04710

Filing Serial No. [redacted]

THE STATE OF NEVADA

PROOF OF APPROPRIATION OF WATER FOR IRRIGATION

Source [Name of natural water source (use separate proofs for each major source)]: South Smith Creek

The water is diverted from its source [Name of ditch, flume or pipe line]: South Smith Creek Ditch

at the following point(s): [List all points of diversion from this source, appending a sheet is necessary. 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 is made at a point in the NW¼ SE¼ of Section 9, T28N R58E, MDB&M from which the Northwest corner of said Section 9 bears N45°00'00"W a distance of 5,010.00 feet. T.S.

(1) **Name of Claimant:** Lincoln Land & Livestock Company, a Nevada corporation

176 EL

Address: c/o John G. Metzker, P. O. Box 40130, Reno

County of Washoe, **State of:** Nevada

(2) **The means of diversion employed** [Dam and ditch, pipe line, flume, etc.]: Dam and ditch

(3) **The date of the survey of ditch, canal, or pipe line was:** Not known

(4) **The construction of the ditch or other works was begun:** Prior to 1869 **and completed:** Unknown

(5) **The dimensions of the ditch or canal as originally constructed were: Width on bottom:** Not known **feet, width on top:** _____ **feet, depth:** _____ **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:** Not known **and completed:** Ditches were of sufficient capacity in 1882 to carry water to irrigate lands claimed. See Remarks.

(8) **The dimensions of the ditch or canal as enlarged are: Width on bottom:** Not known **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.** [If claimant is an owner in the conduit, state interest held on this line]: 100%

(10) **The nature of the title to the land for which the water right is claimed is** [Fee simple, public domain, etc.]: Fee simple

(11) **Crops of** hay, pasture and diversified pasture **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 15 **to** September 15 **of each year,** or period for which water is available for irrigation use.

(13) **List the year of priority for acreage irrigated prior to March 1, 1905, from all points of diversion previously described, with corresponding subdivisions, appending extra sheets if necessary.**

YEAR 1868, 33.99 ACRES IN THE Lot 3 OF SEC. 10, T 28 N, R 58 E.

YEAR 1868, 40.00 ACRES IN THE NW1/4 SW1/4 OF SEC. 10, T 28 N, R 58 E.

YEAR 1868, 34.40 ACRES IN THE SW1/4 SW1/4 OF SEC. 10, T 28 N, R 58 E.

YEAR 1868, 40.00 ACRES IN THE SE1/4 SW1/4 OF SEC. 10, T 28 N, R 58 E.

YEAR 1868, 32.05 ACRES IN THE Lot 4 OF SEC. 10, T 28 N, R 58 E.

YEAR 1868, 15.20 ACRES IN THE Lot 1 OF SEC. 15, T 28 N, R 58 E.

YEAR 1868, 40.00 ACRES IN THE NW1/4 NE1/4 OF SEC. 15, T 28 N, R 58 E.

YEAR 1868, 10.40 ACRES IN THE SW1/4 NE1/4 OF SEC. 15, T 28 N, R 58 E.

YEAR 1868, 7.50 ACRES IN THE Lot 2 OF SEC. 15, T 28 N, R 58 E.

YEAR 1868, 184.78 ACRES IN THE Riparian Area of Franklin Lake OF SEC. ___, T 28 N, R 58 E.

(14) **The maximum acreage irrigated in any year was** 438.32 **acres.**

(15) **The water claimed has** ~~(has not)~~ [strike out one not wanted] **been used for irrigation each and every year since the right was initiated.** to the extent water was available.

(16) **The years during which no water was used for irrigation or during which the full water right was not used were** [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 is necessary]: Water used to the full extent available each year to irrigate all acreage claimed.

(17) **The claimant's water right** ~~was~~ **(was not) recorded in the office of the County Recorder of** _____ **County, said record being at Page** _____ **of Book** _____ **of** _____, **and being a claim for** _____ **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)]

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

(19) **The character of the soil is** [Sandy, gravelly, loam] gravelly **A continuous flow of** Not known **cubic feet of water per second has been used to irrigate** 438.32 **acres of land and** Not known **acre-feet per acre per annum have been used to irrigate the crops.**

(20) **Remarks:** The basis for this proof is the affidavit of W. J. Gardner dated December 16, 1929 and recorded January 9, 1930 in Book 9 of Miscellaneous Records at page 64 claiming more than 1,500 acres of irrigation from the waters of Hankins Creek, Long Haired Smith Creek, Smith Creek, Egan Creek and other small streams upon the lands now owned by the undersigned and that said waters had been used many years prior to 1882 to irrigate that acreage. In addition, the cadastral survey plat of T28N, R58E approved by the U. S. Surveyor General's office on March 29, 1870 evidences cultivation and diversion of Smith Creek waters as of 1869, and all lands described herein are claimed as having vested water rights with a priority of 1868 on the basis of the doctrine of relation back. Certified copies of said affidavit and plat are attached.

Of the 438.32 acres claimed in this proof, 330.25 acres are included in Certificate No. 1448 issued by the Nevada State engineer on September 29, 1928. The affidavit of W. J. Gardner described above states there is a total of 1,500 acres having been irrigated since at least 1882 and being the same lands owned by the applicant. Without the lands described in Certificate 1448, there would be considerably less acreage than the 1,500 acres claimed in the affidavit. In addition, the cadastral survey plat evidences "Meadow Land" as of 1869 upon the lands described herein. Therefore, it is assumed that Application 6765 was made to substantiate then existing irrigation practices, and the ensuing Certificate No. 1448 was subject to all vested water rights at the date of the certificate.

The undersigned, being first duly sworn, deposes and says that the facts relative to the appropriation of water by Lincoln Land & Livestock Company, a Nevada corporation

are full and correct to the best of his knowledge and belief. [If proof is not made by claimant, deponent should state on this line by virtue of what authority he represents the claimant.]

MARILYN SJOGREN
Notary Public - State of Nevada
Appointment Recorded in Washoe County
MY APPOINTMENT EXPIRES APRIL 25, 1991

LINCOLN LAND & LIVESTOCK COMPANY
A Nevada Corporation

By X [signature]

TITLE President

Subscribed and sworn to before me this 17 **day of** October, 1988.

MARILYN SJOGREN
Notary Public - State of Nevada
Appointment Recorded in Washoe County
MY APPOINTMENT EXPIRES APRIL 25, 1991

Marilyn Sjogren

Notary Public in and for the County of Washoe

My commission expires 4-25-91

$50 FILING FEE MUST ACCOMPANY PROOF

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