

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 Number: 2-64  
(Insert water right number)

STANDARD FORM 1  
OBJECTION

RECEIVED

DEC 06 2007

DEPARTMENT OF  
WATER RESOURCES

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Gem Irrigation District  
Address: P. O. Box 67  
Homedale, Idaho 83628

Daytime Phone: 208-337-3505

Name and Address of Attorney, if any:

Attorney Name: Albert P. Barker

Attorney Address: P. O. Box 2139  
Boise, ID 83701-2139

Attorney Phone No. 208-336-0700  
Idaho State Bar # 2867

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

Name: Gem Irrigation District  
Address: P.O Box 67  
Homedale, Idaho 83628

Daytime Phone: 208-337-3505

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: Include original licensed, alternative POD at T2N, R5W, Sec. 32, NWSE
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: 22594 acres as shown on attached POU map. and should add all those irrigated acres not found in the recommendation. See attached exhibit.

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):** See attached letter from IDWR to Mr. Geertson, Gem Irrigation District, dated December 16, 1992, regarding point of diversion. See attached map for proper POU.

F.

VERIFICATION

State of IDAHO           )  
                                  ) ss.  
County of Twin Falls )

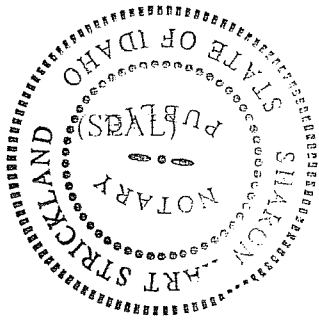
Paul L. Arrington, duly sworn, upon oath, deposes and says:

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, and I have been expressly authorized to sign this objection on behalf of the attorney for Big Wood Canal Company.

\_\_\_\_\_  
(Signature of person filing objection)

\_\_\_\_\_  
(Attorney signing in representative capacity)

Subscribed and sworn to before me on: December 5, 2007



\_\_\_\_\_  
Notary Public for: Idaho  
Residing at: Twin Falls *Hoodie*  
My Commission Expires: 12-22-09

## 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.

## CERTIFICATE OF MAILING

I certify that on December 5<sup>th</sup>, 2007, I hand-delivered and mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original hand-delivered to:

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

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

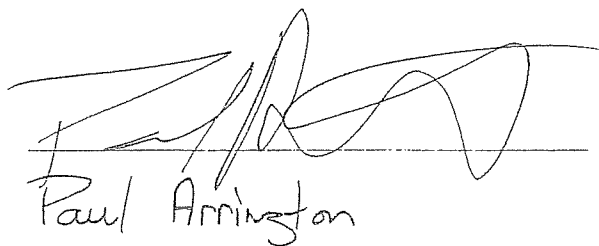
Name: Gem Irrigation District  
Address: P.O Box 67  
Homedale, Idaho 83628

3. Copies mailed to:

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

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

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



Paul Arrington



State of Idaho  
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

CECIL D. ANDRUS  
GOVERNOR

R. KEITH HIGGINSON  
DIRECTOR

December 16, 1992

Mr. Ron Geertson, et al  
Rt. 1, Box 1333  
Homedale, ID 83628

RE: Reinstatement of a Point of Diversion by Gem Irrigation District

Dear Mr. Geertson:

I am in receipt of a letter signed by yourself and six other individuals in which you identified some concerns relative to Gem Irrigation District's actions to renew a point of diversion northwest of Homedale. I will respond to your questions in the order they were addressed in your letter.

1. Does Gem Irrigation District need authorization from the IDWR to move 25-30 cfs of the water right to Homedale?

Licensed water right No. 02-02014 identifies two points of diversion, one near Marsing (NENW Sec. 14, T 2 N, R 4 W) and the other near Homedale (NWSE Sec. 32, T 4 N, R 5 W), with a rate of diversion of 306 cfs, and with no restriction regarding the rate of flow to be diverted from each location. Licensed water right No. 02-02276 identifies only the Marsing point of diversion, for an additional 50 cfs. The total water right from the Snake River in the name of Gem Irrigation District is 356 cfs.

Consistent with the description in your letter, it is my understanding that in the 1930's or 1940's the diversion of water from the Snake River by Gem Irrigation District was consolidated at the diversion site near Marsing. It is my understanding that the site near Homedale has been unused since then.

This summer the manager of Gem Irrigation District, Mr. Clyde Hutton, visited our offices to determine what action, if any, would be needed to reconstitute the point of diversion near Homedale. We researched the water rights at the sites, discovered the recorded point of diversion at Homedale, and determined that if (1) the total rate of diversion of 356 cfs has been used periodically since the licenses were issued (so there has been no forfeiture of any portion of the water right), and (2) the total rate of diversion after the Homedale pumps are replaced does not exceed 356 cfs, then the only filing required by Gem Irrigation District is to amend the adjudication claim to show both points of diversion. This action can be completed at no charge to the district, and it does not have

Roth Page 378-5382

JAN shorts - 334-2190

John Lindgren - 287-4850 - hydrogeologist  
Darth Nuttin 287-4854 -

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to be accomplished until the Department is preparing the Director's Report for the Snake River mainstem.

Mr. Hutton felt that that the proposed reinstatement of the Homedale pumping plant would comply with these conditions because the output of the pumps has diminished over recent years. The pumping plant output was measured by District personnel to produce 371.49 cfs on May 27, 1964 according to the field report in the Department's file for License No. 02-02276. In comparison, according to information provided by the U.S. Geological Survey the maximum daily output of the pumping plant at Marsing was 319 cfs for water year 1992, and 321 cfs for water year 1991 (see discharge values enclosed). This is likely due in part to pump wear, but is also due in part to the lowered stage of the Snake River due to drought-reduced flows.

After receiving your letter, Mr. Geertson, as a double check I contacted Department chief counsel Mr. Phillip Rassier, who confirmed that he is not aware of any provision whereby the use of a point of diversion can be forfeited in conjunction with a water right for which the full rate of flow is appropriated at one or more of the remaining points of diversion.

2. Is the pumping plant at Marsing producing less than 356 cfs so that water is available within the water right to be transferred?

See the response above.

3. If the full amount of the 356 cfs has not been used, is that water still available for appropriation after over 50 years of non-use?

Based on the measurement of 371.49 cfs on May 27, 1964 and on the data reported by the USGS, it appears that 356 cfs could possibly have been used within the past 5 years. If this is the case, the addition of another 25-30 cfs at Homedale would be acceptable if the total diversion does not exceed 356 cfs.

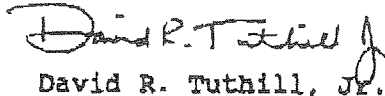
4. What liabilities are the Directors creating for themselves and Gem Irrigation District by proceeding with a new diversion of water from the Snake River without authorization from the IDWR and other agencies?

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I view the proposed action by Gam Irrigation District as being similar to a wateruser replacing a worn-out pump. I do not know of any approvals required by the District to complete the proposed action, assuming that the rights-of-way are still in place.

Mr. Geertson, after you and your associates review this response, please feel free to contact me regarding any aspect of this letter. In order to fully explore this subject I am sending copies of this letter to Mr. Hutton, and to Mr. Luke of our State Office.

Sincerely,



David R. Tuthill, Jr., P.E.  
Manager, Western Regional Office

Enclosures

cc: Clyde Hutton, GID  
✓ Tim Luke, IDWR

# LIST OF IRRIGATED ACRES NOT FOUND ON RECOMMENDATION

## T. 2N., R. 4W.

|        |      |    |
|--------|------|----|
| SEC 7  | NWNW | 10 |
| SEC 8  | SWSW | 35 |
|        | SESW | 35 |
| SEC 9  | SESW | 31 |
| SEC 17 | NWNW | 15 |
| SEC 18 | NENE | 15 |
|        | NWNE | 30 |

## T. 3N., R. 4W.

|        |                 |     |
|--------|-----------------|-----|
|        | CITY OF MARSING | 242 |
| SEC 18 | NESW            | 2   |
|        | NWSE            | 13  |
|        | SWSE            | 40  |
| SEC 19 | SWSW            | 15  |
|        | SESW            | 20  |
| SEC 30 | NENE            | 40  |
|        | NWNE            | 40  |
|        | SWNE            | 40  |
|        | SENE            | 40  |
|        | NWNW            | 10  |
|        | NESW            | 5   |
|        | NWSW            | 30  |
|        | SWSW            | 35  |

## T. 2N., R. 5W

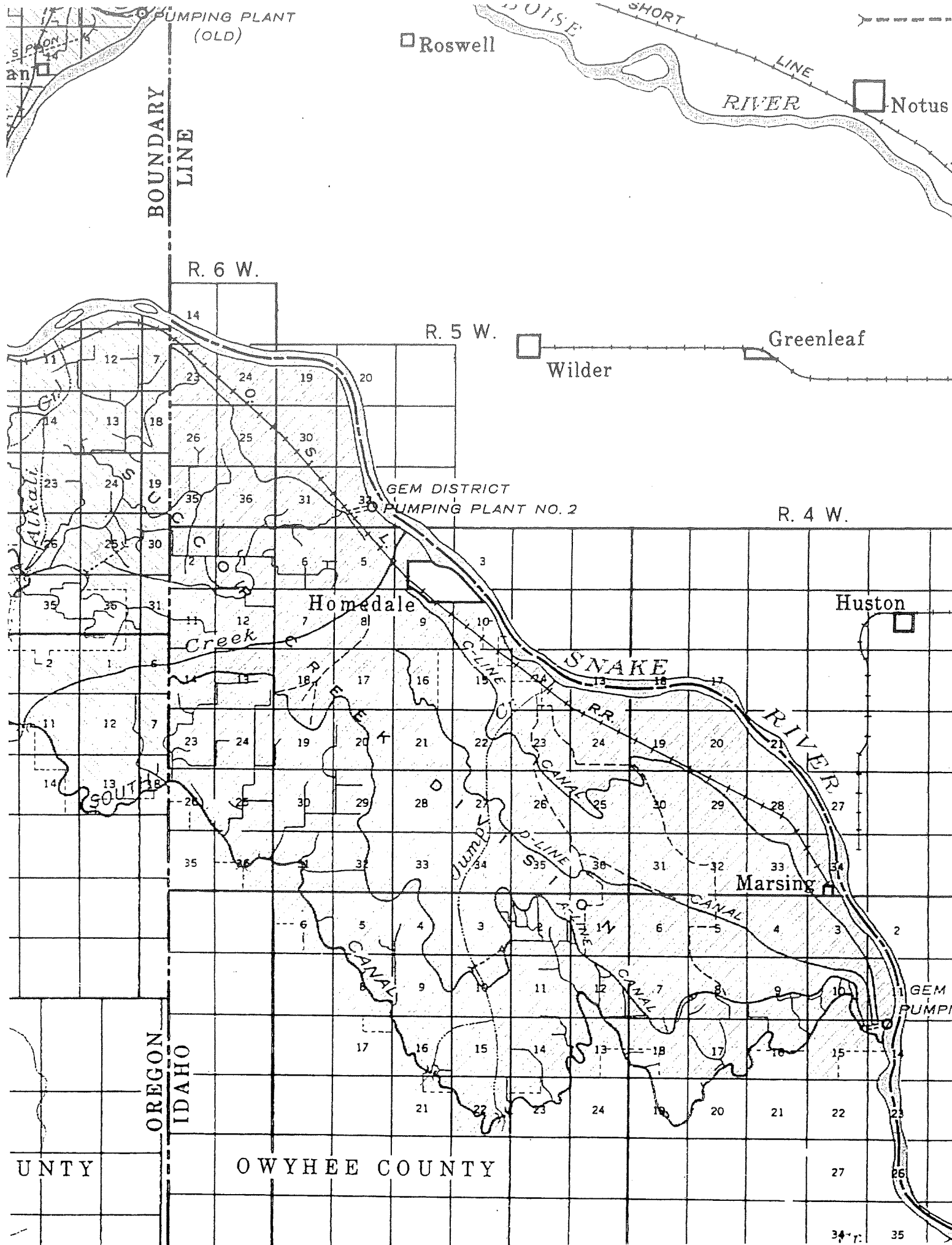
|       |      |    |
|-------|------|----|
| SEC 2 | SWNE | 5  |
|       | NWNW | 34 |
|       | SWNW | 38 |
|       | NESE | 10 |
|       | NWSE | 20 |
|       | SWSE | 28 |
|       | SESE | 25 |

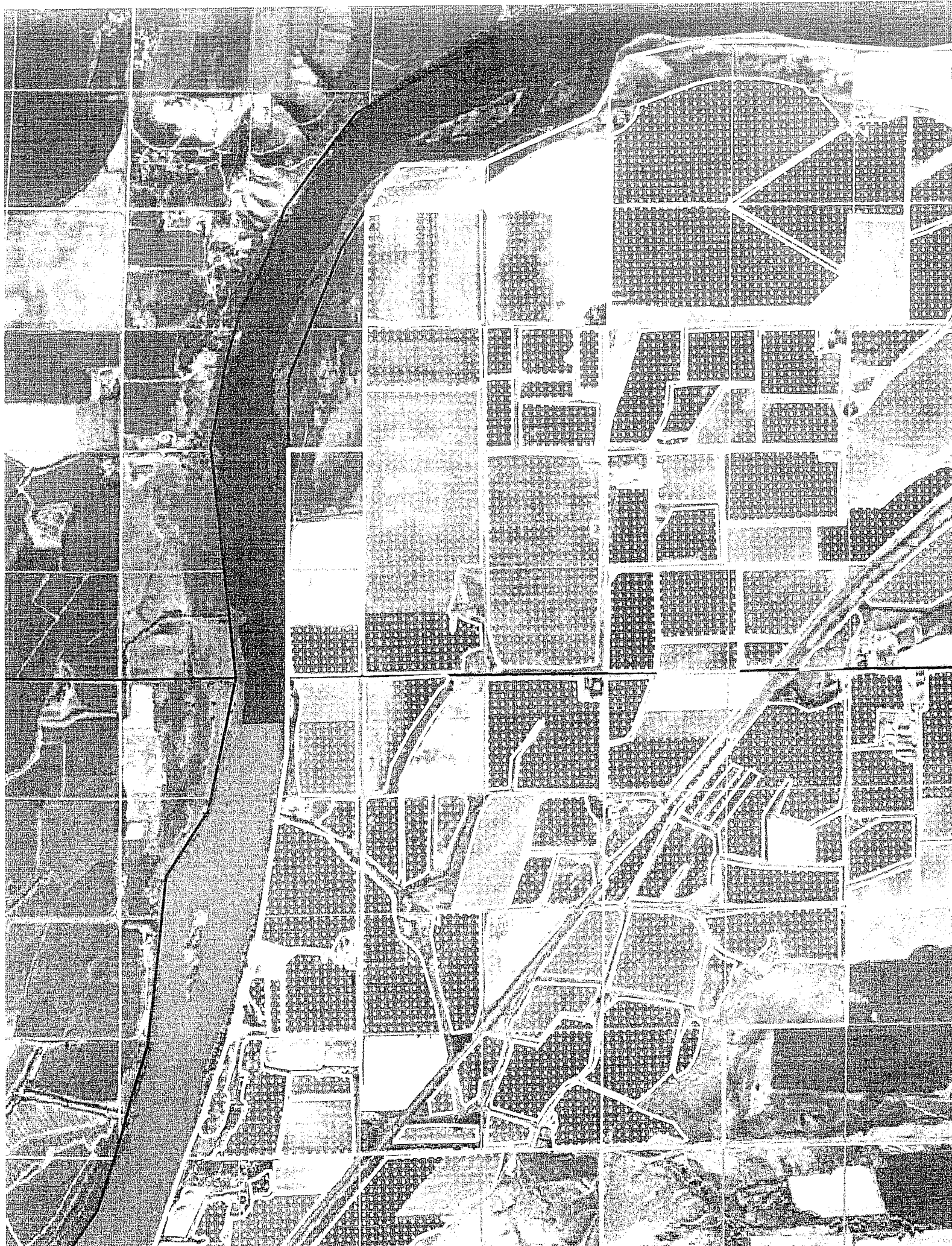
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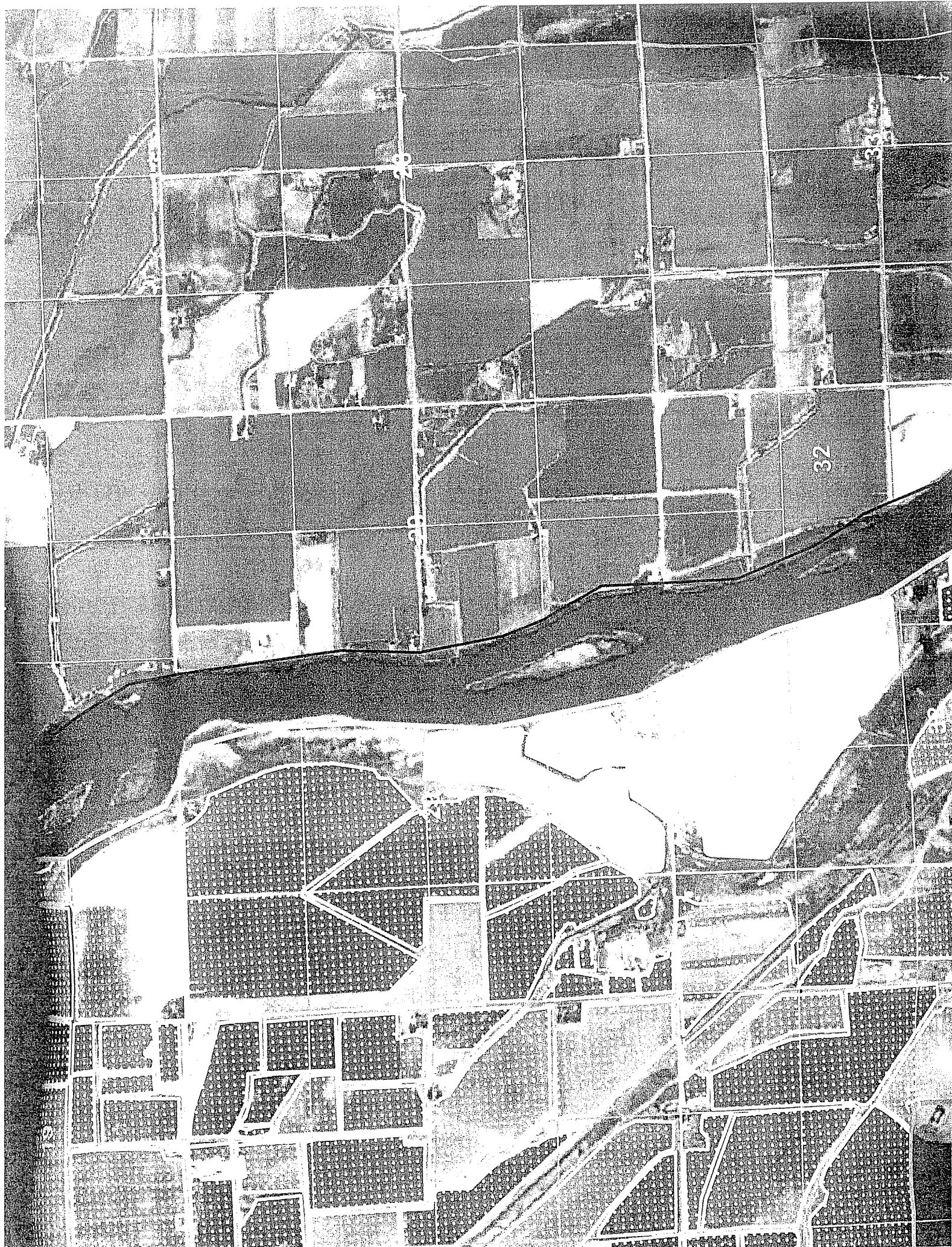
|  |                  |     |
|--|------------------|-----|
|  | CITY OF HOMEDALE | 391 |
|--|------------------|-----|

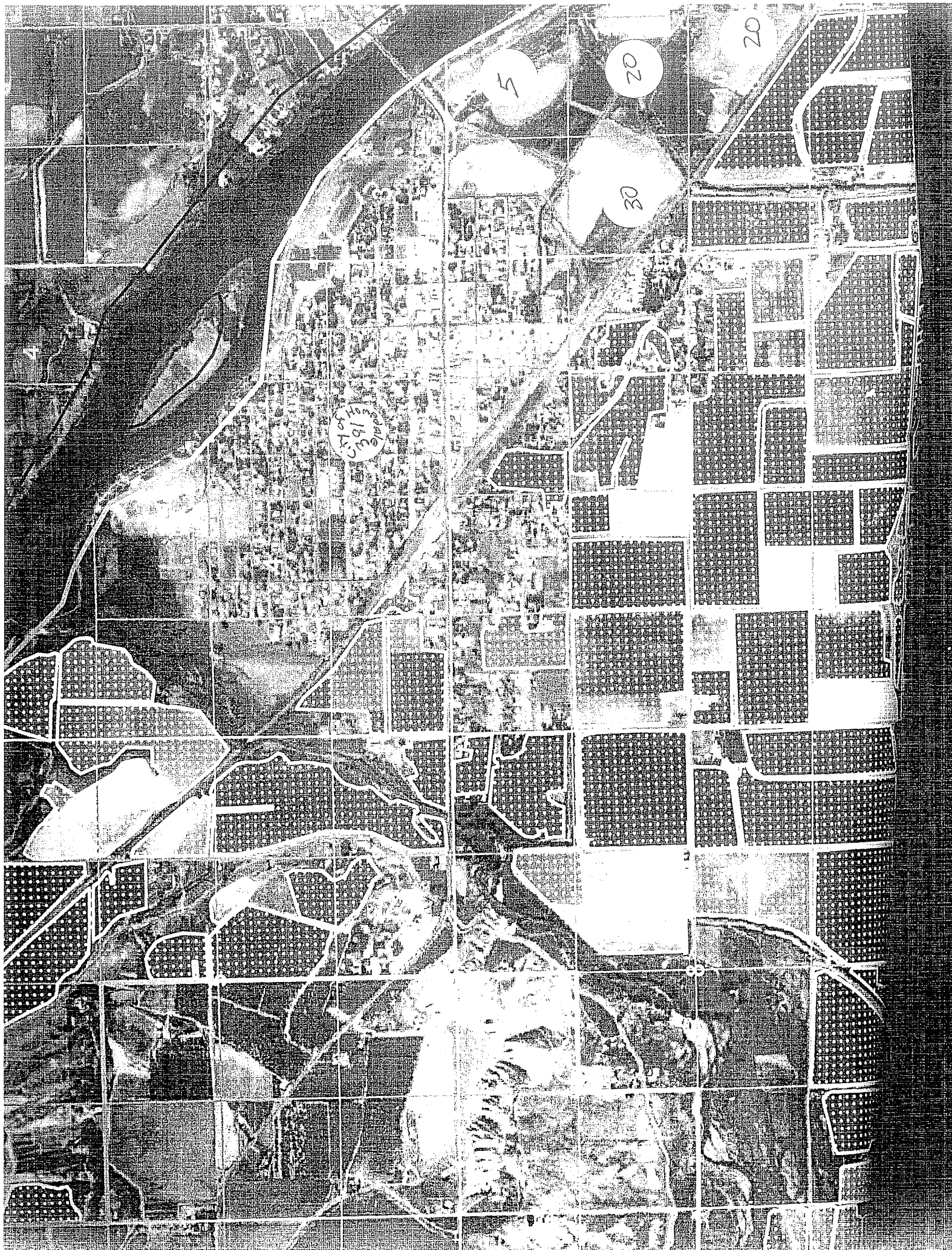
|                |        |      |    |
|----------------|--------|------|----|
| T. 3N., R. 5W. | SEC 10 | NENW | 5  |
|                |        | SWNW | 30 |
|                |        | SENW | 20 |
|                |        | NESW | 15 |
|                |        | SWSE | 20 |
|                | SEC 14 | SESW | 5  |
|                | SEC 15 | NWNW | 25 |
|                |        | SWNW | 10 |
|                |        | SENW | 38 |
|                |        | NESE | 40 |
|                |        | NWSE | 40 |
|                |        | SESE | 40 |
|                | SEC 16 | SENE | 35 |
|                | SEC 17 | SWSW | 15 |
|                | SEC 18 | SWSW | 5  |
|                | SEC 19 | NENE | 20 |
|                |        | SENE | 5  |
|                | SEC 20 | NENW | 38 |
|                |        | NWNW | 38 |
|                | SEC 24 | NWNE | 38 |
|                |        | SWNE | 5  |
|                |        | SENE | 10 |
|                |        | NESE | 5  |
|                | SEC 25 | NENW | 5  |
|                |        | NESE | 35 |
|                |        | SESE | 35 |
|                | SEC 29 | NWNE | 40 |
|                |        | SWNE | 40 |

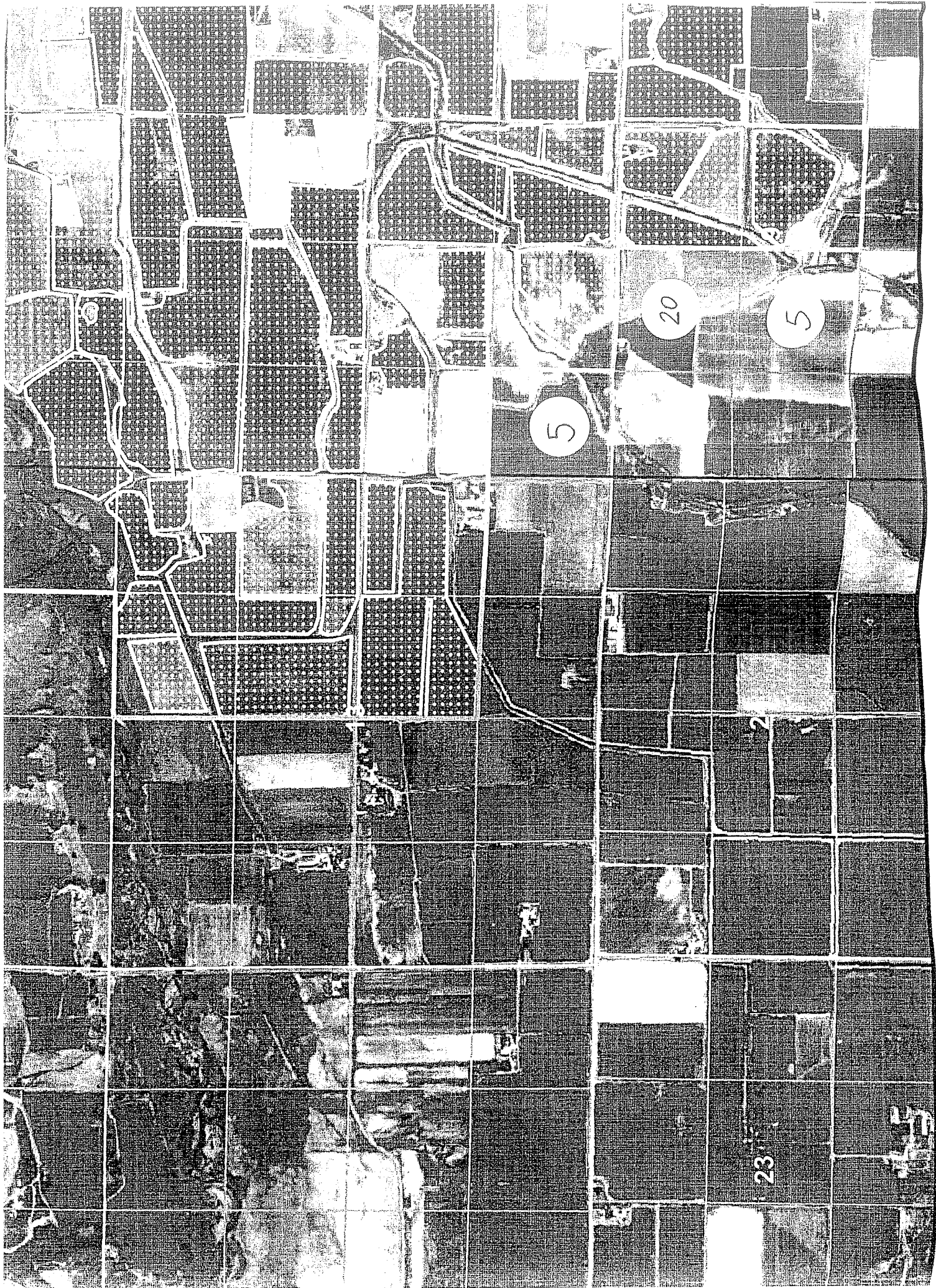
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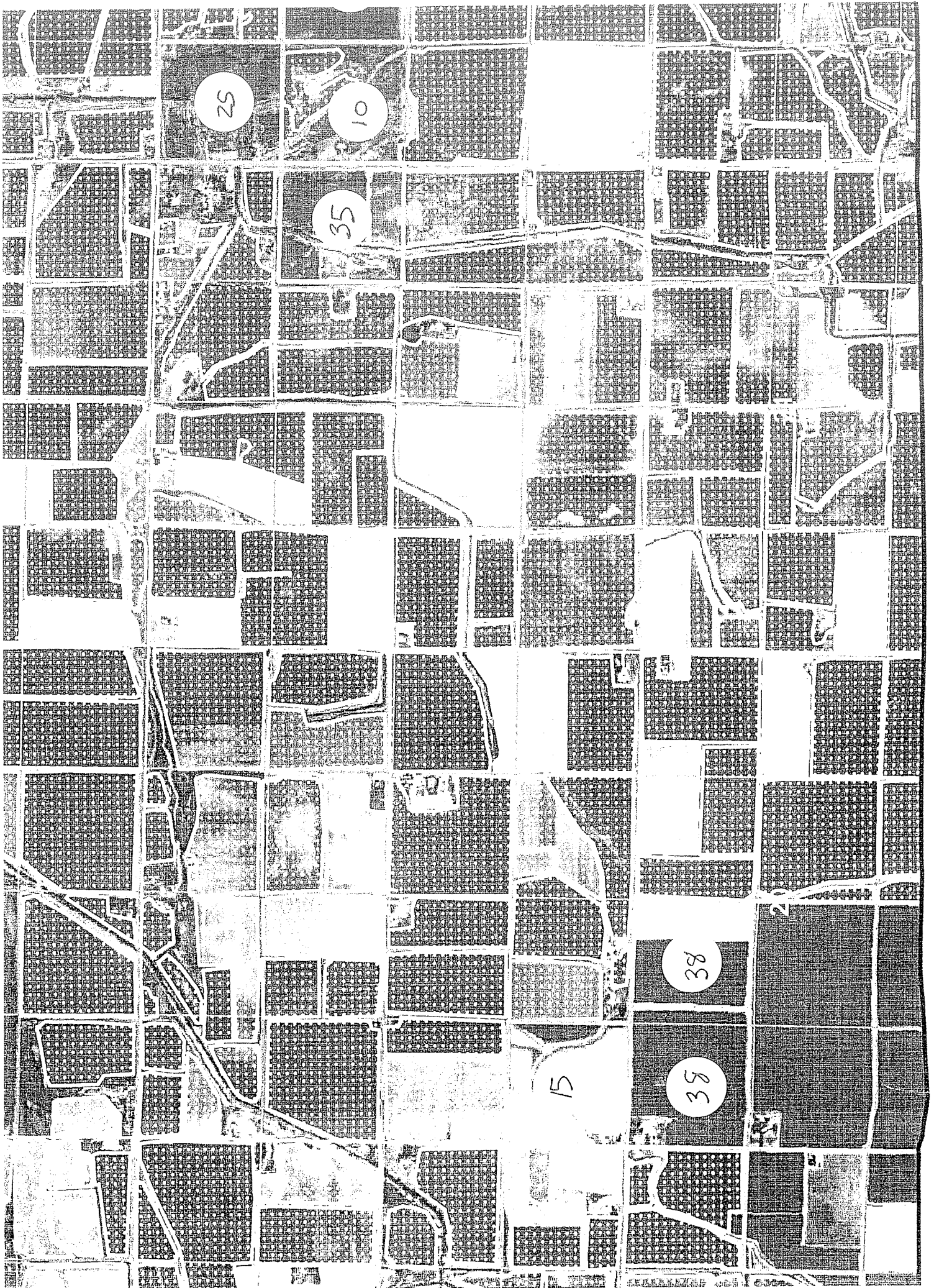


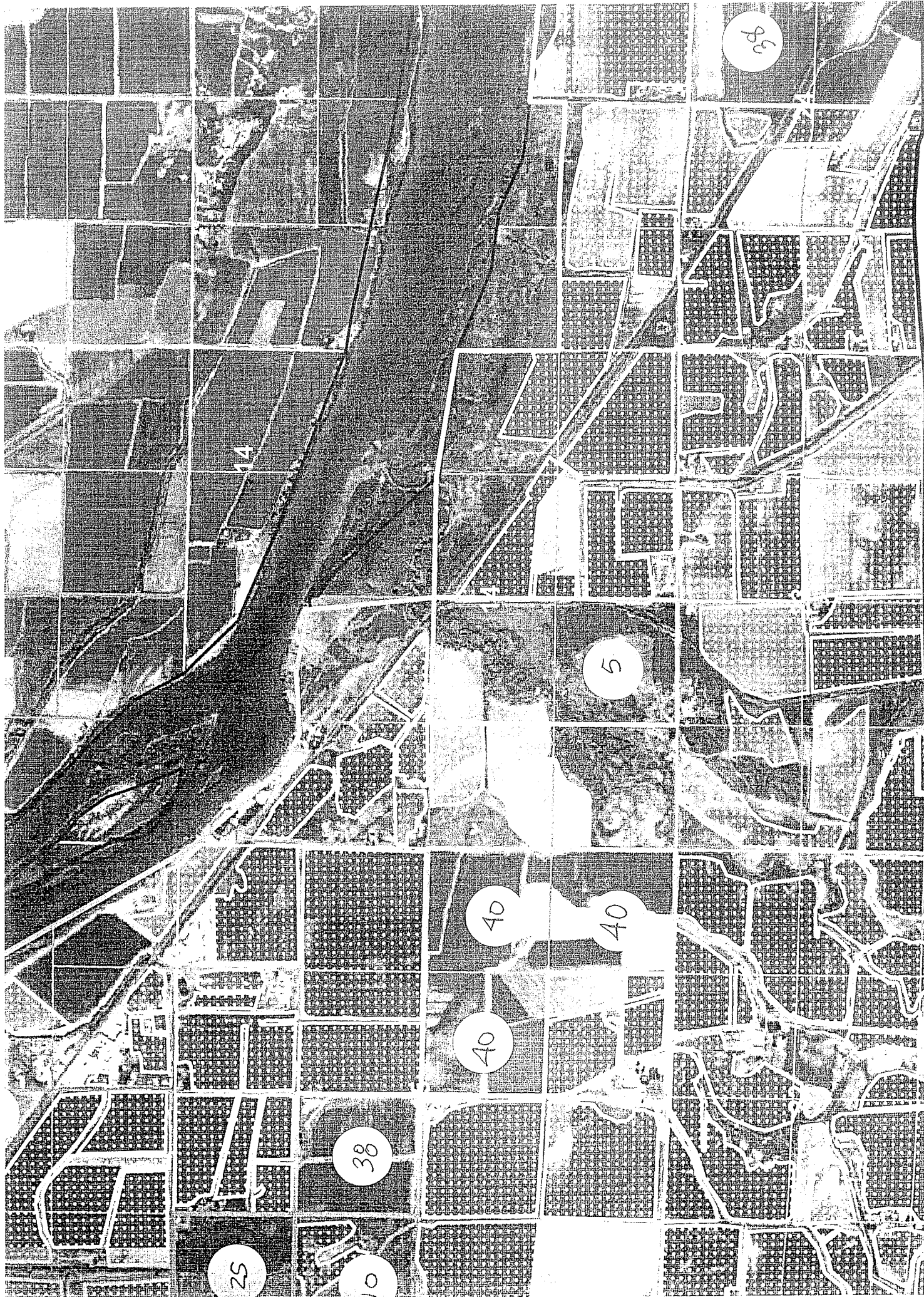


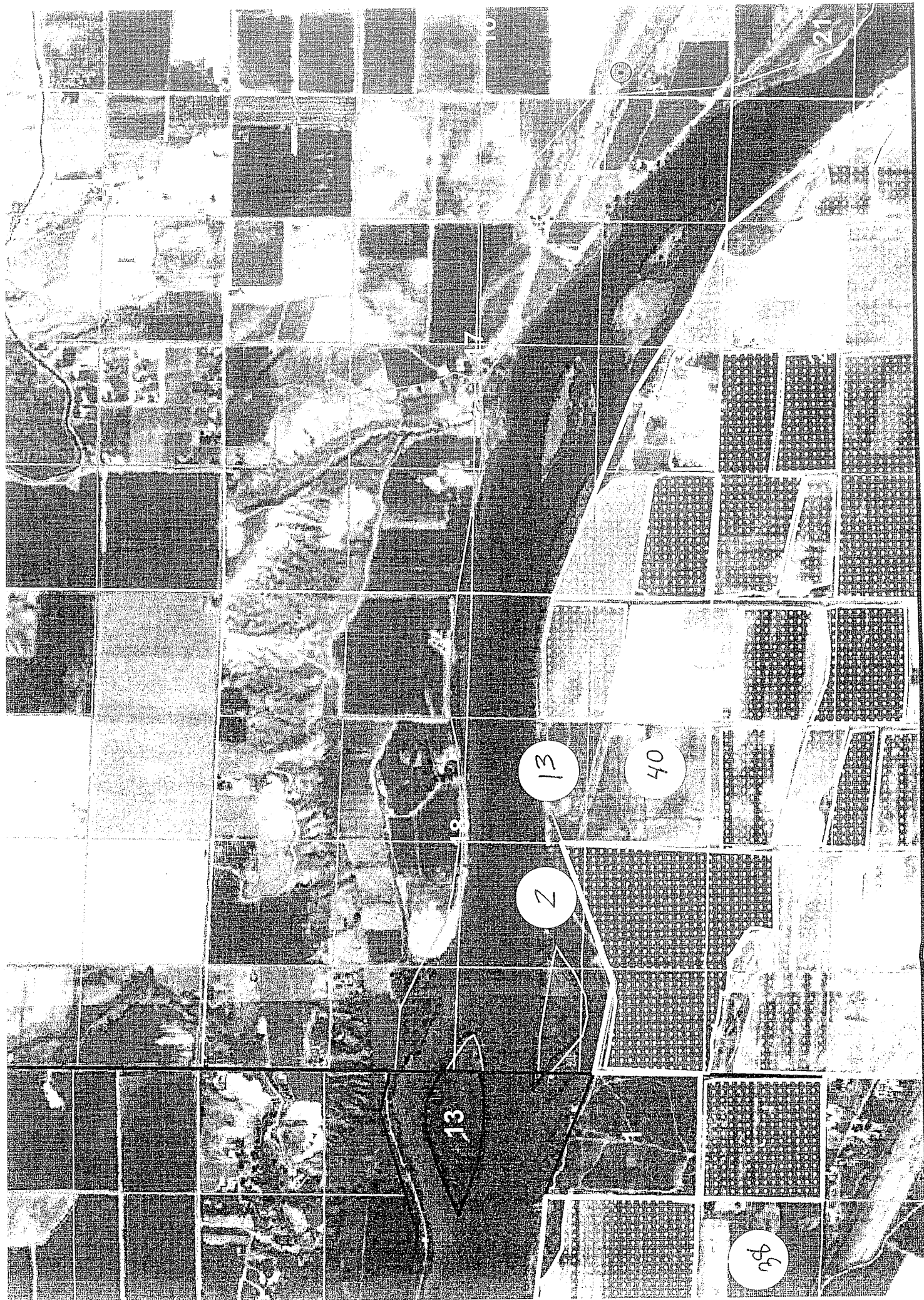












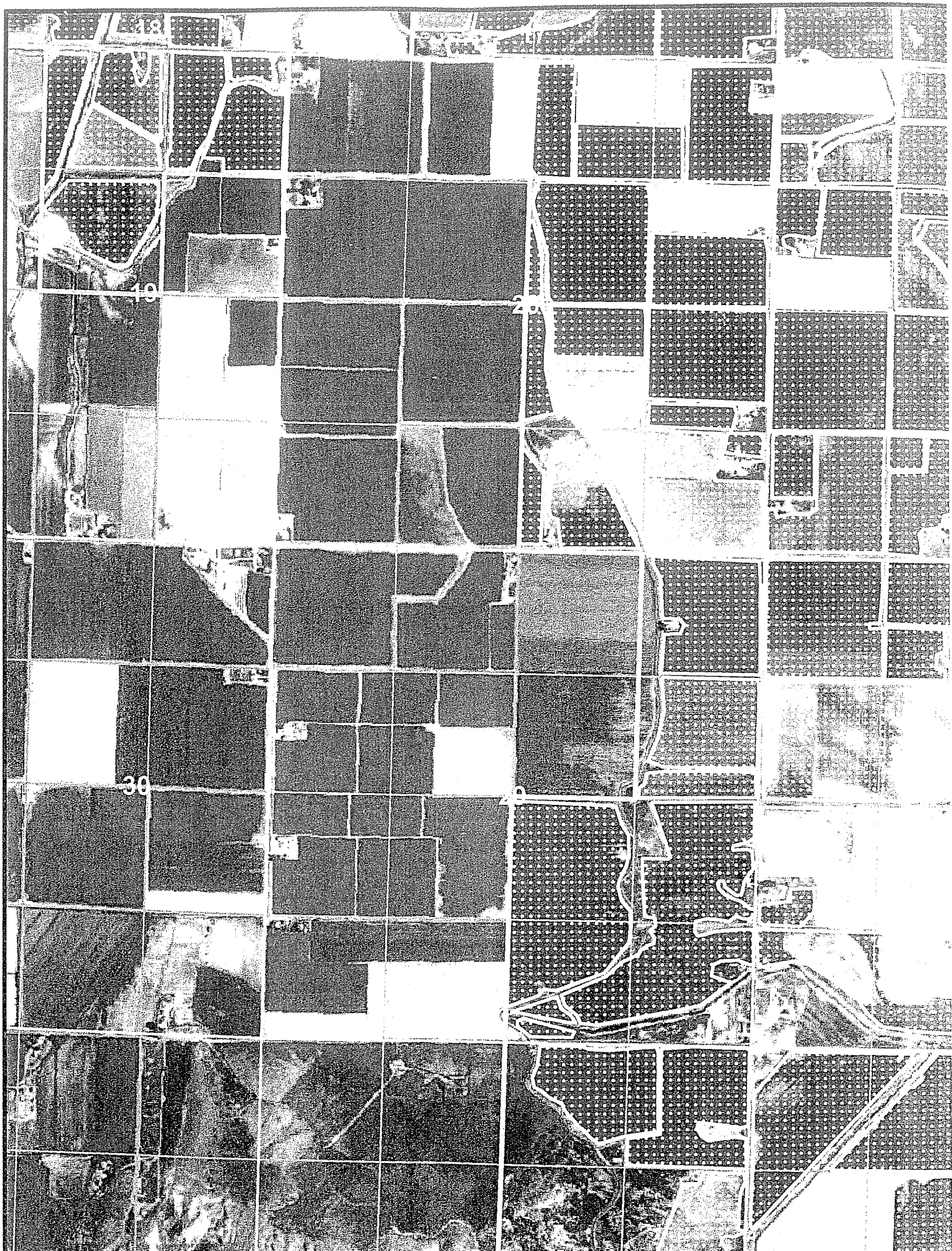
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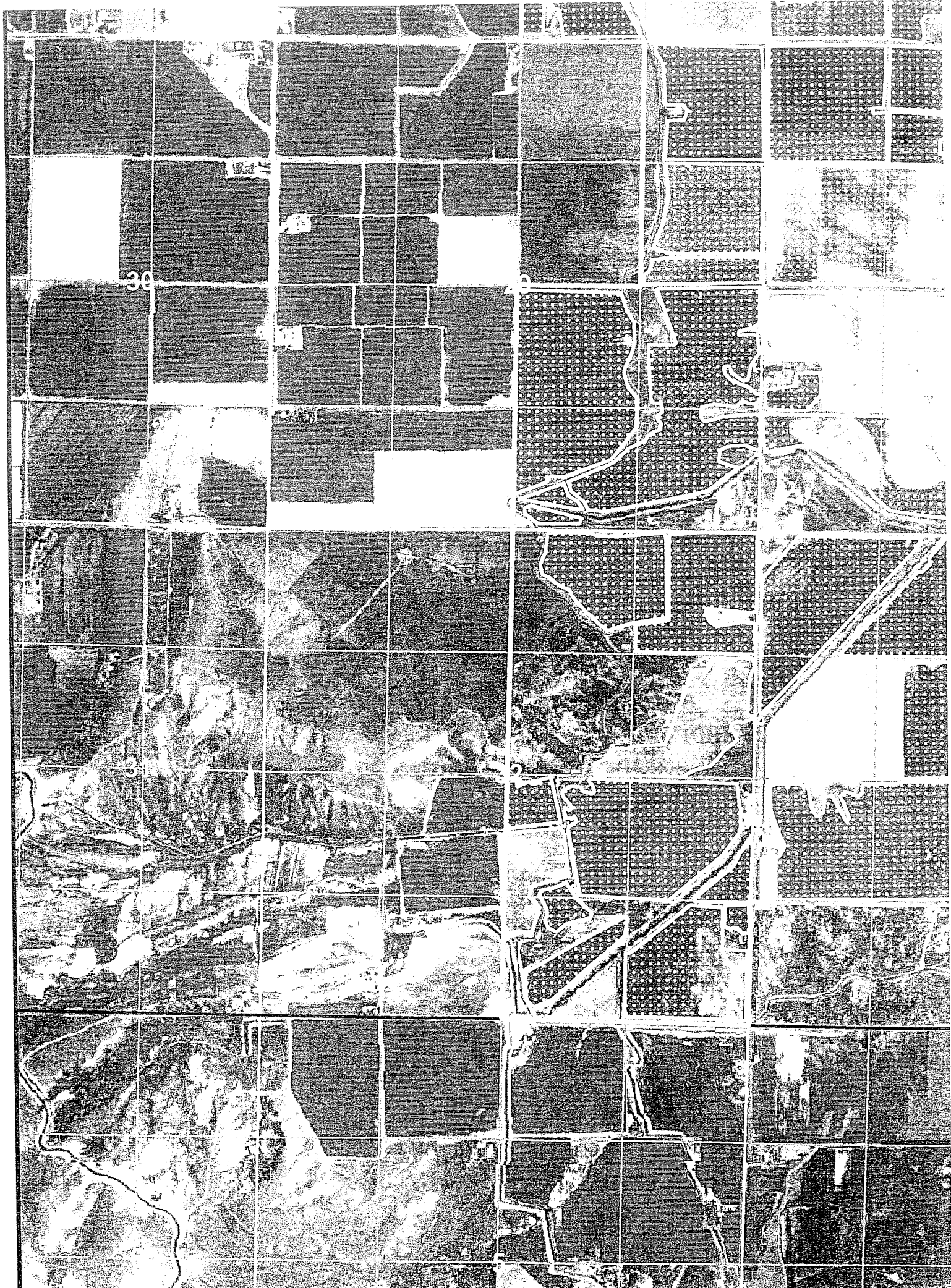
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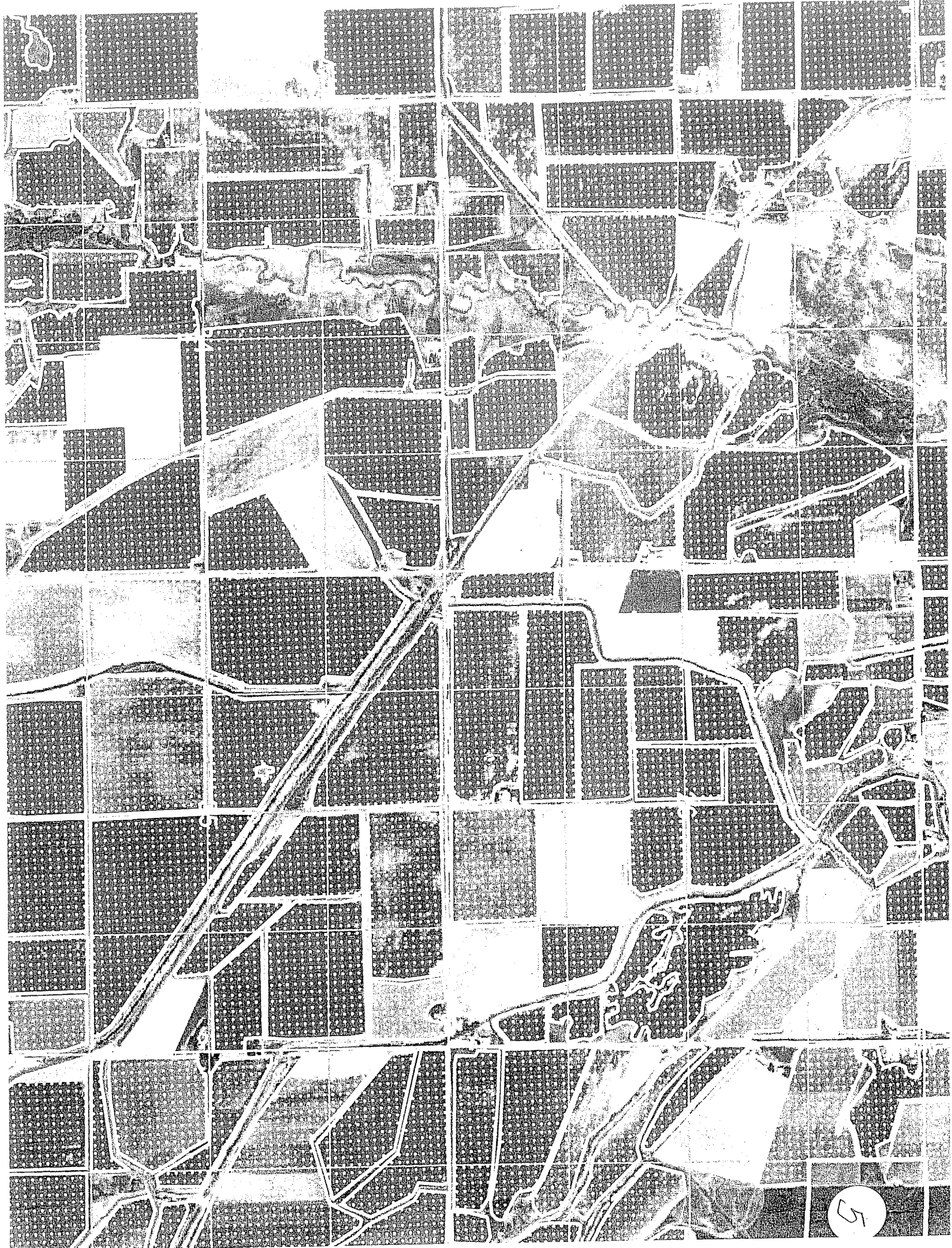


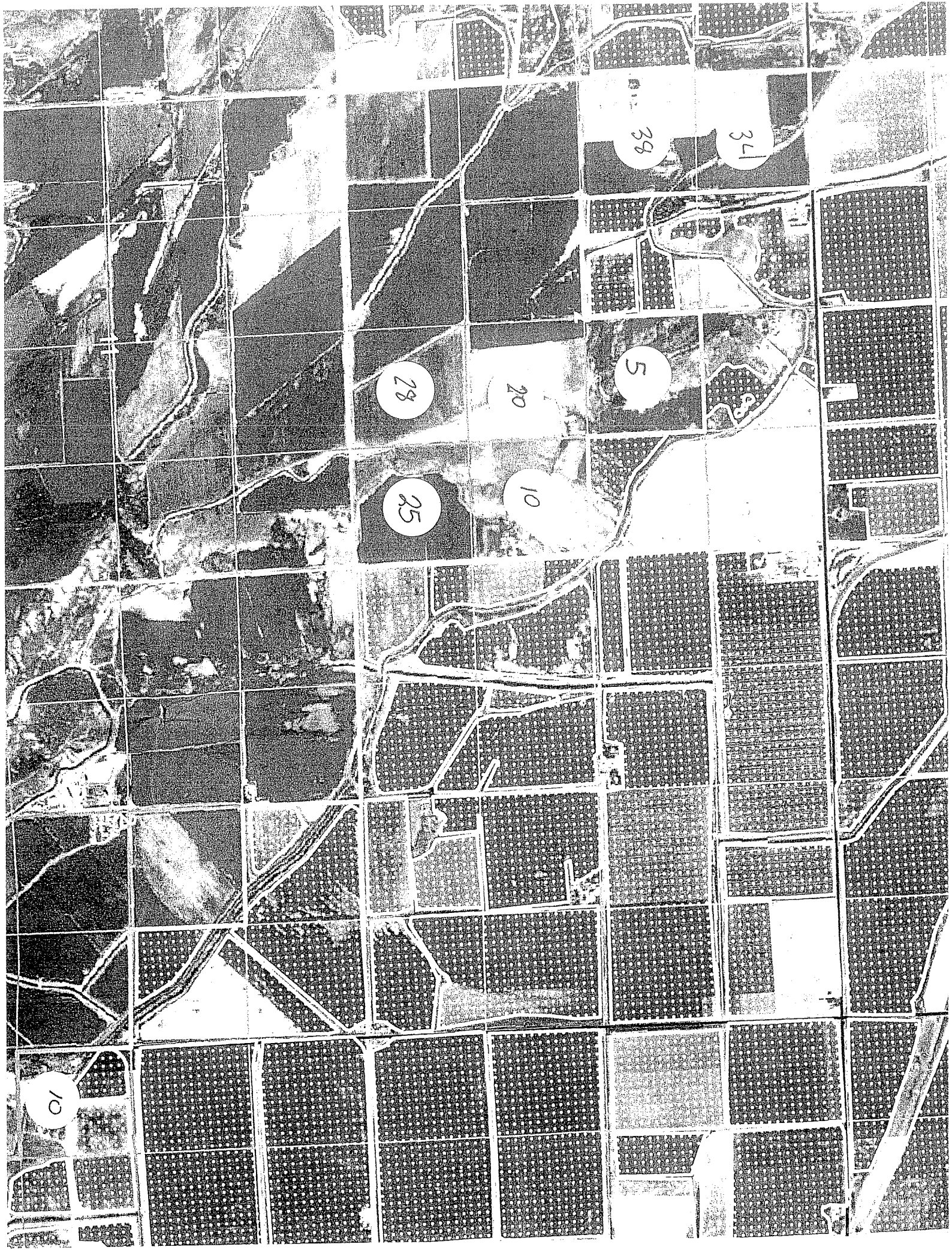


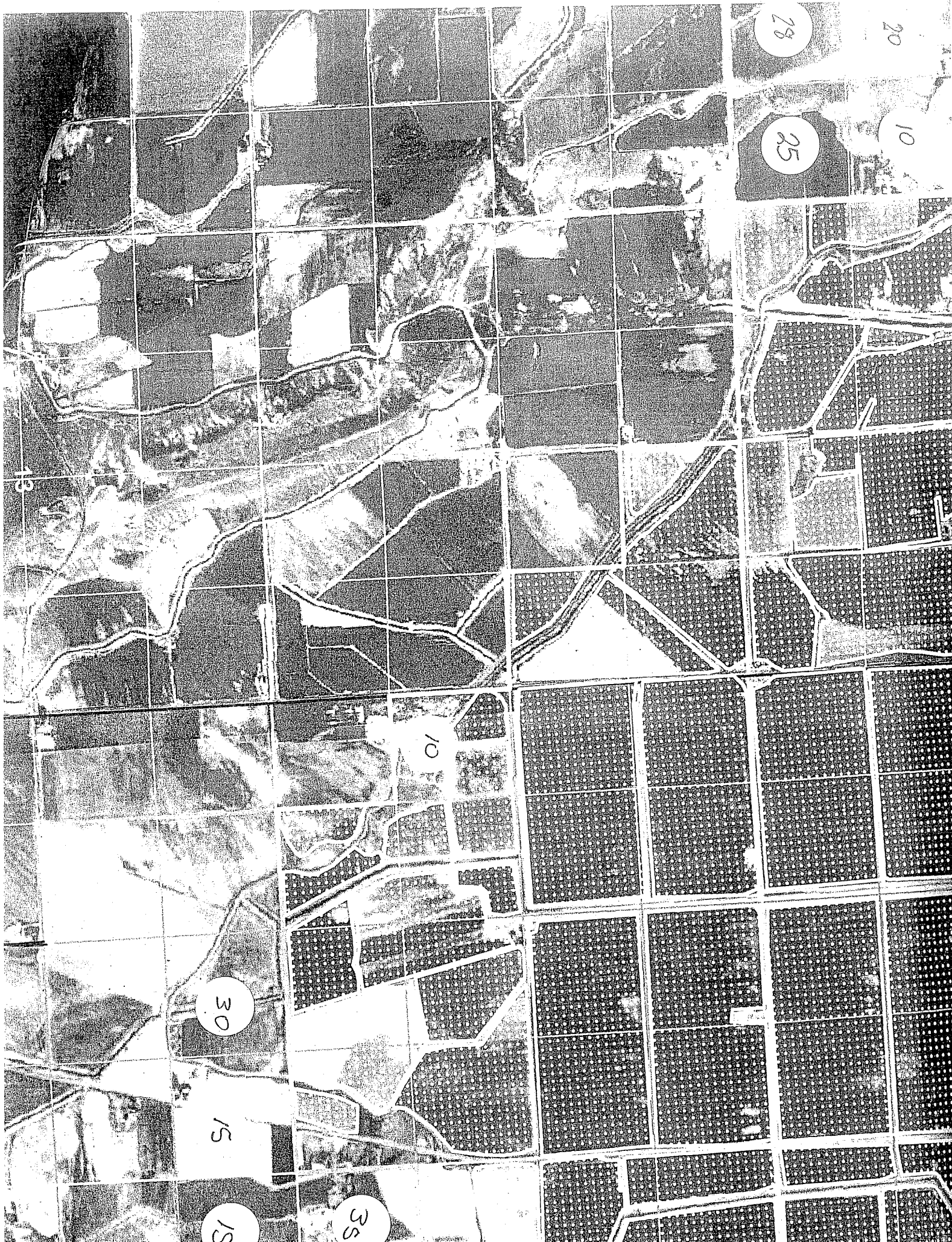


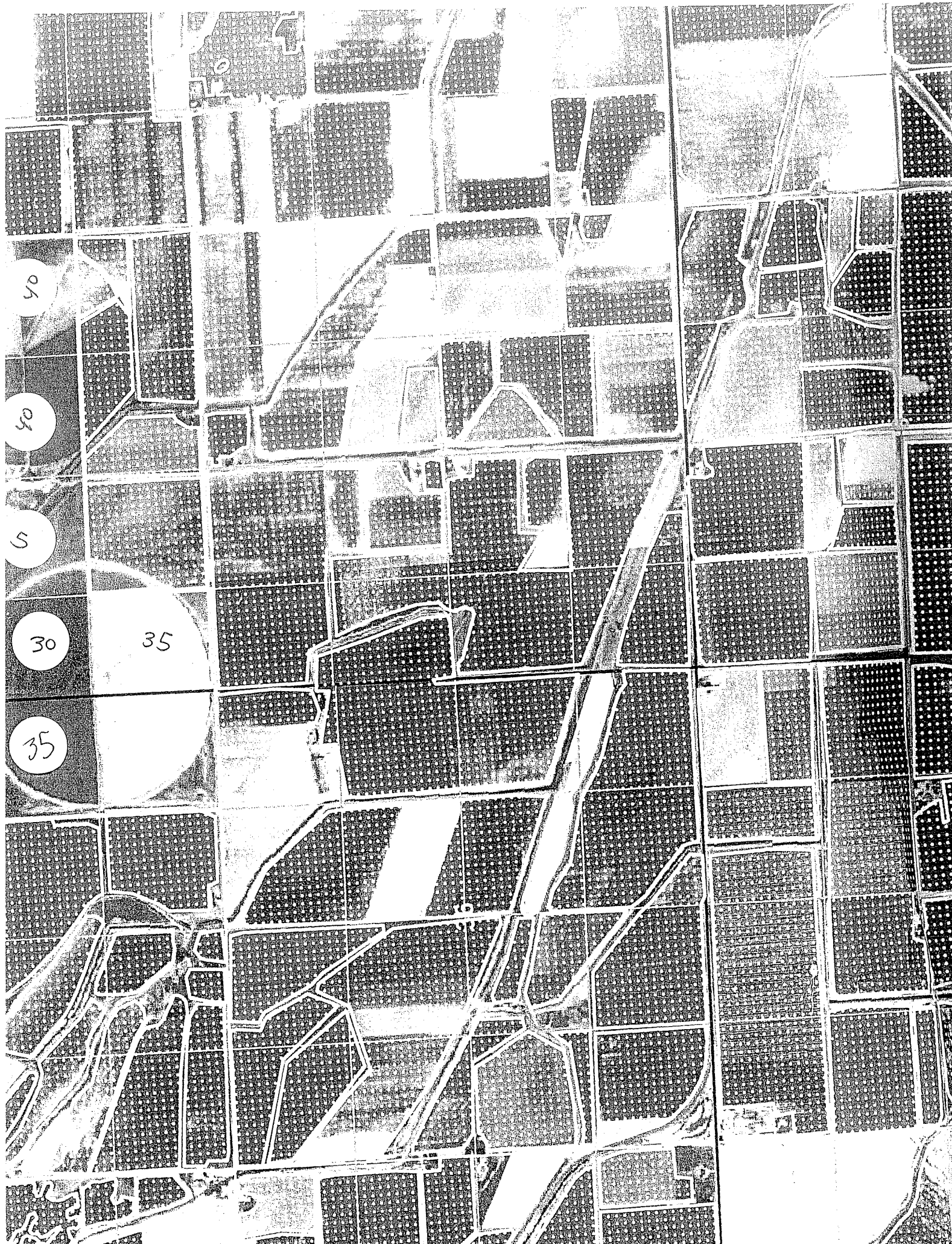


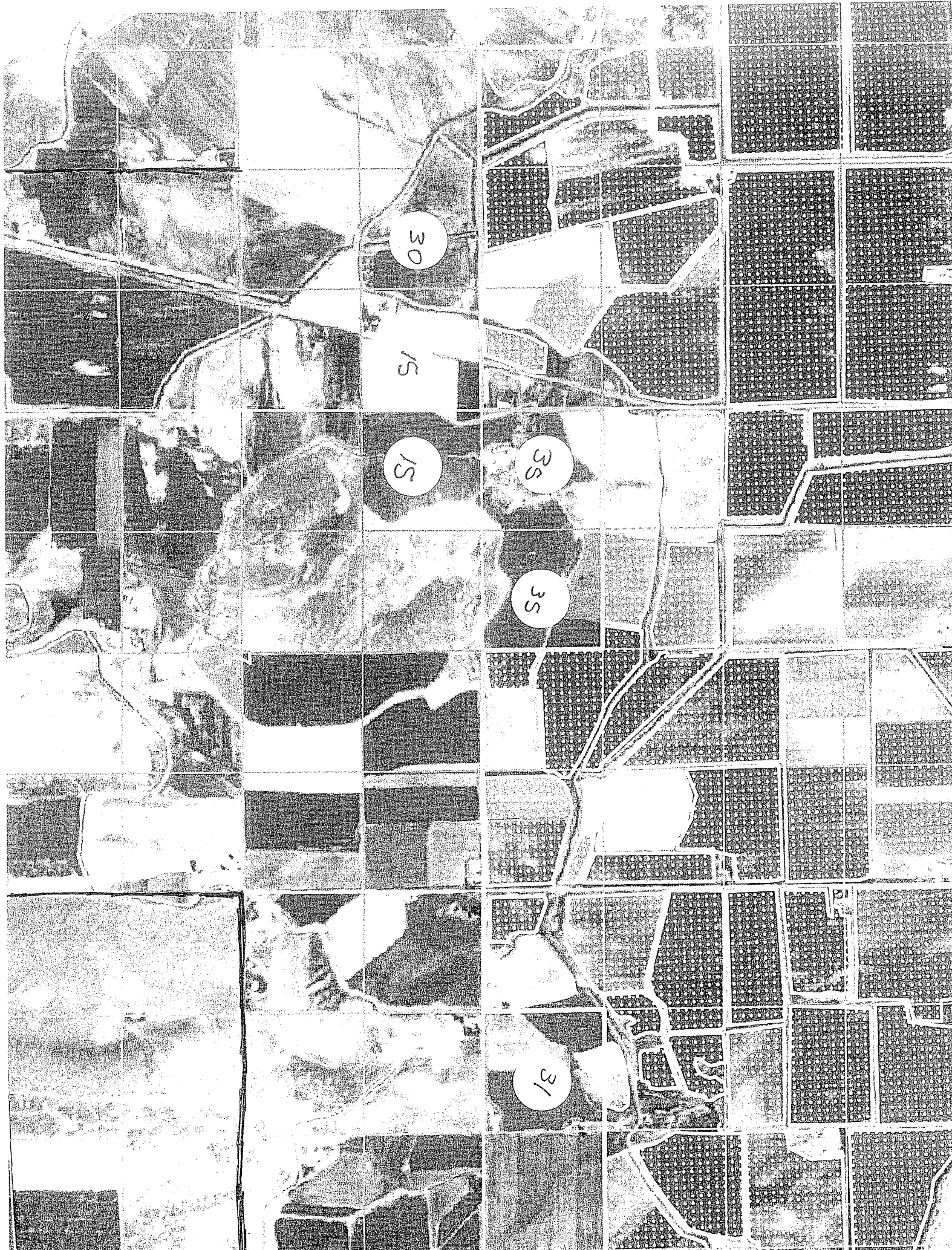












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