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RECEIVED

JAN 23 2006

DEPARTMENT OF
WATER RESOURCES

Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

Of Counsel Fred J. Hahn

**Also Licensed in Missouri & Kansas

January 20, 2006

Gary Spackman
Idaho Department of Water Resources
PO Box 83720
Boise, ID 83720-0098

Re: In the Matter of the Application for Amendment of Permits Nos. 41-7076 and 7081 (consolidated with Application for Transfer of Rights Nos. 41-7030, 7034 and 7071)

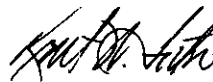
Dear Mr. Spackman:

We are enclosing with this letter a letter with attachments which have been furnished to us by Dr. Charles E. Brockway of Brockway Engineering. The digitized shape file sent is also enclosed with this letter.

We have sent copies of this letter and the attachments (except for the CD with the shape file) to the protestants.

We hope this information will be sufficient in order to finalize the applications for amendment and the application for transfer. If there is anything else that would be helpful or is needed, please feel free to contact us at your convenience. Thank you for your kind attention to this matter.

Yours very truly,



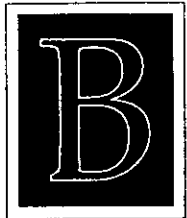
Kent W. Foster

Enclosures

c: Warm Creek Irrigation Co.
Dan Nelson - Western Region Office of IDWR
Tim Deeg
Charles E. Brockway

G:\WPDATA\KWF\1246 DEEG, TIM\Correspondence\Gary Spackman ltr 012006.wpd.cdv

cc: Dan Nelson, Western 2/1/06 w/CD -



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

RECEIVED

JAN 23 2006

DEPARTMENT OF
WATER RESOURCES

January 18, 2006

Kent Foster
P.O. Box 50130
Idaho Falls, ID 83405

Re: Tim Deeg - Additional Information for Water Right Transfer Hearing

Dear Kent:

At the recent IDWR hearing on December 14, 2005 for Tim Deeg, Dan Nelson, the water rights examiner who performed the beneficial use exam on June 23, 1997 for water rights 41-07076 and 41-07081, was not sure whether the corner systems were in place and functioning on the pivot in the SW1/4 of Section 1, T9S R31E at the time of the filing of proof of beneficial use in 1994. This pivot was referred to in Mr. Nelson's report as the 'west pivot'.

The hearing officer and Mr. Nelson requested some verification of whether or not the 'west' pivot was equipped with a corner system in 1994 and a 1997 aerial photo.

We obtained FSA color aerial photos for 1994 and 1997 to evaluate the area irrigated under water rights 41-07076 and 41-07081 and particularly by the 'west pivot'. The enclosed aerial photos are copies of the 1994 and 1997 FSA photos showing the areas identified as irrigated under the two water rights. The pivots in Section 12 and 6 were not operating in 1994 so the location of those pivots on the 1994 and the irrigated areas were taken from the 1997 aerial photo. Also, a 1997 photo was not available for the area on the SE1/2 SE1/4 Section 6. An estimate of irrigated area under each right has been made for each of the years and particularly the area irrigated by the west pivot. It can easily be seen that the center pivot was equipped with corner systems in 1994 as evidenced by the enclosed invoices from Funk Irrigation and Implement in 1993 and 1994. The estimated irrigated areas are shown for each water right on the aerial photos and on Table 1. Table 1 shows the estimated irrigated areas for 1994 and 1997 and the recommended areas determined by Mr. Nelson during the 1997 beneficial use exam using 1987 photos. Note that the pasture near the homestead (4.3 acres) was shown on the 1994 aerial as irrigated as per Mr. Deeg's testimony. A review of the 1993 aerial photo also shows it irrigated. Similarly, the northeast and

CHARLES E.
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PH.D., P.E.

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WASHINGTON
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TWIN FALLS,
IDAHO 83301

208•736•8543

FAX: 736•8506

JAN 20 2006

southeast corners of the pivot north of the homestead were also considered irrigated in 1994 based on the same evidence.

I believe these aerial photos are sufficient to show that the corner system was in place for the 1994 irrigation season and that the areas irrigated in 1994, when proof of beneficial use was filed, met or exceeded the permitted areas.

I am enclosing copies of the aerial photos with our delineation of irrigated areas and estimated acres. Also, I am enclosing a CD with digitized .shp files for the 1994 and 1997 photos.

Please call if you have additional questions.

Sincerely,

A handwritten signature in black ink, appearing to read "C E Brockway", written in a cursive style.

Charles E. Brockway, P.E. PhD.

Enc: 3 copies - 1994 and 1997 aerial photos
3 Copies - Two (2) invoices - Funk Irrigation and Implement
CD with .shp files for 1994 and 1997

cc: Tim Deeg w/ 1 copy of aerial photos and invoices



FUNK

IRRIGATION & IMPLEMENT

P. O. BOX 356 AMERICAN FALLS, IDAHO 83211

PHONE: (208) 226-5049

Diamond D Farms~~1 DECT 1~~ ~~1 DECT 1~~ 1 DECT 2

ENTERED DEC 31 1993

INVOICE DATE 12/29/93		CUSTOMER ORDER NO.		CUSTOMER I.D. NO.		CASH SALE		CHARGE SALE		C.O.D.		MOSE. RET'D.					
SHIP VIA				TERMS				SALESMAN				PAID OUT		ON ACCT.			
ORDER	SHIP	PART NO.		DESCRIPTION						UNIT PRICE		AMOUNT					
				ROA Corner								1000					
				Pivot Deposit													
				Z# 79448													
				Check # 369													
IR 2828										RECEIVED BY				Thank You		SALES TAX	
																TOTAL THIS PAGE	
																TOTAL 1000	

TERMS: NET 30 DAYS. ACCOUNTS OVER 30 DAYS CONSIDERED PAST DUE AND SUBJECT TO
A FINANCE CHARGE of 1 1/2% PER MONTH WHICH IS AN ANNUAL PERCENTAGE RATE of 18%.



UNK

IRRIGATION * IMPLEMENT
P. O. BOX 359 AMERICAN FALLS, IDAHO 83211
PHONE: (208) 226-6049

Diamond D Farms

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INVOICE DATE 6/1/94		CUSTOMER ORDER NO.		CUSTOMER I.D. NO.		CASH SALE		CHARGE SALE		C.O.D.		MOSE. RET'D.	
SHIP VIA				TERMS Net		SALESMAN Dan				PAID OUT		ON ACCT.	
ORDER	SHIP	PART NO.	DESCRIPTION						UNIT PRICE	AMOUNT			
			Corner Pivot 1/2 Booster							36,000.00			
			Job										
			ROA										
			Check # 659										
RECEIVED BY										SALES TAX			
IR 3007										TOTAL THIS PAGE			
Thank You										TOTAL		36,000.00	

TERMS: NET 30 DAYS. ACCOUNTS OVER 30 DAYS CONSIDERED PAST DUE AND SUBJECT TO A FINANCE CHARGE OF 1 1/2% PER MONTH WHICH IS AN ANNUAL PERCENTAGE RATE OF 18%.

TIM DEEG IRRIGATED AREAS			
BROCKWAY ENGINEERING, PLLC.			
ALR - JAN. 12, 2006			
Estimated irrigated areas based on FSA aerial photos			
	Aerial Photos		Permit
Permit No.	1994	1997	
41-7076	240.4*	240.4	240
41-7081	358.8	370.8	348
TOTAL	<u>599.2</u>	<u>611.2</u>	<u>588</u>
IDWR , Dan Nelson 1997 Field Exam			
	Aerial Photo		
	1987		
41-7076	227.5		
41-7081	338.0		
TOTAL	<u>565.5</u>		
* Based on 1997 pivot irrigated areas			



FUNK

IRRIGAT I & IMPLEMENT

P. O. BOX 356 • AMERICAN FALLS, IDAHO 83211

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SHIP VIA				TERMS		SALESMAN				PAID OUT		ON ACCT.	
ORDER	SHIP	PART NO.		DESCRIPTION						UNIT PRICE	AMOUNT		
				ROA Corner							< 1000		
				Pivot Deposit									
				Z# 79448									
				Check # 369									
										SALES TAX			
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										TOTAL		1000	
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**UNK****IRRIGATION IMPLEMENT**

P. O. BOX 359

AMERICAN FALLS, IDAHO 83211

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Diamond D Farms

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SHIP VIA				TERMS Net		SALESMAN DAN				PAID OUT		ON ACCT.	
ORDER	SHIP	PART NO.	DESCRIPTION						UNIT PRICE	AMOUNT			
			Corner Pivot + 3 Boosters							36,000.00			
			Job										
			ROA										
			Check # 659										
								SALES TAX					
								TOTAL THIS PAGE					
								TOTAL		36,000.00			

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1 ~~2507~~ 1 ~~2507~~ 1 DECT2

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Diamond D Farms

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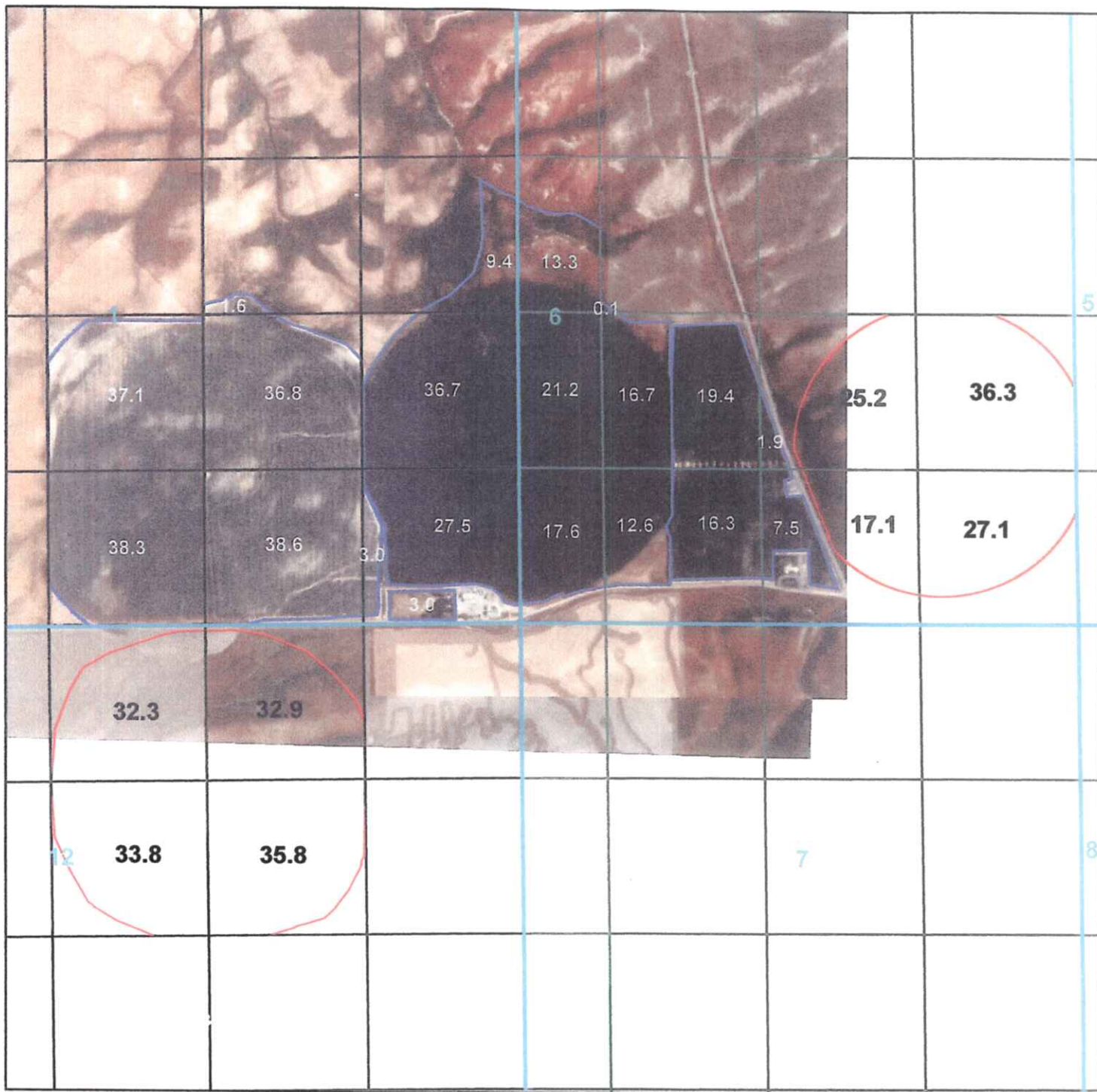
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ORDER	SHIP	PART NO.	DESCRIPTION						UNIT PRICE	AMOUNT			
			CORNEL Pivot + 3 Booster Job ROA							36,000.00			
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**TIM DEEG PIVOT
T09S. R30 SEC 1
1994 FSA AERIAL PHOTO**

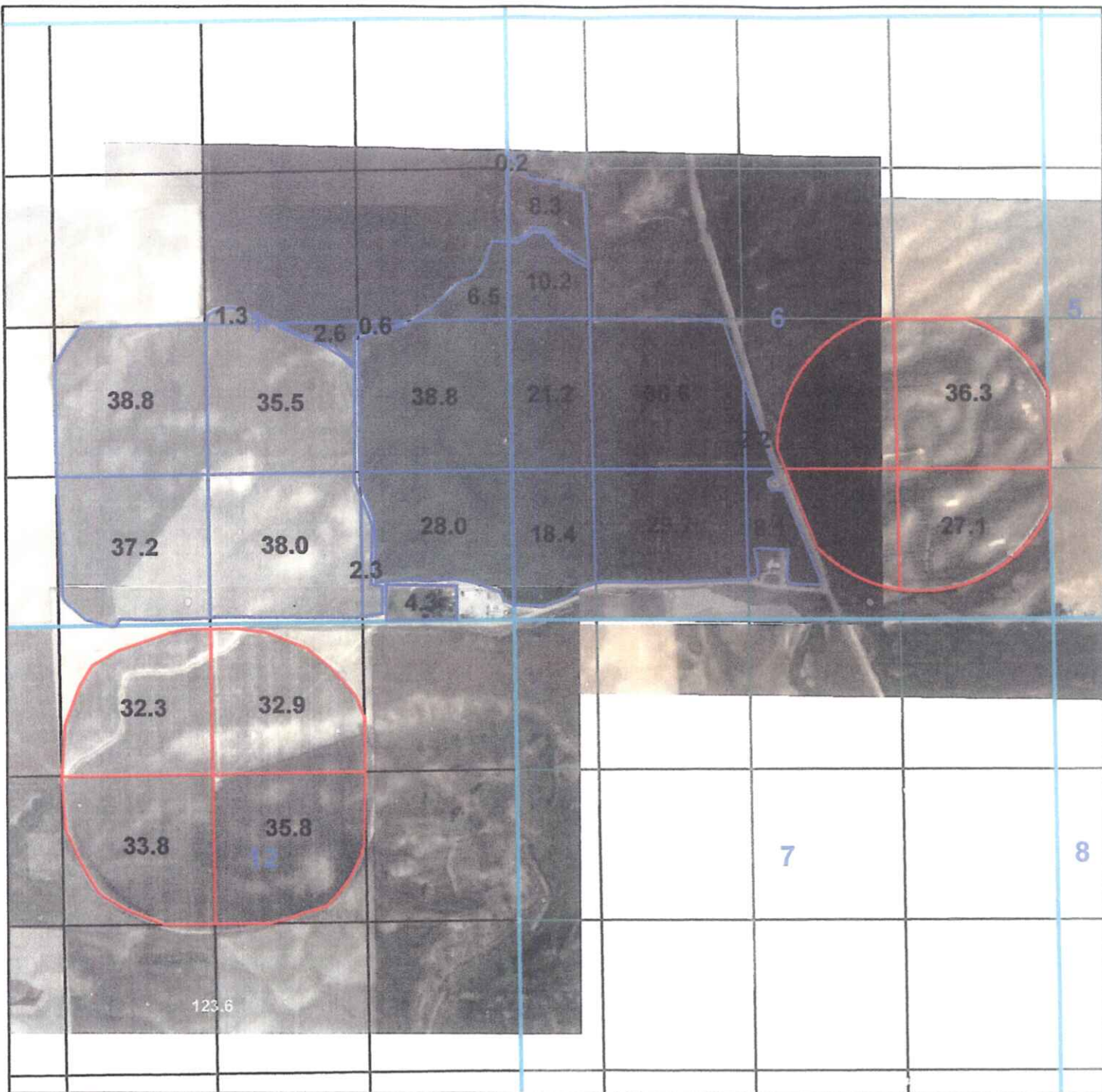
Legend

- 1994 41-7081 QQ
- FUTURE PIVOTS 1997 CALC.
- gcdb_sections
- t09s31e
- t09s30e



BROCKWAY ENGINEERING,, PLLC
ALR- JAN. 13, 2006

RED 41-7076 AREA = 240.4 AC. IRRIGATION BASED ON 1997
BLUE 41-7081 AREA = 358.8 AC. IRRIGATED

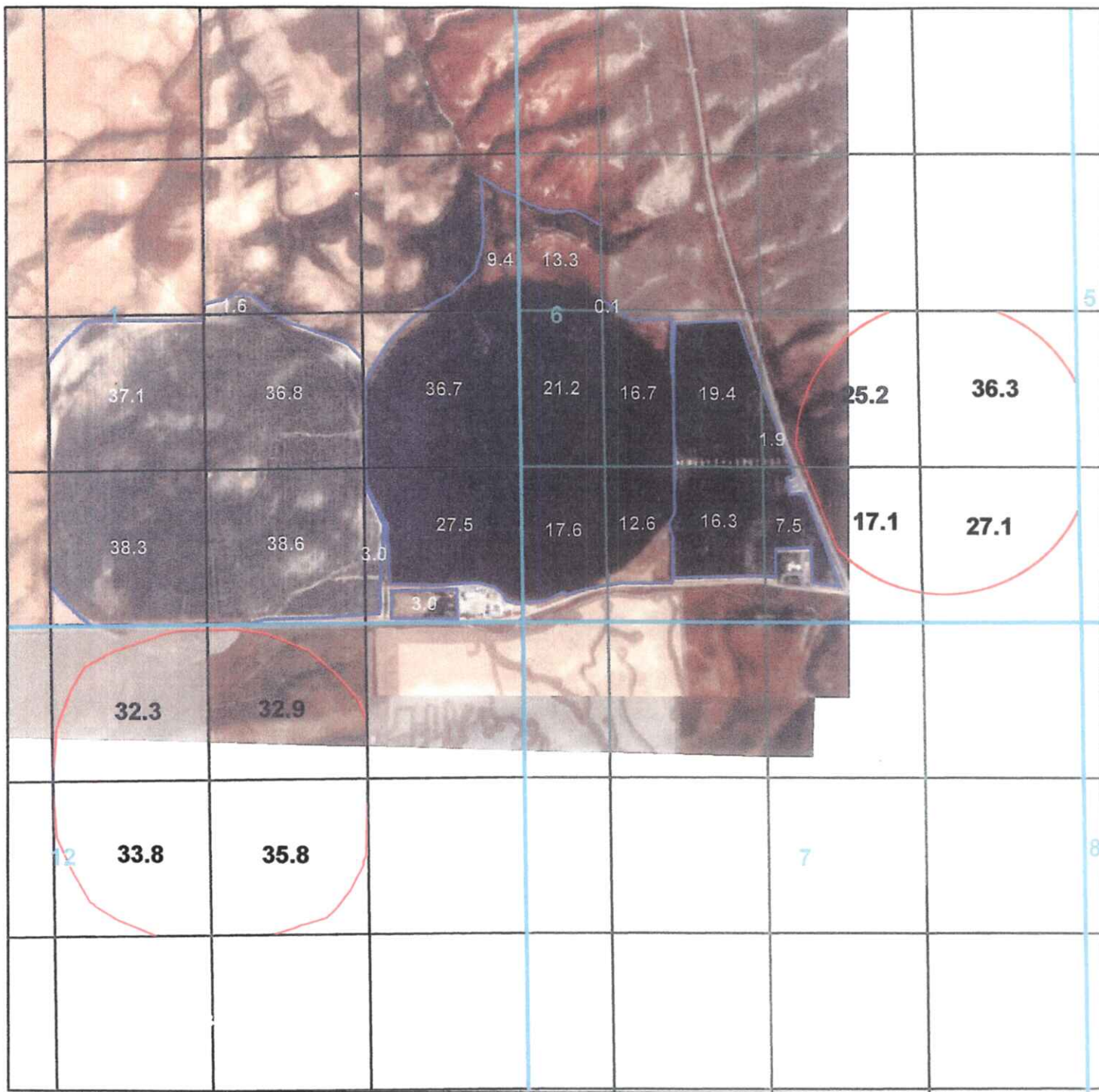


TIM DEEG PIVOT
T09S. R30,31E
1997 FSA AERIAL PHOTO

BROCKWAY ENGINEERING,, PLLC
ALR- JAN. 12, 2006

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**TIM DEEG PIVOT
T09S. R30 SEC 1
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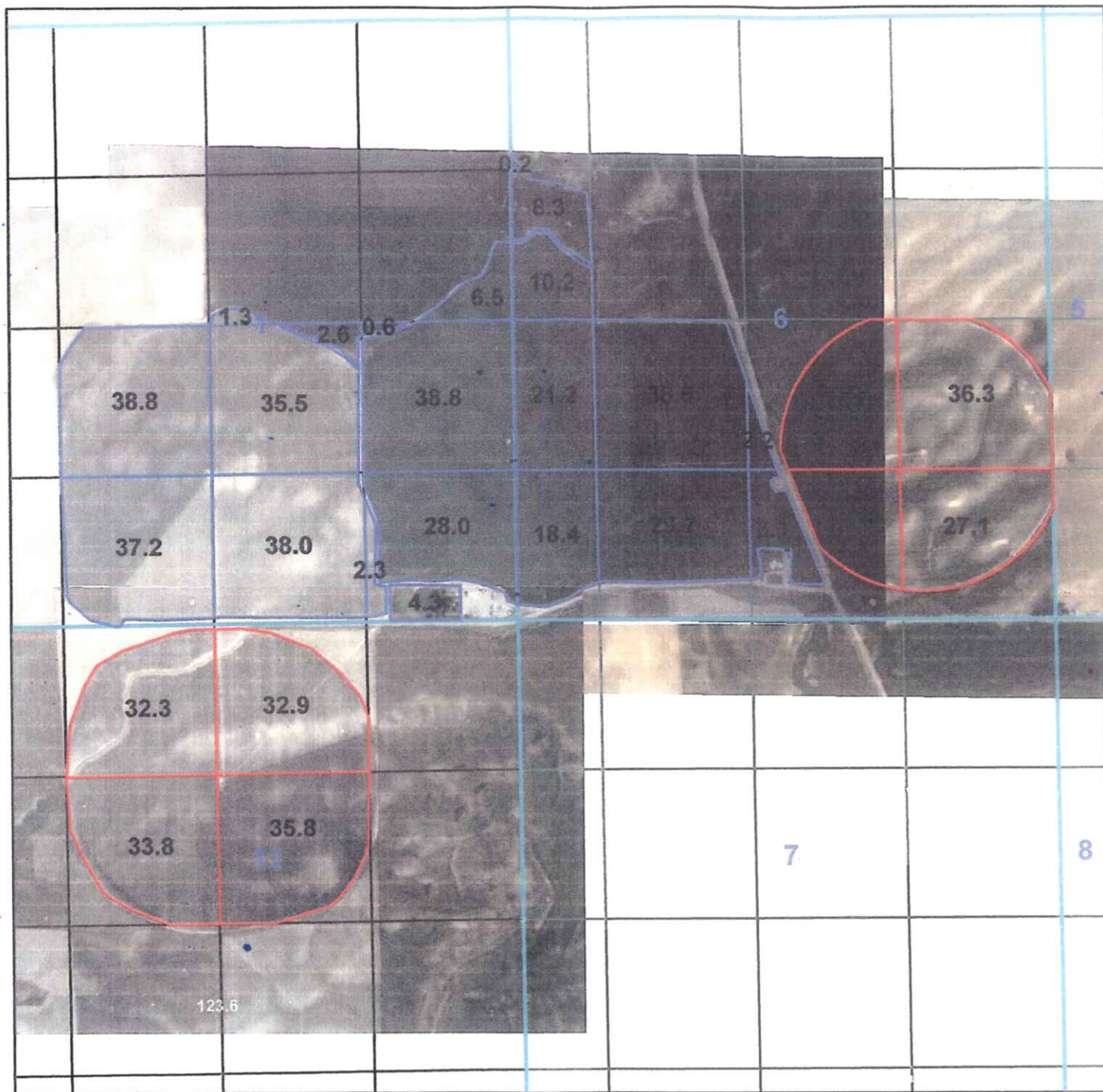
Legend

- 1994 41-7081 QQ
- FUTURE PIVOTS 1997 CALC.
- gcdb_sections
- 109s31e
- 109s30e



BROCKWAY ENGINEERING,, PLLC
ALR- JAN. 13, 2006

**RED 41-7076 AREA = 240.4 AC. IRRIGATION BASED ON 1997
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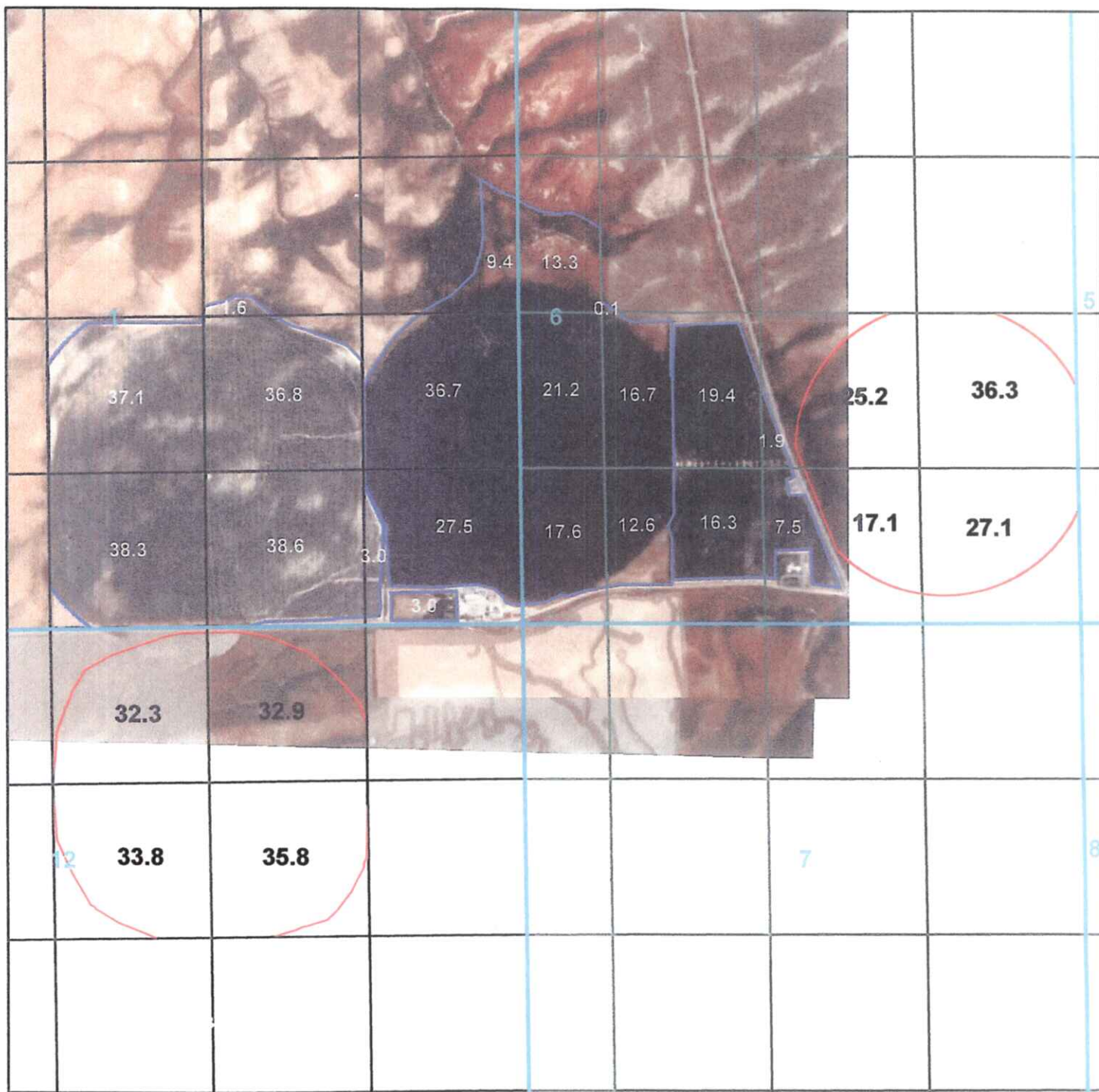


TIM DEEG PLLC
 T09S. R30,31E
 1997 FSA AERIAL PHOTO

BROCKWAY ENGINEERING,, PLLC
 ALR- JAN. 12, 2006

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**TIM DEEG PIVOT
T09S. R30 SEC 1
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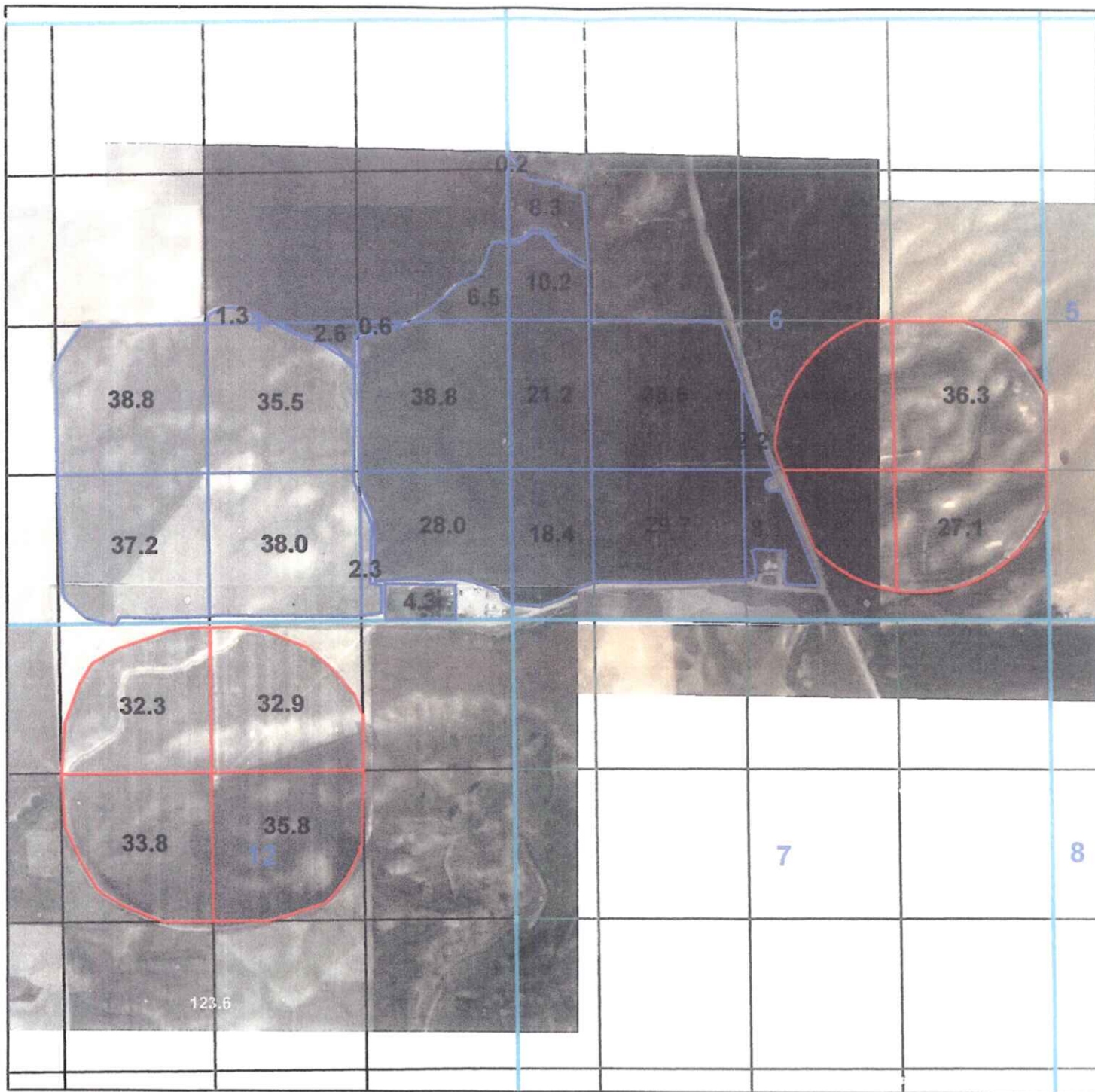
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BROCKWAY ENGINEERING,, PLLC
ALR- JAN. 13, 2006

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TIM DEEG PIVOT
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1997 FSA AERIAL PHOTO

BROCKWAY ENGINEERING,, PLLC
ALR- JAN. 12, 2006

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Brockway's CDs
re: 1/20/06 letter
41-7030