Serial No. 06820

THE STATE OF NEVADA
PROOF OF SUBSISTING RIGHT OF WATER FOR STOCK WATERING PURPOSES

Pursuant to N.R.S. 533
As Amended by Chapter 473, 1993 Statutes, Sections 2, 3 and 4
Effective October 1, 1993

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(1) Name of Claimant JOSEPH W. HEGUY [Street and No. or P. O. Box No.] 146 West Juniper Street **of** [City or town] Elko [State and Zip Code No.] Nevada 89801

(2) Source of water [Name of natural water source] Upper Lost Camp Spring

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

(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 SE1/4SW1/4 of Section 2, Township 38 North, Range 56 East, MDB&M from which the Southwest corner of said Section 2 bears South 66°05'28" West a distance of 1,880.03 feet.

(5) The water is impounded in [Troughs, tanks, pools, reservoir, natural channel, etc.] pools and troughs with a capacity of 1,500 gallons.

(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 domain upon which Applicant holds a grazing permit within the SE1/4SW1/4 of Section 2, Township 38 North, Range 56 East, MDB&M.

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

4. [illegible] No [illegible] EL

(9) The items of evidence for the numbers of livestock and date of priority are a copy of Affidavit by Jean B. Ardans, chain of title included in "Remarks" and Affidavit of Walter I. Leberski with documents attached.

(10) The approximate number of animals watered by the claimant during the first year [Date] 1896 **was** 2,000 **cattle** _____ **horses,** _____ **sheep or** [Other] _____. **The watering was conducted during each of the following months** April 1 to November 1.

(11) 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].

The original priority by cattle was added to by sheep use beginning in 1907. Through change of class of stock, consolidation of areas of use and purchases, the use of this source which has become customary is 4,000 sheep from April 1 to July 1; 1,500 sheep for the period of July 1 to September 15; and 4,500 sheep for the period of September 15 to November 1. Use is made of this source, together with additional sources of Oreana Creek, Pole Creek, North Fork, Hot Springs, and McKnight Springs. In addition, a portion of the current use derived from the priority of the Tourreuil operation. Therefore, the priority in this area was created by a drift of livestock from the Russell operation, a partial use by the Itcaina operation, and a partial use by the Tourreuil operation, all of which were augmented by the purchase of a large block of railroad grant lands in the vicinity in 1959. Use of this source and the other named sources is rotated throughout the grazing season, and the number using this source and those additional sources will vary according to weather, forage production and management decisions. The claimed use is the maximum use of the source that occurs during the grazing season.

(12) 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] 0.025 **cubic feet per second.**

(13) 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 [Improvements, title, etc.]

This proof is for a portion of use made by a 4,500-head sheep operation during the period of April 15 to November 1, and 175 head of cattle for the period of May 15 to October 1. The sheep operation has historically made use of a number of water sources with varying numbers and during different periods, as dictated by forage growth due to elevation, availability of water due to

seasonal flow, and management of the livestock. Basically, this operation historically had the total sheep numbers on the lower reaches of the North Fork of the Humboldt River and tributaries to the North Fork, in Township 37 North through Township 40 North, Ranges 57 and 58 East, MDM (Stag Mountain and Lower North Fork) for the period of approximately April 1 to July 1. After July 1, a portion of the numbers went to a range area upon the Forest Service in Townships 44 and 45 North, Ranges 58 and 59 East, MDM (Marys River Basin), a portion to areas in Townships 41 and 42 North, Range 56 through Range 58 East, MDM (Beaver Creek area) and the balance remaining in the Stag Mountain and Lower North Fork until late September, at which time all sheep were removed from Marys River Basin and Beaver Creek area to the Stag Mountain area-Lower North Fork area until November 1, at which time they moved to a winter grazing area. The numbers of livestock and season of use in this proof represent the historical use on this source based upon the operation as described. Cattle use has been confined to a specific area. The priority information as to season and numbers concerns the entire operation, based upon evidence cited, and the season and numbers of this proof are based upon past customary use from experience of the Claimant.

The Claimant is a successor of two (2) operations which established early use of the source for stockwater, the Tourreuil Ranch and the Itcaina Ranch. Evidence of the early use of each is as follows:

Tourreuil Ranch

The original application of Andrew Tourreuil, a predecessor of Joseph W. Heguy, with the Grazing Service, a predecessor to the Bureau of Land Management, dated April 15, 1935, states that 5,500 sheep were customarily grazed in Townships 41 North, Township 42 North, and Township 43 North, Range 56 East and Range 57 East for the period of April 1 to November 1, with winter use in the Currie District. See copy attached to the Affidavit of Walter I. Leberski. That this was the original licensed use is evidenced by the 1935 Temporary Grazing License attached to said Affidavit. The 1944 application of Alex Heguy states acquisition of the Tourreuil property, applies for 2,500 sheep, and evidences approval of the numbers and season. Various records evidence a reduction in use from 5,500 sheep in 1935 to 2,500 in 1944. The number of 2,500 sheep, plus 175 cattle, is claimed under the early use by Tourreuil. The priority claimed is 1900, based on the statement of Andrew Tourreuil in the April 15, 1935 application, Item 8, which states that those lands involved in the area of use have been used for grazing for at least 35 years, establishing a priority of 1900.

In addition, Humboldt National Forest records corroborate the claim of Andrew Tourreuil of use upon the Humboldt National Forest as shown in his application to the Grazing Service. Paid Permit Record Cards maintained in that office show that in 1929, Andrew Tourreuil acquired a 2,500 sheep permit from the Williams Estate Company in Forest lands, and subsequently was licensed in 1929 upon

the National Forest for 7,000 sheep for the period of July 1 to October 15. The area of use is assumed to be Marys River Basin, a portion of the Claimant's present area of use.

A summary of chain of title is as follows:

Grantor	Grantee	Document	Dated	Recorded(1) Book	Page
Williams Estate Company	Andrew Tourreuil	Deed	10-29-28	44	387
(2) C.L. Smith, Sheriff	Alex Heguy	Deed	09-14-46	55	628
Emily Heguy, Executrix of Estate of Alex Heguy	Heguy & Sons, a Co-Partnership of Joseph W. Heguy and Robert Heguy	Deed	11-14-74	205	582
Emily Heguy	Heguy & Sons, a Co-Partnership of Joseph W. Heguy and Robert Heguy	Deed	11-14-74	205	587
See also				230 241	303 424
Joseph W. Heguy & Robert J. Heguy, Co-Partners of Heguy & Sons	Joseph W. Heguy & Robert J. Heguy, Co-Partners of Heguy Bros.	Deed	12-20-85	514	423
Estate of Robert J. Heguy	Joseph W. Heguy	Order to Convey	02-11-94	847	897
Robert A. Heguy, Executor of Estate of Robert J. Heguy	Joseph W. Heguy	Deed	02-11-94	847	905

(1) Elko County Recorder's Office

(2) Said document is a Sheriff's Deed pursuant to a Judgment against Andrew Tourreuil

In summary, the claim of numbers from the Andrew Tourreuil operation is 2,500 sheep, and 175 cattle (conversion of a portion of Tourreuil operation from sheep to cattle), for the period of April 1 to November 1 with at least a portion being upon the National Forest for the period of July 1 to October 1, with numbers and season of use adjusted from early use to reflect current conditions, with a priority of 1900.

Itcaina Purchase

The Itcaina purchase consists of a portion of two (2) priorities, that being established by Pete Itcaina and that established by J.R. Bradley & Sons.

Pete Itcaina initiated a sheep grazing operation using sources on the East Fork of Beaver Creek, drainages from the West Side of Stag Mountain, and Hanks Creek Basin, starting in about 1907, and increasing to as high as 19,000 sheep by 1930. See Affidavit of Jean B. Ardans and Affidavit of Walter I. Leberski attached. The season of use of April 1 to November 1 is evidenced in information contained in Affidavit of Walter I. Leberski. The Claimant is a successor to a portion of this use.

The J. R. Bradley & Sons portion of the claim originated in 1885 under the firm name of Mason-Bradley. Through changes of ownership, the operation became J.R. Bradley & Sons and ranged 12,000 head of cattle in the Marys River country and Bruneau Basin of northern Elko County. The above is as stated in the publication entitled Nevada's Northeast Frontier by Edna B. Patterson, Louis A. Ulph and Victor O. Goodwin.

The Claimant is a successor in interest to a portion of the Pete Itcaina operation and the J.R. Bradley & Sons through a purchase. The chain of title of lands pertinent to this portion of the claim is as follows:

Grantor	Grantee	Document	Dated	Recorded Book	Recorded Page
John R. Bradley & Mary Elizabeth Bradley	Lewis L. Bradley	Deed	08-28-99	27	141
Lewis L. Bradley	Marys River Land and Cattle Company	Deed	10-09-01	27	151
Marys River Land and Cattle Company	Nevada Land & Livestock Company	Deed	06-04-07	29	476
Nevada Land & Livestock Company	Union Land and Cattle Company	Deed	08-22-16	36	260
W.T. Smith, Receiver, Union Land and Cattle Company	John E. Marble	Deed	12-28-25	42	298
John E. Marble & Miriam M. Marble, Husband and Wife	Pete Itcaina	Deed	02-01-27	43	378

Pete Itcaina & Augustina Itcaina, Husband and Wife	Earl Edgar	Deed	05-02-58	73	462
Earl Edgar & Delores Edgar, Husband and Wife	Itcaina Livestock, a Co-Partnership of Earl Edgar, Lee Dearden, Jean Goyhenetche, and H. Gordon Lathrop	Deed	11-01-58	75	204
				Official Records	
Jean Goyhenetche & Marianne Goyhenetche, Husband and Wife	Earl Edgar, Lee Dearden & H. Gordon Lathrop, Co-Partners dba Itcaina Livestock	Deed	11-02-60	9	40
Itcaina Livestock, a Co-Partnership	Alex Heguy, Joseph Heguy, Robert Heguy, Co-Partners dba Heguy & Sons	Deed	12-05-60	10	457
Estate of Alex Heguy, Deceased	Emily Heguy	Dec. of Dist.	06-22-76	230	303(1)
Emily Heguy	Joseph W. Heguy, Robert J. Heguy	Deed	04-01-76	241	424
Joseph W. Heguy, Robert J. Heguy, Co-Partners of Heguy & Sons	Joseph W. Heguy, Robert J. Heguy dba Heguy Bros., Gen. Part.	Deed	12-20-85	514	423
Estate of Robert J. Heguy	Joseph W. Heguy	Order to Convey	02-11-94	847	897
Robert A. Heguy, Executor of Estate of Robert J. Heguy	Joseph W. Heguy	Deed	02-11-94	847	905

(1) Property pertinent to this claim is described as all interest in Heguy & Sons partnership.

The claim under the Itcaina Purchase is for two (2) priorities, 1907 from Pete Itcaina and 1885 from J.R. Bradley & Sons for a total of 2,500 sheep. As the number of animals and specific areas of use have lost their identity by sales, divisions

of property and land management agency decisions, it is not possible to allocate the numbers to each priority. Based upon the statements contained in the publication of Nevada's Northeast Frontier cited above, that the Bradley use was upon Marys River within the National Forest, all use upon that source is 1885. The balance of the priority is a medium of both the Itcaina and Bradley, being 1896.

The undersigned, being first duly sworn, deposes and says that he owns or controls the livestock presently watered by the Claimant, and that the facts relative to the proof of subsisting right by JOSEPH W. HEGUY **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.] _____.

Joseph W. Heguy

JOSEPH W. HEGUY, CLAIMANT

Telephone No. (702) 738-3348

By _____

Telephone No. (_____) _____

Subscribed and sworn to before me this

26th **day of** Aug, **19**94.

Walter I. Leberski

Notary Public in and for the County of _____

My commission expires _____

WALTER I. LEBERSKI
Notary Public
State of Nevada
Elko County, Nevada
My appointment expires March 26, 1996.

$50 FILING FEE MUST ACCOMPANY PROOF

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