

Serial No.

2012 MAR 26 PM 3:5

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THE STATE OF NEVADA
PROOF OF SUBSISTING RIGHT OF WATER FOR
STOCK WATERING PURPOSES

Pursuant to N.R.S. 533.492

(1) Name of Claimant - Dean A. Rhoads and Sharon L. Rhoads, Trustees of the Dean and Sharon Rhoads Trust dated October 21, 1997

(Street and No. or P. O. Box No.) PO Box 8 of (City or town) Tuscarora (State and Zip Code No.) Nevada 89834

(2) Source of water (name of natural water source) China Spring

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

(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.] As described on Exhibit "A" attached

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

(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.] Deeded Land owned by claimant

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

(10) The approximate number of animals watered by the claimant during the first year [date] 1896 was 1500 cattle, horses sheep or [other] 13,000. The watering was conducted during each of the following months April, May, October, November

(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] 800 cattle

(12) The amount of water which has been necessary to be diverted for this purpose has been [448.83 gal. permits, equals 1 cubic foot per second] 0.025 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

63-EL

Remarks [Improvements, title, etc.] See attached

The undersigned, being first duly sworn, deposes and says that the facts relative to the appropriation of water by Dean A. Rhoads and Sharon L. Rhoads, Trustees of the Dean and Sharon Rhoads Trust dated October 21, 1997 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: _____

Dean A. Rhoads and Sharon L. Rhoads, Trustees of the Dean and Sharon Rhoads Trust dated October 21, 1997

Telephone No.: _____

By: _____

Sharon L Rhoads
Trustee Dean A. Rhoads

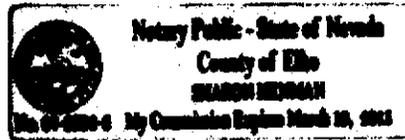
Telephone No.: 725-756-6582

Subscribed and sworn to before me this 26th day of Sept, 2011.

Sharon Neuman
NOTARY PUBLIC

Notary Public in and for the County of EKO

My commission expires 3/19/15



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EXHIBIT 'A'

The water is diverted at a point within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 3, T38N, R49E, MDM from which the northeast corner of Section 1, T38N, R49E, MDM bears N75°41'14"E a distance of 15,311.20 feet, more or less.

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ATTACHMENT
TO
PROOF OF SUBSISTING RIGHT OF WATER
FOR STOCKWATERING PURPOSES
BY
DEAN AND SHARON RHOADS TRUST

This claim is based upon use of the China Spring by Warren W. Williams prior to 1905 for stock water, the claimant being a successor of interest as shown on the affidavit of Walter I. Leberski attached. Historical accounts as to the operation of Warren W. Williams indicates a priority as early as 1880, but a priority of 1896 is claimed based on the date of the selection of the lands for a State patent as shown on the Historical Index of actions of the General Land Office attached to the affidavit of Walter I. Leberski. This priority is considered to be very conservative.

The source of this claim is within the Humboldt River basin and the adjudication decree for that basin contains the following language:

“That the right to the diversion and use of the water for stock and domestic purposes shall be continued by such claimants and such water users at any time during the year, and such diversion shall be according to the dates of priority to the claimant, and such use shall be limited to the quantity of water reasonably necessary for stock.....”

It is understood that the above statement applies to stock water within the basin and within the area of use of the claimants in the Decree upon open, public land grazing. Williams Estate Company, a predecessor of the claimant, was a claimant in the adjudication of the Humboldt River basin for waters of the North Fork of the Humboldt River and its claim was approved for a last priority of 1892. This further supports the claim of a priority of 1896 as being conservative.

The claim states that the early use of the water was during 4 months of the year which is based on the affidavit of John Carpenter as to the grazing use made by Williams in the area. However, the grazing use in the area has changed from sheep to cattle beginning in about 1954 and the season of use as established by the

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Bureau of Land Management is approximately 8 months during the Spring, Summer and Fall. Records indicate that Williams made use of the area with at least 13,000 sheep as shown in the Decree of Distribution and a minimum of 8,100 sheep as shown on a later Real and Chattel Mortgage. Based on a conversion of 5 sheep being equal to 1 cow, the comparative cattle use would have varied from 2,600 to 1,620 cattle in the area. Based on the quantity of water produced at the source and forage in the area at the present time, the claim of 800 cattle is made.

This affidavit of John C. Carpenter attached defines the use made by Williams.

This claim does not represent an additional water demand upon the Humboldt River Basin, but identifies the historical use as to the source, numbers and season of use.

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AFFIDAVIT

STATE OF NEVADA)
)SS.
COUNTY OF ELKO)

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I, **WALTER I. LEBERSKI**, do hereby swear (or affirm) under penalty of perjury that the following assertions of this Affidavit are true.

1. That I am an adult, and a resident of the County of Elko, State of Nevada.
2. I conducted a search of records maintained in the office of the County Recorder of Elko County, Nevada and historical records as to a chain of title for a portion of the permit lands in Township 38 North, Range 49 East, MDB&M and livestock grazing use in that area.
3. The primary area of concern is within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 3, T38N, R49E, MDB&M in which parcel China Spring is located.
4. The attached summary of the chain of title evidences that the China Spring parcel was originally patented to John P. Williams by patent dated 7/31/00.
5. The historical index of land actions maintained by the Bureau of Land Management evidences that the subject parcel had been approved for transfer to the State of Nevada on January 17, 1898, who patented the land and as such State selections to the United States required application by an interested party, this historical index shows interest in the parcel by John P. Williams at the latest in 1898. (Copy attached)
6. The summary chain of title attached evidences the present owner of the subject parcel and successor of the patentee is Dean A. Rhoads and Sharon L. Rhoads, Trustees of Dean and Sharon Rhoads Trust dated 10/17/97.
7. A historical report contained in the book entitled Nevada's Northeast Frontier by

Patterson, Ulph and Goodwin states that Warren Williams and George Williams had a base operation in Fallon, Nevada and began trailing sheep to Elko County in 1880.

8. A History of Jarbidge, Nevada written by Bob St. Louis of the Western Institute for Study of the Environment (copy attached) reports that W. W. Williams, who is a predecessor to the present owner, was one of the largest sheep outfits in the Jarbidge area, reported to be as high a number as 40,000 sheep in the book entitled Northeast Nevada's Frontier.

9. A further review of records reveals that Warren W. Williams acquired an appreciable acreage (in excess of 1,000 acres) in the vicinity of China Springs and he or his successors retained that land for the period of earlier than 1900 to 1934, with the only indicated use being by sheep under the ownership of Warren W. Williams or his successor Williams Estate Company.

10. The number of sheep shown in paragraph 9 appears to be excessive as the Decree of Distribution in the Estate of Warren W. Williams inventoried 13,215 sheep as of January 27, 1914, while a Real & Chattel Mortgage by Williams Estate Company to Bank of Nevada Saving and Trust Co. Dated April 12, 1929 and recorded in Book 2 of Real & Chattel Mortgages at page 5, Elko County, listed 8,110 sheep.

This affidavit is made for the purpose of supporting the claim of the Dean and Sharon Rhoads Trust of a subsisting water right on that source commonly known as China Spring.

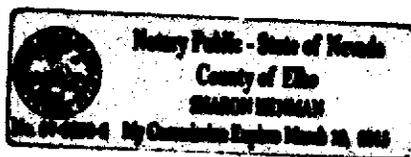
(Signature on following page)

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OF

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Walter I. Leberski
WALTER I. LEBERSKI

Subscribed and sworn to before me this 14th day of February, 2012



Sharon Henman
NOTARY PUBLIC

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SUMMARY OF CHAIN OF TITLE
NW¼SW¼ OF Section 3, T38N, R49E, MDB&M

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GRANTOR	GRANTEE	INST	RECORDED		
			ELKO, NEV.	BK. PAGE	DATE
State of Nevada	John P. Williams	Pat.	6	207	7-31-00
No deed from John P.. Williams	See Quiet Title below				
Helen A. Jones, Widow of John P. Williams	Warren W. Williams	QCD	40	267	4-11-06
Estate of Warren W. Williams	Ada Bernice Keddie 3/16 Ada Bernice Keddie Cora Estelle Williams, Trustees of will of Warren W. Williams 1/8 Cora Estelle Williams 3/16 Addie M. Williams 1/2	Dec. Dist	6 M	257	3-16-17
Ada B. Keddie and Cora W. Hursh formerly Cora Williams	Williams Estate Company	GBS	37	2	5-25-17
Ada B. Keddi and Cora W. Williams Gdns. of Addie M. Williams	Williams Estate Company	GBS	37	10	6-11-17
Ada B. Keddie and Cora W. Williams, Trustees for Betsy Abbie Danielson	Williams Estate Company	GBS	37	12	6-11-17
Williams Estate Company	W. W. Whitaker	GBS	49	23	9-27-34
W. J. Tobin, Receiver of Reno National Bank	W. W. Whitaker	QCD	49	25	1-3-38
W. W. Whitaker and Jessie B. Whitaker	John Belaustegui	GBS	49	54	2-7-38
John Belaustegui, Martina Belastegui	W.W. Whitaker	GBS	58	511	11-4-50
W.W. Whitaker	John P. Williams, et al	Dec. Q.T	25 M	2	5-10-55
W.W. Whitaker Jessie B. Whitaker	Willis Packer	GBS	67	483	3-30-54

Willis Packer, Lois Packer	Sharon Rhoads or Sharon Rhoads and Dean Rhoads Several Deed recorded for a total of 9.65% interest				
Estate Lois Packer	Willis Packer	Dec. Dist.	254	690	12-22-77
Willis Packer, married	Willis Packer, Trustee of the Willis Packer Nevada Trust	GBS	797	552	9-25-92
Sharon Rhoads, Successor Trustee of the Willis Packer Nevada Trust	Sharon Rhoads	GBS	884	664	1-30-95
Sharon L. Rhoads and Dean A. Rhoads	Dean A. Rhoads and Sharon L. Rhoads, Trustee of the Dean and Sharon Rhoads Trust dated 1-17-97	GBS	1019	171	11-18-97

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TOWNSHIP 38 NORTH RANGE 49 EAST OF THE MOUNT DIABLO MERIDIAN, NEVADA

TRACT NO.	SUBDIVISION					ACRES	KIND OF ENTRY PURPOSE OF ORDER	SERIAL FILE ORDER NUMBER	DATE OF ACTION	DATE POSTED	REMARKS - E. & DATE CLOSED, TERMINATED, REJECTED OR RESCINDED
	NE 1/4	NW 1/4	SW 1/4	SE 1/4	SW 1/4						
1	X	X	X	X	X	330.42					
2	X					40.00					
3						80.00					
4	X	X	X	X	X	200.00					
5	X	X	X	X	X	200.00					
6	X	X	X	X	X	200.00					
7	X	X	X	X	X	200.00					
8	X	X	X	X	X	200.00					
9	X	X	X	X	X	200.00					
10	X	X	X	X	X	200.00					
11	X	X	X	X	X	200.00					
12	X	X	X	X	X	200.00					
13	X	X	X	X	X	200.00					
14	X	X	X	X	X	200.00					
15	X	X	X	X	X	200.00					
16	X	X	X	X	X	200.00					
17	X	X	X	X	X	200.00					
18	X	X	X	X	X	200.00					
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27	X	X	X	X	X	200.00					
28	X	X	X	X	X	200.00					
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31	X	X	X	X	X	200.00					
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33	X	X	X	X	X	200.00					
34	X	X	X	X	X	200.00					
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37	X	X	X	X	X	200.00					
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96	X	X	X	X	X	200.00					
97	X	X	X	X	X	200.00					
98	X	X	X	X	X	200.00					
99	X	X	X	X	X	200.00					
100	X	X	X	X	X	200.00					

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History of the Jarbidge, Nevada, Area

St. Louis, Bob. 2008. **History of the Jarbidge, Nevada, Area With Special Emphasis on Matters Pertaining to the South Canyon Section of Jarbidge Road.** Western Institute for Study of the Environment

I. Introduction

For almost one hundred years, the Jarbidge area has been the center of numerous controversies. At the turn of the century, the issue was federal protection for interests of local ranchers and other inhabitants against a wave of invading sheepmen. After gold was discovered in the area, the issue became one of local miners petitioning the federal government for a townsite. Later on, part of the area was set aside as Nevada's first designated wilderness. Subsequently, the Forest Service set upon a crusade to expand that wilderness, in spite of local residents' objections. Still later, the Jarbidge Wilderness was expanded after the Forest Service unilaterally closed a segment of South Canyon Road. In most recent times, Jarbidge townspeople had to appeal to Congress in order to remove Forest Service authority over their cemetery. The latest controversy returns to an earlier issue: the Forest Service once again attempted to create a de facto wilderness by closing another segment of South Canyon Road.

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The following chronicle documents the history of the South Canyon of the Jarbidge River, from the perspective of the on and off relationship between the federal government and the local residents. It is not intended to be a thorough study of the history of this part of Nevada, but rather a detailed introduction into how the role of the federal government has been transformed from the "government of the people, by the people" to a self-serving entity that disregards the interests, and laws, of the local citizenry.

II. Pre-historic period

The archaeological record indicates that native Americans inhabited the greater Jarbidge area from some 10,000 years before present, through late prehistoric times, and into relatively recent periods. Obsidian quarries on the north slope of the Jarbidge Mountains, and towards Brown's Bench to the east and northeast, were utilized over a substantial period (Simms, 1993). As recently as October 1894 an Indian game drive was conducted at the D.C. corral; this event was documented by Kitty Wilkins (Simms, 1993).

Deer Creek Cave, situated on the north bank of Deer Creek near its confluence with Jarbidge River, has proven to be a substantial archaeological site. This site provides evidence of human habitation from about 10,000 years before present to late prehistoric times (Johnson, 1997).

The high country of the Jarbidge Mountains was clearly used, not only by the well-known miners of the early twentieth century gold boom, but also by prehistoric people (Simms, 1993). In fact, considerable use was made of the broad ridges between the canyons, even at high elevations. This was largely because of the availability of bitterroot and flakable ignimbrite. Activity appears to have been concentrated near the confluences of drainages, near divides, and at passes between major drainages (Johnson, 1997).

Johnson (1997) examined three sites including one prehistoric site near the confluence of Snowslide Gulch and Jarbidge River comprising a small lithic scatter.

Interestingly, the archaeological record does not wholly support the legend of the Jarbidge Monster (Ja-ha-bich, according to Schrader (1912), or Johrbitch, by the account of Mathias and Berry (1997)). The legend suggests that the Indians would not enter the Jarbidge Canyon for fear of being eaten by the mythical beast. It is possible that the legend developed after the latest volcanic events on the nearby Snake River Plain, which Schrader (1912) states occurred within the prior century or so. Schrader posits that the legend of the fire-breathing monster reflects these late eruptions. If this is so, the local natives might have had some fear of entering the canyon, but given that Kitty Wilkins' witnessed an Indian game drive in 1894, not all of them were averse to hunting there, even after the last eruptions.

III. Pre-mining boom historic period (1820-1908)

The first non-native people to visit the area were members of Peter Ogden's party, who apparently entered the Mary's River/Jarbidge River area in December 1828 (Williams et al., 1971). These people were engaged in reconnaissance of the northern Great Basin as a potential fur-gathering territory for the Hudson's Bay Company. In the process of working their way across northern Nevada, from north of Winnemucca to the area near Grouse Creek, Utah, the party endured great peril, including near-starvation.

Sheep outfits began to move into the Jarbidge-Bruneau area in 1852 (Patterson et al., 1969). The numbers of sheepmen, and sheep, would grow to staggering proportions over the ensuing 50 years.

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During the late 1860's, Silver City, Idaho prospector Jack Sinclair did some work in the area, although precise locations are not documented (Schrader, 1912).

In the 1870's two Mormon "trailblazers" (essentially charged with locating suitable farming lands) entered the East Fork of the Jarbidge River, and reportedly found gold (Patterson et al., 1969). They built an arrastra, which they carefully concealed when they were not working their ore. The location of this arrastra is not reliably documented.

The 1870's also saw the arrival of horse and cattle ranchers in the area, especially on the Diamond-A Desert. Among these were Peter Columbet, John Dorsey, Fred Lancaster, Lou Eastman, Frank Winter, and Fred Anderson (Mathias and Berry, 1997). By 1880 the Wilkins brothers had established a large horse ranch on the northern side of the Nevada - Idaho border, on the tableland above Wilkins (Murphy) hot springs (Schrader, 1912).

The severe winter of 1889 - 1890 killed huge numbers of cattle in northern Nevada and southern Idaho. As a result of this die-off, northern Nevada cattle ranchers were all but wiped out, and sheepherders moved in to occupy the niche formerly occupied by the cattlemen (Ward, 1961). Burkhardt (2001) noted that the first substantial summer sheep grazing in the Jarbidge Mountains was in 1890, noting that sheep from both Nevada and Idaho had invaded the area. By the summer of 1897, over 100,000 sheep were in the Jarbidge Mountains (Burkhardt, 2001).

William Mahoney built a cabin in 1892, about one mile north of what would later be the town of Jarbidge, where Deer Creek Trail crossed the Jarbidge River (Frampton and Wilson (1999) stated that the cabin was built in 1902 by William Perkins, who sold the cabin to William Mahoney in 1905). The cabin was used as a sheep base camp for the Williams Estate Company (who, according to John Carpenter, wintered their sheep in the Eastgate/Midlegate/Edwards Creek Valley area, in south-central Nevada). This cabin eventually became the Mahoney Ranger Station, when it was sold to the Forest Service in April 1909 (Frampton and Wilson, 1999). The Williams Estate Company ran sheep from the Bruneau River to the East Fork of the Jarbidge River (Wilcox, 1961). William Perkins also came into the canyon in 1892, and sometime after built his cabin near the headwaters of the Jarbidge river.

Placer gold was discovered in the Gold Creek area, some 25 miles west of Jarbidge, in 1869, and the Wyoming Mining District was organized on November 3 of that year (Hall, 1998). By 1873 additional discoveries had been made, and the Island Mountain Mining District was formed (Hall, 1998). By 1900 the mining operations near Gold Creek were finished, and the town became a livestock base. According to Rowher (1961), in 1902:

"Tellus Forro, a packer for [George B.] Williams, stated that on several occasions 160 to 180 head of pack mules left Gold Creek with supplies for sheep camps. At that time, the supplies were carried with pack animals as far east as Pole Creek."

IV. Federal Land Surveys

In 1896, Dennis Scully led a group into the area for the purpose of surveying the Ninth Standard Parallel. According to the microfiche records of Scully's field notes, on file at the Elko BLM office, they worked from June 19 through August 31. Scully's field notes are preserved in the original handwritten script, making them somewhat illegible in places on the microfiche. Scully's survey team began their transect east of the Jarbidge Mountains, and worked to the west.

At some point during their expedition, the survey party was in desperate straits. Scully's field notes for August 7, 1896, detail some of the difficulties the party had run into over the previous days. In

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addition to one of the men suffering a severe attack of nerves, Scully also noted that one of the men had nearly been killed in a horseback accident some days previously. and had to enlist the assistance of George Baker to exit Jarbidge Canyon (Mathias and Berry, 1997). Baker was a foreman for the George Williams sheep outfit, and had spent a substantial amount of time exploring and leading parties into the Jarbidge Mountains (Mathias and Berry, 1997). Baker most likely took some of the weak or injured party members to Mahoney cabin, and returned at least one of them to the group at some point on the river (although Scully makes no mention of Baker). Baker almost certainly traveled along the Jarbidge River in order to reach this location.

In addition to documenting some of the incredible difficulties encountered in crossing the Jarbidge Mountains across the grain of the land, Scully's notes are also remarkable in that they document no roads or trails once the party entered the higher country from the flatland starting point east of the mountains. By the time Scully entered the area, the numbers of sheep in the mountains had swelled to 500,000 or more (Wilson, 1906). It is interesting that no trails were reported, when this number of sheep in the Bruneau-Jarbidge area would certainly have resulted in numerous sheep and tender trails. Perhaps the trails were so numerous that Scully chose not to note any of them, for discerning which ones were main trails was impossible.

Robert Yundt resurveyed the Ninth Standard Parallel in 1935. Yundt's field notes, in the Elko BLM office microfiche records, comprise typewritten transcripts that were subsequently photographed for microfiche.

V. Forest Reserve/National Forest (1905-1909)

The following section is intended to document the political struggles that occurred during the period that the land in the Jarbidge area became part of the National Forest System Lands. Political battles were waged at the local and federal levels during this period; even within the fledgling Forest Service, there was considerable debate as to whether or not the lands in question were worthy of inclusion in the National Forest System.

In the course of researching the forest reserve/national forest history, numerous chronological ambiguities were found. In fact, Fred Frampton, a historian working for the Forest Service, noted in his 1992 "History of the Humboldt National Forest," that:

"Throughout its history the Forest Service has consolidated Forests and moved Ranger Districts from one Forest to another. The Humboldt is no exception, and its history may be even more complex than most."

Wherever possible, the actual proclamations are referenced for accuracy.

Prior to Theodore Roosevelt's presidency, the forest reserves of the United States were managed by the Division of Forestry (later the Bureau of Forestry), Department of the Interior. In 1901, administration of the nation's forests was transferred to the USDA's Bureau of Forestry, which became the Forest Service in 1905, with Gifford Pinchot as its first chief (Miller, 1999). In March of 1907 "Forest Reserves" were officially termed "National Forests."

Frampton and Wilson (1999) noted that the first Forest Reserve in Nevada was the Ruby Mountains Forest Reserve, which was withdrawn by the Secretary of the Interior on March 29, 1904. This withdrawal was made permanent by President Theodore Roosevelt's proclamation of May 3, 1906 (34 Stat. 3198).

Withdrawal of the Independence Mountains

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On November 5, 1905, Secretary of the Interior Ethan Hitchcock temporarily withdrew the Independence Mountains Forest Reserve, apparently in response to a petition from local ranchers (Frampton and Wilson, 1999).

A few weeks later, on November 23, 1905, the Secretary of Agriculture's recommendation for the temporary withdrawal of land for the Proposed Bruneau Addition to the Independence Forest Reserve was approved by the Department of the Interior. The term "withdrawal" refers to the administrative process whereby entry under the homesteading laws was precluded, and the cutting of timber regulated. Entry under the mining laws was still allowed after lands were withdrawn. Note that at this point, 1905, the Proposed Bruneau Addition was not part of a Forest Reserve; only the Independence and Ruby Mountains enjoyed this status in Elko County.

The 1905 withdrawals served as the cornerstone for what would become a much larger piece of real estate ultimately including the Jarbidge Mountains. A large measure of the credit for this action rests with a group of Ruby Valley ranchers, who had petitioned Chief Forester Gifford Pinchot for the inclusion of the Ruby Mountains into the Forest Reserve as a means to protect their interests (Tremewan, 1915; Frampton and Wilson, 1999).

The withdrawal was described in a November 23, 1905 letter to the Commissioner of the General Land Office, written by Ethan Hitchcock, Secretary of the Interior, with the following:

"In view of the foregoing I hereby withdraw from all forms of disposition, excepting under the mineral laws, all of the vacant un-appropriated public lands in the State of Nevada within the area shown on the diagram, and so described in your letter, with a view to the ultimate creation therefrom of the Independence Forest Reserve."

Idaho politicians were the principal opponents of the Independence withdrawal (Wilcox, 1961). As late as 1920, ranchers from the Three Creek, Idaho, area grazed cattle on what would then be the National Forest without permits, apparently as a sign of their indignation. CHECK THIS; IT MIGHT BE REFERRING TO JARBIDGE, NOT INDEPENDENCE

President Theodore Roosevelt signed a proclamation on November 5, 1906 (34 Stat. 3251) creating the Ruby Mountains and Independence Forest Reserve (Tremewan, 1915). In an apparent chronological contradiction, Tremewan (1915) notes that the Independence Forest Reserve was established in 1908. He stated that:

"In 1907, to get the ball rolling, Frank Winters and I went up north and told the people about putting the Independence into the Forest Reserve. When they learned that this would give them first chance at the range adjacent to their homesteads, they were quick to sign the petition calling for the creation of the Forest."

Furthermore, the proclamation signed by President Roosevelt on November 5, 1906, only concerned the Independence Reserve, without addressing the Ruby Mountains Reserve at all. The Ruby Mountains Forest Reserve was created by presidential proclamation on May 3, 1906 (34 Stat. 3198).

Addition to the Forest: Timber vs. Grazing

In the fall of 1904, R. B. Wilson, Forest Assistant, was sent to examine the area of what was to become known as the Proposed Bruneau Addition to the Independence National Forest (Wilson, 1906). Overgrazing by sheep was cited as a major reason for Government control, via a forest reserve. Wilson also mentioned observations made in June, 1906.

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Wilson (1906) suggested that the amount of timber in the proposed addition was limited, and added that timber and watershed issues were raised only as secondary issues to grazing, especially in the context of apparently overwhelming numbers of sheep, which he determined to be some 392,350. Wilson noted that the large sheep outfits were well-funded and politically-connected, suggesting that any reduction of sheep in the area would not be accomplished easily.

In this same report, Wilson (1906) made mention of the North Fork Forest Reserve examination, conducted in the fall of 1905. He recommended that the Proposed Bruneau Addition be combined with the North Fork, both areas together to be called the Bruneau Forest Reserve. The combined Bruneau and North Fork areas extended from west of the Bull Run Mountains almost to Elk Mountain (east of the Jarbidge Mountains), and from Wildhorse Reservoir north to the Idaho state line. He further suggested that the Bruneau should be administered at the same time as the "...Ruby Forest Reserve, created in May, 1906," with one supervisor headquartered in Elko. He went on to state:

"There is no one of any reserve experience native to Nevada, so a temporary man will have to be brought from outside."

Later in the report, Wilson suggested that C. S. Tremewan, being a Mountain City rancher, would become a good candidate for the supervisor's job, after gaining more experience.

Subsequent to the proclamation establishing the Independence Forest Reserve, a number of residents of the northern part of Elko County petitioned Senator Francis Newlands to have the Independence Forest Reserve established as a National Forest, to include the Proposed Bruneau Addition. Among these residents were W. W. Williams, State Senator, who ran the largest sheep outfit in the area, and Frank Winter, State Assemblyman.

The impetus for the residents' desire for the Bruneau Addition was the decimation of the range by non-resident sheep outfits. The number of sheep in the general Bruneau area was placed somewhere between 500,000 and 1.5 million, depending on whose estimates are used. The practice at the time was to put as many sheep on the range for as long as possible, thus severely limiting the opportunity for seed production and therefore the continuation of good forage. Furthermore, a number of the shepherds set fires as they left the country. These fires were intended to destroy brush and small trees, in an effort to "improve" the range. Larger trees were ringed in the interests of killing them. The local ranching outfits were finding it very hard to find sufficient forage for their own herds in the wake of the outsiders. Evidence also suggests that the watersheds were seriously impacted by the large numbers of sheep.

A common practice at the time was the staking of placer claims to control surface waters. These waters would then be leased to sheepmen during the grazing season, or the bottomland controlled for base camp operations. This was commonly referred to as "sheep mining" (Wilson, 1906).

Because of the early emphasis on grazing control, Gifford Pinchot, Chief of the Forest Service in Washington, D.C., wrote a memorandum on February 14, 1908, stating:

"I consider this proposed Bruneau addition to the Independence Forest mainly a grazing proposition, and can not approve its creation as a National Forest."

Franklin W. Reed, Inspector (Forest Service) wrote "Arguments in Favor of Creating the Bruneau Addition to Independence National Forest, Nevada" on February 14, 1908. In this document, Reed noted:

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FOREST SERVICE



Possibly one of the greatest testimonies in this regard was that in the book *Beltran: Basque Sheepman of the American West*. Beltran Paris came to the United States in 1912. Soon after he arrived he went to work for the Williams Estates Company which summered in the Gold Creek and Bruneau areas of northern Elko County and wintered near Frenchman and Gabbs Nevada. After working for Williams for several years, Beltran went into the sheep business for himself in Butte Valley. Beltran's brother Arnaud also worked for Williams for a number of years, but later went to work for Baker Ranch, and then the Adams and McGill business. This meant that both Arnaud and Beltran had spent many years in the outdoors, covering vast areas throughout Nevada, yet, neither Beltran nor Arnaud had seen or heard of a lion until the early 1920's.

Beltron wrote: "My brother Arnaud was the first to find out about the lions. He was camp tending for Adams and McGill and one morning when they were trailing their sheep south to the desert his herder came and told him eight of his big ewes were dead. Arnaud thought maybe they ate something bad so he went over there. He saw right away an animal had killed them. Well, bobcats were worth a little money and he kept two number three traps in his camp. He set them around the dead sheep and then told the herder to move his bunch out of there. The next day Arnaud went back and he sure was surprised. There was a great big lion in his traps. He was pretty scared but the lion didn't do anything. They don't want to hurt their foot. Anyway, Arnaud shot that one and skinned it out. His boss was so happy he gave Arnaud a ten dollar reward. That was the first lion any of us ever saw in this country."

Historical evidence indicates that the large deer herds of the 1940's, 1950's and 1960's were a product of settlement and predator control, and that mountain lions in Nevada are a product of our deer herds. Interestingly, according to the United States Fish and Wildlife, Comprehensive Mountain Lion Management Plan (1995), in 1994 a male lion that was radio collared in Idaho moved 250 miles to central Nevada. Certainly, if mountain lions are capable of traveling so far and if there had been an abundance of deer in the Great Basin in the 1800's, there should have been large numbers of mountain lions in the Great Basin as well.

History of Bighorn Sheep in Nevada:

For many years, employees of the Nevada Department of Wildlife have been promoting the idea there were approximately 30,000 bighorn sheep scattered throughout the Great Basin during the period of earliest exploration into the region. These same people write that by the beginning of the late 19th century, commercial and illegal hunting, competition with livestock, and the effects of livestock diseases appear to have caused bighorn to decline to near extinction. Research however, does not support such dialogue. Of all the many accounts which were written during the period, 1824 through 1900, thus far only three references have been found wherein bighorn were seen in the Great Basin.

First: Hunters accompanying the John Work party while trapping throughout today's northern Nevada in 1831 saw tracks but no bighorn until they reached today's southeast Oregon where they saw four sheep near the Owyhee River.

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AFFIDAVIT

STATE OF NEVADA)
)
COUNTY OF ELKO)

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JAMES E. HUGHES, CLERK

1. I, **JOHN C. CARPENTER**, do hereby swear (or affirm) under penalty of perjury that the following assertions of this Affidavit are true.

1. That I am an adult, and a resident of the County of Elko, State of Nevada.

2. Beginning in the 1950's until the 1980's I operated and managed a sheep operation with my uncles or myself originally in the Counties of White Pine and Elko and in later years also in the counties of Lander, Eureka , Nye, Mineral and Churchill.

3. In conjunction with the operation, I employed or had contact with any number of people who were familiar with historic open range sheep operations in those counties.

4. One of the properties which I had was in the Alpine area of Churchill County which from historical records and accounts of residents in the area had once been a part of the properties owned and operated as a sheep ranch by Warren W. Williams.

5. From my knowledge of historical sheep operations acquired by contact to various older employees and other persons who were familiar with sheep operations, I am aware that the Warren W. Williams operation, which upon his death became the Williams Estate Company, not only operated in Churchill County, but also acquired considerable property in Elko County, primarily in the North Fork and Gold Creek areas.

6. As was very common with range sheep operations, the Williams operation wintered in the comparatively snow-free areas and then slowly migrated to high mountain country for the summer operation, and during that Spring

migration or trail had property or an area to shear and possibly lamb.

7. Williams had extensive holdings in Elko County with a summer base camp in the Gold Creek area which is discussed in the book entitled Nevada's Northeast Frontier by Patterson, Ulph and Goodwin.

8. I am informed that Williams acquired to title to an appreciable amount of land in Township 38 North, Range 49 East, MDB&M which is commonly known as China Camp which was isolated frm other properties owned and not in the typical summer sheep range.

9. As this area is approximately midway between the Winter and Summer Range, is of lower elevation and produces forage earlier in the season, which from my experience would be a natural area to acquire as a resting place on the trail and an excellent location for lambing and shearing and be the reason for acquisition of property in that area by Williams.

10. This area was later acquired by John Belaustegui who I am aware used it in connection with his sheep operation.

This affidavit is for the purpose of supporting the claim of the Dean and Sharon Rhoads Trust of a subsisting water right on that source commonly known as China Spring as a successor to the Williams interest.

Dated this 19th day of August, 2011.

John C. Carpenter
John C. Carpenter

Subscribed and sworn to before me this 19th day of August, 2011



Sharon S. Mathias
NOTARY PUBLIC

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AFFIDAVIT

State of Nevada)
County of Elko)

I, Sharon L. Rhoads, do hereby swear (or affirm) under penalty of perjury that the following assertions of the Affidavit are true.

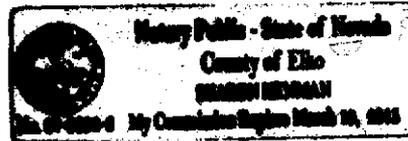
- 1. That I am an adult, and a resident of the County of Elko, State of Nevada.
- 2. The area of concern is Township 38 North, Range 49 East, MDB&M commonly known as China Springs.
- 3. My father, Willis Packer owned this land from 1954 until 1995 when he died. It was open range and used and grazed in conjunction with his other lands. They owned land in this area also, as does the BLM.
- 4. This area is about half way between Winter and Summer Range, is of lower elevation and produces forage earlier in the season, making it an excellent place for lambing and shearing the sheep on their way to the higher mountain ranges for summer grazing.
- 5. I remember seeing old sheep corrals in this area indicating it was used to shear and lamb sheep.
- 6. This land was passed on to Dean and Sharon Rhoads upon Willis Packer's death. It is currently owned by Dean and Sharon Rhoads.

Dated this 26th day of September, 2011.

Sharon L. Rhoads
Sharon L. Rhoads

Subscribed and sworn before me this 26th day of September, 2011.

Sharon Heuman
NOTARY PUBLIC



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