

STATE OF NEVADA

PROOF OF APPROPRIATION OF WATER FOR IRRIGATION

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

The water is diverted from its source..... via ditches and pipelines
Name of ditch, flume or pipe line

at the following point(s)..... Primary division box in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 4,
List all points of diversion from this source, appending a sheet if necessary

T.12 N., R.19 E., MDB&M, or at a point from which the E $\frac{1}{2}$ corner of
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
 said Section 4 bears North 13°00' East, 763 feet and Secondary division
 box in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 3, T.12 N., R.19 E., MDB&M, or at a point
 from which the W $\frac{1}{2}$ corner of said Section 3 bears North 41°15' West,
 961 feet

(1) Name of claimant..... Thomas M. and Paula J. Yturbide, Trustees of
 The Yturbide 1991 Family Trust Dated August 1, 1991
 P.O. Box 855
 Address..... Zephyr Cove, NV 89448....., County of..... Douglas
 State of..... Nevada..... Telephone No. (..702..)..... 588-3359

(2) The means of diversion employed..... diversion dams
Dam and ditch, pipe line, flume, etc.

(3) The date of the survey of ditch, canal, or pipe line was..... between 1991 and 1994 and by
 October 20, 1938 aerial

(4) The construction of the ditch or other works was begun..... 1852
 and completed..... 1852-1853

(5) The dimensions of the ditch or canal as originally constructed were: Width on bottom.....1.5...feet, width
 on top.....2.0...feet, depth.....1.5...feet, on a grade of...varies...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 periodically, incidental and
~~completed~~.....to maintenance, since 1853

(8) The dimensions of the ditch or canal as enlarged are: Width on bottom.....1.5...feet, width on top
2.0...feet, depth.....1.5...feet, on a grade of...varies...feet per thousand feet.

(9) The claimant is (~~is not~~) an owner in the above-described conduit.
 part owner by virtue of their water rights (easement ownership)

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 simple

(11) Crops of grain in the past, native hay (pasture) presently 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 March 1 to October 1 of each year.
Day of month Day of month

- periodic flooding has also been practiced from 10/1 - 2/29

(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, 12.96 acres in the SE 1/4 NW 1/4 of Sec. 3, T. 12, R. 19 E.
- 12-03 ^{8/18/99} acres in the _____ of Sec. _____, T. _____, R. _____ E.
- _____ acres in the _____ of Sec. _____, T. _____, R. _____ E.
- _____ acres in the _____ of Sec. _____, T. _____, R. _____ E.
- _____ acres in the _____ of Sec. _____, T. _____, R. _____ E.
- _____ acres in the _____ of Sec. _____, T. _____, R. _____ E.
- _____ 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.
- _____ acres in the _____ of Sec. _____, T. _____, R. _____ E.

(14) The maximum acreage irrigated in any year was 12.71 ^{13.64} _{8/18/99} 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 various - during drought periods the water is diminished and
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 the full acreage cannot always be irrigated, especially later in
given, appending a sheet if necessary the irrigation season.

(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 of Book of , and being a claim for of water for the irrigation of

acres of land in the following legal subdivisions:

See attached History of Water Rights to the "Elizabeth Mott Ranch"
(Allerman one-quarter of Mott Creek)

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 (Sandy, gravelly, loam) A continuous flow of varies cubic feet of water per second has been used to irrigate 12.96 acres of land and up to 48.12 acre-feet ~~per acre~~ per annum have been used to irrigate the crops. 12.03 51.84

(Handwritten initials)

12.96 Ac 8/18/99

4 8/18/99

**HISTORY OF WATER RIGHTS
TO "ELIZABETH MOTT RANCH"
(ALLERMAN ONE-QUARTER OF MOTT CREEK)**

The following history is being submitted to support Proofs of Appropriation being filed by: John G. and Anne M. Stone, Trustees of "The Stone Family Trust 1982"; Thomas M. and Paula J. Yturbide, Trustees of The Yturbide 1991 Family Trust Dated August 1, 1991; and Mark C. and Susan L. Neuffer, and Thomas M. and Paula J. Yturbide, Trustees of The Yturbide 1991 Family Trust Dated August 1, 1991. See attached Site Map for Mott Creek - Allerman one-quarter - Exhibit "A".

HISTORY OF APPROPRIATION AND BENEFICIAL USE

- 1) In July 1851, Israel Mott and wife Eliza, having arrived at Mormon Station (Genoa) with a wagon train and deciding to homestead in the Carson Valley, moved about 4 miles south of Mormon Station, and built a rude house beside the stream now known as Mott Creek (Dangberg and Jones, p. 2).
- 2) In the summer of 1852, Israel was joined by his father Hiram and mother Elizabeth and his brothers Squire and Hiram, Jr. (Dangberg and Jones, p. 2). Together, the family took possession of a large block of land (2097 acres) extending from the lower slope of the mountains across the West Fork of the Carson - an area of some 1½ miles North-South on its western edge, by 2 miles East-West.
- 3) In 1853, a ditch was dug to divert Mott Creek onto the cultivated land north of the house and barn (Eliza Taylor, 1871, p. 8). Apparently this ditch was initially used to irrigate fields in the NE¼NW¼ Section 3, since the land in Section 34 was not cultivated until 1865 (Eliza Taylor, 1871, p. 6).
- 4) According to the testimony of W.M. Little, Thomas Wheeler, S.A. Kinsey, and H. Van Sickle in Case No. 520 (1894), by about 1855 the Motts had amassed a substantial herd of cattle, and were following the common farming practice on the west side of the Carson Valley, cutting hay on the bottom lands near the West Fork of the Carson River, where the land was irrigated in the spring from overflow of the river, and raising grain (wheat and barley) on land "next to the sage brush" (Little, p. 161), on "a patch above the barn" (Van Sickle, p. 591). This land was entirely irrigated from the "mountain stream," i.e., Mott Creek (Little, p. 161; Wheeler, p. 169; Kinsey, pp. 284-285). By 1855, an extensive area known as the "north field" was under cultivation (Wheeler, 1871, p. 14; Eliza Taylor, 1871, p. 6). The cultivated fields apparently covered an area of some 100 acres, all of which was on land owned (in 1871) by Elizabeth Mott (Eliza Taylor, 1871, p. 6). In 1871, Wheeler testified, "in 1855 they [the Motts] must have had 60 acres of grain besides the hay lands that were irrigated. The north field only was irrigated." (Wheeler, 1871, p. 14).
- 5) At some time after the Government Land Office survey of 1861-1862, and presumably prior to the time he applied for patent in 1864, Hiram Mott constructed a fence line

**HISTORY OF WATER RIGHTS
TO "ELIZABETH MOTT RANCH"
(ALLERMAN ONE-QUARTER OF MOTT CREEK)
continued**

approximately along the west edge of E½NW¼ Section 3, separating cultivated land to east from sage brush land to the west, and moved the irrigation ditch that originally followed the Carson Valley Road onto his own land. This new ditch ran a few feet east of the new fence, and replaced the original ditch destroyed by the flood of 1862 (see #4 above). Many of the cedar posts of this fence still survive, and the presence of "square" nails in many of them indicates that the fence was in use prior to the turn of the century.

- 6) Prior to 1871, Mott Creek was not physically divided among the various properties (Eliza Taylor, 1871, p. 3), and the water was simply turned wherever needed. However, it appears that after two court hearings in June 1871 (Taylor, et al. vs. Jones, and Taylor, et al. vs. Alvey), some sort of formal division of the creek was established, with each of the parties taking approximately one-quarter of the flow.
- 7) Grain continued to be grown on the "Elizabeth Mott Estate" after her death in 1877, at least until the conclusion of probate in March of 1880 (Elizabeth Mott Estate Papers, Douglas County Library). At some time prior to 1938, the old "Elizabeth Mott Ranch" was converted from grain to irrigated pasture and hay production - a practice that has continued without interruption to the present (see October 20, 1938 aerial photo BPB-14-8-Exhibit "B" and map of ditches in existence at that time - Exhibit "C"*)).

WATER RIGHTS TO "ELIZABETH MOTT RANCH"

August 31, 1889 - Cerissa Fetic, on behalf of the Mott Heirs (Louisa Keyser, et al.) and D.W. Virgin, Claim to 1/4 of the flow of Mott Creek, first appropriated in 1852, used to irrigate "abt. 100 acres". Bk. B of Ditch and Water Rights, pp. 88-90.

September 5, 1952 - Agreement by owners of all four quarters of Mott Creek reaffirming 1/4 split to lands owned by Fred A. and Laura Allerman. Bk. G of Agreements, p. 566.

November 25, 1953 - Judicial decree vesting title to various lands, and including "an undivided one-fourth interest in and unto that certain creek, water course and water rights known as and called Mott Creek" in Laura Allerman. Bk. A-1 of Deeds, p. 589.

All of the deeds in the chain of title from March 26, 1888, onwards convey water and water rights appurtenant to these lands, and deeds subsequent to 1941 and prior to the subdivision of the Elizabeth Mott Ranch (aka the Allerman Estate) refer specifically to a 1/4 interest in the flow of Mott Creek.

* Exhibits "B" and "C" are included with supporting documents submitted with Proof of Appropriation for The Stone Family Trust.