

THE STATE OF NEVADA
PROOF OF APPROPRIATION OF WATER FOR IRRIGATION

Source... Harrington Creek & tributaries
Name of natural water source (use separate proofs for each major source)
The water is diverted from its source... by ditch systems
Name of ditch, flume or pipe line
at the following point(s)... see attached
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... Nelo & Ida Mori
Address... Nelo-Mori Ranch, County of... Elko
State of... Tuscarora, NV 89834 Telephone No. (...). 756-6553

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

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

(4) The construction of the ditch or other works was begun... 1870's
and completed... unknown

(5) The dimensions of the ditch or canal as originally constructed were: Width on bottom... unknown
feet, width on top... feet, depth... feet, on a grade of... 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... unknown
and completed... unknown

(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. unknown

(9) The claimant is (is not) an owner in the above-described conduit.
Claimant is the sole owner of the subject property
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
Fee simple, public domain, etc.

(11) Crops of... see attached
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... see attached to...
of each year. Day of month Day of month

Handwritten notes: EL, 3-36, Independently

(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.
 Year _____

_____, _____ 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.

_____, _____ 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.

_____, _____ 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 349.55 _____ acres.

(15) The water claimed has ~~(has not)~~ been used for irrigation each and every year since the right was initiated. Strike out one not wanted

(16) The years during which no water was used for irrigation or during which the full water right was not used were see attached _____
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 _____ 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: water also used for stockwater and domestic

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

(20) Remarks: see attached

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

Deponent is acting as authorized agent for claimant. If proof is not made by claimant, deponent should state on this line by virtue of what authority he represents the claimant

5405 Mae Anne Avenue
Reno, NV 89523

Michael D. Buschelman
Michael D. Buschelman, P.L.S.
Telephone No. (702) 747-8550

Subscribed and sworn to before me this 14th day of June, 1994

[Signature]



Notary Public in and for the County of Washoe, Nevada
My commission expires Jan. 12, 1997

\$50 FILING FEE MUST ACCOMPANY PROOF

ATTACHMENT

ITEM: POINTS OF DIVERSION, ITEM NO. 11 & ITEM NO. 13

MORI RANCH - HARRINGTON CREEK FIELD - PROOF NO. _____

SOURCE: HARRINGTON CREEK

POD #1: SW1/4 SW1/4 SECTION 35 T42N, R52E MDM, at a point from which the SE corner of Section 35, T42N, R52E MDM, bears S. 88° 52' E., a distance of 4521.4 feet.

T N	R E	SEC	1/4	1/4	H AC	M AC	DP AC
42	52	35	SW	SW	0.39	0	0
41	52	2	NW	NW	17.39	0	0
		2	SE	NW	0.31	0	0
		2	SW	NW	33.38	0	0
		2	NW	SW	39.21	0	0
		2	NE	SW	1.47	0	0
		2	SW	SW	23.44	2.07	0
41	52	3	NE	SE	1.00	0	0
		3	SE	SE	2.00	0	0

SOURCE: UNNAMED CREEK TRIBUTARY TO HARRINGTON CREEK

POD #2: NE1/4 NW1/4 SECTION 2 T41N, R52E MDM, at a point from which the SE corner of Section 35, T42N, R52E MDM, bears N. 73° 29' E., a distance of 4041.2 feet.

T N	R E	SEC	1/4	1/4	H AC	M AC	DP AC
41	52	2	SE	NW	0.31	0	0
		2	SW	NW	13.48	0	0
		2	NW	SW	13.78	0	0
		2	NE	SW	1.47	0	0
		2	SW	SW	10.81	2.07	0

SOURCE: MARSH CREEK TRIBUTARY TO HARRINGTON CREEK

POD #3: SW1/4 SW1/4 SECTION 1 T41N,R52E MDM, at a point from which the SE corner of Section 35, T42N, R52E MDM, bears N. 05° 55' W., a distance of 5187.0 feet.

SOURCE: UNNAMED CREEK TRIBUTARY TO MARSH CREEK

POD #4: SW1/4 SW1/4 SECTION 1 T41N,R52E MDM, at a point from which the SE corner of Section 35, T42N, R52E MDM, bears N. 08° 44' W., a distance of 4794.1 feet.

T N	R E	SEC	1/4	1/4	H AC	M AC	DP AC
41	52	1	SW	SW	0.25	5.85	2.06
41	52	2	SE	NE	0.03	0	0
		2	SW	NE	1.15	0	0
		2	NW	SE	35.26	0	1.45
		2	NE	SE	7.73	0	0
		2	SE	SE	21.54	3.22	2.22
		2	SW	SE	33.18	4.66	1.81
		2	NE	SW	7.75	0	0.12
		2	SE	SW	21.13	5.10	11.88
		2	SW	SW	1.01	5.21	0.15
41	52	11	NW	NW	2.82	0	0.70
		11	NE	NW	16.98	1.52	5.00
		11	NW	NE	11.13	6.32	0
		11	NE	NE	1.77	2.12	0

SOURCE: GARDEN CREEK TRIBUTARY TO HARRINGTON CREEK

POD #5: SW1/4 NE1/4 SECTION 2 T41N,R52E MDM, at a point from which the SE corner of Section 35, T42N, R52E MDM, bears N. 46° 17' E., a distance of 2455.2 feet.

SOURCE: UNNAMED SPRING TRIBUTARY TO GARDEN CREEK

POD #6: SW1/4 NE1/4 SECTION 2 T41N,R52E MDM, at a point from which the SE corner of Section 35, T42N, R52E MDM, bears N. 52° 19' E., a distance of 2954.5 feet.

T N	R E	SEC	1/4	1/4	H AC	M AC	DP AC
41	52	2	SE	NE	0.03	0.10	0.42
		2	SW	NE	1.15	6.83	0.32
		2	NW	SE	28.04	0.18	0
		2	NE	SE	6.58	0	0
		2	NE	SW	7.75	0	0
		2	SE	SW	4.96	0	0
		2	SW	SW	0	0.56	0

SOURCE: UNNAMED SPRING TRIBUTARY TO GARDEN CREEK

POD #7: SW1/4 NE1/4 SECTION 2 T41N, R52E MDM, at a point from which the SE corner of Section 35, T42N, R52E MDM, bears N. 43° 41' E., a distance of 3364.3 feet.

T N	R E	SEC	1/4	1/4	H AC	M AC	DP AC
41	52	2	SE	NW	0	0.04	0
		2	SW	NE	0	0.94	0
		2	NW	SE	0	0.32	0
		2	NE	SW	7.75	0.69	0
		2	SE	SW	4.96	0	0
		2	SW	SW	0	0.56	0

ITEM NO. 11 - EXPLANATION OF CROPS IRRIGATED

Cultures being irrigated are defined as follows:

H AC = Harvest land in acres with crops of oats, alfalfa, native and/or domesticated grasses. In some areas, oats and alfalfa have been planted but the predominate plants are grasses. Harvest lands are being irrigated as long as water was available. In less than adequate water years and as water flows declined, Harvest acreage closest to the points of diversion continue to be irrigated. Crops within the hay corrals noted on the culture maps are irrigated and harvested prior to stacking hay.

M AC = Meadow land in acres with crops of native and/or domesticated grasses. The distinction between Meadow and Harvest lands is observed to be defined by the ability of haying equipment to access the parcel. The lack of water way crossings, topography and/or rocky field conditions prevented equipment access. The volume of water utilized for irrigation is the same as Harvest lands. The period of time that Meadow lands are irrigated is the same as Harvest.

DP AC = Diversified Pasture land in acres with crops of native and/or domesticated grasses intermixed with sage brush or other brushes. The volume of water utilized for the diversified pasture irrigation is diverted during runoff periods. These runoff periods are defined as those times when the streams and/or rivers provided more water than needed to irrigate Harvest and Meadow crop lands.

ITEM NO. 12 - IRRIGATION SEASON

The diversion of water for irrigation purposes begins on April 1st and ends on September 15th of each year.

ITEM NO. 16 - NON IRRIGATION OR LESS THAN FULL IRRIGATION YEARS

Surface water flows vary considerably from year to year. During normal or above normal years essentially all of the crop lands are irrigated. The claimant must derive the maximum crop yield to maintain a financial good standing. During less than normal water years, certain inaccessible areages are not irrigated and the water is utilized where it is most prudent and economical.

Water has been used for irrigation, stockwater and domestic purposes for over 100 years. During drought conditions there have been numerous acreages that have not received water or less than their full allotment. The claimant is not able to provide a full detailed explanation of each particular non-irrigated acreages or drought years, at this time.

ITEM NO. 19 - SOIL CHARACTERISTICS, WATER FLOW & DUTY ESTIMATES

The irrigated acreages are normally located along the course of the spring, stream or river supplying the needed water supplies. The soil characteristics along these water courses are normally composed of a thin layer of topsoil over sands and gravels.

An estimate of continuous water flow requirements have not been determined due to the fluctuation in water flow in the spring, stream or river providing water. A measurement and monitoring program will need to be completed before an accurate rate of flow and volume per acre can be determined.

ITEM NO. 20 - REMARKS

The diversion of water for stockwater and domestic purposes begins on January 1st and ends on December 31st of each year.

MORI RANCH
LIVESTOCK AREAS OF USE
AND NUMBERS

JACK CREEK FIELD

The streams of Jack Creek, Marsh Creek and Boyd Creek, their tributaries and springs within each drainage within the Jack Creek-Marsh Creek Field, T41N and T42N, R52E.

There are three creeks in this field:

- Jack Creek
- Boyd Creek
- Marsh Creek

The following number of livestock and season within the field is:

<u>No. of Cattle</u>	<u>Season</u>
150	4- 1 to 6-15
75	6-16 to 8-30
300	9- 1 to 11-30

Use upon each creek for livestock water is 1/3 of the total on each creek.

BULL RUN CATTLE AND HORSE ALLOTMENT - FOREST SERVICE

T41N and T42N, R53E

All use of waters within this Forest Service allotment is made outside of privately fenced fields along the following streams:

1. Boyd Creek - a tributary of Jack Creek - its tributaries and springs within its drainage within Section 31, T42N, R53E, MDM with 25 cattle for the period of 7-1 to 10-15.
2. Jack Creek and its tributaries including Schoonover Creek, Coffin Creek, Chicken Creek and Mill Creek and springs within the drainage within Sections 8, 9, 15, 16, 17, 18, 19, 20, 21, 22, 28, 29, 30 and 31, T42N, R53E, MDM for 65 cattle for the period of 7-1 to 10-15.

BLM ALLOTMENTS

1. Unnamed tributary of Owyhee River situate within Section 29, T42N, R51E with 75 head of cattle for the period of 4-1 to 7-15 every other year and the period of 7-16 to 11-1 on alternate years.
2. Long Hollow (Owyhee River), its tributaries and springs within its drainage within Section 4, T41N, R51E; Sections 27, 28, 33 and 34, T42N, R51E with 75 head of cattle 4-1 to 7-15 every other year and the period of 7-16 to 11-1 on alternate years.
3. Long Hollow (Deep Creek), its tributaries and springs within its drainage in Sections 14, 15, 22, 23, 24, 25, 26 and 27, T42N, R51E with 25 cattle for the period of 4-15 to 6-15.
4. Toll House Draw, its tributaries and springs within its drainage within Sections 30 and 31, T42N, R52E; Sections 25, 26, 35 and 36, T42N, R51E; and Sections 2 and 3, T41N, R51E with 250 cattle for the period of 4-1 to 11-15.
5. Spring and its drainage within the $W\frac{1}{2}$ $SE\frac{1}{4}$ of Section 11, T41N, R51E with 75 cattle for the period of 4-1 to 7-15.
6. Hot Creek, its tributaries and springs within its drainage with 25 cattle for the period of 5-1 to 8-1 for that portion within the Rock Creek Allotment within Sections 32 and 33, T42N, R52E; Sections 4, 5, 8, 9 and 17, T41N, R52E. 75 cattle for the period of 4-1 to 7-15 for that portion within the Mori Allotment in Sections 7, 8, 17 and 18, T41N, R52E; 175 cattle for the period of 5-15 to 11-1 for that portion within the Mori Allotment within Section 36, T42N, R51E; Section 31, T42N, R52E; Sections 6 and 7, T41N, R52E; and Section 1, T41N, R51E; and 300 cattle for the period of 7-15 to 11-1 for that portion within the Mori Allotment within Sections 28, 29 and 30, T42N, R52E.
7. Dick Young Draw, its tributaries and springs within its drainage for that portion within the Andrae Allotment within Sections 8, 16, 17, 20 and 21, T42N, R52E for 25 cattle for the period of 7-15 to 9-15.

BUCKET FLAT

Bucket Flat draw, its tributaries and springs within the Bucket Flat Allotment within Sections 12, 13, 14, 23 and 24, T41N, R52E.

SIX MILE FIELD

There is one permitted water for a pit tank in Lot 3, Section 1, T39N, R51E. In addition, there are three applications pending in the name of Pete Mori, Sam Mori and Nelo Mori for irrigation wells with a supplementary use of domestic purposes. No claim of vested water rights is contemplated.

PRIORITY

Priority upon the portion located within the Humboldt National Forest is based upon the fact that in order to have a permit for grazing use within that area, Forest Service regulations require that the permittee be a successor in interest through the purchase of land and/or livestock which used the present Forest Service lands at the time of its withdrawal in 1905. As the Claimant possesses a permit on the Humboldt National Forest with the Bull Run Cattle and Horse Allotment, priority to that area is prior to 1905.

As to lands administered by the Bureau of Land Management, there is no record as to actual dates of priority. However, all historical records refer to open range use by existing ranches. Exact numbers cannot be established. However, tax rolls maintained in Elko County, Nevada indicate numbers of livestock in excess of that claimed above by predecessors in interest to the Claimant, some predecessors being E. C. Hardesty with 107 head of cattle and horses, John S. Thompson with 87 head of cattle and horses, and W. T. Jenkins with large numbers upon the 1905 tax roll of Elko County, Nevada. Range Claim Map #82-30 filed in the office of the State Water Engineer by W. T. Jenkins claims range use within the area included in the above descriptions.

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20 0 12

SUMMARY OF PRIORITY

PROOF OF APPROPRIATION OF WATER FOR IRRIGATION

BY: NELO MORI AND IDA MAY MORI

FOR WATERS OF JACK CREEK, formerly HARRINGTON CREEK,
AND MARSH CREEK, formerly MILL CREEK

The priorities set forth in Item 13 have been determined as follows:

1871: No statement of water right is found of record in the office of the County Recorder of Elko County, Nevada as to use at this priority date. However, the plat of Township 41 North, Range 52 East, MDB&M, as approved by the Surveyor General's office on August 23, 1884 evidences two fields located in the SE $\frac{1}{4}$ of Section 2 and N $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 11 of said township, with an area of approximately 61 acres. Inspection of the plat and minutes of the surveys reveal that the survey was conducted in January, 1871, and the plat prepared from said survey shows those fields. From that evidence, a priority of 61 acres from March Creek is claimed under the year of 1871.

Further evidence of use from Marsh Creek is given by that publication entitled, Nevada's Northeast Frontier, a historical account authored by Edna Patterson, et al. On Page 458 of that publication it states:

"About the time Altube Brothers took up the nucleus of the Spanish Ranch, two men, Marsh and Tomkins, located on Marsh Creek at the place later known as the Jenkins Ranch."

Pedro Altube, one of the Altube Brothers, recorded a Statement of Water Rights in Book 1 of Water Rights at Page 473, claiming use of Jack Creek from 1873. As Thompkins (Tomkins) conveyed a parcel located upon Jack Creek, it is assumed that is the location of settlement; and based upon the above information, a first priority of 1873 is claimed on Jack Creek, together with additional priority on Marsh Creek as it bounded the Thompkins parcel (see 1877 below).

1877: Evidence of use of water upon Harrington or Jack Creek is found in a news article in the Tuscarora Daily Mining Review of November 15, 1877, Page 3, Column 2, reporting

a Sheriff's sale of property of Thompkins and Marsh on Jack Creek on August 19, 1887. James M. Thompkins conveyed to W. T. Dumont a parcel of land called Thompkins Station, bounded ont he southwest by Marsh Creek, on the northeast by Jack Creek, and being 1/4 mile wide on both sides of Jack Creek, containing 160 acres within Section 2, Township 41 North, Range 52 East. This conveyance evidences possession prior to 1877, together with use of water from Jack Creek.

1880: Diversion of water from Marsh Creek was made by E. C. Hardesty to irrigate the W½ SE and the E½ SW of Section 2, Township 41 North, Range 52 East as evidenced by Statement of Water Right by E. C. Hardesty recorded in Book 1 of Water Rights at Page 250. In connection with Proof 01188 filed by W. T. Jenkins Company, a successor of E. C. Hardesty and predecessor of the present owner, as shown on the accompanying chain sheet.

1880 - As Ditch No. 3 is a continuation of Ditch No. 1, a
1886: priority of 1880 is claimed on Ditch No. 3 under the doctrine of relation back as to waters from Marsh Creek, and 1886 as to additional spring waters.

1881 - Ditch No. 4 has a priority of 1881, Ditch No. 5 as
1884 - of 1884, Ditch No. 6 as of 1887, and Ditch No. 7 as
1886 & of 1886, all evidenced by Statement of Water Right
1887: by E. C. Hardesty recorded in Book 2 of Water Rights at Page 250.

The earliest priority claimed on Marsh Creek is 1871 by evidence on General Land Office Plat, and 1873 on Harrington or Jack Creek as evidenced by conveyance of James M. Thompkins and the historical account entitled, Nevada's Northeast Frontier, discussed above.