Filing Serial No. 04997

THE STATE OF NEVADA

AMENDMENT TO PROOF OF APPROPRIATION OF WATER FOR IRRIGATION

UNDER PROOF 01390C, 01390D, & 01390E

Source [Name of natural water source (use separate proofs for each major source)]: Braase Creek as shown on Culture Map by C. C. Smith dated April 19, 1915 and known as Weeks Creek as shown on Culture Map by Chilton Engineering dated October 19, 1989 **The water is diverted from its source** [Name of ditch, flume or pipe line]: by dams and ditches named and described **at the following point(s):** [List all points of diversion from this source, appending a sheet if necessary. 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]:

POINT OF DIVERSION C: A point situate on Braase or Weeks Creek located within the SE1/4 SW1/4 of Section 11, T35N, R61E, MDB&M from which the Northeast corner of Section 11, T35N, R61E, MDB&M bears N35°43'E a distance of 5,541 feet.

POINT OF DIVERSION D: A point situate on Braase or Weeks Creek located within the SE1/4 SW1/4 of Section 11, T35N, R61E, MDB&M from which the Northeast corner of Section 11, T35N, R61E, MDB&M bears N31°44'E a distance of 5,494 feet.

POINT OF DIVERSION F: A point situate on Braase or Weeks Creek located within the SW1/4 SE1/4 of Section 11, T35N, R61E, MDB&M from which the Northeast corner of Section 11, T35N, R61E, MDB&M bears N16°08'E a distance of 4,901 feet.

POINT OF DIVERSION G: A point situate on Braase or Weeks Creek located within the SE1/4 SE1/4 of Section 11, T35N, R61E, MDB&M from which the Northeast corner of Section 11, T35N, R61E, MDB&M bears N09°40'E a distance of 4,774 feet.

POINT OF DIVERSION H: A point situate on Braase or Weeks Creek located within the SE1/4 SE1/4 of Section 11, T35N, R61E, MDB&M from which the Northeast corner of Section 11, T35N, R61E, MDB&M bears N05°54'E a distance of 4,810 feet.

POINT OF DIVERSION I: A point situate on Braase or Weeks Creek located within the SW1/4 SW1/4 of Section 12, T35N, R61E, MDB&M from which the Northeast corner of Section 11, T35N, R61E, MDB&M bears N0°12'W° a distance of 4,916 feet.

POINT OF DIVERSION J: A point situate on Braase or Weeks Creek located within the SW1/4 SW1/4 of Section 12, T35N, R61E, MDB&M from which the Northeast corner of Section 11, T35N, R61E, MDB&M bears N14°27'W a distance of 5,040 feet.

POINT OF DIVERSION M: A point situate on Braase or Weeks Creek located within the SE1/4 SW1/4 of Section 12, T35N, R61E, MDB&M from which the Northeast corner of Section 11, T35N, R61E, MDB&M bears N26°37'W a distance of 5,355 feet.

POINT OF DIVERSION O: A point situate on Braase or Weeks Creek located within the SW1/4 SE1/4 of Section 12, T35N, R61E, MDB&M from which the Northeast corner of Section 11, T35N, R61E, MDB&M bears N35°02'W a distance of 5,822 feet.

POINT OF DIVERSION P: A point situate on Braase or Weeks Creek located within the SW1/4 SE1/4 of Section 12, T35N, R61E, MDB&M from which the Northeast corner of Section 11, T35N, R61E, MDB&M bears N36°09'W a distance of 5,832 feet.

NOTE: The creeks named herein are shown as Braase Creek on that Culture Map prepared by C. C. Smith dated April 13, 1915 (Proof 01390) and as Weeks Creek on that map prepared by Chilton Engineering dated October 19, 1989.

(1) **Name of Claimant:** Ballard Ranches, Inc., a Nevada corporation **Address:** Clover Route, Wells **County of** Elko, **State of:** Nevada

(2) **The means of diversion employed** [Dam and ditch, pipe line, flume, etc.]: Dams and ditches.

(3) **The date of the survey of ditch, canal, or pipe line was:** Surveys were made on the various ditches as shown on the proofs and culture maps submitted on behalf of S. T. Weeks on Proof 01390C, 01390D and 01390E for nineteen (19) ditches during the years of 1869 through 1903. Successors in interest of S.T. Weeks consolidated points of diversion to the end that a total of 10 points of diversion remain.

(4) **The construction of the ditch or other works was begun:** _____ **and completed:** All as shown on proofs submitted on behalf of S. T. Weeks on Proof 01390C, 01390D and 01390E.

(5) **The dimensions of the ditch or canal as originally constructed were: Width on bottom:** unknown **feet, width on top:** unknown **feet, depth:** unknown **feet, on a grade of:** unknown **feet per thousand feet.**

(6) **The conduit has (has not) been enlarged.** Unknown [NOTE--If enlargement or extension of ditch was made, supply information under (7) and (8).]

(7) **The work of enlargement of the ditch or canal was begun:** unknown **and completed:** unknown.

(8) **The dimensions of the ditch or canal as enlarged are: Width on bottom:** _____ **feet, width on top**_____ **feet, depth**_____ **feet, on a grade of** _____ **feet per thousand feet.** All as shown on Culture Map prepared by Chilton Engineering dated October 19, 1989.

(9) **The claimant is ~~(is not)~~ an owner in the above-described conduit.** [If claimant is an owner in the conduit, state interest held on this line]: 100% Interest

(10) **The nature of the title to the land for which the water right is claimed is** [Fee simple, public domain, etc.]: Fee Simple.

(11) **Crops of** harvest, pasture and diversified pasture **have been grown upon the land irrigated.** [e.g. alfalfa, native hay, grain, orchard, meadow or diversified pasture]

(12) **The water has been used for irrigation from** April 1 **to** September 15 **of each year,** or as early as available to the end of the irrigation season.

(13) **List the year of priority for acreage irrigated prior to March 1, 1905, from all points of diversion previously described, with corresponding subdivisions, appending extra sheets if necessary.**

The priorities as set forth in Proof 01390 are summarized as follows:

YEAR 1903,	10.00	ACRES IN THE	NW1/4 NW1/4	OF SEC. 13,	T. 35	N., R. 61	E.
YEAR 1882,	50.00	ACRES IN THE	N1/2 NE1/4	OF SEC. 13,	T. 35	N., R. 61	E.
			S1/2 SE1/4	OF SEC. 12,	T. 35	N., R. 61	E.
YEAR 1872,	195.00	ACRES IN THE	W1/2 SE1/4, NE1/4 SE1/4	OF SEC. 12,	T. 35	N., R. 61	E.
			N1/2 SW1/4, N1/2 SE1/4	OF SEC. 7,	T. 35	N., R. 62	E.
			N1/2 SW1/4	OF SEC. 8,	T. 35	N., R. 62	E.
YEAR 1870,	50.00	ACRES IN THE	SE1/4	OF SEC. 12,	T. 35	N., R. 61	E.
YEAR 1874,	71.00	ACRES IN THE	S1/2 SW1/4	OF SEC. 7,	T. 35	N., R. 62	E.
			SE1/4 SE1/4	OF SEC. 12,	T. 35	N., R. 61	E.
YEAR 1890,	25.00	ACRES IN THE	N1/2 SW1/4	OF SEC. 7,	T. 35	N., R. 62	E.
YEAR 1890,	40.00	ACRES IN THE	SE1/4 SW1/4; SW1/4 SE1/4	OF SEC. 7,	T. 35	N., R. 62	E.
YEAR 1890,	36.44	ACRES IN THE	SW1/4 SE1/4; NW1/4 SE1/4	OF SEC. 7,	T. 35	N., R. 62	E.
YEAR 1890,	159.54	ACRES IN THE	SE1/4	OF SEC. 7,	T. 35	N., R. 62	E.
			SW1/4	OF SEC. 8,	T. 35	N., R. 62	E.
YEAR 1875,	55.00	ACRES IN THE	N1/2 NW1/4	OF SEC. 13,	T. 35	N., R. 61	E.
YEAR 1891,	61.22	ACRES IN THE	N1/2 NE1/4	OF SEC. 13,	T. 35	N., R. 61	E.

The additional priority of acreage as follows:

YEAR 1875,	33.78	ACRES IN THE	N1/2 N1/2	OF SEC. 13,	T. 35	N., R. 61	E.
YEAR 1891,	35.60	ACRES IN THE	N1/2 NE1/4	OF SEC. 14,	T. 35	N., R. 61	E.
YEAR 1890,	148.20	ACRES IN THE	SE1/4	OF SEC. 11,	T. 35	N., R. 61	E.
YEAR 1890,	134.24	ACRES IN THE	SW1/4	OF SEC. 12,	T. 35	N., R. 61	E.
YEAR 1872,	26.56	ACRES IN THE	SW1/4	OF SEC. 12,	T. 35	N., R. 61	E.

(14) **The maximum acreage irrigated in any year was** 1131.58 **acres.**

(15) **The water claimed has** ~~(has not)~~ [strike out one not wanted] **been used for irrigation each and every year since the right was initiated.**

(16) **The years during which no water was used for irrigation or during which the full water right was not used were** [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, appending a sheet is necessary]: Water used to the full extent available.

(17) The claimant's water right was ~~(was not)~~ recorded in the office of the County Recorder of Elko County, said record being at Page 382 of Book 1 of Water Rights, and being a claim for an unspecified amount of water for the irrigation of unspecified number of acres of land in the following legal subdivisions:

Township 35 North, Range 61 East, M.D.M.
Section 12: SE¼

Township 35 North, Range 62 East, M.D.M.
Section 7: SW

Being only a portion of the lands included in this proof

[NOTE: Failure to record in the county in no way invalidates a water right, but if ditch or right was so recorded, supply full information under (17)]

(18) Water from the source given and through the works described is also used for the following purposes other than irrigation: Domestic and livestock water.

(19) The character of the soil is [Sandy, gravelly, loam] sandy loam.
A continuous flow of unknown **cubic feet of water per second has been used to irrigate** 1131.58 **acres of land and** unknown **acre-feet per acre per annum have been used to irrigate the crops.**

(20) Remarks:

This amended proof for Proofs 01390C, 01390D and 01390E is for the purpose of consolidating such proofs, conforming to present mapping standards, evidencing present conditions, supplementing said proofs and claim of additional irrigations uses.

The priorities stated herein are based upon those under Proofs of appropriation under 01390C, 01390D and 01390E as to 753.20 acres, and additional appropriation is under the Doctrine of Relation Back as to 69.38 acres within Sections 13 and 14, T35N, R61E, M.D.B.&M.

The priority of 1890 for the 148.20 acres in Section 11, T34N, R61E, MDB&M is based upon the date of construction of 1890 of the majority of the ditches set forth in Proofs 01390C and the location of Ditches 2 and 3 shown on the Culture Map prepared by C. C. Smith. At that time and until 1927, the E1/2 of Section 11 was owned by the Central Pacific Railroad Company. However, it has been previously ruled by the Supreme Court of Nevada that a Claimant need not be an owner of the land to acquire a vested water right (Smith vs. Logan - 18 Nev. 149). The Claimant is a successor in interest to S. J. Weeks and S. C. Weeks, Jr. who acquired Section 11 from the railroad company.

The priority of the 160.80 acres in the SW1/4 of Section 12, T35N, R61E is based upon the believed construction date of 1872 and 1890 of Ditches 2 and 3 set forth above and the construction of Ditch as shown on Proof of Appropriation for said ditch under Proof 01390C, in connection with Culture

Map prepared by C. C. Smith dated April, 1915.

Proofs 01390C, 01390D and 01390E were for sources of Braase Creek (now Weeks Creek), on Williams Creek (now called Braase or North Fork Steele Creek) through customary use and agreements, use from Williams Creek has ceased and such water as was diverted from Williams Creek has been replaced by additional use from Weeks Creek.

The following conditions contained in that Deed executed by Russell Wilkins, et ux, et al recorded in Book 57 of Deeds at Page 332, Elko County, Nevada Records are appurtenant to this Proof:

> "TOGETHER WITH all waters, water rights, rights to the use of water, dams, ditches, canals, reservoirs, pipes, pipe lines, and any other means for the diversion and/or use of water appurtenant to and/or now used or enjoyed in connection with said lands or any part thereof; including, as far as the first parties are empowered to convey and by whatever means possible, one-half (1/2) of the waters of WEEKS (or Braase Creek) from May 1 to July 31, the irrigating season, and all of the water of WEEKS (or Braase Creek) from August 1 to April 30."

The undersigned, being first duly sworn, deposes and says that the facts relative to the appropriation of water by Ballard Ranches, Inc., 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.]

BALLARD RANCHES, INC.
A Nevada Corporation

By Venna S. Ballard, Pres.

Subscribed and sworn to before me this 27th **day of** October, **19**89.

Walter I. Leberski

Notary Public in and for the County of _____

My commission expires _____

WALTER I. LEBERSKI
Notary Public-State of Nevada
Elko County-Nevada
App. Exp. 3-26-92

$100 FILING FEE MUST ACCOMPANY PROOF