

MAR 11 / 44

MPY 13

Pad 44-b
(12720)

Pad 45-a
(12719)

Dad 46-a
(12719)

Pad 16-b
(12718)



Pad 46-view
(4-18)



12/24 013

Pad 47-a
(12715)

13 804



END M-42

MAY 13 2004

Pad 47-b
(12715)



NO 16/43

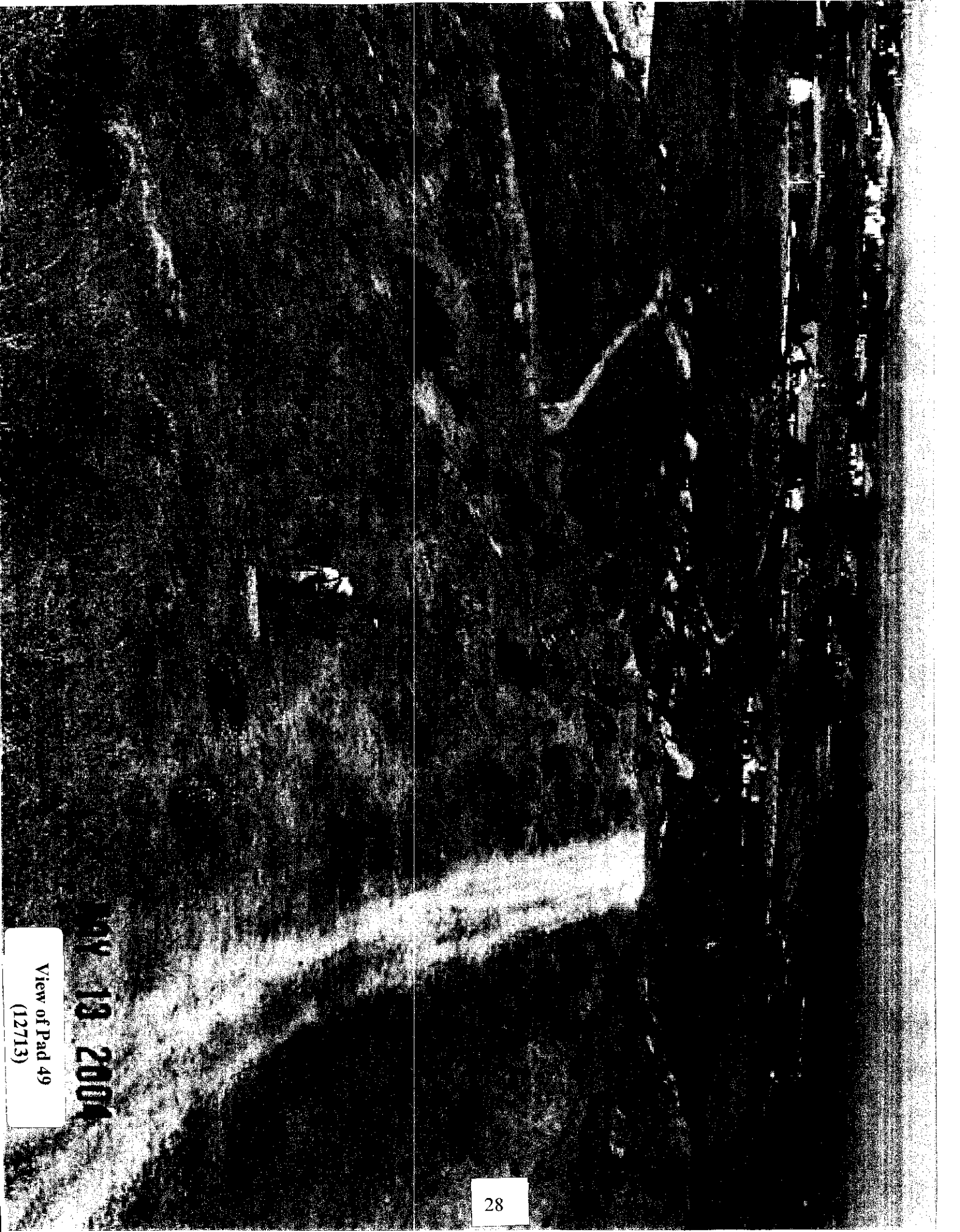
MAY 13 1943

Pad 48-a
(12713)



MAY 13 2004

Pad 48-b
(12713)

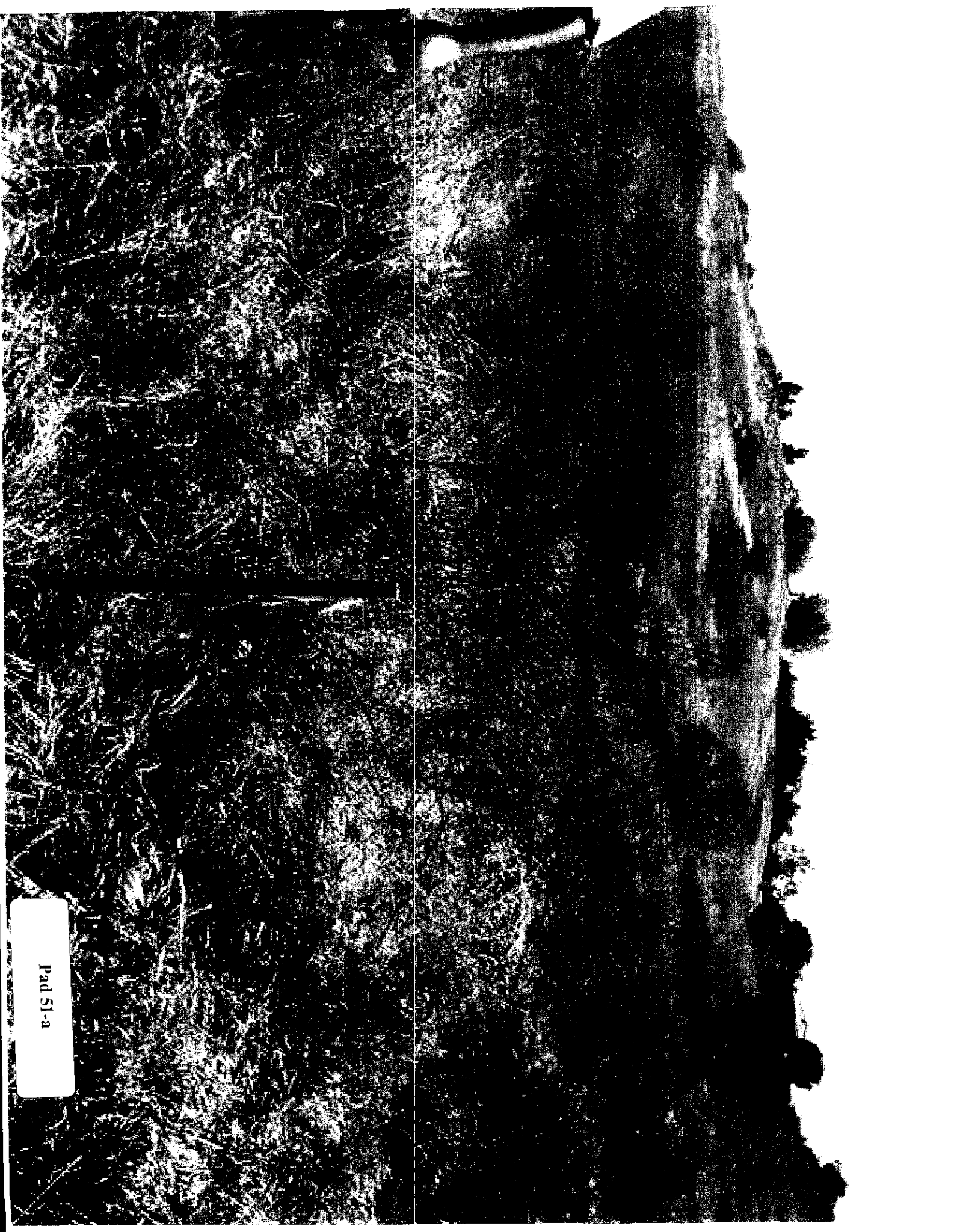


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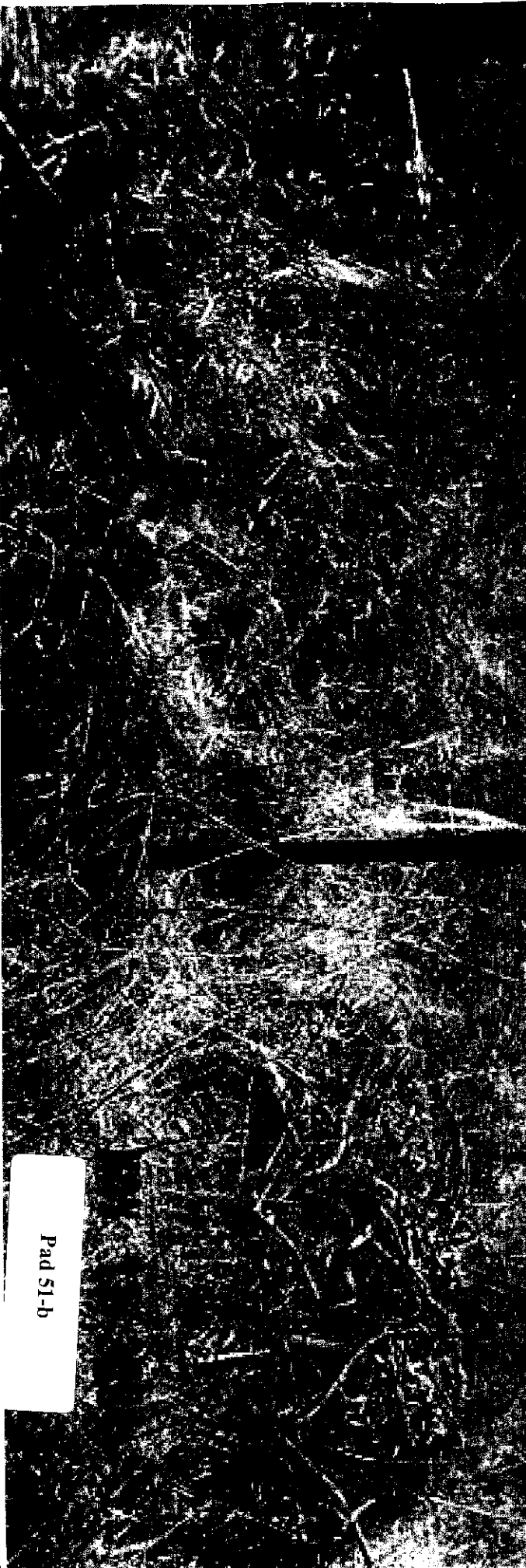
View of Pad 49
(12713)



Pad 50-b



Pad SI-a



Pad SI-b

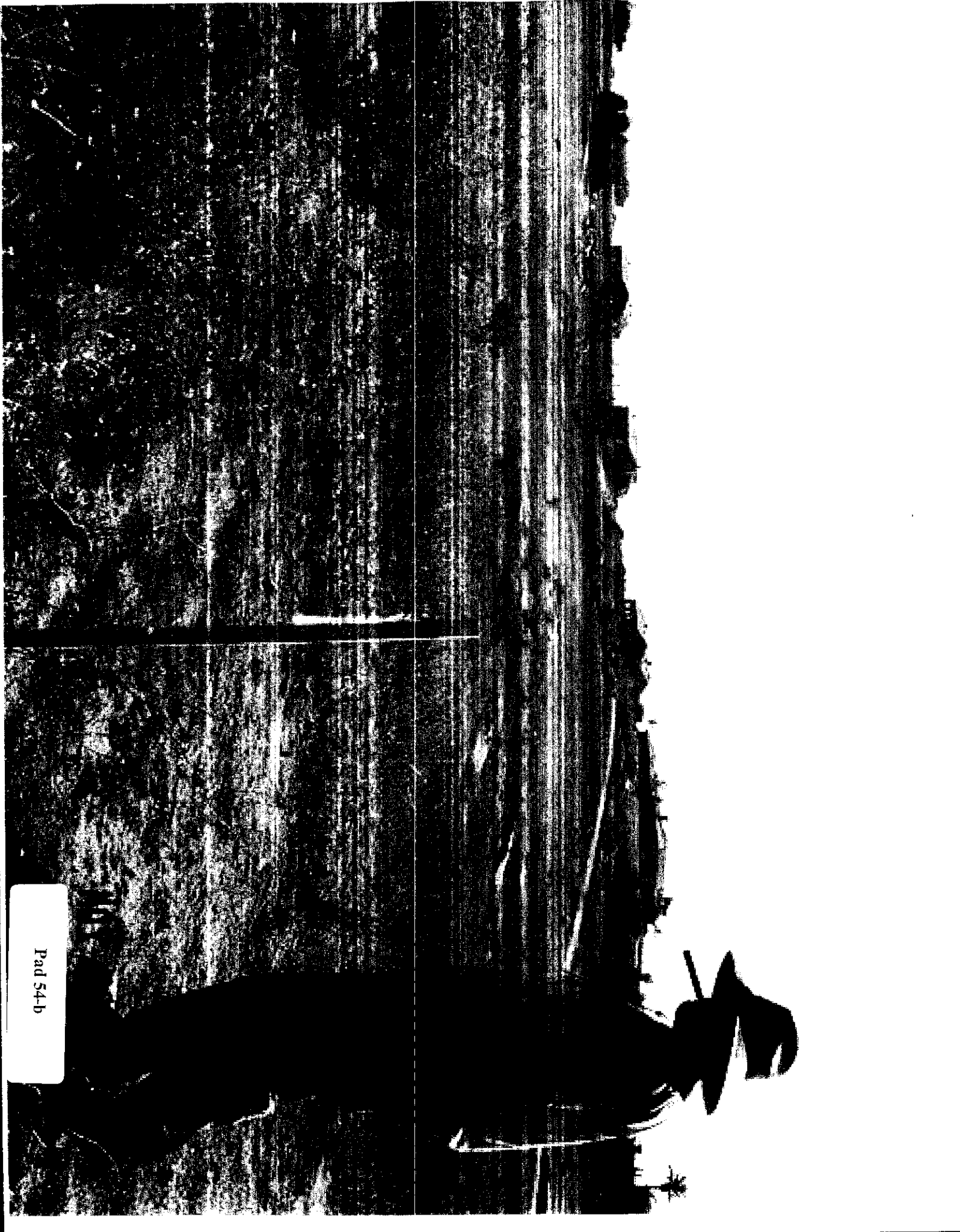


Pad SI-view

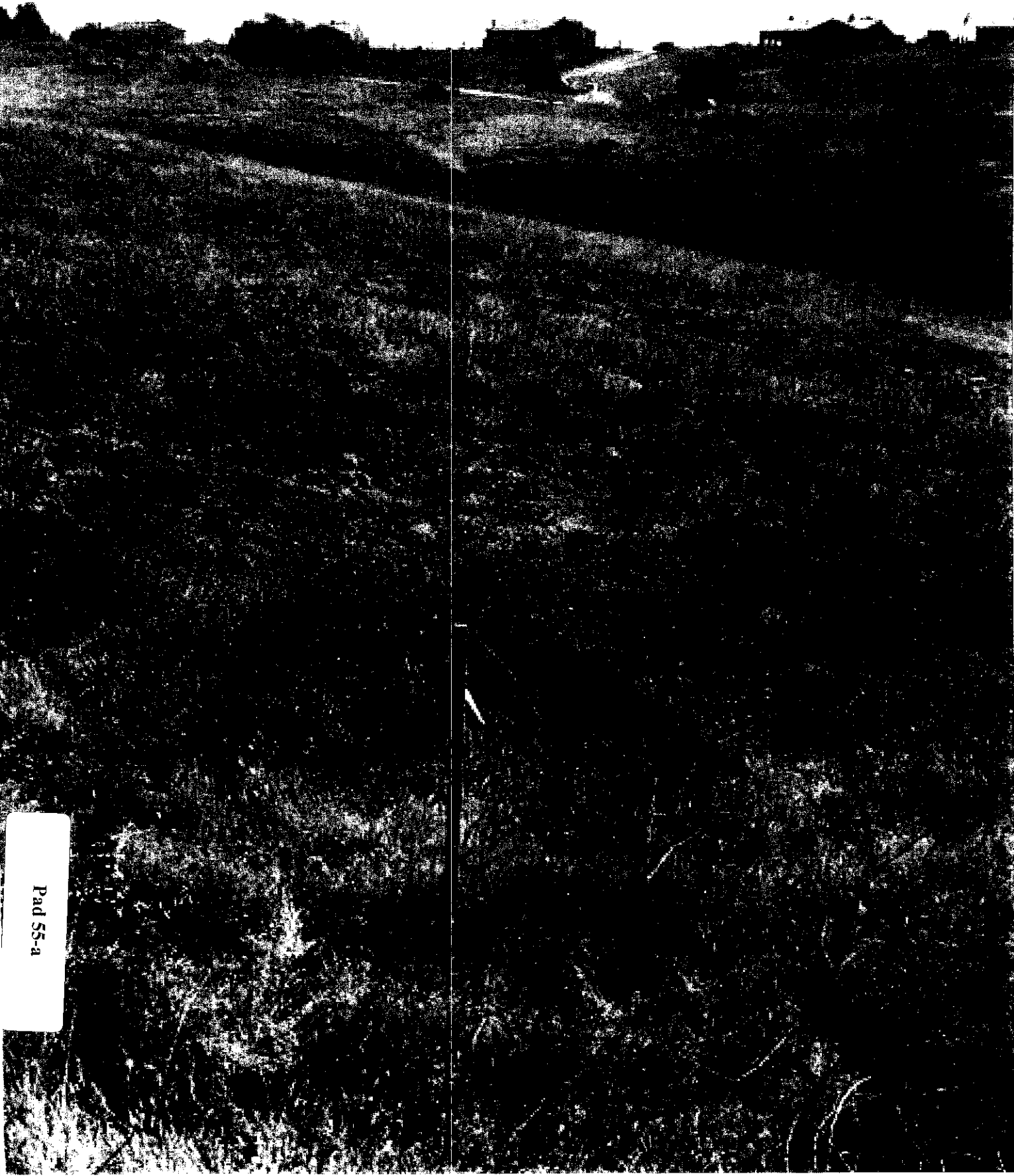


39 76/34

Pad S4-a



Pad 54-b



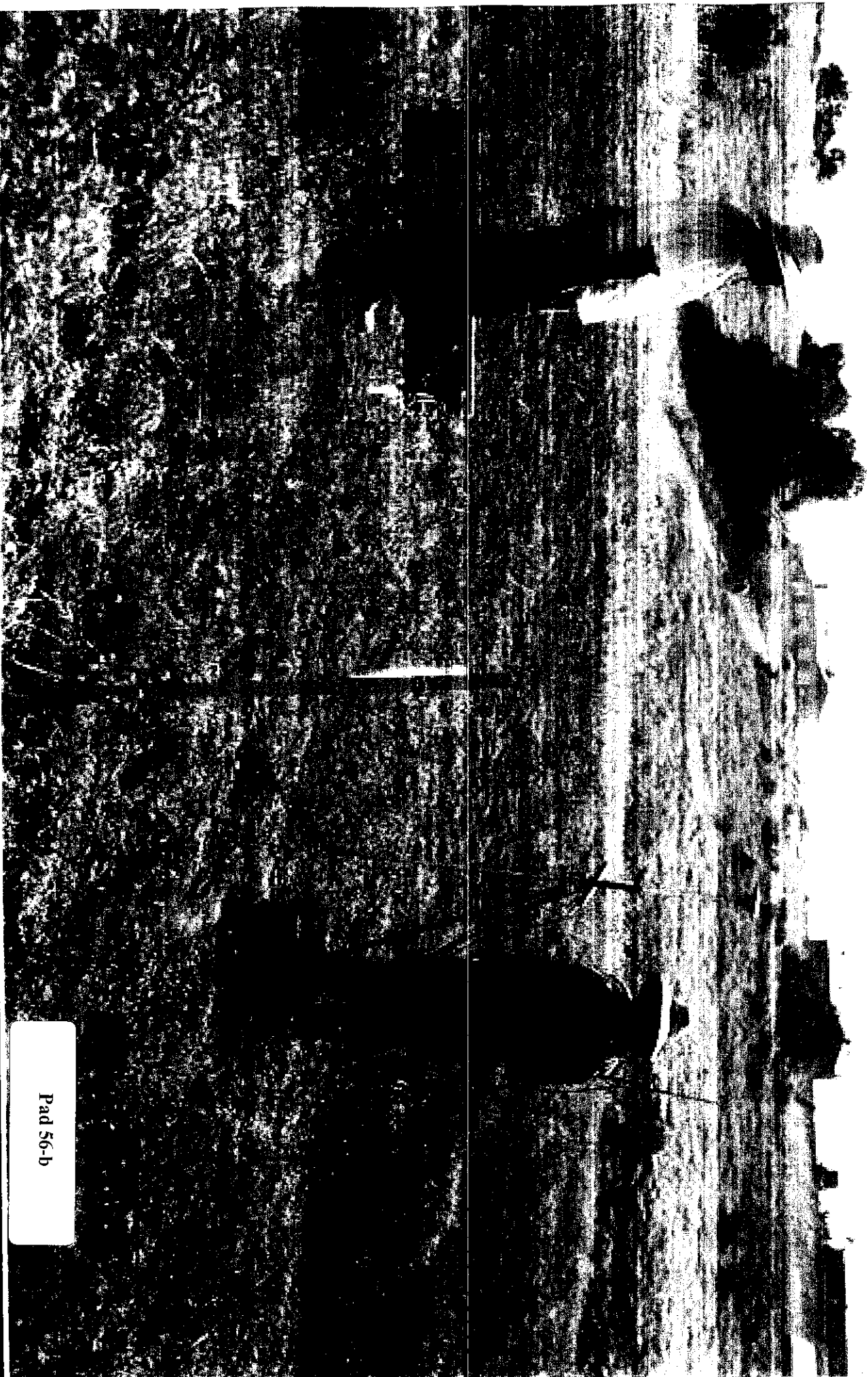
Pad 55-a



Pad 55-b

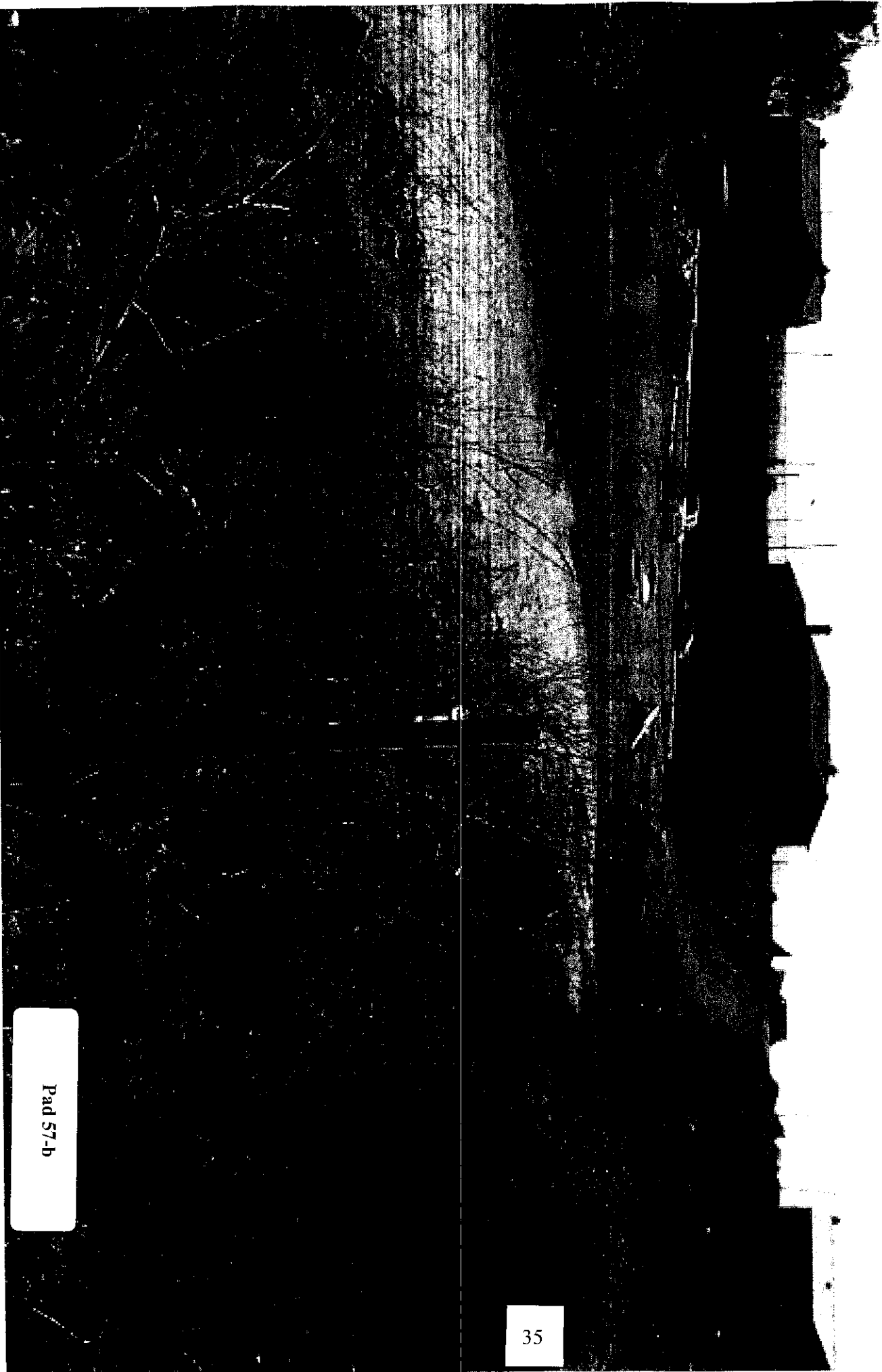


Pad 56-a

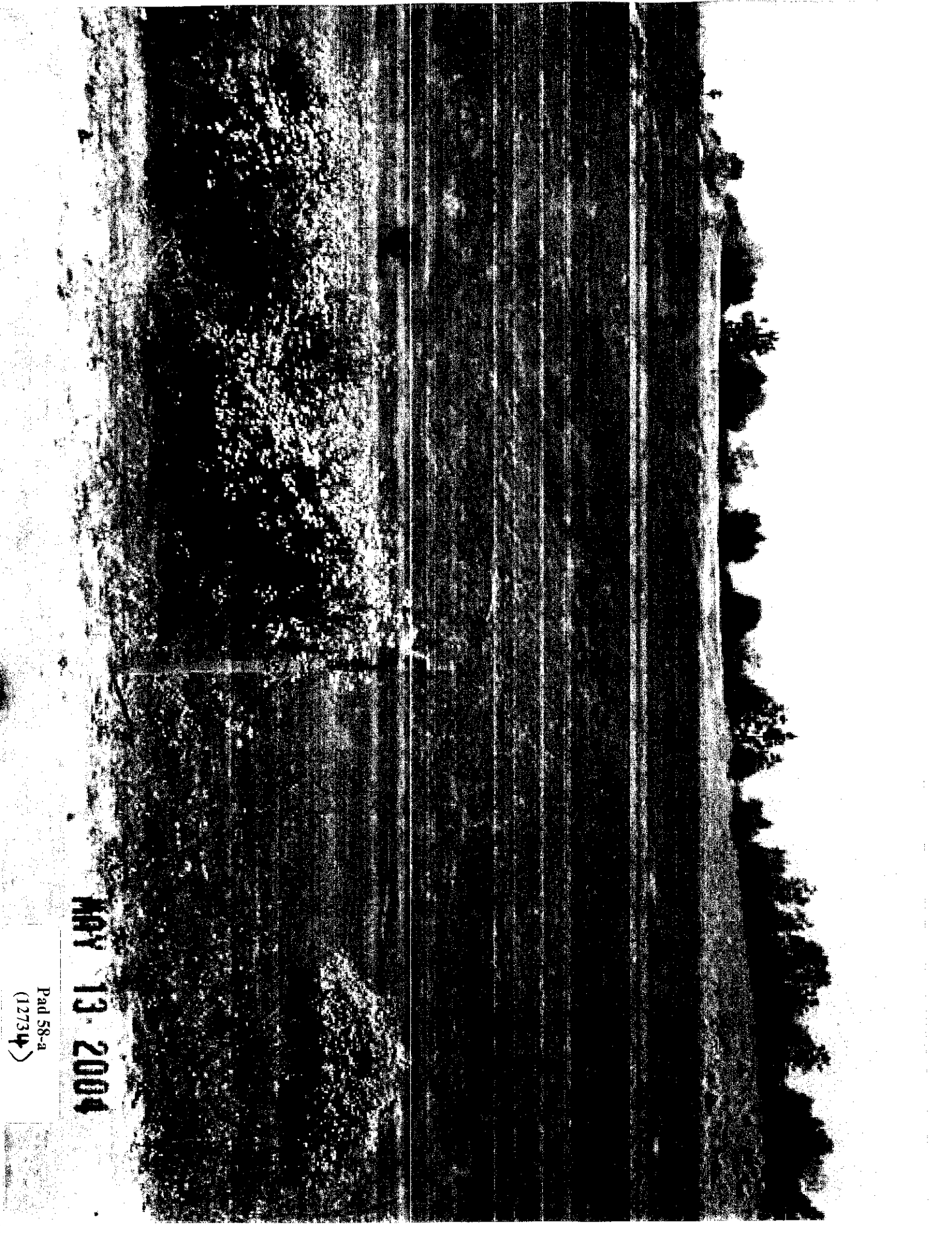


Pad 56-b

Pad 57-a

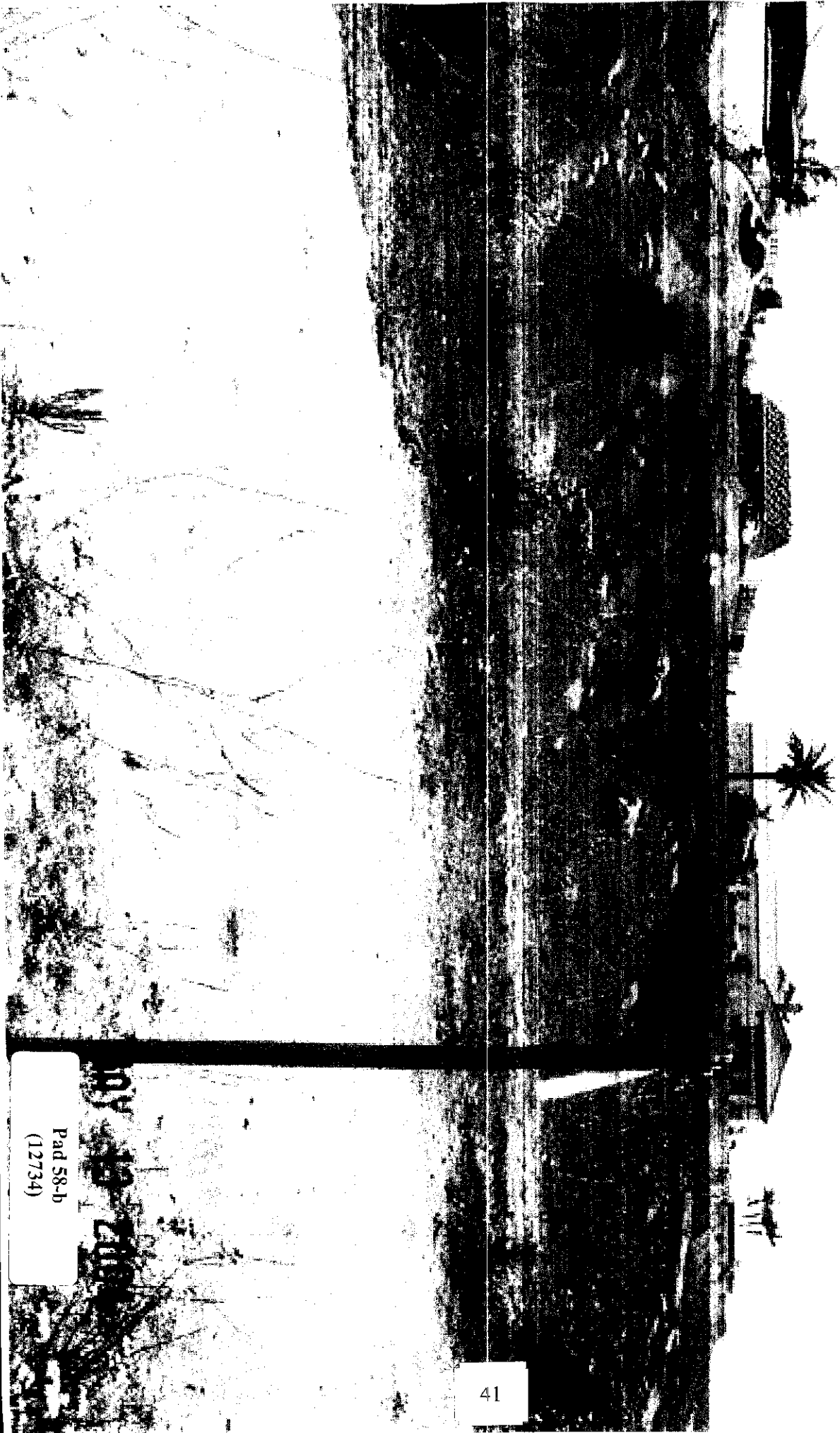


Pad 57-b

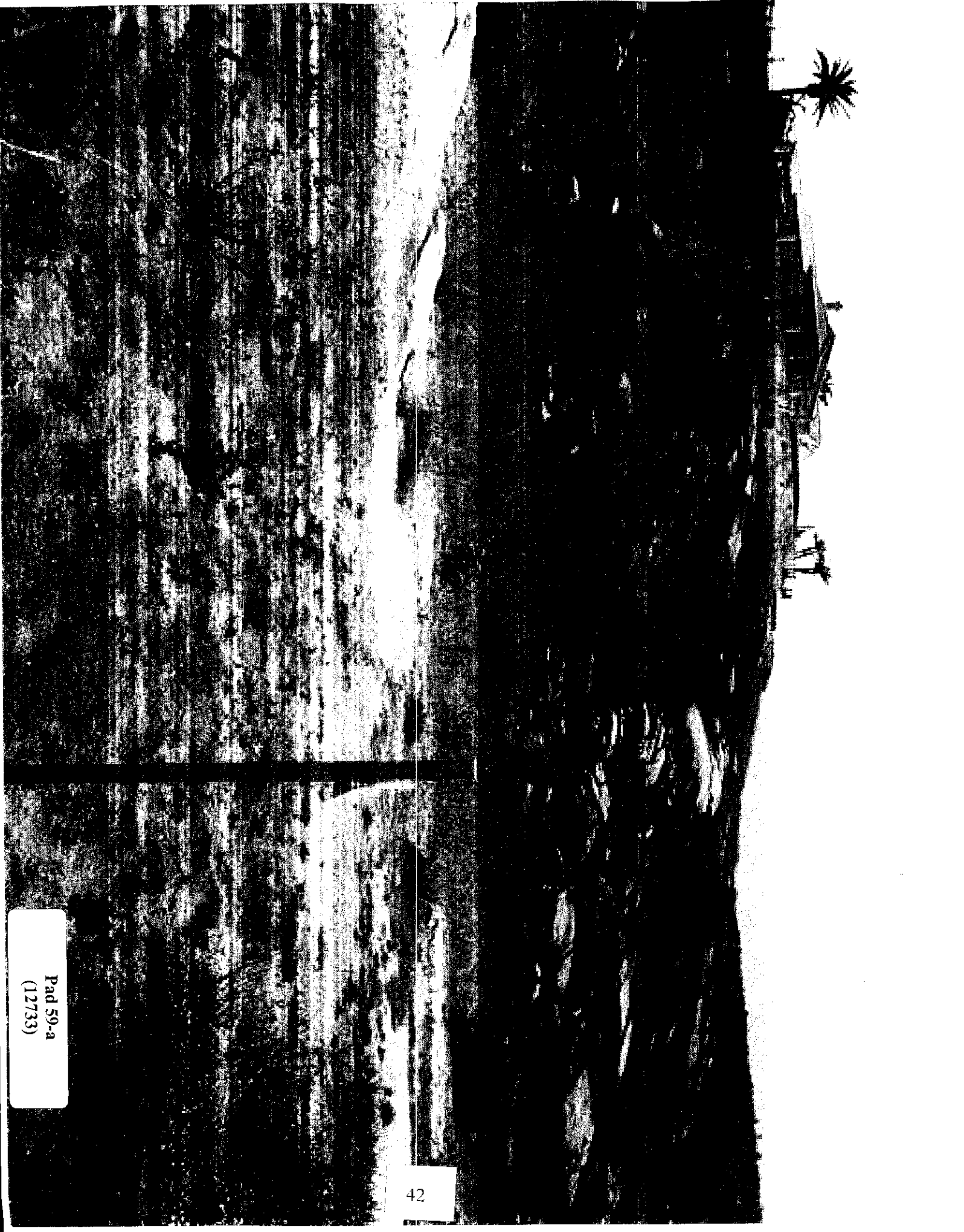


MAY 13 2004

Pad 58-a
(12734)



Pad 58-b
(12734)

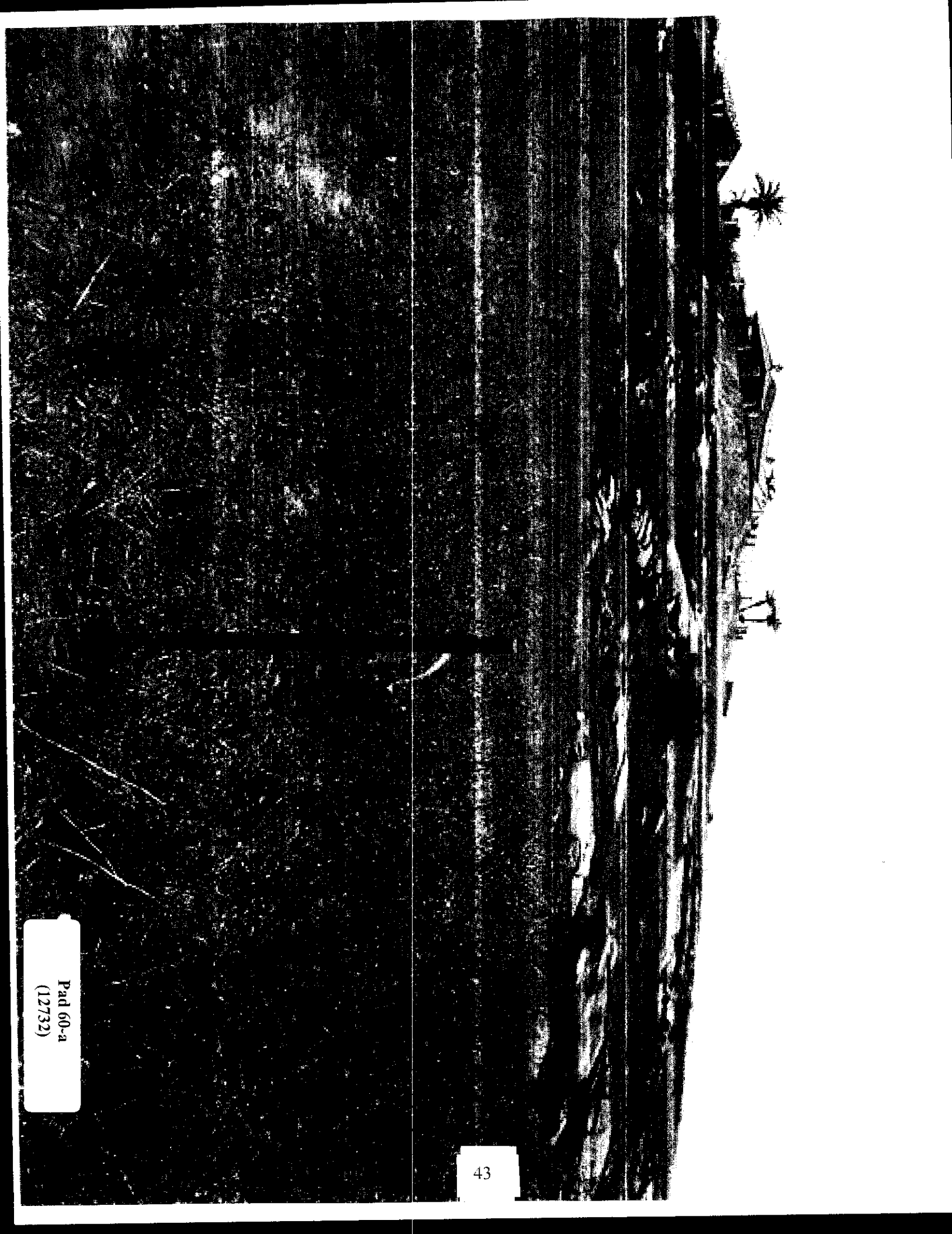


Pad 59-a
(12733)



MAY 13 2004

Pad 59-b
(12733)



Pad 60-2
(12732)



Pad 60-b
(12732)



Pad 61-a
(12730)



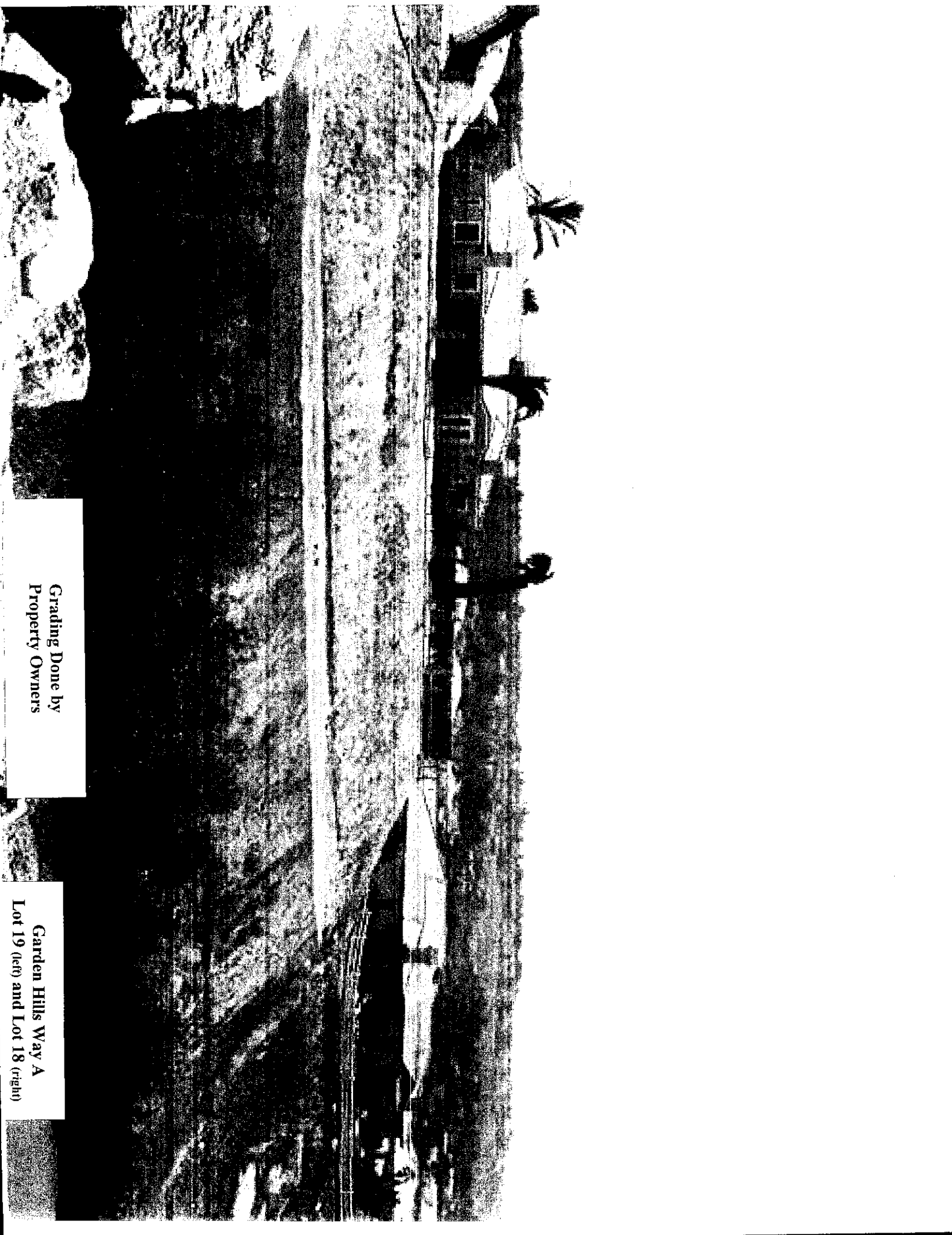


Pad 62-a
(12731)



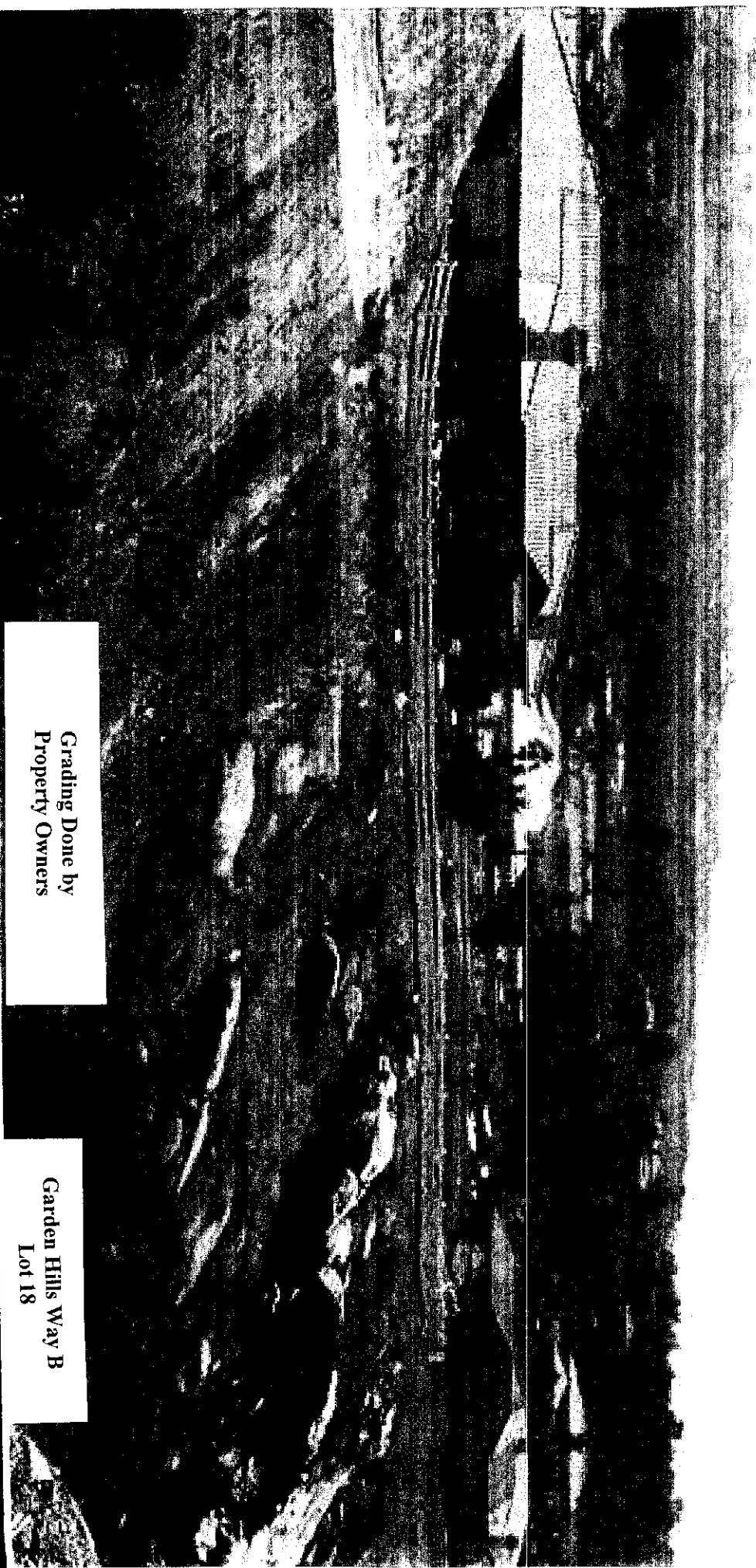
Pad 62-b
(12731)

MAY 2008



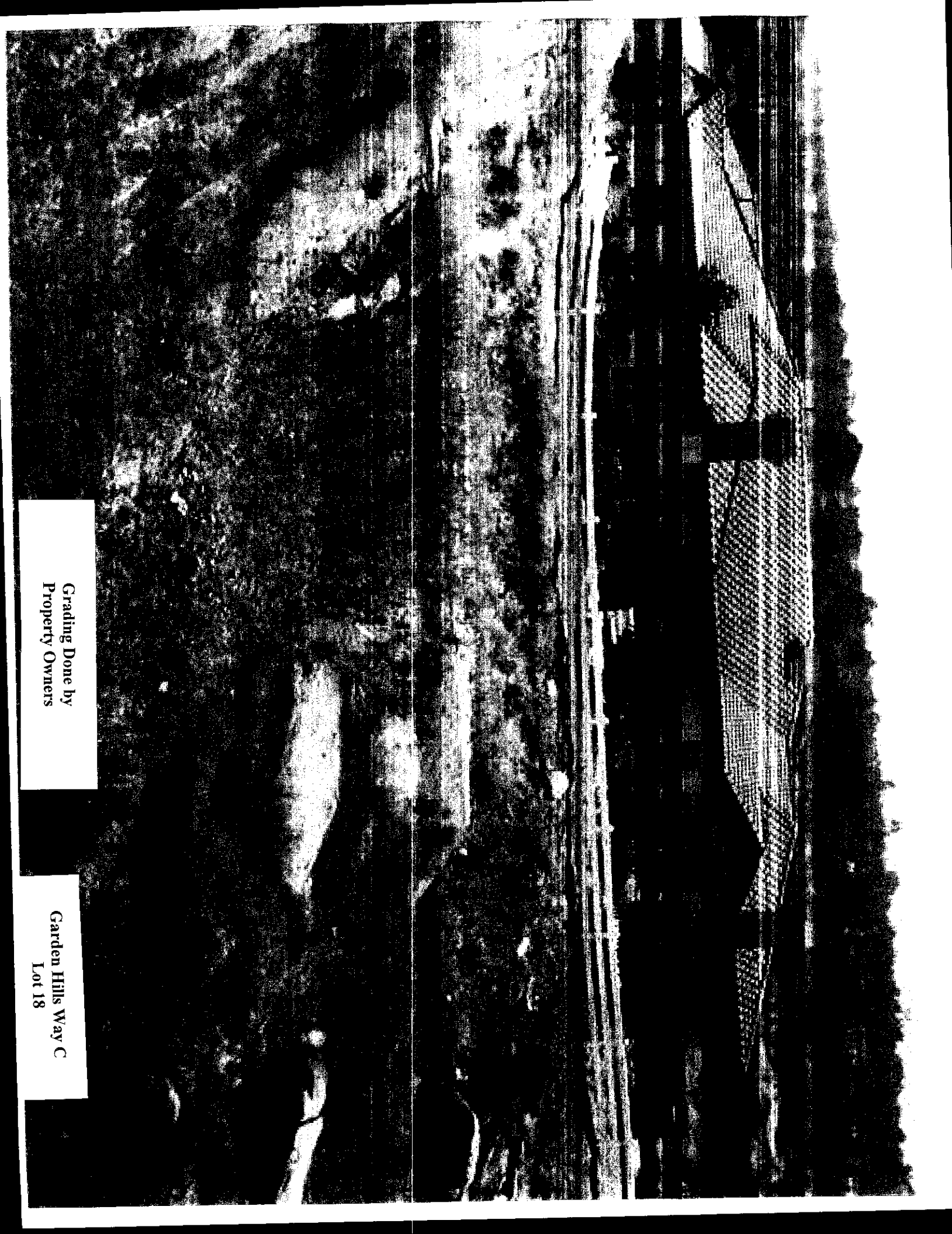
Grading Done by
Property Owners

Garden Hills Way A
Lot 19 (left) and Lot 18 (right)



Grading Done by
Property Owners

Garden Hills Way B
Lot 18



Grading Done by
Property Owners

Garden Hills Way C
Lot 18

CITY OF RIVERSIDE PLANNING DEPARTMENT



Grading Exceptions

CASE NUMBER:

HEARING DATE:

APPLICANT PROVIDED GRADING EXCEPTION FINDINGS:

- Grading Exceptions:
- a) to allow lots 37-41, 43-49, 50, 51, 57-62, 77-78, portions of Crest Haven Drive, Century Hills Drive, Grass Valley Way, the water quality basin, the Flood Control access road, and the sewer line extension, to encroach within the limits of the Alessandro Arroyo and the 50-foot development setback of the Alessandro Arroyo as defined in the Grading Ordinance; and
 - b) to allow slopes in excess of twenty-feet for portions of Crest Haven and Century Hills Drives.

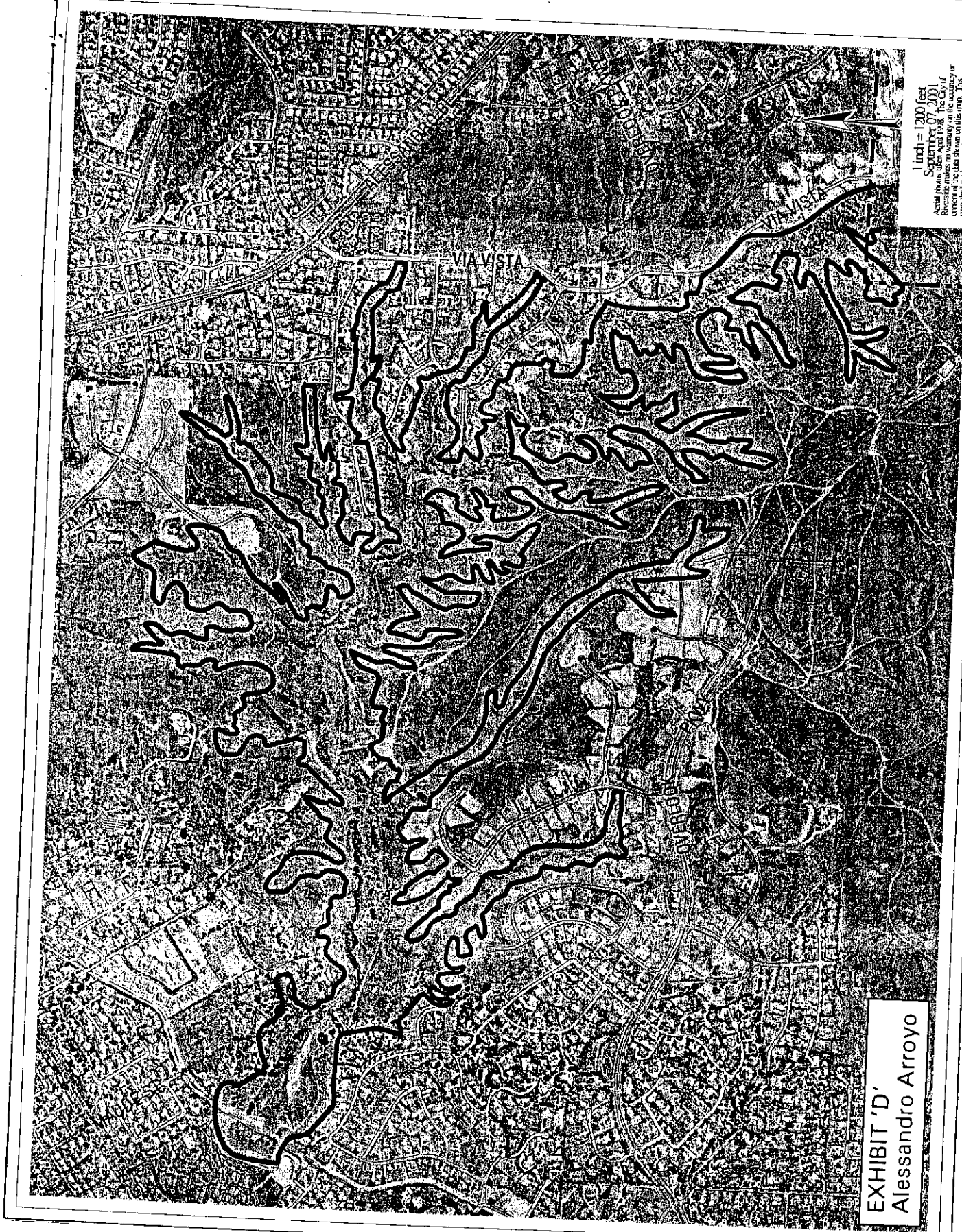
Relevant Standards from the City of Riverside Grading Ordinance

Arroyo and Tributary Grading Prohibitions in the City of Riverside Grading Ordinance: Grading in the Alessandro Arroyo and within the 50' setback to the Alessandro Arroyo is prohibited by the Arroyo Grading section of the Grading Ordinance, as follows "[n]o development or grading or any kind shall be permitted within 50 feet of the limits of the Mockingbird Canyon, Woodcrest, Prenda, Alessandro, Tequesquite, or Springbrook Arroyos and associated tributaries as shown on Exhibits "A-F". (Grading Ordinance, § 17.28.020(14)(a).)

Administrative Procedure to Allow Grading Within Designated Arroyo Tributaries: "The Zoning Administrator shall have the authority to administratively allow grading within designated arroyo tributaries depending on the sensitivity of the area. Sensitivity shall be determined by such factors as the presence of riparian vegetation, habitat for rare or endangered species, significant rock outcroppings or other unique topographic features on the property proposed to be graded or in nearby segments of the same tributary." (Id., at § 17.28.020(A)(14)(a).)

Definitions:

1. The Alessandro Arroyo is defined in the Grading Ordinance as follows: "the limits of the arroyos shall include all that land within the water course area, the adjacent slopes having an average natural slope of 30% or greater, **and** all other areas within the boundaries shown on Exhibits "A-F" (emphasis added.) (Id., at § 17.28.020(14)(b).) Exhibits "A-F" are maps attached to the Grading Ordinance that identify the Arroyos and tributaries. Exhibit "D" is attached below.
2. Alessandro Arroyo Study definition of Arroyo. The direction of the water flow in the Arroyo that occurs during periods of heavy rain is from east to west.
3. The topographic maps incorporated for illustration purposes herein identify in red all slopes less than 30%, and in blue all slopes greater than 30%. The 50' setback and limits of the Alessandro Arroyo identified on Exhibit "D" are identified on the topographic maps used herein. The southerly line identifies the Arroyo limit, and the northerly line identifies the outer edge of the 50' setback. The location of the Alessandro Arroyo (the "Arroyo") and the 50' setback are interrelated. The Arroyo limit line establishes the beginning of the 50' setback, which extends 50' away from the Arroyo. For ease of reference, in these findings, the Arroyo limit and the 50' setback will be referred to together as the "setback ribbon", unless the context requires that they be identified individually.



1 inch = 1200 feet
Scale
Super Aerial Photo, 7/20/11
Recreate makes no warranty on the accuracy or
correctness of the data shown on this map. This
is not a liability or disclaimer.
Prepared by SANDAG at Riverside, California

EXHIBIT 'D'
Alessandro Arroyo

*** FOR ILLUSTRATIVE PURPOSES ONLY ***
PLEASE CONTACT THE PLANNING DEPARTMENT FOR PRECISE ARROYO BOUNDARIES.

FINDINGS:

1. ***The strict application of the provisions of this Title would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of Title 17.***

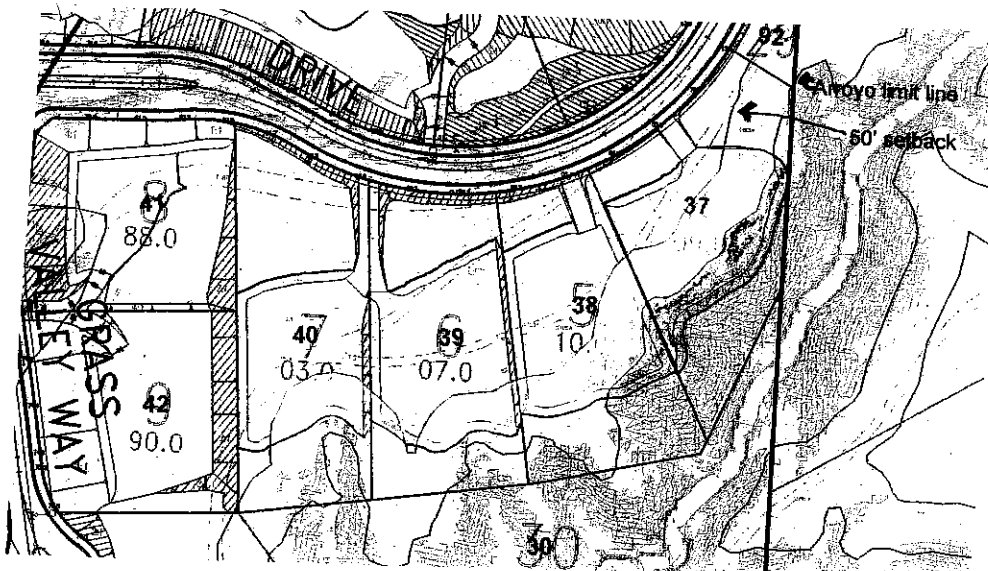
Exception A – Encroachment into the Arroyo Limits and 50' Setback Ribbon

Lots 37, 38, 39 and 40: Lots 37 – 40 form a four-lot cluster, and for that reason are discussed together. The portions of the building pads that encroach into the setback ribbon is identified in orange on the map below. Strict compliance with the Grading Ordinance would reduce the size of the building pads as follows:

Lot Number	Average Natural Slope	Maximum Building Pad Size	Current Building Pad Size	Strict Compliance with Grading Ordinance Pad Size
37	18.77 %	21,000 sq. ft.	20,310 sq. ft.	6,770 sq. ft.
38	19.85%	21,000 sq. ft.	21,000 sq. ft.	12,600 sq. ft.
39	16.38%	21,000 sq. ft.	21,000 sq. ft.	15,750 sq. ft.
40	14.61%		17,200 sq. ft.	13,376 sq. ft.

To make up for the lack of size on smaller lots, developers frequently construct two-story residences. Frequently, the second story is constructed above the garage. However, two-story residences are prohibited in the RC zone (Grading Ordinance § 19.09.030), and garages are required for every residence (City of Riverside Municipal Code § 19.74.010.A). The Grading Ordinance limits building pads on lots steeper than 30% to 18,000 square feet. An 18,000 square foot lot is the minimum size identified in the Grading Ordinance.

Based on the information in the chart above, strict compliance with the Grading Ordinance would result in building pads ranging from about 7,000 square feet to 16,000 square feet. These lots would be too small to support a one-story residence and a garage. Strict compliance with the Grading Ordinance would reduce the size of the building pads to a size too small to build a residence otherwise in compliance with the RC zone and CRMC § 19.74.010.A (one-story, and with a garage).



Topography: Lots 37, 38, 39, and 40, contain three knolls that extend across the lots to form a minor ridgeline. Exhibit "D" identifies the setback ribbon straddling the top of the knolls on lots 37 and 38, and extending along the southern slope of the minor ridgeline on lots 39 and 40. The top of the knolls on lots 37 and 38 is an almost flat area, and the southern slope of lot 39 and 40 is also less than 30% slope.

Encroachment Areas are not Sensitive: Lots 37-40 qualify for a grading exception for the following reasons:

- (i) Riparian vegetation is limited to the watercourse areas. (Biological Assessment, R.B.Riggan, October 30, 2000, Figure 7 and Michael Brandman Associates, Jurisdictional Delineation, March 2003, Vegetation Map, see attachment A.) No riparian vegetation exists on lots 37-40.
- (ii) Habitat for Rare or Endangered Species:
Lots 37-39: The Encroachment Areas on lots 37 – 39 contain non-native grasses described as "ruderal vegetation – areas mechanically cleared in the early 1990's . . . essentially devoid of shrubs". The pictures that follow identify the type and quality of the vegetation on lots 37-40. Picture 39-b was taken from lot 39 looking south.
Lot 40 contains relatively undisturbed Riversidian Sage Scrub ("RSS") (Ibid.) The RSS in the arroyo extends into the setback ribbon on Lot 40¹. But it is not occupied by Gnatcatcher (Assessment of the California Gnatcatcher on TM 28728, R.B.Riggan and Associates, September 2001, p. 4). The loss of 2.91 acres of unoccupied Gnatcatcher Habitat will be mitigated by the preservation of RSS in the open space on TM 31930². The conservation of the RSS on lot 40 is not required. (Formal Section 7 Consultation for TM 28728, July 2, 2003, p. 13, middle of first paragraph.) Therefore, the removal of the RSS from the Encroachment Area and the building pad area of lot 40 is permitted, subject to the preservation of 9.6 acres of relatively undisturbed RSS. See picture 40-b, taken from lot 40 looking south.
- (iii) Ruderal vegetation, also called "Old Field Association" consists of "native and nonnative, "weedy" association of plants typically found on abandoned agricultural fields. . . The Old Field Association provides virtually no cover for wildlife and offers little by way of food resources. For much of the area within Tract 28728 (containing TM 31930) recent fire (during late 1999 and again in 2000 and spring 2001), sheep grazing and the low rain fall received during the precipitation year just ending, all contributed to even further reduction in the diversity and stature of the plants that make up the old Field Association." (Id. at pgs. 8 and 9.)
- (iv) There are no significant rock outcroppings on lots 37-40.
- (v) There are no other unique topographic features on these lots or in nearby segments of the setback ribbon.

A Grading Exception is appropriate for lots 37-40 because there are practical difficulties associated with the construction of one-story residences (§ 19.09.030) with garages on lots smaller than 18,000 square feet, and it would be an unnecessary hardship to restrict the size of the lot considering the fact that the Encroachment Areas are not sensitive.

¹ RSS is also present outside the building pads on lots 37-39, in areas where no grading is proposed.

² Usually, the loss of unoccupied habitat does not require mitigation. However, in this case, a federal nexus occurred. The Century Hills Drive arroyo crossing will place fill in certain "non-wetland" waters of the United States. This required a Section 404 Permit from the Army Corps of Engineers. As a result, a Section 7 Consultation was required. The Section 7 Consultation assigned mitigation for the loss of 2.91 acres of unoccupied designated gnatcatcher critical habitat. (Id., at p. 4.) This mitigation is accomplished by the conservation of 22.54 acres of RSS in open space, and the establishment of a conservation easements on lots 44 (formerly lot 11), and lots 30, 31, and 32 of TM 28728.

on the area highlighted in yellow, on the map above. The location of the water quality basin has been determined by the California Regional Water Quality Control Board, and its construction is required as a mitigation measure for the Clean Water Act Section 401 Water Quality Standards Certification for TM 28728, dated July 14, 2003.

Lot 41: Lot 41 contains a slope along the west boundary that will encroach into the setback ribbon. The encroachment will not extend into the Arroyo. When Century Hills Drive is constructed, it will fill in the area containing jurisdictional waters. The fill placed in the low spot and the pipes placed beneath the road to carry water underneath Century Hills Drive, will alter the topography of that area. In its altered condition, there is no reason not to construct Grass Valley Road in the present location. The construction of Century Hills Drive would separate the tributary to the north of that road from the small tributary finger that extends under Grass Valley Road into lot 41. After construction of Century Hills Drive, no purpose would be served by preserving the tip of the headwater in lot 41.

To prohibit the construction of Crest Haven Drive, Century Hills Drive, Grass Valley Road and the water quality basin, in the fixed locations currently proposed would result in a practical difficulty, and would also be an unnecessary hardship because the Encroachment Areas are not sensitive.

Encroachment Areas are Not Sensitive: The Encroachment Areas caused by the construction of Century Hills Drive East and West, the Crossing, Grass Valley Way, the water quality basin, and lot 41, identified in yellow and purple on the map above, are appropriate candidates for grading exceptions for the following reasons:

(i) Riparian Resources:

The Encroachment Areas for Century Hills Drive West, the Crossing, Grass Valley Way, the water quality basin, and lot 41, contain ruderal not riparian resources. (R.B.Riggan, Biological Assessment, Figure 7, and Michael Brandman Associates, Jurisdictional Delineation, March 2003, Vegetation Map, see attachment A.) Specifically, the Encroachment Area for Century Hills West does not constitute a wetland, and does not contain riparian vegetation (R.B.Riggan, Biological Assessment, Figure 7, and Michael Brandman Associates, Jurisdictional Delineation, March 2003, Vegetation Map, see attachment A.) Century Hills Drive will be constructed within the limits of the Arroyo tributary, no fill is proposed in the Arroyo (R.B.Riggan, Biological Assessment, p. 17).

The construction of Century Hills Drive will consist of improvements to an existing road, including improvements to the area where the road crosses an unnamed jurisdictional drainage (see the map on the following page). The road improvements and construction of the water quality basin "will result in the permanent loss of 0.028 acres (370 linear feet) of 'waters of the united States', and 0.077 acres of 'waters of the State' subject to CDFG jurisdiction. Affected vegetation is limited to ruderal species and a few sparse Mulefat." (Michael Brandman Associates, Jurisdictional Delineation TM 28728, March 2003, p. 12.) "Temporary impacts to jurisdictional waters would extend the limits of encroachment about 40 feet beyond the development footprint. These areas would be returned to the pre construction contours at the end of the construction phase." (Id. at pg. 13.)

The applicant has obtained a Nationwide Permit for Linear Transportation Projects ("NWP 14") (Id. at 14.) The Streambed Alteration Permit, issued by CDFG, required mitigation consisting of (i) the expansion of an unnamed drainage downstream of the road crossing that will provide 0.077 acres of mitigation (a 1:1 ratio, permitted by the Streambed Alteration Agreement No. 6-2003-067), (ii) the installation of riparian vegetation within the mitigation site consisting of native grasses, and (iii) a three-year maintenance and monitoring plan to ensure the successful establishment of native cover within the mitigation area. (Jurisdictional Delineation, Streambed Alteration Permit, at pg. 17.) The applicant has obtained the necessary permits, and analyzed the impacts of constructing Century Hills Drive across the unnamed drainage area, and will comply with all mitigation measures required by the Nationwide Permit, and the Streambed Alteration Agreement. Because impacts to jurisdictional waters will be mitigated to comply with the requirements identified in the resource agency permits, the City need not consider the Century Hills Drive area to be sensitive.



Exhibit 4
 Jurisdictional Areas

(ii) Habitat for Rare and Endangered Species:

As identified above, the Encroachment Areas for Century Hills Drive East and West, the water quality basin, and lot 41, do not contain RSS; they contain ruderal vegetation (Id. at Figure 7.). See the pictures on the following pages: Century Hills East, looking east, labeled Cresthaven & Century 2 (12712); the Crossing, taken at the proposed intersection of Crest Haven and Grass Valley Way, looking west, identified as Century at Grass Valley (12717), and lot 41, taken on lot 41 looking west from the center of the building pad towards the Encroachment Area, labeled Pad 41-a.

The Encroachment Area for the Crossing also contains ruderal not riparian vegetation (R.B.Riggan, Biological Assessment, Figure 7, and Michael Brandman Associates, Jurisdictional Delineation, March 2003, Vegetation Map, see attachment A.) The Encroachment Area for Grass Valley Drive also contains ruderal vegetation, except for the Encroachment Area at the south tip of the road (see map above), which may contain RSS. (Id. at Figure 10.) It is unclear from Figure 10 whether the RSS extends into the Grass Valley Way cul-de-sac. Assuming that it does, the RSS removed for road development will be mitigated through the dedication of open space on-site (Formal Section 7 consultation for TM 28728, p. 13).


(iii) Rocks:

the construction of Century Hills East and West, the Crossing, Grass Valley Way, the water quality basin, and lot 41, will not require the removal of rock outcroppings.

(iv) Other Unique Features:

The development of Century Hills East and West, and Grass Valley Drive, will not impact other unique features. Regarding Century Hills West and Grass Valley Way, and the water quality basin, other than the impact to jurisdictional waters, which will be mitigated as required, no other unique features occur in tributary segments in the vicinity.

To prohibit grading within the Encroachment Areas and within the tributary for Century Hills Drive (East and West), the Crossing, Grass Valley Way, the water quality basin, and lot 41, would be an unnecessary hardship for the following reasons: (i) The location of Century Hills Drive is fixed because it connects on both ends with existing dead-end cul-de-sacs to form a loop road. (ii) Improvements to Century Hills Drive will be made to a road that has existed in that location for years; (iii) The construction of Century Hills Drive West and the water quality basin, will result in the placement of fill in the un-named drainage and the installation of a culvert to carry water that previously flowed in the jurisdictional drainage. The construction of Grass Valley Way and the water quality basin will increase the length of the culvert, and cause the placement of additional fill material within the Encroachment Area. However, the grading in the Encroachment Area for Grass Valley Way and the water quality basin is not located in a sensitive area. (iv) Placing fill in the Encroachment Area for the small tributary headwater that extends into lot 41 would result in a minor reduction in tributary headwater area. Because the area is not sensitive, a grading exception for that encroachment is appropriate.



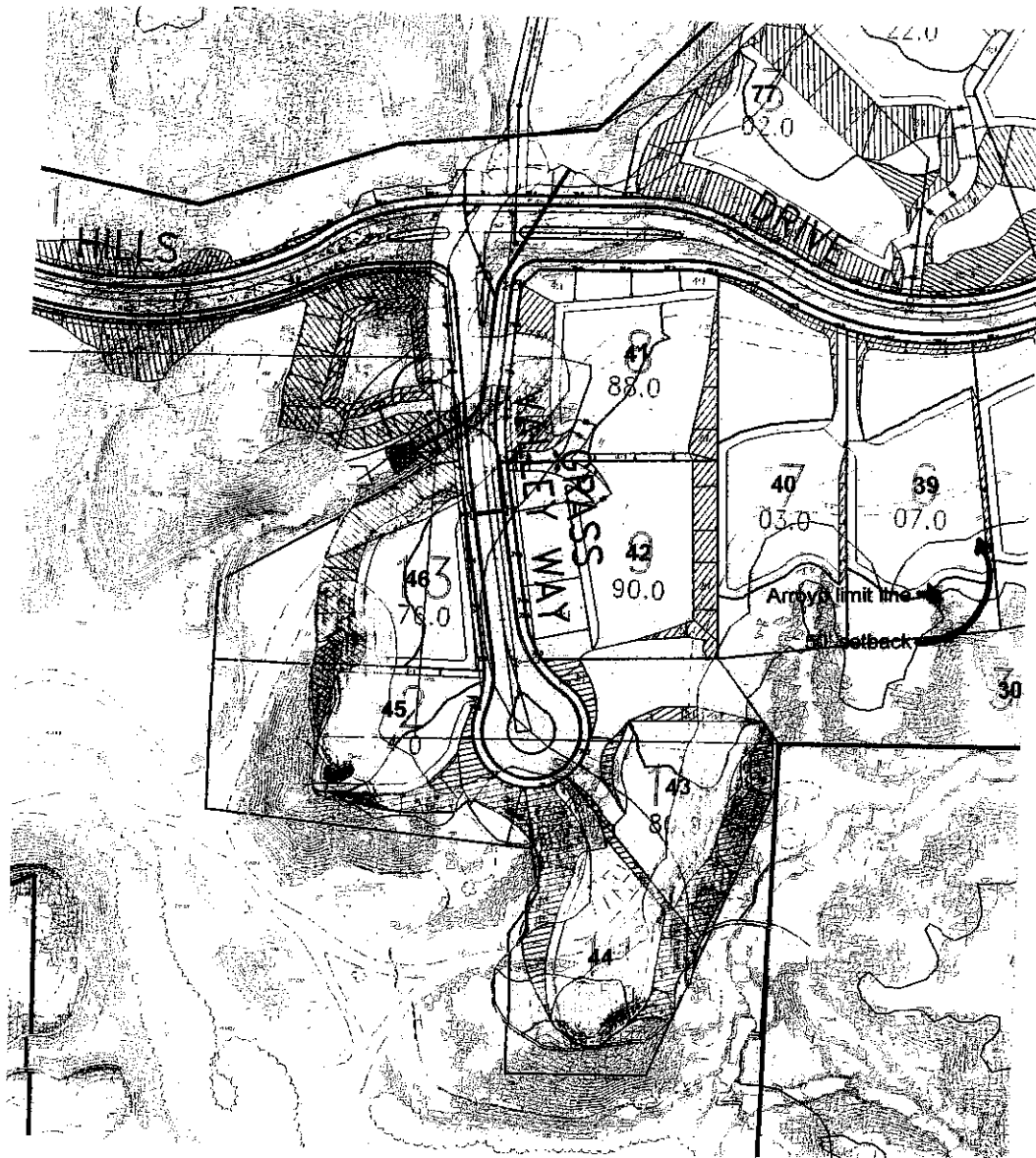
Century Hills Drive at Grass Valley Way
(12717)



Pad 41-a

15

Lots 45 and 46 – The construction of the building pads on lots 45 and 46 will encroach into the setback ribbon in the locations highlighted in orange, and into the tributary in the locations highlighted in purple, on the map below.



Lots 45 and 46: These lots form a cluster. The elevation of the building pad identified for lot 46 is 2 feet higher than the elevation of lot 45, with a small slope along the shared boundary between the building pads. The encroachment into the setback ribbon and the Arroyo is identified in orange, and purple, respectively, on the map below.

Strict Compliance with the Grading Ordinance:

Lot 45: Lot 45 contains an ANS of 26.67%. The maximum building pad size permitted by the Grading Ordinance for a parcel with a slope greater than 15% is 21,000 square feet. The size of the proposed building pad is 15,890 square feet, one of the smallest building pad sizes in TM 31930. Strict compliance with this requirement would reduce the size of the building pad by more than one-half, to 7,945 square feet. A 7,945 square foot building pad would be too small to contain a one-story residence (§ 19.09.030) and garage (as required by CRMC § 19.74.010.A.)

Lot 46: A road constructed for a hunt club that previously occupied this area is located within the Encroachment Area on lot 46. (See existing road in Encroachment Area, on map above, and structure used by the hunters on picture 45-a, following.) About ½ of the Encroachment Area has already been graded for the road.

Lot 45 is 26.67% ANS. The maximum building pad for lots in the RC zone greater than 15% slope is 21,000 square feet. The building pad for lot 46 is proposed at 14,550 square feet. Because lot 46 requires a slope along the western side of the building pad, strict compliance (containing all grading including the slope outside the setback ribbon) would reduce the size of the building pad by about 50%, to about 7,275 square feet. Such a small lot cannot contain a one-story residence (§ 19.09.030) and the mandatory garage.

Topography: The Encroachment Areas are mostly flatter than 30% (see the red underneath the highlighting on the topographic map, below.

Encroachment Areas are not Sensitive: The Encroachment Areas on lots 45 and 46 are not sensitive for the following reasons:

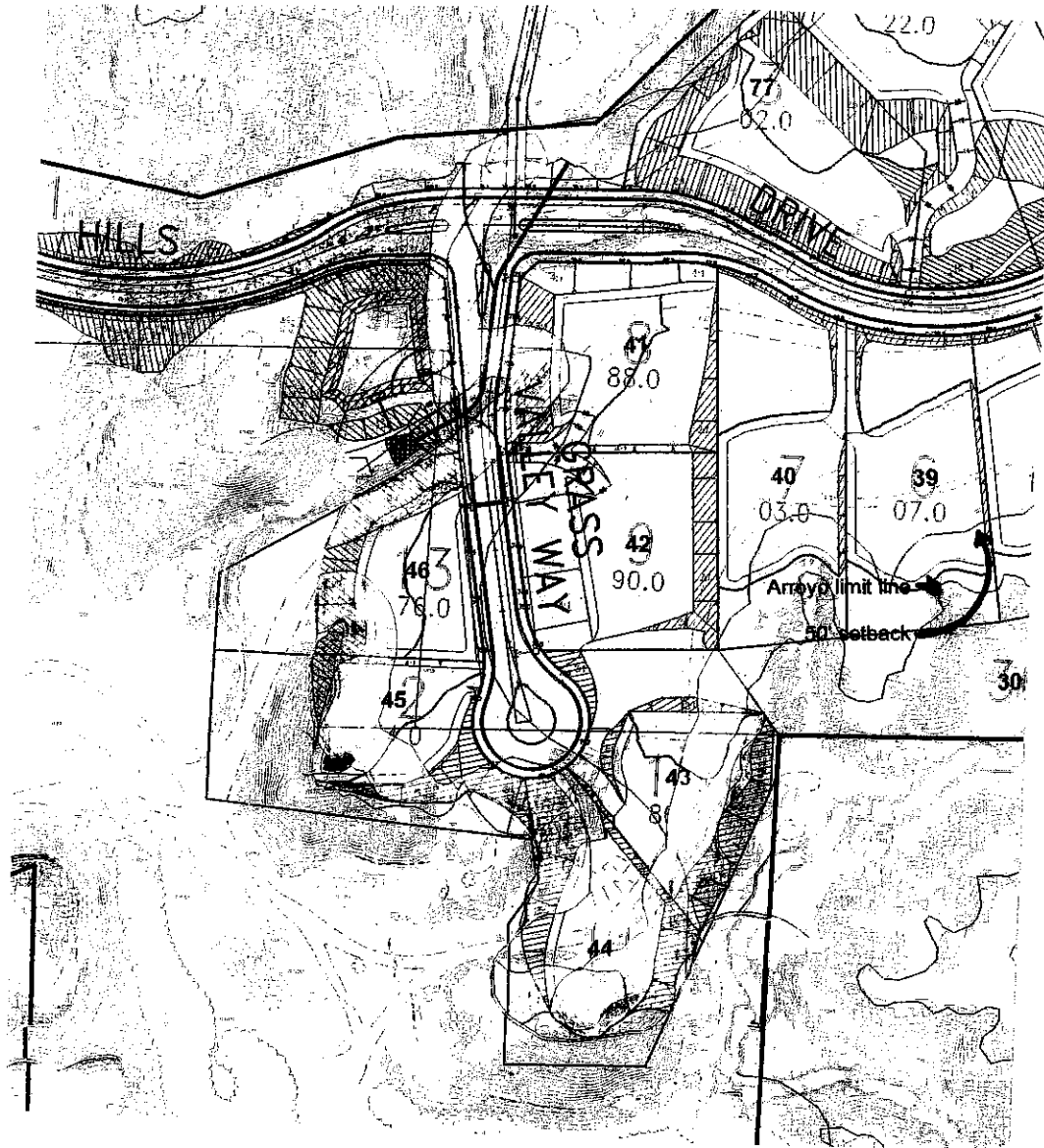
- (i) The building pads are not proposed in areas of riparian or wetland vegetation (Biological Assessment, R.B.Riggan, Figure 10);
- (ii) The removal of the RSS identified within the Encroachment Areas will be mitigated by the RSS contained in the open space (Id., at p. 17). See the pictures that follow, labeled 45-a, and 46-a, taken from lot 45 looking east and lot 46 looking south.
- (iii) One large rock outcropping has been identified within the Encroachment Area on lot 45 (highlighted in pink on the map above). The large rock outcropping will be protected from development by Condition of Approval 18. No other rock outcroppings are located within the Encroachment Areas.
- (iv) No other unique features exist in the Encroachment Areas or in nearby segments of the tributary.

To prohibit lots 45 and 46 from encroaching in the setback ribbon and tributary limits, would result in a practical difficulty because the building pads that comply with the Grading Ordinance are too small for a one-story house and a garage. Also, it would be an unnecessary hardship to prohibit grading in the Encroachment Areas because Encroachment Areas for lots 45 and 46 are not sensitive.

Pad 45-a
(12719)

Pad 46-a
(12719)

Lots 43 and 44: The building pad on lot 43 would encroach into the setback ribbon and the Arroyo in the Encroachment Area identified in orange and purple on the map below. The building pad for lot 44 would extend into the setback ribbon only (no encroachment into the Arroyo) in the Encroachment Area, highlighted in orange on the map below.



Topography:

Lot 43: The average natural slope for this lot is 16.95%. The Grading Ordinance limits building pads on lots exceeding 15% slope to 21,000 square feet. The proposed building pad is 18,060 square feet. Strict compliance with the Grading Ordinance would further limit the building pad by a little more than one-half, to about 9,000 square feet. A 9,000 square foot pad would be half the size of the smallest pad allowed in the RC zone. The contour grading constraints imposed by the Grading Ordinance, which require the topography of the site to determine the shape of the pad, would further limit its development. A practical difficulty would result from reducing the size of the building pad on this lot because at 9,000 square feet, the building pad would be too small and irregular in size and shape to support a one-story home and garage.

Lot 44: Lot 44 contains an average natural slope of 22.27%. The Grading Ordinance limits building pads on lots with this slope to a maximum of 21,000 square feet. To accommodate the existing topography as much as possible, the building pad is proposed at 15,890 square feet. Strict compliance with the Grading Ordinance would reduce the building pad on lot 44 by about 1/2, to about 8,000 square feet. The pad would also be very irregular in shape. In fact, the house would have to be shaped like a "C" to conform to the natural shape of the building pad. The size limitation, combined with the 20' (1 story) height limit contained in the RC zone would eliminate the ability to construct a home and garage (as required by CRMC § 19.74.010.A) on lot 44.

Encroachment Areas are not Sensitive: The Encroachment Areas on lots 44 and 45 are not sensitive for the reasons identified below:

(i) No fill or construction is proposed in the Arroyo riparian or wetland habitats (Biological Assessment, R.B.Riggan, p. 17, third paragraph.);

(ii) The southeastern portion of TM 31930, including lots 44 and 45, contains about 2.9 acres of relatively undisturbed RSS located in designated gnatcatcher habitat (Id. at Figure 9.) (see pictures labeled 43-b and 44-b, taken from lots 43 and 44 facing south, attached on the following pages). TM 31930 contains 5.4 acres of RSS that will be lost with the development (2.6 acres of relatively disturbed RSS, and 2.9 acres of relatively undisturbed RSS). The relatively undisturbed RSS covers more than half of lot 44 and all of lot 45. (Id., at Figure 10.) To offset the direct effects of RSS removal, including the loss of designated gnatcatcher critical habitat and increased habitat fragmentation, TM 28728 was required to preserve 22.54 acres of RSS under a permanent conservation easement. Under the 3:1 mitigation ratio required to mitigate the loss of RSS, 16.5 acres of RSS must be preserved by TM 31930 (Id. p. 17). TM 31930 will preserve 11.0 acres of relatively disturbed RSS and 9.6 acres of relatively undisturbed RSS, 4.1 acres more than the required amount. "These actions (the dedication of open space) will result in the conservation of the majority of the RSS habitat on the site, and this conservation will occur adjacent to the Alessandro Arroyo, on the southern portion of the proposed project site. The onsite conservation will preserve the function for the Alessandro Arroyo as a critical habitat linkage by providing for the movement of gnatcatchers from west to east across the southern portion of the proposed project site." (Formal Section 7 Consultation, July 2, 2003, p. 13.)

(iii) No significant rock outcroppings or other unique topographic features are located within the Encroachment Areas on lots 44 and 45, or in nearby segments of the Arroyo.

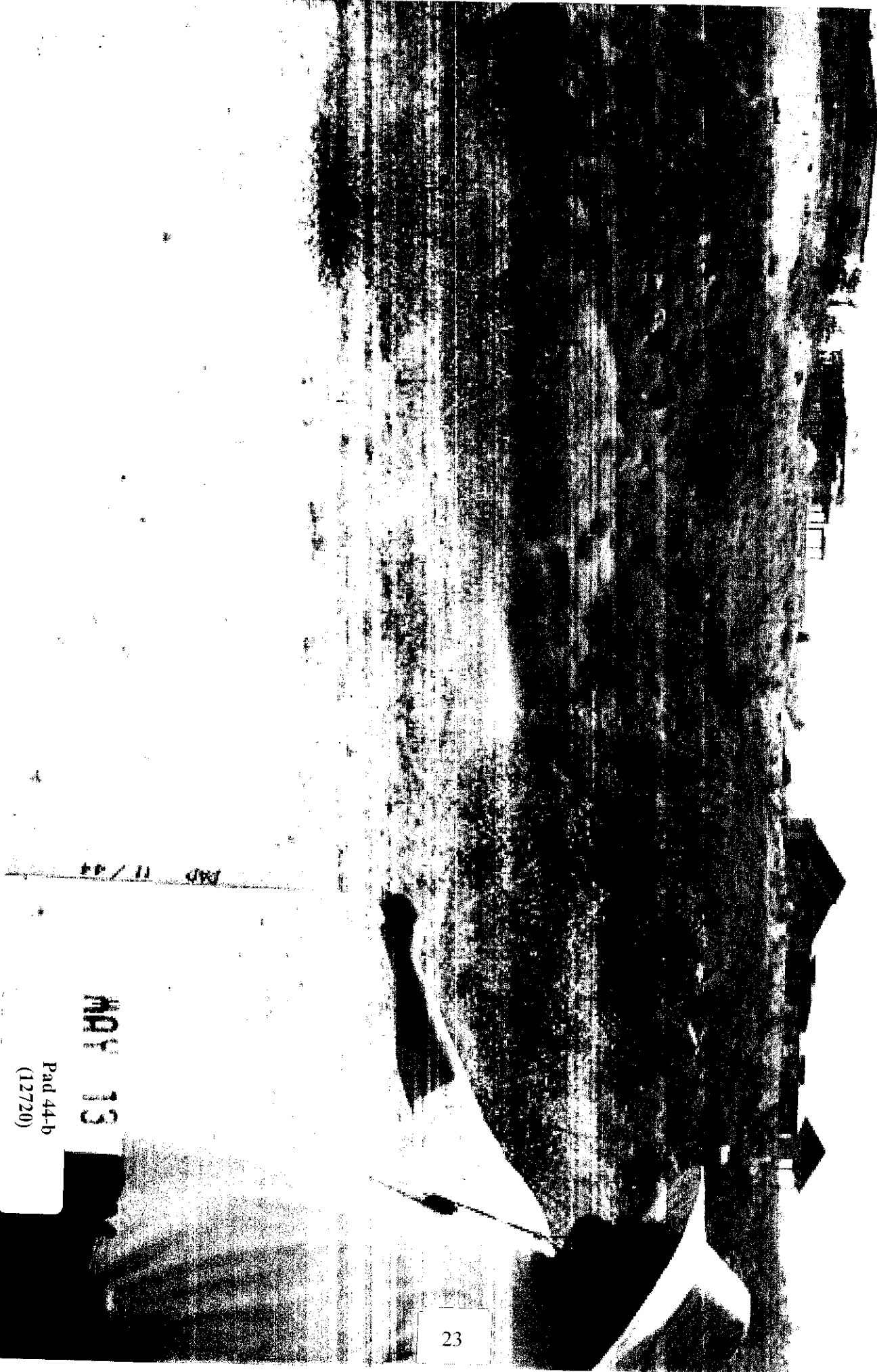
(iv) The lots do not contain any other unique topographical resources that would require the City to consider the Encroachment Areas to be sensitive.

For the reasons discussed above, the approval of a grading exception is appropriate for lots 44 and 45.



PH 13 2004

Pad 43-b
(12721)

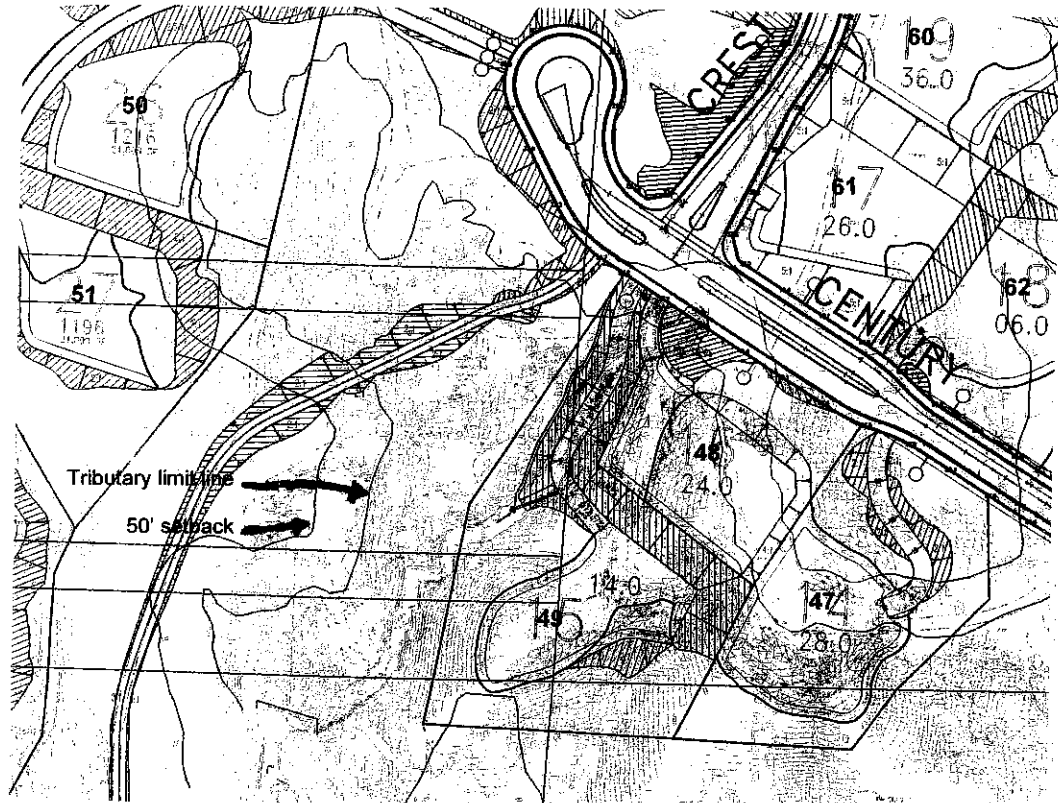


PAD 11 / 44

MAY 13

Pad 44-b
(12720)

Lots 47, 48 & 49 - Lots 47, 48, and 49 form a small peninsula which extends between the tributary in the center of TM 31930, and the headwaters of a smaller tributary to the west. During periods of very heavy rain, water in the tributaries collects in the northern areas, and flows to the south, into the Arroyo. The building pads for lots 47 and 48 would extend into the setback ribbon in the Encroachment Area highlighted in orange, and into the Arroyo limit in the area highlighted in purple, on the map below. Lot 49 would be constructed within the tributary, in the area highlighted in purple, on the map below.



Strict Compliance with the Grading Ordinance: Strict compliance with the Grading Ordinance would eliminate lots 48 and 49 from this cluster. The remaining lot would be adjusted to eliminate any encroachments in the setback ribbon. The only area that could support a lot without any encroachments would be on the east half of lot 48 and on the west half of lot 47.

Building Pad Size: In its revised location, the building pad on the new lot would still be limited by the Grading Ordinance. The building pad size would be reduced from the 21,000 square feet currently proposed on lot 47, to about 18,000 square feet. Because of the irregular shape of the potential building pad in the revised location, a "C" shaped house would be required. The development of a one-store "C" shaped house with a garage, on a very small lot, would result in a practical difficulty.

The elimination of 2 lots would also be an unnecessary hardship, because the Encroachment Areas for these three lots are not sensitive, as discussed below.

Topography:

Lot 47: The topography on the proposed lot 47 consists is mostly flat (flatter than 30% slope, identified by the topographic map as red). In the center of the lot is a knoll. According to Exhibit "D", the setback ribbon extends across the top of the knoll, the flattest portion of the site.

Lot 48: The topography of lot 46 also contains a knoll top, and like 47, the setback ribbon extends across the top of the knoll and along the eastern slope. The tributary limit on this parcel extends along the southern slope of the knoll.

Lot 49: Lot 49 contains a knoll top, and the majority of the land within the building pad area is flat (identified as red or flatter than 30% slope). However, Exhibit "D" identifies all of lot 49 as within the tributary limits.

Encroachment Areas are not Sensitive: The Encroachment Areas on lots 47, 48, and 49 are not sensitive for the reasons below:

- (i) Riparian vegetation is not present on these lots, it is limited to the Arroyo, which is located along the south of the site. (R.B.Riggan, Biological Assessment, Figure 7, and Michael Brandman Associates, Jurisdictional Delineation, March 2003, Vegetation Map, see attachment A.)
- (ii) The Encroachment Areas primarily contain RSS described as a "heavily disturbed system with widely spaced shrubs. This is such an open system with so few shrubs that it is not deemed to be suitable habitat for the California Gnatcatcher. . . ." (Ibid.) Note the single sage scrub bush in the attached pictures taken from pads 47, 48 and 49 facing south and southwest. TM 31930 contains 2.6 acres of disturbed RSS that will be lost to development. 11.0 acres of disturbed RSS will be placed in open space. Based on the mitigation ratio of 3:1, the RSS placed in open space exceeds the mitigation requirement by 3.2 acres. (Id., at p. 17.)
- (iii) The Encroachment Area for lots 47 and 49 do not contain rock outcroppings. Lot 48 contains a small outcropping group of rocks that are low to the ground and do not constitute a significant rock outcropping. (See picture labeled 48b, attached.)
- (iv) There are no other unique topographic features on lots 47, 48, and 49, or in nearby segments of either tributary.

The elimination of 2 lots from the proposed 3-lot cluster would result in an unnecessary hardship because the Encroachment Areas are not sensitive. Also, as discussed above, reduction of the building pad to 18,000 square feet and the creation of a "C" shaped house to fit the shape of the area outside the Encroachment Area also causes a practical difficulty. Based on the information above, grading exceptions for lots 47, 48, and 49, are appropriate.



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Pad 47-b
(12715)

