



**FAIRHAVEN SELECT BOARD**  
**Meeting Minutes**  
**April 8, 2024**

FAIRHAVEN TOWN CLERK  
RCUD 2024 MAY 14 PM 1:57

**Present:** Charles Murphy Sr., Stasia Powers, Keith Silvia, Andrew Saunders, Andrew Romano, Town Administrator Angie Lopes Ellison and Assistant Town Administrator of Finance Anne Carreiro

Mr. Murphy opened the meeting at 6:33p.m. The meeting went into a brief recess until 6:41p.m. due to audio issues

**SELECT BOARD REORGANIZATION**

Mr. Murphy recognized Ms. Ellison to review the process for the Select Board to reorganize and conduct the voting of Chair, Vice-Chair and Clerk. A brief discussion ensued on nominations and seating.

**Motion:** Mr. Silvia motioned to appoint Stasia Powers as Chair of the Select Board for this election year. Mr. Murphy seconded. The motion passed unanimously (5-0-0).

**Motion:** Mr. Romano motioned to appoint Charles Murphy Sr. as Vice-Chair of the Select Board for this election year. Ms. Powers seconded. The motion passed unanimously (5-0-0).

**Motion:** Ms. Powers motioned to appoint Andrew Saunders as Clerk of the Select Board for this election year. Mr. Romano seconded. The motion passed unanimously (5-0-0).

**Motion:** Mr. Romano motioned to take Action Item D1 out of order. Mr. Silvia seconded. The motion passed unanimously (5-0-0).

**JUNIOR DEPUTY TREE WARDENS**

Tree Warden Don Collasius addressed the Board about the Junior Deputy Tree Warden program and introduced the participants. The participants were sworn in as Junior Deputy Tree Wardens for the Town.

**Motion:** Mr. Romano motioned to recognize Ella Andersen, Layla Smith, Samuel Logan, Harrison Camara, Aemon Martino, Daisy Bauman, Hazel Fidalgo, Leana Gardner and Tara Martino as Junior Deputy Tree Wardens and thank them for their work with the Fairhaven Tree Warden Don Collasius. Mr. Silvia seconded. The motion passed unanimously (5-0-0).

**MINUTES**

**Motion:** Mr. Romano motioned to accept the March 25, 2024 minutes. Mr. Silvia seconded. The motion passed (4-0-1) Mr. Saunders abstained.

**TOWN ADMINISTRATOR**

Ms. Ellison reported:

- Staff Updates: Mary Sturgeon, Retirement Administrator is retiring. There are also openings for an Assistant Animal Control Officer, Planning Director and Building Commissioner. Jodi Duvall started in the Town Clerk's Office this week. Ms. Ellison confirmed the term for the interim Town Clerk is through the election in 2025 and that this question was confirmed with the state elections office. Ms. Powers asked if the search committee for open positions can include a Select Board member.
- Board Resignations were received from Pam Davis and Ronnie Manzone from the Board of Assessors and Alyssa Botelho from Broadband Study Committee.
- Fairhaven Community Electricity Aggregation Sweep and Opt-Out Card Notices. Eversource has sent out two different notices based on eligibility, one is an opt-in and the other is about opting-out.
- Memorial Day Parade Invitation for Monday, May 27<sup>th</sup> was sent by the Veteran's Office.
- Economic Development Event on Thursday, April 11<sup>th</sup> at 6:30p.m. in the Town Hall Auditorium. There are speakers lined up and networking opportunities.

**PUBLIC HEARING: BLUESTREAM SHELLFISH LLC APPLICATION TO INSTALL A FLOATING UPWELLER SYSTEM (FLUPSY) IN JACK'S COVE**

The Public Hearing opened at 7:00p.m.

Ms. Powers read the notice and recognized Dale Leavitt, co-owner of Blue Stream Shellfish, LLC who read from the application for a FLUPSY in Jack's Cove. He said if approved the application then goes to the Division of Marine Fisheries (DMF) for review then a full license may be issued.

Mr. Saunders asked the duration and Mr. Leavitt said he would leave that to the Board, if approved it would be installed in May and out of the water in December. Harbormaster Tim Cox addressed the Board and said typically they have done it for three years and with this being new his recommendation is for one year and then have Blue Stream come back for a review and to ask for additional time.

**Public Comment:**

Bill Yukna of 158/160 Balsam Street passed out information (*Attachment A*) and addressed the Board by reading from the handout listing concerns and pictures related to the history of the commercial site at Hoppy's Landing that Blue Stream operates. He further stated there is a lack of care for the area, the pictures reflect what it looks like, there is an option to locate it elsewhere and that it is not the residents' responsibility to help business make a profit.

Matt Thomas, attorney at 4 Park Place in New Bedford, owner of 48/50 Goulart Memorial Drive passed out information (*Attachment B*) and addressed the Board by reading from the handout listing concerns. He mentioned the orientation of the solar panels and glare as a safety concern due to a distraction to drivers, a rumor about not renewing the license in Mattapoisett, adverse impacts to the natural resources, concern about sight lines and the impact to growth in Jack's Cove.

Mr. Leavitt addressed the question about the Mattapoisett license, he said there were various reasons including not being able to grow the oysters and the productivity being better in the area Blue Stream is applying for. He also said the screens are cleaned regularly of algae and the solar panels are in a position parallel to the road facing south.

Mr. Saunders asked if the north side would have more production versus the south side of the causeway. Mr. Leavitt said they would need to go under the road and the amount of food in the water made it less productive. Mr. Cox raised the issue of not being able to pump the water.

Steve Moulton of 59 Balsam Street referred to a suggestion made at a prior meeting about building on land like the Barnstable Clean Water Coalition. He stated his concerns about profit. He also stated a concern about whether this was approved by the Conservation Commission and if they had jurisdiction over that area. Mr. Cox advised that he reached out to the Conservation Agent Bruce Webb who contacted MassDEP for clarification (*Attachment C*) and were advised the area is under Harbormaster jurisdiction.

Robert Sullivan of 184 Balsam Street addressed the Board and said he had contacted Mr. Webb on April 4<sup>th</sup> and received a different answer and had a project take several years under the jurisdiction of the Conservation Commission. Mr. Cox advised the Board that the plans and pictures were submitted to MassDEP through the Conservation Agent for the Flupsy application which is different than Mr. Sullivan's project and referred back to the email correspondence (*Attachment C*).

Mr. Silvia asked if this was a commercial location and Mr. Cox advised that it is. Mr. Silvia asked about the impact on the south side and any issues coming from New Bedford's pollution of the waters. Mr. Cox said if it was necessary the Food and Drug Administration (FDA) would close it all down, currently all models are closed from Westport to Wareham with a plan to sample.

Brief discussion ensued about the feasibility to get water on the south side and purchasing seedlings.

Mark Dunn of 25 Little Neck Road commented that there had been no discussion on money and if this was a

“freebie.” Mr. Cox advised once through the Board it goes to DMF and then fees would be set. Mr. Dunn commented on the length of the FLUPSY and water depth.

Nancy Santoro of 148 Dogwood Street addressed the Board and said it seems to be an aesthetic issue, it looks like wood and solar panels and would blend in. Right now, on the marina are large boats wrapped in white cellophane left out all winter. She continued and said that once it is in the water you can't see it, everyone likes recreational stuff like the kayak rack and the area is littered with non-aesthetically pleasing stuff like that at this time. She added a suggestion to place limits on what would be done to prevent some of the concerns and that the site might not be pretty but the workers come and go and keep it clean and her concern is oil on the water.

Linda Ferreira of Gull Island Road said she has lived on West Island for a long time, travels the causeway and does not see it as a distraction in a thirty-second drive. She said she understands the concerns and they seem extreme; there have been a lot of changes in forty-five years that she has been on West Island and this does not seem like an eyesore. She complimented for Mr. Cox.

Mr. Moulton said taking walks there is more than thirty seconds.

Atty. Thomas referred to the potential glare from the solar panels being an issue and said that highway signs are carefully placed because of distractions that can cause accidents.

The Public Hearing was closed at 7:50p.m.

No motion was made, the application was denied.

The meeting took a brief recess from 7:50p.m. to 7:53p.m. to allow the room to clear.

**Motion:** Mr. Romano motioned to take Item I Executive Session out of order. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

**Motion:** Mr. Romano motioned to enter into Executive Session Pursuant to G.L. c. 30A, § 21(a)(3) To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares (Civil Service / Collective Bargaining Agreement and 97 Farmfield Street) and to return to Open Session. Mr. Saunders seconded. Roll Call Vote. Mr. Romano in favor, Mr. Saunders in favor, Mr. Murphy in favor, Mr. Silvia in favor and Ms. Powers in favor. The motion passed unanimously (5-0-0).

**Meeting adjourned to Executive Session at 7:55 p.m.**

**Open Session resumed at 8:54p.m.**

**Motion:** Mr. Romano motioned to take Action Item D2 out of order. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

### **BOARD OF ASSESSORS APPOINTMENT**

Jane Bettencourt addressed the Board regarding her background and qualifications including twenty years working in the Assessors' Office. Currently Ms. Bettencourt works part-time in the Veterans Services Office.

**Motion:** Mr. Romano motioned to appoint Jane Bettencourt to the Board of Assessors for a term to end May, 2025. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

### **TOWN ADMINISTRATOR**

Ms. Ellison continued:

- The Massachusetts Bay Transportation Authority (MBTA) sent notice on low income fares.
- Committee vacancies and appointments in May. Ms. Ellison advised that the Volunteer Opportunities page

online lists open spots and encouraged anyone interested in any board to apply. There will be spots open for reappointment or new appointments in May.

- Southeastern Regional Planning and Economic Development District (SRPEDD) At-Large Appointment. Ms. Ellison advised the Board this opportunity is for the Board to consider.

### **RETIREE HEALTHCARE BENEFITS**

Human Resources (HR) Director Cam Durant addressed the Board regarding an opportunity for a potential change to the medex option for retirees. (*Attachment D*). Through our healthcare advisors the Town has negotiated an eighteen-month rate lock from July 1, 2024-December 31, 2025.

Discussion ensued regarding details and funding as well as to watch Congressional appropriations for changes in the funding.

**Motion:** Mr. Romano motioned to adopt and approve the change from the Blue Cross/Blue Shield Medex Plan to the PPO Freedom Plan as described by HR. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

### **REASSIGNMENT OF SELECT BOARD COMMITTEE LIAISONS**

Ms. Ellison addressed the Board about the current assignments, give the Board time to review and discuss in preparation for the next Board meeting and to assess the need for a Select Board member to be a liaison. The list was reviewed for statutory needs. The recommendation was for Select Board liaisons for: Cable Advisory Committee, Fair Housing Coordinator, Millicent Library Trustee, SRPEDD and Southeastern Regional Transit Authority (SRTA). Ms. Powers said the Board can still attend any meetings.

### **SELECT BOARD MEETING PROTOCOLS**

Discussion ensued about the existing protocols with updates to meetings to reflect the second and fourth Monday of each month, seating to have the Chair at the center, Vice-Chair to the Chair's right and Clerk to the Chair's left with the other two members choosing either of the remaining seats on the ends, a context error in protocol 5, action and motions to change "obtaining" to "abstaining."

**Motion:** Mr. Romano motioned to adopt and adhere to the meeting protocols with the discussed amendments. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

### **REVIEW TOWN MEETING WARRANT**

#### **Article 5B: Water Enterprise Fund Operating Budget: Monetary Changes**

Reserves needed to be accounted for in the totals.

**Motion:** Mr. Romano motioned to recommend Adoption of Article 5B: Water Enterprise Fund Operating Budget in the amount of \$3,248,586. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

#### **Article 5C: Sewer Enterprise Fund Operating Budget: Monetary Changes**

Reserves needed to be accounted for in the totals.

**Motion:** Mr. Romano motioned to recommend Adoption of Article 5C: Sewer Enterprise Fund Operating Budget in the amount of \$3,945,797. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

#### **Article 8A: Sewer Enterprise Fund Capital Budget: Article Name Change**

The name of the article needed to be revised due to a scrivener's error.

**Motion:** Mr. Romano motioned to recommend Adoption of Article 8A: Sewer Enterprise Fund Capital Budget. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

#### **Article 11: Municipal Fiber Optic Program: Recommendation**

Ms. Ellison advised the Board that the Chair of the Broadband Study Committee had reached out to ask the Board to

recommend Pass Over or Indefinite Postponement on this article so they could continue to work on the project and details.

**Motion:** Mr. Romano motioned to recommend Pass Over of Article 11: Municipal Fiber Optic Program. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

### **COMMITTEE LIAISON REPORTS**

*Mr. Saunders reported:*

He has resigned from the Conservation Commission

*Mr. Romano reported:*

He has resigned from Zoning Board of Appeals and Cable Advisory.

*Mr. Murphy reported:*

Lagoa is trying to get re-established and reminded everyone when appointed, attendance is important. At times, Lagoa has not had a quorum to have a meeting.

Ms. Ellison said that the Board can review in May at reappointment time and address attendance and how to move forward.

*Ms. Powers reported:*

The Financial Policy Review Committee has not met, Economic Development has the business event this Thursday, April 11<sup>th</sup> at 6:30p.m. and she is speaking with Acushnet on regionalization of services.

Mr. Saunders said he was contacted by New Bedford Mayor Mitchell about regional efforts. Ms. Ellison said she had met with Mayor Mitchell about a year ago and at the time the opportunity was not a clear benefit for Fairhaven, open to discuss options.

### **PUBLIC COMMENT**

Tobie Simmons of 97 Farmfield Street addressed the Board and gave copies of six documents to the Board for the record through the Chair (*Attachment E*). She said she had two years of certified letters with requests to be on the agenda to the Board of Health and Select Board and no responses. The water at the home was shut off today without any issues addressed. She said she has asked for an analog meter and manual readings. She referred to opt-out programs in other states, manufactures information and does not understand why the Board of Public Works would not entertain this option. She described that this is a life-defining issue for her family for no wireless technology. She would like the BPW to follow Madison, WI with the opt-out. She said she felt she was being made an example of and that this is a coercive situation and asked the Select Board for advice. She said she felt this is costing the Town more money for a water pit instead and is referred to Town Counsel which will cost money as well.

She also said she hopes all meetings will be back online from Fairhaven TV for the public record. Mr. Romano advised that they are changing over to a new server and are working on getting them all back up online once complete.

Ms. Simmons asked for advice from the Select Board and who the BPW answers to. Ms. Powers advised the matter is under the BPW and not the Select Board's purview; the BPW answers to the voters in town.

### **BOARD MEMBER ITEMS**

Mr. Romano said Art Curator Mark Badwey asked to thank all those in attendance at the Hetty Green lecture, over three hundred attendees and the balcony had to be used. Mr. Romano also asked if a proclamation for the Animal Shelter volunteers could be entertained.

Mr. Saunders will be unable to attend the April 22<sup>nd</sup> meeting due to a pre-arranged business meeting out of town.

Mr. Silvia said the vineyard at Nasketuck Bay opened this past weekend and the turnout was great.

Mr. Murphy welcomed the two new Board members.

**NEWS AND ANNOUNCEMENTS**

The next regularly scheduled Select Board meeting is on Monday, April 22, 2024 at 6:30p.m.

**Meeting adjourned at 9:40 p.m.**

*Respectfully submitted on behalf of the Select Board Clerk (ah)*

**ATTACHMENTS:**

- A. Bill Yukna Handout
- B. Matt Thomas Handout
- C. Upweller email correspondence between Tim Cox, Conservation Agent and MassDEP office
- D. Retiree Healthcare Handout
- E. Tobie Simmons Handout
  - 1. An Act Relative to Smart Meters,
  - 2. Opt-Out Mr. Furtado 3-20-24,
  - 3. 4-3-24 Basement Installation,
  - 4. Update OML Violation Fairhaven Mass BPW 4-4-24,
  - 5. Smart Cities and
  - 6. Town Counsel

Approved on May 13, 2024

June 2, 2014

Fairhaven Board of Selectmen  
Town Hall  
40 Center Street  
Fairhaven, MA 02719

Re: Aquaculture License Renewal - Potential Environmental Hazard / Use of site as  
Dumping Ground / Junk Yard

Dear Selectmen,

Attached please find two separate correspondence, this one with attached current pictures and one I hand delivered to Executive Secretary Jeff Osuch and Building Inspector Wayne Fostin in September of 2010. I represent a number of Fairhaven and more specifically West Island taxpayers and residents whom are concerned with the hazards of items dumped on the grounds at 53 Goulart Memorial Drive / Causeway Street adjacent to the Town owned public landing (Hoppy's Landing) and the condition of the building and site.

As stated in my previous letter the site has become a dumping ground for the tenant/land owner who to our knowledge is also the party which is seeking to renew and possible expand his lease of 35 acres of aquaculture off West Island in the public waters. As you will see from the pictures I took Sunday June 1<sup>st</sup> from Hoppy's landing (attached to this letter) the conditions of the site not only hasn't improved but is getting worst. The building roof is now severely deteriorated which I'm sure has created other structural issues, but that is for the Building Commissioner to determine. The site now has a number of 40 foot storage containers all within 100 feet of the coast line. Netting which was on site in 2010 is still on site and additional materials have been dumped onto the site. Hundreds of buoys are piled up, scallop shells have been dumped in piles, pallets and other wood is covering the site. In addition the owner has placed other items on the site, large float/docks and an old lift truck. I assume most of the materials specifically the netting is no longer usable as it has been left to rot in the sun for many years. If the items are no longer usable which appears to be the situation, then a legal disposal option should be utilized as a good business practice and good business neighbor.

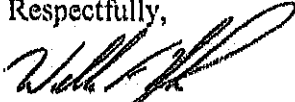
I appreciate the efforts of Mr. Osuch and Mr. Fostin whom met with the owner back in 2010 and he did bring in a couple of dumpsters and removed the materials that had spilled over to the shoreline along with some other debris. However, this hardly made a dent in the volume of materials on the site. I realize it is cheaper to use the site as a dumping ground rather than properly dispose of the old materials, I have been told there is a recycling process available to the site owner for old fishing gear but again it is not an option he has been willing to avail himself of.

If the Island takes a direct hit from a major storm in the future it is certain that much of this material will be pulled out to sea causing an environmental hazard for sea life and a safety hazard for boaters, swimmers, and others. We continue to question the placement of structures, whether "temporary" or not within 100' of the shore line without town approval.

We respectfully request that the Selectmen hold off on granting an extension of the aquaculture lease and use whatever resources are available (Building, ConCom, ZBA), including involvement of state agencies to clean-up this serious environmental hazard before it's too late. We believe that as the owner/tenant is licensed by the Town to use public waters for his business activities from which these materials come, there is an opportunity for the Town to withhold this license if he refuses to properly dispose of his materials and clean-up the site and that any extension of the lease should include language in it to require him to keep the site clean.

I will attempt to be at your meeting on June 9<sup>th</sup> but I currently have a conflict with another board in Foxborough on the same night. I would appreciate it if you would include these letters and pictures which document our concerns into your minutes.

Respectfully,

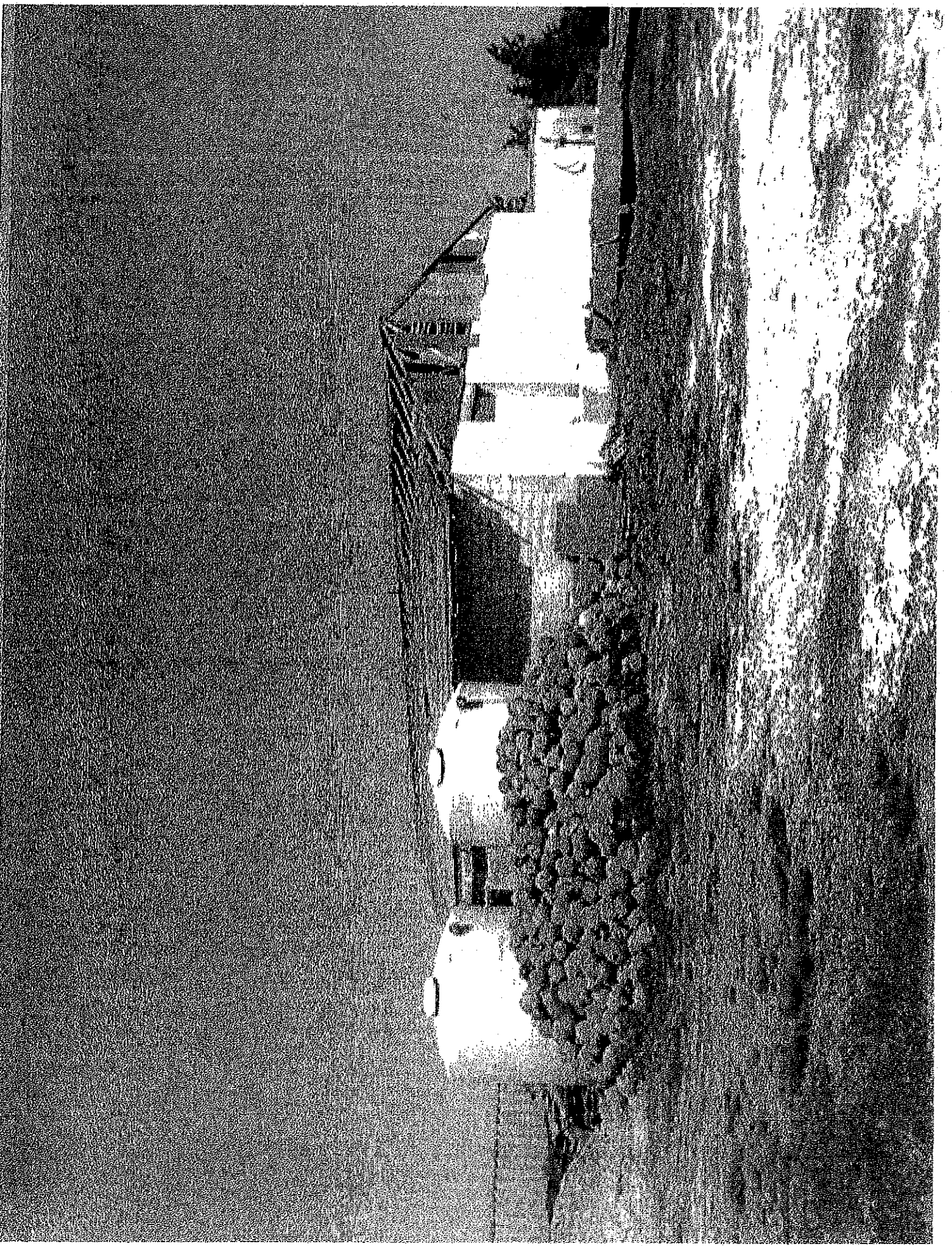


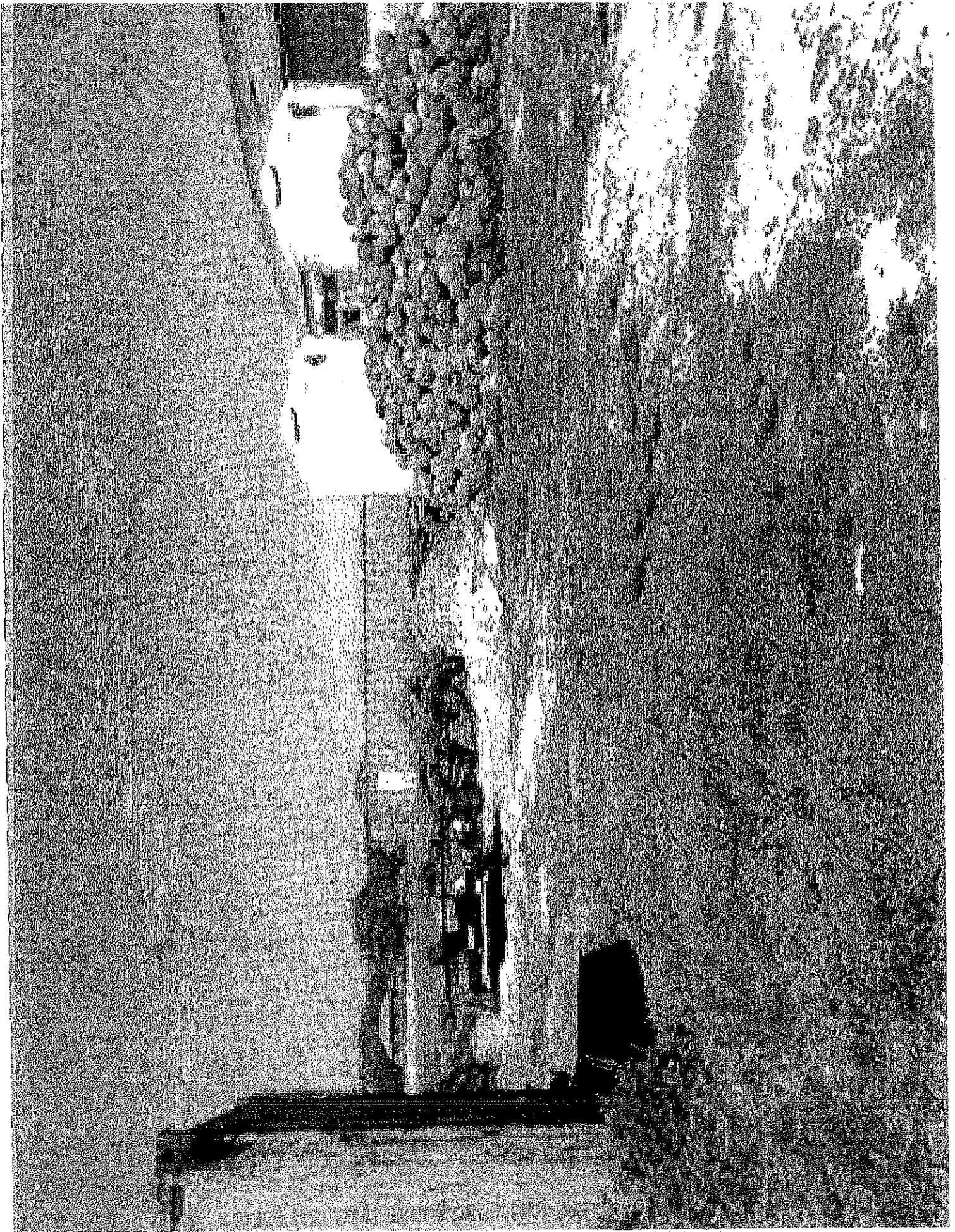
William F. Yukna  
160 Balsam Street  
Fairhaven, MA

Cc: Jeff Osuch - Executive Secretary

Wayne Fostin - Building Commissioner

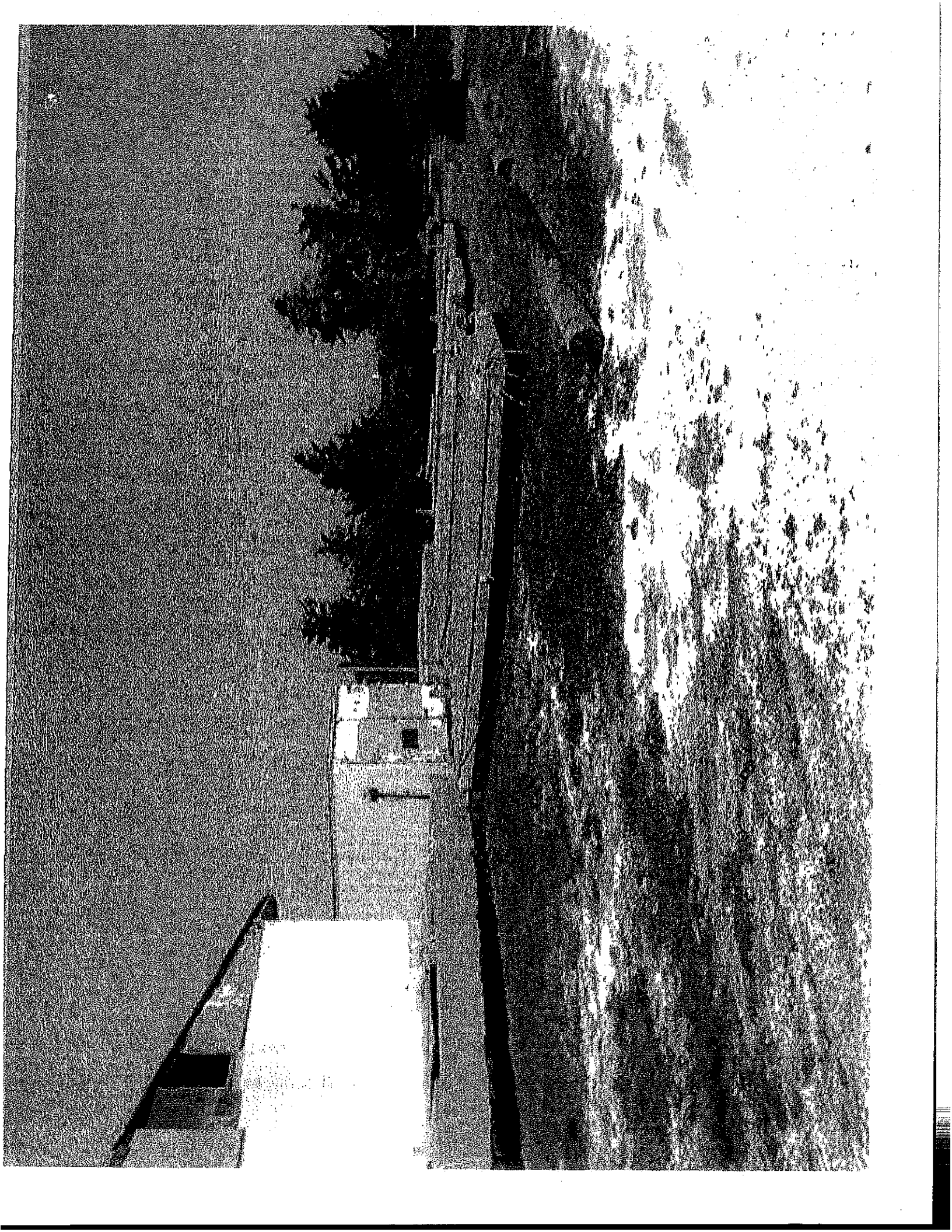


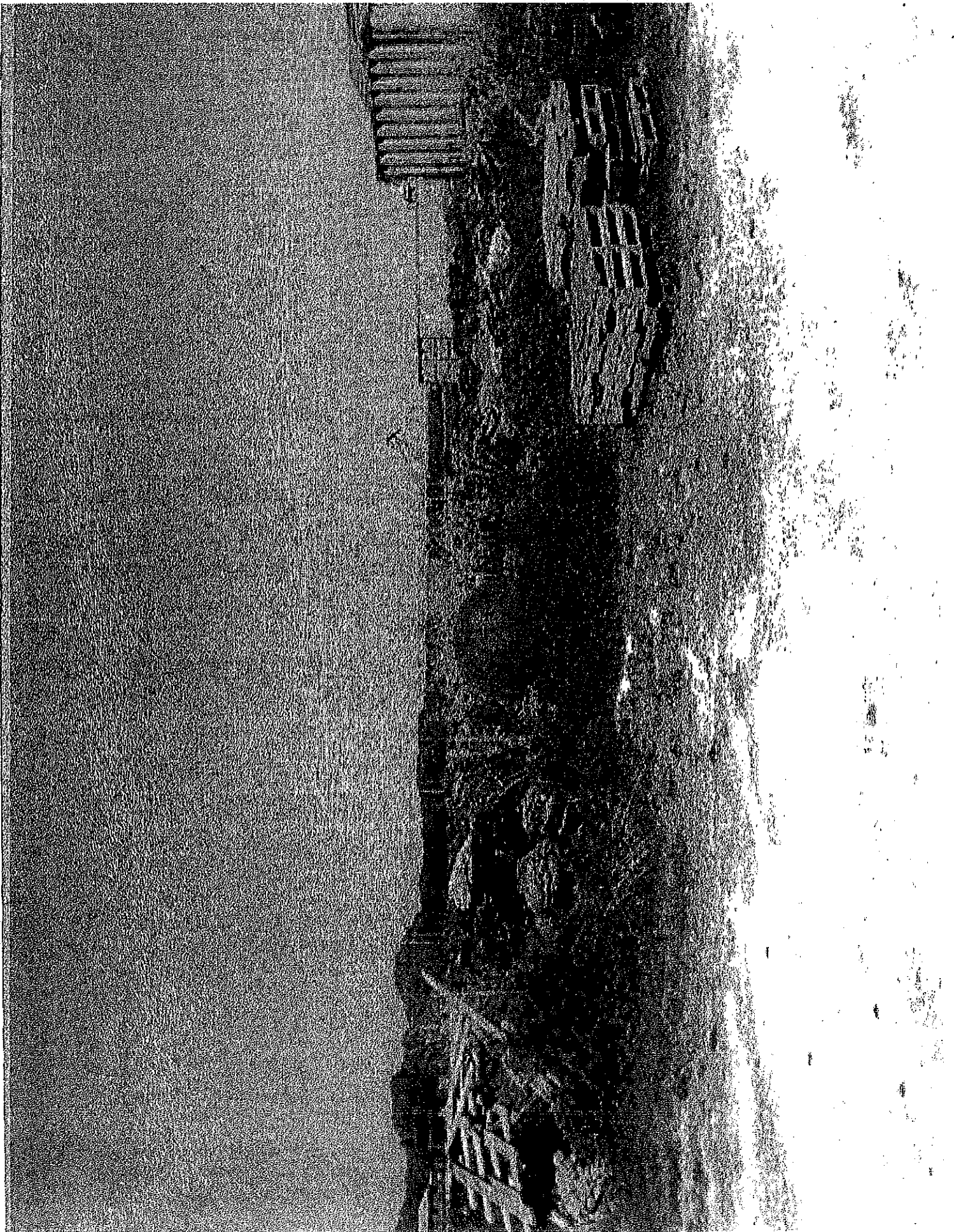


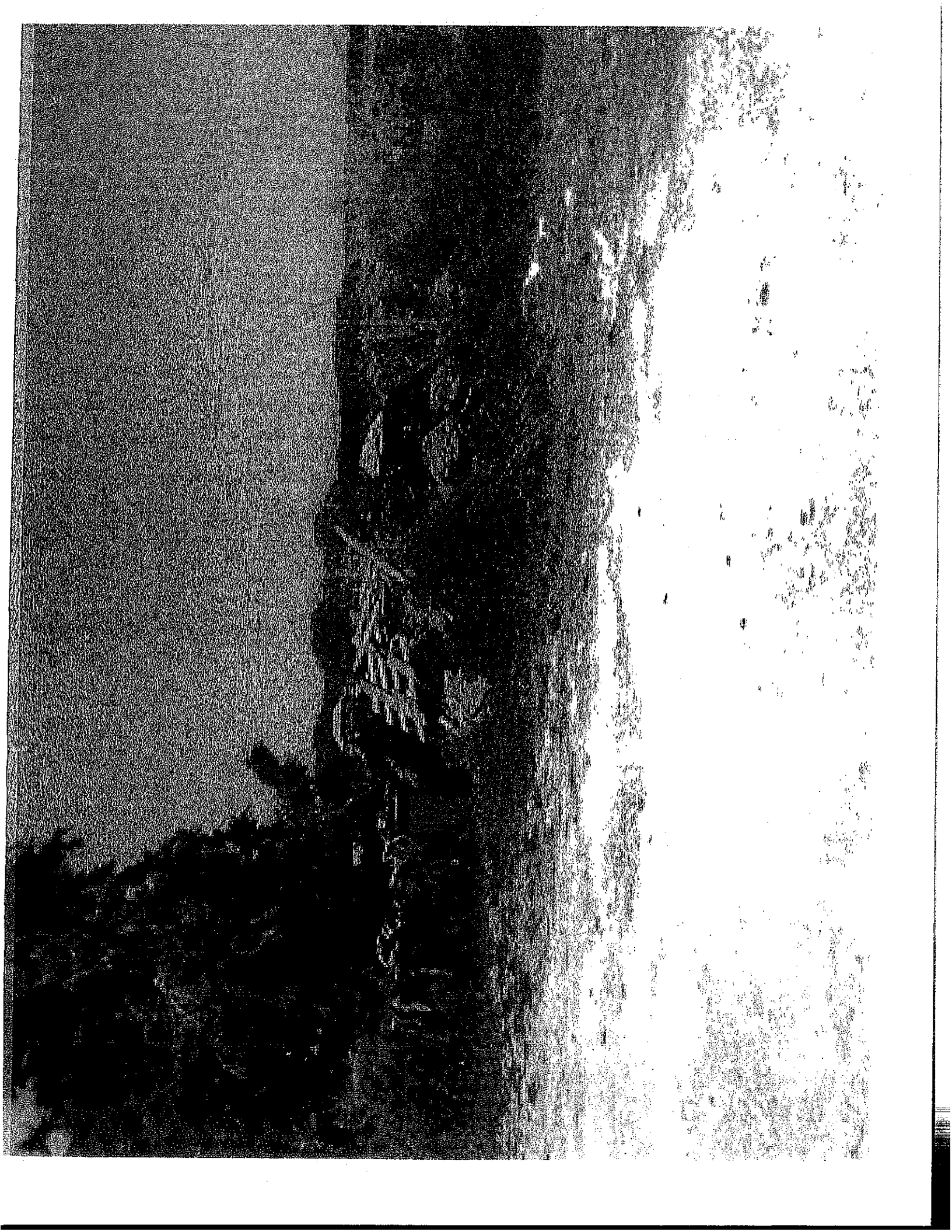












September 17, 2010

Mr. Jeffrey Osuch  
Executive Secretary  
Town Hall  
40 Center Street  
Fairhaven, MA 02719

Re: Potential Environmental Hazard / Use of site as Dumping Ground / Junk Yard

Dear Mr. Osuch,

We represent a number of Fairhaven and more specifically West Island residents whom are concerned with the hazards of items dumped on the grounds at 53 Goulart Memorial Drive / Causeway Street adjacent to the Town owned public landing (Hoppy's Landing) and the condition of the building and site. The recent hurricane Earl warnings has greatly heightened our concerns. As you will see in the attached pictures the owner/tenant has been dumping for some time what appears to be old scallop netting, cages, buoys and other miscellaneous items on the site and encroaching on the waters edge. The materials are spilling over onto the shore line near the high water mark. Had the Island taken a direct hit from Earl or should it take one in the future it is certain that much of this material will be pulled out to sea causing an environmental hazard for sea life and a safety hazard for boaters, swimmers, and others. If the items are no longer usable which appears to be the situation, then a legal disposal option should be utilized as a good business practice and good business neighbor. We question the placement of structures, whether "temporary" or not within 100' of the shore line without town approval.

After researching the land records we noted that the property extends 250' off Goulart Memorial Drive / Causeway Street and then 95 feet toward the shore line. As you will see from the overlay of the property layout from the registry of deeds onto the Google Arial map, the section the owner/tenant is using to enter the property and the area in the back belong to the Town. We believe that some of the materials maybe extend onto Town property.

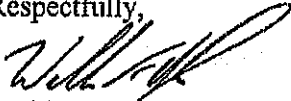
We further believe based on the deterioration of the buildings roof, walls and rear section that if the building inspector were to inspect the site it would more likely than not be considered unsafe for use. We have no doubt that it wouldn't pass current OSHA work place safety requirements.

In addition the owner has placed other items on the site, large float/rafts, old lift truck and three ocean cargo containers. It is the opinion of the residents that the site has become a dump for the owner/tenant to dispose of items no longer used in his business activities.



We respectfully request that the Town boards (Building, ConCom, ZBA) use whatever resources available to them, including involvement of state agencies to clean-up this serious environmental hazard before it's too late. We believe that as the owner/tenant is licensed by the state to use public waters for his business activities from which these materials come, there is an opportunity for the state to withhold those licenses if he refuses to properly dispose of his materials and clean-up the site.

Respectfully,



Residents of West Island

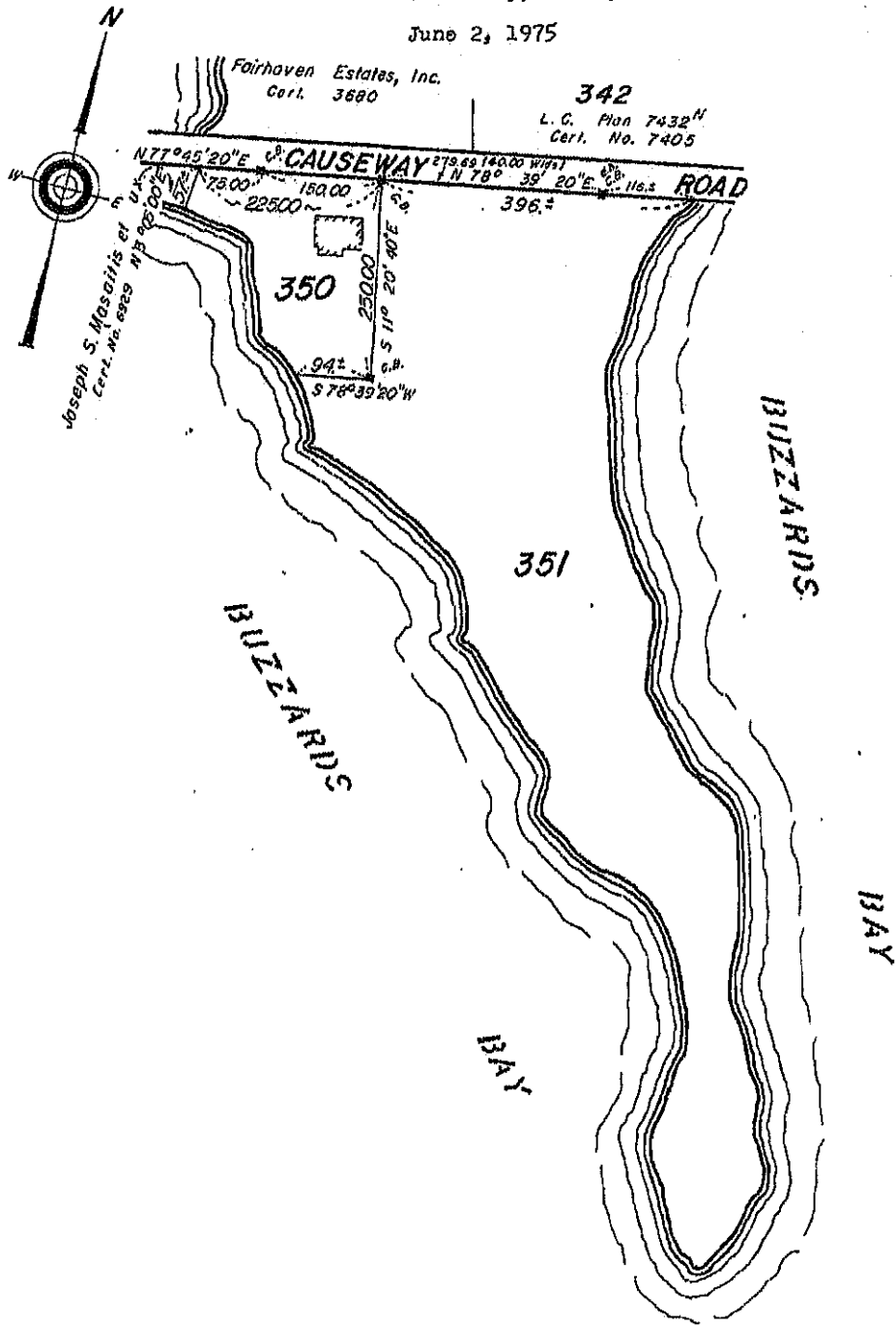
Cc: Wayne Fostin - Building Commissioner

SUBDIVISION PLAN OF LAND IN FAIRHAVEN

7432<sup>S</sup>

Robert A. Cattley, Surveyor

June 2, 1975



Subdivision of part of Lot B<sup>2</sup>  
 Shown on Plan 7432<sup>L</sup> sheet 1  
 Filed with Cert. of Title No. 6929  
 South Registry District of Bristol County

Separate certificates of title may be issued for land  
 shown hereon as Lots 350 & 351  
 By the Court.

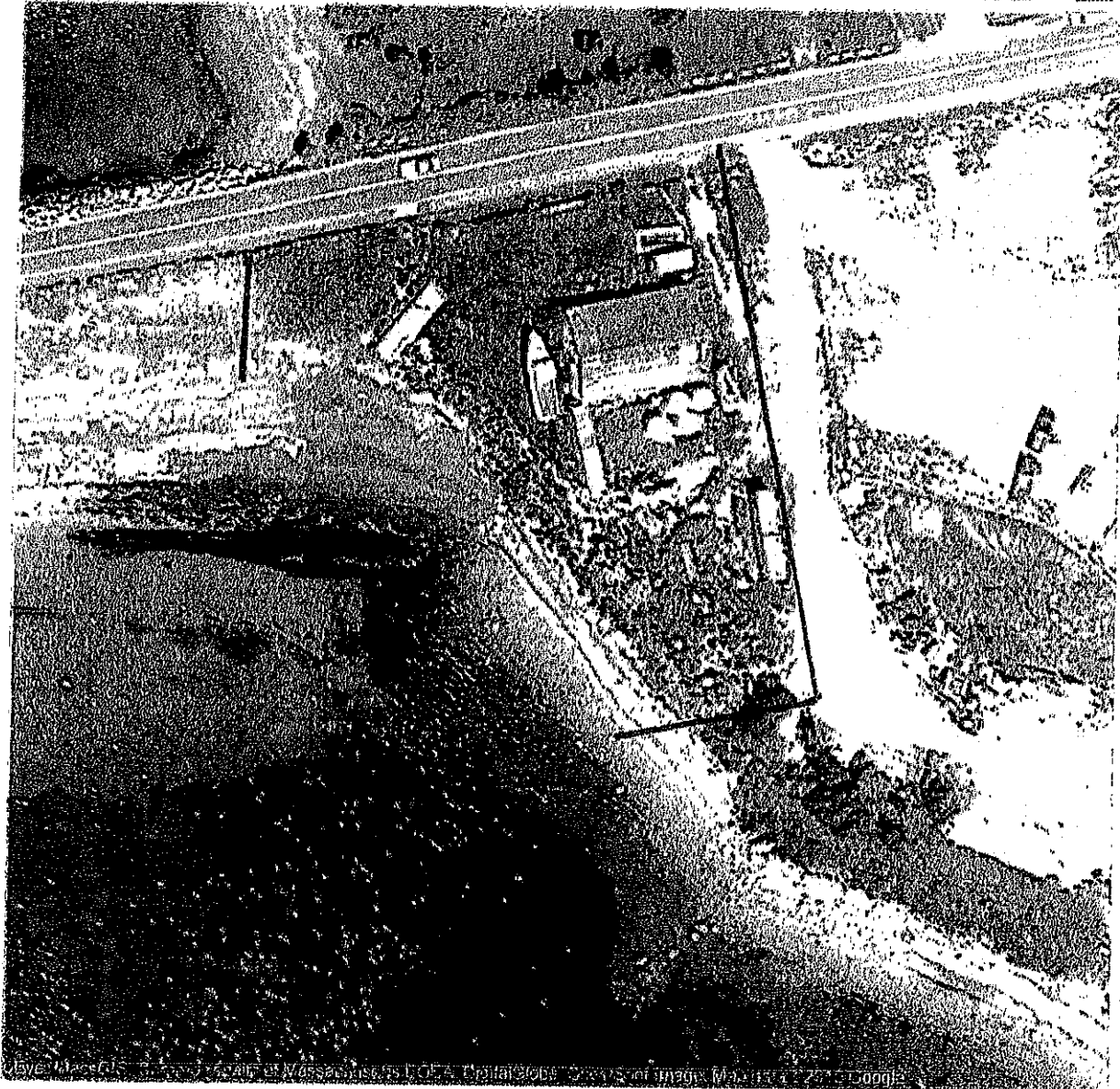
Copy of part of plan

# Google maps

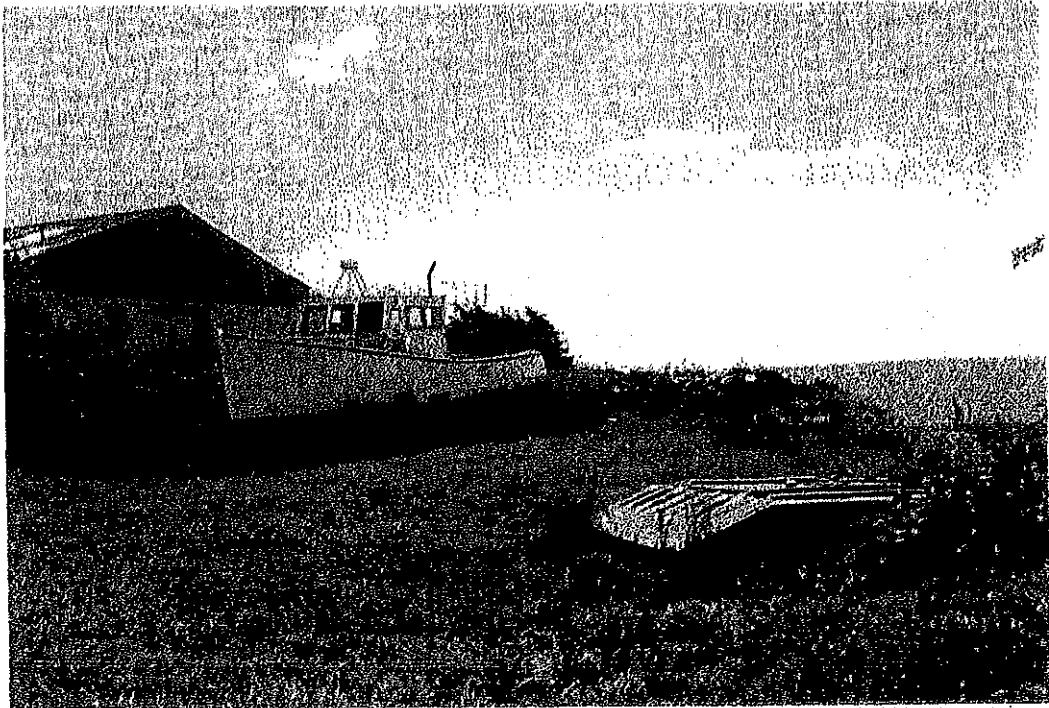
To see all the details that are visible on the screen, use the "Print" link next to the map.

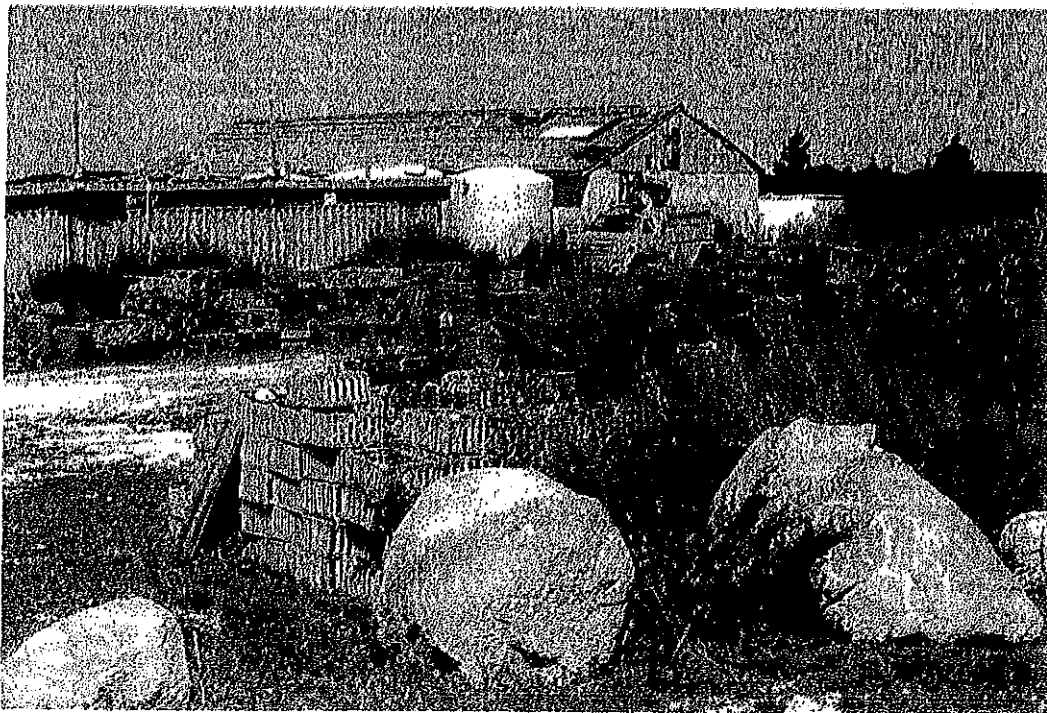
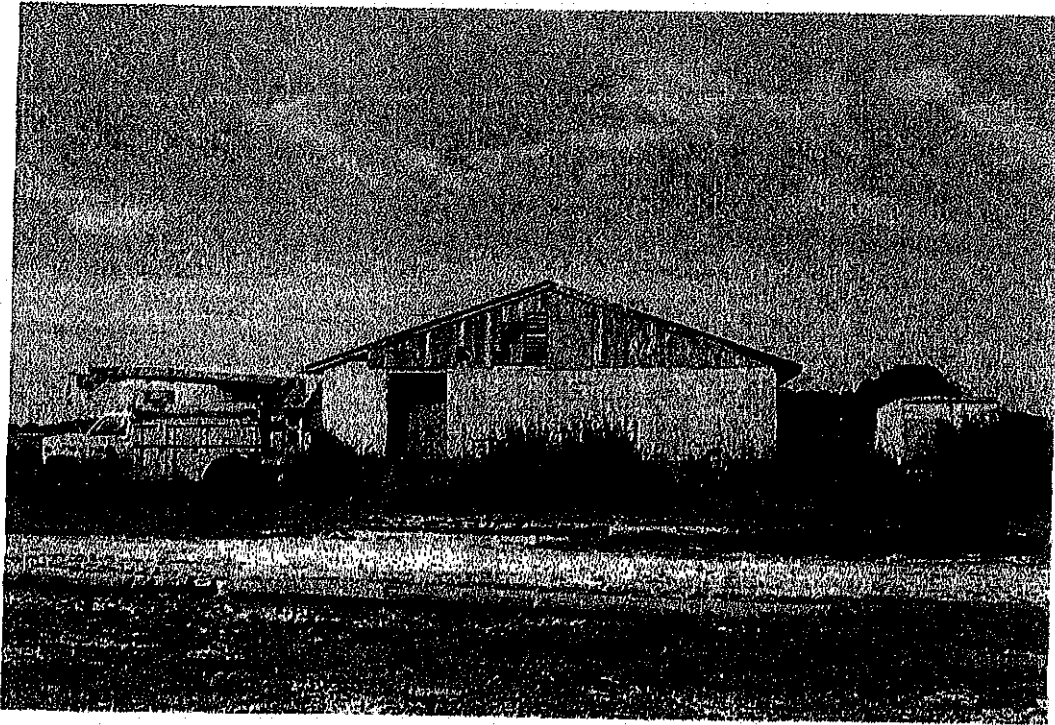
[Get Directions](#) [My Maps](#)

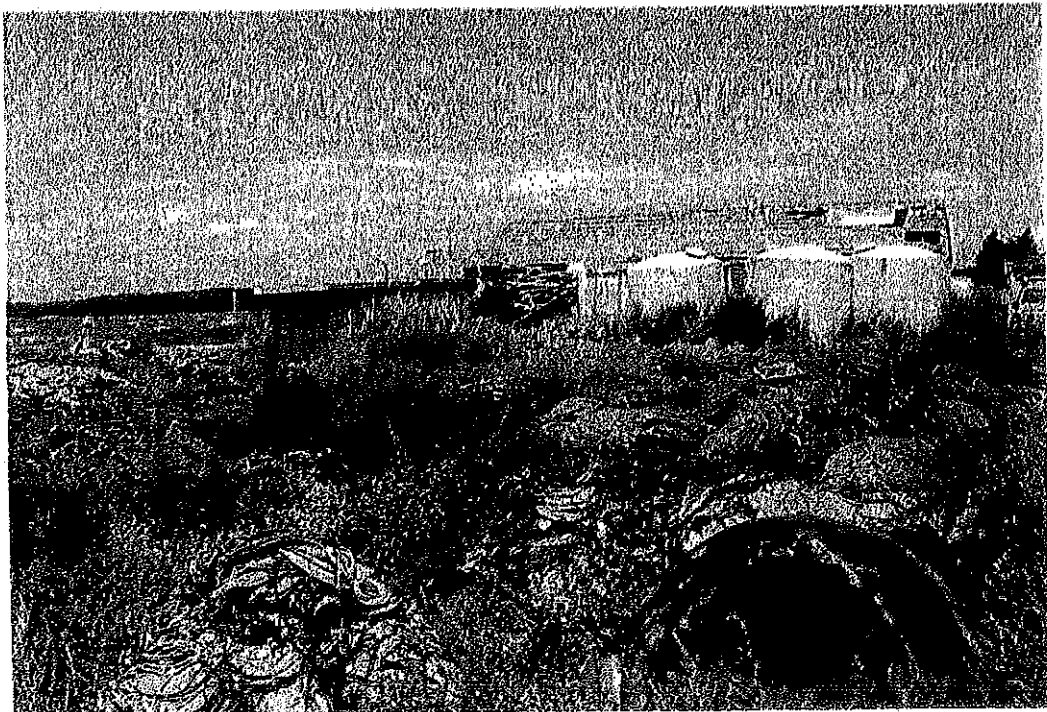
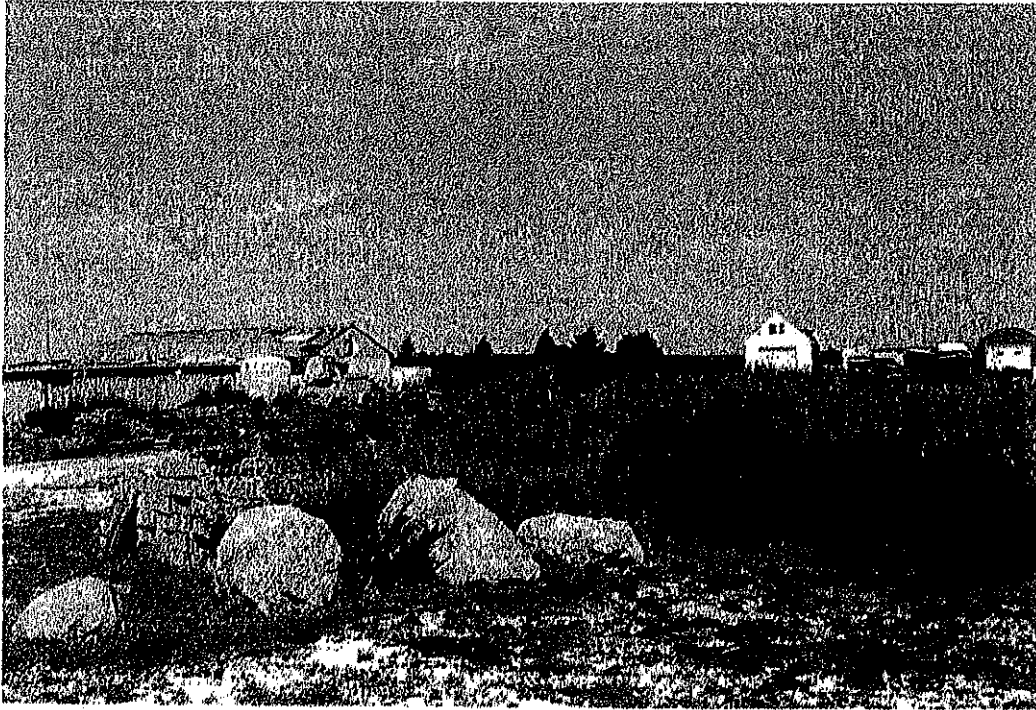
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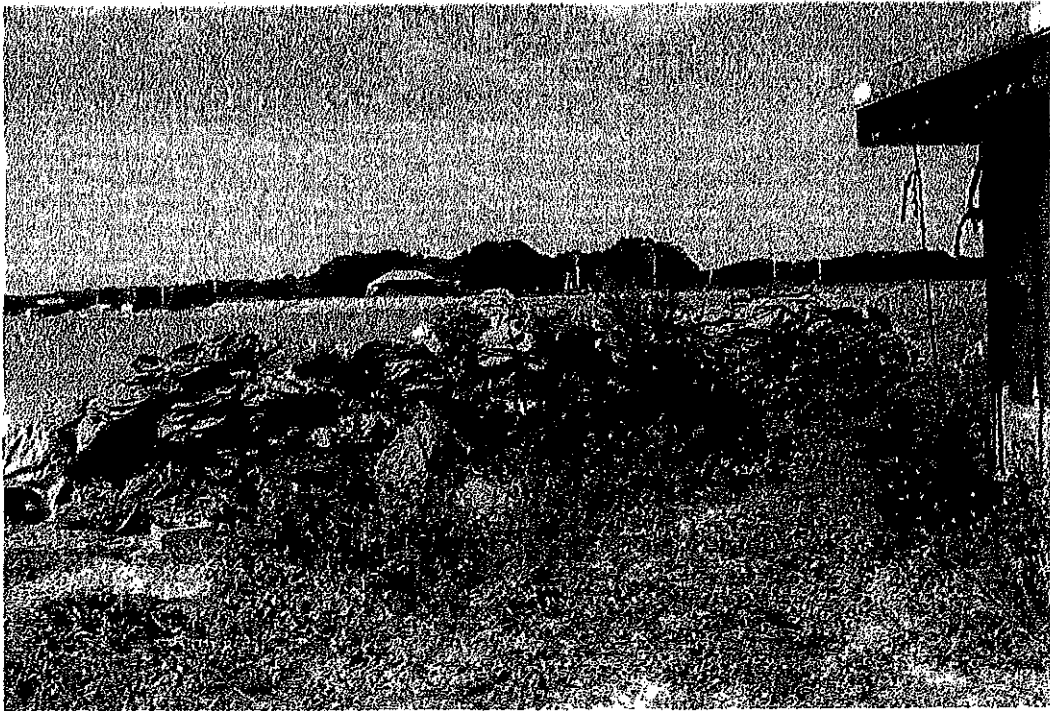


*73.5' per inch*



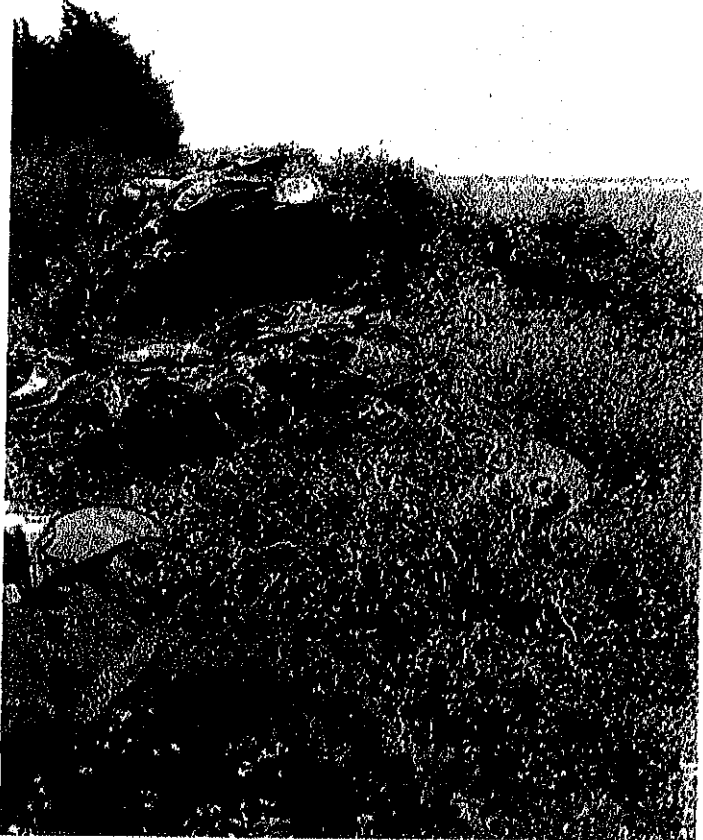


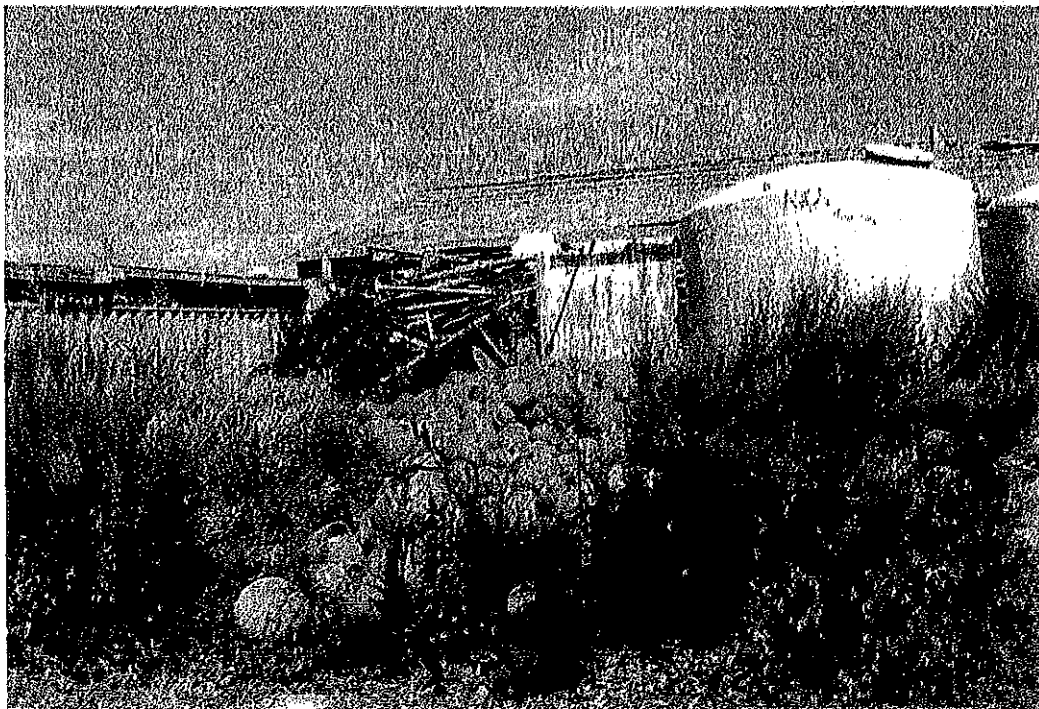


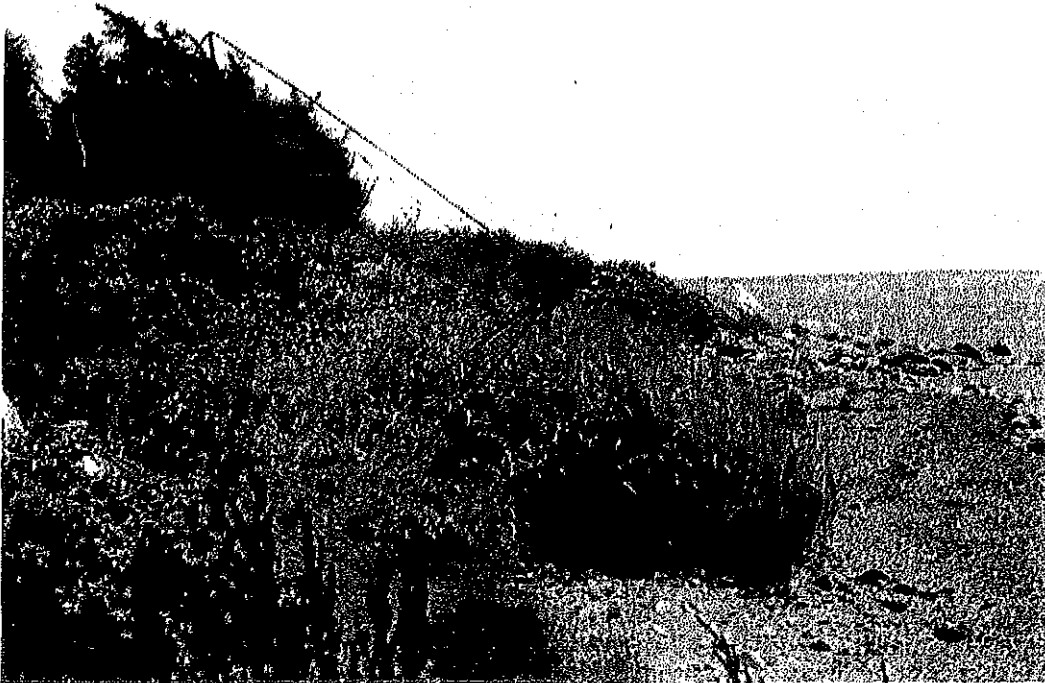
















# Preserve Fairhaven's Natural Beauty

Keep Jack's Cove Free of  
Commercial Equipment

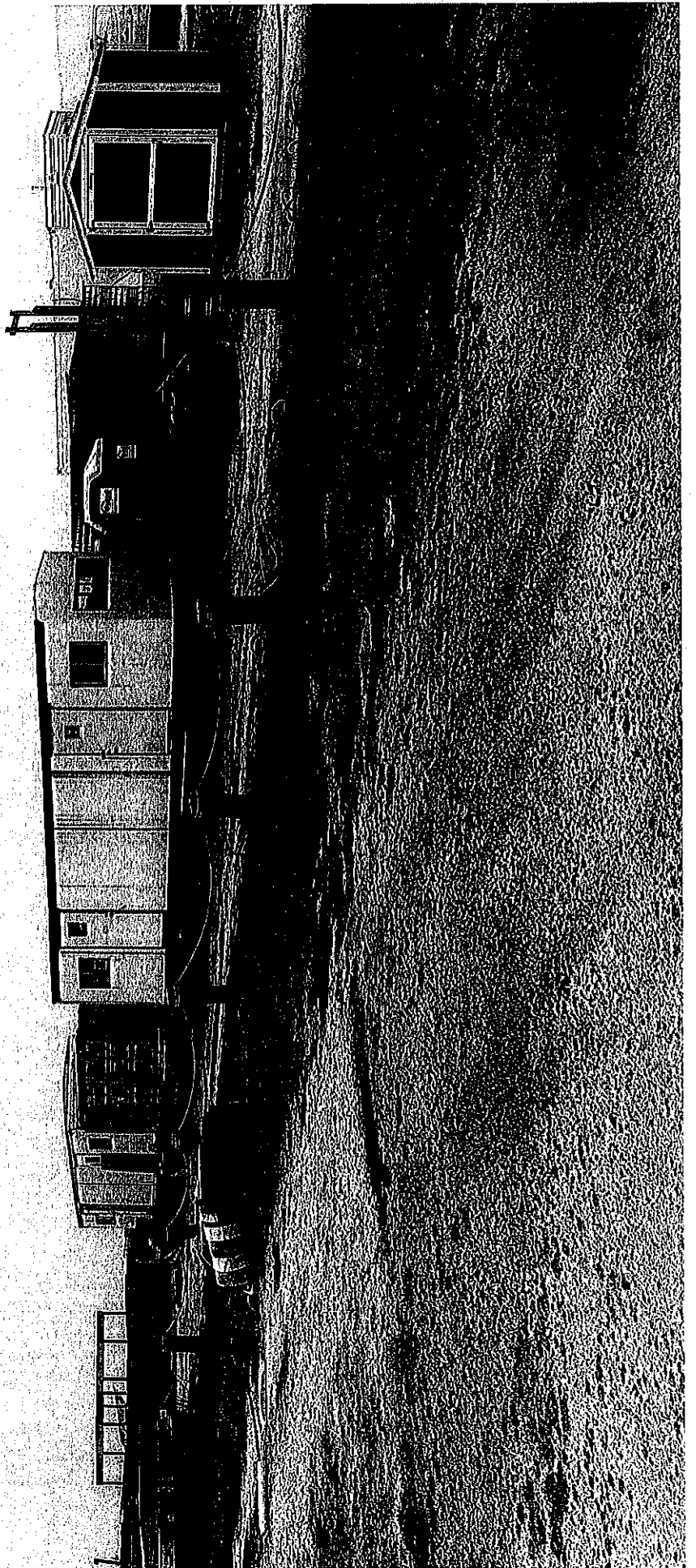
## **History of Commercial Site opposite Hoppy's Landing**

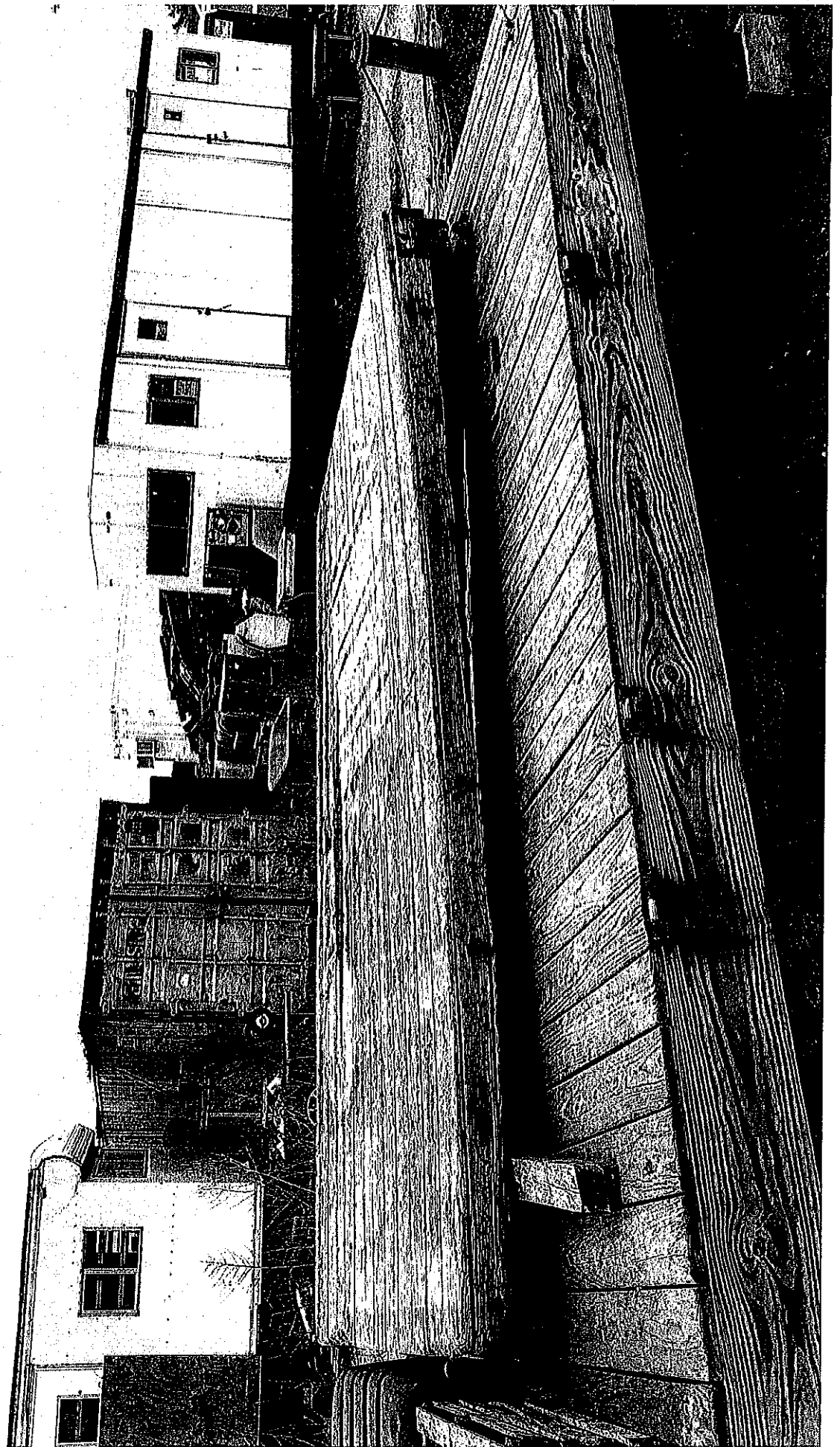
- The residents of West Island have lived with the site currently occupied by Blue Stream Shellfish, LLC for many years.
  - In 2010 we brought to the Select Board's attention our concerns with the potential environmental impact of the site if a major storm were to hit the coast line.
  - In 2014 we renewed our concerns during the Aquaculture License renewal process. We were promised the owner would address and the Hoppie's Board would monitor.
  - We again voiced our concerns after Blue Stream took control. At that time, efforts were made to remove materials and start the clean-up process.
  - A view of the site today in many ways shows conditions have returned to the way of past, numerous old office & camping trailers, shipping containers, vehicles and what appears to be operational surplus fill the site. (See Attached Photo's)

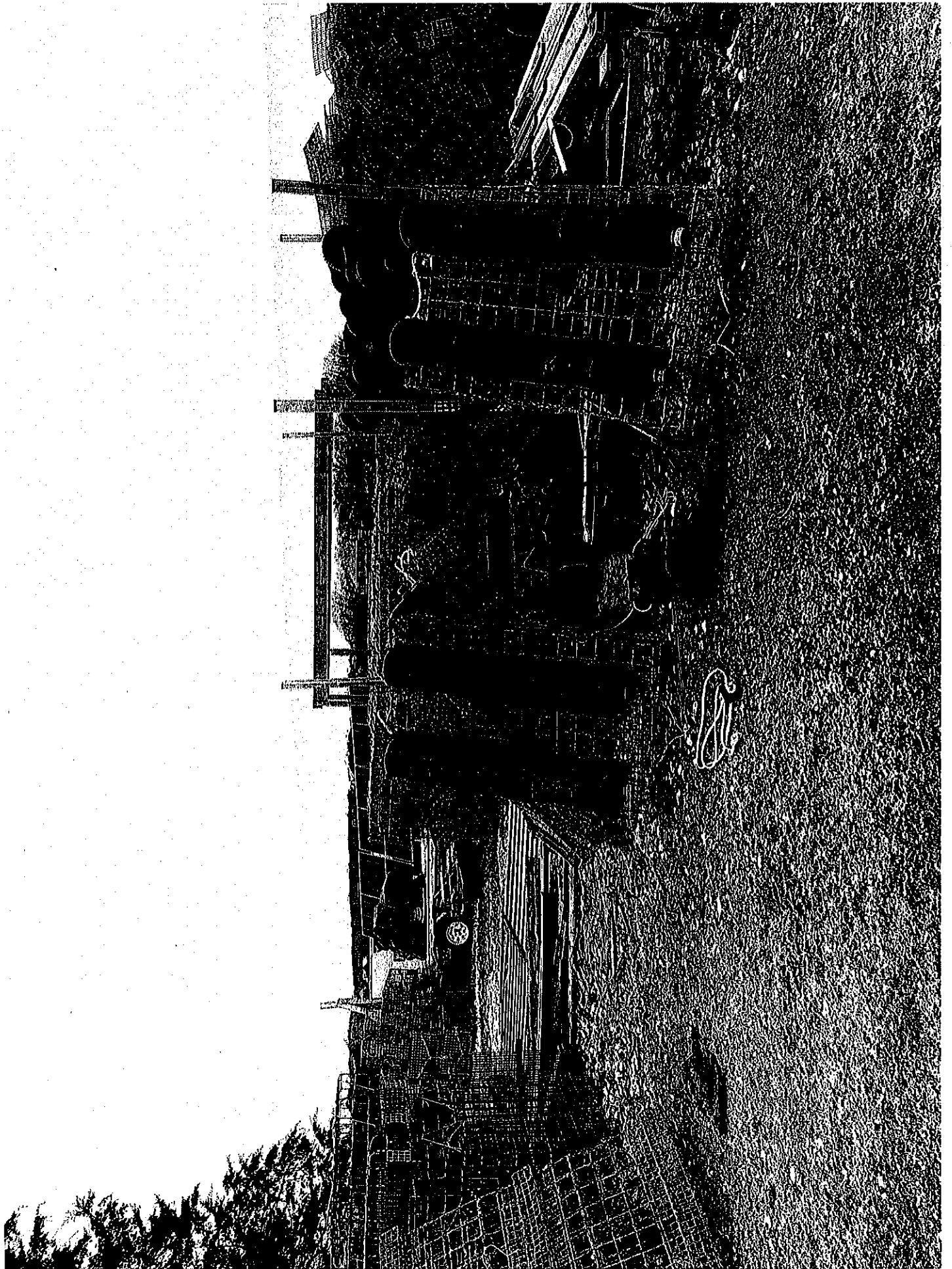
# Concerns with condition of Land Operations

- Significant storage of items close to the shore line.
- Numerous rusting storage containers
- Three office trailers and a camper, one boarded up.
- Used operational materials
- Large float dock units
- In general the site under current management is an eyesore, in plain view of all residents and visitors to the island as well as customers of the Marina.

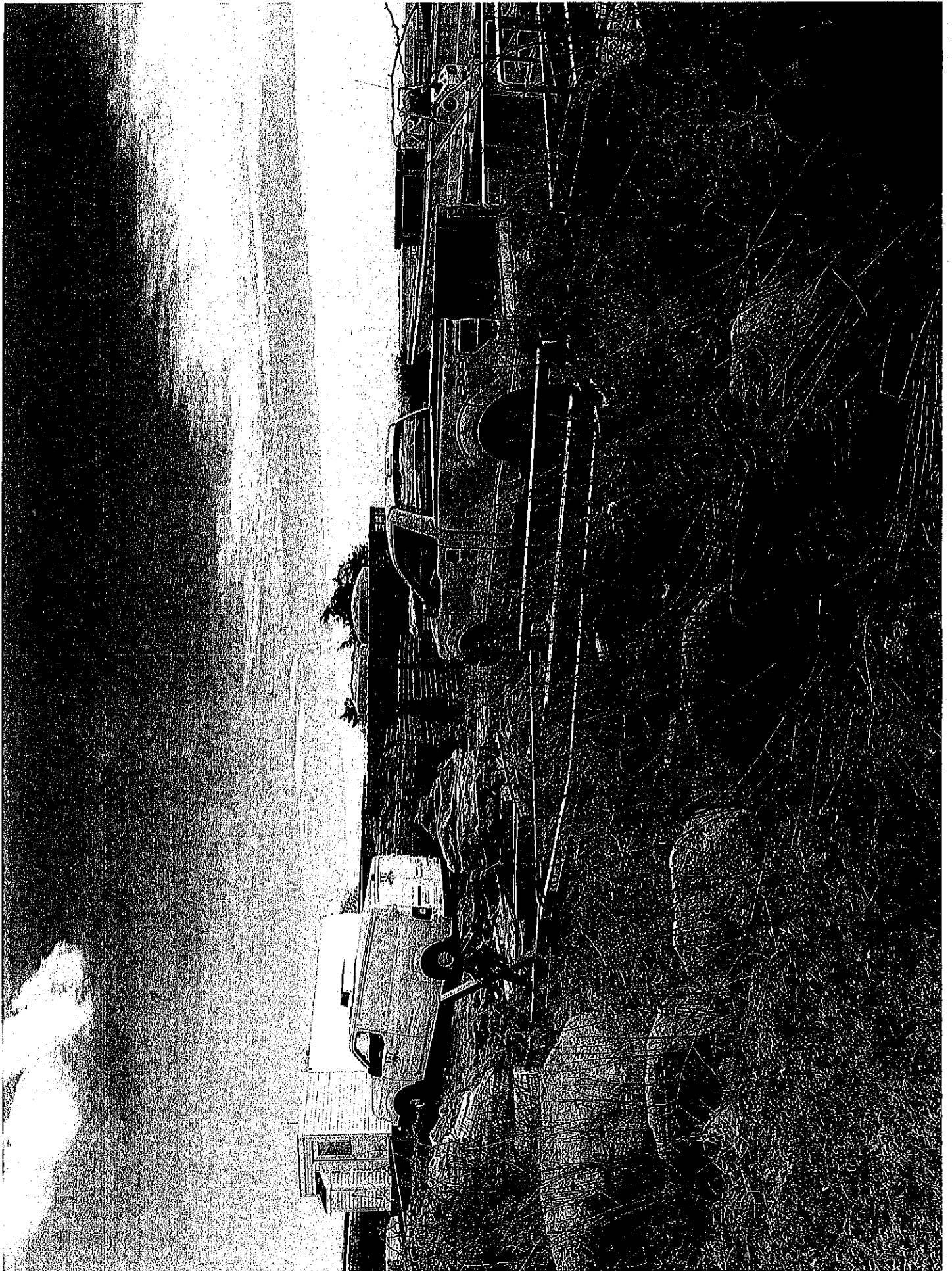


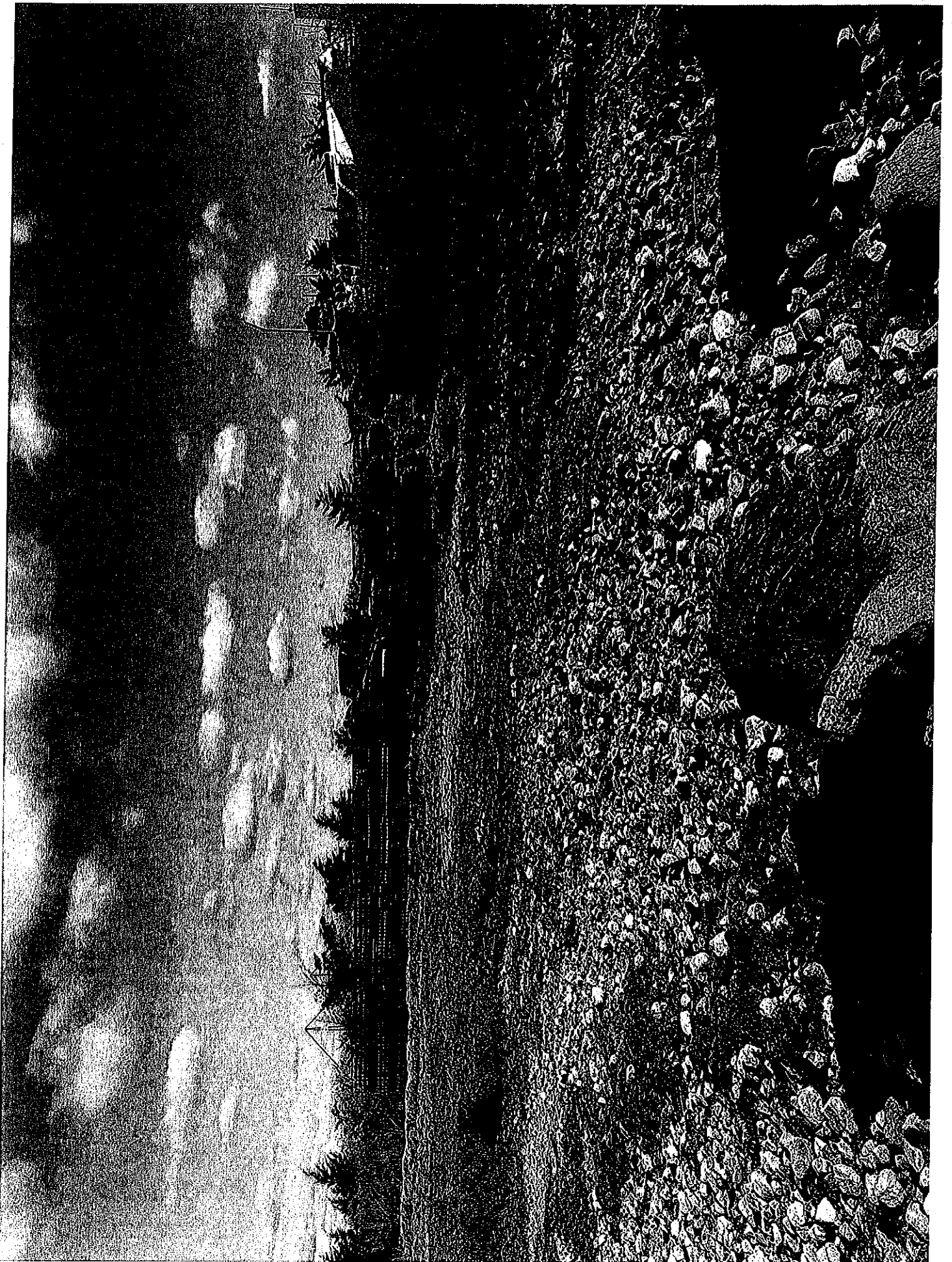


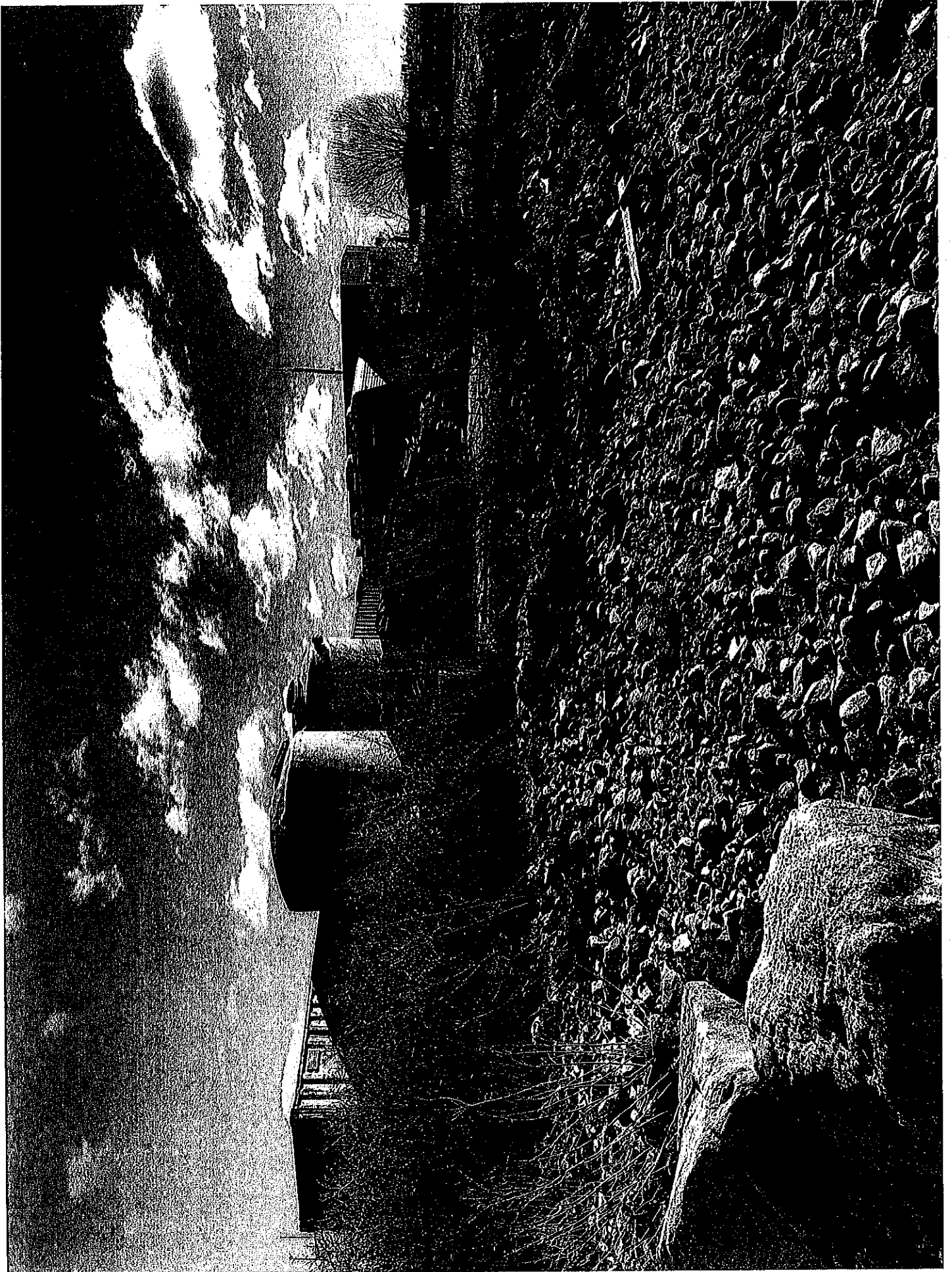










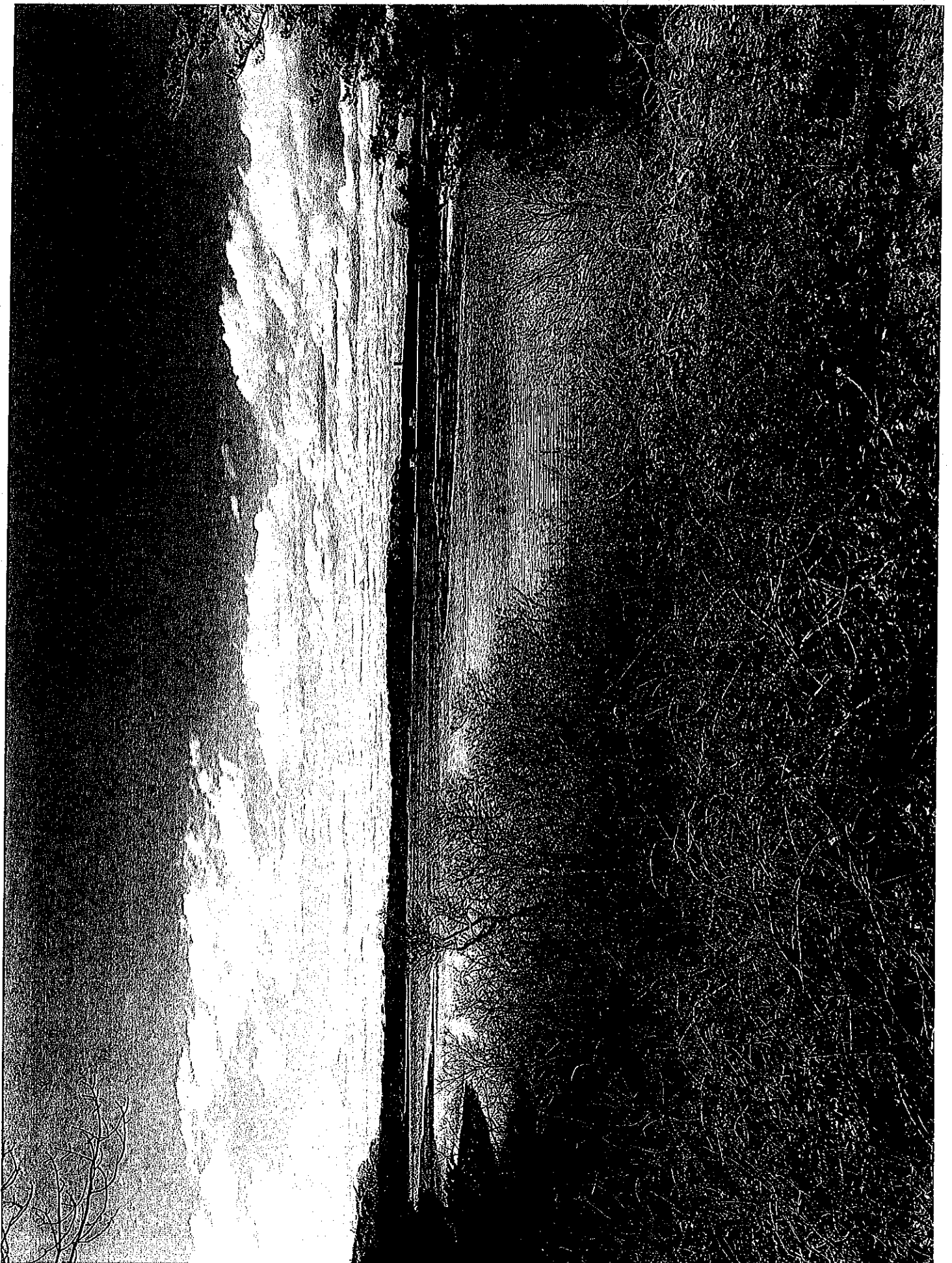




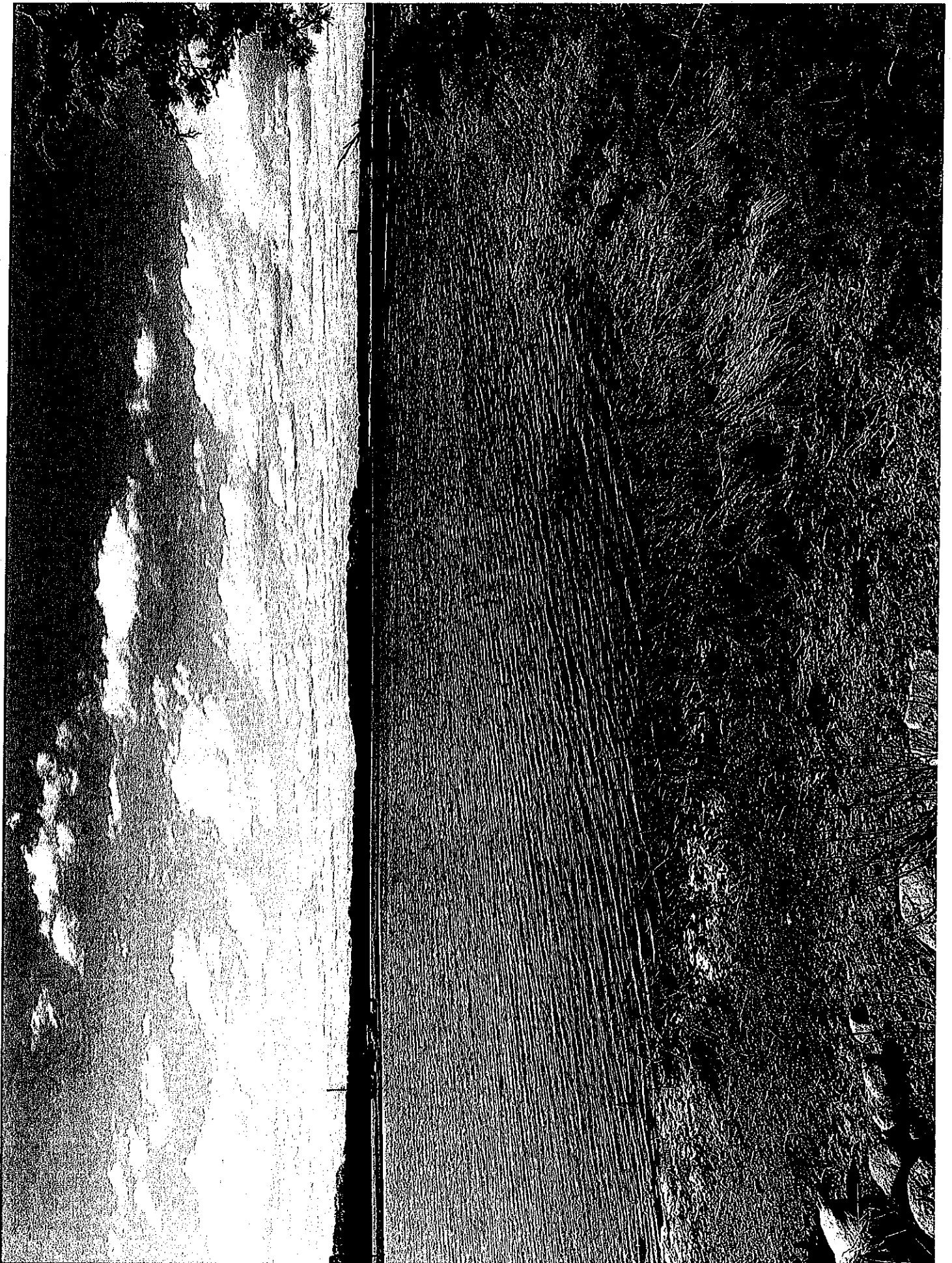


## Preserve Jack's Cove

- As you can see, in contrast to the other side of the street where Blue Stream Shellfish, LLC operates, Jack's cove is a pristine natural beauty. Even when the small skiffs are present during the boating season, it is the quintessential New England post card. Installation of four units with the approximately size of a small West Island cottage or a garage would significantly change this landscape.







# Conclusion

- The residents of West Island are not opposed to Blue Streams operations in the bay.
- The Land Operations next to Hoppy's landing is not that of a well run business and shows a lack of concern for residents and citizens of Fairhaven looks like a dumpsite and detracts from the natural beauty of the area.
- While there maybe issues with the water currently, the ocean feeds both sides of the causeway, neither is amnion of any population.
- I believe the power issue has been resolved with Blue Stream getting access to electricity thanks to a easement from the Select Board.
- Shell fish are a natural filter and it is doubtful that the seedlings would fair any worst on the south side of the causeway on land than on the North side. They may need permission from the state and it might have limits but I'm sure it can be worked out.
- All business's have operating cost, it is not the Town's responsibility to reduce operational cost of any business at the detriment of it's coastline or citizens. Purchasing seedlings or installing an uplander unit on land, are viable options.
- Paying \$200 an acre (\$9,200 annually) is far less than most business and even many residents pay in taxes alone.
- **We request that the Select Board help to Preserve the Natural Beauty of our coastline and reject this lease request at this location.**

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MATTHEW J. THOMAS, ESQ.

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Attorney at Law

4 PARK PLACE • SUITE 101 • NEW BEDFORD • MA 02740  
MJT@MJTHOMASLAW.COM  
508-994-1500 • FAX: 508-990-1916

FAIRHAVEN BOARD OF SELECTMEN HEARING  
BLUE STREAM UPWELLER  
APRIL 8, 2024

While I am an attorney, I am appearing tonight as part of the family that owns the properties at 48 & 50 Goulart Memorial Drive.

1. Clearly Chapter 130, Section 57 applies and a license is required :
  - (5) to grow shellfish by means of racks, rafts or floats.”
2. Generally we support aquaculture and marine industries in Fairhaven, however we have some questions regarding this proposed project:
  - a. Understand that Oysters typically have a positive impact on water quality. However, in the proposal Blue Stream speaks of “removing the biofouling 2 -3 times weekly” What type of “biofouling” are they talking about?
  - b. The proposal speaks to a raft system composed of 8' x 20' floats.
    - i. It's my understanding that one raft will hold the FLUPSY while three (3) rafts will hold the solar photovoltaice structure.
      - (1) What is the orientation of the solar panels?
      - (2) Will there be any reflection/glare on Goulart Memorial Drive or toward 50 Goulart Memorial Drive?
  - c. Rumor is that Blue Stream has apparently informed Mattapoissett that they are not renewing their leases there because they are not profitable.
    - i. How is this different?

- d. What types of Financial Assurance Mechanisms will there be to remove the upweller and restore any adverse impacts on the Cove if they decide that this is also not economically profitable?
2. Section 57 requires a certification that the license and operation “ will cause no substantial adverse effect on the shellfish or other natural resources of the city or town”.
  - a. The natural setting of Jack’s Cove is a natural resource of this part of Town. What steps are being taken to minimize the impacts of the solar panels and FLOPSY on view and serenity of Jack’s Cove?
3. Section 57 also prohibits a license from materially obstructing navigable waters. The Town is presently planning to dredge the channel under the Causeway Bridge, this would typically make the moorings in Jack’s Cove more accessible. What steps are being taken to prevent the proposed project from obstructing any of the mooring sites along the edge of Jack’s Cove or the navigable waters in the Cove near Goulart Memorial Drive?

Thank you.



Timothy Cox &lt;tcox@fairhaven-ma.gov&gt;

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**Fairhaven Upweller subject to WPA or not?**

2 messages

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**Conservation Agent** <conservation\_agent@fairhaven-ma.gov>

Thu, Apr 4, 2024 at 1:45 PM

To: peter.j.backhaus@mass.gov

Bcc: tcox@fairhaven-ma.gov

Hi Peter,

Attached are a couple of pictures of the upweller in question that we had discussed back on 13 March. The Harbormaster Tim Cox is looking to get a few more pictures. Let me know if you need something more technical like a plan and/or profile view including the moorings, or the square footage of the unit. The upweller has a very shallow draft, and even in low tide does not rest on or impact the bottom other than the moorings. My understanding is the proposed location is an area already used to moor boats, so I imagine any shading impacts would be similar to existing moorings used for boats. Let me know what you think; we appreciate your input!

Cheers,  
Bruce

Hugh Bruce Webb, MSc. (he/him/his)  
Conservation Agent and Sustainability Coordinator  
Town of Fairhaven, MA  
(508) 979-4023 (ext. 8128)

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 **Photos of Upweller.pdf**  
1622K

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**Conservation Agent** <conservation\_agent@fairhaven-ma.gov>

Fri, Apr 5, 2024 at 3:12 PM

To: Timothy Cox &lt;tcox@fairhaven-ma.gov&gt;

Hi Tim,

See forwarded email below.

Cheers,  
Bruce

Hugh Bruce Webb, MSc. (he/him/his)  
Conservation Agent and Sustainability Coordinator  
Town of Fairhaven, MA  
(508) 979-4023 (ext. 8128)

----- Forwarded message -----

From: **Backhaus, Peter J (DEP)** <Peter.J.Backhaus@mass.gov>

Date: Fri, Apr 5, 2024 at 2:56 PM

Subject: RE: Fairhaven Upweller subject to WPA or not?

To: Conservation Agent &lt;conservation\_agent@fairhaven-ma.gov&gt;

Thanks Bruce – just caught up on this. From my discussions with some other staff in the office, pretty much everything falls under the Harbormaster's jurisdiction. The precedent we've seen is that the Applicant's file an NOI with the square footage of any new moorings to have on file for Land Under the Ocean, but the overall project is outside of WPA jurisdiction. Sounds like the only concerns with shading under the performance standards are addressed in this case.



Best,

Peter



**Peter J. Backhaus, PhD, PWS**  
Environmental Analyst, Wetlands  
MassDEP Southeast Regional Office  
  
(857) 278-8577  
Peter.J.Backhaus@mass.gov  
  
20 Riverside Drive  
Lakeville, MA 02347

**From:** Conservation Agent <conservation\_agent@fairhaven-ma.gov>  
**Sent:** Thursday, April 4, 2024 1:46 PM  
**To:** Backhaus, Peter J (DEP) <Peter.J.Backhaus@mass.gov>  
**Subject:** Fairhaven Upweller subject to WPA or not?

**CAUTION:** This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

[Quoted text hidden]



MASSACHUSETTS

# COMPREHENSIVE BENEFITS FOR YOUR RETIREES

## Medicare PPO Blue FreedomRx

Looking to offer protection to your employees and retirees? Our Medicare PPO Blue FreedomRx plan provides comprehensive coverage and makes health management simpler.

### WE KNOW MEDICARE

We have the expertise to help, every step of the way.



#### Quality:

More people in Massachusetts choose our Medicare plans over any other option.<sup>1</sup>



#### Service:

Our dedicated Medicare experts are always ready to answer questions.



#### Trust:

We've been providing high-quality, affordable Medicare coverage for more than 50 years.

**OVER 7.4M MEDICARE MEMBERS ARE ENROLLED  
IN A BLUE CROSS BLUE SHIELD PLAN NATIONWIDE.<sup>2</sup>**

### WHAT IS MEDICARE PPO BLUE FREEDOMRx?

It's an employer-sponsored Medicare Advantage plan that covers everything original Medicare covers, and more. With this plan, employees don't need to choose a primary care provider (PCP).

## MEMBERS GET:

ACCESS TO OUR EXTENSIVE NATIONAL PPO NETWORK

OUT-OF-NETWORK COVERAGE

ZERO COST SHARE

### PLUS THESE BENEFITS:

- Vision care – eyewear once every 24 months, up to \$200
- Hearing aids – up to two TruHearing<sup>®</sup> branded hearing aids every year (\$699 or \$999 copay per aid)
- Wigs – \$500 per calendar year
- Fitness and weight-loss benefits – \$150 per calendar year
- Meal plan – no cost share for post-hospital stay/outpatient surgery (in-network only)

**\$0 COST SHARE FOR MEDICAL SERVICES (IN- AND OUT-OF-NETWORK)**

Includes: Deductible, doctor office visits, annual physical exam, emergency room visits, urgent care facilities, prosthetics, durable medical equipment, labs, X-rays, MRIs, PET and CT scans, skilled nursing facility, inpatient admissions.

IN-NETWORK	MEDICAL SERVICES	MEMBER COST SHARE		
	Deductible	\$0		
	Doctor office visits Annual physical exam	\$0		
<b>EMERGENCY AND URGENT CARE</b>	Emergency room visits Urgent care facilities	\$0		
<b>EQUIPMENT</b>	Prosthetics Durable medical equipment	\$0		
<b>DIAGNOSTIC TESTING</b>	Labs, X-rays, MRIs, PET & CT scans	\$0		
<b>HOSPITAL</b>	Skilled nursing facility Inpatient admissions	\$0		
<b>PRESCRIPTION DRUGS</b>	TIER 1	TIER 2	TIER 3	
Retail pharmacy (30-day supply)	\$10	\$20	\$35	
Mail order pharmacy (90-day supply)	\$20	\$40	\$70	

Note: Out-of-network prescription drug coverage is available under special circumstances.

**OUT-OF-POCKET MAXIMUM**

This is the most a member will pay, per year, for covered health expenses before the plan pays 100 percent of covered health expenses for the rest of the plan year.

- \$3,400 in-network
- \$5,100 for combined in- and out-of-network

**ADDED FITNESS AND WEIGHT-LOSS BENEFITS**

Fitness Reimbursement: Membership, fitness studio/class fees, fitness equipment, or virtual fitness offerings.

Weight-Loss Reimbursement: Participation fees for in-person or online programs such as hospital-based programs, WW® (formerly Weight Watchers®), or non-hospital programs.

**QUESTIONS?**

To find out more about Medicare PPO Blue FreedomRx, contact your account executive.

1. Represents Medicare Advantage and Medicare Supplemental Individual and Group plan membership based on data from CMS (cms.gov) and the Massachusetts Department of Insurance (mass.gov).  
 2. Data attributed to all Blue Cross and Blue Shield Association plans across America; CMS; Barclays Research, 2021, Quarter 2, Brand Protection Financial Services Reporting.

# Town of Fairhaven Senior Benefit Comparison Medicare Supplement Plans

Effective July 1, 2024

BLUE CROSS BLUE SHIELD OF MASSACHUSETTS	
BENEFIT	Medicare PPO Blue FreedomRx Must Have Medicare A&B \$325.00 Your Responsibility
Plan Cost	Medicare PPO Blue FreedomRx Must Have Medicare A&B \$325.00 Your Responsibility
Deductible - Medical	Medicare PPO Blue FreedomRx Must Have Medicare A&B \$366.01 Your Responsibility
Prescription Coverage	Medicare PPO Blue FreedomRx Must Have Medicare A&B No deductible
Out of Pocket Maximum	Medicare PPO Blue FreedomRx Must Have Medicare A&B \$10/\$20/\$35 Retail \$20/\$40/\$70 Mail Order In-Network - \$3,400 Out of Network - \$5,100 (Out of Network accumulation combined with In-Network)
INPATIENT	Medicare PPO Blue FreedomRx Must Have Medicare A&B
General Hospital, Mental Hospital, Substance Abuse Facility (semi-private room and board and special services)	Medicare PPO Blue FreedomRx Must Have Medicare A&B No cost
Physician Services, Surgical Charges, Anesthesia and Consultations.	Medicare PPO Blue FreedomRx Must Have Medicare A&B No cost
Skilled Nursing Facility	Medicare PPO Blue FreedomRx Must Have Medicare A&B Full coverage of Medicare daily coinsurance for days 21-100 \$10 daily for days 101-365
Rehabilitation Hospital	Medicare PPO Blue FreedomRx Must Have Medicare A&B \$50 copayment per calendar quarter No cost

OUTPATIENT	Medicare PPO Blue FreedomRx
Emergency Room Visits for Emergency or Accident Care	No cost
Outpatient Surgery	No cost
Radiation and Chemotherapy	No cost after deductible
Diagnostic X-ray and Lab	No cost
Physical Therapy	No cost after deductible
Mental Health & Substance Abuse	Biologically Based Mental Conditions when not covered by Medicare - No cost / No visit Max. Non-biologically based-When covered by Medicare, full coverage of Medicare deductible and coinsurance with no visit maximum When not covered by Medicare, full coverage up to 24 visits per calendar year
Alcoholism Treatment	No Cost
Medical Care	No cost after deductible
Routine Physical Exams	No cost
Routine GYN Exam	No cost - 1 Exam every 24 months
Routine Mammogram	One Routine Mammogram every 12 months
Routine Vision Exam	No cost with an EyeMed Provider \$45 Copay with any other Licensed Provider, once every 12 months
Vision Supplies	Full Coverage up to \$200 every 24 months
Routine Hearing Exam	No Cost with a TrueHearing Provider \$45 Copay with any other Licensed Provider, once every 12 months

Hearing Aids	Not Covered	<p>\$699 Copay per TruHearing Advanced Hearing Aid per ear every 12 months.</p> <p>\$999 Copay per TruHearing Premium Hearing Aid per ear every 12 months.</p> <p>Any other Hearing Aid - No coverage member pays all charges.</p>
Home Health Care	No cost after deductible	No cost
Acupuncture	Not Covered	Not Covered
Durable Medical Equipment	No cost after deductible	No cost
Prosthetic Devices	No cost after deductible	No cost
Chiropractor Visits	No cost after deductible for manual Manipulation of the spine to correct subluxation that can be shown by x-ray. Other Chiropractic services are Not Covered.	No cost for manual Manipulation of the spine to correct subluxation that can be shown by x-ray. Other Chiropractic services are Not Covered.
Prescription Drugs	<p>Retail Pharmacies: 1 month supply</p> <p>Tier 1: \$10 Copay</p> <p>Tier 2: \$20 Copay</p> <p>Tier 3: \$35 Copay</p> <p>Mail order: 3 month supply</p> <p>Tier 1: \$20 copay</p> <p>Tier 2: \$40 copay</p> <p>Tier 3: \$70 copay</p> <p>30-day supply retail pharmacy or 90-day supply mail service</p>	<p>Retail Pharmacies: 1 month supply</p> <p>Tier 1: \$10 Copay</p> <p>Tier 2: \$20 Copay</p> <p>Tier 3: \$35 Copay</p> <p>Mail order: 3 month supply</p> <p>Tier 1: \$20 Copay</p> <p>Tier 2: \$40 Copay</p> <p>Tier 3: \$70 Copay</p> <p>30-day supply retail pharmacy or 90-day supply mail service</p>
OTHER BENEFITS	Medicare 2 OBRA with Blue Medicare Rx	Medicare PPO Blue FreedomRx
Fitness Benefit/Weight Loss Benefit - (See Plan for Details)	None	<p>\$150 Fitness Reimbursement Per Calendar Year</p> <p>Enroll in a qualified Weight Watchers or hospital based weight loss program and receive up to \$150 per calendar year toward your program fees.</p>

\*The calendar-quarter copayment does not apply to inpatient admissions in a mental hospital.

These pages summarize benefits of the plan(s). The Subscriber Certificate(s) & applicable riders define the terms & conditions of these benefits in greater detail. Should any questions arise, the certificate(s) & riders will govern.



# WE KNOW MEDICARE

We have the knowledge and expertise to help you every step of the way.



### Quality

More people in Massachusetts choose our Medicare plans over any other option.<sup>1</sup>



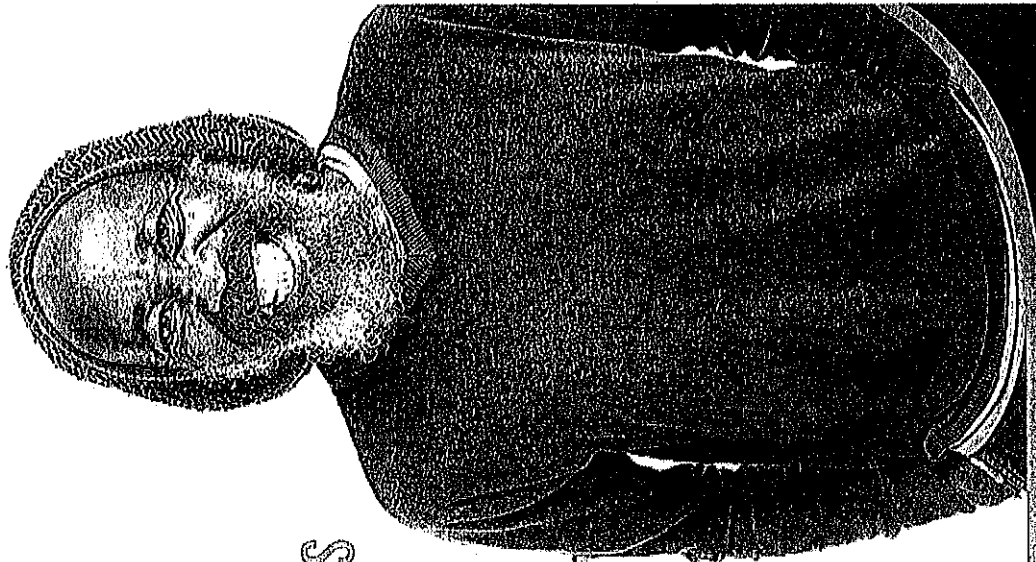
### Service

Our dedicated Medicare experts are always ready to answer your questions.



### Trust

We've been providing high-quality, affordable Medicare coverage for more than 50 years.



Medicare PPO Blue (PPO)

## 2024 BENEFITS OVERVIEW

- Drug Copayments \$10 - \$20 - \$35
- FreedomRx Option

# OVER 7.8 MILLION

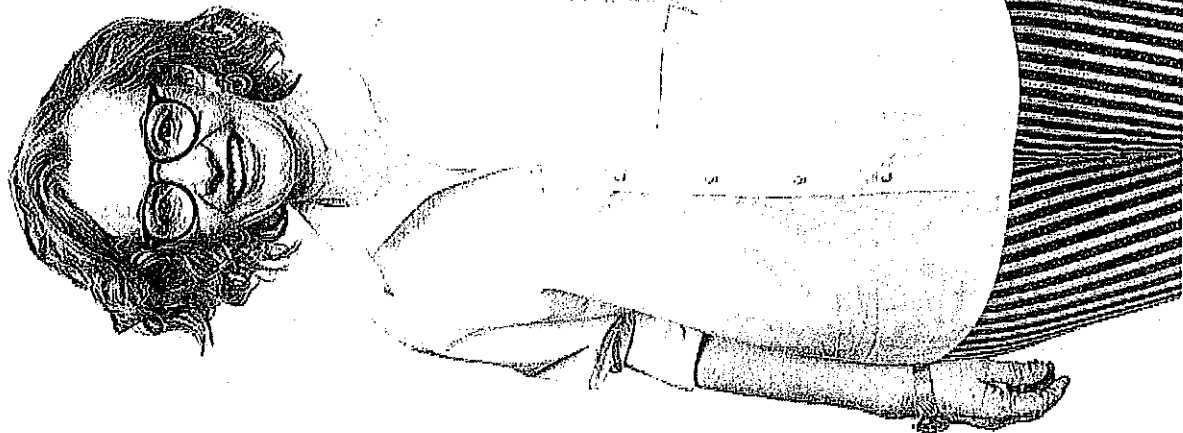
Medicare Members in America are enrolled in a Blue Cross Blue Shield plan.<sup>2</sup>



Getting the best benefits should be easy. That's why we're here. If you ever have any questions or concerns, we're always happy to talk you through them. Call 1-800-200-4255 (TTY: 711) for more information.

Blue Cross Blue Shield of Massachusetts is an independent licensee of the Blue Cross and Blue-Shield Association.

1. Represents Medicare Advantage and Medicare Supplemental Individual and Group plan membership based on data from CMS (cms.gov) and the Massachusetts Department of Insurance (mass.gov).  
 2. Data attributed to all Blue Cross Blue Shield Association plans across America; CMS; Barclays Research, 2023, Quarter 1, Brand Protection Financial Services Reporting.



**IMPORTANT: IF YOU HAVEN'T  
ENROLLED IN MEDICARE, CONTACT  
YOUR LOCAL SOCIAL SECURITY  
OFFICE THREE MONTHS PRIOR  
TO YOUR 65TH BIRTHDAY.**

## COVERED SERVICES FOR MEDICARE PPO BLUE FREEDOMRX (PPO) MEMBERS

The information below provides a summary of the drug and health services covered under this plan. This information is not a complete description of benefits. For more information about this plan, or the actual premiums you will pay, please contact your employer group benefits plan administrator.

Plan Specifics	In-Network	Out-of-Network
Calendar-Year Medical Deductible	\$0	\$0
Out-of-Pocket Maximum	\$3,400 in-network or \$5,100 for combined in- and out-of-network medical services each calendar year—this is the maximum out-of-pocket amount you pay each year for Medicare-covered services.	
<b>Your Cost for Covered Services</b>		
<b>Your Cost for In-Network Services</b>		
Doctor's Office or Telehealth Visits	\$0 per office or telehealth visit	\$0 per visit (telehealth visits not covered)
Inpatient Hospital Care Hospital care for illness or chronic disease for as many days as medically necessary (includes hospital care in a rehabilitation hospital)	\$0	\$0
Emergency Care <sup>1</sup> Hospital emergency room visits	\$0 per visit	\$0 per visit
Urgently Needed Care <sup>2</sup> Doctor's office or telehealth visit (telehealth visits not covered with an out-of-network provider)	\$0 per office or telehealth visit	\$0 per visit (telehealth visits not covered)
Skilled Nursing Facility (SNF) Care Medically necessary care up to 100 days per benefit period <sup>2</sup>	\$0	\$0
<b>Your Cost for Out-of-Network Services</b>		
Mental Health and Substance Use Outpatient mental health and substance use care when medically necessary	\$0 per office or telehealth visit through a network provider	\$0 per office visit (telehealth not covered)
Inpatient care for mental health and substance use	\$0	\$0
Annual Physical Exam	\$0	\$0

1. Emergency and Urgently Needed Care are available worldwide.  
2. A benefit period begins with the first day of a Medicare-covered inpatient hospital stay and ends with the close of a period of 90 consecutive days during which you were not an inpatient of a hospital or a skilled nursing facility.



# COVERED SERVICES FOR MEDICARE PPO BLUE FREEDOMRX (PPO) MEMBERS

Covered Services	Your Cost for In-Network Services	Your Cost for Out-of-Network Services
Prosthetic devices and osseous supplies	\$0	\$0
Outpatient diagnostic tests and X-rays	\$0 for cost of lab tests; \$0 per day for CT scans, MRIs, PET scans, and nuclear cardiac imaging tests; \$0 for X-rays and other diagnostic tests	\$0 for cost of lab tests; \$0 per day for CT scans, MRIs, PET scans, and nuclear cardiac imaging tests; \$0 for X-rays and other diagnostic tests
Outpatient radiation therapy	\$0	\$0
Outpatient Hospital/Ambulatory Surgical Center	\$0 per visit	\$0 per visit
Physical, occupational, and speech therapy	\$0 per visit	\$0 per visit
Podiatry Services	\$0 per visit	\$0 per visit
Medicare-covered services	\$0 per visit	\$0 per visit
Chiropractic Services	\$0 per visit	\$0 per visit
Manual manipulation of the spine to correct subluxation	\$0	\$0
Health and Wellness Programs	\$0	\$0
Disease-specific health and wellness education	\$0	\$0
Smoking-cessation counseling	\$0	\$0
Health Promotion Programs	Up to \$150 each calendar year.	Up to \$150 each calendar year.
Eligible health club membership, exercise classes, online class fees, or fitness equipment		
Eligible weight-loss program	Up to \$150 each calendar year.	Up to \$150 each calendar year.

Covered Services	Your Cost for In-Network Services	Your Cost for Out-of-Network Services
Medicare-Covered Preventive Care and Screening Tests	\$0	\$0
Mammography screening every 12 months	\$0	\$0
Routine gynecological exam once every 24 months	\$0	\$0
Prostate cancer screening exam once per year	\$0	\$0
Routine Dental Services	\$0 per visit	\$45 per visit
Preventive routine dental care limited to one initial and periodic oral exam, one cleaning, (prophylaxis only — does not include periodontal cleaning) and one set of bitewing X-rays twice in a calendar year		
Hearing Services	\$0 per visit with a TruHearing provider	\$45 per visit
Routine diagnostic hearing exam once every 12 months		
Hearing aids: Up to two TruHearing <sup>SM</sup> -branded hearing aids every year (one per ear per year). Benefit is limited to TruHearing's Advanced and Premium hearing aids. You must see a TruHearing provider to use this benefit.	\$699 or \$899 copay per aid	No coverage
Vision Care	\$0 per visit with an EyeMed <sup>SM</sup> vision provider	\$45 per visit
Routine refractive eye exam once every 12 months		
Eyewear once every 24 months, up to a \$200 maximum	All costs over \$200 (this allowance is combined in an out-of-network)	
Other Medicare-Covered Health Services	\$0	\$0
Home health services (non-custodial)		
Durable medical equipment	\$0 (no cost for diabetes equipment and supplies*)	\$0 (no cost for diabetes equipment and supplies*)

\*Coverage for diabetic test strips and blood glucose monitors is limited to OneTouch<sup>SM</sup> products when purchased at participating retail and mail order pharmacies, otherwise you pay all costs. No coverage for other test strips. For additional information, contact Member Service or refer to your Evidence of Coverage.

**Covered Services**      **Out-of-Pocket Costs for Participating Retail Pharmacies**      **Out-of-Pocket Costs for Out-of-Network Services**

Covered Services	Out-of-Pocket Costs for Participating Retail Pharmacies	Out-of-Pocket Costs for Out-of-Network Services
Prescription Drug Coverage <sup>3,4</sup>		
At a participating retail pharmacy (up to a 30-day supply)	\$10 for generic drugs \$20 for preferred drugs \$35 for non-preferred drugs	Available under special circumstances: \$10 for generic drugs \$20 for preferred drugs \$35 for non-preferred drugs
Through a participating mail service pharmacy (up to a 90-day supply)	\$20 for generic drugs \$40 for preferred drugs \$70 for non-preferred drugs	Available under special circumstances: \$20 for generic drugs \$40 for preferred drugs \$70 for non-preferred drugs

3. Prescription drug copayments/coinsurance apply until your out-of-pocket prescription drug costs for covered Part D drugs reach \$8,000; thereafter, you will pay nothing for all Part D covered drugs.  
 4. Prescription drugs may be available at retail pharmacies up to a 90-day supply. If available, calculate the copayment change for each 30-day supply. Refer to the Evidence of Coverage for more details.

**IMPORTANT MESSAGE**  
**ABOUT WHAT YOU PAY FOR VACCINES**

Our plan covers most Part D vaccines at no cost to you. Call Member Service for more information.

**IMPORTANT MESSAGE**  
**ABOUT WHAT YOU PAY FOR INSULIN**

You won't pay more than \$35 for a one-month supply of each insulin product covered by our plan, no matter what cost-sharing tier it's on.

**MEMBER ELIGIBILITY**

To enroll in the plan, members must be eligible for Medicare Part A and enrolled in Medicare Part B. In addition, members must permanently reside in the plan service area. Blue Cross Blue Shield of Massachusetts' plan service area includes all 50 states, excluding U.S. territories. Network providers may not be available in some states or in portions of a state within the plan service area; in such cases network cost sharing typically applies.

**To locate a participating network provider.**

- Call the Member Service phone line during regular business hours
- Use our Find a Doctor tool at [bluecrossma.org](http://bluecrossma.org)



**QUESTIONS?**

Member Service  
 1-800-200-4255 (TTY: 711)  
 April 1 through September 30, 8:00 a.m. to 8:00 p.m. ET,  
 Monday through Friday.  
 October 1 through March 31, 8:00 a.m. to 8:00 p.m. ET,  
 seven days a week.  
[bluecrossma.com/medicare](http://bluecrossma.com/medicare)

Blue Cross Blue Shield of Massachusetts is an HMO and PPO plan with a Medicare contract. Enrollment in Blue Cross Blue Shield of Massachusetts depends on contract renewal.

Blue Cross Blue Shield of Massachusetts complies with applicable federal civil rights laws and does not discriminate on the basis of race, color, national origin, age, disability, sex, sexual orientation, or gender identity.

ATENCIÓN: Si habla español, tiene a su disposición servicios gratuitos de asistencia lingüística. Llame al 1-800-200-4255 (TTY: 711).

ATENÇÃO: Se fala português, encontram-se disponíveis serviços lingüísticos, grátis. Ligue para 1-800-200-4255 (TTY: 711).

- Registered Marks of the Blue Cross and Blue Shield Association.
- Registered Marks and ™ Trademarks are the property of their respective owners.
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#9

SENATE DOCKET, NO. 1508 FILED ON: 1/19/2023

**SENATE . . . . . No. 2152**

**The Commonwealth of Massachusetts**

PRESENTED BY:

**Michael O. Moore**

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to smart meters.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Michael O. Moore	Second Worcester	
James C. Arena-DeRosa	8th Middlesex	2/1/2023
Estela A. Reyes	4th Essex	2/8/2023
Ryan M. Hamilton	15th Essex	2/15/2023
Samantha Montañó	15th Suffolk	4/12/2023

Bill title: ... Meter

5 Pages submitted to Fairbairn Select Board.

FOR THE PUBLIC RECORD on 4/1/2023

**SENATE . . . . . No. 2152**

By Mr. Moore, a petition (accompanied by bill, Senate, No. 2152) of Michael O. Moore, James C. Arena-DeRosa, Estela A. Reyes and Ryan M. Hamilton for legislation relative to utility meters and the rights of utility ratepayers. Telecommunications, Utilities and Energy.

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 2204 OF 2021-2022.]

**The Commonwealth of Massachusetts**

In the One Hundred and Ninety-Third General Court  
(2023-2024)

An Act relative to smart meters;

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to maintain public health, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health,

*Be It enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 164 of the General Laws, as appearing in the 2020 Official Edition,  
2 is hereby amended by inserting after section 116B the following section:-

3 SECTION 116C: Smart/wireless utility meter information

4 a) As used in this section, the following terms shall have the following meanings:

5 (1) "Electromechanical analog meter", means a purely electric and mechanical device,  
6 using no electronic components, no switch mode power supply, no transmitter, no antenna, and  
7 no radio frequency emissions.

8 (2) "Utility company", shall mean an electric, gas, or water company, or town or city,  
9 owned utility or other utility provider.

10 (3) "Wireless meter" shall mean: Any transmitting metering device with electronic  
11 components and/or any electric or battery operated meter that is capable of measuring, recording,  
12 and sending data by means of a wireless signal from a utility consumer or member to a utility  
13 company, municipality, or cooperative association in a manner utilizing one-way  
14 communication, two-way communication, or a combination of one-way and two-way  
15 communication either through the meter itself or through a device ancillary to the meter.  
16 Common names include, but are not limited to, AMR, ERT, smart, AMI, and Comprehensive  
17 Advanced Metering Plan CAMP.

18 (4) "Equivalent technology" shall mean utility infrastructure that communicates data  
19 using wireless frequencies, but which may be undisclosed due to proprietary rights.

20 b) The department of public utilities shall direct utility companies to provide ratepayers  
21 the following:

22 (1) a choice of the type of utility meters to be installed and operated on their places of  
23 residence, property or business; among the choices offered shall be the installation and ongoing  
24 operation of an "electromechanical analog meter"; and

25 (2) the ability to retain and operate an "electromechanical analog meter" on an ongoing  
26 basis at no cost; and

27 (3) the right to replacement of a wireless meter with a non-transmitting electromechanical  
28 meter at no cost.

29 c) The utility companies shall be required to obtain the ratepayer's written consent:

30 (1) before installing wireless meters or "equivalent technology" on the ratepayer's  
31 property and


32 (2) before altering the functionality of said meters.

33 d) The utility companies shall provide written notice to ratepayers within 90 days of the  
34 effective date of this act for the purpose of informing said ratepayers if wireless meters have  
35 been installed on their properties. Ratepayers shall have the right to request that the utility  
36 companies remove said wireless meters and install in their place electromechanical analog  
37 meters that emit no radiofrequency electromagnetic radiation. There shall be no cost or other  
38 periodic usage charges to the ratepayer for such removal, replacement installation, and use of a  
39 non-wireless utility meter. The utility company shall promptly comply with such removal and  
40 replacement installation request made by the ratepayer to said company.

41 (e) Utility companies are:

42 (1) prohibited from shutting off service to a ratepayer based on the ratepayer's utility  
43 usage or on the ratepayer having electromechanical analog meters;

44 (2) prohibited from imposing any disincentive on a ratepayer for not consenting to the  
45 installation or use of wireless meters;

46  (3) required to notify ratepayers in writing that the installation and use of wireless meters  
47 are not mandated by state or federal law and are not permitted without the ratepayer's consent;

48 (4) prohibited from discriminating against ratepayers who may have medical conditions  
49 that are exacerbated by exposures to pulsed microwave radio frequencies; and

50 (5) prohibited from installing "equivalent technology", such as direct wireless connection  
51 to devices in the home or business, on poles or in any other manner near the home or business of  
52 an individual requesting a non-transmitting meter.

53 f) The department of public utilities shall establish terms and conditions to comply with  
54 the requirements of this section.

55 g) This section shall take effect upon its passage.

March 20, 2024

Mr. Vincent Furtado,

In our hallway discussion with BPW Board Chair Mr. Wotton during the BPW meeting break on February 26<sup>th</sup>, 2024, he clearly specified to our family that **there will be "NO RF" associated with our property's water meter project**, and you clearly told Board Members yourself at the most recent meeting on March 18<sup>th</sup>, 2024 that the project at Farmfield Street **would be carried out "without the RF unit"**;

However, in your E-mail here (which is the closest you have come to directly answering any communication from us, after many months of silence) when you said:

"The Board of Public Works is scheduled to install a meter pit in the public way outside of 97 Farmfield St., tentatively scheduled to take place sometime before month's end, that will not contain an RF Unit at this time."

– on top of leaving us uninformed ONCE AGAIN, to continue living in total fear and suspense about when your teams might arrive next and attempt to finish the meter pit project you started on February 15<sup>th</sup>, 2024 (that we have absolutely refused to consent to), **you also have taken it upon yourself to add in the very problematic words "AT THIS TIME."**

That telling caveat you chose to include about "at this time" was not included in what was promised to us directly by Mr. Wotton in the hallway, nor was that stated by you in any way to the BPW Board on March 18<sup>th</sup> at their meeting, so I'm sure you can see why it serves as a red flag to us, and sounds very alarming and intentionally ambiguous.

For clarity, I ask that you will please amend what you've said here to reflect your understanding of the fact that we absolutely do not consent to connecting any RF wireless equipment to our property. AT ANY TIME. and you and "the Town" will not attempt to install any RF equipment at our address.

2 Pages submitted to Fair Haven Select Board and handed in person to Jeff Furtado and E-mailed with Attachments on 4/8/24 to all on 3/20/24  
Document title: OPT OUT RF Unit - 2-20-24



Your existing statement sounds *as though you still intend to (or want to leave open the option to)* connect or install hazardous RF wireless equipment AT SOME OTHER TIME here at 97 Farmfield Street, against our most fervent objections, without our consent, and in violation of our 4<sup>th</sup> Amendment Rights. Why else would you still insist on using a meter pit?

I must remind you that THE ONLY REASON a meter pit solution was EVER introduced for us by the BPW Board was as an attempt to address our concerns about CONSTANT RADIATION EXPOSURE from wireless RF – *at first* offering to physically distance the radiation from our house – and *then later* the pit’s purpose seemed more intended to use for disregarding and working around our continued objections to unwanted wireless radiation exposure AND surveillance in connection to our home address of 23 years, by asserting that you can do whatever you want to the sidewalk at our address on “town property.”

Since, as I understand it, there is no longer any intention by the Fairhaven BPW Board to force in hazardous, intrusive wireless RF equipment at our address in the sidewalk (which it seems would have been out of compliance with the manufacturer’s installation guidelines to keep it at least 20 cm (about 8 inches) away from the general population (see ATTACHMENT B within this document);

There is absolutely NO REASON WHATSOEVER anymore to use the Town’s limited financial resources to construct an expensive meter pit here – just to house the traditional analog wireless-free water meter (with no wireless capabilities) that we have clearly been promised by Mr. Wotton, a solution that was also reiterated by you at the BPW Meeting of March 18<sup>th</sup>, 2024.

This is the second time I have asked you in writing *what would be the purpose of such a meter pit, and I would like an answer from you this time.* The first time I asked you that question was in a letter I E-mailed to you on March 6<sup>th</sup> titled “Response to BPW 3-6-24” (*see letter attached to E-mail*) in reaction to a statement you had shared with Fairhaven Town Clerk Elisabeth Horan, apparently to serve in place of an actual answer to my official request for records about the meter pit project, submitted on February 16<sup>th</sup>, 2024 – a public records

*request that is still unsatisfied and now is long overdue* (in spite of the fact that the Town Clerk Elisabeth Horan seems to have done her part in seeking the records from you.)

I asked you in my letter (E-mailed to you and various other town and state leaders on March 6<sup>th</sup>), **“What would be the exact purpose of breaking ground for an expensive meter pit, now that you have said the Town “has decided not to install the radio frequency at this time?” If somehow there is a good reason for it that you can explain to me, I want that information to consider.**

Among my many other important questions in that March 6<sup>th</sup> letter, which have ALL been ignored by you, this one stands out: **“Please let us know when you will be able to put us on a BPW meeting agenda** “to finally wrap this project matter up” in a manner that shows respect to our family’s beliefs and our wireless-conscious way of life.”

**We looked carefully at the March 18<sup>th</sup>, 2024 BPW Meeting agenda for any sign that you would actually allow us a chance to speak to the BPW about this very serious and stressful water meter situation facing our family, but nothing on the agenda was mentioned about water meters, meter pits, our address, or any of our names; so that evening we set about prepping our kids for their spring play’s dress rehearsal and class performances the next day.**

Imagine my shock and frustration when a friend called me during the March 18<sup>th</sup> meeting to say, “The BPW Board was just talking about Farmfield Street!” We rushed to try and find out what was said about us and/or our property, but **SINCE THE TOPIC WAS NOT LISTED ON THE MEETING AGENDA AT ALL**, that was a very time consuming and infuriating exercise for us, and we had to go through the **WHOLE** meeting with our hearts pounding in our throats to find out what was said off agenda **ABOUT US!**

**Once again, your thoughtless behavior has ruined and overshadowed a special occasion for our children that we cannot get back!**

**How can this have happened Mr. Furtado?** When my family came to the February 26<sup>th</sup>, 2024 BPW meeting as residents in distress (due to a controversial meter pit construction project you

had suddenly commenced at our address on February 15<sup>th</sup>, 2024 without any warning or information provided – *and out of the blue – after 8 months of silence and ignoring our communications*) we felt very intimidated and threatened about coming in to stand up for our rights, but we were planning to be brave and speak up to the Board during public comment, because of the time-sensitive urgency of the situation.

However, BPW Board Chair Mr. Wotton spoke up during the break to inform us that **HE ABSOLUTELY WOULD NOT ALLOW US TO SPEAK ABOUT OUR METER ISSUE**, if that was why we were there, **because it was NOT ON THE BPW MEETING AGENDA, and he claimed it would be illegal for him to allow us to speak about it at all.**

Even though we made it clear *that time was of the essence*, because work crews had already been coming to our address in waves over several days to work on the project, **and if we waited even one day more to speak with them, it may be too late – Mr. Wotton said that we would have to ask your permission to get on the next agenda, if we wanted to talk about the meter issue at all,** and he insisted on February 26<sup>th</sup> that we must be silent that night about our urgent concerns, or leave his meeting immediately.

I remained seated with my children and their father and refused to leave just yet, quite reasonably, asking the Board for some kind of simple assurance from them first – **that the work would be stopped, at least until we could be allowed to speak to them about it;** but then Mr. Wotton truly shocked us all by *screaming furiously* at me and my family until he was red in the face, ludicrously accused me of *threatening him*, and then **the Board called the police on me and used the power invested in them by the Town of Fairhaven to make our family leave the building without ever being heard,** effectively silencing us and further inhibiting and chilling our attempts speak freely about these issues that would stand to affect us all very deeply.

Considering that **it was so vehemently forbidden for me, even under threat of arrest by police, to bring up our own meter issue with the Board (who has been ignoring all of our attempts to communicate otherwise) - WHY WAS IT SUDDENLY OK FOR MR. HOBSON AND YOU, MR. FURTADO, TO BRING UP THE PREVIOUSLY FORBIDDEN WATER METER**

**TOPIC AND DISCUSS MATTERS RELATED TO OUR SPECIFIC ADDRESS WITH THE BPW BOARD AT THEIR MEETING ON MARCH 18<sup>TH</sup>, 2024, ESPECIALLY WHEN THAT TOPIC WAS NOT INCLUDED ON THAT NIGHT'S MEETING AGENDA AT ALL?**

**\*\*\* ISN'T THAT A VIOLATION OF MASSACHUSETTS OPEN MEETING LAWS?**

**WHY DID YOU CHOOSE TO COMPLETELY IGNORE MY WRITTEN REQUEST TO YOU (SENT ON MARCH 6<sup>TH</sup>), ASKING YOUR PERMISSION FOR US TO BE INCLUDED ON A BPW MEETING AGENDA TO DISCUSS THIS VERY URGENT, TIMELY MATTER AFFECTING OUR FAMILY - *and then go on to discuss it with the Board in our absence?***

Why did you and the board choose to talk freely about our meter situation and our specific street address at the BPW Board Meeting on March 18<sup>th</sup>, 2024, *without even inviting us in to have our say*, and why did you and the Board make unprofessional, ambiguous, vague statements and jokes about this matter that seemed to mock us and our family's ongoing distress – *causing still more pain and confusion for us* about an issue that YOU KNOW is upsetting and threatening to my family?

This may be all fun and games to you and the BPW Board, Mr. Furtado, but from our family's humble point of view, it seems you are having a laugh at our expense while **TERRORIZING my family with your ongoing secrecy, intimidation, threats, and abuse of power.**

Is it possible for you to please just communicate with us **DIRECTLY** and **OPENLY** in a respectful, professional manner instead? For your reference, I have once again shared all three of the documents (see attachments to the 3/20/24 E-mail) that I had sent to you and other town/state leaders about this situation, after attempting to speak with you earnestly in person at the BPW Board Meeting on February 26<sup>th</sup>, 2024, and instead getting shouted at by Board Members, silenced, and escorted out by police under threat of arrest. Please also see the attached document, "Statement for BPW Meeting 2-26-24" to remind you what I submitted to the Board "for the public record" that night. Our names and my statement are not in the meeting minutes.

I want to point out that the last E-mail I sent you on March 13<sup>th</sup>, 2024 asking for information (and copied to Fairhaven police) **was nervously sent out, seeking desperately needed information and reassurance from you, about 20 minutes after an unnerving experience I'd just had with my children outside.** We were busy drawing St. Patrick's Day rainbows and shamrocks while sitting on the sidewalk, where we often sit and play – when a **BPW Board Member, Mr. Hobson** slowly drove past us, staring at our home and looking at us. When he got to the end of the street, he immediately turned around and then returned to slowly drive by us one more time, unsmiling when we waved, staring us down from just a few feet away.

At the BPW Meeting on February 26<sup>th</sup> (the same night that we were denied the authority to speak by Mr. Wotton and were forced to leave without ever having our say about the upsetting project you had commenced at our address without warning) **Vice Chair Mr. Hobson had frightened my children** when he said to us, **"I don't even want to put in a meter pit – I WANT TO SHUT OFF YOUR WATER!"** I asked, "What kind of person would do that to us?" and he lunged forward in his seat, grinning at us maniacally and seethed, **"I'M NOT A NICE PERSON!"**

**Can we actually be expected to feel safe and enjoy our lives peacefully with all of these uncertain circumstances that we've been living under for the past two years – now with a man, who has expressed his anger toward us and holds considerable power in this town – driving by our home, apparently just to drive by, and staring down the women and children? In any case, WE DO NOT FEEL SAFE under these intolerable circumstances, and it's time for you to BACK OFF from this meter pit nonsense once and for all.**

This is how we want to proceed:

1. We request to **OPT OUT of ALL wireless RF reading equipment in association with our address at 97 Farmfield Street, not just "AT THIS TIME," but ALWAYS.**
2. We request to have a **traditional analog wireless-free water meter (with no wireless capabilities) switched out in place of our existing old water meter, in its same indoor location,**

the way we believe almost all other Fairhaven water customers had their new water meters installed.

**3. We request to continue using and maintaining a SENSUS meter reader, which is already installed here – as recommended to me by the kind and helpful Madison Wisconsin Water Utility's Field Service Inspector and Analyst, when I called and spoke with him last summer about how his city handles their 330 radio transmitter opt-out water customers. His water utility sends a manual reader out once every 3 months, estimating in between, and charging the water customer a \$7.78 monthly charge for the manual readings. See his E-mail, ATTACHMENT C included in this document, and feel free to contact him with any questions. You have said the Board of Public Works will be able to invoice our property for meter reading, on a bi-annual basis.**

We much prefer maintaining and continuing to use our SENSUS READING DEVICE for the bi-annual manual readings, like they do in Madison Wisconsin, which makes the most sense for everyone, because it WOULD NOT REQUIRE ANYONE TO ENTER OUR HOME TO READ THE WATER METER;

***However, we will certainly be calm and welcoming to any official worker with proper identification who makes an appointment to come inside our home for the purpose of a physical water meter reading as needed, if you feel it must be done that way, instead of by Sensus readings. (If SENSUS readings are no longer possible, I would like to know why.)***

**4. WE WANT TO PAY FOR THE ACCURATE AMOUNT OF WATER WE USE while also upholding our life-defining beliefs, protecting our family from the safety and security risks associated with wireless RF reading equipment, and preserving our 4<sup>th</sup> Amendment Rights to protection from illegal search and seizure without warrant.**

**EVEN WITH THESE NECESSARY CONSIDERATIONS, THE TASK AT HAND ITSELF IS QUITE SIMPLE: TO ACQUIRE AN APPROPRIATE, READILY AVAILABLE WIRELESS-FREE WATER METER, AND INSTALL IT INSIDE THE HOUSE, AS USUAL – then send out a staff member to read it twice a year.**

**A METER PIT AT THIS POINT IS TOTALLY UNECESSARY AND OUT OF THE QUESTION, especially because we cannot trust BPW leadership to be honest and open with us about what equipment or updates they might decide to put inside a meter pit, sight unseen, without telling us.**

Lastly, I want you to see this very important image below, snipped from your own water meter/reader manufacturer, "Neptune's" website at this link:

<https://www.neptunetg.com/globalassets/resources/white-papers/18-002281-wp-rf-health-effects-07.18.pdf>

were not intended to isolate the source of the radio frequency signals but were designed to show the amount of ambient exposure that could be encountered in an area saturated with RF signals.

As we can see from the data, the radio frequency exposure that we measured during these tests was far below the levels that would be encountered by a typical cell phone or walkie-talkie when held to the user's head.

Neptune is very conscious of employee health as illustrated by the fact that we switched all bronze-body meter production to lead free alloys in 2001, over a decade before legislation was enacted to mandate use of lead free materials. Although this put Neptune at a cost disadvantage, one of the primary drivers was the concern that lead exposure might have to our employees' health.

If we thought RF was bad for us, or others, we wouldn't subject ourselves to the possibility of harm.

**THE COST OF OPT-OUT PROGRAMS**

There will always be people who, for whatever reason, prefer not to have a "smart meter" installed at their residence. For this small group, the

Engineering Facility (microwatts per square centimeter, or  $\mu\text{W}/\text{cm}^2$ )<sup>5</sup>

	Indoor Test	Meter Farm Test
Normal Range	0.01 to 0.20	0.01 to 0.20
Peak Level	1.1	7.6

utility may want to consider an opt-out program.

One of the primary benefits to the utility and the community at large in implementing an AMR or AMI system is the reduction in meter reading costs by reducing the time required to gather the readings. Since the cost of reading meters is borne by all of the utility's customers, homeowners who opt-out should recognize that they will need to pay for the option to have their meters read manually. It would be unfair to expect neighbors who have embraced the automated system to pay the added costs of reading meters of the people who have chosen to opt-out.

These costs may be considerable because of the inherent inefficiency of reading a few meters scattered throughout the service area.

Typically, opt-out programs result in a one-time charge to the homeowner that covers the initial cost to remove and replace the meter and an ongoing charge per reading to cover the added cost of sending someone to read the meter manually.

Some examples of opt-out proposals include:

- > City of Penticton, BC – at the time of writing this article, the City was developing an opt-out program that would offset the added cost of manual meter reading of "\$25 for an isolated spot, and \$6 for a manual read as part of a route."<sup>6</sup>
- > City of Glendale, CA – "city council unanimously voted on charging customers a fee of \$59 per billing period for having electric and water smart meters with the radios turned off."<sup>6</sup>
- > Central Maine Power, ME – "a) smart meter with transmitter off will carry an initial charge of \$20.00 and a monthly charge of \$10.50; b) existing analog meter option will carry the initial charge of \$40.00 and a monthly charge of \$12.00."<sup>7</sup>

I can't begin to explain how shocked I was to find this OPT OUT information available online from Neptune last week, *after you have fought us tooth and nail for two years* attempting to force your harmful, unwanted wireless equipment into our lives against our will, with **NO EXPLANATION EVER GIVEN** as to **WHY** you have heartlessly disregarded our many pleas for help and have stubbornly refused to agree to accommodate us with an opt out that will respect our individual beliefs, our freedoms, and our wireless-conscious way of life.

Even NEPTUNE, *the company you purchased the wireless reader equipment from* clearly states:

"There will always be people who, for whatever reason, prefer not to have a "smart meter" installed at their residence. For this small group, the utility may want to consider an opt-out program."

- and then they go on to offer examples of opt-out proposals for you to learn from in order to accommodate people like us, who DO NOT CONSENT to "smart meters" and simply WANT TO OPT OUT.

Also, your legal counsel has indicated that **"Of course the BPW may exercise its judgment to agree to alternate arrangements but it is not required to do so."** So it seems that you have always had it in your power to accommodate us with an OPT OUT, and yet you have chosen inexplicably to torture, terrify, and threaten our family and coerce untold numbers of other "noncompliant" water customers into accepting the wireless meter reading equipment instead.

Mr. Furtado, our family is genuinely traumatized and exhausted from fighting for our freedom here in Fairhaven Massachusetts. Can you please just do the right thing NOW – *the most obvious solution to all of our past problems* – and finally give us our wireless-free water meter agreement specifying **NO RF EQUIPMENT AT ANY TIME**, with an easy installation in our basement – and leave us in peace?

Sincerely,



**Tobie Simmons & Family**

## **ATTACHMENT B**

The image below is taken directly from the R900 MIU Wall and Pit Installation and Maintenance Guide from Neptune's website, linked to here:

[https://www.neptunetg.com/globalassets/products/literature/publication\\_im-r900-miu-wall-and-pit-01.19.pdf](https://www.neptunetg.com/globalassets/products/literature/publication_im-r900-miu-wall-and-pit-01.19.pdf)

### R900® MIU Wall and Pit Installation and Maintenance Guide

#### RF Exposure Information

This equipment complies with the FCC RF radiation requirements for uncontrolled environments. To maintain compliance with these requirements, the antenna and any radiating elements should be installed to ensure that a minimum separation distance of 20 cm is maintained from the general population.

#### Professional Installation

In accordance with section 15.203 of the FCC rules and regulations, the MIU must be professionally installed by trained meter installers.

Changes or modifications not expressly approved by the party responsible for compliance could void the user's authority to operate the equipment.

**Please note: 20 cm is almost 8 inches, and it is not safe or responsible to force this health hazard so close to people and in the public way, especially without any warning.**

**ATTACHMENT C**

**RE: AMI project**

Jun 23, 2023 at 12:03 PM

Voegeli, Rick <rvoegeli@madisonwater.org>  
To: 'tslimmons@aol.com' <tslimmons@aol.com>

Good morning Tobie,

Sorry for the delayed response but I have been a very busy guy lately. The opt out program we use for reading is the one you have installed at your property now from the pictures you sent. The AMI system that they are putting in looks very similar to what Madison has now. The information you are looking for is available online from different sources and I appears you are finding good information. The only help that I can provide is what we did for our opt out is the meter you already have. Maybe they can continue to read the same way.

I hope that this all works out for you and your family.

God bless you on your very tough journey.

Thanks,

**Rick Voegeli**

**Field Service Inspector/Analyst**

Tel 608.267.1978

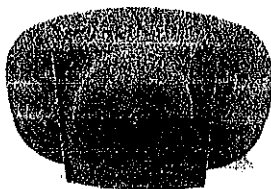
Fax 608.266.4426

[rvoegeli@madisonwater.org](mailto:rvoegeli@madisonwater.org)

119 E. Olin Ave.

Madison WI 53713

[www.madisonwater.org](http://www.madisonwater.org)



(The picture I sent him was of our SENSUS reader outside.)

April 3, 2024

Dear Mr. Wotton, Mr. Vincent Furtado, and Ms. Vento,

Please see the two attached documents including text excluded from the May 8<sup>th</sup> 2023 BPW meeting minutes, which I have transcribed and shared with the Board in writing before (“Attachment E, My Speech as given to BPW 5-8-23” and “Please share with the BPW Board a.s.a.p. for AG office”).

I am offering these documents in an attempt to save you time in reviewing the meeting videos to decide what to share with the public (in accurately updated/revised meeting minutes) about our dissenting opinions and solutions stated on that night.

In the meantime, although the BPW Board has finally agreed, after two years of threatening us, that the meter pit they have voted to put in the sidewalk at our address “will not use wireless technology” –

and this sudden change of plans only occurred after we presented the Board in person with information on February 26<sup>th</sup>, 2024 (but we were refused the opportunity to speak during public comment and our family was removed from the meeting by police) – about serious safety concerns, potential equipment installation noncompliance, and possible 4<sup>th</sup> Amendment Violations from illegal search and seizure of people’s real-time private activity data being collected constantly by the equipment in question (all stemming from connecting hazardous wireless surveillance “readers” to water customers’ properties without their informed consent);

**We still strongly DISAGREE that an expensive, unwanted, completely unnecessary meter pit construction project (costing the financially distressed Town thousands of dollars) would be the best solution for our family’s OPT OUT** of the microwave radiation exposure and surveillance from the wireless “reader.” **We still DO NOT CONSENT to “the Town’s” latest plan** in a letter from Town Counsel (delivered to us by police) to “proceed with the water meter pit installation in the sidewalk within the public way on April 8, 2024, beginning at 9:00 A.M.”

**In light of the Board’s recent Open Meeting Law violation determination** (see attached document “OML 2024 – 50 Fairhaven Board of Public Works”) **which appears to support my complaint that**

2 Pages submitted to Fairhaven Board / document title:  
FOR the Public Record on 4/8/24 / "4-3-24 Basement

the Board has hidden our dissenting position from the viewing public in their meeting minutes, **I am officially requesting that the BPW Board will PLEASE CONTACT ME IN WRITING AND LET US KNOW RIGHT AWAY that the meter pit construction project scheduled for April 8<sup>th</sup> 2023 will be CANCELLED, and the wireless-free water meter installation project at our address will be postponed** until the Board has finally taken the time to address our **easy solution** with us, as submitted to them in writing by Certified Mail (see attached document, OPT OUT Mr. Furtado 3-20-24), by installing the new analog water meter (with no RF unit and no wireless capabilities) in our basement in the usual inexpensive way, and getting necessary readings from outside using our already existing Sensus reader.

The **ONLY** reason we have been given that the Board prefers to rush through with construction of a complicated and senseless meter pit, instead of just installing the water meter in our basement, is that they feel “uncomfortable” about coming onto our property.

We look forward to a future of communicating peacefully and openly with the BPW Board and Water Department and hearing details of new plans for a much more sensible and affordable wireless reader OPT-OUT plan, with an analog meter installed easily inside our basement (and not in an expensive, unwanted, unsightly meter pit the sidewalk, forced in against our wishes, which would offend our family forever, make us feel incredibly uncomfortable, and change our home of 23 years irreparably, with no turning back.)

PLEASE RESPOND TO THIS LETTER AS SOON AS POSSIBLE to confirm that you will cancel the April 8<sup>th</sup> construction plans and postpone the water meter installation at our address in the name of fairness and common sense; respecting our family’s need for basic information and the need for all Fairhaven residents to have access to the amended, complete, and accurate meeting minutes from May 8<sup>th</sup>, with enough time to finally hear and understand our position and participate in the discussion moving forward, if they want to take the opportunity to do so.

Sincerely,

Tobie Simmons & Family

April 4, 2023

Dear Assistant Attorney General Kerry Kilcoyne and Paralegal Natalie Reyes,

I want to express my sincere gratitude for the attention your office has given to my Open Meeting Law Complaint against the Fairhaven MA Board of Public Works and for sending me the determination that **THE BPW BOARD HAS IN FACT VIOLATED OPEN MEETING LAWS** with respect to discussions involving a water meter project at my family's address.

This determination from your office arrived *just in time* for me to speak up once more (in writing) to the Board against their current **PLANS TO RUSH AHEAD WITH THE PROJECT that we have expressed our strong dissent against for the past two years (but we were silenced and have had our dissenting statements excluded from public view in their inaccurate meeting minutes)**; and even though time is of the essence, the Board has not replied to the urgent request I sent them yesterday asking to please **cancel their planned meter pit project and postpone the water meter replacement until we've had a fair chance to speak with them, even in light of the news about the Open Meeting Law Violation news that they were sent by your office on Tuesday April 2<sup>nd</sup>.**

Please keep in mind that for some unexplained reason, **the BPW seems to be racing to beat the clock on this issue** to do an expensive construction project at my address that **CANNOT BE UNDONE** once it has been enforced, **after refusing and ignoring my family's many attempts and requests for A FAIR OPPORTUNITY TO SPEAK WITH THEM OPENLY FIRST, in particular on the agendas** of their multiple recent meetings (even after repeated requests for them to include me have been submitted by me in writing!)

With regard to our family's water meter situation, it appears **that the "Superintendent's Report" section of BPW meetings has been repeatedly misused TO AVOID INCLUDING ITEMS FOR DISCUSSION OPENLY on the AGENDA in advance,** so Fairhaven residents have not been properly forewarned and *have not been given any notice* for their chance to attend or tune in/call in to the meetings and participate on this particular topic.

Submitted to Fairhaven Select Board  
FOR THE PUBLIC RECORD ON 4/8/24  
(document title: update, OML VIOLATION FAIRHAVEN MA BPW 4-4-24)  
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Below I have transcribed the latest example from a video of the meeting of April 1<sup>st</sup>, 2024 – which, as of this morning had still not been uploaded to share publicly online, but then it did finally get put up today (after I called around 9 a.m. and left a message requesting the media department to do so and mentioning the OML determination.) Here is a link to video of the meeting, **where the unique specifics of our case certainly do seem to be discussed, once again without including us on the agenda**; however you will see how the Board carefully avoids giving the viewing public ANY USEFUL INFORMATION about who they are talking about or what they are planning to do to us, *against our wishes* – and without answering any of our correspondences, questions about project particulars, or most importantly, requests to speak with them FIRST. **The very brief and seemingly intentionally cryptic, vague latest discussion that took place without including us occurs at 50 minutes in on the video link below (Board of Public Works 4/1/24):**  
<https://vimeo.com/showcase/11020729>

**Mr. Wotton:** Did anyone have anything on the Superintendent report?

**Ms. Morton Smith:** I wanted to know where we were with number...with ah... the third item, if you want to talk about them. Oh no, the fourth item. The fourth item.

**Mr. Vincent Furtado:** So there was a letter written. So the police are involved, and the police are um..... speaking with the property owner and if there is not a resolution soon, the property owner will be receiving a notice....um...with a...um...a notice to comply.

**Ms. Morton Smith:** Okay.

**Mr. Vincent Furtado:** *Or else.....there is... (laughing) penalties* for noncompliance.

**Ms. Morton Smith:** Okay.

**Mr. Wotton:** *(whispering)* Move on.

**Ms. Morton Smith:** Yeah.

In a letter from Town Counsel delivered by police to our home the morning after that meeting took place, the board has threatened to begin the offensive project in question at our address right away on Monday April 8<sup>th</sup>, and it seems they are counting on the fact that TIME IS RUNNING OUT for us to do anything to stop them! **The Town Counsel's letter also threatens us that if we make "any attempt to obstruct the work to be performed on said date, your water will be shut off immediately and will remain shut off until we proceed with obtaining an administrative warrant to perform the work and to remove any obstructions by any means necessary and such work is completed."**

I find it very hard to believe that the BPW Board can LEGALLY rush to enforce a contested and controversial project *that cannot be undone once completed*, EVEN AFTER it has been determined that THEY HAVE VIOLATED OPEN MEETING LAWS in handling the very project in question! In any case, it certainly seems immoral, unprofessional, and inappropriate for them to proceed in this manner.

When time allows, I will be contacting your office again to demonstrate various other examples of what appears to be *the intentional ongoing obscuring of information about this project by our BPW, who seem to answer to no one* in their apparent attempts to dominate, punish, and tyrannize the residents they are meant to serve.

Sincerely,

Tobie Simmons & Family



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*The Fairhaven Select Board and*  
**THE FAIRHAVEN BPW BOARD REFUSE TO PUT ME ON THE AGENDA & ALLOW MY FAMILY A FAIR CHANCE TO SPEAK AT THEIR MEETINGS ABOUT THE VERY SERIOUS SAFETY AND SECURITY ISSUES ASSOCIATED WITH THEIR "MANDATORY" SMART METER INSTALLATIONS ALL OVER TOWN, WHICH WE HAVE REFUSED TO CONSENT TO.**

*BPW*

**THEY PLAN TO SPEND THE TOWN'S SCARCE FINANCIAL RESOURCES BUILDING A SENSELESS METER PIT IN THIS SIDEWALK, BECAUSE "THE TOWN OWNS THE SIDEWALK" & WE HAVE NO SAY OVER WHAT HAPPENS THERE (AFTER LIVING HERE FOR 23 YEARS), SO THEY PLAN TO DISREGARD OUR OBJECTIONS & FORCE THEIR PROJECT THROUGH ON 3/25, AFTER IGNORNING OUR HEARTFELT PLEAS FOR AN OPT OUT AND A CHANCE TO SPEAK FOR 2 YEARS, ONLY REACHING OUT TO HARRASS & THREATEN US WITH WATER SHUT OFF, AND OTHER ACTIONS THAT WOULD DRAIN US FINANCIALLY -**

**INSTEAD OF SIMPLY ALLOWING US TO USE AN ANALOG WATER METER IN THE BASEMENT AND PAY FOR THE NECESSARY BI-ANNUAL METER READINGS TO BE DONE PHYSICALLY ~~WITH~~ WITH A LOW-COST, SIMPLE OPT OUT PLAN, WHICH IS WHAT NEPTUNE RECOMMENDS ON THEIR WEBSITE.)**

*1 page submitted to Fairhaven Select Board  
FOR THE PUBLIC RECORD on 4/8/24* document title:  
*is "Smart cities"*

**P A** PETRINI ASSOCIATES, P.C.  
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April 1, 2024

Tobie Simmons  
97 Farmfield Street  
Fairhaven, MA02719

Re: Water Meter Pit Installation

Dear Mrs. Simmons:

*Please be more specific and time frame i.e. "EVER" use actual NAME of this authority please*  
*use "use" vs. "contain" who is "the Town?"*

I am Town Counsel for the Town of Fairhaven. Please be advised that the Town will proceed with the water meter pit installation in the sidewalk within the public way on April 8, 2024, beginning at 9:00 A.M. The meter pit will not use wireless technology. Please be advised that if you or your family members, representatives, or designees make any attempt to obstruct the work to be performed on said date, your water will be shut off immediately and will remain shut off until we proceed with obtaining an administrative warrant to perform the work and to remove any obstructions by any means necessary and such work is successfully completed.

Thank you for your attention to this matter.

*Who is "we?"  
(Heather White and?)*

*Please specify in detail what is meant by "the work"*

Sincerely,

*Heather C. White*  
*including equipment involved w/serial #'s Brands, manufacturers etc.*

cc: Angeline Lopes Ellison, Town Administrator  
Michael J. Myers, Chief of Police  
Vincent Furtado, Superintendent of Public Works

*(document title:  
"Town Counsel")*

page submitted to Fairhaven  
Select Board **20**  
YEARS