



**GREEN SEIFTER**  
ATTORNEYS, PLLC

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December 17, 2007

MICHAEL I. BALANOFF  
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KEVIN R. MCAULIFFE  
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STEVEN A. PAQUETTE  
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THOMAS E. TAYLOR  
JOHN L. VALENTINO  
ROBERT K. WEILER  
HARRISON V. WILLIAMS, JR.  
KIMBERLY M. ZIMMER

**PERSONAL & CONFIDENTIAL**

Ms. Joan Roth  
394 North Plain Road  
Housatonic, MA 01236

Ms. Philippe R. Schwimmer  
3109 East Lake Road  
Skaneateles, New York 13052

Mrs. Lois Roth  
5315 Poster Lane  
Fayetteville, New York 13066

Mr. Jeremy Schwimmer  
Roth Steel Corporation  
800 West Hiawatha Boulevard  
Syracuse, New York 13204

OF COUNSEL:

JAMES F. DWYER  
EDWARD S. GREEN  
GARY J. LAVINE  
SIDNEY L. MANES

Re: **Hogs Back Road, Town of Hastings, Oswego County, New York  
CNY Car Crushers, Inc.**

Dear Board Members:

I am enclosing a binder containing relevant information from our file regarding the above-referenced property. This letter provides you with some additional background information not found in the enclosed documents.

CNY Car Crushers, Inc. is a New York business corporation that is wholly owned by Roth Steel Corporation. For tax purposes, CNY Car Crushers is a "qualified subchapter S subsidiary" of Roth Steel Corporation, which is itself a qualified subchapter S subsidiary of El Roh Realty Corporation.

CNY Car Crushers, Inc. owns two parcels of property in the Town of Hastings in Oswego County, New York. The first, comprising 23.26 acres, contains a large berm of shredder residue. We have always thought that the other parcel (about 10 acres) was free of any shredder residue. However, in discussing the Hastings property with George Stanton yesterday, George mentioned that he had seen a DEC internal memorandum referencing the Hastings properties. I asked George to fax it over, and enclose it for your consideration. Please note that at the bottom of that memorandum (which concerns the Fortino site), the last paragraphs seem to indicate DEC's belief, back in 1990, that both the Hastings parcels may contain shredder residue. This is the first we have heard of this.

ANN M. ALEXANDER  
IASON B. BAILEY  
DAVID G. BURCH  
JASON J. CENTOLELLA  
ANTHONY J. D'ELIA  
CHRISTINE W. DETTOR  
KATHLEEN M. FAULKHAM  
PAUL F. FOLEY  
KIM V. HEYMAN  
DAFNI S. KIRITSIS  
LAWRENCE M. ORDWAY, JR.

ROBERT D. MCAULIFFE  
1993-1995

DAVID A. YAFFEE  
1986-2004

ALSO ADMITTED TO IL BAR  
ALSO ADMITTED TO NC BAR  
ALSO ADMITTED TO DC BAR  
ALSO ADMITTED TO FL BAR  
ALSO ADMITTED TO MA BAR  
ALSO ADMITTED TO PA BAR  
ALSO CERTIFIED PUBLIC ACCOUNTANT  
NOT FOR SERVICE OF PROCESS

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Board of Directors  
December 12, 2007  
Page 2

In any event, there has been no DEC activity with respect to the Hastings parcels. However, back in 2002, at the request of Lewis and Seymour, some sampling of the fluff pile on the 23 acre parcel was conducted. The consultant's proposal and test results, together with a memorandum from Richard Brickwedde (formerly of this firm) are included with the enclosed materials. The enclosed materials also contain color photos (for those of you receiving this correspondence via e-mail, the color photos are attached to the e-mail).

We would be available to discuss these materials with you in a confidential, privileged conference call at your convenience. If the Board wishes to do so, please let me know.

Very truly yours,

GREEN & SEIFTER, ATTORNEYS, PLLC



Philip S. Bousquet

PSB/klm  
Enclosures  
620882\_1.DOC/R0139L.066

cc: William S. Helmer, Esq.  
Paul F. Foley, Esq.

# Environmental Binder Hastings Properties

1. Proposal from InteGreyted Consultants October 3, 2002
2. InteGreyted Consultants Report dated October 30, 2002
3. Correspondence dated October 31, 2002, from Richard J. Brickwedde to W.Z. Baumgartner & Associates, Inc.
4. Photographs/Drawings

1. Proposal from InteGreyted Consultants October 3, 2002

# **InteGreyted** consultants

104 Jamesville Road, Syracuse, New York 13214

Ph. (315) 445-0224

Fax (315) 445-0793

Email: jblasting@integreyted.com

**CONFIDENTIAL. ATTORNEY WORK PRODUCT.**

**TRANSMITTAL MEMO**

**Name of Document: Proposal for Materials Sampling  
Method of Transmittal: fax (423-2877) and US Mail**

**TO:** Sidney Manes, Esq., Green & Seifter, PLLC  
**FROM:** Jim Blasting  
**RE:** Proposal  
**DATE:** 3 October 2002

OCT 3

Dear Mr. Manes-

Here is the proposal you requested. We look forward to your favorable response and hope to work with you again soon. Please call me if you have any questions. Thank you for your confidence in InteGreyted.

Jim Blasting

**PLEASE CALL (315) 445-0224 IF YOU DO NOT RECEIVE THIS TRANSMITTAL IN ITS ENTIRETY.**

# InteGreyted

consultants

104 Jamesville Road, Syracuse, New York 113214

Phone (315) 445-0224

Fax (315) 445-0793

## CONFIDENTIAL. ATTORNEY COMMUNICATION PROPOSAL FOR EHS SERVICES

<b>Date:</b>	3 October 2002
<b>Project Name:</b>	Material Sampling and Evaluation
<b>Location:</b>	Oswego County, New York
<b>Client Name:</b>	Green & Seifter, PLLC
<b>Client Contact:</b>	Sidney Manes, Esq.
<b>InteGreyted Contact:</b>	Jim Blasting
<b>InteGreyted Proposal No.</b>	0210003

### *Description of Services*

Per your request, InteGreyted Consultants, LLC (InteGreyted) will evaluate site conditions, collect and analyze samples, and provide recommendations regarding the presence of fill material at the subject site. We assume that the site is located in Oswego County, within approximately thirty miles of Syracuse. A small amount of waste material is reported to be present at the site. It is our assumption that the total disposal depth does not exceed three feet and total volume of waste does not exceed ten cubic yards (cy).

The goal of the project is to determine the nature and extent of fill material, estimate if the fill has affected the quality of adjacent soil, and determine the best method of addressing site conditions.

To that end, InteGreyted will perform the following tasks (including a one-day site visit):

- Estimate the vertical and horizontal extent of the fill material;
- Collect one composite sample of fill material and three composite samples of soil (collected from under and around the fill);
- Analyze the four samples for eight RCRA metals and PCBs;
- Evaluate field and analytical results and recommend follow-up action alternatives, including the associated cost of any recommended action.

This proposal assumes that an accurate map will be provided showing the exact location of the property and the exact location of the waste material on the property. InteGreyted will have flexibility in scheduling the site visit. Unlimited access to the subject property is assumed.

All work will be held highly confidential.

3 October 2002  
Green & Seifter, PLLC  
InteGreyted Proposal No. 0210003  
Page 2 of 2



**Project Schedule**

This project will be completed within three weeks of authorization to proceed, assuming unlimited access to the site. This allows for a one-week turnaround on sample analyses and preparation of a short report.

**Cost and Business Terms**

InteGreyted will complete this project on a lump sum basis for \$1,600.00. Applicable taxes, if any, are not included and are the client's responsibility. One invoice will be issued upon project completion, with payment due upon receipt of invoice. InteGreyted's General Terms and Conditions dated April 1998 (previously provided to Green & Seifter) will apply to this and subsequent proposals. This proposal is valid for 45 days.

If you find this proposal acceptable, please authorize this assignment by signing below and return fax to the undersigned at (315) 445-0793.

Signatures:

Jamie F. Blount  
InteGreyted Consultants, LLC

10/3/02  
Date

Allegra A. Blount  
Green & Seifter, PLLC  
Bus Manager

10/15/02  
Date

2. InteGreyted Consultants Report dated October 30, 2002



# InteGreyted consultants

104 Jamesville Road, Syracuse, New York 13214

Ph. (315) 445-0224

Fax (315) 445-0793

**CONFIDENTIAL. ATTORNEY-CLIENT PRIVILEGED**

## **TRANSMITTAL MEMORANDUM**

**TO:** Richard Brickwedde, Esq.

**FROM:** Mark J. Schumacher

**RE:** Hastings Site

**DATE:** 30 October 2002

Dear Dick

On 17 October 2002, InteGreyted met with George Stanton (Roth Steel) at the subject site and inspected the site. Following the inspection InteGreyted collected 6 samples of "fluff" material from various locations across the fill area. Representative samples were collected from a depth of between 3 feet and 5 feet below grade and/or into the fill at each location. The samples were analyzed for RCRA metals and PCBs.

Results of the sampling have been previously provided for review. Photographs showing the site and sampling locations are attached along with a map showing approximate limits of the fill material. Based on the inspection it is estimated that the fill pile is between 10 feet and 15 feet deep in locations and extends along the side of a hillside located behind residences. The exact boundaries of the fill material are unknown at this time and mixing with sand overburden may have occurred along the limits of the fill. Homes in the area are located within approximately 100 feet to 150 feet to the north and between 200 feet and 300 feet to the east.

Preliminary volume estimates indicate that between 3,500 and 5,000 cubic yards of fill, or more, may be present at the site.

If you have any questions please feel free to call Jim Blasting or myself at any time.

Thanks



Attachments

\_\_\_\_\_

TABLE 1  
Soil Sample Analytical Results  
Sample Collection Date: 10/17/02  
Hastings, NY

CONFIDENTIAL  
DRAFT  
ATTORNEY-CLIENT PRIVILEGE

ANALYTE	Soil Cleanup Objective (ppm)	SAMPLE ID					
		HASTINGS S-1	HASTINGS S-2	HASTINGS S-3	HASTINGS S-4	HASTINGS S-5	HASTINGS S-6
Metals							
Arsenic	7.5 or SB	15.3	12.5	4.4	6.4	9.9	8.9
Barium	300 or SB	1010	1080	715	1480	427	1440
Cadmium	1 or SB *	187	371	176	147	17.6	110
Chromium	10 or SB *	261	2610	206	303	104	176
Lead	**	2260	5450	2950	4440	1410	6580
Mercury	0.1	22.2	25.9	18.4	23.6	23.4	19.4
Selenium	2 or SB	64.6	10.3	18.2	11.9	9.5	11.9
Silver	SB	45.8	115	102	31.1	1.10	14.9
PCBs	1 / 10	57	700	30	62	31	43

Notes:

All concentrations are in parts per million (ppm).

Recommended cleanup objective as indicated by NYSDEC in Memorandum dated 4 September 2001, regarding determination of soil cleanup objectives.

NOTE: Recommended cleanup objective for PCBs is 1.0 ppm for surface soils (0 - 0.5 foot) and 10 ppm for subsurface soils (below 0.5 foot).

\*: NYSDEC technology section recommends values for Cadmium and Chromium of 10 ppm and 50 ppm, respectively.

\*\* : Background levels for lead vary widely. Average levels in undeveloped, rural areas may range from 4 - 61 ppm. Average background levels in metropolitan or suburban areas or near highways are much higher and typically range from 200 to 500 ppm.

The USEPA's Lead Guidance (40 CFR Part 745, Identification of Dangerous Levels of Lead; Final Rule, 5 January 2001) established a residential standard of 400 ppm for bare soils in play areas and 1,200 ppm in bare soils in non-play areas.

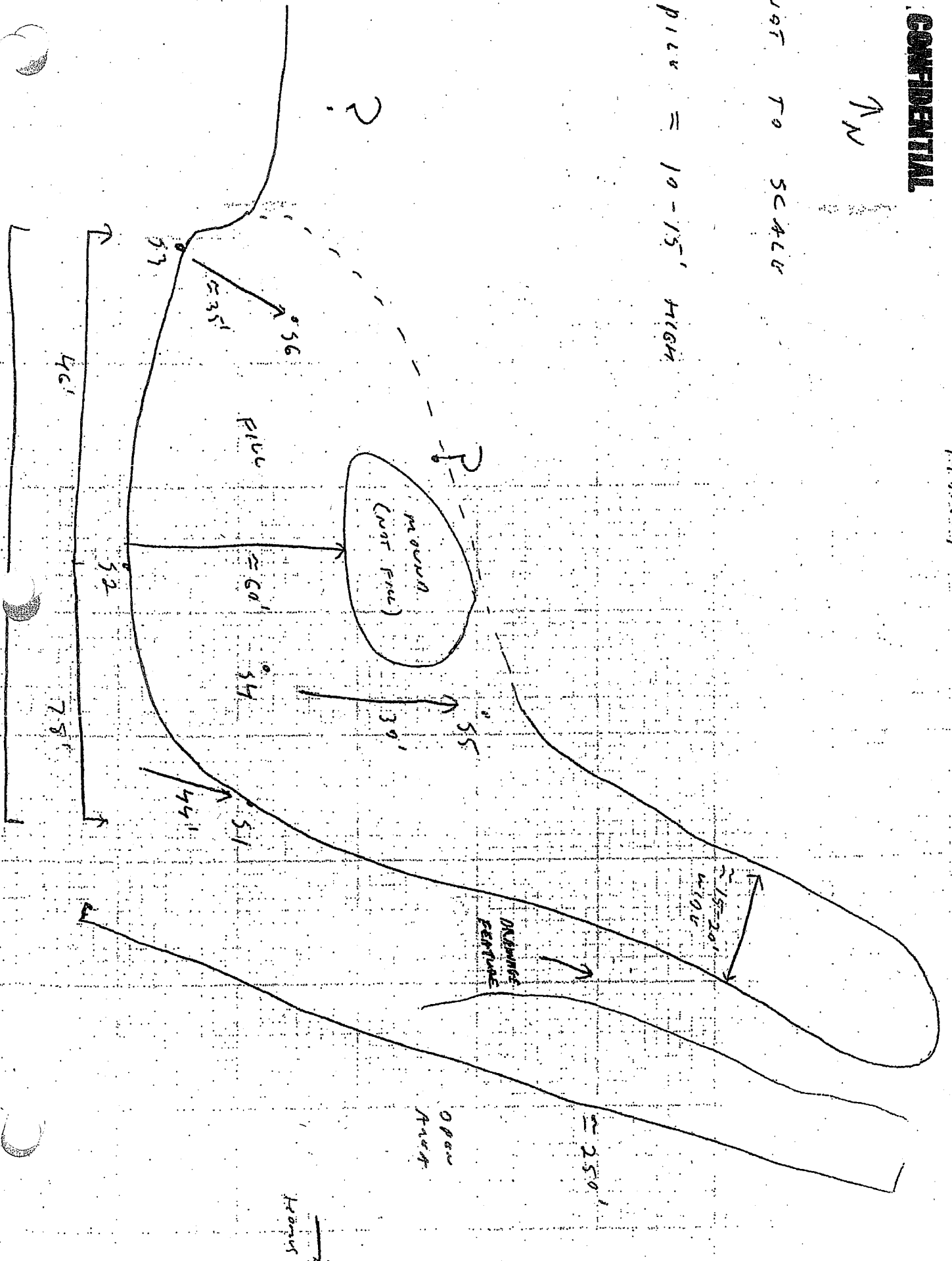
**CONFIDENTIAL**

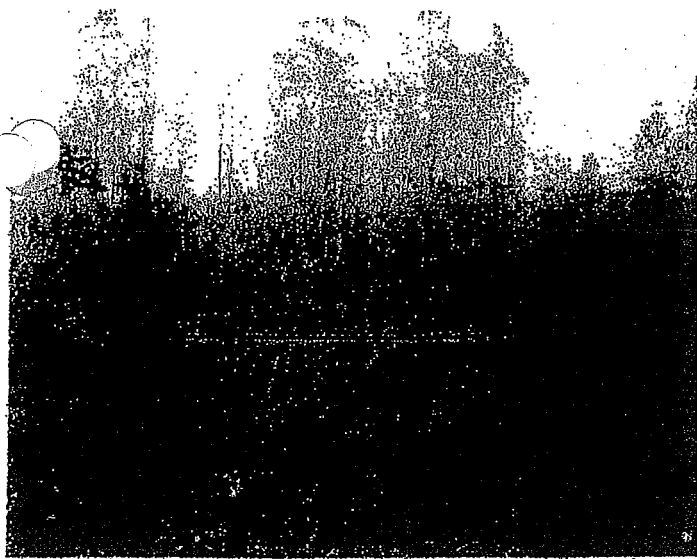
H. 10/10/55

N

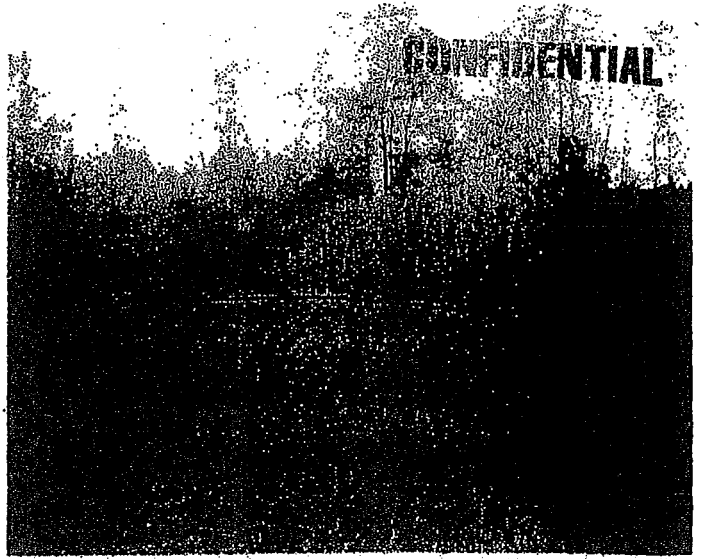
NOT TO SCALE

PILE = 10-15' HIGH

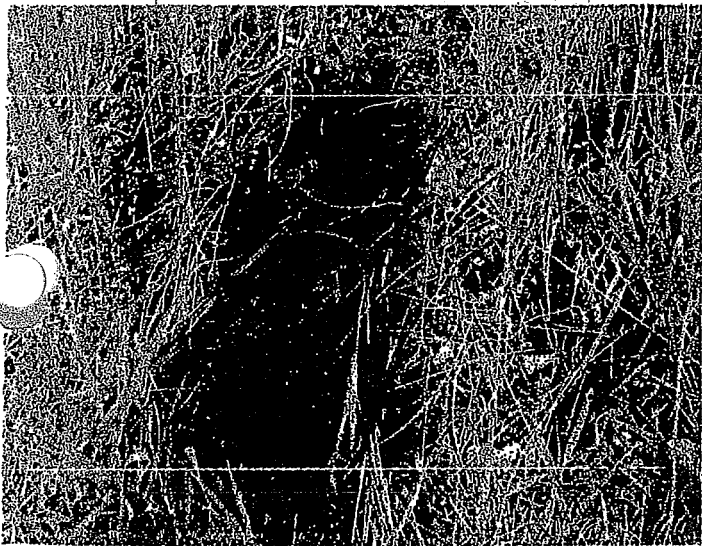




VIEW N TO FILL AREA



VIEW NW TO SW CORNER OF FILL



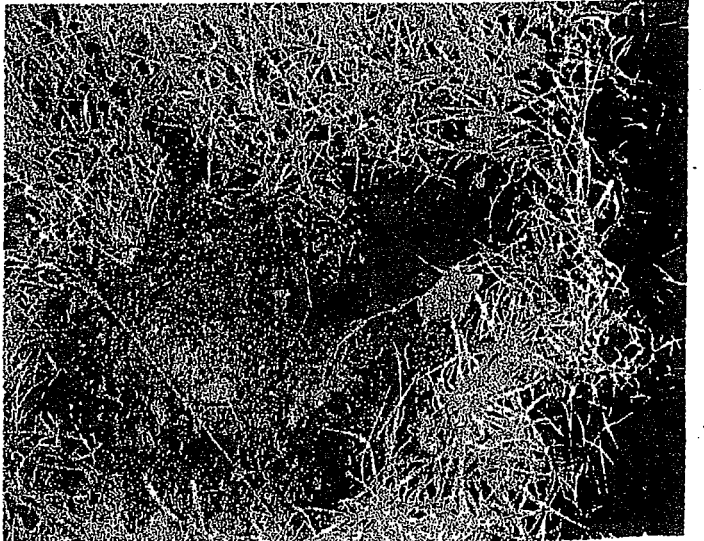
SAMPLE LOCATION S2



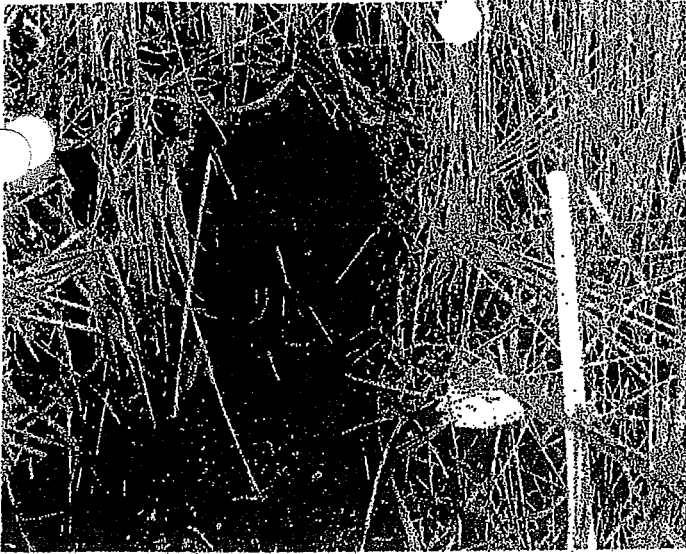
SAMPLE LOCATION S3



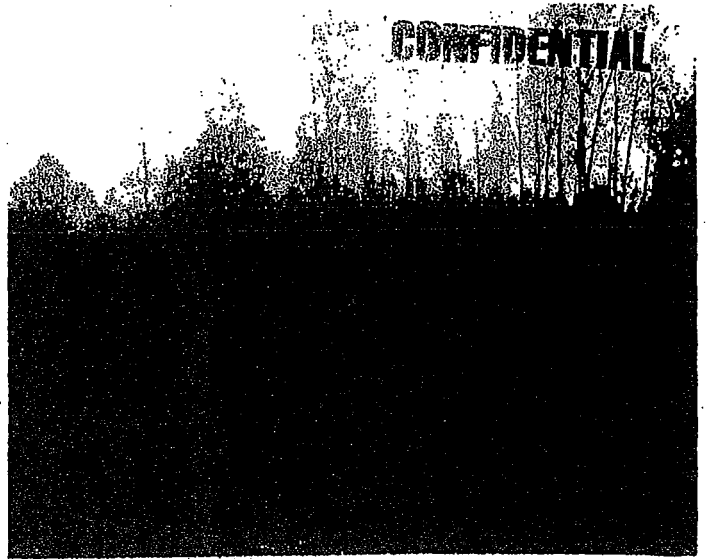
SAMPLE LOCATION S4 ON TOP OF FILL. NOTE HOMO?



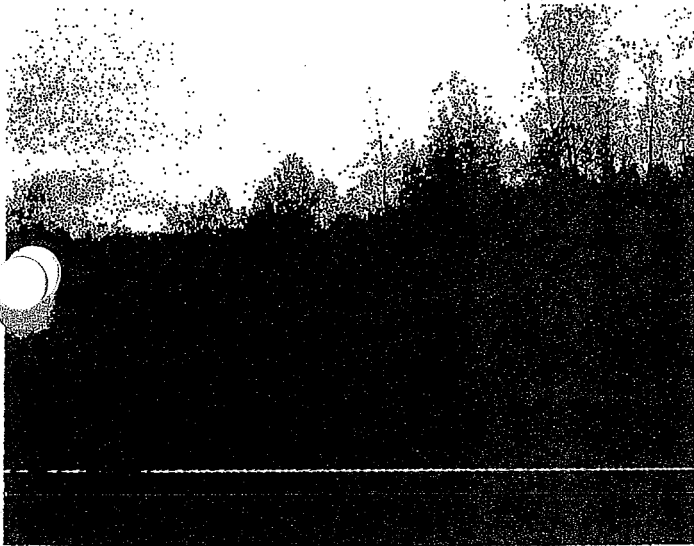
SAMPLE LOCATION S5 ON TOP OF FILL, NO AREA



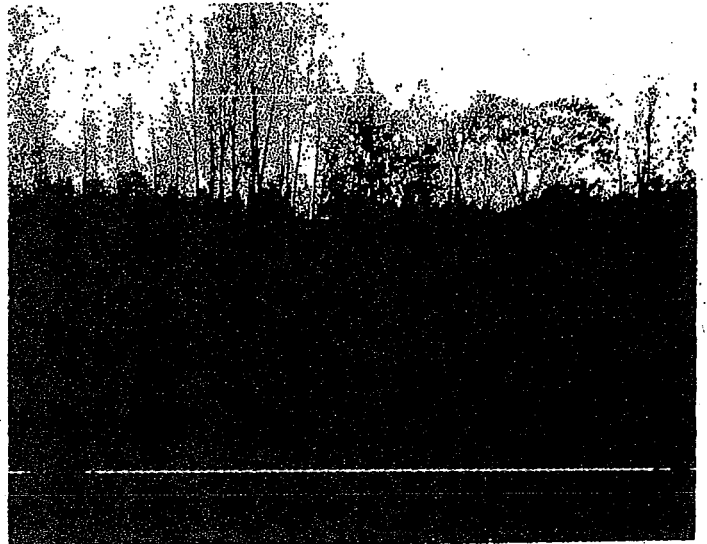
SAMPLE LOCATION S1 AT BASE  
OF FILL PILE (SE AREA)



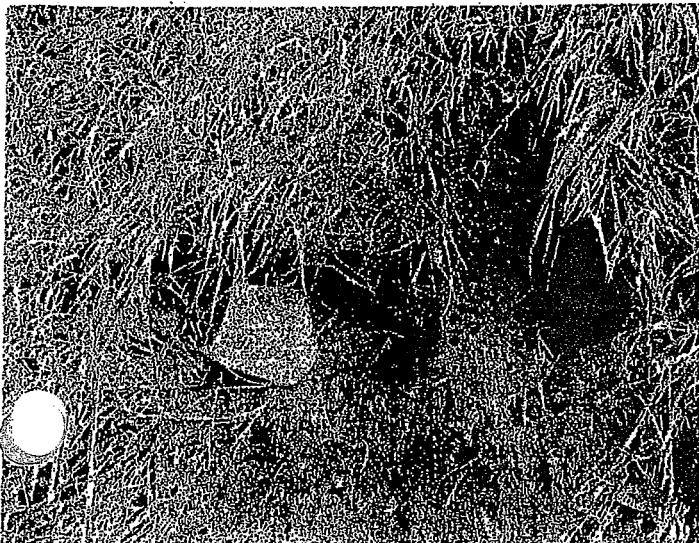
VIEW NW TO FILL PILE,  
S1 LOCATION NOTED



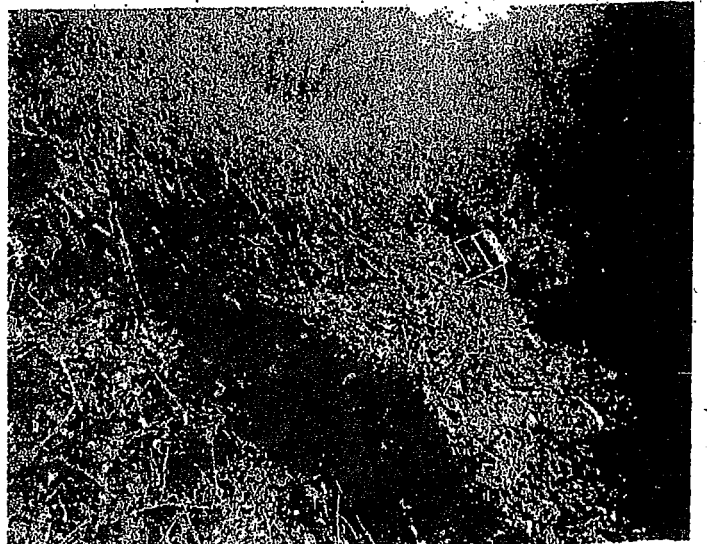
VIEW W ALONG S EDGE  
OF FILL PILE



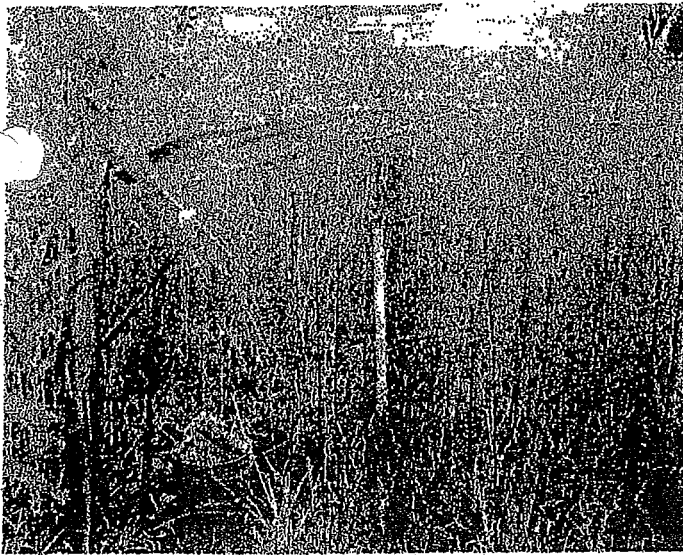
VIEW N TO SE CORNER OF  
FILL, SAMPLE LOCATION S2  
NOTED AT BASE OF FILL.



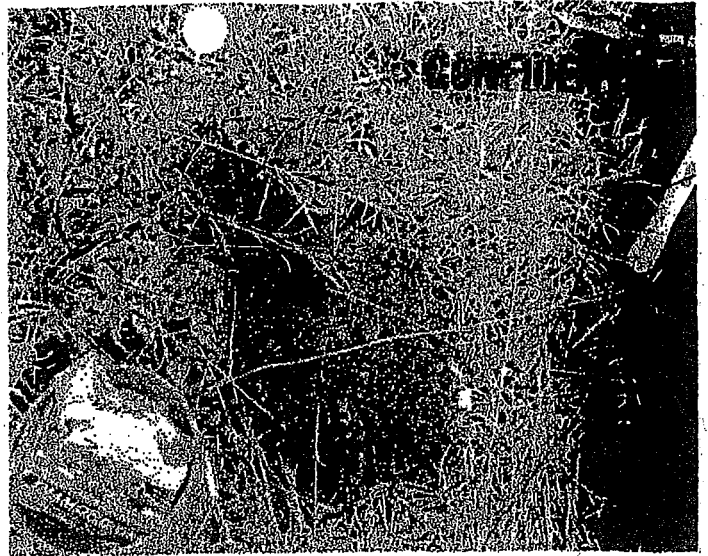
ALONG E EDGE OF FILL  
AT BASE



FILL EXPOSURE ALONG E EDGE  
OF FILL PILE



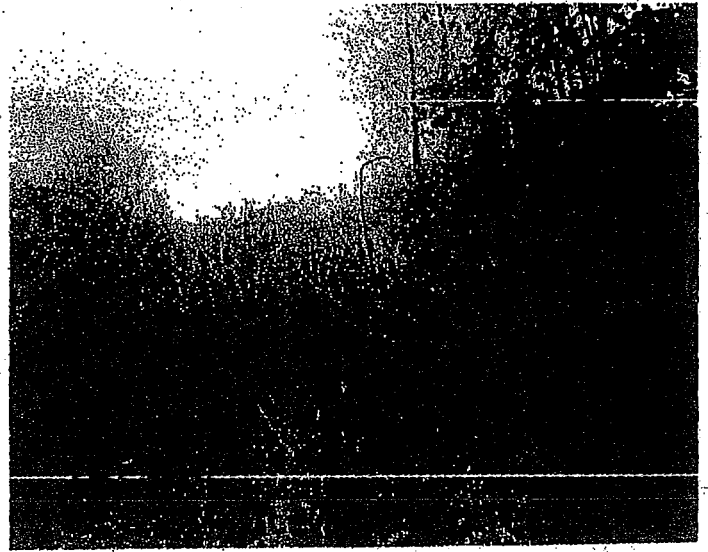
SAMPLE LOCATION 55 ON  
TOP OF FILL. NOTE HOMUS  
TO N.



SAMPLE LOCATION 56 ON  
TOP OF FILL.



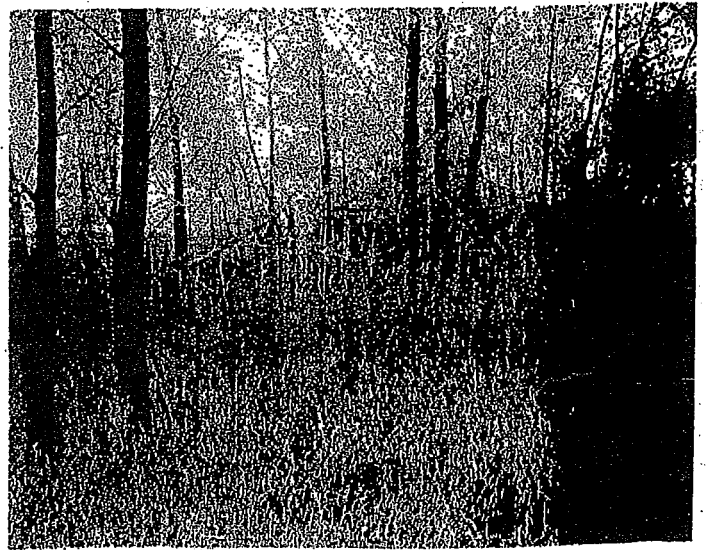
VIEW N ALONG E EDGE OF  
FILL.



VIEW S ALONG E EDGE  
OF FILL.



VIEW W ACROSS TOP OF  
FILL, W SIDE



VIEW S ACROSS TOP OF  
FILL.

3. Correspondence dated October 31, 2002, from Richard J. Brickwedde to W.Z. Baumgartner & Associates, Inc.



G R E E N  S E I F T E R

ATTORNEYS, PLLC

LEE ALCOTT  
MICHAEL J. BALANOFF  
SARAH LEWIS BELCHER  
LAURENCE G. BOUSQUET  
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DANIEL J. FRENCH  
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SHARON A. MCAULIFFE  
PAUL M. PREDMORE  
LOWELL A. SEIFTER ‡  
JOHN L. VALENTINO  
ROBERT K. WEILER

October 31, 2002  
**VIA FACSIMILE: 615-595-1595**  
Privileged & Confidential

ALBANY OFFICE  
DONALD T. KINSELLA  
MANAGING ATTORNEY  

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OF COUNSEL:  
EDWARD S. GREEN †  
SIDNEY L. MANES  
STEVEN A. PAQUETTE  
HARRISON V. WILLIAMS, JR.  
DAVID A. YAFFEE

ROBERT D. MCAULIFFE  
1993-1995  

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CHRISTINE WOODCOCK DETTOR  
MELINDA J. HARTNETT ††  
DAFNI S. KIRITSIS  
TIMOTHY M. LYNN

\* ALSO ADMITTED TO IL BAR  
\*\* ALSO ADMITTED TO D.C. BAR  
\*\*\* ALSO ADMITTED TO N.C. BAR  
† ALSO ADMITTED TO FL. & PA. BAR  
†† ALSO ADMITTED TO TX BAR  
‡ ALSO CERTIFIED PUBLIC ACCOUNTANT  
‡‡ NOT FOR SERVICE OF PROCESS

W.Z. Baumgartner & Associates, Inc.  
Attn: Mr. William Baumgartner  
PO Box 680369  
Franklin, TN 37068-0369

Re: Ancient Fluff Pile

Dear Bill:

I am faxing a table of sample results from materials that were tested on October 17, 2002, at property owned by a client in Hastings, Oswego County, New York.

While the metals exceed guidance values, certain of the individual PCB samples appear to be above the threshold for hazardous waste. These samples would not appear to represent an appropriate cross section of the pile and may not constitute a sufficient number of samples in any event. We would like to discuss with you your analysis of these samples. Samples were taken from a berm which curves and hooks and is about 150 feet by about 250 feet by about 60 to 70 feet and 12 to 15 feet high which is well vegetated. I am enclosing a sketch map and some photographs. Split samples were taken from these 6 points and could be made available to a lab of your choosing for analysis. Using hand equipment, it was only possible to penetrate 4 to 5 feet out of the 12 to 15 feet depth of the fluff.

The property is bounded on 2 sides by housing, all of which have their own water supplies. Homes are about 100 to 150 feet to the north and between 200 to 300 to the east. A housing subdivision appears to be going in on a third side. There appears to be bike trails and 4-wheel trails going over the pile in different places. Since the soil in the area is sandy, the heavy metals may be more of a concern than the PCBs. A rough volume estimate is there is between 3,500 and 5,000 cubic yards of fill placed there.





Mr. William Baumgartner  
October 31, 2002  
Page 2

I would appreciate your giving me a call to discuss this matter.

Very truly yours,

GREEN & SEIFTER, ATTORNEYS, PLLC

Richard J. Brickwedde

E-mail: rbrickwedde@greenseifter.com‡

Direct Fax: (315) 423-2868‡

‡ NOT FOR SERVICE OF PROCESS

RJB/ag  
Encls.

cc: Sidney L. Manes, Esq.

DB:236390.1/R0139L.00066

# InteGreyted consultants

104 Jamesville Road, Syracuse, New York 13214

Ph. (315) 445-0224

Fax (315) 445-0793

**CONFIDENTIAL. ATTORNEY-CLIENT PRIVILEGED**

## **TRANSMITTAL MEMORANDUM**

**TO:** Richard Brickwedde, Esq.

**FROM:** Mark J. Schumacher

**RE:** Hastings Site

**DATE:** 30 October 2002

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If you have any questions please feel free to call Jim Blasting or myself at any time.

Thanks



Attachments

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TABLE 1  
Soil Sample Analytical Results  
Sample Collection Date: 10/17/02  
Hastings, NY

CONFIDENTIAL  
DRAFT  
ATTORNEY-CLIENT PRIVILEGE

ANALYTE	Soil Cleanup Objective (ppm)	SAMPLE ID					
		HASTINGS S-1	HASTINGS S-2	HASTINGS S-3	HASTINGS S-4	HASTINGS S-5	HASTINGS S-6
Metals							
Arsenic	7.5 or SB	15.3	12.5	4.4	6.4	9.9	8.9
Barium	300 or SB	1010	1080	715	1480	427	1440
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Silver	SB	45.8	115	102	31.1	1.10	14.9
PCBs	1 / 10	(57)	(700)	(30)	(62)	(31)	(43)

Notes:

All concentrations are in parts per million (ppm).

Recommended cleanup objective as indicated by NYSDEC in Memorandum dated 4 September 2001, regarding determination of soil cleanup objectives.

NOTE: Recommended cleanup objective for PCBs is 1.0 ppm for surface soils (0 - 0.5 foot) and 10 ppm for subsurface soils (below 0.5 foot).

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The USEPA's Lead Guidance (40 CFR Part 745, Identification of Dangerous Levels of Lead; Final Rule, 5 January 2001) established a residential standard of 400 ppm for bare soils in play areas and 1,200 ppm in bare soils in non-play areas.

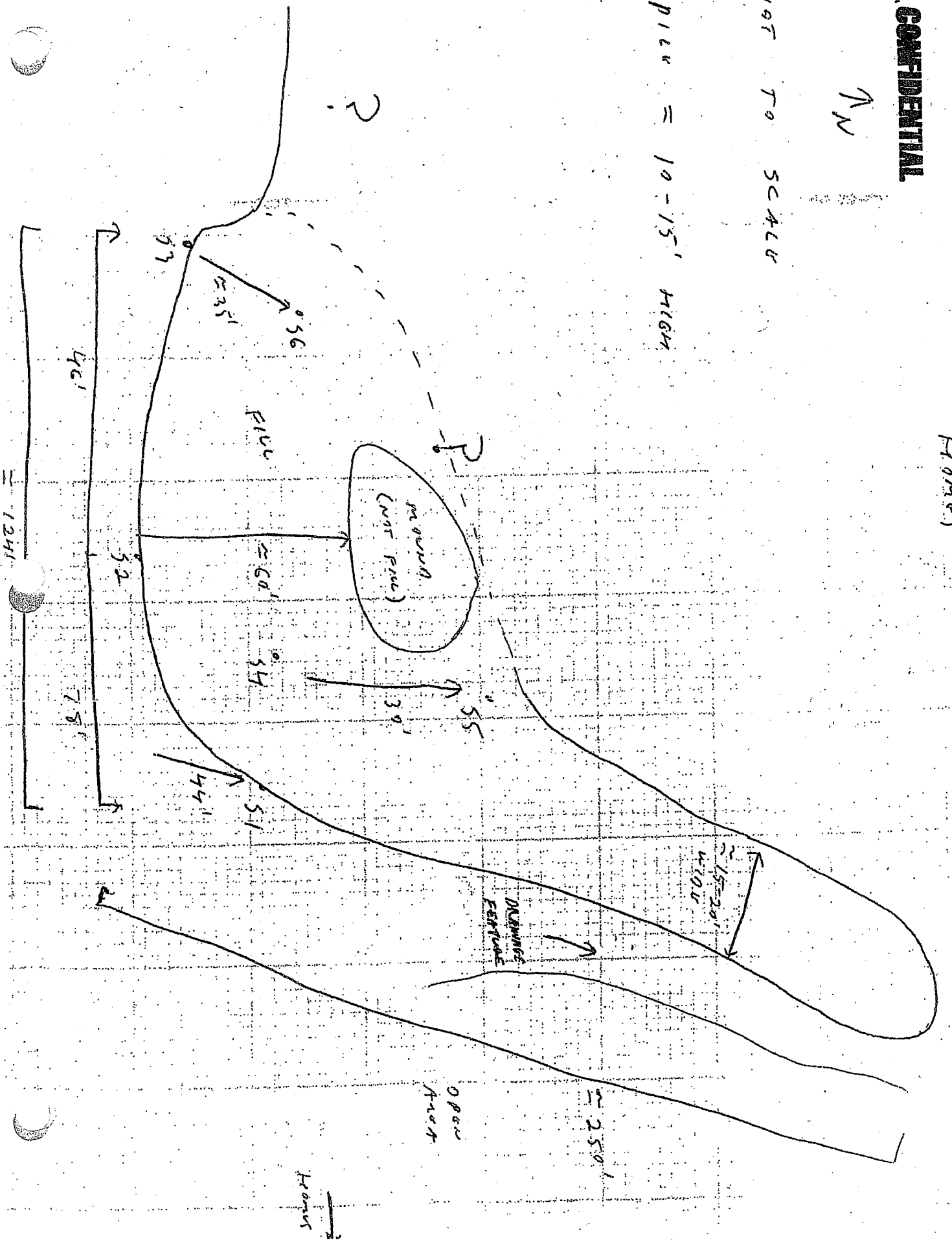
**CONFIDENTIAL**

Home 5

N

NOT TO SCALE

Pile = 10-15' HIGH





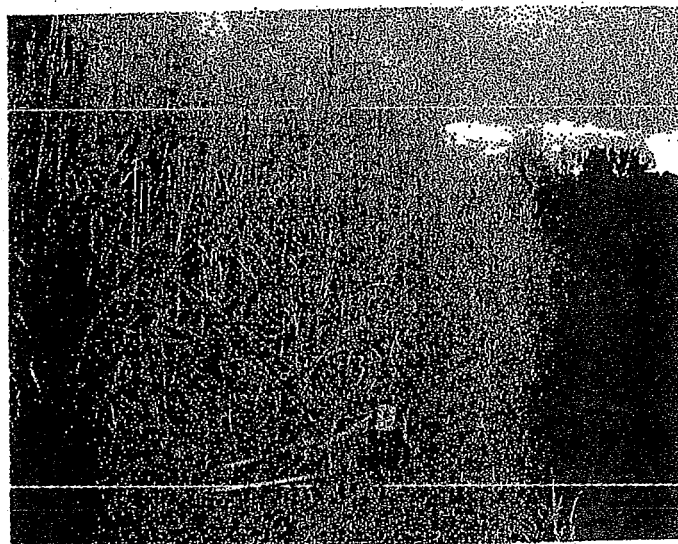
VIEW N TO FILL AREA



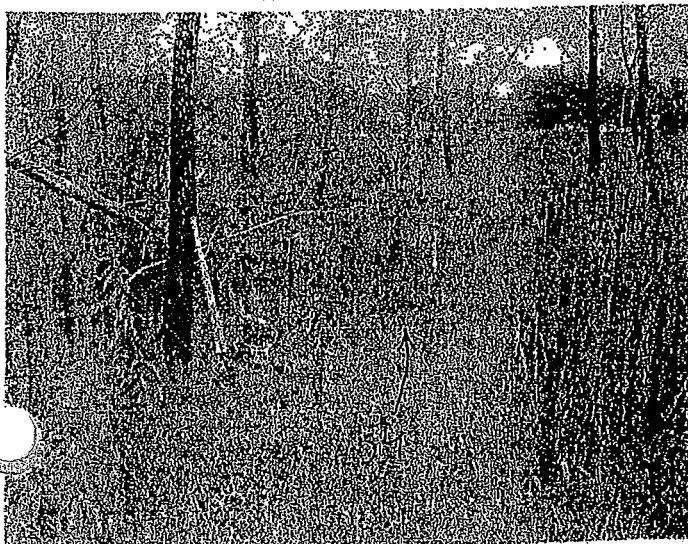
VIEW NW TO SW CORNER OF FILL



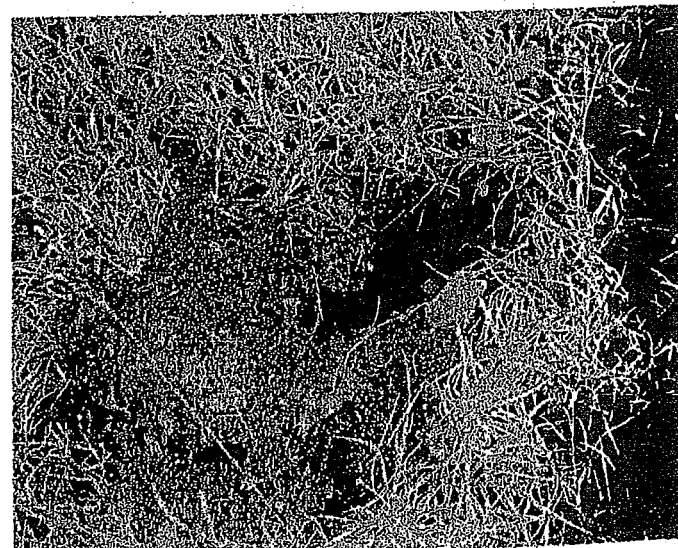
SAMPLE LOCATION 52



SAMPLE LOCATION 53



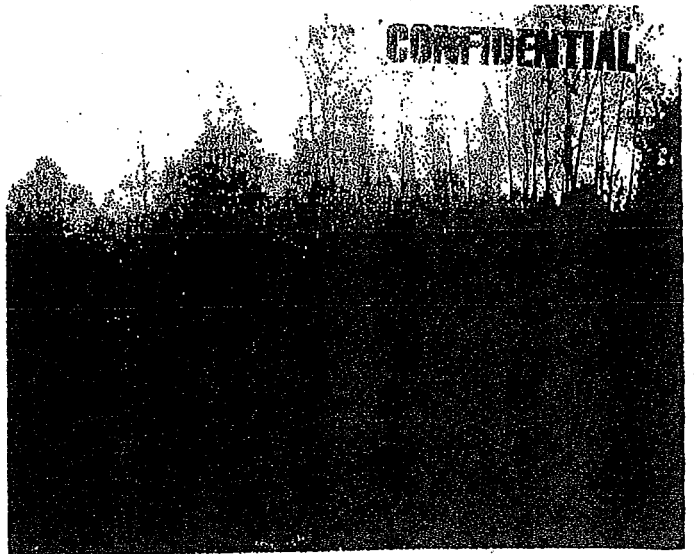
SAMPLE LOCATION 54 ON TOP OF FILL NOTE MOMO?



SAMPLE LOCATION 55 ON TOP OF FILL, NO AREA



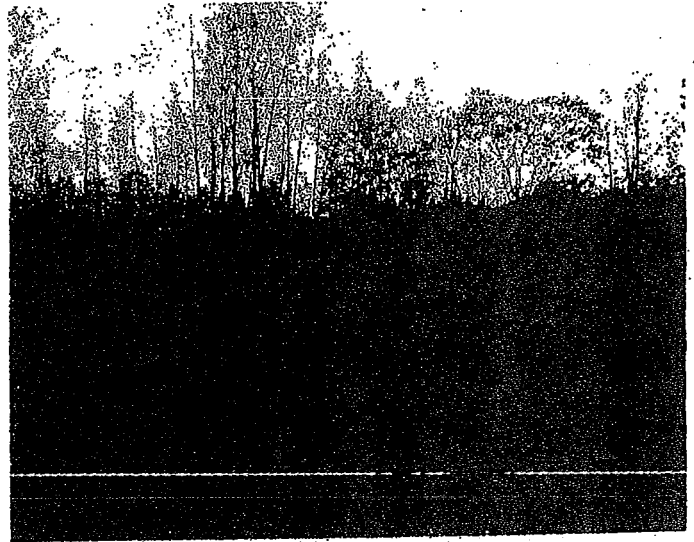
SAMPLE LOCATION S1 AT BASE  
OF FILL PILE (SG AREA)



VIEW NW TO FILL PILE,  
S1 LOCATION NOTED



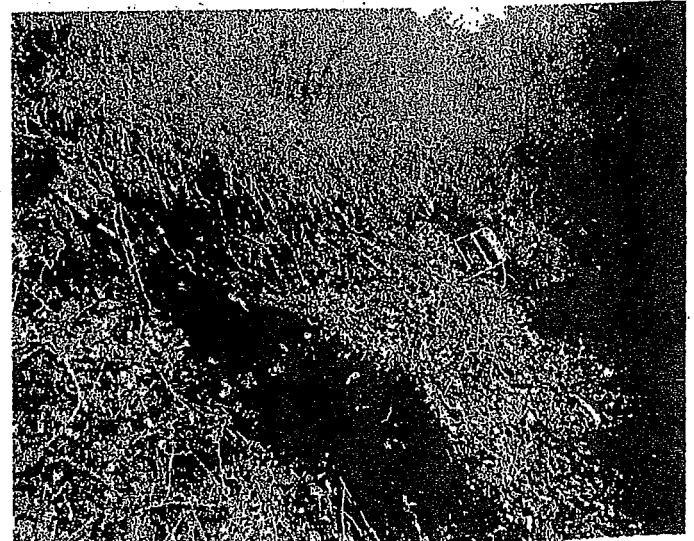
VIEW W ALONG S EDGE  
OF FILL PILE



VIEW N TO SE CORNER OF  
FILL, SAMPLE LOCATION S2  
NOTED AT BASE OF FILL.



ALONG E EDGE OF FILL  
NEAR BASE

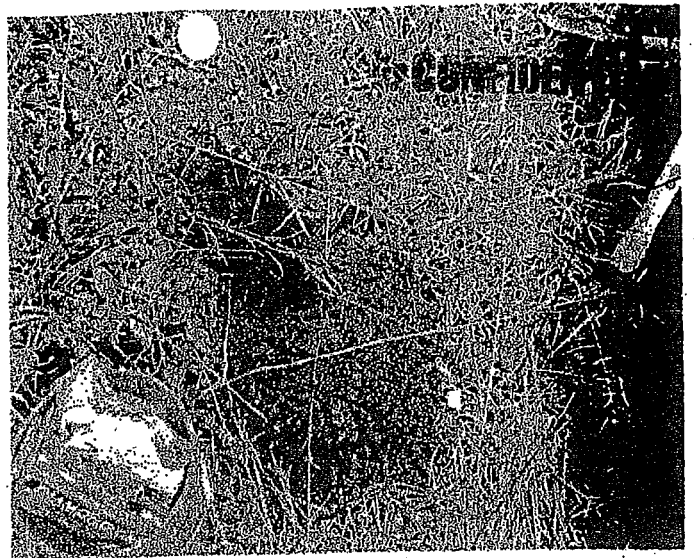


FILL EXPOSURE ALONG E EDGE  
OF FILL PILE

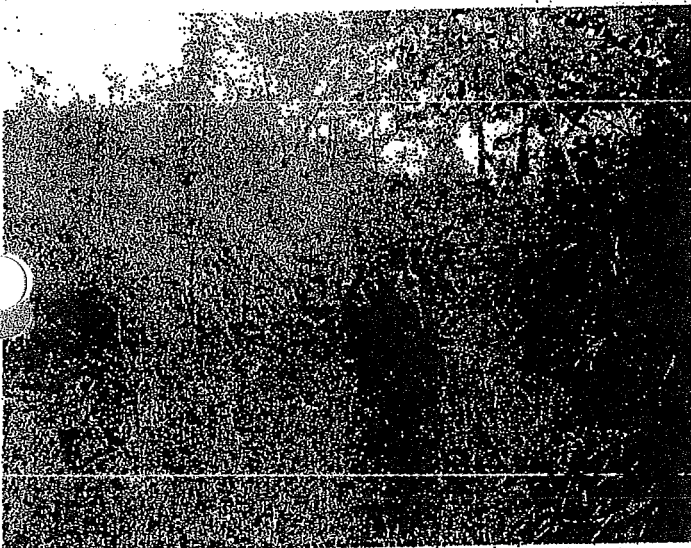




SAMPLE LOCATION 55 ON  
TOP OF FILL, NORTH HORIZ  
TO N.



SAMPLE LOCATION 56 ON  
TOP OF FILL.



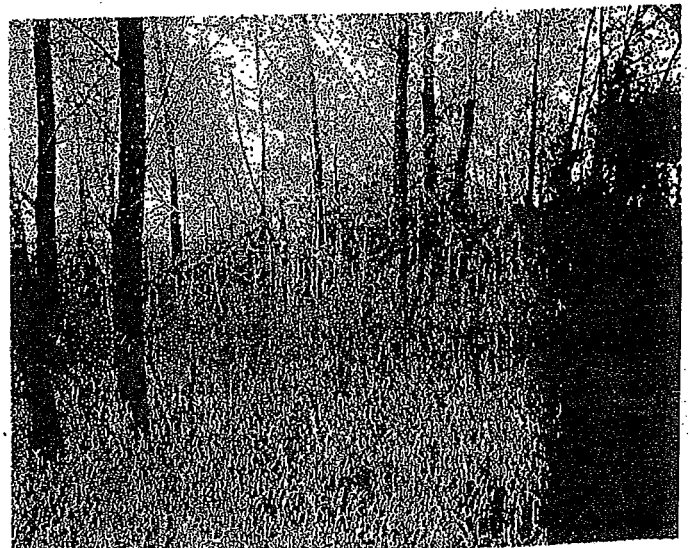
VIEW N ALONG E EDGE OF  
FILL.



VIEW S ALONG E EDGE  
OF FILL



VIEW W ACROSS TOP OF  
FILL, N SIDE

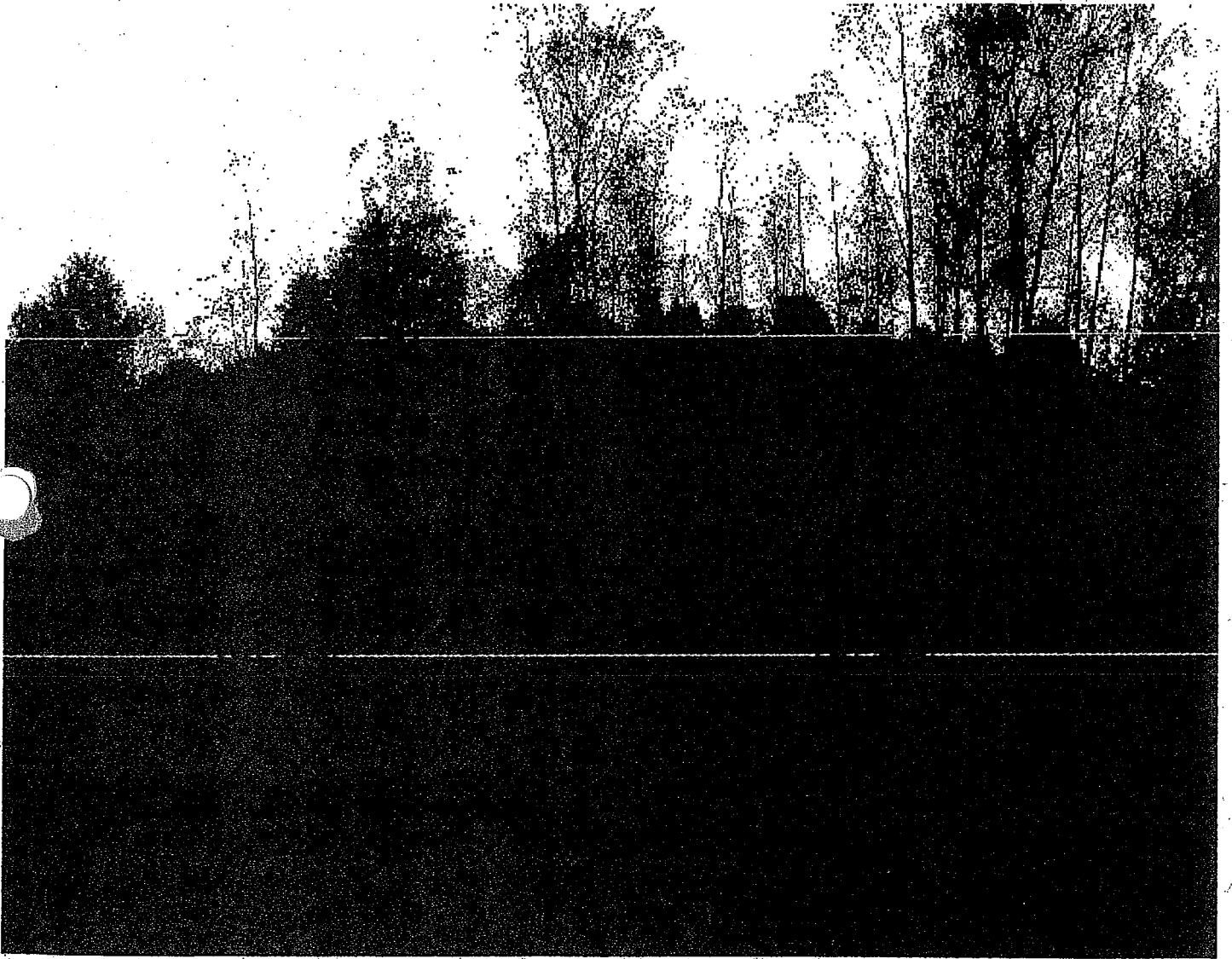


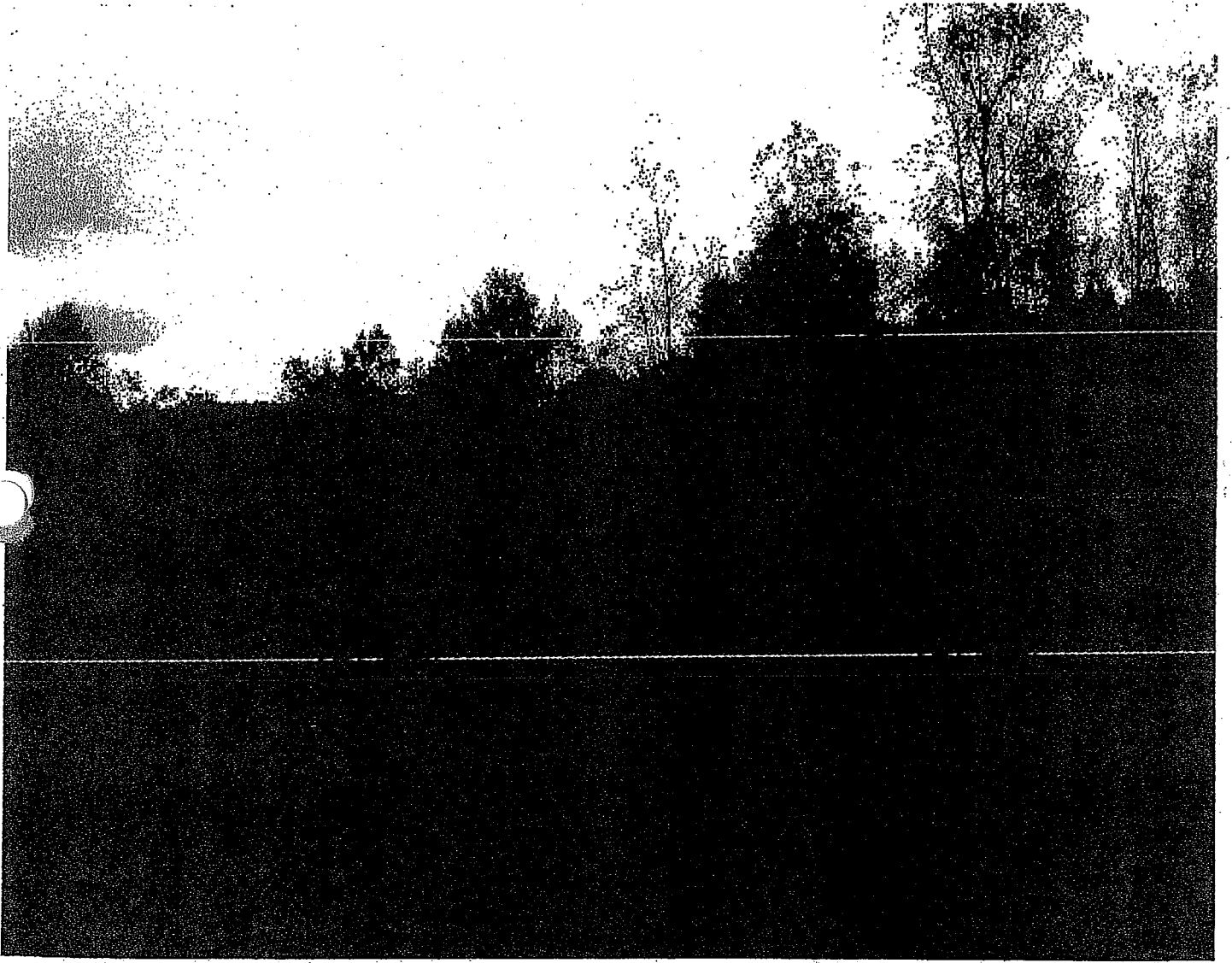
VIEW S ACROSS TOP OF  
FILL

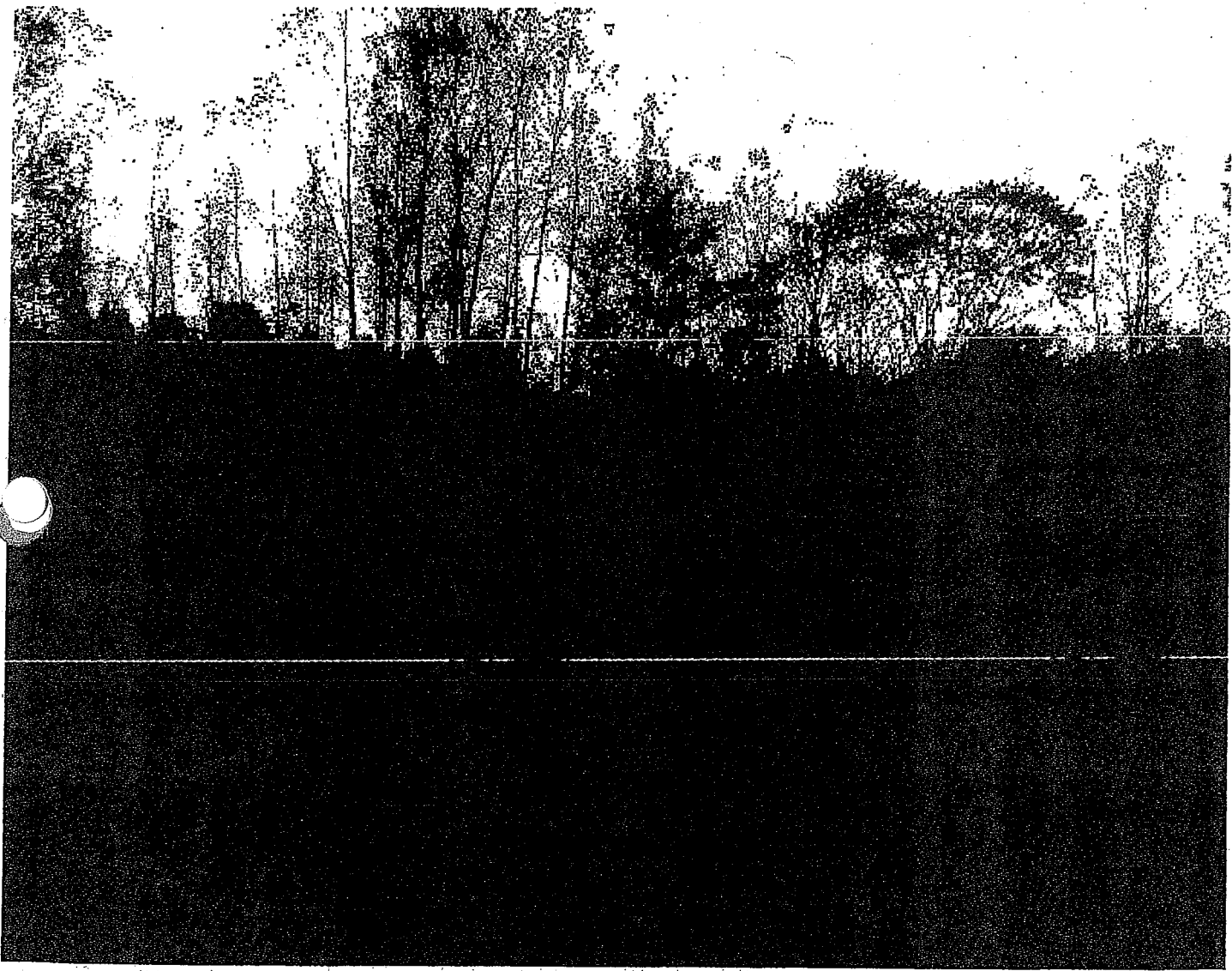
4. Photographs/Drawings

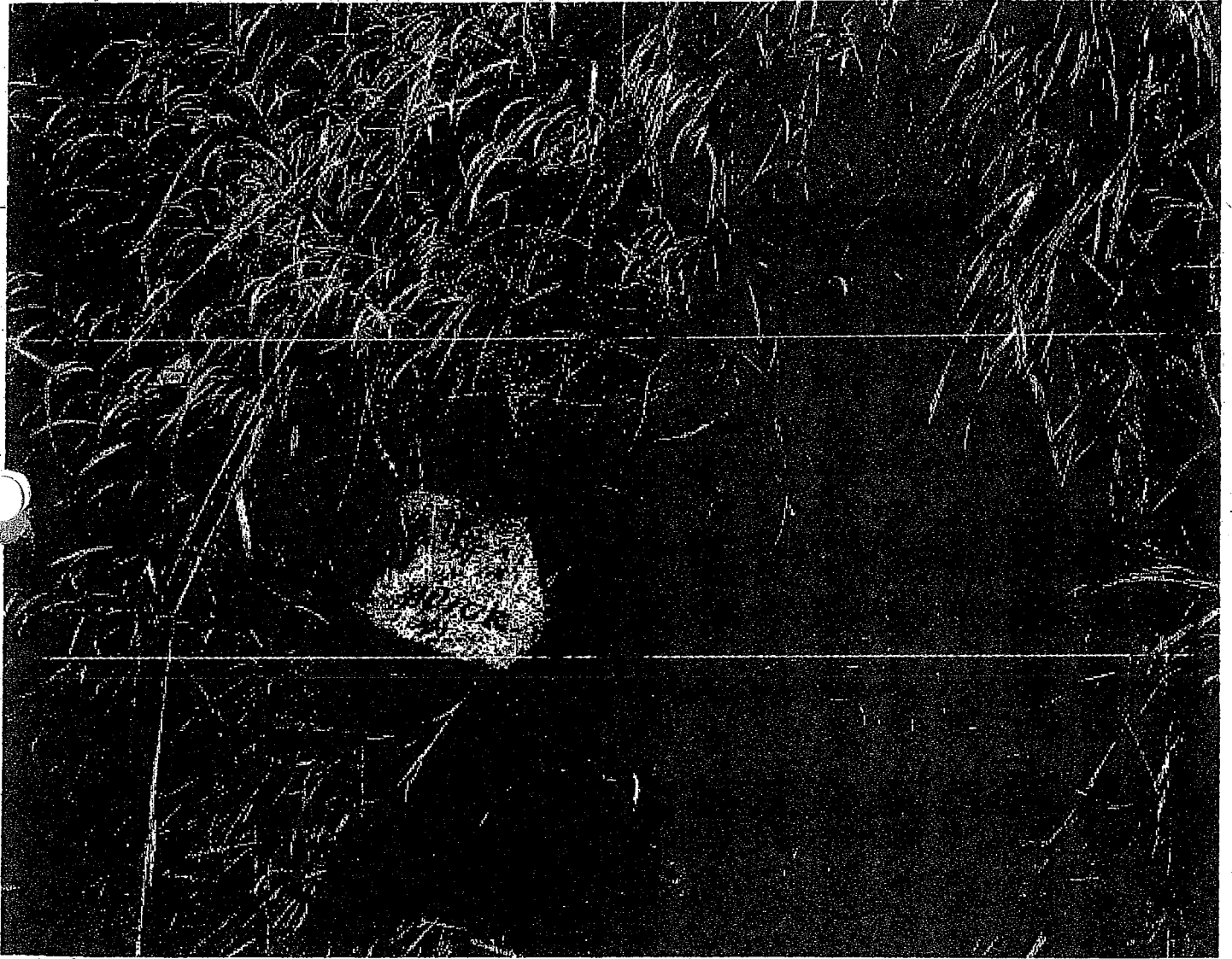


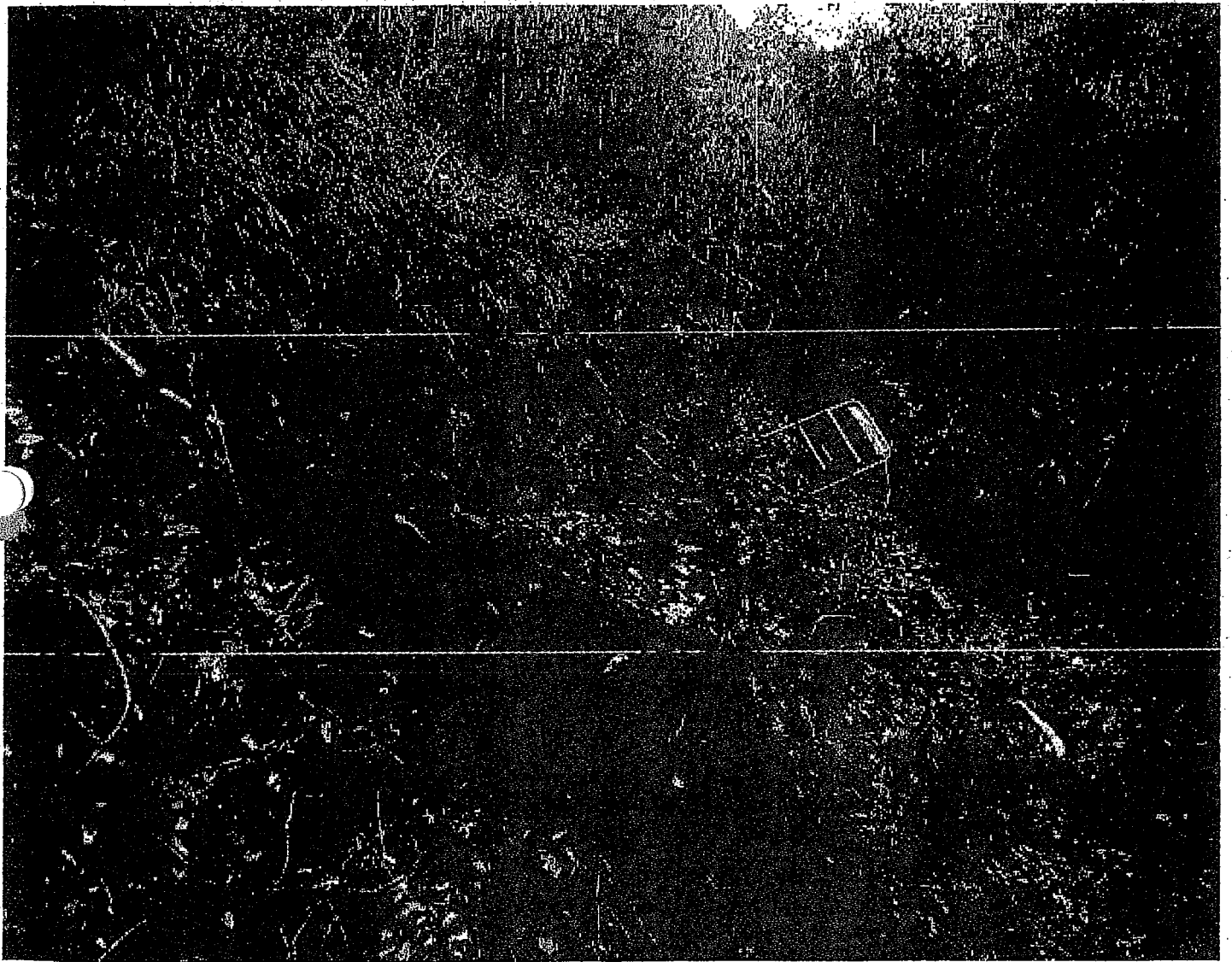


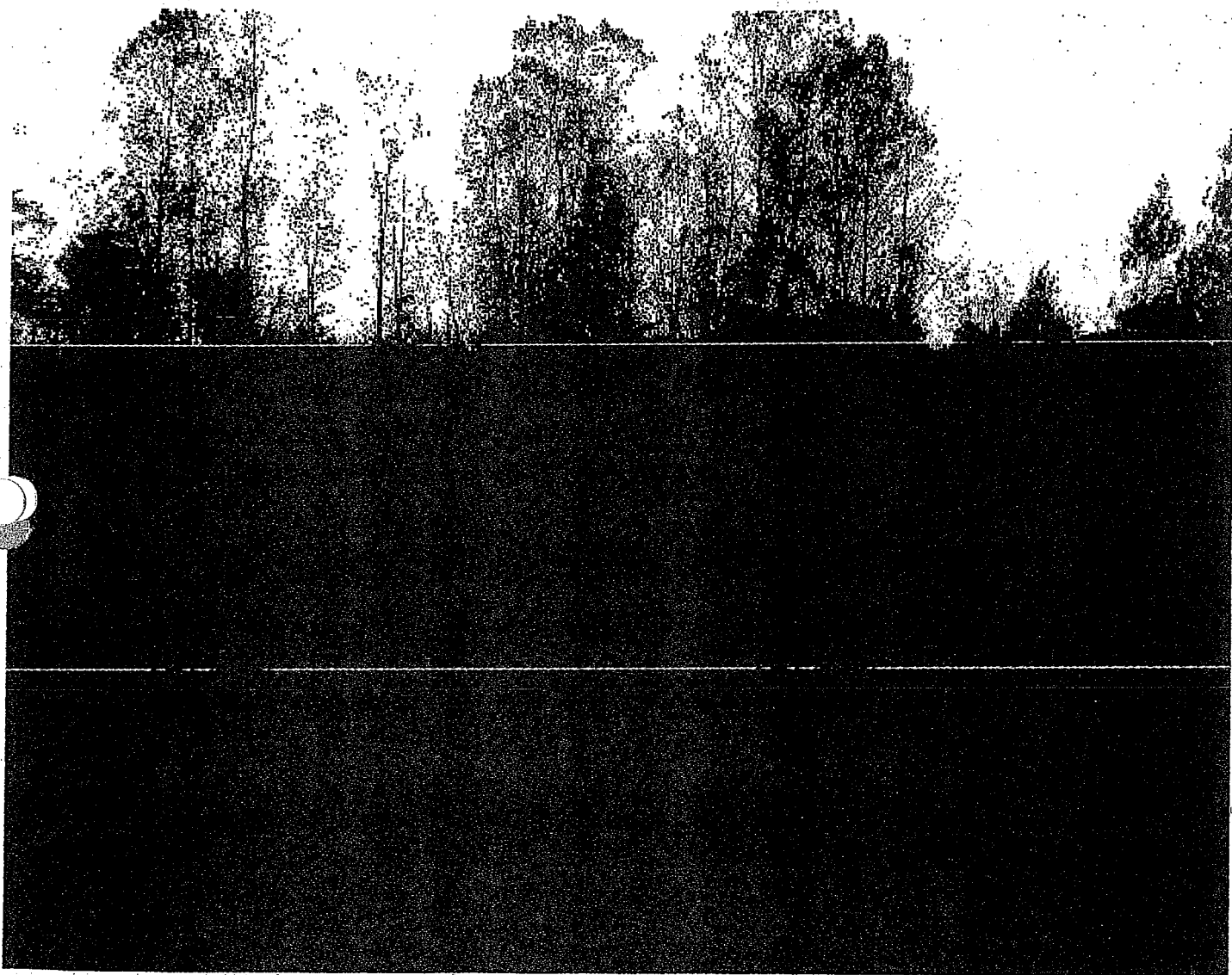


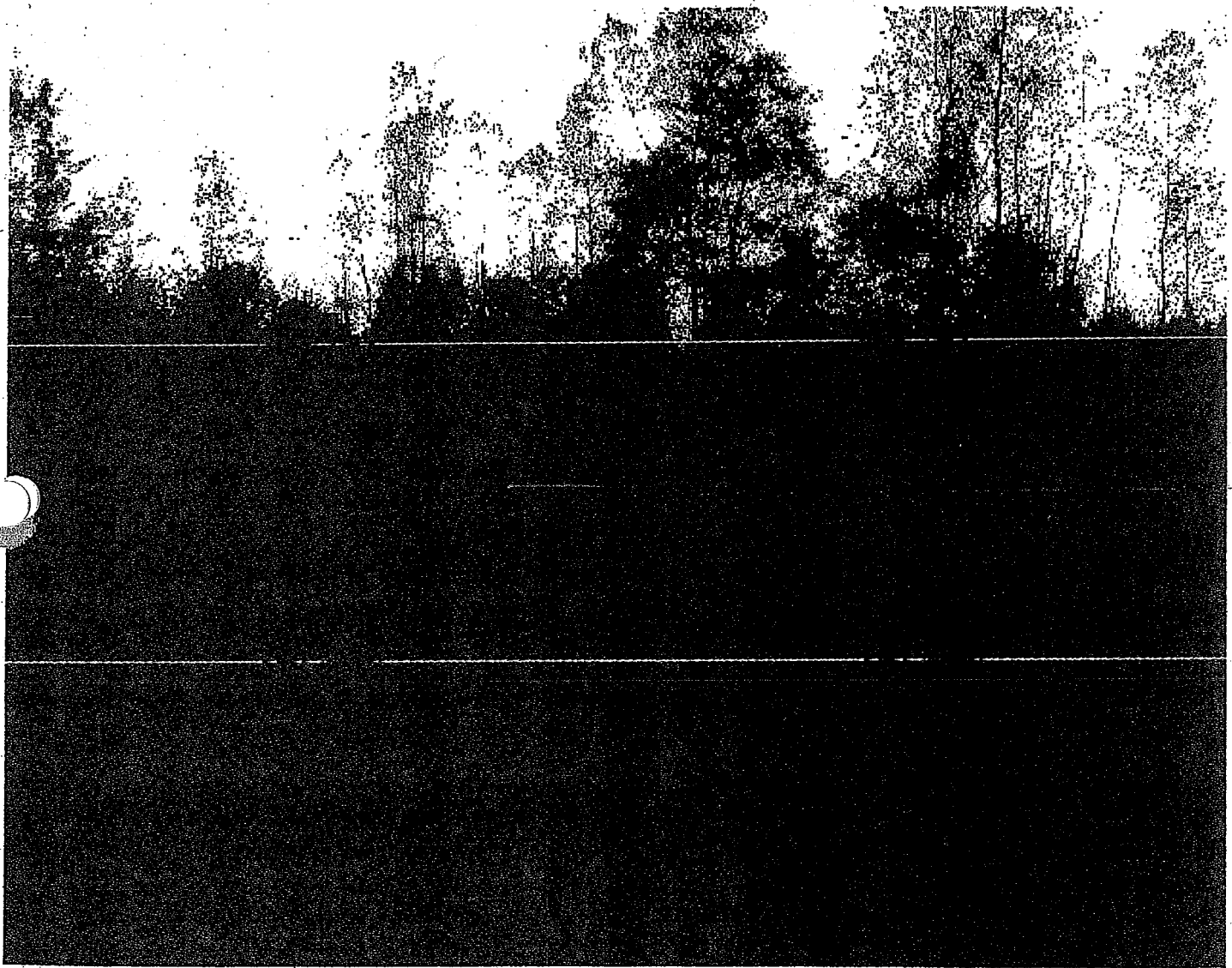




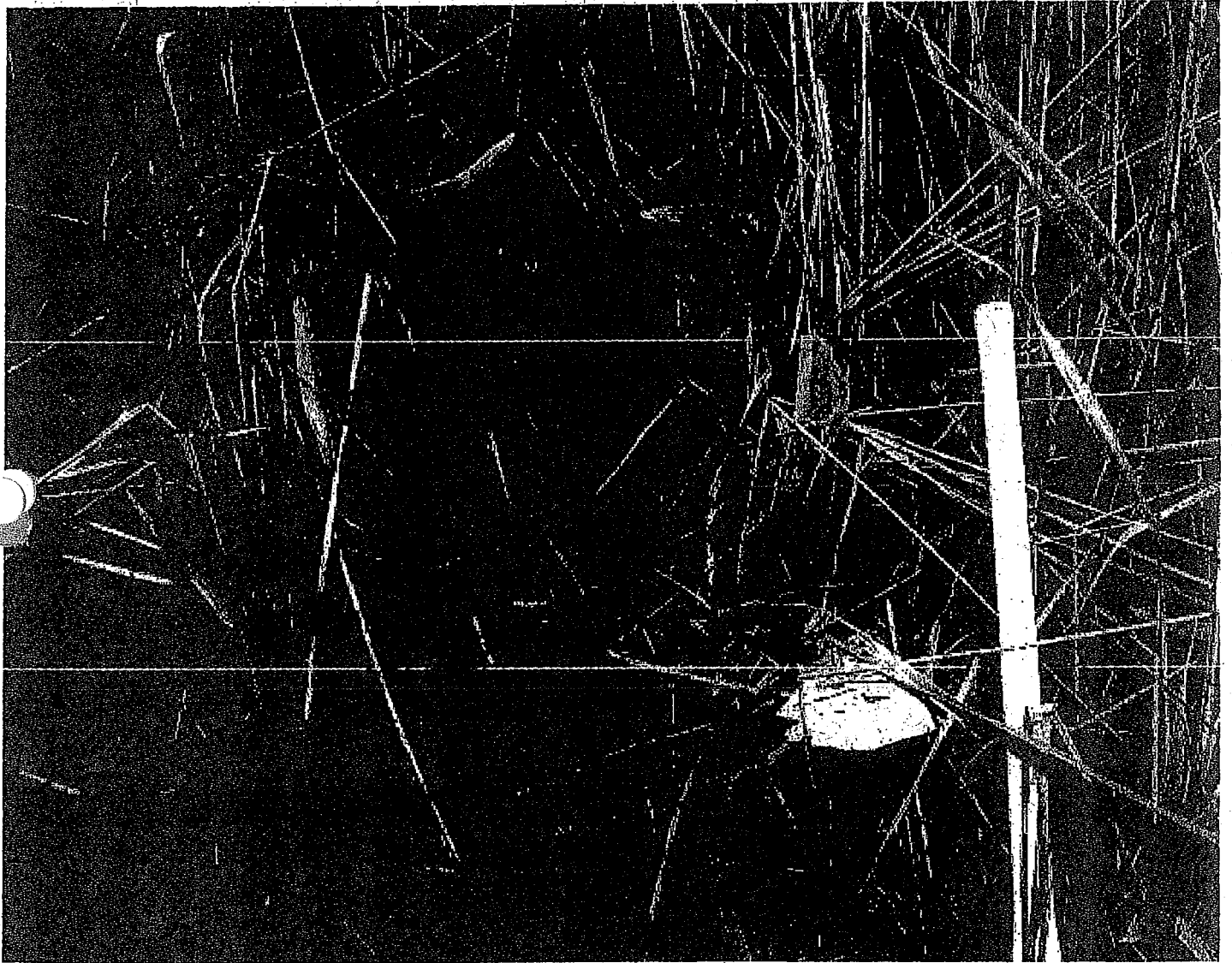






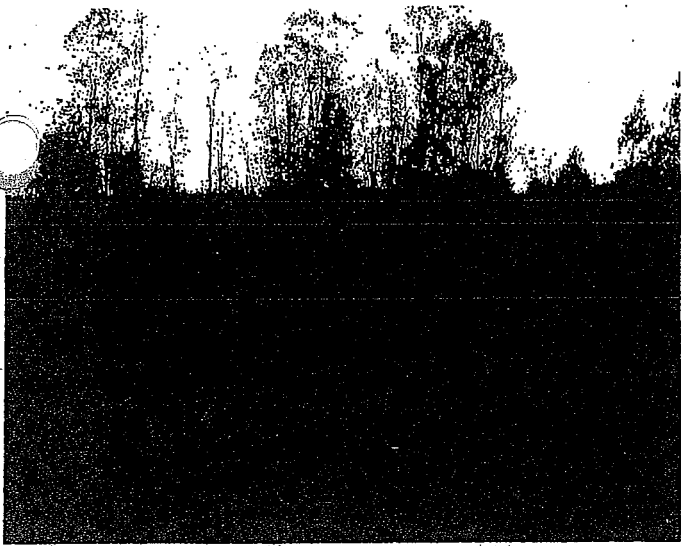




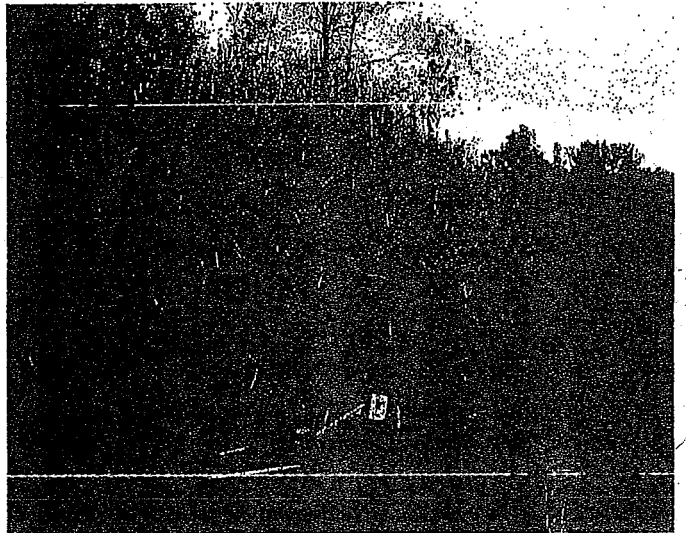




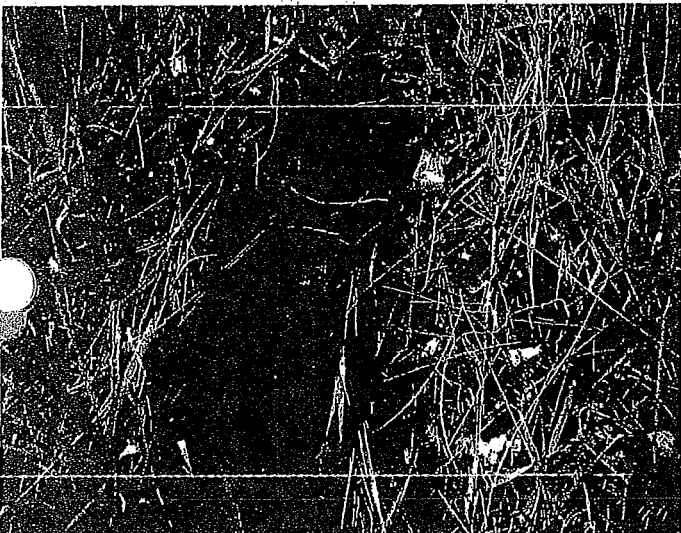
V16W NW TO SW CORNER  
OF FILL



V16W N TO FILL AREA



SAMPLE LOCATION 53



SAMPLE LOCATION 52



SAMPLE LOCATION 55 ON  
TOP OF FILL, NO AREA



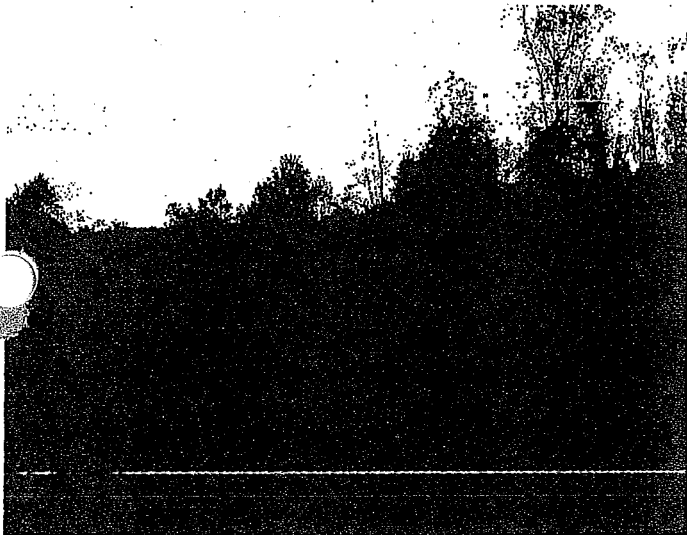
SAMPLE LOCATION 54 ON  
TOP OF FILL. NOTE HOLE  
TO EAST.



SAMPLE LOCATION 51 AT BASE  
OF FILL PILE (SE AREA)



VIEW NW TO FILL PILE,  
51 LOCATION NOTED



VIEW W ALONG S. EDGE  
OF FILL PILE



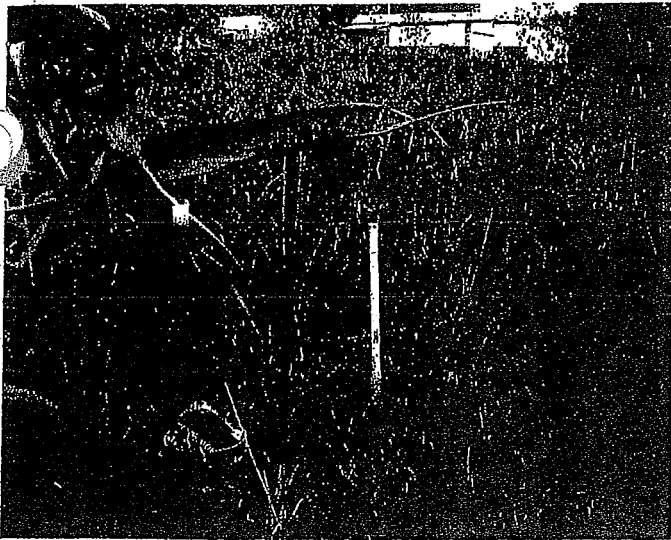
VIEW N TO SE CORNER OF  
FILL, SAMPLE LOCATION 52  
NOTED AT BASE OF FILL.



ALONG E EDGE OF FILL  
NEAR BASE



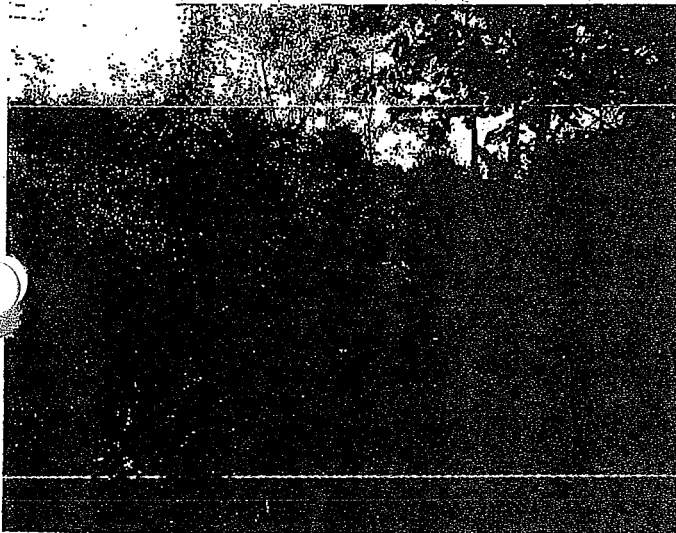
FILL EXPOSURE ALONG E  
OF FILL PILE



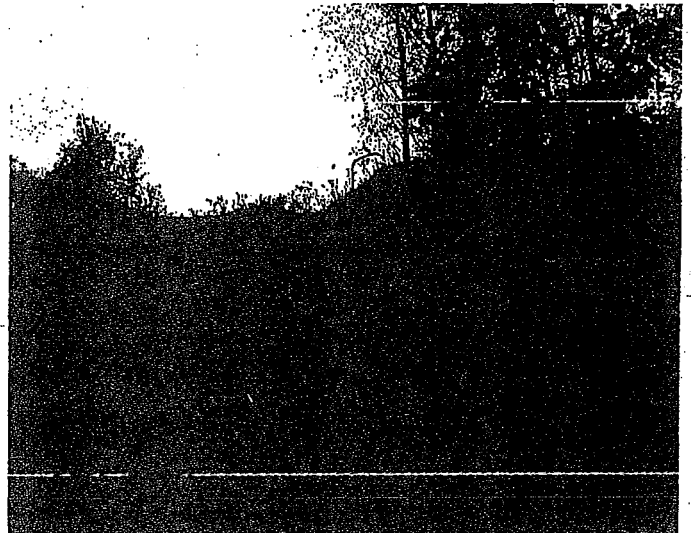
SAMPLE LOCATION 55 ON  
TOP OF FILL, NOTE HOMUS  
TO N.



SAMPLE LOCATION 56 ON  
TOP OF FILL.



VIEW N ALONG E EDGE OF  
FILL.



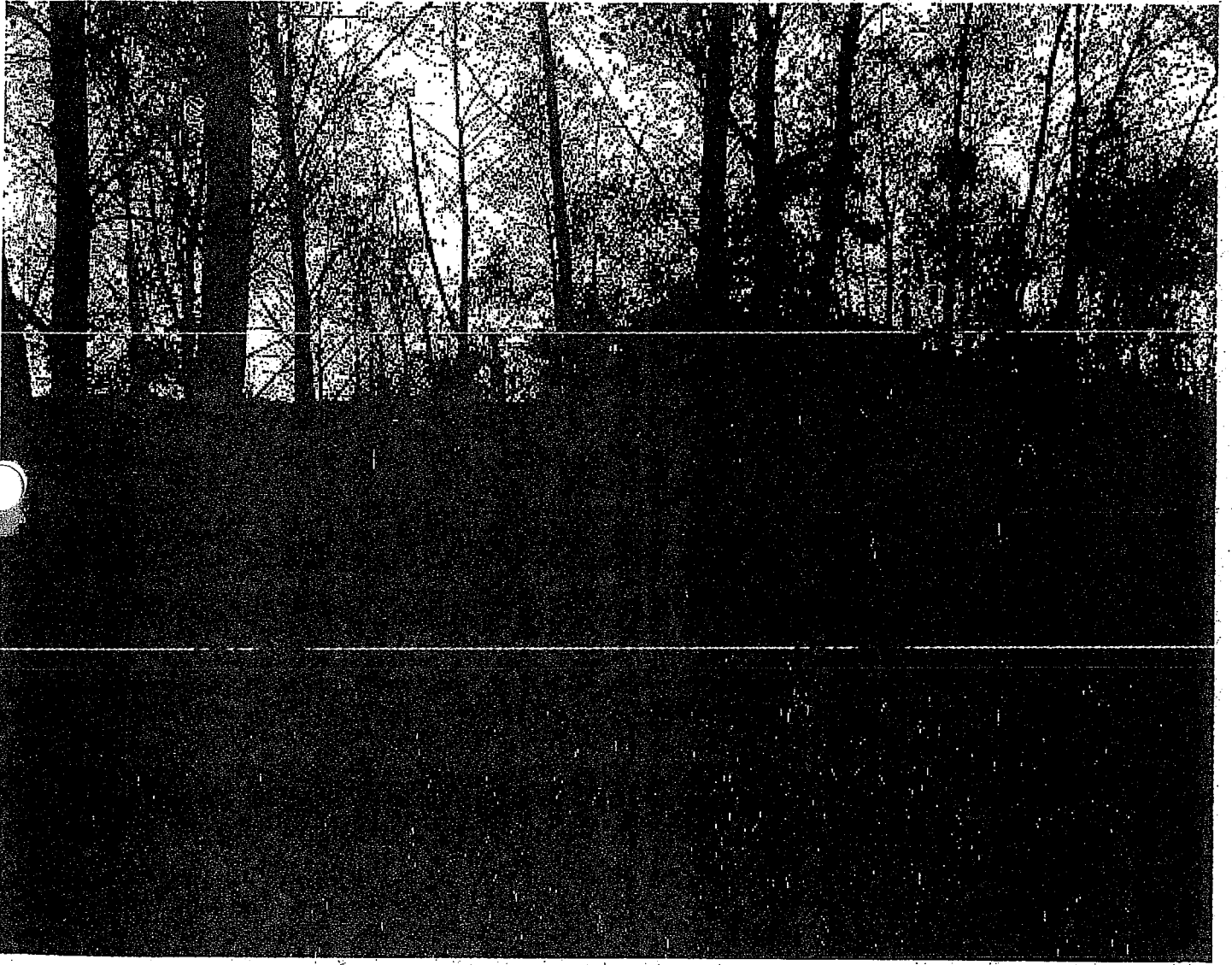
VIEW S ALONG E EDGE  
OF FILL

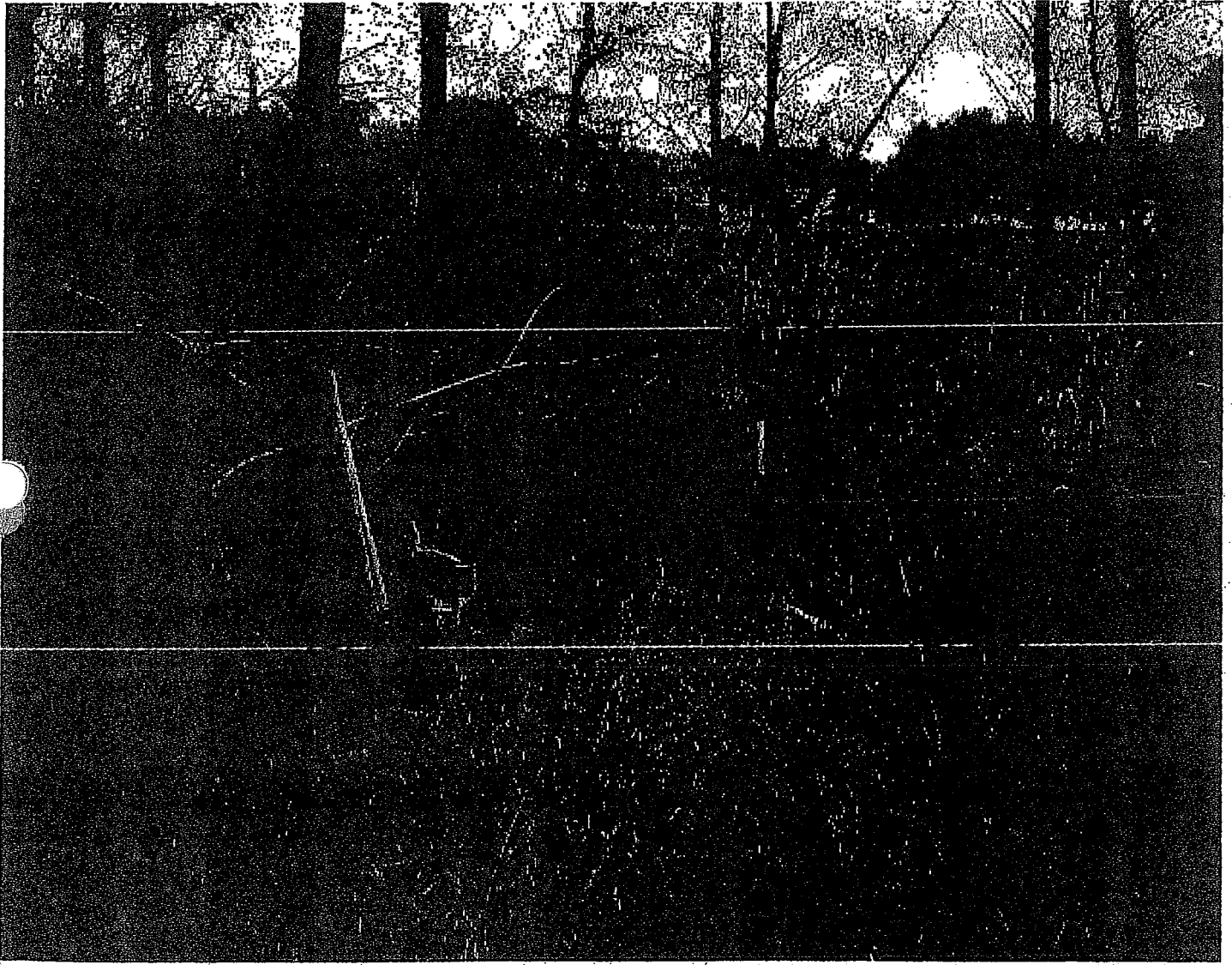


VIEW W ACROSS TOP OF  
FILL, N SIDE

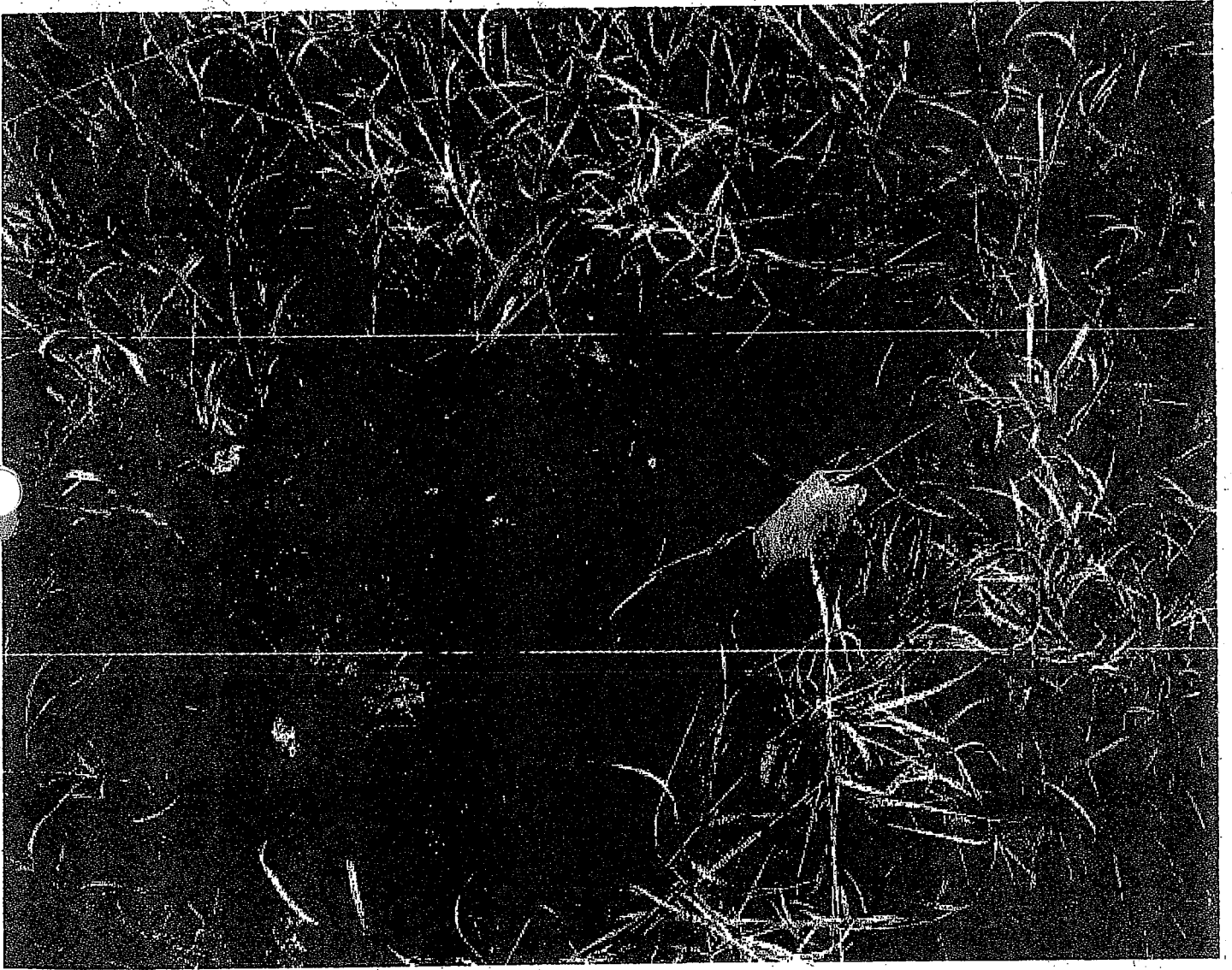


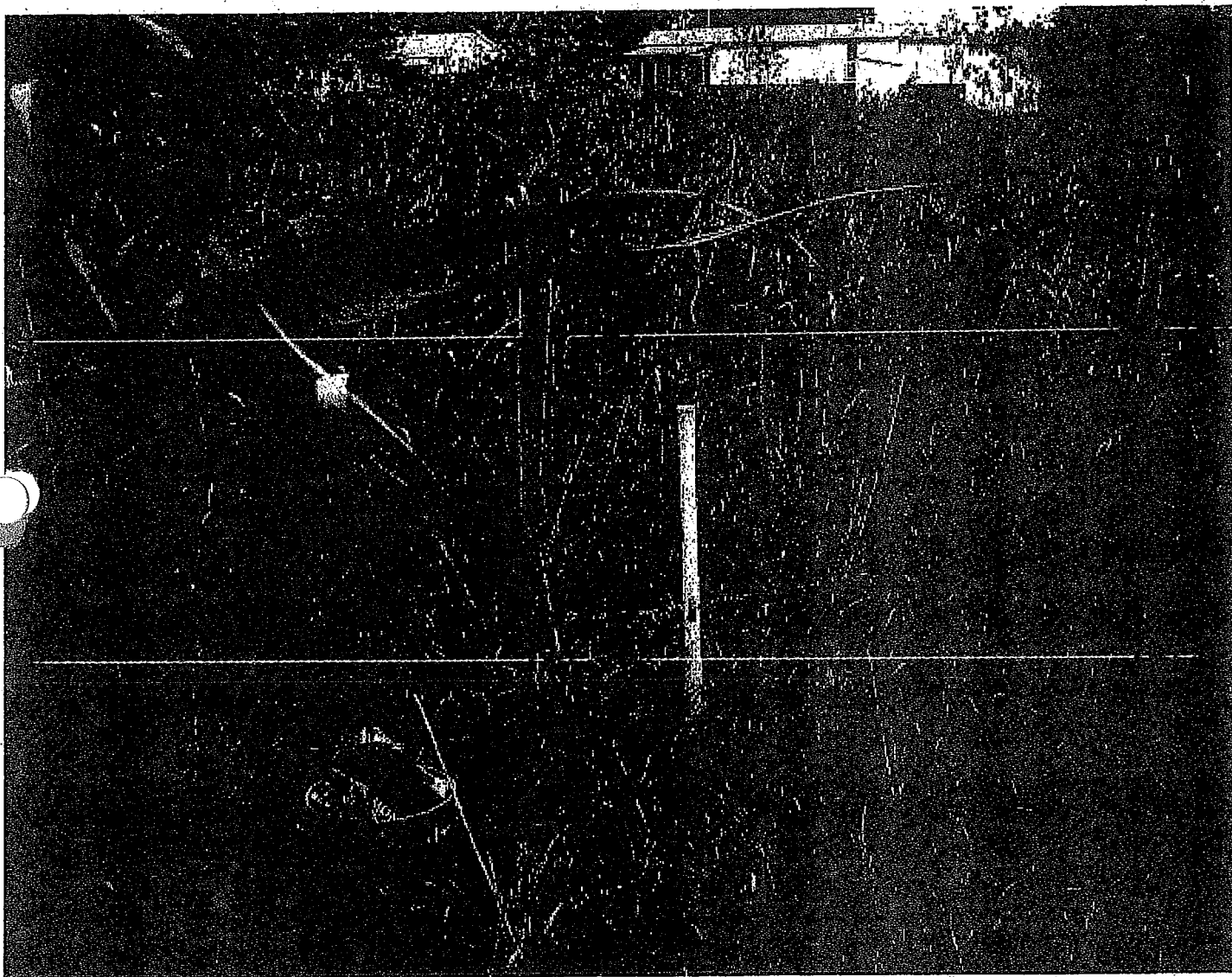
VIEW S ACROSS TOP OF  
FILL





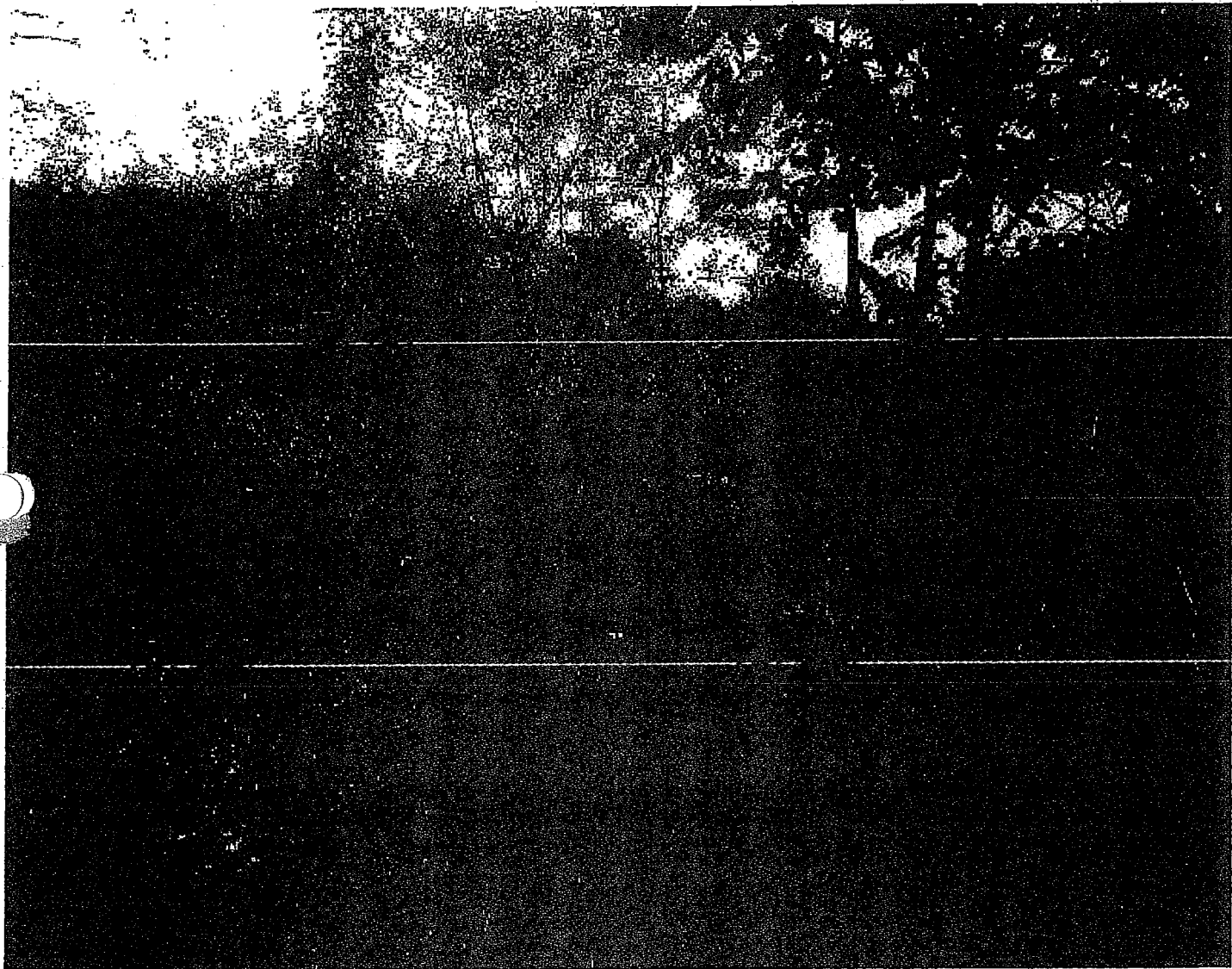


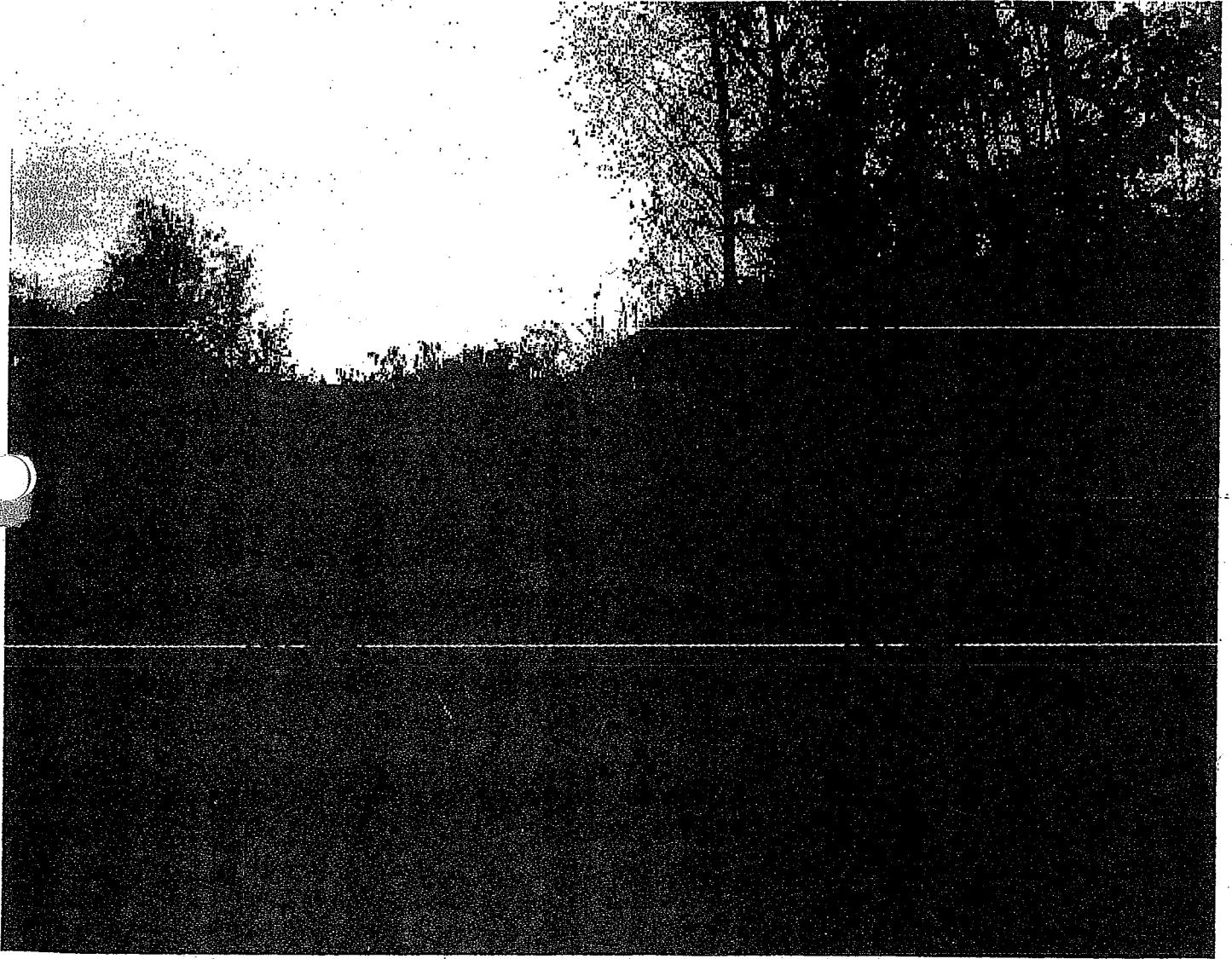


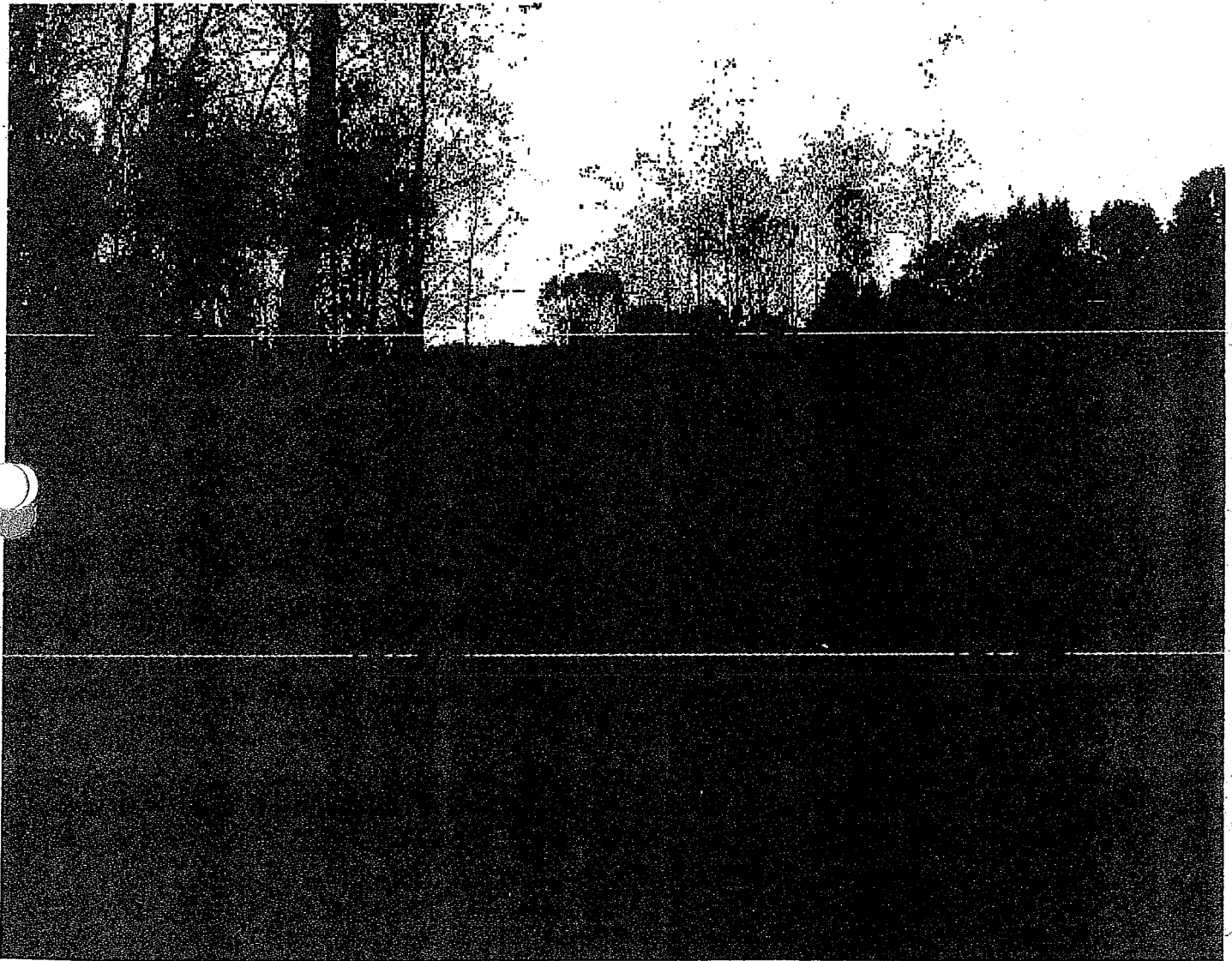


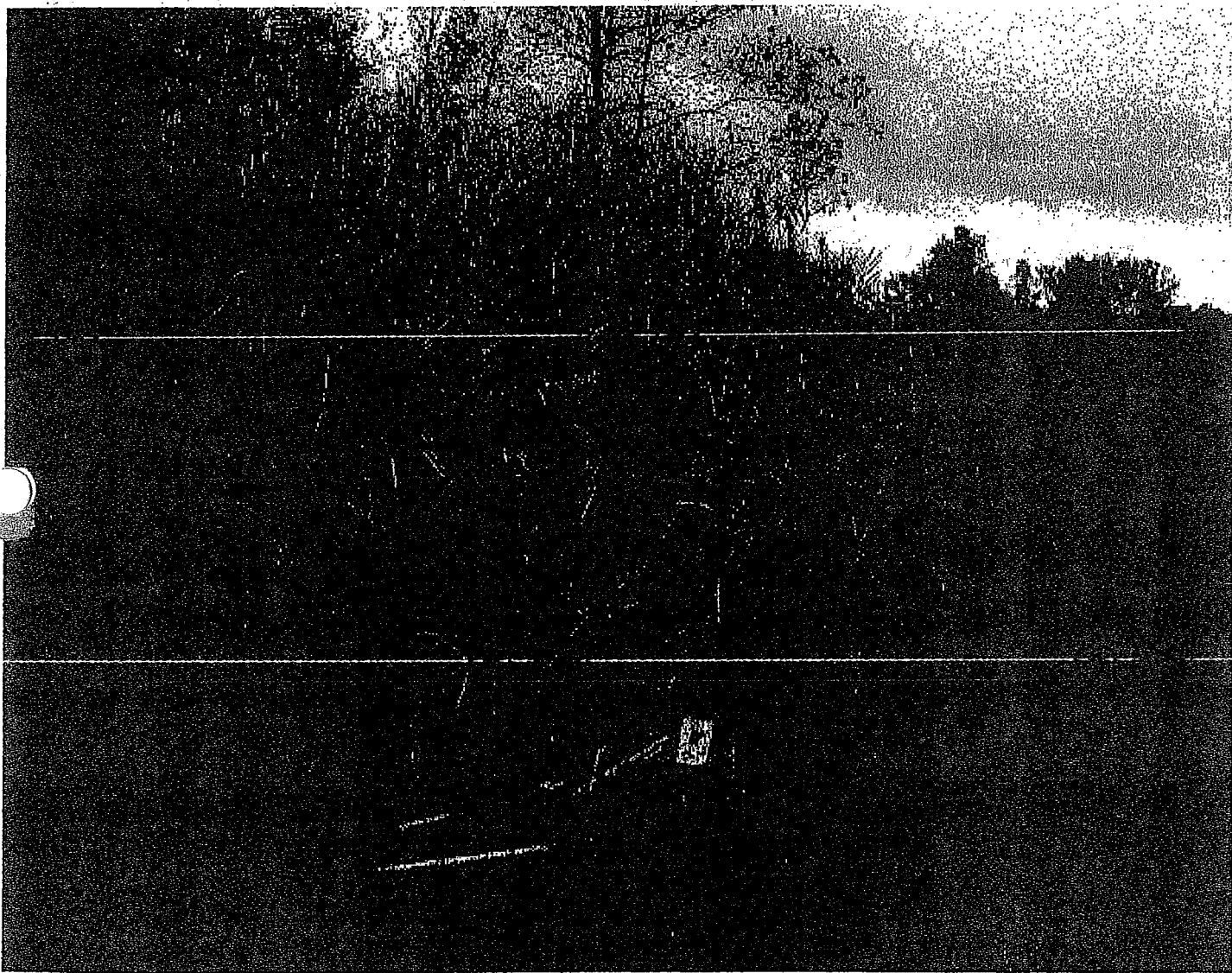












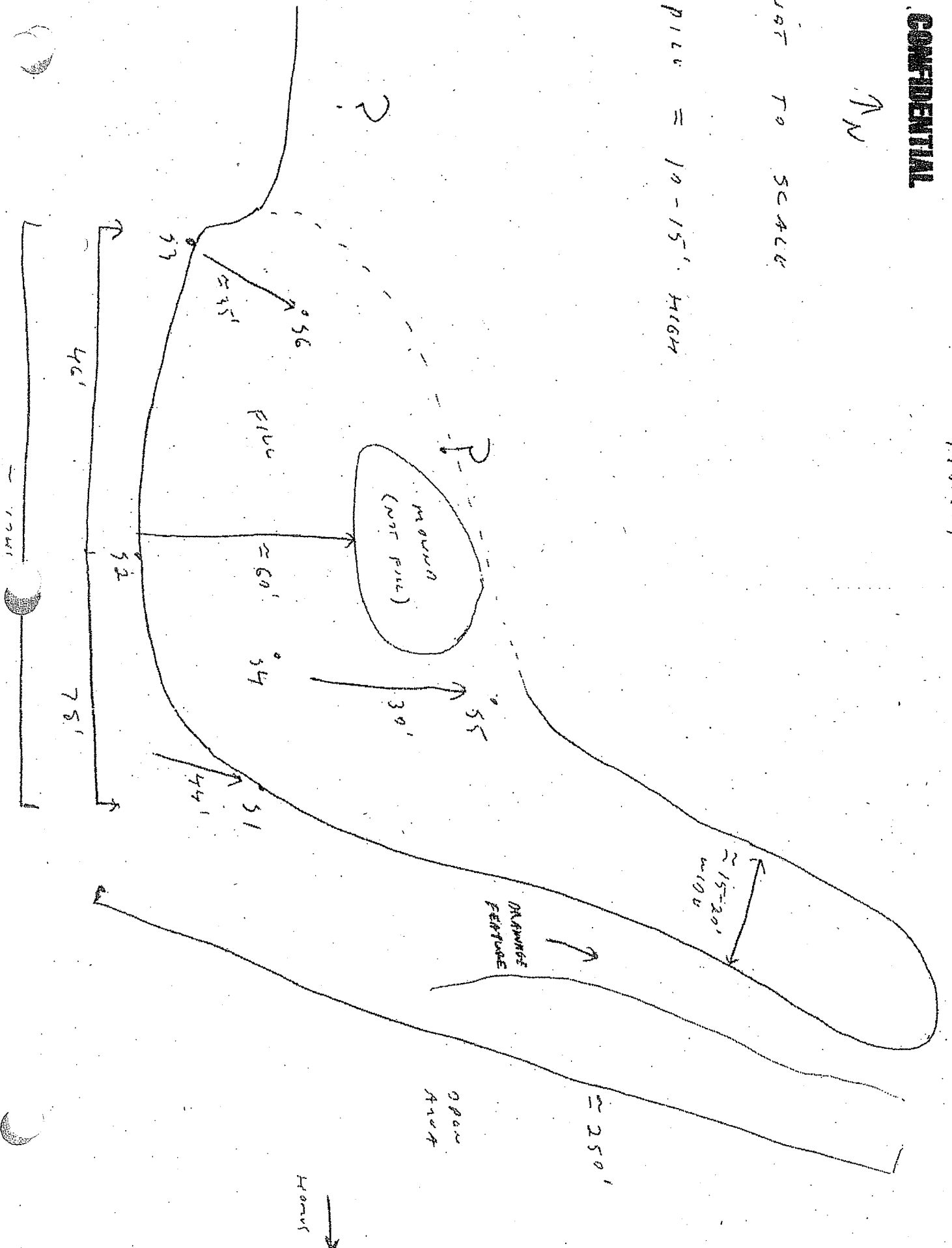
**CONFIDENTIAL**

Horns

N

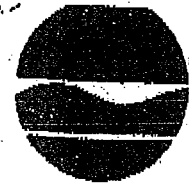
NOT TO SCALE

Pile = 10-15' HIGH



New York State Department of Environmental Conservation

Region 7  
615 Erie Blvd. W., Syracuse, N.Y. 13204-2400



Thomas C. Jorling  
Commissioner

MEMORANDUM

TO: Charles Branagh

DATE: 2/5/90

FROM: Chuck Chernoff *CC*

SUBJECT: Fortino Tire, Shredded Car Interiors (Fluff)

Mr. Thomas Fortino of Pinnacle Hill Road in the Town of West Monroe, Oswego County is under consent order with the Department in matters relating to the disposal of the above mentioned waste.

In the course of complying with the order, LaBella Associates acting as Mr. Fortino's consultant sampled the Fluff for various metal and PCB's. The PCB Analysis was directed in the Consent Order after receiving information from REGI Lt. Woody Erickson, (apparently PCB's have been found at other locations in the State in Auto Fluff).

The results are as follows:

PCB's

Aroclor 1242	81mg/kg dry wt
Aroclor 1254	23mg/kg dry wt
<b>Total</b>	<b>104mg/kg dry wt</b>

I've directed LaBella Associates to re-sample and run another set of analysis including Ep-Toxicity for metals.

Please investigate this site and take what ever action you deem appropriate.

I have a copy of a Remedial Investigation and Implementation Plan which outlines possible remedial strategies in the context of a non-Hazardous waste site. If you would like to review it let know.

Joseph Moskiewicz sent me the attached memo siting two additional locations where this same shredded fluff has been disposed. One site is owned by a Mr. Robert Weaver in the Town of Hastings on Route 11 and the other site is located one half mile south of the Weaver site on Route 11.

Your investigation into the Fortino Property should link these three sites because all the waste was generated at Roth Steel in the City of Syracuse.

- cc Larry Gross
- Joseph Moskiewicz
- Eugene Klara
- Robert Torba
- William Gallagher
- Lt. Woody Erickson