

STATE OF NEVADA

**PROOF OF APPROPRIATION OF WATER FOR STOCK WATERING
OR WILDLIFE PURPOSES**

(1) Name of Claimant M.L. Investment Company
HC 85, Box 275 of Grandview
 Street and No. or P.O. Box No. City or town
Idaho 83604
 State and Zip code No.

Source of water Willis Creek (Tributaries Ramsey Draw, Black Canyon and Branch of Rain Creek)
 Name of natural water source.

Unnamed Springs #7, #8, #9, #10, #11, #12, #13, #14, and Moonshine Spring and tributaries

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

(4) The water is diverted at the following point(s) (Map 1) (Ramsey Draw) NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 12,
 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.

T. 47 N., R. 53 E., MDM (unsurveyed) at a point from which the North quarter corner of Section
 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.

11, T. 47 N., R. 53 E., MDM, bears S. 89°33' W., 4,900 feet, and also the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 11,

T. 47 N., R. 53 E., MDM (unsurveyed), at a point from which the North quarter corner of said

Section 11, bears S. 89°38' W., 2,386 feet, and also the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 11, T. 47 N., R. 53 E.,

MDM (unsurveyed), at a point from which the North quarter corner of said Section 11, bears

N. 73°44' W., 865 feet and also the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 11, T. 47 N., R. 53 E., MDM (unsurveyed)

at a point from which the North quarter corner of said Section 11, bears N. 00°58' W., 1,797 feet,

and also NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 12, T. 47 N., R. 53 E., MDM (unsurveyed), at a point from which the

South quarter corner of Section 14, T. 47 N., R. 53 E., MDM, bears S. 26°23' W., 7,475 feet, and

also the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 12, T. 47 N., R. 53 E., MDM (unsurveyed), at a point from which the

South quarter corner of Section 14, T. 47 N., R. 53 E., MDM _____, bears S. 42°43' W.,

7,926 feet, and also the NW¼SW¼ Section 7, T. 47 N., R. 54 E., MDM (unsurveyed), at a point from which the South quarter corner of Section 14, T. 47 N., R. 53 E., MDM, bears S. 71°27' W., 9,543 feet which all the above listed points follow the natural channel to a point where it joins Willis Creek within H.E.S. #134 (NW¼SW¼) of Section 18, T. 47 N., R. 54 E., MDM (unsurveyed), at a point from which the North quarter corner of Section 23, T. 47 N., R. 53 E., MDM, bears N. 79°30' W., 8,507 feet.

(Black Canyon) (Map 1) - NW¼SE¼ Section 11, T. 47 N., R. 53 E., MDM (unsurveyed), at a point from which the South quarter corner of Section 14, T. 47 N., R. 53 E., MDM, bears S. 00°49' W., 7,197 feet, and also the SW¼SE¼ Section 11, T. 47 N., R. 53 E., MDM (unsurveyed), at a point from which the South quarter corner of Section 14, T. 47 N., R. 53 E., MDM, bears S. 08°07' W., 6,451 feet and also the SW¼SE¼ Section 14, T. 47 N., R. 53 E., MDM (unsurveyed), at a point from which the South quarter corner of said Section 14, bears S. 01°55' W., 1,302 feet and also the NW¼NE¼ Section 23, T. 47 N., R. 53 E., MDM (unsurveyed), at a point from which the North quarter corner of said Section 23 bears N. 33°49' W., 422 feet, and also the NE¼NE¼ Section 23, T. 47 N., R. 53 E., MDM (unsurveyed), at a point from which the North quarter corner of said Section 23, bears N. 70°11' W., 2,247 feet, which all the above listed points follow the natural channel to a point where it joins Willis Creeks within H.E.S. #134 of Section 24, T. 47 N., R. 53 E., MDM (unsurveyed), at a point from which the North quarter corner of Section 23, T. 47 N., R. 53 E., MDM, bears N. 77°54' W., 5,834 feet.

(Branch of Rain Creek) (Page 2) - NE¼SE¼ Section 36, T. 47 N., R. 53 E., MDM (unsurveyed), at a point from which the North quarter corner of Section 35, T. 47 N., R. 53 E., MDM, bears N. 67°59' W., 8,091 feet, which follows the natural channel to a point in the SE¼NW¼ Section 30, T. 47 N., R. 54 E., MDM (unsurveyed), from which the North quarter corner of Section 35, T. 47 N., R. 53 E., MDM, bears N. 85°00' W., 10,202 feet.

(Willis Creek) (Page 2) - SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 36, T. 47 N., R. 53 E., MDM (unsurveyed), at a point from which the North quarter corner of Section 35, T. 47 N., R. 53 E., MDM, bears N. 62°24' W., 5,613 feet and also the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 36, T. 47 N., R. 53 E., MDM (unsurveyed), at a point from which the North quarter corner of Section 35, T. 47 N., R. 53 E., MDM, bears N. 81°57' W., 7,077 feet and also the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 30, T. 47 N., R. 54 E., MDM (unsurveyed), at a point from which the South quarter corner of Section 26, T. 47 N., R. 53 E., MDM, bears S. 83°15' W., 9,228 feet and also the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 19, T. 47 N., R. 54 E., MDM (unsurveyed), at a point from which the South quarter corner of Section 26, T. 47 N., R. 53 E., MDM, bears S. 70°37' W., 10,552 feet and also the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 26, T. 47 N., R. 53 E., MDM (unsurveyed), at a point from which the South quarter corner of said Section 26, bears S. 00°15' W., 4,508 feet and also the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 26, T. 47 N., R. 53 E., MDM (unsurveyed), at a point from which the south quarter corner of said Section 26, bears S. 00°26' W., 2,484 feet and also the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 26, T. 47 N., R. 53 E., MDM (unsurveyed), at a point from which the South quarter corner of said Section 26 bears S. 70°58' W., 451 feet and also the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 25, T. 47 N., R. 53 E., MDM (unsurveyed), at a point from which the South quarter corner of Section 26, T. 47 N., R. 53 E., MDM, bears S. 64°54' W., 5,463 feet and also the (Map 1) SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 19, T. 47 N., R. 54 E., MDM (unsurveyed), at a point from which the North quarter corner of Section 23, T. 47 N., R. 53 E., MDM, bears N. 58°17' W., 10,311 feet and also the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 19, T. 47 N., R. 54 E., MDM (unsurveyed), at a point from which the North quarter corner of Section 23, T. 47 N., R. 53 E., MDM, bears N. 62°07' W., 10,343 feet, and also the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 24, T. 47 N., R. 53 E., (unsurveyed), at a point from which the North quarter corner of Section 23, T. 47 N., R. 53 E., MDM, bears N. 36°25' W., 6,189 feet and also the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 24, T. 47 N., R. 53 E., MDM (unsurveyed), at a point from which the North quarter corner of Section 23, T. 47 N., R. 53 E., MDM, bears N. 40°36' W., 5,067 feet; and also the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 7,

T. 47 N., R. 54 E., MDM (unsurveyed), at a point from which the South quarter corner of Section 14, T. 47 N., R. 53 E., MDM, bears S. 81°27' W., 10,426 feet, which all the above listed points follow the natural channels to a point within H.E.S. #110 of Section 18, T. 47 N., R. 54 E., MDM (unsurveyed), from which the North quarter corner of Section 23, T. 47 N., R. 53 E., MDM, bears N. 85°52' W., 12,818 feet.

Moonshine Spring (Map 2) - NW¼NW¼ Section 31, T. 47 N., R. 54 E., MDM (unsurveyed), at a point from which the North quarter corner of Section 35, T. 47 N., R. 53 E., MDM, bears N. 62°14' W., 9,145 feet.

Unnamed Spring #7 (Map 2) - SW¼SE¼ Section 26, T. 47 N., R. 53 E., MDM (unsurveyed), at a point from which the South quarter corner of said Section 26, bears S. 70°58' W., 451 feet.

Unnamed Spring #8 (Map 2) - NW¼NW¼ Section 30, T. 47 N., R. 54 E., MDM (unsurveyed), at a point from which the South quarter corner of Section 26, T. 47 N., R. 53 E., MDM, bears S. 82°11' W., 8,234 feet.

Unnamed Spring #9 (Map 2) - SE¼SW¼ Section 19, T. 47 N., R. 54 E., MDM (unsurveyed), at a point from which the South quarter corner of Section 26, T. 47 N., R. 53 E., MDM, bears S. 78°17' W., 10,471 feet.

Unnamed Spring #10 (Map 2) - H.E.S. #134 within Section 25, T. 47 N., R. 53 E., MDM (unsurveyed), at a point from which the South quarter corner of Section 26, T. 47 N., R. 53 E., MDM, bears S. 51°41' W., 7,082 feet.

Unnamed Spring #11 (Map 1) - SW¼SE¼ Section 18, T. 47 N., R. 54 E., MDM (unsurveyed), at a point from which the North quarter corner of Section 23, T. 47 N., R. 53 E., MDM, bears N. 70°21' W., 11,449 feet.

Unnamed Spring #12 (Map 1) - H.E.S. #134 within Section 24, T. 47 N., R. 53 E., MDM (unsurveyed), at a point from which the North quarter corner of Section 23, T. 47 N., R. 53 E.,

MDM, bears N. 77°54' W., 5,834 feet.

Unnamed Spring #13 (Map 1) - SE¼SE¼ Section 14, T. 47 N., R. 53 E., MDM (unsurveyed), at a point from which the South quarter corner of said Section 14, bears S. 63°49' W., 2,537 feet.

Unnamed Spring #14 (Map 1) - NE¼NE¼ Section 13, T. 47 N., R. 53 E., MDM (unsurveyed), at a point from which the South quarter corner of Section 14, T. 47 N., R. 53 E., MDM, bears S. 58°22' W., 8,312 feet.

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

The construction of the ditch or other works was begun None Date _____
and completed _____ 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 Deeded and Public domain with grazing permit.
Patented, deeded, public domain with grazing permit, etc.

(Map 1) NE¼, NW¼SE¼ and the S½SE¼ of Section 11; NW¼, W½SW¼, W½SE¼, SE¼SE¼, a portion of the NE¼SE¼, SW¼NE¼ and a portion of the NW¼NE¼ of Section 12; N½, NE¼SE¼ and the SW¼SW¼ of Section 13; E½ of Section 14; N½NE¼ of Section 23; N½NW¼, a portion of the SE¼NW¼, SW¼, a portion of the W½SE¼ and H.E.S. #134 of Section 24; all within T. 47 N., R. 53 E., MDM (unsurveyed) (Map 1) NW¼SW¼, S½SW¼ and a portion of the SW¼SE¼ of Section 7; W½NW¼, H.E.S. #110, and a portion of H.E.S. #134, SE¼SW¼, a portion of the SW¼SE¼ and a portion of the NW¼SE¼ of Section 18; N½NW¼ and a portion of the NW¼NE¼ of Section 19; all within T. 47 N., R. 54 E., MDM (unsurveyed). (Map 2) S½NW¼, W½SW¼ and a portion of the NE¼SW¼ of Section 19; NW¼NW¼, a portion of the SE¼NW¼, W½SW¼ and a portion of the NE¼SW¼ of Section 30; a portion of the NW¼NW¼ of Section 31; all within T. 47 N., R. 54 E., MDM (unsurveyed). (Map 2) A portion of H.E.S. #134, NE¼, NE¼SE¼, S½SE¼, SW¼SW¼, N½SW¼, S½NW¼ and the NE¼NW¼ of Section 25; NW¼NE¼, S½NE¼ and the SE¼ of Section 26; NW¼NW¼, S½NW¼, N½NE¼ and the E½SE¼

of Section 36; all within T. 47 N., R. 53 E., MDM (unsurveyed).

Moonshine Spring (Map 2) - NW¼NW¼ Section 31, T. 47 N., R. 54 E., MDM (unsurveyed).

Unnamed Spring #7 (Map 2) - SW¼SE¼ Section 26, T. 47 N., R. 54 E., MDM (unsurveyed).

Unnamed Spring #8 (Map 2) - NW¼NW¼ Section 30, T. 47 N., R. 54 E., MDM (unsurveyed).

Unnamed Spring #9 (Map 2) - SE¼SW¼ Section 19, T. 47 N., R. 54 E., MDM (unsurveyed).

Unnamed Spring #10 (Map 2) - H.E.S. #134 within Section 25, T. 47 N., R. 53 E., MDM (unsurveyed).

Unnamed Spring #11 (Map 1) - SW¼SE¼ Section 18, T. 47 N., R. 54 E., MDM (unsurveyed).

Unnamed Spring #12 (Map 1) - H.E.S. #134 within Section 24, T. 47 N., R. 53 E., MDM (unsurveyed).

Unnamed Spring #13 (Map 1) - SE¼SE¼ Section 14, T. 47 N., R. 53 E., MDM (unsurveyed).

Unnamed Spring #14 (Map 1) - NE¼NE¼ Section 13, T. 47 N., R. 53 E., MDM (unsurveyed).

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

The approximate number of animals watered by the claimant during the first year prior to 1905, was 845 cattle _____ horses _____ sheep or wildlife (describe) _____ Date _____ Other _____

The watering was conducted during each of the following months _____
June 15th thru September 30th

The Bruneau Sheep Company was formed by H.J. Jones and F.S. Gedney, as evidenced by deed dated May 13, 1915 and recorded in Book 35 of Deeds at Page 338, Elko County, Nevada. In tracing the operation back to an earlier date, the tax assessment rolls of Elko County reveal that in 1907, H.J. Jones was assessed for 5,000 sheep. Those same records for the year 1905 show an assessment to J.S. Martin, together with 3,000 sheep.

In an attempt to verify the numbers shown above, records of the Humboldt National Forest were reviewed. The Forest headquarters maintained a short record on a card form entitled, "Paid Permit Card Record". A review of these records reveals that no grazing records are available for that area until 1912, at which time the use paid was for 7,500 sheep for the period of June 15 to October 15, which as increased to 10,000 sheep in 1913. This number is corroborated in a Chattel

06692

Mortgage executed by F.S. Gedney and H.J. Jones to Manuel J. Triguero dated March 29, 1911 and recorded in Book 5 of Chattel Mortgages at Page 575, listing as security 7,210 sheep located in Northern Elko County and Southern Idaho.

The publication entitled Nevada's Northeast Frontier, by Patterson, Ulph & Goodwain (Page 331), reports that in the 1940's, this company purchased a portion of the Burr Stewart operation at Yankeeville Summit, and bands summered there.

It is determined that Manuel J. Triguero was a predecessor of Bruneau Sheep Company, as evidenced in a deed executed in 1911. M.J. Triguero sold certain described lands to W.A. Mears, who in turn conveyed to F.S. Gedney. By deed described above, F.S. Gedney conveyed those to Bruneau Sheep Company. As to numbers and priority, the earliest evidence of M.J. Triguero is found by a Chattel Mortgage executed by him to W.T. Smith Company, dated September 12, 1901 and recorded in the Elko County Recorder's office. The security was 2,500 sheep grazed in the Gold Creek-Mountain City area for the better part of the year, and in Idaho in the Winter.

The number of sheep grazed is corroborated in the 1904 Tax Roll of Elko County, Nevada, which assesses him for 2,500 sheep.

From the above, it appears that the Bruneau Sheep Company was primarily formed from the Triguero operation and the Martin operation, with Triguero having a priority of at least 1901 for 2,501 sheep, and Martin a priority of 1904 for 3,000 sheep. As is noted, the company probably acquired some R.B. Stewart priority. However, as the Forest Service permits were supposedly based on numbers run prior to the establishment of the Forest Reserve, a total use of 7,500 sheep as shown in the 1912 permit seems appropriate.

There were other permittees in the area who were predecessors of the Simplot operation. They are:

R.B. Stewart - Licensed in 1918 for 6,632 sheep in Telephone Spring and Jungle Creek areas June 16 to October 15. This is believed to be those sheep which were actually operated with John H. Carter. An indication of the numbers run are given in a Chattel Mortgage dated October 31, 1910, executed by R.B. and Lillian Stewart and John H. and Pearl H. Carter to Henderson Banking Company, recorded in Book 5 of Chattel Mortgages at Page 314, Elko County, giving as security 12,000 sheep. Pursuant to the Act of 1925 (N.R.S. 533.495) a number of range claim maps were filed with the State Water Engineer. The J.H. Carter Estate filed such a map (Map 623-24) and in this showed their area of use to be within T. 42 through 47 N., R. 53 through 56 E., MDM.

William F. Ross - There is considerable evidence of extensive sheep use in the area. For example, the Nevada's Northeast Frontier refers to Hurby & Patterson, who conveyed to W.F. Ross. A conveyance dated November 5, 1894 and recorded in Book 23 of Deeds at Page 69, conveys from the heirs of William F. Ross to W.F. Ross Company, property in Mountain City and a livestock operation consisting of 510 cattle and 22,820 sheep. These livestock apparently ran a portion of the time in the Mountain City-Gold Creek-Jarbidge area. However, no chain of title past W.F. Ross Company is found.

Within the U.S. Forest, the applicant is claiming a right prior to January 1, 1905, based on the premise that any present permittee upon the U.S. Forest must be successor in interest to persons

making use upon forest lands at the time of withdrawal of said lands, which was in 1905; claimant is that successor in interest. This is confirmed by the U.S. Forest Service in a protest in 1939 (copy of Protest attached).

Enclosed is an affidavit from William I. Tindall.

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

845 cattle (cow/calf) 1690

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.

(See Remarks)

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

0.0519 cubic feet per second.

448.83 gallons per minute equals 1 cubic foot per second.

(12) The works are located at None

Describe as being within a 40-acre subdivision, section, township and range of public survey. If on unsurveyed

land, it should be stated.

Remarks Use Map 2

The 1690 cows and calves listed in this proof are the same as listed in the proofs filed under Slaughterhouse Creek, Miller Creek, Cow Creek, and Browns Gulch.

The range user is M.L. Investment Company. The fee land within the range area is in the name of Simplot Livestock Company. M.L. Investment Company is a wholly owned subsidiary company of Simplot Livestock Company.

The undersigned, being first duly sworn, deposes and says that the facts relative to the appropriation of water by M.L. Investment Company

are full and correct to the best of his knowledge and belief.

The undersigned deponent is acting as Agent for the claimant

If proof is not made by claimant, deponent should state on this line by virtue of what authority he represents the claimant.

M.L. Investment company

Claimant

Telephone No. (208) 834-2231

By William A. Probit

421 Court Street

Street and No., or P.O. Box No.

Elko, Nevada 89801

City, State, Zip Code No.

Telephone No. (702) 738-2121

Subscribed and sworn to before me this 13 day of June, 1994.

Coralee Griswold

Notary Public in and for the County of Elko

My commission expires July 12, 1994

\$50 FILING FEE MUST ACCOMPANY PROOF

