

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

In Re SRBA

Case No. 39576

A. Subcase 29-00036
(Insert water right number)

**STANDARD FORM 1
OBJECTION**

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: United States of America acting through the Department of Interior,
 Bureau of Land Management, Idaho State Office
Address: 1387 South Vinnell Way
 Boise, Idaho 83709-1657
Daytime Phone: see below
Name & Address of Attorney, if any:

Larry A. Brown (202) 305-0435 phone, (202) 305-0274 fax
 United States Department of Justice
 Environment and Natural Resource Division
 General Litigation Section
 550 West Fort Street, MSC 033
 Boise, Idaho 83724

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Dempsey Irrigation Co.; c/o Earl Smith
Address: P.O. Box 235; Lava Hot Springs, Idaho 83246
Name: Topaz Irrigation Co.; c/o Gene Fagnant
Address: P.O. Box 293; Lava Hot Springs, Idaho 83246
Name:
Address: ;
Name:
Address: ;

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**
Should be: _____
2. ☐ **Source**
Should be: _____
3. ☐ **Quantity**
Should be: _____
4. ☐ **Priority Date**
Should be: _____
5. ☐ **Point(s) of Diversion**
Should be: _____
6. ☐ **Instream Flow Description**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☒ **Place of Use**
Should be: See attached.
11. **I object because:**
 - ☐ This water right should not exist.
 - ☐ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S):

The United States of America, through the Bureau of Land Management, is the owner of the land upon which use is claimed. The claimant's use of Federal land is unauthorized. See attached POU. Claimant's water right should not include this POU.

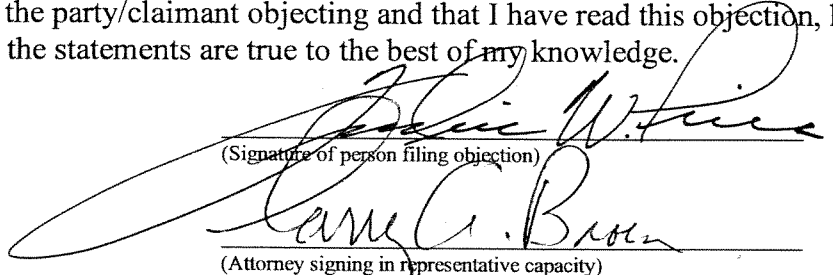
F.

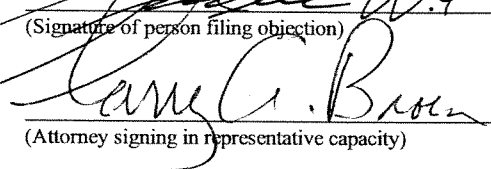
VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Ada)

Fredric W. Price, Water Rights Specialist, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

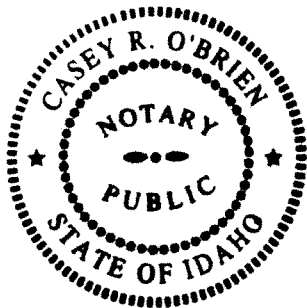
That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.


(Signature of person filing objection)


(Attorney signing in representative capacity)

Subscribed and sworn to before me on: 11/05/03


Casey R. O'Brien
Notary Public in and for the State of Idaho
Residing at: Nampa, ID.
My Commission Expires: 10-31-2009



INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the Court. **FAX filings will not be accepted.**
You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on Nov. 13, 2003, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

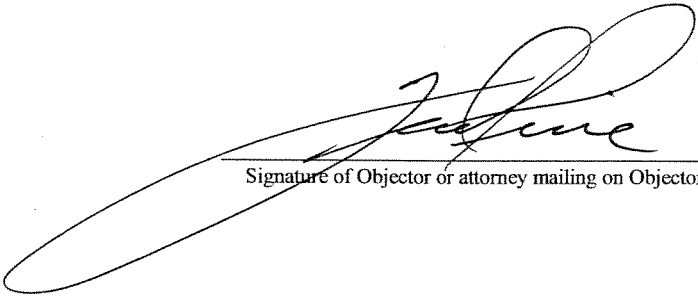
Name: Dempsey Irrigation Co.; c/o Earl Smith
Address: P.O. Box 235; Lava Hot Springs, Idaho 83246
Name: Topaz Irrigation Co.; c/o Gene Fagnant
Address: P.O. Box 293; Lava Hot Springs, Idaho 83246
Name:
Address: ;
Name:
Address: ;

3. Copies to:

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724



Signature of Objector or attorney mailing on Objector's behalf

07/10/2003

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 29-36
NAME AND ADDRESS: DEMPSEY IRRIGATING CO
C/O EARL SMITH
PO BOX 235
LAVA HOT SPRINGS ID 83246

TOPAZ IRRIGATION CO
C/O GENE FAGNANT
PO BOX 293
LAVA HOT SPRINGS ID 83246

POU ON BLM

-WHILE THE DIRECTOR'S REPORT DOES NOT SHOW THE PLACES OF USE FOR THIS CLAIM, THE DATA THAT THIS CLAIM WAS BASED ON HAS 3 PLACES OF USE, T09S R37E S25 NESE, T09S R38E S20 LOT 4 (SWSW), AND T09S R38E S28 NESW THAT ARE FEDERAL LAND. THESE 3 PLACES OF USE ARE TO BE DELETED FROM THE DATA AND THE SHAPEFILE CHANGED ACCORDINGLY.

SOURCE: PORTNEUF RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 32.000 CFS

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 39.5 CFS. COMBINED RIGHT NOS.: 29-36, 29-37 AND 29-11773

PRIORITY DATE: 04/18/1898

UNAUTHORIZED USE

-FARMING IS NOT AUTHORIZED ON PUBLIC LANDS

POINT OF DIVERSION: T08S R38E S28 SWNESW Within BANNOCK County

PURPOSE AND PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	4/15 9/15	32.000 CFS

PLACE OF USE:

Place of use is within the area served by the Dempsey Irrigating Company.

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 1429.8 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 29-36, 29-37, 29-180, 29-11773.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS RIGHT IS SUBJECT TO REGULATION BY THE WATERMASTER OF WATER DISTRICT #29.

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

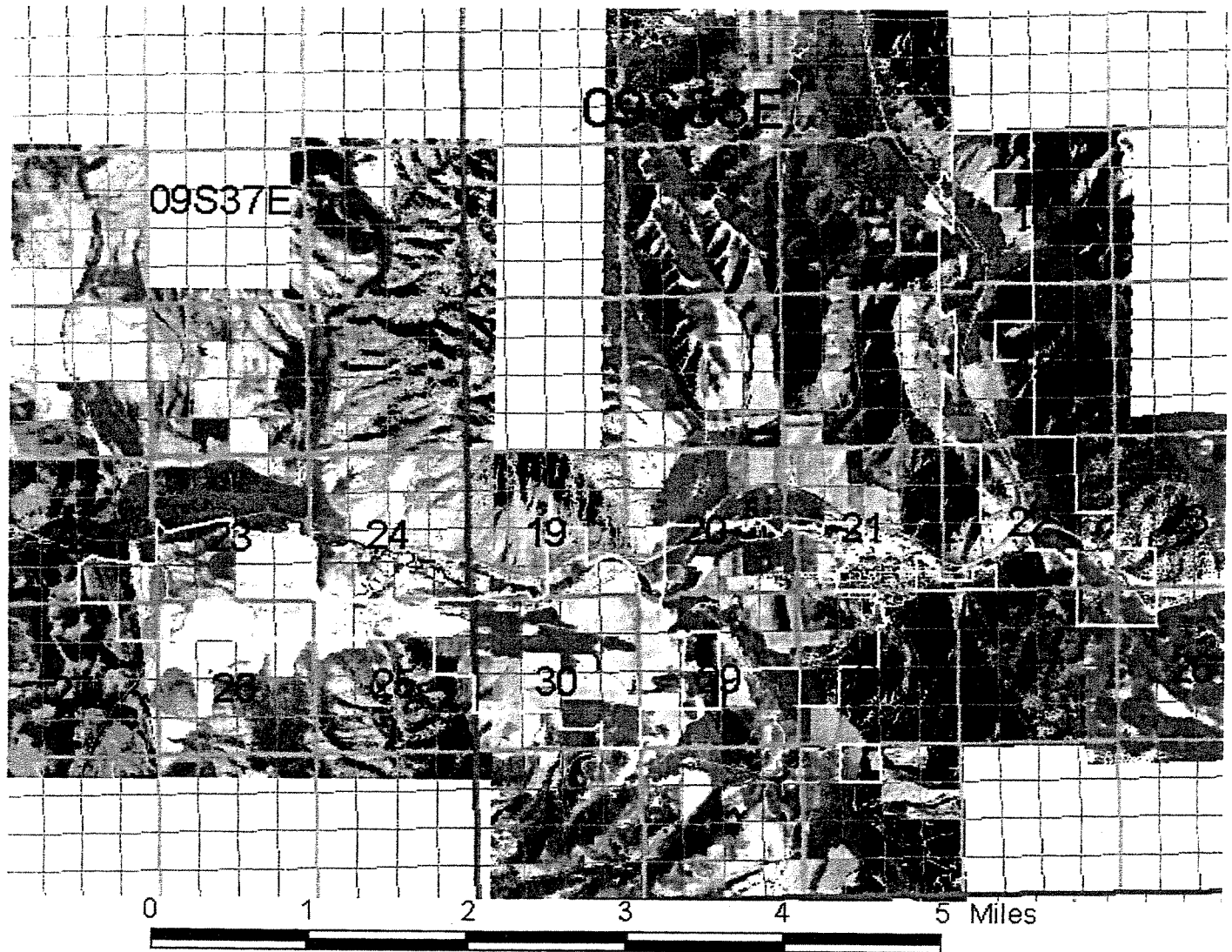
TOPAZ IRRIGATION CO. OWNS 51% OF DEMPSEY-TOPAZ CANAL SYSTEM. FISH CREEK IRRIGATING CO. IS ALSO CARRIED IN THIS SAME CANAL SYSTEM FROM FISH CK POINT OF DIVERSION TO NESENW SEC.28 T9S R38E WHERE IT IS SPLIT OFF THE CANAL SYSTEM AND BECOMES ITS OWN ENTITY.

RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.



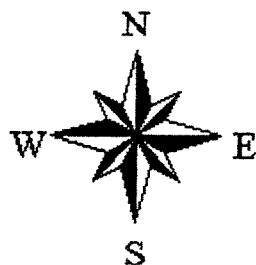
Department of Water Resources

Claim No.,: 29-36, 29-37
29-11773



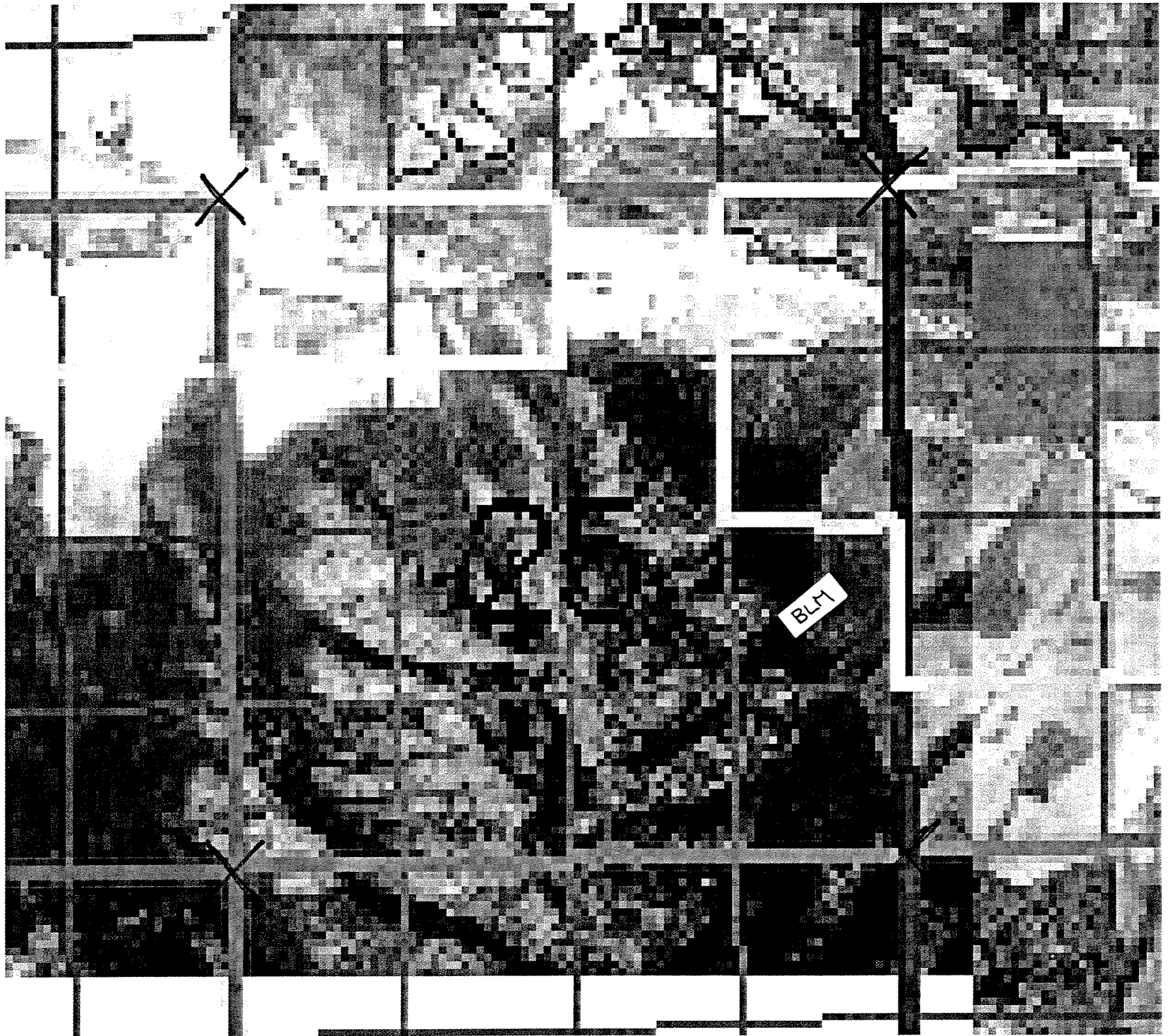
Irrigated Acres = 1429.8

- Company boundary.shp
- Townships
- Sections
- QQ

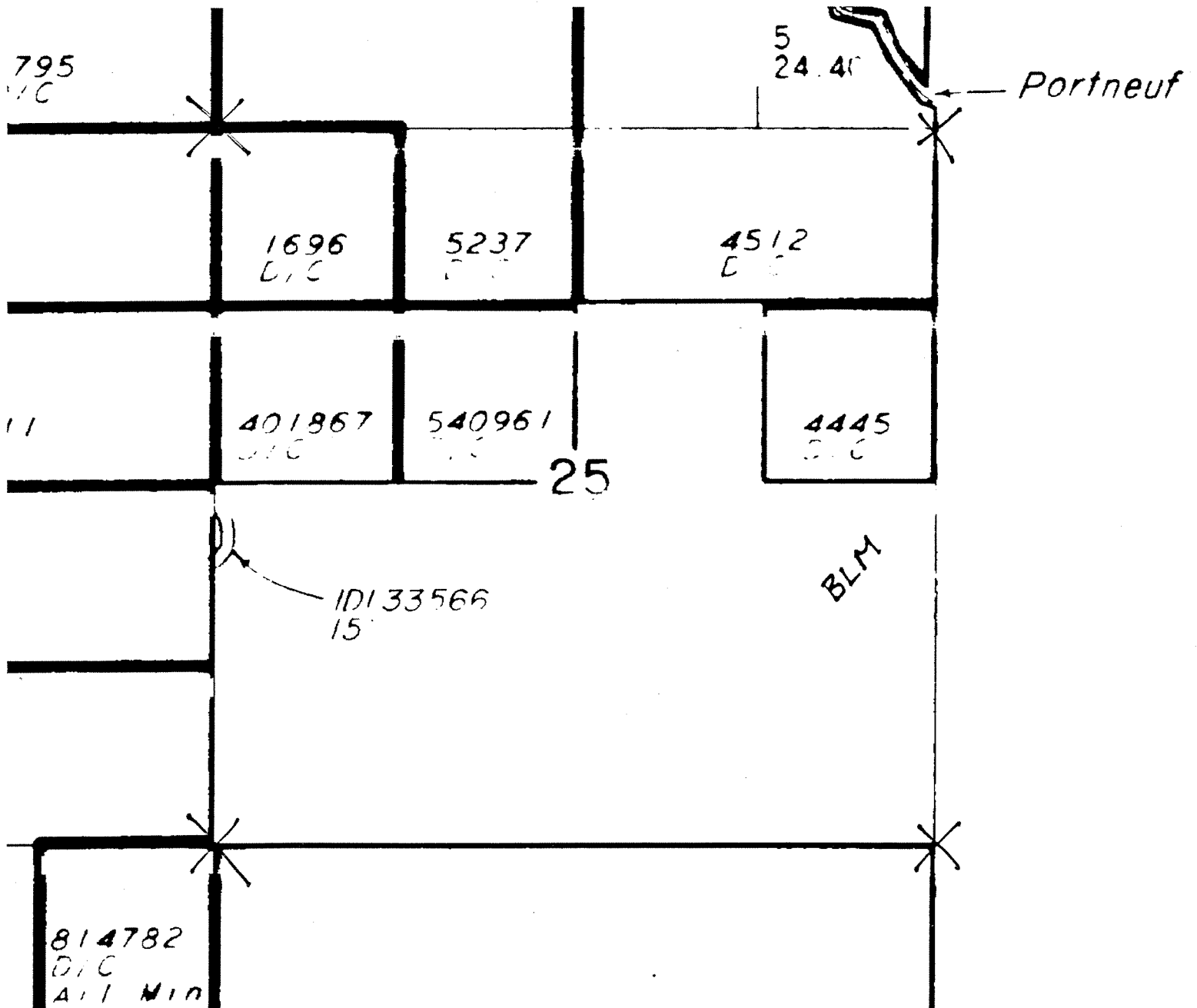


GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepare by: A. Ruberry
Date: February 2003

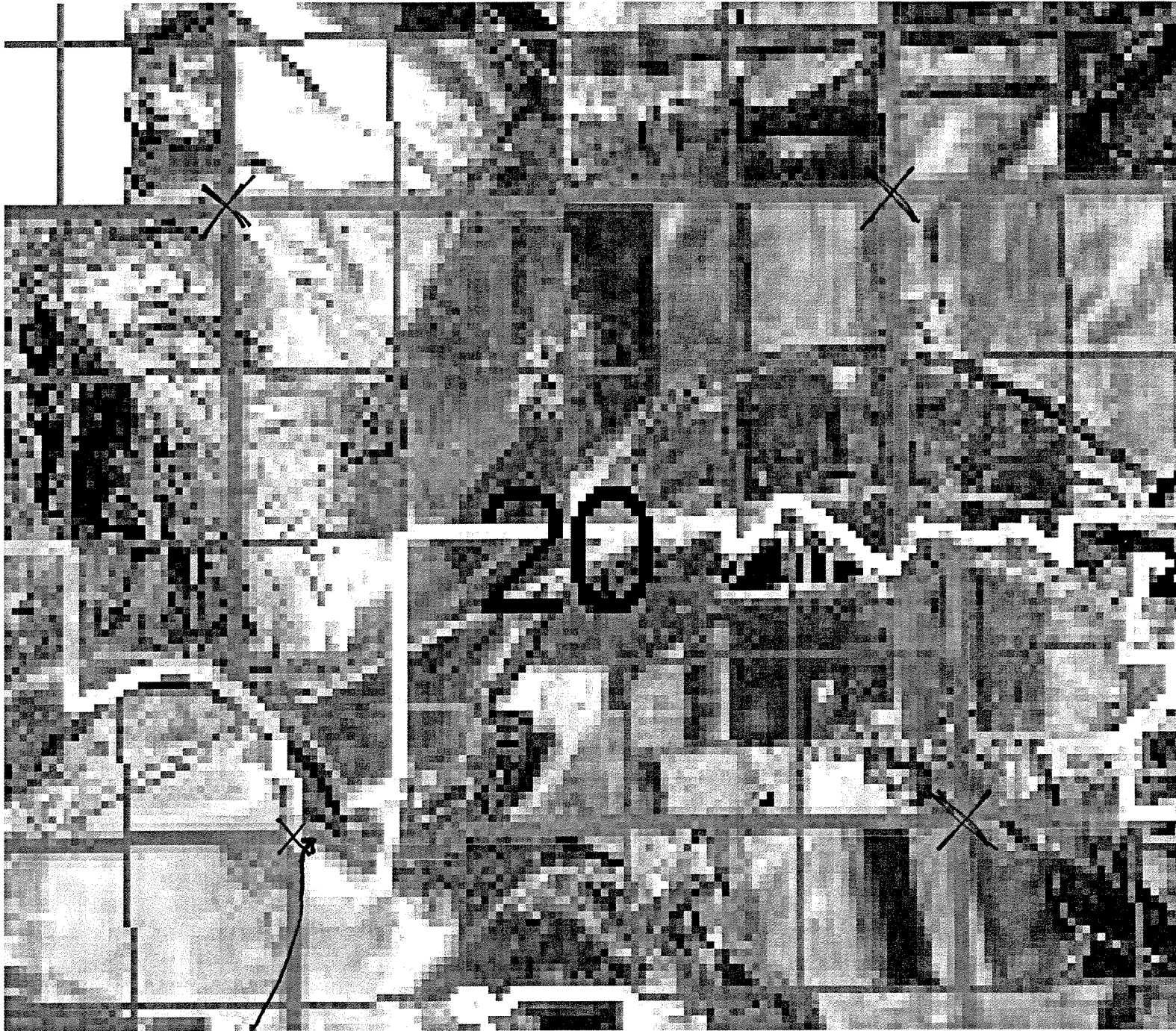
T09S R37E S25 NESE



T09S R37E

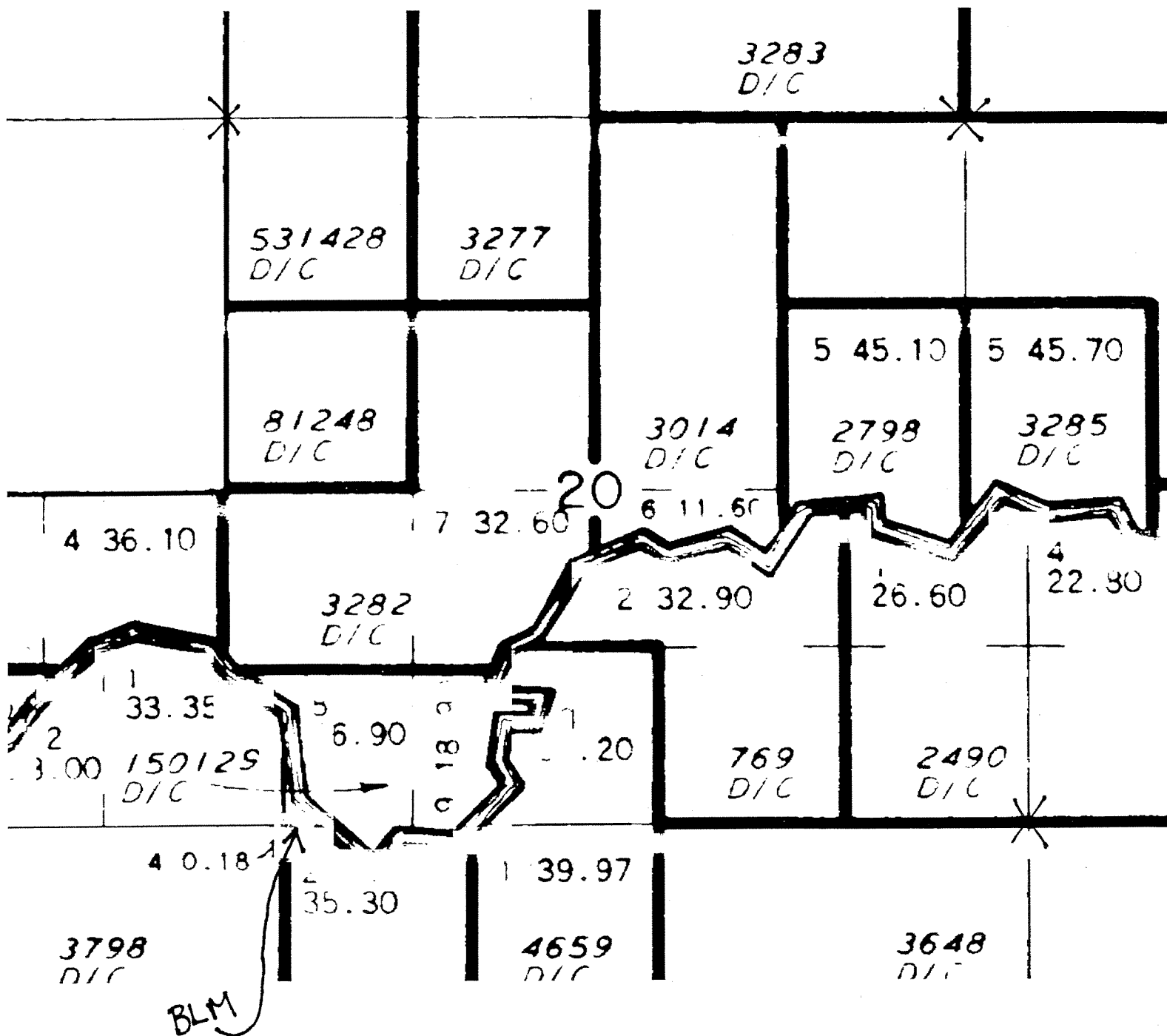


TD9S R38E S20 Lot 4 (SWSW)



BLM

T09S R38E



T09S R38E S28 NESW



T09S R38E

2490
D/C

2 31.45

1
20.20



3648
D/C

4360
D/C

566266
D/C

738
/C

553251
D/C

28

NESW
BLM

694357
D/C

1067
D/C

3649
D/C

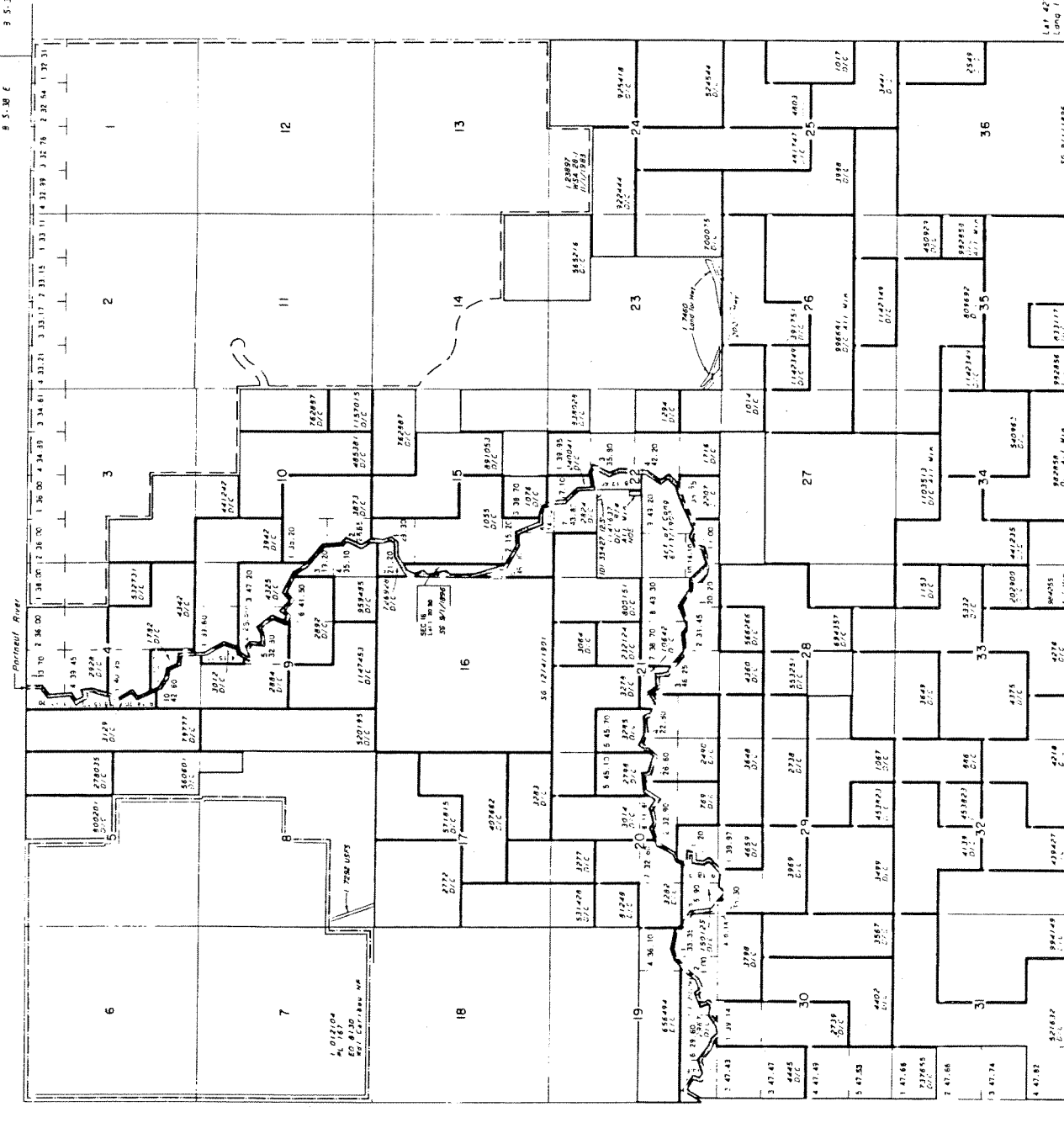
1153
D/C

TOWNSHIP 9 SOUTH RANGE 30 EAST OF THE ROUSE MERIDIAN, IDAHO
 T09S R30E

BANNOCK COUNTY 005
 IDAHO FALLS DISTRICT SEC 3
 POCAHELLO RAN

STATUS OF PUBLIC DOMAIN
 LAND AND MINERAL TITLES

8 5.38 E 9 5.38 E



MT PLAT

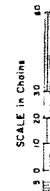
INDEX TO SEGREGATED TRACTS			
TRACT NO.	T	R	SEC.
1	9	30	3
2	9	30	3
3	9	30	3
4	9	30	3
5	9	30	3
6	9	30	3
7	9	30	3
8	9	30	3
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31	9	30	3
32	9	30	3
33	9	30	3
34	9	30	3
35	9	30	3
36	9	30	3

1. DICTOR Del PL 67 (Act of Cong 7/23/1955)
 Enrolled 6/28/1956. All NE Surface Mgmt By USFS

1. 1979 Sines Act 1/27/1982
 Sec 29: 5/1/2001/4
 Sec 28: NE/18M/4

FOR IDENTIFICATION: DICTOR Del PL 67 OF
 UNIDENTIFIED LANDS REFER TO INDEX OF
 MISCELLANEOUS DOCUMENTS

CURRENT TO	CURRENT TO
ALIC. 2. 700	ALIC. 2. 700
10/17/1982	10/17/1982
10/17/1982	10/17/1982



SCALE in Miles

10 5.38 E

10 5.38 E

Base Map

THE NOTATION SHOWN ON WITHDRAWALS REPRESENT THE LAST
 ACTION TAKEN BUT MAY NOT BE THE EFFECTIVE DATE. SEE
 THE HISTORICAL INDEX FOR THE DATE OF THE ORIGINAL WITH-