

Coalville City Council
Special Meeting
HELD ON
December 28, 2015
IN THE
CITY HALL

Mayor Trever Johnson called the meeting to order at 6:00 P.M.

MAYOR AND COUNCILMEMBERS PRESENT:

Mayor Trever Johnson
Councilmembers: Steven Richins,
Adrienne Anson, Arlin Judd,
Rodney Robbins, Jodie Coleman

CITY STAFF PRESENT:

Sheldon Smith, City Attorney
Shane McFarland, Community Director
H. Zane DeWeese, Public Works Director
Nachele Sargent, City Recorder

PUBLIC IN ATTENDANCE:

Tyler Rowser, Camellia Robbins, Gibeon
Robbins, James Goodley, Cindy Gooch, Ed
Keyes, Jessica Keyes

Item 1 – Roll Call:

A quorum was present.

Item 2 – Pledge of Allegiance:

Mayor Trever Johnson led the Council, Staff, and Public in the Pledge of Allegiance.

Item A – Discussion and Decision of the Keyes Family Appeal from the Planning Commission:

Mayor Trever Johnson stated Sheldon Smith had some updates that needed to be discussed with the City Council.

A motion was made by Councilmember Steven Richins to move to an executive session to discuss potential litigation issues. Councilmember Rodney Robbins seconded the motion. All Ayes. Motion Carried.

Roll Call:

Councilmember Robbins – Aye

Councilmember Richins – Aye
Councilmember Anson – Aye
Councilmember Coleman – Aye
Councilmember Judd – Aye

The Council moved to an executive session at 6:04 P.M.

The Council returned from an executive session at 6:38 P.M.

City Attorney, Sheldon Smith, stated in discussion with the Keyes Family attorney, he had allowed the stipulation for a denial of the Planning Commission appeal without coming to the City Council. He stated on December 18, 2015 he received the paperwork (Exhibit A) for an appeal before the Council which was different than what was discussed. Sheldon Smith stated he informed Mr. Dubois the City would hear the appeal on December 28, 2015. He stated this morning he received an Email from Mr. Dubois informing him that he would not be able to attend tonight's meeting and Ben Keyes was out of town and would not be able to attend the meeting. Sheldon stated Mr. Dubois requested a continuance for this hearing to allow him and Mr. Keyes to be able to attend. He stated the Council could choose to go ahead and make the decision tonight or they could choose to continue the hearing for another time. Sheldon suggested continuing the hearing to a week from today to hear the appeal. He stated it would be a special meeting to just hear the appeal.

A motion was made by Councilmember Arlin Judd to continue the Keyes Family Appeal hearing to January 4, 2016 at 6:00 P.M. Councilmember Steven Richins seconded the motion. All Ayes. Motion Carried.

Councilmember Jodie Coleman stated she felt this should be the final opportunity for the appeal so they could get the issue wrapped up before the new Council came on board. Ed Keyes questioned why it had to go before this Council. He stated it shouldn't matter who was on the Council. Councilmember Arlin Judd stated they had put a lot of time in on this issue and would like to have a resolution. Sheldon Smith stated it would be easier than having to try and bring the new Council up to speed on all of the information. He stated he would contact Scott Dubois to let him know the Council's decision.

Councilmember Jodie Coleman had to leave the meeting at this point.

Item B – Discussion of CDBG Grant Options – Cindy Gooch:

Shane McFarland stated in November the Council approved the CIP list which included water projects and the secondary water reservoir repair. He stated it had been submitted

to the people at Mountainland Association of Governments and he had met with them to review the projects. Shane stated Cindy Gooch was here tonight to help the Council understand the options to help decide if they wanted to apply for the Grant. Cindy Gooch stated the City would need to do a survey if they wanted to apply for the CDBG Grant. She stated if they decided to do a large project like the secondary water pond repair, the entire City would have to be surveyed. She stated if they did a small area like spot water lines, they would only have to survey the people directly in that area. Cindy stated one of the big point items for the Grant would be to have matching funds. She stated the Council needed to be conscientious of that. She stated if we had a 30% match we would get more points. She stated the City should have some type of matching funds and questioned if there was any money available. Mayor Trever Johnson questioned if any of the monies from the Water Master Plan projects funding could be used for matching funds. Cindy Gooch stated only the loan money would be able to be used. She stated if the project was tied to the water projects it would work, but it would not work for the secondary water pond. We would also need to hold a public hearing to discuss potential projects. She stated the application would be due January 29, 2016. Shane McFarland stated that was one of the reasons they wanted to have this discussion. He stated the best option would be one of the water projects, but the priority would be the secondary water pond. Mayor Trever Johnson stated he would look at options to present to the City Council. He stated the secondary water pond issue needed to be addressed, but the money would go further with the water projects. Cindy Gooch stated the City should do the big survey. She stated the survey would last for four years. Mayor Trever Johnson questioned who did the survey. Cindy stated the Council did the survey last time. She stated you could have a Scout group or a group of volunteers. She stated the best process was to do a newsletter or letter from the Mayor informing the citizens of the survey and the dates when they would be doing it. She stated the survey would need to be completed and calculated by January 27, 2016.

Item C – Review, Discussion, and Possible Approval of the Final Change Order for the Waste Water Treatment Plant and Project Update – Jim Goodley:

Jim Goodley stated he was here for approval for the final change order for the Waste Water Treatment Plant. He stated this would be change order #7 for a total of \$72,200 (Exhibit B). He stated one of the items the USDA did not approve was the Dump truck. He stated it was included in the funding when we borrowed the money so he would check on that. Jim stated at this point there was \$129,000 left in contingency which would go toward the South Lift Station and Force Main project. He stated the USDA was willing to fund the difference for that project and he would make application for the cost overrun. The estimate total for the project was \$460,000. Mayor Trever Johnson stated all of the information on the change order had been brought up at the construction meetings,

which had been attended by himself, Councilmember Judd, and Councilmember Richins, and had been negotiated and approved.

A motion was made by Councilmember Adrienne Anson to approve Change Order #7 for the Waste Water Treatment Plant as presented. Councilmember Rodney Robbins seconded the motion. All Ayes. Motion Carried.

Jim Goodley stated the plant had been in full operation since the end of July with good results. He stated there were a few items left on the final punch list and then we should be able to close this project. He stated the Building Inspector had issued a Certificate of Occupancy. Jim Goodley stated the City did an energy efficient incentive program with Rocky Mountain Power. He stated they had approved the data that was provided to them showing the cost saving measures and the City should be receiving \$30,000 for that incentive.

Item D – Review, Discussion, and Approval of New Planning Commission Members:

Item E – Review, Discussion, and Approval of New Board Of Adjustment Members:

A motion was made by Councilmember Arlin Judd to table Item D and Item E and continue them at the January 11, 2016 Council Meeting. Councilmember Steven Richins seconded the motion. All Ayes. Motion Carried.

Item F – Public Works Updates – Zane DeWeese:

Zane DeWeese informed the Council they were keeping up with the snow removal efforts and the daily tasks. Mayor Trevor Johnson stated they had been doing a great job. He stated they were out plowing snow on Christmas Day and out on Sunday repairing a water leak.

Councilmember Arlin Judd questioned if the Public Works was tagging the vehicles parked on the street that hindered the snow removal. Zane DeWeese stated there was an ordinance in place and they would enforce it if the Council wanted them to. The Council decided they would like to follow through with the enforcement and procedure for tagging vehicles.

Councilmember Rodney Robbins stated he would like the snow moved more to the side when they plowed past Food Town. He stated they had been plowing in Bell's property in that area and people needed to be able to get in and out.

Councilmember Rodney Robbins stated the sidewalk by the Brown's residence had a chunk of sidewalk missing from when they did a water repair. Zane DeWeese stated they were aware of it and it was on the list for repair in the Spring.

Item G – Community Development Updates – Shane McFarland:

Shane McFarland stated the City should hear about the USDA funding for the Water improvements the first week of January.

Shane McFarland stated the Mayor had approved for him to start working with Weber Basin on the Water Contract. He stated they agreed to give the City the District 2 price for the full amount of water. He stated the contract negotiation would resume after the first of the year.

Item H – Legal Updates – Sheldon Smith:

Sheldon Smith stated he was able to work with the owners of the scales that were located in the 50 West platted street. He stated the Eikenberry's signed an agreement to turn them over to the City and the scales were now Coalville City's.

Item I – Council Committee Updates:

Mayor Trever Johnson stated the Light Parade was well received and a good event for the City. Councilmember Arlin Judd stated he would like to have a final cost analysis for the Light Parade. Niki Sargent stated she would have one put together for review.

Councilmember Adrienne Anson stated after the public hearing on the Fairgrounds, she contacted Anita Lewis and would be meeting with her tomorrow. She stated she wanted to talk with Ms. Lewis to get an idea of where the County was coming from and hoped to interact and make things good for both the County and the City. Councilmember Anson questioned if the Council had any ideas or items that they wanted her to bring up to Ms. Lewis for discussion. She stated she wanted to see what the options were for the Fairgrounds and Ms. Lewis' interpretation of how the meeting went. Sheldon Smith informed the Council the agreement with the County was if they no longer use the current Fairground property for the Fair, the property would revert to the City.

Item E – Mayor's Updates:

The Mayor did not have any updates.

Item #4 – Review, Discussion, and Possible Approval of Minutes:

The Council reviewed the minutes of the November 17, 2015 meeting.

A motion was made by Councilmember Arlin Judd to approve the minutes of November 17, 2015 as written. Councilmember Steven Richins seconded the motion. All Ayes. Motion Carried.

Item #5 – Review and Possible Approval Of Accounts Payable:

The Council reviewed the Accounts Payable for December 2015.

A motion was made by Councilmember Steven Richins to approve the Accounts Payable for December 2015. Councilmember Adrienne Anson seconded the motion. All Ayes. Motion Carried.

Item # 6 – Adjournment:

A motion was made by Councilmember Steven Richins to adjourn the meeting. Councilmember Rodney Robbins seconded the motion. All ayes. Motion Carried.

The meeting adjourned at 7:48 P.M.

Attest:

Nachele D. Sargent, City Recorder

Trevor Johnson, Mayor



1745 Sidewinder Drive
Park City, Utah 84060
(435) 649.2525
f (435) 649.5959

"Exhibit A"
City Council 12/28/15

December 18, 2015

VIA CERTIFIED MAIL AND EMAIL:

Coalville City Recorder's Office
Attn: Nachele Sargent
10 North Main Street
Coalville, Utah 84017

Re: Appeal to City Council – Keyes Family Farm

Dear Coalville City Board of Adjustment:

On September 15, 2014, the Coalville Planning Commission ("Planning Commission Council") held a public hearing on the Keyes Family Trust's ("Keyes") appeal denying Keyes' the right to maintain a new mink housing structure ("Existing Shed") that they constructed, in good faith, on their property. On October 23, 2015, the Planning Commission issued Findings and Decision ("Findings and Decision") and denied the Keyes' appeal. We believe that this denial failed to properly consider all relevant factors and Utah law and should therefore be reversed.

On behalf of the Keyes family, attorneys for the Keyes family respectfully request that the Coalville City Council ("City Council") consider the special circumstances, the evidence available and Utah law, and determine that the Keyes family is entitled to maintain the Existing Shed on their property.

I. BACKGROUND

A. The Keyes' Mink Operation Dates back to 1958 and is Grandfathered.

The Keyes family currently owns over 280 acres of land in Coalville. *See* Keyes' Property Boundary attached hereto as Exhibit 1. Consistent with a rich history of agricultural use in Coalville, the Keyes family began raising mink on their land in 1958. Currently, the majority of this land – and the surrounding land – is agricultural. As a necessary part of a mink operation, Keyes constructed a series of mink sheds to house the mink. At the time these sheds were constructed, the Keyes' property was in an agricultural zone. In approximately 1997, the property was rezoned to R-2 – the Keyes family was unaware that this rezone had been proposed



or approved. In any event, the existing mink operation was grandfathered in and is now a permitted non-conforming use. The mink operation is surrounded by farming and agricultural property on three sides, and is bordered by a commercial property (former car dealership) on the South. *See* West Side Property View attached hereto as Exhibit 2; North Side Property View attached hereto as Exhibit 3; and South Side Property View attached hereto as Exhibit 4.

In approximately 1979, the Keyes family constructed a pipe fence around the existing mink sheds and property used for their mink operation and in 2010, they converted the pipe fence to a solid fence that is approximately six feet tall. The solid fence is in the same location as the 1979 fence. The fence runs parallel to Main Street and is situated approximately 26 feet from the road. Two pictures of the road facing a portion of the fence are attached as Exhibit 5. The fence also runs between the Keyes' property and the commercial property to the south. A picture of the south facing fence is attached as Exhibit 6. This fence effectively blocks the view of the Keyes property if one is traveling on Main Street or standing on the south side of the property.

B. The Keyes Family Understood that no Building Permit was Required to Construct the Existing Shed in 2014.

In spring of 2014, the Keyes family constructed the Existing Shed in order to house additional mink. The Existing Shed was constructed within the confines of the existing fence bordering Main Street and is consistent in scope with the series of previously constructed sheds on the farm. *See* Photo of Mink Sheds attached hereto as Exhibit 7.

Prior to the construction of the Existing Shed, the Keyes consulted with state representative Mel Brown, as well as several other sources, regarding the necessity of obtaining a building permit for the Existing Shed. As part of these discussions, the Keyes and their advisors thoroughly reviewed the City Code as well as the Utah State Code for guidance relating to the construction of an agricultural building. As discussed in more detail below, the Keyes family was advised that Section 15 of the Utah State Code exempts an agricultural structure from building permit requirements. *See* Utah Code Ann. §15A-1-204(7)(a). In turn, the Coalville building permit sets forth setback requirements. *See* Coalville City Building Permit Application attached hereto as Exhibit 8. Because no building permit was needed and because the structure was being built on land historically used for the mink operation (and within the existing fence that had been in place since 1979) the Keyes did not believe that the Existing Shed needed to comply with any city setback requirements.

For this reason, the Keyes family did not seek a building permit or other approval from the City because they believed in good faith that they did not need to get the City's sign off. At no time did the Keyes exhibit an intent to disobey or disregard the City Code or any applicable

City ordinances. Rather, the Keyes took reasonable steps to investigate the requirements for building a new shed and acted in good faith on the results of their investigation.

In the spring of 2014, the City issued a notice that the Existing Shed was purportedly in violation of City Code. *See* City Notice attached hereto as Exhibit 9. On September 15, 2014, the Keyes appeared before the Planning Commission, and the Existing Structure was determined to be an “expansion” of a nonconforming use in violation of LMC §10-4-080. After the September 15, 2014 hearing, attorneys for the Keyes family contacted the City attorney to discuss appeal of the Planning Commission Decision. There was then a suggestion by the City that in lieu of appealing the Planning Commission’s decision, the Keyes should instead seek a CUP. Thus, on December 3, 2014, based on this recommendation, the Keyes filed their Application for Conditional Use Permit (“Application”). Despite the City’s recommendation, on August 26, 2015, the City Council denied the Keyes’ CUP application.¹ Consequently, the Keyes family is unfortunately now in a position where they need to appeal the Planning Commission’s September 15, 2014 decision.

II. BASIS FOR APPEAL

The Keyes family is appealing the Findings and Decision of the Planning Commission because they are based upon an erroneous application of City Code, ignore state law and are not supported by the evidence. With respect to the Findings and Decision, appeals to the Coalville City Council are reviewed for factual correctness as well as correctness of the decision of the Planning Commission in its interpretation and application of the Code. In other words, if the Planning Commission’s legal or factual conclusions are deemed to be incorrect, the City Council should reverse the Planning Commission’s Findings and Decision.

A. Issue and Finding 1 – “Does the state Construction Code exempt Keyes from having to comply with Coalville City land use regulations, and specifically setbacks and other zoning ordinances?”

The Planning Commission correctly states that Utah law did not require the Keyes to obtain a building permit to construct the Existing Shed. *See* Findings and Decisions at 4. The attorney for the City also agrees that the Keyes is not subject to the requirements of the building permit. *See* Coalville City Planning Commission Minutes at 4, a copy of which has been attached hereto as Exhibit 10. Specifically, the Existing Shed is an agricultural building and is exempt by

¹ Of note, the CUP application was sent directly to the City Council, who conducted a public hearing, rather than first being reviewed and considered by the Planning Commission. It is unclear why the City elected to skip the step of submitting the CUP Application to the Planning Commission, where there could have been some meaningful discussion of the conditions that might be placed on the Keyes family’s operation in relation to the Existing Shed.



Utah law from all the requirements of the building permit (“Agricultural Exemption Provision”). See Utah Code Ann. §15A-1-204(7)(a).

In relevant part, the Agricultural Exemption Provision states:

[A] structure used solely in conjunction with agricultural use, and not for human occupancy, is exempt from the **permit requirements** of the **State Construction Code**.

Id. (emphasis added). At a minimum, Utah state code states that the building permit requirements of any municipality must include the name, address, tax parcel number, and other basic information. See Utah Code Ann. §15A-1-209(3)(a). In addition to the minimum requirements, the State of Utah allows a municipality to add other “additional information” to the permit requirements. *Id.* In the Coalville City Building Permit Application, Coalville City added setback requirements as “additional” information. See a copy of Coalville City Building Permit Application attached hereto as Exhibit 8. Accordingly, the Agricultural Exemption Provision of the Utah State Code exempts the Keyes from all permit application requirements, including the setback requirements.

In addition, the state of Utah allows local municipalities to make amendments to the State Construction Code specific to their location. See Utah Code Ann. §15A-4-101. Multiple municipalities took advantage of this opportunity and made varying amendments to the State Construction Code, including Brian Head Town, City of Farmington, City of North Salt Lake, Park City, Sandy City, Morgan County and Morgan City. *Id.* Specifically, Morgan City and Morgan County, noting that the State Construction Code exempts agricultural buildings from meeting the applicable setback requirements, chose to amend the State Construction Code applicable to their municipalities to require agricultural buildings to meet the applicable setback requirements (“Morgan Amendment”). See Utah Code Ann. §15A-4-204.

Unlike the Morgan Amendment and other similar amendments made by other municipalities, Coalville City has made no attempt to amend the State Construction Code related to setback requirements for agricultural buildings. The Keyes family acted in reliance on the State Construction Code, and Coalville City’s absence of any amendments relating to set back requirements, when planning the location and ultimately the construction of the Existing Shed. The Keyes were in compliance with the City Code when the Existing Shed was constructed because it was not necessary that the Keyes meet any setback requirements.

Moreover, even if the Keyes use of the property is required to meet setbacks, the Existing Shed was built on land that was historically all used as a mink farm and within the confines of the fence that was constructed in 1979. The fence has been 26 feet from the road for 36 years, and was not moved to accommodate the Existing Shed. The fence complied with

agricultural zoning in effect at the time it was built and, as such, is grandfathered as to location following the rezone to R2 in 1997. In other words, there is no actual or visual deviation from the setback on the property that has existed since 1979, which location is grandfathered.

Lastly, during the September 15, 2014 Meeting, an attorney hired by the City stated an opinion that the City has the right to ignore the Agricultural Exemption Provision and enforce setback requirements by way of city ordinance. However, this position lacks legal support. Utah law provides that any city ordinance concentrating on the same subject as a state statute is invalid if the ordinance is inconsistent with state law, including a statute. *See Salt Lake City v. Kusse*, 97 Utah 113; *see also Hatch v. Boulder Town Council*, 2010 UT App 55, P16. Although Mr. Smith correctly states that the City has power to enact land use ordinances pursuant to §10-10-9a of the Utah code, the City is not permitted to enact a separate land ordinance – such as a zoning ordinance -which is contrary to the Agricultural Exemption Provision. As discussed above, the Agricultural Exemption Provision does not require the Existing Shed to conform to the standards and requirements found in the Building Permit Application, including the setback requirements. Consequently, any City ordinance, which attempts to invoke a setback requirements contrary to the plain language and intent of the Agricultural Exemption Provision is invalid and unenforceable.

B. Issue and Finding 3 – “Is the Keyes mink operation “grandfathered” so as to allow Keyes to expand its operation by construction of an additional mink shed?”

In the Findings and Decision, the Planning Commission correctly concede that the Keyes’ property enjoys a non-conforming status or is “grandfathered,” which allows it to operate a mink operation, despite the rezone of the property to an R-2 zone. *See Findings and Decisions at 4.* The Planning Commission incorrectly states that the Keyes were prohibited from constructing the Existing Shed because it is considered an “expansion” pursuant to Section 10-4-080 of the City Code. The Planning Commission misinterpreted the language and intent of this Section. Specifically, Section 10-4-080(A) of the City Code states that the nonconforming use of the land can continue if:

No one enlarges or increases such nonconforming use or extends such use to occupy a greater area of land that was occupied at the effective date of adoption or amendment of this Title.

Id. As stated above, the Keyes have been using the subject property as a mink operation since 1958 (and the property used for the mink operation has been encircled by a fence since at least 1979). Consequently, for close to 60 years, and as a vital part of the mink operation, the Keyes have used on the same plot of land to accommodate all aspects of their mink operation,



including the construction of mink sheds. See a photograph of the mink sheds attached hereto as Exhibit 7. During this time period, the entire portion of land where the Existing Shed currently sits has strictly been used for operations related to the mink business. The construction of the Existing Shed has in no way increased or expanded the use of this portion of the land beyond its historic nonconforming use as part of the mink operation. No additional land was added or annexed into the mink operation. Simply put, despite the construction of the Existing Shed, no more land is being used for the mink operation than has previously been used.

Moreover, even if the addition of the Existing Shed were considered to be an enlargement of the use of land, which it is not, Courts have recognized and established a strong tradition of allowing legal nonconforming land to accommodate some increase in operations. Courts also recognize that “natural expansion” and growth of trade can cause a business to grow to the extent that it fully utilizes the entire legal non-conforming tract of land. See *Humphreys et al. v. Stuart Realty Corporation et al.* 73 A.2d 407, 409. Further, courts have recognized that the use of legal nonconforming tract of land expand and are driven by market force, and that the business occupying the land must fluctuate with the needs of the industries. See *A. Carrdi Realty Associates v. Smith*, 786 A.2d 354. In *A. Carrdi*, the court reasoned that a landowner could expand a pre-existing non-conforming business where the landowner was engaged in such a business on the property prior to passage of the zoning ordinance, which may include utilizing more land than what was originally used by the business when the zoning ordinance was passed. *Id.* at 362.

The Keyes have not purposely increased the amount of mink in their operation. When a mother mink gives birth, the number of kits is unknown and can range from 1 to up to 6 or more. This is purely a “natural expansion” as contemplated by the courts. When an unexpected number of kits are born at one time, instead of placing too many mink in one place, they are temporarily housed in the Existing Shed until the number of mink once again decreases. In other words, the Keyes have not increased the size of their operation by increasing the number of mink. The City’s attorney agrees with the courts and commented that a slight increase in mink would not violate the intent of Section 10-4-080(A). See Coalville City Planning Commission Meeting Minutes at 4. Additionally, even if an increase in business has occurred, the courts favor such a “natural expansion” and that natural increase in operations is considered to be part of and allowed by the grandfathered nature of the non-conforming use.

Finally, the Planning Commission incorrectly concluded that the Existing Shed violates Section 10-40-80(D) of the City Code, which states that the nonconforming use of the land can continue if: “No One erects additional non complying structures in connection with such nonconforming uses of land.” *Id.* The Existing Shed is not a “noncomplying structure” as contemplated by the Code. A noncomplying structure is defined as a “building or other artificial structure which complied with a zoning ordinance when it was built, but which would no longer



comply due to ordinance changes.” *See Black’s Law Dictionary 728* (Abridged Sixth Edition, 2009). As discussed above, the Existing Shed is an agriculture building that is not subject to the requirements of the building code, including, but not limited to, setback requirements. Further, the construction and use of the Existing Shed on land historically used as part of the mink operation is grandfathered in, which includes the natural expansion of the nonconforming use. Consequently, Section 10-40-080(D) does not apply the Existing Shed.

III. CONCLUSION

For the forgoing reasons, the Keyes family appeals the Planning Commissions denial of the Keyes’ right to construct the Existing Shed. The Planning Commission erred on multiple findings of fact and conclusions of law, including analyzing the incorrect provisions of the City Code. Correct analysis of the City Code points to the conclusion that the Keyes have not violated their nonconforming use status, and therefore are entitled to continue use of the Existing Structure and begin construction on the Proposed Structure.

The Keyes family does not request a public hearing regarding this appeal. However, if the City Council engages in an internal discussion and deliberation regarding this appeal before issuing a decision regarding the same, the Keyes family would welcome the opportunity to address any questions or concerns the City Council may have.

Respectfully Submitted,

WRONA GORDON & DUBOIS, P.C.

Scott A. DuBois

EXHIBIT 1

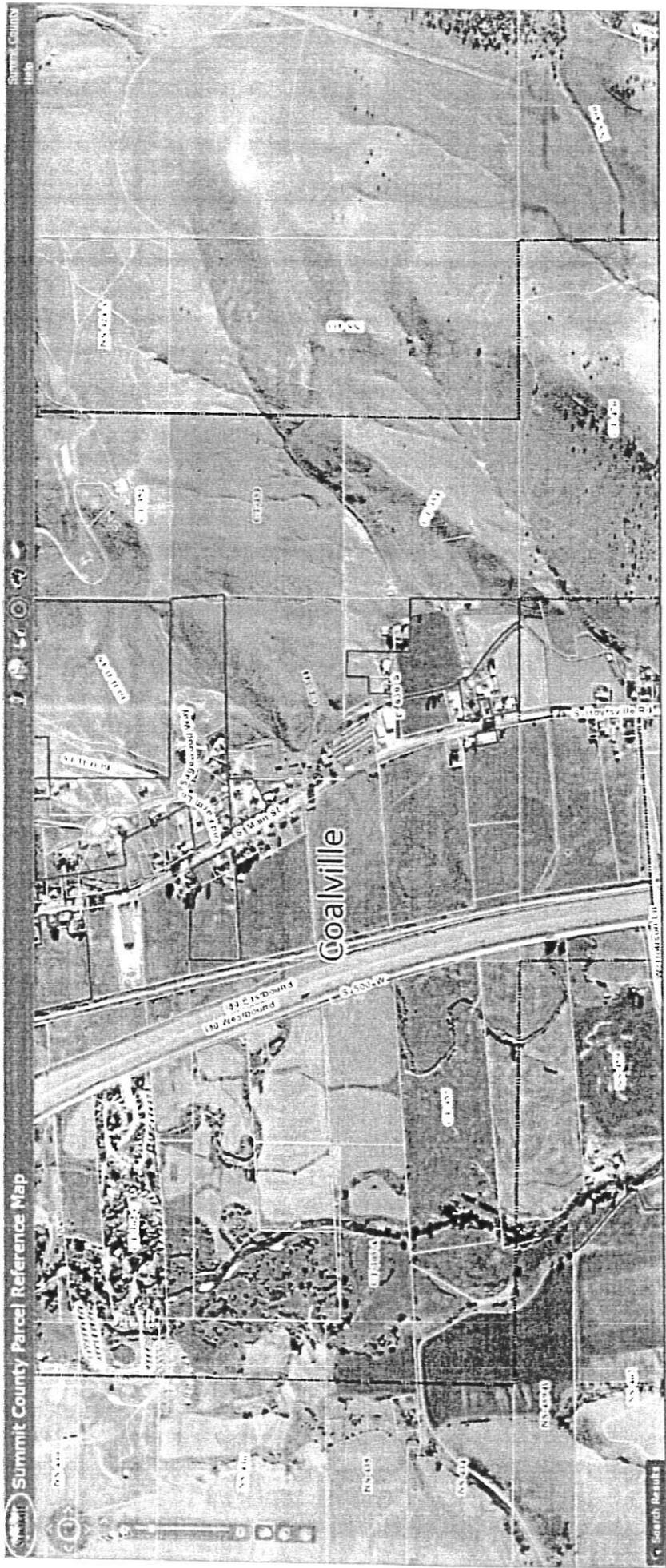


EXHIBIT 2

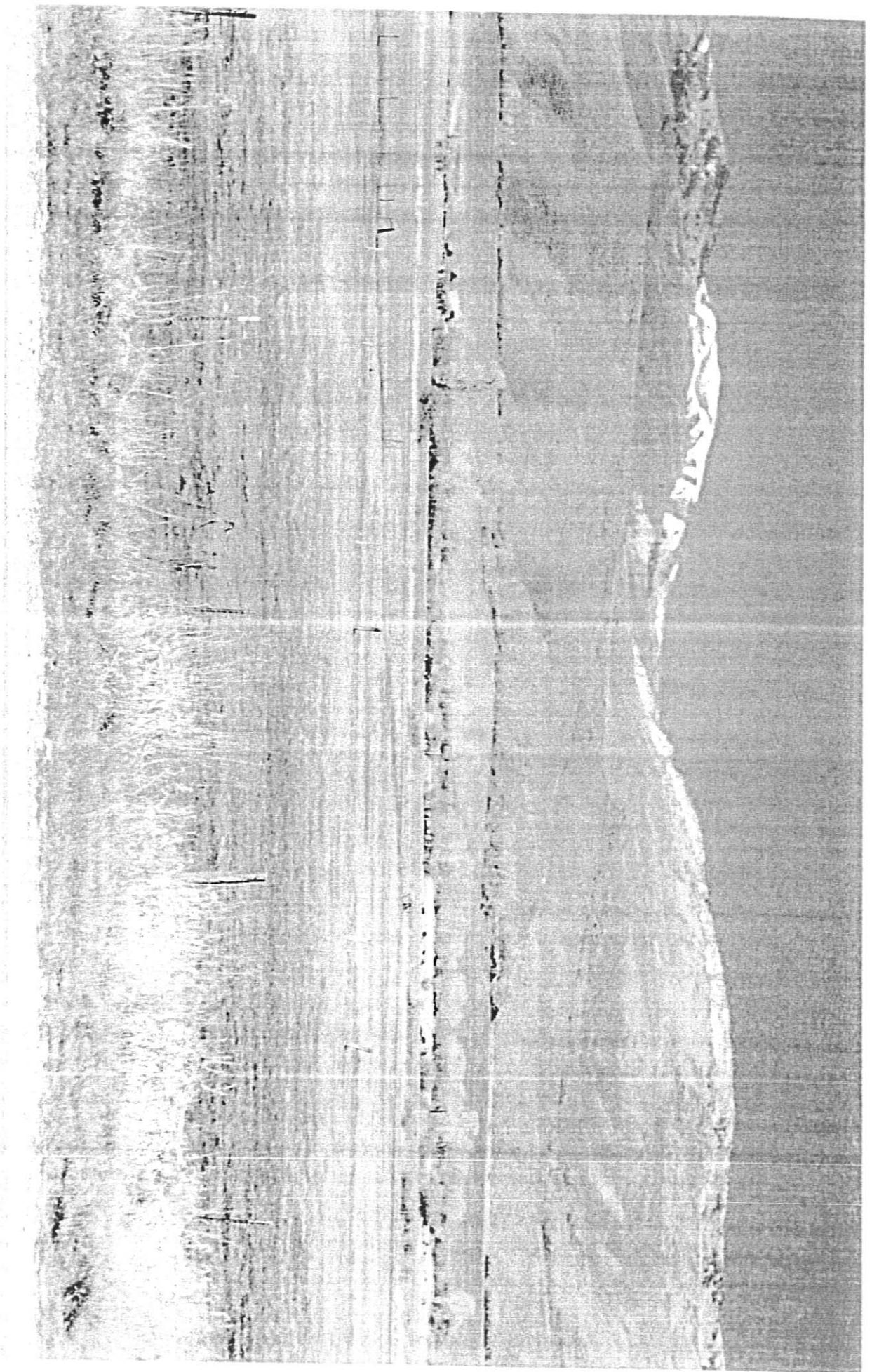


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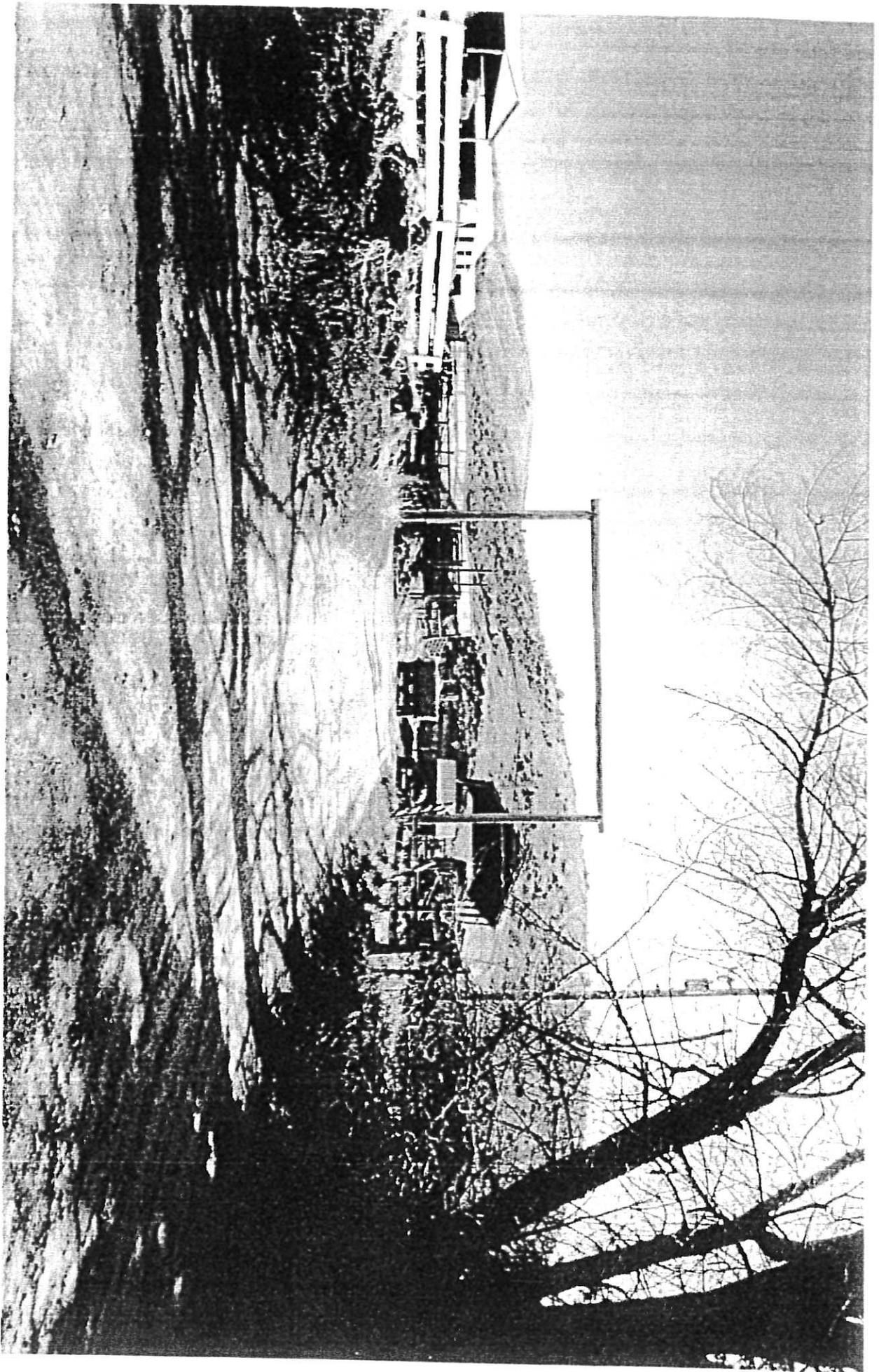


EXHIBIT 4

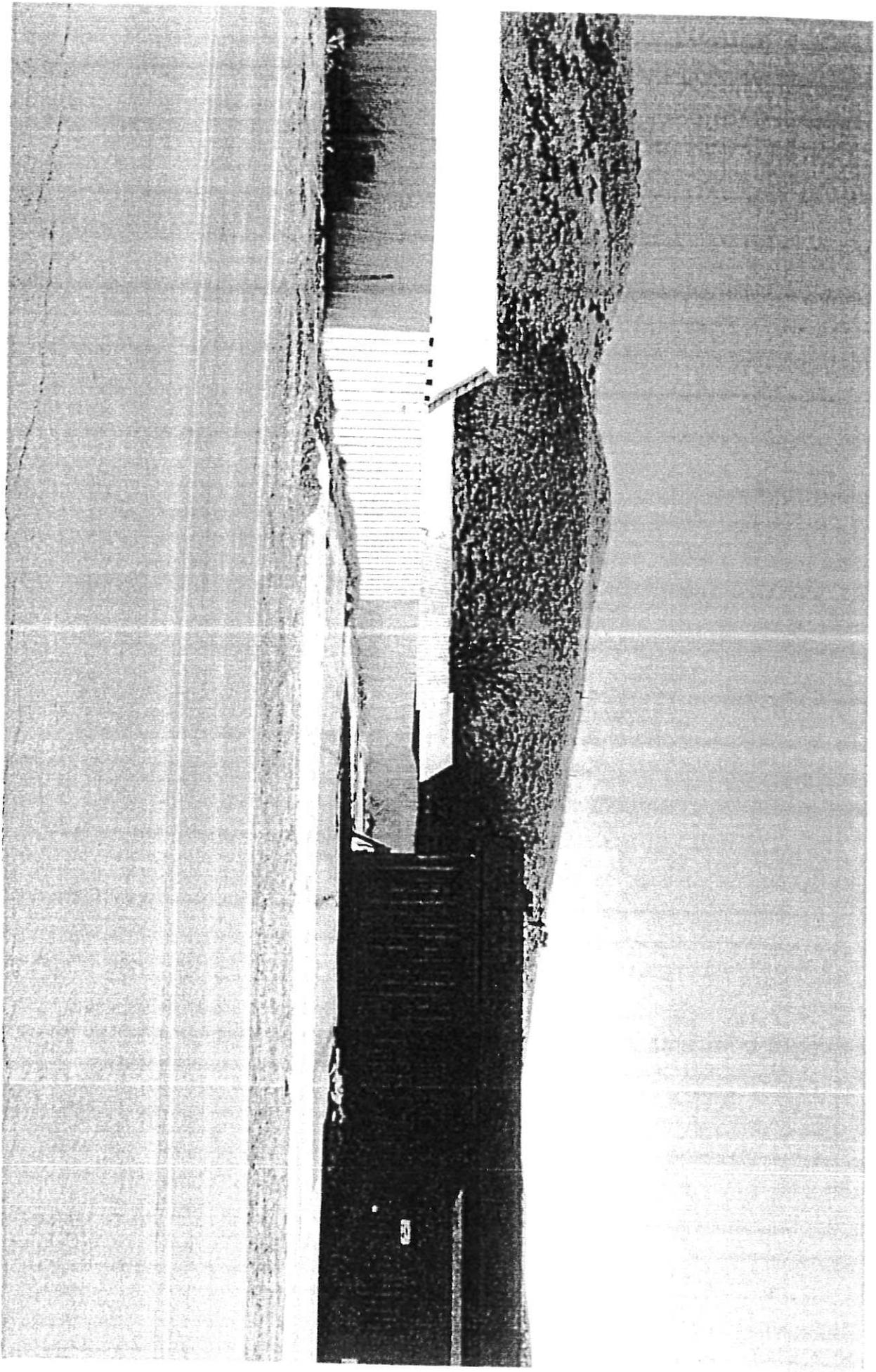
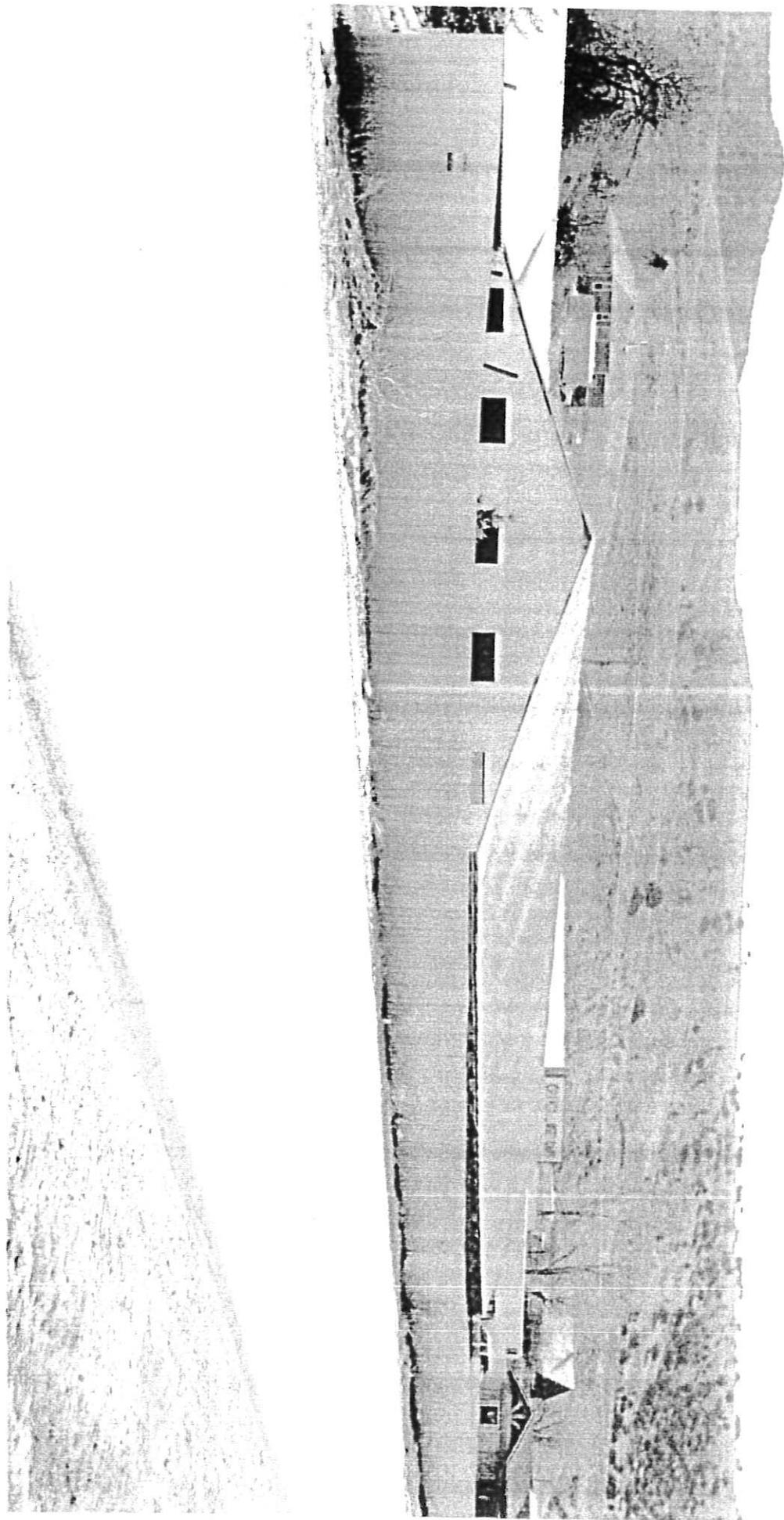


EXHIBIT 5



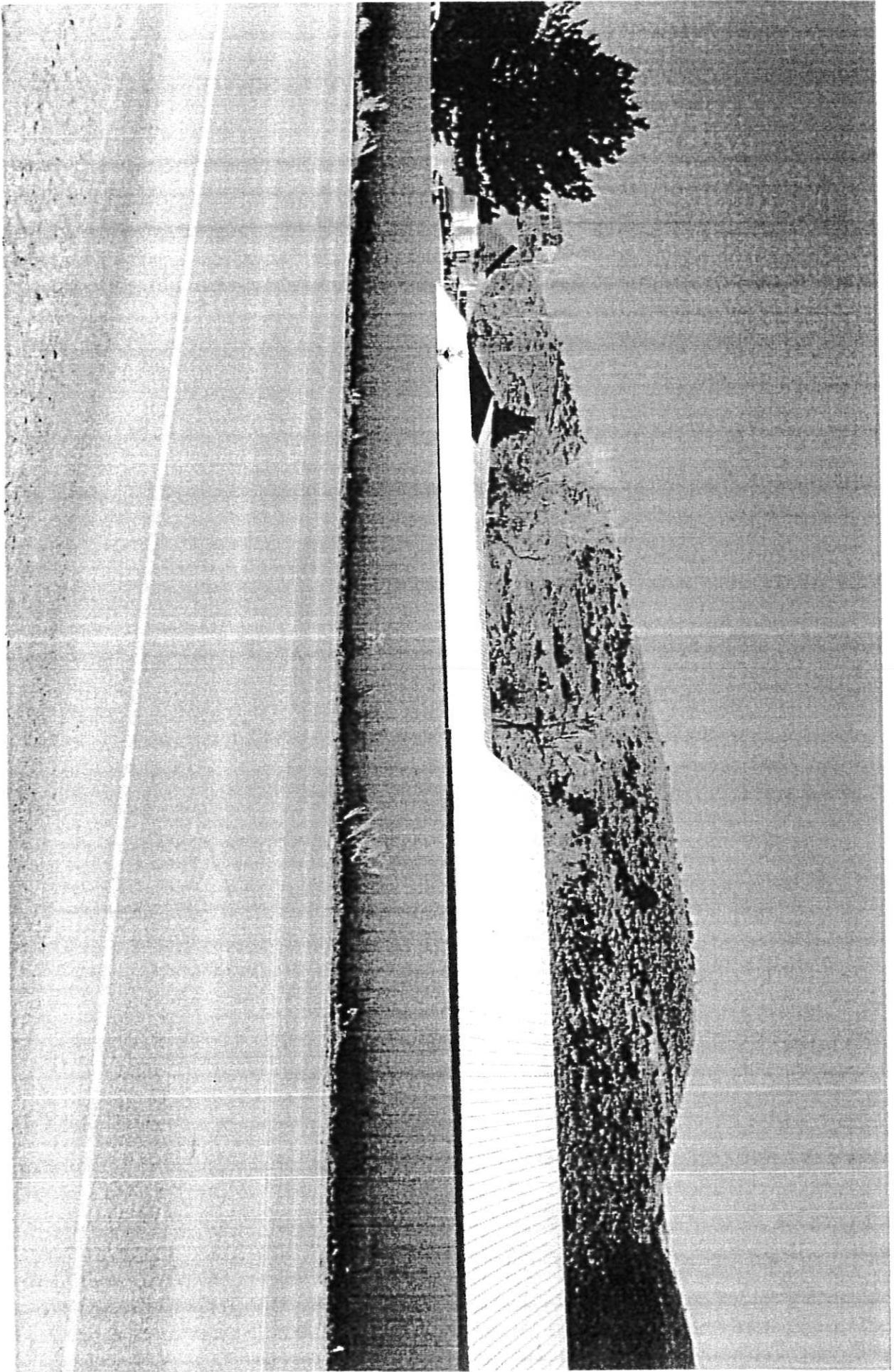


EXHIBIT 6

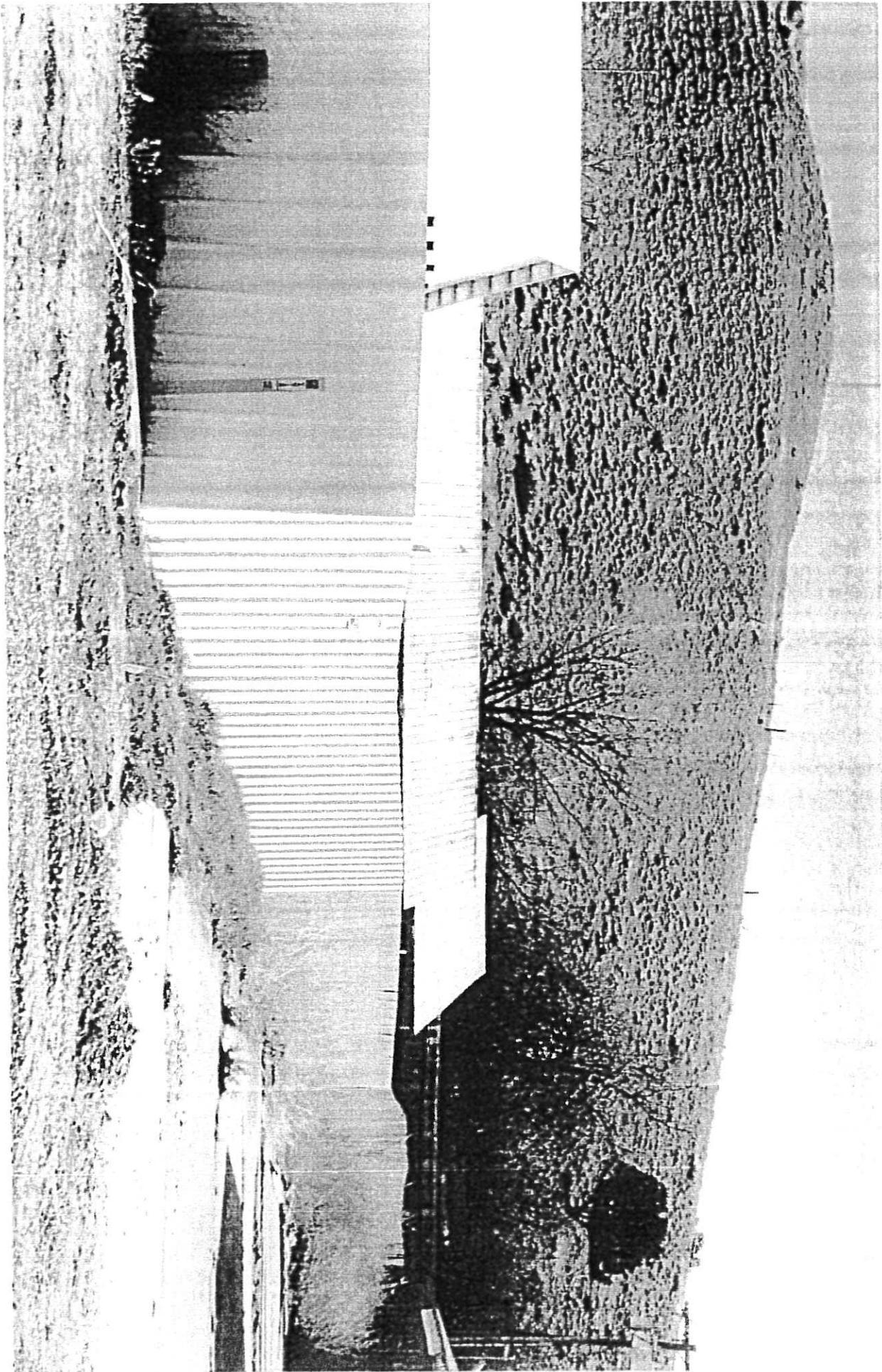
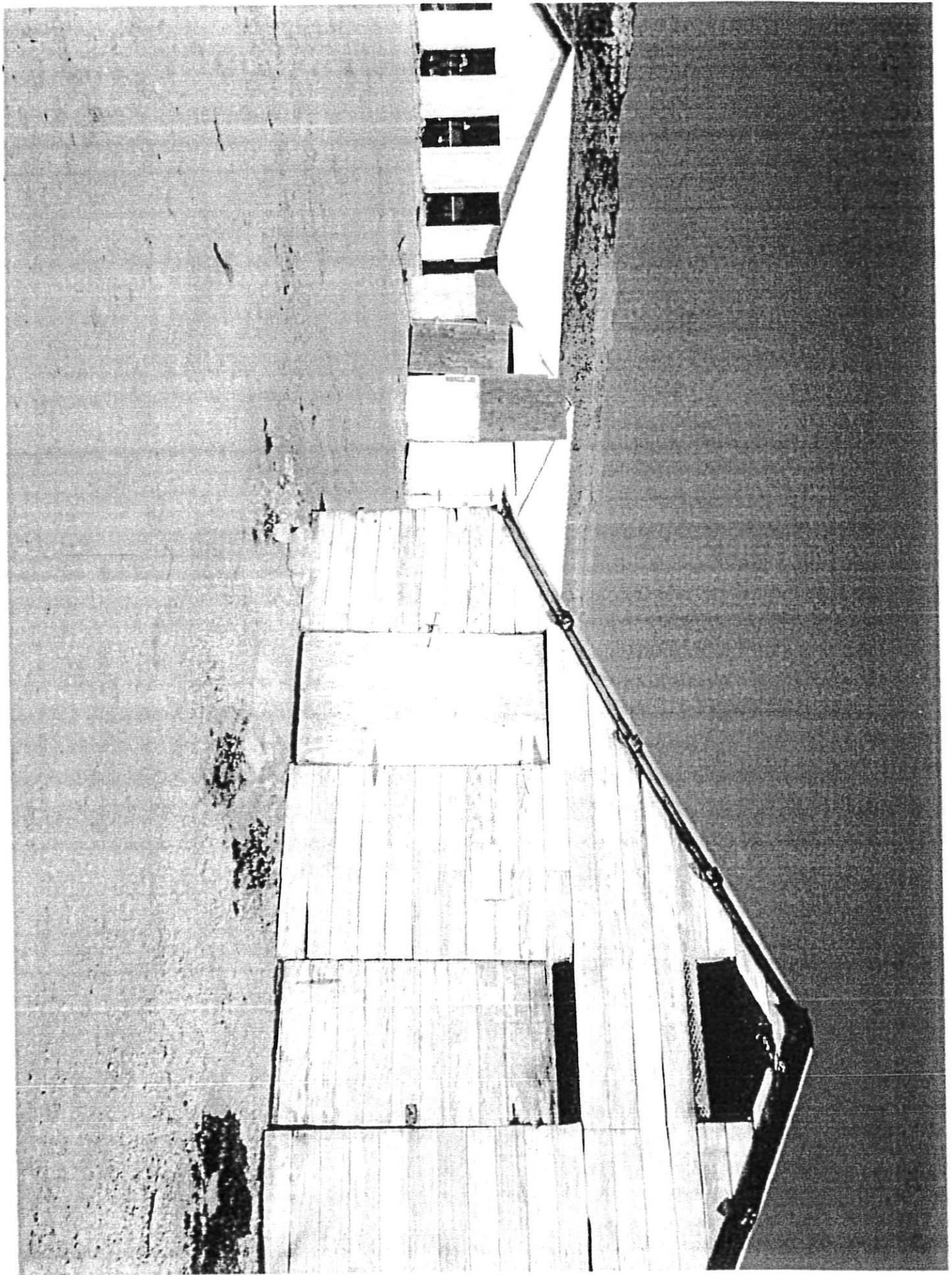


EXHIBIT 7



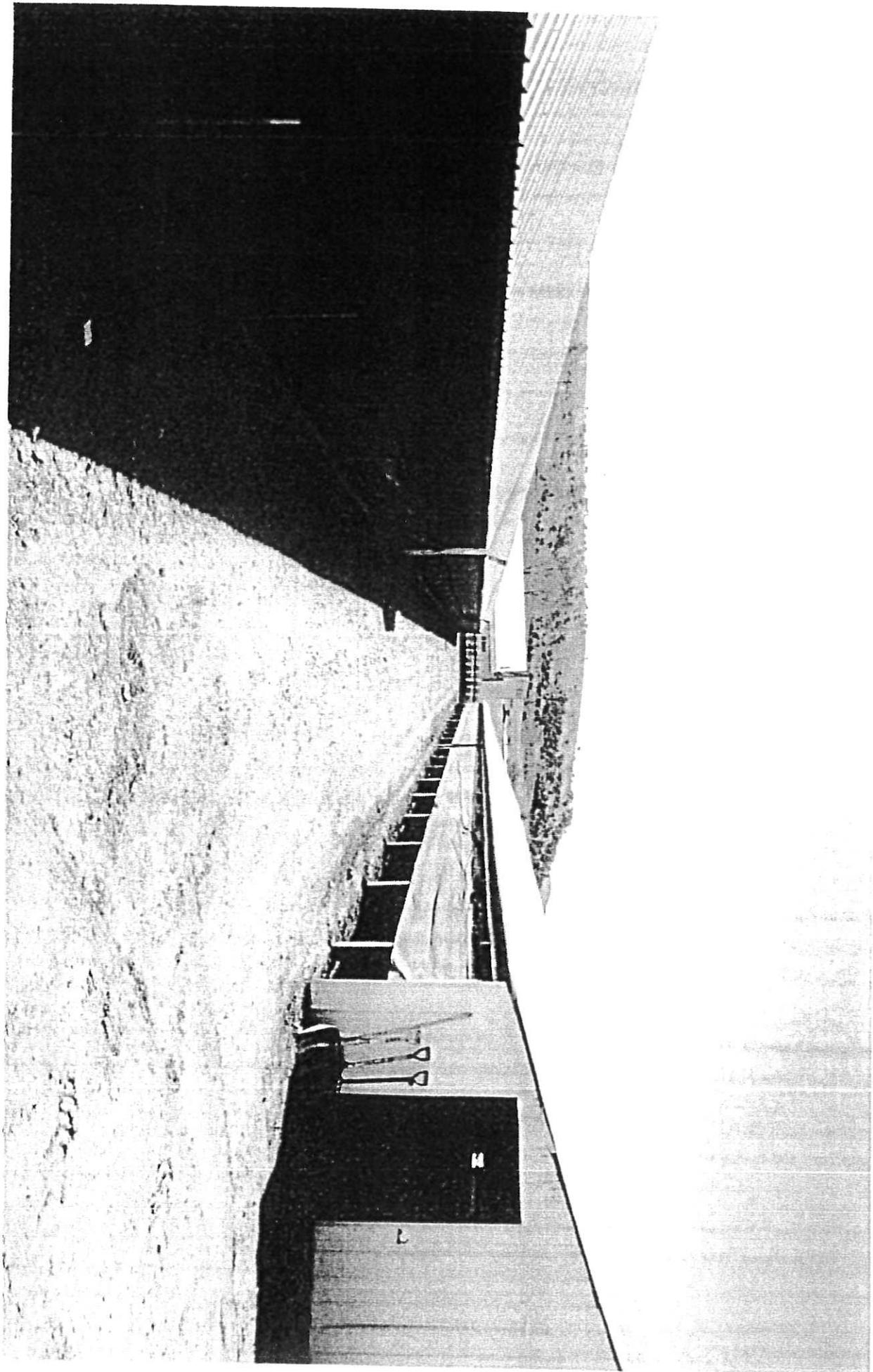


EXHIBIT 8



COALVILLE CITY BUILDING PERMIT APPLICATION
 Phone 435-336-5981 Fax 435-336-2062
 Note: A minimum 24 hour notice is required on all inspection requests.

This side of form for office use only!

Owner or Property: _____ Phone: _____	
Mailing Address: _____	
Bldg. Address: _____	
Proposed use of Structure: _____	Assessor's Parcel No: _____
Subd. Name: _____	Lot #: _____ Date of Application: _____
Acres in Parcel: _____	Building Footprint: _____
# of Bldgs now on site: _____	# of Dwellings now on site: _____ # of out Bldgs on site: _____
Type of Improvement: Construction	
Sign: _____	New Const.: _____ Remodel: _____
Repair: _____	Move: _____ T.U.: _____
Addition: _____	Demo: _____
Architect or Engineer: _____	
Area Code: _____	Phone: _____
General Contractor: _____	
Address: _____	
Lic. No.: _____	
Area Code: _____	Phone: _____
Electrician: _____	
Area Code: _____	Phone: _____
Lic. No.: _____	
Plumber: _____	
Area Code: _____	Phone: _____
Lic. No.: _____	
HVAC: _____	
Area Code: _____	Phone: _____
Lic. No.: _____	

Permit Number	Date Issued	Utah State Permit Number
Square feet of building:		Fees for Building Permit:
Finished Basement		Valuation
Main level		Building Fee
2nd Floor		Plan Review
3rd		Electrical
Garage		Plumbing
Deck		HVAC
Other		Permitted Use
		Water
		Sewer
		Demolition
		Double Fee
		State Law
		Sub Total:
		Impact Fees
		Culinary Water
		Sewer
		Sub Total:
		Total:

Approvals:

Zoning:	Zoning District: _____
Setbacks:	Front Yard: _____ Rear Yard: _____
	Side Yard: _____
	Left: _____ Right: _____
_____ Community Development Director	
_____ Date	

Public Works:
_____ Public Works Representative
_____ Date

Building:
_____ Building Representative
_____ Date

Comments: _____

This permit becomes null and void if work or construction is not commenced within 180 days after permit has been issued, or if construction is suspended or abandoned for a period of 180 days in any time after work has begun. I hereby certify that I have read and examined this application and know the same to be true and correct.

 Signature of Contractor Date

 Signature of Owner Date

EXHIBIT 9



April 16, 2014

Ed Keyes
PO Box 354
Coalville, UT 84017

Regarding: Agricultural Building and Fence located at 551 South Main, Coalville Utah in the Coalville City Right-of-way. This is a Voluntary Correction Notice

Dear Mr. Keyes,

It has come to the attention of Coalville City that a new agricultural building is being built/or has been built within the Coalville City right-of-way located at 551 South Main, Coalville, Utah, that was not permitted or approved. The City does not require a fee to build an agricultural building however the City does require that a permit is filed along with a site plan so that it can be reviewed and approved. The City is of the understanding that you did not come to the City for this approval and when you requested Blue Staking you indicated that it was for landscaping and not for the a new agricultural building. The City asked its Public Works staff to go out and measure where the fence is located and estimate the location of the new building. From this information along with a recent survey it is believed that a portion or maybe all of your new building is in the Coalville City right-of-way.

The information/survey map that was sent to the City requesting the Street Vacation showed that the existing fence was built in the City right-of-way therefore it appears that at least a portion of the new agricultural building is also located in the right-of way. After talking to the City Council on April 14, 2014, they instructed me to write you this letter requiring you to move the building and the fence on to your own property. They also indicated that you be required to follow all setback requirements for the new building. If you feel the location of the building or fence is not in the Coalville City right-of-way it is your responsibility to verify this and to come before the City Council on May 12, 2014 to resolve the issues at hand.

You will be required to submit a building permit and site plan for the new agricultural building and new fence location and because of your lack of obtaining a building permit at the time of construction, you may also be required to pay a non-compliance fee. The building of the new agricultural building does not fall under the current agriculture grandfathering of your property. All new buildings (agricultural and otherwise) must go through the review and site plan approval and must follow all setback requirements as of the date of construction.



At this time no monetary fines have been assessed. However, if the City has to abate the non-compliance, a cost for the expenses for the abatement as well as a monetary fine will be assessed to responsible person/property owners. Below please find a reference to the Coalville City Code that you are in violation of:

Title 7, Chapter 11, 7-11-030, B, 5 & 21 b and g.

B. Nuisances Enumerated: Every situation, conduct or activity listed below constitutes a nuisance and may be abated pursuant to this ordinance. The listed examples are not exhaustive; a situation, conduct or activity not listed below, but coming within one of the general definitions of nuisance listed above, shall also constitute a nuisance. The first six listed nuisances are also listed as nuisances pursuant to Utah Code Annotated.

5. City Code Nuisances: Any violation of a Coalville City Code section that expressly declares a specific situation, conduct, or activity to be a nuisance.

21. Improper Maintenance: Maintenance of buildings and/or structures in such condition as to be deemed defective or in a condition of deterioration or disrepair including, but not limited to:

b. Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of City ordinances, or any use of land, buildings or premises in violation of City ordinances; or

g. Buildings or conditions that violate any building, electrical, plumbing, fire, housing, or other code adopted by the City.

Please contact Coalville City by April 30, 2014 to discuss this matter. If you have any questions, please feel free to contact me at 801-643-1761 or the Coalville City office.

Sincerely,

A handwritten signature in black ink that reads "Cindy Gooch".

Cindy Gooch
Coalville City Community Director

cc
Trevor Johnson, Mayor
City Council
Zane DeWeese, Public Works Manager
Kent Trussell, Building Inspector
Niki Sargent, City Recorder
Planning Commission

EXHIBIT 10

Coalville City Planning Commission
Regular Meeting
HELD ON
September 15, 2014
IN THE
CITY HALL

Planning Chair Tyler Rowser called the meeting to order at 6:00 P.M.

Planning Commission Members Present: Planning Chair: Tyler Rowser
Planning Vice Chair: Mike Peterson
Commissioners: Albert Clark, Dusty France,
Jeff Peterson, Thomas Hoskins

City Staff Present:

Cindy Gooch, Community Development Director
Nachele Sargent, City Recorder
Sheldon Smith, City Attorney
Trever Johnson, Mayor

Public In Attendance:

Don Sargent, Patty Horie, Ben Keyes,
Ed Keyes, Jenna Keyes, J. Craig
Smith; Smith/Hartvigsen PLLC

Item #1 – Roll Call:

A quorum was present.

Item #2 – Review, Discussion, and Possible Recommendation of an Application to Vacate a Platted Street through the property located at 252 South Main including parcel CT-349, CT-374, and CT-363-D:

Cindy Gooch stated Don Sargent and Patty Horie were here to represent their client regarding the street vacation application. Commissioner Tyler Rowser stated this item was discussed and tabled at the last meeting. He stated David Wilde attended the meeting and stated he had no objection to the street vacation. Patty Horie stated they had spoken with David Wilde and he wanted the property lines to stay the same as they were now. Sheldon Smith stated when the street is vacated half of the property goes to one property owner and the other half to the adjoining property owner. He stated any agreement with the property lines would have to be taken care of between the property owners. The vacation process through the City does not take care of that. Cindy Gooch stated one concern the Commissioners had was vacating the intersection of the street that runs North and South. Commissioner Jeff Peterson stated this intersection would allow 50 West to remain open for access to all of the other properties. He stated he felt it would be okay to vacate all of the East/West Street. Patty Horie stated they would

like the entire street including the intersection vacated. She stated the other properties could still be accessed from each side, it just wouldn't run through their property. Patty stated they are not asking to vacate anything else, just the portion that is within their property. Commissioner Thomas Hoskins stated it would create two dead ends, but there would still be access to the other properties. Cindy Gooch stated they would need to provide a map with the description of the street vacation. She stated it would have to specify they wanted to vacate just the platted streets within their property lines.

A motion was made by Commissioner Thomas Hoskins to recommend and approve the street vacation East and West and the intersection North and South within the property lines only as indicated on the application with the Applicant providing a map with the street vacation description. Commissioner Jeff Peterson seconded the motion. All Ayes. Motion Carried.

Cindy Gooch stated this application would have to be advertised for four weeks with a public hearing for the City Council. She stated the Applicant would have to provide the map with the vacation description before it would be published.

Item #3 – Hearing Regarding Keyes Mink Shed Issues:

Commissioner Albert Clark, Commissioner Tyler Rowser, Commissioner Thomas Hoskins, and Commissioner Dusty France disclosed they had a discussion with Ben Keyes and received some paperwork from him. They stated they told him they couldn't discuss it outside of the meeting and made no comments of a binding nature or great detail.

Ben Keyes and Ed Keyes presented their information to the Planning Commissioners. Ben Keyes stated he had spoken with several Attorneys and had discussions with some Legislators regarding this issue. Mr. Keyes stated he had three different points to make that would show they were in compliance.

Ben Keyes referred to the State Construction Code 15A-1-204 regarding the exemption for having a building permit for an agricultural use. He stated the City has recognized that issue and agreed they do not need a building permit. Ben Keyes stated that would also exempt them from any setback requirements. He stated when this Code was adopted the State allowed any City or County to make any amendments they wanted. He stated several Cities took that opportunity and added several requirements. Ben Keyes gave the example that Morgan City added setbacks, height restrictions, etc. He stated they amended the State Code; they didn't just put it in their ordinances. Ben Keyes stated if it was legal for a City to just have it in their ordinances that went against the State Building Code, then why would all of the other Cities bother to amend the

State Code. Ben Keyes stated all of the Attorneys he talked to said the State Building Code trumps the City Code.

Ben Keyes stated their second point was being Grandfathered in. He stated they have been in business close to 60 years. He stated Grandfathering deals with the use of the land. Ben Keyes provided a definition of Grandfathered from the Black's Law Dictionary. He stated it is the same thing as when the City places their zoning on a property. It is based on the use of the land. He stated they are still complying with the same use. They are using the ground the same as they have always done except they are expanding it a little. He stated part of the definition provided concerning Grandfathering states you can expand. Ben Keyes stated in his research he has found as economics grow, business needs to be able to grow with it. Ed Keyes stated that would be the same as trying to say a Cattle Rancher couldn't have one more cow on his pasture, if you said he couldn't expand. He stated with mink you have to have a shed. That was part of the business. Ben Keyes stated under the Grandfather law they don't have to meet the current zoning because they were in business before the zoning changes were made.

Ben Keyes stated the road that Coalville City has next to his property is a prescriptive type of right-of way not a road. He stated the City does not own the road, they do. He stated they own the ground and the City only has a right-of-way to go through it. Ben Keyes stated they own clear to the Freeway. He stated the property is all under one parcel, CT-344, but it does have different descriptions. Ben Keyes showed a map of the property. He stated he measured from the Trailer house across the right-of-way and it was 250 feet from the property line to the new shed. Ben Keyes stated that would meet the setback required. He stated it does narrow as it goes up, but even without an actual survey he has at least 150 feet. Ben Keyes showed his tax information with the description and stated the Main Street right-of-way was not taken out of his property. Ed Keyes stated they own approximately 280 acres there. Ben Keyes stated the City does not own the deed to the ground. They only have a right-of-way to drive across it.

Sheldon Smith stated Coalville City had retained the services of the Smith-Hartsvigen group to assist them with this information. He stated they have worked for the City before when dealing with land use and water law. Sheldon stated J. Craig Smith was here tonight to address this issue.

Craig Smith stated the State Construction Code was established to try and create more uniformity with the building codes. He stated before this, each City and County adopted the Code they were going to use and now everyone uses the same Code. He stated this Code comes out every three years and the current Code used by the State is the 2009

edition. Craig Smith agreed with the Keyes Family that under 15A-1-204-7 there is the ability to be exempt from getting a building permit for an agricultural building. However, that does not affect other zoning land use regulations the City has adopted. The authority for the City to regulate land use comes from the Utah Code, which is a separate Code, Title 10 Chapter 10-9A. The State Construction Code regulates building only. Setbacks, zones, and other land use regulations come under the Utah Code and there are no exceptions for those.

Craig Smith stated under State Law and Local Codes, a use on a property that was started before the zone was changed can continue the same activity. He stated there is also a provision that allows Cities to adopt a period of time to amortize out the use and that use would have to stop. He stated Coalville City has not done that, but the City Code does provide for non-conforming uses to be limited. The use cannot be expanded on the same or adjoining property. The comment of a cattle rancher cannot have one more cow would be correct if it was a non-conforming use. The use cannot be expanded. The Coalville City code under 10-4-080 states a non-conforming use can continue, but it cannot be enlarged or increased or occupy a greater area of land than before. Craig Smith stated whether you agree or disagree with the Code that is what the City currently has in force. He stated he didn't think having 50 mink one year and 51 the next year would be an issue, but building a new building would definitely be an increase or expansion.

Craig Smith stated setbacks do apply and have to be applied as listed in the Code. He stated the setback reference is based on the roadway and that is where you would count your setback from. He stated there was a question brought up about whether the road there was a dedicated road and there are several ways a road can come into existence. One way is to dedicate it to the City on a subdivision plat. Another way is by use. State Law states a road that has been used for 10 consecutive years as a road or highway is deemed dedicated by the use to the governing body. The only way it can lose that character is by a formal street vacation process.

Ben Keyes stated he took the City Code to an attorney and they said the City does not have the authority to issue the requirements and it is not legal. He stated Utah State Legislative Representative Mel Brown told him when they submit a Bill for process, 40% of the time the (Legislative) staff says it is unconstitutional. So even though the (City) staff says it is not right, we have provided the information showing we are in compliance.

Ed Keyes stated we are not expanding to another piece of ground. The ground we are using has been used for mink ranching for around 60 years. We have a new shed, but in

the past, we have used the ground for things necessary for the mink ranch. Even now we have things that pertain to mink ranching on the ground.

Commissioner Albert Clark stated he agreed there was not a requirement for a building permit. He stated the Grandfather issue was a bit cloudy, but he felt they were complying with the current use. He stated the issue comes with the non-conforming building. The State Code 10-9A-511 states a non-conforming structure would be allowed provided no structural alteration to the building is made. This is a whole new building and it has expanded the footprint. The City Code states the same thing. Therefore the Keyes' are not in compliance because they expanded the use by building the new building. Ben Keyes stated this is dealing with land use and the use is the same. Commissioner Clark stated the land use is not in question; it is the structure that is in question.

Commissioner Tyler Rowser questioned if there was a specific law that exempted the Keyes from the setback requirements. Ben Keyes stated it was because they were exempt from the building permit process and that was where the land use compliance was questioned. He questioned if we don't have to go through the process, then why would we have to comply. Commissioner Albert Clark stated it is two separate Codes. One deals with land use and the other deals with building. The current zone does not allow the use so it is a non-conforming use and it cannot be expanded. Ben Keyes stated the reason they were considered non-compliant was because of the setbacks. Sheldon Smith stated the reason was because of expanding the use with a new building. He stated the setback requirement was a completely different issue.

Ed Keyes questioned if a non-conforming permit could be issued for the building. Commissioner Thomas Hoskins questioned how far out of compliance they were as far as setbacks. Sheldon Smith stated that the setbacks are only one of the issues. He stated at this time the Commissioners needed to determine if the Keyes Family was in compliance or not. He stated it is not the purpose tonight for the Commissioners to determine if something else can be worked out. Commissioner Thomas Hoskins questioned if they could forgive the non-conforming use. Commissioner Dusty France stated the Planning Commission could not do that. Sheldon Smith stated the Planning Commission's purpose was to enforce the Code based on the information given. He stated once the decision was made then the Keyes could proceed from there if needed. Commissioner Tyler Rowser stated the main issue tonight was deciding if the new building was in compliance with the City Code. Commissioner Albert Clark referred to the Utah Code 10-9A-505 that states the legislative body may regulate and restrict the zoning regulations which covers everything with the land use code. He stated the only exception comes from the Building Code which allows an agricultural building to be built

without a building permit. Commissioner Dusty France verified the building did not have any mechanical, electrical, or plumbing items. Ben Keyes stated it did not. Commissioner Jeff Peterson questioned if the building would become a non-agricultural building if electrical was added. Ben Keyes stated they would just have to come back and get a permit for the electrical portion. Ed Keyes stated that was just so it could be inspected. He stated it would be the same with any plumbing. Commissioner Dusty France stated the Code 10-04-080 made it pretty clear as far as conformity. He questioned how the Commissioners were to make their decision or motion. Sheldon Smith stated it would be based upon whatever they determined the reason was. It could be based on non-conforming or anything else they determined. Ed Keyes stated the Commissioners could make the decision to issue a non-conforming permit if they wanted. Sheldon stated this is a difficult decision to make. Commissioner Tyler Rowser stated they were at the point of deciding whether the building was non-conforming, conforming, or to table the discussion to gather more information. Commissioner Dusty France questioned if the Keyes Family would be able to apply for a non-conforming permit it was decided that it was non-conforming at this time. Sheldon Smith stated normally to apply for a conditional use permit you would apply for it before you engage in the activity, but he didn't think the language of the ordinance would preclude them from going that direction. He stated they would have to go through the entire process and there are specific criteria that would have to be met. Commissioner France questioned if their decision tonight would hinder the Keyes ability to apply for a conditional use. Sheldon Smith stated it would not. Cindy Gooch stated in the Code 10-04-090 it states a non-conforming structure may be allowed by a conditional use approval. She read the list of criteria that would have to be met to be granted a conditional use permit. Sheldon Smith stated the possibility of a conditional use permit is beyond the scope of this meeting. He stated it is not part of the decision for this meeting. Commissioner Thomas Hoskins stated he just wanted to make sure they were aware of the potential options after this meeting. Craig Smith stated the Keyes could press their issue of being exempt or use the procedures set forth in the City Code to petition for an expansion of the non-conforming use. Craig Smith stated the issue comes down to if the Keyes Family is governed by the Land Use Code or if they are governed by exemption of the State Construction Code. He stated his legal opinion was the exemption was just for the permit requirements for the State Construction Code and does not extend to other regulatory powers the City has to regulate land use.

Mayor Trever Johnson stated he wanted to state for the record that as far as the City is concerned, this is not a personal issue or action out of animosity. He stated he and the other City representatives have taken an oath to uphold the laws and ordinances on the books. He stated there was no motivation to undermine any opportunities for the Keyes Family.

The Commissioners discussed and referred to the information provided.

A motion was made by Commissioner Albert Clark that it is determined the building is non-conforming and to recommend that the Keyes Family pursue other options as wanted or needed. Commissioner Mike Peterson seconded the motion. Commissioners voted Four Ayes and One Nay. Motion Carried.

Roll Call:

Commissioner Hoskins – Aye
Commissioner France – Nay
Commissioner Clark – Aye
Commissioner J. Peterson – Aye
Commissioner M. Peterson - Aye

Item #4 – Review and Discussion of the Street Vacation Map:

Cindy Gooch reviewed the updated draft of the platted streets with the Commissioners. The Commissioners reviewed the map and the information on some of the vacated streets. Cindy stated this will give us a clear guideline to refer to when people come in for information regarding their property; even if we don't go through the entire process of vacating the streets. Cindy stated she would take the updated map and recommendations to the City Council for their review.

Item #5 – Community Development Updates:

Commissioner Jeff Peterson stated he may not be able to be here for a while. He is starting his own business and will be out of town for around six months. Commissioner Jeff Peterson stated they would need to decide if they wanted to list him as an absentee representative or if they would like to get someone else to take his place. He stated he was fine with either decision.

Item #6 – Review, Discussion, and Possible Approval of Minutes:

The Planning Commissioners reviewed the minutes from the August 18, 2014 meeting.

A motion was made by Commissioner Dusty France to approve the minutes of August 18, 2014 as corrected. Commissioner Jeff Peterson seconded the motion. All Ayes. Motion Carried.

A motion was made by Commissioner Albert Clark to adjourn the meeting. Commissioner Jeff Peterson seconded the motion. All Ayes. Motion Carried.

The meeting adjourned at 8:05 P.M.

Tyler Rowser, Chair

Attest:

Nachele D. Sargent, City Recorder

"Exhibit B" City Council 12/28/15

Coalville Wastewater Treatment Facility
Change Order Tracking
Date 12/28/2015

Plus values are anticipated increases in total contract.
Minus values are deductions that go back to Owner's Contingency

Ref#	Other Reference	Item Description	Comments/Reason for Change	CO #1	CO #2	CO #3	CO #4	CO#5	CO#6	CO #7
38		Bid Schedule B- Offsite Work Cost Overruns- Unit Price Items	This overrun includes all additional costs incurred for the Offsite portions of the Work included in Bid Schedule B. The majority of these costs are for pipe bedding material, Bid Schedule Item 17. Due to the nature of the subgrade that included large cobbles, it was decided that the best method of protecting the pipe from this backfill was to add additional bedding both above and below the pipe to prevent large cobbles from damaging the pipe. Due to these soils the trench width was also larger than anticipated during volume estimations and therefore the quantity estimates were low compared to actual quantities used. Another item that had a considerable overrun was asphalt to repair the Rail Trail. Engineers estimates did not consider the extent to which the asphalt would be damaged and require replacement during the quantity estimates. Also an additional length of asphalt needed to be replaced due to the removal and replacement of the fiber optic cable that was not foreseen during estimation.							\$50,427
39		Trim Around Overhead Doors	The overhead doors on the metal buildings did not include matched trim around the framing which left structural members exposed and visible on the building exterior. Engineer and City requested that matching trim be installed over the structural framing to protect it and for aesthetic purposes.							\$1,918
40		Lights for Biosolids Tank and Clarifiers	The lights specified for the clarifiers and biosolids holding tank were not rated for these environments- Class 1, Div 2 and suitably rated fixtures needed to be installed per code. These costs are to furnish and install lighting fixtures rated for these areas.							\$4,921
41	WCD #19	Heat Trace on UV/DW Bldg. Gutters	Contractor did not include costs for heat tracing in his bid because it was not clear in the contract documents that this was required. Engineer and Owner agreed and issued a WCD for this work. This was done in order to protect the gutters installed on the UV/DW building.							\$7,928
42		Natural Gas Pipe Rerouting	The alignment of the gas supply piping in the yard was changed in order to avoid conflicts with other utilities (electrical) in the contract alignment. This alignment change required additional gas piping to be installed within the buildings and these are the costs for the additional piping and labor.							\$2,919
43		Classified Control Damper Actuators for HW & Process Bldg.	Electric actuators for control dampers were not specified to meet the safety ratings for the areas where they were to be installed- either Class 1 Div 1 or Div 2. Actuators rated for these areas needed to be provided and this change is for the costs of these actuators.							\$8,714
44		Undersized Landscaping Trees- Credit	Many of the trees provided did not meet the specified caliper diameter- they were all undersized. Landscape subcontractor offered a credit for each of the undersized trees.							-\$480
45		Change Motors on Vent Fans, VF-1, VF-5, VF-6 to 460V.	Vent Fans were specified with 120V motors but power supply to the fans was designed as 460V. Motors needed to be changed out to 460V units.							\$4,576
46		Temperature and Humidity sensors	Classified temperature and humidity sensors were not shown in the plans and these instruments were required in order to control ventilation in these spaces. This CO is to furnish combined sensors that meet the area classifications for their environments.							\$3,292
47		Installation of conduit for Temperature and Humidity Sensors	The plans did also not include any conduit or wiring for the temp and humidity sensors and this CO is to furnish and install the required conduit and wiring for the sensors.							\$2,728
48		Credit for removing Lightning Protection from project	The contract required lightning protection to be installed on the buildings. The Contractor had subcontracted this work and the subcontractor refused to perform the work since they claimed the design did not meet code requirements. IN order to change the design to meet code it would have been necessary to remove finished sidewalks and asphalt around the buildings that were already in place since the issue was not brought to the attention of the Engineer in a timely manner. The requirements for lightning protection were assessed and it was determined there was no requirement to have lightning protection. The Owner therefore decided to remove lightning protection from the project and take a credit for the work that was not completed. The Schedule of Values gave a value of \$28,900 for the lightning protection system and the Contractor had self performed some of the lightning protection work not under the scope of the lightning protection							-\$21,950
49		Seal Coating of Asphalt Driveway at WWTF	The asphalt driveway at the WWTF was paved in the spring of 2015 and construction continued through the summer. During this time the new asphalt was superficially damaged in some areas by heavy equipment. A seal coating was requested in order to cover and protect both damaged areas and the entire surface of the new asphalt. The City elected to split the seal coat costs with the contractor since much of the area was not damaged and this would be of benefit to the City for protection of the entire asphalt surface. This is payment to the contractor for half of the seal coat costs.							\$3,186
50		Remote mount kits and install for 2 flow meters	Two flow meters required remote mount kits for the analyzers which were not shown on the plans. This CO cost is to provide the kits to allow remote mounting of the transmitter and the labor and materials to do so.							\$1,695
51	WCD #24	Covers over exhaust fans outlets on bldg. exterior.	The exhaust from ceiling fans and HVAC units was vented out the sides of the building rather than the roof in order to protect the integrity of the roofing system. In some areas the penetrations on the sides of the buildings were unsightly and had birds nesting in the ducts. This change was to add covers over these exhaust ducts that prevented entry of birds/insects and blended with the building exterior.							\$1,876
52	Bldg. Inspector Req't	Install 3 GFCI Outlets in UV/DW Building	During Final Inspection the building inspector found that the outlets in the UV/DW building were not GFCI protected and required that these be protected before issuing a certificate of occupancy. Three GFCI receptacles were installed on each of the circuits in this building.							\$450
53		South Lift Station and Force main								
Days Added by Change Order				0	0	0	72	0	0	0
Substantial Completion				12/31/2014	12/31/2014	12/31/2014	3/13/2015	3/13/2015	3/13/2015	3/13/2015
Final Completion				3/1/2015	3/1/2015	3/1/2015	5/12/2015	5/12/2015	5/12/2015	5/12/2015
CHANGE ORDER SUMMARY				CO#1	CO#2	CO#3	CO#4	CO#5	CO#6	CO#7
Construction Contract Net Reductions/Additions				-\$12,890	\$17,393	\$42,220	\$8,298	\$20,208	\$54,136	\$72,200
Cumulative Change Order Amount				-\$12,890	\$4,503	\$46,723	\$55,021	\$75,229	\$129,365	\$201,565

Plus values are anticipated increases in total contract.
 Minus values are deductions that go back to Owner's Contingency

Ref#	Other Reference	Item Description	Comments/Reason for Change	CO #1	CO #2	CO #3	CO #4	CO#5	CO#6	CO #7	Budget at Award
CHANGE ORDER SUMMARY											
		Construction Contract Net Reductions/Additions		CO#1	CO#2	CO#3	CO#4	CO#5	CO#6	CO#7	Budget at Award
		Cumulative Change Order Amount		-\$12,890	\$17,393	\$42,220	\$8,298	\$20,208	\$54,138	\$72,200	\$0
				-\$12,890	\$4,503	\$46,723	\$55,021	\$75,229	\$129,365	\$201,565	\$0
OTHER COSTS INCURRED, KNOWN, OR BUDGETED											
Administration											
		Legal and Bonding		\$39,134	\$39,134	\$39,134	\$39,134	\$39,134	\$39,134	\$39,134	\$39,134
		DWQ Loan Origination Fee		\$11,440	\$11,440	\$11,440	\$11,440	\$11,440	\$11,440	\$11,440	\$11,440
Engineering											
		Planning (BOR land acquisition, NEPA, USDA application)		\$117,115	\$117,115	\$117,115	\$117,115	\$117,115	\$117,115	\$117,115	\$117,115
		Basic Services (preliminary design, final design, CMS)		\$1,095,823	\$1,095,823	\$1,095,823	\$1,095,823	\$1,095,823	\$1,095,823	\$1,095,823	\$1,095,823
		RPR		\$307,655	\$307,655	\$307,655	\$307,655	\$307,655	\$307,655	\$307,655	\$307,655
		Additional Services (Permitting, TMDL coordination, funding coordination)		\$30,317	\$30,317	\$30,317	\$30,317	\$30,317	\$30,317	\$30,317	\$30,317
		Amendment #1		\$40,000	\$40,000	\$40,000	\$40,000	\$40,000	\$40,000	\$40,000	\$40,000
		Amendment #2 (South LS and FM NEPA/Pre-design)		-	-	\$28,737	\$28,737	\$28,737	\$28,737	\$28,737	\$28,737
		Amendment #2 CMS		-	-	\$19,877	\$19,877	\$19,877	\$19,877	\$19,877	\$19,877
		Amendment #2 RPR		-	-	\$42,340	\$42,340	\$42,340	\$42,340	\$42,340	\$42,340
		Amendment #3 (South Lift Station Final Design)		-	-	\$15,639	\$15,639	\$15,639	\$15,639	\$15,639	\$15,639
		Amendment #3 (Extended RPR Services)		-	-	\$13,400	\$13,400	\$13,400	\$13,400	\$13,400	\$13,400
Miscellaneous											
		Archeologist		\$65,000	\$65,000	-	-	-	-	-	\$65,000
		Land And Easements		\$298,781	\$298,781	\$298,781	\$298,781	\$298,781	\$298,781	\$298,781	\$298,781
		BOR Lease		\$4,225	\$4,225	\$4,225	\$4,225	\$4,225	\$4,225	\$4,225	\$4,225
		AT&T		\$123,000	\$160,495	\$160,495	\$160,495	\$160,495	\$160,495	\$160,495	\$160,495
		Repay 2001 DWQ Bond		\$154,813	\$154,813	\$154,813	\$154,813	\$154,813	\$154,813	\$154,813	\$154,813
		City Direct purchase of pipe		-	\$3,237	\$3,237	\$3,237	\$3,237	\$3,237	\$3,237	\$3,237
		Questar Gas Service Install		-	-	-	-	\$12,877	\$12,877	\$12,877	\$12,877
		City Direct Purchase & Install of Lift Station Hatch w/ Safety Grate		-	-	-	-	-	-	\$3,000	\$3,000
		City Rental of Bulldozer to Grade Offsite Spoils		-	-	-	-	-	-	\$520	\$520
		City Rental of Bypass Pumping Equipment for MH-E3 Replacement		-	-	-	-	-	-	\$2,858	\$2,858
		Purchase of Redundant SCADA Server		-	-	-	-	-	-	\$15,927	\$15,927
		Tree Trimming for Overhead Power Lines to Plant		-	-	-	-	-	-	\$1,000	\$1,000
		Laboratory Equipment		-	-	-	-	-	-	\$9,171	\$9,171
		Solids Handling Dump Truck/Trailer		-	-	-	-	-	-	\$0	\$0
		Subtotal Budgeted Future or Actual Non-Construction Costs		\$2,287,303	\$2,328,035	\$2,353,989	\$2,353,989	\$2,395,905	\$2,395,905	\$2,426,181	\$2,247,303
		Construction Cost (Contract including COs)		\$9,028,978	\$9,046,371	\$9,088,591	\$9,096,889	\$9,117,097	\$9,171,233	\$9,243,433	\$9,041,868
		Estimated Total Project Costs		\$11,316,281	\$11,374,406	\$11,442,580	\$11,450,878	\$11,513,002	\$11,567,138	\$11,671,614	\$11,289,171
		Funding Partners Commitment		\$11,786,000							
		Additional Funding for South LS and FM		\$6,435	\$10,576	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000
		Interest		\$11,792,435	\$11,796,576	\$11,801,000	\$11,801,000	\$11,801,000	\$11,801,000	\$11,801,000	\$11,801,000
		Total Funds Available		\$476,154	\$422,170	\$358,420	\$350,122	\$287,998	\$233,862	\$129,386	\$498,829
		Estimated Contingency With CO's		\$9,028,978	\$7,000,000	\$5,500,000	\$3,700,000	\$1,200,000	\$930,000	\$416,700	\$9,041,868
		Estimated Current Construction Contract Remaining		\$9,028,978	\$7,000,000	\$5,500,000	\$3,700,000	\$1,200,000	\$930,000	\$416,700	\$9,041,868
		% Contingency Relative to Remaining Contract		5.3%	6.0%	6.5%	9.5%	24.0%	25.1%	31.1%	5.5%
		% Change Order Relative to Original Contract		-0.1%	0.0%	0.5%	0.6%	0.8%	1.4%	2.2%	

Bid Schedule A - Forcemain Replacement

Item	Description	Unit	Estimated Quantity	Unit Price	Bid
A1	Mobilization, General Conditions, Traffic Control, SWPPP-NOI, UDOT ROW Permit	LS	1	\$ 20,000	\$ 20,000
A2	Excavate for, furnish, install, import bedding, backfill, compact HDPE sewer forcemain (open cut)	LF	900	\$ 60	\$ 54,000
A3	Pipe bursting 6" DI with 6" HDPE including burst pits	LF	690	\$ 120	\$ 82,800
A4	Pipe Cleaning and CCTV Inspection - Pre Burst	LF	690	\$ 1.75	\$ 1,208
A5	CCTV Cleaning and Inspection- Final	LF	1700	\$ 1.75	\$ 2,975
A6	Wastewater Hauling	DAY	14	\$ 1,500	\$ 21,000
A7	Dewatering	LS	1	\$ 15,000	\$ 15,000
A8	Sidewalk and asphalt restoration	LS	1	\$ 5,000	\$ 5,000
A9	Wetland Resoration	SY	2,400	\$ 3.00	\$ 7,200
A10	Bid Schedule A Subtotal				\$ 209,000
A11	Project Management, Bonding, OH&P (20%)				\$ 41,800
A12	Construction Management, Testing & Inspection (6.5%)				\$ 13,585
A13	Contingency (10%)				\$ 20,900
A14	TOTAL FORCE MAIN REPLACEMENT COSTS				\$ 285,000

Bid Schedule B -Lift Station Improvements

Item	Description	Unit	Estimated Quantity	Unit Price	Bid
B1	Mobilization, General Conditions	LS	1	\$ 10,000	\$ 10,000
B2	Remove existing pump station internals including bypass pumping	LS	1	\$ 6,500	\$ 6,500
B3	Furnish and Install Packaged Suction Lift Pump Station including all additonal Piping	LS	1	\$ 75,000	\$ 75,000
B4	Furnish and Install Precast Concrete Riser	LS	1	\$ 4,000	\$ 4,000
B5	Spot Repairs to Concrete Wet Well	LS	1	\$ 3,000	\$ 3,000
B6	Wetlands Restoration	SY	500	\$ 3.00	\$ 1,500
B7	Electrical Work	LS	1	\$ 15,000	\$ 15,000
B8	Construction Costs Subtotal				\$ 115,000
B9	Project Management, Bonding, OH&P (20%)				\$ 23,000
B10	Construction Management (5%)				\$ 5,750
B11	Contingency (5%)				\$ 5,750
B12	TOTAL LIFT STATION REHABILITATION COSTS				\$ 150,000

Bid Schedule B- Additive Alternates

Alt 1	Furnish and Install Protective Coating System on Wet Well Interior- Including Surface Preparation and Bypass Pumping	LS	1	\$ 8,000	\$ 8,000
Alt 2	SCADA System RTU and Antenna	LS	1	\$ 16,000	\$ 16,000
Additive Alternates - Bid Schedule B Total					\$ 24,000

TOTAL FORCE MAIN REPLACEMENT COSTS					\$ 285,000
TOTAL LIFT STATION REHABILITATION COSTS					\$ 150,000
Additive Alternates					\$ 24,000
TOTAL PROJECT COSTS					\$ 459,000