Filing Serial No. 06525

THE STATE OF NEVADA

PROOF OF APPROPRIATION OF WATER FOR IRRIGATION

Source [Name of natural water source (use separate proofs for each major source)]: Hot Springs **The water is diverted from its source** [Name of ditch, flume or pipe line]: Hot Spring Ditch **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]: A point located within the NE1/4 NW1/4 of Section 29, Township 45 North, Range 54 East, MDM from which the Southwest corner of Section 30 bears South 55°41'58" West a distance of 8,490.69 feet.

(1) **Name of Claimant:** DONALD R. RIZZI and NORMA RIZZI **Address:** Mountain City (89831) **County of** Elko, **State of:** Nevada, **Telephone No.:** (702) 763-6641

(2) **The means of diversion employed** [Dam and ditch, pipe line, flume, etc.]: Dam and ditch.

(3) **The date of the survey of ditch, canal, or pipe line was:** 1991

(4) **The construction of the ditch or other works was begun:** 1889 **and completed:** 1889

(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.**

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(6) **The conduit 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 an owner in the above-described conduit.** [If claimant is an owner in the conduit, state interest held on this line]: 100% ownership over land owned in fee simple.

(10) **The nature of the title to the land for which the water right is claimed is** [Fee simple, public domain, etc.]: Fee simple.

(11) **Crops of** 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 15 **of each year.**

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

YEAR 1892, 6.35 ACRES IN THE NE1/4 NW1/4 OF SEC. 29, T. 45 N., R. 54 E.

YEAR 1892, 1.40 ACRES IN THE SE1/4 NW1/4 OF SEC. 29, T. 45 N., R. 54 E.

YEAR 1892, 2.39 ACRES IN THE SW1/4 NW1/4 OF SEC. 29, T. 45 N., R. 54 E.

(14) **The maximum acreage irrigated in any year was** 10.14 **acres.**

(15) **The water claimed has** [strike out one not wanted] **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 is necessary]: used to irrigate the maximum acreage each year.

(17) The claimant's water right was not recorded in the office of the County Recorder of _____ 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: Domestic and livestock water.

(19) The character of the soil is [Sandy, gravelly, loam] sandy loam. **A continuous flow of --- cubic feet of water per second has been used to irrigate --- acres of land and 4 acre-feet per acre per annum have been used to irrigate the crops.**

(20) Remarks:

A review of early Elko County Tax Assessor records reveals that in 1889 an individual named W. D. Hand was assessed for a possessory claim of 160 acres on Allegheny Creek. In 1892, the same records reveal that W. D. Hand was assessed for a possessory interest to a homestead and adjoining land for a total of 320 acres. In 1893, W. D. Hand conveyed to R. Zimmerman by

deed recorded November 16, 1893 in Book 22 of Deeds at Page 435, Elko County, Nevada the possessory interest, including fencing and ditch from the Owyhee River running in a northerly direction over meadow land above the mouth of Allegheny Creek. In 1905, said assessor's record includes an assessment for Hot Springs described in 1908 assessment roll as "1/4 from Zimmerman house" (sic).

Based upon the above, it is evidenced that diversion of the Owyhee River was in 1889, by a ditch which intersected Allegheny Creek and would include the Hot Spring.

Affidavits executed by Samuel Baker, Wynona Olin and Ann Tennille Dawson, filed in Proof 02863, concern use of water from the Owyhee River and Allegheny Creek by John Zimmerman instead of R. Zimmerman. In the estate of Reinhold Zimmerman, being Case No. 304 in the Fourth Judicial District Court of the State of Nevada, in and for the County of Elko, bills were paid from estate funds on behalf of John Zimmerman. The 1909 tax roll from the above described property is in the name of John Zimmerman Estate. In addition, a letter (copy attached) by James Dysart to Emmet D. Boyle, State Engineer, dated October 12, 1910 states that Grover F. West, who is in the chain of title of the property, is a successor to Reinhold Zimmerman. From the above, it is evident that R. Zimmerman or Reinhold Zimmerman referred to in various documents above is one and the same as John Zimmerman named in said affidavits.

Records indicate that not all of the lands claimed herein as irrigated were in production on the year of priority. The Doctrine of Relation Back applies to lands placed under irrigation in later years, using the same diversion point.

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The undersigned, being first duly sworn, deposes and says that the facts relative to the appropriation of water by DONALD R. RIZZI and NORMA RIZZI **are full and correct to the best of his knowledge and belief.** [If proof is not made by claimant, deponent should state on this line by virtue of what authority he represents the claimant.]

Donald R. Rizzi
DONALD R. RIZZI

Telephone No. (702) 763-6641

Subscribed and sworn to before me this 18th **day of** May, **19**94.

Walter I. Leberski

Notary Public in and for the County of _____

My commission expires _____

WALTER I. LEBERSKI
Notary Public
State of Nevada
Elko County, Nevada
My appointment expires March 26, 1996.

$100 FILING FEE MUST ACCOMPANY PROOF