

THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

ELIZABETH E. CAIN;
DAVID KAMINSKY and
LARRY GIBSON,

Plaintiffs,

v.

U.S. ARMY CORPS OF ENGINEERS;
GEORGIA STATE DEPARTMENT OF
NATURAL RESOURCES, COASTAL
RESOURCES DIVISION; SUSAN
SHIPMAN; MARK A. DANA and
FRANCES M. DANA,

Defendants.

Case No. _____

STATE OF GEORGIA

COUNTY OF CHATHAM

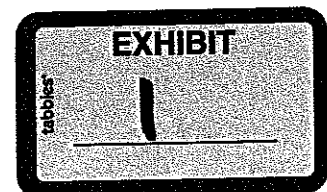
AFFIDAVIT OF ELIZABETH CAIN

1.

PERSONALLY APPEARED before me, an officer duly authorized by law to administer oaths, Elizabeth Cain, Plaintiff in the above-styled action who after first being duly sworn, states:

2.

My name is Elizabeth Cain. I am over the age of 18, and competent in all respects to testify regarding the matters set forth herein. I give this Affidavit voluntarily. I have personal knowledge of the facts stated in the foregoing Complaint and know them to be true and correct.



3.

I have lived with my husband, David Kaminsky, at 1021 Welch Street, Wilmington Island, Savannah, Georgia since 1993. This is our 14th year at this home. Our 1940's cottage faces the upland tidal tributaries of Tom's Creek, which is a tributary of Half Moon River. Half Moon River flows into Wassaw Sound. This confluence can be seen on the Geological Survey Map, Wassaw Sound Quadrangle, attached to this affidavit as Exhibit 1-A.

4.

We enjoy an almost unimpeded 180-degree vista of the marsh, with no obstruction of sight lines or any structure or object interrupting the horizon line from the south end of Tybee Island to Skidaway Island. This view encompasses four barrier islands, Tybee, Little Tybee, Wassaw, and on a very clear day, the north end of Ossabaw. This spectacular view along with the marshfront and tidal creek basin is what makes our property valuable. It is also why we bought this house and property. These views are reflected in the attached photos, Exhibit 1-B. The attached photos fairly and accurately represent the view from my home.

5.

Our beautiful and valued viewshed will be extremely compromised and degraded by the construction of the 980 foot dock, covered deck, boat hoist, 12 foot ramp leading to a 20 foot floating dock, and 50 by 16 foot boathouse rising nearly 30 feet above the waterline being built by the defendants, Mr. and Mrs. Dana. This lone structure will irrevocably and adversely affect the view of all property owners on either side for a considerable distance. It will also have immediate detrimental effects on the ecology of the marsh and tidal zone, as discussed below. It is completely out of character with all docks in the entire tidal basin of Tom's Creek.

6.

The docks that are in proximity to our property are very short. They provide access to numerous tidal creeks accessible to the shore. This has historically been the case for this center part of Wilmington Island. The pre-existing dock of the defendants, Mr. and Mrs. Dana, was one of the longest docks within our viewshed, measuring 210 feet long. We can see to the northeast four short docks, only one of which has a small boathouse and that one is minimal in size. That structure has been there for years. To the south, we can see three (3) short docks, including the Danas'.

7.

All the docks within our viewshed are no longer (210 feet) or, at longest, roughly comparable to the length of the preexisting dock owned by the defendants, Mr. and Mrs. Dana. These docks have an almost negligible impact on the views afforded to all property owners in the vicinity. The photo attached as Exhibit 1-C fairly and accurately represents the views of the property owners in our viewshed.

8.

The location, length, and character of the docks within our view can be seen in Exhibit 1-D. This aerial photo was downloaded from Yahoo Maps, dated 2006 on the map. This photo fairly and accurately represents the conditions depicted in the view. Overlaid on that photograph is a scaled depiction of the proposed dock complex that fairly and accurately shows what the site will look like if constructed.

9.

I am an artist and have spent more than 20 years studying and painting the coastal landscape. I have done this through recreational boating, kayaking, and observation including photography, drawing and painting on all the barrier islands on the Georgia coast and from my home. I am not a trained or degreed scientist, but I am an acute observer. I have observed firsthand the detrimental effects of extended docks on marsh and tidal areas for years.

10.

In particular, I have observed the detrimental effects of the docks that have been built south of our property since we have been living here. These observations include the Danas' pre-existing dock built by the previous property owner in 2000 and the dock built on property owned by Andrew Davis, north of the Danas', built in the late 1990's.

11.

I have also witnessed the benefit of raised docks versus floating docks when our neighbors, Larry and Gerry Gibson, replaced the previous property owners' old floating dock with a raised one. That old dock, with marsh wrack build-up (dead and decaying marsh grass) can be seen in Exhibit 1-E. The marsh wrack collected in this photograph is a minor accumulation. I have seen it cover the entire foreground of this photo and also extend to the end of the docks in the background.

12.

The detrimental effects of docks and accompanying structures include accumulation of marsh wrack packed in huge clumps against the pylons of the docks and pilings. This usually occurs on a springing tide with northeasterly winds, but I have observed the wrack washing and being blown up from a southern direction as well, collecting on the south side of the docks. The

prevalence is with the northern winds with accumulation on the north side of the docks. This wrack comes from the huge expanse of marsh in front of our house, the largest expanse of marsh on the eastern seaboard.

13.

The build-up can become very dense, hard to break-up or push aside, and can choke off creeks, making passage difficult, if not impossible. If the wrack lies blocked from moving over the marsh grass, I have witnessed the suffocation and die-back of the marsh underneath. It does not take long for the impact of wrack accumulation to be observed. A month of light deprivation and dense cover can obliterate the marsh underneath. What then occurs is the creation of mudflats. The mudflat north of the Dana's pre-existing dock is a result of trapped marsh wrack. I watched it happen over the course of 2-3 years. This mud flat extends across the entire width of the adjacent property owned by Andrew Davis and into property owned by Bert Klein.

14.

In October, 2006, we had a springing tide that brought wrack up on a high marsh area in front of our house. It was manually pushed off after a month. Normally, this wrack is worked down the shoreline, breaking up from the constant ebb and flow of the tides. Docks obstruct this action and long extended docks critically compound that effect.

15.

I also physically push any wrack build-up in front of our property and the County right of way for Welch Street out into the marsh to be dispersed by the tidal action. I do this several times every year.

16.

The new extended dock being built by Defendants Dana will prevent this wrack from being dispersed. Nine Hundred and Eighty feet (980') of obstruction is beyond my capacity to clear. There is absolutely no doubt that due to the effects of this dock, gradual yet severe damage to the marsh in front of our house will occur.

17.

One of the great benefits to preserving our tidal basin with no extended mega-docks is the lateral movement (close to shore) an unobstructed marsh edge area offers all recreational boaters who may discover it. The marsh also stays healthy with natural ebb and flow and no obstructions to impede flow. This huge expanse of marsh is available for all the citizens of Georgia to explore. It is exceptional for its unobstructed access. Many kayakers and small boat operators, including my husband and I, cruise the tidal creeks close to the mainland now being transversed by this dock. Even with the recently required bridge span toward the terminus of the dock, this extended dock blocks this lateral access of upland waters to the detriment of all property owners here and to all recreational boaters from any other areas. We will be cut off from our own neighbors and from access to the numerous creeks in close proximity to our home.

18.

When you have communities such as ours with no extended docks in view, a dock such as the Defendants are building is an huge intrusion about which we have had no voice, no notification, no platform to express our grievances except after the fact, when the building began. When you build a dock this length in an area with no extended docks, the effects and changes are dramatic. The Dana dock complex floating dock will inordinately dominate the entire tributary system that feeds our smaller creeks. Exhibit 1-F shows the inordinate length of

the dock currently being instructed. That photo shows the barge currently constructing the pilings and shows how far out onto the marsh this dock complex will intrude.

19.

We are all beginning to be aware of the marsh damage done by the barges that build these docks and the docks themselves. The marsh degradation from the mobilization of the barges constructing the docks has already been seen. Even in the short time period that construction has occurred, we have seen extensive damage from the barge, and considerable litter and debris dumped into the marsh from the barge and workers engaged in construction activities.

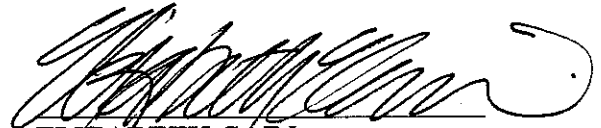
21.

When we contacted the DNR on December 8, 2006, we had every hope that this dock would be reviewed before any more work was done, and that our complaints would be heard and considered. We are very concerned with the transversal of navigable creeks and the short and long term impacts on the previously healthy marsh ecosystem.

22.

I am very concerned that the construction of the massive dock complex on the Dana property will cause irreparable harm by leading to severe damage of the fragile marsh ecosystem: including the flora and fauna; will lead to the creation of mudflats; destruction of existing oyster beds and mussel habitat; decrease water quality; interfere with navigation and negatively impact the view from nearby properties, including my own.

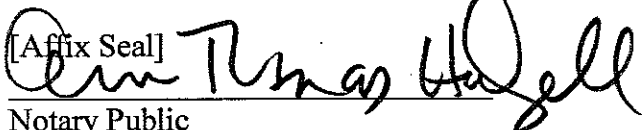
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ELIZABETH CAIN

STATE OF GEORGIA

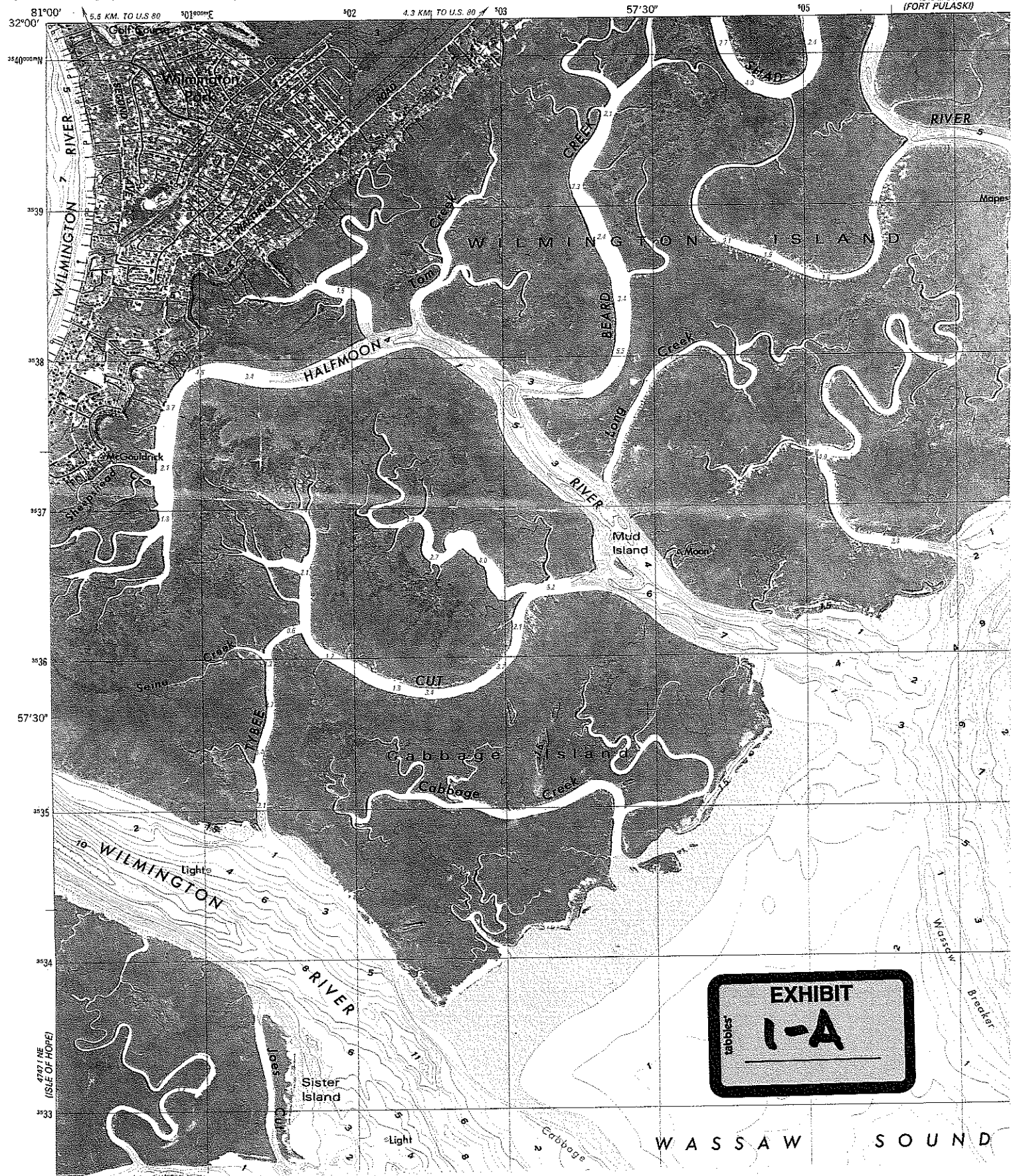
COUNTY OF CHATHAM

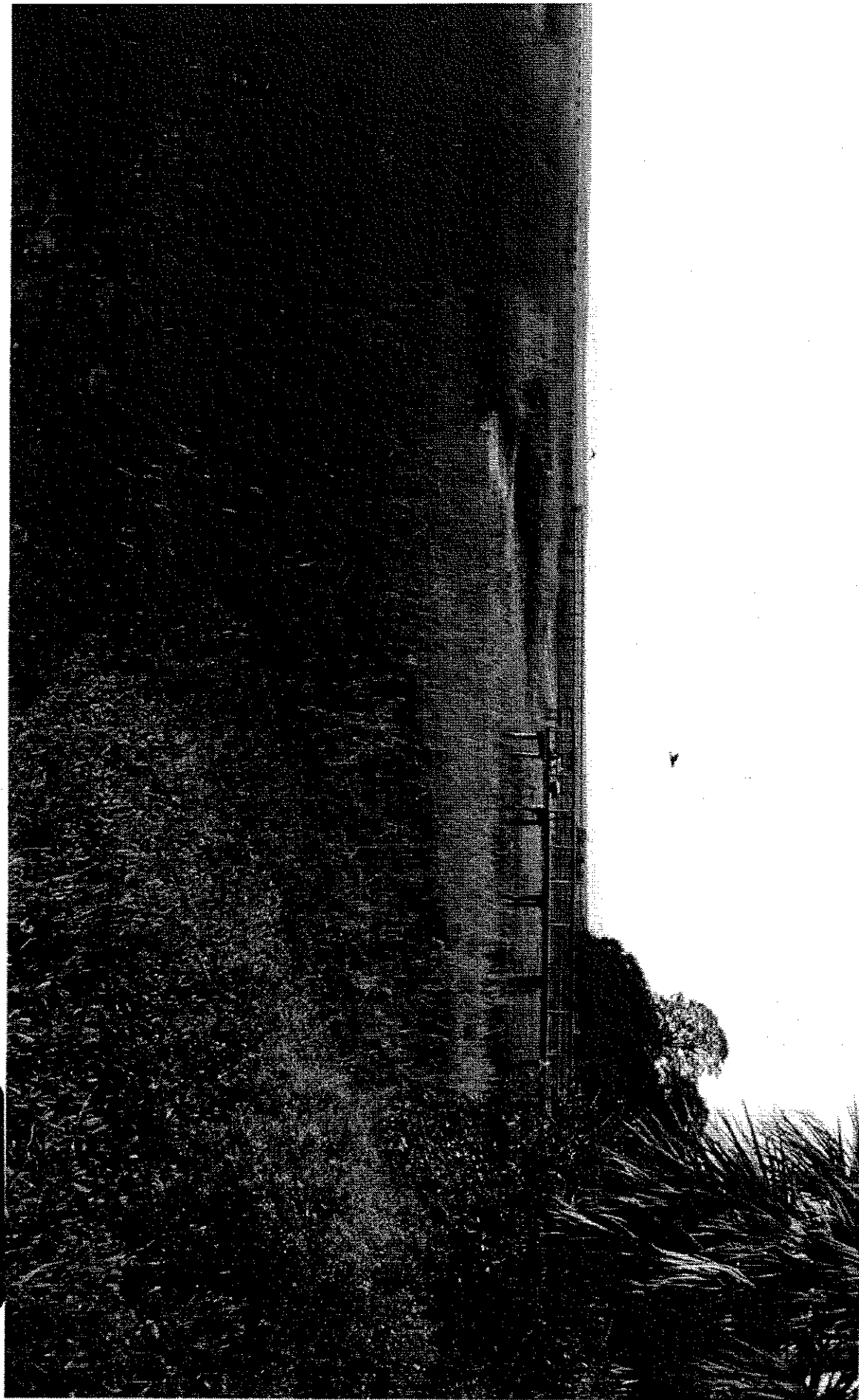
Elizabeth Cain appeared before me,
a Notary Public in and for the above
jurisdiction, this 8th day of January, 2007,
and made the foregoing Affidavit, under oath.

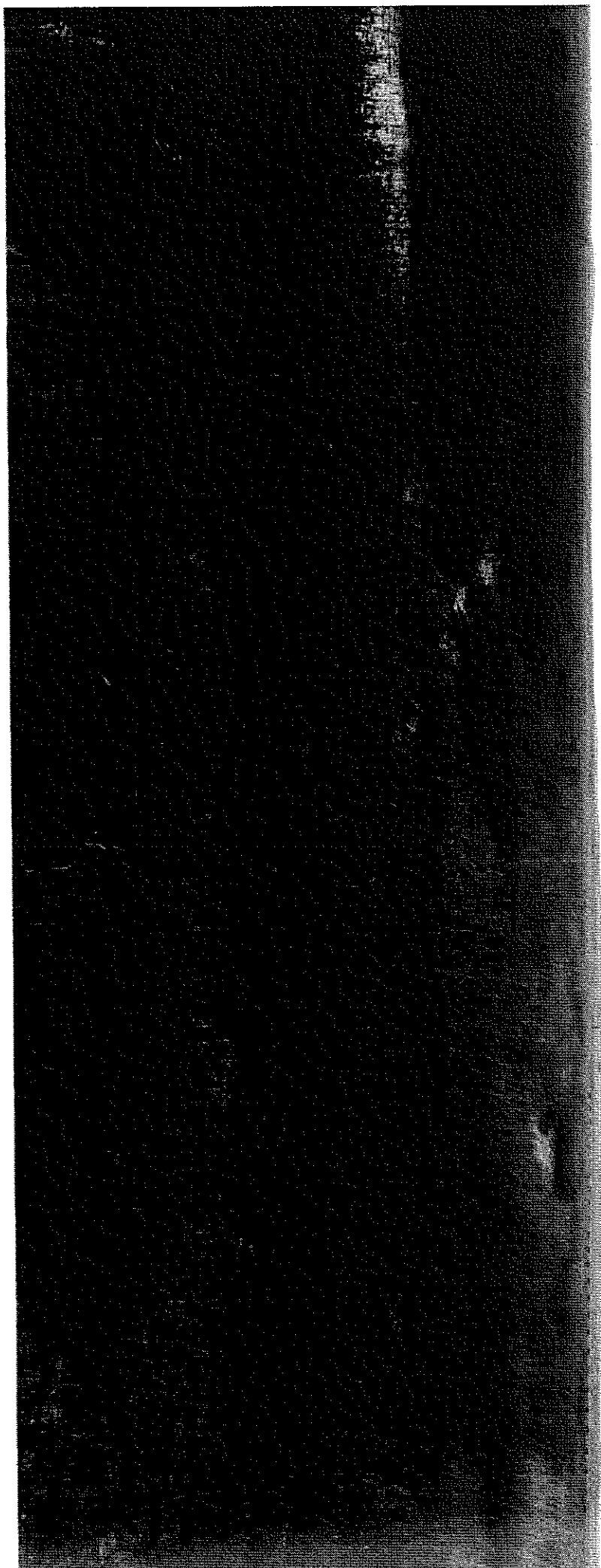
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Notary Public
My commission expires:

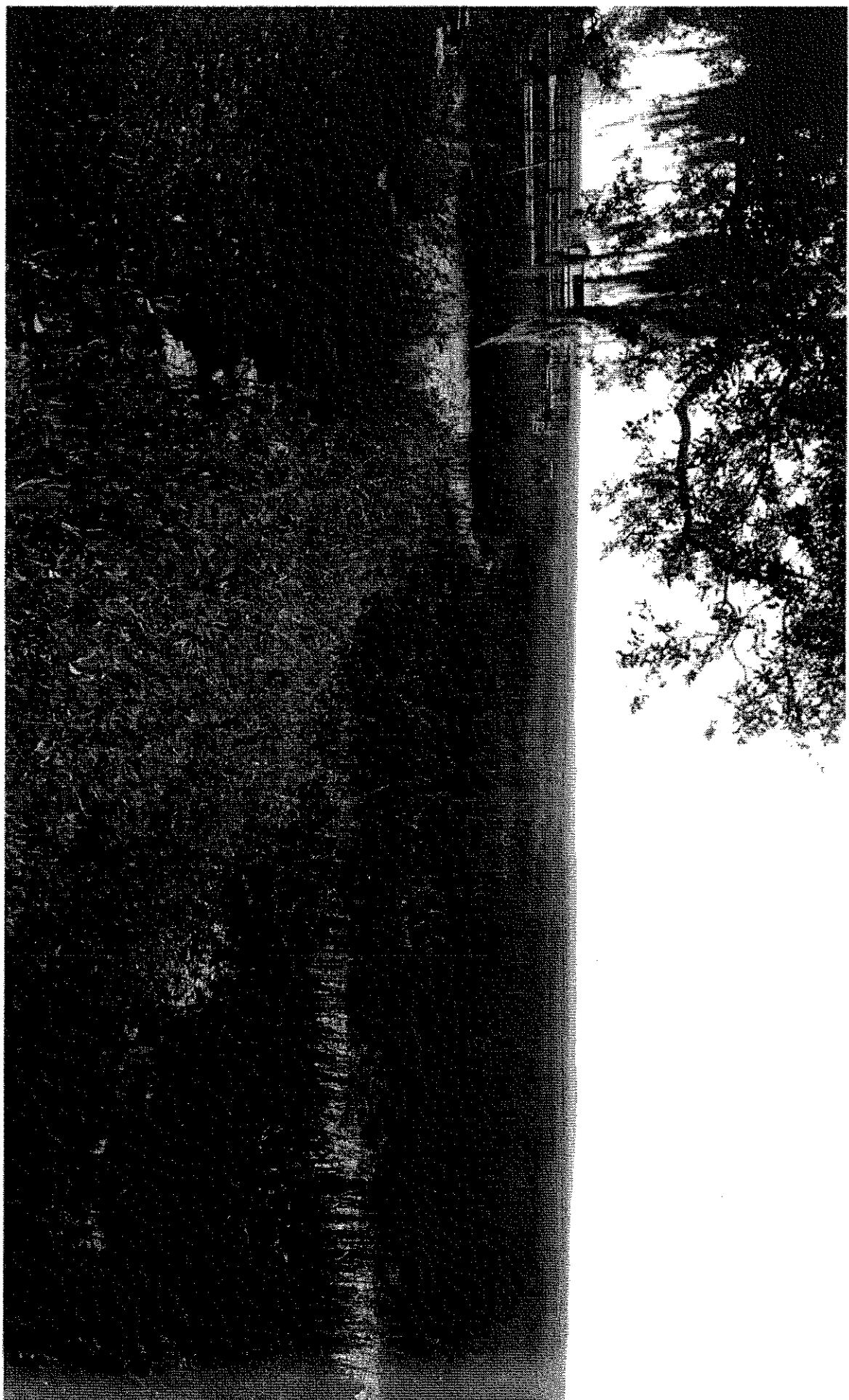
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DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

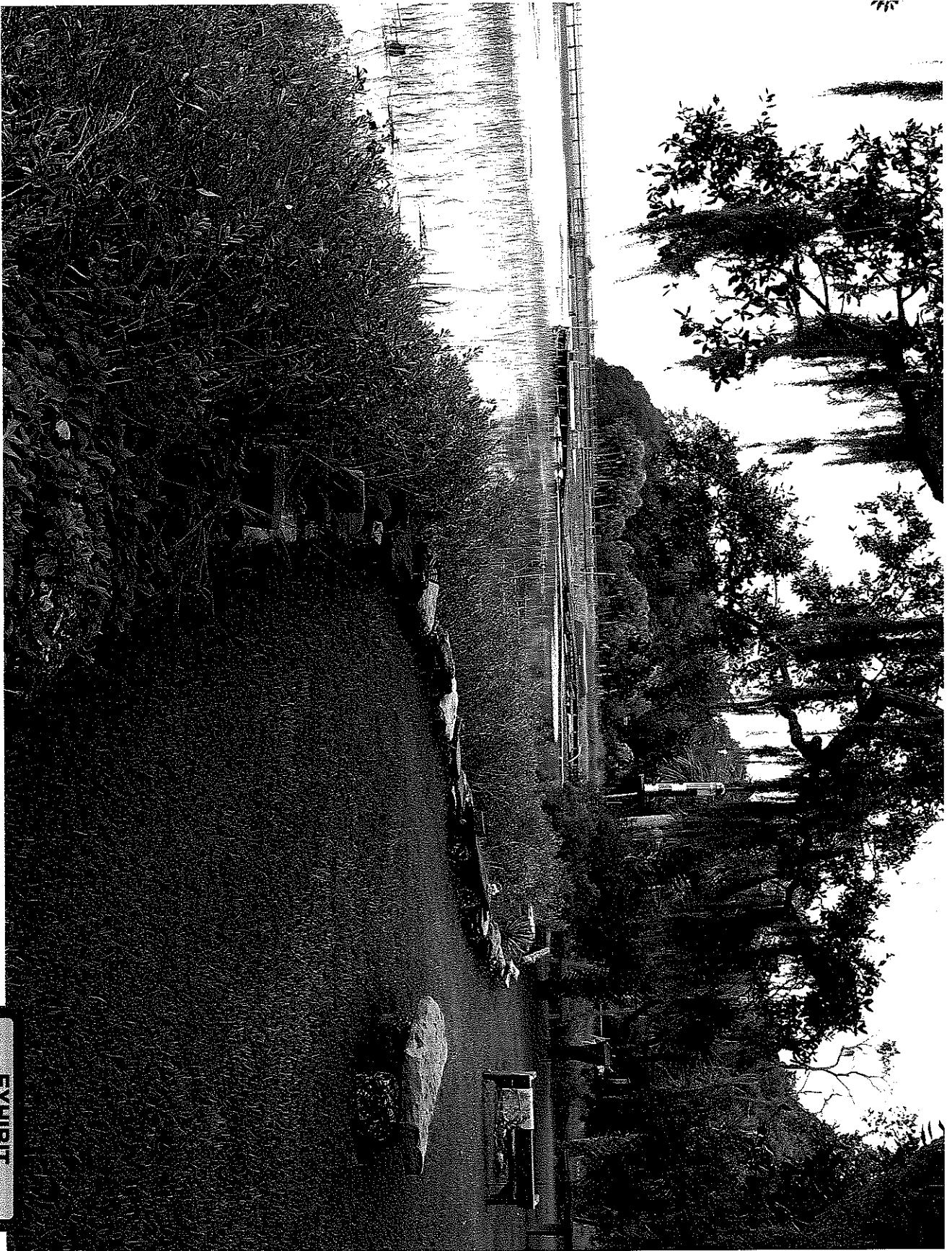
STATE OF GEORGIA
DEPARTMENT OF NATURAL RESOURCES
GEOLOGIC AND WATER RESOURCES











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1-C

EXHIBIT

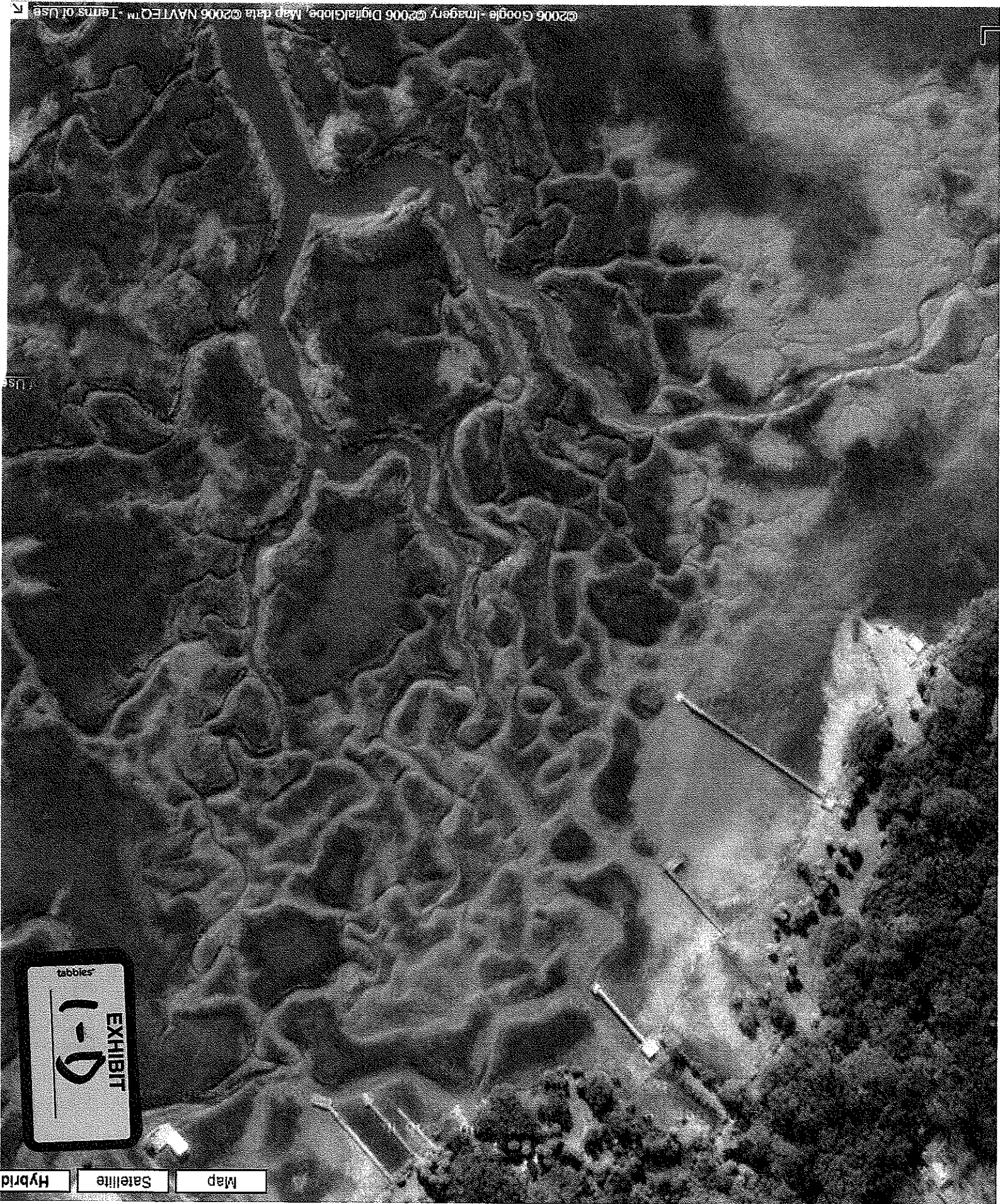
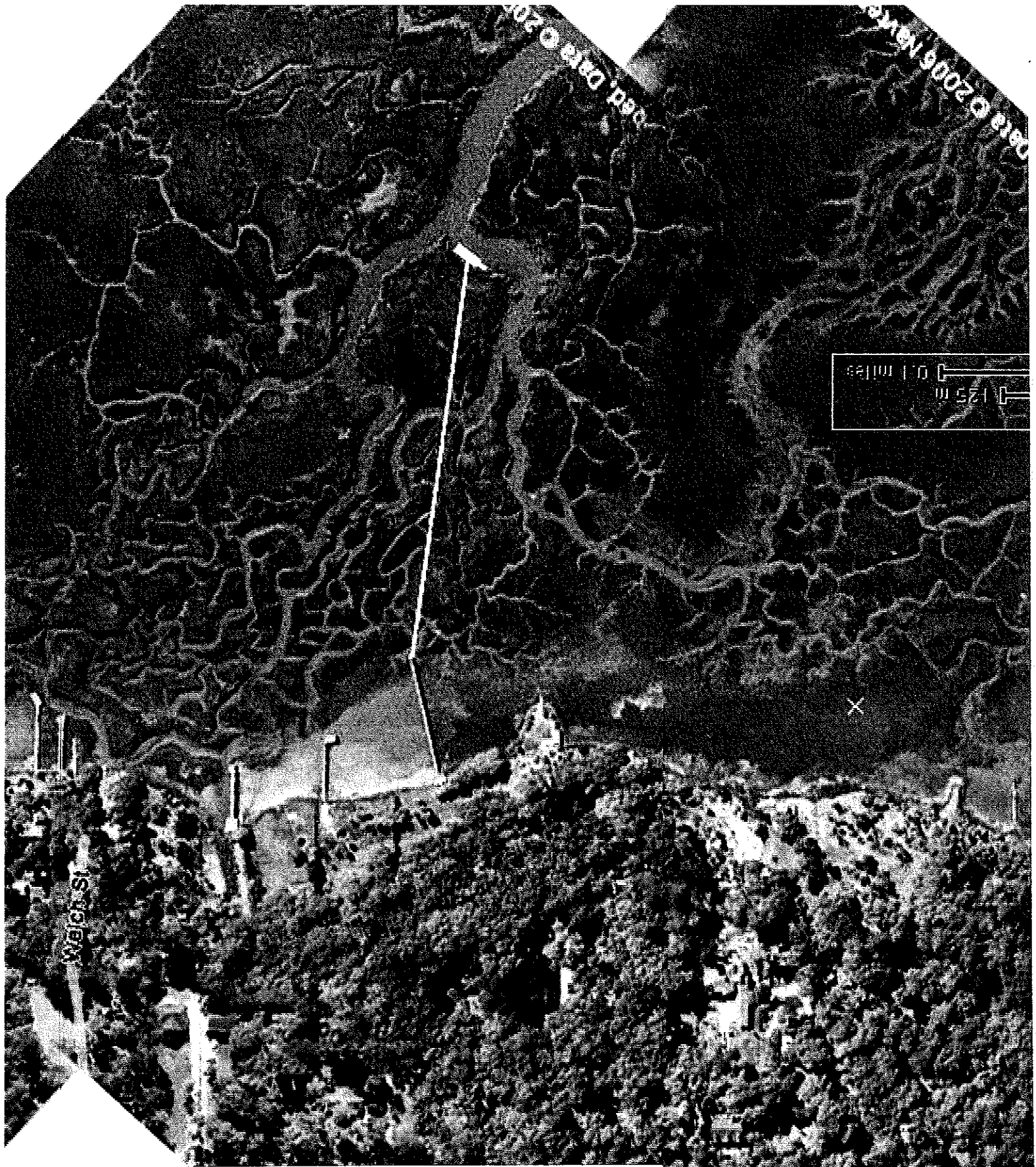
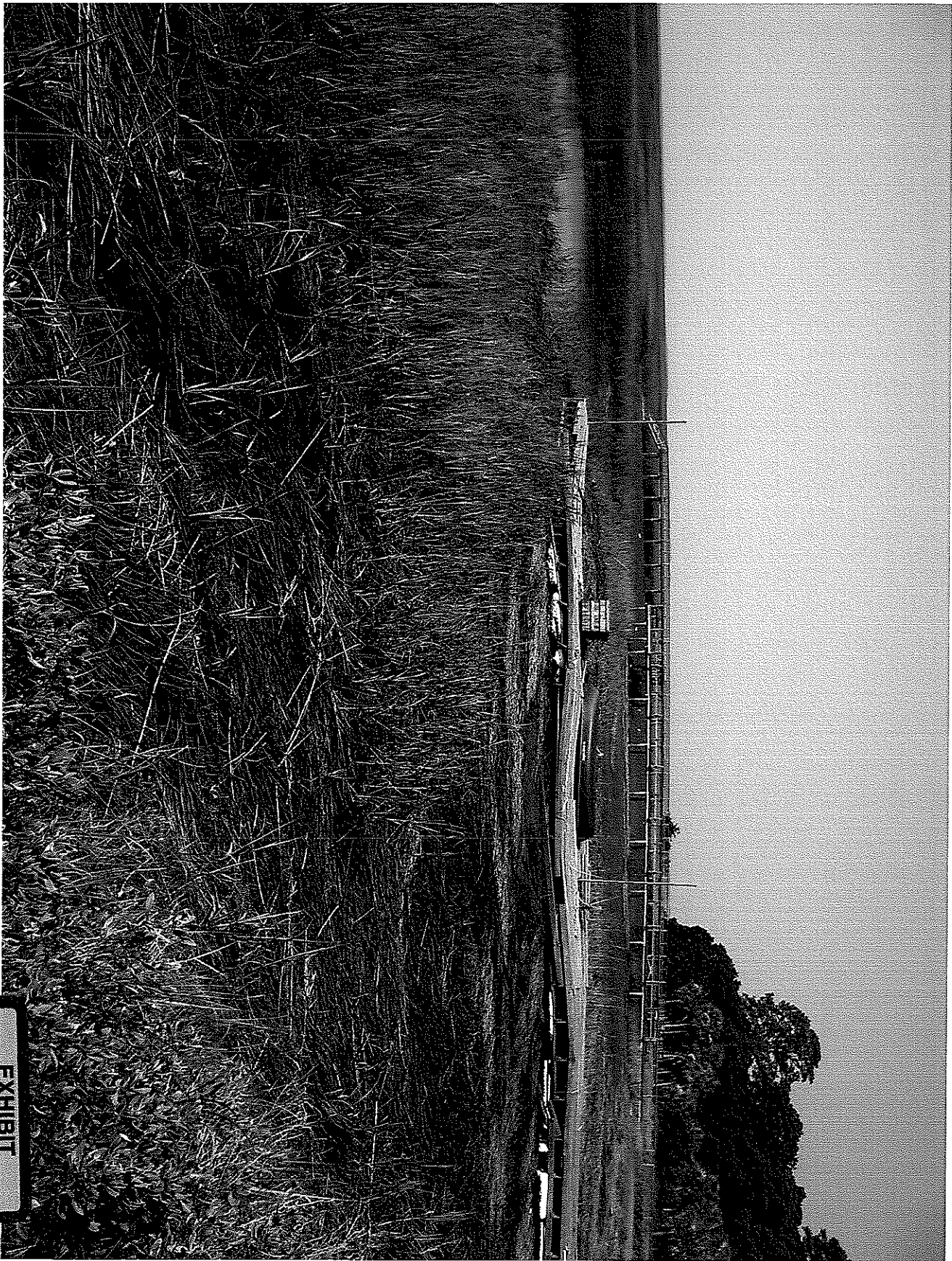


EXHIBIT
1-D



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EXHIBIT
1-6



EXHIBIT

1-F

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