



(9) The approximate number of animals watered by the claimant during the first year Prior to 1885  
Date  
was 300 cattle 2000 horses 2000 sheep or wildlife (describe) Other

The watering was conducted during each of the following months March 15 through January 1,  
each year

(10) The approximate number of animals watered by the claimant in subsequent years was as follows:

Numbers have varied over the years, but the average has been approximately as listed  
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.  
under item #9. Wildlife also utilize this spring.

(11) The amount of water which has been necessary to be diverted for this purpose has been  
0.0217 cubic feet per second.  
448.83 gallons per minute equals 1 cubic foot per second.

(12) The works are located at Lot 1 (NE 1/4 NE 1/4) Section 1, T. 33N., R. 20E., M.D.B. & M.  
Describe as being within a 40-acre subdivision, section, township and range of public survey. If on unsurveyed  
land, it should be stated.

Remarks Cherry Spring is located on land originally patented in 1913 by Caroline Fisk  
under State Land Patent #7616. Since approximately 1885, the waters of Cherry  
Spring have been continuously used at various times by A. M. Ward, Clarks Valley  
Land and Sheep Company, Peter Laxalt, W.D. Parker, and Gerlach and Waltz to  
water livestock. In 1929, Gerlach and Waltz filed application to appropriate  
#9112. In said application they claimed a vested right to the waters of this spring  
based on use by the predecessors in interest in both the land and the grazing range.  
A report of the field investigation conducted on November 2, 1931 makes reference  
to this vested right claim but notes that there is nothing on file with the

Remarks.....state engineer...said report futher notes that Gerlach and Waltz.....complied  
.....with the custom of the times....". It further states that.....They have established  
.....rights to both the water of this source and the surrounding range....". This spring  
.....is still being used to water livestock and wildlife...Use map on file under application  
.....#9112 to illustrate the point of diversion and place of use. Attachment "A" is a  
.....a copy of the report of the field investigation of application #9112.

The undersigned, being first duly sworn, deposes and says that the facts relative to the appropriation  
of water by Bright - Holland Corporation; a Nevada Corporation  
are full and correct to the best of his knowledge and belief.

Deponent is an employee of Thiel Engineering Consultants (TEC). TEC has been  
If proof is not made by claimant, deponent should state on this line by virtue of what authority he represents the claimant.  
hired by the Bright - Holland Corporation to prepare this proof.

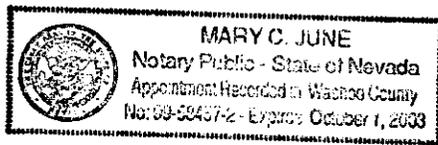
Bright - Holland Corporation  
Claimant

Telephone No. (.775.) 825-1888

By Gregory M. Bilyen - Agent  
P. O. Box 70458  
Street and No., or P.O. Box No.

Reno, Nevada 89570-0458  
City, State, Zip Code No.

Telephone No. (.775.) 352-7800



Subscribed and sworn to before me this 22<sup>nd</sup> day of FEBRUARY, 2000

Sheryl J. ...  
Notary Public in and for the County of WASHOE

My commission expires OCTOBER 1, 2003

**\$50 FILING FEE MUST ACCOMPANY PROOF**

**ATTACHMENT "A"**

9112

CHERRY SPRING

GERLACH & WALTZ

NE $\frac{1}{4}$  NE $\frac{1}{4}$  Section 1, T. 33 N., R. 20 E.

On November 2, 1931, we investigated Application No. 9112, accompanied by W. D. Parker, E. Waltz and O. Van Norman.

This spring is located at the base of a vertical cliff which forms the head of a rather wide canyon that runs in a north-westerly direction. It is about 2 miles northwest of Table Spring covered by Application No. 8447, and about 2 miles northeast of Stockade Spring covered by Application No. 9110.

This spring is located on a forty acre tract owned by Gerlach and Waltz.

The spring is walled up and the water piped 50 feet to a tank 6 feet high and 5 feet in diameter, and thence piped 50 feet to 2 standard cow troughs. There was an old abandoned wooden trough 2 feet wide, 2 feet deep and 18 feet long, lying near the site of the spring. Two or three acres of land have been fenced around this spring.

Gerlach and Waltz claim a vested right to the water of this source for stockwatering purposes; however, there is nothing on file in the Office of the State Engineer to substantiate this claim. Peter Laxalt protested this application on the ground that the waters sought to be appropriated are not public waters, but have been used by protestant under claim of vested right through himself and predecessors in interest for many years. Further that the protestant would be deprived of the use of the surrounding range for his livestock, and that the granting of the application would be contrary to

## ATTACHMENT "A"

public policy defined in the Stockwatering Act of 1925.

Mr. Waltz informed us that Mr. Laxalt owns no land in the Buffalo Hills, and although he has ranged sheep in the vicinity of this water source a number of years, the Gerlach and Waltz Co. has always vigorously protested the Laxalt use.

The condition on the ground, together with the fact that the Gerlach and Waltz Company complied with the custom of the times by purchasing the forty acre tract upon which the spring is located, indicate they have established rights to both the water of this source and the surrounding range, and we recommend the protests be overruled and the application be granted.

*Albert Duell J. A. Mellar*  
ALBERT DUELL  
J. A. MELLAR