Serial No 06706

STATE OF NEVADA

PROOF OF APPROPRIATION OF WATER FOR STOCK WATERING OR WILDLIFE PURPOSES

(1) Name of Claimant TM Ranch Company

HC 85, Box 275 of Grandview
Street and No. or P.O. Box No. City or town

Idaho 83624
State and Zip code No.

(2) Source of water Pole Creek, Unnamed Springs #5, #6, #7, #8, #9, #25, 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 18, T. 47 N., R. 54½ 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 SE corner of Section 35, T. 16 S., R. 5 E., BM
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.

bears N. 05°53' E., 10,022 feet and also the SE¼NW¼ Section 18, T. 47 N., R. 55 E., MDM at a point from which the SW corner of Section 36, T. 16 S., R. 5 E., BM bears N. 10°41' W., 11,924 feet, and also the SE¼NW¼ Section 7, T. 47 N., R. 55 E., MDM, at a point from which the SE corner of Section 36, T. 16 S., R. 5 E., BM bears N. 16°00' E., 7,398 feet and also the NW¼NE¼ Section 7, T. 47 N., R. 55 E., MDM, at a point from which the SE corner of Section 36, T. 16 S., R. 5 E., BM, bears N. 06°08' E., 5,864 feet and also the SW¼NW¼ Section 8, T. 47 N., R. 55 E., MDM, at a point from which the SW corner of Section 31, T. 16 S., R. 6 E., BM, bears N. 11°28' W., 6,712 feet and also the SW¼SW¼ Section 5, T. 47 N., R. 55 E., MDM, at a point from which the SW corner of Section 31, T. 16 S., R. 6 E., BM bears N. 30°05 W., 4,176 feet which all the above listed points follow the natural channels to a point in the NW¼NW¼

38

3-38 EL
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Section 5, T. 47 N., R. 55 E., MDM, from which the SW corner of Section 31, T. 16 S., R. 6 E., BM, bears N. 90°00' W., 1,980 feet.

Unnamed Spring #5 (Map 2) - NE¼NE¼ Section 18, T. 47 N., R. 54½ E., MDM (unsurveyed), at a point from which the SW corner of Section 36, T. 16 S., R. 5 E., BM, bears N. 01°45' W., 9,923 feet.

Unnamed Spring #6 (Map 2) - SW¼SE¼ Section 7, T. 47 N., R. 55 E., MDM, at a point from which the SW corner of Section 36, T. 16 S., R. 5 E., BM bears N. 20°18' W., 10,389 feet.

Unnamed Spring #7 (Map 2) - SW¼NW¼ Section 8, T. 47 N., R. 55 E., MDM, at a point from which the SW corner of Section 31, T. 16 S., R. 6 E., BM bears N. 11°28' W., 6,712 feet.

Unnamed Spring #8 (Map 2) - NW¼NE¼ Section 7, T. 47 N., R. 55 E., MDM, at a point from which the SE corner of Section 36, T. 16 S., R. 5 E., BM, bears N. 06°08' E., 5,864 feet.

Unnamed Spring #9 (Map 2) - SW¼SW¼ Section 5, T. 47 N., R. 55 E., MDM, at a point from which the SW corner of Section 31, T. 16 S., R. 6 E., BM, bears N. 30°05' W., 4,176 feet.

Unnamed Spring #25 (Map 2) - NE¼NE¼ Section 7, T. 47 N., R. 55 E., MDM, at a point from which the SW corner of Section 31, T. 16 S., R. 6 E., BM, bears N. 07°39' W., 5,016 feet.

(5) The water is impounded in natural channel and spring area
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.
The place of use is within the (Map 2) SE¼SE¼ of Section 7, N½NE¼ Section 18, all within T. 47 N., R. 54½ E., MDM (unsurveyed), W½W½ Section 5; SE¼NE¼ and the NE¼SE¼ Section 6; NE¼, SE¼NW¼, W½SW¼, SE¼SW¼, and the W½SE¼ Section 7; W½NW¼ Section 8; all within T. 47 N., R. 55 E., MDM.

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Unnamed Spring #5 (Map 2) - NE¼NE¼ Section 18, T. 47 N., R. 54½ E., MDM (unsurveyed).

Unnamed Spring #6 (Map 2) - SW¼SE¼ Section 7, T. 47 N., R. 55 E., MDM.

Unnamed Spring #7 (Map 2) - SW¼NW¼ Section 8, T. 47 N., R. 55 E., MDM.

Unnamed Spring #8 (Map 2) - NW¼NE¼ Section 7, T. 47 N., R. 55 E., MDM

Unnamed Spring #9 (Map 2) - SW¼SW¼ Section 5, T. 47 N., R. 55 E., MDM.

Unnamed Spring #25 (Map 2) - NE¼NE¼ Section 7, T. 47 N., R. 55 E., MDM.

(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 861 cattle_____horses_____sheep or wildlife (describe)_____. (Other)

The watering was conducted during each of the following months_____

June 16th thru November 5th

The original Forest Permittee of Alzola Bros. was George Rizzi. Early permits of George Rizzi are for small numbers. In 1920, being the first permit, the numbers allowed were 25 cattle for the period of June 1 to November 15. By 1924, this had increased to 100 cattle and 15 horses for the period of June 16 to November 15. The Paid Permit Card Record states that in 1926, a purchase was made from H.J. Jones, and this is reflected in the 1927 license by an increase to 200 cattle for the period of June 20 to November 15. By 1929, the license was for 270 cattle June 16 to November 15 in Merritt Creek, and 165 cattle June 2 to October 15 in McDonald Creek.

The 1929 numbers represent purchases made in subsequent years. The purchase by George Rizzi, Jr. from H.J. Jones of 130 cattle branded "TM" was partially evidenced by Bill of Sale dated September 17, 1925 and recorded in Book 2 of Bills of Sale at Page 250. The sale of Frank J. Triguerio to George Rizzi, Jr. was for a one-half (1/2) interest in 325 cattle which ranged in Elko County, Nevada and Owyhee County, Idaho. Grazing use of Frank J. Triguerio is evidenced by 1905 by the "TF" brand registration in 1905, as reported in the publication entitled On the Hoof in Nevada by Velma Stevens Truett. No earlier evidence was found. Based on those records found, there is a priority of 1904, with the numbers being 25 licensed to Rizzi on the first permit, plus 130 head purchased from H.J. Jones, plus 325 head from Triguerio, for a total of 480 head. The Jones livestock have a priority of 1901 (see Bruneau Sheep Company) and the Triguerio cattle a priority of 1904.

There were other permittees in the area who were predecessors of the TM Ranch 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: 861 cattle (cow/calf) 1,722

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 0.0532 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 1,722 cows and calves listed in this proof are the same as listed in the proofs filed under Cat Creek, Little Cat Creek, Cowan Creek, Alder Creek, Little Alder Creek, Hicks Creek, Little Salmon Creek, Mustang Draw, Cottonwood Creek, Salmon Creek, Branches of McDonald Creek, and Corral Spring Creek.

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The TM Ranch 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 TM Ranch 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.

TM Ranch Company
Claimant

Telephone No. (208) 834-2231

By William A. Fisher

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 14 day of October, 19 96.

Coralee Griswold

Notary Public in and for the County of Elko

My commission expires July 12, 1998

$50 FILING FEE MUST ACCOMPANY PROOF

CORALEE GRISWOLD
Notary Public
STATE OF NEVADA
ELKO COUNTY
My Comm. Expires JUL 12, 1998

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TM Ranch Company

Claimant

Telephone No. (208) 834-2231

By William A. Bisbit

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

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