

**AMENDED
STATE OF NEVADA**

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

(1) Name of Claimant Elias Fernando Goicoechea Family Trust Agreement

HC 31, Box 90 of Elko
Street and No. or P.O. Box No. City or town
Nevada 89801
State and Zip code No.

(2) Source of water Allegheny Creek and (Tributary Cold Springs Creek) Six Unnamed Springs
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) Allegheny Creek point of diversion starts
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.

in the NW¹/₄SW¹/₄, Section 23, T. 45 N., R. 54 E., MDM (unsurveyed), at a point from which the
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.

the SW corner of Section 31, T. 45 N., R. 54 E., MDM, bears S. 60°29' W., 25,546 feet with all the

following listed points as tributaries. (Map 2) NE¹/₄SW¹/₄ Section 24, T. 45 N., R. 54 E., MDM

(unsurveyed), at a point from which the SE corner of Section 31, T. 45 N., R. 55 E., MDM, bears

S. 38°54' E., 16,172 feet and also Lot 2, Section 30, T. 45 N., R. 55 E., MDM, at a point from

which the SE corner of Section 31, T. 45 N., R. 55 E., MDM, bears S. 22°42' E., 11,326 feet and

also Lot 9, Section 30, T. 45 N., R. 55 E., MDM, at a point from which the SE corner of Section

31, T. 45 N., R. 55 E., MDM, bears S. 37°31' E., 8,904 feet and also Lot 3, Section 31, T. 45 N.,

R. 55 E., MDM, at a point from which the SE corner of said Section 31, bears S. 46°43' E., 7,472

feet and also the NE¹/₄SE¹/₄ Section 35, T. 45 N., R. 54 E., MDM (unsurveyed), at a point from

which the SE corner of Section 31, T. 45 N., R. 55 E., MDM, bears S. 79°44' E., 13,401 feet and

7/22/2011
12:02

also the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 36, T. 45 N., R. 54 E., MDM (unsurveyed), at a point from which the SE corner of Section 31, T. 45 N., R. 55 E., MDM, bears S. 68°40' E., 12,736 feet and also the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 35, T. 45 N., R. 54 E., MDM (unsurveyed), at a point from which the SW corner of Section 31, T. 45 N., R. 54 E., MDM, bears S. 86°09' W., 23,370 feet and also the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 34, T. 45 N., R. 54 E., MDM (unsurveyed), at a point from which the SW corner of Section 31, T. 45 N., R. 54 E., MDM, bears S. 87°29' W., 19,641 feet and also the SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 34, T. 45 N., R. 54 E., MDM (unsurveyed), at a point from which the SW corner of Section 31, T. 45 N., R. 54 E., MDM, bears S. 78°10' W., 18,766 feet and also the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 33, T. 45 N., R. 54 E., MDM (unsurveyed), at a point from which the SW corner of Section 31, T. 45 N., R. 54 E., MDM, bears S. 77°34' W., 15,777 feet and also the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 26, T. 45 N., R. 54 E., MDM (unsurveyed), at a point from which the SE corner of Section 31, T. 45 N., R. 54 E., MDM, bears S. 53°38' E., 16,502 feet and also the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 24, T. 45 N., R. 54 E., MDM (unsurveyed), at a point from which the SE corner of Section 31, T. 45 N., R. 55 E., MDM, bears S. 43°47' E., 16,353 feet, which all the above listed points follow their natural channels to a point in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 28, T. 45 N., R. 54 E., MDM (unsurveyed), from which the SW corner of Section 31, T. 45 N., R. 54 E., MDM, bears S. 59°18' W., 18,350 feet.

Unnamed Spring #1 - Lot 2, Section 25, T. 45 N., R. 54 E., MDM (unsurveyed), at a point from which the SE corner of Section 31, T. 45 N., R. 55 E., MDM, bears S. 39°58' E., 10,962 feet.

Unnamed Spring #2 - NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 36, T. 45 N., R. 54 E., MDM (unsurveyed), at a point from which the SE corner of Section 31, T. 45 N., R. 55 E., MDM, bears S. 68°40' E., 12,736 feet.

Unnamed Spring #3 - NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 36, T. 45 N., R. 54 E., MDM (unsurveyed), at a point from which the SE corner of Section 31, T. 45 N., R. 55 E., MDM, bears S. 70°35' E., 12,813 feet.

Unnamed Spring #4 - NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 34, T. 45 N., R. 54 E., MDM (unsurveyed), at a point

from which the SW corner of Section 31, T. 45 N., R. 54 E., MDM, bears S. 83°29' W., 20,816 feet.

Unnamed Spring #5 - SW¼SW¼ Section 26, T. 45 N., R. 54 E., MDM (unsurveyed), at a point

from which the SW corner of Section 31, T. 45 N., R. 54 E., MDM, bears S. 73°59' W., 22,898 feet.

Unnamed Spring #6 - NW¼SW¼ Section 27, T. 45 N., R. 54 E., MDM (unsurveyed), at a point

from which the SW corner of Section 31, T. 45 N., R. 54 E., MDM, bears S. 64°28' W., 17,608 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.

(Map 2) Lots 4, 9, and portions of Lots 2 and 5 of Section 30; Lot 3 of Section 31; all within
T. 45 N., R. 55 E., MDM; portions of the SW¼, NW¼SE¼ and the E½SE¼ of Section 23; SW¼
of Section 24; Lot 2, SW¼NE¼, NW¼NW¼, W½SE¼ and the SW¼ of Section 25; E½, SW¼SW¼,
N½SW¼, SE¼NW¼, portions of the SW¼NW¼, and a portion of the N½NW¼ of Section 26;
portions of the S½NE¼, portions of the N½SE¼, S½SE¼, W½SW¼, portions of the S½NW¼ and
a portion of the NW¼NW¼ of Section 27; a portion of the NE¼NE¼ and a portion of the
SE¼SE¼ of Section 28; E½NE¼ of Section 33; E½NW¼, NW¼NE¼, SW¼SE¼ and the E½E½
of Section 34; NW¼, NE¼SW¼, NE¼SE¼ and the E½NE¼ of Section 35; NW¼NW¼, NW¼NE¼
and Lot 1 of Section 36; all within T. 45 N., R. 54 E., MDM (unsurveyed).

Unnamed Spring #1 (Map 2) - Lot 2, Section 25, T. 45 N., R. 54 E., MDM (unsurveyed).

Unnamed Spring #2 - NW¼NW¼ Section 36, T. 45 N., R. 54 E., MDM (unsurveyed).

Unnamed Spring #3 - NW¼NW¼ Section 36, T. 45 N., R. 54 E., MDM (unsurveyed).

Unnamed Spring #4 - NE¼SE¼ Section 34, T. 45 N., R. 54 E., MDM (unsurveyed).

Unnamed Spring #5 - SW¼SW¼ Section 26, T. 45 N., R. 54 E., MDM (unsurveyed).

Unnamed Spring #6 - NW¼SW¼ Section 27, T. 45 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,
was 500 cattle _____ horses _____ sheep or wildlife (describe) _____ Date _____
Other _____

The watering was conducted during each of the following months _____
June 15th thru October 15th

A chain of title of the lands now vested in Elias Fernando Goicoechea Family Trust reveals that the predecessor in interest to this operation was W.T. Jenkins Company.

A protest (copy enclosed) against Afterthought Mines Corporation 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 Elias Fernando Goicoechea Family Trust represents only a portion of the W.T. Jenkins Company territory.

"W.T. Jenkins Company, at the turn of the century, ran between 15,000 and 20,000 sheep. The company ran during the summer months in the Independence Mountains and Gold Creek areas. In 1908, the W.T. Jenkins Company, had a forest permit for 27,000 head of sheep in this area." (From Nevada's Northeast Frontier, Page 340, by Edna Patterson, et al).

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

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 wethers 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 Elias Fernando Goicoechea Family Trust 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 32,400 sheep as set out in the water protest. Year of 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 is 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: 500 Cow/Calf 1000
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 0.0309 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 3

The 1,000 cows and calves listed in this proof are the same as listed in the proofs filed under
Owyhee River, Lost Meadows, Hendricks, Machado, and North Wild Horse Creeks.

The undersigned, being first duly sworn, deposes and says that the facts relative to the appropriation of water by Elias Fernando Goicoechea Family Trust Agreement 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.

Elias Fernando Goicoechea Family Trust Agreement
Claimant

Telephone No. (702) 758-6443

By William A. Fribel Agent

421 Court Street
Street and No., or P.O. Box No.

Elko, NV 89801
City, State, Zip Code No.

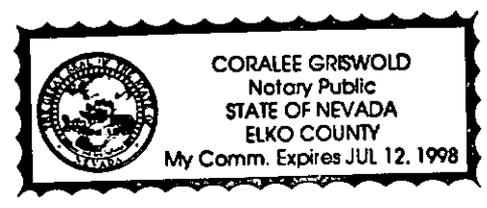
Telephone No. (702) 738-2121

Subscribed and sworn to before me this 2 day of August, 19 94.
Coralee Griswold

Notary Public in and for the County of Elko

My commission expires July 12, 1998

\$50 FILING FEE MUST ACCOMPANY PROOF



FILED
APR 21 1939
STATE ENGINEER'S OFFICE

TO MR. ALFRED MERRITT SMITH
STATE ENGINEER

United States Department of :
Agriculture, Forest Service :

vs. :

Afterthought Mines Corporation :
of Rio Tinto, Elko County, :
Nevada :

PROTEST AGAINST WATER
FILING, STATE ENGINEER'S
OFFICE, APPLICATION
NO'S. 10318 and 10319

The United States Department of Agriculture, Forest Service, protests the allowance and approval of application for .25 of a second foot of water to be diverted from an unnamed spring located in the Northeast Quarter of the Southeast quarter (NE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 12, Township 45 North, Range 54 East, M.D.B. & M., application No. 10318, unsurveyed, and the allowance and approval of application for .25 of a second foot of water to be diverted from an unnamed spring located in unsurveyed Northwest Quarter of the Southeast quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 7, Township 45 North, Range 55 East, M.D. B. & M., Application No. 10319, both applications filed by the Afterthought Mines Corporation of Rio Tinto, Elko County, Nevada.

The United States Department of Agriculture, Forest Service, alleges as follows:

I.

That said springs are entirely on lands belonging to the United States and reserved for national forest purposes in the year 1905.

II.

That prior to and since said reservation the range dependent on said springs for stock watering have been and are now used for that purpose by the W. T. Jenkins Company of Battle Mountain, Nevada, and other users. That in 1911 the W. T. Jenkins Company was issued a permit by the Forest Service to graze on the area dependent on said springs for stock watering and domestic water supply, 32,400 head of sheep, and said company since that time has each year from July 1 to October 1, the grazing season, grazed large numbers of sheep on said area. That the present permitted sheep within said grazing area amounts to 18,084 head.

III.

That the waters of said springs are wholly and entirely within the national forest, and within the grazing area aforesaid and do not flow off said area.

IV.

That the use of the waters of said springs is necessary and appurtenant to the use of the surrounding grazing area.

State Engineer

V.

That the appropriation and use of said waters for other purposes would make valueless and impossible the use of the large surrounding area for grazing.

VI.

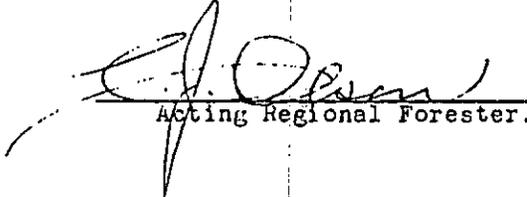
That the appropriation of the said water by said mining company would disrupt the established rights and make large reductions in stock necessary.

VII.

That the continued use of said springs for stock watering purposes is the most beneficial use to which said waters can be put. That the right to said use had been established by long and continuous use prior to the creation of the national forest, and has been continued since that time under Forest Service permit.

The Forest Service, therefore, requests that the State Engineer reject said applications in conformity with Section 2, of Stock Watering Act, Nevada, of April 1, 1925, and other laws.

I, _____ Acting Regional Forester, do certify that the statements herein are true to the best of my knowledge and belief.


Acting Regional Forester.

Subscribed and sworn to before me this 29 day of
March, 1939.

My Commission Expires March 12, 1942

Notary Public

Regional Law Officer.

STATE ENGINEER

94 AUG - 8 A9:44

ORIGINAL
STATE OF NEVADA

PROOF OF APPROPRIATION OF WATER FOR STOCK WATERING
OR WILDLIFE PURPOSES

(1) Name of Claimant Elias Fernando Goicoechea Family Trust Agreement
HC 31, Box 90 of Elko
Street and No. or P.O. Box No. City or town
Nevada 89801
State and Zip code No.

Source of water Allegheny Creek and (Tributary Cold Springs Creek) Six Unnamed Springs
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) _____
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.

(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.

(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 500 cattle _____ horses _____ sheep or wildlife (describe) _____ Date _____
Other _____
The watering was conducted during each of the following months _____
June 15th thru October 15th

(10) The approximate number of animals watered by the claimant in subsequent years was as follows: 500 Cow/Calf 1000
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 0.0309 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 3
The 1,000 cows and calves listed in this proof are the same as listed in the proofs filed under Owyhee River, Lost Meadows, Hendricks, Machado, and North Wild Horse Creeks.

The undersigned, being first duly sworn, deposes and says that the facts relative to the appropriation of water by Elias Fernando Goicoechea, Family Trust Agreement

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.

Elias Fernando Goicoechea, Family Trust Agreement

Claimant

Telephone No. (702) 758-6443

By William A. Probit Agent

421 Court Street

Street and No., or P.O. Box No.

Elko, NV 89801

City, State, Zip Code No.

Telephone No. (702) 738-2121

Subscribed and sworn to before me this 22 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

