Application No. 010388

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 Rd. (Street Address or PO Box) of Lovelock, (City or Town)

Nevada 89419 (State and ZIP Code)

(2) Source of water Trees in Packard Flat aka Black Knob Spring (Name of natural water source)

(3) The water is diverted by:
Spring box, pipeline to ditch, natural channel, and earthen pond

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

(4) The water is diverted at the following point(s):
NW1/4SE1/4, Sec 31, T28N, R34E, and flows down a natural channel to SE1/4SW1/4, Sec. 31, T28N, R34E.

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 natural channel 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 (Date) and completed Natural spring prior to 1905 (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 as part of the public domain. This property comprises a portion of claimant's grazing license and allotment.

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 1871 (Date)

was 200 cattle _____ horses _____ sheep or wildlife (describe) _____

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

Revised 07/09 - POA

Packard Valley
Carson Desert
8- 101A
Pe

(10) The approximate number of animals watered by the claimant in subsequent years was as follows:
Approximately 200 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

.02 cubic feet per second.

448.83 gallons per minute equals 1 cubic foot per second

(12) The works are located at:
NW1/4SE1/4, Sec. 31, T28N, R34E, and SE1/4SW1/4, Sec. 31, T28N, R34E.

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

Remarks
This spring is located on unfenced private ground that was formerly a railroad section, and is within the bounadries of our allotment. See also Coal Canyon Poker Brown Allotment Water Use Summary, and Affidavit of Water Use Abigah E. Duncan

The undersigned, being first duly sworn, deposes and says that the facts relative to the appropriation of water by Abigah Duncan and predecessors are full and correct to the best of his/her knowledge and belief.

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 Abigah E. Duncan

Telephone No. (775) 273-0855

PO Box 532

Lovelock, NV 89419

Telephone No. (775) 273-0855

Subscribed and sworn to before me this 24 day of March, 20 13

Notary Public in and for the County of Pershing

My commission expires May 1, 2016

PATRICIA J. SPEER
Notary Public, State of Nevada
Appointment No. 08-6761-15
My Appt. Expires May 1, 2016

Revised 07/09 POA

$50 FILING FEE MUST ACCOMPANY PROOF

AFFIDAVIT OF WATER USE
ABIGAH E. DUNCAN
RE: PACKARD FLAT TREES aka BLACK KNOB SPRING

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 93 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 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 are 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 map of my grazing allotment is attached as Exhibit 3, and a copy of my grazing permit 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.

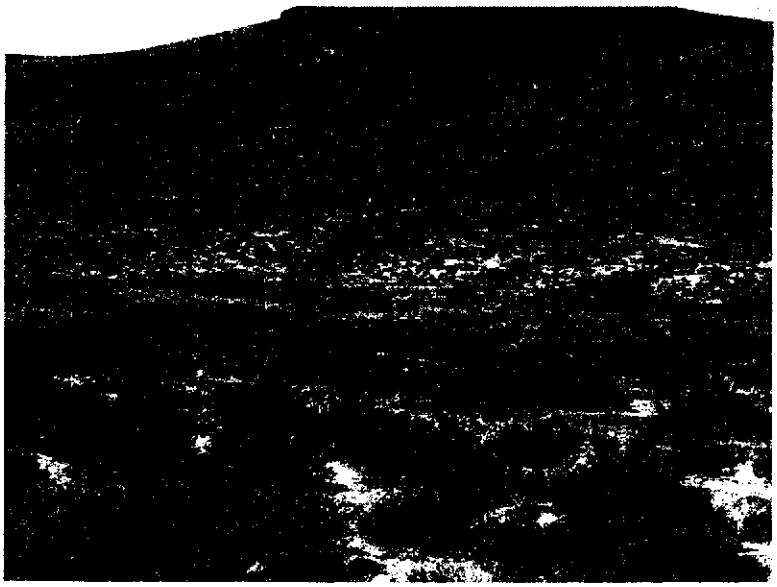
15. Since 1946, I have made continuous use of the grazing preferences on the Coal Canyon Poker Allotment.

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. The Packard Trees, Black Knob Spring, is located in NW1/4 SE1/4, Sec 31, T28N, R34E, MDM. Exhibit 5.

18. This source consists of a spring box with a small water line that goes into a ditch then flows down the ditch to a pond.



19. The water line runs about 200 feet to the ditch which then flows in the ditch, about 1600 feet to the pond.

20. The Kyle Brothers used the Black Knob Spring at Packard Flat trees to water horses from at least 1871. See Coal Canyon Poker Brown Allotment Water Use History, submitted herewith.

21. Vested rights show water use for stock dating back to at least 1875. Exhibit 6.

22. We use this source every other year, and we maintain this source when using it by checking the water line and cleaning it out if needed. We have to clean the tree roots out of the spring box, and check the ditch to make sure there are no breaks in the ditch. Occasionally we have to shovel the ditch out where a cow trail sometimes flattens the ditch out thus diverting the water down the canyon and not to the pond.

23. Packard Springs naturally runs year round.

24. Every other year we water up to 200 head of cattle, including pairs, at this location.

25. When we are using this water source, we check it about two times a week to ensure water is flowing to the pond, and check the spring box to make sure it is free from tree roots or other obstructions.

26. I, or my son Dan, have made continuous use of water from Packard Flat Trees for stock water use the entire time I have had a grazing preference in this area.

DATED this 24 day of March, 2013.

Abigah Elum Duncan

SUBSCRIBED AND SWORN to before me by Abigah Elum Duncan this 24 day of March, 2013.

PATRICIA J. SPEER
Notary Public, State of Nevada
Appointment No. 08-6761-15
My Appt. Expires May 1, 2016

Notary Public for Nevada
My commission expires: May 1, 2016

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 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 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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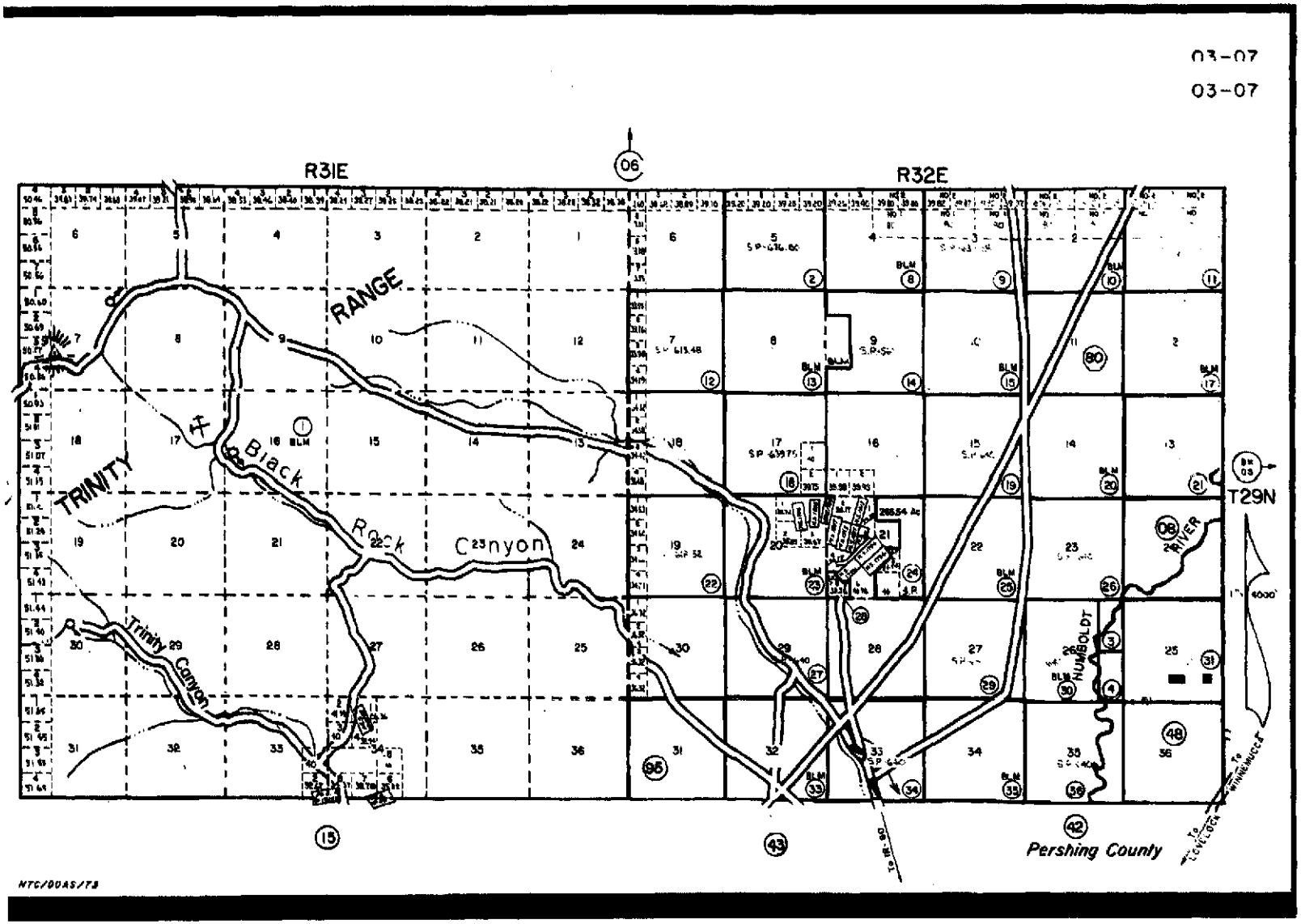

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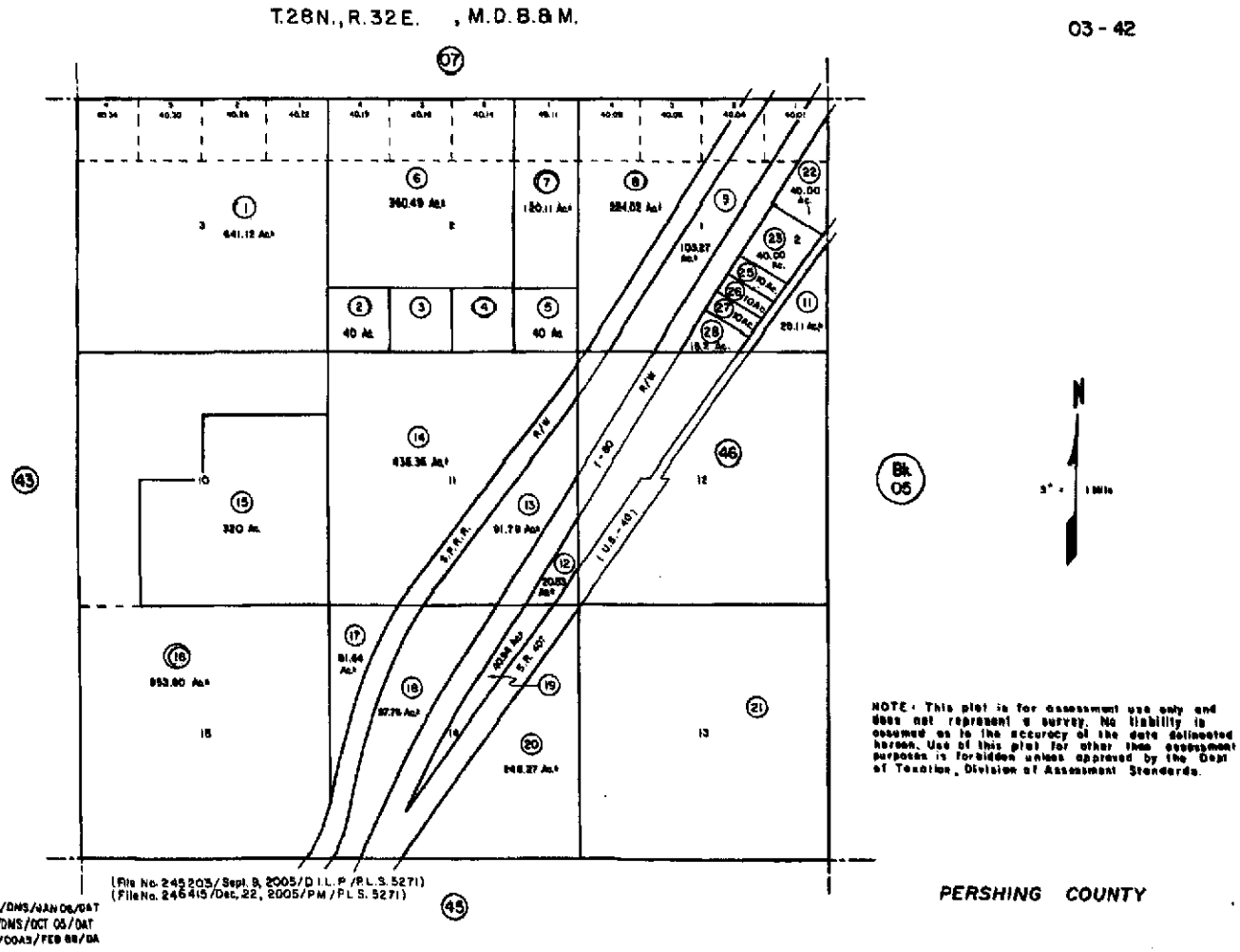
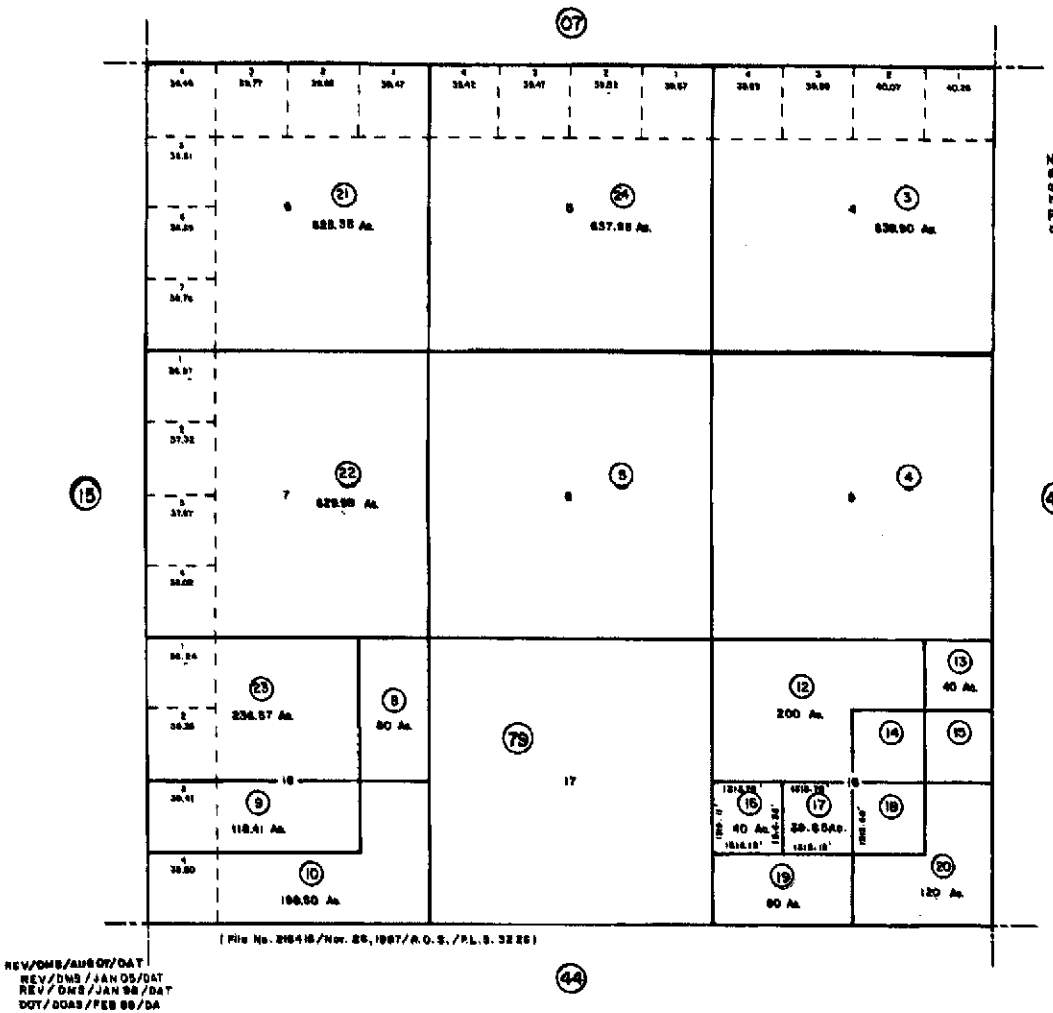


*** THIS IS AN UNOFFICIAL COPY ***

T.28 N., R.32E., 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 98/DAT
DOT/DOAS/FEB 88/DA

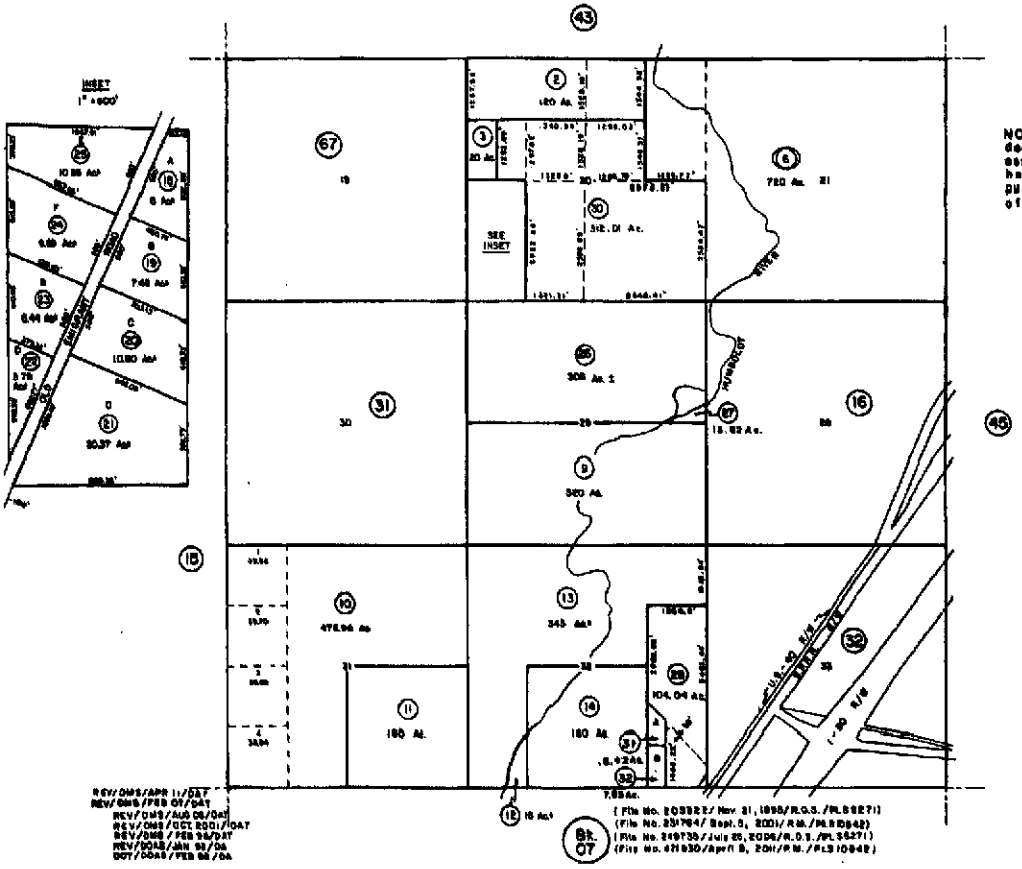
PERSHING COUNTY

*** 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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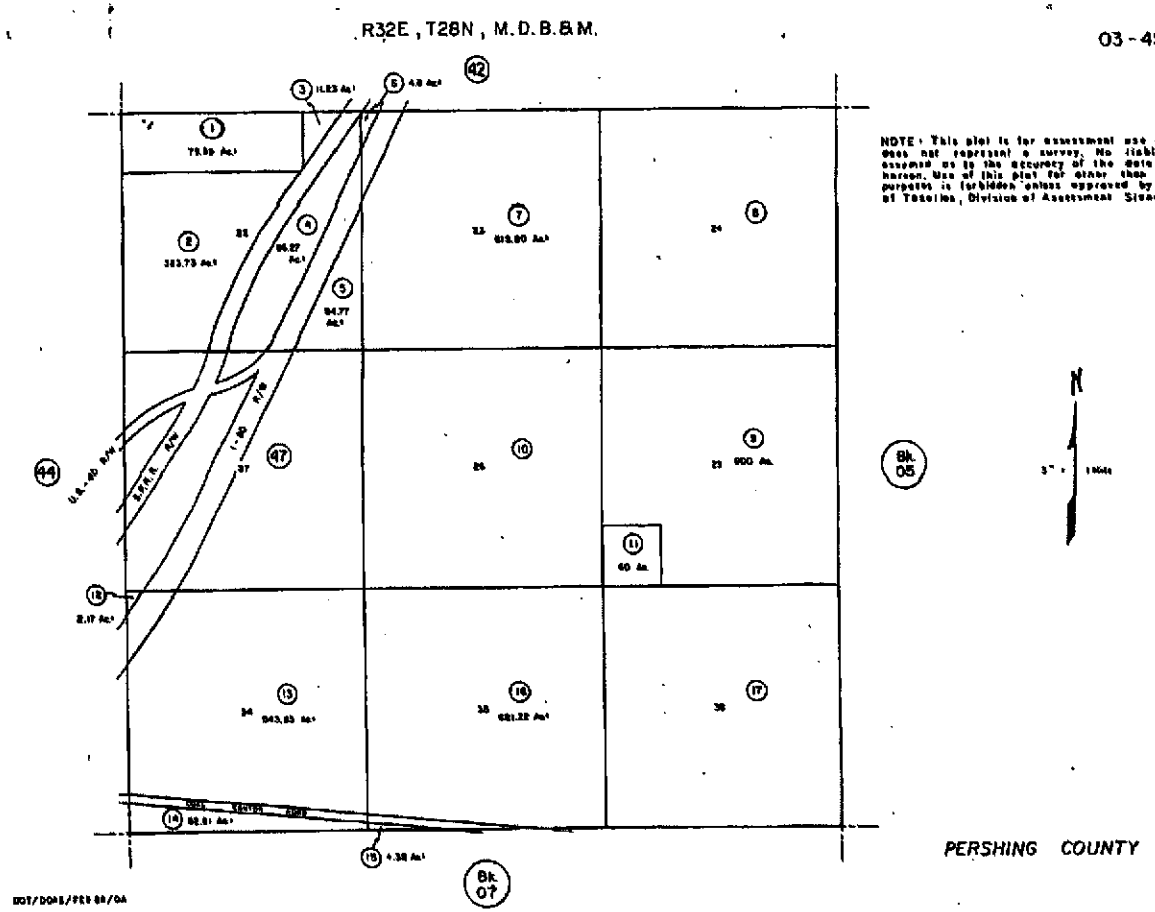

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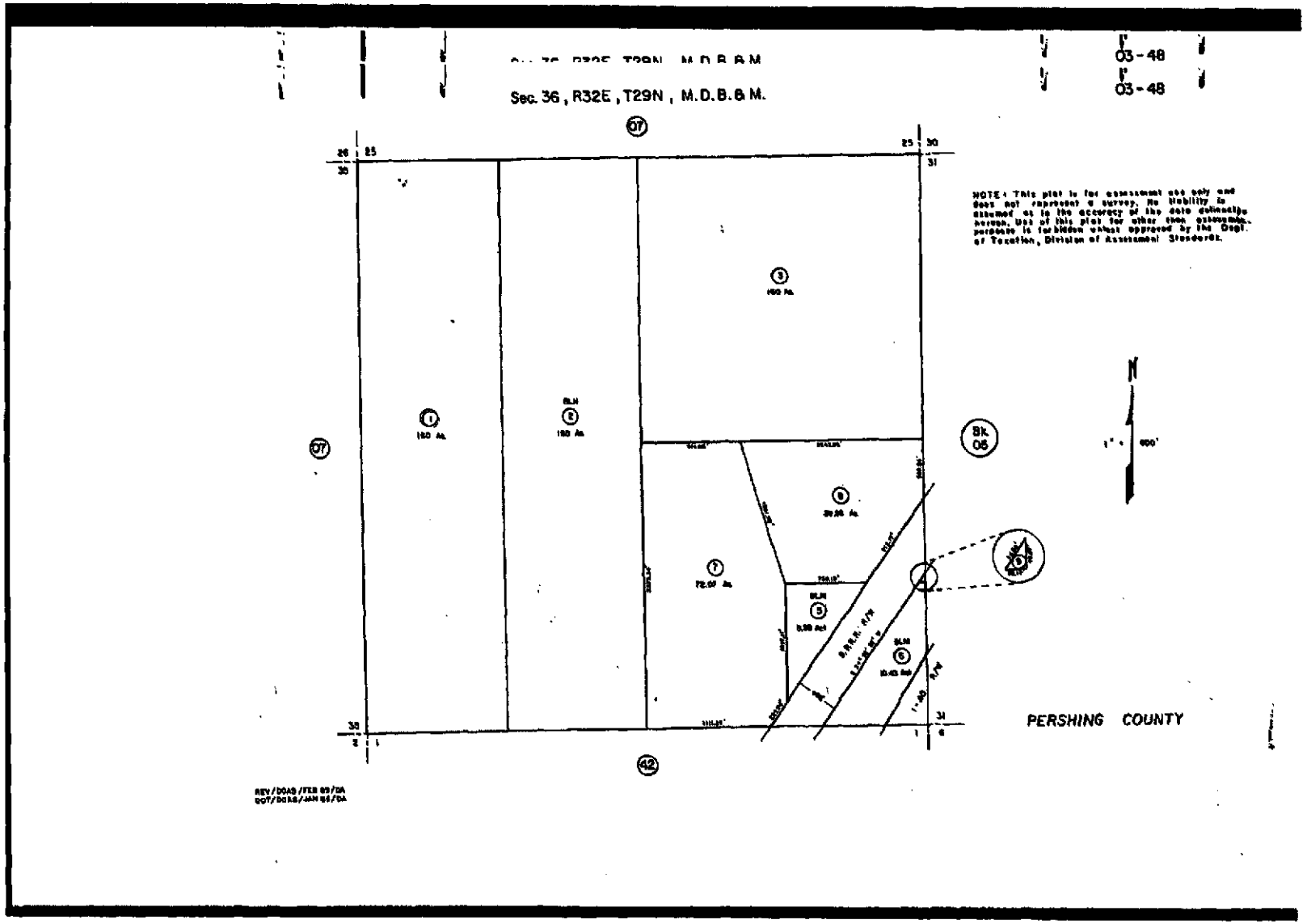
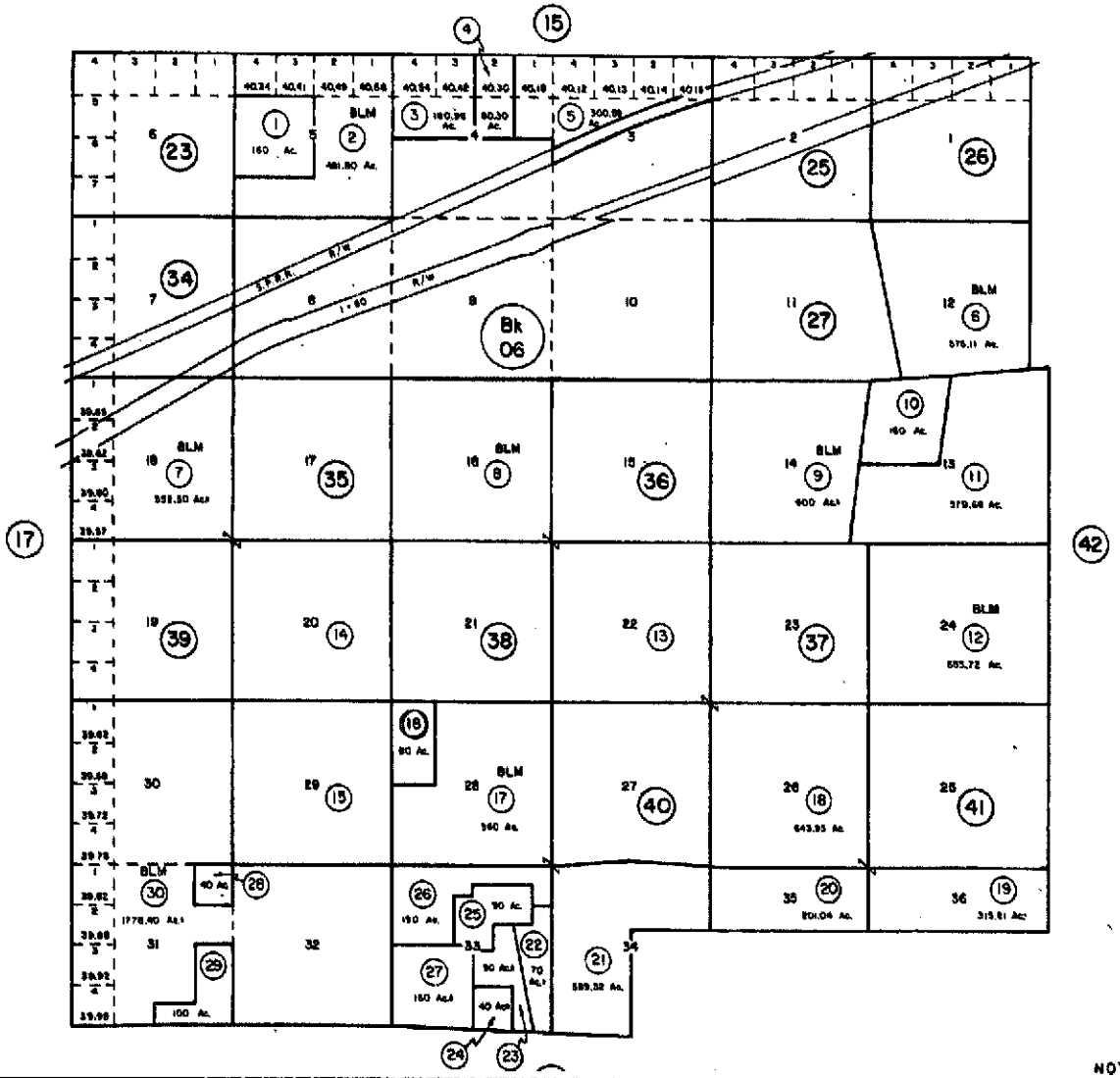


T32N , R34E

08 - 22



PERSHING COUNTY

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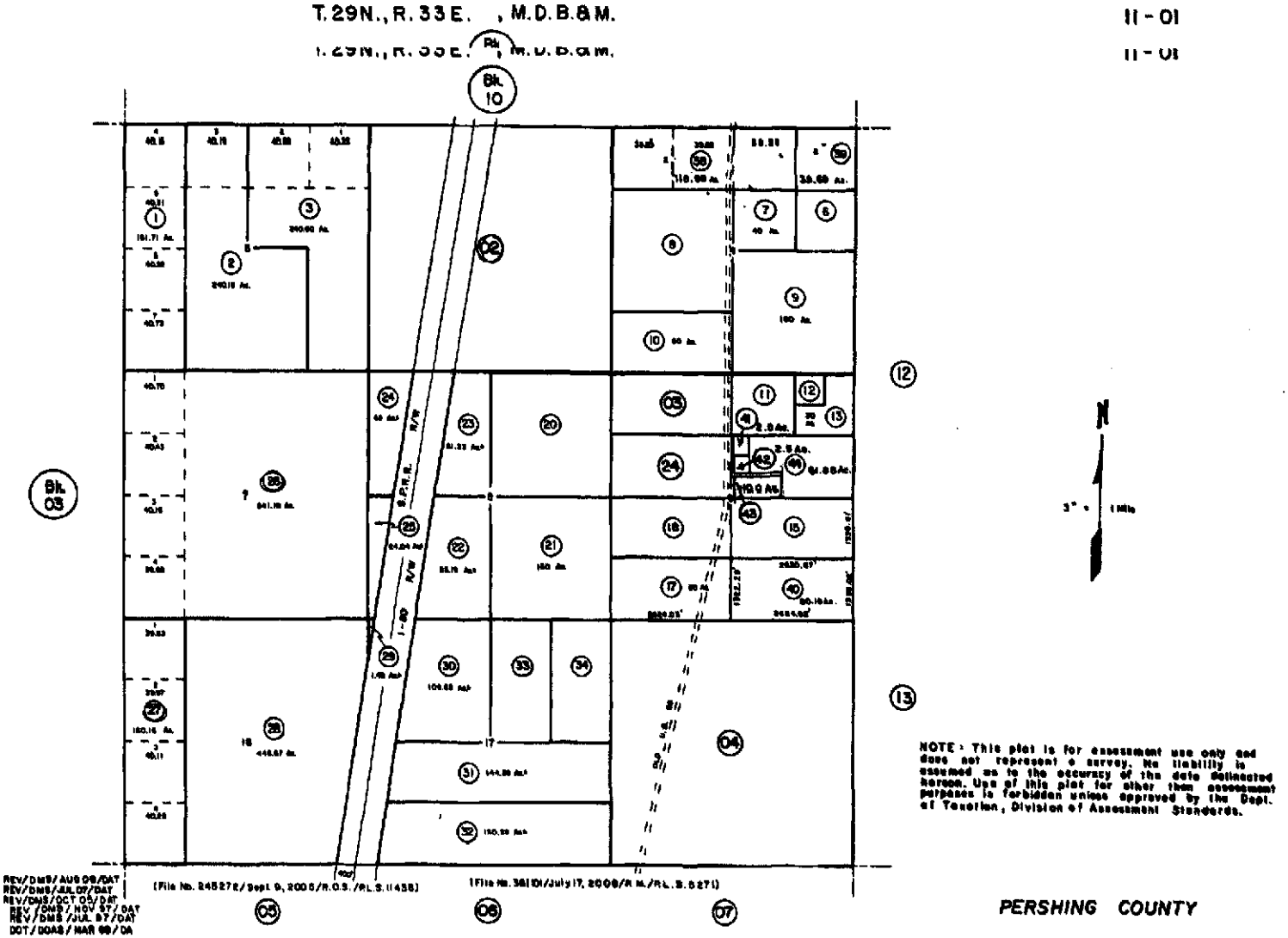


IN REPLY REFER TO:

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

POST OFFICE BOX 72
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 adjudication 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. & Fannie 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 9-8-67

[illegible] — 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.

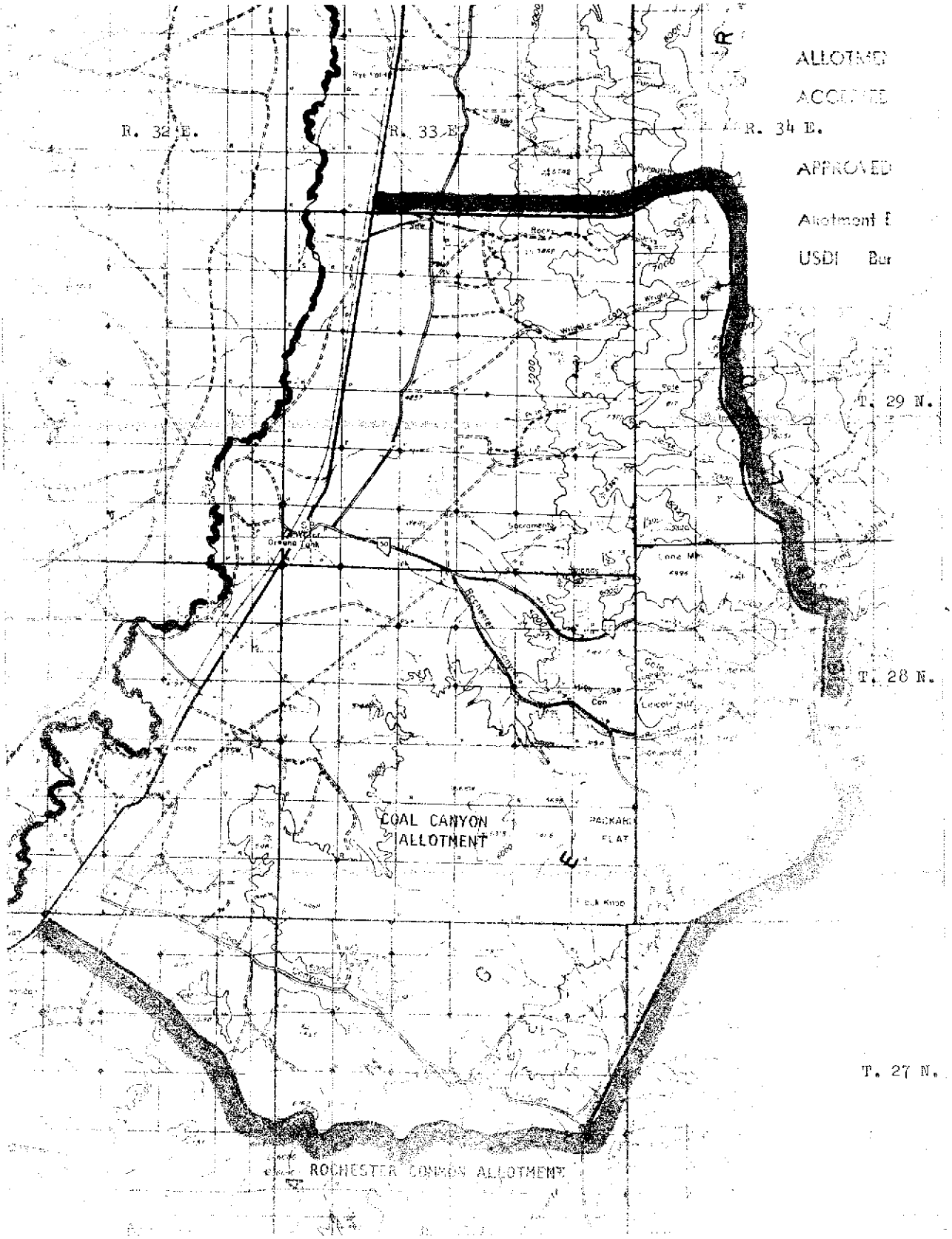
3. Theodore Belzarena agrees to make 492 AUMs use north of the above line and 1400 AUMs use south and east of the line which includes his Stillwater use.

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.

NHA ABD TB G.D.


R. 32 E.
R. 33 E.
R. 34 E.
T. 29 N.
T. 28 N.
T. 27 N.
COAL CANYON
ALLOTMENT
ROCHESTER COMMON 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
ACCEPTED
DATE
APPROVED
DATE
Allotment Boundr
USDI Bureau of Land Management Winnemucca District

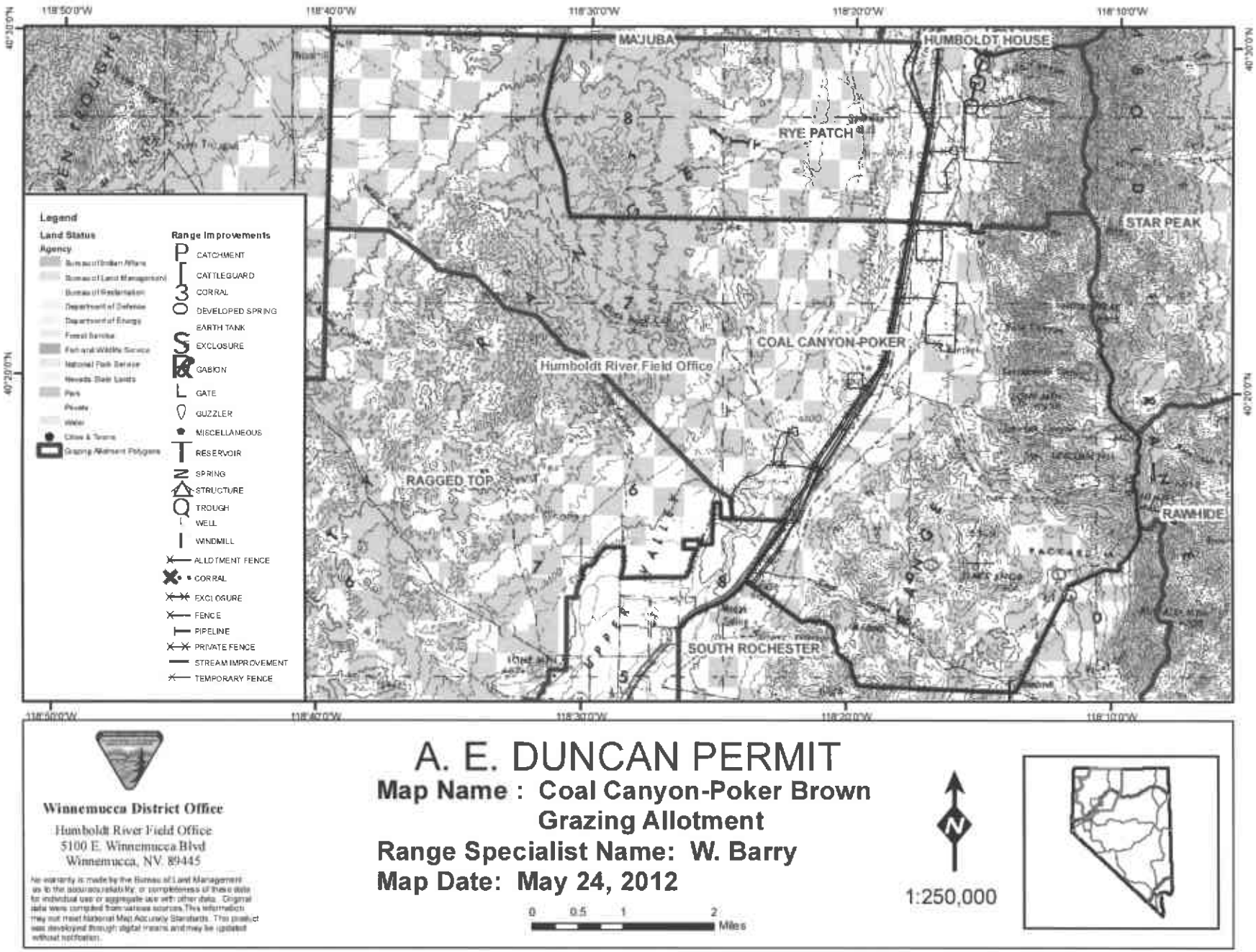
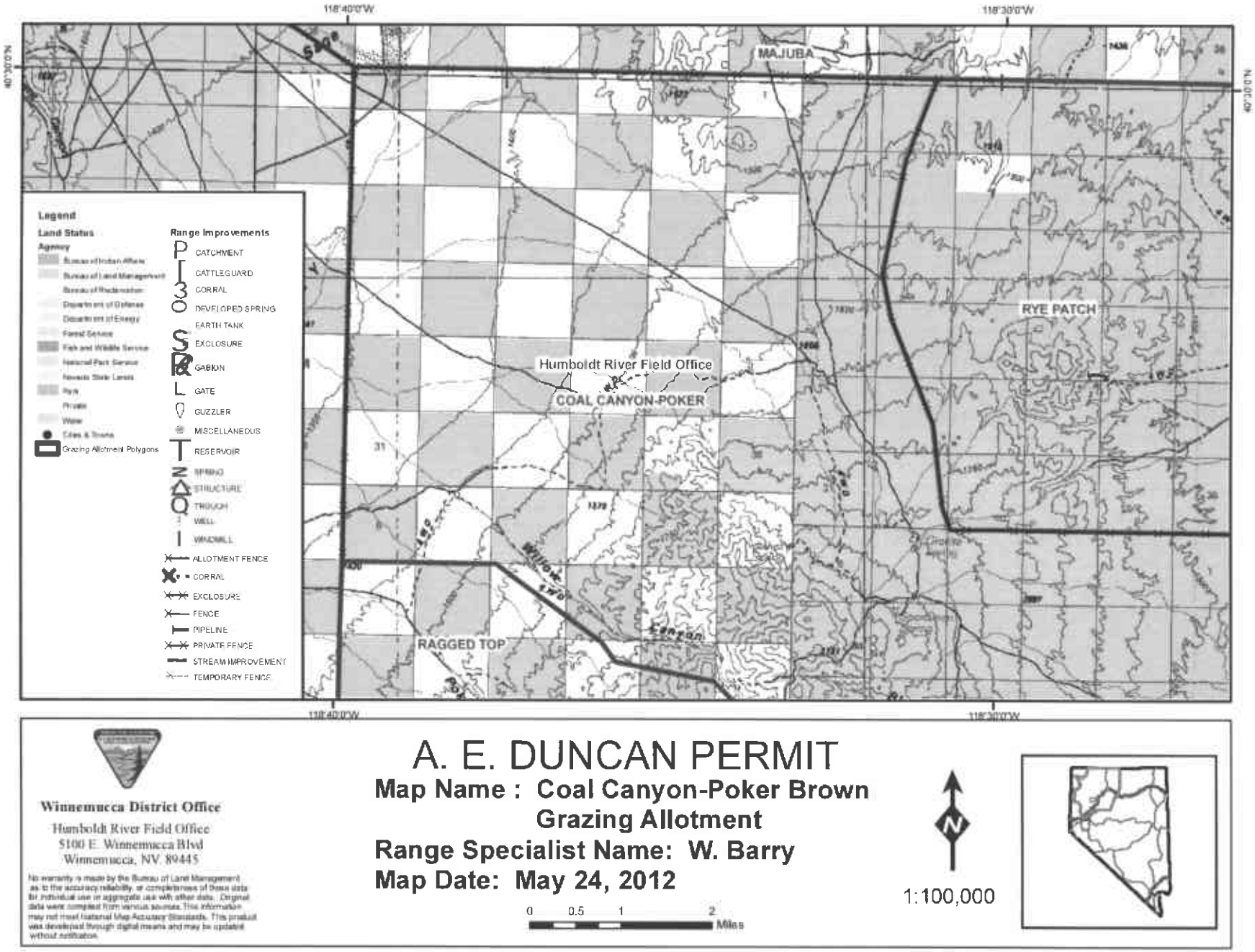


Exhibit 3
Page 1 of 3



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

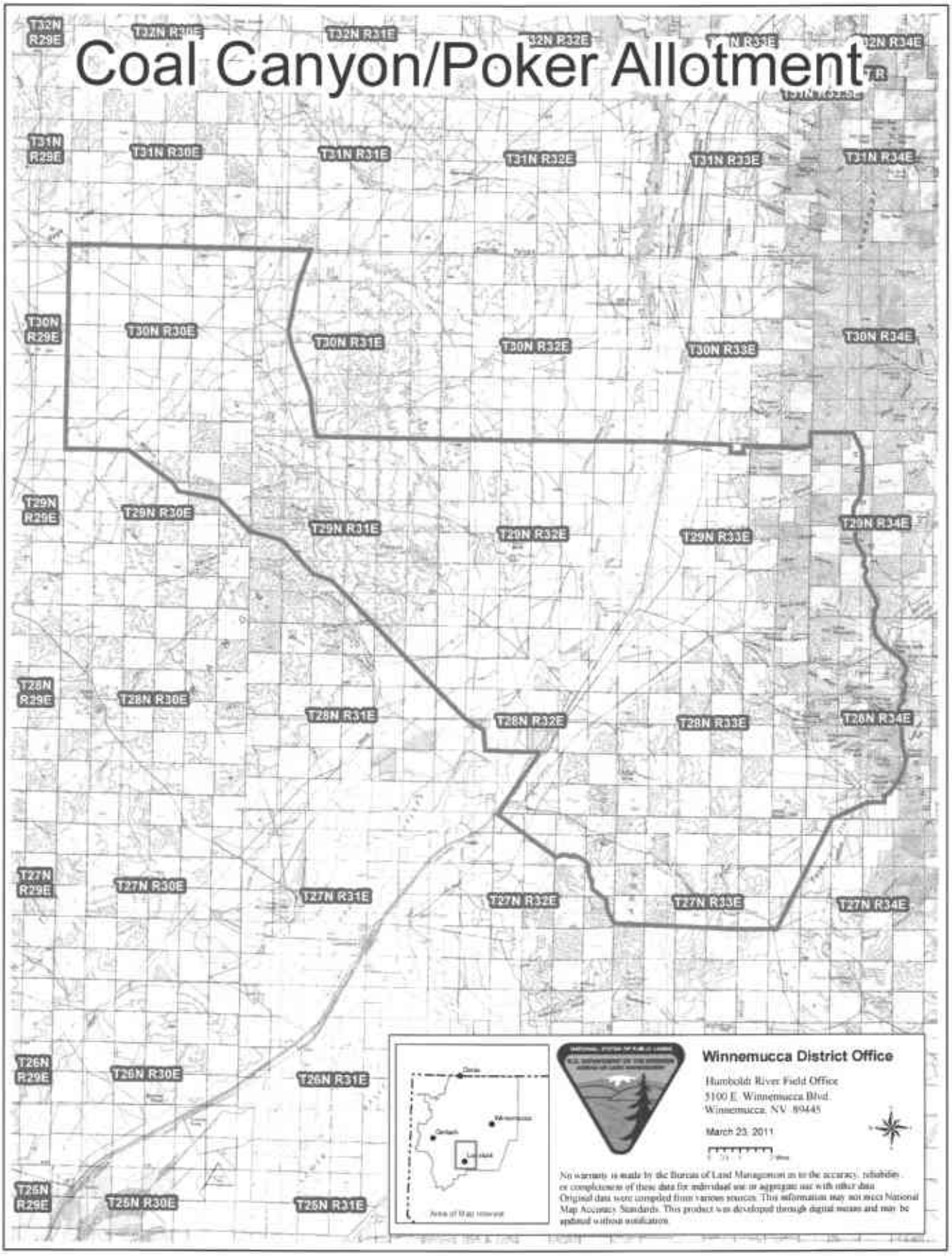
Range Specialist Name: W. Barry

Map Date: May 24, 2012

0 0.5 1 2 Miles

N

1:100,000


Coal Canyon/Poker Allotment
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T26N R30E
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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. 108-106), 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

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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)	

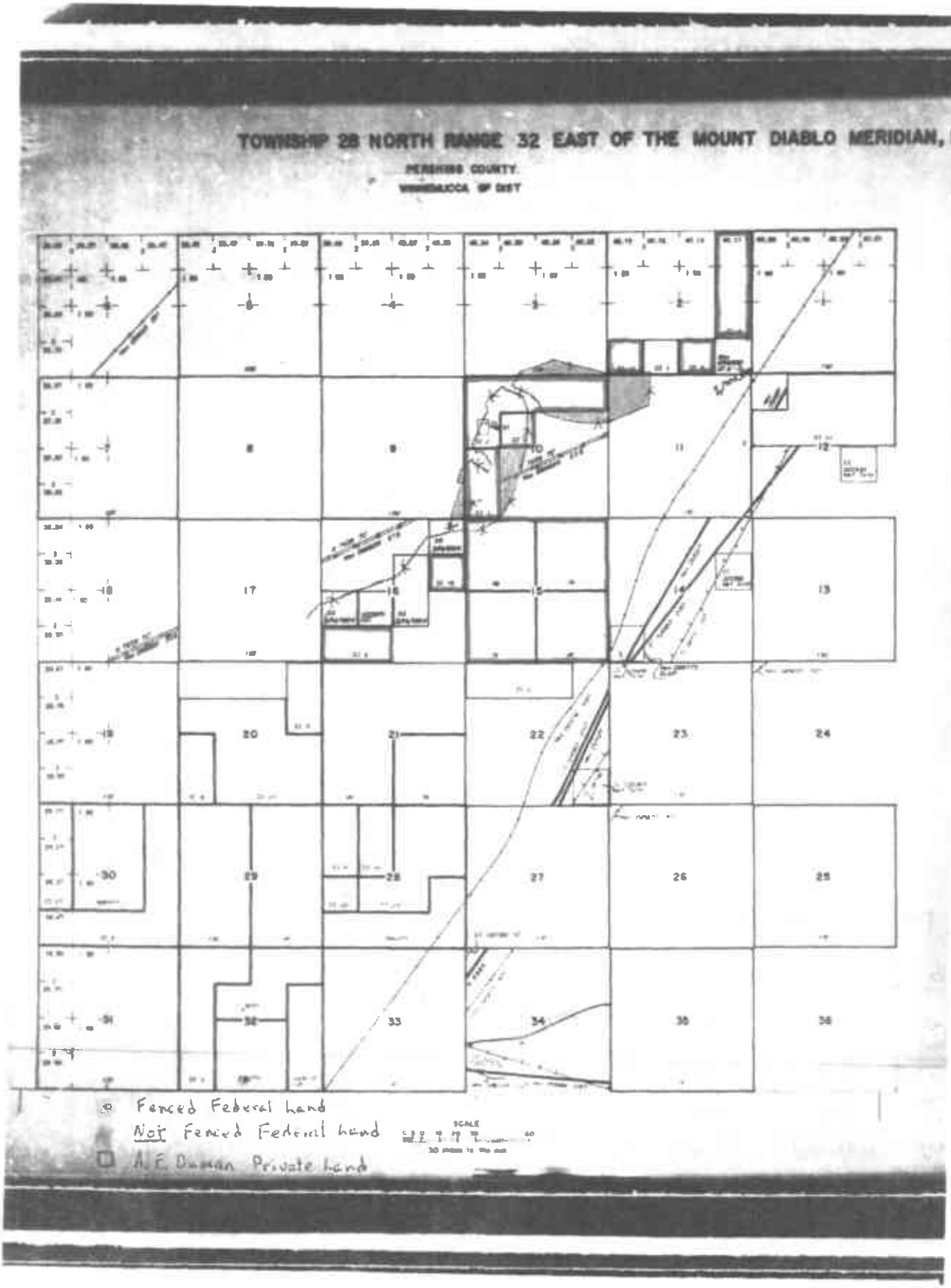
SALT AND/OR MINERAL BLOCKS SHALL NOT BE PLACED WITHIN ONE QUARTER (1/4) MILE OF SPRINGS, STREAMS, MEADOWS, RIPARIAN HABITATS, OR ASPEN STANDS.

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


TOWNSHIP 28 NORTH RANGE 32 EAST OF THE MOUNT DIABLO MERIDIAN, N
PERSHING COUNTY
Fenced Federal Land
Not Fenced Federal land
A. E. Duncan Private land

FORM No. 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.

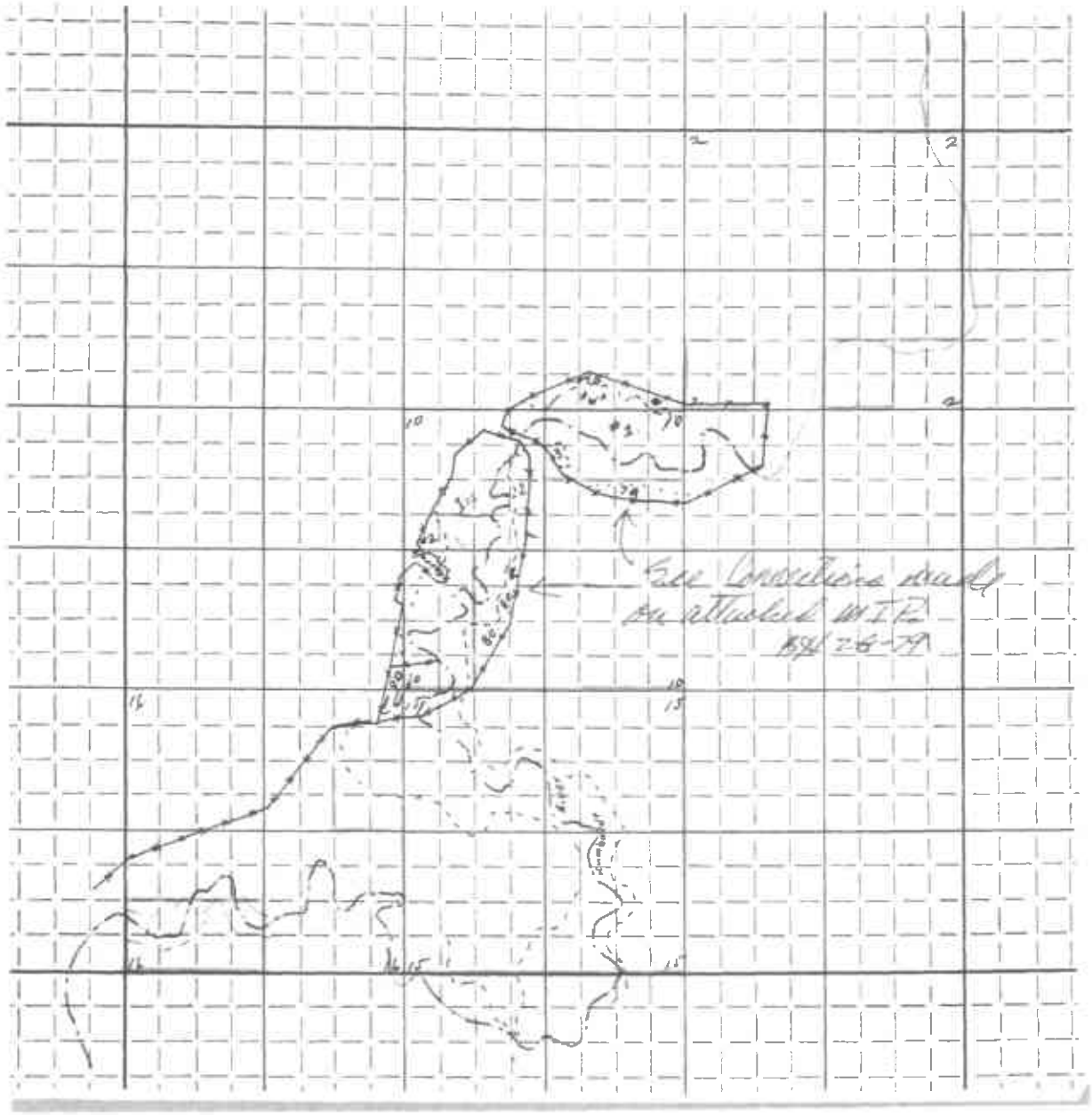
Area
State Nevada
Grazing District N-2

Compiled by

A.E. Duncan
(Operator's Signature)

Unit(s)
Allotment
Township 28N
Range 32E

Date 11/4/69
Date



FORM NO 4-1248
(September, 1957)

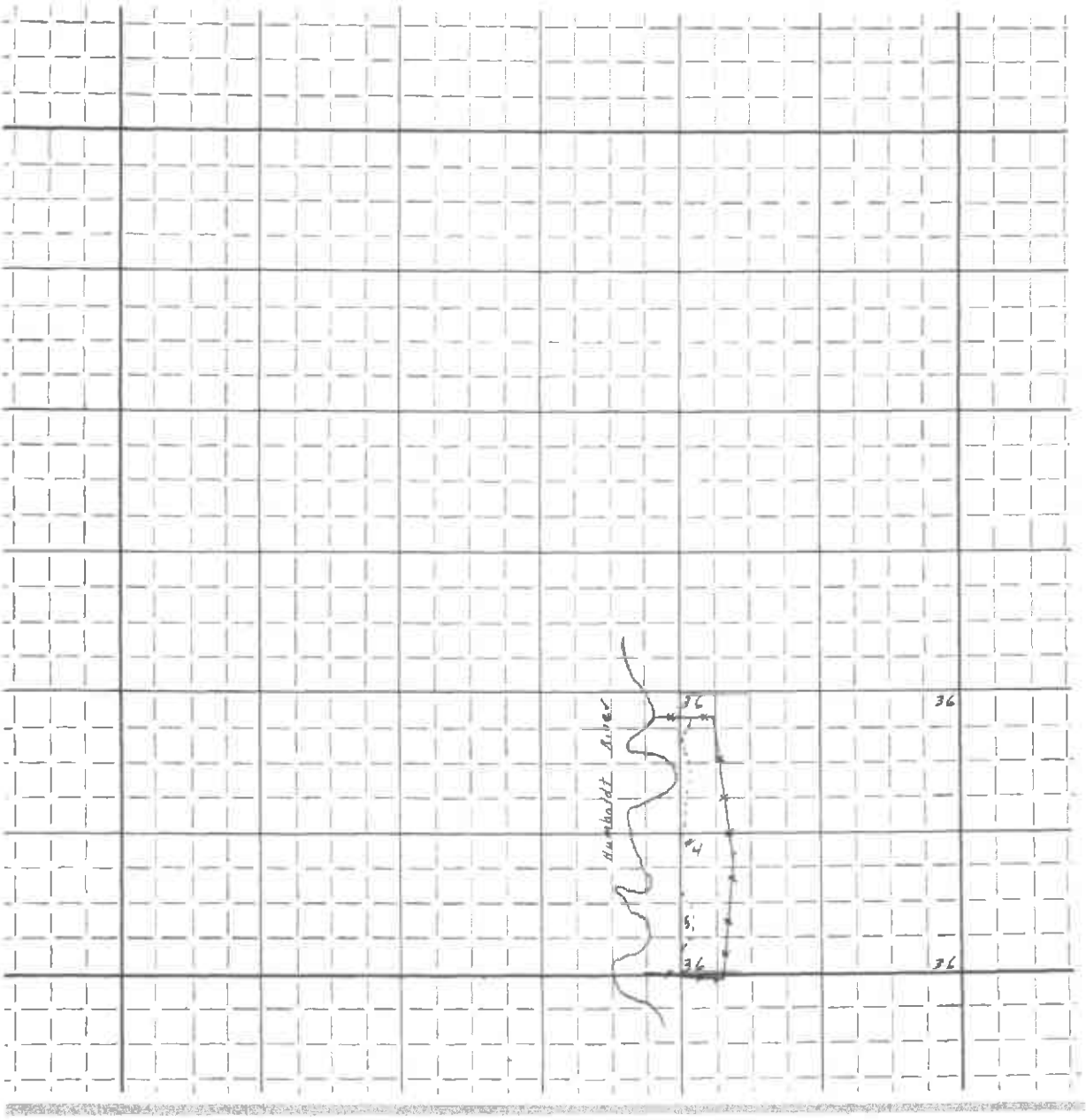
UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management

DEPENDENT PROPERTY RECORD

Operator Duncan A.E.
Address Lovelock, Nev
Area
State Nevada
Grazing District
Compiled by

A.E. Duncan
(Operator's Signature)

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



M MP 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
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ate Nevada
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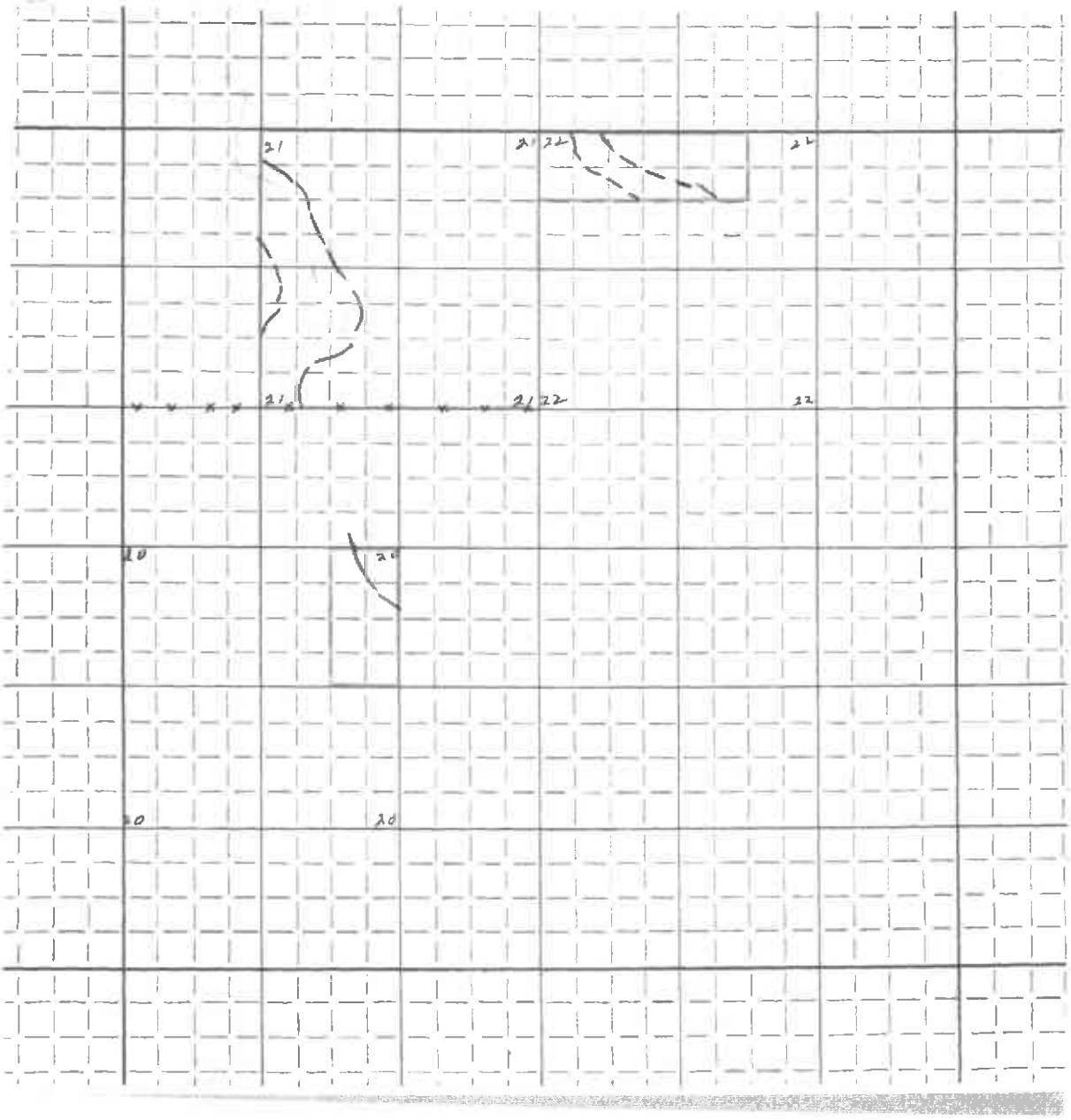
mpiled by

(Operator's Signature)

Unit(s)
Allotment
Township 28N
Range 32E

Date 11/4/69
Date



4 NP 4-1249
tember, 1957)

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management

DEPENDENT PROPERTY RECORD

rator Duncan A.E.
dress Lovelock Nev.

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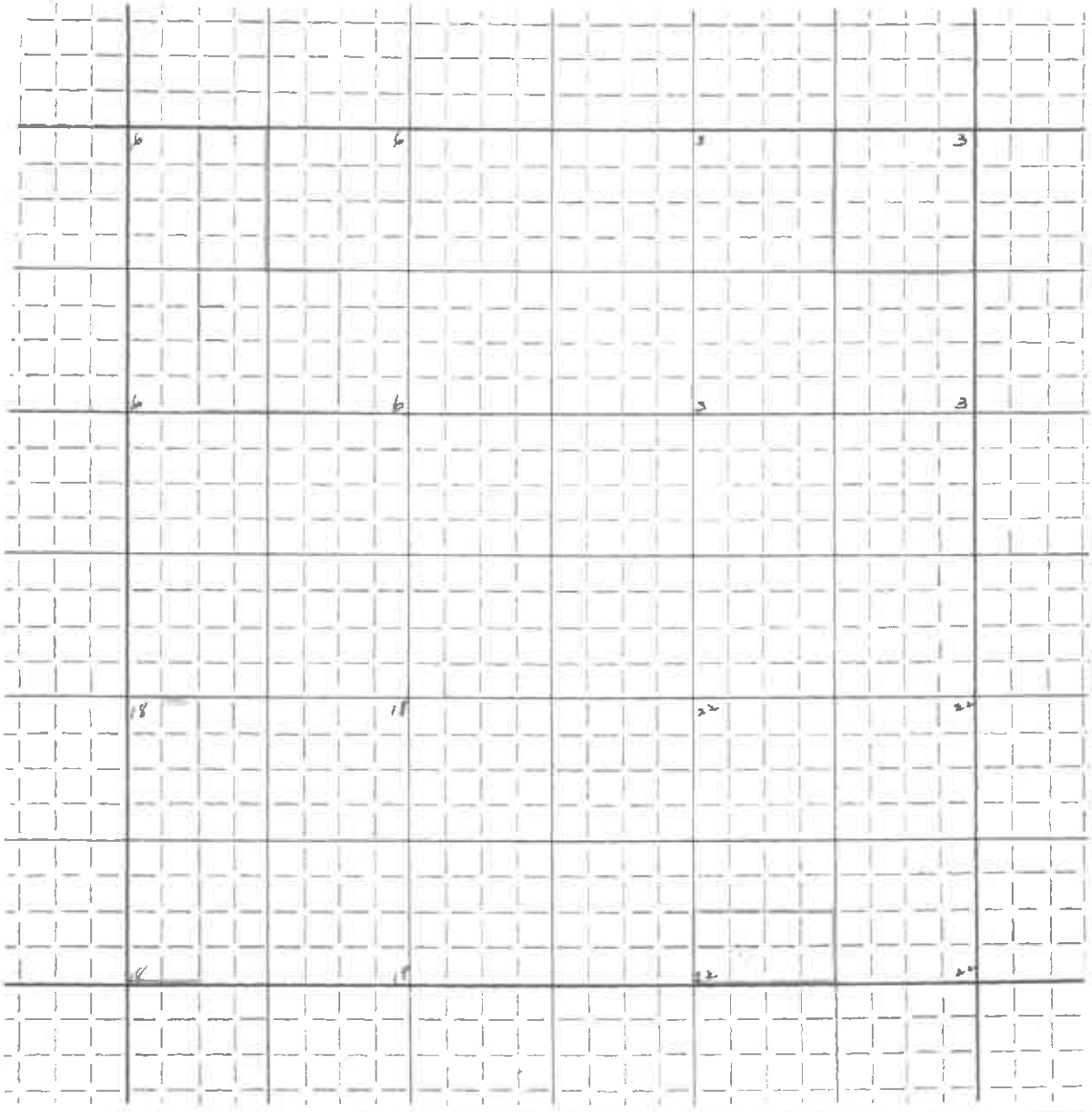
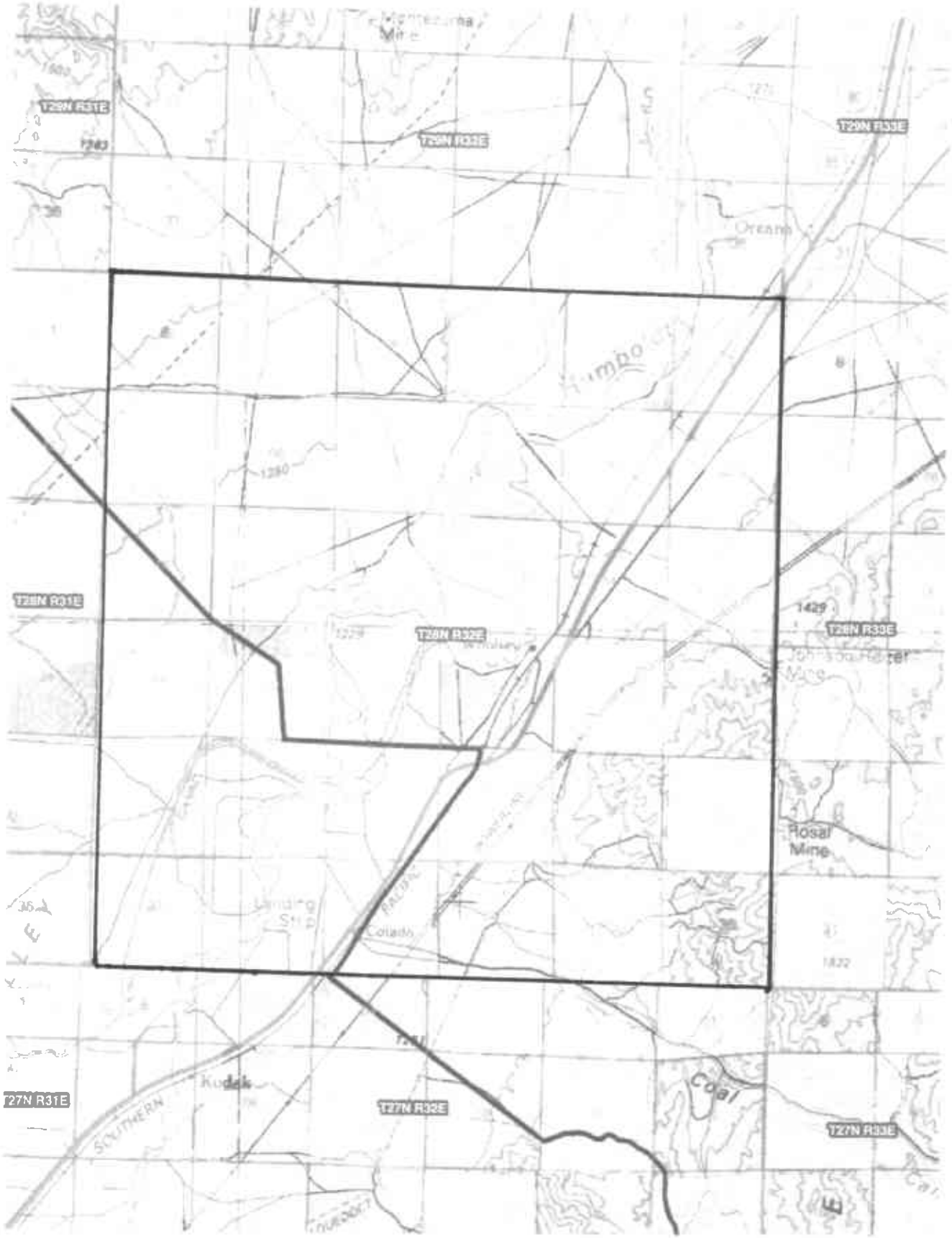
mpiled by
(Operator's Signature)

Unit(s)
Allotment
Township 29N
Range 33E

Date 11/4/69
Date

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Rosal Mine
Coal
SOUTHERN

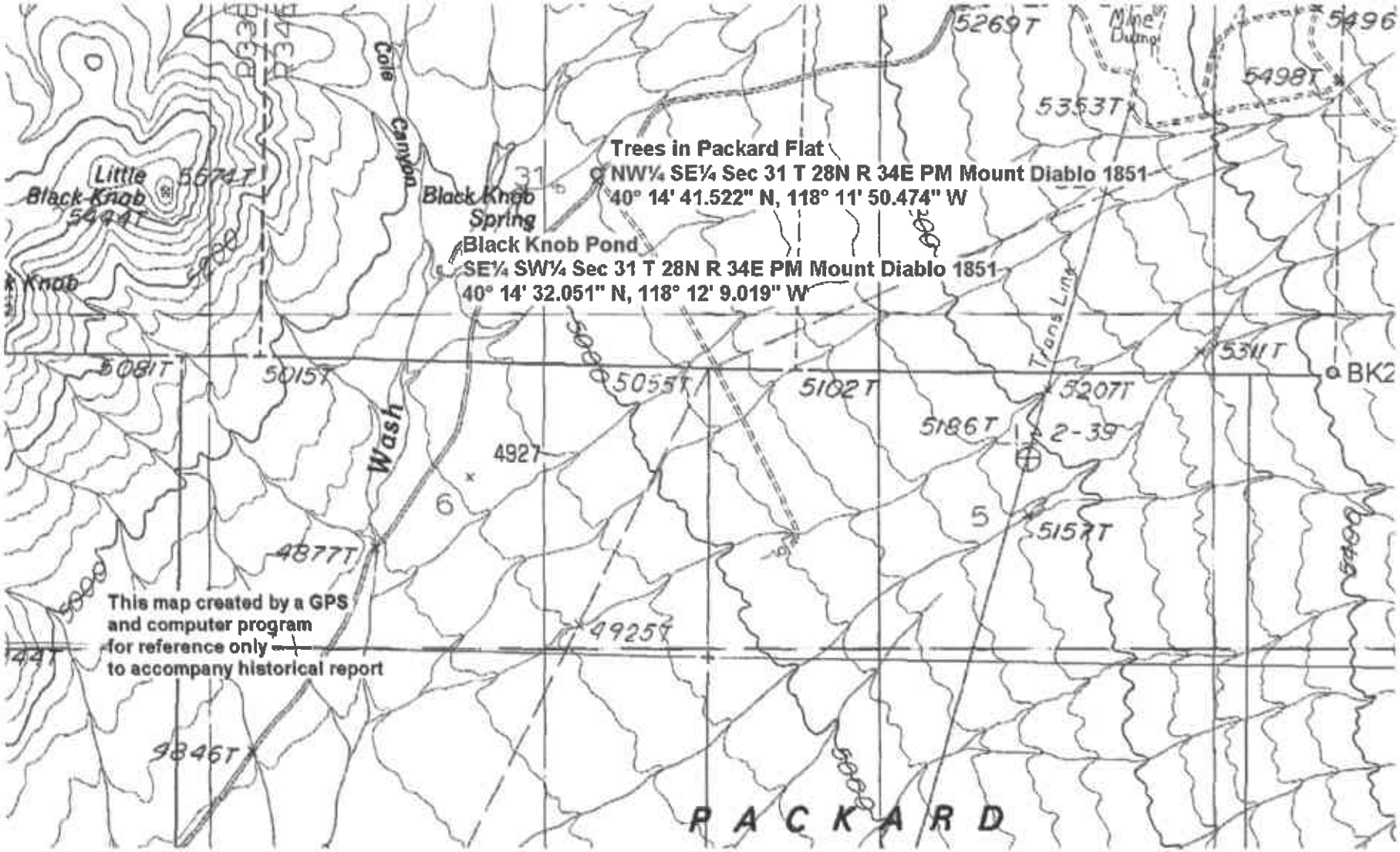

Exhibit 5
Page 1 of 1

0738

THE STATE OF NEVADA.

PROOF OF THE APPROPRIATION OF WATER.

State your name Peter N. Marker.

1. Q. Postoffice.
   A. Lovelocks

2. Q. State the use to which the water has been applied.
   A. Watering Stock.

3. Q. State the means of diversion employed.
   A. Pipes, Troughs, Open Cuts Etc.

4. Q. If through a ditch state its name.
   A. No Ditch

5. Q. (a) State date of survey of the ditch or other distributing works through which the water claimed is diverted. (b) The date when the construction of such ditch was begun and when completed.
   A. (a)
   (b)

6. Q. If any enlargements were made state the date when begun and the date when completed.
   A.

7. Q. State dimensions of the ditch as originally constructed, and as enlarged.
   A.

8. Q. State the name of person, association of persons or corporation who built the ditch or canal, and the name or names of its present owners.
   A. Peter N. Marker Sole Owner of the Springs Mentioned herein

9. Q. State the nature of your title to the land for which an appropriation is claimed, and if not owned by you give the name of the owner and the nature of the possessory right which you exercise.
   A.

State the year when water was first used for irrigation or other beneficial purposes, and by or irrigation, give the number of acres watered the first year, with the legal subdivisions on ter was used, and as near as may be the acres irrigated in each legal subdivision.

Springs enlarged, + used for Stock purposes Developed + improved about 1875

11. Q. State the number of acres watered each subsequent year, and give the legal subdivisions on which the water was used, and as near as may be the acres irrigated in each legal subdivision.

A.

12. Q. If water is claimed for irrigation, give the legal subdivisions of land owned or controlled by you for which an appropriation is claimed.

A.

13. Q. State the acreage said ditch is capable of watering, give the legal subdivisions of land which it can be made to irrigate, and state who owns said land.

A.

14. Q. State the character of the soil and the kind of crops cultivated.

A.

15. Q. Are you an owner in said ditch? If so state your proportionate interest therein.

A.

16. Q. The plat prepared by the State Engineer is hereby accepted as showing correctly the location of the Ditch and the land which can be irrigated therefrom.

A.

17. Q. When does your irrigation season begin and when does it end?

A.

18. Q. If water is used for other purposes than irrigation, state the nature of such use, the time when such use began, and how much water is required for such purpose.

A. Water used for Stock purposes only.

19. Q. During what months is the water used?

A. The whole Year.

20. Q. Have you had sufficient water each year since the use for which an appropriation is claimed began? If not, state the years of scarcity, the months when the supply was insufficient, and the reason of such scarcity.

A. Water is usually very scarce every year during July - Aug & Sept's

Signed:

P. N. Marker

, Nevada, , 19

Sworn to and subscribed before me at Lovelock, this 16th day of April, 19 09

M. R. Pitts, Notary Public.

Remarks:

0738

PROOF OF APPROPRIATION

Date of Appropriation .....

PRIORITIES.

GENERAL. STREAM.

NAME OF STREAM

TRIBUTARY OF

NAME OF CLAIMANT.

Peter Marker

Filed in this office this .....

day of ..... , 19 ....

State Engineer.