

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 NE 1/4 SE 1/4 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 Ernest E. Pestana, Trustee of the Pestana 1986 Family Trust
Address 1431 Atteberry Lane, County of
San Jose,
State of California 95131 Telephone No. (408...) 954-1000

(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.

13.79 percent, North diversion (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..... to October 15.....  
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.

1852, 23.04 acres in the NW $\frac{1}{4}$ ..... of Sec. 14....., T. 12N....., R. 19..... E.  
Year

1852, .72 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ ..... of Sec. 15....., T. 12N....., R. 19..... 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.

....., ..... 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..... 23.76..... 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 \_\_\_\_\_ of Book \_\_\_\_\_ of

Douglas County Records, and being a claim for 95.04 acre feet annually

of water for the irrigation of 23.76

acres of land in the following legal subdivisions:

Division of Land Map, Gerald E. and Pamela F. Whitmier, Douglas

County Records, Book 1286, Page 552. Boundary Line Adjustment,

Douglas County Records, Book 1088, Pages 370 and 371.

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 A continuous flow of 2852 cubic

(Sandy, gravelly, loam)

feet of water per second has been used to irrigate 23.76 acres of land and 4.0 acre-feet per acre per annum have been used to irrigate the crops.

(20) Remarks Ernest E. Pestana claims vested rights to 13.79 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 23.76 acres.

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

'94 MAR 18 P 1:33

REGULATORY OFFICE  
STATE ENGINEERS OFFICE

The undersigned, being first duly sworn, deposes and says that the facts relative to the appropriation of water by Ernest E. Pestana, Trustee 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

*[Handwritten Signature]*

Telephone No. (702) 323-7006

Subscribed and sworn to before me this 18th day of March, 1994

*[Handwritten Signature]*

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

Notary Public in and for the County of Washoe

My commission expires 1-10-95

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

ATTACHMENT

SUPPLEMENTARY INFORMATION, PROOF OF APPROPRIATION OF WATER FOR IRRIGATION.

GENERAL

Claims of vested right by Ernest E. Pestana, Trustee, 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 and Joy Whipple, referring to the waters of Sheridan Creek and Stutler Canyon Creek.

DESCRIPTION OF DIVERSION, ITEMS 2, 3, 4 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 claimant asserts claim of ownership in the ditches and works of improvement in the same percentage as he asserts 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 Claimant 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 PESTANA CLAIM OF VESTED RIGHT, ITEMS 13, 16 AND 20.

Claimant Ernest E. Pestana asserts claim of vested right to a portion of the waters of Sheridan Creek consisting of 13.79 percent of 65.43 percent of flow (North Diversion) to irrigate 23.76 acres, .2852 cubic feet per second, not to exceed 95.04 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 Claimant owns APN 19-212-41.

Claimant also asserts 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 irrigation of 23.76 acres and claim to a portion of the waters of Gansberg Spring heretofore appropriated under Certificate of Appropriation No. 1760, Permit No. 7595, supplementary to vested right from Sheridan Creek and Stutler Canyon Creek for irrigation of 23.04 acres. Claimant limits his claims to a maximum of 4.0 acre feet per acre from all sources during the period May 1 to October 15.

Claimant also asserts 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.

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
Name of ditch, flume or pipe line ditches.

at the following point(s) within the NE 1/4 SE 1/4 of Section 15, T. 12 N., R. 19 E.,
List all points of diversion from this source, appending a sheet if necessary

M.D.M. at a point from which the SW corner of said Section 15 bears
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
S 72° 20' 31" W a distance of 5,412.47 feet

(1) Name of claimant Ernest E. Pestana, Trustee of the Pestana 1986 Family Trust
Address 1431 Atteberry Lane, County of
San Jose,
State of California 95131 Telephone No. (.408.) 954-100

(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 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
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13.79 percent, North diversion (See attachment.)
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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.....of Book.....of Douglas County Records, and being a claim for 95.04 acre feet annually of water for the irrigation of 23.76

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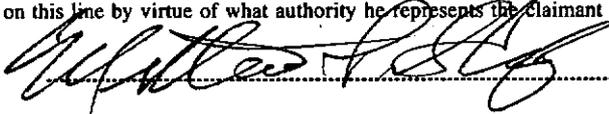
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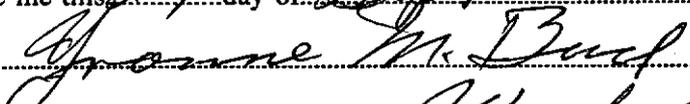
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Send copies of notices to:  
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Reno, NV. 89502

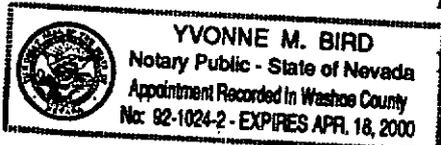


Telephone No. (702...) 323-7006

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



Notary Public in and for the County of Washoe



My commission expires 4-18-2000

STATE ENGINEERS OF NEVADA  
56 SEP 30 PM 4:34

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

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WATER RIGHTS  
SECTION 14, 15  
1907