

Basic Instructions for Applying for Pre 1967 Stock Tanks and Wells and Pre 1907 Springs on USFS Administered Grazing Allotments

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With assistance and input from: Matt Schneberger, Grant County Cattle-growers, Catron County Extension Agent NMSU Range Improvement Task Force.

Dedicated to the memory of Tim Edwards
Grant County Cattle-growers President
Dec 30, 2005

*These instructions provide a guide to completing the stock water rights claims. This document is intended to be used as a guide to filing proper paperwork only. Water rights declared may or may not be accepted by the OSE.

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TITLE 17 > CHAPTER 1 > § 107

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**This document was designed and written by ranchers for ranchers with ease of application in mind. The purpose of this publication is to provide the Deming OSE with consistent livestock water applications so that they may be confirmed as easily and swiftly as possible by the OSE. The intent of this publication is to provide a format to make this process as simple and un-intimidating as possible.

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Part I

1. Purpose and Need

Recent water settlements between Arizona and California related to the San Francisco Gila Water basin have made feasible for grazing allotment based ranches to submit paperwork on allotment based livestock waters in accordance with New Mexico water law.

Because the 1978 US Supreme court ruling, *US V. NM*, ruled that allotment based waters belong to the beneficial user, the livestock owner. Ranchers running livestock on USFS allotments are the only entity legally entitled to put these waters to beneficial use.

However others may feel entitled to apply for these same waters. Therefore, it is extremely important that livestock owners understand NM water law allows them to legally apply for allotment located livestock water under the prior appropriation doctrine, which states first in time, first in right.

Due to the long running *Arizona V. California* case, most of these allotment based waters do not have official measurements or filings in place even though they had been adjudicated by 1967.

It is imperative that ranchers in the Gila San Francisco watershed file on their pre-1967 the date the basin was closed to adjudication livestock waters, located on their federal grazing allotments. In a best case scenario, these applications should be finished and sent to the Office of the State Engineer in Deming no later than May 1 of 2006 to give the OSE time to verify the water locations this summer. But, later applications may still be accepted so don't wait to long.

2. OSE Requirements

This {how to} text has been created to assist you in submitting proper application filings by May 1. Of all the things the Office of the State Engineer in Deming requires; the filings on the individual waters accompanied by proof of beneficial use and proof of priority dates of that use are by far the most important.

It is a requirement of the Deming OSE that a chain of title showing the earliest documentation of priority use that your applications date to. Because there is so much interest in the allotment based water rights, the OSE requires Documentation showing the priority right and beneficial use date. For example if your construction date for a well or tank is 1950 then your title must go back as far as 1950. If you plan on filing on pre-1907 spring then your chain of title must go back to pre-1907.

1967 is the latest date that waters in the Gila San Francisco basin were adjudicated. Any livestock waters in this basin, put to beneficial use after 1967 will not be accepted. To apply for a post 1967 water right another existing right must be transferred to that location. Applications for surface waters other than improved springs will also be rejected. Private land water rights applications require a different format that is not included in this document.

***Note:** This format is also usable in areas where basin adjudication is still open. Livestock waters put to beneficial use after 1967 may be accepted under a different format in those basins.

Types of applications you will need to fill out and submit.

1. There are three types of livestock water applications.
 - Pre 1907 {springs}.
 - Stock tanks, and
 - Wells which can be either drilled or hand dug.

Please see the definitions accompanying the instructions for each type of water application.

You will need to identify each pre-1967 livestock water located on your grazing allotment and file an original application **in triplicate** on each one. Each of the three copies must be notarized and sent to the OSE. Each application will need to contain a written description and photograph of the water improvement.

To file properly you will need to gather up a few basic tools.

Materials you will need to help you identify, apply for stock waters:

1. Blank Applications for all three water filings. {These will be available at the workshops.}
 2. A current allotment map to identify the basic location of each livestock water. {To be submitted with your applications.}
 3. A Gila National Forest Map or other map showing **section township and range**.
 4. A copy of your current warranty deed for the base property of your ranch. {To be submitted with your applications.}
 5. A current USFS grazing permit authorizing grazing on your allotment. {To be submitted with your applications.}
- **If you are currently taking non-use on your allotment, don't worry, that doesn't preclude you from filing on your waters. You must receive a letter from the OSE warning you that your time is up to use your waters before the rights can be revoked.**

6. A chain of title of your federal grazing allotment.

See accompanying chain of title document available at workshop with this document.

The goal is to show when your priority use date for beneficial use began. We have found most allotments in the SW region of NM have pre- 1907 beneficial use on the springs since early land speculators appeared to have tied up the land with cattle and every place there was a large spring they surveyed and mortgaged or set up large ranching operations with employees working for them to set up a homestead claim.

****Note: Most of the grazing allotments in the Gila were historically combined into larger allotments and were once part of much larger ranches. We believe most of the current, smaller allotments in the Gila National Forest are categorized as pre-1907 for the purposes of livestock watering for beneficial use. Don't panic if you don't know the history of your allotment, we should be able to help supply records. You can start your current chain of title at the county courthouse from your own deed, but your beneficial use may come from the***

earliest date your waters were used for livestock grazing which may have nothing to do with the current base property. This historical documentation is required. The burden of proof of beneficial use is much higher today than at any other time in our history.

Part II

3. How to Locate and Map Stock waters.

Mapping

The allotment map to be filed at the Deming SEO will serve as your base work document, table of contents and guide the OSE through your water applications and help him find those waters.

Locations

Mark each stock water location on the map in its general area. Go to each water and either GPS the longitude and latitude or use the quarter section method , see attachment entitled, "Surveying and Federal Land Sales." **The OSE prefers both types of locations** but if you can only use one, use the Quarter section method. Water locations must be down to the smallest 10 acre quarter section. This is also referred to as a ¼ of a ¼ of a ½ section method.

Photograph

Locate the exact location of the stock water and where the stock water is derived (water source), such as the actual spring box that supplies the stock water, this also applies to the actual well or the actual tank or dam.

The OSE water rights application form will have a section to insert these locations.

Description

There is also a section on the OSE water rights application form for a description of the appearance of the stock water. Be as specific as possible so that the OSE can find the location if need be. The particulars of the development need to be noted, for instance, pipelines, storage tanks and drinkers will be described in the remarks or comments section of the OSE water rights application form.

Appendix 1: Surveying and Federal Land Sales

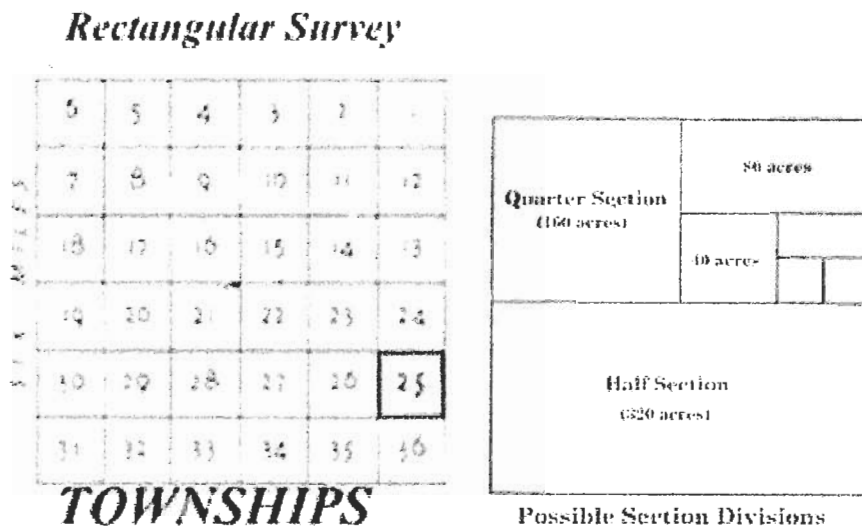
Robert Cottrell

General Overview of the Rectangular Survey

In 1785, the Federal Government began using the rectangular survey system for the organization, division and sale of government-owned frontier lands. With little regard for the natural topography, land was rigidly divided into a graph paper-like grid.

"The public lands of the United States are surveyed in a uniform mode, ... by lines run by the cardinal points of the compass; the north and south lines coinciding with the true meridian, and the east and west lines intersecting them at right angles, giving to the tracts thus surveyed, the rectangular form."

In the rectangular survey system, the basic unit of land was called a "township." Each township was a square, six miles on each side. This was further subdivided into thirty-six sections each one mile square containing 360 acres. After 1796, each township was numbered with reference to a baseline and a principal meridian. Each township was numbered in a specific sequence.



Federal Land Sales

To facilitate land sales, these sections could be broken down into half sections (320 acres), quarter sections (160 acres), half-quarter sections (80 acres), and quarter-quarter section (40 acres) (fig.). Legal descriptions of this land would read SW 1/4 and would be a southwest quarter section or 160 acres. NW 1/4 of the NW 1/4, quarter-quarter section or 40 acres.

4. How to Measure and Document Stock Tank

Stock tanks applications will be the most complex of all applications. You will need to measure each tank to come up with the acre footage of water to be claimed. Examples of stock tanks are dirt tanks, earthen dam tanks, rock header tanks.

Form to use: Declaration of ownership of livestock water dam or tank

**** Do not sign application forms until all three are notarized.**

Each application for the stock tank livestock water will ask for measurements of the tank and the slope of the dam.

Tools Required to measure the tank.

A 100 foot, or greater tape measure.

A way to secure the end of the tape {An assistant, or stake in the ground.}

A hand level {For measuring dam height and spillway depth.}

A notebook and pencil. {for keeping track of your measurements and locations.}

A handheld GPS can help the measurements go faster. These are available along with technical help through the county extension agent.

Directions for measurement are on the following pages.

The OSE requires the following format.

On the back of each application, Declaration of ownership of livestock water dam or tank, there will be a space to show your mathematical calculations and dam slope drawing.

If you do not know the date of the construction of the tank, we may have a listing of those tanks at the workshop. If you cannot make the workshop we may be able to supply that information to you.

Each application should have longitude and latitude seconds and or quarter section locations on it.

Each water location should have a corresponding location on your OSE copy of the allotment map.

Each application should have a photograph of the water source or development attached and a description of the site.

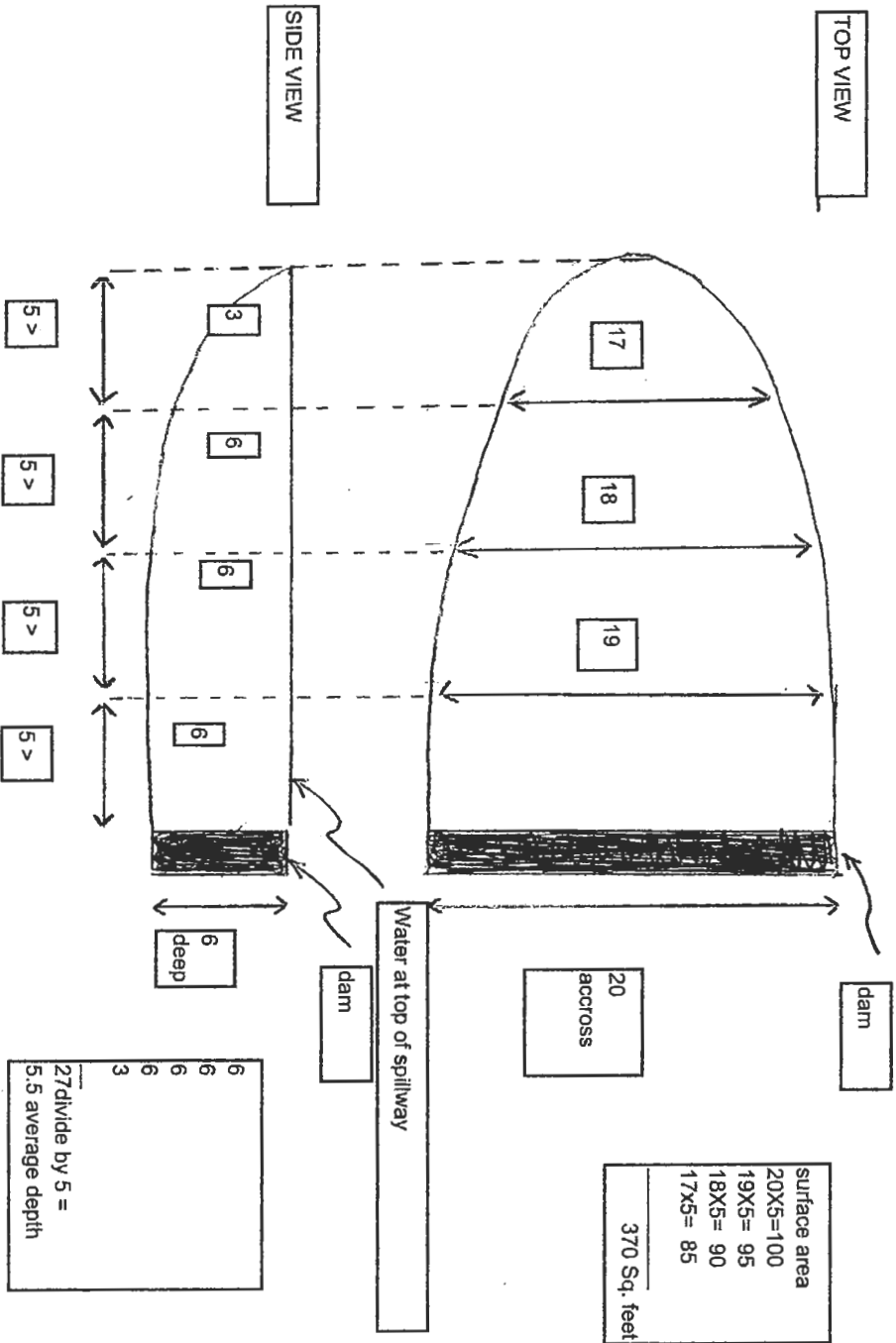
Stock tank applications should show the mathematical formula used to determine the acre footage of water capacity on the back or a separate piece of paper attached to the application.

***Note:** Question 3 on the application referring to vertical slope, is shown on the second diagram on page 10.

***Note:** the question of cubic yards of dam material should be left blank.

Deming standard formula. OSE preferred method of figuring stock tank capacity.

Office wants measurements every 5 feet. front to back, top to bottom. If at all possible dig down with Post hole digger to remove silt at measuring points in middle of tank for better accuracy. Do Not however, deepen the tank beyond original depth.



Before using Deming offices formula [figuring tank capacity, Deming office standard formula] square footage of surface area needs to be converted to [surface area in acres] square footage, 370 Sq. feet divided by 43560 = .0085 Now that we have derived the average depth of 5.5 and the surface area in acres .0085, we can plug these numbers into the Deming office standard formula as the example on the following page shows.

FIGURING TANK CAPACITY

Deming Office Standard formula:

Needed =

- A) Surface Area in Acres
- B) AVERAGE Depth in Feet

$$\text{Capacity} = ((\text{Surface Area } ac) (43560 \text{ sqft/ac})(\text{Average Depth } ft) (7.48052 \text{ gallons/ft}^3))$$

(43560 sqft/ac)(7.48052 gal/ft³)

$$= ((1.0085 \text{ ac}) (43560 \text{ sqft/ac}) (5.5 \text{ ft}) (7.48052 \text{ gallons/ft}^3))$$

(325,851.4512 gallons/ac x ft)

$$= (15233.555) \text{ gallons}$$

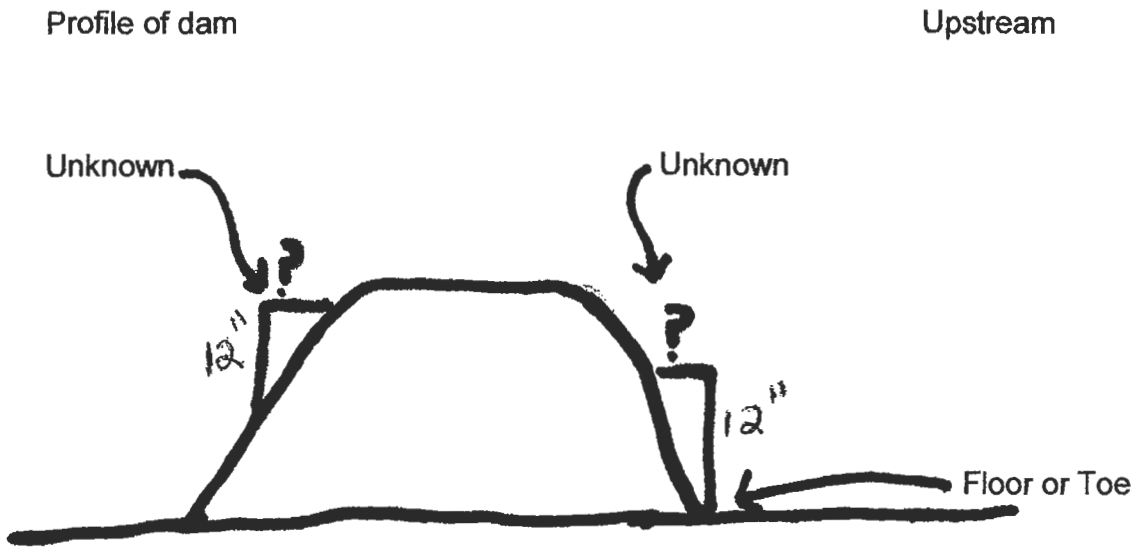
325,851.4512 gal/ac x ft

$$= 0.46 \text{ acre-feet}$$

Approximate physical properties of storage dam.
Understanding how to fill in question 3

Tools needed: a hand level and a tape measure and two foot square are helpful.

To understand how to determine the slope of the upstream face and downstream face horizontal to 1.0 vertical, see the following diagram.



5. How to Measure and Document Springs.

Spring Development Descriptions:

A spring development constitutes a spring box, which can be rock, wood or encased in steel, a box pipeline and a drinker, a tub or dirt catchments or gravity fed pipeline. Spring fed rock headers, are especially important, do not mistakenly file them as a tanks. Unless they were put to beneficial use by livestock after 1907 then they must be applied for as tanks. Other spring developments include fenced in **water lots** with the primary purpose to provide access for livestock to the water supply provided by the spring.

Form: Declaration of ownership of water right perfected prior to March 19, 1907 application. ** Do not sign application form until all three are notarized.

Because springs were the original primary water supply for most livestock operations, the priority date for beneficial use in this area is normally considered to be pre-1907 on most springs. After 1907 appropriations of a surface right {spring or running water} for any beneficial use, was ended by law.

You should be able to trace your allotments history back to pre-1907.

If you do not know the history of your ranch, and do not feel you can supply this information please be aware that most, if not all, of these grazing allotments were parts of much larger and much older ranches at one time. With help at the workshops and with access to some of the old USFS documents we have on hand, you should be able to go back in time further with your springs priority dates and your allotment's historical chain.

If you can claim a pre 1907 spring livestock watering right, you need to Demonstrate that the spring was developed for livestock use.

It is not necessary to measure the amount of water that the spring produces. The OSE recognizes that all springs have a 3 acre feet limitation. You cannot claim more than 3 acre feet for each spring. A photo and description of each spring development needs to accompany each **Declaration of ownership of water right perfected prior to March 19, 1907 application.**

Each application should have longitude and latitude seconds and or quarter section locations on it.

Each application should have a photograph of the well and any improvements.

Each water location should have a corresponding location on the copy of the allotment map you are preparing for the OSE.

Just because a spring was appropriated for beneficial use for livestock watering prior to 1907 doesn't mean it hasn't been maintained over the years for example, a pre 1907 spring may have a brand new corrugated spring box and pipeline put in 1995.

***Note:** Some of your USFS documentation may show such springs to have 1995 dates, for some reason the USFS has not kept up with original priority dates on spring upkeep projects. This does not mean your spring isn't pre- 1907.

***Note: Important** if your spring was not used for livestock watering until after 1907, you cannot file on the spring itself, you must only apply for the improvement or containment of the water such as a dirt tank or rock header that holds the water that comes out of the spring.

6. How to Measure and Document Wells.

A well can be a windmill, solar, hand dug or anything normally considered a well.

Form: Declaration of owner of underground water right.

**** Do not sign application form until all three are notarized.**

The form is self-explanatory but do not forget to apply for hand dug wells that were dug pre 1967.

Each application should have longitude and latitude and or quarter section locations on it.

Each application should have a photograph of the well and any improvements.

Each water location should have a corresponding location on the copy of the allotment map you are preparing for the OSE.

Part 111

Sample stock tank, spring and well applications for reference use.

OSE Filing Fees
{Effective Jan 31, 2005}

Declaration of water right (springs etc.) \$10.00
Declaration livestock water impoundment
(stock tanks) \$10.00
Declaration of water right (stock wells) \$1.00

STATE ENGINEER OFFICE

DECLARATION OF OWNERSHIP OF LIVESTOCK WATER DAM OR TANK

(Note: Read Instructions on Back of Form)

Date of Receipt _____ Declaration No. _____

1. Name of Declarant MATT SCHNEBERGER Post Office BOX 111, WINSTON
County of SIERRA State of N. M.

2. Dam or tank is located in the N. W. 1/4 N. E. 1/4 S. E. 1/4 of
Section 10, Township 11 S., Range 10 W., on SAUCE,
a tributary of TURKEY RUN, and is on FEDERAL
(State, Federal, Declarant's)
property.

Water is stored for STOCK WATER purposes.
(stock water, if other uses so state)

Topography of drainage basin, STEEP
(steep, rough, rolling, undulating, flat)

Approximate area of drainage basin above dam is square miles 1/4

Vegetative cover of drainage basin, FOREST
(forest, woodland, shrubs, grass, bare)

Is watercourse normally dry, YES
(yes or no)

3. Approximate physical properties of storage dam: height of dam above streambed,
or natural ground 8' feet; height of spillway flowline above stream-
bed, or natural ground 2' feet; length of top of dam, 125' feet;
width of crest, 10 feet; slope of upstream face, 34" horizontal
to 1.0 vertical; slope of downward face, 30" horizontal to 1.0
vertical; nature of riprap or other protection placed over water face of dam,
ROCK

Give type, size and maximum discharge of outlet pipe, if any, and type of gate
used (if none say none). NONE

Maximum water surface area .077 acres; storage capacity .24
acre feet; dam contains approximately _____ cubic yards of earth.

4. Approximate physical properties of spillway; bottom width 22 feet; maximum
depth of flow 5' feet; discharge capacity _____ cubic feet per second;
spillway is located in ROCK
(rock, shale, clay, grassed earth, bare earth, etc)

5. Dam or tank was constructed under the supervision of Unknown
(name agency, declarant)
UNKNOWN and was completed in 1960
(or engineer) (give date)

Name of contractor that built dam UNKNOWN

5. Dam or tank was constructed under the supervision of _____ (rock, shale, clay, grapsed etc)

Unknown

(name agency, declarant)

1960

(give date)

UNKNOWN and was completed in

UNKNOWN

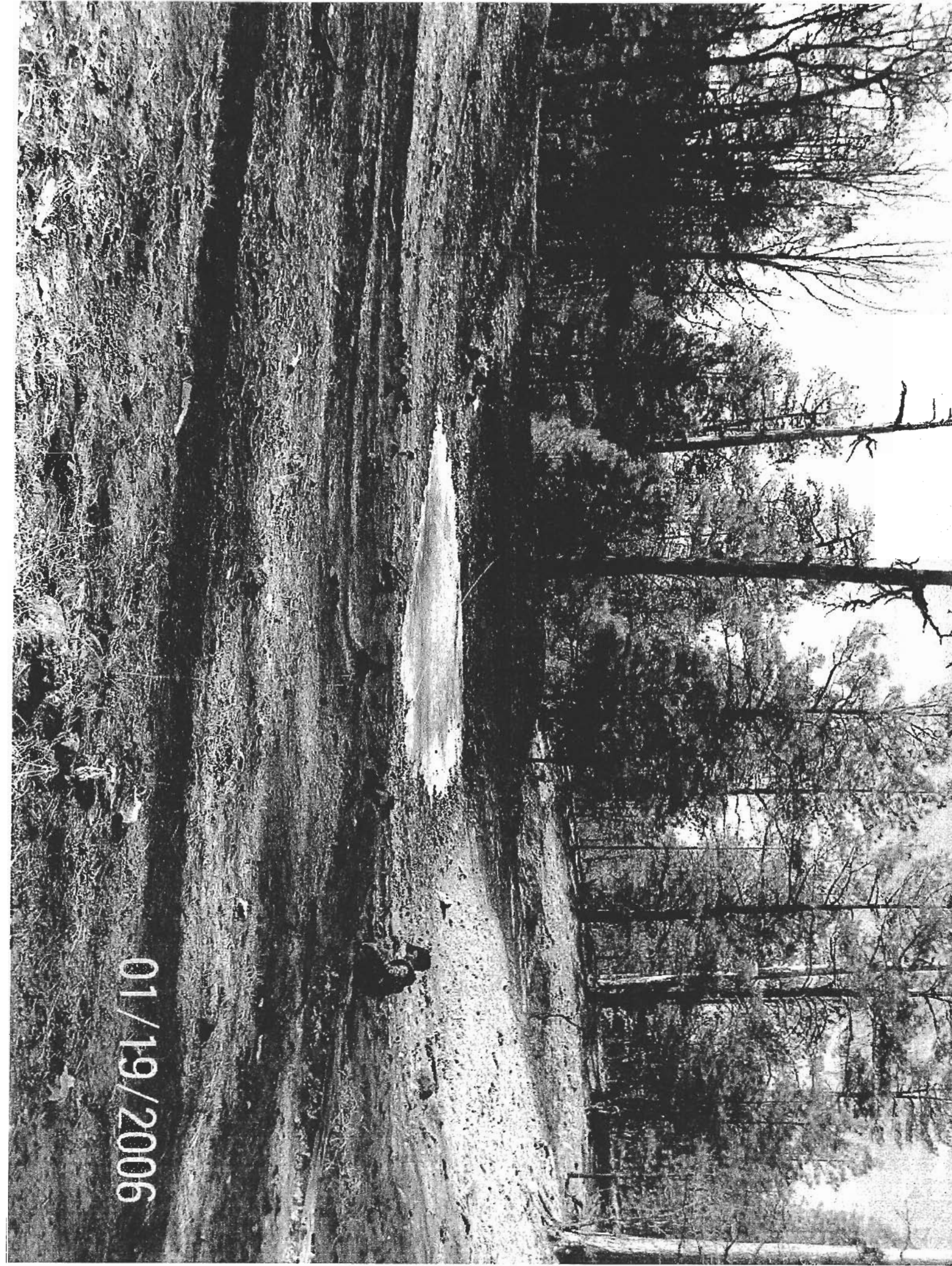
Name of contractor that built dam

6. Additional information C.P.S. LOCATION

N. 33° 20.124'

W. 107° 53.016'

5. If you don't have original paperwork just put unknown.



01/19/2006

DECLARATION OF OWNERSHIP OF WATER RIGHT
PERFECTED PRIOR TO MARCH 19, 1907

WR-1
REVISED 8/1/59

(FORM TO BE EXECUTED IN DUPLICATE AND ACCOMPANIED BY A FEE OF \$1.00)

Date of receipt _____ Declaration No. _____
I, MAT SCHNEIDERGER _____
We, _____ Mailing Address PO BOX 111, WINSTON

a resident of BAETER SPEAR BANCH, County of SIERRA

State of N.M. _____, being first duly sworn, upon my oath
(ZIP CODE) 87943 declare that

I am the SOLE Owner of a right to make beneficial use of water from LOWER TURKEY SPRING
(SOLE OR PARTIAL) OWNERS
a tributary of 74 DRAW, on certain lands in the County of SIERRA, State of New

Mexico, lying under the TURKEY RUN ALLOTMENT and make these several statements relative thereto:
(NAME OF CANAL, COMMUNITY DITCH, ETC.)

1. The _____ was initiated _____ on or about
(NAME OF DITCH OR IRRIGATION SYSTEM) (BY SURVEY, BY FILING, BY STARTING CONSTRUCTION)
_____ and work thereon was diligently prosecuted and carried to completion and water was
(YEAR AND MONTH, IF POSSIBLE)
applied to beneficial use on _____ acres of land on the _____ day of 1889, described hereinafter.

1. a. If the system was subsequently extended, fill in following:

The _____ was extended or enlarged on or about
(NAME OF DITCH OR IRRIGATION SYSTEM)
_____ and water was applied to beneficial use on an additional _____ acres of land on the
(YEAR AND MONTH, IF POSSIBLE)
_____ day of _____, described hereinafter.
(IF SYSTEM WAS EXTENDED OR ENLARGED MORE THAN ONCE REPEAT THIS PARAGRAPH PROPERLY FILLED IN AND ATTACH HERETO.)

2. Location of point of diversion or outlet from channel-reservoir storage: SW₂ quarter of the N₂W₂ quarter of the
NE₁ quarter of Section 14, Township 11S, Range 10W, N.M.P.M., at a point whence the
_____ corner of Section _____, Township _____, Range _____

beats _____ feet distant.

3. The constructed works consist of: 3 SPRING BOX 18" DEEP 775'
(ENUMERATE DIVERSION DAMS, MAIN CANALS, HEADGATES, PIPELINES, FLUMES, RESERVOIRS, LATERALS, ETC.)

OF 2" PIPE, 10,000 GAL. STORAGE TANK.
G.P.S. LOCATION N 33° 20.365'
W 107° 51.301'

4. Hydraulic properties of main canal or conduit: bottom width _____ feet; depth of water at full operating capacity _____

feet; total depth including freeboard _____ feet; side slopes _____ horizontal to 1 vertical; diameter (pipe line or cir-

cular flume) _____ feet; slope _____ feet per 1000 feet; hydraulic radius _____ feet; coefficient of roughness (n)

_____ ; velocity at full capacity _____ feet per second; capacity _____ cubic feet per second; length of canal

_____ ; and is constructed of _____
(EARTH, CONCRETE, PIPE, ETC.)

5. Hydraulic properties of storage dam (if any): Maximum height above foundation 6 feet; length of crest _____

feet; maximum width at base _____ feet; crest width _____ feet; slope of upstream face _____ horizontal to 1

vertical; maximum storage capacity 203 acre feet; freeboard (above high water line at maximum spill) _____

feet; width of spillway _____ feet; maximum discharge capacity of spillway _____ cubic feet per second;

size and character of outlet conduit _____

If flow cannot be measured, please explain why.

maximum discharge capacity of outlet _____ cubic feet per second; type of dam, construction material, etc.

STEEL STORAGE TANK
WATER FROM SPRING BOX RUNS IN AT ALL TIMES; reservoir is filled on an average
of _____ times per year.

I hereby declare that to the best of my knowledge and belief the above statements are true and correct and that water has been continuously, uninterruptedly and openly, applied to beneficial uses on the above described lands from the date of the inception of the right to the present time. I hereby give notice of the ownership of said water right as appurtenant to said lands.

Declarants _____

Title * _____

Title * _____

Title * _____

Title * _____

* Owner, Commissioner, Co-Owner, Director, etc.

Subscribed and sworn to before me this _____ day of _____, 19____.

Notary Public

NOTE: IT IS URGED THAT A FILING MAP, PREPARED FROM ACTUAL FIELD SURVEYS, SHOWING LOCATION OF WORKS, STORAGE, POINT OF DIVERSION, IRRIGATED ACREAGE, ETC., BE SUBMITTED WITH THE DECLARATION. THE FILING MAP SHALL BE ON TRACING CLOTH OF STANDARD SIZE AND SHOULD CONFORM WITH ALL THE GENERAL REQUIREMENTS OF "FILING MAPS, PLANS, SPECIFICATIONS."† MAP TITLE, STATEMENTS, ETC., SHOULD BE ALTERED, FROM ILLUSTRATIONS SHOWN, TO CONFORM WITH THE NEEDS OF THE DECLARATION. CERTIFICATES OF THE ENGINEER MAKING THE SURVEY, OF THE CLAIMANT AND OF THE STATE ENGINEER SHALL APPEAR ON THE MAP.

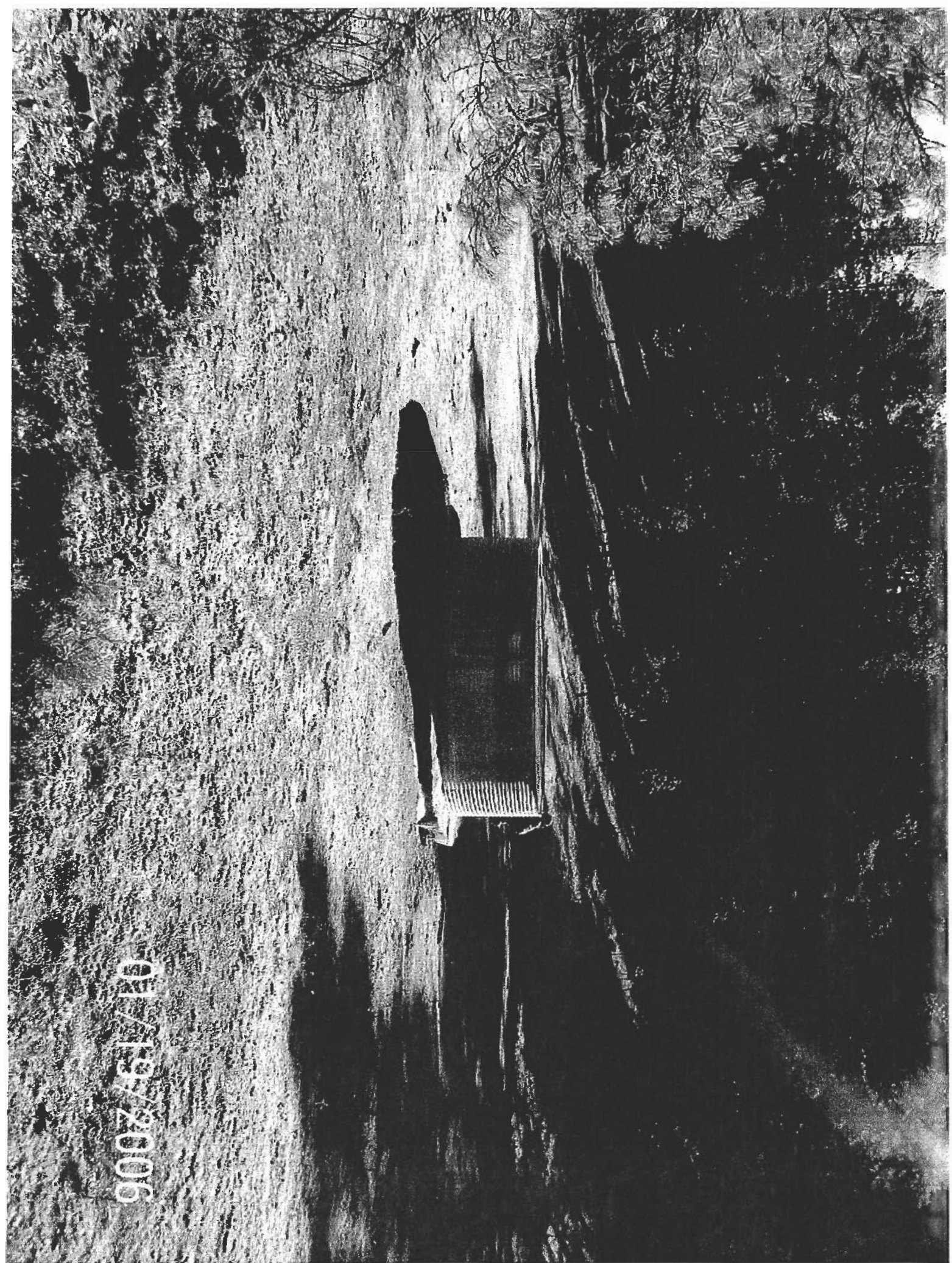
THE OLD SURFACE WATER RIGHT MUST BE RECORDED IN THE OFFICE OF THE STATE ENGINEER BEFORE HE CAN ACT ON AN APPLICATION FOR ANY CHANGE, ENLARGEMENT, SUPPLEMENT, OR AMENDMENT OF THE WORKS OR WATER RIGHT. IN GENERAL, A FILING MAP AS DESCRIBED ABOVE WILL BE REQUIRED BEFORE ANY ACTION IS TAKEN ON AN APPLICATION TO MAKE ANY TYPE OF CHANGE IN CONNECTION WITH AN OLD SURFACE RIGHT OR AN ADJUDICATED RIGHT WHICH HAS NOT BEEN MAPPED. IN CASES WHERE LANDS HAVE BEEN INCLUDED IN A HYDROGRAPHIC SURVEY, A TRACING OF THE APPROPRIATE SHEET OUTLINING THAT PORTION OF ACREAGE BEING DECLARED WILL BE ACCEPTABLE.

†MANUAL OF RULES AND REGULATIONS GOVERNING THE APPROPRIATION AND USE OF THE SURFACE WATERS OF THE STATE OF NEW MEXICO.



01/19/2006

01/13/2006



IMPORTANT — READ INSTRUCTIONS ON BACK BEFORE FILLING OUT THIS FORM.

Declaration of Owner of Underground Water Right

GILA
BASIN NAME

Declaration No. _____ Date received _____

STATEMENT

1. Name of Declarant MAT SCHNEBERGER
Mailing Address P.O. BOX 111, WENSTON

County of SIERRA, State of N.M.

2. Source of water supply SHALLOW WATER AQUIFER
(artesian or shallow water aquifer)

3. Describe well location under one of the following subheadings:
a. S.W. $\frac{1}{4}$ S.E. $\frac{1}{4}$ of Sec. 06 Twp. 11S Rge. 10W N.M.P.M., in

b. Tract No. _____ of Map No. _____ of the _____
c. X = _____ feet, Y = _____ feet, N.M. Coordinate System _____ Zone _____

in the _____ Grant.
On land owned by FEDERAL

4. Description of well: date drilled _____ driller _____ depth 120 feet.
outside diameter of casing 5 inches; original capacity SAME gal. per min.; present capacity _____
gal. per min.; pumping lift _____ feet; static water level 40 feet (above) (below) land surface;
make and type of pump _____

make, type, horsepower, etc., of power plant 8' WINDMILL
Fractional or percentage interest claimed in well 1/2

5. Quantity of water appropriated and beneficially used _____ (acre feet per acre)
for LIVESTOCK WATER _____ (acre feet per annum) purposes.

6. Acreage actually irrigated _____ acres, located and described as follows (describe only lands actually irrigated):

Subdivision _____ Sec. _____ Twp. _____ Range _____ Irrigated _____ Acres _____ Owner _____

(Note: location of well and acreage actually irrigated must be shown on plat on reverse side.)

7. Water was first applied to beneficial use _____ month _____ day _____ year _____ and since that time has been used fully and continuously on all of the above described lands or for the above described purposes except as follows: _____

CONTINUOUSLY

8. Additional statements or explanations _____

THIS WELL IS SPLIT BETWEEN THE ALEXANDER ALLOTMENT AND TURKEY RUN ALLOTMENT. 74 WINDMILL, 8000 GAL. STORAGE G.P.S. LOCATED, W 33' 21.586' W 107' 55.248'

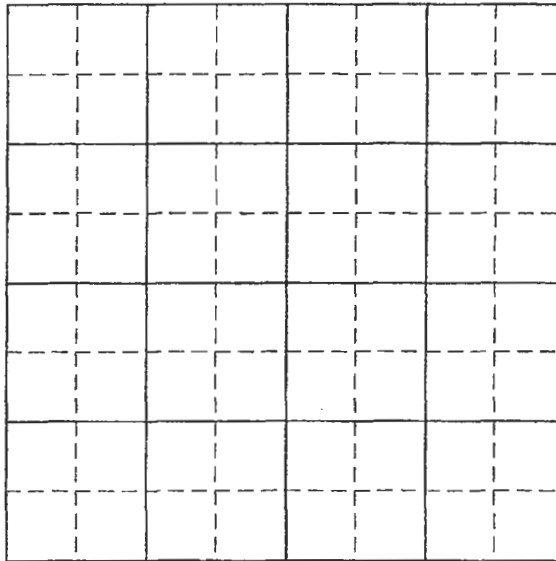
I, _____ being first duly sworn upon my oath, depose and say that the above is a full and complete statement prepared in accordance with the instructions on the reverse side of this form and submitted in evidence of ownership of a valid underground water right, that I have carefully read each and all of the items contained therein and that the same are true to the best of my knowledge and belief.

by: _____, declarant.

Subscribed and sworn to before me this _____ day of _____, A.D. _____ My commission expires _____ Notary Public

Locate well and areas actually irrigated as accurately as possible and following plat:

Section(s) _____, Township _____, Range _____ N.M.P.M.



INSTRUCTIONS

Declaration shall be executed (preferably typewritten) in triplicate and must be accompanied by a \$1.00 filing fee. Each of triplicate copies must be properly signed and attested.

A separate declaration must be filed for each well in use.

All blanks shall be filled out fully. Required information which cannot be sworn to by declarant shall be supplied by affidavit of person or persons familiar with the facts and shall be submitted herewith.

Secs. 1-3. Complete all blanks.

Sec. 4. Fill out all blanks applicable as fully as possible.

Sec. 5. Irrigation use shall be stated in acre feet of water per acre per year applied on the land. If used for domestic, municipal, or other purposes, state total quantity in acre feet used annually.

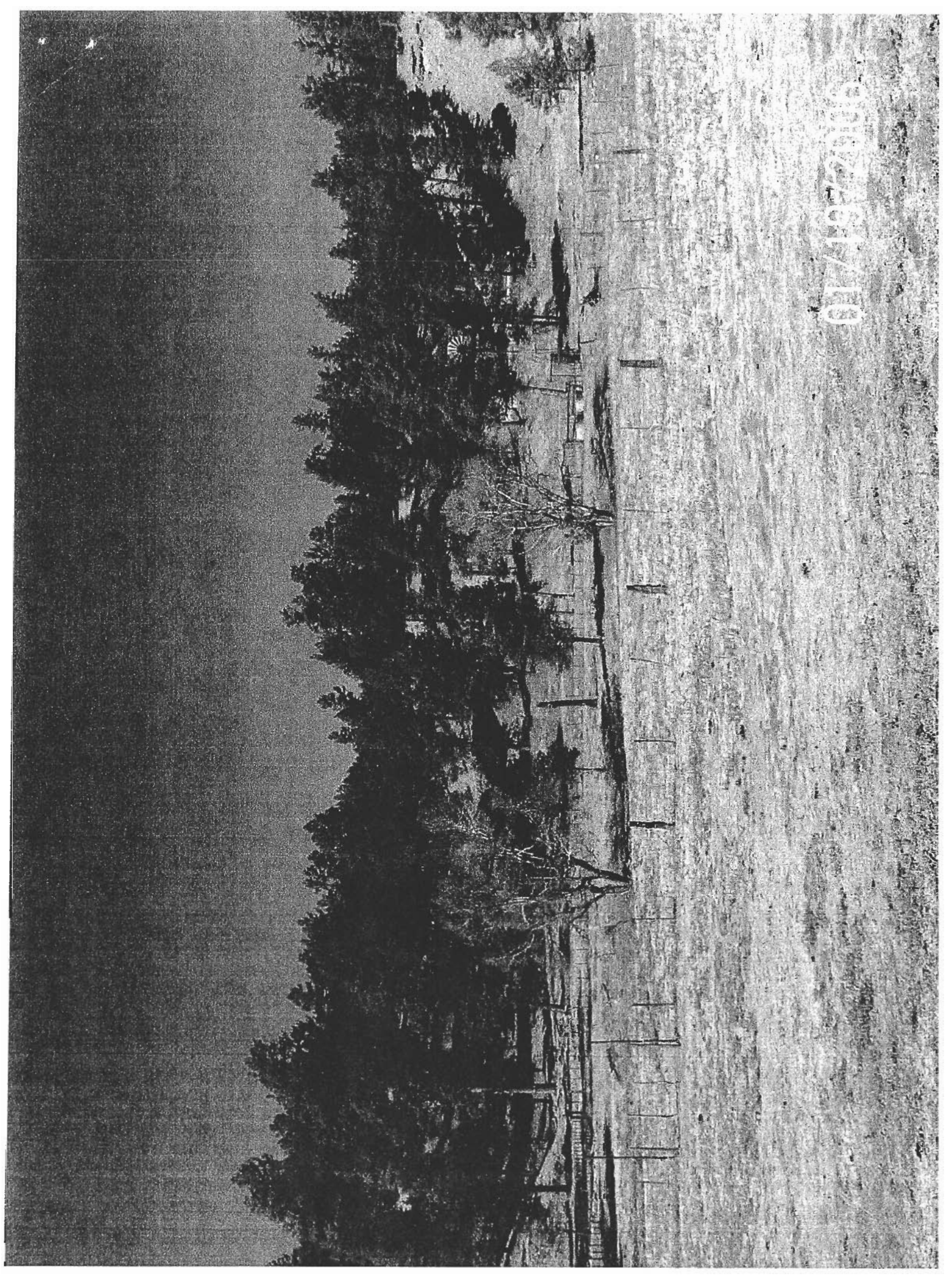
Sec. 6. Describe only the acreage actually irrigated. When necessary to clearly define irrigated acreages, describe to nearest 2½ acre subdivision. If located on unsurveyed lands, describe by legal subdivision "as projected" from the nearest government survey corners, or describe by metes and bounds and tie survey to some permanent, easily-located natural object.

Sec. 7. Explain and give dates as nearly as possible of any years when all or part of acreage claimed was not irrigated.

Sec. 8. If well irrigates or supplies supplemental water to any other land than that described above, or if land is also irrigated from any other source, explain under this section. Give any other data necessary to fully describe water right.

If additional space is necessary, use a separate sheet or sheets and attach securely hereto.

01/19/2009



Chain of Title.
Part IV
This is only a Draft
Laura Schneberger

With Help from Nick Ashcroft, Range Improvement Task Force at NMSU

There will be two types of title tracings that need to accompany the Office of the State Engineer file on your allotment.

The first is a chain of title on your commensurate property dating from the original homestead claim up until the present.

There should also be a documentation chain showing the historic unbroken chain of livestock use on the current allotment as is or as it attached to any larger allotment. If you are one of the lucky ones the current commensurate property has always been the base property for the ranch. Examples are Black Canyon for the Diamond Bar, Laney allotment, Adobe ranch, Slash ranch and surely many others. If that is the case for you, you only have one chain.

What we are shooting for is to fulfill the burden of proof that stock watering rights were appropriated on the public domain. These rights are located on your current allotment. The older the livestock water right, you can apply for and show proof on, the better your claim of that right.

Keep in mind that the current allotment may at one time have been attached to a different commensurate property or been part of other allotments in a bigger ranch. Nick Ashcroft with the Range Improvement Task Force has been compiling historic data from the Gila, that we will be able to access to help you trace your allotment back to its earliest origins.

One request we have is that if you finish your allotment chain, it may be beneficial to supply RITF and Nick, with a copy of your oldest records to fill in some of their historical data gaps.

You may find that your current commensurate property does not predate 1907, but your current allotment almost certainly will, if it is located in the Gila. That is what we try to demonstrate with a chain of title.

As you will see from our sample, the current commensurate property homestead claim patent only goes back to 1922, but the allotment pre-dates the state of New Mexico and the USFS as part of the Red River Cattle Company a large ranching operation and apparently a speculation company that tied up land with livestock.

Searching the chain is more time consuming than difficult, simply go to the county courthouse and get a clerk to show you around. Start with your deed and move backwards or start with your homestead patent and move forward, through the records until you reach the end.

OSE Requirements

For the purpose of the OSE, your file should have the following

1. The earliest dated patent or tax record or mortgage deed, or even an old allotment map, you can find that corresponds to the earliest dates on your water applications. **Remember if you only apply for a 1950 stock tank your title only has to go back to 1950. If you need to apply for pre 1907 springs you will need to take your chain back to pre 1907.**
2. A list of owners up the chain with some details on where to find the documents.
3. The most recent deed.
4. A copy of your grazing permit.
5. A map showing the current allotment with locations of each livestock water you are applying for.

Places to Start

County Courthouse

Go to the county courthouse and look up your deed, use it as a starting point to trace your title back as far as you can go. I have found that when you can no longer move backwards, that is usually where the US land office patent is the Grantor and the books are far too big to go through one by one until you find the original patentee and U.S. land patent.

** If you are lucky, you will find a patent that actually matches a livestock operation fairly swiftly have a date to attach to the allotment that is pre 1907. Remember, a patent issued in 1912 or earlier is old enough, since it took 5 years to prove up a homestead claim.

Do not get discouraged, not everything goes like clockwork sometimes we find certain documents out of order or the oldest documents may be in the mortgage books rather than the deed books. Sometimes your neighbor already has everything you need from his historical documents. There is no tried and true method.

Example: When we did ours we got back as far as our original homestead claim, got stuck at 1922, we knew our land had to go back further because the local history books show our place to be inhabited as a cow camp pre 1900's. In taking some of those names out of the history books we were able to find an 1895 mortgage that listed our deeded land as well as most of our neighbors deeded land legal

descriptions. Then were able to continue the search forward to the patent on that legal and tie allotment into it.

University Information

The Range Improvement Task Force has some old maps and records that will have names as well, we should be able to connect the dots from your current allotment to the original allotment fairly easily. As long as you have done the preliminary title work and know some of your ranch history.

Old Books

Go through historical books published about your community and make notes on where your deeded land is talked about especially note any names within the vicinity of your land to use to search County and historic GLO records. Reserve and Luna have an excellent community historic book, Sierra County has one as well.

Other books are:

Black Range Tales	James McKenna	Southern end of the Gila
Magdalena the First 100 Years	Magdalena Centennial Committee	Northern End of the Gila into Cibola
New Mexico Recollections	By Raymond Schmidt,	Black Range and Hillsboro
Triumph and Tragedy A History of Thomas Lyons and the LC 's	By Ida Foster Campbell Alice Foster Hill	Grant co and southern end of Catron
Meet Mr. Grizzly	By Montague Stevens	Northern end of the Gila
No life for a Lady	Agnes Morley Cleveland	Northern end of the Gila
Some Recollections of a Western Ranchman	By Capitan William French	
Further Recollections of a Western Ranchman	By Capitan William French	
Cow-dust and Saddle Leather	Ben Kemp	Entire Gila

These books discuss historical ranching operations and may contain historic information that relates to your allotment and may give you some old ranch names to go on. If you haven't read them yet you need to anyway.

USFS Records

Research old USFS range analysis narratives of your allotment, you will need to go to the Silver City USFS office and access your allotments old records.

The USFS also had water lists records that have priority dates listed on them, several people have copies of those records and again call me I have one. Several of our springs are on this long list and labeled with priority dates of 1885 so that helped us to know to keep looking when we could no longer go backwards on our deeded land. If you can find nothing else, a copy of this document listing one or two of your springs as pre 1907 may be used to back pre 1907 spring claim in a pinch.

Historical Statements

The OSE has also approved a written statement from a person who witnessed or recalled historical use of any water for livestock use.

BLM Website

The original General land office was in Las Cruces the BLM has inherited all the old claims and patents from Homestead and Cash entry sales.

If you have a computer and are internet capable you may access the BLM GLO records of original homestead patents. <http://www.glorerecords.blm.gov/>

** If you find your record doesn't exist as a downloadable document, write down the name attached to your legal description and go back to the county courthouse and look it up. Some patents are not issued under homestead or stock raising homestead act's in fact it is looking more like many of the earlier ranch's deeded lands were issued under color of title, this means some of them will be listed on the GLO record website as April 24 1820 sale cash entry.

That means that when the individual filed for a patent they had been able to prove residency on the land for at least 20 years or they purchased the land outright from the federal government.

If you find this to be the case for your legal description, print the entire webpage stating that fact and put it in your file for reference. Then click on the legal description and print that page as well. These pages will be helpful back at the county courthouse.

Extra Help

This grazing association is available to assist you to get these applications done as easily as possible we will use every resource at our disposal to help you. If there is enough interest we would be amenable to assisting people at the county courthouse.

Good Luck

Gila Livestock Growers Association. P.O. Box 111 Winston NM 87943
505-772-5753

Chart 2 grazing land and allotment chain.

Current Turkey Run Allotment.

Red River Cattle Company NM Territory to

Fairview Cattle Company Black Range Allotment to

R Bar R Ranch Black Range Allotment to Rafter Spear Ranch and

Turkey Run allotment.

The stock watering rights for raising livestock that was derived from the public domain was bought sold and inherited and mortgaged as appurtenance to these base property(s) shown on table 1 and on table 2

This section will consist of the legal description of the base or commensurate property.

Parts of Section 12-13 and 14 Township 11 S Range 11 W

This property dates back to 1885 as a cow camp for the Red River Cattle company. As

mortgaged by the Red River Cattle Company President J.M. Cunningham.

The mortgage on this section of territorial land was released in 1895.

Table # 1 Ranch Name	Grantee	Grantor	Date	Document Type	Book	Book number	Page
Rafter Spear Ranch	Matthew Schneberger	Widow Leilani Schneberger	8/1/1989	Deed	Deed	56	631
Turkey Run Allotment	{Widow and executor of Gerald Schneberger} Leilani Schneberger	Gerald Schneberger	1986 Executor				
	Gerald Ballard	Georgiana Schneberger	13 May 1980	Quit Claim Deed	Deed	44	925
	Gerald Schneberger and Georgiana Schneberger	Chester H. and Beatrice E. McCauley	16 Sept. 1966	Deed	Deed	42	469
	Chester H. McCauley	Lonam J. Yearwood	21 March 1944	Deed	Deed	Book Q	51
Turkey Run Severed from Black Range allotment	Lonam J. Yearwood	Bill Cain Olivia Cain	4 Dec. 1942	Deed	Deed	Book M	626,627 628
	Bill Cain	John Cain Margaret Cain	9 March 1940	Deed	Deed	Office Filing	Sierra Co. Clerk
Part of Black Range allotment	John Cain and Bill Cain	Winston Ella {Executrix and Widow of Frank Winston}	22 Feb 1937	Deed	Deed	Office Filing	Sierra Co. Clerk
R -- R ranch Ran cattle on the Black Range allotment	Winston Ella {Executrix and widow of Frank Winston}	Etta Hobbs and Minnie Sloan heirs of James E. Daniel	20 Oct. 1936	Quit Claim Deed	Deed	Office Filing	Sierra Co. Clerk
	Frank Winston	James E, Daniel	30 July 1928	Deed Unrecorded Mortgage	Deed	Book J	322-323
Daniel was recorded living on the property in 1915. We do not yet know when the H.E. claim was filed. New Mexico Recollections Raymond Schmidt	James E. Daniel	United States	8 June 1922	Patent 866756	Deed	Book J	226 227 Red River & Fairview Still accessed Land.
Loback Died of rabies from Skunk bite.	1895 Mortgage Deed Red River Cattle Co. Current commensurate property listed.	Loback lived at the property.	1880	Loback Never had a patent.	New Mexico Recollections Raymond Schmidt	Historical Records	Camp for Red River Cattle Co.

Chart 2							
Ranch Name And NM territorial area containing Current Turkey Run Allotment	Grantee	Grantor	Date	Document Type	Book	Page	Book number
Current Turkey Run Allotment is located as part of the Black Range allotment				Historic documents			
Commensurate property Mudhole attached to Black Range Allotment			1910	USFS allotment	Map		
Fairview Cattle Co.	Frank and Ella Winston Fairview CC	Red River Cattle Co. Pollack president;	Feb 13 1913	Deed	Warranty deed	244	Book H
Red River Cattle Co.	Red River Cattle Co.	First USFS allotment record	1910	USFS Document	Map		
Red River Cattle Co. Legals Of Priority use Waters and current commensurate property located on mortgage document.	Henry M Porter Colorado	Red River Cattle Co.	May 21, 1901	Mortgage release Quit claim	Mortgage record	Page 737	Sierra co, Book C
Loback Died of rabies from Skunk bite.	Red River Cattle Co. JM Cunningham President	Henry M. Porter Colorado	Jan 30, 1896	Mortgage Deed	Mortgage	Current book 504 - 508	Current Sierra County Book C
Red River Cattle Co.	1895 Mortgage Deed Red River Cattle Co. Current commensurate property listed.	Loback lived at the property.	1880	Loback Never had a patent. But Red River had a mortgage	New Mexico Recollections Raymond Schmidt	Historical Records	Camp for Red River Cattle Co.
	Territory of NM.	Red River Cattle Co.	1885 USFS Document Priority use Water Right				OSE papers

ARIZON

