Serial No. 06694

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 Cow Creek, Unnamed Spring #6 and tributaries
Name of natural water source.

(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 2) NW¼NE¼ Section 2, T. 46 N., R. 53 E.,
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.

MDM, (unsurveyed) at a point from which the NW corner of said Section 2, bears N. 84°53' W.,
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.

3,919 feet, which follows the natural channel to a point in the NW¼NE¼ Section 11, T. 46 N., R. 53 E., MDM (unsurveyed) from which the NW corner of Section 2, T. 46 N., R. 53 E., MDM, bears N. 25°38' W., 6,078 feet, and in the NW¼NW¼ Section 1, T. 46 N., R. 53 E., MDM (unsurveyed), at a point from which the NW corner of Section 2, T. 46 N., R. 53 E., MDM, bears N. 85°47' W., 6,323 feet and also the NW¼SE¼ Section 1, T. 46 N., R. 53 E., MDM (unsurveyed), at a point from which the NW corner of Section 2, T. 46 N., R. 53 E., MDM, bears N. 65°33' W., 8,800 feet which the above two listed points follow the natural channel to a point in the NW¼NE¼ of Section 11, T. 46 N., R. 53 E., MDM (unsurveyed) from which the NW corner of Section 2, T. 46 N., R. 53 E., MDM, bears N. 23°15' W., 6,647 feet.

Unnamed Spring #6 (Map 2) - NW¼SE¼ Section 1, T. 46 N., R. 53 E., MDM (unsurveyed), at a point from which the NW corner of Section 2, T. 46 N., R. 53 E., MDM, bears N. 65°33' W.,

EL
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8,800 feet.

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

(6) 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 Public domain with grazing permit.
Patented, deeded, public domain with grazing permit, etc.
(Map 2) NW¼SE¼ , N½SW¼, S½NW¼ and the NW¼NW¼ of Section 1; E½ of Section 2; N½NE¼ of Section 11; all within T. 46 N., R. 53 E., MDM (unsurveyed).
Unnamed Spring #6 (Map 2) - NW¼SE¼ of Section 1, T. 46 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).

(9) The approximate number of animals watered by the claimant during the first year prior to 1905,
Date
was 845 cattle_____horses_____sheep or wildlife (describe)_____.
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 Mortgage executed by F.S. Gedney and H.J. Jones to Manuel J. Triguerio 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. Triguerio was a predecessor of Bruneau Sheep Company, as evidenced in a deed executed in 1911. M.J. Triguerio 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. Triguerio 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 Triguerio operation and the Martin operation, with Triguerio 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.
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> 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, Willis Creek, Miller 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

06694

By William A. Pickett

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, 19 94.

Coralee Griswold

Notary Public in and for the County of Elko

My commission expires July 12, 1994

$50 FILING FEE MUST ACCOMPANY PROOF

CORALEE GRISWOLD
NOTARY PUBLIC • STATE of NEVADA
Elko County • Nevada
APPT. EXP. JUL-12-94