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

IN RE THE GENERAL ADJUDICATION OF RIGHTS TO THE USE OF WATER FROM THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: **A51-00138**
Date Received: 9/ 2/1998
Receipt No: S021468
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

1. Name: CEDAR MESA RESERVOIR & CANAL CO 208-734-1224
   Address: PO BOX 525
   TWIN FALLS ID 83303-0525

2. Date of Priority: NOV 19, 1915

3. Source: DEADWOOD CREEK Trib. to: BRUNEAU RIVER, EAST FORK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
15S	12E	28	NW SW		OWYHEE

5. Description of diverting works:
   SEE REMARKS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION STORAGE	10/01	05/15			3000.00

7. Total Quantity Appropriated is:
   C.F.S. (and/or) 3000.00 A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres

11. Place of use in counties:

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:

14. Remarks:
DESC. OF DIVERTING WORKS: DIVERSION DAM AND HEADGATE IN DEADWOOD CREEK, CANAL FROM DEADWOOD CREEK TO DEVIL CREEK, CANAL FROM DEVIL CREEK TO HOUSE CREEK, WHICH CREEK EMPTIES INTO CEDAR CREEK AND FOR THE CEDAR CREEK DIVERSION ALSO KNOWN AS THE ROSEWORTH RESERVOIR. THERE IS AN EARTH DAM ON CEDAR CREEK WITH A GAUGE HEIGHT OF 72 FEET. THE RESERVOIR HAS A SPILLWAY WITH A CAPACITY OF 309 CFS. THERE ARE TWO GATES AT THE DAM WITH RELEASE CAPACITY OF 145 CFS.
THE STOCK IN THE CANAL COMPANY IS OWNED BY THE FARMERS WHO OWN THE LANDS UPON WHICH THE WATER IS USED FOR IRRIGATION PURPOSES.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: / /

GRANDVIEW IRR. DIST. (Decree Plaintiff) vs BRUNEAU BUCKAROO CO-OP DITCH (Decree Defendant)

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake Rive Basin Adjudication." (b.) I/We do ____ do not ____ wish to receive and pa a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): _____ Date: _____

_____ Date: _____

State of Idaho)
) SS.
County of _____)

Subscribed and sworn (or affirmed) before me this _____ day

of _____ 19 _____

_____
Notary Public

Seal

Residing at _____

My Commission Expires _____

Form No. 42-1409 (2) a 1/88

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

IN RE THE GENERAL ADJUDICATION OF RIGHTS TO THE USE OF WATER FROM THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576
Ident. Number A51-00138
Date Received SEP. 02, 1998
Receipt Number S021468

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED
SEP 03 1998
WATER RESOURCES
WESTERN REGION

Please type or print clearly

1. Name of Claimant (s) Cedar Mesa Reservoir & Canal Co. Phone (208) 734-1224

   Mailing Address P. O. Box 525, Twin Falls, ID Zip 83303-0525

2. Date of Priority (Only one (1) per claim) November 19, 1915

3. Source of water supply (a) Deadwood Creek
   which is tributary to (b) Bruneau River, East Fork

4. a. Location of existing point of diversion is: Township 15 So Range 12 E Section 28,
   _____ 1/4 of NW 1/4 of SW 1/4, Govt. Lot, E B.M., County of Owyhee

   Additional points of diversion if any: _____

   b. If instream flow, beginning point of claimed instream flow is:

   Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,

   Govt. Lot _____ B.M., County of _____

   ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of

   _____ 1/4, Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well. Diversion dam and headgate in Deadwood Creek, canal from Deadwood Creek to Devil Creek, Canal from Devil Creek to House Creek, which creek empties into Cedar Creek and for the Cedar Creek diversion also known as the Roseworth Reservoir. There is an earth dam on Cedar Creek with a gauge height of 72 feet. The reservoir has a spillway with a capacity of 309 cfs. There are two gates at the dam with release capacity of 145 cfs.

6. Water is claimed for the following purposes:

		(both dates are inclusive)		(cfs)		(acre feet)
For	irrigation storage	purposes from 10-1	to 5-15	amount	or	3,000
For		purposes from	to	amount	or	
For		purposes from	to	amount	or	
For		purposes from	to	amount	or	

7. Total quantity claimed (a) _____ (cfs) and/or (b) 3000 (acre feet)

8. Total consumptive use claimed is 3000 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) _____

10. Description of place of use:
    a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
    b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
							SEE ATTACHED LIST												

Total number of acres irrigated _____

11. In which county (ies) are lands listed above as place of use located? Twin Falls

12. Do you own the property listed above as place of use? Yes _____ No X
    If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.
    _____ or None ( )

14. Remarks: The stock in the Canal Company is owned by the farmers who own the lands upon which the water is used for irrigation purposes.

Last Name Cedar Mesa Reservoir & Canal Company Ident No. _____

Copies: White -State, Yellow-Claimant

10. Description of place of use:

5,000 acres within Sections 2, 3, 9, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27 and 35, Township 12 South, Range 13 East Boise Meridian, Twin Falls County, Idaho.

Said land irrigated is within the boundary of the project as shown on the attached map outlining the perimeter of the project in red.

Cedar Mesa Reservoir & Canal Company

Ident. No. _____

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License _____ Permit _____
Decree X

If applicable provide IDWR Water Right Number _____

Court Third District Ada County Case Number 10604 Decree Date 2-14-1925

Plaintiff vs Defendant Grandview Irrigation District vs. Bruneau Buckaroo Cooperative Ditch Company, et al.

16. Signature (s)

(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments _____

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date _____

_____ Date _____

For Organizations: I do solemnly swear or affirm that I am President (Title) of Cedar Mesa Reservoir & Canal Company (Organization), that I have signed the foregoing document in the space below as President (Title) of Company (Organization) and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent Larry C Weil

Title and Organization Pres. Cedar Mesa Res + Canal Company Date 8-27-98

State of Idaho/or _____)
) SS.
County of Twin Falls)

Subscribed and sworn (or affirmed) before me this 27th day of August 19 98

SEAL

JOHN R. COLEMAN
NOTARY PUBLIC, STATE OF IDAHO
Residing at Twin Falls, Idaho
Commission Expires 6-10-99

Notary Public John R Coleman

Residing at Twin Falls Id

My Commission Expires 6-10-99

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, John R. Coleman will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature John R Coleman

Address Box 525 Twin Falls Id.

Date 8-27-98

Last Name Cedar Mesa Reservoir & Canal Company Ident. Number _____

Copies White-State, Yellow-Claimant

10. Description of place of use:

5,000 acres within Sections 2, 3, 9, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27 and 35, Township 12 South, Range 13 East Boise Meridian, Twin Falls County, Idaho.

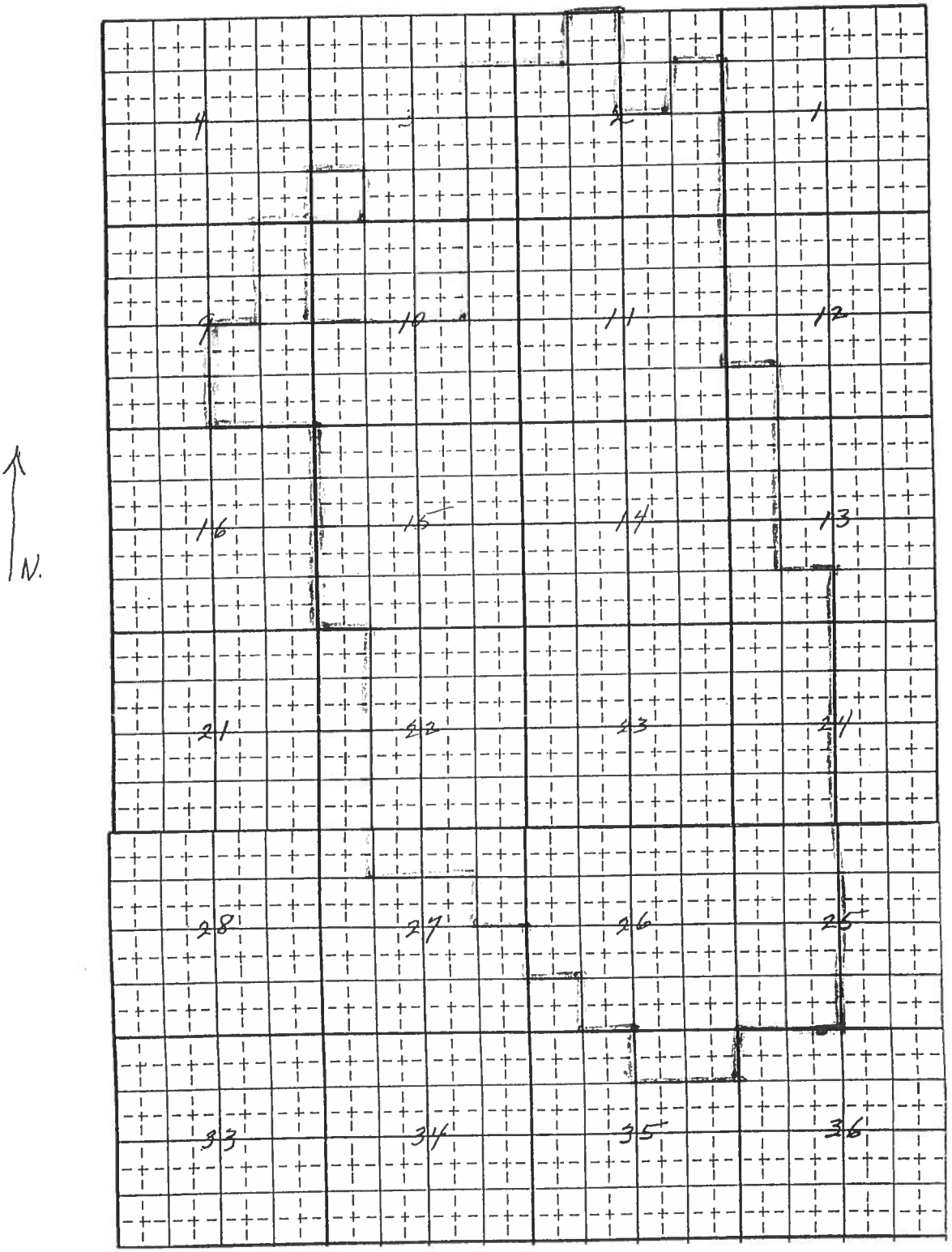
Said land irrigated is within the boundary of the project as shown on the attached map outlining the perimeter of the project in red.

Cedar Mesa Reservoir & Canal Company

Ident. No. _____

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile



Last Name Cedar Mesa Reservoir & Canal Company Ident No. _____ *Copies: White-State, Yellow-Claimant*

Perimeter boundary of irrigation project served by Cedar Mesa Reservoir & Canal Company outlined in red, situated in Twin Falls County, Idaho. Township 12 South, Range 13, East of the Boise Meridian.

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	DIVERSION RATE	DIVERSION VOLUME
C	CEDAR MESA RESERVOIR & CANAL CO PO BOX 525 TWIN FALLS ID 833030525 (208) 537-6802	11/19/1915	IRRIGATION STORAGE	10-01	05-15		3000.00 AFA
			IRRIGATION FROM STORAGE	04-01	10-31		3000.00 AFA
					TOTAL DIVERSION:		3000.00 AFA

Water Source: DEADWOOD CREEK Tributary to: CLOVER CREEK Stage: DECREED

Point(s) of Diversion:	T15S R12E S28	NESW	OWYHEE County
Point(s) of Injection:	T14S R13E S22	SWNE	TWIN FALLS County
	T15S R12E S12	NWNW	TWIN FALLS County
	S22	NWNE	TWIN FALLS County
Point(s) of Re-diversion:	T13S R14E S29	NWSE	TWIN FALLS County
	T14S R13E S12	SWNE	TWIN FALLS County
	T15S R12E S22	NWNE	TWIN FALLS County

POU County:

Other Rights: 47-14737, 47-02439, 47-00042A, 47-02440 & 51-02446(DISALLOW)

Conditions of Approval:

CD5 - RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

C14 - THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER IN BASIN 51 SHALL BE ADMINISTERED SEPARATELY FROM ALL OTHER WATER RIGHTS IN BASIN 51:

WATER RIGHT NO.	SOURCE
NONE	NONE

THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER IN BASIN 51 SHALL BE ADMINISTERED SEPARATELY FROM ALL OTHER WATER RIGHTS IN THE SNAKE RIVER BASIN:

WATER RIGHT NO.	SOURCE
NONE	NONE

ALL WATER RIGHTS WITHIN BASIN 51 ARE FROM CONNECTED SOURCES OF WATER IN THE SNAKE RIVER BASIN AND SHALL BE ADMINISTERED CONJUNCTIVELY.

Remarks: SRC POINTS OF INJECTION INTO DEVIL CREEK, HOUSE CREEK, AND CEDAR CREEK.
POINTS OF REDIVERSION FROM DEVIL CREEK AND CEDAR CREEK.

POU1 USE OF THIS RIGHT WITH RIGHT NO. 51-00137 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 5000 ACRES WITHIN THE BOUNDARIES OF THE CEDAR MESA RESERVOIR & CANAL COMPANY IN A SINGLE IRRIGATION SEASON.

GEN RIGHTS HAVE ALSO BEEN CLAIMED TO WATER FROM BASIN 47 FOR THE SAME PURPOSE OF USE AT THE SAME PLACE OF USE DESCRIBED ABOVE,

Remarks: WHICH WILL BE INCLUDED IN A DIRECTOR'S REPORT TO BE FILED AT A LATER DATE. ANY WATER RIGHTS RECOMMENDED IN THE BASIN 47 REPORT FOR THE SAME PURPOSE OF USE AT THE SAME PLACE OF USE DESCRIBED ABOVE WILL CONTAIN COMBINED USE LIMITATIONS FOR THIS RIGHT AND THE BASIN 47 RIGHTS. THESE BASIN 47 RIGHTS ARE FOR DEVIL CREEK, HOUSE CREEK AND CEDAR CREEK.

Dates: Exam Made Date: Verified Date: Objection Filed Date:

Misc: Water District Number: 47C Field Inspection Flag:
Presumption Flag:

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	DIVERSION RATE	DIVERSION VOLUME
C	CEDAR MESA RESERVOIR & CANAL CO PO BOX 525 TWIN FALLS ID 833030525 (208) 537-6802	11/19/1915	IRRIGATION STORAGE IRRIGATION FROM STORAGE TOTAL DIVERSION:	10-01 04-01	05-15 10-31		3000.00 AFA 3000.00 AFA 3000.00 AFA

Water Source: DEADWOOD CREEK Tributary to: CLOVER CREEK Stage: DECREED

Point(s) of Diversion:	T15S R12E S28	NESW	OWYHEE County
Point(s) of Injection:	T14S R13E S22	SWNE	TWIN FALLS County
	T15S R12E S12	NWNW	TWIN FALLS County
	S22	NWNE	TWIN FALLS County
Point(s) of Re-diversion:	T13S R14E S29	NWSE	TWIN FALLS County
	T14S R13E S12	SWNE	TWIN FALLS County
	T15S R12E S22	NWNE	TWIN FALLS County

POU County:

Other Rights: 47-14737, 47-02439, 47-00042A, 47-02440 & 51-02446(DISALLOW)

Conditions of Approval:

C05 - RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

C14 - THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER IN BASIN 51 SHALL BE ADMINISTERED SEPARATELY FROM ALL OTHER WATER RIGHTS IN BASIN 51:

WATER RIGHT NO.	SOURCE
NONE	NONE

THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER IN BASIN 51 SHALL BE ADMINISTERED SEPARATELY FROM ALL OTHER WATER RIGHTS IN THE SNAKE RIVER BASIN:

WATER RIGHT NO.	SOURCE
NONE	NONE

ALL WATER RIGHTS WITHIN BASIN 51 ARE FROM CONNECTED SOURCES OF WATER IN THE SNAKE RIVER BASIN AND SHALL BE ADMINISTERED CONJUNCTIVELY.

Remarks: SRC POINTS OF INJECTION INTO DEVIL CREEK, HOUSE CREEK, AND CEDAR CREEK.
POINTS OF REDIVERSION FROM DEVIL CREEK AND CEDAR CREEK.

POU1 USE OF THIS RIGHT WITH RIGHT NO. 51-00137 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 5000 ACRES WITHIN THE BOUNDARIES OF THE CEDAR MESA RESERVOIR & CANAL COMPANY IN A SINGLE IRRIGATION SEASON.

GEN RIGHTS HAVE ALSO BEEN CLAIMED TO WATER FROM BASIN 47 FOR THE SAME PURPOSE OF USE AT THE SAME PLACE OF USE DESCRIBED ABOVE,

Remarks: WHICH WILL BE INCLUDED IN A DIRECTOR'S REPORT TO BE FILED AT A LATER DATE. ANY WATER RIGHTS RECOMMENDED IN THE BASIN 47 REPORT FOR THE SAME PURPOSE OF USE AT THE SAME PLACE OF USE DESCRIBED ABOVE WILL CONTAIN COMBINED USE LIMITATIONS FOR THIS RIGHT AND THE BASIN 47 RIGHTS. THESE BASIN 47 RIGHTS ARE FOR DEVIL CREEK, HOUSE CREEK AND CEDAR CREEK.

Dates: Exam Made Date: Verified Date: Objection Filed Date:

Misc: Water District Number: 47C Field Inspection Flag:
Presumption Flag:

Comments: Date: 11/17/1998 User-ID: JSHURTE Subject: RECOMMENDATION COMMENTS
THIS RIGHT IS BEING RECOMMENDED IN PLACE OF 51-02447 WHICH WAS ORIGINALLY RECOMMENDED DURING THE PRELIMINARY REPORT FOR B51. AT THAT TIME CEDAR MESA FILED THIS CLAIM TO A DECREED RIGHT IN THE BRUNEAU RIVER WHICH I FEEL WAS BASED ON 51-02447. THE DIFFERENCE IN PRIORITY DATES IS OUTLINED IN A LETTER DATED 3-24-1931 AND STATES THAT THE ORIGINAL PRIORITY DATE OF 51-02447 WAS THE SAME AS THIS DECREED RIGHT, HOWEVER, IT WAS ADVANCED DUE TO A LATE PROOF OF BENEFICIAL USE BEING SUBMITTED ON 51-02447. HOWEVER, IT IS IMPOSSIBLE TO TELL WHETHER THE RIGHT WAS COMPLETELY DEVELOPED OR NOT AT THE TIME OF THE DECREE. EVEN THOUGH PROOF WAS

Comments: Date: 11/17/1998 User-ID: JSHURTE Subject: RECOMMENDATION COMMENTS
SUBMITTED IN 1928, THE RIGHT COULD HAVE BEEN COMPLETED AND BEING USED PRIOR TO THAT - AS RECOMMENDED IN THE DECREE. THEREFORE, I AM RECOMMENDING THIS DECREED RIGHT IN PLACE OF 51-02447. I CANNOT RECOMMEND BOTH RIGHTS, SINCE IT IS OBVIOUS FROM THE WATER RIGHT FILE FOR 51-02447 THAT THIS RIGHT IS THE SAME. THERE ARE OTHER RIGHTS FOR CEDAR MESA FOR THE RESERVOIR, FROM OTHER SOURCES THAN DEADWOOD CREEK AND THESE RIGHTS WILL BE RECOMMENDED IN THE BASIN 47 REPORT. THE IRRIGATION STORAGE SEASON OF USE WAS DECREED FOR THIS RIGHT IN THE BRUNEAU RIVER DECREE AS OCT 1 TO MAY 15, HOWEVER, NO SEASON OF USE FOR IRRIGATION FROM STORAGE WAS DECREED. THEREFORE, THE IRRIGATION FROM STORAGE SEASON OF USE RECOMMENDED IS IDWR'S STANDARD FOR THE AREA IN BASIN 47 WHERE THE IRRIGATED LANDS ARE LOCATED. THE C05 CONDITION WAS ADDED SINCE THERE HAVE BEEN MINOR CHANGES TO THE DECREED PLACE OF USE PRIOR TO 1987.

Date: 11/17/1998 User-ID: JSHURTE Subject: SYSTEM DESCRIPTION
WATER IS DIVERTED FROM DEADWOOD CREEK IN THE NESW, S28, T15S, R12E VIA A DITCH WHICH THEN INJECTS THE DEADWOOD CREEK WATER INTO DEVIL CREEK IN THE NWNE, S22, T15S, R12E, WHICH IS THEN DIRECTLY REDIVERTED FROM DEVIL CREEK VIA A DITCH WHICH THEN INJECTS BOTH DEADWOOD CREEK AND DEVIL CREEK WATER INTO HOUSE CREEK IN THE NWNW S12, T15S, R12E. THE WATER CONTINUES DOWN THE NATURAL CHANNEL OF HOUSE CREEK UNTIL HOUSE CREEK FLOWS INTO CEDAR CREEK RESERVOIR IN THE SWNE, S22, T14S, R13E (THIS WAS LISTED AS AN INJECTION POINT INTO CEDAR CREEK FOR DEADWOOD, DEVIL & HOUSE CREEK WATER. WATER IS THEN STORED IN CEDAR CREEK RESERVOIR, RELEASE INTO CEDAR CREEK AND REDIVERTED FROM CEDAR CREEK VIA A CANAL IN THE NWSE, S29, T13S, R14E. VARIOUS CANAL COMPANY MEMBERS DIVERT FROM THE CANAL FOR IRRIGATION IN THE PLACE OF USE SHOWN ON THIS RIGHT.

Audit: 11/17/98 JSHURTE

irrigation of 100 acres of the lands hereinabove described as of May 1st, 1909.

Subject to the prior rights of the plaintiff and the various defendants as herein set forth, defendant Idaho Farm Development Company has the right to divert from Deadwood Creek, a tributary of the East Fork of the Bruneau River, a tributary of the Bruneau River, at a point located at or near south 19 degrees east 2150 feet from the northwest corner of Section 28, Township 15 South, Range 12 East, B.M., and to impound and store in the reservoir of said company located on Cedar Creek in Twin Falls County, Idaho, all of the waters of said creek and its tributaries to the extent of 5000 acre feet annually, the said water so to be stored in said reservoir to be thereafter released from said reservoir at said defendant's pleasure through the gates of its reservoir dam.

51-00137 + 51-00138 FROM BRUNEAU PIERCE

In the exercise of the rights herein defined, said Idaho Farm Development Company may, to the extent of its various appropriations as hereinafter decreed, impound in storage and divert the waters of Deadwood Creek at all times and at all seasons of the year when by so doing it does not interfere with any prior rights fixed by this decree, and the water stored and released from storage may be conveyed through the natural channels of streams and shall be protected under the provisions of this decree for the distribution designated by said defendant as though kept and conveyed within an artificial channel. From and after October 1st of each calendar year to the beginning of the subsequent irrigation season, to wit: May 15th, said defendant shall be permitted to divert and store in said reservoir all the waters

of said Deadwood Creek and it is hereby decreed that the exercise of such rights by said defendant during said non-irrigation season does not interfere with the rights of any of the parties hereto as herein decreed. The priority of rights of said defendant Idaho Farm Development Company are as follows:

Date of Priority.	Amount in acre feet annually.
January 29, 1915	6000 acre feet
November 19, 1915	3000 acre feet.

01137
01138

The rights herein decreed to said defendant Idaho Farm Development Company in the waters of said Deadwood Creek are for irrigation, domestic and stock use upon and in connection with the list of lands hereto attached marked "List of lands of the Defendant Idaho Farm Development Company".

Cedar Mesa Adjudication Filing

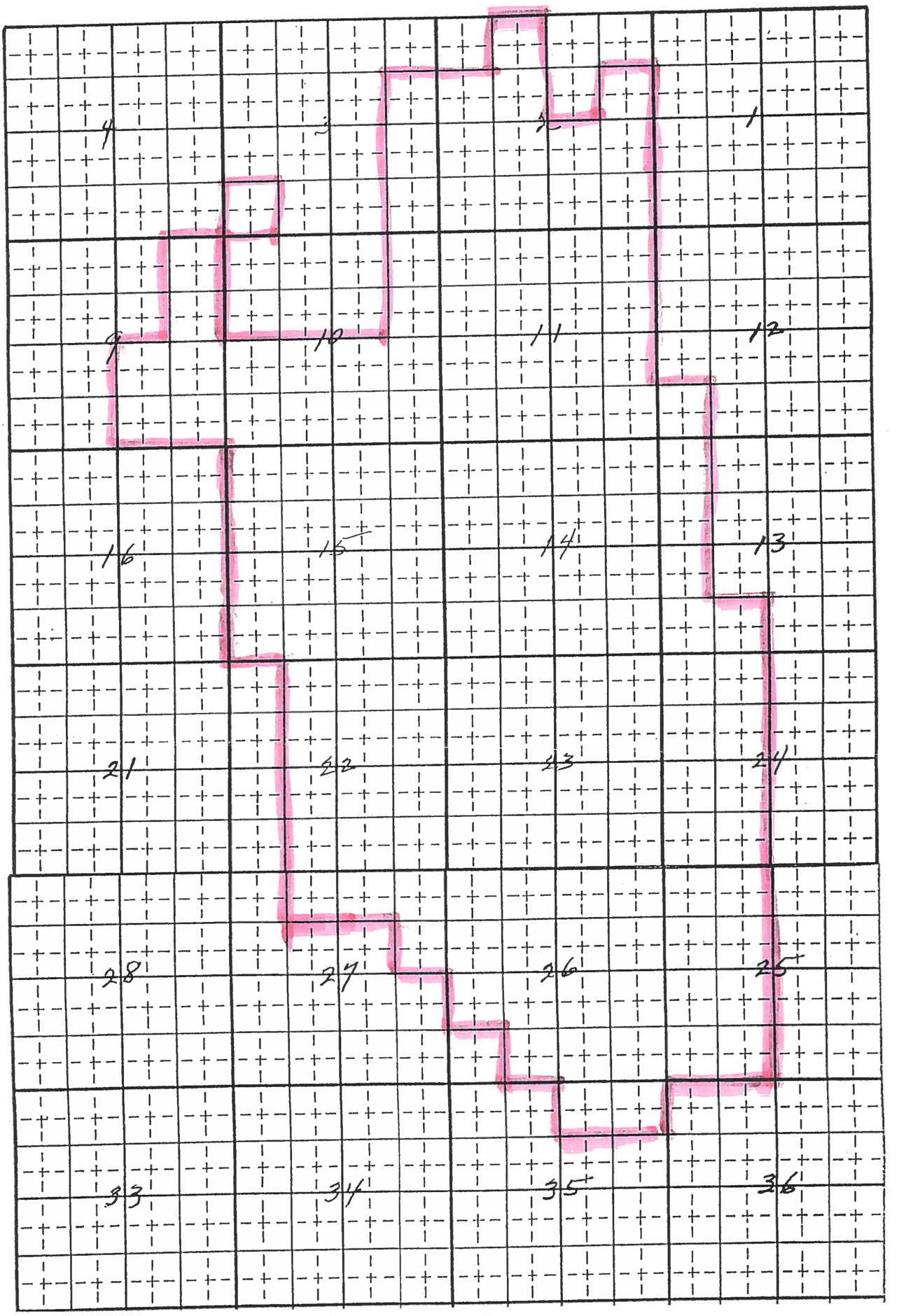
Township 12 South 13 East Boise Meridian

		615	
Section 2.	377.9	385	377.90 +
Section 3	120.1	128	120.10 +
Section 9	217.0	224	217.00 +
Section 10	341.0	340	341.00 +
Section 11	471.0	430	471.00 +
Section 12	33.	39	33.00 +
Section 13	184.	118	184.00 +
Section 14	526.5	565	526.50 +
Section 15	522.5	556	522.50 +
Section 22	373.8	377	373.80 +
Section 23	509.2	537	509.20 +
Section 24	236.4	270	236.40 +
Section 25	291.	289	291.00 +
Section 26	525.0	536	525.00 +
Section 27	135.0	137	135.00 +
Section 35	65.	69	65.00 +
	4928.40	5000	4,928.40 T

O.C*

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 Inches equals 1 mile

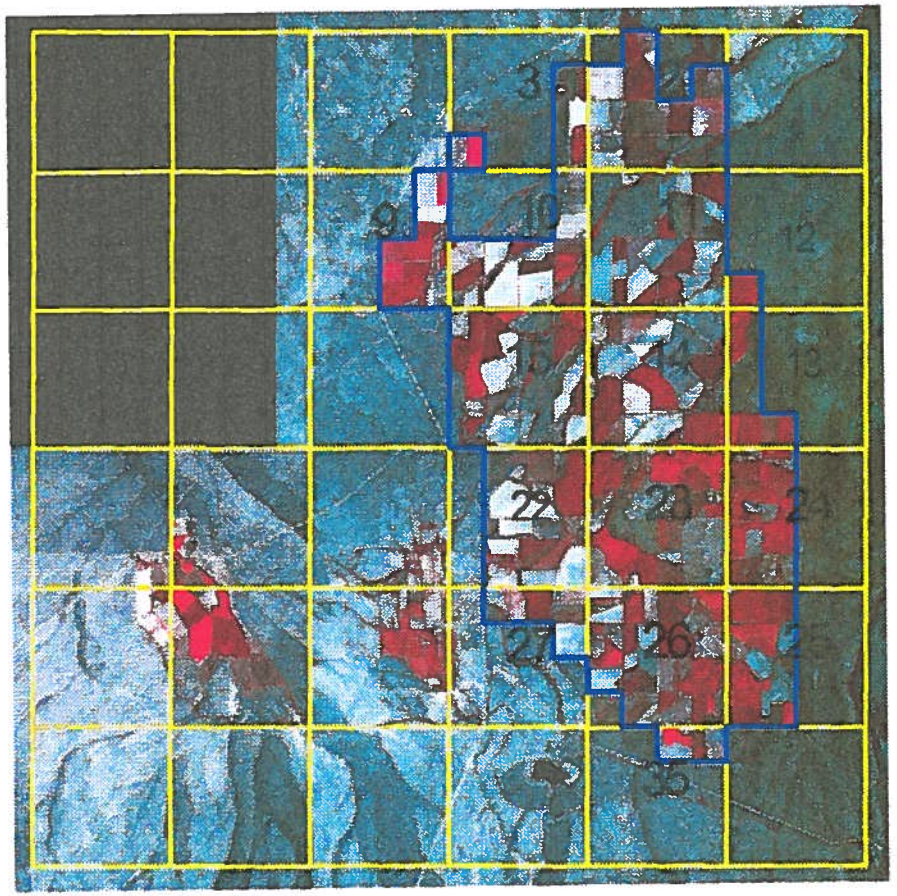


Last Name Cedar Mesa Reservoir & Canal Company Ident No. _____ *Copies: White-State, Yellow-Claimant*

Perimeter boundary of irrigation project served by Cedar Mesa Reservoir & Canal Company outlined in red, situated in Twin Falls County, Idaho. Township 12 South, Range 13, East of the Boise Meridian.

IDAHO DEPARTMENT OF WATER RESOURCES

laim No(s): 51-00137 & 51-00138
wp. 12S, Rge . 13E, Secs. 2, 3, 9, 10, 14, 15, 22, 23 & 24
laimants: Cedar Mesa Reservoir & Canal Company
Prepared by: Jan Shurte
Date: 11-12-1998



Boundary Line

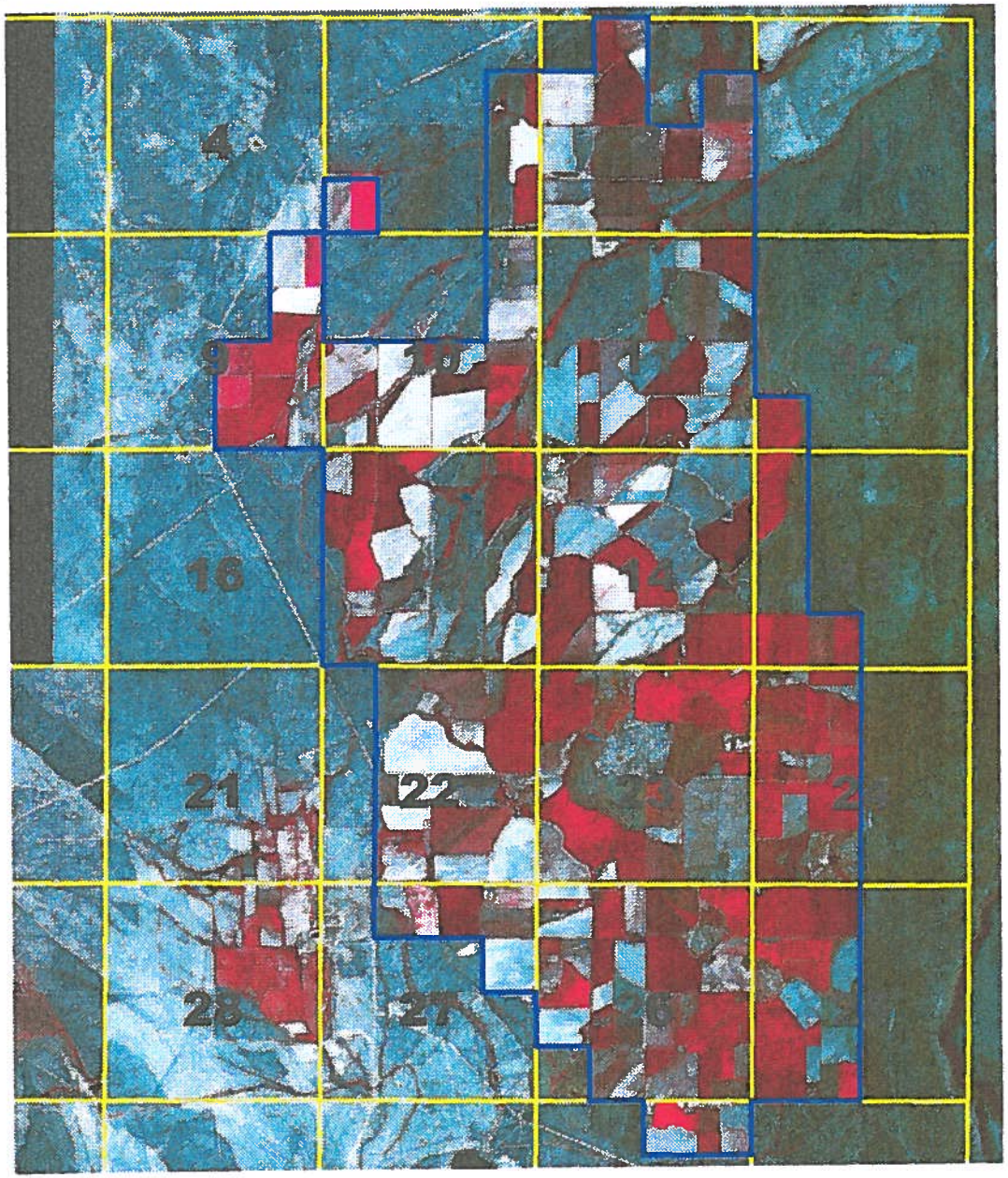
Section Lines

N
W E
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1987 NAPP

IDAHO DEPARTMENT OF WATER RESOURCES

Claim No(s): 51-00137 & 51-00138
Twp. 12S, Rge. 13E, Secs. 2, 3, 9, 10, 14, 15, 22, 23 & 24
Claimants: Cedar Mesa Reservoir & Canal Company
Prepared by: Jan Shurte
Date: 11-12-1998



Boundary Line

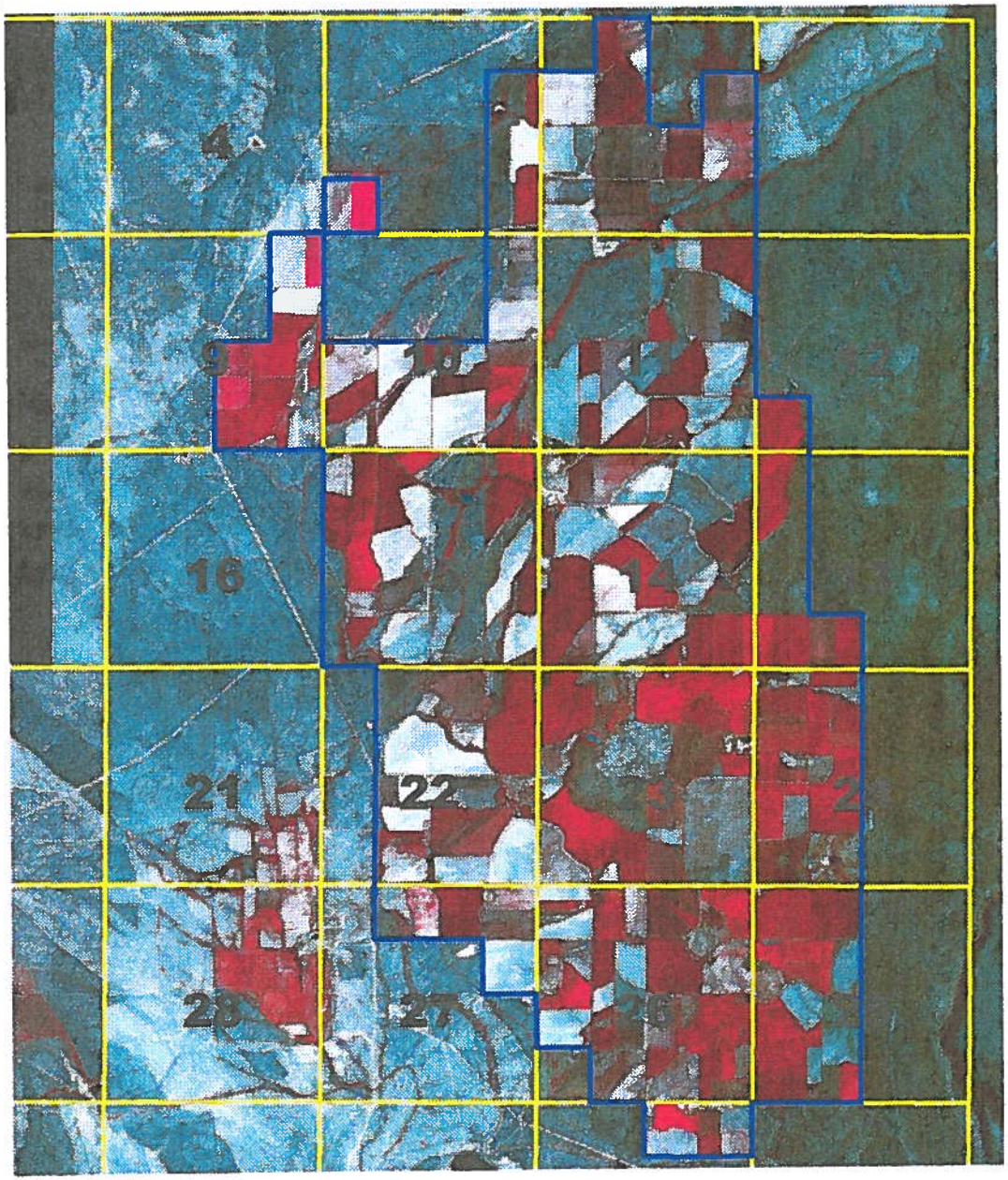
Section Lines

N
W E
S

1987 NAPP

IDAHO DEPARTMENT OF WATER RESOURCES

Claim No(s): 51-00137 & 51-00138
Twp. 12S, Rge . 13E, Secs. 2, 3, 9, 10, 14, 15, 22, 23 & 24
Claimants: Cedar Mesa Reservoir & Canal Company
Prepared by: Jan Shurte
Date: 11-12-1998

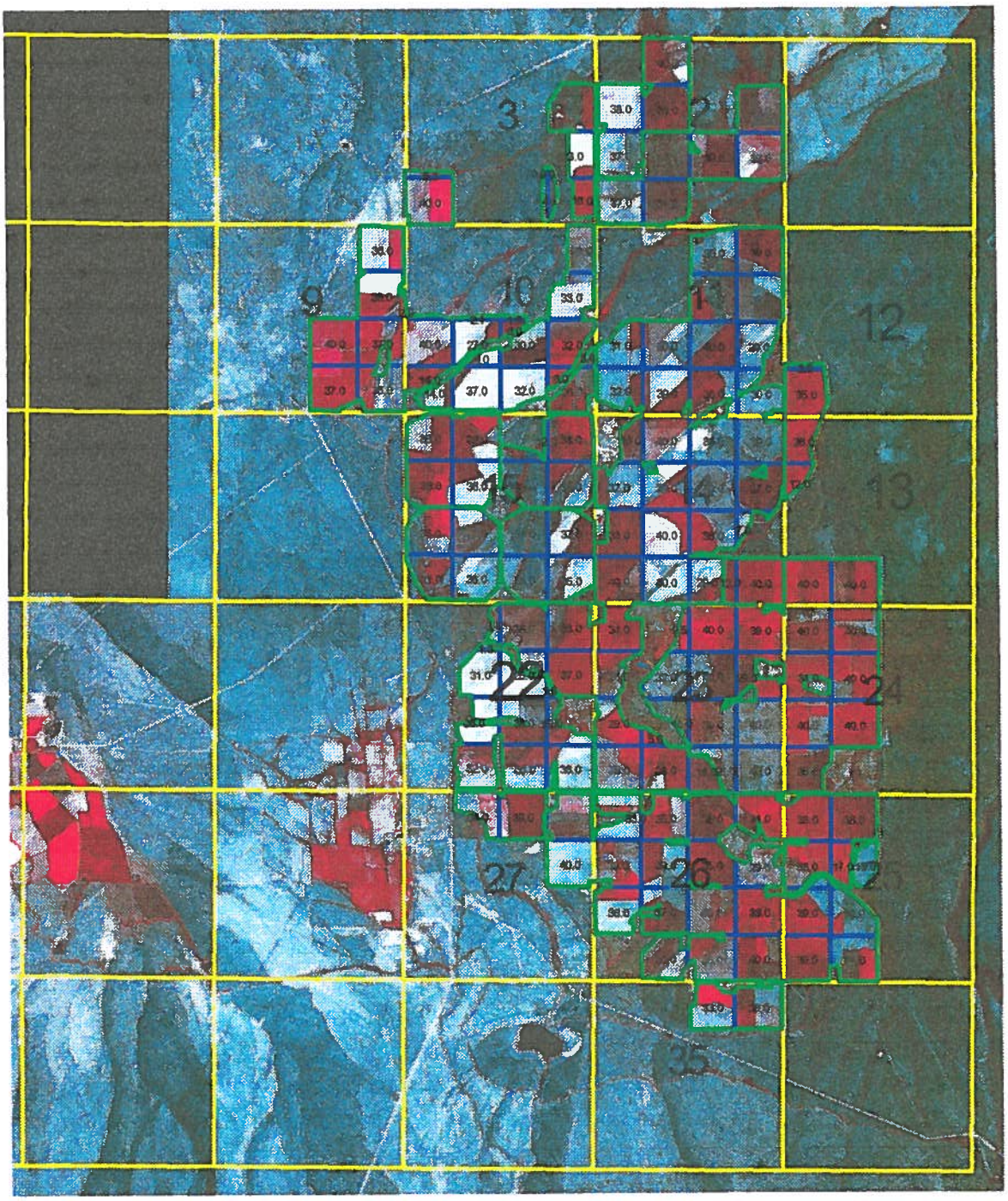


Boundary Line

Section Lines

N
W E
S

1987 NAPP


3
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IDAHO DEPARTMENT OF WATER RESOURCES

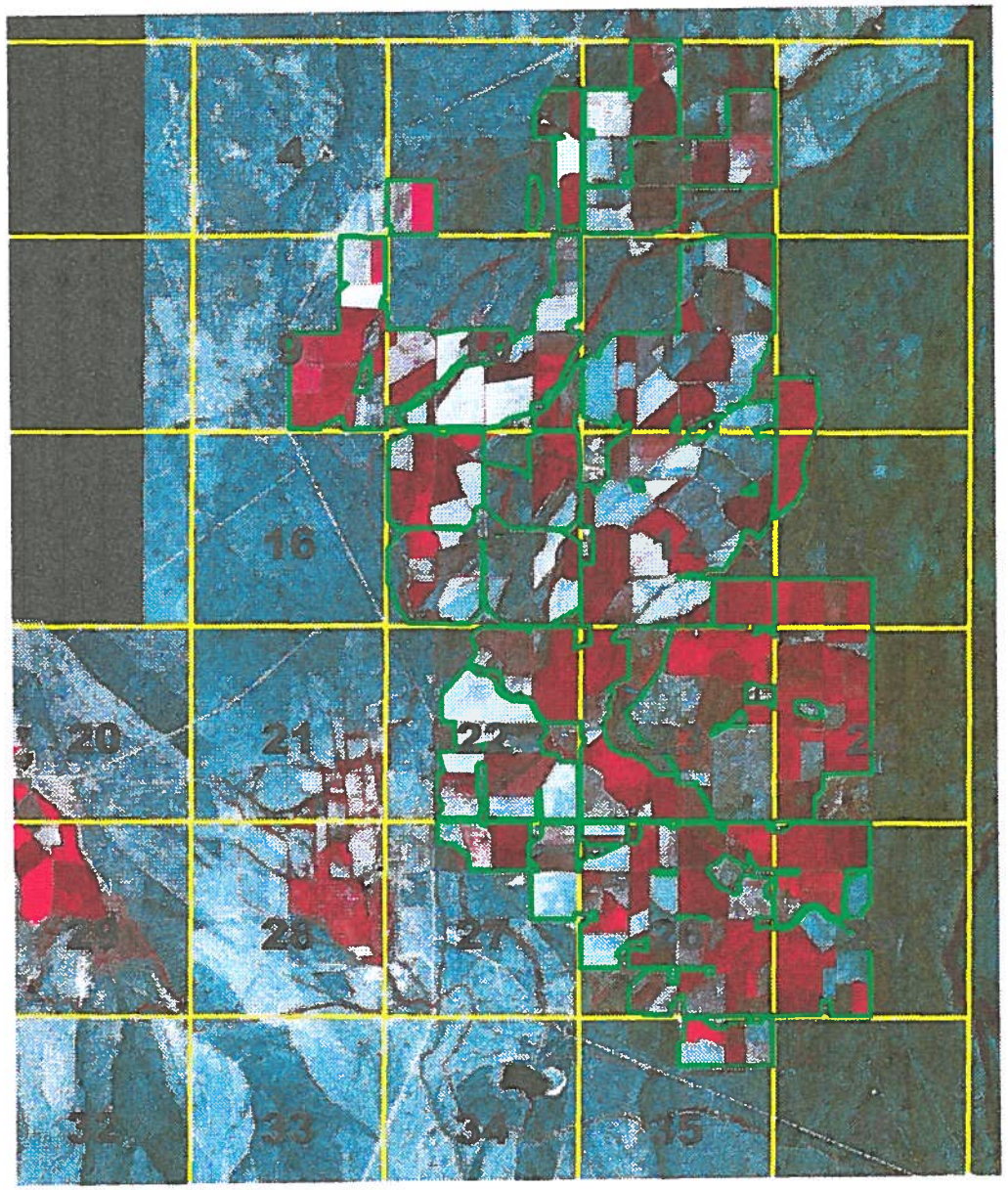
Claim No(s): 51-00137 & 51-00138
Twp. 12S, Rge . 13E, Secs. 2, 3, 9, 10, 14, 15, 22, 23 & 24
Claimants: Cedar Mesa Reservoir & Canal Company
Prepared by: Jan Shurte
Date: 11-12-1998

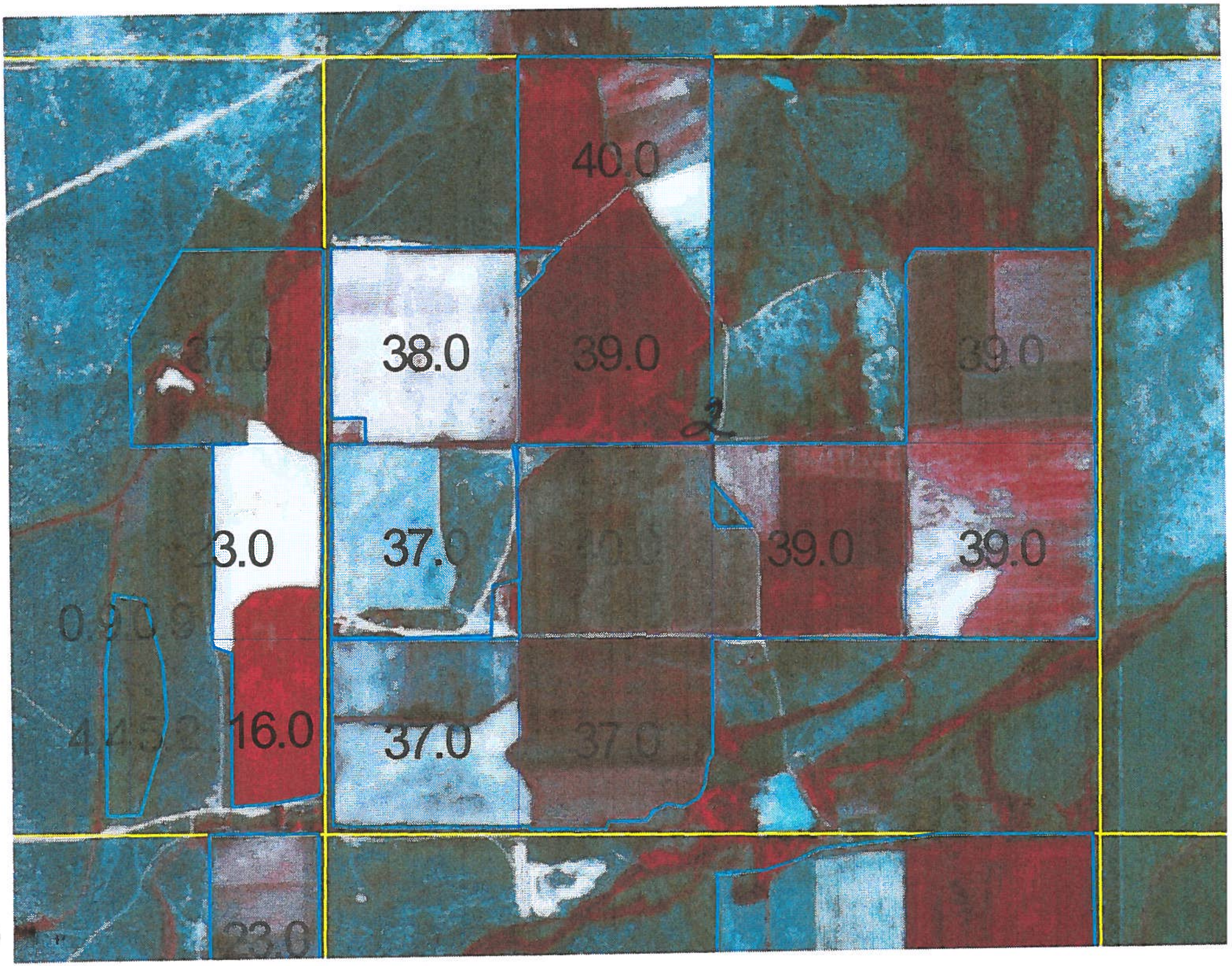
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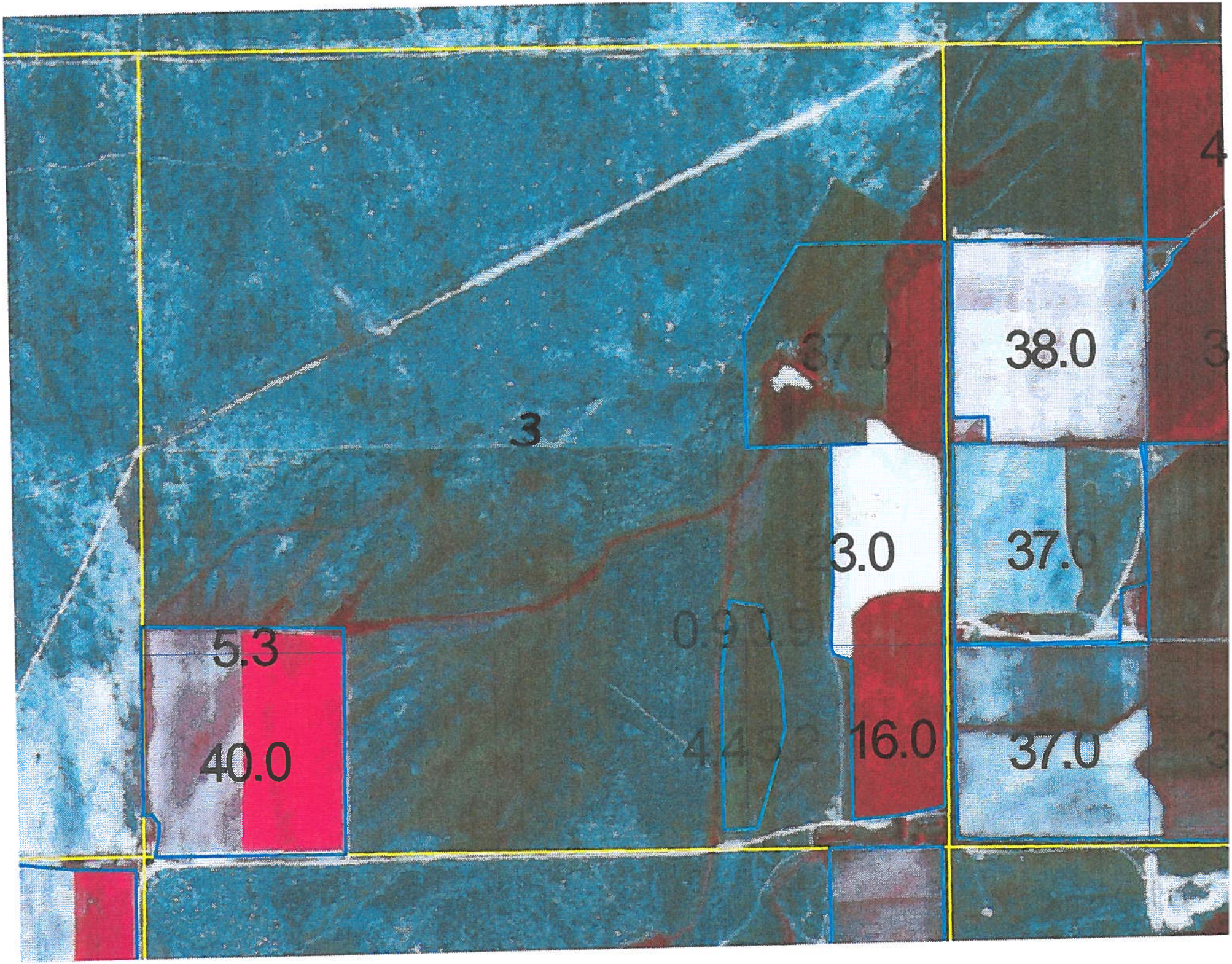
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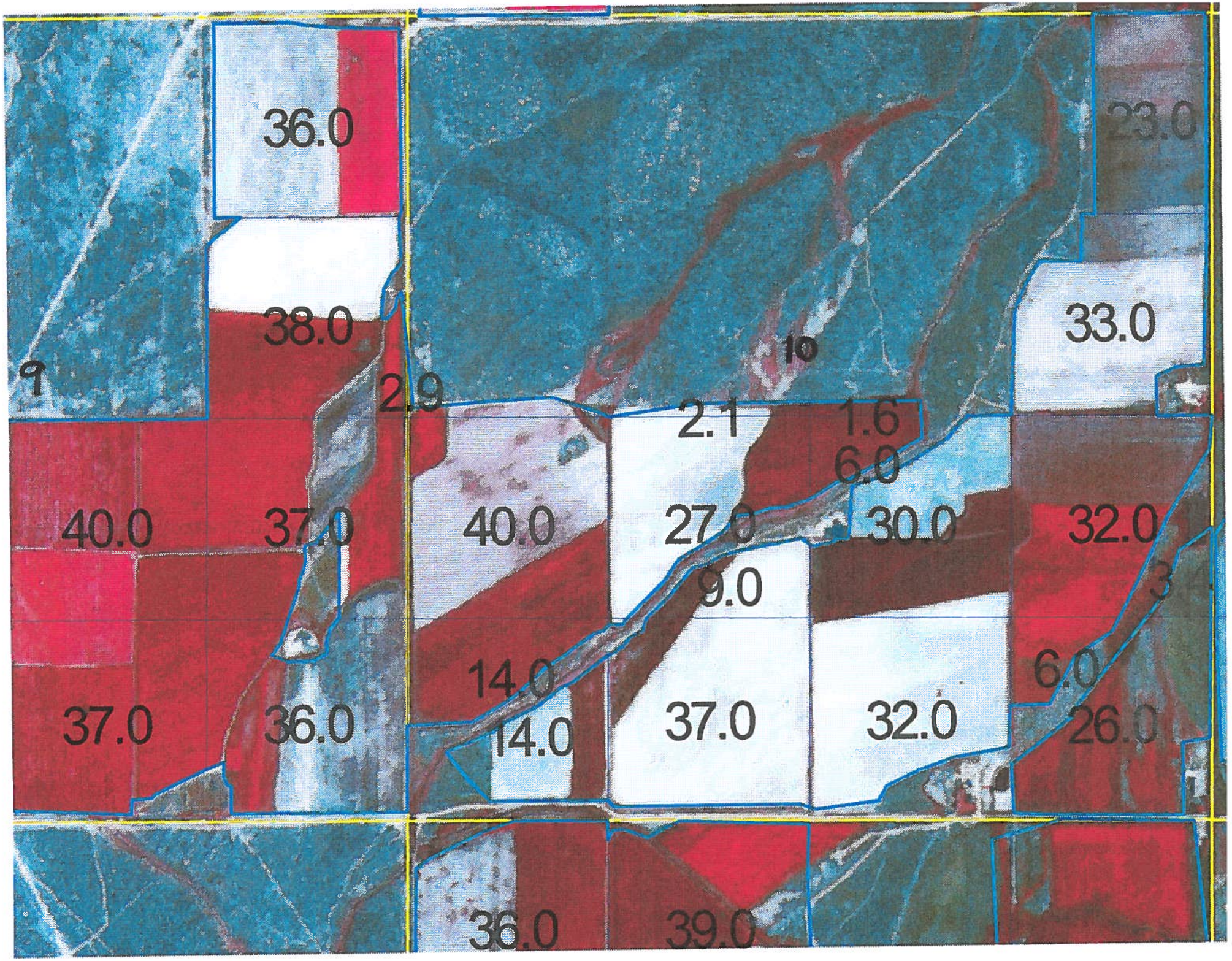
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W E
S

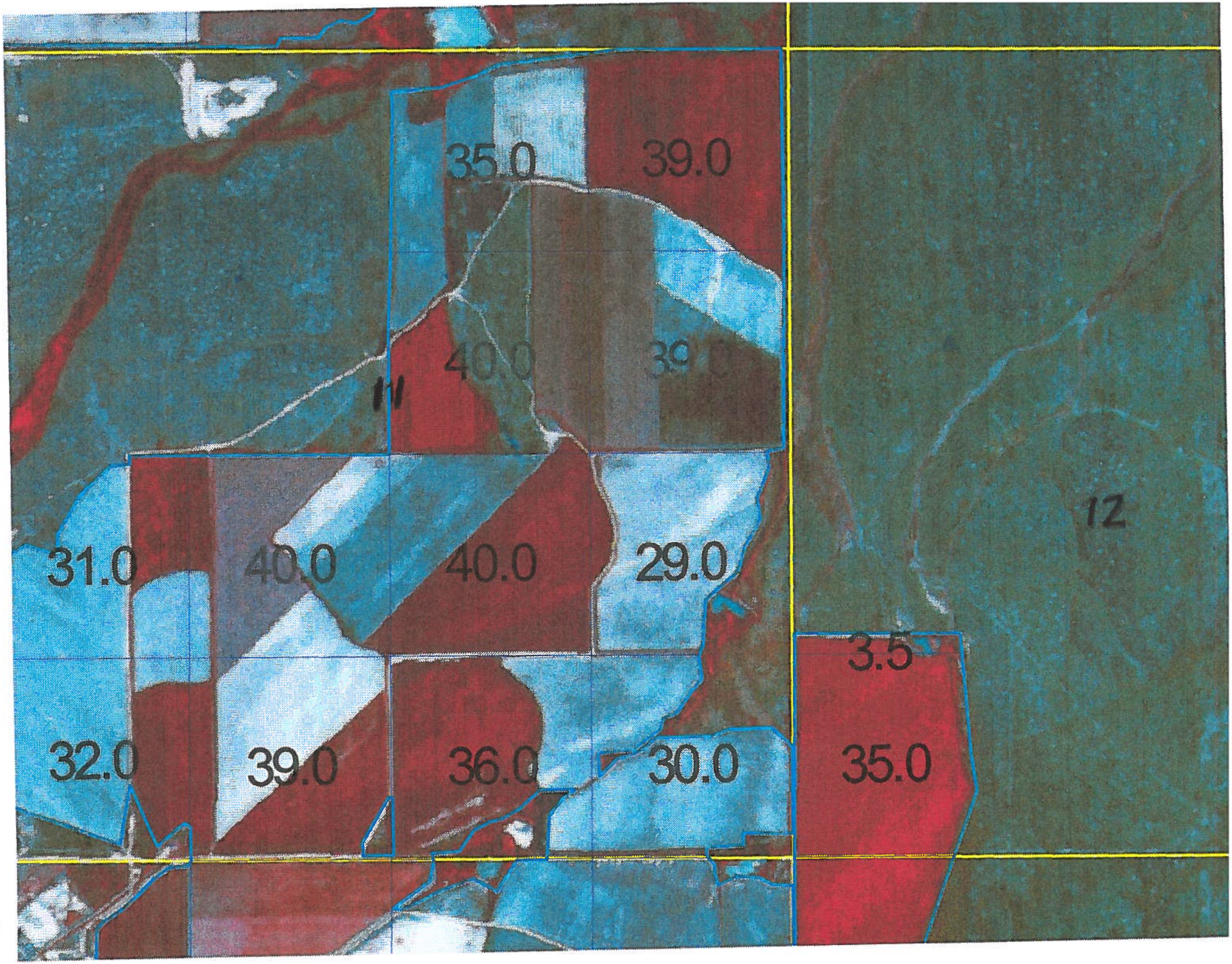
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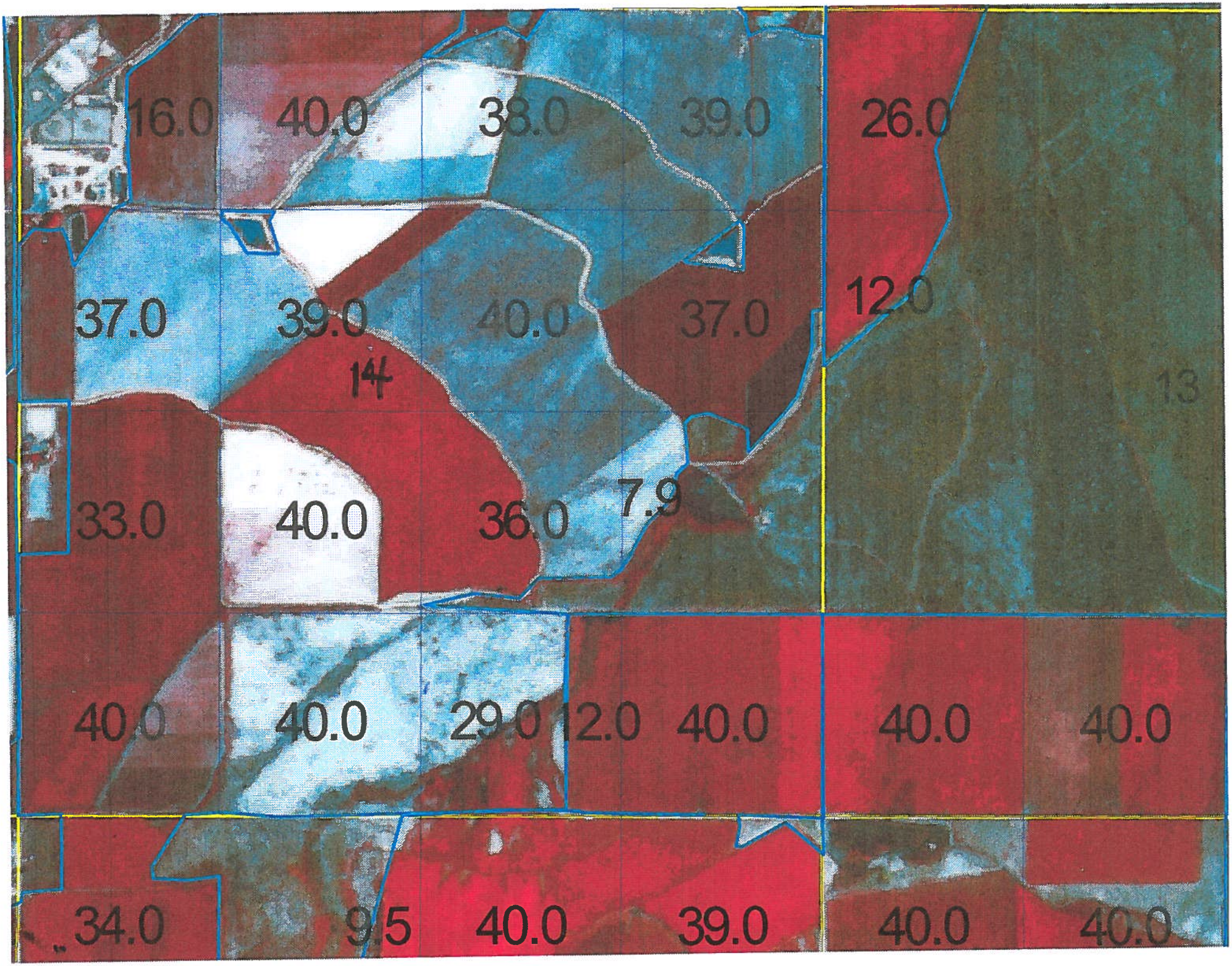


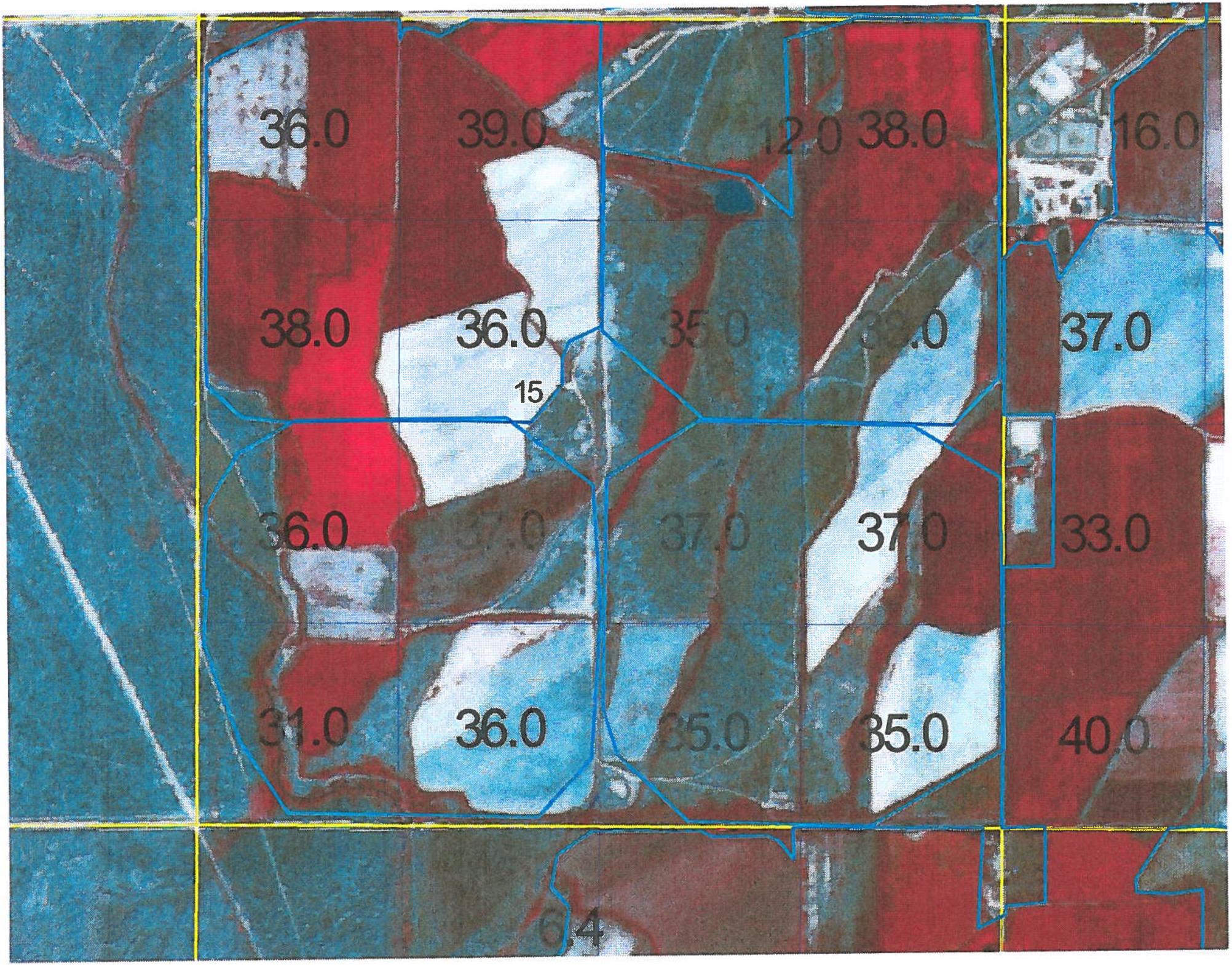

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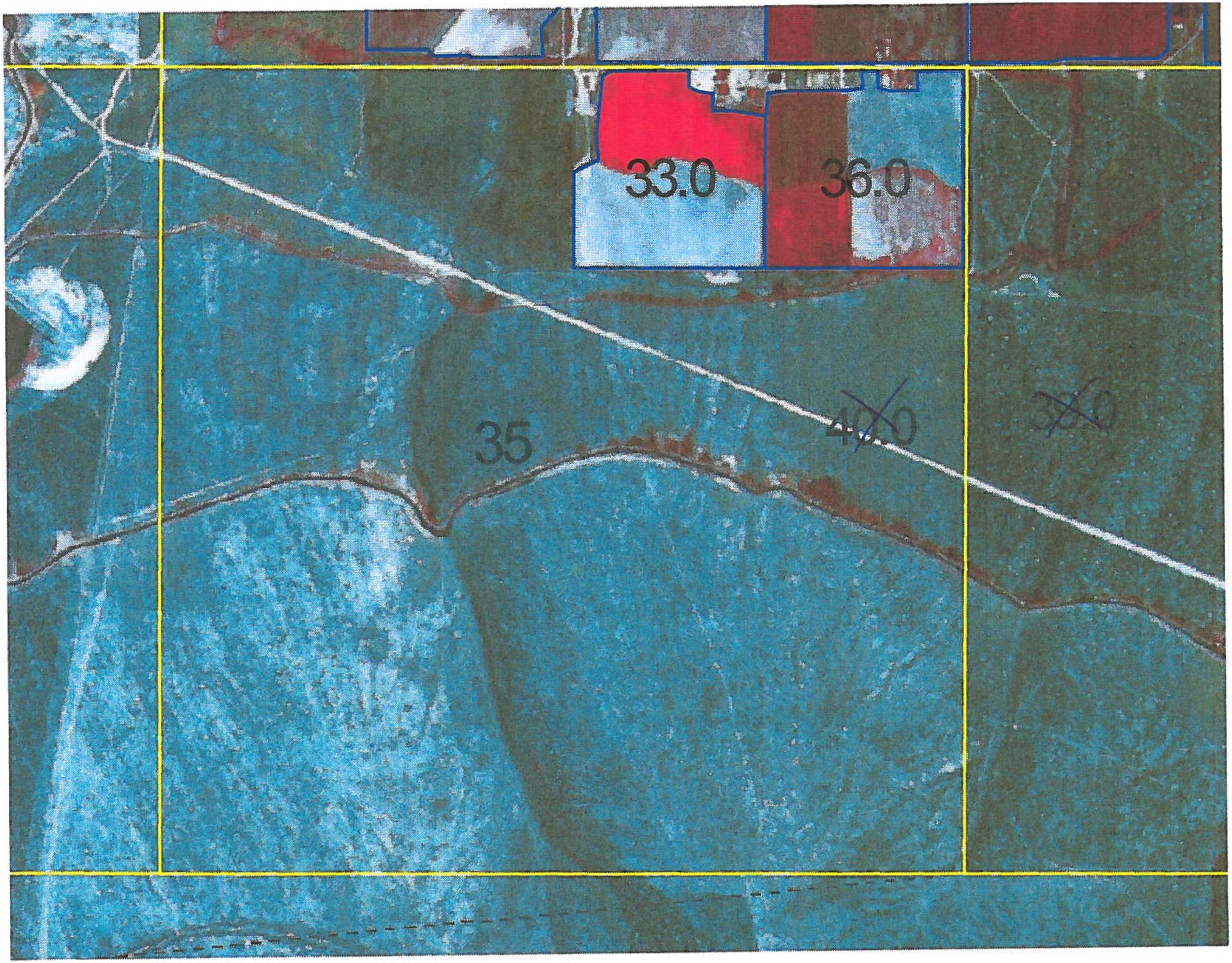

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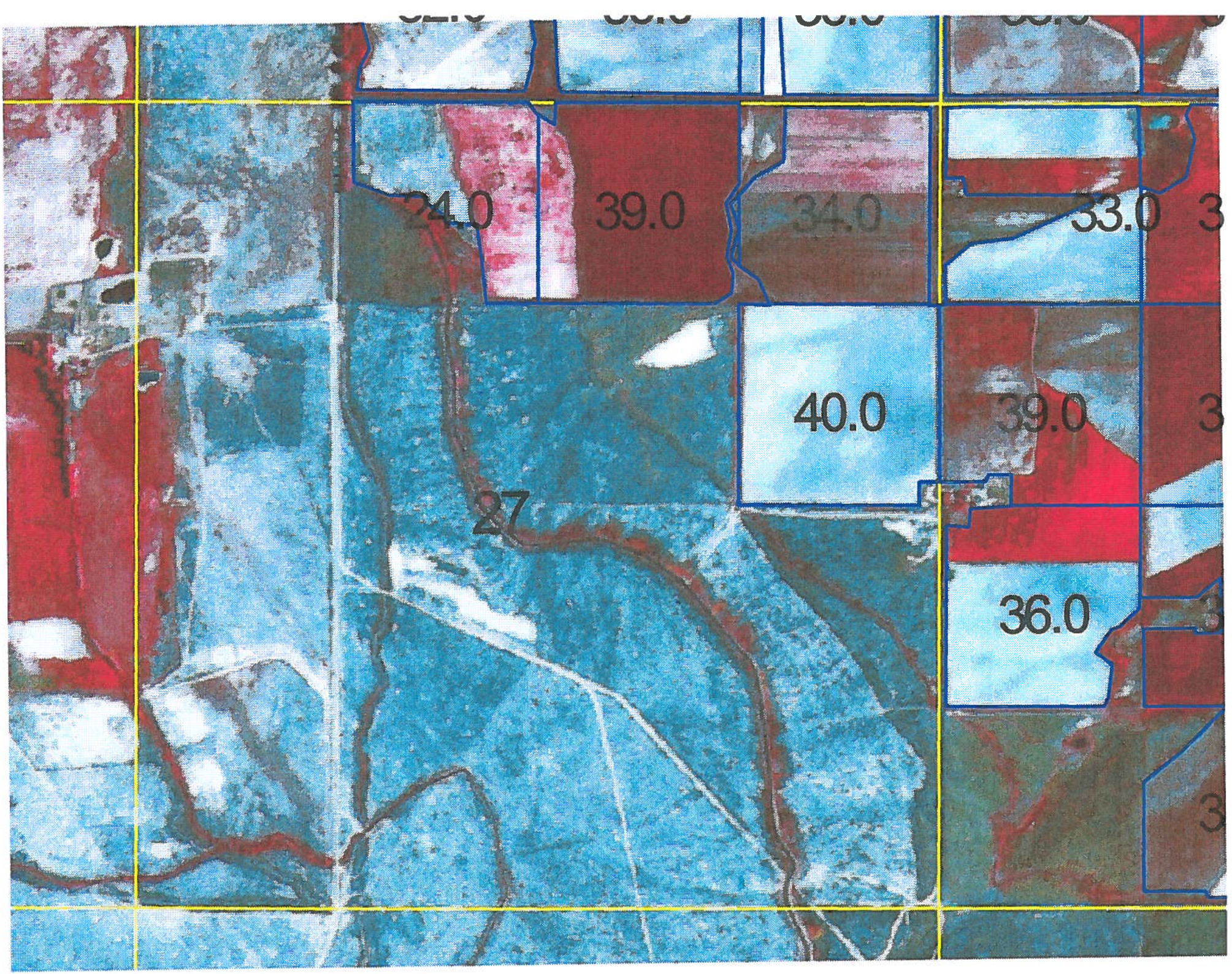

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2.9
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2.1
1.6
6.0
23.0
33.0
40.0
37.0
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27.0
30.0
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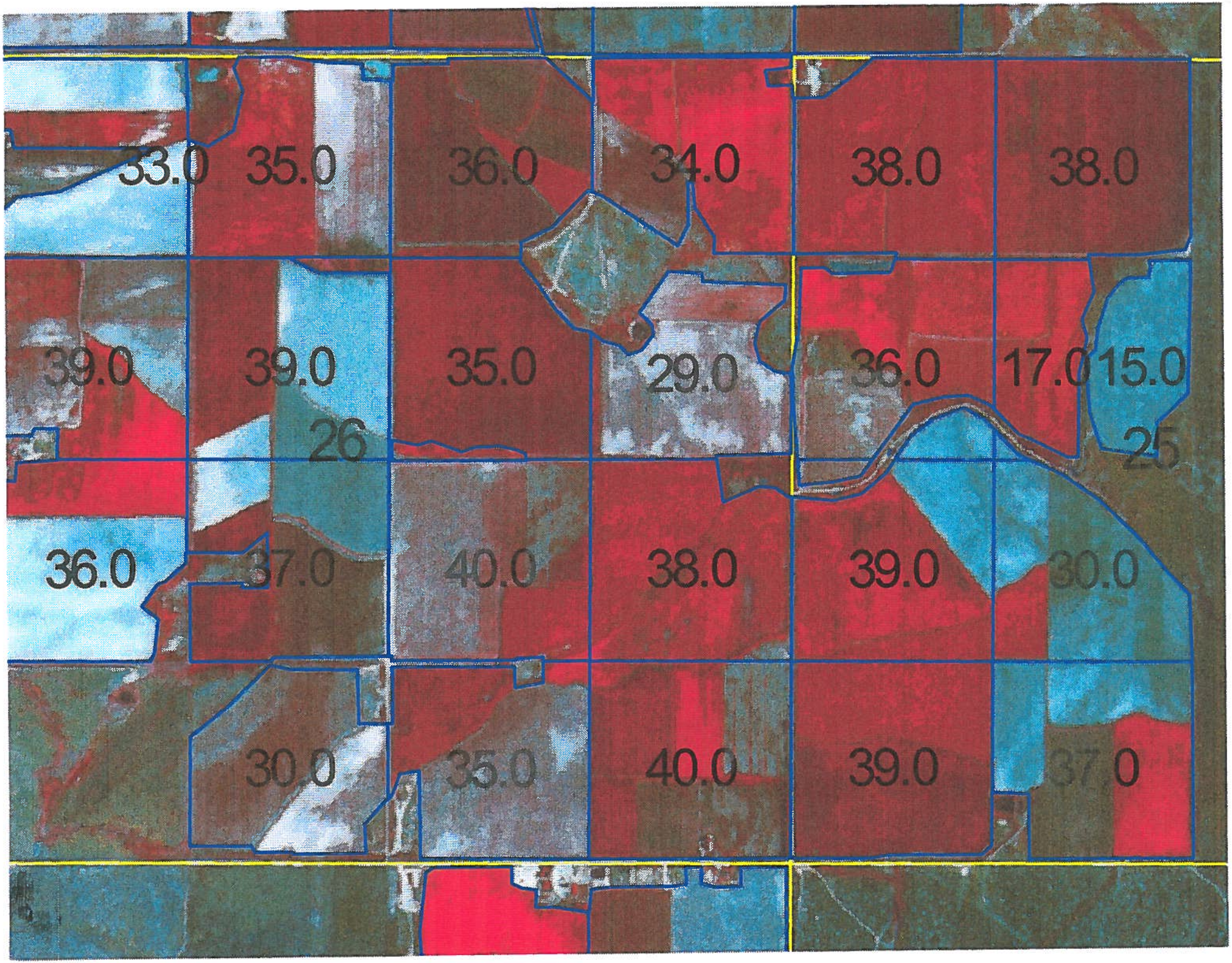

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35.0

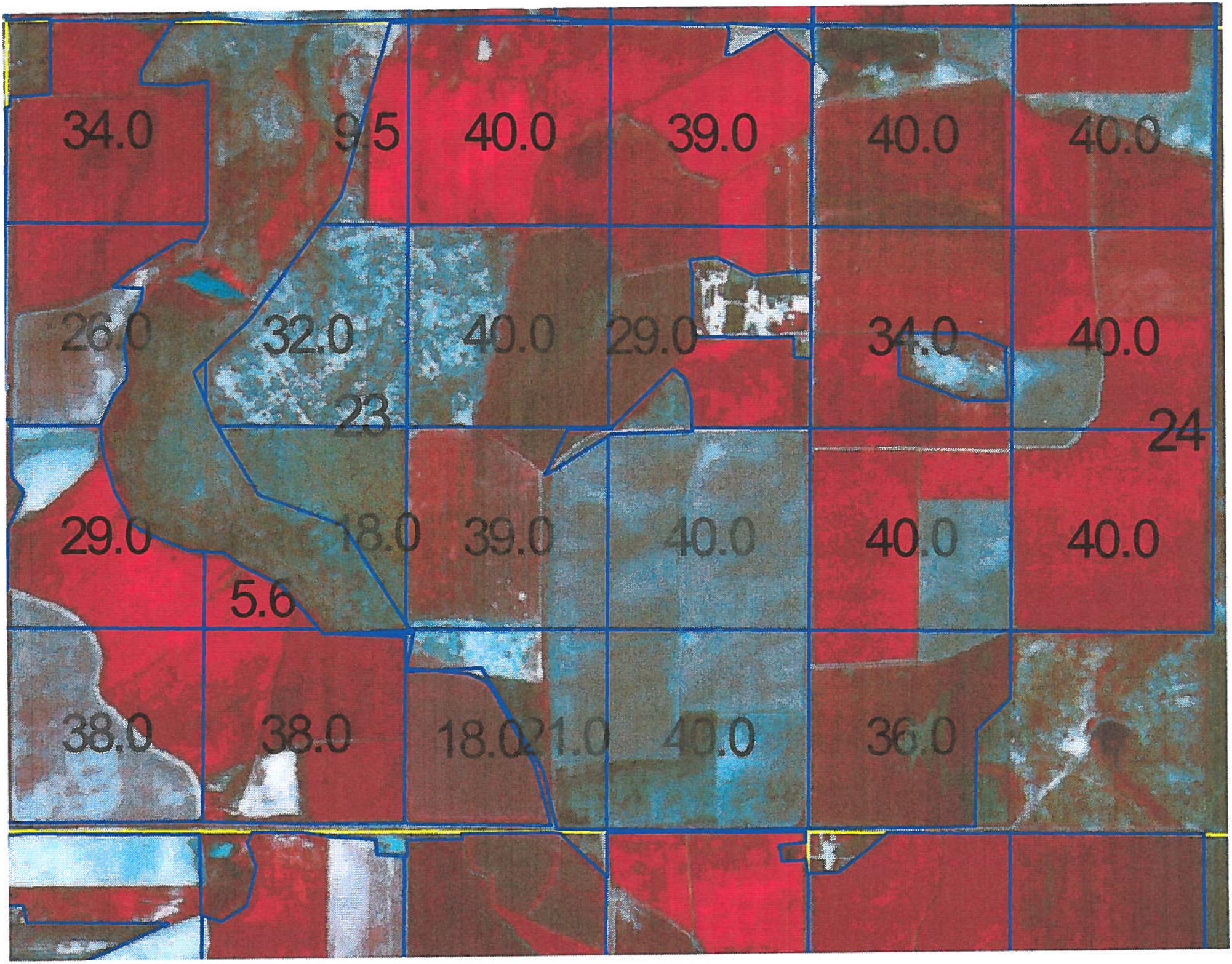

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7.9
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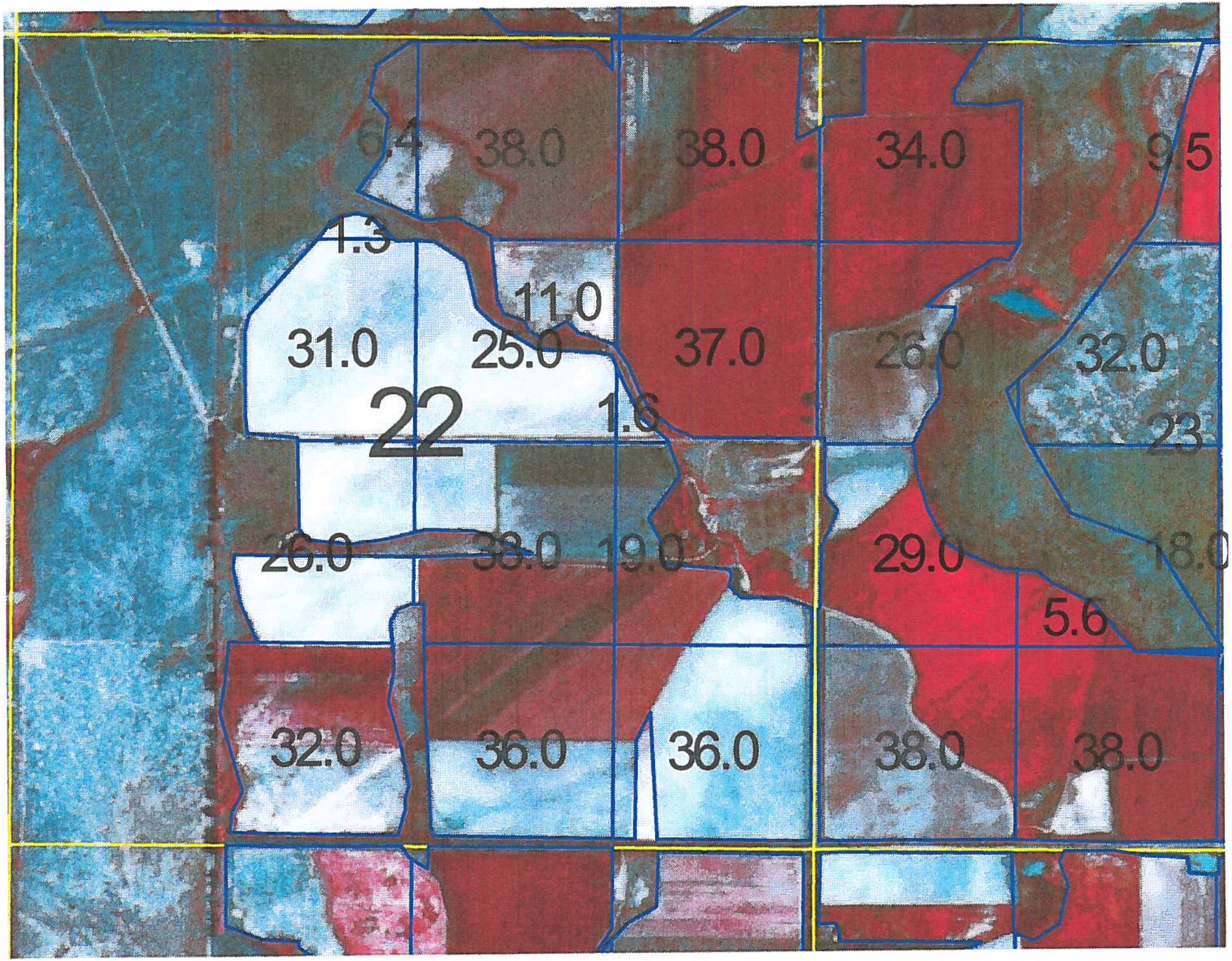

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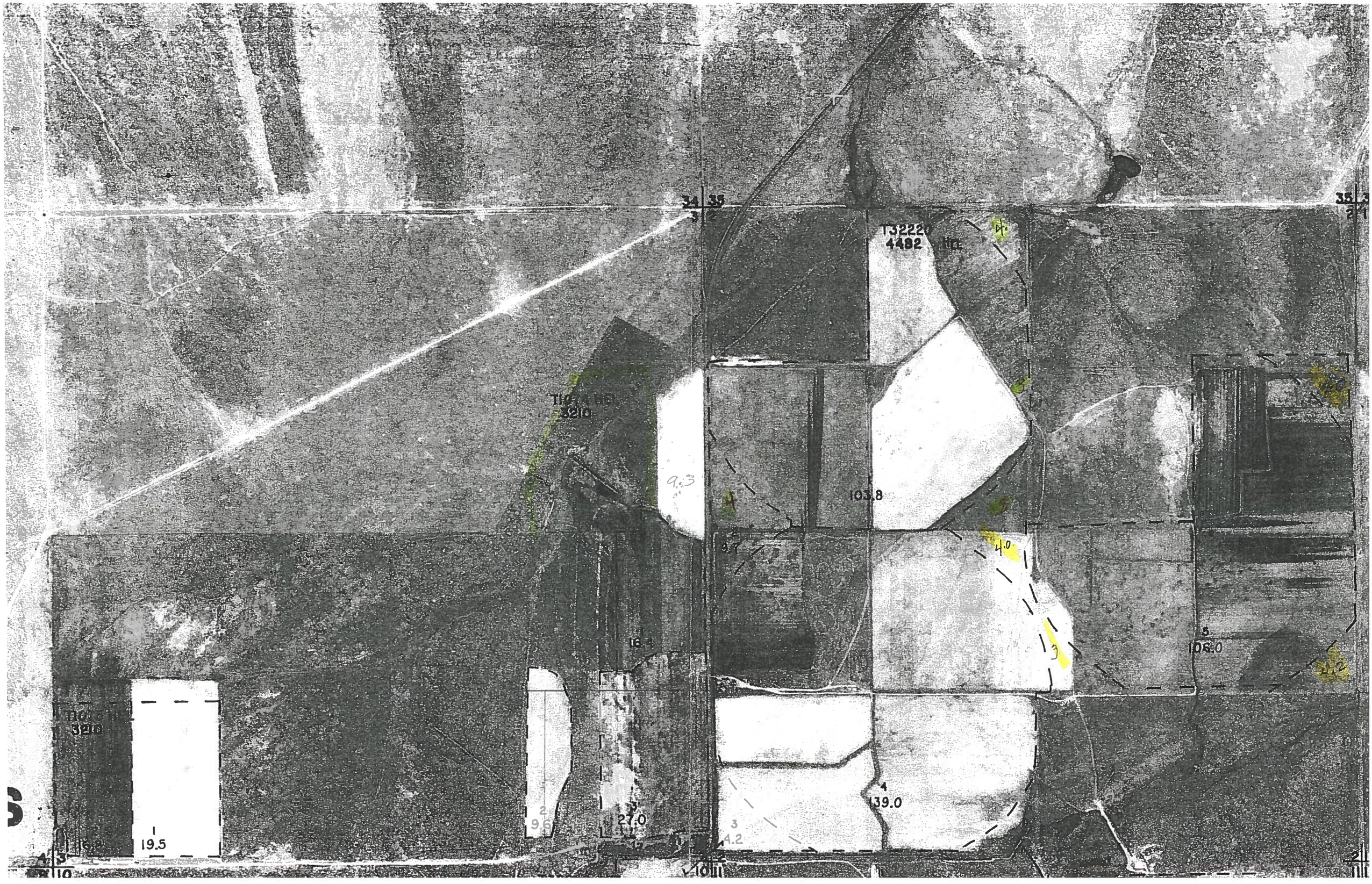

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37.0


34.0
9.5
40.0
39.0
40.0
40.0
26.0
32.0
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40.0
23
24
29.0
18.0
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40.0
5.6
38.0
38.0
18.0
21.0
40.0
36.0


38.0
38.0
34.0
9.5
1.3
11.0
31.0
25.0
37.0
26.0
32.0
22
1.6
23
26.0
38.0
19.0
29.0
18.0
5.6
32.0
36.0
36.0
38.0
38.0


34
35
T3222
4482
9.3
103.8
4.0
106.0
19.5
27.0
39.0
4.2
9.6

34 39

T3222
4482

9.3

10.3.8

106.0

1
19.5

2
9.6

3
27.0

4
39.0

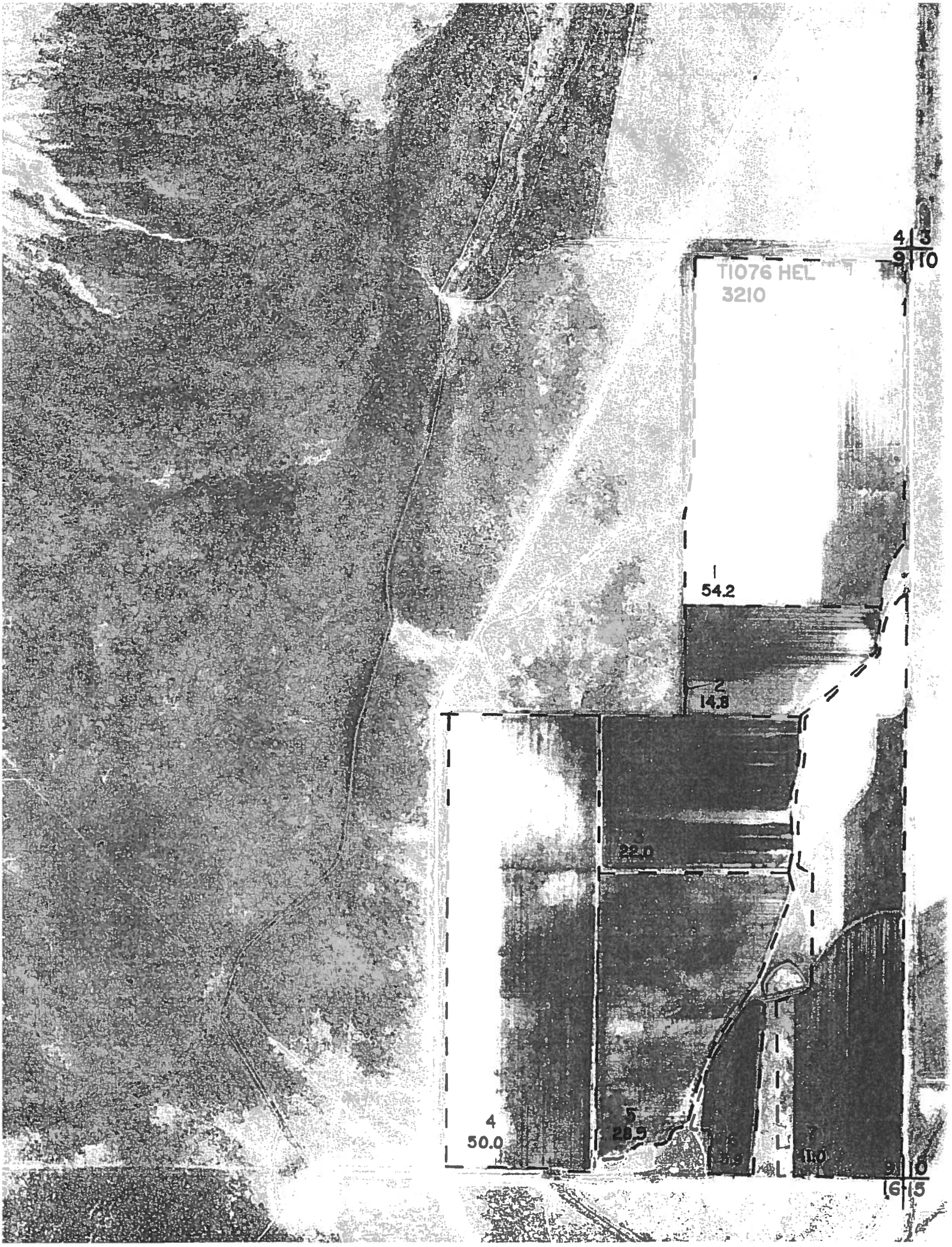
4.2

Cedar Mesa Reservoir &
Canal Co.

Township 12 So R 13EBM

Twin Falls County.

Sections 2&3


T1076 HEL
3210
54.2
14.8
22.0
4
50.0
5
28.5
1.0
6

Cedar Mesa Reservoir & Canal Co.

Township 12 So R. 13 E BM

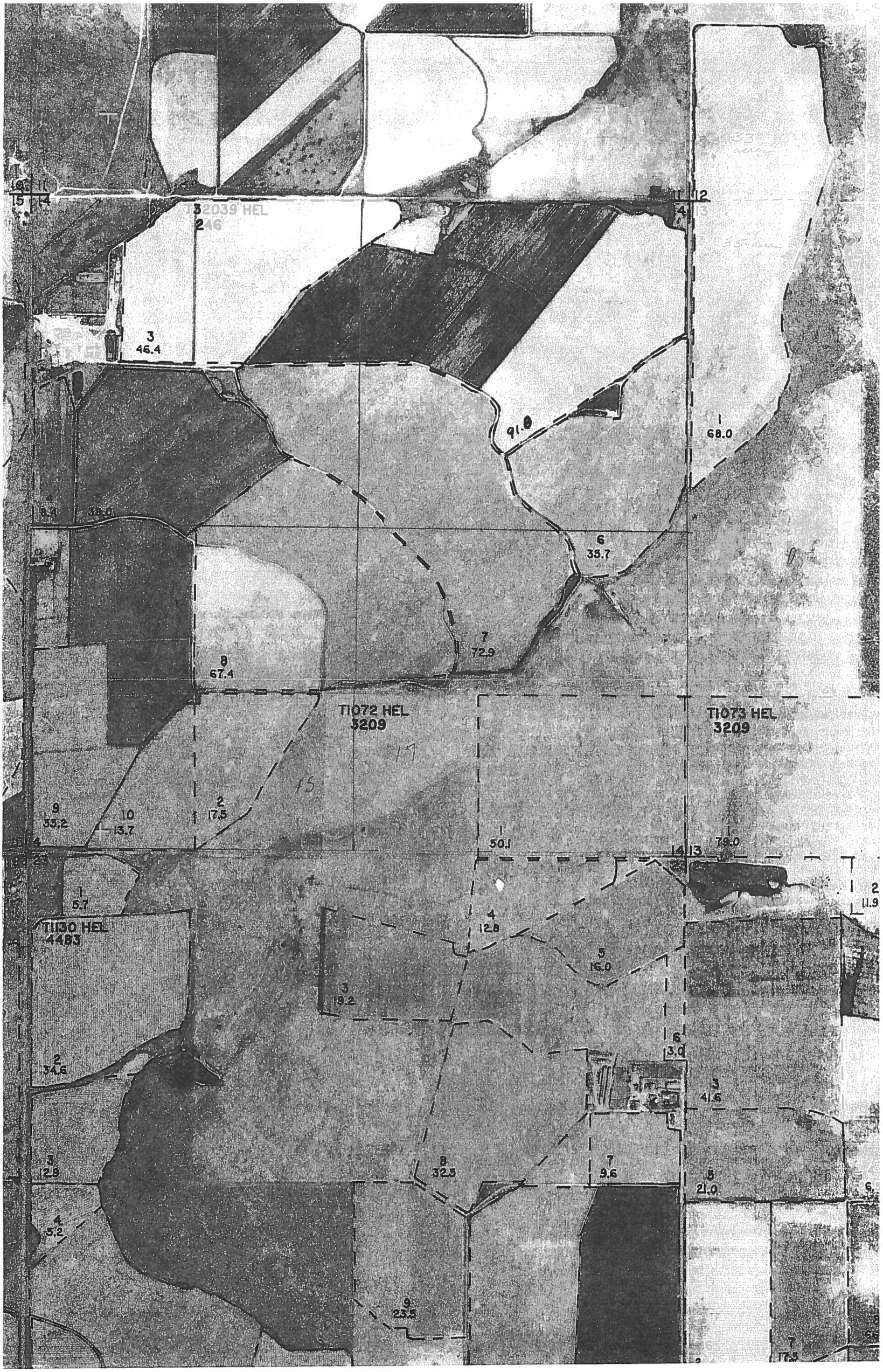
Twin Falls County.

Section 9


T10
3210
1
19.5
2
9.6
3
270
4
39.0
3
4.2
10
T32220 HEL
4482
T32220 HEL
4482
142
8
138.6
12
145.0
15
140.8

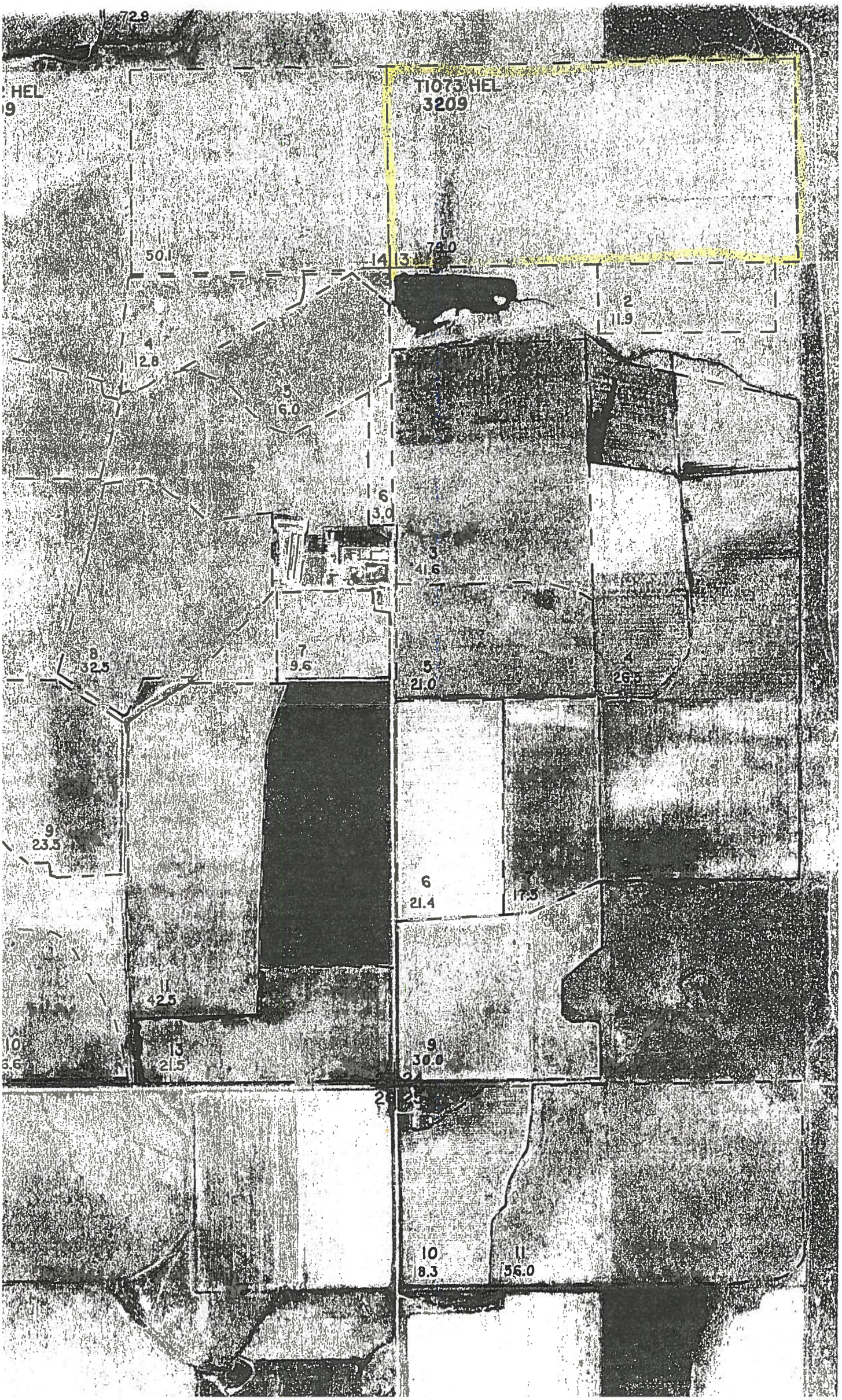
Cedar Mesa Reservoir &
Canal Co.
Townships 12 So R 13 EBM
Twin Falls County

Sections 10 & 11

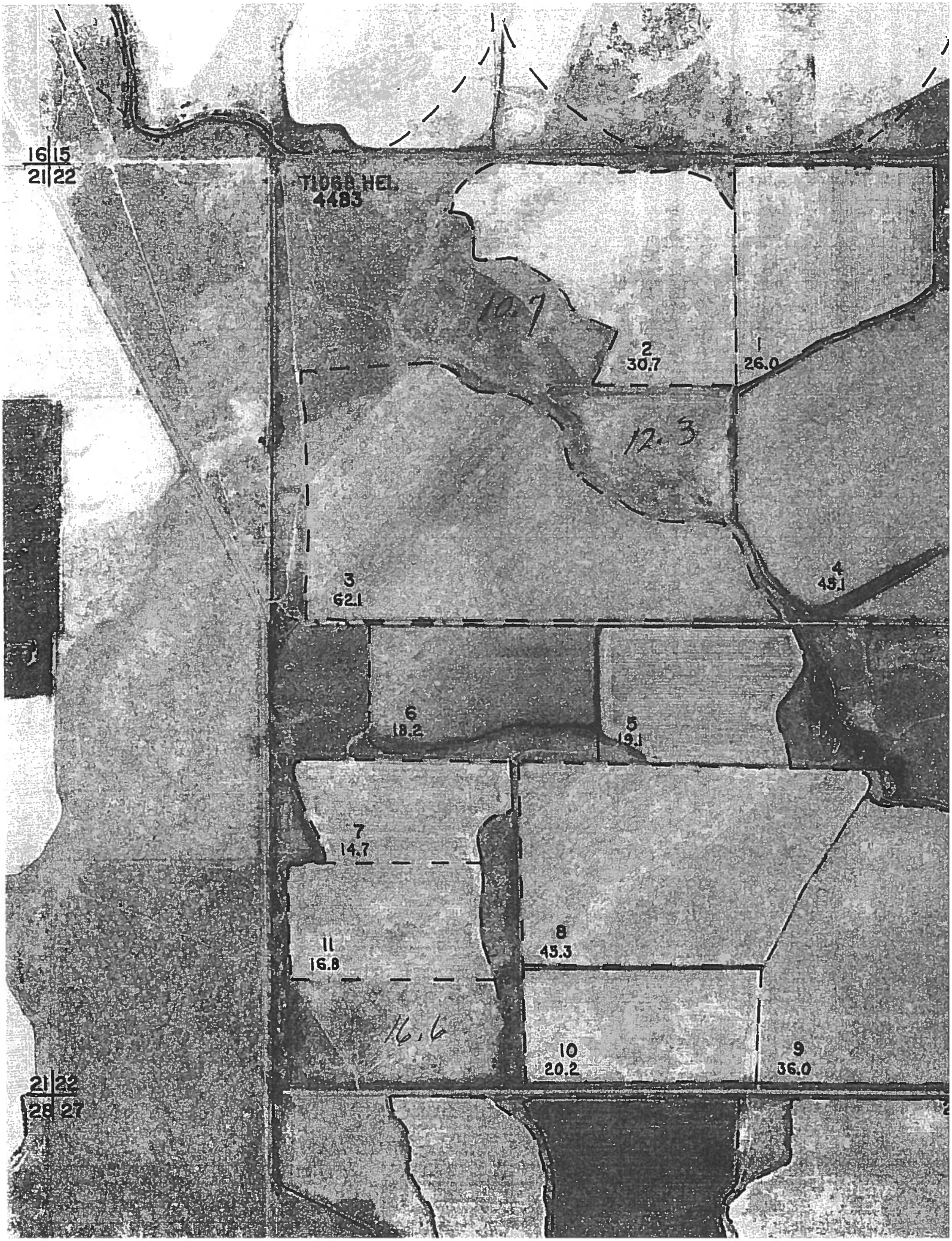

3
2039 HEL
246
3
46.4
91.0
1
68.0
6
35.7
7
72.9
8
67.4
T1072 HEL
3209
T1073 HEL
3209
9
55.2
10
13.7
2
17.5
1
50.1
7.9.0
2
11.9
1
5.7
T1130 HEL
4483
4
12.8
5
15.0
3
19.2
6
3.0
2
34.6
3
41.6
3
12.8
8
32.5
7
9.6
5
21.0
4
5.2
9
23.5
7
17.5

Cedar Mesa Reservoir &
Canal Co.
Township 12 So 13 E BM
Twin Falls County

Sections 12, 13 & 14


72.8
HEL
9
T1073 HEL
3209
79.0
50.1
14
13
2
11.9
4
12.8
5
6.0
6
3.0
3
41.6
8
32.5
7
9.6
5
21.0
4
26.5
9
23.5
6
21.4
7
17.5
11
42.5
10
6.6
13
21.5
9
30.0
2
10
8.3
11
56.0

Balance of
Section 13

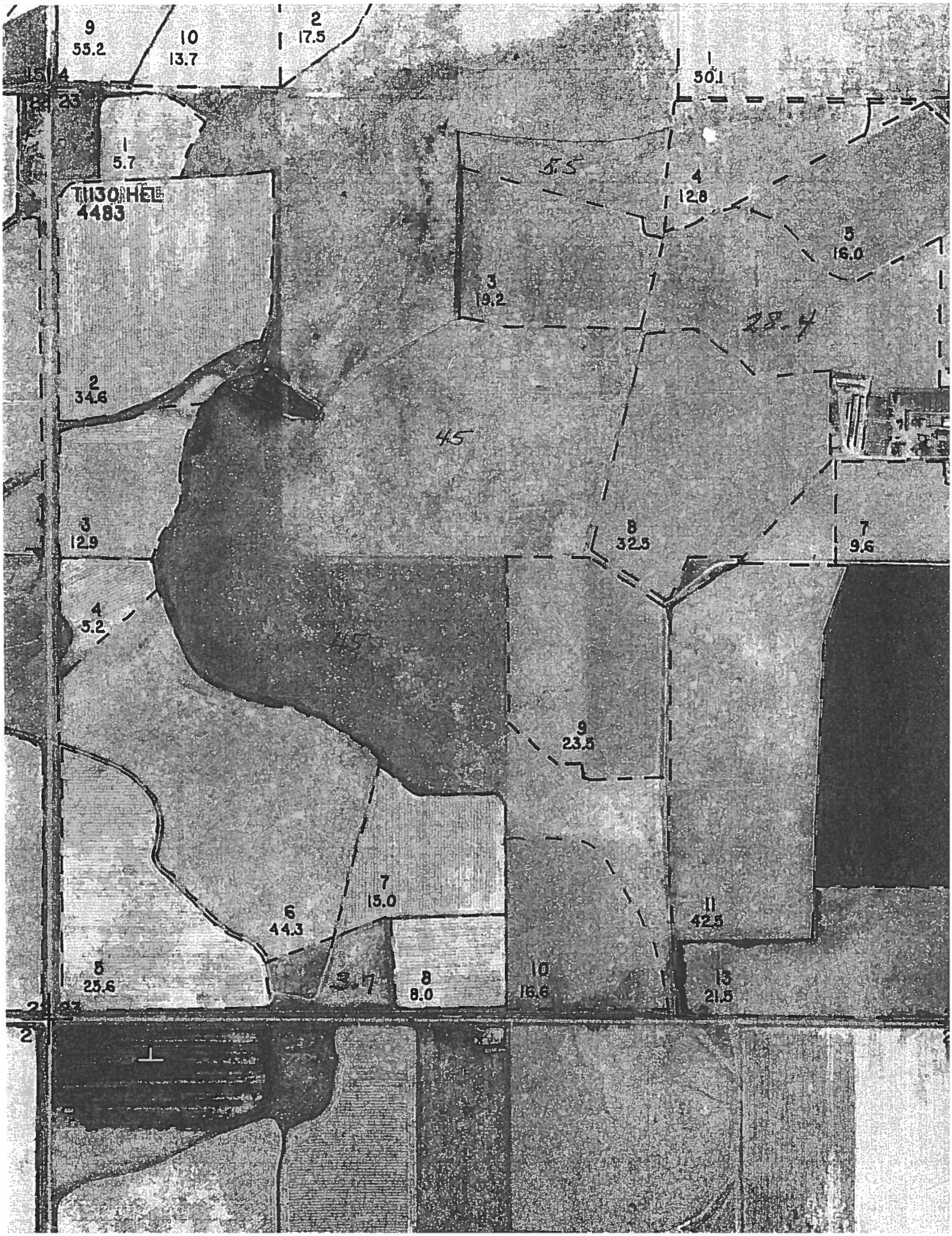

16 15
21 22
T196B HEL.
4483
10.7
2
30.7
1
26.0
12.3
3
62.1
4
45.1
6
18.2
5
19.1
7
14.7
11
16.8
8
45.3
16.6
10
20.2
9
36.0
21 22
28 27

Cedar Mesa Reservoir & Canal Co

Township 12 So R. 13 E B M

Twin Falls County

Section 22

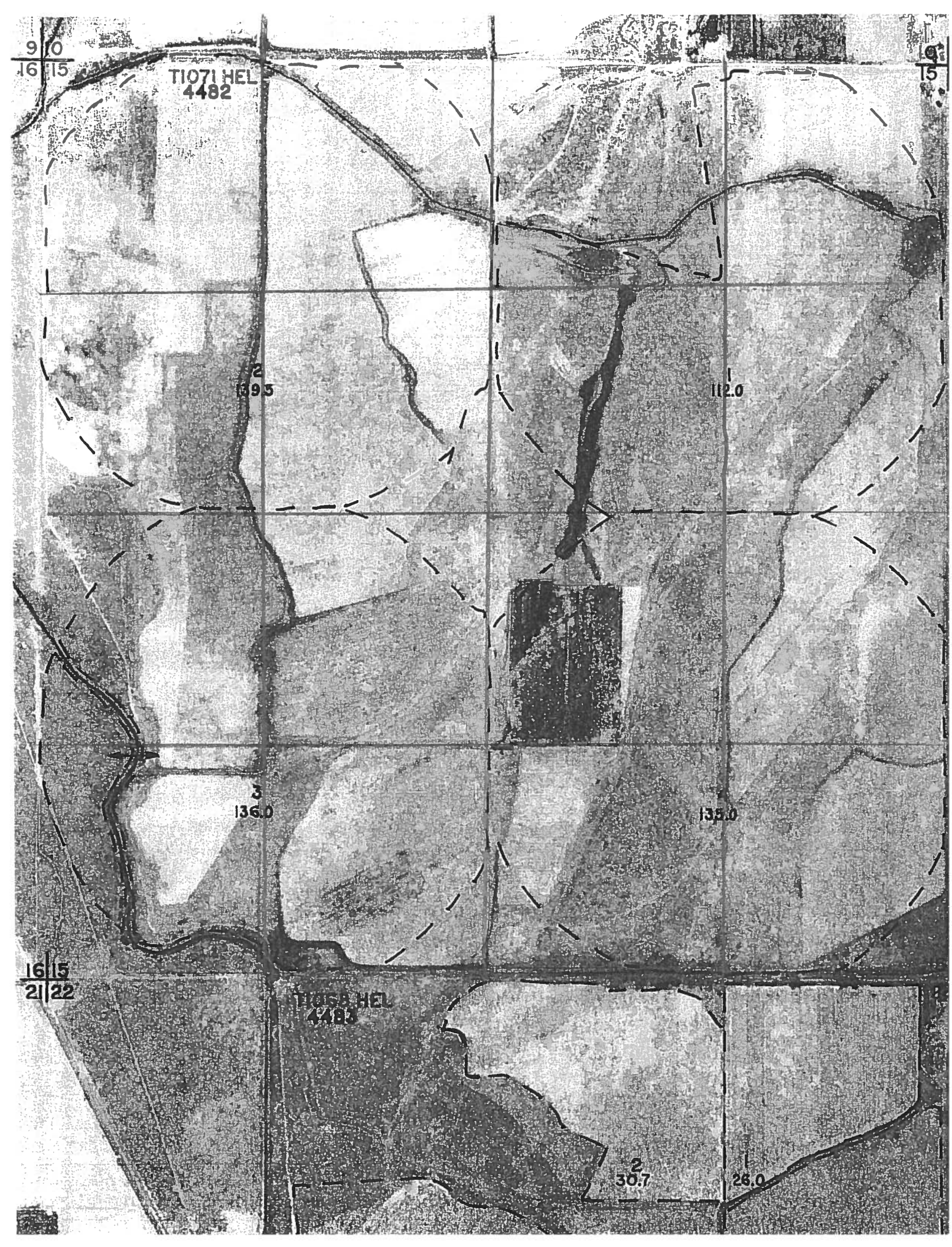

9
55.2
10
13.7
2
17.5
1
30.1
15
4
23
1
5.7
T1130 HEL
4483
55
4
12.8
5
16.0
3
19.2
28.4
2
34.6
45
3
12.9
8
32.5
7
9.6
4
5.2
45
9
23.5
7
15.0
6
44.3
11
42.5
5
25.6
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16.6
13
21.5

Cedar Mesa Reservoir & Canal Co.

Township 12 So. R 19 E B.M.

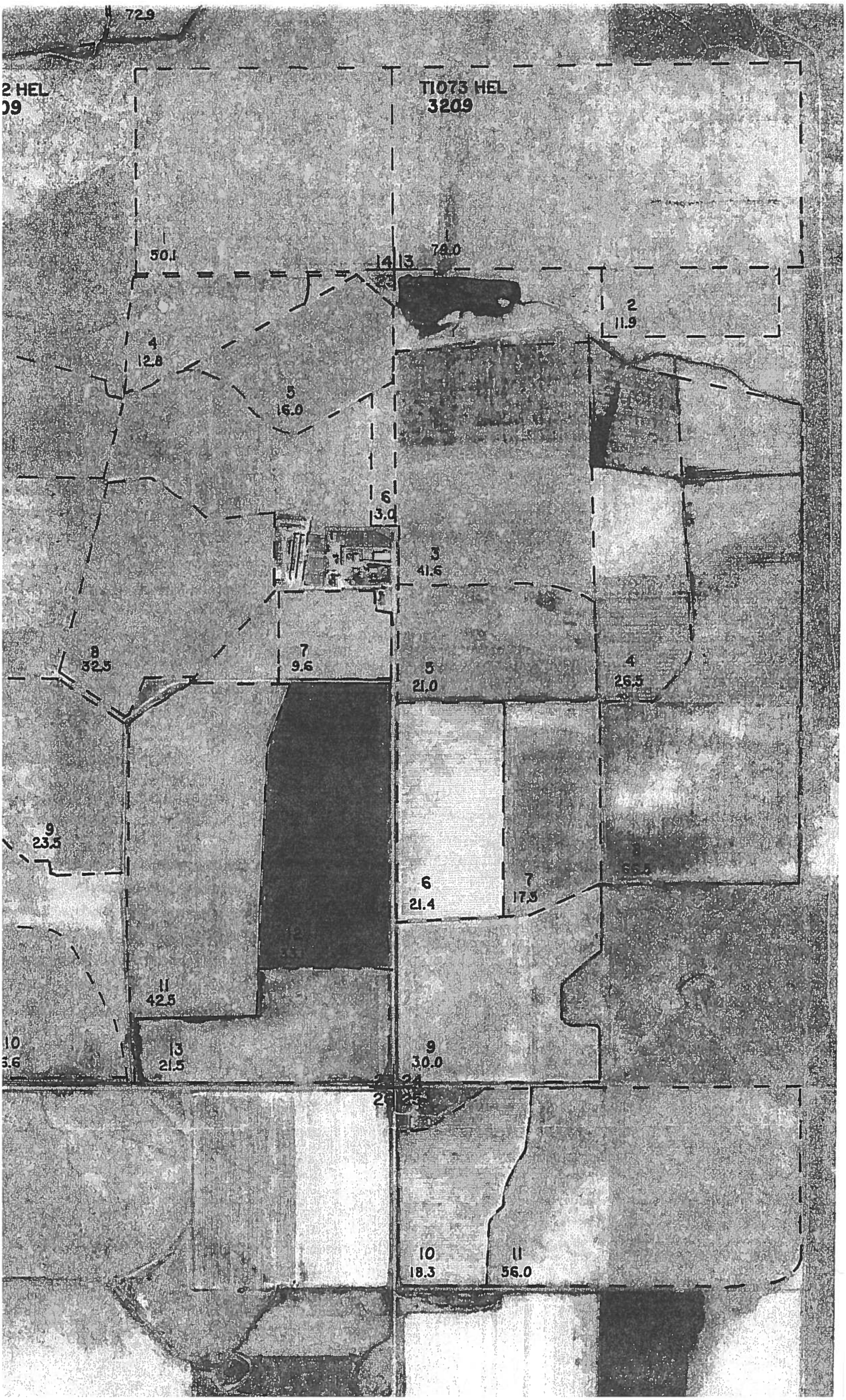
Twin Falls County

Section 23


9 10
16 15
T1071 HEL
4482
15
2
139.5
112.0
3
136.0
135.0
16 15
21 22
T1058 HEL
4483
2
30.7
26.0

Cedar Mesa Reservoir & Canal Co.

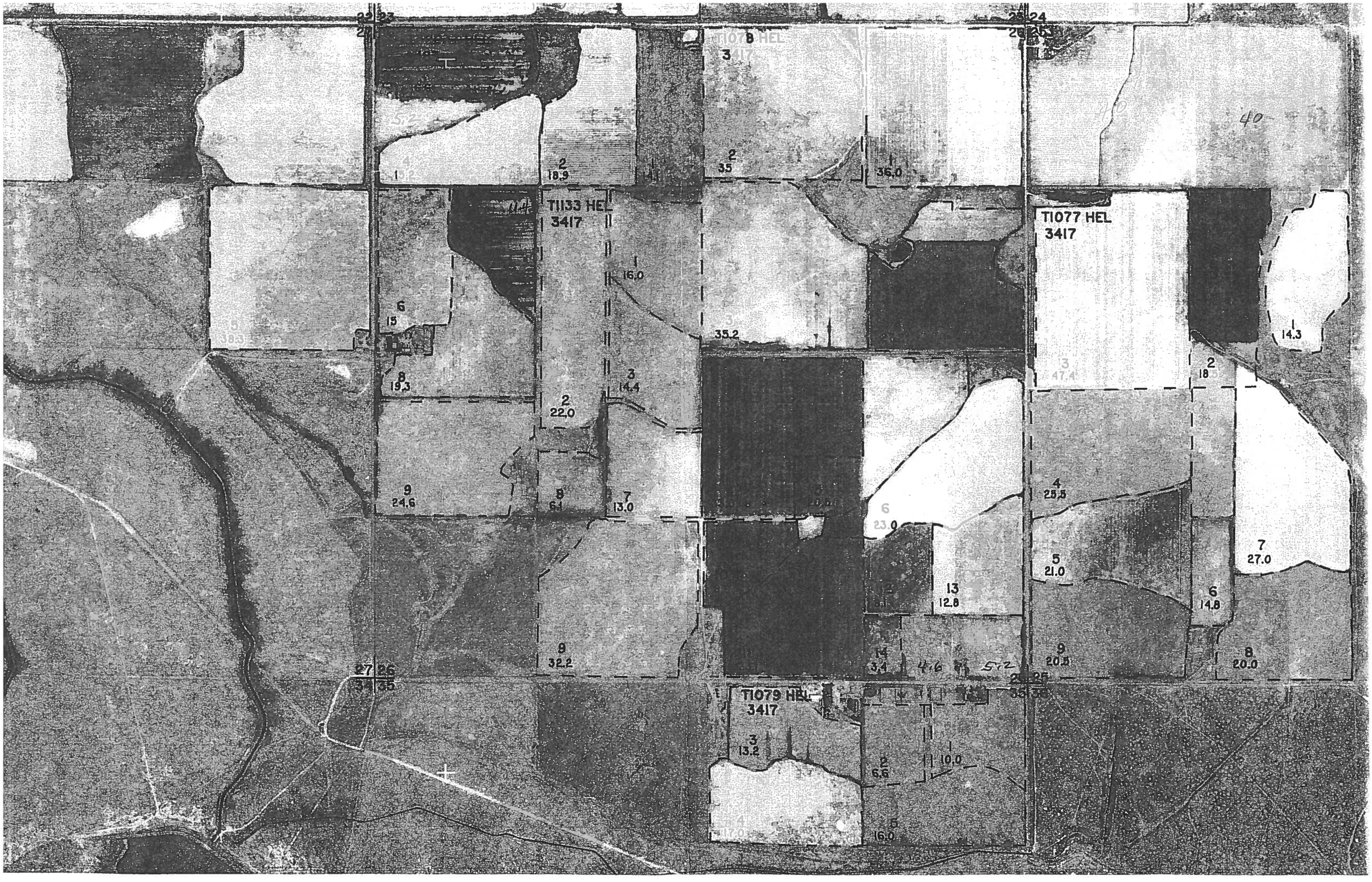
Township 12 So R. 13 EBM.
Twin Falls County.
Section 15


72.9
2 HEL
09
T1073 HEL
3209
50.1
14
13
78.0
2
11.9
4
12.8
5
16.0
1
6
3.0
3
41.6
8
32.5
7
9.6
5
21.0
4
26.5
9
23.5
6
21.4
7
17.5
11
42.5
10
3.6
13
21.5
9
30.0
2
10
18.3
11
56.0

Cedar Mesa Reservoir &
Canal Co.

Township 12 So. R. 13 E B.M.
Twin Falls County

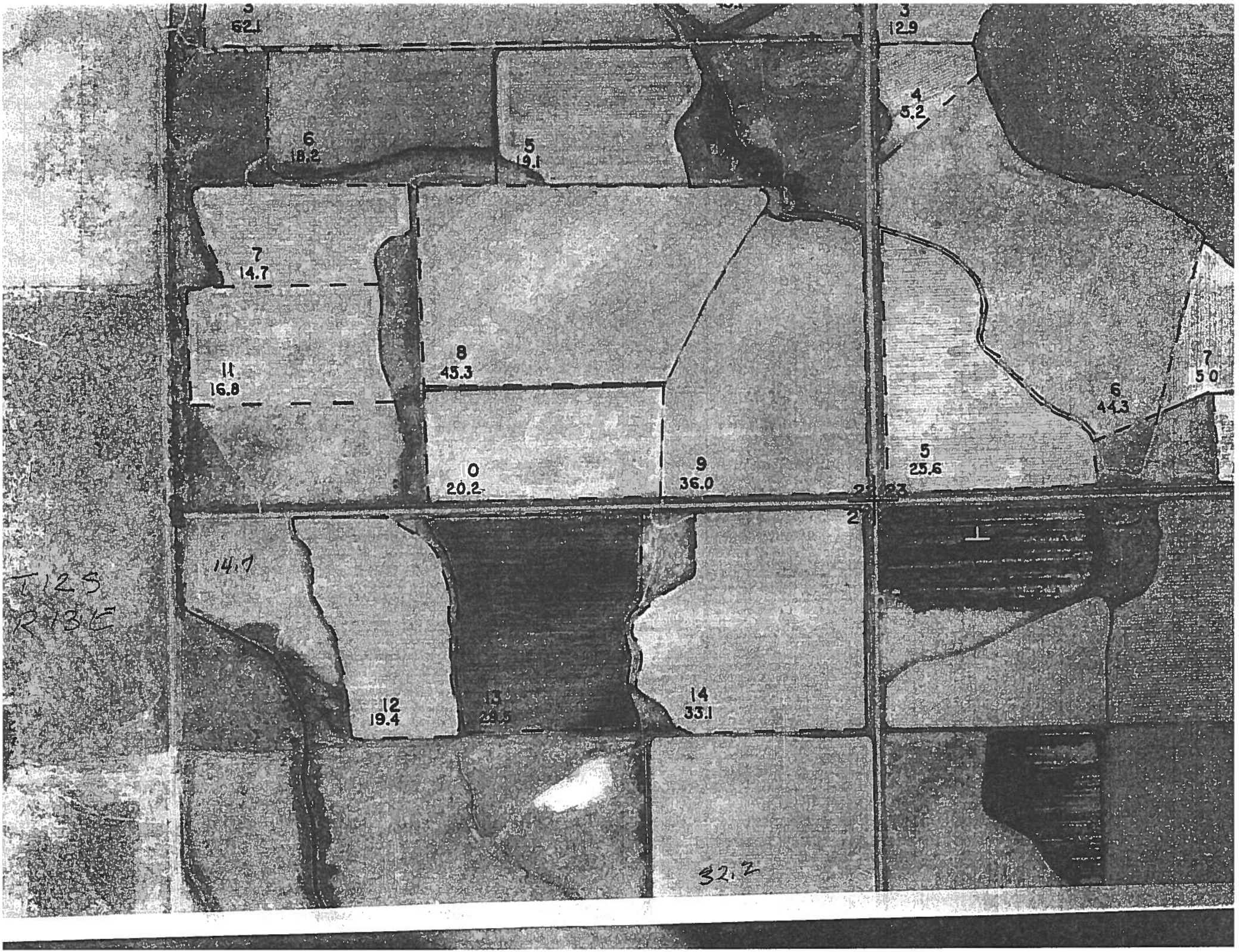
Section 24


T1133 HEL
3417
T1077 HEL
3417
T1079 HEL
3417
18.9
36.0
16.0
35.2
14.3
19.3
14.4
22.0
24.6
13.0
23.0
25.5
27.0
21.0
12.8
14.8
32.2
20.5
20.0
13.2
10.0
6.6
16.0
40
40
5.2
4.6
5.2

Cedar Mesa Reservoir + Canal Co

Township 12 50 R. 13 E BM.
Twin Falls County

Sections 26, 27 + 35


3
62.1
3
12.9
4
5.2
6
18.2
5
19.1
7
14.7
8
45.3
11
16.8
7
5.0
6
44.3
5
25.6
0
20.2
9
36.0
2
14.1
T12S
R13E
12
19.4
14
33.1
32.2

Cedar Mesa Reservoir &
Canal Co.

Township 12 So. R 13 E B M.
Twin Falls County.

Section 27

Sec. 2 - SENE - 39
NENW - 40
SENW - 39
SWNW - 38
NWSW - 37
NESW - 40
SWSW - 37
SESW - 37
NESE - 39
NWSE - 39
385

Sec. 3 - SENE - 37
NESE - 24
NWSE - 1
SWSE - 0
SESE - 16
NWSW - 5
SWSW - 40
128

Sec. 9 - NENE - 36
SENE - 38
NESE - 37
NWSE - 40
SWSE - 37
SESE - 36
224

Sec. 10 - NENE - 23
SENE - 33
NESE - ~~35.4~~
NWSE - ~~36~~
SWNE - 2
SENW - 2
SWNW - 3
SWSE - 32
SESE - 32
NESW - 36
NWSW - 40
SWSW - 28
SESW - 37
~~339.4~~
340

Sec. 9 - NENE - 36
SENE - 38
NESE - 37
NWSE - 40
SWSE - 37
SESE - 36
224

Sec. 9 - NENE - 36
SENE - 38
NESE - 37
NWSE - 40
SWSE - 37
SESE - 36

Sec. 12 - NWSW - 4
SWSW - 35
39

Sec. 18 - NENE - 39
NWNE - 35
SWNE - 40
SENE - 39
NESE - 29
NWSE - 40
SESE - 30
SWSE - 36
NESW - 40
NWSW - 31
SWSW - 32
SESW - 39
430

Sec. 13 - NWNW - 26
SWNW - 12
SWSW - 40
SESW - 40
118

Sec. 14 - NENE - 39
NWNE - 38
NENW - 40
NWNW - 16
SWNW - 37
SENW - 39
SWNE - 40
SENE - 37
NESE - 8
NWSE - 36
NESW - 40
NWSW - 33
SWSW - 40
SESW - 40
SWSE - 40
SESE - 40
TOTAL
546

Dec. 22 - NENE - 38
NWNE - 38
NENW - 8
SENE - 39
SWNE - 36
SENW - 31
NESW - ~~32~~ 26
~~NWSW - 26~~
~~SWSW - 32~~
~~SESW - 36~~
~~SWSE - 36~~
SESW - 32
NESE - 19
NWSE - 38
SWSE - 36
SESE - 36
377

Dec. 27 - NENE - 34
NWNE - 39
NENW - 24
SENE - 40
137

Dec. 35 - NENE - 36
NWNE - 33
69

Sec. 15 - NENE - 38
NWNE - 12
SENE - 38
SWNE - 35
NENW - 39
NWNW - 36
SWNW - 38
SENW - 36
NESE - 37
NWSE - 37
SWSE - 35
SESE - 35
NWSW - 36
NESW - 37
SWSW - 31
SESW - 36
556

Sec. 23 - NENE - 39
NWNE - 40
SWNE - 40
SENE - 29
NESE - 40
NWSE - 39
SWSE - 39
SESE - 40
NENW - 10
NWNW - 34
SWNW - 26
SENW - 32
NESW - 24
NWSW - 29
SWSW - 38
SESW - 38
337

Sec. 24 - NWNW - 40
NENW - 40
SWNW - 34
SENW - 40
NWSW - 40
NESW - 40
SWSW - 36
270

Sec 25 - NWNW - 38
SWNW - 36
NENW - 38
SENW - 32
NWSW - 39
NESW - 30
SESW - 37
SWSW - 39
289

Sec. 26 - NENE - 34
NWNE - 36
SWNE - ~~35~~ 35
SENE - 29
NENW - 35
NWNW - 33
SWNW - 39
SENW - 39
NESE - 38
NWSE - 40
SWSE - 35
SESE - 40
NWSW - 36
NESW - 37
SESW - 30
536

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

September 24, 1998

Cedar Mesa Reservoir & Canal Co.
Attn: John R. Coleman
PO Box 525
Twin Falls, ID 83303-0525

Dear Mr. Coleman:

We are in receipt of the two claims filed for Right Nos. 51-00137 and 51-00138 which were a part of the Bruneau River decree. We are also in receipt of the two notices of error filed for 51-02446 and 51-02447 concerning the total number of acres irrigated within the boundaries of the Cedar Mesa Reservoir & Canal Company.

At the time you filed the two new claims, I requested a map be submitted indicating where the additional acres are located within the boundaries. In order to recommend a larger total number of acres, we must be able to justify those acres and show them on the GIS color maps sent to you earlier. The additional fields need to be outlined and appear to have been cultivated at some time. They do not necessarily have to show irrigation occurring on the aerial photos we used, which were taken in 1987, however, some indication that the ground has been turned over is needed. If these are not submitted by the end of next week, October 2, 1998, we will not have time to digitize and calculate the additional acres on the map prior to the Director's Report being filed with the SRBA Court. I also spoke with you about this on Friday, September 18, 1998.

There are also a few items for your consideration concerning the four claims that have now been filed. Only two of the four claims can be recommended. According to our review of the license files and the decree, the two decreed rights are the same rights as those that were licensed. If the decreed rights are recommended, they will have earlier priority dates, however, the season of use for irrigation from storage will be May 15th to October 1st. The season of use for storage for irrigation will be recommended as October 1st to May 15th. The reason these dates must be recommended is because the Bruneau River decree states these dates as the decreed seasons of use for these two rights. If the licensed rights are recommended, which have later priority dates, they will be recommended for the season of use previously listed, May 1st to October 31st for irrigation from storage and October 1st to April 15th for storage for irrigation. Since the licenses were issued without specifying a season of use, we can use the Department's standard season

of use for the irrigation from storage and the storage for irrigation season of use you claimed.

If you could send a map outlining the new acres and let me know if you have a preference as to which rights are recommended by October 2, 1998, I can proceed with preparing the recommendations. If I do not hear from you within that time period, I will likely recommend the decreed rights with the earlier limiter of 4, 143 acres within the boundaries of the company.

Please contact me if you have any questions concerning this letter or the requests for information it contains.

Sincerely,

JAN SHURTE
Water Rights Supervisor
Adjudication Section
Western Region

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

16:57:58
07/15/98

PAGE: 1
GENERAL INFORMATION

16
CLAIM NUMBER: ~~A51-02447~~

New
51-00138

LAST: CEDAR MESA RESERVOIR & CANAL CO FIRST:
ADDRESS: PO BOX 525
CITY: TWIN FALLS STATE: ID ZIP: 833030525
PHONE NUMBER: 208-537-6802

OWNER CODE: C

	DATABASE	FIELD EXAMINER
FIELD EXAM REQUIRED?		
VERIFICATION REQUIRED DUE TO REMARKS?	Y	Y(___) N(___)

CLAIM REMARKS: GEN TRANS. 706. NUMBERS FOR THIS RT. ARE 47-2440 & 51-2447.
PT. OF INJECTION INTO DEVIL CK: NWNE, S22, T15S, R12E.
PT. OF INJECTION INTO HOUSE CK: NWNW, S12, T15S, R12E. PT. OF REDIVERSION FROM DEADWOOD CK: NWNE, S22, T15S, R12E. PT. OF REDIVERSION FROM DEADWOOD & DEVIL CKS: SENE, S12, T14S, R13E. PT. OF REDIVERSION FROM DEADWOOD, DEVIL & CEDAR CKS: NWSE, S29, T13S, R14E. RESERVOIR LOCATED IN SWNE, S12, T14S, R13E.
WATER STORED IN CEDAR CK. RESERVOIR. RT. IS FOR 3,000 AF FROM DEADWOOD CK., 2,000 AF FROM DEVIL CK., & 10,000 AF FROM CEDAR CK.
1 P/D IN OWYHEE CO.
THE STOCKHOLDERS IN CLAIMANT COMPANY ARE THE OWNERS OF THE LAND ON WHICH THE WATER IS USED.
FEE PAID UNDER A47-02440, RECEIPT #S006220.

NOTE: These remarks are incorrect on some legals + were deleted from the "R" record.

PAGE: 2

FIELD EXAMINATION INFORMATION

CLAIM NUMBER: ~~A54-02447~~ 17 NOW 57-00138

CONTACT PERSON: In office verification PHONE NUMBER: (___) ___-_____

DATE OF FIELD EXAM: __/__/__ APPOINTMENT MADE: Y(__) N(__) TIME: ___:___ A(__) P(__)

ACCOMPANIED BY:_____ PHONE NUMBER: (___) ___-_____

RELATIONSHIP TO CLAIMANT: _____

DIRECTIONS TO PROPERTY / NOTES:

PAGE: 3
PRIORITY DATE REVIEW PAGE

18
CLAIM NUMBER: ~~A51-02447~~ 51-00138

A. AJ CLAIM: # A51-02447 PRIORITY DATE: 10-08-1919 STAGE: L

B. WR RECORD: # 51-02447 PRIORITY DATE: - - STAGE:

C. CAN THE PRIORITY DATE CLAIMED BE CONFIRMED BY A DECREE OR LICENSE? Y(X) N(___)

D. HAS THERE BEEN A LATER COURT DECREE OF THE WATER RIGHT(S) FROM THIS WATER SOURCE? Y(X) N(___)

E. IS THERE ANY INDICATION THAT THERE HAS BEEN A FIVE YEAR PERIOD OF CONTINUOUS NONUSE? (IF YES, DESCRIBE BELOW) Y(___) N(X)

F. IF THIS CLAIM IS BASED ON A PERMIT, WHERE IS THE PERMIT IN THE LICENSING PROCESS?

PROOF OF BENEFICIAL USE SUBMITTED	N/A(___)	Y(___)	N(___)
FIELD EXAM COMPLETED	N/A(___)	Y(___)	N(___)
FIELD EXAM SENT TO STATE OFFICE	N/A(___)	Y(___)	N(___)
LICENSE ISSUED	N/A(___)	Y(___)	N(___)

* IF THE PERMIT WILL NOT BE LICENSED PRIOR TO THE DIRECTOR'S REPORT, USE CONDITION CODE A01 AND RECOMMEND AS PERMITTED.

G. IF THIS CLAIM IS BASED ON BENEFICIAL USE, IS ADDITIONAL EVIDENCE OF THE PRIORITY DATE REQUIRED? N/A(X) Y(___) N(___)

* FOR CLAIMS BASED ON BENEFICIAL USE, DESCRIBE THE EVIDENCE OF PRIORITY SUBMITTED, INCLUDING THE ANALYSIS OF THE EVIDENCE.

H. IS THE STAGE OF THE CLAIM CODED CORRECTLY? Y(X) N(___)

NOTES: This license can be recommended with the 1919 priority date since it was not superseded by the Bruneau River decree. Proof was not submitted on this license until 1928 & the complaint for the Bruneau River decree was initiated in 1920. Therefore, this license was not a required filing in the decree. However, right No. 51-00138 (attached) reflects the right and was decreed in the Bruneau River decree. Claimant chose to claim the license rather than the decreed right which is the best way to file since we have information indicating the decreed right was not completed at the time it was decreed - per license file. It appears the decreed right 51-00138 was based on the permit for this license. Priority date advancement due to late proof of B/U.

RECOMMENDED PRIORITY DATE:

10-08-1919

REVIEWED BY _____ DATE 8-3-98

← NOTE: SPECULATION ONLY (WE) HAVE RECOMMENDED PREPARED AT. - NOT UP TO ISUE TO DETERMINE PREPARED RT WAS NOT VALID AT THE TIME OF DECREE

→ PROJECT COULD HAVE BEEN COMPLETED AT THE TIME OF DECREE & PROOF OF B/U MADE AFTER THAN COMPLETION & APPLICATION

PAGE: 4
POINT OF DIVERSION REVIEW SHEET

19
CLAIM NUMBER: ~~A51-02447~~ 51-00138

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	POD FLAG	COUNTY	DIVERSION NAME	DIVERSION NUMBER
A51-02447	13S	14E	29		NW	SE		R	TWIN FALLS		
A51-02447	14S	13E	12		SW	NE			TWIN FALLS		
A51-02447	15S	12E	22		NW	NE			TWIN FALLS		
A51-02447	15S	12E	28		NW	SW			TWIN FALLS		

OTHER AJ CLAIMS WITH SAME AJ POD

A PREFIX	R PREFIX
A47-02439	R47-15637
A47-02440	R47-15860
A51-02446	R51-02446

WR RECORDS IN SAME 40 ACRE TRACT

47-00049
47-00050
47-02439
47-02440
47-07716

SOURCE: DEADWOOD CREEK
DEVIL CREEK
CEDAR CREEK

TRIB: BRUNEAU RIVER, EAST FORK
SALMON FALLS CREEK
SALMON FALLS CREEK

B. WR POINT OF DIVERSION AND SOURCE:

5102447 THERE IS NO POD ASSOCIATED WITH THIS WATER RIGHT NUMBER

C. IS THE CLAIMED POD WITHIN THE SAME 40 ACRE TRACT THAT IS DESCRIBED IN THE WATER RIGHT FILE? N/A(___) Y(X) N(___)

* IF NO, AND IF THE CHANGE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN POD, DESCRIBE THE INJURY ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.

D. CAN THE CLAIMED POD BE VERIFIED USING THE WATER RIGHT FILE OR GPS DATA? N/A(___) Y(X) N(___)

E. SHOULD THE CLAIMED POD BE VERIFIED BY FIELD EXAM? Y(X) N(___)

F. IS THE CLAIMED SOURCE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? N/A(___) Y(X) N(___)

* IF NO, AND IF THE CHANGE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN SOURCE, DESCRIBE THE INJURY ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.

G. CAN THE CLAIMED SOURCE BE VERIFIED USING THE WATER RIGHT FILE? Y(X) N(___)

H. SHOULD THE CLAIMED SOURCE BE VERIFIED BY FIELD EXAM? Y(___) N(X)

I. HOW WAS THE POD AND SOURCE VERIFIED?

LICENSING FIELD EXAM (DATE OF FIELD EXAM 6-18-1930) Y(___) N(___)

AJ FIELD EXAM (DATE OF FIELD EXAM N/A NAME OF EXAMINER N/A) Y(___) N(___)

OTHER (DESCRIBE IN NOTES BELOW)

NOTE: A ck was mailed to claimant however, this license covers 60 AF amounts, therefore, the mean ck was not used, info. included for delivery purposes in this i.o.

↙ efam conducted on Deadwood Ck P.O.D. - not on dam location or reservoir - used dam safety file for AF of storage recommendation.

PAGE: 5
POINT OF DIVERSION REVIEW SHEET CONTINUED

CLAIM NUMBER: ~~A51-02447~~ 20 51-00138

NOTES: See attached computer copy of P.O.D's, rediversion & injection pts plus maps!

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE: CHECK HERE IF RECOMMENDED AS CLAIMED (___)

TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	POD FLAG	COUNTY	DIVERSION NAME	DIVERSION NBR
13S	14E	29		NW	SE		R	TWIN FALLS		
14S	13E	12		SW	NE			TWIN FALLS		
15S	12E	22		NW	NE			TWIN FALLS		
15S	12E	28		NW	SW			TWIN FALLS		

See attached computer copy from "R" record showing diversion, rediversion & injection pts.

SOURCE: DEADWOOD CK. TRIB: CLOVER CK.

REVIEWED BY: [signature] DATE: 8-3-98

SYSTEM DESCRIPTION: DESCRIBED BELOW (___), SEE LICENSE FILE (___), OR SEE ATTACHMENT (X) (from comments on "R" record)

SD-4114 Idaho Department of Water Resources Date: 08/03/98
INQUIRY Adjudication Diversion Data Screen Time: 10:23:54

Water Right Number: R51-~~02447~~ 00138 FIRST PAGE

4. Point of Diversion:

TWP	Rng	Sect	1/4	1/4	1/4	Lot	POD Flag	Diversion Name
13S	14E	29		NW	SE		R	REDIVERSION FROM CEDAR CK
14S	13E	12		SW	NE		R	CEDAR CK DAM (REDIV PT)
14S	13E	22		SW	NE		I	INJECTION INTO CEDAR CK
15S	12E	12		NW	NW		I	INJECTION INTO HOUSE CK
15S	12E	22		NW	NE		R	REDIVERSION FROM DEVIL CK
15S	12E	22		NW	NE		I	INJECTION INTO DEVIL CK
15S	12E	28		NE	SW			DEADWOOD CREEK PT OF DIV.

(GOLD4=Prev Screen) (GOLD6=End of Data) (Enter=Exit)
(GOLD5=Next Screen) (GOLD8=Cancel)

PAGE: 6

PURPOSE OF USE, PERIOD OF USE, DIVERSION RATE AND DIVERSION VOLUME REVIEW SHEET

CLAIM NUMBER: ~~A51-02447~~ 21 51-00138

A. AJ CLAIMED USES:

	PURPOSE OF USE	PERIOD OF USE (MONTH/DAY)	DIV. RATE FOR EACH USE	DIV. VOL. FOR EACH USE
A51-02447	IRRIGATION STORAGE	FROM 10-01 TO 04-15		15000.00 AF/A
A51-02447	IRRIGATION FROM STORAGE	FROM 04-15 TO 10-01		15000.00 AF/A
		TOTAL DIVERSION RATE/VOLUME		15000.00 AF/A

B. WR RECORDED USES:

PURPOSE OF USE	PERIOD OF USE (MONTH/DAY)	DIV. RATE FOR EACH USE	DIV. VOL. FOR EACH USE
	TOTAL DIVERSION RATE/VOLUME		

C. DOES THE CLAIMED PURPOSE OF USE CORRECTLY DESCRIBE THE WATER USE? Y(___) N(X)

D. IS THE CLAIMED PURPOSE OF USE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? N/A(___) Y(X) N(___)

* IF NO, AND IF THE ACTUAL WATER USE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN PURPOSE OF USE, DESCRIBE THE INJURY ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.

E. SHOULD THE CLAIMED PURPOSE OF USE BE VERIFIED BY FIELD EXAM? Y(___) N(X)

F. DOES THE CLAIMED PERIOD OF USE CONFORM TO IDWR STANDARDS? Y(___) N(X)

G. SHOULD THE PERIOD OF USE BE RECOMMENDED TO IDWR STANDARDS? Y(X) N(___)

* IF THE RECOMMENDED PERIOD OF USE IS DIFFERENT THAN IDWR STANDARDS, EXPLAIN IN NOTES BELOW.

H. IS THE CLAIMED DIVERSION RATE FOR EACH USE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? N/A(X) Y(___) N(___)

* IF NO, DESCRIBE IN NOTES BELOW HOW THE RECOMMENDED DIVERSION RATE FOR EACH USE WAS DETERMINED.

I. SHOULD THE CLAIMED DIVERSION RATE FOR EACH USE BE VERIFIED BY FIELD EXAM? N/A(X) Y(___) N(___)

J. IS THE CLAIMED DIVERSION VOLUME FOR EACH USE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? N/A(X) Y(___) N(___)

* IF NO, DESCRIBE IN NOTES BELOW HOW THE RECOMMENDED DIVERSION VOLUME FOR EACH USE WAS DETERMINED.

K. SHOULD THE CLAIMED DIVERSION VOLUME FOR EACH USE BE VERIFIED BY FIELD EXAM? N/A(___) Y(___) N(X)

for the irrig. from stor. - No IDWR standard for the storage season of use. See notes on following page as to recommendation for the storage season of use.

22
CLAIM NUMBER: ~~A51-02447~~ 57-00138

NOTES: The period of use decided upon, per legal counsel, based on examination of previous court cases is being recommended as claimed for storage for ~~storage~~ irrigation - 10-1 to ~~4~~ 5-15. The decree states that ~~that~~ irrigation season of use of 10-1 to 5-15, however, those decreed rights were not claimed (which was correct since they were limits at the time of development & not completed until after the decree was signed). Therefore, the licenses were issued without a season of use for storage. ~~DWR has no standards on seasons of use for storage, therefore, the decision per legal staff review also, was made to list what the claimant had claimed for season of use for storage.~~ The court cases involving this dispute between Cedar Falls Res. & Devil Creek Ranch remanded the decision back to the SRBA - see decisions attached. The irrigation season of use decided upon for both Cedar Falls Res. & Devil Creek Ranch was IDWR's recommended irrigation season. for Devil Creek Ranch the standard for that area & put on all rights in that area is 4-1 to 10-31. The standard season for the location of the place of use for Cedar Falls Res. irrigation (12S, 13E) is also 4-1 to 10-31 which will be listed under irrigation from storage. The two entities may have to fight this out in the District Court if they disagree.

See ~~ADE~~ 9 for AF amount recommendation

THIS WAS FOR THE LICENSE, SINCE THE DECREED RIGHT IS BEING CLAIMED NOW IDWR MUST GO WITH THE DECREED IRRIG. STORAGE SEASON OF 10-1 TO 5-15 UNDER 57-00137 & 57-00138

NOTE: ON CLAIM FILED FOR 57-00138 SOU CLAIMED FOR STOR - 10/1 TO 5/15

PAGE: 8
DIVERSION AMOUNT REVIEW SHEET

23
CLAIM NUMBER: ~~A51-02447~~ 51-00138

AJ CLAIM TOTAL DIVERSION RATE: CFS

WR ROOT RIGHT TOTAL DIVERSION RATE: CFS

A. IS THE CLAIMED TOTAL DIVERSION RATE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? N/A(___) Y(___) N(___)

B. CAN THE CLAIMED TOTAL DIVERSION RATE BE VERIFIED USING THE WATER RIGHT FILE? N/A(___) Y(___) N(___)

* ALL CLAIMS BASED ON BENEFICIAL USE (INCLUDING POSTED NOTICES AND STATUTORY CLAIMS) REQUIRE A FLOW MEASUREMENT. N/A

C. IS THERE ANY INDICATION THAT THERE HAS BEEN A FIVE YEAR PERIOD OF CONTINUOUS NONUSE OF THIS RIGHT, OR ANY PORTION OF THE DIVERSION RATE? Y(___) N(___)

* IF AN AMOUNT SMALLER THAN THE ORIGINAL DIVERSION RATE IS CLAIMED AND A FIELD EXAM IS NOT REQUIRED, EXPLAIN IN NOTES.

D. SHOULD THE CLAIMED DIVERSION RATE BE VERIFIED BY FIELD EXAM? Y(___) N(___)

E. FLOW MEASUREMENT

MEASUREMENT METHOD MANNING EQUATION, SEE ATTACHED CALCULATIONS.

F. RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE
ACRES _____ x 0.02 CFS/ACRE = _____ CFS N/A
(Taken from pou review)

IS A DIVERSION RATE PER ACRE GREATER THAN 0.02 CFS/ACRE CLAIMED? Y(___) N(___)

IF YES, IS AN ADDITIONAL WATER USE FORM FILED AND ATTACHED? Y(___) N(___)

1b. CALCULATIONS

MANNING EQUATION SHOWS DITCH CAN CARRY 16.48 CFS. WATERMASTER REPORTS UP TO 12.2 CFS IN MAY OF 1994 SO THE CAPACITY IS CLOSE. NO DIVERSION RATE WAS CLAIMED & NONE RECOMMENDED. HOWEVER, THIS IS BEING INCLUDED IN CASE OF DELIVERY PROBLEMS IN THE FUTURE AS TO WHAT THE DITCH CAN HOLD & AS TO WHAT HAS BEEN DELIVERED. SEE NEXT PAGE FOR EXPLANATION OF AF AMOUNT RECOMMENDED.

2. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = 15000.00 AF/A N/A

ACRES _____ x DIVERSION VOL. AF/A FOR AREA _____ =

TOTAL DIVERSION VOLUME _____ AF/A

3. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = 15000.0 AF/A

ACRES _____ x CONSUMPTIVE VOL. AF/A FOR AREA ~~N/A~~ =

TOTAL CONSUMPTIVE USE _____ AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION: SEE BELOW (___) OR SEE ATTACHMENT (___)

CLAIM NUMBER: ~~A51-02447~~ 51-00135

NOTE: TOTAL ACRE FOOT FOR DECREED RIGHTS IS GREATER THAN LICENSED RTS WILL RECOMMEND DECREED AF OF 6000 FOR 00137 & 3000 FOR 138 ~~for~~ when combined,

NOTES: The af amount being recommended is the acre foot amount licensed for Deadwood Creek - see license which shows 3000 AF for Deadwood, 3000 AF for Devil Creek + 20,000 for Cedar Creek. Devil Creek & Cedar Creek will be recommended under A51-02440 since they are diverted in Basin 47. This right will only be recommended for the Deadwood Creek [redacted] storage amount of 3000 AF. No limiter of the 2 rights for Deadwood Creek (this right + Right #51-02440) which is also for 3000 acre feet is being placed on these rights. The reasoning for no limitation is due to the idea that the licenses were issued indicating more than one fill. This was decided by reviewer upon review of the field exam conducted in 1930. This exam reflects a storage capacity of 26,000 AF, yet 2 licenses were issued with 2 different priority dates based on that field exam + the total AF licensed between

NOTE! DECREED AMOUNTS GREATER. 00137 - 6000 AF + 00138 FOR 3000 AF FOR A TOTAL OF 9,000 AF. NO LIMITER IS BEING PUT ON THESE RIGHTS DUE TO SAME REASONS STATED HERE.

~~WR RECORD CONDITIONS/REMARKS:~~

the two is 41,000 acre feet. Dam safety shows a capacity of 30,000 AF at present. It is my assumption these licenses were both issued with the idea of more than one fill. Therefore, I am not limiting the 3 rights to 3000 AF when combined since they are both from the same source. This will allow for a total storage from Deadwood Creek of 6000 AF. If you compute that backwards for a cfs requirement it would equate to 5.4 cfs for 197 days of storage would equal 6000 AF. 6000 ÷ 197 ÷ 1.9835 = 15.4 cfs Dam cascade measured at 16.48 cfs appears to be in the area.

PAGE: 10
RECOMMENDATIONS REVIEW SHEET

CLAIM NUMBER: ~~A51-02447~~ 25 51-00138

RECOMMENDATIONS: CHECK HERE IF RECOMMENDED AS CLAIMED (X)

REC. PURPOSE OF USE	REC. PERIOD FROM	REC. PERIOD TO	REC. DIV RATE CFS DATABASE	REC. DIV RATE CFS EXAMINER	REC. DIV VOL. AF/A DATABASE	REC. DIV VOL. AF/A EXAMINER	REC. CONS. USE DATABASE	REC. CONS. USE EXAMINER
IRRIGATION STORAGE	10-01	04-15			~~15000.00~~	3000	~~15000.0~~	3000
IRRIGATION FROM STORAGE	~~04-15~~ 04-01	~~10-01~~ 10-31		(IDWR RECOMMENDED 504 FOR B47)	15000.00	3000	~~15000.0~~	3000
TOTAL FOR THIS RIGHT						3000 AF		3000 AF

3 from Deadwood Creek only

NON-IRRIGATION USES CLAIMED:

NON-IRRIGATION USES RECOMMENDED: CHECK HERE IF RECOMMENDED AS CLAIMED (___)

REVIEWED BY: _____ DATE: 8-3-98

FLAG: ____

STANDARD CONDITIONS (CODE): C05 - Slight change in 1/4 1/4's for POU from transfer filed & approved on 12-10-1987.

STANDARD REMARKS (CODE): SRC - Indicating injection & withdrawal pts.
POU1 - Limiting total acres when this right is combined w/ 51-~~02446~~ 00137 to ~~4,748~~ 5000 acres (per maps submitted in notice of application)

EXPLANATORY CONDITIONS (CODE): Jon - Indicating B47 rights from same reservoir system. For same place of use will be recommended in Basin 47 report.

EXPLANATORY REMARKS (CODE): N/A

PAGE: 11
BASIS OF CLAIM REVIEW SHEET

26
CLAIM NUMBER: ~~A51-02447~~ 00138

A. CHECK ONLY THE FOLLOWING THAT APPLY:

	ACCEPTED AS CLAIMED	NEEDS REVIEW
OWNERSHIP _____	(X)	( )
FORFEIT/ABANDON _____	( )	( )
ADDITIONAL DIV. AMOUNT _____	( )	( )

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 51-02447

TOTAL DIVERSION RATE OF WR SPLITS DATABASE _____ EXAMINER _____ CFS N/A

SPLITS:

OLD RIGHT NUMBERS	CURRENT CLAIM NUMBERS	DIVERSION RATE	CURRENT "R" CLAIM NUM.	"R" DIV. RATE	WR RIGHT NUMBERS	DIVERSION RATE
-	A51-02447		R51-02447		51-D2447	

TOTAL CFS

DIVERSION RATE REVIEW

	DATABASE	FIELD EXAMINER
DO THE SUM CFS RATE OF THE SPLITS EQUAL THE ROOT RIGHT CFS RATE? (Y/N)	Y	
IF NO, IS THE WRITTEN REVIEW DESCRIBED BELOW (___) OR SEE ATTACHMENT (___)?		Y(___) N(___)

NOTES:
There are no splits, however, there are overlapping rights in Basin 47 covering same lands & this right is a part of those rights. Due to the different basins within which this Headwood Creek lies Compared & all the other sources the of amount has been split from the total of amount listed under 47-02440/51-02447.

AUTHENTICATION:

SIGNATURE: Jan Thuate DATE: 8-3-98

NAME OF FIELD EXAMINER: JAN THUATE TITLE: WATER RIGHTS SUPERVISOR

PAGE: 12

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LIST OF MAPS USED AND ATTACHMENTS

CLAIM NUMBER: ~~A51-02447~~ 51-00138

MAPS AND AERIAL PHOTOGRAPHS USED TO REVIEW THIS NOTICE OF CLAIM TO A WATER RIGHT

TYPE OF MAP OR PHOTOGRAPH (CHECK IF USED)	IF USED, SUPPLY APPROPRIATE DATE AND OTHER INFORMATION		COPY INCLUDED IN FILE?
(X) ORTHOPHOTOQUAD	DATE OF PHOTO 1976	IDWR ID NO. CC19 CC69 (POLIS)	Y(X) N( )
( ) TOPOGRAPHIC	DATE FIELD CHECKED	IDWR ID NO.	Y( ) N( )
(X) NAPP	DATE OF PHOTO 1987	IDWR ID NO.	Y(X) N( )
( ) ASCS AERIAL PHOTO	DATE OF PHOTO		Y( ) N( )
( ) ASCS COLOR SLIDE	DATE OF PHOTO		Y( ) N( )
( ) BLM OR USFS AERIAL PHOTO	DATE OF PHOTO		Y( ) N( )
( ) TOWNSHIP SURVEY (GOVERNMENT PLAT)	DATE OF SURVEY		Y( ) N( )
( ) SCS SOIL SURVEY MAP	DATE ISSUED		Y( ) N( )
( ) SUBDIVISION PLAT MAP	DATE OF MAP		Y( ) N( )
(X) OTHER DAM SAFETY INFO	DATE 1997 - SHOWING RES CAPACITY		Y(X) N( )
(X) OTHER PROOF-REPORT W/ACRES BY 40	DATE 1998		Y(X) N( )
(X) OTHER GIS W/ACRES BY 40 PRINTOUT	DATE 1998		Y(X) N( )

LIST OF ATTACHMENTS (CHECK IF ATTACHED)	IF ATTACHED, SUPPLY APPROPRIATE INFORMATION	NO. OF PAGES	NOTES
( ) LICENSING FIELD EXAM	DATE OF FIELD EXAM 6-18-1930	2	
( ) WATER RIGHT LICENSE	DATE LICENSE SIGNED 3-30-1931	1	ALSO LETTER DATED 3-24-31 CONCERNING ADVANCING PRIORITY DATE
( ) IDWR APPROVED TRANSFER	DATE TRANSFER APPROVED 2-10-1987	4	
( ) SYSTEM DESCRIPTION	DATE DRAWN 7-1998	7	SYSTEM DESC. (WRITTEN + ON MAPS)
( ) PHOTOGRAPHS	DATE(S) PHOTOS TAKEN 5-12-94	3	OF DIVERSION DITCH FROM DEADWOOD CK
( ) SPLIT RIGHT REVIEW	DATE REVIEW COMPLETED N/A		
( ) HUBBLE ANALYSIS	DATE ANALYSIS COMPLETED N/A		
( ) CONVEYANCE LOSS ANALYSIS	DATE ANALYSIS COMPLETED N/A		
( ) FLOW MEASUREMENT CALCULATIONS	DATE SYSTEM MEASURED 5-12-94	4	NOT NEEDED FOR AF - FOR INFO ONLY
(X) OTHER WATERMASTER DEL RECORD	DATE 1994	1	
(X) OTHER COPIES OF COURT CASES CEDAR MESA-US - DEVIL CREEK RANCH	DATE 1991, 1992, 1993 + 1994	18	VARIOUS DOCUMENTS FROM ORIG. COMPLAINT TO 1ST SUPREME COURT DECISION IN 1993 & 2ND SUPREME COURT DECISION IN 1994.
(X) OTHER - MEMOS TO LEGAL STAFF & DALE TUTHILL CONCERNING SEASON OF USE & FINAL DECISION ON WHICH TO RECOMMEND			ALSO MAPS SUBMITTED IN 9-98 DURING THE NOTICE PERIOD.

SD-0420-2 Idaho Department of Water Resources Date: 11/17/98
MODIFY RECORD Modify Comment Time: 10:34:26

Water Right Number: R51-00138

Comment Date: 11/17/1998 User ID: JSHURTE

Subject: SYSTEM DESCRIPTION

WATER IS DIVERTED FROM DEADWOOD CREEK IN THE NESW, S28, T15S, R12E VIA A DITCH WHICH THEN INJECTS THE DEADWOOD CREEK WATER INTO DEVIL CREEK IN THE NWNE, S22, T15S, R12E, WHICH IS THEN DIRECTLY REDIVERTED FROM DEVIL CREEK VIA A DITCH WHICH THEN INJECTS BOTH DEADWOOD CREEK AND DEVIL CREEK WATER INTO HOUSE CREEK IN THE NWNW S12, T15S, R12E. THE WATER CONTINUES DOWN THE NATURAL CHANNEL OF HOUSE CREEK UNTIL HOUSE CREEK FLOWS INTO CEDAR CREEK RESERVOIR IN THE SWNE, S22, T14S, R13E (THIS WAS LISTED AS AN INJECTION POINT INTO CEDAR CREEK FOR DEADWOOD, DEVIL & HOUSE CREEK WATER. WATER IS THEN STORED IN CEDAR CREEK RESERVOIR, RELEASE INTO CEDAR CREEK AND REDIVERTED FROM CEDAR CREEK VIA A CANAL IN THE NWSE, S29, T13S, R14E. VARIOUS CANAL COMPANY MEMBERS DIVERT FROM THE CANAL

(ENTER=Continue/Exit) (Gold2=Update) (Gold3=Delete) (Gold4=Prev) (Gold5=Next)

SD-0420-2 Idaho Department of Water Resources Date: 11/17/98
MODIFY RECORD Modify Comment Time: 10:34:31

Water Right Number: R51-00138

Comment Date: 11/17/1998 User ID: JSHURTE

Subject: SYSTEM DESCRIPTION

T13S, R14E. VARIOUS CANAL COMPANY MEMBERS DIVERT FROM THE CANAL FOR IRRIGATION IN THE PLACE OF USE SHOWN ON THIS RIGHT.

(ENTER=Continue/Exit) (Gold2=Update) (Gold3=Delete) (Gold4=Prev) (Gold5=Next)

WESTERN REGION

OWNER(S): CEDAR MESA RESERVOIR CO

CLAIM NUMBERS ~~02440~~ ~~02447~~, _____ _____ _____ _____

AGENT JS 00137 00138 DATE 8-12-98

TOTAL ACRES FROM RECOMMENDATION ~~4,143~~ 5,000 per maps submitted in 9-98 during notice of non period.

GEOGRAPHIC INFO SYSTEM ACRES _____

READY FOR DECREE ____ (YES) SENT FOR DECREE ____ (YES)

FORM UPDATE: August 3, 1998

RIGHT NO	TNS	RNG	SEC	NE				NW				SW				SE			
				NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
RECOM																			
GIS																			
RECOM																			
GIS																			

POLYGON CREATED ON ~~80~~ 304

POLYGON # ( )( )( )( ) _____ UPDATED BY

ATTRIBUTES OF B51-POU.SHP (~~254~~)(~~255~~)(256)(257)(258) 259

ATTRIBUTES OF B51-POD.SHP ( )( )( )( )( )

B51-DBPOU.DBF 8-12-98 UPDATED BY

B51-DBPOD.DBF _____ UPDATED BY

260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, & 272.

RDH GPSTABLE

DAM SUMMARY SHEET

February 24, 1997

CEDAR CREEK
47 - 2440A

INVENTORY	AF	
BASIN	47	
DAM NUMBER	2440A	
FED ID NUMBER	ID00045	
DAM NAME	CEDAR CREEK	
COUNTY	TWIN FALLS	
STREAM	CEDAR CREEK	
REGION	S	
PURPOSE	I	
RISK CATEGORY	1	
SIZE CATEGORY	1	
Q-Q SECTION	SWNE	
SECTION	12	
TOWNSHIP	14S	
RANGE	13E	
LATITUDE DEC	42.2237	
LONGITUDE DEC	114.8786	
DAM TYPE	EARTH	
STORAGE CAPACITY	30,000.00	ACFT
HEIGHT	84.00	FT
DRAINAGE AREA	128.00	SQMI
RESERVOIR AREA	1,050.00	AC
YEAR COMPLETED	1920	
CREST ELEVATION	5,235.00	MSL
CREST LENGTH	360.00	FT
SPILLWAY TYPE	RKCHAN	
SPILLWAY DEPTH	5.80	FT
SPILLWAY CAPACITY	235.00	CFS
OUTLET TYPE	OTHER	
OUTLET SIZE	0	IN
OUTLET CAPACITY	309.00	CFS
IDF	PMF	
IDF MAGNITUDE	21,500.00	CFS
RELEASE CAPACITY	544.00	CFS

CONDITION	GD	
MAINTENANCE	ROUTINE	
INSPECTION DATE	0796	MO/YR
CERTIFICATE EXP DATE	1198	MO/YR
LAST RISK EVALUATION	1195	MO/YR
SURVEY DATE	5/20/92	MO/DD/YR
CALL UP DATE		MO/DD/YR
CERT ISSUE DATE	2/12/97	MO/DD/YR
INSPECTION INTERVAL	2YR	
PHASE I INSP DATE	5/10/79	
OPERATION PLAN	U	
SEISMIC ANALYSIS	N	
RESTRICTED	Y	
JOINT INSPECTION		
QUAD NUMBER	DD19	
QUAD NAME	CEDAR CREEK RESV	

DAM OWNER	CEDAR MESA RES AND CANAL CO
ADDRESS - 1	JOHN COLEMAN, ATTORNEY
ADDRESS - 2	P O BOX 525
CITY	TWIN FALLS
STATE	ID
ZIP CODE	83003
ZIP SUFFIX	0525
PHONE	5376642
AREA CODE	208

GENERAL REMARKS : RESERVOIR AREA FROM QUAD MAP. PART OF RESERVOIR SHOWN ON QUAD MAP : DD20 - BROWNS BENCH NORTH.

TECHNICAL REMARKS : OUTLET = TWO 32" GATE VALVES IN ROCK TUNNEL THROUGH LEFT ABUTMENT. SPILLWAY & RELEASE CAP ARE WITH 4.0' FREEBOARD. SPILLWAY & OUTLET WILL PASS Q100 = 440 CFS WITH REQ'D FB. SPILLWAY WILL PASS 1400 CFS AT TOP OF DAM. ROUTED PMF WILL OVERTOP DAM.

RESTRICTIONS : THE MAXIMUM RESERVOIR LEVEL SHALL NOT EXCEED GH 65 (7 FT BELOW THE SPILLWAY CREST).

ALTERNATE CONTACTS : SEE OPERATION PLAN IN FILE FOR ALTERNATE CONTACTS.

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Pictures taken 5/12/94 by lw & kw

← Looking downstream Deadwood Ck. toward P/D to canal

at Deadwood Canal looking upstream at cement structure diverting Deadwood Ck. water → Note: Leak in board





← Looking upstream at cement structure – Deadwood Ck. on right

Pictures taken 5-12-94 by DW & KW



↑

Large break in canal downstream → from measurement site.



↓



Pictures taken 5/12/94 by lw & kw



← Looking upstream canal- Note condition of canal- Lots of vegetation.

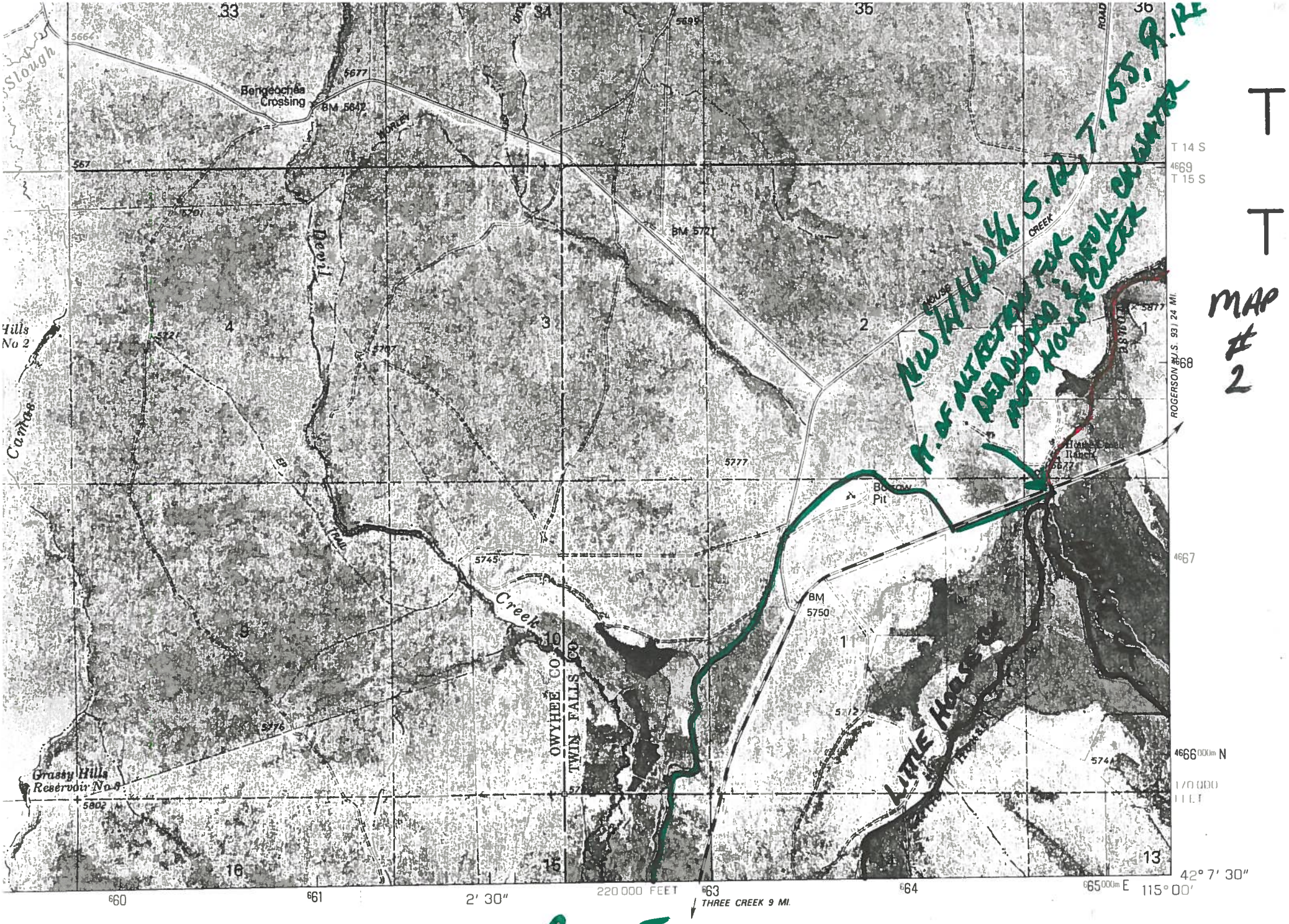
2nd Break in canal (smaller than 1st break)

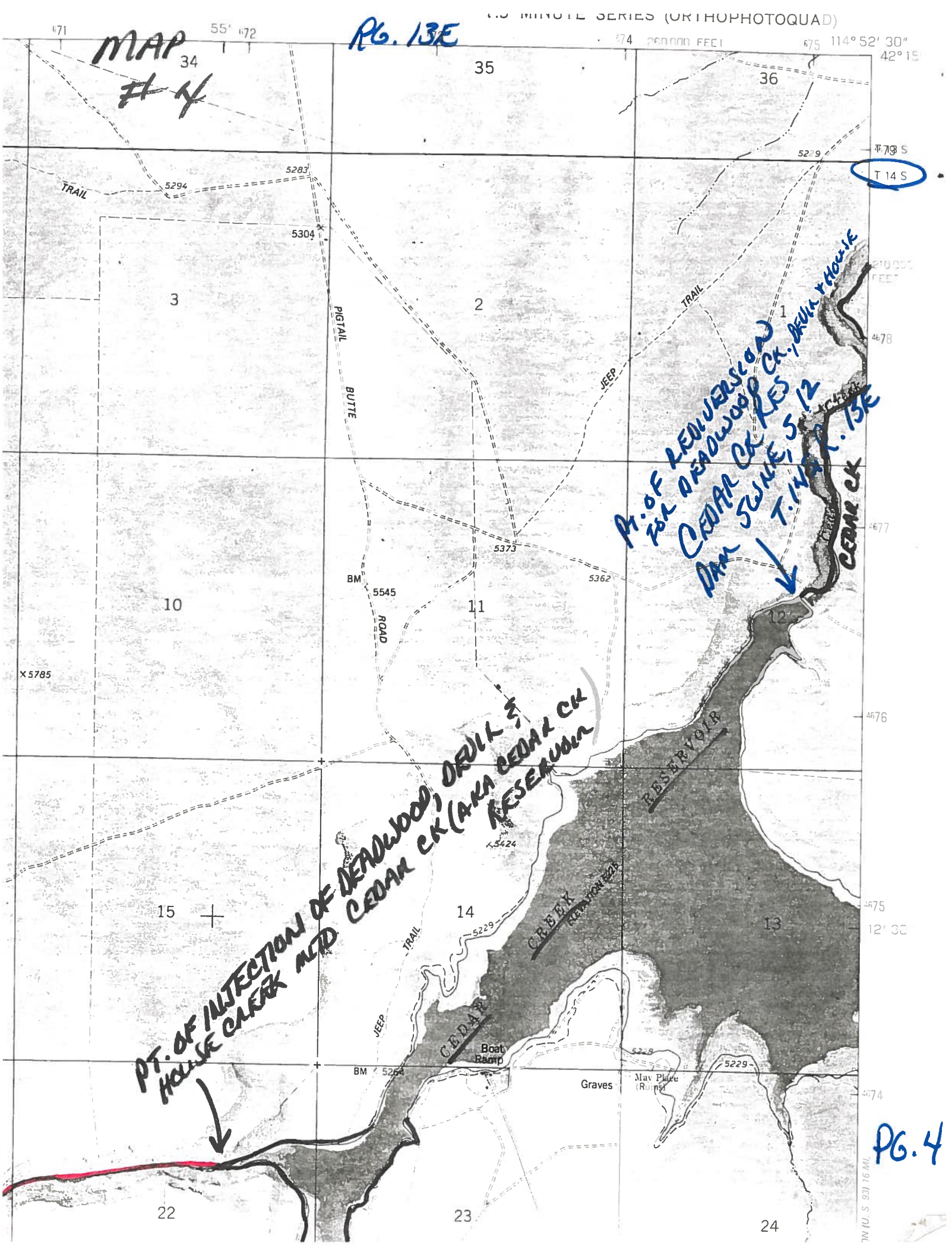
(Below)



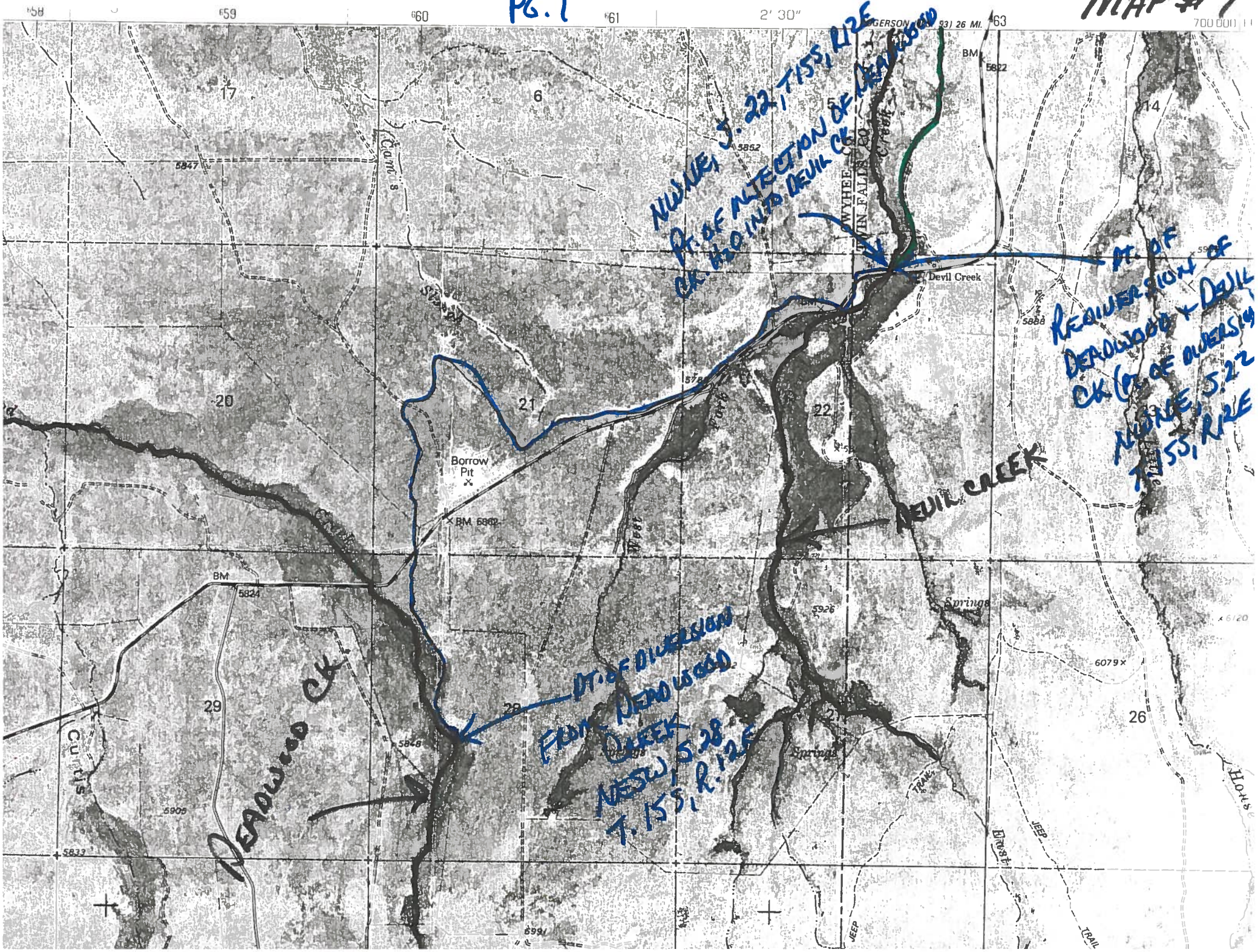
(Above)




T
T
MAP
#
2
T. 15 S. R. 12 E.
NW¼NW¼ S. 12 T. 15 S. R. 12 E.
N. of MISTY FORK
DEADWOOD & BOISE
INTO HOUSE CREEK
CANYON
Bengeaches Crossing
BM 5642
BM 5721
Bottom Pit
BM 5750
Grassy Hills Reservoir No 2
Hills No 2
Canal
Creek
OWYHEE CO.
TWIN FALLS CO.
LITTLE HOUSE
CREEK
ROGERSON U.S. 93 | 24 MI.
T 14 S
T 15 S
4669
4668
4667
4666 000m N
1/0 000
FEET
42° 7' 30"
115° 00'
6560
6561
2' 30"
220 000 FEET
6563
6564
6565 000m E
THREE CREEK 9 MI.
SCALE 1:24 000
1 MILE
R. 12E
Pg. 2


MAP H
Pg. 13E
7.5 MINUTE SERIES (ORTHOPHOTOQUAD)
114° 52' 30"
42° 15'
T 14 S
34
35
36
3
2
1
10
11
12
15
14
13
22
23
24
TRAIL
PIGTAIL BUTTE
JEEP
ROAD
BM 5545
5304
5283
5294
5373
5362
5229
5424
X 5785
RESERVOIR
CREEK
CEDAR
Boat Ramp
BM 5264
Graves
May Place (Ruins)
CEDAR CK
Pt. of Inlet of Deadwood, Drill Site, Deadwood Ck, Drill Site & Cedar Ck Res Dam Sec 12 T. 14 S. R. 13E
Pt. of Injection of Deadwood, Drill Site & House Creek and Cedar Ck (aka Cedar Ck Reservoir)
Pg. 4

MAP #1


NWNE, S. 22, T. 15S, R. 12E
PT. OF INTERSECTION OF DEADWOOD CK. AND DEVIL CK.
PT. OF CONFLUENCE OF DEADWOOD & DEVIL CK (PT. OF OVERSIGHT)
NWNE, S. 22, T. 15S, R. 12E
PT. OF DIVERSION FROM DEADWOOD CREEK
NESW, S. 28, T. 15S, R. 12E
DEADWOOD CK
DEVIL CREEK
Devil Creek
Borrow Pit
BM 5824
BM 5822
BM 5882
Curtis
Springs
TRAIL
JEEP
17
6
20
21
22
23
29
28
27
26
5847
5852
5888
5824
5848
5926
6079
5833
6991

Map #3

Pg. 3

Cedar Ridge

Sulphur Creek Trail
Map of Pine Mountain Loop

Cedar Ridge

Cedar Butte

Sugarloaf

Goose Pasture

Clark Spring

Indian Jim Place (Ruins)

Springs

JEEP TRAIL

JEEP

JEEP

Barrel Springs Ruins

Chalk Mountain

Chalk Mountain Trail

Old Lewis Road

Old Lewis Road

FLAT

BIM

5436

5403

5614

5676

5723

5748

5906

5886

5882

6101

5444

5531

5580

5588

5600

5628

5678

783

10

9

16

8

17

18

19

21

20

28

29

30

27

34

3

4

3B

32

5

6

MANNING EQUATION CHANNEL CAPACITY RESULTS 05-13-1994

File Number: A47-02440
Claimant: CEDAR MESA RESERVOIR & CANAL CO.
Channel measured: DITCH FROM DEADWOOD CREEK DIVERSION
Date of measurement: MAY 12 1994
Measurement location:
SEC 28 TWP 15S RGE 12E
Calculation prepared by: KAY WALKER
Comments about the measurement:
WE REMEASURED THE AREA OF THE DITCH WITH THE HIGH WATER MARK CLEARLY IDENTIFIED. THE MEASUREMENT OF AREA LAST FALL WAS BASED ON WHAT WE THOUGHT WAS HIGH WATER MARK BUT WAS NOT RIGHT.

The results of the calculation are:
The length of the channel measured is 405 feet.
The upstream and downstream rod readings are 7.35 and 7.50 feet.
The channel cross section is 32.68 ft-sq.
The wetted perimeter is 21.58 feet.
The hydraulic radius is 1.51 feet.
The slope is 0.0004
The roughness coefficient is 0.0750
The flow velocity is 0.504 ft/sec.
The rate of flow is 16.48 cfs.

Jan Shurte

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

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WESTERN REGION

PHILIP E. BATT
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

April 14, 1995

Jack Eastman
106 Doral Dr.
Jerome, ID 83338

Re: Delivery of Devil Creek Ranch Inc. Water Right from Deadwood Creek, IDWR Water Right No. 51-00132.

Dear Mr. Eastman:

I have reviewed the information and recommendation from Tim Luke regarding the 1995 season of use for the above referenced water right. I have also reviewed the request for delivery, dated April 6, 1995, submitted by Justin Seamons on behalf of his client, Devil Creek Ranch, Inc. I concur with the recommendation made by Mr. Luke.

The purpose of this letter is to formally notify you that no water shall be delivered under the above referenced water right prior to May 1, 1995. The water right may be delivered on or after May 1, 1995.

This directive concerning the delivery of this right applies only to the 1995 irrigation season. This directive should not be used as the basis of making a decision about the delivery of the Devil Creek Ranch Deadwood Creek water right in any succeeding year.

Sincerely,

Norman Young

for R. Keith Higginson
Director

cc: Justin Seamons
John Coleman
Jack Eastman
Southern Region

therewith on a particular occasion. The instruction addresses this concern as well:

> They're not --I'm not sure how to put this --but basically it's not a situation where you're allowed to say, "Okay, well, if Mr. Smith ran the red light three times last week, that means that he must have run the red light today and caused the accident." *In other words, you can't look at other conduct with other people at other times to prove that a particular incident occurred today.*
>
> This type of evidence just goes to the question of whether or not there were repeated violations, and that's the reason why that's been presented to you.

(Emphasis added.) This portion of the instruction clearly informed the jury that they could not use the distributors' testimony concerning what happened to them, to find that Mac behaved in the same manner toward Griffin.

Regarding Mac's third and fourth complaints about the district court's instruction with respect to punitive damages, we find that although the instruction given to the jury immediately prior to the distributors' testimony did not specifically address the issue of punitive damages, Jury Instruction No. 35, presented to the jury at the conclusion of the trial, adequately advised the jury that repeated violations were relevant only to the issue of punitive damages under the ICPA, and it did advise the jury that punitive damages could only be awarded if the jury first determined that Mac was guilty of repeated or flagrant violations of the ICPA. We therefore hold that the district court's instruction to the jury regarding the former distributors' testimony was sufficient to prevent prejudice to Mac. The district court is thus affirmed.

III. CONCLUSION

We hold that the district court did not err by providing a punitive damages instruction to the jury which did not include a requirement that the jury find Mac's actions constituted an extreme deviation from reasonable standards of conduct. In order to recover punitive damages under I.C. § 48-608, a party must show repeated or flagrant violations of the ICPA. This is the only standard the jury must follow when a party seeks punitive damages for violations of the ICPA. Thus, we hold that the jury instruction given by the district court on this issue was proper.

We further hold that the district court did not abuse its discretion in allowing the testimony of four former Mac distributors. The testimony of the ex-distributors from the same time frame and geographical area was relevant under I.R.E. 401 to show repeated or flagrant violations of the ICPA, and was not offered as character evidence of Mac. We further hold that the jury instruction relating to the testimony was sufficient to mitigate any prejudice to Mac. Accordingly, the judgment of the district court is affirmed.

Costs on appeal are awarded to respondents. No attorney's fees on appeal.[1]

McDEVITT, C.J., BISTLINE, JOHNSON, and TROUT, JJ., concur.

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1. Although respondents may have been entitled to attorney's fees under I.C. § 48-608(4), they did not present any argument that they are so entitled, either in their brief or at the hearing before the Court.

1994 Opinion No. 110
IN THE SUPREME COURT
OF THE STATE OF IDAHO
Docket No. 20816
Cite as: 94.18 ISCR 881

DEVIL CREEK RANCH, INC., an Idaho corporation,
Plaintiff-Appellant,
v.
CEDAR MESA RESERVOIR & CANAL COMPANY, an Idaho corporation,
Defendant-Respondent.

Appeal from the District Court of the Third Judicial District, State of Idaho, Owyhee County. Hon. Jim R. Doolittle, District Judge.

Devil Creek Ranch appeals from the district court's orders on remand from the dismissal of the cause for lack of subject matter jurisdiction. *Affirmed in part, reversed in part.*

ATTORNEYS:

Rosholt, Robertson & Tucker, Twin Falls, for appellant. Justin R. Seamons argued.

Coleman, Ritchie & Robertson, Twin Falls, for respondent. John S. Ritchie argued.

Filed: August 25, 1994
Frederick C. Lyon, Clerk

BISTLINE, Justice

BACKGROUND AND PRIOR PROCEEDINGS

This is the second appeal to this Court arising out of a disputed claim to water rights in Deadwood Creek. In *Devil Creek Ranch, Inc. v. Cedar Mesa Reservoir & Canal Co.*, 123 Idaho 634, 851 P.2d 348 (1993) (*Devil Creek Ranch I*), this Court vacated the summary judgment granted in favor of Cedar Mesa and remanded the cause for further proceedings. The parties now dispute which issues remain in the case and the proper forum for their resolution.

Although most of the facts relevant to the present dispute are set forth in *Devil Creek Ranch I*, several additional facts are important to this appeal. On August 11, 1915, an Owyhee County district court awarded Devil Creek Ranch's predecessor, Jerome Helsey (Helsey), the right to use three cubic feet of water per second (3 c.f.s.) from Deadwood Creek. The 1915 decree specified that Helsey's right had a priority date of April 19, 1886, that it was the first right upon Deadwood Creek, and that the 3 c.f.s. were to be used for irrigation and domestic purposes "during each irrigation season." The decree did not define the precise dates of the irrigation season. In this appeal, Devil Creek Ranch asserts that the irrigation season on Deadwood Creek traditionally has lasted throughout the entire year and that Devil Creek Ranch is consequently entitled to use the 3 c.f.s. whenever it can put the water to beneficial use.

In 1925, the Owyhee County district court was authorized, per a stipulation signed by the parties in a separate water rights adjudication, to decree the water rights to the

Bruneau River and its tributaries, including Deadwood Creek. The district court subsequently decreed that Idaho Farm Development Company, Cedar Mesa's immediate predecessor, (Idaho Farm Co.) was entitled to impound all the waters of Deadwood Creek "during [the] non-irrigation season," which it deemed to last from October 1 to May 15. Karl Patrick, Helsey's successor and Devil Creek Ranch's immediate predecessor (Patrick), did not sign the stipulation, but nonetheless was included as a party to the 1925 decree. The 1925 decree did not clarify whether Patrick's right to use 3 c.f.s. applied throughout the year or only during a particular irrigation season, but it stated that Idaho Farm Co.'s right to store water during the non-irrigation season "does not interfere with the rights of any of the parties hereto as hereby decreed."

The parties agree that between 1925 and 1991, Cedar Mesa impounded the waters of Deadwood Creek from October 1 to May 15. One or two exceptions occurred during the 1960's, when Cedar Mesa released impounded water before May 15.

Devil Creek Ranch filed a complaint in Owyhee County district court on June 18, 1991, seeking a declaratory judgment that the district court in 1925 had lacked personal jurisdiction over Patrick, that the 1925 decree was void and unenforceable with respect to Devil Creek Ranch, and that Devil Creek Ranch was entitled to use its decreed water right from Deadwood Creek at any time that it could put the water to beneficial use. Cedar Mesa answered, asserting the affirmative defenses of collateral estoppel and estoppel, and filed a motion to dismiss based on lack of subject matter jurisdiction. The district court took the matter of jurisdiction under advisement, directed Devil Creek Ranch to file a motion for summary judgment, and further directed the parties to brief the issue of estoppel by laches. Devil Creek Ranch filed the summary judgment motion on August 10, 1991. The district court denied Devil Creek Ranch's motion, granted summary judgment in favor of Cedar Mesa on its laches defense, and awarded $129 in costs to Cedar Mesa.

After Devil Creek Ranch appealed the summary judgment for Cedar Mesa, this Court vacated the judgment and remanded the cause for further proceedings. This Court noted that the defense of laches ordinarily presents issues of fact and that Cedar Mesa had failed to present enough factual evidence to support a finding that it was prejudiced by Devil Creek Ranch's delay in asserting its water rights. *Devil Creek Ranch I*, 123 Idaho at 636-37, 851 P.2d at 350-51. This Court further held that Devil Creek Ranch's action was not barred by res judicata. *Id.*, 123 Idaho at 637, 851 P.2d at 351. Devil Creek Ranch was awarded costs on appeal. The order of remittitur was issued on May 19, 1993.

Devil Creek Ranch, surmising that its motion for summary judgment should now be granted, submitted a proposed order and judgment, a memorandum of costs which listed costs incurred and requested repayment of the $129, and a motion to reconsider the denial of the motion for summary judgment filed in 1991. The district court (1) declined to enter the proposed order and judgment because *Devil Creek Ranch I* did not direct entry of judgment in favor of Devil Creek Ranch; (2) held that Devil Creek Ranch was not entitled to costs other than costs on appeal; and (3) denied Devil Creek Ranch's motion to reconsider. On August 23, 1993, the district court issued a declaratory judgment establishing that Devil Creek Ranch is not bound by the 1925 decree. The district court then ruled that the remaining issues in the case, namely whether Devil Creek Ranch is entitled to use 3 c.f.s. of water from Deadwood Creek whenever it can put the water to beneficial use, and whether this right is affected by the affirmative defenses of collateral estoppel or laches, are within the exclusive jurisdiction of the Snake River Basin Adjudication (SRBA).[1]

Neither party appeals the declaratory judgment. Devil Creek Ranch appeals the denial of its motions and request for repayment and the dismissal of the action. The gist of Devil Creek Ranch's appeal is that the disposition of *Devil Creek Ranch I* represented a full vindication of Devil Creek Ranch's claimed water rights to Deadwood Creek such that no issues remain unresolved. Alternatively, Devil Creek Ranch argues that if any issues remain, they can be resolved by the district court.

For the reasons set forth below, we hold that the district court correctly found that unresolved issues remain in this case, and that these issues are properly resolved in the SRBA. We reverse the district court's denial of Devil Creek Ranch's request for repayment of costs.

ANALYSIS

I. The District Court Correctly Refused to Enter Devil Creek Ranch's Proposed Order and Judgment and Correctly Denied Devil Creek Ranch's Motion to Reconsider.

Devil Creek Ranch filed a proposed order and judgment in the district court approximately one month after this Court issued its opinion in *Devil Creek Ranch I*. The proposed order and judgment would have conclusively established Devil Creek Ranch's water rights as set forth in the 1915 decree.

Devil Creek Ranch argues that the district court should have entered the proposed order and judgment because *Devil Creek Ranch I* foreclosed Cedar Mesa from presenting further evidence as to the prejudice it will allegedly suffer by the delayed assertion of Devil Creek Ranch's water right. This argument fundamentally misapprehends both the nature of summary judgment proceedings and this Court's opinion. In *Devil Creek Ranch I*, this Court held that the questions of prejudice and the other elements of a laches defense should be resolved by proper fact-finding proceedings, rather than by summary judgment motions. The district court was therefore correct in refusing to enter Devil Creek Ranch's proposed order and judgment.

For a different reason, we also affirm the order of the district court denying Devil Creek Ranch's motion to reconsider. Pursuant to Idaho Rule of Civil Procedure 11(a)(2)(B), Devil Creek Ranch moved the district court, on June 10, 1993, to reconsider its order denying Devil Creek Ranch's motion for summary judgment and granting summary judgment in favor of Cedar Mesa. The order had been entered on December 13, 1991, and final judgment on the order was entered on January 13, 1992.

Rule 11(a)(2)(B) permits a party to move the trial court to reconsider interlocutory orders not later than fourteen days after entry of a final judgment on the order. Noting the seventeen-month lapse between the entry of final judgment and the filing of the motion to reconsider, Cedar Mesa argues that the motion to reconsider was untimely.

Rule 11(a)(2)(B) motions ordinarily are filed prior to taking an appeal. This Court has never been presented with the situation where, as here, the motion to reconsider was filed after an appeal was issued reversing the final judgment. We agree with Devil Creek Ranch that in this case, no final judgment existed at the time that it filed the Rule 11(a)(2)(B)

motion. Reversal of a judgment on appeal entirely rescinds that judgment. *Hutchins v. State*, 100 Idaho 661, 666, 603 P.2d 995, 1000 (1979). The vacating of the final judgment by *Devil Creek Ranch I* had the same effect on the judgment in this case. Because Rule 11(a)(2)(B) allows motions to reconsider to be filed at any time before entry of final judgment, and because there was no final judgment when the motion to reconsider was filed, the motion was timely.

Subsequent to *Devil Creek Ranch I*, the district court was not bound by its prior findings and conclusions and was in a position to modify its prior order as to matters not passed upon by this Court or controlled by the law of the case. *See Hutchins v. State*, 100 Idaho at 665-66, 603 P.2d at 999-1000. Devil Creek Ranch had the opportunity at that juncture to submit a "full and complete presentation of all available facts." *Coeur d'Alene Mining Co. v. First Nat'l Bank*, 118 Idaho 812, 823, 800 P.2d 1026, 1037 (1990) (quoting *J.I. Case Company v. McDonald*, 76 Idaho 223, 229, 280 P.2d 1070, 1073 (1955)). However, Devil Creek Ranch submitted no supporting affidavits, depositions, or admissions that would bring to the district court's attention new facts bearing on the correctness of the interlocutory order. A party filing a motion to reconsider pursuant to Rule 11(a)(2)(B) carries the burden of bringing to the trial court's attention the new facts. *Id.*; *see also Idaho First Nat'l Bank v. David Steed & Assoc.*, 121 Idaho 356, 361, 825 P.2d 79, 84 (1992) (trial court should have considered affidavit and exhibit submitted by party in support of Rule 11(a)(2)(B) motion). The district court, therefore, had no basis on which to grant Devil Creek Ranch's motion for reconsideration, and the denial of the motion is affirmed. Accordingly, it is unnecessary to address Cedar Mesa's alternative arguments for affirming the district court's order.

II. The District Court Correctly Dismissed the Remainder of This Action.

Devil Creek Ranch contends that the declaratory judgment as to the 1925 decree means that the 1915 decree is conclusive as to the extent and priority of Devil Creek Ranch's water rights, and that the only matter remaining is the distribution of the 3 c.f.s. to Devil Creek Ranch. We hold that issues relating to the extent and priority of Devil Creek Ranch's water rights remain unresolved.

The extent of Devil Creek Ranch's water rights pursuant to the 1915 decree is unclear, since the 1915 decree fails to define the "irrigation season" during which Helsey was entitled to use the water. If, as it claims, Devil Creek Ranch is not bound by the 1925 decree's definition of irrigation season, then the applicable irrigation season is yet to be determined. Devil Creek Ranch alleges, without factual support, that since 1915, the irrigation season on Deadwood Creek has extended throughout the year. Devil Creek Ranch further asserts that the SRBA is engaged in redefining the parameters of the irrigation season on Deadwood Creek. If so, the extent of Devil Creek Ranch's water rights will likewise be redefined.

The second issue requiring resolution is whether Devil Creek Ranch's 1915 right, whatever it is, must be reduced, barred, or otherwise limited by Cedar Mesa's affirmative defenses of estoppel and/or laches. Cedar Mesa's affirmative defenses put Devil Creek Ranch's claimed rights at issue. This Court has previously held that when owners of water rights who, with full knowledge of all the facts, have long acquiesced in the water rights claimed by another party so that the party had incurred indebtedness on the strength of title to the water, the owners may be estopped by laches from questioning the rights claimed, even if the claimed rights were originally questionable. *Johnson v. Strong Arm Reservoir Irrigation Dist.*, 82 Idaho 478, 486-487, 356 P.2d 67, 72 (1960); *Hillcrest Irrigation Dist. v. Nampa & Meridian Irrigation Dist.*, 57 Idaho 403, 408-409, 66 P.2d 115, 117 (1937). Thus, if Cedar Mesa proves Devil Creek Ranch's full knowledge of the facts, and further proves that Cedar Mesa will be prejudiced by the passage of time between the 1925 decree and the filing of Devil Creek Ranch's declaratory judgment action, Devil Creek Ranch's prior-in-time right might not necessarily result in priority of right.

Devil Creek Ranch argues that these remaining issues should be litigated in the district court. However, the resolution of these issues would require the district court to resolve disputed issues concerning the right to the use of water. Reliance on the theories of laches and estoppel do not change the fact that this case is a private water rights adjudication and that the application of those theories would require the district court to "make findings and assumptions concerning the underlying water rights." *See Walker v. Big Lost River Irrigation Dist.*, 124 Idaho 78, 81, 856 P.2d 868, 871 (1993).

The Idaho legislature intended to prevent private adjudications of claimed water rights to water systems for which a general adjudication has been commenced or completed. *Id.*; I.C. § 42-1404(1) (1986 & Supp. 1994). Because this controversy concerns an adjudication of a right to the use of water in the Snake River Basin, for which a general adjudication has commenced, only the SRBA district court has the subject matter jurisdiction to adjudicate the water rights asserted in this case. Therefore, the district court properly dismissed the remaining issues in this case for lack of subject matter jurisdiction.

III. The District Court Erred by Denying Devil Creek Ranch's Request for Repayment.

After this Court issued *Devil Creek Ranch I*, Devil Creek Ranch, again operating under the assumption that it had fully prevailed, filed a memorandum of costs, pursuant to I.R.C.P. 54(d)(5), seeking a total of $744. The memorandum included a request for repayment of the $129 that Devil Creek Ranch paid to Cedar Mesa after Cedar Mesa was awarded summary judgment. Cedar Mesa agreed to pay Devil Creek Ranch's costs on appeal as ordered on remittitur by this Court, but objected to paying the remainder because "[n]o Order has been entered granting that amount to the plaintiff." The district court agreed with Cedar Mesa, finding that Devil Creek Ranch had not prevailed and thus was not entitled to costs beyond those ordered on remittitur.

This Court's disposition of *Devil Creek Ranch I* changed Cedar Mesa's status such that it was no longer the prevailing party entitled to an award of costs. *See Curtis v. DeAtley*, 104 Idaho 787, 791, 663 P.2d 1089, 1103 (1983). Therefore, the district court erred by not ordering the repayment of the costs awarded to Cedar Mesa. The court correctly denied the remaining costs requested by Devil Creek Ranch, however, because neither party prevailed.

CONCLUSION

The district court's judgment which denied Devil Creek Ranch's proposed order and judgment and motion to reconsider is affirmed. The dismissal of the remaining issues in this cause for lack of subject matter jurisdiction is affirmed. The judgment denying Devil Creek Ranch's request for repayment of the $129 is reversed.

Costs, but not attorney fees, to Cedar Mesa.

Chief Justice McDEVITT, and Justices JOHNSON, TROUT and SILAK **CONCUR.**

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1. The SRBA district court arose from legislation enacted in 1986 by the Idaho legislature. I.C. § § 42-1401 through 42-1423 (amended 1994). The SRBA district court is located in Twin Falls County, Idaho, and presides over the general adjudication of the waters deemed by the statute to be part of the Snake River Basin. Act of April 12, 1994, ch. 454, H.B. 969 (to be codified at I.C. § 42-1406A). Deadwood Creek is a tributary of the east fork of the Bruneau River, which is a tributary of the Bruneau River, which, in turn, is a tributary of the Snake River.

1994 Opinion No. 111
IN THE SUPREME COURT
OF THE STATE OF IDAHO
DOCKET NO. 20578
Cite as: 94.18 ISCR 884

STATE OF IDAHO
Plaintiff-Respondent,
v.
OWEN C. SLICKPOO,
Defendant-Appellant.

Appeal from the District Court of the Second Judicial District of the State of Idaho, in and for the County of Nez Perce. The Honorable Ron Schilling, District Judge. The Honorable Darrel R. Perry, Magistrate Judge.

Appeal from order denying defendant's motion to dismiss, and conviction for driving under the influence entered upon conditional plea of guilty. *Affirmed.*

ATTORNEYS:

Knowlton Miles Merica & Brudie, P.A., Lewiston, attorneys for appellant.

Honorable Larry EchoHawk, Attorney General, Douglas A. Werth, Deputy Attorney General, Boise, attorneys for respondent.

Boise, February 1994 Term
Filed: August 25, 1994
Frederick C. Lyon, Clerk

McDEVITT, Chief Justice

I

BACKGROUND AND PROCEDURE

On November 10, 1991, Owen C. Slickpoo (Slickpoo), a registered member of the Nez Perce tribe, was arrested and charged with driving under the influence (D.U.I.), driving with a suspended license, possession of drug paraphernalia, and operating a motor vehicle without liability insurance. Slickpoo moved to suppress all evidence gained as a result of the officer stopping his vehicle and dismiss the charges against him on the grounds that, because the reasonable suspicion for stopping Slickpoo's car accrued on the Nez Perce reservation, the state lacked jurisdiction to prosecute Slickpoo.

At a hearing on Slickpoo's motion, the parties stipulated that the stop and arrest took place on a publicly maintained highway off the Nez Perce reservation. The magistrate also heard evidence from Slickpoo and Corporal G.T. Myers (Myers), the arresting officer. Myers testified that he first noticed that Slickpoo was driving erratically while on the reservation. Myers further testified that Slickpoo made an illegal lane change and failed to come to a complete stop at an intersection after leaving the reservation. Myers then activated his overhead lights and stopped Slickpoo's vehicle. Slickpoo testified that he did not cross into another lane after leaving the reservation.

The magistrate denied Slickpoo's motion to suppress and dismiss, finding that Officer Myers had sufficient cause to stop Slickpoo based solely on the conduct that occurred off the reservation. The magistrate then stated:

> That would make the second ruling probably not necessary. But based on the fact that the officer can issue citations to certain people and not to others, for the purpose of the record today and either side's determination of where they want to take it from today, this next ruling, like I say, is probably moot based on the first ruling, but I'm also going to make a ruling that because of their authority concerning who they can write citations to and who they can't based on race, that by seeing a probable cause for a stop south of the line does give the officer the authority to stop the vehicle and investigate that further, because at that point he has no determination whether or not he's dealing with a tribal member or non tribal member. And based on that initial stop can then investigate that further to whatever that turns out to be and in this case a DUI.

Pursuant to a plea agreement, Slickpoo then entered a conditional plea of guilty to the DUI charge, retaining his right to appeal the magistrate's denial of his motion to suppress and dismiss under I.A.R. 11. After hearing additional argument on appeal, the district court found that an infraction occurred "inside the City of Lapwai, which was within the jurisdiction of the officer and of this court." The district court also ruled on the jurisdictional issue, holding that "if the conduct that is outside of the jurisdiction provides a reasonable suspicion that the defendant is driving a motor vehicle within the jurisdiction of the officer, that does not foreclose the officer from making that stop." Slickpoo then filed a notice of appeal to this Court, contending that the magistrate erred by finding that a reasonable basis for stopping Slickpoo took place on a public highway outside the reservation, and by concluding that an officer who observes conduct occurring outside that officer's jurisdiction can use that observation as the basis of a reasonable suspicion to stop a vehicle that travels into the officer's jurisdiction.

II

STANDARD OF REVIEW

When this Court hears an appeal from a final judgment of a magistrate following an appeal to district court, our review of the magistrate's rulings is independent from the decision of the district court. *State v. Kenner*, 121 Idaho 594, 596-97, 826 P.2d 1306, 1308-09 (1992). Our review of the magistrate's rulings is bifurcated in cases where a criminal defendant has moved for the suppression of evidence. While this court will

FILED
A.M. 1:10 P.M.
JAN 14 1992
BARBARA JAYO, CLERK
Deputy Clerk

JOHN R. COLEMAN
COLEMAN, RITCHIE & ROBERTSON
Attorneys at Law
156 2nd Avenue West
P. O. Box 525
Twin Falls, ID 83303-0525
Telephone: (208)734-1224

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF OWYHEE

DEVIL CREEK RANCH, INCORPORATED an Idaho corporation,

Plaintiff,

vs.

CEDAR MESA RESERVOIR AND CANAL COMPANY, an Idaho corporation,

Defendant.

Case No. 5032

JUDGMENT

The Court having entered its Order on Motion for Summary Judgment dated December 13, 1991, and filed December 23, 1991, denying summary judgment to the plaintiff and granting summary judgment to the defendant on its defense of laches.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the defendant shall be entitled to the entry of Judgment in favor of the defendant and against the plaintiff, the plaintiff shall take nothing by its Complaint, and the defendant shall be awarded its costs in the amount of $_____.

DATED this 13th day of January, 1992.

JIM R. DOOLITTLE, District Judge

CERTIFICATE OF MAILING

I hereby certify that on the 9th day of January, 1992, I served the foregoing proposed JUDGMENT by causing to be deposited a copy thereof in the post office at Twin Falls, Idaho, enclosed in an envelope with postage prepaid, addressed to the following:

Justin R. Seamons
Rosholt, Robertson & Tucker
Attorneys at Law
PO Box 1906
Twin Falls ID 83303-1906

John R. Coleman

JOHN R. COLEMAN

Justin R. Seamons
ROSHOLT, ROBERTSON & TUCKER
P. O. Box 1906
Twin Falls, Idaho 83303-1906
Telephone: (208) 734-0700
4000p/mw/06-10-91

FILED
11:55 A.M. P.M.
JUN 18 1991
BARBARA JAYO, CLERK
JoAnn McDaniel
Deputy Clerk

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF OWYHEE

* * * * * * * * * *

DEVIL CREEK RANCH, INCORPORATED an Idaho corporation,

Plaintiff,

vs.

CEDAR MESA RESERVOIR AND CANAL COMPANY, an Idaho corporation,

Defendant.

Case No. 5033

VERIFIED COMPLAINT

* * * * * * * * * *

Plaintiff Devil Creek Ranch, Inc. alleges the following cause of action against Defendant Cedar Mesa Reservoir and Canal Company:

DECLARATORY JUDGMENT

1. Plaintiff Devil Creek Ranch, Inc. is an Idaho corporation.

2. Defendant Cedar Mesa Reservoir and Canal Company is an Idaho corporation.

3. Devil Creek Ranch's predecessor-in-interest, Jerome N. Helsley, obtained a water right, with a priority date

of April 1, 1886, to three cubic feet of water per second of time in Deadwood Creek for purposes of irrigation and domestic use on the following described property in Owyhee County, Idaho: The SE1/4 of the SW1/4 and the SW1/4 of the SE1/4 of Section 18; the W1/2 of the NE1/4 and the N1/2 of the SE1/4 of Section 19; and the N1/2 of the SW1/4 of Section 20, Township 15 South, Range 12 East of the Boise Meridian.

4. The District Court of the Third Judicial District of the State of Idaho, in and for the County of Owyhee, adjudicated the foregoing water right on August 14, 1915. (See Helsley v. Turner, (3rd Jud. District of Idaho Aug. 14, 1915).)

5. Mr. Helsley's successor-in-interest was Karl D. Patrick, also known as Carl Patrick.

6. On September 10, 1920, Grandview Irrigation District filed a lawsuit to adjudicate its right to 150 cubic feet of water per second of time in the Bruneau River. (A certified copy of the Complaint is attached hereto as Exhibit A.)

7. Grandview Irrigation District named Mr. Patrick as a defendant in the foregoing lawsuit.

8. Mr. Patrick's current successor-in-interest is Devil Creek Ranch, Inc.

9. Mr. Patrick accepted personal service of the Complaint on July 30, 1921. (A certified copy of the Admissions of Service is attached hereto as Exhibit B.)

10. Grandview Irrigation District's claim to 150 cubic of water per second of time in the Bruneau River did not

involve or impact Mr. Patrick's water right to three cubic feet of water per second of time in Deadwood Creek (1) because Grandview Irrigation District did not claim an interest in or right to the water in Deadwood Creek, and (2) because Mr. Patrick had a water right in Deadwood Creek only.

11. Deadwood Creek is a tributary of the East Fork of the Bruneau River, which, in turn, is a tributary of the Bruneau River.

12. On August 28, 1922, the court signed an Order for the Entry of Default against, among others, Mr. Patrick. (A certified copy of the Order is attached hereto as Exhibit C.)

13. The Clerk of the Court duly entered a Default against Mr. Patrick on August 30, 1922. (A certified copy of the Default is attached hereto as Exhibit D.)

14. On February 14, 1925, several of the Defendants entered into a Stipulation for Decree, including Defendant Idaho Farm Development Company. (A certified copy of the Stipulation is attached hereto as Exhibit E.)

15. Idaho Farm Development Company's current successor-in-interest is Cedar Mesa Reservoir and Canal Company.

16. The Stipulation authorized the court to adjudicate the signing-parties' water rights in the Bruneau River, the East Fork of the Bruneau River, Deadwood Creek, and/or certain springs and tributaries in the Bruneau Valley.

17. Mr. Patrick was not a party to the foregoing Stipulation.

18. The court heard the above-referenced lawsuit on the same day--that is, February 14, 1925.

19. The court entered a Decree on February 16, 1925. (A certified copy of the Decree is attached hereto as Exhibit F.)

20. In the Decree, the court ruled that Idaho Farm Development Company had an annual right to 6,000 acre feet of water, with a priority date of January 29, 1915, and an annual right to 3,000 acre feet of water, with a priority date of November 19, 1915, in Deadwood Creek. (Decree, p. 23.)

21. The court concluded (1) that Defendant Idaho Farm Development Company could store its water from Deadwood Creek in a reservoir from October 1 to May 15 each year, and (2) that the storage of the water from Deadwood Creek during this "non-irrigation season [would] not interfere with the rights of any of the parties hereto." (Decree, pp. 22-23.)

22. Despite the fact that Mr. Patrick was not a party to the above-referenced Stipulation, and despite the fact that Mr. Patrick's water right was prior in time to Idaho Farm Development Company's water rights, the court included Mr. Patrick in the group of "parties" that was subject to Idaho Farm Development Company's annual storage right. (Decree, p. 20.)

23. Idaho Farm Development Company thereafter attempted to preclude and stop Mr. Patrick from obtaining his decreed right to three cubic feet of water per second of time before the newly created May 15 irrigation start date.

24. Today, Idaho Farm Development Company's successor-in-interest, Cedar Mesa Reservoir and Canal Company, continues to attempt to preclude and stop Mr. Patrick's successor-in-interest, Devil Creek Ranch, from obtaining its water from Deadwood Creek before the May 15 irrigation start date.

25. Devil Creek Ranch is legally and lawfully entitled to use its water from Deadwood Creek at any time that it can put the water to beneficial use, irrespective of the foregoing May 15 irrigation start date, as the above-referenced Decree is invalid, unenforceable, void, and non-binding with respect to Devil Creek Ranch.

26. This court is authorized and empowered to declare the rights, status, and legal relations between Devil Creek Ranch and Cedar Mesa Reservoir and Canal Company in relation to the foregoing Decree pursuant to Idaho Code Section 10-1201 and 10-1205.

27. Devil Creek Ranch has retained the services of Rosholt, Robertson & Tucker to prosecute this action.

28. Devil Creek Ranch is entitled to recover its costs and attorney's fees from Cedar Mesa Reservoir and Canal Company pursuant to Idaho Code Section 10-1210 and/or 12-121, and I.R.C.P. 54. The sum of $5,000 is a reasonable attorney's fee if the court enters judgment by default.

REQUESTED RELIEF

Devil Creek Ranch requests the following relief against Cedar Mesa Reservoir and Canal Company:

1. Judgment that the Decree attached hereto as Exhibit F is invalid, unenforceable, void, and non-binding with respect to Devil Creek Ranch;

2. Judgment that Devil Creek Ranch is legally and lawfully entitled to use its decreed right to three cubic feet of water per second of time from Deadwood Creek at any time that it can put the water to beneficial use;

3. Costs and attorney's fees of this action; and

4. Any other relief, legal or equitable, to which Devil Creek Ranch is entitled.

DATED this 17th day of June, 1991.

ROSHOLT, ROBERTSON & TUCKER

By: Justin R. Seamons
Justin R. Seamons

VERIFICATION

STATE OF IDAHO)
) ss.
County of TWIN FALLS)

ROLLAND K. PATRICK, being first duly sworn, upon oath deposes and says:

That he/she is the PRESIDENT for the Plaintiff named in the foregoing Verified Complaint, that he/she has read the foregoing Verified Complaint, knows the contents thereof, and that the statements contained therein are true to the best of his/her knowledge and belief.

Rolland K. Patrick

SUBSCRIBED and SWORN TO before me this 17th day of June, 1991.

Sherry L. Call
NOTARY PUBLIC FOR IDAHO
My commission expires: 3/19/92
Residing at: Twin Falls, Id

Water Right Number - A51-00138 Prefix Translation: ADJUDICATION CLAIM Old (D) Number -

Last Name | First Name | Address

*** C - CURRENT OWNER ***
IDAHO FARM DEVELOPMENT CO.

1 -
2 -
3 -
City- State- Zip-
Phone -

Priority Date	Region	Stage	Status
11/19/1915	14 WESTERN		Z - SEE REMARKS

Source	Tributary
DEADWOOD CREEK	BRUNEAU RIVER, EAST FORK

Point of Diversion

Twn	Rng	Sec	Tract	Lot	RFlg	County

Water Use

Code	Description	Period From	Period To	Diversion Rate	Diversion Volume
01	IRRIGATION				3000.00

Total Div. Rate	Total Div. Volume	Total Consumptive Use	KW Usage
	3000.00	0.0	

Place of Use

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County

Total Acres:

Diversion Means -

Non-Irrigation Use -

Other Rights for Same Use -

Remarks

GEN RECOMMENDED AS RIGHT NO. 51-02447.
NOTE: THIS RIGHT WAS INCLUDED IN THE BRUNEAU RIVER DECREE AND IN RESEARCHING THE RECOMMENDATION OF RIGHT NO. 51-02447 IT WAS DISCOVERED THAT THIS RIGHT WAS ACTUALLY THE PERMIT PORTION OF 51-02447 IN THE DECREE - SAME PRIORITY DATE, SAME AMOUNT OF WATER ETC. THEN, WHEN THE LICENSE WAS ISSUED THE PRIORITY DATE WAS ADVANCED TO WHAT 51-02447 NOW SHOWS DUE TO LATE PROOF OF B/U. SINCE NO CLAIM WAS FILED FOR THIS DECREED RIGHT, AND ACTUALLY THE LICENSED RIGHT IS THE CORRECT FILING, I AM REFERENCING THIS RIGHT AS BEING RECOMMENDED AS 51-02447.

Water right number - A51-00138   Prefix Translation: ADJUDICATION CLAIM

+ - - - - Old Water Right Numbers - - - - +

+ - - - - Old Water Right Numbers - - - - +

No Old Water Right Numbers Found

+ - - - - Conditions of Approval - - - - +

No Conditions of Approval found.

+ - - - - Decree Plaintiff - - - +	+ - - - - Decree Defendant - - - +	+ - Decree Date - +
GRANDVIEW IRR. DIST.	BRUNEAU BUCKAROO CO-OP DITCH CO.	00/00/0000

+ - - - - Comments - - - - +

No Comments Found

+ - - Audit Fields - - +

07/17/98 JSHURTE

+ - - - - Adjudication Rights Dates and Flags Area - - - - +

Court Report Filing	- 00/00/0000	Field Inspection Made	- 00/00/0000	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 00/00/0000	Old Judicial District	-
Claim Received Date	- 07/16/1998	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- X777777	Water District	- 51A
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	-	Presumption Flag	-
				Notice of Error Flag	-

11920
51-02447

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	MAXIMUM DIVERSION	STAGE
51-00138	IDAHO FARM DEVELOPMENT CO.	11/19/1915	IRRIGATION	00-00	00-00	3000.00 AFA	DECREED

0.00 CFS TOTAL
3000.00 AFA TOTAL

SOURCE: DEADWOOD CREEK TRIBUTARY: BRUNEAU RIVER, EAST FORK

POINT OF DIVERSION:

PLACE OF USE: IRRIGATION

T11S R13E	S25		NESE	40.0	NWSE	40.0	SWSE	40.0	SESE	40.0	
	S34		NENE	40.0	NWNE	40.0	SWNE	40.0	SENE	40.0	NESW 40.0
			SESW	40.0	NESE	40.0	NWSE	40.0	SWSE	40.0	SESE 40.0
	S35		NENE	40.0	NWNE	40.0	SWNE	40.0	SENE	40.0	NWNW 40.0
			SWNW	40.0	NWSW	40.0	SWSW	40.0	NESE	40.0	NWSE 40.0
			SWSE	40.0	SESE	40.0					
T12S R13E	S01	Lot 4 (NWNW)		40.0	SWNW	40.0	NWSW	40.0	SWSW	40.0	
	S02		NENE	40.0	NWNE	40.0	SWNE	40.0	SENE	40.0	NENW 40.0
			NWNW	40.0	SWNW	40.0	SENW	40.0			
	S03		NENE	40.0	NWNE	40.0	SWNE	40.0	SENE	40.0	NENW 40.0
			NWNW	40.0	SWNW	40.0	SENW	40.0			
	S04	Lot 1 (NENE)		40.0	SENE	40.0	NESE	40.0	SESE	40.0	
	S09		NENE	40.0	SENE	40.0	NESE	40.0	NWSE	40.0	SWSE 40.0
			SESE	40.0							
	S10		NENE	40.0	NWNE	40.0	SWNE	40.0	SENE	40.0	NENW 40.0
			NWNW	40.0	SWNW	40.0	SENW	40.0	NESW	40.0	NWSW 40.0
			SWSW	40.0	SESW	40.0	NESE	40.0	NWSE	40.0	SWSE 40.0
			SESE	40.0							
	S11		NENE	40.0	NWNE	40.0	SWNE	40.0	SENE	40.0	NENW 40.0
			NWNW	40.0	SWNW	40.0	SENW	40.0	NESW	40.0	NWSW 40.0
			SWSW	40.0	SESW	40.0	NESE	40.0	NWSE	40.0	SWSE 40.0
			SESE	40.0							
	S12		NENW	40.0	NWNW	40.0	SWNW	40.0	NESW	40.0	NWSW 40.0
			SWSW	40.0	SESW	40.0	NESE	40.0	NWSE	40.0	SWSE 40.0
			SESE	40.0							
	S13		NENE	40.0	NWNE	40.0	SWNE	40.0	SENE	40.0	NENW 40.0
			NWNW	40.0	SWNW	40.0	SENW	40.0	NESW	40.0	NWSW 40.0
			SWSW	40.0	SESW	40.0	NESE	40.0	NWSE	40.0	
	S14		NENE	40.0	NWNE	40.0	SENE	40.0	NENW	40.0	NWNW 40.0
			SWNW	40.0	SESW	40.0	SESE	40.0			
	S15		NENE	40.0	NWNE	40.0	SWNE	40.0	SENE	40.0	NENW 40.0
			NWNW	40.0	SWNW	40.0	SENW	40.0	NESW	40.0	NWSW 40.0
			SWSW	40.0	SESW	40.0	NESE	40.0	NWSE	40.0	SWSE 40.0
			SESE	40.0							
	S22		NWNE	40.0	NENW	40.0	SENW	40.0			
	S23		NENE	40.0	NWNE	40.0	SWNE	40.0	SENE	40.0	NESW 40.0
			SESW	40.0	NESE	40.0	NWSE	40.0	SWSE	40.0	SESE 40.0
	S24		SWNE	40.0	NENW	40.0	NWNW	40.0	SWNW	40.0	SENW 40.0
			NESW	40.0	NWSW	40.0	SWSW	40.0	SESW	40.0	NWSE 40.0
			SWSE	40.0							
	S25		NWNE	40.0	SWNE	40.0	NENW	40.0	NWNW	40.0	SWNW 40.0
			SENW	40.0	NESW	40.0	NWSW	40.0	SWSW	40.0	SESW 40.0
	S26		NENE	40.0	NWNE	40.0	SENE	40.0	NENW	40.0	SWNW 40.0
			NWSW	40.0	SWSW	40.0	SESW	40.0	NESE	40.0	SWSE 40.0

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	MAXIMUM DIVERSION	STAGE

SESE 40.0
S27 SWNE 40.0 NESE 40.0 NWSE 40.0 SESE 40.0
S35 NENE 40.0 NWNE 40.0
7520.0 ACRES TOTAL

CONDITIONS OF APPROVAL:

REMARKS: THIS WATER IS TAKEN FROM DRAINAGE BASIN AND STORED IN TWIN FALLS CO. FOR USE ON THE ROSEWORTH TRACT.

OTHER RIGHTS:

Copy of application

AJ0729NP
No. A47-02440

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 07/26/93
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	DIVERSION RATE	DIVERSION VOLUME
C	CEDAR MESA RESERVOIR & CANAL CO. P.O. BOX 525 TWIN FALLS ID 833030525 (208) 537-6802	10/08/1919	IRRIGATION STORAGE	10-01	04-15		15000.0 AFA
			IRRIGATION FROM STORAGE	04-15	10-01		15000.0 AFA
					TOTAL DIVERSION:		15000.0 AFA
					CONSUMPTIVE USE:		15000.0 AFA

Water Source: DEADWOOD CREEK
DEVIL CREEK
CEDAR CREEK

Tributary to: BRUNEAU RIVER, EAST FORK
SALMON FALLS CREEK
SALMON FALLS CREEK

Stage: LICENSE

Point(s) of Diversion:	T14S R13E S12	SWNE	TWIN FALLS County
	T15S R12E S22	NWNE	TWIN FALLS County
	S28	NWSW	TWIN FALLS County
Point(s) of Re-diversion:	T13S R14E S29	NWSE	TWIN FALLS County

Re-diversion?
Diversion pt?

Place of use Legal Description for: IRRIGATION STORAGE

			NE				NW				SW				SE				
T	R	S	NENE Lt Ac	NWNE Lt Ac	SWNE Lt Ac	SENE Lt Ac	NENW Lt Ac	NWNW Lt Ac	SWNW Lt Ac	SENW Lt Ac	NESW Lt Ac	NWSW Lt Ac	SWSW Lt Ac	SESW Lt Ac	NESE Lt Ac	NWSE Lt Ac	SWSE Lt Ac	SESE Lt Ac	
12S	13E	2				40	03-37		39	28	39	20	35	35	32	40			345.0
12S	13E	3				10							37		39			30	116.0
12S	13E	9	38			39									39	30	39	30	215.0
12S	13E	10	20			35					32	38	30	38	30	20	30	10	283.0
12S	13E	11	39	17	16	40					39	28	36	37	40	38	40	40	410.0
12S	13E	14	38	36	40	37	40	15	36	38	39	32	38		11	35	09	40	484.0
12S	13E	15	24	01		22	30	37	26	37	28	27	17	31					280.0
12S	13E	22	39	29	35	37	02			32	21			30	16	35	39	39	354.0
12S	13E	23	31	22	22	30		29	26		06	31	39	39	39	38	33	39	424.0
12S	13E	24						24	40	40	35	39	38						216.0
12S	13E	25					38	36	37	32	32	39	39	38					291.0
12S	13E	26	39	35	39	36	34	38	37	40	38	34		24	38	38	24	31	525.0
12S	13E	27	33	32		39	31												135.0
12S	13E	35	37	28															65.0
																TOTAL ACRES			4143.0

Place of use location for IRRIGATION FROM STORAGE is the same location as described for: IRRIGATION STORAGE

POU County: TWIN FALLS

Other Rights: A47-14737, A47-02439, A47-00042A

Remarks: TRANS. 706. NUMBERS FOR THIS RT. ARE 47-2440 & 51-2447.
PT. OF INJECTION INTO OEVIL CK: NWNE, S22, T15S, R12E.
PT. OF INJECTION INTO HOUSE CK: NWNW, S12, T15S, R12E. PT. OF REDIVERSION FROM DEADWOOD CK: NWNE, S22, T15S, R12E. PT. OF REDIVERSION FROM DEADWOOD & DEVIL CKS: SENE, S12, T14S, R13E. PT. OF REDIVERSION FROM DEADWOOD, DEVIL & CEDAR CKS: NWSE, S29, T13S, R14E. RESERVOIR LOCATED IN SWNE, S12, T14S, R13E. WATER STORED IN CEDAR CK. RESERVOIR. RT. IS FOR 3,000 AF FROM

Route
Taylor
Martin

Remarks: DEADWOOD CK., 2,000 AF FROM DEVIL CK., & 10,000 AF FROM CEDAR CK.
1 P/D IN OWYHEE CO.
THE STOCKHOLDERS IN CLAIMANT COMPANY ARE THE OWNERS OF THE LAND
ON WHICH THE WATER IS USED.

Dates: Exam Made Date: Verified Date: 06/03/1985

Misc: Water District Number: 47C Field Inspection Flag:
Presumption Flag:

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

April 14, 1995

IDWR Conference Call Participants of 4/13/95

Re: Devil Creek Ranch Call for Water and Irrigation Season of Use Issue

Gentlemen:

I wish to thank all of you for participating in yesterday's conference call regarding the above referenced issue. I appreciate your availability and input on this matter.

Based on our conference, I understand that the opposing parties to this matter could not reach agreement and opted instead to have the Department make a decision regarding the appropriate starting date for the 1995 irrigation season of use applicable to the Devil Creek Ranch water right from Deadwood Creek. It is my further understanding that the Department's decision regarding this matter is applicable only to the 1995 irrigation season and may serve as an interim compromise between the parties for at least the 1995 season. I also understand that the parties have agreed to abide by the Department's decision for the 1995 season. Additionally, a decision by IDWR should not injure or strengthen either parties position towards the determination of this matter in the Snake River Basin Adjudication (SRBA).

Following our meeting, I took time to research some irrigation season of use and climate data for the Three Creek area. Attached to this letter is an inter-department memo dated February 15, 1994, from Jeff Peppersack to Jan Shurte. Mr. Peppersack is an IDWR water resource engineer and has helped the Department develop irrigation season of use standards for the SRBA. Mr. Peppersack's memo reviews four methods for determining the irrigation season of use. The table attached to his memo shows the irrigation season of use starting date at Three Creek as determined by each method. The starting dates range from April 15 to May 26. It should be noted that the April 15 date is a date based on a 75% chance of a 24 degree Fahrenheit frost which has been extrapolated over a broad geographic area within portions of Owyhee and Twin Falls Counties. This date is not specific to the Three Creek area. Data published by the University of Idaho shows that at Three Creek, May 11 is the date with a 75% chance of a 24 degree Fahrenheit frost. The average 24 degree frost at Three Creek is May 26.

I have discussed the above season of use data and methodology with Mr. Peppersack. He has informed me that the season of use dates based on the mean 45 degree Fahrenheit and solar thermal methodologies are probably most representative of normal season of

use dates. Note that May 6 and May 4 are the irrigation season of use starting dates based on those respective methodologies.

In addition to reviewing different season of use dates for the Deadwood Creek vicinity, I have also looked at some precipitation data. Total precipitation for the month of March at Murphy Hot Springs, elevation 5,160 ft., was 1.32 inches. The average precipitation for March at this same location is 1.06 inches. March precipitation therefore was 0.26 inches or 20% greater than normal. The Soil Conservation Service Water Supply Outlook published on April 1 reports that precipitation for the water year across the Southside Snake River Basins is just below average at 93% of average. The Surface Water Supply Index is near the median value for Salmon Falls Creek basin, indicating a near normal supply of water.

Based on all of the above data I think it is fair to say that current climate and field conditions along Deadwood Creek are near normal. Recent rains and colder temperatures over the past two weeks should have benefitted the soil moisture profile. As a result, soil moisture conditions are adequate for this time of year and can be maintained assuming normal precipitation and evapotranspiration rates occur. It is my opinion that artificial irrigation is not required at this time and that a hay crop in the Three Creek/Deadwood Creek area can be sustained without artificial irrigation until at least May 1.

I am today recommending to the Director that he issue a directive to the watermaster of Water District 47-C that the Devil Creek Ranch water right from Deadwood Creek not be delivered until May 1. I believe that this proposed decision is one that is fair to both parties. A separate cover letter will be sent to the watermaster with carbon copies sent to interested parties.

Sincerely,

Tim Luke

Tim Luke
Hydrologist
Water Allocations

cc: Justin Seamons
John Coleman
Jack Eastman
Jim Stanton, IDWR

MEMO February 15, 1994

To: Jan Shurte

From: Jeff Peppersack

Re: Season of Use Along Bruneau River and Vicinity

In response to your request I have computed a season of use for the area along the Bruneau River in Owyhee County from Three Creek on down to the Snake River using various methods. Temperature data is available for weather stations at Grandview, Bruneau, Grasmere and Three Creek. Results are shown in the attached table along with the current IDWR standards for the area.

The first method is the average period between 24 degree Fahrenheit frosts. This is considered a severe freeze where all plants sustain heavy damage (Everson, Faubion, and Amos). The second method is the average period between a mean daily temperature of 45 degrees Fahrenheit or greater. This is considered the moisture-use period for crops (Soil Conservation Service). The third method is based on the Solar Thermal Unit Model. A solar thermal unit for a given day is defined as the product of the mean daily temperature minus a threshold temperature of 31 degrees Fahrenheit times the daily total solar radiation in Langleys. The season begins at a point where 200,000 solar thermal units (STU) have accumulated and ends when the average daily STU's have fallen to about 4,000 (Caprio).

Current IDWR standards are based on a 75% chance of a 24 degree Fahrenheit frost. The standard dates for the area are shown in the table.

REFERENCES

Caprio, Joseph M., World Maps of Potential Evapotranspiration, Plant Development, and Spring Greening and Autumn Browning of Vegetation, Based on the Solar Thermal Unit Model, Montana State University, 1974.

Everson, Dale O., Faubion and Amos, Spring and Fall Freezing Temperatures and Growing Seasons in Idaho, University of Idaho, 1978.

Soil Conservation Service, Irrigation Water Requirements, U.S. Dept. of Agriculture, 1967.

IRRIGATION SEASON OF USE

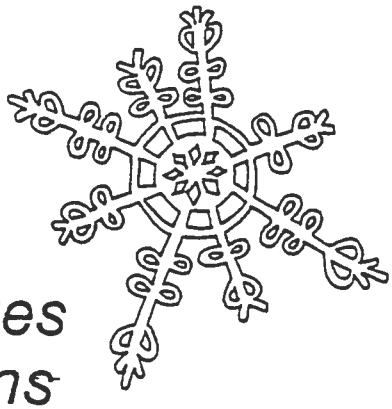
Station	24 deg. F. Frost	45 deg. F. Mean	Solar Thermal Units	IDWR Standards
Grandview	April 7 Oct. 20	March 24 Nov. 1	March 31 Nov. 4	March 15 Nov. 15
Bruneau		March 27 Nov. 1	April 4 Nov. 4	March 15 Nov. 15
Grasmere		April 28 Oct. 20	April 25 Oct. 23	April 15 Oct. 15
Three Creek	May 26 Sept. 6	May 6 Oct. 1	May 4 Oct. 21	April 15 Oct. 15

NEW MAP STANDARD
(1999) 4-1 TO 10-31

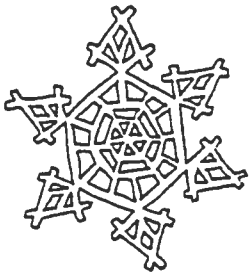
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APR 17 1995
WATER RESOURCES
WESTERN REGION



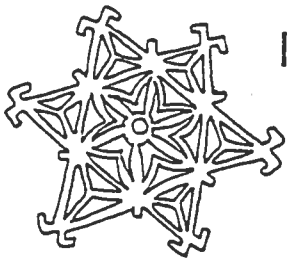
Spring and Fall



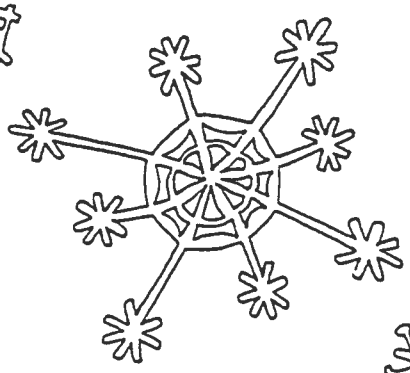
Freezing Temperatures And Growing Seasons



In Idaho









Dale O. Everson
Maurice Faubion
Deborah E. Amos

Bulletin 494
Revised January 1978



Agricultural Experiment Station
UNIVERSITY OF IDAHO
College of Agriculture

Table 2. Continued.

Station	Temp.	Percent probability of indicated temperature or lower occurring on or after date in ~~fall~~ SPRING					Percent probability of indicated temperature or lower occurring on or ~~after~~ before date in ~~spring~~ FALL				
		90%	75%	50%	25%	10%	10%	25%	50%	75%	90%
SOUTHWEST											
Cambridge	20	Mar 1	Mar 11	Mar 24	Apr 7	Apr 19	Oct 2	Oct 12	Oct 23	Nov 4	Nov 14
(41 years)	24	Mar 18	Mar 31	Apr 15	Apr 30	May 13	Sep 21	Sep 30	Oct 10	Oct 20	Oct 29
	28	Apr 11	Apr 21	May 2	May 13	May 23	Sep 10	Sep 19	Sep 28	Oct 8	Oct 17
	32	Apr 28	May 10	May 23	Jun 6	Jun 18	Aug 28	Sep 6	Sep 15	Sep 24	Oct 3
Cascade	20	Apr 2	Apr 11	Apr 21	Apr 30	May 9	Sep 26	Oct 6	Oct 17	Oct 28	Nov 6
(26 years)	24	Apr 18	Apr 25	May 4	May 12	May 20	Sep 10	Sep 20	Oct 1	Oct 11	Oct 21
	28	May 5	May 17	May 29	Jun 11	Jun 22	Aug 30	Sep 7	Sep 17	Sep 26	Oct 4
	32	May 24	Jun 3	Jun 14	Jun 25	Jul 5	Aug 9	Aug 20	Sep 2	Sep 14	Sep 25
Council	20	Mar 1	Mar 10	Mar 23	Apr 4	Apr 15	Oct 16	Oct 24	Nov 3	Nov 12	Nov 20
(24 years)	24	Mar 22	Apr 2	Apr 14	Apr 26	May 6	Sep 27	Oct 6	Oct 16	Oct 27	Nov 5
	28	Apr 10	Apr 20	May 1	May 13	May 23	Sep 18	Sep 26	Oct 4	Oct 12	Oct 20
	32	Apr 23	May 5	May 17	May 30	Jun 11	Sep 9	Sep 16	Sep 24	Oct 2	Oct 9
Deadwood Dam	20	Apr 20	Apr 28	May 8	May 17	May 25	Sep 14	Sep 24	Oct 6	Oct 18	Oct 29
(42 years)	24	May 5	May 17	May 29	Jun 11	Jun 22	Aug 23	Sep 3	Sep 16	Sep 28	Oct 10
	28	Jun 4	Jun 13	Jun 22	Jul 2	Jul 10	Jul 22	Aug 3	Aug 18	Sep 1	Sep 14
	32	Jun 25	Jun 29	Jul 3	Jul 6	Jul 10	Jul 9	Jul 16	Jul 25	Aug 2	Aug 9
Emmett	20	Feb 14	Feb 26	Mar 9	Mar 22	Apr 2	Oct 28	Nov 7	Nov 18	Nov 29	Dec 9
(26 years)	24	Mar 16	Mar 24	Apr 2	Apr 10	Apr 18	Oct 8	Oct 16	Oct 26	Nov 5	Nov 14
	28	Apr 3	Apr 13	Apr 24	May 5	May 15	Sep 25	Oct 4	Oct 13	Oct 23	Nov 1
	32	Apr 30	May 8	May 17	May 26	Jun 3	Sep 9	Sep 18	Sep 29	Oct 10	Oct 19
Glenns Ferry	20	Mar 22	Mar 29	Apr 7	Apr 15	Apr 22	Oct 7	Oct 22	Nov 9	Nov 26	Dec 11
(10 years)	24	Mar 30	Apr 6	Apr 14	Apr 21	Apr 28	Sep 29	Oct 6	Oct 14	Oct 22	Oct 29
	28	Apr 17	Apr 24	May 3	May 11	May 19	Sep 25	Oct 2	Oct 9	Oct 17	Oct 24
	32	May 2	May 9	May 16	May 23	May 29	Sep 13	Sep 20	Sep 28	Oct 7	Oct 14
Grandview	20	Mar 5	Mar 14	Mar 25	Apr 4	Apr 13	Oct 21	Oct 28	Nov 5	Nov 13	Nov 20
(23 years)	24	Mar 25	Mar 31	Apr 7	Apr 14	Apr 20	Oct 3	Oct 11	Oct 20	Oct 29	Nov 7
	28	Apr 12	Apr 18	Apr 25	May 3	May 9	Sep 22	Sep 30	Oct 9	Oct 19	Oct 27
	32	Apr 18	Apr 26	May 5	May 15	May 23	Sep 10	Sep 18	Sep 26	Oct 5	Oct 12
Idaho City	20	Mar 30	Apr 9	Apr 21	May 3	May 13	Sep 25	Oct 5	Oct 15	Oct 26	Nov 4
(42 years)	24	Apr 22	May 1	May 11	May 22	May 31	Sep 11	Sep 19	Sep 28	Oct 6	Oct 14
	28	May 11	May 22	Jun 4	Jun 17	Jun 28	Aug 25	Sep 2	Sep 12	Sep 21	Sep 29
	32	Jun 5	Jun 13	Jun 23	Jul 2	Jul 10	Jul 24	Aug 5	Aug 19	Sep 3	Sep 15
Kuna	20	Mar 23	Mar 30	Apr 8	Apr 16	Apr	Oct 15	Oct 25	Nov 5	Nov 16	Nov 26
(13 years)	24	Apr 6	Apr 14	Apr 22	Apr 30	May 7	Sep 29	Oct 8	Oct 18	Oct 28	Nov 6
	28	Apr 13	Apr 22	May 1	May 11	May 19	Sep 19	Sep 28	Oct 8	Oct 18	Oct 26
	32	May 6	May 13	May 22	May 30	Jun 6	Sep 8	Sep 17	Sep 26	Oct 6	Oct 14
McCall	20	Apr 4	Apr 12	Apr 22	May 1	May 10	Sep 29	Oct 9	Oct 19	Oct 29	Nov 6
(45 years)	24	Apr 14	Apr 23	May 3	May 12	May 21	Sep 12	Sep 21	Oct 1	Oct 11	Oct 20
	28	May 5	May 16	May 27	Jun 7	Jun 17	Aug 27	Sep 4	Sep 13	Sep 22	Oct 1
	32	May 31	Jun 9	Jun 18	Jun 27	Jul 6	Jul 29	Aug 10	Aug 10	Aug 5	Sep 17
Mountain Home	20	Mar 6	Mar 18	Mar 31	Apr 13	Apr 25	Oct 11	Oct 20	Oct 31	Nov 10	Nov 20
(21 years)	24	Mar 29	Apr 7	Apr 17	Apr 28	May 7	Oct 4	Oct 12	Oct 21	Oct 30	Nov 6
	28	Apr 20	Apr 26	May 3	May 10	May 16	Sep 20	Sep 28	Oct 7	Oct 16	Oct 24
	32	Apr 30	May 11	May 23	Jun 3	Jun 14	Sep 7	Sep 14	Sep 22	Sep 29	Oct 6
Ola	20	Mar 12	Mar 23	Apr 4	Apr 16	Apr 27	Oct 3	Oct 13	Oct 24	Nov 4	Nov 13
(21 years)	24	Mar 30	Apr 10	Apr 23	May 5	May 16	Sep 16	Sep 26	Oct 7	Oct 18	Oct 28
	28	Apr 23	May 1	May 11	May 20	May 28	Sep 13	Sep 20	Sep 28	Oct 6	Oct 14
	32	May 4	May 15	May 27	Jun 8	Jun 19	Sep 1	Sep 7	Sep 13	Sep 20	Sep 26
Parma	20	Feb 23	Mar 4	Mar 17	Mar 30	Apr 10	Oct 12	Oct 23	Nov 4	Nov 16	Nov 27
(48 years)	24	Mar 20	Mar 30	Apr 9	Apr 20	Apr 29	Oct 1	Oct 11	Oct 21	Oct 31	Nov 9
	28	Apr 5	Apr 14	Apr 23	May 3	May 12	Sep 20	Sep 28	Oct 7	Oct 17	Oct 25
	32	Apr 20	Apr 28	May 7	May 16	May 24	Sep 11	Sep 18	Sep 25	Oct 3	Oct 10
Payette	20	Mar 1	Mar 9	Mar 20	Mar 30	Apr 9	Oct 20	Oct 29	Nov 8	Nov 18	Nov 26
(24 years)	24	Mar 15	Mar 24	Apr 3	Apr 13	Apr 23	Oct 9	Oct 16	Oct 24	Nov 1	Nov 8
	28	Apr 3	Apr 12	Apr 22	May 1	May 10	Sep 28	Oct 5	Oct 13	Oct 20	Oct 27
	32	Apr 22	Apr 30	May 9	May 18	May 26	Sep 16	Sep 22	Sep 29	Oct 6	Oct 12
Three Creek	20	Apr 15	Apr 27	May 10	May 23	Jun 4	Sep 1	Sep 11	Sep 22	Oct 2	Oct 12
(23 years)	24	Apr 28	May 11	May 26	Jun 10	Jun 24	Aug 11	Aug 23	Sep 6	Sep 20	Oct 3
	28	May 21	Jun 1	Jun 13	Jun 25	Jul 7	Jul 23	Aug 5	Aug 19	Sep 3	Sep 16
	32	Jun 19	Jun 24	Jun 29	Jul 4	Jul 9	Jul 6	Jul 17	Jul 28	Aug 9	Aug 20

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

May 16, 1994

RECEIVED
JUN 17 1994
WATER RESOURCES
WESTERN REGION

RE: Water Diverted for Deadwood Creek Canal

Jack Eastman, Watermaster
106 Doral Dr.
Jerome, ID 83338

Dear Mr. Eastman:

It is my understanding that you are currently the watermaster for Cedar, Devil and Deadwood Creeks (Water District No. 47-C). We have gone out and measured the diversion for Cedar Mesa Reservoir and Canal Company from Deadwood Creek and came up with a flow rate that seems realistic to us. However, in order to double check our measurement of that canal, I was wondering if you could send me a summary of the readings you have taken at the weir above Devil Creek. If we could compare our measurement with your records we would then be able to determine if our measurement is consistent with what you have found to be the flow rate.

If you have any questions in regard to this matter, please feel free to contact me.

Sincerely,

Kay Walker

KAY WALKER
Sr. Water Resource Agent
Adjudication Bureau

KW:k

My readings for 1994 are:

3-4	0
3-8	1.1 cfs
4-15	2.0 cfs
4-22	5.3 cfs
5-2	2.2 cfs
5-7	14.5 cfs
5-9	15.6 cfs
5-12	17 ? cfs
5-19	7.0 cfs
5-28	3.5 cfs
6-4	0

Jack Eastman

State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

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May 16, 1994

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Sincerely,

Kay Walker

KAY WALKER
Sr. Water Resource Agent
Adjudication Bureau

KW:k

Form 22

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

REPORT OF ENGINEER

Permit No. 11195

This proof is for Beneficial Use In Water District No. .....

1. Name of applicant: Idaho Farm Development Co.
2. Source of water supply: Deadwood Creek, Devil Creek, Cedar Creek
3. Location of point of diversion: Is in the (See Remarks) of Section .....
   T. ..... R. ..... County of Twin Falls.
4. Describe works as they exist, giving dimensions and capacities of same: Earth fill dam 72 ft high, 300 ft. long, 16 ft top width, concrete core wall u/s steam face rolk rip rapped. Capacity of reservoir 26000 acre feet. Canals & Laterals of sufficient capacity to irrigate 5000 acres.
5. Water is used for: Irrigation
6. State whether or not water has been turned into works of diversion: yes
7. List legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if for other than irrigation): (See List Attached)

   Present irrigated area 4091 acres
   Previously " " 1349 "
   Total 5440 "

(Submit map on attached plat, showing location and details of above description.)

8. What large stream would the water here appropriated finally reach? Snake River

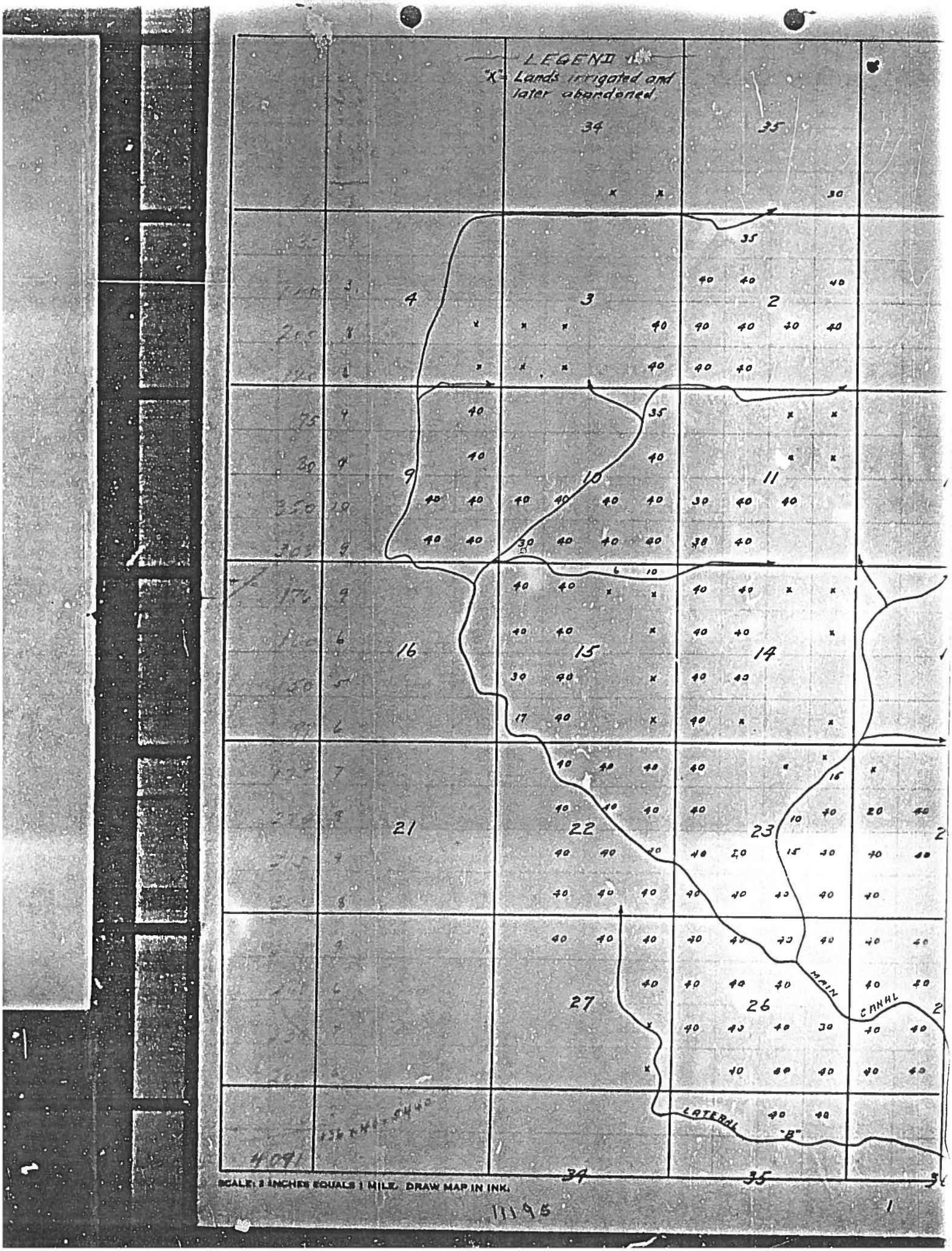
Remarks:

A reservoir dam has been constructed in Cedar Creek, Twin Falls County, at a point N. 82°50' E. 2976 ft. from the west quarter corner Sec. 12, T. 14 S., R. 13 E., B.M.

Water is conducted from Deadwood creek into Devil creek by a ditch having its point of diversion from Deadwood creek at a point S. 60°35' E. 1537 ft. from the W¼ corner of Sec. 28, T. 13 S., R. 12 E., B.M. This ditch discharges its waters into Devil creek at a point N. 88°30' E. 1662 ft. from the SE corner of Sec. 16, T. 13 S., R. 12 E., B.M. At the point last above described the combined waters of Deadwood and Devil creek are diverted into House creek. These waters then flow down the natural channel of House creek and Cedar creek to the reservoir. The winter flow and surplus flood water of Cedar creek, Deadwood creek and Devil creek, impounded in the reservoir, as well as the normal flow of these streams after flowing down the natural channel of Cedar creek are diverted upon the land to be irrigated at a point from which the NE corner of Sec. 29, T. 13 S., R. 14 E., B.M. bears N. 14°0' E. 1608 feet.

11195

11195


LEGEND
"X" = Lands irrigated and later abandoned.
34
35
4
3
2
9
10
11
16
15
14
21
22
23
27
26
MAIN CANAL
LATERAL "B"
SCALE: 2 INCHES EQUALS 1 MILE. DRAW MAP IN INK.
1195

Edwin Snow
Lawyer
Boise, Idaho

March 24, 1931

Hon. George N. Carter,
Commissioner of Reclamation,
Boise, Idaho.

Dear Mr. Carter: Re: Proof of Beneficial Use - Permits Nos. 11195 and 11920 - Idaho Farm Development Company.

I had some discussion with you this morning regarding the licenses to be issued on the above permits. I have further checked the proper priorities to be shown on the licenses, and apparently the records disclose the following:

← 51-02446 ✓ 00137

On permit No. 11195, the original date of priority was January 29, 1915, and the time for completion of works was set for June 3, 1920. Subsequently the time for completion of works, and the time for all other acts required by the permit, was extended six months, the time for completion of works being extended to December 3, 1920. The original date for proof of beneficial use was June 3, 1924, but by reason of the extension above mentioned was set forward to December 3, 1924. The proof of beneficial use was in fact made on December 22, 1928, and was accordingly late by four years and nineteen days. It would seem accordingly that the original date of priority of January 29, 1915 should be set forward by four years and nineteen days which, if I have figured it correctly, would make the date of priority to be awarded in the license February 17, 1919.

→ 51-02447 ✓ 00138

With regard to permit No. 11920, the original date of priority was November 19, 1915. Proof of beneficial use was due January 22, 1925. No extension of time was granted on this permit. Proof of beneficial use was made on December 22, 1928 being, as I figure it, three years and eleven months late. Accordingly the original date of priority should be set forward by that amount of time, which would make the date of priority to be awarded in the license under this permit October 8, 1919.

With respect to the amount of water desired, Mr. Tolman who examined the project found a reservoir capacity of 26,000 acre feet. Therefore, under permit No. 11915 we would like the following water awarded:

G. N. C. #2.

Cedar Creek	20,000 acre feet
Deadwood Creek	3,000 acre feet
Devil Creek	3,000 acre feet

Under permit No. 11920 there was appropriated 10,000 acre feet of water of Cedar Creek, 3,000 acre feet of Deadwood Creek, and 2,000 acre feet of Devil Creek. The development of the waters of other creeks mentioned in this permit was abandoned and the permit relinquished as to such water. Accordingly, the only water that we would be entitled to have under this permit would be 10,000 acre feet of Cedar Creek, 3,000 acre feet of Deadwood Creek and 2,000 acre feet of Devil Creek, making a total of 15,000 acre feet.

With respect to the lands to be shown in both licenses to be irrigated from the water allotted, I would say that after checking over the maps accompanying Mr. Tolman's reports, and including both the land irrigated last year and the land irrigated in prior years (designated + on Mr. Tolman's maps), there seems to be no discrepancy between Mr. Tolman's report and the records of the Utah Construction Company. Accordingly, the same land list should be shown in each permit and may be the land list indicated on Mr. Tolman's plats.

If you will at your convenience make up these licenses in accordance with the foregoing and in the light of the water to be allotted under both licenses and advise me of the amount of the required fees, I will bring over a check and get the licenses.

Very truly yours,

Ed. Sims

ES:FEJ

11920

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
Certificate of Water Right
Transferred Right No. 706

THIS IS TO CERTIFY THAT CEDAR MESA, INC., an Idaho corporation, of Twin Falls, Idaho, is the owner of and using a certain water right in Cedar Creek, Devil Creek and Deadwood Creek, in the amount of 41,000 acre feet per annum, said water right being evidenced by the following licenses and certificates of water right issued by the Commissioner of Reclamation of the State of Idaho, to-wit:

License and Certificate of Water Right No. 11195, issued to the Utah Construction Company, on March 30, 1931, for 26,000 acre feet per annum of the waters of Deadwood Creek, Devil Creek and Cedar Creek, tributaries of Snake River, consisting of 3,000 acre feet from Deadwood Creek, 3,000 acre feet from Devil Creek and 20,000 acre feet from Cedar Creek, with priority of February 17, 1919; said license and certificate of water right being of record in the Department of Reclamation of the State of Idaho in Volume 7 of Licenses, at Page 3655;

License and Certificate of Water Right No. 11920, issued to the Utah Construction Company, on March 30, 1931, for 15,000 acre feet per annum of the waters of Deadwood Creek, Devil Creek and Cedar Creek, tributaries of Snake River, consisting of 3,000 acre feet from Deadwood Creek, 2,000 acre feet from Devil Creek and 10,000 acre feet from Cedar Creek, with priority of October 8, 1919; said license and certificate of water right being of record in the Department of Reclamation of the State of Idaho in Volume 7 of Licenses, at Page 3656.

That the water right confirmed under the above described licenses and certificates of water right are appurtenant to the following described lands, to-wit:

South Half of the Southeast Quarter ($S\frac{1}{2}$ $SE\frac{1}{4}$),
of Section Thirty-four (34).

Southeast Quarter of the Southeast Quarter ($SE\frac{1}{4}$ $SE\frac{1}{4}$),
of Section Thirty-five (35).

Township Eleven (11) South of Range Thirteen (13) East,
Boise Meridian.

Southeast Quarter of the Northeast Quarter ($SE\frac{1}{4}$ $NE\frac{1}{4}$),
North Half of the Southeast Quarter ($N\frac{1}{2}$ $SE\frac{1}{4}$),
Southwest Quarter ($SW\frac{1}{4}$),
South Half of the Northwest Quarter ($S\frac{1}{2}$ $NW\frac{1}{4}$),
Northeast Quarter of the Northwest Quarter ($NE\frac{1}{4}$ $NW\frac{1}{4}$),
of Section Two (2).

East Half of the Southeast Quarter ($E\frac{1}{2}$ $SE\frac{1}{4}$),
Southwest Quarter ($SW\frac{1}{4}$),
of Section Three (3).

East Half of the Southeast Quarter ($E\frac{1}{2}$ $SE\frac{1}{4}$),
of Section Four (4).

East Half of the Northeast Quarter ($E\frac{1}{2}$ $NE\frac{1}{4}$),
Southeast Quarter ($SE\frac{1}{4}$),
of Section Nine (9).

South Half ($S\frac{1}{2}$),
East Half of the Northeast Quarter ($E\frac{1}{2}$ $NE\frac{1}{4}$),
of Section Ten (10).

T-304
47-0439
47-0440

Northeast Quarter (NE¼),
Southwest Quarter (SW¼),
Northwest Quarter of the Southeast Quarter (NW¼ SE¼),
of Section Eleven (11).

West Half of the Southeast Quarter (W½ SE¼),
of Section Twelve (12).

Northwest Quarter of the Northeast Quarter (NW¼ NE¼),
of Section Thirteen (13).

Northwest Quarter (NW¼),
West Half of the Southwest Quarter (W½ SW¼),
Northeast Quarter of the Southwest Quarter (NE¼ SW¼),
East Half of the Northeast Quarter (E½ NE¼),
Northwest Quarter of the Northeast Quarter (NW¼ NE¼),
Southeast Quarter of the Southwest Quarter (SE¼ SW¼),
Southeast Quarter of the Southeast Quarter (SE¼ SE¼),
of Section Fourteen (14).

West Half (W½),
East Half of the Northeast Quarter (E½ NE¼),
Northwest Quarter of the Northeast Quarter (NW¼ NE¼),
East Half of the Southeast Quarter (E½ SE¼),
of Section Fifteen (15).

East Half (E½),
East Half of the Northwest Quarter (E½ NW¼),
East Half of the Southwest Quarter (E½ SW¼),
of Section Twenty-two (22).

East Half (E½),
West Half of the Northwest Quarter (W½ NW¼),
Southwest Quarter (SW¼),
of Section Twenty-three (23).

West Half of the Northwest Quarter (W½ NW¼),
West Half of the Southwest Quarter (W½ SW¼),
Northeast Quarter of the Southwest Quarter (NE¼ SW¼),
Southeast Quarter of the Northwest Quarter (SE¼ NW¼),
of Section Twenty-four (24).

West Half (W½),
of Section Twenty-five (25).

North Half of the Northeast Quarter (N½ NE¼),
Southwest Quarter of the Northeast Quarter (SW¼ NE¼),
Southeast Quarter (SE¼),
Northwest Quarter (NW¼),
East Half of the Southwest Quarter (E½ SW¼),
Northwest Quarter of the Southwest Quarter (NW¼ SW¼),
of Section Twenty-six (26).

East Half of the Northeast Quarter (E½ NE¼),
Northwest Quarter of the Northeast Quarter (NW¼ NE¼),
Northeast Quarter of the Northwest Quarter (NE¼ NW¼),
East Half of the Southeast Quarter (E½ SE¼),
of Section Twenty-seven (27).

North Half of the Northeast Quarter (N½ NE¼),
of Section Thirty-five (35).

Township Twelve (12) South, of Range Thirteen (13) East, Boise Meridian.

That the said Cedar Mesa, Inc. has become the owner of said tract by purchase.

And that now, upon the application of Cedar Mesa, Inc., an Idaho corporation, of Twin Falls, Idaho, for the transfer of 41,000 acre feet per annum of said water, made before the State Reclamation Engineer of the State of Idaho, and said application having been granted, the right to the use of 41,000 acre feet per annum of the waters of Deadwood Creek, Devil Creek and Cedar Creek upon the above described land is hereby abandoned, and the lands to be irrigated under such right, and to which the water right HEREIN CONFIRMED shall become appurtenant, by this certificate, for irrigation and domestic purposes, are described as follows, to-wit:

Southeast Quarter of the Northeast Quarter (SE¼ NE¼),
Lot Three (3),
South Half of the Northwest Quarter (S½ NW¼),
Southwest Quarter (SW¼),
North Half of the Southeast Quarter (N½ SE¼),
of Section Two (2)

Southeast Quarter of the Northeast Quarter (SE¼ NE¼),
East Half of the Southeast Quarter (E½ SE¼),
Southwest Quarter of the Southwest Quarter (SW¼ SW¼),
of Section Three (3).

East Half of the Northeast Quarter (E½ NE¼),
Southeast Quarter (SE¼),
of Section Nine (9).

East Half of the Northeast Quarter (E½ NE¼),
South Half (S½),
of Section Ten (10).

ADDED NE¼SE¼ S½SE¼ SE¼SE¼

Northeast Quarter (NE¼),
Northwest Quarter of the Southeast Quarter (NW¼ SE¼),
Southwest Quarter (SW¼),
of Section Eleven (11).

Northeast Quarter (NE¼),
West Half (W½),
of Section Fifteen (15).

North Half (N½),
Northwest Quarter of the Southeast Quarter (NW¼ SE¼),
Northeast Quarter of the Southwest Quarter (NE¼ SW¼),
West Half of the Southwest Quarter (W½ SW¼),
of Section Fourteen (14).

ADDED S½SE¼ NE¼SE¼

Northwest Quarter of the Northeast Quarter (NW¼ NE¼),
of Section Thirteen (13).

NOT ON REPORT (CLAIM)

East Half (E½),
West Half of the Northwest Quarter (W½ NW¼),
Southwest Quarter (SW¼),
of Section Twenty-three (23).

Southeast Quarter of the Northwest Quarter (SE¼ NW¼),
West Half of the Northwest Quarter (W½ NW¼),
Northeast Quarter of the Southwest Quarter (NE¼ SW¼),
West Half of the Southwest Quarter (W½ SW¼),
of Section Twenty-four (24).

West Half (W½),
of Section Twenty-five (25).

East Half (E½),
Northwest Quarter (NW¼),
North Half of the Southwest Quarter (N½ SW¼),
Southeast Quarter of the Southwest Quarter (SE¼ SW¼),
of Section Twenty-six (26).

T-06

East Half (E½),
East Half of the Northwest Quarter (E½ NW¼),
East Half of the Southwest Quarter (E½ SW¼),
of Section Twenty-two (22).

East Half of the Northeast Quarter (E½ NE¼),
Northwest Quarter of the Northeast Quarter (NW¼ NE¼),
Northeast Quarter of the Northwest Quarter (NE¼ NW¼),
of Section Twenty-seven (27).

North Half of the Northeast Quarter (N½ NE¼),
of Section Thirty-five (35).

All in Township Twelve (12) South of Range Thirteen (13)
East of the Boise Meridian, and situate in Twin Falls
County, Idaho.

That the said water is to be limited at any given time to an amount actually needed and beneficially used for such purposes, and shall not exceed the following amount, to-wit:

3,000 acre feet from Deadwood Creek, priority date of February 17, 1919;
5,000 acre feet from Devil Creek, priority date of February 17, 1919;
20,000 acre feet from Cedar Creek, priority date of February 17, 1919;
3,000 acre feet from Deadwood Creek, priority date of October 8, 1915;
2,000 acre feet from Devil Creek, priority date of October 8, 1915;
10,000 acre feet from Cedar Creek, priority date of October 8, 1915.

That the water right hereby transferred will hereafter be conducted to the last above described lands through the same ditches and with the same point of diversion as heretofore to the first above described lands.

That the right to the use of the water aforesaid, hereby confirmed, is restricted to the lands or place of use last above described, as provided by the laws of the State of Idaho.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the official seal of the Department of Reclamation of the State of Idaho to be hereunto affixed, at Boise, Idaho, this 10th day of February, A. D. 1947.

Mark R Kulp

MARK R. KULP
State Reclamation Engineer

T-204
47-2469

3656

STATE OF IDAHO

LICENSE AND CERTIFICATE OF WATER RIGHT.

Water License No. 11920 Priority - 10-8-1919 Amount- 15,000 ac.ft.

THIS IS TO CERTIFY that West End Twin Falls Irrigation Company, of Des Moines, Iowa, made application for a permit to appropriate the public waters of the State of Idaho, dated November 9, 1915; that Permit No. 11920 was issued under said application; that certificate of completion of works, with a carrying capacity of 28,500 acre-feet, was issued thereunder on March 3, 1922, showing that said works were completed on the 3rd day of December, 1920; and that on the 22nd day of December, 1928, IDAHO FARM DEVELOPMENT COMPANY, of Buhl, State of Idaho, made proof to the satisfaction of the Commissioner of Reclamation of Idaho of a right to the use of the waters of Deadwood Creek, Devil Creek and Cedar Creek, tributaries of Snake River, for the purpose of irrigation and domestic use under Use Permit No. 11920, of the State Engineer of Idaho, and that said right to the use of said waters has been perfected in accordance with the laws of Idaho and is hereby confirmed by the Commissioner of Reclamation of Idaho and entered of record in Volume 7 of Licenses, at page 3656, on the 30th day of March, 1931;

The right hereby confirmed dates from October 8, 1919;

The points of diversion of said waters are located as follows: Water is conducted from Deadwood Creek into Devil Creek by a ditch having its point of diversion S. 60° 35' E. 1537 feet from the W¼ corner of Sec. 28, T. 15 S., R. 12 E., B.M. This ditch discharges its water into Devil Creek at a point 38° 30' W. 1562 feet from the SE corner of Sec. 15, T. 15 S., R. 12 E., B.M., and at this point the combined waters of Deadwood and Devil Creeks are diverted into House Creek. These waters then flow down the natural channel of House Creek and Cedar Creek to the reservoir. The waters impounded in the reservoir as well as the normal flow of the above named streams, after flowing down the natural channel of Cedar Creek, are diverted upon the lands to be irrigated at a point from which the N¼ corner of Sec. 29, T. 13 S., R. 14 E., B.M. bears N. 14°0' E. 1008 feet.

That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to the amount actually needed and beneficially used for said purposes, and shall not exceed the following amounts, to-wit:

3,000 acre-feet from Deadwood Creek;
2,000 acre-feet from Devil Creek;
10,000 acre-feet from Cedar Creek;

The lands to be irrigated by the use of said waters are described as follows, to-wit:

Twp. 11 S., R. 13 E., B.M.

Sec. 34 - S½SE¼
" 35 - SE¼SE¼

Twp. 12 S., R. 13 E., B.M.

Sec. 2 - Lots 3, 4, S½NE¼, SE¼NW¼, SW¼NW¼, N½SE¼, SW¼
" 3 - E½SE¼, SW¼
" 4 - E½SE¼
" 9 - E½NE¼, SE¼
" 10 - E½NE¼, S½
" 11 - NE¼, NW¼SE¼, SW¼
" 12 - W½SE¼
" 13 - NW¼NE¼
" 14 - N½NE¼, SE¼NE¼, SE¼SE¼, W½
" 15 - E½NE¼, NW¼NE¼, NW¼, SW¼, E½SE¼
" 22 - NE¼, SE¼, E½NW¼, E½SW¼
" 23 - NE¼, SE¼, SW¼, W½NW¼
" 24 - W½NW¼, SE¼NW¼, NE¼SW¼, W½SW¼
" 25 - W½
" 26 - NE¼NE¼, W½NE¼, NW¼, N½SW¼, SE¼SW¼, SE¼
" 27 - E½NE¼, NW¼NE¼, NE¼NW¼, E½SE¼
" 35 - N½NE¼

The right to the use of the water aforesaid, hereby confirmed, is restricted to the lands or place of use herein described, as provided by the laws of Idaho.

It appearing from the records of this office that the aforesaid permit has heretofore been conveyed to the UTAH CONSTRUCTION COMPANY, a corporation of Ogden, State of Utah, this license is issued to said last named corporation upon its application therefor.

WITNESS the seal and signature of the Commissioner of Reclamation, affixed at Boise, Idaho, this 30th day of March, 1931.

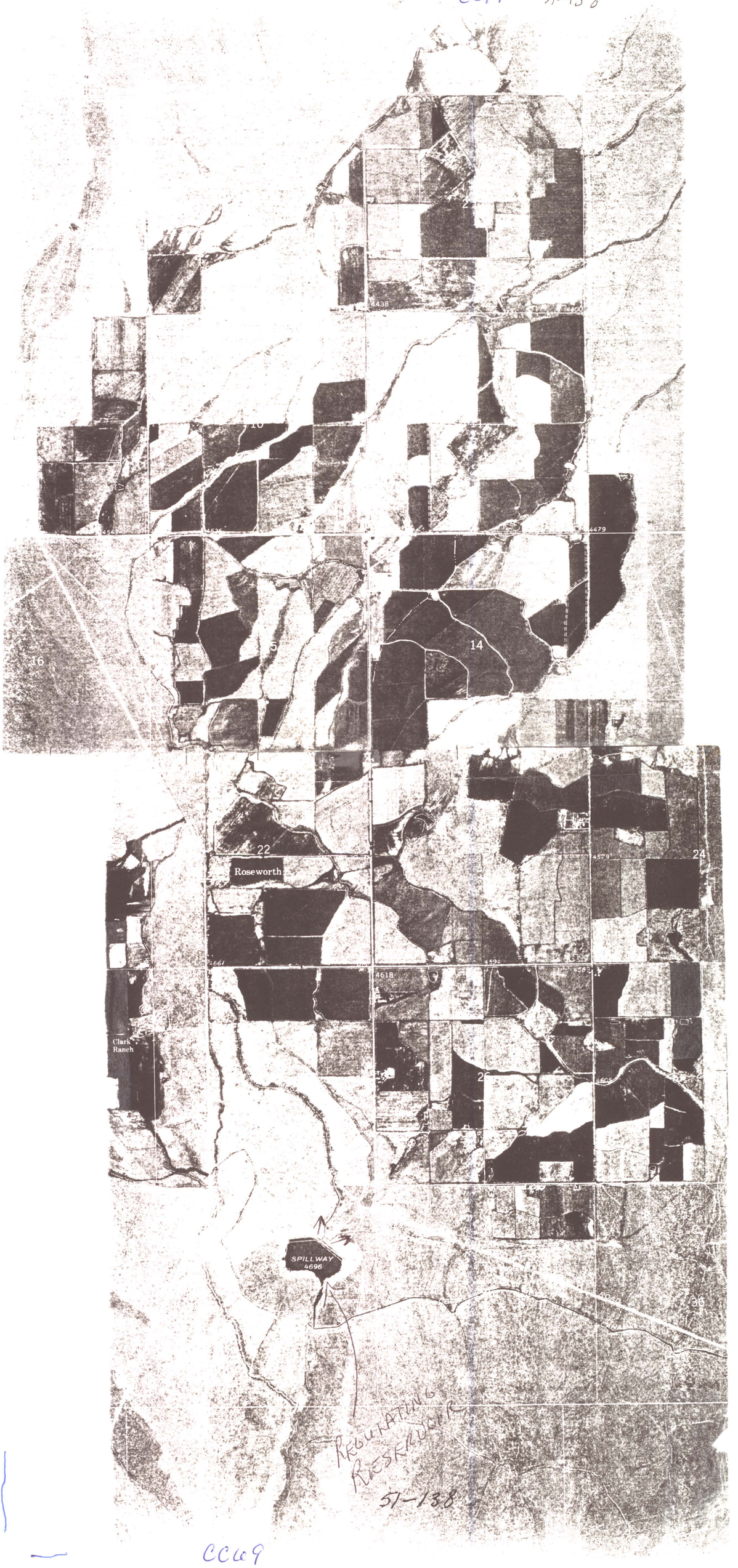
(SEAL)

GEO. N. CARTER
Commissioner of Reclamation.

17 2110

31-02447

CC19 51-138



CC49