

AMENDED
STATE OF NEVADAPROOF OF APPROPRIATION OF WATER FOR STOCK WATERING
OR WILDLIFE PURPOSES

- (1) Name of Claimant Simplot Livestock 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 Walker Creek, Yankee Bill Gulch, Unnamed Springs #5, #6, #7, #8 and
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 1) (Yankee Bill Gulch) SE $\frac{1}{4}$ 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. 46 N., R. 54 E., MDM, (unsurveyed) at a point from which the USLM, within the NE $\frac{1}{4}$ NE $\frac{1}{4}$
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.
of Section 22, T. 46 N., R. 54 E., MDM (unsurveyed), bears S. 39°04' W., 11,860 feet, and also the
NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 11, T. 46 N., R. 54 E., MDM (unsurveyed), at a point from which the USLM,
within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 22, T. 46 N., R. 54 E., MDM (unsurveyed), bears S. 21°31' W.,
8,982 feet, and also the (Map 1) NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 10, T. 46 N., R. 54 E., MDM (unsurveyed), at
a point from which the USLM, within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 22, T. 46 N., R. 54 E., MDM
(unsurveyed), bears S. 05°01' W., 8,176 feet, and also the (Map 2) NW $\frac{1}{4}$ NW $\frac{1}{4}$ (H.E.S. #69)
Section 12, T. 46 N., R. 54 E., MDM (unsurveyed), at a point from which the USLM #242, within
the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 22, T. 47 N., R. 54 E., MDM (unsurveyed), bears N. 27°18' W., 19,468
feet, which all the above listed points follow the natural channels to a point in the (Map 2)

SE¹/₄SE¹/₄ Section 3, T. 46 N., R. 54 E., MDM (unsurveyed), at a point from which the USLM #242, within the SE¹/₄SW¹/₄ of Section 22, T. 47 N., R. 54 E., MDM (unsurveyed), bears N. 12°47' W., 15,520 feet, at this point Yankee Bill Gulch joins Walker Creek.

Unnamed Spring #6 (Map 2) - NW¹/₄NW¹/₄ (H.E.S. #69) Section 12, T. 46 N., R. 54 E., MDM (unsurveyed), at a point from which the USLM #242, within the SE¹/₄SW¹/₄ of Section 22, T. 47 N., R. 54 E., MDM (unsurveyed) bears N. 27°18' W., 19,468 feet. (Yankee Bill Gulch area)

Unnamed Spring #7 (Map 1) - SW¹/₄NW¹/₄ (H.E.S. #69) Section 12, T. 46 N., R. 54 E., MDM (unsurveyed), at a point from which the USLM, within the NE¹/₄NE¹/₄ of Section 22, T. 46 N., R. 54 E., MDM (unsurveyed), bears S. 32°13' W., 11,650 feet. (Yankee Bill Gulch area).

(Map 2) (Walker Creek) NE¹/₄SW¹/₄ Section 3, T. 46 N., R. 54 E., MDM, (unsurveyed) at a point from which the USLM #242, within the SE¹/₄SW¹/₄ of Section 22, T. 47 N., R. 54 E., MDM (unsurveyed), bears N. 02°19' W., 13,465 feet, and also the NW¹/₄SW¹/₄ Section 3, T. 46 N.,

R. 54 E., MDM (unsurveyed), at a point from which the USLM #242, within the SE¹/₄SW¹/₄ of Section 22, T. 47 N., R. 54 E., MDM (unsurveyed), bears N. 02°48' E., 14,273 feet, and also the NE¹/₄SE¹/₄ Section 4, T. 46 N., R. 54 E., MDM (unsurveyed), at a point from which the USLM

²⁴²~~#242~~, within the SE¹/₄SW¹/₄ of Section 22, T. 47 N., R. 54 E., MDM (unsurveyed), bears N. 09°15' E., 14,230 feet, and also the NE¹/₄NE¹/₄ Section 9, T. 46 N., R. 54 E., MDM (unsurveyed), at a point from which the USLM #242, within the SE¹/₄SW¹/₄ of Section 22,

T. 47 N., R. 54 E., MDM (unsurveyed), bears N. 07°33' E., 16,591 feet, and also the SW¹/₄SW¹/₄ Section 2, T. 47 N., R. 54 E., MDM (unsurveyed), at a point from which the USLM #242, within the SE¹/₄SW¹/₄ of Section 22, T. 47 N., R. 54 E., MDM (unsurveyed), bears N. 15°49' W., 15,364

feet, and also the NW¹/₄NE¹/₄ Section 3, T. 46 N., R. 54 E., MDM (unsurveyed), at a point from which the USLM #242, within the SE¹/₄SW¹/₄ of Section 22, T. 47 N., R. 54 E., MDM (unsurveyed),

Unnamed Spring #6 (Map 2) - NW $\frac{1}{4}$ NW $\frac{1}{4}$ (H.E.S. #69) of Section 12, T. 46 N., R. 54 E., MDM (unsurveyed) (Yankee Bill Gulch area).

Unnamed Spring #7 (Map 1) - SW $\frac{1}{4}$ NW $\frac{1}{4}$ (H.E.S. #69) of Section 12, T. 46 N., R. 54 E., MDM (unsurveyed) (Yankee Bill Gulch area).

(Walker Creek) (Map 2) W $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 35, T. 47 N., R. 54 E., MDM (unsurveyed),

W $\frac{1}{2}$ NW $\frac{1}{4}$ and the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 2; E $\frac{1}{2}$ E $\frac{1}{2}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ and the SW $\frac{1}{4}$ of

Section 3; NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 4; N $\frac{1}{2}$ N $\frac{1}{2}$ of Section 10; NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 9; (Map 1)

SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ and the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 10; a portion of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9;

all within T. 46 N., R. 54 E., MDM (unsurveyed).

Unnamed Spring #8 (Map 1) - SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 10, T. 46 N., R. 54 E., MDM (unsurveyed).

(Walker Creek area)

Unnamed Spring #5 (Map 2) - SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 2, T. 46 N., R. 54 E., MDM (unsurveyed).

(Walker Creek area)

(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,

was 435 cattle _____ horses _____ sheep or wildlife (describe) _____ Date _____

Other _____

The watering was conducted during each of the following months _____

July 5th thru October 4th

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. 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.

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(10) The approximate number of animals watered by the claimant in subsequent years was as follows: 435 cattle (cow/calf) 870
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 0.027 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 Maps 1 and 2

The 870 cows and calves listed in this proof are the same as listed in proofs within Sagehen, Ditch, and Merritt Creeks.

The undersigned, being first duly sworn, deposes and says that the facts relative to the appropriation of water by Simplot Livestock 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.

Simplot Livestock Company
Claimant

Telephone No. (208) 834-2231

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

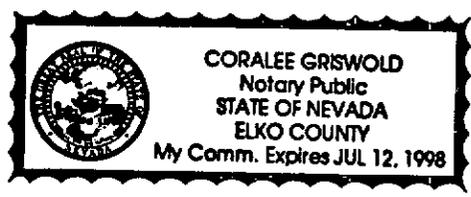
Subscribed and sworn to before me this 5th day of September, 19 96.

Coralee Griswold

Notary Public in and for the County of Elko

My commission expires July 12, 1998

\$50 FILING FEE MUST ACCOMPANY PROOF



ORIGINAL

Serial No 06722

STATE OF NEVADA

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

(1) Name of Claimant Simplot Livestock Company
HC 85, Box 275 of Grandview
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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.

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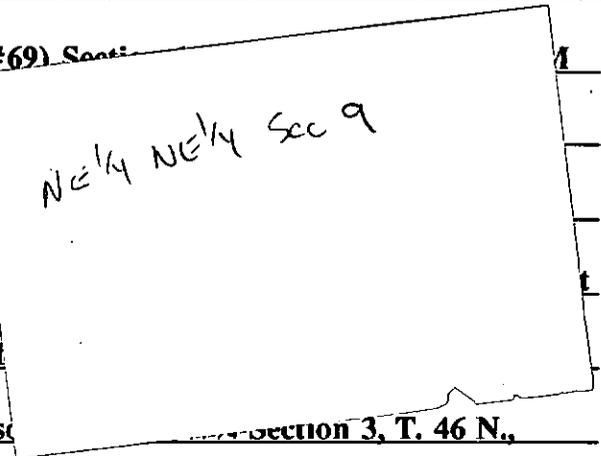
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Claimant

Telephone No. (208) 834-2231

By

William A. Nielson

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

