

RESOLUTION NO. 2017-027

A RESOLUTION RELATING TO THE PROPOSED PARTIAL TERMINATION OF INDENTURE AND LEASE RELATING TO TORRANCE COUNTY, NEW MEXICO TAXABLE INDUSTRIAL REVENUE BONDS (EL CABO WIND PROJECT), SERIES 2013, FOR THE PURPOSE OF RELEASING EXCESS LAND NOT UTILIZED IN THE PROJECT.

**WHEREAS**, on December 17, 2015, Torrance County (the "**County**") County issued its Torrance County, New Mexico Industrial Revenue Bond (El Cabo Wind Project) Series 2015, in the maximum principal amount of \$575,000,000 ("**Bond**") in connection with a wind-powered electric generating facility (as more specifically defined in the IRB Lease Agreement (as defined below), the "**Project**"). The Bond was purchased by El Cabo Wind Holdings, LLC, a Delaware limited liability company ("**Holdings**").

**WHEREAS**, on December 17, 2015, El Cabo Wind, LLC, a Delaware limited liability company ("**El Cabo**"), as assignor, and the County, as assignee, entered into that certain Bill of Sale and Assignment of Leases, recorded in the Office of the Clerk of Torrance County, New Mexico (the "**Official Records**") on December 17, 2015 in Book 333, Page 4028, pursuant to which El Cabo assigned to the County, among other things, all of El Cabo's right, title, and interest to certain ground leases composing the Project lands located in Torrance County, New Mexico, as more specifically described therein (the "**Project Site**").

**WHEREAS**, also on December 17, 2015, the County, as lessor, and El Cabo, as lessee, entered into that certain Lease Agreement (the "**IRB Lease Agreement**") recorded in the Official Records on December 17, 2015 in Book 333, Page 4044, pursuant to which County leased to El Cabo the real property constituting the Project Site; and the County, Holdings and BOKF, N.A. as Depositary entered into that certain Indenture ("**Indenture**") which, *inter alia*, secured payment of the Bond. The Indenture was recorded December 17, 2015 in the Official Records in Book 333, Page 4088.

**WHEREAS**, El Cabo and the County subsequently agreed to restructure the Bond transaction as it relates to the real property rights for the Project Site by rescinding the Bill of Sale and Assignment of Leases, solely to the extent of the leases for the Project Site, and amending the IRB Lease Agreement. In connection therewith, the parties entered into (i) that certain Amended and Restated Bill of Sale Regarding Equipment and Rescission of Assignment of Ground Leases effective as of December 17, 2015, and recorded in the Official Records on July 11, 2016 in Book 335, Page 1, which rescinded the assignment of leases; and (ii) that certain Sublease Agreement (the "**Sublease**") by and between El Cabo and County, effective as of December 17, 2015, and recorded in the Official Records on July 11, 2016 in Book 335, Page 7, pursuant to which El Cabo subleased and conveyed to the County the lease agreements held by El Cabo in connection with the Project Site.

**WHEREAS**, El Cabo, the County and Holdings subsequently entered into that certain First Amendment to Indenture and Lease Agreement (the “**First Amendment**”), which First Amendment amended the IRB Lease Agreement to include therein certain real property that had been inadvertently identified only in part in the IRB Lease Agreement. The First Amendment was recorded in the Official Records on July 11, 2016 in Book 333, Page 17.

**WHEREAS**, the Project is currently under construction.

**WHEREAS**, certain of the land subject to the IRB Lease Agreement and the Sublease will not be utilized in the Project; and El Cabo has requested that the Sublease and the IRB Lease Agreement be terminated solely as to the land which will not be used for the Project (the “**Excess Land**”), and that the Excess Land be released from the Indenture.

**WHEREAS**, Holdings, the Bond Purchaser, has consented to the partial termination of the IRB Lease Agreement and the Sublease as to the Excess Land and to the partial release from the Indenture of the Excess Land..

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, THE GOVERNING BODY OF THE COUNTY OF TORRANCE, NEW MEXICO:

**Section 1.** All actions (not inconsistent with the provisions hereof) heretofore taken by the Commission and the officers, agents, and employees of the County, related to the Partial Termination, be and the same hereby are ratified, approved and confirmed.

**Section 2.** The Commission understands that:

(A) The Excess Land is not necessary for the Project and that the Project will continue to be a Project within the meaning of the County Industrial Revenue Bond Act after the release of the Excess Land;

(B) The Bond Purchaser has consented to the release of the Excess Land;

(C) El Cabo has prepared the Partial Termination of Lease and Sublease and Release of Indenture attached hereto as Exhibit A (“**Partial Termination and Release**”) to effectuate the Purposes of this Resolution; and

(C) El Cabo has agreed to pay or reimburse the County for all legal counsel, and advisory expenses of the County directly related to adoption of this Resolution.

**Section 3.** The County Commissioners have considered and hereby approve the form of the Partial Termination and Release attached hereto as Exhibit A.

**Section 4.** The County Manager and other appropriate County officials and employees are hereby authorized to execute the Partial Termination and Release and the County Commissioners, the County Manager and other appropriate County officials and employees are

hereby authorized and empowered to take such other steps and to do such other things as may be necessary to achieve the purposes of this Resolution

**Section 5.** This Resolution shall not give rise to a pecuniary liability of the County and shall not give rise to a charge against its general credit or taxing powers.

**Section 6.** If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.


**Section 7.** All orders and resolutions, or parts thereof, in conflict with this Resolution are hereby repealed; provided, however, this repealer shall not be construed to revive any order, resolution or part thereof, heretofore repealed.

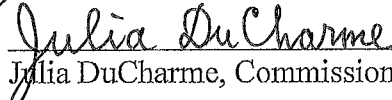
**Section 8.** This Resolution shall take effect immediately upon its adoption and approval by the Commission.


PASSED, ADOPTED, SIGNED AND APPROVED this \_\_\_\_\_ day of June, 2017.

BOARD OF COUNTY COMMISSIONERS, TORRANCE  
COUNTY, NEW MEXICO

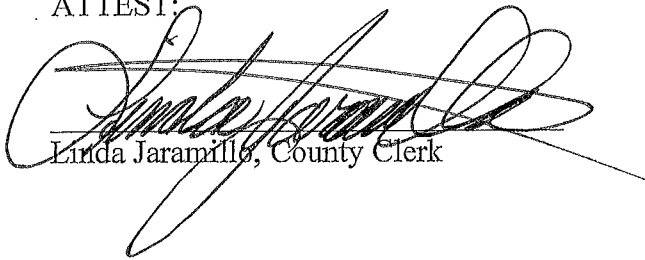


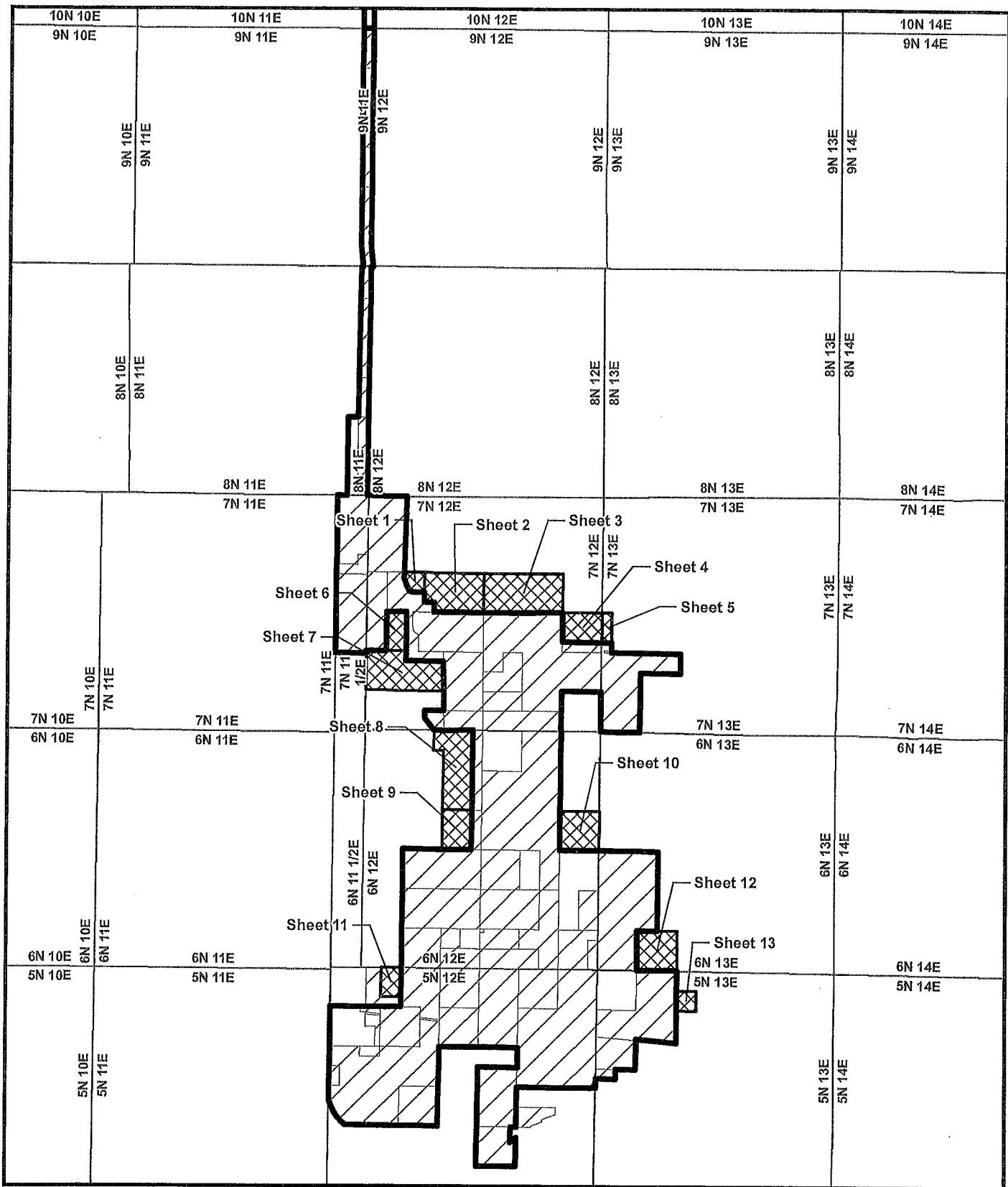
  
\_\_\_\_\_  
Jim Frost, Commissioner

  
\_\_\_\_\_  
Julia DuCharme, Commissioner

  
\_\_\_\_\_  
Javier Sanchez, Commissioner

[SEAL]  
ATTEST:

  
\_\_\_\_\_  
Linda Jaramilla, County Clerk



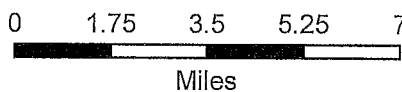
**Legend**

-  Released Land
-  Retained Land
-  El Cabo Site Boundary
-  Township/Range Boundary

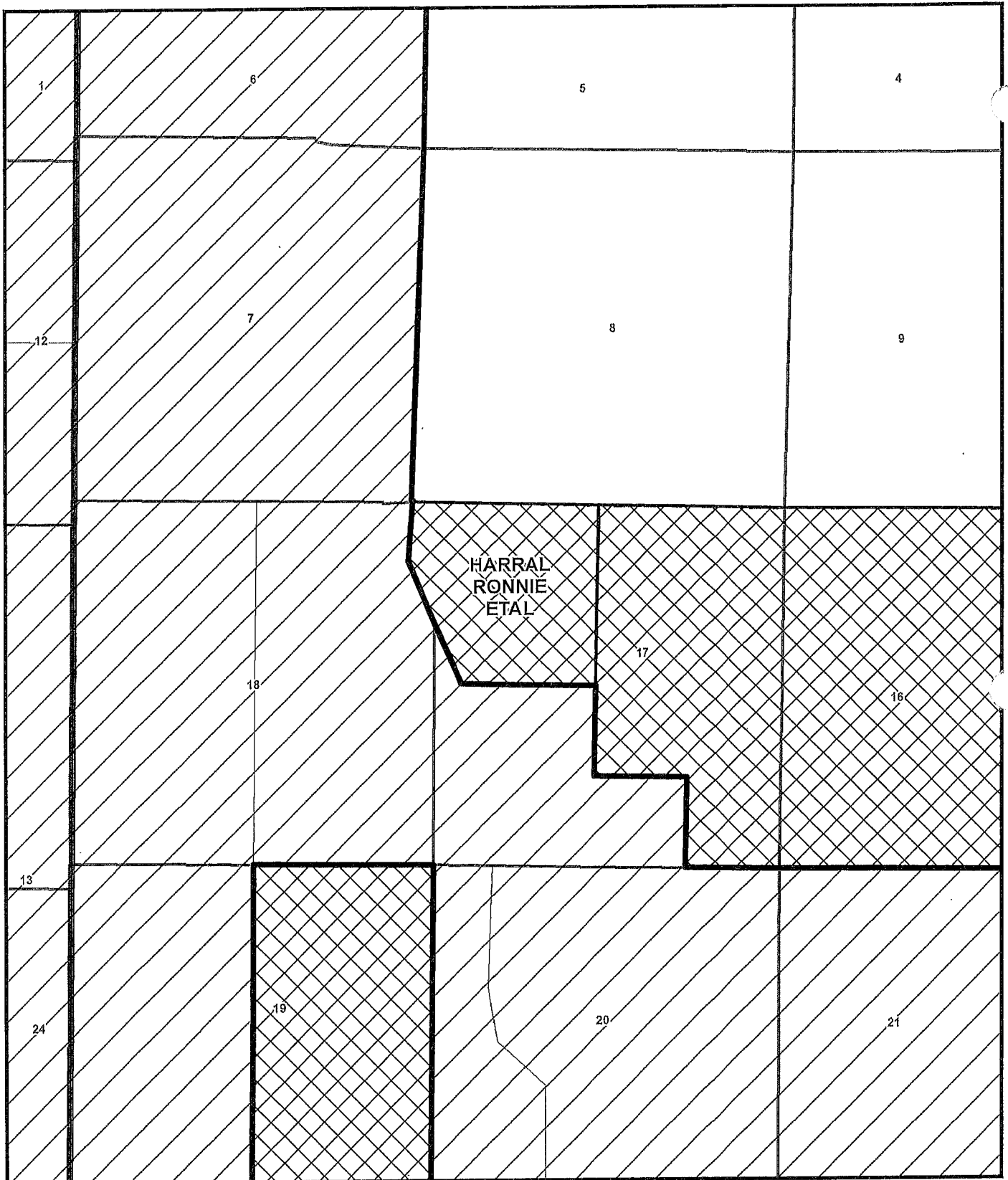


**Released Land Overview**

**El Cabo**

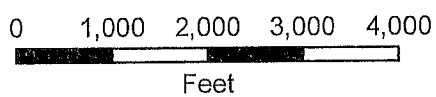


**AVANGRID  
RENEWABLES**



**Legend**

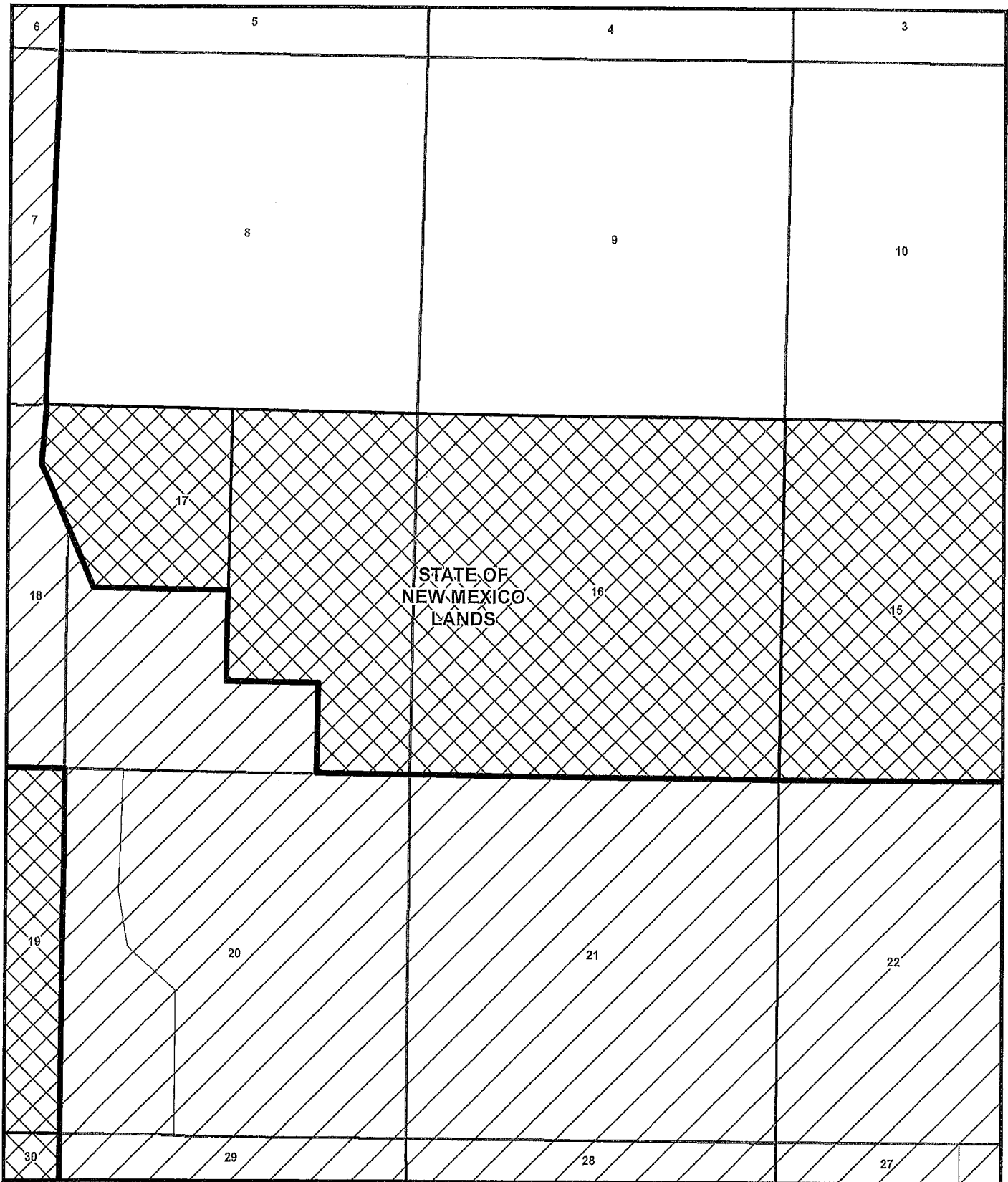
-  Released Land
-  Retained Land
-  El Cabo Site Boundary
-  Township/Range Boundary
-  Section








**Released Land**  
**El Cabo**  
 Sheet 1 of 13




**AVANGRID**  
**RENEWABLES**

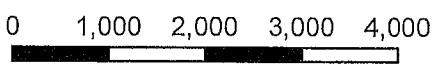


**Legend**

-  Released Land
-  Retained Land
-  El Cabo Site Boundary
-  Township/Range Boundary
-  Section




N

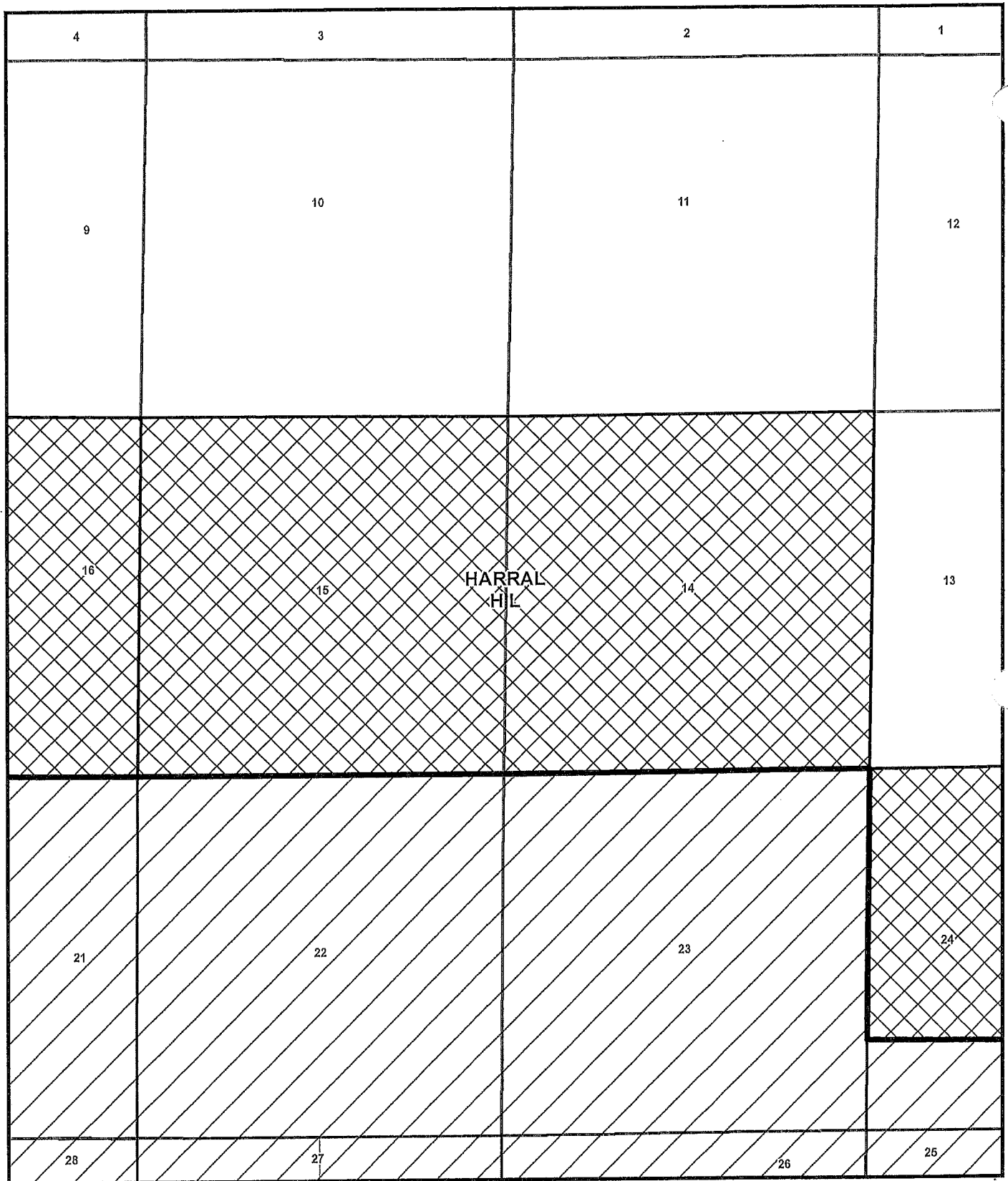


0 1,000 2,000 3,000 4,000  
Feet

**Released Land**  
**El Cabo**  
Sheet 2 of 13

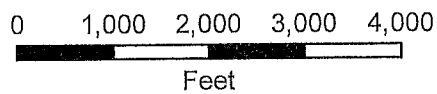


**AVANGRID**  
**RENEWABLES**



**Legend**

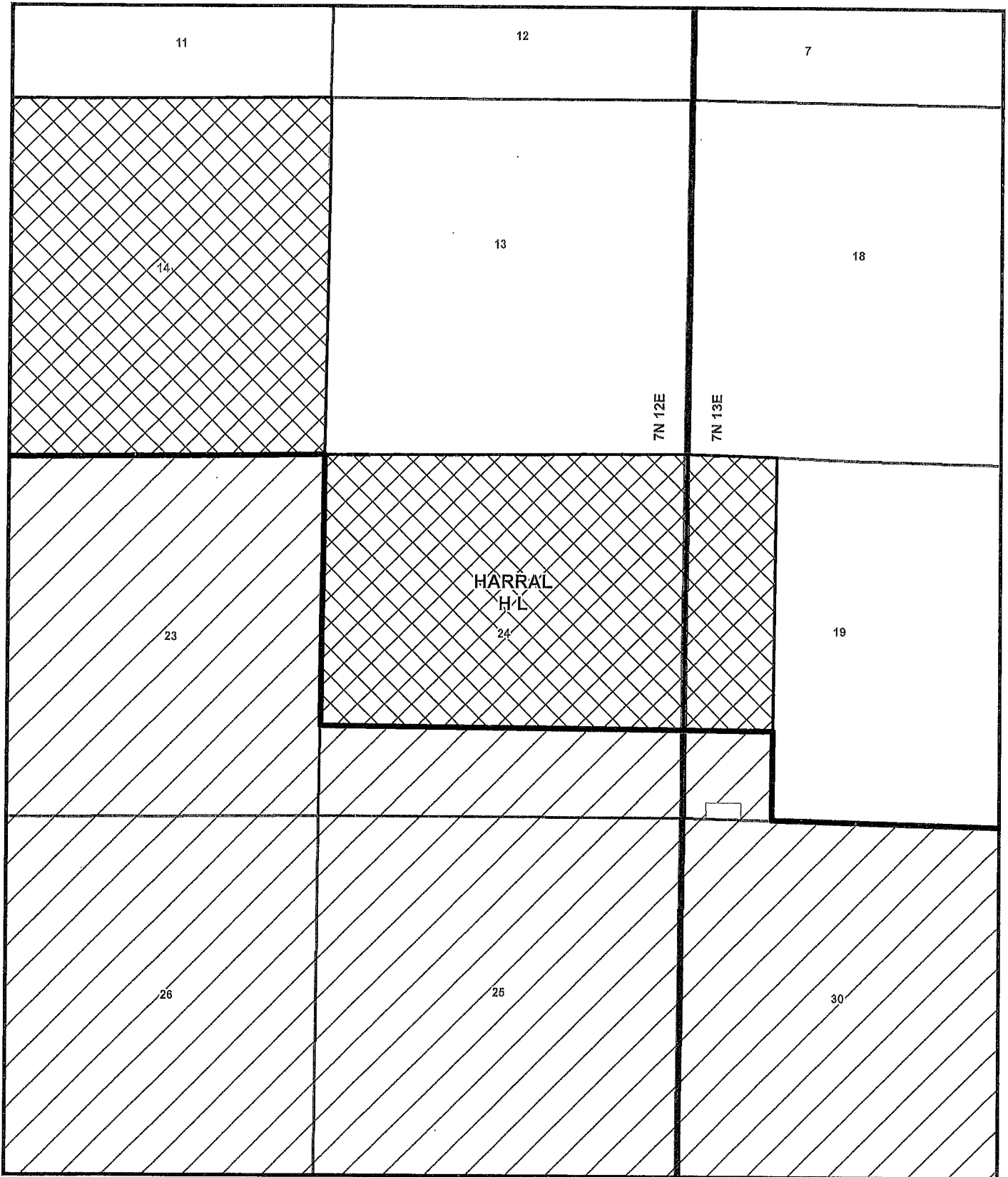
-  Released Land
-  Retained Land
-  El Cabo Site Boundary
-  Township/Range Boundary
-  Section








**Released Land**  
**El Cabo**  
 Sheet 3 of 13






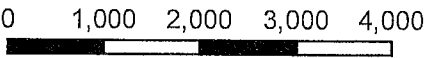


**Legend**

-  Released Land
-  Retained Land
-  El Cabo Site Boundary
-  Township/Range Boundary
-  Section




N

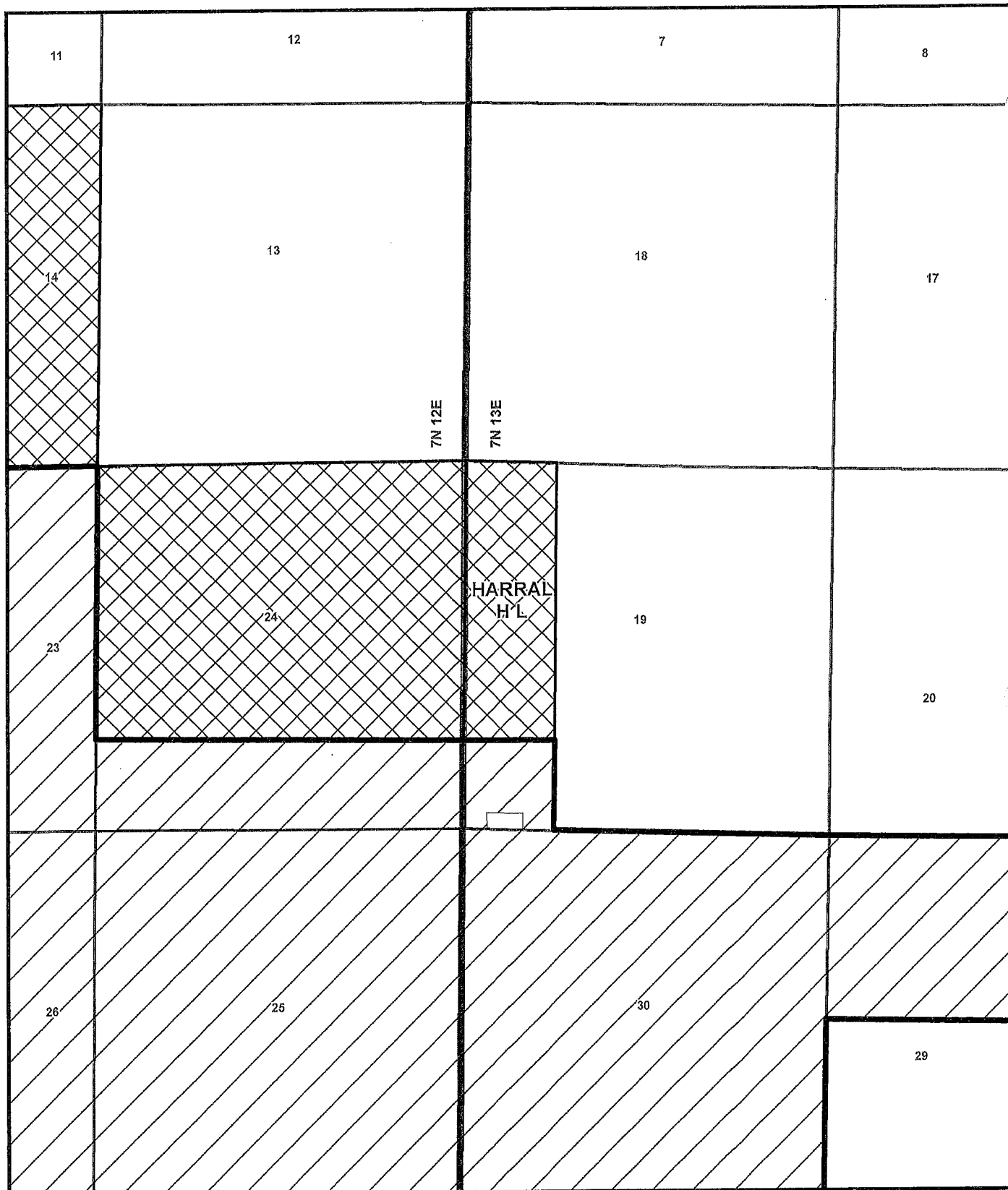


0 1,000 2,000 3,000 4,000  
Feet

**Released Land**  
**El Cabo**  
Sheet 4 of 13

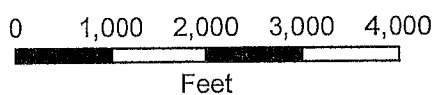


**AVANGRID**  
**RENEWABLES**



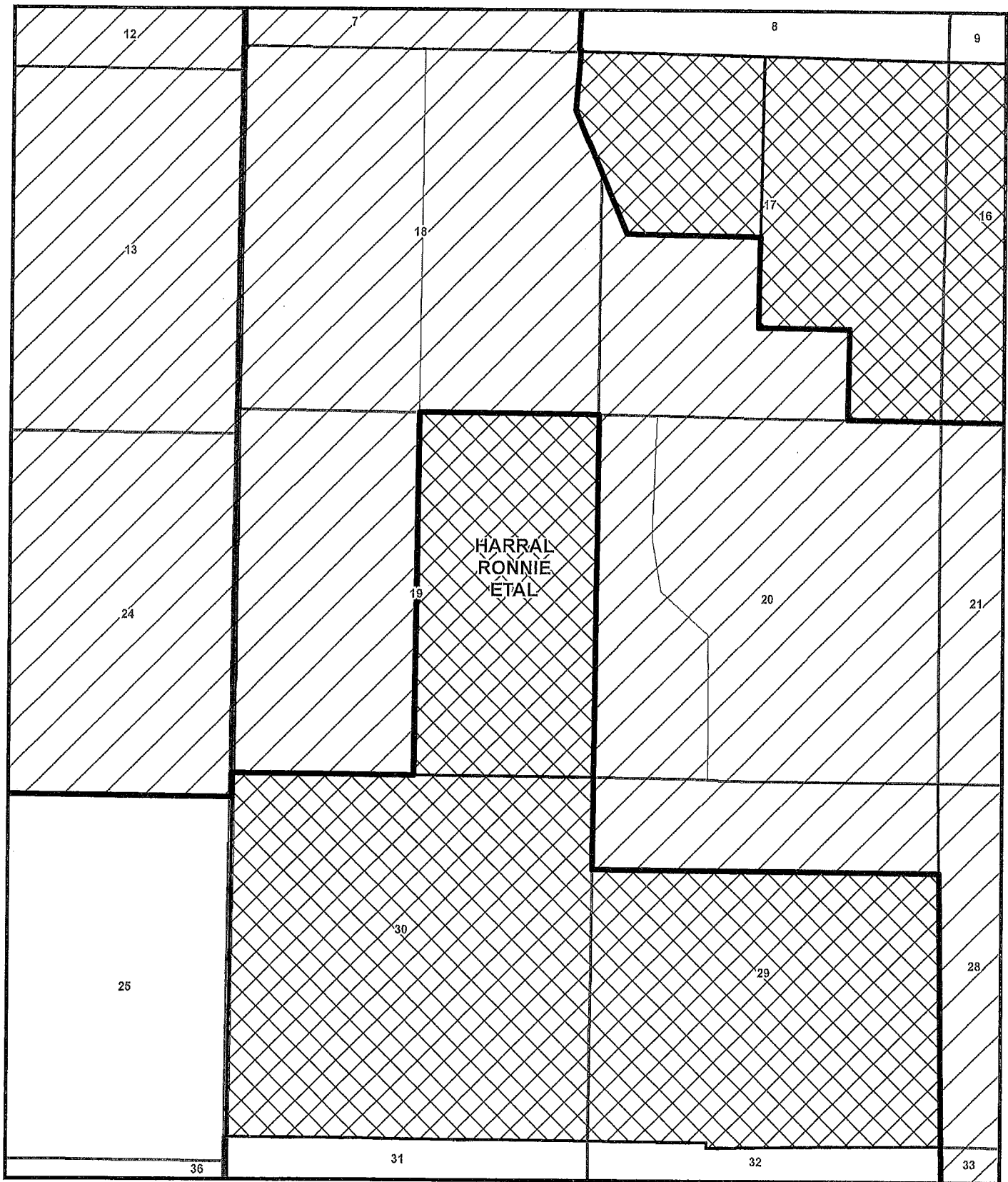
**Legend**

-  Released Land
-  Retained Land
-  El Cabo Site Boundary
-  Township/Range Boundary
-  Section








**Released Land**  
**El Cabo**  
 Sheet 5 of 13






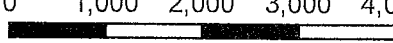
**Legend**

-  Released Land
-  Retained Land
-  El Cabo Site Boundary
-  Township/Range Boundary
-  Section

N




0 1,000 2,000 3,000 4,000



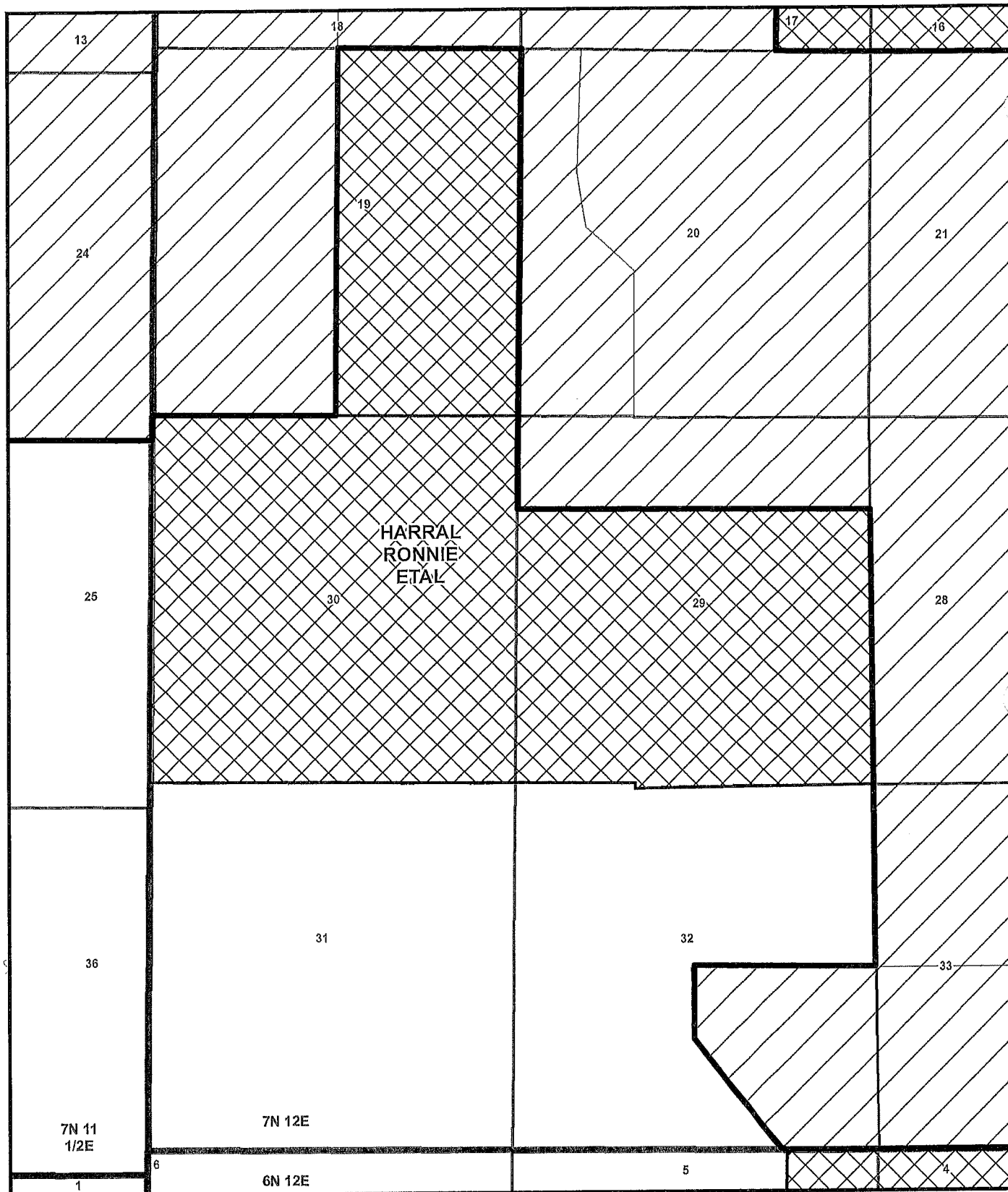
Feet

**Released Land**  
**El Cabo**  
 Sheet 6 of 13



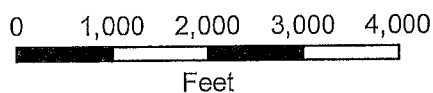
**AVANGRID**  
**RENEWABLES**

Path: \\borais01\GIS Data\Projects\NM\El Cabo\Map Documents\O-Drive\Lease Status\Released\_Lands\_Individual.mxd Modified Date: 6/2/2017



**Legend**

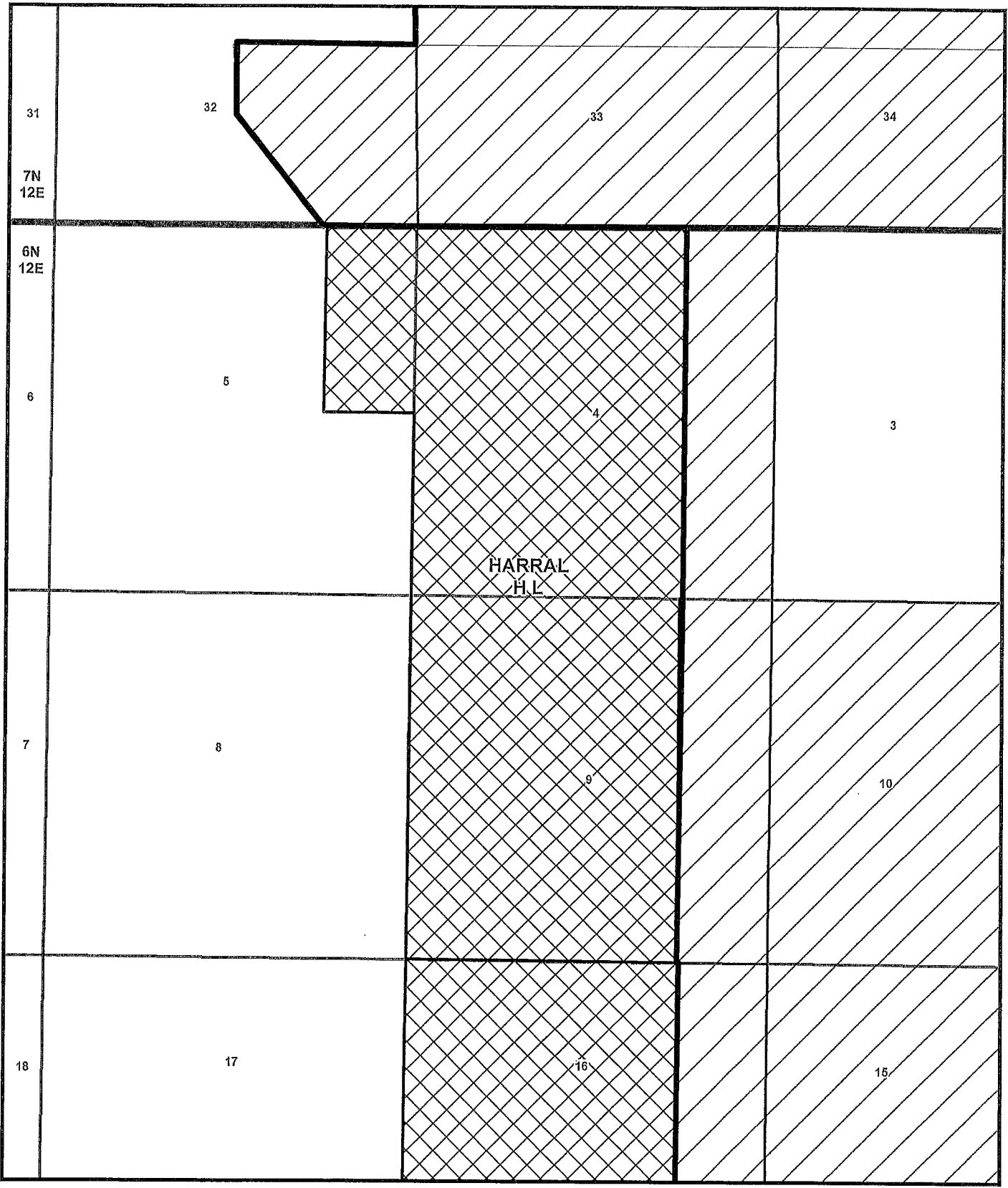
-  Released Land
-  Retained Land
-  El Cabo Site Boundary
-  Township/Range Boundary
-  Section








**Released Land**  
**El Cabo**  
 Sheet 7 of 13




**AVANGRID**  
**RENEWABLES**




**Legend**

-  Released Land
-  Retained Land
-  El Cabo Site Boundary
-  Township/Range Boundary
-  Section

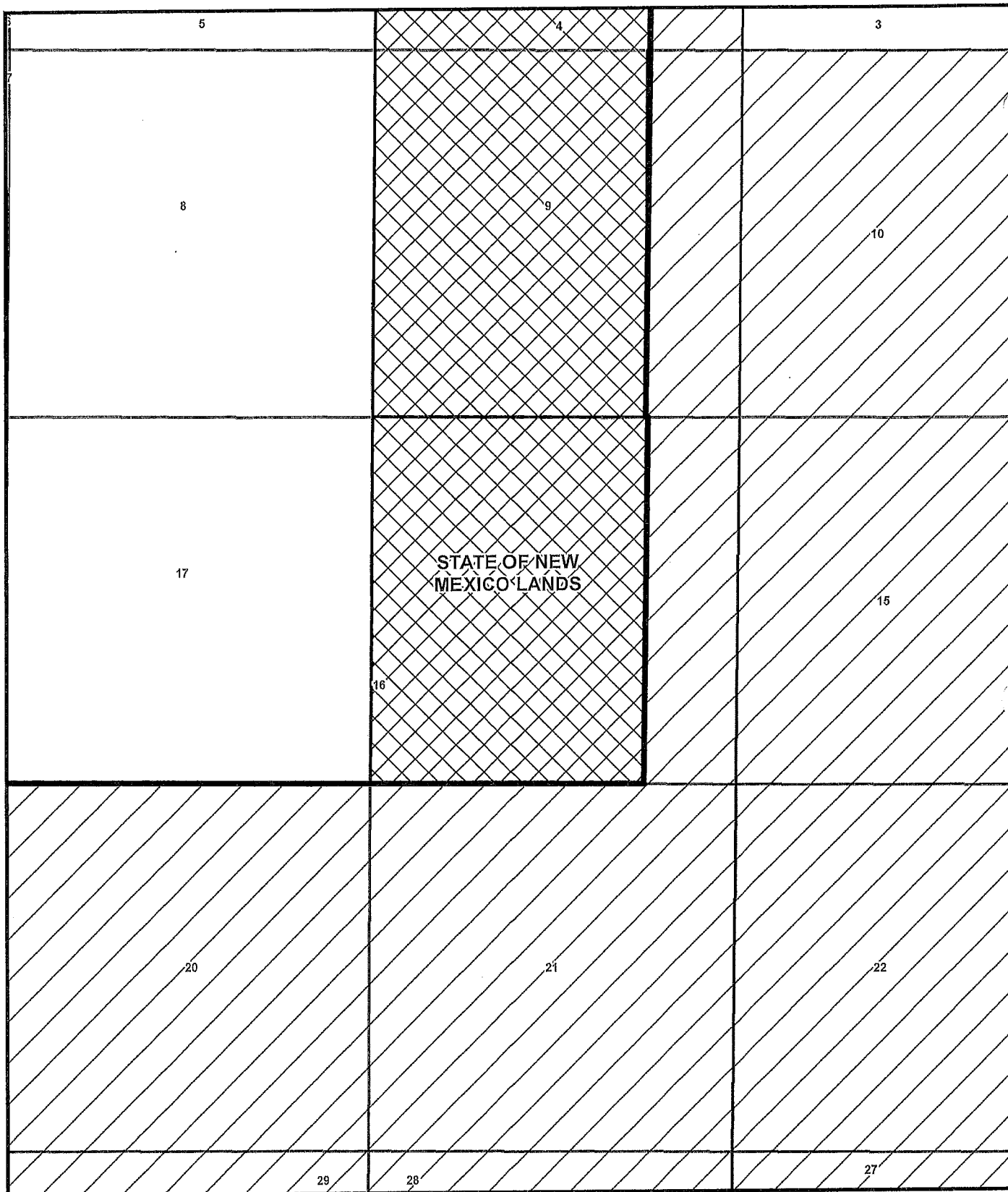


0 1,000 2,000 3,000 4,000  
Feet

**Released Land**  
**El Cabo**  
Sheet 8 of 13

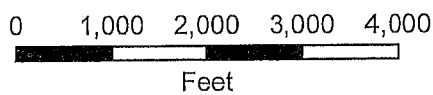


**AVANGRID**  
**RENEWABLES**



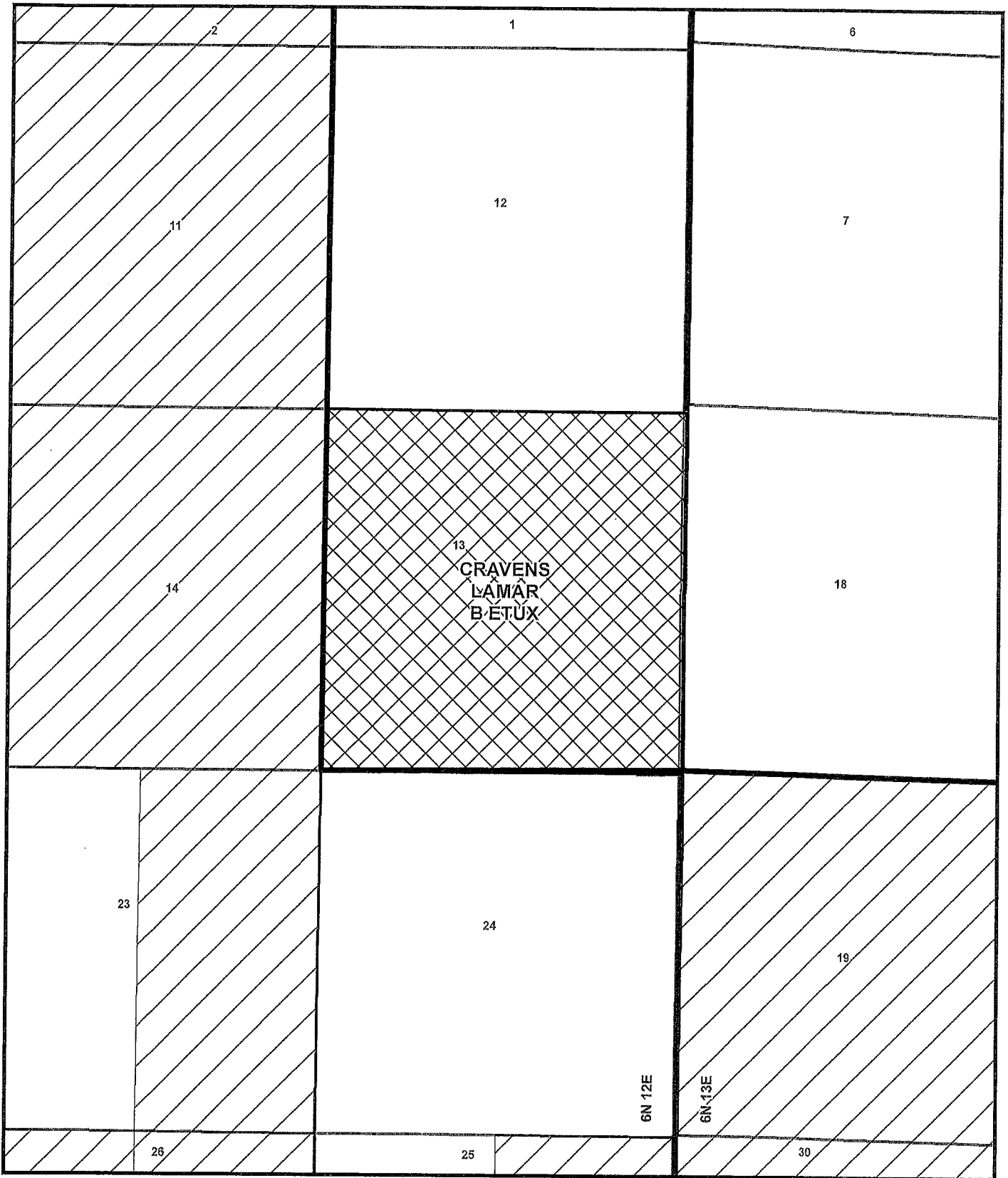
**Legend**

-  Released Land
-  Retained Land
-  El Cabo Site Boundary
-  Township/Range Boundary
-  Section









**Released Land**  
**El Cabo**  
 Sheet 9 of 13






**Legend**

-  Released Land
-  Retained Land
-  El Cabo Site Boundary
-  Township/Range Boundary
-  Section

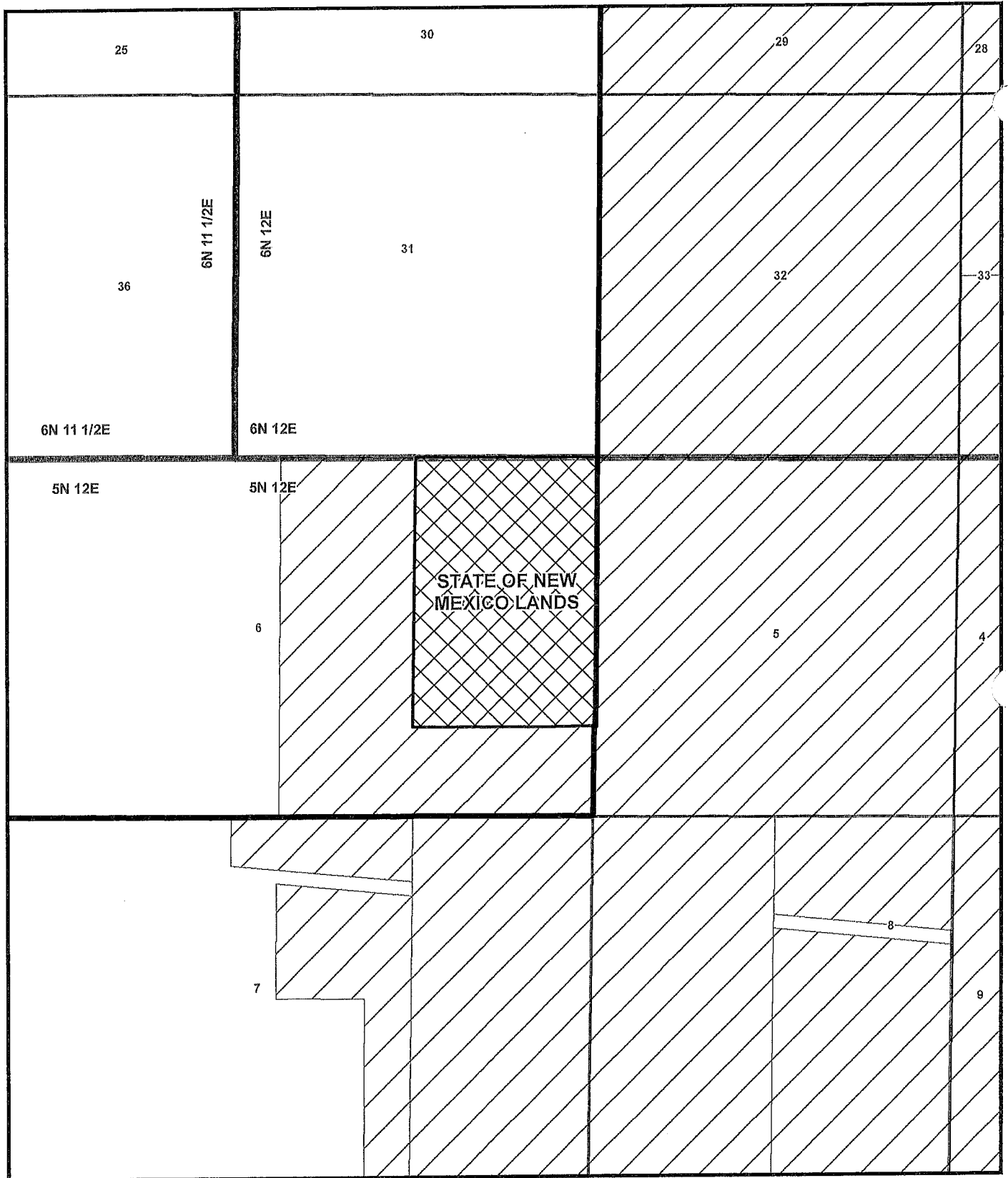


0 1,000 2,000 3,000 4,000  
Feet

**Released Land**  
**El Cabo**  
Sheet 10 of 13

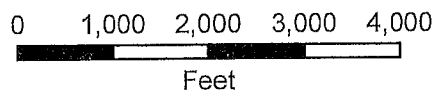


**AVANGRID**  
**RENEWABLES**

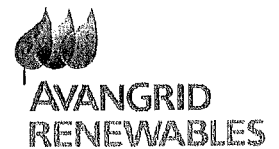


**Legend**

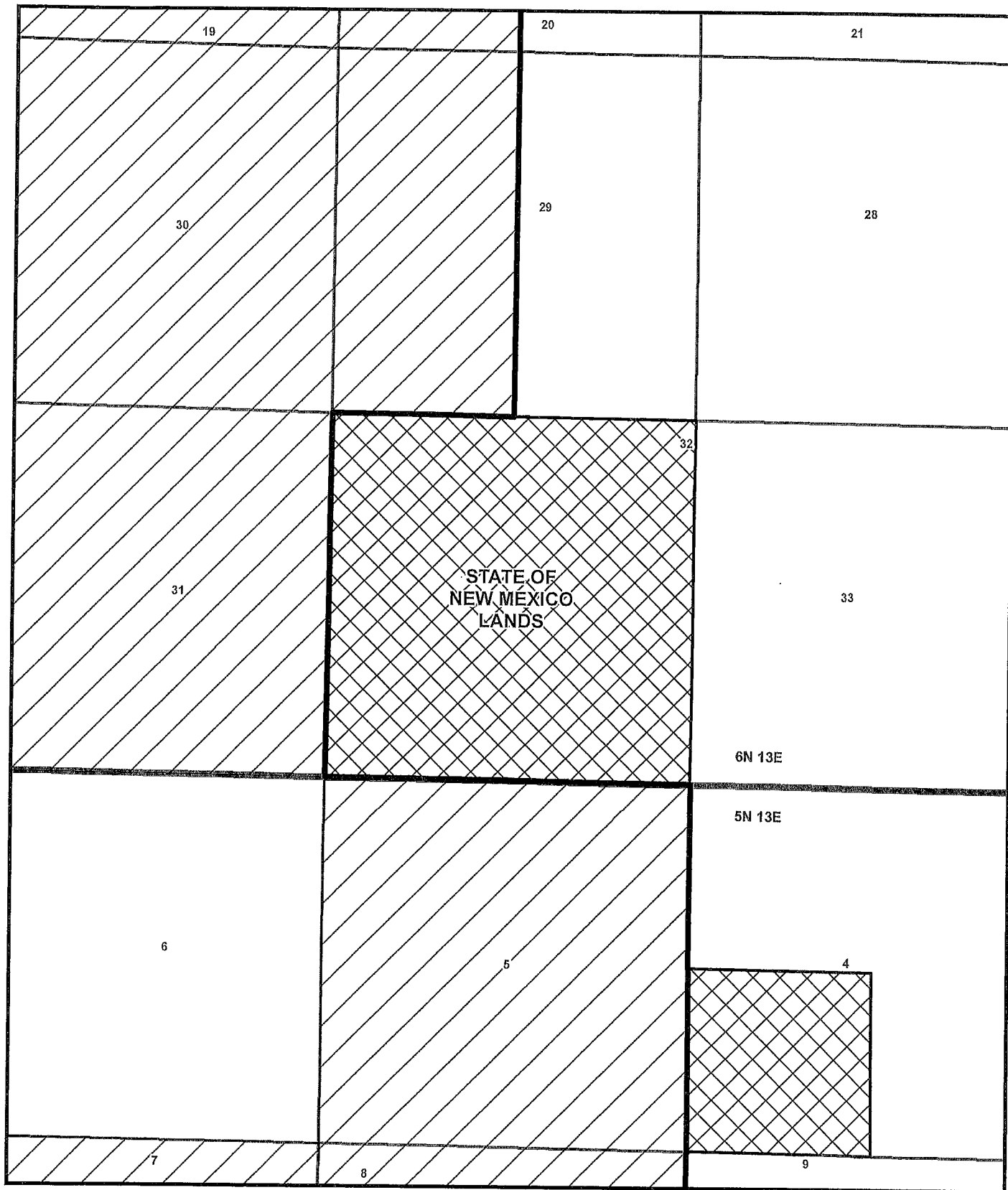
-  Released Land
-  Retained Land
-  El Cabo Site Boundary
-  Township/Range Boundary
-  Section








**Released Land**  
**El Cabo**  
Sheet 11 of 13






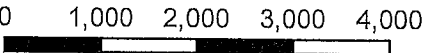


**Legend**

-  Released Land
-  Retained Land
-  El Cabo Site Boundary
-  Township/Range Boundary
-  Section




N

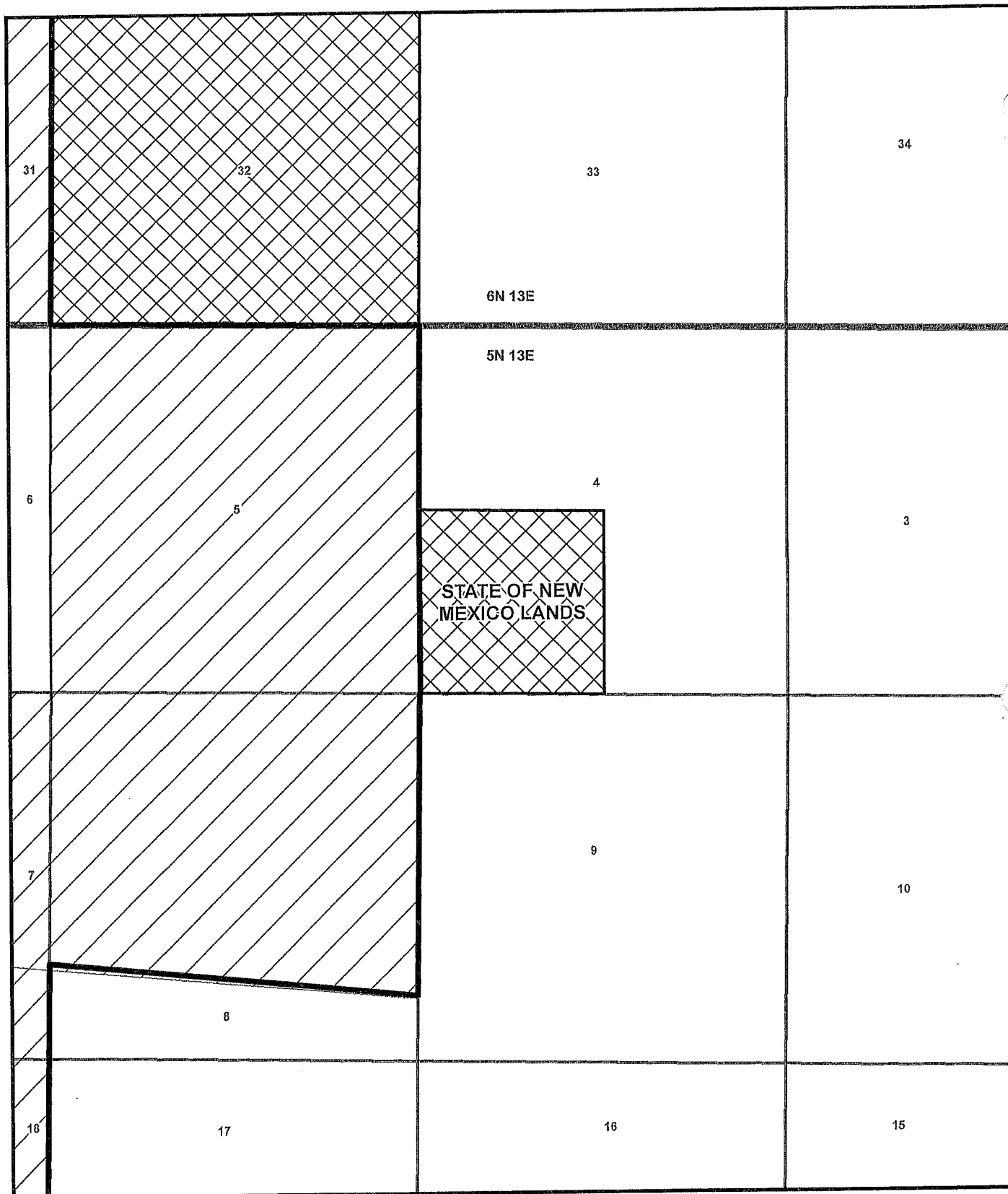


0 1,000 2,000 3,000 4,000  
Feet

**Released Land**  
**El Cabo**  
Sheet 12 of 13

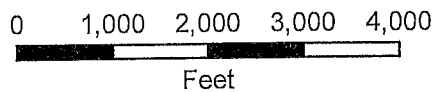


**AVANGRID**  
**RENEWABLES**



**Legend**

-  Released Land
-  Retained Land
-  El Cabo Site Boundary
-  Township/Range Boundary
-  Section



**Released Land**  
**El Cabo**  
 Sheet 13 of 13

