

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 8983.
- (2) **Source of water** [Name of natural water source] Horse Creek and springs tributary thereto.
- (3) **The water is diverted by** [Dam, ditch, pipe line, natural channel, spring area, etc.] natural channel.
- (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 a point within SE1/4 SW1/4 of Section 16, 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 85°35' W a distance of 12,288 feet thence westerly down the main channel of Horse Creek to a point on the West boundary of Lot 3, of Section 19, T.34 N., R. 61 E., MDB&M from which the Southwest corner of Section 18, T. 34 N., R. 61 E., bears N 0°56' E a distance of 3,089 feet, the end of the reach.
- (5) **The water is impounded in** [Troughs, tanks, pools, reservoir, natural channel, etc.] natural channel.
- (6) **The construction of the ditch or other works was begun** [Date] Does not apply and completed [Date] Does not apply.
- (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** _____ **County, at Page** ___ **of Book** ___ **of** _____.
- (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: Don W. Duval

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

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

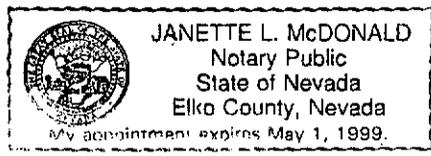
Telephone No. (702)779-2261

Subscribed and sworn to before me this 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 07485

Item 12:

There are no works as the natural channel is used. The place of use is as follows:

Township 34 North, Range 61 East, MDB&M

Section 16: NE1/4SW1/4
 SW1/4SW1/4
 SE1/4SW1/4
 NW1/4SE1/4
 NE1/4SE1/4
 SW1/4SE1/4

Section 17: SE1/4SW1/4
 SW1/4SE1/4
 SE1/4SE1/4

Section 19: SE1/4NE1/4
 Lot 3
 NE1/4SW1/4
 NW1/4SE1/4
 NE1/4SE1/4

Section 20: NE1/4NE1/4
 NW1/4NE1/4
 SW1/4NE1/4
 SE1/4NE1/4
 NE1/4NW1/4
 NW1/4NW1/4
 SW1/4NW1/4
 SE1/4NW1/4
 NW1/4SW1/4
 NE1/4SE1/4

Section 21: NW1/4NE1/4
 NE1/4NW1/4
 NW1/4NW1/4
 SW1/4NW1/4
 SE1/4NW1/4
 NE1/4SW1/4
 NW1/4SW1/4
 NW1/4SE1/4

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] Horse Creek and springs tributary thereto.
- (3) The water is diverted by [Dam, ditch, pipe line, natural channel, spring area, etc.] natural channel.
- (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 a point within SE1/4 SW1/4 of Section 16, 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 85°35'35" W a distance of 12,288.32, thence westerly down the main channel of Horse Creek to a point on the West boundary of Lot 3, of Section 19, T.34 N., R. 61 E., MDB&M from which the Southwest corner of ~~said~~ Section 18 ^{T34N R61E} bears N 0°55'47" E a distance of 3,088.87 feet, the end of the reach.
- (5) The water is impounded in [Troughs, tanks, pools, reservoir, natural channel, etc.] natural channel.
- (6) The construction of the ditch or other works was begun [Date] Does not apply and completed [Date] Does not apply.
- (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 _____ County, at Page ____ of Book ____ of _____.
- (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.

- (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] None, except for Mooney Ditch which lies within Lots 1, 2 and 3, Section 19, T34N R61E, MDB&M.

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.]

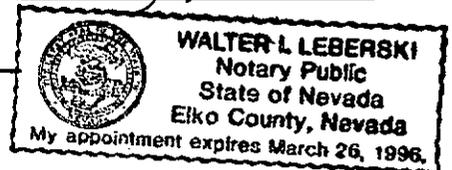
Telephone No. (702)779-2261

Subscribed and sworn to before me this 19th day of Dec., 19 95

Walter L. Leberski

Notary Public in and for the County of _____

My commission expires _____



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