06250

Serial No. 06250

THE STATE OF NEVADA

PROOF OF APPROPRIATION OF WATER FOR

STOCK WATERING PURPOSES

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(1) Name of Claimant 26 RANCH, INC., a Colorado Corporation [Street and No. or P. O. Box No.] 4975 Van Gordon Street **of** [City or town] Wheat Ridge [State and Zip Code No.] Colorado 80033.

(2) Source of water [Name of natural water source] 26 RANCH SPRING 15A.

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

(4) The water is diverted at the following point(s) [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.] A point within the SE1/4SE1/4 of Section 7, Township 37 North, Range 53 East, MDM from which the Southeast corner of Section 7, Township 37 North, Range 53 East bears South 30°20' East a distance of 540.0 feet.

(5) The water is impounded in [Troughs, tanks, pools, reservoir, natural channel, etc.] Pools.

(6) The construction of the ditch or other works was begun [Date] Unknown **and completed** [Date] Unknown.

(7) The nature of the claimant's title to the land upon which the source of water and place of use are located is [Patented, deeded, public domain with grazing permit, etc.] public land upon which claimant holds a grazing permit. The place of use is within the SE1/4 SE1/4 of Section 7, Township 37 North, Range 53 East, MDM.

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

(9) The approximate number of animals watered by the claimant during the first year [Date] 1896 **was** Unknown **cattle** Unknown **horses** Unknown **sheep or** [Other] Unknown. **The watering was conducted during**

5
21

each of the following months The first year of use was prior to 1896 with a use by sheep and cattle as evidenced by records referred to under "Remarks" (Exhibit "A"). These records also indicate that from the first year of use to 1896, there were fluctuations of numbers, and by 1896 the numbers had become established at 200 animal units. Use was made during the period of April 1 to October 1.

(10) The approximate number of animals watered by the claimant in subsequent years was as follows: [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] Use of this sources was made by sheep and cattle for an equivalent of 200 animal units, with all use by sheep being gradually converted to cattle use. The number of animals watered subsequent to 1896 has remained at the equivalent of 200 animal units except during periods of drought or herd reduction for economic reasons.

(11) The amount of water which has been necessary to be diverted for this purpose has been [448.83 gal. per min. equals 1 cubic foot per second] 0.00625 **cubic feet 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] None.

Remarks - Remarks concerning evidence of priority are attached hereto as Exhibit "A".

The source of water for this proof is located within the Humboldt River basin. However, the waters produced do not reach a channel which is a tributary to the Humboldt River except for a short period of time during the spring runoff. During that period of time, livestock are normally not in the area, and there is no use made of the source during such runoff.

The source and place of use of the water lies within an allotment composed of private land owned by the claimant and public domain, with the season of use and numbers of livestock at the present time being established pursuant to Bureau of Land Management regulations and administration. Conditions contained in the grazing permit, together with variations in annual weather conditions and growth, will cause variations in the numbers of livestock and period of use from this source. The period of use and number of livestock shown in this proof are considered to represent the average with consideration for the factors set forth above.

The undersigned, being first duly sworn, deposes and says that the facts relative to the appropriation of water by 26 RANCH, INC., a Colorado 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.]

_____
CLAIMANT

Telephone No. (_____) _____

26 RANCH, INC.
A Colorado Corporation

By Arden B. Morrow
ARDEN B. MORROW, PRESIDENT
4975 Van Gordon Street
Wheat Ridge, CO 80033

Telephone No. (_____) _____

Subscribed and sworn to before me this
20 day of January, 1994.

Brad Vermilyea

Notary Public in and for the County of Jefferson

My commission expires 1/25/96

$50 FILING FEE MUST ACCOMPANY PROOF

06250

EXHIBIT "A"

PROOF OF VESTED RIGHT

Predecessors of Claimant

Claimant is the successor in interest to several livestock operators who made use of the water claimed prior to 1905. The major users were GEORGE W. GRAYSON, RUSSELL & BRADLEY LAND AND CATTLE COMPANY, W.T. JENKINS, WARREN W. WILLIAMS, KAISER LIVESTOCK COMPANY, AND J.A. BLOSSOM, all of whom owned improved land together with unfenced range lands upon or near the source and made extensive use of the forage and waters within the area, including this source.

The land of each predecessor now owned by claimant is generally described as follows:

George W. Grayson - Stampede Ranch - Located in Sections 25, 26, 35 and 36, Township 38 North, Range 52 East, MDM, with extensive range lands in Townships 37, 38, and 39 North, Ranges 51, 52 and 53 East, MDM.
Russell & Bradley Land and Cattle Company - Twenty-Five Ranch - Located in Sections 4, 5, 6, 8, 9, 10, 14, 15, 16, 21, 22, 23, 24, 25, 26, and 36, Township 33 North, Range 44 East, MDM and St. Johns Field located in Township 38 North, Range 50 East, MDM.
W.T. Jenkins Company - Range lands located in Townships 36, 37, 38, 39 North, Ranges 48, 49, 50, 51 and 52 East, MDM which was acquired prior to 1904 and assessed to that company as evidenced by the records of the Elko County Assessor for the year of 1904.
Warren W. Williams - Extensive range lands located in Townships 36, 37, 38, 39, 40 North, Ranges 45, 46, 47, 48, 49, 50, 51 East, MDM.
Mrs. E. B. Kaiser and Charles E. Kaiser - Extensive range lands located in Townships 36 and 37 North, Ranges 49, 50 and 51 East, MDM.
J.A. Blossom - Blossom Ranch - Located in Sections 1 and 2, Township 32 North, Range 45 East, MDM.

Chain of Title

The chain of title of the claimant to those basic lands described above is as follows:

GEORGE W. GRAYSON (STAMPEDE RANCH):

Grantor	Grantee	Date	Deed Recorded Book	Page	County
G.W. Grayson	Humboldt Land & Cattle Company	04-25-90	20	393	Elko
Humboldt Land & Cattle Company	Henry Anderson C.H. Duborg	07-15-01	27	36	Elko
Christian H. Duborg Henry Anderson	W.T. Jenkins Company, Inc.	11-12-10	32	497	Elko

See balance of chain of title under W.T. Jenkins Company.

RUSSELL & BRADLEY LAND AND CATTLE COMPANY (TWENTY-FIVE RANCH):

Grantor	Grantee	Date	Deed Recorded Book	Page	County
Russell & Bradley Land and Cattle Company	Russell Land and Cattle Company	No recorded conveyance found in Elko County. The title of Russell & Bradley Land and Cattle Company removed by quiet title action dated 11/18/48 with order of Court recorded in Book 14 of Misc. Records at Page 352, Elko County. Russell & Bradley acquired lands beginning in 1886 as reflected in records of the Elko County Recorder.			
Russell Land and Cattle Company	Howard S. Doyle Myron T. Doyle Thomas O. Craven	03-12-45	53	228	Elko
Howard S. Doyle, et ux., et al.	Carter Gennett	11-04-47	56	467	Elko
Carter Gennett, et ux.	Richard T. Thomas, Jr. & John W. Marvel	11-29-48	56	479	Elko
Richard T. Thomas, Jr. & John W. Marvel, et ux.	W.T. Jenkins Company	11-29-48	56	543	Elko

See balance of chain of title under W.T. Jenkins Company.

06750

WARREN W. WILLIAMS (Range Lands):

Grantor	Grantee	Date	Deed Recorded Book	Page	County
	W.W. or Warren W. Williams	Acquired extensive holdings of range lands within the area of the source beginning in 1891, the total lands being reflected in the Decree of Distribution of his estate.			
Estate of Warren W. Williams	Addie M. Williams, et al.	03-16-17	6 Miscellaneous Records Decree of Distribution	257	Elko
Guardian of Addie M. Williams	Williams Estate Company	06-11-17	37	10	Elko
Ada B. Kiddie Cora W. Hursh	Williams Estate Company	05-25-17	37	2	Elko
Guardian of Betsy Abbie Danielson	Williams Estate Company	06-11-17	37	12	Elko
Williams Estate Company	W.T. Jenkins Company	03-12-45	53	228	Elko

See balance of chain of title under W.T. Jenkins Company.

MRS. E.B. KAISER and CHARLES B. KAISER (Range Lands):

Grantor	Grantee	Date	Deed Recorded Book	Page	County
Frank F. Martin	George Ernst	03-08-94	22	603	Elko
George Ernst	Monitor Land and Livestock Company	09-16-96	24	161	Elko
Monitor Land and Livestock Company	George Ernst	11-22-99	26	106	Elko
George Ernst	Mrs. E.B. Kaiser Charles E. Kaiser	08-20-02	27	584	Elko
Mrs. E.B. Kaiser	Charles E. Kaiser	04-05-07	30	67	Elko
E.B. Kaiser, Widower Charles E. Kaiser	Kaiser Livestock Company	11-21-07	30	203	Elko
Kaiser Livestock Company	W.T. Jenkins Company	11-19-09	31	543	Elko

See balance of chain of title under W.T. Jenkins Company.

J.A. BLOSSOM (Blossom Ranch):

Grantor	Grantee	Date	Deed Recorded Book	Page	County
J.A. Blossom	W.T. Jenkins Company	10-10-16	54	222	Lander

See balance of chain of title under W.T. Jenkins Company.

W.T. JENKINS COMPANY (Range Lands Combined with Other Acquisitions):

Grantor	Grantee	Date	Deed Recorded Book	Page	County
W.T. Jenkins Company	Battle Mountain, Inc.	07-23-64	46	665	Elko
			5	15	Lander

The property conveyed in the above conveyance and all subsequent conveyances includes all predecessors in interest stated.

Battle Mountain, Inc.	The Lincoln Corporation	07-23-64	47	51	Elko
			5	100	Lander

The Lincoln Corporation	The 25 Corporation, Inc.	06-01-69	139 103 139	336 632 359	Elko Lander Elko
The 25 Corporation, Inc.	The 25 Ranch Venture, consisting of Western States Minerals Corporation and Echo Bay Exploration, Inc.	07-08-88	634 316	63 119	Elko Lander
The 25 Ranch Venture, et al.	Bartholomew Isenhoot, et al.	06-19-89 Decree of Quiet Title for portion of lands described.	663	128	Elko
Echo Bay Exploration, Inc. & The 25 Ranch Venture	Western States Minerals Corporation	03-01-90	720 345	862 449	Elko Lander
Western States Minerals Corporation	26 Ranch, Inc.	07-01-93	828	181	Elko

As vested livestock water is not necessarily appurtenant to owned lands, the acquisition of the lands described in the documents referred to above does not in itself evidence the transfer of vested stockwaters upon the open range. However, it was the common practice to include in the conveyance of owned lands all water rights associated therewith and the chains of title given above serve to evidence the stockwater rights transfer by predecessors in interest to the claimant.

Priority of Use and Numbers of Livestock:

Use of waters on portions of the property prior to 1876 is found. For example, in a deed executed September 14, 1876, John A. Blossom, a predecessor of the claimant, conveys to R.N. Graves, et al. all pasture along Rock Creek, Willow Creek, Summit Creek and Frazier Creek, a portion of said creeks being in the vicinity of the source. Said deed states that the grantor owns substantial cattle in that area. This document is recorded in Book 8 of Deeds at Page 127, Elko County, Nevada.

Elko County tax assessment records were reviewed for evidence of livestock owned by predecessors prior to 1905. These records revealed the following:

Predecessor	Tax Year	No. of Livestock
Monitor Land and Livestock	1894	7,500 Sheep
Kaiser, Mrs. E.B. and Charles	1904	7,075 Sheep
George W. Grayson	1896	800 Cattle 200 Horses
Russell & Bradley Land and Cattle Company	1894	2,000 Cattle 200 Horses

Chattel mortgages recorded in the office of the County Recorder of Elko County evidence the ownership of in excess of 18,000 sheep by W.T. Jenkins, with numbers varying over a period of years.

Publications concerning history of Northern Nevada were also reviewed. Nevada's Northeast Frontier, by Patterson, Ulph & Goodwin reports the following:

Warren W. Williams - Owned in excess of 40,000 sheep - Page 417
George Russell (Russell Land & Cattle Co.) - Used St. Johns Field with 1,000 steers - Page 374

History of Nevada by Thomas Wren, published in 1904, reports on Page 564 that W.T. Jenkins owned 22,000 head of sheep in Elko, Lander and Humboldt Counties.

These numbers, the sheep and horses being converted to cattle equivalents or animal units on the basis of 7 sheep being equal to 1 cow, and 1 horse being equal to each cow, as concerns water requirements, results in the following:

Monitor Land and Livestock	1,070 Animal Units
Kaiser, Mrs. E.B. & Charles	Same as Monitor Land and Livestock
George W. Grayson	1,000 Animal Units
Russell & Bradley Land and Cattle Company	2,200 Animal Units
Warren W. Williams (Portion Owned by Claimant)	5,714 Animal Units
W.T. Jenkins Company (18,000 Sheep)	2,571 Animal Units
	12,555 Animal Units

In some instances, particularly with Warren W. Williams, the claimant's primary predecessor, who was W.T. Jenkins Company, acquired a portion of a total operation. In order to establish the total operation of W.T. Jenkins Company after acquisition of the properties, various records were reviewed.

A chattel mortgage executed by W.T. Jenkins Company to Nevada Livestock Production Credit Association, filed May 23, 1942 in the office of the Elko County Recorder as File No. 78390, stated the following numbers of livestock:

Cattle	2,619
Sheep	19,917

In addition, this number reflects the conversion of the sheep use to cattle use.

Richard T. Marvel, who was a family member of W.T. Jenkins Company, in an interview with Walter Leberski on November 13, 1992, stated that during the 1950's, sheep numbers varied from 12,000 to 20,000, with an average of 16,000 head.

By 1960, W.T. Jenkins Company was assessed for 4,640 head of cattle in Elko County, the increase reflecting the purchase of the Twenty-Five Ranch. Richard T. Marvel states that the actual number was nearer 5,000 head of cattle, and as the sheep operation was phased out and use converted to cattle, it became nearer 10,000 head. From the above, the operation which resulted from the established use prior to 1905 by W.T. Jenkins Company and their predecessors was 5,000 head of cattle and 16,000 head of sheep. These numbers were grazed within an area in which this source is located, and the number claimed from the source is based upon the production of water and forage availability. The area of use of Russell Land and Cattle Co. is documented in part by the range claim map filed in the State Water Engineer's office subsequent to the passage of the "Three Mile Limit" statute in 1925 (Map 89-30) and currently by allotment maps of the Bureau of Land Management, Elko District office.

As reviewed above, the priority of use begins prior to 1876 for unknown numbers, but is documented by 1896 and is claimed as the priority of this source.