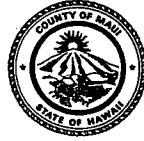


Council Chair
G. Riki Hokama

Vice-Chair
Robert Carroll

Council Members
Michelle Anderson
Jo Anne Johnson
Dain P. Kane
Danny A. Mateo
Michael J. Molina
Joseph Pontanilla
Charmaine Tavares



COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.co.maui.hi.us/council/

Director of Council Services
Ken Fukuoka

RECEIVED

2006 MAY -5 AM 9:06

OFFICE OF THE
COUNTY CLERK

May 4, 2006

Honorable G. Riki Hokama, Chair
and Members of the Council
County of Maui
Wailuku, Hawaii 96793

Dear Chair Hokama and Members of the Council:

SUBJECT: KANAHA VALLEY STREAM INTAKE, WELLS, AND TANK

I am transmitting the following documents:

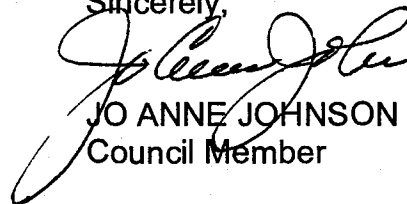
- 1) a copy of an April 5, 2006 memorandum from Mr. Hans Michel, expressing concerns relative to the Department of Water Supply's reliance to access through his property for the maintenance and operation of the Kanaha Valley Stream intake, wells, and tank; and
- 2) a copy of an April 27, 2006 letter from George Y. Tengan, Director of the Department of Water Supply, commenting on Mr. Michel's concerns.

May I request that this matter be referred to the appropriate Council Committee for review and discussion.

Please notify Mr. Michel at 1404 Olona Place, Lahaina, Hawaii, 96761-1754, when this matter is scheduled for discussion by the committee.

Thank you for your consideration. Should you have any questions or require clarification, please contact me at Ext. 5504.

Sincerely,


JO ANNE JOHNSON
Council Member

Attachments
jaj:daw

COUNTY COMMUNICATION NO. 06160

Jahaina, April 5 - 2006

Memo to: Honorable Michelle Anderson & Joanne Johnson
Counsel members.

From: Hans F. Michel, Kanaha Valley, Jahaina

Subject: Hans F. Michel Water Department Agreement
T.M.K. 4-6-17-12 and 4-6-17-01

After 2004, Stone wall got destroyed by heavy equipment on the way to water intake, neglect of road maintenance.

Kanaha Valley stream concrete crossing destroyed by heavy equipment and back hoe digging.

Storm drain ditch wall missing by boundary fence & water tank.

Jeff Pearson department of water supply started working on contract after he resigned everything stood still till now. Eric Yamashige is a nice guy, he put me on the back burner. all I hear is no funds. Promised me a letter from Dec. 2005 meeting in Kanaha Valley, never arrived yet.

Please County Counsel members

I need your help. I hope you will be able to move all this promised obligations contract agreements forward.

Thank you very much,

Sincerely Yours,

Hans Michel

P.S. Subdivision map incomplete.

Enclosed letters of Agreements June 1994

March 29, 1994 - August 15, 1994 - Oct. 17, 1994

April 29, 1997 - June 27, 1997 Bodell

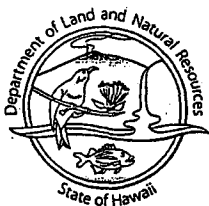
April 9, 2004 - May 10, 2004

May 14, 2004 - Oct. 14, 2005

Heavy Equipment trips to water intake
after land slide 1992 - 25 plus trip
Reason why my crossing got destroyed
Thank you very much

Hans Michel

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

54 High Street, Room 101
Wailuku, Hawaii 96793
PHONE: (808) 984-8103
FAX: (808) 984-8111
October 14, 2005

PETER T. YOUNG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
DEPUTY DIRECTOR - LAND

DEAN NAKANO
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Ref. No.: 97MD-450
Author: LD-DO/dky

Mr. George Tengan, Director
County of Maui- Dept. of Water Supply
200 South High Street
Wailuku, Hawaii 96793

Dear Mr. Tengan:

Subject: Assignment of Rights Under Deed and Amendment to Agreement
Between County of Maui , Department of Water Supply and Hans
Fritz Michel; Lahainaluna High School, Lahaina, Maui, Lahaina,
Tax Map Key: (2) 4-6-017:012

Enclosed, for your records, are one copy each of the Assignment of Rights Under
Deed and the Amendment to Agreement. Recordation was completed by the Bureau
of Conveyances on October 10, 2005 as Document No. 2005-205100 and 2005-
205101, respectively. For your further information, these final documents shall be
referenced under our files as LOD S-28669.

We are also transmitting copies of the documents to the Mr. Michel's attorney,
Gary Robert.

If you have any questions, please do not hesitate to contact us at (808) 984-
8103. Thank you.

Sincerely,

Daniel Ornellas
Maui District Land Agent

Enclosures

cc: Gary Robert, Attny. (w/o enclosures)
Hans Michel (w/o enclosures)
Central Files
District Files

Gary Robert Atty at Law
-2004-

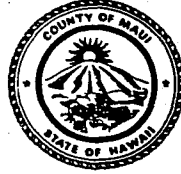
June	30.04	\$ 651.45
Sept.	3.04	324.80
Oct.	5.04	37.50
Nov.	11.04	247.30
Dec.	10.04	170.73
		<u>\$ 1,431.78</u>

-2005-

Jan	10.05	\$ 113.41
Feb	18.05	158.79
March	17.05	643.57
April	18.05	631.84
June	4.05	18.75
June	28.05	44.30
July	7.05	264.90
Aug	4.05	113.47
Oct	20.05	18.75
Nov	14.05	258.19
		<u>2,265.97</u>

\$ 3,697.75 Total

ALAN M. ARAKAWA
Mayor




BRIAN T. MOTO
Corporation Counsel

DEPARTMENT OF THE CORPORATION COUNSEL
COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
TELEPHONE: (808) 270-7740
FAX: (808) 270-7152

May 14, 2004

MEMO TO: Honorable Jo Anne Johnson, Councilmember
Maui County Council

F R O M: Ed Kushi, Jr., Deputy Corporation Counsel 

SUBJECT: Hans Michel Water Department Agreement; TMK (2) 4-6-017:012

Responding to your May 10, 2004 memo regarding the above matter, please be advised that we have just issued a confidential, attorney/client memo to Deputy Director Jeff Pearson of the Department of Water Supply, requesting that his office research, review and investigate the issues, matters, concerns and allegations set forth and, to date, identified in the 1981 Quitclaim Deed from Pioneer Mill Company, Ltd. to Michel, the 1994 Agreement between the Board of Water Supply and Michel, the proposed "Assignment of Rights Under Deed" document from the State of Hawaii to the County of Maui, and Michel's April 4, 2004 letter to your office.

Due to the nature and concerns of our office regarding this situation, and in anticipation of possible litigation against the County, we cannot provide you or anyone who received a copy of your May 13, 2004 memo, a copy of our memo to Mr. Pearson.

Based on the results of Mr. Pearson's review and investigation, we are hopeful that the situation may be resolved. Call if further discussion is needed.

cc: Brian T. Moto, Corporation Counsel
Jane Lovell, Deputy Corporation Counsel
Honorable Danny Mateo, Councilmember
Honorable Michael Molina, Councilmember
Honorable G. Riki Hokama, Councilmember
Jeff Pearson, Deputy Director, Water Supply
George Y. Tengan, Director, Water Supply
Don Couch, Mayor's Office
Hans Michel


S:\ALL\ESK\Water\memo to johnson re hans michel.wpd

May 10, 2004

RECEIVED
CORPORATION COUNSEL

2004 MAY 11 PM 3:35

MEMO TO: Mr. Ed Kushi
Deputy Corporation Counsel

F R O M: Jo Anne Johnson
Councilmember 

SUBJECT: Hans Michel Water Department Agreement
TMK NO. 4-6-17-12

Please find attached a letter that was received in our office at the end of April from Mr. Hans Michel. According to Mr. Michel's letter, this matter has been pending for over ten years.

In a separate conversation with Mr. Michel, he knows that the Water Department has been assisting with other matters relating to his problems, however he does not want to be forced into hiring another outside attorney to handle these matters. As stated in his letter, he has already expended \$6,600 in legal bills and continues to pay taxes on what appears to be county property.

The copy of the agreement is on file at the Water Department and it would appear that the other TMK No. 4-6-17-1 also raises concerns for Mr. Michel as well as other area residents.

I would ask that you respond to this matter no later than May 20th and in the meantime based on Mr. Michel's letter, we are sending him claim forms relating to the monies he believes he is due.

Thank you for your prompt attention to this matter. If you have any questions please contact me at ext. 5504.

Attachment

CC: BWS Advisory Board
Mr. Danny Mateo, Councilmember
Mr. Mike Molina, Councilmember
Mr. Riki Hokama, Councilmember
Mr. Jeff Pearson, Deputy Director, Department of Water Supply
County of Maui Risk Manager
Mr. Brian Moto, Corporation Counsel
Don Couch, Administrative Assistant
Brian Blundell, 10th District Representative
Hans Michel



Mr. Hans Michel
1404 Olona Pl.
Lahaina, HI 96761-1754

Lahaina, HI
April 9, 2004

West Maui
Council member
Jo-Ann Johnson

Subject: Unfair Business Practice

Dear Jo-Ann Johnson,
Ten years ago we made a contract
agreement with Water Department.
My burden is heavy because
of water Department unfair business
practice. In 1977 water department
start pumping water out of Koneha
Valley well T.M.K. 4-6-17-12.

Over the years I had sweet
promises from all the top bosses,
nothing happened. I got forced
to hire a attorney which costed
me \$6,600.00, In order to get
what's mine and an agreement
contract signature between

There are other letters on file with Jeff Pirsen concerning the Valley Kuleana Family Land. T.M.K. 4-6-17-1.

And the water fall erosion from the treatment plant into Kanaha Valley never got attention.

Our contract agreement can be found at Water Department main office, with Jeff Pirsen. Water Department is now in the County Council's hand.

I'm looking for help. I hope something can be done soon. I also got promised a fire hydrant which never got materialized.

Also I'm asking for compensation for all my attorney fees paid in 1994 plus interest.

AGREEMENT

THIS AGREEMENT, made and entered into this 3 day of June, 1994, by and between HANS MICHEL, whose address is 1404 Olona Place, Lahaina, Maui, Hawaii 96761-1754, referred to as the "Owner", and the BOARD OF WATER SUPPLY of the COUNTY OF MAUI, a political subdivision of the State of Hawaii, Wailuku, Maui, Hawaii, its successors and assigns, referred to as the "Board",

W I T N E S S E T H:

WHEREAS, the Owner represents that he is the fee simple owner of a parcel of real property situated at Panaewa (Kanaha Valley), Lahaina, Maui, Hawaii, identified as Tax Map Key 4-6-17:12, referred to as the "Property"; and

WHEREAS, the Board operates and maintains the Kanaha Pump Station No. 2 located within the Property; and

WHEREAS, the Board utilizes the existing unimproved roadway located on the Property to access the Board's 0.30 MG Kanaha Tank, and the Kanaha Pump Stations No. 1 and No. 2; and

WHEREAS, the Board desires to obtain from the Owner title to the Kanaha Pump Station No. 2 site and easements for waterlines and access; and

WHEREAS, the Owner had made a request to the Board to provide compensation, improvements, water service, and

pursue a resolution with the State of Hawaii on the maintenance of the roadway and stream crossing located within the State of Hawaii property identified as Tax Map Key 4-6-18:7. The Board shall limit its maintenance work to repair damage or wear caused by the Board with crushed rock waste or base coarse. Damage to the stream crossing due to storm generated stream flows shall be jointly funded by the Owner and Board.

3. **Drainage Control Improvements Within the Board's 0.30 MG Kanaha Tank Site:**

The Board shall repair damages to the roadway adjacent to the southern boundary of the 0.30 MG Kanaha tank site, referred to as the "Tank Site", caused by rainfall surface runoff flowing through the Tank Site. Repair work shall restore the surface of the ground to their original condition to the extent that such restoration work is reasonably possible.

4. **Board Vehicles Parking on the Property Adjacent to the 0.30 MG Kanaha Tank:**

The Owner shall allow Board vehicles to park on the Property on the southern side adjacent to the Tank Site. The Board shall provide grading work to maintain the parking area.

8. **Repair Eroded Areas Within the Property and Along the Pedestrian Trail:**

The Board shall discuss with the State of Hawaii and Pioneer Mill Co., Ltd. the request by the Owner to repair the pedestrian trail along the cliff that was eroded by the overflow water from the screenbox and also the erosion on the Property caused from the overflow water.

9. **Boulder Removal:**

The Board shall, at its own cost, remove the five boulders from the Property. The Owner may choose to have the Board relocate the boulders to a different location within the Property.

10. **Relocation of Board Waterlines:**

The Board shall, at its own cost, relocate a portion of the six-inch waterline from Pump Station No. 2 into the access easement area (onto the existing roadway area).

11. **Ownership of the Pump Site No. 2:**

The Owner shall grant, convey and dedicate unto the Board title to the Kanaha Pump Site No. 2 site, as revised. The Board shall transfer the title for the Kanaha Pump Station No. 2 site back to the Owner or his heirs in the event the pump station function is abandoned by the Board, at no cost to the Owner or his heirs.

The Board shall not give permission to anyone to use the flowage easement, except its employees and agents who are pursuing business of the Board.

15. Payment of Attorney Fees:

The Board shall pay the Owner for his attorney expenses in the sum of NINE HUNDRED AND NO/100 DOLLARS (\$900.00) incurred during the May 11, 1993 meeting.

16. Reimbursement to the Owner for Improvements Performed by the Owner Which Benefitted the Board:

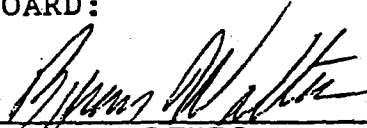
The Board shall pay FORTY THOUSAND AND NO/100 DOLLARS (\$40,000.00) to the Owner for the materials, equipment and labor the Owner had expended for various maintenance and improvements performed which benefits the Board.

The locations of the subjects within paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 16 are shown on the map attached hereto as Exhibit "A", as revised.


17. Damage or Injury from Landslide or Earthquake and Falling Rocks:

The Owner shall not be responsible or liable for any damage to property or vehicles or injuries to person caused by landslide or earthquake and rocks from the hillside. Board shall indemnify and protect Owner from any and all claims for damage to Board's property or vehicle or injury to its employees resulting from such landslide, earthquake or falling rocks, including attorney's fees and costs.

BOARD:


BYRON WALTERS
Its Chairperson

APPROVED AS TO FORM
AND LEGALITY:


JOHN S. RAPACZ
Deputy Corporation Counsel
County of Maui



**DEPARTMENT OF WATER SUPPLY
COUNTY OF MAUI
P.O. BOX 1108
WAILUKU, MAUI, HAWAII 96793-7108**

March 29, 1994

Hans & Emily Michel et al
1404 Olona Place
Lahaina, Hawaii 96761

Re: Repair of Landslide Damage to Kanaha Intake;
Access through property located at TMK 4-6-17:001

Dear Mr. & Ms. Michel,

We are writing to request a Right of Entry through your property located at TMK 4-6-17:001, to repair landslide damage to the Kanaha Stream intake. This will give us permission to travel across your property to get to the intake and make the necessary repairs.

This intake is the major municipal drinking water source for the town of Lahaina. It was destroyed by a landslide in May of 1992. Under emergency provisions, the Department of Water Supply has maintained municipal supply with temporary measures since that time. The stream bed has now had time to stabilize, making the repair possible.

The Kanaha intake was first built in 1904, and moved to its current elevation in 1908. It has been serving water to Lahainaluna School and to Pioneer Mill since that time. The County obtained interest in this intake in 1909. Although several repairs have been made during the 90 year existence of the Kanaha Stream intake, we have been unable to locate formal Rights of Entry for your property or your share of a property at TMK 4-6-17:001. We must traverse this property in order to reach the intake. This is a matter of public necessity.

Our request to traverse your property to repair this crucial municipal supply does not in any way constitute an intention on our part to infringe with your kuleana water rights.

We feel it would be more beneficial to all involved to formalize rights of entry, for the purposes of repairing and maintaining the intake. We do not require a permanent easement through your property, only permission to access our intake when necessary for repairs and maintenance. However, we would be willing to survey and delineate an easement if you should so desire.

Please advise us at your earliest convenience as any difficulties you foresee in granting us the Right of Entry. Thank you for your cooperation.

Sincerely,

David Craddick
Director
elk

"By Water All Things Find Life"



**BOARD OF WATER SUPPLY
COUNTY OF MAUI
P.O. BOX 1108
WAILUKU, MAUI, HAWAII 96793-7108**

August 15, 1994

Hans & Emily Michel et al
1404 Olona Place
Lahaina, Hawaii 96761

Re: Documentation of Lo'i Damage from Emergency Intake Repairs
Access to property located at TMK 4-6-17:001

Dear Mr. & Ms. Michel,

Immediately after the landslide, the Water Department re-opened the historic access road to the intake, in order to make emergency repairs. In the process of permit preparation for permanent repairs, we discovered that historic lo'i along the access route had been damaged through these emergency measures.

We apologize for this damage, and have contacted DLNR regarding possible mitigative measures. We are writing to request permission to bring the DLNR staff archaeologist on to your land for the purpose of data recovery on these damaged lo'i walls.

Please advise us at your earliest convenience as any difficulties you foresee in granting us this permission. Thank you for your cooperation.

Sincerely,

David Craddick
Director
elk



**Hans Michel
1404 Olona Place
Lahaina, Maui, HI
96791**

October 17, 1994

David R. Craddick, Director
Maui County Board of Water Supply
PO Box 1109
Wailuku, Hawaii 96793

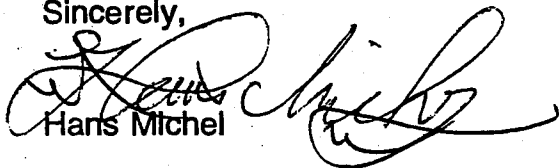
Re: Access for Kanaha Intake Repair through TMK 4-6-17:1

Dear Mr. Craddick,

This is to inform you that I grant access through my portions of the subject property (4-6-17:1) for the Water Board to construct repairs to the Kanaha Intake.

I expect that the County and its contractors will hold me harmless from all liability resulting from any potential injuries that may occur during the course of these repairs and any future repairs of the intake.

Sincerely,


Hans Michel

(hand delivered)

cc: Byron Walters, Water Board Chair
Ellen Kraftsow, Planner

SIX YEAR CAPITAL IMPROVEMENT PROGRA

Kanaha Valley Land Agreement

District West Maui
 Project Type Water
 Department Water Supply

Description and Justification Land survey, bridge, pipe and other improvements required to comply with land agreement for Kanaha Valley Intake.

Operating Impact Meet requirements necessary to maintain Kanaha Valley Intake in good condition.

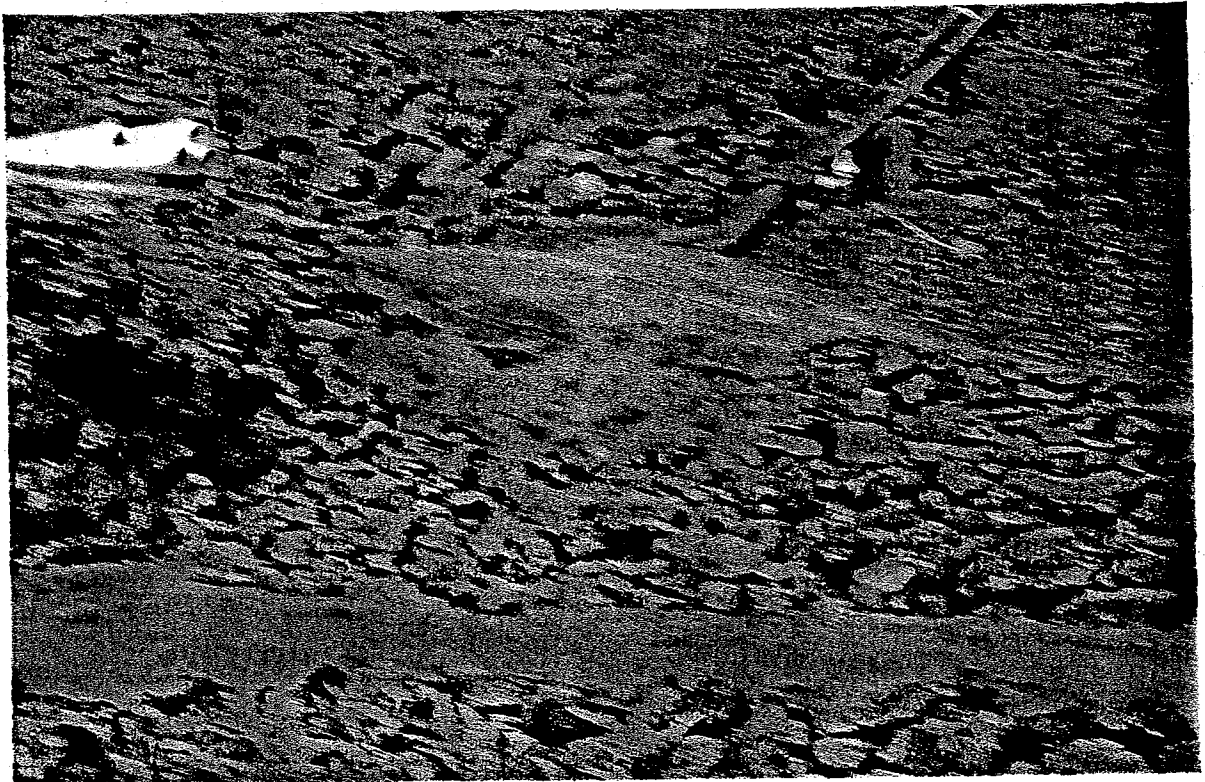
Anticipated Life 4 years

DOLLARS IN THOUSANDS

Expenditure Type	Prior Appropriation	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	TOTAL
Land Acquisition								0
Design								0
Construction			50 C					50 C
Other (Specify)								0
Total Cost	0	0	50 C	0	0	0	0	50 C

*Per Hans, Ellen Kraftson
 advised him that this
 funding is not...*

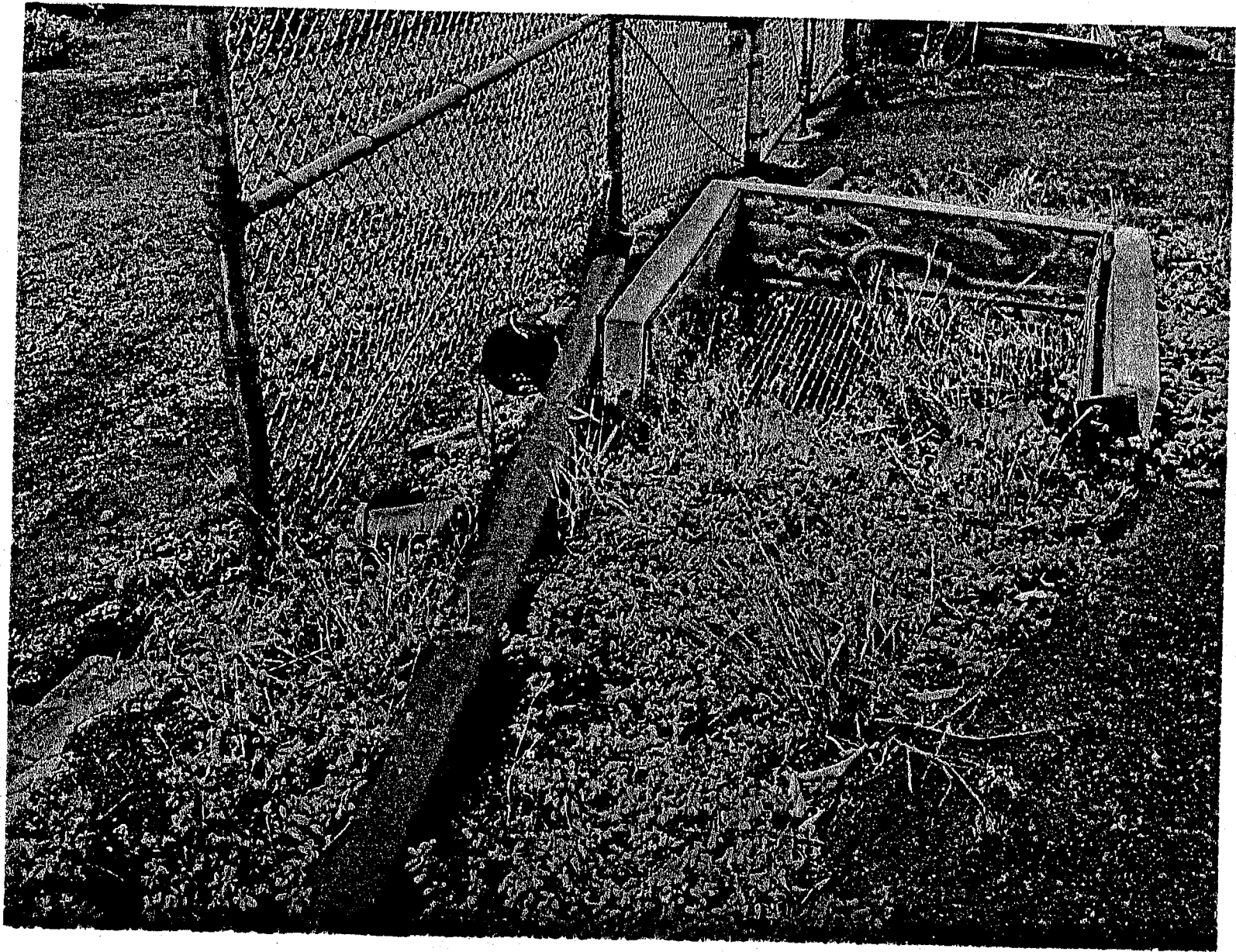


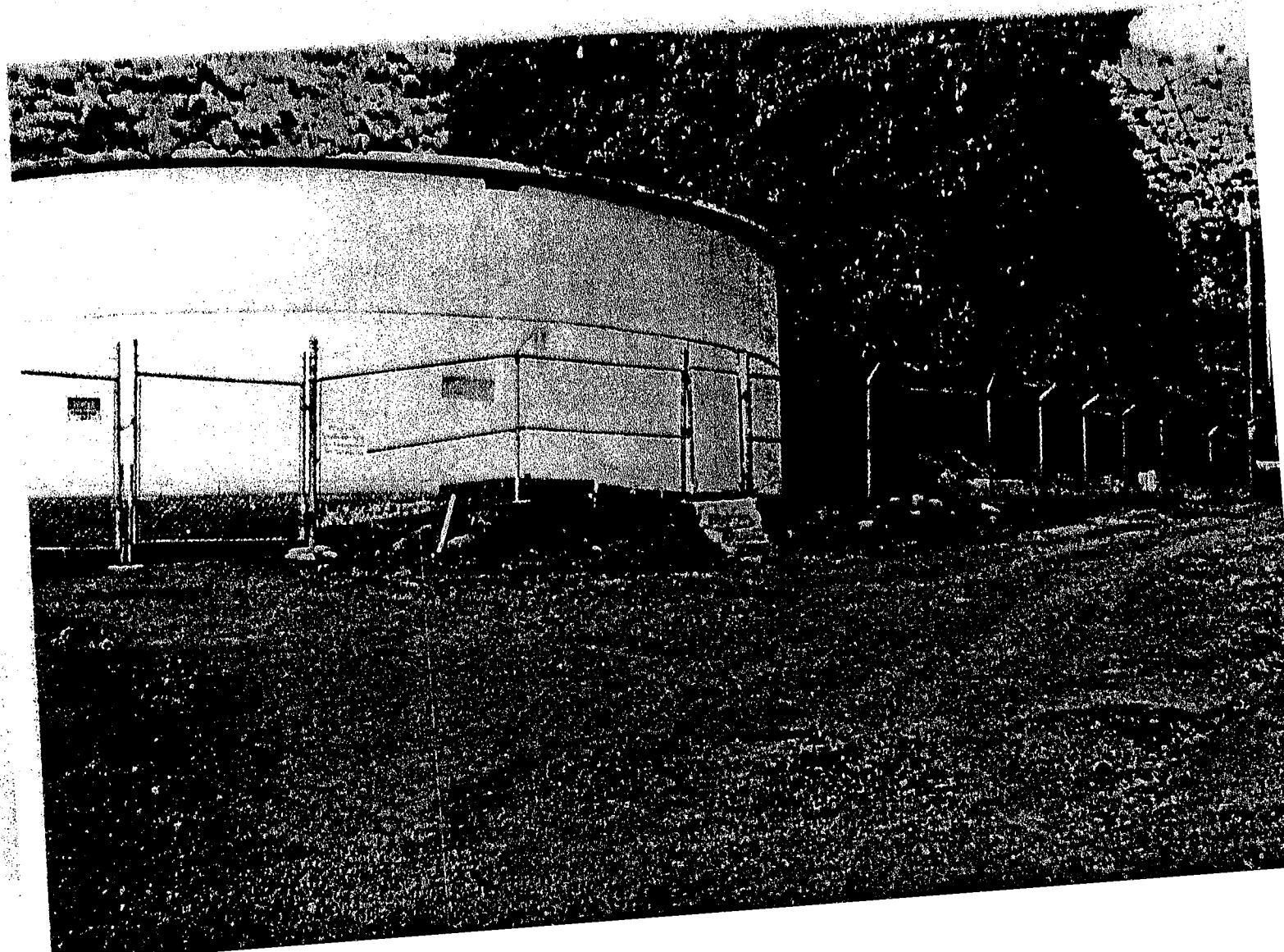








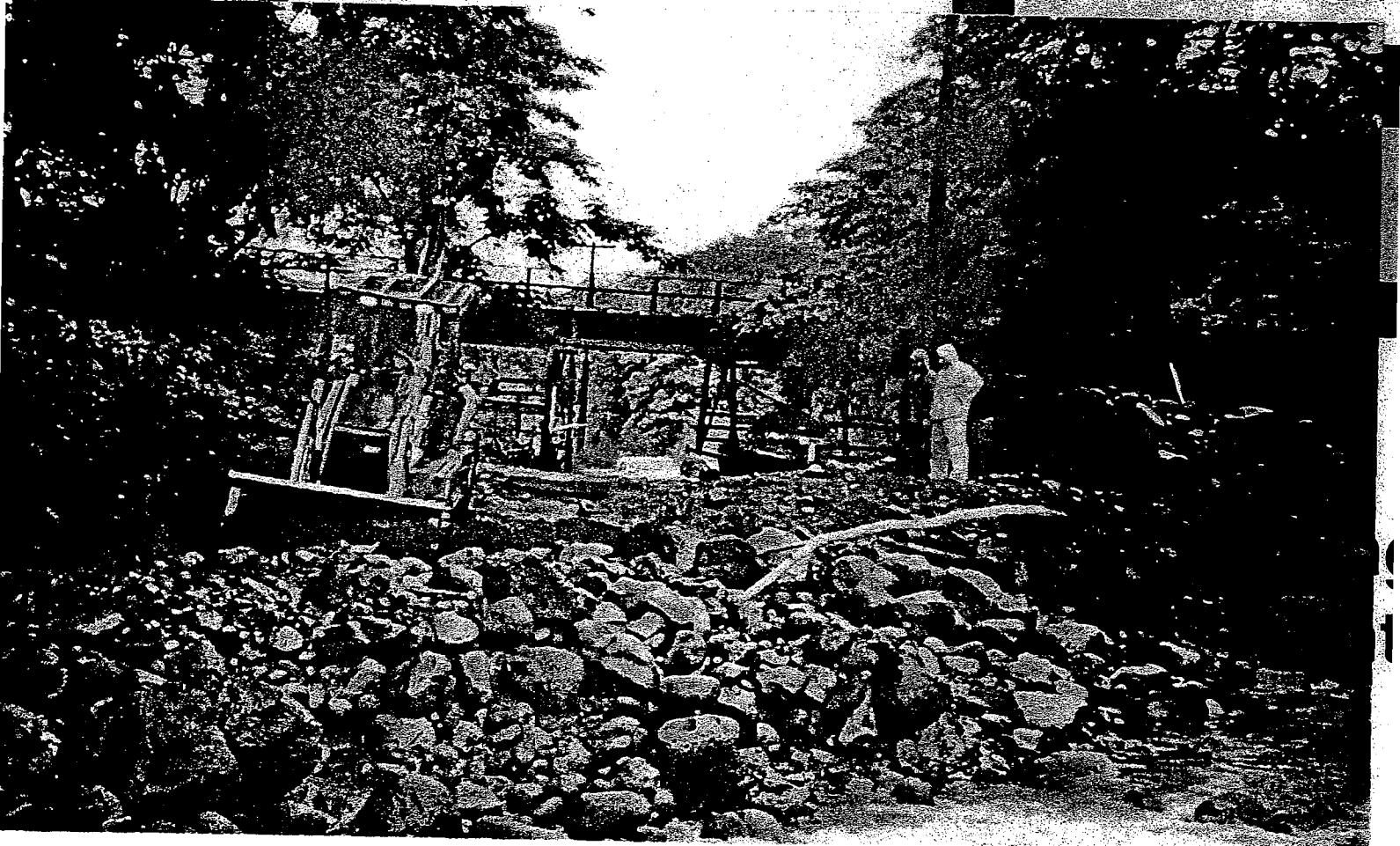


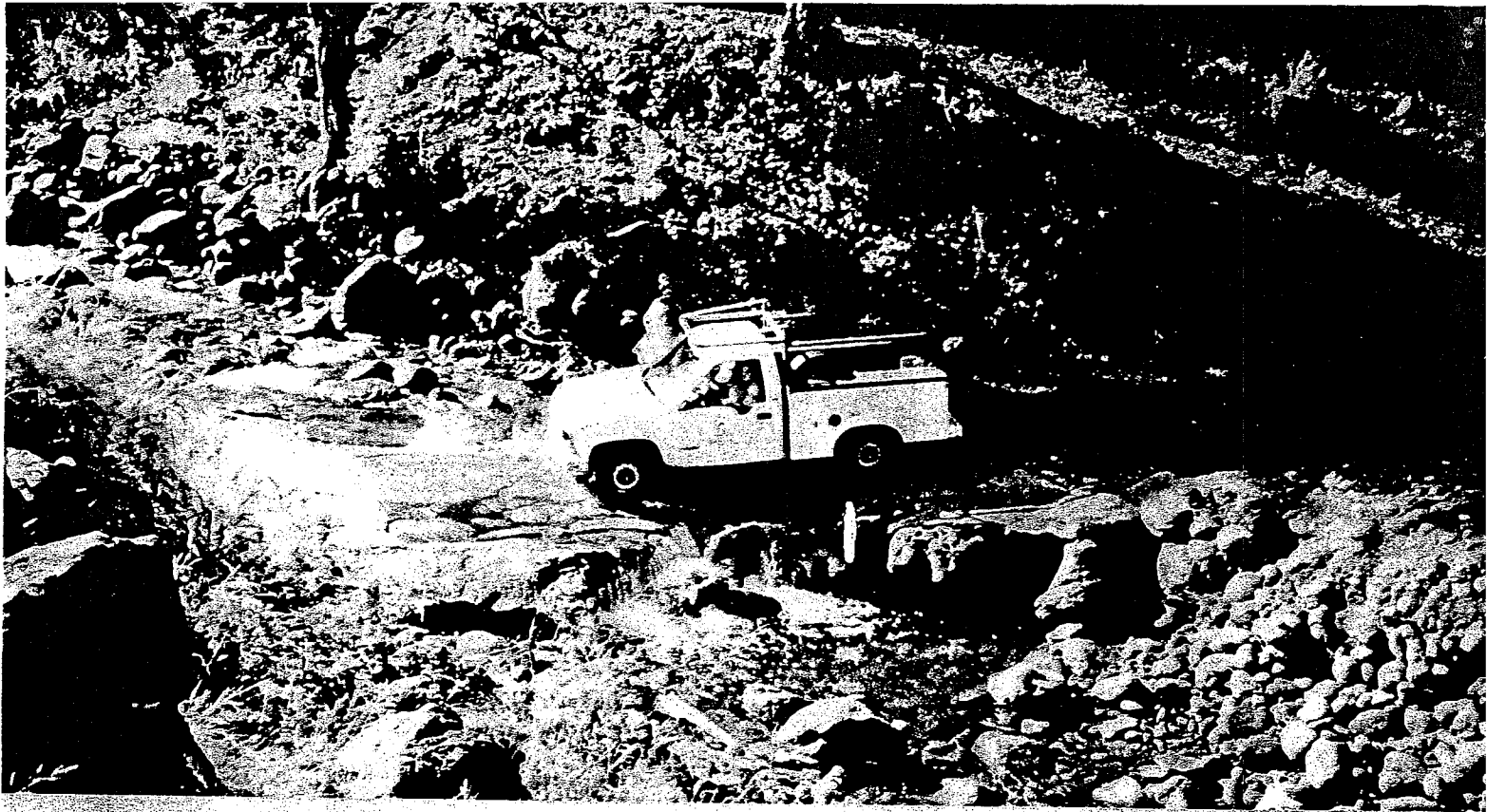




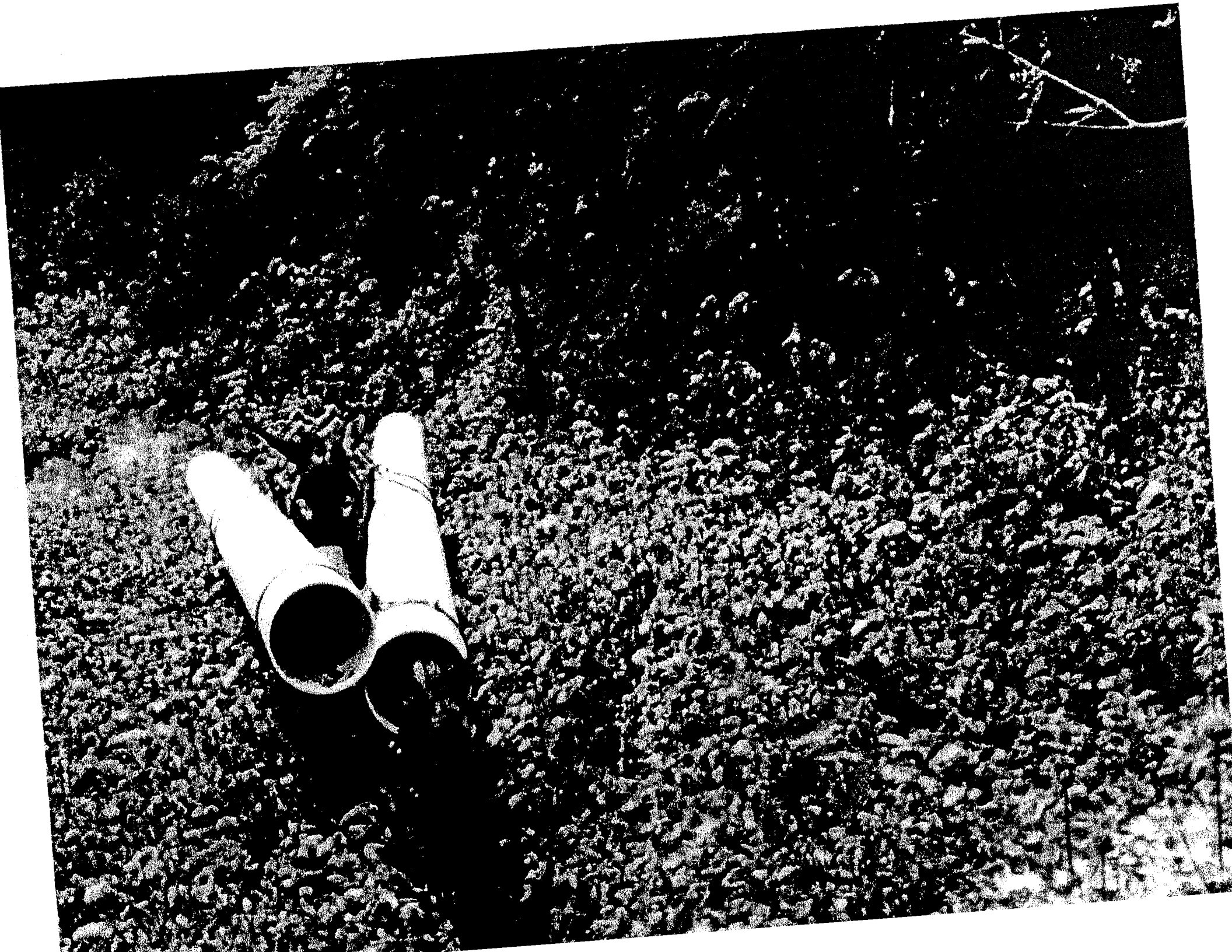


UAC









ALAN M. ARAKAWA
Mayor



GEORGE Y. TENGAN
Director

RECEIVED
ERIC H. YAMASHIGE, P.E., L.S.
Deputy Director

RECEIVED

2006 APR 27 AM 9:26

OFFICE OF THE MAYOR

DEPARTMENT OF WATER SUPPLY

COUNTY OF MAUI

200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793-2155
www.mauewater.org

06 APR 27 P2:32

OFFICE OF THE
COUNTY COUNCIL

April 27, 2006

Honorable Alan M. Arakawa
Mayor, County of Maui
Wailuku, Hawaii 96793

For transmittal to:

Honorable Jo Anne Johnson
Councilmember, West Maui
Maui County Council
Wailuku, Hawaii 96793

APPROVED FOR TRANSMISSION

holding *[Signature]* 4/27/06
Keith A. Regan

Dear Councilmember Johnson:

Subject: Hans Michel
TMK: (2) 4-6-017: 001, Lahaina
Repair of Damages

Thank you for the opportunity to comment on the damages at the Hans Michel property, and the Council's proposed \$150,000 claim to initiate repairs. The department relies on access through the Michel property to access the Kanaha Valley Intake, Wells and Tank for maintenance and operation.

During heavy rains, landslides in the valley above the intake sometimes occur. This blocks the intake, restricts water from reaching the Lahaina Water Treatment Plant, and requires a large excavator to walk up the valley to clear the intake. We experienced this condition a couple years ago.

Mr. Michel identifies two areas of concern: (1) A stream ford used to access the Michael property was damaged when the excavator walked across it, and (2) a dry stack rock retaining wall constructed by Mr. Michel was damaged when the excavator traveled too close to the wall.

The department is reviewing remedies, however, due to limited funds are not able to finance these remedies. Thank you for the Council's assistance to fund these remedies. Please contact us if you have any questions or require further clarification.

Sincerely,

[Signature]
GEORGE Y. TENGAN, Director

"By Water All Things Find Life"