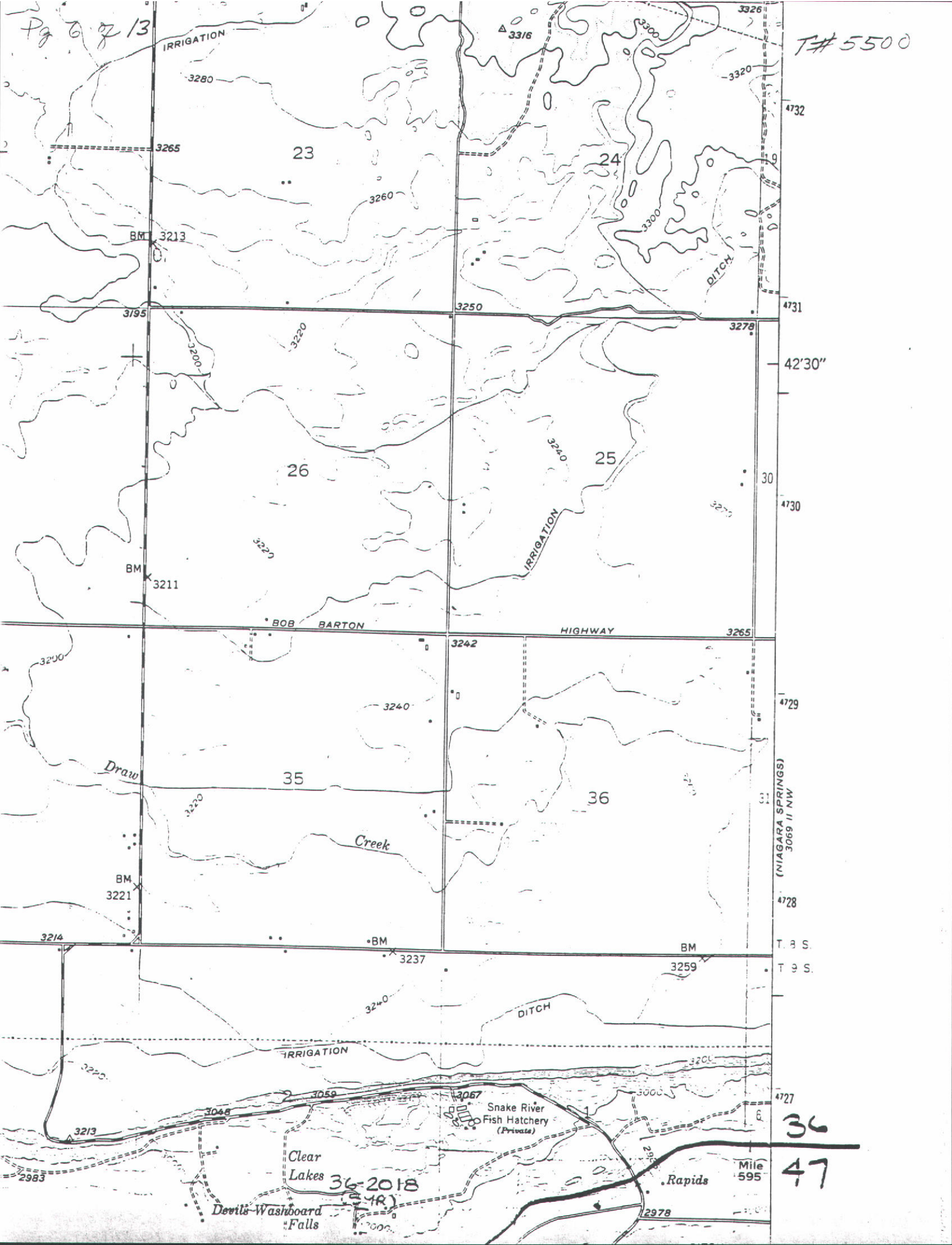
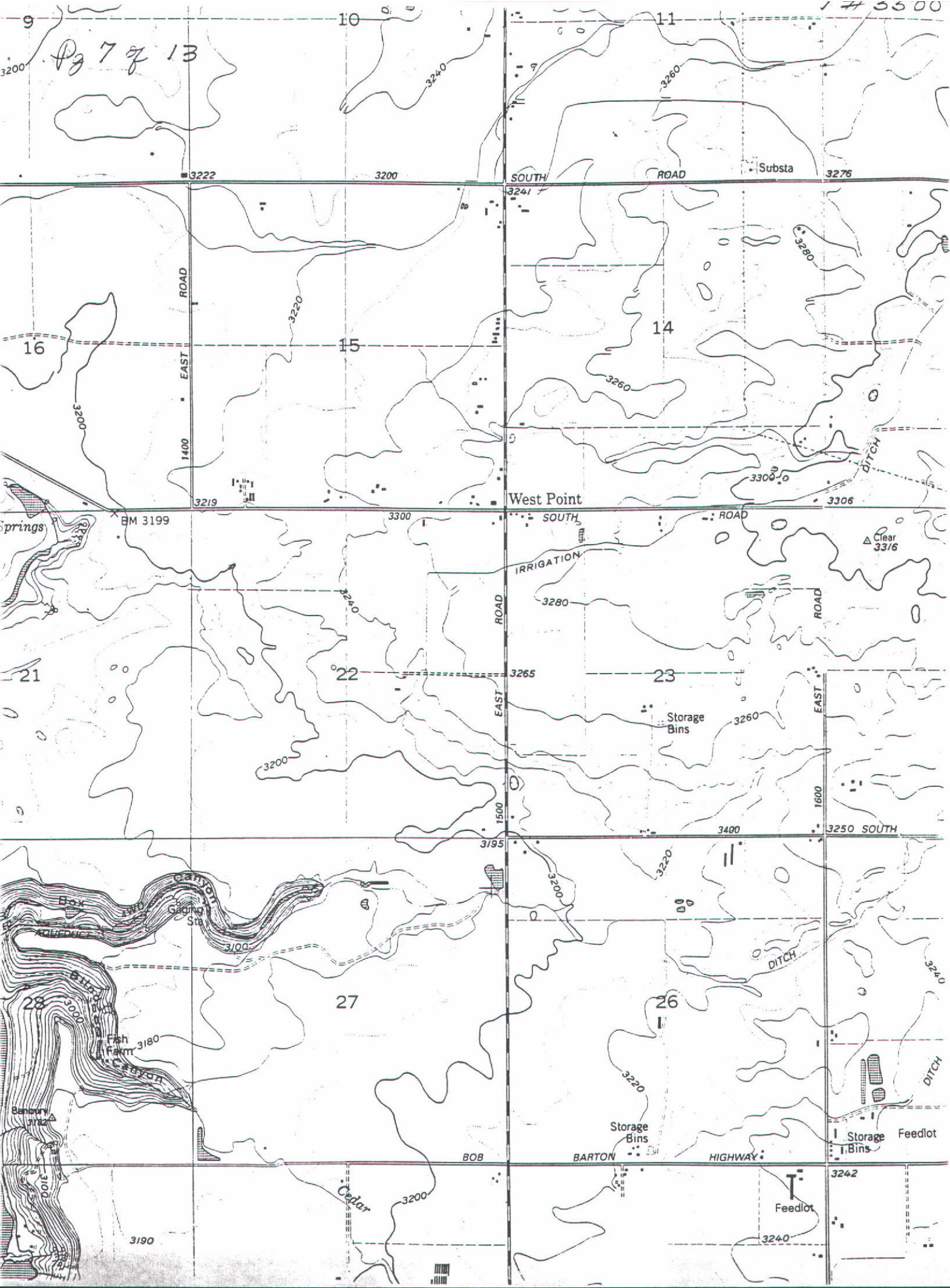


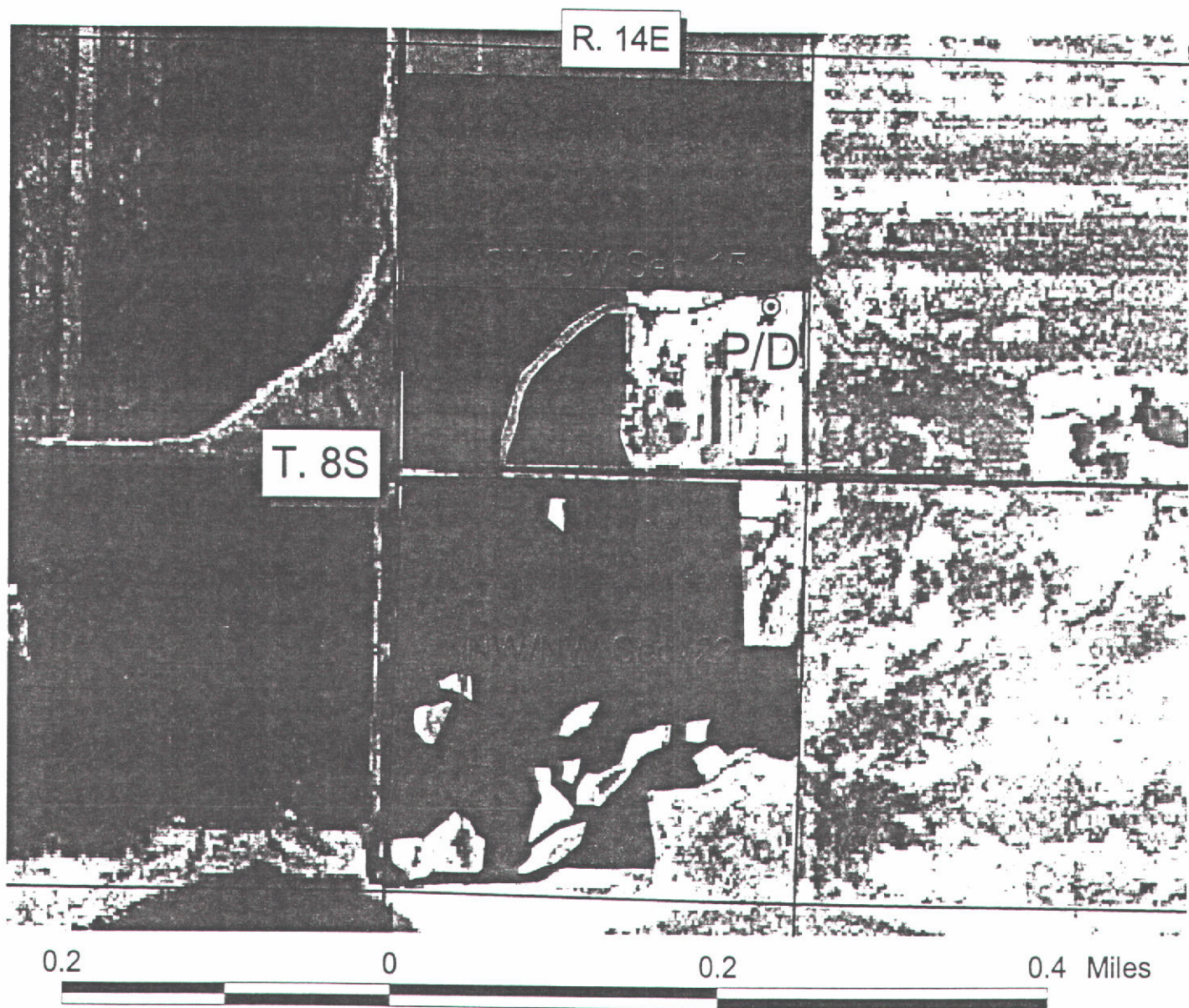
T# 5500



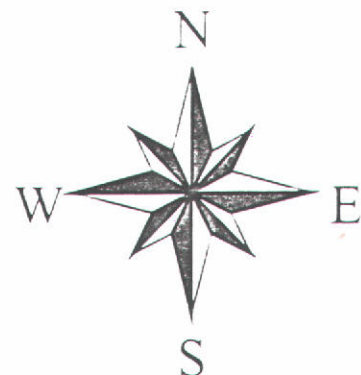


7 8 2 13 T # 5500

DECREED P/U TO BE DRIED UP - BOX CANYON DAIRY TRANSFER



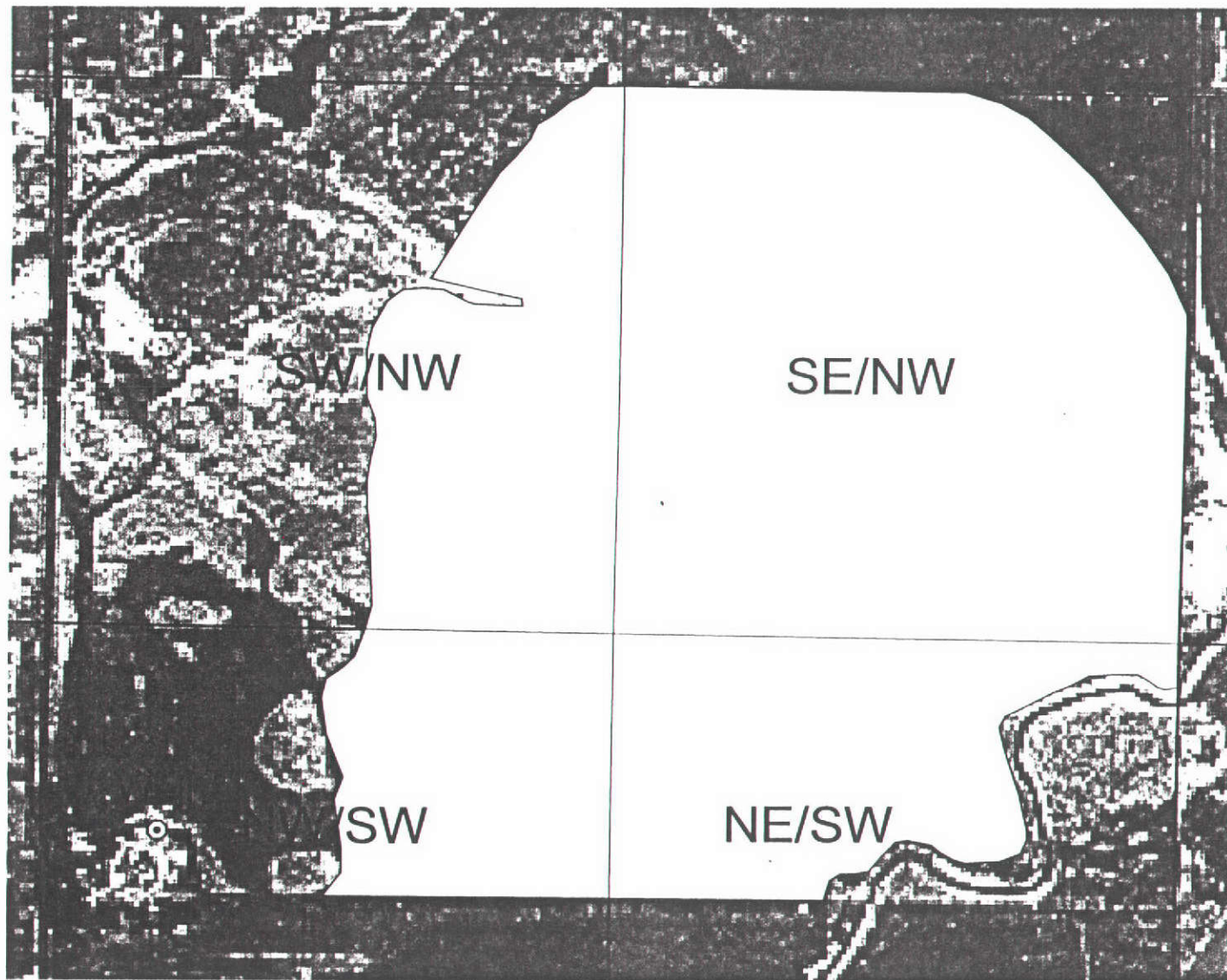
 Irrigated Land



Prepared By J E Stanton
7-21-1999

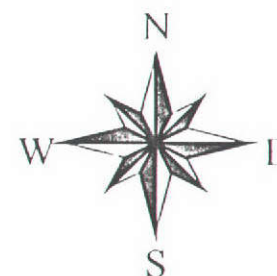
PROPOSED NEW P/U, BOX CANYON DAIRY

T. 8S R. 14E Sec. 25



 Land To Be Irrigated

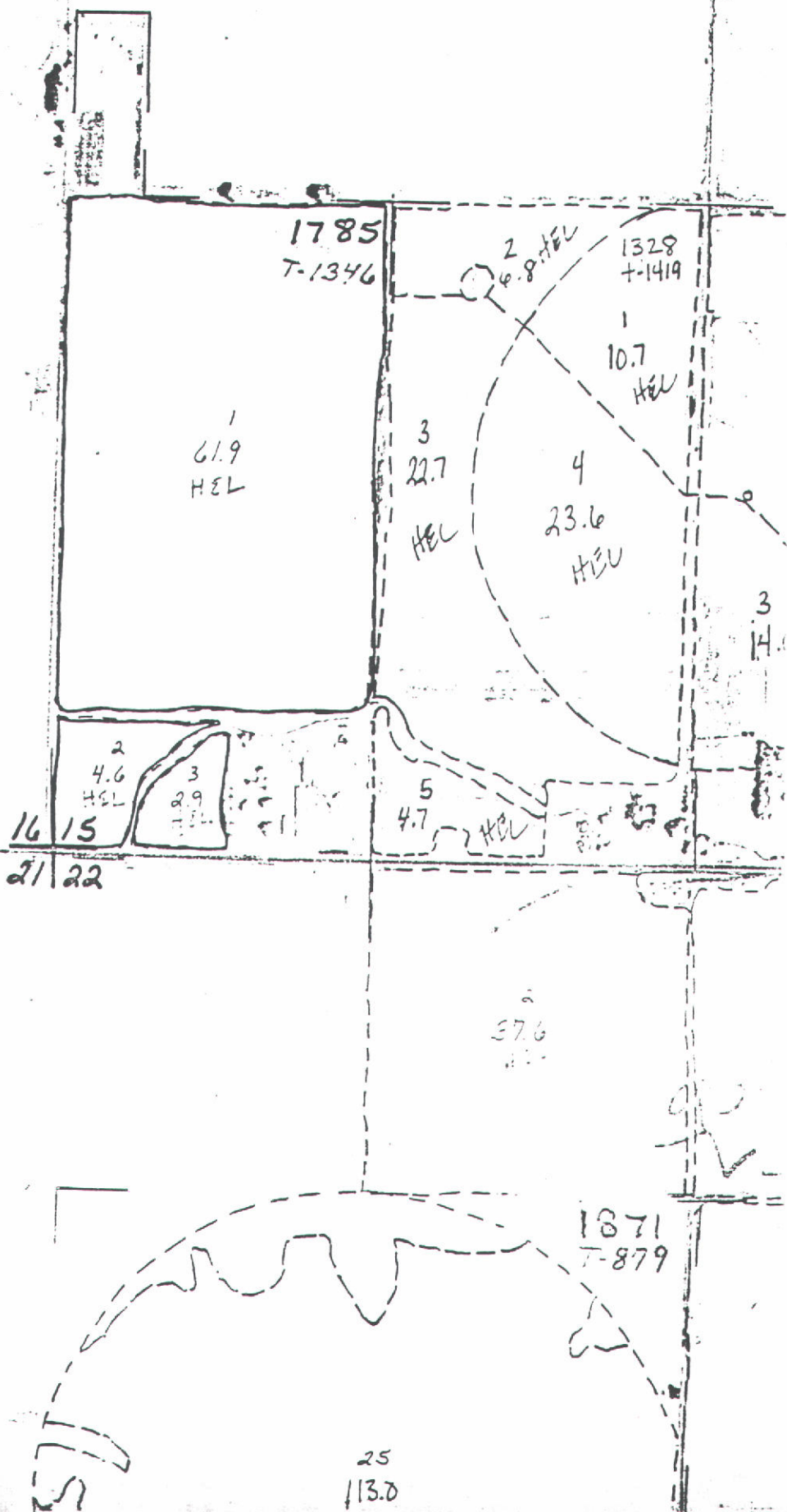
Prepared By J E Stanton
7-21-1999



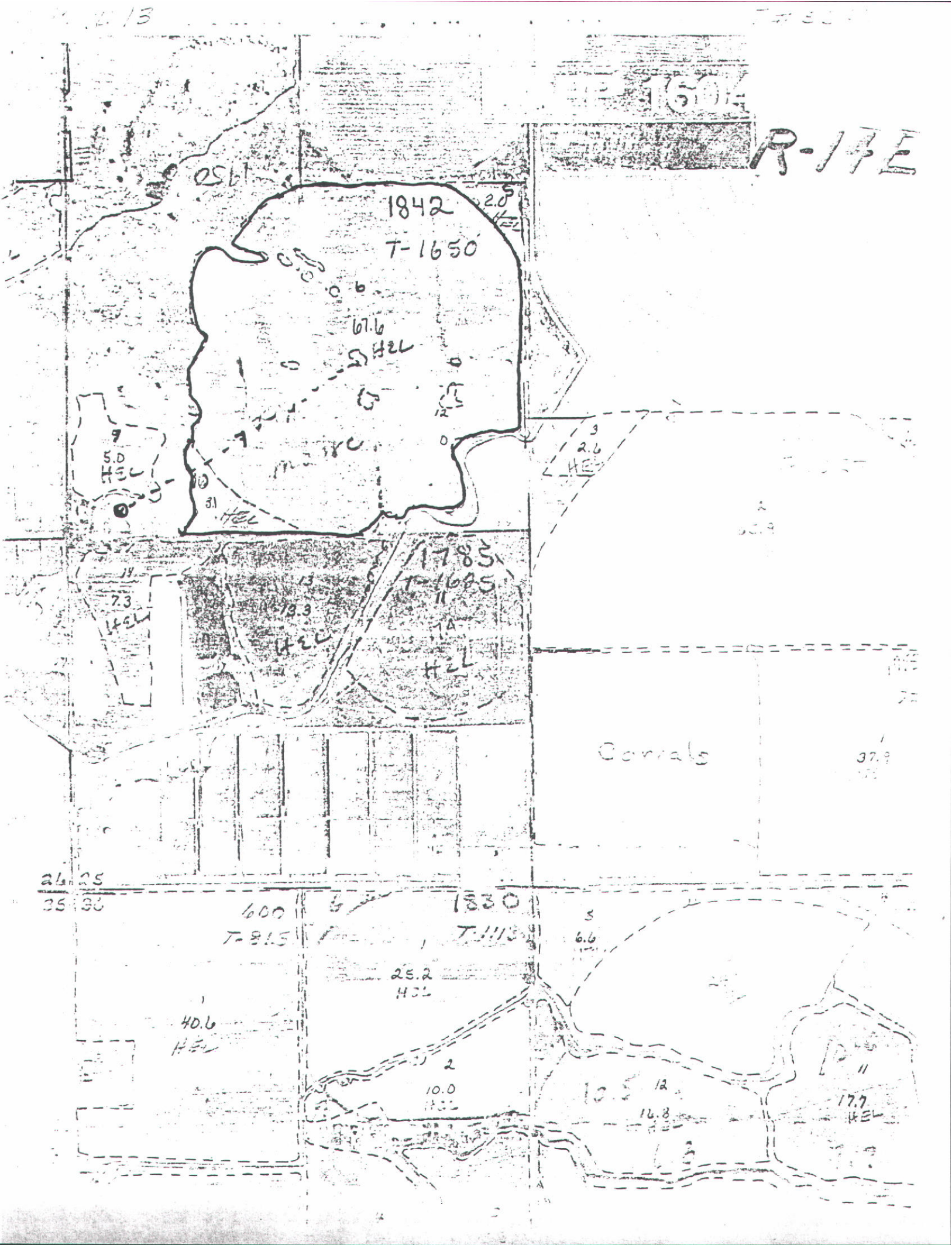
P. 11 7 13

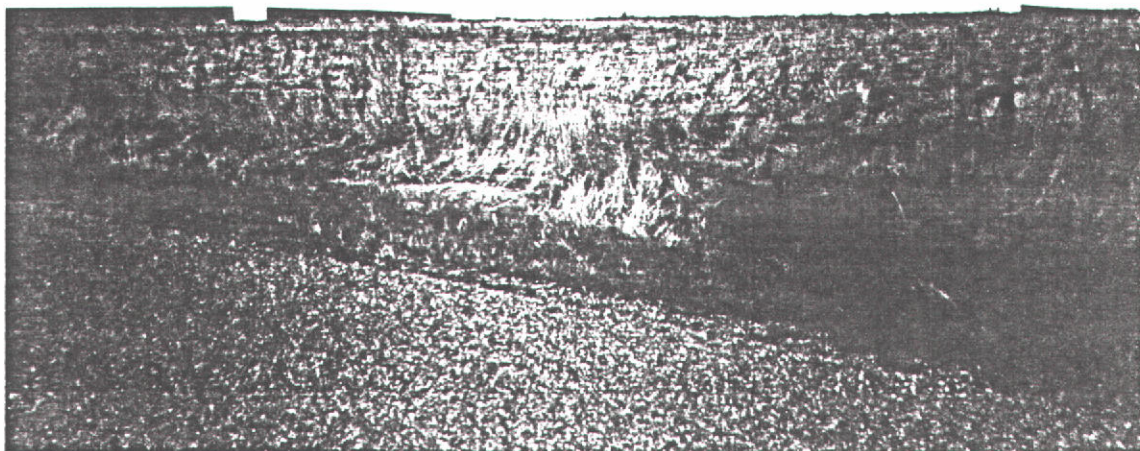
1400 E

T#55.0



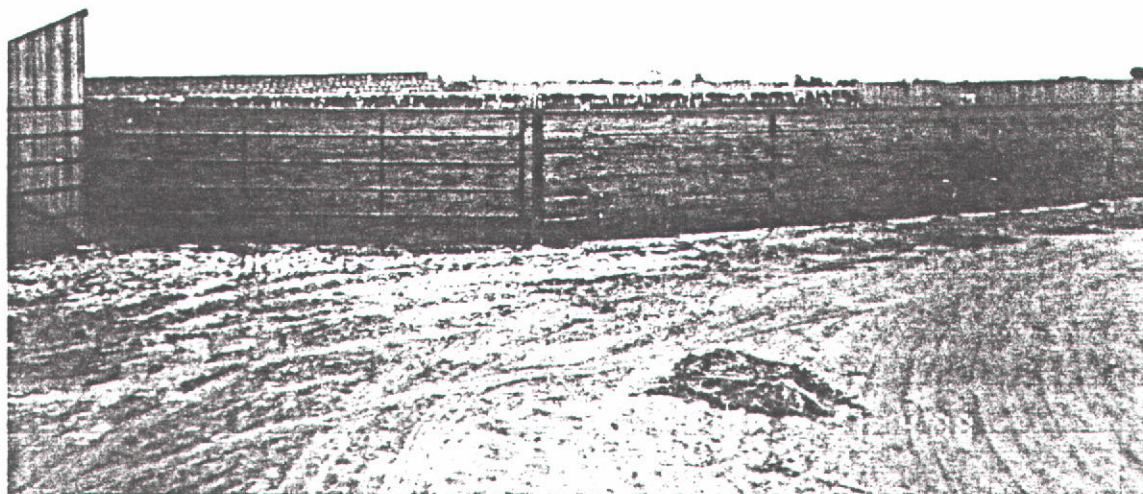






Area West of Home In Sec. 15 Looking NW

36-02535
11-4-98
JE Stanton



Cornals In Sec, 15 Looking NE



Innigated Land North of Cornals Looking NE

86-02535
11-4-98
JE Stanton

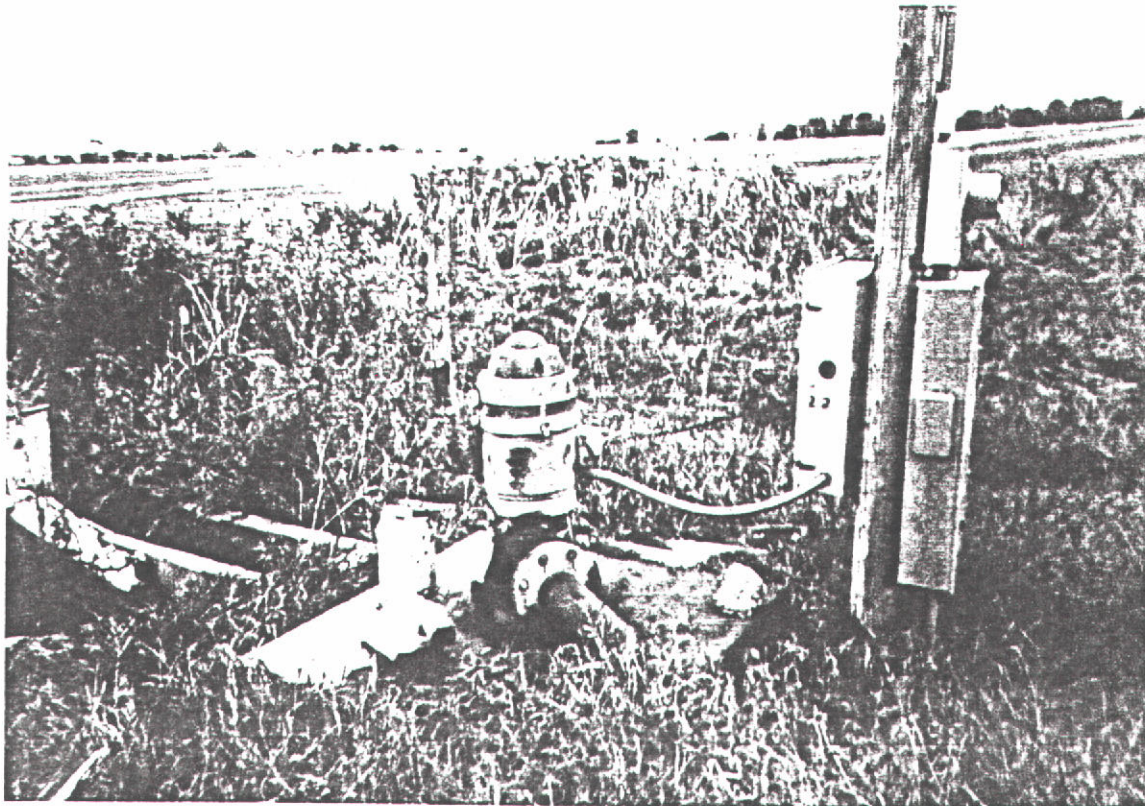


Sec. 22 Looking West

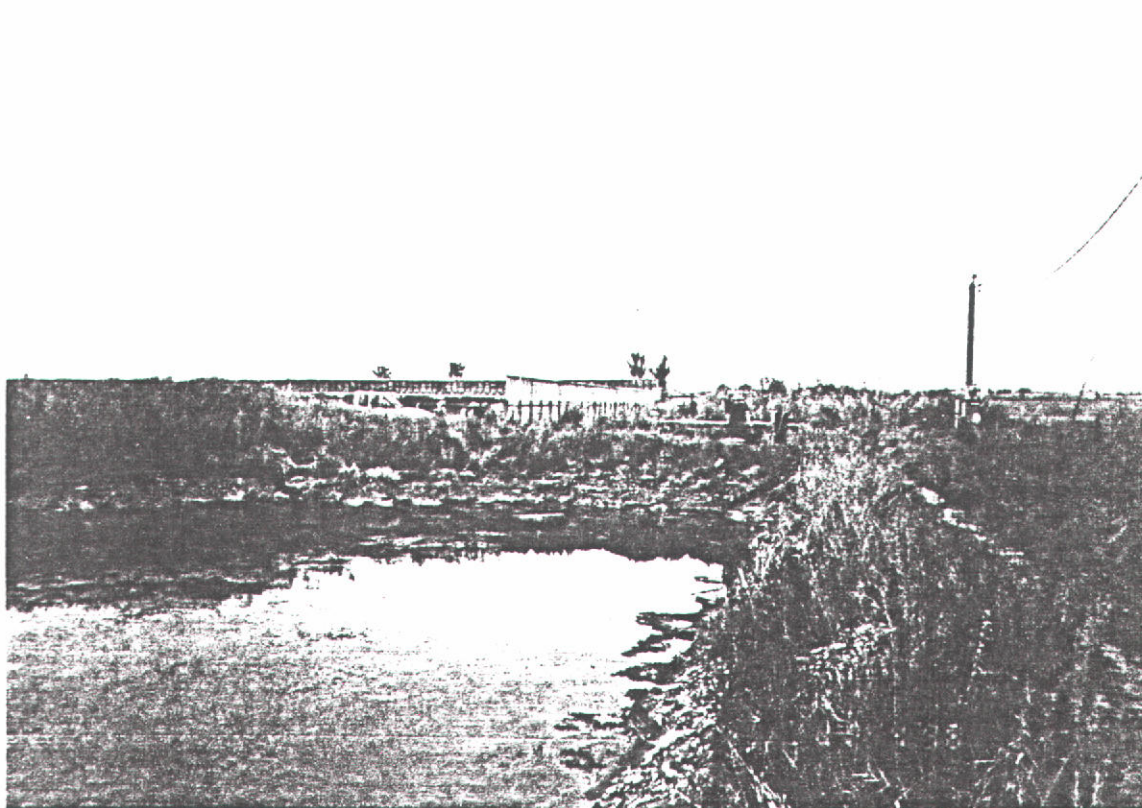


Sec. 22 Looking East

36-02535
11-4-98
JE Stanton



Well & Mainline

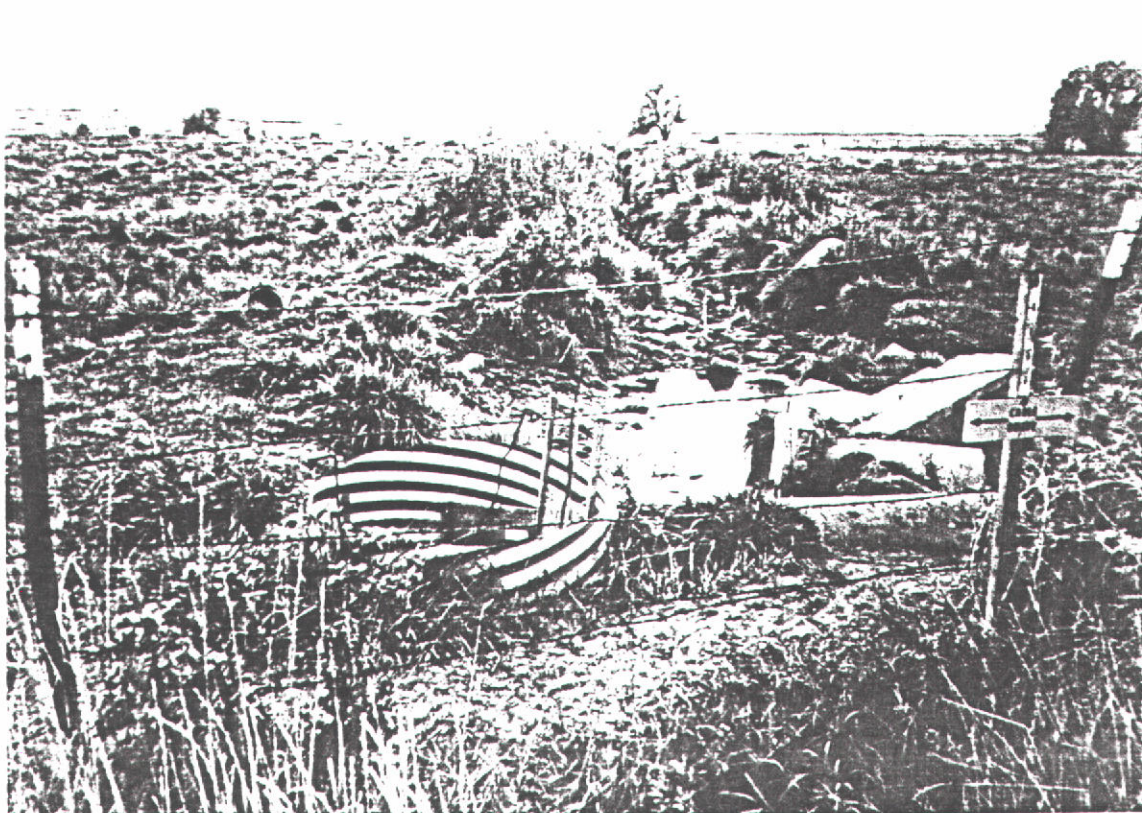


Well, Mainline Into Pond, Pond (Also Gets Canal Shares) 36-02535

~~0447~~

11-4-98

J E Stanton



Canal Headgate Into Sec. 22 Looking SW

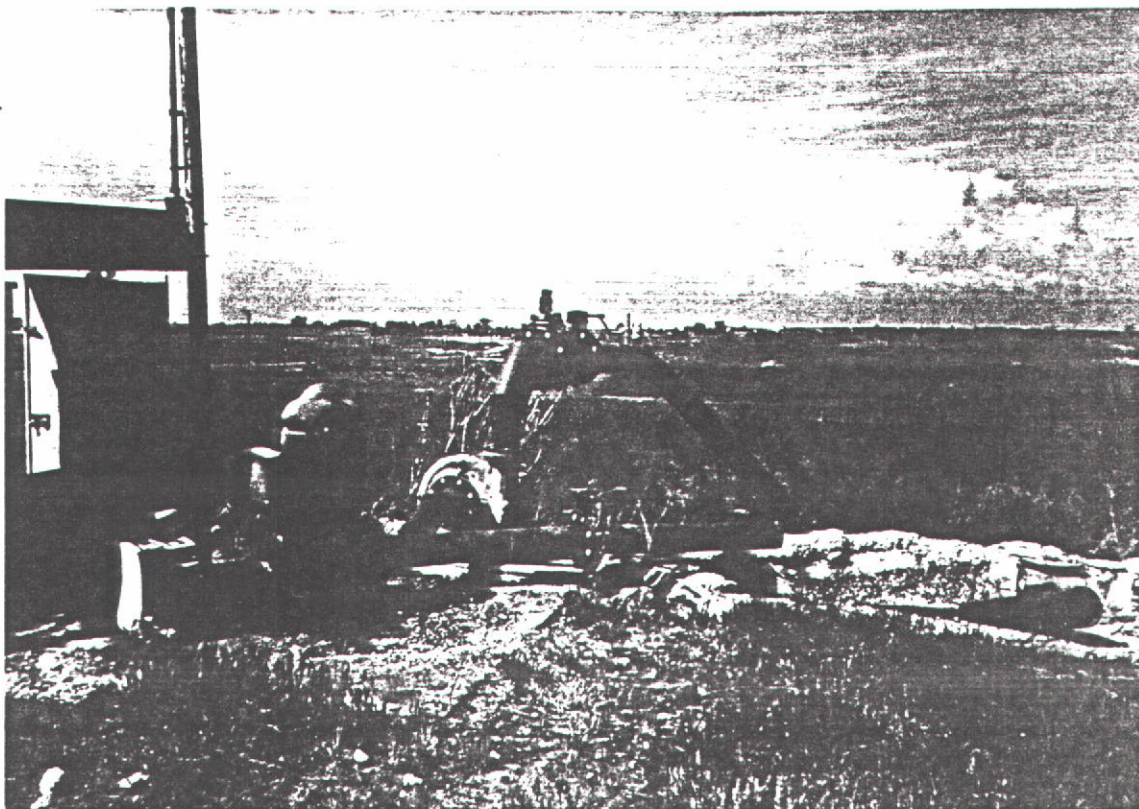


Pasture In Sec. 22 Looking South

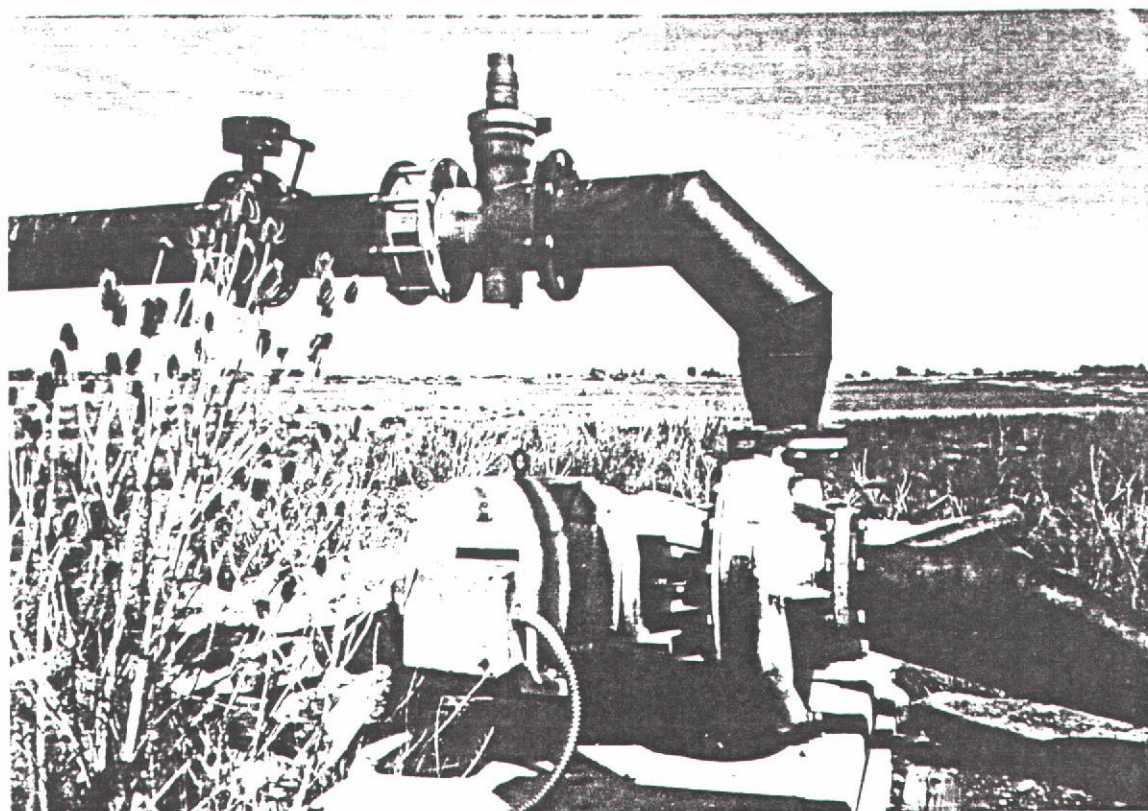
36-02535

11-4-98

JE Stanton

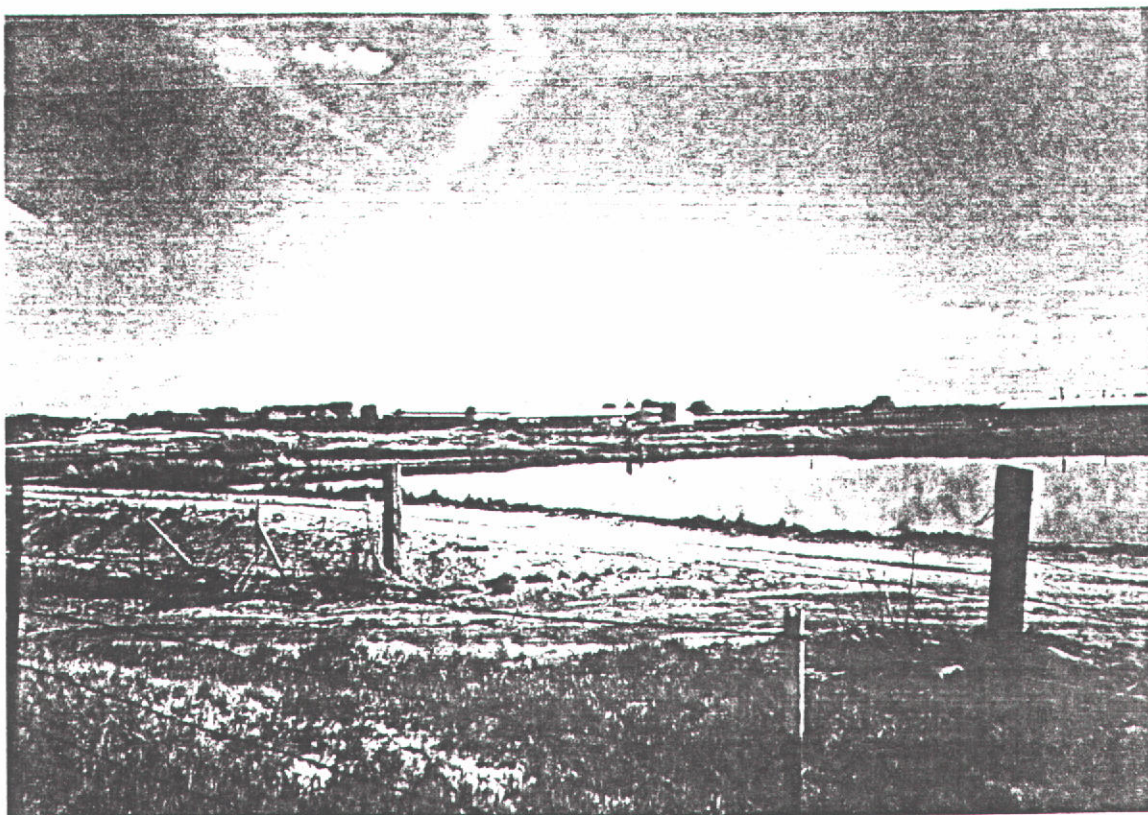


Well & Pump

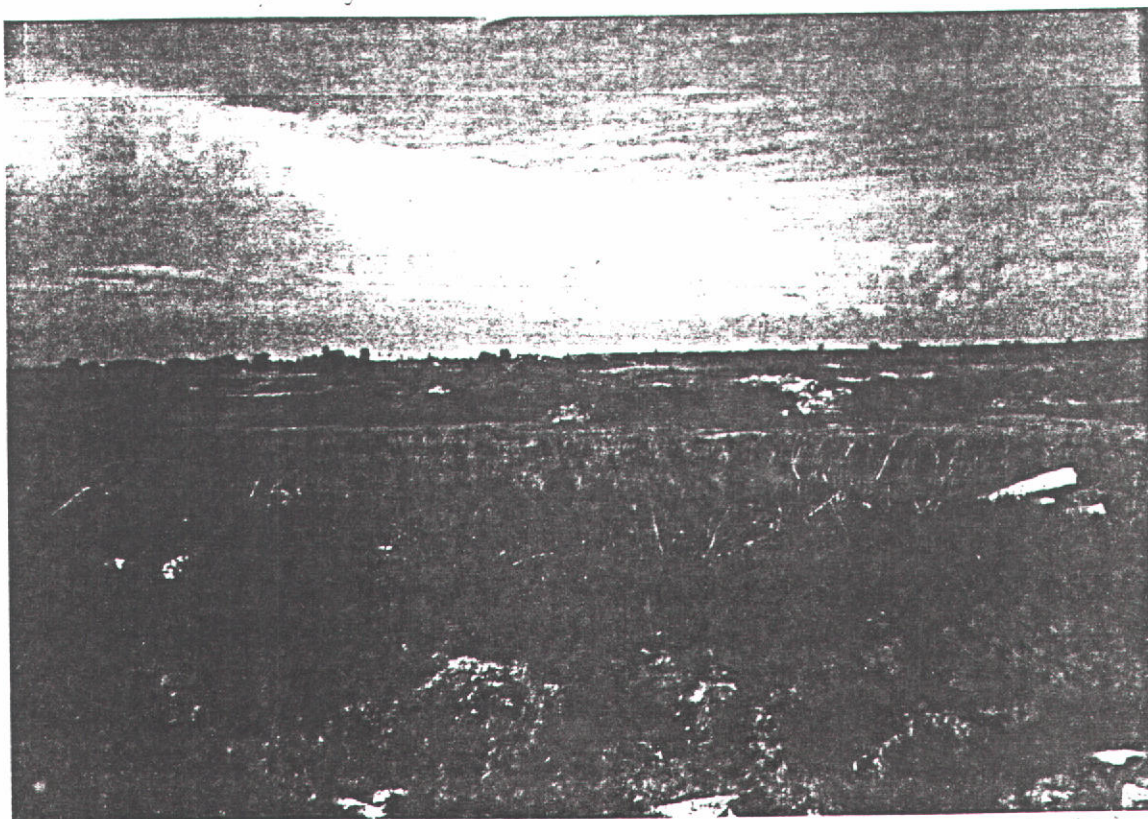


Booster Pump, P/U in Background

96-04110
5-9-98
JEC



Dairy Lagoon + Pump South of Pivot (Looking SE)

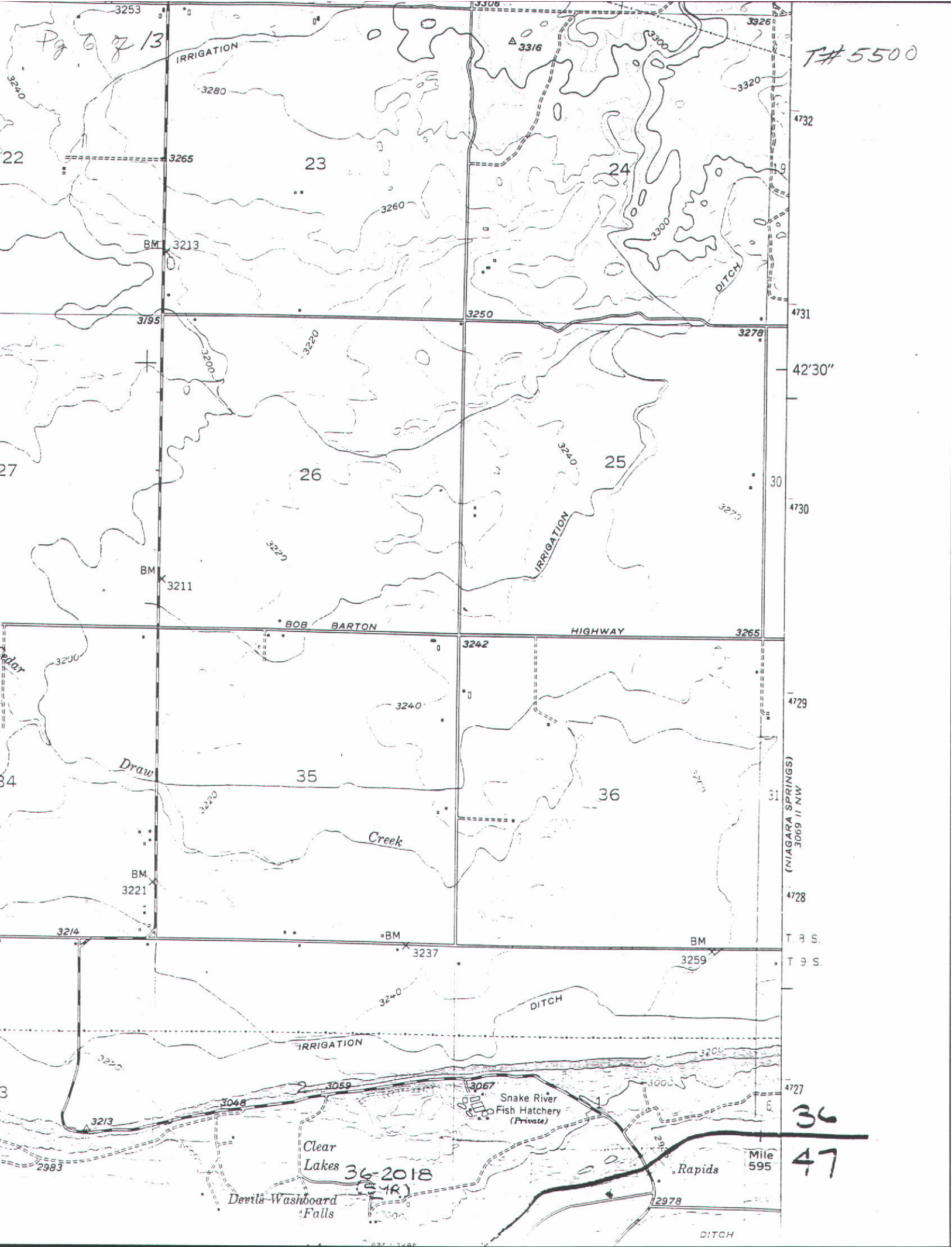


Former P.D. North of Well (Looking North)

30-7-57
10-7-57
10-7-57

Pg 6 of 13

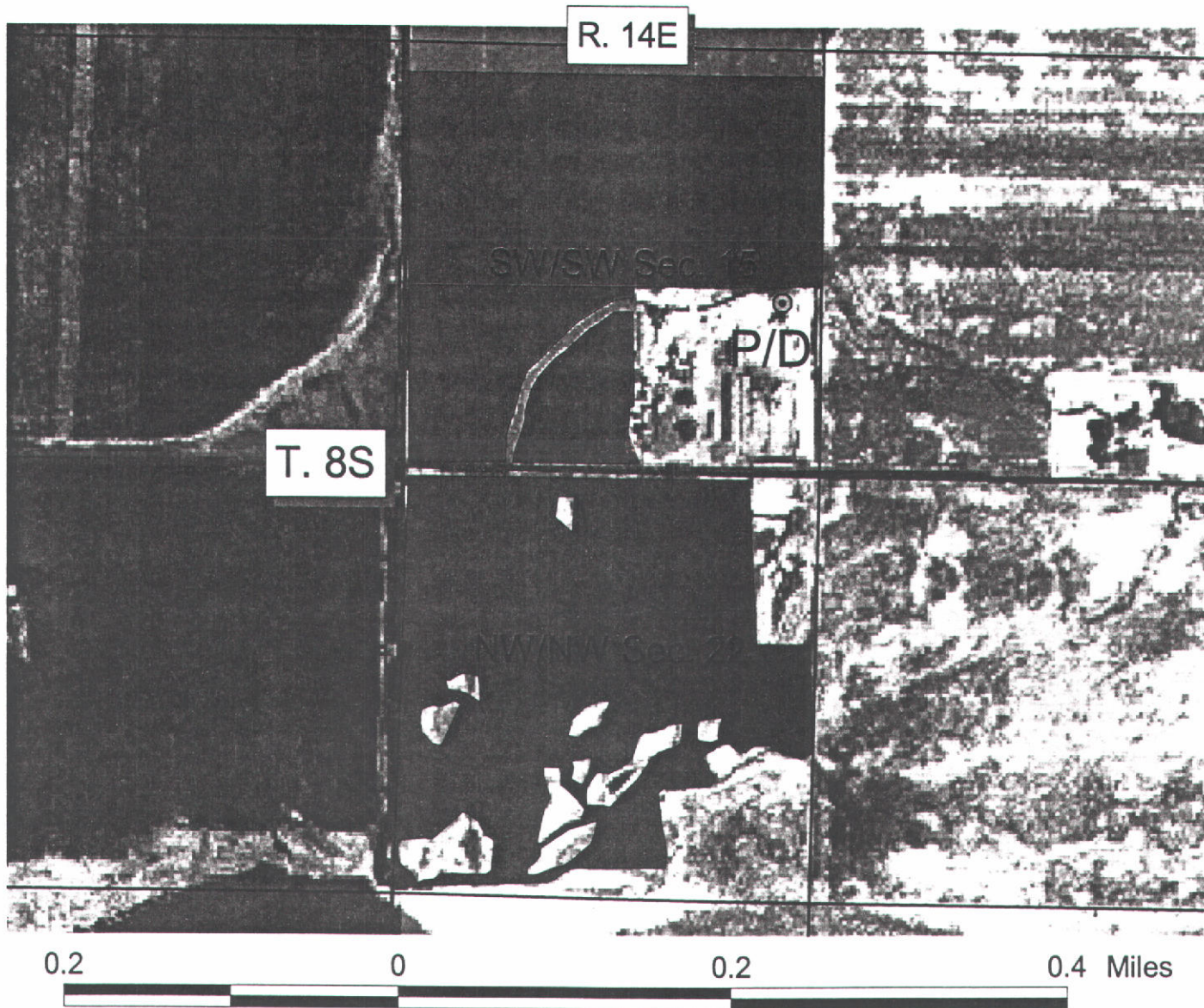
T#5500



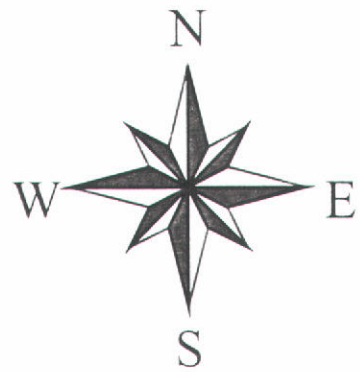
36-2018
(24R)

36
47

DECREED P/U TO BE DRIED UP - BOX CANYON DAIRY TRANSFER



 Irrigated Land

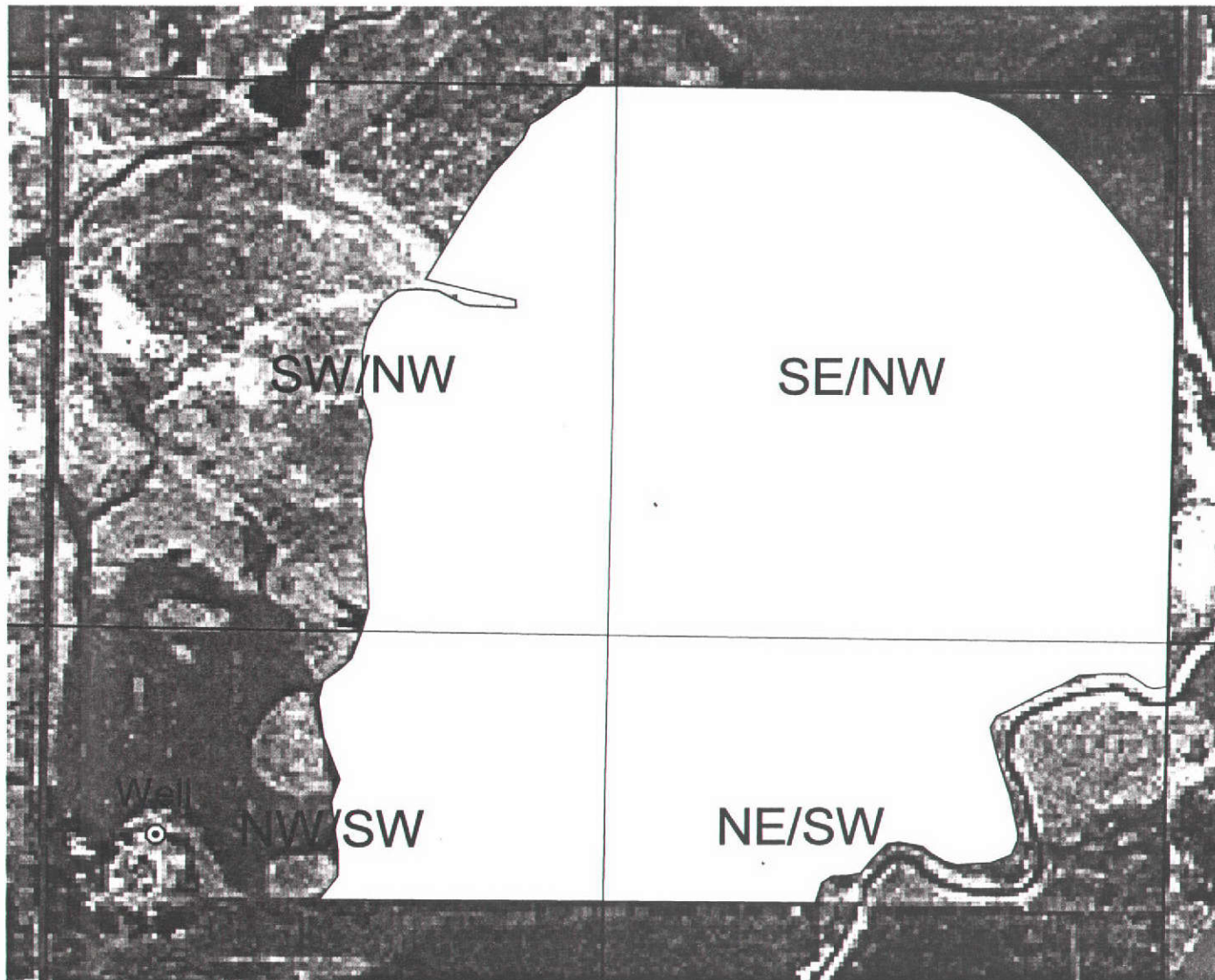


Prepared By J E Stanton
7-21-1999

T #5500

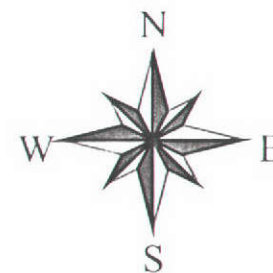
PROPOSED NEW P/U, BOX CANYON DAIRY

T. 8S R. 14E Sec. 25



 Land To Be Irrigated

Prepared By J E Stanton
7-21-1999

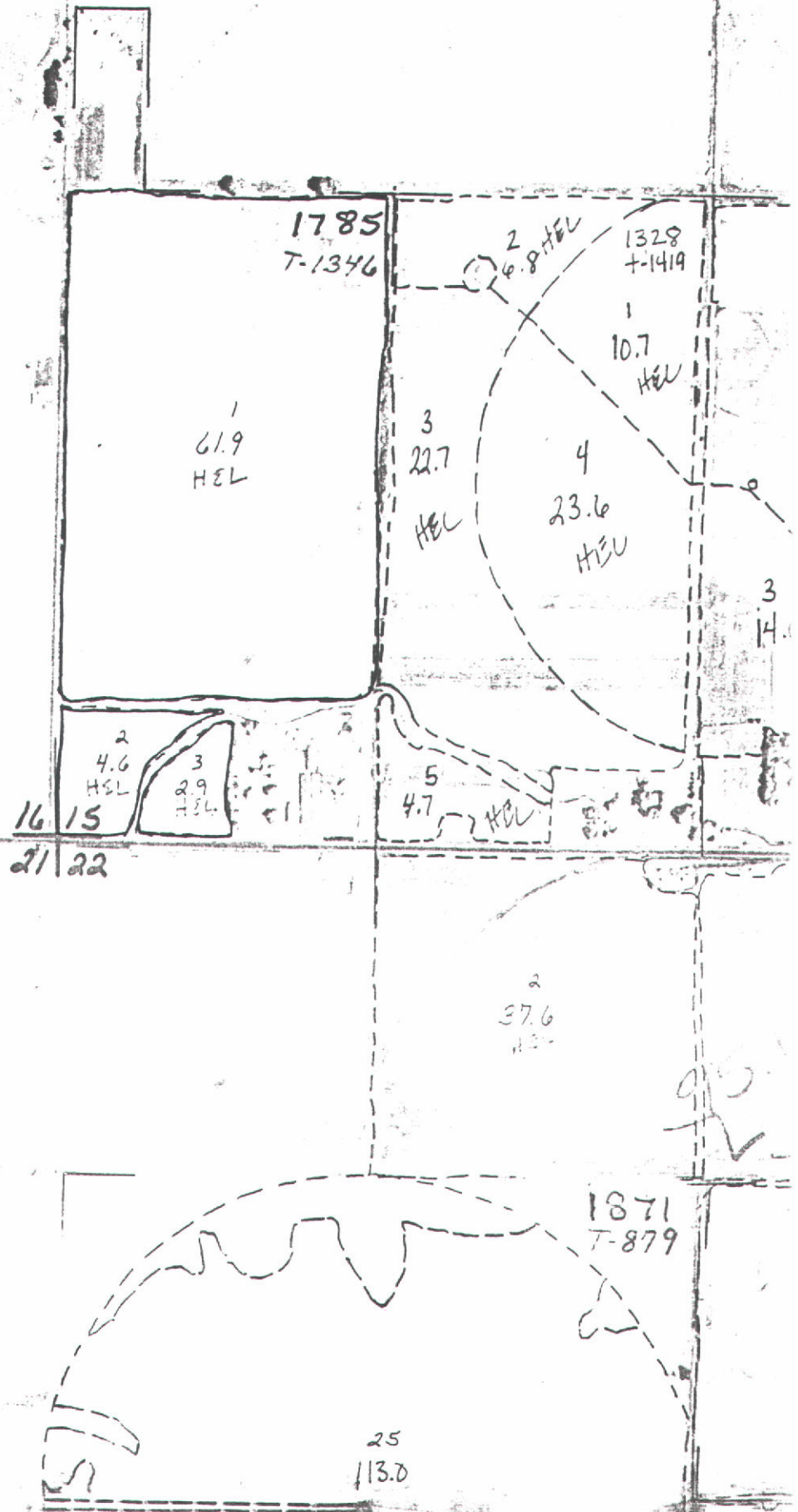


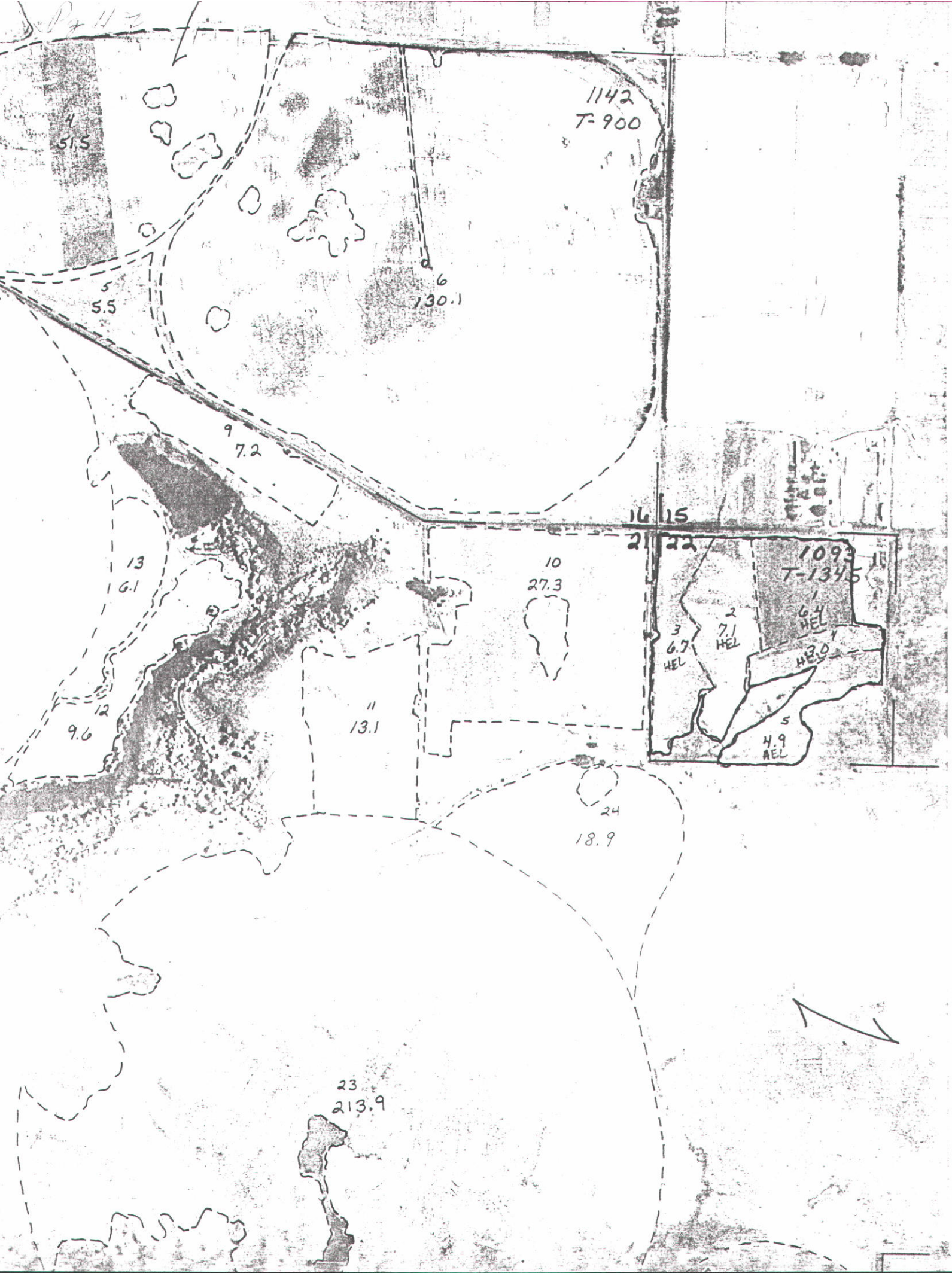
Pg 17 13

Pg. 10 of 13

1400 E

T#5500



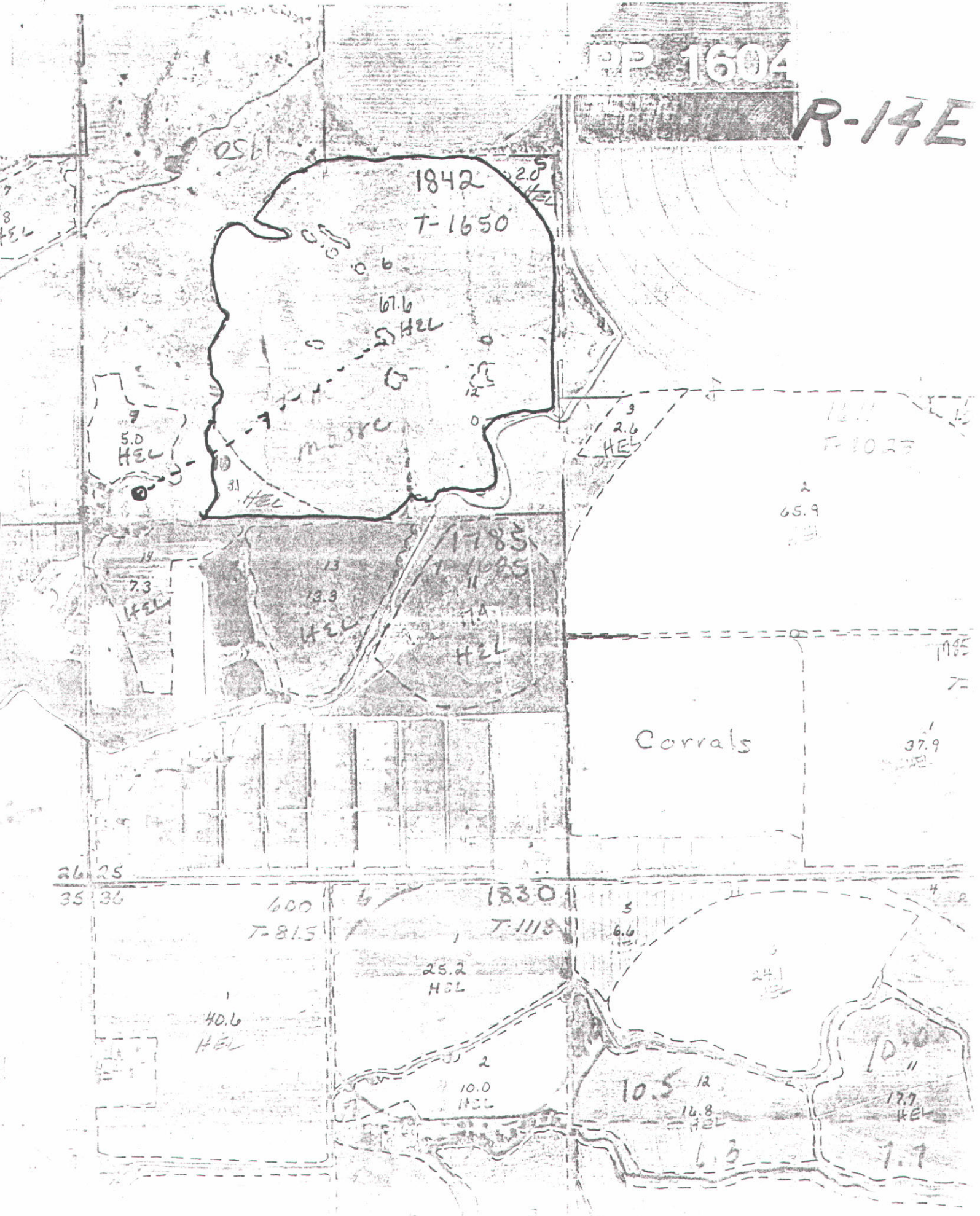


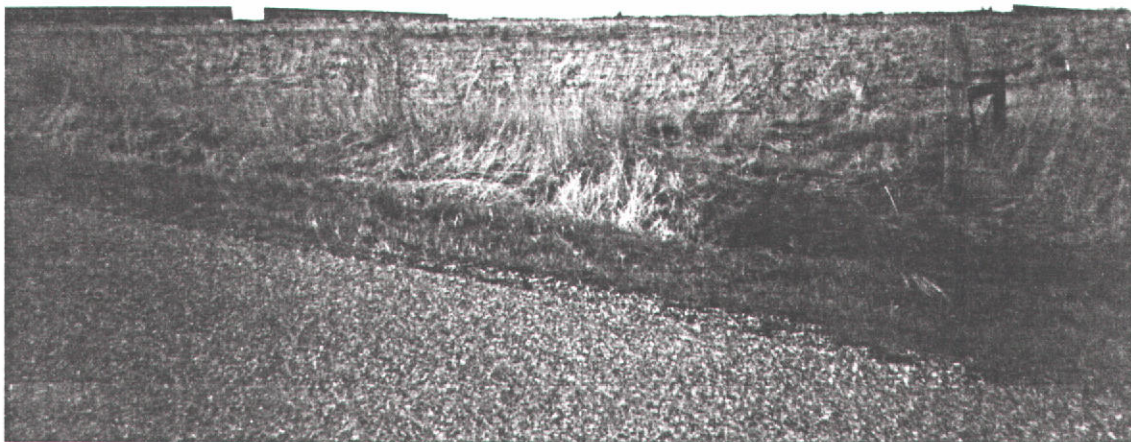
12.13

T#5500

DP 1604

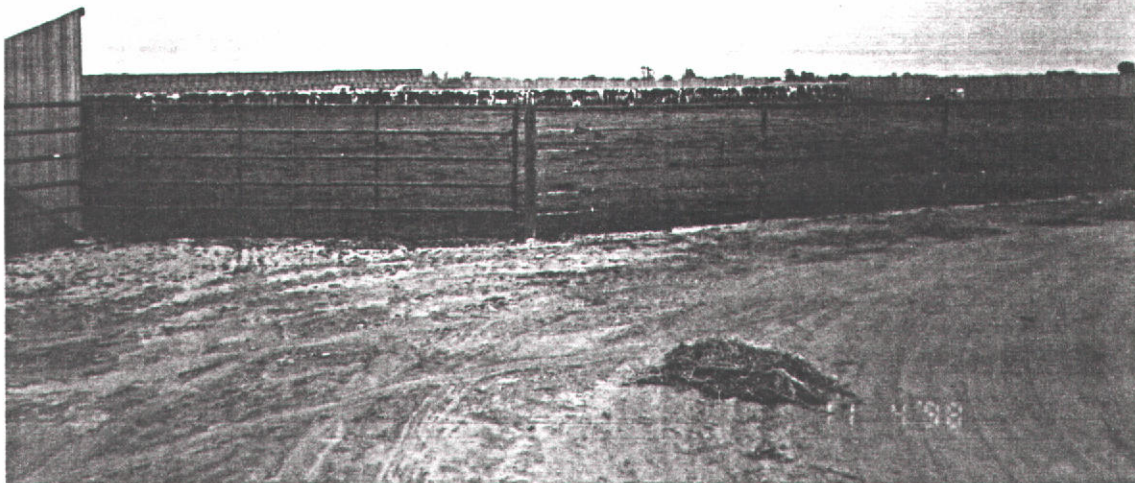
R-14E





Area West of Home In Sec. 15 Looking NW

36-02535
11-4-98
JE Stanton



Corrals In Sec, 15 Looking NE



Irrigated Land North of Corrals Looking NE

36-02535
11-4-98
JE Stanton

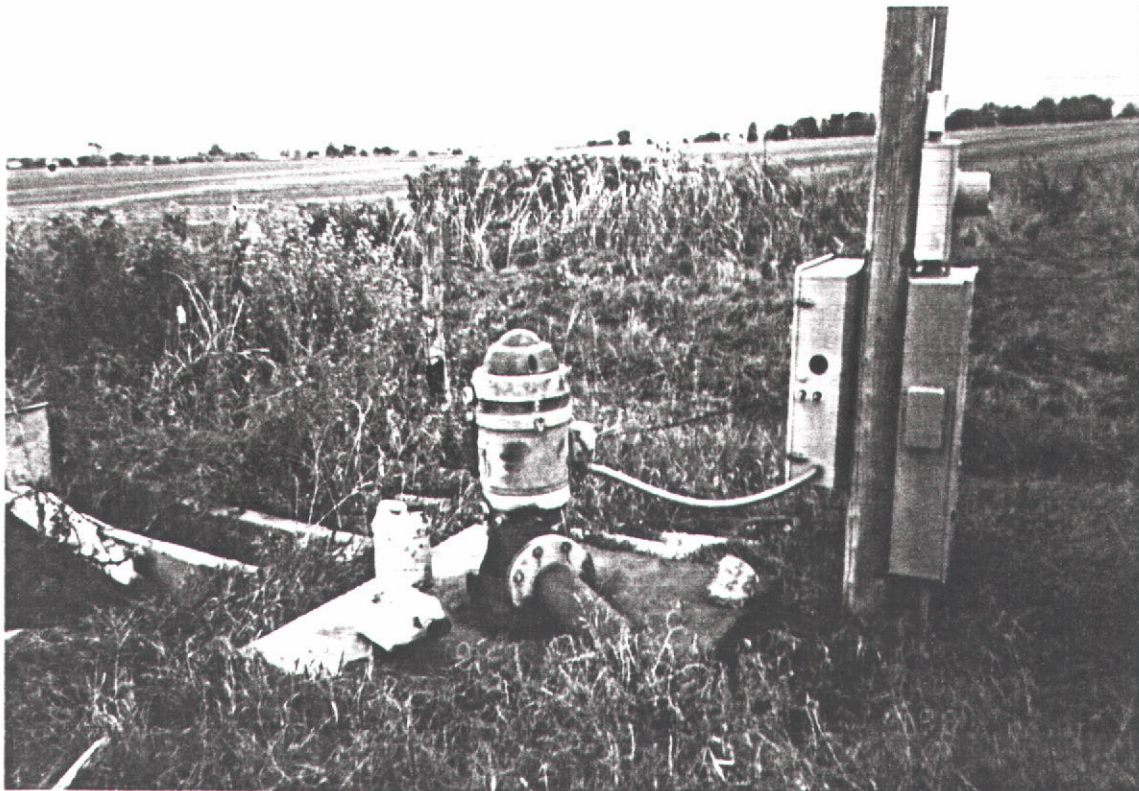


Sec. 22 Looking West



Sec. 22 Looking East

36-02535
11-4-98
JE Stanton



Well & Mainline

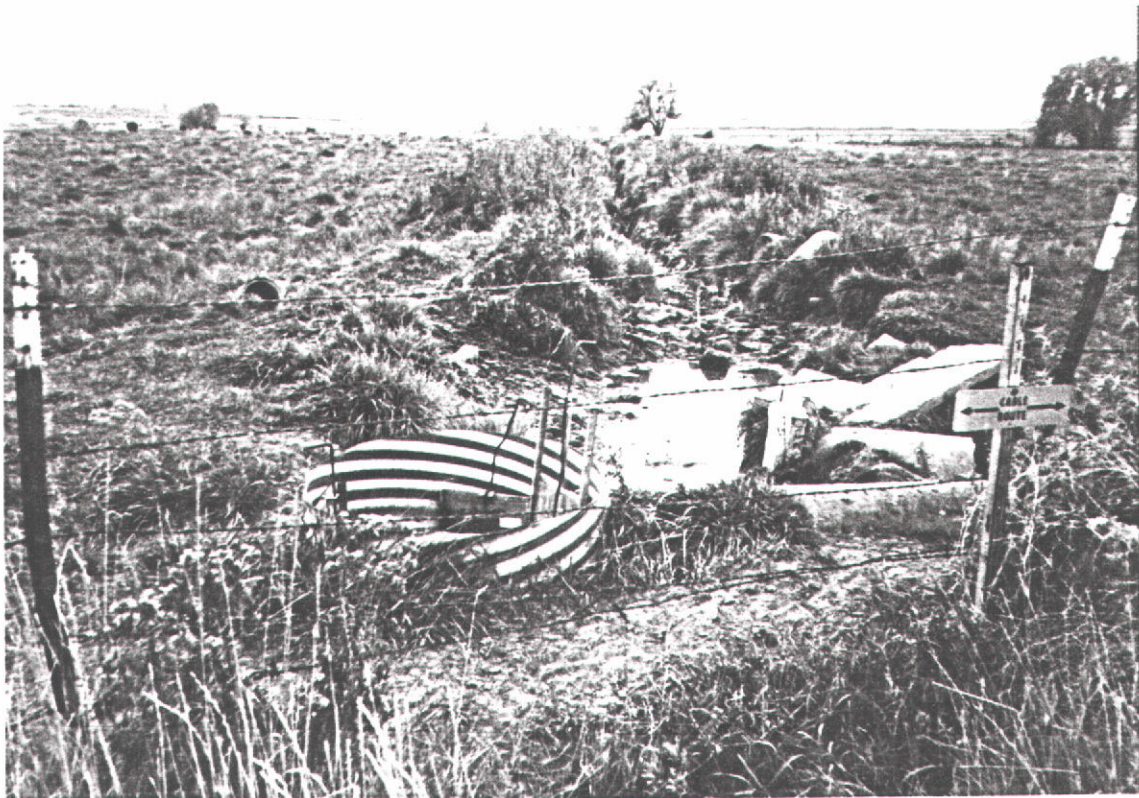


Well, Mainline Into Pond, Pond (Also Gets Canal Shares) 36-02535

~~0447~~

11-4-98

J E Stanton



Canal Headgate Into Sec. 22 Looking SW

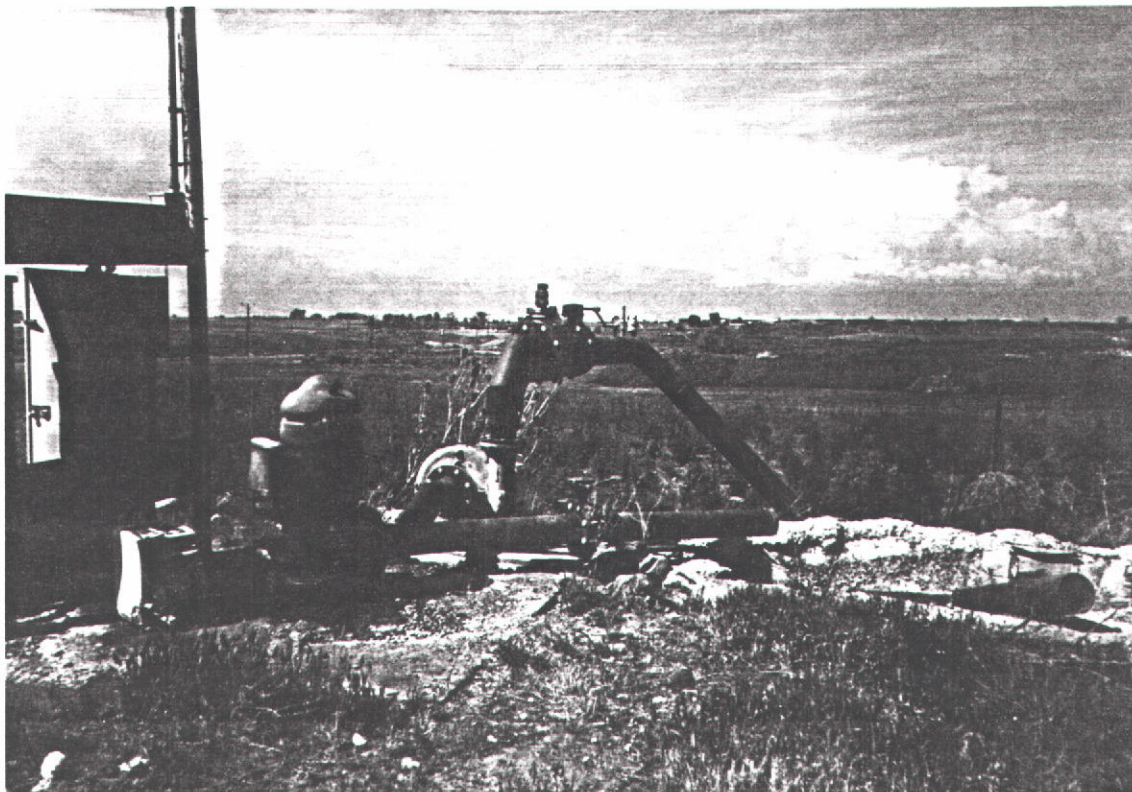


Pasture In Sec. 22 Looking South

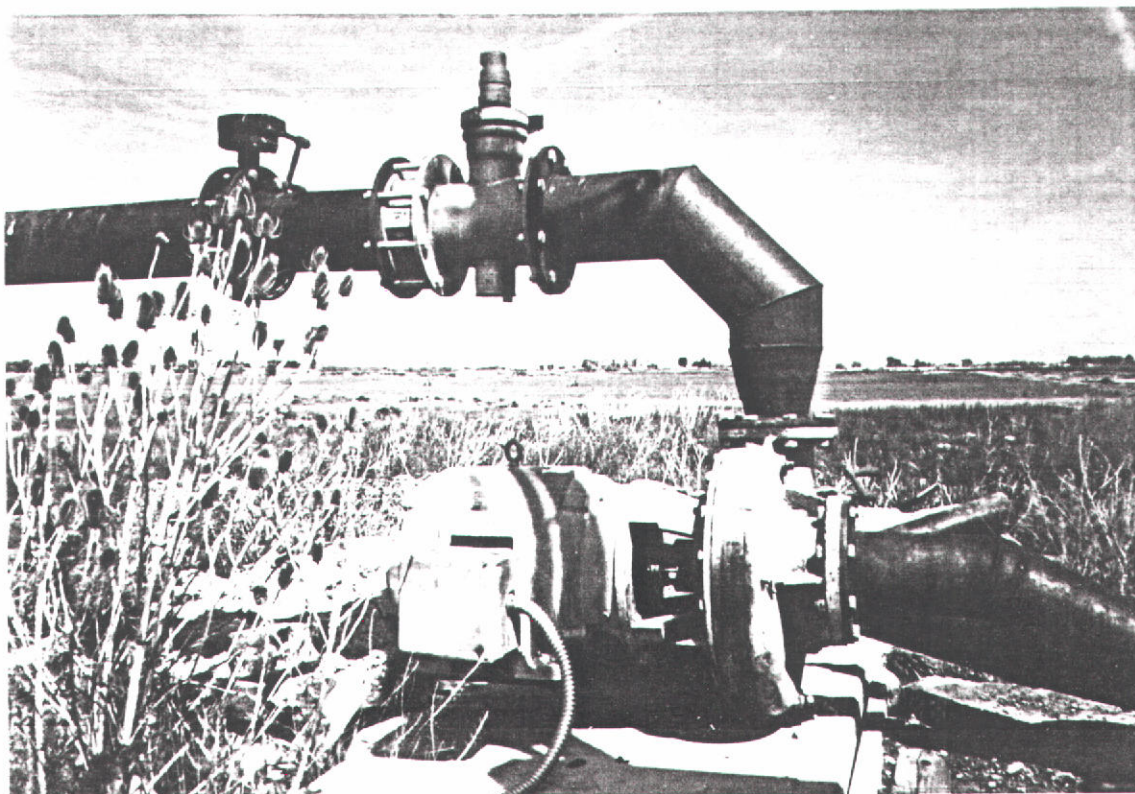
36-02535

11-4-98

JE Stanton



Well's Pump



Booster Pump. A/U in Background

26-04/12
5-7-98
JES



Dairy Lagoon + Pump South of Pivot (Looking SE)



Former P/U North of Well (Looking North)

96-04/15
5-7-98
JEC

Important Information About Your Water Right

August 27, 2001

MARY JANE HEIDA
THOMAS HEIDA
PO BOX 140
WENDELL, ID 83355-0140

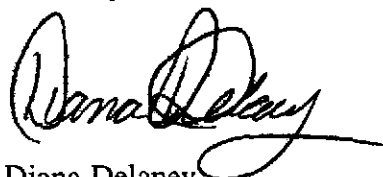
Dear Water Right Claimant(s):

The reverse side of this letter contains a copy of an *Order Amending Irrigation Period of Use Element in Partial Decree and Incorporating into Partial Decree An Express Statment Regarding General Provisions, Nunc Pro Tunc* (hereinafter "*Order*") for water right number 36-02535. According to Idaho Department of Water Resources (IDWR) records, you are the current owner of this water right. If you are not the current owner, please contact IDWR immediately at:

Idaho Department of Water Resources
1301 North Orchard
Boise, ID 83706
800-451-4129

The Purpose of the *Order* is to set forth beginning and ending dates for the irrigation period of use for this water right. As stated in the face of the *Order*, this action was necessary following the decision of the Idaho Supreme Court in *A&B Irrigation Dist. v. Idaho Conservation League*, 131 Idaho 411, 423, 958 P.2d 568, 580 (1998). This *Order* also incorporates into the *Partial Decree* an express statement that the *Partial Decree* is subject to such general provisions necessary for the definition or for the efficient administration of the water right. This express statement is necessary to comply with the requirements of Idaho Code section 42-1412(6). This *Order* in combination with the *Partial Decree* that was issued for this water right on December 29, 1997, sets forth all of the elements of your water right. The Snake River Basin Adjudication (SRBA) Court suggests that you keep this document in a safe location together with a copy of the *Partial Decree* to show evidence of the water right. The original of this *Order* and the original of the *Partial Decree* for this water right are on file with SRBA Court. If you do not have a copy of the original *Partial Decree*, one can be obtained by contacting the SRBA Court at (208) 736-3011. Please note that the *Order* is entered *Nunc Pro Tunc*, meaning that the *Order* will be treated as if it were issued the same date that the *Partial Decree* was originally issued.

Sincerely,



Diana Delaney
Case Administrator

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)

Water Right 36-02535

Case No. 39576)

ORDER AMENDING IRRIGATION PERIOD OF USE ELEMENT
IN PARTIAL DECREE AND INCORPORATING INTO PARTIAL
DECREE AN EXPRESS STATEMENT REGARDING GENERAL
PROVISIONS, *NUNC PRO TUNC*

A *Partial Decree* was entered for the above-captioned irrigation water right on December 29, 1997. The period of use element was decreed as "irrigation season." In *A&B Irrigation Dist. v. Idaho Conservation League*, 131 Idaho 411, 423, 958 P.2d 568, 580 (1998), the Idaho Supreme Court remanded with the directive to include specific dates for the period of use element. Following remand, IDWR filed a *Supplemental Director's Report, Reporting Area 3, IDWR Basin 36, Regarding Revision of Period of use (For Irrigation Water Uses) and Conjunctive Management General Provisions*, which included an irrigation period of use recommendation for this water right. No objections were filed to this recommendation and the time period for filing objections has now expired.

THEREFORE, IT IS ORDERED that the period of use for the irrigation element of the above-captioned water right is hereby amended and decreed as:

PERIOD OF USE: 04-01 10-31

THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS MARCH 15 AND MAY CONTINUE TO AS LATE AS NOVEMBER 15, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER BEFORE APRIL 1 AND AFTER OCTOBER 31 UNDER THIS REMARK IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLY OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.***

IT IS FURTHER ORDERED that the *Partial Decree* for the above-captioned water right is hereby amended and decreed to contain the following:

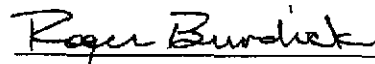
This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the court at a point in time no later than the entry of a final unified decree. I.C. section 42-1412(6).

This order is being entered *nunc pro tunc* as of the date the *Partial Decree* was issued and is not intended to modify any subsequent administrative changes for the water right, if any, which occurred following entry of the *Partial Decree*.

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

Dated August 27, 2001


ROGER BURDICK
Presiding Judge
Snake River Basin Adjudication

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS -

In Re SRBA)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 36-02535

1997 DEC 29 PM 3:18

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

NAME & ADDRESS: CORNELIA AARDEMA
THOMAS HEIDA
FRANS AARDEMA
DBA AARDEMA HEIDA DAIRY
MARY JANE HEIDA
PO BOX 140
WENDELL ID 83355-0140

SOURCE: GROUNDWATER

QUANTITY: 1.42 CFS
392.0 AFY

PRIORITY DATE: 12/23/1961

POINT OF DIVERSION: T08S R14E S15 SESWSW Within GOODING County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION		Irrigation Season	1.42 CFS 392.0 AFY

PLACE OF USE:	IRRIGATION	Within GOODING County
	T08S R14E S15 S22	NWSW 39 SWSW 38 NWNW 21
	98 ACRES TOTAL	

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.



DANIEL C. HURLBUTT, JR.
PRESIDING JUDGE
Snake River Basin Adjudication

MEMO

RECEIVED

TO: File

DATE: 12/29/1999

DEC 22 2000

Department of Water Resources

FROM: J E STANTON

SUBJECT: App. for Transfer #5500, Box Canyon Dairy

Today I moved SHAPE File BCD1 (the proposed new p/u) from the tbasin apr to the b36 master apr. This file was then deleted from the tbasin data. Next I moved BCD2 from the tbasin apr to the b36 master, but found such a problem that I deleted it from the master apr. BCD2 still resides on the tbasin stuff, where I plan to leave it for now. This shape shows the land that will supposedly be dried up under this transfer. But since only 30 acres have been historically irrigated in the SW/SW Sec. 15, it is impossible to remove 28 acres from this tract while leaving 10 more irrigated acres in the untransferred p/u. While BCD2 was still in the master apr, I drew a shape in the master that covered the rest of the W1/2SW1/4 S. 15 to reflect the untransferred historic p/u in this tract. BCD2 & the new shape touch but do not overlap. We probably need to keep both shapes on file until somebody figures out what to do about the 8 decreed but not-irrigated acres. Once this is resolved, BCD2 can be blown away (there will be no water rights associated with it). This is another case where my findings do not agree with that of the SRBA.



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

September 13, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

Box Canyon Dairy
Attn: Scott Haig
PO Box 140
Wendell, ID 83335

Re: Transfer No. 5500 involving Water Rights 36-04117 & 36-02535
Point Of Diversion: T08S R14E Sec 25 NWNWSW (36-04117)
Point Of Diversion: T08S R14E Sec 15 SWSW (36-02535)

Dear Mr. Haig:

This letter is a follow up to our phone conversation of September 13, 1999 regarding the above transfer and points of diversion. You will recall that IDWR had identified some problems related to water right 36-04117. Specifically, measurements that staff made in 1995 and 1996 showed that the number of acres irrigated and amount of water diverted from the well in Section 25 exceeded the amounts authorized by the water right. It appears that Transfer Application No. 5500 sufficiently addresses this problem by moving a portion of right 36-02535 to the well in Section 25. IDWR appreciates the fact that you have recognized this problem and have taken steps to correct it.

The purpose of my contacting you was to advise you that the rate of diversion from the well in section 15 for the remaining portion of right 36-02535, if the transfer is approved, will be reduced to 0.71 cubic feet per second (cfs). The original licensed rate of diversion was 1.42 cfs. You should be aware that unless the pumping plant and/or system at the section 15 well is modified, Box Canyon Dairy may potentially be at risk in the future of exceeding the 0.71 cfs diversion rate under the remaining portion of right 36-02535.

Enforcement of rate of diversion for ground water rights is one of a number of issues that is presently being reviewed by the Department as it develops water management rules. I am not sure how this issue will ultimately be resolved. However, I did feel that it is appropriate to advise you of the issue while the transfer application is now being processed.

Please do not hesitate to contact me if you have questions concerning this matter. Thank you again for your continued cooperation.

Sincerely,

Tim Luke

Cc: Jeff Martin, North Snake Ground Water Dist.
IDWR Southern Region
Pam Skaggs, IDWR



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

November 12, 1999

ATTN THOMAS HEIDA PARTNER
BOX CANYON DAIRY
PO BOX 140
WENDELL ID 83355

RECEIVED

NOV 16 1999

Department of Water Resources

RE: APPLICATION FOR TRANSFER NO. 5500

Dear Mr. Heida:

Enclosed is a copy of a protest filed against the above referenced application. The Department suggests you contact the protestant(s) directly to determine the exact nature of the protest(s) and, if possible, to resolve the matter without action by the Department.

Please note that your application is considered a contested case and subject to the Rules of Procedure adopted by the Department.

If you need a copy of these rules, please contact this office. The Rules of Procedure are also available on the Internet by using the IDWR Homepage at the following electronic address:

<http://www.idwr.state.id.us/apa/idapa37/0101.htm>

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

If you wish to proceed with a Pre-hearing Conference &/or formal Hearing, please notify this office.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB
Enclosure(s)
Cc:
MICHAEL H FELTON JR
FELTON & FELTON
PO BOX 589
BUHL ID 83316-0589

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR TRANSFER ISSUES

Section 42-222, Idaho Code, identifies the following potential issues that the department can consider in connection with an application for transfer:

1. Will the proposed transfer injure other water rights?
2. Will the proposed transfer constitute an enlargement in the use of the original right?
3. Is the proposed transfer in the local public interest, where local public interest is defined as the affairs of the people in the area directly affected by the proposed use?
4. Is the proposed use contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1, 2, and 4 above and must provide evidence for the department to evaluate these criteria. The initial burden of proof on issue 3 above lies with both the applicant and protestant as to factors of which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a pre-hearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement or make settlement offers, schedule hearings, establish procedure at hearing and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement. The department may issue a "pre-conference statement order" which requires response to the inquiries.

HEARING

The department will tape record the hearing. Copies of a hearing tape are available upon request and the payment of the cost of reproducing the tape. The hearing likely will be conducted by a hearing officer appointed by the Director rather than by the Director himself. If so, the hearing officer will prepare a recommended order for the Director's consideration. Parties can file exceptions to a recommended order, briefs in support of the exceptions or may request oral argument. Parties may seek judicial review of any final order issued by the Director. Parties may by written stipulation waive the right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order of the Director and judicial review of the order.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer. As part of the conference a date may be set by which exchange of exhibits and witness lists must occur.

EFFECT OF FAILURE TO APPEAR AT A CONFERENCE OR HEARING

Failure to appear at the time and place set for a conference or hearing by the applicant or protestant(s) may allow the department to dismiss without prejudice the protest(s) or the application. Any and all cost incurred by reason of such non-appearance may be assessed against such non-appearing party.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department within (10) days prior to the hearing.



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

**DIRK KEMPTHORNE
GOVERNOR**

**KARL J. DREHER
DIRECTOR**

November 10, 1999

**BILL CHISHOLM
19073 E HWY 30
BUHL ID 83316**

RE: APPLICATION FOR TRANSFER NO. 5539 (C & B Cattle Co.) & NO. 5500 (Box Canyon Dairy)

Dear Mr. Chisholm:

Your protest against the approval of the above referenced applications has been received and a copy has been sent to the applicant with the suggestion that he contact you directly to determine the exact nature of the protests and, if possible, to resolve the matter without action by the Department.

Please note that the applications are considered as contested cases and subject to the Rules of Procedure adopted by the Department.

If you need a copy of these rules, please contact this office. The Rules of Procedure are also available on the Internet by using the IDWR Homepage at the following electronic address:

<http://www.idwr.state.id.us/apa/idapa37/0101.htm>

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB
Enclosure(s)

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF PROTEST

RECEIVED

SEP 27 1999

Department of Water Resources
Codyham Region

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, 42-222 and 42-224, Idaho Code. The department will also accept a timely protest not completed on this form if it contains the same information.

1. Matter being protested T 5500 BOX CANYON DRAIN
2. Name of protestant Bill Chisholm
3. Protestant's representative for service (If different than protestant)
LEE HALPER 3315 230W JEROME 83316
324-2240
4. Service mailing address 19073E HWY 30 BUAL 83316
5. Service telephone no. 543-4418
6. Basis of protest (including statement of facts and law upon which the protest is based)
42-222 PROOF AND ALL MATTERS ARE
CONNECTED AND SHOULD BE LOOKED AT IN
THEIR TOTALITY -
- (additional pages may be attached to describe the nature of the protest)
7. What would resolve your protest? WITHDRAWAL OF TRANSFER, CERTAIN
CONDITIONS MET.

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 27th day of Sept, 19 99

PROTESTANT

PROTESTANT'S REPRESENTATIVE

NOTE:

A protestant is required to timely file a protest with the department together with a \$25.00 protest fee for each application being protested in order for the protestant to be considered a full party by the department. In addition, the department's Rule of Procedure, IDAPA 37.01.01203, requires a protestant to send a copy of a protest to the applicant.

INSTRUCTIONS

1. The matter being protested must be clearly identified. A typical matter is identified by the application number such as "Application for Permit No. _____ in the name of _____" or "Application for Transfer No. _____ in the name of _____."
 2. Show the name of the protestant. Only one (1) protestant may be shown per protest form. If this protest form is signed by more than one person, the hearing officer will consider the first signer as the official protestant and the representative for service of documents.
 3. If the protestant is represented by an attorney or other authorized representative, show the representative's name. The department then will serve documents on the representative and upon the protestant if specifically requested.
 4. Show the address where the department is to serve the documents. This should be the address of the authorized representative unless the protestant does not designate a representative.
 5. Show the telephone number of the authorized representative unless the protestant does not designate a service representative.
 6. Specifically describe the nature of the protest.
 7. Describe the relief being sought by the protestant.
-

FOR DEPARTMENT USE ONLY

Received by J. E. Stanton Date 9-27-99 Time 9:54 am
\$25.00 fee Received by J # 5022569 Date 9-27-99

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 5500

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

AUG 19 1998

Name of applicant Box Canyon Dairy Department of Water Resources Southern Region Phone (208) 536-2928
 Post Office address P O Box 140, Wendell, ID 83355-0140

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☒ Add diversion point(s) ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☒ Other Split rights, created PPII
2. Describe the reason for the proposed changes System irrigates more land than it is licensed for, so additional water needs to be moved to the property so well can be used fully when needed.

DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
<u>36-02535B</u>	<u>12/23/61</u>	<u>0.71/196</u>	<u>Irrigation</u>	<u>4/1</u> to <u>10/31</u>
<u>36-04117</u>	<u>3/15/55</u>	<u>0.50/100.0</u>	<u>Irrigation</u>	<u>4/1</u> to <u>10/31</u>
				to
				to

2. Total amount of water being transferred 1.21 cubic feet per second and/or 296.0 acre-feet per annum.
3. Source of water Groundwater tributary to
4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NW	NW	SW	25	8S	14E	Gooding	

5. Lands irrigated or place of use: go 7-21-99 changed per GIS

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
8S	14E	25							25	37	13	9							74
									14	38									
									4										

Total acres 74

PART 1

6. General Information:

- a. Description of diversion system Well and pumps; center pivot

- b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? X Yes _____ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.
- c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:
Both properties have canal shares and ground water. New place of use will
now only be irrigated with groundwater and old place of use will be watered
with canal shares and remaining deep well right.

- d. Remarks:
Dairy waste water will also continue to be used at new place of use.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____
And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19 _____.

A. DESCRIPTION OF RIGHT AS RECORDED:

Claim No. 36-02535

STAGE: DECREED

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/01 to 10/31	1.42 CFS	392.0 AF

SOURCE

GROUNDWATER

Priority: 12/23/1961

LOCATION OF POINT(S) OF DIVERSION: SESWSW , Sec. 15, Township 08S, Range 14E
GOODING County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
08S.14E	15	NWSW	39	SWSW	38	77
	22	NWNW	21			21
Total number of acres irrigated:						98

CONDITIONS/REMARKS:

1. USE OF THIS RIGHT IS COMBINED WITH WATER FROM
NORTH SIDE CANAL CO. LTD.

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED # 36-02535

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount 0.71 cfs for Irrigation purposes from 4/1 to 10/31
 (cfs/ac-ft)
 amount 196 AFA for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion: Same as 2.A.7

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
8S	14E	15											28						28
8S	14E	22						21											21

Total acres 49

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)

1. amount 0.71 cfs for Irrigation purposes from 4/1 to 10/31
 (cfs/ac-ft)
 amount 196 AFA for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion: Same as 2.A.7

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
8S	14E	15									39	20							49
											37	10							
											0								
											8-26-78								

PART 2

TRANS NO. 5500

A. DESCRIPTION OF RIGHT AS RECORDED:

Claim No. 36-04117

STAGE: DECREED

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/01 to 10/31	0.50 CFS	100.0 AF

SOURCE

GROUNDWATER

Priority: 03/15/1955

LOCATION OF POINT(S) OF DIVERSION: NWNWSW , Sec. 25, Township 08S, Range 14E
GOODING County

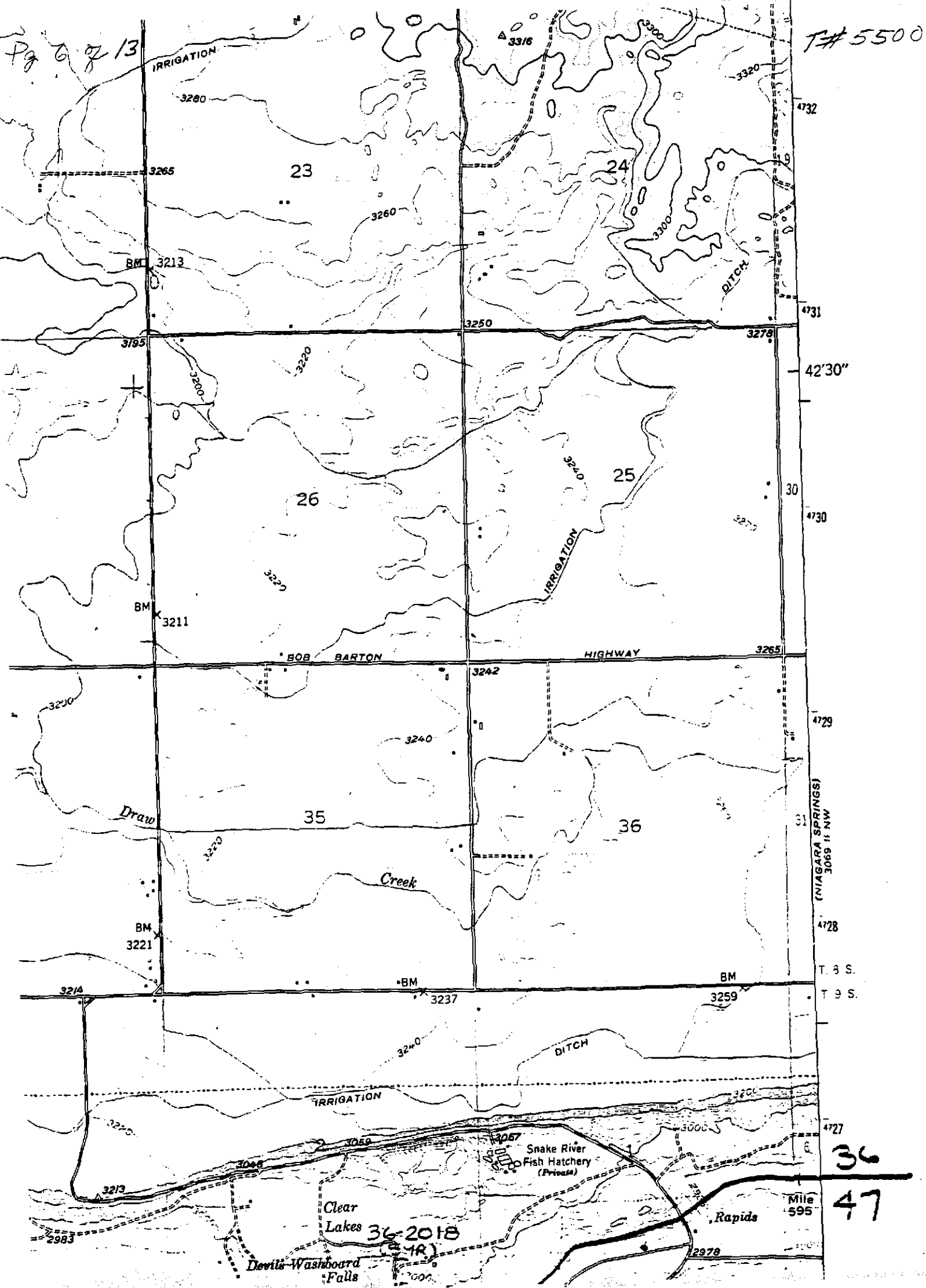
PLACE OF USE: IRRIGATION

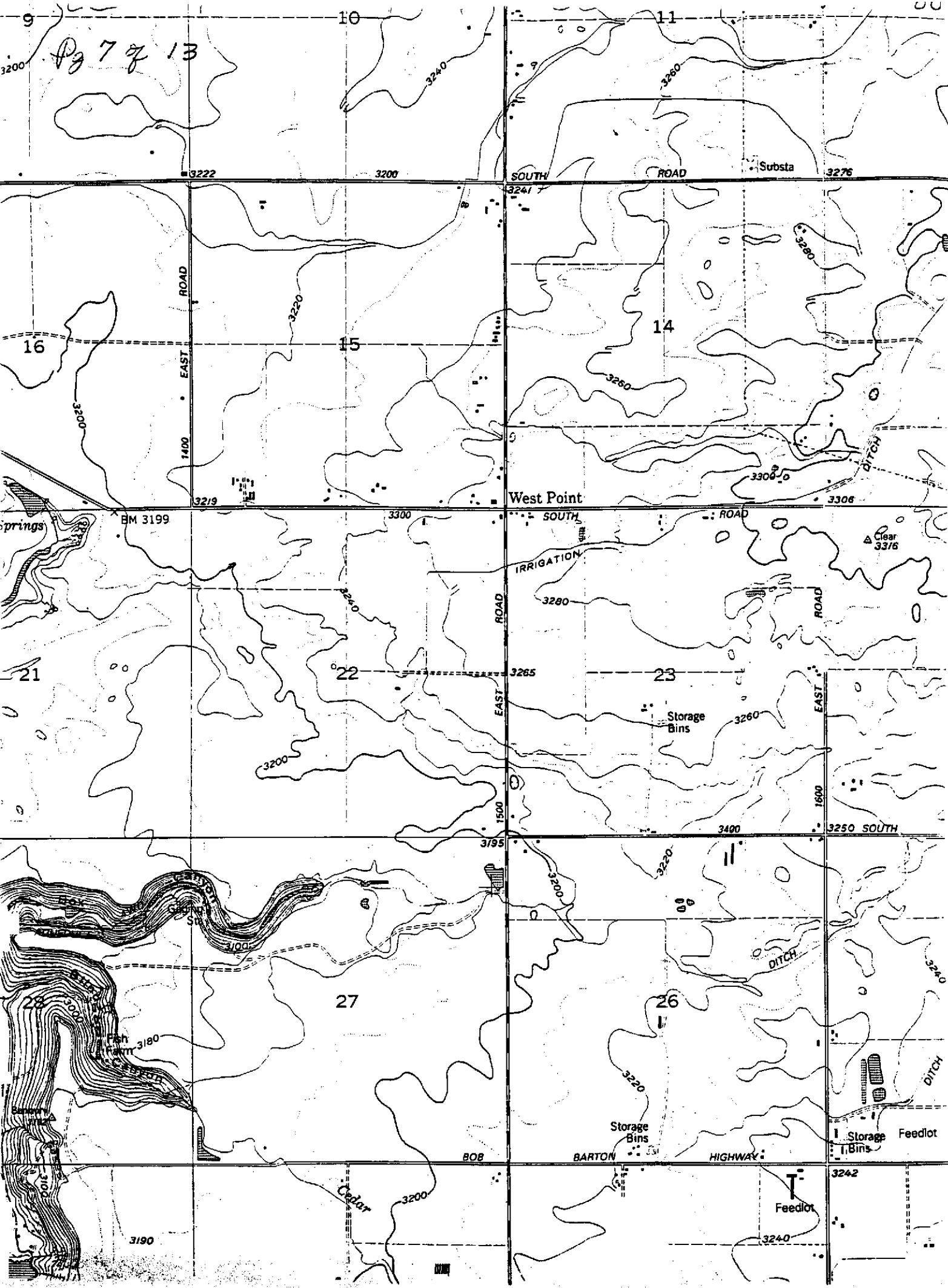
<u>TWN RGE SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
08S. 14E 25	SWNW 7	NWSW 18		25
Total number of acres irrigated:				25

CONDITIONS/REMARKS:

1. USE OF THIS RIGHT IS COMBINED WITH WATER FROM
NORTH SIDE CANAL CO. LTD.

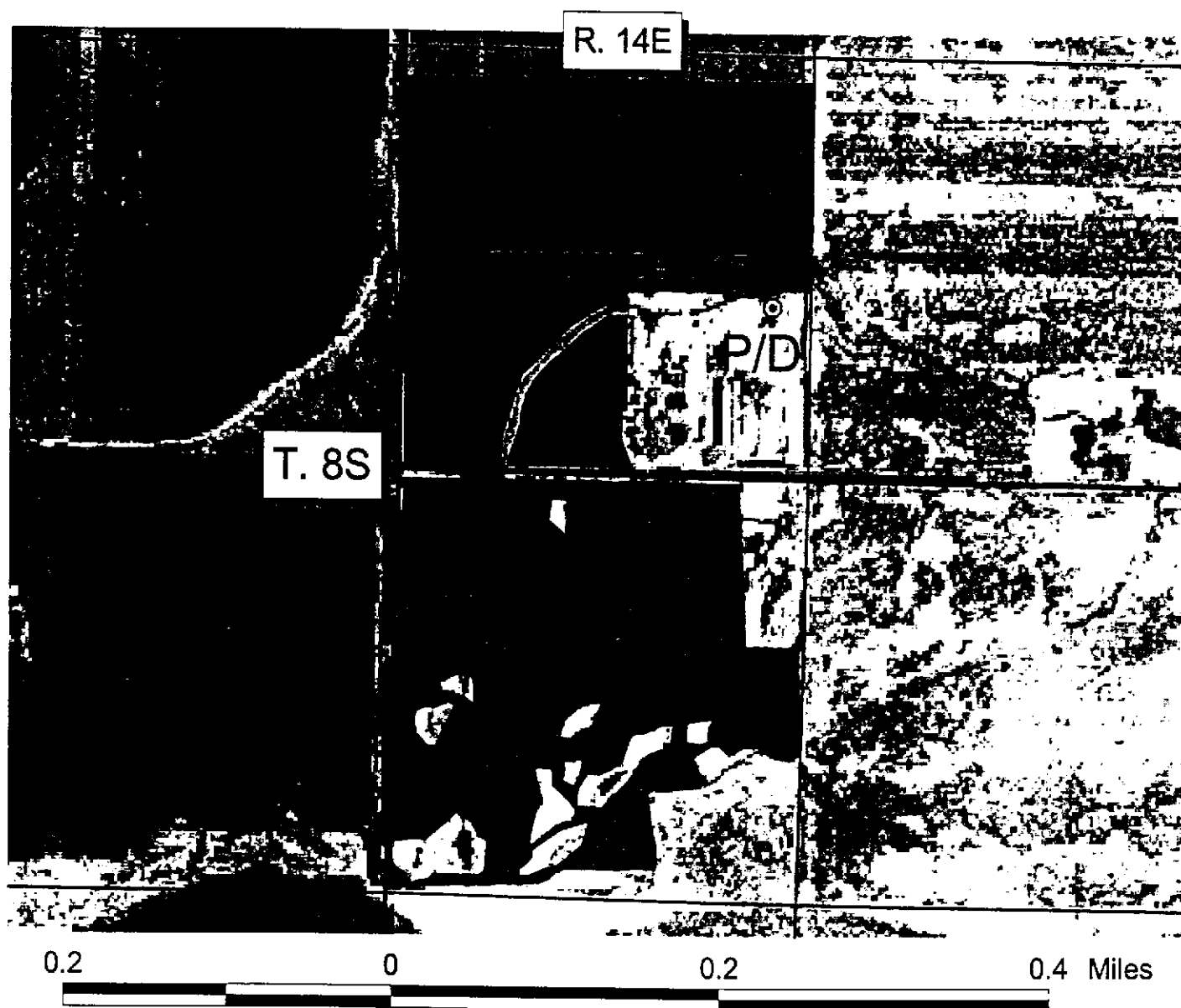
T# 5500



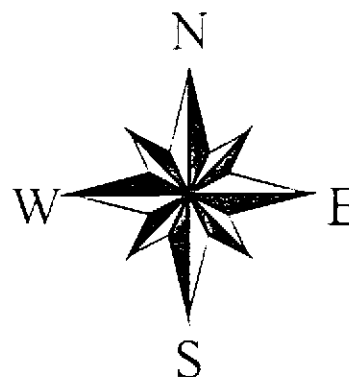


8 13 T # 5500

DECREED P/U TO BE DRIED UP - BOX CANYON DAIRY TRANSFER

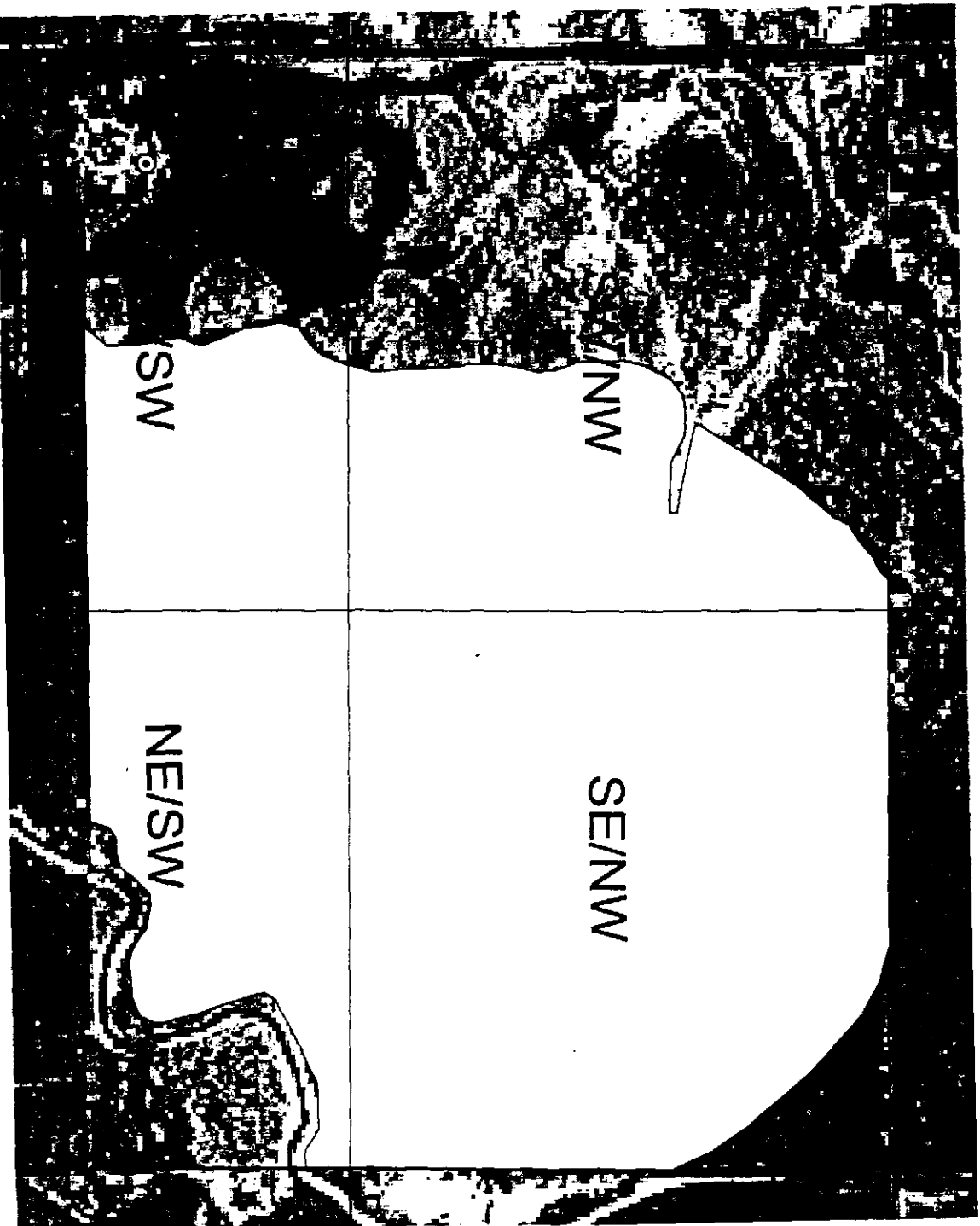


 Irrigated Land



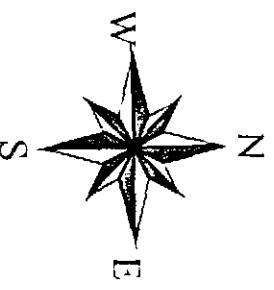
Prepared By J E Stanton
7-21-1999

PROPOSED NEW P/U, BOX CANYON DAIRY T. 8S R. 14E Sec. 25



☐ Land To Be Irrigated

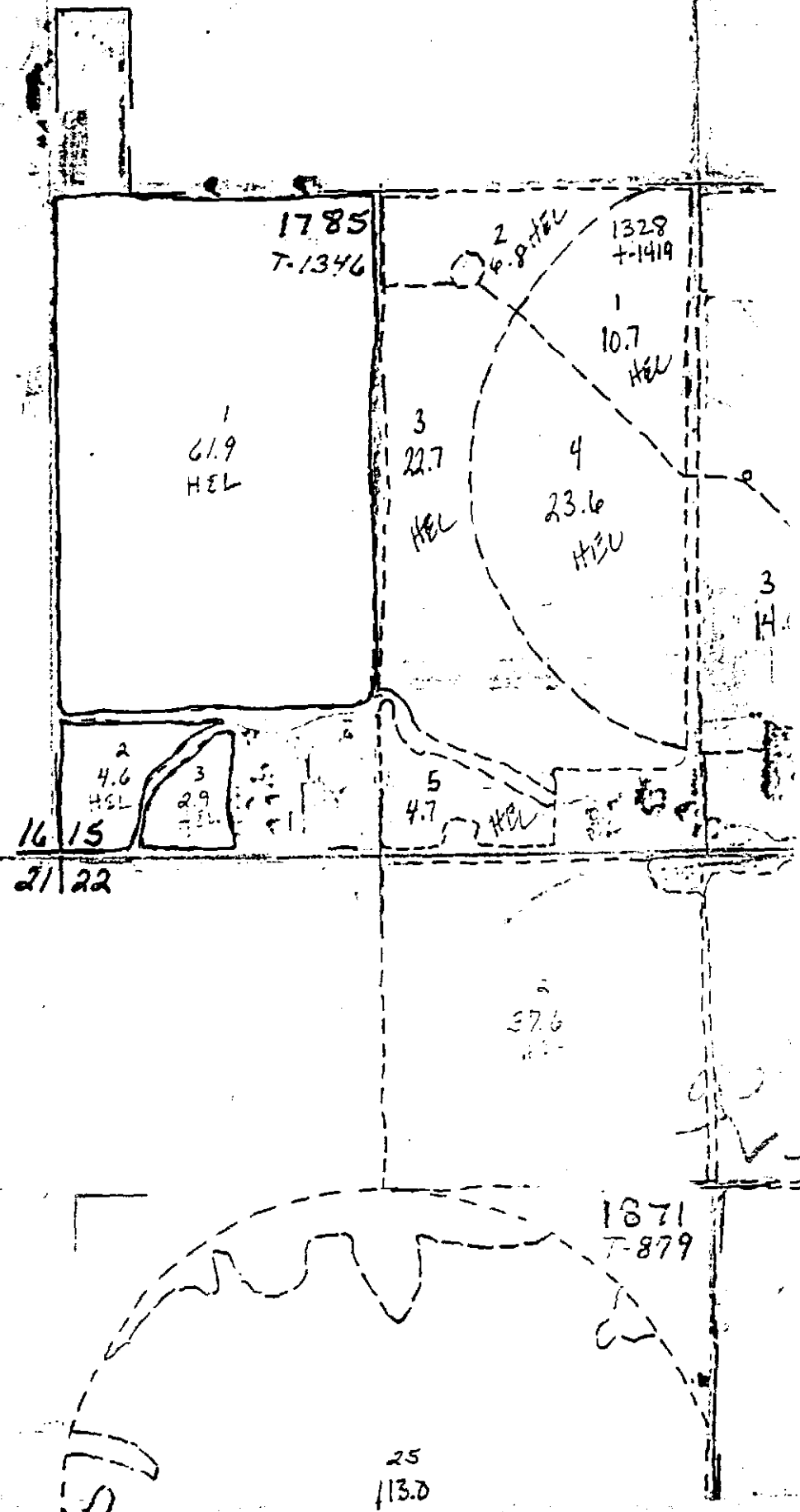
Prepared By J E Stanton
7-21-1999



Pt 16 F 13

1400 E

1#550





13

7-13

1604

R-17E

1842
T-1650

67.6
H2L

5.0
H2L

2.6
H2L

7.3
H2L

1783
T-1685

H2L

Corrals

37.9

26.25

35.30

600
T-815

1830

T-1113

25.2
H2L

40.6
H2L

10.0
H2L

12.8

17.7
H2L

PART 3

B. CHANGES IN NATURE OF USE

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
				to
				to

2. Quantity and quality of return flows and location of discharge:

3. Describe effects on other water uses resulting from the proposed change:

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

Thomas L. Linder Partner
(Signature of Applicant)

Subscribed and sworn to before me this 13th day of August, 19 98.

Janet M. Shaver
(Notary Public)

My commission expires 6-18-2003

FOR DEPARTMENT USE ONLY

Transfer contains 13 pages and 3 attachments

Received by MB Date 8/19/98 Protest filed by _____

Prelim. check by JA Fee 100⁰⁰ ck # 11323

Receipted by JA Date 8-20-98 5021427

Published in Gooding Co. Leader Copies of protest forwarded by _____

Pub. dates 9/9 & 9/16/99 Hearing held by _____ Date _____

Watermaster recommendation requested on N/A Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____



Professional Center
1020 Main

Michael Hoyt Felton
Michael Harland Felton (Jr.)

Mailing Address:
Post Office Box 589
Buhl, ID 83316-0589

June 9, 1999

(208) 543-4368 (telephone)
(208) 543-4360 (telecopier)

RECEIVED

JUN 09 1999

Department of Water Resources
Southern Region

Attention: Jim Stanton
Idaho Department of Water Resources
1301 Fillmore Street, Suite 200
Twin Falls, ID 83301

Dear Jim:

RE: Sand Springs Ranch to Box Canyon Dairy
Water Right Transfer
Our File No.: 2476

At last, I have received and recorded the Quitclaim Deed from Sand Springs Ranch & Company to Frans and Cornelia Aardema and Tom and Mary Heida d/b/a Box Canyon Dairy. I have enclosed a copy of the recorded Quitclaim Deed for your reference and file. Please go ahead and continue to process the water right transfer associated with the deed for Box Canyon Dairy.

As always, if you have any further questions or comments, please do not hesitate to contact me.

Very truly yours,

MICHAEL H. FELTON (JR.)

MHF/js
pc: Tom Heida



Professional Center
1020 Main

Michael H. Felton, Sr.
Michael H. Felton, Jr.

Mailing Address:
Post Office Box 589
Buhl, ID 83316-0589

December 7, 1998

(208) 543-4368 (telephone)
(208) 543-4360 (telecopier)

Attention: Jim Stanton
State of Idaho
Department of Water Resources
1341 Fillmore Street Suite 200
Twin Falls, ID 83301-3380

RECEIVED

DEC 08 1998

Department of Water Resources
Southern Region

Dear Jim:

RE: Application for Transfer, Box Canyon Dairy
Our File No.:2476

Pursuant to your letter dated November 5, 1998, enclosed herein please find a Quitclaim Deed that I have prepared for Don McFarland's signature. I would appreciate it if you would review the deed and then make sure that the wording and legal description is proper before I forward it to Don for his signature. From your letter I assume I am to prepare a Quitclaim Deed pertaining to water right 36-02535 only, and not the real property.

According to the title company, the land is currently held in the name of Sand Springs Ranch which I believe is owned by Tom Ambrose. Therefore, it seems to me that the Quitclaim Deed should be signed by Tom Ambrose as an authorized agent of Sand Springs Ranch and not Don McFarland. However, I suppose that if the land is being transferred to Don McFarland under a contract of sale there would be no record of it yet with the County Recorder. Obviously I need to have you enlighten me as to why the Quitclaim Deed should contain a signature line for McFarland as opposed to Ambrose on behalf of Sand Springs Ranch.

For your convenience I have included a copy of the most recent deed, that is, Gooding County Instrument No. 167253 recorded October 16, 1996, which shows the land being transferred from Box Canyon Dairy, formerly Aardema-Heida Dairy, to Sand Springs Ranch.

Please advise. (Maybe it is time for another tutorial for Felton.) Happy Holidays.

Very truly yours,

MICHAEL H. FELTON (JR.)

MHF/js
Enclosure
pc: Box Canyon Dairy

TO: File

DATE: November 5, 1998

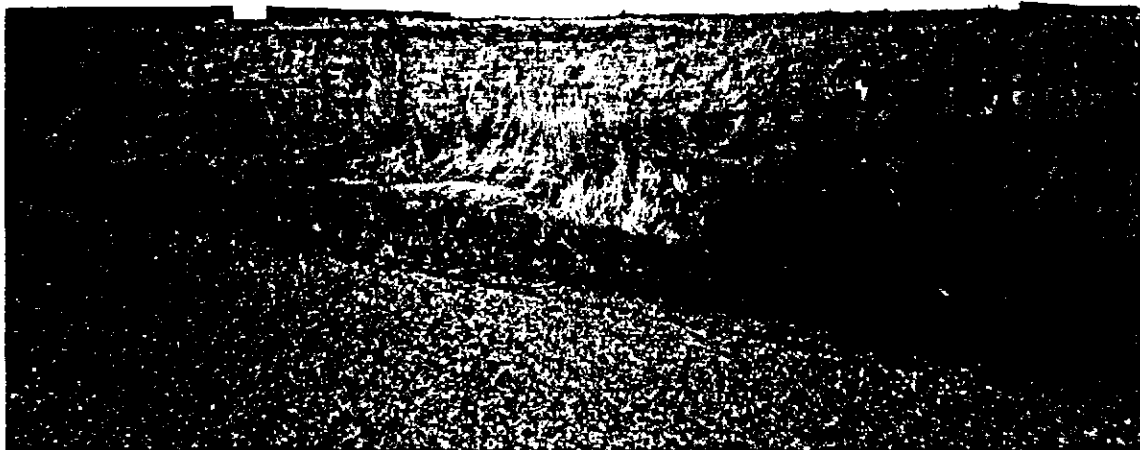
FROM: Jim Stanton

SUBJECT: App. for Transfer, Box Canyon Dairy

Yesterday I met with Mark, who works for the applicant. We viewed the land in Sec. 15 & 22 that will be dried up of groundwater if the transfer is approved as filed. The well on this property runs into a pond, as does canal water. A relift pump pressurizes sprinklers. According to Mark, the applicant bought this land about 10 years ago. There was a dairy in the SE corner of the 80 in Sec. 15, but that was removed a long time ago. The 1987 ASCS photo (the latest available) shows about 69 1/2 acres irrigated in this 80, a 62-acre field in the northern 3/4 of the tract, and 2 smaller field in the southeast portion. This land was all irrigated from the well, which supplemented canal shares. While the decree shows 38 irrigated acres in the SW/SW S. 15, the ASCS photo shows 30.4 acres. The transfer proposes to dry up 28 acres in this tract, but none of the tract will be irrigated after the transfer (except for the lawn around the home). A good portion of this land has now been turned into calf pens that were constructed earlier this year, and only the NW/SW (39 ac) is still irrigated. There is plenty of canal water available for this land, so the well will probably only be used to keep the right from being forfeited.

The land in Sec. 22 is much different than the land in Sec. 15. While Sec. 15 is fairly flat & farmable, Sec. 22 is rolling and rocky, and is only suitable for pasture. Mark said that the well was never used on this land, and I didn't see any way to get well water to it. There are headgates in the canal that cuts thru both section, and side ditches are used to water Sec. 22 by gravity flow. Mark said that this land was sold to Sand Springs Ranch (now Don McFarland) two years ago, and the county assessor confirmed that the applicant does not own this land. The ASCS photo shows 28.1 irrigated acres, not 21 as shown on the decree. The SRBA examiner found these acreage discrepancies, but recommended the incorrect acres as the p/u. And no mention was made of this tract not being part of the system.

If *res judicata* applies, then this application is not approvable as filed. I will contact the applicant's attorney to try and straighten out this situation before the application is advertised.



Area West of Home In Sec. 15 Looking NW

36-02535
11-4-98
JE Stanton



Cornals In Sec, 15 Looking NE



Irrigated Land North of Cornals Looking NE

86-02535
11-4-98
JE Stanton

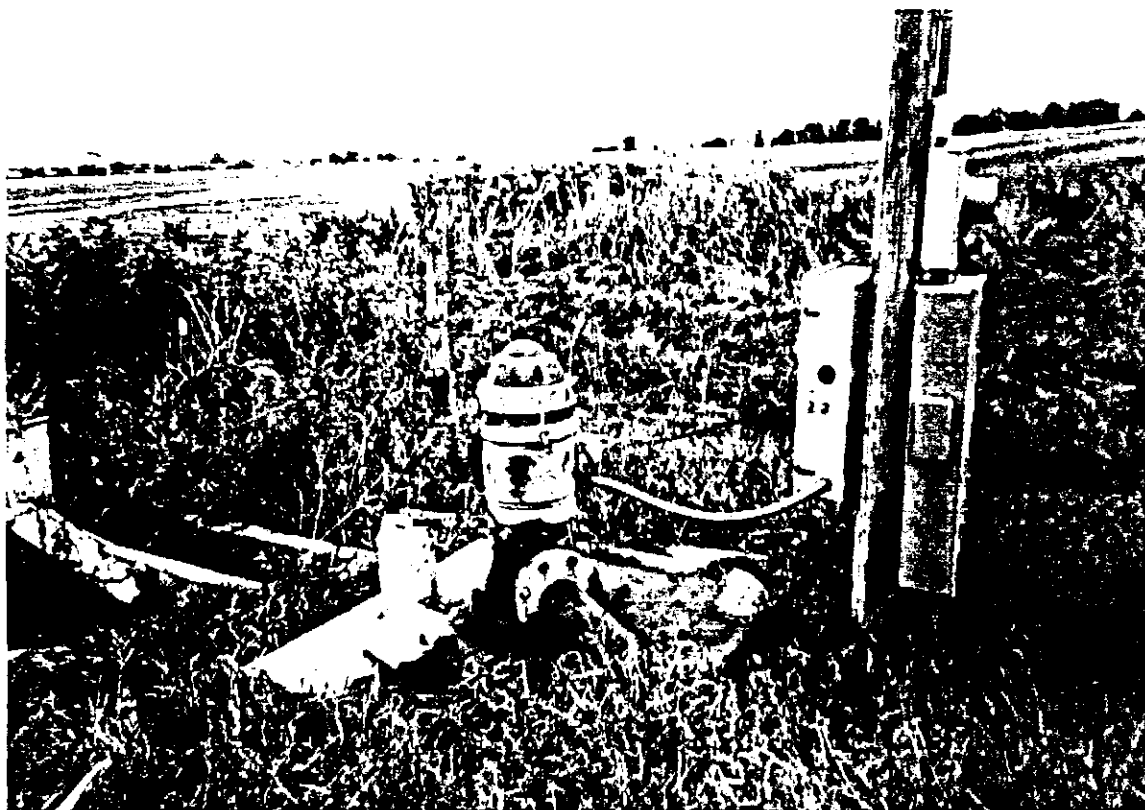


Sec. 22 Looking West



Sec. 22 Looking East

36-02535
11-4-98
JE Stanton



Well & Mainline

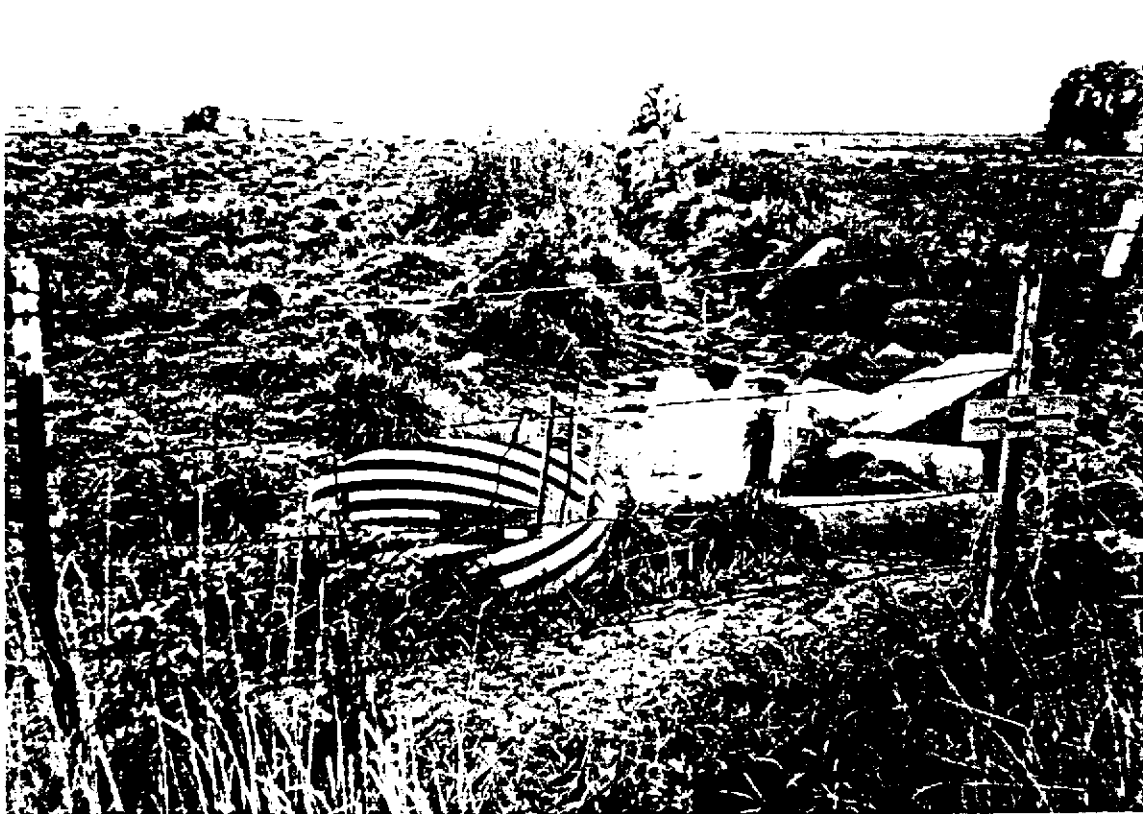


Well, Mainline Into Pond, Pond (Also Gets Canal Shares) 36-02535

~~04117~~

11-4-98

JE Stanton



Canal Headgate Into Sec. 22 Looking SW



Pasture In Sec. 22 Looking South

36-02535

11-4-98

JE Stanton



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

December 8, 1998

Felton & Felton, Attorneys At Law
ATTN: Mike Felton Jr
PO Box 589
Buhl, ID
83316

RE: App. for Transfer, Box Canyon Dairy (Your File #2476)

Dear Mike;

I have review your letter and proposed quitclaim deed. Like you, I am rather confused as to exactly who owns Sand Springs Ranch. I think that Tom Ambrose & Don McFarland are partners, but am not sure. I do know that Don has bought and sold a lot of land over the last couple years, so it is very difficult to know exactly what he does own at any given moment. Anyway, the deed should certainly be signed by whoever is the legal owner of Sand Springs Ranch.

As far as the wording of the deed is concerned, you may wish to change things a bit starting after Box Canyon Dairy's address. From that point, you might say something like "all my right, title and interest to Water Right 36-02535, said right being appurtenant, in part, to the NW 1/4 NW 1/4 Sec. 22 Township 8 South Range 14 East of the Boise Meridian. I presently own said tract, and will continue to do so after the signing of this deed". Your proposed deed was in error in stating that the point of diversion is in Sec. 22; it is in Sec. 15. Hope this helps.

Regards,

James E. Stanton
Sr. Water Resource Agent



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

November 5, 1998

Mike Felton Jr.
Felton & Felton
PO Box 589
Buhl, ID
83316

RE: App. for Transfer, Box Canyon Dairy

Dear Mike;

In my review of this application, a major problem has been discovered. Right 36-02535 covers land in Sec. 15 & 22 T. 8S R. 14E. While the application proposes to move water from the NW/NW Sec. 22, the applicant sold this land two years ago to Sand Springs Ranch. Although this land is part of the decreed place of use, I was told that the well was never used here. But the right is appurtenant to this land under the principal of res judicata, so we need to address this ownership problem. Unless this right was specifically withheld in the deed of sale, Box Canyon Dairy cannot transfer the water off of it. If the water was not withheld, a quitclaim deed from the present owner (Don McFarland, I think) to Box Canyon should solve this problem. We will also need the deed to Sand Springs Ranch, and one from them to McFarland.

I will hold this application until this problem is resolved.

Regards,

James E. Stanton
Sr. Water Resource Agent

Michael H. Felton, Sr.
Michael H. Felton, Jr.

Mailing Address:
Post Office Box 589
Buhl, ID 83316-0589

August 13, 1998

(208) 543-4368 (telephone)
(208) 543-4360 (telecopier)

Mr. Jim Stanton
Idaho Department of Water Resources
1341 Fillmore Street, Suite 200
Twin Falls, ID 8330-3380

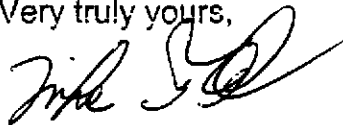
Dear Jim:

RE: Box Canyon Dairy
Transfer of Water Rights/Change of place of use
Our File No. 3107

Enclosed herein please find the Application for Transfer of Water Right that you and I have been working on for Box Canyon Dairy. Also, enclosed herein please find Box Canyon Dairy's check in the amount of \$100.00 to cover the filing fee and what I hope are the requested power records .

Once again, let me thank you for your valuable assistance through out this matter. Your time and patience are truly appreciated.

Very truly yours,



MICHAEL H. FELTON (JR.)

MHF/js
pc: Tom and Mary Jane Heida
Enclosures (3)

RECEIVED

AUG 19 1998

**Department of Water Resources
Southern Region**



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

May 8, 1998

Felton & Felton, Attorneys
ATTN: Mike Felton Jr.
1020 Main
Buhl, ID
83316

RE: Decreed Water Right 36-04117, Box Canyon Dairy

Dear Mr. Felton;

As a followup to our conversation of earlier this week, I visited the irrigated land north of the dairy. I also talked to Tom Heida regarding the operation of his irrigation system. As the place of use of this water right is now completely different than what was decreed, a transfer needs to be filed to record this change. The decree allows 25 acres of irrigation from the well; at the standard allowance of 4.0 acre feet of water per acre per year, 100 acre feet of water per year can be pumped from the well. But instead of the 25 acres that were licensed, the well now irrigates about 70 acres by supplementing wastewater from the dairy. As long as the flow rate and volume of water allotted from this well are adequate to run the pivot and corner handlines on the 70 acres, a transfer can be filed to create a permissible place of use of 25 acres within the overall place of use; it is not necessary to move additional groundwater rights to the property.

If I can be of further assistance in this matter, feel free to contact me. While the use of water outside of the decreed place of use is a violation of Idaho law, we are only seeking compliance at this time. The timely filing of an application for transfer will get things moving in the proper direction.

Regards,

James E. Stanton
Sr. Water Resource Agent

cc: Tom Heida

TO: Allen

DATE: May 7, 1998

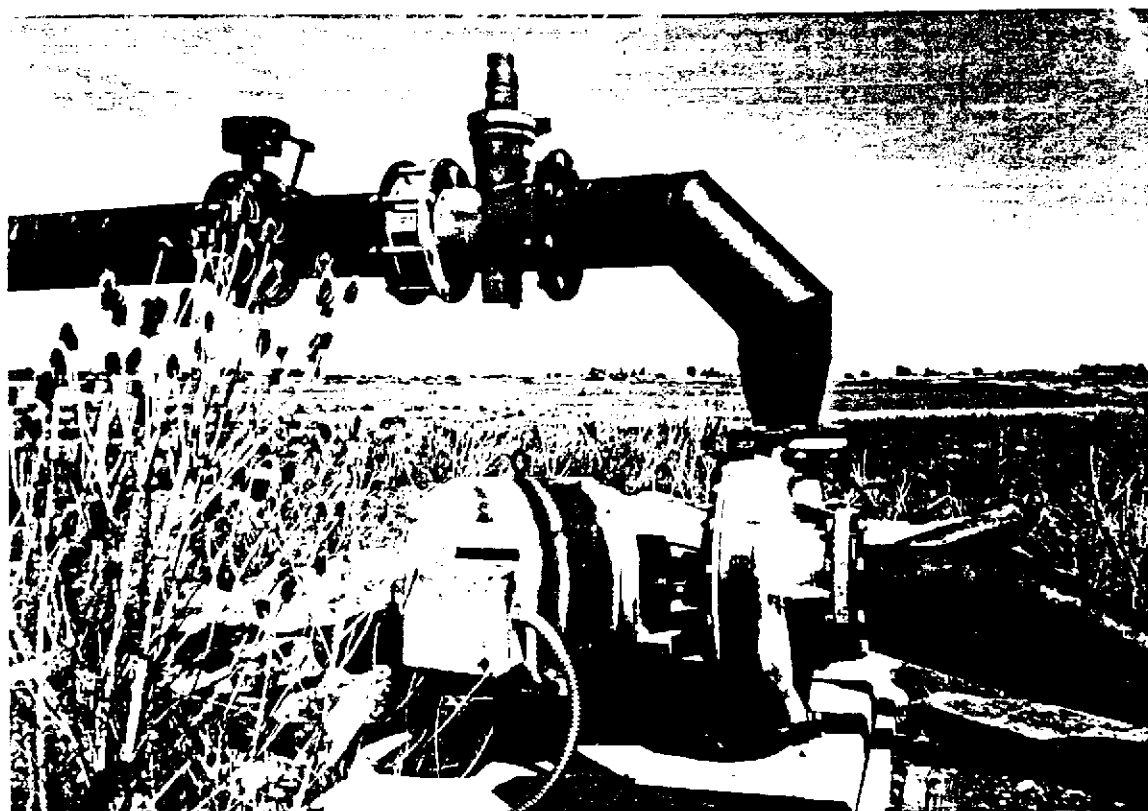
FROM: Jim Stanton

SUBJECT: Possible Illegal Use of Decree 36-04117

Per your request, I have investigated the present use of this right. I obtained a 1987 aerial photo (the latest available) from the Gooding FSA office. I then went to the Box Canyon Dairy, where I met with Tom Heida to discuss this situation. I have worked with him in the past on various water-rights matters, and he was open and cooperative on this matter. He and Franz Aardema have leased this property for some time, but apparently on bought it about a year ago. Tom said that the irrigation well is still used as it was when they bought the place. Although the well was decreed as a supplemental source to canal shares, Tom said that the shares are no longer used in conjunction with the well. The well now supplements wastewater from the large dairy that is just south of the irrigated ground. And the place of use is now a small pivot and a few corner handlines, covering about 70 acres, and is considerably different than what was licensed. I told Tom that he would have to apply for a transfer to show the present place of use, and he told me that his attorney (Mike Felton Jr.) was working on transferring additional water to this ground. I plan to correspond with Felton on this matter so that the necessary paperwork gets filed. A transfer should have obviously been filed when the pivot was installed, but was not. This appears to be another case of a decree being issued that does not reflect the actual use of the water. Although this right was based on beneficial use, the well was never measured; its theoretical capacity is 1.38 cfs, much more than the 0.02 cfs/acre that could be decreed. Based on what Tom said, the well is not used much, but he wants to be properly covered should he need it. But he has a huge dairy in Sec. 25, so having enough wastewater will probably not be a problem.



Well Pump



Booster Pump. A/U In Background

96-0417
5-7-93
JEC



Dairy Lagoon + Pump South of Pivot (Looking SE)



Former P.O. North of Well (Looking North)

06-1-1977
06-1-1977
06-1-1977



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

March 16, 1998

Box Canyon Dairy
ATTN: Scott
PO Box 140
Wendell, ID
83355

Dear Scott;

This letter is being written per your request regarding a proposed heifer operation that you plan to develop. You stated that there will be around 1500 heifers in the 400-800 lb range. Our figures show that 400-lb animals drink from 3.7 to 6.1 gallons per day, while 800-lb animals drink from 6.3 to 10.6 gallons per day. Sec. 42-111 of the Idaho Code allows up to 13,000 gallons of groundwater per day to be diverted from domestic and stockwatering purposes without a water right. So up to 1226 800-lb animals could be watered without a water right on a hot summer day. Up to 3513 400-lb animals could be watered on a cold winter day. When we spoke, I used the average use of 7.9 gpd per animal, but my supervisor informed me that this is not correct. To meet the limits of 42-111, water use on any given day cannot exceed 13,000 gallons; a lower use on some days does not allow a greater use on other days. With so many variables (herd structure, air temperature, etc.), it is not possible to give an exact limit on the number of animals that can be watered without a specific water right; your proposed facility appears to fall into the exempt category, however. A drilling permit is required if you decide to drill another well for the proposed use, but such permits are available at any time for a fee of \$75.

Regards,

James E. Stanton
Sr. Water Resource Agent

TO: Allen

DATE: May 6, 1998

FROM: Jim Stanton

SUBJECT: Possible Illegal Groundwater Diversion

Today I was contacted by Mike Felton Jr., the attorney for Box Canyon Livestock. They purchased the land under Right 36-04117 within the last few months, expecting that it could be fully irrigated with the existing well. The decree states that canal water is also used on this land, but Felton told me that the canal water was sold off sometime in the past (he wasn't sure when). The well is now used to run a pivot on the 100-acre parcel, even though the groundwater right is only for 25 acres. He said the owner was recently contacted by Jeff Martin of the groundwater district (I presume it was Jeff) concerning this problem. I explained the water-right limits to Felton, and that irrigating more than 25 acres a year from this well is illegal. He said he would discuss this further with his client.

I'm not sure if I should report this or not. I don't think that we want people to be afraid to call us on such matters for fear of getting into trouble. Anyway, here is what I know at this point. Do you want me to investigate further?

South of Wendell to Bof
Barton Rd, then $4\frac{1}{2}$ W,
 $\frac{1}{2}$ N to well

Jeff Martin will try to
schedule well test in mid-July
for PCC

TO: Allen

DATE: May 6, 1998

FROM: Jim Stanton

SUBJECT: Possible Illegal Groundwater Diversion

Today I was contacted by Mike Felton Jr., the attorney for Box Canyon Livestock. They purchased the land under Right 36-04117 within the last few months, expecting that it could be fully irrigated with the existing well. The decree states that canal water is also used on this land, but Felton told me that the canal water was sold off sometime in the past (he wasn't sure when). The well is now used to run a pivot on the 100-acre parcel, even though the groundwater right is only for 25 acres. He said the owner was recently contacted by Jeff Martin of the groundwater district (I presume it was Jeff) concerning this problem. I explained the water-right limits to Felton, and that irrigating more than 25 acres a year from this well is illegal. He said he would discuss this further with his client.

I'm not sure if I should report this or not. I don't think that we want people to be afraid to call us on such matters for fear of getting into trouble. Anyway, here is what I know at this point. Do you want me to investigate further?

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 5500

RECEIVED

APPLICATION FOR TRANSFER OF WATER RIGHT

SEP 01 1999

PART 1

AUG 19 1998

Department of Water Resources

Name of applicant Box Canyon Dairy Department of Water Resources Southern Region Phone (208) 536-2928
 Post Office address P O Box 140, Wendell, ID 83355-0140

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☒ Add diversion point(s) ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☒ Other Split rights, created PDU
2. Describe the reason for the proposed changes System irrigates more land than it is licensed for, so additional water needs to be moved to the property so well can be used fully when needed.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
<u>36-025358</u>	<u>12/23/61</u>	<u>0.71/196</u>	<u>Irrigation</u>	<u>4/1</u> to <u>10/31</u>
<u>36-04117</u>	<u>3/15/55</u>	<u>0.50/100.0</u>	<u>Irrigation</u>	<u>4/1</u> to <u>10/31</u>
				to
				to

2. Total amount of water being transferred 1.21 cubic feet per second and/or 296.0 acre-feet per annum.
3. Source of water Groundwater tributary to
4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NW	NW	SW	25	8S	14E	Gooding	

5. Lands irrigated or place of use: to go 7-21-99 changed per G/S

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
8S	14E	25							15	37	13	9							74
									14	38									
									*										

Total acres 74

PART 1

6. General Information:

- a. Description of diversion system Well and pumps; center pivot
- b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? X Yes _____ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.
- c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:
Both properties have canal shares and ground water. New place of use will now only be irrigated with groundwater and old place of use will be watered with canal shares and remaining deep well right.
- d. Remarks:
Dairy waste water will also continue to be used at new place of use.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____

And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19 _____

PART 2**A. DESCRIPTION OF RIGHT AS RECORDED:**

Claim No. 36-02535

STAGE: DECREED

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/01 to 10/31	1.42 CFS	392.0 AF

SOURCE

GROUNDWATER

Priority: 12/23/1961

LOCATION OF POINT(S) OF DIVERSION: SESWSW , Sec. 15, Township 08S, Range 14E
GOODING County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
08S. 14E	15	NWSW	39	SWSW	38	77
	22	NWNW	21			21
Total number of acres irrigated:						98

CONDITIONS/REMARKS:

1. USE OF THIS RIGHT IS COMBINED WITH WATER FROM
NORTH SIDE CANAL CO. LTD.

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No

If yes, describe

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED # 36-02535

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount 0.71 cfs for Irrigation purposes from 4/1 to 10/31
 (cfs/ac-ft)
 amount 196 AFA for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion: Same as 2.A.7

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
8S	14E	15											28						28
8S	14E	22						21											21

Total acres 49

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)

1. amount 0.71 cfs for Irrigation purposes from 4/1 to 10/31
 (cfs/ac-ft)
 amount 196 AFA for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion: Same as 2.A.7

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
8S	14E	15									39	20							49
											37	10							
											8								
											8-20-78								

Total acres 49

PART 2

TRANS NO. 5500

A. DESCRIPTION OF RIGHT AS RECORDED:

Claim No. 36-04117

STAGE: DECREED

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/01 to 10/31	0.50 CFS	100.0 AF

SOURCE

GROUNDWATER

Priority: 03/15/1955

LOCATION OF POINT(S) OF DIVERSION: NWNWSW , Sec. 25, Township 08S, Range 14E
GOODING County

PLACE OF USE: IRRIGATION

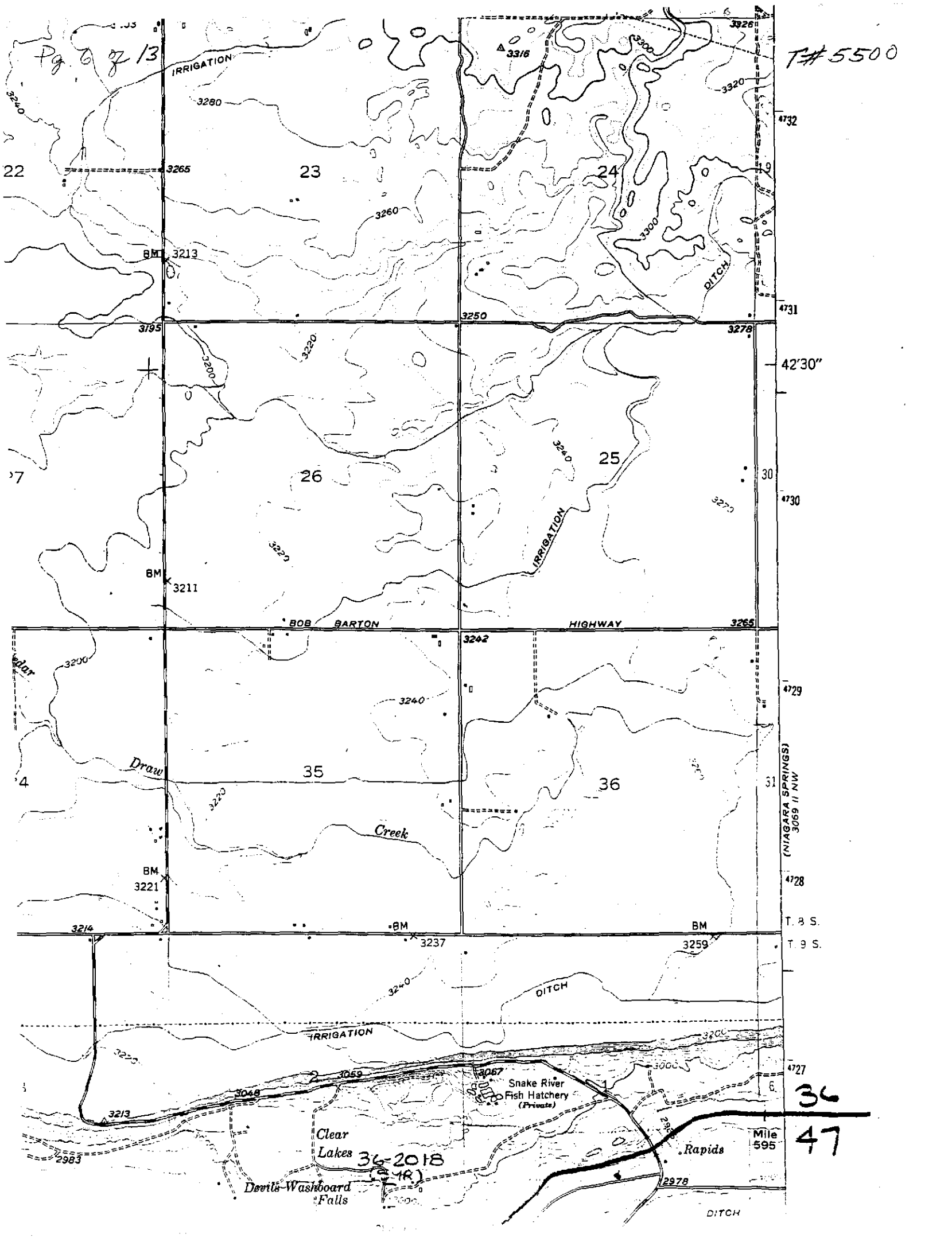
<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
08S.	14E	25	SWNW 7	NWSW 18		25
Total number of acres irrigated:						25

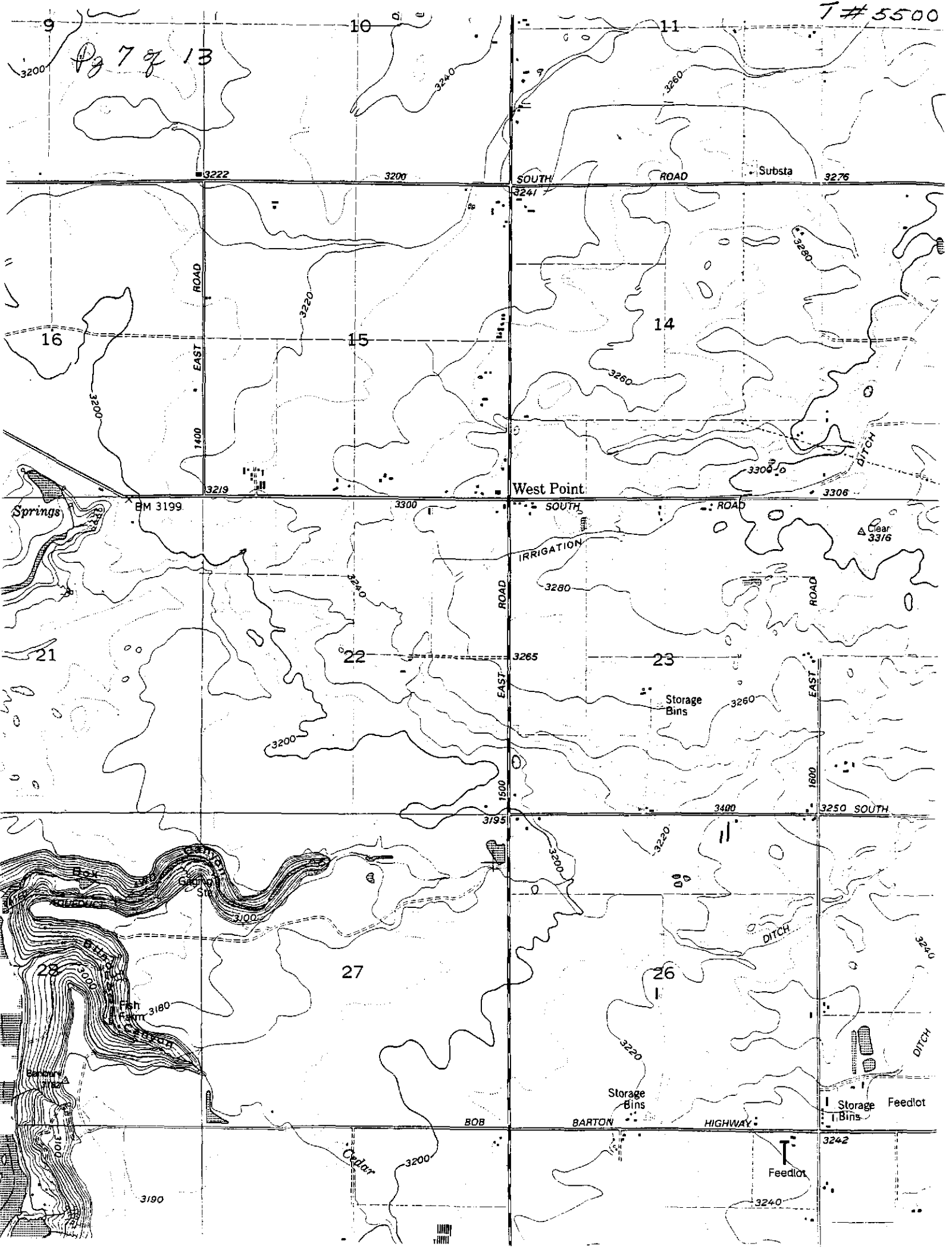
CONDITIONS/REMARKS:

1. USE OF THIS RIGHT IS COMBINED WITH WATER FROM
NORTH SIDE CANAL CO. LTD.

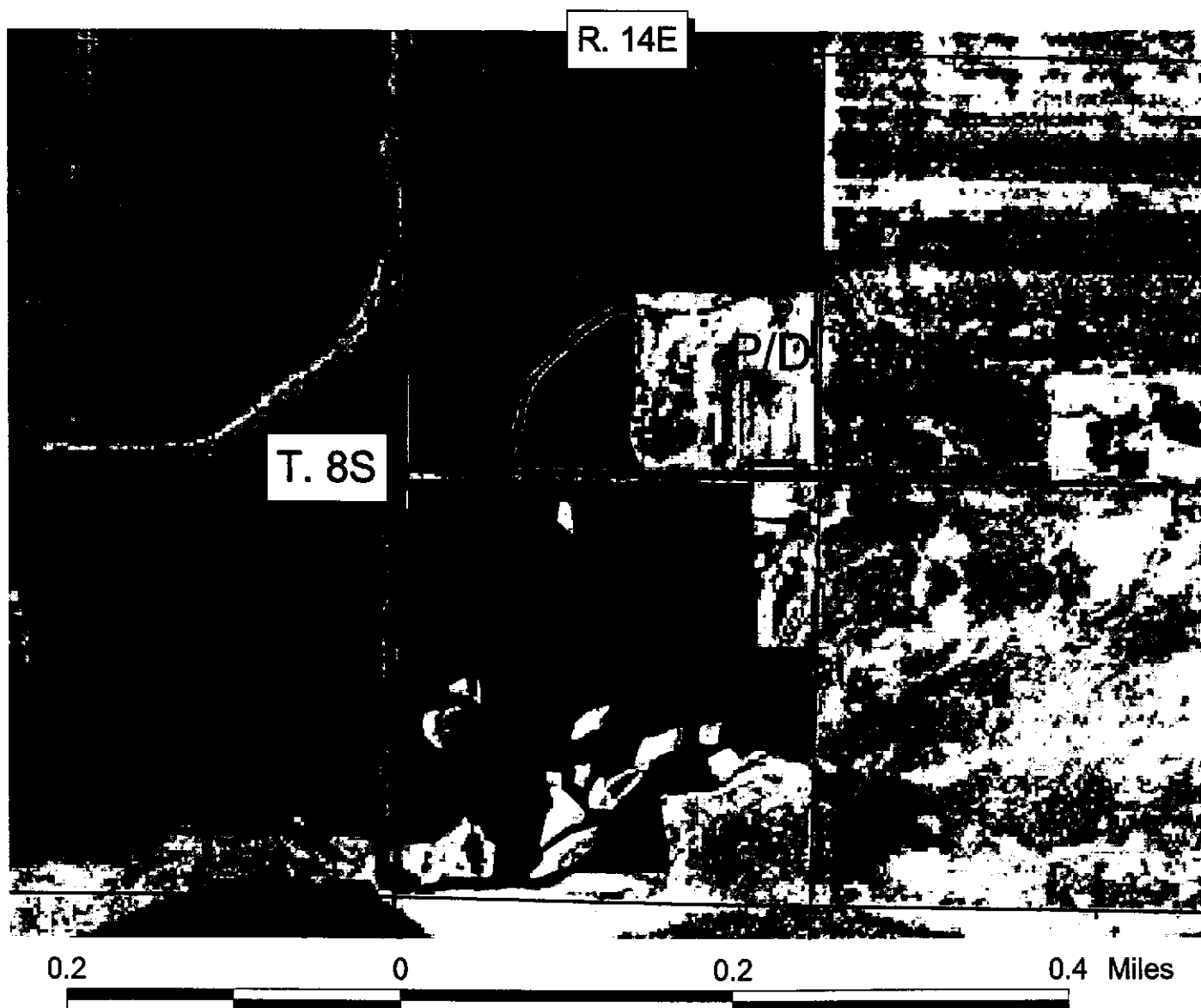
Pg. 6 of 13

T#5500

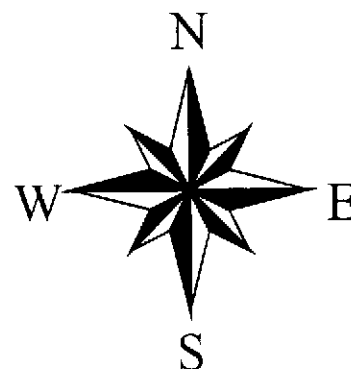




DECREED P/U TO BE DRIED UP - BOX CANYON DAIRY TRANSFER



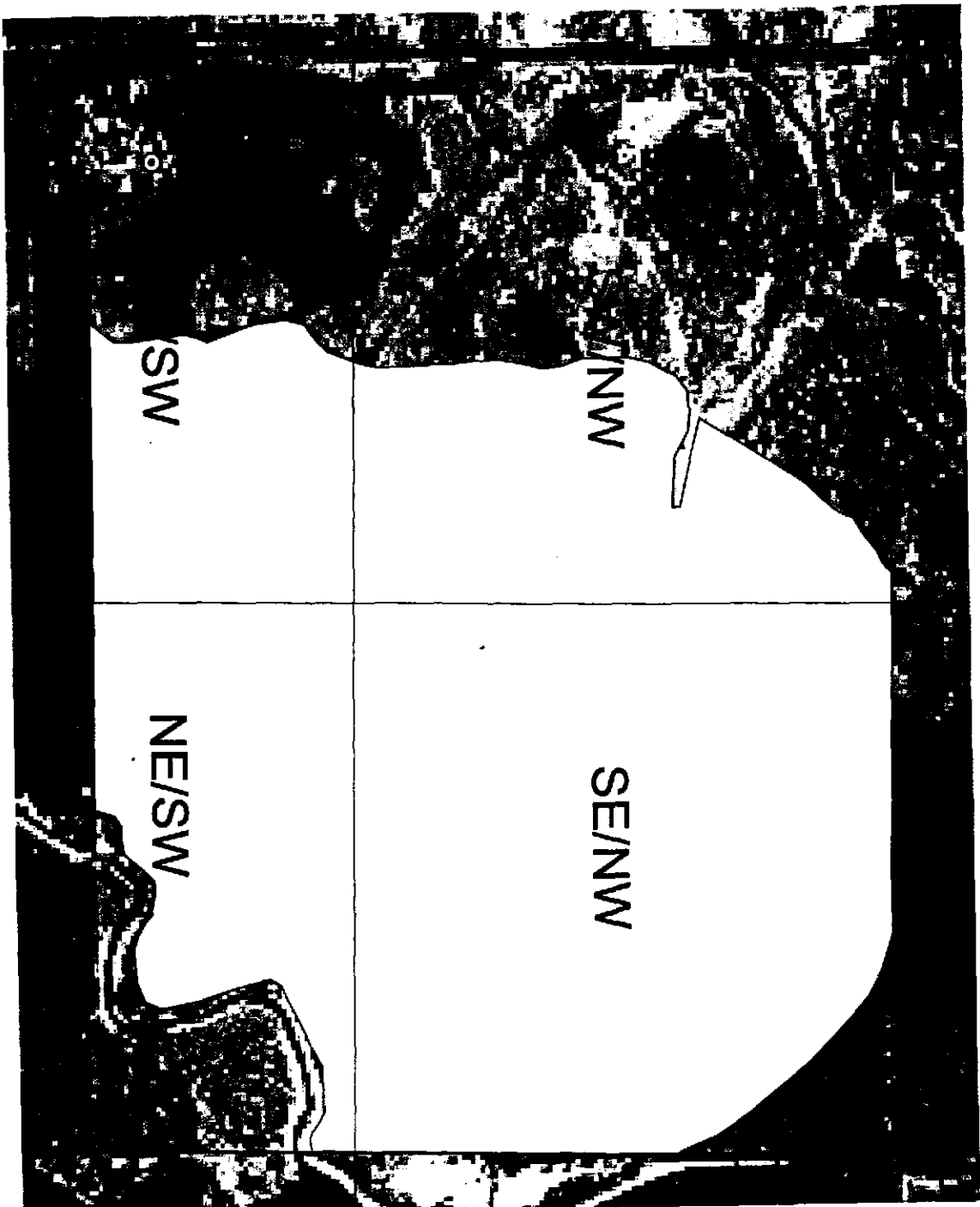
 Irrigated Land



Prepared By J E Stanton
7-21-1999

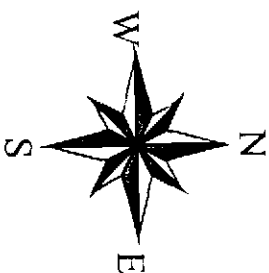
PROPOSED NEW P/U, BOX CANYON DAIRY

T. 8S R. 14E Sec. 25



☐ Land To Be Irrigated

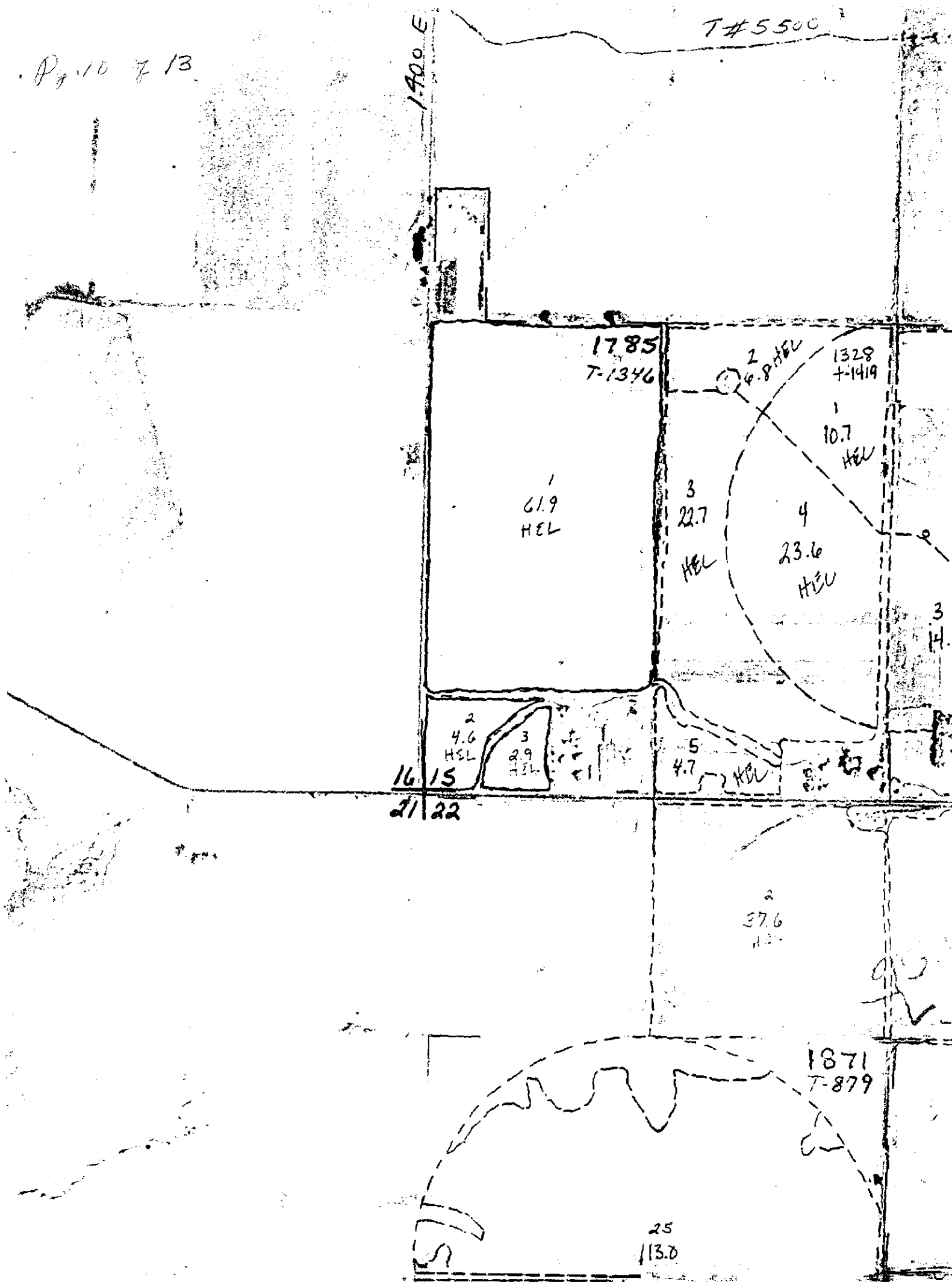
Prepared By J E Stanton
7-21-1999

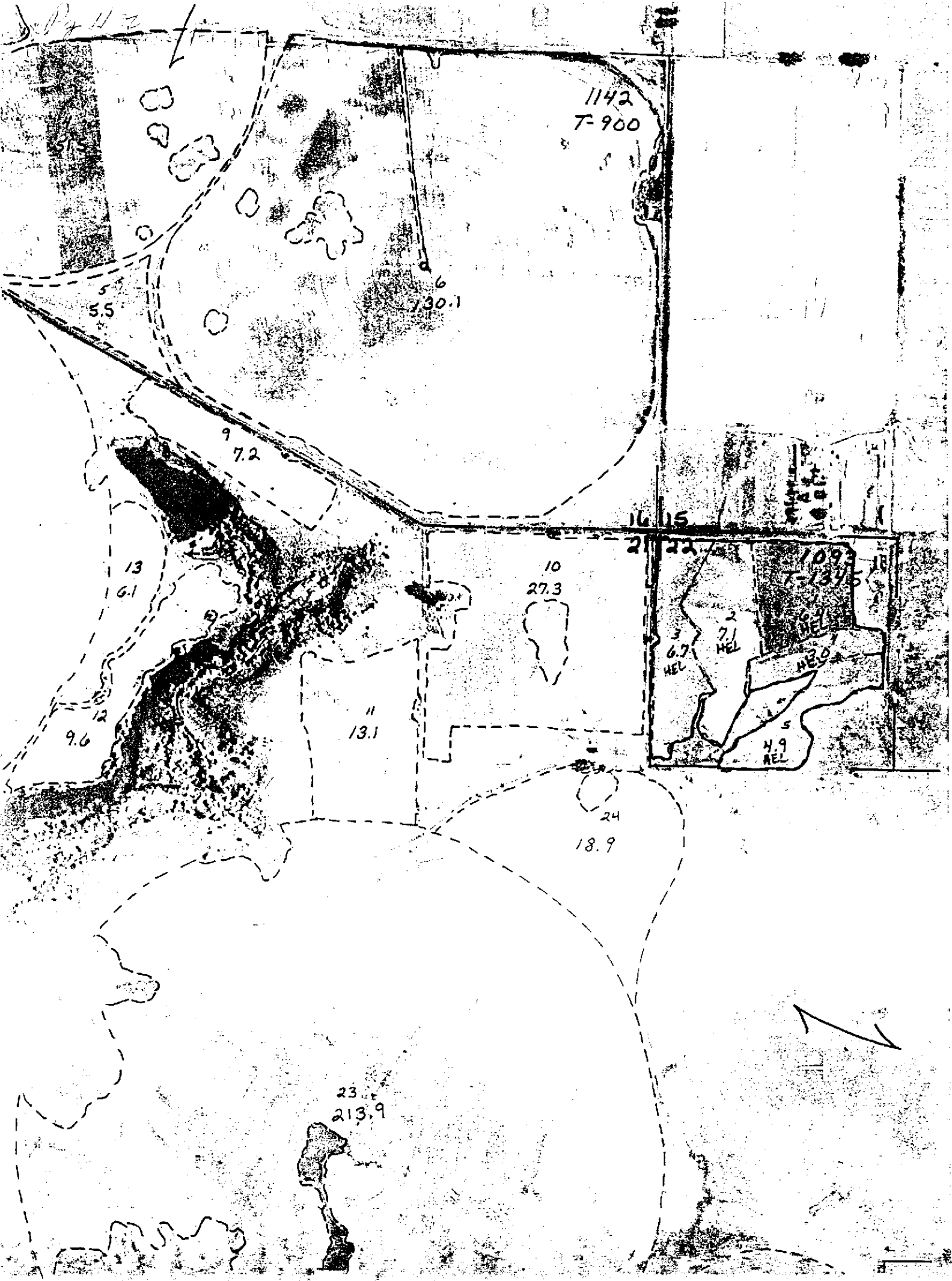


Pg 10 of 13

1400 E

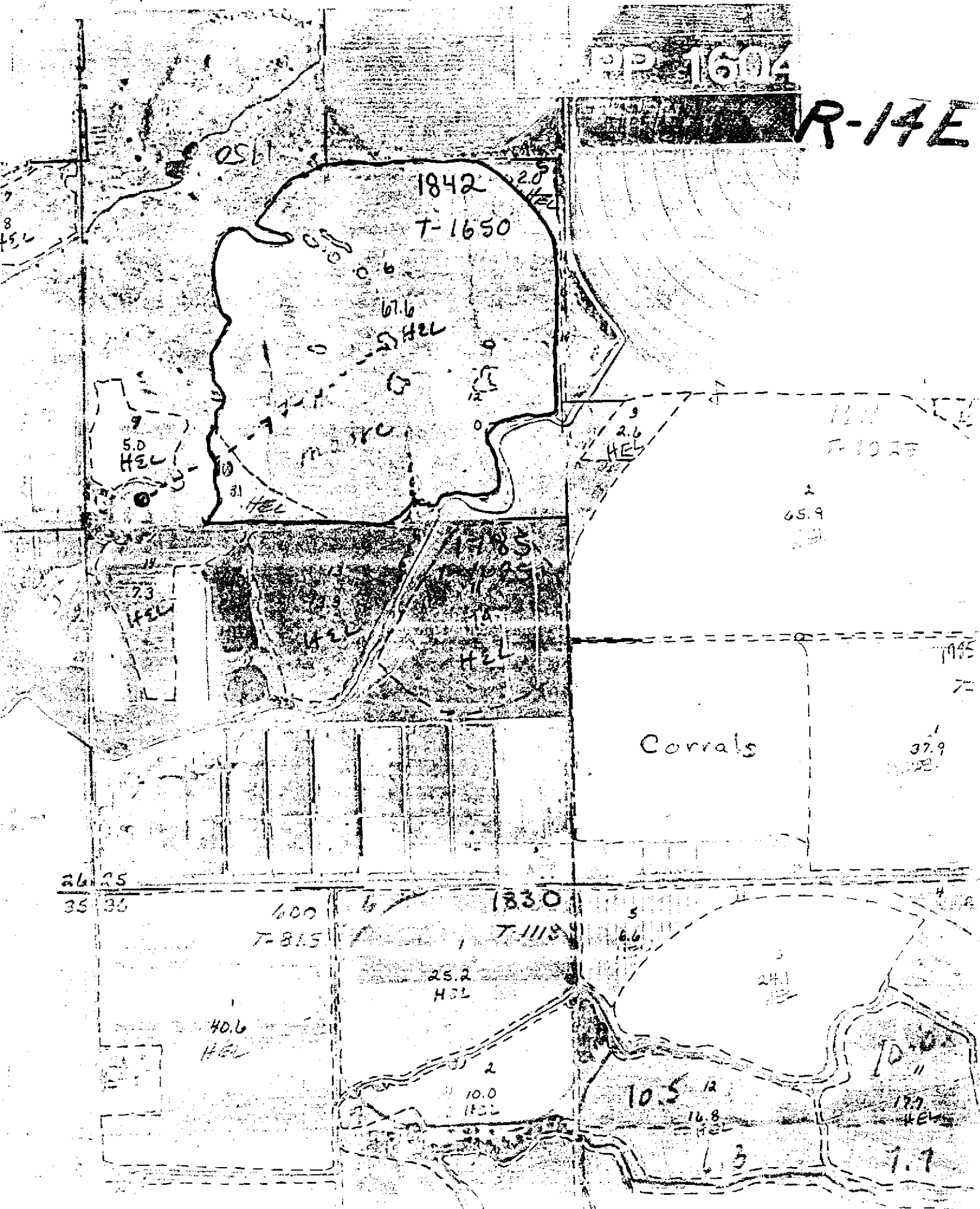
T#5500





PP-1604

R-14E



PART 3**B. CHANGES IN NATURE OF USE**

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
				to
				to

2. Quantity and quality of return flows and location of discharge:

3. Describe effects on other water uses resulting from the proposed change:

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

Subscribed and sworn to before me this 13th day of August, 19 98.

Thomas L. Linder Partner
(Signature of Applicant)

Janet M. Shaver
(Notary Public)

My commission expires 6-18-2003

FOR DEPARTMENT USE ONLY

Transfer contains 13 pages and 3 attachments

Received by MB Date 8/19/98 Protest filed by _____

Prelim. check by JA Fee 100⁰⁰ ck # 11323

Receipted by JA Date 8-20-98 5021427

Published in Gooding Co. Leader Copies of protest forwarded by _____

Pub. dates 9/9 & 9/16/99 Hearing held by _____ Date _____

Watermaster recommendation requested on N/A Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____



Professional Center
1020 Main

Michael Hoyt Felton
Michael Harland Felton (Jr.)

Mailing Address:
Post Office Box 589
Buhl, ID 83316-0589

June 9, 1999

(208) 543-4368 (telephone)
(208) 543-4360 (telecopier)

RECEIVED

JUN 09 1999

Department of Water Resources
Southern Region

Attention: Jim Stanton
Idaho Department of Water Resources
1301 Fillmore Street, Suite 200
Twin Falls, ID 83301

Dear Jim:

RE: Sand Springs Ranch to Box Canyon Dairy
Water Right Transfer
Our File No.: 2476

At last, I have received and recorded the Quitclaim Deed from Sand Springs Ranch & Company to Frans and Cornelia Aardema and Tom and Mary Heida d/b/a Box Canyon Dairy. I have enclosed a copy of the recorded Quitclaim Deed for your reference and file. Please go ahead and continue to process the water right transfer associated with the deed for Box Canyon Dairy.

As always, if you have any further questions or comments, please do not hesitate to contact me.

Very truly yours,

MICHAEL H. FELTON (JR.)

MHF/js
pc: Tom Heida

7-5500



Professional Center
1020 Main

Michael H. Felton, Sr.
Michael H. Felton, Jr.

Mailing Address:
Post Office Box 589
Buhl, ID 83316-0589

(208) 543-4368 (telephone)
(208) 543-4360 (telecopier)

December 7, 1998

Attention: Jim Stanton
State of Idaho
Department of Water Resources
1341 Fillmore Street Suite 200
Twin Falls, ID 83301-3380

RECEIVED

DEC 08 1998

Department of Water Resources
Southern Region

Dear Jim:

RE: Application for Transfer, Box Canyon Dairy
Our File No.:2476

Pursuant to your letter dated November 5, 1998, enclosed herein please find a Quitclaim Deed that I have prepared for Don McFarland's signature. I would appreciate it if you would review the deed and then make sure that the wording and legal description is proper before I forward it to Don for his signature. From your letter I assume I am to prepare a Quitclaim Deed pertaining to water right 36-02535 only, and not the real property.

According to the title company, the land is currently held in the name of Sand Springs Ranch which I believe is owned by Tom Ambrose. Therefore, it seems to me that the Quitclaim Deed should be signed by Tom Ambrose as an authorized agent of Sand Springs Ranch and not Don McFarland. However, I suppose that if the land is being transferred to Don McFarland under a contract of sale there would be no record of it yet with the County Recorder. Obviously I need to have you enlighten me as to why the Quitclaim Deed should contain a signature line for McFarland as opposed to Ambrose on behalf of Sand Springs Ranch.

For your convenience I have included a copy of the most recent deed, that is, Gooding County Instrument No. 167253 recorded October 16, 1996, which shows the land being transferred from Box Canyon Dairy, formerly Aardema-Heida Dairy, to Sand Springs Ranch.

Please advise. (Maybe it is time for another tutorial for Felton.) Happy Holidays.

Very truly yours,

MICHAEL H. FELTON (JR.)

MHF/js
Enclosure
pc: Box Canyon Dairy

WARRANTY DEED

For Value Received

MICHAEL C. ROLAND and ANNA LEE ROLAND, husband and wife

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto

FRANK AARDENA and CORNELIA AARDENA, husband and wife AND

TOM H. HEIDA and MARY JANE HEIDA, husband and wife

aka AARDENA-HEIDA DAIRY whose address is 1646 Boh Barton Highway, Wendell,

Idaho 83155
Hereinafter called the Grantee, the following described premises situated in Gooding County, Idaho, to-wit:

Parcel No. 1:

TOWNSHIP 8 SOUTH, RANGE 14, EAST OF THE BOISE MERIDIAN,
GOODING COUNTY, IDAHO

Section 15: W5/4; S4;

Parcel No. 2:

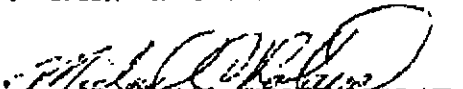
TOWNSHIP 8 SOUTH, RANGE 14, EAST OF THE BOISE MERIDIAN,
GOODING COUNTY, IDAHO

Section 22: W5/4; S4;

Together with 115.0 shares of North Side Canal Company Water Stock

TO HAVE AND TO HOLD, the said premises, with their appurtenances unto the said Grantee and to the successors heirs and assigns of the Grantee forever. The Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that they are free from all incumbrances except as above described and that Grantor will warrant and defend the same from all lawful claims whatsoever.

Dated: DECEMBER 2, 1992


MICHAEL C. ROLAND

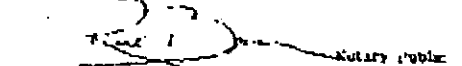

ANNA LEE ROLAND

STATE OF IDAHO, COUNTY OF JEROME

On this 2nd day of DECEMBER, 1992,
before me, a notary public in and for said State, personally appeared

MICHAEL C. ROLAND and
ANNA LEE ROLAND

known to me to be the persons whose names are
subscribed to the within instrument, and acknowledged
to me that THEY executed the same

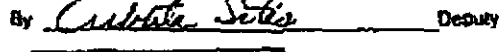

Notary Public
Idaho.

STATE OF IDAHO COUNTY OF GOODING

Filed for record at the request of Land Title & Escrow Inc.

51 min past 3 o'clock PM this 3
of Dec, 1992 Dec 3, 1992

JOHN A. MYERS Recorder

By  Deputy

RICK BERENSON
★ NOTARY PUBLIC ★
STATE OF IDAHO

PERSONS AT JEROME, IDAHO
MY COMMISSION EXPIRES JULY 1, 1995

FILED

DEC 04 1996

7-5500

RECEIVED

JUN 09 1999

Department of Water Resources
Southern Region

RECEIVED

JUN 09 1999

Department of Water Resources
Southern Region

QUITCLAIM DEED

FOR VALUE RECEIVED, SAND SPRINGS RANCH & COMPANY, an Idaho general partnership, hereby conveys, releases, remises and forever quitclaims unto FRANS AARDEMA and CORNELIA AARDEMA, husband and wife, and TOM H. HEIDA and MARY JANE HEIDA, husband and wife, d/b/a BOX CANYON DAIRY, whose mailing address is Post Office Box 140, Wendell, Idaho 83355-0140, all its right, title and interest to Water Right 36-02535, said right being appurtenant, in part, to the NW¼ NW¼, Section 22, Township 8 South, Range 14 East of the Boise Meridian, Gooding County, Idaho. I presently own said tract, and will continue to do so after the signing of this deed.

Grantor hereby conveys and intends to convey all interest which it may now have or may hereafter obtain in said water right.

SAND SPRINGS RANCH & COMPANY

By

TOM AMBROSE, Authorized Agent

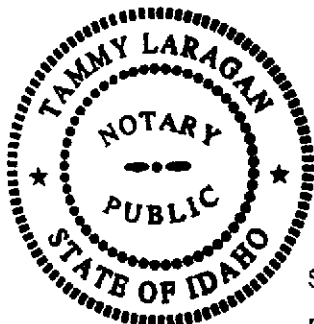
STATE OF IDAHO)

: ss

County of Ada)

On this 2 day of June, 1999, before me, the undersigned, a Notary Public in and for said County and State, personally appeared TOM AMBROSE, the authorized agent for Sand Springs Ranch & Company, an Idaho general partnership, whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same on behalf of said partnership.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.



Tammy Laran
Notary Public for State of Idaho

Residing at Boise Idaho

My Commission Expires: 08/01/01

180876

STATE OF IDAHO COUNTY OF GOODING

Filed for record at the request of Felton & Felton

16 min. past 11 o'clock A m. this 8th

of June, 1999 3:00

By Tammy Archuleta Deputy

QUITCLAIM DEED - 1

TO: File

DATE: November 5, 1998

FROM: Jim Stanton

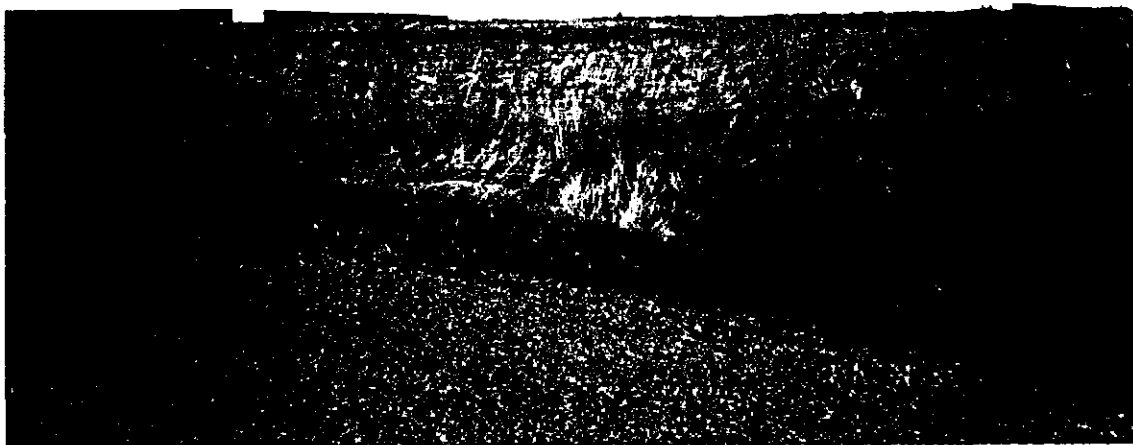
SUBJECT: App. for Transfer, Box Canyon Dairy

Yesterday I met with Mark, who works for the applicant. We viewed the land in Sec. 15 & 22 that will be dried up of groundwater if the transfer is approved as filed. The well on this property runs into a pond, as does canal water. A relift pump pressurizes sprinklers. According to Mark, the applicant bought this land about 10 years ago. There was a dairy in the SE corner of the 80 in Sec. 15, but that was removed a long time ago. The 1987 ASCS photo (the latest available) shows about 69 1/2 acres irrigated in this 80, a 62-acre field in the northern 3/4 of the tract, and 2 smaller field in the southeast portion. This land was all irrigated from the well, which supplemented canal shares. While the decree shows 38 irrigated acres in the SW/SW S. 15, the ASCS photo shows 30.4 acres. The transfer proposes to dry up 28 acres in this tract, but none of the tract will be irrigated after the transfer (except for the lawn around the home). A good portion of this land has now been turned into calf pens that were constructed earlier this year, and only the NW/SW (39 ac) is still irrigated. There is plenty of canal water available for this land, so the well will probably only be used to keep the right from being forfeited.

The land in Sec. 22 is much different than the land in Sec. 15. While Sec. 15 is fairly flat & farmable, Sec. 22 is rolling and rocky, and is only suitable for pasture. Mark said that the well was never used on this land, and I didn't see any way to get well water to it. There are headgates in the canal that cuts thru both section, and side ditches are used to water Sec. 22 by gravity flow. Mark said that this land was sold to Sand Springs Ranch (now Don McFarland) two years ago, and the county assessor confirmed that the applicant does not own this land. The ASCS photo shows 28.1 irrigated acres, not 21 as shown on the decree. The SRBA examiner found these acreage discrepancies, but recommended the incorrect acres as the p/u. And no mention was made of this tract not being part of the system.

If res judicata applies, then this application is not approvable as filed. I will contact the applicant's attorney to try and straighten out this situation before the application is advertised.

T # 5500



Area West of Home In Sec. 15 Looking NW

36-02535
11-4-98
JE Stanton



Cornfields In Sec. 15 Looking NE



Irrigated Land North of Cornfields Looking NE

36-02535
11-4-98
JE Stanton

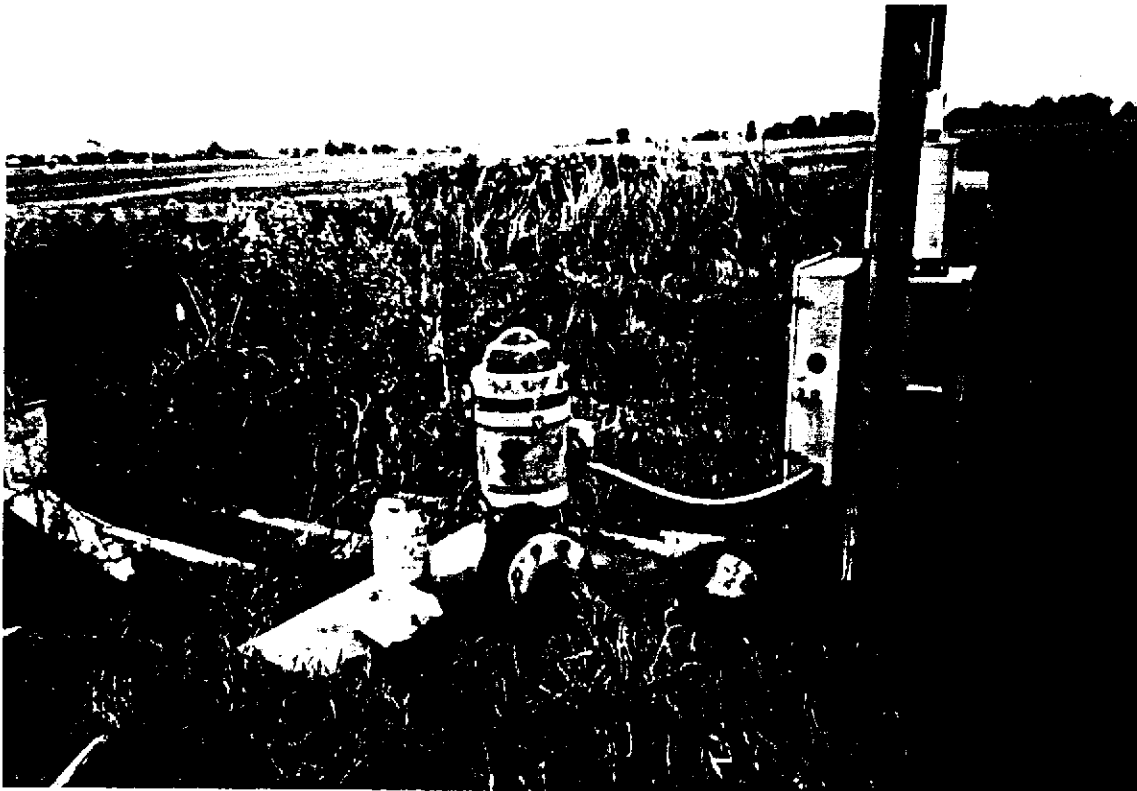


Sec. 22 looking West



Sec. 22 Looking East

36-02535
11-4-98
JE Stanton



Well & Mainline



Well, Mainline Into Pond, Pond (Also Gets Canal Shares) 36-02535

~~0447~~

11-4-98

J E Stanton



Canal Headgate Into Sec. 22 Looking SW



Pasture In Sec. 22 Looking South

36-02535

11-4-98

JE Stanton



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

**PHILIP E. BATT
GOVERNOR**

**KARL J. DREHER
DIRECTOR**

December 8, 1998

Felton & Felton, Attorneys At Law
ATTN: Mike Felton Jr
PO Box 589
Buhl, ID
83316

RE: App. for Transfer, Box Canyon Dairy (Your File #2476)

Dear Mike;

I have review your letter and proposed quitclaim deed. Like you, I am rather confused as to exactly who owns Sand Springs Ranch. I think that Tom Ambrose & Don McFarland are partners, but am not sure. I do know that Don has bought and sold a lot of land over the last couple years, so it is very difficult to know exactly what he does own at any given moment. Anyway, the deed should certainly be signed by whoever is the legal owner of Sand Springs Ranch.

As far as the wording of the deed is concerned, you may wish to change things a bit starting after Box Canyon Dairy's address. From that point, you might say something like "all my right, title and interest to Water Right 36-02535, said right being appurtenant, in part, to the NW 1/4 NW 1/4 Sec. 22 Township 8 South Range 14 East of the Boise Meridian. I presently own said tract, and will continue to do so after the signing of this deed". Your proposed deed was in error in stating that the point of diversion is in Sec. 22; it is in Sec. 15. Hope this helps.

Regards,

James E. Stanton
Sr. Water Resource Agent



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

November 5, 1998

Mike Felton Jr.
Felton & Felton
PO Box 589
Buhl, ID
83316

RE: App. for Transfer, Box Canyon Dairy

Dear Mike;

In my review of this application, a major problem has been discovered. Right 36-02535 covers land in Sec. 15 & 22 T. 8S R. 14E. While the application proposes to move water from the NW/NW Sec. 22, the applicant sold this land two years ago to Sand Springs Ranch. Although this land is part of the decreed place of use, I was told that the well was never used here. But the right is appurtenant to this land under the principal of *res judicata*, so we need to address this ownership problem. Unless this right was specifically withheld in the deed of sale, Box Canyon Dairy cannot transfer the water off of it. If the water was not withheld, a quitclaim deed from the present owner (Don McFarland, I think) to Box Canyon should solve this problem. We will also need the deed to Sand Springs Ranch, and one from them to McFarland.

I will hold this application until this problem is resolved.

Regards,

James E. Stanton
Sr. Water Resource Agent



Professional Center
1020 Main

Michael H. Felton, Sr.
Michael H. Felton, Jr.

Mailing Address:
Post Office Box 589
Buhl, ID 83316-0589

August 13, 1998

(208) 543-4368 (telephone)
(208) 543-4360 (telecopier)

Mr. Jim Stanton
Idaho Department of Water Resources
1341 Fillmore Street, Suite 200
Twin Falls, ID 8330-3380

Dear Jim:

RE: Box Canyon Dairy
Transfer of Water Rights/Change of place of use
Our File No. 3107

Enclosed herein please find the Application for Transfer of Water Right that you and I have been working on for Box Canyon Dairy. Also, enclosed herein please find Box Canyon Dairy's check in the amount of \$100.00 to cover the filing fee and what I hope are the requested power records .

Once again, let me thank you for your valuable assistance through out this matter. Your time and patience are truly appreciated.

Very truly yours,

MICHAEL H. FELTON (JR.)

MHF/js
pc: Tom and Mary Jane Heida
Enclosures (3)

RECEIVED

AUG 19 1998

Department of Water Resources
Southern Region



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

**PHILIP E. BATT
GOVERNOR**

**KARL J. DREHER
DIRECTOR**

May 8, 1998

Felton & Felton, Attorneys
ATTN: Mike Felton Jr.
1020 Main
Buhl, ID
83316

RE: Decreed Water Right 36-04117, Box Canyon Dairy

Dear Mr. Felton;

As a followup to our conversation of earlier this week, I visited the irrigated land north of the dairy. I also talked to Tom Heida regarding the operation of his irrigation system. As the place of use of this water right is now completely different than what was decreed, a transfer needs to be filed to record this change. The decree allows 25 acres of irrigation from the well; at the standard allowance of 4.0 acre feet of water per acre per year, 100 acre feet of water per year can be pumped from the well. But instead of the 25 acres that were licensed, the well now irrigates about 70 acres by supplementing wastewater from the dairy. As long as the flow rate and volume of water allotted from this well are adequate to run the pivot and corner handlines on the 70 acres, a transfer can be filed to create a permissible place of use of 25 acres within the overall place of use; it is not necessary to move additional groundwater rights to the property.

If I can be of further assistance in this matter, feel free to contact me. While the use of water outside of the decreed place of use is a violation of Idaho law, we are only seeking compliance at this time. The timely filing of an application for transfer will get things moving in the proper direction.

Regards,

James E. Stanton
Sr. Water Resource Agent

cc: Tom Heida

TO: Allen

DATE: May 7, 1998

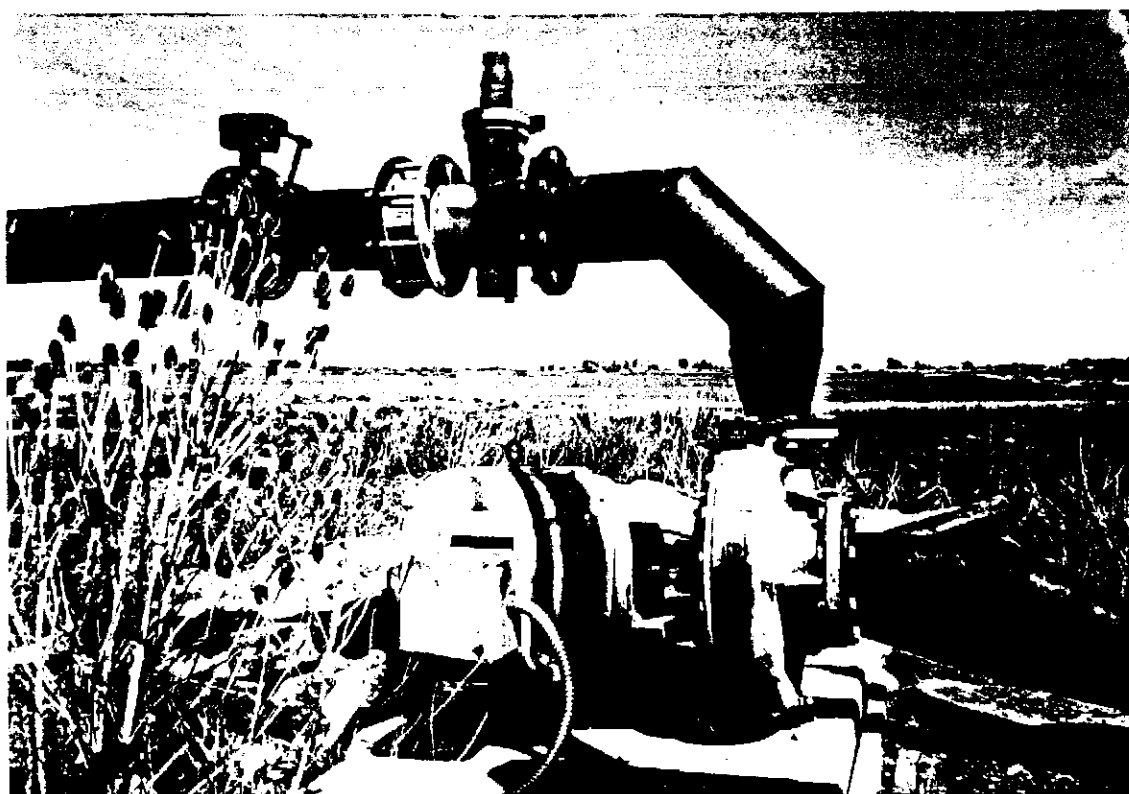
FROM: Jim Stanton

SUBJECT: Possible Illegal Use of Decree 36-04117

Per your request, I have investigated the present use of this right. I obtained a 1987 aerial photo (the latest available) from the Gooding FSA office. I then went to the Box Canyon Dairy, where I met with Tom Heida to discuss this situation. I have worked with him in the past on various water-rights matters, and he was open and cooperative on this matter. He and Franz Aardema have leased this property for some time, but apparently on bought it about a year ago. Tom said that the irrigation well is still used as it was when they bought the place. Although the well was decreed as a supplemental source to canal shares, Tom said that the shares are no longer used in conjunction with the well. The well now supplements wastewater from the large dairy that is just south of the irrigated ground. And the place of use is now a small pivot and a few corner handlines, covering about 70 acres, and is considerably different than what was licensed. I told Tom that he would have to apply for a transfer to show the present place of use, and he told me that his attorney (Mike Felton Jr.) was working on transferring additional water to this ground. I plan to correspond with Felton on this matter so that the necessary paperwork gets filed. A transfer should have obviously been filed when the pivot was installed, but was not. This appears to be another case of a decree being issued that does not reflect the actual use of the water. Although this right was based on beneficial use, the well was never measured; its theoretical capacity is 1.38 cfs, much more than the 0.02 cfs/acre that could be decreed. Based on what Tom said, the well is not used much, but he wants to be properly covered should he need it. But he has a huge dairy in Sec. 25, so having enough wastewater will probably not be a problem.



Well's Pump



Booster Pump. A/U in Background

26-74/17
5-7-88
JEC



Dairy Lagoon + Pump South of Pivot (Looking SE)



Former P/U North of Well (Looking North)

B6-04117
5-7-98
JEC



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

File

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

March 16, 1998

Box Canyon Dairy
ATTN: Scott
PO Box 140
Wendell, ID
83355

Dear Scott;

This letter is being written per your request regarding a proposed heifer operation that you plan to develop. You stated that there will be around 1500 heifers in the 400-800 lb range. Our figures show that 400-lb animals drink from 3.7 to 6.1 gallons per day, while 800-lb animals drink from 6.3 to 10.6 gallons per day. Sec. 42-111 of the Idaho Code allows up to 13,000 gallons of groundwater per day to be diverted from domestic and stockwatering purposes without a water right. So up to 1226 800-lb animals could be watered without a water right on a hot summer day. Up to 3513 400-lb animals could be watered on a cold winter day. When we spoke, I used the average use of 7.9 gpd per animal, but my supervisor informed me that this is not correct. To meet the limits of 42-111, water use on any given day cannot exceed 13,000 gallons; a lower use on some days does not allow a greater use on other days. With so many variables (herd structure, air temperature, etc.), it is not possible to give an exact limit on the number of animals that can be watered without a specific water right; your proposed facility appears to fall into the exempt category, however. A drilling permit is required if you decide to drill another well for the proposed use, but such permits are available at any time for a fee of \$75.

Regards,

James E. Stanton
Sr. Water Resource Agent

TO: Allen

DATE: May 6, 1998

FROM: Jim Stanton

SUBJECT: Possible Illegal Groundwater Diversion

Today I was contacted by Mike Felton Jr., the attorney for Box Canyon Livestock. They purchased the land under Right 36-04117 within the last few months, expecting that it could be fully irrigated with the existing well. The decree states that canal water is also used on this land, but Felton told me that the canal water was sold off sometime in the past (he wasn't sure when). The well is now used to run a pivot on the 100-acre parcel, even though the groundwater right is only for 25 acres. He said the owner was recently contacted by Jeff Martin of the groundwater district (I presume it was Jeff) concerning this problem. I explained the water-right limits to Felton, and that irrigating more than 25 acres a year from this well is illegal. He said he would discuss this further with his client.

I'm not sure if I should report this or not. I don't think that we want people to be afraid to call us on such matters for fear of getting into trouble. Anyway, here is what I know at this point. Do you want me to investigate further?

South of Wendell to Bof
Barton Rd, then $4\frac{1}{2}$ W,
 $\frac{1}{2}$ N to well

Jeff Martin will try to
schedule well test in mid-July
for PCC

TO: Allen

DATE: May 6, 1998

FROM: Jim Stanton

SUBJECT: Possible Illegal Groundwater Diversion

Today I was contacted by Mike Felton Jr., the attorney for Box Canyon Livestock. They purchased the land under Right 36-04117 within the last few months, expecting that it could be fully irrigated with the existing well. The decree states that canal water is also used on this land, but Felton told me that the canal water was sold off sometime in the past (he wasn't sure when). The well is now used to run a pivot on the 100-acre parcel, even though the groundwater right is only for 25 acres. He said the owner was recently contacted by Jeff Martin of the groundwater district (I presume it was Jeff) concerning this problem. I explained the water-right limits to Felton, and that irrigating more than 25 acres a year from this well is illegal. He said he would discuss this further with his client.

I'm not sure if I should report this or not. I don't think that we want people to be afraid to call us on such matters for fear of getting into trouble. Anyway, here is what I know at this point. Do you want me to investigate further?