

07551

Serial No. [REDACTED]

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

- (1) Name of Claimant Riordan Family Trust [Street and No. or P. O. Box No.] 400 Jiggs, Box 77 of [City or town] Elko, [State and Zip Code No.] Nevada 89801.
- (2) Source of water [Name of natural water source] Smith Creek and its Tributaries of North Fork, Middle Fork and South Fork and springs in its drainage basin.
- (3) The water is diverted by [Dam, ditch, pipe line, natural channel, spring area, etc.]

(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 the head of four tributaries of Smith Creek which locations are as follows:

A. A point within the SW1/4NE1/4 of Section 30, T30N, R58E, MDB&M, from which the South 1/4 corner of Section 20, T30 N, R57E, MDB&M, bears N 84°48'08" W a distance of 28,277.00 feet.

B. A point within Lot 4, of Section 6, T29N, R58E, MDB&M, from which the South 1/4 corner of Section 20, T30N, R57E, MDB&M, bears N 65°35'48" W a distance of 28,202.60 feet.

C. A point within the SW1/4SE1/4 of Section 36, T30N, R57E, MDB&M, from which the South 1/4 corner of Section 20, T30N, R57E, MDB&M, bears N 64°36'51" W a distance of 24,621.52 feet.

D. A point within the NW1/4SE1/4 of Section 34, T30N, R57E, MDB&M, from which the South 1/4 corner of Section 20, T30N, R57E, MDB&M, bears N 51°49'05" W a distance of 13,674.10 feet.

From each beginning of the reach as described above, down the channel to the end of the reach to a point within the NW1/4NW1/4 of

Section 28, T30N, R57E, MDB&M, from which the South 1/4 of Section 20, T30N, R57E, MDB&M, bears N74°02'33" W a distance of 2,860.18 feet.

(5) The water is impounded in [Troughs, tanks, pools, reservoir, natural channel, etc.] Pond, pools and material channel.

(6) The construction of the ditch or other works was begun [Date] None and completed [Date] None.

(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.] upon National Forest administered lands upon which claimant holds a grazing permit. The place of use is located with the following described parcels:

T30N, R57E, MDB&M

Section 25: S1/2NE1/4; ~~SE1/4NW1/4~~; SW1/4; SW1/4SE1/4

Section 26: S1/2

Section 27: S1/2NW1/4; NE1/4SW1/4; SE1/4

Section 28: S1/2N1/2; NW1/4NW1/4

Section 34: NE1/4NE1/4; W1/2NE1/4; NW1/4SE1/4

Section 35: NW1/4NW1/4; S1/2N1/2; NE1/4SE1/4

Section 36: N1/2SW1/4; SE1/4SW1/4; SW1/4SE1/4; SW1/4NW1/4

T30N, R58E, MDB&M

Section 30: Lots 3 and 4; SE1/4NW1/4; SW1/4NE1/4

Section 31: Lots 2, 3, 4, 5, 6, 7 and 8

T29N, R58E, MDB&M

Section 6: Lot 4.

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

(9) The items of evidence for the numbers of livestock and date of priority are Affidavit of Walter I. Leberski (Exhibit "A" attached) and licenses issued by Forest Service for 1950 and BLM for 1948 (Exhibit "B" attached).

(10) The approximate number of animals watered by the claimant during the first year [Date] 1885 was unknown cattle, unknown horses unknown 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] 70 cattle and 20 horses. This number is based upon numbers of livestock evidenced as grazing in the area as set forth in "Remarks," Exhibits "A" and "B".

(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] .0028 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.] The first year of use is based in part upon the Application for Grazing Permit to the United States Department of the Interior executed by Pearl Riordan for Dan Riordan estate dated April 11, 1935, in which it is stated that the lands covered with the grazing application have been used for the previous 66 years or in 1868. This is substantiated in the Decree of the Sixth Judicial District Court of the State of Nevada, in and for the County of Humboldt, entitled "In the Matter of the Determination of the Relative Rights of the Humboldt River System and Tributaries," Proof 00365, which recognized the first irrigation use of water by predecessors in interest to the claimant to be in the year of 1870. Records reveal that predecessors in interest to the claimant purchase livestock and ranch property from Joseph H. Sanguinet in 1900 together with the brand JO which was first registered in 1885. As this is the first indication of numbers of livestock and in order to make a conservative claim, 1885 is claimed as a priority.

As to numbers of livestock that made use of the source, they are determined from various sources. Pearl Riordan, in the application for Grazing Permit submitted to the United States Department of Interior (a copy being attached to the Affidavit of Walter I. Leberski), States that 600 head of cattle were customarily ran. During that period of 1929 through 1934, there was an average of 185 cattle and 20 horses grazed upon the National Forest as reported in summary of operation prepared by O. H. Agee dated July 15, 1936 (a copy being attached to the Affidavit of

Walter I. Leberski attached hereto). Therefore, it is assumed that the remainder, 415 cattle, grazed upon the public lands. However, Pearl Riordan States that in 1935 numbers had decreased and by 1948, the Bureau of Land Management permitted a maximum of 200 head of cattle upon the public lands.

In 1947, Joe J. Riordan and Pauline G. Riordan acquired a parcel of land commonly known as the Hankins property by conveyances recorded in Book 56 of Deeds at Pages 22 and 24, Elko County, Nevada, which Deed specifically conveyed a permit of 63 head of cattle upon the Forest. By 1950, this had been reduced to 50 head of cattle, as evidenced by a copy of the 1950 grazing permit upon the Forest which shows 50 cattle in Huntington Allotment (Corral Creek). The priority of this use is taken from the operation summary of O. H. Agee referred to above as being 40 years previous to 1936 or 1896. This priority date is considered to be conservative.

Therefore, in summary, the total numbers of priority livestock watering upon the public lands and Forest reserve is as follows:

Public Lands	200 cattle	1885
Forest Reserve		
Smith Creek & Huntington	185 cattle, 20 horses	1885
Huntington (Corral Creek)	50 cattle	1896

Administration of both the public lands and Forest Reserve since their inception has caused a major change in the waters used by these livestock. Prior to allotments, there were a number of sources of water used in common with other users. Through the allotment program of both the Bureau of Land Management and Forest Service there has, in effect, been changes in place of use made and trades among previously in common users. As a result, the sources of water and numbers of livestock using each source has been altered to the following:

Public Land	
Robinson Creek Allotment	
Robinson Creek	200 cattle
Forest Reserve:	
Smith Creek Allotment	
Cottonwood Creek	20 cattle
Smith Creek	70 cattle

Gennette Creek	20 horses
Dry Creek	40 cattle
Lindsay/Brown Allotment	20 cattle
Pearl Creek	50 cattle
Lindsay Creek, North Fork & Rocky Canyon	100 cattle
Lindsay Creek, Middle & South Fork	100 cattle
Brown Creek	50 cattle

This claim is for one of the sources described above.

The numbers of livestock above total greater than the total claimed upon the Forest Reserve. As cattle will move between waters within an allotment, the numbers on a source can vary through the season. The number claimed upon this source is the maximum that would occur during the grazing season.

The claimant is a successor in interest to Joseph H. Sanguinet, Daniel J. Riordan and Hankins Estate by the following chain of title:

<u>Grantor</u>	<u>Grantee</u>	<u>Date</u>	<u>Book</u>	<u>Page</u>
Joseph H. Sanguinet, et ux.	John P. Riordan Joseph F. Riordan	11/27/00	26 Deeds	555
John P. Riordan	James Riordan, Sr.	9/5/08	30 Deeds	504
Estate James Riordan, Sr., Deceased	John P. Riordan M. A. Riordan	4/8/13	Filed Elko Cty. Clerk	
John P. Riordan M. A. Riordan	D. J. Riordan	12/15/16	36 Deeds	415
Est. Dan J. Riordan aka Dan Riordan	Pearl Riordan, Joe Riordan, Marie Riordan Ellen Riordan Donna Riordan	12/12/30	9 Misc.	193
Est. Dan J. Riordan aka Dan Riordan	Pearl Riordan, Joe Riordan, Marie Riordan, Ellen Riordan, Donna Riordan	1/7/42	12 Misc.	207

<u>Grantor</u>	<u>Grantee</u>	<u>Date</u>	<u>Book</u>	<u>Page</u>
Marie Riordan Zunino Ellen Riordan Holcher Donna Riordan	Joe Riordan	2/13/42	51 Deeds	263
Est. LeRoy Gregory	Joe J. Riordan Pauline G. Riordan	12/23/47	14 Misc.	157
Est. LeRoy Gregory	Joe J. Riordan Pauline G. Riordan	12/30/47	56 Deed*	22
Julia E. Hankins, et al.	Joe J. Riordan Pauline G. Riordan	12/30/47	56 Deed*	24
Joe Riordan aka Joe J. Riordan Pauline G. Riordan aka Pauline Riordan	Joe Riordan Pauline Riordan	7/25/75	198 Official Records	75
Joseph J. Riordan Pauline G. Riordan	Joseph J. Riordan Pauline G. Riordan Trustees Riordan Family Trust	3/31/92	779 Official Records	621

*Hankins property - conveyed 63 head permit.

The undersigned, being first duly sworn, depose and say that they own or control the livestock presently watered by the Claimant, and that the facts relative to the proof of subsisting right by them are full and correct to the best of their 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.] _____

CLAIMANT:

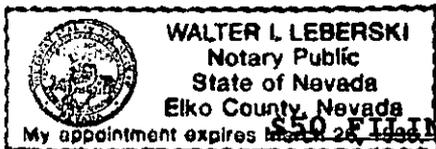
RIORDAN FAMILY TRUST

By: Joseph J. Riordan
Joseph J. Riordan, Trustee

By: Pauline G. Riordan
Pauline G. Riordan, Trustee

Telephone No. (702) 744-4331

Subscribed and sworn to before me this
13th day of February, 1996.



Walter L. Leberski
NOTARY PUBLIC

550 FILING FEE MUST ACCOMPANY PROOF