

IN THE SUPREME COURT OF THE STATE OF NEVADA

Case No. 82112

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Apr 19 2021 11:54 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

TY ALBISU, ROSIE ALBISU, and
ANCHOR S-RANCH AND RENTALS, LLC.

Appellant,

v.

KIMBLE WILKINSON,

Respondent.

Appeal from a Bench Trial Findings of Fact and Conclusions of Law and Judgment
The Sixth Judicial District Court of Nevada
The Honorable Michael Montero, District Judge
District Court Case No. CV-0021509

JOINT APPENDIX VOLUME 11

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JIM GIBBONS
Governor



Received 12-10-08

ALLEN BIAGGI
Director

TRACY TAYLOR, P.E.
State Engineer

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF WATER RESOURCES

901 South Stewart Street, Suite 2002

Carson City, Nevada 89701-5250

(775) 684-2800 • Fax (775) 684-2811

(800) 992-0900 x 2400

(In Nevada Only)

<http://water.nv.gov>

December 2, 2008

John A. and Rosie Albisu
PO Box 188 – HWY 95
McDermitt, NV 89421

RE: **Proof V03230 & Permit 15673**

Dear Mr. & Mrs. Albisu:

Please be advised that your *Reports of Conveyance* received on October 3rd 2006 are hereby confirmed to update ownership of **Permit 15673** for 380.88 acre-feet annually at a diversion rate of 2.44 cubic-feet per second upon 95.22 Acres and also **Proof V03230** to irrigate 100 acres at a diversion rate of 2.0 cubic-feet per second, in the name of **John A. Albisu and Rosie Albisu**. Details of the above permit(s), including the current ownership, can be viewed online. First, click on "Water Rights Database"; then "Permit Search".

Also be advised that according to NRS 533.386 (2.), this confirmation of your *Report of Conveyance* does not guarantee that a) the water right is in good standing with the office of the State Engineer; or b) the amount of water referenced in the notice or in the report of conveyance is the actual amount of water that a person is entitled to use; and c) this is not a determination of ownership and that only a court of competent jurisdiction may adjudicate conflicting claims to ownership of a water right.

This confirmation reflects only the information that has been filed with this office and may be subject to amendment upon receipt of additional documentation. The owner is responsible for notifying the State Engineer's office of any change of address in writing. If you have any questions, please contact this office at (775) 684-2800.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel I. Randles".

Daniel I. Randles
Engineering Technician III

DIR/lb

000279

Kimble Wilkinson

P.O. Box 476

McDermitt, Nevada 89421

March 13, 2018

Mr. Wilkinson;

March 12, 2018 a phone call was made to you warning you of the trespass on my property. You have been given your oral warning, this is your written warning.

You have placed on my property a cattle guard through my fence so that you have access to drive through my land and cutting my fence. You are in violation of the Nevada State Statues 207.200. You have been repeatedly warned against trespass on my land however you refuse to obey the law in this matter. You are willfully damaging my ground claiming you have the right to use another's ground for a purpose simply to make it easy for you. This is not your ground or land you do not own it. You are ordered to stay off all my private ground. This was simply your arrogant thinking. You can access the county road from your own land further down the road. Your consistent damage of my ground and forage is malicious and willfully criminal. Your continued willful and wrongful entry upon my land after being warned by myself the owner thereof not to trespass will result in prosecution. Prima facie evidence of your trespass is apparent by the vehicle damage of my ground the placement of a cattle guard upon my ground without my permission or approval. You are ordered to stop! You will remove the damage and wrongful cattle guard and cease from trespass upon my private ground immediately. The property and grounds are properly posted all laws have been abided for warning against your entry. If you choose to continue your destruction of my land and ignoring these legal and lawful warnings further and immediate steps will be taken to insure my rightful use and protection of my property by law enforcement. Remove and repair damage done to my land. STAY OFF ALL MY GROUND AND LAND!! Period!

Ty Albisu

Anchor S Ranch and Rentals LLC

MILLER LAW, INC.

115 West 5th Street, Box 7, Winnemucca, Nevada 89445
(Phone) 775-623-5000 • (Fax) 775-623-5060
info@millerlawinc.us

April 17, 2018

Ty Albisu
PO Box 1076
Winnemucca, NV 89445

Re: Easements located on map number 247532

Mr. Albisu,

This office represents Kimble Wilkinson in the matter of the easements located on map Number 247532 recorded on April 1, 1985. The parcel map indicates that there is a 60' easement along existing roads and a 30' easement along the boundaries of each parcel for roadways and utilities.

Nouque Road is a Humboldt County Road with a 60' easement that must be keep clear and accessible at all times. It is clear by the map that Nouque Road crosses many of your parcels. Further, an easement of 30' along the boundary of each parcel must be keep clear for a roadway. This means there is 60' that is an easement between all of the center parcels.

Mr. Wilkinson moves cattle and accesses his property by way of your parcels and your sons parcels, to-wit: 03074112, 03074118, 03074101, 03074109, 03074107, 03074111, 030774106, 03074110, 03074105, 03074109, 03074105, 03074106, 03074116, 03014103, 03017103, 03015113, 03074117, 0307101, 03074103, 0307104, 03074116, 03015114, and 03017107. Mr. Wilkinson has moved his cattle on these parcels and has used the parcels for ingress and egress. For over 50 years Mr. Wilkinson has been accessing his property by cutting through these parcels on existing cleared land. In the recent months there has been a dispute about the use of this area. Mr. Wilkinson is entitled to use any of the easements listed on parcel map 247532.

Mr. Wilkinson realizes that removing fences and opening the easement areas will be costly. He wishes to propose an alternative option. As an alternative, he would like to come to an agreement that allows Mr. Wilkinson to continue to use the same path Mr. Wilkinson has used for over 50 years that cuts through your property. A written agreement outlining the area would need to be established. If this is not an option, then we request that you remove all barriers from all easements in compliance with the map number 247532.

I have attached copies of the maps outlining the parcels, roadways, and easements for your consideration.

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Further, this means that destroying the cattle guard going into Mr. Wilkinson's property on the southwest corner of his property may be a criminal act. The cattle guard was on an easement for a roadway; not on Albisu property. Mr. Wilkinson will be asking for damages for the cattle guard as well.

If you have any questions, please do not hesitate to contact this office. Our goal is to come to an agreement; however, a resolution is needed whether by agreement or court order. Please contact our office by May 1, 2018 if you wish to come to an agreement or with a date that you will have all easement areas opened.

Thank you,

A handwritten signature in black ink, appearing to read "Rendal B. Miller", with a stylized flourish at the end.

Rendal B. Miller

Enclosure

RBM/mlm

000286

April 23, 2018

Mr. Miller:

In response to your letter dated, April 17, 2018

Kimble Wilkerson trespassing upon my property and causing significant damage.

We are preparing full discovery on this issue and will be responding by May 1, 2018.

With photos, statements, mapping, and recorded deeds.

Firstly, the Wilkerson trespassed upon my ground at the point he left the county road at footage of over 220ft to cut my fence, destroy my grazing ground with heavy equipment and place upon my property a cattle guard which most likely removed from BLM ground. There are several individuals that are willing to attest to the fact they know that cattle guard was previously at the local dump road area. We will be providing photos and facts to back up our position on this illegal trespass and damage on or by May 1, 2018. The route and trespass did not fall into the realm of your explanation of the 30ft easement nor County easement as your letter states. I am not going to be party to a cattle guard that is as far as I am concerned was not owned by Mr. Wilkerson. Nor will I abide stolen property being placed on my ground. It is illegal to receive, store and or be in possession of stolen property. The cattle guard was moved back onto the ground of Mr. Wilkerson to avoid a criminal partaking on our behalf after giving Mr. Wilkerson ample time to do so himself he refused. Mr. Wilkerson can not demand damages for a cattle guard he did not own or if he does produce a receipt for cattle guard. Detailed photos of the cattle guard have been taken, also during the removal of the cattleguard off my property also done showing and proving the cattle guard did not sustain any damage. There is no blocking or barriers in or on the county easement. I am in process of requiring the county to move their roadway wrongly moved off the "offered for dedication" not deeded easement provide to them for passage. They have offered to abide. Further note and law explanation will follow on the 30ft. easements you are referring to. Proposed only for the future development of the subdivided land that is not cleared nor developed but remains in its original state of native range and grazing land. Again, I will not tolerate Mr. Wilkerson trespassing on my ground in any manner. The property has been posted for 30 years NO TRESPASS. Mr. Wilkerson has not been in ownership of his ground for 50 years. Mr. Wilkerson's forceful entry without permission will not be allowed.

Mr. Wilkerson could have easily gone down the road another few hundred feet and placed this mess on his own ground. This was a malicious intentional act on Mr. Wilkerson's behalf and wrongfully damaged myself and family.

In addition, I must consider the fact that my Ex-wife Shannon Albisu was on title to this ground you have referred to causing my concern to the issue of conflict of interest.

April 25, 2018

Mr. Miller:

I have researched the deeds involved and can not find the easement you stated Mr. Kimble had or owned on my ground.

Would you please forward to me this document as your earliest convenience? It is common knowledge that just because an easement exists on a piece of ground does not mean that the public has ownership. Surely that isn't what you are implying. I await the easement documents giving Mr. Kimble this right you are claiming.

Thank you,

Ty Albisu.

000288

April 30, 2018

Rendall Miller Attorney at Law

Kimble Wilkerson Easement Claim / Vandalizing private property

April 17, 2018, I received a letter from your office informing me that you are now representing Mr. Wilkerson.

Previously I forwarded to you many photos and the explanation of my position on the matter.

My position remains the same in this matter. Mr. Wilkerson does not have any easement on my ground.

If he does I would like to see proof of your claim it would be described on his deed or recorded.

Mr. Wilkerson will not be allowed to use my ground nor trespass on my ground for any purpose.

Mr. Wilkerson is advised to cease and desist in doing such, continued criminal trespass will be addressed with in the scope of the law, and legal system.

Mr. Wilkerson will not be offered any form of easement on my ground.

We have suffered many hardships due to Mr. Wilkerson's malicious and wrongful actions on our ground in many issues and past actions, causing to us great financial burden. It will not be tolerated any further.

A compromise can not be met. Several attempts have been made in the past to do so, resulting only in being further damaged by Mr. Wilkerson time and time again.

It is with great regret the deterioration of ranching neighbors has resulted in this, however every attempt has been made to avoid this result.

We have suffered damage by Mr. Wilkerson malicious behavior and actions photos of the last incident when Mr. Wilkerson went on our ground again without permission, are appalling, below is an example of more of Mr. Wilkerson's actions.

Cattle being shut off from water for several days, Mr. Wilkerson coming onto ground without permission closing gates that should not have been closed and were left open purposely for cattle to move from one field to another for water. The cattle suffered greatly.

Mr. Wilkerson bringing his cattle onto our ground when our cattle were grazing our field and running our cattle into his herd causing them to scatter and be misplaced moving them to different fields along with his cattle. Then leaving gates open.

Coming and going with his cattle and heavy equipment onto our ground out of the bounds of the alleged easement crossing the entire property without notice but just whenever it pleased him causing damage to our feed and grazing as his cattle fed on our ground and tromped down the grass and feed for our cattle.

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Bringing his backhoe onto our ground and into our creek beds and tearing out head gates so we could not irrigate our meadows, instead diverting our water onto his own ground by building deep ditches to divert the water.

Ordering a survey for the connecting ground and fields then not paying for it, we had to pay cost the amount of \$7000.00. Then at Mr. Wilkerson's insistence moved 1000's of feet of fencing at our cost.

We have been more then workable at many times only to receive the back of his hand.

We have no agreement with Mr. Wilkerson what so ever and do not intend to pursue any.

The cattle guard was not placed on any easement belonging to Mr. Wilkerson. Mr. Wilkerson has no easement on my ground. Mr. Wilkerson was accessing the cattle guard by trespassing across my ground at over 200 feet. The easement in which you refer to is for the private use for the land parcels within the boundaries of proposed subdivision not a public right away, intended for future development when development occurs. What you propose is beyond the intended use.

This is only a few of the issues we have suffered by Mr. Wilkerson's abuse. The ground has been posted with no trespassing signs since our purchase 30 years, long before Mr. Wilkerson took ownership of his father's property. By law we are protected from a prescriptive easement even though Mr. Wilkerson has aggressively, maliciously, and at time has shown assaultive behavior towards us. We choose to completely sever any type of involvement with him what so ever, as each time we do it results in damage and loss to us. We cannot nor do we trust him. We do not go onto his ground he needs to show same respect. Mr. Wilkerson is to stay off our property. Again, as stated before Mr. Wilkerson could have simply gone a small distance down the road and put the cattle guard in on his own land he is not land locked, the county road runs adjacent to his land. He would not have had need for a cattle guard, access was very simple. He did this only to cause damage, and harassment by vandalizing our ground as he did. This was a calculated, consistent of his treatment towards us, and no less than hateful action by Mr. Wilkerson. There was absolutely no excuse or need for what he did or has done to us for many years. We could have easily pressed charges against him. We are prepared to go forward with this action and have many witnesses to these facts to whom he has also damaged in same as manner.

Sincerely

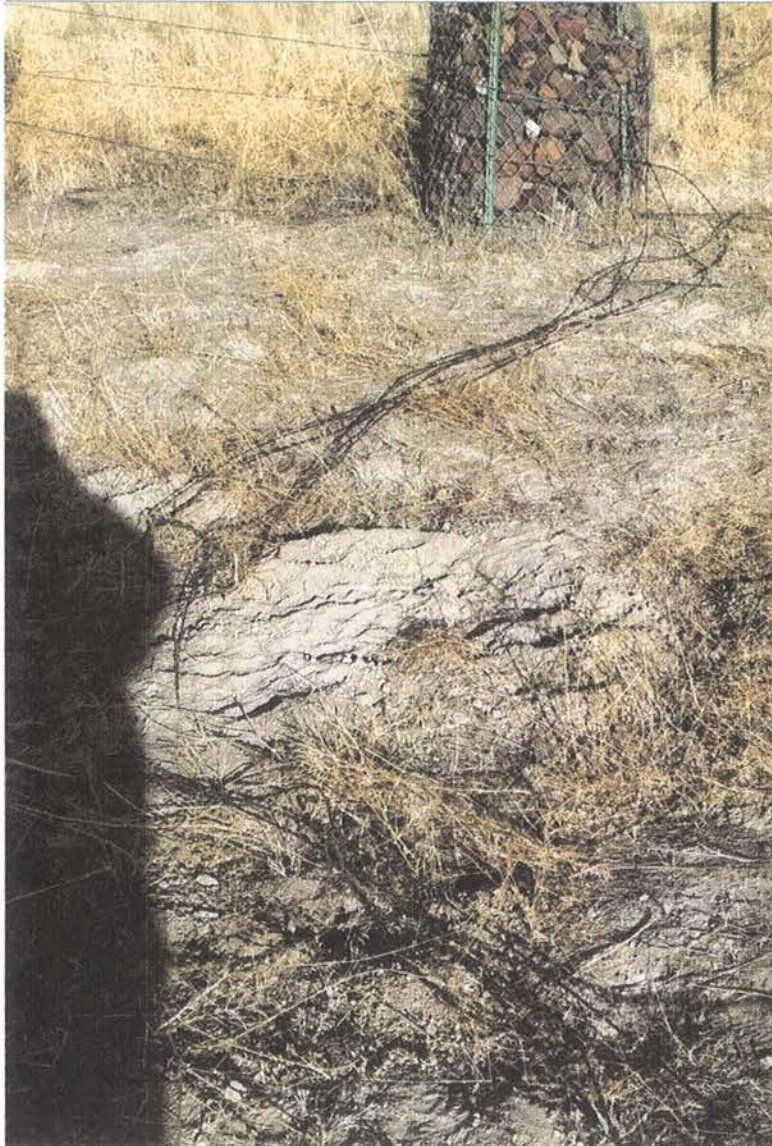
Ty Albisu



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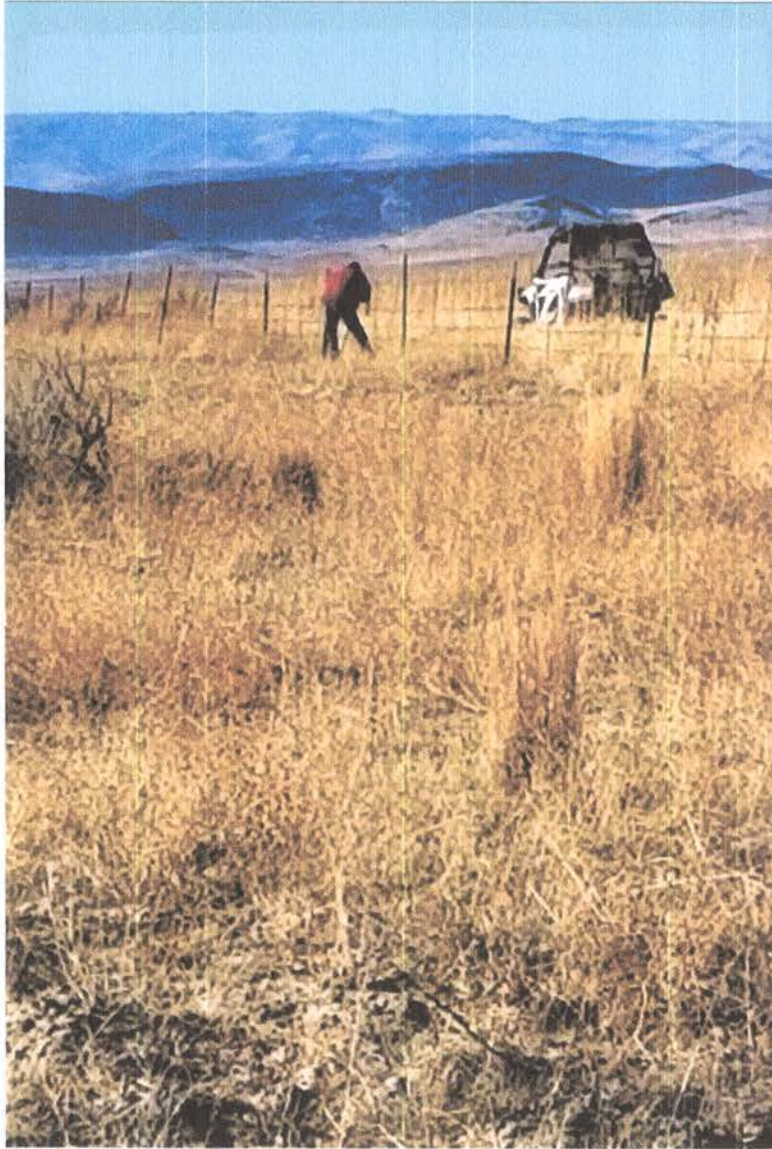
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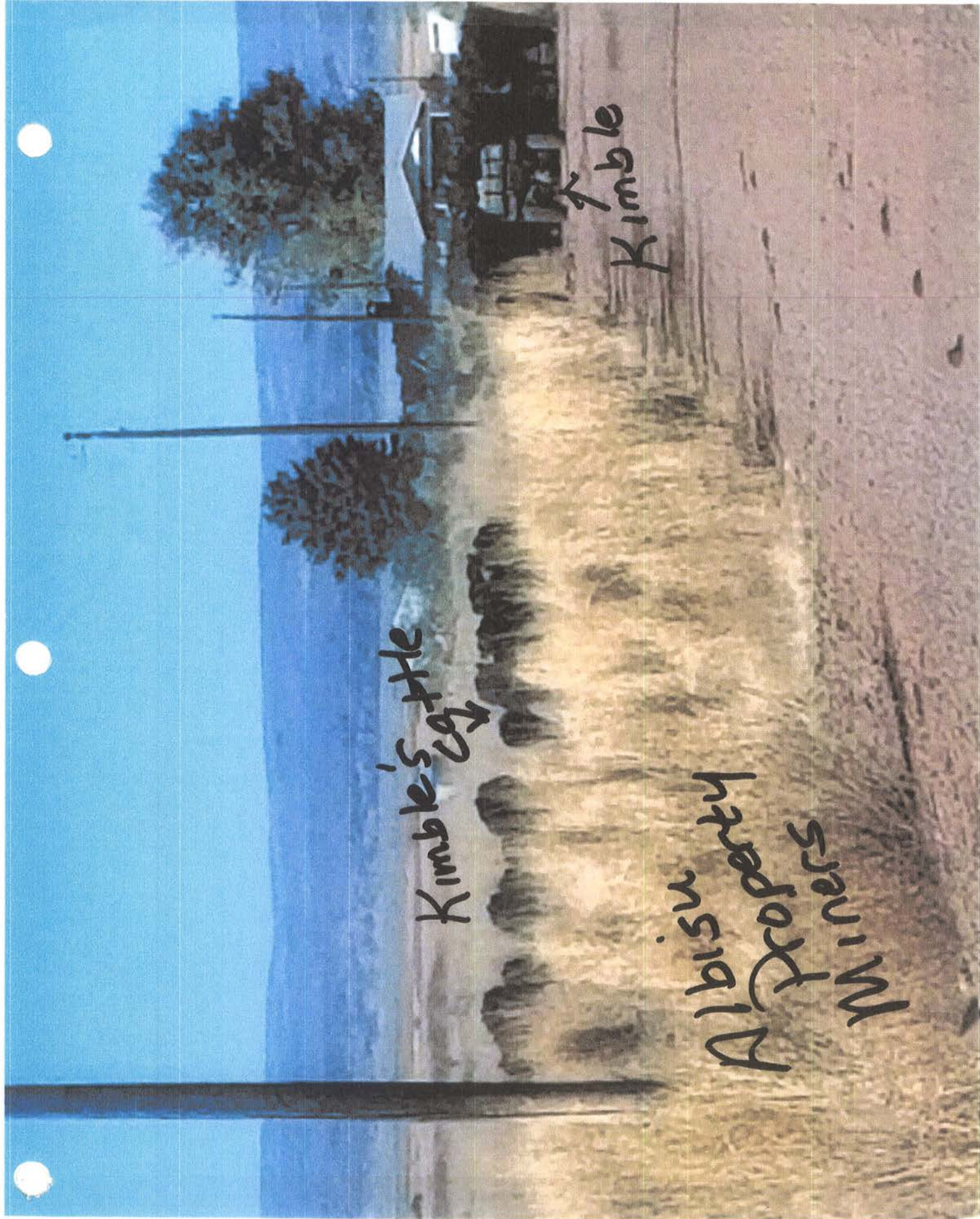
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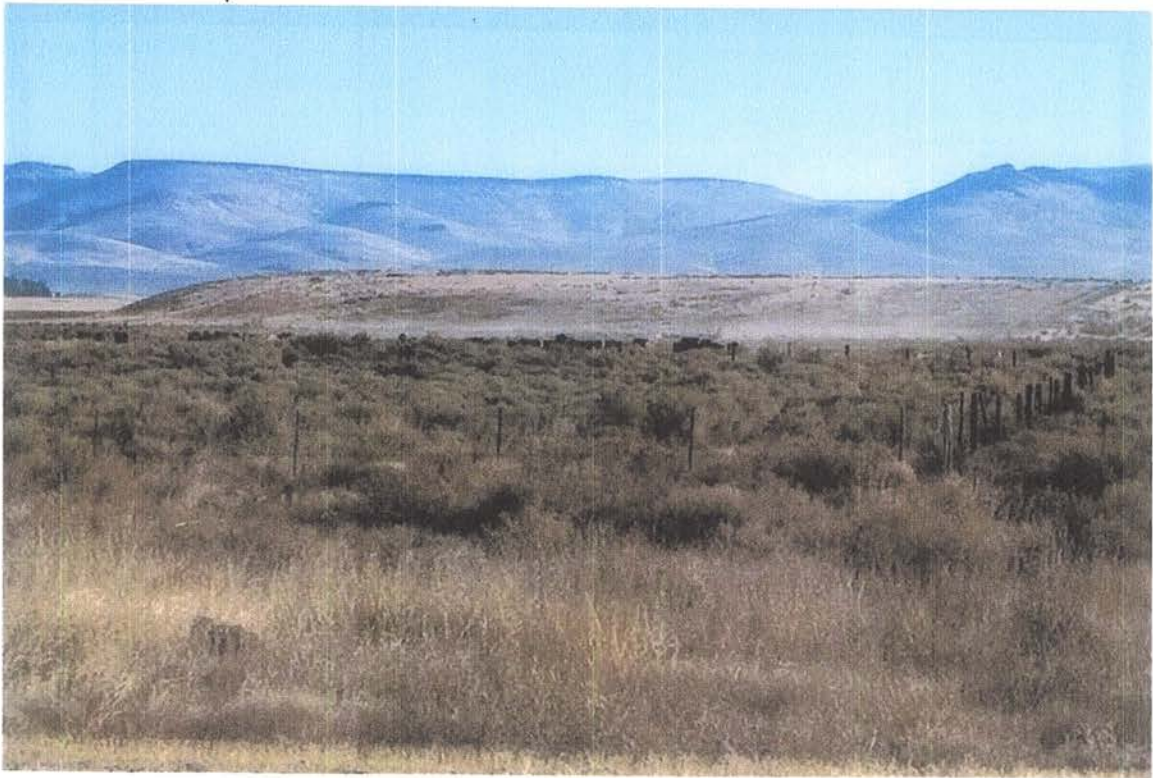






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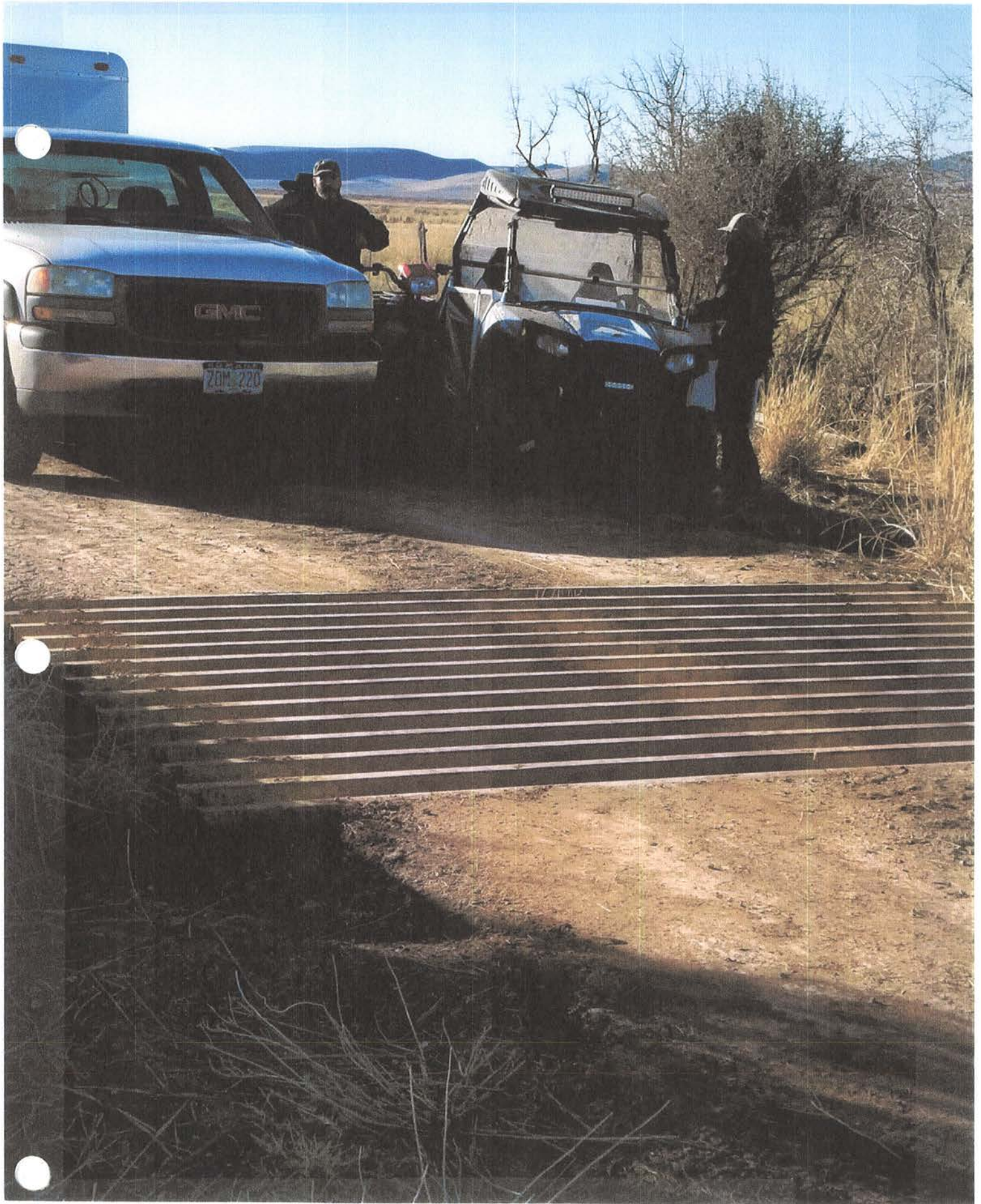


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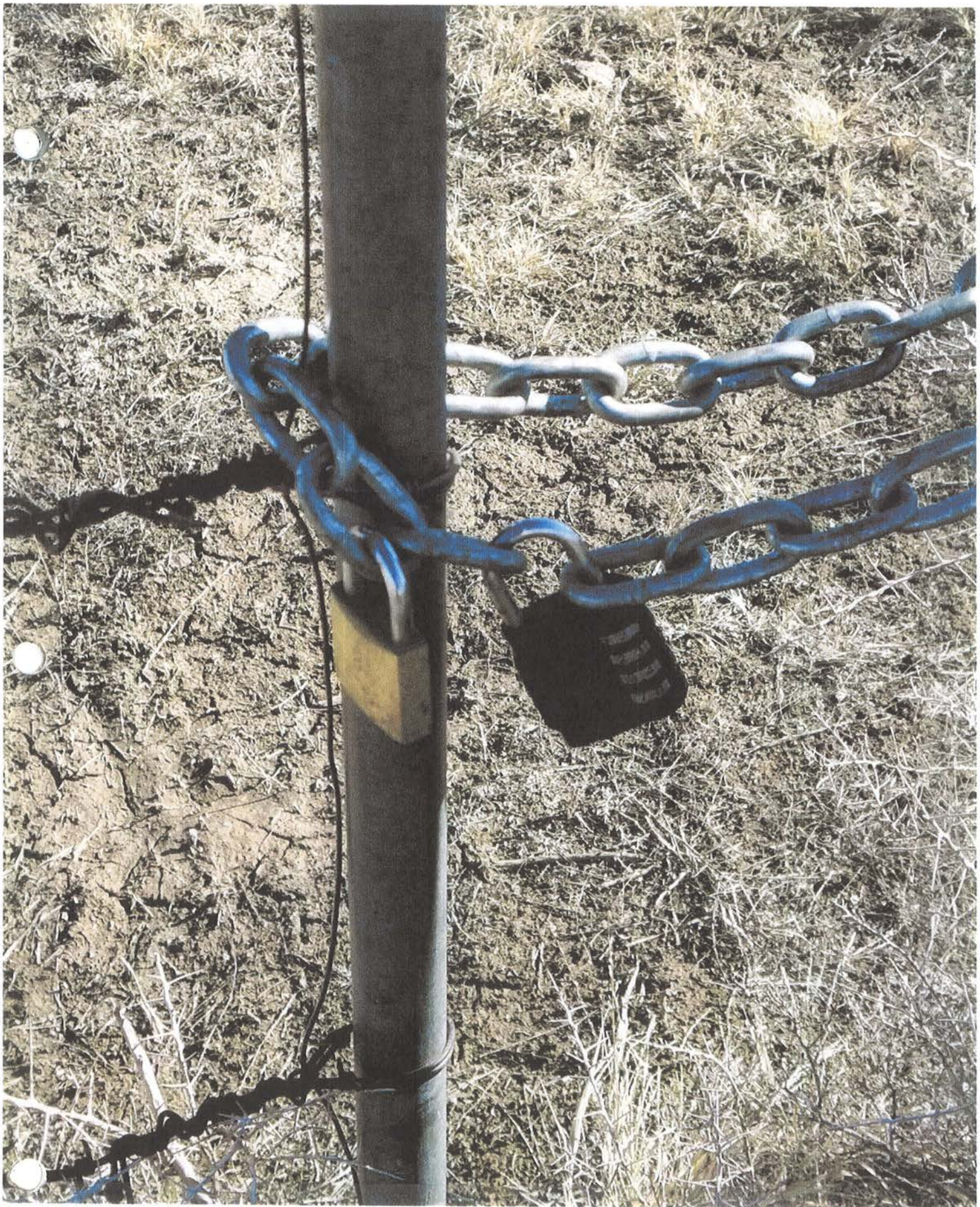
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Kimble had
one this to
all gates he
uses.

Kimble Wilkerson's
Lock Cut From
Gate #2 To allow
my entry into My
Property

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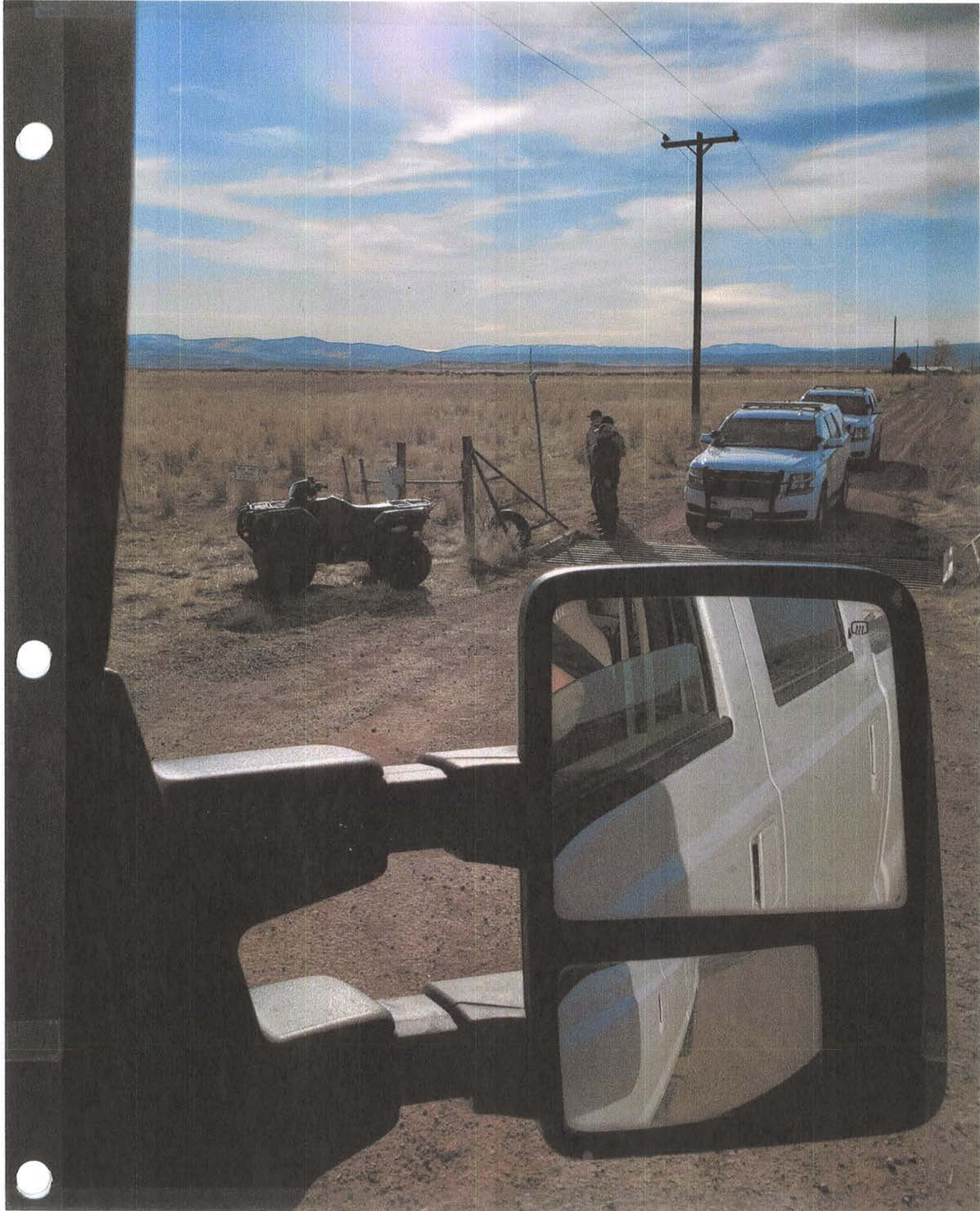


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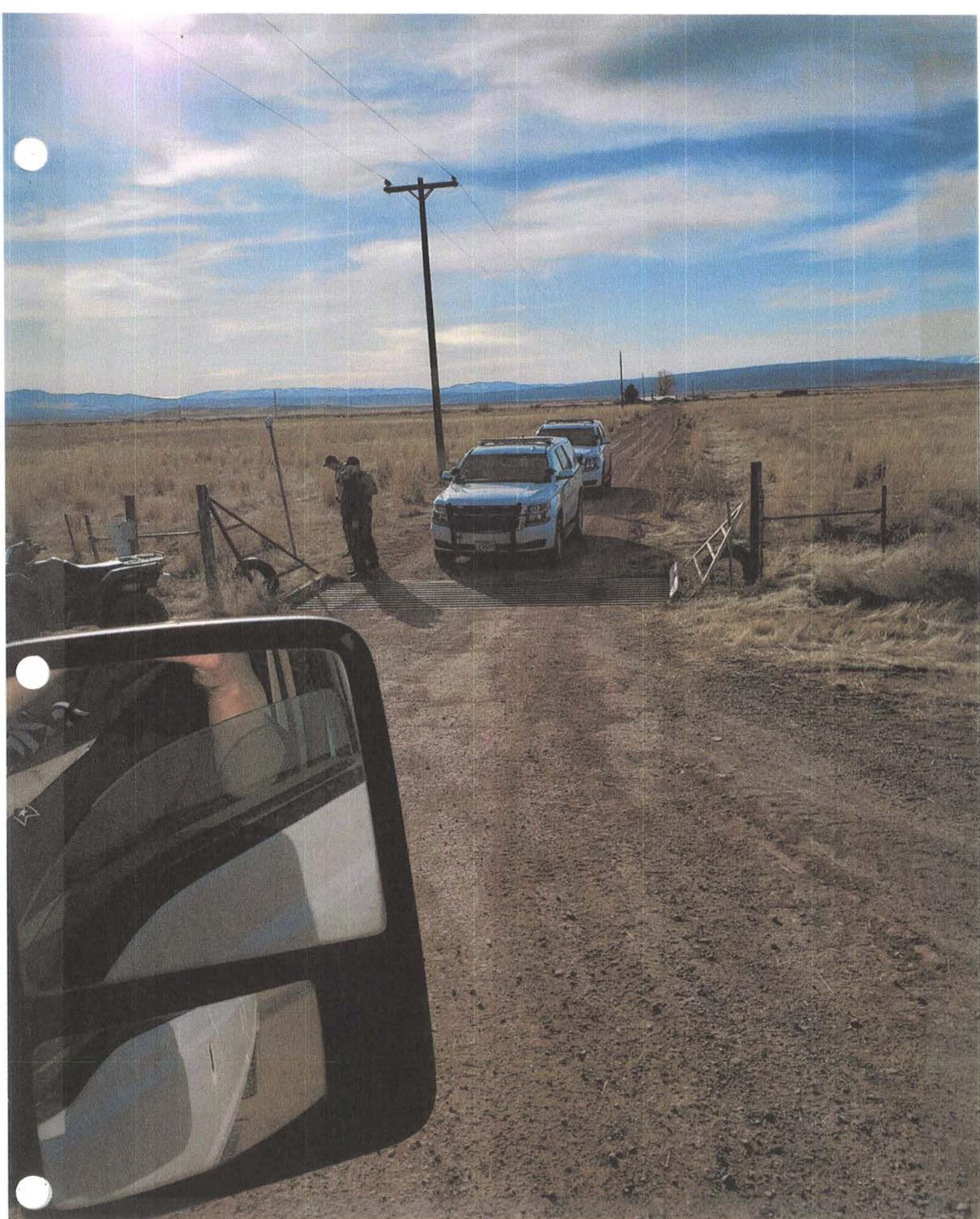


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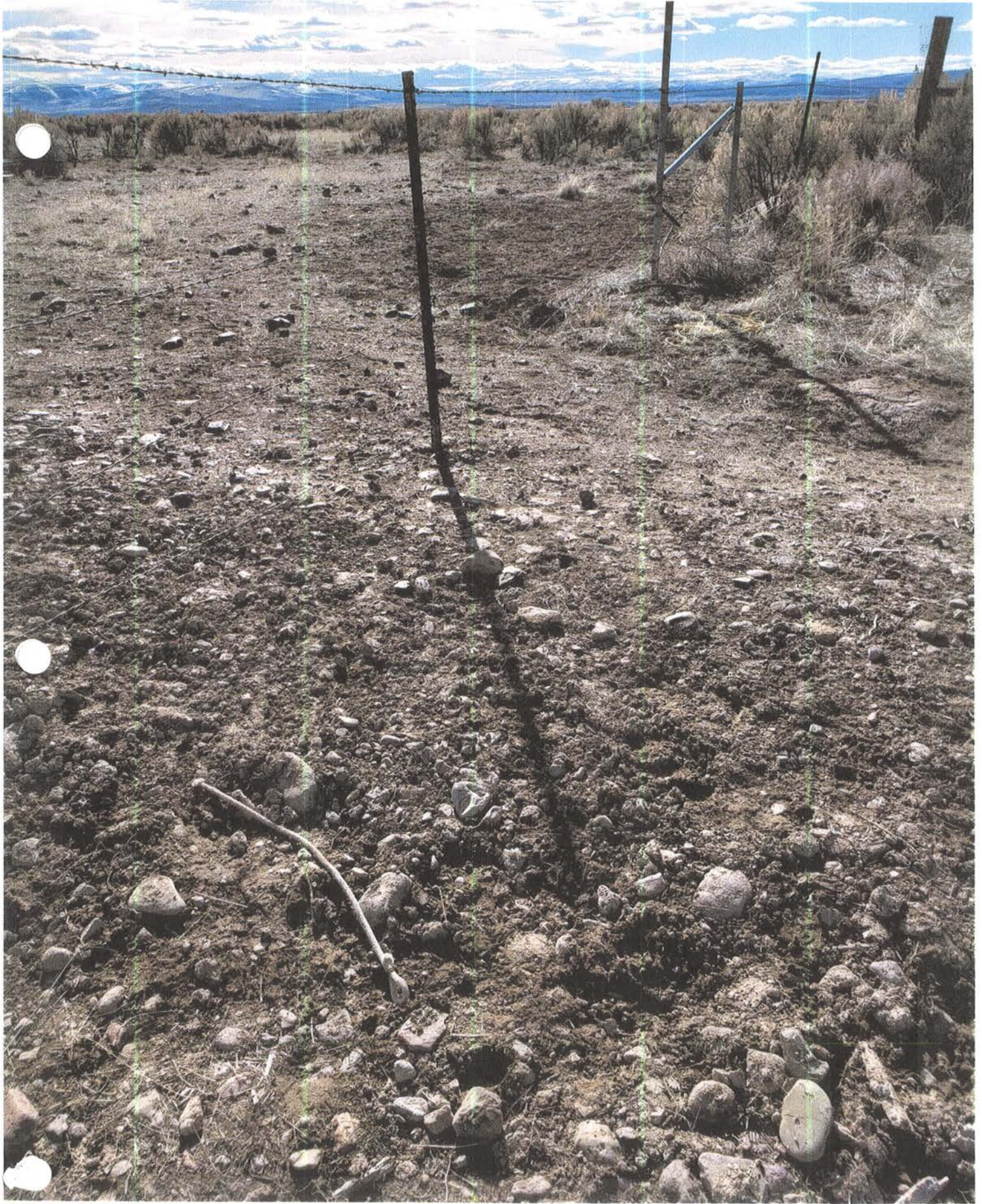


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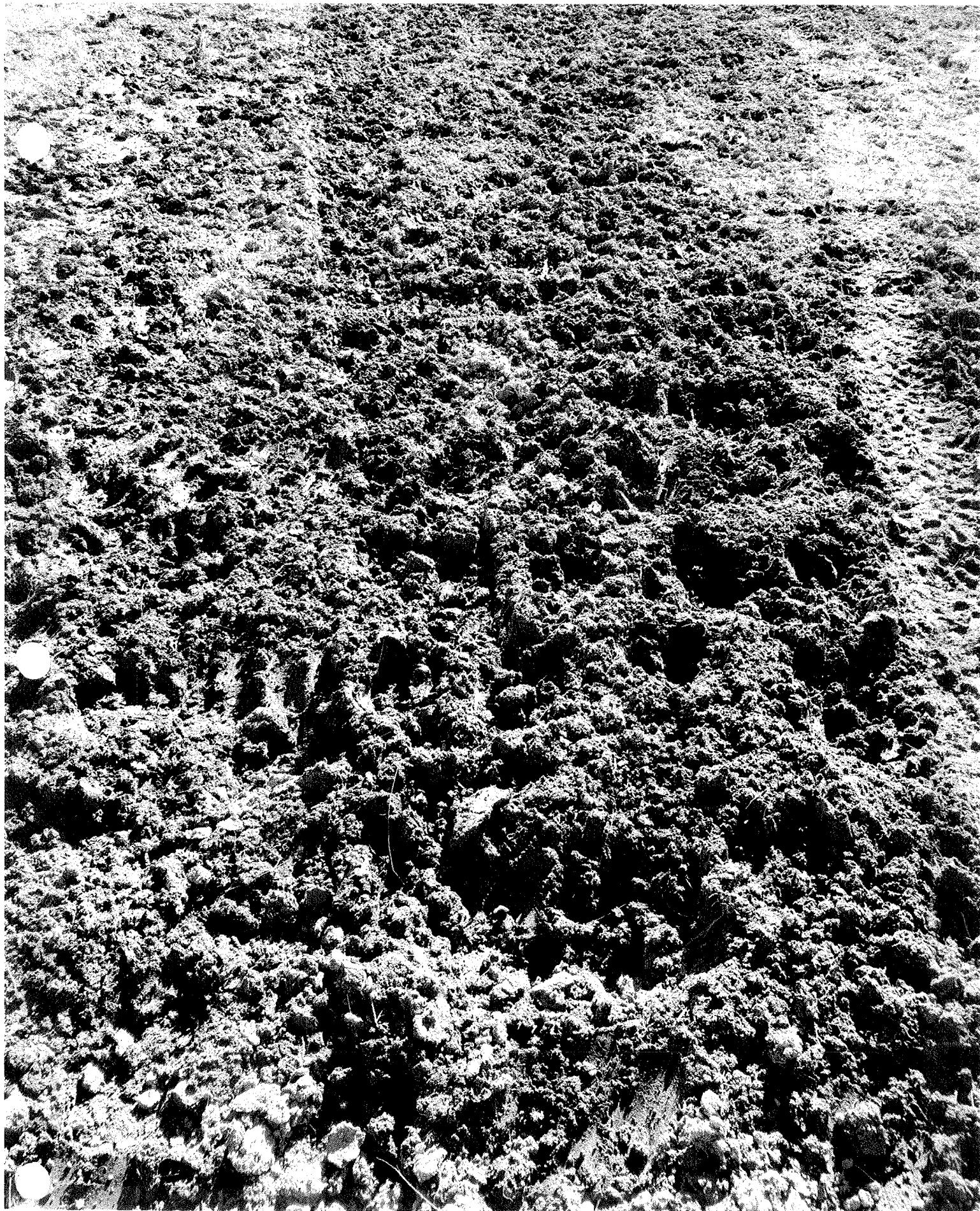
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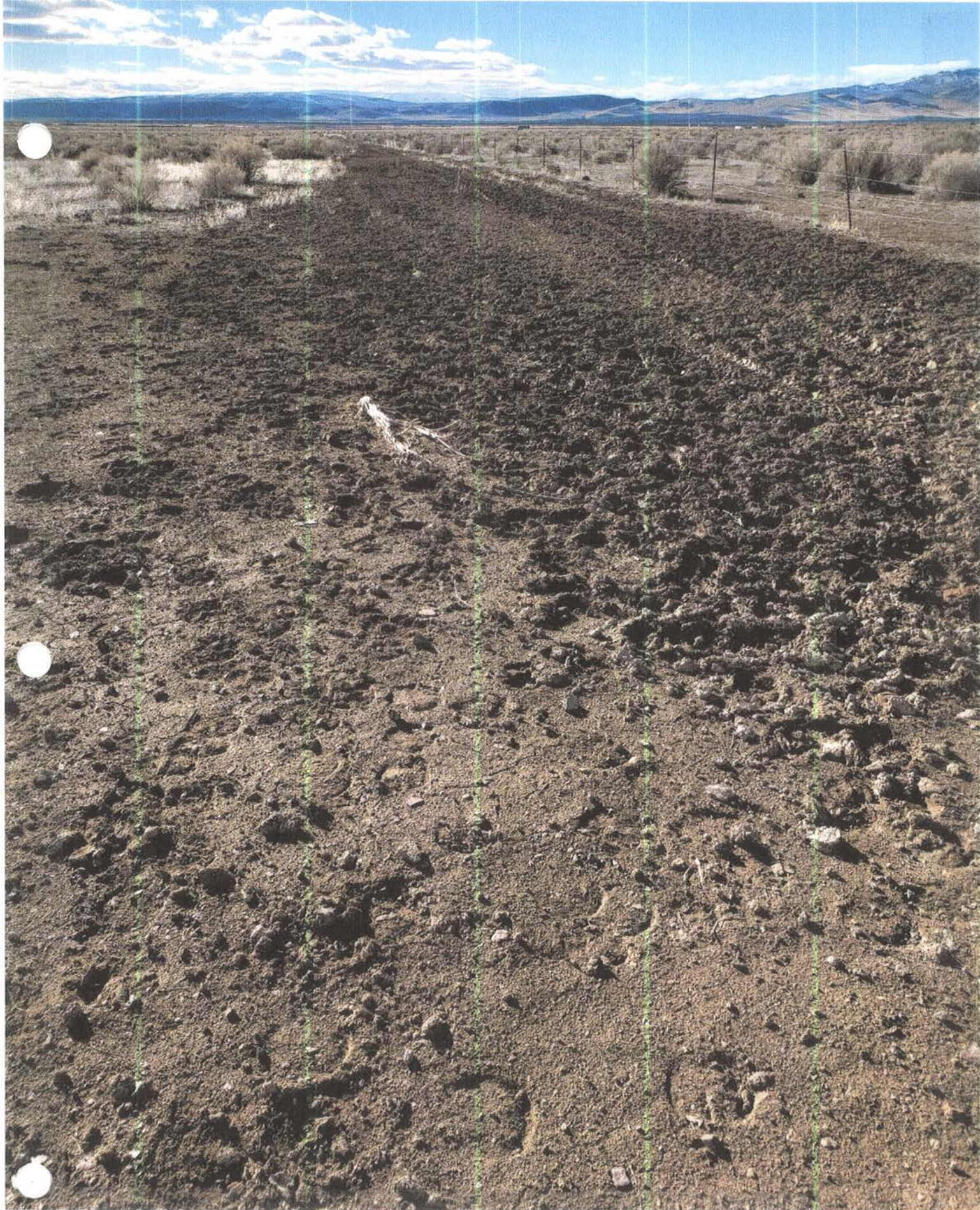
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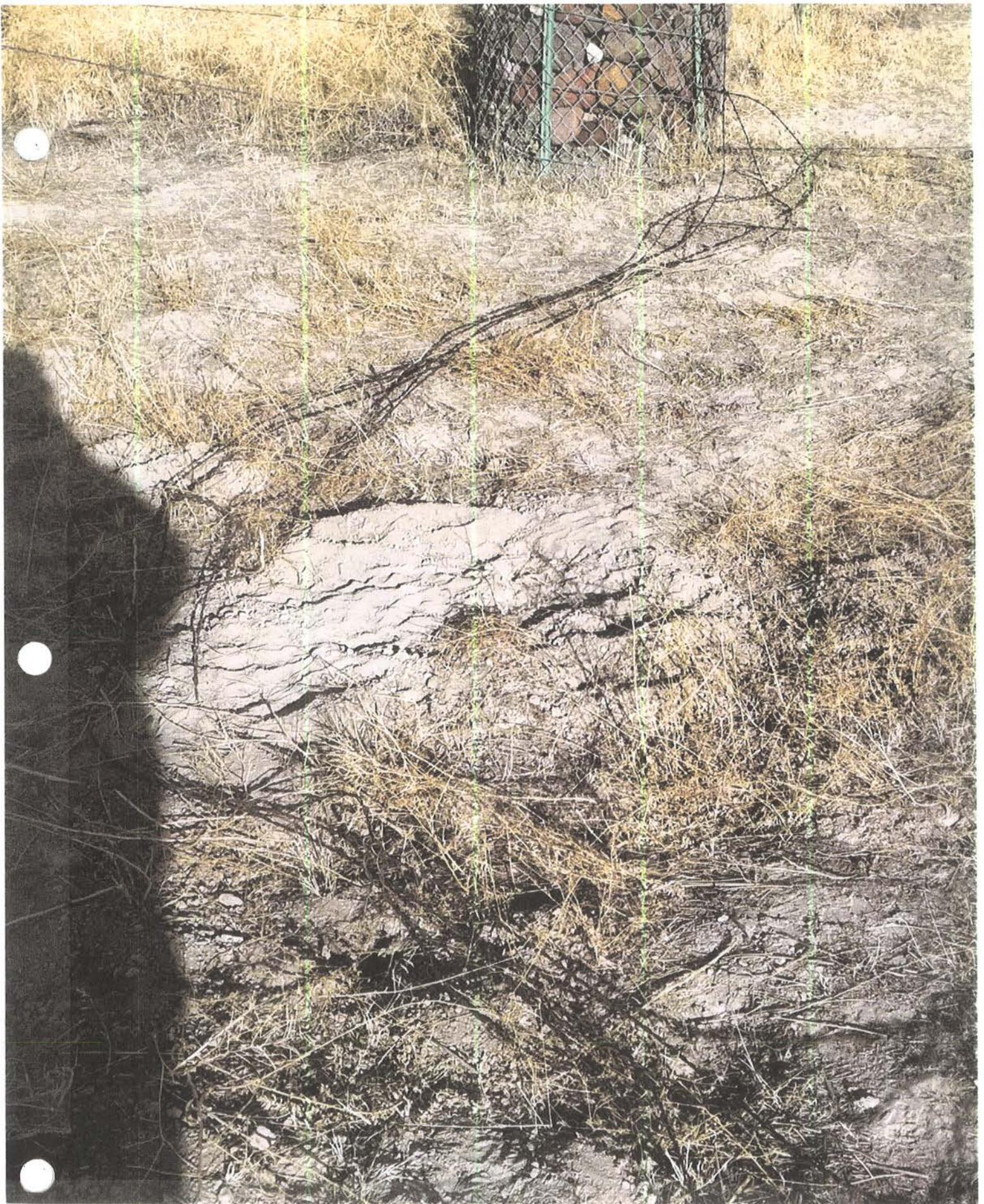
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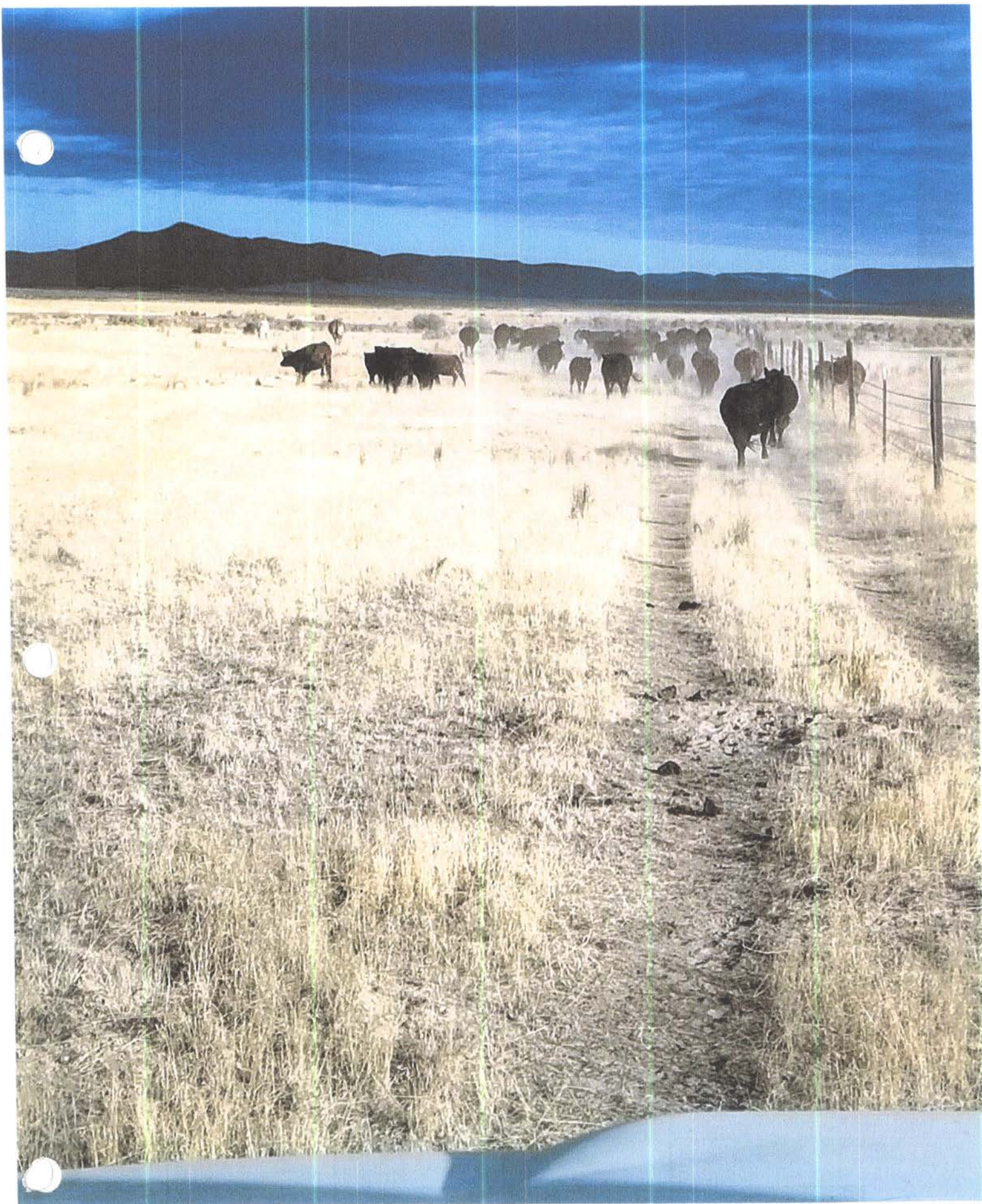
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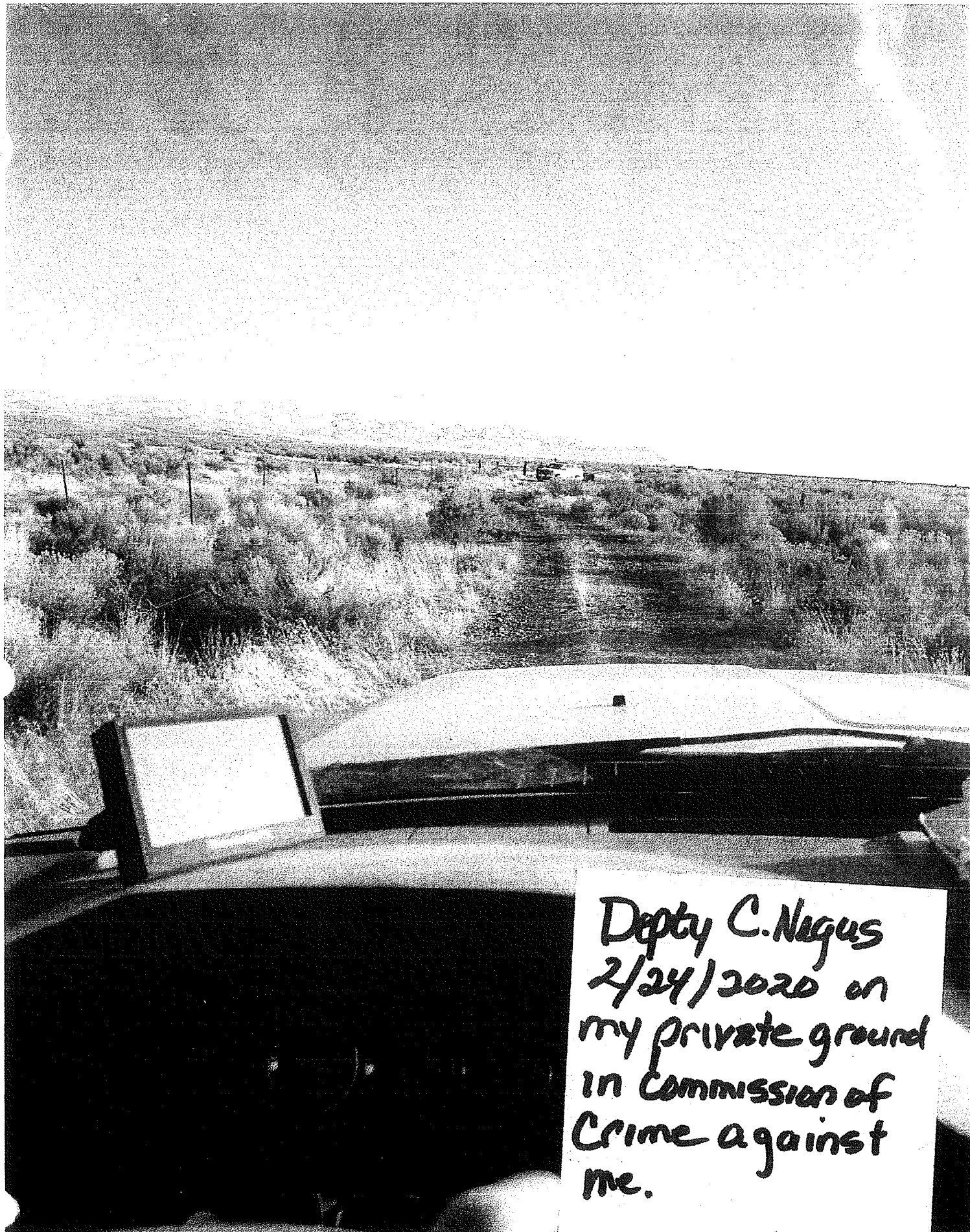


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Kyle / Casey Negus
Assist Wilkinson in Oct 16
Breking Court order 2019
Trespassing.
Hyland Wilkinson Jimble Wilkinson
Barry Wilkinson Mark Williams
Trespassing!



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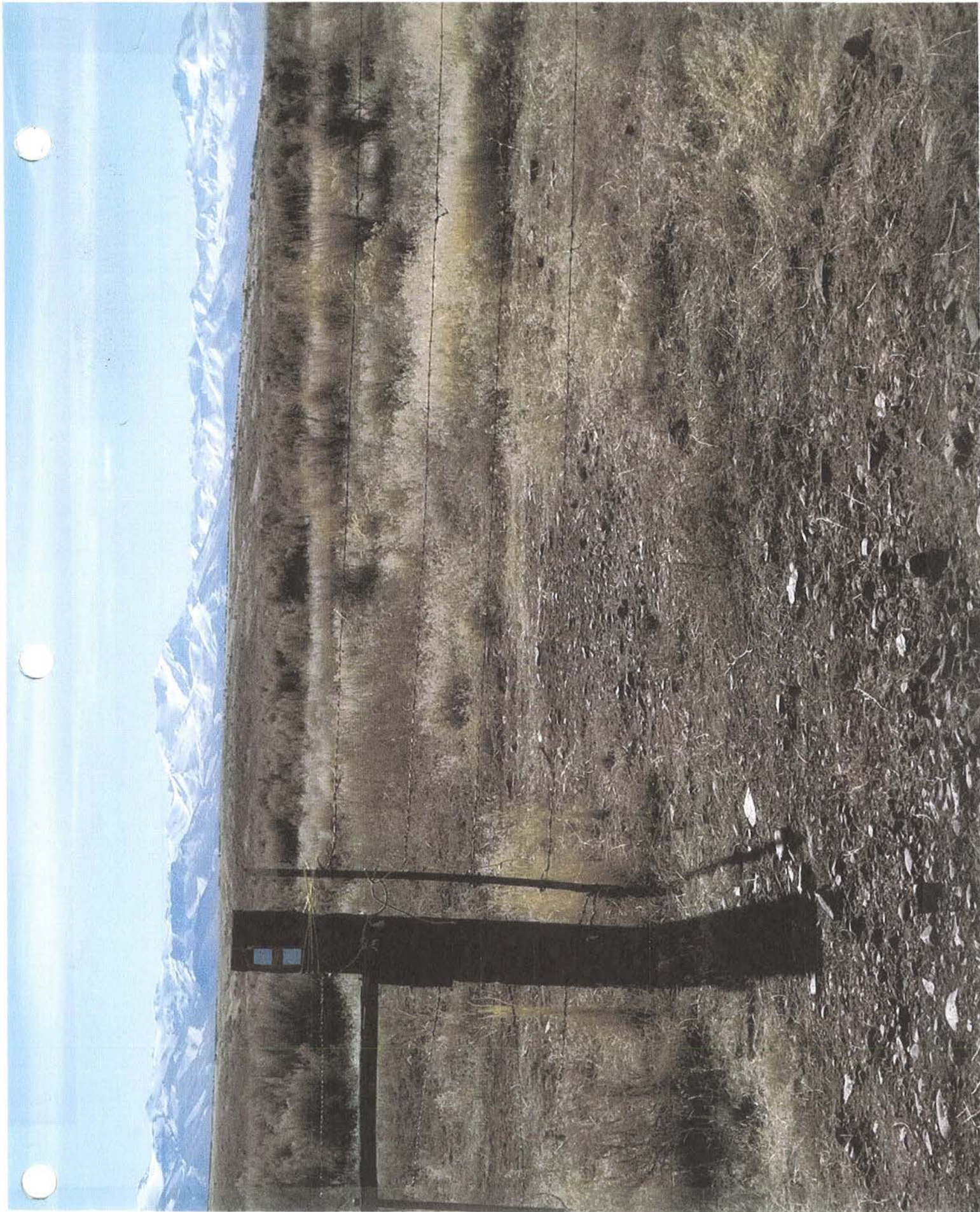
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Telephone: 775.235.6786

Attorney for Appellants

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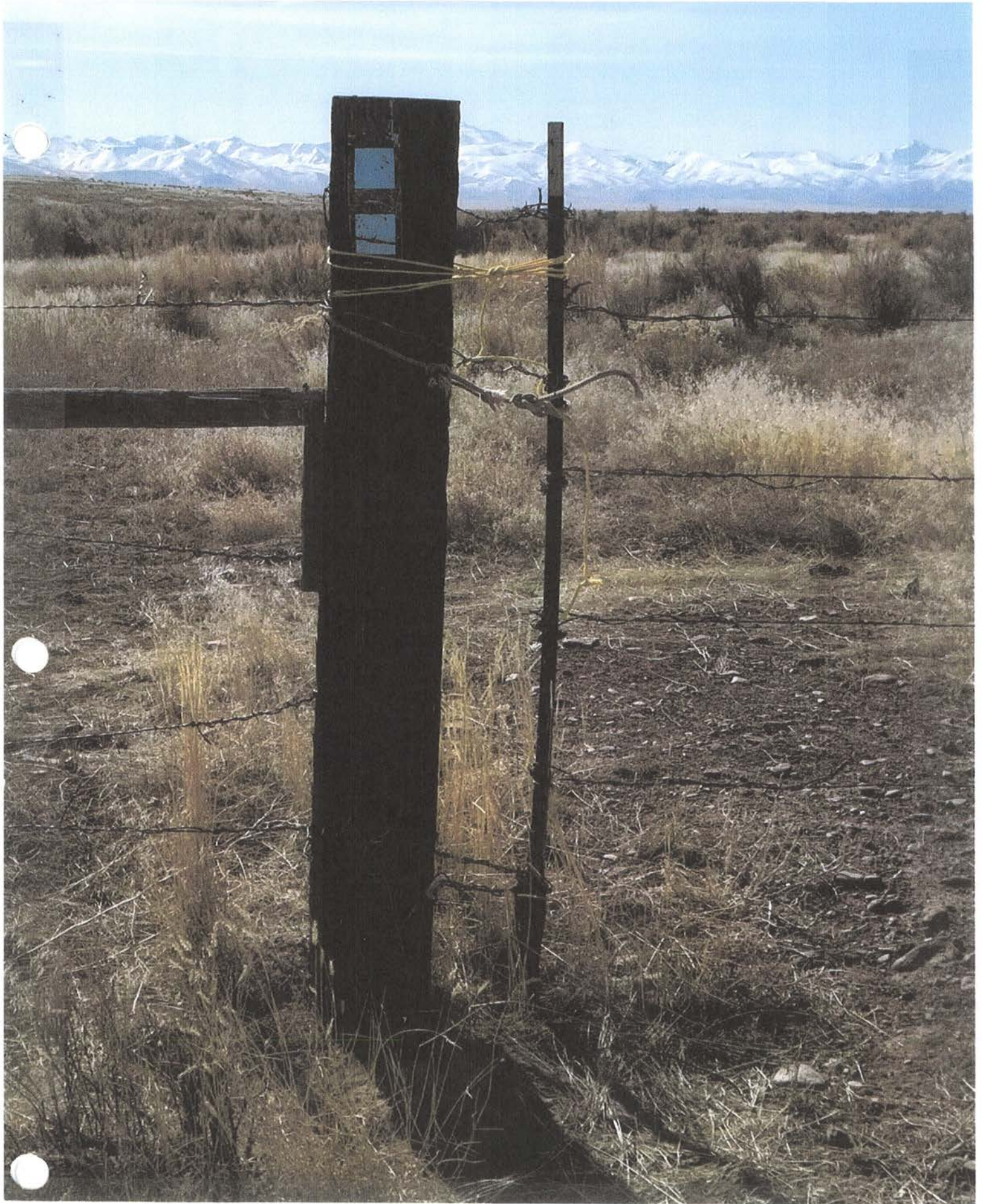
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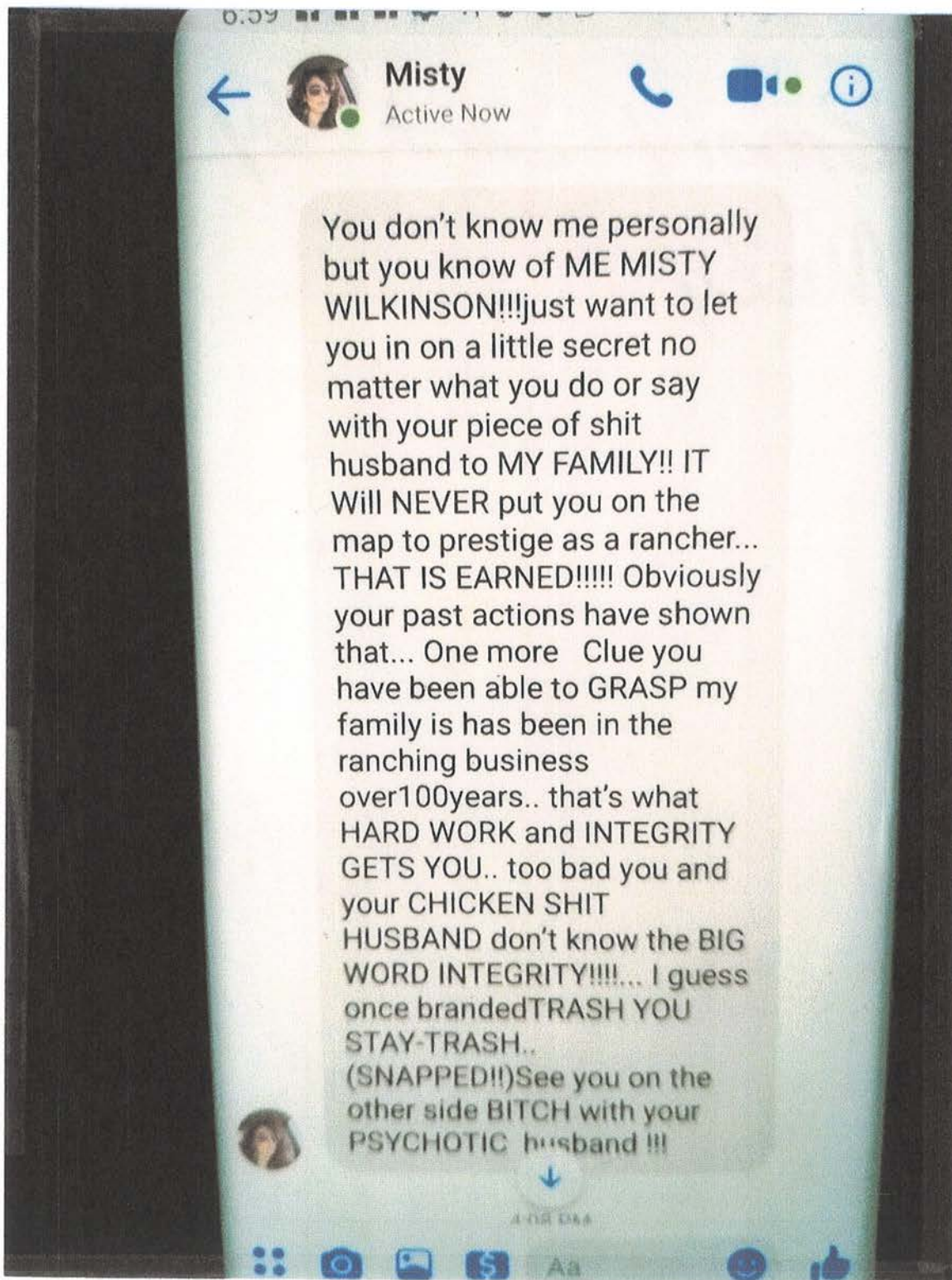
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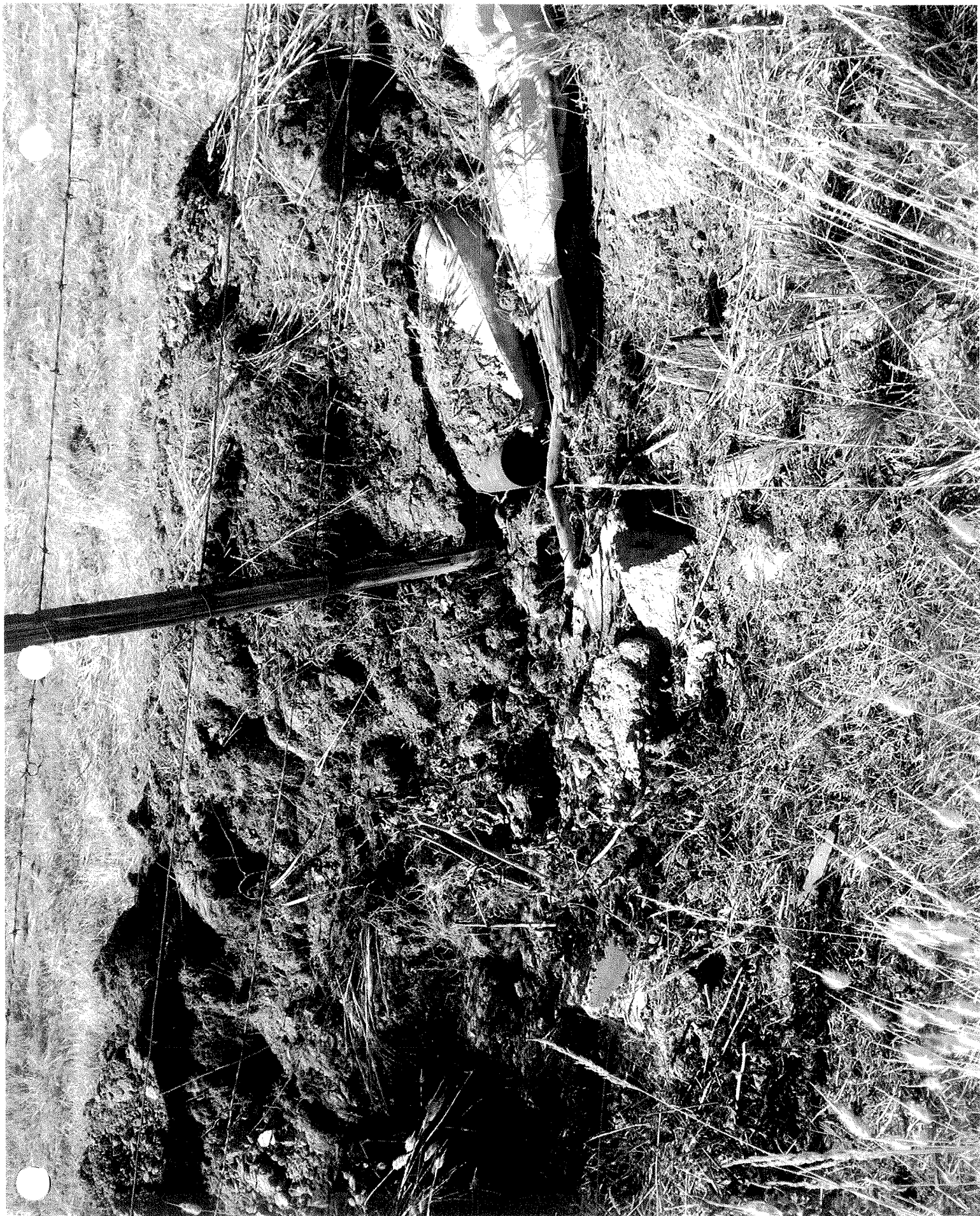
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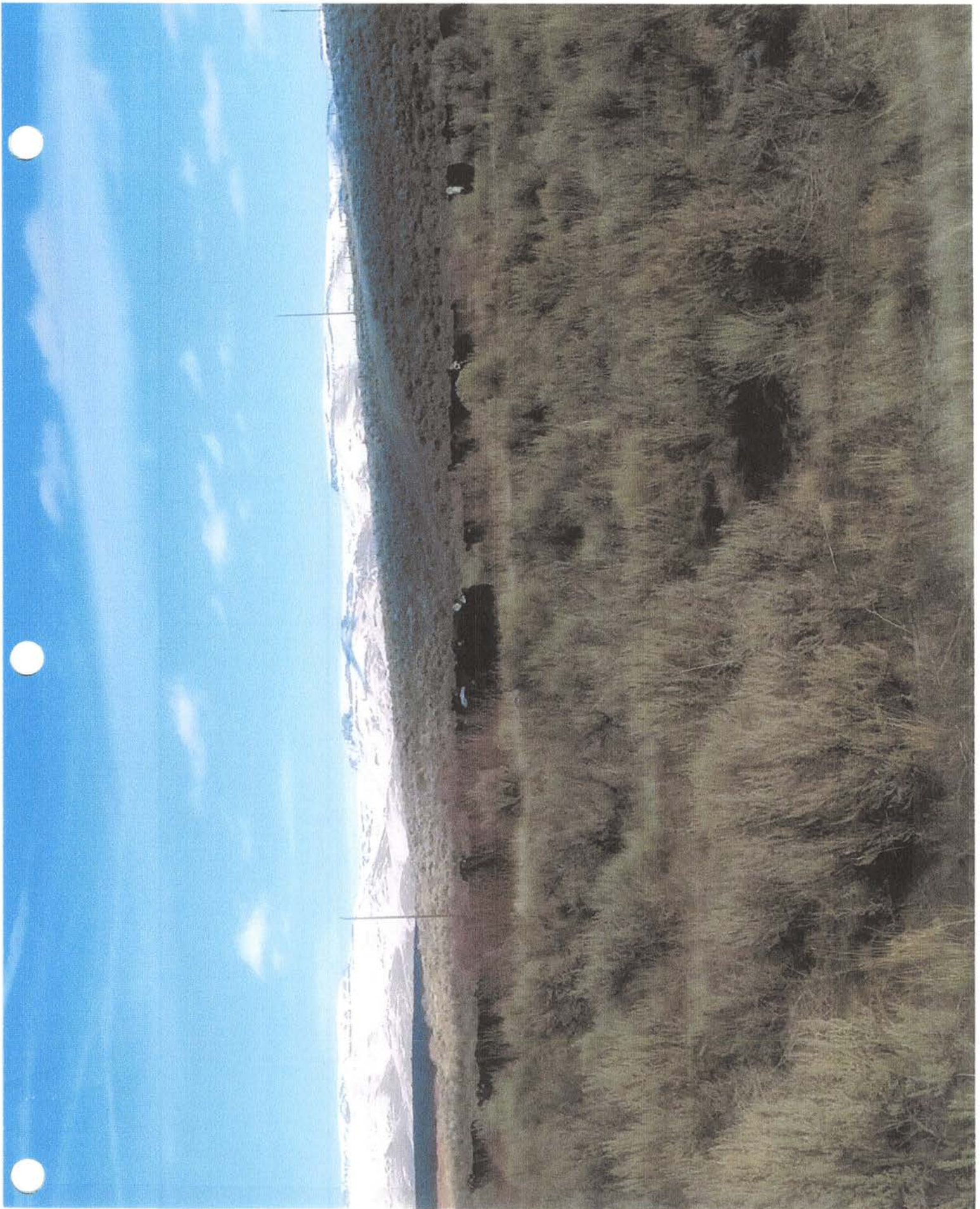
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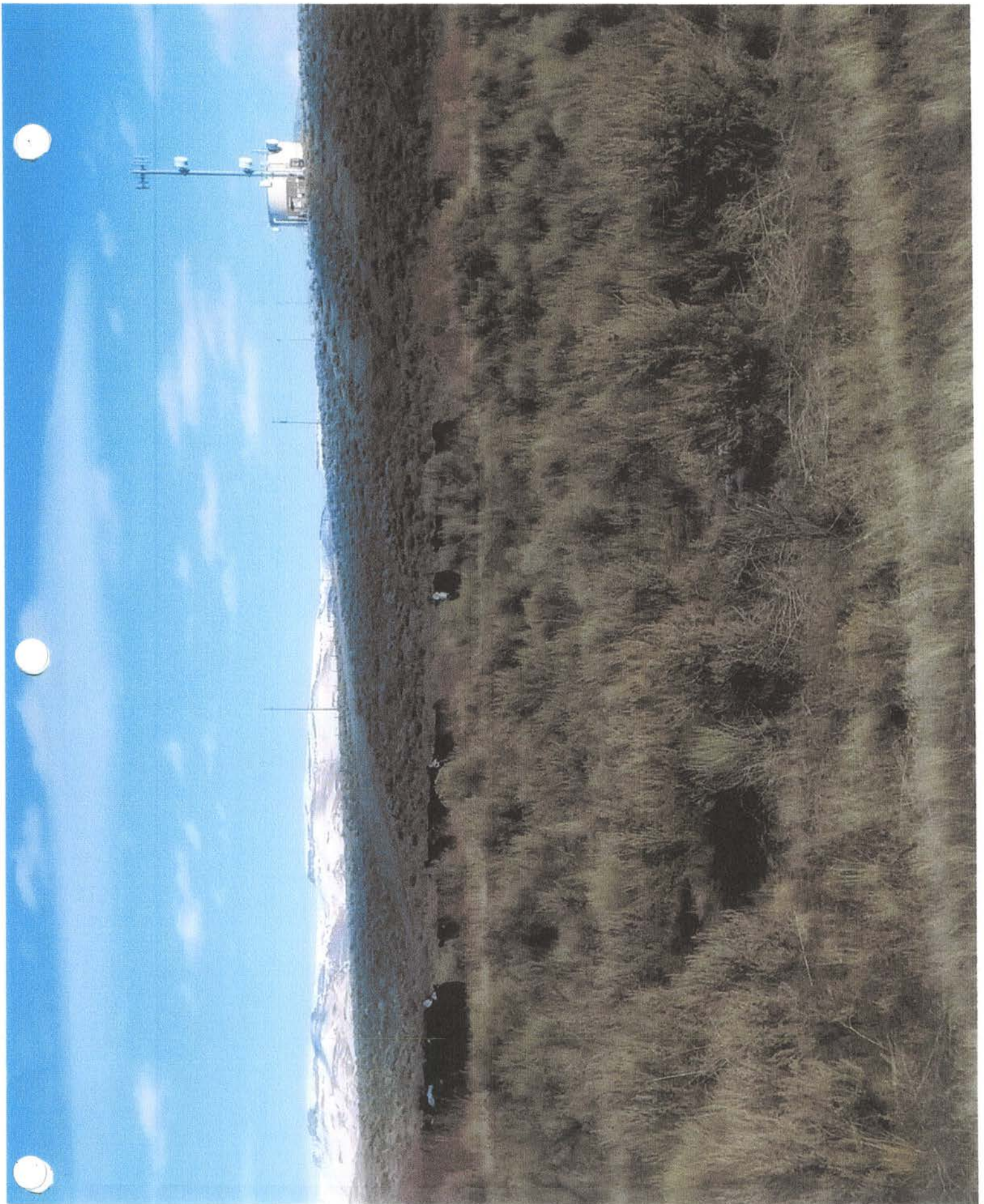
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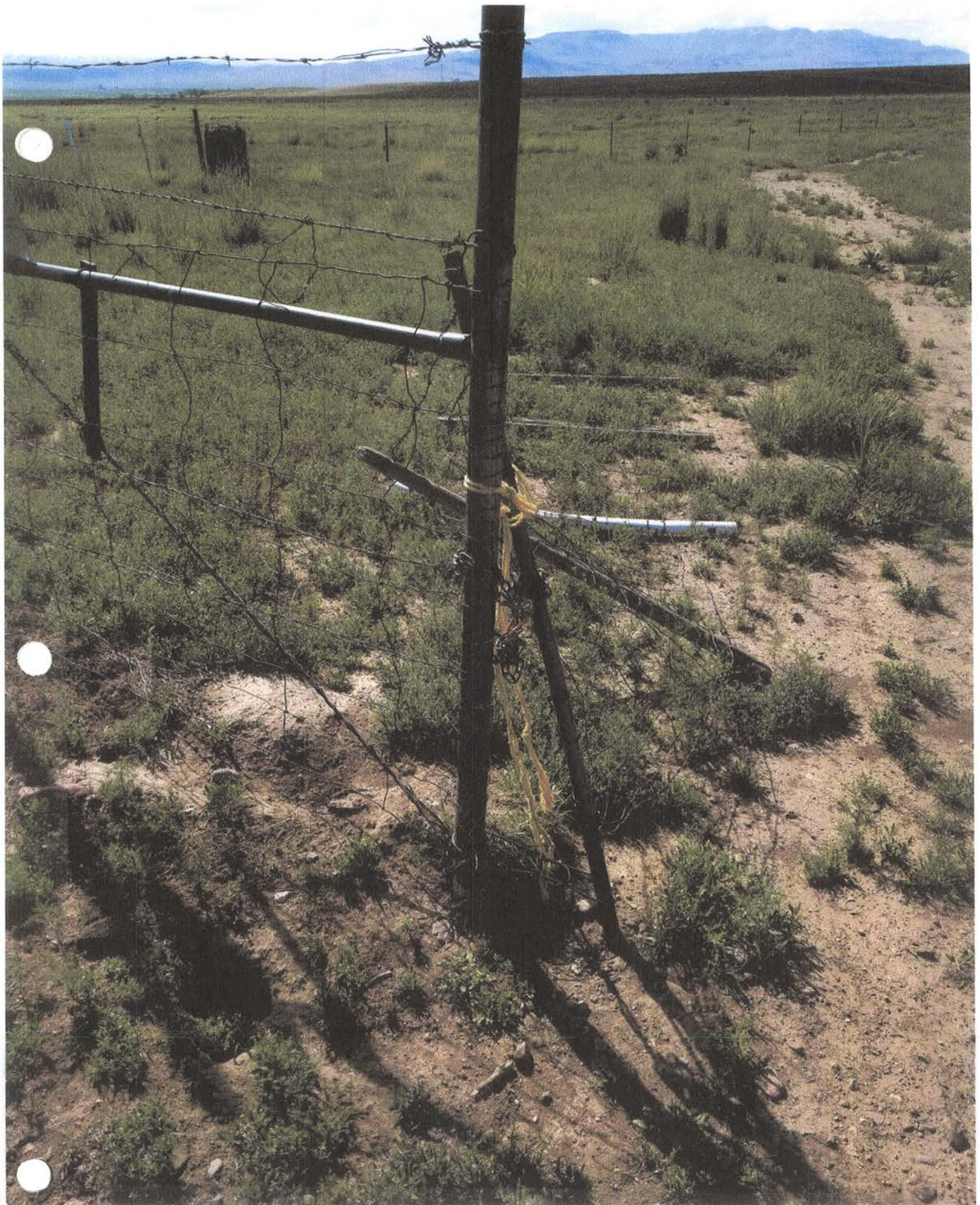
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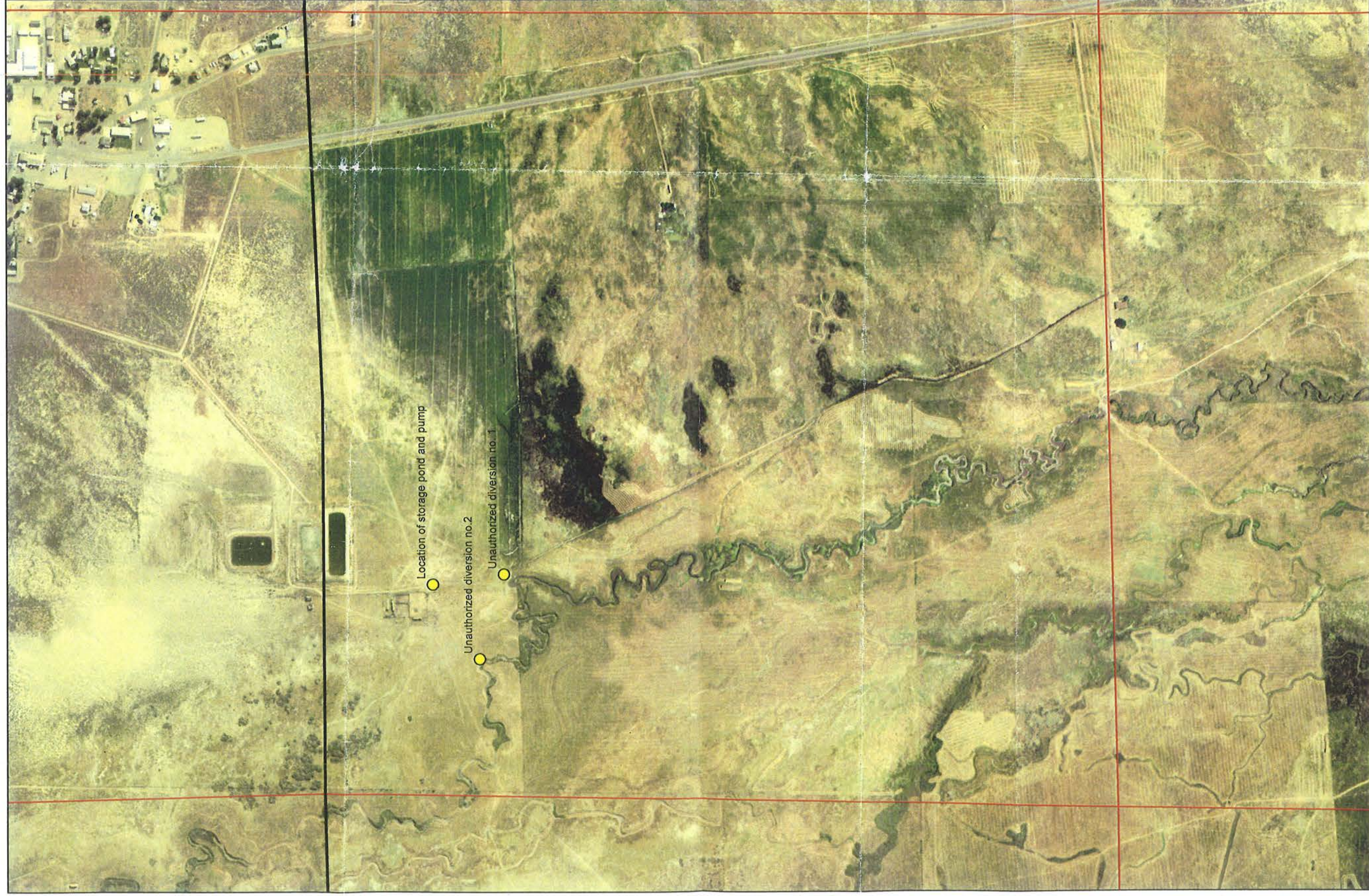
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Quinn River Field Investigation

June 4, 2008

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Legend

● Field investigation

□ Township line

□ Section line



0 250 500 1,000 Feet

2006 NAIP Aerial Photography

This map is intended for illustrative purposes only and should not be relied upon as to the location of any legal markers.



State of Nevada
Division of Water
Resources
901 S. Stewart St.
Carson City, NV 89701

000291

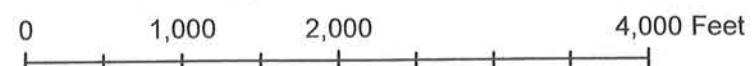
St. Martins Creek FI 7-16-08



2006 NAIP Aerial Photography

Legend

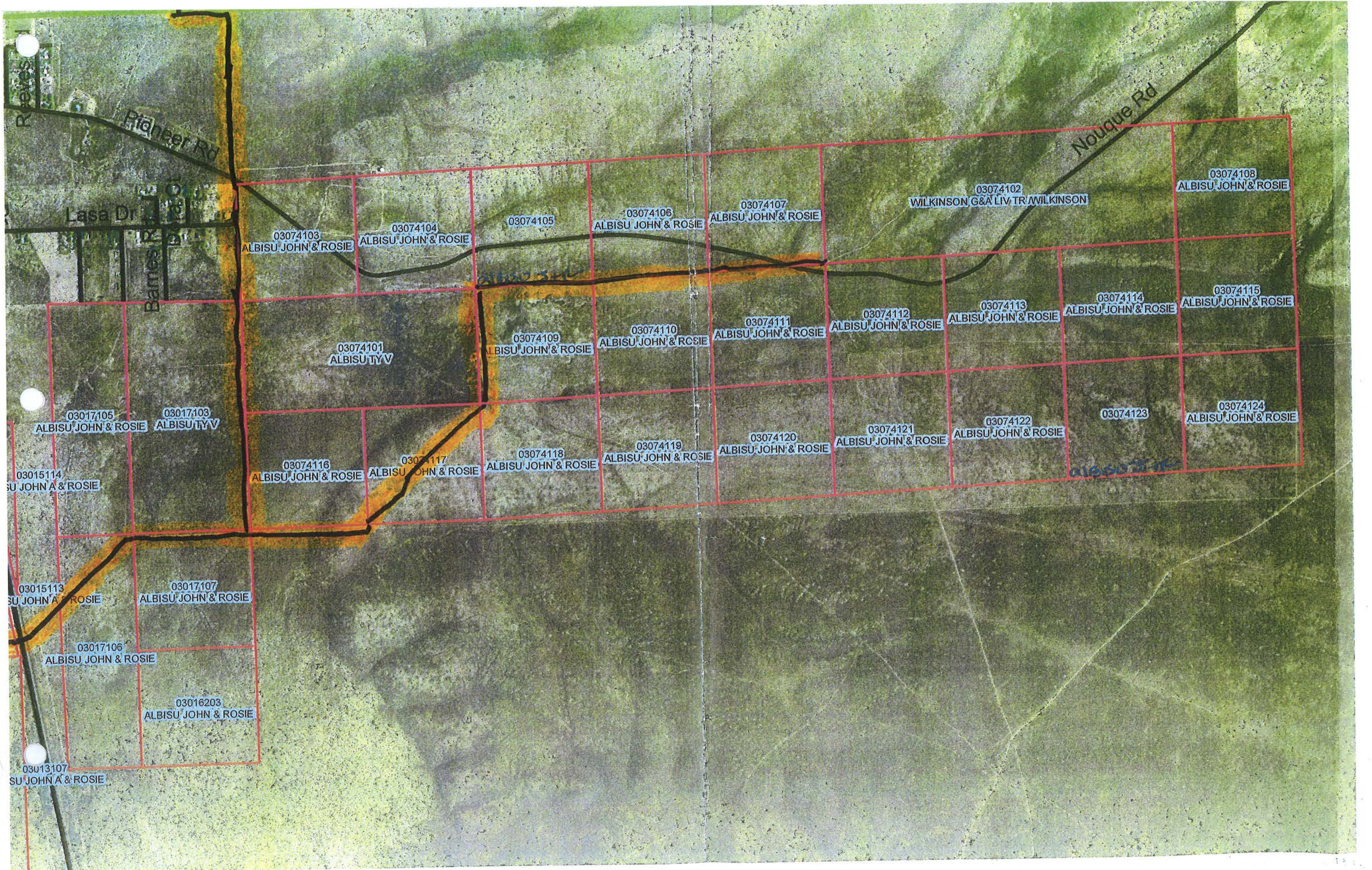
- FI Locations
- Township line
- Section line



This map is intended for illustrative purposes only and should not be relied upon as to the location of any legal markers.

State of Nevada
Division of Water Resources
 901 S. Stewart St.
 Carson City, NV 89701





IN THE SUPREME COURT OF THE STATE OF NEVADA

Case No. 82112

TY ALBISU, ROSIE ALBISU, and
ANCHOR S-RANCH AND RENTALS, LLC.

Appellant,

v.

KIMBLE WILKINSON,

Respondent.

Appeal from a Bench Trial Findings of Fact and Conclusions of Law and Judgment
The Sixth Judicial District Court of Nevada
The Honorable Michael Montero, District Judge
District Court Case No. CV-0021509

JOINT APPENDIX VOLUME 14

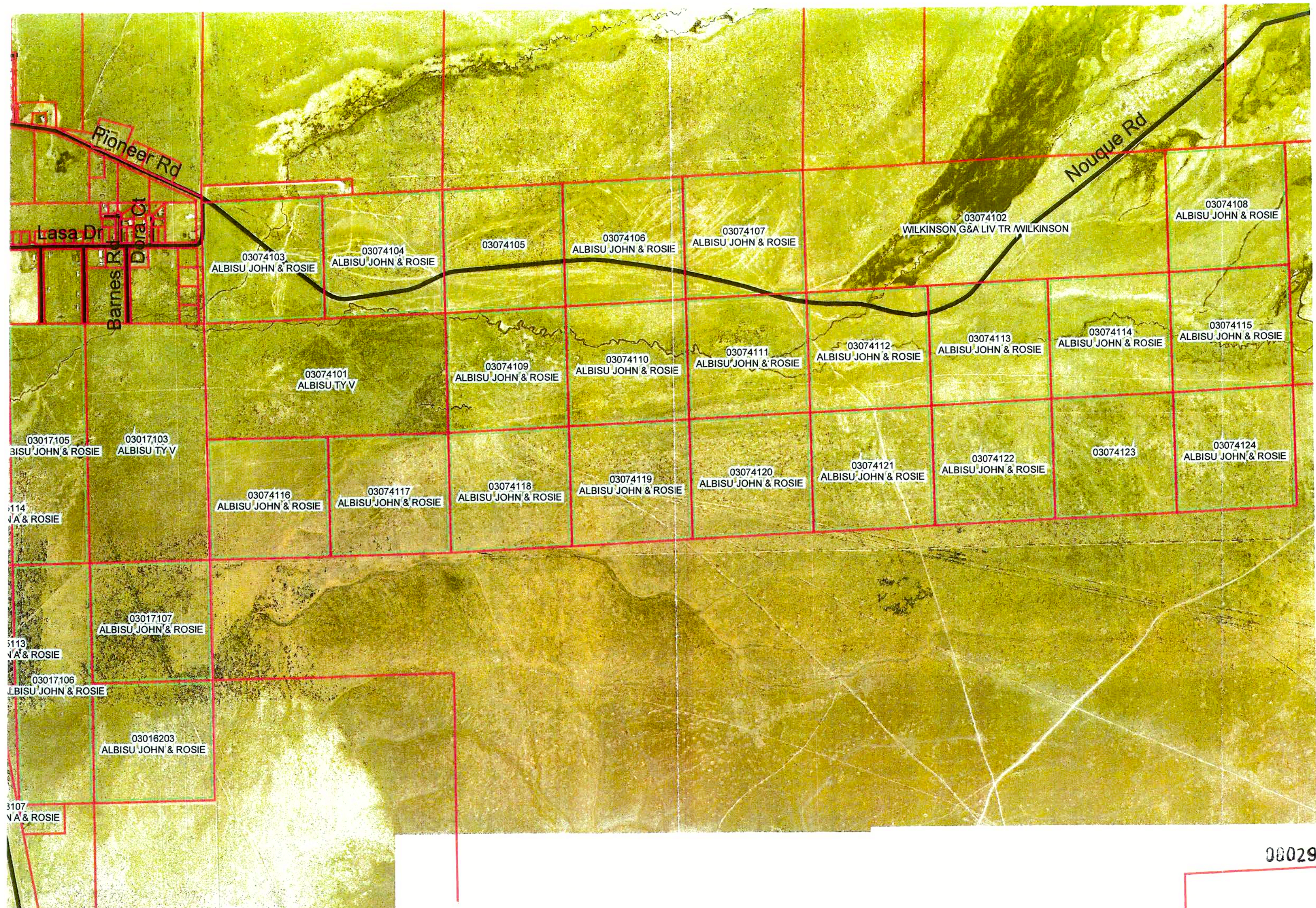
Carolyn E. Tanner (#5520)
Tanner Law & Strategy Group, LTD.
lina@tannerlnv.com
P.O. Box 18351, Reno, Nevada 89511
Telephone: 775.235.6786

Attorney for Appellants

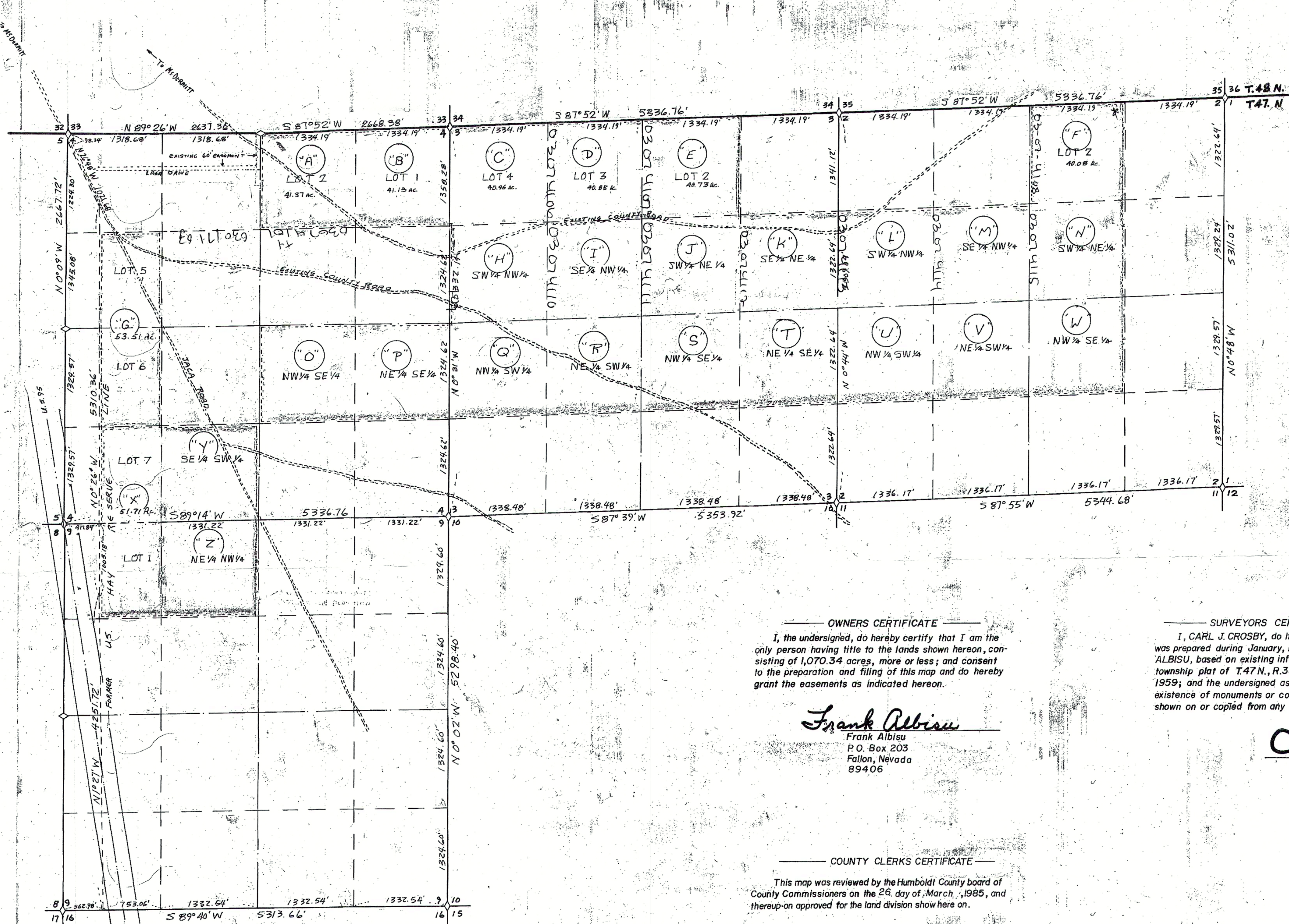
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000293



SECTIONS 2, 3, 4 & 9
T. 47 N., R. 38 E.
M. D. B. & M.

OWNERS CERTIFICATE

I, the undersigned, do hereby certify that I am the only person having title to the lands shown hereon, consisting of 1,070.34 acres, more or less; and consent to the preparation and filing of this map and do hereby grant the easements as indicated hereon.

Frank Albisu
Frank Albisu
P.O. Box 203
Fallon, Nevada
89406

SURVEYORS CERTIFICATE

I, CARL J. CROSBY, do hereby certify that this map was prepared during January, 1985 at the instance of FRANK ALBISU, based on existing information included in the BLM township plat of T. 47 N., R. 38 E., M. D. B. & M., approved March 23, 1959; and the undersigned assumes no responsibility for the existence of monuments or correctness of other information shown on or copied from any such prior document.

Carl J. Crosby
CARL J. CROSBY
1-68-25
4336
NEVADA

COUNTY CLERKS CERTIFICATE

This map was reviewed by the Humboldt County board of County Commissioners on the 26 day of March, 1985, and thereupon approved for the land division shown here on.

Susan E. Harris
Clerk of the Board of County Commissioners

SEAL
Affixed

Filed at Request of
Carl J. Crosby
APR 1 1985 at 11 o'clock
minutes past 11
A. M. in the office of the
RECORDER OF HUMBOLDT COUNTY
NEVADA
Erin J. Harmon
County Recorder
Oris de Amata
Deputy
NO. 247532

SCALE 1" = 800'
0 800 1600 2400

- NOTES
1. A 60' easement is offered for dedication on existing roads shown.
 2. A 30' easement is granted along the boundaries of each parcel for roadways & utilities.
 3. Lots 5 & 6 are combined for parcel "G" and lots 7 & 8 are combined for parcel "X".
 4. Humboldt County will not be responsible for building or maintaining roads.

CROSBY SURVEYING
511 WEST 4th STREET
P.O. Box 1118
WINNEMUCCA, NEVADA 89445
(702) 622-2731

MAP OF DIVISION
INTO LARGE PARCELS
PREPARED FOR
FRANK ALBISU
JANUARY, 1985

HUMBOLDT CO. NEVADA

000295

T. 47 N., R. 38 E.
M.D.B. & M.

- ◊ indicates section corner - iron pipe with BLM brass cap
- ◆ indicates 1/4 section corner - iron pipe with BLM brass cap
- indicates 5/8" iron pin with 2" metal cap set

File Number 156423

Filed in the office of the Humboldt County Recorder this 24th
day of August 1978, at 30 minutes past 2 o'clock
P.M. at the request of Robert N. Caldwell.

Adalyn Gail
Humboldt County Recorder

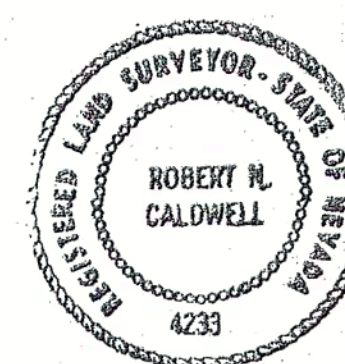
Surveyors Certificate

I, Robert N. Caldwell, do hereby certify that this map has been prepared by me from field notes of a survey made at the request of Santy Albisu during February, 1978 that this map is true and complete as shown, that the monuments are of the character and occupy the positions indicated and enables the survey to be retraced.

Robert M. Caldwell
Registered Land Surveyor Nevada 4233

Detail "A"
No Scale

Scale 1" = 400'



Desert-Mountain Surveying Company
510 Melarkey Street
Winnemucca, Nevada 89445

MAP
Record of Survey
For

Santy & Peggy Albisu, Concha Olavarria
Within Sections 5 and 8
T.47N., R.38E. M.D.B. & M.

Humboldt County

000487
Nevada

1-2D-05

