Application No. 010322

STATE OF NEVADA

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

(1) Name of claimant Duncan Family 2002 Trust

6500 Old Emigrant Road (Street Address or PO Box) of Lovelock (City or Town)

Nevada 89419 (State and ZIP Code)

(2) Source of water Natchez Spring (see attached map) (Name of natural water source)

(3) The water is diverted by:
Natural Spring and channel. Pipe and metal trough previously used.

Dam, ditch, pipe line, natural channel, spring area, etc.

(4) The water is diverted at the following point(s):
T29N R30E, Section 1, NE1/4 SE1/4, MDM

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.

(5) The water is impounded in a spring box, pipe, water trough and earthen pond (Troughs, tanks, pools, reservoir, natural channel, etc.)

(6) The construction of the ditch or other works was begun Natural spring prior to 1905, and other works beginning in 1962 (Date) and completed Natural spring prior to 1905, and other works in approximately 1962 (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:
The land was grazed by claimant's predecessors when it was part of the public domain. After patent, the land was unfenced railroad property, and then unfenced private property. Claimant's grazing permit surrounds the property on which the spring is located, and their cattle beneficially use the water.

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 1865 (Date) was 100 cattle _____ horses _____ sheep or wildlife (describe) _____

The watering was conducted during each of the following months:
Unknown



78-RE

(10) The approximate number of animals watered by the claimant in subsequent years was as follows:
100 or more head of cattle

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.

(11) The amount of water which has been necessary to be diverted for this purpose has been

0.0031 cubic feet per second.

448.83 gallons per minute equals 1 cubic foot per second

(12) The works are located at:
T29N R30E, Section 1, NE1/4 SE1/4, MDM

Describe as being within a 40-acre subdivision, section, township and range of public survey. If on unsurveyed land, it should be stated.

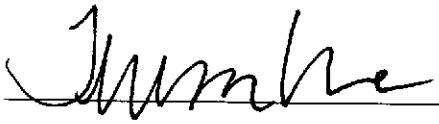
Remarks
See attached Natchez Spring Water Use Summary

RECEIVED
2012 AUG 31 PM 4:51
STATE ENGINEERS OFFICE

The undersigned, being first duly sworn, deposes and says that the facts relative to the appropriation of water by Natchez Spring are full and correct to the best of his/her knowledge and belief.
The proof is signed by Therese A. Ure, attorney for Abigah Duncan and the Duncan Family 2002 Trust, under the clients' instruction and authorization.

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

Duncan Family 2002 Trust
Name of Claimant

By 

Therese A. Ure

440 Marsh Avenue

Reno, NV 89509

Telephone No. (775) 786-8800

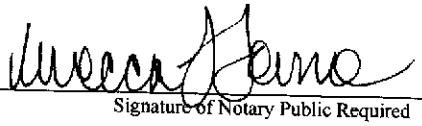
Telephone No. (775) 786-8800

State of Nevada

County of Washoe

Subscribed and sworn to before me on AUGUST 31, 2012

by Therese A. Ure



Signature of Notary Public Required

REBECCA L. SQUIRE
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 06-103880-2 - Expires March 2, 2014

Notary Stamp or Seal Required

Revised 05/12 - POA

**$50 FILING FEE MUST ACCOMPANY PROOF**

Laura A. Schroeder
Licensed in Oregon, Idaho, Nevada and Washington

V. Scott Borison, Ph.D.
Certified Legal Manager

Daryl N. Cole
Office Manager

SCHROEDER
LAW OFFICES, P.C.

Cortney D. Duke
Oregon, Nevada

Sarah R. Liljefelt
Oregon, California

Wyatt E. Rolfe
Oregon, Nevada, Washington

Therese A. Ure
Oregon, Nevada

August 31, 2012

***VIA HAND DELIVERY***

Jason King, State Engineer
Nevada Division of Water Resources
901 South Stewart Street, Suite 2002
Carson City, NV 89701

**RE: Natchez Spring**
**Proof of Appropriation and Supporting Documents**

Dear Mr. King:

Enclosed please find the following documents on behalf of the Duncan Family 2002 Trusts' claim of vested water right on Natchez Spring in Pershing County, Nevada:

1) Proof of Appropriation of Water for Stock Watering or Wildlife Purposes on behalf of the Duncan Family 2002 Trust, with two attachments (map and summary of water use);

2) Affidavit of Water Use by Abigah E. Duncan, with four labeled exhibits; and

3) Affidavit of Identity – Individual, by Dan Duncan.

Also enclosed, please find a check for $50 to cover the filing fee for the Proof of Appropriation. Please contact our office if there are any other fees pending, and we will immediately remit payment to your office.

Please contact our office if you have any questions.

Very truly yours,

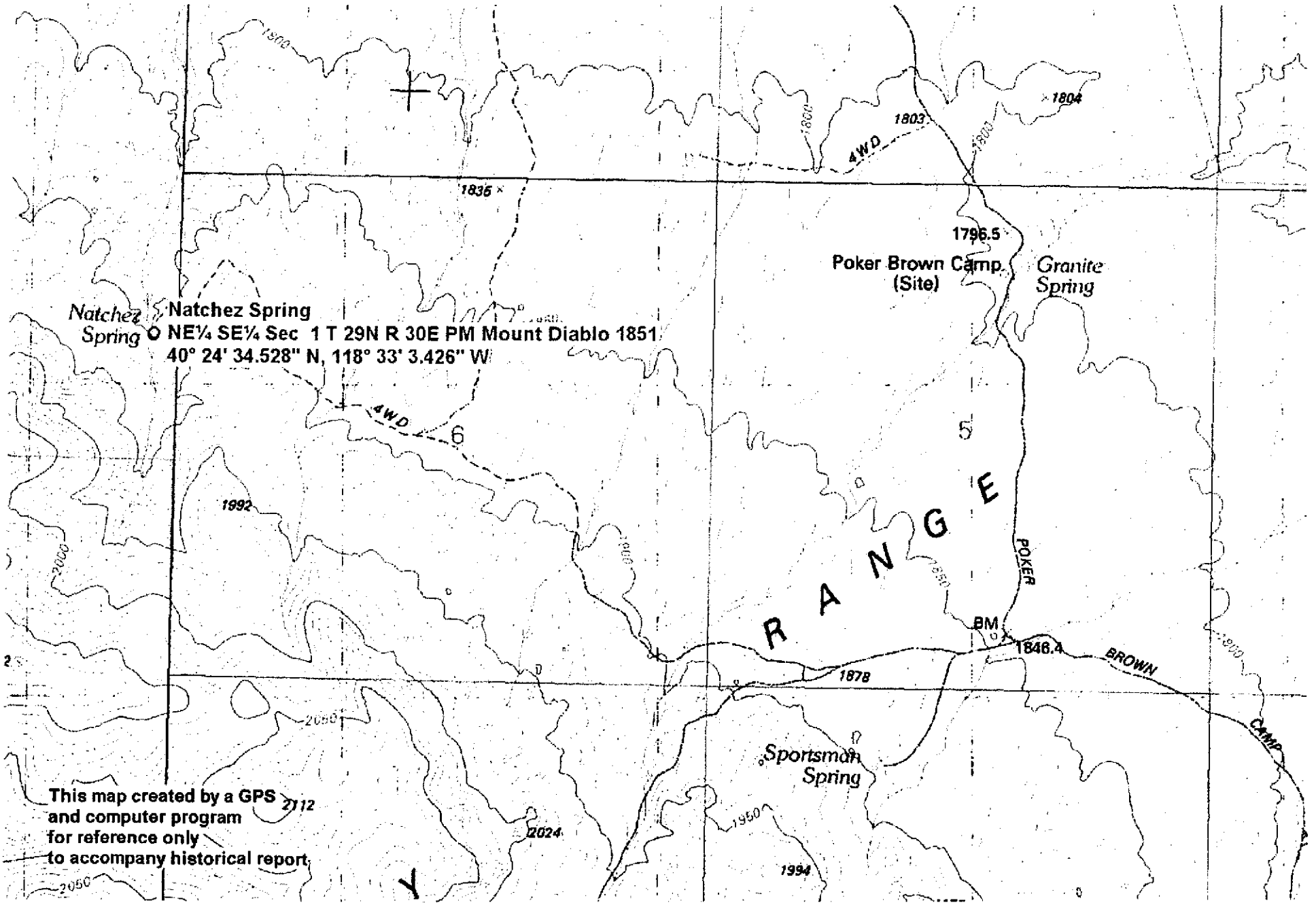
SCHROEDER LAW OFFICES, P.C.

Therese A. Ure

TAU: srl

Enclosures

cc: Clients


Natchez Spring
Natchez Spring
NE¼ SE¼ Sec 1 T 29N R 30E PM Mount Diablo 1851
40° 24' 34.528" N, 118° 33' 3.426" W
1796.5
Poker Brown Camp
(Site)
Granite Spring
4WD
1803
1804
1835
1992
6
5
RANGE
POKER
BROWN
CAMP
BM
1846.4
1878
Sportsman Spring
2112
2024
1994
This map created by a GPS
and computer program
for reference only
to accompany historical report

# NATCHEZ SPRING WATER USE SUMMARY

(Attachment to Proof of Appropriation)

Natchez Spring is located within the Trinity Mountains, and is currently within the boundary of the Coal Canyon-Poker Grazing Allotment, managed by the United States Bureau of Land Management.

Prior to 1865, Joseph B. "Poker" Brown owned several ranches near Lovelock. He grazed his cattle in the Trinity mountains north of Lovelock, and several landmarks in that area are named after him, including Poker Brown Spring, Poker Brown Canyon, Poker Brown Camp, Poker Brown Camp Road, Poker Brown Gap, Poker Peak, and Brown Peak. On March 8, 1873, the news publication *Silver State* reported that Poker Brown was running 100 head of cattle.

One of Poker Brown's ranches was located near the "Junction House," which is still located in Township 28 North, Range 32 East, Section 15 (currently owned by the Duncan Family 2002 Trust). Peter Andrews was living in Sections 15 and 21 prior to June 12, 1880, which is the date he deeded the property to Peter Marker. Andrews and Marker occupied the land prior to the time the United States patented the land to the Central Pacific Railroad Company on June 15, 1886 and August 9, 1897 (Patent Nos. 46 and 76).

The transfer from Andrews to Marker included the cattle range in the Trinity Mountains and water rights and springs in that area, including all ditches, flumes and tunnels to convey the water. Peter Marker and his brother, Hans Marker, formed the H.C. Marker Company. The company grazed cattle in the Trinity Mountains, and there is a spring named after the Marker Family in the Trinity grazing area. It is reported that Marker grazed hundreds of head of cattle, and an 1894 assessment of H.C. Marker & Company shows the Company holding 20 work horses, 200 stock horses, 100 stock cattle, 100 hogs, and ranch property.

Sections 15 and 21 were thereafter transferred from the railroad to several other owners before the acquisition by Bige Duncan in 1950 and the Duncan Family 2002 Trust in 2002. The conveyances transfer the property with water rights, ditch rights, right of ways, and grazing rights.

The Duncan Family also owns property that was once owned by John G. Taylor, including property in Township 28 North, Range 32 East, Sections 2 and 16. In 1886, Taylor purchased the Joseph O'Neal Ranch, which ran 300-700 head of cattle in the Rye Patch area. Taylor amassed additional properties, leased a substantial amount of land, and became the predominant sheep herder in the area. Taylor leased property for grazing that included the land where Natchez Spring is located. In 1893, an assessment showed Taylor running 10,000 sheep, and his grazing area included the Trinity Mountains. Taylor continued ranching in the area into the 1930s.

On May 7, 1923, the United States patented the land on which Natchez Spring is located to the Central Pacific Railway Company (Patent No. 314), and Natchez Spring is now located on unfenced private land. The patent is subject to preemption claims.

A publication, *Lovelock Review Miner*, reported on January 4, 1935 that six springs were developed in the Trinity area due to a county-wide drought relief project. Cattle troughs and reservoirs were constructed.

Bige Duncan and his family acquired Sections 15 and 21 in 1950, as well as substantial other property in the vicinity. Since 1946, the Duncan family continued to graze cattle in the Trinity area, as had their predecessors before them. The Duncan family beneficially uses the water from Natchez Springs for stock watering at least 100 head of cattle. The Duncans grazed in common with other permittees before the current grazing allotments were adjudicated.

After the grazing allotments were adjudicated in the 1960's, the Duncans were granted the Coal Canyon-Poker Allotment under Permit No. 00104. The Permit grants 2587 AUMs annually. The Duncans rotate from the west side of the Allotment one year to the east side the next year. Natchez Spring is located in the west side of the Coal Canyon-Poker Allotment boundary.

In 1962, Bige Duncan entered into a Cooperative Agreement with the United States Department of the Interior to improve Natchez Spring by installing a pipe, spring box, and trough, and by providing labor. The Cooperative Agreement permits Bige to maintain the spring indefinitely, and he has continued to maintain the spring by blowing the pipeline out and patching the trough when needed. The trough holds approximately 1,000 gallons of water, and the Duncans use Natchez Spring to water cattle every other year when they are on the west side of the Coal Canyon-Poker Allotment.

**AFFIDAVIT OF WATER USE**
**BY**
**ABIGAH E. DUNCAN**

**State of Nevada** )
) **ss.**
**County of Pershing** )

I, Abigah Elum Duncan, do hereby swear, under penalty of perjury, that the assertions of this affidavit are true to the best of my knowledge and belief:

1. My name is Abigah Elum Duncan or "Bige," and sometimes referred to as AE Duncan or Abigah Elum Duncan Sr.

2. I am a resident of Pershing County, Nevada. My address is 6500 Old Emigrant Road, Lovelock, NV 89419. My phone number is 775-273-0855.

3. I was born in Duncan, Arizona on February 25, 1920. As of the date of this affidavit I am 92 years old.

4. I make this affidavit in support of claiming a vested water right for stock water on the Coal Canyon-Poker Allotment, USDI, BLM Permit #00104.

Real Property Ownership

5. In 1946 I acquired property in Pershing County, Nevada. Before that time, I lived on a ranch in Kingman, Arizona with my parents Gus and Nora Duncan. In July of 1946, the drought forced us to relocate, so we loaded all of our stock onto railroad cattle cars and I rode the train with the livestock headed north. The stock and I departed the train in Lovelock, Nevada. From there, my parents and I drove (via horseback) our livestock to Kitten Springs. We camped out with the livestock on the Kitten Springs ranch until I purchased the Salinas Ranch in October of 1946.

6. The ranch property I acquired is described as the Salinas Ranch, now known as the Duncan Ranch and is more particularly described as more than 4900 acres located in Pershing County, Nevada; our various parcels are located within T28N R32E, T29N R32E, T29N R33E MDM, and 80 acres in T32N R34E MDM. Our private property is located south of Rye Patch Dam along the Humboldt River in Pershing County. *See* attached maps Exhibit 1.

7. At the time I acquired the property it was understood that I purchased a 485 head permit, including all water, water rights, ditch, ditch rights, range, range rights and grazing permits. I have purchased additional railroad parcels since that time.

8. The Duncan Ranch is currently titled to the Duncan Family 2002 Trust and is operated by Bige, Maxine, Dan, Joan, and Abigah John "AJ" Duncan.

Grazing Use and Grazing Preference

9. As part of my ranching operation, I first began grazing cattle and horses on the Star Peak Allotment in 1946. The Star Peak Allotment was located on the east side of the railroad. There were no fences on the allotments and I grazed our cattle with other permittees on the allotments. In 1954, I sold some of my property in the Star Peak Allotment and moved to the Rochester Allotments.

10. In 1946, the grazing season of use was from November 1st to June 30th. At the end of the grazing season, the cattle were brought to our private ground along the Humboldt River, where they remained from July 1st to October 31st. Each year we repeated this cycle, continuing to turn out the cattle onto the allotment from November to June and bring the cattle to the river from July to October.

11. In 1960, I acquired a railroad lease from Henry Brink on the west side of the railroad in the Poker allotment. Later in the 1960s, I acquired William "Bill" Able's grazing permit on the west side of the railroad in the Poker Allotment. A map and documents from the BLM of the grazing area is attached as Exhibit 2. I continued the November to June grazing pattern from 1946 until 1967 in the Poker Allotment.

12. In 1967 the United States Department of Interior, Bureau of Land Management ("BLM") adjudicated the grazing rights for the Rochester and Poker Allotments. The adjudication was completed in 1971.

13. As a result of the BLM adjudication, the Rochester Allotment and Poker Allotment were fenced and I was issued a grazing permit known as the Coal Canyon Poker Allotment Permit #00104. I relinquished some of my grazing ground in the Rochester Allotment, on the east side of the railroad to the other permittees in exchange for BLM fencing my allotment, as well as to become the sole permittee in the Coal Canyon Poker Allotment. A copy of my grazing permit is attached as Exhibit 3. A map of my grazing allotment is attached as Exhibit 4.

14. My grazing permit authorizes me to run 2587AUMs year around, utilizing different pastures or locations within the allotment at different times of the year. We continue to bring the cattle to our private ground along the Humboldt River from July 16th until October 31st. November 1st we turn the cattle out on our range rotating from the west side of the railroad to the east side of the railroad each year.

15. Since 1946, I have made continuous use of the grazing preferences on the Coal Canyon Poker Allotment.

16. I, or my son, have made continuous use of our grazing preference pursuant to the terms of the grazing permit since 1946 to the present day.

Water Use

17. One of the primary water sources for stock use, which supports my grazing rights under Grazing Permit #00104 on the Coal Canyon Poker Allotment is known as Natchez Spring.

18. Natchez Spring is located in NE1/4SE1/4, Section 1, T29N, R30E, MDM.

19. Stock water from Natchez Spring is diverted from the natural spring at NE1/4SE1/4, Section 1, T29N, R30E, MDM.

20. Water from Natchez Spring is delivered via natural channel and impounded in a tank. The water can then overflow from the tank, returning to the natural channel down the wash.

21. Construction of the new delivery and impoundment structures associated with Natchez began in 1962. Construction of the described works was completed in cooperation with the BLM. This is evidenced in the 1962 BLM Cooperative Agreement between BLM and Abigah Duncan wherein Duncan was to furnish 150' pipe, install spring box, pipe, and provide some labor while BLM was to complete the backhoe work and trench line, furnish barrels for spring box and furnish the trough.

22. Prior to the new delivery and impoundment, water was used by the stock in the natural stream channel. The stock use first began prior to 1864. In that year, J.B. Brown utilized water from then unnamed spring, now Natchez Spring, for watering of his cattle.

23. Since 1962 I, or my son Dan, have made continuous use of water from Natchez Spring for stock water use.

24. Every other year, we use this source of water. Generally up to 100 head of cattle water at this spring.

25. 26. We have used water in this manner from Natchez Spring every other year in conjunction with grazing permit from 1962 to the present day.

26. Every other year we perform routine maintenance on the spring for continued efficient stock water use. The 1962 BLM Cooperative Maintenance Agreement provides an indefinite term for spring maintenance by Duncans.

DATED this 3 day of August, 2012.

Abigah Elum Duncan
Abigah Elum Duncan

SUBSCRIBED AND SWORN to before me by Abigah Elum Duncan this 3rd day of August 2012.

Notary Public - State of Nevada
County of Pershing
LISA BOOTH
My Appointment Expires
March 15, 2013
No: 05-95430-

Lisa Booth
Notary Public for Nevada
My commission expires: 3-15-13

**EXHIBIT 1: DUNCAN PROPERTY (CURRENT)**

| Parcel # | Legal Description |
|---|---|
| 003-421-01 | T28N R32E Sec 3, All |
| 003-421-02 | T28N R32E Sec 2, SW ¼ SW ¼ |
| 003-421-04 | T28N R32E Sec2, SW ¼ SE ¼ |
| 003-421-07 | T28N R32E Sec 2, E ½ NE ¼; NE ¼ SE ¼ |
| 003-421-08 | T28N R32E Sec 1, NW ¼: PTN SW ¼ |
| 003-421-16 | T28N R32E Sec 10, NW ¼; N ½ NE ¼; W ½ SW ¼<br>T29N R32E Sec 15, All |
| 003-431-15 | T28N R32E Sec 16, SE ¼ NE ¼ |
| 003-431-19 | T28N R32E Sec 16, SW ¼ S ½ |
| 003-441-06 | T28N R32E Sec 20, E ½ NE ¼<br>T29N R32E Sec 21, All |
| 003-451-01 | T28N R32E Sec 22, N ½ NW ¼; NW ¼ NE ¼ |
| 003-071-04 | T29N R32E Sec 26, E ½ SE ¼ |
| 003-071-36 | T29N R32E Sec 35, NW ¼: PTN SW ¼ |
| 003-481-01 | T29N R32E Sec 36, W ½ W ½ |
| 011-010-02 | T29N R33E Sec 6, PTN Sec 6 |
| 011-010-26 | T29N R33E Sec 7, E ½; W ½ |
| 011-010-27 | T29N R33E Sec 18, W ½ W ½ |
| 008-220-16 | T32N R34E Sec 28, W ½ NW ¼ |

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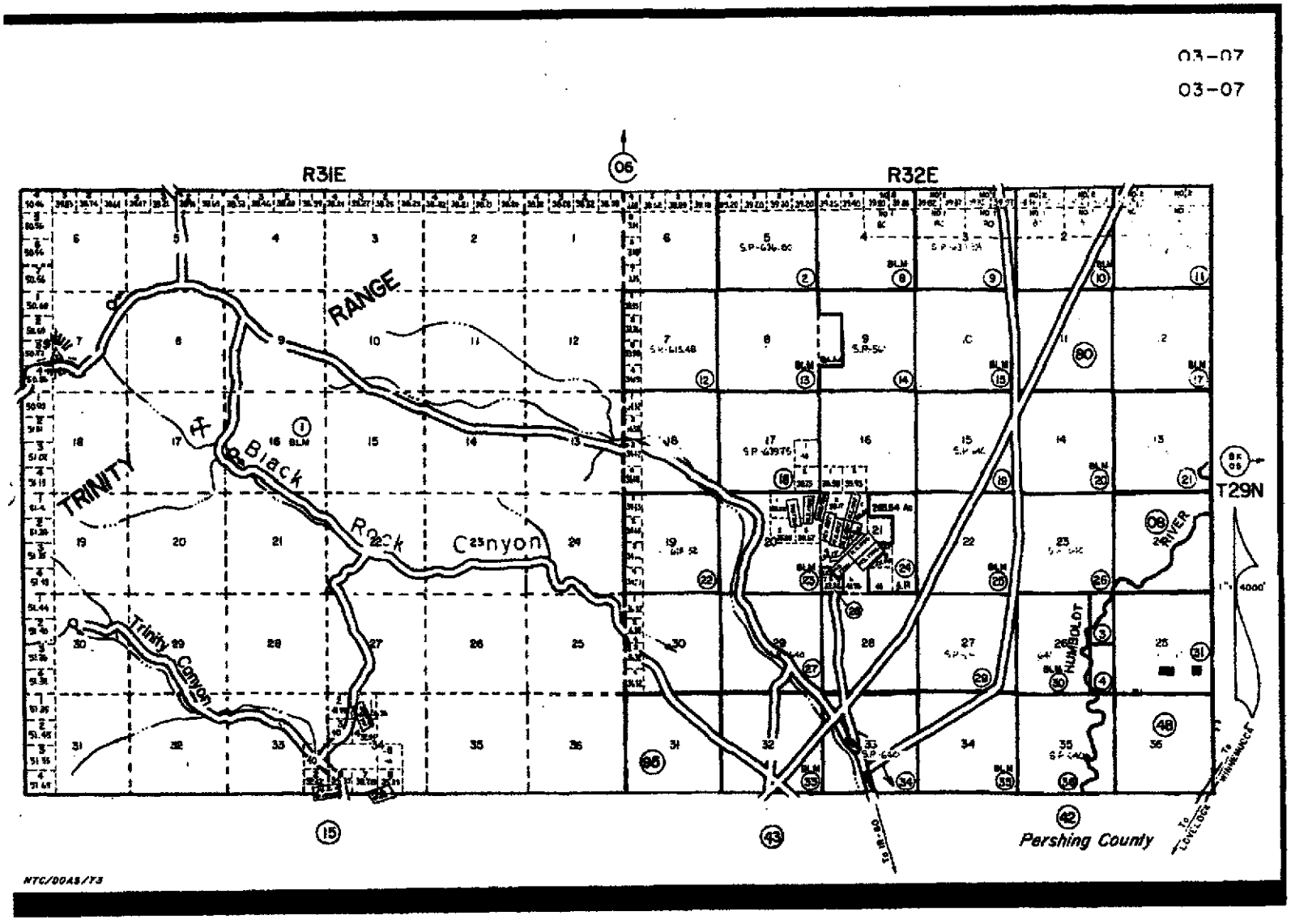

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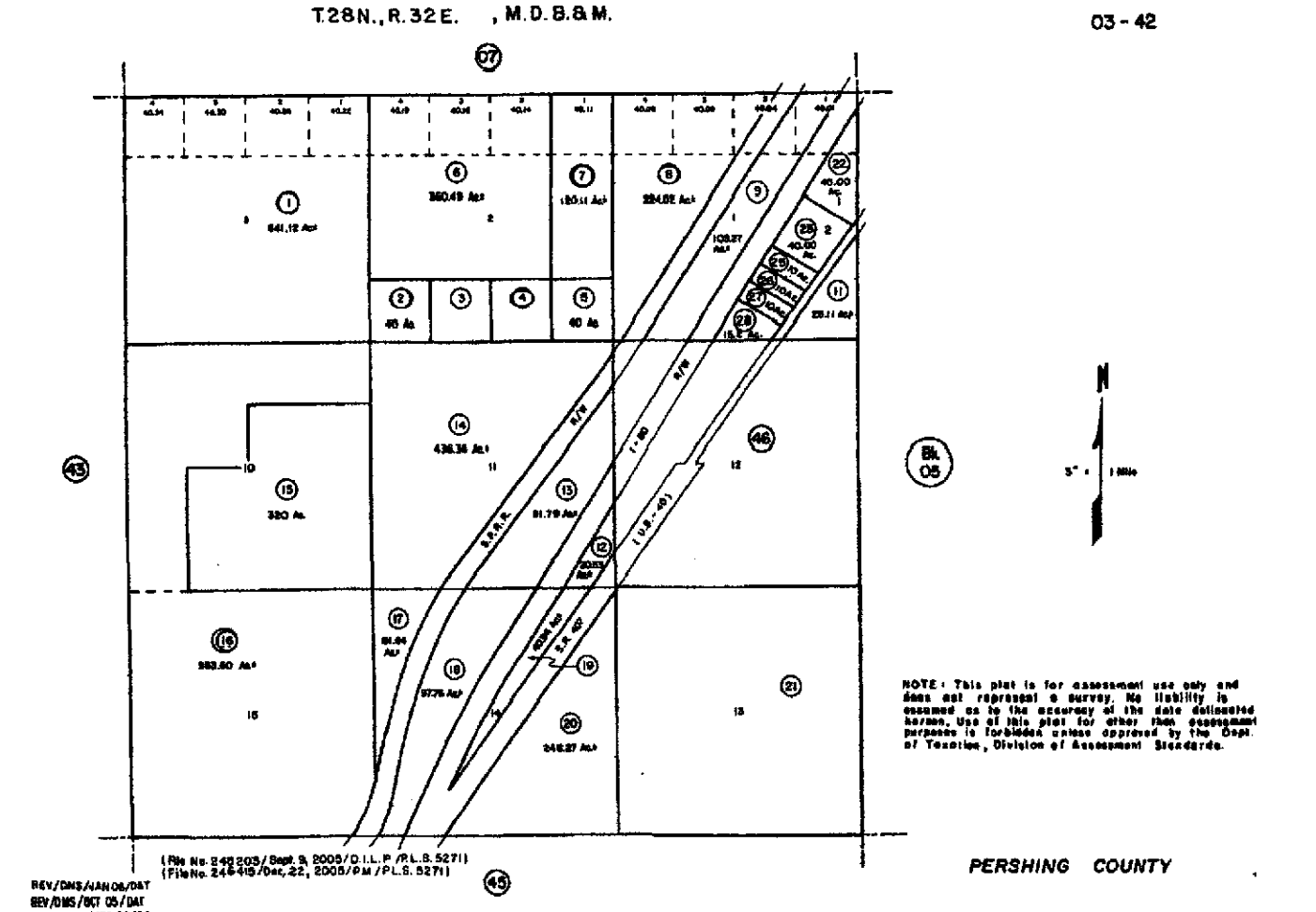
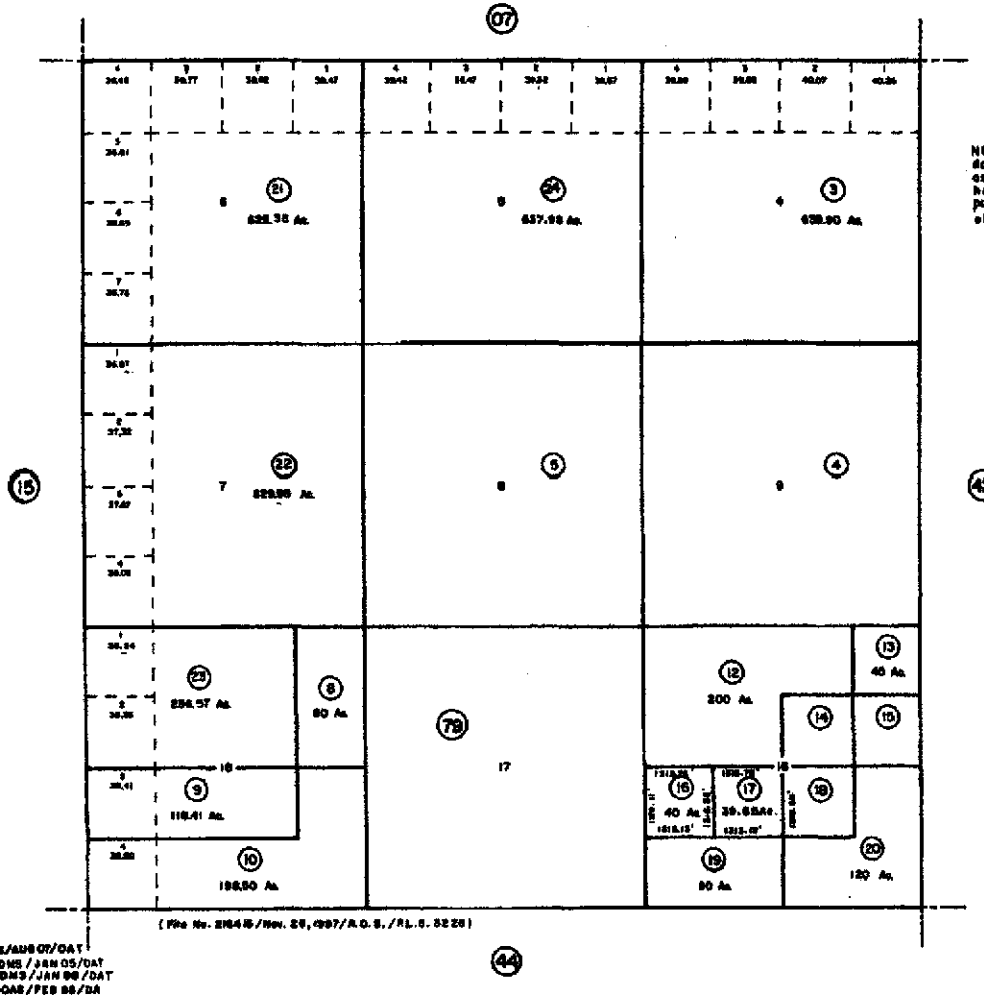


*** THIS IS AN UNOFFICIAL COPY ***

# T.28 N., R.32 E., M.D.B.&M.

03 - 43

03 - 43




NOTE: This plat is for assessment use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon. Use of this plat for other than assessment purposes is forbidden unless approved by the Dept. of Taxation, Division of Assessment Standards.

REV/DMS/AUG 07/DAT
REV/DMS/JAN 05/DAT
REV/DMS/JAN 00/DAT
DOT/DOAS/FEB 88/DA

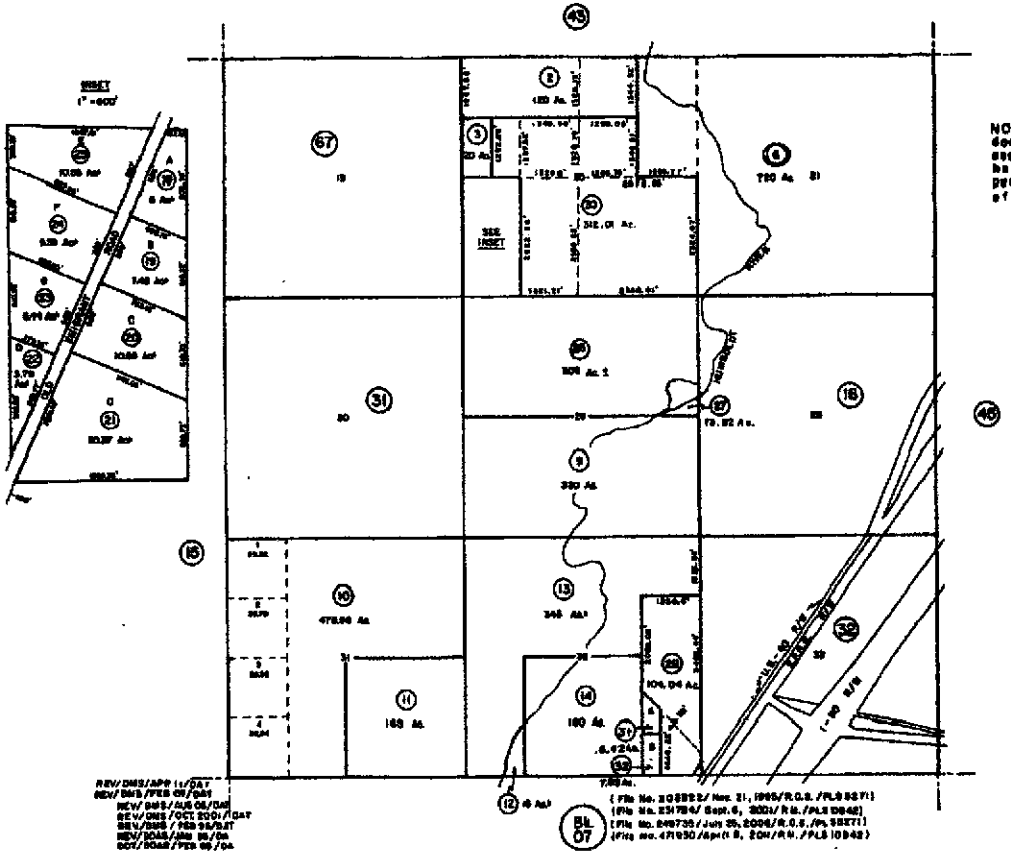
PERSHING COUNTY

*** THIS IS AN UNOFFICIAL COPY ***

T.28N.,R.32E., M.D.B.&M.

T.28N.,R.32E., M.D.B.&M.

03 - 44



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PERSHING COUNTY

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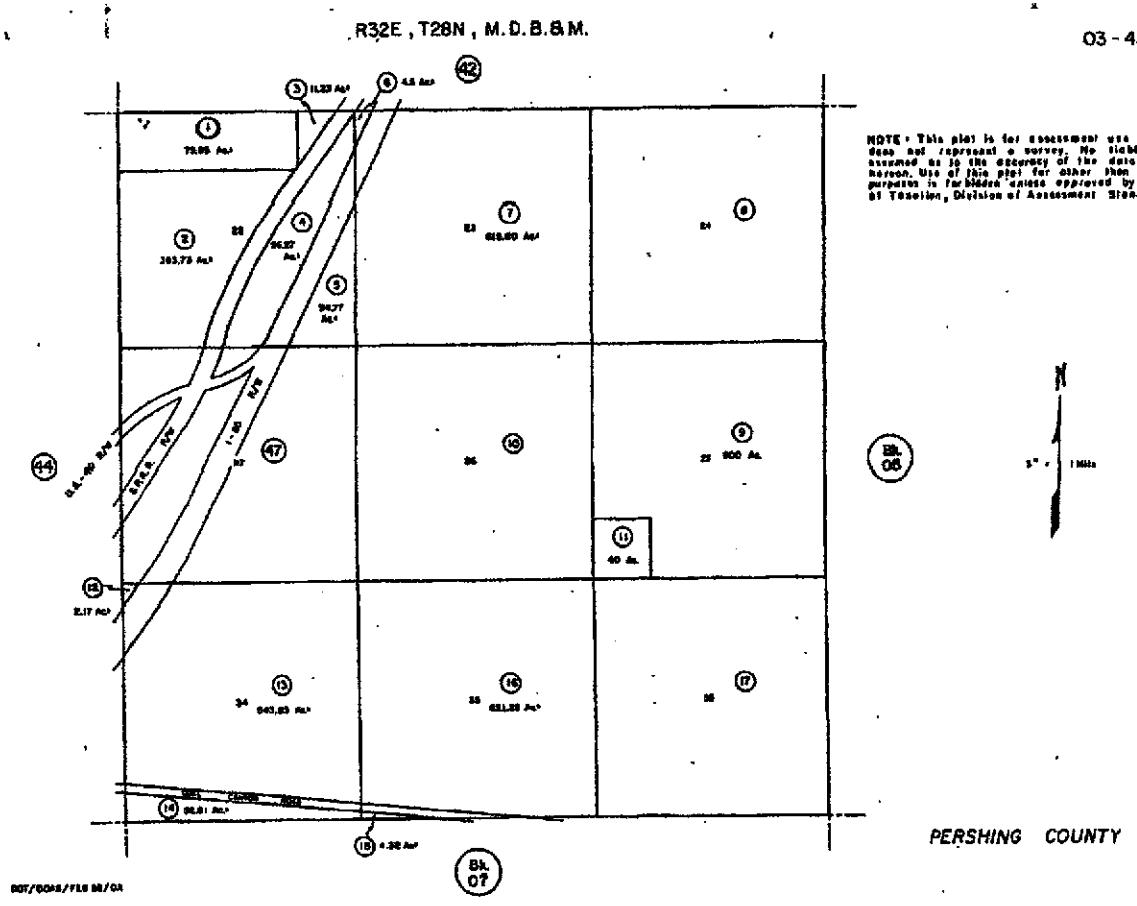

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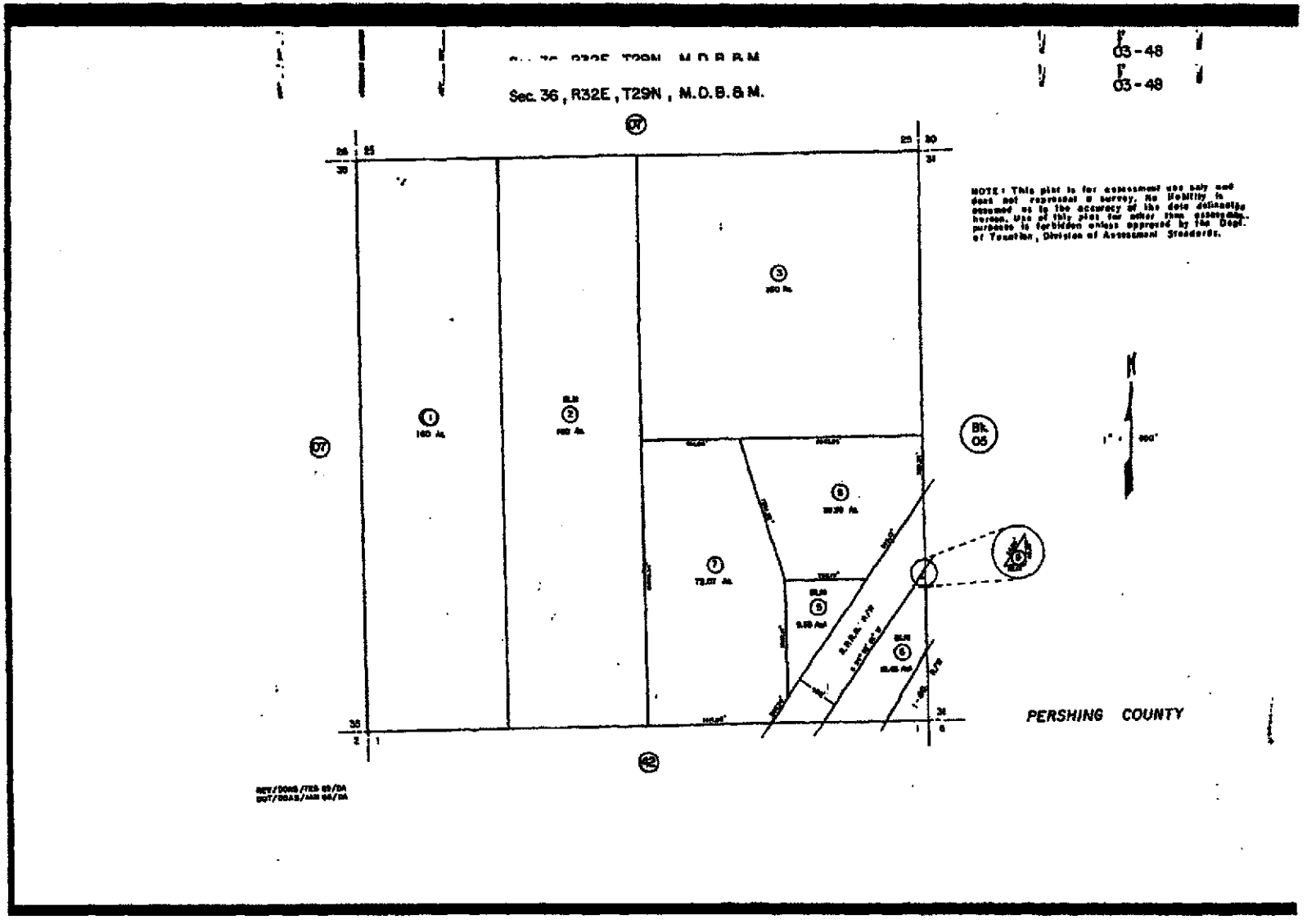
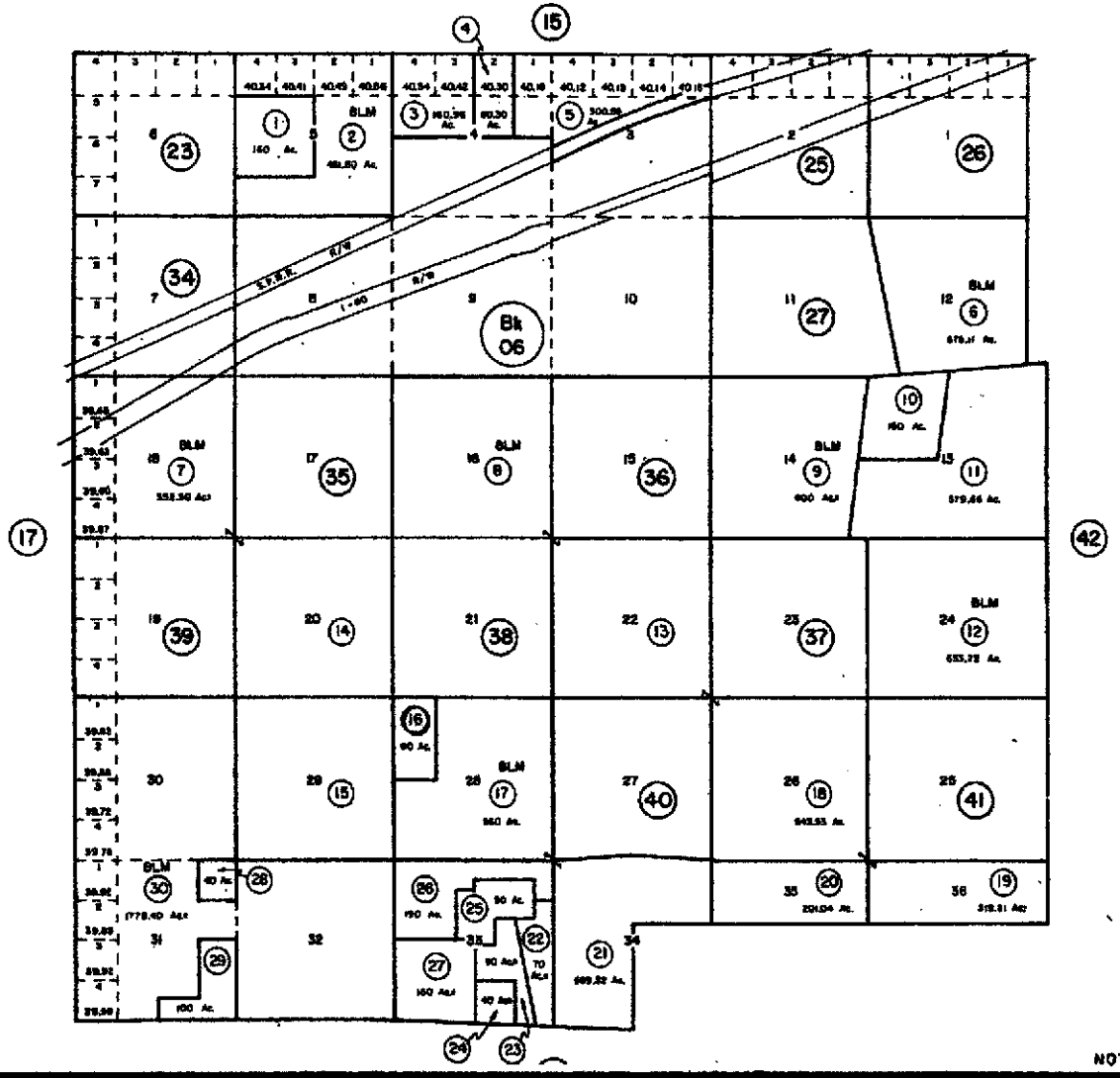


T32N , R34E

08 - 2

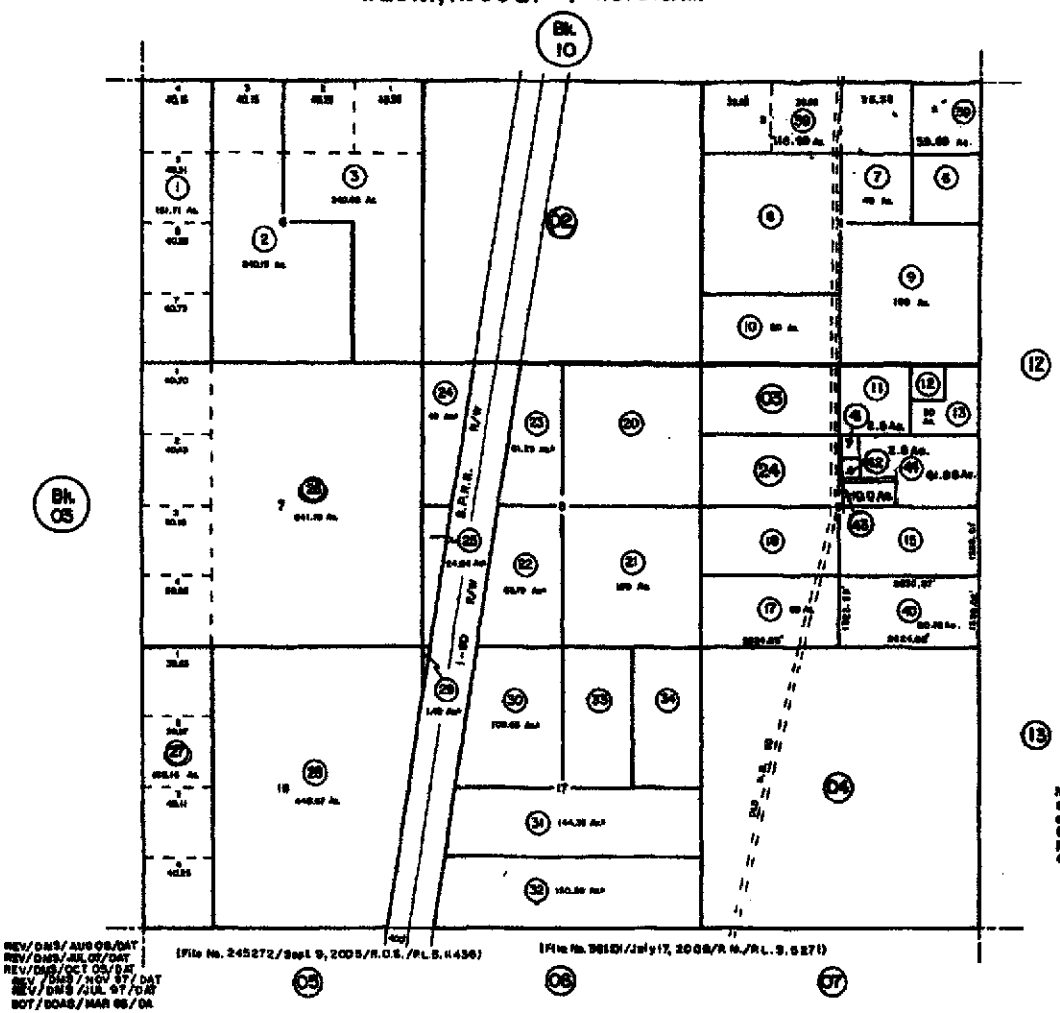



NOTE : This plot is for assessment use only

*** THIS IS AN UNOFFICIAL COPY ***

T.29N., R.33E. , M.D.B.&M.

11 - 01

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PERSHING COUNTY

**Exhibit 1**
**Page 9 of 9**

IN REPLY REFER TO:

# UNITED STATES
# DEPARTMENT OF THE INTERIOR
## BUREAU OF LAND MANAGEMENT

POST OFFICE BOX 71
WINNEMUCCA, NEVADA 89445

NOTICE OF ADVISORY BOARD RECOMMENDATION

CERTIFIED MAIL #10,390
RETURN RECEIPT REQUESTED

December 14, 1967

Marvin Myers
Unionville Star Route
Imlay, Nevada 89418

Dear Mr. Myers:

The Advisory Board of the State of Nevada, Winnemucca Grazing District Number 2, on December 6, 1967 when reviewing the range divisions, allotment management plans, and future range improvement program in the Rochester Unit considered the following information:

In the interest of developing allotment management plans, the Bureau with mutual consent on the majority of the range users negotiated a range division to establish the Coal Canyon and Rochester Common Allotments in the Rochester Unit. These allotments were proposed considering the base property qualifications, exchange-of-use agreements (Southern Pacific Company leases), grazing capacities from range inventories, and ajudication in the Rochester Unit on February 4, 1966.

Base property qualifications, exchange-of-use agreements, and Federal Range grazing capacities of each allotment are listed below in animal unit months:

Coal Canyon Allotment:

| | |
|---|---|
| Federal Range Qualifications | 2,121 AUMs |
| Exchange-of-Use Forage | 469 AUMs |
| Total Authorized Use | 2,590 AUMs |
| Total Estimated Grazing Capacity (Federal Range, and Exchange of-Use) in Allotment | 2,654 AUMs |

Rochester Common Allotment:

| | |
|---|---|
| Federal Range Qualifications | 4,314 AUMs |
| Exchange-of-Use Forage | 2,099 AUMs |
| Total Authorized Use | 6,413 AUMs |

Total Estimated Grazing Capacity (Federal Range, and Exchange-of-Use) in allotment — 6,482 AUMs

The figures include the trade of Federal Range qualifications and Exchange-of-Use forage necessary to equitably satisfy grazing use and livestock water on both sides of the division line.

For detailed location and legal description of allotment line, see attached map & agreement. This agreement has been executed by all range users except Marvin A. & Fennie E. Myers, Unionville Star Route, Imlay, Nevada.

After review of the above information, data, and range agreement, the Advisory Board recommended as follows:

1. That the proposed range line be recognized, establishing the Coal Canyon Allotment and Rochester Common Allotment. However, it is recognized that this division line will not be fenced until after July of 1968.

2. The range users designated to use these allotments will be as follows:

Coal Canyon Allotment:

A. E. Duncan
Star Sheep Company
Gus Duncan

Rochester Common Allotment:

Marvin Myers
Paris Brothers
Clarence & Henry Anderson
Paul Engle
Star Sheep Company
Marie Anderson Estate
Jake Baird
Wm. H. Abel

The recommendation together with the executed agreement has been considered by me. I concur with the Advisory Board and their recommendation.

If you wish to protest this recommendation, please appear in person, by attorney or representative or submit your protest in writing, on January 17, 1968, at 2:30 p.m., Winnemucca District Office, at which time and place the advisory board will hear protests in the presence of a representative of the Bureau of Land Management.

In the absence of a protest within the time allowed, the above recommendation shall constitute the District Manager's decision on your application. Should this notice become the District Manager's decision and if you wish to appeal such decision for the purpose of a hearing before an Examiner, in accordance with 43 CFR 1853, you are allowed thirty (30) days from receipt of this notice within which to file such appeal with the District Manager, Bureau of Land Management. An appeal should specify clearly and concisely why you think the decision is in error.

Very truly yours,

E. A. Moore
District Manager

Attachment

Carbon Copies To:

A. E. Duncan
Star Sheep Company
Gus Duncan
Paris Brothers
Clarence & Henry Anderson
Paul Engle
Marie Anderson Estate
Jake Baird
Wm. H. Abel
T. J. Longseth (Southern Pacific Co.)

Form 4111-5
(December 1965)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

RANGE LINE AGREEMENT

Place

Date 7/12/67

In accordance with the provisions of Grazing Regulations (43 CFR 4111.3-2(c)), we, the undersigned, hereby agree to the establishment or adjustment of our respective range allotment boundaries as shown on the attached map and further described as follows:

SEE ATTACHED SHEET

It is further agreed that the above-described allotment boundary constitutes a fair, equitable, and practical range division, based on the respective qualifications of our dependent base property under the Grazing Regulations, and as such shall be binding upon our respective heirs, executors, administrators, successors in interest or assigns.

Marvin A. and Fannie E. Myers

Jake Baird — 7-12-67
(Signature of Applicant) (Date)

Abigah E. Duncan — 7-21-67

Gus Duncan — 7-21-67
(Signature of Applicant) (Date)

Star Sheep Co By Theodore Belzarena 9-3-67

N. H. Abel — 7-28-67
(Signature of Applicant) (Date)

| RECOMMENDED APPROVAL | APPROVED |
|---|---|
| (Chairman, Advisory Board) | (District Manager) |
| (Date) | (Date) |

Beginning at a point at the intersection of Interstate 80 and the approximate N¼ corner of Section 5, T. 29 N., R. 33 E. Thence due east for approximately 4½ miles to the NE corner of Section 1, T. 29 N., R. 33 E. Thence NE approximately 1 mile following the ridge to the SW corner of Section 32, T. 30 N., R. 33 E. Thence south along the watershed divide on the unit line between Rochester Unit and Buena Vista Unit for approximately 11 miles, to Weaver Saddle in T. 28 N., R. 34 E., Section 27, approximately 1320 feet east of the NW corner. Thence SW along the ridge approximately 1 mile to a point approximately 500 feet NW of the SW corner of Section 27, T. 28 N., R. 34 E. Thence SW approximately 2¼ miles to the SW corner of Section 32, T. 28 N., R. 34 E. Thence SW approximately 4.1 miles to the Packard Flat windmill. Thence west picking up and following the watershed divide between Coal Canyon and Muttleberry Canyon for approximately 6 miles to a point approximately 1900 feet north of the SE corner of Section 24, T. 27 N., R. 32 E. Thence NW approximately 5.4 miles to its intersection with the Southern Pacific Railroad right-of-way fence in NW¼ Section 4, T. 27 N., R. 32 E.

It is also agreed that this line shall be accepted as stacked on the ground adhering as close as possible to the above described line.

Special Conditions:

1. A. E. & Gus Duncan agrees to make all their use both Federal and exchange-of-use north and west of the above described line.

2. Marvin Myers, Jake Baird, & William Abel agreed to make their use south and east of this line including Federal and exchange-of-use land.

   Clarance & Henry Anderson, Dixie Valley Cattle Co., & Paris Brothers are not directly affected by this line but will make their use south and east of this line.

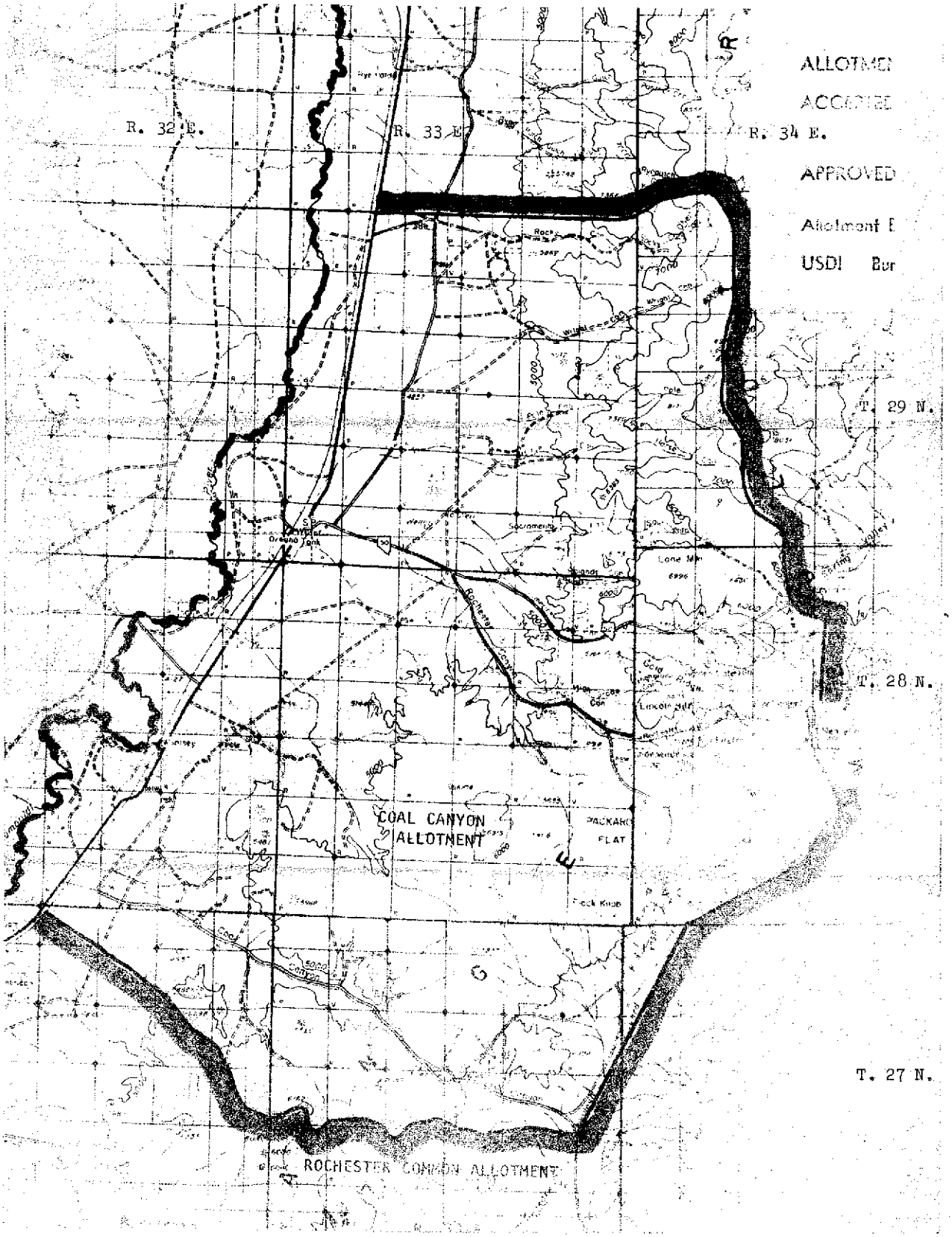
3. Theodore Belzarena agrees to make 492 AUMs use north of the above line and 1400 AUMs use south and east of the line which includes his Stillwater use.

4. All parties agree that the above line does not necessarily satisfy their Federal or exchange-of-use AUMs taken separately but that it does satisfy their demand as a hole. Therefore, all parties agree to keep their Railroad leases in good standing. If any party should drop or lose their Railroad lease it should go to the parties in which the land lies, (north of the line or south). At that time the Railroad and Federal AUMs will be straightened out on a permanent basis, which means A. E. Duncan would relinquish approximately 320 AUMs Federal range demand and pick the same amount of Southern Pacific Railroad exchange-of-use. The parties south of the line would pick up Federal range lost by A. E. Duncan.

5. All parties agree to adhere as close as possible to the above described line until such time as it can be built in approximately 1969 Fiscal Year.

6. It is agreed by all parties that the water at Packard Flat windmill will be split.

N/A ABS T.B L.D.


R. 32 E.
R. 33 E.
R. 34 E.
ALLOTMEI
ACCEPTEE
APPROVED
Allotment E
USDI Bur
T. 29 N.
T. 28 N.
T. 27 N.
COAL CANYON
ALLOTMENT
PACKARD
FLAT
ROCHESTER CANYON ALLOTMENT

## POKER COMMON ALLOTMENT

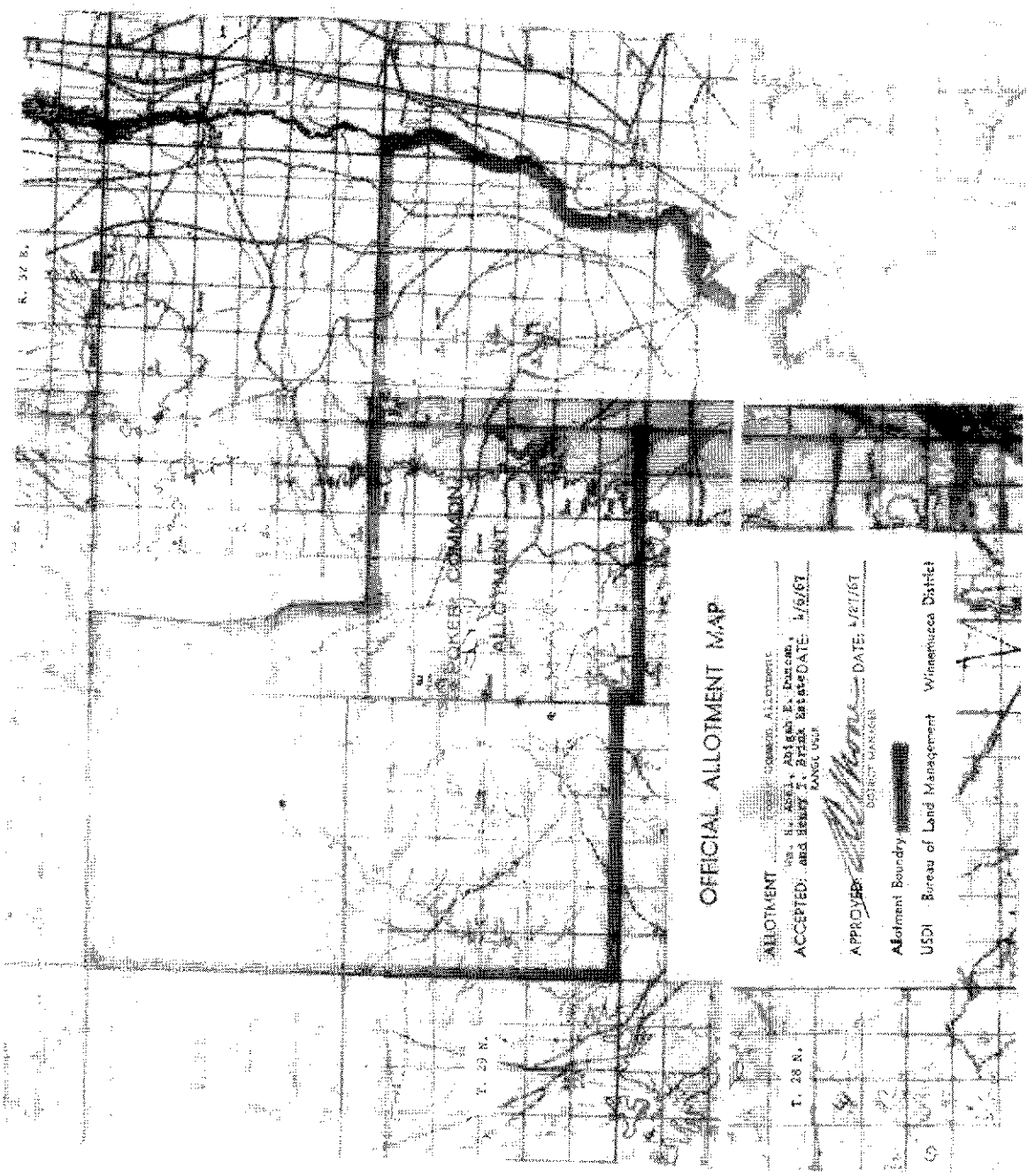
Beginning at a point-said point being within the Humboldt River in the S½ of SW¼ Section 31, T. 30 N., R. 33 E., MDB&M, Nevada; thence westerly along the township line common to T. 29 N & T. 30 N. to the corner common to Section 32 & 33, T. 30 N., R. 31 E., and Section 4 & 5, T. 29 N., R. 31 E., thence northwesterly for approximately 1.7 miles to a turning point in the SE¼NE¼ Section 29; T. 30 N., R. 31 E, thence in a northwesterly direction for a distance of .6 mile to a turning point in the SW¼SE¼ of Section 20, T. 30 N., R. 31 E., thence in a northwesterly direction for a distance of approximately .8 miles to the ¼ corner common to Sections 17&20, T. 30 N., R. 31 E.; thence in a northwesterly direction for a distance of approximately 3 miles to a point on the township line common to T. 30 N., R. 31 E., approximately .4 miles west of the northwest corner of Section 4, T. 30 N., R. 31 E., to its intersection with the township line common to T. 30 N., & 31 N.; thence due west along the township line common to T. 30 N & T. 31 N., for a distance of approximately 7.5 miles to the NW corner of Section 6, T. 30 N., R. 30 E., thence south along the range line common to R. 29 E. & R. 30 E., for a distance of approximately 12 miles to the SW corner of Section 31, T. 29 N., R. 30 E.; thence east along the township line for a distance of approximately 12 miles to the SE corner of Section 36, T. 29 N., R. 31 E.; thence south along the range line for a distance of approximately 7 miles to its intersection with the Humboldt River; thence north and east following the Humboldt River for a distance of approximately 14 miles to the point of beginning.

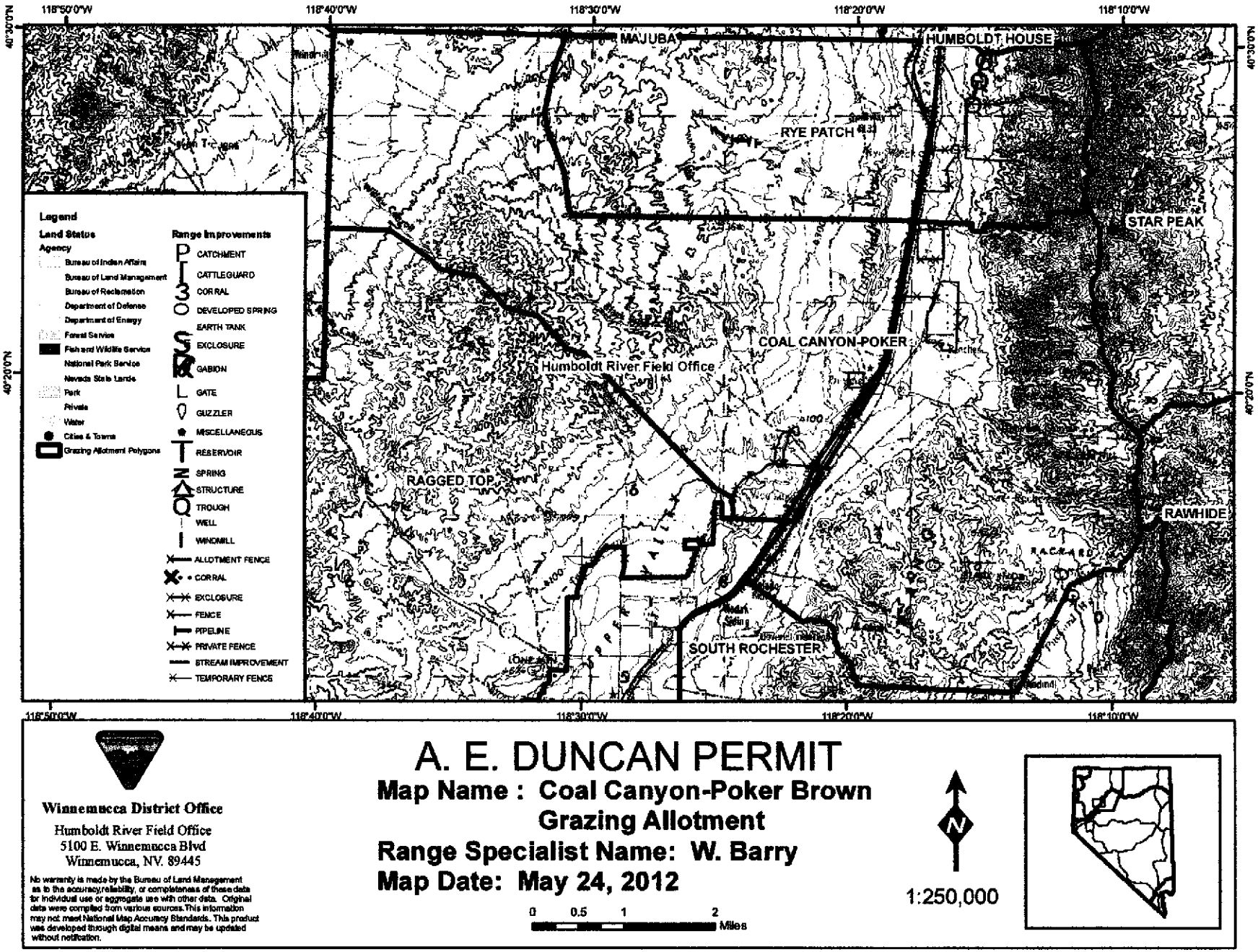
Further it will be agreed as staked on the ground.

Special Stipulation

1. That the above parties agree to the following breakdown of AUMs in the Poker Common Allotment:

   A. William H. Abel - 2247 AUMs
   B. Abijah Elum Duncan - 678 AUMs
   C. Henry T. Brink Estate - 126 AUMs


OFFICIAL ALLOTMENT MAP
ALLOTMENT
ACCEPTED:
APPROVED:
DATE:
DISTRICT MANAGER
Allotment Boundry
USDI Bureau of Land Management Winnemucca District
POKER COMMON ALLOTMENT
T. 29 N.
T. 28 N.
R. 32 E.




**Winnemucca District Office**

Humboldt River Field Office
5100 E. Winnemucca Blvd
Winnemucca, NV. 89445

No warranty is made by the Bureau of Land Management as to the accuracy,reliability, or completeness of these data for individual use or aggregate use with other data. Original data were compiled from various sources.This information may not meet National Map Accuracy Standards. This product was developed through digital means and may be updated without notification.

# A. E. DUNCAN PERMIT

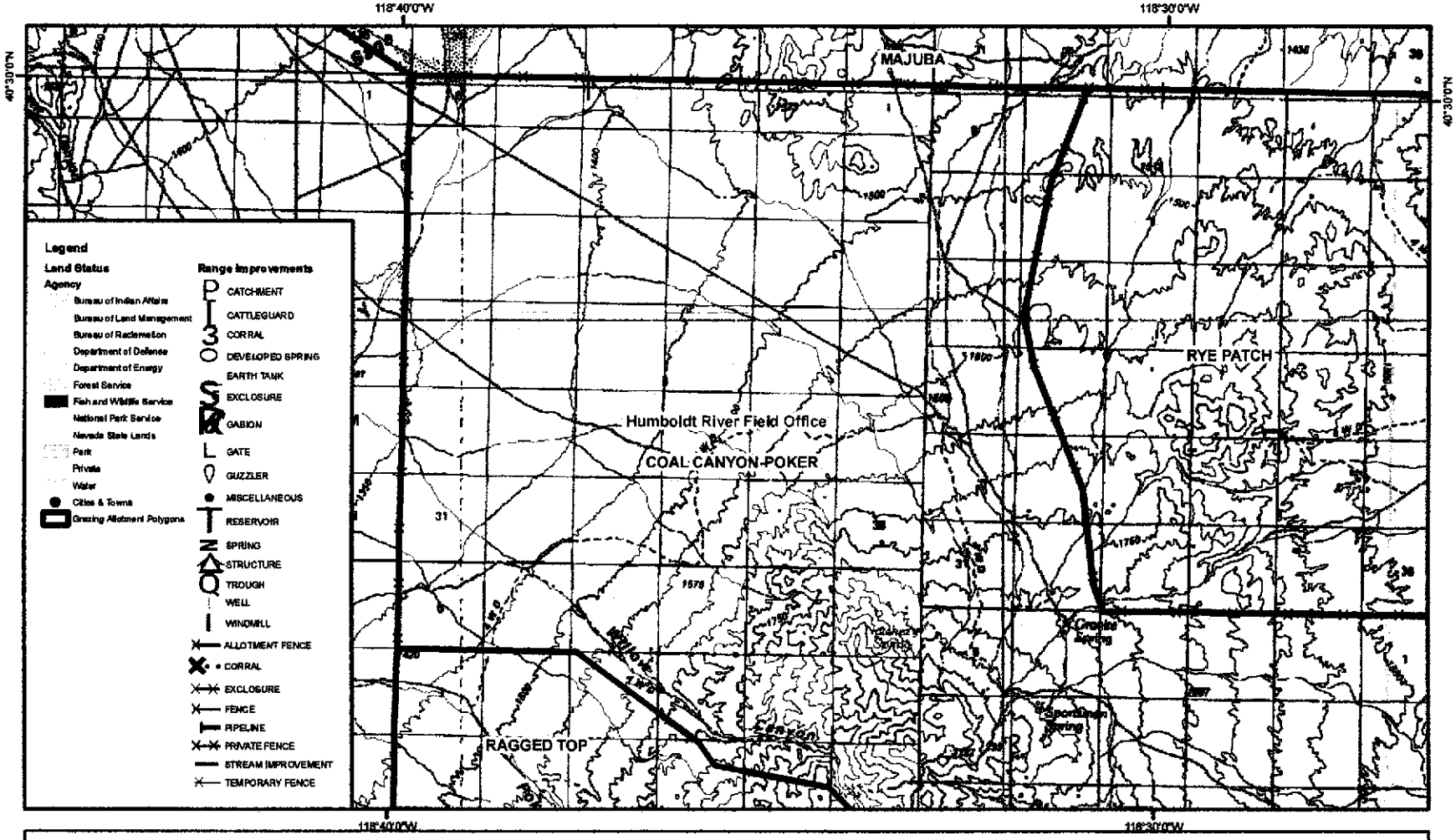
**Map Name : Coal Canyon-Poker Brown Grazing Allotment**

**Range Specialist Name: W. Barry**

**Map Date: May 24, 2012**

0 0.5 1 2 Miles

1:250,000




**Winnemucca District Office**
Humboldt River Field Office
5100 E. Winnemucca Blvd
Winnemucca, NV. 89445

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# A. E. DUNCAN PERMIT

**Map Name : Coal Canyon-Poker Brown Grazing Allotment**

**Range Specialist Name: W. Barry**

**Map Date: May 24, 2012**

0 0.5 1 2 Miles

1:100,000

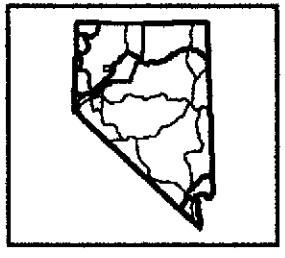
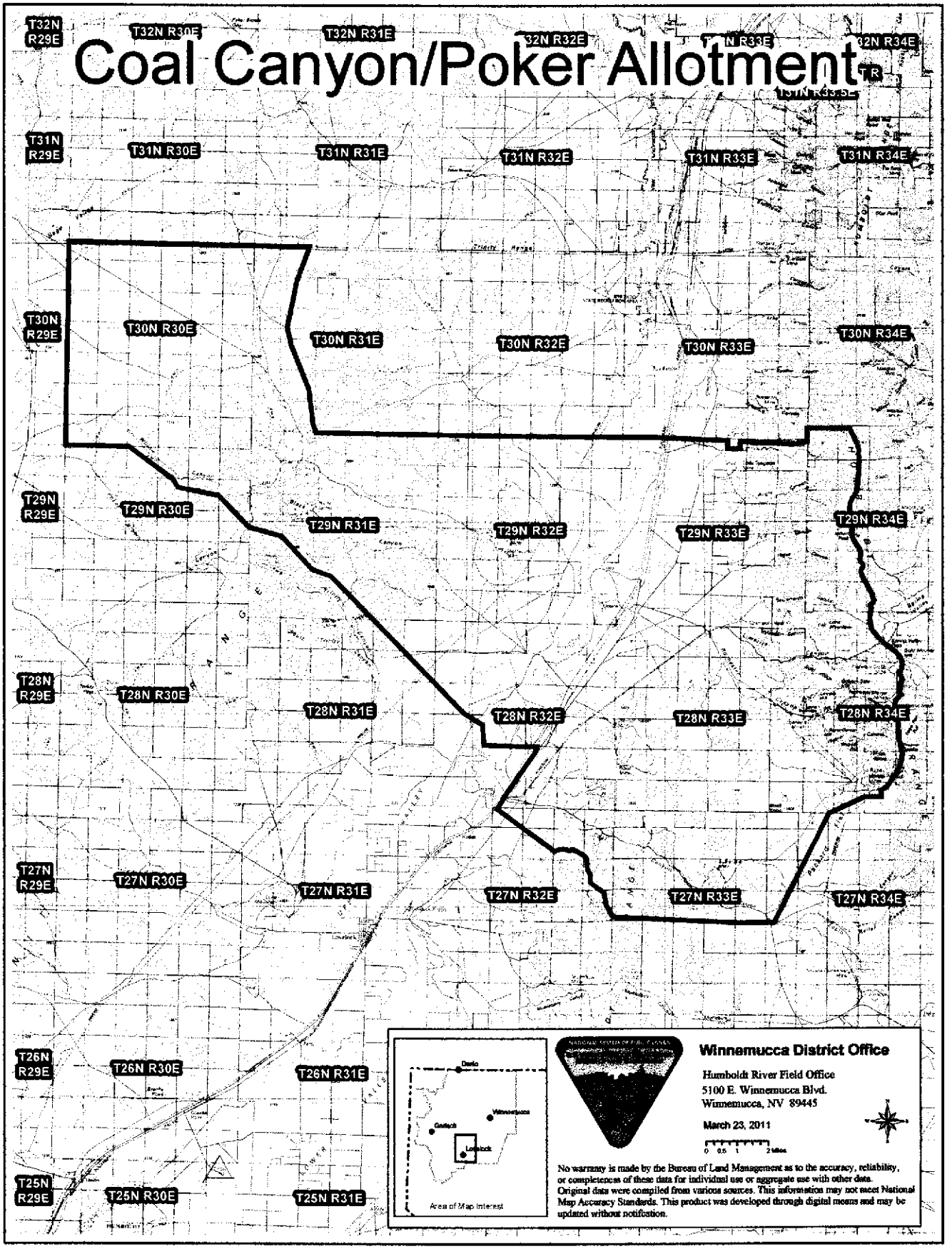


**Exhibit 3**
**Page 2 of 3**


Coal Canyon/Poker Allotment
T32N R29E
T32N R30E
T32N R31E
T32N R32E
T32N R33E
T32N R34E
T31N R29E
T31N R30E
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T27N R34E
T26N R29E
T26N R30E
T26N R31E
T25N R29E
T25N R30E
T25N R31E
Area of Map Interest
Winnemucca District Office
Humboldt River Field Office
5100 E. Winnemucca Blvd.
Winnemucca, NV 89445
March 23, 2011
No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual use or aggregate use with other data. Original data were compiled from various sources. This information may not meet National Map Accuracy Standards. This product was developed through digital means and may be updated without notification.

CASE FILE COPY

AUTH NUMBER: 2702031
DATE PRINTED: 3/15/2006

Form 4130-2a
(February 1999)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

GRAZING PERMIT

Bureau of Land Management
Received
APR 21 2006
Field Office
Winnemucca, Nevada

| | |
|---|---|
| STATE | NV |
| OFFICE | 020 |
| AUTH NUMBER | 2702031 |
| PREFERENCE CODE | 03 |
| DATE PRINTED | 03/15/2006 |
| TERM | 03/01/2006 TO 02/28/2016 |

ABIGAH E. DUNCAN
P O BOX 532
LOVELOCK NV 89419

BUREAU OF LAND MANAGEMENT
WINNEMUCCA FO
5100 E WINNEMUCCA BL
WINNEMUCCA NV 89445

THIS GRAZING PERMIT IS OFFERED TO YOU UNDER 43 CFR PART 4100 BASED ON YOUR RECOGNIZED QUALIFICATIONS. YOU ARE AUTHORIZED TO MAKE GRAZING USE OF LANDS, UNDER THE JURISDICTION OF THE BUREAU OF LAND MANAGEMENT AND COVERED BY THIS PERMIT, UPON YOUR ACCEPTANCE OF THE TERMS AND CONDITIONS OF THIS PERMIT AND PAYMENT OF GRAZING FEES WHEN DUE. CONTACT YOUR LOCAL BLM OFFICE AT 775-623-1500 IF YOU HAVE QUESTIONS.

MANDATORY TERMS AND CONDITIONS

| ALLOTMENT | PASTURE | LIVESTOCK NUMBER | KIND | GRAZING PERIOD BEGIN | END | % PL | TYPE USE | AUMS |
|---|---|---|---|---|---|---|---|---|
| 00104 COAL CANYON-POKER | | 493 | CATTLE | 03/01 | 07/15 | 60 | ACTIVE | 1332 |
| | | 36 | CATTLE | 07/16 | 10/31 | 60 | ACTIVE | 77 |
| | | 3 | CATTLE | 07/16 | 10/31 | 100 | ACTIVE | 11 |
| | | 493 | CATTLE | 11/01 | 02/28 | 60 | ACTIVE | 1167 |

OTHER TERMS AND CONDITIONS:

LIVESTOCK GRAZING WILL BE IN ACCORDANCE WITH THE COAL CANYON-POKER AMP

EXCHANGE OF USE AUTHORIZATION IS CONDITIONAL PENDING ANNUAL SUBMISSION OF LEASE AGREEMENTS.

PURSUANT TO 43 CFR 10.4(G) THE HOLDER OF THIS AUTHORIZATION MUST NOTIFY THE AUTHORIZED OFFICER, BY TELEPHONE, WITH WRITTEN CONFIRMATION IMMEDIATELY UPON DISCOVERY OF HUMAN REMAINS, FUNERARY OBJECTS, SACRED OBJECTS, OR OBJECTS OF CULTURAL PATRIMONY(AS DEFINED AT 43 CFR 10.2). FURTHER, PURSUANT TO CFR 10.4(C) AND (D), YOU MUST STOP ACTIVITIES IN THE IMMEDIATE VICINITY OF THE DISCOVERY AND PROTECT IT FROM YOUR ACTIVITIES FOR 30 DAYS OR UNTIL NOTIFIED TO PROCEED BY THE AUTHORIZED OFFICER.

THE TERMS AND CONDITIONS OF THIS GRAZING PERMIT ARE IN CONFORMANCE WITH THE STANDARDS AND GUIDELINES FOR THE SIERRA FRONT-NORTHWESTERN GREAT BASIN RESOURCE ADVISORY COUNCIL, APPROVED BY THE SECRETARY OF THE INTERIOR ON FEBRUARY 12, 1997.

IN ACCORDANCE WITH SEC. 325, TITLE III, H.R.2691, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2004 (P.L. 108-108), WHICH WAS ENACTED ON NOVEMBER 10, 2003, THIS GRAZING PERMIT OR LEASE IS RENEWED UNDER SECTION 402 OF THE FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976, AS AMENDED (43 U.S.C. 1752), TITLE III OF THE BANKHEAD-JONES FARM TENANT ACT (7 U.S.C. 1010 ET SEQ.), OR, IF APPLICABLE, SECTION 510 OF THE CALIFORNIA DESERT PROTECTION ACT (16 U.S.C. 410AAA-50). IN ACCORDANCE WITH PUBLIC LAW 108-108, THE TERMS AND CONDITIONS CONTAINED IN THE EXPIRED OR TRANSFERED PERMIT OR LEASE HAVE BEEN INCORPORATED INTO THIS PERMIT OF LEASE AND SHALL

CASE FILE COPY

AUTH NUMBER: 2702031
DATE PRINTED: 3/15/2006

Standard
Terms and Conditions

1. Grazing permit or lease terms and conditions and the fees charged for grazing use are established in accordance with the provisions of the grazing regulations now or hereafter approved by the Secretary of the Interior.

2. They are subject to cancellation, in whole or in part, at any time because of:
a. Noncompliance by the permittee/lessee with rules and regulations.
b. Loss of control by the permittee/lessee of all or a part of the property upon which it is based.
c. A transfer of grazing preference by the permittee/lessee to another party.
d. A decrease in the lands administered by the Bureau of Land Management within the allotment(s) described.
e. Repeated willful unauthorized grazing use.
f. Loss of qualifications to hold a permit or lease.

3. They are subject to the terms and conditions of allotment management plans if such plans have been prepared. Allotment management plans MUST be incorporated in permits or leases when completed.

4. Those holding permits or leases MUST own or control and be responsible for the management of livestock authorized to graze.

5. The authorized officer may require counting and/or additional or special marking or tagging of the livestock authorized to graze.

6. The permittee's/lessee's grazing case file is available for public inspection as required by the Freedom of Information Act.

7. Grazing permits or leases are subject to the nondiscrimination clauses set forth in Executive Order 11246 of September 24, 1964, as amended. A copy of this order may be obtained from the authorized officer.

8. Livestock grazing use that is different from that authorized by a permit or lease MUST be applied for prior to the grazing period and MUST be filed with and approved by the authorized officer before grazing use can be made.

9. Billing notices are issued which specify fees due. Billing notices, when paid, become a part of the grazing permit or lease. Grazing use cannot be authorized during any period of delinquency in the payment of amounts due, including settlement for unauthorized use.

10. Grazing fee payments are due on the date specified on the billing notice and MUST be paid in full within 15 days of the due date, except as otherwise provided in the grazing permit or lease. If payment is not made within that time frame, a late fee (the greater of $25 or 10 percent of the amount owed but not more than $250) will be assessed.

11. No Member of, or Delegate to, Congress or Resident Commissioner, after his/her election or appointment, or either before or after he/she has qualified, and during his/her continuance in office, and no officer, agent, or employee of the Department of the Interior, other than members of Advisory committees appointed in accordance with the Federal Advisory Committee Act (5 U.S.C. App.1) and Sections 309 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) shall be admitted to any share or part in a permit or lease, or derive any benefit to arise therefrom; and the provision of Section 3741 Revised Statute (41 U.S.C. 22), 18 U.S.C. Sections 431-433, and 43 CFR Part 7, enter into and form a part of a grazing permit or lease, so far as the same may be applicable.

THIS PERMIT: 1. CONVEYS NO RIGHT, TITLE OR INTEREST HELD BY THE UNITED STATES IN ANY LANDS OR RESOURCES AND 2. IS SUBJECT TO (A) MODIFICATION, SUSPENSION OR CANCELLATION AS PROVIDED BY LAND PLANS AND APPLICABLE LAW; (B) REVIEW AND MODIFICATION OF TERMS AND CONDITIONS AS APPROPRIATE; AND (C) THE TAYLOR GRAZING ACT, AS AMENDED, THE FEDERAL LAND POLICY AND MANAGEMENT ACT, AS AMENDED, THE PUBLIC RANGELANDS IMPROVEMENT ACT, AND THE RULES AND REGULATIONS NOW OR HEREAFTER PROMULGATED THEREUNDER BY THE SECRETARY OF THE INTERIOR.

ACCEPTED:
SIGNATURE OF PERMITTEE: [signature] DATE: 4-19-2006

APPROVED
BLM AUTHORIZED OFFICER: [signature] DATE: 6-29-06

CASE FILE COPY

AUTH NUMBER: 2702031
DATE PRINTED: 3/15/2006

CONTINUE IN EFFECT UNDER THE RENEWED PERMIT OR LEASE UNTIL SUCH TIME AS THE SECRETARY OF THE INTERIOR COMPLETES PROCESSING OF THIS PERMIT OR LEASE IN COMPLIANCE WITH ALL APPLICABLE LAWS AND REGULATIONS. AT WHICH TIME THIS PERMIT OR LEASE MAY BE CANCELED, SUSPENDED OR MODIFIED, IN WHOLE OR IN PART, TO MEET THE REQUIREMENTS OF SUCH APPLICABLE LAWS AND REGULATIONS.

| ALLOT NO | CONDITIONS |
|---|---|
| (none) | |

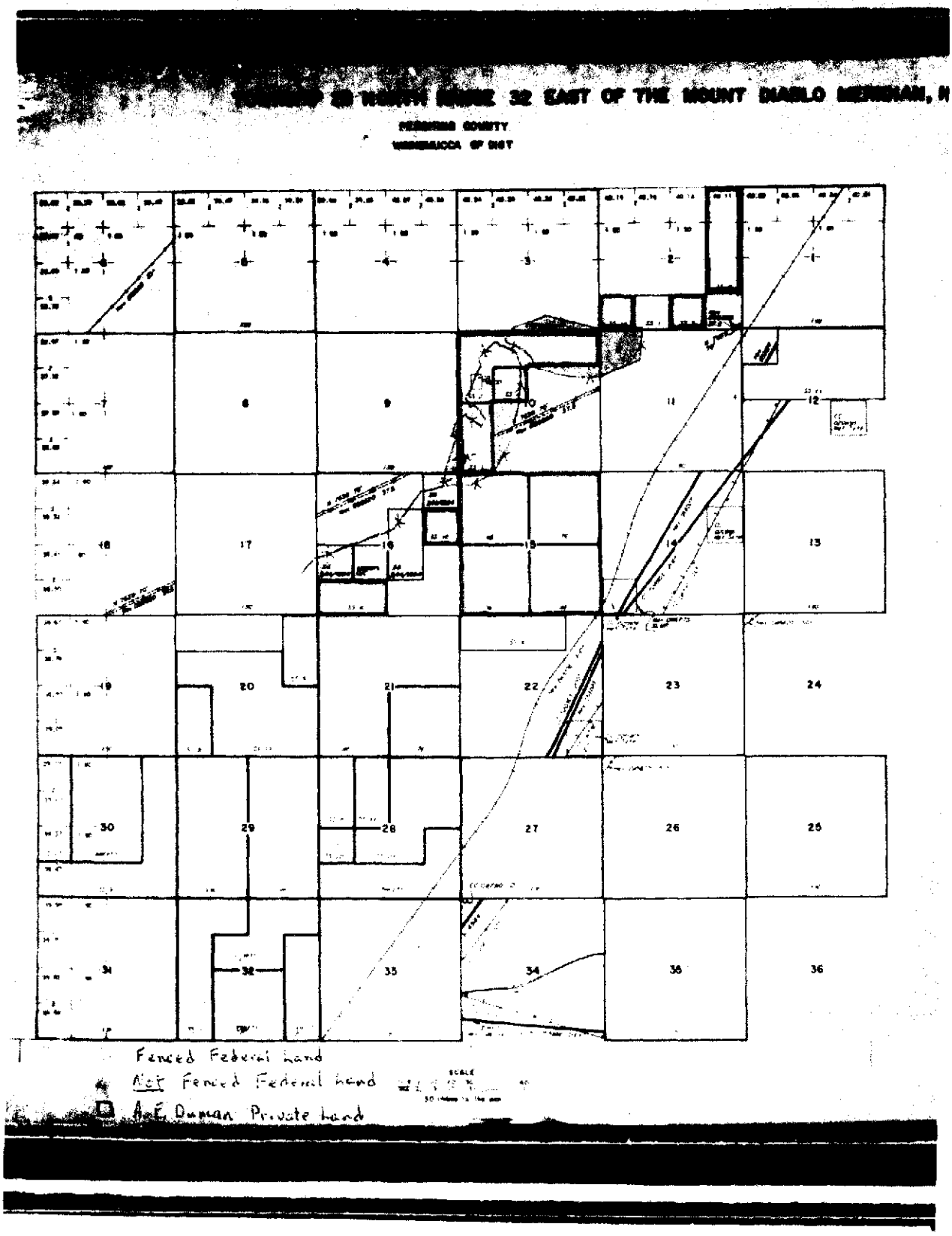
SALT AND/OR MINERAL BLOCKS SHALL NOT BE PLACED WITHIN ONE QUARTER (1/4) MILE OF SPRINGS, STREAMS, MEADOWS, RIPARIAN HABITATS, OR ASPEN STANDS.

THE PERMITTEE IS REQUIRED TO PERFORM NORMAL MAINTENANCE ON THE RANGE IMPROVEMENTS AS PER THEIR SIGNED COOPERATIVE AGREEMENTS/SECTION 4 PERMITS PRIOR TO TURNING OUT IN A PASTURE OR USE AREA SCHEDULED FOR LIVESTOCK USE.

THE PERMITTEES CERTIFIED ACTUAL USE REPORT, BY PASTURE/USE AREA, IS DUE 15 DAYS AFTER THE END OF THE AUTHORIZED GRAZING PERIOD.

ALLOTMENT SUMMARY (AUMS)

| ALLOTMENT | ACTIVE AUMS | SUSPENDED AUM | PERMITTED USE |
|---|---|---|---|
| 00104 COAL CANYON-POKER | 2588 | 0 | 2,588 |


Fenced Federal land
Not Fenced Federal land
A&E Duncan Private land

FORM NP 4-1248
(September, 1957)

Rye Patch

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management

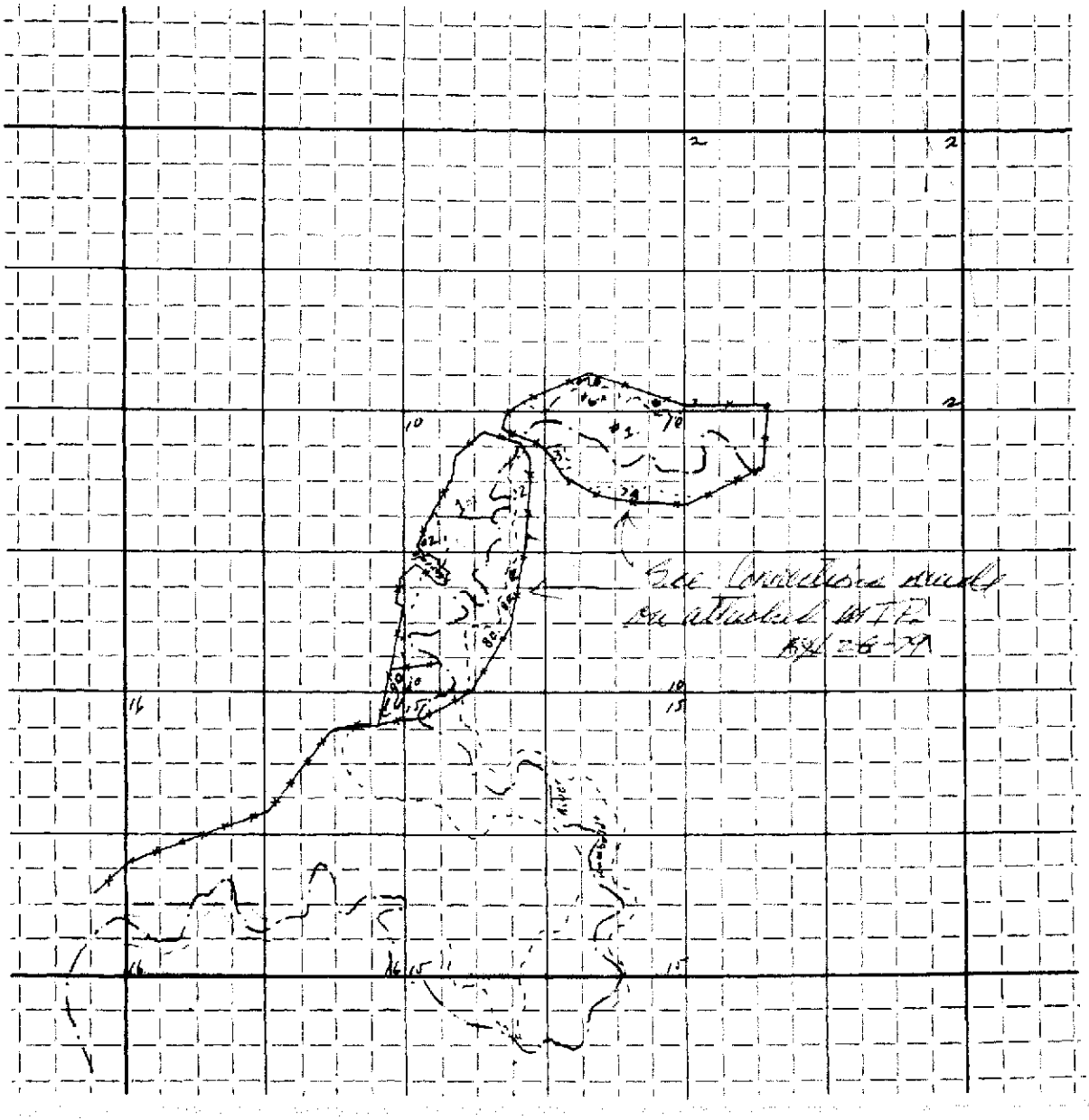
DEPENDENT PROPERTY RECORD

Operator Duncan A. E.
Address Lovelock, Nev.
Area
State Nevada
Grazing District N-2

Unit(s)
Allotment
Township 28N
Range 32E

Compiled by
(Operator's Signature)

Date 11/2/60
Date



FORM Nº 4-1249
September, 1957)

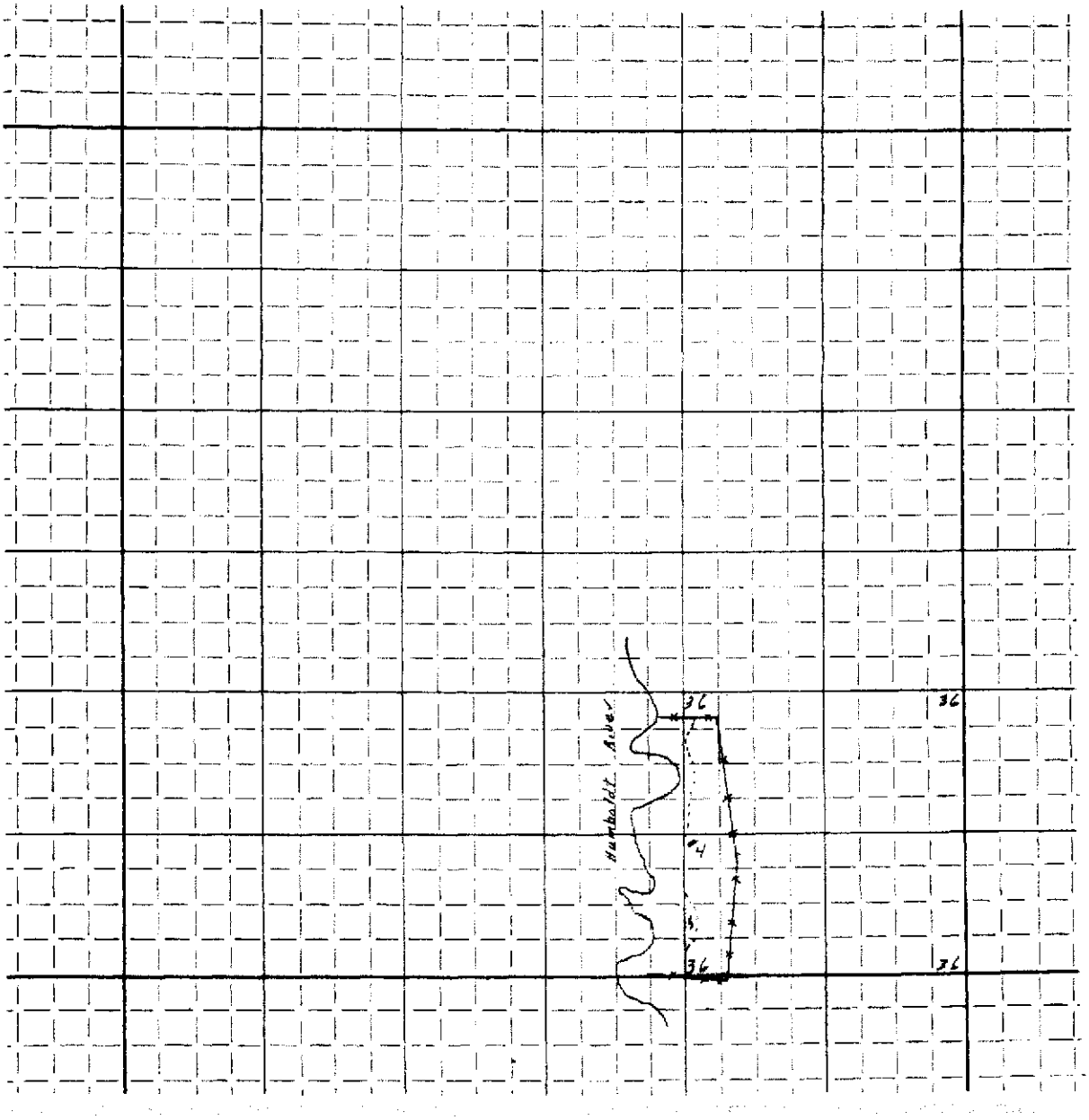
UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management

DEPENDENT PROPERTY RECORD

Operator Duncan AE
Address Lovelock, Nev
Area
State Nevada
Grazing District
Compiled by

A E Duncan
(Operator's Signature)

Unit(s)
Allotment
Township 29N
Range 32E
Date 4/14/69
Date



M No. 4-1243
ptember, 1957)

Pg - Patch

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management

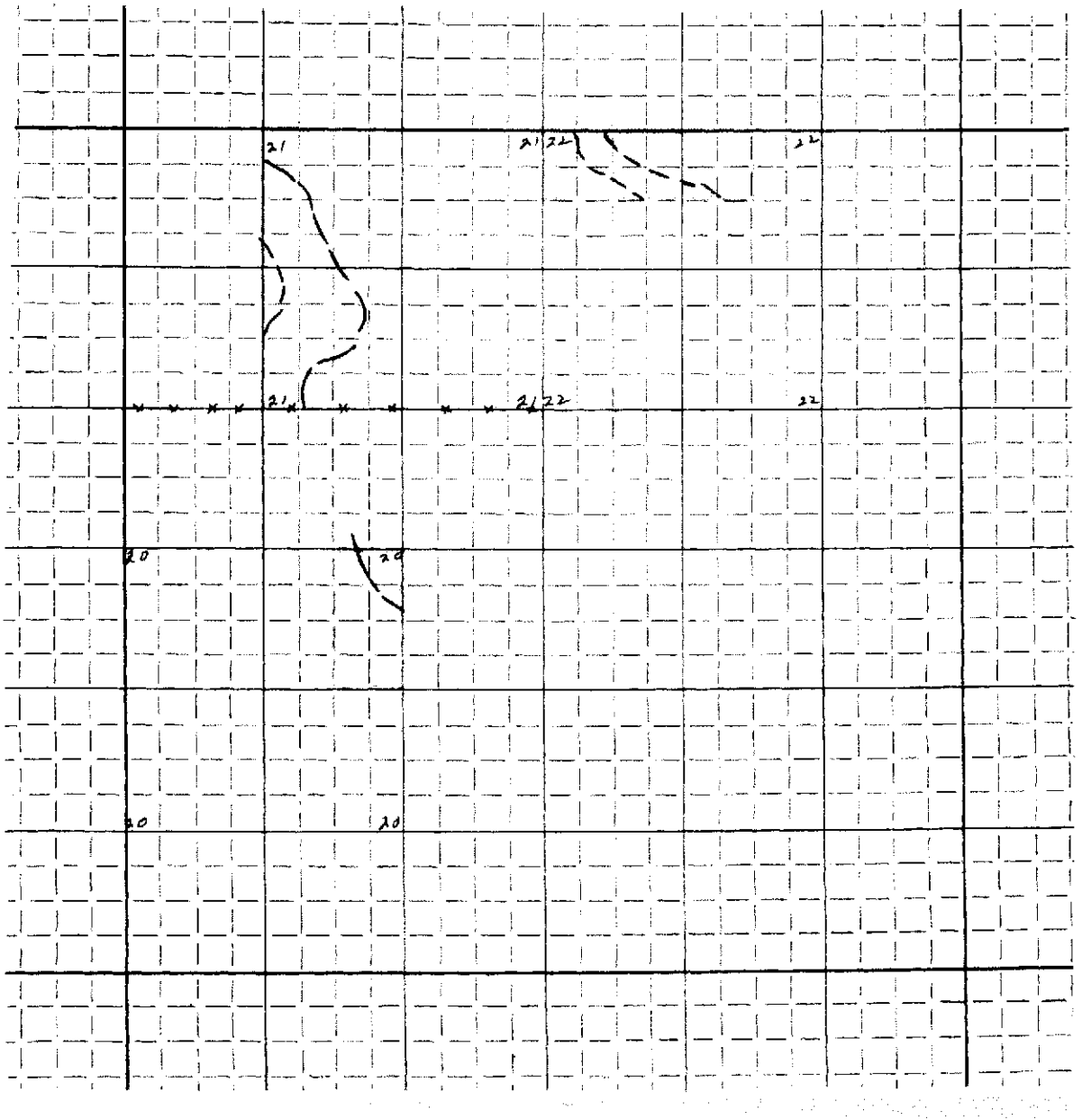
DEPENDENT PROPERTY RECORD

erator Duncan A.E.
dress Lovelock, Nev
ea
ate Nevada
azing District N-2
mpiled by

(Operator's Signature)

Unit(s)
Allotment
Township 28N
Range 32E

Date 11/4/69
Date



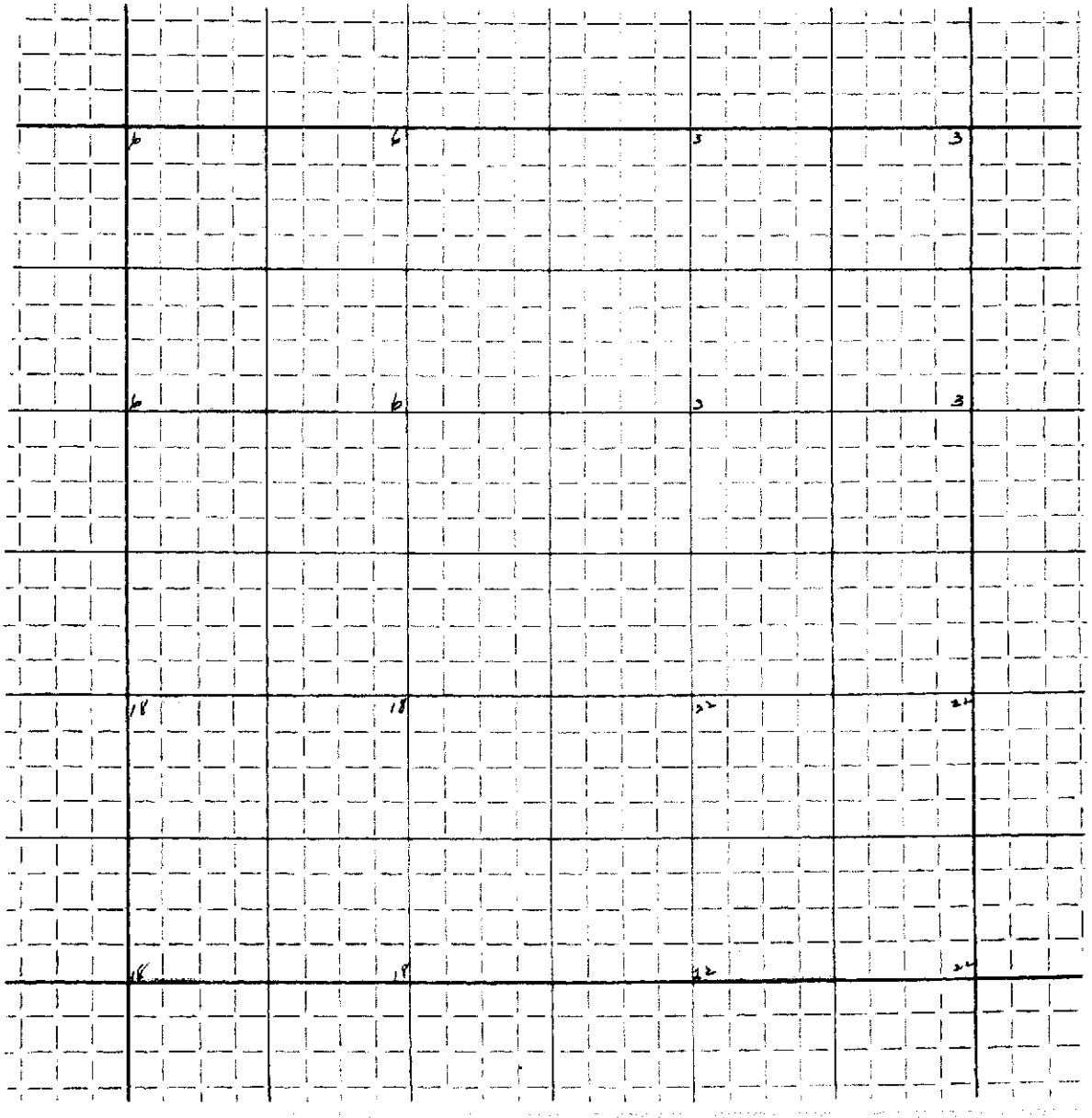
4 No 4-1249
November, 1957)

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management

DEPENDENT PROPERTY RECORD

rator Duncan A.E.
tress Lovelock, Nev
ea
ate Nevada
azing District N-2
mpiled by
(Operator's Signature)

Unit(s)
Allotment
Township 29N
Range 33E
Date 11/4/69
Date



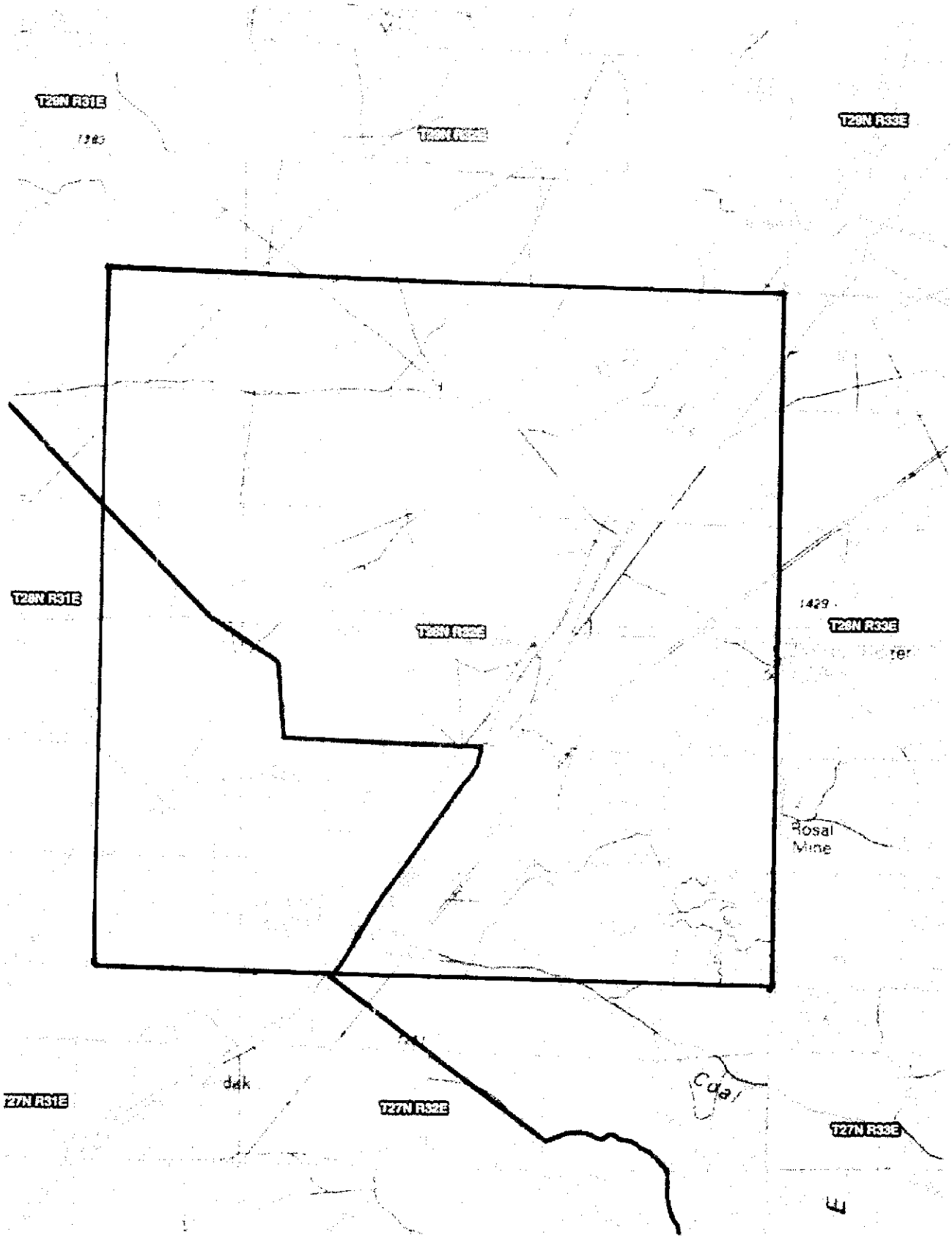



**Exhibit 4**
**Page 9 of 9**