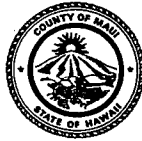


Council Chair  
G. Riki Hokama

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/](http://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,

A handwritten signature in black ink, appearing to read "Jo Anne Johnson".  
JO ANNE JOHNSON  
Council Member

Attachments  
jaj:daw

COUNTY COMMUNICATION NO. 06-160

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

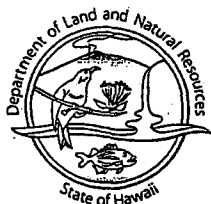
October 14, 2005

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,

A handwritten signature in black ink, appearing to read "Daniel Ornellas".

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—

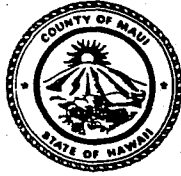
June	30.04	\$ 651.45
Sept.	3.04	324.80
Oct.	5.04	37.50
Nov.	11.04	247.30
Dec.	10.04	170.73
		<u>\$ 1,431.78</u>

—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, 10<sup>th</sup> 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 Pensen concerning the Valley Kuleana Family Land. T. M. K 4-6-17-1.

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

Our contract agreement can be found at Water Department main office, with Jeff Pensen. 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 I 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:

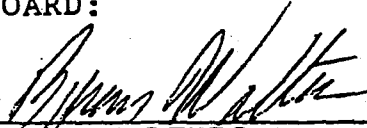
The Board shall pay FORTY THOUSAND AND NO/100 DOLLARS (\$40,000.00) to the Owner for the materials, equipment and labor the Owner had expended for various maintenance and improvements performed which benefits the Board.

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.

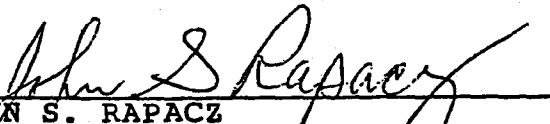
17. Damage or Injury from Landslide or Earthquake and Falling Rocks:

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 1109**  
**WAILUKU, MAUI, HAWAII 96793-7109**

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,

A handwritten signature in dark ink, appearing to read "David Craddick", is written over the word "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

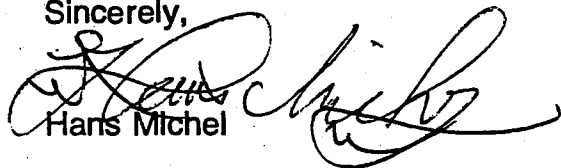
Re: Access for Kanaha Intake Repair through TMK 4-6-17:1

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.

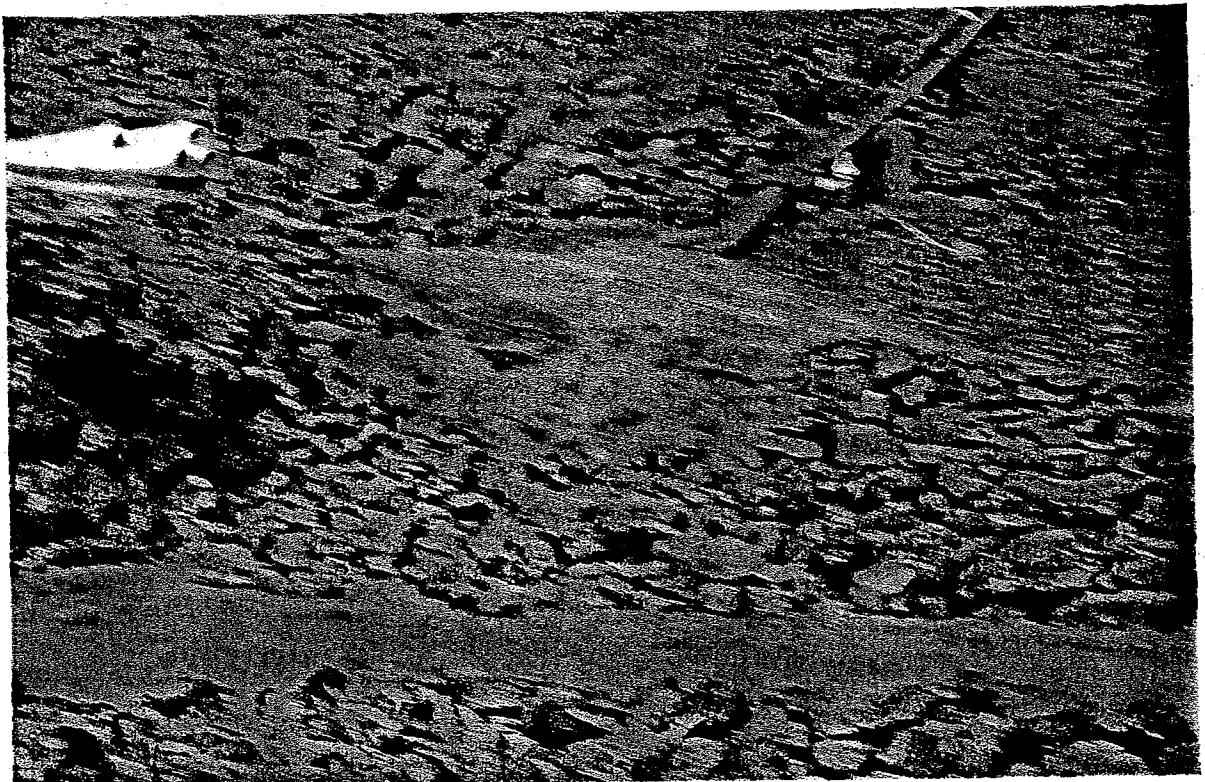
Operating Impact Meet requirements necessary to maintain Kanaha Valley Intake in good condition.

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  
is the correct amount



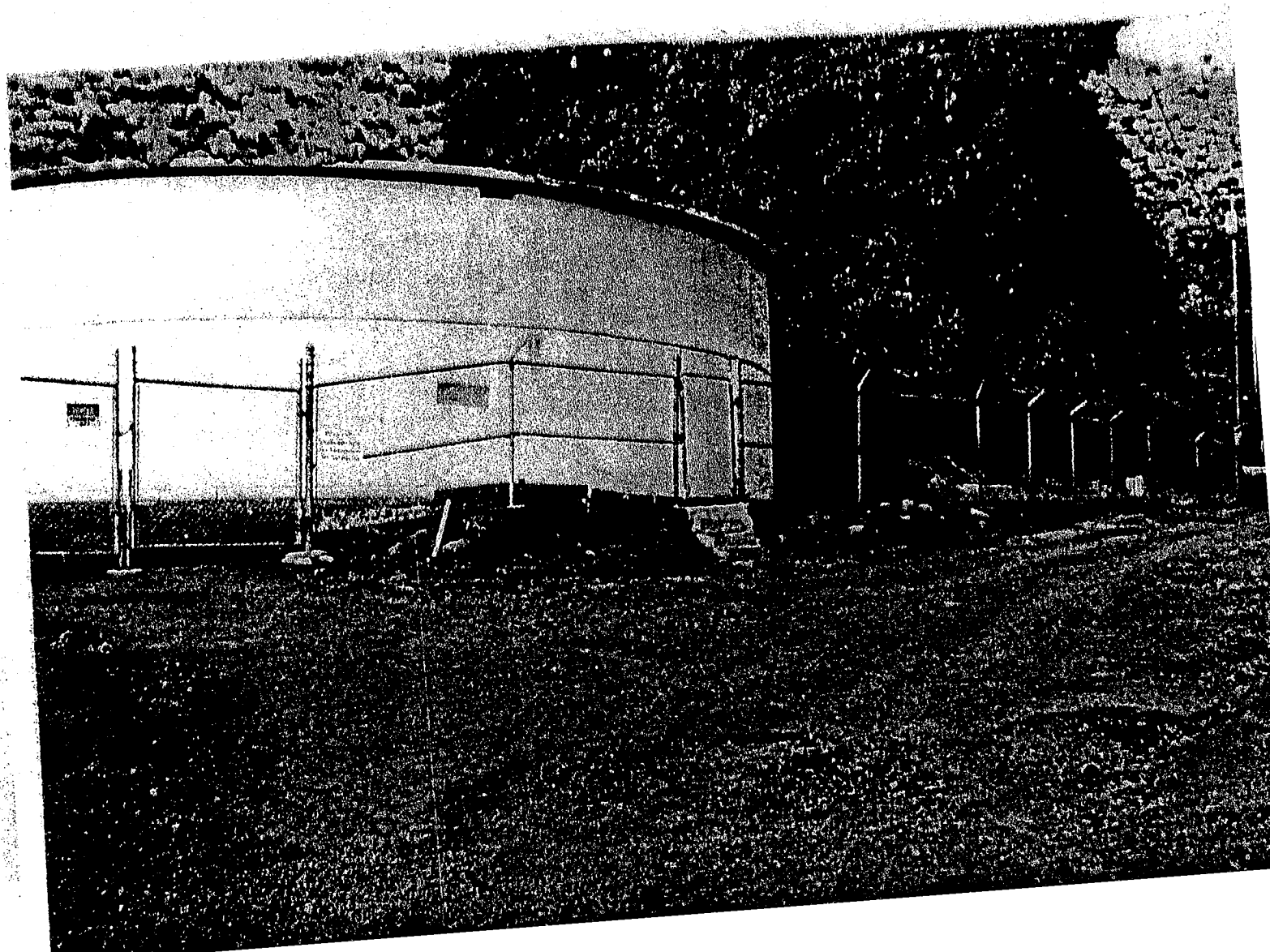








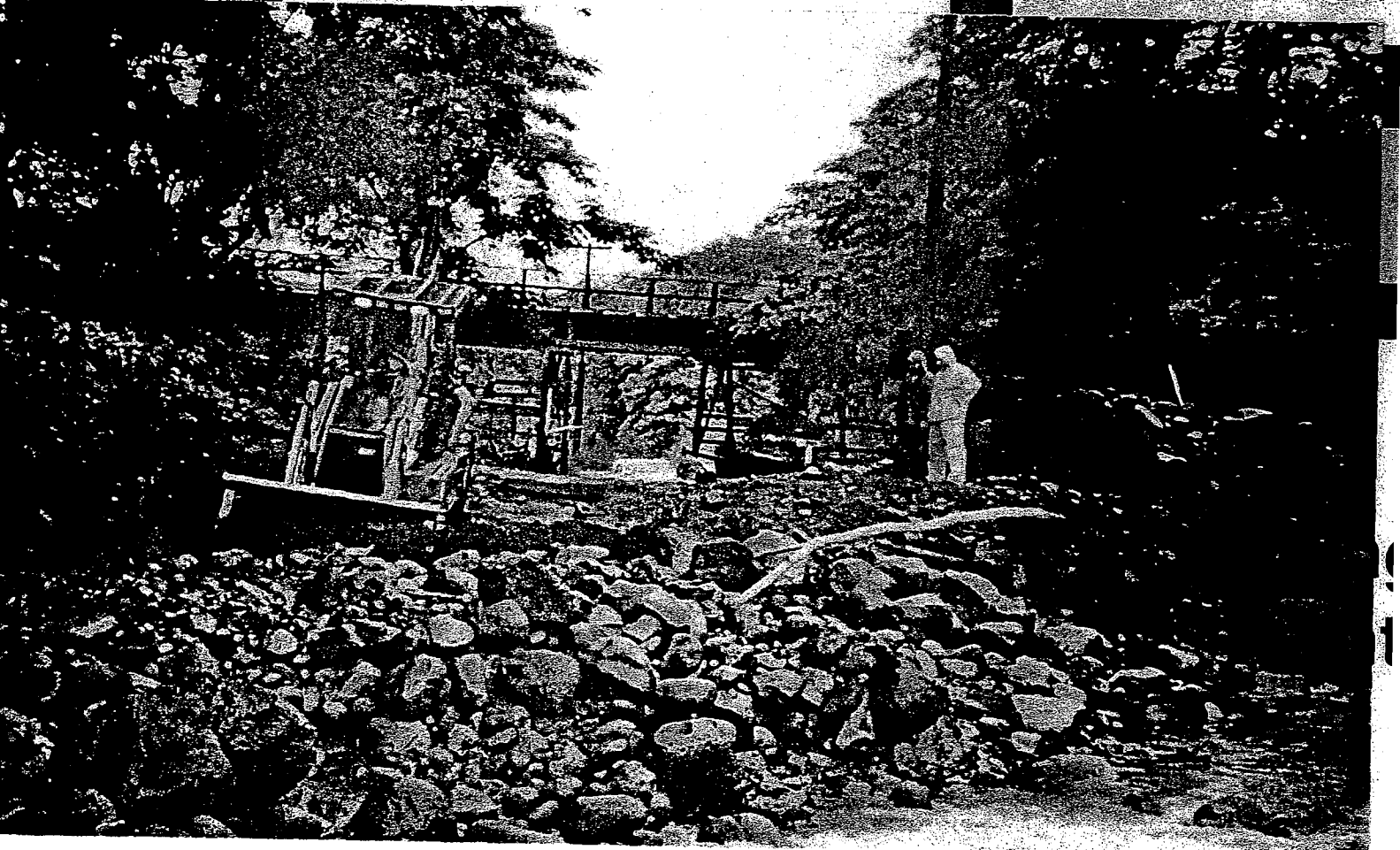


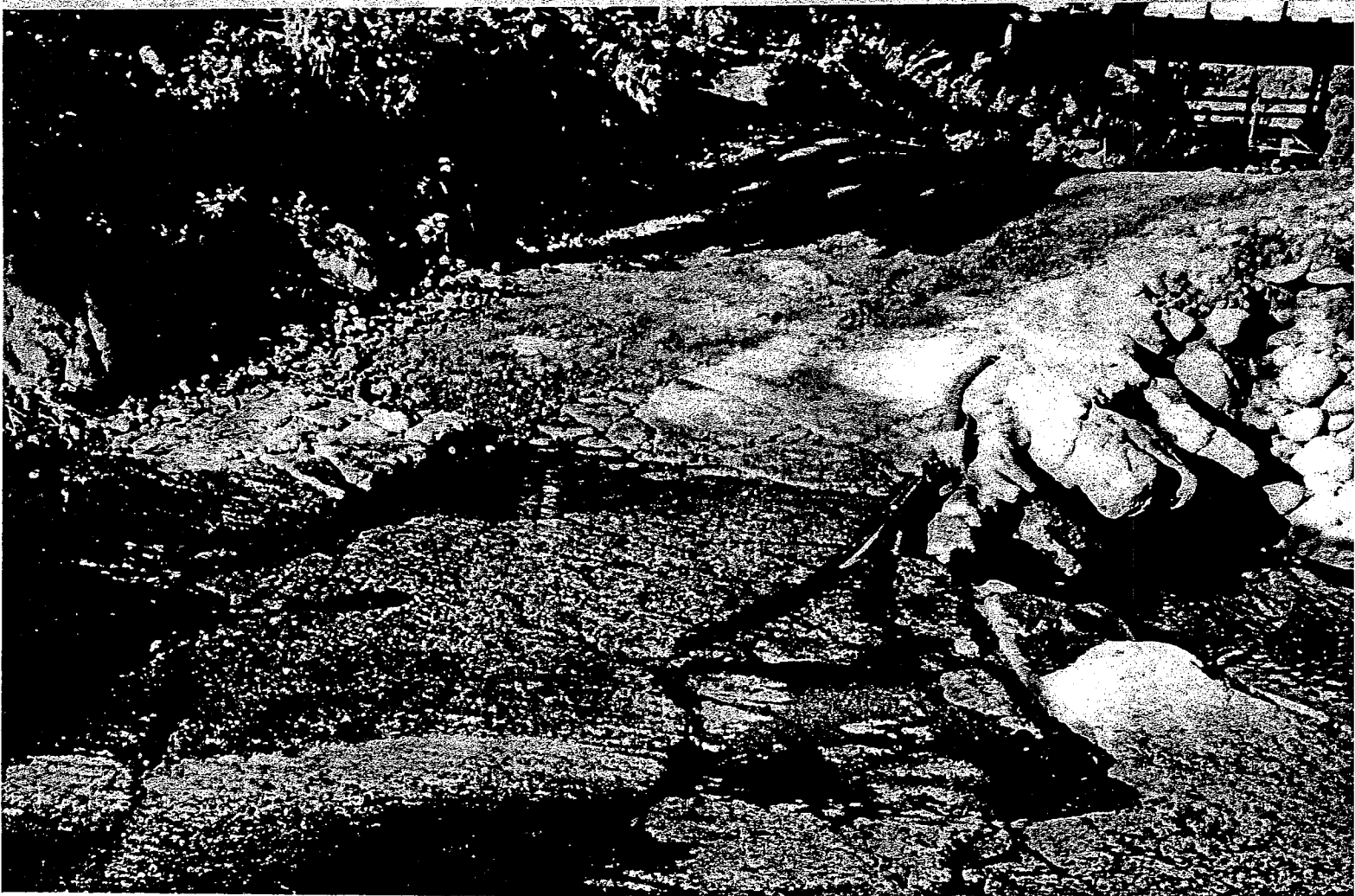
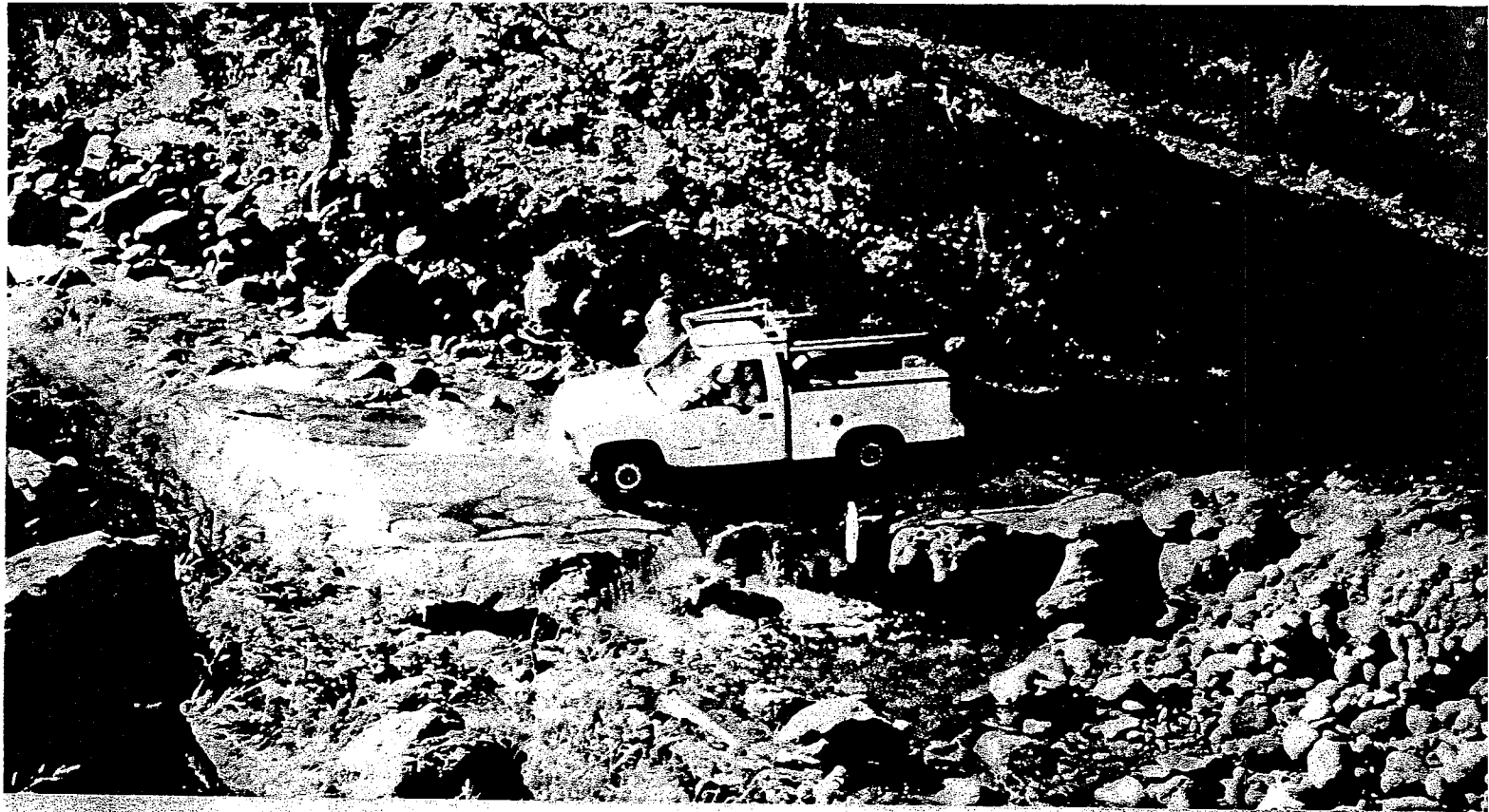




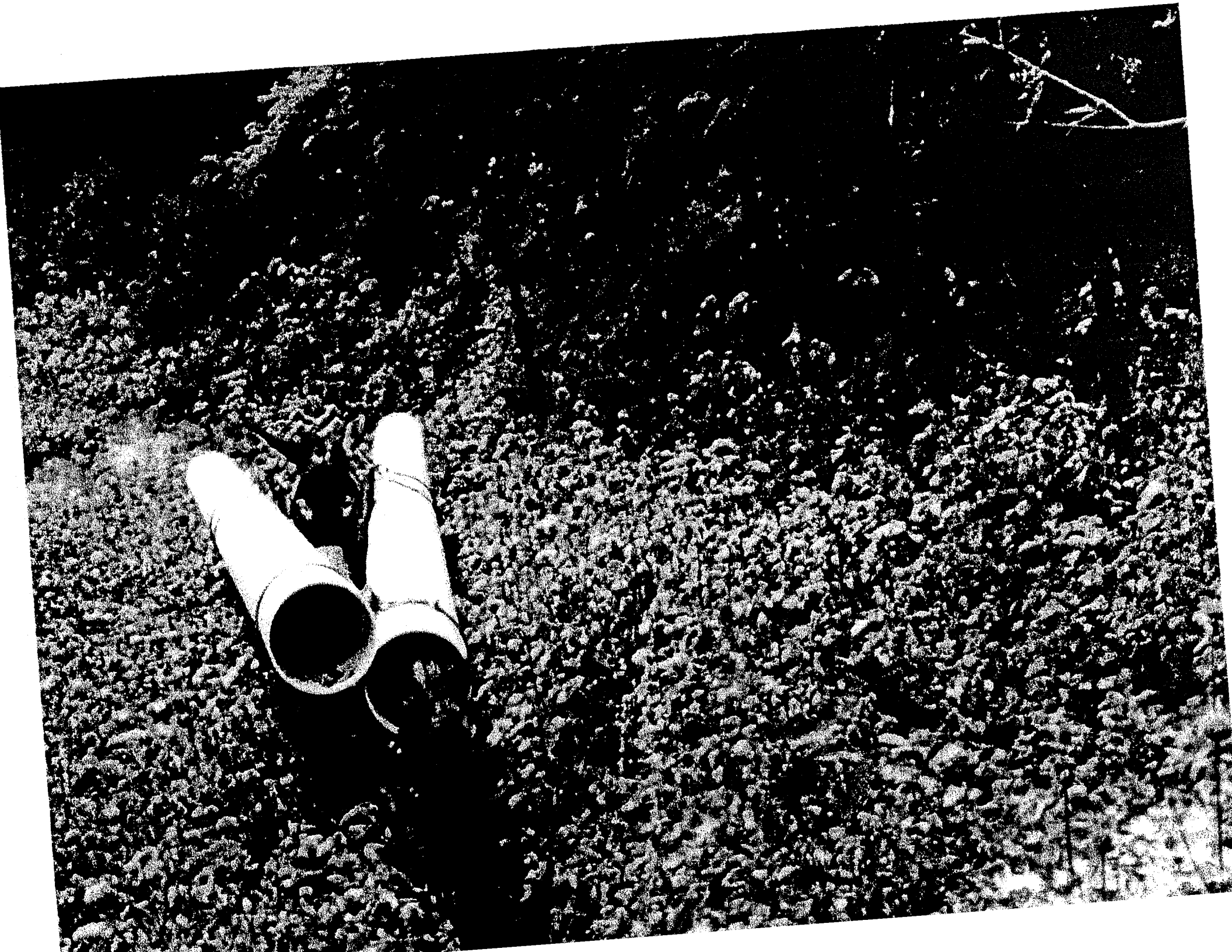


UAC









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  
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,

GEORGE Y. TENGAN, Director

"By Water All Things Find Life"

