

MUNICIPAL DISTRICT OF PINCHER CREEK
CHINOOK INTERMUNICIPAL SUBDIVISION & DEVELOPMENT APPEAL BOARD

OCTOBER 17, 2024 AND NOVEMBER 21, 2024

Hearing No. DP 2024-42

Appellant: Stephen Mogdan, Legal Counsel on behalf of Castle Valley Campground

ADDITIONAL SUBMISSIONS
EXHIBITS

- H. Request for Postponement of the hearing submitted by S. Mogdan
- I. Notice of Rescheduled Hearing
- J. Site photos submitted by the Municipal District of Pincher Creek, November 2024
- K. Submission from the appellants, S. Mogdan

Our File: 149472-0001/SCM:crm

Legal Assistant: Chelsey R. Mackenzie
Email: chelsey@stringam.ca
Phone: (403) 388-1327
Fax: (403) 328-0274

Barristers & Solicitors
150 - 4 Street S.
Lethbridge, AB T1J 5G4
Office Phone: (403) 328-5577

October 8, 2024

Via Email: dianehorvath@orrscc.com

Chinook Intermunicipal Subdivision and Development Appeal Board

c/o Oldman River Regional Services Commission
3105 - 16 Avenue N.
Lethbridge, AB T1H 5E8

Attention: Diane Horvath

Dear Madam:

**Re: Appeal of Decision
Development Permit Application 2024-42
Within LSD 1 & PTN of LSD 2; 2-7-1-W5
Outdoor Storage**

Further to the above and the hearing set for October 17, 2024 at 1:30 p.m., please note that the writer is currently unavailable on the date and time specified and as such we would like to request a postponement.

We can advise that we are available on the following dates:

October 18 (anytime)
October 21 (afternoon)
November 13 (afternoon)
November 14 (anytime)
November 15 (morning)
November 18 (anytime)
November 21 (anytime)
November 22 (anytime)

Attendance by Webex/Zoom would be preferred if this is an option. We look forward to hearing from you at your earliest opportunity.

STRINGAM LLP

Per:

STEPHEN C. MOGDAN
Partner, B.A., M.Phil., LL.B.
scmogdan@stringam.ca
SCM/crm

H1

MUNICIPAL DISTRICT OF PINCHER CREEK NO. 9

NOTICE OF SUBDIVISION AND DEVELOPMENT APPEAL BOARD HEARING

Development Application 2024-42

NOTICE OF RESCHEDULED HEARING

HEARING NO. DP 2024-42

This is to notify you that a panel the Chinook Intermunicipal Subdivision and Development Appeal Board (Board) has recessed Hearing No. DP 2024-42, convened October 17, 2023, regarding a refused development permit application located within LSD 1 and Portion of LSD 2, Section 2-7-1 W5M, within the Municipal District of Pincher Creek.

The hearing will reconvene:

DATE OF HEARING: November 21, 2024

TIME OF HEARING: 1:30 P.M.

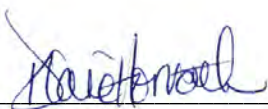
PLACE OF HEARING: Municipal District of Pincher Creek Council Chambers
1037 Herron Avenue, Pincher Creek, Alberta

PROCEDURES PRIOR TO THE RECOVERED HEARING:

1. **Submissions** - It is preferred that any additional submissions are forwarded via email to the Clerk, ideally in a PDF format, in 1 file, **on or before 12:00 pm on November 15, 2024** for distribution prior to the hearing. Any submissions to the Board after November 15, 2024 can be submitted to the Board at the hearing and 10 copies of the submission are to be supplied to the Board.

EMAIL: dianehorvath@orrsc.com
MAIL: **Diane Horvath, Board Clerk**
Oldman River Regional Services Commission
3105 – 16th Avenue N., Lethbridge, Alberta T1H 5E8

DATE: October 18, 2024



Diane Horvath, Clerk
Subdivision & Development Appeal Board



J1



J2





J4



J5



J6

Our File: 149472-0001/SCM:crm

Legal Assistant: Chelsey R. Mackenzie
Email: chelsey@stringam.ca
Phone: (403) 388-1327
Fax: (403) 328-0274

Barristers & Solicitors
150 - 4 Street S.
Lethbridge, AB T1J 5G4
Office Phone: (403) 328-5577

November 15, 2024

Via Email: dianehorvath@orrs.com

Chinook Intermunicipal Subdivision and Development Appeal Board

c/o Oldman River Regional Services Commission
3105 - 16 Avenue N.
Lethbridge, AB T1H 5E8

Attention: Diane Horvath

Dear Madam:

**Re: Appeal of Decision
Development Permit Application 2024-42
Within LSD 1 & PTN of LSD 2; 2-7-1-W5
Outdoor Storage**

Further to the above and the hearing set for November 21, 2024 at 1:30 p.m., we enclose the following additional documents:

1. Development permit application and Castle Valley Campground Proposal and Mitigation Plan for Off-Season Storage of RV's and Trailers.
2. Site map, satellite image and images of improvement/mitigation measures pertaining to Castle Valley Campground;
3. Series of pictures re: particulars of site including bank height, and height of mitigation facilities (growings and abutment);
4. Excerpts of Castle Valley Campground leasing rules and regulation; and
5. Historical data re: flow rates of the Castle River.
6. *High River (Town) v. High River (Town) Subdivision and Development Appeal Board*, 2010 ABCA 339

K1

We trust the same to be satisfactory.

STRINGAM LLP

Per:

STEPHEN C. MOGDAN

Partner, B.A., M.Phil., LL.B.

scmogdan@stringam.ca

SCM/crm

A handwritten signature in blue ink, appearing to be 'Stephen C. Mogdan', is written over the typed name and contact information.



Municipal District of Pincher Creek
 P.O. Box 279
 Pincher Creek, AB T0K 1W0
 Phone: 403.627.3130 • Fax: 403.627.5070

DEVELOPMENT PERMIT APPLICATION

All grey areas will be completed by the Planning Authority

DEVELOPMENT PERMIT APPLICATION NO. _____	
Date Application Received _____	PERMIT FEE <small>\$100 Permitted \$150 Discretionary</small> _____
Date Application Accepted _____	RECEIPT NO. _____
Tax Roll # _____	

IMPORTANT: This information may also be shared with appropriate government / other agencies and may also be kept on file by those agencies. This information may also be used by and for any or all municipal programs and services. The application and related file contents will become available to the public and are subject to the provisions of the Freedom of Information and Protection of Privacy Act (FOIP). If you have any questions about the collection of this information, please contact the Municipal District of Pincher Creek No. 9

SECTION 1: GENERAL INFORMATION

Applicant: Castle Valley Campground-Ryan Alger

Address: SW 2-7-1 W5M

Telephone: 403-795-5080 **Email:** Castlevalleycampground@gmail.com

Owner of Land (if different from above): _____

Address: _____ **Telephone:** _____

Interest of Applicant (if not the owner): On site winter storage of campers RVs during the Off-Season

SECTION 2: PROPOSED DEVELOPMENT

I/We hereby make application for a Development Permit under the provisions of Land Use Bylaw No. in accordance with the plans and supporting information submitted herewith and which forms part of this application.

A brief description of the proposed development is as follows:
To provide on site storage of our returning campers RVs during the off-season.

Legal Description: Lot(s) SW OF 2-7-1 W5M

Block _____

Plan _____

Quarter Section SW

Estimated Commencement Date: OCTOBER 15TH 2024- May 15th 2024

Estimated Completion Date: YEARLY

SECTION 3: SITE REQUIREMENTS

Land Use District: _____ Division: _____

Permitted Use Discretionary Use

Is the proposed development site within 100 metres of a swamp, gully, ravine, coulee, natural drainage course or floodplain?

Yes No

Is the proposed development below a licenced dam?

Yes No

Is the proposed development site situated on a slope?

Yes No

If yes, approximately how many degrees of slope? _____ degrees

Has the applicant or a previous registered owner undertaken a slope stability study or geotechnical evaluation of the proposed development site?

Yes No Don't know Not required

Could the proposed development be impacted by a geographic feature or a waterbody?

Yes No Don't think so

<u>PRINCIPAL BUILDING</u>	Proposed	By Law Requirements	Conforms
(1) Area of Site			
(2) Area of Building			
(3) %Site Coverage by Building (within Hamets)			
(4) Front Yard Setback Direction Facing:			
(5) Rear Yard Setback Direction Facing:			
(6) Side Yard Setback: Direction Facing:			
(7) Side Yard Setback: Direction Facing:			
(8) Height of Building			
(9) Number of Off Street Parking Spaces			

Other Supporting Material Attached (e.g. site plan, architectural drawing)

Please see attached drone shot of campground. As well as our mitigation plan to address any potential concerns and the benefits this change will provide.

<u>ACCESSORY BUILDING</u>	Proposed	By Law Requirements	Conforms
(1) Area of Site			
(2) Area of Building			
(3) % Site Coverage by Building (within Hamlets)			
(4) Front Yard Setback Direction Facing:			
(5) Rear Yard Setback Direction Facing:			
(6) Side Yard Setback: Direction Facing:			
(7) Side Yard Setback: Direction Facing:			
(8) Height of Building			
(9) Number of Off Street Parking Spaces			

Other Supporting Material Attached (e.g. site plan, architectural drawing)

SECTION 4: DEMOLITION

Type of building being demolished : _____

Area of size: _____

Type of demolition planned: _____

SECTION 5: SIGNATURES (both signatures required)

The information given on this form is full and complete and is, to the best of my knowledge, a true statement of the facts in relation to this application for a Development Permit.

I also consent to an authorized person designated by the municipality to enter upon the subject land and buildings for the purpose of an inspection during the processing of this application.

DATE: Aug 8, 2024

Ryan Alger - Castle Valley Campground
Applicant on behalf of

[Signature]
Registered Owner

Information on this application form will become part of a file which may be considered at a public meeting.

CASTLE VALLEY CAMPGROUND

SE 2-7-1 W5M

**PROPOSAL AND MITIGATION PLAN
FOR OFF- SEASON STORAGE OF RV'S AND TRAILERS**



Dear Municipal District of Pincher Creek,

We are Castle Valley Campground, a seasonally leased campground proudly operating within the MD of Pincher Creek since 2016. Our campers have come to love our location and the wonderful amenities offered by the MD and the Town of Pincher Creek.

Over the years, we have received significant requests from our campers for RV storage during the off-season. Our off-season runs from October 15th to May 15th, with an early arrival option to ease road traffic and maximize enjoyment of the sites. If our proposal is accepted, campers' RVs would stay parked on their sites, reducing wear and tear on our infrastructure and public roads, as hundreds of trailers and RVs would no longer need to be moved at the beginning and end of each season.

To enhance the convenience and experience of our campers, we propose offering winter storage for their RVs. Many campgrounds already provide this service, and we believe it will retain our current campers and attract new ones. This service is particularly beneficial for our families, solo and elderly campers, as on site greatly eases their burden of both moving and parking their units and reduces wear and tear on both our land, the municipal roads and highways. We are confident that year-round storage will be a positive addition for everyone involved.

Mitigation Plan for Potential Concerns

Theft Prevention:

- **Security Measures:** Our campground has locked gates that prevent unauthorized entry during the off-season. Located 1 km from the highway, we plan to enhance security by installing 1080p Wi-Fi color cameras with infrared night vision and motion detection, along with strategically placed hidden game cams for 24/7 monitoring. Signage will also deter potential intruders. Additionally, snowfall during the off-season inhibits unauthorized access and makes vehicle access virtually impossible unless we choose to plow our roads. Campers will not be allowed to camp during the off-season, this request is for storage only.

- **On-Site Monitoring:** We employ a local resident to regularly monitor the campground during the off-season through on-site inspections and regular drive-bys. Our Camp Host also checks on the property weekly and begins staying full-time on-site before the end of March.

- **Track Record:** In our eight years of operation, we have never experienced theft. We believe our expanded security measures will continue to protect our property and campers' belongings.

Flood Mitigation:

- **Flood Protection:** Rock groins installed by the government and a bridge abutment and old Highway 3 road running through our land protect us from flooding. These structures were designed by government engineers to divert water away from our campground to the lower land on the opposite side of the river. With the addition of the rock groins, ongoing monitoring of river conditions, and the campground's elevated position relative to the surrounding area, we

have consistently experienced zero concerns about flooding. Historically, the off-season has posed the least risk for flooding, as the river typically reaches its highest levels in early July.

- **Off-Season Safety:** We keep an updated list of camper contacts to ensure prompt notifications in case of any concerns. Collin Smyth of 5 S Enterprises, along with emergency assistance from the Pincher Creek Hutterite Colony, is prepared to plow roads if we need to quickly remove RVs. In such an event, RVs can be swiftly towed to a 10-acre area at the top of our property, designated for temporary and immediate emergency storage.

Securing Items:

- **Camper Preparedness:** The vast majority of our campers are long-term and are familiar with local weather conditions and know how to properly secure their units and belongings. We ensure new campers receive the same guidance we have learned over the years on proper storage techniques, including the securing of sheds and gazebos with ground spikes and ratchet straps.

- **Ongoing Maintenance:** We conduct a fall and spring clean-up at the end and start of each season and maintain the campground's appearance throughout. Respect for our neighbors and nature is integral to Castle Valley Campground's values.

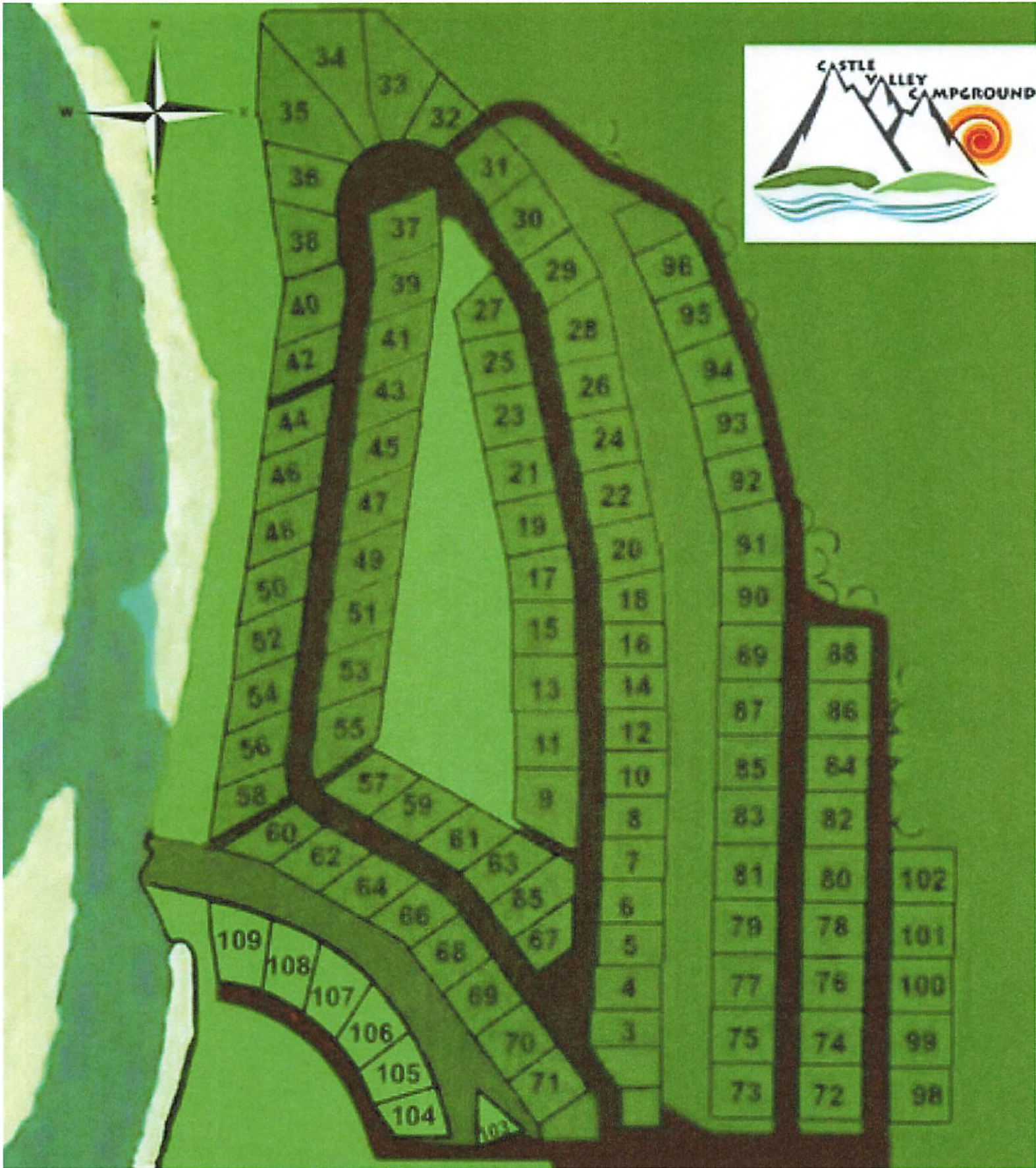
We appreciate your consideration of our proposal to offer winter RV storage. This service will enhance the quality of life for our campers, support the local economy during their stays, enhance safety on highways while greatly reducing traffic and the wear and tear of municipal roads and hi-ways.

We are confident that our reputation and commitment to land stewardship will assure you of our ability to manage this service responsibly.

Thank you for your time and consideration.

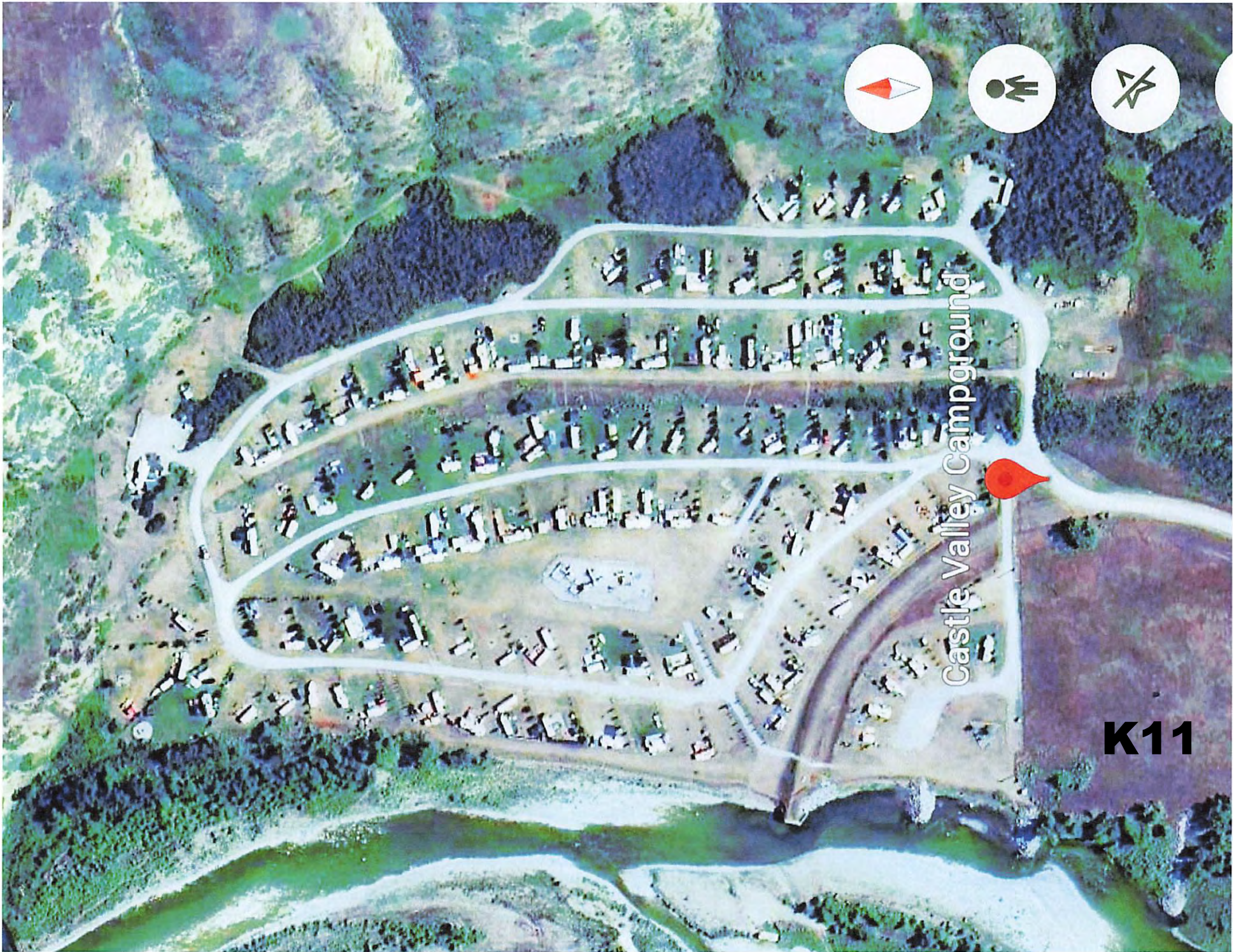
Sincerely,

Castle Valley Campground





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Castle Valley Campground

K11

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Old Bridge / Road burm

Rock groin
75ft

Rock groin
75ft

Castle Valley Ca





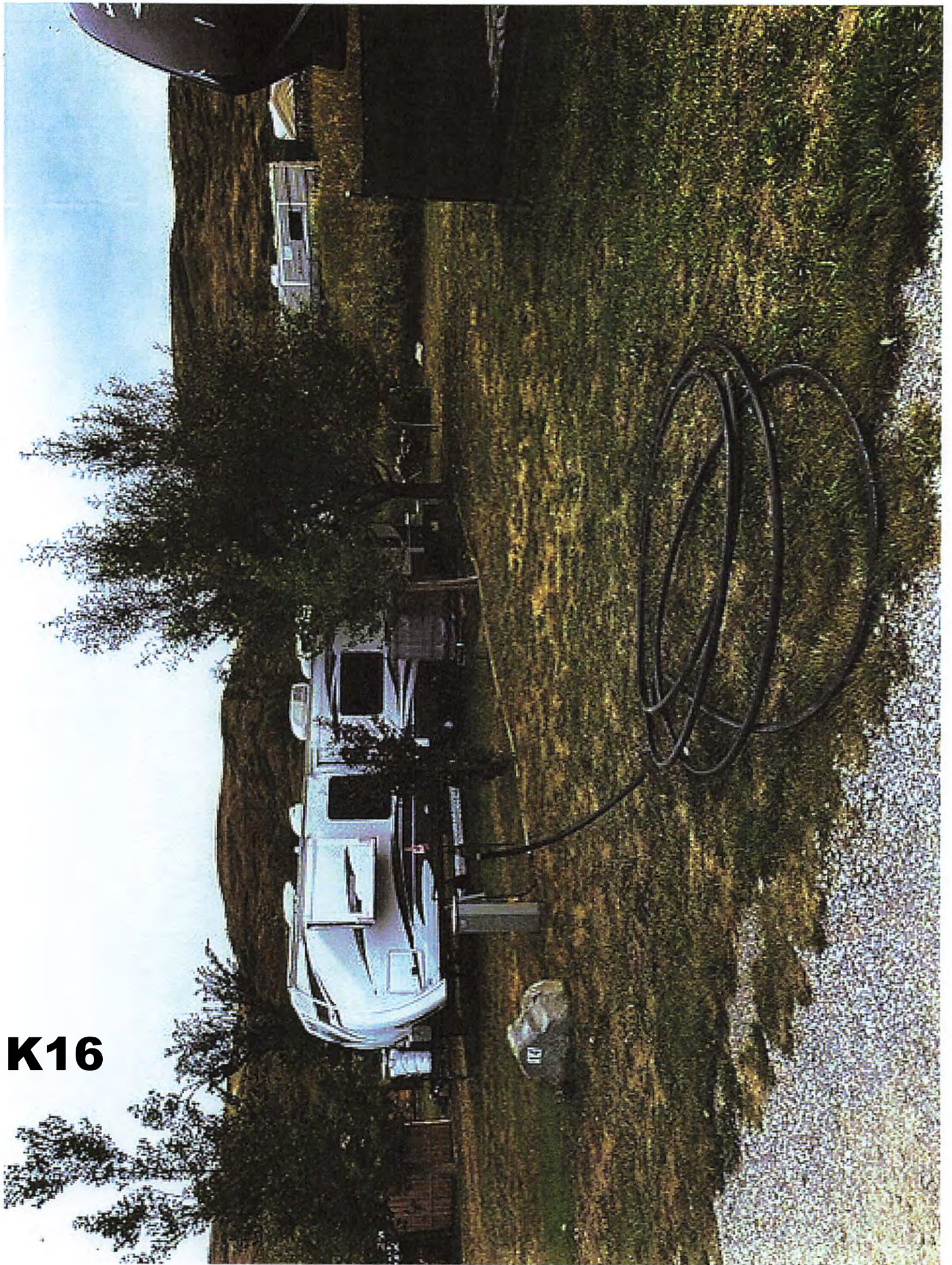
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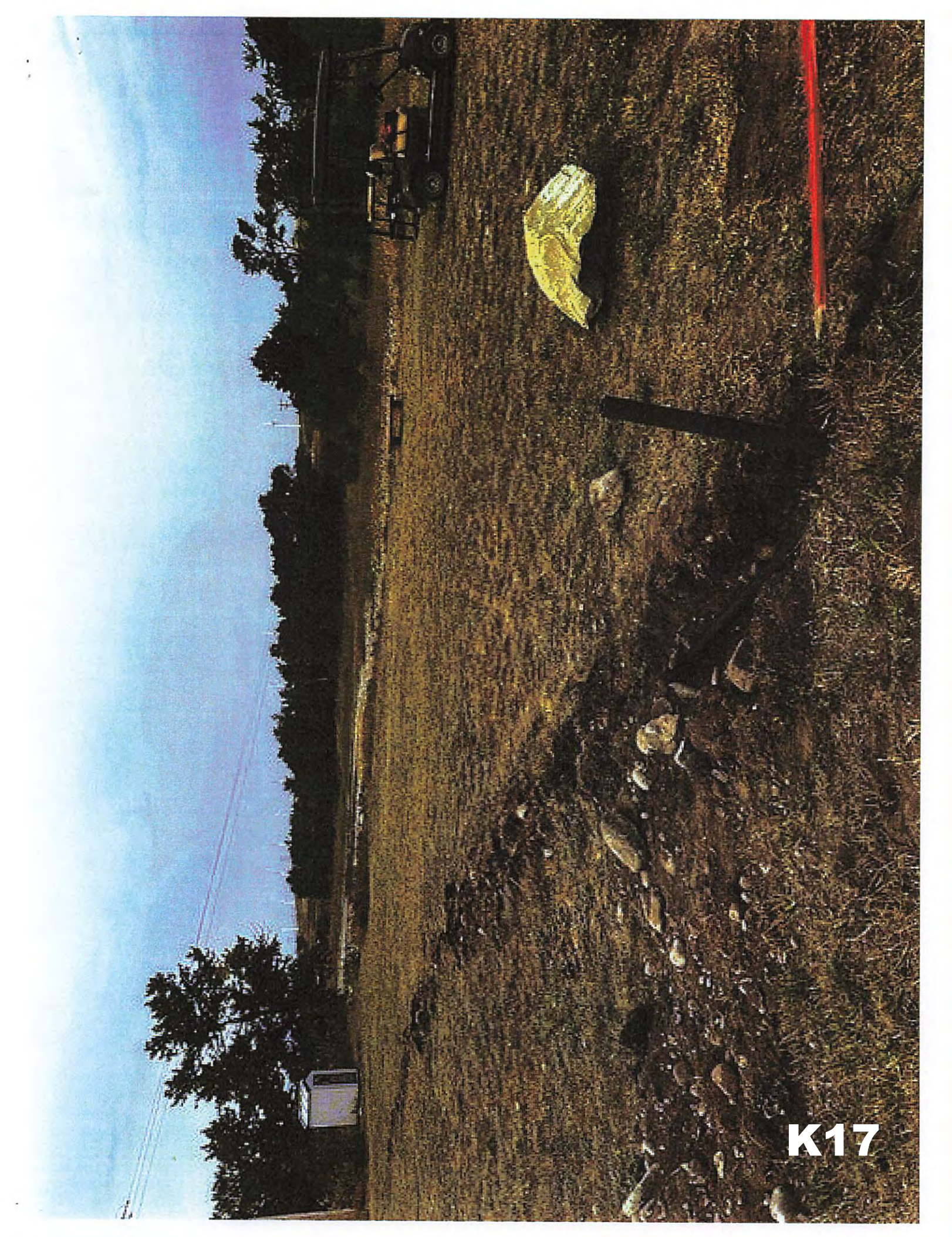
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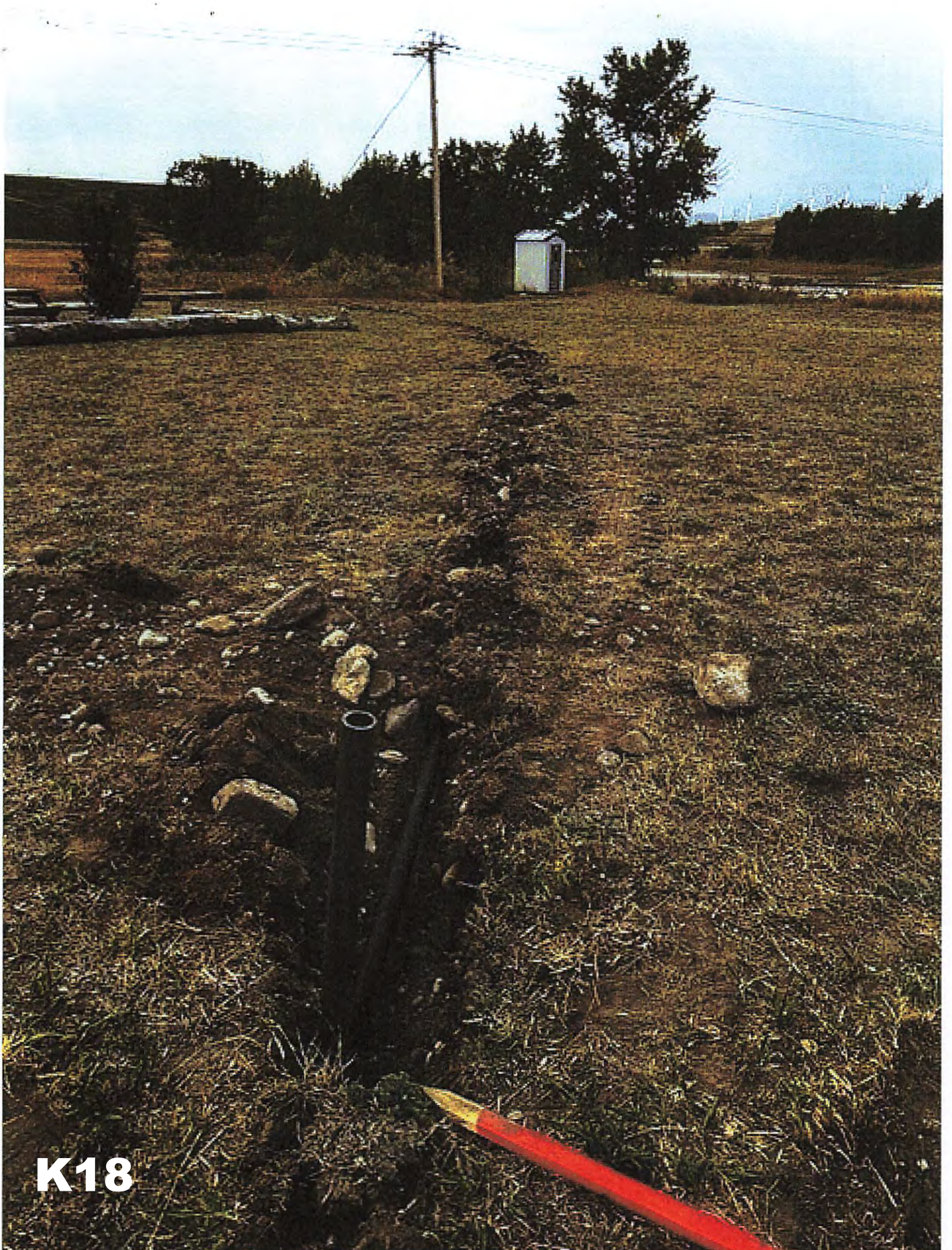
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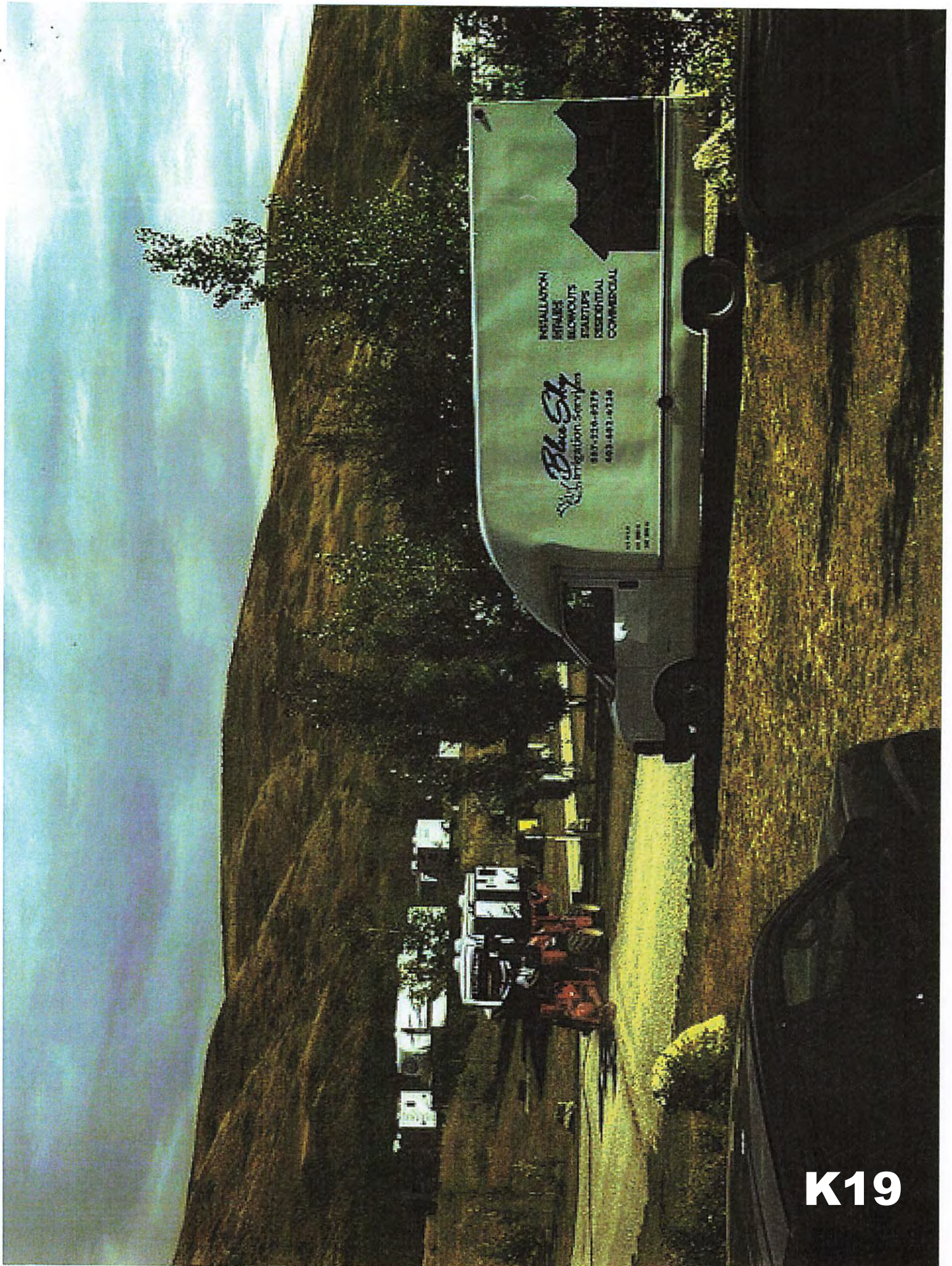
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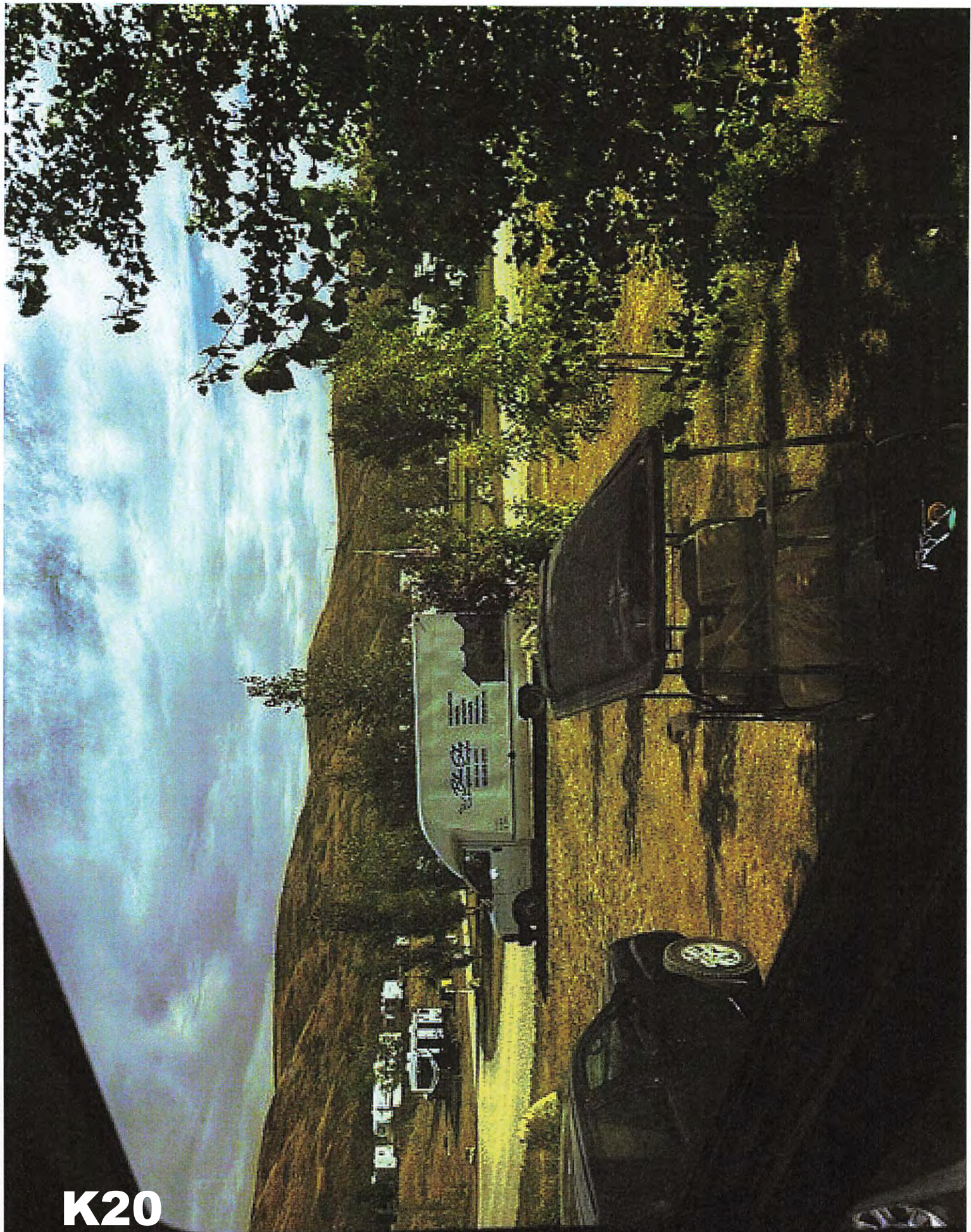
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Blue Sky
Irrigation Services

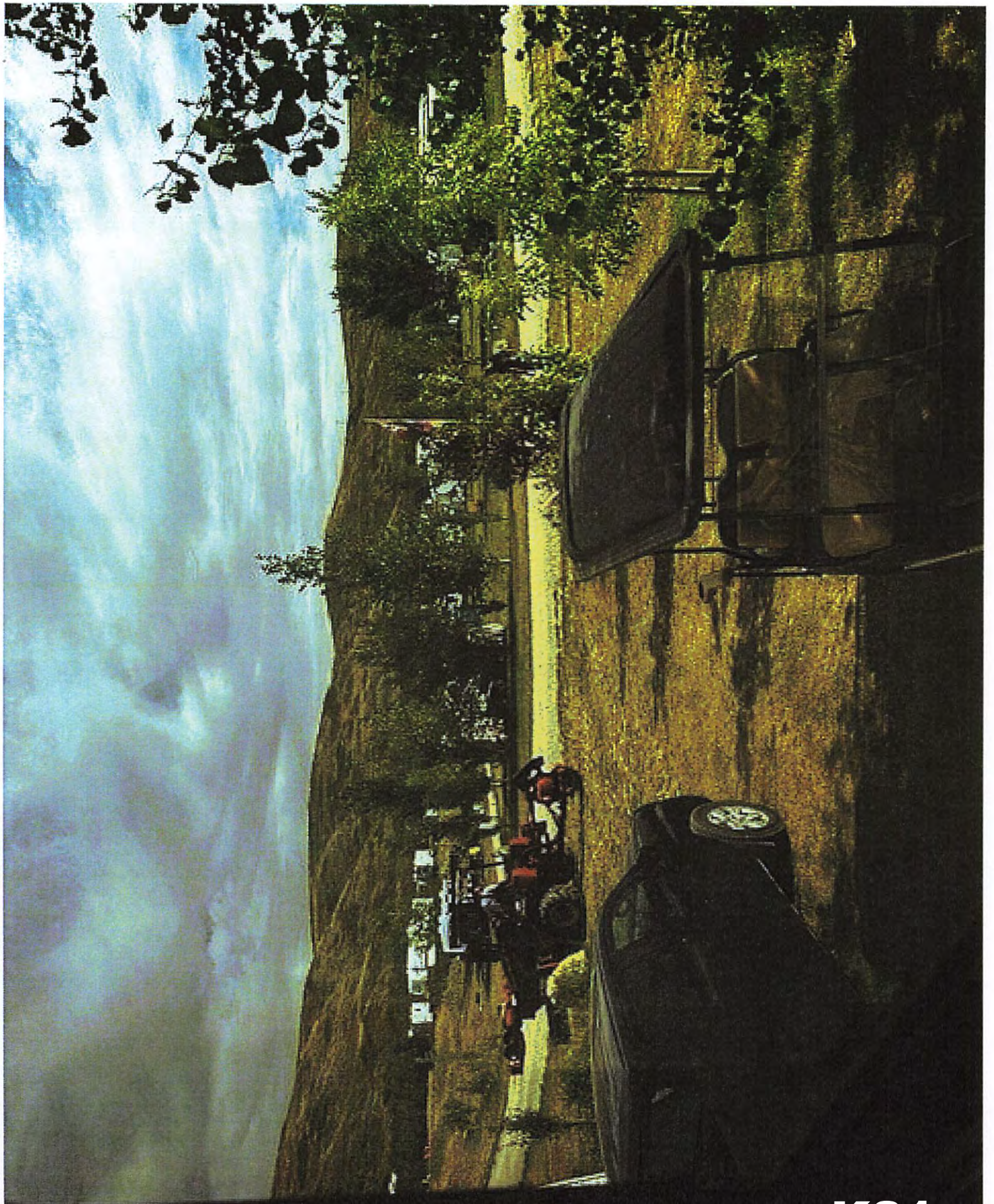
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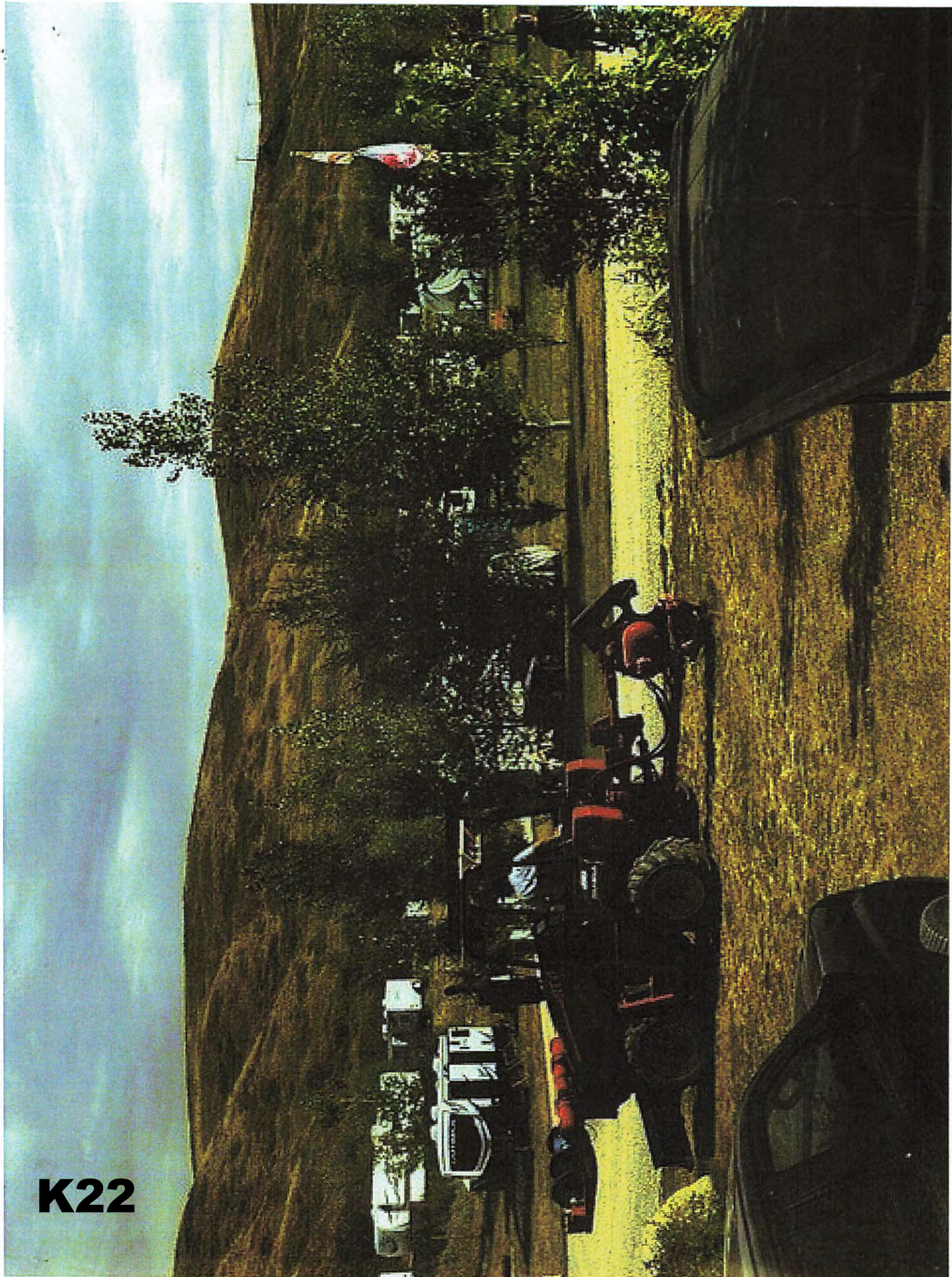
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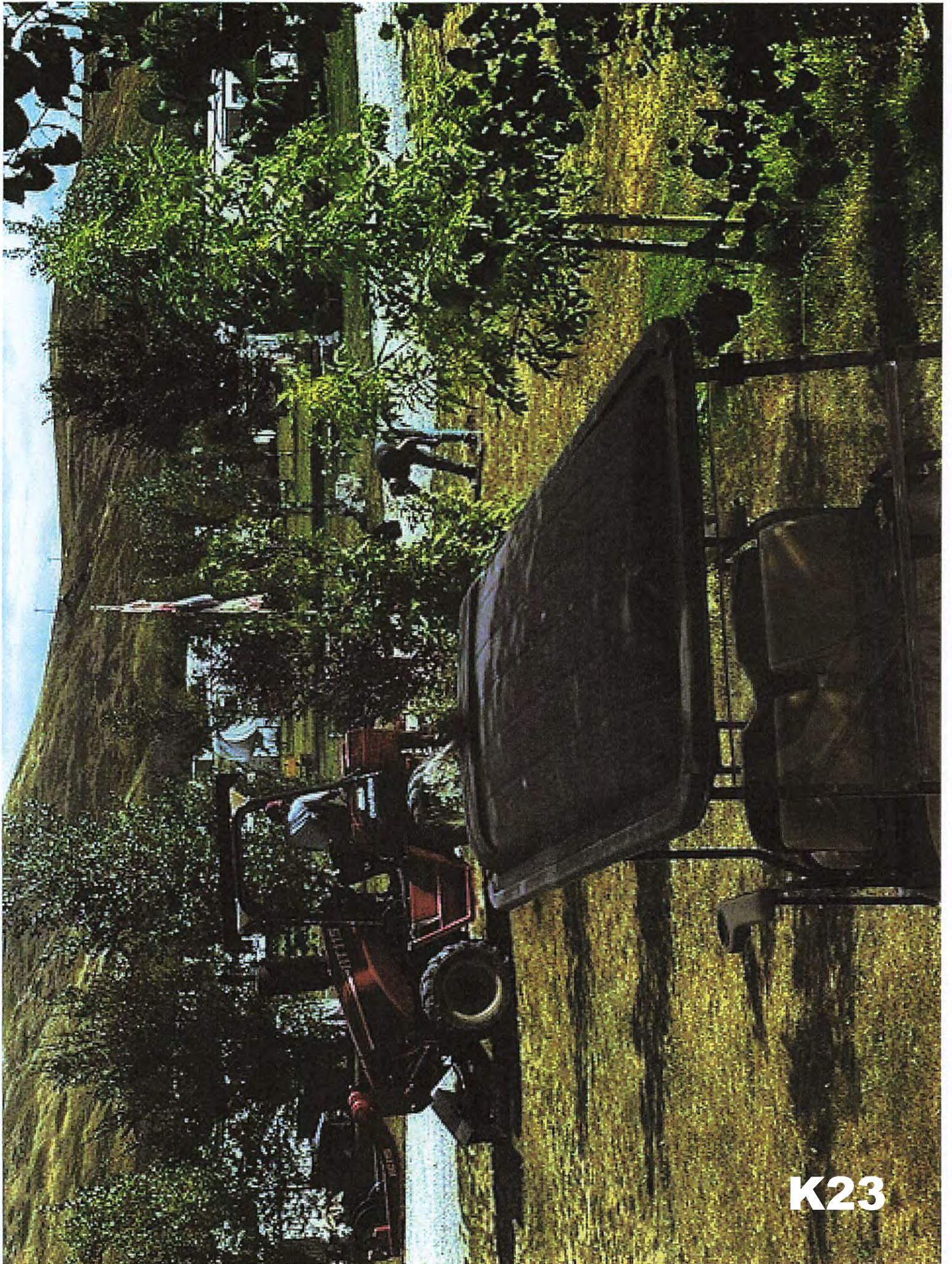
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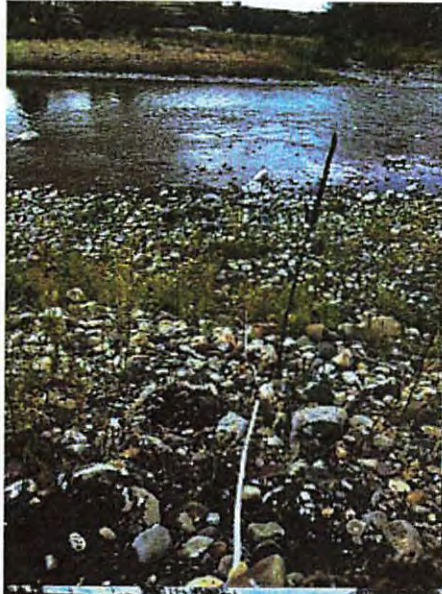
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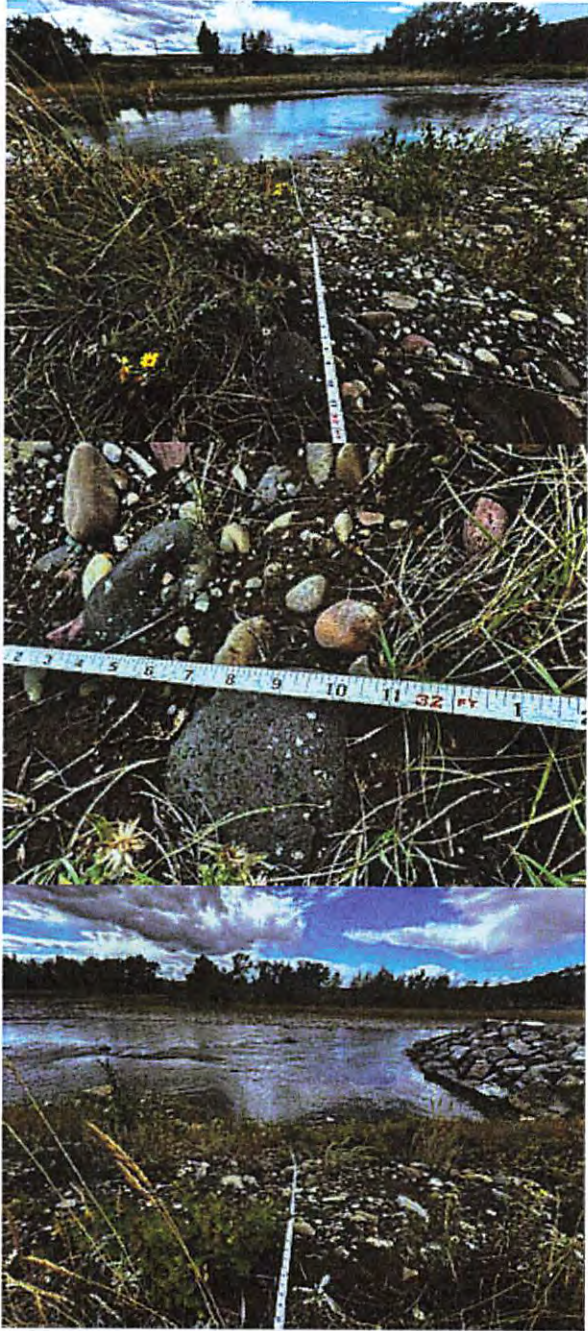
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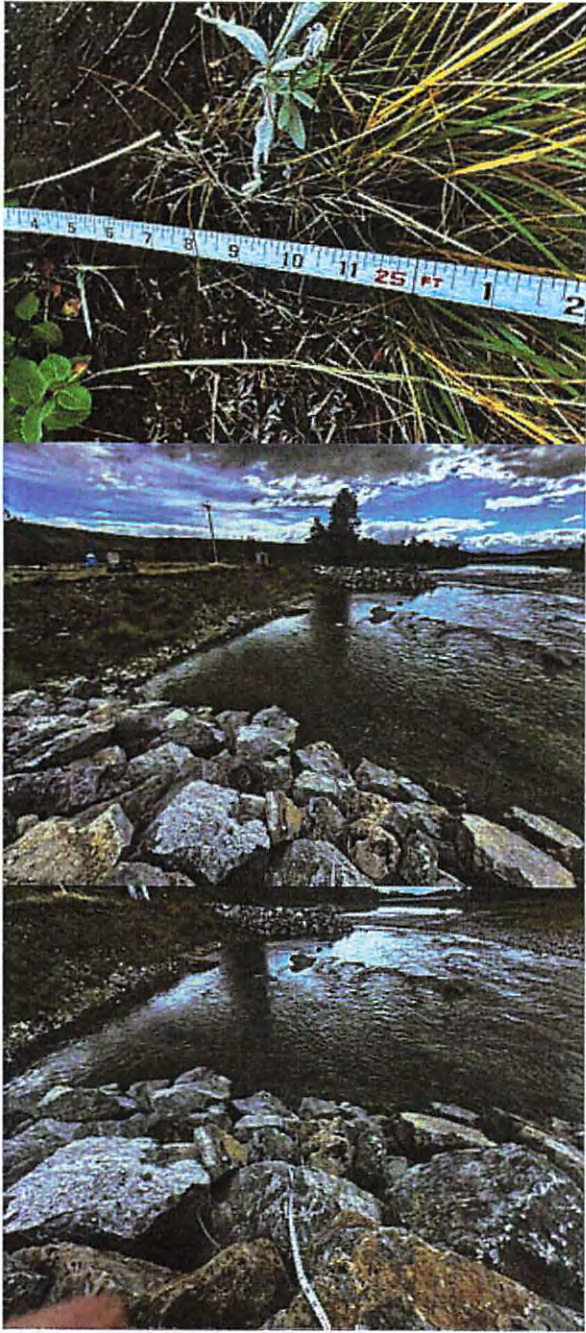
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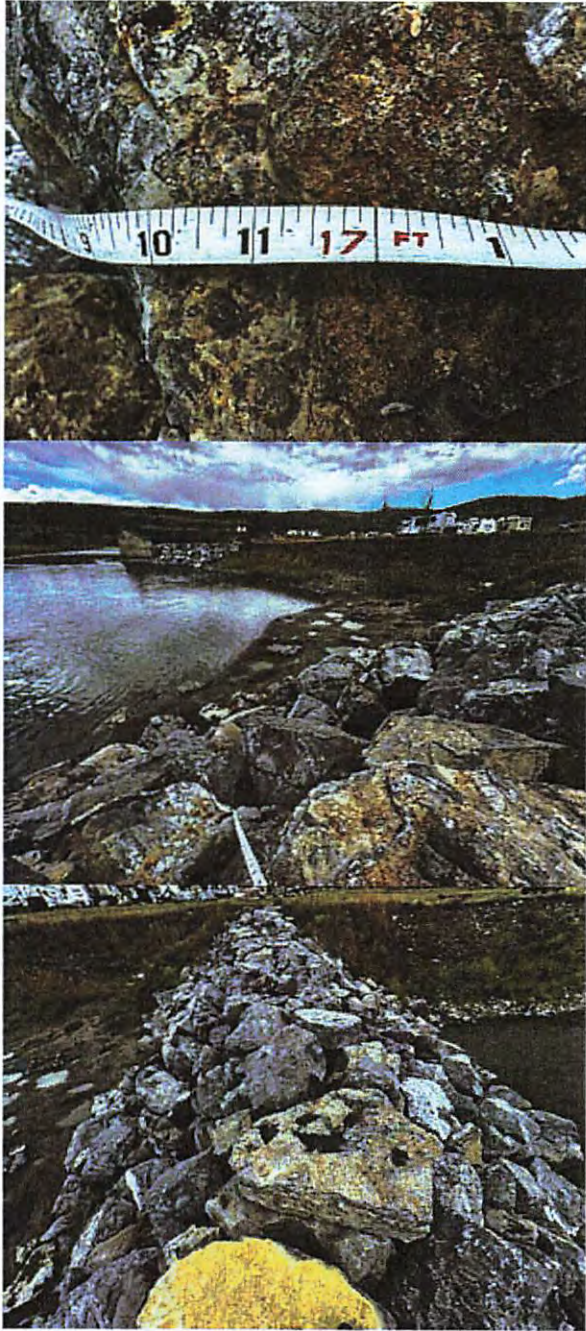
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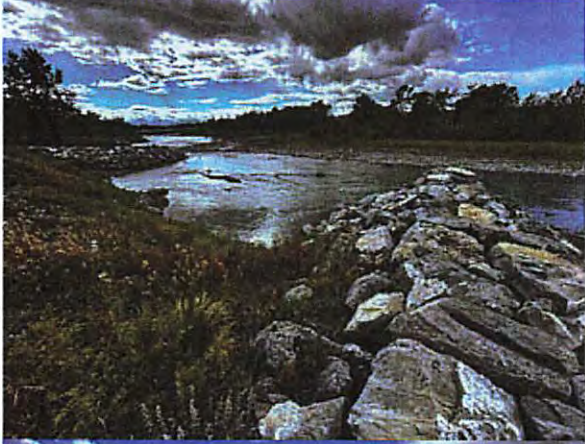
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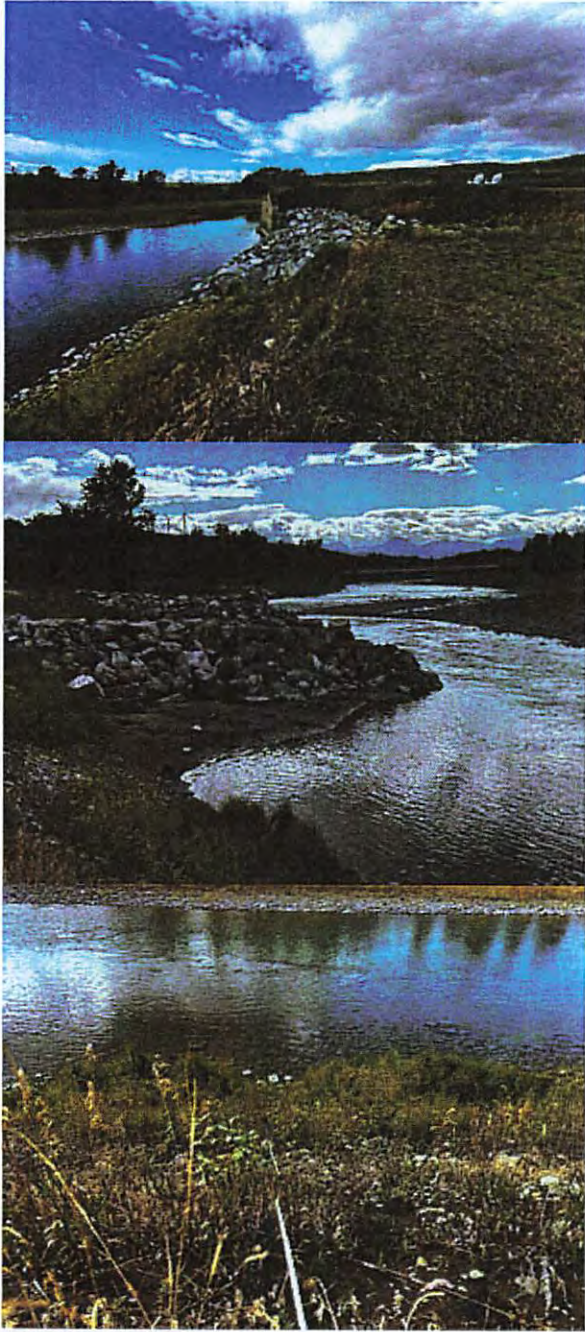


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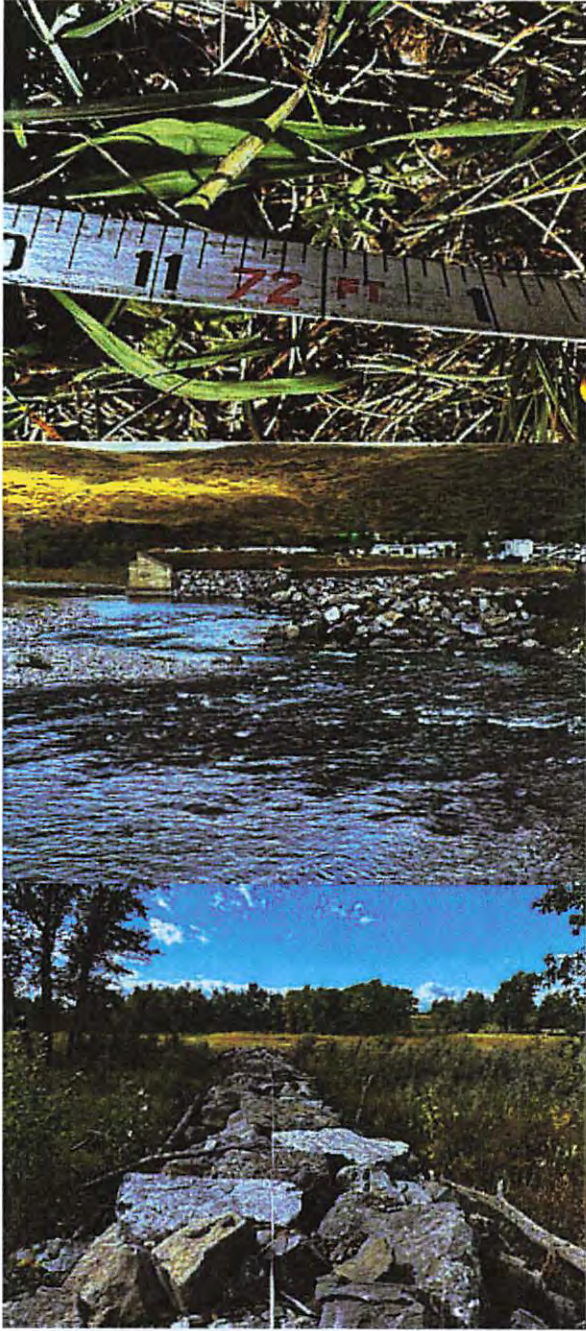
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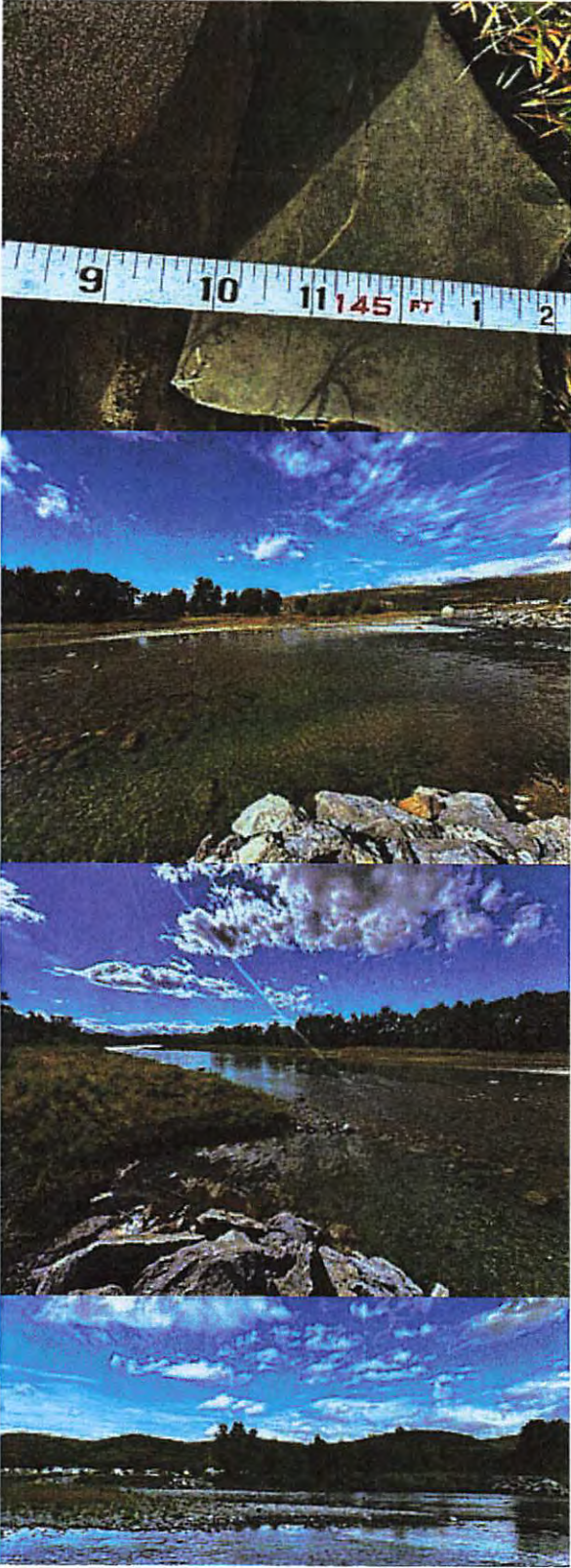
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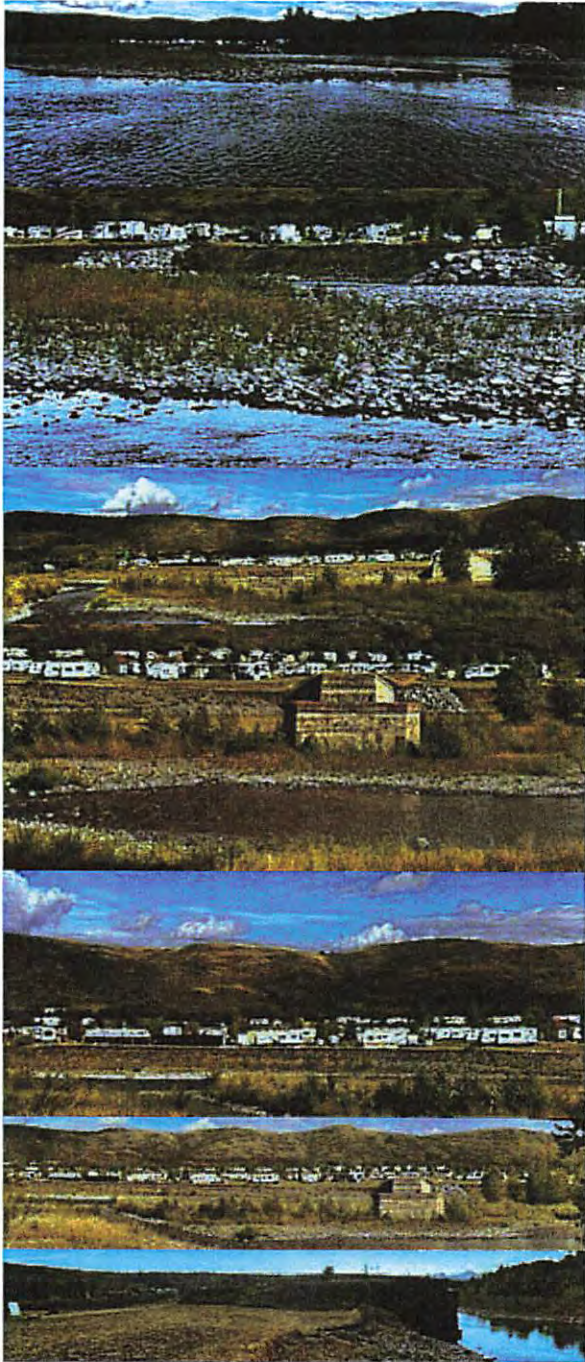
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CASTLE VALLEY CAMPGROUND LTD.

P.O. BOX # 21051 Westview
Lethbridge, Alberta
T1K 6X4
(587) 425 - (CAMP) 2267
Pincher Creek, Alberta

Located on the Castle River approx. 2km off of Paved Highway #3 on Township Road 65A (South Fork Road) just passed Pincher Station, if heading west.

RV PARK RULES AND REGULATIONS

GENERAL RULES

1. All posted signs on Castle Valley Campground are to be adhered to at all times.
2. The speed limit in the campground and entrance into campground is 10km/hr.
3. No solicitation of any type is permitted unless approved by management.
4. No selling of items on your campsite without prior approval from management.
5. Use of the campground facilities and any equipment will strictly be at the guest and visitors' own risk. All persons on or about Castle Valley Campground including the entrance into assume all responsibility for risk of injury to themselves, their property, and all liability to others for their actions while on these premises.
6. No duplicate services already offered by Castle Valley Campground Ltd. may be offered to campers or guests, by any third party, camper, guest, or visitor of Castle Valley Campground unless hired by Castle Valley Campground Ltd. No exceptions of any kind will be made. In the event of such a circumstance, management reserves the right to immediately evict any Lessee and their person(s) and or guests with zero refund or may revoke tenancy for subsequent camp seasons. Third parties not hired or approved by Castle Valley Campground Ltd. will be considered trespassing and prosecuted as such.
7. No fireworks of any type are permitted as per MD of Pincher Creek by-law.
8. Alcoholic beverages are restricted to your site.
9. Prior to any stay on the property all Lessee's must agree to and sign Castle Valley Campground's Lease, Rules and Regulations. There must be a minimum of one Lessee on site with guests at all times. Lessees must be a minimum of 18 years of age and be the registered owner(s) or immediate spouse or partner to the owner of the RV unit.
10. Swimming Pools or Hot Tubs are not permitted within the campground.
11. No firearms are allowed on the premises unless approved so by management. No discharge of firearms is allowed on the campground at any time unless directed by fish and wildlife.
12. For the livelihood of the fish in the Castle River, Castle Valley Campground asks that all fishing that takes place on Castle Valley Campground river frontage be limited to catch and release. The river frontage on Castle Valley

Campground is not exempt from Fish and Wildlife Rules and Regulations and is rightfully enforce by Alberta Conservation. Awareness of these rules and regulations are strictly the responsibility of the fisherman. Any consequences related to the infringement of Fish and Wildlife rules are strictly at the risk of the fisherman.

13. All site fees are in Canadian Dollars and are subject to GST. Rental payment is annual and renewable. All leases new or renewed must be paid in full to the Lessor by no later than, Midnight MST, April 1st of the current camp year. Time is of the essence. Failure to pay the full amount by the April 1 deadline will result in the loss of renewal or initial payment and the Lessee's reserved site, without notice. Renewal or initial site payments reserve the Lessee's site until Midnight, April 1 of the next camp year. Renewal payments, initial payments and remaining lease payments are non-refundable. All leases, rules and regulations must be signed and received prior to setting up on site.

14. No food for human or pet consumption may be left out or unattended. Feeding of Wildlife is strictly prohibited.

15. No camping is allowed anywhere that is not a designated campsite. Camping on vacant sites is not allowed.

16. Littering is prohibited. Please remind children to respect nature and show them where garbage receptacles are.

BEHAVIOR

17. Unruly behavior is prohibited and will be reported to the RCMP. If behavior is severe or occurs more than once it may result in an immediate eviction from the campsite with zero refund. Respect for others and nature is expected at all times when staying at Castle Valley Campground. You are not only responsible for your behavior but your persons, and that of any guest you may have. Remind them of the rules and the consequences you may face for their actions. Violations of the Code that constitute an immediate or implied threat to the safety of others, their property, or Park property may result in an immediate ban from the property and potential legal charges at the discretion of management.

18. Illicit drugs, weapons, fighting, lewd or reckless conduct, harassment, profanity, or speeding will not be tolerated. Any exhibition of such could result in immediate eviction and may be reported to the RCMP.

19. Any lessee, their persons, or guests that willfully or negligently defaces, damages, steals, or destroys property or equipment of the campground shall be liable for the full replacement value and may be evicted from the premises at managements discretion. In such an event no refunds will be offered, and all unlawful acts will be reported to the RCMP.

20. Parents/ Guardians are responsible for any damage caused by their children. All small children are to be supervised by an adult when off their campsite. Please teach your children your site # in the event they wander off. Also beware that playing in the bushes and trees is not advised. Ticks, as well as wildlife can be hidden within the trees and bushes of the campground. Castle Valley Campground is not liable for anything that could happen in the event of ignoring this advisory. Cutting of bushes or trees is strictly prohibited and parents will be held financially responsible for any damages at CVC cause by their children or their guests children including the cutting or damage to trees and bushes. Hanging on trees is not permitted.

21. Management reserves the right to evict any Lessee(s), guest(s), children and/or pets, who creates a disturbance, nuisance or chooses to willfully neglect Castle Valley Campground Rules and Regulations. Failure for a guest to leave the premises in a timely manner in such an event may result in the eviction of the Lessee as well. No refunds will be made in the event of such circumstance.

EMERGENCY AND CAMP FIRE SAFETY

22. In the event of an emergency, all RV units and motor vehicles are to be removed from your site immediately. If your unit is not moved within a timely manner, it may be moved by management, at an additional cost to you.

23. All campfires must be in the provided campground fire pit provided for your site. All County Fire Hazard Regulations and Fire Bans must be adhered to. No fire of any type can be built on the ground. To prevent grass fires, the provided spark screen for your campsite must be placed on the metal fire pit when in use and must always be attended to. All fires must be totally extinguished with water prior to leaving your site. Woodchips in tree wells are not permitted for burning. You may bring your own firewood, but you may not have it delivered to your site by any third party. Nor is anyone allowed to solicit the sale of firewood in the Campground other than Castle Valley Campground. Firewood will be available on a weekly basis from the Campground for a fee. As per the MD of Pincher Creek Emergency Fire Services; fire pits may be placed anywhere down the center line of your site but may not be placed on either side as to provide adequate distance from trees, trailers and vehicles on site.

24. Please teach your children to exercise caution when around the campfire. No child is to be left unattended near a campfire.

25. No fires are allowed anywhere other than your designated CVC fire pit. Fire pits are the sole property of CVC and may not be removed from site or moved to a new location on your site, without prior approval from CVC management.

PORTA POTTIES/ WATER/ SEPTIC/ EMERGENCY SERVICES

26. No outdoor private privies or toilets are allowed. For the convenience of our campers and our guests, Castle Valley Campground will have porta-potties available for use. Cleanliness, dumping and supplies for these will be maintained and provided by a third party. If you see a porta-potty that requires attending or supplies, please let us know by placing a note in the service box. Feminine Hygiene products must be disposed of in the garbage. Public urination anywhere on CVC grounds is strictly prohibited. Failure to comply can result in eviction from the campground.

27. Potable water, along with black and gray water removal is the responsibility of the camper. Absolutely no dumping of effluent of any kind on the campground or its neighboring lands or in provided porta potties from RV Units, Portable Toilets, Blue Boys, Honey Wagons or Holding Tanks. All septic (black) and grey water must be disposed of either by using CVC's septic services or by taking to a dump station. Third party services are not allowed at CVC. Failure to comply will result in immediate eviction with no refund as well as any associated clean up costs. External water tanks are limited to two tanks per site, no more than 250 gallons (1000 liters in size).

28. On site potable water, septic, firewood, and lawn services will be available to you at an additional cost. No third parties may offer these services in Castle Valley Campground. Services are provided on a weekly basis with a cut off time. An optional secondary service during the week is available but must be paid and booked with primary service before cut off. Secondary services requested after cut off are considered an emergency service and will be charged as such. Payment for services must be made in advance of service being provided. For those who missed the cut off or required additional service and did not book it with their primary, we offer emergency services. These requests can be made on a daily basis until 6pm, at a premium rate to our regular weekly offered service. All emergency service requests will be conducted each day, after the 6pm cut off. Firewood requests are available until 6pm nightly. All deliveries of wood will take place after these cut off times. Emergency services being requested to be done before will result in a premium on top of emergency service prices and are not guaranteed. Please plan accordingly.

TRASH/ RECYCLING

29. This is bear country! To prevent wildlife and rodent attraction all trash and recyclables are to be bagged and tied

tightly and put in the bear proof dumpsters provided. Please ensure these lids are closed properly when done disposing of garbage. No trash is to be left outside at any time. All pet food should always be kept indoors as per fish and game, this is a major attractant for rodents and wildlife. Please separate bottles and cans from trash and place in designated recycling barrel or beside garbage bin. Please wrap any fish scraps in newspaper then bag and tie. Any large items, for example old batteries, fridges, patio furniture, mattresses etc. are not to be disposed of at the campground, please take with you and dispose at the landfill or your home. Failure to comply will result in excess charges.

VEHICLES

31. The Lessee is responsible for any vehicle or other personal property parked or stored on the campground facility. Vehicular repairs or changing oil in the campground is not permitted.

32. All RV units and/or vehicles may be positioned according to your desires with the following exceptions; All vehicles and recreational vehicles of lessee holders and their guests must be within the rock boundaries of the Lessee's site. All RVs must be a minimum truck width away, with room for the vehicle door to open, from the trees (located on both sides) so we can pull in next to your RV for septic and water servicing. Maximum 3 vehicles per site at any given time, again none of these can obstruct the roadway. All servicing (this includes our service vehicle) must be able to be completed within the confine of your own site, we will not pull behind sites, onto pathways, parks, or neighboring sites to complete services. If your trailer is parked this way, services will not be completed until corrected. This protects our banks and coulee edges from sluffage and erosion.

33. No off- road vehicles are permitted to be driven anywhere in campground unless you are staff, maintenance or have been hired by Management. No vehicles, including golf carts (unless staff) are allowed in recreational / park areas at any time. No RC cars or drones in park or rec areas.

34. Powered golfcarts are permitted on roads and Lessee site only. Driver must be at least 16 years of age or 10 if accompanied by an adult. Speeding, or reckless driving will not be tolerated. Should these rules be abused management reserves the right to take away this privilege at their discretion. Electric power carts are not permitted.

35. All motor vehicles within the campground must be properly licensed and insured.

QUIET HOURS AND NOISE LEVELS

36. Quiet Hours are from 11 PM to 9 AM. Music and voices are to be kept at a reasonable level at all times. Please ensure barking is kept to a minimum and that dogs are not left outside to bark during quiet hours. Please remind children, while playing, laughing and giggling is highly encouraged and welcomed; screaming or yelling is not.

37. Move INS and visitors are discouraged after 9:00pm.

38. Generators are not permitted at any time. Over-night guests may have 15-amp service for \$35/day. Vehicle motors may not be left running to generate electricity. Solar Panels and inverters are encouraged. 3rd Fulltime RVs do not include power, if needed short term, 15-amp power request can be made, cost is \$35/day and is not guaranteed as it will be based on electrical availability.

39. Management reserves the right to do any construction that is necessary or will enhance the campground without any notice. This may include the planting of trees and shrubs, landscaping, or trenching of utilities within the Lessees site and or common areas. All efforts will be made, for construction within leased sites to take place during off-

season times but may not always be possible. Castle Valley Campground will make every effort to minimize the disruption of our campers stay.

TRESPASSING

40. All campsites are considered leased parcels of land. Trespassing is prohibited on all campsites (including those vacant), with the exception of Castle Valley Camp staff. Trespassing on adjacent lands is not permitted. You may not park vehicles on any vacant sites or neighboring lands.

Management reserves the right to enter upon the Lessee property at any time and for any purpose it deems necessary, without notice.

A 3' foot designated right of way for Castle Valley Campground Staff (or hired labour by CVC) exists on each side of your site so that C.V.C may maintain trees and shrubs with minimal disruption to your space and so that neighbors do not encroach onto others sites. No items may be placed within the 3' foot right of way. Sites boundaries are marked by the rocks placed at both the front and back of each site and by the trees between each campsite.

PETS

41. All pets must be leashed at all times and may not be left unattended. Excessive barking will not be tolerated. Clean-up of pets is required immediately both on and off site. Failure to clean up after your pet in a timely manner may result in eviction. All pets must be kept under control at all times. When outside, pets must be kenneled, leashed or tethered securely within the perimeter of the rocks on your site. When exercised, pets must be leashed at all times. No dog-runs are permitted. Noisy and unruly pets or those that create a nuisance or disturb other campers shall not be allowed to remain in the RV Park. For the safety of our campers, aggressive dogs are not allowed. If we receive a complaint that a dog is being aggressive, then appropriate measures given the situation will be taken; this may include the pet not being allowed at Castle Valley Campground and will be made at Management's discretion. Pet owners are liable and responsible for any and all damages or injuries caused by their pets to others or others pets. Sites with 1 or 2 trailers are allowed a maximum of 2 pets per trailer, with a maximum of 4 pets per site at any one time. Castle Valley Campground does not condone off-leash swimming. Please use consideration for the feelings and safety of others when exercising your pet. Pets are limited to cats or dogs only.

SECURITY

42. All renters, guests and visitors are responsible for the security of their site. Do your part by keeping valuables out of sight and all doors, sheds, storage compartments and windows locked when away. If you see suspicious behavior, please report it to the camp host or management by calling 587-425-2267. Castle Valley Campground does not provide security but has an onsite manager to help deter vandalism and crime. Insurance is recommended.

SITE RULES

43. All sites must be kept neat and tidy. Residents are responsible for the upkeep of their lots including the cutting and watering of grass and weed control. Your site may not encroach on to any other area than your assigned site. Failure to maintain your site will result in excess charges for the maintenance of your site. Multiple infractions or failure to pay for maintenance costs could lead to eviction or not being able to renew your lease next year. Firewood may not be stacked on tree line.

44. To maintain the pristine look Castle Valley Campground seeks for all its campers we have limited trailer ages to no more than 25 years old (1998). This rule does not apply to anyone who became a Castle Valley Camper prior to March 20th, 2017, and will not affect renewal as long as it is the same RV unit as originally listed on lease.

45. No modifications to your site including but not limited to; landscaping, cutting or planting of trees, shrubs or

foliage, building of deck or sheds etc. without prior approval by management. You are responsible for any damage at replacement cost. Guards and stakes around trees may not be removed. No nails shall be driven or damage to trees of any kind is permitted.

GUESTS

46. Castle Valley Campground reserves the right to limit daytime guests.

47. Short-term overnight guests are welcome to stay as long as a lessee is on site at all times with them and they pay for all nights at the start of their stay. The cost is \$35/night and includes the use of 15-amp service. Generators are not permitted at any time. Registration and payment in full must be put in the services mailbox upon arrival, cash only as cheques are not accepted from guests. 30-amp power is unavailable to guests at this time. If your guest requires 30 amp then they must make arrangements with site lessee to take turns sharing, however 15-amp service should accommodate most campers needs for a short-term stay. Castle Valley Campground reserves the right to revoke the allowance of guests at their own discretion.

All short-term guests must be accompanied by at least one site lessee. Whether you have one full time trailer on your site or two, the maximum short-term guests allowed on a site at any one time is 1 Guest Unit. The lessee is responsible for the actions and behaviors of their guests, please remind them of the rules at Castle Valley Campground and the consequences you could face for their behavior if not followed. If someone is on your site without a lessee present, they will be evicted immediately. Any Lessee wanting their guest to be able to stay over the allowable free stay must receive prior approval by management. Registration along with a prepaid fee of \$35/night with 15 amp is also required. Guests are limited to no more than 10 persons per site for overnight stays. Water and septic services may be provided for an additional charge.

Castle Valley Campground is unable to provide any overflow camping sites for night-to-night guests this season.

STRUCTURES AND RENEWAL

48. No permanent structures of any type are allowed but certain temporary structures are. Castle Valley Campground Management must approve all temporary structures including decks and sheds prior to installation or building as certain restrictions apply. If a temporary structure is built or installed prior to approval, both Castle Valley Campground and the MD of Pincher Creek reserve the right to have the structure removed at the owner's expense. Temporary structures – (gazebos or sheds for example) are limited to no more than 1 item per site (decks are not included in this, for example, each full-time trailer may have a deck each and 1 shed or gazebo to share on their site). If you choose not to renew your site, there may be a fee to fix any damage to the site caused by the temporary structure or landscape items such as pavers, for the reseeding of grass.

49. A Non-refundable Renewal Payment of \$750/ single trailer site and \$500/trailer on double trailer site is due no later than September 1st of the current lease year. If not renewing your site for the next year you may sell any temporary structures onsite or it must be removed by September 30th of the lease year. If not removed, you forfeit all property rights to it and will possibly be charged for the dismantling and removal of the unit. Temporary Deck and Shed structures may remain onsite during the offseason providing your renewal payment for the following season has been received by September 1st, for the next season. Please see liability clause for further information. A \$750 Non-refundable Initial Payment for single trailer site or \$500/trailer on double site is required by September 1st to hold your site until April 1st when the remainder of site payment is due.

50. Please ensure all out-door structures and items are properly secured to the ground. Strong wind gusts can come without warning and pose damage or injury to others and property. Any item that is not properly secured will not

be allowed for use in the campground. The Lessee is responsible and liable for all damages or injuries that may occur to their own or others property for non-properly secured items.

51. Castle Valley Campground has an approved list of shrubs that may be planted on your site. These shrubs may only be planted on the tree line or in line with the rocks on the back of your site. Any shrub or plant, planted that is not on the approved list or planted outside of these areas will not be allowed. As tree lines are shared we ask that you work with your neighbor to make mutual decisions. All pruning, watering, maintenance and care of shrubs are the responsibility of the lessee.

RESPECT YOUR NEIGHBOURS. RESPECT NATURE. RESPECT THE CAMPGROUND. HAVE FUN!

All of these rules have been created to protect our guests, nature and the harmonious, peaceful, tranquil environment we intend Castle Valley Campground to project. Although we do not want to ever be put in a situation where we need to evict someone or not be able to re-new someone's lease, it is a measure Management reserves the right to take in situations where and when we deem necessary. The protection of most importantly, you- our campers, guests, staff, nature, neighbors, land on which the campground resides, and the reputation and atmosphere of Castle Valley Campground is of utmost significance to management, therefore all measures necessary to ensure a safe, respectable, friendly, family orientated, relaxing environment will be taken. Please note that Castle Valley Campground Ltd. may be referred to in this document, herein after as, the term "Lessor", "Management", "CVC", "Staff" or Castle Valley Campground. And that the "Lessee" may be referred to in this document, herein after as "Tenant(s)", "Person(s)" and or "Camper(s)".

Management reserves the right to add to, delete, or otherwise, modify these rules and policies on notice to the Lessee in writing, which amendments, modifications, deletions, or additions shall have full legal effect as if inserted into this lease in the first instance.

Furthermore, Management reserves the right to make exceptions at their discretion.

Time is of the essence with respect to all obligations and payments under this Agreement.

Year	HIGHEST RATE FOR THE YEAR	HIGHEST RATE FROM Jan 1 To March
2016	47.9 m ³ /s May 9th	6.41 m ³ /s March 31
2017	94.7 m ³ /s May 24th	15.1 m ³ /s March 19th
2018	102 m ³ /s May 18th	8.30 m ³ /s Jan 6th
2019	85.4 m ³ /s June 2nd	4.03 m ³ /s March 26th
2020	136 m ³ /s June 1st	4.34 m ³ /s Feb 22nd
2021	91.3 m ³ /s June 4th	2.43 m ³ /s March 31st
2022	73.3 m ³ /s June 11th	8.85 m ³ /s March 28th

HIGHEST RATE FROM OCT 16TH TO DEC 31ST

22.2 m³/s Oct 16th

14.3 m³/s Nov 24th

6.78 m³/s Nov 3rd

8.52 m³/s Nov 2nd

9.76m³/s Nov 6th

39.0m³/s Nov 16th

3.85m³/s Nov 1

HIGHEST RATE DURING THE OFF SEASON

47.9 m³/s May 9th

64.9 m³/s May 14th

68.1 m³/s May 14th

48.2 m³/s May 14th

27.9 m³/s May 14th

25.6 m³/s May 14th

22.1 m³/s May 14th

In the Court of Appeal of Alberta

Citation: High River (Town) v. High River (Town) Subdivision and Development Appeal Board, 2010 ABCA 339

Date: 20101112
Docket: 1001-0211-AC
Registry: Calgary

Between:

The Town of High River

Applicant

- and -

**Subdivision and Development Appeal Board of the Town of High River,
586307 Alberta Ltd. operating as Crowfoot Wine & Spirits
and Donald J. Richardson**

Respondents

**Reasons for Decision of
The Honourable Mr. Justice Peter Martin**

Application for Leave to Appeal

**Reasons for Decision of
The Honourable Mr. Justice Peter Martin**

[1] The Town of High River (“Town”) seeks leave to appeal the July 23, 2010 decision of the Subdivision and Appeal Board of the Town of High River (“Board”), approving a development permit to Crowfoot Wine & Spirits (“Crowfoot”), that changed the use of the subject site to a liquor store.

Background

[2] Crowfoot’s proposed liquor store is a discretionary use under the Land Use Bylaw (“Bylaw”). Its development permit application faced two fundamental challenges. First, the proposed liquor store was to be located immediately adjacent to a public park on the east side of the site. That fact meant that the proposed use was contrary to s. 9.27.3 of the Bylaw, which requires that a liquor store “shall not be located closer than 150 meters (492 ft.) to any public park ... at the time of the development permit application.” To approve the development permit, the Board had to grant a variance pursuant to s. 687(3)(d) of the *Municipal Government Act* (“MGA”), which authorizes the Board to issue a development permit that contravenes the Bylaw where it is of the view that the proposed development would not unduly interfere with the amenities of the neighbourhood, or materially interfere with or affect the use, enjoyment or value of the neighbouring parcels of land.

[3] The second concern was that the proposed development is located in close proximity to an existing liquor store to the west of the site. That triggered s. 9.27.4 of the Bylaw, which applies whenever a proposed liquor store is located within 150 meters of an existing similar use, and requires the development authority to consider “any cumulative impacts of the facilities on existing development within the area.” The Bylaw provides that 300 meters (984 ft.) is the minimum “preferred” distance.

[4] A number of residents objected to the proposed application, and provided the Municipal Planning Commission with written complaints. The tenor of those objections were that the proposed liquor store would be located immediately adjacent to the park and that High River already had too many liquor stores. The Commission denied the development permit application.

[5] Crowfoot successfully appealed that decision to the Board. Several objections were made to the Board, both in writing and in person, including objections from some liquor stores already operating in the area. Despite these objections, the Board issued the development permit, subject to the condition that a fence be erected along the east and north side of the site. The Board’s stated reasons for its decision were as follows:

The [Board] has no jurisdiction to restrict the number of businesses of a specific type within the town.

There are already existing businesses of this type within 150 meters of a park or playground.

It is unclear how the cumulative impact as referenced in the Land Use Bylaw 3960/99 would change by allowing this business on this site.

Proposed Grounds of Appeal

- [6] The Town now seeks leave to appeal, based on the following proposed grounds of appeal:
- i. Whether the Board erred by approving a development permit for a liquor store located less than 150 meters from a public park?
 - ii. Whether the Board erred by approving a development permit for a liquor store located less than 150 meters from an existing liquor store?
 - iii. Whether the Board erred by deciding it did not have the jurisdiction to restrict the number of businesses of a specific type within the Town?
 - iv. Whether the Board erred by failing to provide adequate reasons for its decision?
 - v. Whether the Board based its decision on irrelevant facts?

Test for Leave

[7] Section 688(3) of the *MGA* authorizes a judge of this court to grant leave to appeal on a question of law or jurisdiction that is of sufficient importance to merit further appeal and has a reasonable chance of success.

Analysis

[8] As indicated, the Town raises several grounds of appeal. However, the overriding complaint appears to relate to the adequacy of the Board's reasons. Indeed, that ground seemingly underpins each of the other grounds of appeal. For that reason, I will address that proposed ground of appeal first.

[9] The Town argues that the Board's reasons do not explain why it varied the setback requirements under s. 9.27.3 of the Bylaw, and the reference in its reasons that existing uses contravene this provision of the Bylaw indicates that the Board may have based its decision on irrelevant matters. The Town points out that the record makes no reference to the Board's variance power under s. 687(3)(d) of the *MGA*, so it is unclear whether the Board even recognized that a

variance was required to approve the development permit. Even if it did, it remains unclear how the Board assessed the impact that the proposed development would have on the neighbourhood's amenities, or on the use, enjoyment or value of the neighbouring properties. Additionally, the Town argues that the Board's reasons do not demonstrate the basis upon which the Board assessed the "cumulative impacts", as are required to be considered by virtue of s. 9.27.4 of the Bylaw, and the Board's statement that it does not have jurisdiction to restrict the number of businesses within the community indicates that the Board erred by failing to consider its authority to restrict the proliferation of certain types of businesses within a community. In sum, the Town submits that the reasons fail to meet the test established by this court in its earlier decisions, such as *Keephills Aggregate Co v. Parkland (County) Subdivision & Development Appeal Board*, 2003 ABCA 242, 348 A.R. 41 ("*Keephills*"), *Shane Homes Limited v. Chestermere (Town)*, 2009 ABCA 185 ("*Shane Homes*") and *Lor-al Springs Ltd. v. Ponoka County Subdivision and Development Appeal Board*, 2000 ABCA 299.

[10] Both the Board and Crowfoot acknowledge that the Board's reasons are "succinct", but they submit they are adequate when viewed in context. For instance, it is suggested that the condition to erect a fence between the proposed liquor store and the park indicates that the Board factored into its analysis the impact that the proposed use would have on the neighbouring properties. Moreover, it is noted that the Board specifically referenced the cumulative impacts in its reasons. In addition, it is argued that the Board's statement that it could not restrict the number of businesses in the area is a recognition by the Board that it cannot restrict competition. This view is supported by the fact that Crowfoot's competitors were the only parties who objected in person to the proposed development.

[11] This court has previously established that the test regarding the adequacy of the Board's reasons is whether they demonstrate why or how or on what evidence the Board reached its conclusion. That assessment must keep in mind that the Board's reasons are not to be judged based on a standard of perfection, that the Board's reasons must take into account the context of the Board's proceedings, and that factual findings are necessary to resolve contradictory evidence before the Board: *Keephills* at paras. 21 - 24.

[12] In my view, the issue as to the sufficiency of the Board's reasons meets the test for leave to appeal. It is a reasonably arguable ground of appeal, both in relation to the Board's decision to grant a variance under s. 487(3) of the *MGA*, as well as the Board's assessment of the cumulative impacts under 9.27.4. With respect to the former, I note this court's previous decisions that one cannot presume that the statutory criteria under s. 687(3)(d) was considered without some indication in the reasons: *Shane Homes* at para. 13. Here, the record does not contain any reference to the statutory criteria, aside from the conclusory statement in the preamble of the Board's Order that it had due regard to the *MGA* and the Bylaw, nor is there any apparent analysis of that criteria.

[13] As to the Board's assessment of s. 9.27.4, I note that the minutes from the Board's proceedings indicate some uncertainty on the part of the Board members as to how they were to

assess the cumulative impacts. In particular, the minutes indicate some confusion as to what was intended by the Bylaw's requirement that cumulative impacts be considered. Accordingly, a question was posed to the Town's Planner, who made a presentation to the Board regarding the development permit application. The minutes indicate that the planner was unable to comment on the intent behind that portion of the Bylaw. An inquiry was then made as to whether the question was more appropriately directed to the Municipal Planning Commission; the Commission's Chairman responded "that was not the case." The Board then convened to consider the application and returned approximately one hour later to announce that the development permit was conditionally approved. The only insight into the Board's analysis of the cumulative impacts was that "It is unclear how the cumulative impact as referenced in the [Bylaw] would change by allowing this business on this site." In my view, it is arguable that these reasons are inadequate to explain what the Board considered to be the cumulative impacts from the development and how they affected existing developments in the area.

[14] Similarly, the Board's explanation as to its jurisdiction to restrict the number of businesses of a particular type within the Town is potentially inadequate. The parties agree that the Board may not regulate competition, as that is not an appropriate planning consideration, but it may impose limitations on certain types of businesses to prevent the undue proliferation of that type of business within the area. While the Board's reasons could be interpreted as being directed at Crowfoot's competitors, who appeared before the Board to object to the proposed development, there were additional written submissions that expressed concern as to the proliferation of liquor stores within the Town. It is not apparent from the reasons whether the Board gave any weight to these written submissions. In any event, the Board's reasons do not make it clear that it was addressing concerns as to competition when it explained that its jurisdiction did not allow the Board to place limits on the amount of certain businesses in the area.

[15] Accordingly, I grant leave to appeal the adequacy of the Board's reasons.

[16] I also consider it necessary to allow the Town the opportunity to address its remaining concerns raised by its leave application, on the basis that those issues are dependent upon the sufficiency of the Board's reasons. In other words, should the panel hearing this appeal determine that the Board's reasons are inadequate, the Board's decision presumably becomes null and void: Frederick Laux, *Planning Law and Practice in Alberta*, 3rd ed. (Edmonton, Juriliber Limited, 2010) at 10-40. However, should the panel determine that the reasons are sufficient, a review of those reasons may reveal that the Board decided the application on the basis of an erroneous or flawed analysis. If so, the failure to grant leave on the remaining issues could potentially leave the Town without an appropriate remedy.

[17] To explain, the Town's first and fifth proposed ground of appeal relates to the Board's decision to grant a variance of the Bylaw by allowing a liquor store to be located within 150 meters of a public park. Assuming that the reasons are adequate, when viewed in light of the context of the proceedings before the Board (including the fact that the Board imposed the condition regarding the

erection of the fence), it remains to be determined whether those reasons demonstrate that the Board appropriately identified and applied the test for granting a variance pursuant to s. 687(3)(d) of the *MGA* and whether it relied on relevant evidence in doing so. So even if the Board's reasons are considered to be adequate, it is arguable that the Board erred in failing to apply the appropriate test required by the *MGA*. Accordingly, I grant leave on the issue of whether the Board erred in the identification and application of the appropriate test for granting a variance of the Bylaw, as required by s. 687(3)(d) of the *MGA*.

[18] Additionally, the second and third grounds of appeal both relate to the Board's decision regarding s. 9.27.4 of the Bylaw. In this instance, the Board was required to consider the cumulative impacts of the proposed development on the existing facilities in the area. If the reasons given by the Board are adequate on these questions, the issue as to whether the Board applied the appropriate test required by the Bylaw, and whether it properly limited its jurisdiction to consideration of the proliferation of liquor stores within High River, must be addressed. In my view, these give rise to arguable points of law that are of sufficient merit to warrant further appeal. Accordingly, I grant leave on the question of whether the Board erred in exercising its authority under s. 9.27.4 of the Bylaw.

Application heard on October 13, 2010

Reasons filed at Calgary, Alberta
this 12th day of November, 2010

Martin J.A.

Appearances:

J.M. Klauer
for the Applicant

K.H.P. Ham
for the Respondent, Subdivision and Development Appeal Board of the Town of High
River

M.A. Marion
for the Respondents, 586307 Alberta Ltd., operating as Crowfoot Wine & Spirits, and
Donald J. Richardson