

**AMENDED
THE STATE OF NEVADA
PROOF OF APPROPRIATION OF WATER FOR IRRIGATION**

Source Van Duzer Creek
Name of natural water source (use separate proofs for each major source)

The water is diverted from its source Ditches #1, #2, #3, Brown Ditch, McClay Ditch and Angel
Name of ditch, flume or pipe line

(Angell) Ditch

at the following point(s) Ditch #1 - at a point within H.E.S. #66 (adjoining Lot 5), Section 34,
List all points of diversion from this source, appending a sheet if necessary

T. 45 N., R. 53 E., MDM, from which the SE corner of Section 34, T. 45 N., R. 53 E., MDM, bears
Describe as being within a 40-acre subdivision of public survey, and by course and distance to a section corner. If on unsurveyed

S. 72°45' E., 3,100 feet.
land, it should be stated

Ditch #2 - at a point within H.E.S. #66 (adjoining Lot 2), Section 3^A, T. 4⁵ N., R. 53 E., MDM, from
which the ^SNE corner of Section 3, T. 44 N., R. 53 E., MDM, bears S. 89°47' E., 1,920 feet.
W. JW 11/13/1999

Ditch #3 - at a point within Lot 3 (within M.S. #2055), Section 34, T. 45 N., R. 53 E., MDM, from which
the SE corner of Section 34, T. 45 N., R. 53 E., MDM, bears S. 66°02' E., 4,033 feet.

Brown Ditch (Ditch #5) - at a point within H.E.S. #66 (adjoining Lot 5), Section 2, T. 44 N., R. 53 E.,
MDM, from which the NW corner of Section 2, T. 44 N., R. 53 E., MDM, bears N. 32°25' E., 1,830 feet.
W. JW 11/13/1999

McClay Ditch (Ditch #6) - at a point within H.E.S. #66 (adjoining Lot 5), Section 2, T. 44 N., R. 53 E.,
MDM, from which the NW corner of Section 2, T. 44 N., R. 53 E., MDM, bears N. 49°40' E., 2,015 feet.
W. JW 11/13/1999

Angel Ditch (Angell) - at a point within H.E.S. #66 (adjoining Lot 3), Section 2, T. 44 N., R. 53 E., MDM
from which the ^{W. JW 11/16/2001}NE corner of Section 2, T. 44 N., R. 53 E., MDM, bears N. 57°14' E., 2,400 feet.
W. JW 11/13/1999

(1) Name of claimant Byington Steel Treating, Inc.
Address HC 35, Box 30 Mountain City, County of Elko
State of Nevada 89831

- (2) The means of diversion employed dams and ditches
Dam and ditch, pipe line, flume, etc.
- (3) The date of the survey of ditch, canal, or pipe line was February 27 and 28, 1967
- (4) The construction of the ditch or other works was begun 1869
 and completed unknown .
- (5) The dimensions of the ditch or canal as originally constructed were: Width on bottom 3
 feet, width on top 5 feet, depth 2.5 feet, on a grade of _____ feet per thousand feet.
- (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

- (10) The nature of the title to the land for which the water right is claimed is _____

Patent and Deed

Fee simple, public domain, etc.

- (11) Crops of Meadow Hay
 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 March 1st to November 1st
 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.

<u>DITCH</u>	<u>SEC.</u>	<u>1/4 1/4</u>	<u>T. N.</u>	<u>R. E.</u>	<u>ACRES</u>	<u>TYPE OF CULTURE</u>	<u>DATE OF CULTURE</u>
1 & 3	34	H.E.S. #66 (Lot 5)	45	53	10.5	Meadow Hay	1874
1	34	H.E.S. #66 (SW ¹ / ₄ SE ¹ / ₄)	45	53	4.0	Meadow Hay	1874
3	3	H.E.S. #66 (Lot 3)	44	53	0.6	Meadow Hay	1874
1,2 & 3	3	H.E.S. #66 (Lot 2)	44	53	13.6	Meadow Hay	1874

1 & 3	3	H.E.S. #66 (Lot 2)	44	53	2.2	Meadow Hay	1874
1 & 2	3	H.E.S. #66 (Lot 1)	44	53	23.0	Meadow Hay	1874
1 & 2	2	H.E.S. #66 (Lot 4)	44	53	9.4	Meadow Hay	1874
1 & 2	2	H.E.S. #66 (lot 5)	44	53	4.79	Meadow Hay	1874
2	2	H.E.S. #66 (Lot 3)	44	53	4.49	Meadow Hay	1874
2	2	H.E.S. #66 (Lot 5)	44	53	0.54	Meadow Hay	1874
McClay and							
Angel Ditches	2	H.E.S. #66 (Lot 3)	44	53	0.50	Meadow Hay	1903
McClay and							
Angel Ditches	2	H.E.S. #77 (Lot 3)	44	53	5.01	Meadow Hay	1903
Brown, Angel							
and McClay							
Ditches	2	H.E.S. #77 (NW $\frac{1}{4}$ NE $\frac{1}{4}$)	44	53	7.4	Meadow Hay	1903
Brown Ditch	2	H.E.S. #77 (SW $\frac{1}{4}$ NE $\frac{1}{4}$)	44	53	8.0	Meadow Hay	1903
Brown Ditch	2	H.E.S. #77 (SE $\frac{1}{4}$ NW $\frac{1}{4}$)	44	53	10.10	Meadow Hay	1903
Brown Ditch	2	H.E.S. #77 (SE $\frac{1}{4}$ NE $\frac{1}{4}$)	44	53	7.76	Meadow Hay	1903
Brown Ditch	2	H.E.S. #77 (Lot 5)	44	53	2.41	Meadow Hay	1903

(14) The maximum acreage irrigated in any year was 114.3 acres.

(15) The water claimed has 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 None

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 recorded in the office of the County Recorder of Elko County, said record being at page 441 of Book 1 of Miscellaneous Records, and being a claim for 300 inches 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)

In the original filing of the subject proof, a priority of May 8, 1888 was claimed on the basis of a water claim executed by Dan Olin and recorded in Book 3 of Miscellaneous Records at Page 509, Elko County (copy enclosed).

Further research reveals that diversion of the waters of Van Duzer Creek was made at an earlier

date. On November 11, 1869, E. W. Griswold, County Surveyor of Elko County, filed a survey of a land claim of F.C. Van Duzer in Book 1 of Land Claims at Page 56, Elko County, for 160 acres described in part as lying on Red Mountain Creek. Subsequently F.C. Van Duzer filed a Location of Water Right dated July 20, 1874 in Book 1 of Miscellaneous Records at Page 441, Elko County, upon Red Mountain Creek, or Willow Creek. Edna Patterson, in a publication entitled Who Named It? History of Elko County Place Names, at Page 84 states that Van Duzer Creek was named after F.C. Van Duzer who at one time had a dairy farm on that creek. Based upon the land claim and ditch location described above (a certified copy of each attached hereto) a diversion of the waters of this source was in 1874 by F.C. Van Duzer, and such is the basis of this priority. Based on a surveyed map made in 1903 which shows the Brown Ditch in and the McClay Ditch was 1888 - claiming a 1903 on all the land below the Brown, McClay and Angell Ditches.

(18) Water from the source given and through the works described is also used for the following purposes other than irrigation: stockwater and domestic

(19) The character of the soil is loam. A continuous flow of 2½ cubic feet of water per second has been used to irrigate 100 acres of land and 4.0 acre-feet per acre per annum have been used to irrigate the crops.
(Sandy, gravelly, loam)

(20) Remarks: Use map filed in 1967 to support this amended proof. Attached are the following:

1. Land claim - F.C. Van Duzer;
2. Water right claim - F.C. Van Duzer;
3. Water right claim - Dan M. Olin
4. Water right claim - Joseph McClay
5. Affidavit - Josephine Jarvis Williams
6. Affidavit - Frank Baker
7. Copy of Affidavit - to Federal Land Bank
8. Copy of Agreement - between Andrae and Jarvis - which is now - Baker and Byington

The undersigned, being first duly sworn, deposes and says that the facts relative to the appropriation of water by Byington Steel Treating, Inc. are full and correct to the best of his knowledge and belief The undersigned deponent is acting as agent for the claimant - Byington Steel Treating, Inc.

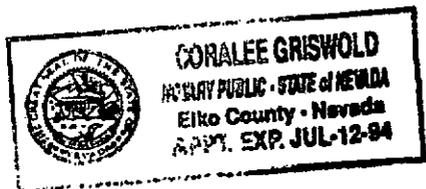
If proof is not made by claimant, deponent should state on this line by virtue of what authority he represents the claimant

William A. Nishel
Agent

421 Court Street, Elko, NV 89801

Subscribed and sworn to before me this 16 day of June, 19 94

CoraLee Griswold



Notary Public in and for the County of Elko

My commission expires July 12, 1994

\$100 FILING FEE MUST ACCOMPANY PROOF

NOTARY PUBLIC

CORALEE GRISWOLD

FILED
DEC. 21, 1967
STATE ENGINEER'S OFFICE

Filing Serial No. 02650

THE STATE OF NEVADA
PROOF OF APPROPRIATION OF WATER FOR IRRIGATION

Source: Van Duzer Creek
Name of natural water source

The water is diverted from its source see attached sheet
Name of ditch, flume or pipe line

at the following point see attached sheet

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 Josephine J. Williams and Henry B. Jarvis

Address Box 157, Owyhee, County of Elko

State of Nevada

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

(3) The date of the survey of ditch, canal, or pipe line was February 27 & 28, 1967

(4) The construction of the ditch or other works was begun 1886

and completed 1889

(5) The dimensions of the ditch or canal as originally constructed were: Width on bottom 3

feet, width on top 5 feet, depth 2.5 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

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.

Ditches located on property owned by claimant & constructed by

If claimant is an owner in the conduit, state interest held on this line claimants grantors

(10) The nature of the title to the land for which the water right is claimed is Fee Simple by

Patent and Deed

(11) Crops of Meadow Hay, Timothy and Clover

have been grown upon the land irrigated.

(12) The water has been used for irrigation from March 1 to November 1

of each year. Day of month Day of month

(13) The water was first used for irrigation by claimant or their grantors in the year 1888

when 114.3 acres were irrigated in the S/2 of Sec. 34

T. 45 N., R. 53 E. and N/2, Section 3, T. 44 N., R. 53 E. and the

N/2, Section 2, T. 44 N., R. 53 E., M.D.B. & M., all in HES #66 & HES #77

(14) The date of culture, number of acres and legal description of the land irrigated in subsequent years:

- ✓ 1888 10.5 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 34, T. 45 N., R. 53 E.
- ✓ " 4.0 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 34, T. 45 N., R. 53 E.
- ✓ " 0.6 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 3, T. 44 N., R. 53 E.
- ✓ " 15.8 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 3, T. 44 N., R. 53 E.
- ✓ " 23.0 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 3, T. 44 N., R. 53 E.
- + ✓ " 8.0 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 2, T. 44 N., R. 53 E.
- ✓ " 9.4 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 2, T. 44 N., R. 53 E.
- ✓ " 7.2 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 2, T. 44 N., R. 53 E.
- pod. + ✓ " 9.5 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 2, T. 44 N., R. 53 E.
- pod. + ✓ " 18.9 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 2, T. 44 N., R. 53 E.
- + ✓ " 7.4 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 2, T. 44 N., R. 53 E.

*NOTE: All above lands are located in HES #66 & HES #77

..... 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.

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(15) The maximum acreage irrigated in any year was 114.3 acres.

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

(17) The years during which no water was used for irrigation or during which the full water right was not used were None
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 of necessary

(18) The claimant's water right was (~~was not~~) recorded in the office of the County Recorder of Elko County, said record being at page 509 of Book 3 of misc., dated May 8, 1888, and being a claim for unspecified amount of water for the irrigation of unspecified number acres of land in the following legal subdivisions: "Possessory Claim" (HES #66) Portions of Sections 2 and 3, T. 44 N., R. 53 E., and Section 34, T. 45 N., R. 53 E., M.D.B. & M.

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 (19)

This part of form to be left blank by claimant

Filing Serial No. 02650

STATE OF NEVADA
PROOF OF APPROPRIATION OF
WATER FOR IRRIGATION

Water Source.....

Through.....

Claimant.....

Filed in the office of the State Engineer on

....., 19.....

State Engineer.

Certificate No. issued hereunder

....., 19.....

Form B-8-62-2M

4316



1937 DEC 13 PM 3 46

1937 DEC 21 PM 2 10

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STATE ENGINEER