Serial No. 06717

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
Street and No. or P.O. Box No. City or town

Idaho 83624
State and Zip code No.

Source of water Pixley Creek and tributaries
Name of natural water source.

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

(4) The water is diverted at the following point(s) (Map 1) SE¼NW¼ Section 31, T. 46 N., R. 55 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 Section 6, T. 45 N., R. 55 E., MDM,
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 S. 42°21' W., 5,318 feet and also the NE¼SW¼ Section 31, T. 45 N., R. 54½ E., MDM, (unsurveyed) at a point from which the NE corner of Section 1, T. 45 N., R. 54 E., MDM, bears S. 42°15' E., 1,799 feet and also the SE¼NW¼ Section 31, T. 46 N., R. 54½ E., MDM (unsurveyed), at a point from which the NE corner of Section 1, T. 45 N., R. 54 E., MDM, bears S. 16°59' E., 3,997 feet, and also the NW¼SE¼ Section 36, T. 46 N., R. 54 E., MDM (unsurveyed), at a point from which the NE corner of Section 1, T. 45 N., R. 54 E., MDM, bears S. 72°51' E., 5,290 feet, which all the above listed points follow the natural channels to a point in the SE¼NW¼ Section 36, T. 46 N., R. 54 E., MDM (unsurveyed), from which the NE corner of Section 1, T. 45 N., R. 54 E., MDM, bears S. 61°11' E., 6,429 feet.

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(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 1) SW¼NW¼ and a portion of the SE¼NW¼ of Section 31 T. 46 N., R. 55 E., MDM (unsurveyed), S½NE¼, S½NW¼ and the N½SW¼ of Section 31, T. 46 N., R. 54½ E., MDM (unsurveyed); S½NE¼, N½SE¼ and the SE¼NW¼ of Section 36, T. 46 N., R. 54 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 450 cattle _____ horses _____ sheep or wildlife (describe) _____.
Other

The watering was conducted during each of the following months _____

June 25th thru October 9th

A chain of title of the lands now vested in M.L. Investment Company reveals that the predecessor in interest to this operation was W.T. Jenkins Company.

A protest (copy enclosed) against an application of Afterthought Mines Corporation for allowance of Water Application Nos. 10318 and 10319 by U.S. Department of Agriculture, executed by C.J. Olsen, Acting Regional Forester, dated March 29, 1939, states that prior to and since the reservation of the Forest lands in 1905, W.T. Jenkins Company had grazed 32,400 sheep in the area of T. 45 N., R. 54 and 55 E., for the period of July 1 to October 1. The Paid Permit Card Record, of the U.S. Forest Service, states the same number, but differs as to the season of use, being June 10 to October 15. By 1918, the numbers had decreased to 24,040 sheep. The record for 1918 states that the area of use is Jack Creek, Owyhee River and vicinity, Allegheny Creek, Mill Creek, and Bank Creek.

The area of operation of M.L. Investment Company would represent only a portion of the W.T. Jenkins Company.

A further search for numbers of livestock was also done in order to corroborate Forest Service information or show use prior to 1905.

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The following Chattel Mortgages executed by W.T. Jenkins or W.T. Jenkins Company were found of record in Elko County, Nevada:

1. To First National Bank of Winnemucca on April 22, 1897, listing as security 10,000 sheep, being recorded in Book 3 of Chattel Mortgages at Page 454.

2. To First National Bank of Winnemucca on June 27, 1895, listing as security 18,631 sheep which grazed in Elko, Humboldt and Lander Counties, being recorded in Book 3 of Chattel Mortgages at Page 117. It is assumed that Northern Elko County would have been used by the entire number during summer months.

3. To Jacob Rosenberg on December 3, 1894 for 4,002 weathers and 20,000 fleeces, with the sheep being in Lander and Elko Counties, recorded in Book 3 of Chattel Mortgages at Page 40. It is assumed that the fleeces represent 20,000 head owned.

4. To Frank F. Martin, dated December 6, 1901, listing as security 10,000 sheep in Elko, Humboldt and Lander Counties, recorded in Book 4 of Chattel Mortgages at Page 360.

The variations in numbers illustrate the fluctuations that occurred in this operation, primarily due to economic and weather conditions. History of Nevada by Thomas Wren, published in 1904, Page 564, states that W.T. Jenkins Company owned 22,000 sheep in Elko, Lander and Humboldt Counties.

As the M.L. Investment Company operation is only a part of the pre-1905 W.T. Jenkins operation, it is difficult to establish a priority number. It is suggested that this be done by reviewing the present licensed numbers and increasing those on the proportion that 10,000 sheep (the claimed operation prior to sale) is to 34,000 sheep as set out in the water protest. Priority is basically unrecorded. W.T. Jenkins, by documents of record, is a predecessor of J.A. Blossom in the Battle Mountain area, for which evidence of extensive grazing use if found prior to 1876. The publication entitled Nevada's Northeast Frontier by Patterson, Ulph & Goodwin, Page 339, states that W.T. Jenkins entered the sheep raising business in 1877. From the above, the priority is based upon the dates of the early Chattel Mortgages at 1894.

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.

(10) The approximate number of animals watered by the claimant in subsequent years was as follows: 450 cattle (cow/calf) 900

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

0.0278 cubic feet per second.

448.83 gallons per minute equals 1 cubic foot per second.

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(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 1

The 900 cows and calves listed in this proof are the same as listed within proofs in support of Alleghany Creek, Ross Gulch, Negro George Draw, South Fork of California Creek, North Fork of California Creek, Baker Creek, Dip Creek, and Big Spring Creek.

The range user is Simplot Livestock Company. The fee land within the range area is in the name of M.L. Investment Company, 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 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 Disbot

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