

Recorder's Office Cover Sheet

Recording Requested By:

Name: HEATHER MACDONNELL

Department: PUBLICWORKS



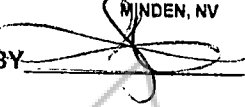
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KAREN ELLISON, RECORDER

Type of Document: (please select one)

- Agreement
- Contract
- Grant
- Change Order
- Easement
- Other

specify: _____

NO. 2020.157
8/31/2020
DATE
DOUGLAS COUNTY CLERK
MINDEN, NV
BY  DEPUTY

FENCE AGREEMENT

AN AGREEMENT BETWEEN

DOUGLAS COUNTY, NEVADA

AND

**CLEAR CREEK TAHOE COMMUNITY ASSOCIATION
A NEVADA NONPROFIT CORPORATION**

This Fence Agreement (the "Agreement") is entered into by and between Douglas County, a political subdivision of the State of Nevada (the "County"), and Clear Creek Tahoe Community Association, a Nevada Nonprofit Corporation ("Clear Creek"). The County and Clear Creek are at times collectively referred to hereinafter as the "Parties" or individually as the "Party."

WHEREAS, Clear Creek is in the process of developing certain real property in Douglas County, Nevada as a Common Interest Community; and

WHEREAS, in support of the development, Clear Creek has dedicated certain easements for public utility purposes; and

WHEREAS, County utilizes one of the dedicated easements, as more particularly described herein, for public water and sewer infrastructure, including a lift station; and

WHEREAS, Clear Creek desires to erect a privacy fence within the easement to obscure the utility improvements in a manner that is aesthetically consistent with the development; and

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein and other good and valuable consideration, County and Clear Creek agree that Clear Creek may install, retain, maintain and repair a privacy fence within the utility easement as set forth herein:

1. **Purpose:** The purpose of this Agreement is to enable Clear Creek to erect a privacy fence, and no other purpose. The fence shall not interfere with any public utility infrastructure within the easement. The County makes no representation or warranty to Clear Creek regarding the consent of any other entity or utility which may or may not have the authority to prohibit Clear Creek from satisfying the purpose of this Agreement. Clear Creek is solely responsible for obtaining any other necessary agreements or approvals.
2. **Term:** The initial term of this Agreement shall be five (5) years. After the initial five-year period, the Agreement shall automatically renew for successive five-year periods, but may be terminated early with or without cause if either party gives the other 30-days advanced written notice of its intent to terminate the Agreement.

3. Subject Area: The particular easement that is the subject of this Agreement is included on sheet six (6) of Subdivision Map (Recorded as Document No. 2016-890939), the easement is generally depicted in Exhibit A, hereto.
4. Improvements: Clear Creek has prepared a plan and depiction of the proposed fence, including the location and dimension of any gates or access points through the fence, and such depiction is included in Exhibits A and B, hereto. For clarity, the location of the fence, gates, and access points of the proposed fence coincide with the locations of the existing fencing, which is depicted in Exhibit A. The new gate shall be substantially similar to the existing gate in size and operation. The proposed fence and appurtenances thereto are collectively referred to herein as the "Improvements."
5. General Terms:
 - a. Limited Liability: County will not waive and intends to assert all available immunities and statutory limitations in all cases, including, without limitation, the provisions of Nevada Revised Statutes Chapter 41. Nothing contained in this Agreement is intended to convey any rights or to create a contractual relationship with any third party or to otherwise allow a third party to assert a cause of action against either Party.
 - b. Indemnification: Clear Creek agrees to indemnify, defend and hold harmless the County and its agents from and against any and all liability for personal injuries, claims, actions, damages, expenses, or for loss of life or property resulting from, or in any way connected with the conditions or Clear Creek's use of the premises covered herein, including any hazard, deficiency, defect, or other matter, known or unknown, or connected with the operation and maintenance of the Improvements.
 - c. Insurance: Clear Creek agrees that it, its contractors and any subcontractors employed by or on behalf of Clear Creek, shall maintain both general liability and worker's compensation insurance coverage for any and all operations or other activity within the Subject Area.
 - d. Damage to Property: Clear Creek, their agent(s) and/or contractor(s) understand and agree to pay for and be responsible for all direct or indirect damages to property, improvements, and personal property caused by Clear Creek or its agent(s) or contractor(s) during maintenance and related activities during the term of this Agreement, and further agrees to return the area to its pre-project condition if necessary.
 - e. Maintenance: Clear Creek, their agent(s) and/or contractor(s) shall be responsible for all maintenance of the Improvements within the licensed area and understands and agrees that the Improvements must be maintained in good repair at all times.
 - f. Removal: If County determines that the Improvements interfere with the ability to operate, maintain, or improve utility infrastructure within the easement, or that the Improvements are otherwise objectively contrary to the public interest, then County may direct Clear Creek to promptly remove the fence or may, itself, remove and dispose of the Improvements on Clear Creek's account. Notwithstanding the foregoing, County will make reasonable efforts to coordinate with Clear Creek before removal to see if there is an alternate course of action (such as modification of the Improvements), which Clear Creek may pursue, at its option, instead of removal.

- g. Access: Clear Creek shall ensure that County has uninterrupted and unimpeded access through the fence to County's utility infrastructure for the duration of this Agreement.
- h. Warranties: County makes no warranty or representation as to the title, condition of or the adequacy of the property for the proposed uses of Clear Creek.
- i. Further Authorizations: Further authorizations (such as the issuance of a building permit) by Douglas County may be necessary in accordance with Douglas County Code. This Agreement does not waive the requirement for Clear Creek to obtain such further authorizations.
- j. Compliance: Failure to concur with or comply with any of the conditions contained herein will cause this Agreement to become invalid and may require the termination and, if applicable, removal of the Improvements.
- k. Waiver: The failure of County to insist upon strict performance of any of the covenants and agreements to this Agreement or to exercise any option herein conferred in anyone or more instance, shall not be construed to be a waiver or relinquishment of any such covenants and agreements.
- l. Entire Agreement: This Agreement and conditions incorporated herein contain all of the agreements between the parties with respect to the matters contained herein. No provisions of this Agreement may be amended or modified in any manner whatsoever unless incorporated in writing and executed by both parties. When executed by both Parties, this Agreement shall be binding upon the Parties.
- m. Severability: If any term or provision of this Agreement, or the application thereof to any person or circumstance shall, to any extent, be determined by judicial order or decision to be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held to be invalid or unenforceable shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law.
- n. Governing Law & Venue: Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Nevada. Any lawsuit brought to resolve a dispute arising from this Agreement must be brought in Douglas County, Nevada.
- o. Assignments: This Agreement is personal to the Clear Creek. It may not be transferred or assigned without the express written consent of County.
- p. Counterparts: This agreement may be executed in counterparts each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
- q. Authority: The Parties represent and warrant that they have the authority to enter into this agreement. Each signatory individually warrants that he or she is authorized to sign on behalf of the party for whom he or she is signing.

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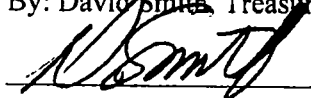
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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year written below.

Clear Creek Tahoe Community Association

By: David Smith, Treasurer



Date: 5-15-2020

Douglas County

By: Philip Ritger, Director of Public Works



Date: 08-27-2020

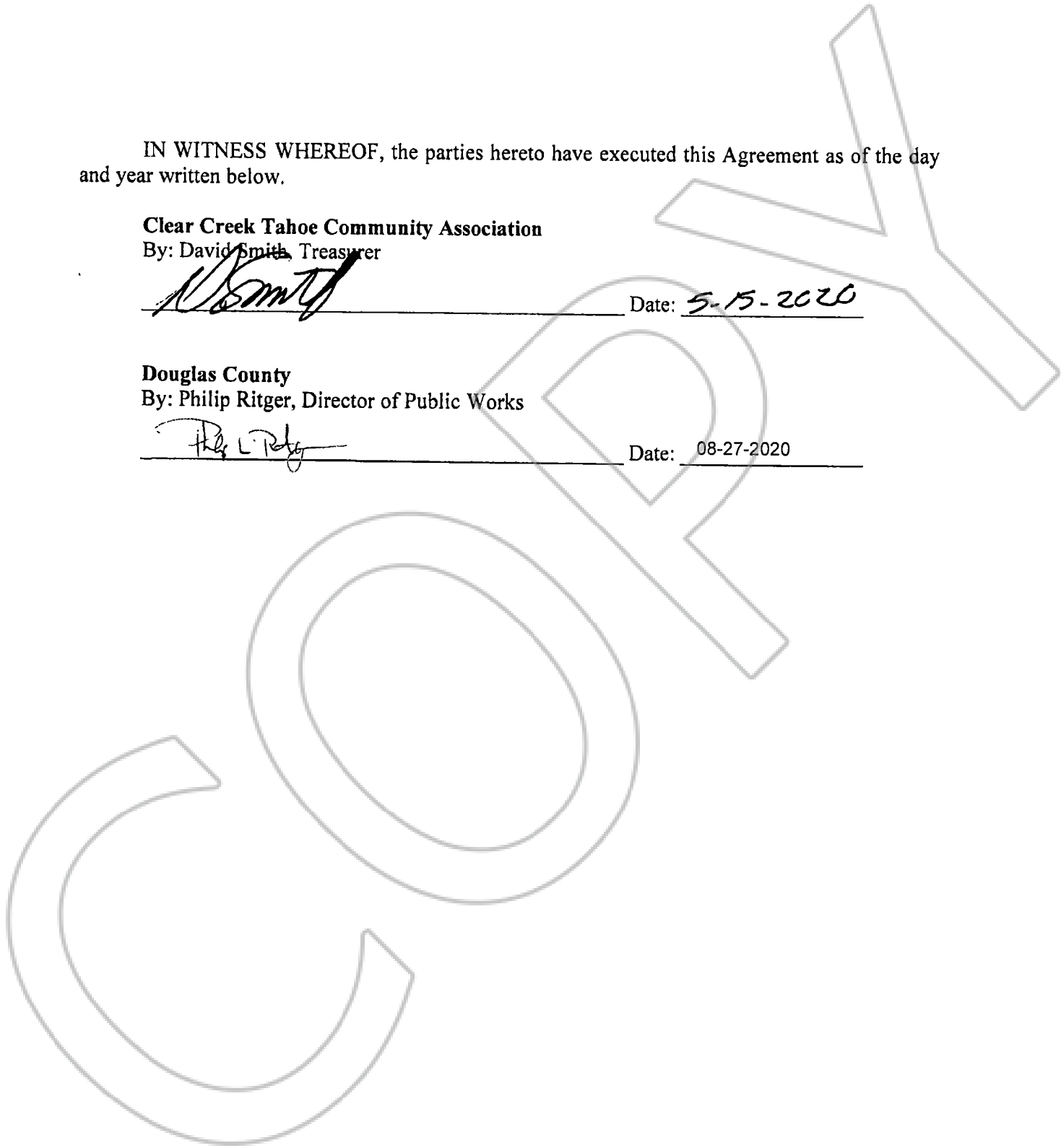


EXHIBIT A

[Approximate Site Location & Existing Structure – 5 attached pages]



LOT 21
67,797 S.F.
1.56 AC. ±

16.0'

30' SGSDE

119°00'30" (WR)

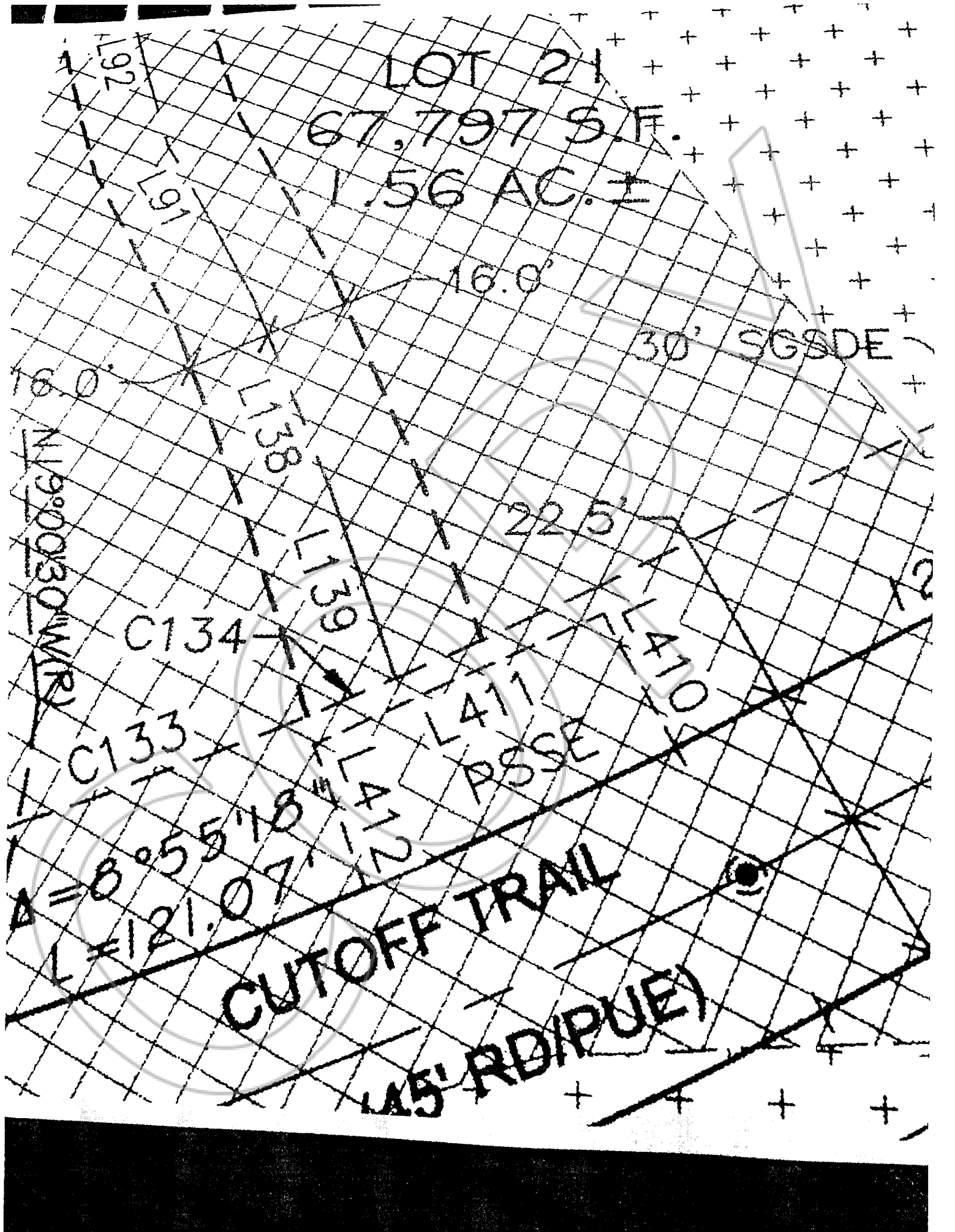
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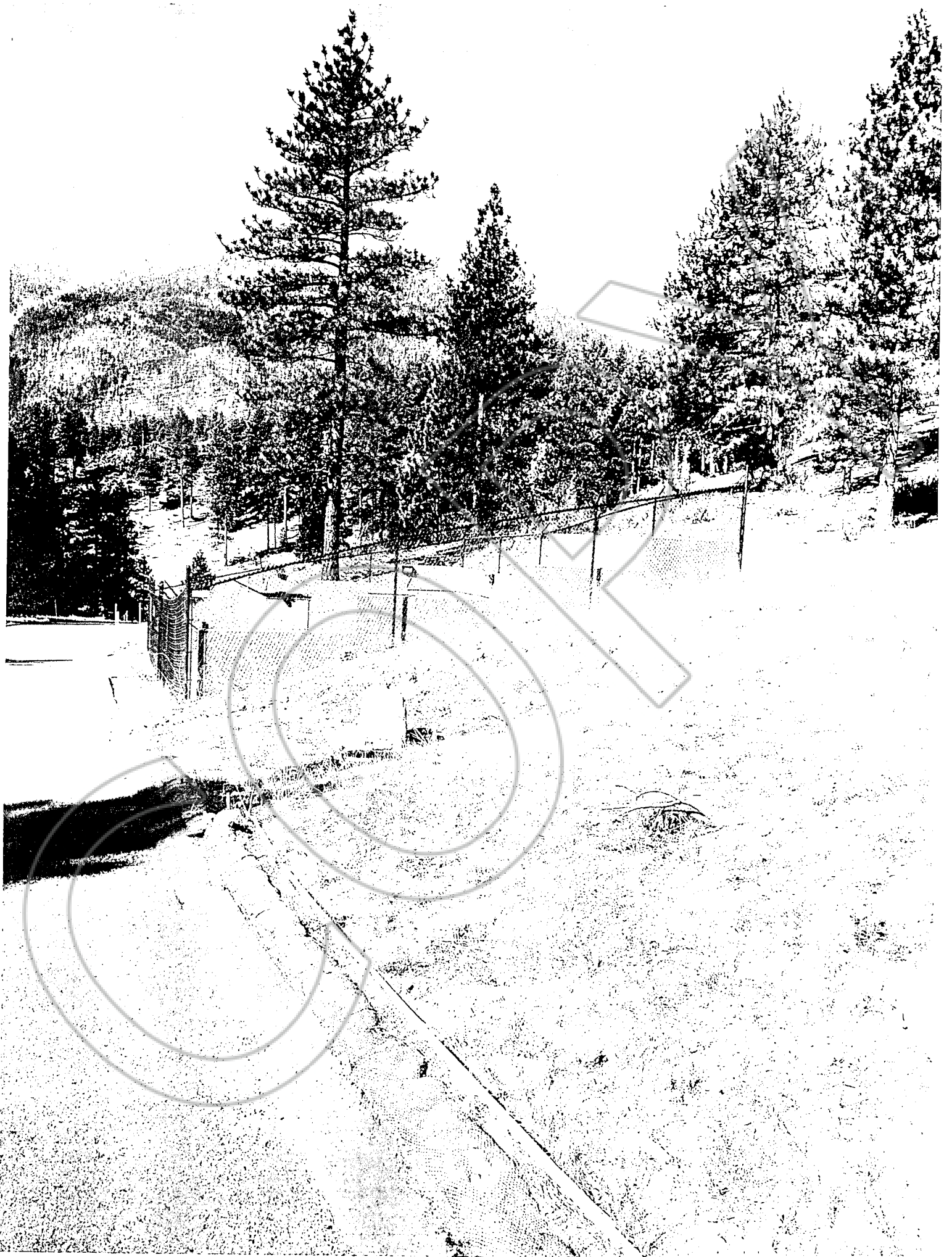
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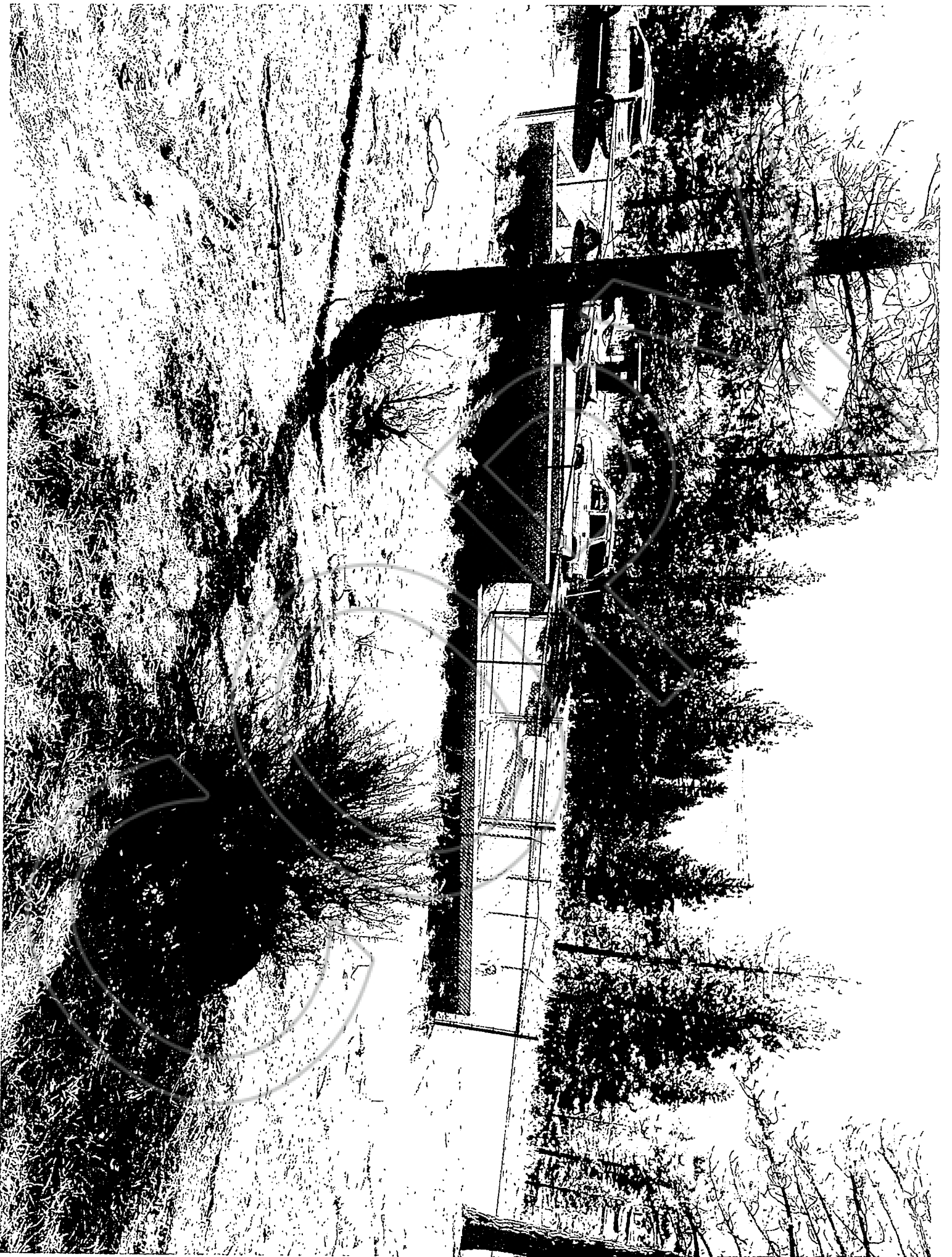
A = 8°55'18"
L = 121.07'

CUTOFF TRAIL

LAB' RDIPUE)







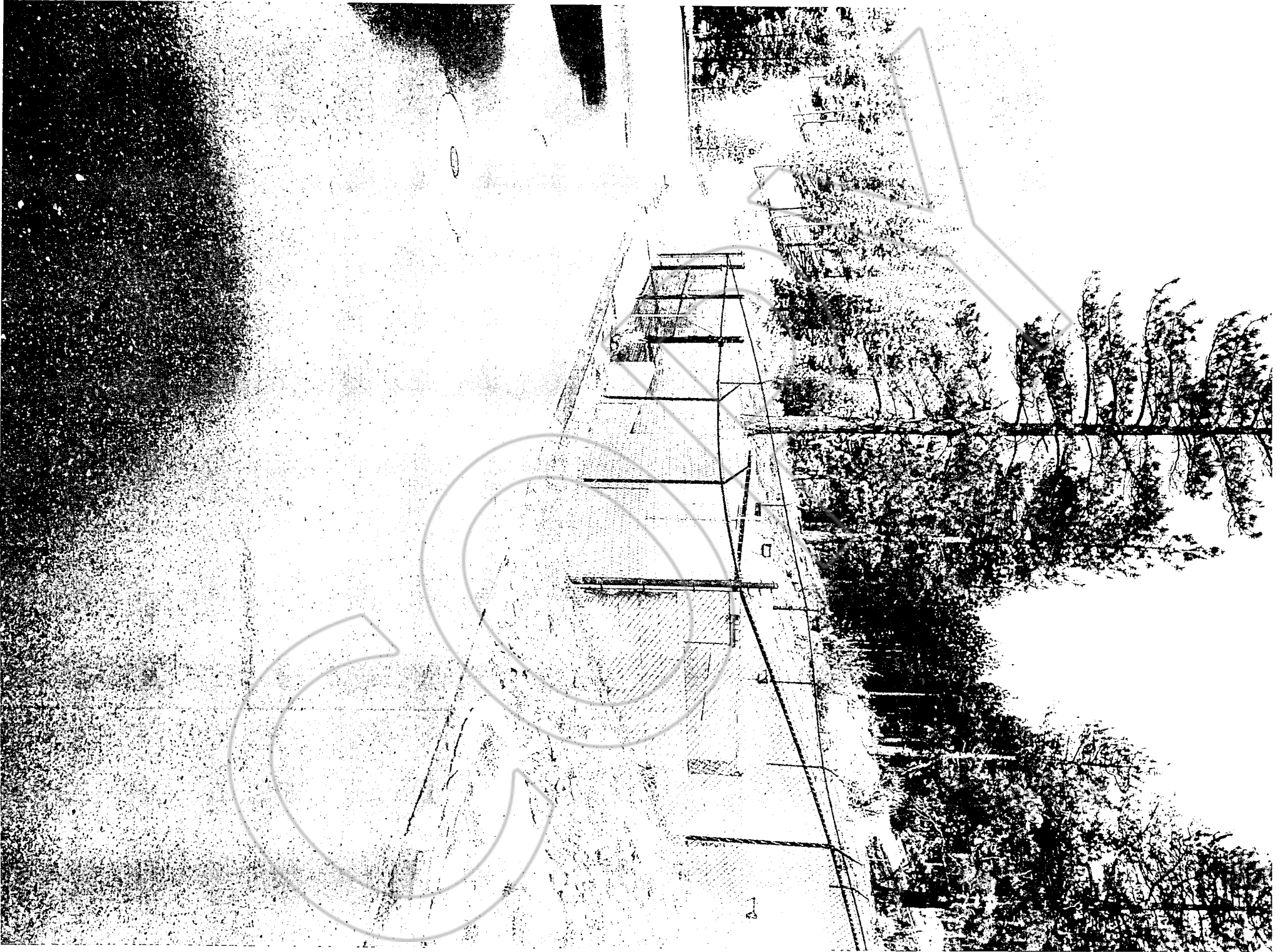
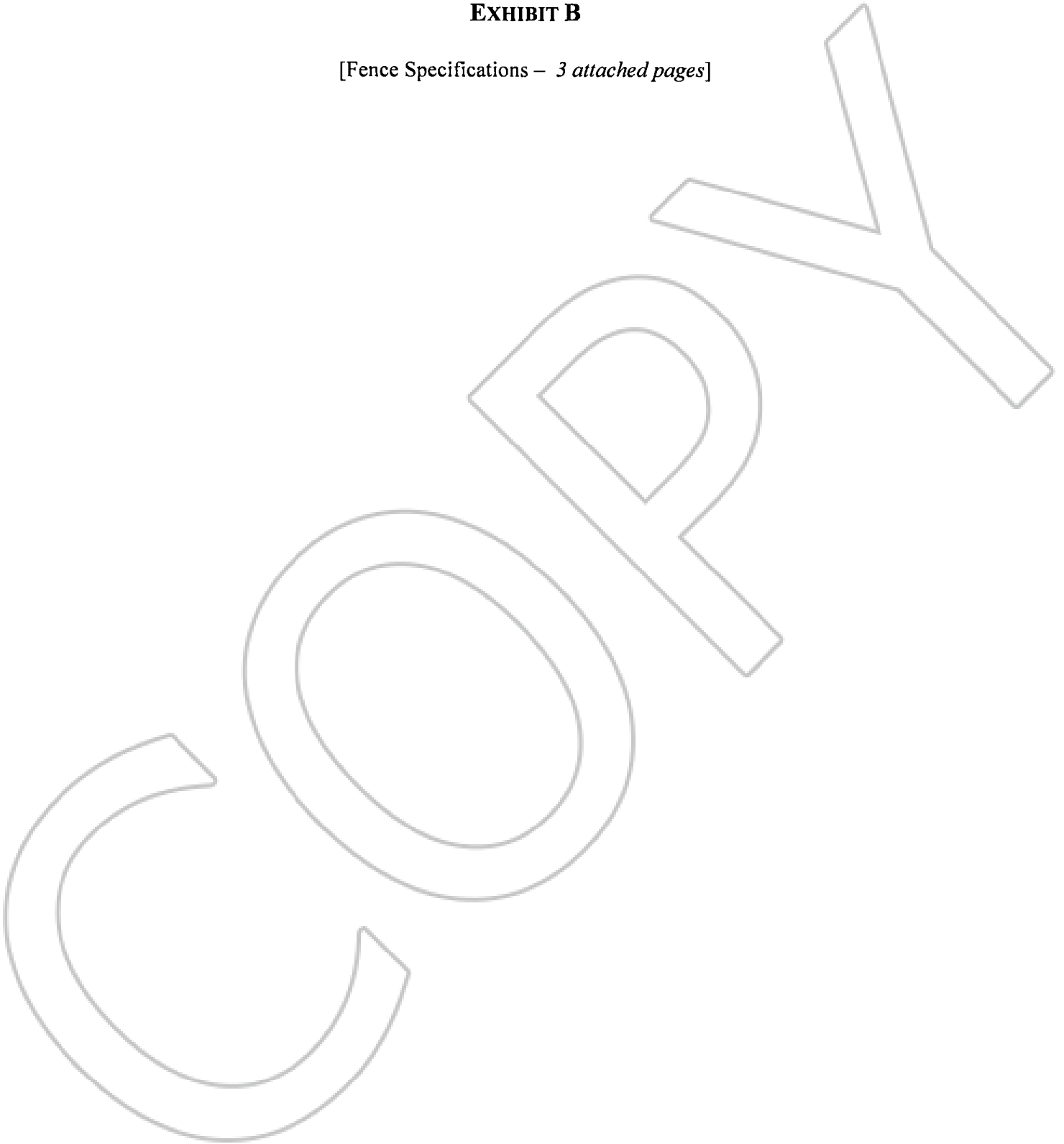
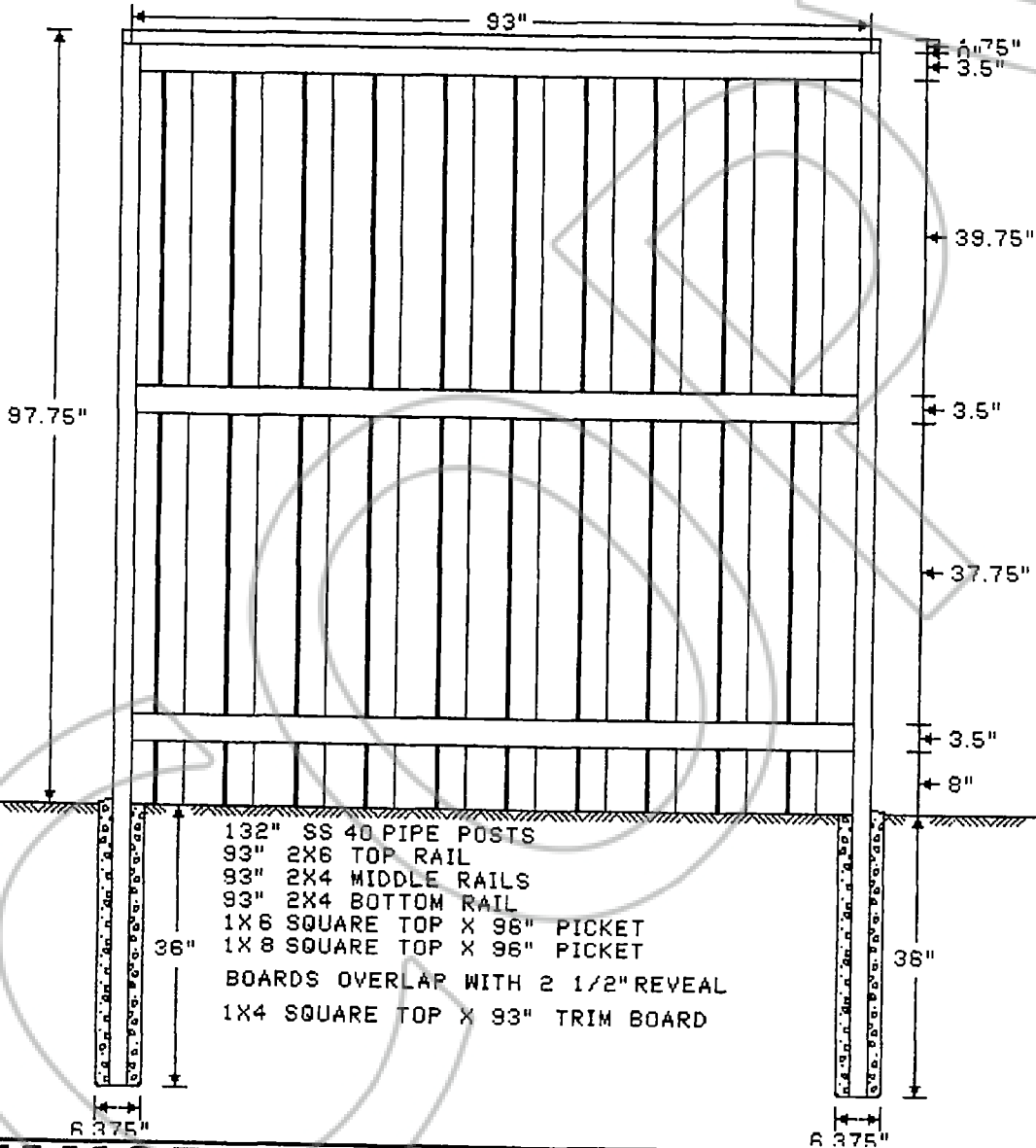




EXHIBIT B

[Fence Specifications – 3 attached pages]



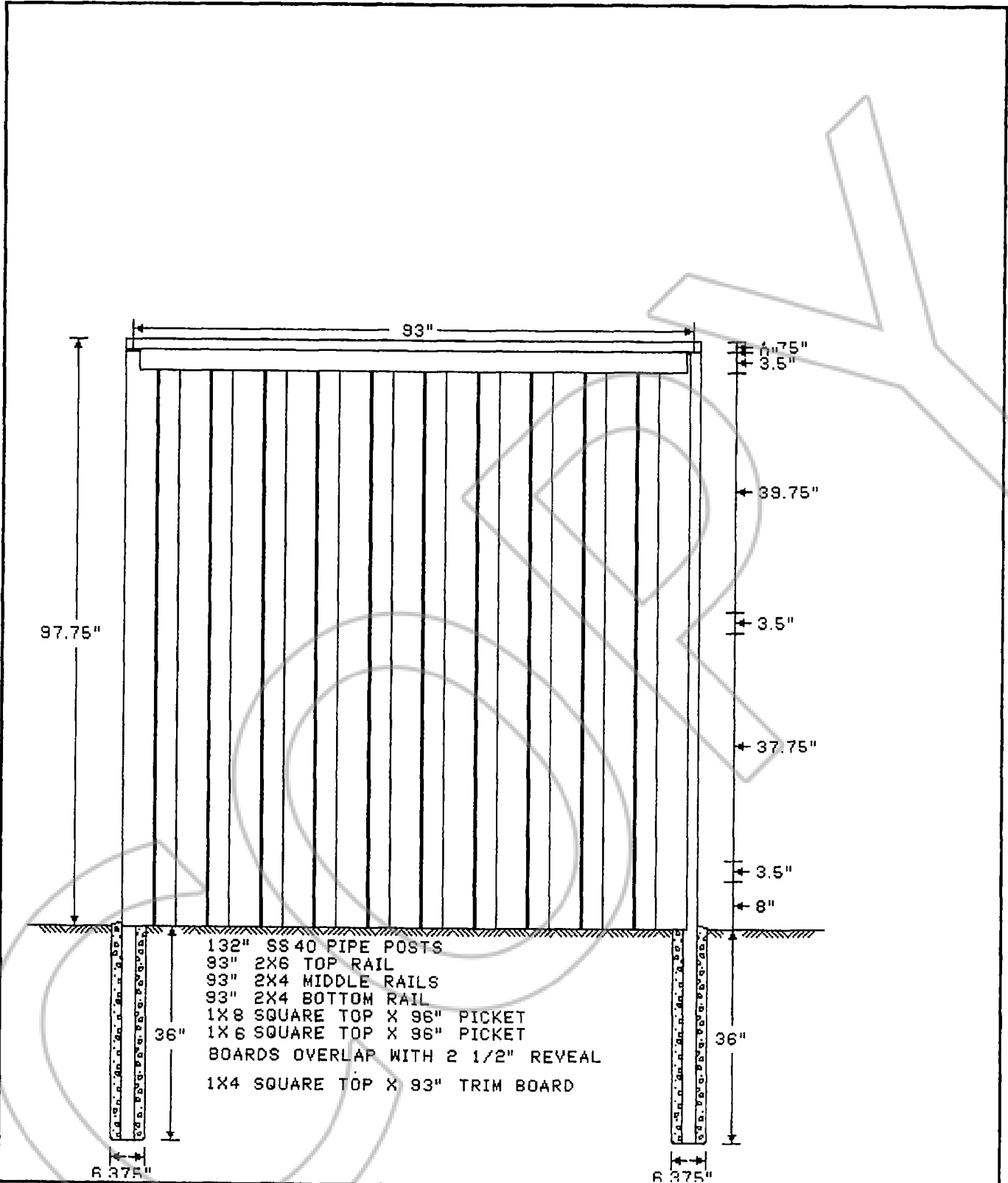


TAHOE
FENCE CO.
 Est. 1975

TAHOE FENCE CO., INC.
 36 Brown Drive
 Mound House, Nevada 89706
 775-882-1063

Clear Creek Pump House Interior View

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TAHOE
 FENCE CO.
 Est. 1975

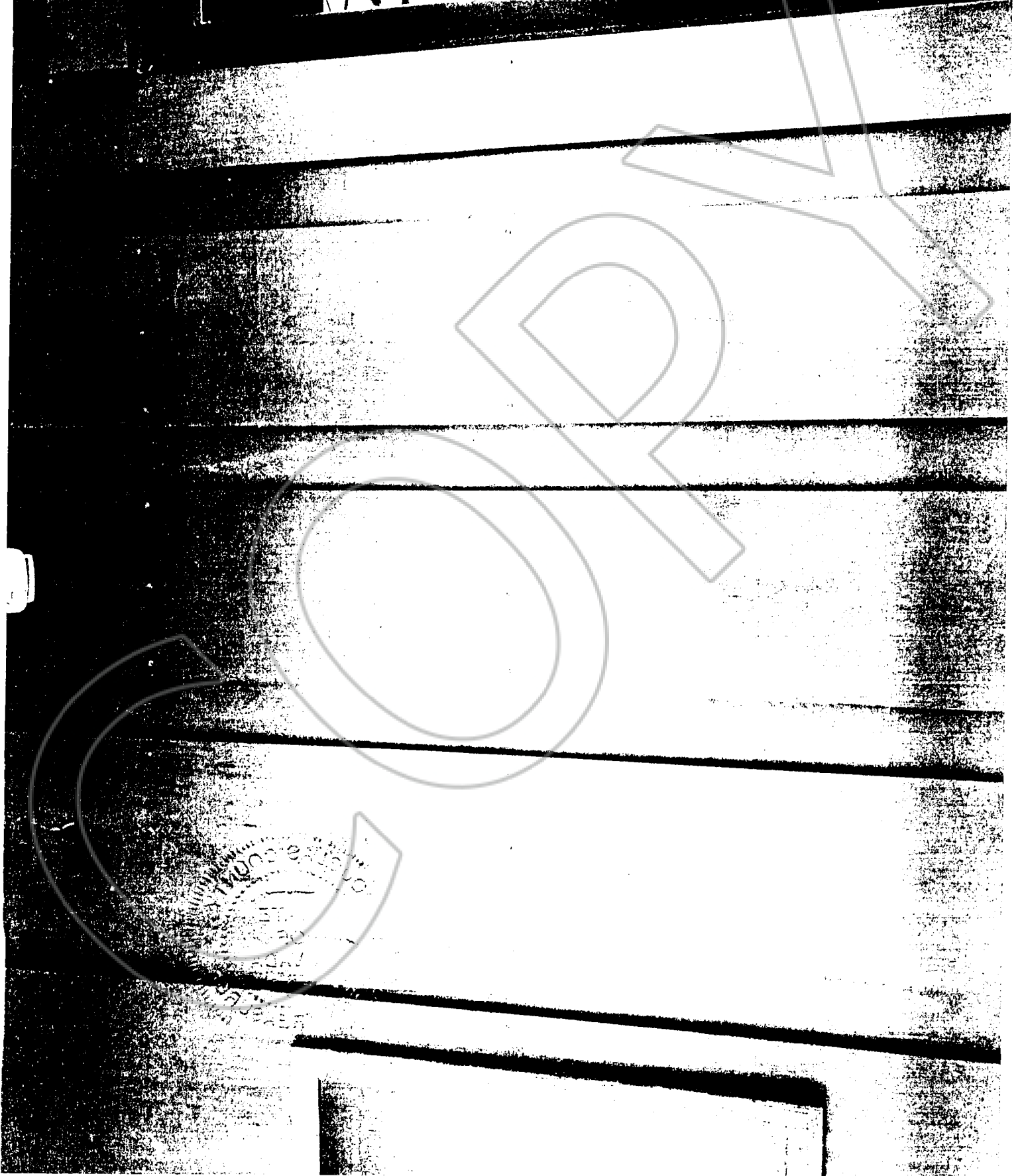
TAHOE FENCE CO., INC.
 36 Brown Drive
 Mound House, Nevada 89706
 775-882-1063

Outside View Clear Creek Pump House

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CONFIDENTIAL

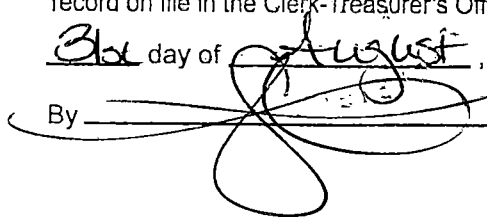
COPY

Douglas County State of Nevada

CERTIFIED COPY

I certify that the document to which this certificate is attached is a full and correct copy of the original record on file in the Clerk-Treasurer's Office on this

31st day of August, 20 20

By  Deputy