

**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 Van Duzer Creek and tributaries (Lime, Banty Gulch, Haystack and Unnamed Branch), Airport Spring, Three Springs, Unnamed Springs #6, #7, #8, #9, and tributaries
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) NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 32, 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 NE corner of said Section 32, bears N. 81°52' E., 4,047 feet and
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.
also the (Lime Creek) NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 32, T. 45 N., R. 53 E., MDM, at a point from which the
NE corner of said Section 32, bears N. 49°23' E., 5,290 feet and also the (Banty Gulch) (Map 2)
SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 32, T. 45 N., R. 53 E., MDM, at a point from which the SE corner of Section
33, T. 45 N., R. 53 E., MDM, bears S. 87°35' E., 6,069 feet and also (Haystack Creek) (Map 2)
Lot 4, Section 4, T. 44 N., R. 53 E., MDM, at a point from which the NE corner of said Section
4, bears N. 76°10' E., 4,506 feet and also the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 33, T. 45 N., R. 53 E., MDM, at
a point from which the SE corner of said Section 33, bears S. 87°52' E., 2,247 feet, and also the
SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 33, T. 45 N., R. 53 E., MDM, at a point from which the SE corner of said
Section 33 bears S. 64°42' E., 2,096 feet and also the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 3, T. 44 N., R. 53 E.,
MDM, at a point from which the NW corner of said Section 3, bears N. 56°01' W., 3,579 feet and

also the NE $\frac{1}{4}$ 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. 04°52' E., 2,787 feet, and also the (Unnamed Branch) (Map 1) NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 34, T. 45 N., R. 53 E., MDM, at a point from which the NW corner of Section 27, T. 45 N., R. 53 E., MDM, bears N. 30°59' W., 6,639 feet and also the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 35, T. 45 N., R. 53 E., MDM, at a point from which the NE corner of said Section 35, bears N. 74°15' E., 5,125 feet, which all of the above listed points follows the natural channels to a point (Map 2) within H.E.S. #77, in Section 2, T. 44 N., R. 53 E., MDM, from which the NW corner of said Section 2, bears N. 71°10' W., 3,375 feet.

Airport Spring (Map 2) - Lot 5, Section 2, T. 44 N., R. 53 E., MDM, at a point from which the NW corner of said Section 2, bears N. 37°29' W., 2,541 feet.

Unnamed Spring #8 (Map 2) - NE $\frac{1}{4}$ 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. 04°52' E., 2,787 feet.

Unnamed Spring #9 (Map 2) - SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 3, T. 44 N., R. 53 E., MDM, at a point from which the NW corner of said Section 3, bears N. 56°01' W., 3,579 feet.

Three Springs (Map 1) - Lot 5, Section 33, T. 45 N., R. 53 E., MDM, at a point from which the NW corner of said Section 33, bears N. 24°29' W., 2,168 feet.

Unnamed Spring #6 (Map 1) - NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 34, T. 45 N., R. 53 E., MDM, at a point from which the NW corner of Section 27, T. 45 N., R. 53 E., MDM, bears N. 29°20' W., 6,873 feet.

Unnamed Spring #7 (Map 1) - NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 35, T. 45 N., R. 53 E., MDM, at a point from which the NE corner of said Section 35, bears N. 55°02' E., 5,363 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
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 deeded and public domain with grazing permit

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

(Map 1) - portions of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ and portions of the NW $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, Lots 2, 3, 5, and portions of patented Mineral Survey No. 2055 within Section 32; NW $\frac{1}{4}$ SW $\frac{1}{4}$, Lot 5 and portions of patented Mineral Survey No. 2055 within Section 33; within portions of patented Mineral Survey No. 2055, W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ and the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 34; SW $\frac{1}{4}$ NW $\frac{1}{4}$ and the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 35; all within T. 45 N., R. 53 E., MDM. (Map 2) a portion of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 32; SW $\frac{1}{4}$ SW $\frac{1}{4}$ and the S $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 33; Lot 5 and a portion of H.E.S. #66 of Section 34; S $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 35; all within T. 45 N., R. 53 E., MDM. (Map 2) Lots 2, 3, 4, 5, portion of H.E.S. #66 and #77 within Section 2; a portion of H.E.S. #66, Lots 2, 3, 4, 5, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ and the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 3; Lots 1, 2, 3, 4, SE $\frac{1}{4}$ NW $\frac{1}{4}$ and the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 4; all within T. 44 N., R. 53 E., MDM.

Airport Spring (Map 2) - Lot 5 of Section 2, T. 44 N., R. 53 E., MDM.

Unnamed Spring #8 (Map 2) - NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 3, T. 44 N., R. 53 E., MDM.

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Three Springs (Map 1) - a portion of Lot 5 and a portion of Poorman Placer M.S. 2055 within Section 33, T. 45 N., R. 53 E., MDM.

Unnamed Spring #6 (Map 1) - NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 34, T. 45 N., R. 53 E., MDM.

Unnamed Spring #7 (Map 1) - NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 35, 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, was 250 cattle _____ horses _____ sheep or wildlife (describe) _____ Date _____

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 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. This is confirmed by the U.S. Forest Service in a protest in 1939 (copy of Protest attached). 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, 04137, 04139, and 04141.

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. Fisher (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

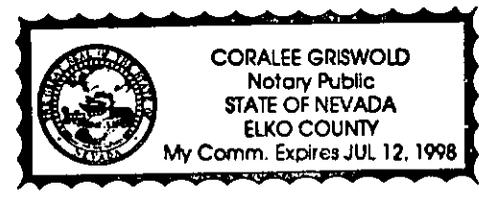
Subscribed and sworn to before me this 23 day of August, 1994.

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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MDM, at a point from which the NW corner of said Section 3, bears N. 56°01' W., 3,579 feet and

also the NE $\frac{1}{4}$ 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. 04°52' E., 2,787 feet, and also the (Unnamed Branch) (Map 1) NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 34, T. 45 N., R. 53 E., MDM, at a point from which the NW corner of Section 27, T. 45 N., R. 53 E., MDM, bears N. 30°59' W., 6,639 feet and also the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 35, T. 45 N., R. 53 E., MDM, at a point from which the NE corner of said Section 35, bears N. 74°15' E., 5,125 feet, which all of the above listed points follows the natural channels to a point (Map 2) within H.E.S. #77, in Section 2, T. 44 N., R. 53 E., MDM, from which the NW corner of said Section 2, bears N. 71°10' W., 3,375 feet.

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

(Map 1) - portions of the NW¹/₄NW¹/₄ and portions of the NW¹/₄SW¹/₄, NE¹/₄NW¹/₄, NE¹/₄SW¹/₄, Lots 2, 3, 5, and portions of patented Mineral Survey No. 2055 within Section 32; NW¹/₄SW¹/₄, Lot 5 and portions of patented Mineral Survey No. 2055 within Section 33; within portions of patented Mineral Survey No. 2055, W¹/₂NE¹/₄, SE¹/₄NE¹/₄ and the NE¹/₄SE¹/₄ of Section 34; SW¹/₄NW¹/₄ and the NW¹/₄SW¹/₄ of Section 35; all within T. 45 N., R. 53 E., MDM. (Map 2) a portion of the SE¹/₄SE¹/₄ of Section 32; SW¹/₄SW¹/₄ and the S¹/₂SE¹/₄ of Section 33; Lot 5 and a portion of H.E.S. #66 of Section 34; S¹/₂SW¹/₄ of Section 35; all within T. 45 N., R. 53 E., MDM. (Map 2) Lots 2, 3, 4, 5, portion of H.E.S. #66 and #77 within Section 2; a portion of H.E.S. #66, Lots 2, 3, 4, 5, SE¹/₄NW¹/₄, SW¹/₄NE¹/₄ and the NE¹/₄SE¹/₄ of Section 3; Lots 1, 2, 3, 4, SE¹/₄NW¹/₄ and the SW¹/₄NE¹/₄ of Section 4; all within T. 44 N., R. 53 E., MDM.

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By William A. Fiebig (Agent)

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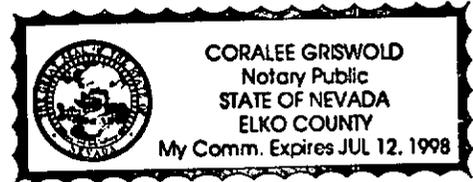
Subscribed and sworn to before me this 4 day of August, 1994.

Coralee Griswold

Notary Public in and for the County of Elko

My commission expires July 12, 1998

\$50 FILING FEE MUST ACCOMPANY PROOF



ORIGINAL

Serial No 06718

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37
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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, 19 94.

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Notary Public in and for the County of Elko

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