

**RNNR\_58**

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**NEVADA DIVISION OF WATER RESOURCES  
ADJUDICATIONS SECTION**

**FIELD INVESTIGATION REPORT  
FOR THE  
DIAMOND VALLEY (BASIN 153)  
ADJUDICATION  
OF  
DIAMOND SPRINGS RANCH  
CLAIMS V02432, V10846, V10847, V10848, V10849, V10850,  
V10851, V10852, V10883, V10884, V10885, V10886  
ON  
SEPTEMBER 12 THROUGH 16, 2016  
AND  
SEPTEMBER 19 THROUGH 23, 2016**

**INVESTIGATED BY:**

*Beau Parker* 11/9/17  
Beau Parker – Engineering Technician V      Date

*Ken Lucas* 11/9/17  
Ken Lucas – Engineering Technician IV      Date

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## GENERAL DESCRIPTION

Diamond Springs Ranch is located in Diamond Valley, Basin 153, approximately 40 miles north northwest from the town of Eureka. Diamond Valley lies completely within the Mount Diablo Basin and Meridian. Diamond Springs Ranch is situated at the base of the Sulphur Spring Range on the west side of the valley and is fed by a series of springs and a small lake named *Dou-Pah-Gate*<sup>1</sup>.

The waters of all sources filed under proofs V02432, V10846, V10847, V10848, V10849, V10850, V10851, V10852, V10883, V10884, V10885, and V10886 in Diamond Valley were field investigated by staff<sup>2</sup> from the office of the State Engineer on September 12, 2016 through September 16, 2016 and September 19, 2016 through September 23, 2016. The objective of the investigation was to verify acreage submitted by the claimant for the Diamond Valley adjudication. A GPS enabled camera<sup>3</sup>, and a handheld GPS unit<sup>4</sup> were used to locate and document the claims. Refer to table 1 in the back of the report for water level measurements and observations made during this investigation. The weather encountered during the investigation was mixed, with 4 days of rain and a total accumulation of 1.51 inches for the 2 week period. Temperatures observed by staff ranged from highs of 60° to 80° and lows from 35° to 50°.

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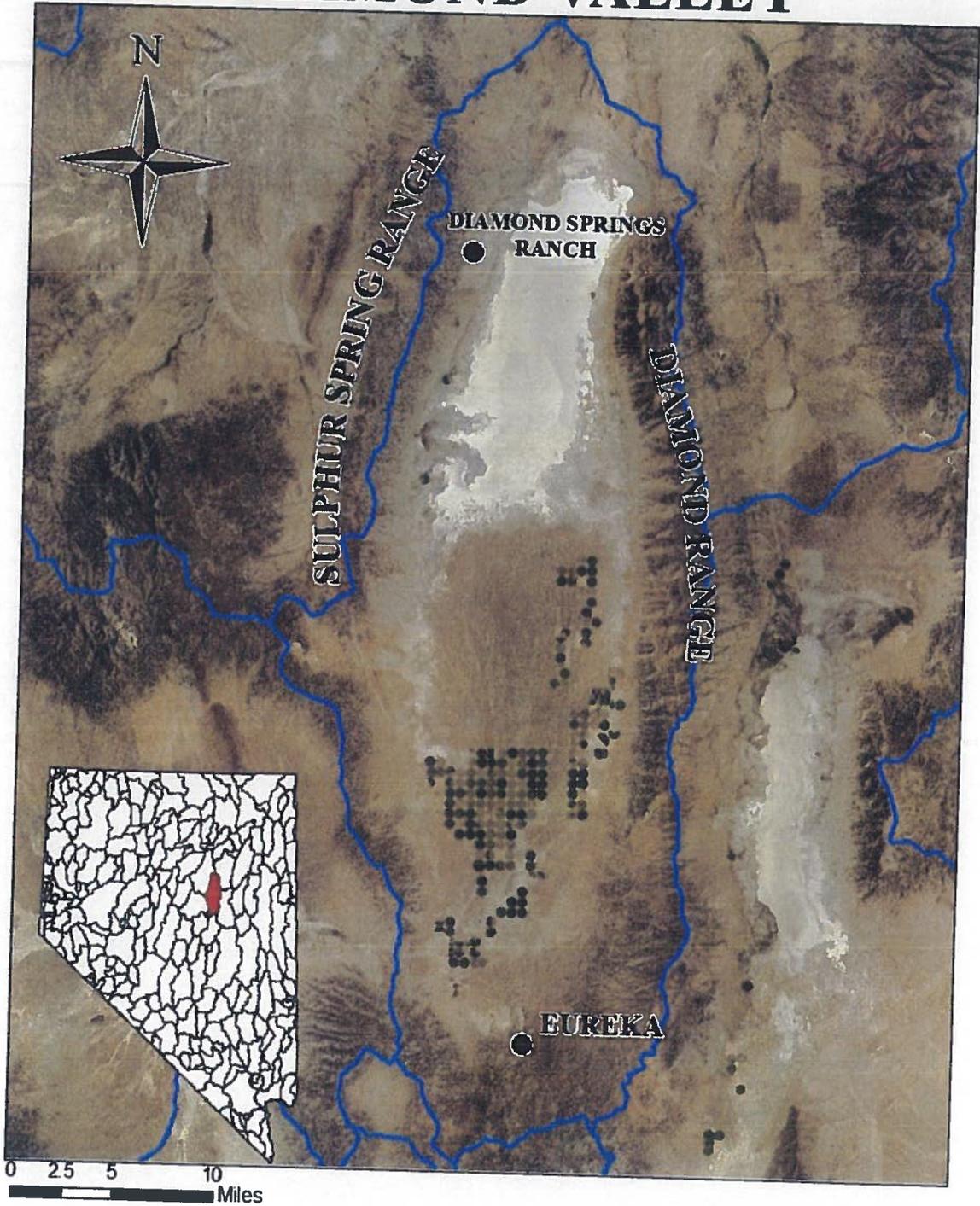
<sup>1</sup> Also known as Dou-Pah-Gate, translates into "Deep Water"

<sup>2</sup> Beau Parker, Engineering Technician V, Ken Lucas, Engineering Technician IV

<sup>3</sup> Nikon COOLPIX P520 (WGS84)

<sup>4</sup> Garmin 62sc handheld(NAD83)

# DIAMOND VALLEY



## FINDINGS

### Irrigation Proofs

**V02432** – George and Alma Smiraldo filed the original proof of appropriation in the office of the State Engineer on December 30, 1958 to divert water from Lake *Dou-Pah-Gate* via a pump and 12” pipeline. The amount claimed was 102 acres for irrigation purposes to be used from January 1 to December 31 of each year. Water was also to be used for stockwater purposes. An amendment to the proof of appropriation was filed on March 25, 2016 by the current owners Ira and Montira Renner. The priority date was changed from 1916 to 1887 and the claimed acreage was expanded by 176.38 acres for a total of 278.38 based on the *Doctrine of Relation Back*.

Lake *Dou-Pah-Gate* (*figure 1*) is situated in the SE¼SW¼ of Section 5, T.25N., R.53E. The lake is approximately 250 feet across and is bounded by a dense vegetated barrier of tule and cattail. Water from the lake naturally flows out on the northeast side and saturates a small portion of the center pivot in the same 40 acre parcel that the lake resides in (*figure 2*). There was no pump or pipeline as described in the proof.



**Figure 1:** Photo of Lake *Dou-Pah-Gate* Facing southeast.



**Figure 2:** Photo facing northeast showing overflow of Lake *Dou-Pah-Gate* on the left side, center. The lake is to the immediate right of the photo.

The acreage is no longer irrigated as claimed in the proof. Flood irrigation as well as irrigation by wheel line has been replaced by three center pivots. Permits 85131, 85132, 85133, and 85134 have been filed for the right to use water from two underground wells located within the SE¼NW¼ and the NE¼SW¼ of Section 5, T.25N., R.53E. The water from these permits is comingled with

V02432 and Permit 50075, Certificate 12333 and have a total combined duty of 932.25 acre-feet for the irrigation of 320.27 acres. No water other than the overflow from the lake was being used from this surface water source. Remnant ditches and leveled ground were observed in the now fallow land adjacent to the pivots.

Most of the claimed acreage under the original proof is dated after the creation of the statutes and is not considered a valid claim of vested right. The only acreage that would qualify as pre-statutory is the 31 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 5, T.25N., R.53E. The amendment to the proof uses the map under 50075 for its culture (figure 3).

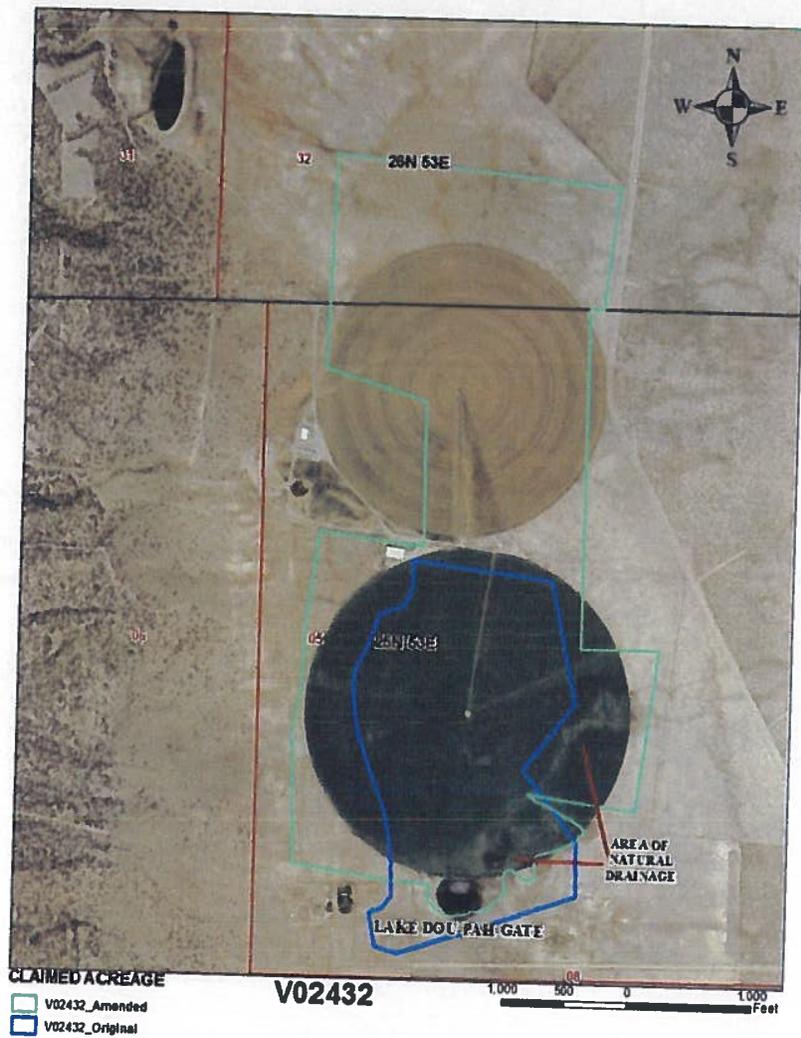


Figure 3: This is a map with the outlines of the original and amended claim of V02432. The area of natural drainage is shown on the southern pivot.

The claimant, using the *Doctrine of Relation Back*, is attempting to include all acreage submitted in Proof V02432 and Permit 50075 Cert. 12332 as part of a pre-statutory water right whether it is prior to, or after March 1, 1905. The *Doctrine of Relation Back* allows the claimant to set the priority date of a claim back to the date when work was first initiated to divert water from a source and place the water to beneficial use as long as it was performed within a reasonable amount of time. An expansion of acreage or use of water from Lake *Dou-Pah-Gate* after March 1, 1905 would not qualify as a pre-statutory water right, and would not fall under the *Doctrine of Relation Back* and should have an application to appropriate water filed for its use.

The *Cadastral Survey by O. A. Palmer, 1871 page 203*, states that Lake *Dou-Pah-Gate* "is the lowest point of the basin in which it is situated, the water would have to be raised".

On November 18, 1912 H. M. Payne of the office of the State Engineer conducted a field investigation on the northwest side of Diamond Valley. In his report he mentions the Scott Ranch (*Diamond Springs Ranch*) which was recently purchased by Joseph Flynn. He describes the lake as "situated so low that the water must be pumped from it to the land for irrigation". Payne also makes a comment about the 25 acres under cultivation at present which is much less than what is claimed in the proof. This comment was made in 1912, well after the cutoff date for pre-statutory claims of vested right.

Located in Denied Permit 35812 is the document *Transcript of Interview* with Joseph Flynn, dated August 23, 1978. In the transcript he gives a timeline of when certain improvements were made to the ranch. Mr. Flynn mentions that prior to him, Robert Bailey from 1900-1910 dug a shallow well eight to ten feet deep next to Lake *Dou-Pah-Gate* and placed a 25 horsepower gas pump on it. It was used to irrigate 10 to 15 acres of hay. Joseph Flynn claimed the lake was not used much during his life at the ranch. George Smiraldo purchased the ranch from Flynn and placed a raft and pump on the lake. During our field investigation we saw no effort from the claimant to pump from the lake. The raft which was used by George Smiraldo is now located in the scrap yard located on the property. Water was naturally flowing onto a small portion of the center pivot.

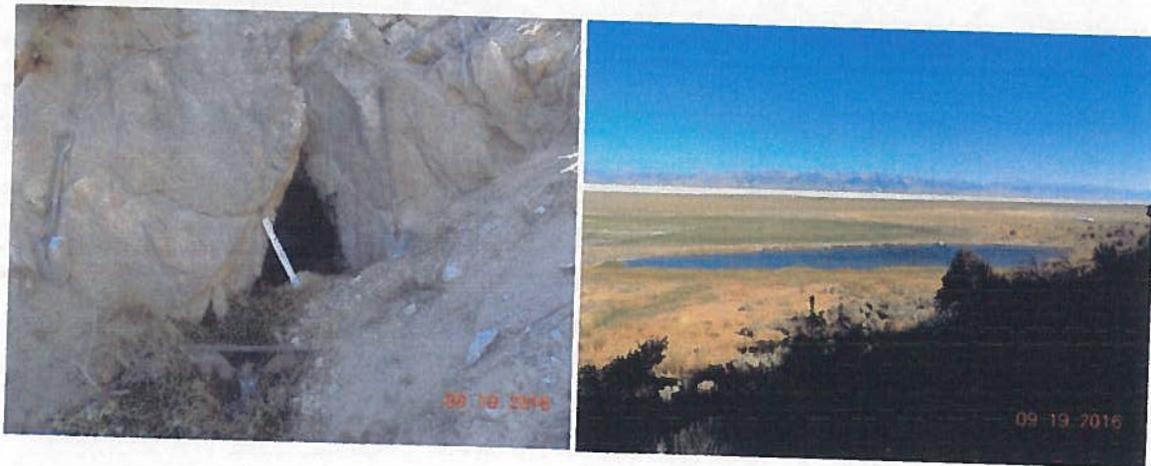
Proof V10886 was filed on the same source as V02432 for irrigation purposes and V10852 was filed for stockwater. Permit 50075 Certificate 12333 for irrigation and Permit 37925 Certificate 11397 for stockwater were also filed on the source. Proof V10886 refers to the source as Lake *Dou-Pah-Gate* but all other proofs and permits refer the same source as Spring No.8.

**V10883** – Ira and Montira Renner filed the proof of appropriation on May 31, 2016. The point of diversion is Spring No.3. The amount claimed is 15.38 acres for irrigation purposes to be used from January 1 to December 31 of each year. The priority date of this proof is 1887. There is no secondary use of water filed under this proof.

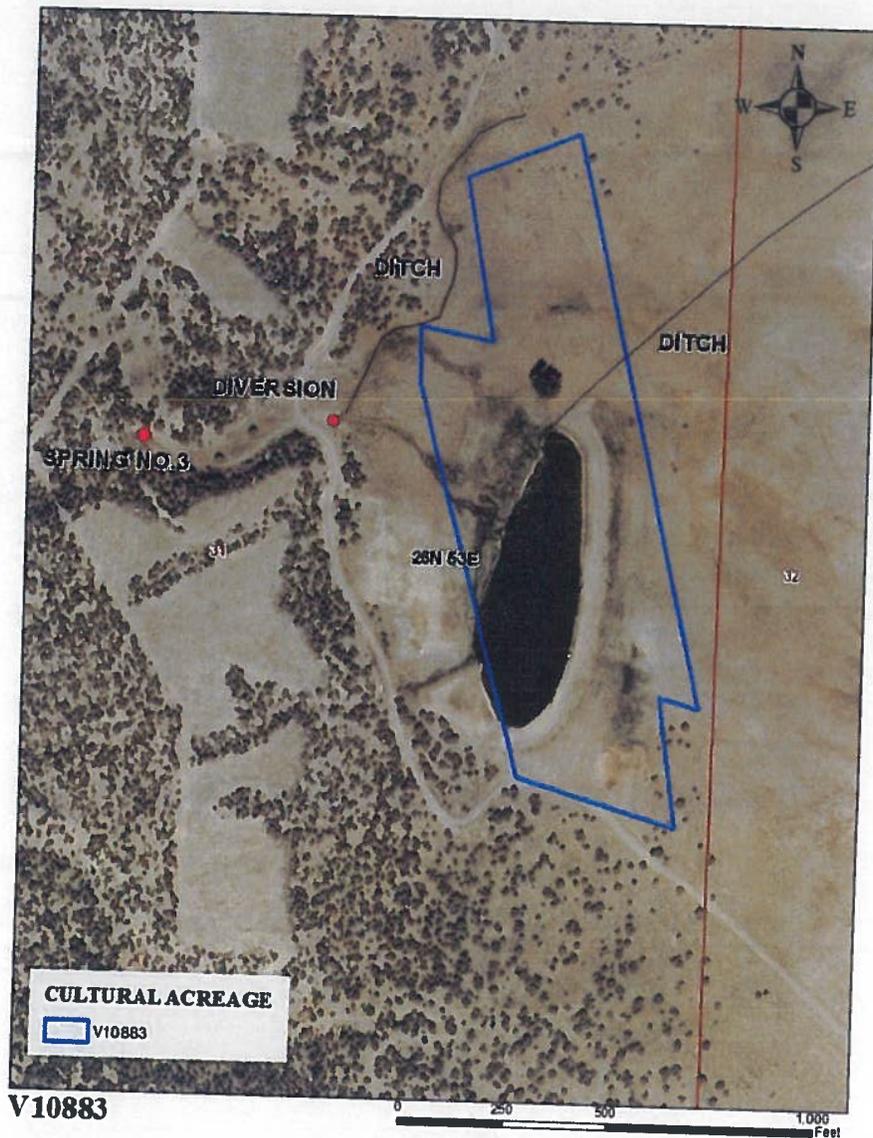
Spring No.3 is located in the NE¼SE¼ of Section 31, T.26N., R.53E., in a draw west of the claimed irrigated acreage. The water flows from a fracture in the rock approximately three feet high and two feet wide (*figure 4*). A measurement was taken with a 90° V-notch weir at the opening of the rock. The flow was measured at 0.106 cubic feet per second (cfs) or 47.6 gallons per minute (gpm). There is sufficient water to irrigate the 15.38 acres claimed in the Proof of Appropriation.

Water continues down the draw for approximately 400 feet and then crosses the road. From this point the water continues down another 80 feet where it could be diverted into a ditch flowing north and eventually irrigating some of the claimed acreage. The water continues flowing east where it ends up in a 3 acre reservoir (*figure 5*). The reservoir sits right where the claimed acreage is displayed on the map (*figure 6*). The area below the ditches is harvestable but most of the land is not situated on claimed acreage. This area contains an abundance of grasses with sage and Rabbit Brush mixed in.

Proof number V10847 was filed on the same source as V10883 but for stockwater purposes. Permit 37917 Certificate 11392 for stockwatering purposes also shares the same point of diversion.



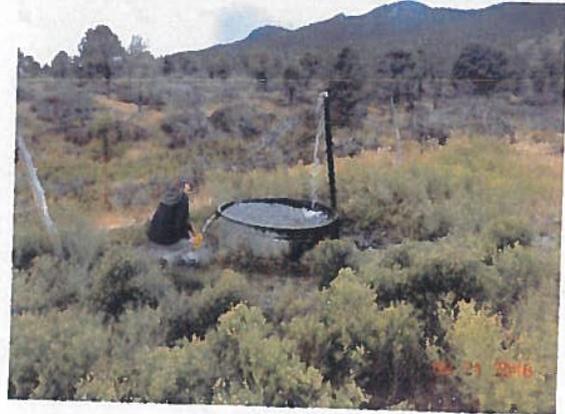
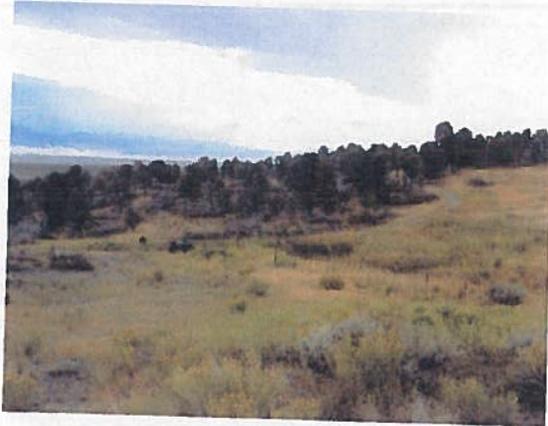
*Figure 4: photo of spring and weir for proof V10883. Staff gauge is 2 feet tall.* *Figure 5: photo shows the 3 acre reservoir that sits over the claimed acreage.*



*Figure 6: map shows the 3 acre reservoir relative to where the claimed acreage lies. The spring, diversion, and ditches are also displayed to highlight the infrastructure that is in place.*

**V10884** - Ira and Montira Renner filed the proof of appropriation on May 31, 2016. The point of diversion is Spring No.6. The amount claimed is 18.26 acres for irrigation purposes to be used from April 1 to October 31 of each year. The priority date of this proof is 1873. Water is also to be used for domestic purposes year round.

Spring No.6 is situated in a draw directly west of the main ranch in the SW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 6, T.25N., R.53E. Water from the spring is channelized and placed into a pipe at the access road (figure 7). The pipe continues down the hill where it is supposedly split up for domestic and irrigation. We were unable to locate the pipe flowing to the pond but we located a pressure relief pipe that flows out and into a trough situated 500' below the POD (figure 8). The flow from the spring was measured at 15 gpm from this location. A bucket and stopwatch were used to capture water flowing out of the stockwater trough.



**Figure 7:** spring shown on right center. ATV parked on road. Staff is standing at the diversion box on left of photo. **Figure 8:** Stock tank where water captured from spring is released. A measurement was taken from this point.

The land claimed as irrigation looks irrigable in the historical imagery but has changed since modern irrigation practices have been implemented. A portion of the claimed acreage is now a horse coral with pasture. The remaining acreage is now a center pivot (figure 9). A road divides these two areas. I was unable to find an outlet for the irrigation portion of water from this claim.

The water from V10884 is comingled with V10885. Proof number V10850 was filed on the same source as V10884 but for stockwater purposes only. Permit 37920 Certificate 11890 for irrigation and domestic, and Permit 37921 Certificate 11395 for stockwatering purposes also share the same point of diversion.

A *Proof of Completion of Work* for Permit 37920 Certificate 11890 was filed on March 17, 1983. Improvements listed on this form consist of "2400 feet of 2 inch pipe for domestic, then 200 feet of 1½ inch pipe to a pond, then open ditches for flood irrigation". There is no evidence of improvements to the spring prior to the filing of the permit.



*Figure 9: This map shows Spring No.6 (V10884) and Spring No.7 (V10885) along with the claimed acreage and the actual irrigated acreage. It appears that there may be a slight shift in the claimed POU and where the historic POU actually was. Remnants of a ditch can be seen in the center pivot in the north east portion of the map.*

**V10885** - Ira and Montira Renner filed the proof of appropriation on May 31, 2016. The point of diversion is Spring No.7. The amount claimed is 18.26 acres for irrigation purposes to be used from January 1 to December 31 of each year. The priority date of this proof is 1873. There is no secondary use of water filed under this proof.

Spring No.7 is situated just below the ranch houses in the SW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 5, T.25N., R.53E. Water is directly discharged into a small pond (*figure 10*) where it is then discharged into a 4.5 acre pasture (*figure 9*). The pond discharge was measured with a 90° V- notch weir at 36 gpm (*figure 11*).

The proof references map number 50075 which was submitted on October 2, 1986. Much of the claimed acreage has changed since the map was submitted. Most of the 18.26 acres is taken up by a center pivot. There are 4.5 acres of meadow hay pasture still being irrigated from this source. Historical USGS photo dated May 23, 1954 shows much of the claimed acreage in use.

Proof number V10851 was filed on the same source as V10885 but for stockwater purposes. Permit 37922 Certificate 11891 for irrigation purposes and Permit 37923 Certificate 11396 for stockwater purposes also share the same point of diversion.



**Figure 10:** Photo of the small pond below the ranch houses. **Figure 11:** Outlet of pond measured at 36 gpm

**V10886** - Ira and Montira Renner filed the proof of appropriation on May 31, 2016. The point of diversion is Spring No.8 (Lake *Dou-Pah-Gate*). The amount claimed is 278.38 acres for irrigation purposes to be used from January 1 to December 31 of each year. The priority date of this proof is 1873. There is no secondary use of water filed under this proof.

This claim has the same point of diversion and place of use as V02432 and V10852. Please refer to V02432 for the findings on this source.

## Stockwater Proofs

**V10846** - Ira and Montira Renner filed the proof of appropriation for stockwater purposes on May 6, 2016. The point of diversion is Spring No.2. The amount claimed is for the watering of 150 cattle and 90 horses for irrigation purposes to be used from January 1 to December 31 of each year. The priority date of this proof is 1873. There is no secondary use of water filed under this proof.

Spring No.2 is located 300 feet to the north of the reservoir in Lot 9 of Section 31, T.26N., R.53E. A channel has been cut at the location of the point of diversion (*figure 12*). There was no water flowing at the time of the investigation but there was green vegetation growing in the channel. There is no evidence of a spring in this area until the cut in the ground was made some time prior to 2006. The topographic maps do not indicate a spring as well.

**V10847** - Ira and Montira Renner filed the proof of appropriation for stockwater purposes on May 6, 2016. The point of diversion is Spring No.3. The amount claimed is for the watering of 150 cattle and 90 horses for irrigation purposes to be used from January 1 to December 31 of each year. The priority date of this proof is 1873. There is no secondary use of water filed under this proof.

Spring No.3 is located in a draw, west of the claimed irrigated acreage in the NE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 31, T.26N., R.53E. The water flows from a fracture in the rock approximately three foot high and two foot wide (*figure 4*). A measurement was taken with a 90° V-notch weir. The flow was measured at 0.106 cfs or 47.6 gpm. The water flows through an open channel and down to the 3 acre reservoir that resides in the same section. Stock have access to drink anywhere along the channel.

The proof references map number 37914 which was submitted on April 13, 1979. Proof number V10883 was filed on the same source as V10847 but for irrigation purposes. Permit 37917 Certificate 11392 for stockwatering purposes also shares the same point of diversion.

**V10848** - Ira and Montira Renner filed the proof of appropriation for stockwater purposes on May 6, 2016. The point of diversion is Spring No.4. The amount claimed is for the watering of 150 cattle and 90 horses for irrigation purposes to be used from January 1 to December 31 of each year. The priority date of this proof is 1873. There is no secondary use of water filed under this proof.

Spring No.4 is located just above the western bank of the reservoir in Lot 9 of Section 31, T.26N., R.53E. The spring area was developed in the past by digging a cut in the ground (*figure 13*). The

spring was flowing at the time. There is no spring marked on any of the topographic sheets but there is evidence of a spring in this location on the aerial photography taken on May 23, 1954 before the ground was disturbed. This area is accessible to livestock and could be a valid stockwater right.

**V10849** - Ira and Montira Renner filed the proof of appropriation for stockwater purposes on May 6, 2016. The point of diversion is Spring No.5. The amount claimed is for the watering of 150 cattle and 90 horses for irrigation purposes to be used from January 1 to December 31 of each year. The priority date of this proof is 1873. There is no secondary use of water filed under this proof.

Spring No.5 is located directly off the road above the reservoir in the NE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 31, T.26N., R.53E. Water seeps out of the ground and enters a culvert which delivers the water under the road and down the hill side (*figure 14*). Water was measured by a bucket and stopwatch as it exits the culvert at 4.61 gpm. This area is accessible to livestock and appears to be a valid stockwater claim.

**V10850** - Ira and Montira Renner filed the proof of appropriation for stockwater purposes on May 6, 2016. The point of diversion is Spring No.6. The amount claimed is for the watering of 150 cattle and 90 horses for irrigation purposes to be used from January 1 to December 31 of each year. The priority date of this proof is 1873. There is no secondary use of water filed under this proof.

Spring No.6 is situated in a draw directly west of the main ranch in the SW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 6, T.25N., R.53E. Water from the spring is channelized and placed into a pipe just below the access road. Water continues 500' down the pipe where it exits a pressure relief pipe and into a trough for stockwater purposes (*figure 8*). The pipe continues down the hill where it is split up for domestic and irrigation. The flow was measured at 15 gpm from the trough. Any water that is not collected in the pipeline runs down the natural channel. Livestock are able to drink at multiple points from this source.

Proof number V10884 was filed on the same source as V10850 but for irrigation and domestic purposes. Permit 37920 Certificate 11890 for irrigation and domestic, and Permit 37921 Certificate 11395 for stockwatering purposes also share the same point of diversion.

**V10851** - Ira and Montira Renner filed the proof of appropriation for stockwater purposes on May 6, 2016. The point of diversion is Spring No.7. The amount claimed is for the watering of 150 cattle and 90 horses for irrigation purposes to be used from January 1 to December 31 of each year. The priority date of this proof is 1873. There is no secondary use of water filed under this proof.

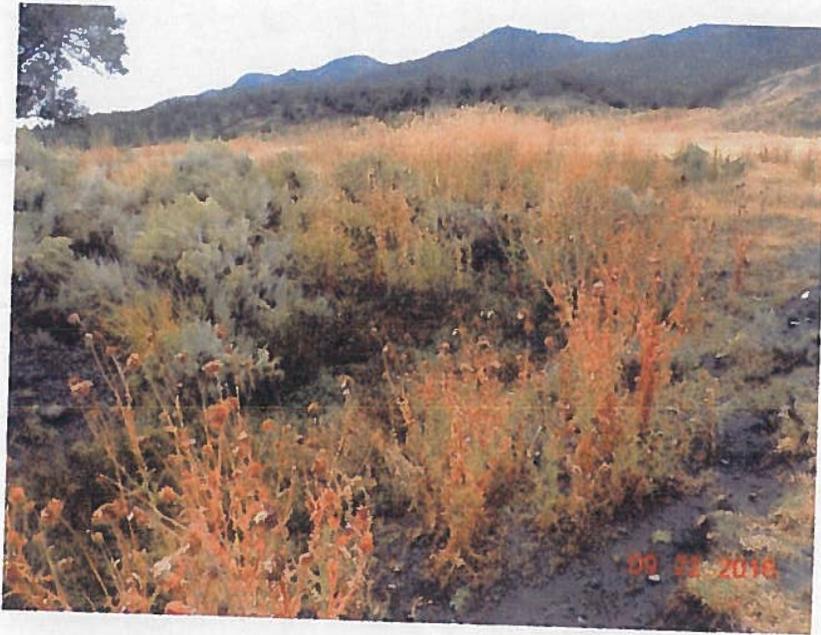
Spring No.7 is situated just below the ranch houses in the SW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 5, T.25N., R.53E. The spring fills a small pond from underneath the surface where it is then discharged into a 4.5 acre pasture (*figure 10*). The pond discharge was measured with a 90° V-notch weir at 36 gpm. Livestock can drink directly from the pond or from the pasture.

Proof number V10885 was filed on the same source as V10851 but for irrigation purposes. Permit 37922 Certificate 11891 for irrigation purposes and Permit 37923 Certificate 11396 for stockwater purposes also share the same point of diversion.

**V10852** - Ira and Montira Renner filed the proof of appropriation for stockwater purposes on May 6, 2016. The point of diversion is Spring No.8. The amount claimed is for the watering of 150 cattle and 90 horses for irrigation purposes to be used from January 1 to December 31 of each year. The priority date of this proof is 1873. There is no secondary use of water filed under this proof.

Spring No.8 is known as *Lake Dou-Pah-Gate* and is south of the southern pivot in the SE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 5, T.25N., R.53E. The lake is approximately 250 feet across with a steep drop off (*figure 15*). Water does rise over the top and saturates the ground around it. Livestock can drink indirectly from the lake.

Proof V10852 was filed on Spring No.8 (*Lake Dou-Pah-Gate*) which is the same source as V02432 and V10886 for irrigation purposes. Permit 50075 Certificate 12333 for irrigation and Permit 37925 Certificate 11397 for stockwater were also filed on the source.



*Figure 12: Spring No.2 facing southwest showing berm on opposite side of spring and channel. Green vegetation growing in the channel indicates saturated ground.*



*Figure 13: Spring No.4 is located west of the reservoir. Berms are located on both sides showing spring enhancement. Livestock are able to access the water of the spring.*



*Figure 14: Spring No.5 is located on the west side of the road and passes through a culvert and flows toward the reservoir. Both sides of the road are accessible to the livestock.*



*Figure 15: Spring No.8 also known as Lake Dou-Pah-Gate has steep walls that make it difficult for livestock to water directly from the source. However the runoff from the lake is accessible to the livestock.*

## SUMMARY

The investigation of the Diamond Springs Ranch showed that all of the claimed acreage was in fact irrigable. The exception being that flood irrigation and wheel lines have been replaced with 3 center pivots. The northernmost pivot which resides in Section 32, is not a part of the claimed acreage. Ditches, pipelines and other means of conveyance were documented during the investigation.

The objective of the report was to verify acreage submitted by the claimants for Diamond Springs Ranch for the adjudication of Diamond Valley. Many of the proofs submitted were as claimed for the most part but some areas did not fit the criteria. The following issues should be looked at closely.

- V02432 & V10886- Claimed acreage prior to 1905 has been greatly exaggerated by claiming *Doctrine of Relation Back*. The original proof claims 31 acres irrigated prior to March 1, 1905. H.M. Payne of the office of the State Engineer states 25 acres under cultivation in 1912 and Joseph Flynn in *Transcript of Interview* estimates 10 to 15 acres of hay somewhere between 1900 and 1910.
- V10883-A 3 acre reservoir has been placed over a portion of the claimed acreage. The remainder of the historic acreage still has grass on it but I do not believe it is used for anything other than for pasture.
- V10884-Staff were unable to locate an outlet pipe for the irrigated land. The 4.5 acre pasture is irrigated by V10885 and a center pivot is located on the rest of the historical acreage which is now irrigated by a well.
- V10846-There is no evidence that there was a spring in this location. A cut in the ground helps capture subsurface water but that was not done until the 2006 time frame.

**Table 1**

Basin 153	Source	Claim	Flow Rate
			September 2016 GPM
Diamond Valley / Diamond Springs Ranch	Spring No.2	V10846	Damp
	Spring No.3	V10847/V10883	47.6
	Spring No.4	V10848	Flowing
	Spring No.5	V10849	4.6
	Spring No.6	V10850/V10884	15
	Spring No.7	V10851/V10885	36
	Spring No.8	V02432/V10852/V10886	Flowing
	Dry – No Visible Water		
Damp – Moist Soil / No Flow			
Flowing – Unconsolidated Flow / Not Measurable			