



Kaneb Pipe Line Operating Partnership, L.P., a Valero L.P. company
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March 28, 2007

Via Facsimile and Regular Mail

Mr. Ivan Huntoon, Director, Central Region
United States Department of Transportation
Pipeline and Hazardous Materials Safety Administration
901 Locust Street, Suite 462
Kansas City, MO 64106-2641

RE: CPF NO. 3-2007-5002 – Response to NOPV

Dear Mr. Huntoon:

This letter is intended as a response to the Notice of Probable Violation (NOPV) issued by the Pipeline and Hazardous Materials Safety Administration (PHMSA) on February 8, 2007 and received by Valero L.P. on February 13, 2007. Valero L.P. was granted an extension to respond and Valero L.P. appreciates PHMSA's consideration in that matter. The NOPV concerned the results of an inspection of the Kaneb Pipeline Company (Kaneb) anhydrous ammonia pipeline facilities in Missouri, Illinois, Indiana, Iowa, and Nebraska. The NOPV alleged a violation of §195.412 (Inspection of rights-of-way and crossing under navigable waters) and proposed a \$38,000 penalty and a compliance order related to that violation. We wanted to take this opportunity to respond to that allegation and the associated proposed penalty and compliance order. We would appreciate a dialogue with PHMSA about the allegations, penalty, and compliance order, but we are willing to give up our right to a formal hearing in order to resolve this matter more amicably.

Allegations and Response

The regulation in question is §195.412(a), which states that “[e]ach operator shall, at intervals not exceeding 3 weeks, but at least 26 times each calendar year, inspect the surface conditions on or adjacent to each pipeline right-of-way. Methods of inspection include walking, driving, flying or other appropriate means of traversing the right-of-way.” The allegation made in the NOPV is that Kaneb did not “adequately” patrol sections of its right-of-way as Kaneb uses aerial patrolling to inspect the condition of pipeline right-of-way and portions of the right-of-way were overgrown. The conclusion reached by PHMSA was that aerial patrolling is an ineffective means of inspecting the condition of the pipeline right-of-way given the overgrowth. The NOPV identified four specific areas of concern. We have attached photographs of each area of concern taken from the ground before responsive measures were conducted. We have also attached both photographs taken from the ground and aerial photographs of each area of concern after responsive measures were conducted. The purpose of these photographs is to demonstrate the measures that Kaneb has taken in response to this NOPV.

Even in advance of those responsive measures, however, Kaneb believes its current aerial patrols were adequate to inspect the surface conditions on or adjacent to each pipeline right-of-way in compliance with §195.412(a). First, Kaneb believes that what appears to be visually obstructed from a ground-level perspective is often much more highly visible from the air. Second, Kaneb

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notes that ammonia leaks do not provide a direct visual result such as pooling like in the case of petroleum product leaks. Inspecting an ammonia pipeline right-of-way for leaks does not, therefore, involve the need to see such small indicators of a leak. In fact, most such small nuisance leaks are called in by the public due to odor and not in response to any visual evidence. The primary goal of visual observation of an ammonia pipeline is, therefore, to provide visual confirmation that there are no third-party encroachments, which are the leading cause of pipeline damage, which might lead to a leak. Kaneb believes that its current aerial patrols can adequately identify any such third-party encroachments. Third, Kaneb's position in the case of an ammonia pipeline is that it may actually be preferable to maintain some vegetation in the vicinity of the pipeline in order to help identify small leaks. As noted, ammonia leaks may not provide a direct visual result; however, ammonia leaks can affect the foliage in the vicinity, meaning that it is easier for the pilot to visually identify small leaks through foliage changes rather than through direct visual observation. Kaneb believes that the level of visibility along its right-of-way is sufficient to adequately inspect an ammonia pipeline in compliance with §195.412(a).

Proactive Measures

Despite believing that its right-of-way inspection program is currently in compliance with the regulatory standard, Kaneb has taken proactive measures to ensure and improve the effectiveness of its right-of-way inspection. Kaneb has already cleared the areas specifically identified in the NOPV, as demonstrated in the photographs attached as Exhibit A. Additionally, Kaneb will add as part of its contract with the aerial patrol company a provision requiring the pilot to identify those areas of the right-of-way where overgrowth makes the visual inspection ineffective. Since receiving this NOPV, Kaneb personnel have counseled the companies and pilots that perform the aerial patrol in order to ensure that they are aware of these obligations and to encourage them to report any areas that are in danger of becoming obstructed by vegetation well in advance of actual obstruction so that Kaneb can either clear those areas prior to them becoming obstructed or institute alternative means of inspecting that right-of-way. There is also in place a plan for Kaneb personnel to ride with the aerial pilots later as foliage occurs to personally view the entire right-of-way to provide first-hand company knowledge of the condition of the right-of-way to confirm that all areas are visible. Kaneb has developed a seven-year budget that contains sufficient money to address any areas in need of right-of-way clearing including some areas cleared twice within that time allotted.

Penalty and Compliance Order

Kaneb hopes that its responses to the allegations and the proactive measures that Kaneb has taken will be considered by PHMSA as a basis for reducing the proposed penalty. Additionally, Kaneb notes that PHMSA must consider the nature, circumstances, and gravity of the violation when assessing a penalty. Factors to be considered include adverse impact on the environment and the degree of the respondent's culpability. Kaneb does not believe it is in violation for the reasons presented in the Allegations and Response section above. Even if Kaneb were in violation, there has been no adverse impact on the environment as there has been no actual release that went undetected due to the alleged violation. Additionally, if Kaneb were in violation, it is clearly not a matter of willful culpability as Kaneb believed and continues to believe it is in compliance. Moreover, Kaneb has taken proactive measures to ensure it is in compliance and to ensure future compliance. For these reasons, Kaneb believes a reduction of the penalty is justified.

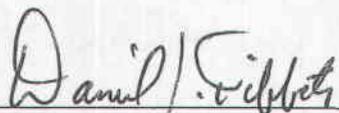
Kaneb additionally hopes that the documentation submitted with this response coupled with the response to the allegations above and the proactive measures described in the middle section is sufficient to provide PHMSA with a level of comfort that Kaneb is taking the necessary measures to comply with the regulations such that the proposed compliance order is deemed not necessary. At a minimum, Kaneb would ask that the details of the proposed compliance order be discussed and considered open to amendment. As noted in the introductory paragraph above, Kaneb is not asking for a hearing. Kaneb has had a positive experience working with the inspector in this matter and does not wish to challenge his judgment or documentation in that forum. Kaneb does hope, however, that the points made above will be considered and that an informal dialogue can be had with PHMSA personnel that will result in a resolution of this matter that Kaneb would consider to be fairer than the \$38,000 penalty and onerous compliance order initially proposed.

If you have any questions in this matter, please call me at (316) 773-9000. Thank you very much for your time and attention to this response to the NOPV.

Respectfully Submitted,

Kaneb Pipe Line Operating Partnership, L.P.

By:



Daniel J. Tibbits
Sr. Manager of HSE

EXHIBIT A

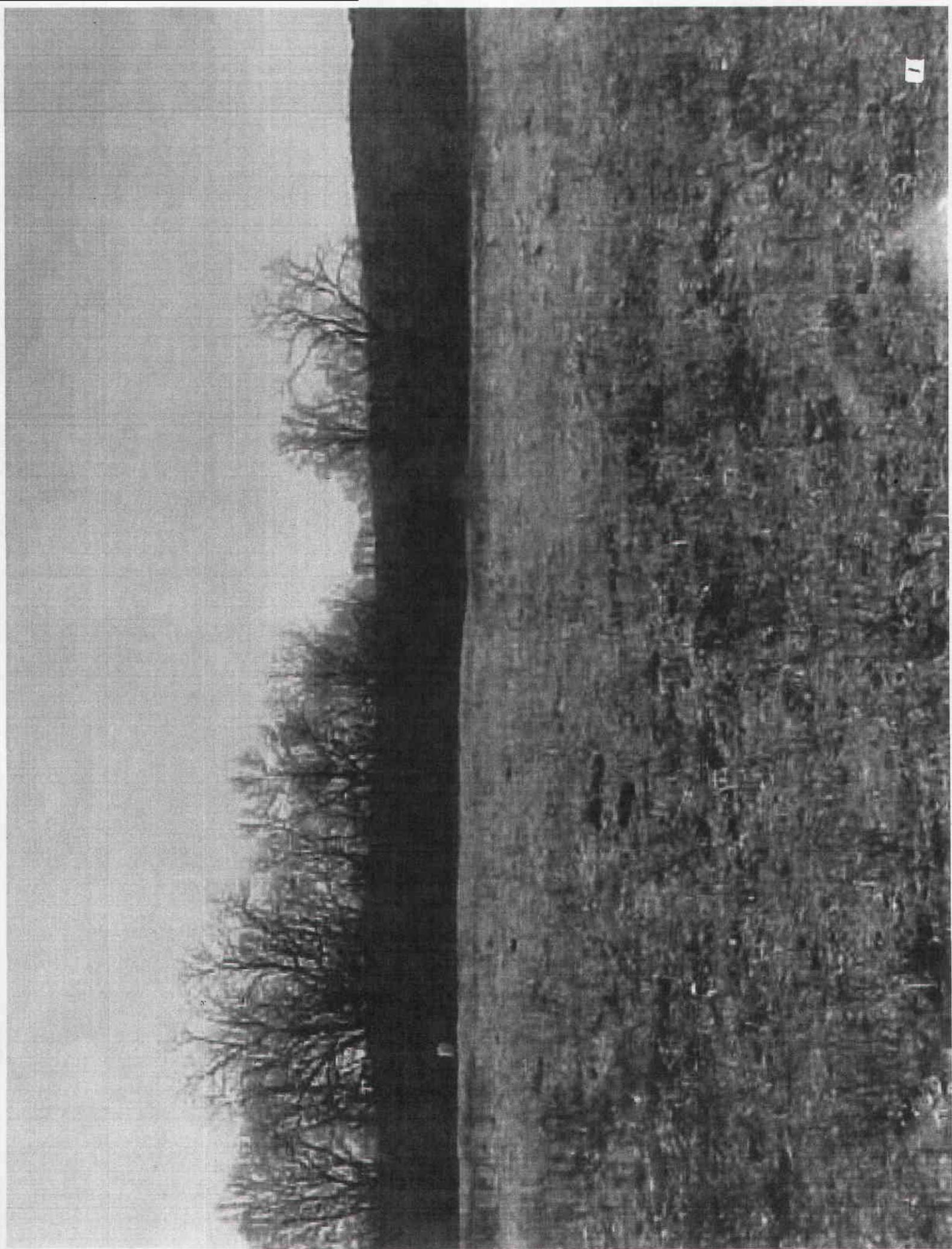
The pictures identified below coincide with item number 2 of the letter which describes 4 areas noted during the audit inspection.

- 1) At 4 road crossings in an approximate 4 mile pipeline section from MP41.1 to MP45.4 near Mountain View, Missouri (approximately 150 feet along the pipeline in each direction from the road crossing, thence opening up into cropland and being clear).
 - Picture 1: Valve 4-⁹8 (MP41.4, beginning of area defined by PHMSA) looking South (before)
 - Picture 2: Valve 4-8 looking North (before)
 - Picture 3: From a Grassy Road looking South (before)
 - Picture 4: From same Grassy Road looking North (before)
 - Picture 5: Hwy "W" looking South (before)
 - Picture 6: Hwy "W" looking North (before)
 - Picture 7: King Road looking South (before)
 - Picture 8: King Road looking North at MP 45.4 (end of area defined by PHMSA) (before)
 - Picture 9: Valve 4-8 Looking South (after)
 - Picture 10: Valve 4-8 looking North (after)
 - Picture 11: From a Grassy Road looking South (after)
 - Picture 12: From same Grassy Road looking North (after)
 - Picture 13: King Road looking South (after)
 - Picture 14-16: Aerial After

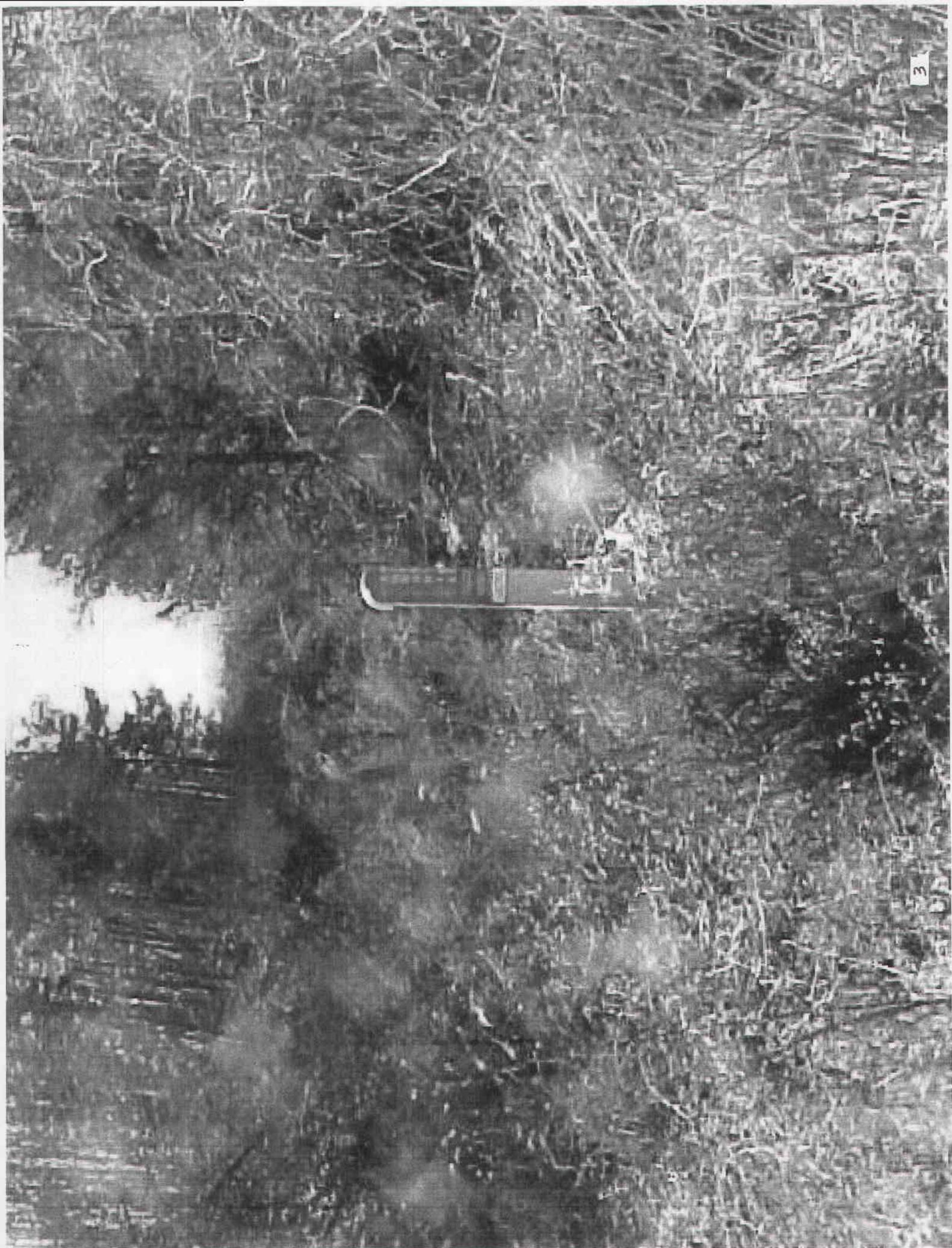
- 2) In an approximate 500 foot section of woods at a foreign line crossing with Conoco-Phillips pipeline at MP47.9 near Litchfield, Illinois.
 - Picture 17 & 18: Before
 - Picture 19: After
 - Picture 20: Aerial After

- 3) In an approximate 300 foot section of small woods on either side of a creek crossing at MP115.1 near Trilla, Illinois
 - Picture 21: Before
 - Picture 22: After
 - Picture 23: Aerial After

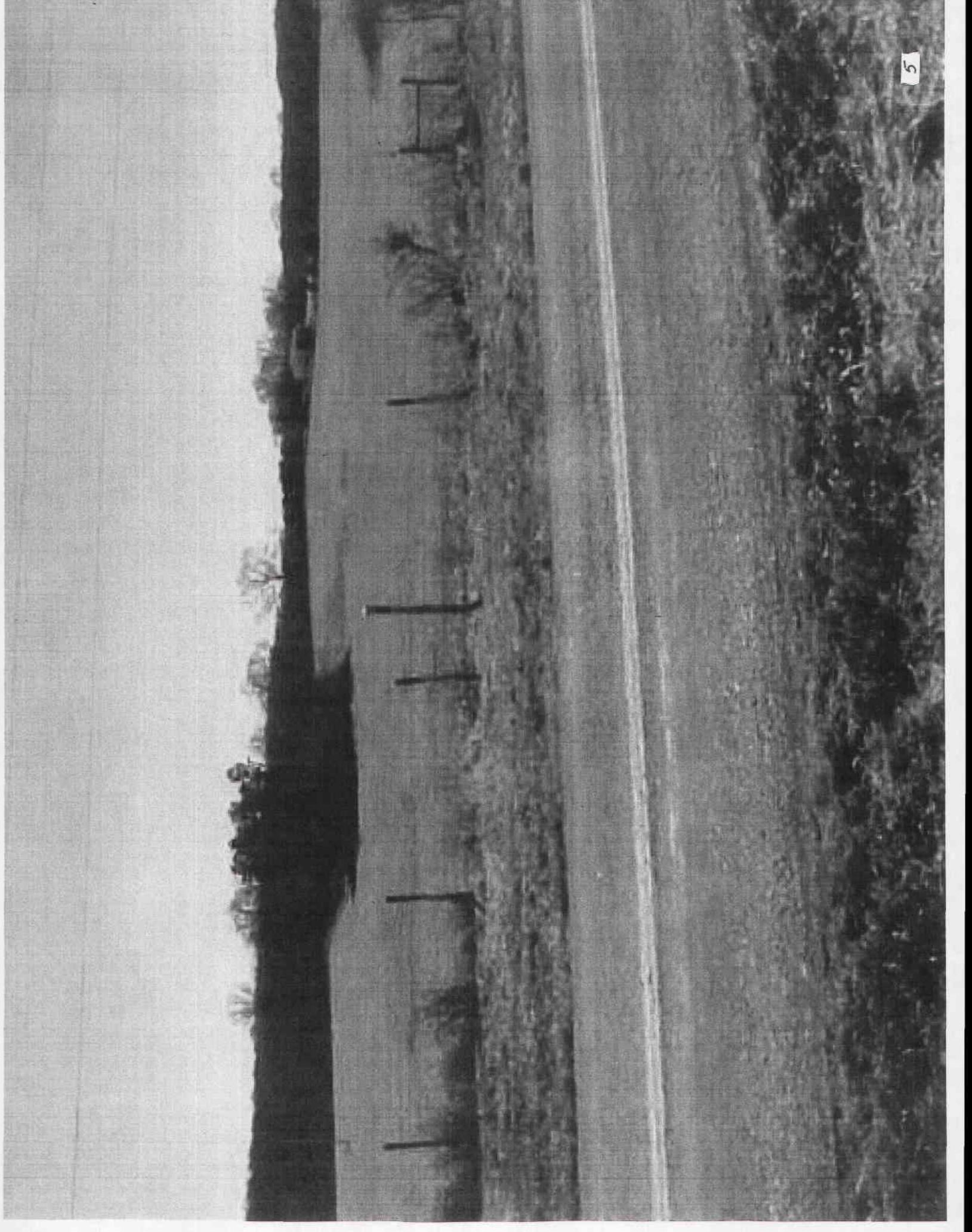
- 4) In an approximate 200 foot section of small woods on the west side of the Elkhorn River crossing at MP33.0 near Arlington, Nebraska
 - Picture 24: Before
 - Picture 25: After
 - Picture 26 & 27: Aerial After

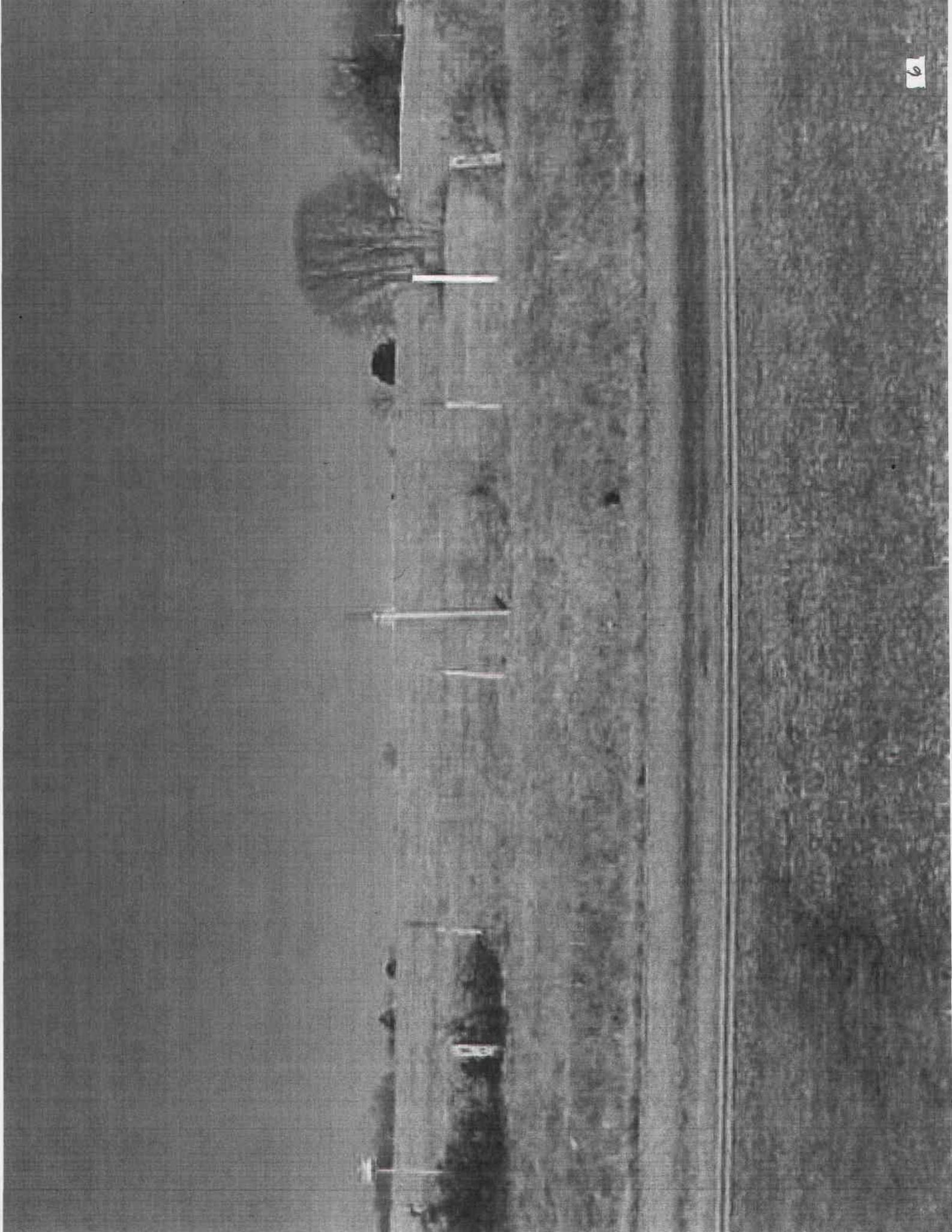




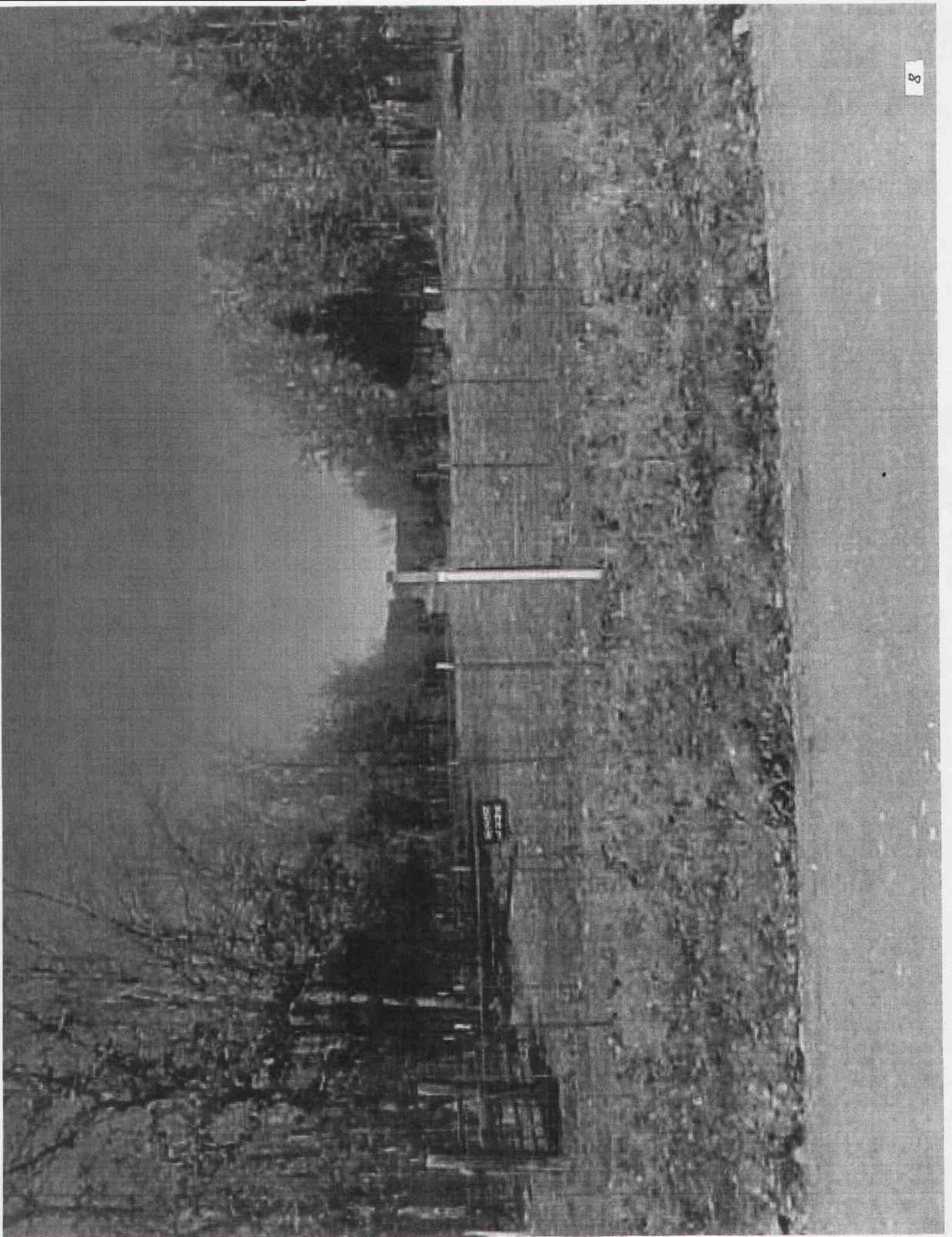






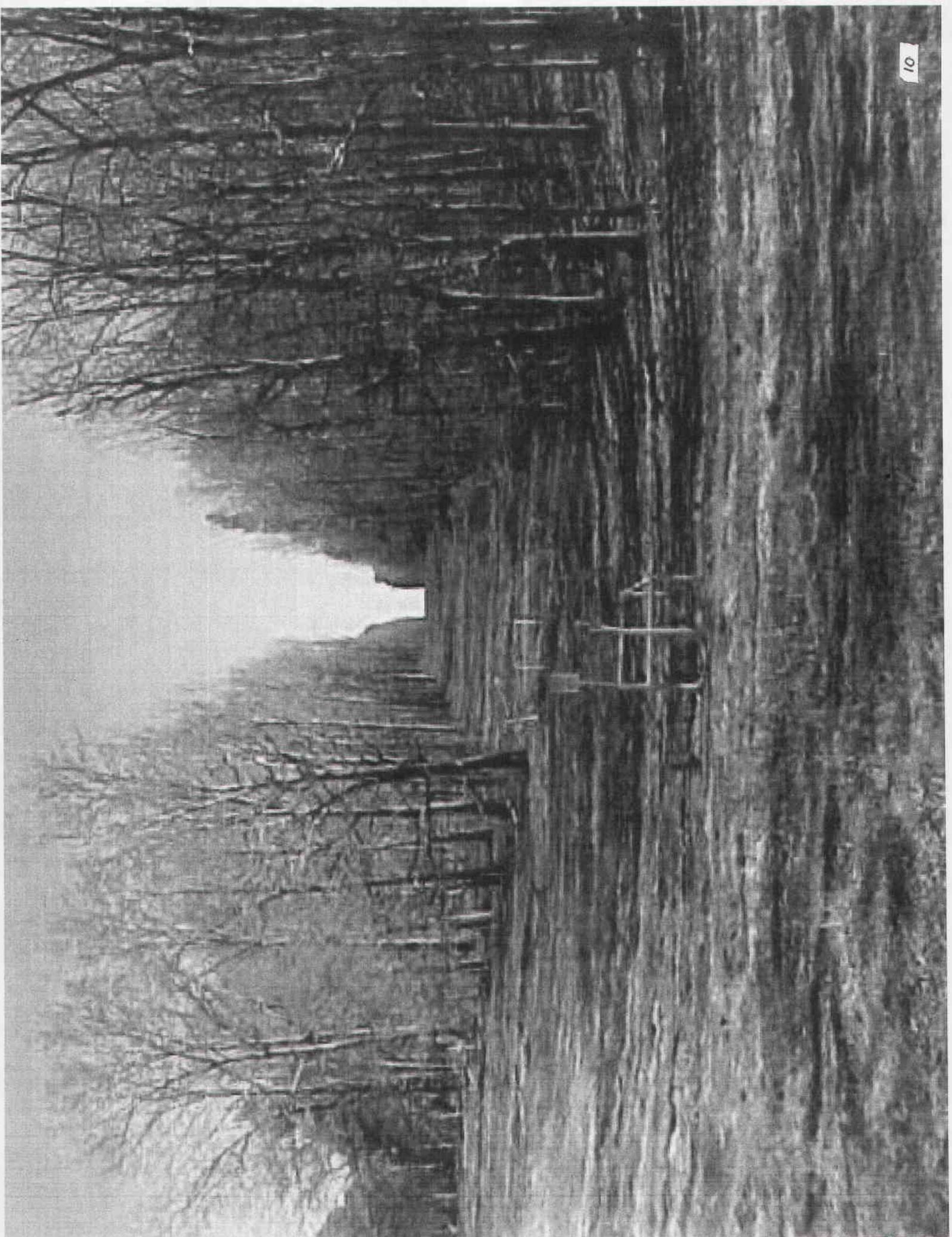


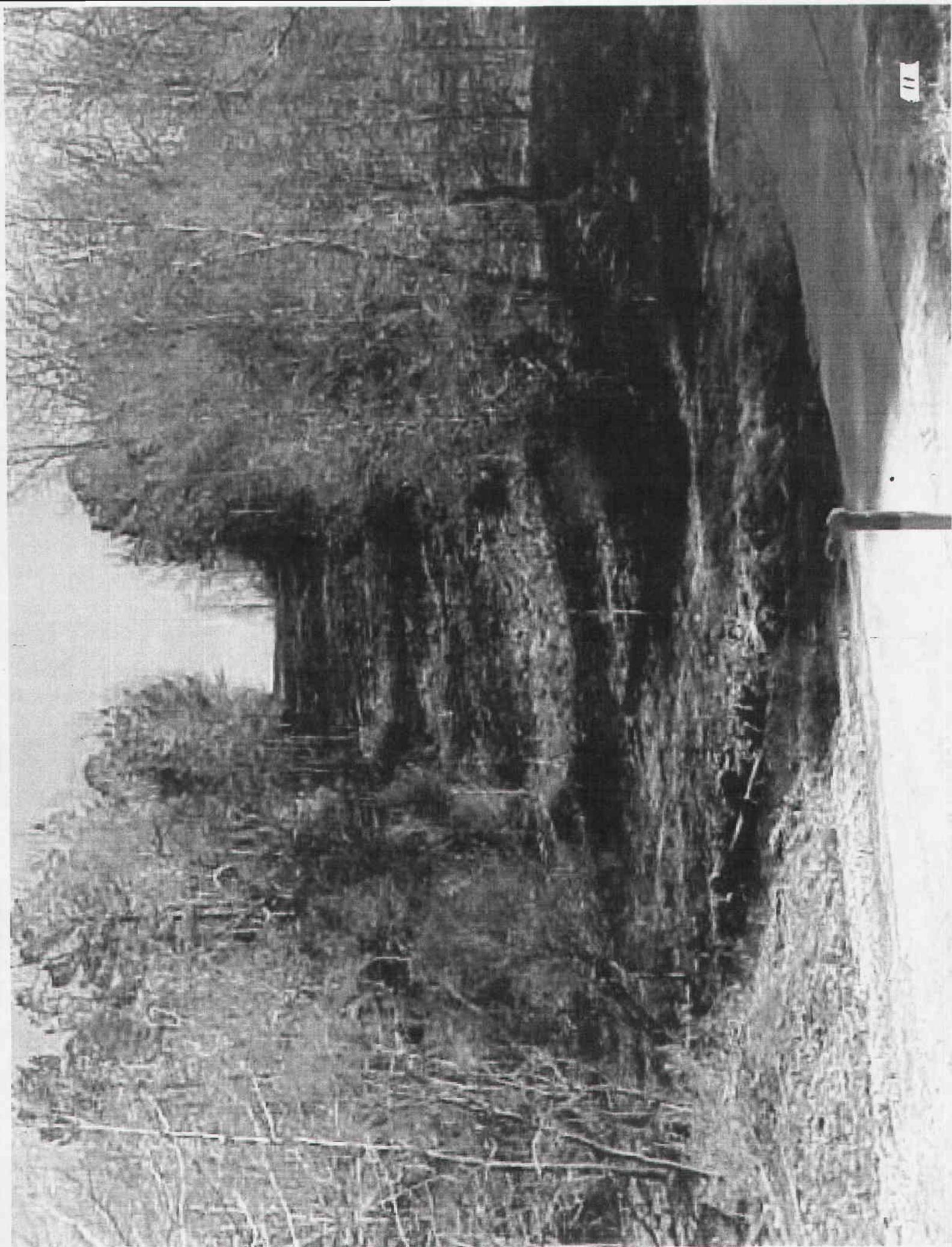


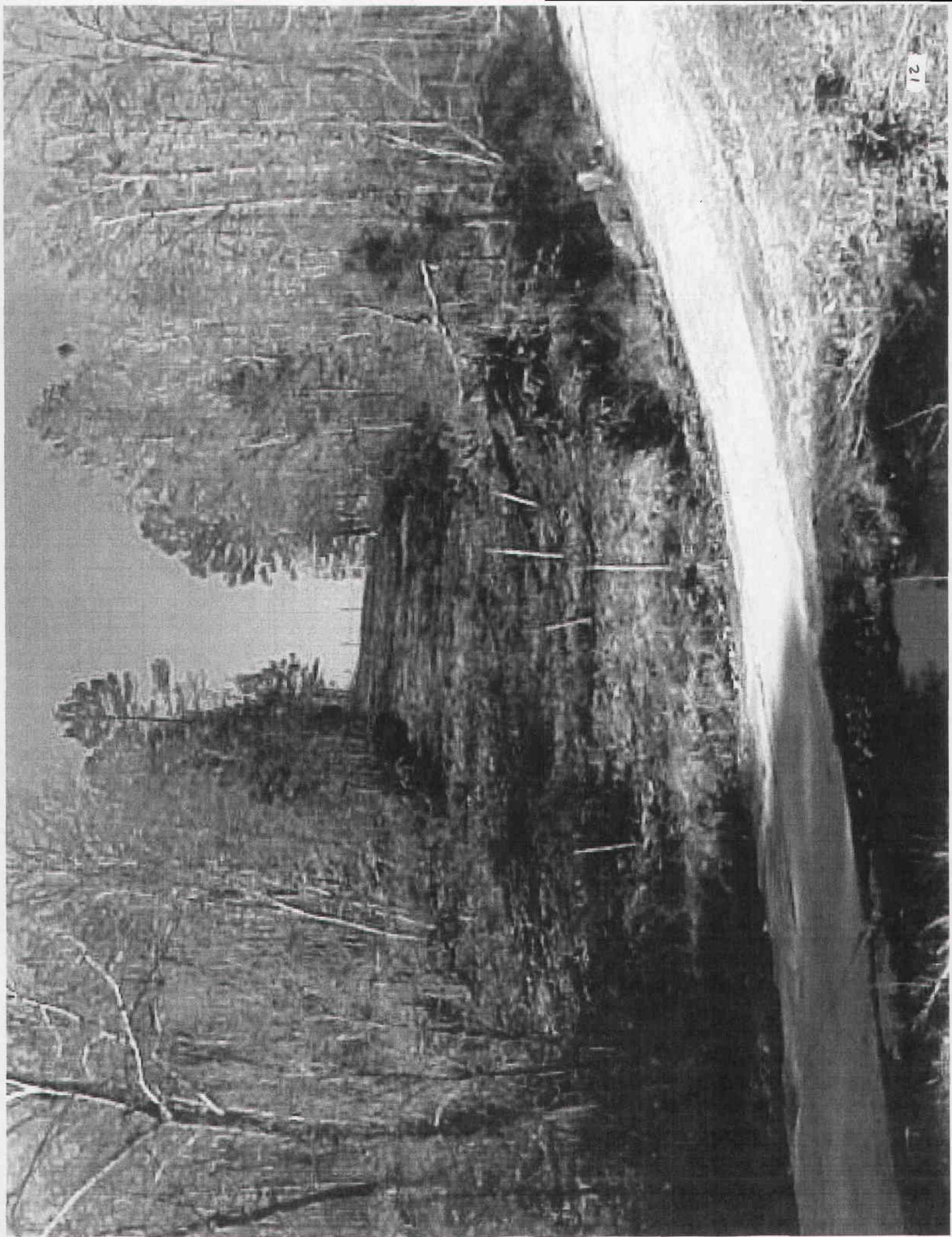


Valve 4-8 After looking South





















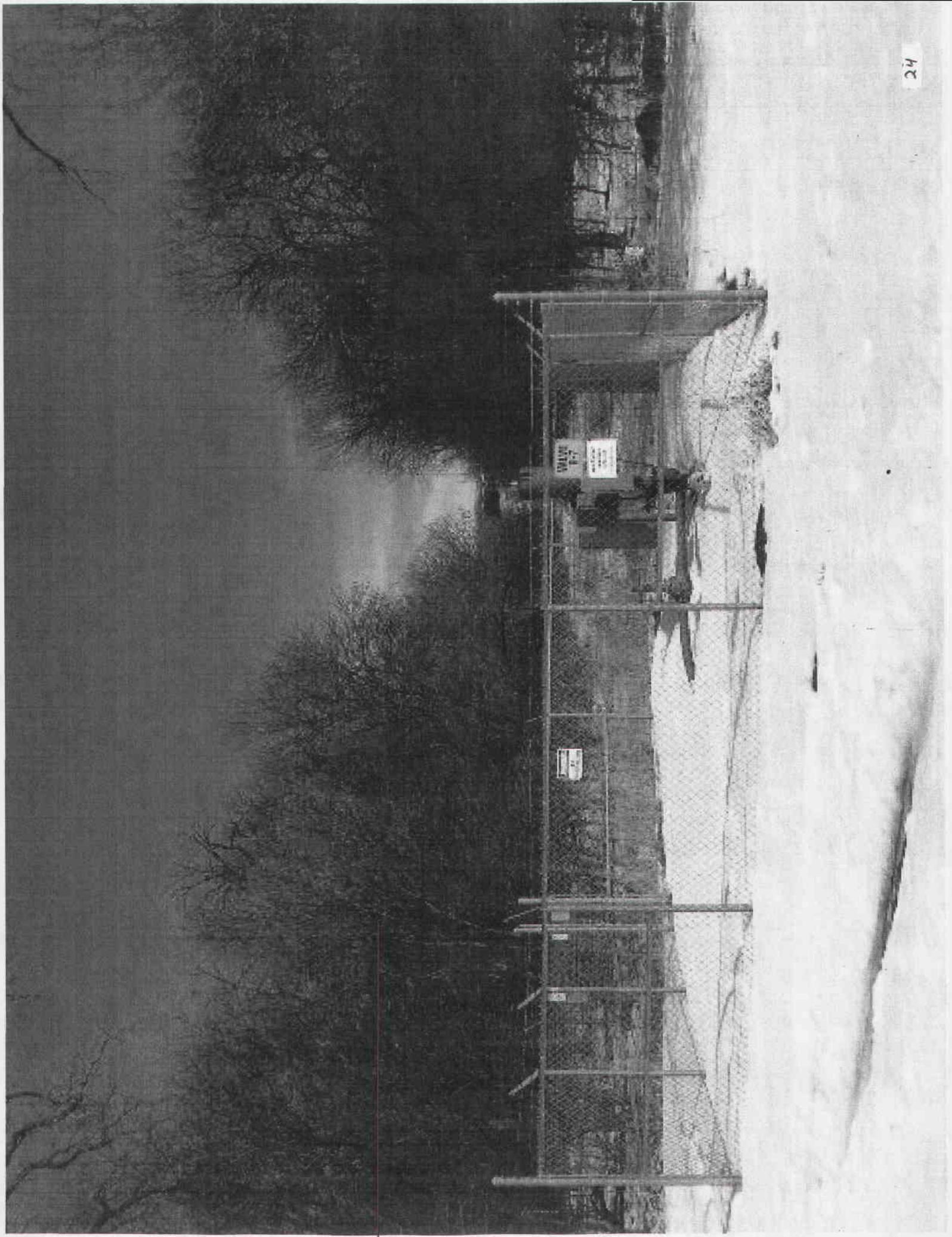


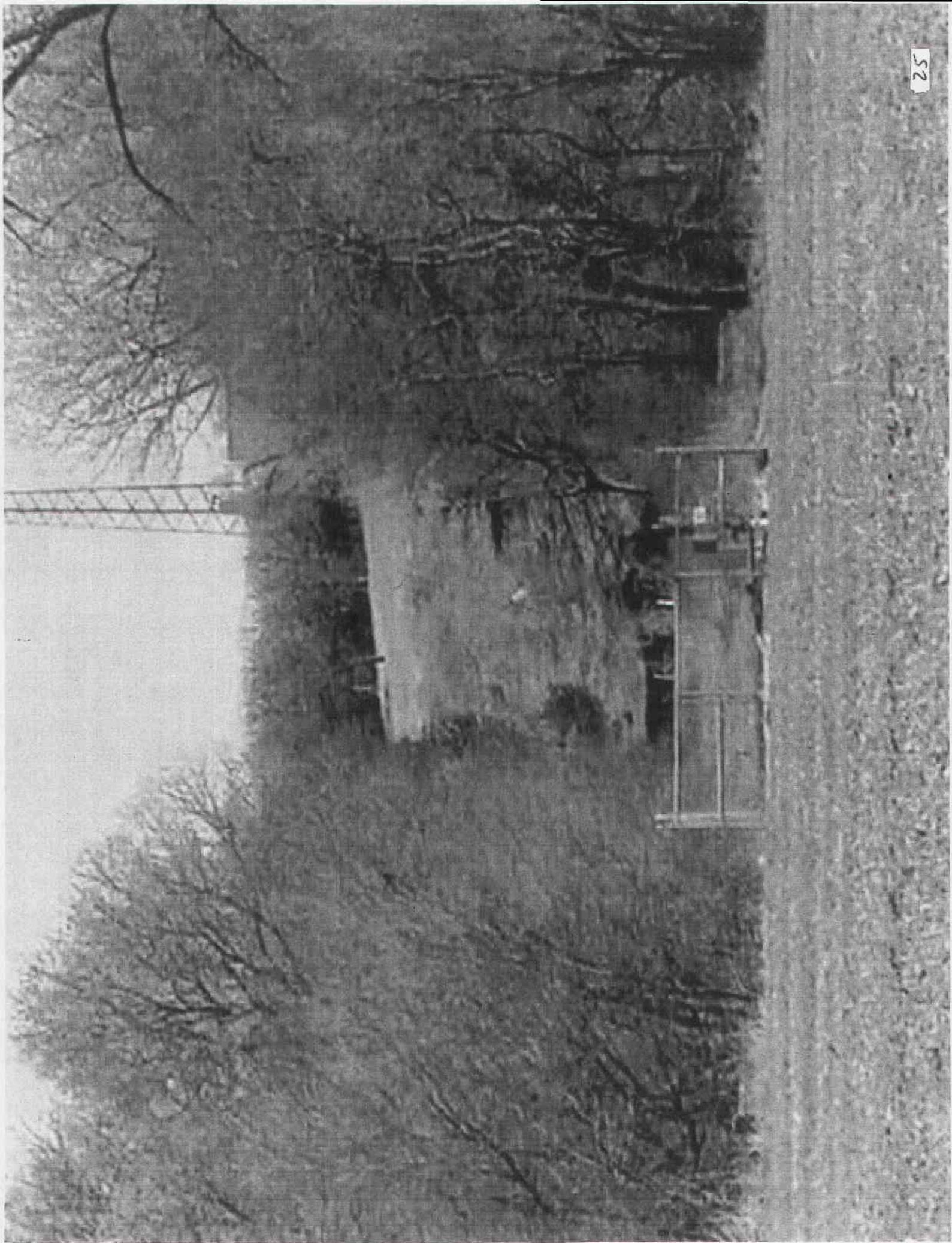












26



