Serial No. 09513

STATE OF NEVADA

PROOF OF APPROPRIATION OF WATER FOR STOCK WATERING OR WILDLIFE PURPOSES

(1) Name of claimant COTTONWOOD RANCH, LLC., A Nevada Limited Liability Co.

HC 62, BOX 1300 of WELLS
Street and No. or P.O. Box No. City or town

NEVADA 89835
State and Zip Code No.

(2) Source of water Lower Middle Fork Spring

(3) The water is diverted by Spring area
Dam, ditch, pipe line, natural channel, spring area, etc.

(4) The water is diverted at the following point(s) A point in the NE¼ NE¼ of Section 35,
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.
T45N,R60E, MDM, from which the southeast corner of Section 36, T45N, R60E, MDM
Diversion over a channel reach must be described by course and distance to a section corner for both the beginning and end of such
bears S 52° 42' 58" E a distance of 7,348.80 feet.

(5) The water is impounded in Natural pools
Troughs, tanks, pools, reservoir, natural channel, etc.

(6) The construction of the ditch or other works was begun none
Date
and completed none
Date

(7) The nature of the claimant's title to the land upon which the source of water and place of use are located is public domain upon which claimant holds a grazing permit.
Patented, deeded public domain with grazing permit, etc.

(8) The claimant's water right was not recorded in the office of the County Recorder of

Elko County, at Page _____ of Book _____ of _____
Note –Failure to record in the county in no way invalidates a water right, but if water right was so recorded, supply full information under (8).

(9) The approximate number of animals watered by the claimant during the first year 1885
Date

was 100 cattle 0 horses * sheep or
wildlife(describe)
Other

The watering was conducted during each of the following months

March 1 to November 31 with the season of use varying due to weather and feed conditions

*1500 sheep intermittently

(10) The approximate number of animals watered by the claimant in subsequent years was as follows:

The number of animals watered during the first year is based upon the total number of livestock

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.

grazing the area in 1885, being at least 1000 cattle and 50 horses. Production of the source indicates the number of animals would remain near 100 cattle in subsequent years.

(11) The amount of water which has been necessary to be diverted for this purpose has been

0.0031 cubic feet per second.

448.83 gallons per minute equals 1 cubic feet per second.

(12) The works are located at None - natural pools

Described as being within a 40-acre subdivision, township and range of public survey. If on unsurveyed land, it should be stated.

Remarks

Remarks See Addendum for review of priority information

The undersigned, being first duly sworn, deposes and says that the facts relative to the appropriation of water by Cottonwood Ranch, LLC., a Nevada Limited Liability 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.

Claimant

Telephone No. (_____) _____

Cottonwood Ranch, LL
a Nevada Limited Liability Company

By E Agee Smith

HC 62, BOX 130
Street and No., or P.O. Box No.

Wells, NV 89823
City, State, Zip Code No.

Telephone No. (715) 752-3135

Subscribed and sworn to before me this 21st day of April, 2005

Floyd M. Fisk

Notary Public in and for the County of Elko

My Commission expires Feb. 26, 2006

FLOYD M. FISK
NOTARY PUBLIC • STATE of NEVADA
Elko County • Nevada
CERTIFICATE # 98-0770-6
APPT. EXP. FEB. 26, 2006

$50 FILING FEE MUST ACCOMPANY PROOF

Water/POA/Lower Middle Fork Spring

Addendum
to Proof of Appropriation of Water
for Stockwater Purposes
by
Cottonwood Ranch, LLC

The priority set forth in Section 9 is based upon the information contained in the affidavit of Walter I. Leberski, attached.

The chain of title attached to said affidavit evidences that W. T. O' Neil mortgaged 1000 head of cattle and 50 head of horses in 1885 to E. P. Hardesty. The chattel mortgage states the cattle were located in the Salmon River Range. The publication entitled "Nevada's Northeast Frontier" by Edna B. Patterson, et al, identifies the O' Neil - Capell Partnership Operation as being located at the head of the Little Salmon River (O' Neil Basin) which is the location of the claimant's operation. This publication further identifies William O' Neil, which the chain of title evidences, is a predecessor of the claimant. From this information, a priority date of 1885 is considered to be reasonable.

The mortgage to E. P. Hardesty evidences at least 1000 cattle and 50 head of horses watering from various sources within the O' Neil Basin by 1885. It is evidenced that the number of livestock grazing in the area increased by the purchase of sheep (1355 head in 1892) and by 1907, the Elko County assessor charged the O' Neil - Capell Livestock with 58 horses, 1135 cattle and 6,150 head of sheep. Further records indicate the sheep used the O' Neil Basin area only during a portion of the year.

Claimant grazes upon only a portion of the area which was historically used by the O' Neil operation. Range Maps were filed in the Office of the State Water Engineer in accordance with the 1927 Stock Water Act on behalf of Emery C. Smith, Nevada Smith and Esther Teresa Boies, who were successors to O' Neil's and predecessors to the claimant. These maps showed the grazing area of Emery C. Smith and Nevada Smith, who were predecessors, as being within T44 & 45N, R61 & 62E, T42NR61E and T46 & 47N, R61 & 62E, MDB&M. During the establishment of private allotments the area of use, was changed and the source of their claim is within the claimant's private allotment. The range maps identified above, excluded the area of use within the National Forest.

However, the claimant's predecessors historically grazed livestock upon Forest Service lands. In order to qualify for a Forest Grazing Permit, it is necessary that predecessors of the holder of such a permit grazed and claimed use upon the present Forest lands prior to the establishment or withdrawal of the Forest lands. As the claimant holds a Forest permit, it is evidenced that his predecessors made use of sources of livestock water now within the National Forest.

The number of animals making use of this source is based upon the claimant's experience in managing livestock and the production of water of this source. The number making use of the source is not continuous during the grazing season, but does represent the number which use the source during portions of the season.

The claimant uses a number of sources for livestock water and the use by each source is not additive to the total number of sources.