Application No. V04692

SECOND AMENDED STATE OF NEVADA
PROOF OF APPROPRIATION OF WATER FOR IRRIGATION

Source Hardy Creek and its tributaries, including Big Springs (also known as Johnson Springs)
Name of natural water source (use separate proofs for each major source)

The water is diverted from its source Mathers Ditch, also known as Johnson or Big Springs Ditch, and others
Name of ditch, flume or pipe line

at the following point(s) (List all points of diversion from this source, appending a sheet if necessary. Describe as being within a 40-acre subdivision of public survey, and by course and distance to a section corner. If on unsurveyed land, it should be stated.)

There are many springs that form the headwaters of Hardy Creek. The headwater is a complex of spring heads and potholes of differing size. Several of these have been surveyed in the past, but not all have been depicted on any one map. For a partial list of the springs, please see the attached list which was constructed from the Maps for Applications 2210, 18310, and 52302 (which original map was filed under 28587).

(1) Name of claimant ELKO LAND AND LIVESTOCK COMPANY

Address 1655 MOUNTAIN CITY HIGHWAY, County of ELKO

State of NEVADA Telephone No. (775) 778-2519

(2) The means of diversion employed Overflow and ditches from springs and the natural channel and reservoir
Dam and ditch, pipe line, flume, etc.

(3) The date of the survey of ditch, canal, or pipe line was before 1870

(4) The construction of the ditch or other works was begun before 1870

and completed Before 1881

(5) The dimensions of the ditch or canal as originally constructed were: Width on bottom not known feet, width on top _____ feet, depth _____ feet, on a grade of _____ feet per thousand feet.

(6) The conduit has been enlarged. 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 before 1881 - the meadows were fully developed by 1881

and completed before 1881 - the meadows were fully developed by 1881.

(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.

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

Primarily fee ownership (Deeded) land belonging to Elko Land and Livestock Company (ELLCo).
If claimant is an owner in the conduit, state interest held on this line.

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

The majority of the land was acquired through a series of State Land entries and Homestead Patents beginning before 1873.

(11) Crops of Alfalfa, Native Hay, Grain, Meadow, 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 01/01 (Day of month) to 12/31 (Day of month) of each year.

(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.

SEE	ATTACHED	acres in the		of Sec		T	R	E.
		acres in the		of Sec		T	R	E.
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(14) The maximum acreage irrigated in any year was 8807.2 acres.

(15) The water claimed has been used for irrigation each and every year since the right was initiated.

(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.)

There is less water in recent years than in the past. US Government surveys from 1881 show approximately 8807.2 acres were in meadow in that period. Claimant owns most of the land that encompassed that meadow. It could be restored.

(17) The claimant's water right was (was not) recorded in the office of the County Recorder of Elko

County, said record being at page 599-600 of Book 2 of MISC, and being a claim for

NOT STATED of water for the irrigation of

NOT STATED acres of land in the following legal subdivisions:

Literary accounts and tax records suggest activity in the area before 1870. Documentary evidence indicates that E.C. Hardy, and others, began developing this land as early as 1873 (E.C. Hardy Homestead file obtained from NARA). William Mathers began a ditch from the main springs in 1875 (Elko County Records). This property was sold to Wesley Johnson after Mathers death about 1885, hence the name Johnson Springs. John Henry began a ditch in 1879 (Misc 2 Pages 536-538) which was taken over by E.C. Hardy (Misc 3 Pages 24-26). U.S. General Land Office surveys from 1881 (depicted on the Grazing Map prepared for the Stock Water Proof filed herewith) indicate that approximately 8807.2 acres of meadow were developed in Sections 2-4, 9-11, & 14-16, T34N, Sections 2, 3, 10, 11, 14, 15, 22, 23, 33, 34, & 35, T35N; Sections 21, 22, 27, 28, 33, 34, and 35 in T36N, all in R66E, MDM, at that time. This use was changed by stripping on the west and south and expanding east in 1911 to 1918 (Application 2210). 1 cfs, representing 100 acres, is now owned by the City of Wendover. SEE ATTACHED TABLE for 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:

Stock water, Domestic, and Storage (reference maps 2210, 11310 and 11074).

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(19) The character of the soil is Sandy, gravelly, and loam. A continuous flow of 15.2124* cubic feet
Sandy, gravelly, loam

of water per second has been used to irrigate 1,521.24* acres of land and 4

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

*The above numbers take into account the 1 cfs now belonging to the City of Wendover. Up to 8,807 acres were irrigated historically. Although the exact flow rates are not known, it is clear that water will flow into the historic zone, producing at least Diversified Pasture, whenever it becomes available in wet years.

(20) Remarks

100% of the flow of Hardy Creek, including Big Springs (or Johnson Springs) has been used historically since at least 1870 for Irrigation, Domestic, and Stock Watering purposes. The natural flow of the springs is toward the south. This irrigated meadow was surveyed at 8807.2 acres by the US General Land Office in 1881. In recent years, approximately 1,421.24 acres have been irrigated, utilizing 5,684.96 Acre Feet Annually. Under historic flows, the irrigated area could be expanded more in keeping with the historic numbers. The Claimant claims and uses all the water the Springs can produce in any given year, less 1 cfs owned by the City of Wendover. The modern use has diminished in most years but the source undoubtedly will provide enough water for the original meadow in very wet years.

Some lands in T34N R66E are affected by the highest flows from Hardy Creek, but were not identified in the Study Area originally identified by the Nevada State Engineer. Historic meadows in this area fall mostly on lands belonging to ELLCo, but a portion of the lands are administered by the U.S. Department of Interior, Bureau of Land Management (BLM). BLM lands have been stripped from this Proof. This represents not only the actions that took place between 1911 and 1918, pursuant to Application 2210, but also extra historical acres in T34N R66E were stripped to preclude ELLCo from laying claim to BLM lands in the area not encompassed by the State Engineer's Study Area.

Summary of Irrigation Waters claimed pursuant to this Proof:

1) 15.2124 cfs was originally awarded pursuant to Application 2210. 1 cfs is now owned by the City of Wendover. The remaining 14.2124 cfs is in use by ELLCo. These acres should be awarded a priority date of 1870, as Applications 2210 and 18310 are developments of water earned by the original entrants. 1,421.24 acres are irrigated when the water is available. This water right on these acres is jointly owned by ELLCo (75.4444%) and Johnson Spring Water Company and the Star Living Trust (24.5556%). These acres are actively irrigated, and qualify for an allocation of 4 acre feet per acre per year, when it is available.

2) After the above listed 1,421.24 active acres, the balance of the historically irrigated acres is 6,721.61 acres. This is the original 8807.2 acres, less 38.9 acres stripped in Section 28, T36N R66E, 100 acres stripped for the City of Wendover, and 525.45 acres in T34N R66E stripped to preclude ELLCo asserting a claim to historic uses on BLM land outside the Study Area. These 6,271.61 acres will at least qualify as Diversified Pasture in very wet years, with a priority date of 1870.

The undersigned, being first duly sworn, deposes and says that the facts relative to the appropriation of water by

ELKO LAND AND LIVESTOCK COMPANY are full and correct to the best of his knowledge and belief.

JEFF WHITE IS A VICE PRESIDENT OF ELKO LAND AND LIVESTOCK COMPANY

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

Name JEFF WHITE

Address 1655 MOUNTAIN CITY HIGHWAY

Telephone Number (775) 778-2519

RECEIVED
2016 FEB -4 AM 11:05
STATE ENGINEERS OFFICE

State of Nevada

County of ELKO

Subscribed and sworn to before me on 2-2-2016

by Jeff White

REBECCA SCHOW
NOTARY PUBLIC
STATE OF NEVADA
My Commission Expires: 09-21-17
Certificate No: 09-11120-6

Signature of Notary Public Required

Notary Stamp or Seal Required

$120 FILING FEE MUST ACCOMPANY PROOF

Revised 07/13 - poa-irr

Application No. V04692

STATE OF NEVADA

AMENDED PROOF OF APPROPRIATION OF WATER FOR IRRIGATION

Source Hardy Creek and its tributaries, including Big Springs (also known as Johnson Springs)
Name of natural water source (use separate proofs for each major source)

The water is diverted from its source Mathers Ditch, also known as Johnson or Big Springs Ditch, and others
Name of ditch, flume or pipe line

at the following point(s) (List all points of diversion from this source, appending a sheet if necessary. Describe as being within a 40-acre subdivision of public survey, and by course and distance to a section corner. If on unsurveyed land, it should be stated.)

see attached list and Maps for Applications 2210, 18310, and 52302.

(1) Name of claimant ELKO LAND AND LIVESTOCK COMPANY

Address 1655 MOUNTAIN CITY HIGHWAY, County of ELKO

State of NEVADA Telephone No. (775) 778-2519

(2) The means of diversion employed Overflow and ditches from springs and the natural channel
Dam and ditch, pipe line, flume, etc.

(3) The date of the survey of ditch, canal, or pipe line was 1875

(4) The construction of the ditch or other works was begun 1875

and completed Before 1881

(5) The dimensions of the ditch or canal as originally constructed were: Width on bottom not known feet, width on top _____ feet, depth _____ feet, on a grade of _____ feet per thousand feet.

(6) The conduit has been enlarged. 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 not known - the meadows were fully developed by 1881

and completed not known - the meadows were fully developed by 1881.

(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.

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

Fee ownership (Deeded) land all belonging to Elko Land and Livestock Company
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
THE LAND WAS ACQUIRED THROUGH A SERIES OF STATE LAND APPLICATIONS AND FEDERAL HOMESTEAD ENTRY PATENTS BEGINNING AS EARLY AS 1873

(11) Crops of ALFALFA, NATIVE HAY, GRAIN, MEADOW 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 01/01 (Day of month) to 12/31 (Day of month) of each year.

(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.

SEE	ATTACHED	acres in the	LIST, AND	of Sec		, T		, R		, E.
MAP	APP 2210	acres in the	FOR MODERN	of Sec		, T		, R		, E.
USE	AND	acres in the	GRAZING	of Sec		, T		, R		, E.
MAP	FOR	acres in the	HISTORIC	of Sec		, T		, R		, E.
USE		acres in the		of Sec		, T		, R		, E.
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		acres in the		of Sec		, T		, R		, E.
		acres in the		of Sec		, T		, R		, E.

(14) The maximum acreage irrigated in any year was 5757 acres.

(15) The water claimed has been used for irrigation each and every year since the right was initiated.

(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.)

There is less water in recent years than in the past. US Government surveys from 1881 show approximately 5757 acres were in meadow in that period. Claimant owns nearly all the land that encompassed that meadow. It could be restored.

(17) The claimant's water right was (was not) recorded in the office of the County Recorder of Elko County, said record being at page 599-600 of Book 2 of MISC, and being a claim for NOT STATED of water for the irrigation of NOT STATED acres of land in the following legal subdivisions:

E.C. Hardy began developing land in T35N R66E as early as 1873 (E.C. Hardy Homestead file obtained from NARA). Later Mr. Hardy expanded into T36N R66E (Elko County Records). William Mathers began a ditch from the main springs in 1875 (Elko County Records). This property was sold to Wesley Johnson after Mathers death about 1885, hence the name Johnson Springs. John Henry began a ditch in 1879 (Misc 2 Pages 536-538) which was taken over by E. C. Hardy (Misc 3 Pages 24-26). U.S. General Land Office surveys from 1881 (depicted on the Grazing Map prepared for the Stock Water Proof filed herewith) indicate that approximately 5757 acres of meadow had been developed in Sections 2, 3, 10, 11, 14, 15, 22, 23, 33, 34, and 35, in T35N, R66E and Sections 21, 22, 27, 28, 33, 34, and 35 in T36N, R66E, MDM, at that time. The modern use has diminished in most years but the source undoubtedly will provide enough water for this original meadow in very wet years. The Claimant uses all the water the spring produces except for limited amounts to other parties. The historic use could be restored if the flows were to resume at a future point.

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:

Stock water, Domestic, and Storage (reference maps 2210, 11310 and 11074)

(19) The character of the soil is Sandy, gravelly, and loam (Sandy, gravelly, loam). A continuous flow of 1.55 recent, 23 hist. cubic feet of water per second has been used to irrigate 1550.4 recent, 5757hi. acres of land and 6201.6 recent, 23028 historic max acre-feet per acre per annum have been used to irrigate the crops. More water could be utilized as it becomes available.

2014 DEC 31 08:13:57

(20) Remarks

100% of the flow of Hardy Creek, including Big Springs (or Johnson Springs) has been used historically since at least 1873 for Irrigation, Domestic, and Livestock purposes. The natural flow of the springs is toward the south. This irrigated land has encompassed nearly 5757 acres historically. In recent years, approximately 1550.4 acres have been irrigated, utilizing 6201.6 Acre Feet Annually. If the historic flows were to resume, the irrigated acres could be expanded more in keeping with the historic numbers. The Claimant claims all the water the Springs can produce in any given year, less the limited amounts allowed to other parties.

THIS AMENDED PROOF OF APPROPRIATION OF WATER FOR IRRIGATION AMENDS THAT CERTAIN PROOF OF APPROPRIATION OF WATER FOR IRRIGATION PURPOSES NO V04692 DATED JULY 7, 1988.

The undersigned, being first duly sworn, deposes and says that the facts relative to the appropriation of water by

ELKO LAND AND LIVESTOCK COMPANY are full and correct to the best of his knowledge and belief.

JEFF WHITE IS A VICE PRESIDENT OF ELKO LAND AND LIVESTOCK COMPANY

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

Name JEFF WHITE

Address 1655 MOUNTAIN CITY HIGHWAY

Telephone Number (775) 778-2519

State of Nevada

County of ELKO

Subscribed and sworn to before me on July 30th, 2014

by Jeff White

Valerie McLeod

Signature of Notary Public Required

VALERIE MCLEOD
Notary Public, State of Nevada
Appointment No. 05-100494-6
My Appt. Expires Nov 27, 2017

Notary Stamp or Seal Required

$120 FILING FEE MUST ACCOMPANY PROOF

Revised 07/13 - poa-irr

Big Springs
Exhibits for V04296

2014 JUL 31 AM 10:51

Big Springs

Places of Use

Identified in Application 2210
Submitted in support of Amended Proof
V04692

Acres	Subdivision	Section	Township	Range	Meridian
36.7	SE 1/4	22	T36N	R66E	MDM
4.3	SW 1/4	22	T36N	R66E	MDM
33.4	SW 1/4	22	T36N	R66E	MDM
21.5	NW 1/4	27	T36N	R66E	MDM
19	NW 1/4	27	T36N	R66E	MDM
119.1	NW 1/4	27	T36N	R66E	MDM
161	NE 1/4	27	T36N	R66E	MDM
100	SW 1/4	27	T36N	R66E	MDM
38.3	SW 1/4	27	T36N	R66E	MDM
43.3	SE 1/4	27	T36N	R66E	MDM
20.7	SE 1/4	27	T36N	R66E	MDM
7	NE 1/4	28	T36N	R66E	MDM
74.3	SE 1/4	28	T36N	R66E	MDM
6	SE 1/4	28	T36N	R66E	MDM
1.7	SE 1/4	28	T36N	R66E	MDM
89.9	NE 1/4	33	T36N	R66E	MDM
53.3	NE 1/4	33	T36N	R66E	MDM
11.7	SE 1/4	33	T36N	R66E	MDM
33.3	NW 1/4	34	T36N	R66E	MDM
15.7	NW 1/4	34	T36N	R66E	MDM
34	NW 1/4	34	T36N	R66E	MDM
12	NW 1/4	34	T36N	R66E	MDM
16.7	NE 1/4	34	T36N	R66E	MDM
134.3	NE 1/4	34	T36N	R66E	MDM
140	SE 1/4	34	T36N	R66E	MDM
2	SW 1/4	34	T36N	R66E	MDM
7.2	SW 1/4	34	T36N	R66E	MDM
34	SW 1/4	34	T36N	R66E	MDM
45	SW 1/4	34	T36N	R66E	MDM
201	NE 1/4	3	T35N	R66E	MDM
34	NW 1/4	2	T35N	R66E	MDM
1550.4	Acres				

Big Springs

Points of Diversion (Partial)

Identified in Application 52302

Submitted in support of Amended Proof

V04692

Spring	Bearing	Distance	From	T R, Meridian
3	S 19°43'55" W	1802.02'	SW Cor Sec. 22	T36N R66E, MDM
4	S 17°58'33" W	1296.80'	SW Cor Sec. 22	T36N R66E, MDM
5	S 12°57'20" W	1191.01'	SW Cor Sec. 22	T36N R66E, MDM
6	S 13°09'52" W	1086.2 I'	SW Cor Sec. 22	T36N R66E, MDM
7	S 15°04'38" W	999.68'	SW Cor Sec. 22	T36N R66E, MDM
8	S 20°36'45" W	859.26'	SW Cor Sec. 22	T36N R66E, MDM
9	N 4°25'31" E	293.80'	NE Cor Sec. 28	T36N R66E, MDM
10	N 11°13'19" E	1383.40'	NE Cor Sec. 28	T36N R66E, MDM
11	N 7°I7' 21" E	1889.61'	NE Cor Sec. 28	T36N R66E, MDM
12	N 8°07'47'E	2008.00'	NE Cor Sec. 28	T36N R66E, MDM
13	N 9°02'28"E	2130.03'	NE Cor Sec. 28	T36N R66E, MDM
14	N 9°56'42" E	2214.50'	NE Cor Sec. 28	T36N R66E, MDM
15	N12°33'13" E	2312.41'	NE Cor Sec. 28	T36N R66E, MDM
16	N 16°48'22" E	2411.07'	NE Cor Sec. 28	T36N R66E, MDM
17	N 8°39'30" E	2549.86'	NE Cor Sec. 28	T36N R66E, MDM
18	N 2°04'I7" E	2631.34'	NE Cor Sec. 28	T36N R66E, MDM
19	N 0°I7'57" W	2652.56'	NW Cor Sec. 27	T36N R66E, MDM
20	N 0°56'43" W	2682.86'	NW Cor Sec. 27	T36N R66E, MDM

Black Rock Resource Company
Natural Resource Services
P.O. Box 360, Cedarville, CA 96104
(530) 640-1451

July 31, 2014

2014 JUL 31 AM 10: 50

State of Nevada
Division of Water Resources
901 South Stewart Street, Suite 2002
Carson City, NV 89701

HAND DELIVERED 7/31/2014

Re: Big Springs Adjudication

Dear State Engineer:

I am delivering herewith the following documents on behalf of Elko Land and Livestock Company with respect to your letter of April, 2014 concerning the Big Springs (aka Johnson Springs) adjudication:

1) Supplemental Exhibits for Amended Proof V04296

   a) Exhibit showing Points of Diversion (to the extent possible - they are legion).
   b) Exhibit showing Places of Use as the were surveyed in support of Application 2210[1].

2) Preliminary Title Report and Supplemental Title report covering all the lands in your Study Area, as requested in your letter.

These documents are to accompany three Amended Proofs and one new Proof for Stock Water appurtenant to these springs. Those should be delivered by courier from Elko today, commensurate herewith.

I am also bringing, for discussion purposes, the following documents:

1) US General Land Office survey plats for the Study Area, plus the Township immediately south. These plats illustrate the extensive historical irrigation (which had commensurate stock water use). They also raise the question as to why the Study Area was truncated at the south line of T35N R66E. Historically, the Big Springs water carried several miles farther south, into lands now also owned by Elko Land and Livestock company.

2) Samples of Tax Records showing livestock numbers in selected years in the 1800's.

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[1] Please understand that the place of use of the water from Big Springs varies considerably from season to season depending on the flow. The numbers submitted here are but a quarter of the historic numbers measured by U.S. Government Surveyors in the 1800's.

3) Copies of all the Water Claims that have been found to date, beginning in 1875.

4) A copy of the Homestead Entry file for Mr. E.C. Hardy, who entered the area in 1873. Hardy Creek is named for this gentleman.

5) Reduced copies of the Map I am preparing to support the new Proof for Stock Water being submitted today. There are a number of idiosyncracies involved at Big Springs that make it difficult to use "conventional" procedures to draw a Stock Water Map.

6) Finally, I have questions regarding transfers of ownership for the multitude of Abrogated Rights. I am wondering if Reports of Conveyance are necessary for these rights, in light of the fact they have been Abrogated. Please advise us in either case.

We are still waiting for our Title Company to produce a Chain of Title Report with documents to support the Preliminary Title Report. I cannot finalize all the supplemental documents until I receive this, so I can be sure no item is overlooked. While we are waiting, however, I would appreciate some guidance on the foregoing items so I can produce the best possible package in this highly unusual case.

Thank you,

Bill Price, PLS

Cc: Elko Land and Livestock Company

Enclosures

2014 JUL 31 AM 10:51