

OPPOSITION

PUBLIC COMMENTS SUBMITTED ON BEHALF OF **JEAN C. HUFFMAN AND DAN C. HUFFMAN IN OPPOSITION** TO APPLICATION AND PRELIMINARY DECISION FOR WATER QUALITY LAND APPLICATION PERMIT FOR MUNICIPAL WASTEWATER PERMIT NEW PERMIT NO. WQ0015083001

Regulated Entity Name: LEAKEY REGIONAL WWTF
RN Number: RN106638653
TCEQ Permit No.: WQ0015083001
County: REAL
Principal Name: NUECES RIVER AUTHORITY
CN Number: CN600692552

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MAR 14 2014

By *BP*

CHIEF COMPLIANCE OFFICE

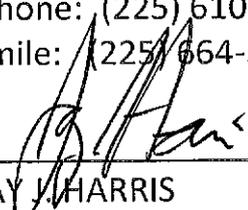
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TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

**OPPOSITION TO UNITED STATES ARMY CORPS OF ENGINEERS PROJECT NUMBER
SWF-2006-00616
FORT WORTH, TEXAS DISTRICT**

**REQUESTING REVIEW BY THE UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY REGION 6 OFFICE, COMPLIANCE ASSURANCE AND ENFORCEMENT
DIVISIONS**

By Attorney,
JAY J. HARRIS, LLC
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JAY J. HARRIS

TEXAS BAR ROLL NUMBER 9066150

Attorney for Jean C. Huffman and Dan C. Huffman

MWD

OPPOSITION

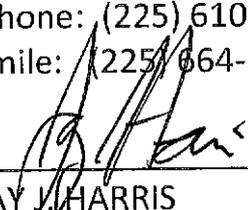
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I. Design of System to Place the High Pressure Force Main Trunk Line in Both the Frio River Floodway and the Patterson Creek Floodway.

The Project Engineers for the NRA designed this waste water collection system to place at least one type of lift station to be connected to the high pressure force main trunk line in the floodway of both the Frio River and Patterson Creek.

Jay Gardner of Naismith Engineering, Inc. (Naismith) represented to the USACE further advised that this high pressure force main trunk line, which is expected to carry **360,000 gallons per day of raw sewage to the waste water treatment site** would cross Patterson Creek in open trenching.

Mr. Gardner represented to the USACE that **“Elevations from the upper banks of the river to the water’s edge at the crossings are relatively steep, transitioning quickly from the edge of the water to uplands, thereby reducing the amount of potential wetlands disturbance.”**

The NRA’s own survey of the easement that they are seeking to obtain from the Opponents attached as Exhibit “A” reflects that the edge of the Frio River is contiguous with the edge of John Davis Road.

To demonstrate the absolute false and absurd nature of this factual representation by the NRA’s engineers, attached as Exhibits “B” through “J” are pictures of the Frio River in its normal stage together with pictures of the Frio River in flood stage.

Exhibit "B" shows FM 1120 at the low water bridge with John Davis Road on the right side of the picture. Exhibit "C" reflects the primitive nature of John Davis Road.

Exhibits "D" through "G" is representative of the clarity of the spring water source, which is the primary source of water in the Frio River, and the normal tourist activity in the Frio River. This tourist activity is the basis of the economy in Real County.

Exhibit "H" is the beginning stage of flood water accumulating in the Frio River. The "Frio River" road sign indicates that the low water bridge crossing is now flooded by several feet of flood water.

Exhibit "I" shows that the floodway of the Frio River has expanded to a width that no longer allows the low water bridge, the entirely submerged proposed lift station site and John Davis Road are now at a distance so extreme that they can no longer be seen or identified.

Exhibit "J" shows the expansion of the flood way of the Frio River has entirely submerged FM 1120 for so great a distance that it cannot be determined where the main channel of the Frio River is located. It should be noted that somewhere in the distant deep and strong current of the Frio River is the proposed lift station site the NRA proposes to acquire from Opponents as well as John Davis Road in the deep strong currents of the Frio River, which obviously makes any effort to service the proposed lift station and high pressure force main sewer trunk line impossible to reach.

Exhibit "J" should be contrasted with the statement by the NRA's engineer, Mr. Gardner, representing to the USACE that "Elevations from the upper banks of the river to the water's edge at the crossings are relatively steep, transitioning quickly from the edge of the water to uplands, thereby reducing the amount of potential wetlands disturbance."

Finally, Exhibit "K" is typical of the turbulent flood water that typically accompanies floods in a Canyon river such as the Frio River. It is obvious again that any rupture of the high pressure force main trunk line, which is expected to carry 360,000 gallons per day of raw sewage to the waste water treatment site,

could not be repaired or any other action taken to stop the discharge of raw sewage into the Frio River without loss of life. Unfortunately, we are all too familiar in the Hill Country area of Texas with the disastrous loss of life that often accompanies these floods.

The correspondence from the NRA's engineer, Mr. Gardner, further represented to the USACE the following statement. "Some temporary land clearing will be necessary on the banks of the Frio in order to accomplish the proposed work. Pre-construction contours will be re-established post-construction, and any cleared areas will be re-vegetated using native vegetation".

The project engineers propose to trench up to fifteen (15') deep along the side of the Davis crossing bridge in Patterson Creek. Exhibit "L" is a Cypress tree located immediately adjacent to the Davis Crossing bridge, where the project engineers propose to trench fifteen (15) deep. If the damage to the roots from this trenching activity results in the loss of this 100 to 200 year old Cypress tree, which is typical of the Cypress tree growth along both Patterson Creek and the Frio River, does the NRA propose to replace it by "re-vegetating using native vegetation"?

II. Patterson Creek Topography and Failure to Perform Necessary Analysis of Adequacy of Bridge at Patterson Creek Davis Crossing.

In order to understand that it is not a matter of if the bridge at Davis Crossing on the Patterson Creek will be destroyed, but a matter of when, it is necessary to examine both the topography of Patterson Creek as well as the condition of the bridge at Davis Crossing on Patterson Creek.

Exhibit "M" is a map reflecting the location where Patterson Creek crosses John Davis Road at Davis Crossing bridge and joins the Frio River as a tributary a short distance south of John Davis Road.

Exhibit "N" is the top of the US 83 Bridge over Patterson Creek, which is designed in accordance with the Texas Department of Transportation guidelines.

Exhibits "O", "P", and "Q" reflect the type of concrete pilings and structure required to withstand flash floods on Patterson Creek.

Exhibit "R" shows the tremendous width of Patterson Creek between the bridge at US 83 and the bridge on John Davis Road.

Exhibit "S" is typical of the type of wood debris resulting from the drought conditions over the last few years, which will become a mass of the next flash flood to strike the bridge on John Davis Road, together with what appears to be pilings from another bridge on Patterson Creek which was destroyed by flood water.

Exhibits "T" through "X" are examples of both the width and the high cliffs resulting from erosion and scouring over the decades of floods on Patterson Creek that contain the creek at this location.

Exhibit "Y" is a picture of the bridge on the Patterson Creek at Davis Crossing with the Cypress tree previously shown as an exhibit on the south side.

Exhibit "Z" is a picture of one or both of the culverts that all of the flood water from Patterson Creek are designed to flow through.

Exhibit "A-1" is the narrow surface of the bridge at Patterson Creek.

Exhibit "A-2" and "A-3" shows the close proximity of the irreplaceable Cypress tree where the NSA's Engineers propose to trench fifteen (15) feet deep around the roots of the tree.

Exhibits "A-4", "A-5" and "A-6" show the severe erosion and scouring that presently exists on both ends of the bridge over Patterson Creek which will be "sheltering" the high pressure force main trunk line carrying 360,000 gallons per day, or 15,000 gallons per hour of raw sewage across both Patterson Creek and the entire length of John Davis Road from FM 1120 to US 83.

Exhibits "A-7" and "A-8" depict the short distance of Patterson Creek from John Davis Road to its flow into the Frio River as a tributary, which is poorly depicted in Exhibit "A-9".

Exhibit "A-10" is a picture of the Frio River just northeast of where it joins Patterson Creek.

Finally, Exhibit "A-11" is a picture of the water of the Frio River impounded by a dam, where the 360,000 gallons per day of raw sewage will ultimately be deposited in the event of a rupture of the high pressure force main trunk line. This location is also known as "Garner State Park".

The solution to the potential catastrophic damage to the Frio River as a result of a potential rupture of the high pressure force main trunk line that crosses the bridge at Patterson Creek is both simple and required by Texas State Law.

The City of Leakey Waste Water Treatment Plant and Collection Lines are being entirely funded by the State of Texas.

Title 43 of the Texas Administrative Code requires that all projects such as bridges constructed with funds from the State of Texas must meet the requirements of the Standard Bridge Design Specifications of the Texas Department of Transportation, a copy of which are attached hereto as Exhibit "A-12". This includes the Geotechnical and Hydraulic design requirements, and the Scour Analysis and Report. The protection of the high pressure force main trunk line that crosses the bridge at Patterson Creek is an intricate component of the waste water project, and should comply with the requirements of state law.

According to the United States Geological Data attached as Exhibit "A-13", the greatest flow of water through the Frio River in the past six (6) years at the Frio River crossing at Concan has been 72.8 cubic feet per second.

However, on four occasions between 1981 and 1987 the greatest flow of water at the Concan Frio River crossing has ranged between 301.7 to 433.6 cubic feet per second. Therefore, the evaluation of the structural integrity of the bridge in accordance with the TXDOT Bridge Construction Guidelines, the Geotechnical and Hydraulic design requirements, and the Scour Analysis and Report should be evaluated using these historical water flow measurements at a minimum, if not in accordance with a 100 year flood.

III. Incorrect, False or Material Misrepresentations Made to the United State Army Corps of Engineers (USACE) to Avoid the Requirements of Applying for an Individual 404 Permit Under the Federal Clean Water Act together with the Necessity of Wetlands Mitigation if the 404 Permit Was Granted by Providing Incorrect Factual Information in an Attempt to Install the High Pressure Force Main Trunk Line under the Nationwide Permit 12 for Utility Line Activity.

Many of the misrepresentations made by the project engineers to the USACE were addressed in Section I above.

Additional factors include the following:

The project does not comply with FEMA 100 year floodplain requirements.

Will all structures be properly maintained to ensure public safety? Obviously the bridge on John Davis Road has not been maintained in any manner.

No disclosures were made concerning to proximity of the Frio River and its basis for a large part of the Real County economy.

The project has potential to impact nesting sites of Golden Eagles, which have always been a native species to Real County.

All dams associated with the project have not been designed to comply with established State Dam safety criteria.

IV. Failure to Obtain the Passage of a City Ordinance by the City of Leakey Authorizing the Initiation of Condemnation Proceedings to Acquire Real Property in Connection with the Project.

The Texas Local Governmental Code provides the following:

Sec. 2206.051. SHORT TITLE. This subchapter may be cited as the Truth in Condemnation Procedures Act.

Sec. 2206.052. APPLICABILITY. The procedures in this subchapter apply only to the use of eminent domain under the laws of this state by a governmental entity.

Sec. 2206.053. VOTE ON USE OF EMINENT DOMAIN. (a) Before a governmental entity initiates a condemnation proceeding by filing a petition under Section 21.012, Property Code, the governmental entity must:

- (1) authorize the initiation of the condemnation proceeding at a public meeting by a record vote; and
 - (2) include in the notice for the public meeting as required by Subchapter C, Chapter 551, in addition to other information as required by that subchapter, the consideration of the use of eminent domain to condemn property as an agenda item.
- (b) A single ordinance, resolution, or order may be adopted for all units of property to be condemned if:
- (1) the motion required by Subsection (e) indicates that the first record vote applies to all units of property to be condemned; and

(2) the minutes of the governmental entity reflect that the first vote applies to all of those units.

(c) If more than one member of the governing body objects to adopting a single ordinance, resolution, or order by a record vote for all units of property for which condemnation proceedings are to be initiated, a separate record vote must be taken for each unit of property.

(d) For the purposes of Subsections (a) and (c), if two or more units of real property are owned by the same person, the governmental entity may treat those units of property as one unit of property.

(e) The motion to adopt an ordinance, resolution, or order authorizing the initiation of condemnation proceedings under Chapter 21, Property Code, must be made in a form substantially similar to the following: "I move that the (name of governmental entity) authorize the use of the power of eminent domain to acquire (describe the property) for (describe the public use)." The description of the property required by this subsection is sufficient if the description of the location of and interest in the property that the governmental entity seeks to acquire is substantially similar to the description that is or could properly be used in a petition to condemn the property under Section 21.012, Property Code.

(f) If a project for a public use described by Section 2206.001(c)(3) will require a governmental entity to acquire multiple tracts or units of property to construct facilities connecting one location to another location, the governing body of the governmental entity may adopt a single ordinance, resolution, or order by a record vote that delegates the authority to initiate condemnation proceedings to the chief administrative official of the governmental entity.

(g) An ordinance, resolution, or order adopted under Subsection (f) is not required to identify specific properties that the governmental entity will acquire. The ordinance, resolution, or order must identify the general area to be covered by the project or the general route that will be used by the governmental entity for the project in a way that provides property owners in and around the area or along the route reasonable notice that the owners' properties may be subject to condemnation proceedings during the planning or construction of the project.

V. Refusal of the Nueces River Authority to Comply with Texas Property Code Articles 21.0112 and 21.025.

The Nueces River Authority or the City of Leakey currently has no right of way or easement for a force main sewer trunk line on John Davis Road or the real property owned by Opponents on the north and south sides of John Davis Road.

Section 17 of the Texas Constitution Bill of Rights provides the following:

Sec. 17. TAKING, DAMAGING, OR DESTROYING PROPERTY FOR PUBLIC USE; SPECIAL PRIVILEGES AND IMMUNITIES; CONTROL OF PRIVILEGES AND FRANCHISES. (a) No person's property shall be taken, damaged, or destroyed for or applied to public use without adequate compensation being made, unless by the consent of such person, and only if the taking, damage, or destruction is for:

(1) the ownership, use, and enjoyment of the property, notwithstanding an incidental use, by:

(A) the State, a political subdivision of the State, or the public at large; or

(B) an entity granted the power of eminent domain under law;

In connection with any expropriation proceeding, Texas State Law provides the following under the Texas Property Code:

Sec. 21.025. PRODUCTION OF INFORMATION BY CERTAIN ENTITIES. (a) Notwithstanding any other law, an entity that is not subject to Chapter 552,

Government Code, and is authorized by law to acquire private property through the use of eminent domain is required to produce information as provided by this section if the information is:

(1) requested by a person who owns property that is the subject of a proposed or existing eminent domain proceeding; and

(2) related to the taking of the person's private property by the entity through the use of eminent domain.

(b) An entity described by Subsection (a) is required under this section only to produce information relating to the condemnation of the specific property owned by the requestor as described in the request. A request under this section must contain sufficient details to allow the entity to identify the specific tract of land in relation to which the information is sought.

(c) The entity shall respond to a request in accordance with the Texas Rules of Civil Procedure as if the request was made in a matter pending before a state district court.

(d) Exceptions to disclosure provided by this chapter and the Texas Rules of Civil Procedure apply to the disclosure of information under this section.

(e) Jurisdiction to enforce the provisions of this section resides in:

(1) the court in which the condemnation was initiated; or

(2) if the condemnation proceeding has not been initiated:

(A) a court that would have jurisdiction over a proceeding to condemn the requestor's property; or

(B) a court with eminent domain jurisdiction in the county in which the entity has its principal place of business.

(f) If the entity refuses to produce information requested in accordance with this section and the court determines that the refusal violates this section, the court

may award the requestor's reasonable attorney's fees incurred to compel the production of the information.

On December 16, 2014, I sent correspondence to Mr. Con Mims, Executive Director of the Nueces River Authority, a complete copy of which is attached hereto as Exhibit "A-14", requesting the following:

December 16th, 2013

VIA FACSIMILE: (830) 278-2025

Mr. Con Mims
Executive Director
Nueces River Authority
P.O. Box 349
Uvalde, TX 78802

RE: Offer to Purchase 20' Wide Permanent Utility Easement (0.14) Acres and a 50' Wide Temporary Easement (0.39 acres)

Dear Mr. Mims:

Please be advised of my representation of Jean C. Huffman in connection with the above referenced matter. Please direct all future correspondence related to Ms. Huffman's interests in this project directly to my attention.

I am in receipt of your correspondence dated November 18, 2013.

Pursuant to Section 21.0112 of the Texas Property Code, please provide me with evidence that the Nueces River Authority (NRA) mailed a copy of the Landowner Bill of Rights Statement to the purported owners of this property prior to November 18, 2013, together with evidence that the Landowner Bill of Rights Statement has been posted on the NRA's Internet website.

In accordance with Section 21.024 of the Texas Property Code requiring production of all information requested by a landowner from a utility that could be related to the Utility's acquisition of real property for utility purposes, please provide me with a copy of the following information:

A copy of any Right of Way Agreement, Servitude or Texas statute upon which the NRA claims establishes any right of way for a sewage line on John Davis Road from RR 1120 to US Highway 83.

On the same date that I transmitted my correspondence to Mr. Mims by facsimile, I received a response from Mr. Mims stating, "I am pulling together the information that you have requested and will get back with you as soon as it is available." This facsimile is attached as Exhibit "A-15".

On December 20th, 2013, I received correspondence from Paul D. Barkhurst, who advised me that he was the legal counsel for the NRA. Mr. Barkhurst further informed me that his office would not consider the undersigned counsel for Opponent, Jean C. Huffman, as her legal counsel due to the fact that the undersigned counsel was not actively practicing law in the State of Texas. Mr. Barkhurst correspondence is attached as Exhibit "A-16".

On January 7, 2014, the undersigned counsel for Ms. Huffman notified Mr. Barkhurst that I was representing Ms. Huffman pursuant to a power of attorney, but that if he would not recognize my authority to act as Ms. Huffman's agent, he should direct any future correspondence concerning my client to her local counsel in Odessa, Texas, Mr. Jimmie B. Todd of Todd, Barron, Thomason, Hudman & Baxter, P.C. A full copy of this correspondence is attached as Exhibit "A-17". The undersigned counsel is the son of Ms. Huffman, and began managing the ranch property when Ms. Huffman retired from actively managing the ranch property at age eighty (80).

On February 17, 2014, the undersigned counsel transmitting correspondence to Mr. Barkhurst stating the following:

February 17, 2014
VIA FACSIMILE: (210) 226-7802

Paul D. Barkhurst
BarkhurstHinojosa P.C.

RE: Nueces River Authority

"Dear Mr. Barkhurst:

You may now feel free to check with the Texas Bar Association to confirm that I have now notified the Continuing Legal Education Section to remove my exemption and place me in active status for your edification.

I have attached a copy of my previous correspondence to the Nueces River Authority (NRA) dated December 16th, 2013 for your response.

I reviewed the NRA's website to determine if Mr. Mims has posted the Landowner's Bill of Rights Statement as required by Section 21.0112 of the Texas Property Code for any public body seeking to obtain rights of way from the public. I am rather surprised that Mr. Mims has continued to intentionally violate Texas State Law for over sixty (60) day at this time. As the statutes provide, I will proceed to contact the Texas Attorney General's Office to ascertain whether they intend to pursue compliance with this statute, which was intended to protect private property rights.

Initially, I planned on opposing this project solely on environment grounds, because the force main sewer line proposed to be built across the Patterson Creek Bridge is not built to withstand the periodic flash floods that have destroyed the bridge on numerous occasions on a regular basis. This will result in the rupture of the pressurized force main sewer into Patterson Creek approximately 200 yards north of the point where Patterson Creek flows into the Frio River as a tributary. Several thousand gallons of raw sewage each day will then flow down the Frio River from John Davis Road through the tourist areas and Garner State Park.

However, it has now become apparent that the Nueces River Authority (NRA) intends to attempt to install the sewer line on John Davis Road without the funding to pay just compensation to purchase or expropriate the additional real property adjoining the Frio River required for the sewage line right of way, which I estimate could be valued at up to Five Hundred Thousand (\$500,000.00) Dollars.

The NRA recently sent a proposal to purchase a small site for a lift station at the corner of RR 1120 and John Davis Road for approximately Thirty Thousand (\$20,000.00) Dollars without any offer to purchase a right of way for the entire length of John Davis Road.

Of course, I requested a copy of any Right of Way Agreement, Servitude or Texas Statute upon which the NRA claims establishes any right of way for a force main sewer line in my December 16th, 2013 correspondence, so I assume you have had an adequate opportunity to locate any such agreement, and I look forward to receiving a copy.

Naturally it is in the best interest of the NRA to delay and attempt to keep these issues from being raised prior to the expiration of the deadline for any concerned member of the public or the owners of any businesses that would be affected by the loss of tourism to write to the Chief Clerk, MC 105, Texas Commission on Environmental Quality, PO BOX 13087, Austin, TX 78711 to ask for the Commission to hold a Public Hearing to allow them to ask the

Commission's staff to investigate any potential problems with the project or damages to their business.

However, if you are unable to provide me with any such documentation for a right of way on John Davis Road after sixty days to review this matter, it is obviously safe to say that you have none."

As previously stated, Texas State Law Section 21.024 of the Texas Property Code requires production of all information requested by a landowner from a utility that could be related to the Utility's acquisition of real property for utility purposes.

Undersigned Counsel for Opponents first requested a copy of any Right of Way Agreement, Servitude or Texas statute which the NRA claimed to establish any right of way for a sewage line on John Davis Road from RR 1120 to US Highway 83 by correspondence to Con Mims on December 16th, 2013.

Undersigned Counsel for Opponents again requested a copy of any Right of Way Agreement, Servitude or Texas statute which the NRA claimed to establish any right of way for a sewage line on John Davis Road from RR 1120 to US Highway 83 by correspondence to the NRA's legal counsel, Paul D. Barkhurst, on February 17, 2014.

As of this date, no document, easement, servitude or statute has been identified by the NRA or its attorney claiming that the NRA has any claim to any right of way for a sewage line on John Davis Road from RR 1120 to US Highway 83.

Until such time as Opponents receive a response in connection with this request for information, which the NRA is legally obligated to provide as required by Section 21.024 of the Texas Property Code, no further negotiations for the proposed acquisition of the lift station site from Opponents can proceed.

In the absence of the purchase by the NRA from Opponents of a right of way easement for the high pressure force main trunk line over the entire length of John Davis Road, there is no existing Public Need for the NRA to expropriate the proposed lift station site from Opponents, since there would be no means for the

360,000 gallons of raw sewage to be transported from the lift station site to the Waste Water Treatment Plant.

Furthermore, the TWDB cannot commit to funding the construction of a project, which cannot be completed as a result of the NRA having obtained the necessary right of way or easement as a result of the manner in which the NRA's Project Engineers chose to design the project.

The Opponents undersigned counsel had previously notified both the NRA and its legal counsel, Paul Barkhurst, to direct any correspondence or other communications either to Opponents local counsel, Mr. Jimmie Todd in Odessa, Texas, or to undersigned counsel in the Exhibits attached as "A-14", "A-17" and "A-18".

Despite these instructions, large packages of legal documents together with legal demands contained in correspondence apparently prepared by a law firm for the signature of the Executive Director of the NRA were mailed directly to Ms. Huffman on February 12, 2014 and February 26, 2014 without any notice to either of Ms. Huffman's attorneys.

This action to circumvent the prohibition against an attorney engaging in direct communications with a party represented by legal counsel exemplifies the bad faith manner in which the NRA and its attorneys have conducted themselves in attempting to acquire real property rights from Ms. Huffman.

In fact, the Texas Supreme Court in addressing this form of behavior has adopted the following rule together with the corresponding comment:

Rule 4.02 Communication with One Represented by Counsel

(a) in representing a client, a lawyer shall not communicate or cause or encourage another to communicate about the subject of the representation with a person, organization or entity of government the lawyer knows to be represented by another lawyer regarding that subject, unless the lawyer has the consent of the other lawyer or is authorized by law to do so.

Texas Disciplinary Rules of Professional Conduct

Comment - Rule 4.02

1. Paragraph (a) of this Rule is directed at efforts to circumvent the lawyer-client relationship existing between other persons, organizations or entities of government and their respective counsel. It prohibits communications that in form are between a lawyer's client and another person, organization or entity of government represented by counsel where, because of the lawyer's involvement in devising and controlling their content, such communication in substance are between the lawyer and the represented person, organization or entity of government.

VI. Inadequate Funding for the Project to Acquire a Right of Way for the High Pressure Force Main Trunk Line for the Entire Length of John Davis Road.

As previously stated, the Leakey City Council has not passed any Ordinance or Resolution authorizing expropriation of any real property for this project. Of course, this may be a result of the fact that the City of Leakey does not have adequate funding to purchase all of the necessary right of way including not only the proposed locations for the lift stations, but also including the right of way necessary for the installation of a high pressure force main trunk line the entire length of John Davis Road.

As the attached maps and exhibits reflect, Opponents land on both the north and south side of John Davis Road consist primarily of property fronting on either the Frio River or Patterson Creek.

Attached as Exhibit "A-19" is a newspaper article announcing the opening of a new subdivision nearby on the Frio River. The Heartstone Subdivision consisted of 14 riverfront lots and 30 lots from .73 acres to .93 acres that shared a common area of private riverfront property, since the Frio River is one of the few rivers in Texas where the public may only travel in the riverbed while the banks of the river are privately owned and not subject to trespass. The .73 acre lots with shared common private riverfront access were priced at a minimum of \$110,000.00. A 1.86 riverfront lot on the Frio River was listed at a minimum price of \$425,000.00.

Obviously, any Right of Way or easement purchase for the similar property on each side of John Davis Road for a high pressure force main sewer trunk line large enough to transport 360,000 gallons of raw sewage per day could have a substantial value based on the price per square foot for similar property.

It must be assumed that this is the reason that the NRA refuses to comply with its legal and statutory duty provide as required by Section 21.024 of the Texas Property Code to disclose and provide Opponents any document, easement, servitude or statute identified by the NRA or its attorney claiming that the NRA has any claim to any right of way for a sewage line on John Davis Road from RR 1120 to US Highway 83.

The NRA may also incur additional costs in connection with required improvements to the existing bridge at Davis Crossing where Patterson Creek crosses John Davis Road as required by Texas State Law for projects built with State Funds after the performance of the Geotechnical and Hydraulic design requirements, and the Scour Analysis and Report in accordance with the guidelines of the Texas Department of Transportation.

of W.

VII. Deceptive and Bad Faith Conduct by the Nueces River Authority in Holding a False Public Hearing in Order to Deprive Interested Parties of Their Due Process Rights to File Public Comments.

Numerous acts of deceptive conduct, bad faith and the failure to disclose information adverse to the approval of this project engaged in by the NRA are described in the Sections set forth above.

The most egregious conduct of the NRA and/or its legal counsel in the Opponents undersigned counsel's opinion is an apparent obvious attempt to confuse the voters, citizens and other interested parties of their due process right to be heard and present their public comments as the procedures of the TCEQ provide for and intend.

The public comment period for the permit application closes at 5:00 p.m. on the 10th day of March, 2014.

Subsequent to the public notice published by the TCEQ on February 6th, 2014, the NRA paid for the publication of a large Public Notice to be published in the legal journal newspaper for Real County that appears to be obviously misleading and confusing to the public. It also appears to supersede the previous Public Notice published by the TCEQ.

Even more misleading is the fact that the Public Hearing is scheduled to be held on the 10th day of March, 2014, which is the same day that the Public Comment period closes at 5:00 p.m. However, the NRA has scheduled its Public Hearing for 7:00 p.m. on the same day, which is two (2) hours after the close of the Public Comment period coincidentally.

The Public Notice, which is attached as Exhibit "A-20", includes the following statements.

"PUBLIC NOTICE

Nueces River Authority
Public Hearing Regarding
Environmental Document

For the Nueces River Authority Leakey Regional Wastewater Improvements
Project

One of the purposes of this hearing is to discuss the potential environmental impacts of the project and alternatives to it.....

The authority encourages citizens to participate to make their views known at this public hearing. Citizens unable to attend this meeting may submit their views in writing to Mr. Con Mims, Executive Director, Nueces River Authority, PO BOX 349, Uvalde, TX 78802-0349."

This PUBLIC NOTICE/PUBLIC HEARING published in the newspaper by the NRA after the PUBLIC NOTICE for public comments published by the TCEQ so greatly interferes and taints the Procedures for Public comments as well as both the Procedural Due Process and Substantive Due Process rights of the Public, that the TCEQ should consider the opening of a Second Public Comment Period.

In fact, it is the opinion of the undersigned counsel for Opponents that it borders on Malfeasance in Office.

VIII. SUMMARY

It is often said that a picture is worth a thousand words.

The picture on the front page of the Real County American on March 11, 1992, attached as Exhibit "A-21", showing the total destruction of the bridge on John Davis Road where the proposed high pressure force main sewage main trunk line carrying 360,000 gallons per day of raw sewage is to be located certainly speaks for itself.

The TWDB should be asking the question that when this occurs, will the TCEQ, USACE, EPA or another state or federal agency with jurisdiction ever allow this high pressure force main trunk line to be replaced?

Since approximately the date that the bridge was last destroyed by a flash flood, Real County has been suffering from one of its worst droughts in history, but another flood will come.

Perhaps the value and necessity of taking every possible precaution to avoid a rupture in the proposed high pressure force main sewage main trunk line carrying 360,000 gallons per day of raw sewage across Patterson Creek just a few hundred feet from its joinder with the Frio River is best summarized by two brief articles from familiar publications.

Writer-at-large Suzy Banks published an article entitled "Head for the Hills" about the Texas Hill Country in the *Texas Monthly* magazine that has become an institution in Texas. When interviewed, Ms. Banks was asked "What would be your ultimate Hill Country weekend getaway? Where would you stay, what would you do"? Ms. Banks responded, "In the summertime, when I crave the water, I'd try to book a few nights at Cabin 10 at the Frio River Cabins just north of Garner State Park. I'd play in the river beneath giant cypress trees all day...." Exhibit "A-22".

Mr. Michael A. Brodine, a Real County property owner, wrote a letter to the Editor of the Leakey Star Newspaper. Mr. Brodine included the following statements in his letter:

"I do have only one concern, Keep any pressurized sewer line and pumping equipment well away from the Frio or even Patterson Creek! Having a sewer system for Leakey is long overdue but residents are playing with danger that could make a waste land of Frio canyon and the local economy. Another concern of mine is our human hygiene, waste and plastics. If any of this stuff reaches the river the waste will decompose in time depending on the amount, heavy compounds will settle to the bottom and the plastic will be there forever."

X. STANDING

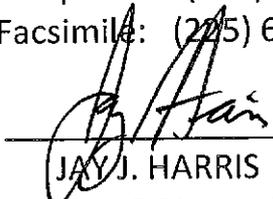
The real property sought to be expropriated for a lift station by the NRA is owned jointly by Opponents, Jean C. Huffman and the Estate of T.W. Huffman, Jr.

As shown by Exhibit "A-24", Jean C. Huffman and Dan C. Huffman are the Independent Co-Executors of the Estate of T.W. Huffman, Jr.

Opponents further show that there is no existing right of way for a public sewer line of any type on, in or adjacent to John Davis Road, or the real property on the north and south sides of John Davis Road, which is real property owned jointly by Jean C. Huffman and the Estate of T.W. Huffman, Jr.

Opponents, Jean C. Huffman and Dan C. Huffman, through their undersigned counsel of record, hereby request a contested case hearing in the above captioned Permit Application proceeding.

By Attorney,
JAY J. HARRIS, LLC
30615 Cypress Park Dr.
Denham Springs, Louisiana 70726
Telephone: (225) 610-7938
Facsimile: (225) 664-5707



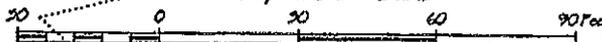
JAY J. HARRIS

TEXAS BAR ROLL NUMBER 9066150

Attorney for Jean C. Huffman and Dan C. Huffman

Exhibits

Graphic Scale



Plan no. 10150625

Revision 21, January 2014; Remove Location name of Leakey, TX

[Signature]
non-transferable

DAS, Inc.

10220 FOREST LANE DALLAS, TEXAS 75243
214-849-2200 800-862-2190

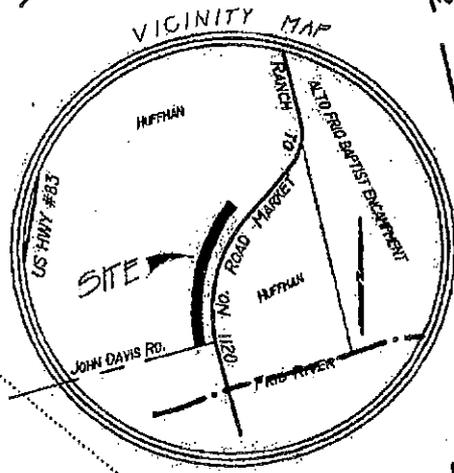
HUFFMAN
V24, P379 OPRRCT

HUFFMAN
V24, P379 OPRRCT

General Notes:
1. Legal Description for this Drawing on separate sheet LL-2783
2. Existing survey from G. W. ... observations with an original endorsed plat and
3. Survey is non-transferable. Only copies of original survey plat or
4. See these and copies of original survey plat or original survey plat
5. Improvement shown herein from John Davis P.L. is a gravel paved street and
6. Ranch to Market Road 1120 is a two lane gravel paved road.

RANCH TO MARKET ROAD NO. 1120

ALTO FRIO BAPTIST ENCAMPMENT
Prop. Line
V16, P73 & V28, P13, OPRRCT



JOHN DAVIS RD.

edge river

FRIO RIVER

SCALE: 1" = 30'	20' Utility Easement out of the
by: Jnd/yr 11/8/10 LL-2782	THOMAS APPLEWHITE SURVEY 1525, A-21
DATE: July 2013	Ranch to Market Road No. 1120 Real County, Texas
The foregoing sketch and legal description were prepared from an actual survey made on the ground. There are no encroachments, protrusions or boundary conflicts except as shown hereon.	

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EXHIBIT

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2013/11

EXHIBIT
'B'

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2013/07/04

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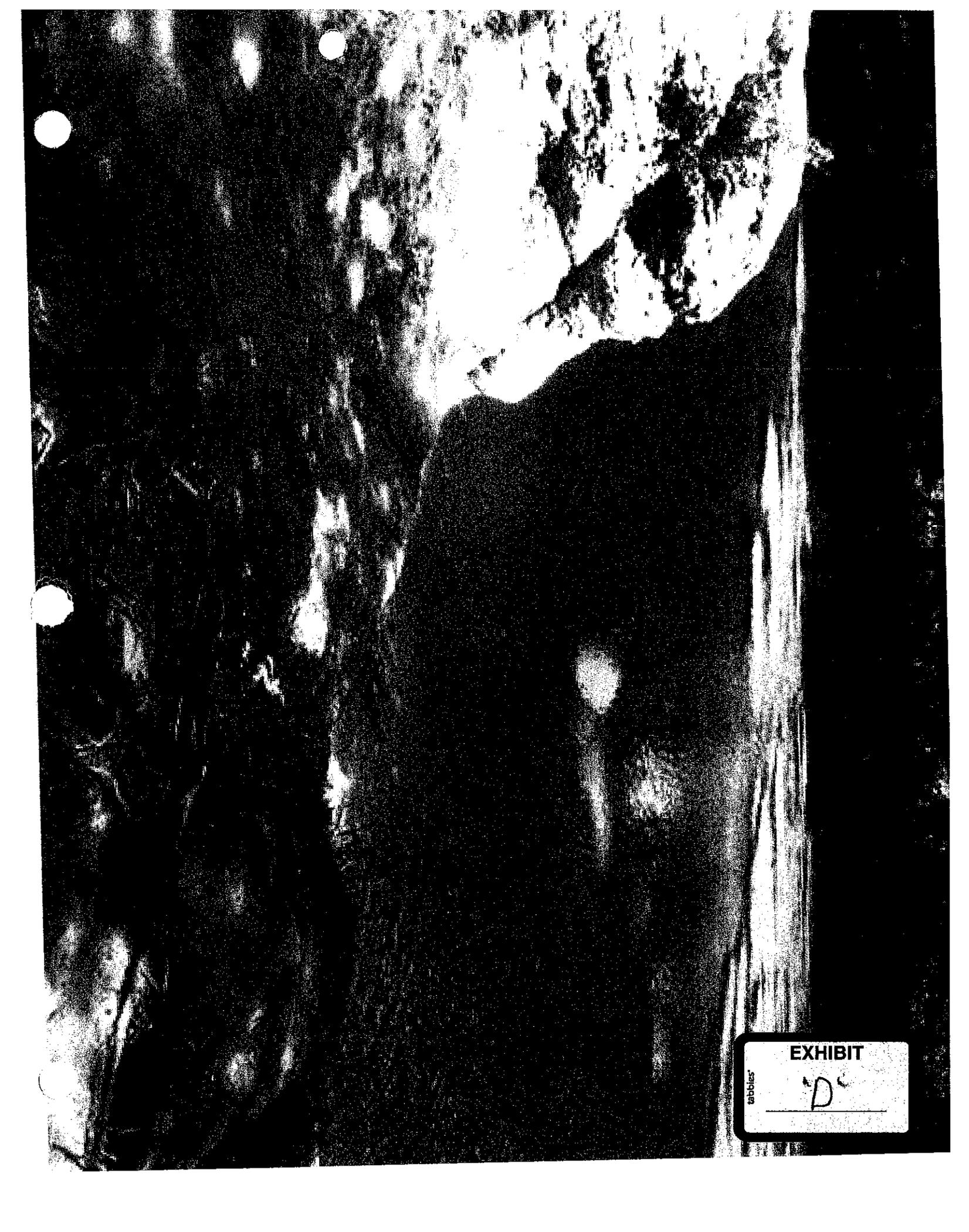


EXHIBIT
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D



EXHIBIT
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EXHIBIT
"F"

EXHIBIT
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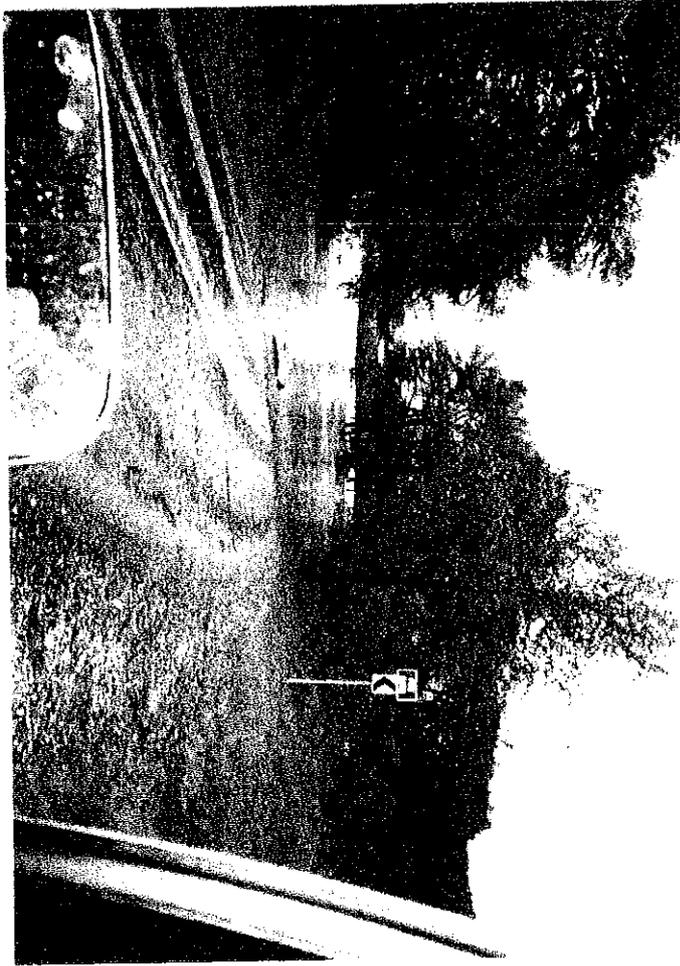


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EXHIBIT

" J "

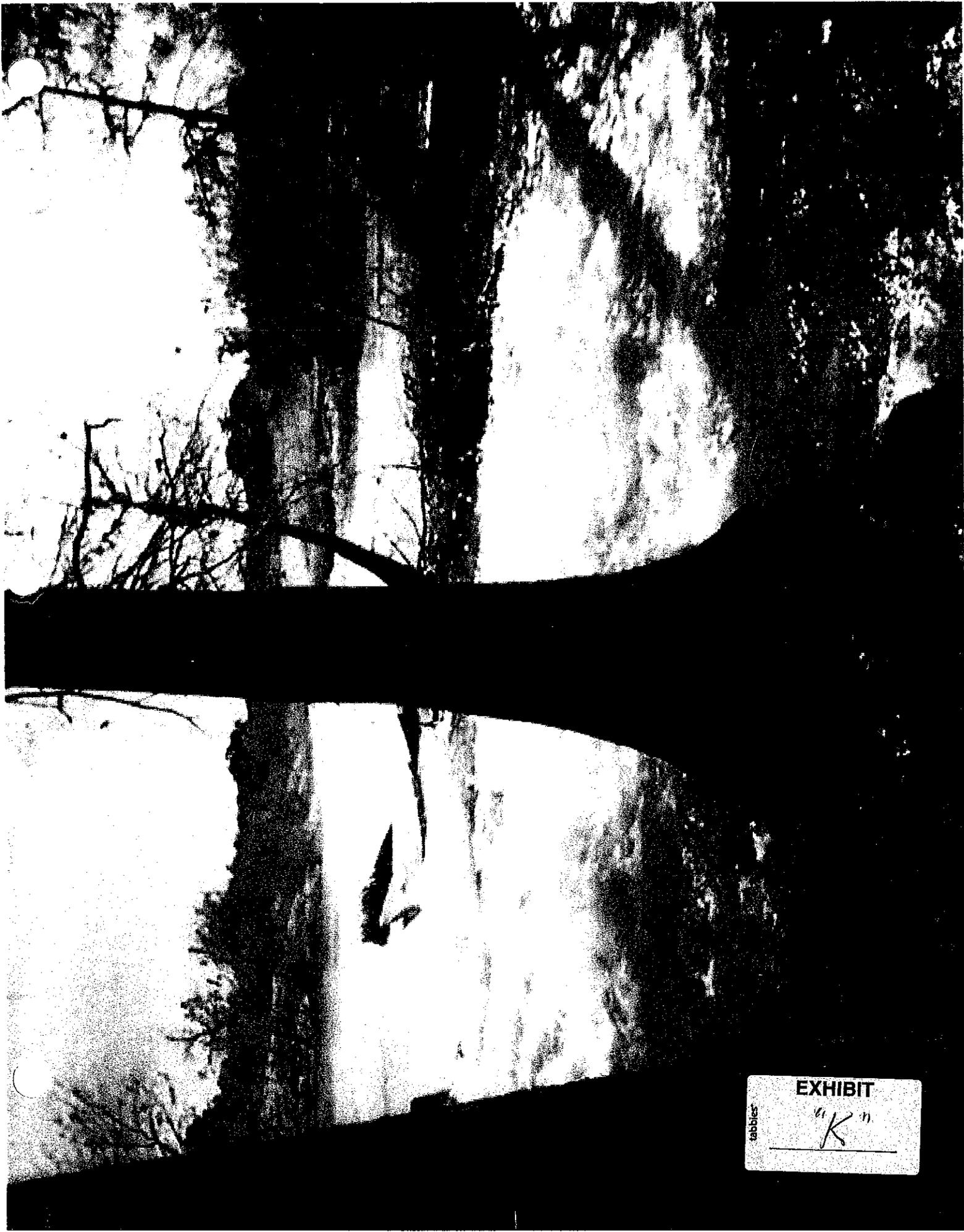


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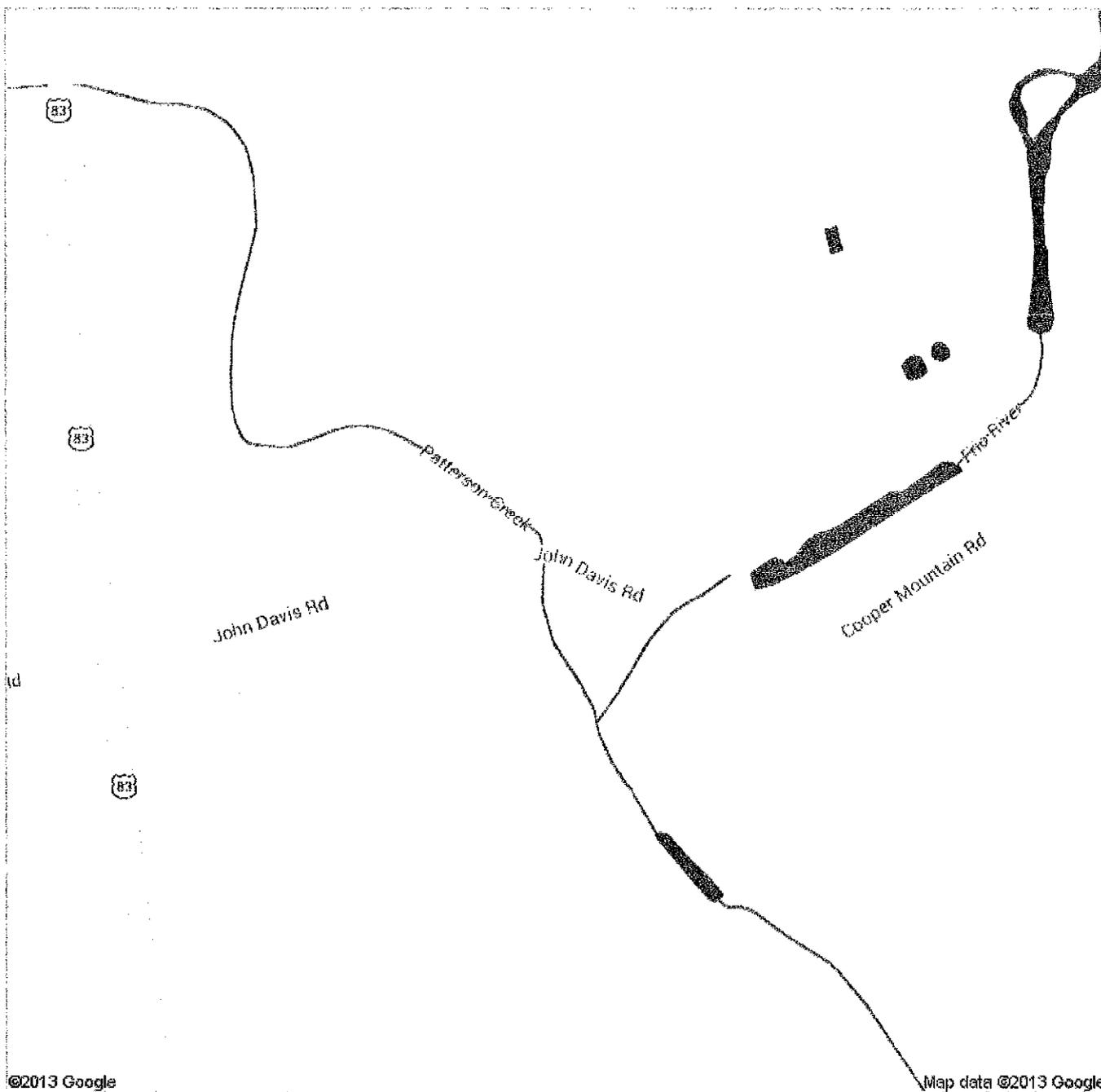
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"L"



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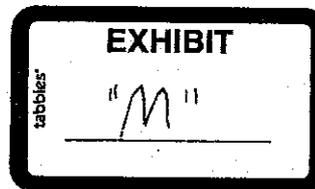
Get Google Maps on your phone

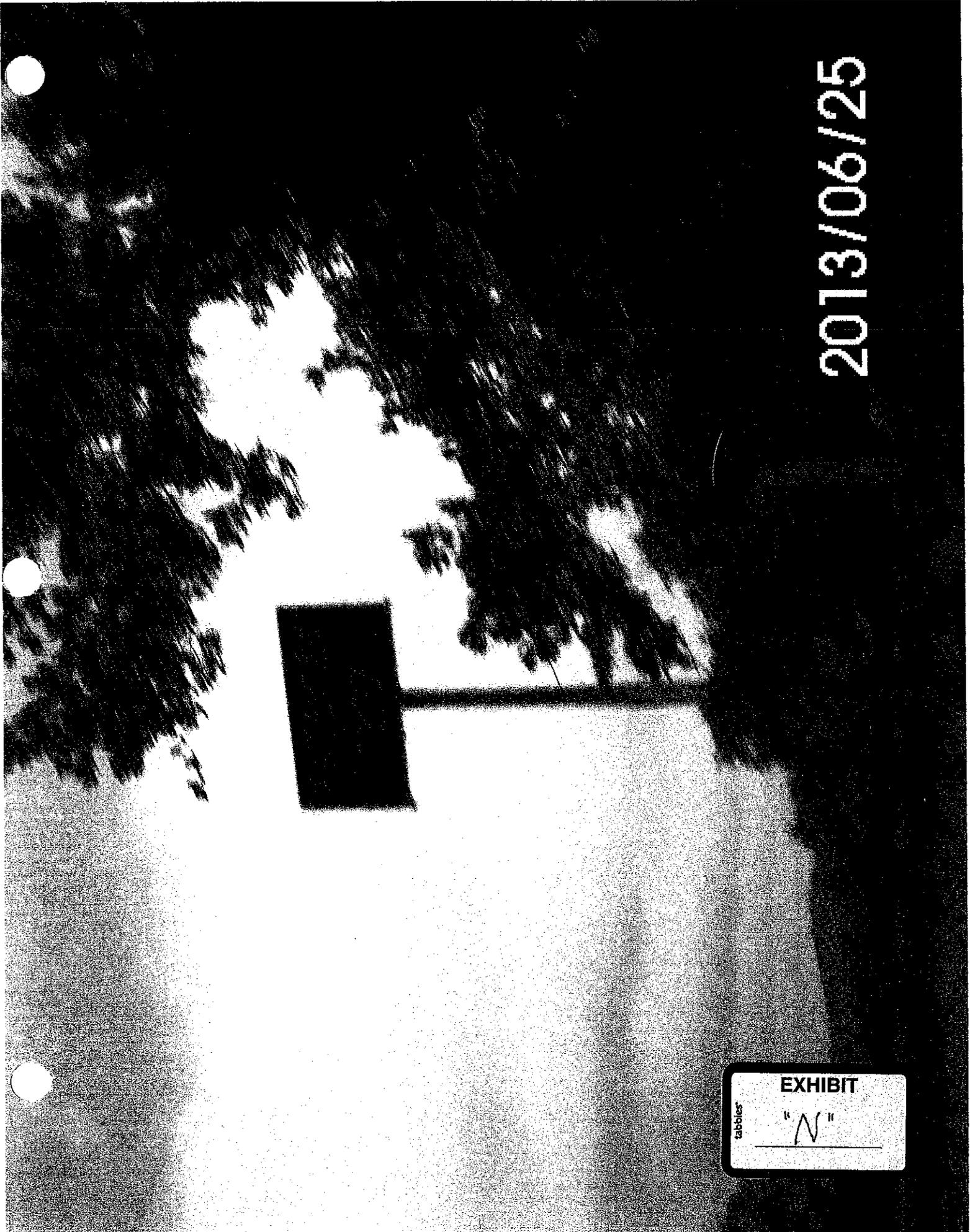
Text the word "GMAPS" to 466453



©2013 Google

Map data ©2013 Google





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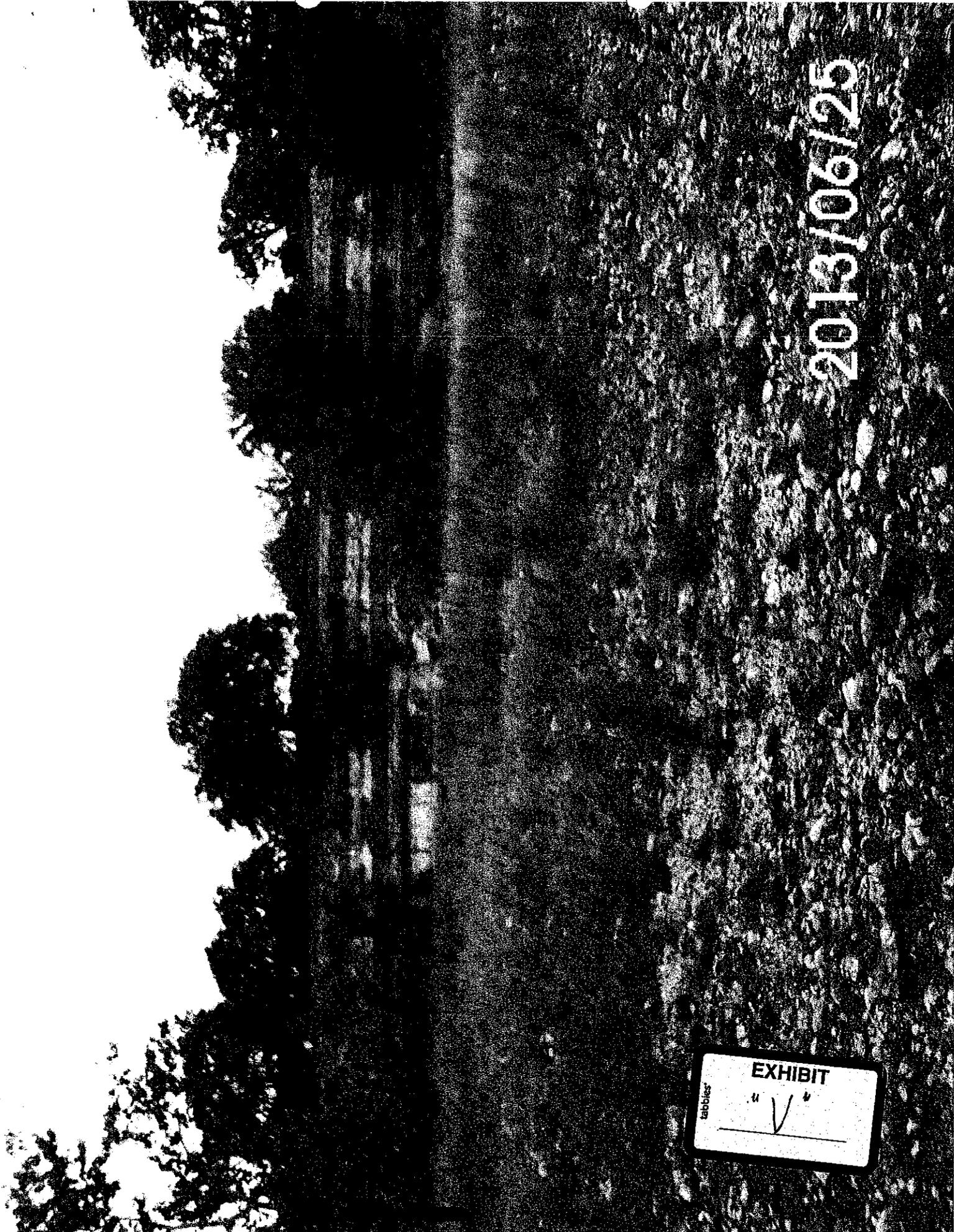


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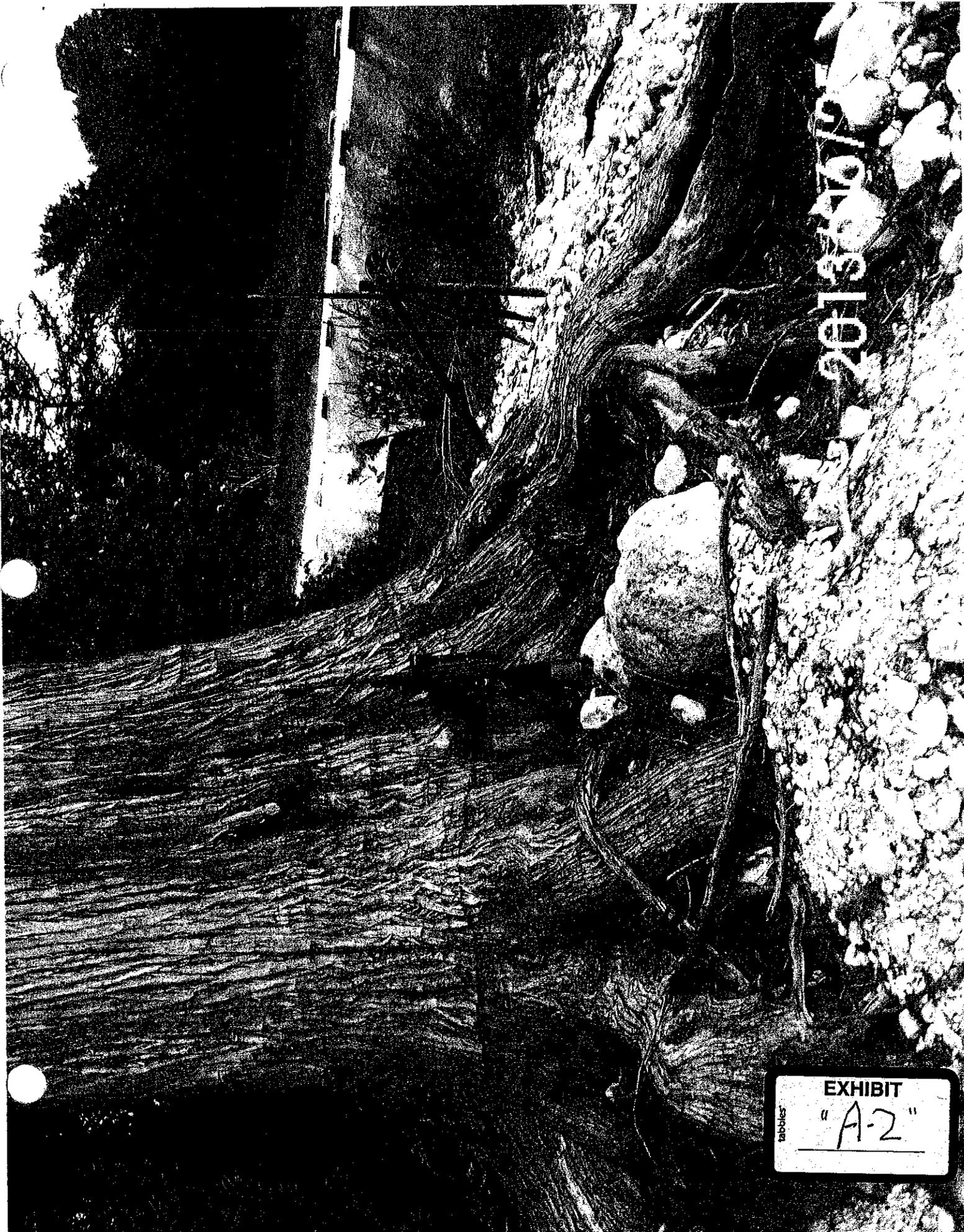


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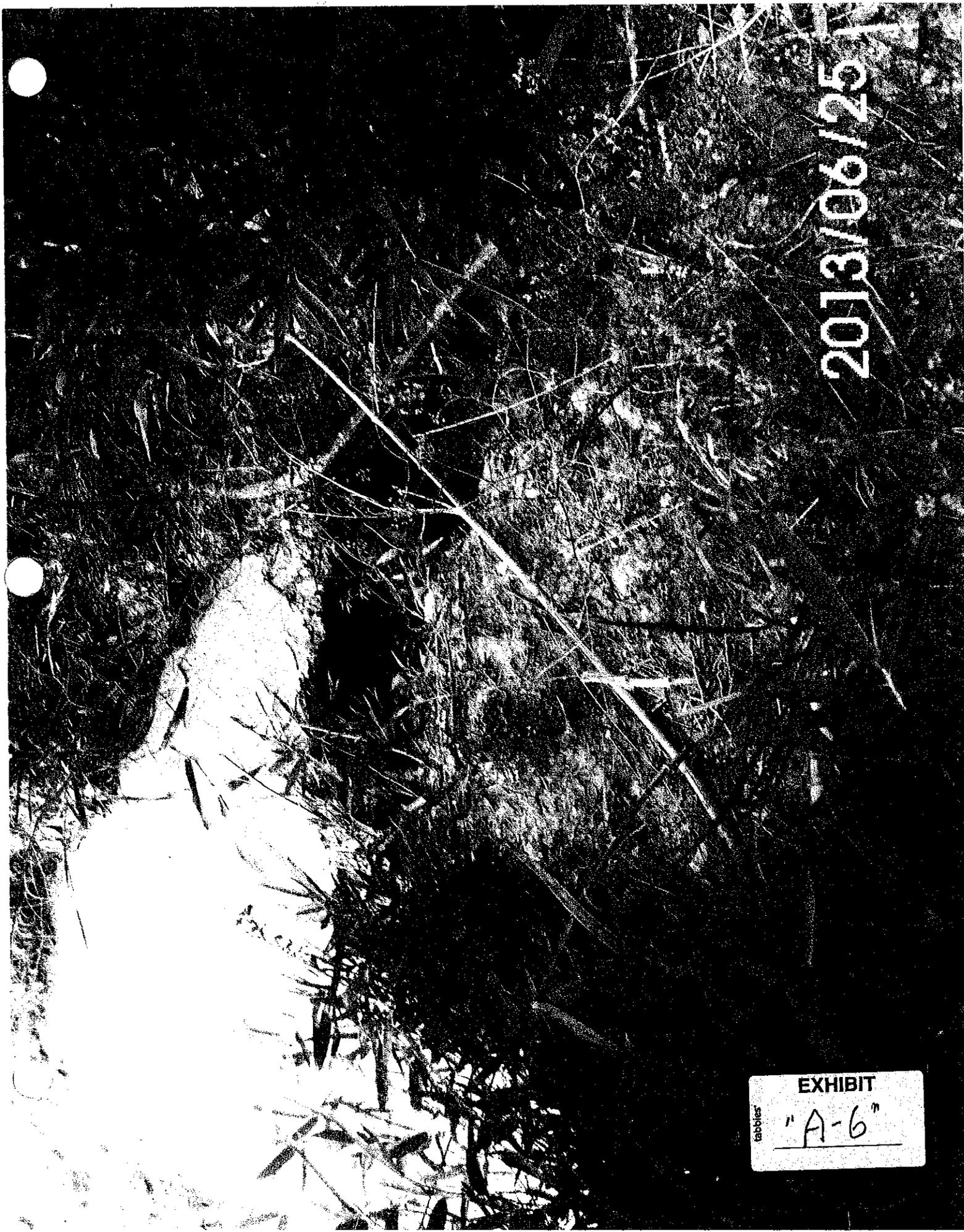
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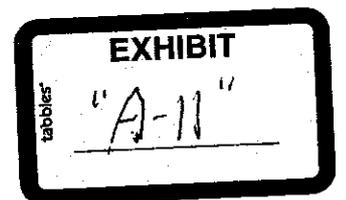
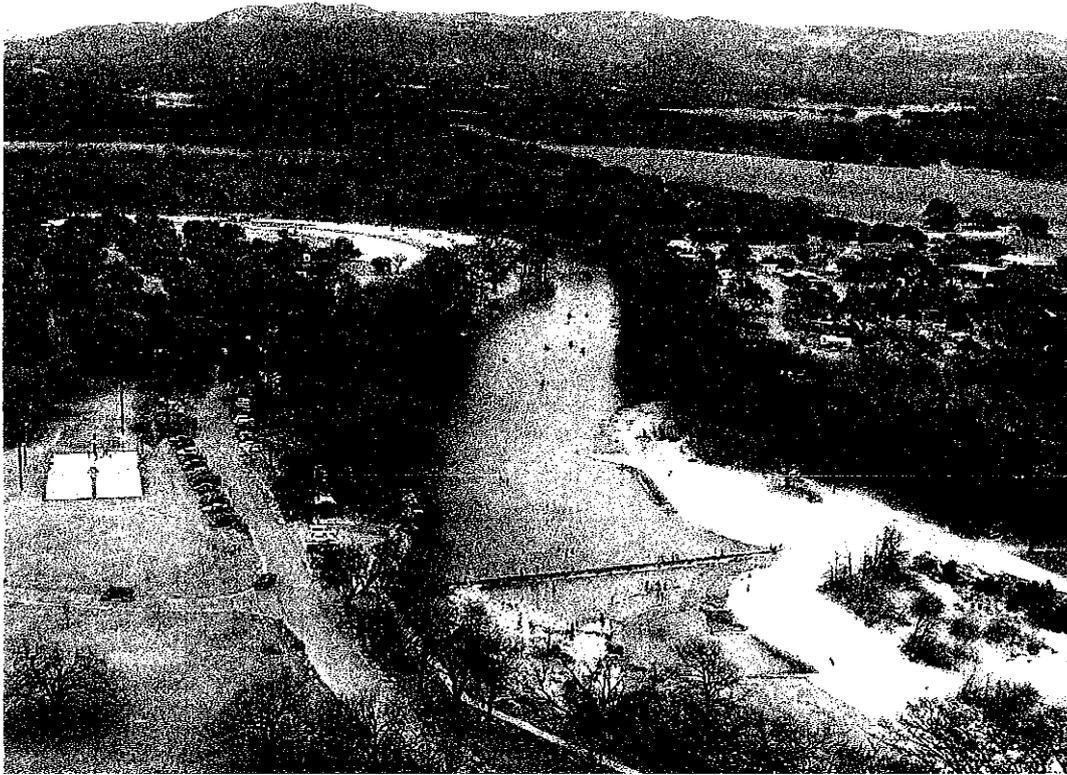
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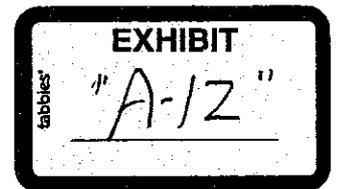


Module 10

Bridges

Contents:

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Section 1

Overview

The TxDOT District Office project development staff is the primary contact point for the Local Government (LG) on bridge projects. If the LG is required to submit plans, specifications and estimates (PS&E) for TxDOT review and approval, the LG will transmit the PS&E to the TxDOT District Office staff and the District will send the PS&E to the Design Division in Austin for final review. In Austin, the Bridge Division coordinates internally with the Design Division for PS&E review and approval. For this reason, the LG will not usually work directly with the Bridge Division, unless specific technical issues need to be resolved.

The Bridge Division develops policy, standards, manuals, and guidelines for the design, construction, maintenance, and inspection of the state bridge system. The Division oversees and manages the federal bridge inspection program for approximately 49,000 on-system and off-system bridges in Texas, and the federal Highway Bridge Program (HBP) for on-system and off-system bridges in Texas. Division personnel provide TxDOT districts with in-house expertise in all aspects of bridge project development, programming, design (structural and geotechnical), PS&E review, construction, maintenance, and inspection. The *Bridge Project Development Manual* provides information pertaining to policies and guidelines for development of bridge projects.

The Bridge Division administers the HBP, which is funded through categories 6-ON and 6-OFF. For projects funded under the HBP, the LG must work through the TxDOT District Office to obtain approval from the Bridge Division for the scope of the project prior to further development of the layout. Once approved and the layout is developed, the LG must submit the project through the district office to the Bridge Division for preliminary layout review. The Bridge Division will verify that the guidelines have been met and determine if the entire project, or a portion of the project, is eligible for HBP funds. At this point discrepancies between the scope of the project and the guidelines for HBP funding will be identified and corrected, or obligation for additional funds will be required of the LG and the agreement amended to indicate the revised estimate. The development of the project may then proceed for submission and final PS&E review.

TxDOT inspects all publicly owned vehicular bridges a minimum of once every two years or as required by federal law. Additional inspections are required for fracture-critical structures and bridges with substructure elements that are under water. If the structure is owned by a LG, it is the responsibility of the LG to provide traffic control during bridge inspection operations. TxDOT will provide all equipment and engineering expertise necessary for performing bridge inspections.

The following sections contain information on how TxDOT expects bridge issues will be addressed by the LG and how TxDOT will monitor the LGs performance.

Section 2

Bridge Design

General Bridge design is defined as the steps used to develop a project in compliance with both geometric design criteria and construction quality standards. State and Federal regulations, regardless of the funding source state or federal, require that TxDOT manuals, procedures, standards, and guidelines be followed for all bridges designed and subsequently built on the state highway system and National Highway System (NHS). FHWA has accepted TxDOT's *Roadway Design Manual* and TxDOT's *LRFD Bridge Design Manual* as complying with federal regulations.

Bridges off the state highway system built with no state or federal funds may be designed in accordance with standards adopted by the local public agency.

Federal Regulation

- a. 23 CFR 625.4 – Prescribes standards, policies, and specifications to be used for all projects on the National Highway System. Section (b) lists specific references for bridges and structures.

State Regulation

- a. Texas Administrative Code, Title 43 – Projects must be designed in accordance with TxDOT manuals, procedures, standards, and guidelines.

Required Practices

- a. For all projects with state or federal funds and all projects on the state highway system (or National Highway System) regardless of funding source, the LG must:
 - i. Follow the provisions of TxDOT's *LRFD Bridge Design Manual* and *Bridge Detailing Manual*.
 - ii. If the project is on the National Highway System but off the state highway system, alternate criteria may be proposed for FHWA approval. The criteria must meet minimum AASHTO standards.
 - iii. Incorporate TxDOT Bridge Standard Drawings to the maximum extent practical.
 - iv. Use TxDOT standard specifications and material requirements, including required special provisions. The LG may request TxDOT approval of alternate specifications.
- b. For concession projects, the LG must follow the design standards and other provisions of the Project Development Agreement with TxDOT.
- c. For projects off the state highway system with no state or federal funds, the LG is encouraged to use the same practices as on TxDOT projects, but may follow LG procedures

LG Responsibilities

- a. For projects with state or federal funds and all projects on the state highway system (or National Highway System) regardless of funding source:
 - i. Develop bridge designs in accordance with applicable TxDOT manuals and approved bridge layout.
 - ii. Propose alternate criteria meeting AASHTO if desired for projects on the National Highway System and off the state highway system.
 - iii. Submit final bridge plans to TxDOT with the PS&E.
 - iv. Design standards and other potential requirements for concession projects may be listed in the Project Development Agreement with TxDOT.
- b. For projects with no state or federal funds off the state highway system, follow normal LG practices.

TxDOT District Responsibilities

- a. For all projects with state or federal funds and all projects on the state highway system regardless of funding source, the District must review the final PS&E for compliance with the approved bridge layout, LRFD Bridge Design Manual, standard drawings and specifications.
 - i. The final PS&E will be sent to the Design Division for approval.
 - ii. For projects with a Pass-through financing arrangement, the District has approval authority but may request assistance from BRG as needed.
 - iii. For concession projects, monitor project development as specified in the Project Development Agreement with TxDOT.
- b. There is no monitoring for projects off the state highway system and no state or federal funds.

Section 3

Bridge Layouts

General Bridge layouts depict proposed features of a structure and are used to obtain early approval before beginning detailed bridge design. A checklist of information to be shown on bridge layouts and samples of bridge layouts are contained in TxDOT's *Bridge Detailing Manual*.

Federal Regulation

- a. There are no federal statutes that require development or submission of bridge layouts.

State Regulation

- a. Texas Administrative Code, Title 43 – For RMA, toll and pass-through financed projects, preliminary design information must be sent to TxDOT for review and approval when the design is approximately 30% complete.

Required Practices

- a. For all projects with state or federal funds and all projects on the state system regardless of funding source, the LG must develop and submit preliminary bridge layouts to TxDOT for approval before detailed design (approximately 30% design completion). Bridge layouts must comply with TxDOT's *Bridge Detailing Manual and LRFD Bridge Design Manual*.
- b. For projects off the state highway system but connecting to, or crossing the state highway system, a RMA must develop and submit preliminary bridge layouts to TxDOT for approval before detailed design (approximately 30% design completion). Bridge layouts must comply with TxDOT's *Bridge Detailing Manual*.
- c. For projects off the state highway system and not crossing the state highway system and not using state or federal funds, the LG may follow their own process.

LG Responsibilities

- a. For projects with state or federal funds, all projects on the state highway system regardless of funding source, and all projects off the state highway system but connecting to or crossing a state highway, the LG must:
 - i. Submit bridge layouts to TxDOT for approval. Subsequent changes to the bridge layout must also be submitted for TxDOT approval.
 - ii. Submit final bridge plans to TxDOT with the PS&E.
 - iii. For concession projects, the LG must meet other conditions as specified in the Project Development Agreement with TxDOT.
- b. For projects with no state or federal funds off the state highway system, follow normal LG practices.

TxDOT District Responsibilities

- a. For projects requiring the LG to submit bridge layouts, review the layout for compliance with TxDOT policy. Transmit acceptable bridge layout to BRG for approval. For projects with a Pass-through Financing arrangement, the District approves the bridge layouts, but may contact BRG for assistance as needed.
 - i. For concession projects, monitor project development as specified in the Project Development Agreement with TxDOT.
- b. There is no monitoring for projects that do not require bridge layouts.

Section 4

Geotechnical

General Geotechnical studies are performed primarily for structures (i.e., bridges, retaining walls, etc.) and pavement design, and for excavation / embankment stability evaluation. TxDOT practices are contained in TxDOT's *Geotechnical Manual*.

Federal Regulation

- a. There are no federal statutes for geotechnical matters.

State Regulation

- a. Texas Administrative Code, Title 43 – Projects must be designed in accordance with TxDOT manuals, procedures, standards, and guidelines.
- b. Texas Administrative Code, Title 43 – For RMA, toll and pass-through financed projects, preliminary design information must be sent to TxDOT for review and approval when the design is approximately 30% complete.

Required Practices

- a. For Design-bid-build projects with state or federal funds and all design-bid-build projects on the state highway system regardless of funding source, the LG:
 - i. Must conduct geotechnical investigations in conformance with TxDOT's *Geotechnical Manual*.
 - ii. Must furnish sound wall and retaining wall layouts to TxDOT as part of the 30% preliminary design submission.
 - iii. Must follow the design recommendations in TxDOT's *Geotechnical Manual*.
 - iv. Must adopt TxDOT Standard Specification items related to retaining walls, including submission of working drawings.
- b. For design-build projects with state or federal funds and all design-build projects on the state highway system regardless of funding source, the LG must follow the recommendations in TxDOT's *Geotechnical Manual* except as modified by agreement with TxDOT.
- c. For concession projects, the LG must follow the requirements of the technical specifications of the Project Development Agreement with TxDOT.
- d. For projects off the state highway system with no state or federal funds, the LG may follow their own practices for design of retaining walls.

LG Responsibilities

- a. For projects with state or federal funds and all projects on the state highway system regardless of funding source, the LG must perform geotechnical studies in compliance with TxDOT's *Geotechnical Manual*. For concession projects, the LG must comply with the technical specifications of the Project Agreement with TxDOT.

- b. For projects with no state or federal funds off the state highway system, follow normal LG practices.

TxDOT District Responsibilities

- a. For projects with state or federal funds and all projects on the state highway system regardless of funding source, the District must review the LG's 30% submission for compliance with TxDOT policy. Districts may request assistance from BRG as needed. For all projects, approval authority is at the District level.
 - ii. For concession projects, monitor project development as specified in the Project Development Agreement with TxDOT.
- b. There is no monitoring for projects off the state highway system with no state or federal funds.

Section 5

Scour

General Scour is the result of the erosive action of flowing water excavating and carrying away material from the bed and banks of streams. Potential scour can be a significant factor in the analysis of a stream crossing system. The design of a crossing system involves an acceptable balance between a waterway opening that will not create undue damage by backwater or suffer undue damage from scour and a crossing profile sufficiently high to provide the required traffic service. TxDOT practices are contained in TxDOT's *Geotechnical Manual*.

Federal Regulation

- a. 23 CFR 650, Subpart C – Sets national standards for the proper safety inspection and evaluation of all highway bridges. Some bridges are identified as scour-critical.

State Regulation

- a. Texas Administrative Code, Title 43 – Projects must be designed in accordance with TxDOT manuals, procedures, standards, and guidelines. For RMA, toll and pass-through financed projects, preliminary design information must be sent to TxDOT for review and approval when the design is approximately 30% complete.

Required Practices

- a. For projects with state or federal funds and all projects on the state highway system regardless of funding source, the LG must perform a scour analysis for all new, replacement, or widened bridges. For design-bid-build projects, the scour analysis and report must comply with TxDOT's Geotechnical and Hydraulic Design Manuals and must be sent to TxDOT as part of the preliminary bridge layout.
- b. For concession projects, the LG may use TxDOT's Geotechnical and Bridge Project Development Manuals as a reference, but does not have to comply with the manuals. However, geotechnical reports should document the assumptions, conditions, and results of the geotechnical investigation and analysis.
- c. For projects off the state highway system with no state or federal funds, the LG is encouraged to review the latest bridge inspection report and correct any scour-related issues.

LG Responsibilities

- a. For design-bid-build and design-build projects with state or federal funds and all projects on the state highway system regardless of funding source, the LG must perform a scour analysis in compliance with TxDOT's *Geotechnical Manual* and submit to TxDOT for approval.

- b. For concession projects, the LG must prepare geotechnical reports to support design decisions and submit to TxDOT for review and comment.
- c. For projects with no state or federal funds off the state highway system, the LG is encouraged to receive bridge inspection data from TxDOT and consider scour-related issues.

TxDOT District Responsibilities

- a. For all projects, furnish the latest bridge inspection data to the LG.
- b. For all projects requiring submission of a preliminary bridge layout, the District should review the analysis and report for conformance with the applicable standard and submit to the Bridge Division for approval. For projects with a pass-through financing arrangement, the District approves the layout and report, but may contact BRG for assistance as needed
- c. There is no monitoring for projects that do not require submission of a preliminary bridge layout.

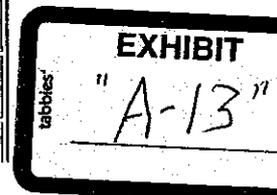
on why the statistics may not match, click here.

USGS 08195000 Frio Rv at Concan, TX

Time-series: Annual statistics

Uvalde County, Texas Hydrologic Unit Code 12110106 Latitude 29°29'18", Longitude 99°42'16" NAD27 Drainage area 389 square miles Contributing drainage area 389 square miles Gage datum 1,203.71 feet above NGVD29	Output formats
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Water Year	00060, Discharge, cubic feet per second
1925	33.4
1926	86.8
1927	73.3
1928	32.4
1929	32.4
1931	219.0
1932	422.9
1933	111.0
1934	35.0



Water Year	00060, Discharge, cubic feet per second
1935	412.6
1936	204.6
1937	129.2
1938	77.0
1939	66.5
1940	64.0
1941	129.0
1942	106.2
1943	64.2
1944	69.0
1945	74.4
1946	40.8
1947	108.1
1948	32.1
1949	102.6
1950	46.0
1951	34.3
1952	19.2
1953	12.1
1954	35.5
1955	18.6
1956	8.80
1957	42.8
1958	215.0
1959	194.5

Water Year	00060, Discharge, cubic feet per second
1960	119.1
1961	161.8
1962	59.4
1963	37.3
1964	44.9
1965	81.1
1966	130.9
1967	73.8
1968	193.3
1969	54.2
1970	178.8
1971	163.7
1972	195.1
1973	191.8
1974	170.6
1975	119.4
1976	172.3
1977	173.8
1978	112.7
1979	133.5
1980	87.9
1981	316.3
1982	157.3
1983	61.1
1984	48.8

Water Year	00060, Discharge, cubic feet per second
1985	193.4
1986	102.4
1987	421.3
1988	140.7
1989	55.5
1990	129.5
1991	126.1
1992	433.6
1993	88.6
1994	106.9
1995	108.4
1996	66.3
1997	301.7
1998	174.5
1999	131.4
2000	36.9
2001	183.2
2002	255.7
2003	121.1
2004	240.6
2005	135.0
2006	55.5
2007	256.7
2008	72.8
2009	28.9

Water Year	00060, Discharge, cubic feet per second
2010	61.3
2011	17.6
2012	53.3
2013	27.4
** No Incomplete data have been used for statistical calculation	

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[U.S. Geological Survey](#)



Title: Surface Water data for USA: USGS
Surface-Water Annual Statistics
URL: <http://waterdata.usgs.gov/nwis/annual?>

Page Contact Information: [Texas Water Data Support Team](#)
 Page Last Modified: 2014-02-20 21:36:44 EST
 1.14 0.87 vaww01

JAY J. HARRIS, L.L.C.

ATTORNEY at LAW
30615 CYPRESS PARK DR.
DENHAM SPRINGS, LOUISIANA 70726
Telephone: (225) 620-7540
Facsimile: (225) 664-5707

*Admitted in Louisiana and Texas

E-mail:
JayHarrisEsq@aol.com

December 16th, 2013

VIA FACSIMILE: (830) 278-2025

**Mr. Con Mims
Executive Director
Nueces River Authority
P.O. Box 349
Uvalde, TX 78802**

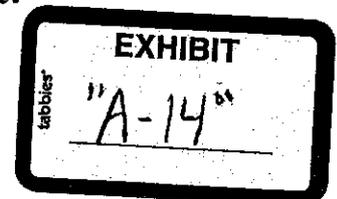
**RE: Offer to Purchase 20' Wide Permanent Utility Easement (0.14) Acres
and a 50' Wide Temporary Easement (0.39 acres)**

Dear Mr. Mims:

**Please be advised of my representation of Jean C. Huffman in connection with
the above referenced matter. Please direct all future correspondence related
to Ms. Huffman's interests in this project directly to my attention.**

I am in receipt of your correspondence dated November 18, 2013.

**Pursuant to Section 21.0112 of the Texas Property Code, please provide me
with evidence that the Nueces River Authority (NRA) mailed a copy of the
Landowner Bill of Rights Statement to the purported owners of this property
prior to November 18, 2013, together with evidence that the Landowner Bill
of Rights Statement has been posted on the NRA's Internet website.**



In accordance with Section 21.024 of the Texas Property Code requiring production of all information requested by a landowner from a utility that could be related to the Utility's acquisition of real property for utility purposes, please provide me with a copy of the following information:

- 1. A copy of any Right of Way Agreement, Servitude or Texas statute upon which the NRA claims establishes any right of way for a sewage line on John Davis Road from RR 1120 to US Highway 83.**
- 2. A copy of any public records such as an ordinance or proposal submitted to the Texas Water Development Board setting forth any requirements for residential and commercial property to connect to the proposed wastewater collection and treatment system together with all proposed tap in fees, monthly sewer fees or Tariff.**
- 3. Any and all available information concerning whether or not the existing residences on John Davis Road together with any and all future residential and commercial lots resulting from the subdivision or re-subdivision of the real property on the north side of John Davis Road contiguous to Patterson Creek, or on the south side of John Davis Road contiguous with the Frio River, will be served by the wastewater collection and treatment system.**
- 4. If the proposed wastewater treatment system is intended to provide sewer service to residential and commercial developments on John Davis Road, please provide a copy of Naismith Engineering, Inc.'s design reflecting the details for gravity drainage sewer lines tapping into and connecting to the proposed force main sewer line without resulting in forcing sewage back through the gravity drainage lines resulting in damage to any and all such residential or commercial parcels or lots as a result of raw sewage being forced into the buildings and improvements on the properties located on John Davis Road.**

In the event that there is no right of way for a sewage line on John Davis Road, then there will be no public need for the proposed easements described in your letter dated November 18, 2013, since any equipment located at this location would have no access to transport the raw sewage across John Davis Road to the location of the wastewater treatment plant. I am certainly not aware of the existence of any such right of way for a sewer line on John Davis Road.

Additionally, if the sewage system will not serve all future lots or parcels of real estate resulting from the subdivision or re-subdivision of the property on each side of John Davis Road contiguous with Patterson Creek and the Frio River, it would seem to defeat the purpose of the proposed wastewater treatment system, which again would render your acquisition of the easements described in your November 18, 2013 correspondence not to serve a public purpose.

Please provide the information described above in numbered paragraphs 1 through 4 within the time limits described in Section 21.024 of the Texas Property Code.

With kindest regards I am,

Sincerely,



Jay J. Harris

Mr. Harris:

I am pulling together the information you have requested and will get back with you as soon as it is available.

Con Mims

Nueces River Authority

From: Jay Harris [mailto:jayharris@nra.org]
Sent: Monday, December 16, 2013 3:24 PM
To: cmims@nueces-ra.org
Subject: Mr. and Mrs. T.W. Huffman

Please see attached correspondence.

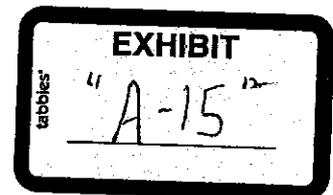
Please note that it appears the facsimile machines at both your Uvalde and Corpus Christi offices are not in operation.

Jay J. Harris, LLC
Attorney at Law
30615 Cypress Park Dr.
Denham Springs, Louisiana 70726
Telephone: 225.620.7540
Facsimile: 225.664.5707

NOTICE:

This E-mail (including attachments) is covered by the Electronic Communications Privacy Act, 18 U.S.C. § 2510-2521, is confidential and may contain attorney-client materials and/or attorney work product, legally privileged and protected from disclosure. This transmission contains confidential information intended only for the addressee(s). If you are not the intended recipient, any use, dissemination, distribution or copying of this document or its contents is strictly prohibited by federal law. Please contact our office regarding your inadvertent receipt of this facsimile, and we will reimburse you for any costs in returning it to the office address above.

The IRS now requires all attorneys to advise you that any advice contained in this communication regarding federal taxes is not written or intended to be used, and it cannot be used, by any person as the basis for avoiding federal tax penalties under the Internal Revenue Code, nor can such advice be used or referred to for the purpose of promoting, marketing or recommending any entity, investment, plan or arrangement.



BARKHURST HINOJOSA P.C.

December 20, 2013

Mr. Jay J. Harris, L.L.C.
30615 Cypress Park Dr.
Denham Springs, Louisiana 70726

RE: Acquisition of 20' Utility Easement and 50' Construction Easement from
the Huffmans

Dear Mr. Harris:

This law firm represents the Nueces River Authority ("NRA") in this matter. As you know, only eligible licensed attorneys may practice law in Texas. While I appreciate the points in your letter dated December 16, 2013, and wholeheartedly disagree with your interpretation of Texas condemnation law, I must respectfully decline to engage you on the merits of same until such time that you or someone from your firm is licensed and eligible to practice law in the State of Texas.

If you would like some references for the names of Texas condemnation lawyers, please contact me and I will be happy to provide same to you or the Huffmans.

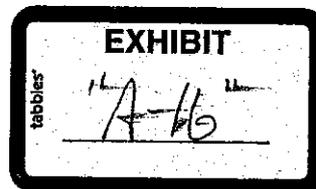
Very truly yours,



PAUL D. BARKHURST

cc: Con Mims
Executive Director, Nueces River Authority

110 Broadway, Suite 350
San Antonio, Texas 78205
Phone (210) 226-7800
Fax (210) 226-7802



JAY J. HARRIS, L.L.C.

ATTORNEY at LAW
30615 Cypress Park Dr.
Denham Springs, Louisiana 70726
Telephone: (225) 620-7540
Facsimile: (225) 664-5707

*Admitted in Louisiana and Texas

E-mail:
jayj@harrisllc.com

January 7, 2014

VIA FACSIMILE: (210) 226-7802

Paul D. Barkhurst
BarkhurstHinojosa P.C.

RE: Nueces River Authority

Dear Mr. Barkhurst:

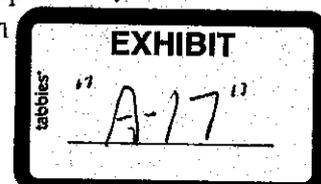
Thank you for your correspondence dated December 20, 2013.

You are correct that my Texas Bar License is currently "active but non-practicing" to exempt me from the Texas CLE requirements. I have spoken to the Texas Bar Association concerning the simple notification process that I will comply with the CLE requirements to transfer my license to practicing status. I will certainly do that in the event that any judicial proceedings are anticipated.

At the present time, I am acting on behalf of my Mother, Jean C. Huffman, pursuant to a power of attorney. Since my family does not wish to disclose any general estate planning information in connection with this matter, I will provide you with a narrowly drawn specific power of attorney authorizing me to act on her behalf in connection with this matter, so that you can provide me with the requested documentation.

In the interim, please direct any communications to Jean C. Huffman to her attorney in Odessa, Texas, Mr. Jimmie B. Todd of Todd, Barron, Thomason, Hudman & Baxter, P.C.

Additionally, this correspondence shall confirm your position that I have no authority to practice law in the State of Texas. I will stipulate with your position, and act solely under the authority granted to me under the power of attorney executed by Jean C. Huffman as Principal in my favor as agent and attorney-in-fact until such time as I notify the Texas Bar Association



status to "practicing" and complying with the CLE requirements.

Furthermore, this correspondence will clarify that your position stating that I have no authority to be recognized as an attorney in the State of Texas will eliminate and relieve me from the usual and customary restrictions on lawyers from engaging in any direct contact with any opposing party without giving you prior notice in order to allow you to prohibit such contact or exercise your right to be present, any legal or professional obligation or courtesy to provide you with a copy of any document, pleading or complaint filed with any and every governmental authority, as well as acts of conveyance, transfers, the identification of the owners of all parties holding an ownership interest in the real property at issue as well as any other matter.

I appreciate your offer to provide me with references to Texas condemnation lawyers. Of course, I customarily use the decades old Martindale.com/Lawyers.com service for this purpose, since it contains the names and areas of practice of 99.9% of all attorneys in the United States. On a related note, you may wish to contact Martindale.com/Lawyers.com, since I could find no record of BarkhurstHinojosa P.C. in their data base.

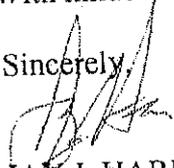
Fortunately, I have some familiarity myself with this area of law as the result of representing one of the two electric utilities in the multi-parish area surrounding and including the Louisiana State Capitol, and water, natural gas, and sewage utilities, together with representing municipalities and parishes in negotiating franchises for telephone, cable television and internet services for twenty-five years. The familiarity I gained writing the manuals and teaching seminars on Eminent Domain Law for the National Business Institute also helped me gain some familiarity with these issues.

My experience over twenty years representing Waste Management, Inc., which billed for its services through these utilities whenever possible, has also given me some familiarity some knowledge of this area of law. Collecting the fees for garbage collection services in rural areas is similar to the problems that the City of Leakey will experience if it is successful in constructing its sewer system. If you cannot terminate a necessary service, such as water service, if the bill for the mandatory sewer service is not paid by a customer with a septic tank, it is extremely difficult to collect for that mandatory sewer service, where a substantial number of the customers have water wells that provide their need for water.

In any event, I appreciate your offer of assistance.

With kindest regards, I am

Sincerely,


JAY J. HARRIS

Cc: Jimmie B. Todd
Jean C. Huffman

JAY J. HARRIS, L.L.C.
ATTORNEY at LAW
30615 Cypress Park Dr.
Denham Springs, Louisiana 70726
Telephone: (225) 620-7540
Facsimile: (225) 664-5707

*Admitted in Louisiana and Texas

E-mail:
JayJHarrisEsq@aol.com

February 17, 2014

VIA FACSIMILE: (210) 226-7802

Paul D. Barkhurst
BarkhurstHinojosa P.C.

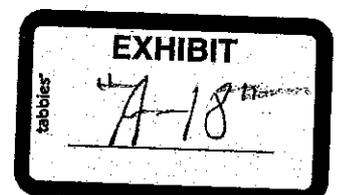
RE: Nueces River Authority

Dear Mr. Barkhurst:

You may now feel free to check with the Texas Bar Association to confirm that I have now notified the Continuing Legal Education Section to remove my exemption and place me in active status for your edification.

I have attached a copy of my previous correspondence to the Nueces River Authority (NRA) dated December 16th, 2013 for your response.

I reviewed the NRA's website to determine if Mr. Mims has posted the Landowner's Bill of Rights Statement as required by Section 21.0112 of the Texas Property Code for any public body seeking to obtain rights of way from the public. I am rather surprised that Mr. Mims has continued to intentionally violate Texas State Law for over sixty (60) day at this time. As the statutes provide, I will proceed to contact the Texas Attorney General's Office to ascertain whether they intend to pursue compliance with this statute, which was intended to protect private property rights.



Initially, I planned on opposing this project solely on environment grounds, because the force main sewer line proposed to be built across the Patterson Creek Bridge is not built to withstand the periodic flash floods that have destroyed the bridge on numerous occasions on a regular basis. This will result in the rupture of the pressurized force main sewer into Patterson Creek approximately 200 yards north of the point where Patterson Creek flows into the Frio River as a tributary. Several thousand gallons of raw sewage each day will then flow down the Frio River from John Davis Road through the tourist areas and Garner State Park.

However, it has now become apparent that the Nueces River Authority (NRA) intends to attempt to install the sewer line on John Davis Road without the funding to pay just compensation to purchase or expropriate the additional real property adjoining the Frio River required for the sewage line right of way, which I estimate could be valued at up to Five Hundred Thousand (\$500,000.00) Dollars.

The NRA recently sent a proposal to purchase a small site for a lift station at the corner of RR 1120 and John Davis Road for approximately Thirty Thousand (\$30,000.00) Dollars without any offer to purchase a right of way for the entire length of John Davis Road.

Of course, I requested a copy of any Right of Way Agreement, Servitude or Texas Statute upon which the NRA claims establishes any right of way for a force main sewer line in my December 16th, 2013 correspondence, so I assume you have had an adequate opportunity to locate any such agreement, and I look forward to receiving a copy.

Naturally it is in the best interest of the NRA to delay and attempt to keep these issues from being raised prior to the expiration of the deadline for any concerned member of the public or the owners of any businesses that would be affected by the loss of tourism to write to the Chief Clerk, MC 105, Texas Commission on Environmental Quality, PO BOX 13087, Austin, TX 78711 to ask for the Commission to hold a Public Hearing to allow them to ask the Commission's staff to investigate any potential problems with the project or damages to their business.

However, if you are unable to provide me with any such documentation for a right of way on John Davis Road after sixty days to review this matter, it is obviously safe to say that you have none.

I look forward to receiving your response within the time delays set for by law.

With kindest regards, I am



Jay J. Harris

Concan Subdivision to showcase Frio River Frontage, October 9

CONCAN, TEXAS — property and are accessible by all residents. Together, Frio River real estate in Concan, Texas will be showcased on Saturday, October 9 from 10 a.m. to 5 p.m. at the first open house of Heartstone, a new subdivision that boasts 14 riverfront lots from one acre to 2.72 acres and 30 river access lots, sized from .73 acre to .93 acre, all with access to two private riverfront parks. Prices begin at \$110,000 and go to \$425,000 for a 1.86 acre riverfront lot with vintage bathhouse.

Two private, riverfront parks anchor both sides of the property and are accessible by all residents. Together, the parks are 4.3 acres and have approximately 300 feet of river frontage as well as large, shaded pavilions, picnic tables, parking and irrigated and maintained lawns, adding family-friendly facilities to the stunning landscape. "We developed Heartstone with families in mind," said Joe Meyer, developer of Heartstone. "The overall layout, parks, underground utilities, curbed and paved private streets with automatic entry and exit gates and fiber optic communications, Cypress and Sycamore

allow families to own a home here with modern amenities, while still enjoying the small town charm of Concan and the Frio River," Meyer said. In addition, home vacation rental is allowed.

Heartstone is centrally located in the most popular run of the Frio River with restaurants, dance hall, golf course, horseback riding, bat cave excursions, shops, tube/kayak rentals and shuttles all within a few minutes of the subdivision.

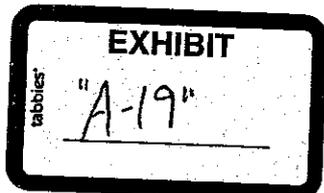
The spring-fed Frio River meanders through the canyon past towering Cypress and Sycamore

trees. Heartstone is located at the lower end of the river basin where the volume of the river flow is always the greatest.

"This is a rare opportunity for families to own a piece of pristine river frontage along the Frio River," said Meyer.

For more information about river lots, please contact Agent Linda Rocchio at 210-415-2154. Visit www.frio.com or www.heartoffthefrio.com for photos, plats and additional details.

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PUBLIC NOTICE

Nueces River Authority
Public Hearing Regarding

Environmental Information Document

For the Nueces River Authority Leakey Regional Wastewater Improvements Project

The Nueces River Authority (Authority) will hold a **public hearing at 7:00 p.m. on March 10, 2014**, at the Real County Courthouse in regards to the Environmental Information Document prepared for the Nueces River Authority's Leakey Regional Wastewater Improvements Project. One of the purposes of this hearing is to discuss the potential environmental impacts of the project and alternative to it. The Nueces River Authority Leakey Regional Wastewater Improvements Project is intended for city residents and residents of some nearby subdivisions and locations outside the city limits. Proposed wastewater improvements would install a first-time wastewater collection system and a new wastewater treatment plant. This treatment plant would be located approximately 1.5 miles south of the city limits, west of U.S. Highway 83. Improvements would replace existing septic tank systems that currently serve area residents. The estimated total project cost is \$18,548,303. Monthly bill to residential customer would be and estimated \$30.00 (thirty dollars) to \$35.73 (thirty-five dollars and seventy-three cents).

Copies of the Environmental Information Document are available for review during normal business hours at the following locations:

- 1) City of Leakey - City Hall. Available Tuesday, Wednesday, Thursday from 9:00 am to 4:00 pm at 148 West 4th Street, Leakey, TX 78873
- 2) The Real County Judge's Office - Real County Courthouse Available five days a week from 9:00 am to 4:00 pm at 101 Market Street, Leakey, TX 78873

The Authority encourages citizens to participate to make their views known at this public hearing. Citizens unable to attend this meeting may submit their views in writing to Mr. Con Mims, Executive Director, Nueces River Authority, P.O. Box 349, Uvalde, TX 78802-0349 before March 10, 2014. Persons with disabilities that wish to attend this meeting as well as individuals who require auxiliary aids or services for this meeting should contact Ms. Frankie Kruckemeyer of the Nueces River Authority at (830) 278-6810 extension 3, at least two (2) days before the meeting so that appropriate arrangements can be made.

EXHIBIT

"A-20"

tabbles

Real County



AMERICAN

Serving Real County and You

Wednesday, March 11, 1992

15 No. 10



By Lou
Norton

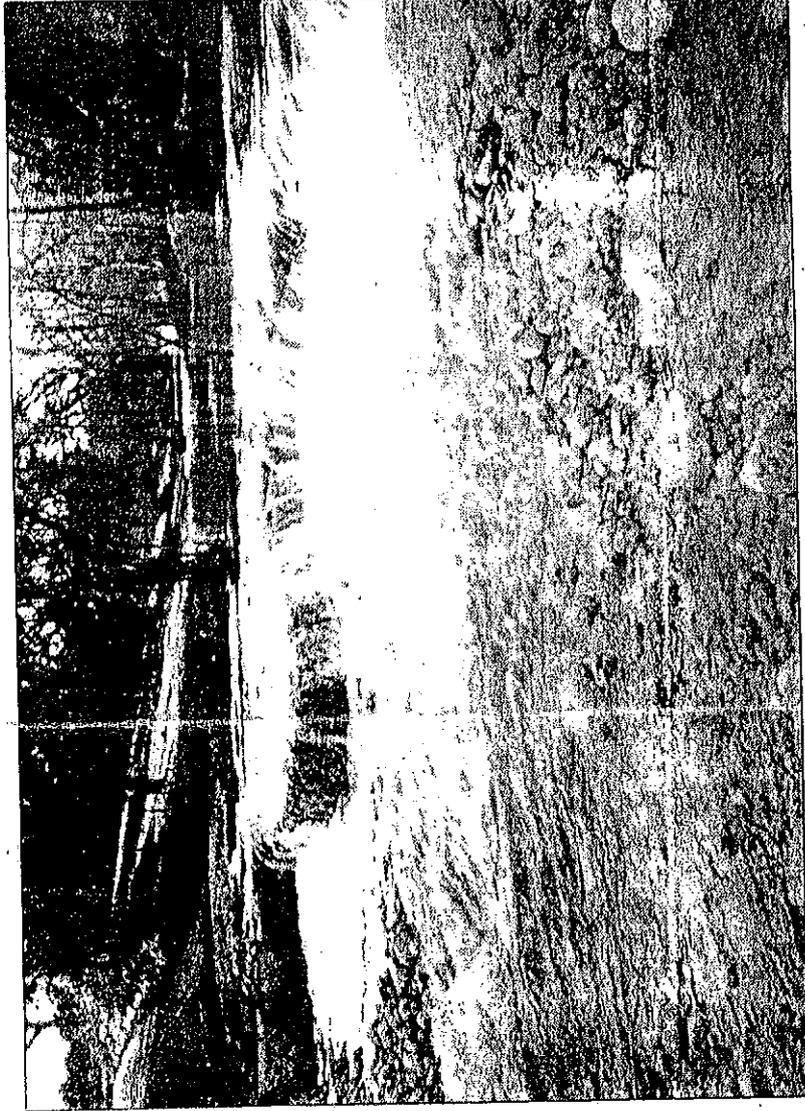
NOTEPAD

Former-Kansas State University professor, Dr. Cornelia Flora, has extensive research on small towns. Her work has focused on why small towns grow while others

The research revealed that in some communities, conservatism was considered normal. It was expected, and regarded necessary for participatory government. At the opposite was revealed in other towns. People avoided controversy and refused to address it, or they were antagonistic toward rules, regulations, and the people who made them.

People in growing towns, however, had an objective view of politics. They did not take sides on an issue because of friendship alone, but they opposed someone simply because that person was an educator, a person or a farmer. In other hand, dying communities had a "my side of the street" mentality. People ner-

tabbles
EXHIBIT
"A-21"



N.C. receives of life rescue

Nueces Canyon is one of 13 Texas communities receiving jaws of life rescue tools thanks to the National Highway Traffic Safety Administration (NHTSA).

The Amkus rescue tools, used to extricate people pinned in wrecked vehicles, are valued at \$5,000. They are being donated through a NHTSA grant administered by the Texas Department of Transportation (TxDOT).

Josh Cox, chief of the Nueces Canyon Volunteer Fire Department, said, "We are deeply honored that our department was chosen. We have wanted tools-of-life for some time now but have not been able to see our way to purchasing any."

Staff with the Texas Engineering Extension Service (TEEX), a part of the Texas A&M University System, will train local volunteer firefighters on the proper usage of the tools at a site two miles from Camp Wood on March 7. During the training ses-

Leakey PTC open house

DAVIS CROSSING, between Highway 83 and RR1120 Wednesday morning

FRIO RIVER cabins

CABINS AND VACATION HOMES
OPEN YEAR-ROUND
Only 1.5 miles from Garner State Park!

[Home](#) [Accommodations & Rates](#) [Activities](#) [Map/Directions](#) [Rules](#) [Contact Us](#) [Blog](#)

TexasMonthly

Head for the Hills

25 Things I Love About the Hill Country.
by Suzy Banks

SURE, I ADORE THE HILL COUNTRY. Of course, I have to avert my eyes from a few awes, like towns where I can sling a baby back rib and hit a Home Depot or a Chili's restaurant. (Good-bye Boerne, Kerrville, Marble Falls, and Touristenburg—uh, I mean Fredericksburg.) But if you know where to look, the spirit of the old Hill Country can still be found—in a hidden cabin, a dog-friendly beer joint, an unspoiled stretch of river. So even though I have to dig a bit deeper to uncover its treasures, I'll never stop loving this celebrated heart of Texas.

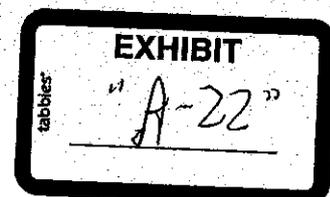
Of the thousands of lodging options in the Hill Country (hundreds in Fredericksburg alone), only a fraction are outstanding. I'll admit to a strong bias toward cabins, but I'd rather spend the night in the Bates Motel than in some of the plywood sweatboxes I've seen crammed together on a barren strip of river frontage. (Oh, who did your decorating? A prison warden?) What a relief, then, to discover Don and Lisa Yaklin's Frio River Cabins, especially cabin 7. Tucked away in a thicket of huge oaks in a remote corner of 170 nature-friendly acres, the masonry cabin is comfy without being fussy, with two bedrooms, a full kitchen, and even an electric fireplace. And if you've come here for the river, you won't be disappointed. A short path leads from the porch down a slope to one of the most idyllic, private spots on the Frio that I've ever seen. 1.5 miles north of the entrance to Garner State Park, on U.S. 83 between Concan and Leakey; 830-232-5996, fax 232-6566; friorivercabins.com.

Country Reporter

Writer-at-large Suzy Banks talks about her feature story, "Head for the Hills."
Interview by Patricia Busa McConnico

texasmonthly.com: What would be your ultimate Hill Country weekend getaway? Where would you stay, what would you do?

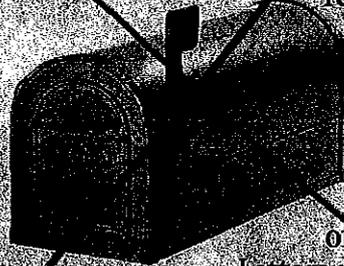
Suzy Banks: That's tough. In the summer, when I crave water, I'd try to book a few nights at Cabin 10 at the Frio River Cabins just north of Garner State Park. I'd play in the river beneath giant cypress trees all day, then I'd hike Lost Maple at sunset (I ain't scared of a few pigs...).



THE Leakey Star
Letters To The Editor • Opinion • Commentary

We welcome your letters the old fashioned way via US Mail at

The Leakey Star
PO Box 116
Rio Frio, Texas 78879
or via email at:
editor@theleakeystar.com



mail or e-mail we'll carefully consider whether it should be shared with our readers.

All letters must include the name, address and phone number of the author so we can be sure it's authentic - however we will only publish the name and city of the author.

Letters printed at the sole discretion of The Leakey Star.

We do not print personal attacks, anonymous letters, letters to multiple publications or other inappropriate comments.

We reserve the right to edit or correct letters submitted.

The goal of The Leakey Star is to be informative and entertaining. We will do our best to make sure that all of our content meets that standard, including Letters To The Editor. If a reader takes the time to contribute and attach their name to comments to The Star via

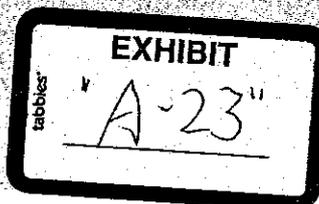


Letter To The Editor

Good write-up on Leakey sewer project & thanks for keeping us posted. I do have only one concern, "Keep any pressurized sewer line and pumping equipment well away from the Frio or even Paterson creek"! Having a sewer system for Leakey is long over due but residents are playing with danger that could make a waste land of Frio canyon and local economy. I'm sure engineering has explained failure possibilities and probabilities and almost anywhere else in Texas I'd have no concerns but these spring fed rivers are a special resource. I'm not a engineer but I have 25 years experience pumping stuff through pipelines, pumps and plants. Pump failures, power failure and floods are the most common hazards as I see it and one major spill to the river will be far worse than 50 miles of septic systems seeping through limestone to get to the river. Another concern of mine is our level of understanding. This High pressure lines will contain anything used for human hygiene, waste and plastics. If any of this stuff reaches the river the waste will decompose in time depending on the amount, heavy compounds will settle to the bottom and the plastic will be there for ever.

Thank you.

Mael A. Brodine (property owner)



GOVERNMENT AND COMMUNITY SERVICE DIRECTORY

City of Leakey

Mayor Harry Schneemann
Secretary Dee Dee Wally
Office: 830-232-6757
Leakey City Councilmen:
Ken Auld
Hugh Buchanan
Carl Jensen
Jesse Rubio
Bob Bowers

Leakey Volunteer Fire Dept
830-232-4005

Frio Canyon EMS, Inc.
830-232-5299

City of Camp Wood
Mayor: Emma Dean
Office: 830-597-2265

Aldermen:
Domingo Tobar
James Coleman
Fidencio Martinez
Richard Tucker

Volunteer Fire Dept
830-597-6100

Camp Wood Library
830-597-3208

Nueces Canyon EMS
830-597-4200

REAL COUNTY OFFICIALS

COUNTY JUDGE
Garry Merritt
830-232-5304

COUNTY ATTORNEY
Bobby Jack Rushing

LETTERS TESTAMENTARY

THE STATE OF TEXAS

COUNTY OF ECTOR

NO. 21079-12
County Court at Law
ECTOR COUNTY, TEXAS

I, LINDA HANEY, Clerk of the County Court at Law of Ector County, Texas, do hereby certify that on the 27th day of August, 2012, JEAN C. HUFFMAN AND DAN CHARLES HUFFMAN WERE by said court duly granted LETTERS TESTAMENTARY ESTATE OF T.W. HUFFMAN, JR., DECEASED and that HAVE duly qualified as INDEPENDENT-CO EXECUTORS of said Estate on the 27th day of August, 2012 as the law requires, and that said appointment is still in full force and effect.

WITNESS my hand and seal of said court, at Odessa, Texas on this the 27th day of August, 2012.

LINDA HANEY, COUNTY CLERK,
COUNTY COURT AT LAW

BY: Jackie Perez
Jackie Perez, DEPUTY

WHAT CONSTITUTES LETTERS

Letters Testamentary or of Administration shall be a Certificate of the clerk of the Court granting the same, attested by the seal of such Court, and stating that the Executor or Administrator, as the case may be, has duly qualified as such as the law requires, the date of such qualification and the name of the deceased (Sec. 183, Texas Probate Code).

EXHIBIT

tabbles

"A-24"

JAY J. HARRIS, L.L.C.
ATTORNEY at LAW
30615 CYPRESS PARK DR.
DENHAM SPRINGS, LOUISIANA 70726
Telephone: (225) 620-7540
Facsimile: (225) 664-5707

REVIEWED H

MAR 11 2014

By BP

*Admitted in Louisiana and Texas

E-mail:

JayJHarrisEsq@aol.com

March 10th, 2014

VIA FACSIMILE: (512) 239-3311

Chief Clerk Bridget C. Bohac
Office of the Chief Clerk
Texas Commission on Environmental Quality

mwd
86980

CHIEF CLERK'S OFFICE

2014 MAR 10 PM 2:42

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

RE: Regulated Entity Name: LEAKEY REGIONAL WWTF
RN Number: RN106638653
TCEQ Permit No.: WQ0015083001

Dear Ms. Bohac:

Please be advised of my representation of Jean C. Huffman and Dan C. Huffman in connection with the above referenced matter.

I am transmitting by facsimile the Public Comments in Opposition to this Permit Application.

I will overnight mail a bound original hard copy for filing.

Please advise me of any costs associated with this filing.

Additionally, if you will notify me by email or telephone of any number of additional bound copies that you may need to be submitted to the appropriate

RM

members of the TCEQ staff for evaluation, I will be glad to provide those additional copies.

With kindest regards I am,

Respectfully,



Jay J. Harris

OPPOSITION

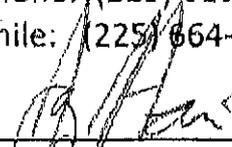
PUBLIC COMMENTS SUBMITTED ON BEHALF OF **JEAN C. HUFFMAN AND DAN C. HUFFMAN IN OPPOSITION** TO APPLICATION AND PRELIMINARY DECISION FOR WATER QUALITY LAND APPLICATION PERMIT FOR MUNICIPAL WASTEWATER PERMIT NEW PERMIT NO. WQ0015083001

Regulated Entity Name: LEAKEY REGIONAL WWTF
RN Number: RN106638653
TCEQ Permit No.: WQ0015083001
County: REAL
Principal Name: NUECES RIVER AUTHORITY
CN Number: CN600692552

**OPPOSITION TO UNITED STATES ARMY CORPS OF ENGINEERS PROJECT NUMBER
SWF-2006-00616
FORT WORTH, TEXAS DISTRICT**

**REQUESTING REVIEW BY THE UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY REGION 6 OFFICE, COMPLIANCE ASSURANCE AND ENFORCEMENT
DIVISIONS**

By Attorney,
JAY J. HARRIS, LLC
30615 Cypress Park Dr.
Denham Springs, Louisiana 70726
Telephone: (225) 610-7938
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JAY J. HARRIS

TEXAS BAR ROLL NUMBER 9066150

Attorney for Jean C. Huffman and Dan C. Huffman

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I. Design of System to Place the High Pressure Force Main Trunk Line in Both the Frio River Floodway and the Patterson Creek Floodway.

The Project Engineers for the NRA designed this waste water collection system to place at least one type of lift station to be connected to the high pressure force main trunk line in the floodway of both the Frio River and Patterson Creek.

Jay Gardner of Naismith Engineering, Inc. (Naismith) represented to the USACE further advised that this high pressure force main trunk line, which is expected to carry 360,000 gallons per day of raw sewage to the waste water treatment site would cross Patterson Creek in open trenching.

Mr. Gardner represented to the USACE that "Elevations from the upper banks of the river to the water's edge at the crossings are relatively steep, transitioning quickly from the edge of the water to uplands, thereby reducing the amount of potential wetlands disturbance."

The NRA's own survey of the easement that they are seeking to obtain from the Opponents attached as Exhibit "A" reflects that the edge of the Frio River is contiguous with the edge of John Davis Road.

To demonstrate the absolute false and absurd nature of this factual representation by the NRA's engineers, attached as Exhibits "B" through "J" are pictures of the Frio River in its normal stage together with pictures of the Frio River in flood stage.

Exhibit "B" shows FM 1120 at the low water bridge with John Davis Road on the right side of the picture. Exhibit "C" reflects the primitive nature of John Davis Road.

Exhibits "D" through "G" is representative of the clarity of the spring water source, which is the primary source of water in the Frio River, and the normal tourist activity in the Frio River. This tourist activity is the basis of the economy in Real County.

Exhibit "H" is the beginning stage of flood water accumulating in the Frio River. The "Frio River" road sign indicates that the low water bridge crossing is now flooded by several feet of flood water.

Exhibit "I" shows that the floodway of the Frio River has expanded to a width that no longer allows the low water bridge, the entirely submerged proposed lift station site and John Davis Road are now at a distance so extreme that they can no longer be seen or identified.

Exhibit "J" shows the expansion of the flood way of the Frio River has entirely submerged FM 1120 for so great a distance that it cannot be determined where the main channel of the Frio River is located. It should be noted that somewhere in the distant deep and strong current of the Frio River is the proposed lift station site the NRA proposes to acquire from Opponents as well as John Davis Road in the deep strong currents of the Frio River, which obviously makes any effort to service the proposed lift station and high pressure force main sewer trunk line impossible to reach.

Exhibit "J" should be contrasted with the statement by the NRA's engineer, Mr. Gardner, representing to the USACE that "Elevations from the upper banks of the river to the water's edge at the crossings are relatively steep, transitioning quickly from the edge of the water to uplands, thereby reducing the amount of potential wetlands disturbance."

Finally, Exhibit "K" is typical of the turbulent flood water that typically accompanies floods in a Canyon river such as the Frio River. It is obvious again that any rupture of the high pressure force main trunk line, which is expected to carry 360,000 gallons per day of raw sewage to the waste water treatment site,

could not be repaired or any other action taken to stop the discharge of raw sewage into the Frio River without loss of life. Unfortunately, we are all too familiar in the Hill Country area of Texas with the disastrous loss of life that often accompanies these floods.

The correspondence from the NRA's engineer, Mr. Gardner, further represented to the USACE the following statement. "Some temporary land clearing will be necessary on the banks of the Frio in order to accomplish the proposed work. Pre-construction contours will be re-established post-construction, and any cleared areas will be re-vegetated using native vegetation".

The project engineers propose to trench up to fifteen (15') deep along the side of the Davis crossing bridge in Patterson Creek. Exhibit "L" is a Cypress tree located immediately adjacent to the Davis Crossing bridge, where the project engineers propose to trench fifteen (15) deep. If the damage to the roots from this trenching activity results in the loss of this 100 to 200 year old Cypress tree, which is typical of the Cypress tree growth along both Patterson Creek and the Frio River, does the NRA propose to replace it by "re-vegetating using native vegetation"?

II. Patterson Creek Topography and Failure to Perform Necessary Analysis of Adequacy of Bridge at Patterson Creek Davis Crossing.

In order to understand that it is not a matter of if the bridge at Davis Crossing on the Patterson Creek will be destroyed, but a matter of when, it is necessary to examine both the topography of Patterson Creek as well as the condition of the bridge at Davis Crossing on Patterson Creek.

Exhibit "M" is a map reflecting the location where Patterson Creek crosses John Davis Road at Davis Crossing bridge and joins the Frio River as a tributary a short distance south of John Davis Road.

Exhibit "N" is the top of the US 83 Bridge over Patterson Creek, which is designed in accordance with the Texas Department of Transportation guidelines.

Exhibits "O", "P", and "Q" reflect the type of concrete pilings and structure required to withstand flash floods on Patterson Creek.

Exhibit "R" shows the tremendous width of Patterson Creek between the bridge at US 83 and the bridge on John Davis Road.

Exhibit "S" is typical of the type of wood debris resulting from the drought conditions over the last few years, which will become a mass of the next flash flood to strike the bridge on John Davis Road, together with what appears to be pilings from another bridge on Patterson Creek which was destroyed by flood water.

Exhibits "T" through "X" are examples of both the width and the high cliffs resulting from erosion and scouring over the decades of floods on Patterson Creek that contain the creek at this location.

Exhibit "Y" is a picture of the bridge on the Patterson Creek at Davis Crossing with the Cypress tree previously shown as an exhibit on the south side.

Exhibit "Z" is a picture of one or both of the culverts that all of the flood water from Patterson Creek are designed to flow through.

Exhibit "A-1" is the narrow surface of the bridge at Patterson Creek.

Exhibit "A-2" and "A-3" shows the close proximity of the irreplaceable Cypress tree where the NSA's Engineers propose to trench fifteen (15) feet deep around the roots of the tree.

Exhibits "A-4", "A-5" and "A-6" show the severe erosion and scouring that presently exists on both ends of the bridge over Patterson Creek which will be "sheltering" the high pressure force main trunk line carrying 360,000 gallons per day, or 15,000 gallons per hour of raw sewage across both Patterson Creek and the entire length of John Davis Road from FM 1120 to US 83.

Exhibits "A-7" and "A-8" depict the short distance of Patterson Creek from John Davis Road to its flow into the Frio River as a tributary, which is poorly depicted in Exhibit "A-9".

Exhibit "A-10" is a picture of the Frio River just northeast of where it joins Patterson Creek.

Finally, Exhibit "A-11" is a picture of the water of the Frio River impounded by a dam, where the 360,000 gallons per day of raw sewage will ultimately be deposited in the event of a rupture of the high pressure force main trunk line. This location is also known as "Garner State Park".

The solution to the potential catastrophic damage to the Frio River as a result of a potential rupture of the high pressure force main trunk line that crosses the bridge at Patterson Creek is both simple and required by Texas State Law.

The City of Leakey Waste Water Treatment Plant and Collection Lines are being entirely funded by the State of Texas.

Title 43 of the Texas Administrative Code requires that all projects such as bridges constructed with funds from the State of Texas must meet the requirements of the Standard Bridge Design Specifications of the Texas Department of Transportation, a copy of which are attached hereto as Exhibit "A-12". This includes the Geotechnical and Hydraulic design requirements, and the Scour Analysis and Report. The protection of the high pressure force main trunk line that crosses the bridge at Patterson Creek is an intricate component of the waste water project, and should comply with the requirements of state law.

According to the United States Geological Data attached as Exhibit "A-13", the greatest flow of water through the Frio River in the past six (6) years at the Frio River crossing at Concan has been 72.8 cubic feet per second.

However, on four occasions between 1981 and 1987 the greatest flow of water at the Concan Frio River crossing has ranged between 301.7 to 433.6 cubic feet per second. Therefore, the evaluation of the structural integrity of the bridge in accordance with the TXDOT Bridge Construction Guidelines, the Geotechnical and Hydraulic design requirements, and the Scour Analysis and Report should be evaluated using these historical water flow measurements at a minimum, if not in accordance with a 100 year flood.

III. Incorrect, False or Material Misrepresentations Made to the United State Army Corps of Engineers (USACE) to Avoid the Requirements of Applying for an Individual 404 Permit Under the Federal Clean Water Act together with the Necessity of Wetlands Mitigation if the 404 Permit Was Granted by Providing Incorrect Factual Information in an Attempt to Install the High Pressure Force Main Trunk Line under the Nationwide Permit 12 for Utility Line Activity.

Many of the misrepresentations made by the project engineers to the USACE were addressed in Section I above.

Additional factors include the following:

The project does not comply with FEMA 100 year floodplain requirements.

Will all structures be properly maintained to ensure public safety? Obviously the bridge on John Davis Road has not been maintained in any manner.

No disclosures were made concerning to proximity of the Frio River and its basis for a large part of the Real County economy.

The project has potential to impact nesting sites of Golden Eagles, which have always been a native species to Real County.

All dams associated with the project have not been designed to comply with established State Dam safety criteria.

IV. Failure to Obtain the Passage of a City Ordinance by the City of Leakey Authorizing the Initiation of Condemnation Proceedings to Acquire Real Property in Connection with the Project.

The Texas Local Governmental Code provides the following:

Sec. 2206.051. SHORT TITLE. This subchapter may be cited as the Truth in Condemnation Procedures Act.

Sec. 2206.052. APPLICABILITY. The procedures in this subchapter apply only to the use of eminent domain under the laws of this state by a governmental entity.

Sec. 2206.053. VOTE ON USE OF EMINENT DOMAIN. (a) Before a governmental entity initiates a condemnation proceeding by filing a petition under Section 21.012, Property Code, the governmental entity must:

- (1) authorize the initiation of the condemnation proceeding at a public meeting by a record vote; and
 - (2) include in the notice for the public meeting as required by Subchapter C, Chapter 551, in addition to other information as required by that subchapter, the consideration of the use of eminent domain to condemn property as an agenda item.
- (b) A single ordinance, resolution, or order may be adopted for all units of property to be condemned if:
- (1) the motion required by Subsection (e) indicates that the first record vote applies to all units of property to be condemned; and

(2) the minutes of the governmental entity reflect that the first vote applies to all of those units.

(c) If more than one member of the governing body objects to adopting a single ordinance, resolution, or order by a record vote for all units of property for which condemnation proceedings are to be initiated, a separate record vote must be taken for each unit of property.

(d) For the purposes of Subsections (a) and (c), if two or more units of real property are owned by the same person, the governmental entity may treat those units of property as one unit of property.

(e) The motion to adopt an ordinance, resolution, or order authorizing the initiation of condemnation proceedings under Chapter 21, Property Code, must be made in a form substantially similar to the following: "I move that the (name of governmental entity) authorize the use of the power of eminent domain to acquire (describe the property) for (describe the public use)." The description of the property required by this subsection is sufficient if the description of the location of and interest in the property that the governmental entity seeks to acquire is substantially similar to the description that is or could properly be used in a petition to condemn the property under Section 21.012, Property Code.

(f) If a project for a public use described by Section 2206.001(c)(3) will require a governmental entity to acquire multiple tracts or units of property to construct facilities connecting one location to another location, the governing body of the governmental entity may adopt a single ordinance, resolution, or order by a record vote that delegates the authority to initiate condemnation proceedings to the chief administrative official of the governmental entity.

(g) An ordinance, resolution, or order adopted under Subsection (f) is not required to identify specific properties that the governmental entity will acquire. The ordinance, resolution, or order must identify the general area to be covered by the project or the general route that will be used by the governmental entity for the project in a way that provides property owners in and around the area or along the route reasonable notice that the owners' properties may be subject to condemnation proceedings during the planning or construction of the project.

V. Refusal of the Nueces River Authority to Comply with Texas Property Code Articles 21.0112 and 21.025.

The Nueces River Authority or the City of Leakey currently has no right of way or easement for a force main sewer trunk line on John Davis Road or the real property owned by Opponents on the north and south sides of John Davis Road.

Section 17 of the Texas Constitution Bill of Rights provides the following:

Sec. 17. TAKING, DAMAGING, OR DESTROYING PROPERTY FOR PUBLIC USE; SPECIAL PRIVILEGES AND IMMUNITIES; CONTROL OF PRIVILEGES AND FRANCHISES. (a) No person's property shall be taken, damaged, or destroyed for or applied to public use without adequate compensation being made, unless by the consent of such person, and only if the taking, damage, or destruction is for:

(1) the ownership, use, and enjoyment of the property, notwithstanding an incidental use, by:

(A) the State, a political subdivision of the State, or the public at large; or

(B) an entity granted the power of eminent domain under law;

In connection with any expropriation proceeding, Texas State Law provides the following under the Texas Property Code:

Sec. 21.025. PRODUCTION OF INFORMATION BY CERTAIN ENTITIES. (a) Notwithstanding any other law, an entity that is not subject to Chapter 552,

Government Code, and is authorized by law to acquire private property through the use of eminent domain is required to produce information as provided by this section if the information is:

(1) requested by a person who owns property that is the subject of a proposed or existing eminent domain proceeding; and

(2) related to the taking of the person's private property by the entity through the use of eminent domain.

(b) An entity described by Subsection (a) is required under this section only to produce information relating to the condemnation of the specific property owned by the requestor as described in the request. A request under this section must contain sufficient details to allow the entity to identify the specific tract of land in relation to which the information is sought.

(c) The entity shall respond to a request in accordance with the Texas Rules of Civil Procedure as if the request was made in a matter pending before a state district court.

(d) Exceptions to disclosure provided by this chapter and the Texas Rules of Civil Procedure apply to the disclosure of information under this section.

(e) Jurisdiction to enforce the provisions of this section resides in:

(1) the court in which the condemnation was initiated; or

(2) if the condemnation proceeding has not been initiated:

(A) a court that would have jurisdiction over a proceeding to condemn the requestor's property; or

(B) a court with eminent domain jurisdiction in the county in which the entity has its principal place of business.

(f) If the entity refuses to produce information requested in accordance with this section and the court determines that the refusal violates this section, the court

may award the requestor's reasonable attorney's fees incurred to compel the production of the information.

On December 16, 2014, I sent correspondence to Mr. Con Mims, Executive Director of the Nueces River Authority, a complete copy of which is attached hereto as Exhibit "A-14", requesting the following:

December 16th, 2013

VIA FACSIMILE: (830) 278-2025

Mr. Con Mims
Executive Director
Nueces River Authority
P.O. Box 349
Uvalde, TX 78802

RE: Offer to Purchase 20' Wide Permanent Utility Easement (0.14) Acres and a 50' Wide Temporary Easement (0.39 acres)

Dear Mr. Mims:

Please be advised of my representation of Jean C. Huffman in connection with the above referenced matter. Please direct all future correspondence related to Ms. Huffman's interests in this project directly to my attention.

I am in receipt of your correspondence dated November 18, 2013.

Pursuant to Section 21.0112 of the Texas Property Code, please provide me with evidence that the Nueces River Authority (NRA) mailed a copy of the Landowner Bill of Rights Statement to the purported owners of this property prior to November 18, 2013, together with evidence that the Landowner Bill of Rights Statement has been posted on the NRA's Internet website.

In accordance with Section 21.024 of the Texas Property Code requiring production of all information requested by a landowner from a utility that could be related to the Utility's acquisition of real property for utility purposes, please provide me with a copy of the following information:

A copy of any Right of Way Agreement, Servitude or Texas statute upon which the NRA claims establishes any right of way for a sewage line on John Davis Road from RR 1120 to US Highway 83.

On the same date that I transmitted my correspondence to Mr. Mims by facsimile, I received a response from Mr. Mims stating, "I am pulling together the information that you have requested and will get back with you as soon as it is available." This facsimile is attached as Exhibit "A-15".

On December 20th, 2013, I received correspondence from Paul D. Barkhurst, who advised me that he was the legal counsel for the NRA. Mr. Barkhurst further informed me that his office would not consider the undersigned counsel for Opponent, Jean C. Huffman, as her legal counsel due to the fact that the undersigned counsel was not actively practicing law in the State of Texas. Mr. Barkhurst correspondence is attached as Exhibit "A-16".

On January 7, 2014, the undersigned counsel for Ms. Huffman notified Mr. Barkhurst that I was representing Ms. Huffman pursuant to a power of attorney, but that if he would not recognize my authority to act as Ms. Huffman's agent, he should direct any future correspondence concerning my client to her local counsel in Odessa, Texas, Mr. Jimmie B. Todd of Todd, Barron, Thomason, Hudman & Baxter, P.C. A full copy of this correspondence is attached as Exhibit "A-17". The undersigned counsel is the son of Ms. Huffman, and began managing the ranch property when Ms. Huffman retired from actively managing the ranch property at age eighty (80).

On February 17, 2014, the undersigned counsel transmitting correspondence to Mr. Barkhurst stating the following:

February 17, 2014
VIA FACSIMILE: (210) 226-7802

Paul D. Barkhurst
BarkhurstHinojosa P.C.

RE: Nueces River Authority

"Dear Mr. Barkhurst:

You may now feel free to check with the Texas Bar Association to confirm that I have now notified the Continuing Legal Education Section to remove my exemption and place me in active status for your edification.

I have attached a copy of my previous correspondence to the Nueces River Authority (NRA) dated December 16th, 2013 for your response.

I reviewed the NRA's website to determine if Mr. Mims has posted the Landowner's Bill of Rights Statement as required by Section 21.0112 of the Texas Property Code for any public body seeking to obtain rights of way from the public. I am rather surprised that Mr. Mims has continued to intentionally violate Texas State Law for over sixty (60) day at this time. As the statutes provide, I will proceed to contact the Texas Attorney General's Office to ascertain whether they intend to pursue compliance with this statute, which was intended to protect private property rights.

Initially, I planned on opposing this project solely on environment grounds, because the force main sewer line proposed to be built across the Patterson Creek Bridge is not built to withstand the periodic flash floods that have destroyed the bridge on numerous occasions on a regular basis. This will result in the rupture of the pressurized force main sewer into Patterson Creek approximately 200 yards north of the point where Patterson Creek flows into the Frio River as a tributary. Several thousand gallons of raw sewage each day will then flow down the Frio River from John Davis Road through the tourist areas and Garner State Park.

However, it has now become apparent that the Nueces River Authority (NRA) intends to attempt to install the sewer line on John Davis Road without the funding to pay just compensation to purchase or expropriate the additional real property adjoining the Frio River required for the sewage line right of way, which I estimate could be valued at up to Five Hundred Thousand (\$500,000.00) Dollars.

The NRA recently sent a proposal to purchase a small site for a lift station at the corner of RR 1120 and John Davis Road for approximately Thirty Thousand (\$20,000.00) Dollars without any offer to purchase a right of way for the entire length of John Davis Road.

Of course, I requested a copy of any Right of Way Agreement, Servitude or Texas Statute upon which the NRA claims establishes any right of way for a force main sewer line in my December 16th, 2013 correspondence, so I assume you have had an adequate opportunity to locate any such agreement, and I look forward to receiving a copy.

Naturally it is in the best interest of the NRA to delay and attempt to keep these issues from being raised prior to the expiration of the deadline for any concerned member of the public or the owners of any businesses that would be affected by the loss of tourism to write to the Chief Clerk, MC 105, Texas Commission on Environmental Quality, PO BOX 13087, Austin, TX 78711 to ask for the Commission to hold a Public Hearing to allow them to ask the

Commission's staff to investigate any potential problems with the project or damages to their business.

However, if you are unable to provide me with any such documentation for a right of way on John Davis Road after sixty days to review this matter, it is obviously safe to say that you have none."

As previously stated, Texas State Law Section 21.024 of the Texas Property Code requires production of all information requested by a landowner from a utility that could be related to the Utility's acquisition of real property for utility purposes.

Undersigned Counsel for Opponents first requested a copy of any Right of Way Agreement, Servitude or Texas statute which the NRA claimed to establish any right of way for a sewage line on John Davis Road from RR 1120 to US Highway 83 by correspondence to Con Mims on December 16th, 2013.

Undersigned Counsel for Opponents again requested a copy of any Right of Way Agreement, Servitude or Texas statute which the NRA claimed to establish any right of way for a sewage line on John Davis Road from RR 1120 to US Highway 83 by correspondence to the NRA's legal counsel, Paul D. Barkhurst, on February 17, 2014.

As of this date, no document, easement, servitude or statute has been identified by the NRA or its attorney claiming that the NRA has any claim to any right of way for a sewage line on John Davis Road from RR 1120 to US Highway 83.

Until such time as Opponents receive a response in connection with this request for information, which the NRA is legally obligated to provide as required by Section 21.024 of the Texas Property Code, no further negotiations for the proposed acquisition of the lift station site from Opponents can proceed.

In the absence of the purchase by the NRA from Opponents of a right of way easement for the high pressure force main trunk line over the entire length of John Davis Road, there is no existing Public Need for the NRA to expropriate the proposed lift station site from Opponents, since there would be no means for the

360,000 gallons of raw sewage to be transported from the lift station site to the Waste Water Treatment Plant.

Furthermore, the TWDB cannot commit to funding the construction of a project, which cannot be completed as a result of the NRA having obtained the necessary right of way or easement as a result of the manner in which the NRA's Project Engineers chose to design the project.

The Opponents undersigned counsel had previously notified both the NRA and its legal counsel, Paul Barkhurst, to direct any correspondence or other communications either to Opponents local counsel, Mr. Jimmie Todd in Odessa, Texas, or to undersigned counsel in the Exhibits attached as "A-14", "A-17" and "A-18".

Despite these instructions, large packages of legal documents together with legal demands contained in correspondence apparently prepared by a law firm for the signature of the Executive Director of the NRA were mailed directly to Ms. Huffman on February 12, 2014 and February 26, 2014 without any notice to either of Ms. Huffman's attorneys.

This action to circumvent the prohibition against an attorney engaging in direct communications with a party represented by legal counsel exemplifies the bad faith manner in which the NRA and its attorneys have conducted themselves in attempting to acquire real property rights from Ms. Huffman.

In fact, the Texas Supreme Court in addressing this form of behavior has adopted the following rule together with the corresponding comment:

Rule 4.02 Communication with One Represented by Counsel

(a) In representing a client, a lawyer shall not communicate or cause or encourage another to communicate about the subject of the representation with a person, organization or entity of government the lawyer knows to be represented by another lawyer regarding that subject, unless the lawyer has the consent of the other lawyer or is authorized by law to do so.

Texas Disciplinary Rules of Professional Conduct

Comment - Rule 4.02

1. Paragraph (a) of this Rule is directed at efforts to circumvent the lawyer-client relationship existing between other persons, organizations or entities of government and their respective counsel. It prohibits communications that in form are between a lawyer's client and another person, organization or entity of government represented by counsel where, because of the lawyer's involvement in devising and controlling their content, such communication in substance are between the lawyer and the represented person, organization or entity of government.

VI. Inadequate Funding for the Project to Acquire a Right of Way for the High Pressure Force Main Trunk Line for the Entire Length of John Davis Road.

As previously stated, the Leakey City Council has not passed any Ordinance or Resolution authorizing expropriation of any real property for this project. Of course, this may be a result of the fact that the City of Leakey does not have adequate funding to purchase all of the necessary right of way including not only the proposed locations for the lift stations, but also including the right of way necessary for the installation of a high pressure force main trunk line the entire length of John Davis Road.

As the attached maps and exhibits reflect, Opponents land on both the north and south side of John Davis Road consist primarily of property fronting on either the Frio River or Patterson Creek.

Attached as Exhibit "A-19" is a newspaper article announcing the opening of a new subdivision nearby on the Frio River. The Heartstone Subdivision consisted of 14 riverfront lots and 30 lots from .73 acres to .93 acres that shared a common area of private riverfront property, since the Frio River is one of the few rivers in Texas where the public may only travel in the riverbed while the banks of the river are privately owned and not subject to trespass. The .73 acre lots with shared common private riverfront access were priced at a minimum of \$110,000.00. A 1.86 riverfront lot on the Frio River was listed at a minimum price of \$425,000.00.

Obviously, any Right of Way or easement purchase for the similar property on each side of John Davis Road for a high pressure force main sewer trunk line large enough to transport 360,000 gallons of raw sewage per day could have a substantial value based on the price per square foot for similar property.

It must be assumed that this is the reason that the NRA refuses to comply with its legal and statutory duty provide as required by Section 21.024 of the Texas Property Code to disclose and provide Opponents any document, easement, servitude or statute identified by the NRA or its attorney claiming that the NRA has any claim to any right of way for a sewage line on John Davis Road from RR 1120 to US Highway 83.

The NRA may also incur additional costs in connection with required improvements to the existing bridge at Davis Crossing where Patterson Creek crosses John Davis Road as required by Texas State Law for projects built with State Funds after the performance of the Geotechnical and Hydraulic design requirements, and the Scour Analysis and Report in accordance with the guidelines of the Texas Department of Transportation.

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VII. Deceptive and Bad Faith Conduct by the Nueces River Authority in Holding a False Public Hearing in Order to Deprive Interested Parties of Their Due Process Rights to File Public Comments.

Numerous acts of deceptive conduct, bad faith and the failure to disclose information adverse to the approval of this project engaged in by the NRA are described in the Sections set forth above.

The most egregious conduct of the NRA and/or its legal counsel in the Opponents undersigned counsel's opinion is an apparent obvious attempt to confuse the voters, citizens and other interested parties of their due process right to be heard and present their public comments as the procedures of the TCEQ provide for and intend.

The public comment period for the permit application closes at 5:00 p.m. on the 10th day of March, 2014.

Subsequent to the public notice published by the TCEQ on February 6th, 2014, the NRA paid for the publication of a large Public Notice to be published in the legal journal newspaper for Real County that appears to be obviously misleading and confusing to the public. It also appears to supersede the previous Public Notice published by the TCEQ.

Even more misleading is the fact that the Public Hearing is scheduled to be held on the 10th day of March, 2014, which is the same day that the Public Comment period closes at 5:00 p.m. However, the NRA has scheduled its Public Hearing for 7:00 p.m. on the same day, which is two (2) hours after the close of the Public Comment period coincidentally.

The Public Notice, which is attached as Exhibit "A-20", includes the following statements.

"PUBLIC NOTICE

Nueces River Authority
Public Hearing Regarding
Environmental Document

For the Nueces River Authority Leakey Regional Wastewater Improvements
Project

One of the purposes of this hearing is to discuss the potential environmental impacts of the project and alternatives to it.....

The authority encourages citizens to participate to make their views known at this public hearing. Citizens unable to attend this meeting may submit their views in writing to Mr. Con Mims, Executive Director, Nueces River Authority, PO BOX 349, Uvalde, TX 78802-0349."

This PUBLIC NOTICE/PUBLIC HEARING published in the newspaper by the NRA after the PUBLIC NOTICE for public comments published by the TCEQ so greatly interferes and taints the Procedures for Public comments as well as both the Procedural Due Process and Substantive Due Process rights of the Public, that the TCEQ should consider the opening of a Second Public Comment Period.

In fact, it is the opinion of the undersigned counsel for Opponents that it borders on Malfeasance in Office.

VIII. SUMMARY

It is often said that a picture is worth a thousand words.

The picture on the front page of the Real County American on March 11, 1992, attached as Exhibit "A-21", showing the total destruction of the bridge on John Davis Road where the proposed high pressure force main sewage main trunk line carrying 360,000 gallons per day of raw sewage is to be located certainly speaks for itself.

The TWDB should be asking the question that when this occurs, will the TCEQ, USACE, EPA or another state or federal agency with jurisdiction ever allow this high pressure force main trunk line to be replaced?

Since approximately the date that the bridge was last destroyed by a flash flood, Real County has been suffering from one of its worst droughts in history, but another flood will come.

Perhaps the value and necessity of taking every possible precaution to avoid a rupture in the proposed high pressure force main sewage main trunk line carrying 360,000 gallons per day of raw sewage across Patterson Creek just a few hundred feet from its joinder with the Frio River is best summarized by two brief articles from familiar publications.

Writer-at-large Suzy Banks published an article entitled "Head for the Hills" about the Texas Hill Country in the *Texas Monthly* magazine that has become an institution in Texas. When interviewed, Ms. Banks was asked "What would be your ultimate Hill Country weekend getaway? Where would you stay, what would you do"? Ms. Banks responded, "In the summertime, when I crave the water, I'd try to book a few nights at Cabin 10 at the Frio River Cabins just north of Garner State Park. I'd play in the river beneath giant cypress trees all day...." Exhibit "A-22".

Mr. Michael A. Brodine, a Real County property owner, wrote a letter to the Editor of the Leakey Star Newspaper. Mr. Brodine included the following statements in his letter:

"I do have only one concern, Keep any pressurized sewer line and pumping equipment well away from the Frio or even Patterson Creek! Having a sewer system for Leakey is long overdue but residents are playing with danger that could make a waste land of Frio canyon and the local economy. Another concern of mine is our human hygiene, waste and plastics. If any of this stuff reaches the river the waste will decompose in time depending on the amount, heavy compounds will settle to the bottom and the plastic will be there forever."

X. STANDING

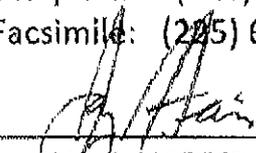
The real property sought to be expropriated for a lift station by the NRA is owned jointly by Opponents, Jean C. Huffman and the Estate of T.W. Huffman, Jr.

As shown by Exhibit "A-24" Jean C. Huffman and Dan C. Huffman are the Independent Co-Executors of the Estate of T.W. Huffman, Jr.

Opponents further show that there is no existing right of way for a public sewer line of any type on, in or adjacent to John Davis Road, or the real property on the north and south sides of John Davis Road, which is real property owned jointly by Jean C. Huffman and the Estate of T.W. Huffman, Jr.

Opponents, Jean C. Huffman and Dan C. Huffman, through their undersigned counsel of record, hereby request a contested case hearing in the above captioned Permit Application proceeding.

By Attorney,
JAY J. HARRIS, LLC
30615 Cypress Park Dr.
Denham Springs, Louisiana 70726
Telephone: (225) 610-7938
Facsimile: (225) 664-5707



JAY J. HARRIS

TEXAS BAR ROLL NUMBER 9066150

Attorney for Jean C. Huffman and Dan C. Huffman

EXHIBIT A

Graphic Scale



Plan No. 201022

DAS, INC.

10220 FOREST LANE DALLAS, TEXAS 75249
214-349-2200 800-862-2190

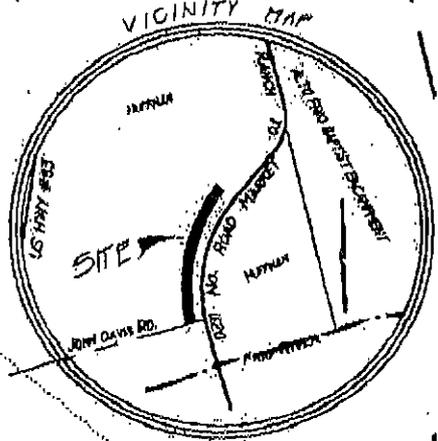
Revised 21 January 2014; Remove Location name of Lecky, W

HUFFMAN
V24, P379 OPRRECT

General Notes:
1. Legal Description for this Drawing on separate sheet LL-21025
2. This drawing is for the purpose of showing the location of the proposed utility easement only and does not constitute a survey or a legal description. All corners shown on this drawing are assumed to be correct unless otherwise noted.
3. The proposed utility easement is shown on the drawing. It is a 20-foot paved street and reaches to the edge of the rip-rope.
4. The proposed utility easement is shown on the drawing. It is a 20-foot paved street and reaches to the edge of the rip-rope.

HUFFMAN
V24, P379 OPRRECT

PROPOSED UTILITY EASEMENT
20' WIDE
ALTO FRIO BAPTIST ENCANTMENT



JOHN DAVIS RD.

edge river

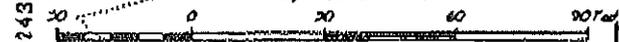
FRIO RIVER

[Signature]
non-transferable

Scale:	1" = 20'
By:	J. Smith
File No.:	LL-2102
Date:	July 2013
20' Utility Easement out of the THOMAS APPLEWHITE SURVEY 1925, A-21 Ranch to Market Road No. 1120 Real County, Texas	
The foregoing sketch and legal description were prepared from an actual survey made on the ground. There are no inaccuracies, pretensions or boundary conflicts except as shown hereon.	

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
2014 MAR 10 PM 2:43
CHIEF CLERK'S OFFICE

Graphic Scale



DAS, INC.
10220 FOREST LANE DALLAS, TEXAS 75243
214-349-2200 800-862-2190

HUFFMAN
V24, P379 OPRRECT

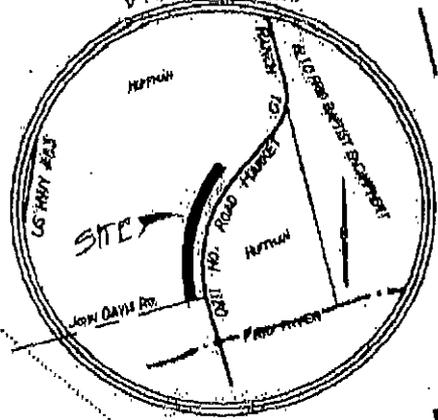
General Notes:
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3. The Ditching was on the original surveyed road and
4. The Ditching was on the original surveyed road and
5. The Ditching was on the original surveyed road and
6. The Ditching was on the original surveyed road and
7. The Ditching was on the original surveyed road and
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9. The Ditching was on the original surveyed road and
10. The Ditching was on the original surveyed road and

HUFFMAN
V24, P379 OPRRECT

PROP. Line
V16, P73 & V18, P11 OPRRECT
ALTO FRIO BAPTIST ENCAMPMENT

RANCH TO MARKET ROAD NO. 1120

VICINITY MAP



Begin Edge Rip-Rop

JOHN DAVIS RD.

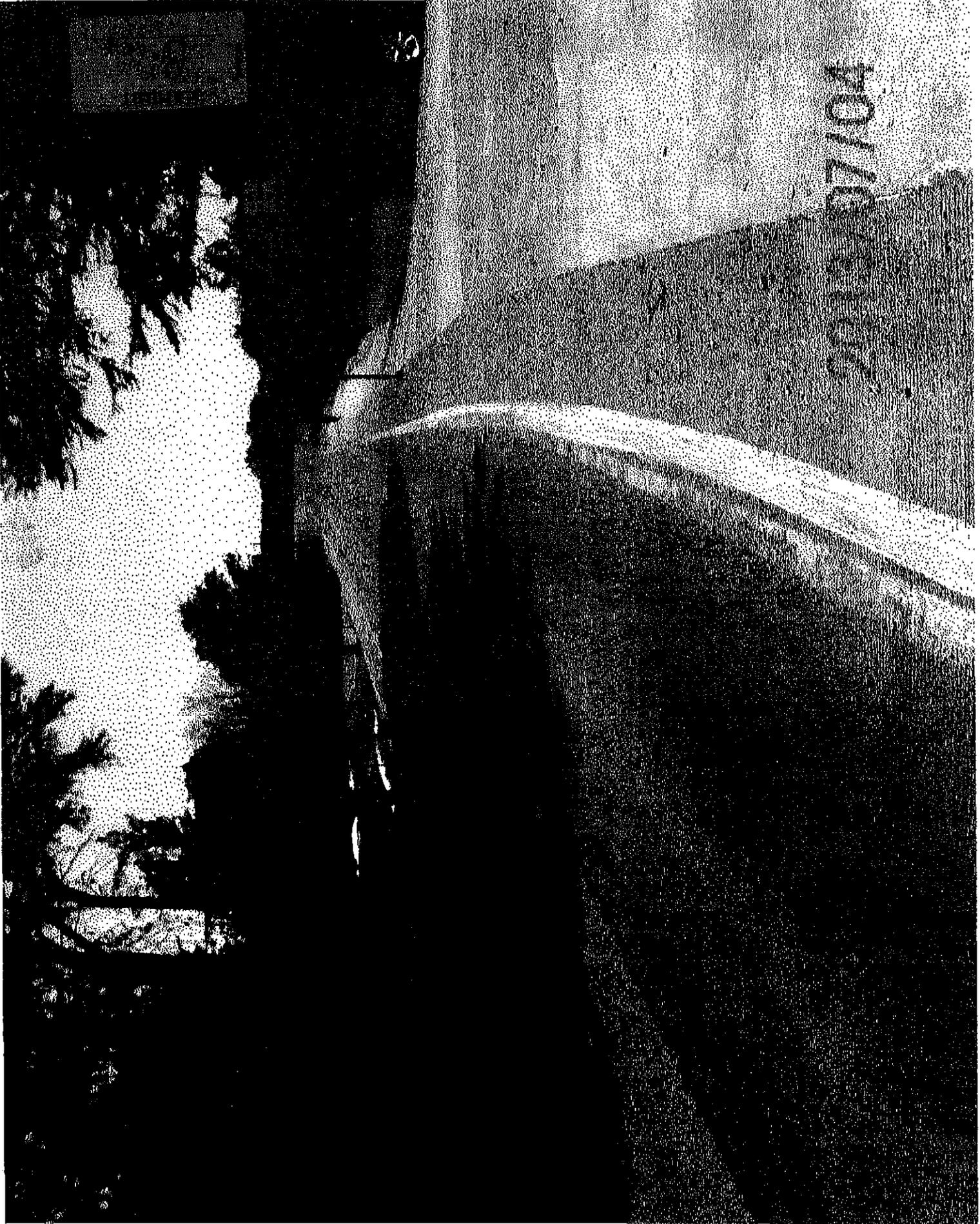
edge river

FRIO RIVER

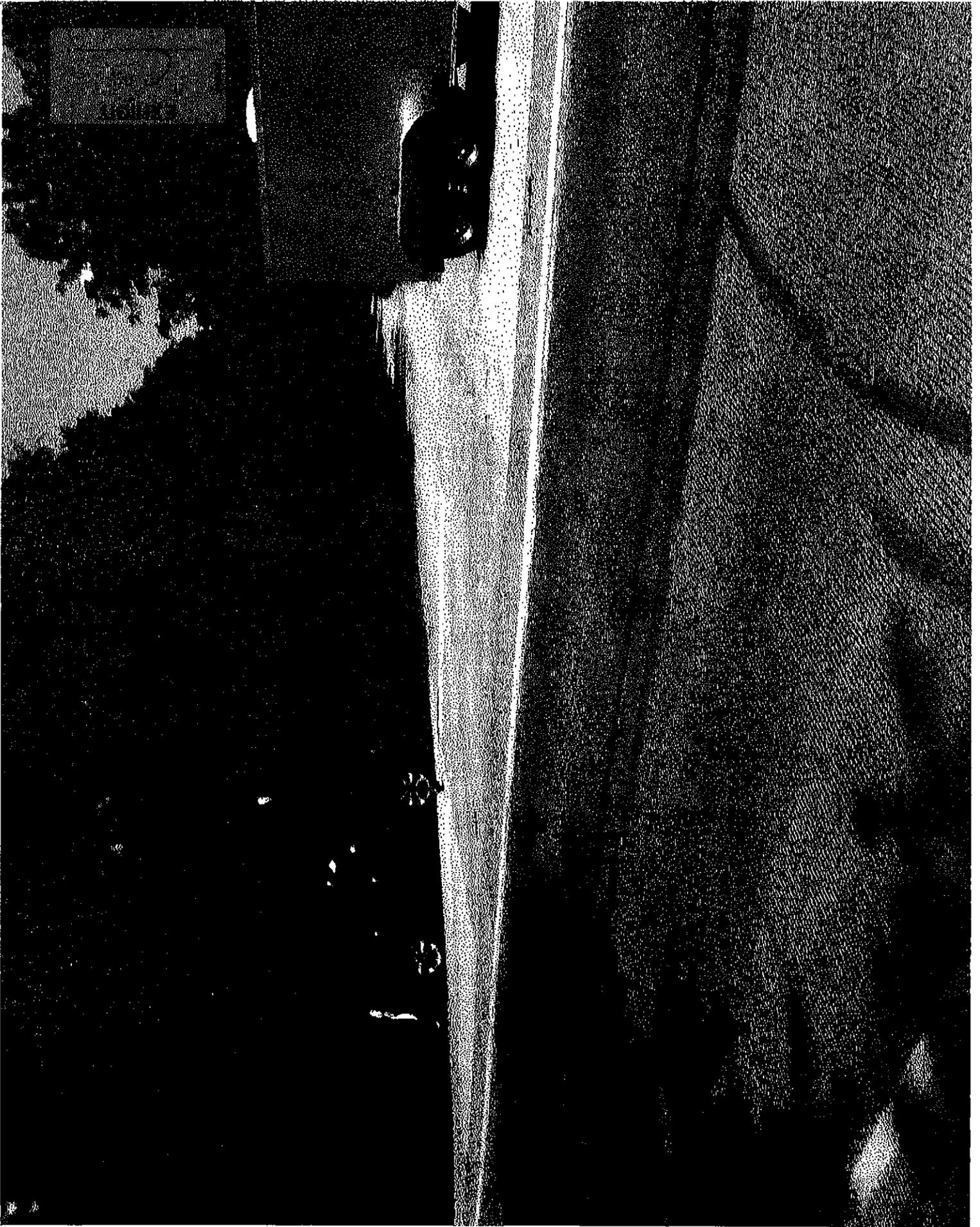
Restored January 2014; Remove Location name of Leakey, TX

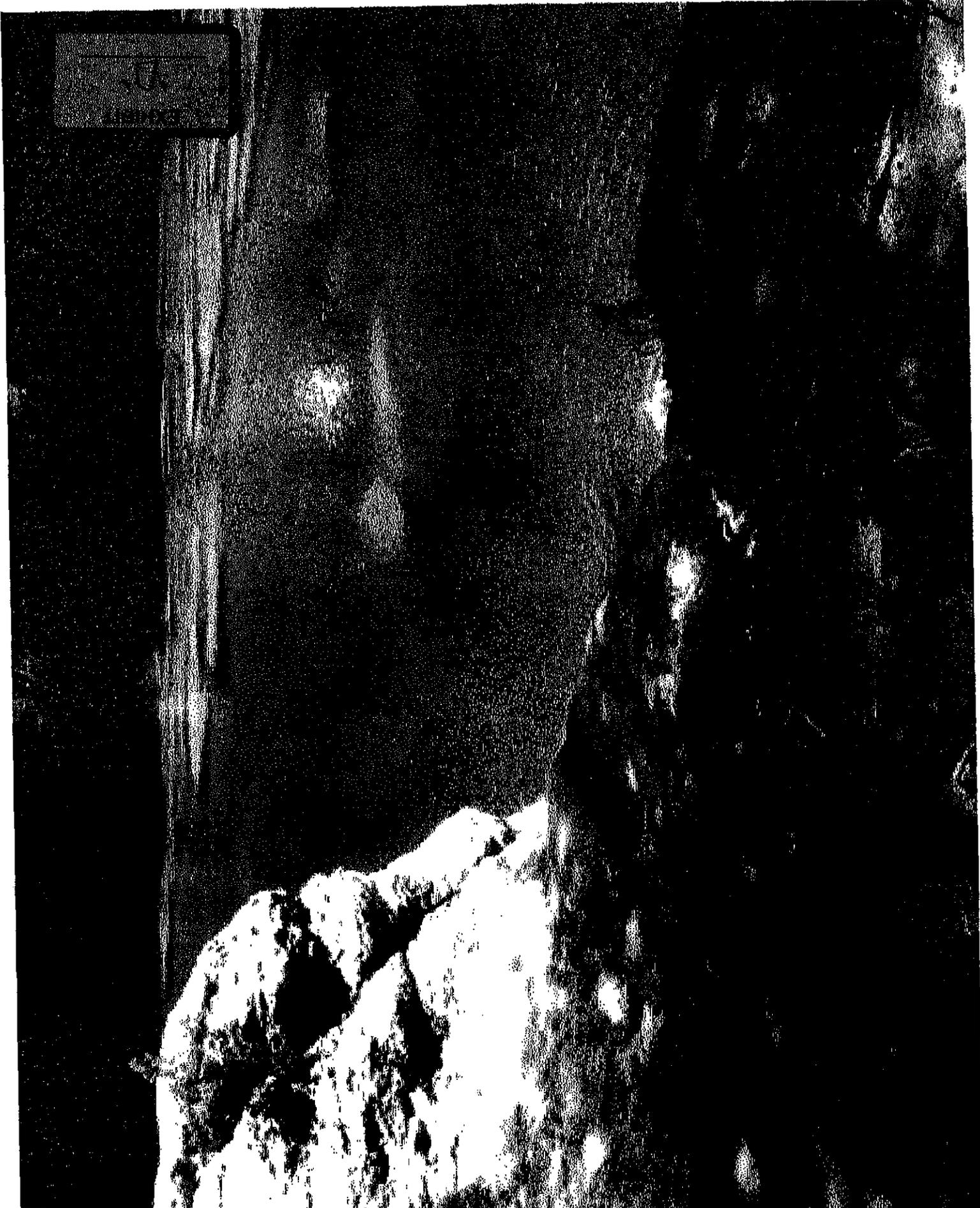
[Signature]
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DATE	11-30
BY	JnalU
FILE NO.	LL 2782
OWNER	July 2013
20' Utility Easement out of the THOMAS APPLEWHITE SURVEY 1925, A-21 Ranch to Market Road No. 1120 Red County, Texas	
The foregoing sketch and legal description were prepared from an actual survey made on the ground. There are no encroachments, protrusions or boundary conditions except as shown hereon.	



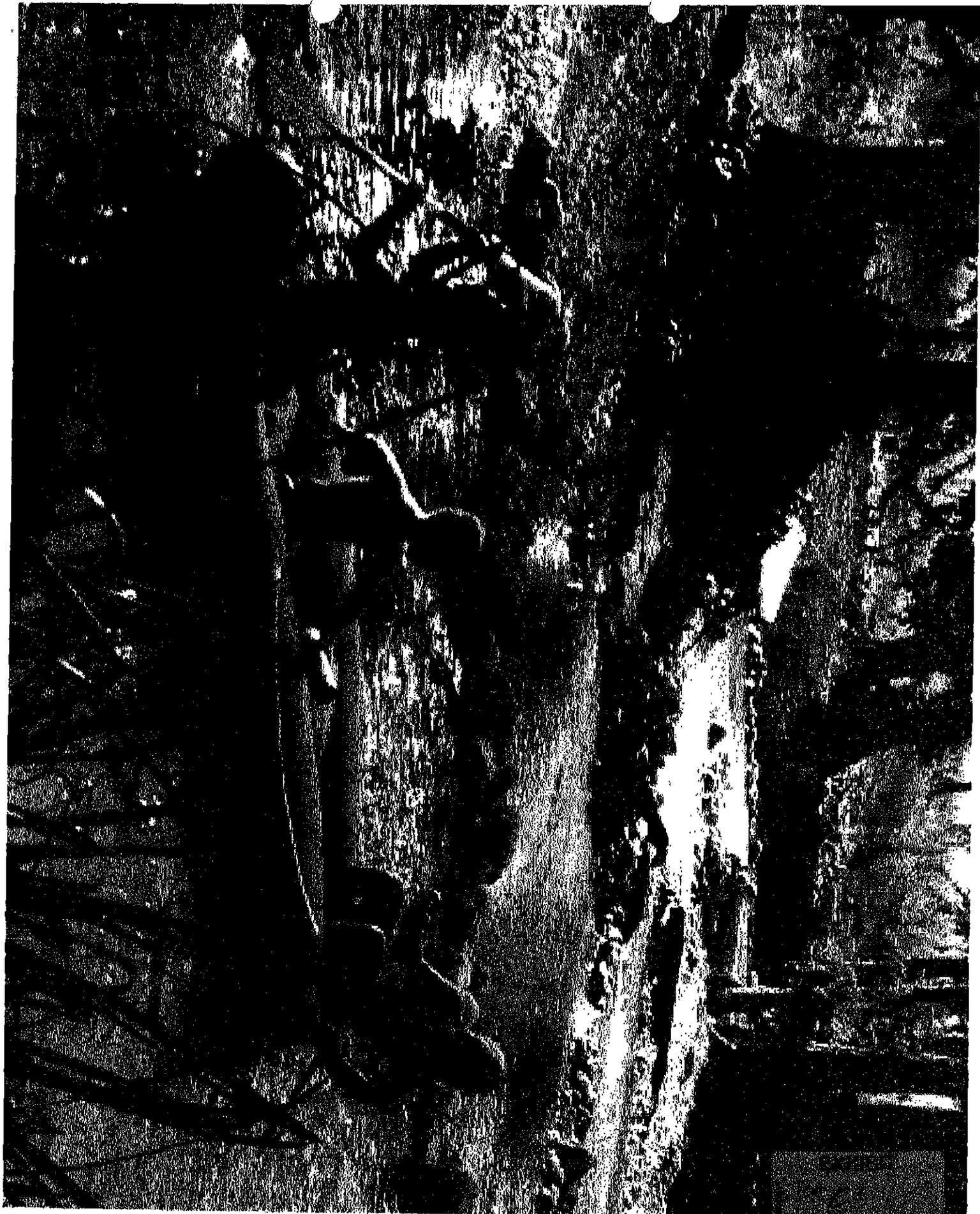
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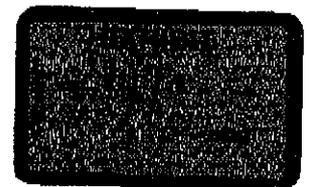


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p. 08



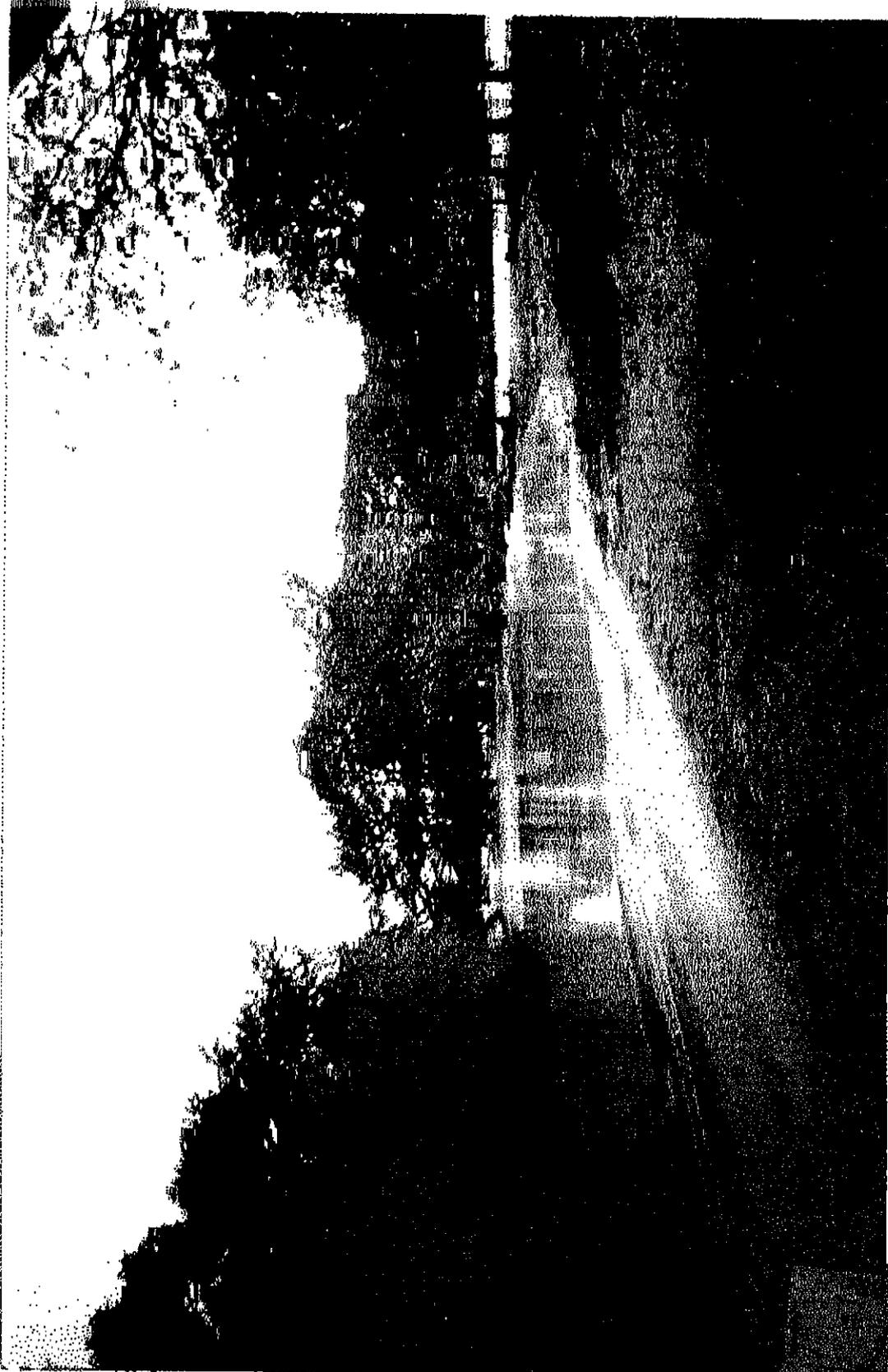
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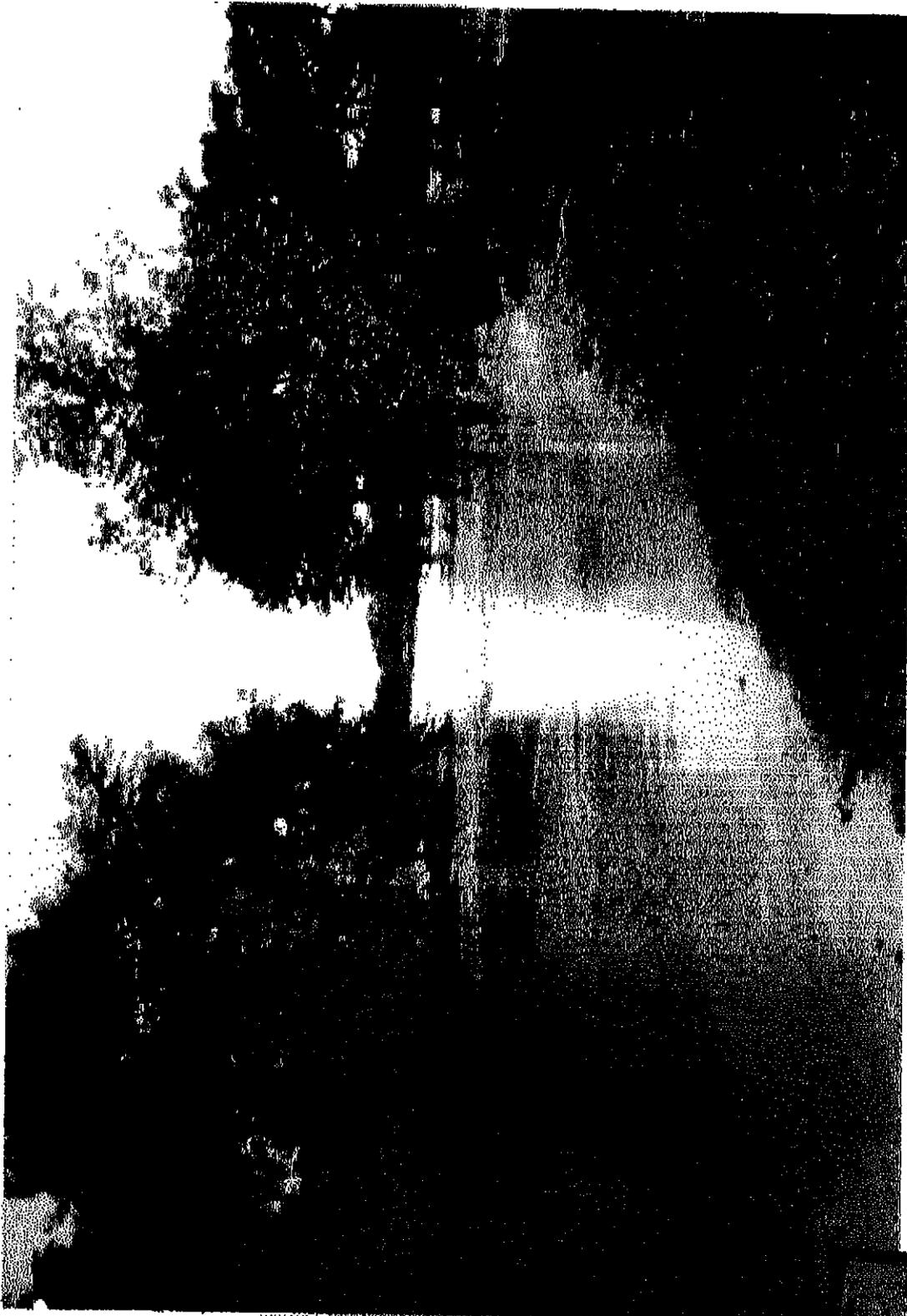
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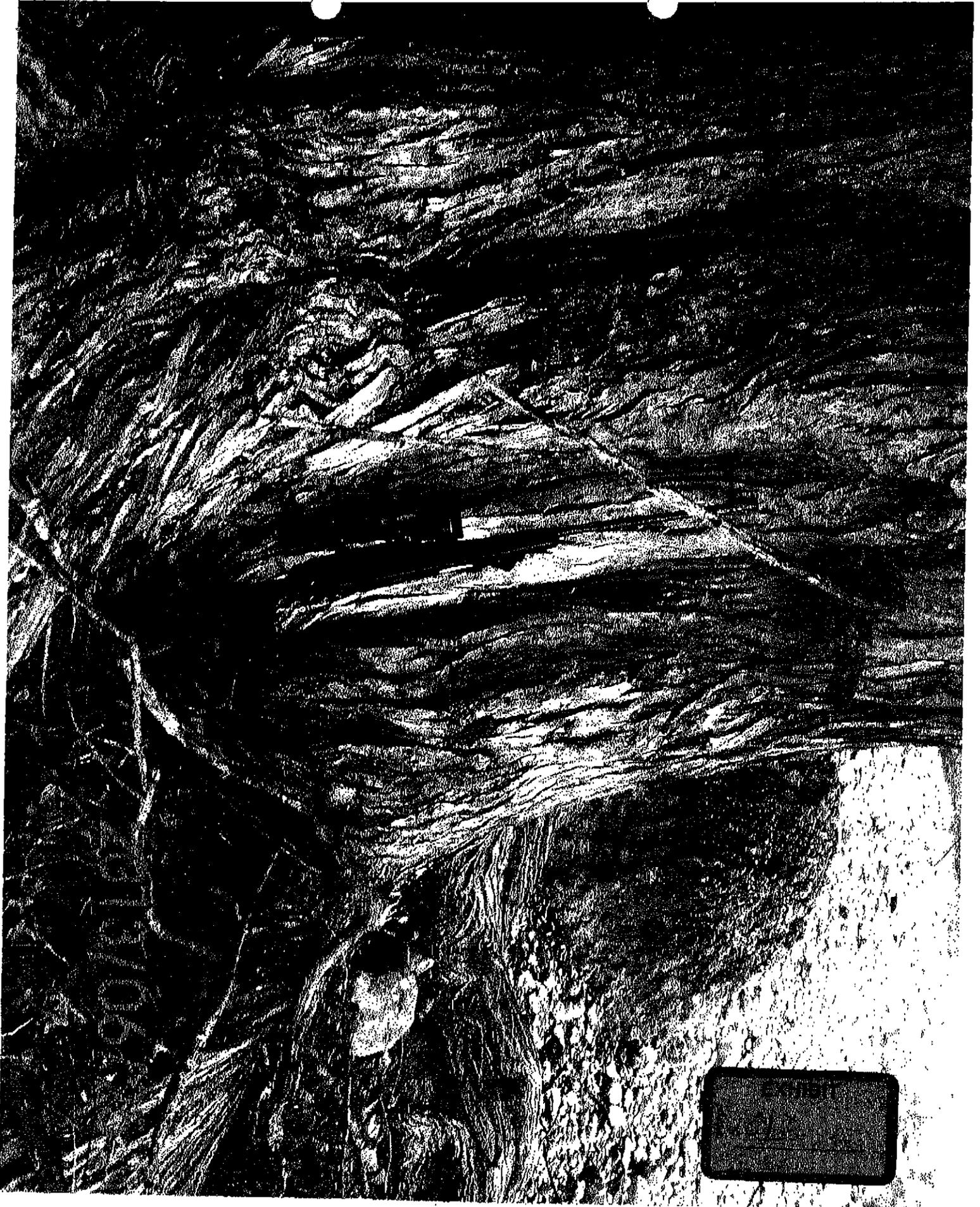
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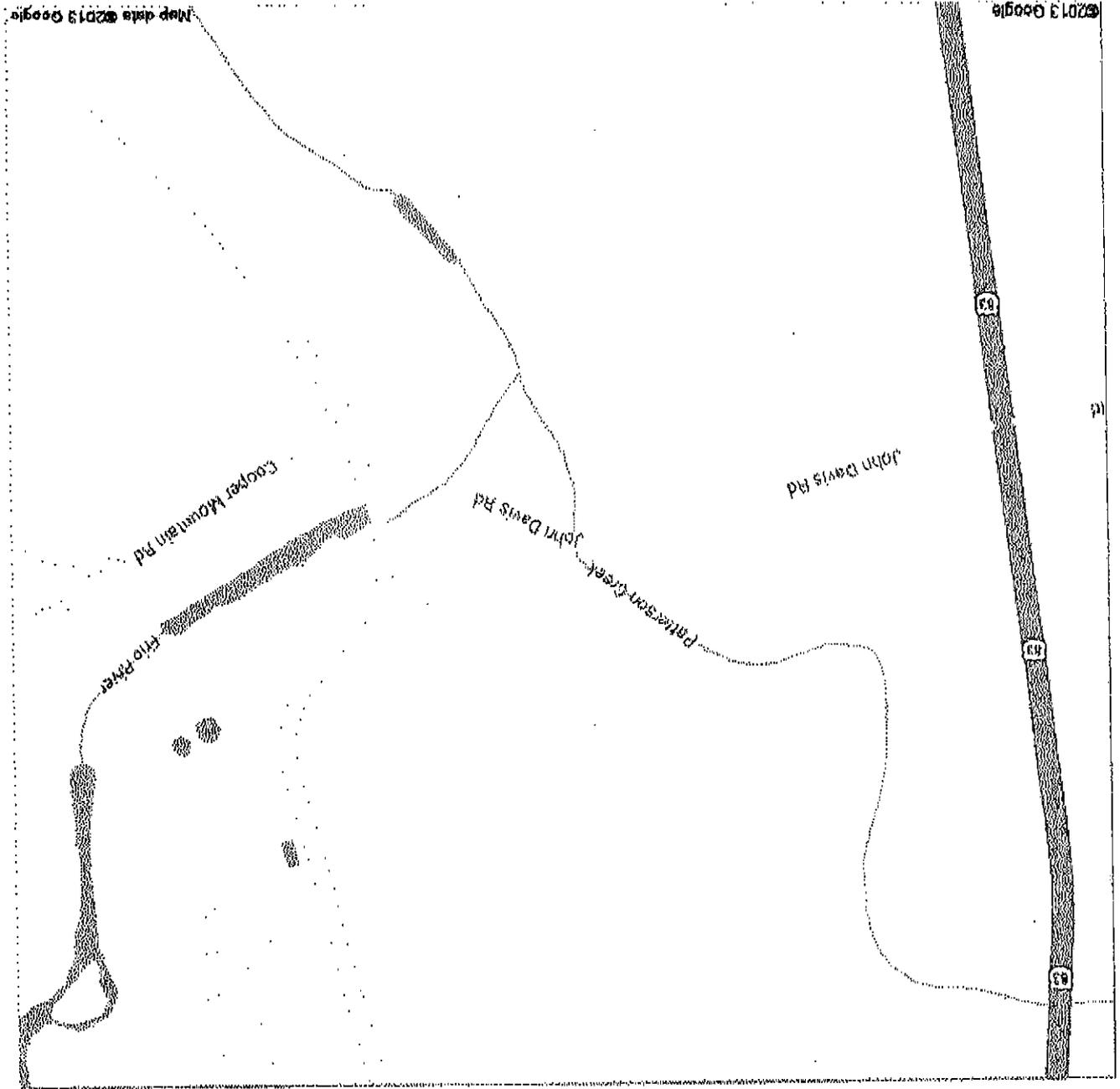
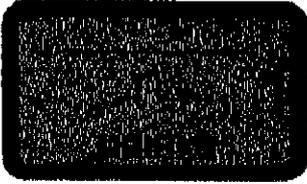
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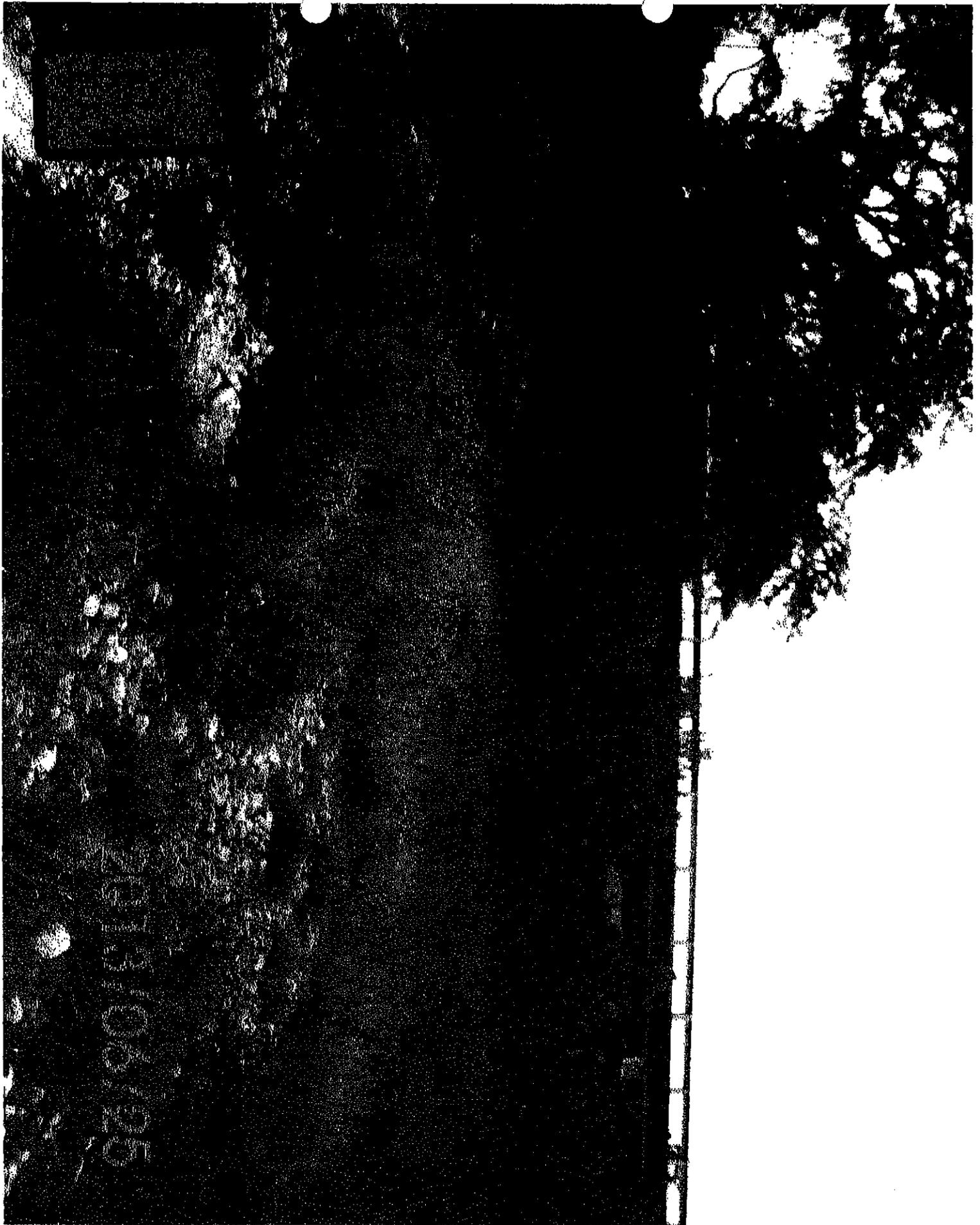
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Text the word "GMAPS" to 466453

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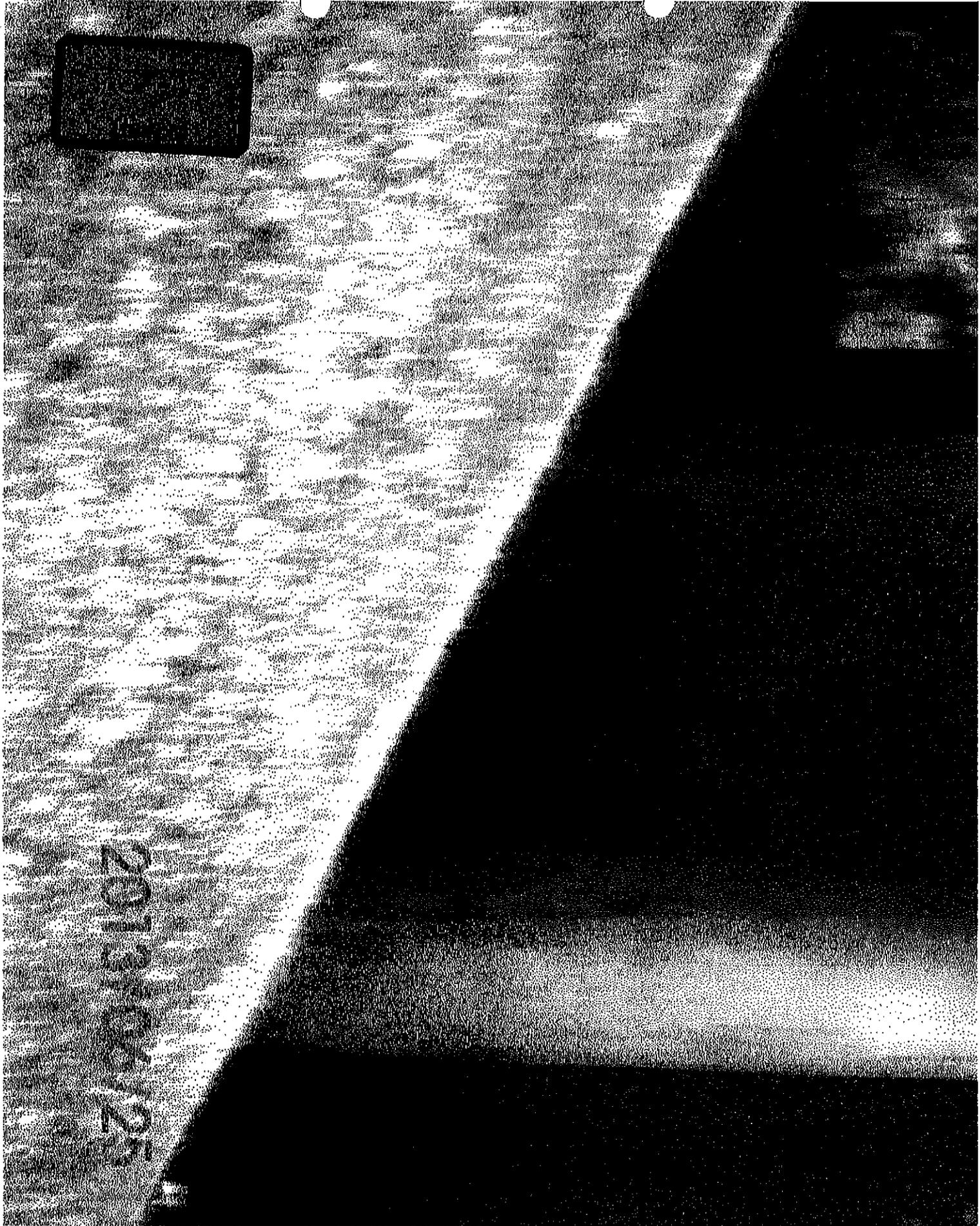


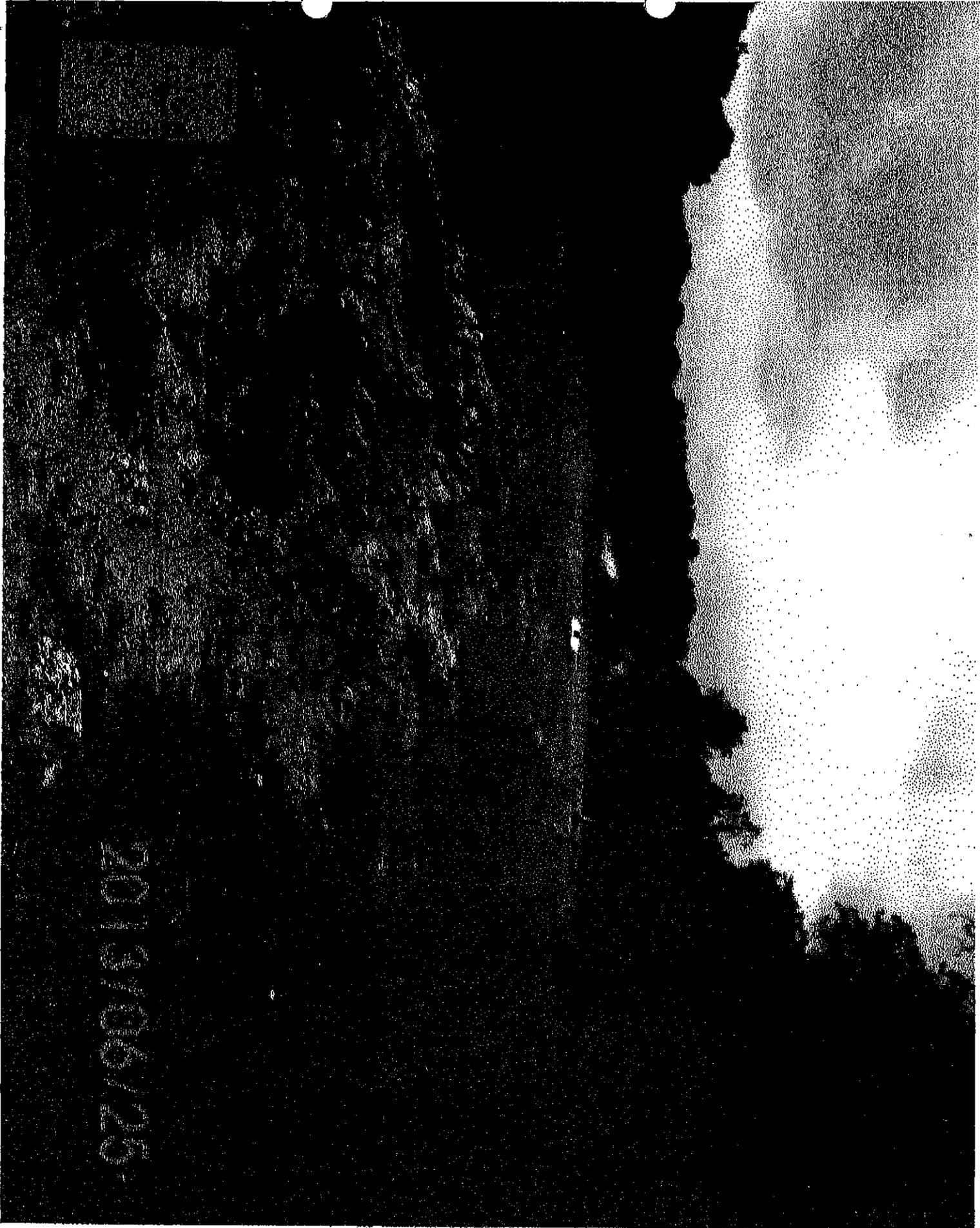


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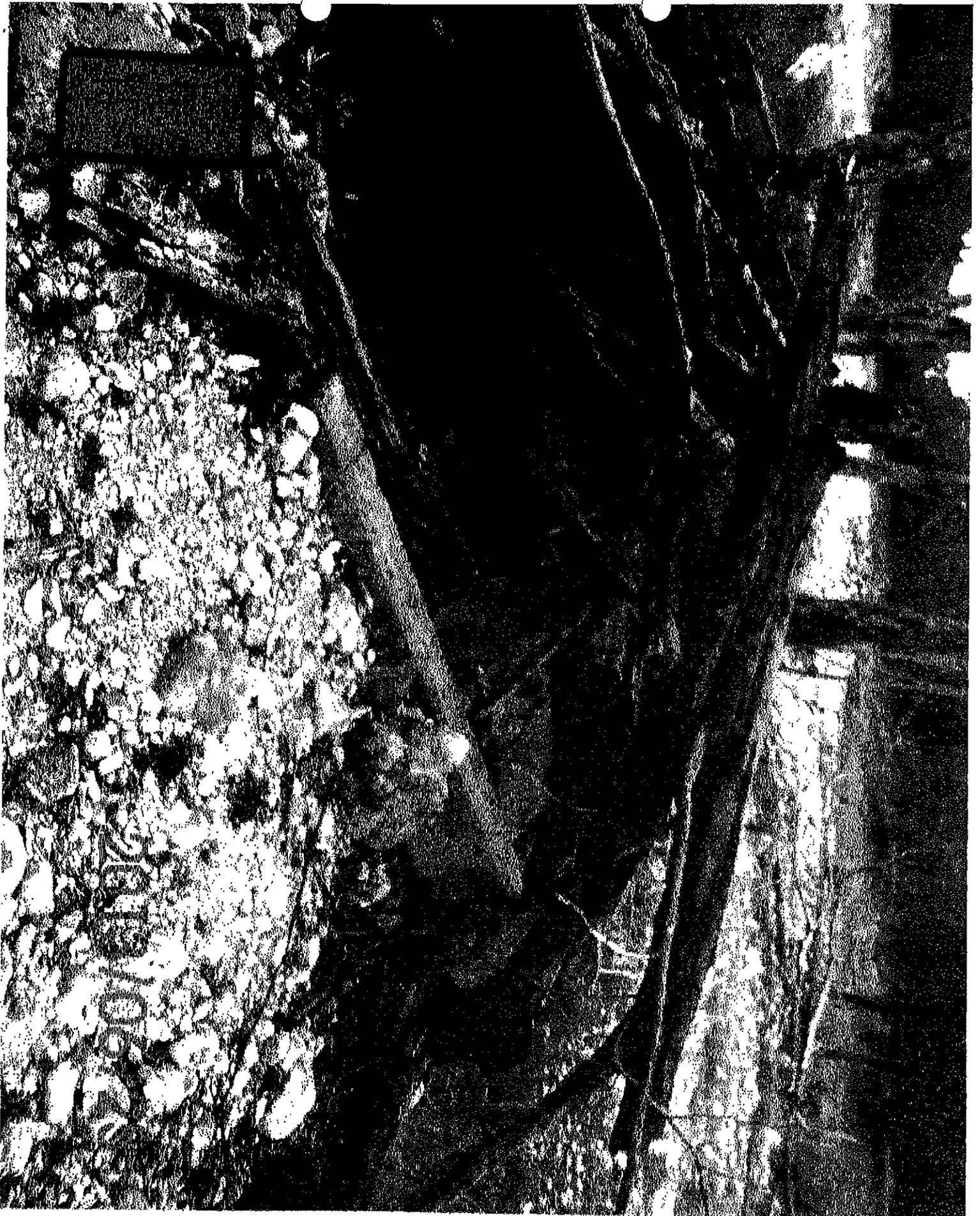








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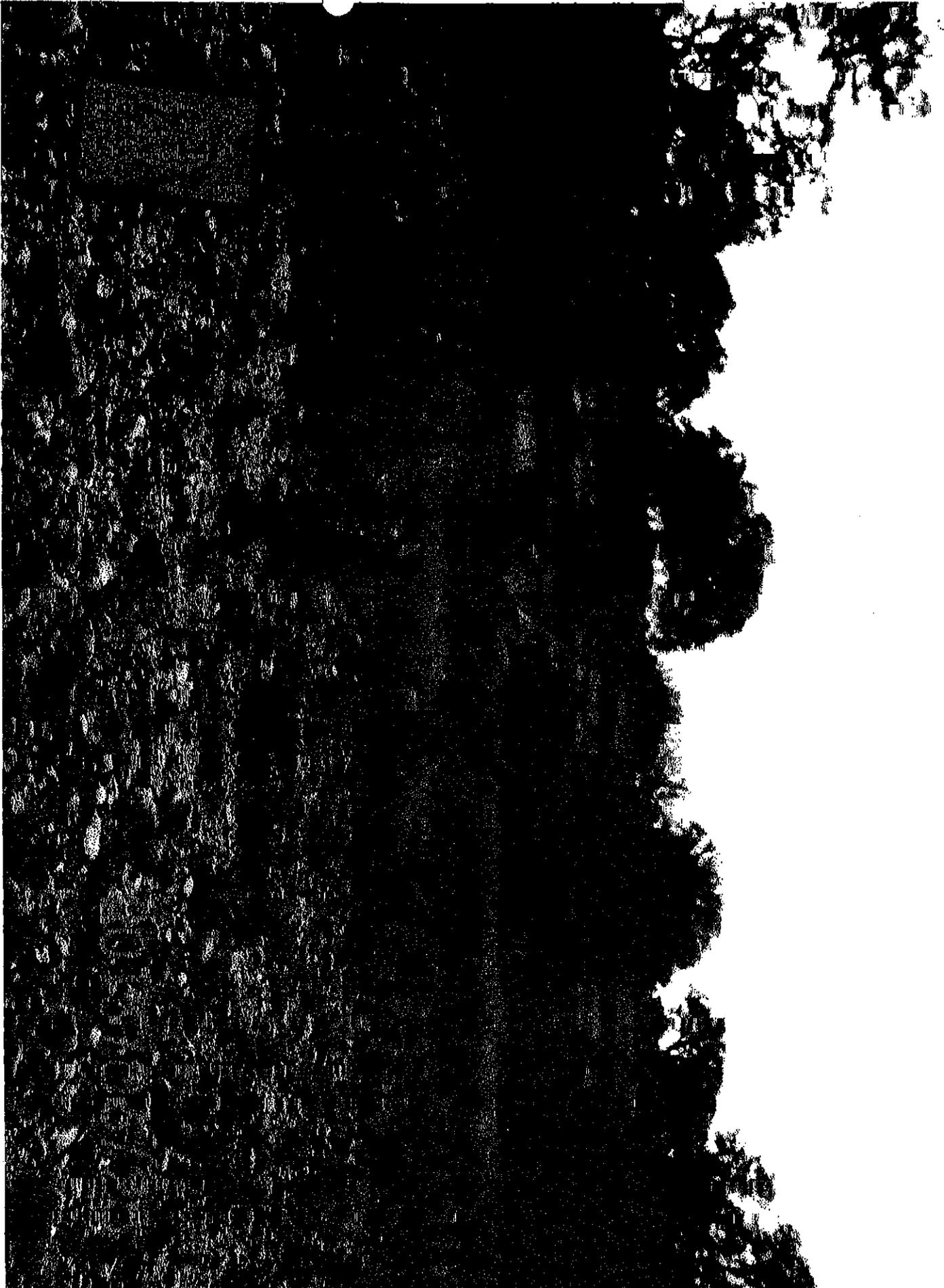
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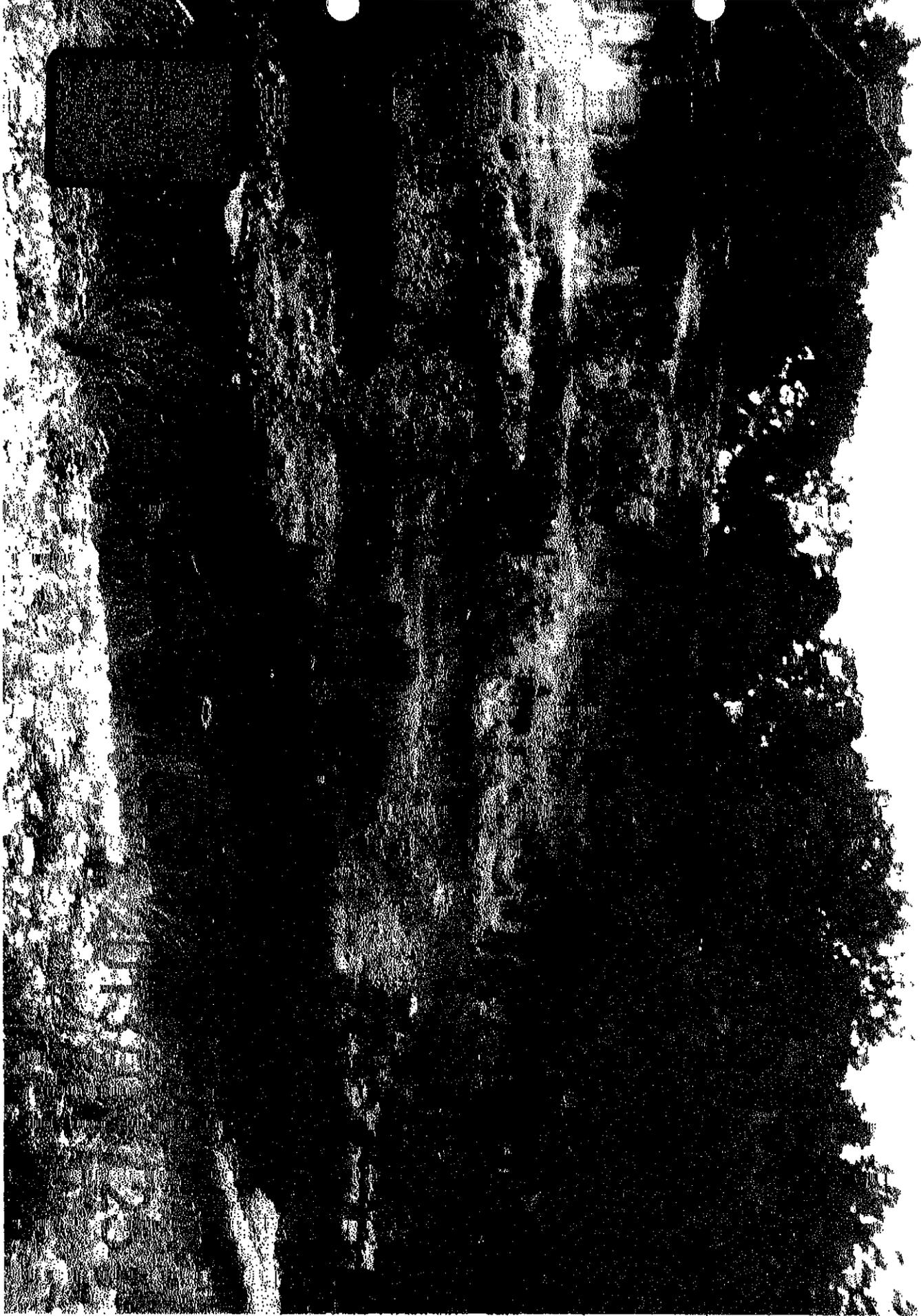
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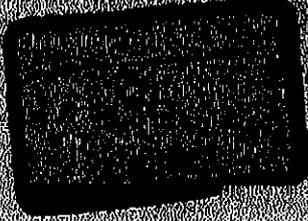
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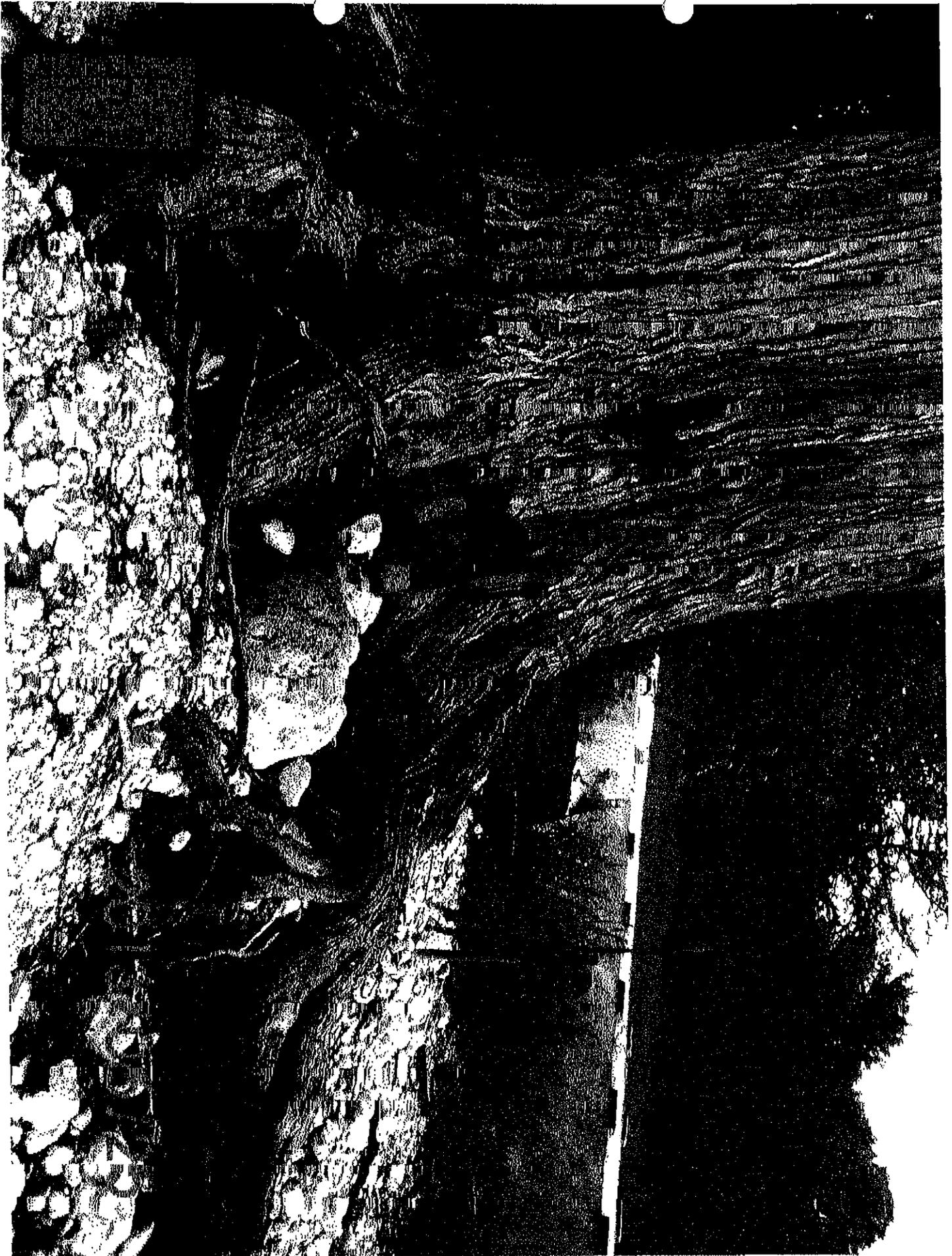
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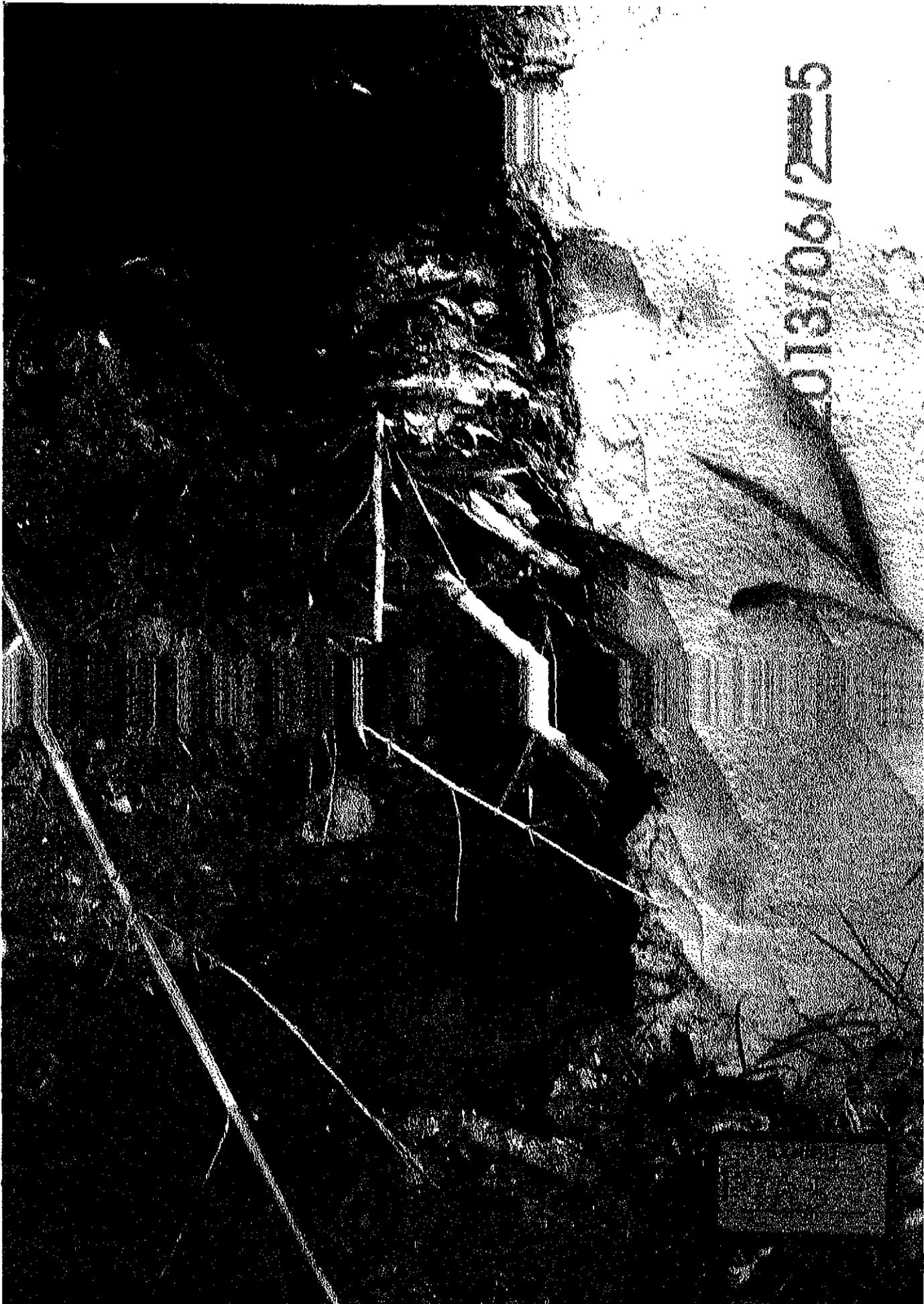


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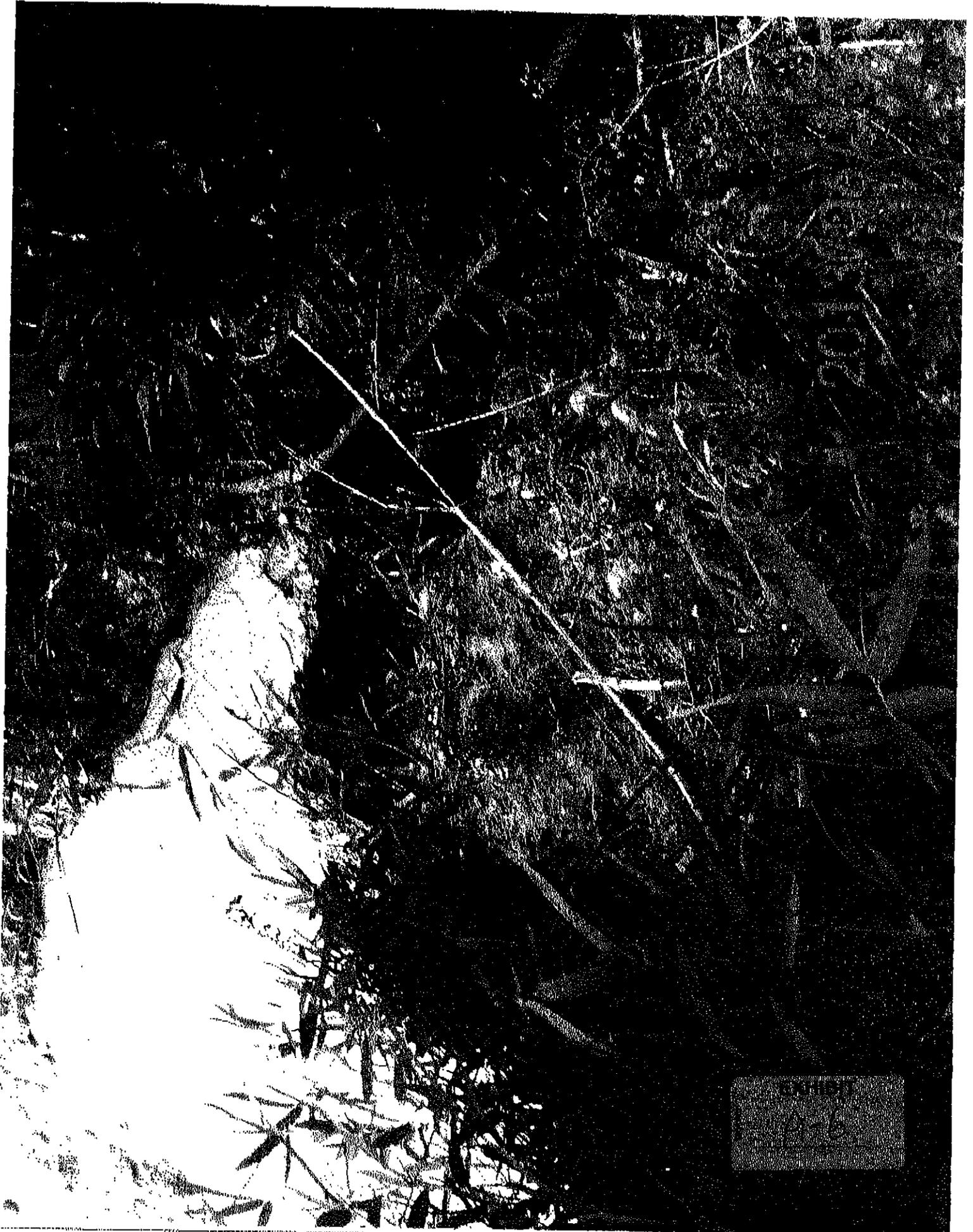


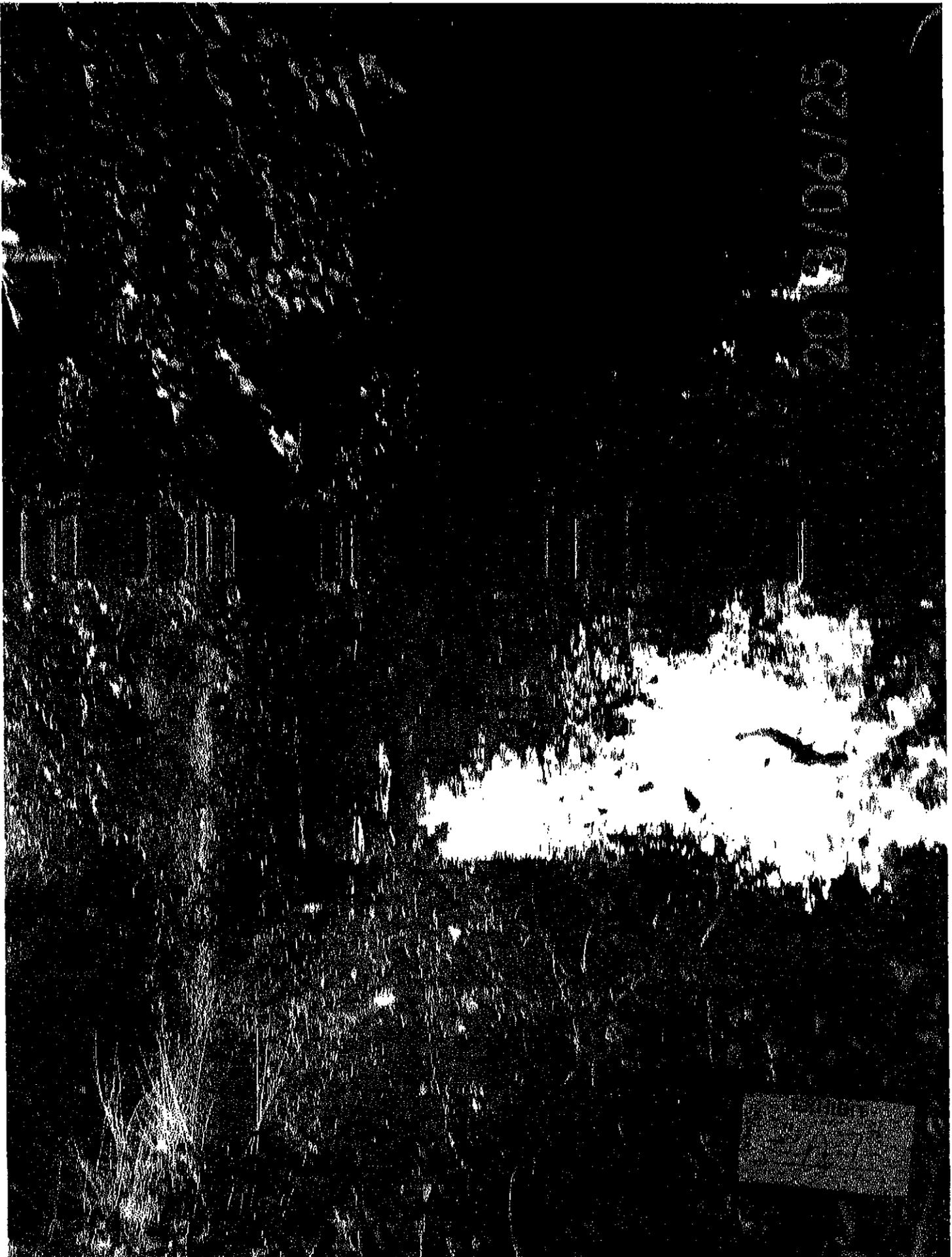






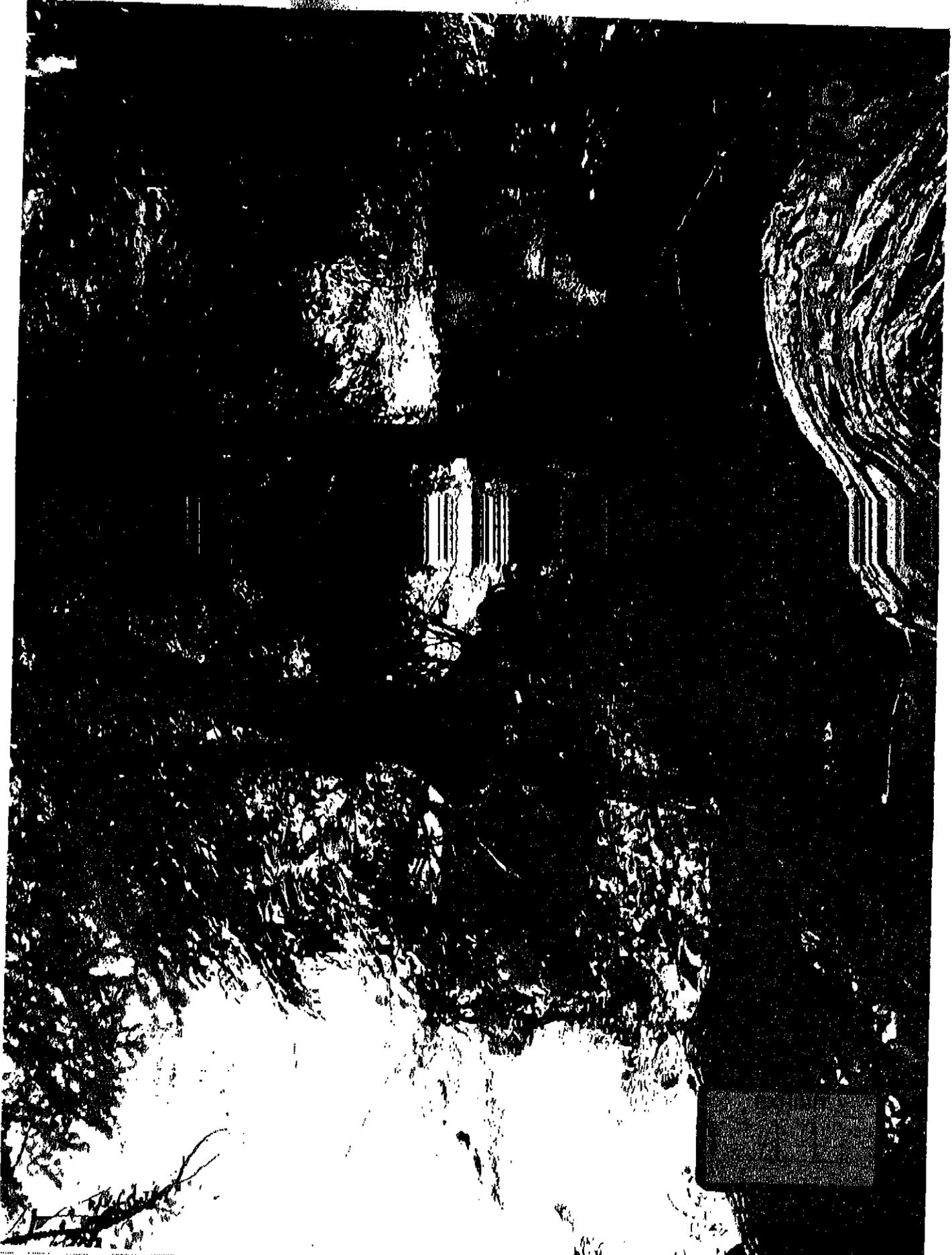
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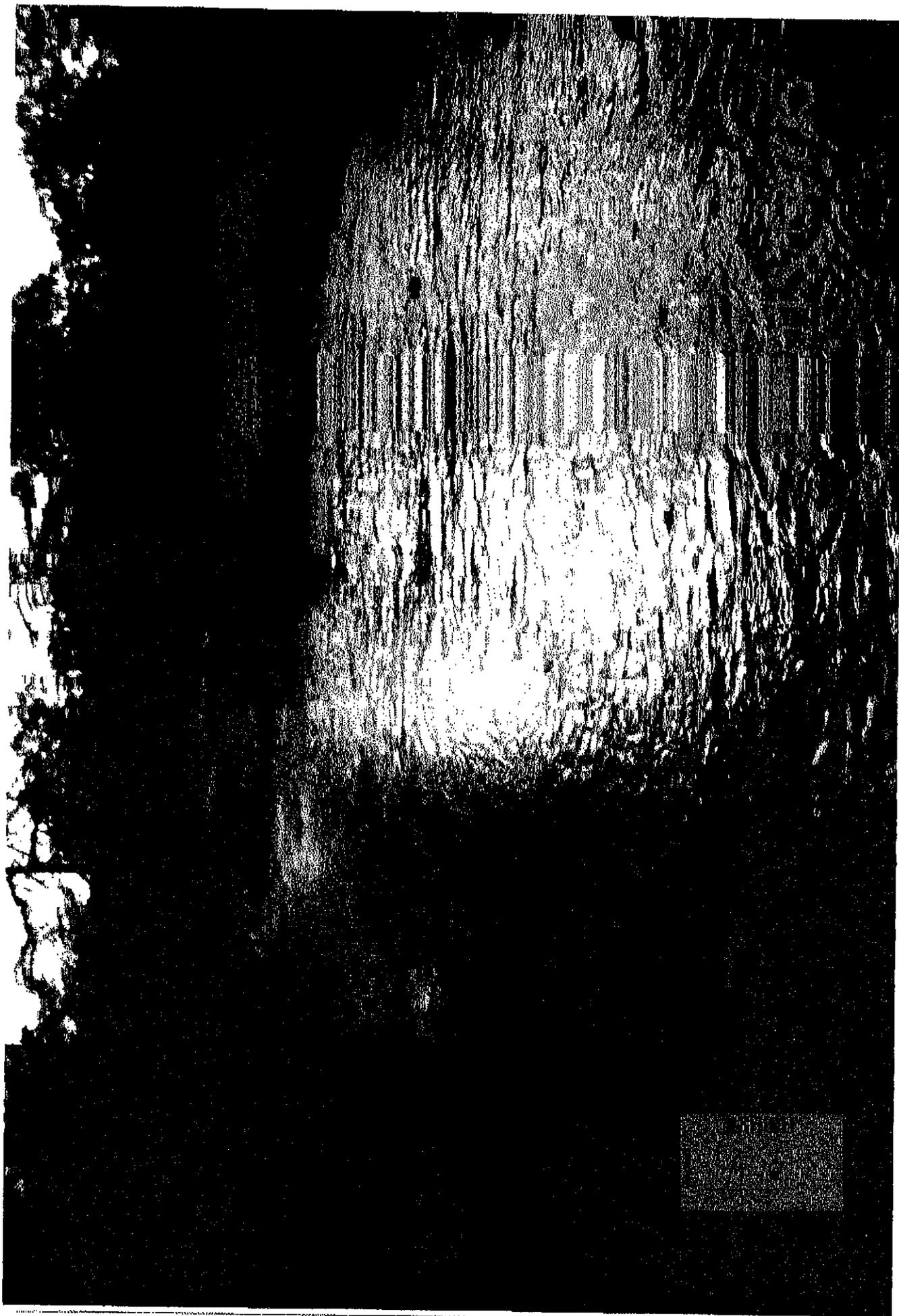


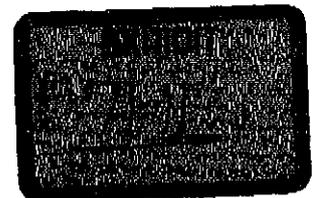


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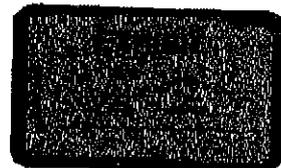




Module 10 Bridges

Contents:

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Section 3 — Bridge Layouts	10-5
Section 4 — Geotechnical	10-7
Section 5 — Scour	10-9



Section 1

Overview

The TxDOT District Office project development staff is the primary contact point for the Local Government (LG) on bridge projects. If the LG is required to submit plans, specifications and estimates (PS&E) for TxDOT review and approval, the LG will transmit the PS&E to the TxDOT District Office staff and the District will send the PS&E to the Design Division in Austin for final review. In Austin, the Bridge Division coordinates internally with the Design Division for PS&E review and approval. For this reason, the LG will not usually work directly with the Bridge Division, unless specific technical issues need to be resolved.

The Bridge Division develops policy, standards, manuals, and guidelines for the design, construction, maintenance, and inspection of the state bridge system. The Division oversees and manages the federal bridge inspection program for approximately 48,000 on-system and off-system bridges in Texas, and the federal Highway Bridge Program (HBP) for on-system and off-system bridges in Texas. Division personnel provide TxDOT districts with in-house expertise in all aspects of bridge project development, programming, design (structural and geotechnical), PS&E review, construction, maintenance, and inspection. The Bridge Project Development Manual provides information pertaining to policies and guidelines for development of bridge projects.

The Bridge Division administers the HBP, which is funded through categories 6-ON and 6-OFF. For projects funded under the HBP, the LG must work through the TxDOT District Office to obtain approval from the Bridge Division for the scope of the project prior to further development of the layout. Once approved and the layout is developed, the LG must submit the project through the district office to the Bridge Division for preliminary layout review. The Bridge Division will verify that the guidelines have been met and determine if the entire project, or a portion of the project, is eligible for HBP funds. At this point discrepancies between the scope of the project and the guidelines for HBP funding will be identified and corrected, or obligation for additional funds will be required of the LG and the agreement amended to indicate the revised estimate. The development of the project may then proceed for submission and final PS&E review.

TxDOT inspects all publicly owned vehicular bridges a minimum of once every two years or as required by federal law. Additional inspections are required for fracture-critical structures and bridges with substructure elements that are under water. If the structure is owned by a LG, it is the responsibility of the LG to provide traffic control during bridge inspection operations. TxDOT will provide all equipment and engineering expertise necessary for performing bridge inspections.

The following sections contain information on how TxDOT expects bridge issues will be addressed by the LG and how TxDOT will monitor the LG's performance.

Section 2

Bridge Design

General Bridge design is defined as the steps used to develop a project in compliance with both geometric design criteria and construction quality standards. State and Federal

regulations, regardless of the funding source state or federal, require that TxDOT manuals, procedures, standards, and guidelines be followed for all bridges designed and subsequently built on the state highway system and National Highway System (NHS). FHWA has accepted TxDOT's *Roadway Design Manual* and TxDOT's *LRFD Bridge Design Manual* as complying with federal regulations.

Bridges off the state highway system built with no state or federal funds may be designed in accordance with standards adopted by the local public agency.

Federal Regulation

- a. 23 CFR 625.1 Prescribes standards, policies, and specifications to be used for all projects on the National Highway System. Section (b) lists specific references for bridges and structures.

State Regulation

- a. Texas Administrative Code, Title 43 – Projects must be designed in accordance with TxDOT manuals, procedures, standards, and guidelines.

Required Practices

- a. For all projects with state or federal funds and all projects on the state highway system (or National Highway System) regardless of funding source, the LG must:
 - i. Follow the provisions of TxDOT's *LRFD Bridge Design Manual* and *Bridge Detailing Manual*.
 - ii. If the project is on the National Highway System but off the state highway system, alternate criteria may be proposed for FHWA approval. The criteria must meet minimum AASHTO standards.
 - iii. Incorporate TxDOT Bridge Standard Drawings to the maximum extent practical.
 - iv. Use TxDOT standard specifications and material requirements, including required special provisions. The LG may request TxDOT approval of alternate specifications.
- b. For concession projects, the LG must follow the design standards and other provisions of the Project Development Agreement with TxDOT.
- c. For projects off the state highway system with no state or federal funds, the LG is encouraged to use the same practices as on TxDOT projects, but may follow LG procedures.

Module 10 -- BridgesSection 2 -- Bridge Design**LG Responsibilities**

- a. For projects with state or federal funds and all projects on the state highway system (or National Highway System) regardless of funding source:
 - i. Develop bridge designs in accordance with applicable TxDOT manuals and approved bridge layout.
 - ii. Propose alternate criteria meeting AASHTO if desired for projects on the National Highway System and off the state highway system.
 - iii. ~~Submit final bridge plans to TxDOT with the PS&E.~~
 - iv. Design standards and other potential requirements for concession projects may be listed in the Project Development Agreement with TxDOT.
- b. For projects with no state or federal funds off the state highway system, follow normal LG practices.

TxDOT District Responsibilities

- a. For all projects with state or federal funds and all projects on the state highway system regardless of funding source, the District must review the final PS&E for compliance with the approved bridge layout, LRFD Bridge Design Manual, standard drawings and specifications.
 - i. The final PS&E will be sent to the Design Division for approval.
 - ii. ~~For projects with a Pass through financing arrangement, the District has approval authority but may request assistance from BRG as needed.~~
 - iii. For concession projects, monitor project development as specified in the Project Development Agreement with TxDOT.
- b. There is no monitoring for projects off the state highway system and no state or federal funds.

Section 3

Bridge Layouts

General Bridge layouts depict proposed features of a structure and are used to obtain early approval before beginning detailed bridge design. A checklist of information to be shown on bridge layouts and samples of bridge layouts are contained in TxDOT's *Bridge Detailing Manual*.

Federal Regulation

- a. There are no federal statutes that require development or submission of bridge layouts.

State Regulation

- a. Texas Administrative Code, Title 43 - For RMA, toll and pass-through financed projects, preliminary design information must be sent to TxDOT for review and approval when the design is approximately 30% complete.

Required Practices

- a. For all projects with state or federal funds and all projects on the state system regardless of funding source, the LG must develop and submit preliminary bridge layouts to TxDOT for approval before detailed design (approximately 30% design completion). Bridge layouts must comply with TxDOT's *Bridge Detailing Manual and LRFD Bridge Design Manual*.
- b. For projects off the state highway system but connecting to, or crossing the state highway system, a RMA must develop and submit preliminary bridge layouts to TxDOT for approval before detailed design (approximately 30% design completion). Bridge layouts must comply with TxDOT's *Bridge Detailing Manual*.
- c. For projects off the state highway system and not crossing the state highway system and not using state or federal funds, the LG may follow their own process.

LG Responsibilities

- a. For projects with state or federal funds, all projects on the state highway system regardless of funding source, and all projects off the state highway system but connecting to or crossing a state highway, the LG must:
 - i. Submit bridge layouts to TxDOT for approval. Subsequent changes to the bridge layout must also be submitted for TxDOT approval.
 - ii. Submit final bridge plans to TxDOT with the PS&E.
 - iii. For concession projects, the LG must meet other conditions as specified in the Project Development Agreement with TxDOT.
- b. For projects with no state or federal funds off the state highway system, follow normal LG practices.

TxDOT District Responsibilities

- a. For projects requiring the LG to submit bridge layouts, review the layout for compliance with TxDOT policy. Transmit acceptable bridge layout to BRG for approval. For projects with a Pass-through Financing arrangement, the District approves the bridge layouts, but may contact BRG for assistance as needed.
 - i. For concession projects, monitor project development as specified in the Project Development Agreement with TxDOT.
- b. There is no monitoring for projects that do not require bridge layouts.

Section 4

Geotechnical

General Geotechnical studies are performed primarily for structures (i.e., bridges, retaining walls, etc.) and pavement design, and for excavation / embankment stability evaluation. TxDOT practices are contained in TxDOT's Geotechnical Manual.

Federal Regulation

- a. There are no federal statutes for geotechnical matters.

State Regulation

- a. Texas Administrative Code, Title 43 -- Projects must be designed in accordance with TxDOT manuals, procedures, standards, and guidelines.
- b. Texas Administrative Code, Title 43 -- For RMA, toll and pass-through financed projects, preliminary design information must be sent to TxDOT for review and approval when the design is approximately 30% complete.

Required Practices

- a. For Design-bid-build projects with state or federal funds and all design-bid-build projects on the state highway system regardless of funding source, the LG:
 - i. Must conduct geotechnical investigations in conformance with TxDOT's Geotechnical Manual.
 - ii. Must furnish sound wall and retaining wall layouts to TxDOT as part of the 30% preliminary design submission.
 - iii. Must follow the design recommendations in TxDOT's Geotechnical Manual.
 - iv. Must adopt TxDOT Standard Specification items related to retaining walls, including submission of working drawings.
- b. For design-build projects with state or federal funds and all design-build projects on the state highway system regardless of funding source, the LG must follow the recommendations in TxDOT's Geotechnical Manual except as modified by agreement with TxDOT.
- c. For concession projects, the LG must follow the requirements of the technical specifications of the Project Development Agreement with TxDOT.
- d. For projects off the state highway system with no state or federal funds, the LG may follow their own practices for design of retaining walls.

LG Responsibilities

- a. For projects with state or federal funds and all projects on the state highway system regardless of funding source, the LG must perform geotechnical studies in compliance with TxDOT's Geotechnical Manual. For concession projects, the LG must comply with the technical specifications of the Project Agreement with TxDOT.

Module 10 — Bridges

Section 4 — Geotechnical

- b. For projects with no state or federal funds off the state highway system, follow normal LG practices.

TxDOT District Responsibilities

- a. For projects with state or federal funds and all projects on the state highway system regardless of funding source, the District must review the LG's 30% submission for compliance with TxDOT policy. Districts may request assistance from BRG as needed. For all projects, approval authority is at the District level.
 - ii. For concession projects, monitor project development as specified in the Project Development Agreement with TxDOT.
- b. There is no monitoring for projects off the state highway system with no state or federal funds.

Section 5

Scour

General Scour is the result of the erosive action of flowing water excavating and carrying away material from the bed and banks of streams. Potential scour can be a significant factor in the analysis of a stream crossing system. The design of a crossing system involves an acceptable balance between a waterway opening that will not create undue damage by backwater or suffer undue damage from scour and a crossing profile sufficiently high to provide the required traffic service. TxDOT practices are contained in TxDOT's *Geotechnical Manual*.

Federal Regulation

- a. 23 CFR 650, Subpart C – Sets national standards for the proper safety inspection and evaluation of all highway bridges. Some bridges are identified as scour-critical.

State Regulation

- a. Texas Administrative Code, Title 43 – Projects must be designed in accordance with TxDOT manuals, procedures, standards, and guidelines. For RMA, toll and pass-through financed projects, preliminary design information must be sent to TxDOT for review and approval when the design is approximately 30% complete.

Required Practices

- a. For projects with state or federal funds and all projects on the state highway system regardless of funding source, the LG must perform a scour analysis for all new, replacement, or widened bridges. For design-bid-build projects, the scour analysis and report must comply with TxDOT's *Geotechnical and Hydraulic Design Manuals* and must be sent to TxDOT as part of the preliminary bridge layout.
- b. For concession projects, the LG may use TxDOT's *Geotechnical and Bridge Project Development Manuals* as a reference, but does not have to comply with the manuals. However, geotechnical reports should document the assumptions, conditions, and results of the geotechnical investigation and analysis.
- c. For projects off the state highway system with no state or federal funds, the LG is encouraged to review the latest bridge inspection report and correct any scour-related issues.

LG Responsibilities

- a. For design-bid-build and design-build projects with state or federal funds and all projects on the state highway system regardless of funding source, the LG must perform a scour analysis in compliance with TxDOT's *Geotechnical Manual* and submit to TxDOT for approval.

Module 10 — BridgesSection 5 — Scour

- b. For concession projects, the LG must prepare geotechnical reports to support design decisions and submit to TxDOT for review and comment.
- c. For projects with no state or federal funds off the state highway system, the LG is encouraged to receive bridge inspection data from TxDOT and consider scour-related issues.

TxDOT District Responsibilities

- a. For all projects, furnish the latest bridge inspection data to the LG.
- b. For all projects requiring submission of a preliminary bridge layout, the District should review the analysis and report for conformance with the applicable standard and submit to the Bridge Division for approval. For projects with a pass-through financing arrangement, the District approves the layout and report, but may contact BRG for assistance as needed.
- c. There is no monitoring for projects that do not require submission of a preliminary bridge layout.

on why the statistics may not match, [click here](#).

USGS 08195000 Frio Rv at Concan, TX

CHIEF OFFICE

2014 MAR 11 AM 8:00

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Time-series: Annual statistics

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1926	86.8
1927	73.3
1928	32.4
1929	32.4
1931	219.0
1932	422.9
1933	111.0
1934	35.0

Water Year	00060, Discharge, cubic feet per second
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1936	204.6
1937	129.2
1938	77.0
1939	66.5
1940	64.0
1941	129.0
1942	106.2
1943	64.2
1944	69.0
1945	74.4
1946	40.8
1947	108.1
1948	32.1
1949	102.6
1950	46.0
1951	34.3
1952	19.2
1953	12.1
1954	35.5
1955	18.6
1956	8.80
1957	42.8
1958	215.0
1959	194.5

<http://waterdata.usgs.gov/nwis/annual/?referred...> 2/20/2014

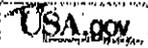
Water Year	00060, Discharge, cubic feet per second
1960	119.1
1961	161.8
1962	59.4
1963	37.3
1964	44.9
1965	81.1
1966	130.9
1967	73.8
1968	193.3
1969	54.2
1970	178.8
1971	163.7
1972	195.1
1973	191.8
1974	170.6
1975	119.4
1976	172.3
1977	173.8
1978	112.7
1979	133.5
1980	87.9
1981	316.3
1982	157.3
1983	61.1
1984	48.8

Water Year	00060, Discharge, cubic feet per second
1985	193.4
1986	102.4
1987	421.3
1988	140.7
1989	55.5
1990	129.5
1991	126.1
1992	433.6
1993	88.6
1994	106.9
1995	108.4
1996	66.3
1997	301.7
1998	174.5
1999	131.4
2000	36.9
2001	183.2
2002	255.7
2003	121.1
2004	240.6
2005	135.0
2006	55.5
2007	256.7
2008	72.8
2009	28.9

Water Year	00060, Discharge, cubic feet per second
2010	61.3
2011	17.6
2012	53.3
2013	27.4
** No Incomplete data have been used for statistical calculation	

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[U.S. Department of the Interior](#) |  
[U.S. Geological Survey](#)
Title: Surface Water data for USA: USGS
Surface-Water Annual Statistics
URL: <http://waterdata.usgs.gov/nwis/annual?>

Page Contact Information: [Texas Water Data Support Team](#)
 Page Last Modified: 2014-02-20 21:36:44 EST
 1.14 0.87 vaww01

JAY J. HARRIS, L.L.C.

ATTORNEY at LAW
30615 CYPRESS PARK DR.
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Telephone: (225) 620-7540
Facsimile: (225) 664-5707

*Admitted in Louisiana and Texas

E-mail:
jayj.harris@aol.com

December 16th, 2013

VIA FACSIMILE: (830) 278-2025

**Mr. Con Mims
Executive Director
Nueces River Authority
P.O. Box 349**

Uvalde, TX 78802

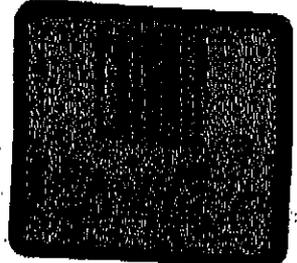
**RE: Offer to Purchase 20' Wide Permanent Utility Easement (0.14) Acres
and a 50' Wide Temporary Easement (0.39 acres)**

Dear Mr. Mims:

**Please be advised of my representation of Jean C. Huffman in connection with
the above referenced matter. Please direct all future correspondence related
to Ms. Huffman's interests in this project directly to my attention.**

I am in receipt of your correspondence dated November 18, 2013.

**Pursuant to Section 21.0112 of the Texas Property Code, please provide me
with evidence that the Nueces River Authority (NRA) mailed a copy of the
Landowner Bill of Rights Statement to the purported owners of this property
prior to November 18, 2013, together with evidence that the Landowner Bill
of Rights Statement has been posted on the NRA's Internet website.**



In accordance with Section 21.024 of the Texas Property Code requiring production of all information requested by a landowner from a utility that could be related to the Utility's acquisition of real property for utility purposes, please provide me with a copy of the following information:

- 1. A copy of any Right of Way Agreement, Servitude or Texas statute upon which the NRA claims establishes any right of way for a sewage line on John Davis Road from RR 1120 to US Highway 83.**
- 2. A copy of any public records such as an ordinance or proposal submitted to the Texas Water Development Board setting forth any requirements for residential and commercial property to connect to the proposed wastewater collection and treatment system together with all proposed tap in fees, monthly sewer fees or Tariff.**
- 3. Any and all available information concerning whether or not the existing residences on John Davis Road together with any and all future residential and commercial lots resulting from the subdivision or re-subdivision of the real property on the north side of John Davis Road contiguous to Patterson Creek, or on the south side of John Davis Road contiguous with the Frio River, will be served by the wastewater collection and treatment system.**
- 4. If the proposed wastewater treatment system is intended to provide sewer service to residential and commercial developments on John Davis Road, please provide a copy of Naismith Engineering, Inc.'s design reflecting the details for gravity drainage sewer lines tapping into and connecting to the proposed force main sewer line without resulting in forcing sewage back through the gravity drainage lines resulting in damage to any and all such residential or commercial parcels or lots as a result of raw sewage being forced into the buildings and**

improvements on the properties located on John Davis Road.

In the event that there is no right of way for a sewage line on John Davis Road, then there will be no public need for the proposed easements described in your letter dated November 18, 2013, since any equipment located at this location would have no access to transport the raw sewage across John Davis Road to the location of the wastewater treatment plant. I am certainly not aware of the existence of any such right of way for a sewer line on John Davis Road.

Additionally, if the sewage system will not serve all future lots or parcels of real estate resulting from the subdivision or re-subdivision of the property on each side of John Davis Road contiguous with Patterson Creek and the Frio River, it would seem to defeat the purpose of the proposed wastewater treatment system, which again would render your acquisition of the easements described in your November 18, 2013 correspondence not to serve a public purpose.

Please provide the information described above in numbered paragraphs 1 through 4 within the time limits described in Section 21.024 of the Texas Property Code.

With kindest regards I am,

Sincerely,



Jay J. Harris

Mr. Huzic:

I am pulling together the information you have requested and will get back with you as soon as it is available.

Con Mims
Nueces River Authority

From: Jay Harris [mailto:jay@harrisllc.com]
Sent: Monday, December 16, 2013 3:24 PM
To: gshim@nra.net
Subject: Mr. and Mrs. T.W. Huffman

Please see attached correspondence.

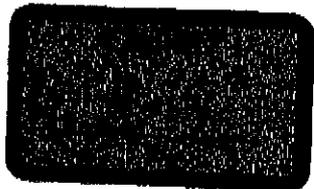
Please note that it appears the facsimile machines at both your Uvalde and Corpus Christi offices are not in operation.

Jay J. Harris, LLC
Attorney at Law
30615 Cypress Park Dr.
Denham Springs, Louisiana 70726
Telephone: 225.620.7540
Facsimile: 225.664.5707

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BARKHURST HINOJOSA P.C.

December 20, 2013

Mr. Jay J. Harris, L.L.C.
30615 Cypress Park Dr.
Denham Springs, Louisiana 70726

RE: Acquisition of 20' Utility Easement and 50' Construction Easement from
the Huffmans

Dear Mr. Harris:

This law firm represents the Nueces River Authority ("NRA") in this matter. As you know, only eligible licensed attorneys may practice law in Texas. While I appreciate the points in your letter dated December 16, 2013, and wholeheartedly disagree with your interpretation of Texas condemnation law, I must respectfully decline to engage you on the merits of same until such time that you or someone from your firm is licensed and eligible to practice law in the State of Texas.

If you would like some references for the names of Texas condemnation lawyers, please contact me and I will be happy to provide same to you or the Huffmans.

Very truly yours,



PAUL D. BARKHURST

cc: Con Mims
Executive Director, Nueces River Authority

110 Broadway, Suite 350
San Antonio, Texas 78205
Phone (210) 226-7800
Fax (210) 226-7802



BH

Mar 10 2014 05:14pm
p. 10

2256645707

Received
JAY J HARRIS, LLC

03/11/14 06:12AM

JAY J. HARRIS, L.L.C.

ATTORNEY at LAW
30615 Cypress Park Dr.
Denham Springs, Louisiana 70726
Telephone: (225) 620-7540
Facsimile: (225) 664-5707

*Admitted in Louisiana and Texas

E-mail:
jayj.harris@att.net

January 7, 2014

VIA FACSIMILE: (210) 226-7802

Paul D. Barkhurst
BarkhurstHinojosa P.C.

RE: *Nueces River Authority*

Dear Mr. Barkhurst:

Thank you for your correspondence dated December 20, 2013.

You are correct that my Texas Bar License is currently "active but non-practicing" to exempt me from the Texas CLE requirements. I have spoken to the Texas Bar Association concerning the simple notification process that I will comply with the CLE requirements to transfer my license to practicing status. I will certainly do that in the event that any judicial proceedings are anticipated.

At the present time, I am acting on behalf of my Mother, Jean C. Huffman, pursuant to a power of attorney. Since my family does not wish to disclose any general estate planning information in connection with this matter, I will provide you with a narrowly drawn specific power of attorney authorizing me to act on her behalf in connection with this matter, so that you can provide me with the requested documentation.

In the interim, please direct any communications to Jean C. Huffman to her attorney in Odessa, Texas, Mr. Jimmie B. Todd of Todd, Barron, Thomason, Hudman & Baxter, P.C.

Additionally, this correspondence shall confirm your position that I have no authority to practice law in the State of Texas. I will stipulate with your position and act solely under the authority granted to me under the power of attorney executed by Jean C. Huffman as Principal in my favor as agent and attorney-in-fact until such time as I notify the Texas Bar Association.

status to "practicing" and complying with the CLE requirements.

Furthermore, this correspondence will clarify that your position stating that I have no authority to be recognized as an attorney in the State of Texas will eliminate and relieve me from the usual and customary restrictions on lawyers from engaging in any direct contact with any opposing party without giving you prior notice in order to allow you to prohibit such contact or exercise your right to be present, any legal or professional obligation or courtesy to provide you with a copy of any document, pleading or complaint filed with any and every governmental authority, as well as acts of conveyance, transfers, the identification of the owners of all parties holding an ownership interest in the real property at issue as well as any other matter.

I appreciate your offer to provide me with references to Texas condemnation lawyers. Of course, I customarily use the decades old Martindale.com/Lawyers.com service for this purpose, since it contains the names and areas of practice of 99.9% of all attorneys in the United States. On a related note, you may wish to contact Martindale.com/Lawyers.com, since I could find no record of Barkhurst-Inojosa P.C. in their data base.

Fortunately, I have some familiarity myself with this area of law as the result of representing one of the two electric utilities in the multi-parish area surrounding and including the Louisiana State Capitol; and water, natural gas, and sewage utilities, together with representing municipalities and parishes in negotiating franchises for telephone, cable television and internet services for twenty-five years. The familiarity I gained writing the manuals and teaching seminars on Eminent Domain Law for the National Business Institute also helped me gain some familiarity with these issues.

My experience over twenty years representing Waste Management, Inc., which billed for its services through these utilities whenever possible, has also given me some familiarity some knowledge of this area of law. Collecting the fees for garbage collection services in rural areas is a problem that the City of Lakeview will experience if it is successful in constructing its sewer system. If you cannot terminate a necessary service, such as water service, if the bill for the mandatory sewer service is not paid by a customer with a septic tank, it is extremely difficult to collect for that mandatory sewer service, where a substantial number of the customers have water wells that provide their need for water.

In any event, I appreciate your offer of assistance.

With kindest regards, I am

Sincerely,

JAY J. HARRIS

Cc: Jimmie B. Todd
Jean C. Huffman

JAY J. HARRIS, L.L.C.
ATTORNEY at LAW
30615 Cypress Park Dr.
Denham Springs, Louisiana 70726
Telephone: (225) 620-7540
Facsimile: (225) 664-5707

*Admitted in Louisiana and Texas

E-mail:
JayJHarrisEsq@aol.com

February 17, 2014

VIA FACSIMILE: (210) 226-7802

Paul D. Barkhurst
BarkhurstHinojosa P.C.

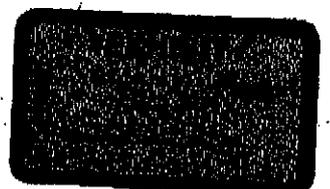
RE: Nueces River Authority

Dear Mr. Barkhurst:

You may now feel free to check with the Texas Bar Association to confirm that I have now notified the Continuing Legal Education Section to remove my exemption and place me in active status for your edification.

I have attached a copy of my previous correspondence to the Nueces River Authority (NRA) dated December 16th, 2013 for your response.

I reviewed the NRA's website to determine if Mr. Mims has posted the Landowner's Bill of Rights Statement as required by Section 21.0112 of the Texas Property Code for any public body seeking to obtain rights of way from the public. I am rather surprised that Mr. Mims has continued to intentionally violate Texas State Law for over sixty (60) day at this time. As the statutes provide, I will proceed to contact the Texas Attorney General's Office to ascertain whether they intend to pursue compliance with this statute, which was intended to protect private property rights.



Initially, I planned on opposing this project solely on environment grounds, because the force main sewer line proposed to be built across the Patterson Creek Bridge is not built to withstand the periodic flash floods that have destroyed the bridge on numerous occasions on a regular basis. This will result in the rupture of the pressurized force main sewer into Patterson Creek approximately 200 yards north of the point where Patterson Creek flows into the Frio River as a tributary. Several thousand gallons of raw sewage each day will then flow down the Frio River from John Davis Road through the tourist areas and Garner State Park.

However, it has now become apparent that the Nueces River Authority (NRA) intends to attempt to install the sewer line on John Davis Road without the funding to pay just compensation to purchase or expropriate the additional real property adjoining the Frio River required for the sewage line right of way, which I estimate could be valued at up to Five Hundred Thousand (\$500,000.00) Dollars.

The NRA recently sent a proposal to purchase a small site for a lift station at the corner of RR 1120 and John Davis Road for approximately Thirty Thousand (\$30,000.00) Dollars without any offer to purchase a right of way for the entire length of John Davis Road.

Of course, I requested a copy of any Right of Way Agreement, Servitude or Texas Statute upon which the NRA claims establishes any right of way for a force main sewer line in my December 16th, 2013 correspondence, so I assume you have had an adequate opportunity to locate any such agreement, and I look forward to receiving a copy.

Naturally it is in the best interest of the NRA to delay and attempt to keep these issues from being raised prior to the expiration of the deadline for any concerned member of the public or the owners of any businesses that would be affected by the loss of tourism to write to the Chief Clerk, MC 105, Texas Commission on Environmental Quality, PO BOX 13087, Austin, TX 78711 to ask for the Commission to hold a Public Hearing to allow them to ask the Commission's staff to investigate any potential problems with the project or damages to their business.

However, if you are unable to provide me with any such documentation for a right of way on John Davis Road after sixty days to review this matter, it is obviously safe to say that you have none.

I look forward to receiving your response within the time delays set for by law.



Jay J. Harris

Concan Subdivision to showcase Frio River Frontage, October 9

CONCAN, TEXAS — Property and an accessible allow families to own a share of the best available Frio River frontage. Together home here with modern amenities, while still enjoying the small town charm of Concan and the Frio River, Meyer said. In addition, home vacation rental is allowed.

Hearstone is centrally located in the most popular part of the Frio River with restaurants, dance hall, golf course, horseback riding, boat excursions, shops, tube/kayak rentals and shuttles all within a few minutes of the subdivision. The spring-fed Frio River meanders through the canyon past towering Cypress and Sycamore trees. Hearstone is located at the lower end of the river basin where the volume of the river flow is always the greatest.

This is a rare opportunity for families to own a piece of pristine river frontage along the Frio River," said Meyer.

With access to two private riverfront parks, prices range from \$100,000 and go to \$425,000 for a 1.86-acre riverfront lot with vintage barnhouse.

Two private riverfront parks are on both sides of the

For more information about river lots, please contact Agent Linda Koehler at 210-415-2154. Visit www.frio.com or www.hearstonefrio.com for photos, plans and additional details.

PUBLIC NOTICE

Nueces River Authority
Public Hearing Regarding
Environmental Information Document

For the Nueces River Authority Leakey Regional Wastewater Improvements Project

The Nueces River Authority (Authority) will hold a public hearing at 7:00 p.m. on March 10, 2014, at the Real County Courthouse in regards to the Environmental Information Document prepared for the Nueces River Authority's Leakey Regional Wastewater Improvements Project. One of the purposes of this hearing is to discuss the potential environmental impacts of the project and alternative to it. The Nueces River Authority Leakey Regional Wastewater Improvements Project is intended for city residents and residents of some nearby subdivisions and locations outside the city limits. Proposed wastewater improvements would install a first-time wastewater collection system and a new wastewater treatment plant. This treatment plant would be located approximately 1.5 miles south of the city limits, west of U.S. Highway 83. Improvements would replace existing septic tank systems that currently serve area residents. The estimated total project cost is \$18,548,303. Monthly bill to residential customer would be and estimated \$30.00 (thirty dollars) to \$35.73 (thirty-five dollars and seventy-three cents).

Copies of the Environmental Information Document are available for review during normal business hours at the following locations:

- 1) City of Leakey - City Hall. Available Tuesday, Wednesday, Thursday from 9:00 am to 4:00 pm at 148 West 4th Street, Leakey, TX 78873
- 2) The Real County Judge's Office - Real County Courthouse Available five days a week from 9:00 am to 4:00 pm at 101 Market Street, Leakey, TX 78873

The Authority encourages citizens to participate to make their views known at this public hearing. Citizens unable to attend this meeting may submit their views in writing to Mr. Con Mims, Executive Director, Nueces River Authority, P.O. Box 349, Uvalde, TX 78802-0349 before March 10, 2014. Persons with disabilities that wish to attend this meeting as well as individuals who require auxiliary aids or services for this meeting should contact Ms. Frankie Kruckemeyer of the Nueces River Authority at (830) 278-6810 extension 3, at least two (2) days before the meeting so that appropriate arrangements can be made.



Real County

AIMS CAIN

Serving Real County and You



15 NOV 10

Wednesday, March 11, 1992

N.C. receive of life resc

Nurses Cap you is one of 13 Texas communities receiving jaws of life rescue tools thanks to the National Highway Traffic Safety Administration (NHTSA).

The Ambu- rescue tools, used to extricate people pinned in wrecked vehicles, are valued at \$5,000. They are being donated through a NHTSA grant administered by the Texas Department of Transportation (TxDOT).

Josh Cox, chief of the Nurses Beyond Volunteer Fire Department, said, "We are deeply honored that our department was chosen. We have wanted tools-of-life for some time now but have not been able to see our way to purchasing any."

Staff with the Texas Engineering Extension Service (TEEX), a part of the Texas A & M University System, will train local volunteer firefighters on the proper usage of the tools at a site two miles from Camp Wood on March 7. During the training ses-



DAVIS CROSSING, between Highway 83 and RR 1120 Wednesday morning

Leakey PTO open house



you
ofon

NOTEPAD

Cornea-Kansas State University soci, Dr Cornelia Flora, has extensive research on small s. Her work has focused on why small towns grow while others

The research revealed that in st the opposis was revealed in vng communities, con- ersy was considered not- it was respected, and regarded necessary for participatory ment. s, or they were antagonistic, or rules, regulations, and the ite who made them.

oke in growing towns. bjective view of poli- y did not take sides on an use of friendship alone, y oppose someone simply a person was an educator, s person or a farmer. ether hard, dying com- ad a "my side of the street

FRIO RIVER cabins

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TexasMonthly

Head for the Hills

25 Things I Love About the Hill Country
by Suzy Banks

SURE, I ADORE THE HILL COUNTRY. Of course, I have to avert my eyes from a few swa, like towns where I can find a baby back rib and hit a Home Depot or a Chili's restaurant. (Good-bye Boerne, Kerrville, Marble Falls, and Touristeburg—uh, I mean Fredericksburg.) But if you know where to look, the spirit of the old Hill Country can still be found— in a hidden cabin, a dog-friendly beer joint, an unspoiled stretch of river. So even though I have to dig a bit deeper to uncover its treasures, I'll never stop loving this celebrated heart of Texas.

Of the thousands of lodging options in the Hill Country (hundreds in Fredericksburg alone), only a fraction are outstanding. I'll admit to a strong bias toward cabins, but I'd rather spend the night in the Bates Motel than in some of the plywood sweatboxes I've seen crammed together on a barren strip of river frontage. (Oh, who did your decorating? A prison warden?) What a relief, then, to discover Don and Lisa Yaklin's Frio River Cabins, especially cabin 7. Tucked away in a thicket of huge oaks in a remote corner of 170 nature-friendly acres, the masonry cabin is comfy without being fussy, with two bedrooms, a full kitchen, and even an electric fireplace. And if you've come here for the river, you won't be disappointed. A short path leads from the porch down a slope to one of the most idyllic, private spots on the Frio that I've ever seen. 1.5 miles north of the entrance to Garner State Park, on U.S. 83 between Comcan and Luckey, 830-232-8996, fax 232-6866, friorivercabins.com.

Country Reporter

Writer-at-large Suzy Banks talks about her feature story, "Head for the Hills"
Interview by Purdie Russ McCannica

texasmonthly.com. What would be your ultimate Hill Country weekend getaway? Where would



Suzy Banks: That's tough. In the summer, when I crave water, I'd try to book a few nights at Cabin 10 at the Frio River Cabins just north of Garner State Park; I'd play in the river beneath giant cypress trees all day, then I'd hike Lost Maple at sunset (I ain't scared of a few pigs...)

From: Jay Harris <jayharris@comcast.net>

To: swdcdm <swdcdm@usace.army.mil>; boardmembers <boardmembers@twdb.texas.gov>; wqap <wqap@tceq.texas.gov>

MWD
8/6/13

Subject: Construction of Force Main Sewer Line in Floodways of the Rio Frio River and Patterson Creek in Real County, Texas without application for 404 Permit; PROPOSED PERMIT NO. WQ0015083001

Date: Sun, Jul 14, 2013 1:02 pm

To: United States Army Corps of Engineers and Texas Commission on Environmental Quality

REVIEWED
JUL 18 2013
By [Signature]
CHIEF CLERK
2013 JUL 18
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

At the present time, the City of Leakey, Texas is planning on placing a Force Main Sewer line through the Floodway of the Rio Frio River and Patterson Creek without consulting with the USACOE, and applying for a 404 permit to my knowledge.

The small bridge on John Davis Road in Real County crossing Patterson Creek approximately 200 yards north of the point where Patterson Creek joins the Rio Frio River as a tributary has been demolished by every flash flood in history that occurred in Patterson Creek. I am intimately familiar with this problem as my family has owned this property for over fifty (50) years.

After the construction of the force main sewer line in the floodway of the Rio Frio River, the next flash flood on Patterson Creek will result in the rupturing of the force main sewer line, which will then discharge a daily average flow of 359,500 gallons per day of raw sewage into the Rio Frio River approximately seven miles upstream from the most popular State Park in Texas, Garner State Park until the floods recede and efforts to repair the force main sewage line can be completed. In the interim, the users of the sewer system will also be without service, and possibly experiencing back-ups of sewage in their homes in the absence of a valve on their sewer line on their home.

This could also virtually destroy all tourism related to the Rio Frio River as well as cause the closure of Garner State Park. However, my concerns are as a family of landowners on the Rio Frio River. I assume the Texas Parks and Wildlife Commission would be concerned with these issues concerning the damage to Garner State Park.

The last flash flood destroyed the bridge, which remained closed for approximately two years before it could be repaired.

This project is currently on the docket of the Texas Water Board for approval of the Feasibility Study and Environmental Impact Study in Austin on August 15, 2013 as PROPOSED PERMIT NO. WQ0015083001 .

[Handwritten mark]

This correspondence is a request for the USCOE and the TCEQ to intervene and ask for a meeting of all parties to discuss the creation of this catastrophic situation.

The consulting engineers who designed this project are Naismith Engineering, Inc., 4501 Gollihar Road, Corpus Christi, Texas 78411.

I will be submitting a more detail and documented Public comment in the near future.

However, this correspondence is intended to serve as a formal REQUEST FOR PUBLIC MEETING TOGETHER WITH A REQUEST FOR CONTESTED CASE HEARING.

Respectfully,


Jay Harris

Jay J. Harris, LLC

Attorney at Law

30615 Cypress Park Dr.

Denham Springs, Louisiana 70726

Telephone: 225.620.7540

Facsimile: 225.664.5707

CC: Regulatory Branch

(CESWF-PER-R)

Fort Worth District (Map)

U.S. Army Corps of Engineers

819 Taylor Street, Room 3A37

P.O. Box 17300

Fort Worth, Texas 76102-0300

OFFICE OF THE CHIEF CLERK

MC 105

TCEQ

PO BOX 13087

AUSTIN, TX 78711-3087

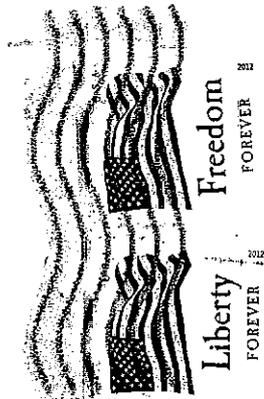
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The IRS now requires all attorneys to advise you that any advice contained in this communication regarding federal taxes is not written or intended to be used, and it cannot be used, by any person as the basis for avoiding federal tax penalties under the Internal Revenue Code, nor can such advice be used or referred to for the purpose of promoting, marketing or recommending any entity, investment, plan or arrangement.

JAY J. HARRIS
JAY J. HARRIS, LLC
30615 CYPRESS PARK DR.
DENHAM SPRINGS, LA 70726



AUSTON ROUNDE LA 787
16 JUL 2013 PM 11

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2013 JUL 18 AM 9: 58

CHIEF CLERKS OFFICE

OFFICE OF THE CHIEF CLERK
MC 105
TCEQ
PO BOX 13087
AUSTIN, TX 78711-3087

RECEIVED
JUL 18 2013
TCEQ MAIL CENTER
AJ

7871308797

From: Jay Harris <jayharris@comcast.net>

To: swdcdm <swdcdm@usace.army.mil>; boardmembers <boardmembers@twdb.texas.gov>; wgap <wgap@tceq.texas.gov>

Subject: Construction of Force Main Sewer Line in Floodways of the Rio Frio River and Patterson Creek in Real County, Texas without application for 404 Permit; PROPOSED PERMIT NO. WQ0015083001

Date: Sun, Jul 14, 2013 1:02 pm

DMM 8698
2013 JUL 18 AM 9:57
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
CHIEF CLERK'S OFFICE

To: United States Army Corps of Engineers and Texas Commission on Environmental Quality

REVIEWED

JUL 18 2013

By _____

At the present time, the City of Leakey, Texas is planning on placing a Force Main Sewer line through the Floodway of the Rio Frio River and Patterson Creek without consulting with the USACOE, and applying for a 404 permit to my knowledge.

The small bridge on John Davis Road in Real County crossing Patterson Creek approximately 200 yards north of the point where Patterson Creek joins the Rio Frio River as a tributary has been demolished by every flash flood in history that occurred in Patterson Creek. I am intimately familiar with this problem as my family has owned this property for over fifty (50) years.

After the construction of the force main sewer line in the floodway of the Rio Frio River, the next flash flood on Patterson Creek will result in the rupturing of the force main sewer line, which will then discharge a daily average flow of 359,500 gallons per day of raw sewage into the Rio Frio River approximately seven miles upstream from the most popular State Park in Texas, Garner State Park until the floods recede and efforts to repair the force main sewage line can be completed. In the interim, the users of the sewer system will also be without service, and possibly experiencing back-ups of sewage in their homes in the absence of a valve on their sewer line on their home.

This could also virtually destroy all tourism related to the Rio Frio River as well as cause the closure of Garner State Park. However, my concerns are as a family of landowners on the Rio Frio River. I assume the Texas Parks and Wildlife Commission would be concerned with these issues concerning the damage to Garner State Park.

The last flash flood destroyed the bridge, which remained closed for approximately two years before it could be repaired.

This project is currently on the docket of the Texas Water Board for approval of the Feasibility Study and Environmental Impact Study in Austin on August 15, 2013 as PROPOSED PERMIT NO. WQ0015083001 .

Handwritten initials

This correspondence is a request for the USCOE and the TCEQ to intervene and ask for a meeting of all parties to discuss the creation of this catastrophic situation.

The consulting engineers who designed this project are Naismith Engineering, Inc., 4501 Gollihar Road, Corpus Christi, Texas 78411.

I will be submitting a more detail and documented Public comment in the near future.

However, this correspondence is intended to serve as a formal REQUEST FOR PUBLIC MEETING TOGETHER WITH A REQUEST FOR CONTESTED CASE HEARING.

Respectfully,


Jay Harris

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CC: Regulatory Branch

(CESWF-PER-R)

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