



Control Number: 50244



Item Number: 28

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DOCKET NO. 50244

Application of Quadvest, LP to Amend	*	Public Utility Commission
Water Certificate of Convenience and	*	of Texas
Necessity in Harris County	*	

DOCKET NO. 51431

Application of Quadvest, LP to Amend	*	Public Utility Commission
Sewer Certificate of Convenience and	*	of Texas
Necessity in Harris County	*	

MOTION TO INTERVENE

Comes now the HMW Special Utility District of Harris and Montgomery Counties ("HMW"), filing its Motion to Intervene, and states as follows:

I.

HMW requests judicial notice of the Commission's entire file in Docket No. 49280, in which the Commission allowed decertification of a portion of HMW's Certificate of Convenience and Necessity No. 10342, and of the contents of these two dockets.

II.

HMW has appealed the decertification to the 261st District Court of Travis County, Texas, in Cause No. D-1-GN-20-000905. Among its contentions to the Commission and in its appeal to the district court is that the applicant here, Quadvest, is the real applicant party in interest in Docket No. 49280.

As such, these proceedings are in furtherance of Quadvest's intention to assume immediate control of the decertified portion of HMW's CCN.

III.

Based on the foregoing, HMW is in effect the respondent in this proceeding and entitled to intervene as a matter of right under Commission Rules 22.2(25) and (41), 22.102 and 22.103(b)(1).

On or about November 19, 2020, HMW ascertained that the Applicant, Quadvest, LP, has

already poured concrete slabs in preparation for the installation of one or more water wells, a high pressure tank and a ground storage tank on the decertified property. See the photographs attached as Exhibits 1-10.

Quadvest is not authorized to commence the construction of water and/or sewer service facilities on the property subject to the decertification proceeding. The referenced construction activities are also violations of Water Code Section 13.252, given that they constitute an interference by Quadvest of the CCN and operations of HMW. While not directly at issue in this proceeding, they are clearly at issue in Docket No. 49280 and in the district court.

Thus, the record in these two dockets shows that they actually pertain to the same owner and the same property that is the subject of Docket No. 49280. Thus, they are inextricably linked to the outcome of Docket No. 49280 and its appeal.

Finally, HMW is entitled to the benefit of the status quo ante until its appeal of Docket No. 49280 is resolved. Further, Quadvest is not entitled to seek or obtain obtain water or sewer service unless and until its right to do is granted on appeal, assuming that is the result.

IV.

Based on the foregoing, HMW is in effect the respondent in this proceeding and entitled to intervene as a matter of right under Commission Rules 22.2(25) and (41), 22.102, 22.103(b)(1) and 22.104(a).

Alternatively, HMW has a justiciable interest in the outcome of these two dockets for the reasons noted above. Accordingly, it requests leave to intervene to protect its interests as provided by Commission Rule 22.103(b)(2).

Notwithstanding Commission Rule 22.104(b), this motion is timely for the following reasons:

1. After the several months required to resolve the sufficiency of Quadvest's notice to the public and interested parties, HMW received and answered the correspondence shown as Exhibits 11 and 12 on May 7, 2020, to both Quadvest and its counsel in the referenced appeal. Despite the pendency of these proceedings, Quadvest did not obtain service on HMW as a party to these dockets, provide further notice that they were occurring or file HMW's response dated May 7, 2020.
2. After several more months of delays concerning notice and other issues, the Commission on August 19, 2020, established a new deadline of November 6, 2020, for a hearing on the merits. The latter deadline has now been extended to December 29, 2020.

Thus, while the Commission has not done so formally, it has in effect extended the intervention deadline under Rule 22.104(b). Given the fact that HMW is in effect a legal respondent entitled to protect its interests, it should stand on equal footing with the Commission Staff for the purpose of being heard on the merits of these proceedings. As further noted below, HMW is prepared to adhere to the existing or any additional deadlines the Commission may establish.

In addition:

1. No prejudice will accrue to the Applicant, as it has no right to the relief it seeks in its application until the referenced appeal is finally resolved;
2. No disruption of this proceeding will occur because HMW will comply with the current scheduling order, provided only that its intervention is expeditiously approved; and
3. The public interest is served by the resolution of the appeal prior to the granting to Quadvest of authority to proceed with construction and water service based on a false premise, i.e. the absence of its legal right to do so. See Rule 22.104(d)(1).

VI.

Accordingly, HMW requests leave to intervene to protect its interests in these two dockets.

Wherefore, premises considered, HMW prays that its Motion to Intervene be granted, and for such other and further relief as the Commission deems just.

Respectfully submitted,

Law Offices of Patrick F. Timmons, Jr., P.C.

/s/

Patrick F. Timmons, Jr.

1503 Buckmann Ct

Houston, Texas 77043

o. (713) 465 7638

f. (713) 465 9527

pft@timmonslawfirm.com

Certificate of Service

I hereby certify that a true copy of the foregoing Motion to Intervene was served on the Applicant and the PUC staff on this 30th day of November, 2020, by electronic means as provided by the applicable rules of the Texas Public Utility Commission.

/s/

Patrick F. Timmons, Jr.

EXHIBITS 1-10

DOCKET NO. 50244

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DOCKET NO. 51431


Application of Quadvest, LP to Amend	*	Public Utility Commission
Sewer Certificate of Convenience and	*	of Texas
Necessity in Harris County	*	

AFFIDAVIT OF PETER GARCIA

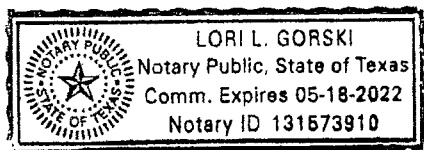
Peter Garcia, being duly sworn and on oath, deposes and says:

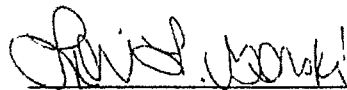
1. I am over the age of eighteen years and fully competent to provide this affidavit, which is based on my personal knowledge. I am an employee of the HMW Special Utility District of Harris and Montgomery Counties.
2. The attached photographs designated as Exhibits 1-10 were taken by me. They are each true and accurate depictions of the scenes and objects that I observed and photographed on and after November 19, 2020, at the location that is the subject of the above-styled proceedings before the Texas Public Utility Commission.

Signed this 30th day of November, 2020

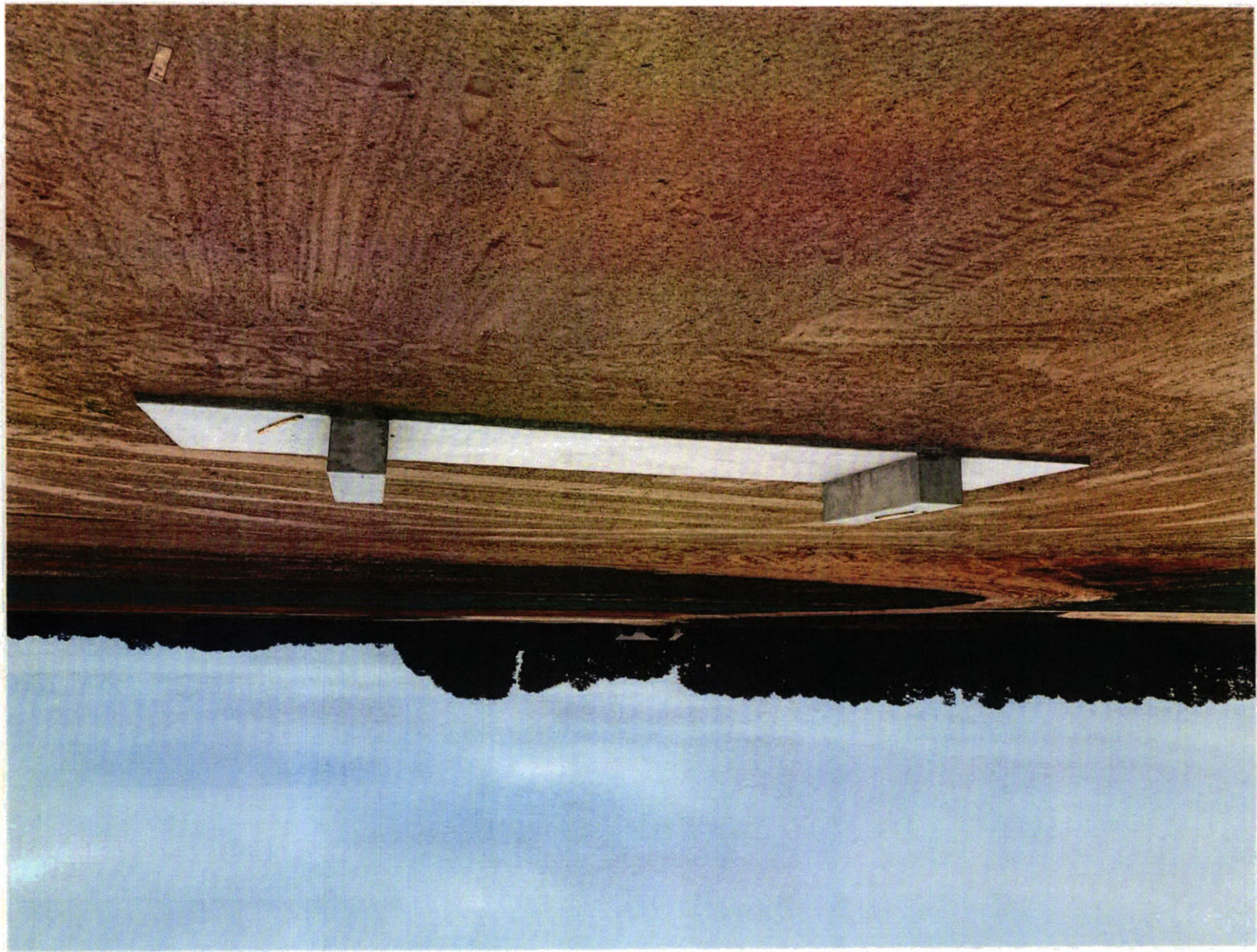

Peter Garcia

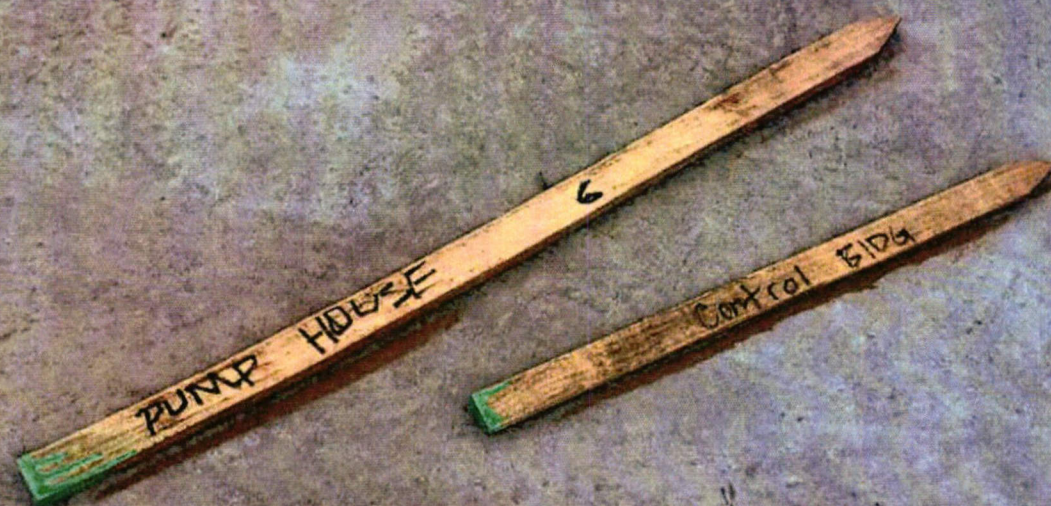
The foregoing affidavit was signed and sworn to before me on November 30, 2020.



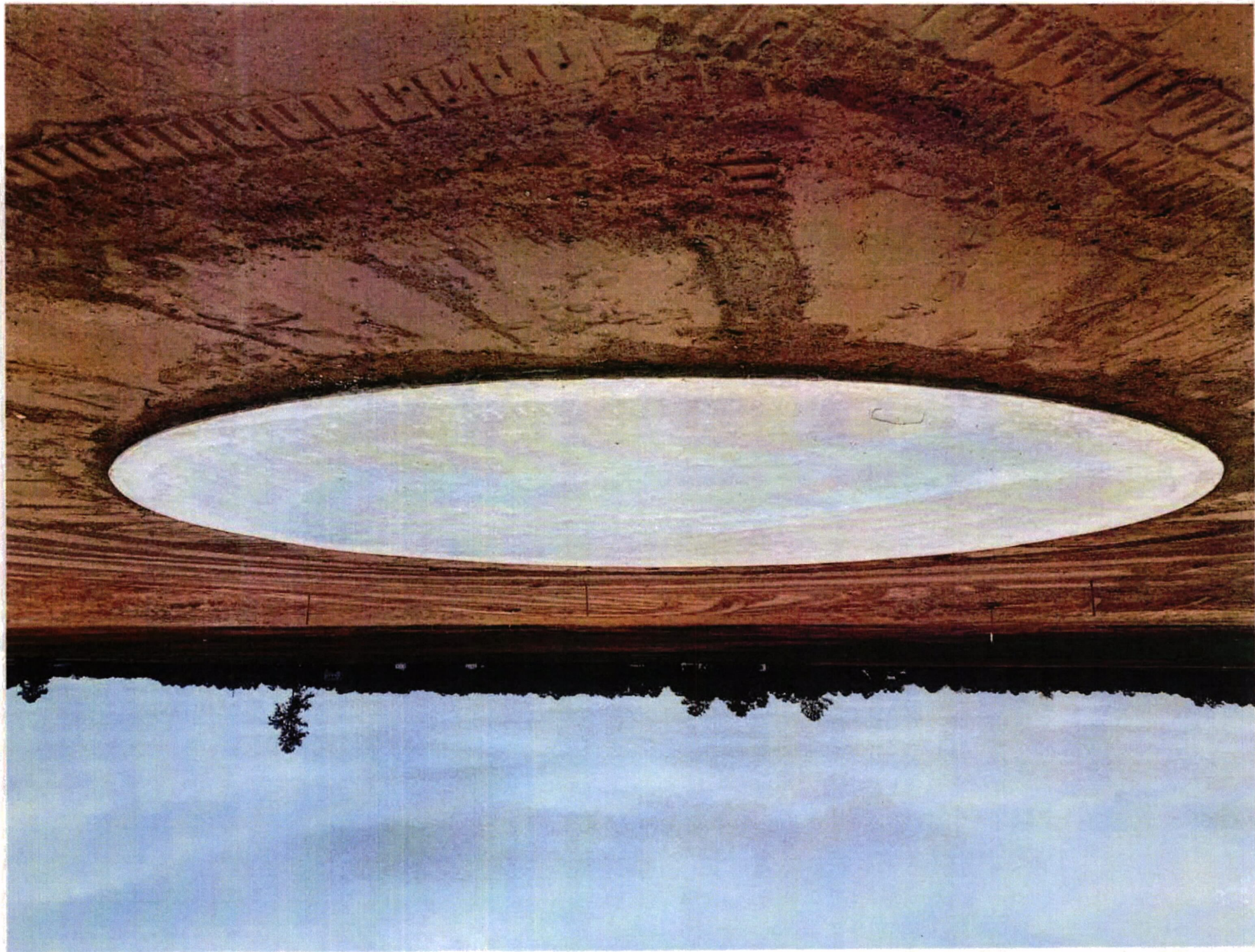

Notary Public in and for Texas

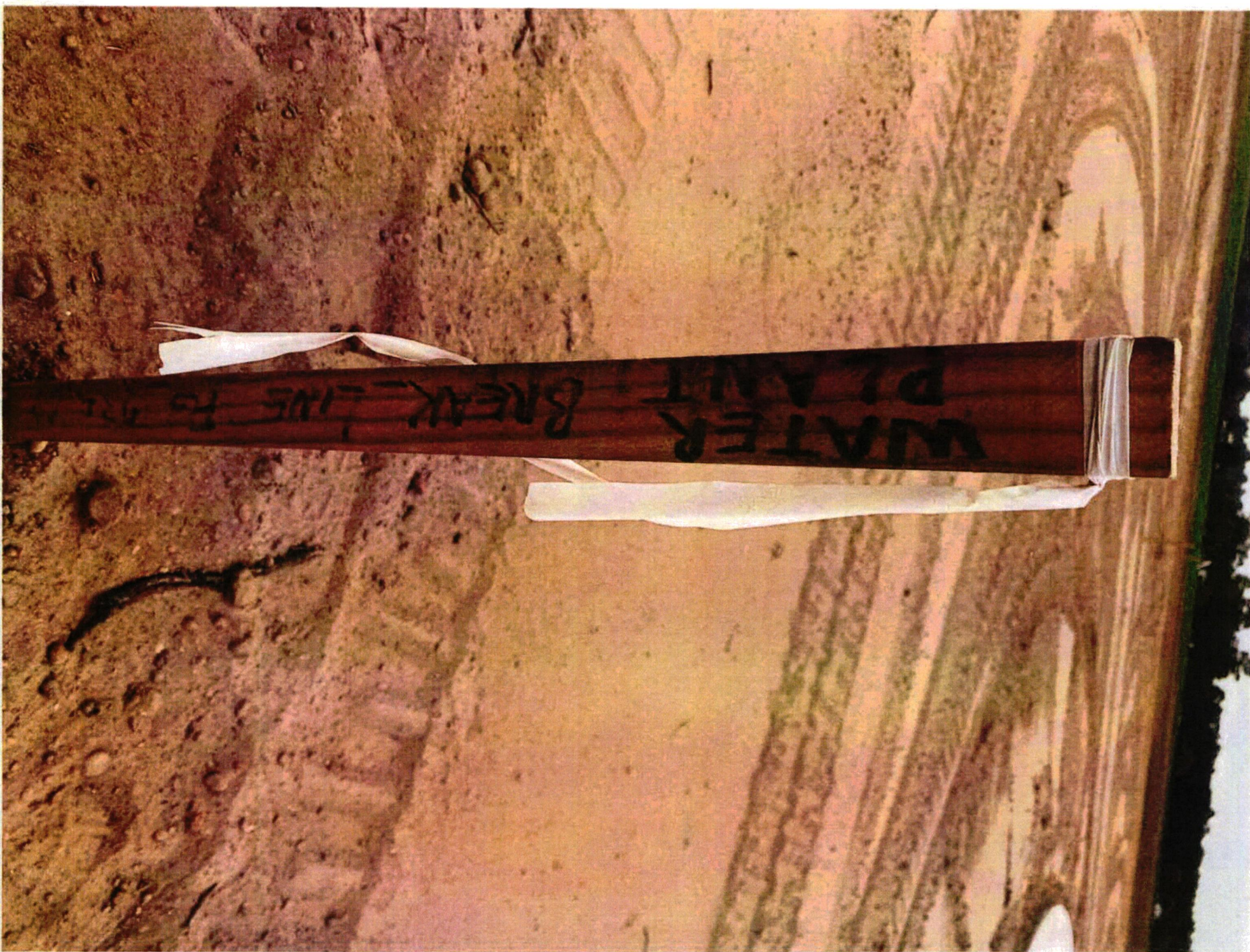


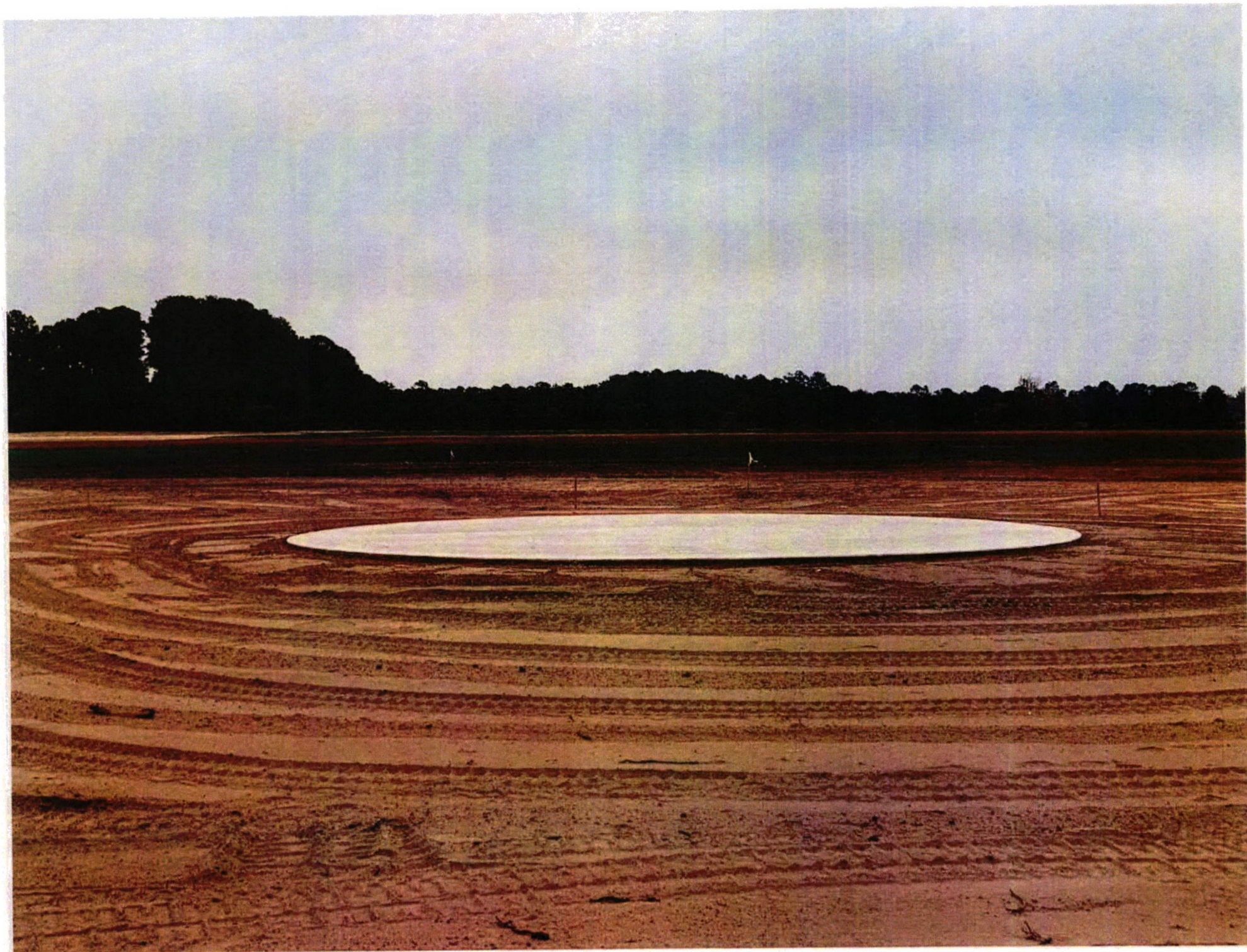




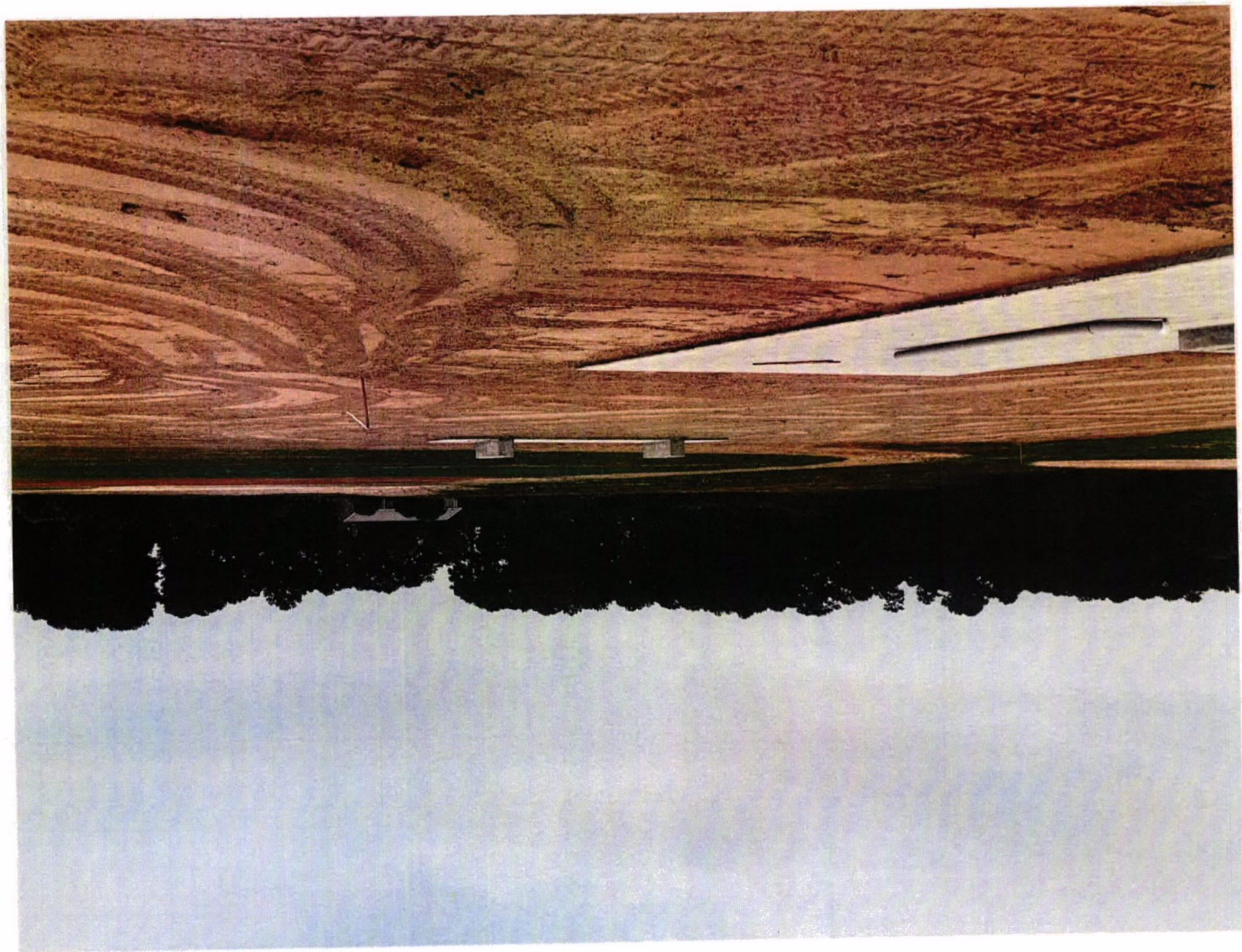


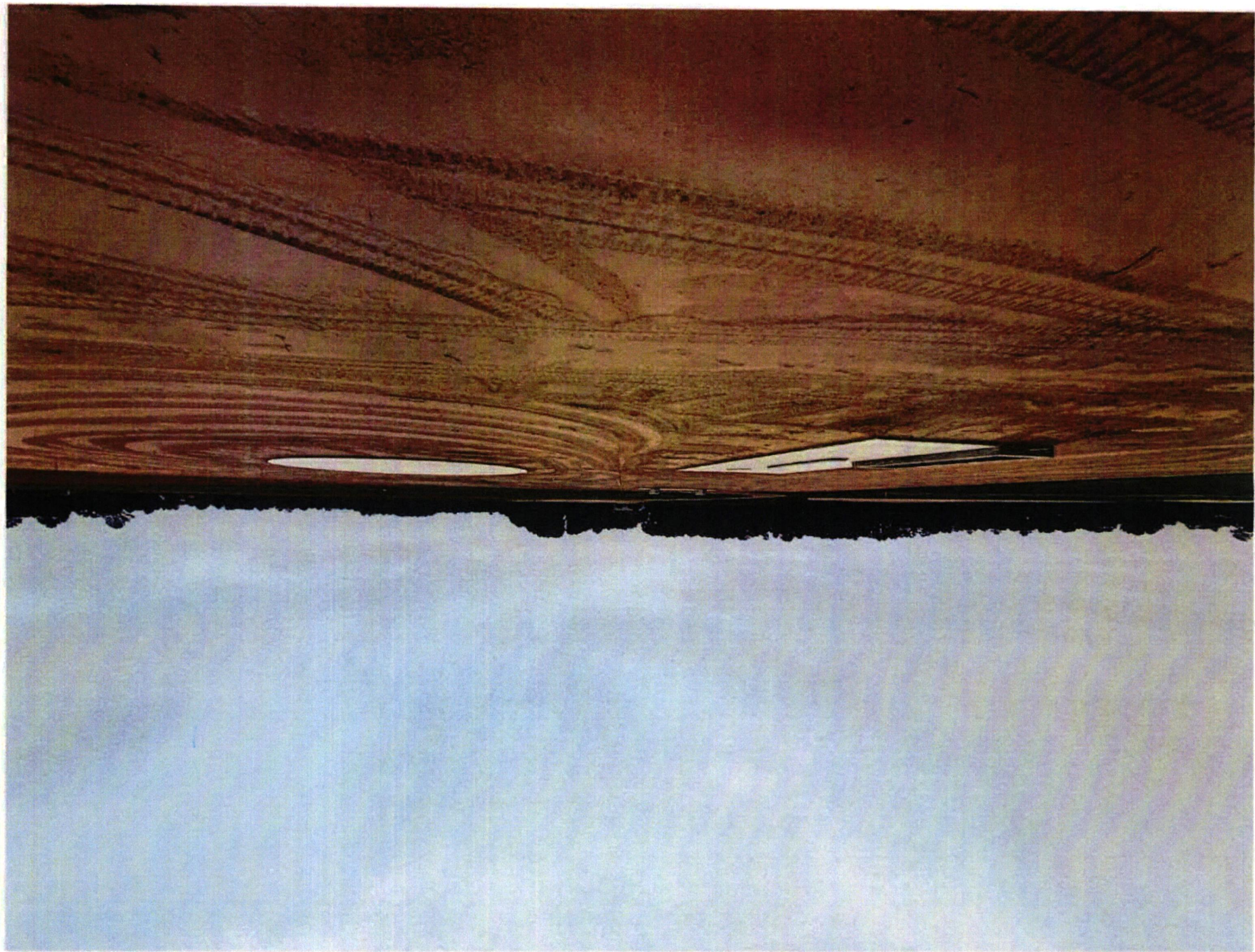














Quadvest, L.P.
26926 FM 2978
Magnolia, TX 77354

Main: 281-356-5347
Fax: 281-356-5382
Quadvest.com

April 30, 2020

H-M-W SUD
c/o CobbFendley
Attn: Rachel Broom
13430 Northwest Fwy.
Suite 1100
Houston, TX 77040

To Whom It May Concern:

Quadvest, L.P. is in the process of preparing a design submittal package to obtain approval from the TCEQ to construct a public water system to serve developments located in the vicinity of FM 2920 Road and Cypress Rosehill Road in Harris County, Texas, shown on enclosed map.

You have been identified as a neighboring utility of like kind and/or municipality with an extraterritorial jurisdiction (ETJ) within 2 miles of the proposed service area. Pursuant to TCEQ regulations, Quadvest, L.P. formally asks whether you are willing or able to provide water service to this proposed property sufficient to meet the TCEQ's minimum service standards plus local demands thereby providing continuous and adequate utility service to the consuming public. Please fill out the questionnaire below and return to us.

You may fax or email your response to 281-356-5382 or murback@quadvest.com. If you have any questions please call me at 281-305-1108. Thank you for your assistance.

Sincerely,

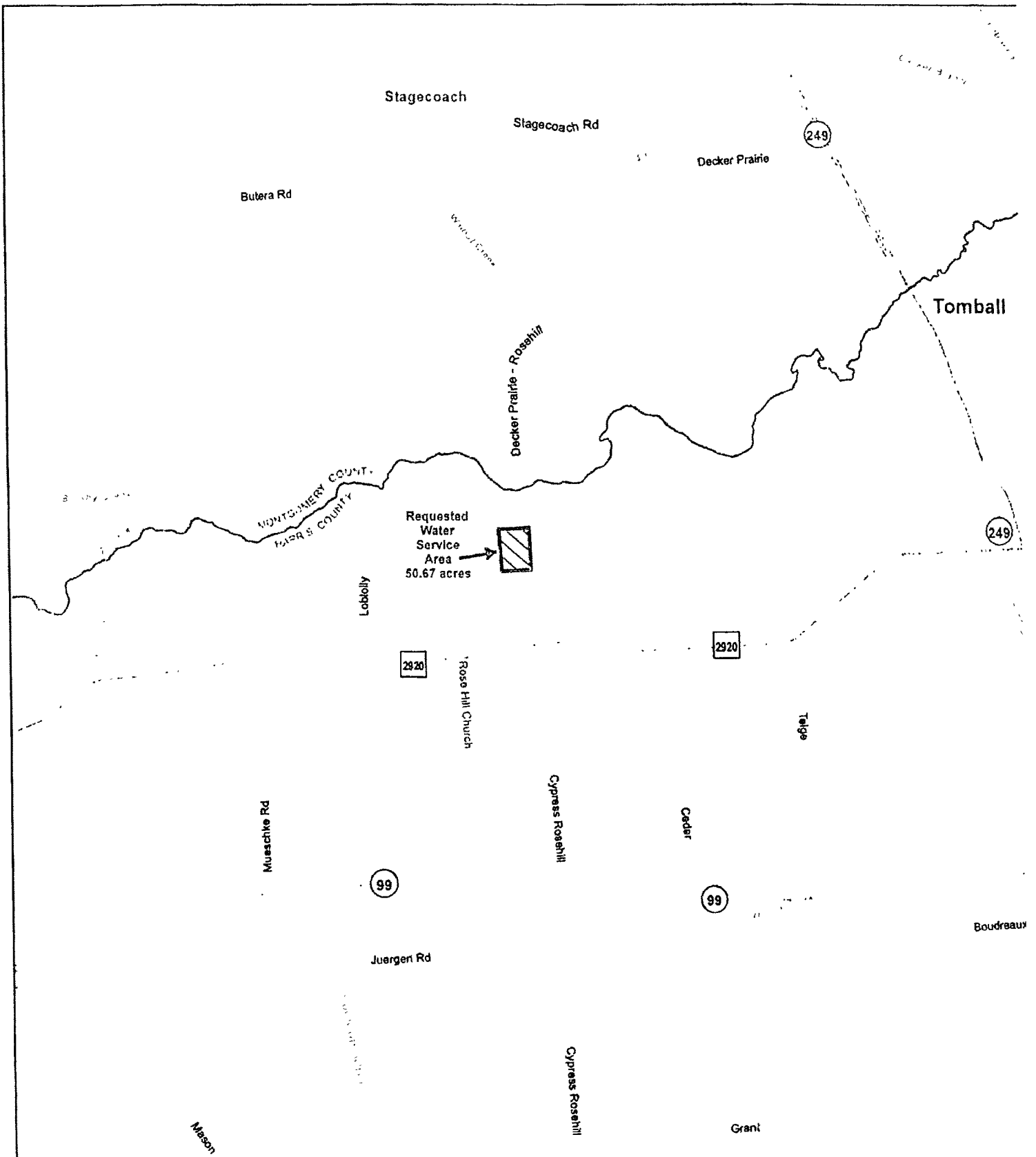
A handwritten signature in blue ink, appearing to read 'Mark L. Urback', is written over the printed name.

Mark L. Urback, P.E.

Date of Reply: _____
Name of Utility _____
Ability to Provide Service?
(Yes/No) _____
Printed Name _____
Organization _____
Email/Telephone _____

X 11





General Location - Water

Quadvest, L.P.
Application to Amend Water CCN No. 11612
in Harris County



Requested Water Service Area - 50.67 acres

PATRICK F. TIMMONS, JR.

ATTORNEY AT LAW
1503 BUCKMANN CT
HOUSTON, TX 77043

MEMBER
COLLEGE OF THE STATE BAR OF TEXAS

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Via Email Only

May 7, 2020

Mr. Mark Urback
Quadvest, L.P.
26926 F.M. 2978
Magnolia, Texas 77354

Dear Mark:

This refers to your letter dated April 30, 2020, to Rachel Broom, P.E., on behalf of HMW Special Utility District("HMW").

The territory described appears to be within HMW's CCN No. 10342. Its owner has filed a request to decertify the referenced territory, however, its right to do so is disputed by HMW in Cause No. D-1-GN-20-000905, pending before the 200th District Court of Travis County, Texas.

Accordingly, HMW does not recognize the authority of Quadvest to submit the request described by your letter. If such a request is filed, HMW will so advise the TCEQ.

Thank you for your assistance.

Sincerely,



Patrick F. Timmons, Jr.

cc: HMW Board of Directors
Curran Walker

X 12