

2ND AMENDED  
STATE OF NEVADA

**PROOF OF APPROPRIATION OF WATER FOR STOCK WATERING  
OR WILDLIFE PURPOSES**

(1) Name of Claimant Byington Steel Treating, Inc.

HC 35, Box 30 of Mountain City  
Street and No. or P.O. Box No. City or town  
Nevada 89831 (see attached affidavit)  
State and Zip code No.

(2) Source of water Deer Creek, Upper Deer Spring, and Lower Deer Spring  
Name of natural water source.

(3) The water is diverted by Natural channel and spring area  
Dam, ditch, pipe line, natural channel, spring area, etc.

(4) The water is diverted at the following point(s) (Map 2) SE $\frac{1}{4}$ NE $\frac{1}{4}$  Section 5, T. 44 N., R. 53 E.,  
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.

MDM, at a point from which the NE corner of Section 4, T. 44 N., R. 53 E., MDM, bears  
Diversion over a channel reach must be described by course and distance to a section corner for both the beginning and end of such reach.  
N. 68°40' E., 6,409 feet and also the SW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 4, T. 44 N., R. 53 E., MDM, at a point

from which the NE corner of said Section 4, bears N. 48°02' E., 6,188 feet which both follows the  
natural channels to a point in Lot 6, Section 11, T. 44 N., R. 53 E., MDM, from which the NW  
corner of Section 2, T. 44 N., R. 53 E., MDM, bears N. 07°24' W., 5,470 feet.

Upper Deer Spring - NW $\frac{1}{4}$ SE $\frac{1}{4}$  Section 4, T. 44 N., R. 53 E., MDM, from which the NE corner  
of said Section 4, bears N. 32°22' E., 4,278 feet.

Lower Deer Spring - SW $\frac{1}{4}$ SE $\frac{1}{4}$  Section 3 T. 44 N., R. 53 E., MDM, at a point from which the  
NE corner of said Section 3, bears N. 29°55' E., 4,812 feet.

(5) The water is impounded in Natural channel and spring area (pond at springs)  
Troughs, tanks, pools, reservoir, natural channel, etc.

(6) The construction of the ditch or other works was begun none  
Date  
and completed \_\_\_\_\_  
Date



(12) The works are located at None  
Describe as being within a 40-acre subdivision, section, township and range of public survey. If on unsurveyed

land, it should be stated.

Remarks Use Map 2

The 500 cows and calves listed in this proof are the same as listed in proofs within 04132, 04135, 04136, 04137, 04139, 04141, and the proof filed under Van Duzer Creek. A copy of Affidavit of Identity attached.

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**

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

Byington Steel Treating, Inc.

Claimant

Telephone No. ( 702 ) 763-6644

By William A. Aribel (Agent)

421 Court Street

Street and No., or P.O. Box No.

Elko, Nevada 89801

City, State, Zip Code No.

Telephone No. ( 702 ) 738-2121

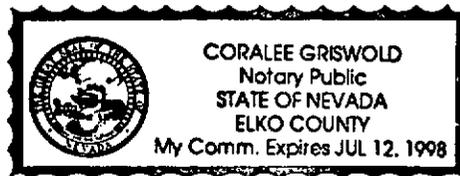
Subscribed and sworn to before me this 4 day of August, 1994.

CoraLee Griswold

Notary Public in and for the County of Elko

My commission expires July 12, 1998

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



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AMENDED  
STATE OF NEVADA

PROOF OF APPROPRIATION OF WATER FOR STOCK WATERING  
OR WILDLIFE PURPOSES

(1) Name of Claimant Byington Steel Treating, Inc.

HC 35, Box 30 of Mountain City  
Street and No. or P.O. Box No. City or town  
Nevada 89831 (see attached affidavit)  
State and Zip code No.

(2) Source of water Deer Creek, Upper Deer Spring, and Lower Deer Spring

Name of natural water source.

(3) The water is diverted by Natural channel and spring area

Dam, ditch, pipe line, natural channel, spring area, etc.

(4) The water is diverted at the following point(s) (Map 2) SE¼NE¼ Section 5, T. 44 N., R. 53 E.,

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.

MDM, at a point from which the NE corner of Section 4, T. 44 N., R. 53 E., MDM, bears

Diversion over a channel reach must be described by course and distance to a section corner for both the beginning and end of such reach.

N. 68°40' E., 6,409 feet which follows the natural channel to a point in Lot 6, Section 11, T. 44 N.,

R. 53 E., MDM, from which the NW corner of Section 2, T. 44 N., R. 53 E., MDM, bears

N. 07°24' W., 5,470 feet.

Upper Deer Spring - NW¼SE¼ Section 4, T. 44 N., R. 53 E., MDM, from which the NE corner

of said Section 4, bears N. 32°22' E., 4,278 feet.

Lower Deer Spring - SW¼SE¼ Section 3 T. 44 N., R. 53 E., MDM, at a point from which the

NE corner of said Section 3, bears N. 29°55' E., 4,812 feet.

(5) The water is impounded in Natural channel and spring area (pond at springs)

Troughs, tanks, pools, reservoir, natural channel, etc.

(6) The construction of the ditch or other works was begun none

Date

and completed \_\_\_\_\_

Date

037  
EL

(7) The nature of the claimant's title to the land upon which the source of water and place of use are located is public domain with grazing permit

Patented, deeded, public domain with grazing permit, etc.

(Map 2) - a portion of the SE $\frac{1}{4}$ NE $\frac{1}{4}$  and a portion of the NE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 5; N $\frac{1}{2}$ SW $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ , and the N $\frac{1}{2}$ SE $\frac{1}{4}$  of Section 4; SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 3; a portion of Lot 1, Section 10; a portion of Lot 6, Section 11; all within T. 44 N., R. 53 E., MDM.

Upper Deer Spring - NW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 4, T. 44 N., R. 53 E., MDM.

Lower Deer Spring - SW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 3, T. 44 N., R. 53 E., MDM.

(8) The claimant's water right was not recorded in the office of the County Recorder of

County, at Page of Book of

NOTE-Failure to record in the county in no way invalidates a water right, but if water right was so recorded, supply full information under (8).

(9) The approximate number of animals watered by the claimant during the first year Prior to 1905,

Date

was 250 cattle horses sheep or wildlife (describe) Other

The watering was conducted during each of the following months April 15th thru December 31st

On the private land of H.E.S. #66, applicant is claiming a 1874 stockwatering right as supported by the claim filed for irrigation right under Proof #02650. Within H.E.S. #77, applicant is claiming a 1902 stockwatering right as supported by the claim filed for irrigation right under Proof #02650. Within the U.S. Forest, the applicant is claiming a right prior to January 1, 1905, based on the premise that any present permittee upon the U.S. Forest must be successor in interest to persons making use upon forest lands at the time of withdrawal of said lands, which was in 1905; claimant is that successor in interest. As to the Mineral Survey #2055, applicant is claiming a stockwater right prior to January 1, 1905 on this land. Mineral Survey #2055 is owned by the claimant.

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

follows: 250 cows/calf 500

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.

(see Remarks)

(11) The amount of water which has been necessary to be diverted for this purpose has been

0.0155 cubic feet per second.

448.83 gallons per minute equals 1 cubic foot per second.

(12) The works are located at None

Describe as being within a 40-acre subdivision, section, township and range of public survey. If on unsurveyed

land, it should be stated.

Remarks Use Maps 1 and 2

The 500 cows and calves listed in this proof are the same as listed in proofs within 04132, 04135, 04136,

04137, 04139, 04141, and the proof filed under Van Duzer Creek. A copy of Affidavit of Identity attached.

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**

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

Byington Steel Treating, Inc.

Claimant

Telephone No. ( 702 ) 763-6644

By William A. Neibel (Agent)

421 Court Street

Street and No., or P.O. Box No.

Elko, Nevada 89801

City, State, Zip Code No.

Telephone No. ( 702 ) 738-2121

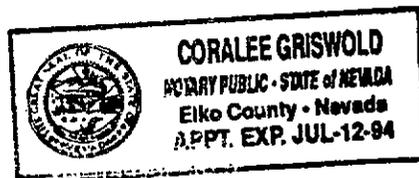
Subscribed and sworn to before me this 23 day of June, 19 94.

Coralee Griswold

Notary Public in and for the County of Elko

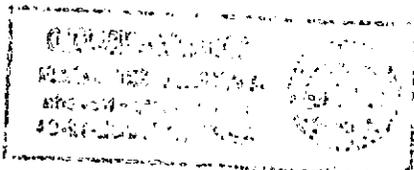
My commission expires July 12, 1994

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AFFIDAVIT

STATE OF NEVADA )  
 ) SS.  
COUNTY OF ELKO )

I, William A. Nisbet, do hereby swear (or affirm) under penalty of perjury that the following assertions of this Affidavit are true.

1. That I am an adult and a resident of the County of Elko, State of Nevada.

2. That I did file in 1984, ten (10) Proof of Appropriation of Water for Stock Watering Purposes (Proof Nos. 04132 through 04141) in the name of Byington Ranch.

3. That I also filed in 1982 one (1) Proof of Appropriation of Water for Irrigation (Proof No. 03707) in the name of Byington Ranch.

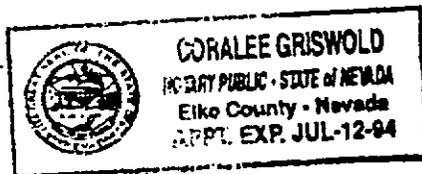
4. That the above listed proofs should have been filed in the name of Byington Steel Treating, Inc.

5. This Affidavit is made for the purpose of stating that the Byington Ranch is in fact the Byington Steel Treating, Inc.

William A. Nisbet  
William A. Nisbet

Signed and sworn to (or affirmed) before me on 13 June 1994,  
by William A. Nisbet.

Coralee Griswold  
Notary Public



2.018

Original Affidavit filed under Proof #03707

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THE STATE OF NEVADA  
PROOF OF APPROPRIATION OF WATER FOR  
STOCK WATERING PURPOSES

(1) Name of claimant.....Eyington Ranch.....  
Attn: Jim Connelley.....of Mountain City.....  
Street and No. or P.O. Box No. City or town  
Nevada 89831  
State and Zip Code No.

(2) Source of water...Upper Deer Spring.....  
Name of natural water source.

(3) The water is diverted by...refer to Item #5.....  
Dam, ditch, pipe line, natural channel, spring area, etc.

(4) The water is diverted at the following point(s) NW 1/4 SE 1/4 Sec. 4, T.44N., R.53E., M.D.M.  
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  
at a point from which the NE corner of said Sec. 4 bears N.33°10'E., 4044 feet.  
be stated. Diversion over a channel reach must be described by course and distance to a section corner for both the beginning and end of such  
reach.

(5) The water is impounded in...earthen storage pond (less than 10 acre feet and 10' in height)  
Troughs, tanks, pools, reservoir, natural channel, etc.

(6) The construction of the ditch or other works was begun...prior to 1888  
Date  
and completed...prior to 1888  
Date

(7) The nature of the claimant's title to the land upon which the source of water and place of use are located is...public domain with a private grazing allotment which surrounds  
Patented, deeded, public domain with grazing permit, etc.  
this water source.

(8) The claimant's water right ~~was~~ (was not) recorded in the office of the County Recorder of  
County, at Page.....of Book.....of.....

NOTE—Failure to record in the county in no way invalidates a water right, but if water right was so recorded, supply full information under (8).

(9) The approximate number of animals watered by the claimant during the first year....., Date  
was.....cattle.....horses.....sheep or.....Other. The watering  
was conducted during each of the following months.....  
.....  
.....  
.....

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

The claimant presently waters 250 cattle within this grazing allotment.

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.

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(11) The amount of water which has been necessary to be diverted for this purpose has been.....

0.10.....cubic feet per second.

448.83 gal. per min. equals 1 cubic foot per second.

(12) The works are located at.....

Describe as being within a 40-acre subdivision, section, township and range of public survey. If on unsurveyed

land, it should be stated.

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Remarks.....

Remarks.....  
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The undersigned, being first duly sworn, deposes and says that the facts relative to the appropriation of water by Byington Ranch.....  
are full and correct to the best of his knowledge and belief.

Deponent has been authorized to act as the claimant's agent,  
If proof is not made by claimant, deponent should state on this line by virtue of what authority he represents the claimant.

Claimant

By William A. Nisbet  
421 Court  
Street and No., or P.O. Box No.  
Elko, Nevada 89801  
City, State, Zip Code No.

Subscribed and sworn to before me this 30<sup>th</sup> day of Jan, 1984  
Leora Bernadot

Notary Public in and for the County of Elko

My commission expires May 2, 1986



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