

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

- (1) **Name of Claimant** Duval Ranching Company, a Nevada corporation, assignee of S&D COMPANY, a partnership composed of R. SIM DUVAL and DON W. DUVAL, 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 area of use, 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' 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 of 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' 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 said Section 19 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 1896 was 145 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] From the indicated numbers of cattle which were run by predecessors in interest (see Remarks), the approximate number of animals has remained at 145 cattle.
- (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] .00453 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 year of priority and number of animals watered is based upon the livestock assessed to predecessors in interest to the claimant. A review of the records of the Elko County Treasurer for the year 1896 reveals that the major owners of the lands owned by the claimant were assessed for the following livestock numbers:

<u>Jeremiah B. Moore</u>	<u>100 cattle</u>
	<u>20 stock horses</u>
<u>Mrs. Jane Wright</u>	<u>200 cattle</u>
	<u>25 stock horses</u>
<u>Jubal J. Wright</u>	<u>100 cattle</u>
<u>TOTAL</u>	<u>445 Animals</u>

By 1940, their predecessors, Jube Wright Estate, James H. Wright and Earl Wright were licensed by the Forest Service within the area of the source for 579 animals (see copy of Affidavit of Walter I. Leberski attached, the original of said affidavit being filed with Proof 06162, a copy being attached hereto). 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 145 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. The chain of title attached hereto evidences that S&D Company is the successor to the above-named parties who established the priority and those parties licensed to graze in the area in 1940.

The undersigned, being first duly sworn, deposes and says that the facts relative to the appropriation of water by Duval Ranching Company 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: *Ron W. Duval*

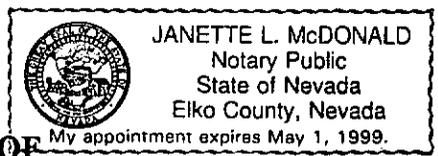
HC 60, Box 465
[Street and No., or P. O. Box No.]
Ruby Valley, NV 89833
[City, State, Zip Code No.]
Telephone No. (702)779-2261

Subscribed and sworn to before me this 10th day of January, 1997.

Janette L. McDonald

Notary Public in and for the County of Elko

My commission expires May 1, 1999



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EXHIBIT "A"

PROOF 07483

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

07483

Serial No. 07483

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

- (1) **Name of Claimant** S&D COMPANY, a partnership composed of R. SIM DUVAL and DON W. DUVAL, 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 area of use, 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.
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- (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]

176-24

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, but livestock are making use of the source within the period claimed. The chain of title attached evidences that S&D Company is the successor to the above-named parties who established the priority and those parties licensed to graze in the area in 1940.

The undersigned, being first duly sworn, deposes and says that the facts relative to the appropriation of water by S&D COMPANY 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 as a partner of the claimant company.

CLAIMANT

Telephone No. () _____

S&D COMPANY

By: Walter I. Leberski

HC00, Box 465
[Street and No., or P. O. Box No.]

Raby Valley, NV 89833
~~Wells, NV 89835~~
[City, State, Zip Code No.]

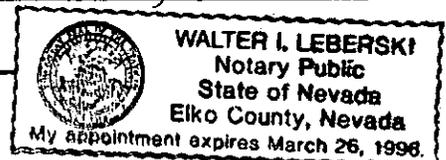
Telephone No. (702) 779-2267

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

- (9) The approximate number of animals watered by the claimant during the first year [Date] prior to 1896 was 90 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] From the indicated numbers of cattle which were run by predecessors in interest (see Remarks), the approximate number of animals has remained at 90 cattle.
- (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] .00218 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 year of priority and number of animals watered is based upon the livestock assessed to predecessors in interest to the claimant. A review of the records of the Elko County Treasurer for the year 1896 reveals that the major owners of the lands owned by the claimant were assessed for the following livestock numbers:

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