



Matanuska-Susitna Borough

BOX B. PALMER, ALASKA 99645 • PHONE 745-4801

DEPARTMENT OF ADMINISTRATION

October 27, 1982

CERTIFIED MAIL

DIVISION OF PERMITS
NOV 1 1982

Lawrence H. Kimball, Jr.
Municipal Land Trust Officer
State of Alaska
Department of Community & Regional Affairs
225 Cordova Street, Bldg. B
Anchorage, Alaska 99501

Dear Mr. Kimball:

Re: PROPOSAL BY KNIKATNU, INC. REGARDING ITS OBLIGATIONS UNDER SECTION 14
(c)(3) OF THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

We have presented proposals to Knikatnu, Inc. Board of Directors regarding lands that we would like to acquire on our behalf, or on behalf of the public, for the initial portion of the historic Iditarod Trail and for road right of way for the Horseshoe Lake Road on the east side of Horseshoe Lake in the Big Lake area and for other purposes.

Since we have reached no agreement as to these matters before the October 31, 1982 deadline indicated in your letter of September 15, 1982, the Borough's position with respect to the State's obligations under Section 14(c)(3) of the Alaska Native Claims Settlement Act, is as follows:

1. Statutory authority for reconveyance. Section 14(c)(3) of the Alaska Native Claims Settlement Act, as amended, provides as follows:

(3) The Village Corporation shall then convey to any Municipal Corporation in the Native village or to the State in trust for any Municipal Corporation established in the Native village in the future, title to the remaining surface estate of the improved land on which the Native village is located and as much additional land as is necessary for community expansion, and appropriate rights-of-way for public use, and other foreseeable community needs: Provided, That the amount of lands to be transferred to the Municipal Corporation or in trust shall be no less than 1,280 acres unless the Village Corporation and the Municipal Corporation or the State in trust can agree in writing on an amount which is less than one thousand two hundred and eighty acres: Provided further, That any net revenues derived from the sale of surface resources harvested or extracted from lands reconveyed

pursuant to this subsection shall be paid to the Village Corporation by the Municipal Corporation or the State in trust: Provided, however, That the word "sale", as used in the preceding sentence, shall not include the utilization of surface resources for governmental purposes by the Municipal Corporation or the State in trust, nor shall it include the issuance of free use permits or other authorization for such purposes:

2. Jurisdiction. Under the terms of the Alaska Native Claims Settlement Act the Matanuska-Susitna Borough is the local government which has the right to identify lands needed for community development and expansion under Section 14(c)(3) of ANCSA. Alaska Statutes 29.78.010 defines "municipality" as follows:

"municipality" means a general law municipal corporation and political subdivision, which is a first or second class borough or city, or a third class borough, incorporated under the laws of the State.

We ask, accordingly, that the Municipal Land Trust Officer rule that the State of Alaska is not trustee for any future city of Knik and to rule that for this reason the municipal trust land regulations have no applicability to lands with respect to which the Borough has reconveyance rights. If the Municipal Land Trust Officer makes a determination that he has jurisdiction with respect to Section 14(c)(3) reconveyances on the part of the State of Alaska, the Borough would reserve the right to challenge this determination in a court proceeding, or such other proceedings as are authorized by law.

3. Lands requested for reconveyance. Although the Borough admits that the majority of lands near the old village of Knik are already in private, Borough or State ownership, it nevertheless alleges that there are particular needs for community development that can only be satisfied by Section 14(c)(3) reconveyance of certain of Knikatnus' selected lands in the Matanuska-Susitna Borough. This list of parcels comprising approximately two square miles is listed according to priority in Appendix "A".

Justification for these designations are:

(a) Iditarod-National Historic Trail. The Iditarod Trail was first established in the 1890's as a gold exploration and mining trail. W. L. Goodwin of the U. S. Survey surveyed it in 1908 and it was cleared and marked in 1910. Some of the markers and tripods can still be found.

The major use of the trail was between 1911 and 1925. During those years it was a mail and supply route to the gold fields of the Iditarod-Kaltag area. In 1925 diphtheria serum was rushed by dog sled to Nome. Between 1911 and 1925 the trail from Knik to Iditarod was travelled by hundreds of people on foot or by dog sled.

Beginning in 1973 the trail has been used for the annual Iditarod dog race from Anchorage to Nome. A portion of the trail near Knik goes through Knik selected lands.

The historic trail was studied by the Bureau of Outdoor Recreation in 1977 and was recommended for inclusion into the National Trails System.

On November 10, 1978, the U. S. Government designated the trail as the "Iditarod National Historic Trail" pursuant to Public Law 95-625. With this designation it became one of three national historic trails the other two trails being the Appalachian National Historic Trail and the Pacific Trail.

Not correct

It is not clear what Knikatnu's position is on this trail. It appears they want it to follow the Knik Road and not the old historic trail.

After discussing the trail alignment with members of the Matanuska-Susitna Borough Historical Commission and dog mushers it is apparent that there are no alternate trail locations which would satisfy the term "historic" or which would conform to the designation of the Iditarod Trail as a National Historic Trail. In addition, the Borough states that any alternative route would be awkward and inferior and would damage the appeal and success of the annual Iditarod Race. Among other things, a relocation of this first part of the Iditarod Trail on the west side of Knik Arm would probably place it within a State of Alaska highway right of way, which is a highly inappropriate location for an annual event that is intended to evoke wilderness and historical associations.

A minimum of one hundred feet on both sides of the centerline of the trail would be necessary if the historic and scenic characteristics of the trail are to be preserved.

The Iditarod Trail should be reconveyed to the Borough (or the public) for trail purposes for the following reasons:

(1) Section 14(c)(3) specifically provides for reconveyance of land "to the Municipal Corporation or to the State in trust for any Municipal Corporation established in the Native Village in the future" ... as much land as is needed for community expansion, and other appropriate rights-of-way for public use..." (emphasis added)

(2) The historic trail is needed for the proper development of the community, since it is a historic site and since preservation of major historic features is a proper part of community development.

(3) The federal government has dedicated this trail to public use through the Act of July 26, 1866 pertaining to the rights of way for highways. This Act, now known as Revised Statute Sec. 2477 (43 U.S.C. 932) states:

"The right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted."

This grant by the Federal Government is a dedication to the several States and Territories.

The Borough seeks a formal acceptance of this trail by reconveyance of the trail to the Borough or to the State in trust.

(b) Knik historical village lots. Lots 3, 6, 7, 9, 10 and 11 of U. S. Survey 1726, in Section 24, T16N, R3W, Seward Meridian is the heart of the old village of Knik. These are small unimproved lots south of Knik Lake, on both sides of Knik Road and south of the Iditarod Trail headquarters. These lots are shown on Exhibit "B".

These lots ought to be reconveyed for a restored historic village of Knik.

It is the best opportunity for restoration of a historic mining area town in the area immediately north of Anchorage.

Historic preservation and restoration is a community development use.

(c) Cemetaries. There are certain grave sites in the Knik area on land selected by Knikatnu. These lands should be preserved as cemetaries not only for the traditional reasons for preserving cemetaries, but also because they are part of the historic village of Knik.

They should be fenced and protected from development.

A Native village corporation is not the proper vehicle for preserving grave sites because it is an Alaska corporation for profit, which under corporation law, is to be run to increase the prospect of profits for its shareholders. On January 1, 1992, shareholders of Knikatnu can sell their shares to any person they see fit without restriction. ANCSA, Sec. 7(h)(3).

Obviously, regardless of the intentions of the present Knikatnu directors, there is no guarantee that gravesites would be protected after January 1, 1992.

The Borough would be willing to re-reconvey any gravesites it obtains to a non-profit corporation or cemetary association established to maintain and care for these grave sites and, if the State is the trustee for any future city, would urge the State to do so.

(d) Horseshoe Lake Road. The Horseshoe Lake Road runs along the back side of a tier of lots running on the northeast and east side of Horseshoe Lake north of Big Lake and on the back side of an unnamed lake a short distance to the east of Horseshoe Lake. Knikatnu owns eight of the 24 affected lots. See the attached map marked as Exhibit "C".

All owners, except Knikatnu have agreed to dedicate 50 feet on the back side of their lots for the road so that there will be a 100' road right of way with each property owner contributing the same amount of property in depth.

Plans, specifications and engineering for the road are completed, the project is fully funded and the invitations for bid can be advertised

once right of way is obtained from Knikatnu. A total of 14.8 acres of Knikatnu land is needed.

Horseshoe Lake is about nine air miles from the Village of Knik and probably about nineteen road miles away.

The road is necessary if the parcels and lots around Horseshoe Lake are to be developed. If the lots are used similarly to other lots in the Big Lake area there will be year-round residents commuting to and from work, school buses picking up children and persons visiting recreation lots. The road, if constructed, will be in the Big Lake Road Service Area and will be maintained by the Borough.

Section 14(c)(3) specifically refers to reconveyance of rights of way to municipalities or to the State in trust. This right of way is needed for community expansion and development.

Right of way required from Knikatnu for Horseshoe Lake Road right of way is described in Exhibit "C".

(d) Other community uses. Requests for land for school sites and recreation are self explanatory.

It should be noted that in many cases the Borough is asking for the least valuable and least developable land. For example, the land along Lucille Creek is mostly wetland and would be difficult to apply to any private use. As public lands, wetlands can be used for winter recreation. These lands can be seen in Exhibit "A".

4. Community uses. The Borough would admit that there are certain lands selected by Knikatnu, Inc. which are non-contiguous and are widely scattered, but deny that the pattern of selection is such as to restrict municipal development.

Much of the development in the Matanuska-Susitna Borough in the past ten years has been large lot residential development outside of the cities of Palmer and Wasilla, where the typical lot size is between one to five acres, most often close to one acre. The minimum Borough lot size for lots with on-site septage disposal systems is one acre.

The pattern of lots and ownership shown for the Knik Village area (Exhibit "B") is very similar to the ownership pattern up and down Knik Road and in many parts of the Borough.

A review of Knikatnu lands in the Horseshoe Lake area will demonstrate the fact that non-contiguous and scattered selections do not necessarily eliminate the need for reconveyance for municipal development. See Exhibit "C" for a map of this area.

Even though the Horseshoe Lake area is approximately nine miles from the old Knik Village site, we do not believe that there is any rule in ANCSA that would limit claims of local governments for reconveyances to an area less than nine miles from the original village site, or some other fixed measure of distance from the village site, such as certain distances from core sections or core townships.

Although Knikatnu, Inc. does not state any additional reasons why Section 14(c)(3) would not apply to that particular village corporation other than that their lands are scattered and unsuitable for municipal development, their reasons are probably also based upon a claimed difference between the characteristics of that village and the typical Alaska village.

The typical Alaska Native village with 25-99 residents is isolated, it is not on any road system, the community facilities are fairly close in to the houses in the village, and community facilities such as the school house, firehall, community building, sewer treatment facility, water pump house, cemetery and airport would all be fairly close to town and very often within walking distance of the houses in the village.

The Knik Village is in a suburban area close to Anchorage and is on a State highway.

A Native village on a State arterial close in to 20,000 persons will have different community needs than a community not on a road network.

The 25 residents of the Native village (the minimum number of residents required for establishment of a village corporation under Alaska Native Settlement Claims Act) plus all other persons living in the village area where the Native residents reside would have community facility needs very similar to other people in the area--in this case community needs similar to those of the other 20,000 people that live in the Matanuska-Susitna Borough within 25 miles of Knik Village. (Ninety percent (90%) or more of the Borough's population is within 25 miles of Knik.)

The residents living in the approximately 21 houses near Knik Lake would be a cross-section of the Borough. All but a few are non-Native. Most probably, a good 38% of those residents who work, commute to Anchorage, as do 38% of other residents who work.

And, at least 69% of the ownership of parcels in the area would be by non-residents, as in the case of parcels in the Borough generally.

The education of the Knik children, both Native and non-Native, would be handled in the same manner as the education of any other child in the Borough. Very few of the children would have an opportunity to walk to school--their access to a public school site would be by bus and the direction of their travel would depend upon whether they are going to elementary school, junior high school or senior high school or taking special programs. There would be no special school for Knik. The children at Knik would participate in the programs of a unified Borough school system.

By the same token the bulk of the recreation activity of adults and children in the immediate vicinity of Knik would not be at Knik but would be primarily in areas that can be reached by road, including rivers, creeks, and dog mushing areas.

Solid waste and public landfill needs of this population would not, in the ordinary course of events, be close in to the homes and

properties of the people who live in the immediate vicinity of the Knik Village, but at a site that is convenient to a larger number of people and is environmentally acceptable. The environmentally acceptable criterion severely limits the availability of sites in an area such as that of Knik. In the Matanuska-Susitna Borough area, the two most public landfill sites that are most immediately convenient to the Knik Village site is the Big Lake public landfill site approximately 13 miles away and the Central Landfill site on the Palmer-Wasilla Highway approximately 25 miles away. It would be difficult to qualify a site near the Knik Village for public landfill purposes.

Under the Borough fire plan, a firehall to protect homes in the immediate Knik area would not be at the Village of Knik itself, but rather approximately five miles to the northeast close to the intersection of Knik Road and Vine Road. Fire protection in the Borough is coordinated according to a Master Fire Plan and the Master Fire Plan would determine the location of a substation in the Knik area and the type of mutual response and mutual aid to be obtained from other firehalls and substations.

The unstated assumption in Knikatnu's position that a village in a suburban area on a road system is exempted from Section 14(c)(3) is that there are no needs for community facilities serving the residents of such a village.

The arguments against this contention are:

(1) If the U. S. Congress wished to exempt certain villages from the provisions of Section 14(c)(3), they would have done so by name, or by reference to location, and

(2) The need for community facilities for the residents of Knik Village are not distinguishable from the need for community facilities by other Matanuska-Susitna Borough residents, and these needs, in a suburban area such as the Matanuska-Susitna Borough, are not met by a tight clustering of facilities close to a very small population.

The Native village of Knik would have had no right to be listed among Alaska villages eligible for village corporation status if the Secretary of Interior had been unable to find that there were in the Knik Village in 1970 twenty-five or more Natives at the village on the 1970 census enumeration data (as shown by the census or other evidence satisfactory to the Secretary) ANCSA, Sec. 3(c).

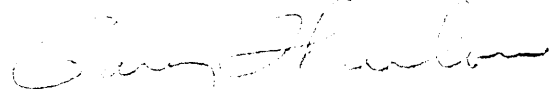
If there were 25 Native residents on that date at Knik constituting a village, there were also 25 residents with the usual need for community facilities--a need defined in the Alaska Native Claims as justifying application of a minimum of two square miles to community uses. If the 25 persons relied upon for village status were actually not residents of the area then there would be no need for community facilities to serve those 25 persons--but, there also would have been no village corporation.

So the asset of 106 square miles bestowed by ANCSA upon any Alaska Native village corporation with a population of 25-99 residents carried with it a liability for reconveyance of two square miles.

There may not be 25 Native residents at Knik at this time--there may only be one or two Native families in this area. But this is irrelevant. Section 14(c)(3) is color blind. It does not distinguish between Native and non-Native residents of a particular village area. There are people at Knik and there is a need for community facilities for these people just as there are for any other residents of the Borough.

Summary. In view of the foregoing, the Borough asks that Knikatnu asks First that the Municipal Land Trustee find that he has no jurisdiction to consider the tender of Knikatnu, Inc. on the basis that the Matanuska-Susitna Borough is the municipality to exercise any Section 14(c)(3) rights and if the Municipal Land Trustee rejects this request, that the Municipal Land Trustee grant to the Matanuska-Susitna Borough, lands as identified in Exhibit "A".

Respectfully submitted,



Gary Thurlow
Borough Manager

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LANDS REQUESTED BY MATANUSKA-SUSITNA BOROUGH
FOR SECTION 14(c)(3) RECONVEYANCE FROM KNIKATNU CORPORATION

The lands requested by the Matanuska-Susitna Borough for reconveyance by the Knikatnu Corporation for community development, community expansion and other community uses are, in order of community need:

1. Knik Village Site--approximately five acres on both sides of Knik Road just south of Knik Lake, Sec. 24, T16N, R3W.

COMMUNITY USE: This is the historic Knik Village site which should be preserved and restored as a historical site; also it is the point of beginning for historic Iditarod Trail on west side of Knik Arm.

2. Iditarod Trail. One hundred sixty acres. Sec. 23, W $\frac{1}{2}$ of NE $\frac{1}{4}$, T16N, R3W.

COMMUNITY USE: A corridor for historic Iditarod Trail; also a wet area within which winter dog sled spurs can be established to the north and to the south. The Borough would construct a fence to protect any graves and archoeological sites in the area.

3. Horseshoe Lake Road right-of-way. Approximately 2.5 acres of right of way are needed for the Horseshoe Lake Road along the backside of a tier of Knikatnu lots (50 feet on west side of lots, which lots are located east of Horseshoe Lake, within Section 12, T17N, R4W).

COMMUNITY USE: To complete a road around the northern and eastern sides of Horseshoe Lake to provide access to numerous private properties in the Big Lake area.

4. Little Susitna flood plain parcels. This includes 40 acres (Sec. 18, SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of T18N, R1W), through which the Church Road north of the Little Susitna River (north of the Bailey bridge) crosses. This is all flood plain. It also includes approximately 35 acres one-quarter of a mile east of the above parcel, (Section 20, W $\frac{1}{2}$ of SW $\frac{1}{4}$ of T17N, R1W) which

is also mostly in the Little Susitna flood plain, lying just south of the river.

In addition, the parcel in Section 13 is needed for right of way for a road that is a northern extension of Church Road. This road forks to the west to go along the north side of the Little Susitna River and forks to the east to provide access to numerous parcels also on the north side of the Little Susitna River.

The parcels in Sections 18 and 20 are both within a flood plain and should be reserved for a Little Susitna green belt for recreation uses. All but a small portion of the land in Section 20 is within a flood plain and should not be built upon.

5. Meadow Lakes school site. One hundred sixty acres in Sec. 4, west of the Pittman Road and approximately three-quarters of a mile southeast of Seymour Lake. This is Sec. 4, SE $\frac{1}{4}$ of SW $\frac{1}{4}$ and N $\frac{1}{2}$ of SW $\frac{1}{4}$ T17N, R2W.

COMMUNITY USE: These 160 acres are needed for a school site which may accommodate either an elementary school with park area or a senior and junior high school campuses, with community park area.

6. Cottonwood Creek recreation area. This is approximately 80 acres in Sec. 20, W $\frac{1}{2}$ of NW $\frac{1}{4}$ T17N, R1W and an adjacent 80 acres in Sec. 29, N $\frac{1}{2}$ of NW $\frac{1}{4}$ T17N, R1W.

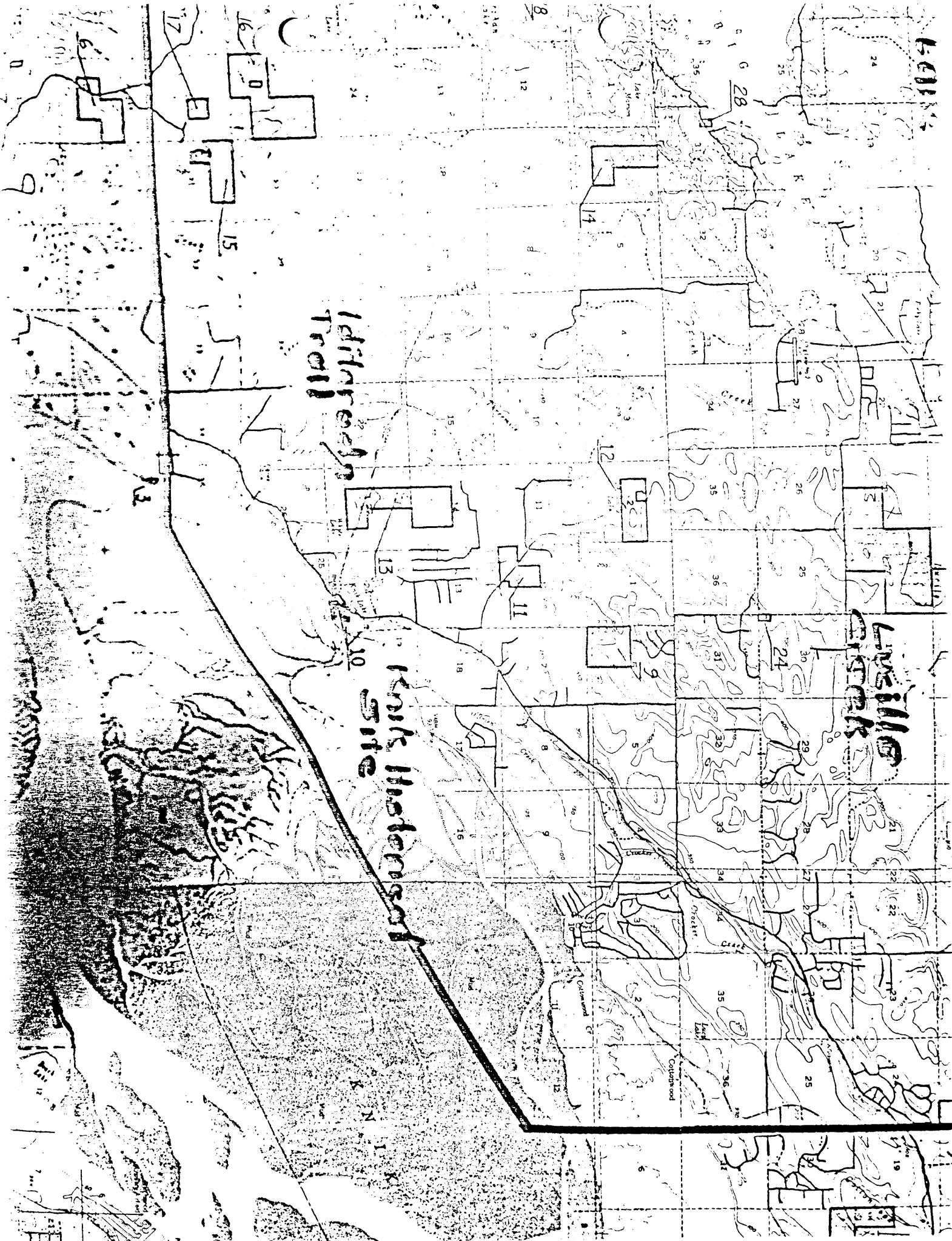
COMMUNITY USE: This area between Cottonwood Creek and Cottonwood slough is needed for a community park for the Fairview area.

7. Lucille Creek wetlands. This includes the SE $\frac{1}{4}$ of Sec. 23, T17N, R3W and the W $\frac{1}{2}$ of NE $\frac{1}{4}$ of Sec. 24, T17N, R3W, comprising 480 acres.

COMMUNITY USE: Most of this area is wetland near Lucille Creek, which is a creek that runs from Lake Lucille to Big Lake. It is an area that should not be developed, but which has some value for winter dog sled trails.

8. Point MacKenzie. This 80 acre parcel, located at Section 32, N $\frac{1}{2}$ of SW $\frac{1}{4}$ of T14N, R4W is situated one-half mile north of tidewater and one-and-one-half miles west of Point MacKenzie.

The parcel is nearly entirely wetlands which could not be economically developed except as part of a major port and warehousing facility. Eventually, with the construction of a Knik Arm crossing and the construction of any dock at Point MacKenzie this area would be of value for warehousing and other dock related activities. Meanwhile the area has value as a sled dog trailhead. It is one-half mile west of an existing sled dog trail.

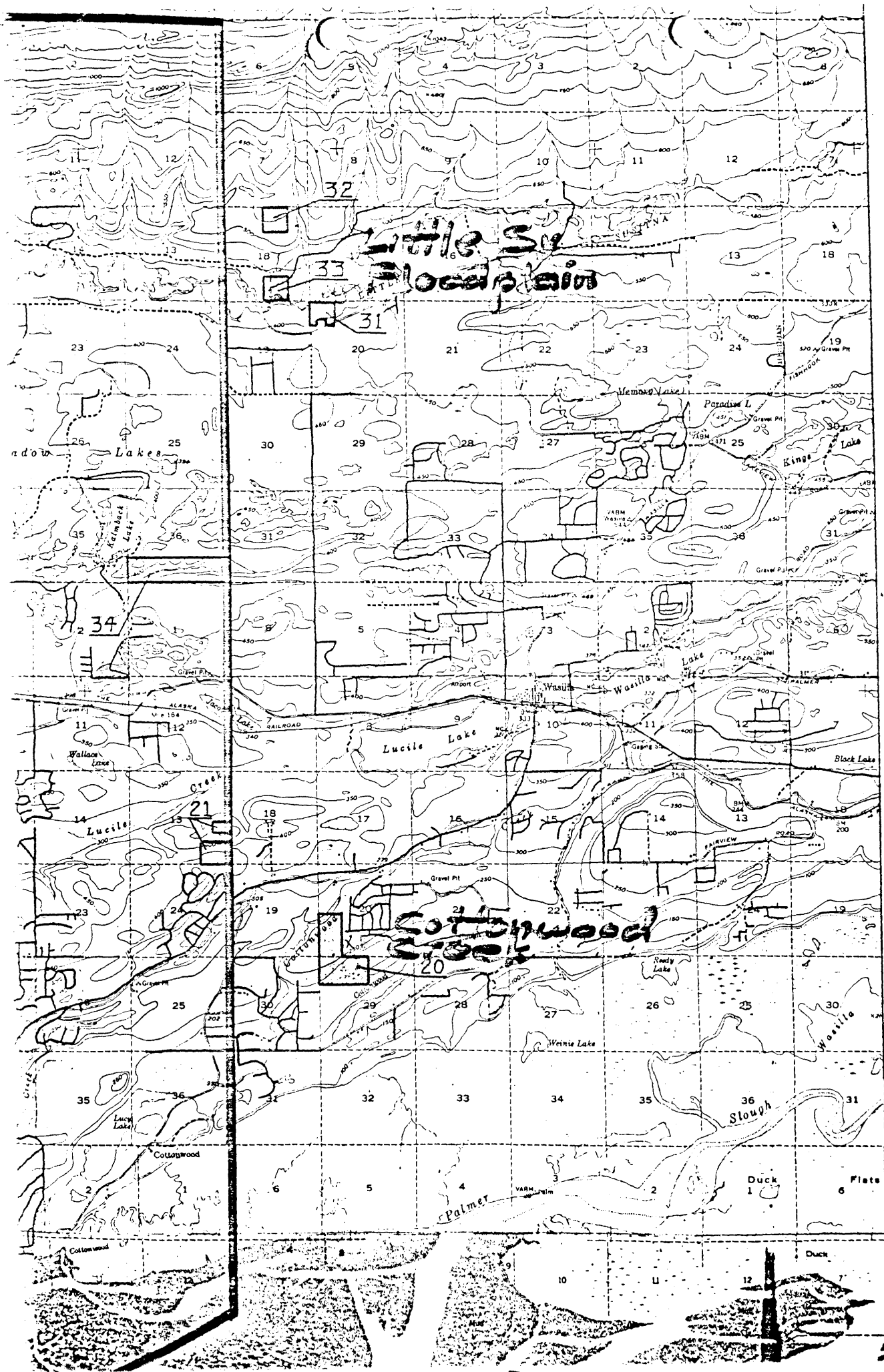


Iditarod Trail

Kurt's Historical Site

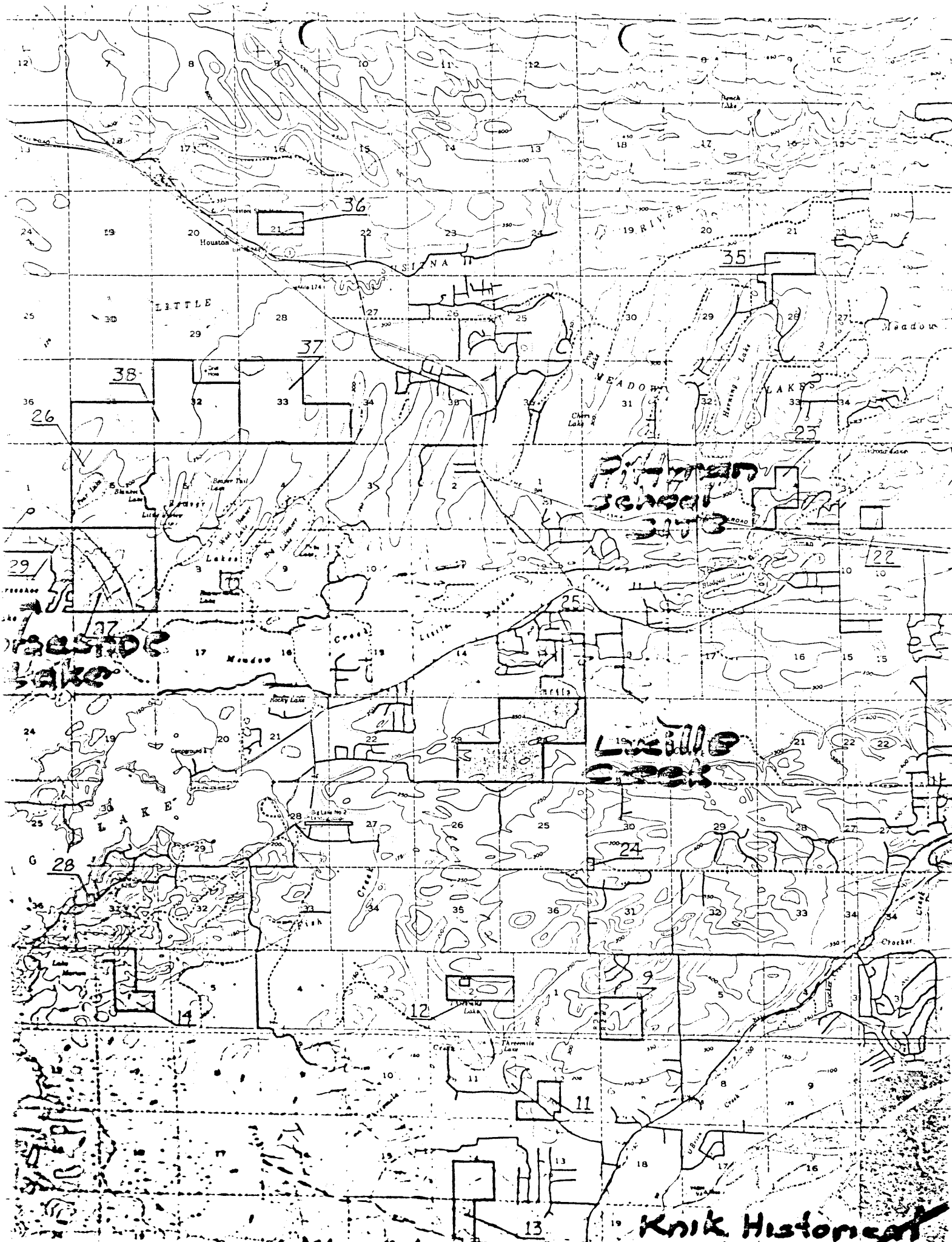
Lynch Creek

28



T18N

T17N

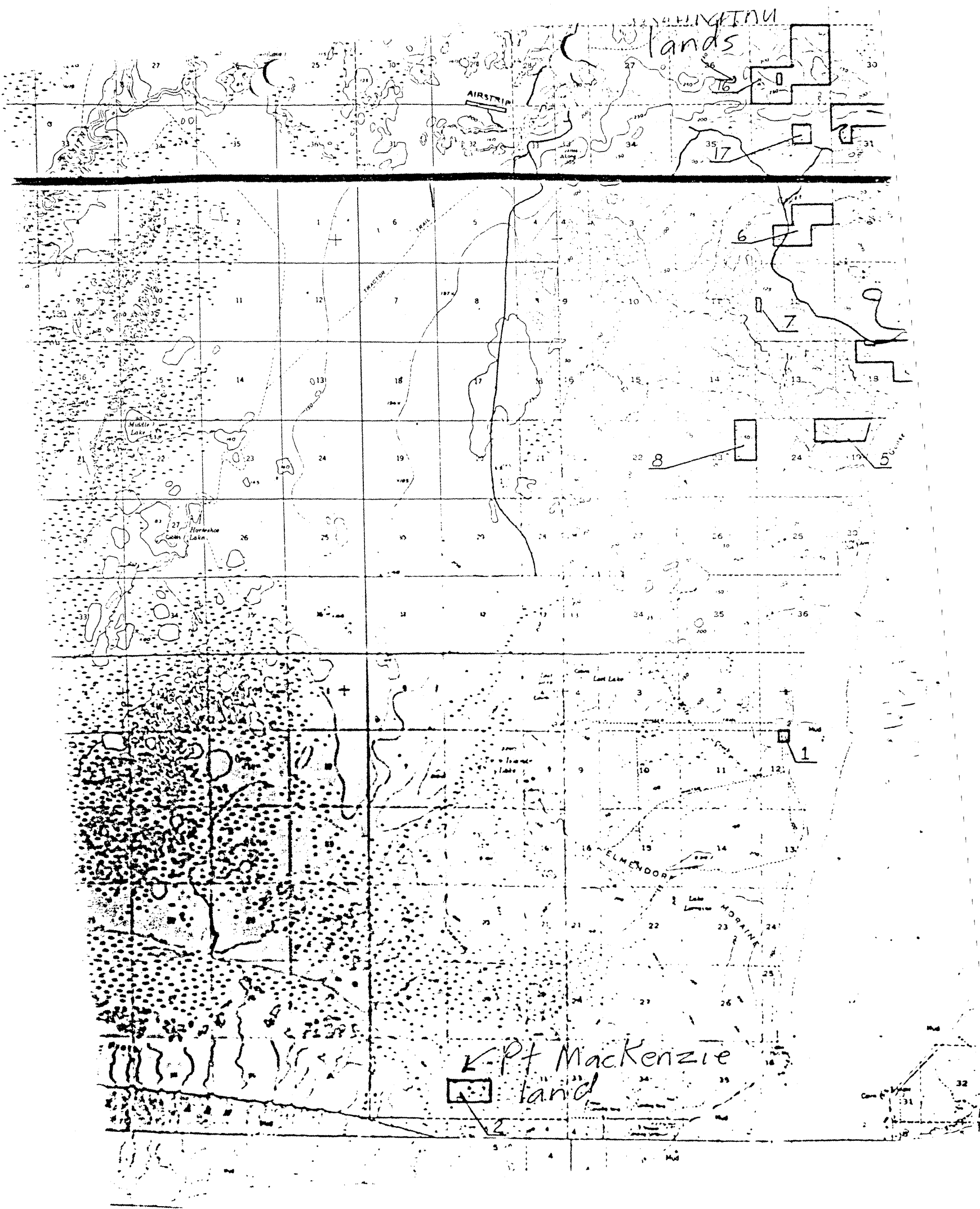


Pittman
School

Lakille
Creek

Wastide
Lake

Knix Historical



KATLINGTINU
lands

AIRSTRIIP

TRAIL

TRAIL

Middle Lake

Horvath Cabin Lake

ELMENDORF

MORaine

Pt MacKenzie
land

32

31

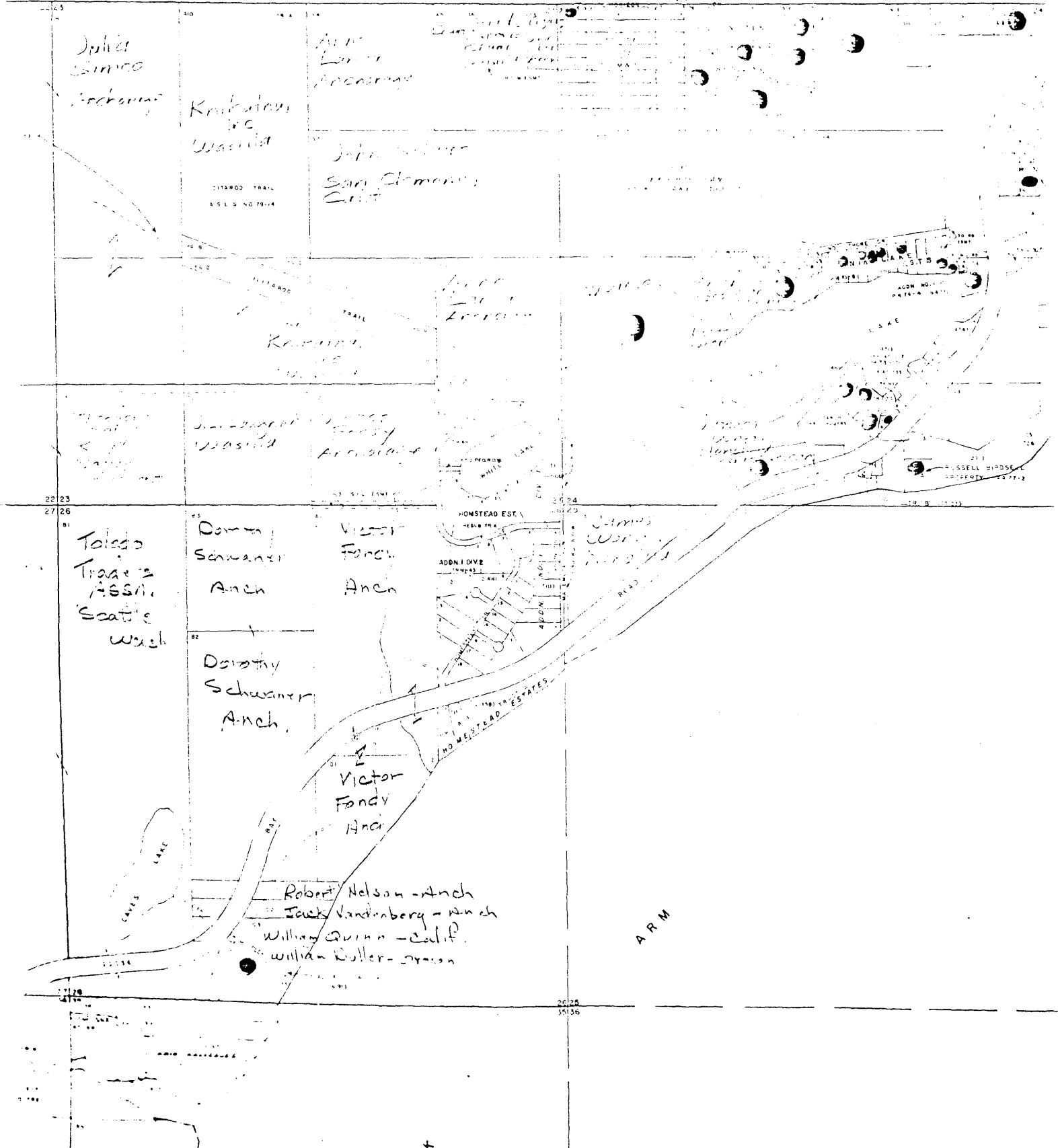
30

Md

EXHIBIT "B"

Data represent improvements

KEY INTEREST



Dots represent improvements

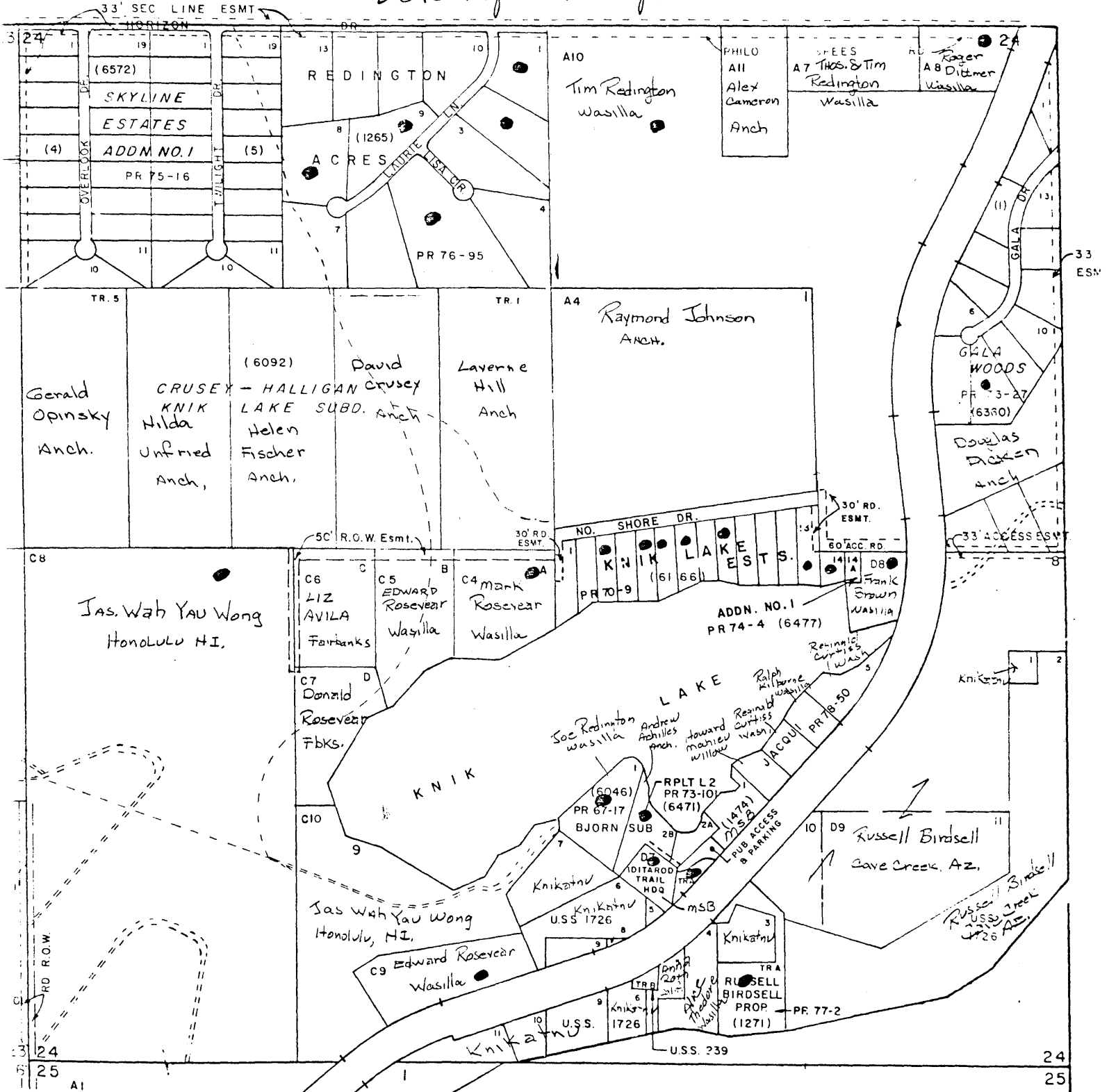


EXHIBIT "C"

RIGHT OF WAY REQUIRED FOR
HORSESHOE LAKE ROAD

The south 50 feet of the east 1980 feet of N $\frac{1}{2}$ NW $\frac{1}{4}$ Section 12, Township 17 North, Range 4 West, Seward Meridian, Alaska.

The south 50 feet of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ together with the south 50 feet of the SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ together with the south 50 feet of the west 50 feet of the SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 12, Township 17 North, Range 4 West, Seward Meridian, Alaska.

The north 50 feet of Government Lot 5 together with the north 50 feet of Government Lot 6 together with the east 50 feet of the NW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ together with the east 50 feet of Government Lot 7 together with the east 50 feet of Government Lot 8 together with the west 50 feet of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 12, Township 17 North, Range 4 West, Seward Meridian, Alaska together with a strip of land 100 feet wide, the centerline of which is described as follows:

Commencing at the east $\frac{1}{4}$ corner of the aforementioned Section 12, thence west along the north boundary of Government Lot 9 a distance of 660.54 feet to the true point of beginning; thence S13°22'54"W a distance of 1355.84 feet to the monumented northeast corner of U. S. Government Lot 2 and the terminus of said easement.

The west 50 feet of Government Lot 1 located within Section 12, Township 17 North, Range 4 West, Seward Meridian, Alaska and U. S. Survey 3518.

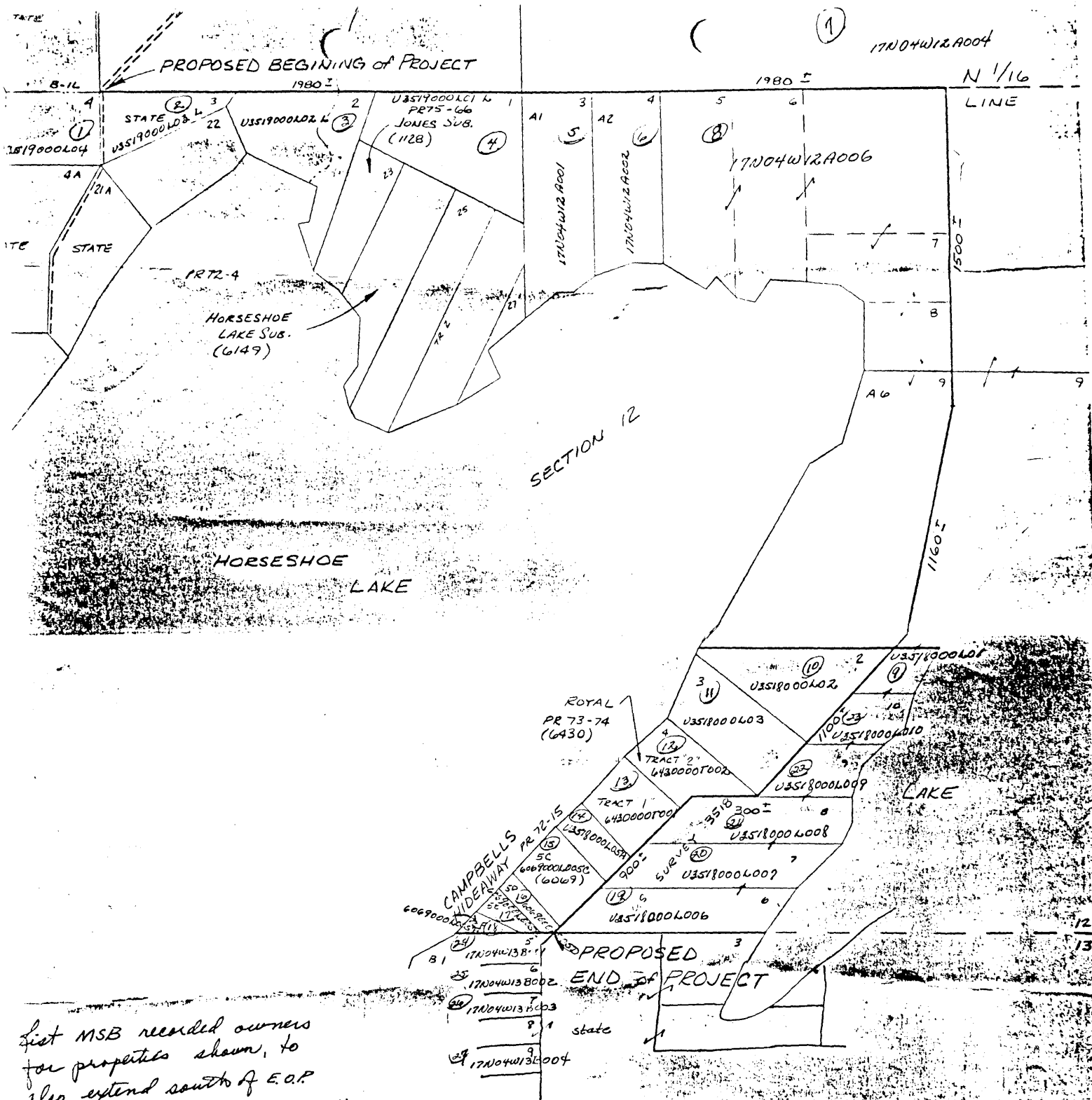
The west 50 feet of Government Lot 6 located within Section 12, Township 17 North, Range 4 West, Seward Meridian, Alaska and U. S. Survey 3518.

The west 50 feet of Government Lot 7 located within Section 12, Township 17 North, Range 4 West, Seward Meridian, Alaska and U. S. Survey 3518.

The west 50 feet and the north 50 feet of the west 351 feet of Government Lot 8 located within Section 12, Township 17 North, Range 4 West, Seward Meridian, Alaska, and U. S. Survey 3518.

The west 50 feet of Government Lot 9 located within Section 12, Township 17 North, Range 4 West, Seward Meridian, Alaska and U. S. Survey 3518.

The west 50 feet of Government Lot 10 located within Section 12, Township 17 North, Range 4 West, Seward Meridian, Alaska, and U. S. Survey 3518.



List MSB recorded owners for properties shown, to also extend south of E.O.P. to GLO 9 (just N. of creek)

Notify Silvers as soon as done and make sure xtra copy is filled in for our office. Also make copy for Pat Lancaster, R/W.

T.17N, R.4W. S.M.