Filing Serial No. 07060

AMENDED

THE STATE OF NEVADA

PROOF OF APPROPRIATION OF WATER FOR IRRIGATION

Source Bruneau River and Tributaries
Name of natural water source (use separate proofs for each major source)

The water is diverted from its source By ditch system
Name of ditch, flume or pipe line

at the following point(s) See Attached
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

(1) Name of claimant Daniel H. Russell

Address 2991 B Gold Canal Drive, County of Rancho Cordova

State of California Telephone No. (.....)

(2) The means of diversion employed By Ditch System
Dam and ditch, pipe line, flume, etc.

(3) The date of the survey of ditch, canal, or pipe line was

(4) The construction of the ditch or other works was begun Prior to 1905

and completed

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

(6) The conduit has (~~has not~~) been enlarged.
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. Unknown

(9) The claimant is (~~is not~~) an owner in the above-described conduit.

Claimant is the sole owner of the subject property
If claimant is an owner in the conduit, state interest held on this line

(10) The nature of the title to the land for which the water right is claimed is

Fee simple
Fee simple, public domain, etc.

(11) Crops of See Attached
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 See Attached to
Day of month Day of month
of each year.

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

See Attached, ...acres in the.....of Sec....., T....., R.....E.
Year

....., ...acres in the.....of Sec....., T....., R.....E.

....., ...acres in the.....of Sec....., T....., R.....E.

....., ...acres in the.....of Sec....., T....., R.....E.

....., ...acres in the.....of Sec....., T....., R.....E.

....., ...acres in the.....of Sec....., T....., R.....E.

....., ...acres in the.....of Sec....., T....., R.....E.

....., ...acres in the.....of Sec....., T....., R.....E.

....., ...acres in the.....of Sec....., T....., R.....E.

....., ...acres in the.....of Sec....., T....., R.....E.

....., ...acres in the.....of Sec....., T....., R.....E.

....., ...acres in the.....of Sec....., T....., R.....E.

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....., ...acres in the.....of Sec....., T....., R.....E.

....., ...acres in the.....of Sec....., T....., R.....E.

....., ...acres in the.....of Sec....., T....., R.....E.

....., ...acres in the.....of Sec....., T....., R.....E.

....., ...acres in the.....of Sec....., T....., R.....E.

(14) The maximum acreage irrigated in any year was...~~244.22~~ 244.21.....acres.

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

(16) The years during which no water was used for irrigation or during which the full water right was not used were...See Attached.....
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 if necessary

(17) The claimant's water right was (was not) recorded in the office of the County Recorder of Unknown.....County, said record being at page.....of Book.....of .....and being a claim for.....of water for the irrigation of.....acres of land in the following legal subdivisions:.....

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:

Water also used for stockwater and domestic

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

(20) Remarks: See Attached

The undersigned, being first duly sworn, deposes and says that the facts relative to the appropriation of water by Daniel H. Russell are full and correct to the best of his knowledge and belief. Deponent is acting as authorized agent for claimant.

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

Michael T. Russell Trust

5405 Mae Anne Avenue
Reno, Nevada 89523
Telephone No. (702) 747-8550

Subscribed and sworn to before me this 1st day of November, 1995

Lynn E. Walters

Notary Public in and for the County of WASHOE

My commission expires Jan. 12, 1997

LYNN E. WALTERS
Notary Public - State of Nevada
Appointment Recorded in Washoe County
MY APPOINTMENT EXPIRES JAN. 12, 1997

$50 FILING FEE MUST ACCOMPANY PROOF

(Rev. 10-83)

4316

ATTACHMENT

ITEM: POINTS OF DIVERSION, ITEM NO. 11 & ITEM NO. 13

DANIEL H. RUSSELL - PERKINS RANCH - PROOF NO. 07060

SOURCE: BRUNEAU RIVER
POD #1: SW1/4 SE1/4 SECTION 15 T43N,R57E MDM, at a point from which the NE corner of Section 4 T43N,R57E MDM, bears N. 14° 23' 33" W., a distance of 15286.36 feet.

T N	R E	SEC	1/4 1/4	H AC	M AC	DP AC
43	57	10	SW SE	0.04	0	0
43	57	15	NW NE	4.24	0	0
		15	SE NE	1.13	0	0
		15	SW NE	2.59	0	0
		15	NW SE	0.01	0	0

SOURCE: BRUNEAU RIVER
POD #2: NW1/4 SE1/4 SECTION 15 T43N,R57E MDM, at a point from which the NE corner of Section 4 T43N,R57E MDM, bears N. 15° 13' 37" W., a distance of 14623.95 feet.

T N	R E	SEC	1/4 1/4	H AC	M AC	DP AC
43	57	2	SE SW	3.15	0	0
		2	SW SW	8.24	0	0
43	57	10	SE NE	1.16	0	0
		10	NE SE	23.20	0	0
		10	SE SE	40.39	0	0
		10	SW SE	5.28	0	0
43	57	11	NW NW	23.77	0	0
		11	SW NW	12.33	0	0
		11	NW SW	9.65	0	0
		11	SW SW	2.52	0	0

SOURCE: UNNAMED TRIBUTARY TO BRUNEAU RIVER
POD #3: NE1/4 SW1/4 SECTION 10 T43N,R57E MDM, at a point from which the NE corner of Section 4 T43N,R57E MDM, bears N. 15° 26' 50" W., a distance of 9200.84 feet.

T N	R E	SEC	1/4 1/4	H AC	M AC	DP AC
43	57	10	NW SE	12.88	0	0
		10	NE SE	0.35	0	0
		10	SW SE	14.99	0	0
		10	NE SW	0.13	0	0

SOURCE: BRUNEAU RIVER
POD #4: NE1/4 SE1/4 SECTION 10 T43N,R57E MDM, at a point from which the NE corner of Section 4 T43N,R57E MDM, bears N. 24° 19' 09" W., a distance of 10005.64 feet.

T N	R E	SEC	1/4	1/4	H AC	M AC	DP AC
43	57	10	SE	NE	9.48	0	0
		10	NE	SE	14.10	0	0
43	57	11	SW	NW	0.12	0	0

SOURCE: BRUNEAU RIVER
POD #5: NE1/4 SE1/4 SECTION 10 T43N,R57E MDM, at a point from which the NE corner of Section 4 T43N,R57E MDM, bears N. 25° 33' 24" W., a distance of 9478.39 feet.

T N	R E	SEC	1/4	1/4	H AC	M AC	DP AC
43	57	10	SE	NE	2.44	0	0
		10	NE	SE	0.91	0	0

SOURCE: BRUNEAU RIVER
POD #6: SE1/4 NE1/4 SECTION 10 T43N,R57E MDM, at a point from which the NE corner of Section 4 T43N,R57E MDM, bears N. 29° 15' 10" W., a distance of 9116.69 feet.

T N	R E	SEC	1/4	1/4	H AC	M AC	DP AC
43	57	2	SW	SW	12.08	0	0
43	57	10	NE	NE	12.87	0	0
		10	SE	NE	16.12	0	0
43	57	11	NW	NW	8.62	0	0
		11	SW	NW	1.42	0	0

SOURCE: UNNAMED SPRING TRIBUTARY TO BRUNEAU RIVER
POD #7: NE1/4 NW1/4 SECTION 11 T43N,R57E MDM, at a point from which the NE corner of Section 4 T43N,R57E MDM, bears N. 45° 43' 21" W., a distance of 9487.15 feet.

T N	R E	SEC	1/4	1/4	H AC	M AC	DP AC
43	57	11	NW	NW	23.77	0	0

SOURCE: UNNAMED SPRING TRIBUTARY TO BRUNEAU RIVER
POD #8: SE1/4 SW1/4 SECTION 2 T43N,R57E MDM, at a point from which the NE corner of Section 4 T43N,R57E MDM, bears N. 53° 11' 53" W., a distance of 8628.31 feet.

T N	R E	SEC	1/4	1/4	H AC	M AC	DP AC
43	57	2	SE	SW	3.15	0	0
		2	SW	SW	8.24	0	0

ITEM NO. 11 - EXPLANATION OF CROPS IRRIGATED

Cultures being irrigated are defined as follows:

H AC = Harvest land in acres with crops of oats, alfalfa, native and/or domesticated grasses. In some areas, oats and alfalfa have been planted but the predominate plants are grasses. Harvest lands are being irrigated as long as water was available. In less than adequate water years and as water flows declined, Harvest acreage closest to the points of diversion continue to be irrigated.

M AC = Meadow land in acres with crops of native and/or domesticated grasses. The distinction between Meadow and Harvest lands is observed to be defined by the ability of haying equipment to access the parcel. The lack of water way crossings, topography and/or rocky field conditions prevented equipment access. The volume of water utilized for irrigation is the same as Harvest lands. The period of time that Meadow lands are irrigated is the same as Harvest.

DP AC = Diversified Pasture land in acres with crops of native and/or domesticated grasses intermixed with sage brush or other brushes. The volume of water utilized for the diversified pasture irrigation is diverted during runoff periods. These runoff periods are defined as those times when the streams and/or rivers provided more water than needed to irrigate Harvest and Meadow crop lands.

ITEM NO. 12 - IRRIGATION SEASON

The diversion of water for irrigation purposes begins on April 1st and ends on September 15th of each year.

ITEM NO. 16 - NON IRRIGATION OR LESS THAN FULL IRRIGATION YEARS

Surface water flows vary considerably from year to year. During normal or above normal years essentially all of the crop lands are irrigated. The claimant must derive the maximum crop yield to maintain a financial good standing. During less than normal water years, certain inaccessible areages are not irrigated and the water is utilized where it is most prudent and economical.

Water has been used for irrigation, stockwater and domestic purposes for over 100 years. During drought conditions there have been numerous acreages that have not received water or less than their full allotment. The claimant is not able to provide a full detailed explanation of each particular non-irrigated acreages or drought years, at this time.

ITEM NO. 19 - SOIL CHARACTERISTICS, WATER FLOW & DUTY ESTIMATES

The irrigated acreages are normally located along the course of the spring, stream or river supplying the needed water supplies. The soil characteristics along these water courses are normally composed of a thin layer of topsoil over sands and gravels.

An estimate of continuous water flow requirements have not been determined due to the fluctuation in water flow in the spring, stream or river providing water. A measurement and monitoring program will need to be completed before an accurate rate of flow and volume per acre can be determined.

ITEM NO. 20 - REMARKS

The diversion of water for stockwater & domestic purposes begins on January 1st and ends on December 31st of each year.

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ADDENDUM TO
PROOF OF APPROPRIATION OF WATER FOR IRRIGATION
FROM THE SOURCE OF THE BRUNEAU RIVER
BEING PROOF 07060
by DANIEL H. RUSSELL

Bruneau River Ranch, LLC, a Nevada limited liability company as the successor to Daniel H. Russell as evidenced by Reports of Conveyance filed therein submits an amendment to the subject proof as to Items 4, 12 and 13.

The original proof does not specify a date of priority except for "Prior to 1905". This amendment is for the purpose of clarifying and evidencing the claimed priority.

Chas. E. Pearson, a predecessor to the present claimant recorded a ditch location on August 26, 1887 in Book 3 of Miscellaneous Records of page 456, stating a diversion of the waters of the Bruneau River. However, the lands to be irrigated are not described. As the claimant is the sole successor of lands owned of record by Chas Pearson, a priority of 1887 is claimed on all lands in Sections 2 and 11, T43N, R57E, MDB&M.

The Charleston Reservoir located in the NW¼ of Section 36, T43N, R51E, has historically been used to store the waters of the Bruneau River for irrigation of lands downstream.

The year of construction and lands served by those stored waters is uncertain. In an affidavit executed by Frank P. Shively recorded in Book 242 of Official Records at page 532, it is stated that "old timers said Jesson and Pearson built the reservoir in 1894." However the cadastrul survey map on file with the Bureau of Land Management completed in 1897 does not show the reservoir which would have been normal. For that reason, the date of 1894 for construction is in question. However, in 1910 Charles E. Pearson conveys the lands owned by him to Warren W. Williams together with all interest in a reservoir five miles southeasterly of the lands sold being in Sections 2 and 11, T43N, R57E, MDB&M. Edward B. Perrin conveys property now owned by claimant, also together with all interest in a reservoir. It is not until 1949 in a deed executed by Winnie Shively conveying all irrigated lands to S.J. Perkins recorded April 2, 1953 in Book 63 of Deeds at page 89, Elko County, Nevada that further reference is made to the reservoir.

A.J. Chapman, who surveyed the township and established all the section corners from February to August, 1897 reported in his general description of T43N, R57E, MDB&M, in which the irrigated lands are located that "there are settlements and cultivated lands along the bottoms." The plot accompanying that survey clearly notes "MEADOWS". As these meadows crested in 1897, a priority of at least two years prior or 1895 is claimed, except for lands of the claimant for any irrigated within SW¼SW¼ of Section 2 and W½W½ of Section 11, which were owned by

Charles E. Pearson and irrigated under his claim of 1887.

The waters of the Bruneau River which are stored in the Charleston Reservoir would be associated with diversions from the Bruneau River in existence at the time of construction of the reservoir. Therefore, the stored waters would also have a priority of 1895.