

## **Crown Pastoral Land Tenure Review**

**Lease name : FOREST RANGE**

**Lease number : PO 215**

### **Due Diligence Report (including Status Report) - Part 2**

This report and attachments results from a pre-Tenure Review assessment of the pastoral lease for the purpose of confirming land available for Tenure Review and any issues, rights or obligations attaching to it. The information is gathered from files and other sources available to the LINZ contractor.

Part of the information relates to research on the status of the land, resulting in a Status Report that is signed off by a LINZ approving officer. The remainder of the information is not analysed for relevancy or possible action until required, and LINZ does not guarantee its accuracy or completeness as presented.

The report attached is released under the Official Information Act 1982.

**April 09**

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**To:**

Commissioner of Crown Lands  
C/- Knight Frank  
41-43 Tarbert Street  
Alexandra

**From:**

Russell Stewart Emmerson and Jeanette Emmerson  
C/- Checketts McKay  
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Alexandra  
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Application for Rehearing of Discretionary Activities Application  
Under Section 17 Land Act 1948

Checketts McKay  
Lawyers  
Central Otago

MD199

**1. Introduction and Background**

- 1.1 Russell Stewart Emmerson and Jeanette Emmerson (the applicants) by fax to Knight Frank on 23 August 1998, applied for consent from the Commissioner of Crown Lands to allow the uninterrupted maintenance of improvements carried out previously to their land over many years of occupancy.
- 1.2 The request by the applicants was treated by the Commissioner of Crown Lands as a request under Section 16 of the Crown Pastoral Land Act 1998 for consent to activities affecting or disturbing the soil.
- 1.3 Knight Frank advised the applicants by letter dated 21 September 1998 that:
  - (a) the Commissioner approved the following:
    - (1) Topdressing of existing topdressed areas identified on the attached map.
    - (2) Sowing with pasture seeds of the existing oversown areas identified on the attached map.
    - (3) Maintenance of existing tracks identified on the attached map.
    - (4) Maintenance of existing cultivated paddocks by periodic re-cultivation and maintenance of border dyking identified on the attached map.
    - (5) Maintenance of existing airstrips identified on the attached map; and
  - (b) the Commissioner was not able to consent to the application to top dress and sow seed on Blocks 11 and 12 due to insufficient information on the matter of potential skink habitat in these blocks and requested permission for an inspection team of Mr K R Taylor of the Knight Frank Alexandra office and a DOC lizard specialist to inspect Blocks 11 and 12 in the East Camp catchment.

**2. Application for rehearing**

- 2.1 The applicants accept the Commissioner's approvals referred to in item 1.3(a) of this application.

2.2 However the applicants seek a rehearing of the Commissioner's decision with respect to the following matters:

- (a) the decision not to consent to the application to top dress and sow seed on Blocks 11 and 12 due to insufficient information on the potential skink habitat; and
- (b) the list of approvals granted do not sufficiently cover all soil disturbance activities which the applicants identify as being necessary for maintaining their assets; and
- (c) the existing tracks, existing cultivated paddocks and existing air strips identified on the map attached to the approvals do not cover all existing areas.

**3. Blocks 11 and 12 East Camp catchment**

- 3.1 The Commissioner has recorded that he is not able to consent to the application to top dress and sow seed on these blocks *"due to insufficient information on the matter of potential skink habitat in these blocks"*.
- 3.2 The Commissioner has requested permission for an inspection team to carry out a physical inspection of the site.
- 3.3 The applicants note the Commissioner's comments that he *"wishes to be helpful in this matter, but must weigh up the often competing matters referred to in Section 18(2), (a) and (b) of the Crown Pastoral Land Act"* and that he has assured the applicants that their application with respect to Blocks 11 and 12 will be reviewed on receipt of the report and further submission.
- 3.4 The applicants do not consent to the physical inspection. They request that the Commissioner reconsiders this matter and grants approval to maintain only the previous top dressed and oversown areas on Blocks 11 and 12 for the following reasons:
  - (a) The applicants understand that the Commissioner's belief that there is a possibility of presence of skinks is on the basis that skinks have been located in the southern end of Allan Kane's neighbouring property. The

applicants point out that this area of Allan Kane's property has been over sown and top dressed for over 20 years.

- (b) The applicants don't consider that over sowing and top dressing has or will have any detrimental affect on any possible skink population.
- (c) The area of Blocks 11 and 12 with respect to which the application now applies to (refer to the following item 3.5) is modified and developed country. In this regard the applicants point out that:
  - (i) The skink population if present is living in an already developed environment where top dressing and over sowing is present; and
  - (ii) The political policy statements from both the Chairman of the Primary Production Select Committee when processing the Crown Pastoral Land Bill and the Commissioner of Crown Lands at public meetings held giving information on the Crown Pastoral Land Bill and Act, have both stated in response to farmer concern expressed about the new provision requiring consent to top dressing and over sowing, that applications for consent for maintenance of previous developed areas would be processed routinely without the need for DOC inspections and simply with no expectation of any refusals and that the reference to them in Section 16 was intended to be a reference to new areas to be top dressed and over sown.

This attitude is reinforced by the maintenance provisions of Sections 16(3)(b) and (c) stating that a previous consent given to sow or top dress any land includes a consent to undertake ongoing maintenance (acknowledging that for reasons unknown to the applicants, subsection (5) of Section 16 introduces a twist to the continuity of maintenance provision so that it only applies when the original consent is given under the Crown Pastoral Land Act).

The applicants consider that they have a legitimate expectation of approval for top dressing and over sowing those parts of Blocks 11 and 12 which have previously been top dressed and over sown.

- 3.5 The applicants amend their application to cover the maintenance of the top dressing and oversowing on the pastoral areas of Blocks 11 and 12.

The areas which are not part of the application have not had historic top dressing and over sowing and would not justify this development. Although parts are grazed and parts are used for stock passage and therefore are an important part of the farming operation, they are excluded from the application as they would not be suitable for top dressing and over sowing.

- 3.6 The applicants are not agreeable to their application to maintain the developed area of Blocks 11 and 12 being turned into some major complicated site inspection and consideration when the merits of the application and legitimate expectation of the applicants justify its treatment in a simple and routine fashion.

- 3.7 In conclusion, the application for the area of Blocks 11 and 12 should be approved because:

- (a) There is no evidence that top dressing or over sowing would affect any skink population, if indeed any exist.
- (b) The area already has a history of top dressing and over sowing.
- (c) The application should have been processed routinely, quickly and simply without problems.
- (d) The applicants have a legitimate expectation that the approval be granted.

#### 4. Further approvals

- 4.1 It is acknowledged that the original application did not specify each land activity for which consent was required. The reason for the broad wording was to ensure that all necessary approvals were granted to allow the applicants to

protect their investment, maintain the improved land and to provide the applicants with sufficient security and consequential confidence to justify spending ongoing money in maintaining and developing the land.

4.2 The applicants understand that the Commissioner's approval must be specific in terms of the activities consented to.

4.3 The following additional soil disturbance related approvals are also needed:

- (a) **Aerial spraying for weed and scrub control** - The applicants carry out aerial spraying for weed and scrub control. A consent is therefore required. The applicants apply for consent for aerial spraying for weeds and scrub over all of the improved country.
- (b) **Reinstatement of unused tracks** - There are some unused tracks which the applicants wish to reinstate back to vegetated pasture. This would involve earthworks, seeding and top dressing.
- (c) **Existing water races** - The applicants require the following:
  - (i) The right to reinstate/upgrade and maintain existing unused water races.
  - (ii) The right to maintain existing utilised water races.
  - (iii) The right to restore to pasturage unused water races.
- (d) **Root raking for weed and scrub control** - Root raking has been historically successful for weed and scrub control. The applicants require the right to carry out in the future root raking for this purpose over the developed country including the right to carry out after the root raking, restoration back to pasturage.
- (e) **Willow tree removal** - Willow tree removal is a routine activity carried out on the property. The applicants require the right to carry out willow tree removal including associated spraying and digger activity.
- (f) **Top dressing Breast Hill above approved contour** - The existing right to top dress Breast Hill does not cover all the developed land. The

applicants require the right to top dress the balance developed blocks of Breast Hill being all the rest of the area excluding Mt Puketika. This right is required to address nutrient replenishment as the need arises.

- (g) **Ripping to destroy rabbit warrens** - Historically, a successful programme of ripping was undertaken on the property to remove rabbit warrens and to get the rabbits on to the surface for rabbit control. The applicants want the continued right to carry out this practice. The applicants have identified on the attached plan the historic area within which this ripping of rabbit warrens has occurred and with respect to which the applicants want the continued right to carry out this practice. Note that the ripping within this area would be specifically site targeted to any future rabbit warrens and that the area would then be over sown and top dressed as part of the property maintenance programme.
- (h) **Poison line ploughing** - A historic practice on the property, associated with pest control, has been the ploughing of a single line to attract pests to bait. The applicants require the right to continue this practice. It being intended that it may take place anywhere on the property.
- (i) **Amenity tree planting** - The applicants require the right to maintain existing shelter belts and amenity areas of trees with replanting.
- (j) **Additional existing areas of cultivation** - The plan attached shows additional areas where cultivation of paddocks has taken place. These additional areas should be incorporated into the approval for maintenance of existing cultivated paddocks.
- (k) **Additional existing tracks** - The plan attached shows additional existing tracks not referred to in the plan which accompanied the approval. These additional tracks need to be added to the approval to maintain existing tracks.
- (l) **Additional existing air strips** - The plan attached shows additional existing air strips not referred to in the plan which accompanied the



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approval. These additional air strips need to be added to the approval to maintain existing tracks.

RS & J Emmerson  
by their authorised solicitor



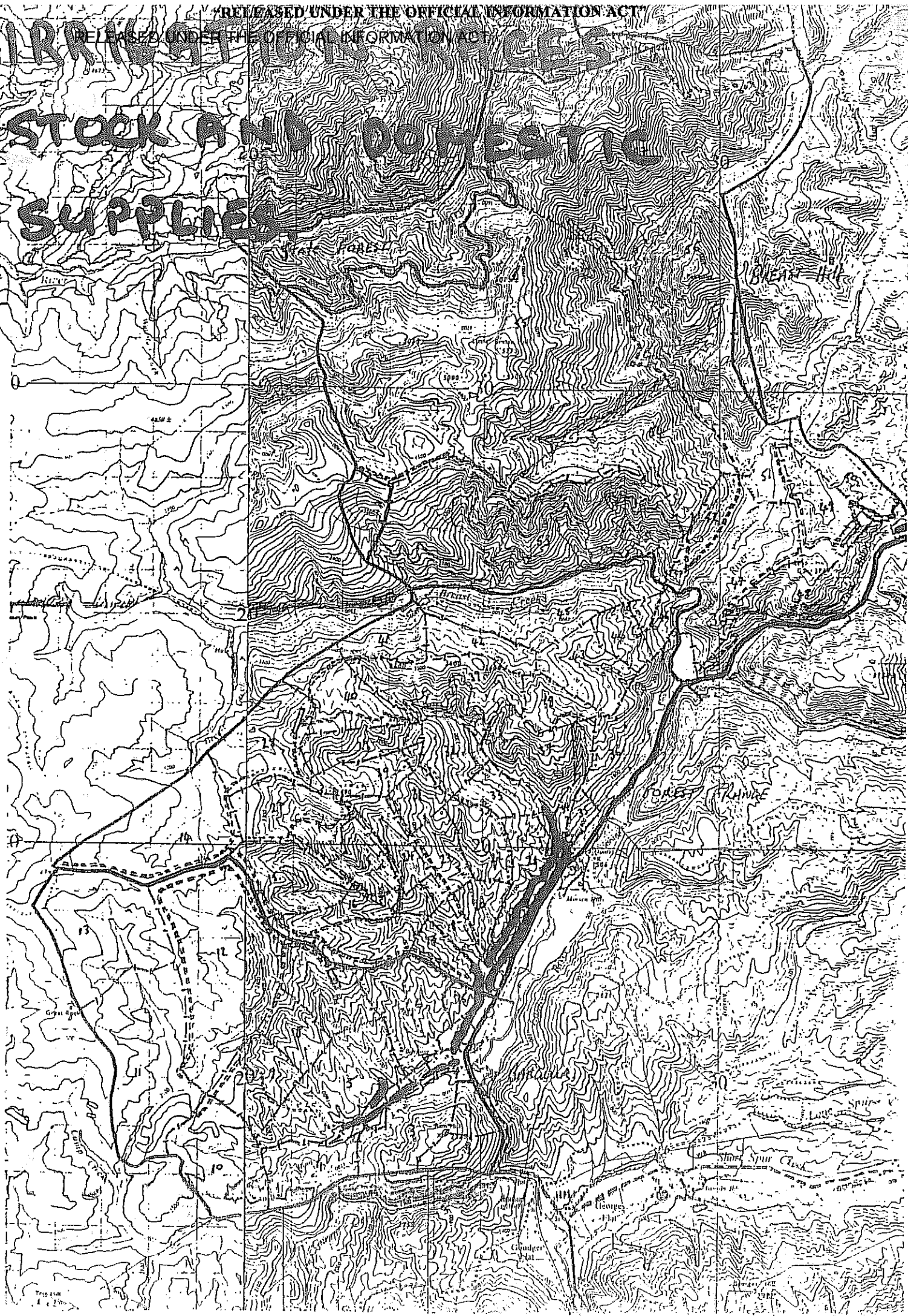
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J A Williamson

Dated 12 October 1998

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# IRRAWADDI RIVER STOCK AND DOMESTIC SUPPLIES

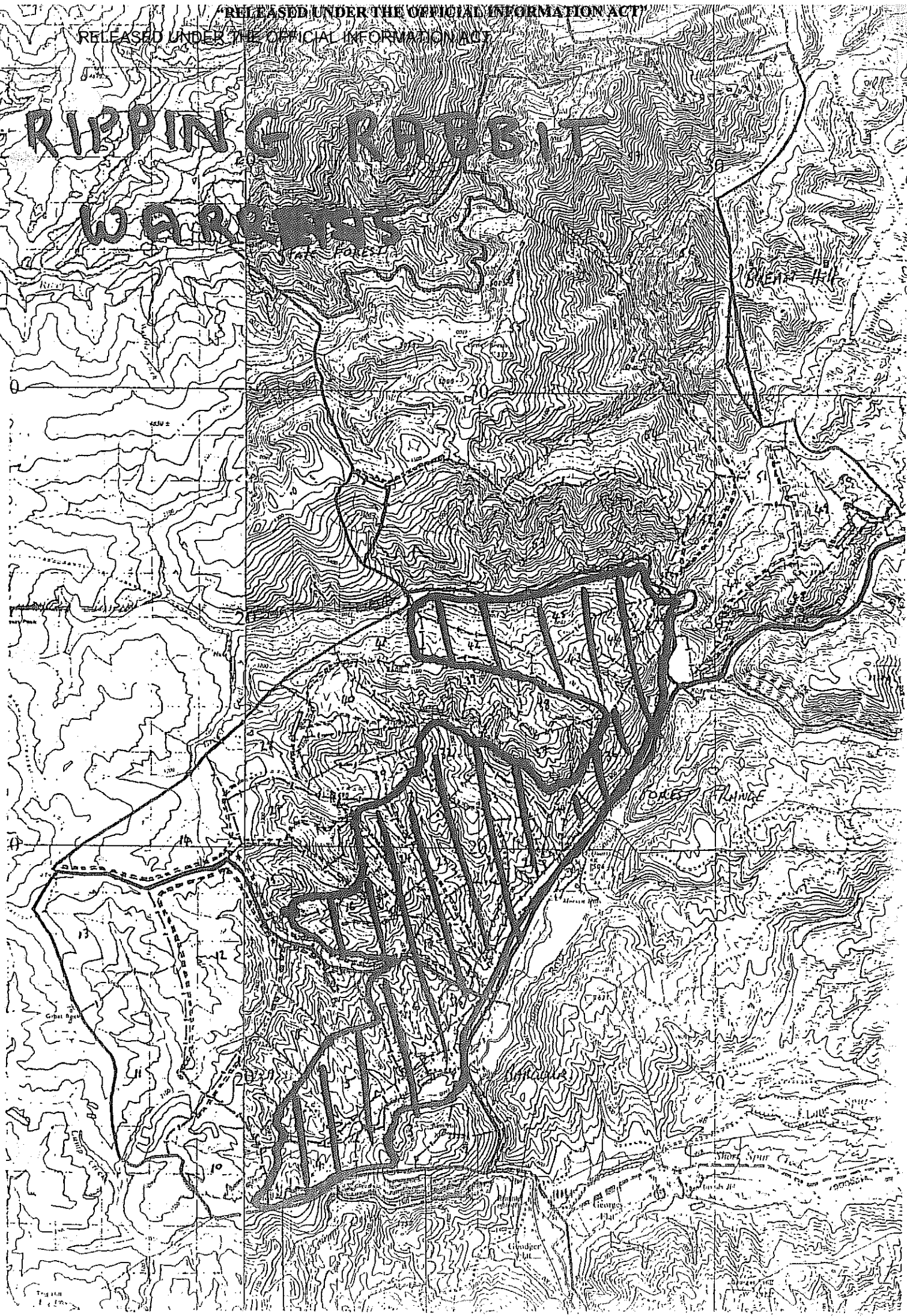
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RIPPING G RABBIT

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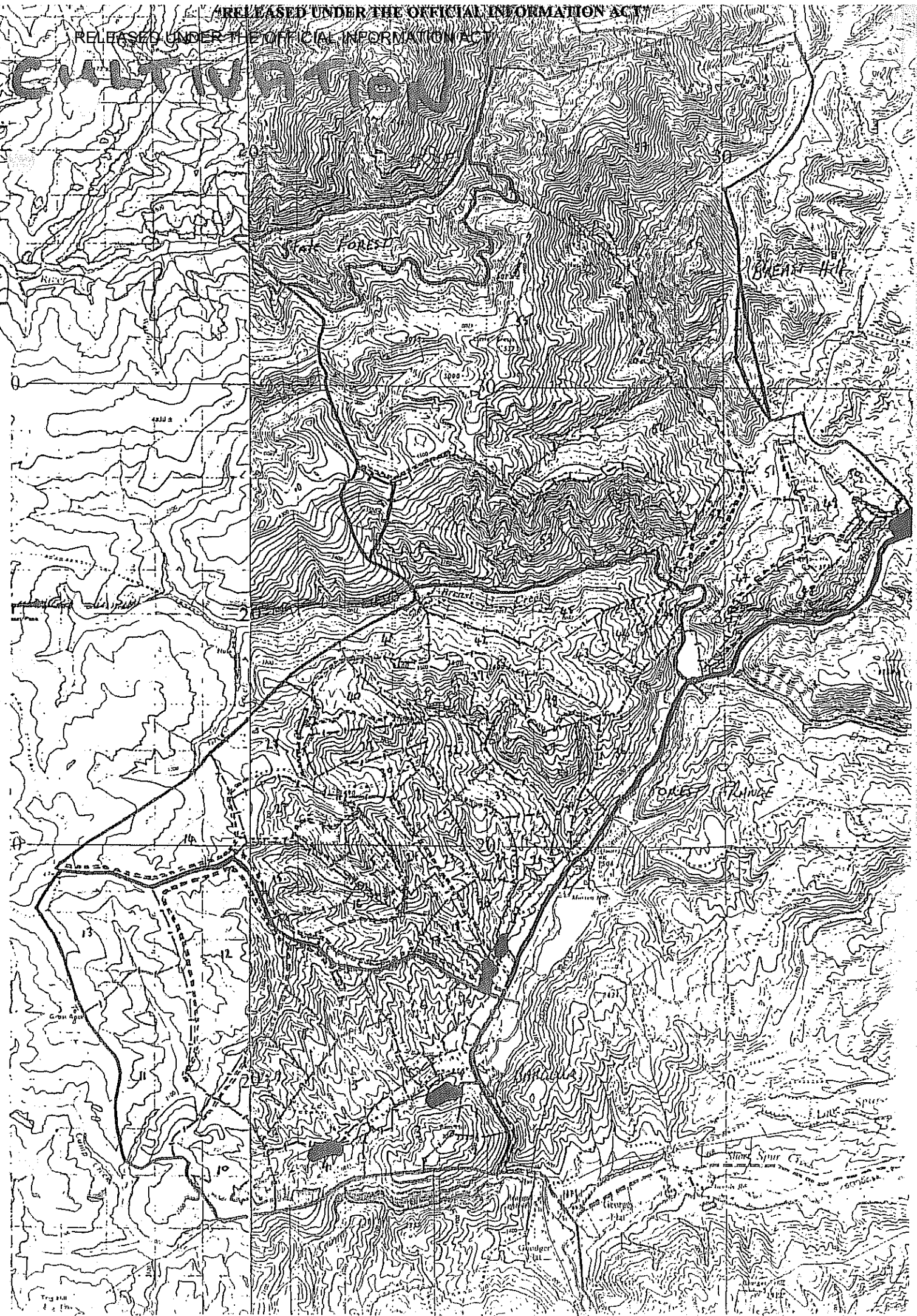




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# CULTIVATION

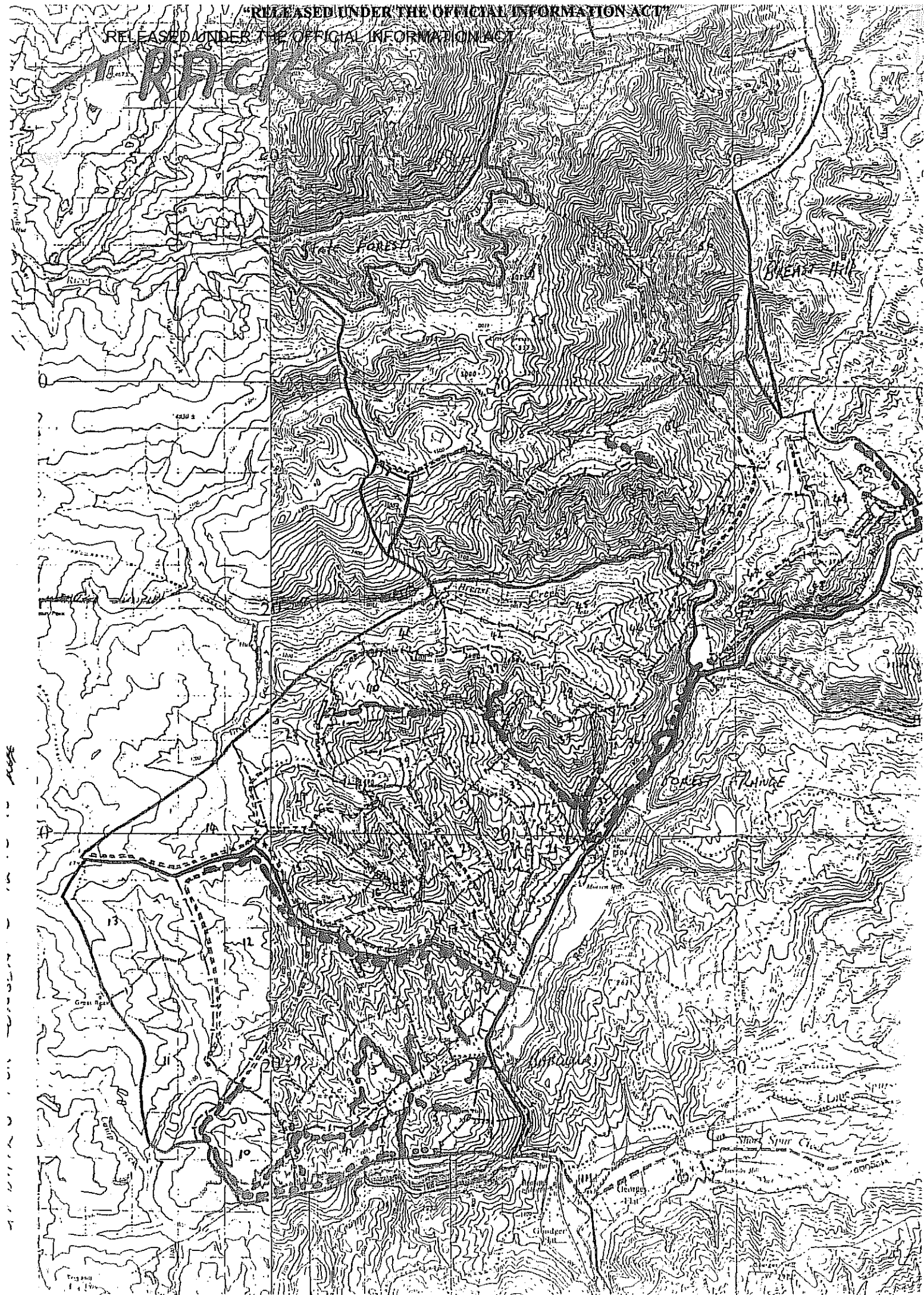
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RRG



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