Serial No 04135

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 Red Springs #1 and Red Spring #2
Name of natural water source.

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

(4) The water is diverted at the following point(s) Red Spring #1 (Map 2) - SW¼SE¼ Section 35,
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.
T. 45 N., R. 53 E., MDM, at a point from which the SW corner of said Section 35, 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.
S. 70°01' W., 3,047 feet.

5 7/11/2002

Red Spring #2 (Map 1) - NE¼SE¼ Section 35, T. 47 N., R. 53 E., MDM, at a point from which the NE corner of said Section 35 bears N. 15°47' E., 3,883 feet.

(5) The water is impounded in 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

(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.

Red Spring #1 (Map 2) - a portion of the SW¼SE¼ of Section 35, T. 45 N., R. 53 E., MDM.

Red Spring #2 (Map 1) - NE¼SE¼ of Section 35, T. 45 N., R. 53 E., MDM.

037
EL

(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, 04133, 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. Fisbat (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 13 day of June, 19 94.

Coralee Griswold

Notary Public in and for the County of Elko

My commission expires July 12, 1994

$50 FILING FEE MUST ACCOMPANY PROOF

CORALEE GRISWOLD
NOTARY PUBLIC • STATE of NEVADA
Elko County • Nevada
APPT. EXP. JUL-12-94

'94 JUN 15 P2:27

RECEIVED
STATE ENGINEERS OFFICE

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

CORALEE GRISWOLD
NOTARY PUBLIC · STATE of NEVADA
Elko County · Nevada
APPT. EXP. JUL-12-94

Original Affidavit filed under Proof #03707

'94 JUN 15 P2:27

RECEIVED
STATE ENGINEERS OFFICE

Serial No. 04135 4

THE STATE OF NEVADA

PROOF OF APPROPRIATION OF WATER FOR STOCK WATERING PURPOSES

(1) Name of claimant Byington 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 Red Springs
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) SW¼SE¼ Sec. 35, T.45N., 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 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.
at a point from which the SW corner of said Sec. 35 bears S70°01'W., 3047 feet.

(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 this water source.
Patented, deeded, public domain with grazing permit, etc.

(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..... The watering
Other

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 claiment 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.

.....

.....

.....

.....

.....

.....

.....

(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.

.....

Remarks.....

.....

.....

.....

.....

.....

.....

.....

Remarks.....

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 claiment'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. Pisbet

401 Court

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

Elko, Nevada 89801

City, State, Zip Code No.

Subscribed and sworn to before me this 30th day of Jan, 1984.

Leora Bernadot

Notary Public in and for the County of Elko

My commission expires May 2, 1986

LEORA BERNADOT
Notary Public State of Nevada
Elko County, Nevada
My appointment expires May 2, 1986

$10 FILING FEE MUST ACCOMPANY PROOF

'84 FEB -2 AM 10:3

STATE