AMENDED

Filing Serial No. 06336

STATE OF NEVADA

PROOF OF APPROPRIATION OF WATER FOR IRRIGATION

Source Sheridan Creek
Name of natural water source (use separate proofs for each major source)

The water is diverted from its source via a concrete diversion structure and unnamed ditches.
Name of ditch, flume or pipe line

at the following point(s) within the NE¼SE¼ of Section 15, T. 12 N., R. 19 E., M.D.M.
List all points of diversion from this source, appending a sheet if necessary

S 72° 20' 31" W a distance of 5,412.47 feet
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

(1) Name of claimant Ron Mitchell and Ginger Mitchell, husband & wife as joint tenants.

Address Box 5607, Stateline, County of Douglas

State of Nevada 89449 Telephone No. (702) 588-8305

(2) The means of diversion employed Diversion structure, ditches. (See attachment.)
Dam and ditch, pipe line, flume, etc.

(3) The date of the survey of ditch, canal, or pipe line was April 7, 1928. (See attachment.)

(4) The construction of the ditch or other works was begun prior to March 1, 1905

and completed prior to March 1, 1905. (See attachment.)

(5) The dimensions of the ditch or canal as originally constructed were: Width on bottom 4 ± feet, width on top 6 ± feet, depth 1.5 ± feet, on a grade of 33 ± feet per thousand feet.

(6) The conduit ~~has~~ (has not) 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 ..... 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.

(9) The claimant is (~~is not~~) an owner in the above-described conduit.

6.02 percent, North Division (See attachment.)
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

(11) Crops of alfalfa, native hay, 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 May 1 (Day of month) to October 15 (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.

1852 (Year), 10.26 acres in the SW¼NE¼ of Sec. 14, T. 12N, R19 E.

1852, .11 acres in the NW¼SE¼ of Sec. 14, T. 12N, R19 E.

....., ... acres in the ..... of Sec. ....., T. ....., R. ..... E.

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....., ... acres in the ..... of Sec. ....., T. ....., R. ..... E.

(14) The maximum acreage irrigated in any year was 10.37 acres.

(15) The water claimed has (has not) 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 See attachment.

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 (was not) recorded in the office of the County Recorder of Douglas County, said record being at page 1506 of Book 387 of Douglas County Records, and being a claim for 41.48 acre feet annually of water for the irrigation of 10.37 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:

Stock watering and domestic, January 1 through December 31 of each year.

(19) The character of the soil is gravelly sandy loam (Sandy, gravelly, loam). A continuous flow of .1234 cubic feet of water per second has been used to irrigate 10.37 acres of land and 4.0 acre-feet per acre per annum have been used to irrigate the crops.

(20) Remarks Ron and Ginger Mitchell claim vested rights to 6.02 percent of 65.43 percent of the waters of Sheridan Creek (North Diversion) for irrigation during the period May 1 to October 15 annually to irrigate 10.37 acres.

See attachment for more complete description of claim of vested right.

The undersigned, being first duly sworn, deposes and says that the facts relative to the appropriation of water by Ron & Ginger Mitchell are full and correct to the best of his knowledge and belief.

Deponent, a State Water Right Surveyor, is Claimant's Agent.

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

Send copies of notices to:
Milton L. Sharp, P.E.
1005 Terminal Way, #257
Reno, NV. 89502

Telephone No. (702) 323-7006

Subscribed and sworn to before me this 27 day of Sept, 1996

Yvonne M. Bird

Notary Public in and for the County of Washoe

YVONNE M. BIRD
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 92-1024-2 - EXPIRES APR. 18, 2000

My commission expires 4-18-2000

STATE ENGINEER'S OFFICE
96 SEP 30 PM 4:32
RECEIVED

$100 FILING FEE MUST ACCOMPANY PROOF

(Rev. 8-89) (O)-2080

06336

ATTACHMENT

SUPPLEMENTARY INFORMATION, PROOF OF APPROPRIATION OF WATER FOR IRRIGATION.

GENERAL

Claims of vested right by Ron and Ginger Mitchell to a portion of the waters of Sheridan Creek are supported by information contained in a report prepared by Milton L. Sharp, P.E., State Water Right Surveyor No. 784, titled Water Rights and Water Resources Investigation, Sheridan Creek, Stutler Creek and Gansberg Spring, dated March 1993. A copy of the report has been submitted to the State Engineer in support of Proofs of Appropriation filed by Donald S. and Kristina M. Forrester, Donald T. and Peggy Hall, Ron and Ginger Mitchell, Ernest E. Pestana, Robert S. and June E. Severson, Theadore and Katherine A. Weber, Ron and Ginger Mitchell, Ernest E. Pestana Trustee, referring to the waters of Sheridan Creek and Stutler Canyon Creek.

DESCRIPTION OF DIVERSION, ITEMS 2, 3, 4, 6 AND 9.

Sheridan Creek has been divided into two branches for the purpose of diverting water for irrigation, as indicated on the map which accompanies this Proof of Appropriation. The two branches are referred to as the North Diversion and South Diversion. Historical evidence indicates that the pattern of distribution and use of water through the North Diversion has existed without significant

change, since prior to March 1, 1905. The pattern of distribution and use of water from the South Diversion has been altered in recent years, probably as late as the 1970's. The map which accompanies this Proof of Appropriation delineates point of diversion and location and alignment of the North and South Diversions of Sheridan Creek based on the historical documentation available. Date of survey (Item 3) refers to date indicated on the map filed in the office of the State Engineer by E.H. Sweetland, State Water Right Surveyor, July 29, 1930, reference Permit No. 7595. This map represents the earliest known record of a survey depicting diversion ditches and other works.

The claimants assert claim of ownership in the ditches and works of improvement in the same percentage as they assert claim of vested right to the waters of Sheridan Creek, North Diversion (Item 9). Also see response to Items 13 and 20.

DESCRIPTION OF CLAIMS OF VESTED RIGHT AND DATE OF PRIORITY OF USE, ITEMS 13, 15 AND 16.

The map which accompanies this Proof of Appropriation identifies lands which have vested rights to use of Sheridan Creek water based on evidence of use established prior to March 1, 1905, continuing to the present time. Table 6-1, page 6-26, of the Sharp report contains a summary of land areas by 40 acre sectional subdivision which have verifiable claims of vested right and the total annual appropriation based on duty of 4.0 acre feet per acre during the

irrigation season and 2.02 acre feet annual appropriation for separate domestic use. The information contained in Table 6-1 indicates that 65.42 percent of the water flowing in Sheridan Creek has been diverted into the North Diversion and 34.58 percent into the South Diversion.

A tabulation of cultivated acreage within quarter-quarter sections and type of cultivation is also provided on the map which accompanies this Proof of Appropriation.

Date of priority of use for the waters of Sheridan Creek is determined to be 1852 based on historical evidence and with particular reference to the determination of date of priority of use of 1852 for waters of Barber Creek as indicated in the 1921 Barber Creek Decree. Historical evidence used to establish date of priority of use is also cited in Subsection 6.2 of the report.

Justification and documentation used to identify lands with vested rights to Sheridan Creek water are described in Subsection 6.2 of the Sharp Report. Principal map documentation referenced in delineation of lands with vested rights to Sheridan Creek water are:

Map titled, Cultural Maps, Plot of Barber Canyon Creek, prepared by George W. Lloyd and dated October 2, 1914.

Map titled, Map to Accompany Proof of Beneficial Use under Application NO. 7595, Certificate Record No. 1760, prepared by E.H. Sweetland, State Water Right Surveyor, filed in the

office of the State Engineer on July 28, 1930.

There is no evidence to indicate that vested rights with a later date of priority of use and prior to March 1, 1905 could be claimed for other lands not included in Table 6-1 or the cultural tabulation on the map.

The historical record indicates that irrigation of lands now owned by Claimants using the water of Sheridan Creek has been continuous since the use was initiated. (See Sharp Report, Subsection 6.2.) The full water right was used in every year, except during years when the yield from Sheridan Creek was insufficient to supply the full water right. During years in which yield was deficient, the maximum amount of water available was used.

DESCRIPTION OF MITCHELL CLAIM OF VESTED RIGHT, ITEMS 13, 16 AND 20.

Claimants Ron and Ginger Mitchell assert claim of vested right to a portion of the waters of Sheridan Creek consisting of 6.02 percent of 65.43 percent of flow (North Diversion) to irrigate 10.37 acres, .1245 cubic feet per second, not to exceed 41.48 acre feet during the period May 1 to October 15 annually.

Table 6-2 of the Sharp Report (beginning on page 6-28) summarizes vested rights for Sheridan Creek water for all land parcels for which vested rights can be claimed. Land parcels are identified by the Douglas County Assessor's parcel number designation. The

map which accompanies this Proof of Appropriation also includes tabulation of cultivated acreage for separate parcels. The Claimants own APN 19-212-26.

Claimants also assert claim of vested right to a portion of the waters of Stutler Canyon Creek under separate Proof of Appropriation, supplementary to vested right from Sheridan Creek, for 10.37 acres. Claimants limit their claims to a maximum of 4.0 acre feet per acre from all sources during the period May 1 to October 15.

Claimants also assert claim of vested right to a portion of the waters of Sheridan Creek for stock watering and for domestic use during the period January 1 to December 31 of each year.

ORIGINAL

Filing Serial No. 06336

STATE OF NEVADA

PROOF OF APPROPRIATION OF WATER FOR IRRIGATION

Source Sheridan Creek
Name of natural water source (use separate proofs for each major source)

The water is diverted from its source via a concrete diversion structure and unnamed ditches.
Name of ditch, flume or pipe line

at the following point(s) within the NE¼SE¼ of Section 15, R.12N., R.19E., M.D.M.
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

(1) Name of claimant Ron Mitchell and Ginger Mitchell, husband and wife as joint tenants.
Address Box 5607, Stateline, County of Douglas
State of Nevada 89449 Telephone No. (702) 588-8305

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

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(9) The claimant is (~~is not~~) an owner in the above-described conduit.
6.02 percent, North Diversion (See attachment.)
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Send copies of notices to:
Milton L. Sharp, P.E.
1005 Terminal Way, #257
Reno, NV. 89502

Milton L. Sharp

Telephone No. (702) 323-7006

Subscribed and sworn to before me this 13th day of March, 19 94

Notary Public in and for the County of Washoe

Michael Radmilovich
NOTARY PUBLIC
STATE OF NEVADA
WASHOE COUNTY
My Appointment Expires Jan. 10, 1995

My commission expires 1-10-95

$100 FILING FEE MUST ACCOMPANY PROOF

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