

**AMENDED**  
**THE STATE OF NEVADA**  
**PROOF OF APPROPRIATION OF WATER FOR**  
**STOCK WATERING PURPOSES**

- (1) **Name of Claimant** DUVAL RANCHING COMPANY, a Nevada corporation, of [Street and No. or P.O. Box No.] HC 60 Box 465, [City or town] Ruby Valley, [State and Zip Code No.] Nevada 89833.
- (2) **Source of water** [Name of natural water source] Pole Creek, together with springs and tributaries thereto within the drainage basin, and Mooney Ditch.
- (3) **The water is diverted by** [Dam, ditch, pipe line, natural channel, spring area, etc.] natural channel as to Pole Creek from which Mooney Ditch is diverted and portion of said ditch within Section 18, T34N R61E, MDB&M.
- (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.] The beginning of the reach is at a point located within the NW1/4NE1/4 of Section 18, T. 34 N., R. 61 E., MDB&M, from which the Southwest corner of Section 18, T. 34 N., R. 61 E., MDB&M bears S 29° 54'00" W a distance of 5,977 feet, thence southwesterly to a point located in Lot 2, of Section 19, T. 34 N., R. 61 E., MDB&M, from which the Southwest corner of Section 18, said Township and Range, bears N 0° 59' E a distance of 2,020 feet to the end of the reach. This source includes the waters of the Mooney Ditch which are diverted from Pole Creek at a point within Lot 1 of Section 19, T. 34 N., R. 61 E., MDB&M, from which the Southwest corner of said Section 19 bears S 12° 37'00" W a distance of 4,285 feet, thence down the Mooney Ditch to its intersection with Horse Creek at a point located within Lot 3 of Section 19, T. 34 N., R. 61 E., MDB&M, from which the Southwest corner of Section 19, T. 34 N., R. 61 E., MDB&M, bears S 5° 18' W a distance of 2,245 feet.
- (5) **The water is impounded in** [Troughs, tanks, pools, reservoir, natural channel, etc.] pools, natural channel and ditch.
- (6) **The construction of the ditch or other works was begun** [Date] 1873 **and completed** [Date]

1873 as to Mooney Ditch.

- (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.] National Forest lands upon which claimant holds a grazing permit.
- (8) **The claimant's water right was (was not) recorded in the office of the County Recorder of Elko County, at Page 91 of Book 1 of Water Right as to Mooney Ditch.**
- (9) **The approximate number of animals watered by the claimant during the first year** [Date] prior to 1885 was 30 cattle, \_\_\_ horses, \_\_\_ sheep or [Other] \_\_\_\_\_. **The watering was conducted during each of the following months:** April 15 to November 15.
- (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] The number of cattle watered during subsequent years increased until by 1896 the approximate number became 75 head of cattle which continued until the present date.
- (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] .00234 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] See Exhibit "A" attached.

**Remarks** The priority shown in Item 9 is based upon the fact that J. W. Helth was assessed by the Elko County Assessor for the 1885 tax year for 30 cattle and 10 horses. By the year 1896, the numbers had increased to 150 cattle and 52 horses. The numbers are substantiated by early Forest Service Permitted numbers for Queen Guldager and S. Duval Estate for a total of 225 cattle within the Secret Pass or Horse Creek Allotments. In order to obtain a permit to graze livestock within the Forest Reserve, it was necessary to evidence grazing use in that area prior to the time of the withdrawal of the Forest. Therefore, the issuance of the permits evidences grazing use and livestock water consumption in the area of the source. There are other sources of water which were used in conjunction with the permitted livestock, but the 75 head claimed is judged to be a reasonable estimate for use upon this source. Under the present rotation grazing system, the livestock make use of the source for a much shorter period than shown in item 9. However, the period shown in item 9 represents the season of use prior to the allotments, change of the grazing season and rotation grazing. Livestock make use of the source within the period claimed. See affidavit of Walter I. Leberski regarding Forest Service use filed with Proof 06166, a copy attached hereto as Exhibit "A".

The chain of title attached evidences that Duval Ranching Company is a successor in interest to J. W. Helth aka John W. Helth.

**The undersigned, being first duly sworn, deposes and says that the facts relative to the appropriation of water by DUVAL RANCHING 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.] Deponent is executing this proof in his capacity as Vice President of the claimant corporation.

**CLAIMANT**

Telephone No. ( ) \_\_\_\_\_

**DUVAL RANCHING COMPANY, a Nevada corporation**

By: Don W. Duval  
**Don W. Duval**

HC 60, Box 465  
[Street and No., or P. O. Box No.]

Ruby Valley, NV 89833  
[City, State, Zip Code No.]

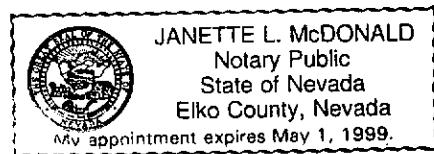
**Telephone No. (702)779-2261**

Subscribed and sworn to before me this 10<sup>th</sup> day of January 1997.

Janette L. McDonald

Notary Public in and for the County of Elko

My commission expires May 1, 1999



**\$50 FILING FEE MUST ACCOMPANY PROOF**

**EXHIBIT "A"**  
**PROOF 07480**

Item 12:

There are no works as the natural channels and existing ditches are used. The places of use are as follows:

Township 34 North, Range 61 East, MDB&M

Section 17: SW1/4 NW1/4  
NW1/4 SW1/4  
SW1/4 SW1/4

*Section 18* NE1/4 NE1/4

Section 18: NW1/4 NE1/4  
SE1/4 NE1/4  
SW1/4 NE1/4  
NE1/4 NW1/4

Lot 1  
Lot 2  
SE1/4 NW1/4  
NE1/4 SW1/4

Lot 3  
Lot 4  
SE1/4 SW1/4  
NE1/4 SE1/4  
NW1/4 SE1/4

SW1/4 SE1/4  
SE1/4 SE1/4

Section 19: NE1/4 NW1/4  
Lot 1  
Lot 2

Serial No. 07480

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- (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] .00125 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** The priority shown in Item 9 is based upon the fact that J. W. Helth was assessed by the Elko County Assessor for the 1885 tax year for 30 cattle and 10 horses. By the year 1896, the numbers had increased to 150 cattle and 52 horses. The numbers are substantiated by early Forest Service Permitted numbers for Queen Guldager and S. Duval Estate for a total of 225 cattle within the Secret Pass or Horse Creek Allotments. In order to obtain a permit to graze livestock within the Forest Reserve, it was necessary to evidence grazing use in that area prior to the time of the withdrawal of the Forest. Therefore, the issuance of the permits evidences grazing use and livestock water consumption in the area of the source. There are other sources of water which were used in conjunction with the permitted livestock, but the 40 head claimed is judged to be a reasonable estimate for use upon this source. Under the present rotation grazing system, the livestock make use of the source for a much shorter period than shown in item 9. However, the period shown in item 9 represents the season of use prior to the allotments, change of the grazing season and rotation grazing. Livestock make use of the source within the period claimed. See affidavit of Walter I. Leberski regarding Forest Service use filed with Proof 06166, a copy attached hereto as Exhibit "A". The chain of title attached evidences that Duval Ranching Company is a successor in interest to J. W. Helth aka John W. Helth.

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of what authority he represents the claimant.] Deponent is executing this proof in his capacity as Vice President of the claimant corporation.

\_\_\_\_\_  
**CLAIMANT**

Telephone No. ( ) \_\_\_\_\_

**DUVAL RANCHING COMPANY, a  
Nevada corporation**

By: Don W. Duval  
**Don W. Duval**

<sup>60 465</sup>  
HC ~~37~~ Box ~~480~~  
[Street and No., or P. O. Box No.]

Ruby Valley <sup>89833</sup>  
~~Wells~~, NV ~~89835~~  
[City, State, Zip Code No.]

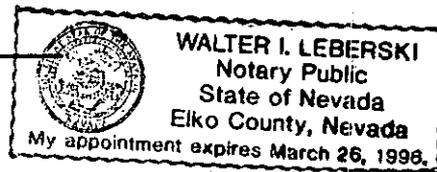
Telephone No. (702)779-2267

Subscribed and sworn to before me this 19th day of Dec., 1995.

Walter I. Leberski

Notary Public in and for the County of \_\_\_\_\_

My commission expires \_\_\_\_\_



**\$50 FILING FEE MUST ACCOMPANY PROOF**