

LAW OFFICES OF

**RACINE, OLSON, NYE, BUDGE & BAILEY
CHARTERED**

CENTER PLAZA-CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204-1391

TELEPHONE (208) 232-6101
FACSIMILE (208) 232-6109

SENDER'S E-MAIL ADDRESS: rcb@racinelaw.net

LOUIS F. RACINE, JR.
WILLIAM D. OLSON
W. MARCUS W. NYE
RANDALL C. BUDGE
JOHN A. BAILEY, JR.
JOHN R. GOODELL
JOHN B. INGELSTROM
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Department of Water Resources
~~BOISE OFFICE~~
~~Eastern Region~~

CONRAD J. AIKEN

101 SOUTH CAPITOL
BOULEVARD
U.S. BANK PLAZA, SUITE 202
BOISE, IDAHO 83702
TELEPHONE: (208) 395-0011
FACSIMILE: (208) 433-0167

November 7, 2001

Dave Carlson
Idaho Department of Water Resources
900 N. Skyline Drive
Idaho Falls, Idaho 83402

RE: Request for supporting documents for Henderson Ranches Inc.
SRBA Water Right Claims 4200, 4201, 4202, 4203.

Dear Mr. Carlson:

I'm writing in response to your request to Alice Dunn for supporting documentation for Henderson Ranches Inc. claims to the water rights described in SRBA No. 4200, 4201, 4202, and 4203. The notations on the original filings of these claims (in 1981) stated that the claims are "supported by abstracts which will be provided if desired and necessary."

After making a through review of the abstracts we have on file, I have located several documents supporting these claims, particularly the priority dates, place of use, and actual use as described in the claims at issue. I've attached a copy of the documents for your review, and trust this is sufficient additional proof to enable the Department to recommend these claims.

The documents attached, all from Abstract No. 10906, consist of a 1929 Decree, where a portion of the place of use in the decree is some of the land in the Henderson's claim (see Exhibit "1"). The second document is a 1932 court decree relating to the same place of use as the prior decree (see Exhibit "2"). However, the place of diversion in the two court documents is directly from the Portneuf River, while Henderson's Claims are for diverted water from tributaries of the Portneuf River, while, the place of use is the same. The other two documents I have located are mortgages. Both documents describe a piece

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of property which makes up some of the place of use in the Henderson's SRBA claims. (See Exhibits "3" and "4".) The mortgages, contain a description of water rights "including but not limited to the use of the waters of two private springs and Marsh Creek."

I have also included a computer generated plat map, illustrating roughly where the water rights claimed by the Henderson are located (see Exhibits "5" and "6"), and approximately where the places of use described in the supporting documentation are located. (see Exhibits "7" and "8").

If you have any further question on this matter please advise.

Sincerely,



RANDALL C. BUDGE

RCB:rr
Enclosures
cc: Alice Dunn (w/enclosures)

Abstract No. 10906

IN DISTRICT COURT OF UNITED STATES IN AND FOR DISTRICT OF IDAHO,
EASTERN DIVISION.

United States of America, upon
the relation of H. E. Ray,
United States Attorney for the
District of Idaho, Plaintiff,

In Equity No. 478

DECREE

v.

Dated: April 8, 1929
Filed: April 8, 1929

Julia Hibner, Kepler Sessions,
Merchants Trust Company, corporation,
successor in interest to A. J. Knollin,
Continental National Bank of Salt Lake
City, a corporation, successor in
interest to Thomas J. Mipper, John W.
Symons, George A. Whitworth, George
John, Cordelia Warner, Dempsey
Irrigating Company, a corporation, Topaz
Irrigation Company, corporation, Thomas
Hilliman, F. A. Reed, James H. Byington,
Noah Reese, Lava Irrigation Company, a
corporation, Mrs. A. A. Fairchild,
Portneuf Irrigating Company, a corporation,
Portneuf Marsh valley Canal Company, a
corporation, A. T. Shumway, J. T. Gitton
J. J. Lewis, McCammon Ditch Company, a
corporation, Ameziah Benson, Brigham R.
Green, Orson V. Robbins, Royal T. Hale,
Samuel Orgill, G. H. Romriell, William J.
Lewis, Ed. Murphy, Thomas Orgill, George
Goodenough, Oregon Short Line Railroad
Company, A. J. Butterfield, Parley P.
Jensen, Ben D. Jensen, George Brangham,
Westside Canal Company, corporation, Toponce
Canal Company, a corporation, First National
Bank of Pocatello, a corporation, successors
in interest of Joseph and William F. Purvis,
J. A. Eldridge, Union Grain & Elevator
Company, a corporation, Michael Whitworth,
National Loan Company, a corporation, O. R.
Brangham, and Village of McCammon, a municipal
corporation, Defendants.

This cause came on to be further heard at this term, additional
proofs being submitted and the cause being further argued by counsel and

thereupon upon consideration thereof;

It is ordered, adjudged and decreed as follows, viz:

I.

1. The plaintiff herein, the United States of America, is, pursuant to law, the trustee for the rights of certain Indians hereinafter named, who are wards of the government, and the adjudication of the rights hereinafter particularly recited are for the use and benefit of the respective Indian wards.

2. That the decree of the water for Indian wards hereinafter adjudicated is fixed at one miners inch per second of time per acre measured at the point of diversion and the right to the use of such water upon Indian lands is continuous and the failure of any of the Indians to use the water hereinafter adjudicated will not cause either an abandonment or a forfeiture of their rights thereto, provided however, the next appropriator in point of time shall have the right to the use of the water hereinafter adjudicated to the Indians when said water is not diverted and used for irrigation or domestic purposes by said Indians, but the relief from forfeiture or abandonment shall not extend to the ownership of said lands in persons other than Indians.

II.

"C.F.S." is used herein to designate a flow of one cubic foot of water per second of time.

Allotment numbers used herein are the numbers of the allotments made by the United States Government to Indians on the Fort Hall Indian Reservation.

INDIAN'S RIGHTS

The names of the Indian wards of the government, the date of priority, the point of diversion and the lands upon which the water is to be used are as hereinafter set forth under specified headings as follows, to-wit:

(Certain property not now under search)

III.

(Indian Rights Owned by Others Than Indians)

(Certain property not now under search)

IV.

Abstract No. 10906

Rights of Others Than Indians, Under State Court Decree, to-wit:
The Case of Union Grain & Elevator, Plaintiff, v. McCammon Ditch Company,
et al, Defendants, Filed December 4, 1922, In District Court of Fifth
Judicial District of State of Idaho in and for Bannock County:

(Certain property not now under search) and

No. 40. Name of Claimant and date of Priority: Portneuf Irrigating
Company, March 27, 1889.

Amount in second feet: .55 c.f.s.

Point of diversion and place of use: Said water to be diverted
through the Portneuf Irrigating Company's Canal which diverts water from
the Portneuf River in Southeast quarter of Northwest quarter, Sec. 22,
Twp. 9 South, Range 37 East, from the Southwest corner of Sec. 22, the
point of diversion bears North 44°45' East 3550 feet.

The water is carried from the point of diversion through a short
stretch of canal, to the Portneuf-Marsh Valley Irrigation Company's canal,
through which it is delivered to points of diversion of the Company's
laterals and main canals, diverting directly from the Portneuf Marsh Valley
Irrigation Company's main canal. The point of diversion of the main
lateral, called the Portneuf Irrigating Company's ditch, is located in the
Northwest quarter of the Northeast quarter, Sec. 30, Twp. 9 South, Range
37 East, from the North quarter corner of Sec. 30, the point of diversion
bears South 9°30' East 1170 feet.

The water entering the headgates of the Portneuf-Marsh Valley
Irrigation Company's canal shall be delivered free from transit losses to
the several laterals and the main canal above described, for the irrigation
of 3236.7 acres located as follows:

75.7 acres in West half of Southeast quarter, 41.5 acres in
East half of Southwest quarter Section 18, Twp. 10 South,
Range 37 East.

No. 46. Name of Claimant and Date of Priority: McCammon Ditch
Company, June 11, 1889, June 28, 1901.

Amount in second feet: .50 c.f.s., 18.95 c.f.s.,

Point of diversion and Place of use:

Said water to be diverted through the McCammon Ditch Company's ditch
which diverts water from the Portneuf River in the Southwest quarter of the
Northeast quarter Section 21, Twp. 9 South, Range 37 East, from the
south quarter corner of Sec. 21, the point of diversion bears North 22°45'

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East 3020 feet for the irrigation of 2447.57 acres of land in the legal subdivisions described as follows:

Northeast quarter, Northwest quarter, Southwest quarter, Northwest quarter of Southeast quarter Sec. 26, Twp. 9 South, Range 26 East.

C. C. Cavanah, District Judge.

Abstract No. 10906

IN DISTRICT COURT OF FIFTH JUDICIAL DISTRICT OF STATE OF IDAHO,
IN AND FOR THE COUNTY OF BANNOCK.

Union Grain & Elevator Company,
corporation, Plaintiff,

vs.

McCammon Ditch Co., corporation,
et al, Defendants.

JUDGMENT

Dated: August 6, 1932

Filed: August 8, 1932
at 3:45 P. M.

Recorded: Book 11 Judgment
Book Page 202

This cause came on regularly for trial on 26th day of September, 1932 before Honorable John C. Rice, Judge of Seventh Judicial District of State of Idaho, presiding as Judge of above entitled court, sitting without a jury, a jury having been expressly waived by respective parties;

And the court having previously fixed the time and place for the hearing of the cause, and having caused the Clerk of the court to give notice in writing to the attorneys of record for all the parties to said action prior to the date set for the hearing of the same, * * *

It is further ordered, adjudged and decreed, that the following named persons and corporations, defendants and cross-complainants in this action have the right to the use of the waters of the said Portneuf River, and the tributaries thereof, and springs, the sources of said tributaries, such amount and amounts of water continuously, during and throughout the irrigating season of each and every year and from the date of appropriation and priority, with the point of diversion and means of diversion as set forth in the following schedule, to-wit:

(certain property not now under search) and

40. Portneuf Irrigating Company

Date of Priority: 1889, Mar. 27

Amount in second feet: 55 c.f.s.

Point of diversion and place of use: Said water to be diverted through the Portneuf Irrigating Company's canal, which diverts water from the Portneuf River in the Southeast quarter of Northwest quarter, Section 22, Township 9 South, Range 37 East; from the Southwest corner of Section 22, the point of diversion bears North 44°45' East 3550 feet. The water carried from the point of diversion through a short stretch of canal to the Portneuf-Marsh valley Irrigation Company's canal, through which it is delivered to points of diversion of the company's laterals and main canal diverting directly from the Portneuf-Marsh valley Irrigation Company's main canal, the point of diversion of the main lateral, called the Portneuf

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Irrigating Company's ditch, is located in Northwest quarter of Northeast quarter, Section 30, township 9 South, Range 37 East, from the North quarter corner of Section 30, the point of diversion bears south $9^{\circ}30'$ East 1170 feet. The water entering the headgates of the Portneuf-Marsh valley Irrigation Company's canal, shall be delivered free from transit losses to the several laterals and the main canal above described, for the irrigation of 3236.7 acres located as follows:

(Certain property not now under search) and

75.7 acres in West half of Southeast quarter, 41.6 acres in East half of Southwest quarter Section 18, township 10 South, Range 37 East.

46. McCammon Ditch Company.

Date of priority: 1889, June 11
1901, June 28

Amount in second feet: 50 c.f.s.
18.95 c.f.s.

Said water to be diverted through the McCammon Ditch Company's ditch which diverts water from the Portneuf River in Southwest quarter of Northeast quarter Section 21, township 9 South, Range 37 east, from the south quarter corner of section 21, the point of diversion bears north 22° and $45'$ East 3020 feet for irrigation of 2447.57 acres of land in the legal subdivisions described as follows:

(Certain property not now under search) and

Northeast quarter, Northwest quarter, Southwest quarter, Northwest quarter of Southeast quarter Section 26 in township 9 South, Range 36 East.

John C. Rice, District Judge.

Abstract No. 10906

Benjamin W. Henderson and Dicy
W. Henderson, husband and wife,
and Robert W. Henderson and
Winifred C. Henderson, husband
and wife,

to

Land Bank Commissioner, acting
pursuant to Part 3 of Act of
Congress known as Emergency Farm
Mortgage Act of 1933.

MORTGAGE

Dated: November 1, 1933
Filed: March 9, 1934
at 5:35 P. M.
Instrument No.: 169970
Recorded: Book Mortgage
Record Page

That in consideration of a loan to the mortgagors, evidenced as
hereinafter described, mortgagors do hereby grant, bargain, sell and convey
to mortgagee following described real property situated in Bannock County,
Idaho:

Southwest quarter of Northeast quarter, Northwest quarter of
Southeast quarter and Northeast quarter of Southwest quarter
of Section twenty-six, Township nine South, Range thirty-six
and East half of Southwest quarter and West half of Southeast
quarter of Section eighteen, Township ten South, Range thirty-
seven East of Boise Meridian, according to official plat thereof,
subject to rights of way for roads;
Subject to pole line easement;
Together with all water rights, and rights in ditches, canals
and laterals, and rights of way therefor, appurtenant to said
premises or used in connection therewith now and/or at any time
during existence of this mortgage, including (but not limited
to) the following: The right to the use of the waters of two
private springs and Marsh Creek.

This conveyance is intended as mortgage and is given as security for
performance of covenants hereinafter contained and for payment to mort-
gagee at his, (the Commissioners) office in City of Spokane, State of
Washington, of the debt evidenced by one promissory note executed by
mortgagors to order of mortgagee of even date herewith, for principal
sum of \$4000.00, together with interest thereon at rate of five per cent
per annum from date hereof until paid, payable semi-annually on whole of
said principal sum from time to time remaining unpaid, the principal sum
being due in semi-annual installments of \$200.00 each, beginning on May
1st, 1937, the last of such installments being due on November 1, 1946;
the mortgagors having privilege of paying at any time one or more install-
ments of principal or the entire unpaid balance of said principal sum;
said note providing for payment of a reasonable attorney's fee in addition
to other costs of suit thereon, and further providing that principal pay-



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ments in addition to those therein contracted to be made shall operate to discharge the debt evidenced thereby at an earlier date and shall not reduce the amount or defer the due date of any installment of principal therein provided.

This mortgage is junior to a mortgage to The Federal Land Bank of Spokane, a corporation, in sum of \$6000.00, dated November 1, 1933, now of record in the proper office of the County where said land is situated.

Benjamin W. Henderson
Dicy W. Henderson
Robert W. Henderson
Winefred S. Henderson

Acknowledged: Bannock County, Idaho, March 8, 1934; by Benjamin W. Henderson and Dicy W. Henderson, husband and wife, and Robert W. Henderson and Winefred S. Henderson, husband and wife; before Henry J. Nelson, Notary Public for State of Idaho. Residing Arimo, Idaho. (Notarial Seal) My commission expires Aug. 12, 1936.

Benjamin W. Henderson and
Dicy W. Henderson, husband
and wife, and Robert W.
Henderson and Winafred S.
Henderson, husband and wife,

to

The Federal Land Bank of Spokane,
corporation organized and
existing under Federal Farm
Loan Act as amended.

MORTGAGE

Dated: November 1, 1933
Filed: March 9, 1934
at 3:34 P. M.
Instrument No.: 169969
Recorded: Book 61 Mortgage
Record Page 98

Grant, bargain, sell and convey following described real estate in
Bannock County, Idaho:

Southwest quarter of Northeast quarter, Northwest quarter of
Southeast quarter and Northeast quarter of Southwest quarter
of Section twenty-six, Township nine South, Range thirty-six
and

East half of Southwest quarter and West half of Southeast
quarter of Section eighteen, Township ten South, Range thirty-
seven East of Boise Meridian, according to official plat
thereof, subject to rights of way for roads; subject to pole
line easement;

Together with all water rights, and rights in ditches, canals,
and laterals, and rights of way therefor, appurtenant to said
premises or used in connection therewith now and/or at any time
during existence of this mortgage including (but not limited to)
the following: The right to the use of the waters of two
private springs and Marsh Creek.

This conveyance is intended as a mortgage to secure performance of
covenants and agreements hereinafter contained, and the payment of the
debt represented by one promissory note made by mortgagors to order of
mortgagee, of even date herewith, for principal sum of \$6000.00, with
interest thereon from date until maturity at rate of 5½ per cent per ann
payable semi-annually, on whole of said principal sum from time to time
remaining unpaid, both principal and interest being payable to said mort
gagee at its office in City of Spokane, State of Washington, on an
amortization plan in 38 semi-annual installments of \$255.00 each and a
final installment of \$100.09, which is due in 19½ years from date hereof
unless matured sooner by extra payments on account of principal; and
providing also for reasonable attorney's fees in addition to other costs
in case of suit thereon. Installments not paid when due shall bear
interest thereafter until paid at rate of 8 per cent per annum.

Loan secured by this instrument having been made by second party in reliance upon fact that portion of land herein described is irrigable and for irrigation of which first parties have made proper provision, both as to water supply and drainage, it is expressly stipulated and agreed that if at any time after five years from date hereof directors of said bank shall deem such provision for water supply or drainage no longer adequate and shall so declare by appropriate action entered on their minute book, bank shall be entitled to call upon first parties to, at their option either reduce balance due on loan to fifty per cent of then value of security as determined by federal appraiser, or to give such additional security as shall upon valuation of federal appraiser provide security in double amount of balance due on loan; and in event first parties shall, within sixty days after receiving such written notice, fail or refuse to meet such requirements, bank may at its option, and after four months notice in writing to first parties, declare note hereby secured due and payable and be entitled to foreclose this mortgage.

Mortgagors hereby covenant and agree that whenever there are 10 or more borrowers (including the mortgagors) who have obtained from the mortgagee direct loans under the provisions of Section 7 of the Federal Farm Loan Act as amended, whose loans aggregate not less than \$20,000, and who reside in a locality which may, in the opinion of the Land Bank Commissioner, be conveniently covered by the charter of and served by a national farm loan association, the mortgagors will unite with such other borrowers to form a national farm loan association; and that they, together with such other borrowers or any of them, will organize such association subject to the requirements and conditions specified in Section 7 of the Federal Farm Loan Act as amended, so far as the same may be applicable, and in accordance with the rules and regulations of the Land Bank Commissioner.

This rider is attached to and made a part of mortgage executed this 1st day of November, 1935.

Benjamin W. Henderson
Dicy W. Henderson
Robert W. Henderson
Winifred S. Henderson

Acknowledged: Bannock County, Idaho, March 8, 1936; by Benjamin W. Henderson and Dicy W. Henderson, husband and wife, and Robert W. Henderson and Winifred S. Henderson, husband and wife; before Henry J. Nelson, Notary Public for State of Idaho. Residing at Arimo, Idaho. (Notarial Seal) My commission expires Aug. 12, 1936.

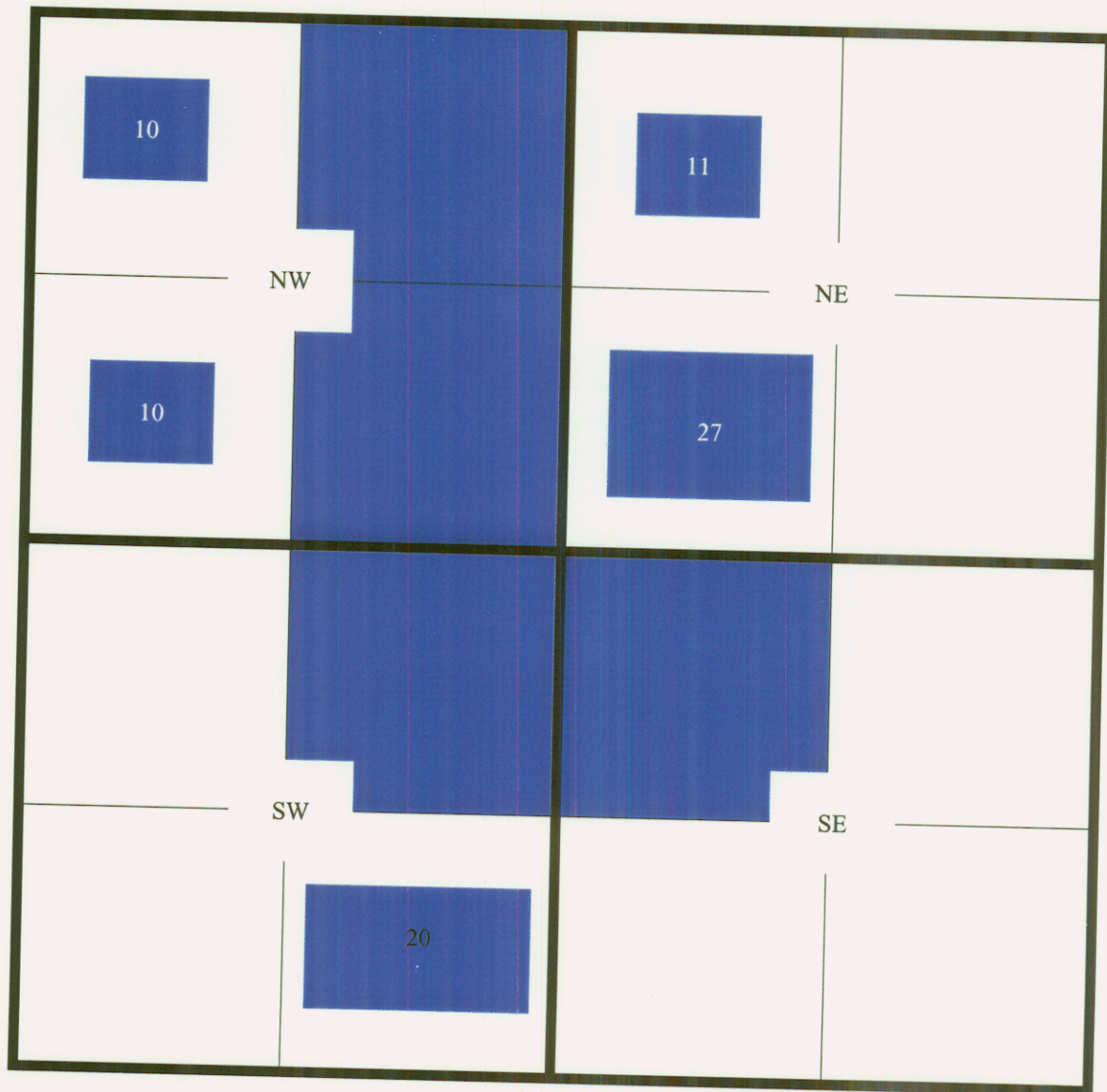


Township 10 S.B.M.

Range 37 E.B.M.

Section 18

Water rights (place of usage) claimed in Section 18
(SRBA No. 4200, 4201, 4202, 4203)

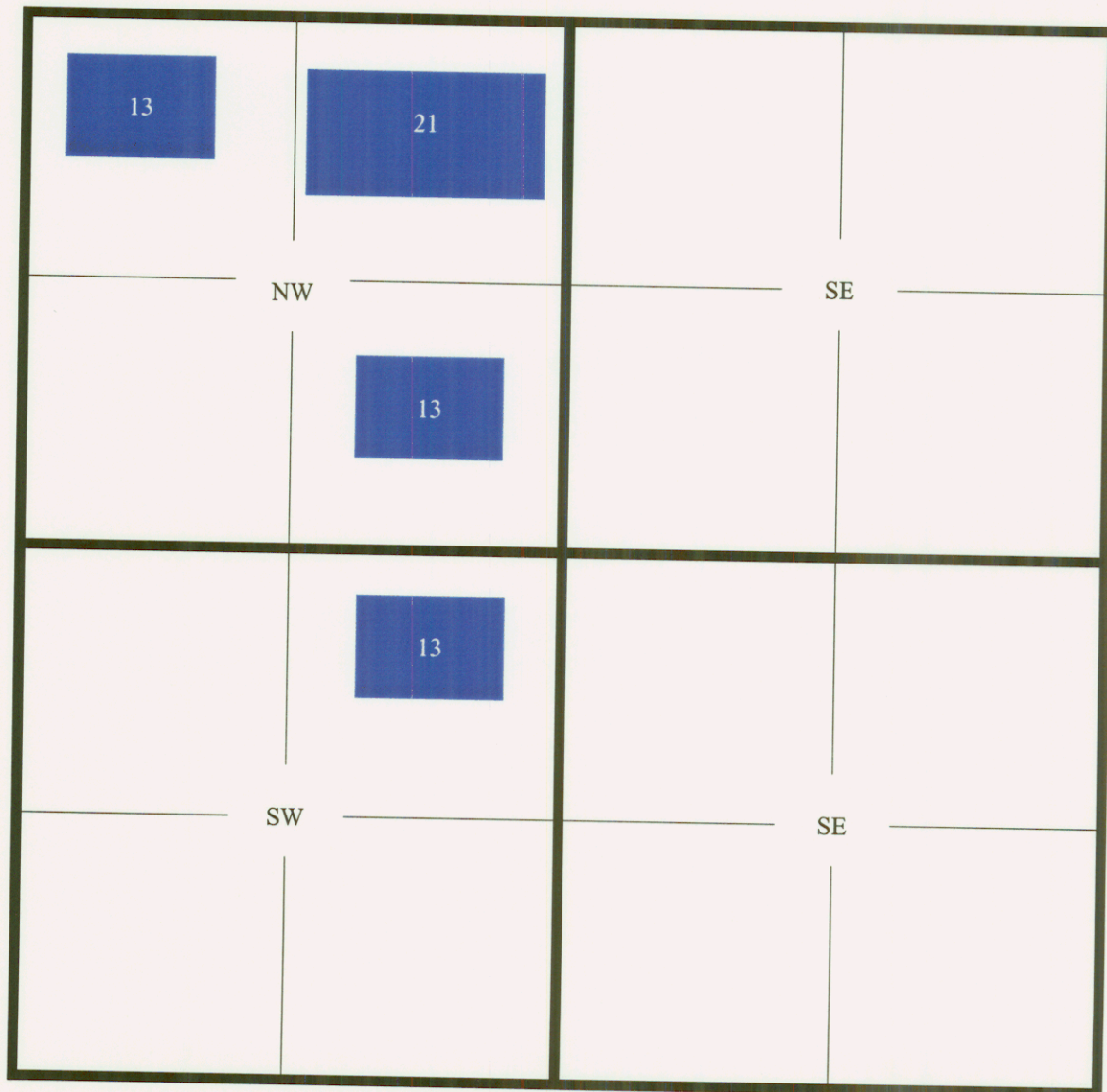


Township 10 S.B.M.

Range 37 E.B.M.

Section 7

Water rights (usage) claimed in Section 7
(SRBA No. 4200, 4201, 4202, 4203)



Township 10 S.B.M.

Range 37 E.B.M.

Section 18

Water Rights From Abstract Documents claimed in Section 18



Township 10 S.B.M.

Range 37 E.B.M.

Section 18

Documents supporting Water Right Claims From Abstract Documents for
Section 18

