

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED
MAY 19 2015
SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Carolyn C. Matthews, Administrative Law Judge

Case No. 13-ALJ-07-0494-CC

Appellate Case No. 2014-001939

James Weatherholtz,

Appellant,

v.

South Carolina Department of
Health and Environmental
Control,

Respondent.

RECORD ON APPEAL

VOLUME II OF II

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Womble Carlyle Sandridge & Rice LLP
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Charleston, SC 29402
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South Carolina Department of Health & Environmental Control
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Suite 400
North Charleston, SC 29405
Attorney for Respondent

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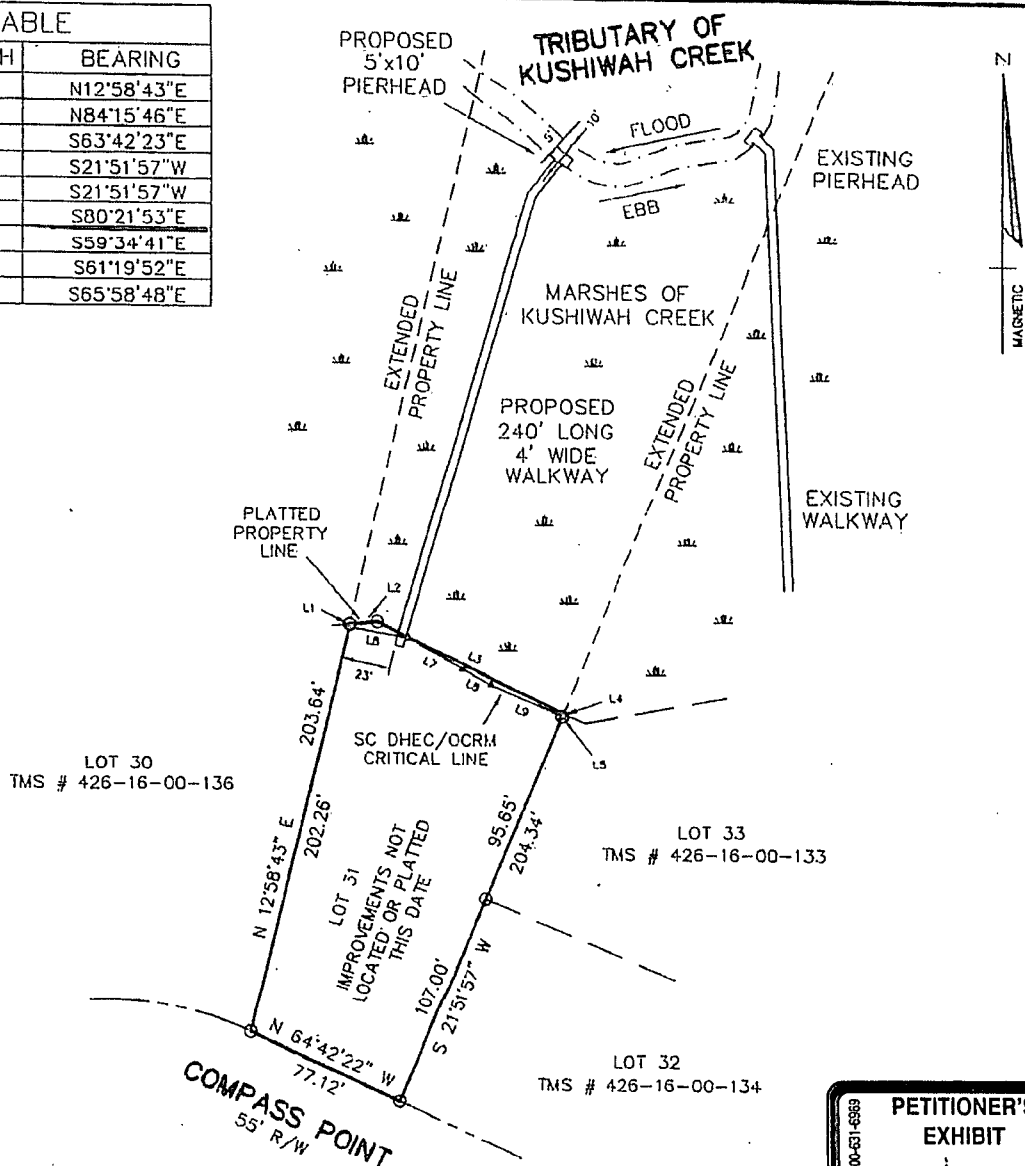
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* * *

PETITIONER'S EXHIBIT 17 IS ON FILE WITH THE COURT

LINE TABLE		
LINE	LENGTH	BEARING
L1	1.38	N12°58'43"E
L2	13.03	N84°15'46"E
L3	97.18	S63°42'23"E
L4	1.39	S21°51'57"W
L5	0.30	S21°51'57"W
L6	28.46	S80°21'53"E
L7	29.20	S59°34'41"E
L8	15.33	S61°19'52"E
L9	36.35	S65°58'48"E



CRITICAL LINE SURVEYED BY THOMAS V BESSENT
APRIL 28, 2013 AND APPROVED BY D.J. THOMPSON
MAY 23, 2013

APPLICANT:
JAMES E WEATHERHOLTZ

TMS # 426-16-00-135

949 COMPASS POINT
CHARLESTON COUNTY, SC
KUSHIWAH CREEK

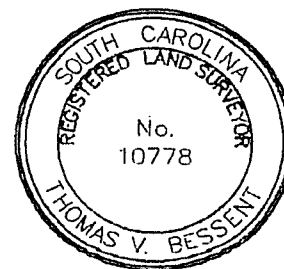
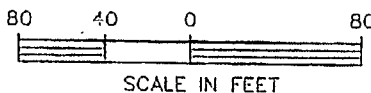
OCRM-13-155-D

5'x10' "TEE" PIERHEAD
245' WALKWAY

DOCK LAYOUT PRIVATE DOCK

MAY 28, 2013

SCALE: 1"=80'

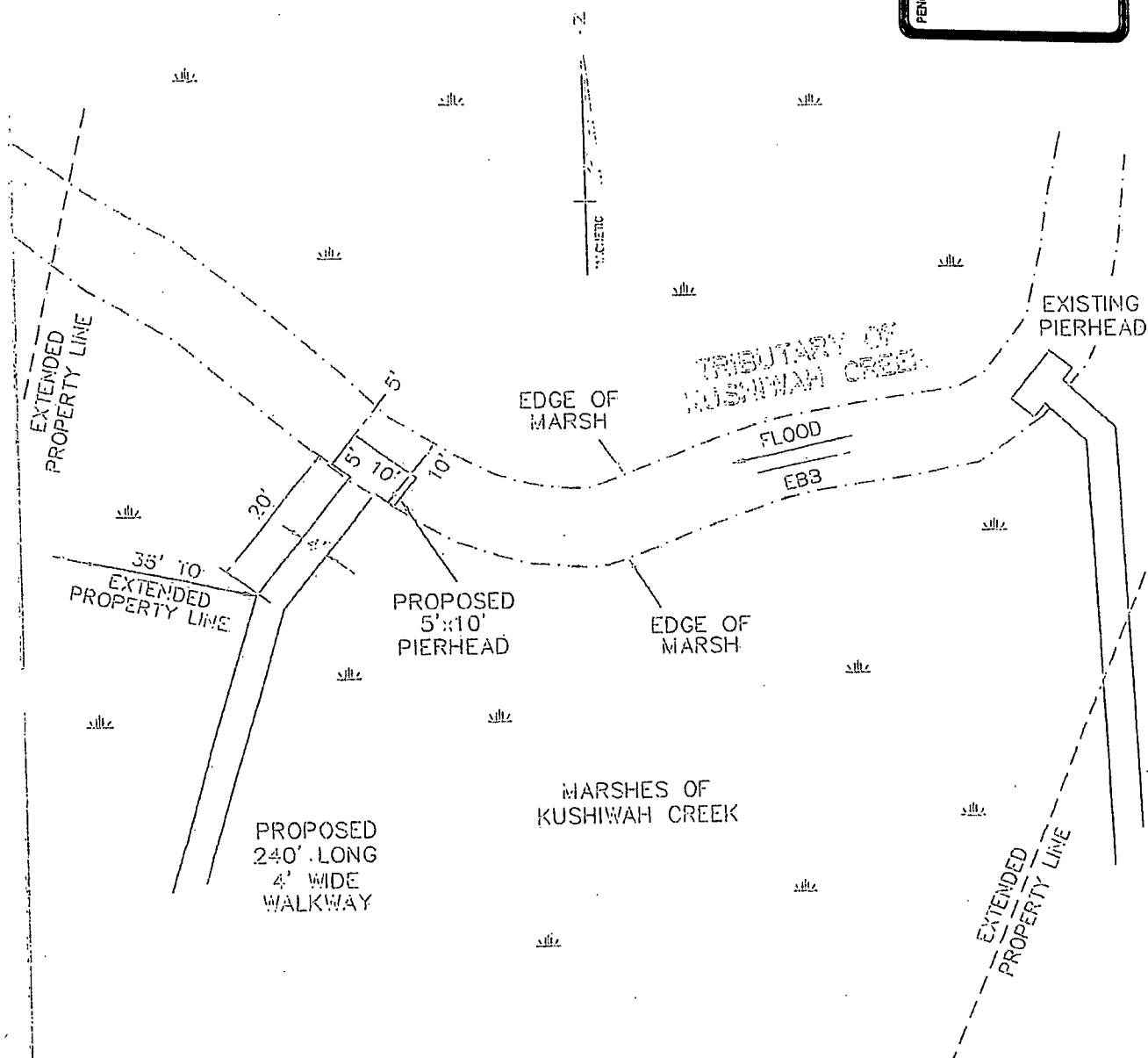
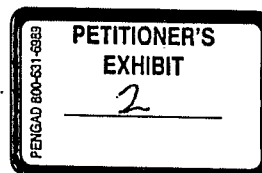


Island Surveying Inc

1720 Central Park Road, Charleston, SC 29412
Phone (843) 225-6582 Fax (843) 225-6587

PETITIONER'S
EXHIBIT

3/5/14



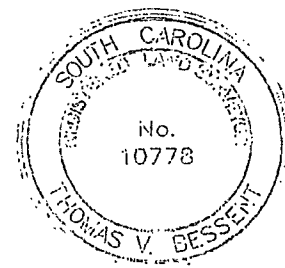
APPLICANT:
JAMES E WEATHERHOLTZ
TMS # 826-16-00-136
948 COMPASS POINT
CHARLESTON COUNTY, SC
KUSHIWAH CREEK

DOCK DETAIL
PRIVATE DOCK

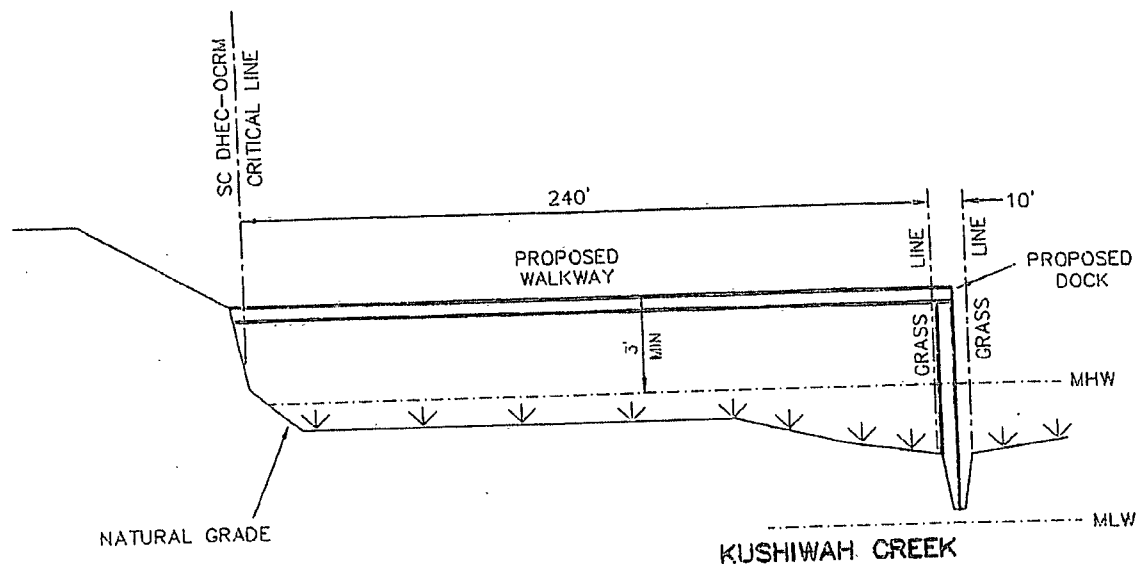
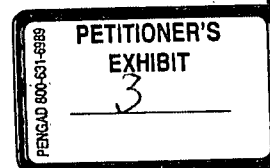
MAY 28, 2013

SCALE: 1"=20'

5'x10' TEE PIERHEAD
216' WALKWAY



1720 Central Park Road, Charleston, SC 29412
Phone (843) 225-6592 Fax (843) 225-6587



APPLICANT:
JAMES E WEATHERHOLTZ

TMS # 426-16-00-135

949 COMPASS POINT
CHARLESTON COUNTY, SC
KUSHIWAH CREEK

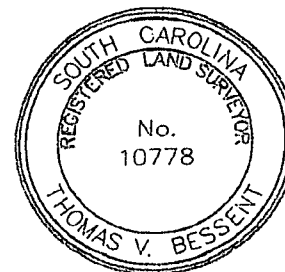
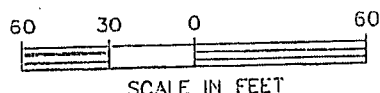
OCRM-13-155-D

5'x10' "TEE" PIERHEAD
245' WALKWAY

CROSS-SECTION PRIVATE DOCK

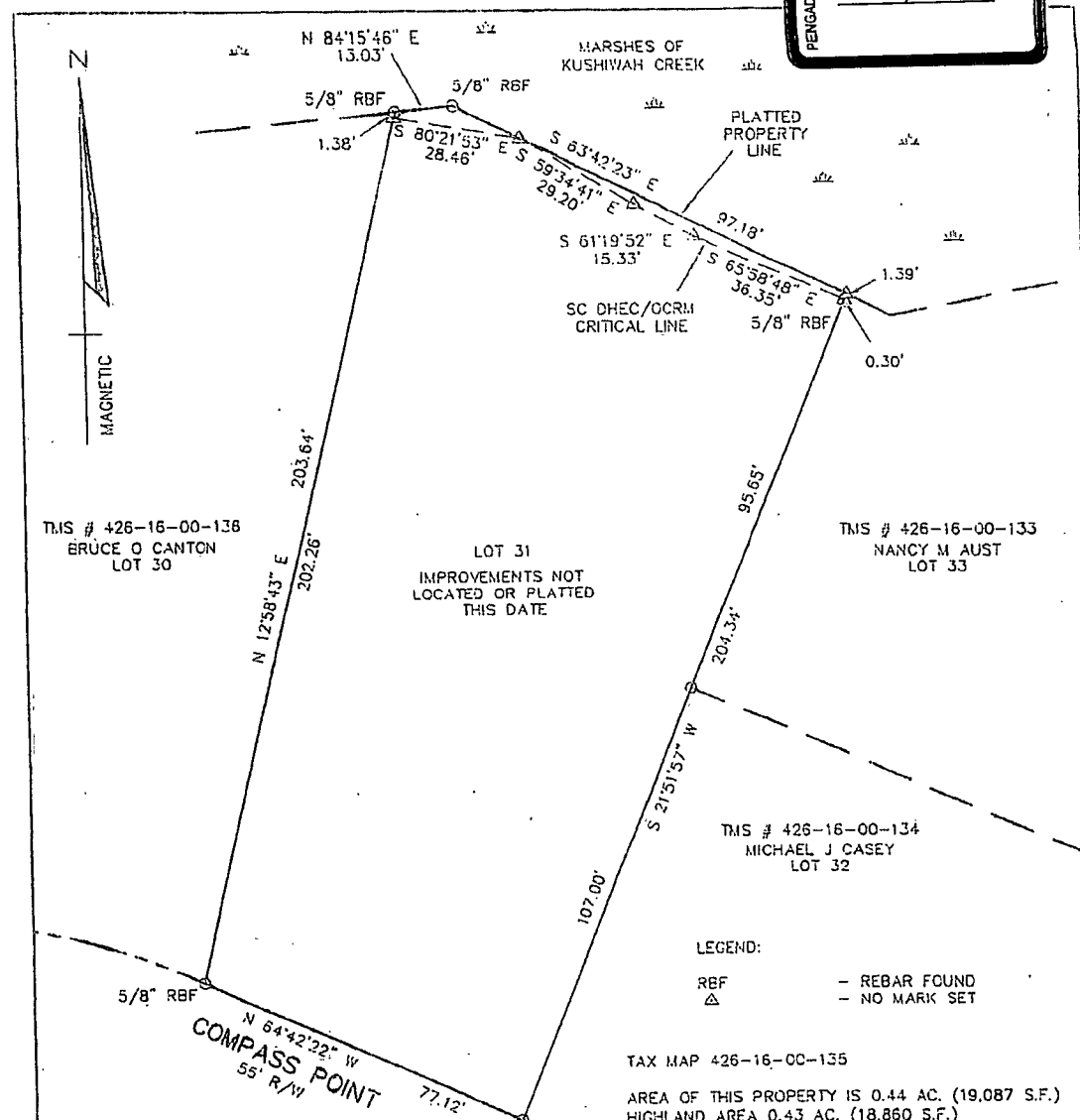
MAY 28, 2013

HORIZONTAL SCALE: 1"=60'
VERTICAL SCALE: 1"=10'



Island Surveying Inc

1720 Central Park Road, Charleston, SC, 29412
Phone (843) 225-6582 Fax (843) 225-6587

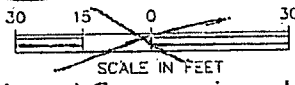
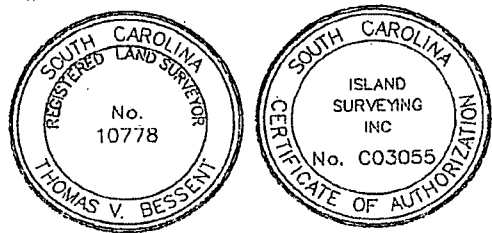


THE AREA SHOWN ON THIS PLAT IS A REPRESENTATION OF DEPARTMENT PERMIT AUTHORITY ON THE SUBJECT PROPERTY. CRITICAL AREAS BY THEIR NATURE ARE DYNAMIC AND SUBJECT TO CHANGE OVER TIME. BY DELINEATING THE PERMIT AUTHORITY OF THE DEPARTMENT, THE DEPARTMENT IN NO WAY WAIVES ITS RIGHT TO ASSERT PERMIT JURISDICTION AT ANY TIME IN ANY CRITICAL AREA ON THE SUBJECT PROPERTY, WHETHER SHOWN HEREON OR NOT.

S. J. Thompson
 SIGNATURE DATE 5/23/13
 The critical line shown on this plat is valid for five years from the date of this signature, subject to the cautionary language above.

TAX MAP 426-16-00-135
 AREA OF THIS PROPERTY IS 0.44 AC. (19,087 S.F.)
 HIGHLAND AREA 0.43 AC. (18,860 S.F.)
 MARSH AREA 0.01 AC. (226 S.F.)
 REFERENCES:
 PLAT BY JOEL P. PORCHER DATED NOVEMBER 26, 1990
 RECORDED IN PLAT BOOK C3, PAGE 089 IN THE
 CHARLESTON COUNTY R.M.C. OFFICE.
 PLOT PLAN BY PARKER LAND SURVEYING, LLC DATED
 DECEMBER 9, 2011

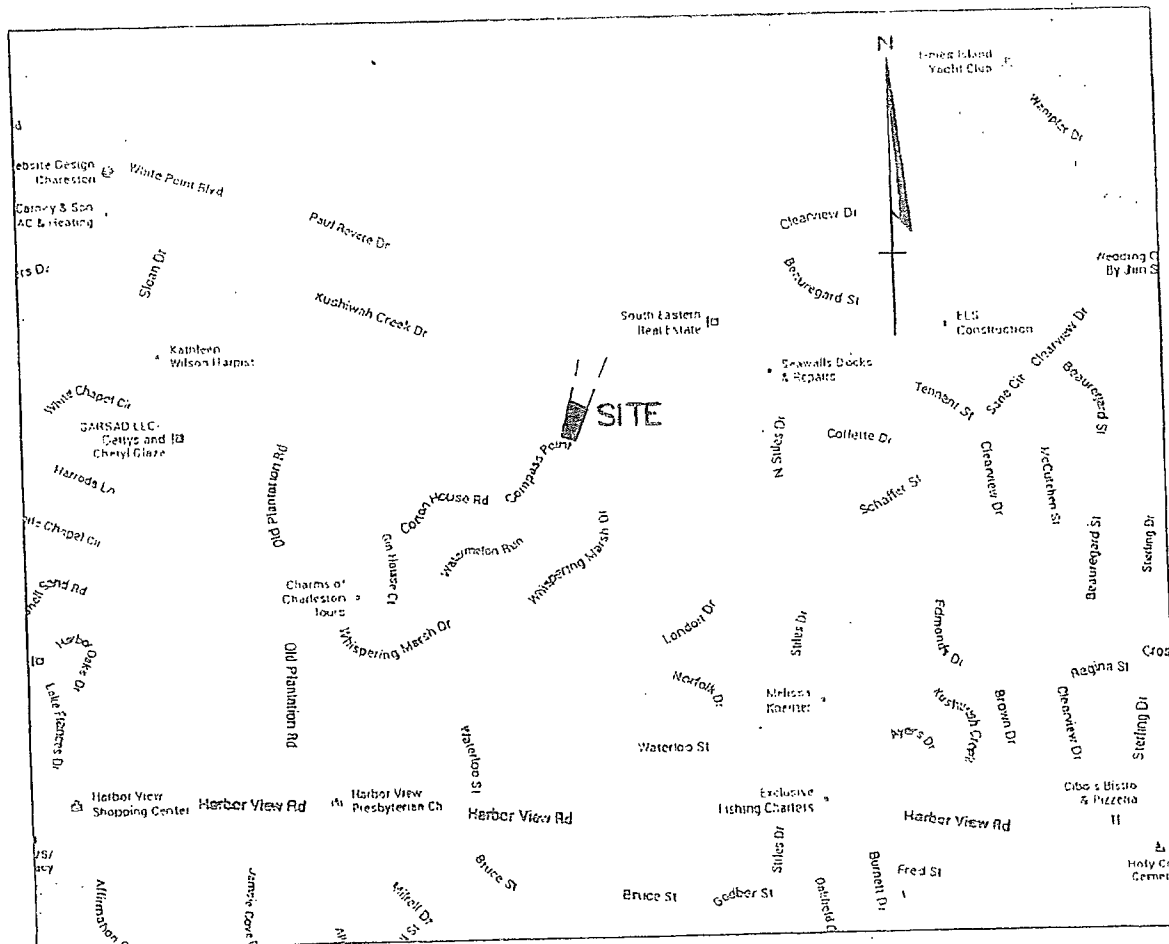
**SURVEY SHOWING
 SC DHEC-OCRM CRITICAL LINE
 PREPARED FOR
 JAMES WEATHERHOLTZ
 949 COMPASS POINT
 STILES POINT PLANTATION
 LOT 31, BLOCK A, PHASE II
 HARBOR SECTION PART III
 CITY OF CHARLESTON
 CHARLESTON COUNTY, SC**
 SCALE: 1"=30' APRIL 25, 2013



Island Surveying Inc
 1720 Central Park Road, Charleston, SC 29412
 Phone (843) 725-6587 Fax (843) 725-6587

OCRM-13-155-D

Reduced-
 NTS



NOT TO SCALE

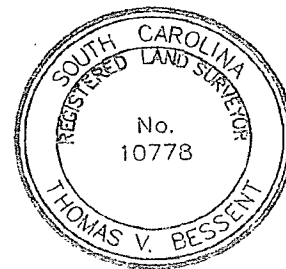
DCBIM-13-155-1

APPLICANT:
JAMES E WEATHERHOLTZ
TMS # 426-16-00-135
949 COMPASS POINT
CHARLESTON COUNTY, SC
KUSHIWAH CREEK

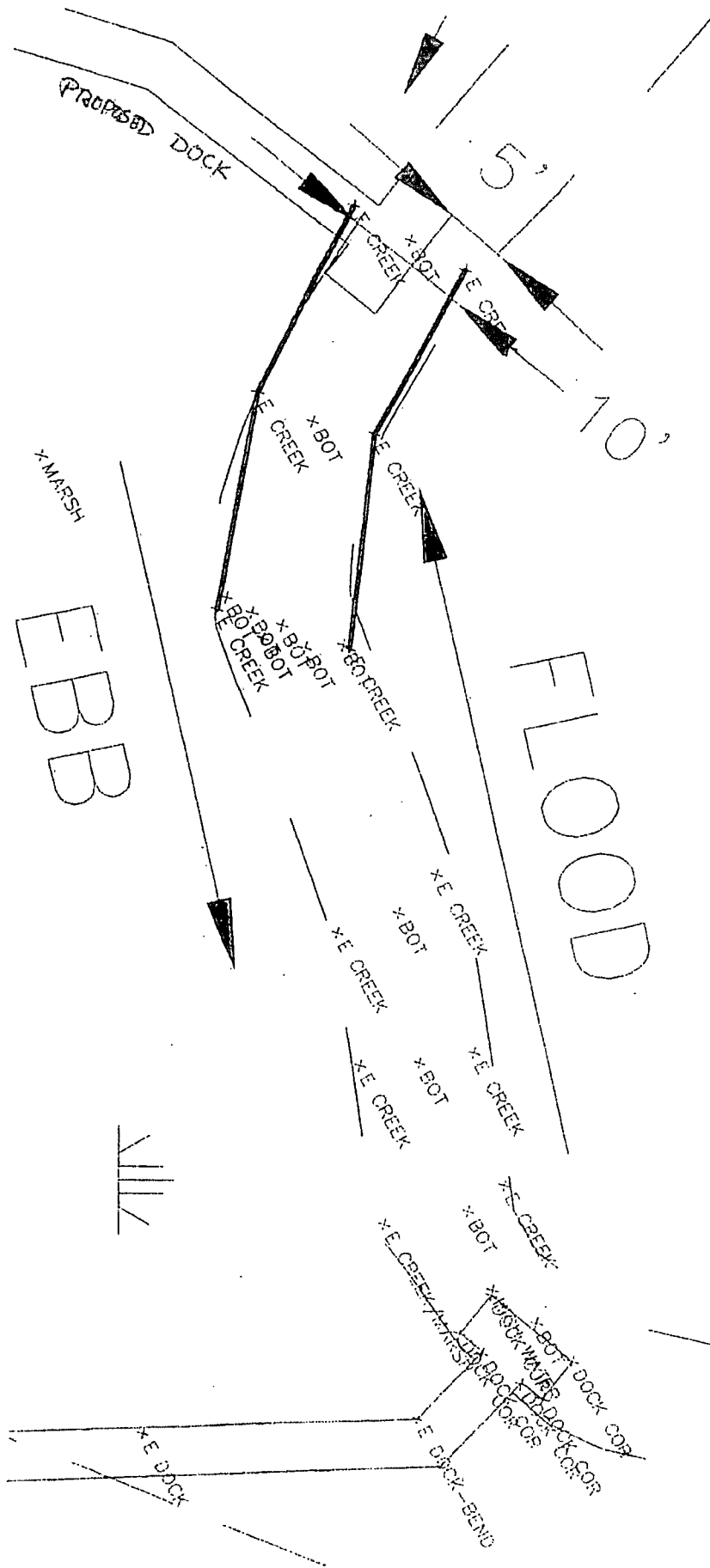
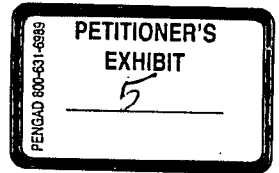
LOCATION MAP
PRIVATE DOCK
MAY 28, 2013

5'x10' "TEE" PIERHEAD
2.45' WALKWAY

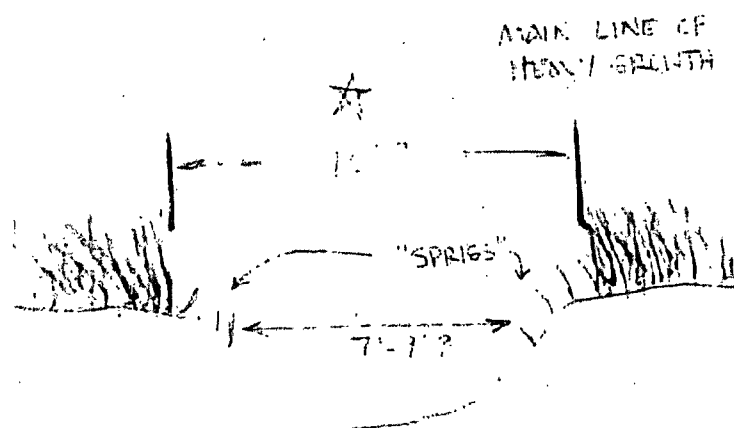
NOT TO SCALE



Island Surveying Inc
1720 Central Park Road, Charleston, SC 29412
Phone (843) 225-6582 Fax (843) 225-6587

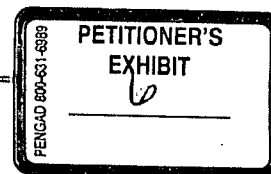






Weatherholtz, James

From: Thompson, Jeff <thompsdj@dhec.sc.gov>
 Sent: Friday, August 02, 2013 9:19 AM
 To: Weatherholtz, James
 Subject: Re: Dock Permit Application OCRM-13-155-D



Hello Mr. Weatherholtz. I did visit this site by boat on July 11. My measurements were all 7.5-8' in width, depending on the location, with the mouth of the creek being less than 7' in width. I am required to apply current regulations to any application I review regardless of what past actions may have been taken. Regulation section R.30-12(A)(2)(c)(ii) states: Docks will not be permitted on creeks less than 20 feet wide as measured from marsh vegetation on each side unless one of the following two special geographic circumstances exist: a lot has greater than 500 feet of water frontage or no potential access via dockage from the opposite side of the creek. As you have noted, there is a dock from the opposite shore located just upstream of your proposal. Section (i) states: Docks will not be permitted on creeks less than 10 feet wide as measured from marsh vegetation on each side. Since the permit you referenced was issued 12 years ago, I can not document the conditions at the time of that permit issuance. Creeks can change over time. This office should have a final decision out next week. Thank you for your concerns.

Jeff Thompson
 Wetland Section Project Manager
 SCDHEC/OCRM

On Thu, Aug 1, 2013 at 10:22 PM, Weatherholtz, James <JWeatherholtz@wvcsr.com> wrote:
 Dear Jeff,

I hope you're having a good summer, and thanks again for your earlier response to my email. I understand from Jason Jones that you did get a chance to visit the creek in response to my dock permit application, so I wanted to follow up. I'd like to get an update on the status of my application, if possible, when you get a moment.

As to the creek width, I paddled out in a canoe this evening and took some measurements. In the area where I would like to locate the pierhead, the creek measures 10' in at least 2 sections. That's the same measurement shown in the stamped survey provided by Island Surveying, Inc. (Tom Bessent, license number 10778). I can send you pictures of the areas I measured if that would help.

The creek widens and narrows along the section that lies within my lot lines and it's not all 10' wide. If placement is an issue, I'm willing to locate the pierhead precisely at the section with a width of 10' and confirm that location. As I mentioned, the placement shown on the survey is at or near the 10' section anyway. If creek access is an issue, I'm certainly willing to adjust the size and placement of the pierhead so as not to encroach.

As you know from your visit, there are docks on both sides of my lot on the same creek. One dock is immediately adjacent to my house, and it actually crosses over my extended lot line into the same exact section of the creek where I seek a permit. The other dock is approximately 40 yards farther up the creek. I have not researched the dates of those permit approvals, but you may have that information. Based on my quick review of the regulations, it seems that the same rules would have applied to those docks.

This lot has already been approved for a joint dock permit in the recent past. OCRM Permit Number 01-254-G was issued on 7/2/2001 and expired on 7/3/2006. I believe it was extended for another 5 years until 7/3/2011, but I have not verified that. Regardless, this lot and this section of the creek have already been approved for a dock with the same exact dimensions as what I seek to build.

I wanted to be sure you had that information while reviewing the permit application. Do you mind letting me know the status at your convenience? I'm happy to provide any further information or documentation you might need in the meantime.

Thanks, James.

From: Thompson, Jeff [thompsdj@dhec.sc.gov]
Sent: Monday, July 08, 2013 9:43 AM
To: Weatherholtz, James
Subject: Re: Dock Permit Application OCRM-13-155-D

I have received a number of comments on your project. I will be visiting the site this Thursday by boat to verify the width of the creek. Your application states the creek is 10.0 feet wide but my measurement using aerial photography is about 8 feet. We can not permit docks on creeks less than 10 feet in width under current regulations, so we will have to see after my site visit.

Jeff Thompson
 Wetland Project Manager
 SCDHEC/OCRM

On Fri, Jul 5, 2013 at 10:02 AM, Weatherholtz, James <JWeatherholtz@wcsr.com> wrote:

Dear Jeff,

I recently filed a dock permit application for my house at 949 Compass Point on James Island, in Charleston, SC (OCRM-13-155-D). I see that the deadline for submitting comments was July 3, so I wanted to check in and see whether any comments (or anything else) were submitted by that date.

Thanks for your time, and I hope you're enjoying the holiday weekend.

James Weatherholtz

(843)720-4628

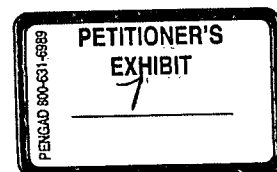
IRS CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. tax advice contained in this communication (or in any attachment) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed in this communication (or in any attachment).

CONFIDENTIALITY NOTICE: This electronic mail transmission has been sent by a lawyer. It may contain information that is confidential, privileged, proprietary or otherwise legally exempt from disclosure. If you are not the intended recipient, you are hereby notified that you are not authorized to read, print, retain, copy or



Catherine B. Templeton, Director

Promoting and protecting the health of the public and the environment



August 7, 2013

James Weatherholtz
949 Compass Pt
James Island SC 29412

Re: P/N# OCRM-13-155-D
James Island, SC
Charleston County

Dear Mr. Weatherholtz:

In accordance with the provisions of the 1977 Coastal Zone Management Act, S.C. Code Ann. Sections 48-39-10 *et seq.*, a review of your permit application has been completed. The work, as proposed: The work as proposed consists of constructing a dock. Specifically, the applicant seeks to build a 4' x 245' walkway leading to a 5' x 10' pierhead. The work as described is for private, recreational use..

The Office of Ocean and Coastal Resource Management (OCRM), through its Permitting staff, has determined that this permit request should be denied.

The following is a list of specific references from the Coastal Zone Management Act and the Office of Ocean and Coastal Resource Management's Regulations that the staff relied upon in denying your permit:

Sections 48-39-30 (A), (B)(1) and (B)(2): (Legislature's policies for permitting structures in the critical area)

Section R.30-11(C)(1): **The potential long range cumulative effects of docks on small creeks (less than 10- wide) has been determined to be significant.**

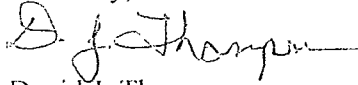
Section R.30-12(A)(2)(c)(i): **Docks will not be permitted on creeks less than 10 feet wide as measured from marsh vegetation on each side.** This creek was measured by DHEC staff from a boat on July 11, 2013, and determined to be 7.5' in width when measured from marsh vegetation to marsh vegetation.

Section R.30-12(A)(2)(c)(ii): This project site does not meet either of the two "Special Geographic Circumstances" in that the lot has less than 500' of water frontage and potential access via dockage from the opposite side of the creek exist.

Any applicant having a permit request denied or any person adversely affected by the granting of a permit has the right to appeal the agency's decision as outlined in the enclosed "Notice of Appeal Procedure." Any applicant having a permit denied may challenge the validity of any or all reasons given for denial.

If you would like a copy of the Coastal Zone Management Act or OCRM's Regulations please contact this office or one of our regional offices (Myrtle Beach at 238-4528 or Beaufort at 846-9400). If I can be of any further assistance, please do not hesitate to call.

Sincerely,

A handwritten signature in dark ink, appearing to read "D. J. Thompson", with a horizontal line extending from the end of the signature.

David J. Thompson
Wetland Section Project Manager

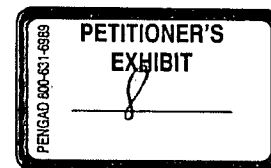
CC: Mr. Blair Williams, Wetland Section Manager
Island Surveying, Inc.

RECEIVED

AUG 23 2013
Red ma mail 8/20/13
Clerk, Board of Health
and Environmental Control

August 20, 2013

Via E-mail and Federal Express Overnight Delivery

Lisa Lucas Longshore, Clerk
South Carolina Board of Health and Environmental Control
2600 Bull Street
Columbia, South Carolina 29201Re: Request for Final Review
P/N# OCRM-13-155-D

Dear Madam Clerk:

Please accept this Request for Final Review submitted in accordance with S.C. Code Ann. Sec. 44-1-60, related to an action taken by the Department on the above-referenced permit application for a private recreational dock on property owned by Taryn and James Weatherholtz at 949 Compass Point, Charleston, South Carolina. This property is located in the Stiles Point Plantation subdivision on James Island in Charleston County.

I am enclosing a personal check in the amount of \$100.00 representing the filing fee for this Request.

On August 8, 2013, I received a copy of the letter attached hereto as Exhibit A, through which the Department provided notification that OCRM has determined that this permit application has been denied.

GROUND'S FOR REVIEW

I respectfully submit that the Department's denial of this permit application is unlawful and unsupported, and that good grounds exist to reverse the Department's decision.

The Department's decision is founded on the following references from the Coastal Zone Management Act and the Office of Ocean and Coastal Resource Management's Regulations:

S.C. Code Reg. Ann. 30-12(A)(2)(c)(i): Docks will not be permitted on creeks less than 10 feet wide as measured from marsh vegetation on each side.

S.C. Code Reg. Ann. 30-12(A)(2)(c)(ii): Docks will not be permitted on creeks less than 20 feet wide as measured from marsh vegetation on each side unless one of the follow two special geographic circumstances exist: a lot has greater than 500 feet of water frontage or no potential access via dockage from the opposite side of the creek.

Lisa Lucas Longshore, Clerk
August 20, 2013
Page 2

As to S.C. Code Reg. Ann. 30-12(A)(2)(c)(i), the notification states that the creek was measured by DHEC staff from a boat on July 11, 2013 and determined to be 7.5' in width when measured from marsh vegetation to marsh vegetation. I respectfully request final review of that determination for the following reasons:

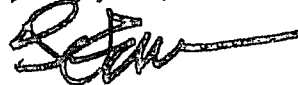
1. This permit application was accompanied by a stamped survey prepared by Island Surveying, Inc., through Thomas V. Bessent, Registered Land Surveyor No. 10778. That survey shows the creek width was measured as 10' at the location where the proposed pierhead meets the edge of the creek. I spoke with Tom Bessent this morning, and he confirmed the measurements he took in May 2013.
2. I have personally measured the width of the creek from marsh vegetation on either side in various locations. The creek does widen and narrow along the section that lies within my extended lot lines, and it is not all 10' wide. Nonetheless, the creek width does measure 10' in certain places, and we are willing to locate the pierhead precisely at a section with a width of 10' and confirm that location to DHEC for approval.
3. Finally, if creek access is an issue, I am willing to adjust the size and placement of the proposed pierhead, or even the existence of the pierhead, so as not to encroach.

As to S.C. Code Reg. Ann. 30-12(A)(2)(c)(ii), the notification states that the project site does not meet either of the two special geographic circumstances. That finding is incorrect, and I respectfully submit that no potential access via dockage from the opposite side of the creek exists. The only two houses on the other side of the creek already have docks. The first dock extends East across the marsh to a different creek altogether. The second dock is located on the same creek, but approximately 300' - 350' farther up the creek from this proposed dock, at least two "turns" away. There is no possibility of dockage from the opposite side of the creek. It simply does not exist. The other side of this creek is essentially marsh grass all the way to the Charleston harbor.

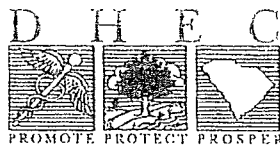
In addition to the above, S.C. Code Reg. Ann. 30-12(A)(2)(c) states that lots in subdivisions with approved DMPs as of May 24, 2002 are exempt from R. 30-12.A(2)(c)(i) and (ii) as amended on May 24, 2002. The Department's denial letter did not include a reference to the exemption, and I believe an inquiry is warranted into whether Stiles Point Plantation subdivision had a DMP that meets the exemption.

I appreciate your consideration of this RFR, and I look forward to notification of the Board's action in response to this request. With kinds regards, I remain,

Very truly yours,



James E. Weatherholtz



Catherine B. Templeton, Director

Promoting and protecting the health of the public and the environment

August 7, 2013

James Weatherholtz
949 Compass Pt
James Island SC 29412

Re: P/N# OCRM-13-155-D
James Island, SC
Charleston County

Dear Mr. Weatherholtz:

In accordance with the provisions of the 1977 Coastal Zone Management Act, S.C. Code Ann. Sections 48-39-10 *et seq.*, a review of your permit application has been completed. The work, as proposed: The work as proposed consists of constructing a dock. Specifically, the applicant seeks to build a 4' x 245' walkway leading to a 5' x 10' pierhead. The work as described is for private, recreational use..

The Office of Ocean and Coastal Resource Management (OCRM), through its Permitting staff, has determined that this permit request should be denied.

The following is a list of specific references from the Coastal Zone Management Act and the Office of Ocean and Coastal Resource Management's Regulations that the staff relied upon in denying your permit:

Sections 48-39-30 (A), (B)(1) and (B)(2): (Legislature's policies for permitting structures in the critical area)

Section R.30-11(C)(1): **The potential long range cumulative effects of docks on small creeks (less than 10- wide) has been determined to be significant.**

Section R.30-12(A)(2)(c)(i): **Docks will not be permitted on creeks less than 10 feet wide as measured from marsh vegetation on each side.** This creek was measured by DHEC staff from a boat on July 11, 2013, and determined to be 7.5' in width when measured from marsh vegetation to marsh vegetation.

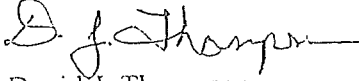
Section R.30-12(A)(2)(c)(ii): This project site does not meet either of the two "Special Geographic Circumstances" in that the lot has less than 500' of water frontage and potential access via dockage from the opposite side of the creek exist.

Any applicant having a permit request denied or any person adversely affected by the granting of a permit has the right to appeal the agency's decision as outlined in the enclosed "Notice of Appeal Procedure." applicant having a permit denied may challenge the validity of any or all reasons given for denial.

EX. A

If you would like a copy of the Coastal Zone Management Act or OCRM's Regulations please contact this office or one of our regional offices (Myrtle Beach at 238-4528 or Beaufort at 846-9400). If I can be of any further assistance, please do not hesitate to call.

Sincerely,

A handwritten signature in dark ink, appearing to read "D. J. Thompson", with a horizontal line extending from the end of the signature.

David J. Thompson
Wetland Section Project Manager

CC: Mr. Blair Williams, Wetland Section Manager
Island Surveying, Inc.

JAMES E WEATHERHOLTZ OR
TARYN E WEATHERHOLTZ
949 COMPASS PT
CHARLESTON, SC 29412-4433

2626
30-7426/3140

10/14/13

Date

Pay to the
Order of

SC ALT

\$ 500.00

Five Hundred Dollars and ⁰⁰/₁₀₀ Dollars

 Security
Features
Details on
Back

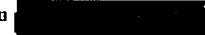


USAA FEDERAL SAVINGS BANK
10750 McDERMOTT Fwy
SAN ANTONIO, TEXAS 78268-0541
(210) 458-8000 1-800-832-3724

For

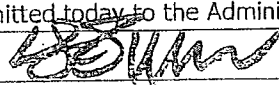
[Signature]

MP



2626

**South Carolina Administrative Law Court (SC ALC)
Request for Contested Case Hearing FORM**

Last Name: Weatherholtz		First: James	Middle: E.	☒ Mr. Mrs.	☐ Miss ☐ Ms.	Docket No. (To Be Completed by ALC)
Mailing Address: 949 Compass Point			City: Charleston		State and Zip: SC, 29412	
Home Number: (843)425-7232	Work Number: (843)720-4628	Cell Number: (843)425-7232		*E-Mail Address: jweatherholtz@wcsr.com		
*By providing your e-mail address, you consent to receive court orders and notices via electronic transmission						
REPRESENTATION						
Are you representing yourself? ☒ Yes No			If No, please complete the following:			
Are you represented by an Attorney? Yes ☒ No			Are you represented by a CPA? Yes ☒ No			
Name of Attorney:			Name of CPA:			
Mailing Address:			Mailing Address:			
City, State and Zip:			City, State and Zip:			
Work Number, Cell Number and E-mail Address:			Work Number, Cell Number and E-mail Address:			
CASE INFORMATION						
Name of the Agency that issued the decision: (Example – Dept. of Revenue, Dept. of Insurance, DHEC) SC DHEC						
In order to have your case processed, you must attach the agency decision. Is it attached? YES. ☒ Yes No			If no, please explain:			
Date the decision was issued: September 16, 2013			Date the decision was received: 9/17 or 9/18			
Please provide a brief statement regarding why the hearing is being requested and the relief sought:						
As set forth in the attached request for Final Review, I respectfully submit that the Department's denial of this dock permit application was unlawful, erroneous, and without evidentiary support, and that good grounds exist to reverse the Department's decision. In particular, the subject creek is 10' feet wide in the area of the requested dock. The Department's factual findings with regard to the creek width and its application of other regulations were in error.						
Payment via ☒ Check for \$500 submitted today to the Administrative Law Court via			(applicable filing fee pursuant to ALC Rule 71) is being ☒ U.S. Postal Service			
			10/14/13			
☒ Your Signature or Signature of Attorney/CPA			Date			

CERTIFICATE OF SERVICE (MUST BE COMPLETED)

Your Name: James E. Weatherholtz Date: 10/14/13 City: Charleston State: SC
I hereby certify that on the date and place listed above, I served a copy of the foregoing Request for Contested Case Hearing on all other parties to this matter by depositing the same in the United States Mail, postage paid, and addressed as follows (use the reverse side for any additional names):

Bradley Churda, Esq., SCDHEC – Office of General Counsel, 1362 McMillan Avenue, Suite 100, Charleston, SC 29405

Board of Health and Environmental Control, Attn: Lisa Lucas Longshore, Clerk, 2600 Bull Street, Columbia, SC 29201


James E. Weatherholtz, October 14, 2013



Catherine B. Templeton, Director

Promoting and protecting the health of the public and the environment



BEFORE THE BOARD OF HEALTH AND ENVIRONMENTAL CONTROL

September 5, 2013.

Docket Number: 13-RFR-29

Requestors: James E. Weatherholtz

Permittee: James E. Weatherholtz

Permit Number: OCRM-13-155-D

STAFF RESPONSE TO REQUEST FOR REVIEW

Submitted by: Jeff Thompson, OCRM Project Manager for James E. Weatherholtz

This review conference involves a challenge to staff's decision to deny a permit for James E. Weatherholtz, OCRM-13-155-D, to construct a private recreational dock consisting of a 4' x 245' walkway, leading to a 5' x 10' fixed pier on and adjacent to Kushiwah Creek at 949 Compass Point, Stiles Point Plantation, Charleston, South Carolina. Specifically, the above-referenced application was placed on public notice on June 18, 2013.

The Department reviewed the above referenced application under the applicable statutory provisions in S.C. Code Ann. §48-39-10, et. seq., and the Critical Area Regulations, S.C. Code Reg. 30-1 et. Seq. After following the required procedures, the proposed activity failed to meet Department regulations R.30-11(C)(1), R.30-12(A)(2)(c)(i), and R.30-12(A)(2)(c)(ii) and The Department denied the above referenced permit on August 7, 2013. Requestor, James E. Weatherholtz, is challenging the staff decision to deny the permit.

Requestor, James E. Weatherholtz

1. "This permit application was accompanied by a stamped survey prepared by Island Surveying, Inc., through Thomas V. Bessent, Registered Land Surveyor No. 10778. That survey shows the creek width was measured as 10' at the location where the proposed pierhead meets the edge of the creek. I spoke with Tom Bessent this morning, and he confirmed the measurements he took in May 2013.

Response - S. C. Regulation 30-12(A)(2)(c)(i) *Docks will not be permitted on creeks less than 10 feet wide as measured from marsh vegetation on each side.....* This creek was measured by DHEC staff from a boat on July 11, 2013, and determined to be 7.5 feet in width when measured from marsh vegetation to marsh vegetation. Photographic documentation was taken at the time of measurement which clearly shows the creek width is less than 10 feet. No portion of the creek was 10 feet or greater in width along any portion of the creek from the mouth up to and beyond the proposed dock. Although Mr. Weatherholtz' survey accurately illustrates his lot and critical area line, the survey depicts no points of reference in the creek. Without this information, the survey's representation that the creek is 10 feet wide is unreliable. The claim of 10 feet in width is not supported in the application. The project is not consistent with this section of the Regulations.

2. "I have personally measured the width of the creek from marsh vegetation on either side in various locations. The creek does widen and narrow along the section that lies within my extended lot lines, and it is not all 10' wide. Nonetheless, the creek width does measure 10' in certain places, and we are willing to locate the pierhead precisely at a section with a width of 10; and confirm that location to DHEC for approval".

Response – No portion of this creek was 10 feet or greater in width during the staff site inspection on July 11, 2013, as documented through photographic evidence (Please see attached exhibits). Staff cannot permit a dock on creeks less than 10 feet wide as measured from marsh vegetation on each side.

3. “Finally, if creek access is an issue, I am willing to adjust the size and placement of the proposed pierhead, or even the existence of the pierhead, so as not to encroach.”

Response – S.C. Code Reg. Ann. R.30-12(A)(2)(c)(i) states **Docks will not be permitted on creeks less than 10 feet wide as measured from marsh vegetation on each side.** Staff cannot permit a dock of any size on this creek since it has been measured at less than 10’ in width.

4. Page 2, second paragraph of RFR request states “As to S.C. Code Reg. Ann. 30-12-(A)(2)(c)(ii), the notification states that the project site does not meet either of the two special geographic circumstances. That finding is incorrect, and I respectfully submit that no potential access via dockage from the opposite side of the creek exists. The only two houses on the other side of the creek already have docks. The first dock extends East across the marsh to a different creek altogether. The second dock is located on the same creek, but approximately 300’-350’ farther up the creek”

Response – S.C. Code Reg. Ann. R.30-12(A)(2)(c)(ii) states: **Docks will not be permitted on creeks less than 20 feet wide as measured from marsh vegetation on each side unless one of the following two special geographic circumstances exists: a lot has greater than 500 feet of water frontage or no potential access via dockage from the opposite side of the creek.** This does not negate R.30-12(A)(2)(c)(i) prohibition of docks on creeks less than 10 feet in width. Special Geographic Circumstances applies to creeks greater than 10 feet in width. This creek is less than 10 feet in width as measured by Staff on July 11, 2013, and does not qualify for a dock or consideration under this regulation. In addition, the applicant notes that there is an existing dock from the opposite shore slightly upstream from the location of his proposed dock, which demonstrates potential access via dockage from the opposite shore even if the creek was 10 feet or greater in width. This dock, permit OCRM-05-315-L, was permitted February 2, 2006, at which time Department staff applied regulation R.30-12(A)(2)(h), which states: **R.30-12(A)(2)(q)(i) as amended on May 24, 2002, does not apply to lots of record that existed as of May 24, 2002, until the later of July 1, 2007, or the expiration of any permit issued prior to that date.** The Weatherholtz application cannot be considered under Special Geographic Circumstances.

5. Page 2, third paragraph of RFR request states “In addition to the above, S.C. Code Reg. Ann. 30-12(A)(2)(c) states that lots in subdivisions with approved DMP’s as of May 24, 2002 are exempt from R.30-12(A)(2)(c)(i) and (ii) as amended on May 24, 2002”.

Response – A review by Staff of ARCGIS and DMP files did not indicate the existence of a Dock Master Plan for Stiles Point Plantation. Both the GIS and DMP file examination were performed by Staff prior to taking final action of the application. This project site does not meet the exemption noted above.

Staff Review and Decision Based on Regulations:

Regulations R.30-11(B)&(C) – General Guidelines for all Critical Areas

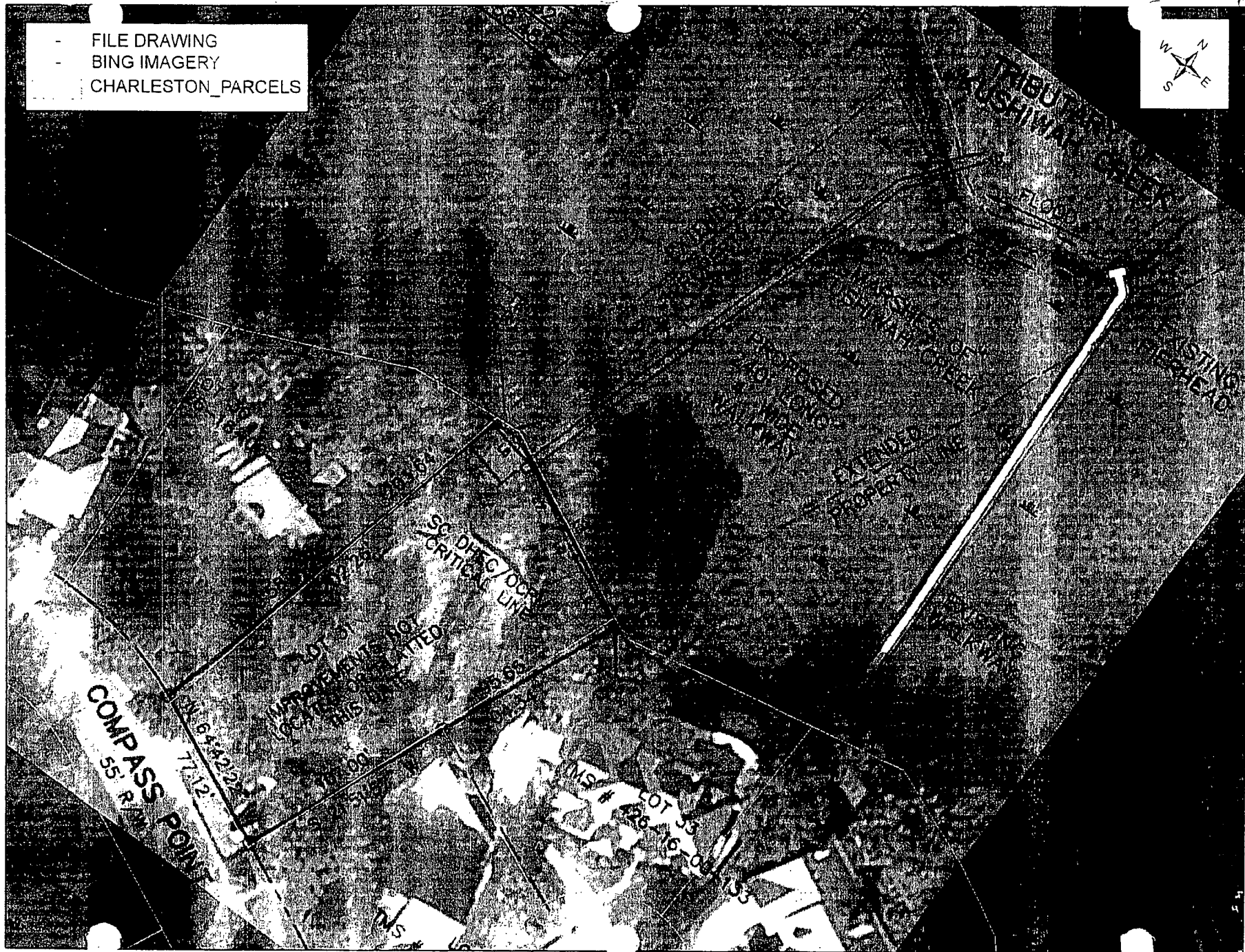
Regulation R.30-11(C)(1): The potential long range cumulative effects of docks on small creeks (less than 10’ wide) has been determined to be significant.

Regulation R.30-12(A)(2)(c)(i): Docks will not be permitted on creeks less than 10 feet wide as measured from marsh vegetation on each side.

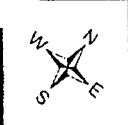
Regulation R.30-12(A)(2)(c)(ii): Docks will not be permitted on creeks less than 20 feet wide as measured from marsh vegetation on each side unless one of the following two special geographic circumstances exists: a lot has greater than 500 feet of water frontage or no potential access via dockage from the opposite side of the creek.

Based on the foregoing, DHEC staff requests that the Board affirm staff's decision to deny the permit.

-



- FILE DRAWING
- BING IMAGERY



COMPASS POINT
55' R/W

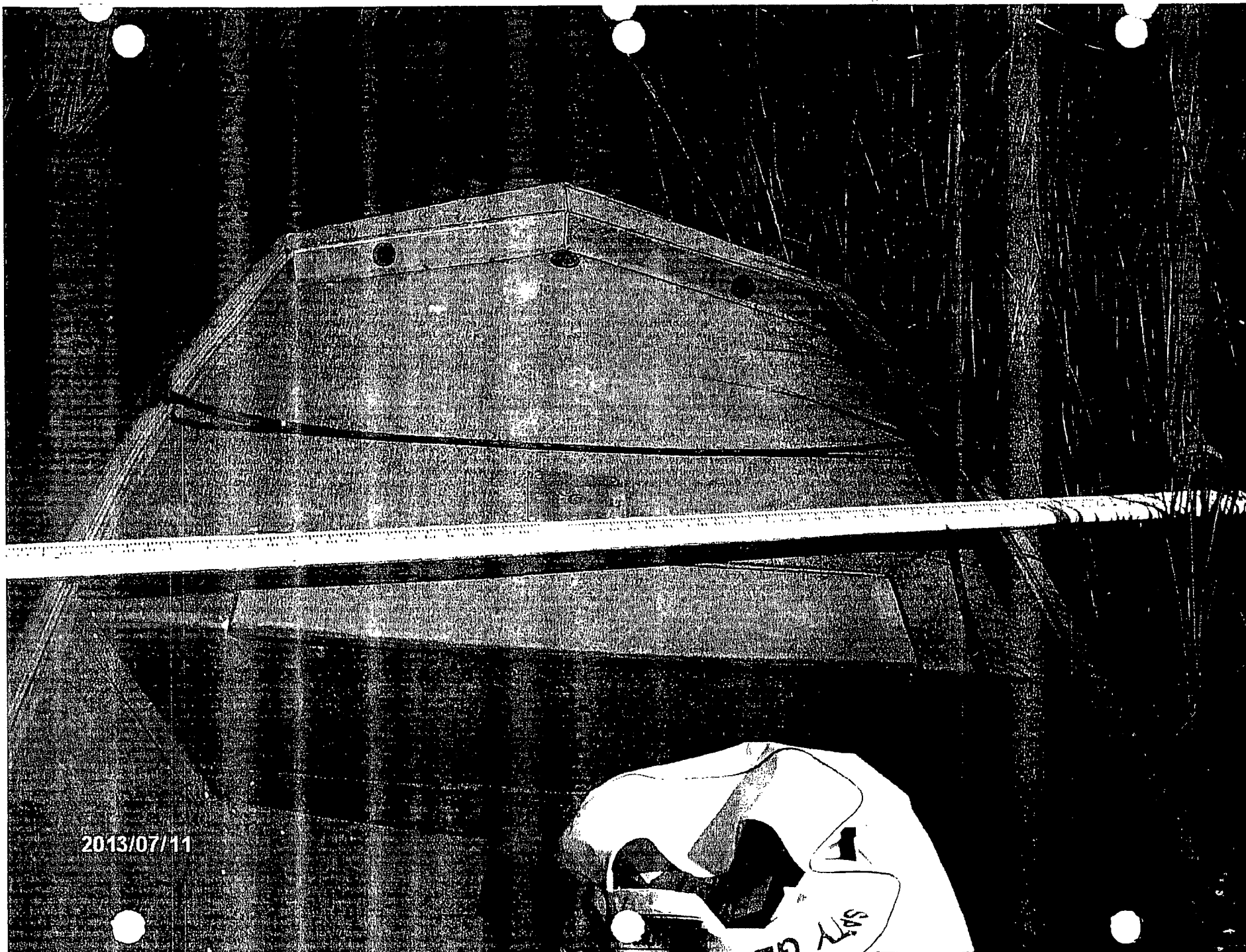
SC DHEC/OCR
CRITICAL LINE

201 101
WIPROTECHS 101
LOCATED IN THE

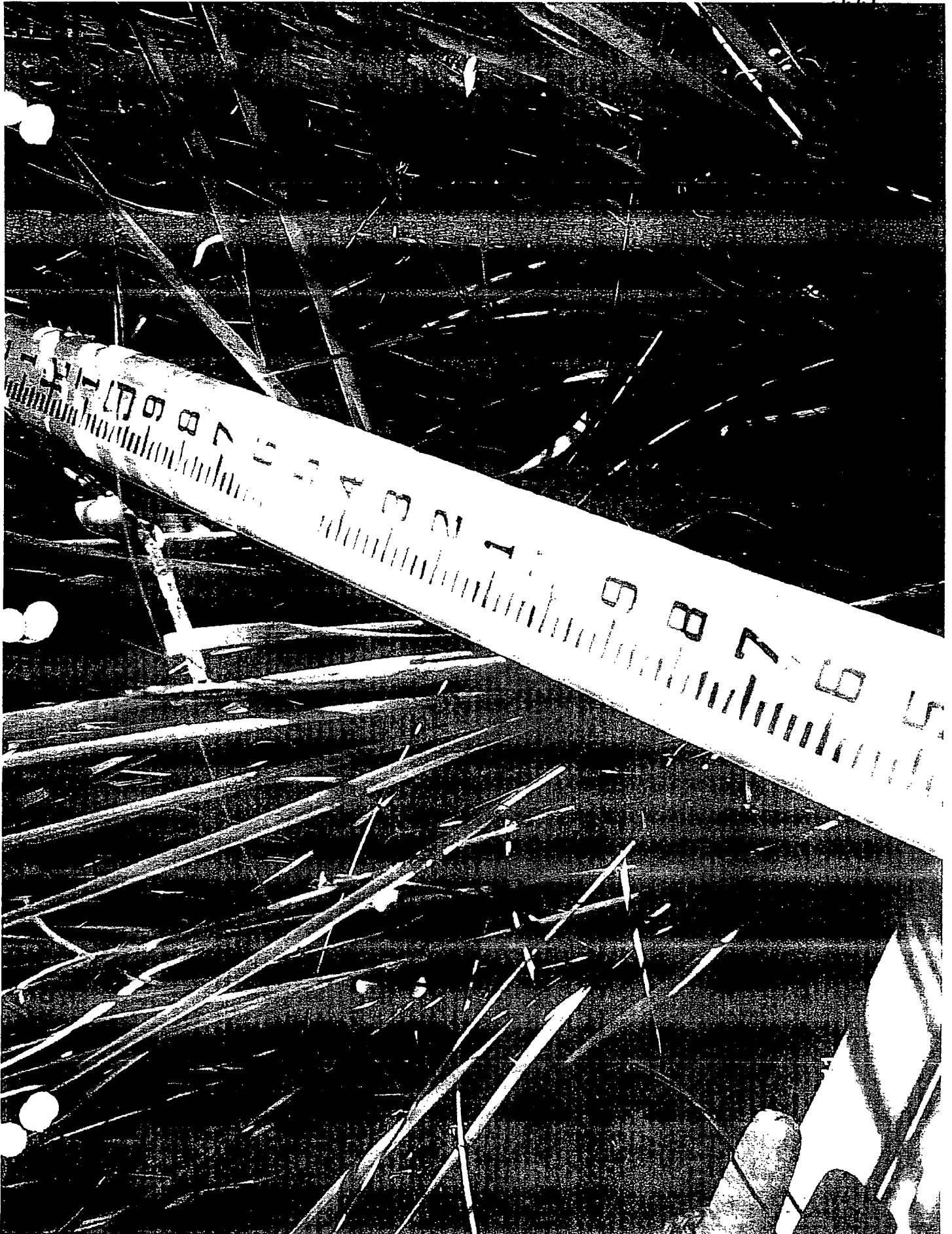
MS # LOT 33
426-16-00

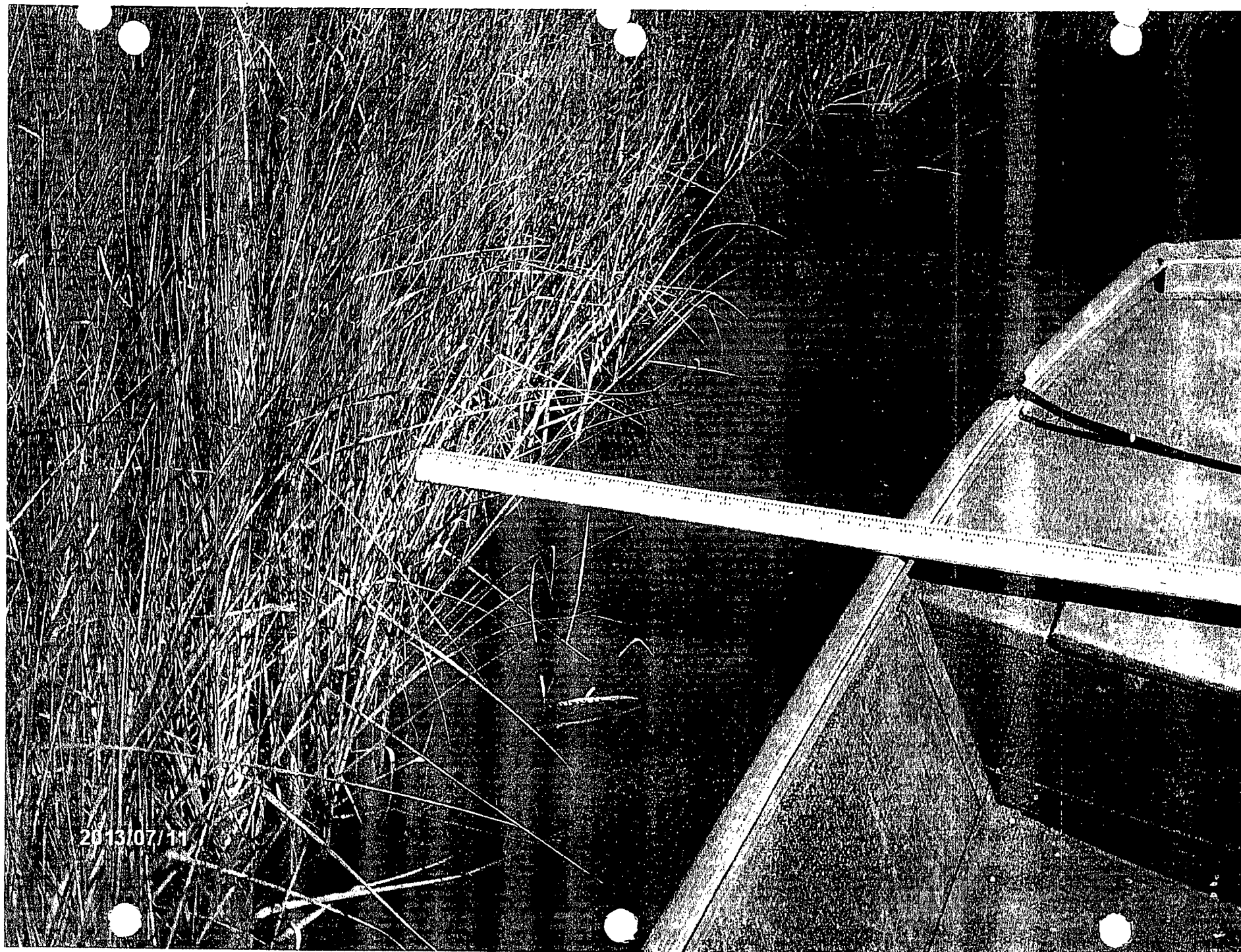
PROPOSED WALKWAY

CASTING
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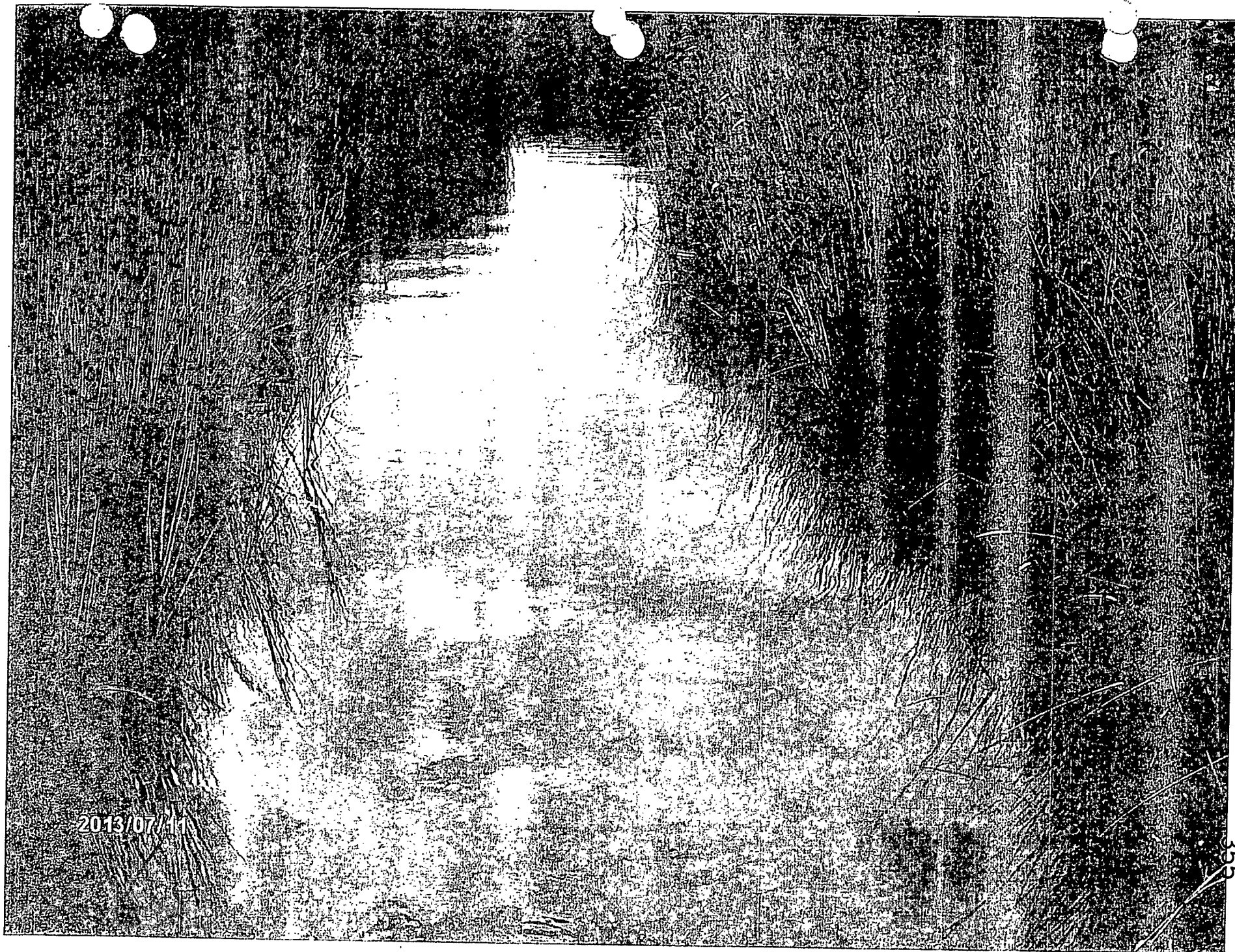


2013/07/11

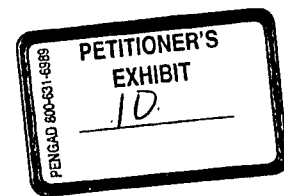




2013/07/11



2013/07/11



949 Compass Point, Charleston, SC - Google Maps

Page 1 of 1

Google

To see all the details that are visible on the screen, use the 'Print' link next to the map.



<https://maps.google.com/>

2/18/2014

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949 Compass Point, Charleston, SC - Google Maps

Page 1 of 1

Google



<https://maps.google.com/>

2/18/2014

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949 Compass Point, Charleston, SC - Google Maps

To see all the details that are visible on the screen, use the "Print" link next to the map.

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<https://maps.google.com/>

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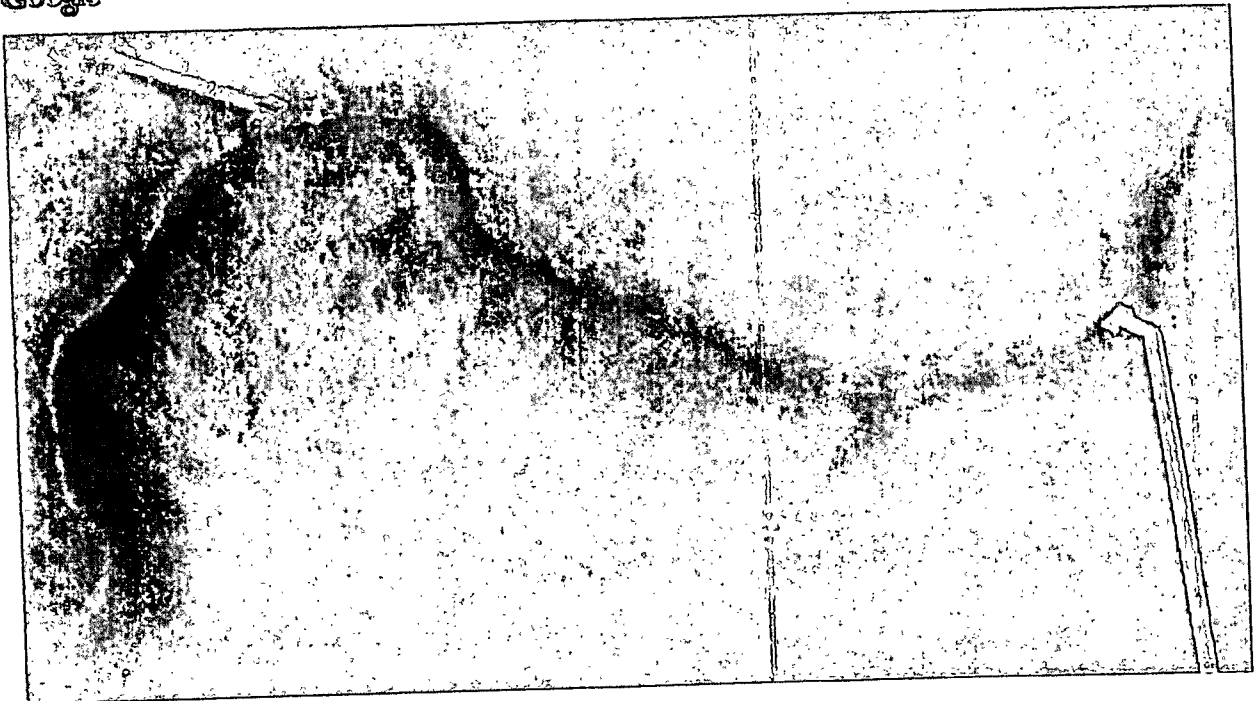
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949 Compass Point, Charleston, SC - Google Maps

Page 1 of 1

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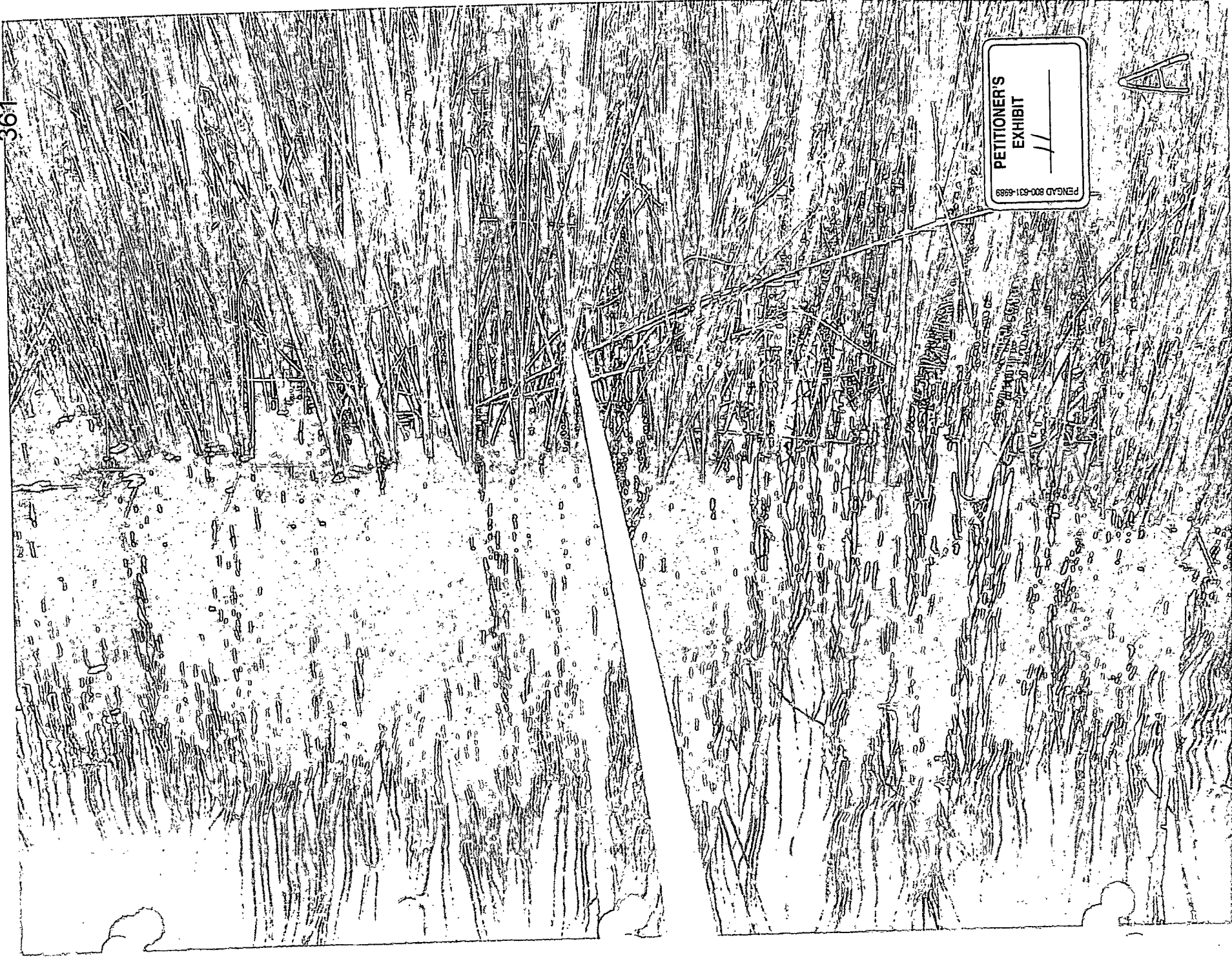


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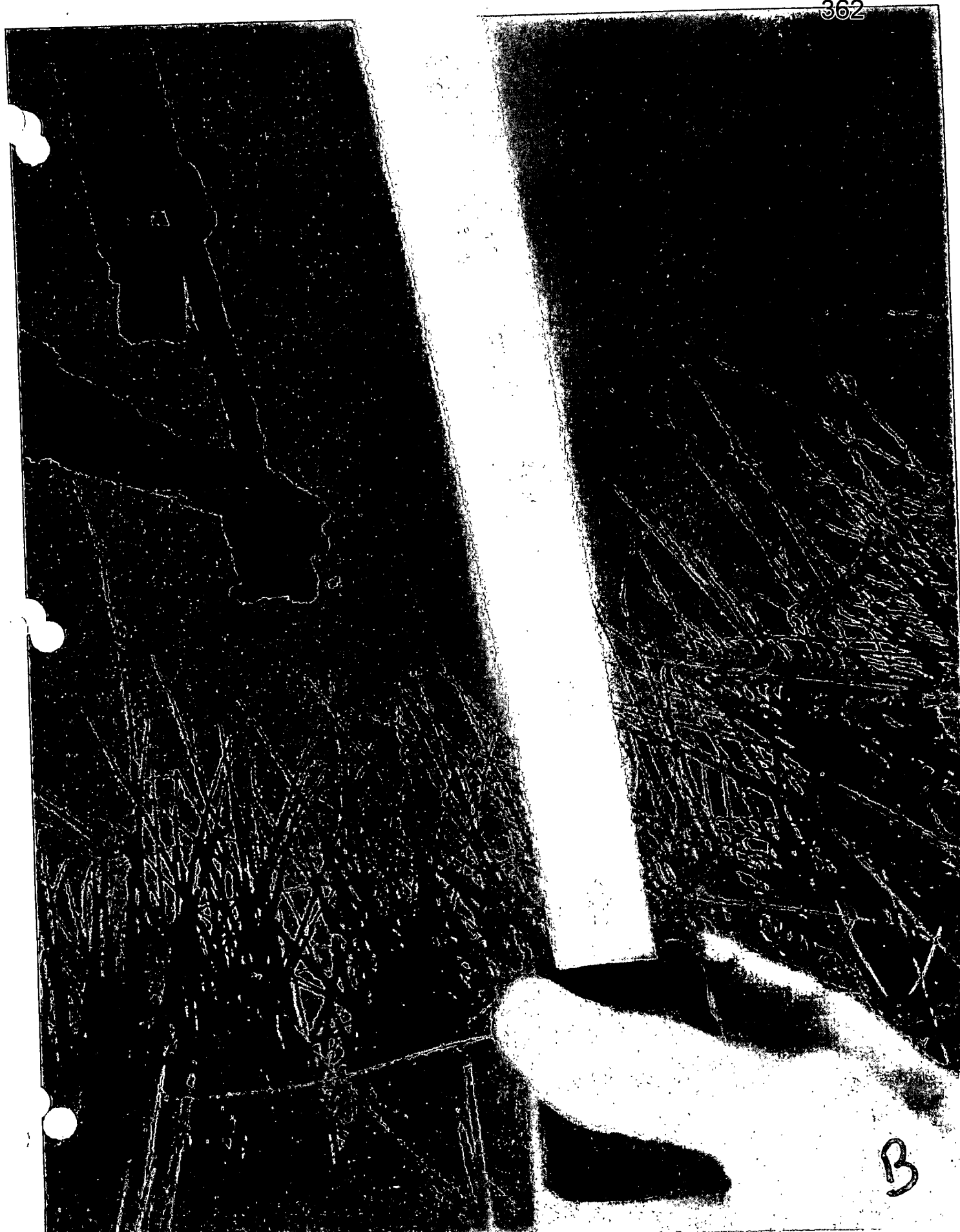


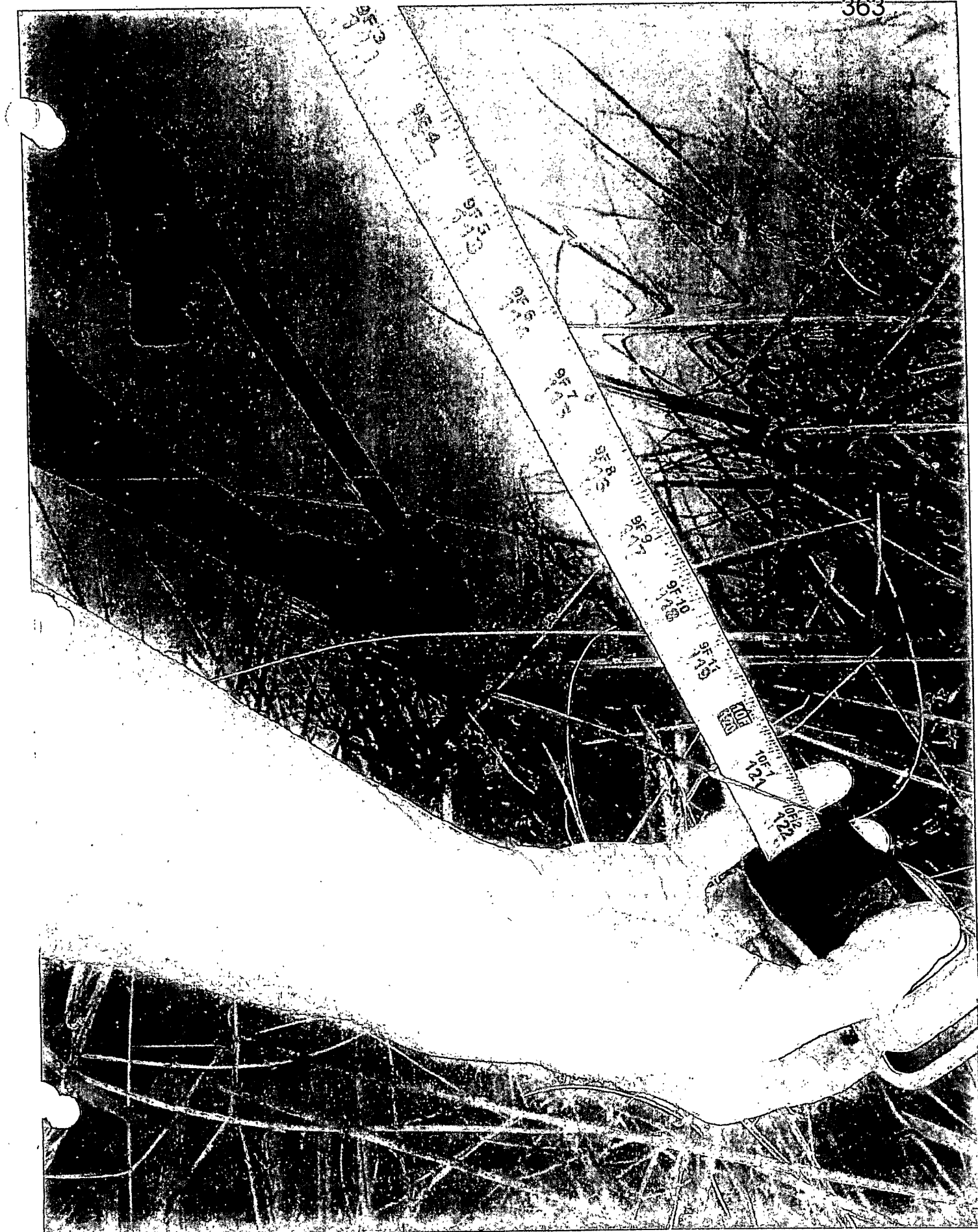


PETITIONER'S
EXHIBIT

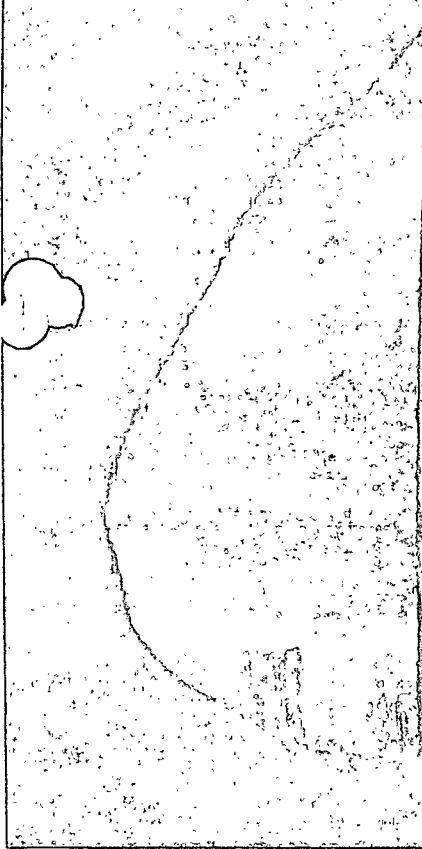
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PETITIONER'S
EXHIBIT
12



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TOTAL OF ITEMS PURCHASED: 1

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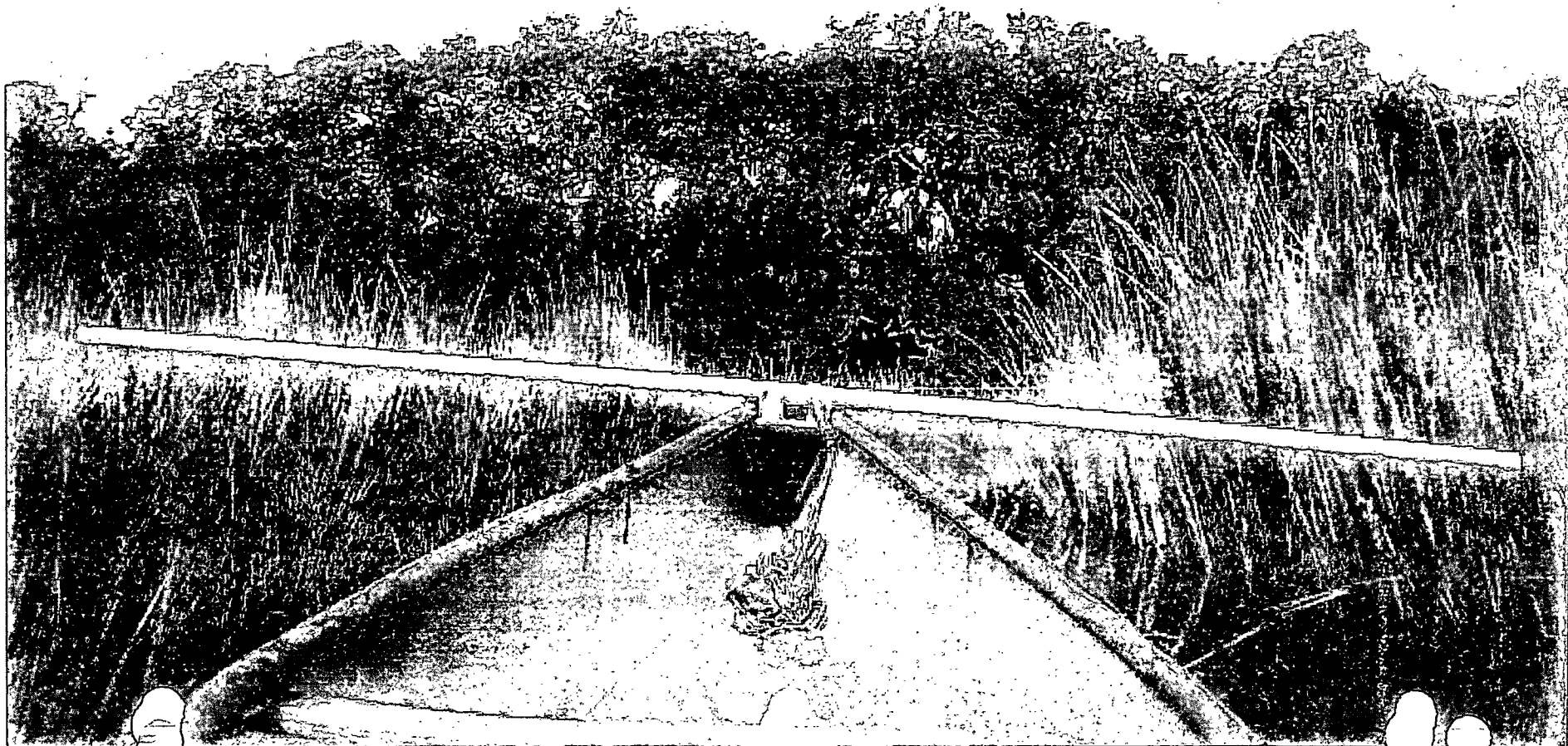
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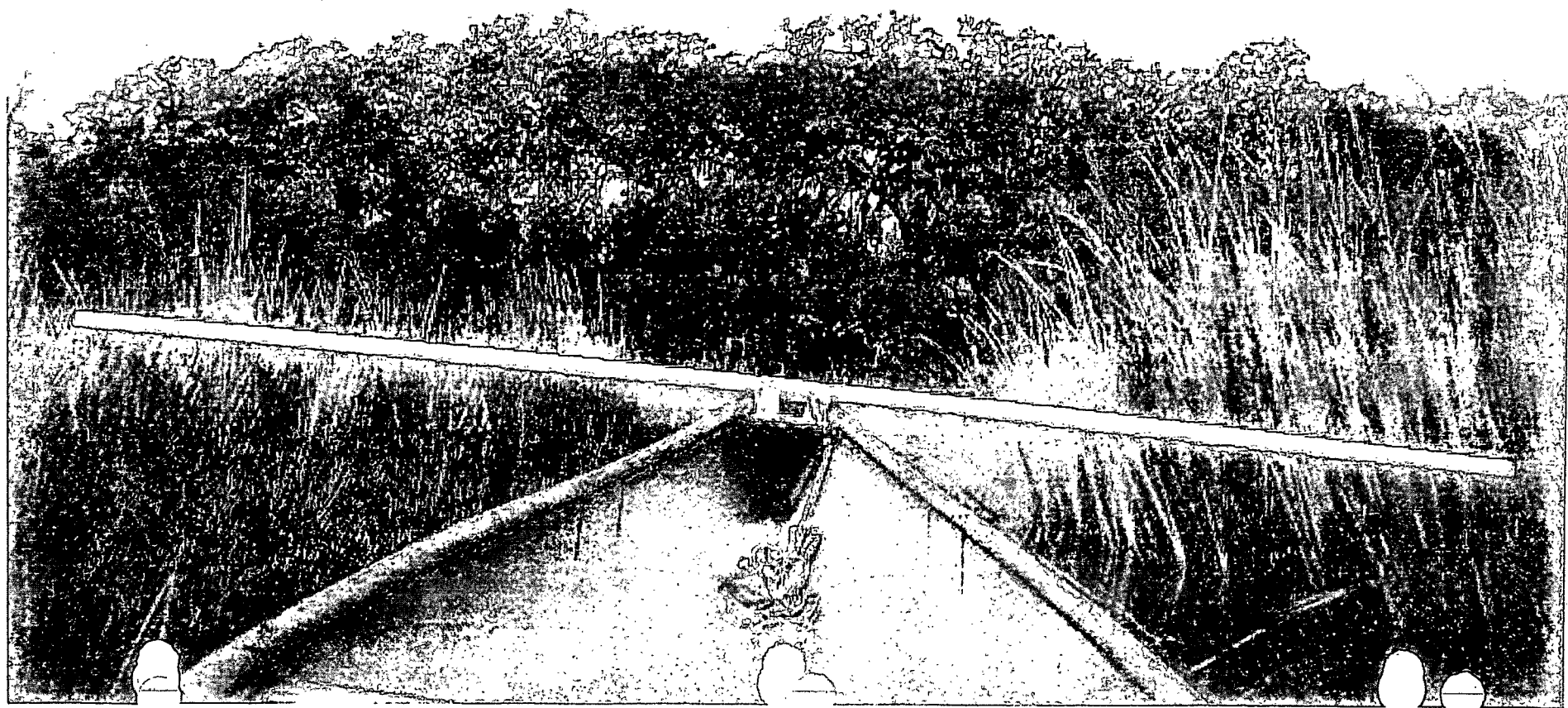
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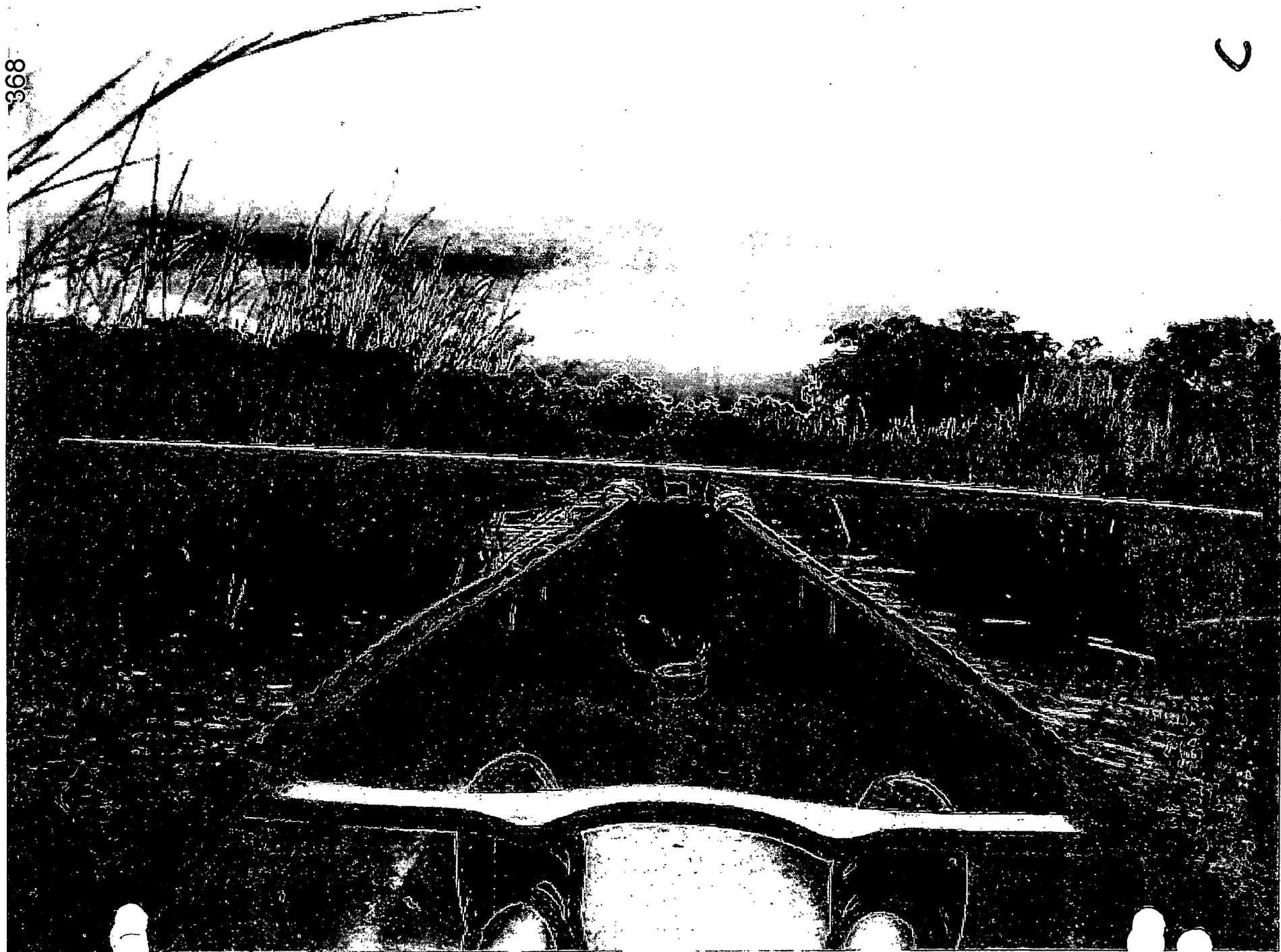
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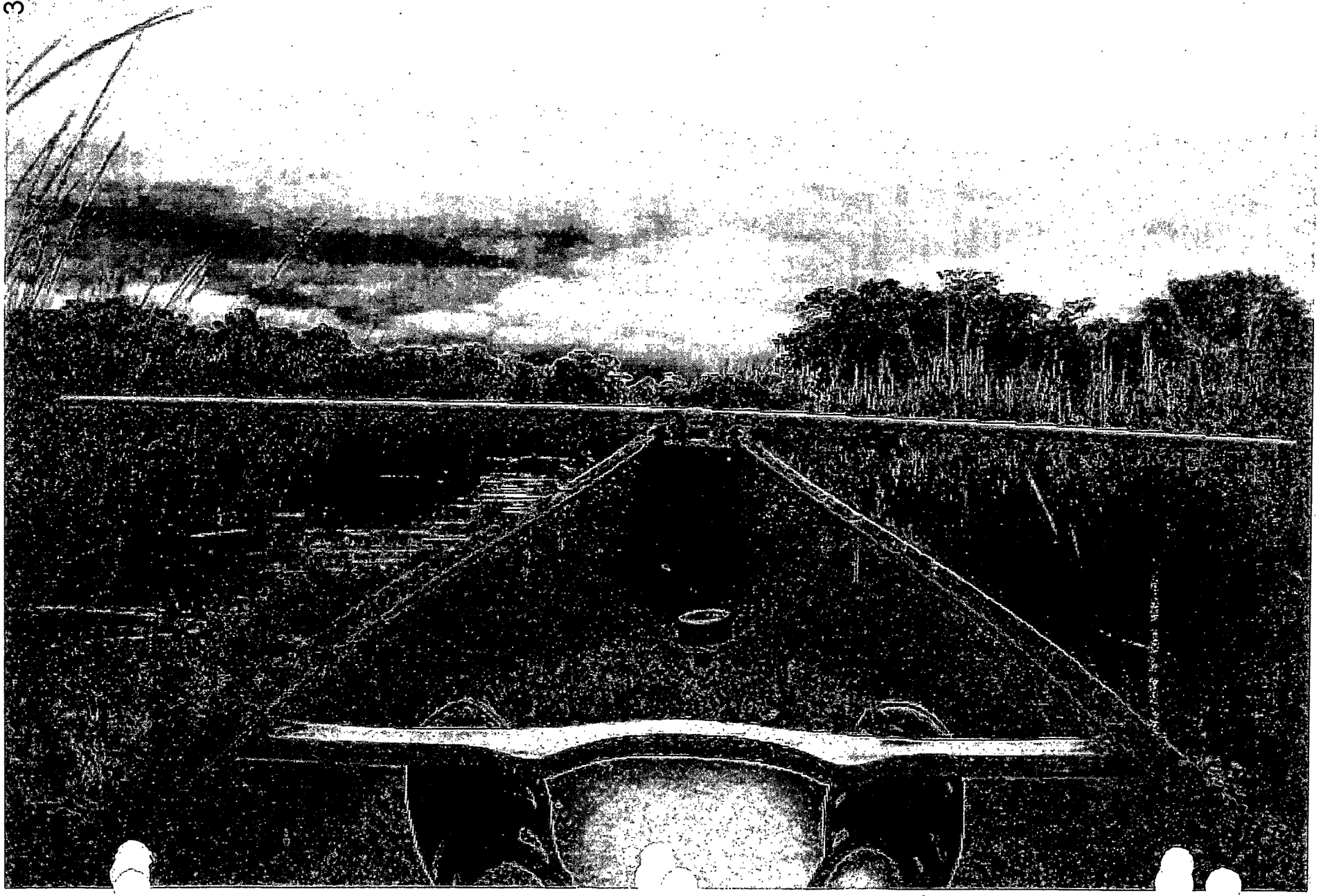
PETITIONER'S
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PENGAD 800-631-6939

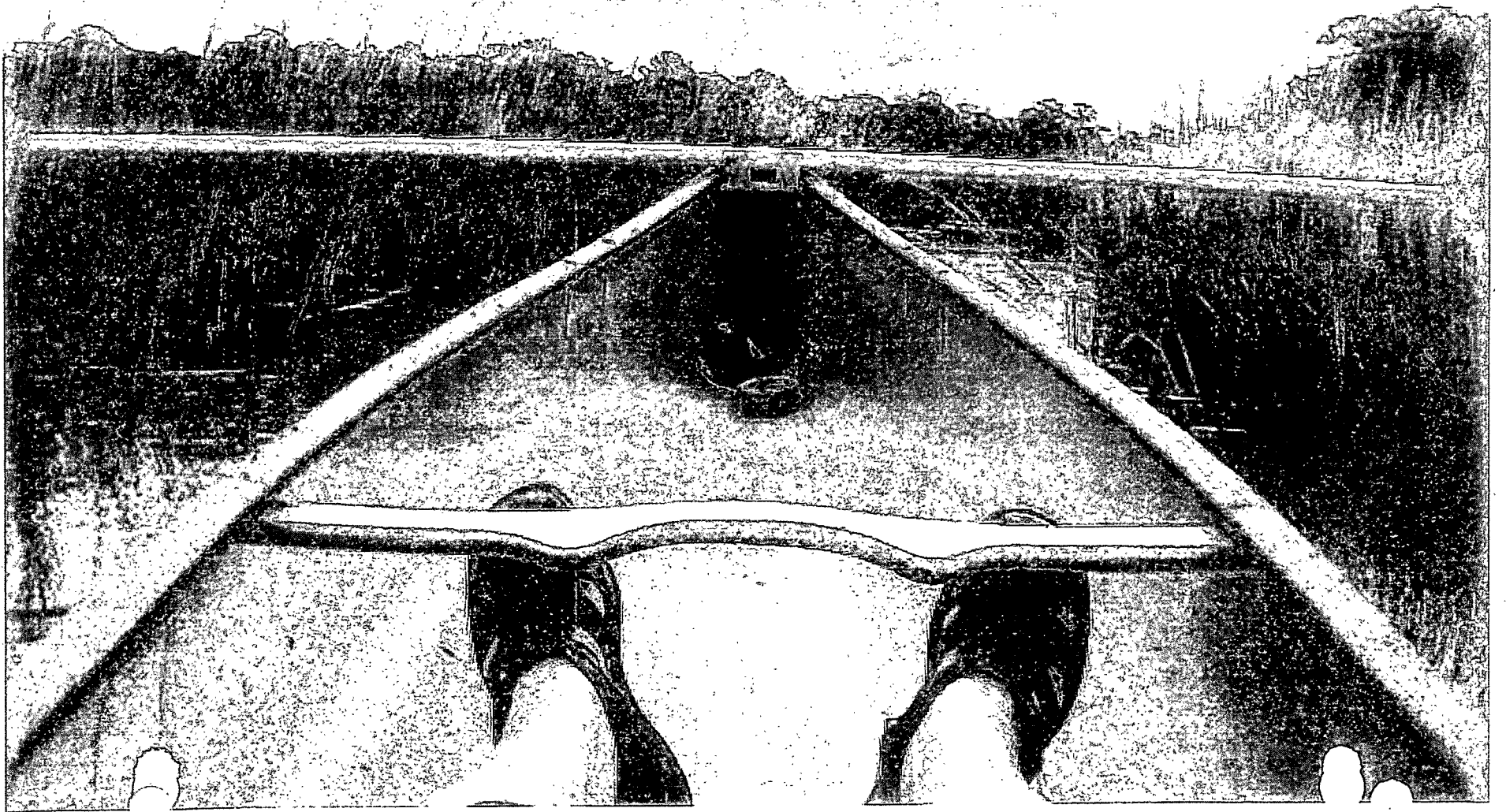
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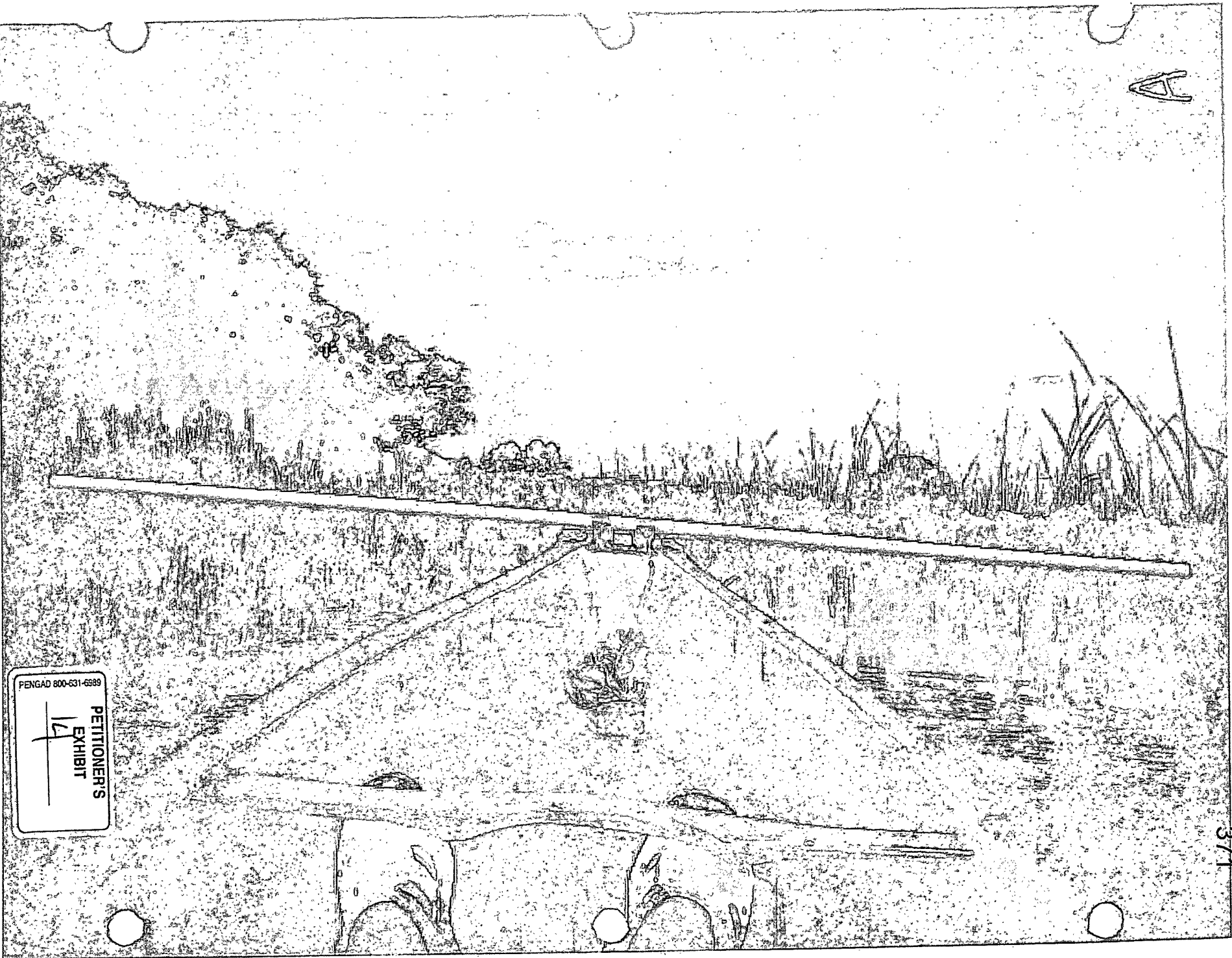








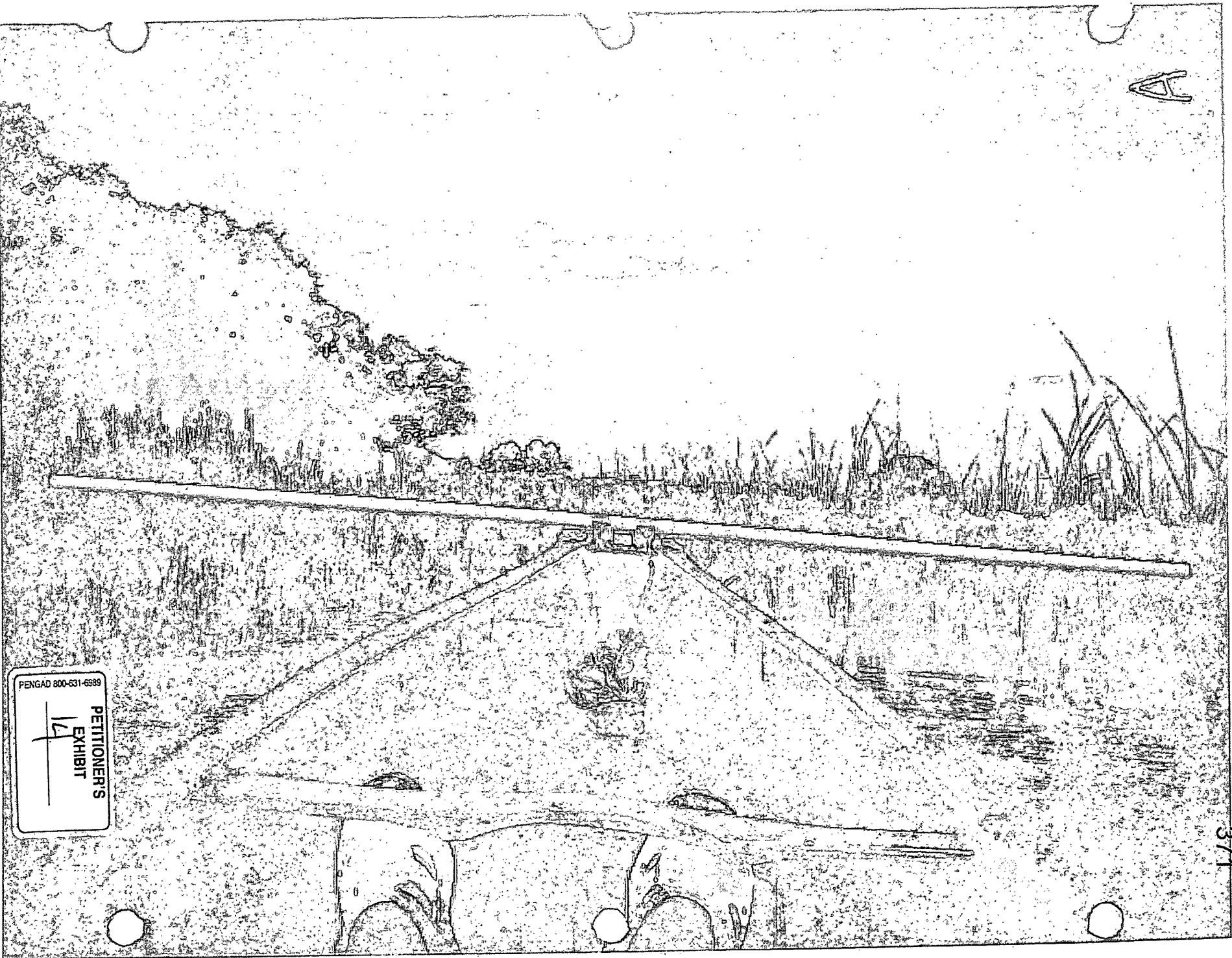
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PENGAD 800-631-6889

PETITIONER'S
EXHIBIT

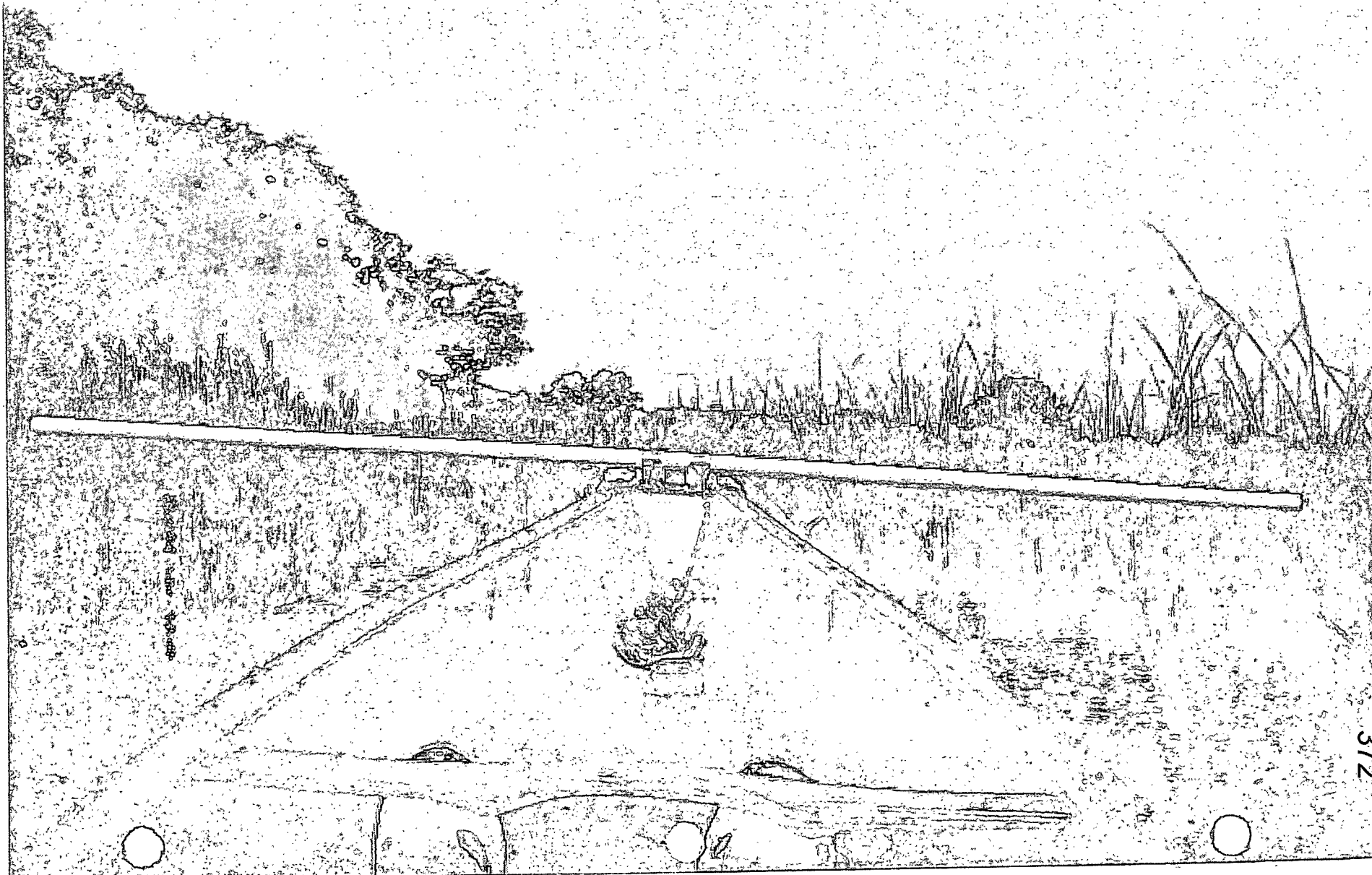
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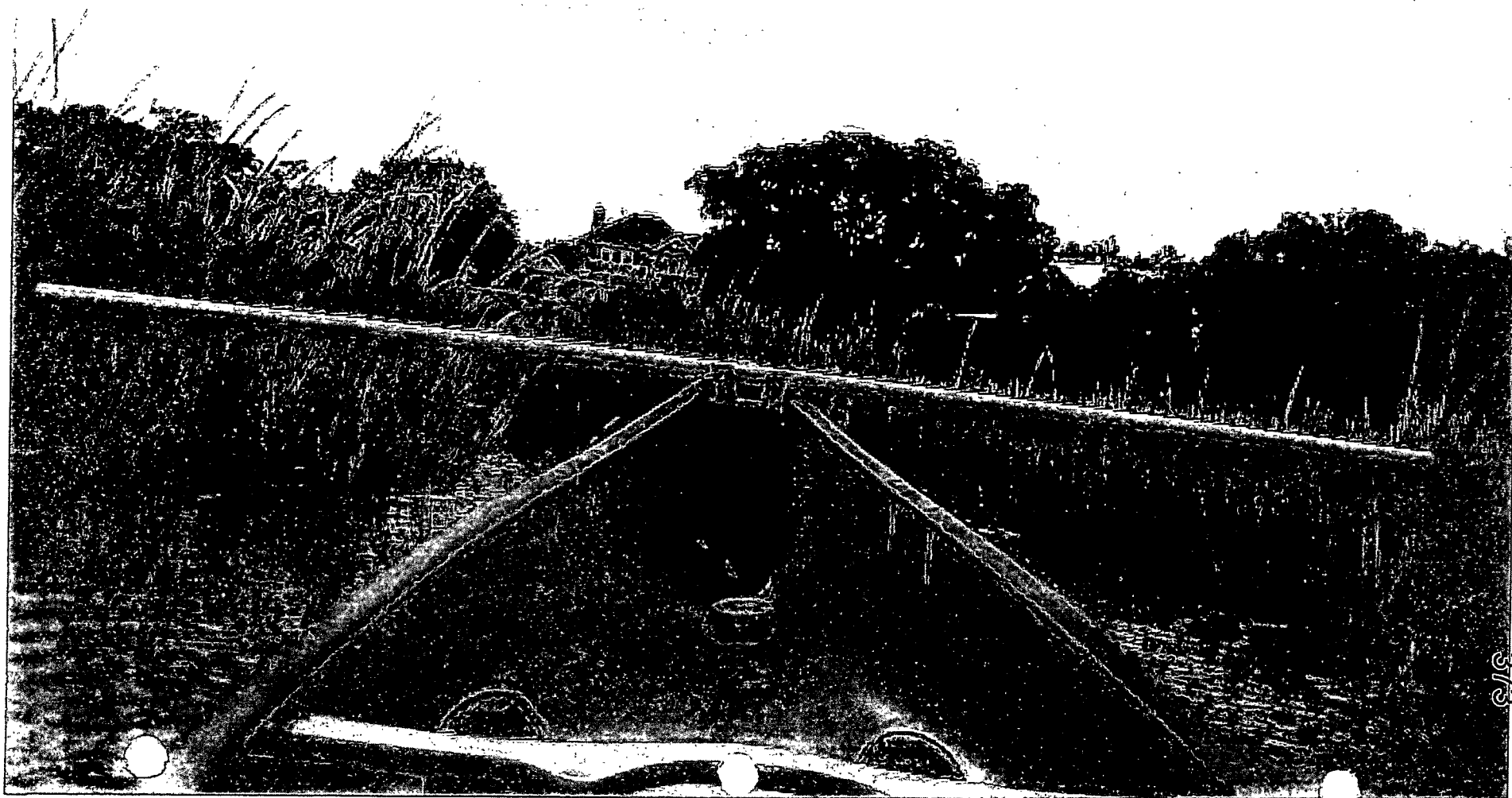


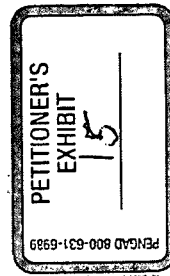
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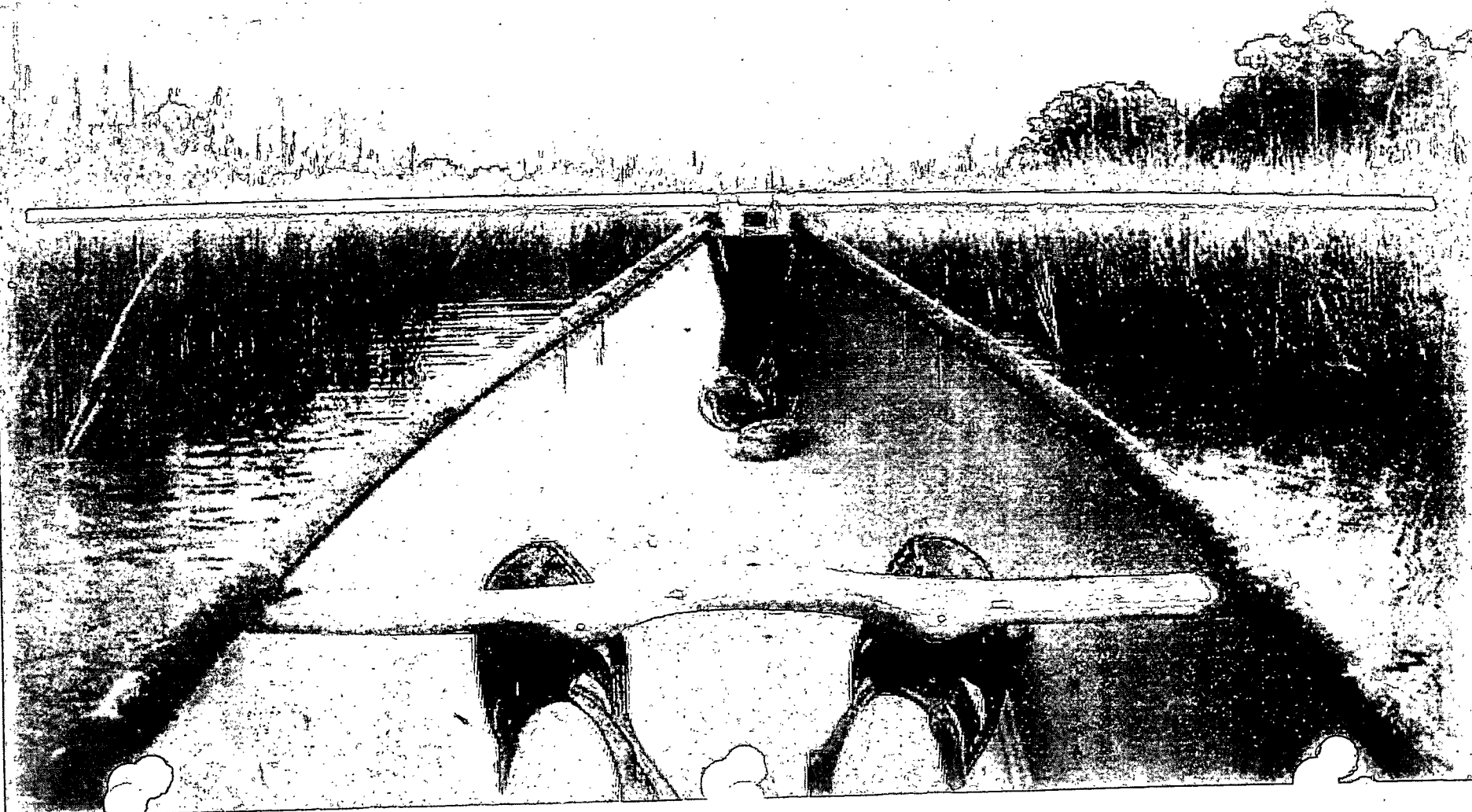
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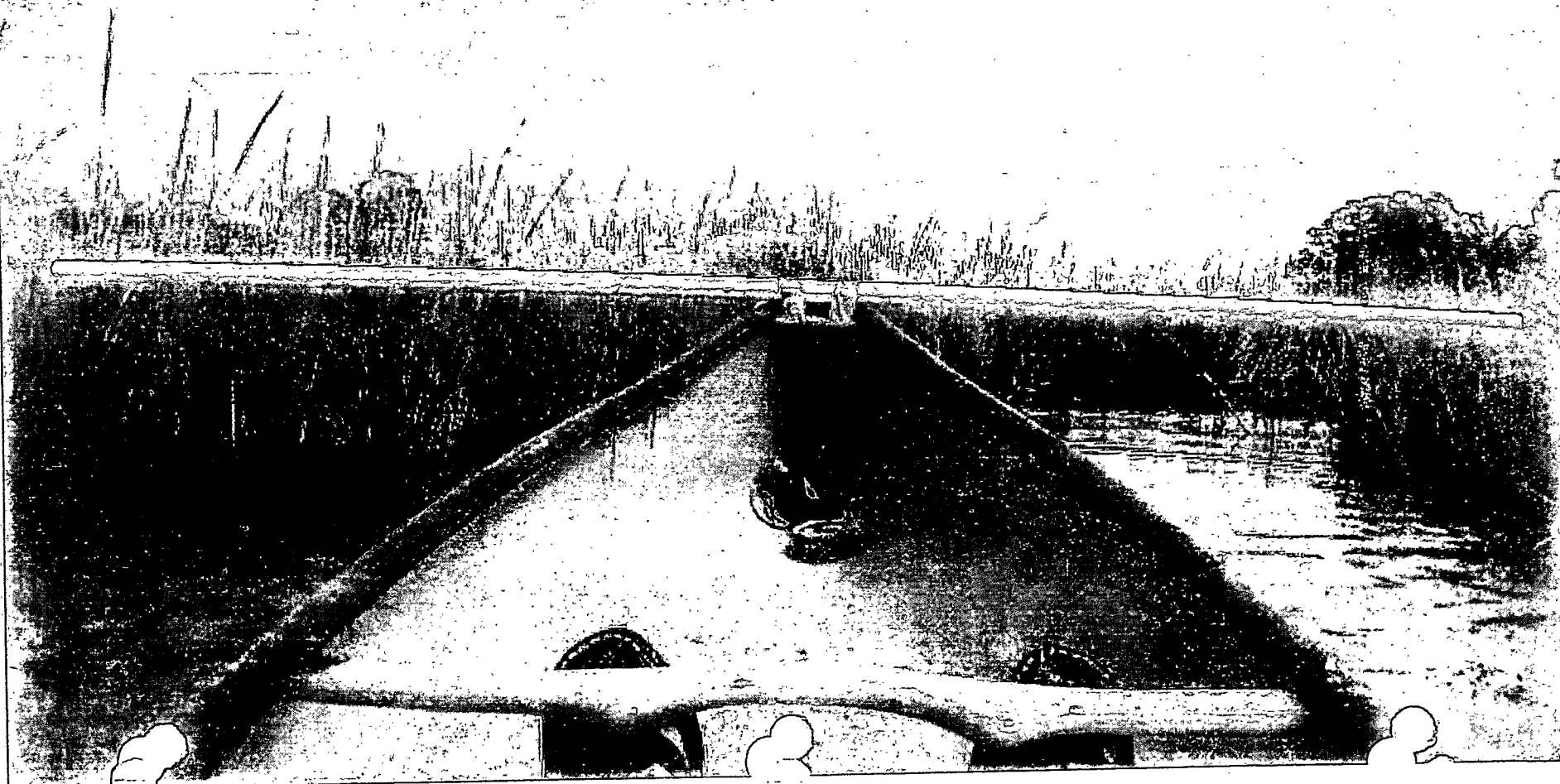


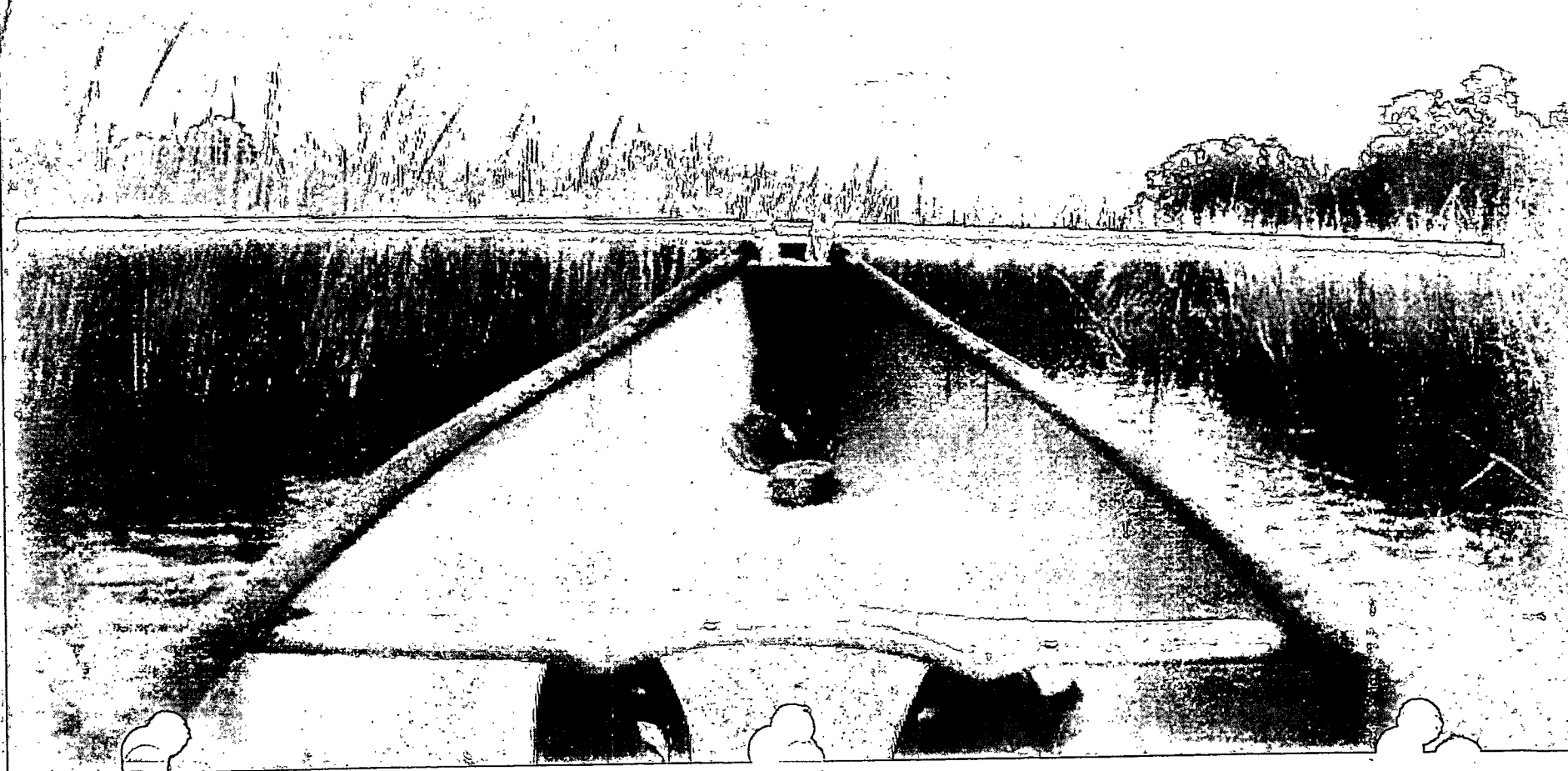




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Weatherholtz, James

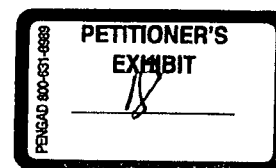
From: Weatherholtz, James
Sent: Thursday, May 10, 2012 9:53 AM
To: 'foi@dhec.sc.gov'
Cc: Weatherholtz, James
Subject: FOIA Request for lot at 949 Compass Point - dock permit
Attachments: 79428-0000-0_20120510_095026787_Scan.pdf

Please find attached my FOIA request for dock permitting information at 949 Compass Point on James Island in Charleston, South Carolina. The prior owners were Gayle and Dan Nixon. I would like a copy of the entire file, including the survey if one exists. It will be helpful to me in submitting my own application for a dock permit for the same lot.

Thank you. James.

JAMES E. WEATHERHOLTZ
ATTORNEY AT LAW

WOMBLE CARLYLE SANDRIDGE & RICE, LLP
5 Exchange Street | P.O. Box 999 | Charleston, SC 29402-0999
T 843 720-4628 | C 843 425-7232 | jweatherholtz@wcsr.com
[Firm Website](#) | [My Bio](#) | [VCard](#)





Freedom of Information Request Form
South Carolina Department of Health and Environmental Control

Date: May 10, 2012

Internal Assignment Number: _____

Name: James E. WeatherholtzCompany/Organization: Property OwnerMailing Street Address: 1451 Swamp Fox LaneCity, State, Zip Code: Charleston, South Carolina 29412Telephone Number: 843-425-7232 Email: jweatherholtz@wcsr.com

Under the Freedom of Information Act (FOIA), I am requesting the following files for:

- ☐ Review; Please contact me to make an appointment.
- ☒ Copy; I understand that administrative fees may apply and that I will be contacted if charges exceed \$100.
- ☒ Please mail copied documents. ☐ I will pick up copied documents. Please contact me when ready.

Facility/Project Name

Address

County

I recently bought a lot at 949 Compass Point on James Island. The prior owners were Gayle and Dan Nixon.

I understand that they had a dock permit on that lot and I'd like to request a copy of the entire file on that permit because I'd like to submit my own application for a simple crabbing dock on the same lot. Please let me know if you need additional information to identify the property. It is otherwise known as lot 31, block A, Harbor Section in Stiles Point Plantation. Thank you.

The Family Privacy Protection Act prohibits use of personal information obtained from our agency for commercial solicitation purposes. I have read and understand this statement.

Signed _____

Requests can be emailed, mailed or faxed to the FOI Office, SC DHEC, 2600 Bull St., Columbia, S.C. 29201; Email: foi@dhec.sc.gov; Telephone (803) 898-3882; Fax (803) 898-3816.

FOR OFFICE USE:

Date Received: _____ Total No. of Copies: _____ Total Charge: _____

Research Time: _____ Copy Charge: _____

Research Cost: _____ Mailing Charge: _____ Make check payable to S.C. DHEC

B



SCANNED FILE COVER SHEET

TYPE OF FILE (CHECK ONE):

☒ CRITICAL AREA PERMIT (SCANNED AS "PERMITTING")☐ STORMWATER PERMIT (SCANNED AS "CERTIFICATION")☒ CERTIFICATIONFILE NAME: Canton, Bruce / Daniel NixonPERMIT NUMBER: OCRM-01-254-6

PERMIT TYPE: _____

COAST COMPUTER DATABASE ID: 43874LOCATION/PROJECT KEYWORDS: Charleston CountyNOTES: joint use dock

ADDITIONAL INFORMATION IN THE FILE BUT NOT SCANNED:

☐ SLIDES/PHOTOGRAPHS☐ BLUEPRINTS☐ OTHER (DESCRIBE): _____FILE PREPPED FOR SCANNING BY JP ON 9-7-07FILE SCANNED BY JP ON 9-10-07

C

SUMMARY OF REVIEWCommenting Agencies

DHEC Intent to issue _____

DHEC - 401 _____

SCDNR NOBSSPA NOBS

SCDAH _____

SCDAA TEBU

Other: _____

Adjoining Property OwnersAlustBusiness

Agent or contractorAffiliated Marine3420 Maybank HwyJohns Is., SC 29455

Business phone 559-0004Fax Number 559-2002

NOTE: See list of interested persons on reverse

APO'S Notified? Please initial and date 5/31/01Local Government Notified? Please initial and date 5/31/01APPLICATION REQUIREMENTS

PLEASE CHECK WHEN COMPLETE YES

Letters to ApplicantO & M ManualDate ReceivedAdministrative fee received 5/25/01Aff. Of Ownership received 5/25/01Certified Deed, plat or lease 5/23/01State news ad Received XDate published X

Which newspaper _____

County news ad received 5/24/01Date published 5/23/01Which newspaper PWC

1. _____

2. _____

3. _____

4. _____

5. _____

6. _____

7. _____

8. _____

9. _____

O & M Manual: yes no

O & M Received: _____

O & M Reviewed: yes no

O & M Approved: yes no

PERMIT ACTIVITY:Joint use DockACTION TAKEN:

PROJECT MANAGER INITIALS _____

Please check and date below

Issue (no provision) _____ Date _____

Issue with provisions _____ Date _____

Deny _____ Date _____

List Provisions: 1) Standard Arch. provisions 2) handrail provision w/243) Width of waterbody provision

INTERESTED PERSONS

1.	_____	27.	_____	53.	_____
2.	_____	28.	_____	54.	_____
3.	_____	29.	_____	55.	_____
4.	_____	30.	_____	56.	_____
5.	_____	31.	_____	57.	_____
6.	_____	32.	_____	58.	_____
7.	_____	33.	_____	59.	_____
8.	_____	34.	_____	60.	_____
9.	_____	35.	_____	61.	_____
10.	_____	36.	_____	62.	_____
11.	_____	37.	_____	63.	_____
12.	_____	38.	_____	64.	_____
13.	_____	39.	_____	65.	_____
14.	_____	40.	_____	66.	_____
15.	_____	41.	_____	67.	_____
16.	_____	42.	_____	68.	_____
17.	_____	43.	_____	69.	_____
18.	_____	44.	_____	70.	_____
19.	_____	45.	_____	71.	_____
20.	_____	46.	_____	72.	_____
21.	_____	47.	_____	73.	_____
22.	_____	48.	_____	74.	_____
23.	_____	49.	_____	75.	_____
24.	_____	50.	_____	76.	_____
25.	_____	51.	_____	77.	_____
26.	_____	52.	_____	78.	_____

Bruce Canton & Daniel Nixon
945 Campus Point
James Island, SC 29455

Re: OCRM-01-254-G

Donald Barrineau
1926 Oak Tree Lane
Mt. Pleasant, SC 29464

Re: OCRM-01-254-G

Affiliated Marine Construction
3420 Maybank Hwy.
Johns Island, SC 29455

Re: OCRM-01-254-G

Roland Windham, Jr.
Lonnie Hamilton, III; PSB
4045 Bridge View Dr.
N. Charleston, SC 29405-7464
Re: OCRM-01-254-G

Stephen Aust
854 Whispering Marsh Dr.
Charleston, SC 29412-4440

Re: OCRM-01-254-G

David Agnew
80 Broad Street
Charleston, SC 29402-0304

Re: OCRM-01-254-G

Certificate of Mailing

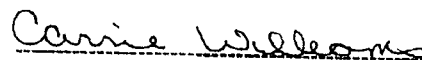
Re: OCRM-01-254-G

Permittee Bruce Canton & Daniel Nixon

I Carrie Williams as an employee of DHEC-OCRM certify that I have, this day mailed the following issue memo with postage affixed thereto, to the following.

Name: SEE LIST 1 of 1
Address:Name:
Address:Name:
Address:Name:
Address:Name:
Address:Name:
Address:Name:
Address:Name:
Address:

Date: September 4, 2001



Carrie Williams
DHEC-OCRM Employee
Charleston, South Carolina

CW:certmail:1

6

Bruce Canton & Daniel Nixon
945 Campus Point
James Island, SC 29455

Re: OCRM-01-254-G

Donald Barrineau
1926 Oak Tree Lane
Mt. Pleasant, SC 29464

RE: OCRM-01-254-G

Affiliated Marine Construction
3420 Maybank Hwy.
Johns Island, SC 29455

Re: OCRM-01-254-G

Roland Windham, Jr
Lonnie Hamilton, III; PSB
4045 Bridge View Dr.
N. Charleston, SC 29405-7464

Re: OCRM-01-254-G

Stephen Aust
854 Whispering March Dr.
Charleston, SC 29412-4440

David Agnew
PO Box 304
Charleston, SC 29402-0304

2

H



Office of Ocean and Coastal
Resource Management
1362 McMillan Avenue, Suite 400
Charleston, SC 29405
(843) 744-5838 FAX (843) 744-5847

Christopher L. Brooks, Deputy Commissioner

September 12, 2001

Affiliated Marine
3420 Maybank Highway
Johns Island, South Carolina 29455

Re: P/N# OCRM-01-254-G
Bruce Canton & Daniel Nixon
Returned Mail

Dear Sir or Madam:

In reviewing the above referenced file the issue memo sent to the applicant has been returned by the post office (see enclosure). The applicant must be notified by mail. We will need the correct mailing address so we can update our file. Thank you in advance for your cooperation.

Sincerely,

Meghan Gordon
Project Manager

retmail.doc/3

Enclosure

cc: Mr. Christopher L. Brooks
Mr. Richard Chinnis

I



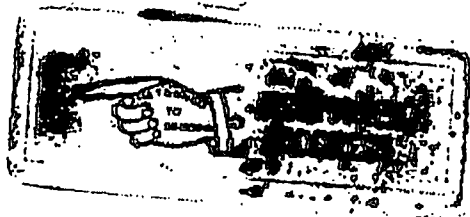
OCEAN & COASTAL
MANAGEMENT
129405

Requested.

RECEIVED

SEP 07 2001

DHEC-OCRM
CHARLESTON OFFICE



Bruce Canton & Daniel Nixon
945 Campus Point
James Island, SC 29455

Re: OCRM-01-254-G

1060 U.S. POSTAGE PB 2213613
8648 \$00.57⁰ SEP 04 01
1673 MAILED FROM ZIP CODE 29403

29412

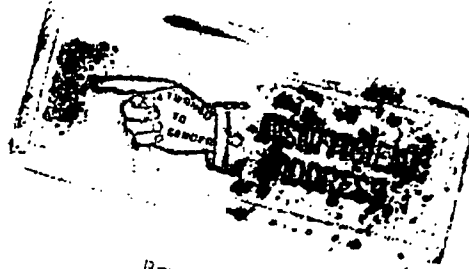
J

J



OFFICE OF OCEAN & COASTAL
RESOURCE MANAGEMENT
1362 McMillan Avenue, Suite 400
Charleston, SC 29405

Return Service Requested



Bruce Canton & Daniel Nixon
945 Campus Point
James Island, SC 29455

Re: OCRM-01-254-G

1060 U.S. POSTAGE PB2213613
8648 *00.570 SEP 04 01
1673 MAILED FROM ZIP CODE 29405

29412



Office of Ocean and Coastal
Resource Management
1362 McMillan Avenue, Suite 400
Charleston, SC 29405

(843) 744-5838 FAX (843) 744-5847

Christopher L. Brooks, Deputy Commissioner

MEMORANDUM

TO: All Interested Parties
FROM: Meghan Gordon, Project Manager 
RE: Bruce Canton
Daniel Nixon
P/N# OCRM-01-254-G
DATE: September 4, 2001

This is to inform you that the above referenced permit was issued on July 02, 2001 and validated on August 29, 2001, see attachment.

You have the right to appeal this decision by filing a written Notice of Appeal within 15 days of the date of this memorandum.

South Carolina Department of Health and Environmental Control
Office of Ocean and Coastal Resource Management
CRITICAL AREA PERMIT

Permittee(s): Bruce Canton & Daniel Nixon

Permit Number(s): OCRM-01-254-G

Date of Issuance: July 02, 2001

Expiration Date: July 02, 2006

Location: Lot 31 and 945 Compass Point, Styles Point Plantation
Johns Island, Charleston County, South Carolina
Kushiwah Creek

**SEE SPECIAL
CONDITION(S)**

This permit is issued under the provisions of S. C. Code Ann. Section 48-39-10, *et. seq.*, and R.30-1 through R.30-20. Please carefully read the project description and any Special Conditions that may appear on this permit/certification, as they will affect the work, which is allowed. If there are no Special Conditions, then the work is authorized as described in the project description. The general conditions are also a part of this permit/certification and should be read in their entirety. The S. C. Contractor's Licensing Act of 1999, enacted as Section 40-11-5 through 430, requires that all construction with a total cost of \$5,000 or more be performed by a licensed contractor with a valid contractor's license for marine class construction, except for construction performed by a private landowner for strictly private purposes.

DESCRIPTION OF THE PROJECT

The plans submitted by you, attached hereto, show the work consists of the following: Constructing a joint use private dock. The proposed structure will have a 4' by 240' long walkway leading to a 5' by 10' fixed pierhead with cantilevered benches both with handrails. The purpose of the proposed activity is for the property owner's private, recreational use.

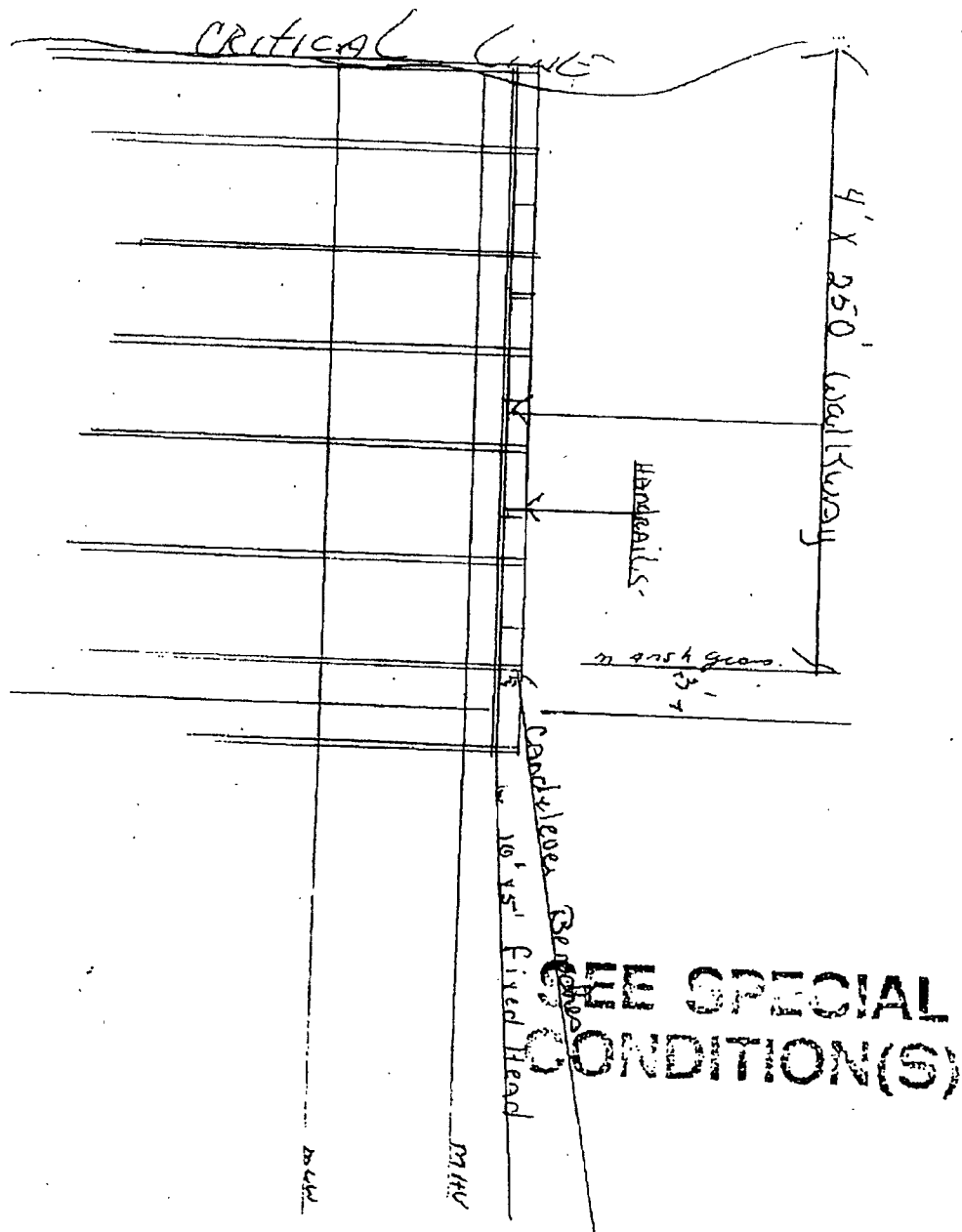
SPECIAL CONDITIONS

1. Provided the proposed structure extends no further than 1/4 of the creek's width as measured from marsh grass to marsh grass.
2. Provided the handrails are constructed to what is minimally required for safety as outlined in the Southern Building Code.

GENERAL CONDITIONS

This permit is expressly contingent upon the following conditions which are binding on the permittee:

1. That the permittee, in accepting this permit, covenants and agrees to comply with and abide by the provisions and conditions herein and assumes all responsibility and liability and agrees to save the South Carolina Department of Health and Environmental Control, OCRM, and the State of South Carolina, its employees or representatives, harmless from all claims of damage arising out of operations conducted pursuant to this permit.
2. That if the activity authorized herein is not constructed or completed within FIVE YEARS of the date of issuance, this permit shall automatically expire. A request, in writing, for an extension of time shall be made not less than sixty days prior to the expiration date.
3. That all authorized work shall be conducted in a manner that minimizes any adverse impact on fish, wildlife and water quality.
4. That this permit does not relieve the permittee from the requirements of obtaining a permit from the U. S. Army Corps of Engineers or any other applicable federal agency, nor from the necessity of complying with all applicable local laws, ordinances, and zoning regulations. This permit is granted subject to the rights of the State of South Carolina in the navigable waters and shall be subject, further to all rights held by the State of South Carolina under the public trust doctrine as well as any other right the State may have in the waters and submerged lands of the coast.
5. That this permit does not convey, expressly or impliedly, any property rights in real estate or material nor any exclusive privileges; nor does it authorize the permittee to alienate, diminish, infringe upon or otherwise restrict the property rights of any other person or the public; nor shall this permit be interpreted as appropriating public properties for private use.
That the permittee shall permit the Department or its authorized agents or representatives to make periodic inspections at any time deemed necessary in order to ensure that the activity being performed is in accordance with the terms and conditions of this permit.
7. That any abandonment of the permitted activity will require restoration of the area to a satisfactory condition as determined by the Department.
8. That this permit may not be transferred to a third party without prior written notice to the Department, either by the transferee's written agreement to comply with all terms and conditions of this permit or by the transferred subscribing to this permit and thereby agreeing to comply.
9. That if the display of lights and signals on any structure or work authorized herein is not otherwise provided for by law, such lights and special signals as may be prescribed by the United States Coast Guard shall be installed and maintained by and at the expense of the permittee.
10. That SCDHEC-OCRM shall be notified in writing upon commencement of work and that a permit placard or a copy of the placard shall be posted in a conspicuous place at the project site during the entire period of work.
11. That the structure or work authorized herein shall be in accordance with the plans and drawing attached hereto, and shall be maintained in good condition. Failure to build in accordance with the plans and drawings attached hereto, or failure to maintain the structure in good condition shall result in the revocation of this permit.
12. That the authorization for activities or structures herein constitutes a revocable license. The Department may require the permittee to modify activities or remove structures authorized herein if it is determined by the OCRM that such activity or structures violates the public's health, safety, or welfare, or if any activity is inconsistent with the public trust doctrine. Modification or removal under this condition shall be ordered only after reasonable notice stating the reasons therefore and provision to the permittee of the opportunity to respond in writing. When the permittee is notified that SCDHEC-OCRM intends to revoke the permit, permittee agrees to immediately stop work pending resolution of the revocation.
13. That the Department shall have the right to revoke, suspend, or modify this permit in the event it is determined the permitted structure (1) significantly impacts the public health, safety and welfare, and/or is violation of Section 48-39-150, (2) adversely impacts public rights, (3) that the information and data which the permittee or any other agencies have provided in connection with the permit application is either false, incomplete or inaccurate, or (4) that the activity is not in compliance with the drawings submitted by the applicant. That the permittee, upon receipt of the Department's written intent to revoke, suspend, or modify the permit has the right to a hearing. Prior to revocation, suspension, or modification of this permit, the Department shall provide written notification of intent to revoke to the permittee, and permittee can respond with a written explanation to the Department. (South Carolina Code Section 1-223-370 shall govern the procedure for revocation; suspension or modification herein described).
14. That any modification, suspension or revocation of this permit shall not be the basis of any claim for damages against the Department or the State of South Carolina or any employee, agent, or representative of the Department the State of South Carolina.
15. That all activities authorized herein shall, if they involve a discharge or deposit into navigable waters or ocean waters, be at all times consistent with all applicable water quality standards, effluent limitations and standards of performance, prohibitions, and pretreatment standards established pursuant to applicable federal, state and local laws.
16. That extreme care shall be exercised to prevent any adverse or undesirable effects from this work on the property of others. This permit authorizes no invasion of adjacent private property, and SCDHEC-OCRM assumes no responsibility or liability from any claims of damage arising out of any operations conducted by the permittee pursuant to this permit.



Not to Scale

PLICANT: Bruce Cantor
 DAW N. KON
 CITY:
 Joint Use
 Recreational Use

LOCATION: 945 - d Lot 31
 Compass Point
 Styles Point Plantation
 COUNTY: JAMES ISLAND, SC
 DATE: Charleston, 5/12/01

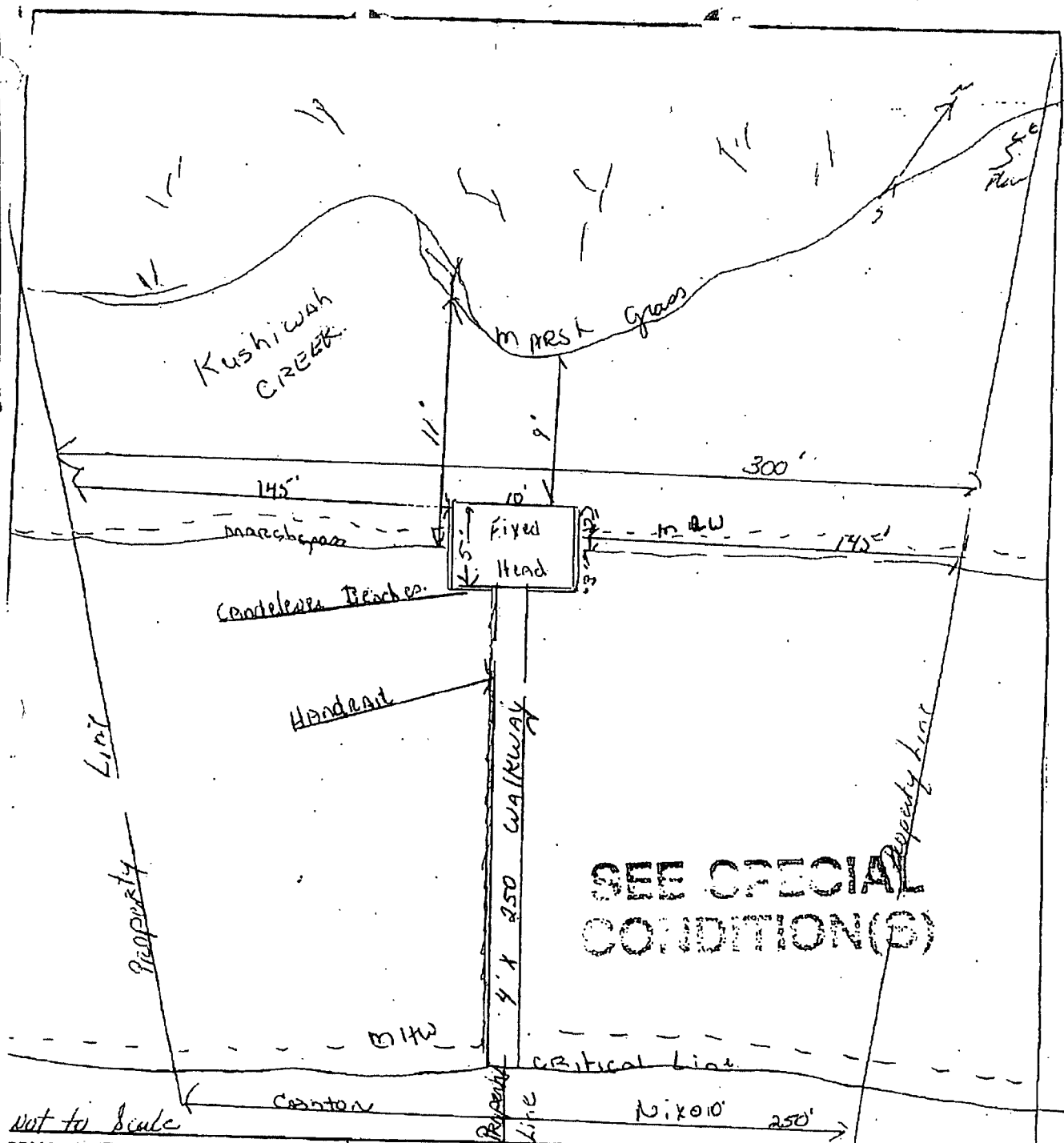
ADJACENT PROPERTY OWNERS:

C Aust

D Breineau.

CRM-01-2516

5 of 7



SEE SPECIAL
CONDITION(S)

Not to Scale

APPLICANT: BRUCE Canton DAN NIXON ACTIVITY: Joint Recreation use N10CRM-01-254-G	LOCATION: 945 & Lot 31 Compass Point Style Point Plantation James Island COUNTY: Charleston County DATE: 5/12/01	ADJACENT PROPERTY OWNERS: (1) Aust (2) Barrineau
--	---	--

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Office of Ocean and Coastal
Resource Management
1362 McMillan Avenue, Suite 400
Charleston, SC 29405

(843) 744-5838 FAX (843) 744-5847

Christopher L. Brooks, Deputy Commissioner

MEMORANDUM

TO: All Interested Parties
FROM: Meghan Gordon, Project Manager 
RE: Bruce Canton
Daniel Nixon
P/N# OCRM-01-254-G
DATE: September 4, 2001

This is to inform you that the above referenced permit was issued on July 02, 2001 and validated on August 29, 2001, see attachment.

You have the right to appeal this decision by filing a written Notice of Appeal within 15 days of the date of this memorandum.

South Carolina Department of Health and Environmental Control
Office of Ocean and Coastal Resource Management
CRITICAL AREA PERMIT

Permittee(s): Bruce Canton & Daniel Nixon
Permit Number(s): OCRM-01-254-G
Date of Issuance: July 02, 2001
Expiration Date: July 02, 2006
Location: Lot 31 and 945 Compass Point, Styles Point Plantation
Johns Island, Charleston County, South Carolina
Kushiwah Creek

This permit is issued under the provisions of S. C. Code Ann. Section 48-39-10, *et. seq.*, and R.30-1 through R.30-20. Please carefully read the project description and any Special Conditions that may appear on this permit/certification, as they will affect the work, which is allowed. If there are no Special Conditions, then the work is authorized as described in the project description. The general conditions are also a part of this permit/certification and should be read in their entirety. The S. C. Contractor's Licensing Act of 1999, enacted as Section 40-11-5 through 430, requires that all construction with a total cost of \$5,000 or more be performed by a licensed contractor with a valid contractor's license for marine class construction, except for construction performed by a private landowner for strictly private purposes.

DESCRIPTION OF THE PROJECT

The plans submitted by you, attached hereto, show the work consists of the following: Constructing a joint use private dock. The proposed structure will have a 4' by 240' long walkway leading to a 5' by 10' fixed pierhead with cantilevered benches both with handrails. The purpose of the proposed activity is for the property owner's private, recreational use.

SPECIAL CONDITIONS

1. Provided the proposed structure extends no further than 1/4 of the creek's width as measured from marsh grass to marsh grass.
2. Provided the handrails are constructed to what is minimally required for safety as outlined in the Southern Building Code.

Aug 22 01 11:02a

xxxxxxxxxx

795-6389

P. 2

P02

3. provided that a archaeological or paleontological remains are discovered during construction, we request that work stop and the State Historic Preservation Office be notified at 803-734-8615. If these materials include any underwater archaeological or paleontological remains the permittee should also notify the SC Institute of Archaeology and Anthropology at 803-777-8170 pursuant to SC Code of Laws 54-7-400, et seq. Archaeological remains consist of any materials made or altered by man, which remain from past historic or prehistoric times (i.e., older than 50 years). Examples include old pottery fragments, metal, wood, arrowheads, stone implements or tools, human burials, historic docks, structures or nonrecent (i.e., older than 100 years) vessels ruins. Paleontological remains consist of old animal's remains, original or fossilized, such as teeth, tusks, bone or entire skeletons.

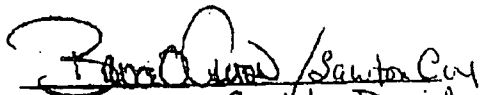
PERMITTEE'S ATTENTION IS DIRECTED TO GENERAL CONDITIONS NUMBERS FOUR (4) AND FIVE (5). BY ACCEPTANCE OF THIS PERMIT, PERMITTEE IS PLACED ON NOTICE THAT THE STATE OF SOUTH CAROLINA, BY ISSUING THIS PERMIT, DOES NOT WAIVE ITS RIGHTS TO REQUIRE PAYMENT OF A REASONABLE FEE FOR USE OF STATE LANDS AT A FUTURE DATE IF SO DIRECTED BY STATUTE.

THE PERMITTEE, BY ACCEPTANCE OF THIS PERMIT AGREES TO ABIDE BY THE TERMS AND CONDITIONS CONTAINED HEREIN AND TO PERFORM THE WORK IN STRICT ACCORDANCE WITH THE PLANS AND SPECIFICATIONS ATTACHED HERETO AND MADE A PART HEREOF. ANY DEVIATION FROM THESE CONDITIONS, TERMS, PLANS AND SPECIFICATIONS SHALL BE GROUNDS FOR REVOCATION, SUSPENSION OR MODIFICATION OF THIS PERMIT AND THE INSTITUTION OF SUCH LEGAL PROCEEDINGS, AS THE DEPARTMENT MAY CONSIDER APPROPRIATE.

CAUTION: Section 48-39-150(F) allows any person adversely affected by the issuance of this permit to appeal the decision by filing a written Notice of Intent to Appeal within 15 days after notification of the permit's issuance. In the event of an appeal, the Department reserves the right to order a stay of any use or activity authorized herein pending a final decision, when, in the judgement of the Department, the interests of the public would be best served.

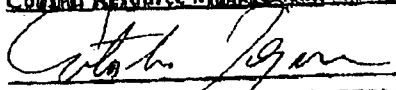
Permit Number: OCRM-01-254-G

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.


(PERMITTEE(S)) Agent for Daniel
Bruce Cantone & Daniel Nixon

8/17/01
(DATE)

This permit becomes effective when the State official, designated to act for the Office of Ocean and Coastal Resource Management, has signed below.


(MANAGER, CRITICAL AREA PERMITTING)
Curtis M. Joyner
Or his Designee
Other Authorized State Official

8/29/01
(DATE)

GENERAL CONDITIONS

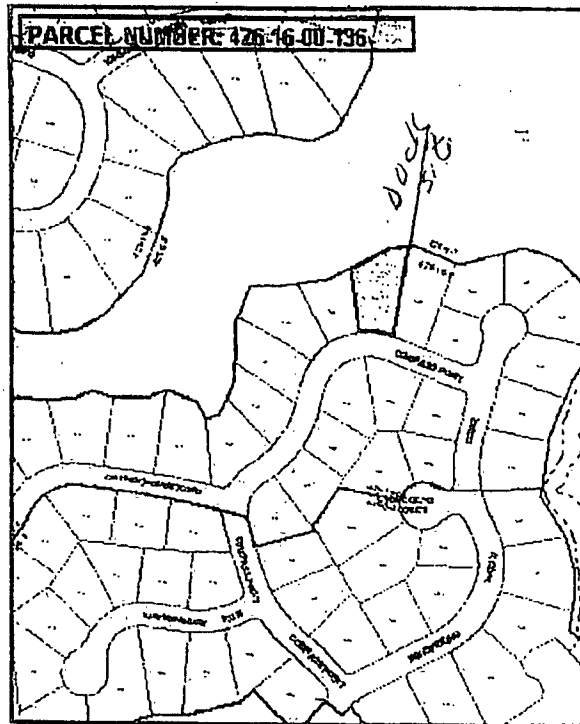
This permit is expressly contingent upon the following conditions which are binding on the permittee:

1. That the permittee, in accepting this permit, covenants and agrees to comply with and abide by the provisions and conditions herein and assumes all responsibility and liability and agrees to save the South Carolina Department of Health and Environmental Control, OCRM, and the State of South Carolina, its employees or representatives, harmless from all claims of damage arising out of operations conducted pursuant to this permit.
2. That if the activity authorized herein is not constructed or completed within FIVE YEARS of the date of issuance, this permit shall automatically expire. A request, in writing, for an extension of time shall be made not less than sixty days prior to the expiration date.
3. That all authorized work shall be conducted in a manner that minimizes any adverse impact on fish, wildlife and water quality.
4. That this permit does not relieve the permittee from the requirements of obtaining a permit from the U. S. Army Corps of Engineers or any other applicable federal agency, nor from the necessity of complying with all applicable local laws, ordinances, and zoning regulations. This permit is granted subject to the rights of the State of South Carolina in the navigable waters and shall be subject, further to all rights held by the State of South Carolina under the public trust doctrine as well as any other right the State may have in the waters and submerged lands of the coast.
5. That this permit does not convey, expressly or impliedly, any property rights in real estate or material nor any exclusive privileges; nor does it authorize the permittee to alienate, diminish, infringe upon or otherwise restrict the property rights of any other person or the public; nor shall this permit be interpreted as appropriating public properties for private use.
6. That the permittee shall permit the Department or its authorized agents or representatives to make periodic inspections at any time deemed necessary in order to ensure that the activity being performed is in accordance with the terms and conditions of this permit.
7. That any abandonment of the permitted activity will require restoration of the area to a satisfactory condition as determined by the Department.
8. That this permit may not be transferred to a third party without prior written notice to the Department, either by the transferee's written agreement to comply with all terms and conditions of this permit or by the transferred subscribing to this permit and thereby agreeing to comply.
9. That if the display of lights and signals on any structure or work authorized herein is not otherwise provided for by law, such lights and special signals as may be prescribed by the United States Coast Guard shall be installed and maintained by and at the expense of the permittee.
10. That SCDHEC-OCRM shall be notified in writing upon commencement of work and that a permit placard or a copy of the placard shall be posted in a conspicuous place at the project site during the entire period of work.
11. That the structure or work authorized herein shall be in accordance with the plans and drawing attached hereto, and shall be maintained in good condition. Failure to build in accordance with the plans and drawings attached hereto, or failure to maintain the structure in good condition shall result in the revocation of this permit.
12. That the authorization for activities or structures herein constitutes a revocable license. The Department may require the permittee to modify activities or remove structures authorized herein if it is determined by the OCRM that such activity or structures violates the public's health, safety, or welfare, or if any activity is inconsistent with the public trust doctrine. Modification or removal under this condition shall be ordered only after reasonable notice stating the reasons therefore and provision to the permittee of the opportunity to respond in writing. When the permittee is notified that SCDHEC-OCRM intends to revoke the permit, permittee agrees to immediately stop work pending resolution of the revocation.
13. That the Department shall have the right to revoke, suspend, or modify this permit in the event it is determined the permitted structure (1) significantly impacts the public health, safety and welfare, and/or is violation of Section 48-39-150, (2) adversely impacts public rights, (3) that the information and data which the permittee or any other agencies have provided in connection with the permit application is either false, incomplete or inaccurate, or (4) that the activity is not in compliance with the drawings submitted by the applicant. That the permittee, upon receipt of the Department's written intent to revoke, suspend, or modify the permit has the right to a hearing. Prior to revocation, suspension, or modification of this permit, the Department shall provide written notification of intent to revoke to the permittee, and permittee can respond with a written explanation to the Department. (South Carolina Code Section 1-023-370 shall govern the procedure for revocation; suspension or modification herein described).
14. That any modification, suspension or revocation of this permit shall not be the basis of any claim for damages against the Department or the State of South Carolina or any employee, agent, or representative of the Department the State of South Carolina.
15. That all activities authorized herein shall, if they involve a discharge or deposit into navigable waters or ocean waters, be at all times consistent with all applicable water quality standards, effluent limitations and standards of performance, prohibitions, and pretreatment standards established pursuant to applicable federal, state and local laws.
16. That extreme care shall be exercised to prevent any adverse or undesirable effects from this work on the property of others. This permit authorizes no invasion of adjacent private property, and SCDHEC-OCRM assumes no responsibility or liability from any claims of damage arising out of any operations conducted by the permittee pursuant to this permit.

T

MAP

Page 1 of 1

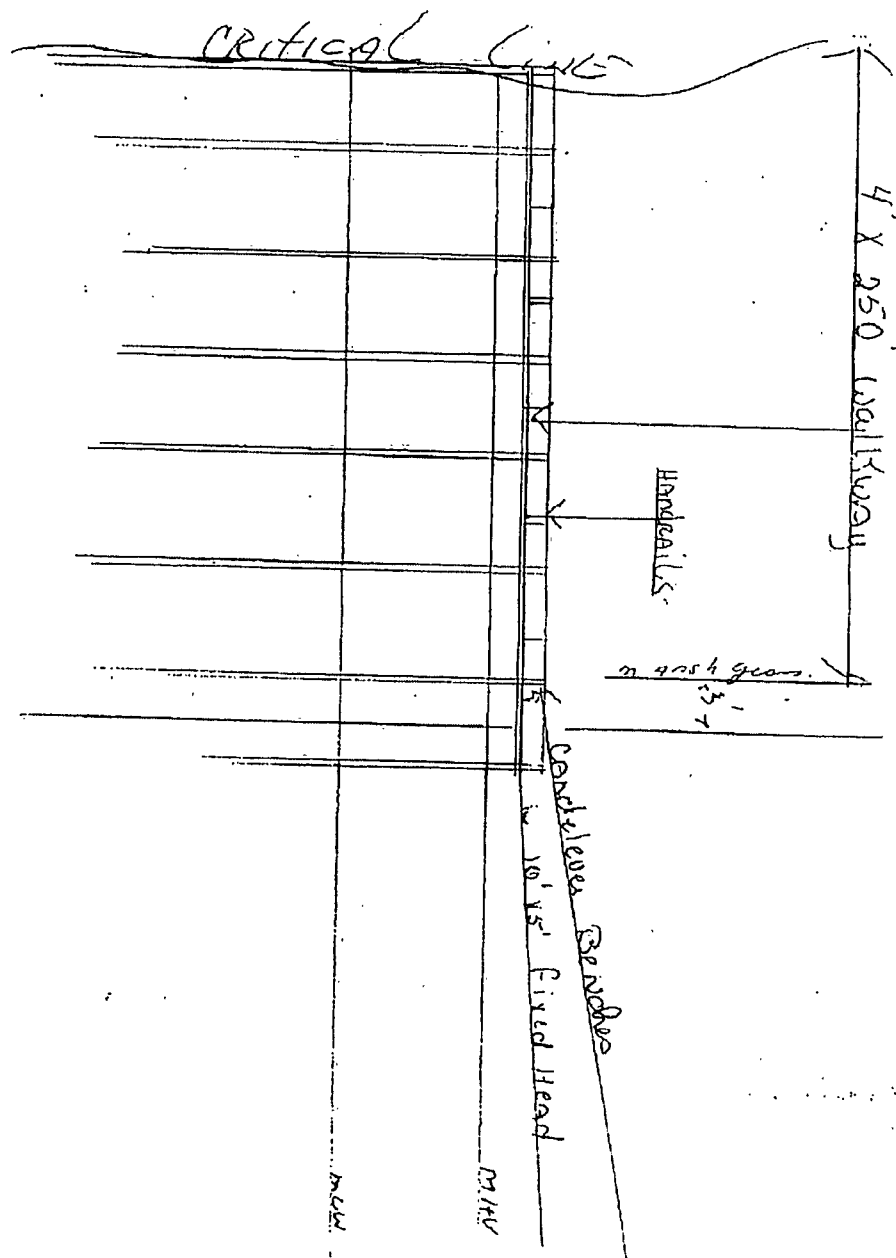
Bruce Canton945 Compass PointJames Island, SC

Joint Dock
with
DAN NIXON

OCRM-01-254-G

✓

u



Not to Scale

APPLICANT: BRUCE CANTON
 DAVIS N. KOW
 ACTIVITY:
 Joint Use
 Recreational Use

LOCATION: 945 - d Lot 31
 Compass Point
 Style Point Plantation
 COUNTY: JAMES ISLAND, SC
 DATE: Charleston, 5/12/01

ADJACENT PROPERTY OWNERS:

C Aust

2 Breineau.

OCM-01-2546

5 of 7

N

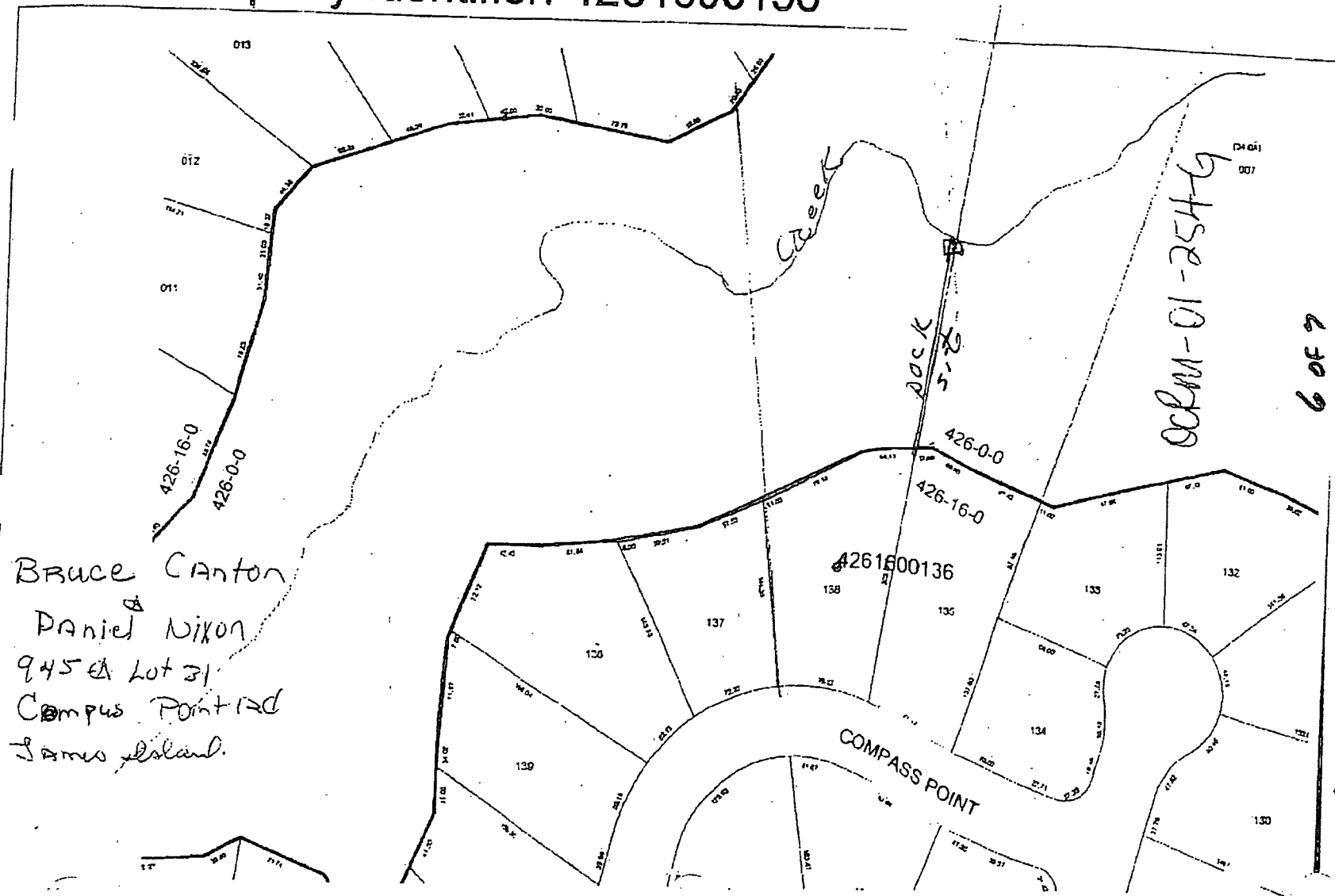
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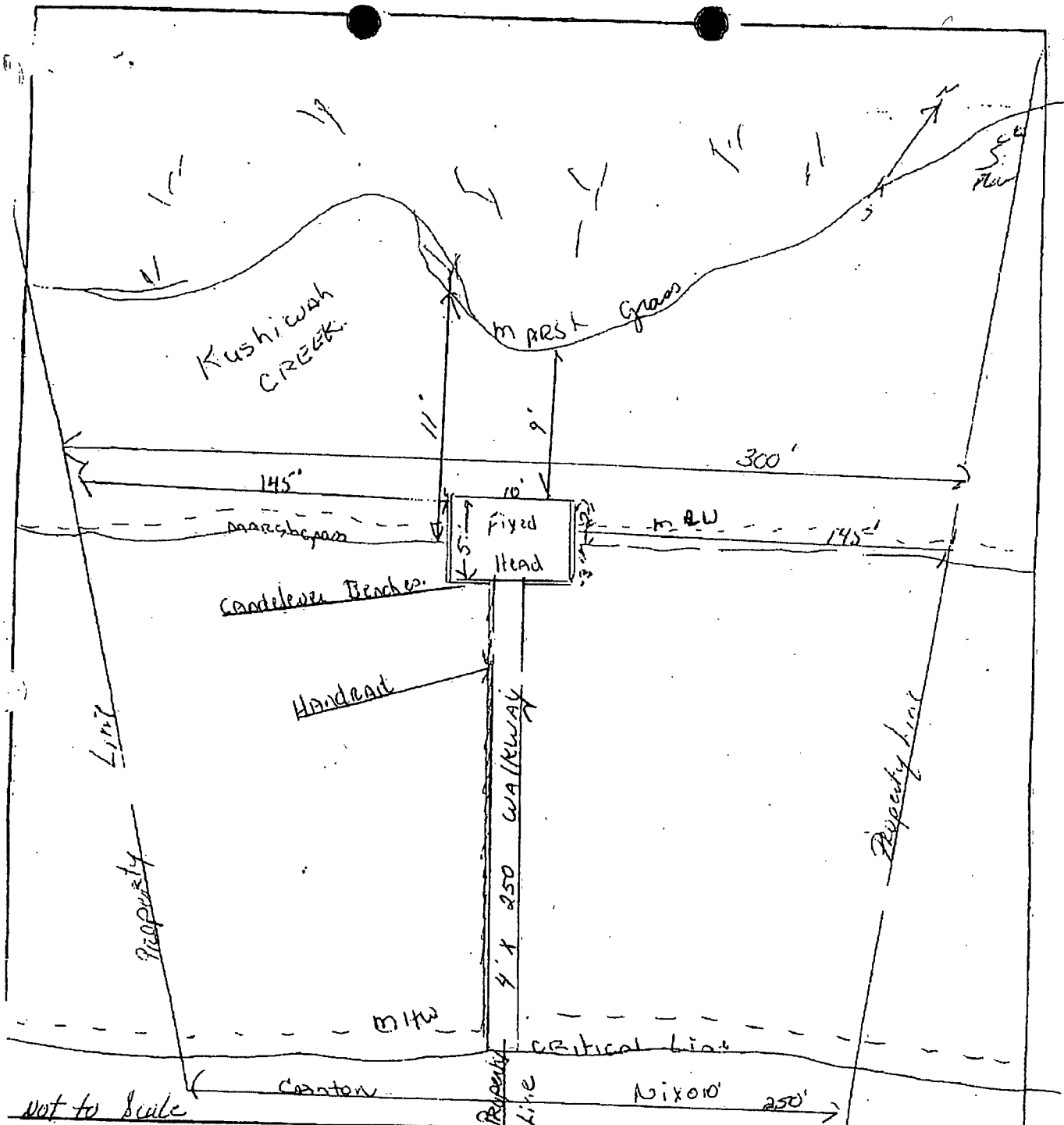


Charleston County Parcel Map

Property Identifier: 4261600136

3





not to scale
 APPLICANT: Bruce Canton
 DA N Nixon
 ACTIVITY: Joint
 Recreation use
 P/N # ECRM-01-254-G

LOCATION: 445 & Lot 31
 Compass Point
 Style Point Plantation
 County: Sams Island
 DATE: 5/12/01

ADJACENT PROPERTY OWNERS:
 (1) Aust
 (2) Barrineau

W

X



Christopher L. Brooks, Deputy Commissioner

Office of Ocean and Coastal
Resource Management
1362 McMillan Avenue, Suite 400
Charleston, SC 29405

(843) 744-5838 FAX (843) 744-5847

July 2, 2001

**SEE SPECIAL
CONDITION(S)**

Mr. Lawton Cox
Affiliated Marine Construction
3420 Maybank Road
Johns Island, SC 29455

Re: OCRM-01-254-G
Bruce Canton
Daniel Nixon

Dear Mr. Cox:

The SCDHEC Office of Ocean and Coastal Resource Management has reviewed your application to construct a private dock at Lot 31 and 945 Compass Point, Styles Point Plantation, Johns Island, Charleston County, South Carolina and has issued a permit for this work. You should carefully read any Special Conditions that we have placed on the permit, as they may modify the permitted activity. In addition, there are a series of General Conditions that you should also review.

A copy of the permit, as issued, is enclosed. After carefully reading the permit, if you wish to accept the permit as issued, sign and date in the signature block entitled "PERMITTEE".

PLEASE READ CAREFULLY: You are required to return a signed copy of your permit to this Department. If this permit is not signed and returned within thirty (30) days of issuance OR a written notice of Intent to Appeal filed within fifteen days (15), the Department reserves the right to cancel this permit.

After we have received your accepted/signed permit a State official, designated to act for the Office of Coastal Resource Management will validate the permit and the completed permit will be returned to you from this department. At that time a request for construction placard card will be sent. You must send in this card before the time you wish to start construction. At that time a construction placard will be sent to you to post at the construction site.

PLEASE NOTE: You are not authorized to commence work under the permit until we have received a copy of the entire permit accepted by you and you have received a copy signed by the permit Director or other authorized State official and a construction placard has been issued.

The receipt of this permit does not relieve you of the responsibility of acquiring any other federal or local permits that may be required.

Sincerely,

Curtis Joyner
Manager, Critical Area Permitting

Enclosure

4

**SCDHEC OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT
PERMIT APPLICATION PUBLIC NOTICE**

May 31, 2001

OCRM-01-254-G

The SCDHEC Office of Ocean and Coastal Resource Management has received an application for a permit for the alteration of a critical area. This application was submitted pursuant to the Coastal Zone Management Act (Act 123) of the 1977 South Carolina General Assembly. The application, in brief, is described as follows:

APPLICANT: ID# 43874
Bruce Canton
C/o Affiliated Marine Construction
3420 Maybank Road
Johns Island, SC 29455

LOCATION: On and adjacent to Kushiwah Creek between Lot 31 and 945 Compass Point, Stiles Point Plantation, James Island, Charleston County, South Carolina.
TMS#: 426-16-00-135 & 426-16-00-136.

WORK: The work as proposed consists of constructing a joint use private dock. The proposed structure will have a 4' by 240' long walkway leading to a 5' by 10' fixed pierhead with cantilevered benches both with handrails. The purpose of the proposed activity is for the property owner's private, recreational use.

This public notice is being distributed to all known interested persons and agencies to assist in developing facts on which a decision by OCRM can be based. Comments concerning the proposed work should be submitted in writing, setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition.

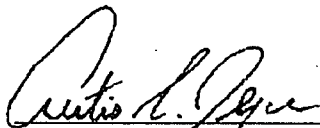
The decision to issue or deny a permit will be based on the individual merits of the application, the policies specified in the South Carolina Coastal Zone Management Act, and the considerations outlined in the State of South Carolina Coastal Zone Management Program.

To assure review by OCRM, comments regarding this application must be received by OCRM on or before June 15, 2001. For further information please contact the project manager for this activity, Meghan Gordon at 747-4323, ext. 117.

PLEASE REPLY TO:

SCDHEC OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT
1362 McMillan Avenue, Suite 400
Charleston, South Carolina 29405

Please refer to P/N# OCRM-01-254-G

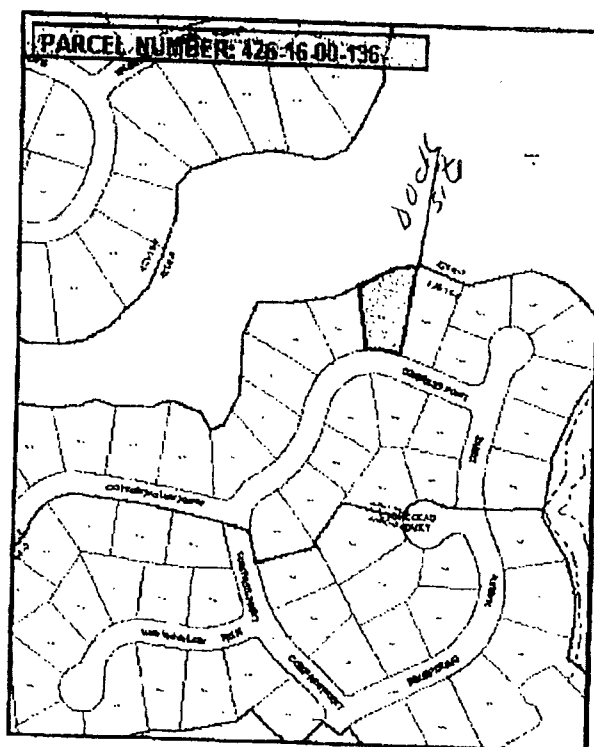


Curtis Joyner, Manager, Critical Area Permitting

m

K

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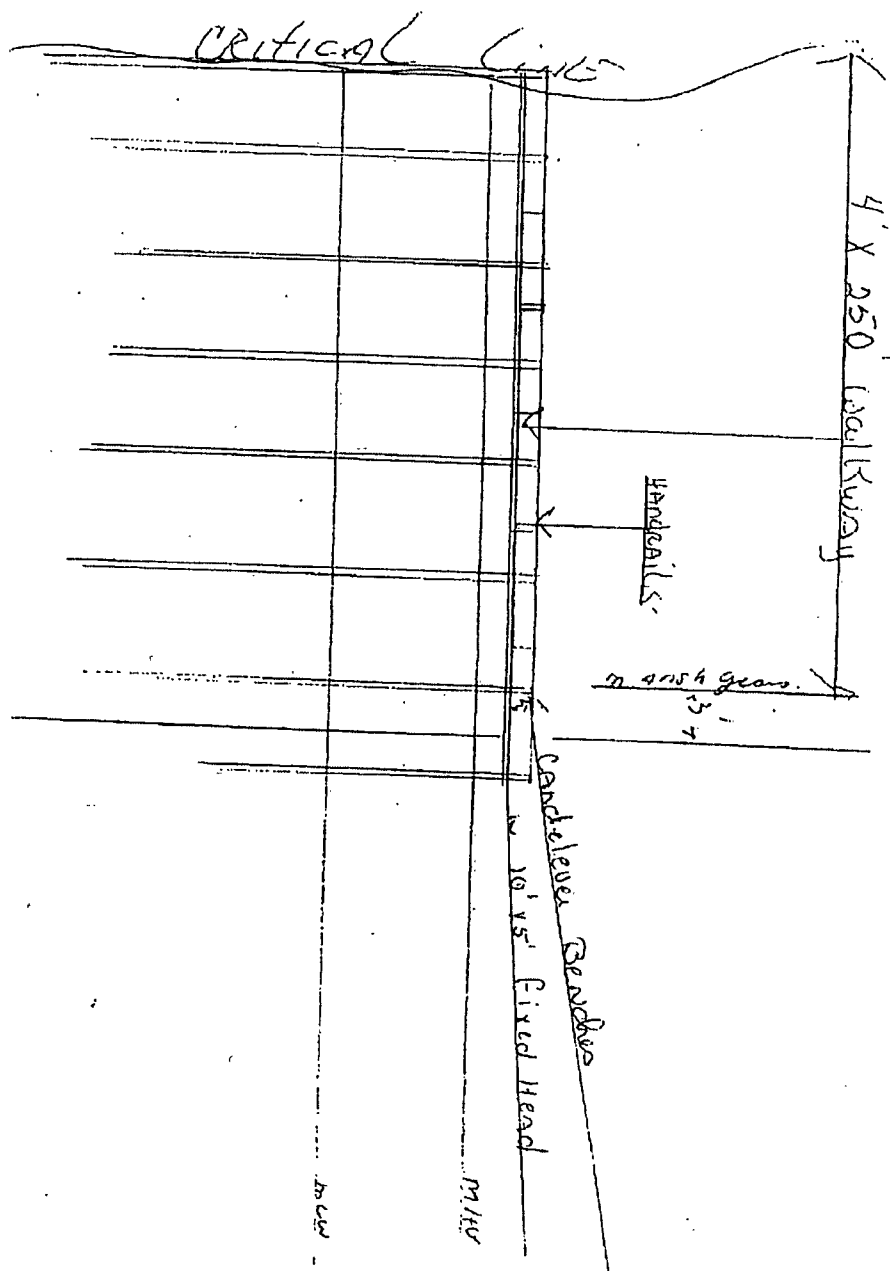
Bruce Canton

945 COMPASS POINT

JAMES ISLAND, SC

Point Dock
with
DAN NIXON

OCRM-01-254-G



NOT to scale

APPLICANT: Bruce Cantor
 DAW N. KON
 ACTIVITY:
 Joint Use
 Recreational Use
 P/N #

LOCATION: 945 - d lot 31
 Compass Point
 Styles Point Plantation
 COUNTY: JAMES ISLAND, SC
 DATE: Charleston, 5/12/01

ADJACENT PROPERTY OWNERS:

C Aust

D Bgreineau

CRM-01-294-6

AA

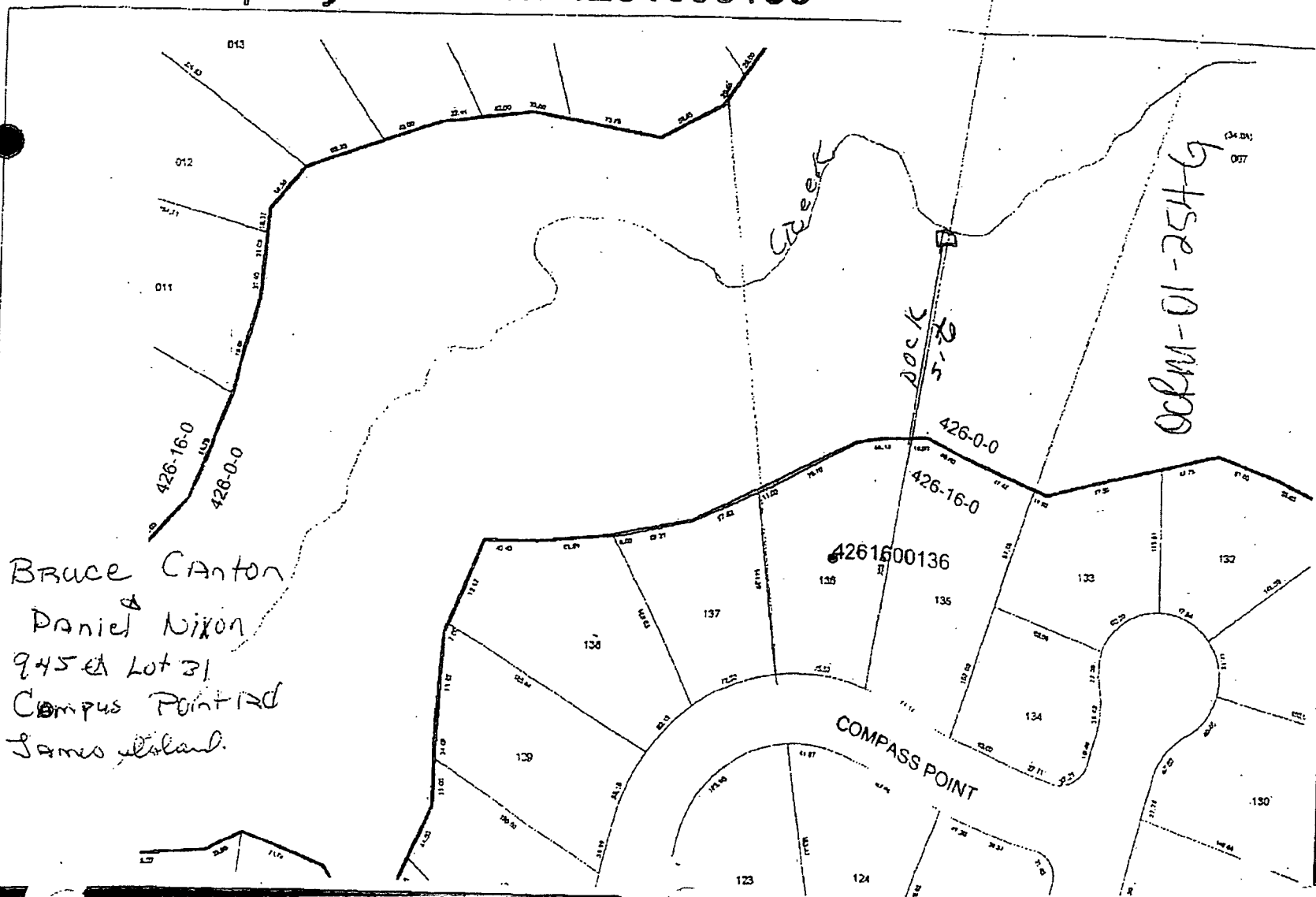
BB



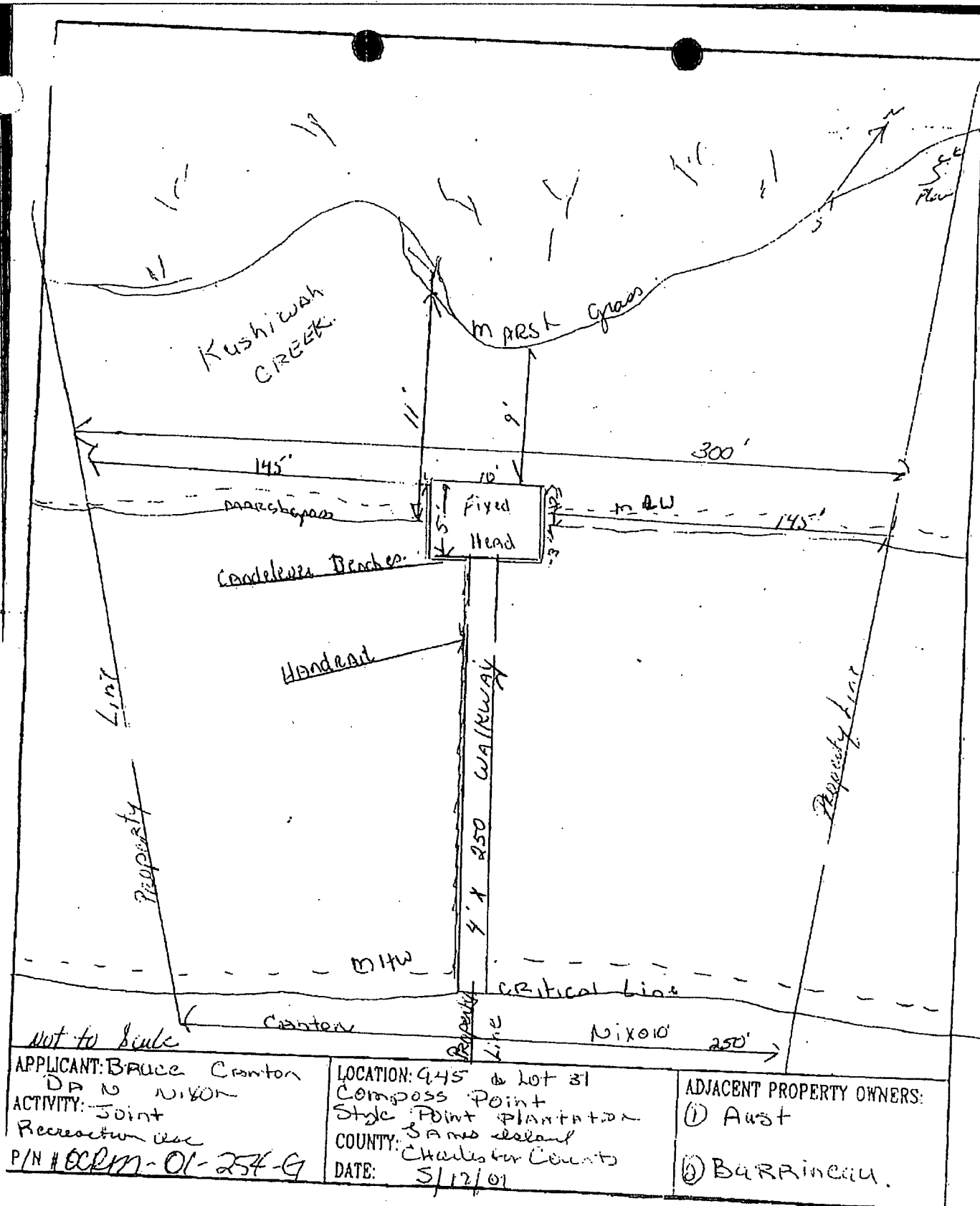
Charleston County Parcel Map

Property Identifier: 4261600136

20



150



JD

PD



Office of Ocean and Coastal
Resource Management
1362 McMillan Avenue, Suite 400
Charleston, SC 29405

(843) 744-5838 FAX (843) 744-5847

Christopher L. Brooks, Deputy Commissioner

TO ALL INTERESTED PARTIES:
Notification of Public Notice:

Enclosed are public notices issued by the SCDHEC Office of Ocean and Coastal Resource Management and the U.S. Army Corps of Engineers. All interested parties are allowed 30 days for major developments and 15 days for minor developments after receipt of the public notices to file written comments to the OCRM pertaining to the applications. Only those comments received within this period must be reviewed by the OCRM in processing the permit application. Any person wishing notification of the initial OCRM decision on any specific public notice must make written request within the designated review period for that public notice.

APPLICANT	PUBLIC NOTICE NUMBER	SUSPENSE DATE
South Beach Marina, LLC	2001-1D-269-P	June 30, 2001
Charleston National Country Club	2001-1E-289-P	June 30, 2001
North Creek At Rivertowne, LLC	2001-1E-305-P (Lot 20)	June 15, 2001
North Creek At Rivertowne, LLC	2001-1E-306-P (Lots 22 & 23)	June 15, 2001
North Creek At Rivertowne, LLC	2001-1E-307-P (Lots 24 & 25)	June 15, 2001
North Creek At Rivertowne, LLC	2001-1E-308-P (Lot 28)	June 15, 2001
North Creek At Rivertowne, LLC	2001-1E-309-P (Lots 29 & 30)	June 15, 2001
North Creek At Rivertowne, LLC	2001-1E-310-P (Lots 36 & 37)	June 15, 2001
North Creek At Rivertowne, LLC	2001-1E-311-P (Lots 33 & 34)	June 15, 2001
North Creek At Rivertowne, LLC	2001-1E-312-P (Lot 32)	June 15, 2001
North Creek At Rivertowne, LLC	2001-1E-313-P (Lots 38 & 39)	June 15, 2001
W. E. Enterprises, LLC	2001-1E-290-P (Lot 3)	June 15, 2001
W. E. Enterprises, LLC	2001-1E-291-P (Lot 4)	June 15, 2001
W. E. Enterprises, LLC	2001-1E-292-P (Lot 5)	June 15, 2001
W. E. Enterprises, LLC	2001-1E-293-P (Lot 7)	June 15, 2001

May 31, 2001
Pubnotic.doc\1

EE

South Carolina

DHEC

Department of Health and Environmental Control

PERMIT
APPLICATION

OCRM-01-254-G 43874

Office of Ocean and Coastal Resource Management
4130 Faber Place, Suite 300
Charleston, South Carolina 29405
(803) 744-5838 (803) 744-5847 (fax)

NAME AND MAILING ADDRESS OF APPLICANT:

BRUCE CANTON and Daniel C/O
945 Campus Point
JAMES Island
SCPHONE #: (Bus.) 295-6388
(Home)
(Fax)NAME AND MAILING ADDRESS OF AUTHORIZED AGENT:
(If an agent is listed, all correspondence will be sent to the agent.)AFFILIATED MARINE
3480 Maybank Hwy
JOHNS ISLAND
SC 29555PHONE #: (Bus.) 559-0004
(Home)
(Fax) 559-2002

DESCRIBE THE DIMENSIONS, GENERAL SPECIFICATIONS, AND PURPOSE OF THE PROJECT:

4' x 240' Walkway
5' x 10' Fixedhead
Handrail Candelabra Benches
Joint Private Recreational Use

NAMES AND COMPLETE MAILING ADDRESSES OF ADJOINING PROPERTY OWNERS: (If the applicant owns adjoining property, give name and address for nearest property not owned by applicant.)

Stephen Aust

854 Whispering

MARSH DR

Charleston, SC 29412-4440

(Attach additional sheet of paper if necessary.)

Donald Barrineau

1426 Oak Tree Lane

Mt Pleasant, SC

29464

LOCATION OF THE PROJECT (Address and/or directions to the site):

Take Folly Rd to 171 to James Island - Left on Harbor
View Rd Left on old Plantation Rd Right on Cotton House Dr
Left on Campus Point - Last 2 lots on Left before
Whispering marsh Dr.

COUNTY: Charleston

TAX MAP NUMBER (Required on all applications): 426-16-00-136 - 426-16-00-135

LOCAL GOVERNING BODY WITH JURISDICTION OVER SITE: Charleston

NAME OF WATERWAY: Kinyoun Creek

DHEC--(-/-)

FF

	PERMIT APPLICATION	S. C. Department of Health and Environmental Control Office of Ocean and Coastal Resource Management Charleston Beaufort Myrtle Beach 744-5839 324-6893 626-7217 744-5847(fax) 324-6839(fax) 626-2381(fax)
---	-------------------------------	---

IS ANY PORTION OF ACTIVITY FOR WHICH AUTHORIZATION IS SOUGHT NOW COMPLETE? YES ☐ NO ☒

IF "YES", GIVE REASONS, INCLUDING THE MONTH AND YEAR ACTIVITY WAS COMPLETED. INDICATE EXISTING WORK ON DRAWINGS.

ADDITIONAL REMARKS:

APPLICATION IS HEREBY MADE FOR A PERMIT OR PERMITS TO AUTHORIZE THE ACTIVITIES DESCRIBED HEREIN. I CERTIFY THAT I AM FAMILIAR WITH THE INFORMATION CONTAINED IN THIS APPLICATION, AND THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF SUCH INFORMATION IS TRUE, COMPLETE, AND ACCURATE. I FURTHER CERTIFY THAT I POSSESS THE AUTHORITY TO UNDERTAKE THE PROPOSED ACTIVITIES OR I AM ACTING AS THE DULY AUTHORIZED AGENT OF THE APPLICANT.

[Signature]
Signature of Applicant

4/10/01
Date

[Signature]
Signature of Agent (if agent has been listed)

4/10/01
Date

IMPORTANT!! THE APPLICATION MUST BE SIGNED BY THE APPLICANT AND THE AUTHORIZED AGENT (IF AN AGENT HAS BEEN LISTED ON PAGE ONE OF THIS APPLICATION).

The applicant shall permit the SCDHEC Office of Ocean and Coastal Resource Management, the District Engineer, the State Law Enforcement Division, South Carolina Department of Natural Resources, and other State permit inspection agencies, or their representative(s) to make periodic inspection at any time deemed necessary in order to assure that the activity being performed is in accordance with the terms and conditions prescribed herein.

NO. 0571 P. 3

405 300 EAG STREET

APR 19 2001 10:36AM

HH

GG



AFFIDAVIT OF OWNERSHIP OR CONTROL

S. C. Department of Health and Environmental Control
Office of Ocean and Coastal Resource Management
Charleston 744-5838
Beaufort 334-4985
Myrtle Beach 626-7217
744-5847(fax) 334-4939(fax) 626-2381(fax)

I hereby certify that I am the (check one):

- ☒ Record Owner
☐ Lessee
☐ Record Easement Holder
☐ Applicant To Record Owner For Easement
☐ Contract To Purchase Property

of the below described property situated in CHARLESTON County, South Carolina; and that said property is all of that said property that is contiguous to and landward of the area in which the work proposed in the permit application is to be conducted. Furthermore, I certify that as record owner, lessee, or record easement holder, I have, or will have prior to undertaking the work, necessary approvals or permission from all other persons with a legal interest in said property to conduct the work proposed in the permit application.

WRITE LEGAL DESCRIPTION OF HIGHLAND (as described in deed, lease, etc.) BELOW OR OR WRITE "SEE ATTACHED" (in large bold letters) AND ATTACH A COPY OF THE DEED, LEASE, EASEMENT, OR MOST RECENT CERTIFIED PLAT OF THE PROPERTY. IF YOU ARE NOT THE RECORD OWNER, LESSEE OR EASEMENT HOLDER, YOU MUST ALSO SUBMIT WRITTEN PERMISSION FROM THE OWNER OF THE PROPERTY TO CARRY OUT THE PROPOSED ACTIVITY.

945 a Lot 31
Compass Point -
Stylar Point
Plantation
James Island

426-16-00-125-5/1-95

426-16-00-125-4/24/95

R 254592

0302097

CHARLESTON County

I also certify that the project as proposed does not cross any wetlands or areas below mean high water which is in the ownership of other private persons or public or private entities and that there is no disputed claim to the wetlands or areas below mean high water by private person or other entities due to a Kings Grant, State Grant, easement or conveyance or other legal document evidencing ownership of these areas.

Signature

Sworn to and subscribed before me at Charleston Charleston County,
South Carolina, this 10th day of April, 192001

Notary Public

My commission expires: March 19, 2011

NO. 3671

AH 389 E42 STREET

4/15/2001 10:36AM

22

HH

46



AFFIDAVIT
OF
PUBLICATION

The Post and Courier

State of South Carolina

County of Charleston

Personally appeared before me
the undersigned advertising Clerk of the
above indicated newspaper published
in the City of Charleston, County and
State aforesaid, who, being duly sworn,
says that the advertisement of

(copy attached)

appeared in the issues of said newspaper

on the following day(s): May 23, 2001

Subscribed and sworn to,
before me this 23rd day

of May

A.D. 2001

Shelly Duberny
(Advertising clerk)

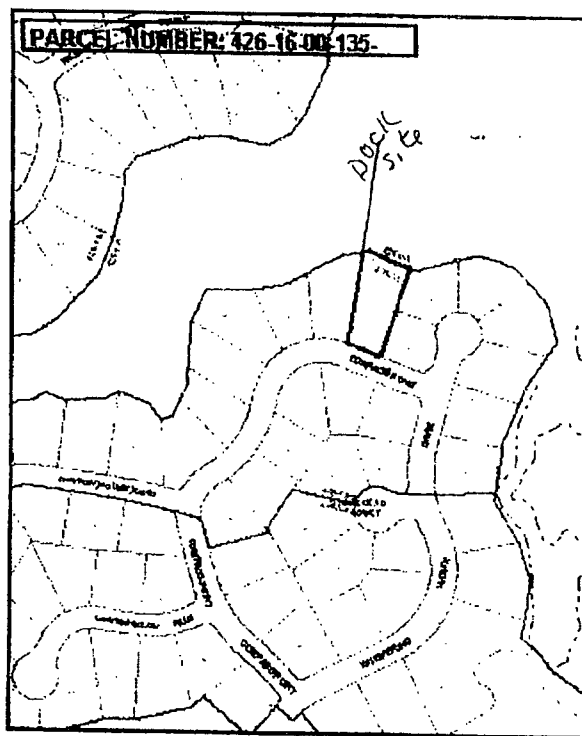
Lisa R. Scarborough
NOTARY PUBLIC, SC

My Commission expires January 17, 2011

Form 13030

PUBLIC NOTICE
BRUCE CANTON and DAN-
IEL NIXON c/o Affiliated
Marine has applied to the Of-
fice of S.C.D.H.C. BUREAU
OF OCEAN AND COASTAL
RESOURCE MANAGEMENT
FOR A PERMIT TO CON-
STRUCT A 4' X 250' walkway
7' x 10' pierhead, curbside
benches, handrails, for private
recreational boat use at 945
and Lot 31 Compass Point Rd.
Stiles Point Plantation,
James Island, Charleston
County, Kushiwah Creek.
Comments will be received by
S.C.D.H.C. OFFICE OF
OCEAN AND COASTAL RE-
SOURCE MANAGEMENT at
1722 MC MILLAN AVE.
SUITE 400, CHARLESTON,
SC 29405 by June 7, 2001.

JJ



Daniel Nixon

Lot 31 Compass Point

James Island, SC

Joint Dock
with Bruce Canton.

W

KK

INVOICE for SERVICES
South Carolina Department of Health and Environmental Control

Page 1

AFFILIATED MARINE
ATTN.: ACCOUNTS PAYABLE
3420 MAYBANK HWY
JOHNS ISLAND, SC 29455

Invoice Date : 05/25/2001
 Invoice Number: ZU02723-5
 Invoice Amount: 50.00
 Purchase Order:

Department Name : Department Contact :
 OCRM DOCK PERMIT M. RIGGS 747-4323 128

Program ID :
 OCRM01254G

Qty	Description of Services	Unit	Ext
1	PERMIT FEE-CK 376, DOCK- CANTON/NIXON	50.00	50.00

Remit Payment To : SCDHEC Bureau of Finance
 PO Box 100103
 Columbia, SC 29202-3103

TOTAL ==> 50.00

AFFILIATED MARINE PERMITTING
 3820 BOHICKET ROAD
 JOHNS ISLAND, SC 29455
 843/768-3617

DATE	INVOICE	AMOUNT

67-160/532

376

PAY	DATE	TO THE ORDER OF	DESCRIPTION	CHECK NO.	DOLLARS	CHECK AMOUNT
	5/25/01	OCRM	Canton / Nixon	376	\$ 50.00	

RECEIVED

LAWTON COX OR WANDA FORD

BBCT
 Branch Banking and Trust Company JOHNS ISLAND, SC

⑈000376⑈ ⑆053201607⑆5122312919⑈

(PLEASE RETAIN THIS UPPER PORTION FOR YOUR RECORDS)

INVOICE for SERVICES
South Carolina Department of Health and Environmental Control
OCRM DOCK PERMIT

To ensure PROPER CREDIT, please RETURN this portion
 of the INVOICE with your PAYMENT. Please include the
 invoice number on your CHECK or MONEY ORDER.
PAYMENT DUE UPON RECEIPT...PAST DUE 30 DAYS FROM INVOICE DATE

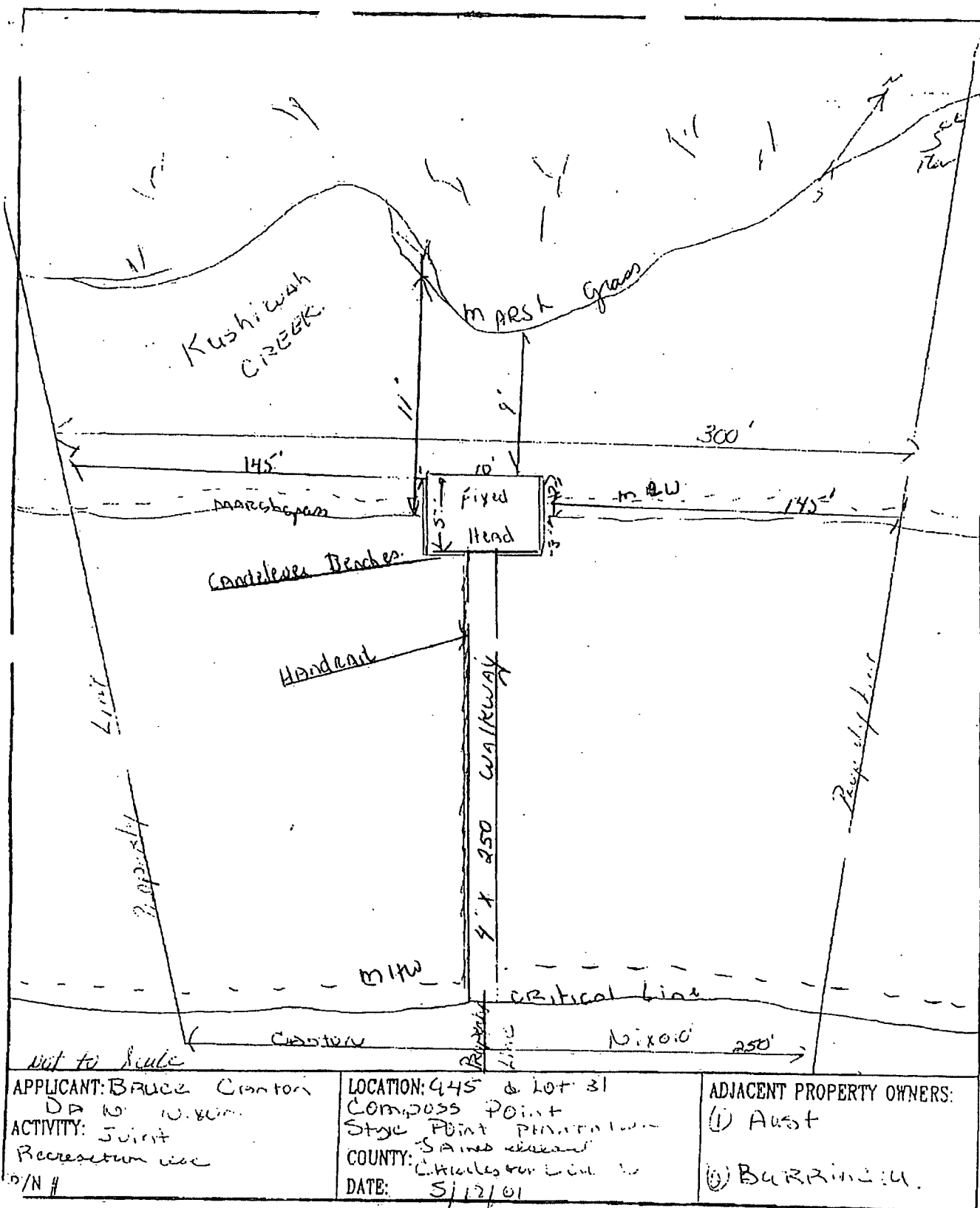
Remitter : AFFILIATED MARINE
 ProgramID: OCRM01254G

Invoice Number ZU02723-5
 Invoice Amount 50.00

AMOUNT REMITTED: _____

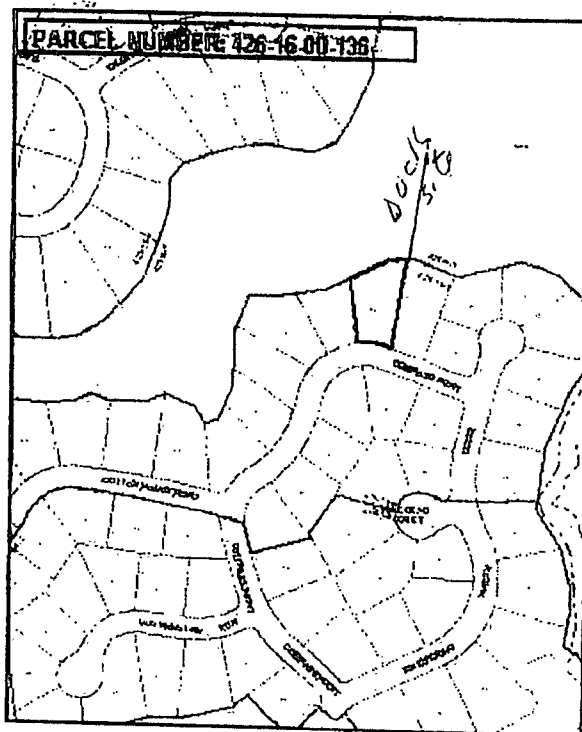
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44

MM



Bruce Canton

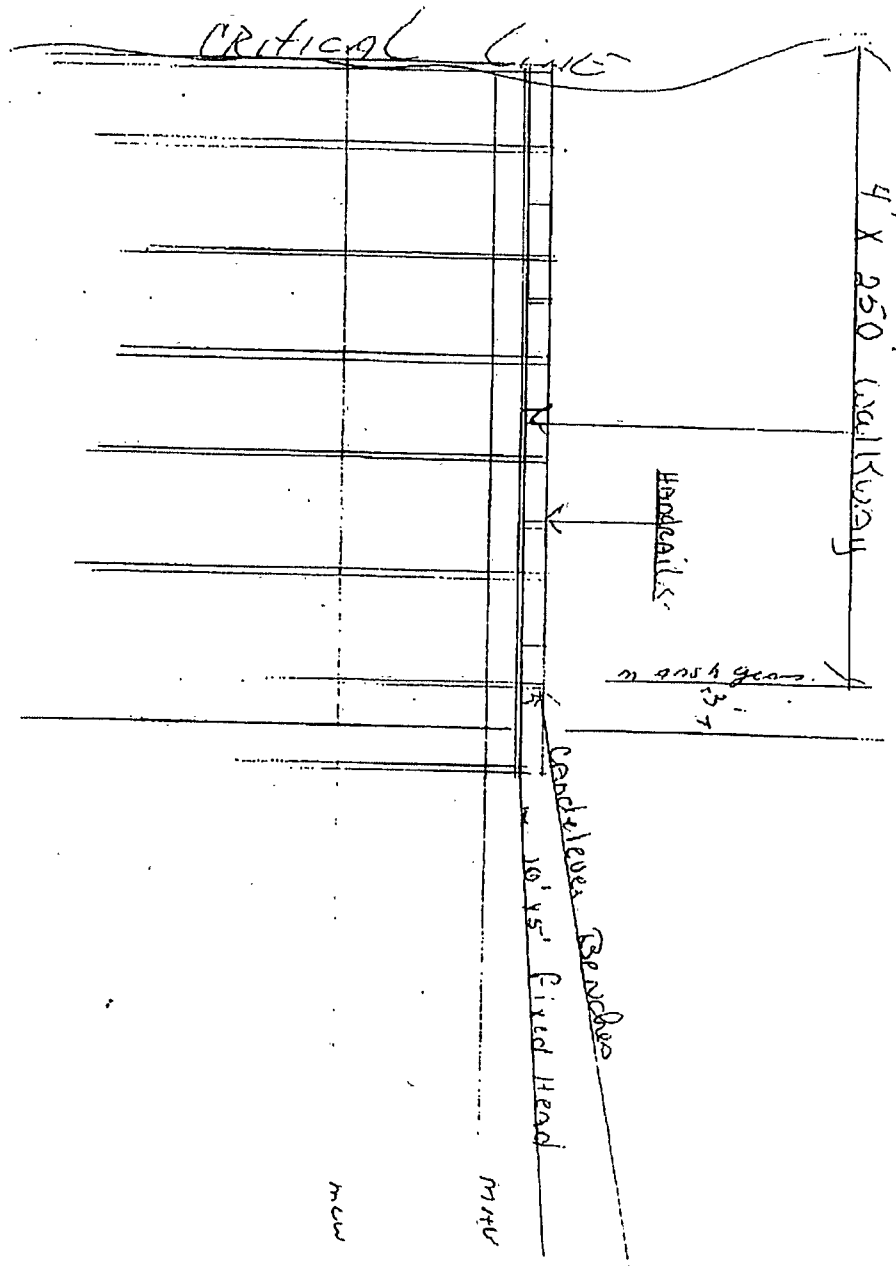
945 Compass Point

James Island, SC

Joint Dock
with
DAN NIXON

MM

NN



Not to Scale

APPLICANT: Bruce Cantor
 DAW N. KON
 ACTIVITY:
 Joint Use
 Recreational Use
 P/N #

LOCATION: 945 - d Lot 31
 Compass Point
 Styles Point Plantation
 COUNTY: JAMES ISLAND, SC
 DATE: Charleston, 5/12/01

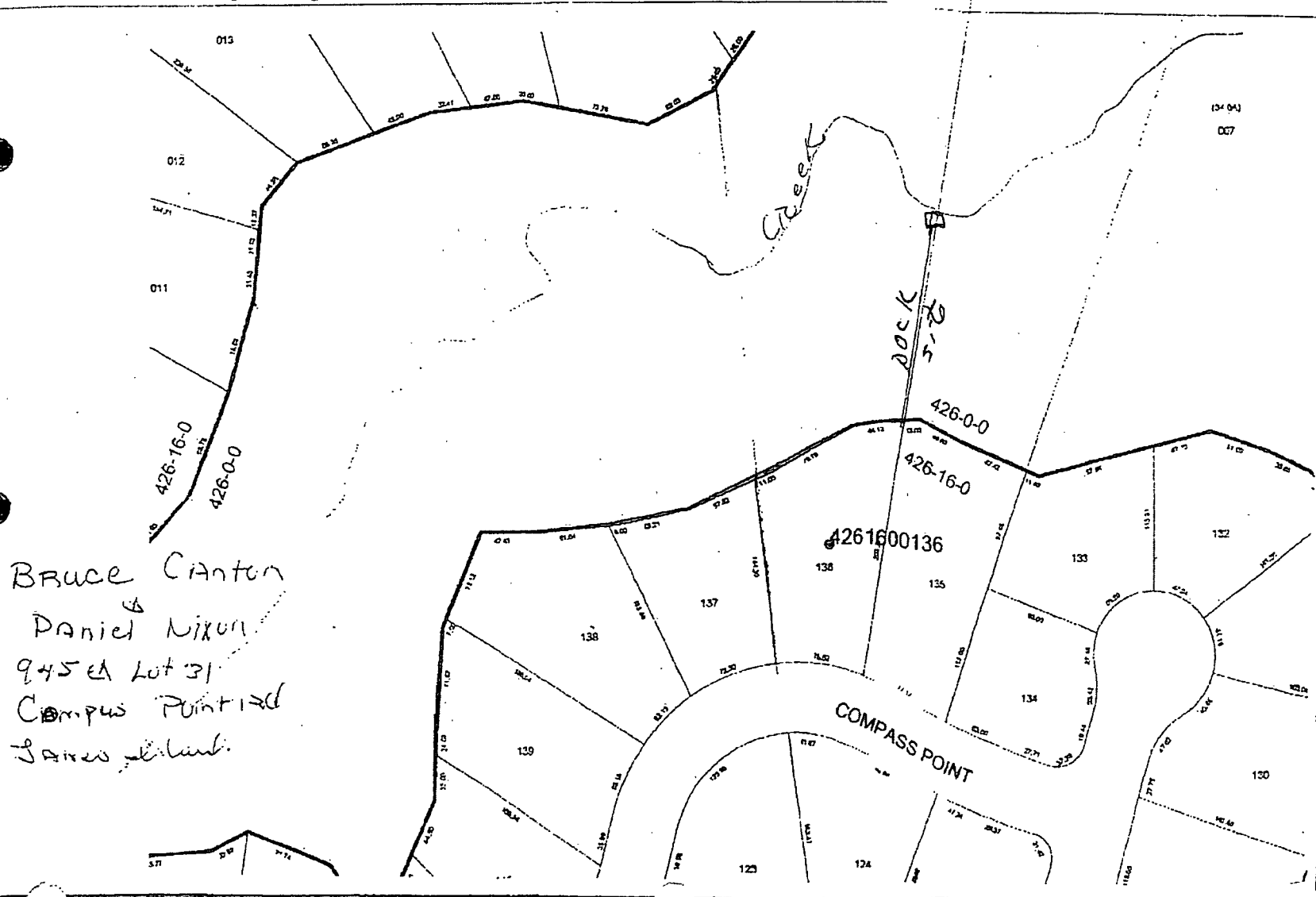
ADJACENT PROPERTY OWNERS:
 C Aust
 D Bgreineau.



Charleston County Parcel Map

Property Identifier: 4261600136

PP



60



LAWTON E. COX III
President

AFFILIATED MARINE, INC
Dock Building • Marine Pile Driving • Boat Lifts • Dock Repair
3420 Maybank Highway
Johns Island, SC 29455

(843) 559-0004
Fax (843) 559-7002

DATE April 10, 2001

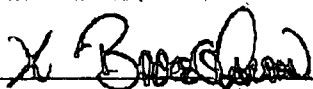
RICHARD CHINNIS
PERMIT ADMINISTRATOR
D.H.E.C.
1362 MC MILLAN AVE.
SUITE 400
CHARLESTON, S.C. 29405

Dear Mr. Chinnis,

I Bruce Canton / Dan Nixon hereby
authorize Affiliated Marine
to act as my agent in acquiring the necessary permits to
construct 4 x Walkway
5' x 10' Pierhead
Cantelover Benches - Handrails -
For Joint Use

located at 945 and lot 31 Compass Point
Stiles Point Plantation
James Island, Charleston County -

SINCERELY,

X 

Project Assignment Sheet

Project Name and location: Buce Canton Kushinaka Creek
945 Campess Point and 601-21 Campess Point

Activity: joint lock

Assigned to: Meghan

Notes: _____

South Carolina Department of Natural Resources



RECEIVED

JUN 07 2001

DHEC-OCRM
CHARLESTON OFFICE

Paul A. Sandifer, Ph.D.
Director
John V. Miglarese
Deputy Director for
Marine Resources

June 5, 2001

Mr. Curtis Joyner
SCDHEC/OCRM
1362 McMillan Ave., Suite 400
Charleston, SC 29405

REF: OCRM-01-254-G

Bruce Canton - Kushiwah Creek
Charleston County

Dear Mr. Joyner:

Personnel from the South Carolina Department of Natural Resources have reviewed the above referenced public notice and evaluated its impact on fisheries and wildlife habitat, water quality, recreation and other factors relating to the conservation of natural resources.

We would not offer any objections to this work provided the dock is located and constructed in accordance with current OCRM regulations.

Sincerely,

Robert E. Duncan
Environmental Programs Director

P.O. Box 12559 • Charleston, S.C. 29422-2559 • Telephone: 843-793-6350

EQUAL OPPORTUNITY AGENCY

<http://www.dnr.state.sc.us>

PRINTED ON RECYCLED PAPER ♻

17

SS

South Carolina State **PORTS AUTHORITY**

5 June 2001

Mr. Curtis Joyner
SCDHEC
Office of Ocean and Coastal
Resource Management
1362 McMillan Avenue, Suite 400
Charleston SC 29405

Dear Mr. Joyner:

This is to advise the South Carolina State Ports Authority has no objections to the following named applications on which public notices have been received:

Dated: 31 May 2001

John & Linda Iocco	OCRM-95-438-I
Sam & Priscilla Torrence	OCRM-96-449-I
Lloyd Hamilton, Jr.	OCRM-97-368-I
Terry A. Day	OCRM-01-213-G
Bill Johnstone	OCRM-01-249-R
Allan Parks	OCRM-01-251-M
Bruce Canton	OCRM-01-254-G
Sally Mansfield	OCRM-01-267-R
Frances Finch	OCRM-01-268-R
Deleta E. Robinson	OCRM-01-269-G
John Nuernberger	OCRM-01-270-R

Dated: 1 June 2001

Harry Huffman	01-1E-228-P thru
	01-1E-257-P
Charles A. Klinger	01-1H-258-P

Sincerely,

Larry W. Setzler

Larry W. Setzler
Engineering Project Manager



UNIVERSITY OF SOUTH CAROLINA

SOUTH CAROLINA INSTITUTE OF ARCHAEOLOGY AND ANTHROPOLOGY

Christopher F. Amer, MA
State Underwater Archaeologist

Mr. Richard Chinnis
Permit Coordinator
Office of Ocean & Coastal Resource Management
1362 McMillan Avenue, Suite 400
Charleston, S.C. 29405

RECEIVED
JUN 12 2001
CHARLESTON OFFICE

8 June 2001

Dear Mr. Chinnis:

As per our Letter of Agreement dated August 3, 1987, and pursuant to the South Carolina Underwater Antiquities Act of 1991 (Article 5, Chapter 7, Title 54, Code of Laws of South Carolina, 1976), the South Carolina Institute of Archaeology and Anthropology requests that you attach a special condition to the following Public Notices:

P/Ns: 01-120-M, Garrett	01-135-M, Dwight	01-146-M, Foster
01-202-R, Mead	01-220-R, Easterling	01-232-R, Mead
01-243-R, Applegate	01-625, Blackwell	01-626, Douglas
01-892, Bellamy	01-885, Porter	01-886, O'Neil
01-887, Porter	01-896, Lady's Is.	01-897, Scoons
01-898, Davis	01-899, Raiteri	01-901, Lowery
01-902, Oldfield, LLC	01-213-G, Day	01-249-R, Johnstone
01-251-M, Parks	01-254-G, Canton	01-253-M, Huey
01-255-M, David	01-267-M, Mansfield	01-268-R, Finch
01-269-G, Robinson	01-270-R, Nuernberger	01-900, Grayson
01-903, Waring	01-904, S.E. Accom.	01-905, Akins
01-909, Hill	01-910, Kahlor	01-912, Barringer
01-913, Two Rivers	01-914, Mamunes	01-1E-281-P, Balzac
01-1E-268-P, Reed	01-1P-280-P, Glover R.	01-1D-269-P, So. Bch.
01-1H-266, Ashley Marina	01-1E-305-P thru 01-1E-313-P, No. Crk at Rivertowne	
01-1E-289-P, Chas. Nat. Co. Club	01-1E-160-P(rev), Summertide	
01-1E-290-P thru 01-1E-293-P, W. E. Enter., LLC		

The special condition should read: "In the event that archaeological or paleontological remains are found during the course of work, the applicant should notify the South Carolina Institute of Archaeology and Anthropology (Mr. James Spirek at 803-777-8170) pursuant to South Carolina Underwater Antiquities Act of 1991, (Article 5, Chapter 7, Title 54, Code of Laws of South Carolina, 1976). Archaeological remains consist of any materials made or altered by man which remain from past historic or prehistoric times (ie, older than 50 years). Examples include old pottery fragments, metal, wood, arrowheads, stone implements or tools, human burials, historic docks, structures, or non-recent vessel remains. Paleontological remains consist of old animal remains, original or fossilized, such as teeth, tusks, bone, or entire skeletons."

If the above Public Notices involve Federal participation through review or funding, the lead Federal agency should, in addition to this condition, seek consultation with the State

vv

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**Coastal Zone Critical Area Permitting
Office of Ocean and Coastal Resource Management - SCDHEC**

Permit Name: Canton, Bruce & Nixon, Daniel

Decision: _____

Permit: _____

Permit with Conditions: Yes

Deny: _____

I. Background Information

DataBase ID# _____

Permit Number: OCRM-01-254-G

P/N Date: 5/23/01

Date Received: 5/31/01

Permit Type: minor/dock

County: Charleston

Permit Agency: OCRM

Water Body: Kushiwah Creek

Location Description: Between Lot 31 & 945 Compass Point, Stiles Point Plantation, James Island, Charleston County, SC.

II. Brief Project Description:

Construct a joint use dock with a 4' by 240' walkway leading to a 5' by 10' fixed pierhead.

III. Summary of Public and Agency Comments (List by name, date & comment summary if none, so indicate):

Federal Agencies: DNR - none

State Agencies: SCSPA - 6/5/01 - No Objections
SCAIA - 6/8/01 - Standard Arch. provisions

Public Comment: none

Adjoining Property Owners: none

A. (Commentor) (Date of comment) (Comment summary)

nn

vv

IV. Environmental and Policy Assessment:

A. Describe the coastal resources (i.e., vegetation, habitat, etc.) which will be impacted:

Spartina alterniflora, tidal creek

B. Stated purpose of Activity:

Private, recreational useName and approximate width of water body: Kushiwah Creek, @ 10'

D. GIS Review

- 1) Previous Permits None
- 2) Previous Enforcements none
- 3) Dock Master Plans None
- 4) Other OCRM Approvals none

E. Does the project impact a GAPC (if so, describe)? no

F. Applicable Regulations

- 1) General Guidelines 30-1(A)
- 2) Further Guidelines 30-11(B)
- 3) Specific Project Standards 30-12(A)

G. Has the project been modified to minimize impacts (if so, describe)?

No

H. Is mitigation required and, if so, does it meet CZM policy (describe)?

No

Does the project contravene any coastal zone regulations?

☐ Yes☒ X

No

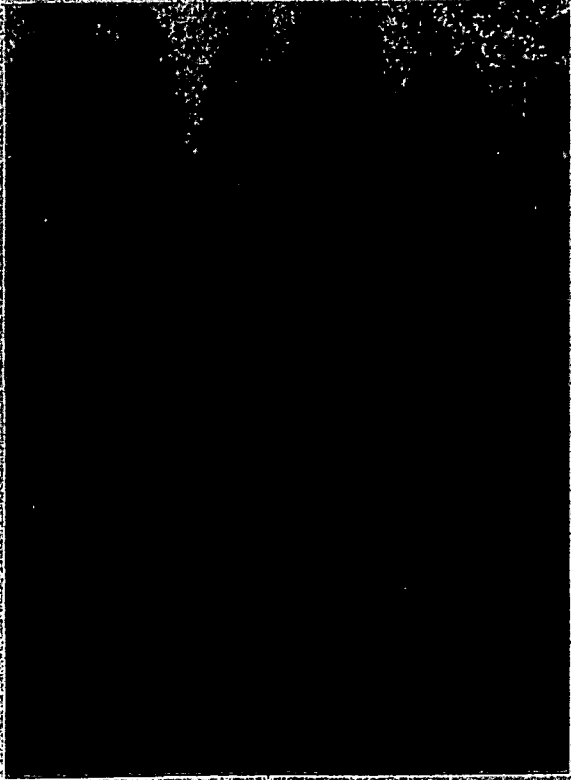
(If No, skip to section VI; if Yes, complete Section VI.)

V. Modifications for bringing the project into compliance with regulations:

xx

WW

Page 1 of 1



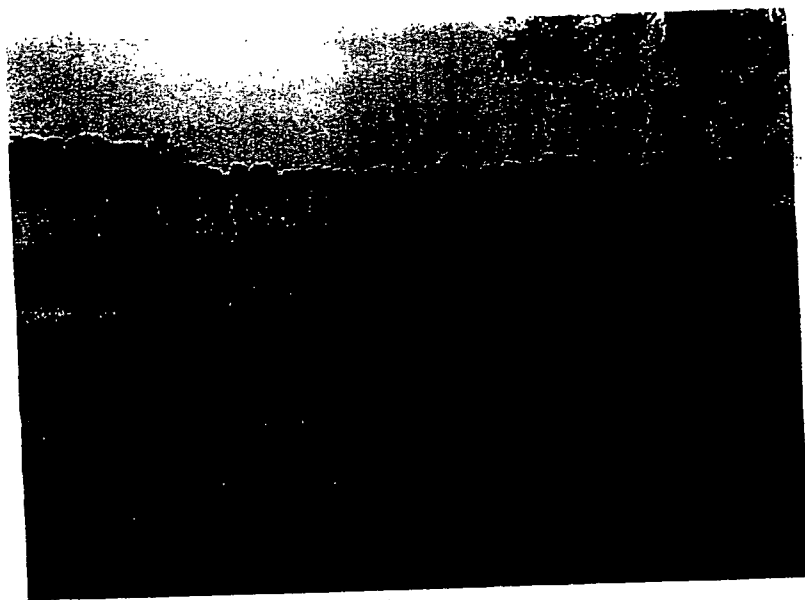
6/24/01 1245NR

Canton



file:///A:/MVC-0025.JPG

6/4/2001



6/4/01 1245 hF.
Canton
(MG)

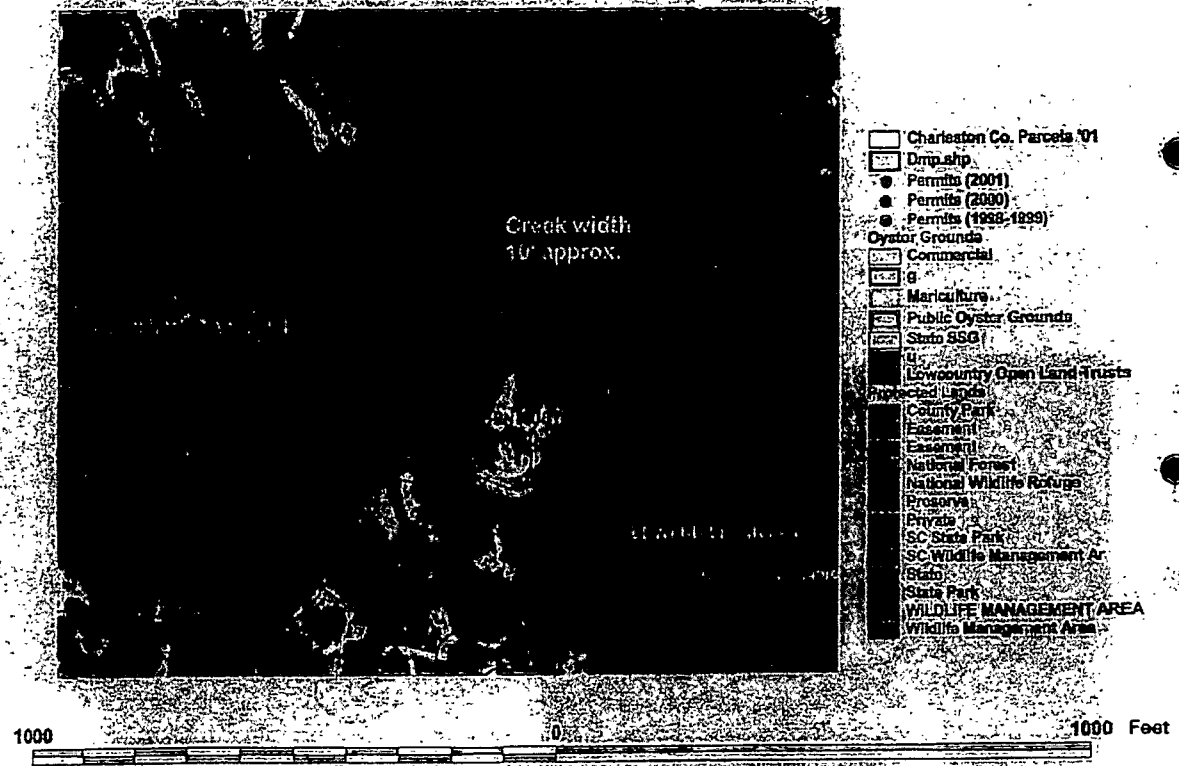
file://A:MVC-003S.JPG

6/4/2001

AAA

AAA

Bruce Canton OCRM-01-254-G



BBB

Regulatory Programs Division Decision Document
Impact Assessment for PRIVATE DOCK
Office of Ocean and Coastal Resource Management - SCDHEC

ADMINISTRATIVE SUMMARY OF REVIEW

Commenting Agencies

Adjoining Property Owners

Agent or Contact
ISLAND SURVEYING, INC.

SCDNR: _____
 SPA: _____
 SCDAH: _____
 SCDA: _____
 Others: _____

SEE 1 of 1

Business Ph: **843-225-6582**
 Fax Number: **843-225-6587**

*NOTE: See list of Interested Persons on Reverse
 APO's Notified...Initial & Date: 06/18/2013 ~ LDT
 Local Government Notified...Initial & Date: 06/18/2013 ~ LDT

APPLICATION REQUIREMENTS

Please Circle When Complete YES

Letters to Applicant

Clock Stop/Start Dates (PM)

Administrative Fee received 06/12/2013
 Aff. Of Ownership received 06/12/2013
 Certified Deed; plat or lease 06/14/2013
 State Newspaper ad received _____
 Date Published _____
 Which Paper _____
 County News ad received _____
 Date Published _____
 Which Paper _____
 Newspaper(s) Reminder _____

1. _____
 2. _____
 3. _____
 4. _____
 5. _____
 6. _____
 7. _____
 8. _____
 9. _____
 10. _____

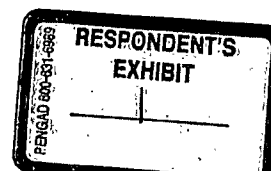
LETTER OF OBJECTIONS SUMMARY

Objector(s) name and address that must be notified by certified mail and copy of the decision.
 (has to specifically request a copy of the decision in the letter)

N/A

Objector(s) name and addresses that must be notified by issue memo with no copy of the decision
 (does not specifically request a copy of the decision in the letter)

David J. Strickland III, 854 Whispering Marsh Dr, Charleston, SC 29412
Bruce & Mary Canton, P.O. Box 12669, Charleston, SC 29422



Telephone Calls, Meeting Dates, Notes to the File, Etc.

[illegible]

Memo to file

July 11, 2013

James F. Weatherholtz/PN OCRM-13-155-D

Site Visit 7/11/2013

Jeff Thompson & Fred Mallett

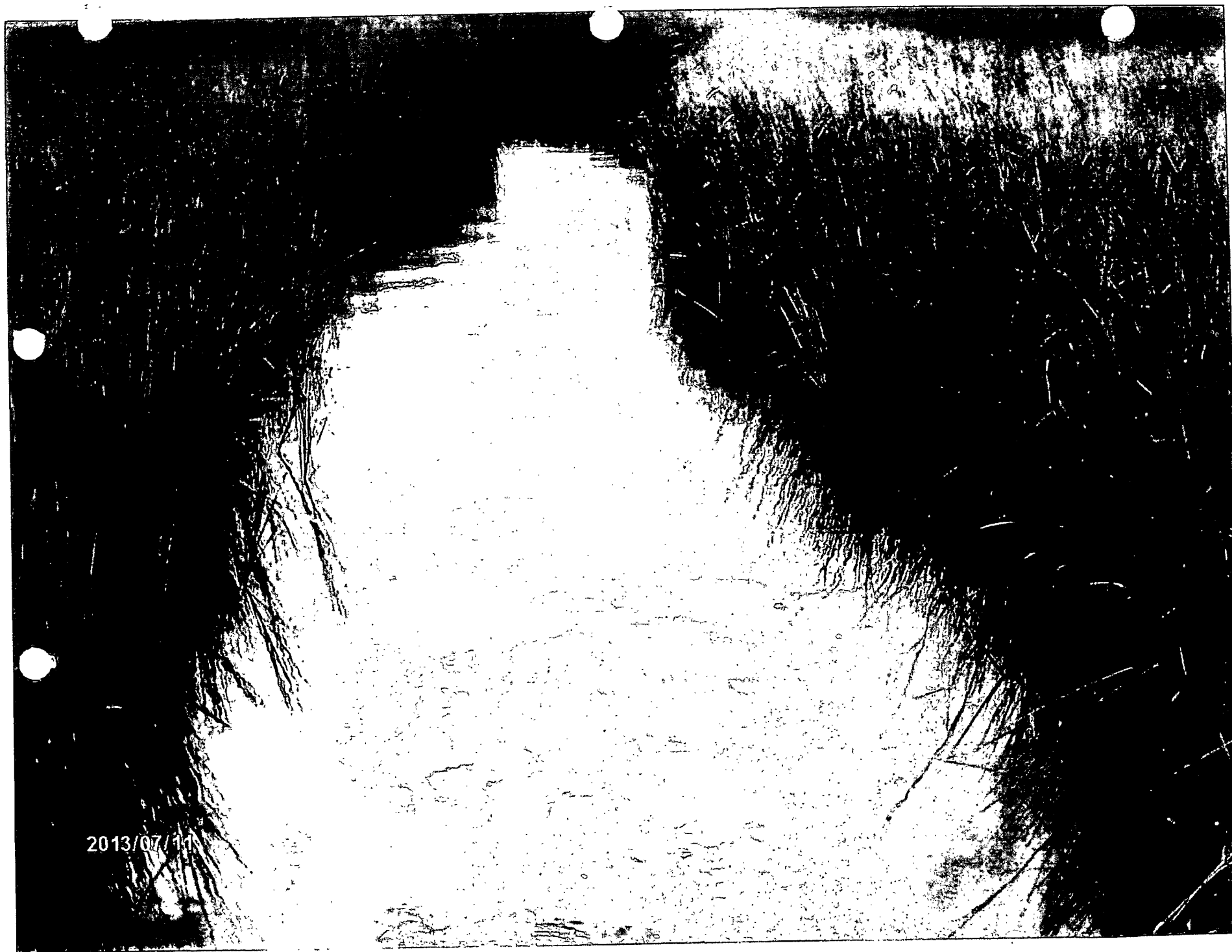
Jeff Thompson and Fred Mallett visited the above site by boat between 10:00-10:20 AM. Tide chart information indicated a high tide at 10:44 AM with a projected 4.7' high tide. The purpose of the site visit was to determine the width of the creek at the proposed location of a dock described in the referenced permit application. The mouth of the creek was very narrow, 5-6' in width. At the location of the proposed dock, the creek was measured to be slightly under 8' in width, measured marsh grass to marsh grass. Areas both floodside and ebbside of the proposed dock location were also less than 10' in width. Photographs were taken of the survey rod used to measure the width and of locations ebbside and floodside. It was determined that this creek is less than 10' in width and does not qualify for permitting of a dock per current OCRM Regulations.

CC: Mr. Blair Williams, Wetland Section Manager
Ms. Rheta DiNovo, Regulatory Division Manager



2013/07/11

433

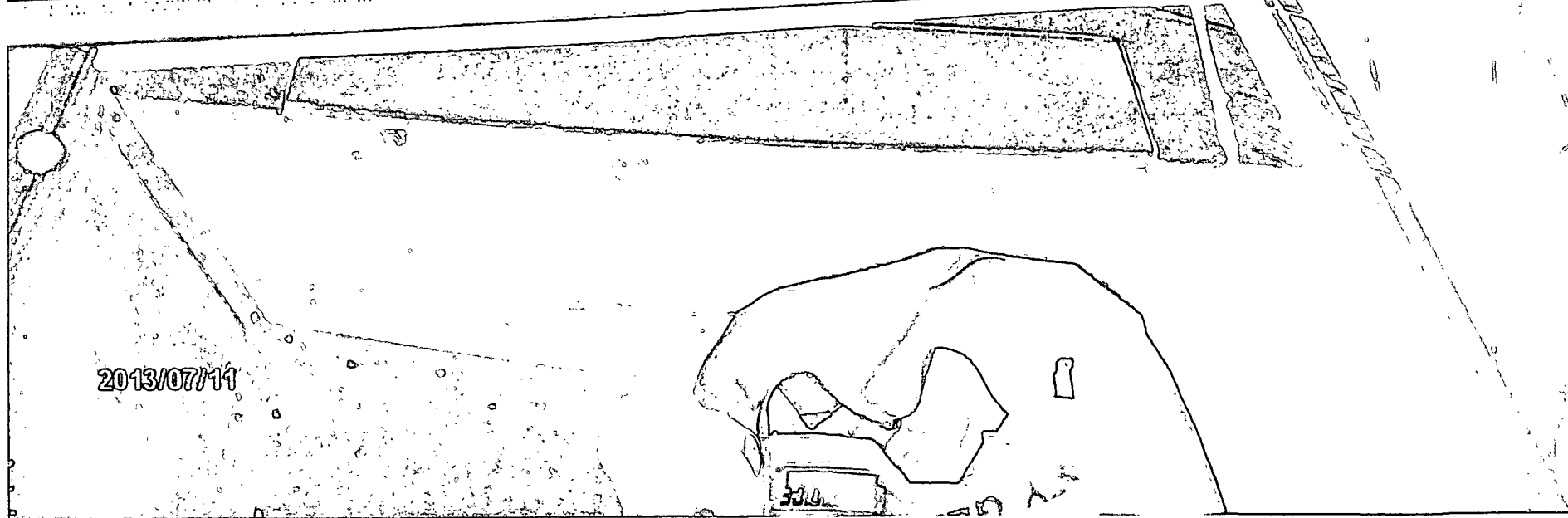
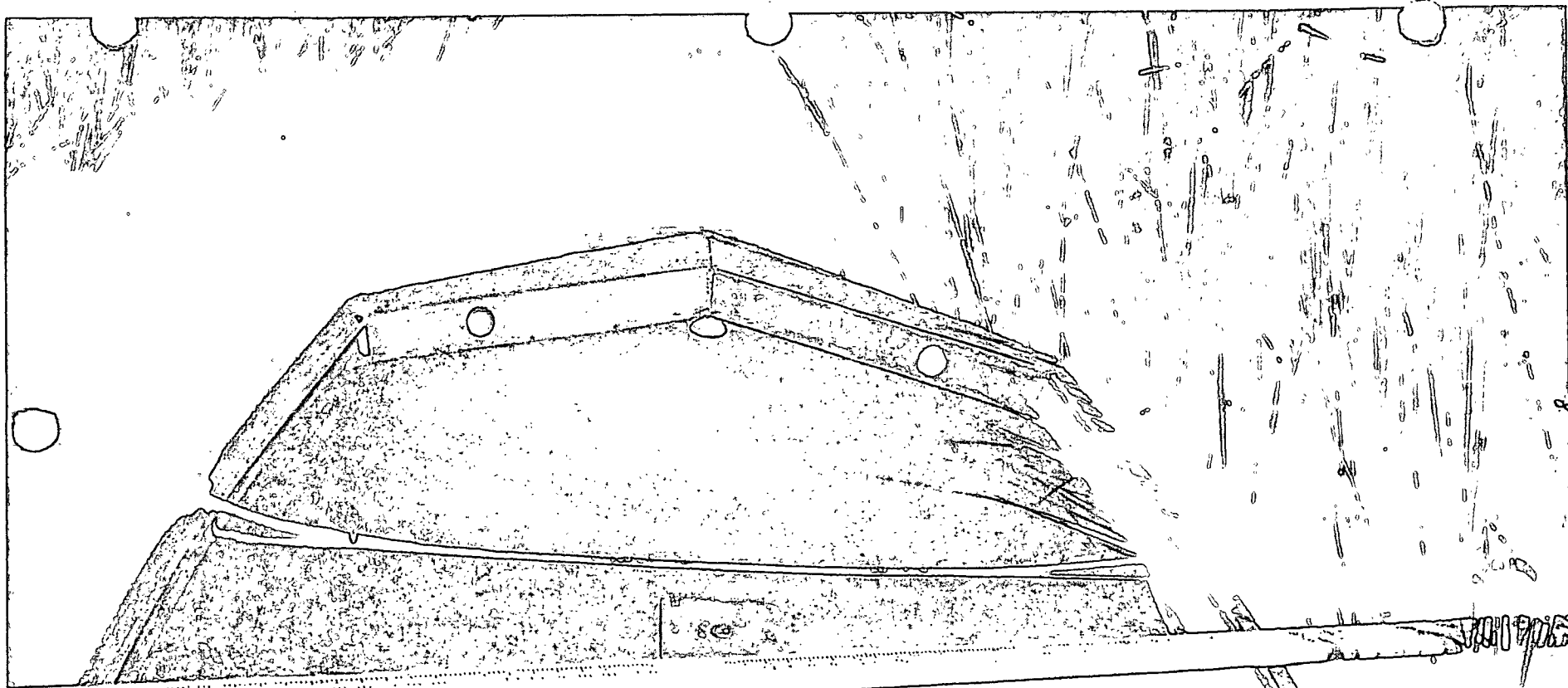


2013/07/11

435



2013/07/14







2013/07/11



JUN 26 2013
DHEC 0004
ONLINE FILING

June 23, 2013

South Carolina DHEC
Office of Ocean and Coastal Management
1362 McMillan Avenue, Suite 400
Charleston, SC 29405

Re: Permit Application Public Notice
James E Weatherholtz, OCRM-13-155-D

To Whom It May Concern:

As the property owners at 945 Compass Point, immediately next door to the property in question at 949 Compass Point, Stiles Point Plantation, I want to go on record as OPPOSING the issuance of a dock permit for the property.

It has been my understanding that dock permits were issued on a shared basis, meaning it would be issued to adjacent property owners intending to share usage of one dock. It is our feeling that if the OCRM issues this permit to a sole property, it will set a precedent to other area properties arguing they are entitled to also obtaining a single private property dock. This will increase the density of docks in the marsh and wetlands behind our property two fold.

The area in question behind our properties is the home to many waterfowl, native and migratory birds, marine life and assorted marsh dwellers. It would be tragic to open up the floodgates to unlimited docks criss-crossing the marsh and endangering the habitat of so many of God's creatures.

Thank you for your consideration.

Sincerely,

Bruce Canton
Mary Canton

Bruce Canton
Mary Canton



P.O. Box 12669 • Charleston, SC • 29422
ph (843) 795-6388 • fx (843) 795-6389



David J. Strickland, III
854 Whispering Marsh Drive
Charleston, South Carolina 29412

RECEIVED
JUL 01 2013
DHEC - OCRM
CHARLESTON OFFICE

June 27, 2013

State of South Carolina
Department of Health and Environmental Control
Office of Ocean and Coastal Resource Management
1362 McMillan Avenue, Suite 400
Charleston, South Carolina 29405
Att'n: Jeff Thompson

Re: Permit for the Alteration of a Critical Area
Applicant James E. Weatherholtz
Application No. OCRM-13-155-D

Dear Sirs:

It has recently come to my attention that the above-referenced application has been filed with the Department of Health and Environmental Control ("DHEC") to permit the construction of a private dock on and adjacent to a tributary of the Kushiwah Creek at 949 Compass Point, Stiles Point Subdivision, Charleston County, South Carolina by James E. Weatherholtz (the "Applicant").

As indicated immediately above, "it has come to my attention that the above referenced application has been filed." This occurred as a result of a notice dated June 18, 2013 from DHEC addressed to my wife, Nancy M. Aust, at 854 Whispering Marsh Drive, Charleston, South Carolina 29412 (the "Notice"). A copy of the cover side of the Notice of the subject application is enclosed herewith. I believe that the Notice is defective in at least two respects, either one of which would render any action taken by DHEC with respect to the subject application in reliance on the Notice outside the limits of its statutory authority. Therefore, any such action would constitute a violation of the Coastal Zone Management Act (1977 Act No. 123) of the 1977 South Carolina General Assembly (the "Act") and subject DHEC and the Applicant to appropriate injunctive relief and the penalties imposed by the circuit court of Charleston County.

In the first instance, the Act establishes specific procedures for the obtaining of a permit to alter a critical area. Accordingly, the Act provides that each application for a permit shall be filed with DHEC and "shall include: . . . (5) a list of all adjoining landowners and their addresses or a sworn affidavit that with due diligence such information is not ascertainable." S.C. Code Section 48-39-130(B)(5) (emphasis added). Within thirty days of receipt of an

State of South Carolina
June 27, 2013
Page 2

application by DHEC, the Act provides that DHEC "shall notify, in writing ... all adjoining landowners, ... of the nature of applicant's proposal." S.C. Code Section 48-39-130(C). This statutory language is mandatory. There appears to be no exception to the requirement of notice or the time limits within which such notice must be given.

The premises at 854 Whispering Marsh Drive abut a portion of the northeast border of the Applicant's premises at 949 Compass Point. Please be advised that I am a joint tenant with right of survivorship of the premises at 854 Whispering Marsh Drive by virtue of a deed dated November 4, 2010 and duly recorded on November 18, 2010 in the Register Mesne Conveyance (RMC) Office for Charleston County in Book 0156 at Page 139. As such, I am an adjoining landowner as that term is used in the Act. To date, I have not received any notice from DHEC of the above-referenced application. Therefore, DHEC has failed to fulfill its statutory requirement in this regard.

Separate and apart from DHEC's failure to notify all adjoining landowners, DHEC's notice is deficient in terms of the time within which all adjoining landowners are permitted to file written comments to the subject application. In addition to the notice requirement to all adjoining landowners, the Act contains a specific proviso that "... all adjoining landowners ... and other interested parties shall have thirty days to file a written comment to such application." S.C. Code Section 48-39-140(C). The Notice here is dated June 18, 2013 and states that "comments regarding this application must be received by [DHEC] on or before July 3, 2013." (emphasis in original). Even assuming that the Notice to my wife was received on June 18, 2013, the date of its postmark, this can not conceivably satisfy the thirty day time period for comments.

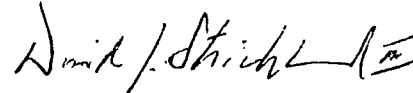
As demonstrated by the foregoing, the DHEC has not satisfied its mandatory obligations under the Act. Therefore, it is respectfully requested that that the Applicant's application be preliminarily denied and the Applicant be directed to resubmit the Application to DHEC which would proceed in the appropriate manner in accordance with the required procedure. This would permit adequate time for adjoining landowners and other interested parties to make written comments on the substantive aspects of the Application. These would include, among other areas of concern, the question of whether there is a navigable creek involved here, the width of the creek, the Applicant's rationale for a private dock as opposed to a shared dock which I understand is DHEC's preference for this type of dock application.

I look forward to your comments on the foregoing. I may be reached at (917) 916-6887.

State of South Carolina
June 27, 2013
Page 3

PLEASE BE ADVISED THAT THE FOREGOING IS WITHOUT THE WAIVER OF ANY RIGHTS AND WITHOUT PREJUDICE TO ANY OTHER REMEDIES WHICH MAY BE AVAILABLE UNDER THE CIRCUMSTANCES.

Very truly yours,

A handwritten signature in dark ink, appearing to read "David J. Strickland, III". The signature is fluid and cursive, with a prominent "D" and "S".

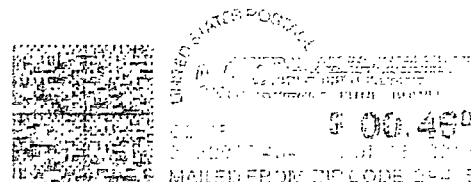
David J. Strickland, III

Enclosure

**OCRM**

1362 McMillan Ave. Ste. 400
Charleston, SC 29405

Return Service Requested



Nancy M. Aust
854 Whispering Marsh Drive
Charleston, SC 29412
RE: OCRM-13-155-D

Certificate of Mailing

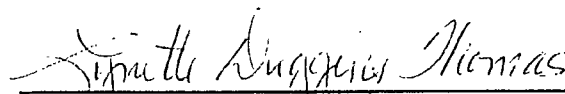
Re: **OCRM-13-155-D**Permittee: **JAMES E. WEATHERHOLTZ**

I, *Lynette Duggins Thomas*, as an employee of DHEC-OCRM certify that I have, this day mailed the following **PUBLIC NOTICE** mail affixed thereto, to the following.

Name: **SEE 1 of 1****REGULAR MAIL**CC: **Blair Williams**

WAS THE PRESS LIST INCLUDED IN THIS MAILING?

Y

☒ NDate: **JUNE 18, 2013**

Lynette Duggins Thomas
DHEC-OCRM Employee
Charleston, South Carolina

James E. Weatherholtz
949 Compass Point
Charleston, SC 29412
RE: OCRM-13-155-D

Island Surveying, Inc.
1720 Central Park Road
Charleston, SC 29412
RE: OCRM-13-155-D

Bruce & Mary Canton
945 Compass Point
Charleston, SC 29412
RE: OCRM-13-155-D

Nancy M. Aust
854 Whispering Marsh Drive
Charleston, SC 29412
RE: OCRM-13-155-D

Michael & Sharon Casey
850 Whispering Marsh Drive
Charleston, SC 29412
RE: OCRM-13-155-D

Hal Mason, *Town Administrator*
TOWN of JAMES ISLAND
Post Office Box 12240
James Island, SC 29412
RE: OCRM-13-155-D

Kurt Taylor, *Administrator*
CHARLESTON COUNTY
4045 Bridge View Drive
North Charleston, SC 29405
RE: OCRM-13-155-D

RECEIVED

AUG 23 2013
Rec'd via e-mail 8/20/2013
Clerk, Board of Health
and Environmental Control

August 20, 2013

Via E-mail and Federal Express Overnight Delivery

Lisa Lucas Longshore, Clerk
South Carolina Board of Health and Environmental Control
2600 Bull Street
Columbia, South Carolina 29201

Re: Request for Final Review
P/N# OCRM-13-155-D

Dear Madam Clerk:

Please accept this Request for Final Review submitted in accordance with S.C. Code Ann. Sec. 44-1-60, related to an action taken by the Department on the above-referenced permit application for a private recreational dock on property owned by Taryn and James Weatherholtz at 949 Compass Point, Charleston, South Carolina. This property is located in the Stiles Point Plantation subdivision on James Island in Charleston County.

I am enclosing a personal check in the amount of \$100.00 representing the filing fee for this Request. If a personal check is not acceptable, I am prepared to pay immediately by [REDACTED] held in my name, James E. Weatherholtz.

On August 8, 2013, I received a copy of the letter attached hereto as Exhibit A, through which the Department provided notification that OCRM has determined that this permit application has been denied.

GROUND'S FOR REVIEW

I respectfully submit that the Department's denial of this permit application is unlawful and unsupported, and that good grounds exist to reverse the Department's decision.

The Department's decision is founded on the following references from the Coastal Zone Management Act and the Office of Ocean and Coastal Resource Management's Regulations:

S.C. Code Reg. Ann. 30-12(A)(2)(c)(i): Docks will not be permitted on creeks less than 10 feet wide as measured from marsh vegetation on each side.

S.C. Code Reg. Ann. 30-12(A)(2)(c)(ii): Docks will not be permitted on creeks less than 20 feet wide as measured from marsh vegetation on each side unless one of the follow two special geographic circumstances exist: a lot has greater than 500 feet of water frontage or no potential access via dockage from the opposite side of the creek.

Lisa Lucas Longshore, Clerk
August 20, 2013
Page 2

As to S.C. Code Reg. Ann. 30-12(A)(2)(c)(i), the notification states that the creek was measured by DHEC staff from a boat on July 11, 2013 and determined to be 7.5' in width when measured from marsh vegetation to marsh vegetation. I respectfully request final review of that determination for the following reasons:

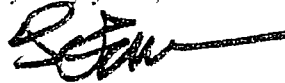
1. This permit application was accompanied by a stamped survey prepared by Island Surveying, Inc., through Thomas V. Bessent, Registered Land Surveyor No. 10778. That survey shows the creek width was measured as 10' at the location where the proposed pierhead meets the edge of the creek. I spoke with Tom Bessent this morning, and he confirmed the measurements he took in May 2013.
2. I have personally measured the width of the creek from marsh vegetation on either side in various locations. The creek does widen and narrow along the section that lies within my extended lot lines, and it is not all 10' wide. Nonetheless, the creek width does measure 10' in certain places, and we are willing to locate the pierhead precisely at a section with a width of 10' and confirm that location to DHEC for approval.
3. Finally, if creek access is an issue, I am willing to adjust the size and placement of the proposed pierhead, or even the existence of the pierhead, so as not to encroach.

As to S.C. Code Reg. Ann. 30-12(A)(2)(c)(ii), the notification states that the project site does not meet either of the two special geographic circumstances. That finding is incorrect, and I respectfully submit that no potential access via dockage from the opposite side of the creek exists. The only two houses on the other side of the creek already have docks. The first dock extends East across the marsh to a different creek altogether. The second dock is located on the same creek, but approximately 300' – 350' farther up the creek from this proposed dock, at least two "turns" away. There is no possibility of dockage from the opposite side of the creek. It simply does not exist. The other side of this creek is essentially marsh grass all the way to the Charleston harbor.

In addition to the above, S.C. Code Reg. Ann. 30-12(A)(2)(c) states that lots in subdivisions with approved DMPs as of May 24, 2002 are exempt from R. 30-12.A(2)(c)(i) and (ii) as amended on May 24, 2002. The Department's denial letter did not include a reference to the exemption, and I believe an inquiry is warranted into whether Stiles Point Plantation subdivision had a DMP that meets the exemption.

I appreciate your consideration of this RFR, and I look forward to notification of the Board's action in response to this request. With kinds regards, I remain,

Very truly yours,



James E. Weatherholtz



Catherine B. Tempierton, Director

Promoting and protecting the health of the public and the environment

August 7, 2013

James Weatherholtz
949 Compass Pt
James Island SC 29412

Re: P/N# OCRM-13-155-D
James Island, SC
Charleston County

Dear Mr. Weatherholtz:

In accordance with the provisions of the 1977 Coastal Zone Management Act, S.C. Code Ann. Sections 48-39-10 *et seq.*, a review of your permit application has been completed. The work, as proposed: The work as proposed consists of constructing a dock. Specifically, the applicant seeks to build a 4' x 245' walkway leading to a 5' x 10' pierhead. The work as described is for private, recreational use..

The Office of Ocean and Coastal Resource Management (OCRM), through its Permitting staff, has determined that this permit request should be denied.

The following is a list of specific references from the Coastal Zone Management Act and the Office of Ocean and Coastal Resource Management's Regulations that the staff relied upon in denying your permit:

Sections 48-39-30 (A), (B)(1) and (B)(2): (Legislature's policies for permitting structures in the critical area)

Section R.30-11(C)(1): **The potential long range cumulative effects of docks on small creeks (less than 10- wide) has been determined to be significant.**

Section R.30-12(A)(2)(c)(i): **Docks will not be permitted on creeks less than 10 feet wide as measured from marsh vegetation on each side.** This creek was measured by DHEC staff from a boat on July 11, 2013, and determined to be 7.5' in width when measured from marsh vegetation to marsh vegetation.

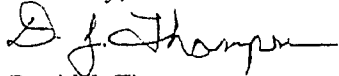
Section R.30-12(A)(2)(c)(ii): This project site does not meet either of the two "Special Geographic Circumstances" in that the lot has less than 500' of water frontage and potential access via dockage from the opposite side of the creek exist.

Any applicant having a permit request denied or any person adversely affected by the granting of a permit has the right to appeal the agency's decision as outlined in the enclosed "Notice of Appeal Procedure." Any applicant having a permit denied may challenge the validity of any or all reasons given for denial.

EX. A

If you would like a copy of the Coastal Zone Management Act or OCRM's Regulations please contact this office or one of our regional offices (Myrtle Beach at 238-4528 or Beaufort at 846-9400). If I can be of any further assistance, please do not hesitate to call.

Sincerely,

A handwritten signature in dark ink, appearing to read "D. J. Thompson". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

David J. Thompson
Wetland Section Project Manager

CC: Mr. Blair Williams, Wetland Section Manager
Island Surveying, Inc.

TECHNICAL SUMMARY OF REVIEWPermit Name: James Weatherholtz

Decision:

Permit:
Permit with Conditions:
Deny:X**I. Background Information:**Database ID# 77952Permit Number OCRM-13-155-DP/N Date: June 18, 2013Date Received: June 13, 2013Permit Type: OCRM Critical Area MinorOther
Agency Permits NoneCounty: Charleston

Location

Description: 949 Compass Point, Charleston, Charleston County, South Carolina.**II. Project Description and Stated Purpose:**

The work as proposed consists of constructing a dock. Specifically, the applicant seeks to build a 4' x 245' walkway leading to a 5' x 10' pierhead. The work as described is for private, recreational use.

Purpose: The work is for the applicant's private recreational use.**III. Summary of Public and Agency Comments (List by name, date & comment summary; if none, so indicate):**

Federal or other State Agencies:

SCDNR: **No objection.**SCSPA: **No objection.**

Local Agencies:

None.

Public Comment (Include all names from Public Hearing):

Bruce & Mary Canton: Object to permit issuance.**David J. Strickland, III: Object to permit issuance.**

Adjoining Property Owners (Include all names of those who commented):

Bruce & Mary Canton, 945 Compass Point, Charleston, SC 29412**Nancy Aust, 854 Whispering Marsh Dr, Charleston, SC 29412****Michael & Sharon Casey, 850 Whispering Marsh Dr, Charleston, SC 29412**

IV. Environmental Assessment:

A. Describe the coastal resources (i.e., vegetation, habitat, etc.), which will be impacted:

This area is small tidal creek and *Spartina alterniflora* marsh.

B. Watershed and vicinity information (include watershed name & size, classification; any impaired waters listed within impaired parameter; and shellfish status):

1. Vicinity information (include information on developments within watershed within 3 mile radius):

Local area is old developed residential S/D.

2. Existing system conditions (i.e. shellfish closures, 303d, and shellfish lease name and #):

Shellfish harvesting Class P.

3. Name and width of waterbody:

Kushiwah Creek, 7.5' as measured 7/11/13, from boat by Jeff Thompson and Fred Mallett.

4. Any small tributary issue, width, change in grade:

Yes. This creek is less than 10' in width and no Special Geographic Circumstances exist

5. List total square footage requested and allowed:

50, 0.

6. Any geographic circumstances to consider or boat storage sq. ft considerations:

No.

7. Any corridor or extended property line issues; is there a harm allowing a crossing of lines:

No.

8. If roof requested, any roofs in the area:

None requested.

9. Property width and width of spacing at edge of creek/river:

100', 140'.

C. GAPC Review (List any GAPC's present on or adjacent to project site; include agency comments; attach GIS printout; and outline treatment methods):

None.

V. Policy Assessment:

A. Regulatory History:

1) Previous OCRM authorizations (Critical Area Permits, land disturbance, Federal cert.):

None.

- 2) Previous Enforcements (is project in compliance w/all previous permits, etc.):

None.

- 3) Dock Master Plan and was it required to be recorded:

None.

- 4) Shellfish lease area number:

None.

- 5) Marsh ownership claim:

None.

B. Applicable Regulations and Policies (list those that apply only):

- 1) CZMA:

48-39-150 (Consistent with the 10 General Conditions).

- 2) Regulations (General Guidelines, Further Guidelines, Specific Project Standards):

R.30-11(B) & (C)(1): Creek is less than 10' in width

R.30-12-(A)(2)(c)(i): Creek is less than 10' in width, measured 7/11/13 at 7.5'.

R.30-12(A)(2)(c)(ii): Site does not meet Special Geographic Circumstances.

- 3) CZ Policies (Management Program Document):

Chapter III, Section VI.C.1), 2), & 3).

- C. Does the project contravene any coastal zone regulations?

☒ YES

☐ NO

(If No, skip to section VII; if Yes, complete Section VI.)

VI. Modifications for bringing the project into compliance with regulations:

- A. Modifications required to minimize impacts (list avoidance & minimization measures; buffers; size and/or use restrictions; additional treatment measures; deed restrictions; and agency agreements):

This project cannot be brought into compliance with the rules and regulations. No docks may be permitted on creeks less than 10' in width.

- B. If Permit is denied, explain contraventions of regulations and/or Coastal Zone Management Program.

The above regulations state that docks cannot be permitted on creeks less than 10' in width

VII. Field assessment by: David J. Thompson 7/11/13
(Name) (Date)

VIII: Reviewed By:

1. Project Manager: _____
(Signature) (Date)

IX. Notes:

This project is inconsistent with the rules and regulations for permitting private recreational use docks in the critical areas of South Carolina. The creek at this location is less than 10' in width and does not qualify as waterfront property under current regulations.

X. Attachments Required:

GIS Review (See Section IV.C. above)
Site Photographs

James Weatherholtz
OCRM-13-155-D

- Enforcements
- CA_Permits_13
- CA_Permits_Archive
- Dock Master Plans
- Endangered_Species_Pts
- ▨ PIPING_PLOVER_HABITAT (USFWS)
- LIVE OYSTER
- DEAD SHELL DEPOSITS
- Civil War Earthworks
- Archaeological Points
- ▨ Archaeological Polys
- Historic Structures
- Historic Features
- Historic Areas
- National Register Points
- ▨ National Register Polys
- Restricted NR Points
- ▨ Restricted NR Polys
- ▨ Federally Protected
- ▨ Privately Protected
- ▨ State Protected
- ACE_BASIN_TASKFORCE_BOUNDARY
- NERR
- Edisto Island Trust
- FED_ADMIN_LAND
- Streets
- Parcels
- Coastal Zone Counties

0 0.0125 0.025 0.05 Miles

91 7199 9991 7030 0134 3403

Confirmation Services	Package ID: 9171999991703001343403	E-RET RECEIPT
	Destination ZIP Code: 29422	1STCL REGULAR LETTER
	Customer Reference: OCRM-13-155JT	
	Recipient: _____	PBP Account #: 12897617
	Address: _____	Serial #: 2007434
		AUG 07 2013 8:26A

91 7199 9991 7030 0134 3410

Confirmation Services	Package ID: 9171999991703001343410	E-RET RECEIPT
	Destination ZIP Code: 29412	1STCL REGULAR LETTER
	Customer Reference: OCRM-13-155JT	
	Recipient: _____	PBP Account #: 12897617
	Address: _____	Serial #: 2007434
		AUG 07 2013 8:26A

Certificate of Mailing

Re: OCRM-13-155-D

PERMITTEE: JAMES WEATHERHOLTZ

I, Sheila Davis-Gaston, as an employee of DHEC-OCRM certify that I have, this day mailed the following "DENIAL LETTER" mail affixed thereto, to the following.

NAME

REGULAR MAIL:

JAMES WEATHERHOLTZ
949 COMPASS PT
JAMES IS., SC 29412

ISLAND SURVEYING
1720 CENTRAL PARK RD
CHARLESTON, SC 29412

CERTIFIED MAIL:
DAVID STRICKLAND III
854 WISPERING MARSH DR
CHARLESTON, SC 29412

BRUCE & MARY CANTON
PO BOX 12669
CHARLESTON, SC 29422

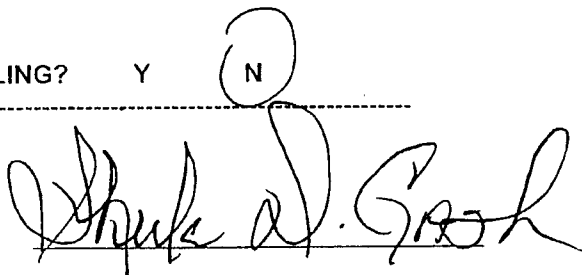
CC: Blair Williams

WAS THE PRESS LIST INCLUDED IN THIS MAILING?

Y

N

Date August 7, 2013



Sheila Davis-Gaston
DHEC-OCRM Employee
Charleston, South Carolina

SC DHEC OCRM APPEXTENDER INDEX SHEET

WETLAND SECTION/REGULATORY

CRITICAL AREA OR CERTIFICATION (CIRCLE ONE)

COMPANY/LAST_NAME: Weatherholtz
FIRST_NAME: James E
EFIS_ID: 77952
PERMIT #: OCRM-13-155-D
PROJECT: Private Dock
SITE: 949 Compass Point
ADDRESS: 949 Compass Point
CITY: James Is
COUNTY: Charleston
KEYWORDS: Dock, Private Dock
TMS: 426-16-00-135

ALL FIELDS MUST BE COMPLETED

PM PREP:

DATE:

9/3/13

SCANNED BY:

DATE:

10-18-13

SCAN THIS SHEET WITH THE FILE

COMPLETE FILE ~~SCANNED~~

Date:

10-23-13

Staff:

50g

Weatherholtz
OCRM-01-254-6 - Joint use
SF-P Nuke



Catherine B. Templeton, Director

Promoting and protecting the health of the public and the environment

BEFORE THE BOARD OF HEALTH AND ENVIRONMENTAL CONTROL

September 5, 2013

Docket Number:

Requestors: James E. Weatherholtz

Permittee: James E. Weatherholtz

Permit Number: OCRM-13-155-D

STAFF RESPONSE TO REQUEST FOR REVIEW

Submitted by: Jeff Thompson, OCRM Project Manager for James E. Weatherholtz

This review conference involves a challenge to staff's decision to deny a permit for James E. Weatherholtz, OCRM-13-155-D, to construct a private recreational dock consisting of a 4' x 245' walkway, leading to a 5' x 10' fixed pier on and adjacent to Kushiwah Creek at 949 Compass Point, Stiles Plantation, Charleston, South Carolina. Specifically, the above-referenced application was placed on public notice on June 18, 2013.

The Department reviewed the above referenced application under the applicable statutory provisions in S.C. Code Ann. §48-39-10, et. seq., and the Critical Area Regulations, S.C. Code Reg. 30-1 et. Seq. After following the required procedures, the proposed activity failed to meet Department regulations R.30-11(C)(1), R.30-12(A)(2)(c)(i), and R.30-12(A)(2)(c)(ii) and The Department denied the above referenced permit on August 7, 2013. Requestor, James E. Weatherholtz, is challenging the staff decision to deny the permit.

Requestor, James E. Weatherholtz

1. "This permit application was accompanied by a stamped survey prepared by Island Surveying, Inc., through Thomas V. Bessent, Registered Land Surveyor No. 10778. That survey shows the creek width was measured as 10' at the location where the proposed pierhead meets the edge of the creek. I spoke with Tom Bessent this morning, and he confirmed the measurements he took in May 2013.

Response - S. C. Regulation 30-12(A)(2)(c)(i) *Docks will not be permitted on creeks less than 10 feet wide as measured from marsh vegetation on each side....* This creek was measured by DHEC staff from a boat on July 11, 2013, and determined to be 7.5 feet in width when measured from marsh vegetation to marsh vegetation. Photographic documentation was taken at the time of measurement which clearly shows the creek width is less than 10 feet. No portion of the creek was 10 feet or greater in width along any portion of the creek from the mouth up to and beyond the proposed dock. Mr. Weatherholtz did not provide a survey of the creek width which conflicts with the staff determination. The project is not consistent with this section of the Regulations.

2. "I have personally measured the width of the creek from marsh vegetation on either side in various locations. The creek does widen and narrow along the section that lies within my extended lot lines, and it is not all 10' wide. Nonetheless, the creek width does measure 10' in certain places, and we are willing to locate the pierhead precisely at a section with a width of 10; and confirm that location to DHEC for approval".

Response - No portion of this creek was 10 feet or greater in width during the staff site inspection on July 11, 2013, as documented through photographic evidence. Staff cannot permit a dock on creeks less than 10 feet wide as measured from marsh vegetation on each side.

3. "Finally, if creek access is an issue, I am willing to adjust the size and placement of the proposed pierhead, or even the existence of the pierhead, so as not to encroach."

Response – S.C. Code Reg. Ann. R.30-12(A)(2)(c)(i) states **Docks will not be permitted on creeks less than 10 feet wide as measured from marsh vegetation on each side.** Staff cannot permit a dock of any size on this creek since it has been measured at less than 10' in width.

4. Page 2, second paragraph of RFR request states "As to S.C. Code Reg. Ann. 30-12-(A)(2)(c)(ii), the notification states that the project site does not meet either of the two special geographic circumstances. That finding is incorrect, and I respectfully submit that no potential access via dockage from the opposite side of the creek exists. The only two houses on the other side of the creek already have docks. The first dock extends East across the marsh to a different creek altogether. The second dock is located on the same creek, but approximately 300'-350' farther up the creek"

Response – Special Geographic Circumstances applies to creeks from 10-20 feet in width. This creek is less than 10 feet in width as measured by Staff on July 11, 2013, and does not qualify for a dock applying Special Geographic Circumstances. In addition, the applicant notes that there is an existing dock from the opposite shore slightly upstream from the location of his proposed dock. This dock was permitted prior to adoption of current Regulations R.30-12(A)(2)(c)(i) or R.30-12(A)(2)(c)(ii).

5. Page 2, third paragraph of RFR request states "In addition to the above, S.C. Code Reg. Ann. 30-12(A)(2)(c) states that lots in subdivisions with approved DMP's as of May 24, 2002 are exempt from R.30-12(A)(2)(c)(i) and (ii) as amended on May 24, 2002".

Response – A review by Staff of ARCGIS and DMP files did not indicate the existence of a Dock Master Plan for Stiles Point Plantation. Both the GIS and DMP file examination were performed by Staff prior to taking final action of the application. This project site does not meet the exemption noted above.

Staff Review and Decision Based on Regulations:

Regulations R.30-11(B)&(C) – General Guidelines for all Critical Areas

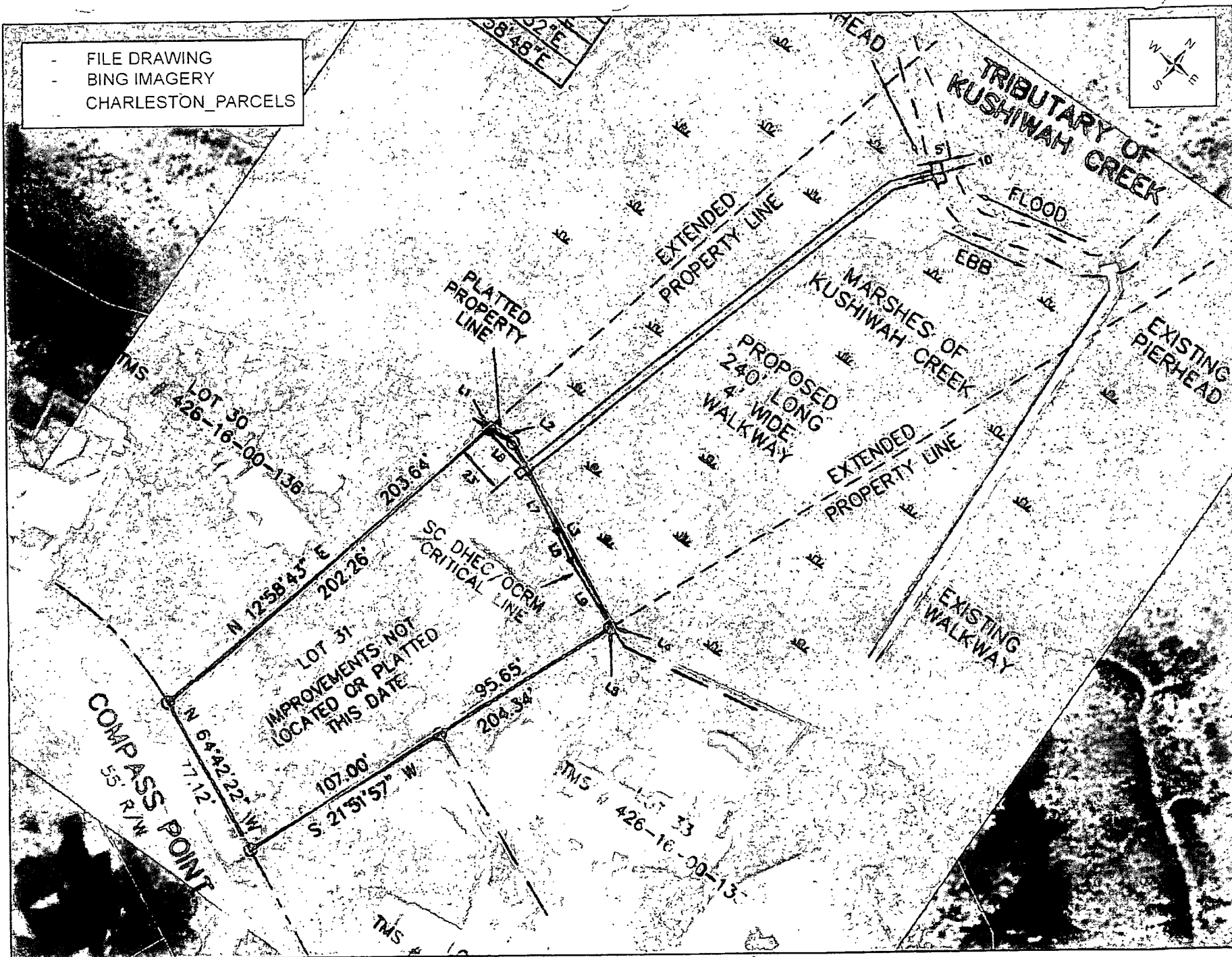
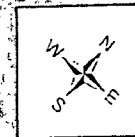
Regulation R.30-11(C)(1): The potential long range cumulative effects of docks on small creeks (less than 10' wide) has been determined to be significant.

Regulation R.30-12(A)(2)(c)(i): Docks will not be permitted on creeks less than 10 feet wide as measured from marsh vegetation on each side.

Regulation R.30-12(A)(2)(c)(ii): Docks will not be permitted on creeks less than 20 feet wide as measured from marsh vegetation on each side unless one of the following two special geographic circumstances exists: a lot has greater than 500 feet of water frontage or no potential access via dockage from the opposite side of the creek.

Based on the foregoing, DHEC staff requests that the Board affirm staff's decision to deny the permit.

- FILE DRAWING
 - BING IMAGERY
 - CHARLESTON_PARCELS







Catherine B. Templeton, Director

Promoting and protecting the health of the public and the environment

August 7, 2013

James Weatherholtz
949 Compass Pt
James Island SC 29412

Re: P/N# OCRM-13-155-D
James Island, SC
Charleston County

Dear Mr. Weatherholtz:

In accordance with the provisions of the 1977 Coastal Zone Management Act, S.C. Code Ann. Sections 48-39-10 *et seq.*, a review of your permit application has been completed. The work, as proposed: The work as proposed consists of constructing a dock. Specifically, the applicant seeks to build a 4' x 245' walkway leading to a 5' x 10' pierhead. The work as described is for private, recreational use..

The Office of Ocean and Coastal Resource Management (OCRM), through its Permitting staff, has determined that this permit request should be denied.

The following is a list of specific references from the Coastal Zone Management Act and the Office of Ocean and Coastal Resource Management's Regulations that the staff relied upon in denying your permit:

Sections 48-39-30 (A), (B)(1) and (B)(2): (Legislature's policies for permitting structures in the critical area)

Section R.30-11(C)(1): **The potential long range cumulative effects of docks on small creeks (less than 10- wide) has been determined to be significant.**

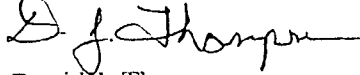
Section R.30-12(A)(2)(c)(i): **Docks will not be permitted on creeks less than 10 feet wide as measured from marsh vegetation on each side.** This creek was measured by DHEC staff from a boat on July 11, 2013, and determined to be 7.5' in width when measured from marsh vegetation to marsh vegetation.

Section R.30-12(A)(2)(c)(ii): This project site does not meet either of the two "Special Geographic Circumstances" in that the lot has less than 500' of water frontage and potential access via dockage from the opposite side of the creek exist.

Any applicant having a permit request denied or any person adversely affected by the granting of a permit has the right to appeal the agency's decision as outlined in the enclosed "Notice of Appeal Procedure." Any applicant having a permit denied may challenge the validity of any or all reasons given for denial.

If you would like a copy of the Coastal Zone Management Act or CCRM's Regulations please contact this office or one of our regional offices (Myrtle Beach at 238-4528 or Beaufort at 846-9400). If I can be of any further assistance, please do not hesitate to call.

Sincerely,



David J. Thompson
Wetland Section Project Manager

CC: Mr. Blair Williams, Wetland Section Manager
Island Surveying, Inc.

South Carolina Board of Health and Environmental Control
Guide to Board Review
Pursuant to S.C. Code Ann. § 44-1-60
Effective April 1, 2013

The decision of the South Carolina Department of Health and Environmental Control (Department) becomes the final agency decision fifteen (15) calendar days after notice of the decision has been mailed to the applicant, permittee, licensee and affected persons who have requested in writing to be notified, unless a written request for final review accompanied by a filing fee in the amount of \$100 is filed with Department by the applicant, permittee, licensee or affected person.

Applicants, permittees, licensees, and affected parties are encouraged to engage in mediation during the final review process.

If the Board declines in writing to schedule a final review conference, the Department's decision becomes the final agency decision and an applicant, permittee, licensee, or affected person may request a contested case hearing before the Administrative Law Court within thirty (30) calendar days after notice is mailed that the Board declined to hold a final review conference.

1. Filing of Request for Final Review

1. A written Request for Final Review (RFR) and the required filing fee of one hundred dollars (\$100) must be received by Clerk of the Board within fifteen (15) calendar days after notice of the staff decision has been mailed to the applicant, permittee, licensee, or affected persons. If the 15th day occurs on a weekend or State holiday, the RFR must be received by the Clerk on the next working day. RFRs will not be accepted after 5:00 p.m.
2. RFRs shall be in writing and should include, at a minimum, the following information:
 - The grounds for amending, modifying, or rescinding the staff decision;
 - a statement of any significant issues or factors the Board should consider in deciding how to handle the matter;
 - the relief requested; and
 - a copy of the decision for which review is requested.
3. RFRs should be filed in person or by mail at the following address:

South Carolina Board of Health and Environmental Control
Attention: Clerk of the Board
2600 Bull Street
Columbia, South Carolina 29201

Alternatively, RFR's may be filed with the Clerk by facsimile (803-898-3393) or by electronic mail (boardclerk@dhec.sc.gov).

4. The filing fee may be paid by cash, certified check or credit card. If a RFR is filed by facsimile or electronic mail, the filing fee may be mailed to the Clerk of the Board and the envelope must be postmarked within the time allowed for filing a RFR.
5. If there is any perceived discrepancy in compliance with this RFR filing procedure, the Clerk should consult with the Chairman or, if the Chairman is unavailable, the Vice-Chairman. The Chairman or the Vice-Chairman will determine whether the RFR is timely and properly filed and direct the Clerk to (1) process the RFR for consideration by the Board or (2) return the RFR and filing fee to the requestor with a cover letter explaining why the RFR was not timely or properly filed. Processing an RFR for consideration by the Board shall not be interpreted as a waiver of any claim or defense by the agency in subsequent proceedings concerning the RFR.
6. If the RFR will be processed for Board consideration, the Clerk will send an Acknowledgement of RFR to the Requestor and the applicant, permittee, or licensee, if other than the Requestor.
7. The Clerk will email the RFR to all Board members for review, and all Board members will confirm receipt of the RFR to the Clerk by email. If a Board member does not confirm receipt of the RFR within twenty-four (24) hour period, the Clerk will contact the Board member and confirm receipt. If a Board member believes the RFR should be considered by the RFR Committee, he or she will respond to the Clerk's email within forty-eight (48) hours and will request further review. If no Board member requests further review of the RFR within the forty-eight (48) hour period, the Clerk will send a letter by certified mail to the Requestor, with copy by regular mail to the applicant, permittee, or licensee, if not the Requestor, stating the Board will not hold a Final Review Conference. A copy of the Notice of Appeal Procedure will be included with the letter.

NOTE: If the time periods described above end on a weekend or State holiday, the time is automatically extended to 5:00 p.m. on the next business day.

8. If the RFR is to be considered by the RFR Committee, the Clerk will forward a copy of the RFR to Department staff and Office of General Counsel. A Department response to the RFR should be provided by Department staff to the Clerk within eight (8) working days after the RFR is forwarded.

II. Final Review Conference Scheduling

1. If a Conference will be held, the Clerk will send a letter by certified mail to the Requestor, with copy by regular mail to the applicant, permittee, or licensee, if not the Requestor, informing the Requestor of the determination.
2. The Clerk will request Department staff provide the Administrative Record.
3. The Clerk will send Notice of Final Review Conference to the parties at least ten (10) days before the Conference. The Conference will be publically noticed and should:
 - include the place, date and time of the Conference;
 - state the presentation times allowed in the Conference;
 - state evidence may be presented at the Conference;
 - if the conference will be held by committee, include a copy of the Chairman's order appointing the committee; and
 - inform the Requestor of his or her right to request a transcript of the proceedings of the Conference prepared at Requestor's expense.
4. If a party requests a transcript of the proceedings of the Conference and agrees to pay all related costs in writing, including costs for the transcript, the Clerk will schedule a court reporter for the Conference.

III. Final Review Conference and Decision

1. The order of presentation in the Conference will, subject to the presiding officer's discretion, be as follows:
 - Department staff will provide an overview of the staff decision and the applicable law to include [10 minutes]:
 - Type of decision (permit, enforcement, etc.) and description of the program.
 - Parties
 - Description of facility/site
 - Applicable statutes and regulations
 - Decision and materials relied upon in the administrative record to support the staff decision.
 - Requestor(s) will state the reasons for protesting the staff decision and may provide evidence to support amending, modifying, or rescinding the staff decision. [15 minutes] *NOTE: The burden of proof is on the Requestor(s)*
 - Rebuttal by Department staff [15 minutes]
 - Rebuttal by Requestor(s) [10 minutes]

Note: Times noted in brackets are for information only and are superseded by times stated in the Notice of Final Review Conference or by the presiding officer.
2. Parties may present evidence during the conference; however, the rules of evidence do not apply.
3. At any time during the conference, the officers conducting the conference may request additional information and may question the Requestor, the staff, and anyone else providing information at the conference.
4. The presiding officer, in his or her sole discretion, may allow additional time for presentations and may impose time limits on the Conference.
5. All Conferences are open to the public.
6. The officers may deliberate in closed session.
7. The officers may announce the decision at conclusion of the Conference or it may be reserved for consideration.
8. The Clerk will mail the written final agency decision (FAD) to parties within 30 days after the Conference. The written decision must explain the basis for the decision and inform the parties of their right to request a contested case hearing before the Administrative Law Court. The FAD will be sent by certified mail, return receipt requested.
9. Communications may also be sent by electronic mail, in addition to the forms stated herein, when electronic mail addresses are provided to the Clerk.

The above information is provided as a courtesy; parties are responsible for complying with all applicable legal requirements.

South Carolina Department of Health and Environmental Control
Office of Ocean and Coastal Resource Management
1362 McMillan Avenue, Suite 400
Charleston, South Carolina 29405

June 18, 2013

Permit Application Public Notice

James E. Weatherholtz, OCRM-13-155-D

The Department has received an application for a permit for the alteration of a critical area. The application was submitted pursuant to the Coastal Zone Management Act (Act 123) of 1977 South Carolina General Assembly. The application in brief is described as follows:

LOCATION: On and adjacent to a tributary of Kushiwah Creek at 949 Compass Point, Stiles Point Subdivision, James Island, Charleston County, South Carolina. TMS: 426-16-00-135.

WORK: The work as proposed consists of constructing a dock. Specifically, the applicant seeks to build a 4' x 245' walkway leading to a 5' x 10' pierhead. The work as described is for private, recreational use.

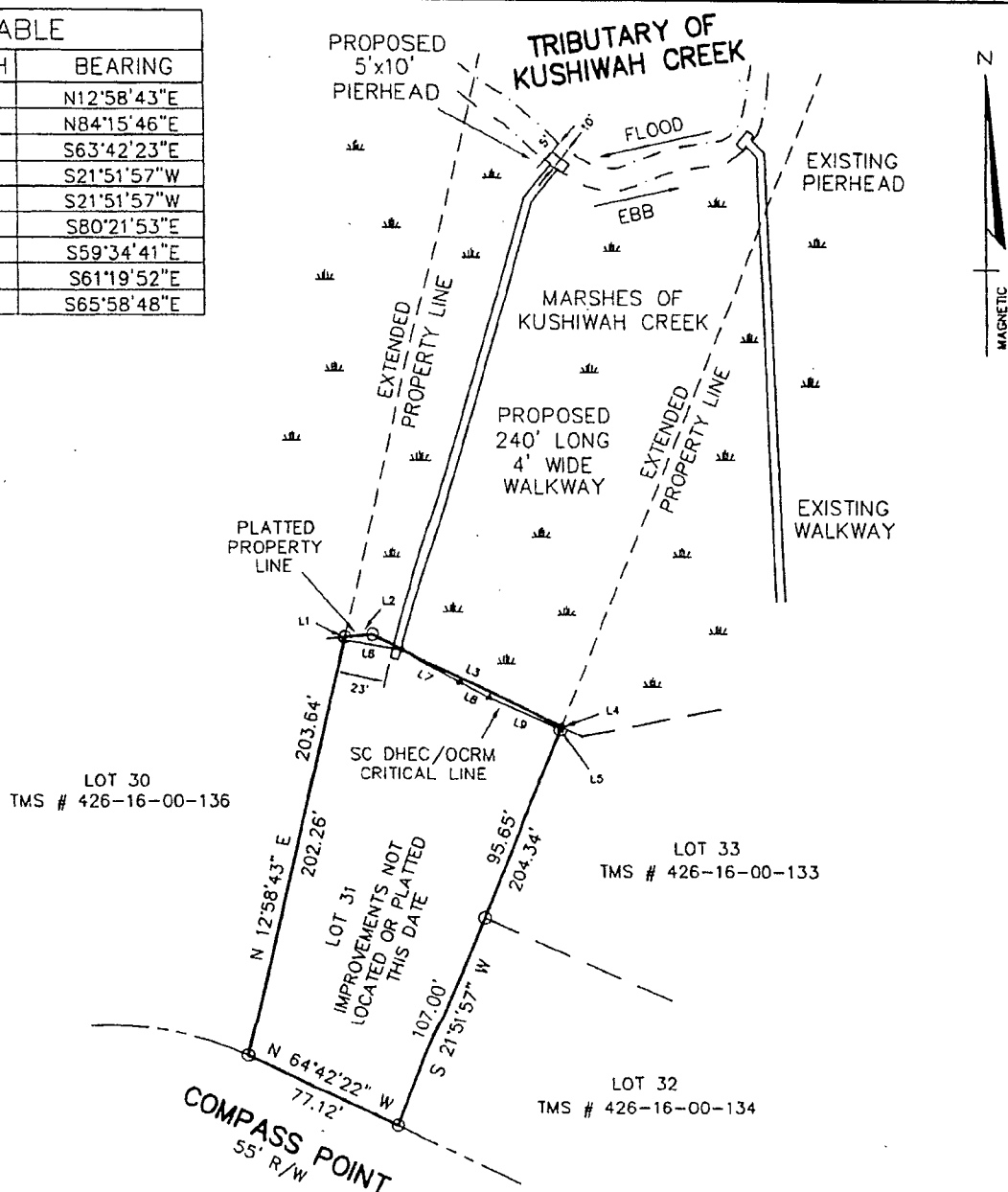
This public notice is being distributed to all known interested persons and agencies to assist in developing facts on which a decision by the Department can be based. Comments concerning the proposed work must be submitted in writing, setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition.

Comments regarding this application must be received by the Department on or before July 3, 2013. For more information, please contact Jeff Thompson at 843-953-0219 or via email at thompsdj@dhec.sc.gov.

NOTE: Plans depicting the proposed work are available and will be provided upon receipt of a written request or may be viewed on the Department website at www.scdhec.gov/environment/ocrm/public_notice.htm.

LINE TABLE

LINE	LENGTH	BEARING
L1	1.38	N12°58'43"E
L2	13.03	N84°15'46"E
L3	97.18	S63°42'23"E
L4	1.39	S21°51'57"W
L5	0.30	S21°51'57"W
L6	28.46	S80°21'53"E
L7	29.20	S59°34'41"E
L8	15.33	S61°19'52"E
L9	36.35	S65°58'48"E



CRITICAL LINE SURVEYED BY THOMAS V BESSENT
APRIL 28, 2013 AND APPROVED BY D.J. THOMPSON
MAY 23, 2013

APPLICANT:
JAMES E WEATHERHOLTZ

TMS # 426-16-00-135

949 COMPASS POINT
CHARLESTON COUNTY, SC
KUSHIWAH CREEK

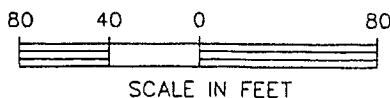
OCRM-13-155-D

5'x10' "TEE" PIERHEAD
245' WALKWAY

DOCK LAYOUT
PRIVATE DOCK

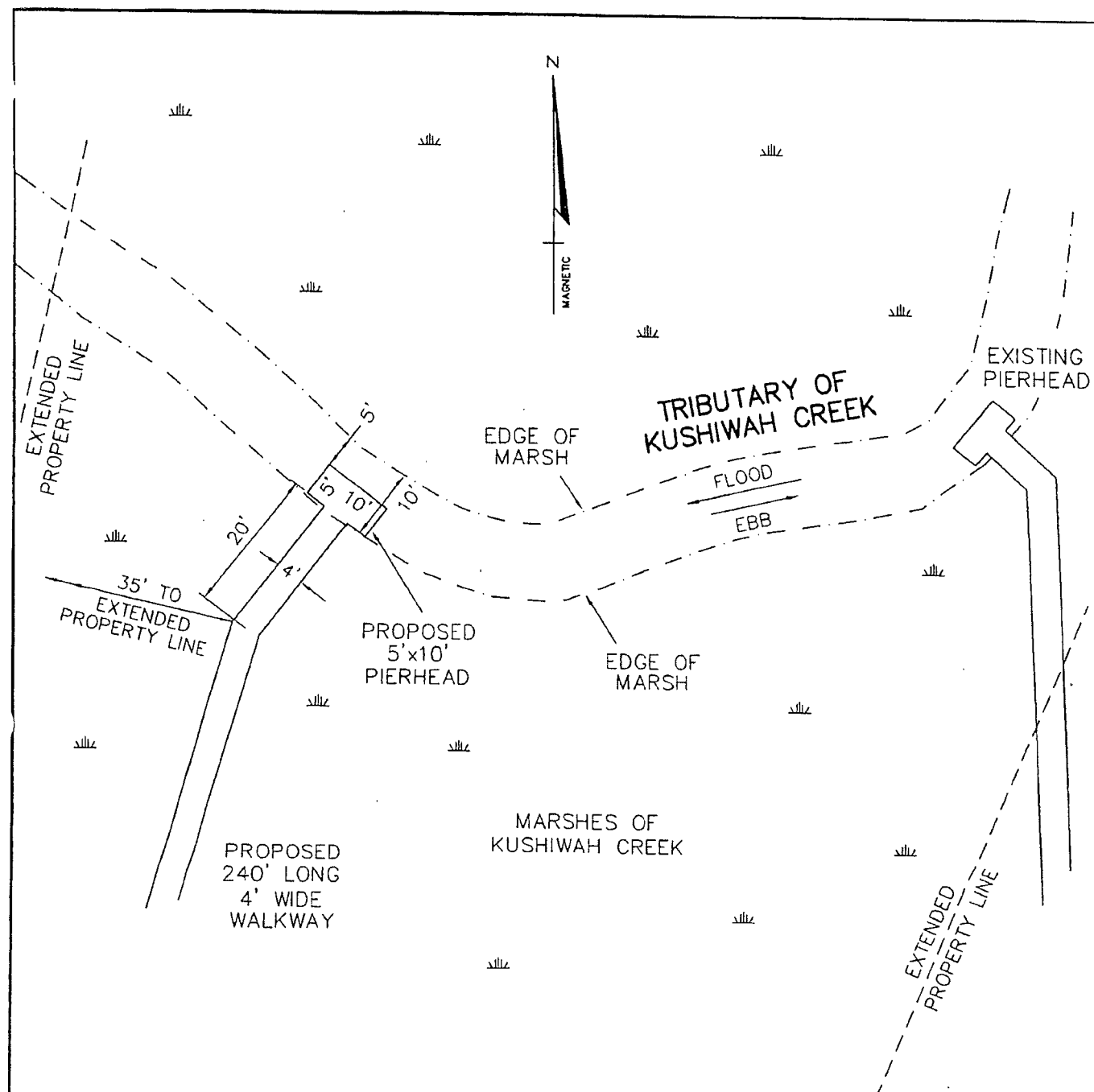
MAY 28, 2013

SCALE: 1"=80'



Island Surveying Inc

1720 Central Park Road, Charleston, SC 29412
Phone (843) 225-6582 Fax (843) 225-6587



APPLICANT:
JAMES E WEATHERHOLTZ

TMS # 426-16-00-135

949 COMPASS POINT
CHARLESTON COUNTY, SC
KUSHIWAH CREEK

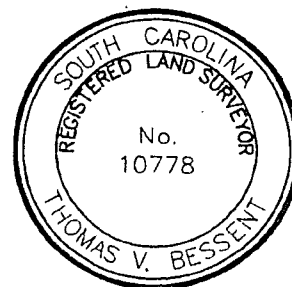
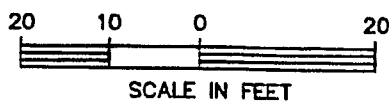
OC2M-13-155-D

5'x10' "TEE" PIERHEAD
245' WALKWAY

DOCK DETAIL PRIVATE DOCK

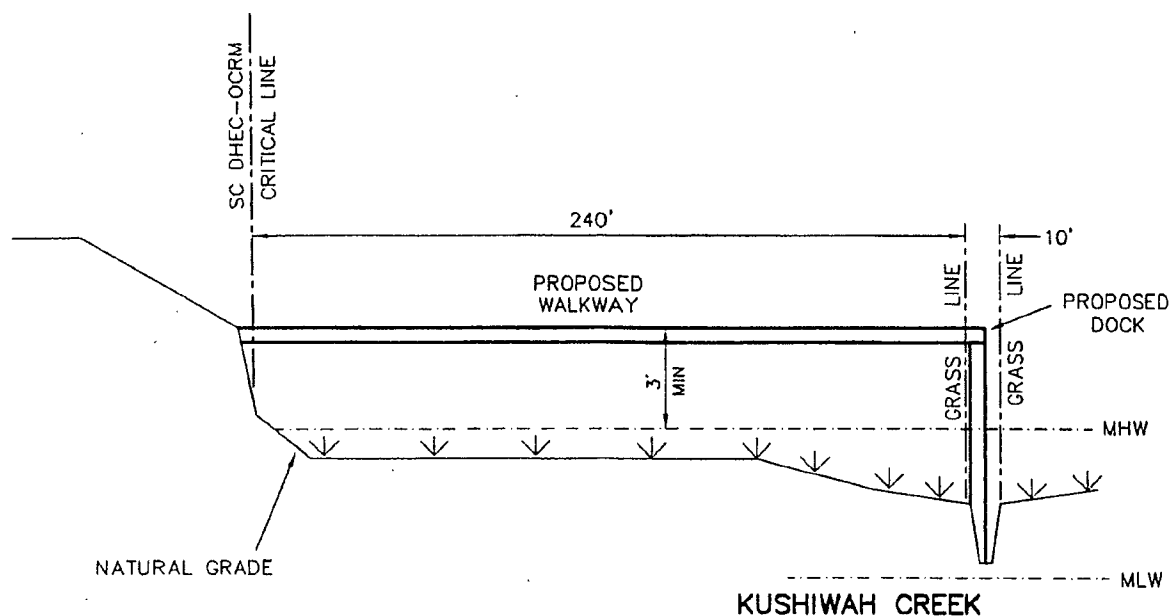
MAY 28, 2013

SCALE: 1"=20'



Island Surveying Inc

1720 Central Park Road, Charleston, SC 29412
Phone (843) 225-6582 Fax (843) 225-6587



APPLICANT:
JAMES E WEATHERHOLTZ

TMS # 426-16-00-135

949 COMPASS POINT
CHARLESTON COUNTY, SC
KUSHIWAH CREEK

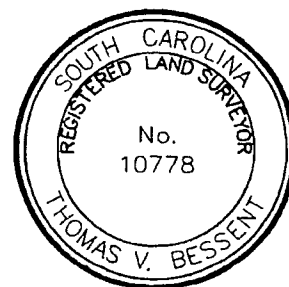
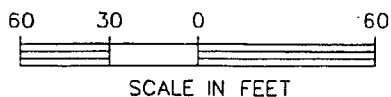
OCRM-13-155-D

5'x10' "TEE" PIERHEAD
245' WALKWAY

CROSS-SECTION PRIVATE DOCK

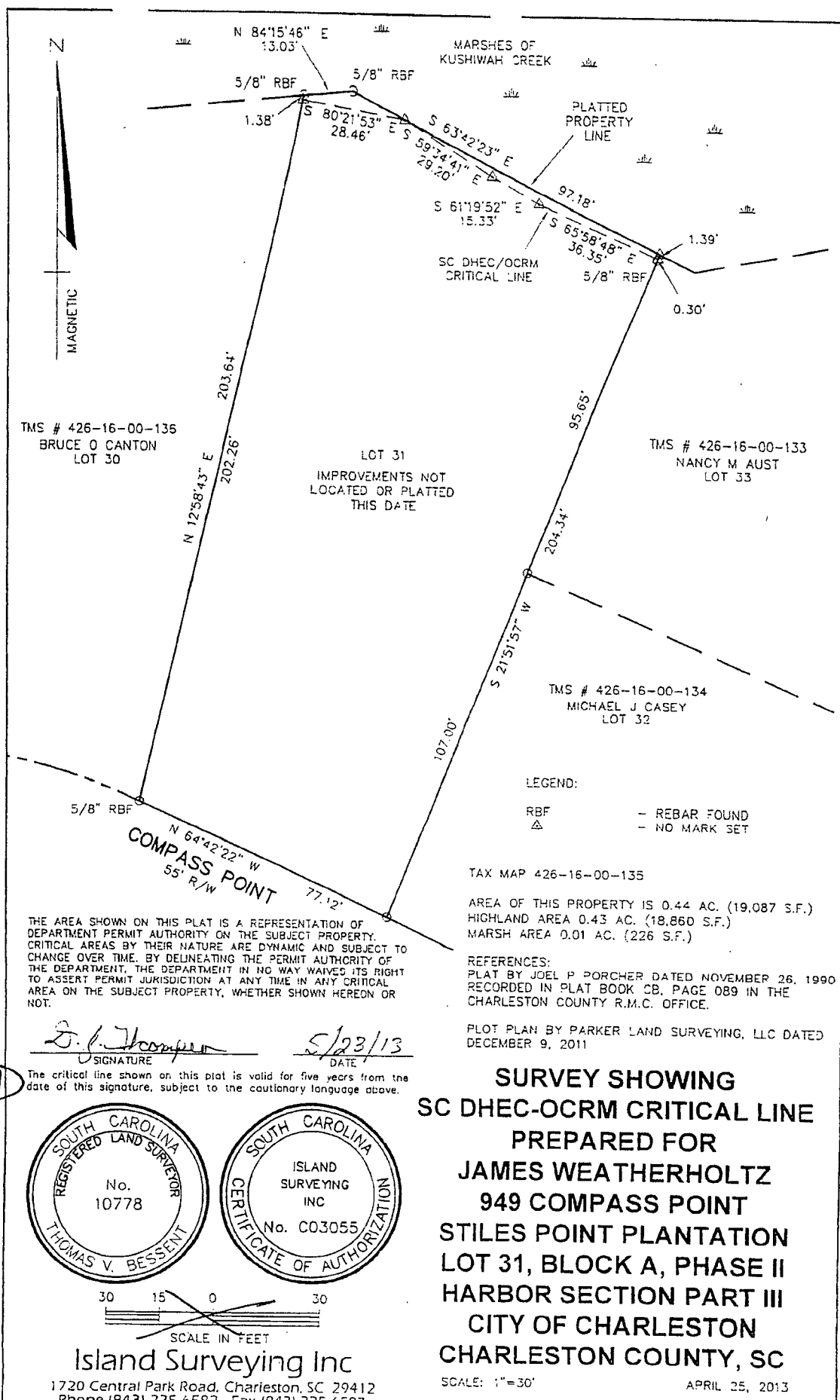
MAY 28, 2013

HORIZONTAL SCALE: 1"=60'
VERTICAL SCALE: 1"=10'



Island Surveying Inc

1720 Central Park Road, Charleston, SC 29412
Phone (843) 225-6582 Fax (843) 225-6587



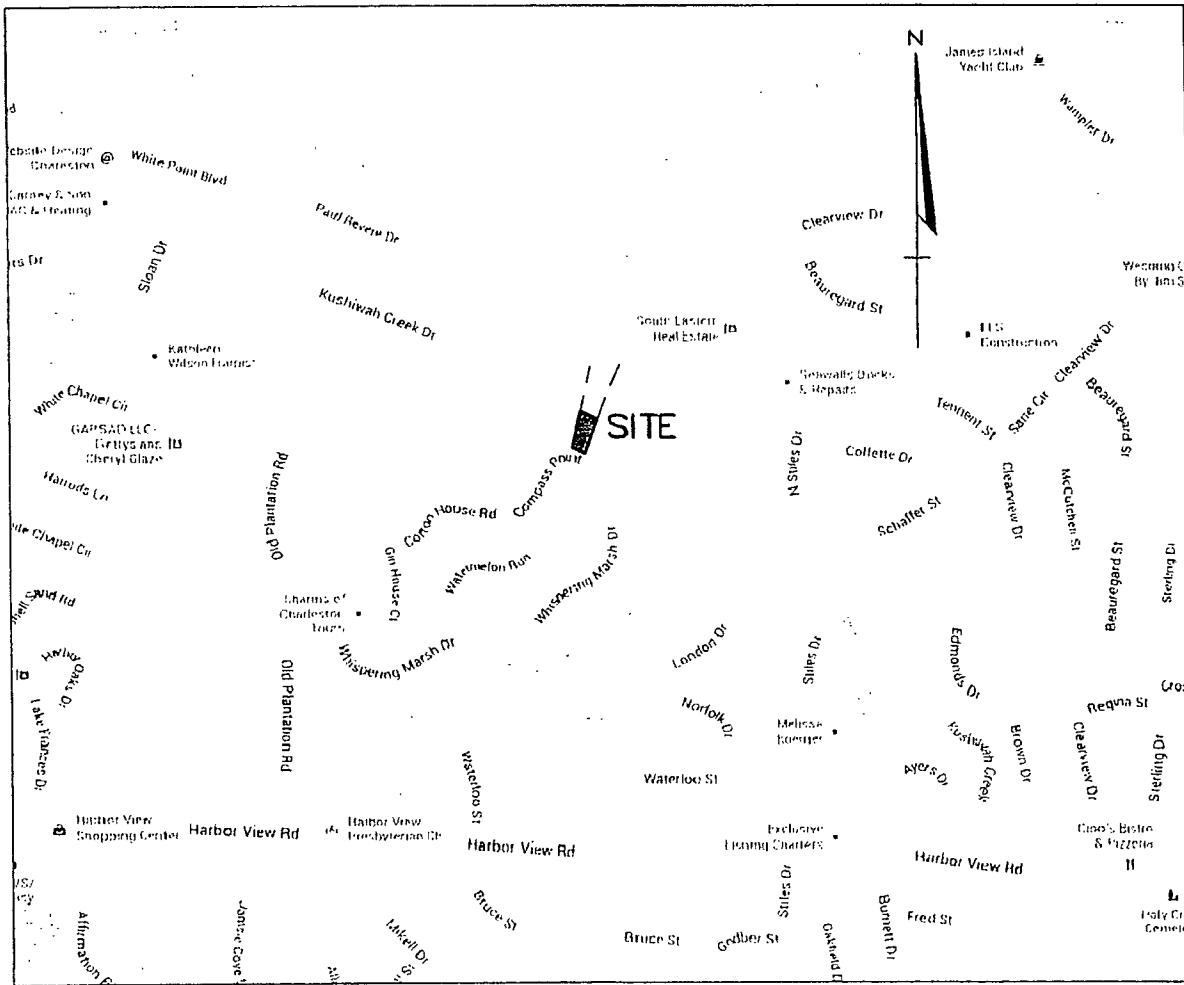
OCFIM-13-155-1

Reduced-NTS

**SURVEY SHOWING
SC DHEC-OCRM CRITICAL LINE
PREPARED FOR
JAMES WEATHERHOLTZ
949 COMPASS POINT
STILES POINT PLANTATION
LOT 31, BLOCK A, PHASE II
HARBOR SECTION PART III
CITY OF CHARLESTON
CHARLESTON COUNTY, SC**

SCALE: 1"=30'

APRIL 25, 2013



NOT TO SCALE

DCRM-13-155-D

APPLICANT:
JAMES E WEATHERHOLTZ

TMS # 426-16-00-135

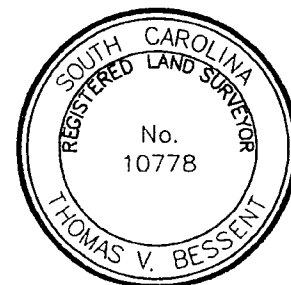
949 COMPASS POINT
CHARLESTON COUNTY, SC
KUSHIWAH CREEK

5'x10' "TEE" PIERHEAD
245' WALKWAY

LOCATION MAP
PRIVATE DOCK

MAY 28, 2013

NOT TO SCALE



Island Surveying Inc

1720 Central Park Road, Charleston, SC 29412
Phone (843) 225-6582 Fax (843) 225-6587



PERMIT APPLICATION

S. C. Department of Health and Environmental Control
Office of Ocean and Coastal Resource Management

<u>Charleston</u>	<u>Beaufort</u>	<u>Myrtle Beach</u>
744-5838	846-9400	238-4528
744-5847(fax)	846-9810(fax)	238-4526(fax)

NAME & MAILING ADDRESS OF APPLICANT
(and email address if applicable)

James Weatherholtz
949 Compass Point
Charleston, SC 29412

NAME AND MAILING ADDRESS OF AUTHORIZED AGENT:
(If an agent is listed, all correspondence will be sent to the agent)

Island Surveying Inc.
1720 Central Park Road
Charleston, SC 29412

PHONE #: (Bus.)

(Home) 843-425-7232

(Fax)

PHONE #:

(Bus.) 843-225-6582

(Home)

(Fax) 843-225-6587

T DESCRIBE THE DIMENSIONS, GENERAL SPECIFICATIONS, AND PURPOSE OF THE PROJECT:

PRIVATE RECREATIONAL DOCK - 245' WALKWAY WITH 5' X 10'
PIERHEAD.

NAMES AND COMPLETE MAILING ADDRESSES OF ADJOINING PROPERTY OWNERS: (If the applicant owns adjoining property, give name and address for nearest property not owned by applicant.)

Bruce and Mary Cantor
945 Compass Point
Charleston, SC 29412

Nancy Aust
854 Whispering Marsh Drive
Charleston, SC 29412

Michael and Sharon Casey
850 Whispering Marsh Drive
Charleston, SC 29412

(Attach additional sheet of paper if necessary.)

T LOCATION OF THE PROJECT (address & directions to the site):

949 COMPASS POINT, STILES POINT PLANTATION, JAMES ISLAND.
FROM CHARLESTON TAKE JAMES IS. CONNECTOR TO HARBORVIEW ROAD,
THEN OLD PLANTATION ROAD INTO THE SUBDIVISION.

COUNTY: CHAS.

TAX MAP NUMBER (Required on all applications): 426-16-00-135

LOCAL GOVERNING BODY WITH JURISDICTION OVER SITE: CITY OF CHAS.

NAME OF WATERWAY: KUSKIWAH CREEK

(PCR DWG.)

OCRM-13-155-D
77952

RECEIVED

JUN 13 2013

DHEC-OCRM
CHARLESTON OFFICE



PERMIT APPLICATION

S. C. Department of Health and Environmental Control
Office of Ocean and Coastal Resource Management
Charleston Beaufort Myrtle Beach
744-5838 846-9400 238-4528
744-5847(fax) 846-9810(fax) 238-4526(fax)

IS ANY PORTION OF ACTIVITY FOR WHICH AUTHORIZATION IS SOUGHT NOW COMPLETE?

YES ☐

NO ☒

IF "YES", GIVE REASONS, INCLUDING THE MONTH AND YEAR ACTIVITY WAS COMPLETED.
INDICATE EXISTING WORK ON DRAWINGS.

ADDITIONAL REMARKS:

APPLICATION IS HEREBY MADE FOR A PERMIT OR PERMITS TO AUTHORIZE THE ACTIVITIES DESCRIBED HEREIN. I CERTIFY THAT I AM FAMILIAR WITH THE INFORMATION CONTAINED IN THIS APPLICATION, AND THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF SUCH INFORMATION IS TRUE, COMPLETE, AND ACCURATE. I FURTHER CERTIFY THAT I POSSESS THE AUTHORITY TO UNDERTAKE THE PROPOSED ACTIVITIES OR I AM ACTING AS THE DULY AUTHORIZED AGENT OF THE APPLICANT.

Signature of Applicant

Date

Thomas Bunt

6/11/13

Signature of Agent (if agent has been listed)

Date

6/11/13

IMPORTANT!! THE APPLICATION MUST BE SIGNED BY THE APPLICANT AND THE AUTHORIZED AGENT (IF AN AGENT HAS BEEN LISTED ON PAGE ONE OF THIS APPLICATION).

The applicant shall permit the SCDHEC Office of Ocean and Coastal Resource Management, the District Engineer, the State Law Enforcement Division, South Carolina Department of Natural Resources, and other State permit inspection agencies, or their representative(s) to make periodic inspection at any time deemed necessary in order to assure that the activity being performed is in accordance with the terms and conditions prescribed herein.

RECEIVED

JUN 12 2013

DHEC-OCRM
CHARLESTON OFFICE



AFFIDAVIT OF OWNERSHIP OR CONTROL

S. C. Department of Health and Environmental Control
Office of Ocean and Coastal Resource Management
Charleston Beaufort Myrtle Beach
744-5838 846-9400 238-4528
744-5847(fax) 846-9810(fax) 238-4526(fax)

I hereby certify that I am the (check one):

- ☒ Record Owner
☐ Lessee
☐ Record Easement Holder
☐ Applicant To Record Owner For Easement
☐ Contract To Purchase Property

RECEIVED

JUN 12 2013

DHEC - OCRM
CHARLESTON OFFICE

of the below described property situated in Charleston County, South Carolina; and that said property is all of that said property that is contiguous to and landward of the area in which the work proposed in the permit application is to be conducted. Furthermore, I certify that as record owner, lessee, or record easement holder, I have, or will have prior to undertaking the work, necessary approvals or permission from all other persons with a legal interest in said property to conduct the work proposed in the permit application.

WRITE LEGAL DESCRIPTION OF HIGHLAND (as described in deed, lease, etc.) BELOW OR WRITE "SEE ATTACHED" (in large bold letters) AND ATTACH A COPY OF THE DEED, LEASE, EASEMENT, OR MOST RECENT CERTIFIED PLAT OF THE PROPERTY. IF YOU ARE NOT THE RECORD OWNER, LESSEE OR EASEMENT HOLDER, YOU MUST ALSO SUBMIT WRITTEN PERMISSION FROM THE OWNER OF THE PROPERTY TO CARRY OUT THE PROPOSED ACTIVITY.

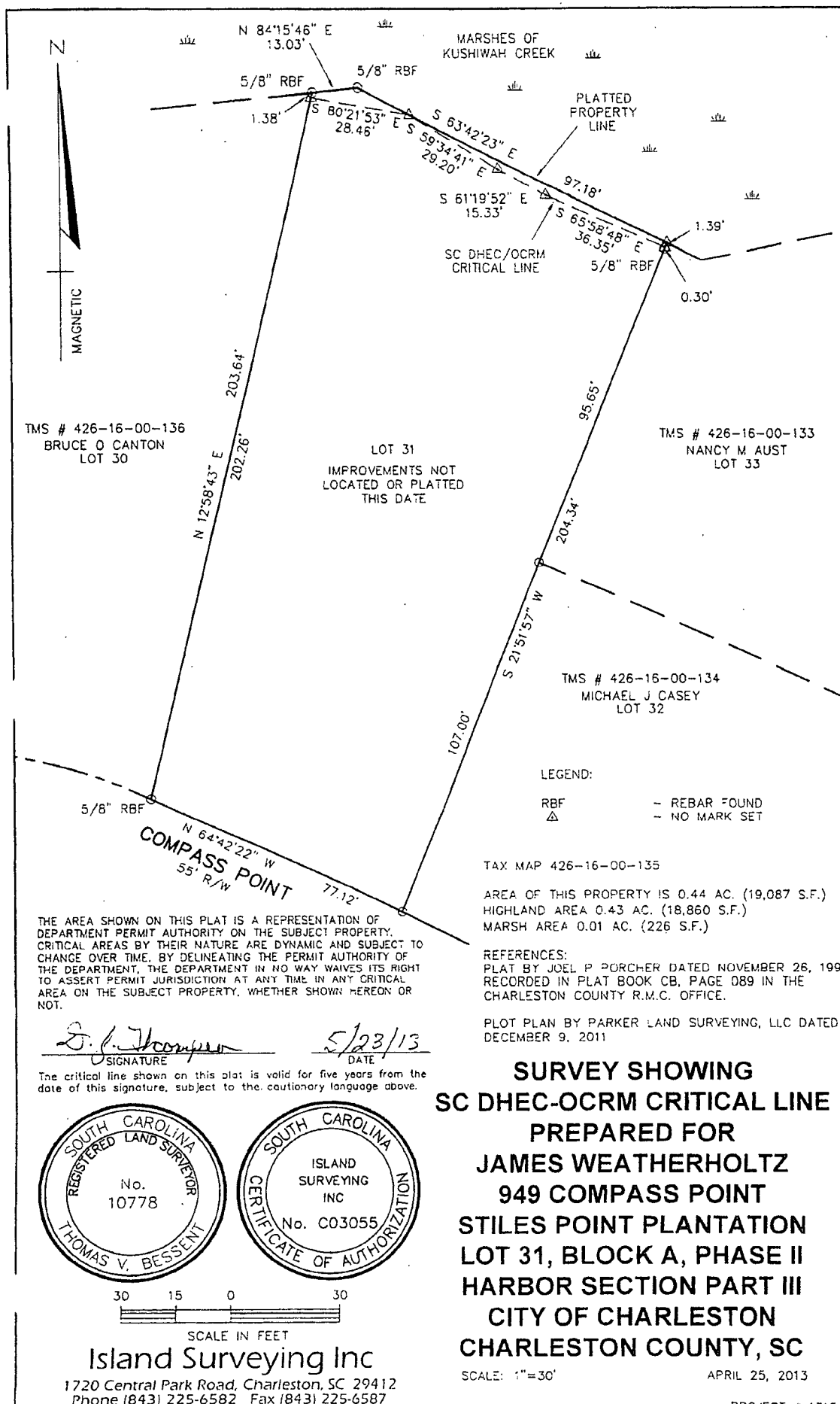
I also certify that the project as proposed does not cross any wetlands or areas below mean high water which is in the ownership of other private persons or public or private entities and that there is no disputed claim to the wetlands or areas below mean high water by private person or other entities due to a Kings Grant, State Grant, easement or conveyance or other legal document evidencing ownership of these areas.

Signature of Record Holder or Lessee

Sworn to and subscribed before me at Charleston, Charleston County, South Carolina, this 11th day of June, 2013.

Lianne Bryson
Notary Public

My commission expires: 2/2/19



Island Surveying Inc
 1720 Central Park Road, Charleston, SC 29412
 Phone (843) 225-6582 Fax (843) 225-6587

**SURVEY SHOWING
 SC DHEC-OCRM CRITICAL LINE
 PREPARED FOR
 JAMES WEATHERHOLTZ
 949 COMPASS POINT
 STILES POINT PLANTATION
 LOT 31, BLOCK A, PHASE II
 HARBOR SECTION PART III
 CITY OF CHARLESTON
 CHARLESTON COUNTY, SC**

SCALE: 1"=30'

APRIL 25, 2013

Return To:
TD Bank N.A.



BP0224730

32 Chestnut St.
Lewiston, Maine 04240

Prepared By:

Kelly Balzano

Lewiston, ME 04240

[Space Above This Line For Recording Data]

MORTGAGE

MIN 100341850020033779

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

(A) "Security Instrument" means this document, which is dated December 23, 2011 together with all Riders to this document.

(B) "Borrower" is James E. Weatherholtz, Taryn Weatherholtz

Borrower is the mortgagor under this Security Instrument.

(C) "MERS" is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. **MERS is the mortgagee under this Security Instrument.** MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS.

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VMP Mortgage Solutions, Inc.

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CHARLESTON OFFICE

(D) "Lender" is TD Bank, N.A.

Lender is a National Bank
organized and existing under the laws of The United States of America
Lender's address is 1 Portland Square, Portland, ME 04101

(E) "Note" means the promissory note signed by Borrower and dated December 23, 2011
The Note states that Borrower owes Lender Five Hundred Forty Thousand And Zero/100
Dollars

(U.S. \$ 540,000.00) plus interest. Borrower has promised to pay this debt in regular Periodic
Payments and to pay the debt in full not later than January 01, 2042

(F) "Property" means the property that is described below under the heading "Transfer of Rights in the
Property."

(G) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges
due under the Note, and all sums due under this Security Instrument, plus interest.

(H) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following
Riders are to be executed by Borrower [check box as applicable]:

- | | | |
|--|--|---|
| ☐ Adjustable Rate Rider | ☐ Condominium Rider | ☐ Second Home Rider |
| ☐ Balloon Rider | ☒ Planned Unit Development Rider | ☐ 1-4 Family Rider |
| ☐ VA Rider | ☐ Biweekly Payment Rider | ☐ Other(s) [specify] |
| ☒ Construction Rider | | |

(I) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations,
ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final,
non-appealable judicial opinions.

(J) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other
charges that are imposed on Borrower or the Property by a condominium association, homeowners
association or similar organization.

(K) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by
check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic
instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit
or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller
machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse
transfers.

(L) "Escrow Items" means those items that are described in Section 3.

(M) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid
by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i)
damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the
Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the
value and/or condition of the Property.

(N) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on,
the Loan.

(O) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the
Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(P) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. Section 2601 et seq.) and its
implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to
time, or any additional or successor legislation or regulation that governs the same subject matter. As used

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in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(Q) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

TRANSFER OF RIGHTS IN THE PROPERTY

This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower does hereby mortgage, grant and convey to MERS (solely as nominee for Lender and Lender's successors and assigns) and to the successors and assigns of MERS, the following described property located in the
County of Charleston :

[Type of Recording Jurisdiction]

[Name of Recording Jurisdiction]

See Attached Schedule A

Parcel ID Number: 426-16-00-135 which currently has the address of
949 Compass Point (Street)
Charleston (City) , South Carolina 29412 (Zip Code)
("Property Address"):

TO HAVE AND TO HOLD this property unto MERS (solely as nominee for Lender and Lender's successors and assigns,) and to the successors and assigns of MERS, forever, together with all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property." Borrower understands and agrees that MERS holds only legal title to the interests granted by Borrower in this Security Instrument, but, if necessary to comply with law or custom, MERS (as nominee for Lender and Lender's successors and assigns) has the right to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender including, but not limited to, releasing and canceling this Security Instrument.

BORROWER COVENANTS that Borrower is lawfully seised of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

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THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges.

Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

2. Application of Payments or Proceeds. Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

3. Funds for Escrow Items. Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be

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in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

4. Charges; Liens. Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the

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lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

5. Property Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with

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the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

6. Occupancy. Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

7. Preservation, Maintenance and Protection of the Property; Inspections. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

8. Borrower's Loan Application. Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument. If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable

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attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

10. Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

(a) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.

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(b) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.

11. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

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12. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

13. Joint and Several Liability; Co-signers; Successors and Assigns Bound. Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.

14. Loan Charges. Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

15. Notices. All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

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16. Governing Law; Severability; Rules of Construction. This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

17. Borrower's Copy. Borrower shall be given one copy of the Note and of this Security Instrument.

18. Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

19. Borrower's Right to Reinstate After Acceleration. If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to Section 22 of this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

20. Sale of Note; Change of Loan Servicer; Notice of Grievance. The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA

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requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

21. Hazardous Substances. As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

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NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

22. Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceeding and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and foreclosure. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence, all of which shall be additional sums secured by this Security Instrument.

23. Release. Upon Payment of all sums secured by this Security Instrument, this Security Instrument shall become null and void. Lender shall release this Security Instrument. Borrower shall pay any recordation costs. Lender may charge Borrower a fee for releasing this Security Instrument, but only if the fee is paid to a third party for services rendered and the charging of the fee is permitted under Applicable Law.

24. Homestead Waiver. Borrower waives all rights of homestead exemption in the Property to the extent allowed by Applicable Law.

25. Waiver of Appraisal Rights. The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within 30 days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. TO THE EXTENT PERMITTED BY LAW, THE UNDERSIGNED HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY. This waiver shall not apply so long as the Property is used as a dwelling place as defined in Section 12-37-250 of the South Carolina Code of Laws.

26. Future Advances. The lien of this Security Instrument shall secure the existing indebtedness under the Note and any future advances made under this Security Instrument up to 150% of the original principal amount of the Note plus interest thereon, attorneys' fees and court costs.

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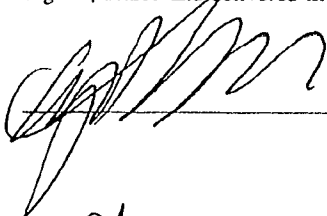
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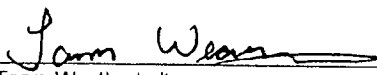
BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.

Signed, sealed and delivered in the presence of:



 Magda K. Usher


 _____ (Seal)
 James E. Weatherholtz -Borrower


 _____ (Seal)
 Taryn Weatherholtz -Borrower

 (Seal)
 -Borrower

 (Seal)
 -Borrower

 (Seal)
 -Borrower

 (Seal)
 -Borrower

 (Seal)
 -Borrower

 (Seal)
 -Borrower

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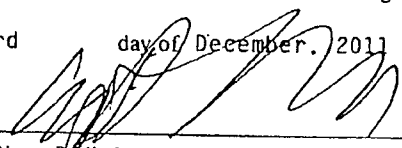
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STATE OF SOUTH CAROLINA, Charleston
I, the undersigned Notary Public
James E. Weatherholtz and Taryn Weatherholtz

County ss:
do hereby certify that

personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this 23rd day of December, 2011


Notary Public for South Carolina

My Commission Expires:

10-17-2018

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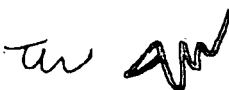
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EXHIBIT "A"

All that certain piece, parcel or lot of land, situate, lying and being in the City and County of Charleston, State of South Carolina, and being known and designated as Lot 31, Block A, as shown on the plat by Joel P. Porcher, Civil Engineer & Land Surveyor, dated March 19, 1990, and revised November 26, 1990, and entitled, "SUBDIVISION PLAT, STILES POINT PLANTATION, PHASE TWO, HARBOR SECTION, PART THREE, JAMES ISLAND" which plat was recorded in the RMC Office for Charleston County on December 10, 1990, in Plat Book CB, Page 89.

Being the same property conveyed to James E. Weatherholtz and Taryn Weatherholtz by Deed of Daniel W. Nixon and Sandra Gayle Nixon dated July 8, 2011 and recorded in the RMC Office for Charleston County in Book 0197, Page 413 on July 15, 2011.

TMS No. 426-16-00-135



{02165669.}

PLANNED UNIT DEVELOPMENT RIDER

THIS PLANNED UNIT DEVELOPMENT RIDER is made this 23rd day of December, 2011, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust, or Security Deed (the "Security Instrument") of the same date, given by the undersigned (the "Borrower") to secure Borrower's Note to TD Bank, N.A.

(the "Lender") of the same date and covering the Property described in the Security Instrument and located at: 949 Compass Point, Charleston, SC 29412

[Property Address]

The Property includes, but is not limited to, a parcel of land improved with a dwelling, together with other such parcels and certain common areas and facilities, as described in The Deed, The Declaration of Covenants, Conditions and Restrictions.

(the "Declaration"). The Property is a part of a planned unit development known as Stiles Point Plantation

[Name of Planned Unit Development]

(the "PUD"). The Property also includes Borrower's interest in the homeowners association or equivalent entity owning or managing the common areas and facilities of the PUD (the "Owners Association") and the uses, benefits and proceeds of Borrower's interest.

PUD COVENANTS. In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

A. PUD Obligations. Borrower shall perform all of Borrower's obligations under the PUD's Constituent Documents. The "Constituent Documents" are the (i) Declaration; (ii) articles of incorporation, trust instrument or any equivalent document which creates the Owners Association; and (iii) any by-laws or other rules or regulations of the Owners Association. Borrower shall promptly pay, when due, all dues and assessments imposed pursuant to the Constituent Documents.

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B. Property Insurance. So long as the Owners Association maintains, with a generally accepted insurance carrier, a "master" or "blanket" policy insuring the Property which is satisfactory to Lender and which provides insurance coverage in the amounts (including deductible levels), for the periods, and against loss by fire, hazards included within the term "extended coverage," and any other hazards, including, but not limited to, earthquakes and floods, for which Lender requires insurance, then: (i) Lender waives the provision in Section 3 for the Periodic Payment to Lender of the yearly premium installments for property insurance on the Property; and (ii) Borrower's obligation under Section 5 to maintain property insurance coverage on the Property is deemed satisfied to the extent that the required coverage is provided by the Owners Association policy.

What Lender requires as a condition of this waiver can change during the term of the loan.

Borrower shall give Lender prompt notice of any lapse in required property insurance coverage provided by the master or blanket policy.

In the event of a distribution of property insurance proceeds in lieu of restoration or repair following a loss to the Property, or to common areas and facilities of the PUD, any proceeds payable to Borrower are hereby assigned and shall be paid to Lender. Lender shall apply the proceeds to the sums secured by the Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

C. Public Liability Insurance. Borrower shall take such actions as may be reasonable to insure that the Owners Association maintains a public liability insurance policy acceptable in form, amount, and extent of coverage to Lender.

D. Condemnation. The proceeds of any award or claim for damages, direct or consequential, payable to Borrower in connection with any condemnation or other taking of all or any part of the Property or the common areas and facilities of the PUD, or for any conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender. Such proceeds shall be applied by Lender to the sums secured by the Security Instrument as provided in Section 11.

E. Lender's Prior Consent. Borrower shall not, except after notice to Lender and with Lender's prior written consent, either partition or subdivide the Property or consent to: (i) the abandonment or termination of the PUD, except for abandonment or termination required by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain; (ii) any amendment to any provision of the "Constituent Documents" if the provision is for the express benefit of Lender; (iii) termination of professional management and assumption of self-management of the Owners Association; or (iv) any action which would have the effect of rendering the public liability insurance coverage maintained by the Owners Association unacceptable to Lender.

F. Remedies. If Borrower does not pay PUD dues and assessments when due, then Lender may pay them. Any amounts disbursed by Lender under this paragraph F shall become additional debt of Borrower secured by the Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

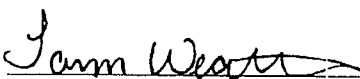
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BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this PUD Rider


 _____ (Seal)
 James E. Weatherholtz -Borrower


 _____ (Seal)
 Taryn Weatherholtz -Borrower

 _____ (Seal)
 -Borrower

 _____ (Seal)
 -Borrower

 _____ (Seal)
 -Borrower

 _____ (Seal)
 -Borrower

 _____ (Seal)
 -Borrower

 _____ (Seal)
 -Borrower

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CONSTRUCTION RIDER

This RIDER is made this 23rd day of December, 2011, and is incorporated into and shall be deemed to amend and supplement the Security Instrument of this date given by the undersigned (the "Borrower") to **TD Bank, N.A.** with an office at One Portland Square, Portland, ME 04101 (the "Lender"), which Security Instrument secures Property described in the Security Instrument. These changes will only apply during the "Construction Phase" beginning on the date of this Rider and ending on the "Rider Completion Date" (the first calendar day of the month following the Completion Date as established in the Construction Loan Agreement and any amendments thereto).

The Borrower agrees to complete the construction, erection or repair of the Property to the satisfaction of the Lender within a reasonable period of time from the date of this Rider or at the latest on or before the Completion Date.

1. Construction Loan.

The buildings or improvements on the Property described in the Security Instrument are in the process of construction or repair, or are to be erected or repaired. The Lender has agreed to make the loan described in the Security Instrument to be paid over to the Borrower in installments as the work progresses, the time and amount of each advancement to be at the sole discretion and upon the estimate of the Lender, up to a maximum principal amount as stated in the Note.

This Security Instrument secures all presently outstanding and all FUTURE ADVANCES from the Lender to the Borrower pursuant to the Note secured by the Security Instrument and the Construction Loan Agreement relating to the Note, up to the maximum principal sum as stated in the Note, plus interest, amounts advanced to protect the security, and any other sums that may be due under the Construction Loan Agreement and the Note.

The Borrower agrees that any default under the Note secured by the Security Instrument or under the Construction Loan Agreement may be considered at Lender's option a default under the Security Instrument, giving the Lender the right to exercise any and all rights and remedies available under Applicable Law, and under the Note and the Security Instrument. In addition, in the event of any default under the Security Instrument (as amended by this Rider), the Note secured thereby (as amended by Rider), or the Construction Loan Agreement, the Lender may at its option, but shall not be required to, complete the construction, erection or repair of the Property and add the cost of such completion to the amounts secured by the Security Instrument, provided that the total cost of construction, erection or repair of the Property secured by the Security Instrument shall not be greater than the full loan amount referred to above.

The Borrower further agrees that *Section 19* of the Security Instrument and the requirements of notice and opportunity to cure in *Subparagraphs b and c of Section 22* of the Security Instrument shall not apply in the event of a default under any provision, condition or requirement of the Construction Loan Agreement relating to the construction, erection or repair of the Property or to construction advancements made or to be made by the Lender. Notwithstanding the foregoing, if a 1-4 Family Rider is recorded with the Security Instrument, the Borrower agrees that *Subparagraphs b and c of Section 22* of the Security Instrument shall not apply to the Borrower and shall be considered deleted in its entirety from the Security Instrument.

2. Application of Payments or Proceeds.

The Borrower agrees that the first paragraph of *Section 2* of the Security Instrument is amended to read as follows:

"2. Application of Payments or Proceeds. Any payments accepted and applied by the Lender in connection with the Note or this Security Instrument, including, without limitation, payments under *Sections 1 and 3* of this Security Instrument, may be applied by the Lender towards accrued interest, late charges, prepayment charges, and all other amounts owed under the Note, the Construction Loan Agreement and this Security Instrument, in any order and in such amounts as the Lender may decide, as allowed by Applicable Law."

3. **Occupancy.**
(Check Applicable Box)

☒ **Primary Residence.** The Borrower agrees that *Section 6* of the Security Instrument is deleted, and the following is inserted in its place:

"The Borrower agrees that the Property subject to the Security Instrument shall be occupied, established, and used as Borrower's principal residence immediately upon completion of the construction, erection or repair of the Property. The Borrower further agrees to continue to occupy the Property as the Borrower's principal residence for at least one year beginning when the Borrower first occupies the Property following completion of the construction, erection or repair of the Property. However, Borrower will not have to occupy the Property and use the Property as Borrower's principal residence within the timeframe set forth above if Lender otherwise agrees in writing, which consent shall not be unreasonably withheld. Borrower will also not have to occupy the Property or use the Property as Borrower's principal residence within the timeframes set forth above if extenuating circumstances exist which are beyond the Borrower's control."

☐ **Second Home.** A Second Home Rider is recorded with the Security Instrument and is incorporated therein by reference.

4. **Security Interest in Materials.**

The Borrower agrees that the Property subject to the Security Instrument includes all materials, fixtures, and equipment now or hereafter owned by the Borrower and to be used in connection with the construction, erection or repair of the Property described in the Security Instrument. The Borrower agrees that the Lender has a security interest in all such materials, fixtures, and equipment subject to no prior security interest or lien in favor of any other party.

This paragraph is intended to serve as a "fixture filing" as to goods, which are to become fixtures on the Property. The Secured Party's (Lender's) address and the description of the Property to which goods may be affixed are set forth in the Security Instrument. Debtors' (Borrowers') address is: 949 Compass Point, Charleston, SC 29412.

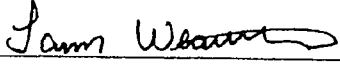
5. **General.**

All terms and conditions in the Security Instrument, as they are amended by this Construction Rider, and all other terms and conditions in the Security Instrument which are not affected by this Construction Rider, are, and shall remain in full force and effect. All references in the Security Instrument and in this Construction Rider to the "Security Instrument" are to the Security Instrument as this Construction Rider amends it. Upon completion of the Construction Phase, Borrower agrees to pay the total outstanding balance together with interest by making payments every month in accordance with the terms of the Note and Security Instrument.

Upon the Rider Completion Date, as may be modified by amendment to this Rider, this Construction Rider shall have no further force and effect.

By signing below, Borrower(s) accepts and agrees to the terms and provisions contained in this Rider.


Borrower James E. Weatherholtz


Borrower Taryn Weatherholtz

RECORDER'S PAGE

dy
cm
NOTE: This page MUST remain
with the original document

**Filed By:**

WOMBLE CARLYLE SANDRIDGE & RICE
5 EXCHANGE STREET
PO BOX 999
CHARLESTON SC 29401

RECORDED		
Date:	December 28, 2011	
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Charlie Lybrand, Register Charleston County, SC		

MAKER:

WEATHERHOLTZ JAMES E AL

of Pages: 22
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Note:

RECIPIENT:

MERS

Recording Fee	\$ 10.00
Extra Reference Cost	\$ -
Extra Pages	\$ 17.00
Postage	\$ -
Chattel	\$ -
TOTAL	\$ 27.00

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Catherine B. Templeton, Director

Promoting and protecting the health of the public and the environment

THOMAS V BESSANT
ISLAND SURVEYING INC
1720 CENTRAL PARK RD
CHARLESTON SC 29412

Invoice Date: 06/17/2013
Invoice Number: ZU10726-8
Invoice Amount: \$250.00
Program ID: 77952

Department Name: OCRM- OFFICE OF OCRM
Department Contact: LYNETTE D THOMAS
Department Phone: 843-953-0200

Qty	Description	Unit	Extended
1.00	Application fee for critical area permit - minor activity	250.00	250.00
Total			\$250.00

South Carolina Department of Health and Environmental Control

Facility Name: ISLAND SURVEYING INC
Program ID: 77952
Invoice Number: ZU10726-8

Amount Remitted:
\$

To ensure proper credit, please return this portion of the invoice with your payment. Please include the invoice number on your remittance. **PAYMENT DUE UPON RECEIPT. PAST DUE 30 DAYS FROM INVOICE DATE.**

SC DHEC
Attn: Bureau of Budgets & Finance
PO Box 100103
Columbia, SC 29202-3103

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
Ocean and Coastal Resource Management
Columbia Office • 2600 Bull St. Columbia, SC 29201
Phone: 803-898-3915 • Fax: 803-898-3913 • www.scdhec.gov

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003468

Island Surveying, Inc.
1720 Central Park Drive
Charleston, SC 29412
(843) 225-6582

THE BANK OF SOUTH C LINA
67-187/532

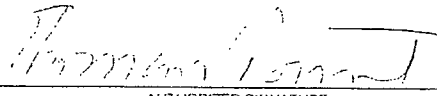
6/10/2013

PAY TO THE ORDER OF SCDHEC- OCRM \$**250.00

Two Hundred Fifty and 00/100***** DOLLARS

SCDHEC- OCRM

MEMO 949 Compass Point Dock Permit Fee


AUTHORIZED SIGNATURE

Island Surveying, Inc.
SCDHEC- OCRM

6/10/2013

003468
250.00

Bank of South Carolin 949 Compass Point Dock Permit Fee

250.00

9409

June 19, 2013

Mr. Blair Williams
SCDHEC
**Office of Ocean and Coastal
Resource Management**
1362 McMillan Avenue, Suite 400
Charleston, SC 29405

Dear Mr. Williams:

This is to advise the South Carolina State Ports Authority has no objections to the following named application on which public notices have been received:

Elizabeth H. Cannon	<u>Dated: June 10, 2013</u>	OCRM-13-146-E
Albert R. Winnie, II American Timberland Co David Orne Philip P. Vineyard	<u>Dated: June 12, 2013</u>	OCRM-13-138-S OCRM-13-147-W OCRM-13-148-G OCRM-13-149-E
Shane Gunter Vann Walters Robert Jennings Seigler Robert W. Shealy, Jr.	<u>Dated: June 14, 2013</u>	OCRM-13-103-A OCRM-13-150-A OCRM-13-151-E OCRM-13-152-S
David S. Llewellyn Lucinda R. Morrison James E. Weatherholtz	<u>Dated: June 18, 2013</u>	OCRM-13-153-G OCRM-13-154-D OCRM-13-155-D

Sincerely,

Ben Morgan, P.E.
Staff Engineer

RECEIVED

JUN 20 2013

DHEC - OCRM
CHARLESTON OFFICE

South Carolina Department of Natural Resources

PO Box 12559
Charleston, SC 29422
843.953.9003 Office
843.953.9399 Fax
Daviss@dnr.sc.gov



Alvin A. Taylor
Director
Robert D. Perry
Director, Office of
Environmental Programs

June 27, 2013

Ms. Tess Trumbull
SCDHEC/OCRM
1362 McMillan Ave., Suite 400
Charleston, SC 29405

REF: OCRM-13-153-G, David S. Llewellyn
OCRM-13-154-D, Lucinda R. Morrison
OCRM-13-155-D, James E. Weatherholtz
OCRM-13-156-W, Horizon Residential Loan Servicing, LLC
OCRM-13-157-A, James Walker & Brenda Brewer
OCRM-13-158-A, Kenny Ray Davis
OCRM-13-159-B, Susan Sanders
OCRM-13-160-B, Earle Rowland, III
OCRM-13-161-G, 477 Tarpon I, LLC
OCRM-13-163-E, Brandy S. Keener

Dear Ms. Trumbull:

The South Carolina Department of Natural Resources has received the above referenced public notices of permit applications to conduct various activities that are subject to the jurisdiction of your agency. Due to staffing limitations and associated workload priorities, our department has elected to not conduct an investigation of the proposed projects nor provide any comments on the proposed activities.

Sincerely,

Susan F. Davis

Susan F. Davis
Coastal Environmental Coordinator

RECEIVED

JUN 27 2013

DHEC - OCRM
CHARLESTON OFFICE



Fwd: dock permit

Bradley Churdar <churdabd@dhec.sc.gov>
To: Denise Crawford <crawfomd@dhec.sc.gov>

Tue, Mar 4, 2014 at 3:08 PM

Begin forwarded message:

From: "Weatherholtz, James" <JWeatherholtz@wcsr.com>
Date: February 28, 2014, 2:14:42 PM EST
To: "churdabd@dhec.sc.gov" <churdabd@dhec.sc.gov>
Subject: Fwd: dock permit

Brad,

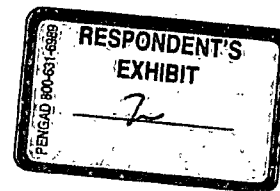
Here are the field notes Tom Bessent sent to me today. I will send these to the court on Monday as proposed supplemental exhibits but wanted you to have them right away.

Thanks. James.

Sent from my iPhone

Begin forwarded message:

From: <tbessent@knology.net>
Date: February 28, 2014 at 1:53:22 PM EST
To: "Weatherholtz, James" <JWeatherholtz@wcsr.com>
Subject: dock permit



James,

Attached is my fieldwork on this job. The first page is a plot of our field-surveyed points along the creek. The second is the same plot overlaid with an aerial photograph. The third page is a hand sketch from my file that I made during my discussion with my field crew at the time of the survey.

These points were located with an electronic total station instrument. The locations are tied to the property line boundaries. We had a man on shore running the instrument, and a man in a kayak with a prism (target), physically holding the prism at the edge of the marsh grass at the points labeled as "E CREEK", meaning edge of creek.

Feel free to forward this email and the attachments to OCRM if you want.

Tom

Thomas V. Bessent PLS

President

Island Surveying Inc

1720 Central Park Road

Charleston, SC 29412

843-225-6582 phone

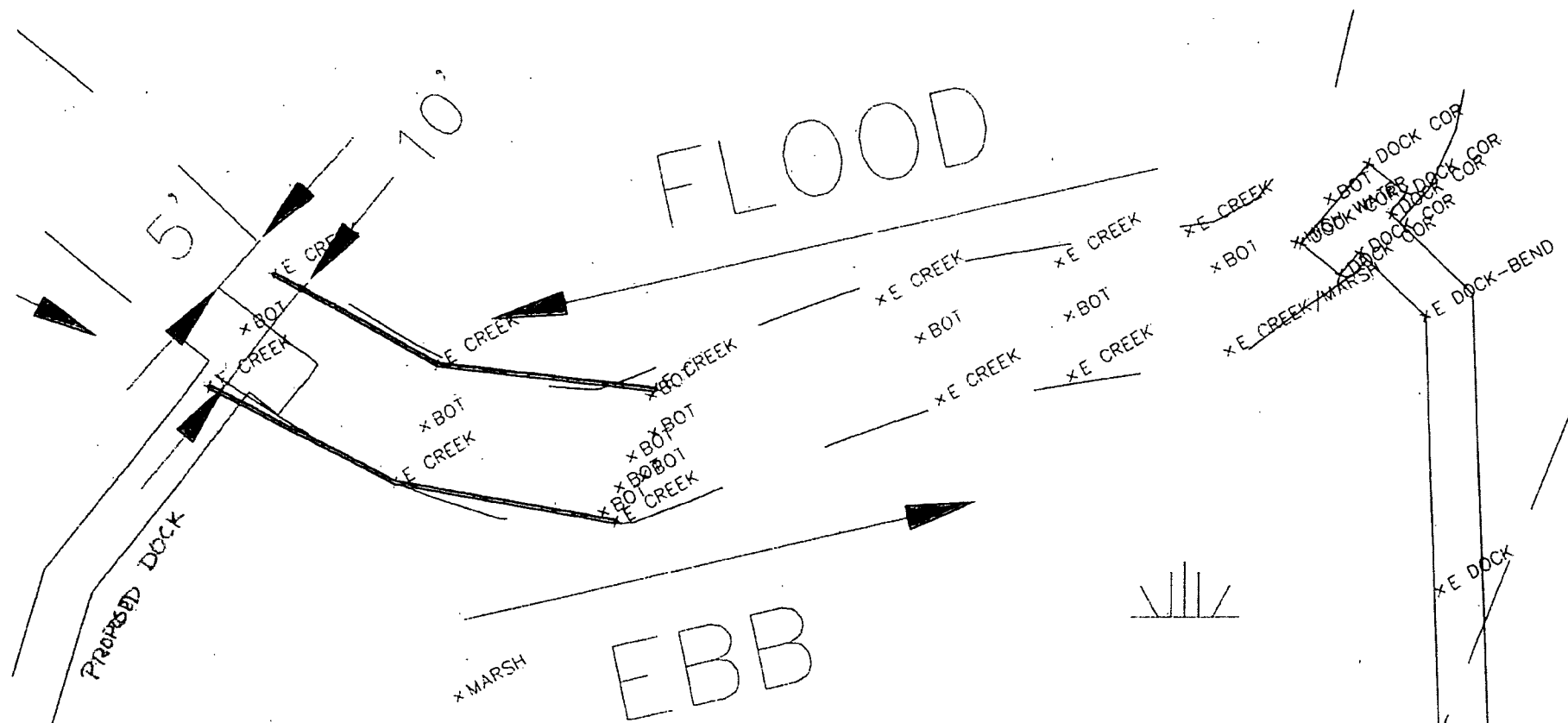
843-225-6587 fax

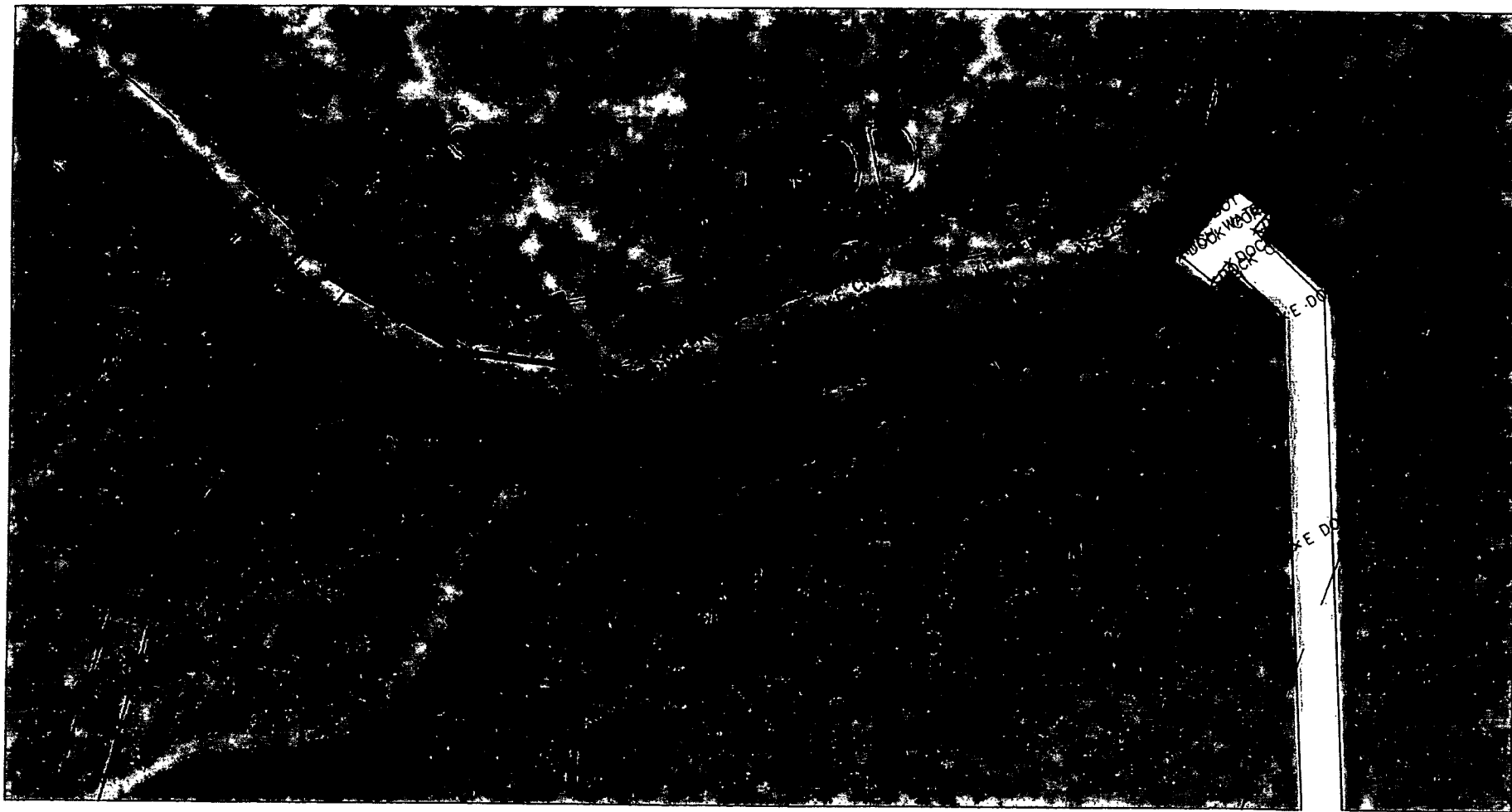
tbessent@knology.net

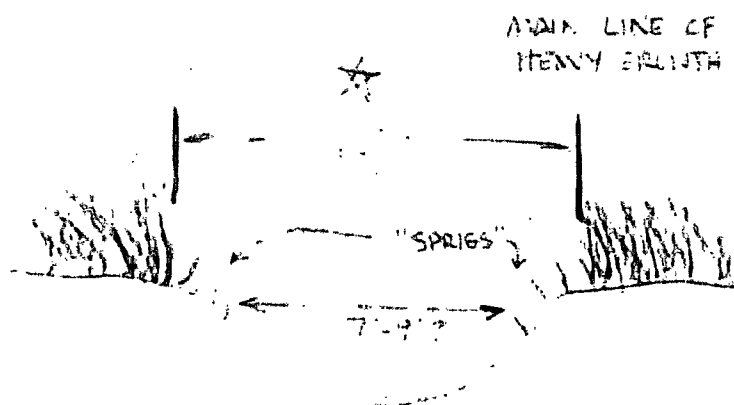
IRS CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. tax advice contained in this communication (or in any attachment) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed in this communication (or in any attachment).

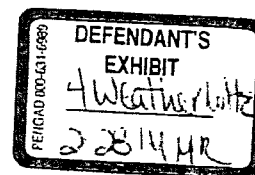
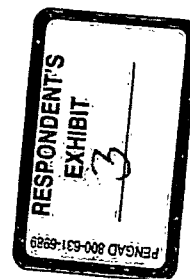
CONFIDENTIALITY NOTICE: This electronic mail transmission has been sent by a lawyer. It may contain information that is confidential, privileged, proprietary, or otherwise legally exempt from disclosure. If you are not the intended recipient, you are hereby notified that you are not authorized to read, print, retain, copy or disseminate this message, any part of it, or any attachments. If you have received this message in error, please delete this message and any attachments from your system without reading the content and notify the sender immediately of the inadvertent transmission. There is no intent on the part of the sender to waive any privilege, including the attorney-client privilege, that may attach to this communication. Thank you for your cooperation.

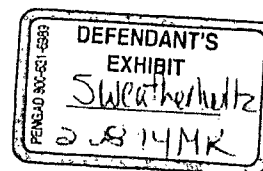
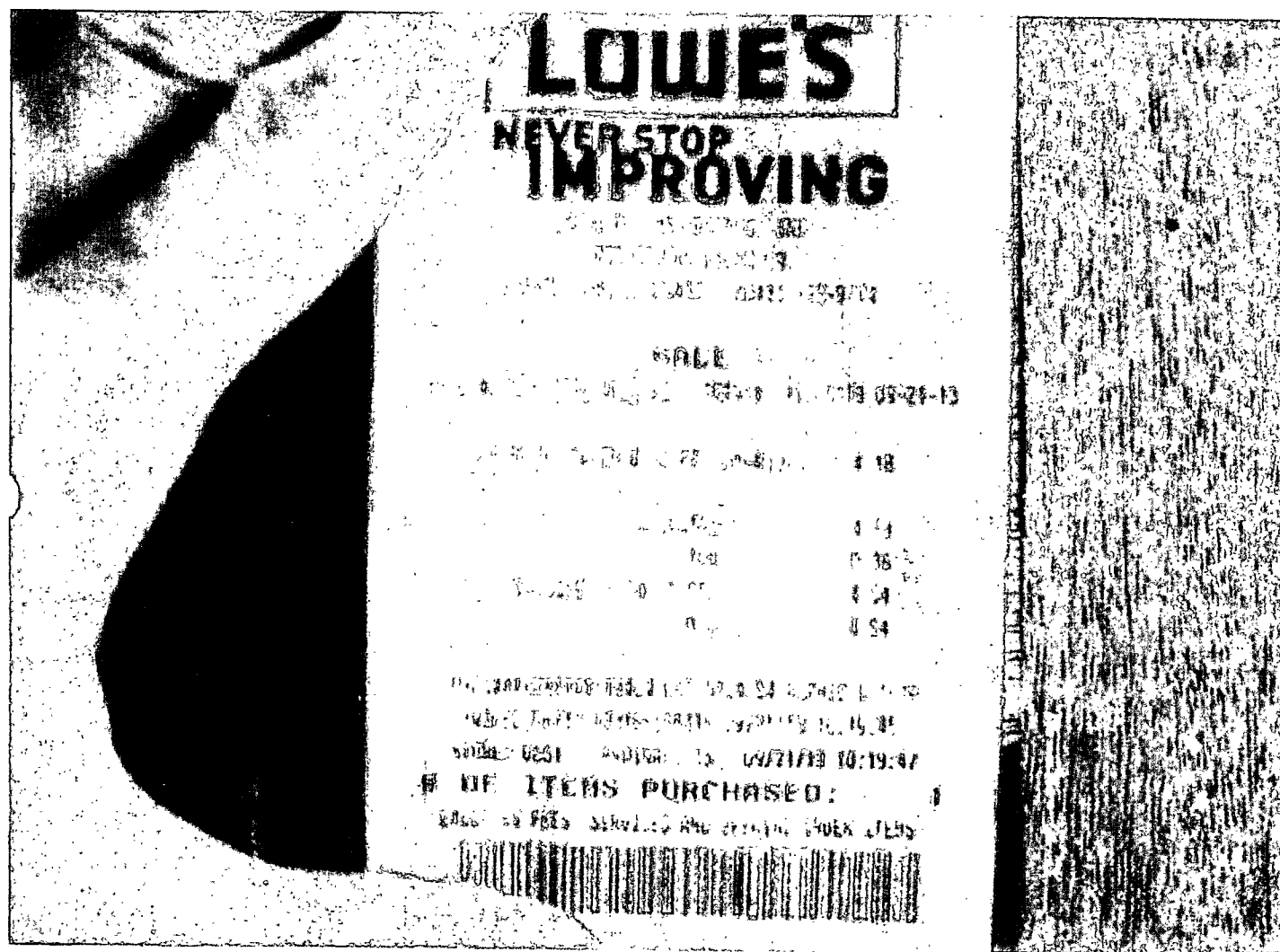
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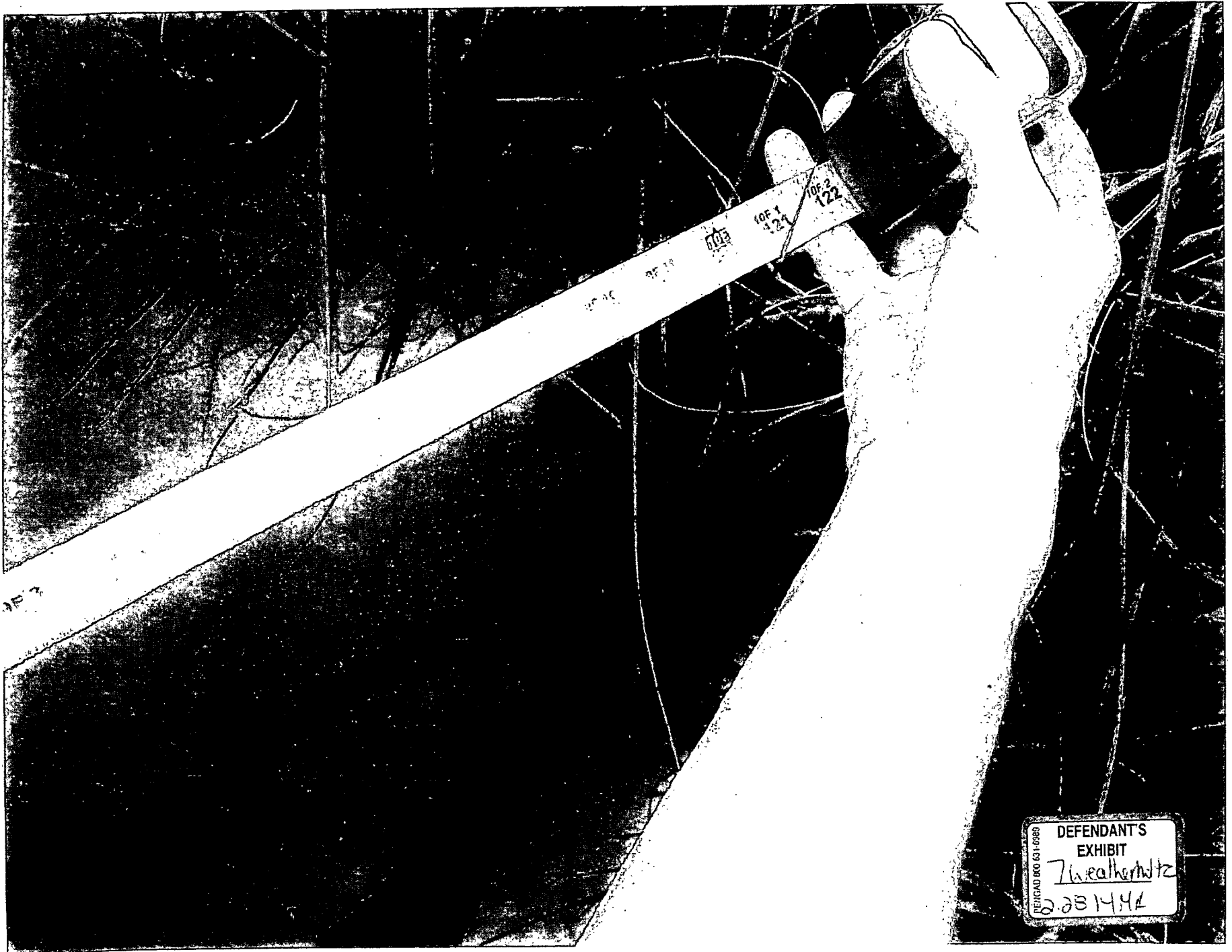
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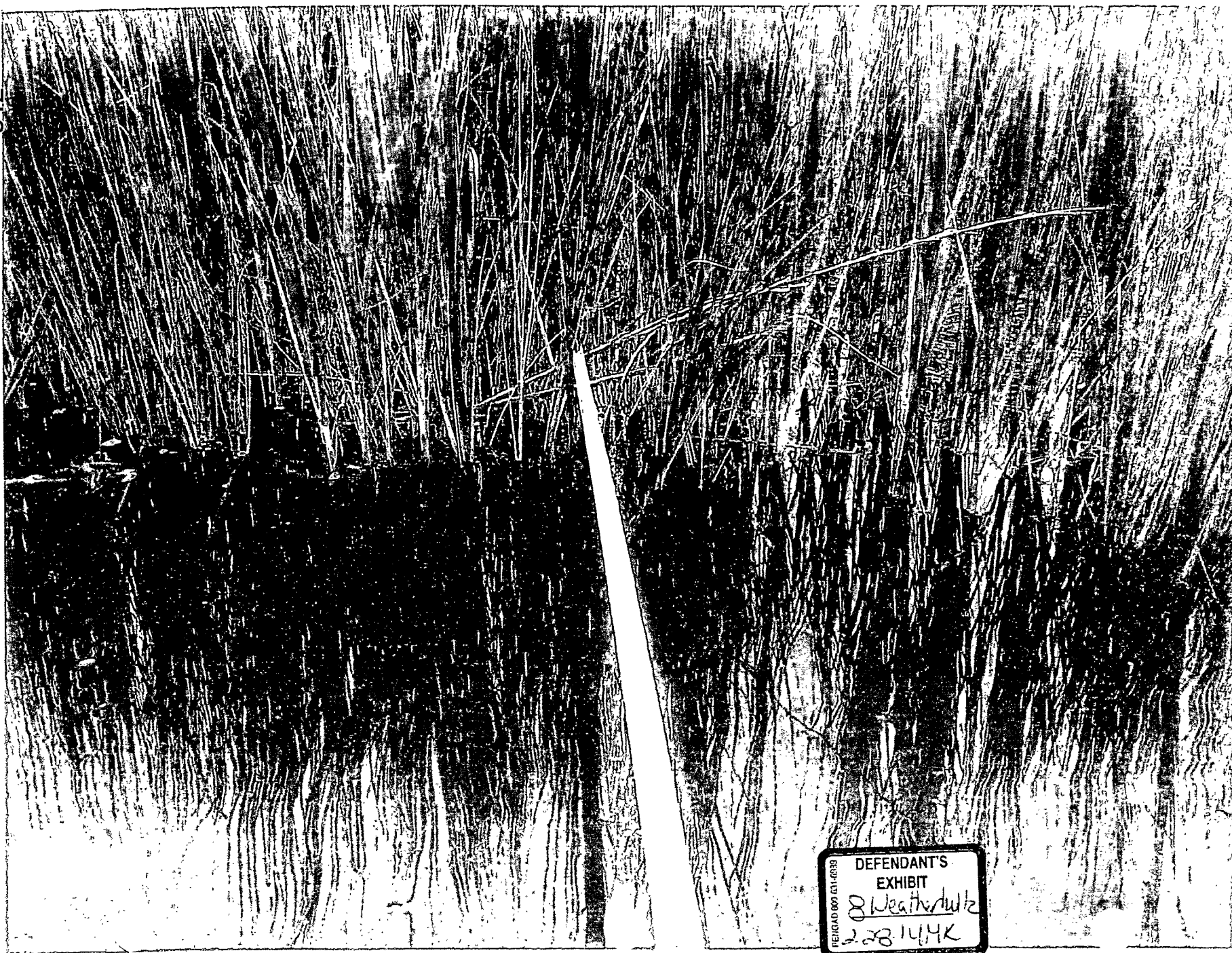
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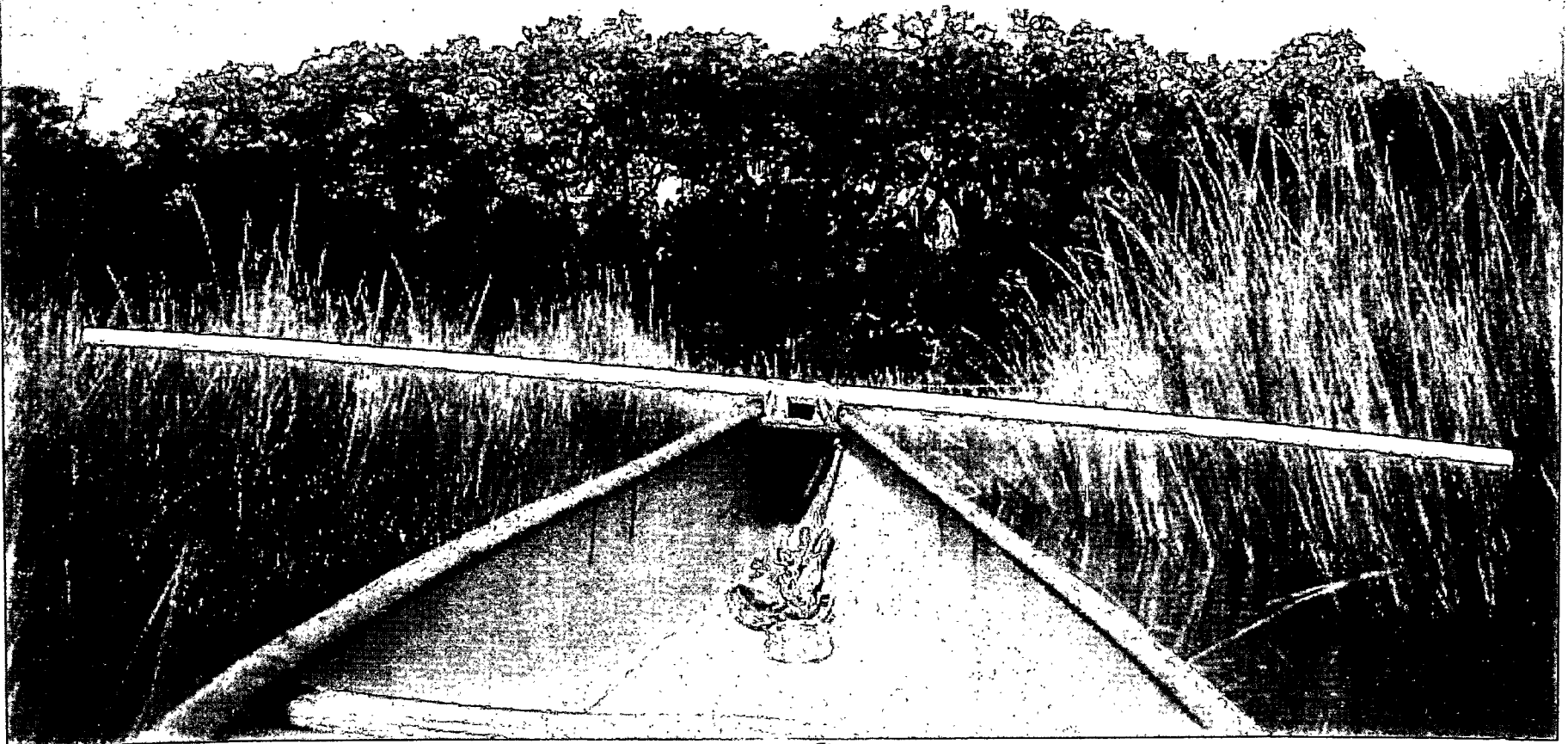
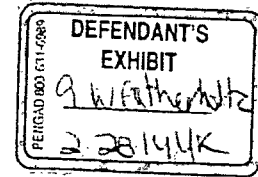
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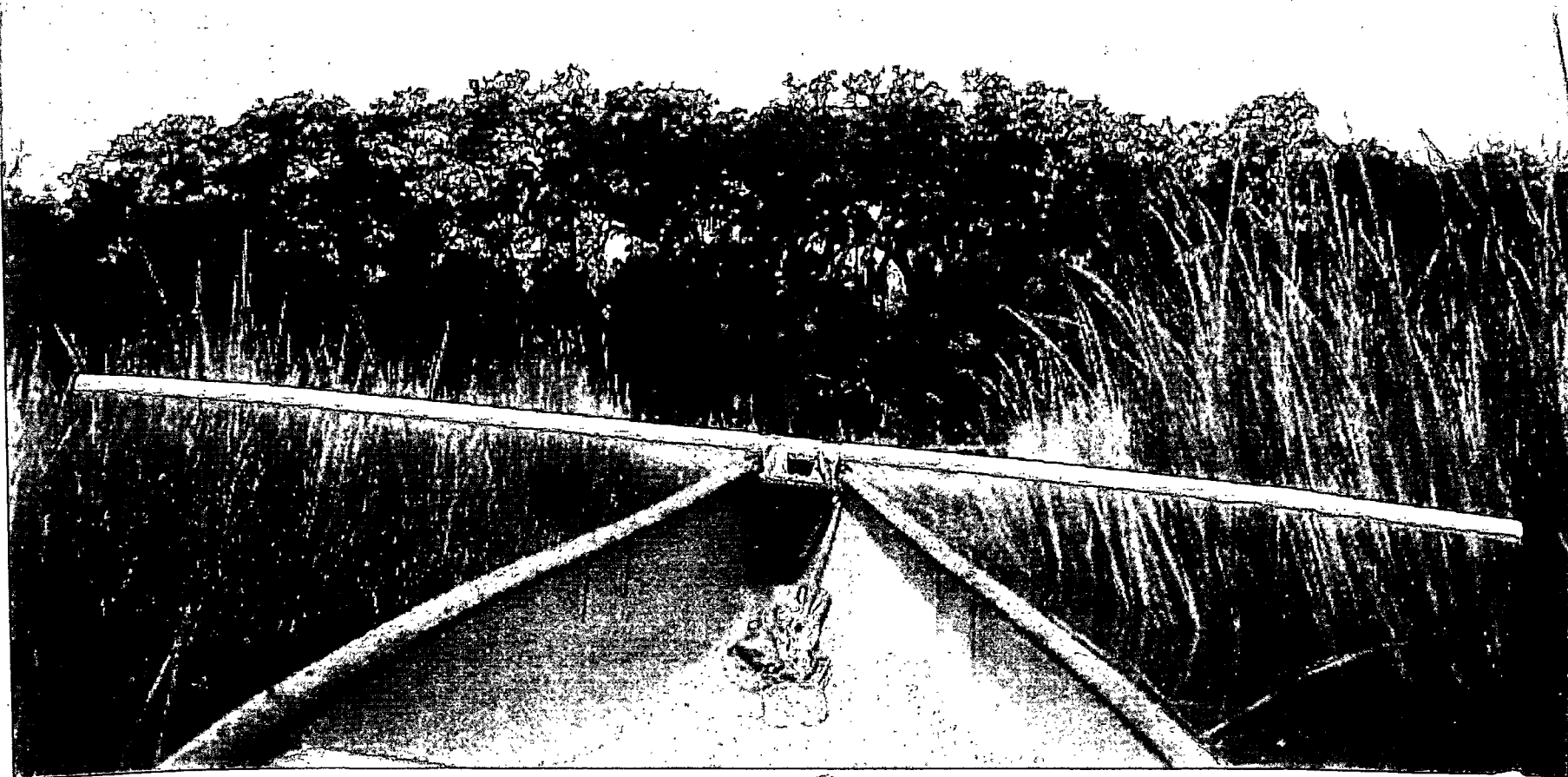
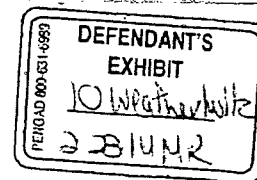
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EXHIBIT
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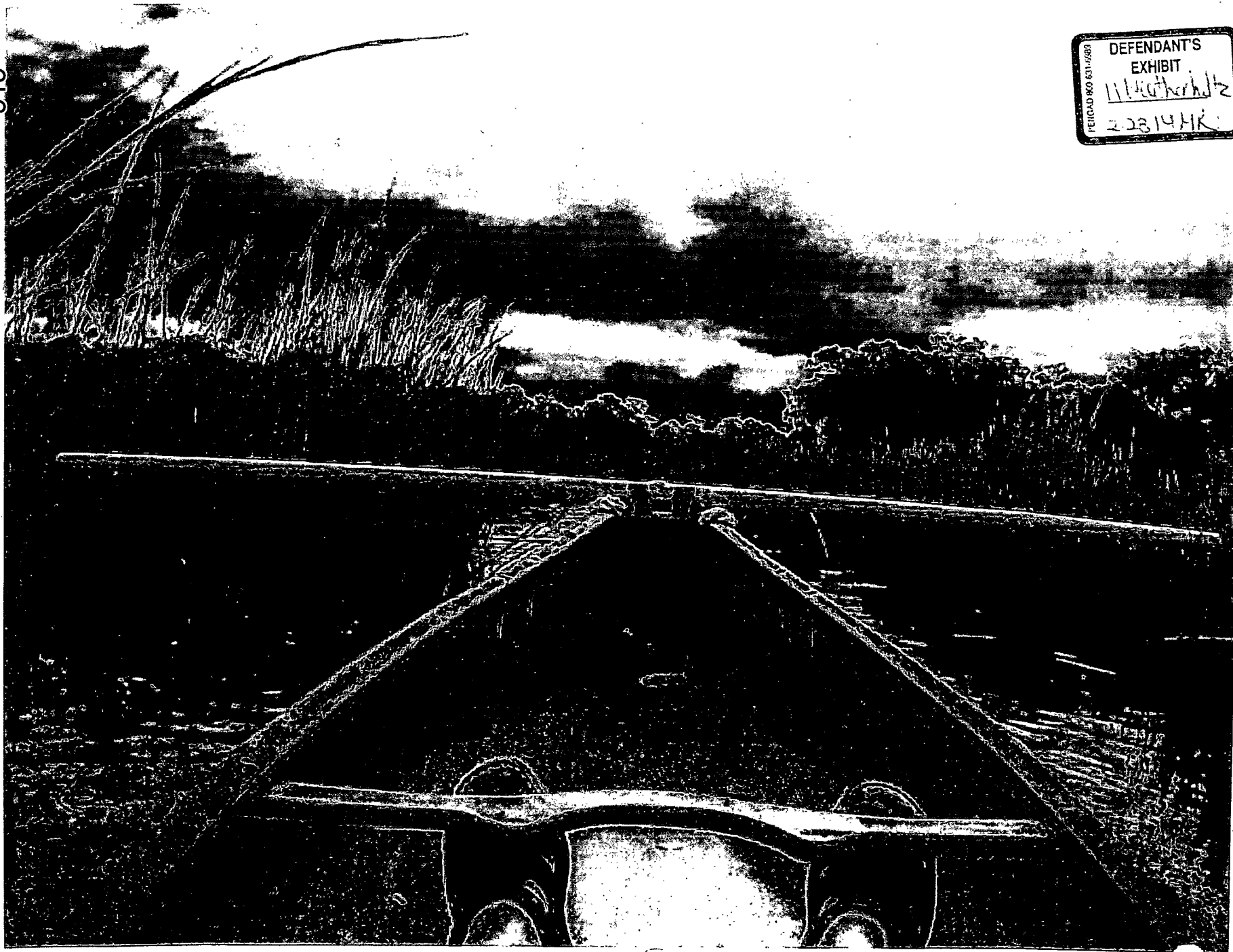


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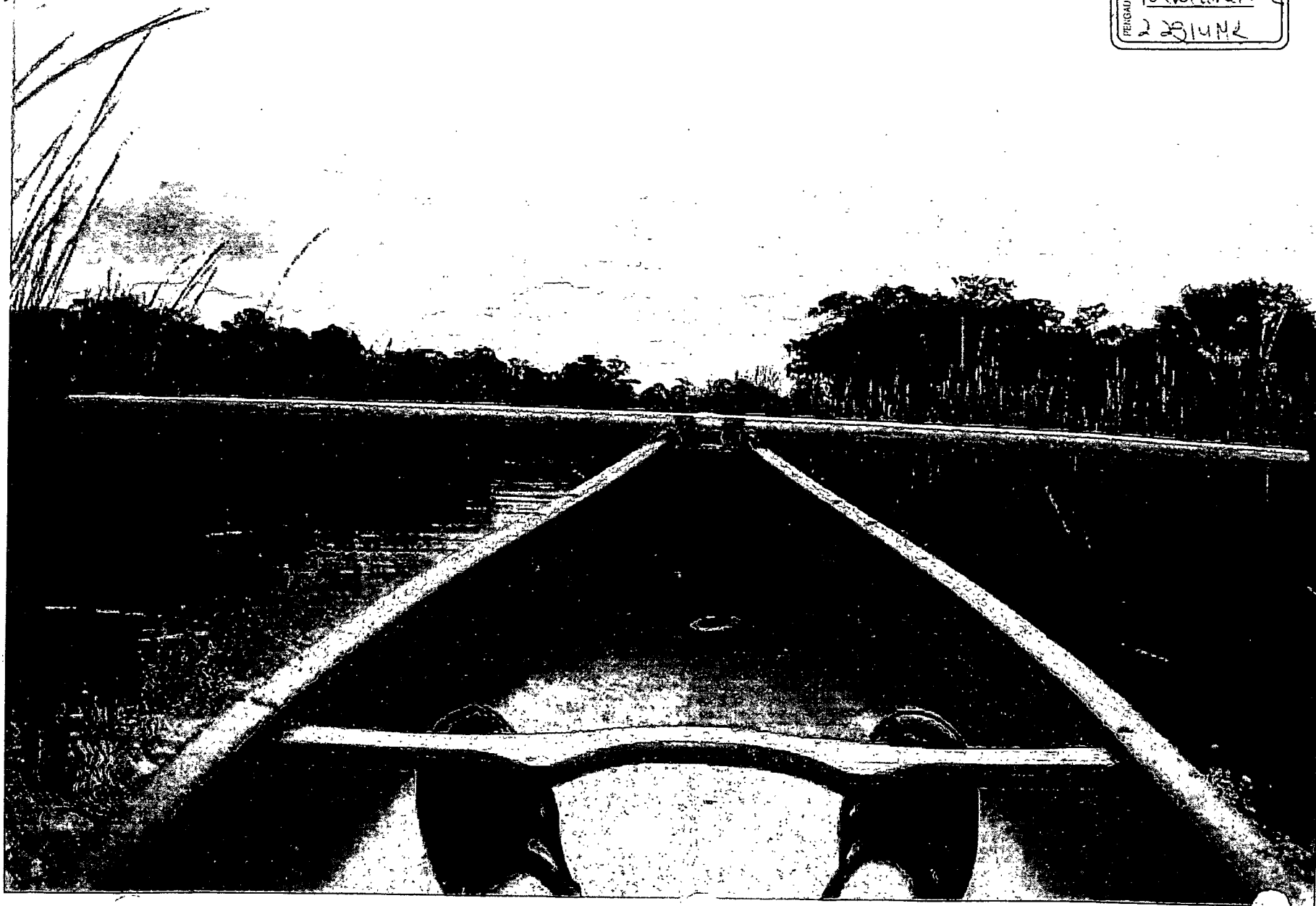
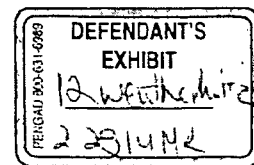


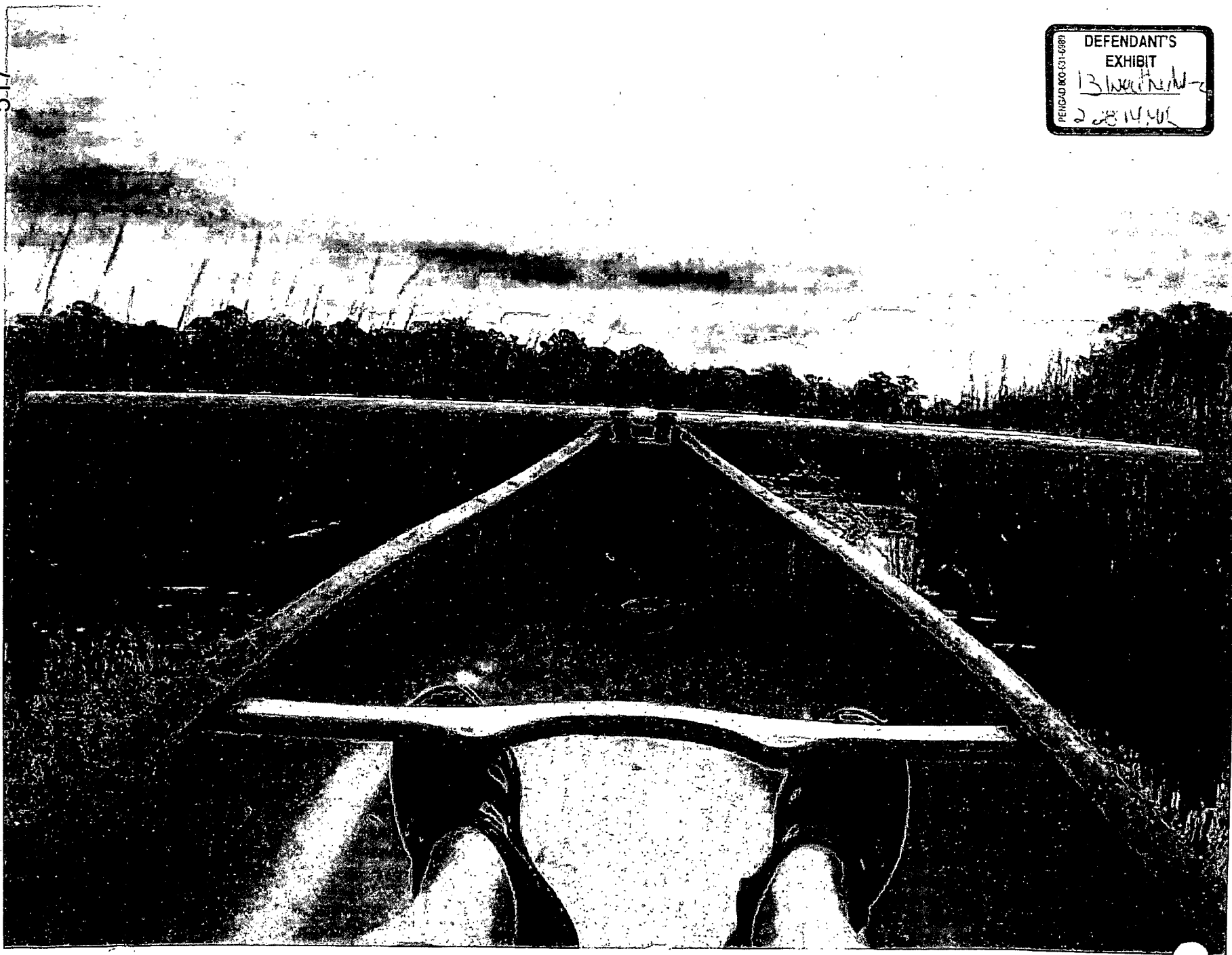
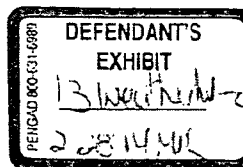


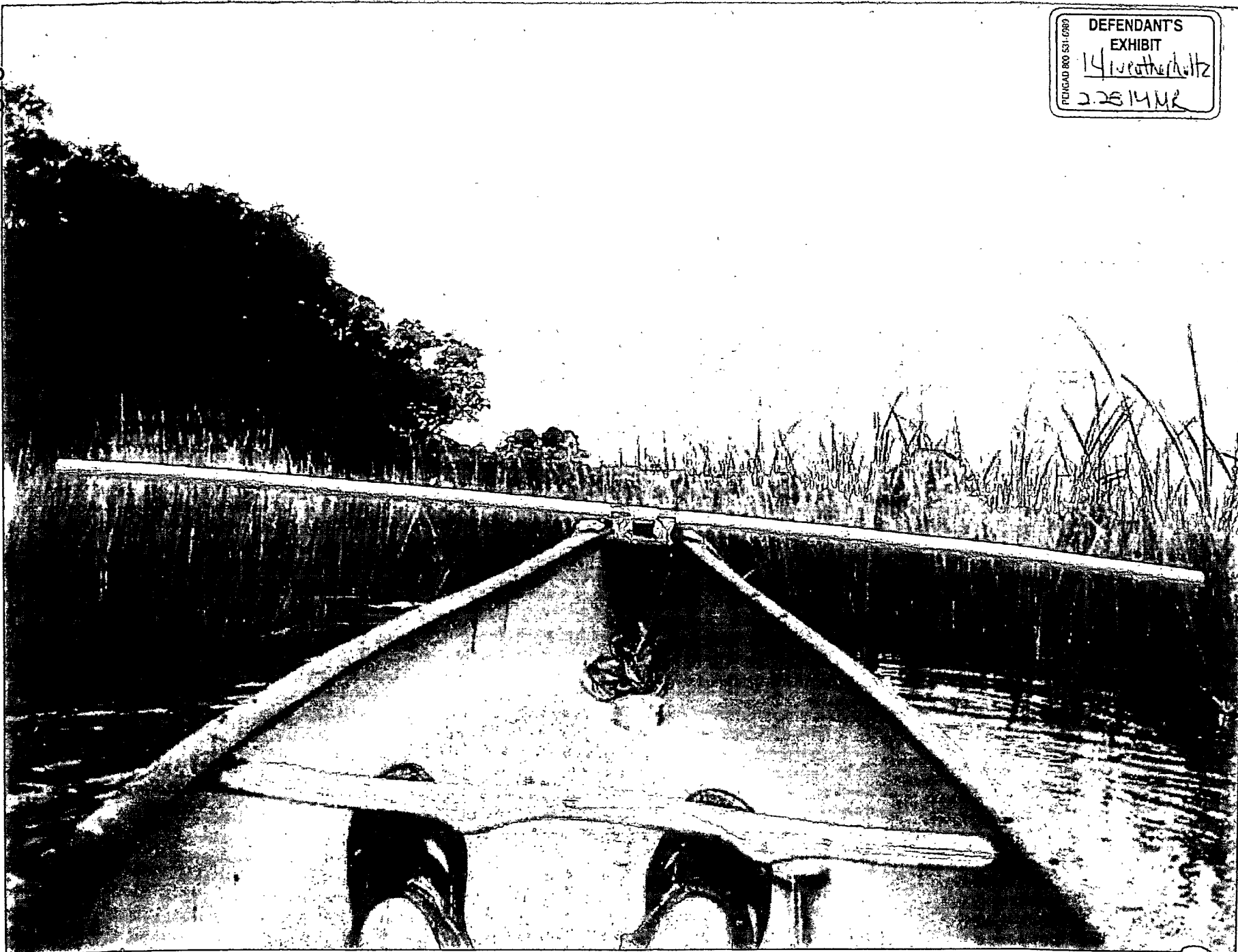
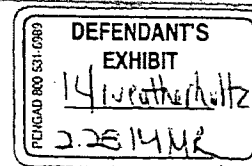
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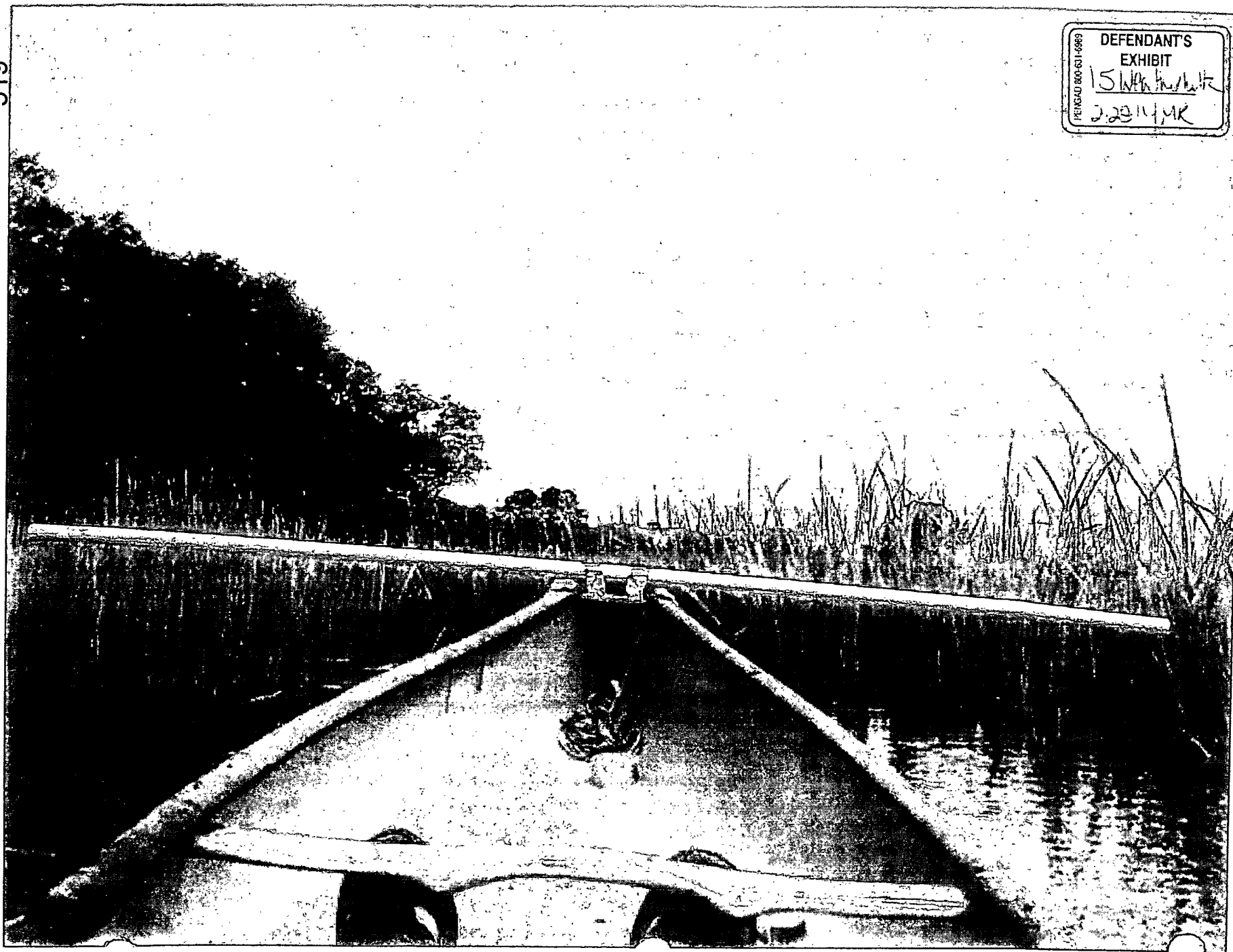
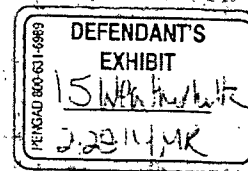


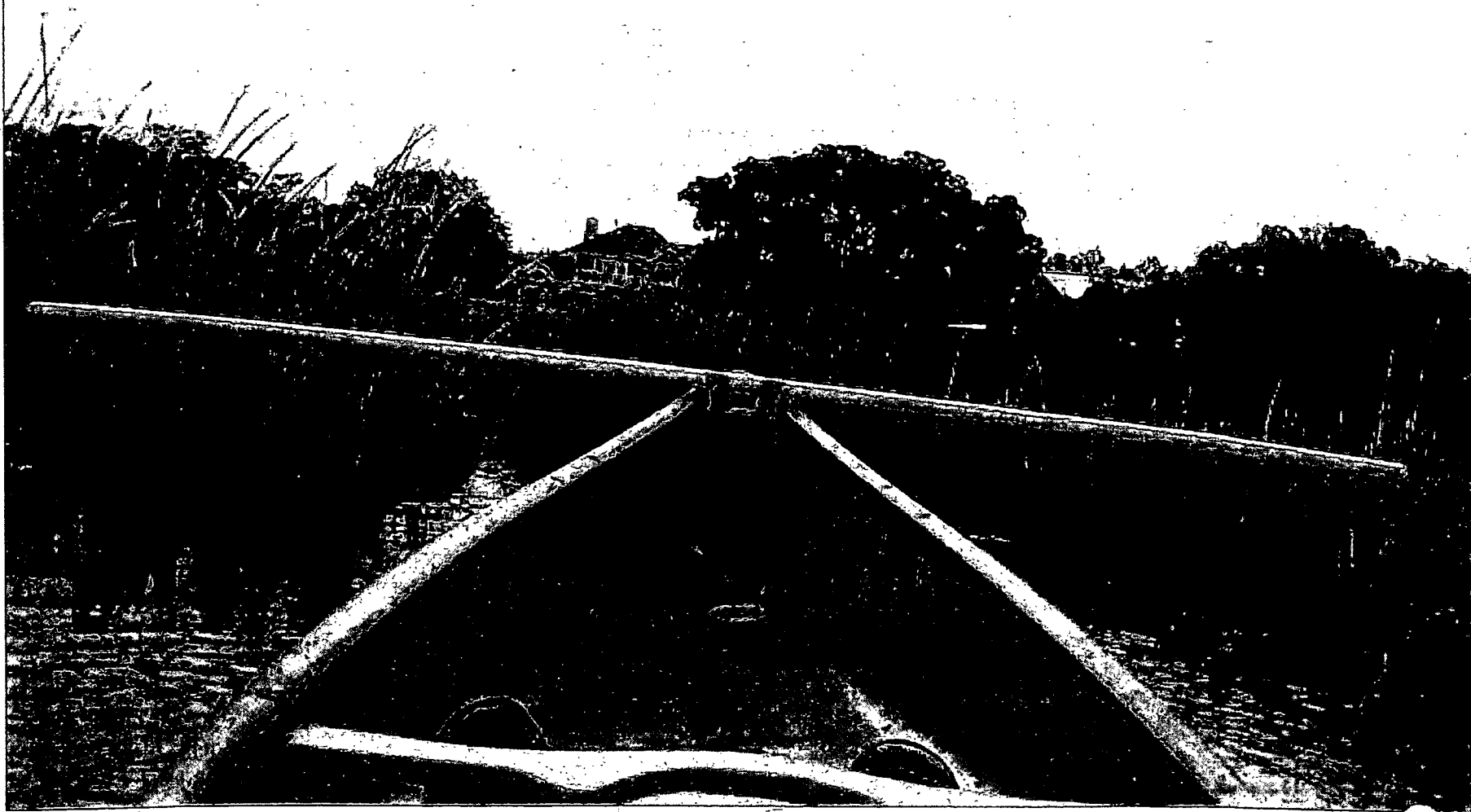
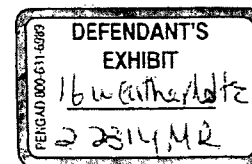
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Google

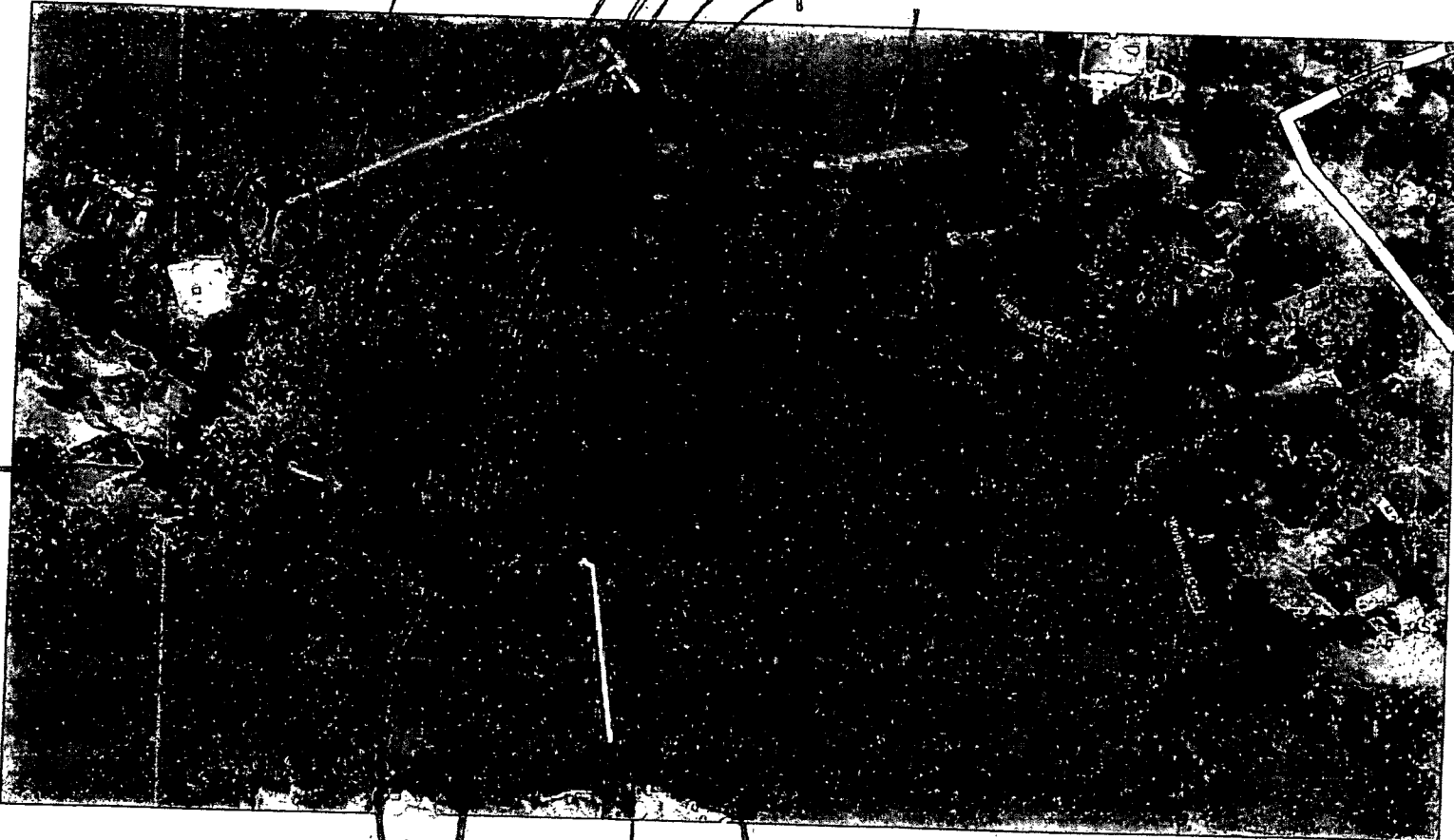
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For use of the defendant's attorney only. Do not use the information for any other purpose.

X



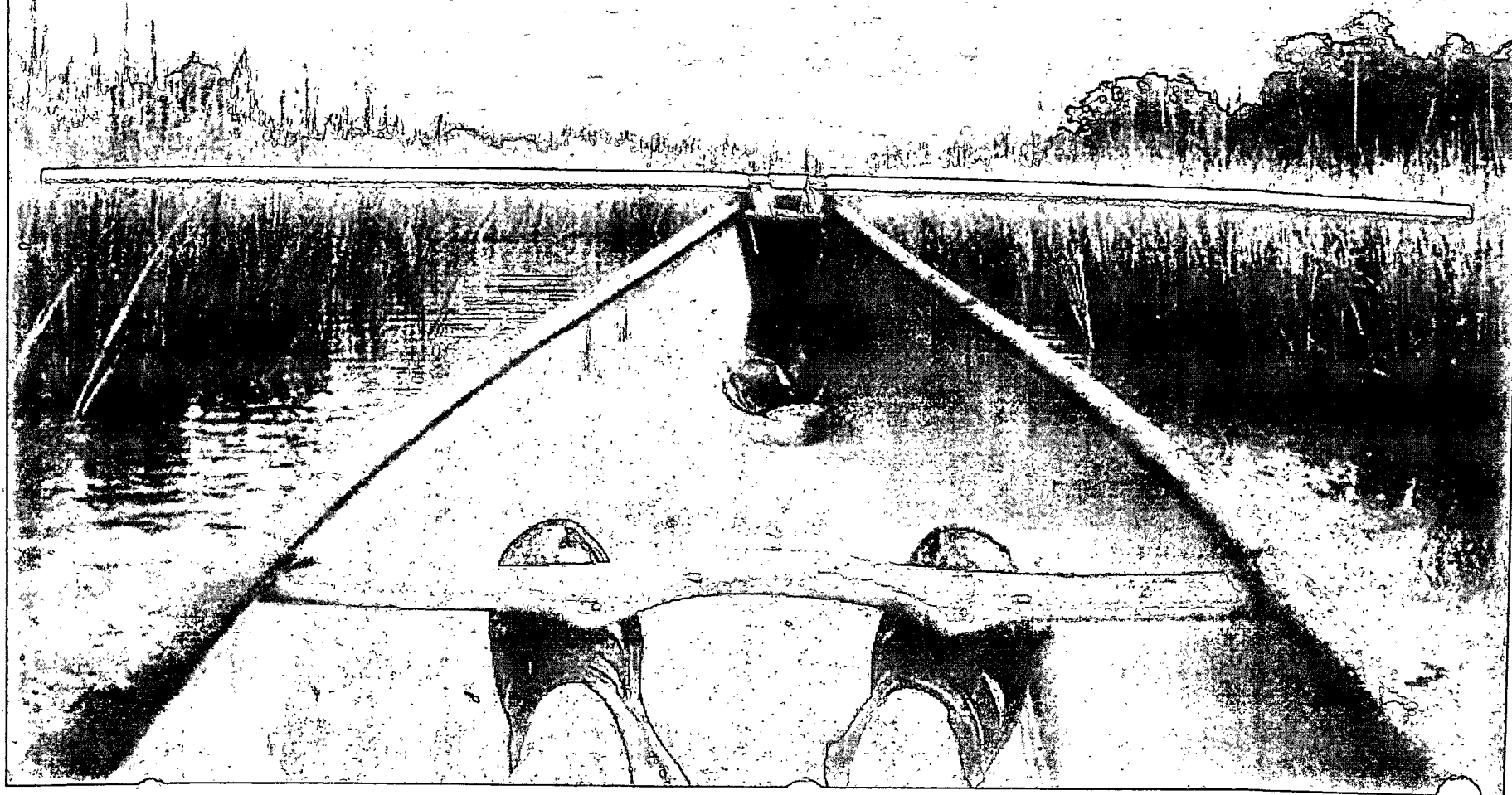
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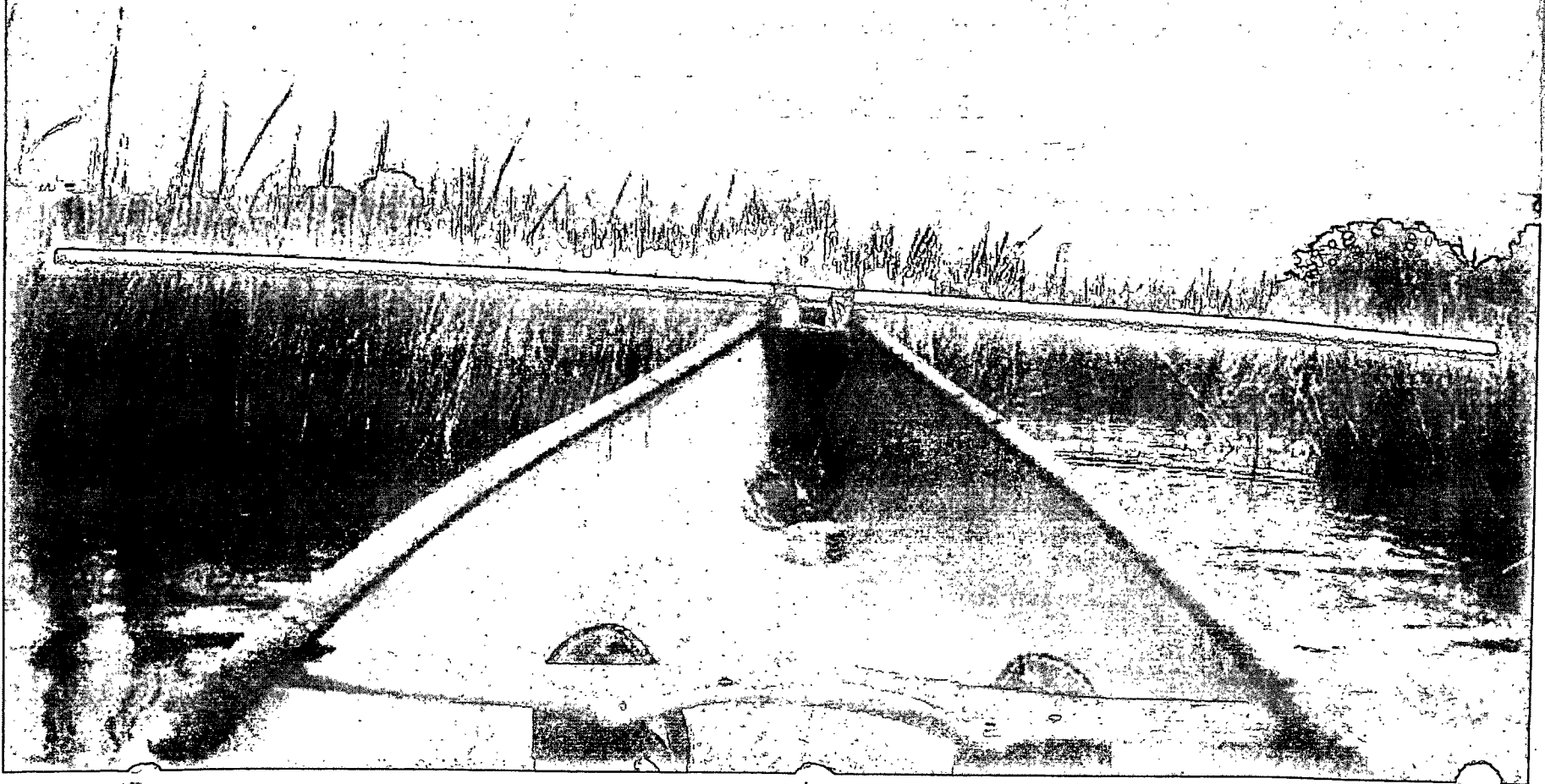
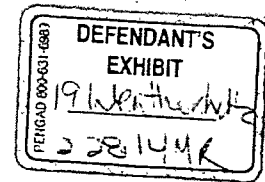
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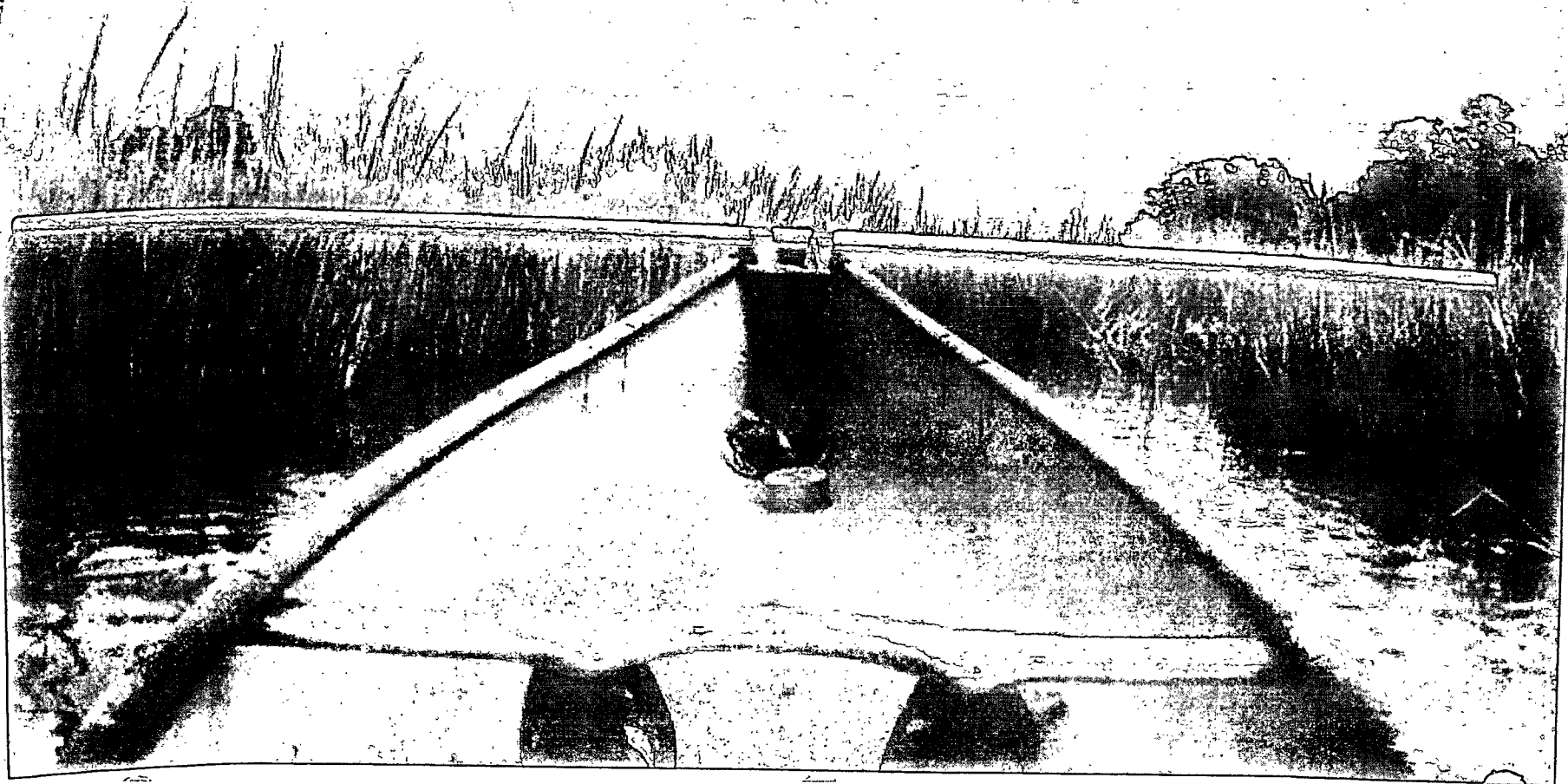
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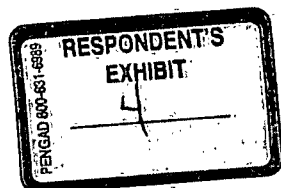
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18 W. 1st St. / 1st St.
200.14 M.





DEFENDANT'S
EXHIBIT
20 WELFORD
2.23.14 MK





FINAL REGULATIONS 22

(5) OCRM may require a Department permit for removal of any vessel or structure if it is deemed that the removal process will significantly impact the surrounding marsh environment.

30-12. SPECIFIC PROJECT STANDARDS FOR TIDELANDS AND COASTAL WATERS.

A. Docks and Piers:

(1) A dock or pier is a structure built over and/or floating on water and is generally used for the mooring of boats. Docks and piers are the most popular method of gaining access to deep water. Although they are least objectionable from an ecological point of view, docks and piers sometimes pose navigational problems, restrict public use of the water and, under certain circumstances, possess potential for creating environmental problems. For more detailed standards pertaining to community docks, refer to 30-12(E)(5), (6) and (7) herein.

(2) The following standards are applicable for construction of docks and piers:

(a) Docks and piers shall normally be limited to one structure per parcel and shall not impede navigation or restrict the reasonable public use of State lands and waters;

(b) Docks and piers shall be constructed in a manner that does not restrict water flow;

(c) The size and extension of a dock or pier must be limited to that which is reasonable for the intended use;

(d) Docks and piers should use the least environmentally damaging alignment;

(e) All applications for docks and piers should accurately illustrate the alignment of property boundaries with adjacent owners and show the distance of the proposed dock from such extended property boundaries. For the purpose of this section, the extension of these boundaries will be an extension of the high ground property line. The Department may consider an alternative alignment if site specific characteristics warrant or in the case of dock master plans, when appropriate.

(f) Walkways leading to the dock or pier shall not exceed four feet in width (unless the applicant can justify a need for a wider structure) and should be elevated at least three feet above mean high water;

(g) Dry storage in uplands will be encouraged in preference to moorage in crowded areas;

(h) Developers of subdivisions and multiple family dwellings are encouraged to develop joint-use or community docks when their plans are in the development stage. However, community docks may be considered a marina if any services are offered besides moorage for those having a right to use the dock or if the size and location of the community dock creates the potential for significant impact;

(i) Project proposals shall include facilities for the proper handling of litter, waste, refuse and petroleum products, where applicable;

(j) Where docks and piers are to be constructed over tidelands utilized for shellfish culture or other mariculture activity, the Department will consider rights of the lessee and the public prior to approval or denial.

(k) Storage on docks will be limited to a bench-like locker no larger than 3 feet high, by 3 feet deep, by eight feet long. Docks cannot be enclosed by walls or screens.

(l) Docks longer than 1,000 feet over critical area are prohibited. This is inclusive of pierheads, floats, boatlifts, ramps, mooring pilings and other associated structures.

FINAL REGULATIONS 23

(m) Handrails, if proposed, shall be limited to what is minimally needed for safety as outlined in the Southern Building Code (1994, Section 1015.1).

(n) Docks must extend to the first navigable creek with a defined channel as evidenced by a significant change in grade with the surrounding marsh. Such creeks cannot be bridged in order to obtain access to deeper water. However, pierheads must rest over open water and floating docks which rest upon the bottom at normal low tide will not normally be permitted.

(o) For lots platted and recorded after May 23, 1993, before a dock will be permitted a lot must meet the minimum local requirements to construct a habitable structure. In addition, a lot must have 75 feet of water frontage along the marsh edge and at least 75 feet of frontage between extended waterfront property lines. Lots with less than the required frontage and which are buildable, but with at least 50 feet of frontage, both on the marsh edge and along the water between the waterfront extended property lines may be eligible for a common dock with the adjacent property. Lots less than 50 feet wide are not eligible for a dock.

(p) No docks or pierheads or other associated structures should normally be allowed to be built closer than 20 feet from extended property lines with the exception of common docks shared by two adjoining property owners. However, the Department may allow construction closer than 20 feet or over extended property lines where there is no material harm to the policies of the Act.

(q) The Department sets forth the following standards for size and use of pierheads and floating docks, these figures do not include the square footage of the walkways or ramps:

~~(i) Creeks smaller than 20 feet wide, as measured from marsh vegetation on both sides, should normally be restricted to a walkway with a structure of 50 square feet. In some circumstances lots on creeks of this size may not qualify for docks.~~

(ii) Creeks between 20 and 50 feet, as measured from marsh vegetation on both sides, shall be restricted to fixed pierhead and floating dock combinations up to 120 square feet unless special geographic circumstances and land uses warrant a larger structure;

(iii) Creeks between 51 and 150 feet, as measured from marsh vegetation on both sides, shall be restricted to docks up to 160 square feet unless special geographic circumstances and land uses warrant a larger structure;

(iv) Creeks larger than 150 feet, as measured from marsh vegetation on both sides, shall be restricted to docks up to the average size of existing, adjacent docks and pursuant to established permitting rules and regulations;

(v) Grandfathered or previously permitted fixed and floating docks which are larger than allowed in R.30-12(A)(2)(q)(i-iv) may not be enlarged.

(vi) Enclosed boat houses are prohibited;

(vii) Boats moored at docks cannot block or unduly impede navigation. Under no circumstance are live-aboards allowed at private docks. Commercial activities are prohibited at private docks unless they are water-dependent and approved by the Department. Illegal use of a private dock is grounds for permit revocation.

(r) Roofs on private docks will be permitted on a case-by-case basis, with consideration given to the individual merits of each application. Precedent in the vicinity for similar structures will be considered as well as the potential for impacting the view of others. Roofs which have the potential to seriously impact views will not be allowed, while those that have minimal impact may be allowed. The following standards will be used in evaluating applications for roofs.

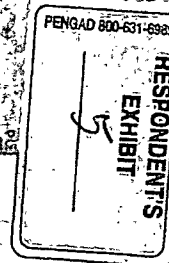
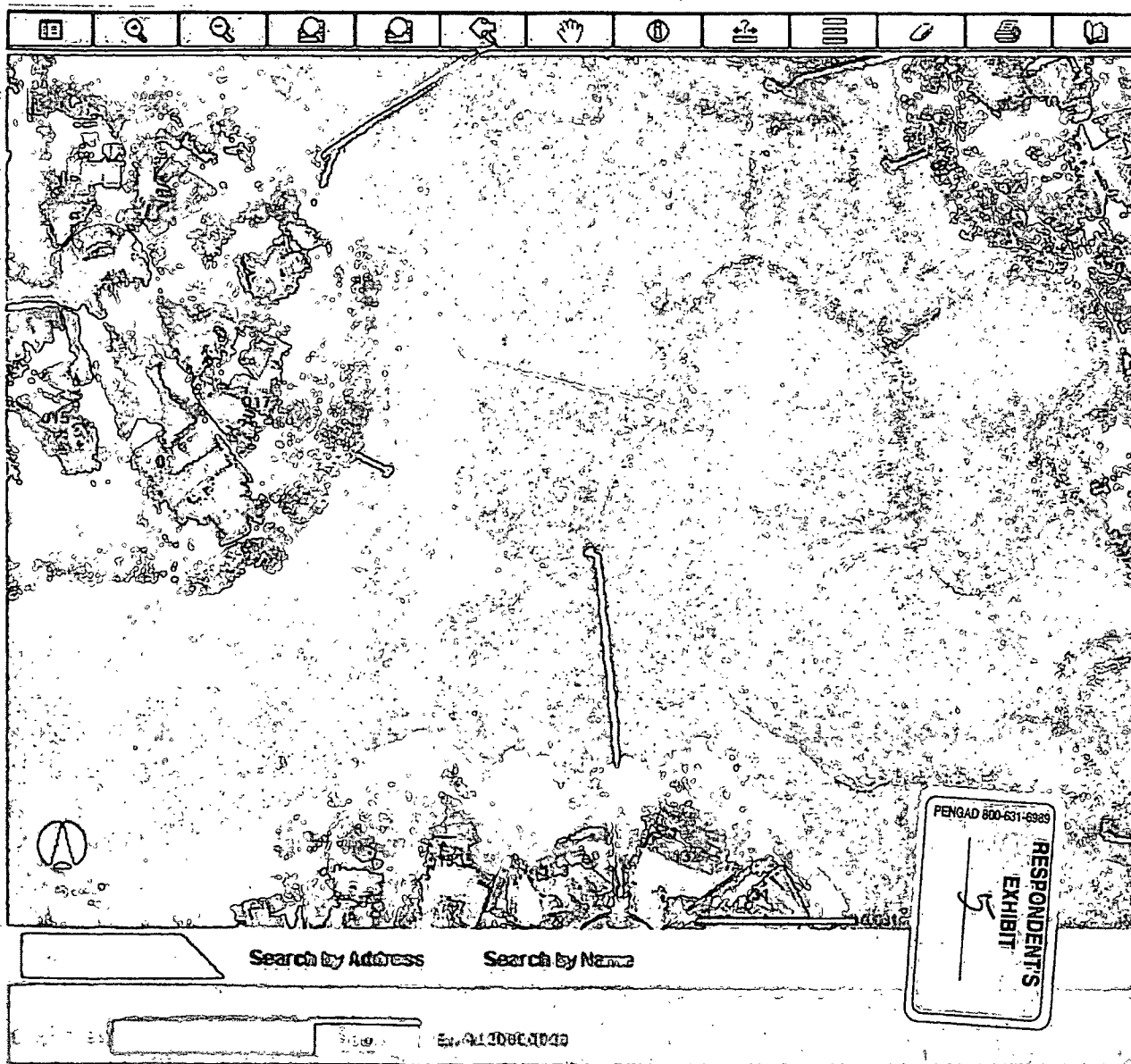
Layers

Make Active

- ☒ Libraries
- ☐ County Boat Landings
- ☐ Fire Stations
- ☐ EMS Facilities
- ☐ 2001 Building
- ☐ Streets/Roads
- ☐ Parcels
- ☐ Tax Districts
- ☐ Municipal Boundaries
- ☐ Unincorporated County Zoning
- ☐ 2001 Color Photos
- ☐ 2009 Color Photos
- ☐ 2012 Color Photos

To make a layer active click on the round button located directly to the left of the layer name

Use SEARCH TABS at bottom of map OR use the ZOOM TOOLS to define the area of interest



UP TO DATE PARCEL INFO

[Licensing Agreement](#)

[Fee Schedule](#)

[REVISED](#)

[Zoning Codes](#)

[Unincorporated County Zoning Map](#)

[Charleston County Home Page](#)

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BOARD:
 Allen Amsler
 Chairman
 Mark S. Lutz
 Vice Chairman
 Ann B. Kirol, DDS
 Secretary



Catherine B. Templeton, Director

Promoting and protecting the health of the public and the environment

BOARD:
 R. Kenyon Wells
 Charles M. Joye II, P.E.
 L. Clarence Batts, Jr.
 John O. Hutto, Sr., MD

*South Carolina Board of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201
 Telephone (803) 898-3309 Fax: (803) 898-3393*

September 16, 2013

U.S. Mail - CERTIFIED - Return Receipt

91 7108 2133 3939 6227 6013

James Weatherholtz
 949 Compass Pt.
 James Island, SC 29412

Via Interagency Mail Delivery

Bradley Churdar, Esq.
 Nathan Haber, Esq.
 SCDHEC - Office of General Counsel
 1362 McMillan Avenue, Suite 400
 Charleston, SC 29405

RE: *Docket No. 13-RFR-29 - August 7, 2013, decision to deny a permit for P/N#OCRM-13-155-D for a private recreational dock, James Island, SC.*

The South Carolina Board of Health and Environmental Control will not conduct a Final Review Conference on the above-referenced matter.

CONTESTED CASE GUIDANCE

S.C. Code Section 44-1-60 provides that if the Board declines in writing to schedule a final review conference, the staff decision becomes the final agency decision, and an applicant, permittee, licensee, or affected person may request a contested case hearing before the Administrative Law Court (ALC) within thirty calendar days after notice is mailed to the applicant, permittee, licensee, and affected person that the Board declined to hold a final review conference.

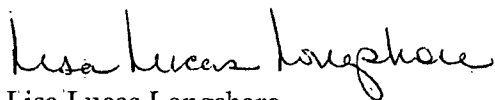
A request for a contested case hearing before the Administrative Law Court must be filed within the time allowed and in accordance with the Rules of the ALC, including payment of the ALC's filing fee, at the following address:

Clerk's Office
South Carolina Administrative Law Court
Edgar A. Brown Building
1205 Pendleton St., Suite 224
Columbia, SC 29201

The ALC's Notice of Request for Contested Case Hearing form and the Rules of the ALC can be found at the ALC's website: <http://www.scalc.net>. Further information on filing a request for a contested case hearing before the ALC may be obtained by calling the Clerk's Office at the Administrative Law Court (803-734-0550).

If a party files a request for a contested case hearing with the ALC, the party must serve a copy of the request on DHEC and any other parties at the same time the request is filed with the ALC. A copy of the request for a contested case hearing must be delivered or mailed to DHEC at the address at the top of this memorandum.

Sincerely,



Lisa Lucas Longshore
Clerk

The above information on filing a request for a contested case hearing before the Administrative Law Court is provided as a courtesy; parties before the ALC are responsible for complying with all applicable requirements of the Court.

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

James Weatherholtz,
Petitioner,
vs.
South Carolina Department of Health and
Environmental Control,
Respondent.

**NOTICE OF ASSIGNMENT
(Contested Case)**

DOCKET NO. 13-ALJ-07-0494-CC

NOTICE IS GIVEN that a request for a contested case hearing was filed on October 14, 2013. In accordance with S.C. Code Ann. § 1-23-570 (Supp. 2012), the **Honorable Carolyn C. Matthews**, Administrative Law Judge, has been assigned to preside in this matter. The Administrative Law Judge may be contacted by mail at 1205 Pendleton Street, Suite 224, Columbia, South Carolina 29201, and by telephone at (803) 734-0550.

Rules of Procedure governing matters before the Court may be obtained from the Clerk of Court or on the Court's website, **www.scalc.net**.

A copy of any document or any other item filed with the Court shall be sent to all other parties at the time of filing. If a mailing address changes, or if an address is incorrect, the Court must be notified immediately of the correct address.

This the twenty-second day of October, 2013.

Ralph King Anderson, III
Chief Administrative Law Judge

By: Jana E. Shealy
Jana E. Shealy, Clerk
Edgar A. Brown Building
1205 Pendleton Street, Suite 224
Columbia, South Carolina 29201

FILED

OCT 22 2013

SC ADMIN. LAW COURT

February 18, 2014

The Honorable Carolyn C. Matthews
South Carolina Administrative Law Judge
Edgar A. Brown Building
1205 Pendleton Street, Suite 224
Columbia, South Carolina 29201

Re: *Weatherholtz v. SCDHEC*
Docket No. 13-ALJ-07-0494-CC

Dear Judge Matthews:

Please find enclosed a copy of all exhibits that Petitioner presently intends to offer into evidence at trial. Should you require anything further at this time, please let me know.

With kind regards, I remain,

Very truly yours,



James E. Weatherholtz

Enclosures

cc: Bradley D. Churdar, Esq.
1362 McMillan Avenue, Suite 400
North Charleston, South Carolina 29405



Catherine B. Templeton, Director

Promoting and protecting the health of the public and the environment

February 18, 2014

The Honorable Carolyn C. Matthews
South Carolina Administrative Law Court
Edgar A. Brown Building
1205 Pendleton Street, Suite 224
Columbia, SC 29201

Re: *James Weatherholtz v. SCDHEC*
Docket No.: 13-ALJ-07-0494-CC

Dear Judge Matthews:

Please find enclosed for filing the Department's Exhibits for the hearing in the above referenced matter scheduled for March 5, 2014. By copy of this letter I am serving all parties of record.

Very truly yours,

Bradley D. Churdar
Chief Counsel

BDC/mdc

Enclosure

cc: James Weatherholtz, Esquire ✓

21985

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

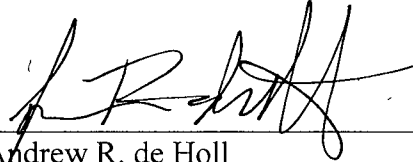
Office of General Counsel

Charleston Office • 1362 McMillan Avenue • Suite 400 • Charleston, SC 29405 • Phone: (843) 953-0200 • Fax: (843) 953-0201 • www.scdhec.gov

CERTIFICATE OF COUNSEL FOR APPELLANT

I certify that this Record on Appeal contains all the materials proposed to be included by any of the parties and does not contain any other material. I also certify that, to the best of my ability, this Record complies with the Supreme Court's August 13, 2007 order regarding personal data identifiers and other sensitive information.

May 6, 2015



Andrew R. de Holl
Womble Carlyle Sandridge & Rice, LLP
P.O. Box 999
Charleston, South Carolina 29402
843-720-4634

Attorney for Appellant

RECEIVED

MAY 19 2015

SC Court of Appeals