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PRINTED: 09-21-2012

ARIZONA DEPARTMENT OF MINES AND MINERAL RESOURCES AZMILS DATA

PRIMARY NAME: WEBB GROUP

ALTERNATE NAMES:
- GRANIT HILL PAT. CLAIM
- TURKEY TRACK PAT. CLAIM
- LITTLE CHARLOTTE PAT. CLAIM
- AURUM CHARLOTTE PAT. CLAIM
- MINNIE CLAIM
- VICTOR CLAIM

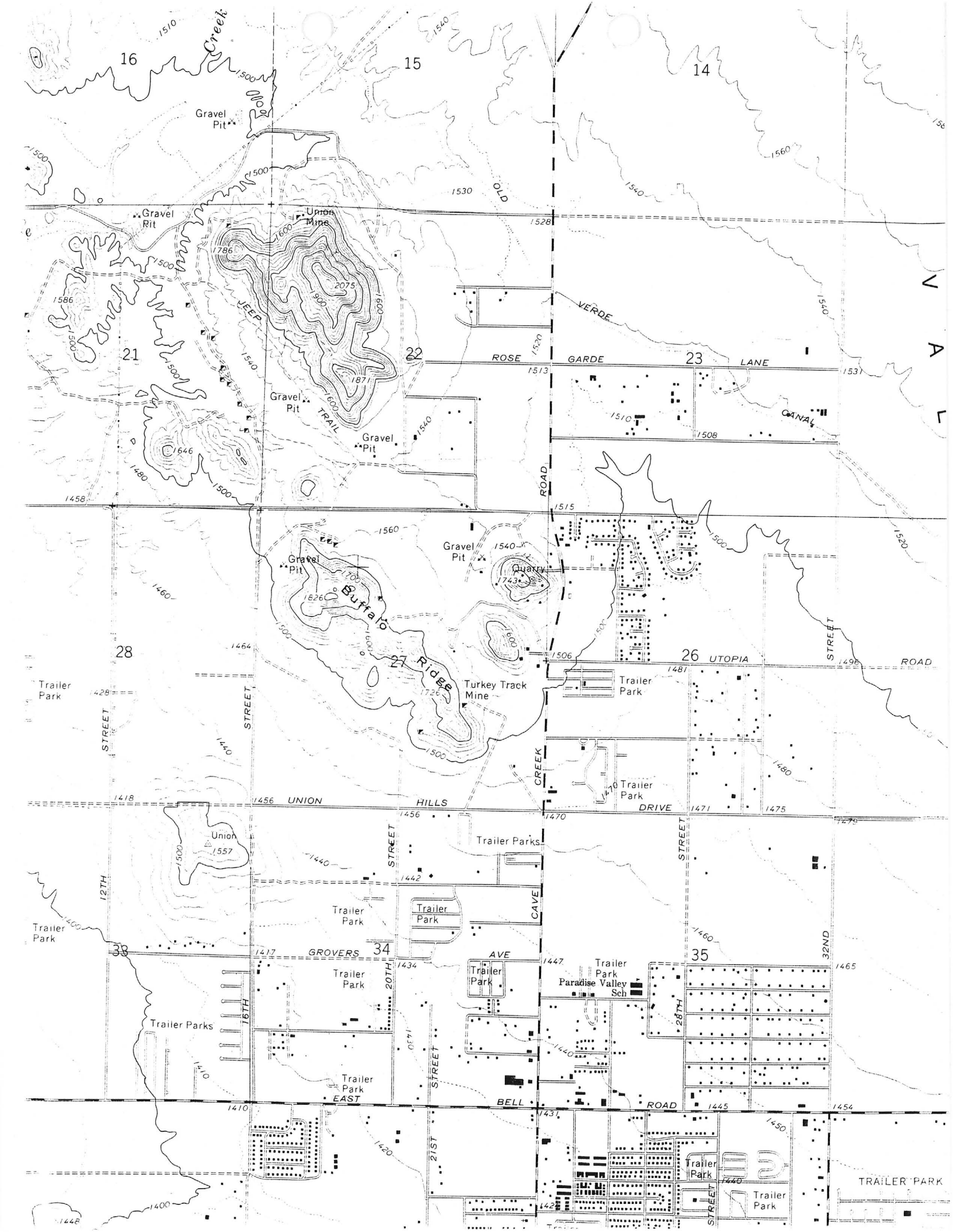
MARICOPA COUNTY MILS NUMBER: 486

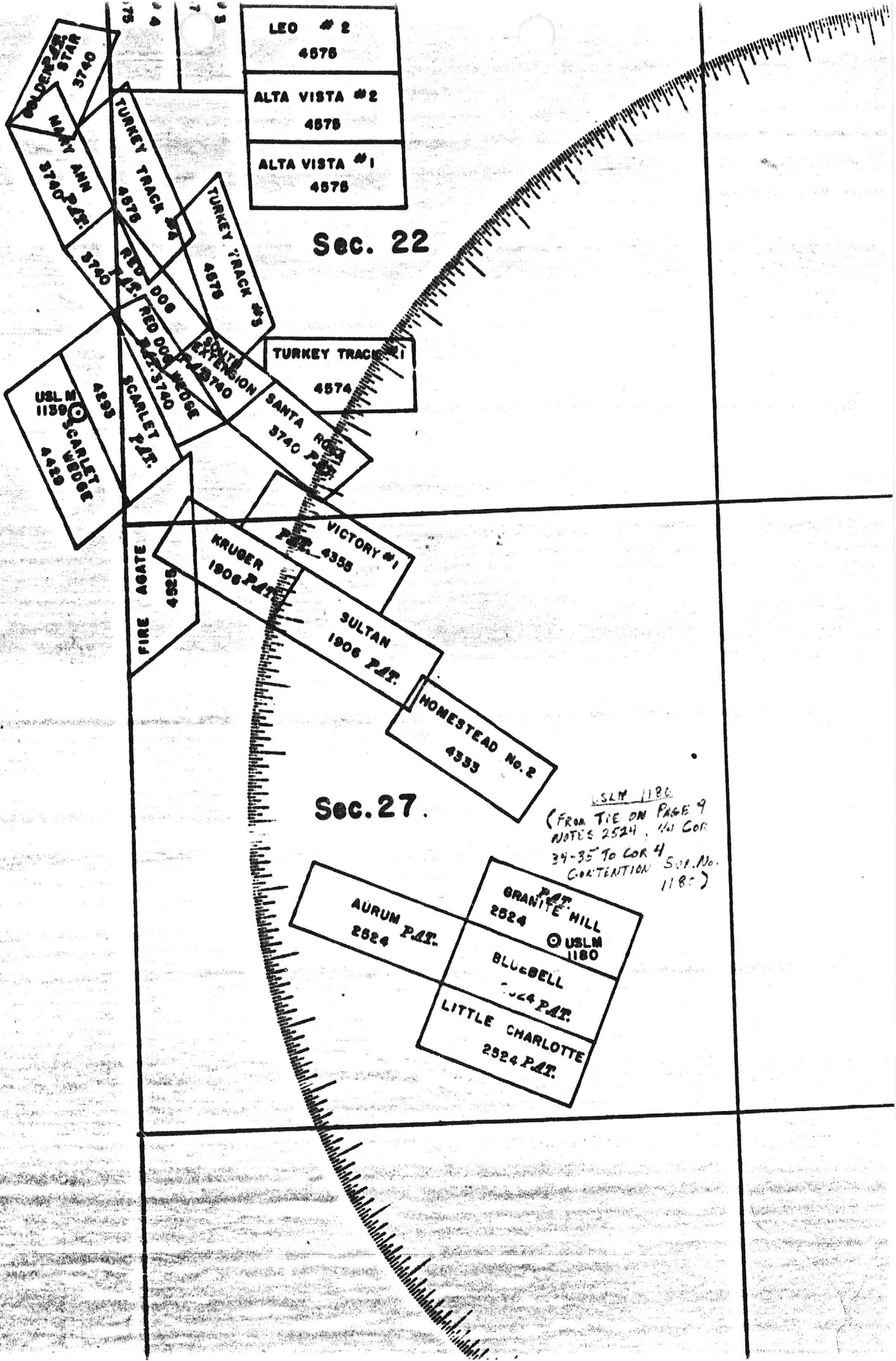
LOCATION: TOWNSHIP 4 N RANGE 3 E SECTION 27 QUARTER SE
LATITUDE: N 33DEG 39MIN 34SEC LONGITUDE: W 112DEG 02MIN 09SEC
TOPO MAP NAME: UNION HILLS - 7.5 MIN

CURRENT STATUS: UNKNOWN

COMMODITY:
- GOLD LODE

BIBLIOGRAPHY:
- USGS UNION HILLS QUAD
- BLM MINING DISTRICT SHEET
- BLM MINERAL SURVEY MS 2524
- ADMMR WEBB GROUP FILE


16
15
14
Creek
Gravel Pit
Union Mine
OLD
VERDE
ROSE GARDE
LANE
CANAL
JEEP TRAIL
21
22
23
ROAD
Quarry
Buffalo Ridge
Turkey Track Mine
28
26 UTOPIA
STREET
ROAD
Trailer Park
CREEK
UNION HILLS DRIVE
Trailer Parks
12TH
CAVE
GROVERS AVE
34
35
32ND
20TH
16TH
28TH
Paradise Valley Sch
Trailer Park EAST
BELL ROAD
21ST
TRAILER PARK


LEO #2
4575
ALTA VISTA #2
4575
ALTA VISTA #1
4575
GOLDEN STAR
3740
MARY ANN
3740 PAT.
TURKEY TRACK #4
4575
TURKEY TRACK #3
4575
RED DOG
3740 PAT.
RED DOG WEDGE
3740 PAT.
SOUTH EXTENSION
3740
TURKEY TRACK #1
4574
SANTA ROSA
3740 PAT.
USLM
1139
SCARLET WEDGE
4423
4423
SCARLET PAT.
VICTORY #1
PAT. 4355
KRUGER
1906 PAT.
FIRE AGATE
4325
SULTAN
1906 PAT.
HOMESTEAD No. 2
4333
Sec. 22
Sec. 27.
USLM 1180
(FROM TIE ON PAGE 9
NOTES 2524, NW COR
34-35 TO COR 4
CONTENTION SUR. No.
1180)
PAT.
GRANITE HILL
2524
USLM
1180
AURUM PAT.
2524
BLUEBELL
2524 PAT.
LITTLE CHARLOTTE
2524 PAT.

Arizona Department of Mines and Mineral Resources

INFORMATION FROM MINE CARDS IN MUSEUM

ARIZONA

MARICOPA COUNTY

DEER VALLEY ROAD

JACK WHITE MINE

MILS # 483A

6 - AKA's

K 437 Gold
K 438 Gold

WEBB GROUP

Maricopa County
Winifred District

AWB WR 9/23/80: Mr. Hiram Webb owns the Jack White Gold Mine. He is trying to sell it. Jack White T 4N R 3E Sec. 22

KAP WR 4/23/82: Beverly of Quest Inc. reported Quest Inc. is going to try to establish a heap leaching operation at the Jack White Mine just north of Phoenix.

RRB WR 6/18/82: Jack Quay called and reported that Ron Linderman has started leaching dumps at the Jack White Mine, Winifred District, Maricopa County. (T4N R3E Sec. 22). Process was set up by the Hildebrand brothers using carbon adsorption. The dumps assayed 0.12 oz./ton gold and they reportedly recovered 21 oz in 4.5 days.

KAP WR 5/13/83: Ron Linderman is operating a small cyanide heap leach operation (one pad - 1500 to 2000 tons a month) at the Jack White Mine north of Phoenix, Winifred District, Maricopa County. Here, he explained he is screening old dumps, agglomerating the fines and discarding the oversize. Heaps are about 150' x 70' and 3 to 4 feet high. A small carbon adsorption plant is used to recover values from the pregnant solution.

KAP WR 6/3/83: In the company of James Bond II and his partner Jack Long, a visit was made to the Jack White mine heap leach operation as it is typical of a small cyanide heap leaching operation for low grade gold ores. Since my last visit the pad has been cleared and is ready for another heap. The operator Ron Linderman has run the pad with mine run material, agglomerated minus 3/4 inch screened material and plus 3/4 screened material. The agglomerated minus 3/4 inch portion is reported to be the most productive.

NJN WR 9/16/83: The dump cyanide operation at the Jack White, Maricopa County is being conducted by Leo III Inc., Ron and Sarch Linderman, 1920 West Eugie Ave., Phoenix, Arizona 85029, phone 973-9956.

NJN WR 11/18/83: Ron Linderman reported that he has sold the leaching operation and the Webb Group, Maricopa Co. to an unspecified party. The new owners plan to sample, and if warrented, mine both underground and surface mineralization.

WEBB GROUP

MARICOPA COUNTY
WINIFRED MINING DISTRICT
T4N R3E Sec22

NJN WR 1/6/84: Jack Brantl reported that Tim Atkinson is no longer with Cave Creek Mining Co. but is with a new group that has purchased some part of the Union Mine or Webb Group, Maricopa County.

NJN WR 3/9/84: Laksir Napier (c) reported that Sunchief Mines (c) ie the Neslunds have acquired some part of the Webb Group (f) Maricopa County. Perhaps what is known as the Union Group Mine (f).

KAP WR 3/23/84: A visit was amde to the Jack White heap leach operation, Webb Group, Maricopa County. The operation is idle, the electrical utility power meter has been removed and the facilities appear in some disrepair. A sign at the gate contains the name Sarinks Enterprizes Incorporated. In a field interview with personal at a neighboring facility at which Tim Atkinson is involved it was learned that Mr. Atkinson is not involved with the Union Mine or the Webb Group.

WEBB GROUP

REFERENCE

MARICOPA COUNTY
WINIFRED MINING DISTRICT
T4N R3E Sec 22

Also see: Union Mine File
ABM 137 P. 165
125 P. 99
129 P. 86

Abstract, copy for mine file 8/14/78

IN REPLY REFER TO:

United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF LAND APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VIRGINIA 22203

RECEIVED
JUL 18 1978
DEPT. MINERAL RESOURCES
PHOENIX, ARIZONA

H. B. WEBB

IBLA 77-312 Decided May 1, 1978

Appeal from a decision of the Arizona State Office, Bureau of Land Management, declaring mining claims null and void.

Affirmed.

1. Mining Claims: SECRETARY OF THE INTERIOR.

The Secretary of the Interior is charged with seeing that valid mining claims are recognized, invalid ones eliminated, and the rights of the public preserved.

2. Mining Claims: DISCOVERY--Nature of Requirement--determination of validity; MISCELLANEOUS.

A mining claimant must comply both with Federal law and with such state requirements as are not inconsistent with federal mining provisions.

3. Mining Claims: ASSESSMENT WORK; LOCATION PROCEDURES--location notice--recordation; POSSESSORY RIGHTS.

In order for a mining claimant to maintain a possessory right in a claim under Arizona law, the locator must file within 90 days a copy of the location notice in the county in which the claim is located.

4. Mining Claims: ASSESSMENT WORK; MISCELLANEOUS.

The United States and a city which has filed an application to purchase land

For Index Code see
34 IBLA 373

GFS(MIN) 40(1978)

pursuant to the Recreation and Public Purposes Act are adverse claimants who may take advantage of the failure of a mining claimant to perform annual assessment.

5. Mining Claims: LOCATABLE PUBLIC LANDS--Segregation--REGULATIONS--Applicability.

A classification of the lands under the Recreation and Public Purposes Act, 43 U.S.C. § 869 (1970), as amended, segregates the land from all other forms of appropriation under the public land laws including the mining laws when the classification is noted on the Bureau of Land Management State Office records.

6. Mining Claims: PRACTICE AND PROCEDURE--Constitutional Law--Due Process Requirements--Hearings--due process requirements--notice of requirements--when required--Opportunity for Hearing.

In some cases due process requires not that a person have notice and a prior hearing before a deprivation of property, but that an individual be given notice and an opportunity for a hearing before the deprivation of property becomes final.

2. WAIT?

7. Mining Claims: PRACTICE AND PROCEDURE--Constitutional Law--Due Process Requirements--Hearings--due process requirements--notice of requirements--when required--Opportunity for Hearing.

In proceedings before the Department to determine the validity of a mining claim, notice and an opportunity for a hearing is required only where there is a disputed question of fact; where the validity of a claim turns on the legal effect to be given facts of record concerning the status of the land when the claim was located, no hearing is required.

8. Mining Claims: ABANDONMENT; REGULATIONS--Interpretation.

Under Arizona law a failure to perform the tasks enunciated in 27 ARS 203 within the specified time will be deemed to be an abandonment of a mining claim.

APPEARANCES: Hale C. Tognoni, Esq., Phoenix, Arizona, for appellant.

OPINION BY ADMINISTRATIVE JUDGE RITVO

This is an appeal from the October 5, 1976, decision of the Arizona State Office, Bureau of Land Management (BLM), declaring Turkey Track #5 and #6 mining claims null and void.

The Turkey Track #5 and #6 mining claims are situated in the northwest quarter of Sec. 22, T. 4 N., R. 3 E., in the Winifred Mining District in Maricopa County, State of Arizona. 1/

On August 27, 1976, Notice of Mining Location of Lode Claims for Turkey Track #5 and #6 were recorded in Docket 11829 pages 1239-40 and 1237-38, respectively. It is asserted the claims were located and the ground posted on October 4, 1958, by E. G. York in behalf of H. B. Webb. No record of annual assessment work was found in the official records of Maricopa County.

On July 20, 1971, petition application A-6390 was filed under authority of the Act of June 14, 1926, amended, the Recreation and Public Purposes Act, 43 U.S.C. § 869 (1970), by the City of Phoenix for purchase of all unpatented lands in secs. 21, 22, and 27, T. 4 N., R. 3 E., GSR Meridian, Arizona, to be used for park purposes. On February 21, 1973, a proposed classification decision was issued favorably classifying the lands as proper for lease or sale under the provisions of the Recreation and Public Purposes Act.

1/ Turkey Track #5 is situated and located in the Winifred Mining District in Maricopa County, in the State of Arizona, about 1,500 feet in a southeasterly direction from the northwest corner of section 22, T. 4 N., R. 3 E. It lies to the South of Leo #4 claim and to the North of Turkey Track #3 with Turkey Track #4 to the West and Turkey Track #6 to the East. Turkey Track #6 is situated and located in the Winifred Mining District in Maricopa County, in the State of Arizona, about 1,550 feet in a southeasterly direction from the NW corner of section 22, T. 4 N., R. 3 E. It lies to the South of Leo #3 claim, with Turkey Track #5 to the West.

A classification decision was issued on April 26, 1973, classifying all unpatented lands in secs. 21, 22, and 27, T. 4 N., R. 3 E., GSR Meridian, Arizona, for disposal under the provisions of the Act of June 14, 1926, as amended. A notice of the proposed sale of the land under the authority of that Act was published in the Arizona Weekly Gazette for 4 consecutive weeks beginning August 21, 1973, and ending September 11, 1973. In accordance with 43 CFR 2741.5, publication is required to allow all persons having a claim to the lands to file notice of the claim with the Bureau of Land Management. In this instance no response to the publication was received.

In its decision the BLM State Office reasoned that between the time appellant located his mining claims on October 4, 1958, as shown by the location notices, and the time appellant recorded the notices on August 27, 1976, an adverse right intervened because of the filing of recreation and public purposes application A-6390 and the subsequent segregation from mineral location on April 26, 1973, by classification in accordance with the Act of June 14, 1926, as amended, along with the notation on the official records of the appropriate office of the BLM, here the Arizona State Office.

The appellant offers three arguments to support the assertion his mining claims should not be declared null and void. The first argument advanced by appellant asserts a failure to comply with the mining laws will not inure to the benefit of a nonmineral claimant, because the meaning of the word "adverse," contemplates only another mineral claimant benefiting from his inaction. Succinctly stated, appellant's second argument is that he was deprived of his mining claims in an unconstitutional manner as the requirements of due process, prior notice and a hearing, were not afforded to him. The third argument states the taking of his mining claims was unconscionable because one, the forfeiture of mining claims is not favored, and two, there has been no abandonment of the mining claims.

[1] The Department of the Interior has plenary authority over the administration of the public lands, including mineral lands, and the Secretary of the Interior has broad authority to issue regulations concerning them. Best v. Humboldt Placer Mining Co., 371 U.S. 334 (1963). The Secretary of the Interior is charged with seeing that valid mining claims are recognized, invalid ones eliminated and the rights of the public preserved. Palmer v. Dredge Corporation, 398 F.2d 791 (9th Cir. 1968), cert. denied 393 U.S. 1066 (1969); Duguid v. Best, 291 F.2d 235 (9th Cir.), cert. denied 372 U.S. 906 (1962).

[2] The right to a mining claim rests upon the laws of the United States and upon the laws of the state in which the claim is situated. Belk v. Meagher, 104 U.S. 279 (1881); Johnson v.

McLaughlin, 1 Ariz. 493, 4 P. 130 (1884). A mining claimant must comply not only with Federal law but also with such state location requirements as are not inconsistent with federal mining provisions. United States v. Zweifel, 508 F.2d 1150 (10th Cir. 1975).

[3] Requirements for locating and maintaining possessory rights in mining claims are set forth at 30 U.S.C. § 28 (1970); specifically, the requirements for recordation and annual assessment work are enunciated. The Secretary has promulgated regulations to implement the mining laws, and in relevant part 43 CFR 3831.1 states:

> Rights to mineral lands, owned by the United States, are initiated by prospecting for minerals thereon, and, upon the discovery of minerals, by locating the lands upon which such discovery has been made. A location is made by (a) staking the corners of the claim * * * (b) posting notice of location thereon, and (c) complying with the State laws, regarding the recording of the location in the county recorder's office, discovery work, etc. As supplemental to the United States mining laws there are State statutes relative to location, manner of recording of mining claims, etc., in the State, which should also be observed in the location of mining claims.

The requirement for recordation is set forth at 27 ARS 203 which states in relevant part:

> A. The locator of a lode claim shall:
>
> 1. Cause to be recorded in the office of the county recorder a copy of the location notice within ninety days from the time of the location.
>
> 2. Monument the claim on the ground within ninety days from the time of the location so that its boundaries can be readily traced.
>
> B. The locator of a lode claim shall within one hundred twenty days from the time of the location sink a location shaft on the claim * * *.
>
> C. In lieu of the requirements of subdivision B hereof, the locator of a lode claim, within one hundred and twenty days from the time of location may:
>
> 1. Do location work consisting of drilling not less than ten feet in depth in any one

> hole, costing at least one hundred dollars for the actual doing of such drilling at the point where done * * *.
>
> * * * * * * *
>
> 3. Make and record in the office of the county recorder of the county in which the claim or claims are located, an affidavit by the person on whose behalf such drilling was done or by some person for him knowing the facts, * * *.
>
> D. Failure to do all the things within the times and at the places specified in subsections A and B or C shall be an abandonment of the claim, and all right and claim of the discoverer and locator shall be forfeited. [Emphasis supplied.]

Satisfaction of the federal regulations require that not less than $100 worth of labor must be performed or improvements made thereon annually. The period within which the work is required to be done commences at 12 o'clock meridian on September 1 succeeding the date of location of each claim. 43 CFR 3851.1.

The recordation of an affidavit of annual assessment work under Arizona State law is set forth in 27 ARS 208 which states in relevant part:

> A. Within three months after expiration of the time provided for performance of annual labor or making improvements upon a mining claim, the person on whose behalf such work or improvement was made, or some person for him knowing the facts, may make and record in the office of the county recorder of the county in which the claim is located an affidavit * * *.
>
> B. The affidavit when recorded shall be prima facie evidence of the performance of the labor or improvements * * *.

To summarize, Arizona law allows a locator of a mining claim 90 days time within which the locator must have a copy of the location notice become a part of the official records of the county in which the claim is situated, after which time the claim is deemed abandoned and rights in the claim are forfeited. Neither Federal nor Arizona law requires recordation of an affidavit of assessment work. However, under Arizona law it is advantageous to do so, as

an affidavit filed within 3 months of the end of an assessment year is prima facie evidence of the facts stated in the affidavit. In this instance neither Federal nor Arizona law has been complied with.

In his statement of reasons, appellant acknowledges that under Arizona and consequently Federal law a failure to timely record a location notice renders the location invalid with respect to adverse rights acquired before the filing. Pearley v. Goar, 195 P. 532 (Ariz. 1921). Appellant, however, denies that either the United States or the City of Phoenix has "adverse rights" in the present case. Rather, appellant contends that only a subsequent mineral locator may possess such adverse rights and compel forfeiture.

Appellant's assertion runs counter to the Department of the Interior's interpretation of Pearly v. Goar, supra. In City of Phoenix, 53 I.D. 245, 247 (1931), the Assistant Secretary held on facts virtually identical to those of the instant case that the City of Phoenix had acquired adverse rights as the grantee of lands withdrawn for public park purposes.

It is noteworthy that City of Phoenix distinguishes the case where a locator has failed to record from that where forfeiture occurs because a locator has failed to perform annual assessment work. As to the latter instance, the Assistant Secretary followed the then prevailing rule that neither the United States nor a mon-mineral claimant could enforce the forfeiture of the location. Id. at 248. The Assistant Secretary recognized that both the policies and statutory language controlling forfeiture on failure to do annual assessment work distinguished that issue from forfeiture under the Arizona recording statute.

Appellant has not asked us to overrule City of Phoenix. He has instead drawn our attention to authority concerning failure to perform annual assessment work. This authority does not persuade us to change the rule of City of Phoenix. As we are even convinced that recent developments undermine the traditional rule that the United States has no power to compel forfeiture for failure to perform annual assessment work, we follow City of Phoenix with respect to forfeiture for failure to record.

The traditional rule finds its strongest statement in a series of Supreme Court cases dealing with the validity of oil shale locations following the passage of the Mineral Lands Leasing Act of 1920, which provided that oil shale be available only on a lease basis. The Act of 1920 contained a savings clause that preserved the validity of locations acquired prior to the passage of the Act

and maintained in compliance with the laws under which initiated. On the question of whether failure to perform annual assessment work placed a claim outside of the savings clause and therefore subject to leasing by the United States, the Supreme Court held in Ickes v. Virginia-Colorado Development Corp., 295 U.S. 639, 645 (1935):

> Under § 2324 of the Revised Statutes (30 U.S.C. 28), the owner is required to peform labor of the value of $100 annually, but a failure to do so does not ipso facto forfeit his claim, but only renders it subject to loss by relocation. * * * Thus, prior to the passage of the Leasing Act of 1920, the annual performance of labor "was not necessary to preserve the possessory right, with all the incidents of ownership above stated, as against the United States, but only as against subsequent relocators. So far as the government was concerned, failure to do assessment work for any year was without effect. Whenever $500 worth of labor in the aggregate had been performed, other requirements aside, the owner became entitled to a patent, even though in some years annual assessment labor had been omitted." Wilbur v. Krushnic, * * * [280 U.S. 306 (1930).]

More recently, however, the Supreme Court has recognized that the United States has an interest in eliminating mining locations failing to comply with applicable law. As appellant concedes, the doctrine of Krushnic and Virginia-Colorado has been severely limited by Hickel v. Oil Shale Corp., 400 U.S. 48 (1970).[a] The Court stated at 57:

> Unlike the claims in Krushnic and Virginia-Colorado, the Land Commissioner's findings indicate that the present claims had not substantially met the conditions of § 28 respecting assessment work. Therefore we cannot say that Krushnic and Virginia-Colorado control this litigation. We disagree with the dicta in these opinions that default in doing the assessment work inures only to the benefit of relocators, as we are of the view that § 37 of the 1920 Act makes the United States the beneficiary of all claims invalid for lack of assessment work or otherwise. It follows that the Department of the Interior had, and has, subject matter jurisdiction over contests involving the performance of assessment work.

a) GFS(MIN) JD-4(1970)

As the dissenting opinion in Oil Shale Corp. suggests, 2/ the ramifications of that decision range far beyond the narrow circumstances considered and may effectively overrule the two previous cases. One can easily infer that the United States is, on behalf of the public interest, the "beneficiary of invalid claims" in many contexts, and should have the power to cancel noncomplying claims and dispose of the land embracing them. The Department of the Interior appears to have taken this broad interpretation in enacting 43 CFR 3851.3(a), which provides:

> Failure of a mining claimant to comply substantially with the requirement of an annual expenditure of $100 in labor or improvements on a claim imposed by section 2324 of the Revised Statutes (30 U.S.C. 28) will render the claim subject to cancellation.

In sum, we feel that a clear trend favors granting the United States increased power to eliminate claims failing to comply with the law. We therefore follow the holding of City of Phoenix, supra, that the United States and its grantees hold adverse rights against a claimant who has failed to record under the Arizona statute.

In the present case, since appellant failed to record pursuant to the Arizona statute until more than 3 years after the land in question was withdrawn from mining entry, BLM properly declared the locations null and void.

[5] The lands in question were not available for mining at the time appellant filed his notice of location because a classification of lands under 43 U.S.C. § 869 (1970), as amended, segregates the land from all other forms of appropriation and entry under the public land laws including the mining laws when the classification is noted on the State Office records. R. C. Buch, 75 I.D. 140 (1968),[b] aff'd Buch v. Morton, 449 F.2d 600 (1971); Henri Guzek, 5 IBLA 133 (1972);[c] Gerald D. Heden, 6 IBLA 291 (1972).[d] The Petition classification A-6390 was filed on July 29, 1971, for purchase of all unpatented lands in secs. 21, 22, and 27, T. 4 N., R. 3 E., GSR Meridian, Arizona. On February 21, 1973, a proposed classification decision was issued classifying the lands for lease or sale under 43 U.S.C. § 869 (1970), as amended, and finally on April 26, 1973, the lands were classified for disposal in accordance with the provisions of the statute. It was on April 26, 1973, more than 3 years before a notice of mining location was filed, that the lands were segregated from all other forms of appropriation, including the mining law. Hence, appellant's location is null and void.

2/ Hickel v. Oil Shale Corp., supra at 61, 94 S. Ct. at 203. (Burger, Ch. J., dissenting).

For Footnotes see
34 IBLA 373

[6] Next appellant complains the BLM has dispensed with a "formal contest proceeding" which he believes he was entitled to under the Fifth Amendment requirement of due processs, which contemplates notice and a hearing prior to a deprivation of property. Appellant asserts without notice and an opportunity for a hearing the BLM decision is unconstitutional and their decision is null and void. We disagree.

In support of his argument the appellant cites Sniadach v. Family Finance Corporation of Bay View, 395 U.S. 337, 89 S. Ct. 1820, 23 L.Ed. 2d 349 (1919), and Fuentes v. Shevin, 407 U.S. 67, 92 S. Ct. 1983, 32 L.Ed. 2d 556 (1972). These two cases required notice and a prior hearing before a deprivation of property could be effected. In the case of Sniadach, supra, it was pre-judgment garnishment of wages, and in Fuentes, supra, it was pre-judgment replevin of goods. The Supreme Court in Fuentes was emphatic these cases were not limited to their facts, as had been thought by some state courts after Sniadach, but applied what they termed a "most basic due process requirement" to all property interests except in "extraordinary situations." The Court elaborated upon these "extraordinary situations" at 407 U.S. 90-93, 92 S. Ct. at 1999, 1920. The division of opinion on the effect of these cases and the disruption of heretofore established practice, particularly in the area of creditor's rights, stirred lawyers and the commercial community for well nigh 2 years.

Mitchell v. W. T. Grant Co., 416 U.S. 600, 94 S. Ct. 1895, 40 L. Ed. 2d 406 (1974), a case appellant apparently overlooked, however, severely limited the decision in Fuentes, and in fact Mr. Justice Powell reads W. T. Grant Co. as overruling Fuentes. 3/ W. T. Grant Co. holds that due process does not require notice and a prior hearing in every case that an individual is deprived of property. Instead, the Court approves in most instances the pre-Sniadach rule that: "[W]here only property rights are involved, mere postponement of the judicial inquiry is not a denial of due process, if the opportunity given for ultimate judicial determination of liability is adequate." W. T. Grant Co., supra at 611, 94 S. Ct. at 1902, Sniadach and Fuentes are thereby limited to special situations in which pre-hearing deprivation would be oppressive or manifestly unfair. With respect to Federal administrative procedure the Court in W. T. Grant Co., supra at 612, 94 S. Ct. at 1902, cites with approval Ewing v. Mytinger & Casselberry, 339 U.S. 594, 70 S. Ct. 870, 94 L. Ed. 1088 (1950). There the Court found no violation of due process where the Food and Drug Administration seized a shipment

3/ W. T. Grant Co., supra at 623, 94 S. Ct. at 1908 (Powell, J., concurring).

of allegedly misbranded but nondangerous nutritional supplements without prior notice or hearing. The Court ruled that FDA's acts were constitutional, because "so long as the requisite hearing is held before the final administrative order becomes effective." The Department of the Interior's practices here comport well the Court's formula.

Furthermore, we believe that even if due process did require the Department of the Interior to afford appellant some form of hearing prior to declaring the mineral location null and void, that requirement is satisfied in the present case by this appeal, without the initiation of contest proceedings. It has consistently been held that where, as here, there are no disputed questions of fact and the validity of a claim turns on the legal effect to be given facts of record which show the status of the land when the claim is located, no hearing before an administrative law judge is required. United States v. Consolidated Mines & Smelting Co., Ltd., 455 F.2d 432 at 453 (9th Cir. 1971); Dredge Corp. v. Penny, 362 F.2d 889 (9th Cir. 1966), aff'g The Dredge Corp., 64 I.D. 368 (1957); 65 I.D. 336 (1958); Roy R. Cummins, 26 IBLA 223 (1976);[e] David Loring Gamble, 26 IBLA 249 (1976).[f] As explicated by Mitchell v. W. T. Grant, supra at 614 et seq., the constitutionality of a hearing procedure must be judged within the context of the issues to be considered and the impact of the property deprivation on the individual. Here the issues are fully developed by the record before us and a hearing would add nothing to the resolution of the case. More elaborate procedure therefore seems unwarranted.

Appellant's final contentions -- that forfeitures are not favored by the law and that there has been no abandonment in the present case -- do not aid his cause. The record clearly indicates that appellant's locations are void under the Arizona statute. Even if appellant had diligently worked the claims and expended large sums of money to develop them, his claims would not be valid. In fact, the record does not disclose any evidence that appellant has so worked the claims, and such a failure would justify forfeiture independently of the Arizona statute. Similarly, it does not avail appellant that he did not abandon his claims in the more general sense of the word. His claims are void under the Arizona statute whether he intended to abandon them or not.

e) GFS(MIN) 56(1976)
f) GFS(MIN) 57(1976)

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Martin Ritvo
Administrative Judge

We concur:

Frederick Fishman
Administrative Judge

Joan B. Thompson
Administrative Judge

INDEX CODE:
43 CFR 2741.5
43 CFR 3831.1
43 CFR 3851.1
43 CFR 3851.3(a)

Footnotes from 34 IBLA 370
b) GFS(MIN) SO-53(1968)
c) GFS(MIN) 14(1972)
d) GFS(MIN) 38(1972)

Section Corner
16 15
21 22

LEO No. 4

LEO No. 3

1/4 Corner
15 15
22 22

Stope
DUMP
JACK WHITE SHAFT

Surface cut

LEO No. 1

Incline shaft

LEO No. 2

9 x ? x 8
INCLINE 32' deep

pit

ALTA VISTA 2

SURFACE CUT

SURFACE CUT

ALTA VISTA 1

SURFACE CUT

GOLDEN STAR
PAT. SURVEY 3740

MARY ANN
PAT. SURVEY 3740

TURKEY TRACK

20' Incline
Quartz Vein

RED
PAT. SURV.

TURKEY

UNION

WEBB GROUP
OF
MINING CLAIMS
IN
WINIFRED MINING DISTRICT
MARICOPA COUNTY
ARIZONA

▭ CLAIMS HELD BY H.B. WEBB

X LOCATION AND NUMBER OF SAMPLE

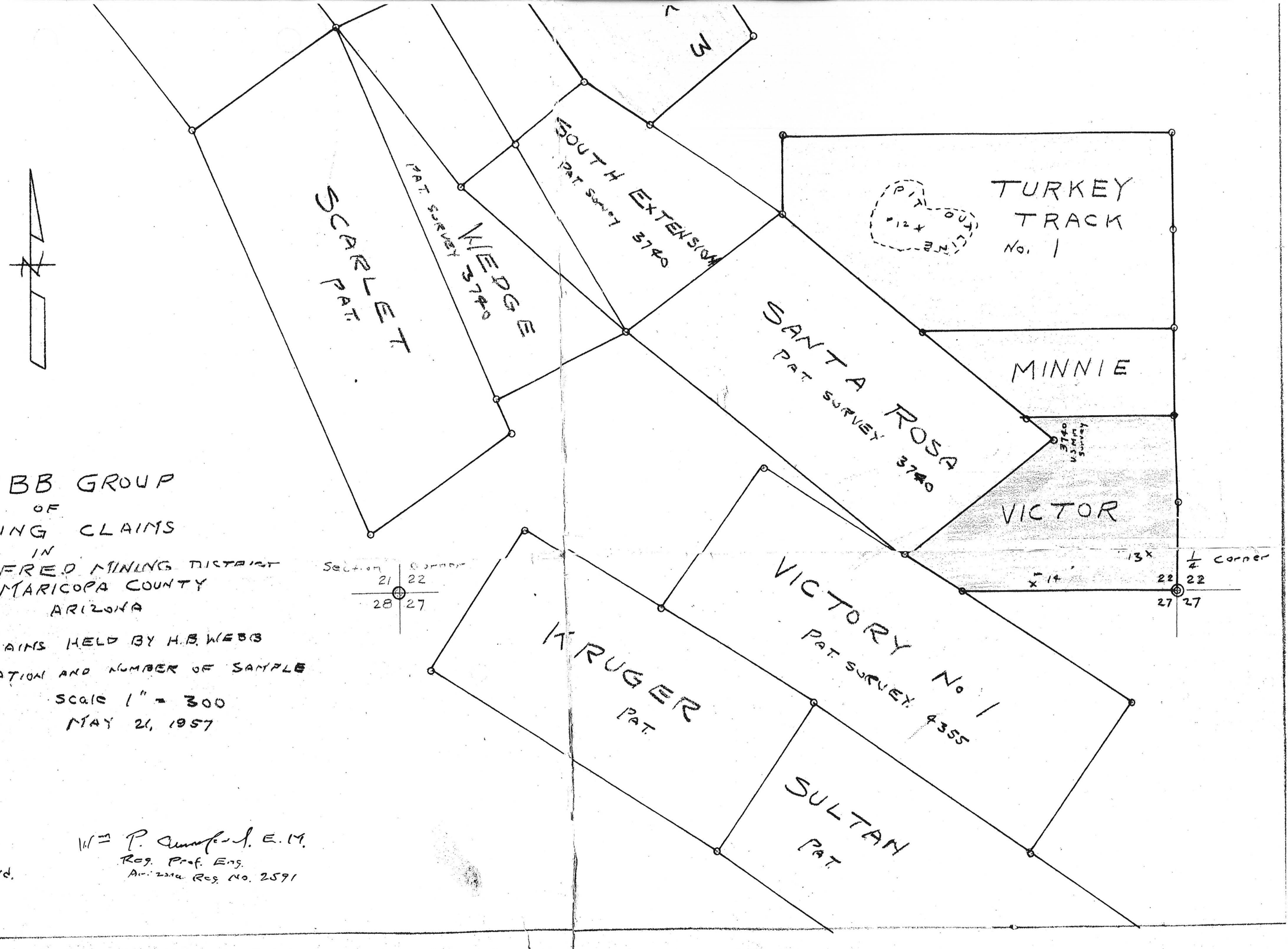
Scale 1" = 300

MAY 21, 1957

WPC Copy

W. P. Crawford.

Wm P. Crawford E.M.
Reg. Prof. Eng.
Arizona Reg. No. 2591



TURKEY TRACK
pat. claim

MARICOPA COUNTY

FTJ WR 1/9/73: Phone - Charles Myers, phone 937-5650 has altered granite deposit with house on property north of Beardsley, called "Turkey Track". Property is for sale.

RRB WR 6/12/81: Visited Turkey Track Mine at 1950 East Beardsley Road with owner Gerry Lomker. He has uncovered several small veins while producing "Charter Rock" for landscaping. I suggested that he stockpile the vein material until he had enough to run or ship. The veins are 2 to 6 inches in width and reportedly carrly some gold.

Frank

NEW
TURKEY TRACK Area

STATE MINE INSPECTOR
FEB 26 1985

Office of State Mine Inspector

705 West Wing, Capitol Building
Phoenix, Arizona 85007
602-255-5971

RECEIVED
MAR 18 19[illegible]
DEPT. MINERAL RESOURCES
PHOENIX, ARIZONA

NOTICE TO ARIZONA STATE MINE INSPECTOR

In compliance with Arizona Revised Statute Section 27-303*, we are submitting this written notice to the Arizona State Mine Inspector (705 West Wing, Capitol Building, Phoenix, Arizona 85007) of our intent to start/stop (please circle one) a mining operation.

COMPANY NAME LALOR MATERIALS & TRUCKING, INC.

CHIEF OFFICER VINCENT W. LALOR
(1950 E BEARDSLEY)

COMPANY ADDRESS P O BOX 41662, PHOENIX, ARIZONA 85080-1662

COMPANY TELEPHONE NUMBER 602-242-0888

MINE OR PLANT NAME TURKEY TRACK #1

MINE OR PLANT LOCATION (including county and nearest town, as well as directions for locating by vehicle)

MARICOPA COUNTY, PHOENIX, ARIZONA

1950 E. BEARDSLEY

TYPE OF OPERATION OPEN PIT PRINCIPAL PRODUCT GRANITE

STARTING DATE 27 FEB 85 CLOSING DATE OPEN

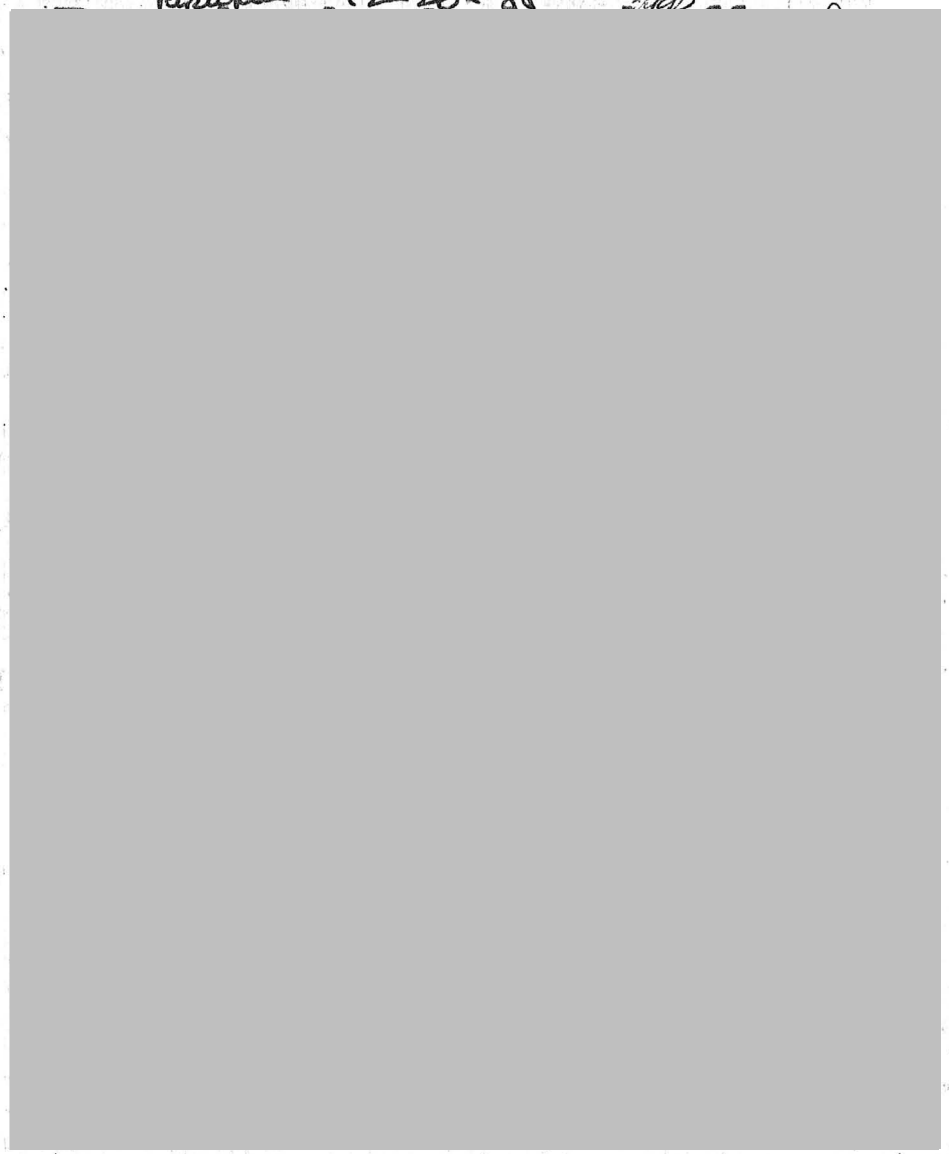
DURATION OF OPERATION N/A

PERSON SENDING THIS NOTICE VINCE LALOR

TITLE OF PERSON SENDING THIS NOTICE PRESIDENT

DATE NOTICE SENT TO STATE MINE INSPECTOR 25 FEB 85

*A.R.S. Section 27-303 NOTIFICATION TO INSPECTOR OF BEGINNING OR SUSPENDING OPERATIONS: When mining operations are commenced in any mine or when operations therein are permanently suspended, the operator shall give written notice to the inspector at his office prior to commencement or suspension of operations.



ZONA DEPARTMENT OF MINE[illegible]L RESOURCES
Mineral Building, Fairgrounds
Phoenix, Arizona

1. Information from: Gerry Lomker

   Address: 1950 E. Beardsley, Phoenix, AZ 971-9301

2. Mine: Turkey Track 3. No. of Claims - Patented 0

   Unpatented 6

4. Location:

5. Sec 22 Tp 4N Range 3E 6. Mining District

7. Owner:

8. Address:

9. Operating Co.: Turkey Track (Tall Stone & Supply)

10. Address: 1950 E. Beardsley, Phoenix

11. President: 12. Gen. Mgr.:

13. Principal Metals: 14. No. Employed:

15. Mill, Type & Capacity:

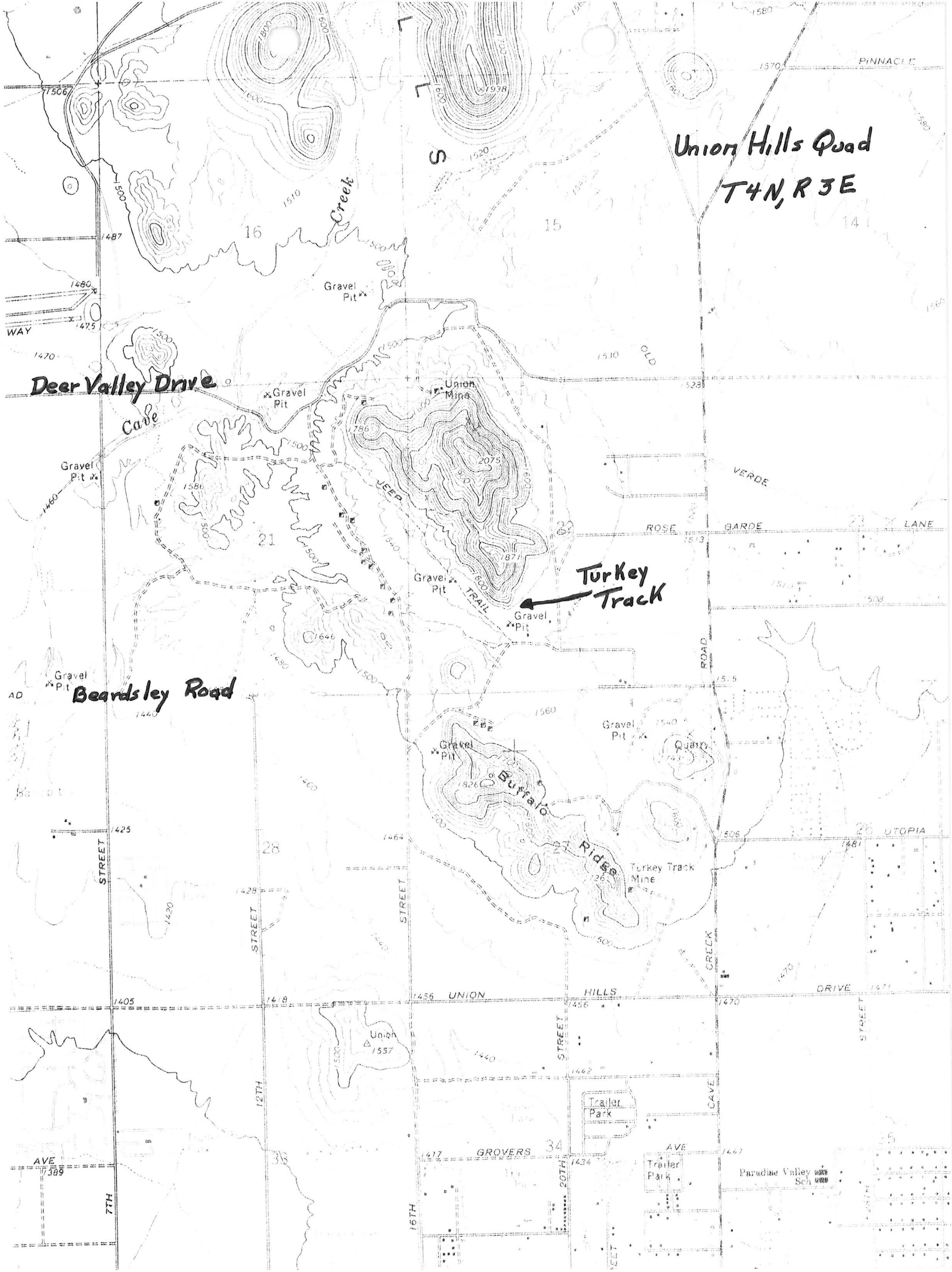
16. Present Operations: (a) Down ☐ (b) Assessment work ☐ (c) Exploration ☐
    (d) Production ☒ of character rocks (e) Rate tpd.

17. New Work Planned: Stockpile quartz veins until he has enough to run or ship.

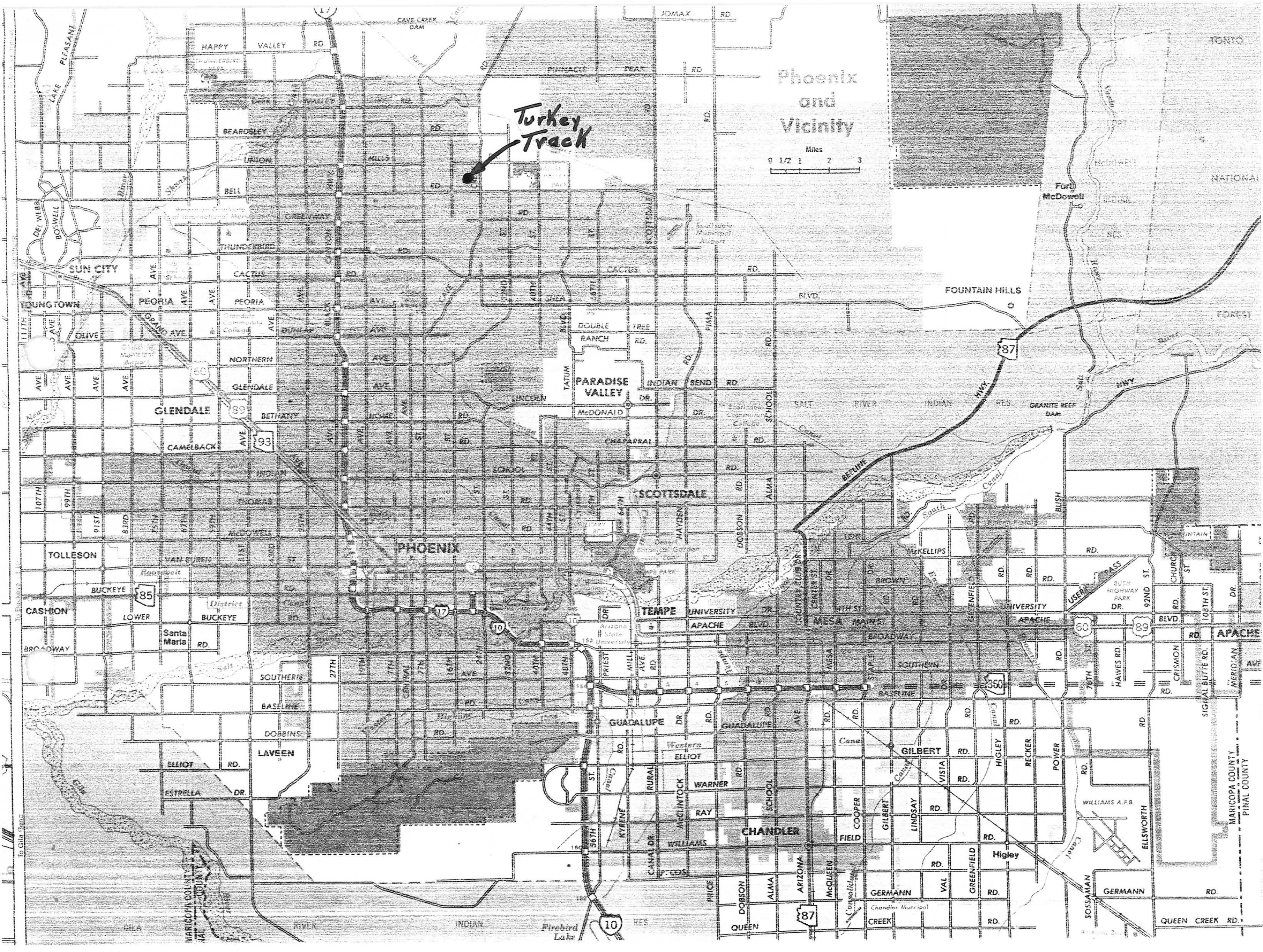
18. Miscl. Notes: Operator is currently producing "charactor rock" for landscaping and has uncovered several small quartz veins carrying some gold values. He has a crusher, a small pulverizer, an almalgamating barrel and a small shaker table.

Date: June 9, 1981

Richard R. Beard
(Signature) (Field Engineer)



Union Hills Quad
T4N, R3E
Deer Valley Drive
Beardsley Road
Turkey Track
Union Mine
Turkey Track Mine
Buffalo Ridge
Jeep Trail
Gravel Pit
Quarry
Cave Creek
Rose Garde Lane
Verde
Pinnacle
Utopia
Union Hills Drive
Grovers Ave
Trailer Park
Paradise Valley Sch
Union 1557
7th Street
12th Street
16th Street
20th Street
Cave Creek Road


Phoenix and Vicinity
Miles
0 1/2 1 2 3
Turkey Track
PHOENIX
GLENDALE
SCOTTSDALE
TEMPE
MESA
CHANDLER
GILBERT
GUADALUPE
PARADISE VALLEY
SUN CITY
YOUNGTOWN
PEORIA
TOLLESON
CASHION
LAVEEN
FOUNTAIN HILLS
Fort McDowell
CAVE CREEK DAM
GRANITE REEF DAM
WILLIAMS A.F.B.
SALT RIVER INDIAN RES.
GILA RIVER INDIAN RES.
MARICOPA COUNTY
PINAL COUNTY
To Gila Bend

WINIFRED DISTRICT

JACK WHITE MINE

The Jack White mine is in the northern foothills of the Phoenix Mountains, about 18 miles by road from the railway at Phoenix.

This deposit was located during the eighties. In 1913, J. White and associates organized the Eyrich Gold Mining Company which sank the shaft to a depth of 300 feet and ran some drifts. C. K. Barnes erected a 10-stamp mill on the property in 1928 and produced several thousand dollars' worth of bullion. In 1931, the Hartman Gold Mining and Milling Company sank the shaft to the 500-foot level, did considerable drifting, and shipped several car loads of ore that contained from $12 to $16 worth of gold per ton.[227] A new mill, equipped for flotation and concentration, was built in 1932, but operations were suspended in October, 1933. When visited in May, 1934, the mine was being worked on a small scale by Mr. White.

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[226] Oral communication from A. S. Lewis.

[227] Oral communication from J. White.

The principal rocks in this vicinity are dark-gray granite with small included masses of schist and a few dikes of acid porphyry.

The vein, which is traceable for a few hundred feet on the surface, strikes southwestward at its northern end, southward at its southern end, and dips about 60° W. It has been opened by a 500-foot inclined shaft and about 3,000 feet of drifts. An ore shoot seen on the 200-foot level is about 35 feet long by a maximum of 2½ feet wide but lenses out abruptly. The ore consists of coarse-textured, locally vuggy, grayish-white quartz with some calcite and irregular bunches of hematite. In a few places, unoxidized masses of finely granular pyrite are present. The gold is finely divided and has formed no placer deposits.

According to Mr. White, one stope between the fourth and fifth levels is about 50 feet long at the top by 100 feet long at the bottom and averages about 2 feet in width. He states that the three ore shoots exposed underground pitch steeply southward.

Section Corner
16 15
21 22

LEO No. 4

LEO No. 3

O'stope
DUMP
JACK WHITE SHAFT

Surface cut

LEO No. 1

Incline shaft

LEO No. 2

#9 x #8
INCLINE 32' deep

pit

1/4 Corner
15 15
22 22

ALTA VISTA 2

SURFACE CUT

#11 x #10

#3
SURFACE CUT
x #5
x #4

11 x #2 ALTA VISTA 1
SURFACE CUT

GOLDEN STAR
PAT SURVEY 3740

#7
20' Incline
Quartz Vein
#6

TURKEY TRACK 4

MARY ANN
PAT. SURVEY 3740

TURKEY TRACK 3

#16 +/- Vein
#15 Quartz

UNION
PAT.

RED DOG
PAT SURVEY 3740

SOUTH EXTENSION
PAT SURVEY 3740

WEDGE
PAT. SURVEY 3740

SCARLET
PAT.

TURKEY TRACK No. 1

#12 + PIT OUTCROP

SANTA ROSA
PAT. SURVEY 3740

MINNIE

3740 U.S.M.M. Survey

VICTOR

#13 x
x #14

1/4 Corner
22 22
27 27

VICTORY No. 1
PAT. SURVEY 4355

ITRUGER
PAT.

SULTAN
PAT.

Section Corner
21 22
28 27

WEBB GROUP
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ARIZONA

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