ABATEMENT NOTICE

Section 324, Resource Management Act 1991

To: Kurow – Duntroon Irrigation Company Limited
Findex NZ Ltd
1 Coquet Street
Oamaru 9400

1 Waitaki District Council gives notice that you must take the following action:

Carry out all works necessary to ensure that the above ground pipeline and pipeline supports adjacent to State Highway 83 (Otematata – Kurow Road), between Little Awakino River and Kurow Township, comply in all respects with resource consent 201.2018.1097 or any modified or replacement resource consent, and in particular:

a) Ensure a compliant height of the pipeline and pressure valves in the areas identified in the photographs attached in **Appendix 1** and identified in Appendix D of the consent application attached as **Appendix 3** (referred to collectively as the "Rock Bluff Sections");

b) Ensure a compliant setback of the pipeline from the road. This applies to any sections of above-ground pipeline in the Rock Bluff Sections, and to any pipeline which immediately adjoins those sections;

c) Provide mitigation of the effects of the clearance of vegetation where the pipeline crosses the Little Awakino River (as identified in **Appendix 2 – Figure 2)**, including visual and noise effects on the occupier of Sec: 27 Blk: V SD: Kurow;

d) The works to be undertaken in accordance with the requirements above must be fully described in an engineering design solution for the proposed pipeline re-alignment and any associated remediation and mitigation, which is to be provided to Waitaki District Council by 8 November 2019;

e) If Kurow-Duntroon Irrigation Company Limited determines that a further resource consent application is required to authorise any of the works referred to above, any such application must be lodged by 7 February 2020. Alternatively, if Kurow-Duntroon Irrigation Company Limited determines that no further resource consent application is required, confirmation of that determination and the reasons for it must be provided to Waitaki District Council by 7 February 2020.

2 The location to which this abatement notice applies is:

Land on or adjacent to sections of State Highway 83 known as Otematata – Kurow Road between Little Awakino River and Kurow Township (SH:83) [**Appendix 2 - Figure 1**] and as identified above; and where the pipeline crosses the Little Awakino River adjacent to Sec: 27 Blk: V SD: Kurow [**Appendix 2 – Figure 2**];

3 You must comply with this abatement notice within the following period:

a) The step required by Part 1(d) of this notice must be completed by 8 November 2019.

b) The applicable step required by Part (1)(e) must be completed by 7 February 2020.

c) The steps required by Part 1(a)-(c) of this notice must be completed by 15 September 2020.

4 This notice is issued under:

Section 322(1)(b)(i) of the Resource Management Act 1991.

5 The reasons for this notice are:

This abatement notice is issued under section 322(1)(b)(i) of the Resource Management Act 1991 to require you to take the actions outlined above in Part 1, which are necessary to:

a) ensure compliance by or on behalf of Kurow-Duntroon Irrigation Company Limited with resource consent 201.2018.1097, the Waitaki District Plan and/or the Resource Management Act 1991; and
b) avoid, remedy and mitigate adverse effects on the environment caused by or on behalf of Kurow-Duntroon Irrigation Company Limited; as further outlined below.

On 26 July 2018 Waitaki District Council granted a resource consent (reference number 201.2018.1097) to the Kurow Duntroon Irrigation Company Limited for construction of an irrigation pipeline which included over-ground pipes and pipe supports in specific locations adjacent to SH83 between Awakino River and Kurow Township. The activity is within the Rural Scenic Zone of the Waitaki District Plan.

On 14 March 2019 Waitaki District Council granted an application to change conditions of that resource consent in respects that are not material to the matters addressed in this notice.

Condition 1 of resource consent 201.2018.1097 (as amended) states:

> *That the activity be carried out in general accordance with the application and plans lodged by Irricon Resource Solutions on behalf of the applicant, submitted with application 201.2018.1097 and received by Council on 17 May 2018, and as modified in the s127 application received on 19 February 2019 except where modified by conditions of consent.*

Excessive height of the pipeline

The application and plans referred to in Condition 1 specified that the above ground sections of the pipeline:

> *will sit below the ridge of the road and will be partially visible from SH83. There will be limited visibility from the Waitaki River below due to the presence of existing willows.*

The Council relied on this statement in granting the resource consent.

The above-ground sections of the pipeline referred to in Parts 1(a) & (b) and Part 2 of this notice have been constructed in a manner that is not in accordance with the description in the application. Specifically, the pipeline and its supports sit above the ridge of the road. The constructed pipeline also incorporates valves that sit above the ridge of the road and which were not shown or referred to at all within the application. The pipeline therefore does not comply with Condition 1 of resource consent 201.2018.1097 and is not authorised by the Waitaki District Plan or the Resource Management Act 1991.

The non-compliance outlined above is resulting in adverse effects on natural character, landscape amenity, and recreational values within the Rural Scenic Zone, and on people and communities in the vicinity of the pipeline. In particular, the non-compliant structure blocks views of road users to the Waitaki River.

The works required by Part 1(a) of this notice are required to ensure compliance by or on behalf of Kurow-Duntroon Irrigation Company Limited with resource consent 201.2018.1097, the Waitaki District Plan and/or the Resource Management Act 1991; and avoid, remedy and mitigate adverse effects on the environment caused by or on behalf of Kurow-Duntroon Irrigation Company Limited in relation to the non-compliance outlined above.

Insufficient setback of the pipeline from the road

The application specified on page 29 that the same sections of pipeline would be:

> *setback approximately 10 metres from the road frontage of State Highway 83 and below the road as the road extends around the rocky bluff.*

The Council relied on this statement in granting the resource consent.

The above-ground sections of the pipeline referred to in Parts 1(a) & (b) and Part 2 of this notice have been constructed in a manner that is not in accordance with the description in the application. Specifically, sections of the pipeline and its supports are less than 10 metres from the road frontage of State Highway 83. The pipeline therefore does not comply with Condition 1 of resource consent 201.2018.1097 and is not authorised by the Waitaki District Plan or the Resource Management Act 1991.

The non-compliance outlined above is resulting in adverse effects on natural character, landscape amenity, and recreational values within the Rural Scenic Zone, and on people and communities in the vicinity of the pipeline. In particular, the non-compliant structure blocks views of road users to the Waitaki River.

The works required by Part 1(b) of this notice are required to ensure compliance by or on behalf of Kurow-Duntroon Irrigation Company Limited with resource consent 201.2018.1097, the Waitaki District Plan and/or the Resource Management Act 1991; and avoid, remedy and mitigate adverse effects on the environment caused by or on behalf of Kurow-Duntroon Irrigation Company Limited in relation to the non-compliance outlined above.

Clearance of vegetation where the pipeline crosses the Little Awakino River

The application specified that at the Little Awakino River crossing:

No vegetation will be removed as part of the works and the existing screening created by the trees will be retained.

The Council relied on this statement in granting the resource consent.

The works completed in this location have resulted in total removal of vegetation in the vicinity of these works including severe or complete removal of the trees that previously provided screening.

The works in this location therefore do not comply with Condition 1 of resource consent 201.2018.1097 and are not authorised by the Waitaki District Plan or the Resource Management Act 1991.

The non-compliance outlined above resulted in adverse effects on the vegetation in question and is resulting in adverse noise effects and adverse effects on the natural character and landscape amenity values of the area and on people and communities in the vicinity, in particular on the occupier of Sec: 27 Blk: V SD: Kurow.

The works required by Part 1(c) of this notice are required to ensure compliance by or on behalf of Kurow-Duntroon Irrigation Company Limited with resource consent 201.2018.1097, the Waitaki District Plan and/or the Resource Management Act 1991; and avoid, remedy and mitigate adverse effects on the environment caused by or on behalf of Kurow-Duntroon Irrigation Company Limited in relation to the non-compliance outlined above.

6 Requirement to comply and rights of appeal:

If you do not comply with this notice, you may be prosecuted under section 338 of the Resource Management Act 1991 (unless you appeal and the notice is stayed as explained below).

You have the right to appeal to the Environment Court against the whole or any part of this notice. If you wish to appeal, you must lodge a notice of appeal in Form 49 with the Environment Court within 15 working days of being served with this notice.

An appeal does not automatically stay the notice and so you must continue to comply with it unless you also apply for a stay from an Environment Judge under section 325(3A) of the Resource Management Act 1991 (see Form 50). To obtain a stay, you must lodge both an appeal and an application for a stay with the Environment Court.

You also have the right to apply in writing to Waitaki District Council to change or cancel this notice in accordance with section 325A of the Resource Management Act 1991.

Waitaki District Council authorised the enforcement officer who issued this notice. Its address is:

20 Thames Street
Private Bag 50058
Oamaru 9444

The enforcement officer is acting under the following authorisation:

Warrant of Appointment as an Enforcement Officer from Waitaki District Council, issued under section 38 of the Resource Management Act 1991.

Tristan Hope
Date: 17 October 2019

Appendix 1

Figure 1

Appendix 2

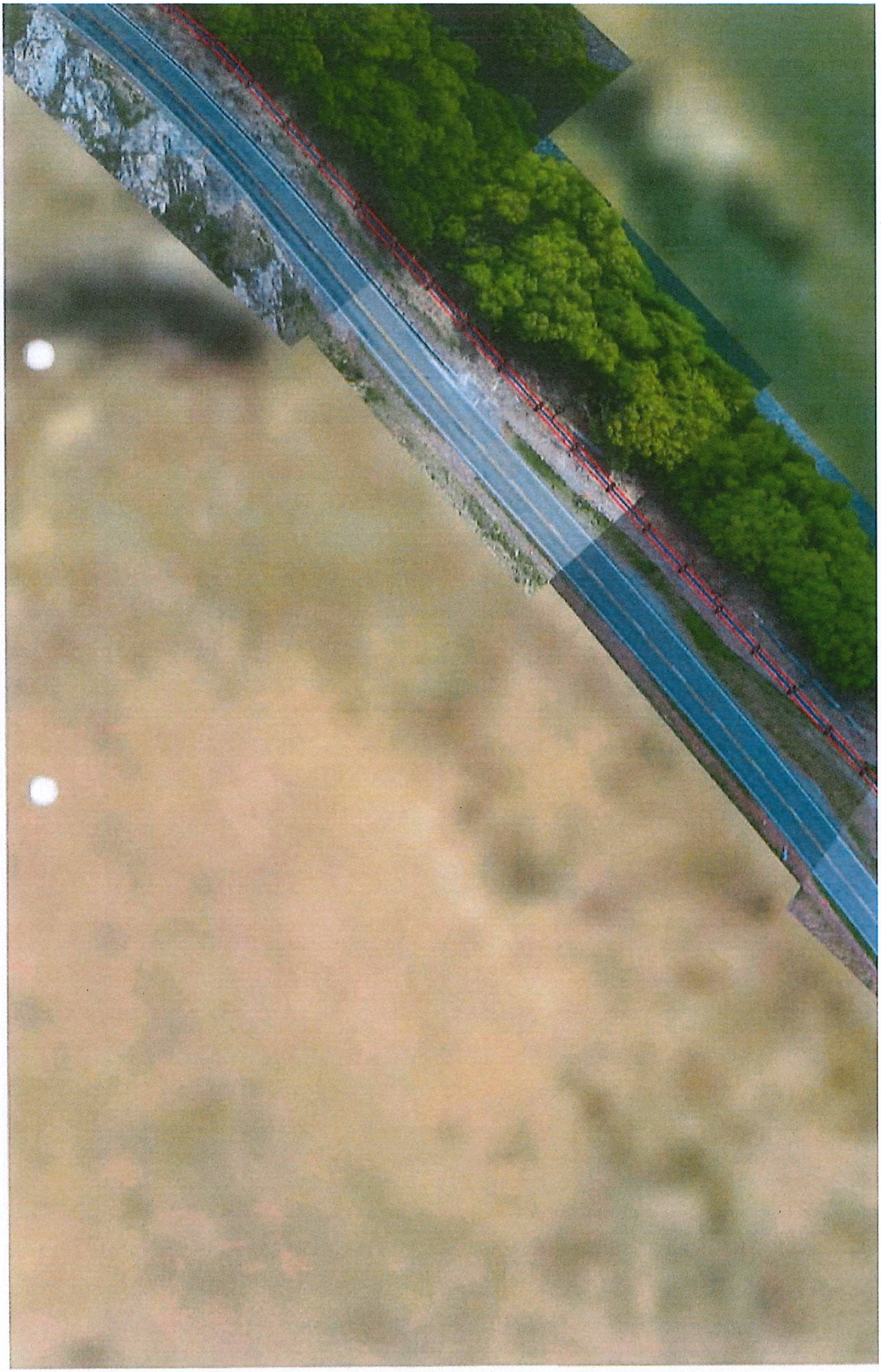
Figure 1

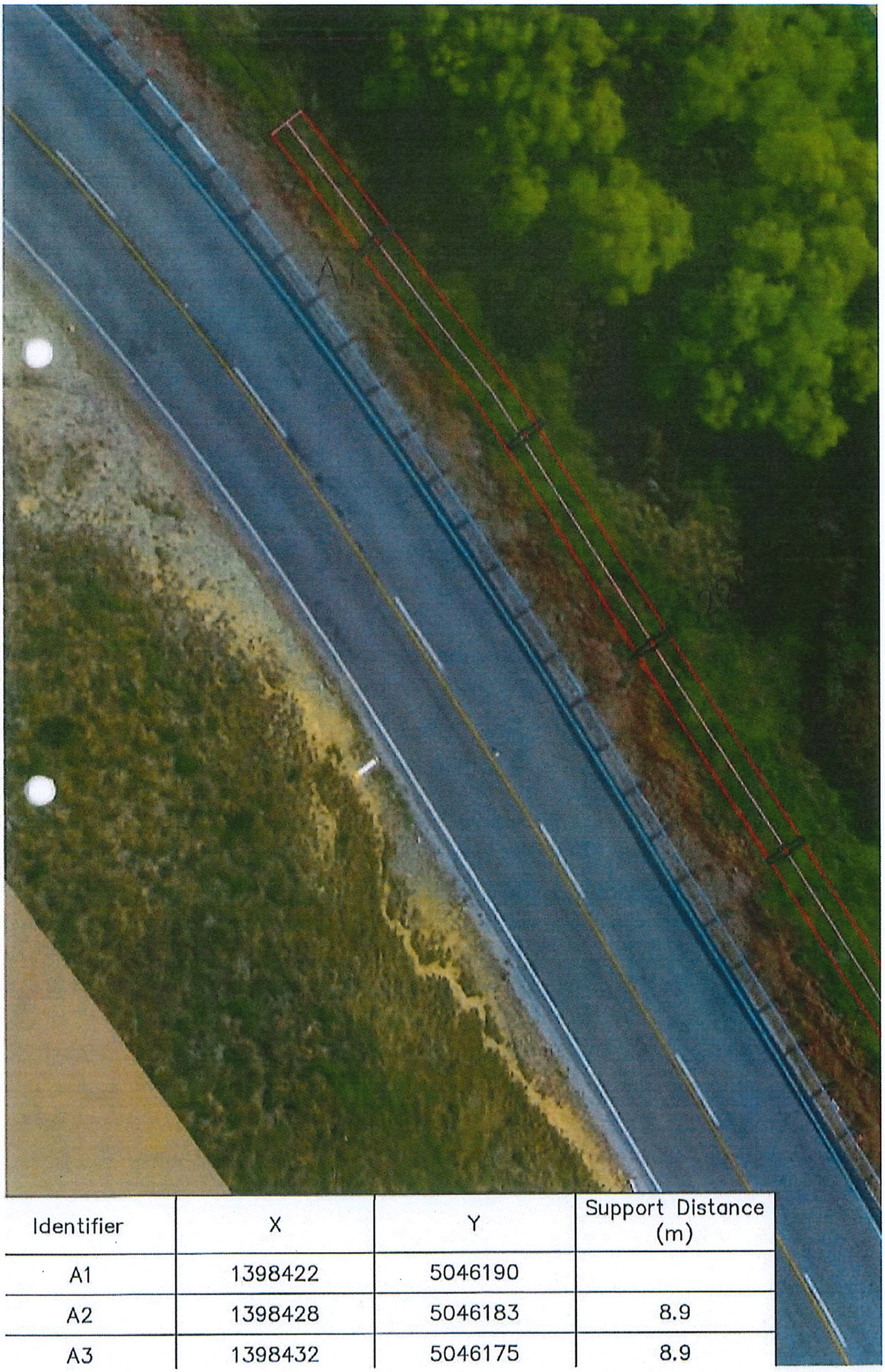
Figure 2

Appendix 3

"Appendix D – Rock Bluff Aerial Layout Plan"

Rock Shafts 2
- Slope





Identifier	X	Y	Support Distance (m)
A1	1398422	5046190	
A2	1398428	5046183	8.9
A3	1398432	5046175	8.9

Identifier	X	Y	Support Distance (m)
A6	1398447	5046153	8.9
A7	1398451	5046145	8.9
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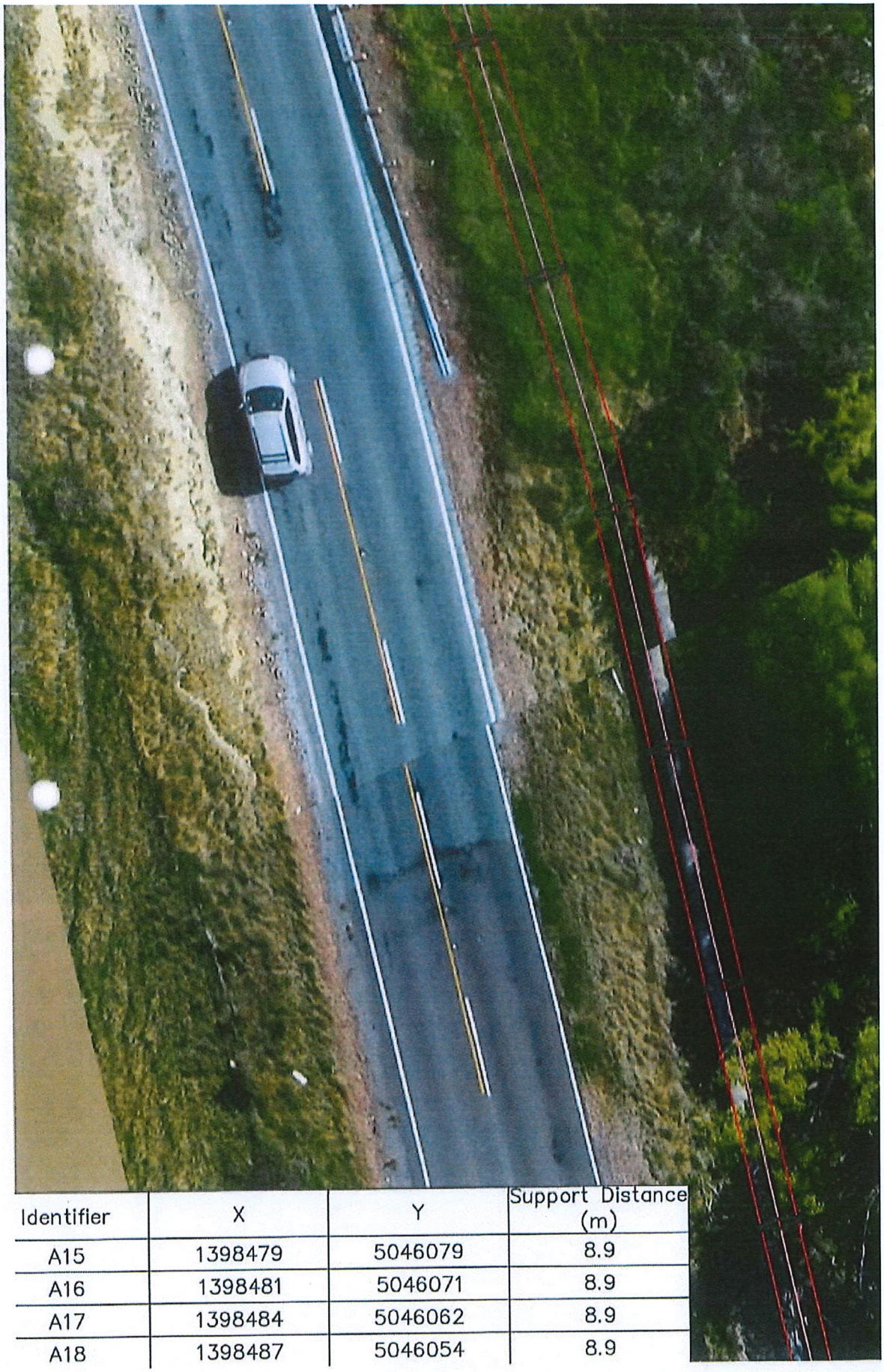
A9	1398459	5046129	8.9



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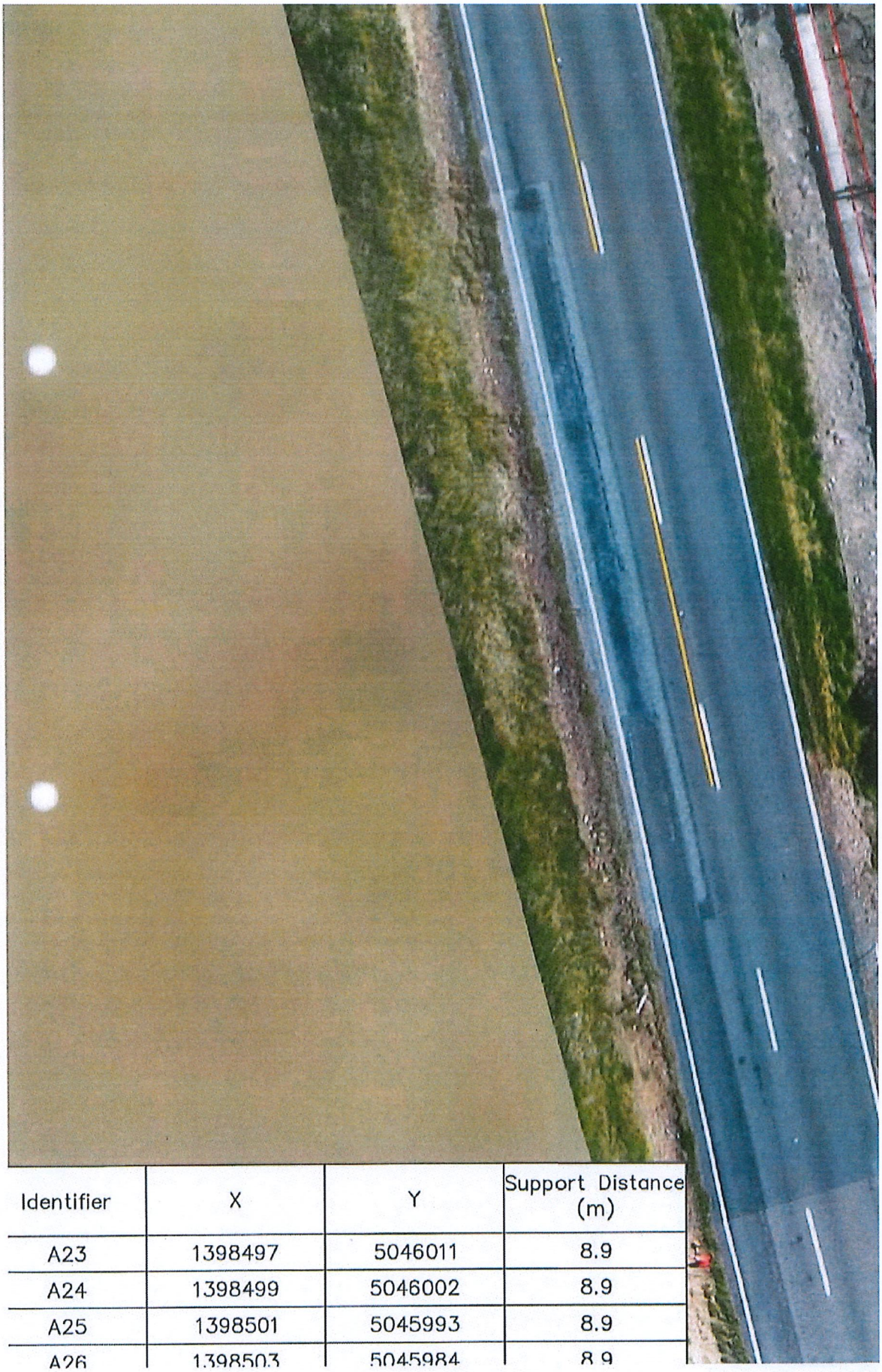
A15	1398479	5046079	8.9
A16	1398481	5046071	8.9
A17	1398484	5046062	8.9
A18	1398487	5046054	8.9



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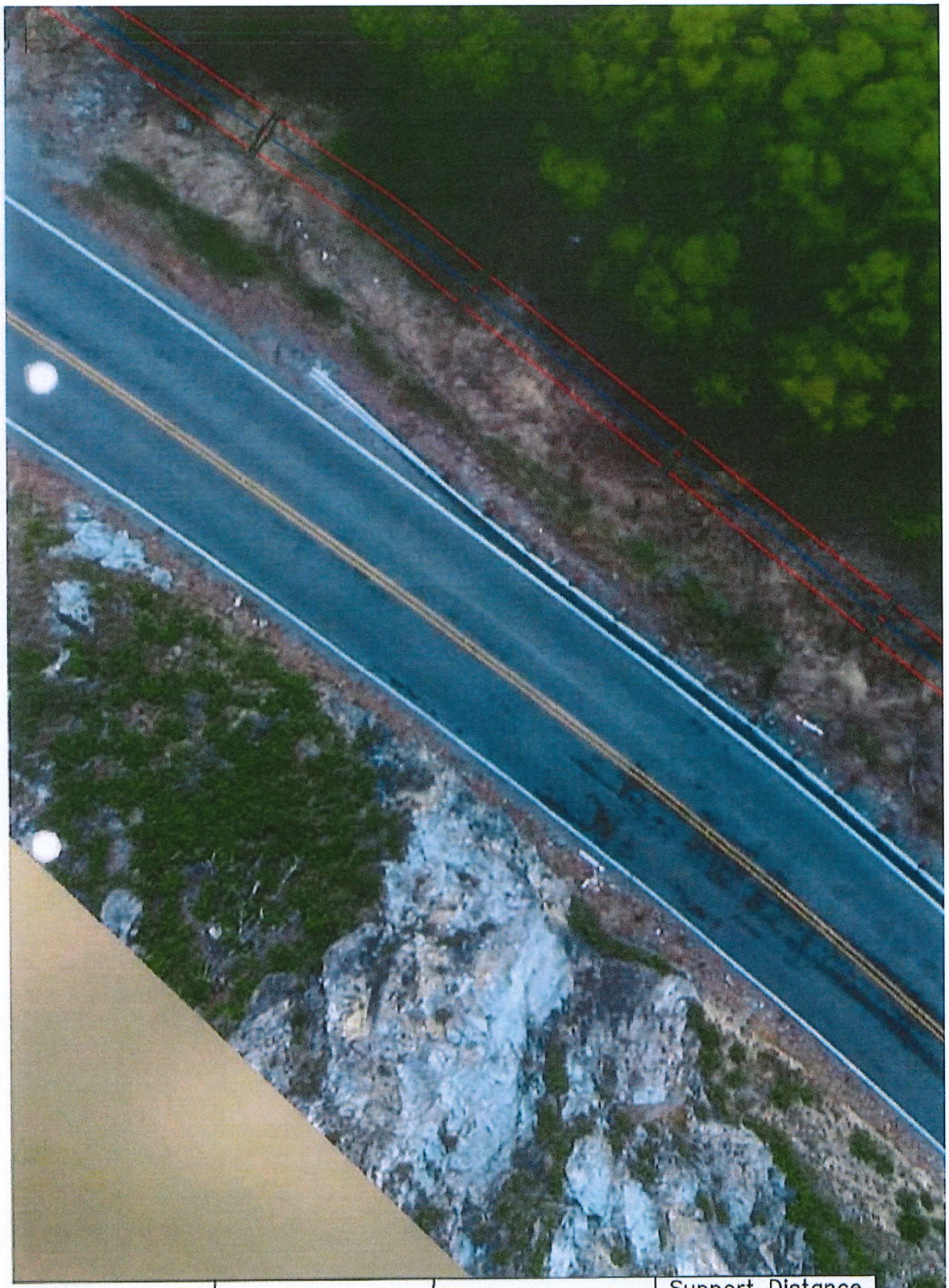
A23	1398497	5046011	8.9
A24	1398499	5046002	8.9
A25	1398501	5045993	8.9
A26	1398503	5045984	8.9



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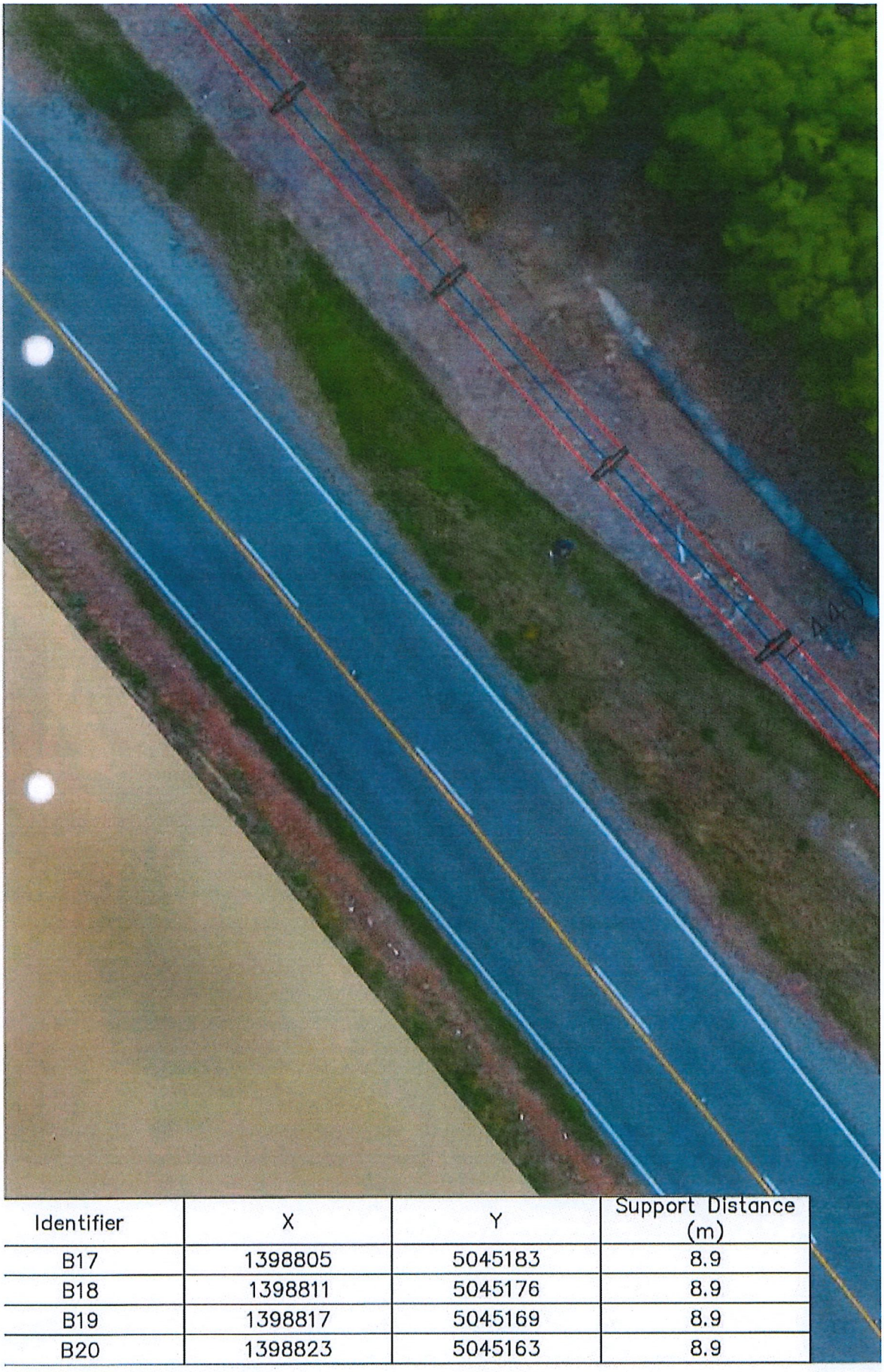
B1	1398704	5045282	
B2	1398711	5045277	8.9
B3	1398718	5045272	8.9

Identifier	X	Y	Support Distance (m)
B8	1398752	5045243	8.9
B9	1398758	5045236	8.9
B10	1398764	5045229	8.9
B11	1398769	5045223	8.9



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B17	1398805	5045183	8.9
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B19	1398817	5045169	8.9
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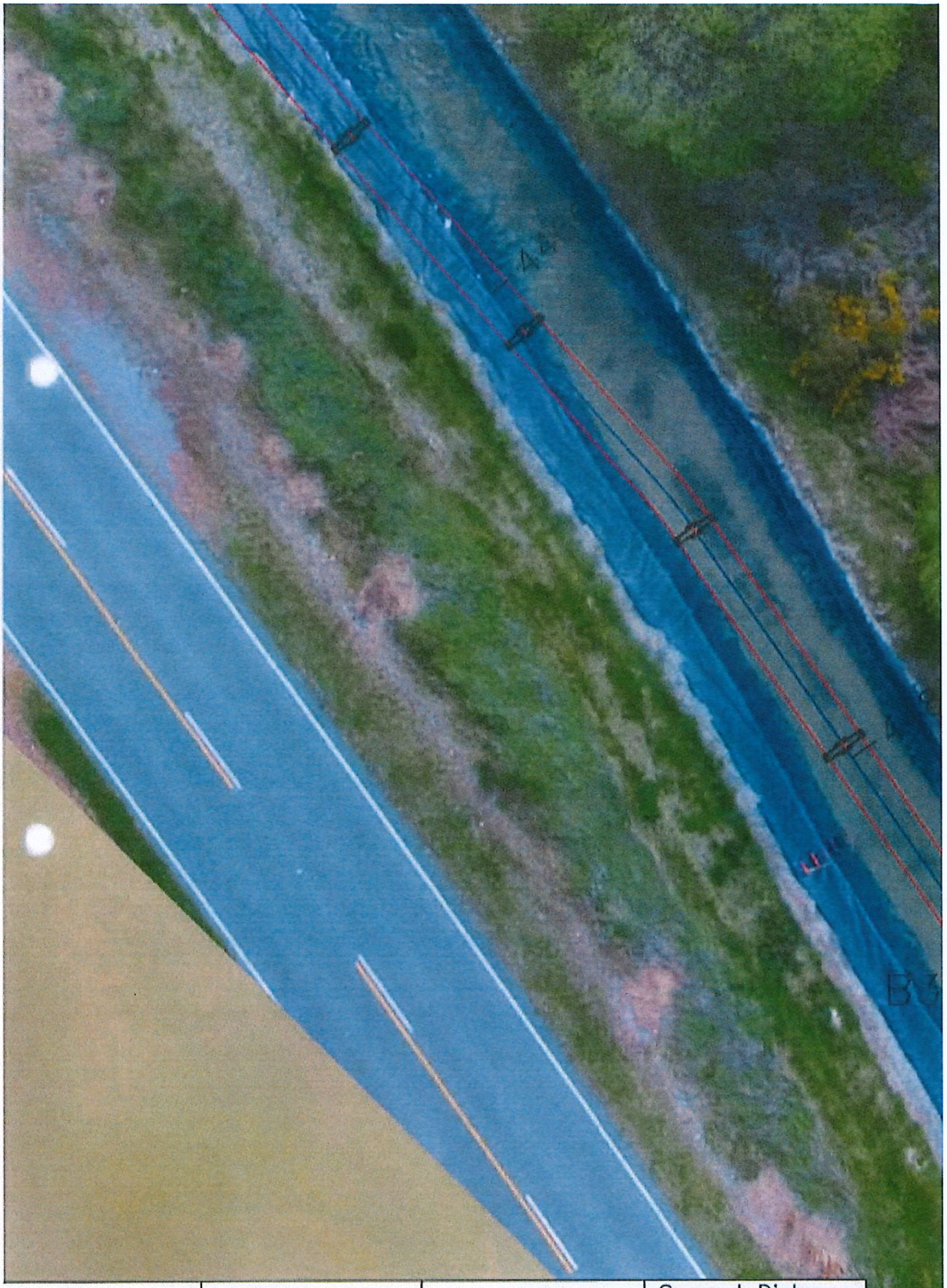

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B26	1398858	5045123	8.9
B27	1398864	5045116	8.9
B28	1398870	5045110	8.9