

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF PROTEST
Transfer #77898, 33-00032A et.al

May 24, 2012

RECEIVED

MAY 24 2012

DEPARTMENT OF
WATER RESOURCES

RECEIVED

MAY 31 2012

Department of Water Resources
Eastern Region

1. Matter being protested

Application for Transfer No. 77898 for Pancheri Inc..

2. Name of protestant

United States Department of the Interior
Bureau of Land Management
Idaho State Office
1387 South Vinnell Way
Boise, Idaho 83709-1657

3. Protestant's Representative for service (if different than protestant)

Fredric W. Price (contact person)

4. Service mailing address

same as above

5. Service telephone no.

(208) 373-3831

6. Basis of protest (including statement of facts and law upon which the protest is based).

Pancheri Inc. is not authorized to irrigate federal public lands in the following legal land descriptions:

T08N, R27E, S21: -this appears to be a typo where T08N should be T09N.

NENW
NWNW
SWNW
SEnw
NESW
NWSW
SWSW
SESW

T09N, R27E, S34: -trespass

NESW
SWSE

T09N, R27E:

On 06-29-2000, BLM issued a Notice of Trespass to Pancheri, Inc. The BLM and Pancheri Inc. stipulated to the removal of NESW and SWSE, S34, T09N, R27E as places of use (POU) under Pancheri claim 33-02068A by filing a Standard Form 5 (SF-5) with the Snake River Basin Adjudication (SRBA) Court on January 23, 2002. Filing this transfer to add those two places of use violates the agreement signed between the BLM and Pancheri Inc. Review of aerial

Receipt
#C095407

photography indicates that Pancheri has been willfully and continually irrigating these POUs without a water right from 2002 to present. By this protest, BLM requests that IDWR issue a Notice of Violation and Order to Cease and Desist the irrigation of these two POUs.

T08N, R27E:

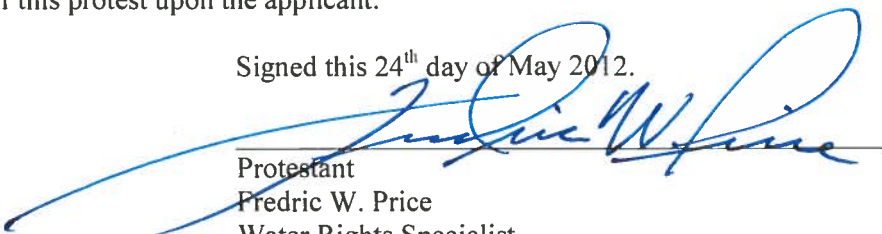
It appears that the POUs described in S21, T08N, R27E (BLM Land) are the result of a clerical error and Pancheri Inc. intends to claim the S21 POUs in T09N, R27E (private land).

7. What would resolve your protest?

- 1) Amend the application for transfer to exclude federal public land (NESW, SWSE, S34, T09N, R27E) from the place of use sought under each of the water rights involved in this transfer:
33-00032A, 33-00033A, 33-00035A, 33-02068A, 33-10997 and 33-14943.
- 2) Immediately and forever cease the application of water to, and use of, federal public land within NESW, SWSE, S34, T09N, R27E.
- 3) Amend the application for transfer to exclude the POUs described in S21, T08N, R27E (BLM land) under each of the water rights involved in this transfer; or, amend the application to re-describe them in T09N (private land) under each of the water rights involved in this transfer:
33-00084, 33-00085, 33-00090E, 33-02065, 33-02066A, 33-02066B, 33-07015, 33-10070 and 33-14942.

I hereby, acknowledge that if I, or my designated representative, fail to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 24th day of May 2012.


Protestant
Fredric W. Price
Water Rights Specialist

Attachments:

- ◆ Maps prepared by BLM for illustrative purposes.
- ◆ Master Title Plat: T08N, R27E and T09N, R27E.
- ◆ Standard Form 5 filed in subcase 33-02068A.

FOR DEPARTMENT USE ONLY

Received by SR7 Date 5/24/2012
Fee Paid \$25.00 Date 5/24/2012 Received by SR7 Receipt # C095407

Page 2 of 3

Protest of Application for Transfer No. 77898
Pancheri Inc..
May 23, 2012

CERTIFICATE OF SERVICE

I certify that on May 24, 2012, I served a true and correct copy of the **"Protest of Application for Transfer No. 77898"** for Pancheri Inc. with enclosures upon the following individuals by placing the documents in the United States mail in Boise, Idaho, postage paid, and addressed as follows:

Original to:

Jeff Peppersack, Administrator
Idaho Department of Water Resources (IDWR)
Idaho State Office
Water Management Division,
P.O. Box 83720
322 East Front Street
Boise, Idaho 83720-0098

Copies to:

Idaho Department of Water Resources (IDWR)
Eastern Regional Office
900 North Skyline Drive
Idaho Falls, ID 83402-1718

Pancheri Inc..
1494 HWY 22
Howe, ID 83244

Pancheri, Inc.
1494 Hwy 33
Howe, ID 83244

Harley Bateman, Range Technician
U.S., Department of the Interior,
Bureau of Land Management,
Idaho Falls Field Office
1405 Hollipark Drive
Idaho Falls, ID 83401

Rebecca L. Lazdauskas, Realty Specialist
U.S., Department of the Interior,
Bureau of Land Management,
Idaho Falls Field Office
1405 Hollipark Drive
Idaho Falls, ID 83401

Brandon Anderson
Person Serving Documents (print name)


Signature of Person Serving Documents

Production Diagram No 89 approved 01/22/1985

BUTTE COUNTY 023

9N-26E

STATUS OF PUBLIC DOMAIN LAND AND MINERAL TITLES

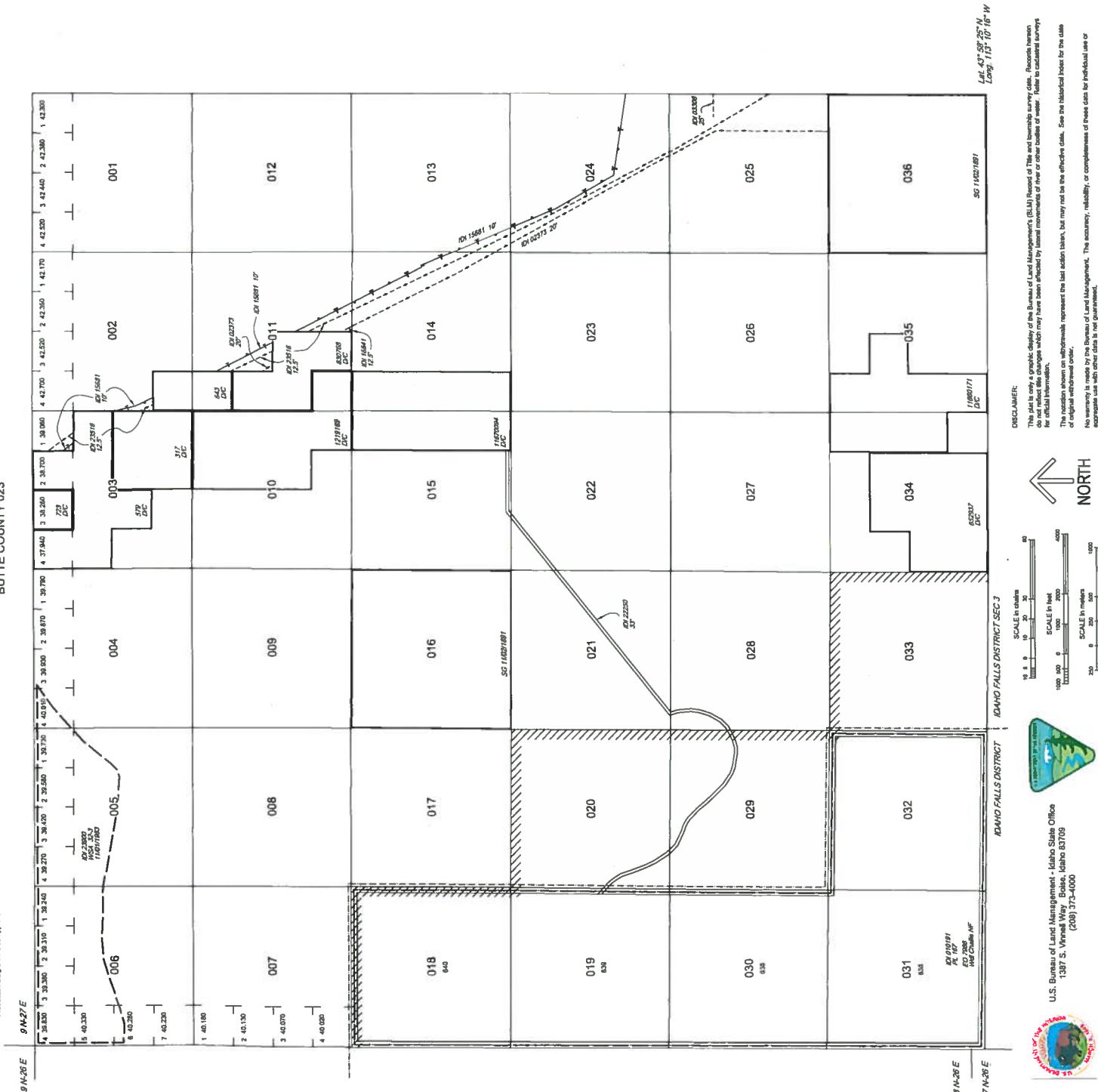
MT PLAT

[illegible]

DI 010191 Del PL 167 (Act of Cong 07/23/1955)
Completed 02/24/1961. All NF surface Mgmt by USFS

FOR ORDERS EFFECTING DISPOSAL OR USE OF
UNIDENTIFIED LAND REFER TO INDEX OF
MISCELLANEOUS DOCUMENTS

FILE REF: 88AS00002C/CMC/00000-0mg	BY: LFM
COORDINATED TYPE: 001/20008	BY: LFM
LAST UPDATED: 001/20008	QC/CC 22
QC/CC #1: 00000000000000000000000000000000	November 12, 2008
POSTED TO PUBLIC RECORDS BY:	
PUBLIC LAND SURVEY SYSTEM (PLS)	
BUR 00028 ACQUIRED: 00000000000000000000000000000000	
OTHERS: N/A	
PROJECTED COORDINATE SYSTEM: UTM ZONE 12N, MAG 1803	
NOTES:	
USE PLATE:	

T. 8 N
R. 27 E

TOWNSHIP 9 NORTH RANGE 27 EAST OF THE BOISE MERIDIAN, IDAHO

BUTTE COUNTY 023
IDAHO FALLS DISTRICT SEC. 3

STATUS OF PUBLIC DOMAIN
LAND AND MINERAL TITLES
AND ACQUIRED LANDS

MT PLAT

INDEX TO SEGREGATED TRACTS			
TRACT NO.	T	R	SEC.
			ORIGINAL SURVEY
			SUBDIVISION

IDA 010191 Dtd PL 107 (Act of Cong 07/23/1855)
completed 02/24/1861 AM NF surface Agent by
USFS

IDA 2180 RALPH Langille Las Tarrn 10/20/1991
Sec 5. S23MMWNE. N25MMWNE. MKSEMMWNE

IDA 35073, PMV Fee 107, ED 04/17/1926, Withdraws Public
Land containing a spring or wellbore from settlement, location,
sale, or entry. US vs Idaho, 131 Idaho 480, 959 p. 2d 448
(1998)

FOR ORDERS EFFECTING DISPOSAL OR USE OF
UNIDENTIFIED LAND REFER TO INDEX OF
MISCELLANEOUS DOCUMENTS

FILE REF:	M0000000276641000000000
CONVERTED TYP:	07/18/2007 BY: DNB
LAST UPDATED:	07/20/2007 BY: DNB
QAOG #1:	ED 07/23/2007 QAOG #2: DNB 07/23/2007
POSTED TO PUBLIC RECORDS:	July 30, 2007
BY:	
PUBLIC LAND SURVEY SYSTEM (PLSS):	
BLM GDS ACQUIRED:	04/05/2005
OTHER:	N/A
PROJECTED COORDINATE SYSTEM:	UTM ZONE 12N NAD 1983
NOTES:	
USE PLATS:	

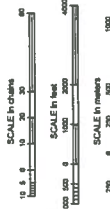
Boiler Map
T. 9 N
R. 27 E



Lat. 44° 4' 16" N
Long. 113° 5' 14" W

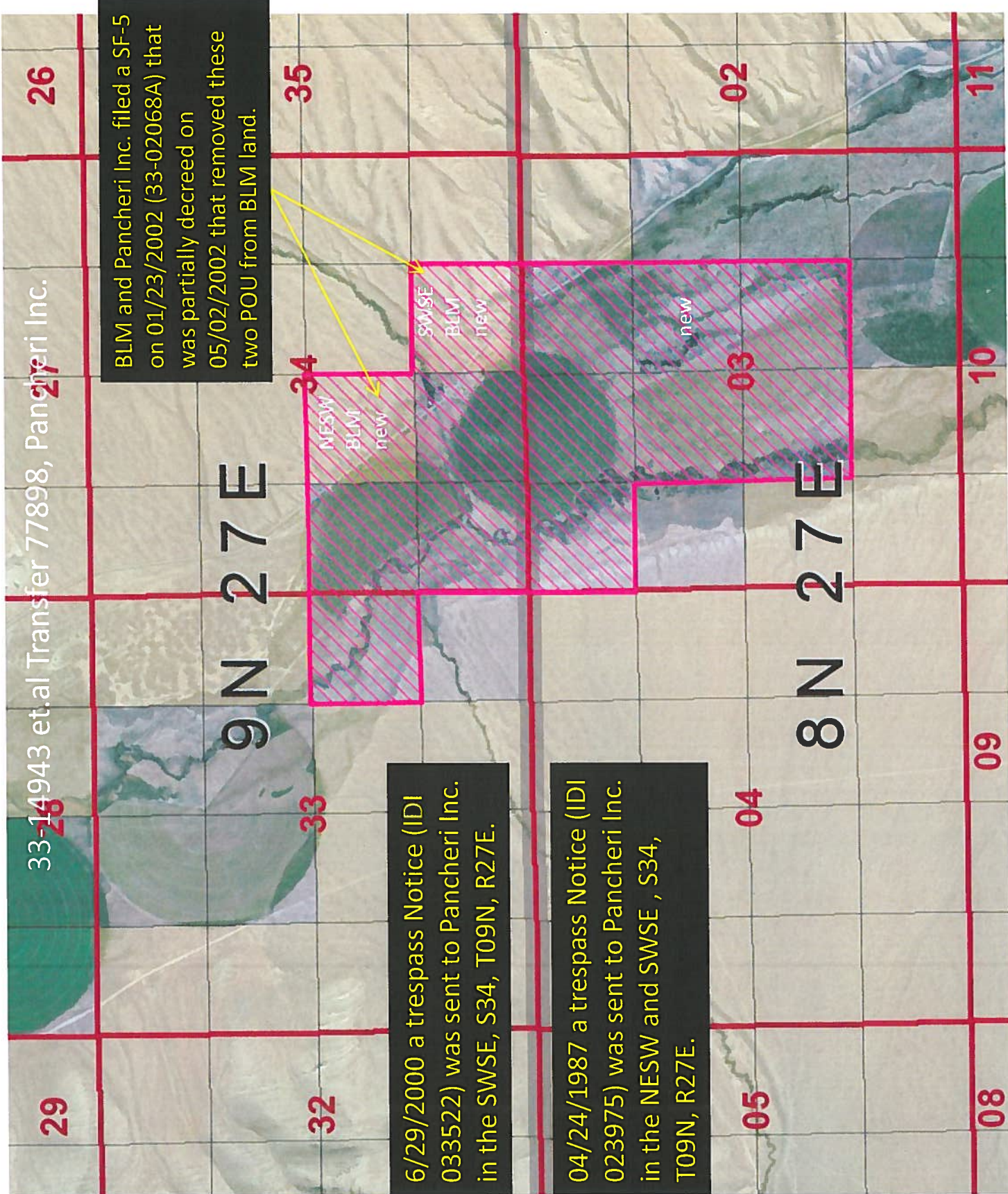
DISCLAIMER:

This plat is only a graphic display of the Bureau of Land Management's (BLM) current survey data. Resources herein do not reflect title changes which may have been effected by federal or state records of record. Refer to cadastral surveys for official information.
The location shown on videotapes represent the last edition taken, but may not be the effective date. See the historical index for the date of original videotape survey.
No warranty is made by the Bureau of Land Management. The accuracy, reliability, or completeness of these data for individual use or for purposes not intended by the Bureau is not guaranteed.



U.S. Bureau of Land Management - Idaho State Office
1387 S. Vernal Way, Boise, Idaho 83706
(208) 373-6000



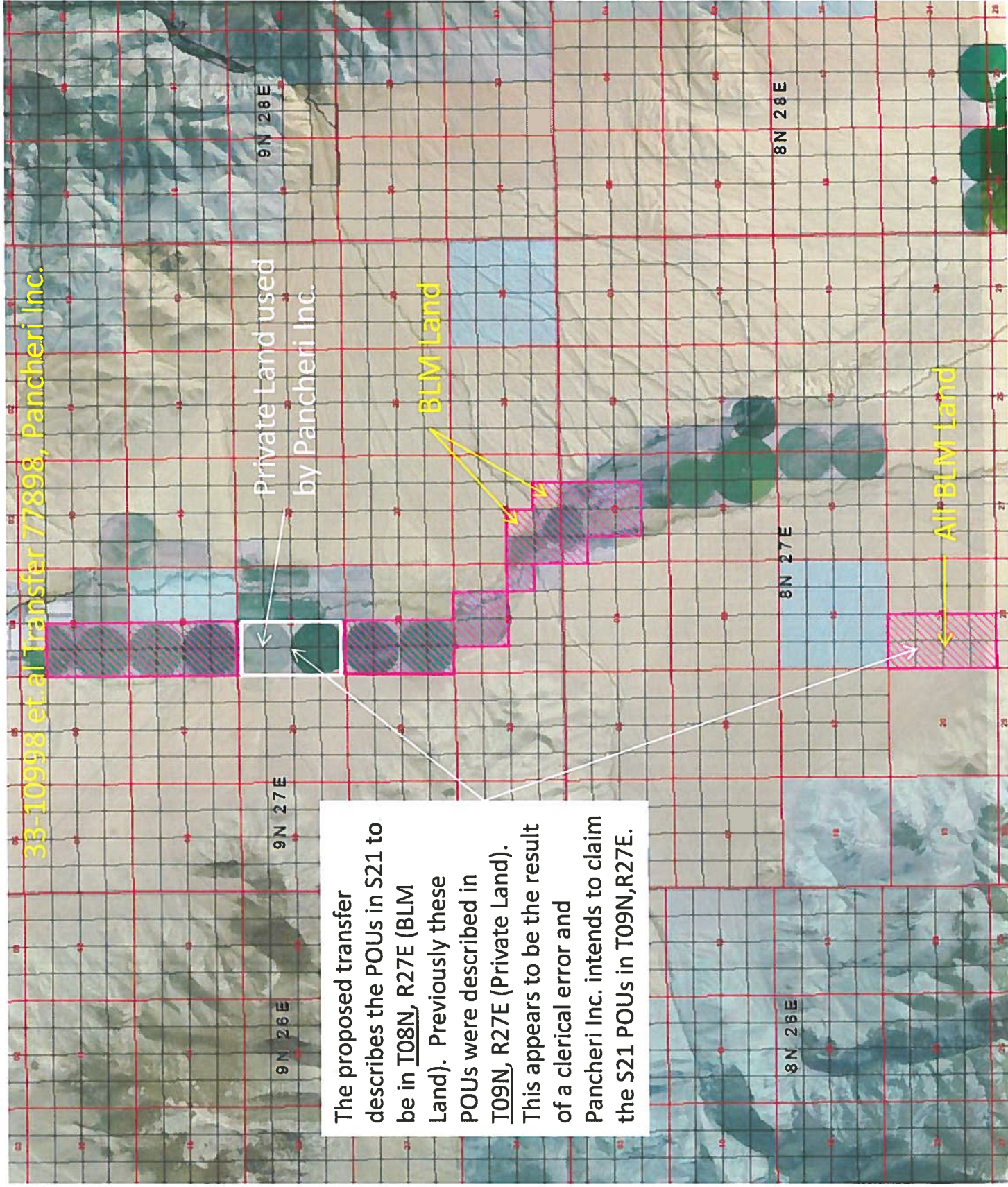


33-14943 et.al Transfer 77898, Pancheri Inc.

BLM and Pancheri Inc. filed a SF-5 on 01/23/2002 (33-02068A) that was partially decreed on 05/02/2002 that removed these two POU from BLM land.

6/29/2000 a trespass Notice (IDI 033522) was sent to Pancheri Inc. in the SWSE, S34, T09N, R27E.

04/24/1987 a trespass Notice (IDI 023975) was sent to Pancheri Inc. in the NESW and SWSE , S34, T09N, R27E.



The proposed transfer describes the POUs in S21 to be in T08N, R27E (BLM Land). Previously these POUs were described in T09N, R27E (Private Land). This appears to be the result of a clerical error and Pancheri Inc. intends to claim the S21 POUs in T09N,R27E.

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

In Re SRBA

SUBCASE NO: 33-2068A

Case No. 39576

STANDARD FORM 5

STIPULATED ELEMENTS OF A
WATER RIGHT

This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right, and they have been served with sufficient process, according to the law, and that they have appeared, prosecuted and defended their positions with regard to this water right dispute.

The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT

Kent Foster
Kent Foster
Attorney for Pancheri, Inc

2/1/02
Date

OBJECTOR

Larry Brown
Larry Brown FWP
U.S. Department of Justice
Attorney for BLM

2/12/02
Date

IDWR CONCURRENCE:

Carter Fritschle
Carter Fritschle
Adjudication Supervisor, IDWR

1-29-02
Date

Candice M. McHugh
Candice M. McHugh (As to Form)
Attorney for IDWR

1/29/02
Date

01/23/2002

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

RIGHT NUMBER: 33-2068A

NAME AND ADDRESS: PANCHERI INC
C/O JERRY PANCHERI PRES
HC 65 BOX 2104
HOWE ID 83244

SOURCE: GROUND WATER

TRIBUTARY:

~~POINT OF INJECTION INTO LITTLE LOST RIVER~~
~~POINT OF REDIVERSION FROM BADGER CREEK~~

QUANTITY: 2.210 CFS

FWP

USE OF THIS RIGHT WITH RIGHT NOS. 33-00035A AND 33-10997 IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 2.28 CFS AND TO A TOTAL COMBINED
ANNUAL DIVERSION VOLUME OF 430.5 AF.

PRIORITY DATE: 01/14/1953

POINT OF
DIVERSION:

T08N R27E S3 SESEW Lot 3 Within BUTTE County
T08N R27E S3 NWSEW Injection Within BUTTE County
T09N R27E S34 NESEW Rediversion Within BUTTE County

WATER DIVERTED UNDER THIS RIGHT IS EXCHANGED BY INJECTING WATER
DIVERTED UNDER THIS RIGHT INTO THE LITTLE LOST RIVER AT THE POINT OF
INJECTION DESCRIBED ABOVE, AND DIVERTING AN EQUAL AMOUNT FROM
BADGER CREEK AT THE POINT OF REDIVERSION DESCRIBED ABOVE.

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
IRRIGATION

PERIOD OF USE
4/15 10/31

QUANTITY
2.210 CFS

PLACE OF USE:

IRRIGATION Within BUTTE County

T08N R27E S03 Lot 2 NWNE	24.0	T08N R27E S03	SWNE	4	0.3		
T08N R27E S03 Lot 3 NENW	38.0	T08N R27E S03 Lot 4 NWNW		4	3.6		
T08N R27E S03	SENW	18	11.0	T09N R27E S34	NWSW	6	6.1
T09N R27E S34	SWSW	4	17.0	T09N R27E S34	SESW	14.0	
T09N R27E S34	NESEW	6		T09N R27E S34	SWSE	1	

123 114 ACRES TOTAL

USE OF THIS RIGHT WITH RIGHT NO. 33-00035A IS LIMITED TO THE IRRIGATION OF
A COMBINED TOTAL OF 114 ACRES IN A SINGLE IRRIGATION SEASON.

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 123 ACRES IN A SINGLE IRRIGATION
SEASON. COMBINED RIGHT NOS.: 33-00035A AND 33-10997.

SF5 33-2068A

01/23/2002

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

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

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

fwr

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE: 33-02068B AND 33-10997.

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

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

Sms

SF5 33-2068A

CERTIFICATE OF MAILING

I certify that on Feb-12, 2002, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to

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

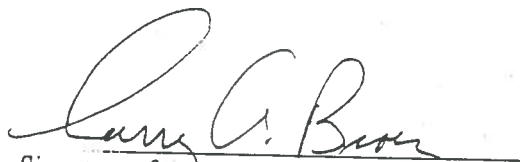
2. Copies to:

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 83720
Boise, ID 83720-0098

U.S. Department of Justice
Environment and Natural
Resources Division
550 West Fort Street, Box 33
Boise, ID 83724-0663

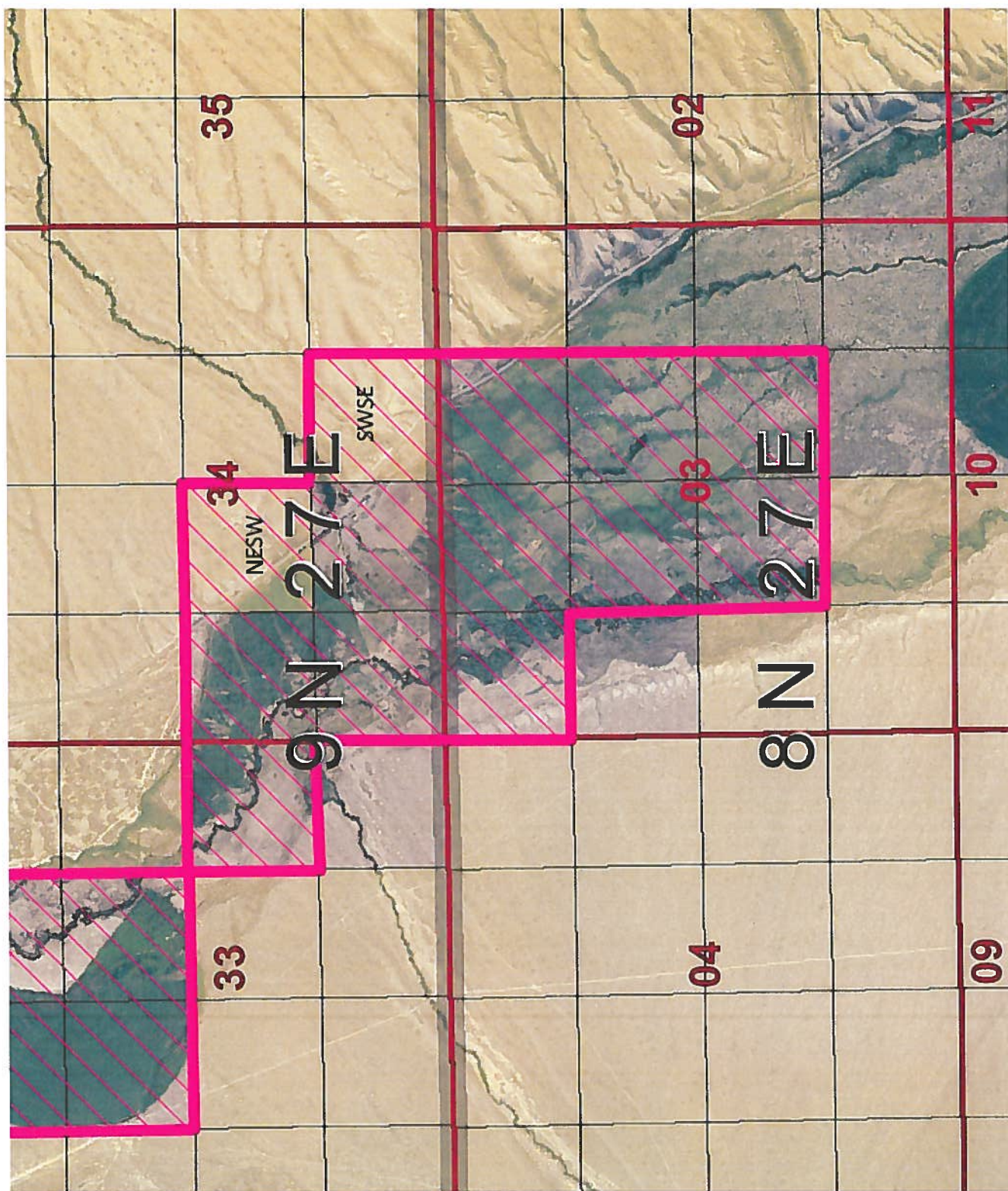
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

Kent Foster
Attorney for Panchen, Inc.
P.O. Box 50130
Idaho Falls, ID 83405-0130

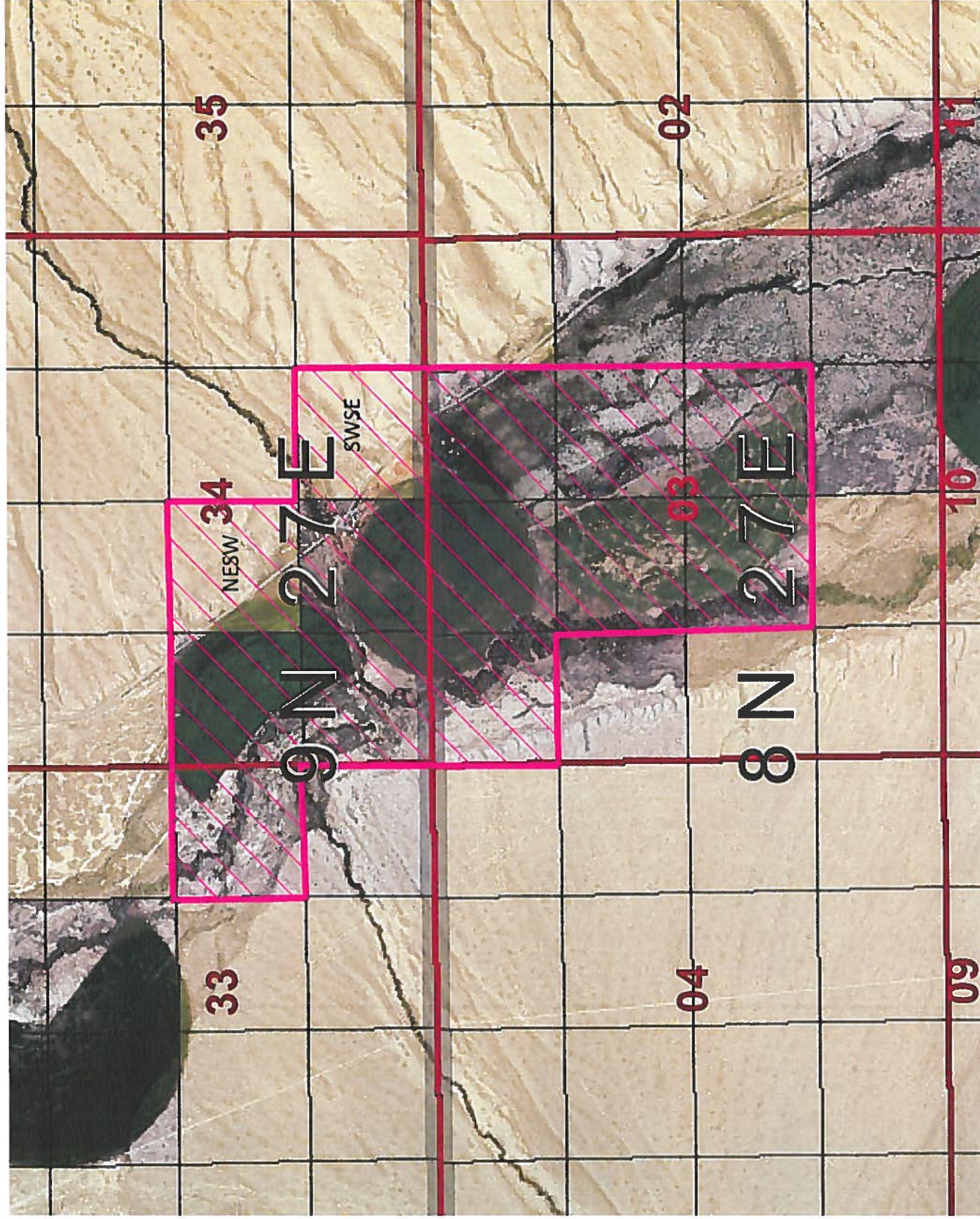


Signature of person or attorney mailing the form

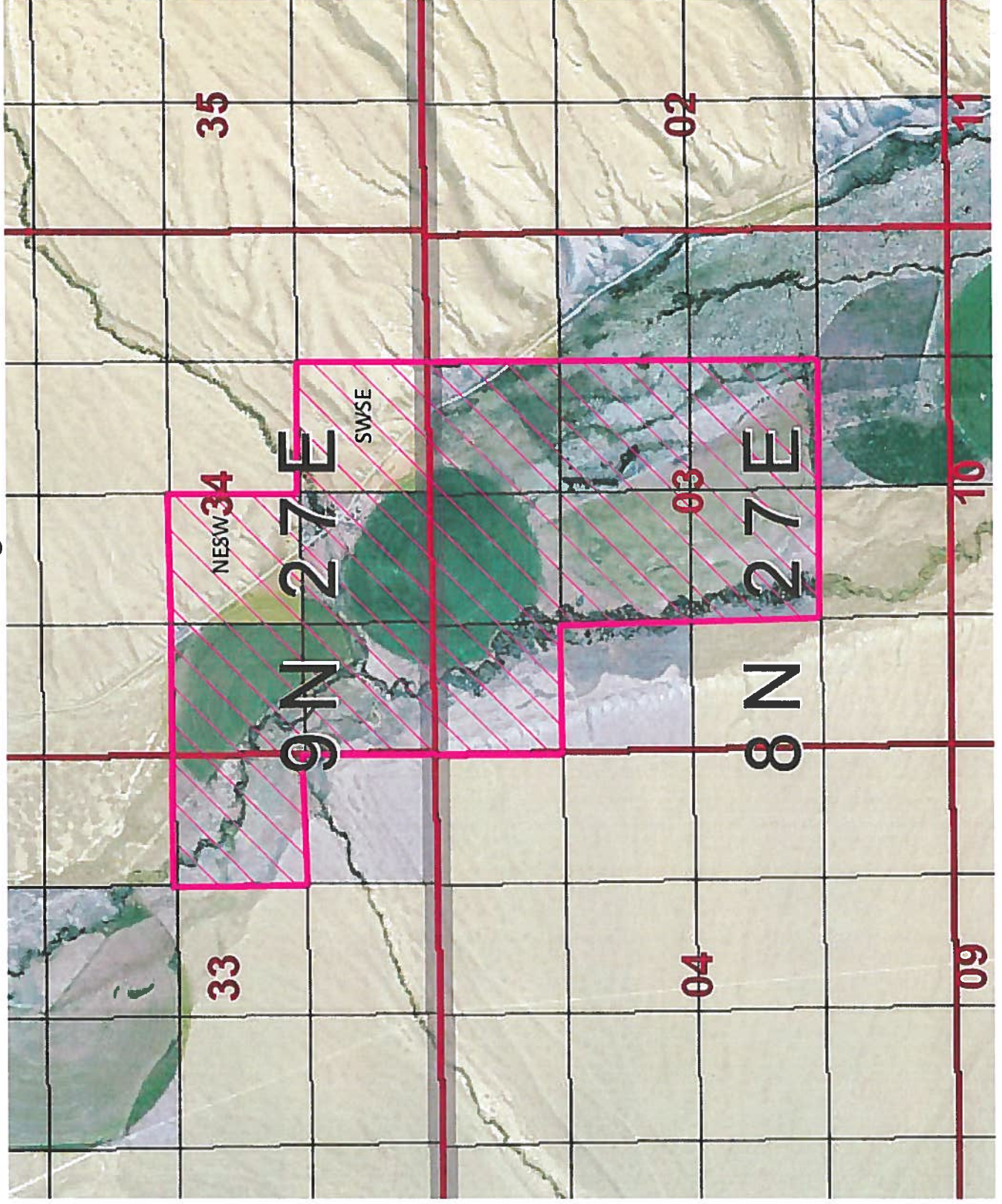
2004 NAIP



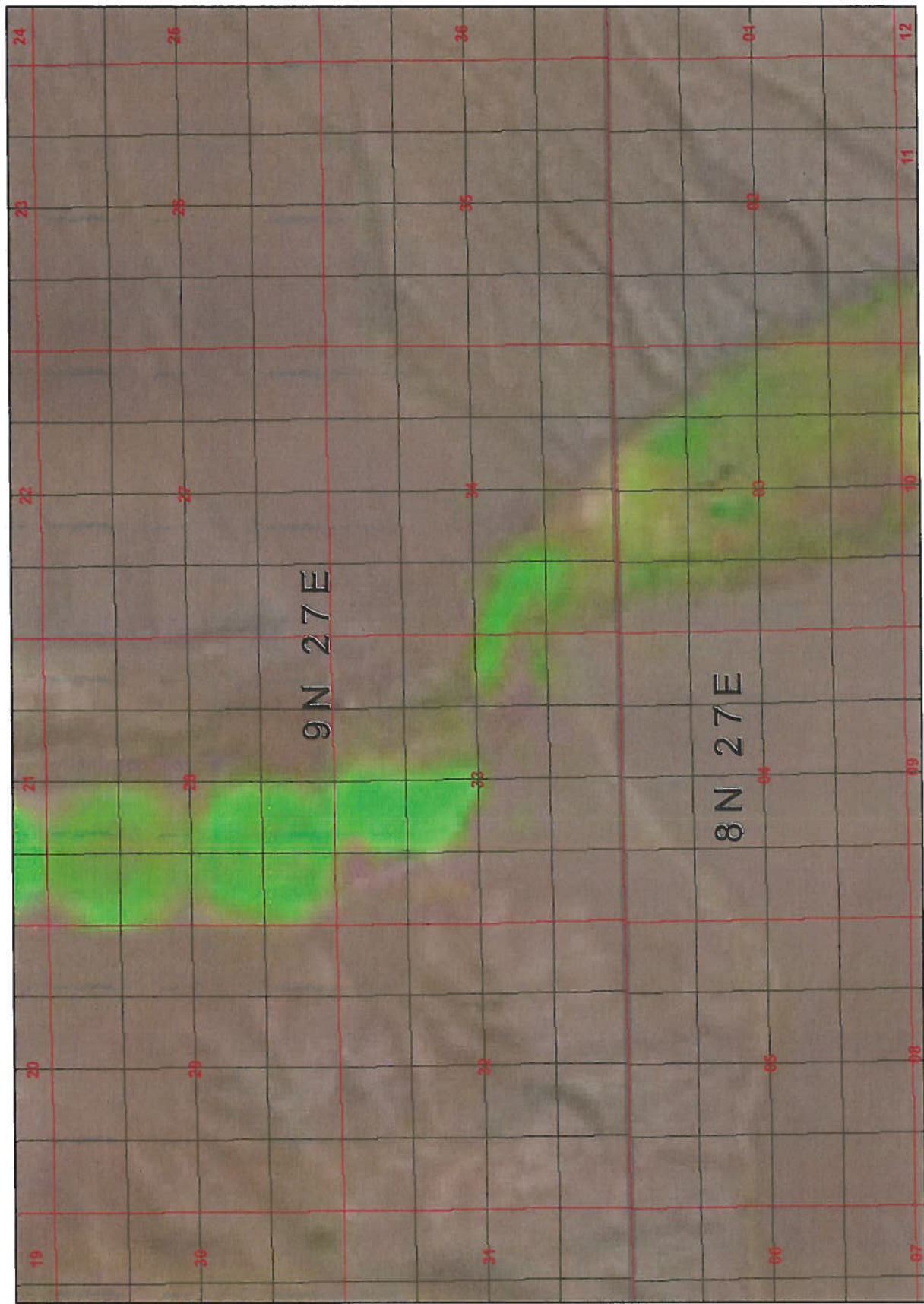
2009 NAIP



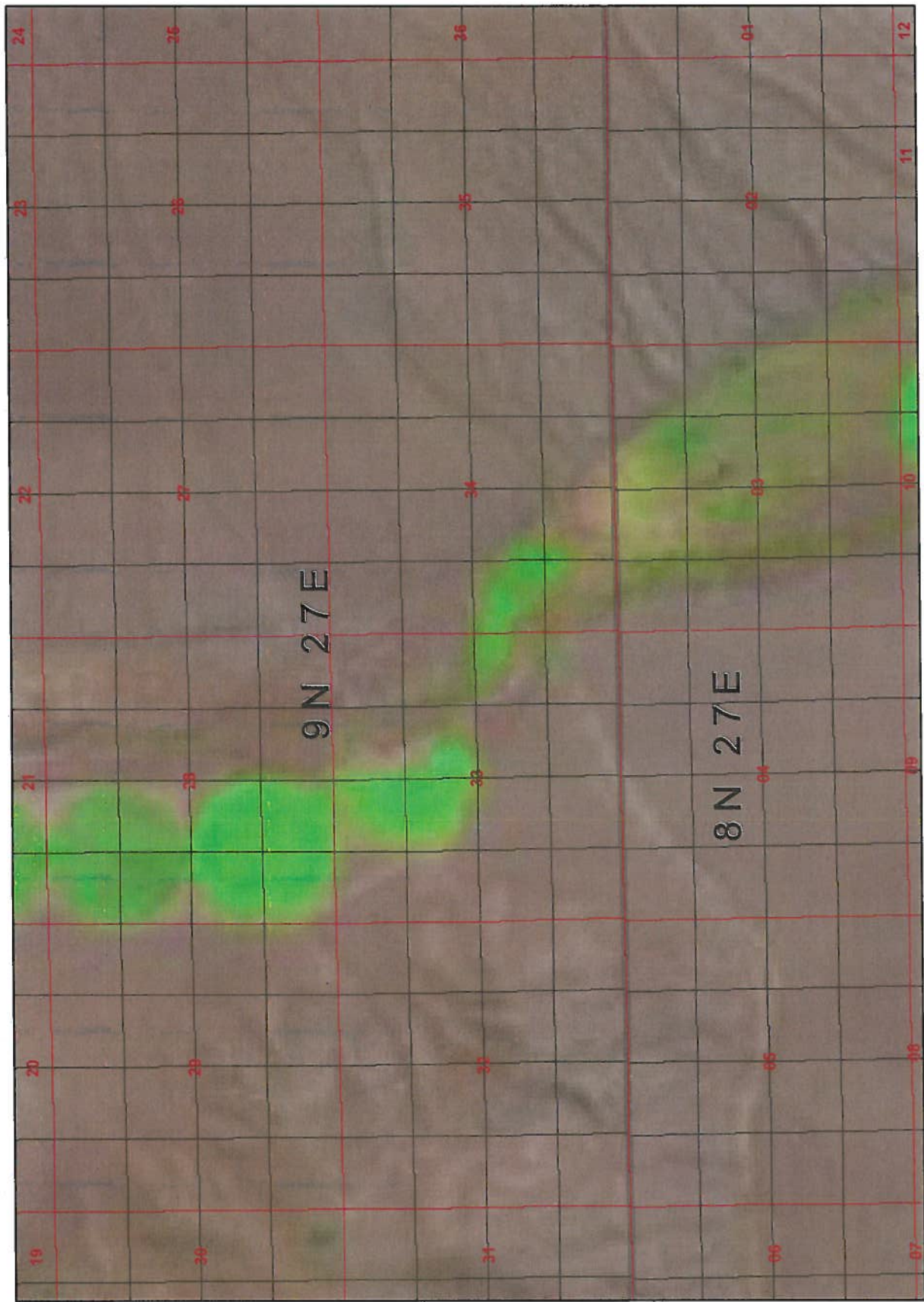
Current Bing



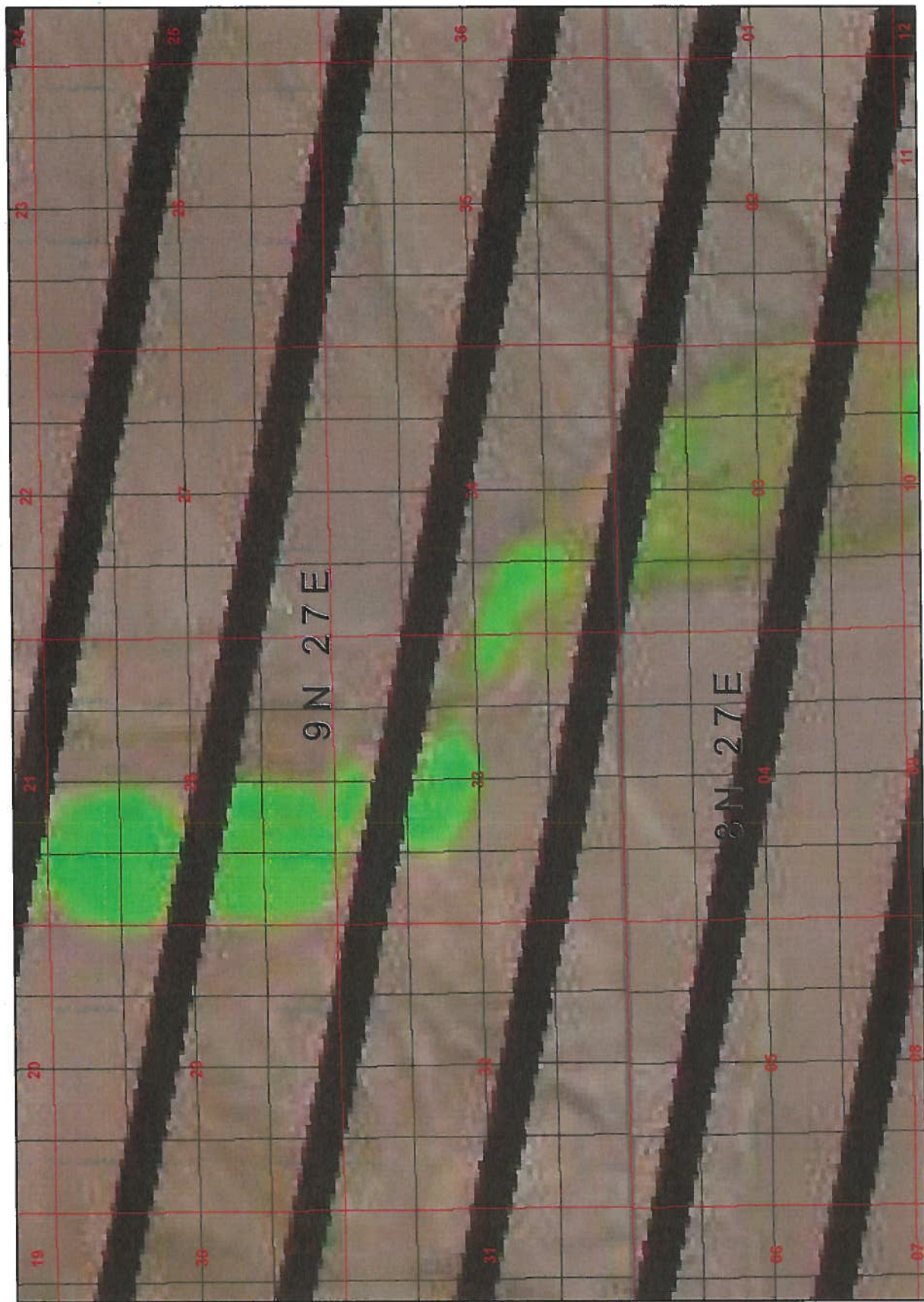
07-11-2002



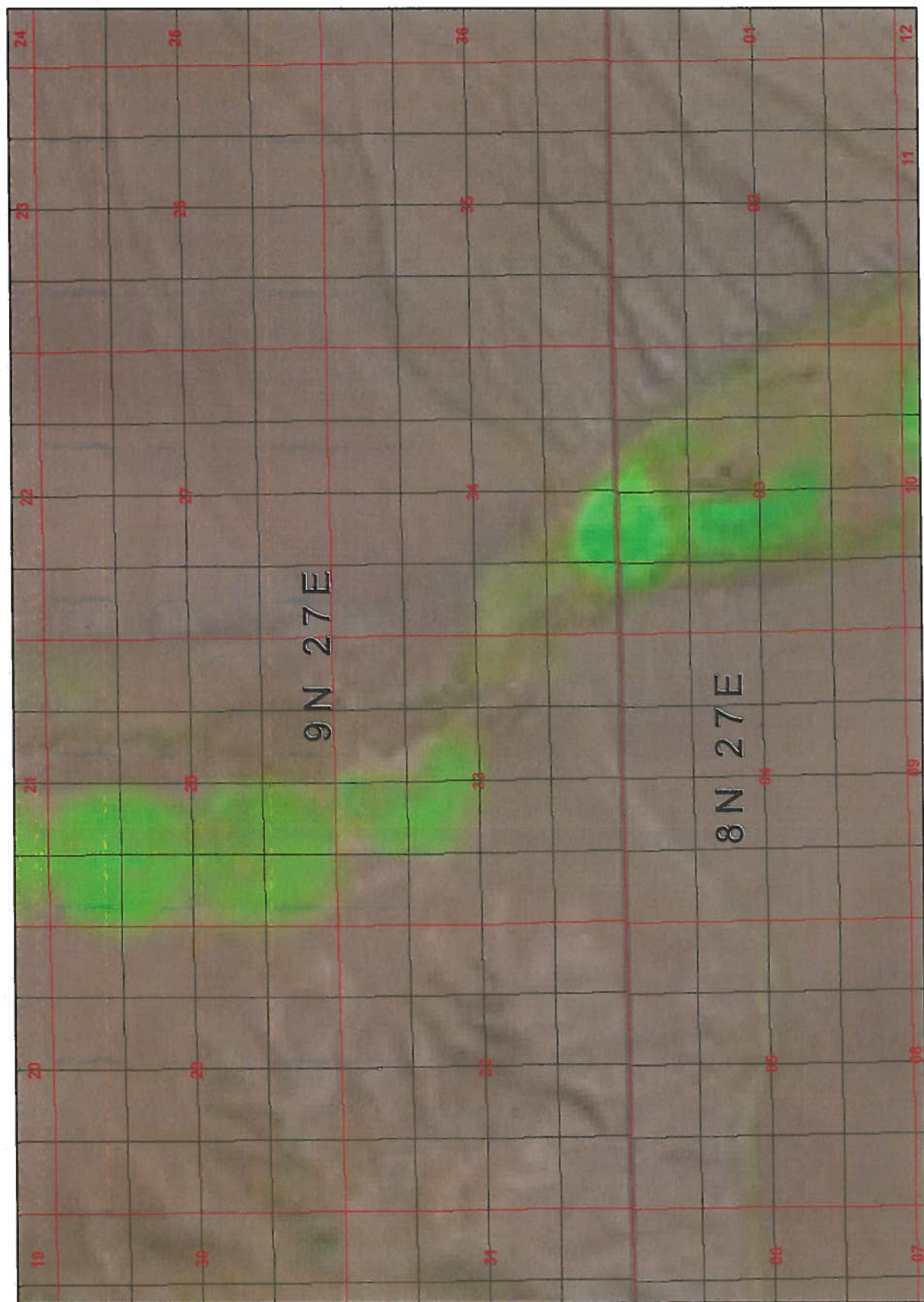
07-14-2003



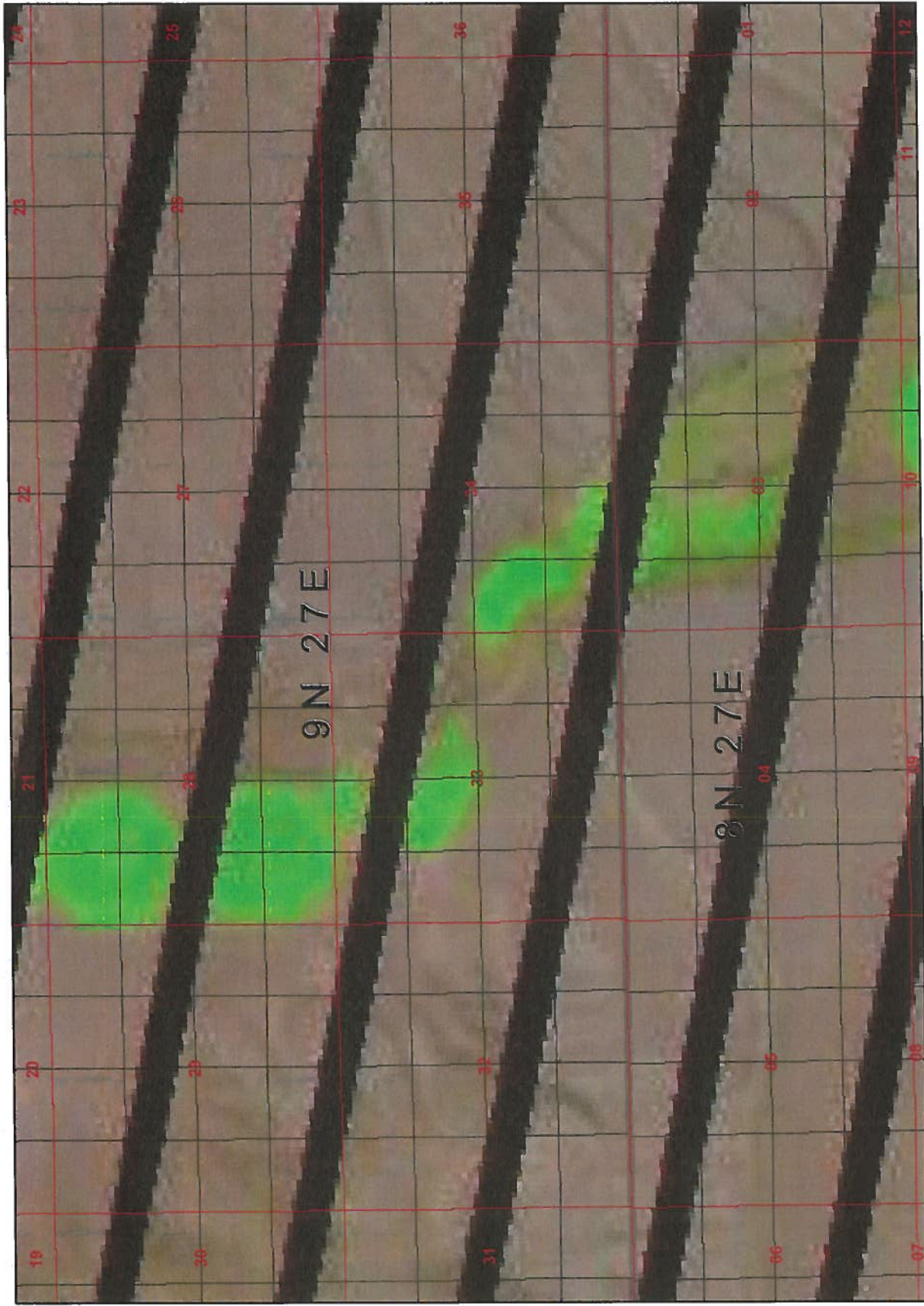
07-08-2004



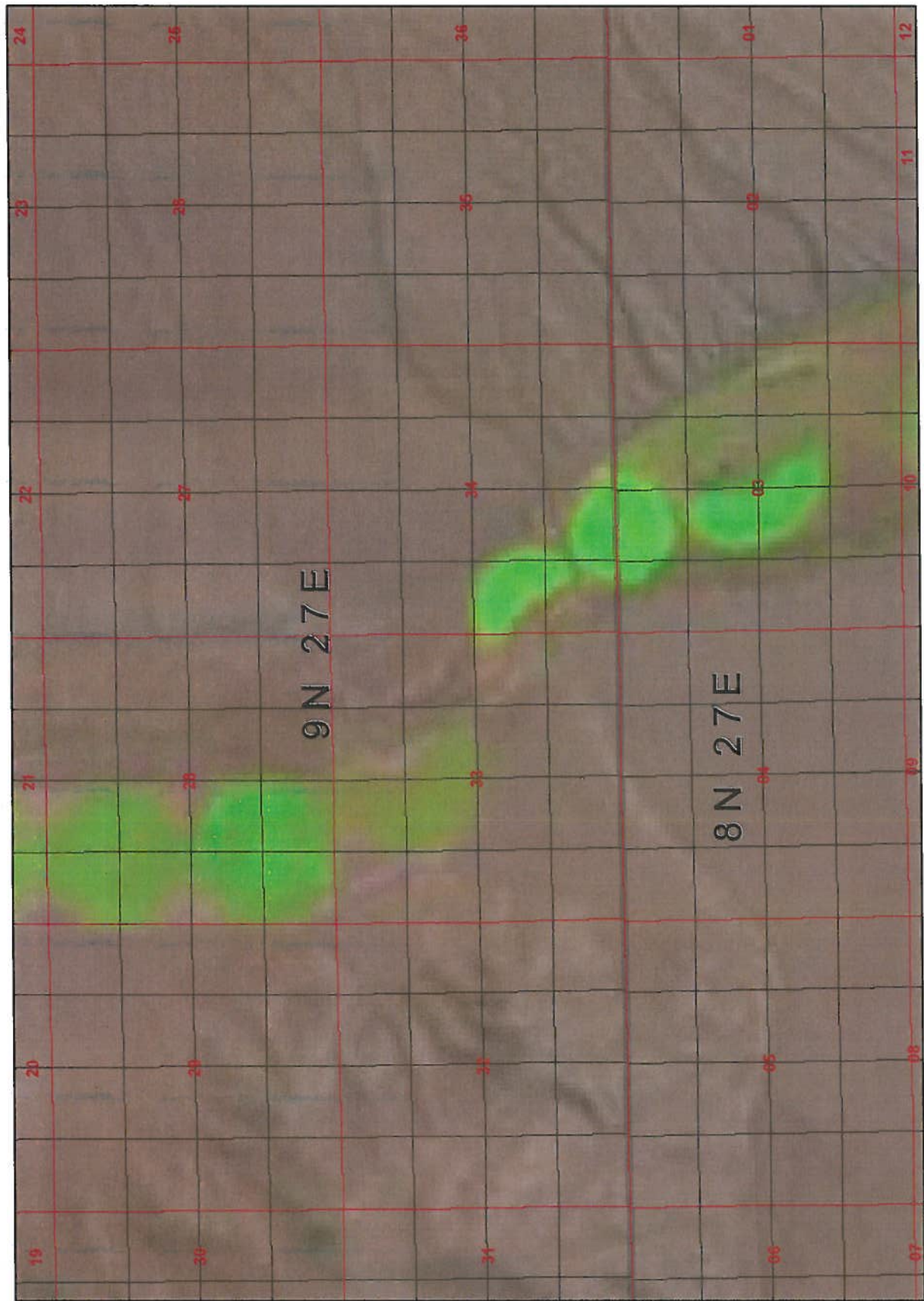
08-04-2005



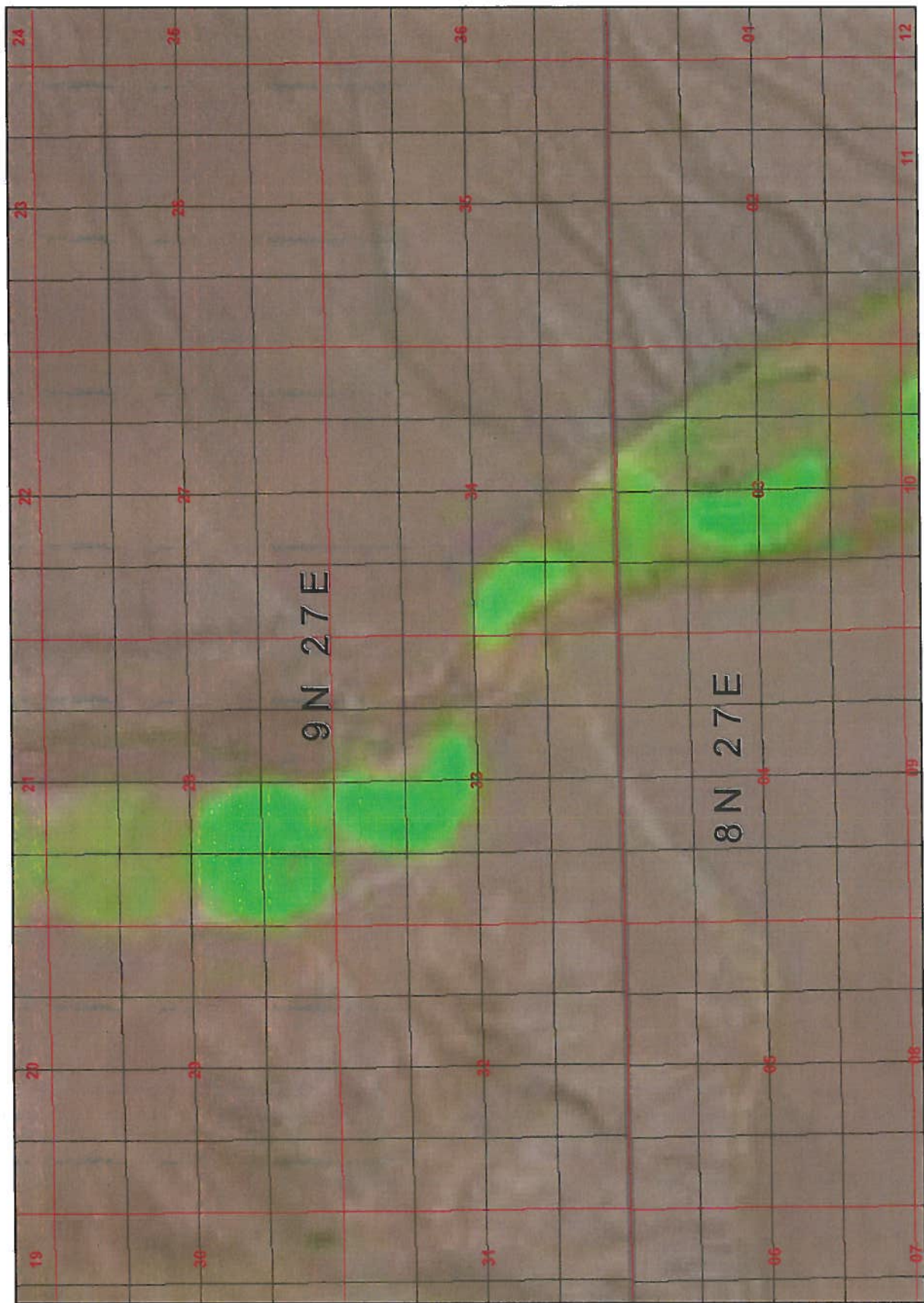
07-14-2006



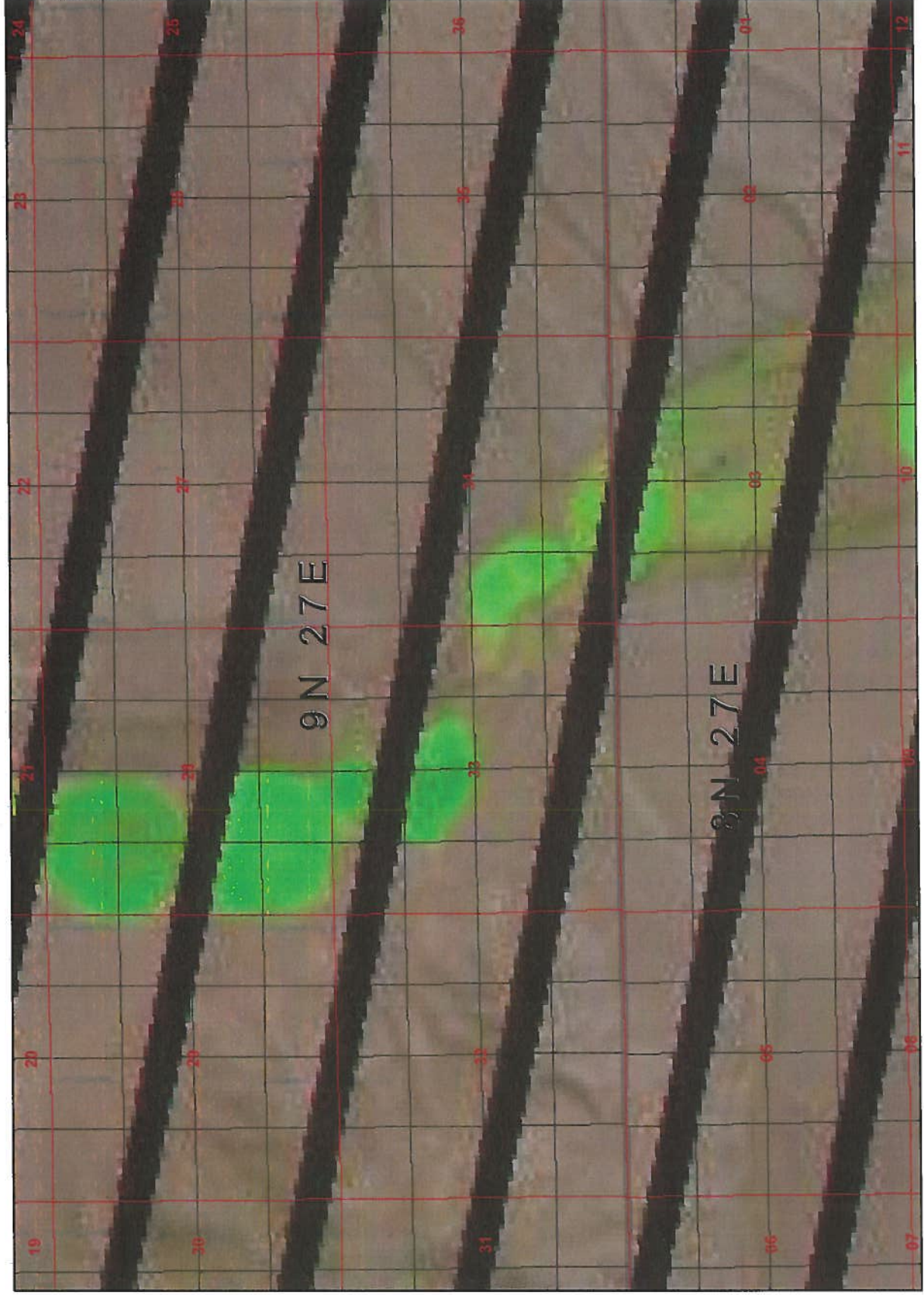
08-26-2007



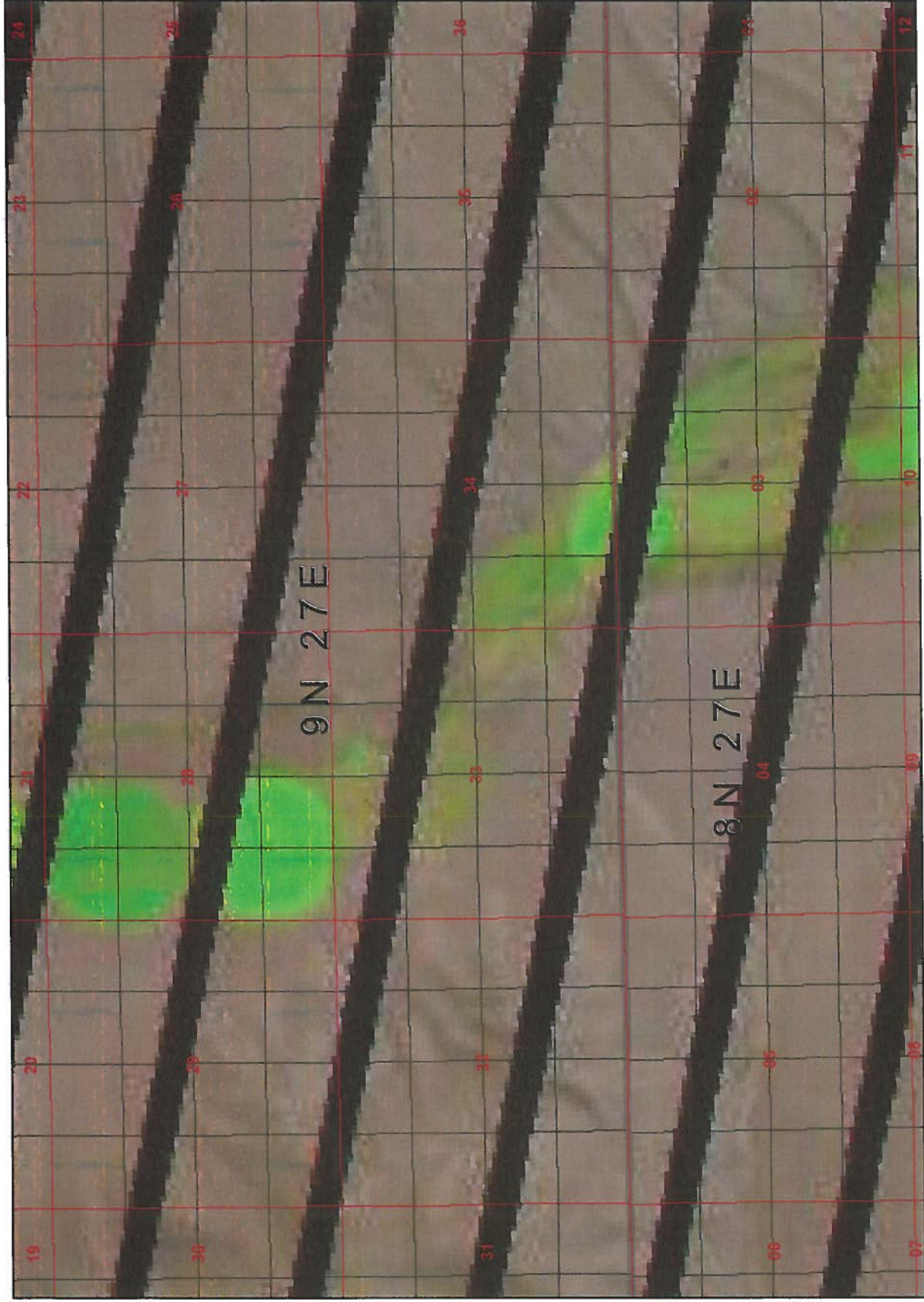
07-11-2008



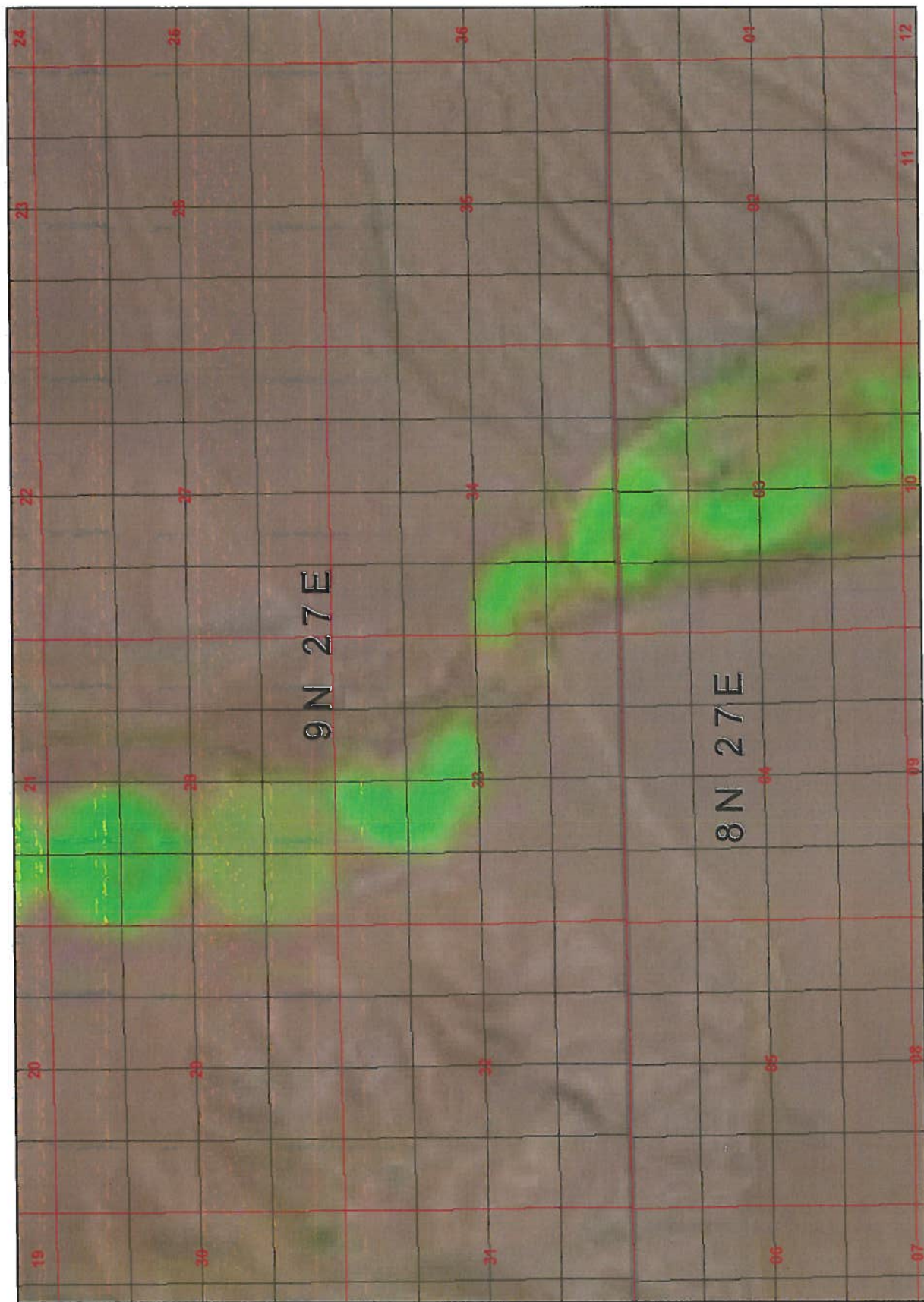
07-22-2009



07-25-2010



07-20-2011



05-11-2012

