

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 Dry Creek, Dry Creek Spring and Unnamed Spring #5
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 1) SW¼NW¼ Section 27, T. 45 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 NW corner of said Section 27, bears N. 04°34' W., 1,631 feet, the
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.
above listed point follows the natural channel at a point within patented Mineral Survey No. 2055

(adjoining Lot 1) in Section 33, T. 45 N., R. 53 E., MDM, which the NW corner of said Section
33, bears N. 67°20' W., 5,481 feet.

Dry Creek Spring - SE¼NE¼ Section 28, T. 45 N., R. 53 E., MDM, at a point from which the NW
corner of said Section 28, bears N. 70°37' W., 5,327 feet.

Unnamed Spring #5 - NW¼SW¼ Section 27, T. 45 N., R. 53 E., MDM, at a point from which the
NW corner of Section 28, T. 45 N., R. 53 E., MDM, bears N. 64°04' W., 6,798 feet.

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

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

15



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

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

(Map 1) - SW $\frac{1}{4}$ NW $\frac{1}{4}$ and the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 27; E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 28; Lot 1 and a portion of Mineral Survey No. 2055, within Section 33; all in T. 45 N., R. 53 E., MDM.

Dry Creek Spring - SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 28, T. 45 N., R. 53 E., MDM.

Unnamed Spring #5 - NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 27, T. 45 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.

11
12
13
14



(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 1

The 500 cows and calves listed in this proof are the same as listed in proofs within 04132, 04133, 04135, 04136, 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. Nisbet (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

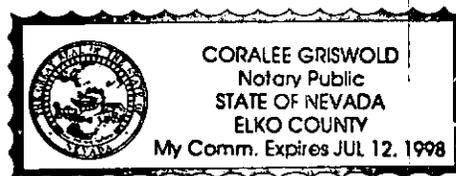
Subscribed and sworn to before me this 4 day of August, 1994.

Coralee Griswold

Notary Public in and for the County of Elko

My commission expires July 12, 1998

\$50 FILING FEE MUST ACCOMPANY PROOF



STATE ENGINEERS OF FLA

94 AUG-8 P1:27

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.

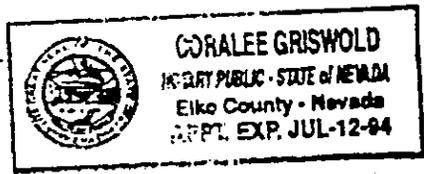
4. That the above listed proofs should have been filed in the name of Byington Steel Treating, Inc.

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



Original Affidavit filed under Proof #03707

RECEIVED
STATE ENGINEERS OFFICE

94 AUG -8 P1:27

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
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State and Zip code No.

(2) Source of water Dry Creek, Dry Creek Spring and Unnamed Spring #5
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 1) SW¹/₄NW¹/₄ Section 27, T. 45 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 NW corner of said Section 27, bears N. 04°34' W., 1,631 feet, the
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.
above listed point follows the natural channel at a point within patented Mineral Survey No. 2055

(adjoining Lot 1) in Section 33, T. 45 N., R. 53 E., MDM, which the NW corner of said Section
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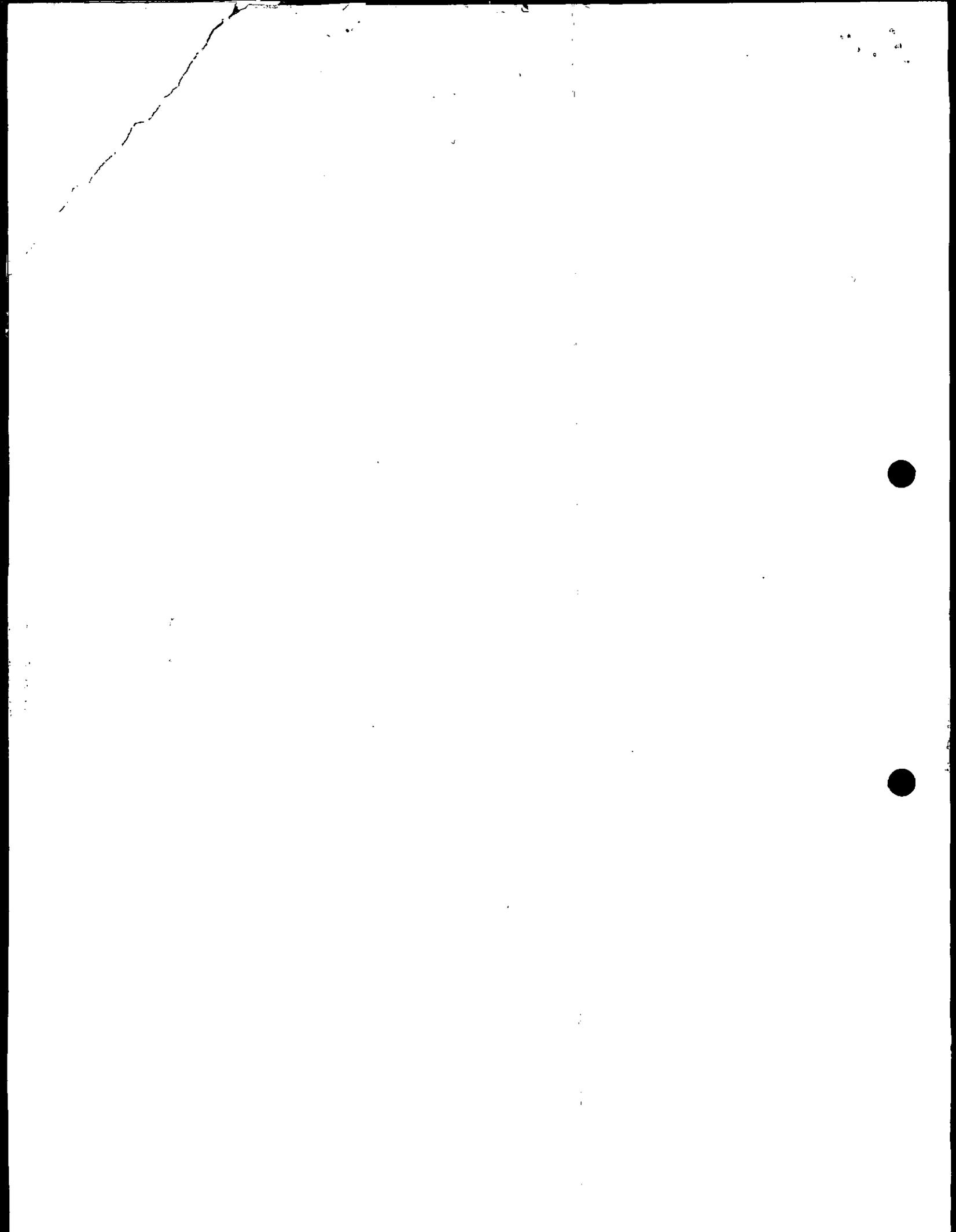
Dry Creek Spring - SE¹/₄NE¹/₄ Section 28, T. 45 N., R. 53 E., MDM, at a point from which the NW
corner of said Section 28, bears N. 70°37' W., 5,327 feet.

sw
Unnamed Spring #5 - NW¹/₄NW¹/₄ Section 27, T. 45 N., R. 53 E., MDM, at a point from which the
NW corner of Section 28, T. 45 N., R. 53 E., MDM, bears N. 64°04' W., 6,798 feet.

(5) The water is impounded in Natural channel and spring area (trough at spring)
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 deeded and public domain with grazing permit

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

(Map 1) - SW $\frac{1}{4}$ NW $\frac{1}{4}$ and the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 27; E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 28; Lot 1 and a portion of Mineral Survey No. 2055, within Section 33; all in T. 45 N., R. 53 E., MDM.

Dry Creek Spring - SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 28, T. 45 N., R. 53 E., MDM.

Unnamed Spring #5 - NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 27, T. 45 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, 04133, 04135, 04136, 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. Pickett (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

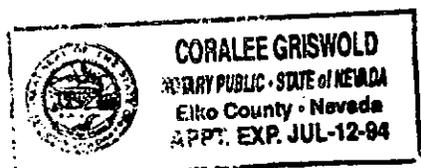
Subscribed and sworn to before me this 13 day of June, 1994.

Coralee Griswold

Notary Public in and for the County of Elko

My commission expires July 12, 1994

\$50 FILING FEE MUST ACCOMPANY PROOF



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94 JUN 15 P2:27

STATE ENGINEERS OFF.
RECEIVED
JUN 15 1994
P2:27

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.

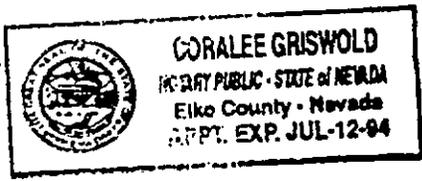
4. That the above listed proofs should have been filed in the name of Byington Steel Treating, Inc.

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.

Coralie Griswold
Notary Public



3707

Original Affidavit filed under Proof #03707

STATE ENGINEERS OFFICE
RECEIVED

94 JUN 15 P2:27

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 Dry Creek 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) SE 1/4 NE 1/4 Sec. 28, 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
at a point from which the NW corner of said Sec. 28 bears N.66°10'W., 5480 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 3' high x 10' diameter round stock watering trough.
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.....
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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 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. Fiset

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 20th day of January, 1984

Leora Bernadot

Notary Public in and for the County of Elko

My commission expires May 2, 1986



\$10 FILING FEE MUST ACCOMPANY PROOF



STATE OF ILLINOIS

STATE OF ILLINOIS

OFFICE OF THE ATTORNEY GENERAL