>DATE OF CULTURE</u>
6	17	NW SW	45	57	0.38	Harvest	1900
6	17	NW SW	45	57	0.06	Pasture	1900
6	18	NE SE	45	57	0.14	Harvest	1900
6	18	NE SE	45	57	0.21	Pasture	1900
6	17	SW NW	45	57	1.22	Harvest	1900
6	18	SE NE	45	57	0.75	Harvest	1900
6	18	SE NE	45	57	0.10	Pasture	1900
7	18	SE NE	45	57	1.40	Harvest	1900
7	18	SE NE	45	57	1.33	Pasture	1900
7	17	SW NW	45	57	0.04	Pasture	1900
7	18	NE NE	45	57	6.62	Harvest	1900
7	18	NE NE	45	57	0.49	Pasture	1900
7	7	SE SE	45	57	5.68	Harvest	1900
7	7	SE SE	45	57	2.68	Pasture	1900
7	8	SW SW	45	57	0.34	Pasture	1900
7	7	NE SE	45	57	0.59	Pasture	1900

**Totals for Ditches #6 and #7: 22.03 acres**

8	7	NW SE	45	57	4.65	Pasture	1894
8	7	NE SW	45	57	0.19	Pasture	1894
9	7	NW SE	45	57	0.61	Pasture	1897
9	7	NE SW	45	57	2.15	Pasture	1897
9	7	SE NW	45	57	1.53	Harvest	1897
9	7	SE NW	45	57	4.36	Pasture	1897
9	7	NE NW	45	57	4.91	Harvest	1897
9	7	NE NW	45	57	2.56	Pasture	1897
9	7	NE NW	45	57	0.63	Diversified	1897
9	6	SE SW	45	57	8.53	Harvest	1899
9	6	SE SW	45	57	3.06	Pasture	1899
9	6	SE SW	45	57	0.44	Diversified	1899
9	6	NE SW	45	57	3.58	Harvest	1899
9	6	NE SW	45	57	1.71	Pasture	1899
9	6	NE SW	45	57	1.68	Diversified	1899
9	6	Lot 3	45	57	0.77	Diversified	1899

**Totals for Ditches #8 and #9: 36.52 acres**

10	4	SW SE	46	56	0.12	Harvest	1901
10	4	SE SW	46	56	5.75	Harvest	1901

10	4	SE SW	46	56	1.42	Pasture	1901
10	4	NE SW	46	56	1.02	Harvest	1901
10	4	NE SW	46	56	0.16	Pasture	1901
10	4	NW SW	46	56	1.78	Harvest	1901
10	4	NW SW	46	56	3.17	Pasture	1901
10	4	SW NW	46	56	7.36	Harvest	1901
10	4	SW NW	46	56	0.64	Pasture	1901
10	4	NW NW	46	56	0.17	Harvest	1901
10	4	SE NE	46	56	1.39	Harvest	1901
10	4	SE NE	46	56	3.18	Pasture	1901
10	4	NE NE	46	56	4.44	Harvest	1901
10	4	NE NE	46	56	2.56	Pasture	1901
10	4	NW NE	46	56	3.12	Harvest	1901
10	4	NW NE	46	56	1.24	Pasture	1901
10	4	NW NE	46	56	0.49	Diversified	1901

Total for Ditch #10: 38.01 acres

11	32	SE SW	47	56	1.74	Harvest	1902
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Total for Ditch #11: 1.74 acres

12	32	NE SW	47	56	0.72	Pasture	1904
12	32	NW SW	47	56	1.10	Harvest	1904
12	32	NW SW	47	56	1.27	Pasture	1904
12	32	SW NW	47	56	5.26	Harvest	1904
12	32	SW NW	47	56	0.65	Pasture	1904

Total for Ditch #12: 9.00 acres

13	32	NW NW	47	56	2.53	Meadow	1904
13	32	NE NW	47	56	1.91	Meadow	1904
13	32	NE NW	47	56	0.75	Meadow	1904
13/14	32	NW NW	47	56	2.19	Meadow	1904
13/14	32	NE NW	47	56	3.95	Meadow	1904
13/14	32	NE NW	47	56	5.83	Harvest	1904
13/14	29	SE SW	47	56	0.18	Meadow	1904
13/14	29	SE SW	47	56	6.79	Harvest	1904
13/14	29	SE SW	47	56	2.13	Meadow	1904

Totals for Ditches #13 and #14: 26.26 acres

15	29	SE NW	47	56	0.29	Meadow	1895
15	29	SE NW	47	56	0.30	Harvest	1895
15	29	NE NW	47	56	0.87	Meadow	1895
15	29	NE NW	47	56	11.54	Harvest	1895
15	20	SE SW	47	56	1.44	Meadow	1895
15	20	SE SW	47	56	0.59	Meadow	1895
15	20	SE SW	47	56	13.82	Harvest	1895
15	20	NE SW	47	56	3.62	Harvest	1895

15	20	✓NE SW	47	56	0.63	Diversified	1895
15/16	20	✓NE SW	47	56	0.84	Meadow	1895
15/16	20	✓NE SW	47	56	5.30	Harvest	1895
15/16	20	✓SE NW	47	56	0.97	Harvest	1895
15/16	20	✓SE NW	47	56	1.05	Harvest	1895
15/16	20	✓SE NW	47	56	1.95	Meadow	1895
15/16	20	✓SW NE	47	56	0.08	Meadow	1895
15/16	20	×SW NE	47	56	3.19	Harvest	1895
15/16	20	×NW NE	47	56	0.41	Meadow	1895
15/16	20	×NW NE	47	56	6.15	Harvest	1895
15/16	17	✓SW SE	47	56	11.29	Harvest	1895
15/16	17	✓SE SE	47	56	2.71	Harvest	1895
15/16	20	✓SW NE	47	56	6.29	Harvest	1895
15/16	20	✓SW NE	47	56	0.35	Meadow	1895
15/16	20	×NW NE	47	56	0.48	Meadow	1895
15/16	20	×NW NE	47	56	0.82	Meadow	1895
15/16	20	✓NW NE	47	56	3.42	Harvest	1895
15/16	17	✓SE SE	47	56	2.70	Harvest	1895
15/16	17	✓SW SE	47	56	4.21	Harvest	1895
15/16	17	×SW SE	47	56	0.08	Meadow	1895
15/16	17	✓NW SE	47	56	0.29	Meadow	1895
15/16	17	✓NW SE	47	56	3.37	Harvest	1895
15/16	17	×NE SE	47	56	3.21	Harvest	1895
15	20	+SW SE	47	56	1.03	Harvest	1895
15	20	✓NW SE	47	56	0.52	Harvest	1895
15/16	20	×NW NE	47	56	0.12	Meadow	1895

Totals for Ditches #15 and #16: 93.93 acres.

- 14) The maximum acreage irrigated in any year was 619.34 acres
- 15) The water claimed has been used for irrigation each and every year since the right was initiated. Strike out one not wanted
- 16) The years during which no water was used for irrigation or during which the full water right was not used were \_\_\_\_\_

If water was not used, or used in reduced quantity at any time, full information as to causes and duration

of non-use should be given, appending a sheet if necessary

- 17) The claimant's water right was not recorded in the office of the County Recorder of See Remarks County, said record being at page \_\_\_\_\_ of Book \_\_\_\_\_ of \_\_\_\_\_, and being a claim for \_\_\_\_\_ of water for the irrigation of \_\_\_\_\_

acres of land in the following legal subdivisions: \_\_\_\_\_

NOTE - Failure to record in the county in no way invalidates a water right, but if ditch or right was so recorded, supply full information under (17)

(18) Water from the source given and through the works described is also used for the following

purposes other than irrigation: Stockwater and Domestic

(19) The character of the soil is sandy loam. A continuous flow of 2½ cubic  
(Sandy, gravelly, loam)

feet of water per second has been used to irrigate 100 acres of land and 4.0

acre-feet per acre per annum have been used to irrigate the crops.

(20) Remarks: Ditches #1 through #5, an Affidavit by Frank. P. Shively, Book 242, Page 532 states that the waters from the Bruneau River and Charleston Reservoir, which was built in 1894, and that all of that land was irrigated from Bruneau and Willow Creek in 1894. Affidavit made by John B. Scott found in Book 242, Page 528 states that the waters of the Bruneau River were irrigated in the late 1800's. Affidavit filed in Book 242, Page 531 by J.M. Knight that the land and reservoirs were in place in 1917. Affidavit filed by Philip O. Morse for a ditch out of the Bruneau near mouth of Dolly Creek in 1893, Water Rights Book 2, Page 229. Also Affidavit filed by J.A. Terbranche for a ditch in 1894 for another ditch out of the Bruneau near where Dolly Creek empties into the Bruneau, found in Water Rights, Book 2, Page 240. Affidavit found in Water Rights, Book 2, Page 295 filed by A.M. Harris and W.J. Plumb for agriculture out of Willow Creek in 1897. We are claiming a 1894 for ditches #1 through #5 out of the Bruneau and Charleston Reservoir and also a 1894 out of Willow Creek for that land that irrigates from both Bruneau and Willow Creek. The rest of Willow Creek claiming at 1897. The Elko County Tax Rolls shows Nephi Jesson on what is known as the Willow Creek Ranch in Charleston in 1894 and also C.F. Pearson on 160 acres starting in the year 1889 within Charleston. Also A.A. Schols in 1897. Jesson, Pearson, and Schols were all on the land which covers Ditches #1 through #5.

Ditches #6 and #7, Affidavit made by Alex Palacio found in Book 242, Page 530 indicating irrigated lands were well established in 1910 when his father owned the place. A statement in a claim by E. Penrod in Water Rights Book 2, Page 198 establishes that in 1893 there was a ranch at the mouth of the Bruneau and Badger Creeks. Inez Mackley affidavit states that in 1907 water was irrigated from the Bruneau River and Badger Creek, found in Book 8, Page 193. We are claiming a 1900 for both of these ditches.

Ditches #8 and #9, An Affidavit dated September 11, 1893 by A.P. Shively, Water Rights, Book 2, Page 206 for mining and all other purposes from this ditch. We are claiming 1894. An Affidavit by A.P. Shively and D.F. Shively, Water Rights, Book 2, Page 196 for mining and agriculture dated January 1, 1897. An Affidavit made by Joseph F. McKnight filed in Book 242, Page 531, states that the ranch was there in 1917 and was being irrigated before 1900. An Affidavit made by John B. Scott, filed in Book 242, Page 528 states that the ranch was being irrigated before 1900. An Affidavit made by Frank P. Shively, filed in Book 242, Page 533, states that the ranch was being irrigated before and in the early 1900's. We are claiming a 1894 thru 1902 on Miller Creek, the Unnamed Springs, and also the Bruneau River.

Ditch #10, recorded in the County Recorders office of Elko County, said record being Page 388, Book 2 of Water Rights and being for 1000 inches of water, ditch known as Gill and Tremeuan Ditch by C.S. Tremeuan, Rowland G. Gill and E. Tremeuan. Claiming a 1901 date of filing.

Ditch #11, Bruneau River, This was part of the Tremeuan-Gill property (from Meadow Creek and Bruneau, with a 1900 and 1901 priority), claiming a 1902 from this ditch and property. The ditch was not recorded.

Ditch #12, this ditch was not recorded, but the Cadastral Survey of 1904 and the Tax Rolls of 1904 show that J.W. Thompson, Jr. was on this property. We are claiming a 1904 for this ditch and land.

Ditches #13 and #14, these ditches were not recorded, we are claiming a 1904 on both ditches and land.

Ditches #15 and #16-Bruneau River, the land covered under these rights is a 1895 Right as recorded in Water Rights, Book 2, Page 279, which also shows on the Tax Roll from 1892 through 1905 under J.A. Taylor and J.B. Scott. In 1899 the lower end of the ranch was sold to J.B. Scott. Recorded November 4, 1899 selling the land and water rights from McDonald Creek and 1/2 of Bruneau River.

The undersigned, being first duly sworn, deposes and says that the facts relative to the appropriation of water by State of Nevada, Department of State Lands for and on behalf of the Nevada Department of Wildlife, Howard Ranches and Newmont Gold Company are full and correct to the best of his knowledge and belief Deponent has been authorized by the claimant to act as his agent

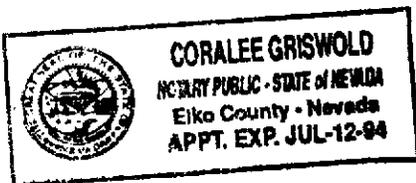
If proof is not made by claimant, deponent should state on this line by virtue of what authority he represents the claimant

William A. Fishel

421 Court Street, Elko, NV 89801

Subscribed and sworn to before me this 17 day of June, 1994

Coralee Griswold



Notary Public in and for the County of Elko

My commission expires July 12, 1994

**\$100 FILING FEE MUST ACCOMPANY PROOF**