

THE STATE OF NEVADA
PROOF OF SUBSISTING RIGHT OF WATER FOR
STOCK WATERING PURPOSES

Pursuant to N.R.S. 533.492

(1) Name of Claimant Slagowski Ranches, Inc. [Street and No. or P. O. Box No.] HC 34, Box 36 of [City or town] Carlin
[State and Zip Code No.] NV 89822

(2) Source of water [Name of natural water source] Maple Creek, its tributaries and springs within its drainage basin

(3) The water is diverted by [Dam, ditch, pipe line, natural channel, spring area, etc.] Natural channels

(4) The water is diverted at the following point(s) [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. 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.]
see attached

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

(6) The construction of the ditch or other works was begun [Date] None and completed [Date] None

(7) The nature of the claimant's title to the land upon which the source of water and place of use are located is [Patented, deeded, public domain with grazing permit, etc.] See attached

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

(9) The items of evidence for the numbers of livestock and date of priority are _____
Affidavit of Walter I. Leberski

(10) The approximate number of animals watered by the claimant during the first year [Date] 1872 was unknown cattle, _____ horses _____ sheep or [Other] _____. The watering was conducted during each of the following months April 1 to December 1.

(11) The approximate number of animals watered by the claimant in subsequent years was as follows: [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] _____
200 cattle before 1905 and each year thereafter (see remarks).

(12) The amount of water which has been necessary to be diverted for this purpose has been [448.83 gal. per min. equals 1 cubic foot per second] 0.0063 cubic feet per second.

(13) The works are located at [Describe as being within a 40-acre subdivision, section, township and range of public survey. If on unsurveyed land, it should be stated.]
None - use the natural channel

See

Remarks (Improvements, title, etc.)

See Attachment

Slagowski Ranches, Inc., a Nevada corporation

CLAIMANT:

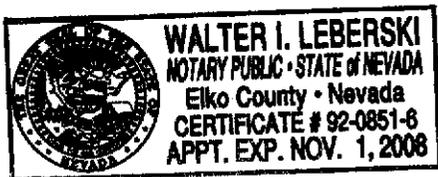
Telephone No.:

By: Carl F. Slagowski
Carl F. Slagowski, President
Telephone No.: 775-754-2377

Subscribed and sworn to before me this

3rd day of May, 2006.

Walter I. Leberski
NOTARY PUBLIC



2006 JUN -5 PM 2:36

Attachment to Proof of Appropriation - Slagowski Ranches, Inc.
Maple Creek
Proof V-09591

Item 4. The water is diverted at the following points:

The water is diverted from the channel in two segments described as follows:

- (a) Beginning at a point within Lot 1 of Section 5, T28N, R53E, MDB&M from which the south one-quarter corner of Section 6, T28N, R53E, MDB&M bears S 55° 33' 50" W, a distance of 9,183.54, thence down the channel to a point in the NE¼ NW¼ of Section 12, T28N, R52E, MDB&M from which the west one-quarter of said Section 12 bears S 40° 03'31" W a distance of 3252.21 feet.
- (b) Beginning at a point within the SE¼ NW¼ of Section 11, T28N, R52E, MDB&M from which the east one-quarter corner of said Section bears S 64° 29' 49" E, a distance of 2,964.01 feet; thence down the channel to a point within the SE¼ SE¼ of Section 9, T28N, R52E, MDB&M at a point from which the SW corner of Section 10 bears S 33° 21' 32" E, a distance of 324.37 feet.

The reach described above is that portion which has surface flow during the grazing season.

Item 7. The nature of the claimant's title to the land upon which the source of water and place of use are located is:

Unfenced private land and public domain upon which the claimant holds a grazing permit described as follows:

Unfenced Private Land

T28N, R52E, MDB&M

Section 9: SE¼ SE¼

Section 10: NW¼ SE¼; NE¼ SW¼; SW¼ SW¼

Public Domain

T28N, R53E, MDB&M

Section 5: Lot 1, S½ N½

Section 6: SE¼ NE¼; N½ SE¼; SW¼ SE¼; Lot 7, SE¼ SW¼

T28N, R52E, MDB&M

Section 1: NE¼ SE¼; S½ SE¼

Section 10: SE¼ SW¼; NE¼ SE¼

Section 11: S½ NW¼; NW¼ SW¼

Section 12: NE¼ NW¼

Attachment to Proof of Appropriation - Slagowski Ranches, Inc.

(Maple Creek)

Remarks:

This claim is associated with two ranch properties, one being known as the Goodfellow or Cross Ranch and the other being known as the Pony Creek Ranch. The Goodfellow Ranch was acquired by Floyd Slagowski, one of the original incorporators of the claimant in 1946 and the corporation acquired the Pony Creek Ranch in 1973. (See chains of title attached to Affidavit of Walter I. Leberski filed herein).

The basis of this claim as to the Cross Ranch is documentation contained in old files of the Bureau of Land Management, copies of which are attached to the Affidavit of Walter I. Leberski.

George Goodfellow stated that he ran upon the range all the cattle that the hay crop would carry in his application for grazing permit dated March 27, 1935. He further states that at that time he owned 1,100 cattle which grazed in Pine Valley. This number of cattle is substantiated in a February 1870 issue of Elko Independent newspaper, which states that the Bradleys, predecessors to the claimant, ran from 1,500 to 2,000 cattle beginning that operation in 1864. These numbers are further substantiated by tax records maintained in the Office of the Eureka County Treasurer as to numbers of livestock assessed to the owner of the ranch property. Paul Lane, a predecessor in interest, was assessed for numbers during the years specified as follows:

<u>Year</u>	<u>Cattle</u>	<u>Horses</u>
1895	725	100
1896	1,000	100
1897	900	100
1898	600	100
1899	600	100

As to priority, George Goodfellow states that the range had been used for 66 years prior to 1935 or starting at 1869 which date is comparable to the newspaper account referred to above.

As to season of use, Goodfellow states it is April 1 to December 1.

This was an area of common use prior to the enactment of the Taylor Grazing Act in 1934 with the Cross Ranch and Pony Creek Ranch both making use of this source. The basis of this claim as applies to use by the Pony Creek Ranch is as follows:

- A. Proof 0124, Certificate No. 162 issued by the State Water Engineer issued to Ferrari Brothers recognizing a vested water right for cultivation on the Pony Creek Parcel presently owned by claimant with a priority of 1870. This would evidence use of the public range associated with irrigated meadows.
- B. Chain of title attached to Affidavit of Walter I. Leberski which shows that Mary

Whalen, James B. Dougherty, Thomas Whalen, Ferrari Brothers and Pete Carletti are predecessors of the claimant.

- C. Copy of Bill of Sale executed by M. Winzell to Bernardo Ferrari and Paullo Ferrari for 280 cattle which had been sold by Mary Whalen and James B. Dougherty to M. Winzell. The Bill of Sale is recorded in Book C of Miscellaneous Records at Page 323, Eureka County, Nevada, on June 6, 1910. As Mary Whalen and James B. Dougherty were owners of the Pony Creek Ranch, this evidences at least 280 head of cattle using the open range in 1906, the date of ownership by James B. Dougherty and Mary Whalen which would also evidence that number prior to 1905 (copy of Bill of Sale attached).
- D. Tax Assessment Roll of the Eureka County Assessor for 1890 assessing a total of 40 head of cattle to Thomas R. Whalen, a predecessor of claimant (copy attached).
- E. The document entitled "Joseph L. Rand Analysis" included in the Affidavit of Walter I. Leberski shows the area of use by the Pony Creek Ranch to be in the area of the source.

From the above, it is evident that Pony Creek Ranch made use of this source for livestock water by 1870, with numbers increasing from at least 40 head of cattle in 1890 to 280 head of cattle prior to 1905.

Grazing licenses issued by the Bureau of Land Management (Grazing Service) show that George Goodfellow (Cross Ranch) had a right to graze 415 head of cattle in the area of the source and Joseph Rand (Pony Creek Ranch) 246 head of cattle for a total of 661 livestock. From that total and from experience in managing livestock in the area, it is the opinion of the claimant that high number of 200 cattle used this source during the grazing season.

For chains of title of the ranch properties, evidence of number of livestock and other references herein, refer to the documents attached.