

Martin O'Malley
Governor
Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair
Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS
1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

May 19, 2008

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 08-3527, Mayo

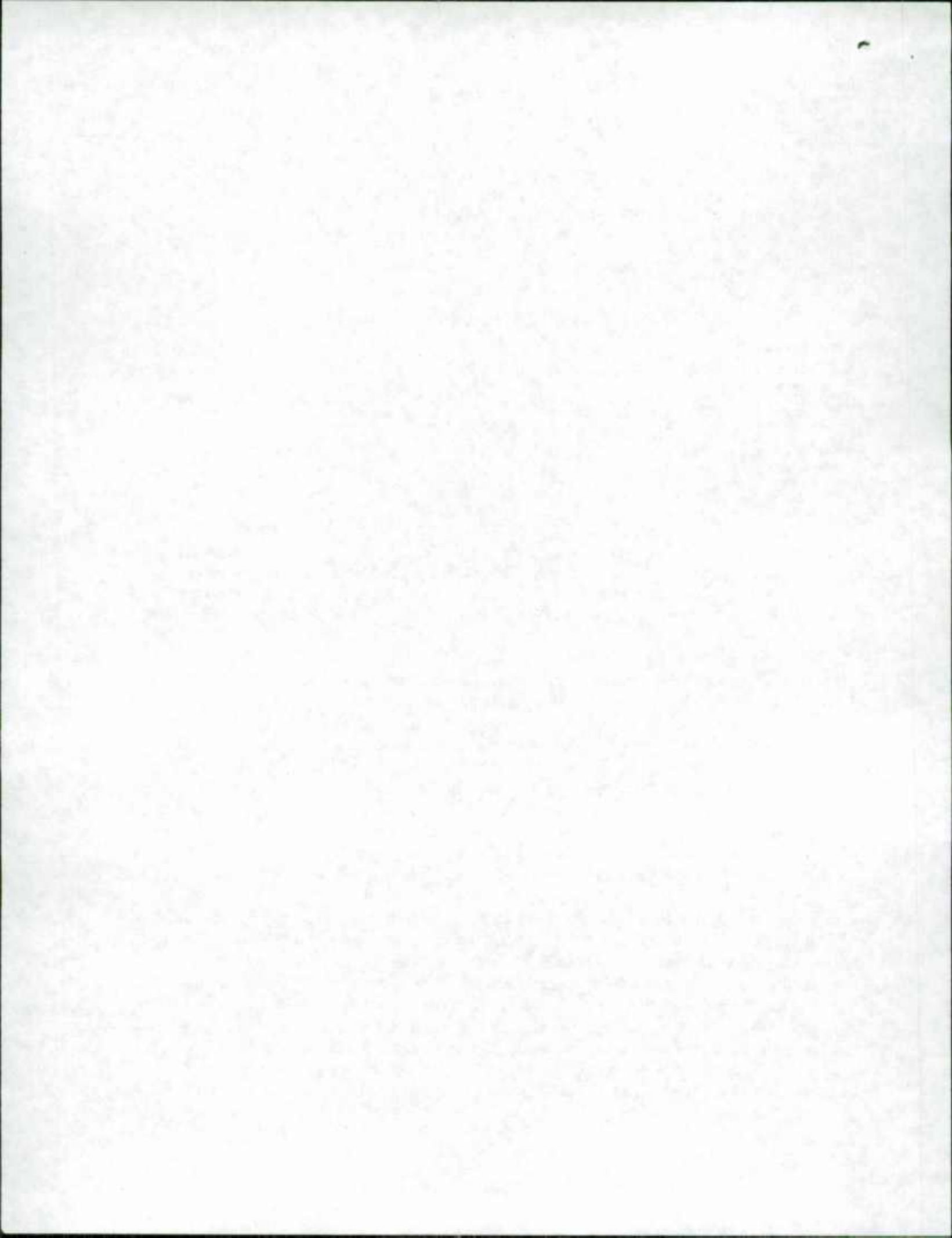
Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting an after-the-fact variance to the 100-foot Buffer and steep slope requirements for continuation of a deck. The 7,441 square foot property is designated a Limited Development Area (LDA) and is currently developed with a dwelling, driveway, two decks, walkway and steps and a pier.

This office opposes granting the requested variance. The deck is not allowed in the Buffer because it is not a water dependent facility and does not constitute an acceptable means of shoreline erosion control. The deck is an accessory structure in the Buffer for which the applicant must show that all of the variance standards are met in order to be granted a variance. The applicant has not shown in the submitted materials that any of the variance standards have been met in conjunction with the variance request. Therefore, the variance request should be denied, and the applicant should be required to remove the deck and to provide plantings in order to address the violation and to restore that section of the Buffer.

Disturbance to Steep Slopes, Grading and Structures in the 100-foot Buffer

In 2002 and 2004, the General Assembly strengthened the Critical Area Law, and reiterated its commitment to the Chesapeake Bay Critical Area's water quality and wildlife habitat values, especially emphasizing the importance of the 100-foot Critical Area Buffer. In particular, the General Assembly reaffirmed the stringent standards, which an applicant must meet in order for a local jurisdiction to grant a variance to the Critical Area law. The State law provides that variances to a local jurisdiction's Critical Area program may be granted only if a zoning board finds that an applicant has satisfied its burden to prove that the applicant meets each one of the county's variance standards. Furthermore, the State law establishes a presumption that a proposed activity for which a Critical Area variance is requested does not conform to the purpose



and intent of the Critical Area law. The Board of Appeals must make an affirmative finding that the applicant has overcome this presumption, based on the evidence presented. Further, the applicant can not meet each one of Calvert County's variance standards, and in particular, the applicant does not meet the standards included and discussed below.

Relevant Variance Standards

11-1.01.B.6.c-the variance is the minimum adjustment necessary to afford relief from the regulations

The requested variance for construction of the deck is not necessary for the applicant to gain relief from the regulations because the applicant already has a deck and currently enjoys reasonable and significant use of the property without the waterside deck.

11-1.01.B.6.d-special conditions or circumstances exist that are peculiar to the land or structure within Calvert County and that a literal enforcement of provisions within the County's Critical Area Program would result in unwarranted hardship

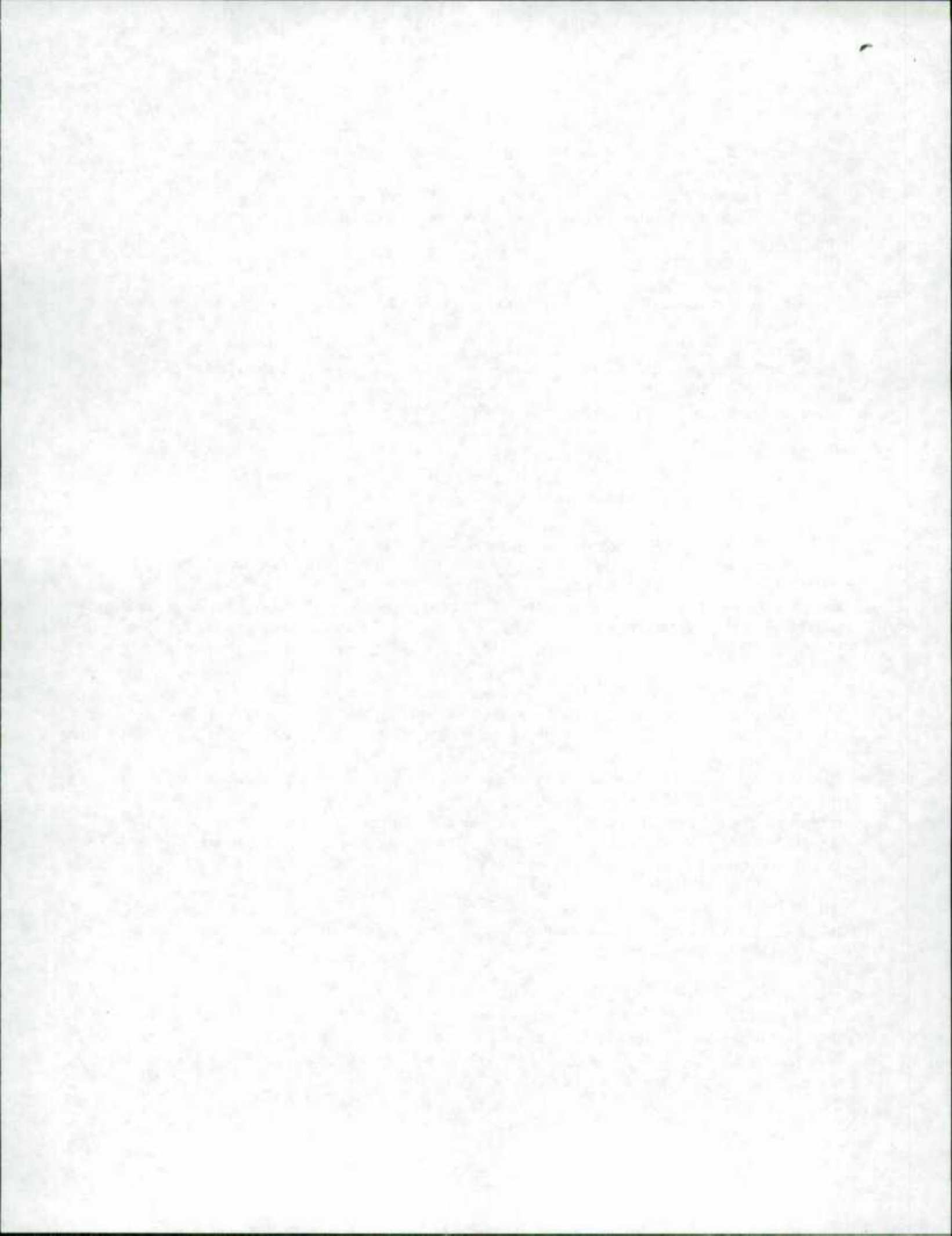
Denial of the variance necessary for keeping the deck in the Buffer will not create an unwarranted hardship for the applicant, because this term has been defined by the General Assembly to mean, without a variance, the applicant would be denied reasonable and significant use of the entire parcel or lot. The property is already developed with a dwelling, deck, driveway, walkway and steps and a pier and the applicant's inability to construct and retain a second deck does not interfere with the applicant's reasonable and significant use of the entire parcel or lot.

11-1.01.B.6.e-a literal interpretation of the Critical Area Legislation and the Calvert County Critical Area Program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of the County

A literal interpretation of Calvert County's regulation of development in the Buffer will not deprive the applicant of a right commonly enjoyed by other properties in similar areas. The property is already developed with a deck, and therefore, the applicant is not being denied the right to have a deck. The applicant has not shown that construction of a second deck is a right commonly enjoyed by properties in their area.

11-1.01B.6.f-the granting of a variance will not confer upon an applicant any special privilege that would be denied by the Calvert County Critical Area Program to other lands or structures within the County's Critical Area

If the variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as in similar situations in the County's Critical Area. This office would not support similar variance requests to disturb the Buffer where evidence has not been provided to show that it is necessary to locate a dwelling, a water dependent facility, or shore erosion control structure on the property. The applicant has the burden of proof and the



burden of persuasion to overcome the presumption that the proposed variance does not conform to the Critical Area Law. We do not believe the applicant has overcome this burden.

11-1.01B.6.g-the variance request is not based upon conditions or circumstances which are the result of actions by the applicant, nor does the request arise from any condition relating to land or building use, either permitted or non-conforming, on any neighboring property. If the variance request is based on conditions or circumstances that are the result of actions by the applicant, including the commencement of development activity before an application for a variance has been filed, the Board of Appeals may consider that fact

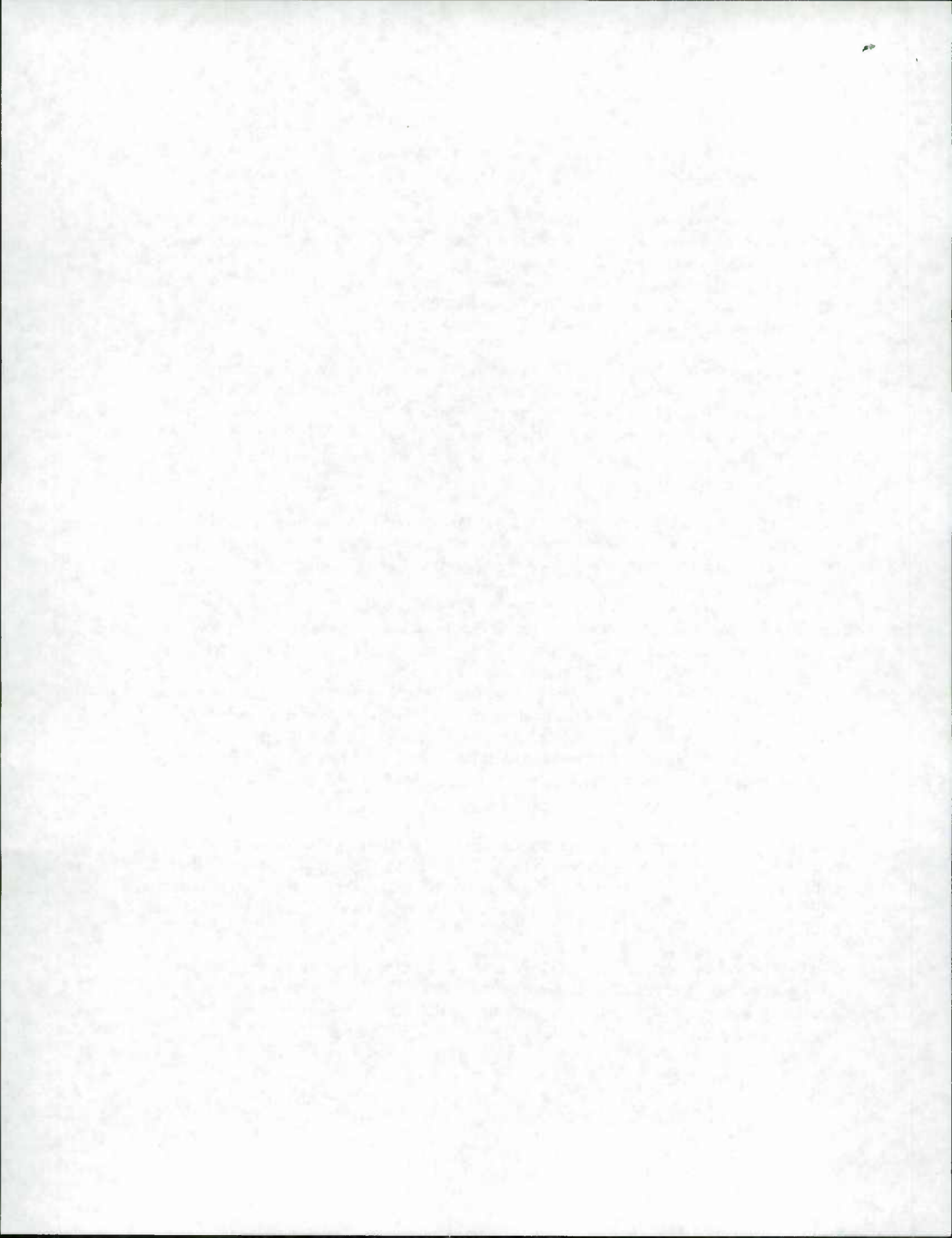
The variance request is entirely based upon conditions which are the result of actions by the applicant. If the applicants had applied for a variance to construct a detached deck built at the edge of the shoreline, this variance would not have been granted and the deck could not have been built. Accessory structures in the Buffer that are not water dependent or providing shoreline erosion control would not have been allowed. Therefore, the applicant should not be permitted to keep the deck.

11-1.01B.6.h-the granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the County's Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law.

In contrast with the above standard, granting the requested variance is not in harmony with the general spirit and intent of the Critical Area law and regulations. The existence of the deck prevents establishment of a vegetated Buffer in that area and such vegetation would provide benefits to fish, wildlife, and plant habitat. The County law recognizes that a naturally vegetated fully functioning 100-foot Buffer is vital to the water quality of the Chesapeake Bay and its Criteria are intended to assure that the integrity of the Buffer is not compromised by the individual and cumulative impacts of development within the County. This proposal not only further reduces the functions provided by the Buffer on this site, but would contribute to the individual impacts of development on the Bay.

Because the applicant can not meet each one of Calvert County's variance standards, the variance should be denied and the unpermitted deck should be removed. We also recommend that the applicant work closely with County staff to develop a planting plan for all of the required mitigation on the property in order to reestablish a vegetated Buffer. We note that the County ordinance requires 4:1 mitigation when required in conjunction with a violation, as is the case in this matter.

Thank you for the opportunity to provide comments regarding this variance request. Please include this letter within the file and submit it as a part of the record for this variance. In addition, please notify the Commission in writing of the decision made in this case. If you have any questions, please call me at 410-260-3481.

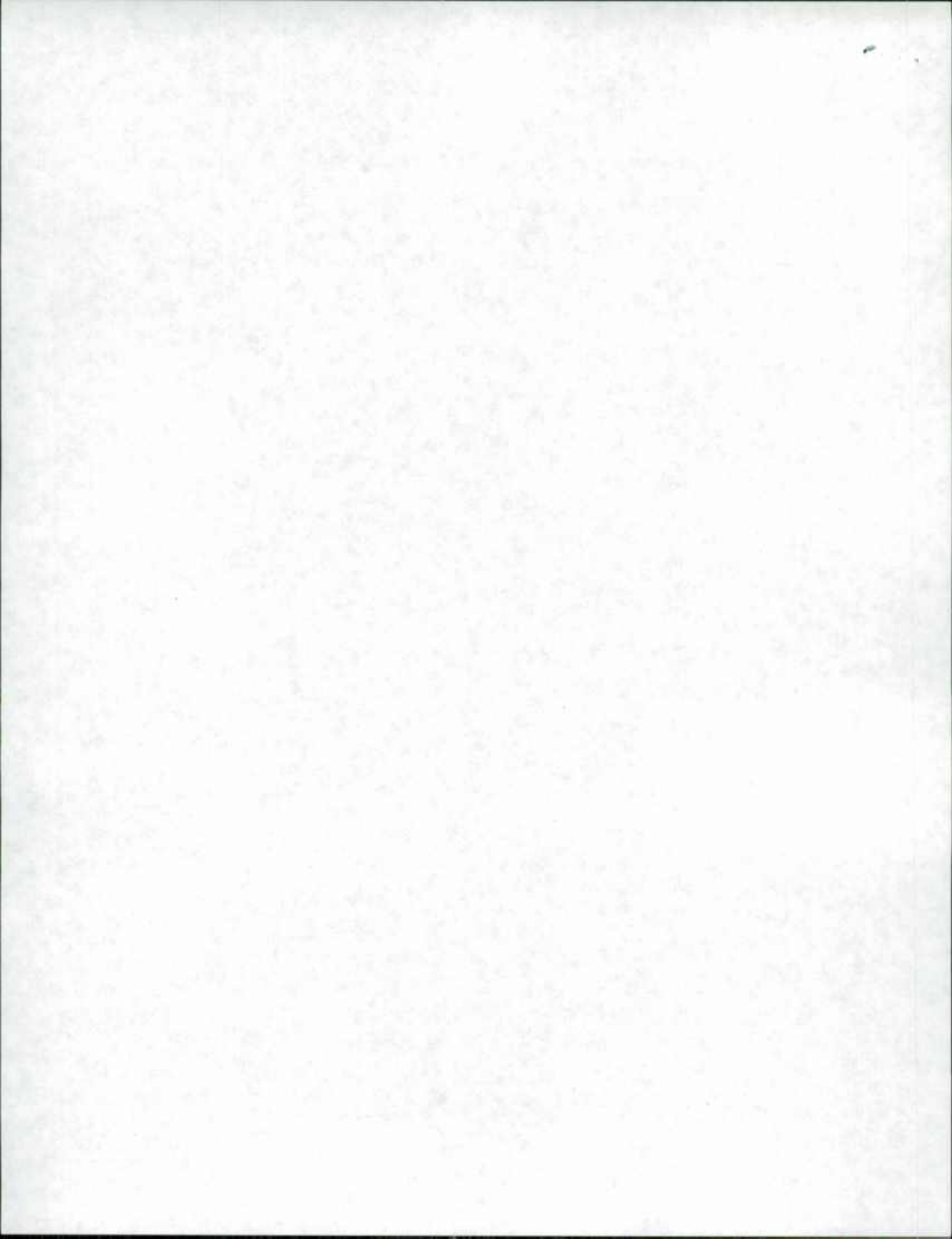


Ms. Whitt
May 19, 2008
Page 4 of 4

Sincerely,

A handwritten signature in black ink, appearing to read 'Amber Widmayer', written in a cursive style.

Amber Widmayer
Natural Resources Planner
CA 239-08



**CALVERT COUNTY BOARD OF APPEALS
ORDER**

Case No. 08-3527

Public Hearings: June 5, 2008 and August 7, 2008

Catherine & Danny Mayo have applied (after-the-fact) for a variance in the 100' waterfront buffer requirement for a deck and landings and a variance in the steep slope requirement for landings located on slopes of 15% or greater. The property is located at 55 Chesapeake Avenue, Prince Frederick (Tax Map 22A, Block B, Lot 6RR, Dares Beach) and is zoned RD Residential District.

The case was presented June 5, 2008 before Board of Appeals members Mr. Michael Reber, Chairman; Dr. Walter Boynton, Vice Chairman; and Mr. Michael Redshaw, member; (the Board). Mr. Carlton Green, Esquire, served as the Board's Counsel. Ms. Catherine Mayo was present and testified at the June hearing. Mr. Nicholas Montgomery, Engineering Technician from Collinson, Oliff and Associates, Inc., was also present and testified on her behalf. Ms. Mayo testified on her own behalf at the August hearing.

AUTHORITY OF THE BOARD OF APPEALS

The jurisdiction of the Board of Appeals is based on Article 66B of the Annotated Code of Maryland, as amended. Article 11 Section 1.01.B of the Calvert County Zoning Ordinance provides that the Board of Appeals shall have the authority to grant variances from the Critical Area requirements of Section 8-1 of the Ordinance.

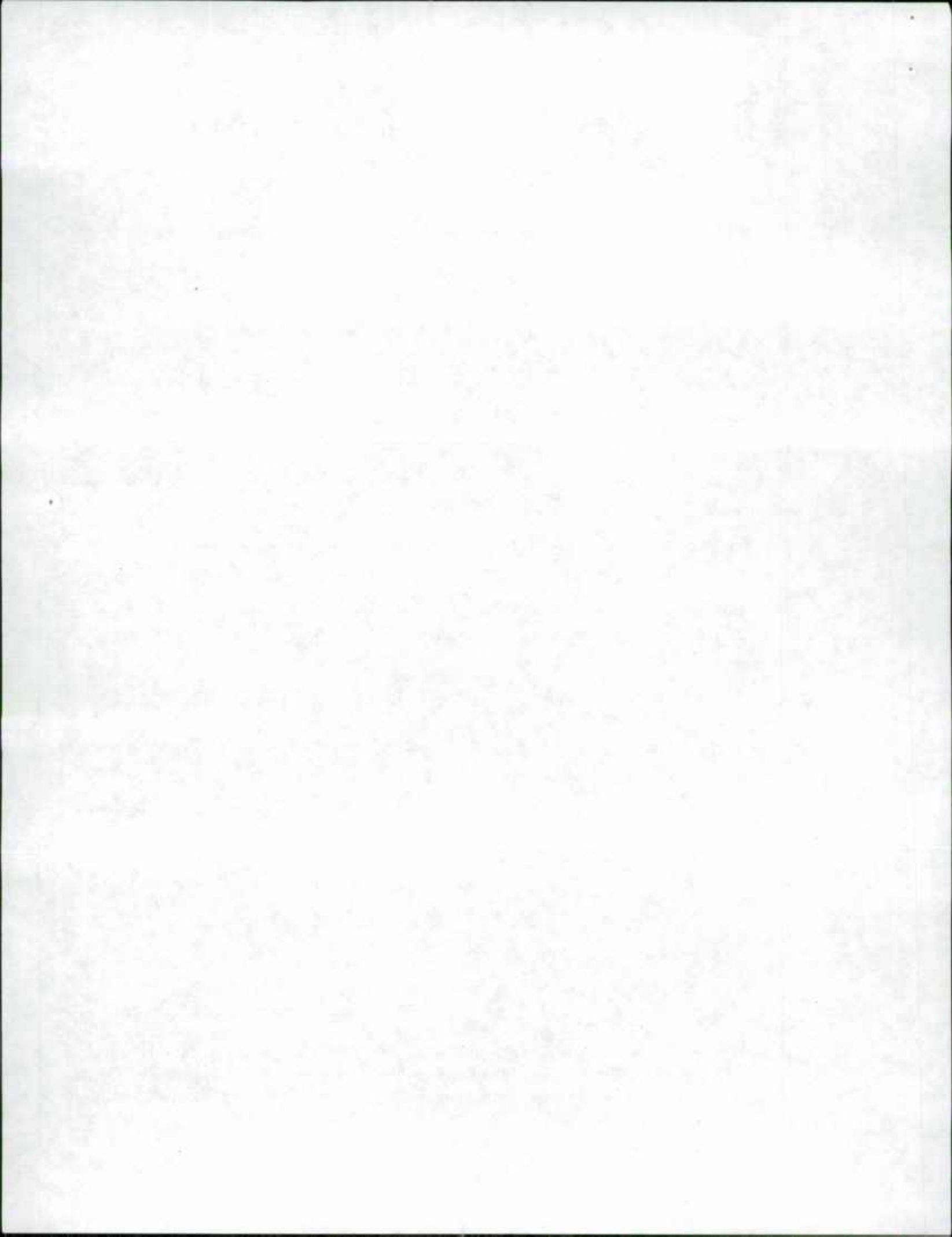
TESTIMONY & EVIDENCE PRESENTED

1. The following Applicants' Exhibits were entered into the record at the June hearing:
 - Exhibit No. 1 – Application
 - Exhibit No. 2 – Plat Submitted With Application
 - Exhibit No. 3 - Mayo Variance Request Package
 - Exhibit No. 4 – Topographical/Property Maps dated April 6, 2003 (3 pages)

RECEIVED

SEP 3 2008

CRITICAL AREA COMMISSION
Chesapeake & Atlantic Coastal Bays

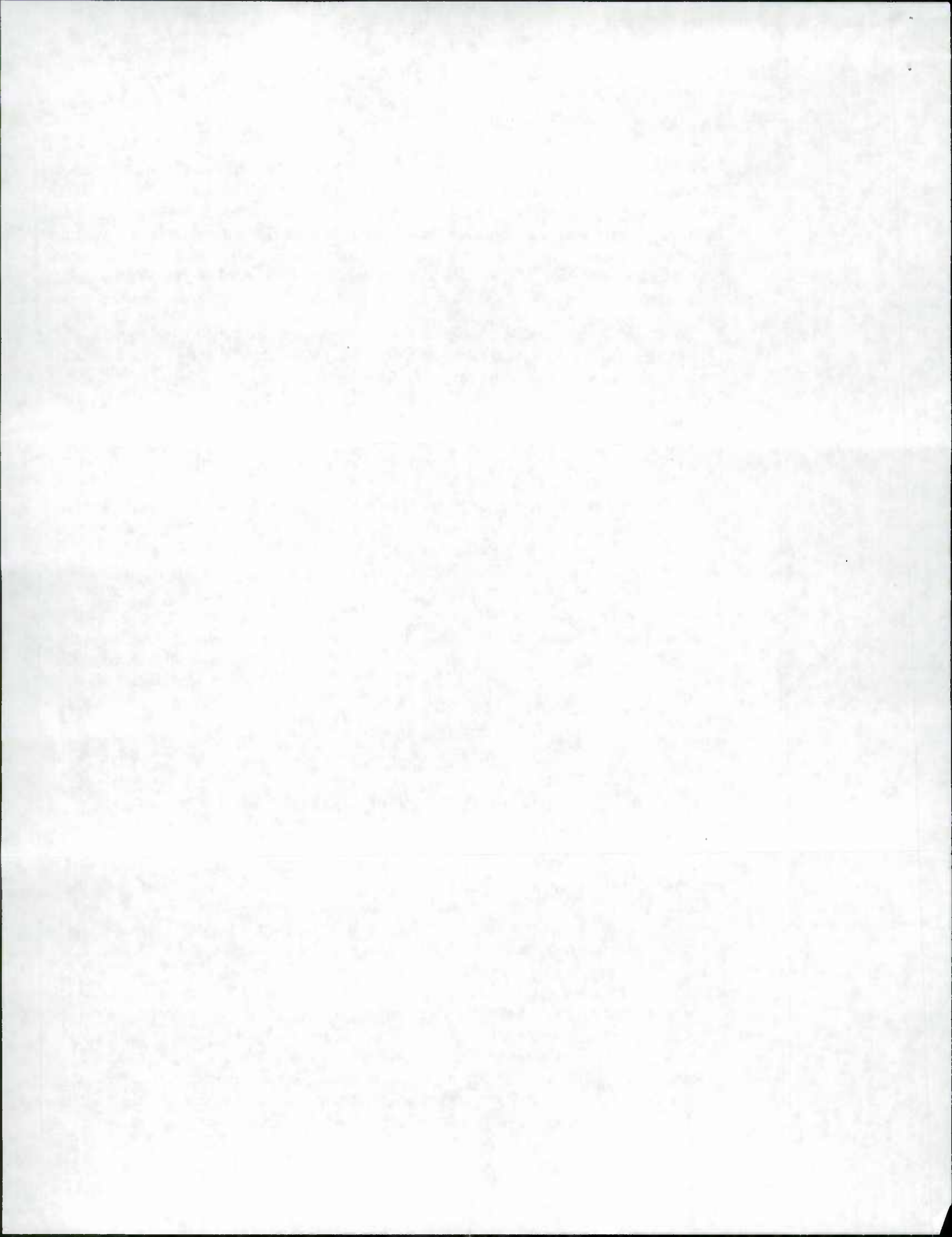


2. A Staff Report prepared by Roxana Whitt, Board of Appeals Administrator, was entered into the record at the June hearing as Staff Exhibit No. 1.
3. The following correspondence was entered into the record at the June hearing:
 - Letter dated May 19, 2008 from Amber Widmayer, Chesapeake Bay Critical Area Commission
4. The Board deferred action at the June hearing pending a site visit and to allow time for the information presented at the hearing (Applicants' Exhibit #3) to be provided to the Critical Area Commission for review and comment.
5. The case was again presented August 7, 2008 before the Board.
6. The following Applicants' exhibits were entered into the record at the August hearing:
 - Exhibit No. 5 – Memo dated June 8, 2008 from Ms. Catherine Mayo to the Board of Appeals & Critical Area Commission RE: Variance 08-3527, Mayo – Calvert County
 - Exhibit No. 6 – 08-3527 Variance Criteria Documentation from Applicants
7. The following exhibit submitted by the Board of Appeals Administrator was dated and entered into the record at the August hearing:
 - Exhibit No. 2 – Memorandum Package from Mary Beth Cook, Zoning Officer, to Roxana Whitt: Re BOA Case No. 08-3527

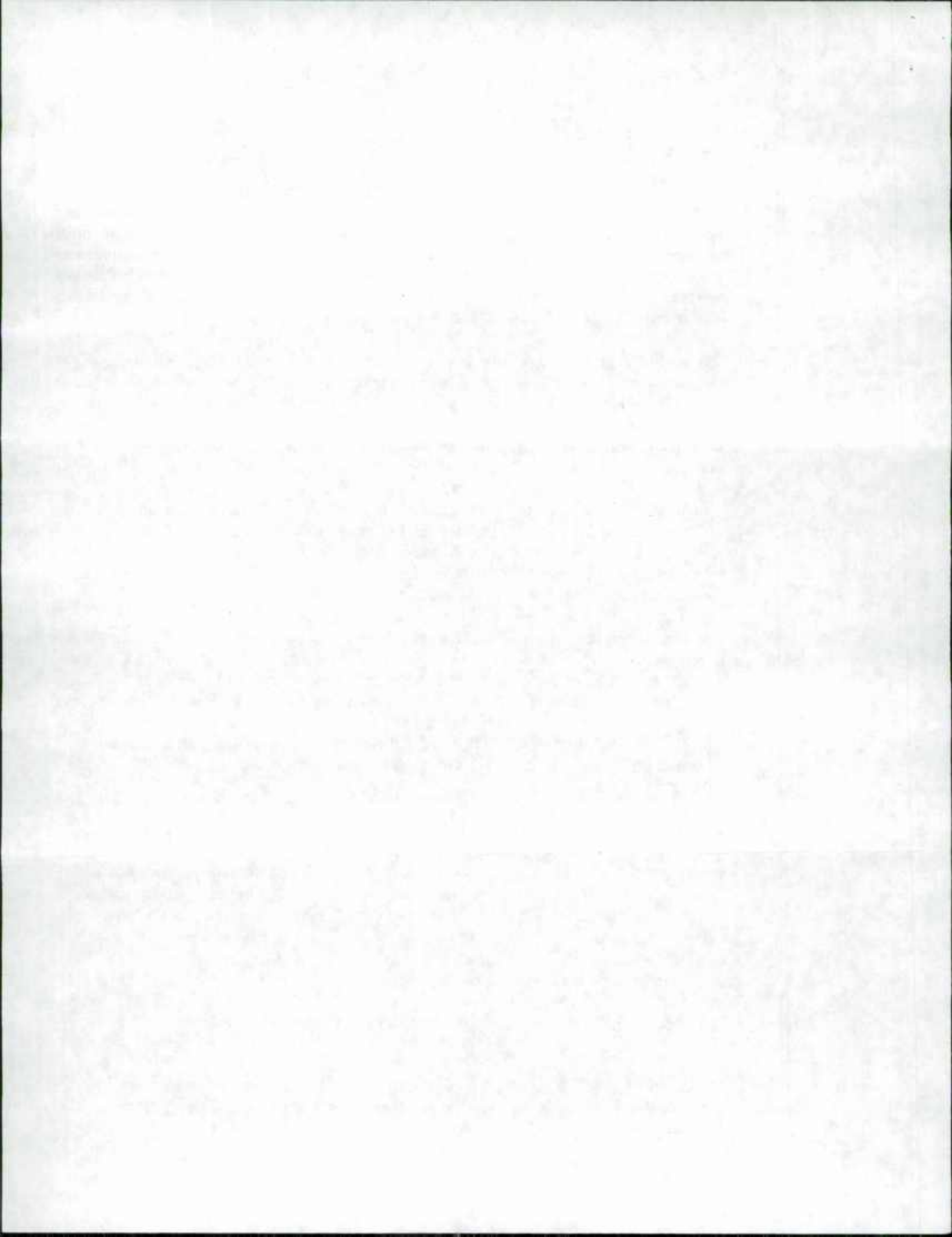
FINDINGS OF FACT

Based on the application, site visit, and testimony and evidence presented at the hearings the Board makes the following Findings of Fact:

1. The property is very small, consisting of .17 acre and measuring 40 feet x ~190 feet. It is situated atop a cliff on the east side of Chesapeake Avenue in Dares Beach, with waterfront on the Chesapeake Bay. It is developed with a 2-story house on basement that is situated on a relatively level knoll ~20 feet from the cliff edge, but not within the cliff setback. The house, with porch and deck, has overall dimensions of 30.35 feet x 47.7 feet and is served by a nitrogen-removing septic system. The cliff is approximately 30 feet in height and is heavily vegetated. A steep set of stairs descends to the waterfront. The shoreline is protected from normal erosion by a stone revetment at the base of the cliff. A pier with a landing on the south side, and small sets of stairs on the south and north sides, is located at the waterfront. The front portion of the lot has slopes in excess of 15% and stormwater from this area drains toward the roadfront. Approximately half the lot lies within the waterfront buffer. The half outside the buffer exhibits slopes greater than 15%



2. The shoreline in Dares Beach was substantially damaged by Hurricane Isabel in 2003. Subsequent to the storm, many homeowners in Dares Beach replaced structures that had been lost or damaged, and some also built new structures along the shoreline. Much of the work was done without building permits. There was confusion after the storm as to what permits were needed to repair and replace shoreline structures, and which agencies were responsible for issuing those permits. Structures that were lost in the storm were allowed to be replaced outside the normal permitting process.
3. The applicants in the subject case built a wooden deck, plus wooden steps and a landing at the waterfront that were not replacement structures. The deck is used for recreational purposes. The steps and landing provide access to the shoreline for use of personal watercraft, as the pier is elevated to accommodate tides and is too high for boarding of watercraft. The deck and landing are underlain by riprap that extends from the stone revetment.
4. Structures built without permits are required to receive after-the-fact approvals, including variances where necessary. The Maryland Critical Area law requires variance approval for the deck at the shoreline, the two sets of steps from the pier, and the landing adjacent to the deck. Variances are not required for the stairs that descend the cliff because they are in compliance with Section 8-1.08.D.3.b.i.c of the Zoning Ordinance.
5. The deck is an accessory structure that is not water-dependent, meaning its location at the waterfront and within the buffer is not required. The Board has consistently denied after-the-fact approvals for detached decks located within the waterfront buffer at Dares Beach with the lone exception of BOA 07-3427 in which sufficient testimony from neighboring property owners was provided to support the applicant's assertion that the deck at issue replaced a deck that existed prior to Critical Area regulations. The Critical Area Commission initially appealed the Board's decision in that case, and then subsequently withdrew its appeal.
6. The Board finds that the detached deck located at the shoreline in the subject case is not a replacement deck and does not conform to the general purpose and intent of Natural Resources Article, Title 8, Subtitle 18, COMAR Title 27 and the requirements of Calvert County's Critical Area program established in the Zoning Ordinance. The Board finds however, that decks attached to residences, including residences within the waterfront buffer, are common throughout the Critical Area. The subject house has a very narrow deck of 5-foot width which functions essentially as a walkway rather than a deck. Relocation of a portion of the decking at the shoreline to the level yard area at the rear of the house on this property is consistent with Critical Area law and would provide no special privilege to the applicants, nor would it result in negative impacts to water quality or habitat.
7. The Board finds that the small sets of stairs on each side of the pier provide access to the waterfront, which is necessary for maintenance including removal of storm debris, that is otherwise unattainable without steps.

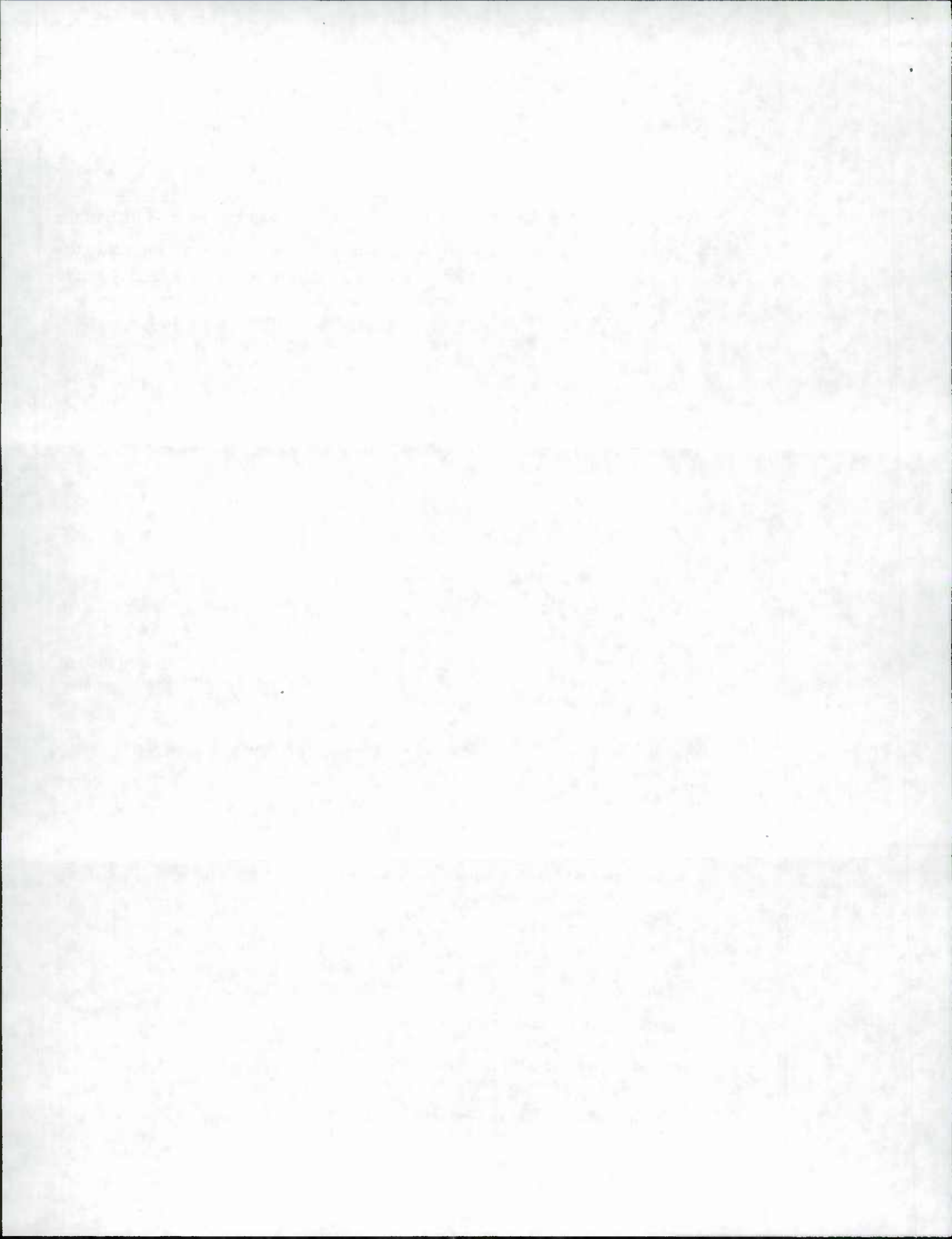


8. The Board further finds that there are special circumstances on this site, particularly when compared to other properties in the Dares Beach community. There are no bulkheads and no tiered terraces with retaining walls on the cliff face, which are common to other properties in this area. The stairs are a sheer drop to the waterfront. The applicants would not be able to locate a single detached structure anywhere on the property without variance approval because the entire property is constrained by steep slopes, the cliff setback and the waterfront buffer. Additionally, access to the stairs that provide access to the waterfront would be denied without a landing at the top of the stairs. Because of these peculiar circumstances, the Board finds that an extension of the landing shoreward of the stairs on the south side of the pier, not to exceed the width of the stairs (4 feet) and not to exceed 8 feet in length, for access to the steps and for minimal placement of materials commonly associated with water related activities is warranted. The landing will be located over the existing revetment and will have no negative impact on habitat or water quality.

CONCLUSIONS

Based on the above Findings of Fact and in accordance with Section 11-1.01.B of the Calvert County Zoning Ordinance, **the Board concludes the following with respect to the deck at the shoreline:**

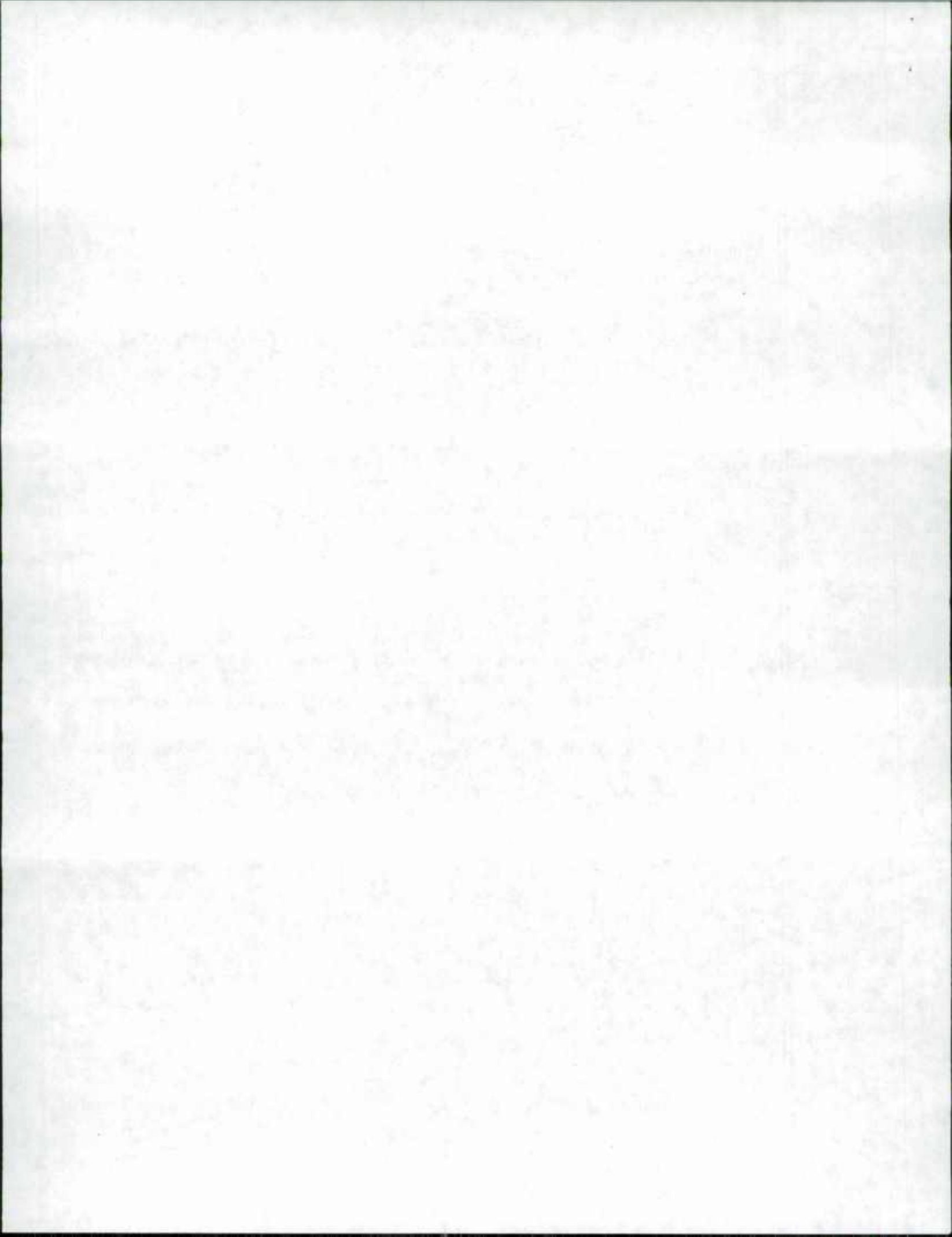
1. The Board concludes that the applicant has not overcome the presumption of nonconformance as required in Section 11-1.01.B.2 &3 of the Zoning Ordinance.
2. The Board concludes that the applicant has not met the following variance standards:
 - a. A variance for the deck at the shoreline will result in injury to the public interest because it is contrary to requirements of both the State and the County Critical Area law; and
 - b. the variance requested is not the minimum adjustment necessary to afford relief from the regulations
 - c. a literal interpretation of the Critical Area Legislation and the Calvert County Critical Area Program and related ordinances will not deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of the County.
 - d. granting the variance as requested would confer upon the applicant a special privilege that would be denied by the Calvert County Critical Area Program to other lands or structures within the County's Critical Area; and
 - e. granting the variance as requested would not be in harmony with the



general spirit and intent of the Critical Area law.

Based on the above Findings of Fact and in accordance with Section 11-1.01.B of the Calvert County Zoning Ordinance, **the Board concludes the following with respect to the landing, the steps on the north side of the pier, and a deck attached to the residence:**

1. The Board has the authority to grant the subject variances from the Critical Area requirements of Section 8-1 of this Ordinance.
2. The variance will not result in injury to the public interest.
3. Granting the variance will not adversely affect the implementation of the Comprehensive Plan.
4. The variance is the minimum adjustment necessary to afford relief from the regulations.
5. There are special conditions and circumstances that are peculiar to this property and a literal enforcement of provisions of Calvert County's Critical Area Program would result in unwarranted hardship.
6. A literal interpretation of the Critical Area Legislation and the Calvert County Critical Area Program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of the County.
7. Granting the requested variance will not confer upon the applicants any special privilege that would be denied by the Calvert County Critical Area Program to other lands or structures within the County's Critical Area.
8. The variance request is not based upon conditions or circumstances which are the result of actions by the applicants, nor does the request arise from any condition relating to land or building use, either permitted or non-conforming, on any neighboring property.
9. Granting the requested variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the County's Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law.



ORDER

It is hereby ordered, by a unanimous decision, that the variance (after-the-fact) in the 100' waterfront buffer requirement for the deck at the shoreline be **DENIED and that the deck be removed within 90 days of the signed date of this Order.**

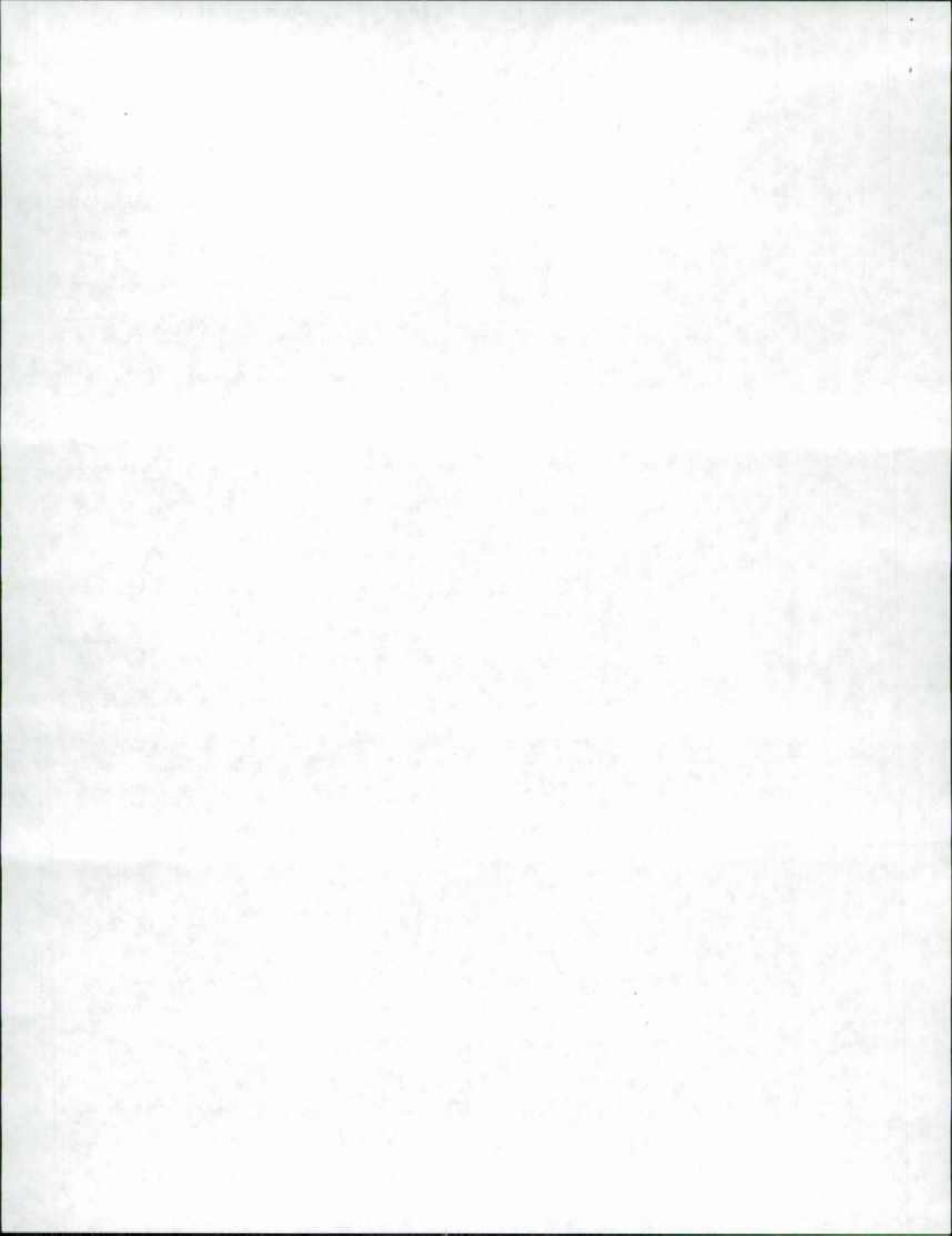
It is hereby ordered, by a unanimous decision, that variance approval for placement of a deck located at the rear of the house within the buffer be **GRANTED**; that variance approval for the steps leading from the pier to the waterfront be **GRANTED**; and that variance approval for placement of a landing adjacent to the pier, be **GRANTED, all subject to the following Conditions:**

1. The approved deck shall not exceed 180 square feet in size and may not extend more than eight feet shoreward of the existing narrow deck at the rear of the house, and may not extend beyond the current 30-foot width of the house. Footers for the deck shall be hand dug.
2. The landing is not to exceed maximum dimensions of 4 feet x 8 feet, including pilings, with the 8-foot length extending shoreward from the edge of the steps to provide access to the steps.
3. All permits and approvals required by the Calvert County Zoning Ordinance and the Department of Planning and Zoning and those required by any other departments, agencies, commissions, boards or entities, in accordance with County, State and Federal law, must be obtained for the development activity approved by this Order.
4. In accordance with Section 11-1.02.C.3 of the Calvert County Zoning Ordinance any violation of conditions imposed by the Board of Appeals shall be considered a violation of the Zoning Ordinance and subject to the enforcement provisions of Section 1-7.

APPEALS

In accordance with Section 6 of the Calvert County Board of Appeals Rules of Procedure, "any party to a case may apply for a reconsideration of the Board's decision no later than 15 days from the date of the Board's Order."

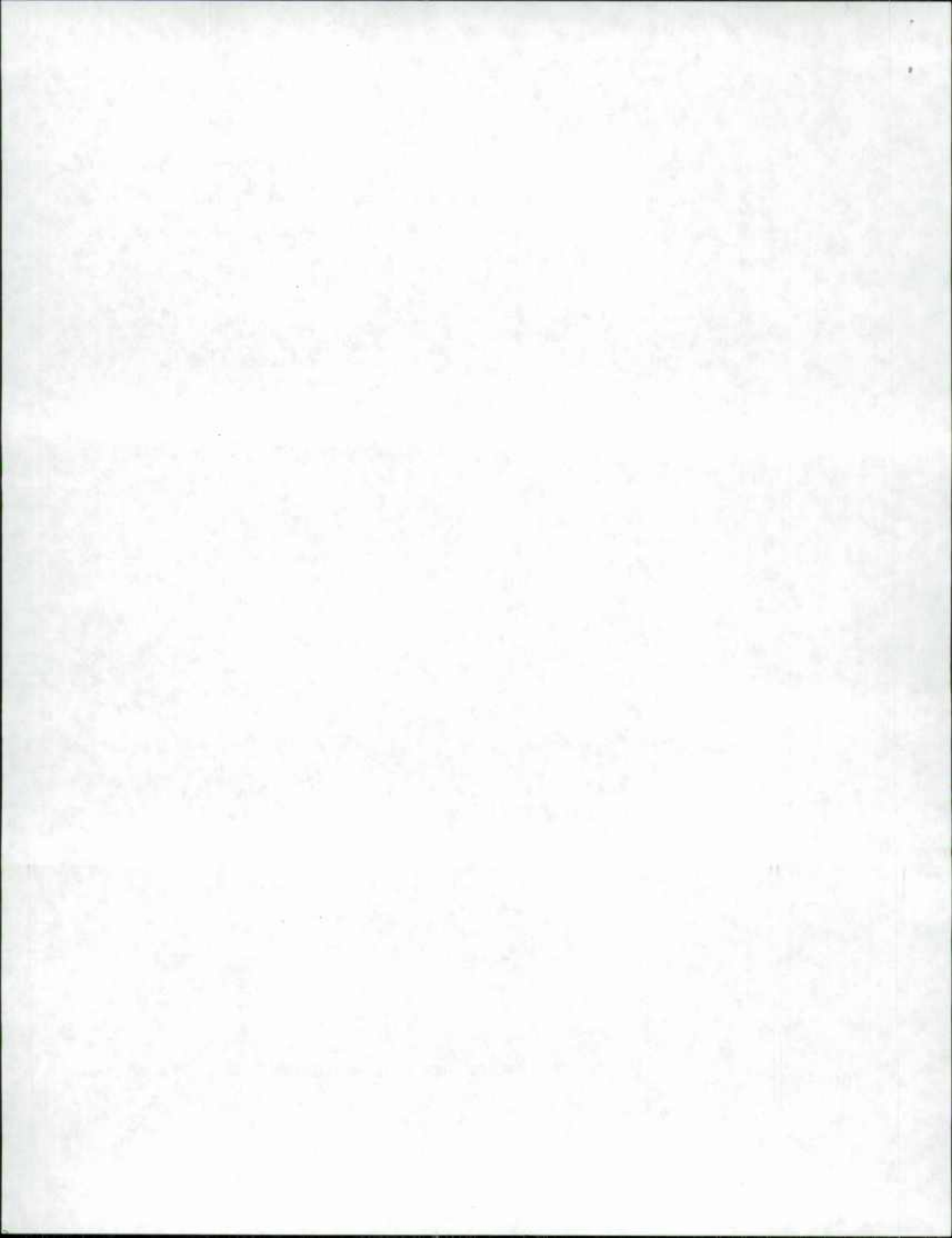
In accordance with Section 11-1.07 of the Calvert County Zoning Ordinance, Board of Appeals decisions may be appealed to the Circuit Court of Calvert County by (1) any person



aggrieved by any decision of the Board of Appeals or (2) any taxpayer, or (3) any officer, department, board or bureau of Calvert County. Such appeal shall be taken according to the Maryland Rules as set forth in Maryland Rules, Title 7, Chapter 200, as amended from time to time, within 30 days of the Board of Appeals Order.

Entered: September 2 2008
Pamela P. Helie, Clerk

Michael J. Reber
Michael J. Reber, Chairman



CAC
239-08

CALVERT COUNTY BOARD OF APPEALS

150 Main St.
Prince Frederick, MD 20678
410-535-2348 * 301-855-1243
TDD 800-735-2258

(P&Z USE ONLY)	
FEES: PER FEE SCHEDULE	
Date Filed:	_____
Fees Paid:	_____
Receipt No.:	_____
Rec'd By:	_____
Case No.:	<u>08-3527</u>

APPLICATION FOR APPEAL

NOTE: IN SUBMITTING THIS APPLICATION, YOU GRANT THE BOARD OF APPEALS PLANNER THE RIGHT OF UNSCHEDULED ENTRY ONTO THE PROPERTY FOR PURPOSES OF OBTAINING INFORMATION AND PHOTOGRAPHS FOR A STAFF REPORT.

PROPERTY DESCRIPTION:

Tax Map No. 22A Parcel _____ Block B Section _____ Lot 6RR
 Tax ID No. 02-028077 Property Zoning Classification LDA
 Property Address 55 Chesapeake Avenue, Prince Frederick, MD 20678
 Has subject property ever been before the Board of Appeals? (yes) _____ (no)
 If yes, give Case No. and date: 05-3203 8/4/05

PROPERTY OWNER(S):

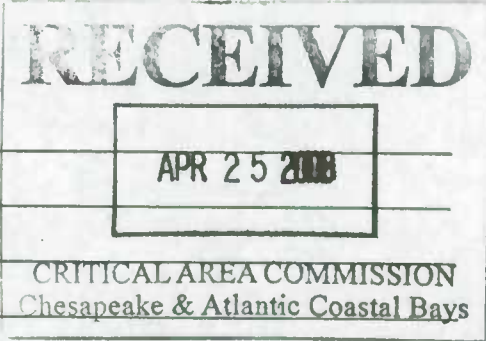
PRINTED NAME(s): Danny & Cathy Mayo
 MAILING ADDRESS: 55 Chesapeake Avenue
Prince Frederick MD 20678
 TELEPHONE: HOME: 410-414-9230 WORK 301-459- CELL 301-370-4214 - Danny
 EMAIL ADDRESS cmayo05@comcast.net ^{3333, cathy}

Danny H. Mayo 2/12/07
 Owner's Signature and Date

Catherine Mayo 2/12/07
 Co-Owner's Signature and Date

APPLICANT (if different from owner):

PRINTED NAME: _____
 MAILING ADDRESS: _____
 TELEPHONE NUMBER: _____
 EMAIL ADDRESS _____



Applicant's Signature and Date

Co-Applicant's Signature and Date

CONFIDENTIAL

APR 23 1978

COMMISSION ON THE STATUS OF WOMEN
U.S. HOUSE OF REPRESENTATIVES

PURPOSE OF APPEAL

REQUEST IS FOR: (check all items that apply)

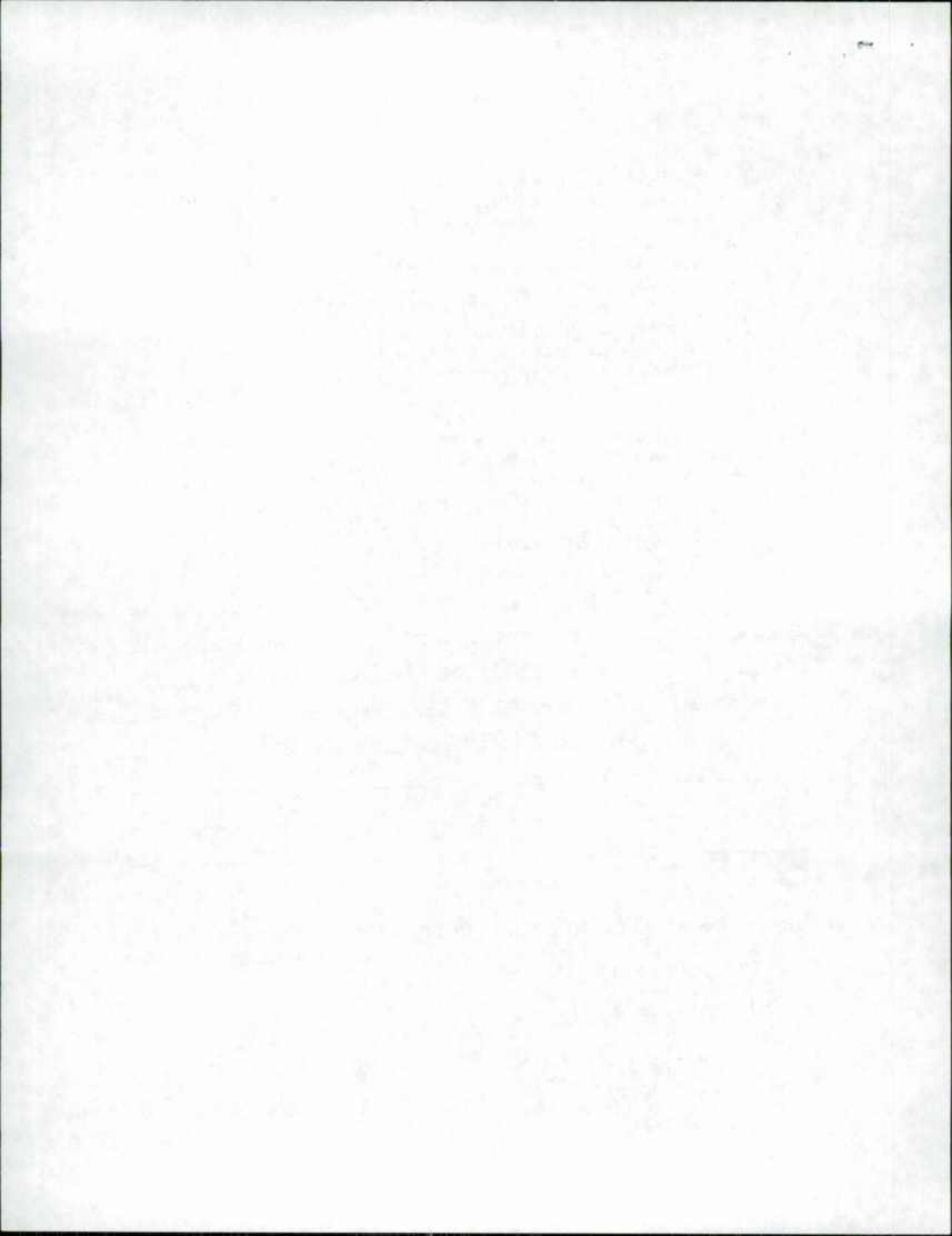
- Variance Multiple Variances
- Revision to a Previously Approved Variance
- Special Exception
- To Extend Time Limit on a Special Exception
- Revision/Modification of a Special Exception
- Expansion or Revision of a Non-Conforming Use
- Reconsideration of Previous Decision by Board
- Re-Schedule a Case Previously Postponed
- Decision on an Alleged Error made by _____

Describe in specific detail the reason each item is requested. Building Restriction Line (BRL) variances must state which BRL is at issue (i.e., front/side/rear) and indicate distances required and proposed (Example: A variance in the front setback from 60 feet to 25 feet for construction of a garage). Impervious surface variances must state existing % impervious surface and % requested. Waterfront buffer variances must state the distance to the waterfront of the proposed structure.

SUBJECT PROPERTY IS LOCATED IN THE CRITICAL
AREA. AN AFTER THE FACT VARIANCE IS REQUESTED
FOR THE CONSTRUCTION OF A 14.5' x 20.4'
ELEVATED WOOD DECK WITHIN THE 100' BUFFER
ON SLOPES OF 15% OR GREATER.

DIRECTIONS TO PROPERTY FROM COURTHOUSE: (NOTE: FAILURE TO PROVIDE COMPLETE AND ACCURATE DIRECTIONS MAY RESULT IN A DELAY TO YOUR CASE)

North on Rt 4 to Rt 402 Dares Beach Road
East (right) on 402 to end (Chesapeake Ave).
Left on Chesapeake Avenue. 2nd house on
Right (55 - Mayo)



AFFECTED PROPERTY OWNERS LIST

YOU MUST LIST THE NAMES AND ADDRESS OF ALL ADJOINING PROPERTY OWNERS AND THE OWNERS OF THOSE PROPERTIES DIRECTLY ACROSS ALL ADJACENT STREETS AND/OR RIGHTS OF WAY. NOTE: FAILURE TO CORRECTLY LIST NAMES AND ADDRESSES OF ALL AFFECTED PROPERTY OWNERS MAY RESULT IN A DELAY TO YOUR CASE.

Name: JAMES & JULIE BENJAMIN
Address: 4460 WOODVIEW LANE, PRINCE FREDERICK, MD 20678

Name: GILBERT & ANNE WATSON
Address: 4470 WOODVIEW LANE, PRINCE FREDERICK, MD 20678

Name: RICHARD & JUDY GRANZOW
Address: 75 CHESAPEAKE AVENUE, PRINCE FREDERICK, MD 20678

Name: _____
Address: _____

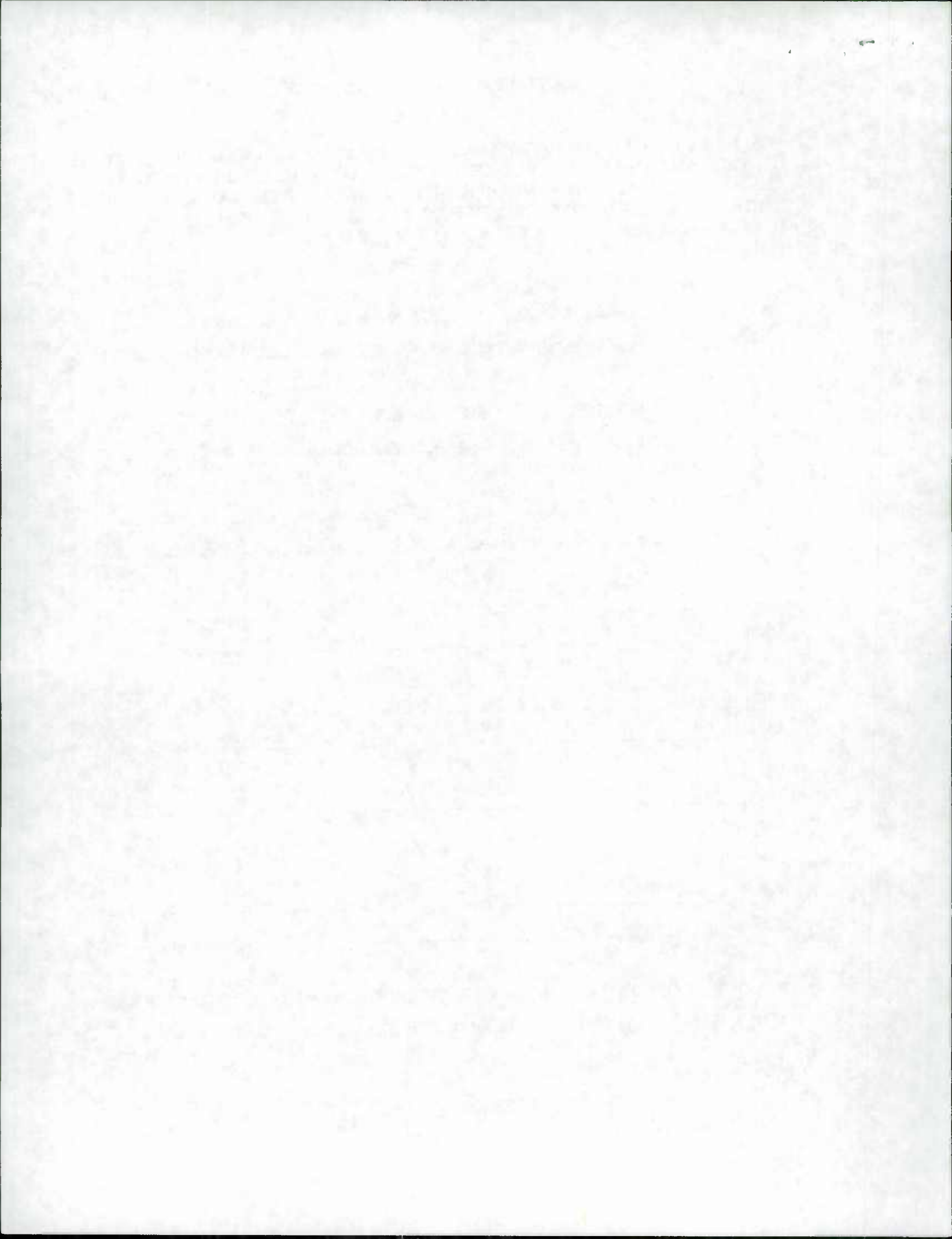
Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

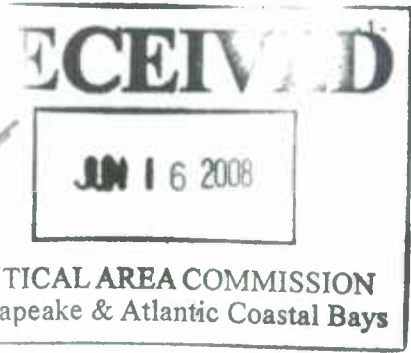
IF YOUR PROPERTY ADJOINS A PRIVATELY OWNED ROAD, YOU MUST LIST THE NAME AND ADDRESS OF THE OWNER BELOW:

Name: _____
Address: _____



239-68

Date: June 8, 2008



To: Board of Appeals
Critical Area Commission, Attention: Amber Widmayer ✓

Re: Variance 08-3527, Mayo - Calvert County

From: Catherine Mayo

I take this opportunity to supplement my packet submitted as an exhibit to the Board at our June 5, 2008 hearing, and reply to the comments and the variance standards set out in Ms. Widmayer's letter, dated May 19, 2008.

Page 1, first paragraph. Our decks on the Bay side of the house are 4½' open board window egress decks. Our front porch encompasses the entrance into the house and is over one drain pit. At ground level, there is half of a finished cellar and the other half is unfinished half crawl space. These areas cannot be accessed from the house. The front yard is set back about 50' from the street and contains two septic drain pits and one FAST denitrification system. We have added vegetation to hide the motor casing.

Page 1, second paragraph. The waterfront "deck" is an open board (¾" +) storage platform without railings elevated to protect our property from seaside forces (overwash). It holds our fishing rods, reels, tackle boxes, boat and motor and life vests, and related equipment, equipment and extra parts to our boat lift, crab pots, etc., jetski and life vests (near future), boat and motor and life vests, crabbing, fossiling and snorkeling gear and water sports equipment and accessories. Some of these items are itemized and pictured in section "c" of my initial submission to the Board. It is sited atop our stone revetment and armor stone for our splash wall and French drain (4' w x 4-5' d x 40' long, filled with gravel, silt cloth which is located behind the old bulkhead. We have a pier, accessory steps and landing leading off of the platform down into the water (by permit), elevated access steps and landing elevated to pier level (by permit and have been licensed since 2003), and we have been licensed/ permitted by MDE for a private boat ramp/launch since October 27, 2003 and the County since 2005. The need for the platform has changed since we originally assembled it. Initially, we used it to get ourselves up out of the muck and mud to fish and keep our equipment safe. The muck and mud resulted from regrading 95 loads of clay approved by the County after Isabel. This grading resulted in stormwater running down to our property and we believe the clay also changed the course of one or two springs and increased the velocity of a small spring that trickled near our property. Pools formed on our property; the clay turned in to a quagmire and scum and algae? grew and it smelled; we sank down to our ankles in mud when we walked there. It affected the enjoyment and use of our waterfront. We took stringers and attached them to the permitted pilings and added the open decking boards to form the elevated platform- we did what we felt we had to do to protect our property and to enjoy our property and that it was the right thing to do. We lived in Bowie and brought down one picnic table and our second one when we moved here in 2005. It holds the lounge chair that I usually keep weighted down on the end of the pier during the summer to use along with a sturdy arm chair for my 76-year-old disabled mother who relocated here this past December.

100

100

I have two eye diseases [page 56 of Board's packet] (R.P. and macular degeneration, being legally blind in one eye the result of a macular hole); these diseases are not treatable and I will be blind; I have other medical issues as well. There are 60 steps down our cliff and we cannot go up and down the steps repeatedly to get these accessories and equipment. This elevated storage platform is a water dependent structure.

If you consider the elevated platform to be a water dependent structure, then the only issue concerns the minimum adjustment necessary. There are two picnic tables stored on that platform which are not *per se* related to a water-dependent activity. We do use them to work on our rods and reels, bait the crab traps and clean them. We have eaten crabs on the tables on three or four occasions. We don't think it prudent to relocate the heavy duty picnic tables to the top of the cliff because they would shade the grass, cause erosion and compaction. To leave them on the "shoreline" will cause damage to our revement and turn them into floating debris in the future as one has already been moved around by overwash. The cliff is a Category III Cliff and is protected. I have USACE standards for locating picnic tables in parks. They should not be located near cliffs because they cause compaction and erosion; light will not filter down to the grass. As our backyard is small and maintained in grass, there is no other location on our property where we can keep these tables.

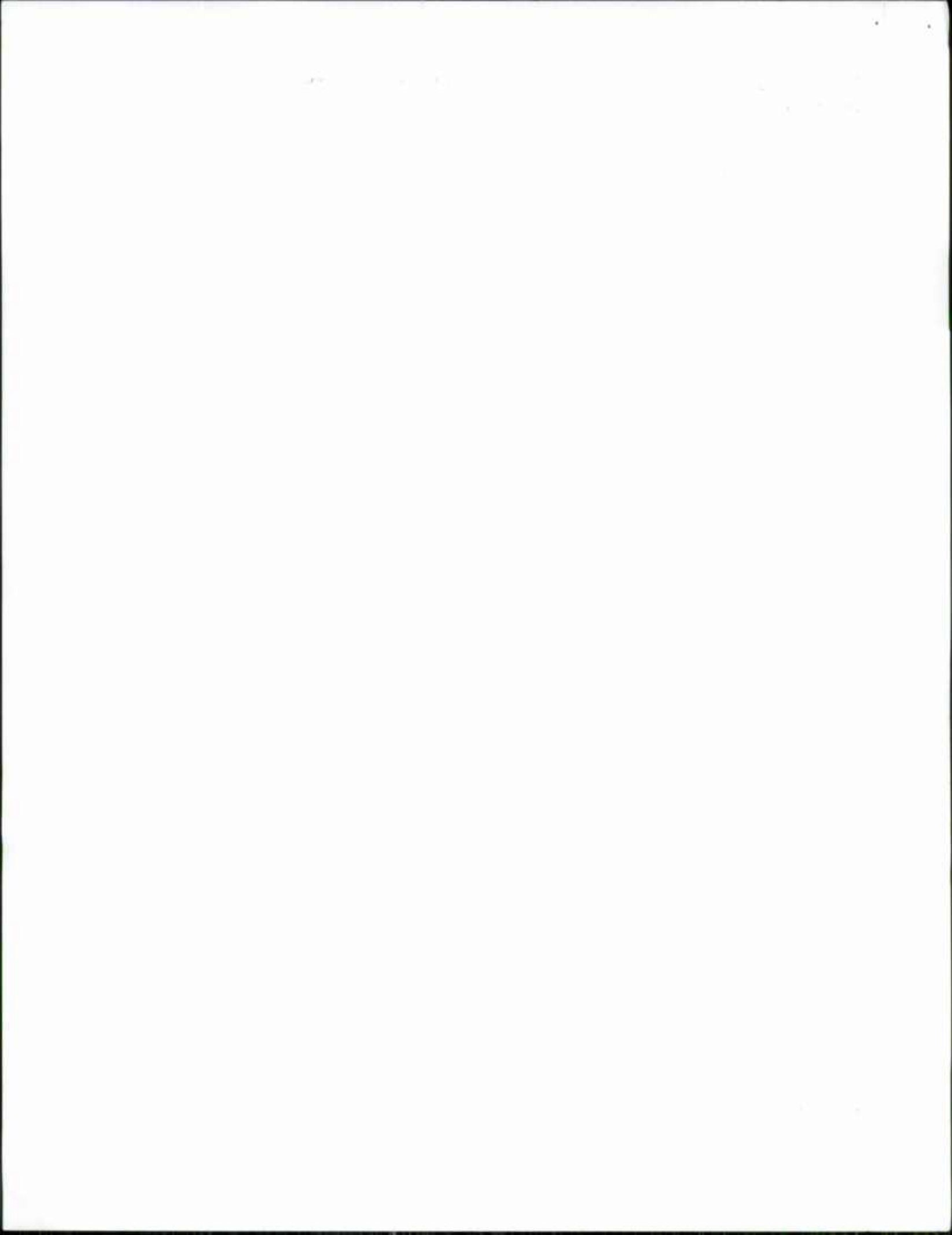
We have a very small lot. Most properties here are double (80' wide) or triple (120' wide). Our lot is 40' wide, .18 acres. Our topography, as you can see in the photos and topo map, is severe from east to west and north to south and contains a 31 foot cliff. The only logical placement for a storage platform is elevated and at the bottom of the toe of the cliff. The buffer in that area is compromised routinely by seaward forces which strip any vegetation I may have got established. It has taken me 5 years to get the damaged cliff revegetated from Isabel's damage.

Unlike the majority of waterfront property owners, we have not re-graded our cliff (and we had the chance in October 2003). Our cliff is naturally vegetated (not grass or lawn) and our septic is on the roadside (not on the waterfront). We elevated our accessory steps down the cliff (4' x 50' = 200 s.f. the area) so that we can maintain vegetation under our steps. [Half of the property owners with steps, place them on the ground or so close to the ground (which is permitted) but they destroy habitat and vegetation.] You could credit us for this mitigation. We also allow the vegetation to creep over our fences and railings, which provides additional habitat and food. The area under the elevated platform consists of revtment and the stone for our splash wall. This was inspected by MDE (Bob Tabicz), DNR (Casonova?) and County officials on more than one occasion after Isabel. We were told at a meeting attended by the required State and local officials in October 2003 (held for the formation of a shoreline erosion control district) that they had inspected our property and that the rocks, pilings and steps and stubbed out pier saved us from the damage that others incurred.

CAC – Relevant Variance Standards

11-1.01.B.6.c-the variance is the minimum adjustment necessary to afford relief from the regulations.

Please see section "c" and related portions of my packet presented to the Board. You mention that we already have a deck. The deck we have is a 4 ½ foot window easement deck that also serves as storage of our grill and propane tanks, coolers and other things.



When you sit in the chair, your feet hang out under the rails. They were required because of our 23" casement windows.

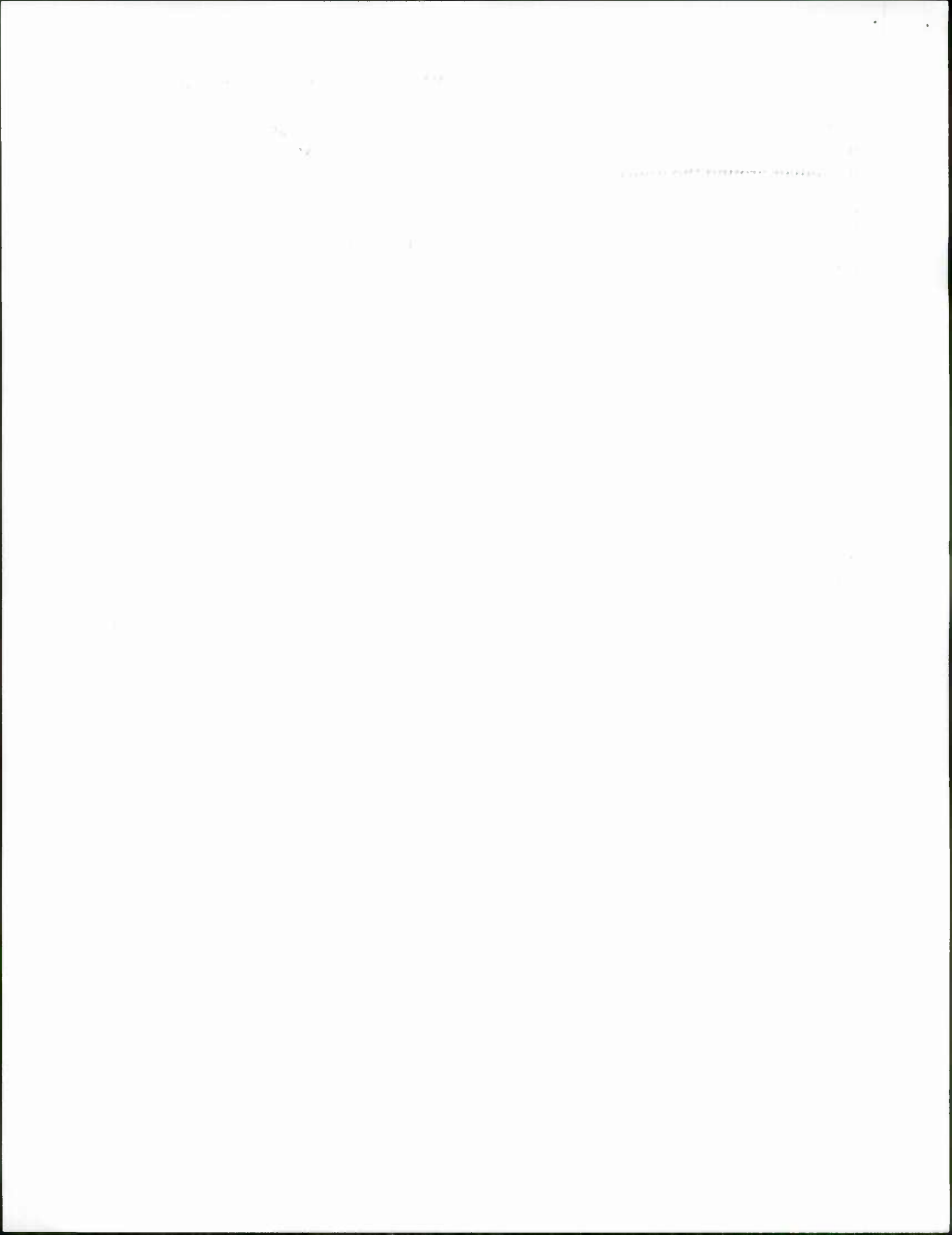


Applicants window egress decks 1



Applicants window egress decks 2

In any event, please realize that we are not asking for a deck. It is an elevated storage platform for equipment and accessories related to water-dependent activities (and two picnic tables). It has remained the same since 2003, as you will see by the photographs. We don't



walk down 60 steps to eat on the picnic tables. We have a 2-bedroom house on septic and we can't entertain. I have itemized the items to be stored. See section "c" of my packet originally presented to the Board. The minimum adjustment necessary is 218 square feet which gives me 72 excess square feet but I believe I need that extra square footage to maneuver around the items.

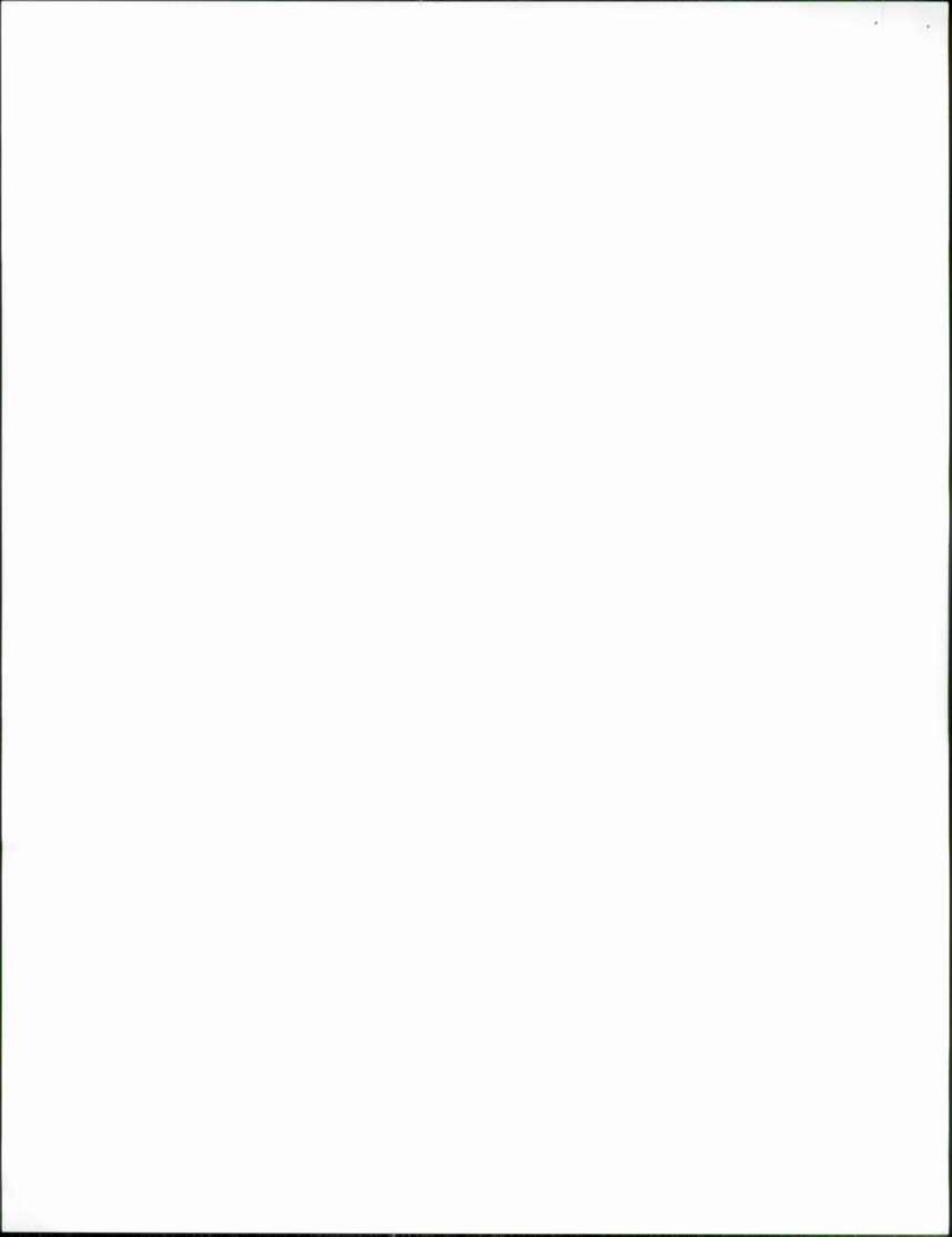
If you do not find that we are entitled to store our picnic tables on the platform, we could modify the storage platform and would work with Staff to accomplish that. We could probably cut the platform in half, east to west, leaving the area over the boat ramp/launch open. Perhaps you would allow us to expand our egress deck at the top of the cliff to allow room for a picnic table. There is still no way to maintain vegetation on our waterfront buffer because of overwash. I regularly plant seeds and we have had it vegetated but the storm on May 11-12, 2008, took most vegetation. I reseeded after the storm but the next overwash will take the new vegetation.

11-1.01.B.6.d-- special conditions or circumstances exist that a particular to the land or structure within Calvert County and that a literal enforcement of provisions within the county's Critical Area Program would result in unwarranted hardship.

Please also see section "d" and related portions of my original packet to the Board. Because of extreme topography, 31' cliff and narrow lot, there is no location on the entire parcel where an open board equipment storage platform for water-dependent recreational activities can be sited on my property. There are 60 steps down the cliff. I have documented health issues. The site where the elevated platform is located is compromised by seaside forces – it regularly overwashes from wind-driven waves and storm surges; the elevated platform is overtop a shoreline erosion control structure and boat ramp/dry storage area for john boat.



September 2003 1

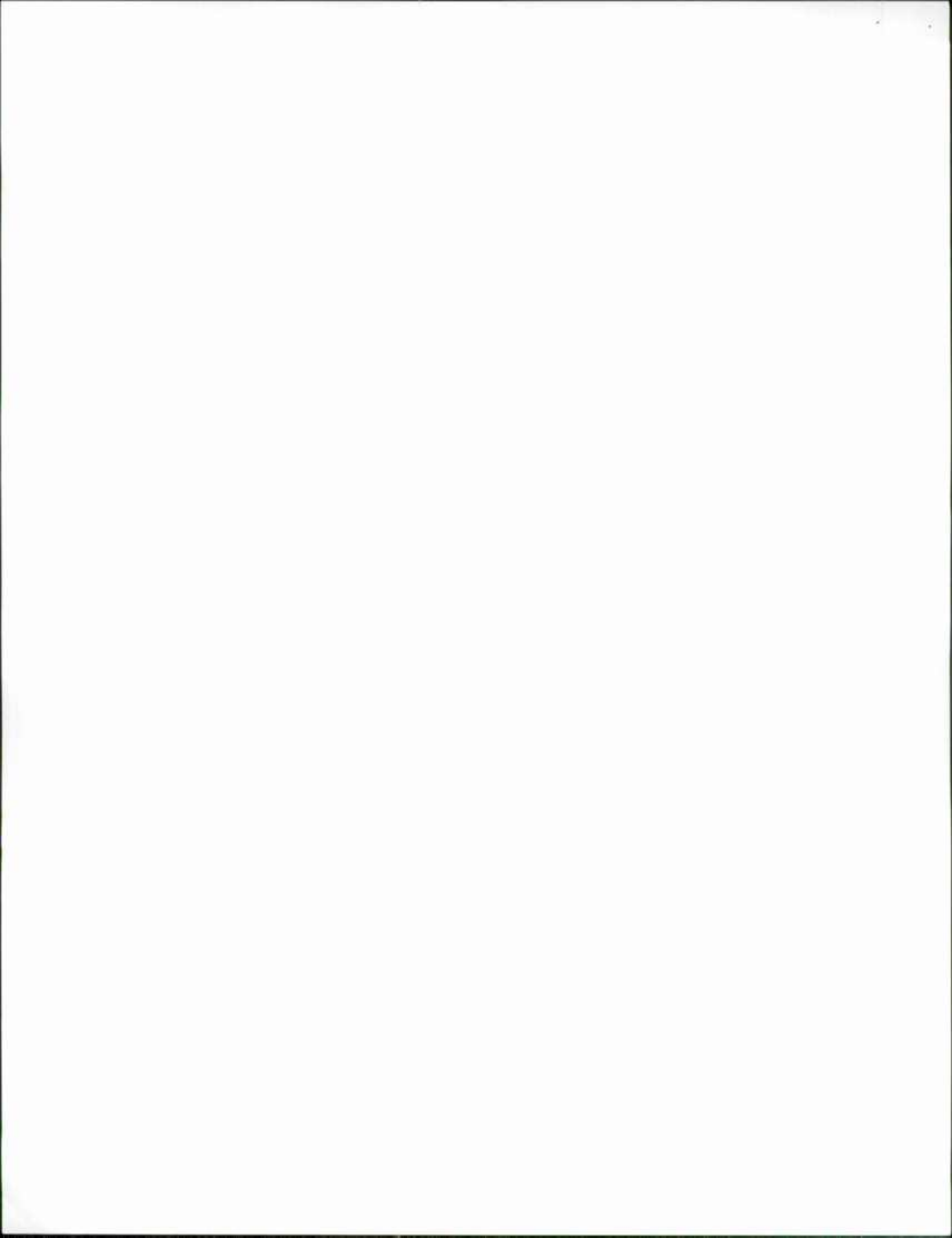




DAY AFTER ISABEL 1



BEFORE ISABEL 1

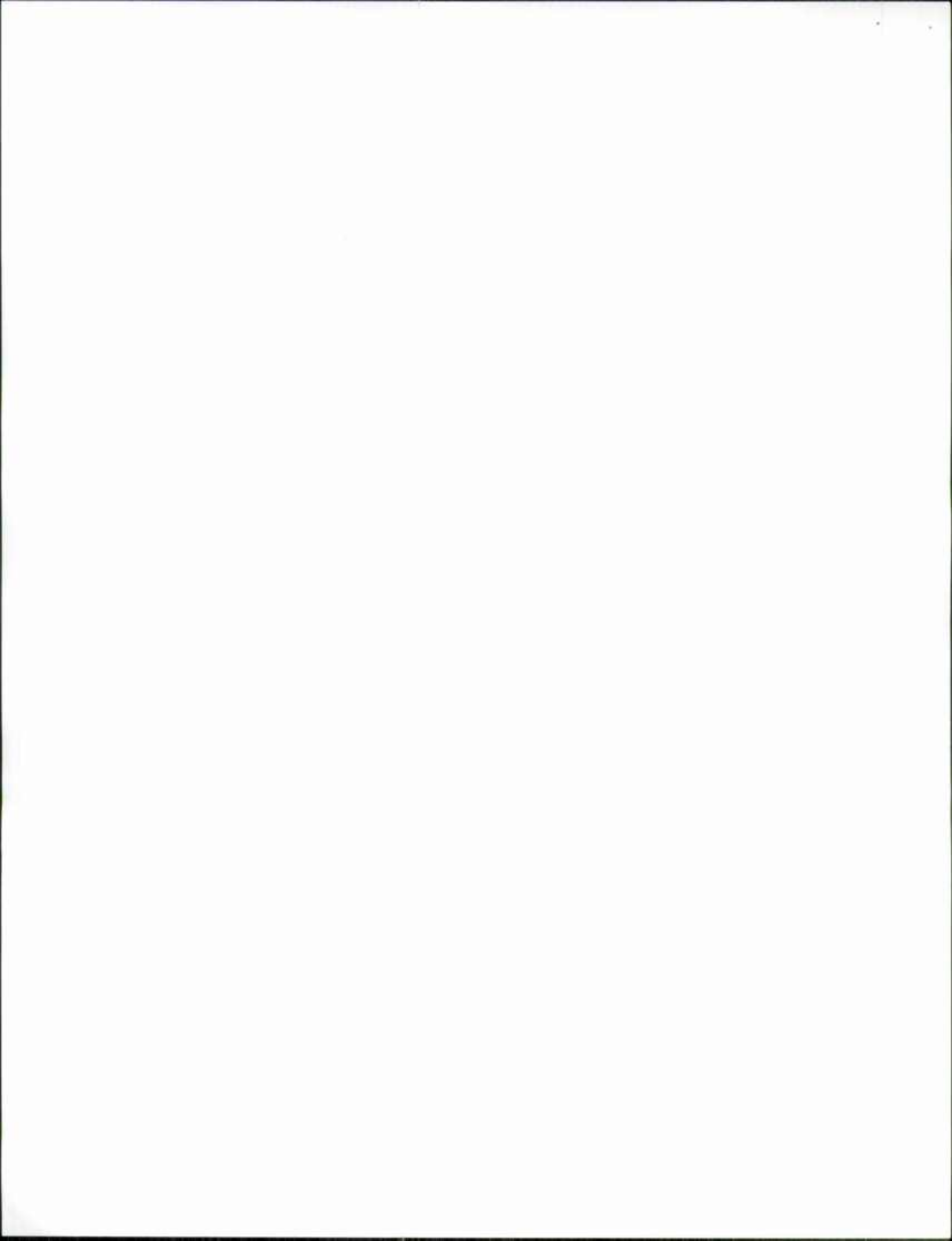




July 8, 2005 1



April 27, 2006 1

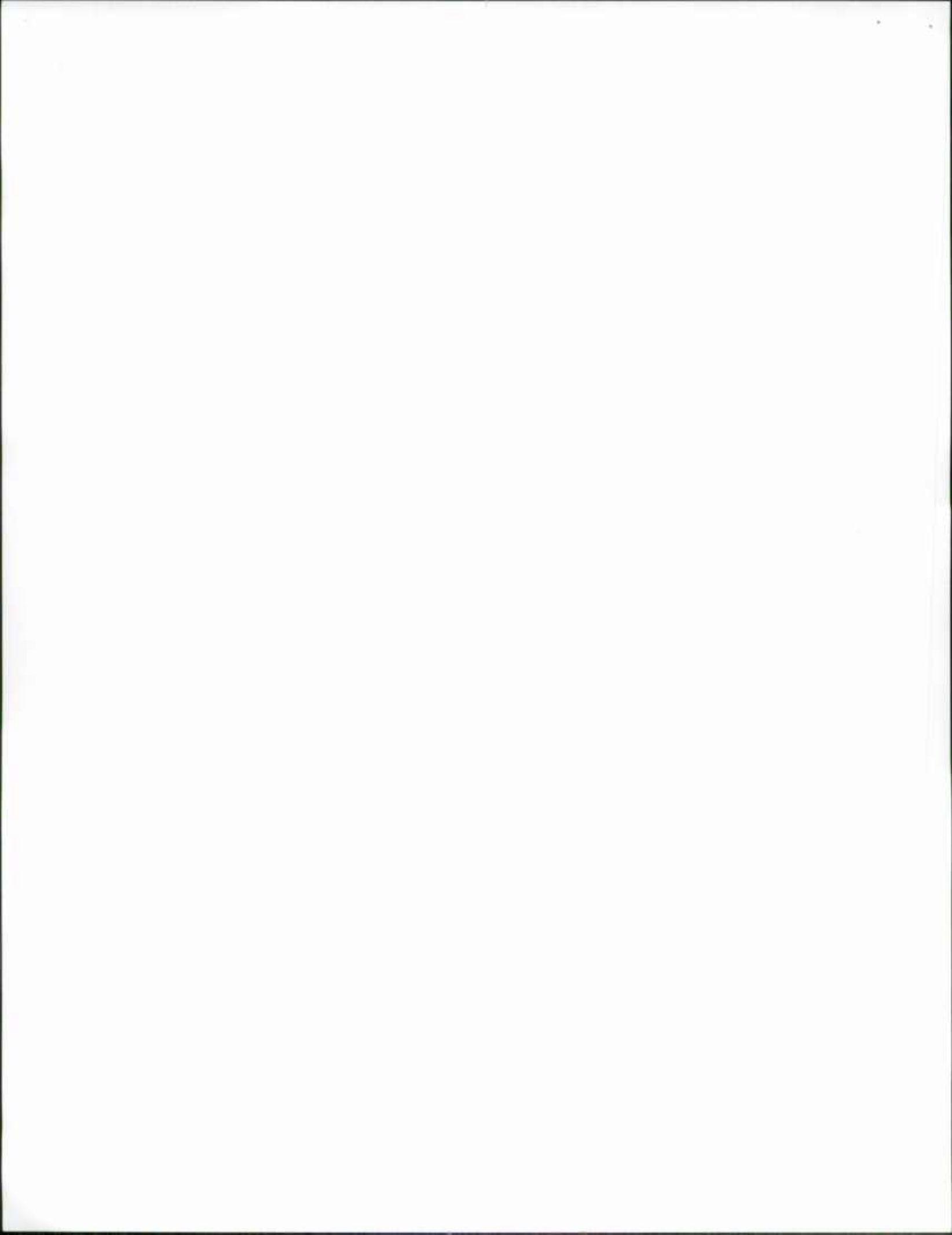




Ernesto 2006 a



Ernesto 2006 b1

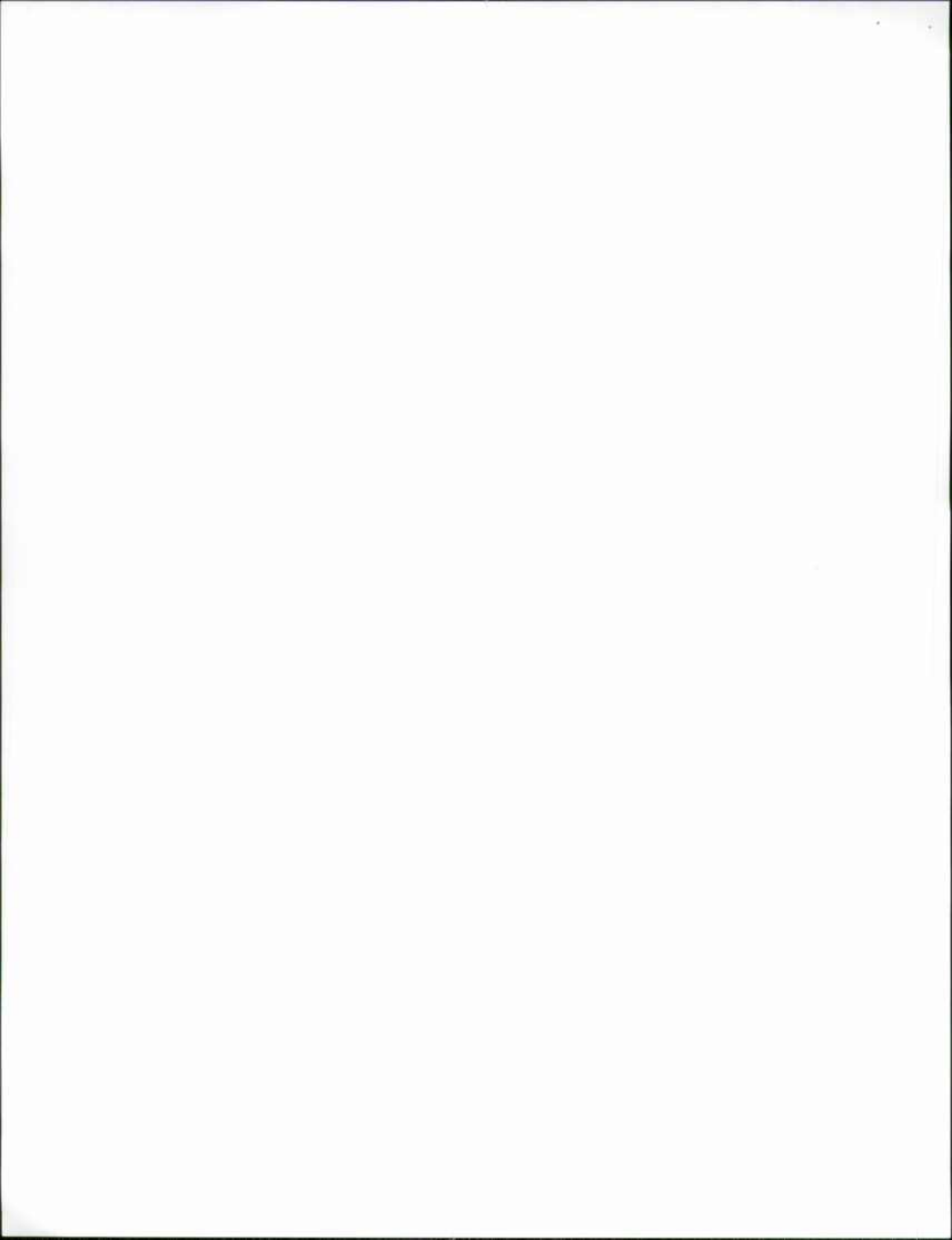




Ernesto 2006 2



June 3, 2007 1

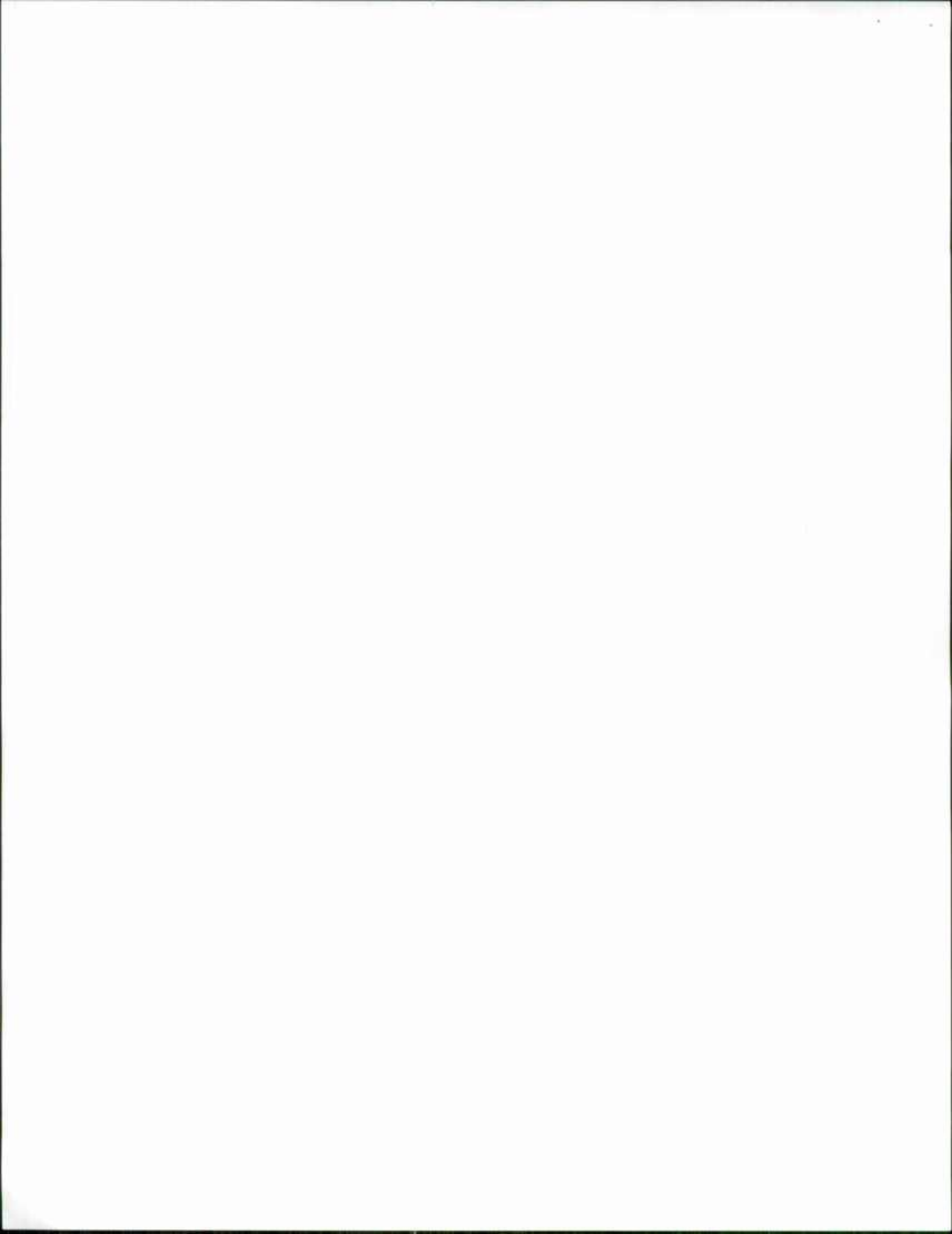




June 3, 2007 2



June 3, 2007 3

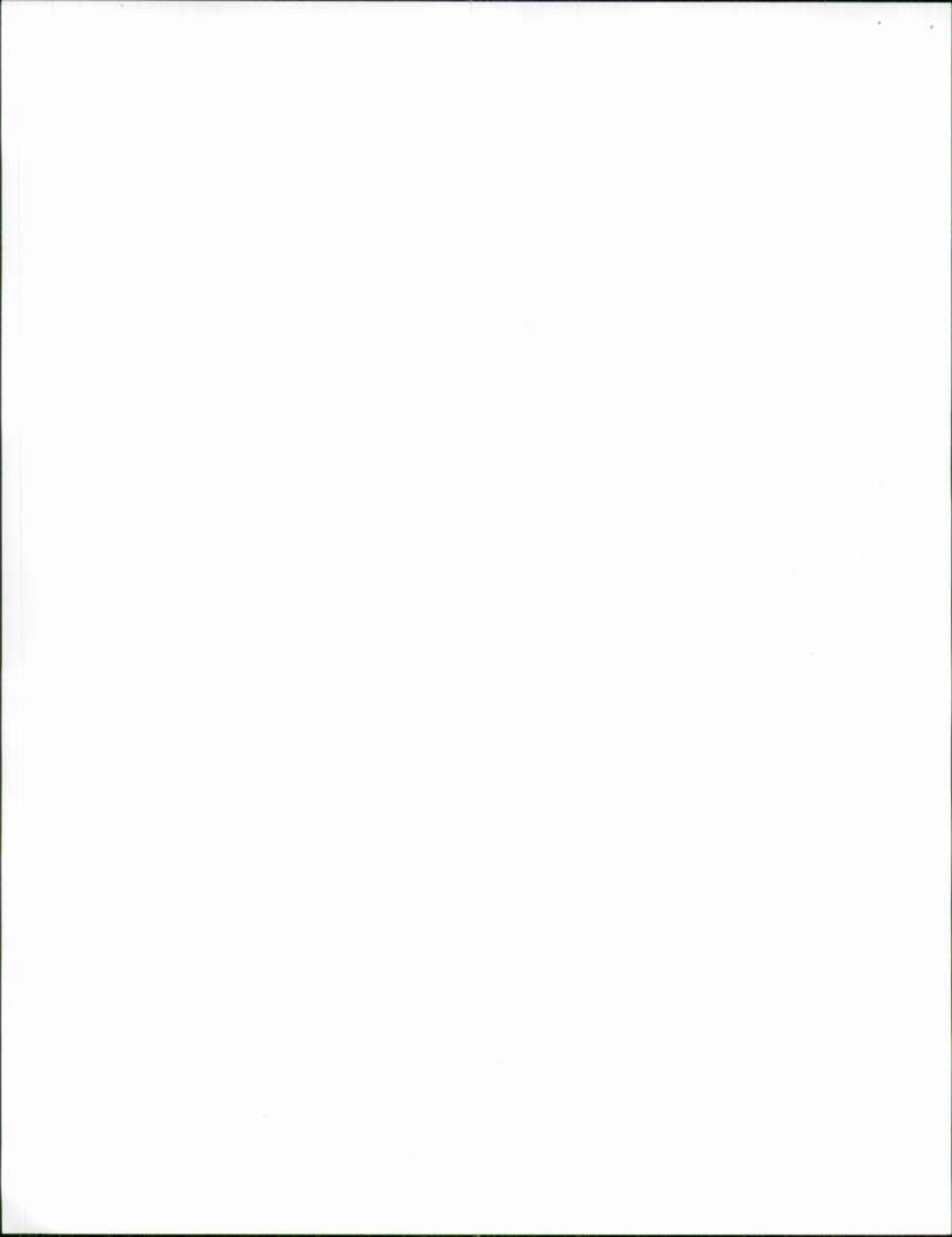




May 11 & 12, 2008 1



May 11 & 12, 2008 2





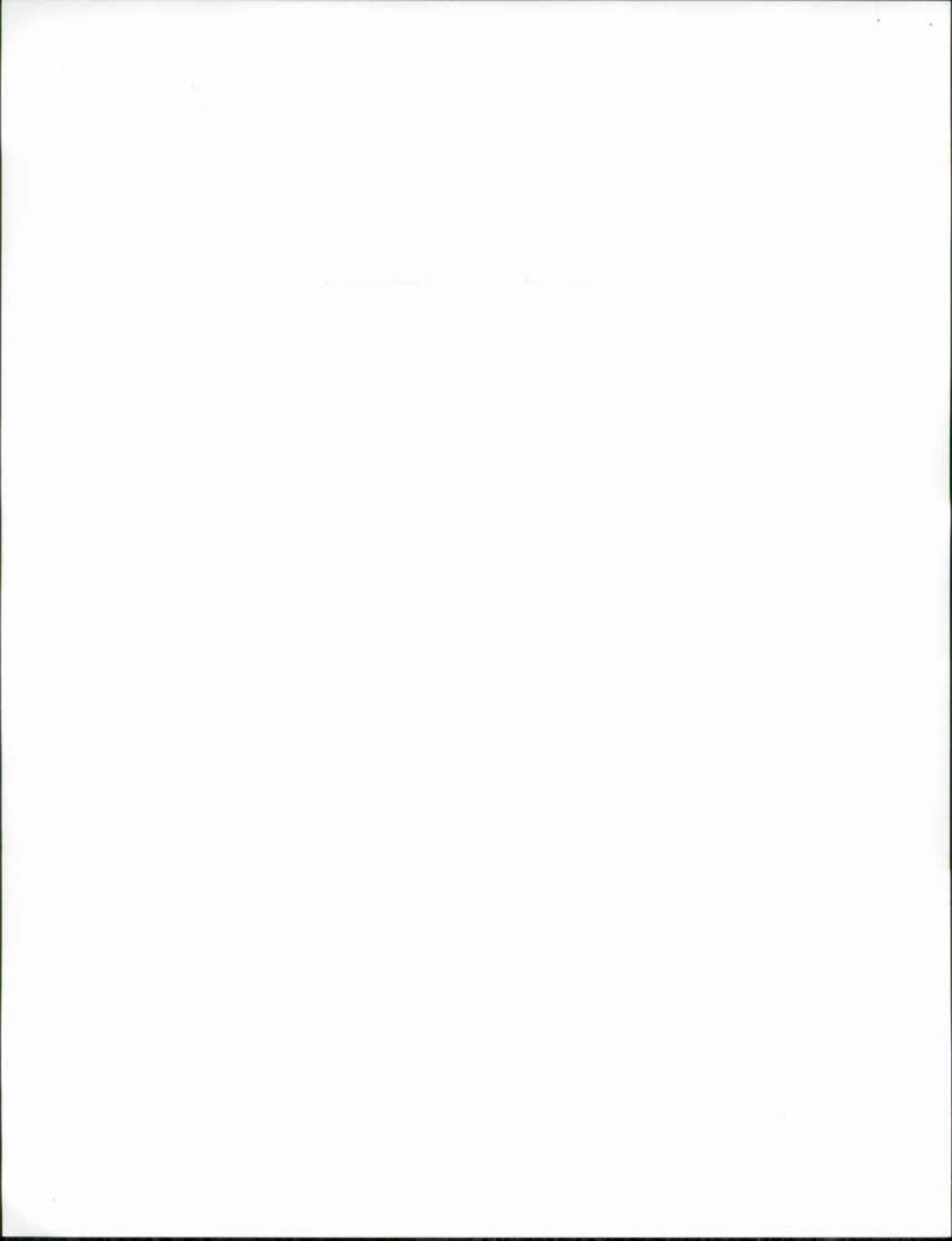
May 11 & 12, 2008 3



May 11 & 12, 2008 4

There are special mitigating conditions on my property:

- French drain behind old timber bulkhead, 4' wide x 4 – 5 feet deep x 40' long. Absorbs any pollutants from the structure and filters them out.
- No grading, footers or destruction or removal of vegetation was done. Isabel removed everything and seaside forces continue to do the same. These events have worsened since Isabel. Elevated access stairs down



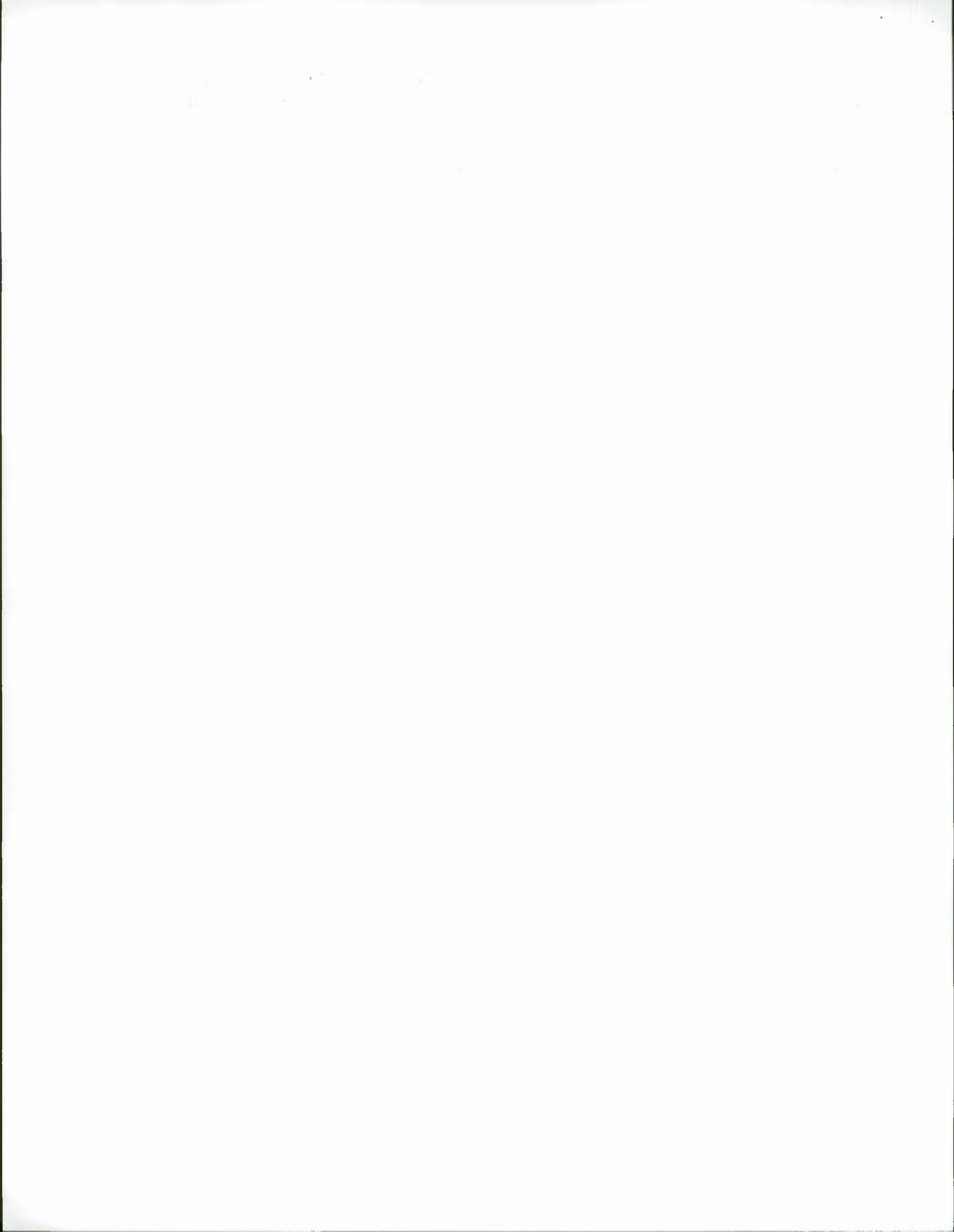
cliff allow vegetation to grown underneath, about 200 square feet more and create habitat for wildlife that would not be there if we had built the stairs into the cliff.

- The elevated platform provides habitat and protection for wildlife. Birds go under it and forage and bathe in the water in the depression of the stones. Muskrats, groundhogs and Bay rats and a black snake can be found there. We had an otter until Ernesto.
- I could put planters vegetated with trailing woody vines around the south and north side of the platform, reducing the extra square footage, creating habitat and protection for animals and birds.
- 2 coats of EPA recommended linseed oil sealer hand-applied to decking boards
- FAST denitrification system (receipt and info in section "d")

Also, there are other special conditions and circumstances:

- Topography
- 60 steps down cliff
- 40' wide, single antiquated non-comforming but legal lot
- 31' cliff, completely vegetated
- 14' backyard on undercut, edge of sheer cliff
- Front yard contains entire septic system
- First 25' of buffer non-functional and compromised by seaside forces – recently Isabel, Nor'easters, Ernesto, June 2007 storm, May 11-12, 2008 winds (and others) ravage the buffer leaving damaging debris and stripping vegetation. This area has always been compromised by seaside forces – bulkheads were undersized, revetment is undersized and continues to sink from the overtopping waves. Pics provided from 1972/73
- We didn't re-grade or fill after Isabel; our cliff is natural – not cut grass
- No room for dry storage of our john boat and we are getting a jetski and using the boatlift for the jetski. The john boat will be stored under the platform at the end of on the boat ramp/launch.
- I have 2 eye diseases and am going blind – I'm already blind in my right eye and have cysts developing in my left eye; I've had a major lung surgery and lost part of one lung; I have a second brain tumor; and degenerative disk disease. It is a hardship to walk up and down 60 steps carrying accessories and equipment for water-dependent activities. Others have been granted permission for these or related types of structures for the dry storage of water-dependent equipment. There's nowhere else on our property for this type of structure. It needs to be next to the water near our boat and future jet ski and fishing and crabbing equipment. There's not any location on our lot where a structure of this type could be located because of our topography.

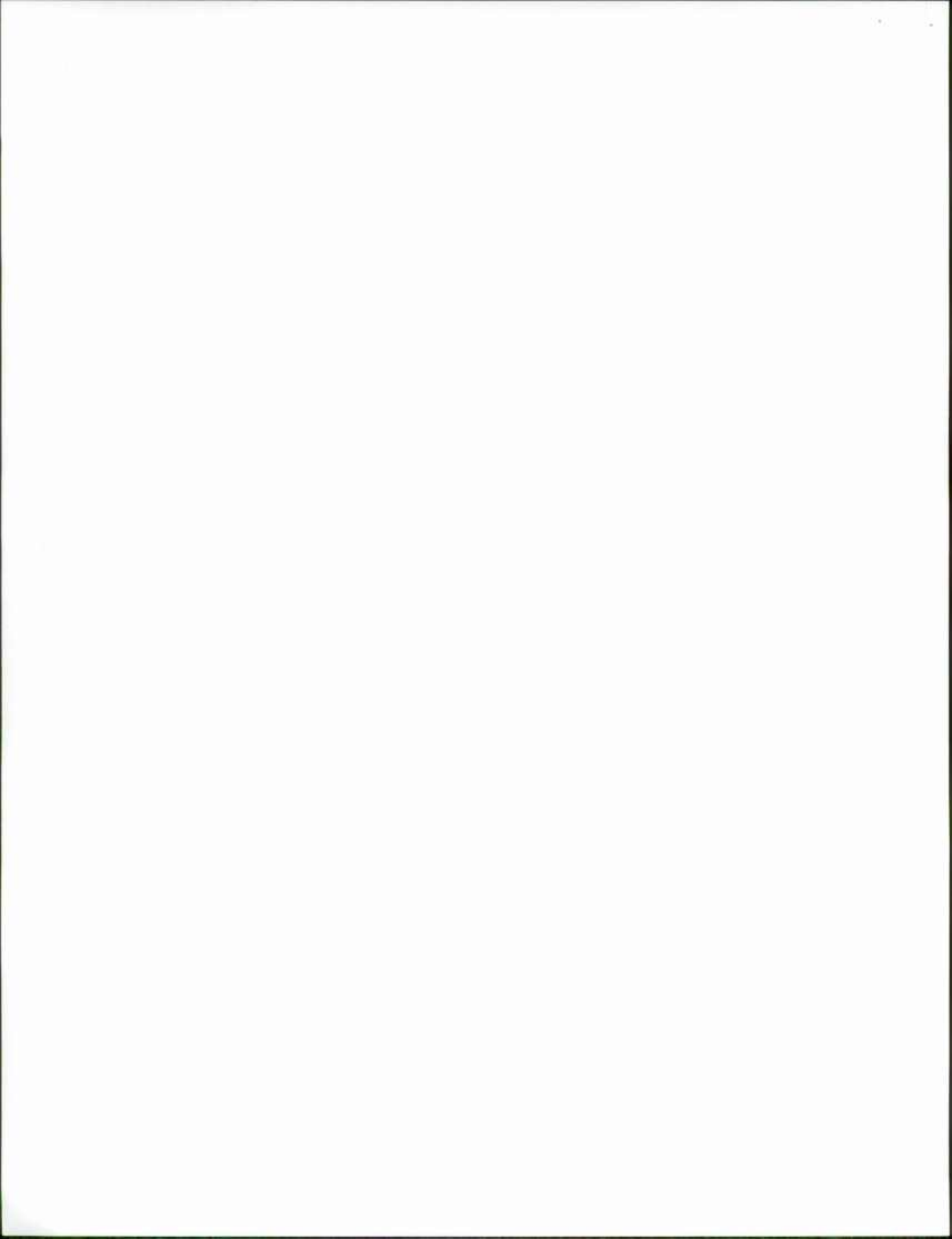
11.1.01.B.6.e – a literal interpretation of the Critical Area Legislation and the Calvert County Critical Area Program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of the County.



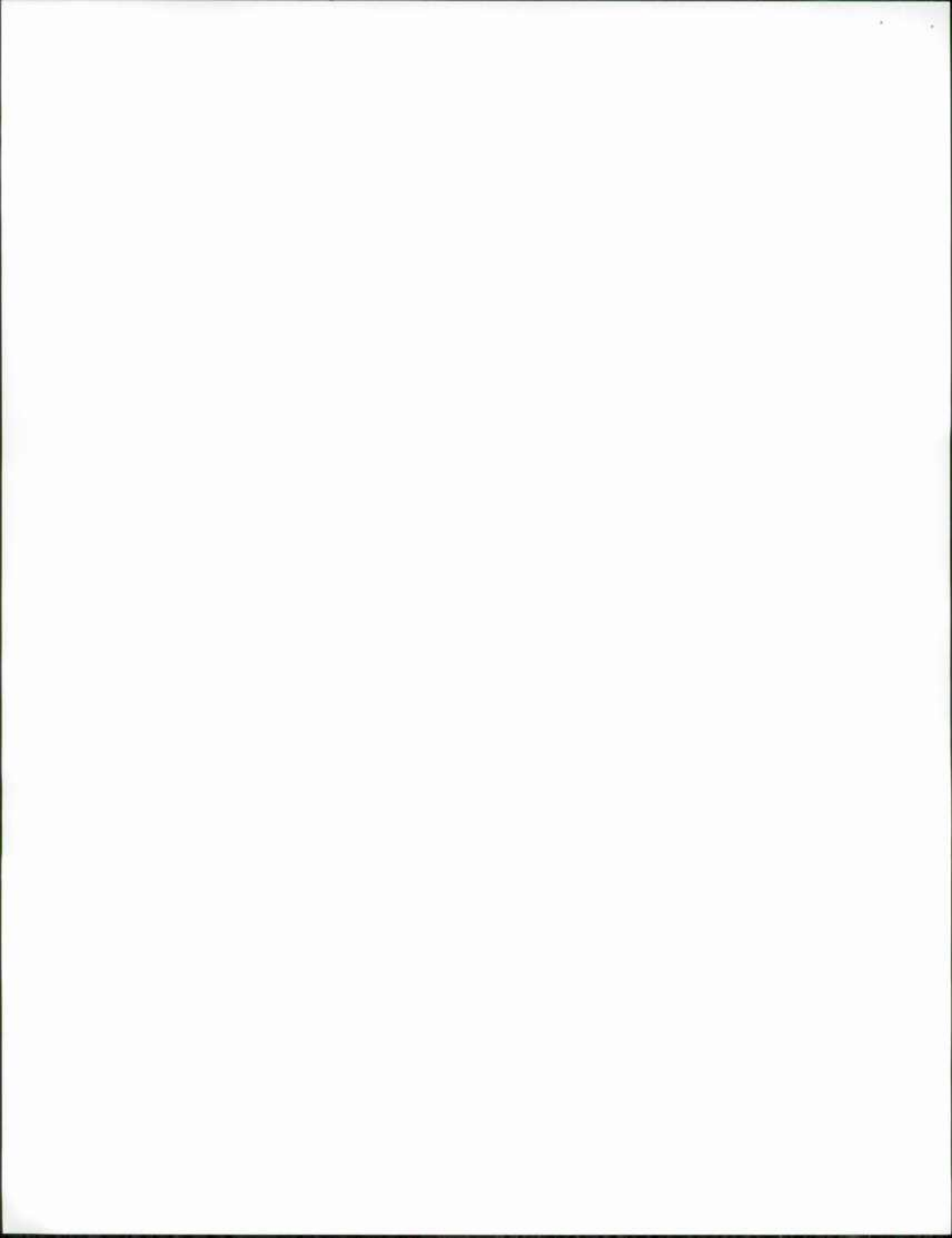
See section "e" and related sections contained in my original packet presented to the Board. The Board granted Debra Littleton a storage shed for water related activities on the shoreline.

The following are beach / boat storage . The Board granted Scientists Cliffs and Western Shores variances. Many of these are impervious structures.

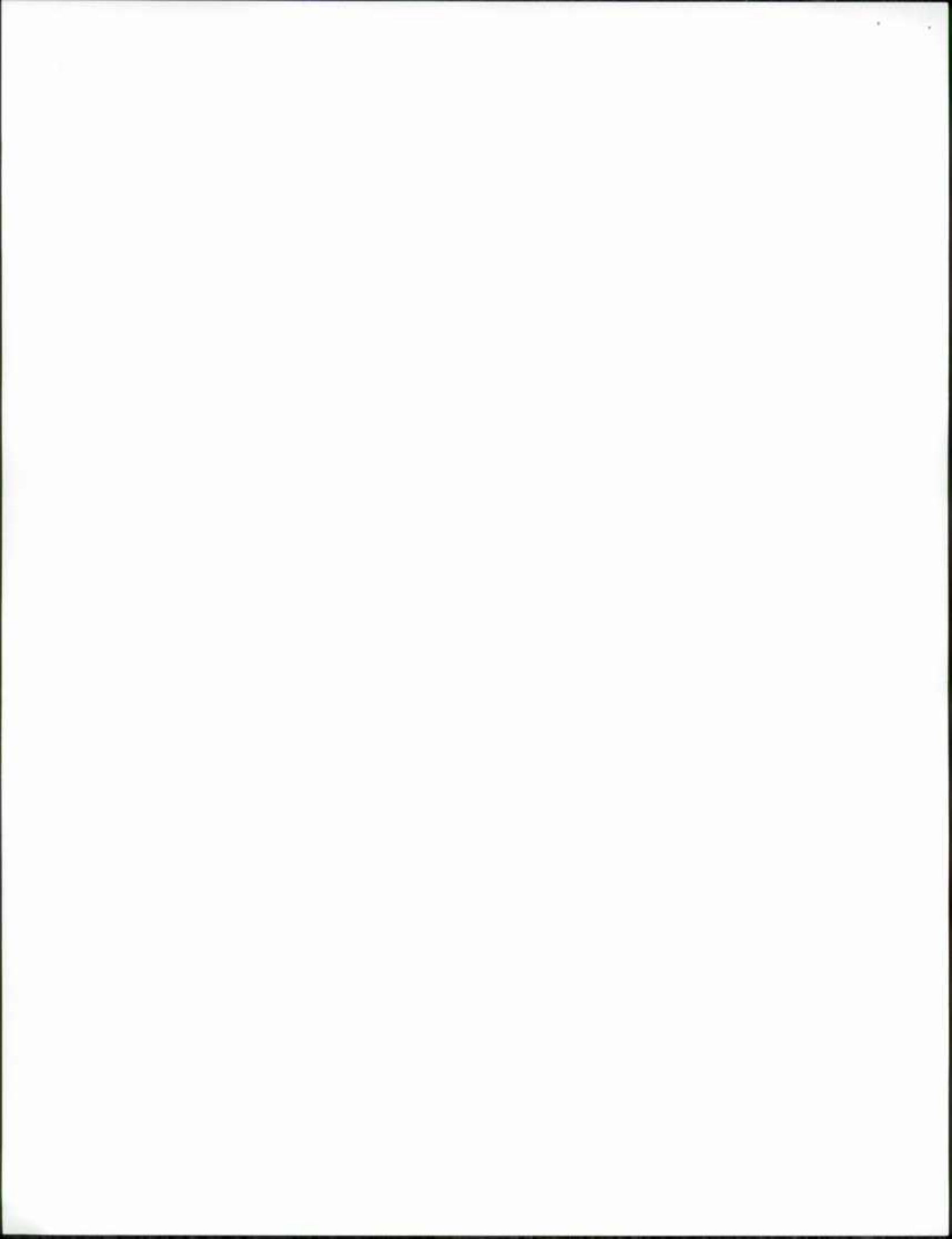




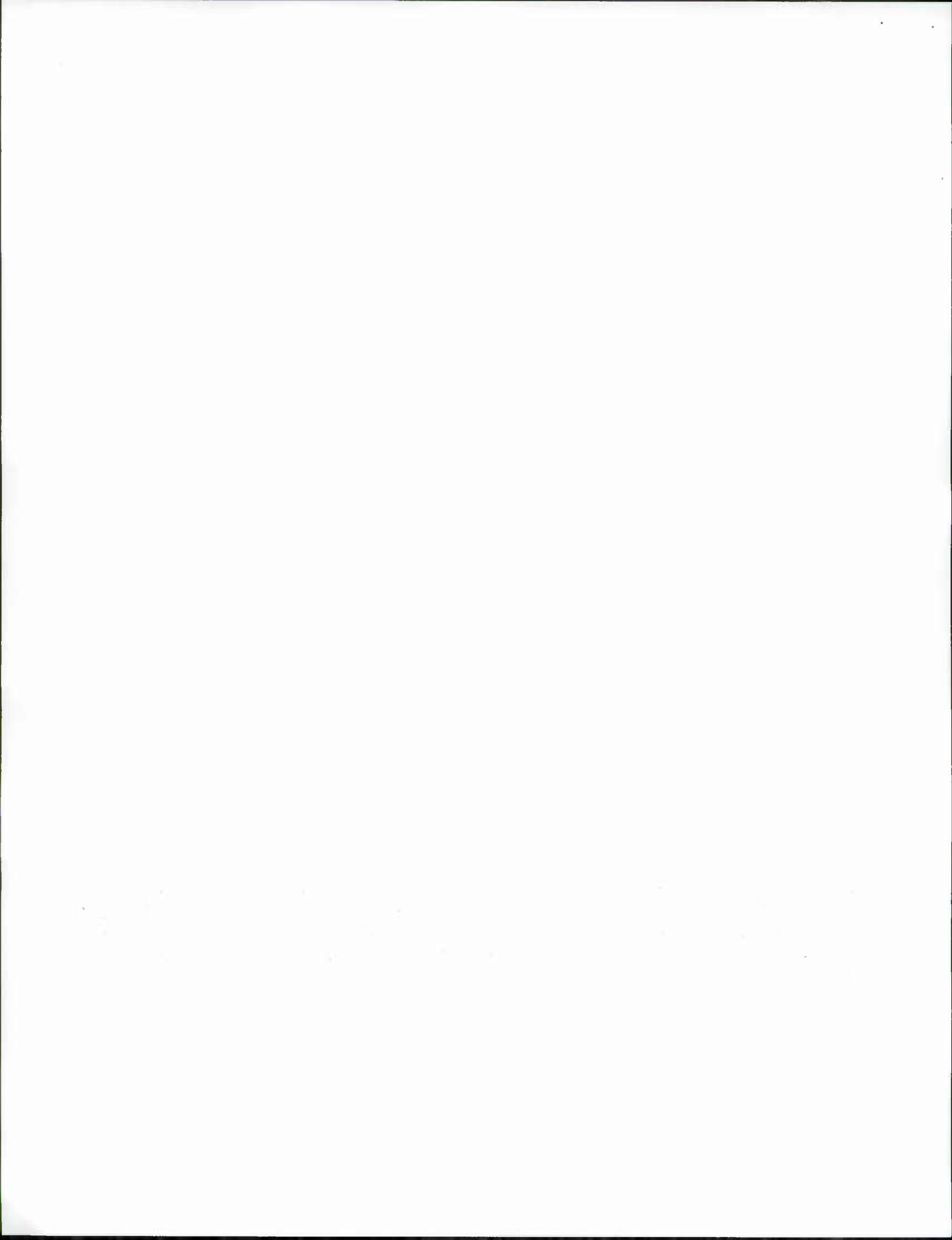






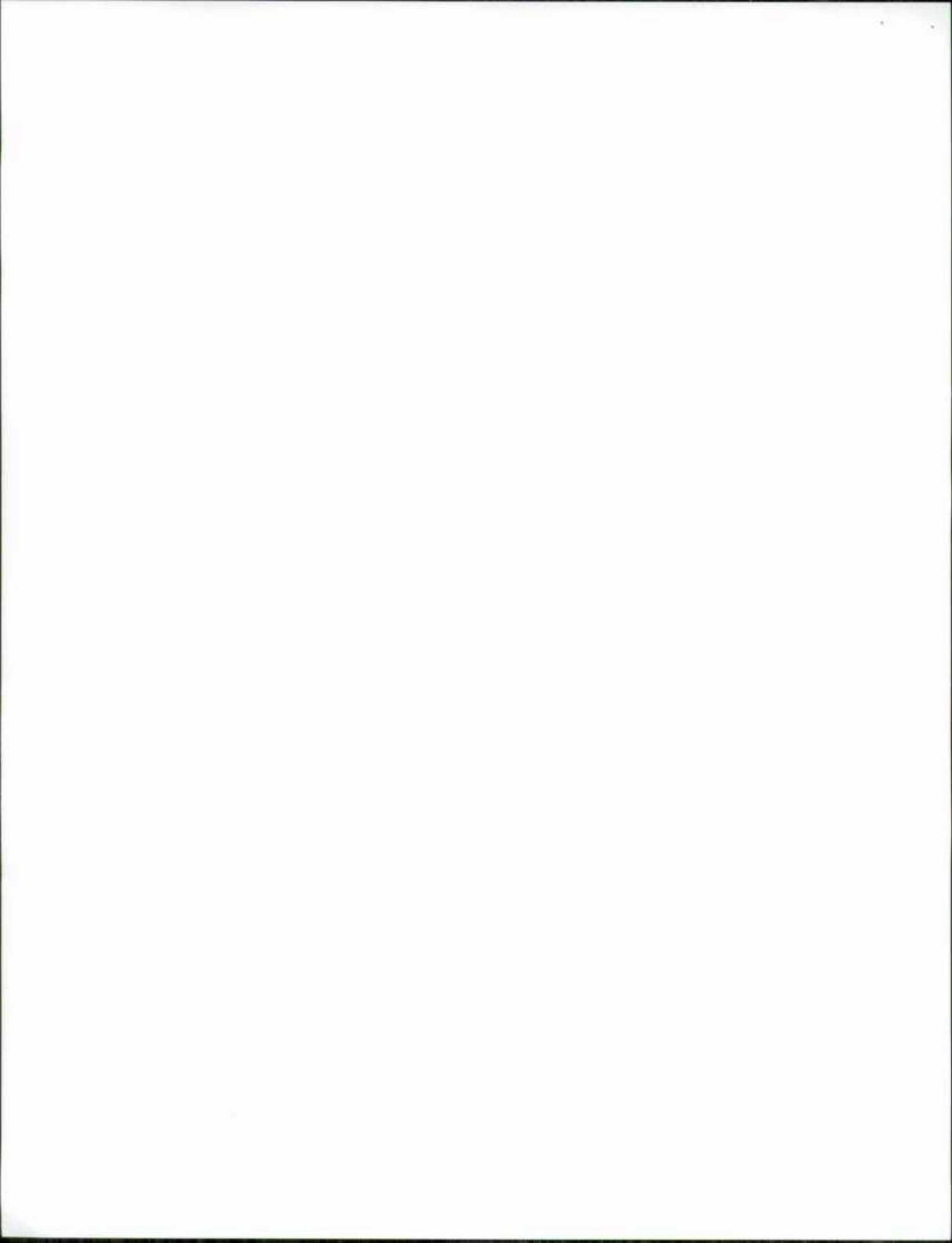




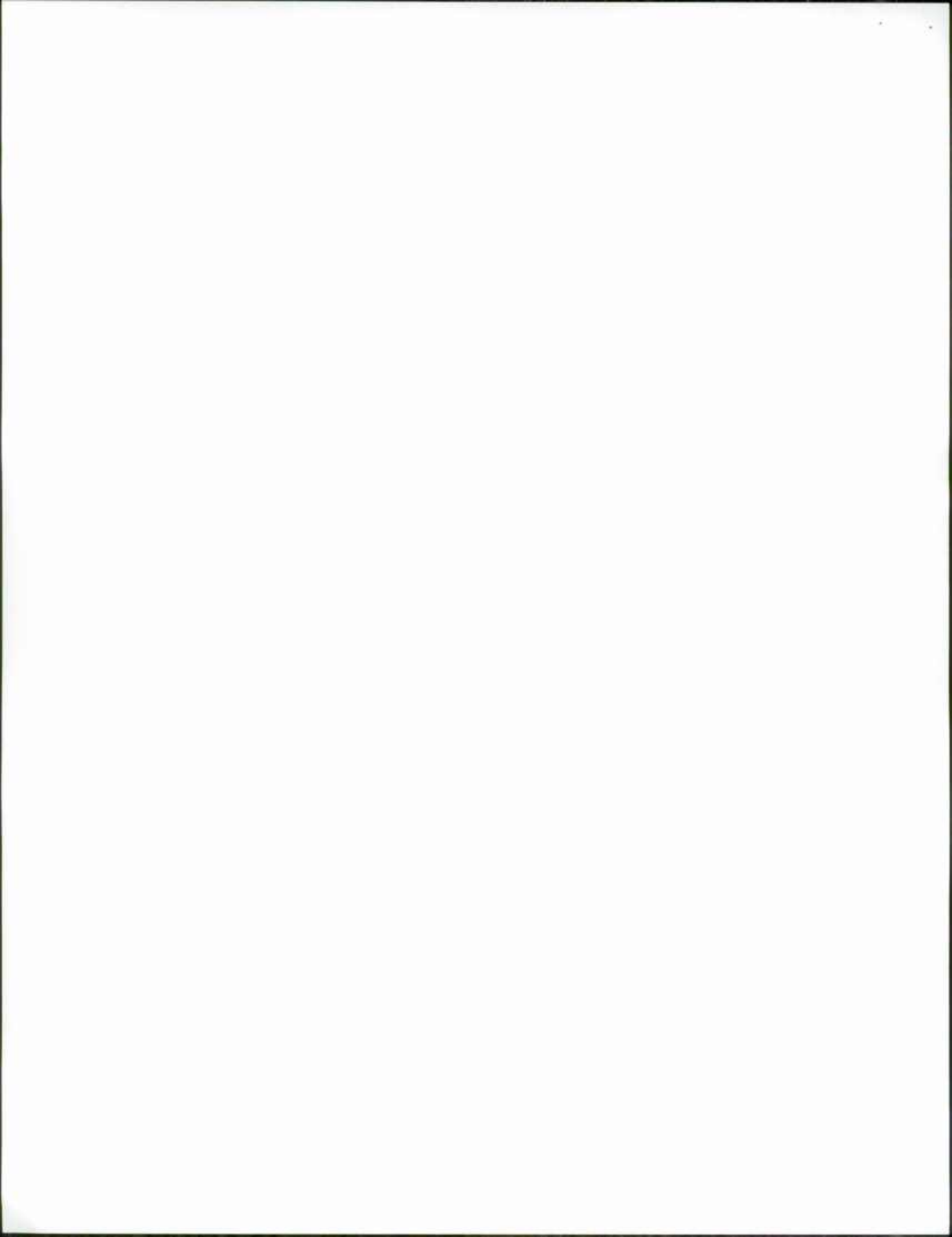




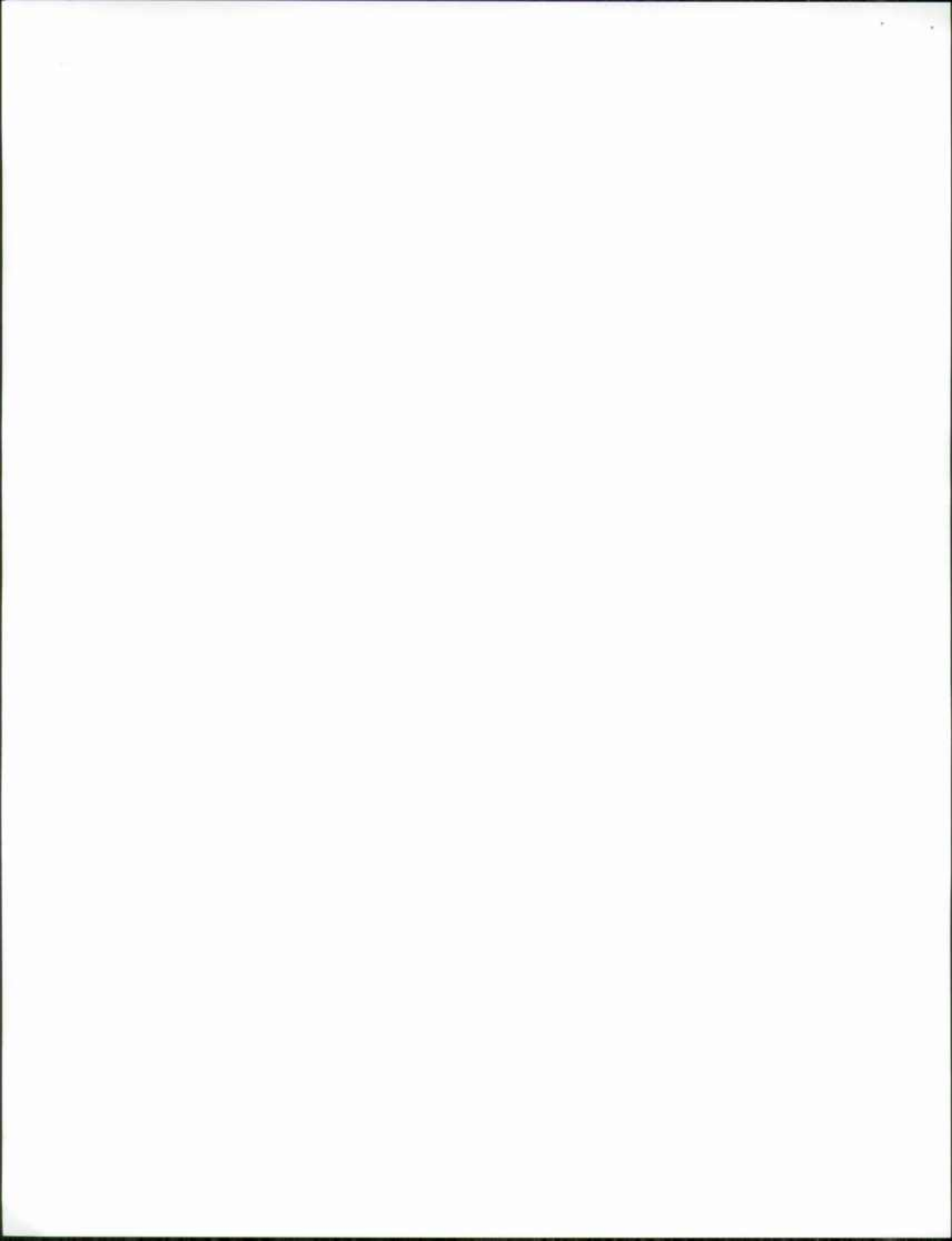
CAC notes that I have not demonstrated that the construction of a second deck is a right commonly enjoyed by properties in their area. Applicant has provided evidence of storage platforms and equipment lockers because Applicant is asking for storage. However, many waterfront properties here have multiple decks, or large functional decks, storage areas, etc., in Dares Beach. There is only one other property with a pier and boat lift in Dares Beach and that property is double or triple the size of our property.



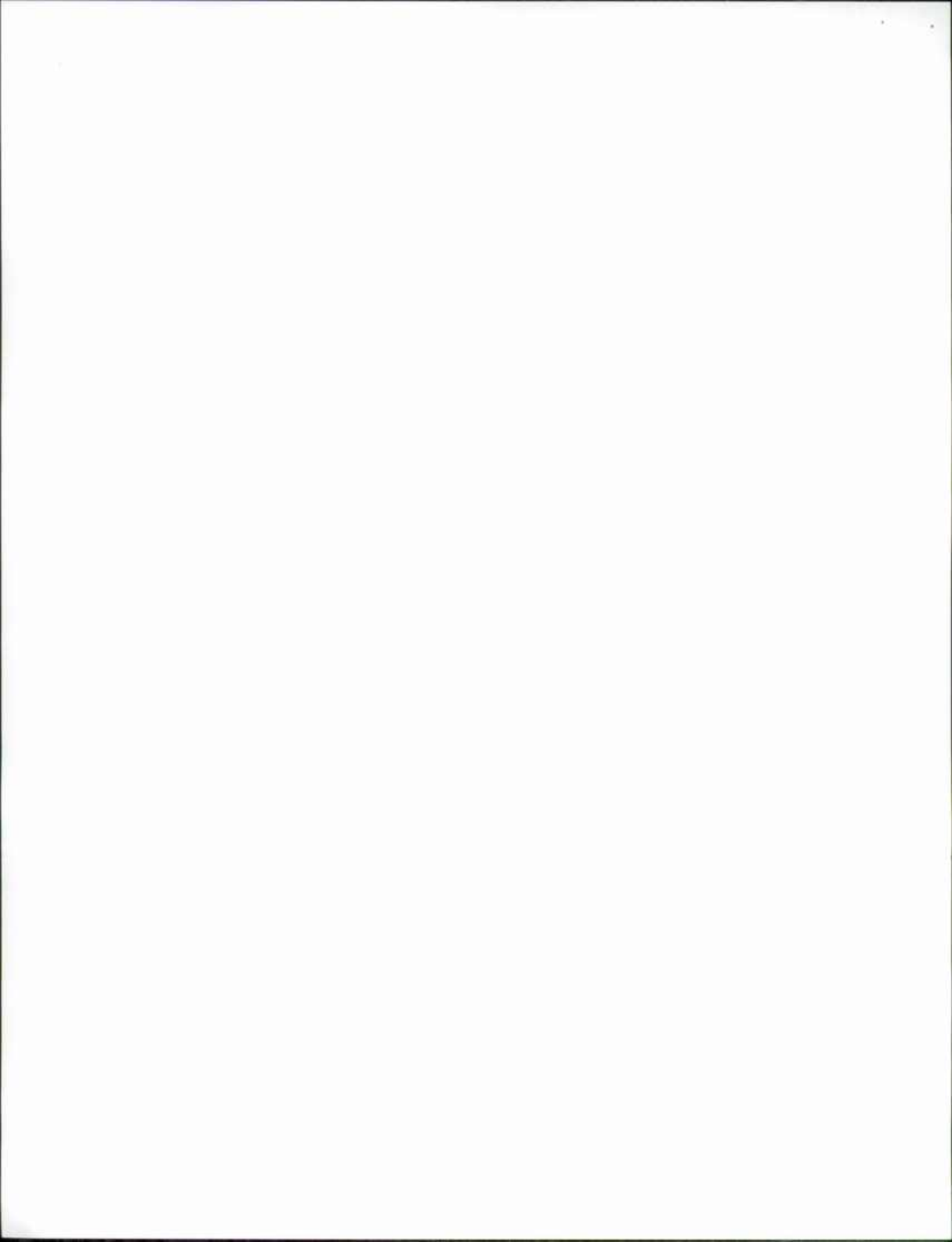




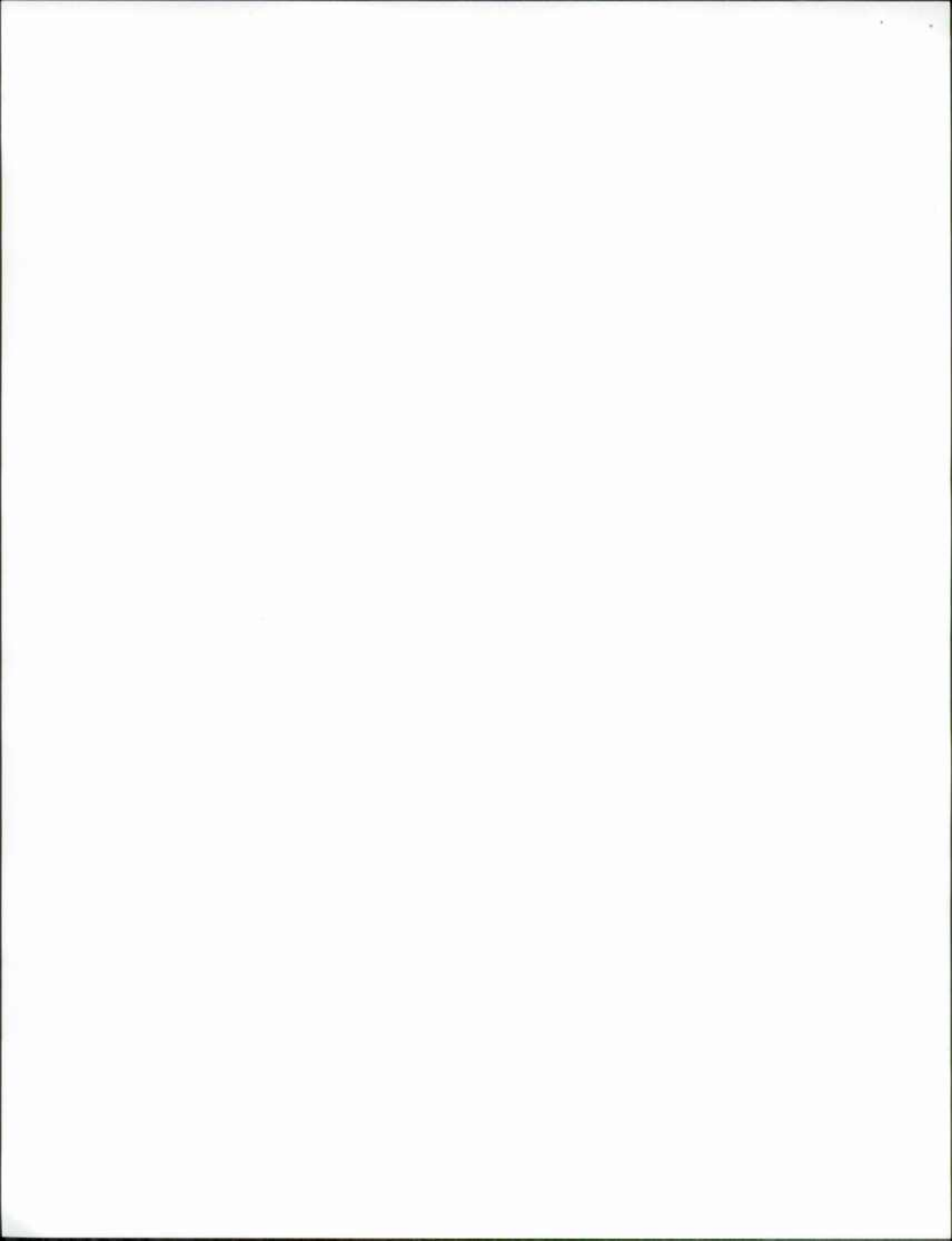










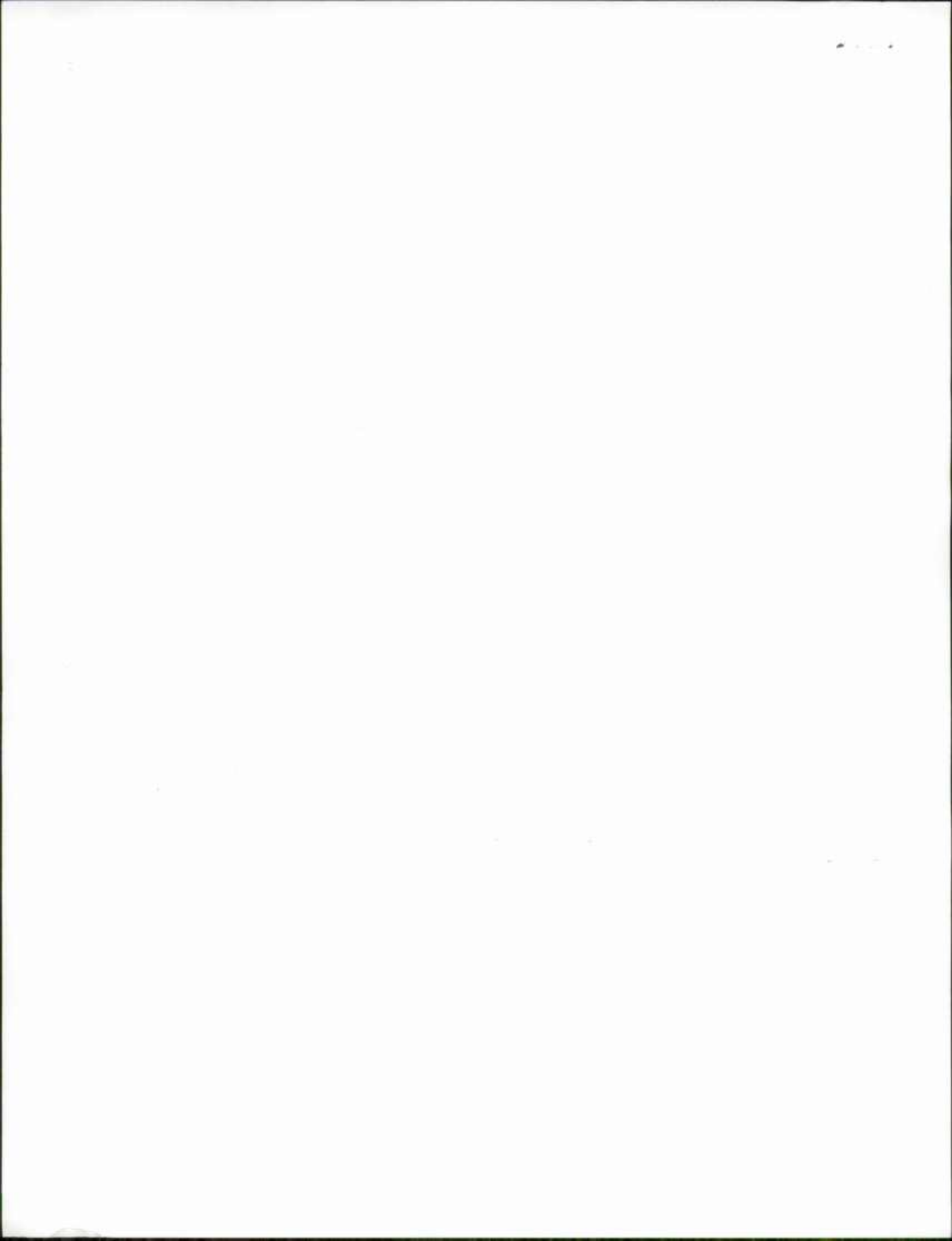


BOA 08-3248 multiple decks

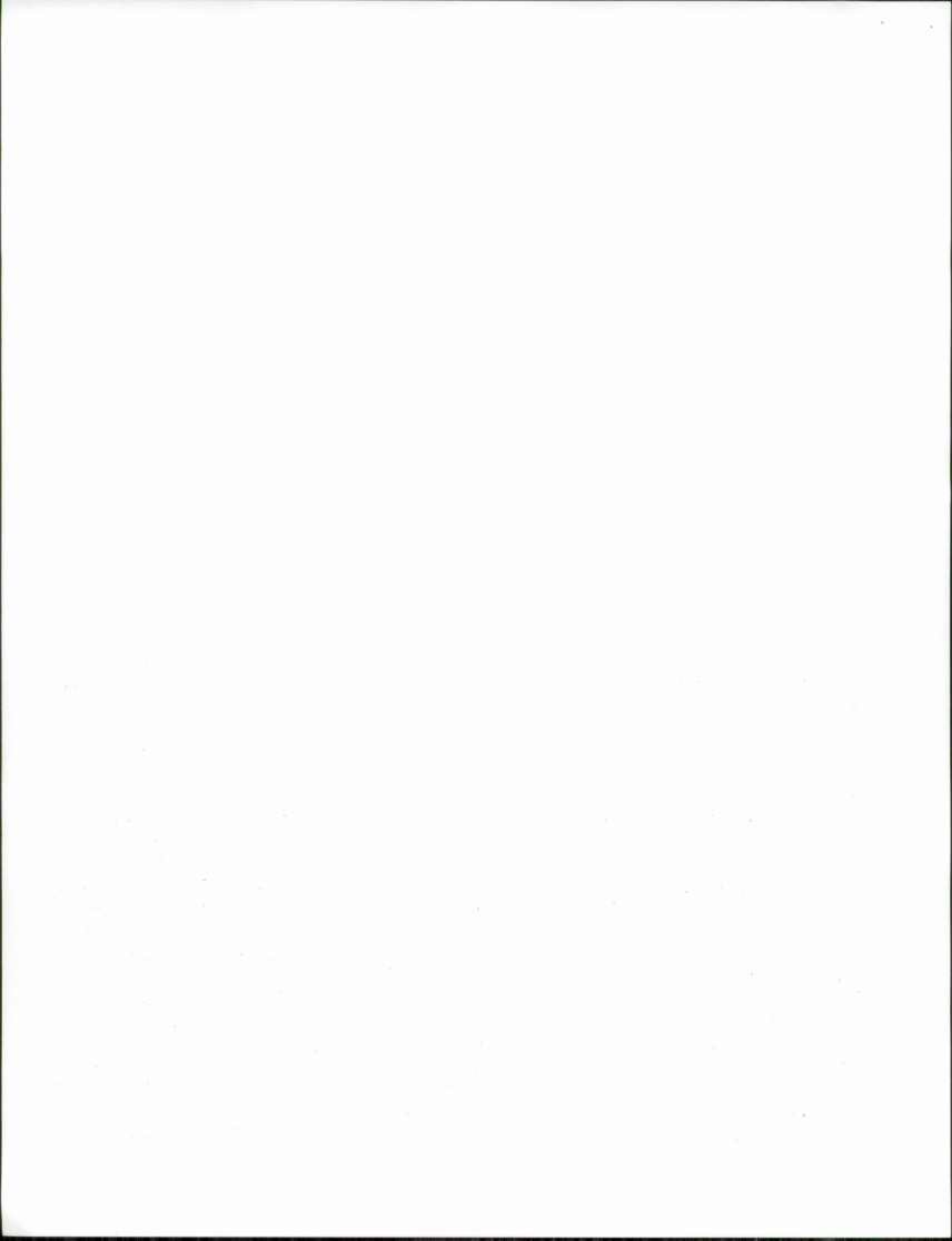
Neighbors at 75 Chesapeake Ave.

-22





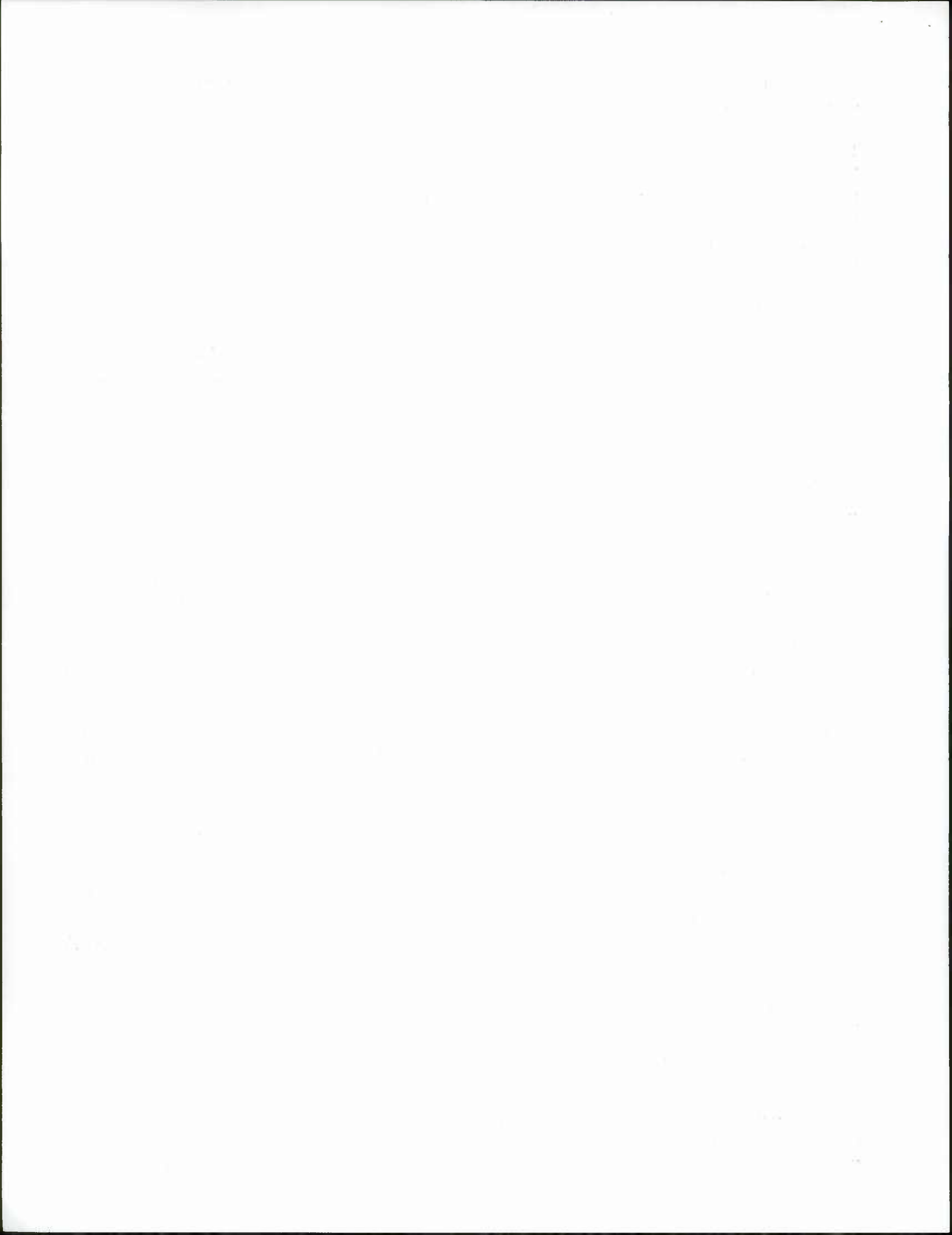






11-1.01.B.6.f – the granting of a variance will not confer upon an applicant any special privilege that would be denied by the Calvert County Critical Area Program to other lands or structures within the County’s Critical Area.

CAC states that the granting of this variance will confer a special privilege upon applicant that would be denied others. Please see section “F” and related portions of my packet submitted at the original hearing. This Applicant would ask CAC to review the submissions and find that I have overcome the burden of proof for my case, or for any other case with our topography and narrow lot. The buffer was not disturbed by the Applicants. The structure is an open board elevated storage platform for accessories and equipment for water-dependent recreational activities. The platform does not have rails. The platform was attached to pilings permitted for accessory steps and landings to access the buffer and the water and to the private timber boat ramp/launch (rail system). I have provided photos of similar structures, including impervious sheds, for which variances have been granted at nearby waterfront communities and for at least two other property owners: Littleton, Perkins, Scientists Cliffs, Western Shores. Dares Beach is a very old community with antiquated 4,000 s.f. non-conforming but legal lots. Many of the homes have significant waterfront decks, so it would be in keeping with the community. Many property owners have regraded their cliffs to slopes and maintain them in grass. Our waterfront has not been regraded or the lost land reclaimed. Armor store for the undersized shoreline erosion control structure is under the elevated platform. Seaward forces (wind-driven waves and storm surges) routinely overwash the revetment back to the toe of the cliff. This structure protects



our property and possessions and is for storage of equipment and accessories for water-dependent activities.

11-1.01.B.6.g – the variance request is not based upon conditions or circumstances which are the result of actions by the applicant, nor does the request arise from any condition relating to land or building use, either permitted or non-conforming, on any neighboring property. If the variance request is based on conditions or circumstances that are the result of actions by the applicant, including the commencement of development activity before an application for a variance has been filed, the Board of Appeals may consider that fact.

Without the materials I submitted at the original hearing, CAC states that the variance request is “entirely” based upon conditions which are the result of applicants’ actions and that we would have been denied a detached deck built at the edge of the shoreline because the only accessory structures permitted in the buffer are those that are water dependent or provide shoreline erosion control.

Applicant refers to section “g” and related parts of the packet filed at the initial hearing. Applicants admit that they assembled the platform and attached it to pilings that were permitted for water dependent structures and that the platform was the result of seaside forces. It is used for dry storage of parts and accessories for water-related recreational activities.

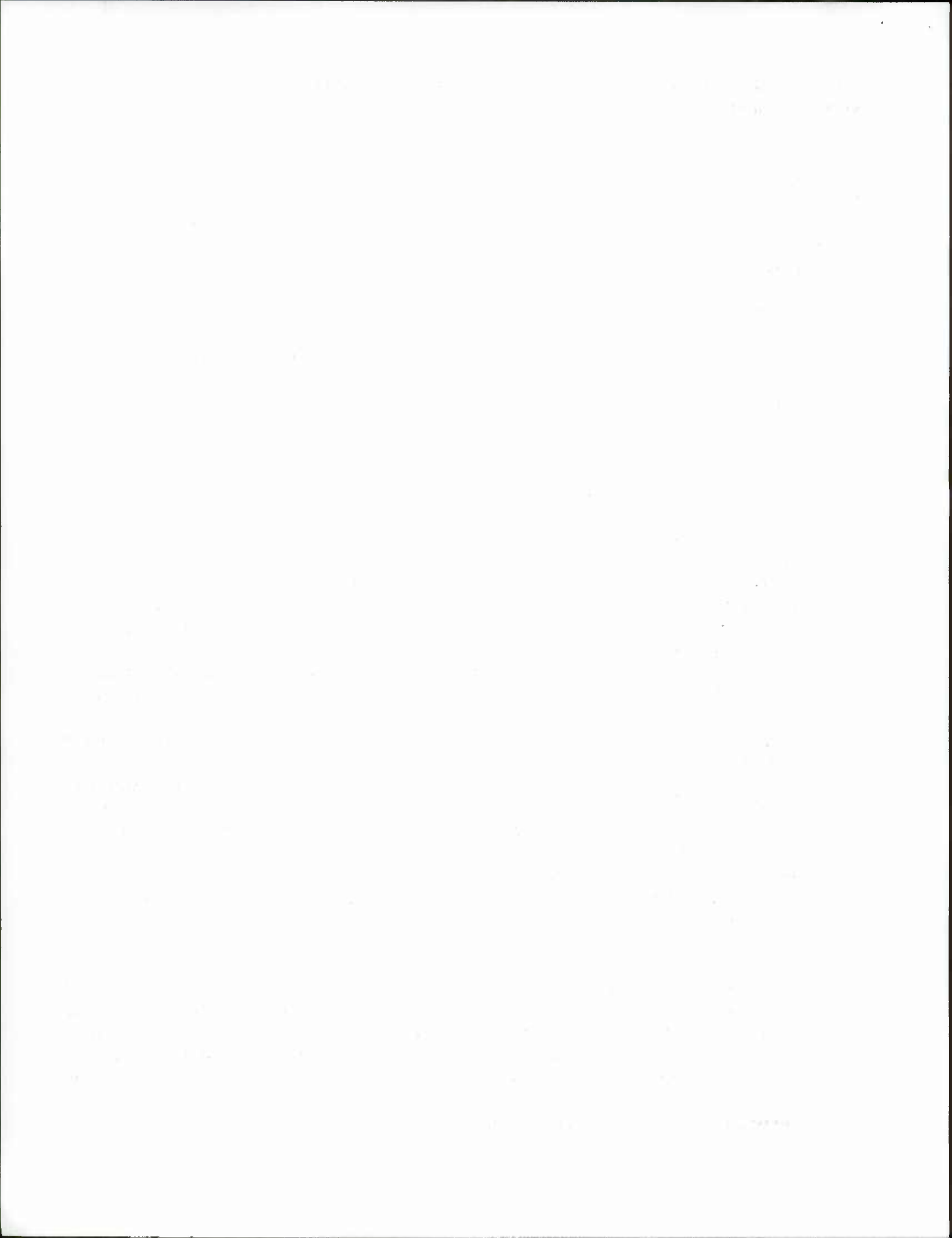
Applicants would hope that after CAC has read memo and the packet I handed in at the initial hearing and reviewed the photographs that it would come to a favorable conclusion for the applicants. Applicant apologizes that nothing substantive was turned in by their representatives upon the initial filing of this application and the packet was done at the last minute and it took days to go back through film to located photographic evidence in support our position and this variance.

11-1.01.B.6.h – the granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the County’s Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law.

CAC, without the benefit of the packet presented at the initial hearing, states that the existence of the deck prevents establishment of a vegetated buffer in that area and such vegetation would provide benefits to fish, wildlife and plant habitat. CAC says that the County law recognizes a naturally vegetated fully functioning 100-foot Buffer is vital to the water quality of the Bay. CAC states that the structure further reduces the functions provided by the Buffer on this site and contributes to the impact of development on the Bay.

Applicant responds that seaside forces prevent the establishment of a vegetated fully functioning buffer on our property and has prevented it for many years (see photos from 1973 to date in original packet). The now undersized revetment which has sunk and has been damaged repeatedly by overtopping wind-driven waves and storm surges does not fully protect Applicants’ property. We have tried to establish and maintain vegetation for 5 years.

The granting of this particular variance will be in harmony with the general spirit and intent of the Critical Area law (and the County’s Comprehensive Plan). Applicants elevated their accessory steps to allow light to reach vegetation to keep the cliff protected and habitat



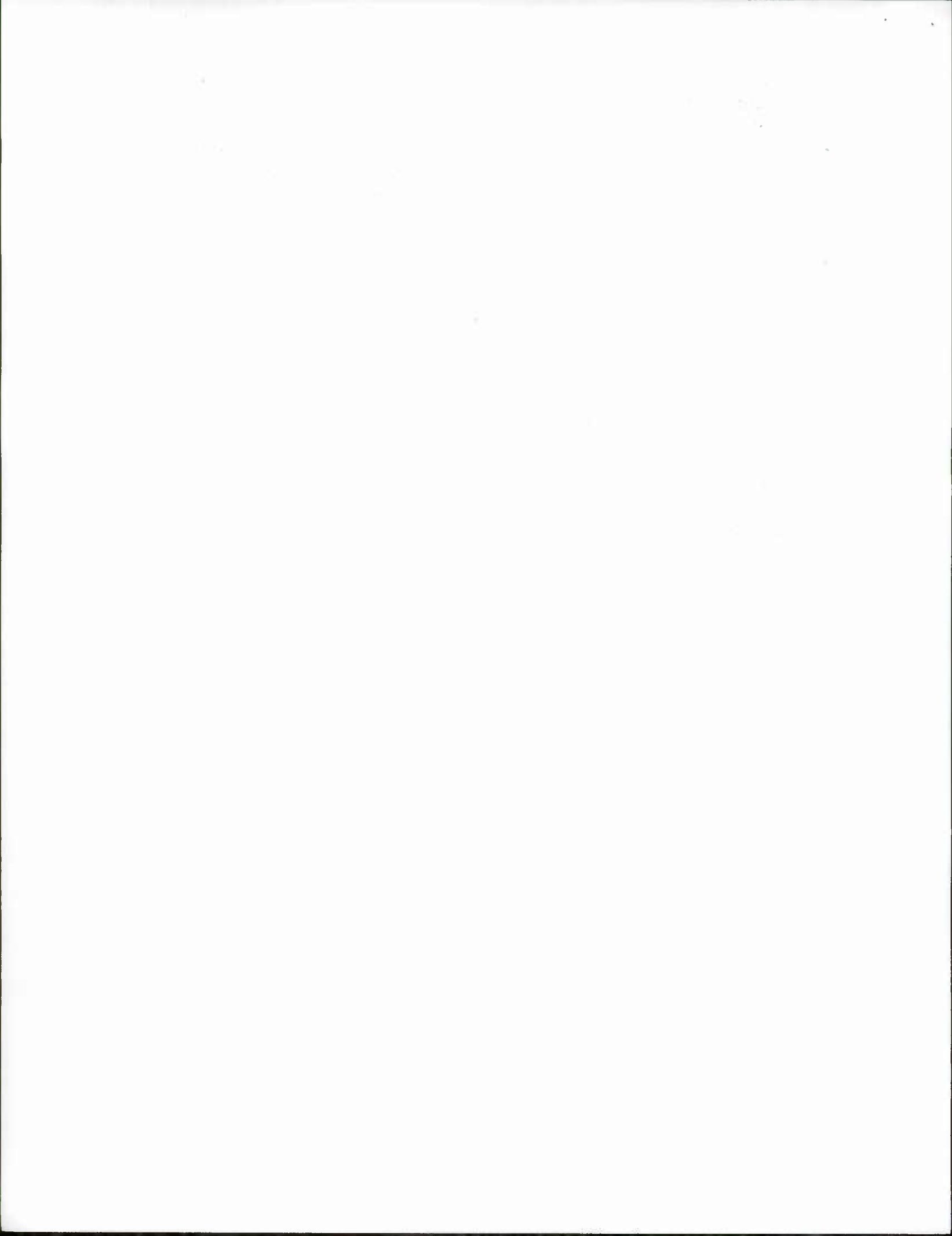
for the wildlife. We work to keep vegetation on the initial bluff at the cliff's toe to maintain vegetation and trailing plants to provide food and habitat.

The water quality of the Bay is enhanced by the French drain under the platform which captures runoff and pollutants and runs the width of waterfront on our property as well as the FAST denitrification system which reduces pollutants by 70%, greatly exceeding the County's goal. All stormwater on this property was engineered to run underground and away from the Bay towards the street. Applicants would also install elevated planters around the north and west sides of the platform to grow additional vegetation and keep it protected from seaside forces if that is feasible. We will continue to attempt to re-vegetate the waterfront after it is removed by seaward forces.

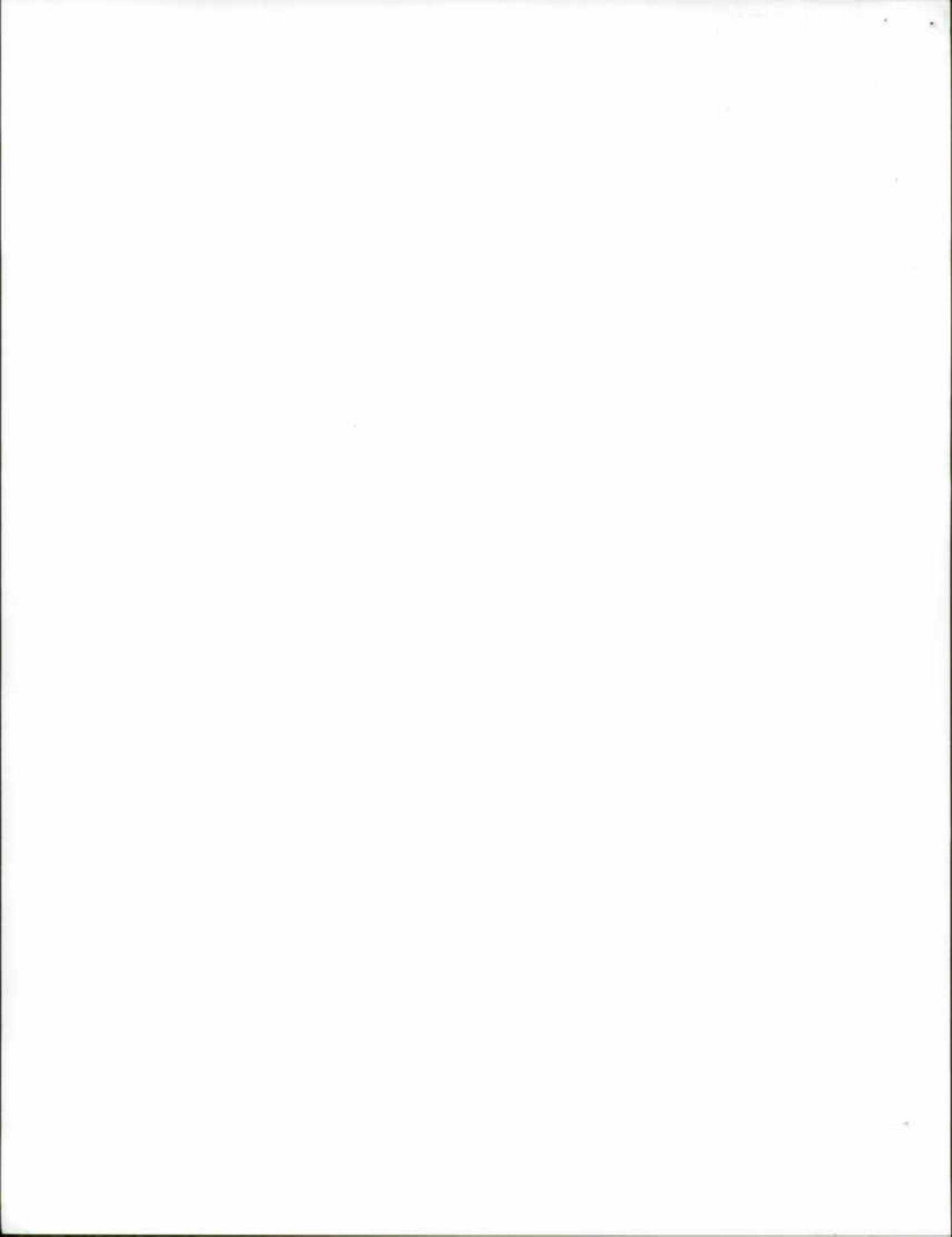
Applicants also believe that this structure as located on our property with our topography for the purposes it represents and for our set of facts and circumstances and mitigating factors meets and exceeds the stringent criteria for a variance in the 100-foot buffer.

To summarize:

- The elevated open board storage platform was borne as a direct and indirect result of seaside forces
- The platform has not been modified since its construction in Nov/Dec 2003 and it now functions as elevated storage for accessories and equipment for our water-dependent recreational activities which we believe is a permitted use
- The platform is attached by stringers to pilings for which we have permits and have had permits for since October and August 2003 as well as a 2008 MDE permit.
- The buffer in this area is impaired and is not fully functional because of seaside forces (overwash from high winds and storms) and revetment for erosion control resulting from seaside forces to protect our property and to prevent dirt and silt from re-entering the Bay.
- No vegetation was disturbed or removed; installation of revetment and Isabel did that as well as overwash from high winds and storms.
- French drain acts as buffer. Applicants' revetment contractor installed a substantial French drain the width of our property (40') behind the old timber bulkhead; the French drain collects runoff before it enters the Bay and also collects and filters pollutants from runoff and structures. The cliff is entirely vegetated and has not been touched, other than to install elevated access stairs.
- The Applicants installed a FAST denitrification system which removes 70% of the nitrogen and other pollutants and stops them from entering the Bay which greatly exceeds the County's goal of 40%
- There are other locations on the Applicant's buffer are that are not required to be vegetated (under the accessory stairs – at least 200 square feet). Applicants' elevated their open board stairs well above the ground to allow vegetation to grow and protect the cliff. Applicants also encourage vegetation to grow over the handrails. This area of vegetation meets and may exceed any that CAC may considered to be impaired by a portion of the elevated storage platform but most vegetation in this area of the Buffer is ripped out by seaward forces (overwash) and the floating debris that accompanies the wind-driven waves and storm surges



- Applicants could further enhance vegetation by adding elevated vegetated boxes on the south and west ends of the storage platform and planting them with native plants including trailing vines
- Applicants do not know where else on their property that they could plant any additional vegetation; even if the platform is removed, overwash routinely removes vegetation from this area of the shoreline. Other properties also have jetties, and a little higher revetment, which together absorb much more energy and may be the reason that vegetation is maintained during some storms.
- No habitat or vegetation was destroyed – seaside forces did and continue to do that
- Wildlife does use the area under the elevated structure to feed and bathe and for cover during storms. It is used by birds, muskrats, Bay rats, groundhogs, snakes. Applicants could add brush under the platform for additional habitat but that would wash out into the Bay with the next overwash.
- Stormwater runoff from the house and gutters drain underground and away from the Bay
- The property has steep slopes from north to south and east to west, is extremely narrow (40') with a 31' cliff and 60 steps
- Applicants' disability and health issues
- The size of the platform is the minimum adjustment necessary to afford relief
- This structure and the features of our lot is one of the reasons that there are variances available.

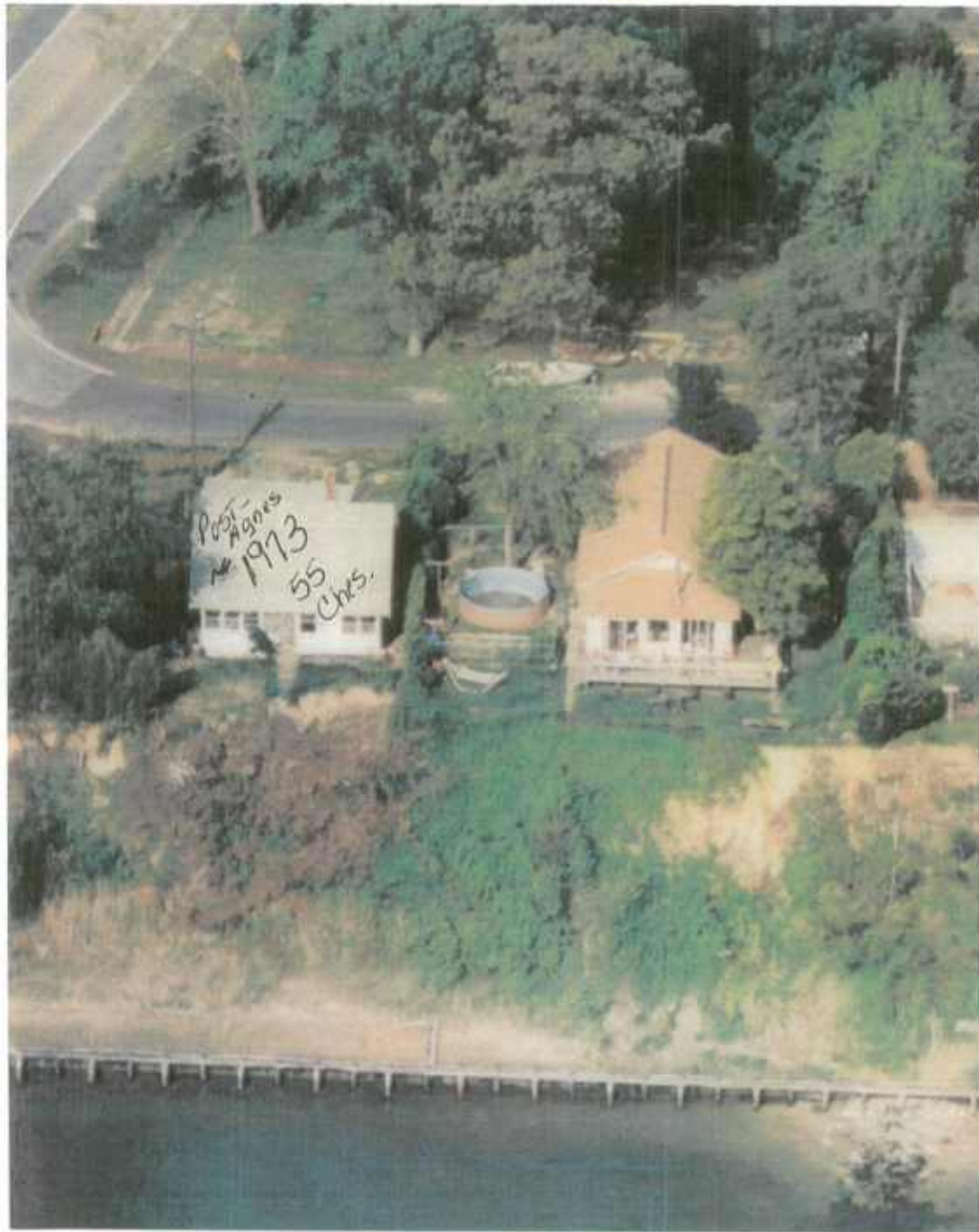




MAYO: VARIANCE REQUEST

BOARD OF APPEALS
EXHIBIT NO. 8
SUBMITTED BY AAAO

6/5/18 (copy)

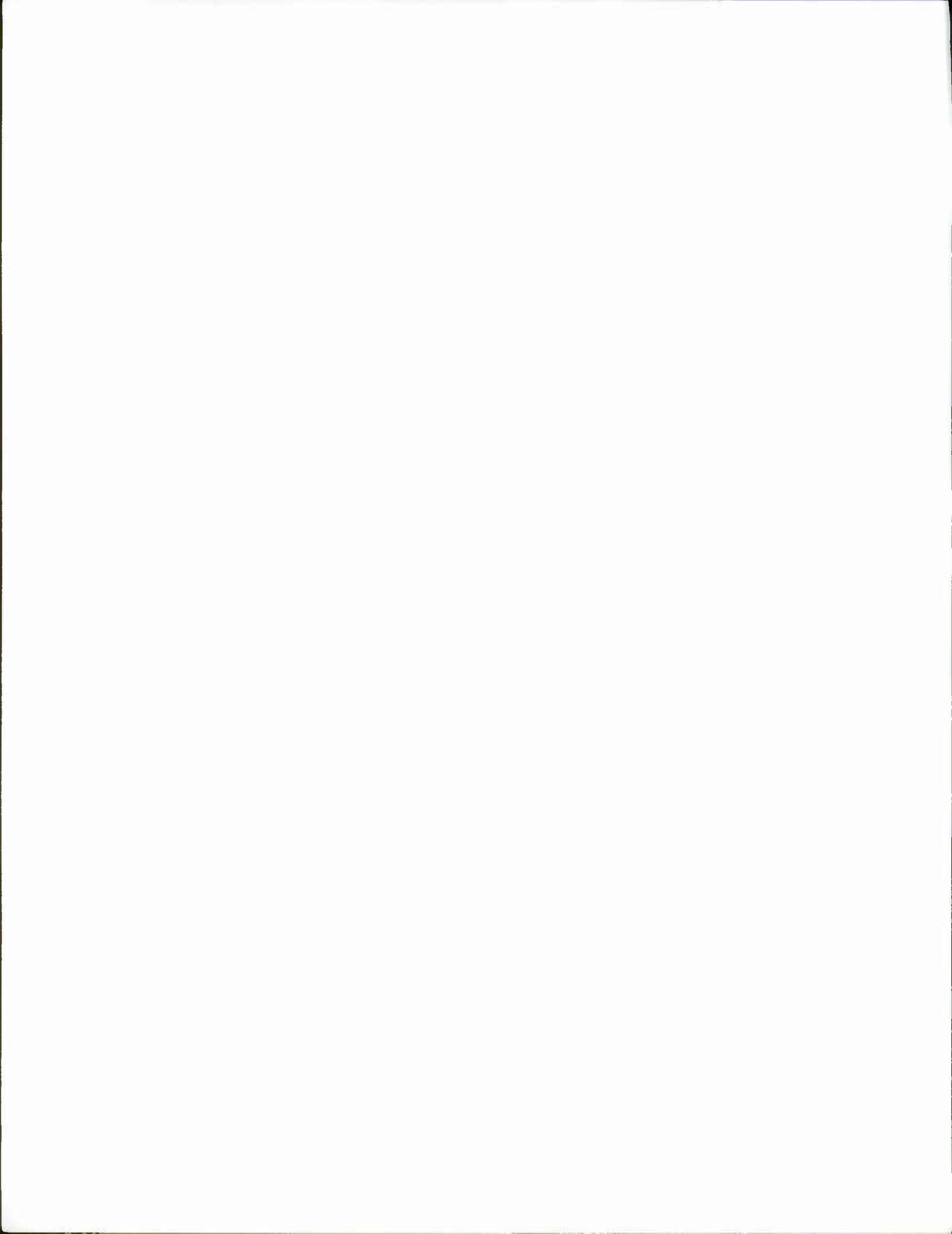


103
11



Washed up
5/12/08





55 Chesapeake Avenue
Prince Frederick, MD 20678
Lot 6RR, Block B, Plat 3, Dares Beach

History:

Purchased property 2002

With adjoining property owners contracted for armor stone revetment completed a month prior to Hurricane Isabel in September 2003. We also included a splash apron to the top of the first bluff and pilings. During construction, contractor determined that a French drain was required at a cost of \$1,750 extra.

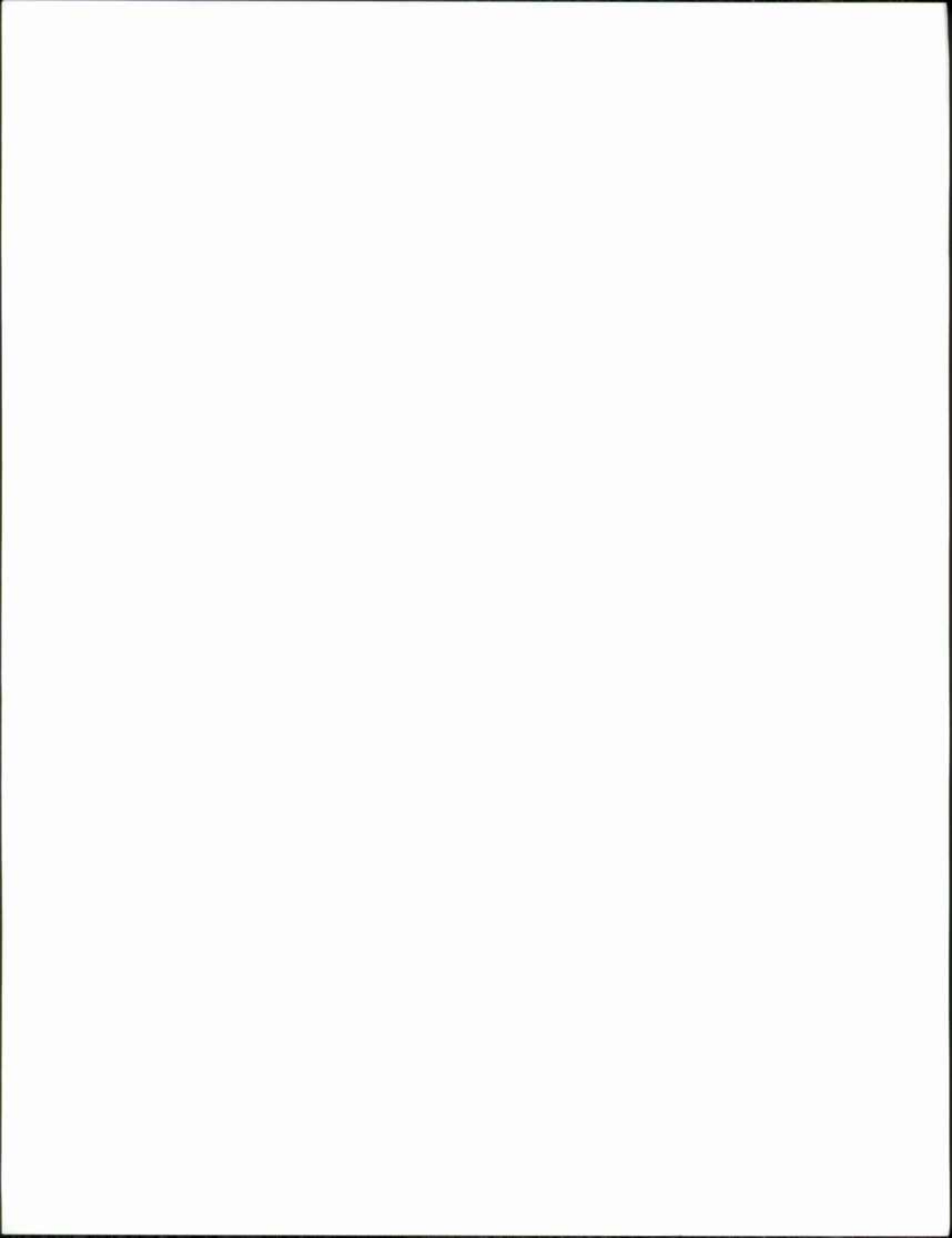
The French drain is approximately 4 feet wide (the width of the bulldozer bucket), and 4 to 5 feet deep, filled with gravel and silt cloth and runs the width of the Applicant's 40' lot. Outflow pipes were installed through the old bulkhead. The revetment was completed around June 2003. We installed our accessory steps down the cliff and out to the old bulkhead and over top the new revetment to access the water and used the pilings to elevate the decking boards to the elevation of the pier.

Isabel hit in September 2003 with a huge storm surge. Floating debris (huge tree trunks and trees and treated lumber) carried with the storm surge damaged revetment and eroded about 8 feet deep x 5 feet high x the width of our property. Isabel tore out an old creosote timber retaining wall and we think an old duck blind at the secondary bluff of the cliff and a few small trees. The storm left a 20-foot sassafras tree, more than 4 feet in diameter at the trunk and uncovered 200 to 400 pound stones and smaller rocks, cobble and gravel. We used a come-a-long and a steel pole and attempted to manually re-set the armor stones.

We were told that County officials advised property owners in an emergency meeting to "do what you have to do to protect your property." Other waterfront property found a source for free "soil" but they had to arrange for its removal. We did not bring in dirt but a neighbor did to repair their property and it affected our property. The dirt had a high content of clay, and their access path was the width of a bulldozer, running from the top of their bluff down to our property. We believe it redirected springs and caused stormwater runoff to come onto our property. It turned the clay into a muddy quagmire. We would sink in the mud well past our ankles, even in dry weather. Because of the water seepage and runoff, the clay eroded into the Bay and ponding started causing alarm as "green algae and slime" started to form.

At a meeting with DNR, County officials others in October/November 2003, to form an erosion control district, the waterfront owners discussed the hurricane damage and erosion problems. It was their collective opinion that the revetment and other structures absorbed the energy of the waves and the storm surge and prevented more serious damage to the properties with any type of structure. The also said that our revetment was undersized and would be recommending an additional 2' higher in the future. The DNR representative advised that he had previously addressed erosion problems at Dares Beach several years earlier and said waterfront properties at Dares Beach had *unique* problems because of its severe erosion and that the shoreline protection structures which were installed were done at an improper height and secondary bulkheads or splash walls. He advised that this type of work would not be covered by any funding we could obtain under a shoreline control district because, "technically, the secondary bulkhead or splash walls would not be on the shoreline."

I received a permit for a pier, boat lift and boat ramp/launch in October 2003.



Because of the ponding and mud and algae, in late November or December 2003, we put an elevated platform up so we could enjoy our property and store things. We just wanted to be away from the mud and algae have storage for our property. The platform is attached to the permitted pilings for our pier and boat ramp and is over armor stone for our splash wall. No footers were dug. No vegetation was removed, damaged or destroyed (we added grasses and shrubs). The platform is pervious using 1 x 6 decking boards spaced 3/4" to 1" apart (licensed by MDE for the pier and boat ramp) and supported by outside framing of 2 x 10s and 2 x 8 stringers. The lumber was sealed twice with a linseed oil-based sealer, according to the EPA's recommendations. Care was taken when the boards were sealed by hand-brushing the decking boards instead of rolling or spraying.

In 2004, we purchased a boat and motor and made a temporary boat ramp and stored it under the platform. We built steps down over the revetment with a platform and ladder (permitted by MDE) to get into the water to swim and access the boat. We brought our two picnic tables here from Bowie and put one on the platform and one on the revetment. Then we added storage boxes for our boating accessories and tackle boxes, etc. We rebuilt and moved here in 2005.

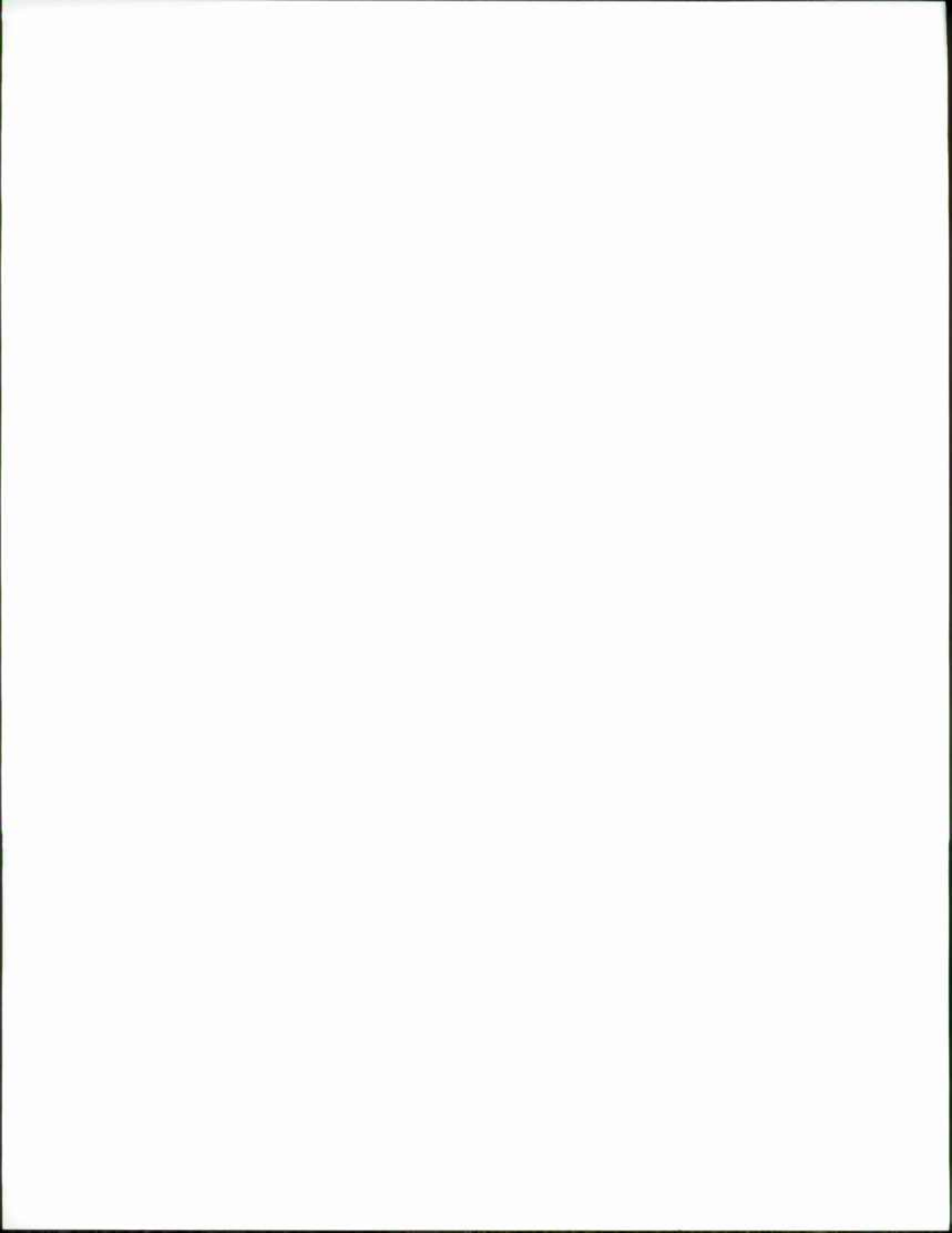
When it was time to install our pier, we were told by the County that we would have to get a variance because there was a 25-foot setback. (Our revetment contractor told us it was 10 feet.) The Board granted us our variance to reduce the extended side lateral line setbacks. The Board asked us about our "deck" and we explained to the Board what was stated above.

Since Isabel and other storms, the elevation of our stones has dropped and there are more occasions when high tides and wind-driven waves overtop the revetment. Now we really need the elevated platform to store our water-related accessories and equipment property dry and safe and being washed out into the Bay. We have 60 steps and that's too far to carry these things. Even if we could, we don't have anywhere else to keep it. One of our picnic tables (commercial, heavy-duty) on the ground was washed into the revetment by the remnants of Ernesto. We moved it up to the platform.

I believe this area may not meet the definition of a buffer because it is not naturally vegetated, as everything is washed away by wind-driven waves, storm surges, etc. Existing mitigation on site.

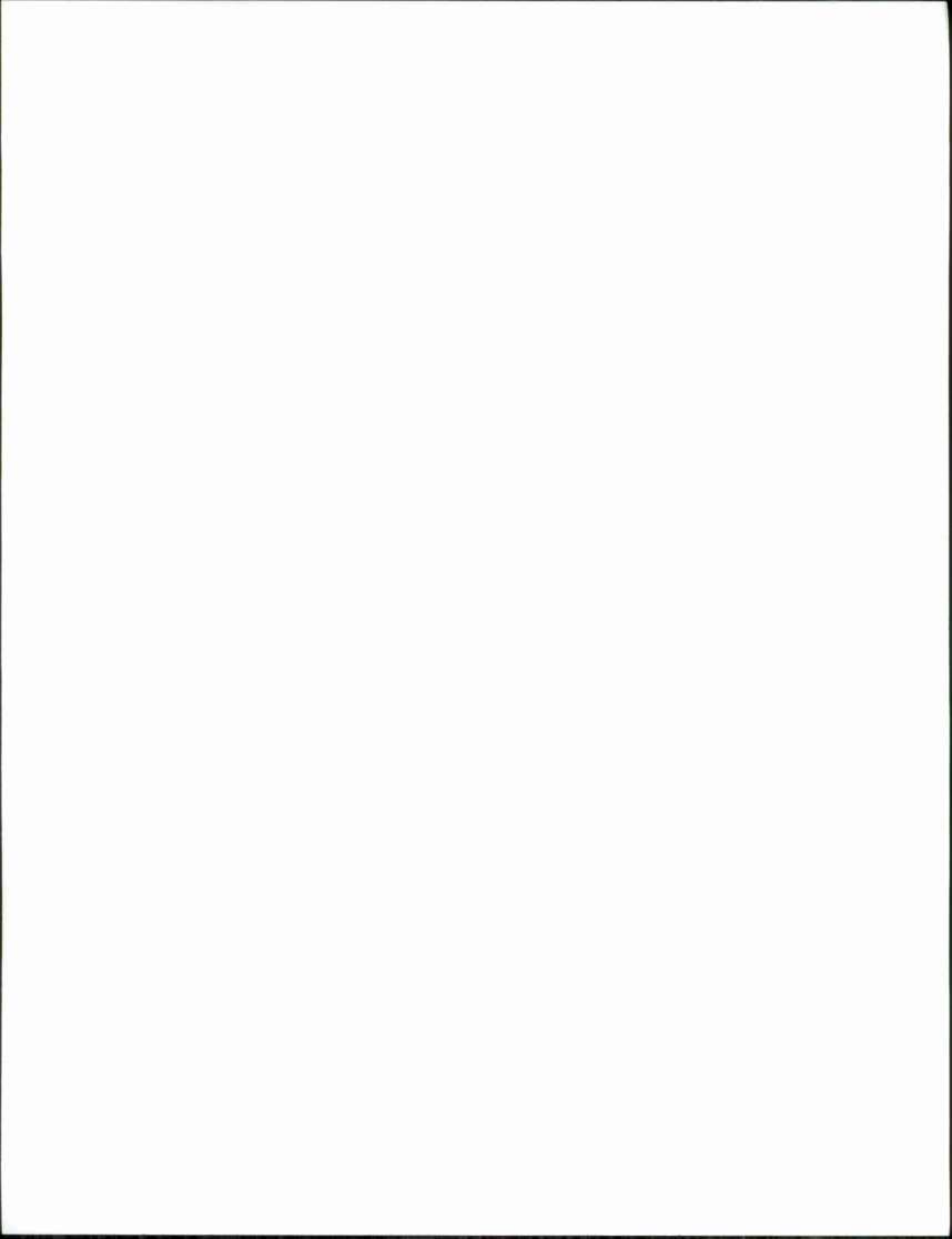
The platform is pervious and overtop armor stone revetment and gravel. Stormwater can collect in the depressions between the armor stone and gravel to evaporate or percolate back into the soil. The French drain can collect excess water and any pollutants and allow it to filter and slowly percolate back into the ground. Also we installed a denitrification system approved by MDE which reduces nitrogen and pollutants by 70%.

No habitat was removed or destroyed. The ground hogs, muskrat, egret, herons are still there. No fish habitat was destroyed. The armor stone revetment created a safe harbor for thousands of small fish and minnows and baby crabs which were not there when we had the old timber bulkhead.

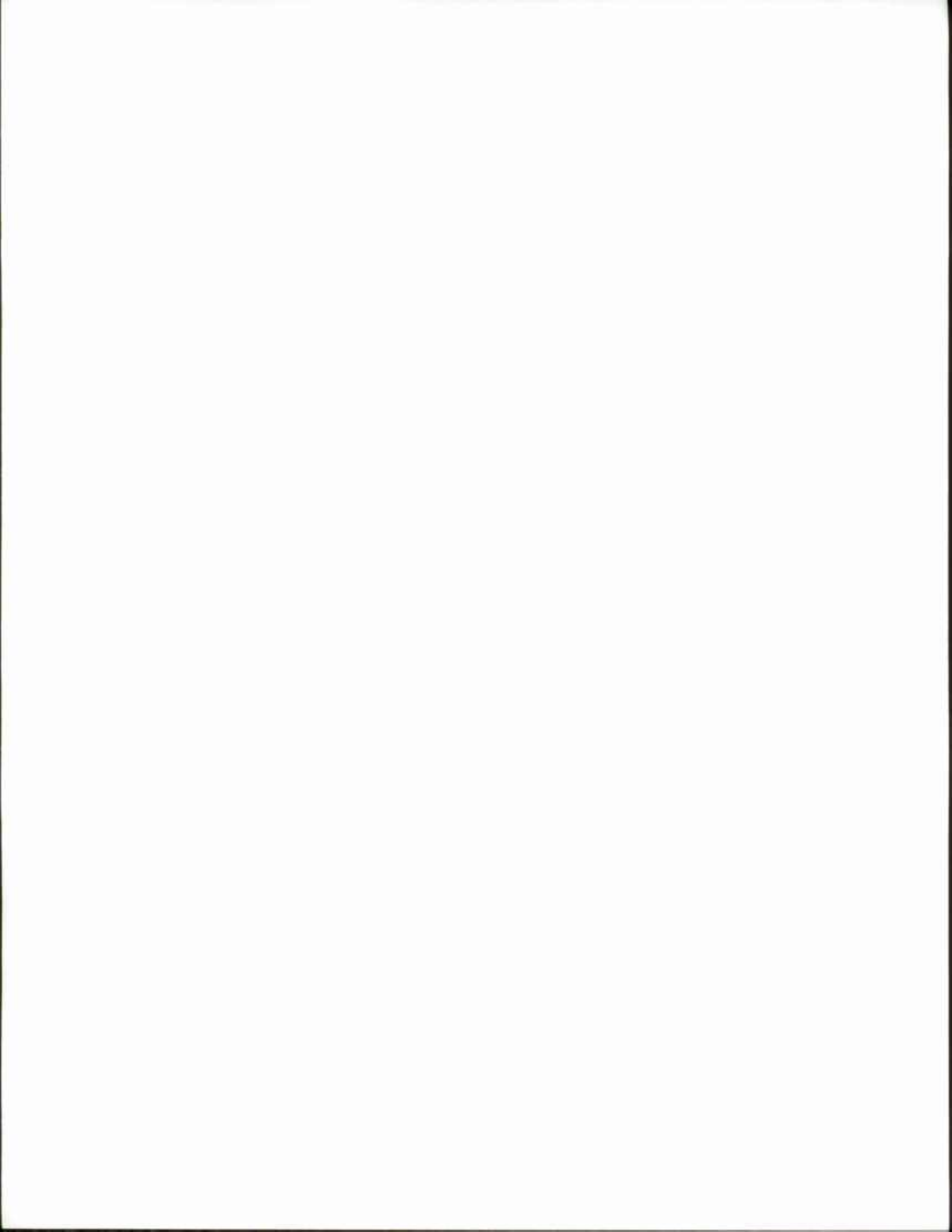




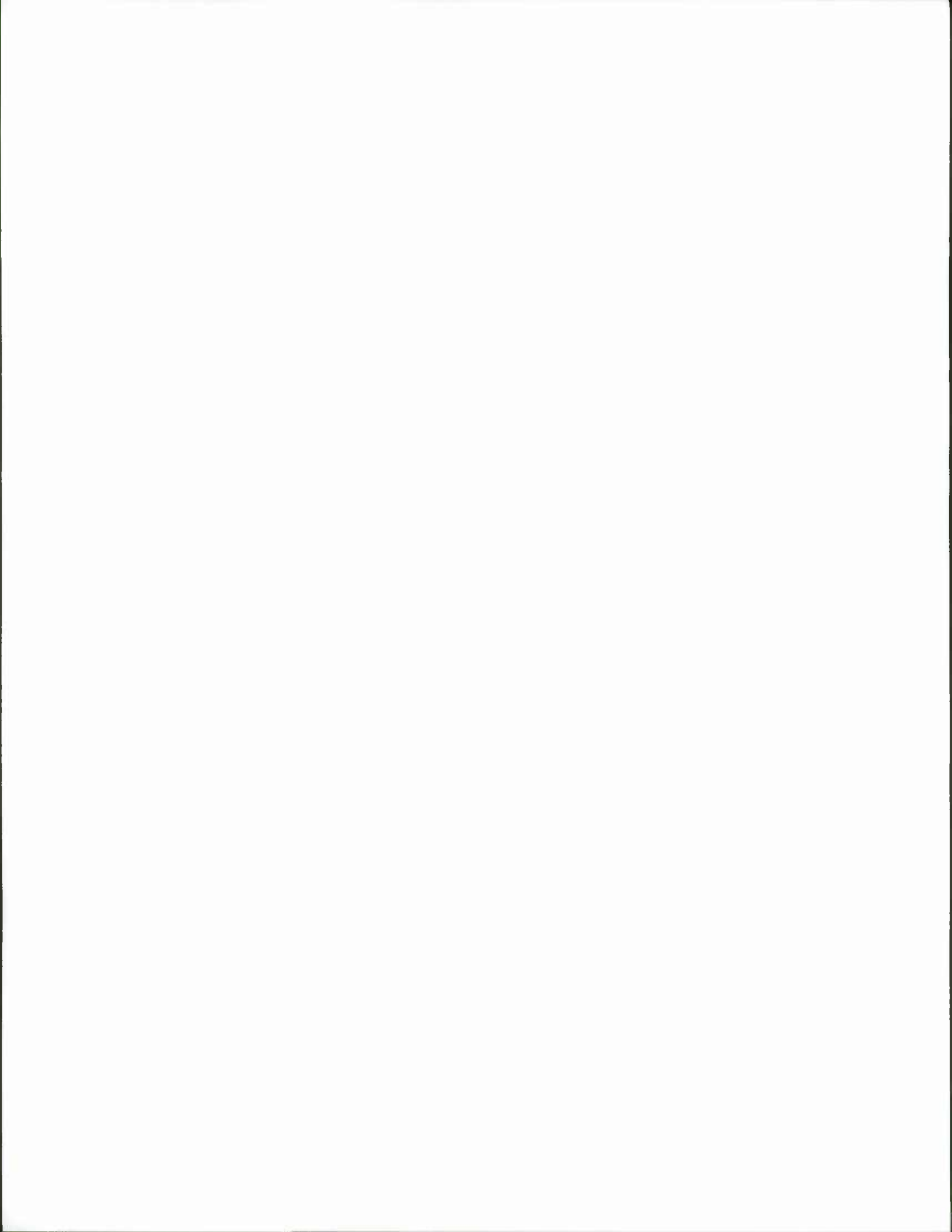
The platform is attached to the pilings that support the stairs, landing and pier and to the pilings for our boat ramp/launch.



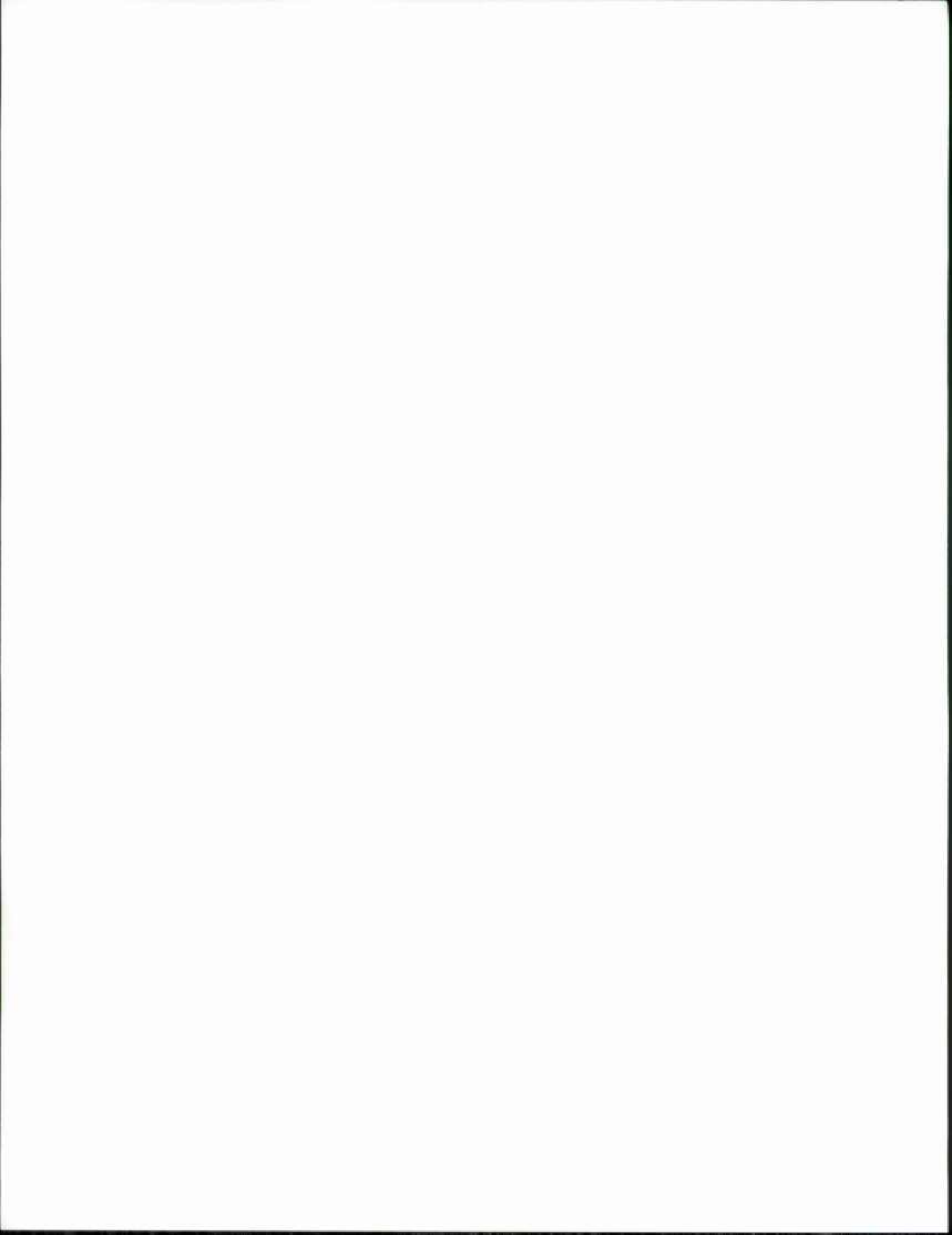




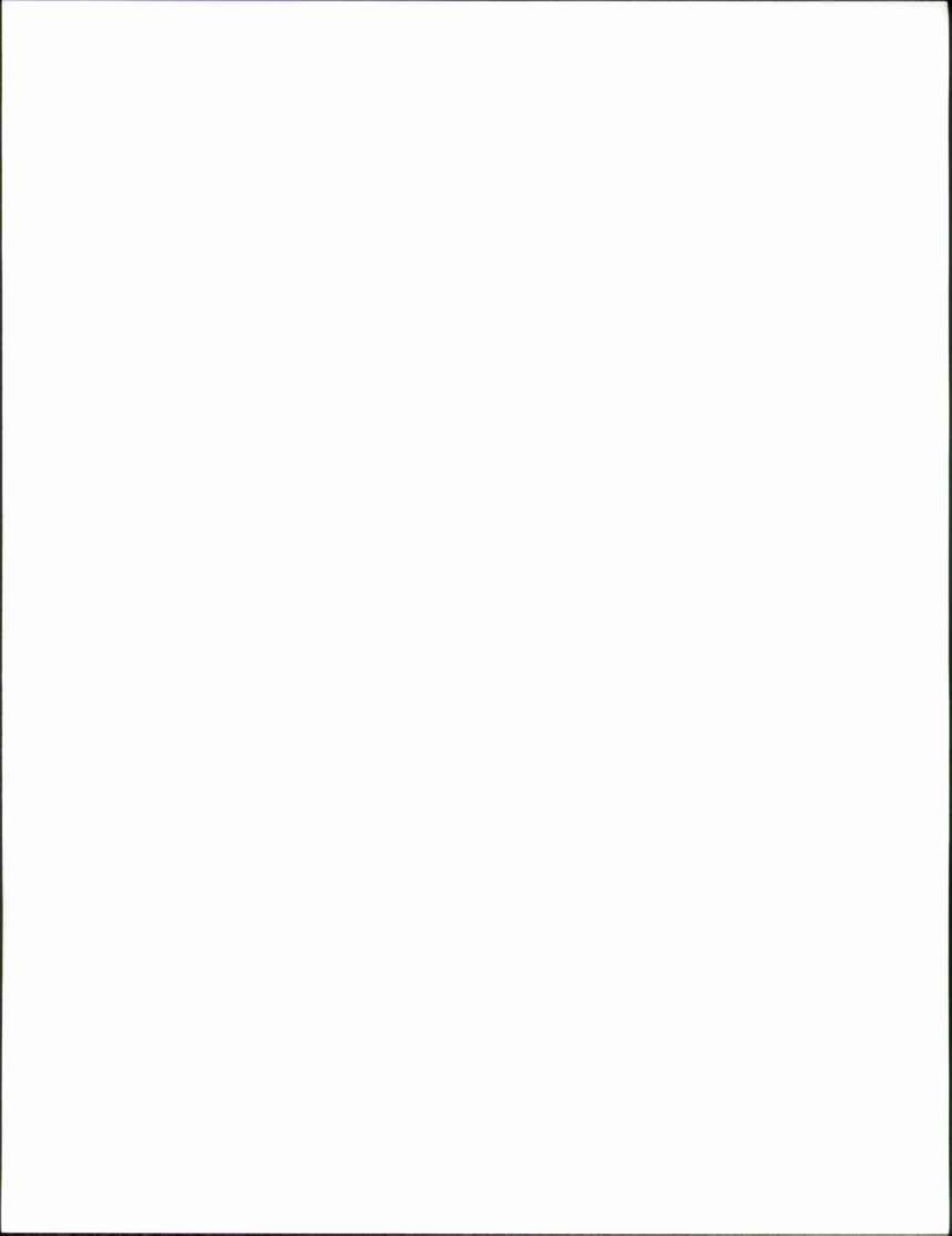




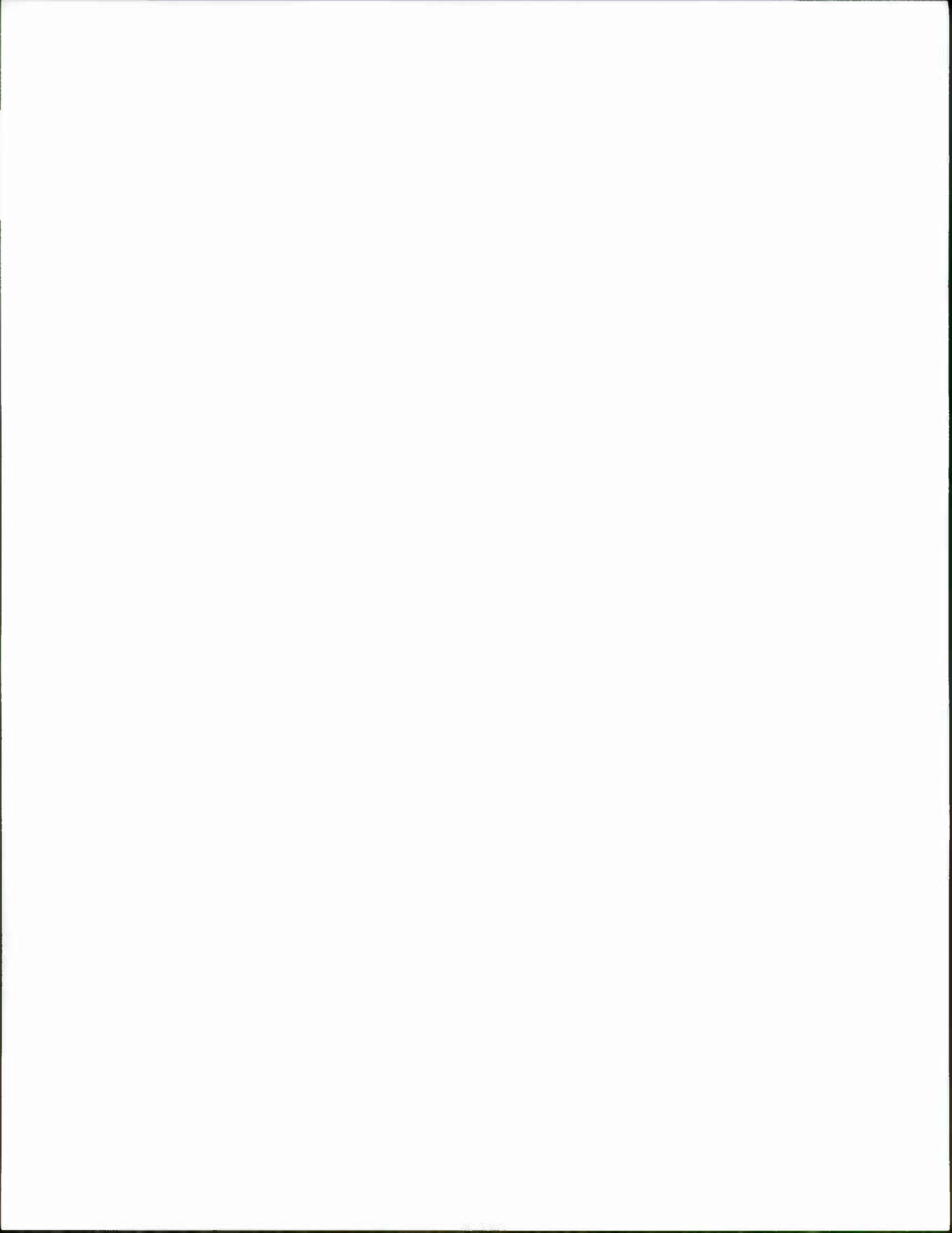




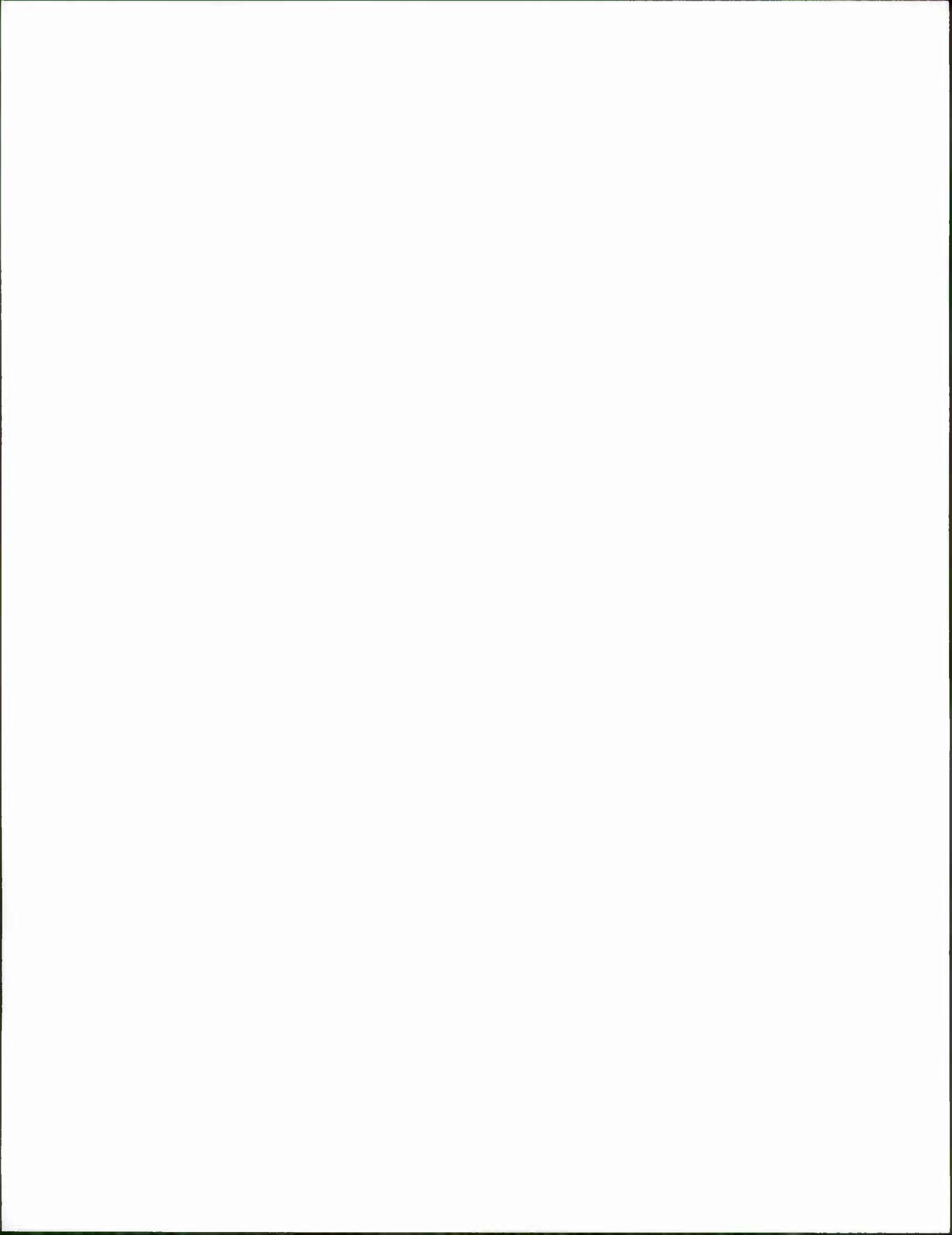




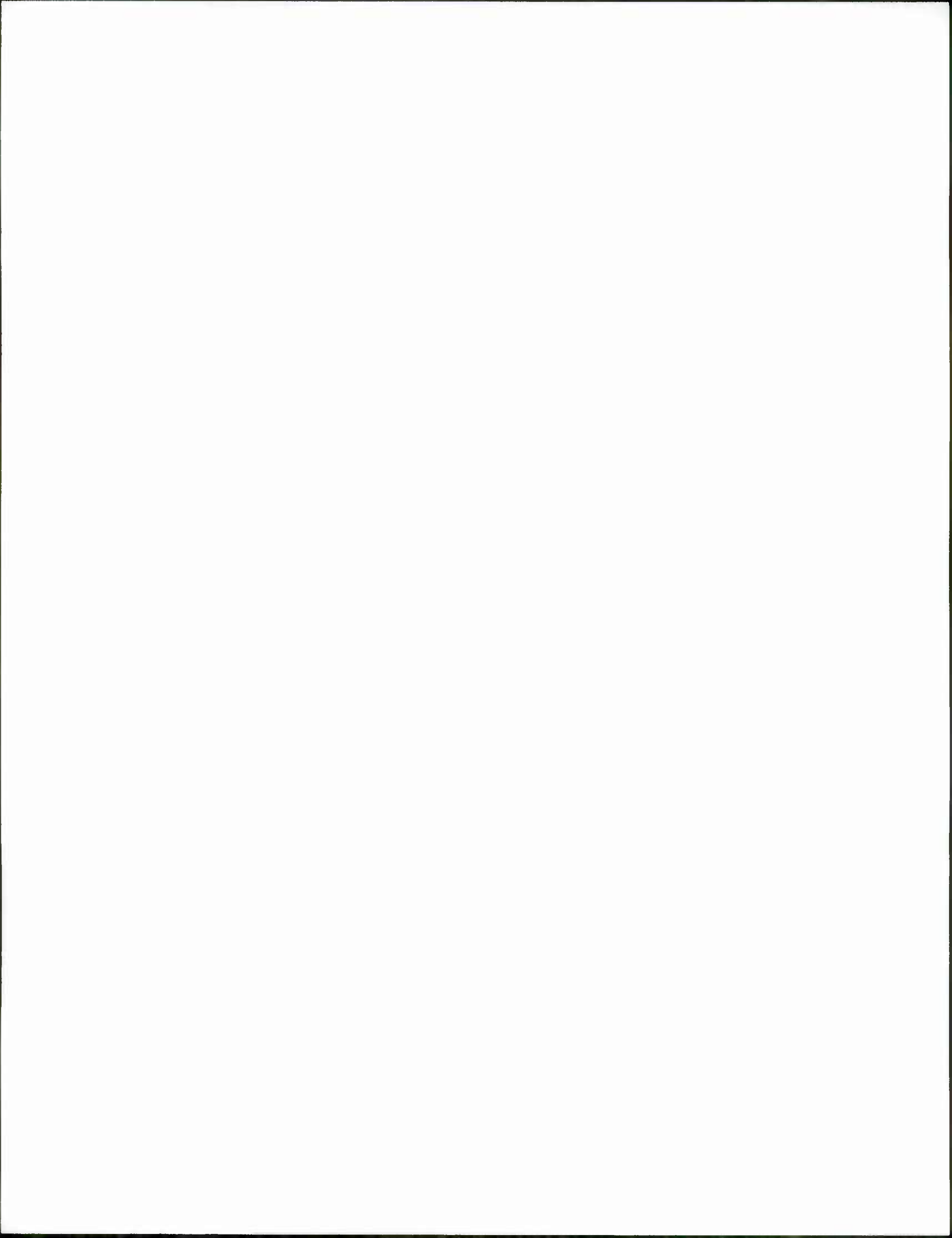




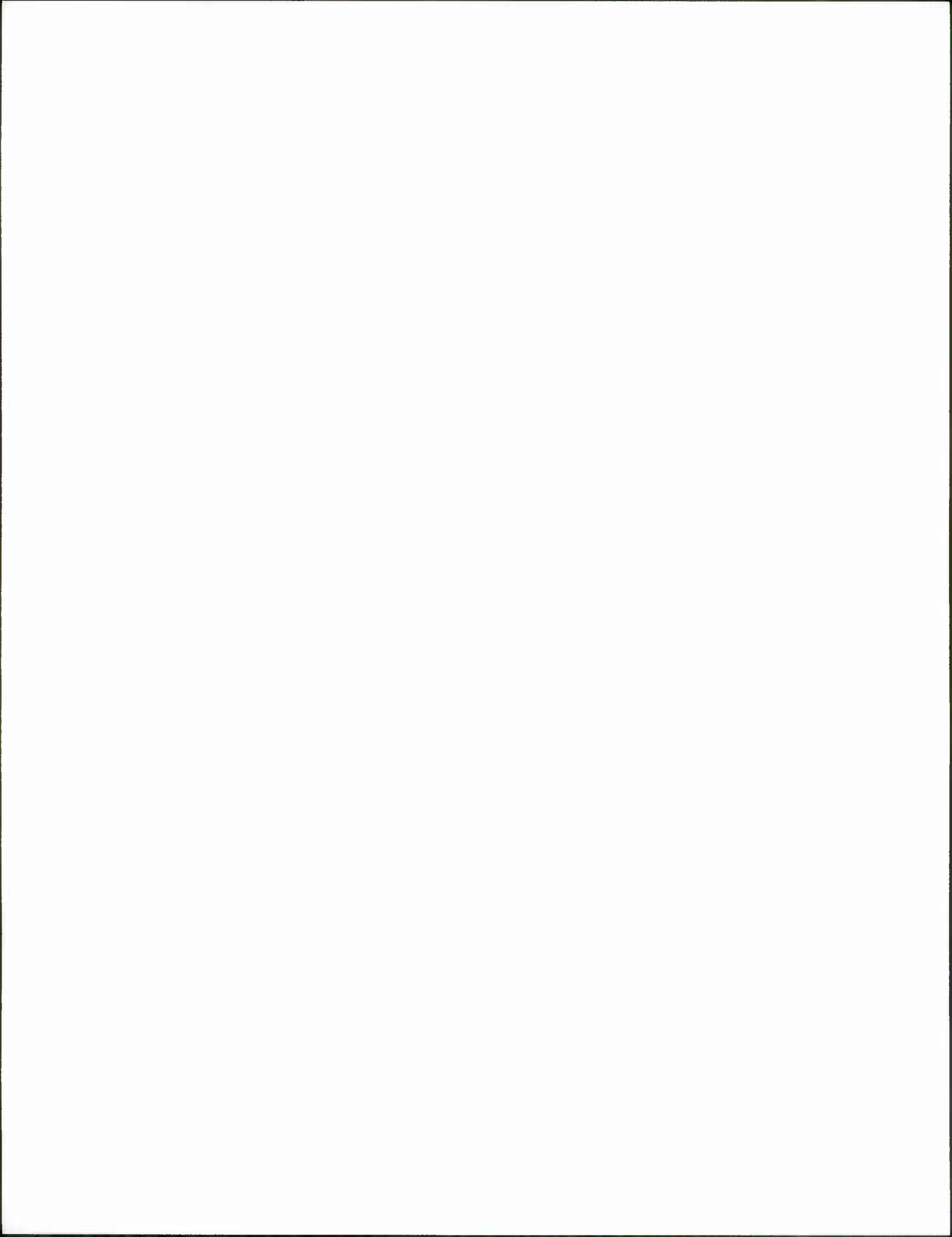




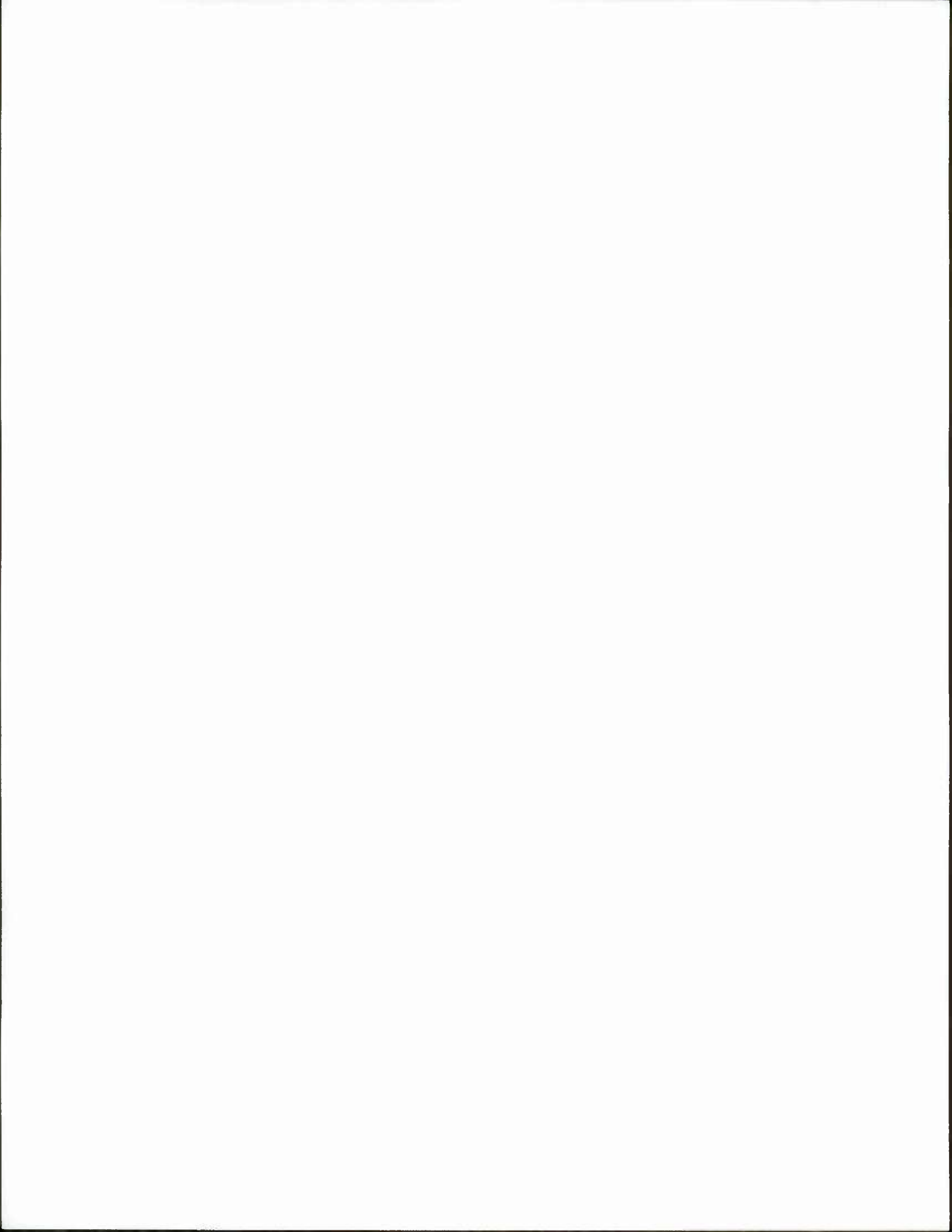




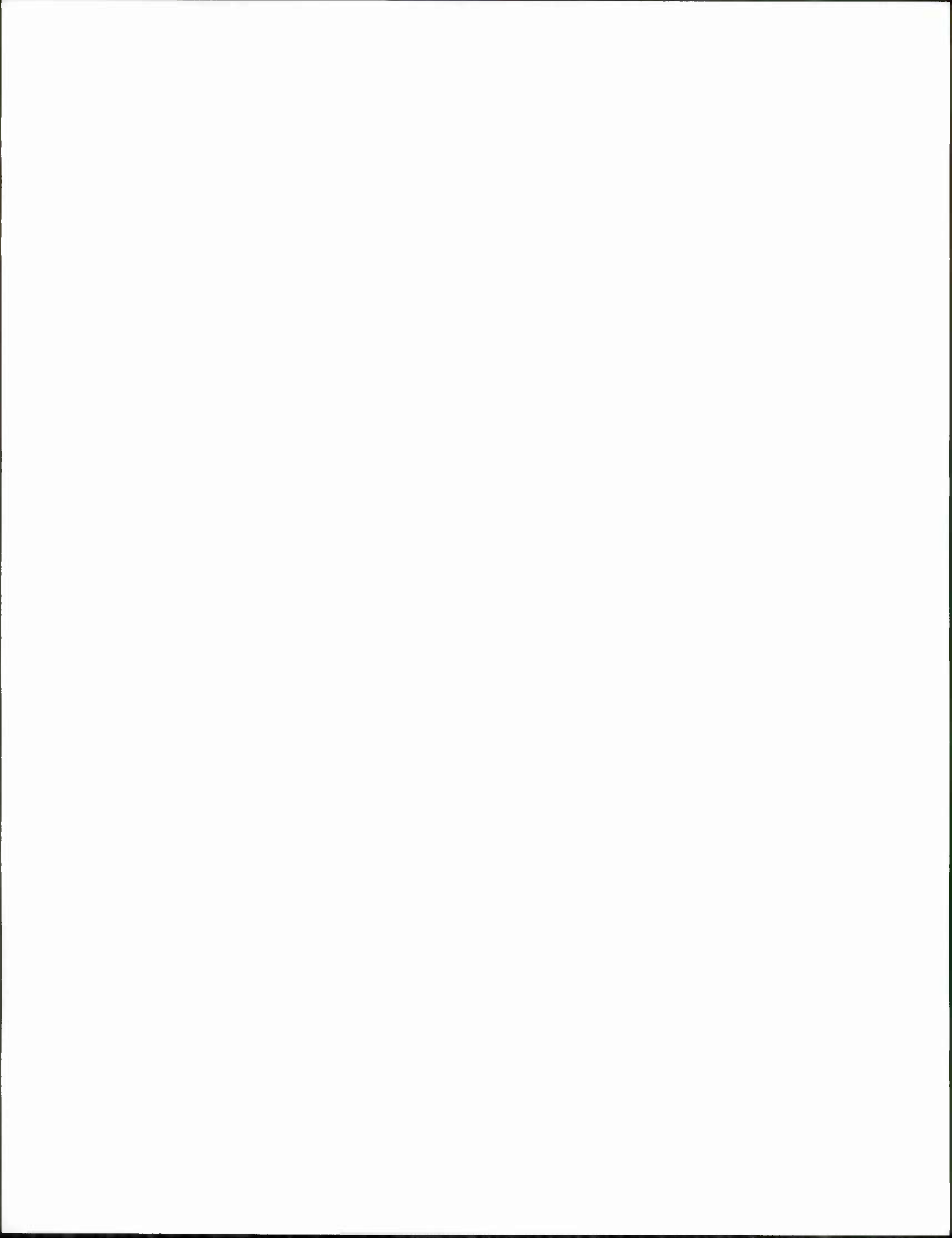




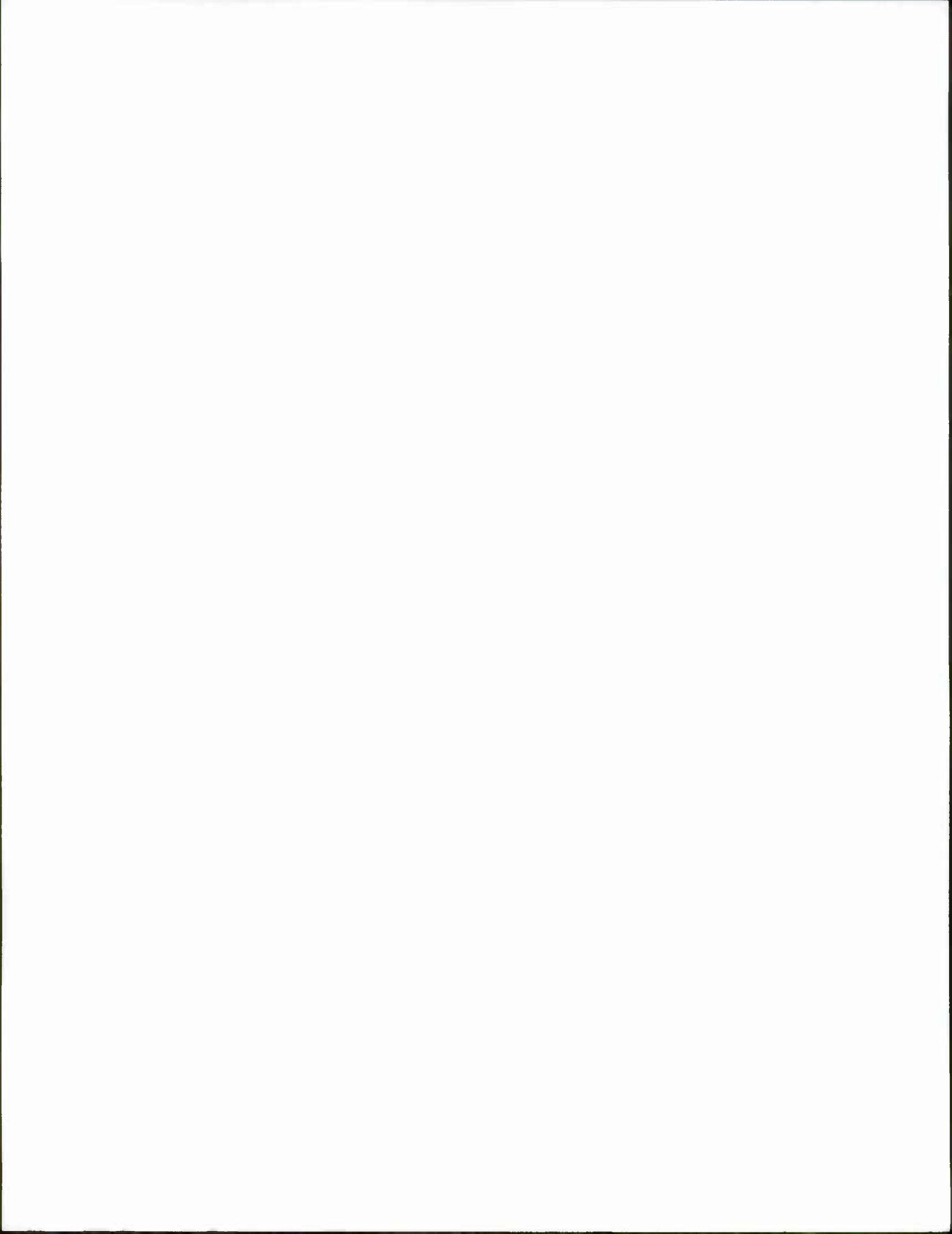














MARYLAND DEPARTMENT OF THE ENVIRONMENT
1800 Washington Boulevard • Baltimore MD 21230
410-537-3000 • 1-800-633-6101

19

Martin O'Malley
Governor

Shari T. Wilson
Secretary

Anthony G. Brown
Lieutenant Governor

Robert M. Summers, Ph.D.
Deputy Secretary

March 20, 2008

Danny and Catherine Mayo
55 Chesapeake Avenue
Prince Frederick, MD 20678

Re: MDE Authorization Number: 08-PR-0915
RAMS Tracking Number: 200860300

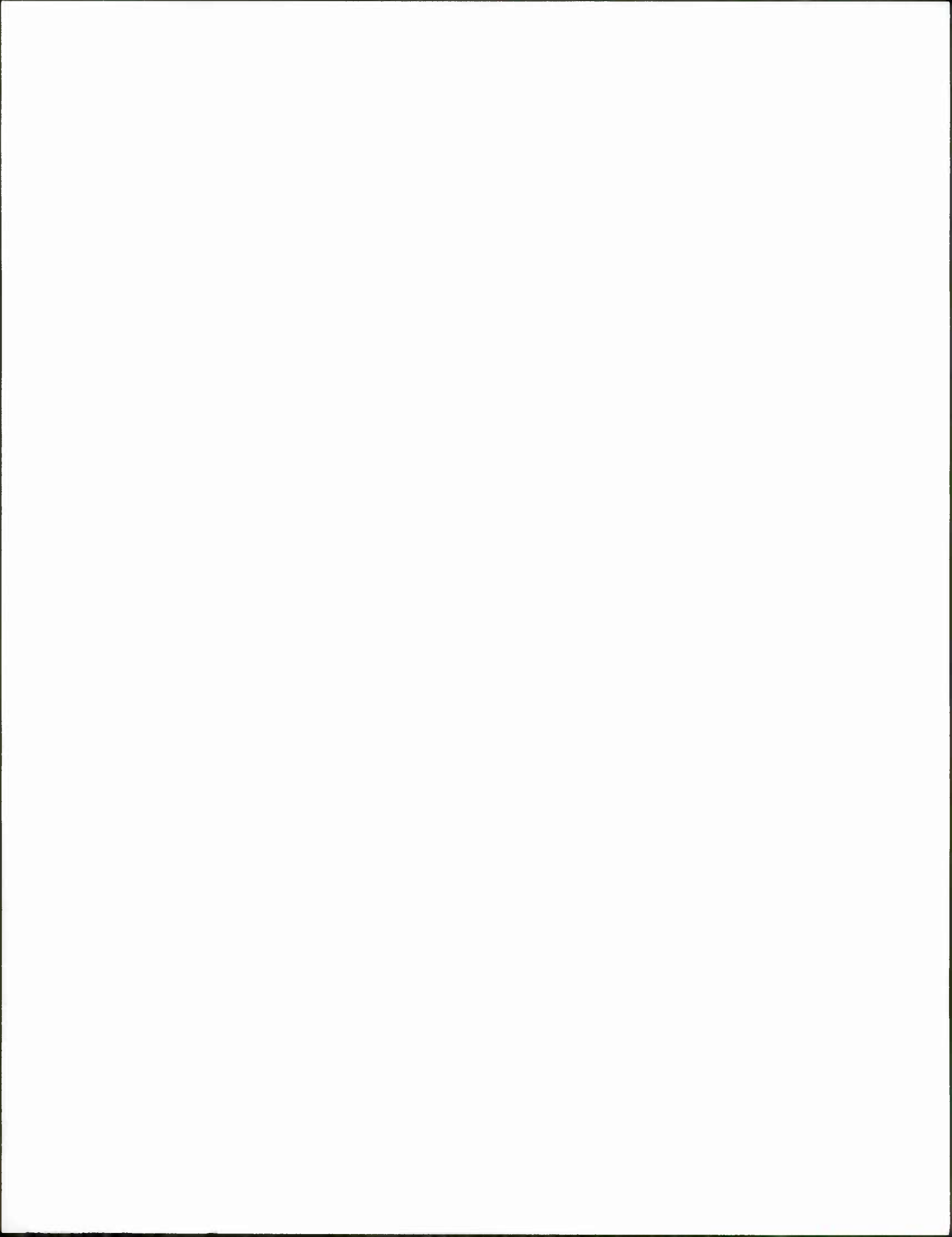
Dear Mr. and Mrs. Mayo:

Your application to alter tidal wetlands has been evaluated by the Tidal Wetlands Division. Your State license or permit authorizing work in tidal wetlands is attached. Your project qualifies for federal approval under the Maryland State Programmatic General Permit (MDSPGP), that permit is also attached. You should not begin any work until you have obtained all necessary State, local and federal authorizations.

Please take a moment to read and review your authorizations to insure that you understand the limits of the authorized works and all of the general and special conditions. If you are aggrieved by the Department's decision to authorize this project subject to the conditions set forth in the License, you may petition the circuit court in the county where the land is located within 30 days after receiving this license. Please call me at 410-537-3835 with any questions.

Sincerely,

Richard J. Ayella, Chief
Tidal Wetlands Division





MARYLAND DEPARTMENT OF THE ENVIRONMENT
1800 Washington Boulevard • Baltimore MD 21230
410-537-3000 • 1-800-633-6101

20

Martin O'Malley
Governor

Shari T. Wilson
Secretary

Anthony G. Brown
Lieutenant Governor

Robert M. Summers, Ph.D.
Deputy Secretary

TIDAL WETLANDS LICENSE 08-PR-0915
Pier and Piling Construction

Danny and Catherine Mayo
55 Chesapeake Avenue
Prince Frederick, MD 20678

Under the authority of the Board of Public Works of the State of Maryland and in accordance with Title 16, Wetlands and Riparian Rights, Environment Article, Annotated Code of Maryland and COMAR 23.02.04 and COMAR 26.24 and the conditions of this license, the licensee is authorized to perform the following activity:

To emplace 3 mooring piles and one ladder all extending a maximum of 118 feet channelward of the mean high water line; to construct a wooden rail boat ramp system within a maximum of 32 feet channelward of the mean high water line on the Chesapeake Bay, at 55 Chesapeake Avenue, Dares Beach in Calvert County as depicted on the attached REVISED plans dated 1/24/08.

By applying for and receiving this Wetland License the licensee shall be considered to have knowledge of and to have accepted the special and general conditions of this license. Licensee agrees that all work shall be performed in compliance with these conditions.

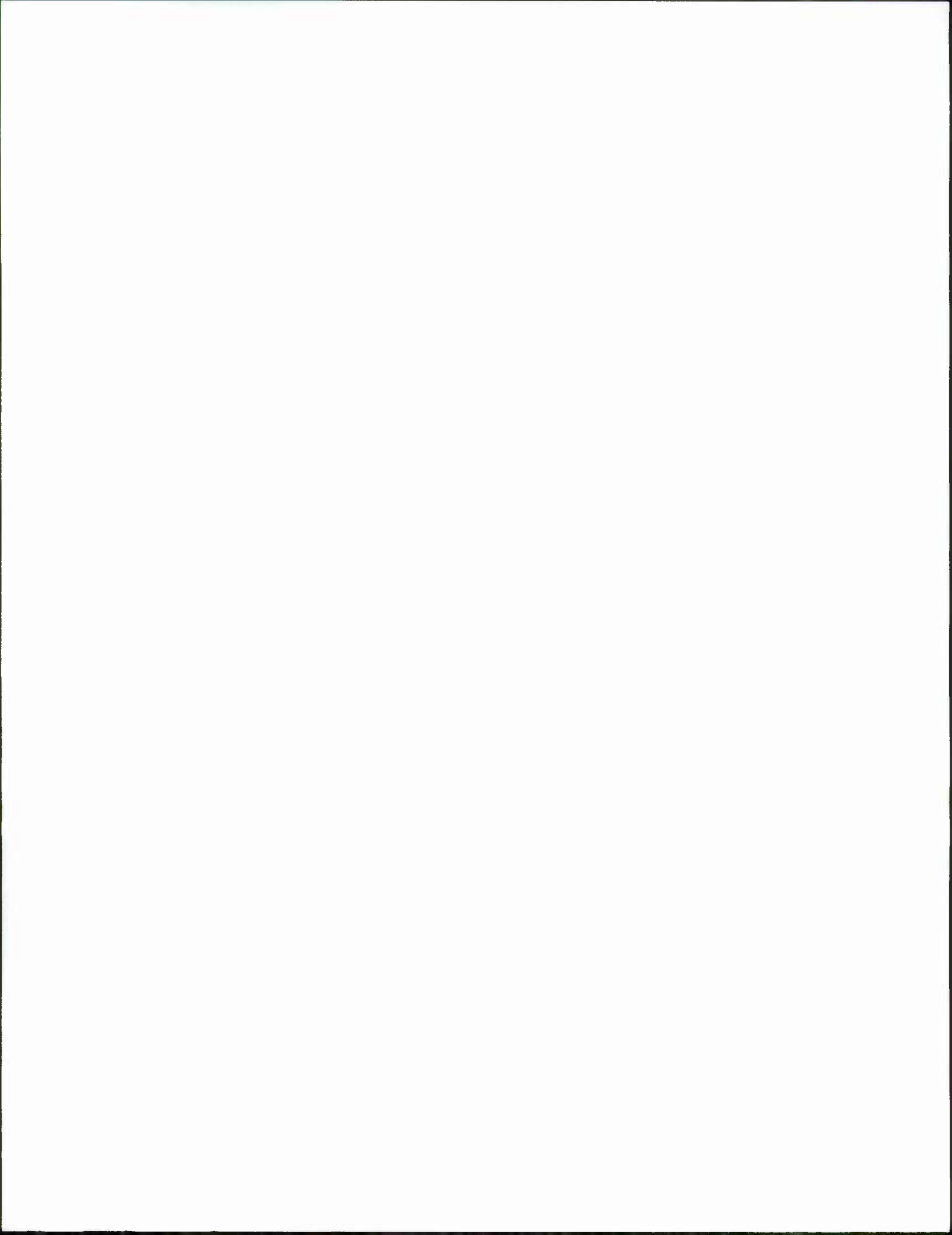
This license is subject to the following conditions:

SPECIAL CONDITIONS

- A. None

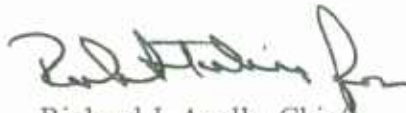
GENERAL CONDITIONS

- A. The licensee shall obtain an approved sediment and erosion control plan from the local soil conservation district when the area disturbed is greater than 5000 square feet.
- B. The licensee certifies real property interest in the contiguous upland;



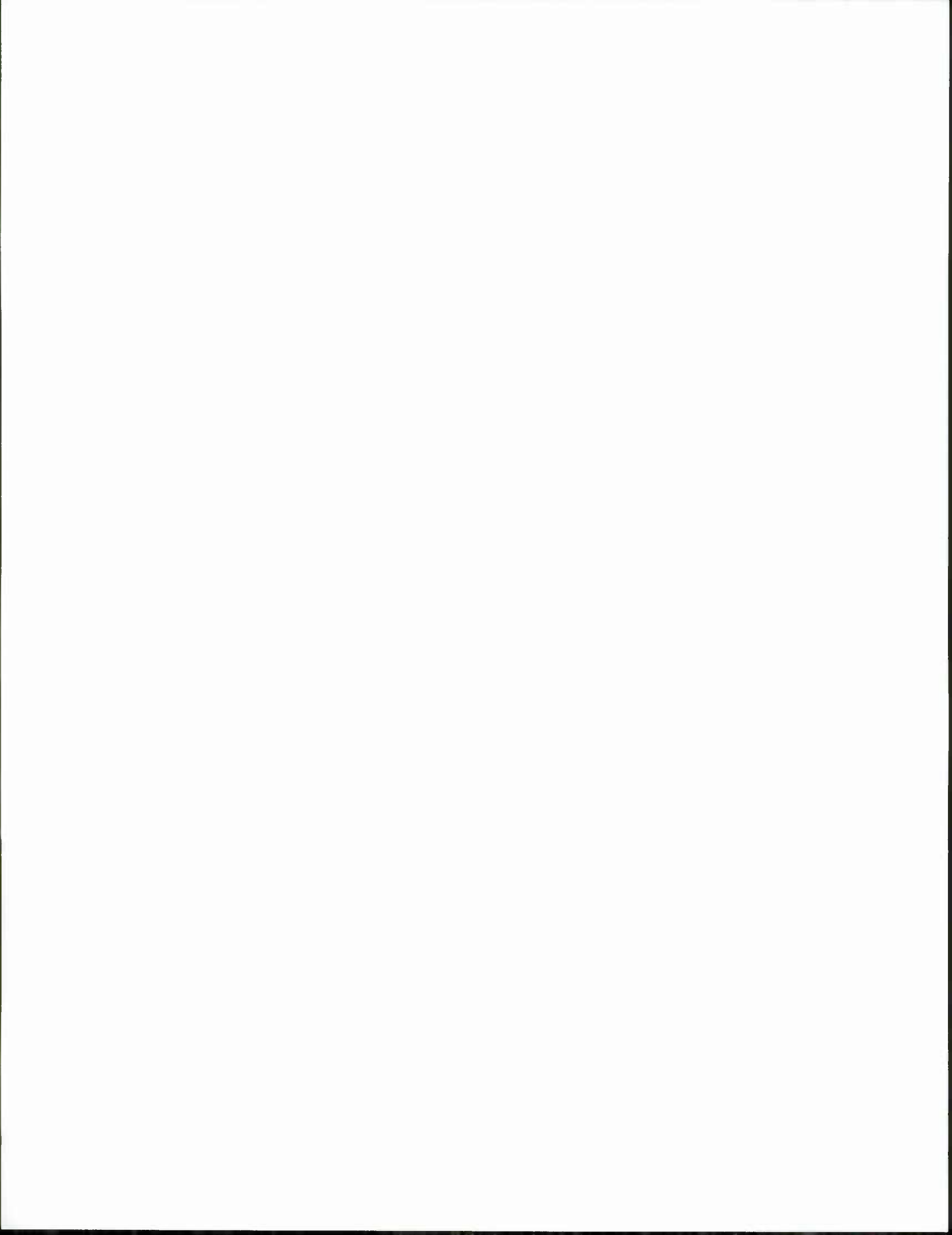
- C. This license is valid only for use by the licensee of the Maryland Department of the Environment. Permission for transfer of the license shall be obtained from the Water Management Administration. The terms and conditions of this license shall be binding on any assignee or successor in interest of the license;
- D. The licensee acknowledges that this license does not transfer any property interest in State tidal wetlands. This license allows the licensee to use State tidal wetlands only for the structure or activity authorized herein and in no way limits the use of waters of the State by the public;
- E. The construction of any structure or the performance of any activity under this license shall be evidence that the licensee has accepted all of the terms and conditions herein;
- F. This license is void if the licensee fails to obtain all required State, county, or local approvals before beginning work on the licensed structure or activity;
- G. The licensee shall allow representatives of the Maryland Department of the Environment to enter the property at reasonable times to inspect the ongoing or completed work under the license;
- H. The licensee shall make every reasonable effort to design and construct the structure or perform the activity authorized in this license in a manner which minimizes adverse impacts on natural resource values, including water quality, plants, wildlife, plant and wildlife habitat, and on historic property values;
- I. The licensee shall notify the Water Management Administration, Inspections and Compliance Division (410) 537-3510 at least 5 days before beginning the structure or activity;
- J. This license expires 3 years after the date of issuance. The licensee shall complete construction of the activity authorized under this license within the allowed 3 years, otherwise a new general license shall be obtained;
- K. The Maryland Department of the Environment may suspend or revoke this license upon written finding for good cause that suspension or revocation is in the State's best interest.
- L. This license provides no justification or assurances for future dredging. All dredging projects will be evaluated on the biological and physical characteristics of the site at the time an application is made.

Sincerely,



Richard J. Ayella, Chief
Tidal Wetlands Division

Date of Issuance: March 20, 2008
RAMS Tracking Number: 200860300

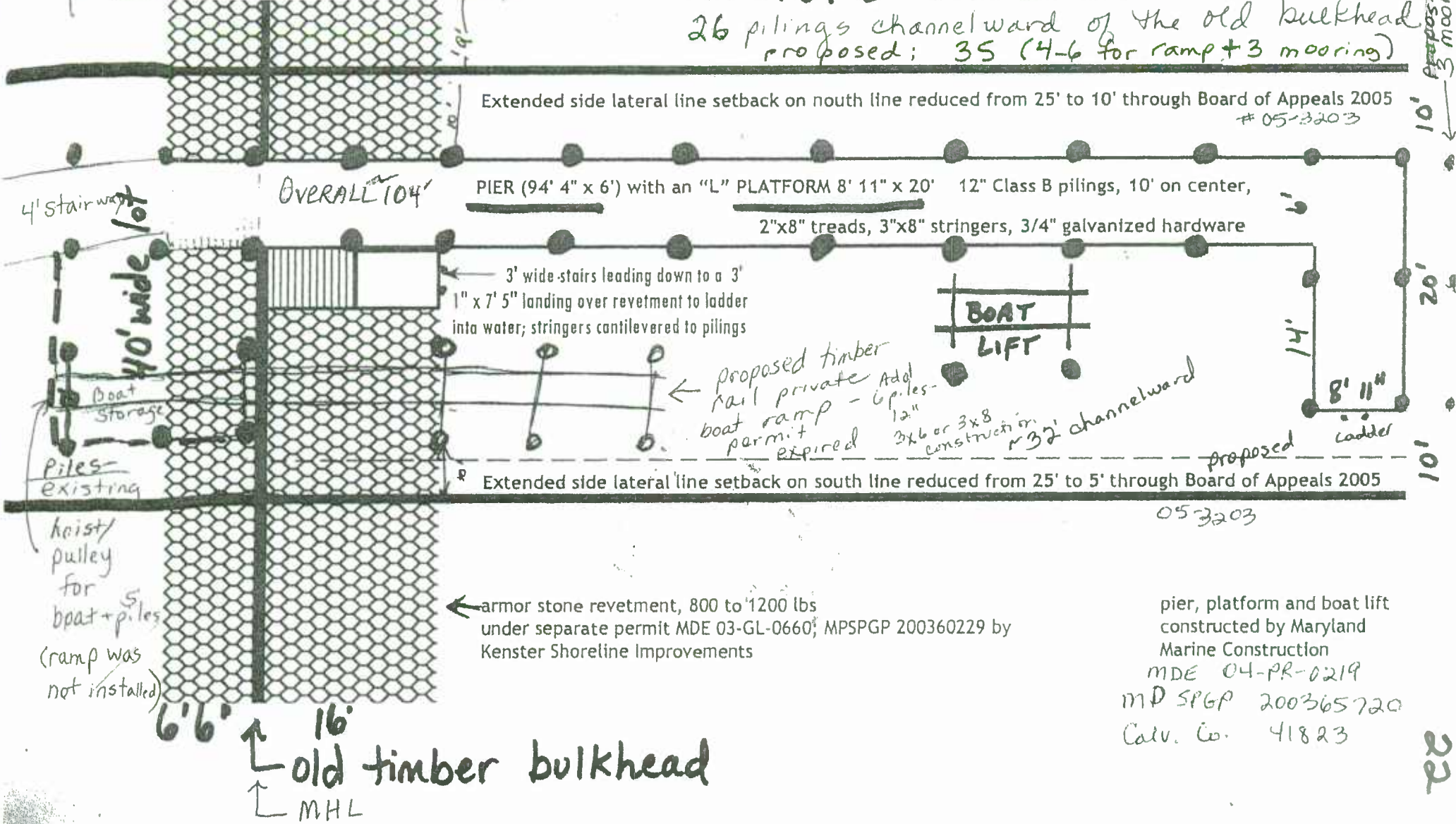




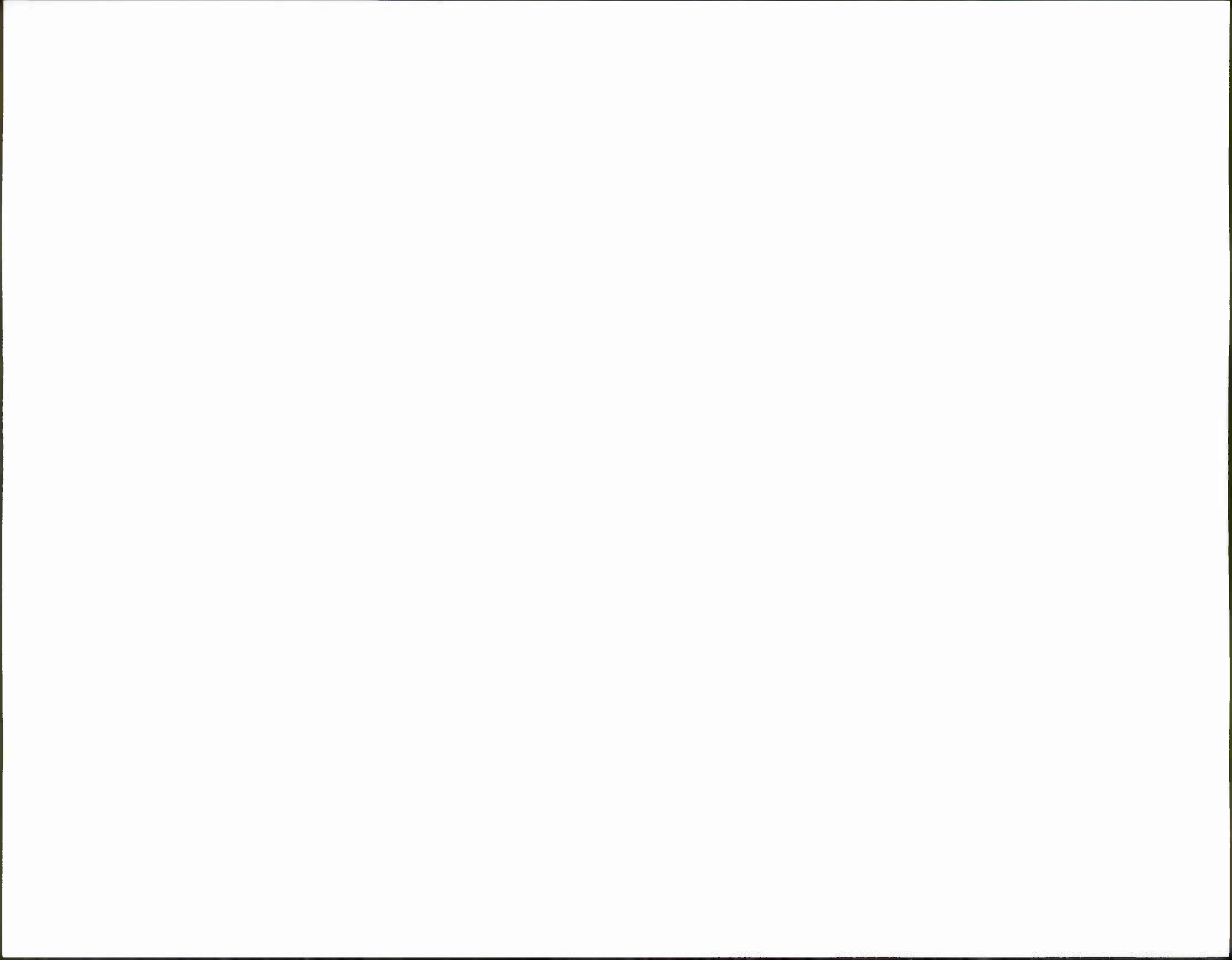
2003 Site Plan + 2007 As Built attached for reference

08-PR-0915
 Proposed 200860300
 Runway 1/24/08 1-3
MDE 04-PR-0219
MDSPGP 2 200365720

26 pilings channelward of the old bulkhead proposed; 35 (4-6 for ramp + 3 mooring)



pier, platform and boat lift constructed by Maryland Marine Construction
 MDE 04-PR-0219
 MDSPGP 200365720
 Calv. Co. 41823



Elevation / Cross Section

082R-0915
200860300

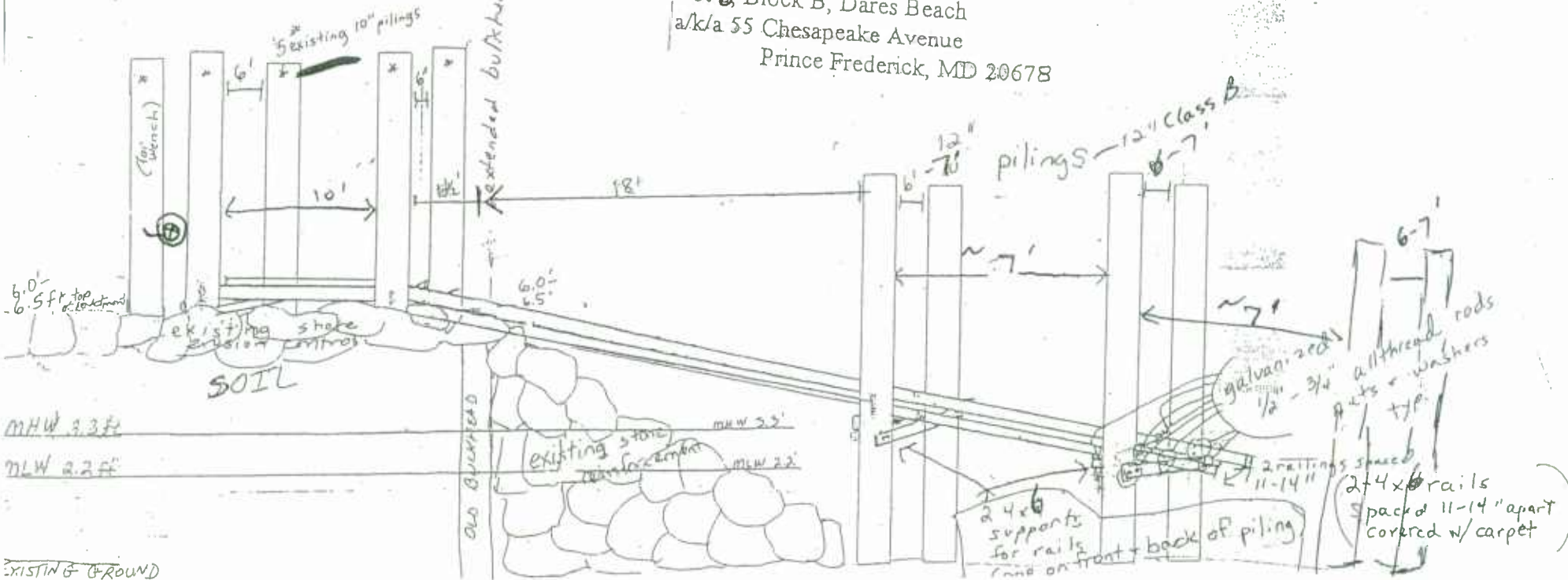
Revised 1/24/08
2-3

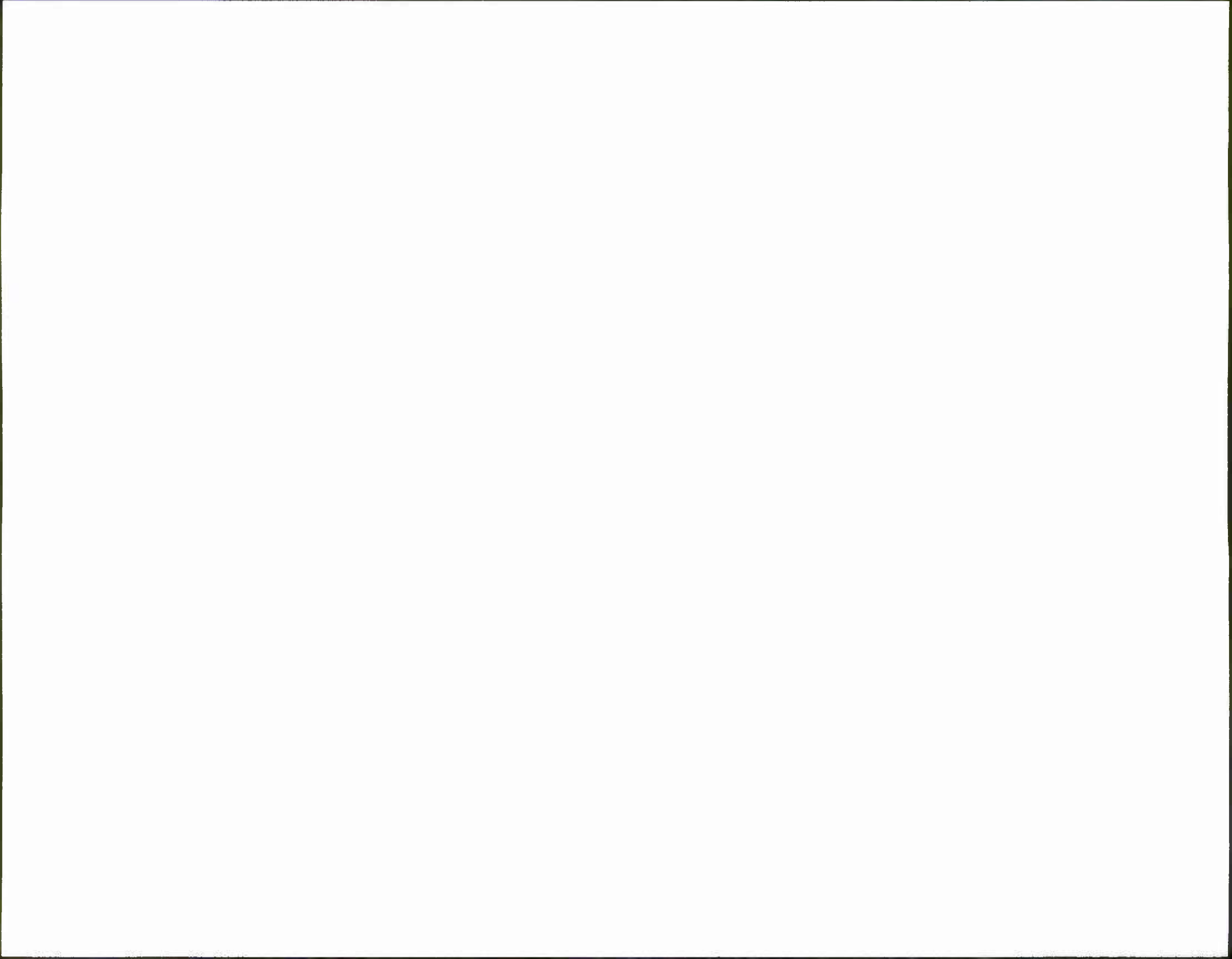
---ELEVATION/CROSS-SECTION---

private boat ramp (rail system) *timber*
September 9, 2003

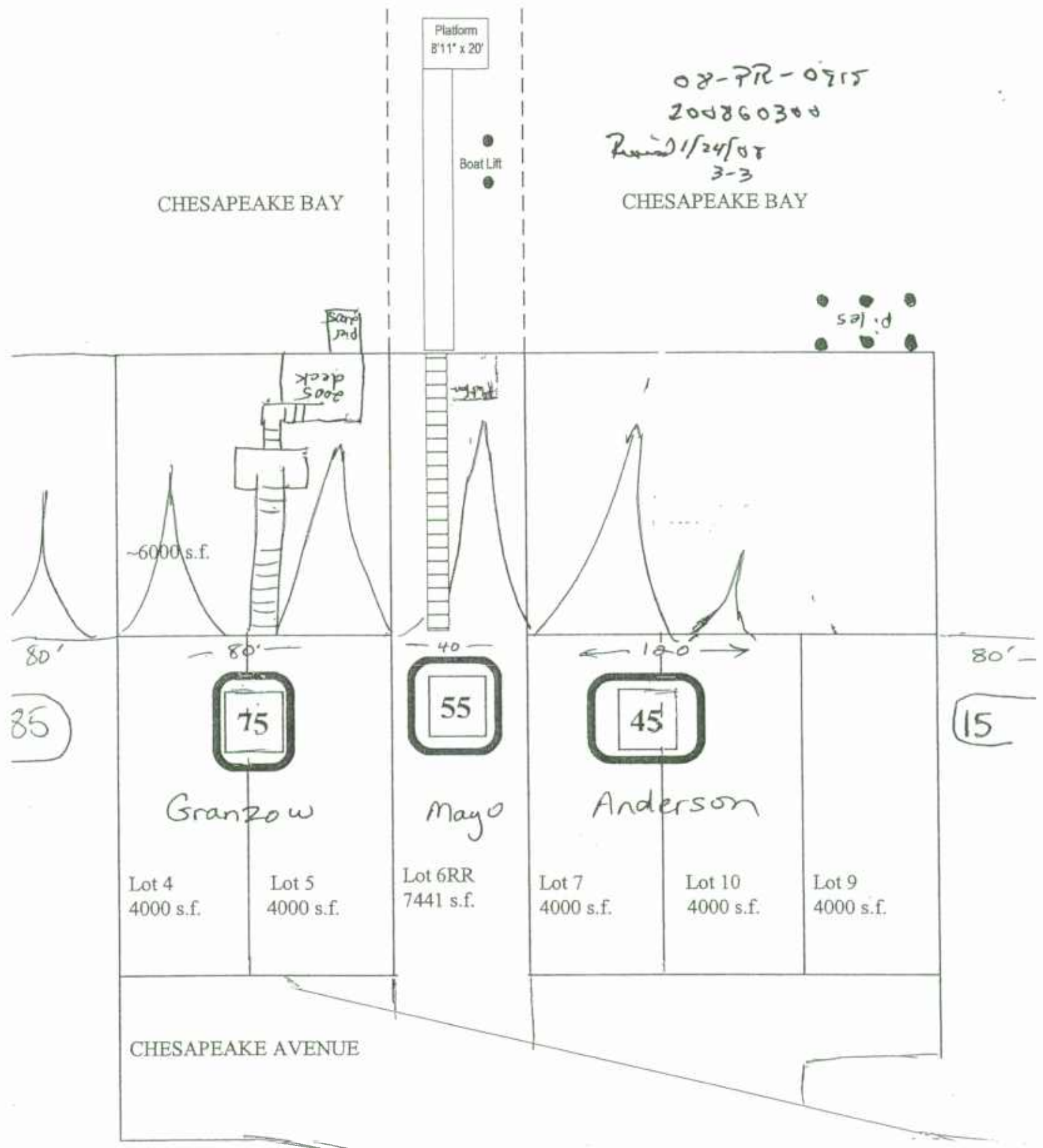
resubmitted 1/21/08

Danny & Catherine Mayo
Lot 6^{RP}, Block B, Dares Beach
a/k/a 55 Chesapeake Avenue
Prince Frederick, MD 20678





Exifing



CHESAPEAKE BAY

CHESAPEAKE BAY

80'

80'

40'

120'

80'

35

75

55

45

15

Granzow

Mayo

Anderson

Lot 4
4000 s.f.

Lot 5
4000 s.f.

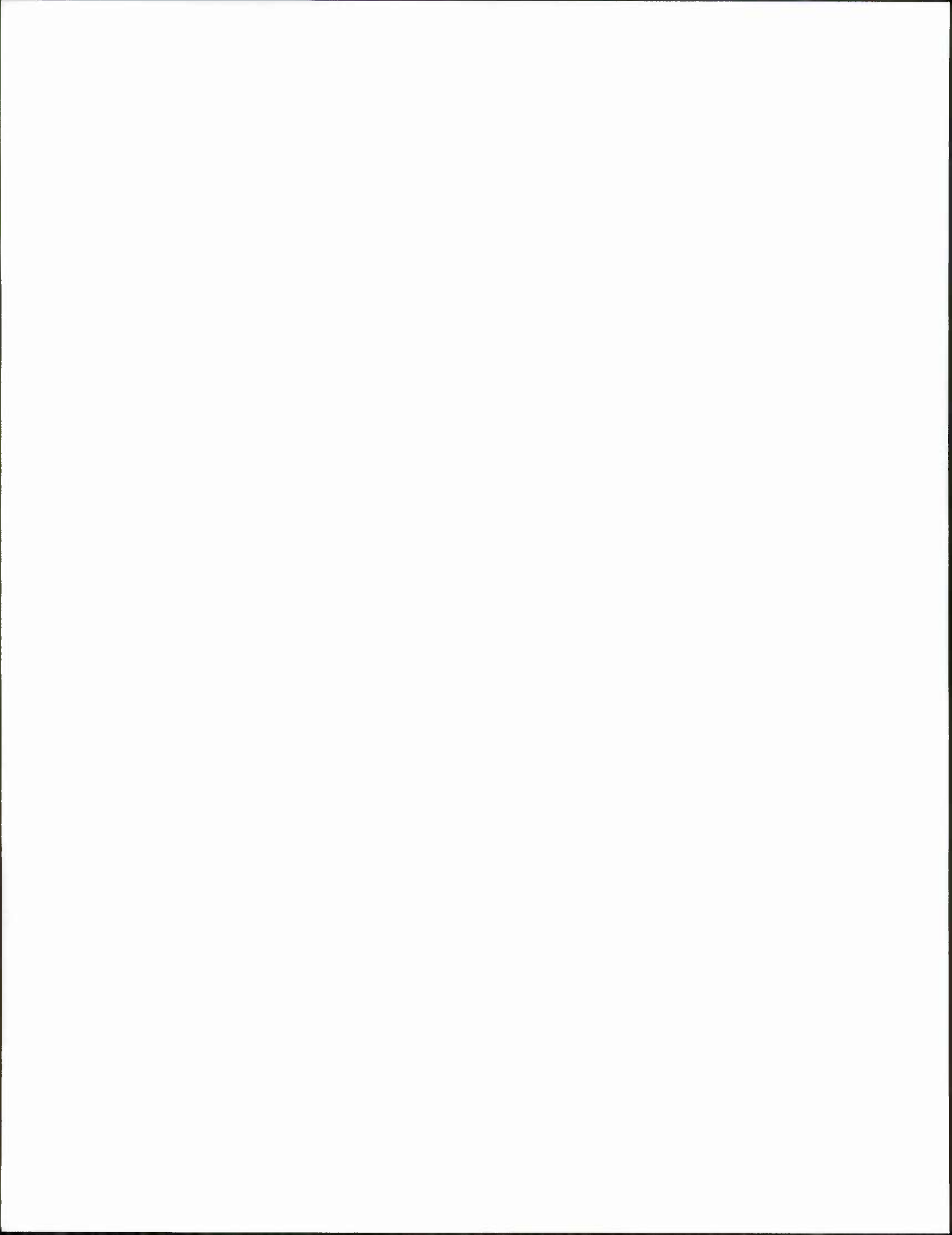
Lot 6RR
7441 s.f.

Lot 7
4000 s.f.

Lot 10
4000 s.f.

Lot 9
4000 s.f.

CHESAPEAKE AVENUE



25

PERMIT APPLICATION STATUS SYSTEM

Application Number:

DISCLAIMER

41823

Search

Activity Report For: **55 CHESAPEAKE AVE**

Description of Work:
CONSTRUCT PIER 6' NOT TO EXCEED W/JETS LIFTS AND POSSIBLE LIFT LADD

Review:

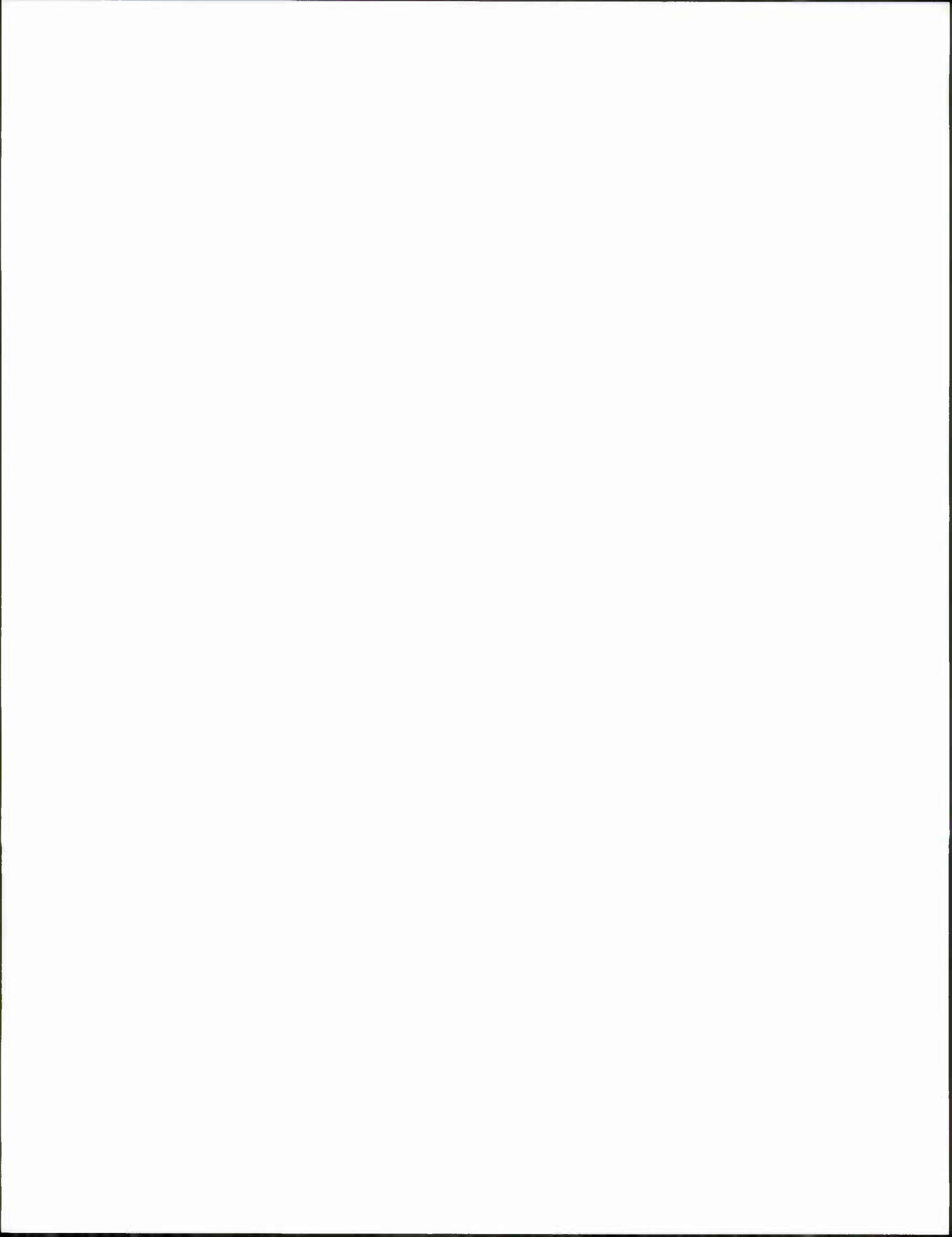
Review Type	Completion Date	Status	Comments
ENV. HEALTH DEPT.		Incomplete Waived	
PLANNING AND ZONING	9/21/2005	Approved	Approved to construct a 6' by 100' pier with a 4' by 16' step down platform for two boat lifts and a 37' by 6' wooden boat ramp as approved by BOA order No. 05-3203. That order permitted the reduction of the lateral setbacks from 25' to 5' on the south side and from 25' to 10' on the north side of the pier. Two boat lifts only, a third slip will require a Special Exception from the BOA.

Inspection:

Inspection Type	Completion Date	Status	Comments
BUILDING ROUGH		None Waived	
BUILDING FINAL	12/26/2006	Passed	

Supplementary:

AP No.	Description	Last Stage	Status
--------	-------------	------------	--------





MARYLAND DEPARTMENT OF THE ENVIRONMENT

1800 Washington Boulevard □ Baltimore, Maryland 21230
410-531-3000 □ 1-800-633-6101 □ <http://www.mde.state.md.us>

Robert L. Ehrlich, Jr.
Governor

Kendl P. Philbrick
Acting Secretary

Michael L. Steele
Lt. Governor

October 27, 2003

Mr. & Mrs. Danny Mayo
55 Chesapeake Avenue
Prince Fredrick, MD 20678

Re: MDE Authorization Number: 04-PR-0219
MDSPGP 2 Authorization #: 200365720

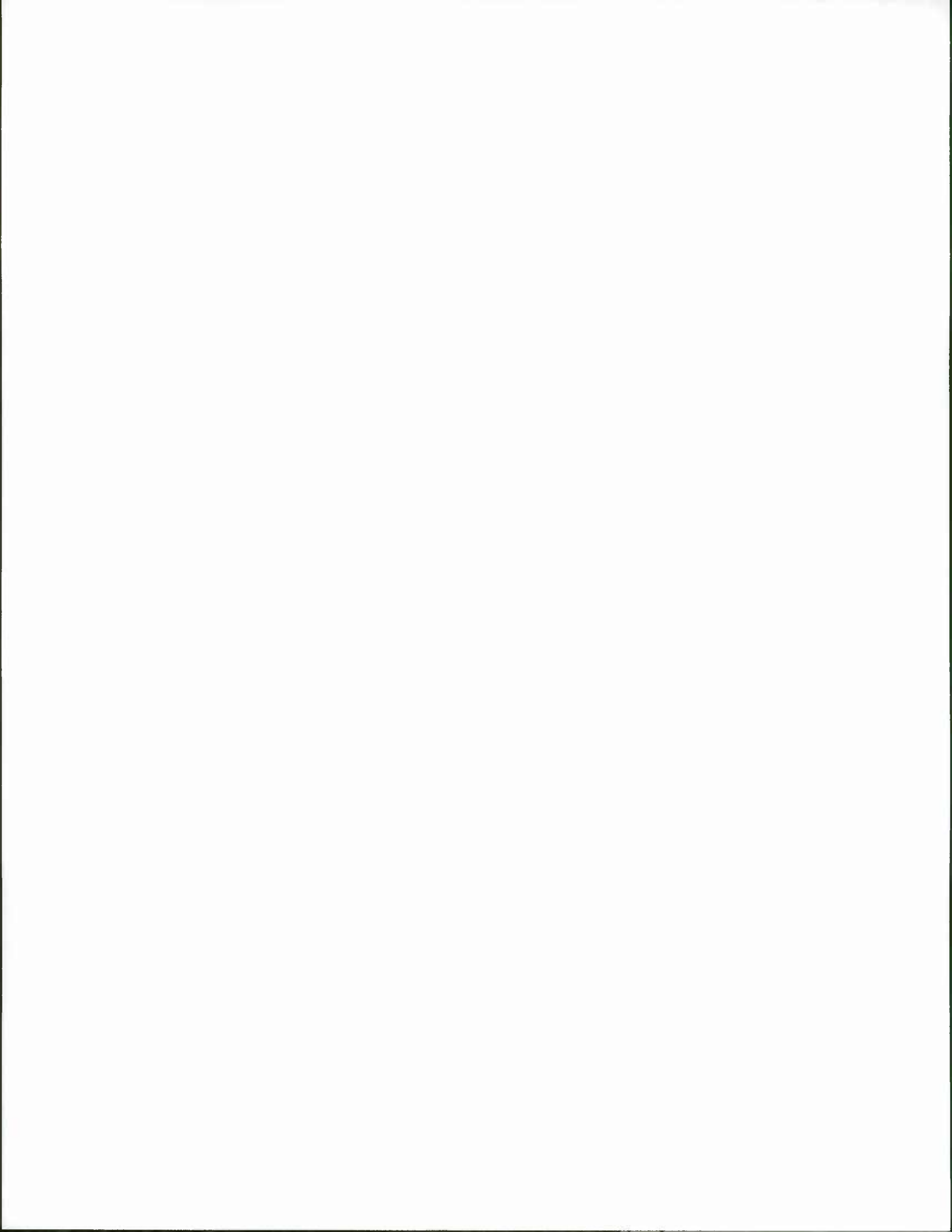
Dear Mr. & Mrs. Danny Mayo:

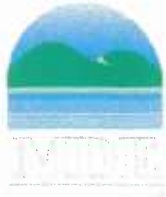
Your application to alter tidal wetlands has been evaluated by the Tidal Wetlands Division. Your State license or permit authorizing work in tidal wetlands is attached. If your project qualifies for federal approval under the Maryland State Programmatic General Permit (MDSPGP), that permit is also attached. If the MDSPGP is not attached, your project does not qualify for federal authorization under this permit and you will hear directly from the Corps of Engineers. You should not begin any work until you have obtained all necessary State, local and federal authorizations.

Please take a moment to read and review your authorizations to insure that you understand the limits of the authorized works and all of the general and special conditions. Please call Robert Tabisz at 410-537-3838 with any questions.

Sincerely,

Richard J. Ayella, Chief
Tidal Wetlands Division





MARYLAND DEPARTMENT OF THE ENVIRONMENT

1800 Washington Boulevard □ Baltimore, Maryland 21230
410-531-3000 □ 1-800-633-6101 □ <http://www.mde.state.md.us>

27

Robert L. Ehrlich, Jr.
Governor

Kendl P. Philbrick
Acting Secretary

Michael L. Steele
Lt. Governor

TIDAL WETLANDS LICENSE 004-PR-0219 Pier and Piling Construction

Mr. & Mrs. Danny Mayo
55 Chesapeake Avenue
Prince Fredrick, MD 20678

Under the authority of the Board of Public Works of the State of Maryland and in accordance with Title 16, Wetlands and Riparian Rights, Environment Article, Annotated Code of Maryland and COMAR 23.02.04 and COMAR 26.24 and the conditions of this license, the licensee is authorized to perform the following activity:

To construct a 100-foot long by 6-foot wide timber pier with a 4-foot by 16-foot step down platform, three mooring piles for a boat lift, two double jet ski lifts and two ladders, all extending a maximum of 100 feet channelward of the mean high water line; to construct a 37-foot long by 6-foot wide wooden rail system boat ramp within a maximum of 26 feet channelward of the mean high water line on the Chesapeake Bay, at 55 Chesapeake Avenue, Dares Beach in Calvert County as depicted on the attached REVISED plans dated 9/11/03.

By applying for and receiving this Wetland License the licensee shall be considered to have knowledge of and to have accepted the special and general conditions of this license. Licensee agrees that all work shall be performed in compliance with these conditions.

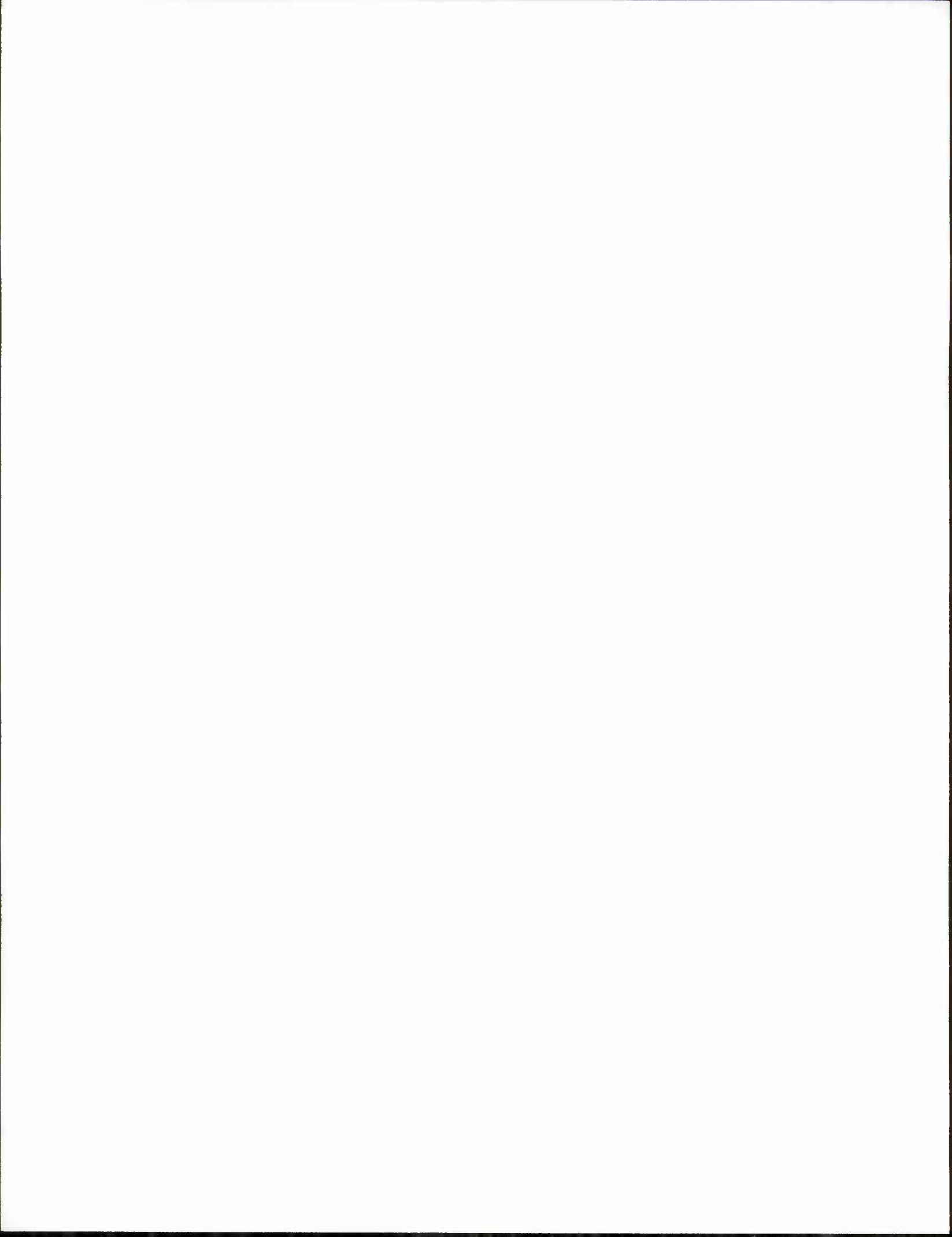
This license is subject to the following conditions:

SPECIAL CONDITIONS

A. None

GENERAL CONDITIONS

- A. The licensee shall obtain an approved sediment and erosion control plan from the local soil conservation district when the area disturbed is greater than 5000 square feet.
- B. The licensee certifies real property interest in the contiguous upland;



MARGIN FOR BINDING

28

SITE PLAN

REVISED 9/9/03 (rail system boat ramp)

Danny & Catherine Mayo, Lot 6, Block B, Dares Beach
55 Chesapeake Avenue
Prince Frederick, MD 20678

Body of Water: Chesapeake Bay
Jurisdiction: Calvert County, MD

Scale 1/8" = 1'
(100'-0" Pier Not to Scale)

Tidal Range: 1.1 Feet
Soundings in feet refer to MLW

~~11/31/03~~



VICINITY MAP

80' lot

Property of
Richard & Judy Granzow
75 Chesapeake Avenue
Prince Frederick, MD 20678



EXTENDED PROPERTY LINE

Bulkhead

existing

Revetment
existing

9" pilings
existing

100'-0"

(not to scale)

4'-0" STAIRWAY

existing

Proposed ladder

Proposed 100'-0" x 6'-0" Pier (not to scale)

10" pilings spaced 8' apart

proposed ladder

Proposed
Double Jet Ski Lifts

Proposed 4'x6' platform
Proposed 4'x9' platform
(step-down to board)

proposed
ramp (rails)
4x4s

add 4-10" pilings

Proposed
Boat Lift

40' lot

Danny & Catherine Mayo
55 Chesapeake Avenue
Prince Frederick, MD 20678



EXTENDED PROPERTY LINE

Property of: Price & Celia Anderson
45 Chesapeake Avenue
Prince Frederick, MD 20678

45 Ches.

100' lot

10'-0"

10'

5'

4'

36'

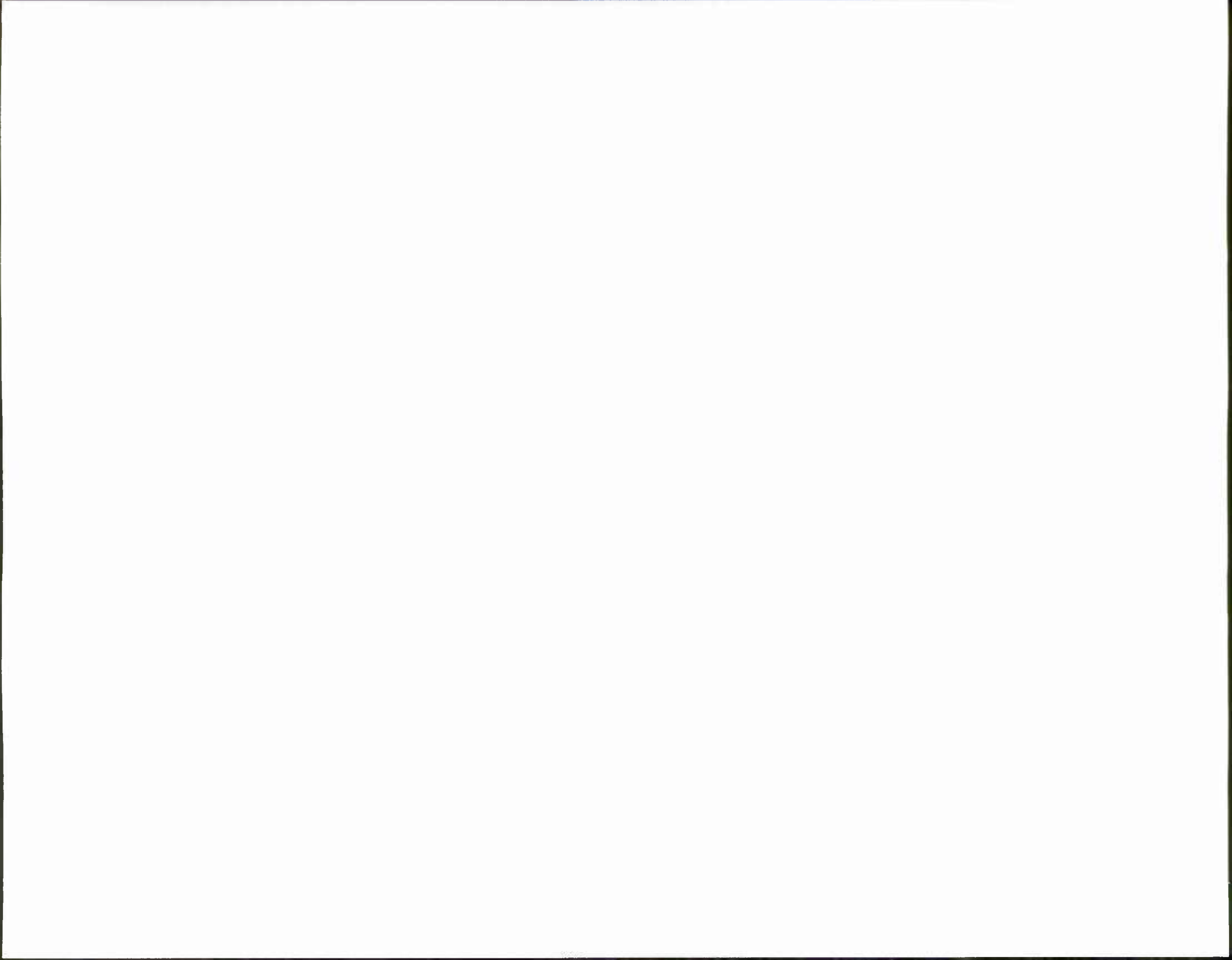
10'

10'

10'

10'

10'



11-1.01 Variances

A. Variances; **Generally.**

1. The Board of Appeals shall have the authority to grant variances from the strict application of the lot area, lot width, setback, and height requirements of this Ordinance. The Board may also grant variances from other requirements as stipulated in this Ordinance.

2. A variance may only be granted if peculiar and unusual practical difficulties or unwarranted hardships¹ exist on a parcel, ***and such difficulties and hardships are created by exceptional narrowness, shallowness, or shape of the parcel, by reason of exceptional topographical conditions or by other extraordinary situations or conditions affecting the property.***

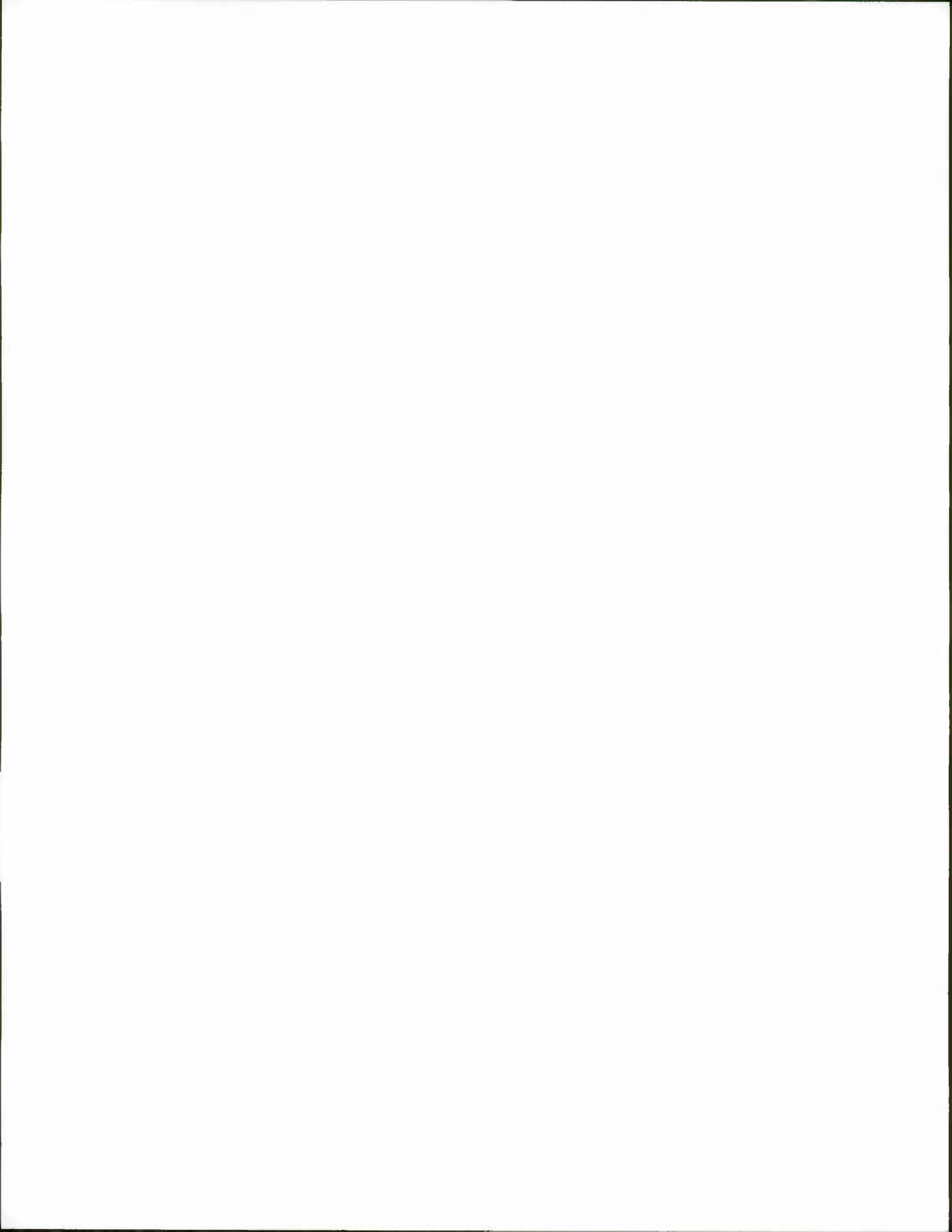
Applicants' Response:

Most properties in Dares Beach are two to three lots; ours is single (40 feet wide). We have great elevation changes over short distances – north to south and east to west. We have a 31 foot cliff and 60 steps down to the toe of the cliff. The backyard is about 15 feet deep and relatively level but is on the edge of a sheer, undercut cliff. We don't entertain on the backyard because of the undercut cliff. The area between the house and the street which includes the front yard slopes 12-14 feet east to west. The front yard contains the FAST septic system and two drainage pits – primary and backup. The only level areas are the backyard with the undercut cliff and 25 feet at the bottom of the cliff where the storage platform is located. We have 5 feet from our house to the side property lines and only a 5-foot wide access to our waterfront from the road. Our street is a hill and curve and the community complains when we park our vehicles on the road because of the hill/curve.

Our neighbors have dry storage for their boats, jet skis, and related equipment and accessories. They can park their boats and jet skis on the street. We do not have storage area and the street is not safe because of the hill and curve.

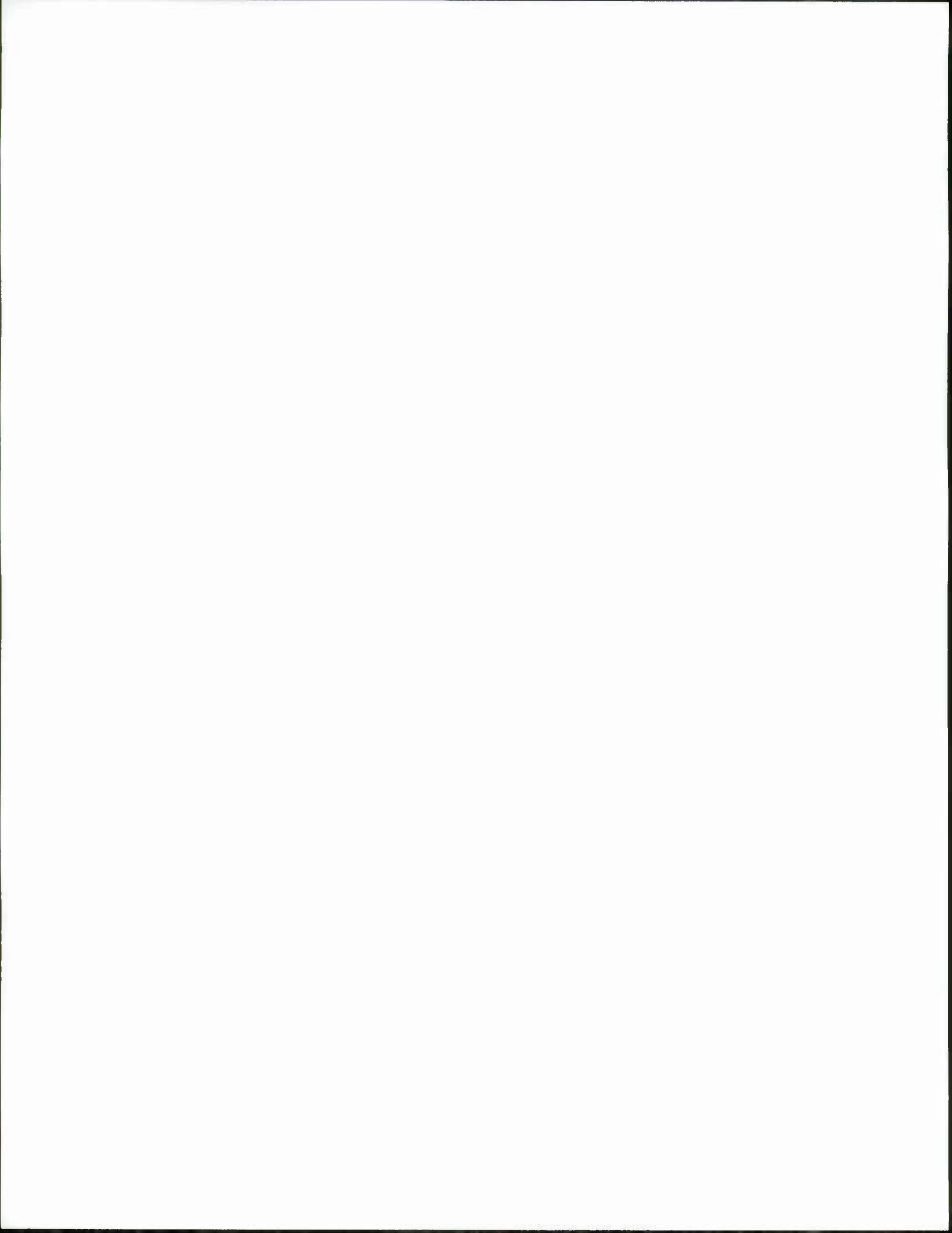
The restrictions on a 40' wide waterfront property on a 31-foot cliff are limited when compared to the other waterfront properties in Dares Beach. In fact, we pay the same base property tax rate as the owners of the legal

¹ Unwarranted hardship means that without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.



waterfront lots – actually more because we replatted and are taxed for the waterfront parcel.

The Board previously determined, when granting our variance to reduce our side lateral line setbacks, that “unusual practical difficulties or undue hardship would be imposed due to the size and exceptional narrowness of our property . . . ” 05-3203.



Parking
Boats &
trailers

31

LIVE

30 Goldstein RD

MINUTES OF JANUARY 30, 2006 MEETING
OF DARES BEACH HOMEOWNERS ASSOCIATION

Pr Fred

410 535 1434

301 855 9650

The first meeting of 2006 was held on Monday, January 30, 2006, in the public meeting room of SMECO's offices on Dares Beach Road. The meeting began at 7:00 p.m. with an introduction of the new President, Bob Poling, and incumbent officers, Graham Harlowe, Treasurer, and Sue Hance, Vice President.

New Business: Bob Poling asked for a volunteer to act as recording secretary. Bev Barth volunteered to take notes and provide a narrative to President Poling.

Residents attending the meeting introduced themselves around the room, and during the meeting several others arrived. A sign-up sheet was circulated for names and contact numbers of attendees.

The Treasurer reported a total of \$3,265.72 in the Dares Beach Association account. Bills for the annual National Night Out and the County Spraying Program have been paid.

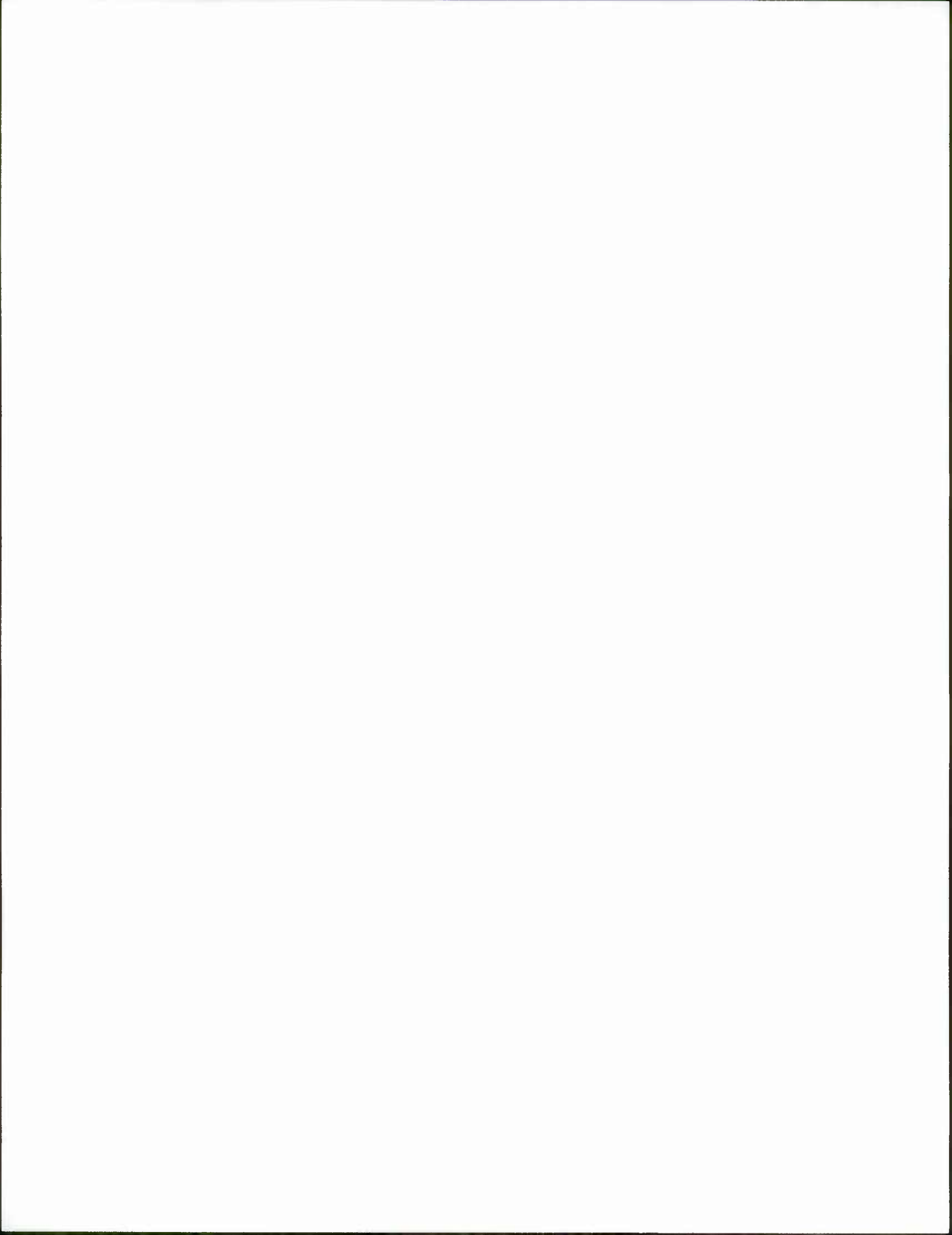
President Poling commented he has not met with former President Joe Leger yet to get minutes, paperwork and projects done during Joe's term as President, but he hoped to do so soon.

Old Business: General discussion on the following items -

1. Mrs. Kaye acknowledged the clean-up efforts of Joe Leger, who cleaned up the pond area, apparently single-handedly. There was a general discussion on ownership of the pond and continuing maintenance responsibilities. There was debate about whether the pond is in private ownership or owned by State roads, since the original owner used State employees to install it. President Poling offered to contact State Roads to determine ownership and maintenance responsibility.
- X 2. Someone asked for a diplomatic letter from the Association to the owner of a boat, which has been parked on the public green for quite some time. It apparently belongs to a resident, but other boat owners objected to the free parking afforded this boat owner. It should be parked on their own property or in paid storage, not using public space for storage.
- X 3. Commercial vehicles have been parking on a hill at Dares Beach Road and Chesapeake Avenue, causing drivers to swerve to the left lane to get around. Since this is a blind hill, concerns were raised for driver safety. Someone contributed that the owner of the house in question is a contractor and does

X

business out of his house; these commercial vehicles are for his business. Debate ensued about the legality of continuous parking on a State road, and on the shoulder of a State road.



B. Variances; **Critical Area.**

...
In accordance with Section 11-1.01.B of the Zoning Ordinance: A Critical Area variance shall be granted only if the applicant demonstrates, and the board finds, that:

- a. The variance will not result in injury to the public interest.

APPLICANTS' RESPONSE:

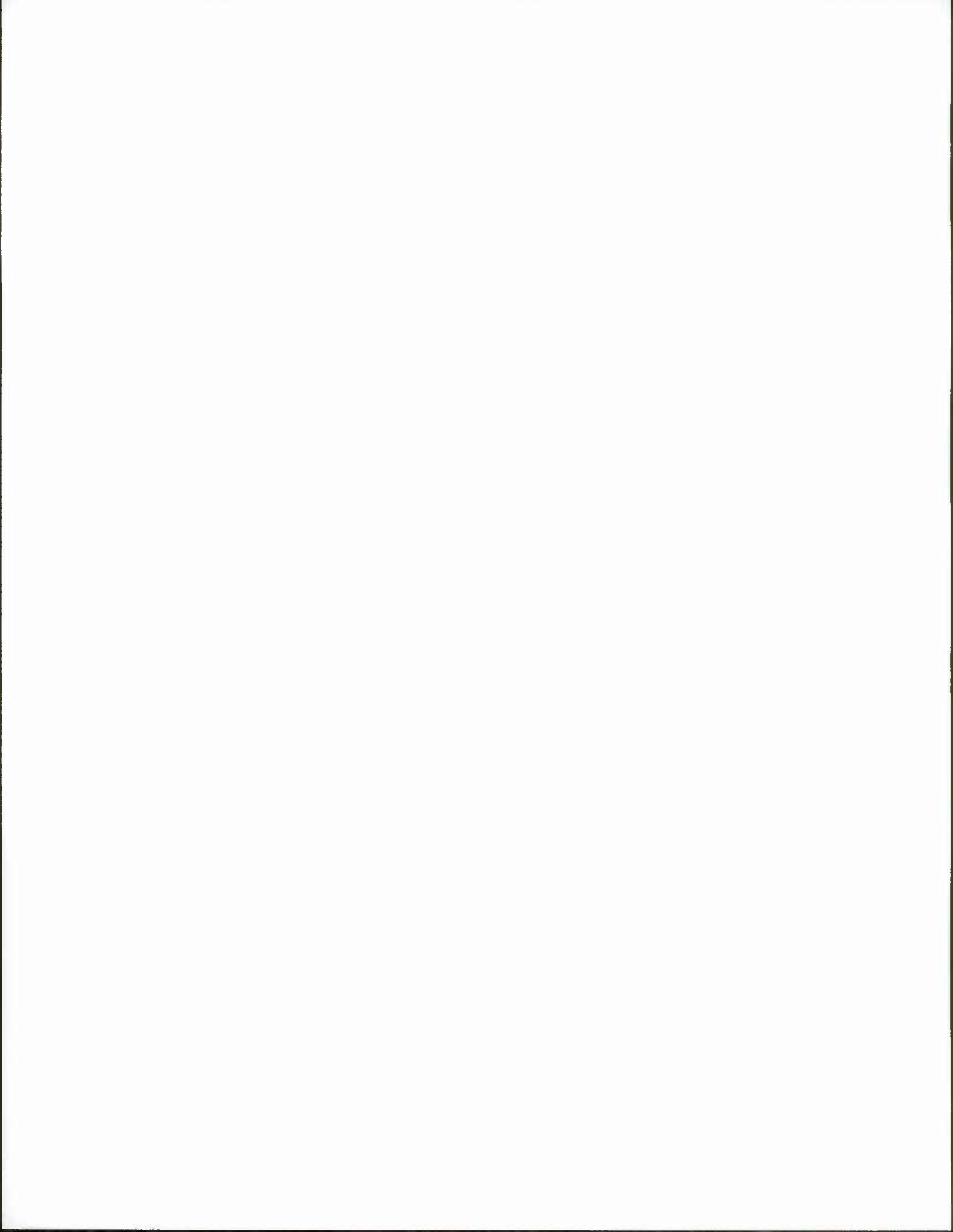
"Granting the variance would not cause injury to the public interest or substantially impair the intent of the Comprehensive Plan, as the use is permitted as a variance by the Zoning Ordinance 9-4.01 which was written in accordance with the goals and objectives of the Comprehensive Plan". also see Littleton 04-3081.

The Zoning Ordinance (9-4.01 AND 8-1.08) permits vessel service areas and storage of equipment, piers, private boat launch ramps, and accessory uses approved by the Zoning Officer. Dry storage of our equipment for the maintenance of our boat, boat lift parts, and for related accessories (life vests for boat and jet ski, tackle boxes, dry storage of rods and reels and boat and raft) for water-dependent uses are allowed.

The open board (3/4" to 1" spacing -- pervious) wood storage platform treated with linseed oil prevents injury to the public interest. EPA recommends linseed oil to seal treated lumber, which reduces the leaching out of contaminants from the structure and entering the ground. The boards were sealed twice, using paint brushes (not spray or roller), and a drip cloth was used to prevent damaging vegetation. The spacing between the decking boards allows water to pass through to the ground. The French drain installed by the revetment contractor and located behind the old bulkhead collects and catches any runoff and contaminants from the structure. Reducing contaminants to the Bay works to benefit the public.

The pervious open board storage platform, if it is approved, or relocated as a deck elsewhere on the property, will cause the issuance of a permit which triggers it to be taxed as an accessory structure(s) and it will generate revenue for the State and County to the benefit of the public.

The platform prevents the parts and gear and accessories used by Applicants for boating, fossiling/shell collecting, fishing and crabbing activities which are stored on the platform, from being washed out into the Bay by the wind-driven waves and high tides that now routinely wash over Applicant's revetment to the toe of the cliff, and this benefits the boating public and other waterfront property owners. The property, lumber and accessories of other property owners have washed up on Applicants' property and they have to dispose of those materials at great expense, manpower and time because of the reduced effectiveness of Applicant's revetment – its elevation has dropped and it has been significantly damaged as a result of Isabel, Ernesto and the May 11-12, 2008, storm; Applicants have no land access (required per contractor) for repairs to be



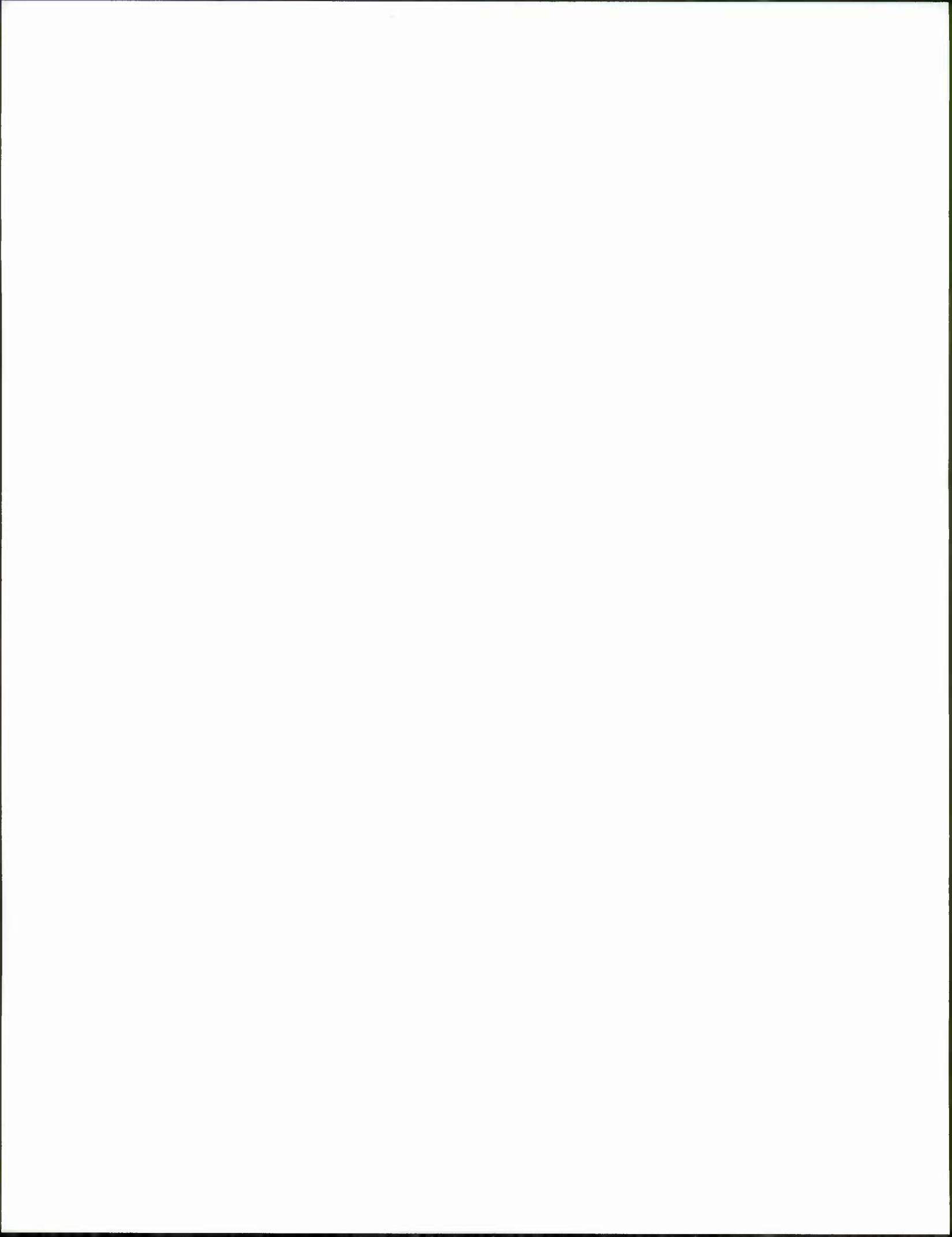
accomplished. The Applicants only storage for these parts, equipment and accessories which are directly related to water-dependent activities is on the waterfront, which is located 60 steps down the cliff from the house.

Most importantly, the Applicants' installation of a nitrogen removing system reduces nitrogen from entering the Bay at a rate of 70% (greatly exceeds the County's goal of 40%) and greatly benefits the public. Applicant has heard the Board state that they would require applicants who are not on sewer to install nitrogen-reducing septic systems in exchange for variances in the buffer. (Hager 07-3412; Celentano 07-3395).

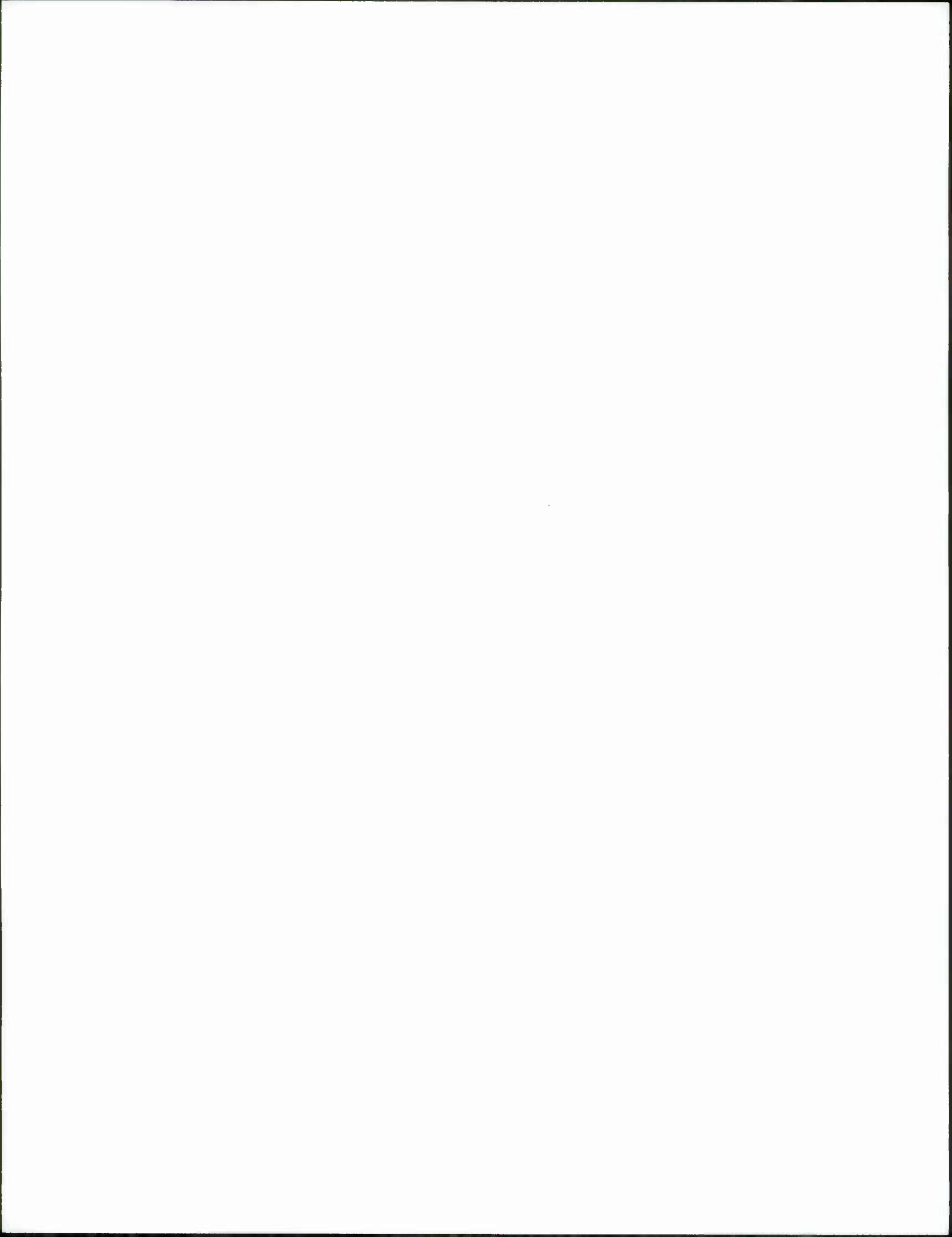
The Applicants' stormwater is directed underground and runs away from the Bay, and this benefits the public.

The Applicants did not destroy or remove any vegetation from the buffer for the construction of the platform - all damage was done by Isabel, and continues to be done at least 4 times a year since 2003 by wind-driven waves, storm surges and nor'easters. This section of the buffer on Applicants property is compromised by storm-driven waves and is not a functional part of the buffer because it is not naturally vegetated. The functional part of the buffer on Applicants' property is from the cliff's toe to the top of the cliff and has not been compromised.

Also note the 40' wide x 80' deep piece of property (formerly "Dares Park") on which the platform is located has been replatted and enrolled in the tax records. Most waterfront property owners in Dares Beach have not replatted their lots with the waterfront parcel formerly known as "Dares Park" and that substantial acreage has never been enrolled on the tax records and taxes are not paid on the acreage until replatting occurs. That Applicants pay taxes on their waterfront parcel benefits the public.







Proposal

J.E. Cawley Co. Inc.

Licensed, Bonded & Insured

Phone 410-257-1947
Cell 240-508-8671
Fax 410-414-9954

James "Bo" Cawley - Owner
870 Monarch Lane
Huntingtown, MD 20639

mitigation
denit
denitrification
System

Proposal Submitted To: <u>MIKE MATULLO</u>		Job Name	Job #
Address: <u>TRAKES BEACH</u>		Job Location: <u>PRINCE FREDERICK</u>	
		Date: <u>11/14/04</u>	Date of Plans
Phone #	Fax #	Architect	

We hereby submit specifications and estimates for: SEPTIC SYSTEM HOOKUP WITH THE FIRST WASTEWATER TREATMENT SYSTEM.
INCLUDES - 1500 gal TANK, PRIMARY SEWAGE PIT CONNECTION, THE FIRST SYSTEM HOOKUP, INSPECTION THEN PUMP GALVANIZED.
PUMP GUARDRAIL WILL BE BROUGHT GRADE. ANY LANDSCAPING IS XTRA.
RUN SEWER LINE TO WITHIN 5' OF HOUSE. OR CONNECT IF LINE IS ACCIDENTLY STOPPED OUT.
WE WILL RUN ANY ELECTRICAL CONDUIT UNDER GROUND. ACTUAL ELECTRIC WORK WILL BE BY BUILDER'S ELECTRICIAN. ANY INFO NEEDED WE WILL SUPPLY.

J.E. CAWLEY CO. INC. WILL INSTALL CONCRETE SYSTEM. BACKGRADE 6FT INSPECTION AND MAKE SURE SYSTEM RUNS AND CHECKS OUT COMPLETE.

Paul ch
11/2/05

We propose hereby to furnish material and labor complete in accordance with the above specifications for the sum of:
 \$ 12,500.00 ~~13,000.00~~ *JEC* Dollars

with payments to be made as follows: 1/2 DOWN / FINAL PAYMENT AFTER INSPECTION / BANK BILL

Any alteration or deviation from above specifications involving extra costs will be executed only upon written order, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control.

Respectfully submitted

James E Cawley

Note - this proposal may be withdrawn by us if not accepted within _____ days.

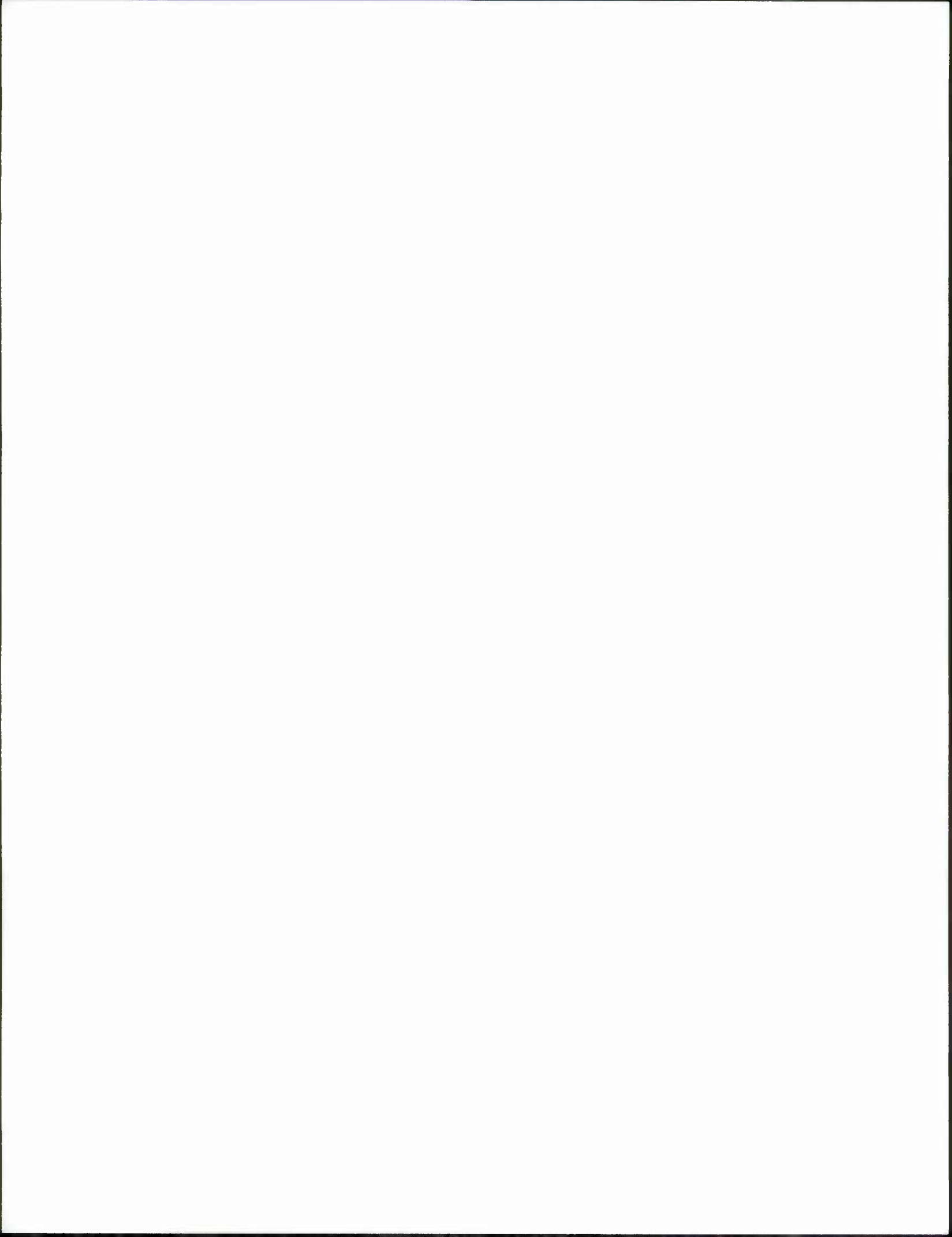
Acceptance of Proposal

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payments will be made as outlined above.

Date of Acceptance _____

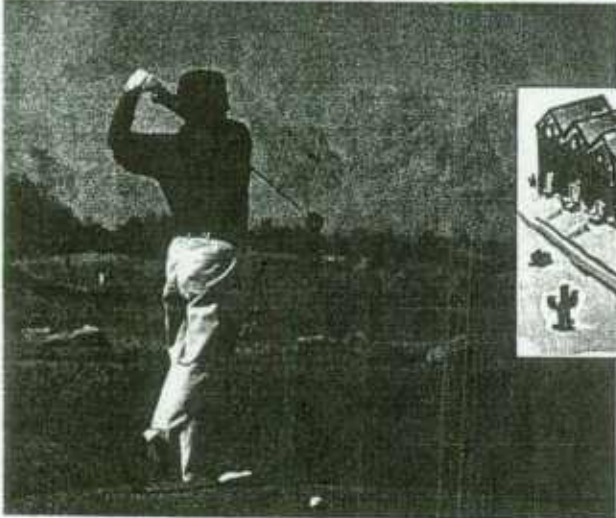
Signature *JEC*

Signature _____

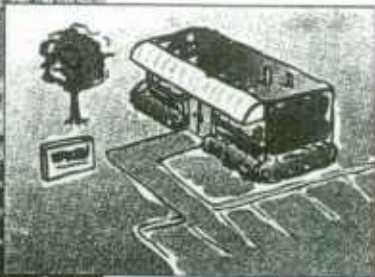
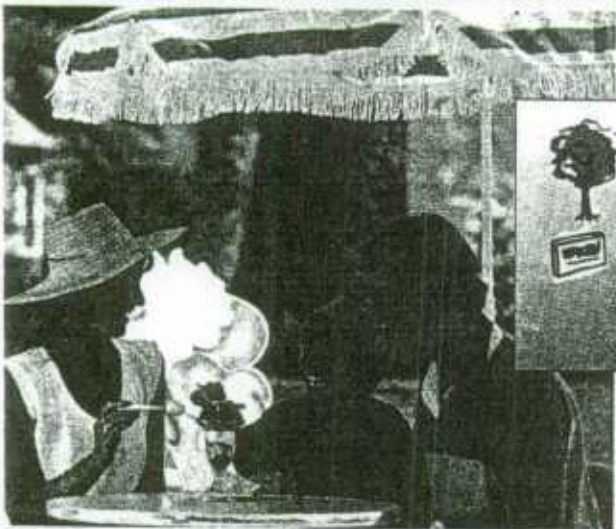




Single Family Dwellings



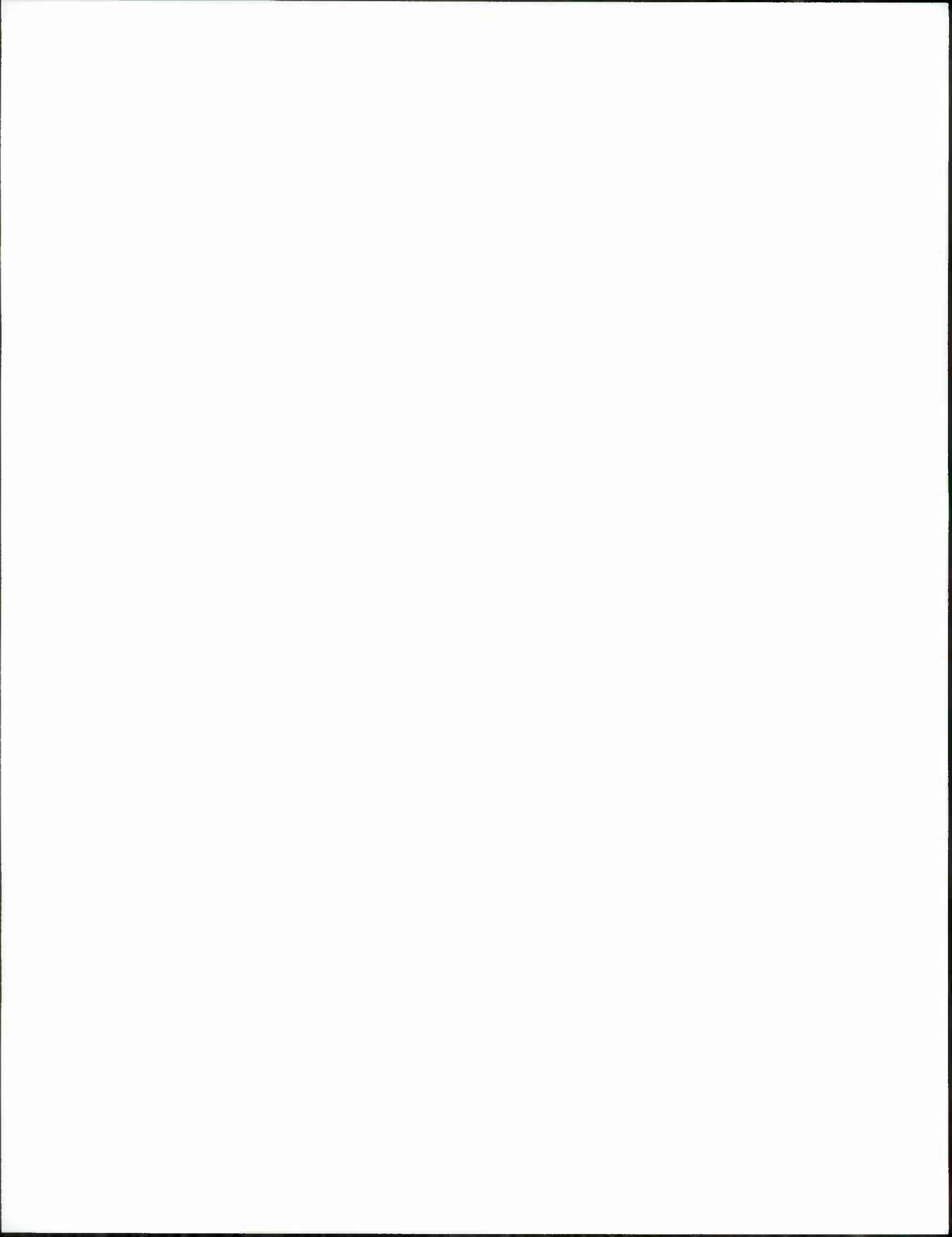
Clustered Subdivisions



High Strength Commercial



Failed System Renovation




Proven, safe, reliable.

37

The advanced technology behind FAST® was originally developed by Smith & Loveless, Inc., a worldwide leader in the design and manufacture of wastewater treatment equipment since 1946. FAST has been used successfully for many years in municipal, industrial, marine, commercial and residential applications. Known globally for superior engineering and manufacturing, the Smith & Loveless companies are one of the most recognized water and wastewater transfer and treatment groups in the world. This innovative group of companies is known for high standards, proven technology, engineering expertise and manufacturing quality.

Environmental Protection

FAST systems greatly reduce groundwater contamination and help protect the delicate ecosystem.

 Potentially harmful nitrates and all other forms of nitrogen are removed at unparalleled rates (more than 70%) through the patented FAST process. FAST is made with post-consumer recycled materials. Use of this remarkable system allows for responsible new development and the renovation of failed conventional systems.

FAST Certifications

U. S. Coast Guard
Canadian Great Lakes
UK Department of Trade
NSF Standard 40, Class I
International Maritime Organization (IMO)



Technical Specifications

Power required: Normal household current (120v, 60Hz). Other options (220v and international requirements) are available.

Materials of construction: Made with 100% corrosion resistant materials and contains post-consumer recycled materials.

Underground housing: FAST systems can be housed in concrete, fiberglass, steel or plastic tanks. Always check local regulations before installing or altering a wastewater system. Contact Bio-Microbics or a dealer near you for more information on the availability of proper tankage in your area.

Dispersal Options: Check your local regulations. The extraordinarily high treatment levels may allow reductions in drain field areas, use of treated water for irrigation or other innovative discharge methods.

Capacity: Available in several convenient, affordable sizes and configurations. Please contact Bio-Microbics or a dealer near you for more information on the FAST system that's right for your application.

Bio-Microbics, Inc.
8450 Cole Parkway
Shawnee, KS 66227

913-422-0707

1-800-753-FAST

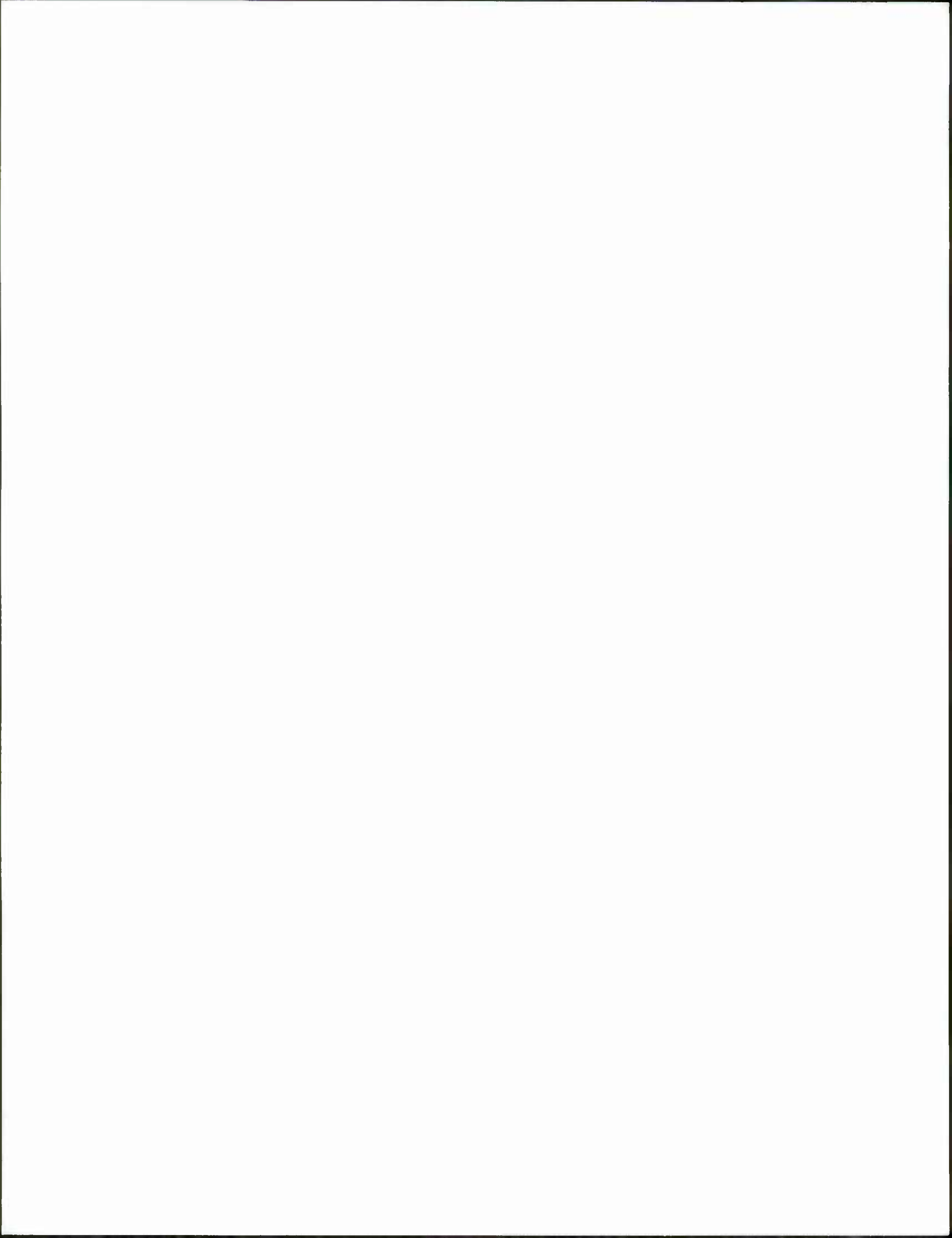
Fax: 913-422-0808

E-mail: onsite@bionicrobics.com

Web site: www.bionicrobics.com



© 1999 Bio-Microbics, Inc.



- b. granting the variance will not adversely affect the implementation of the Comprehensive Plan

APPLICANTS' RESPONSE:

Granting the variance would not substantially impair the intent of the Comprehensive Plan, as the use is permitted as a variance by the Zoning Ordinance, which was written in accordance with the goals and objectives of the Comprehensive Plan.

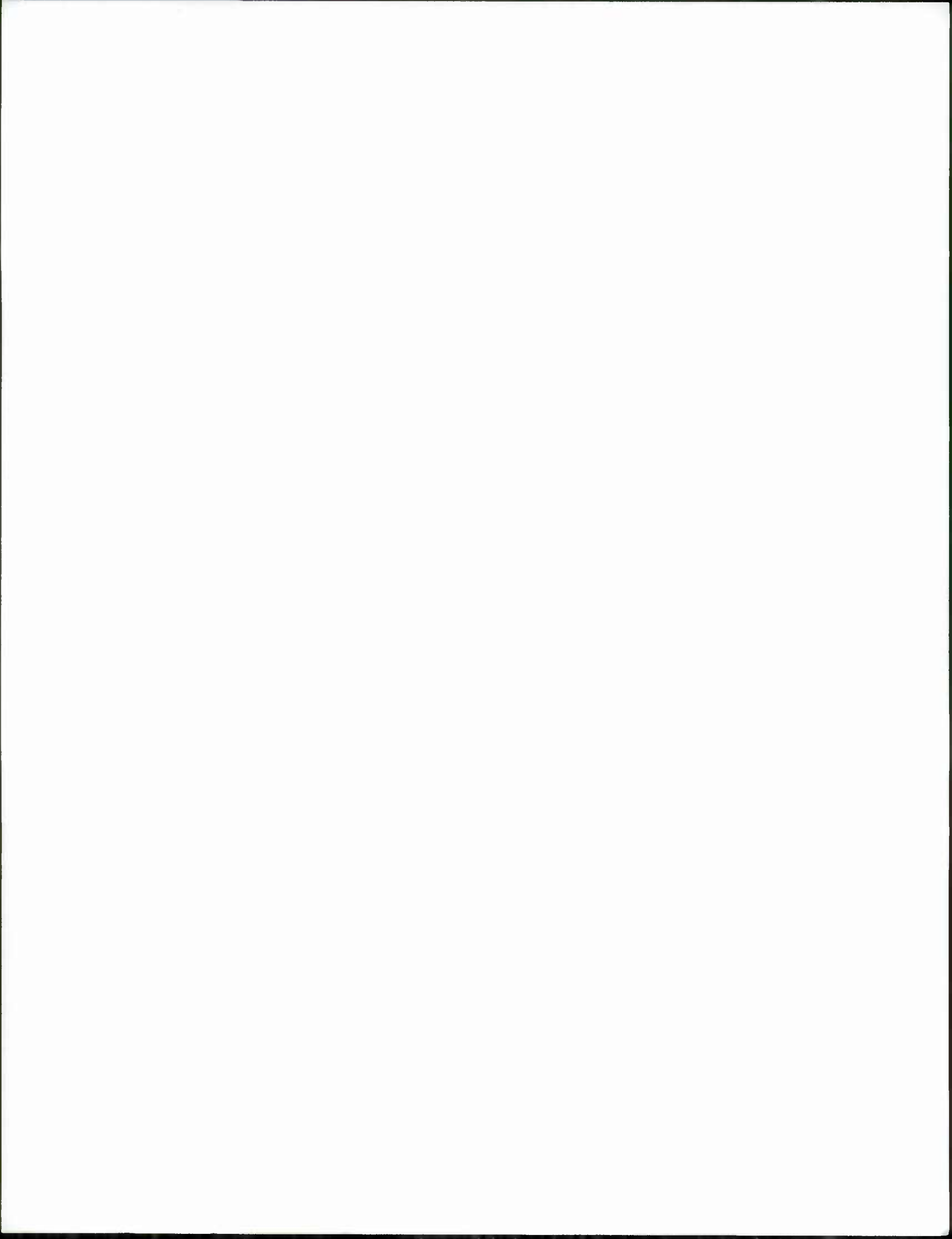
The Zoning Ordinance (9-4.01 AND 8-1.08) permits vessel service areas and storage of equipment, piers, private boat launch ramps, and accessory uses approved by the Zoning Officer. Dry storage of our equipment for the maintenance of our boat, parts for the boat lift, and for accessories (life vests for boat and jet ski, tackle boxes, dry storage of rods and reels and boat and raft) related to water-dependent uses are allowed.

Applicants concede that an area supporting a picnic table is not permitted per se by Zoning Ordinance or CAC but Applicants would state that there is no other location on their entire property, because of its topography and proximity to the cliff and slope of the front yard, where they could safely keep their picnic tables without danger of causing erosion. The Comprehensive Plan calls for ample yard space for families to enjoy recreational activities. Applicants' yard space is impacted and limited by the cliff and steep slopes.

As to mitigation to reduce pollutants called for in the Master Plan, Applicants have installed a Bio-Microbics' FAST (Fixed Activated Sludge Treatment) Wastewater Treatment System approved by MDE. It operates on a continuous treatment basis and "removes 70% of nitrates and all other forms of nitrogen." The Chesapeake Bay Agreement (C2K) only calls for a 40% reduction in nitrogen/nutrients to restore the Bay's previous biological productivity. The County's Master Plan objective is to reduce nutrient pollution by 40% from 1985 levels. (I-103 & 4; I-118; I-122; I-127). Applicants' have greatly exceeded the County's goal.

In addition, Applicants revetment contractor installed a French drain, 40' x 4' x 5' behind the old timber bulkhead. The French drain captures runoff and contaminates that may be discharged from the wood storage platform before entering the Bay. The French drain minimizes the impacts on water quality resulting from pollutants discharged from the wood decking structures and will not adversely affect the implementation of the County's goals of environmental protection and is in keeping with the goals of the County's Master Plan.

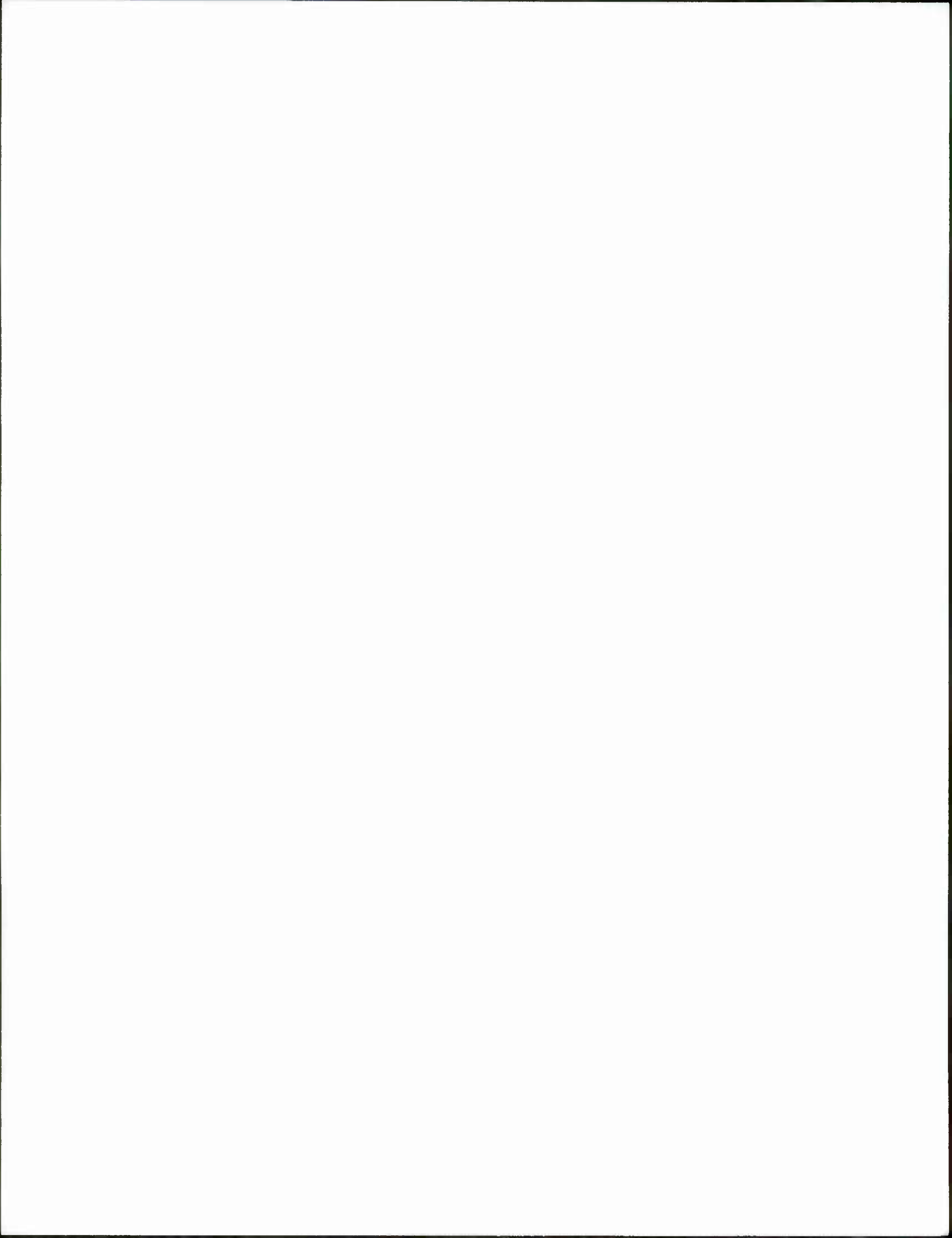
The area where the platform is located is not naturally vegetated and vegetation cannot be maintained due to seaside forces such as storm-driven waves and storm surges and destruction by floating debris. A useable deck attached to Applicants' house would impact the functional buffer and the undercut cliff. Allowing the platform to remain would be in keeping with the Critical Area



Program and with the County's Master Plan as this area of the buffer on Applicants property is non-functional but the French drain minimizes the impacts on water quality structures and will not adversely affect the implementation of the County's goals of environmental protection (retaining the functional buffer and cliff and reducing pollutants from entering the Bay) and is in keeping with the goals of the County's Master Plan.

The revetment and riprap (chinking from between the armor stone that were displaced by overtopping waves) provide shelter for an otter, muskrats, bay rats and groundhogs. It also provides shelter for thousands and thousands of baby fish and crabs that were not there before the revetment was emplaced. Butterflies rest in the sun on the rocks and gravel. The birds sit on the wood platform and make a mess eating the berries from the tree branches hanging over the platform. Heron and a Kingfisher perch on the platform or between the revetment to fish. Preserving and enhancing habitat for wildlife is in keeping with the County's Master Plan.

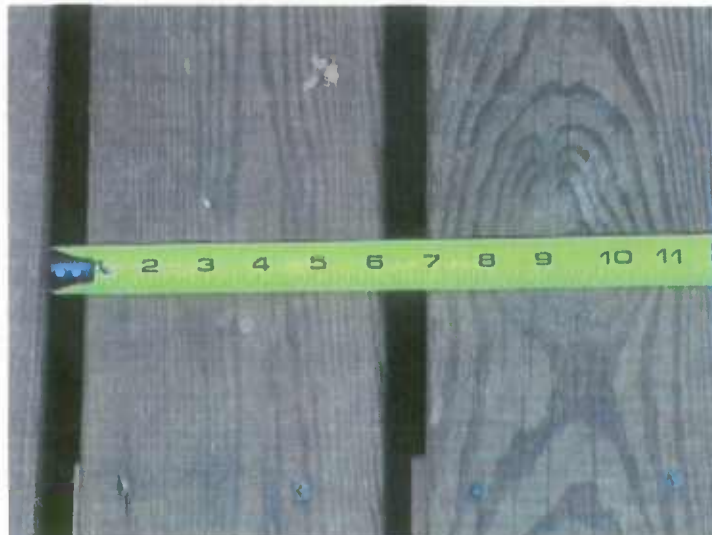
The County's Master Plan embraces the State's Critical Area Laws. New legislation was amended to take into account areas subject to heavy tides and narrow areas when addressing structural shoreline stabilization measures; it increases the 100-foot buffer to 200 feet (which requires Applicants to obtain a variance for construction of a platform/deck regardless of where they can locate it because their entire lot will be in the buffer).



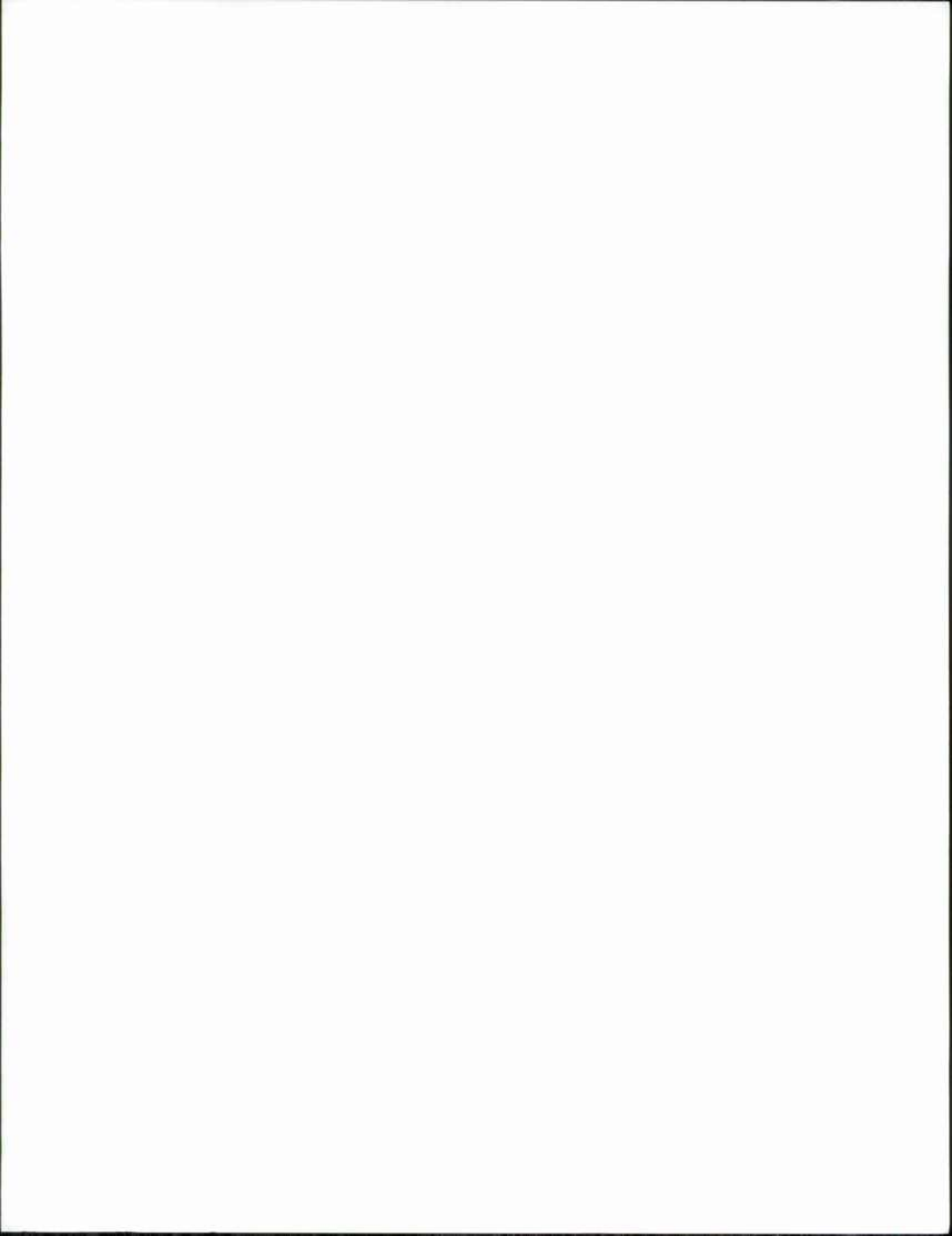
MITIGATION
Denitrification system



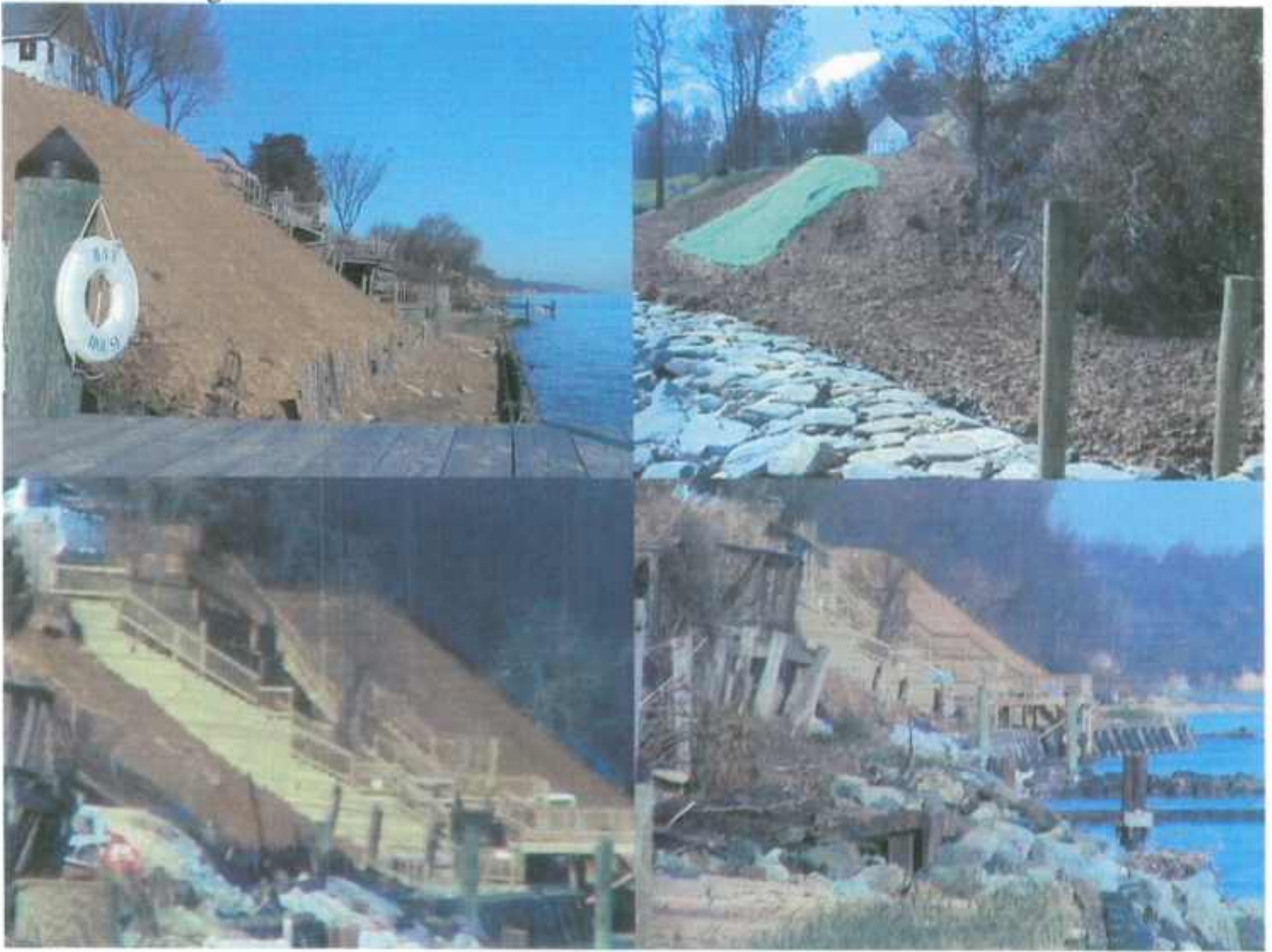
French Drain

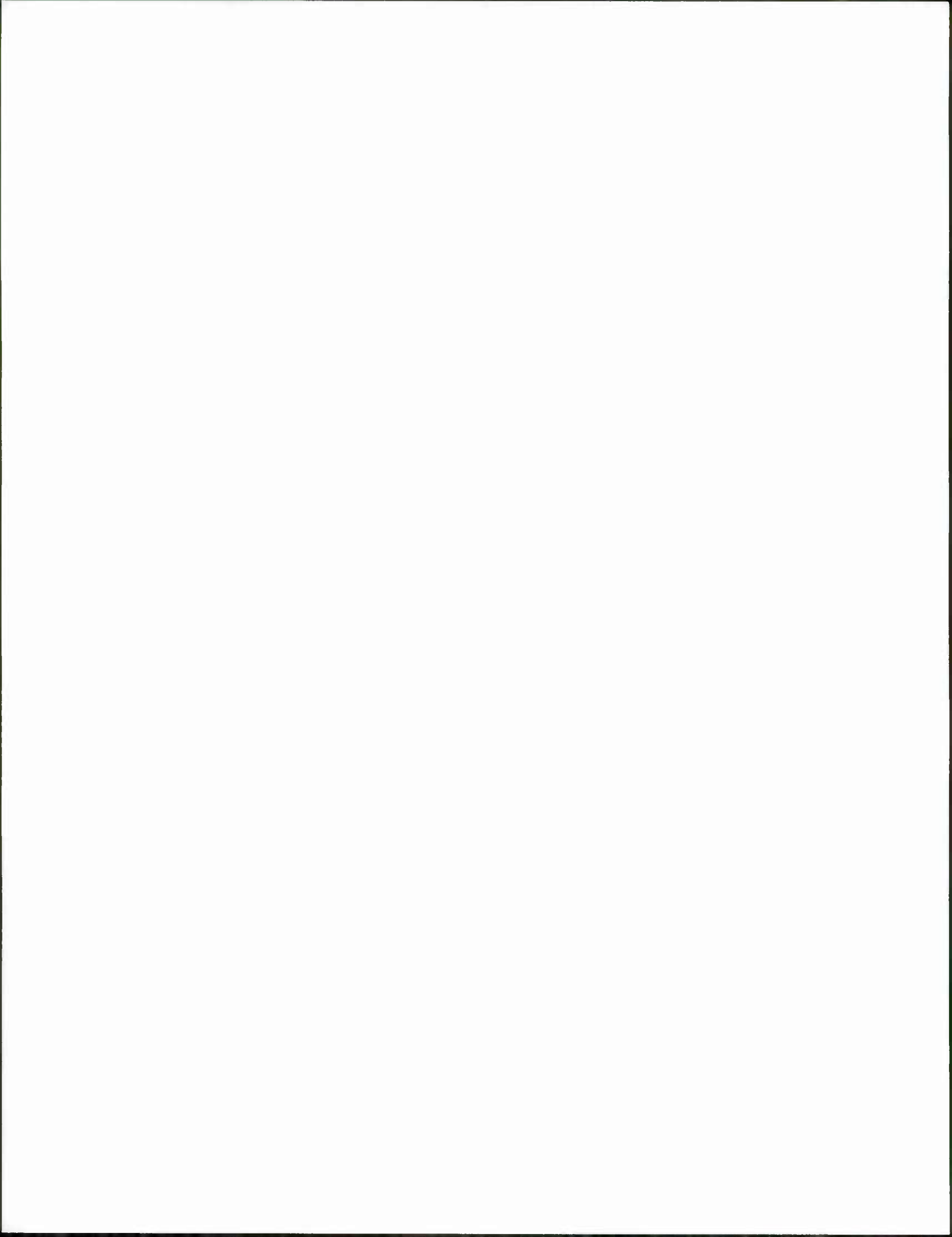


Underground gutters and drainage to road -- away from Bay



We did not re-grade and fill in our cliff





- c. The variance is the minimum adjustment necessary to afford relief from the regulations

RESPONSE:

We request at least 214 square feet for an elevated open board storage platform for dry storage of equipment and accessories for water-dependent activities -- boating, jet-skiing, rafts, beach umbrella and beach chairs, crabbing, fishing (surf and deep sea), and fossiling. There are 60 steps up/down the cliff. I am visually impaired, have a brain tumor and have undergone major lung surgery. It is an extreme hardship to require an me to walk up and down 60 steps to use an item or enjoy a water activity or relocate those items for storage when waves break over the revetment. Also, my 76-year-old mother has relocated here and uses the platform. She is physically disabled and must sit in a stable chair that can for support and out of the sun; usually the vegetation on the cliff shades her but she requires an umbrella for shade until the sun swings around to the west. These items are also stored on the platform.

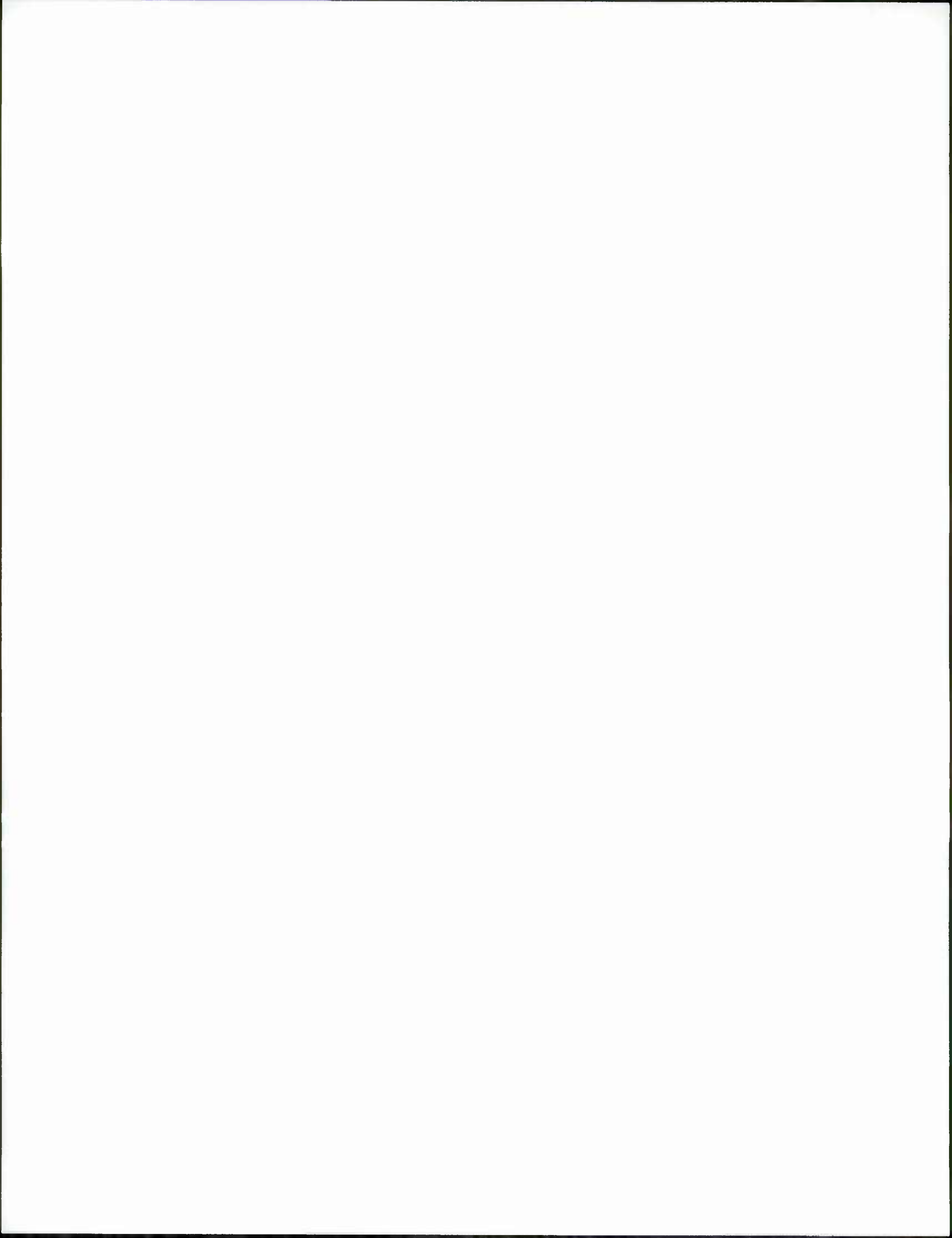
The minimum adjustment necessary is itemized as follows:

The following item is attached to the elevated platform and will require a landing to remain for access to our steps down into the water steps and landing seaward of bulkhead and approved by MDE), 48" x 48"

16 square feet

The following water-related items are stored on the platform:

- | | | |
|------------|---------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| <i>1.</i> | <i>2 crab pots, 24 x 24 each</i> | <i>8 square feet</i> |
| <i>2.</i> | <i>1 live box, 24 x 24</i> | <i>4 square feet</i> |
| <i>3.</i> | <i>1 hand trap, 12 x 12</i> | <i>-0- hangs</i> |
| <i>4.</i> | <i>trash bin, 16 x 12
(used for trash and screwed down to platform)</i> | <i>1 square foot</i> |
| <i>5.</i> | <i>Rubbermaid storage bin, 50 x 56
(used for life vests for john boat, fossiling
equipment, rain gear and future jet ski vests)</i> | <i>20 square feet</i> |
| <i>6.</i> | <i>New Rubbermaid storage bin, 50 x 56
(to replace the 27 x 24 trash bin we're using for
our tackle boxes (we have more than 8 boxes)</i> | <i>20 square feet</i> |
| <i>7.</i> | <i>Outdoor teak beach shower, 31 x 31</i> | <i>7 square feet</i> |
| <i>8.</i> | <i>Custom fishing rod storage box (being
fabricated) for over 15 rods and reels, 16' x 2'</i> | <i>32 square feet</i> |
| <i>9.</i> | <i>Crabbing and fishing nets</i> | <i>-0- negligible</i> |
| <i>10.</i> | <i>Bait buckets</i> | <i>-0- hang</i> |
| <i>11.</i> | <i>Buoys</i> | <i>-0- hang</i> |
| <i>12.</i> | <i>Iron umbrella stand, 22 x 22</i> | <i>4 square feet</i> |
| <i>13.</i> | <i>Joan Coon's chair, 30 x 25</i> | <i>5 square feet</i> |
| <i>14.</i> | <i>Beach chaise lounge, 65 x 28</i> | <i>10 square feet</i> |
| <i>15.</i> | <i>Fish cooler, 18 x 32</i> | <i>3 square feet</i> |
| <i>16.</i> | <i>2-man raft, 48 x 76 (stored under picnic table)</i> | <i>24 square feet</i> |



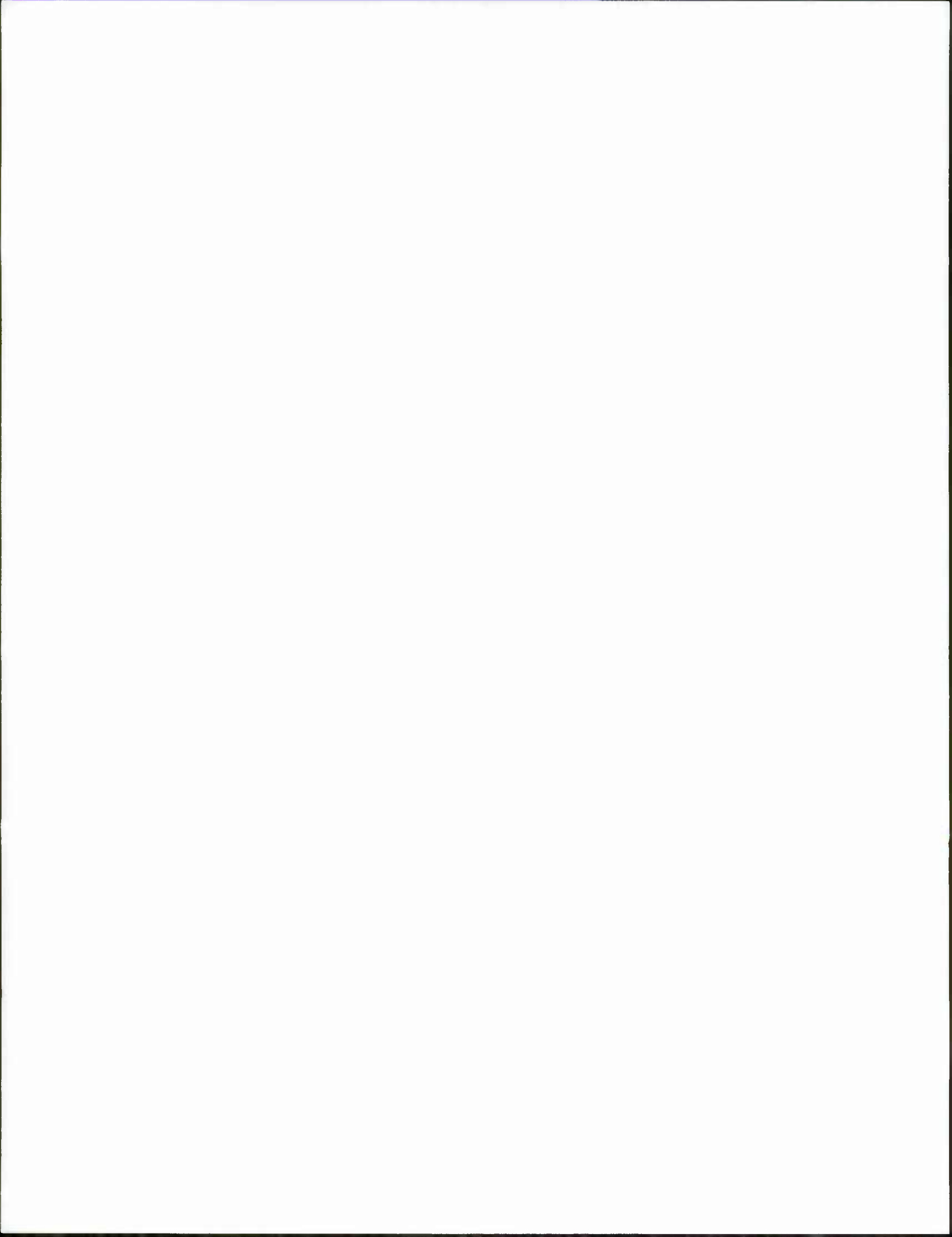
17. *Picnic tables***, 2, brought with us from Bowie, 64 square feet
 Weigh over 100 pounds, waves washed one into
 revetment so we moved it up to platform, 55 x 90
 Note: 2-man raft (24 sq. ft.) is stored under one table
 If we cannot keep the picnic tables on the storage
 Platform, the tables will have to be given away. We
 are afraid to put them at the top of the cliff because
 of compaction and erosion problems and the waves
 wash them away at the bottom of the cliff and
 there's no other location on our lot to keep them.
 The decks on our house are only 4 ½ feet wide for
 window egresss. The picnic tables are only used
 to eat crabs and have only been used a handful
 of times since 2004. They are usually used to work
 on our rods and reels or maintain other equipment.

<i>Storage area necessary for elevated storage platform</i>	<u>218 square feet</u>
<i>Existing square footage of platform, 174 x 240"</i>	290 square feet
<i>remainder*</i>	72 square feet

**The remainder of 72 square feet allows us room to maneuver around the items stored on top of the platform.*

***Applicants concede that picnic tables are not by definition strictly related to a water-dependent activity but there is absolutely no other location on Applicants' property for placement of picnic tables. The Mill Creek Master Plan, Main Report, on file with the U.S. Army Corps of Engineers, addresses site placement for picnic tables. "Tables should be located on . . . areas reinforced to avoid site deterioration." ". . . level . . . open sites . . . provided soil compaction will not be a problem." "They should be sited away from the edge of impact areas, steep slopes, . . . and accessible to persons with disabilities." Many properties in Calvert's critical area and in Dares Beach have picnic tables. The extreme topography, change in elevations over short distances, exceptional narrowness of our lot, 31' cliff prevent us from enjoying the same activities with our extended families and friends.*

If the Board cannot conclude that the storage platform should store picnic tables and the size should be reduced to reflect that, the Board should note that the 7' x 20' southern-most side of the elevated platform (140 square feet) is located overtop of the private timber boat ramp/launch and dry storage site. On October 27, 2003, Applicants were issued MDE Authorization 04-PR-0219 / MDSPGP 2 Authorization 200365720 to construct the timber boat ramp and Calvert County Building Permit 41823 issued after BOA approval for a reduction in the lateral line setbacks; 10' on the north and 5' on the south. Applicants were financially unable to complete construction of the boat ramp at the time their pier was installed and the tidal wetlands permits were closed out. Applicants will be

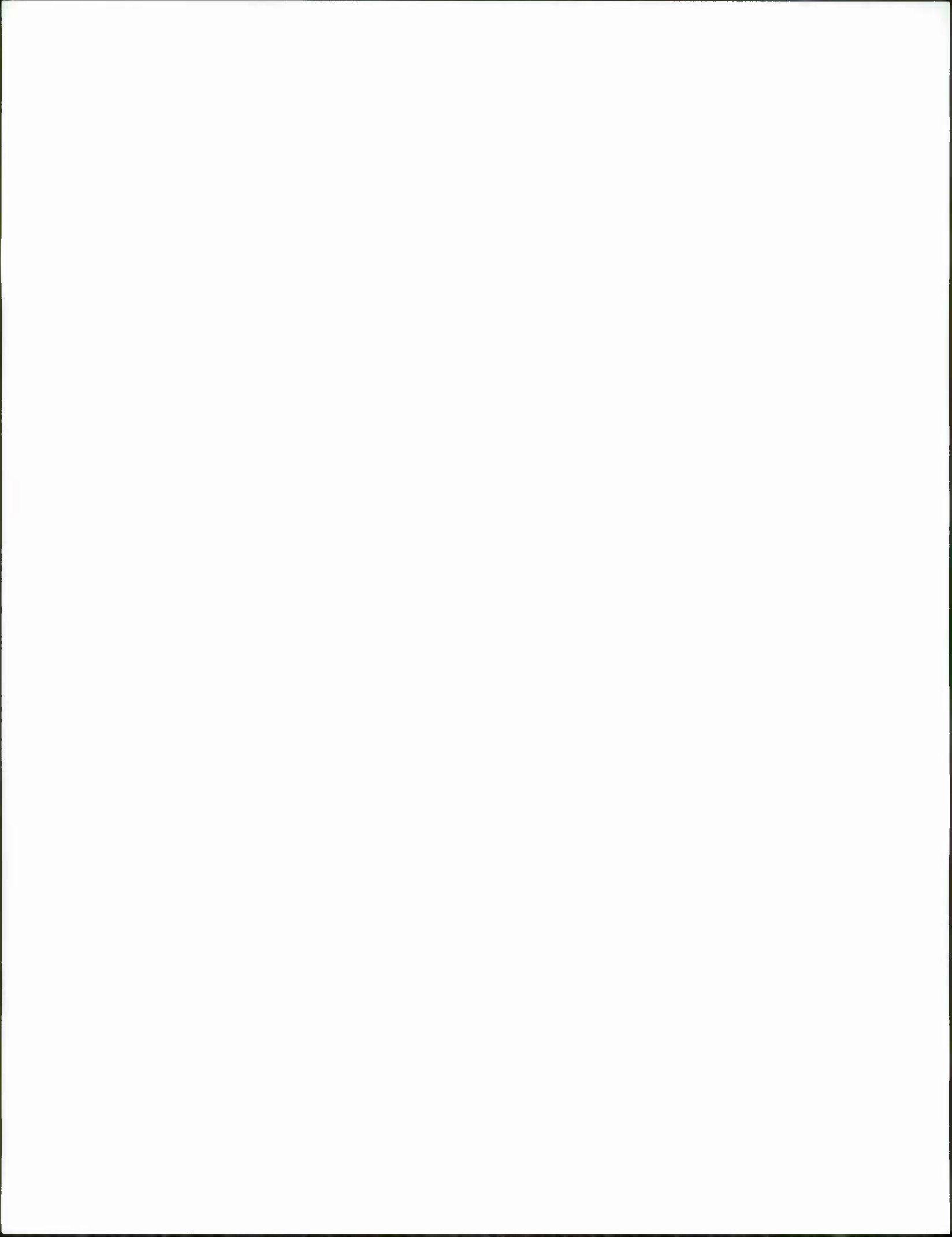


purchasing a jet ski and they do not wish to add another boat lift. The jet ski will be stored on the boat lift and the john boat will be stored on the boat ramp/launch under the elevated platform. On March 20, 2008, Applicants were issued a new MDE Authorization for this work, 08-PR-0915 / RAMS Tracking Number 200860300. Applicants have been denied issuance of building permits for this property until the platform violation is resolved.

Of the approximately 35 waterfront properties in Dares Beach, not one of them has the unique topographical configuration of Applicants' property. Our septic setbacks restricted us from moving our house any closer to the street. Most of the properties have huge, multiple decks, ample yard for the dry storage of vessels, personal watercraft, picnic tables, etc., and garages. Applicants' property slopes 12-14' east to west from the front of the house to the street and there's only 14' in the back yard before a sheer cliff face and then a steep slope down to the cliff toe. Our 4 ¼' egress decks are not even wide enough to sit in a chair without your feet sticking out under the railings.

There is no location on any other portion of Applicants' property for dry storage of the Applicants' boat and accessories/equipment associated with water-dependent activities or to keep the picnic tables. For Applicants to relocate the picnic tables to the top of the cliff would impact the buffer greater by causing compaction and erosion near the edge of the cliff and compromising the cliff. Storing the tables on the elevated platform and allowing the elevated platform to remain would not cause injury to the cliff and in fact works to save damaging the cliff by catching logs and lumber that damage and erode the cliff during storms and seaside forces.

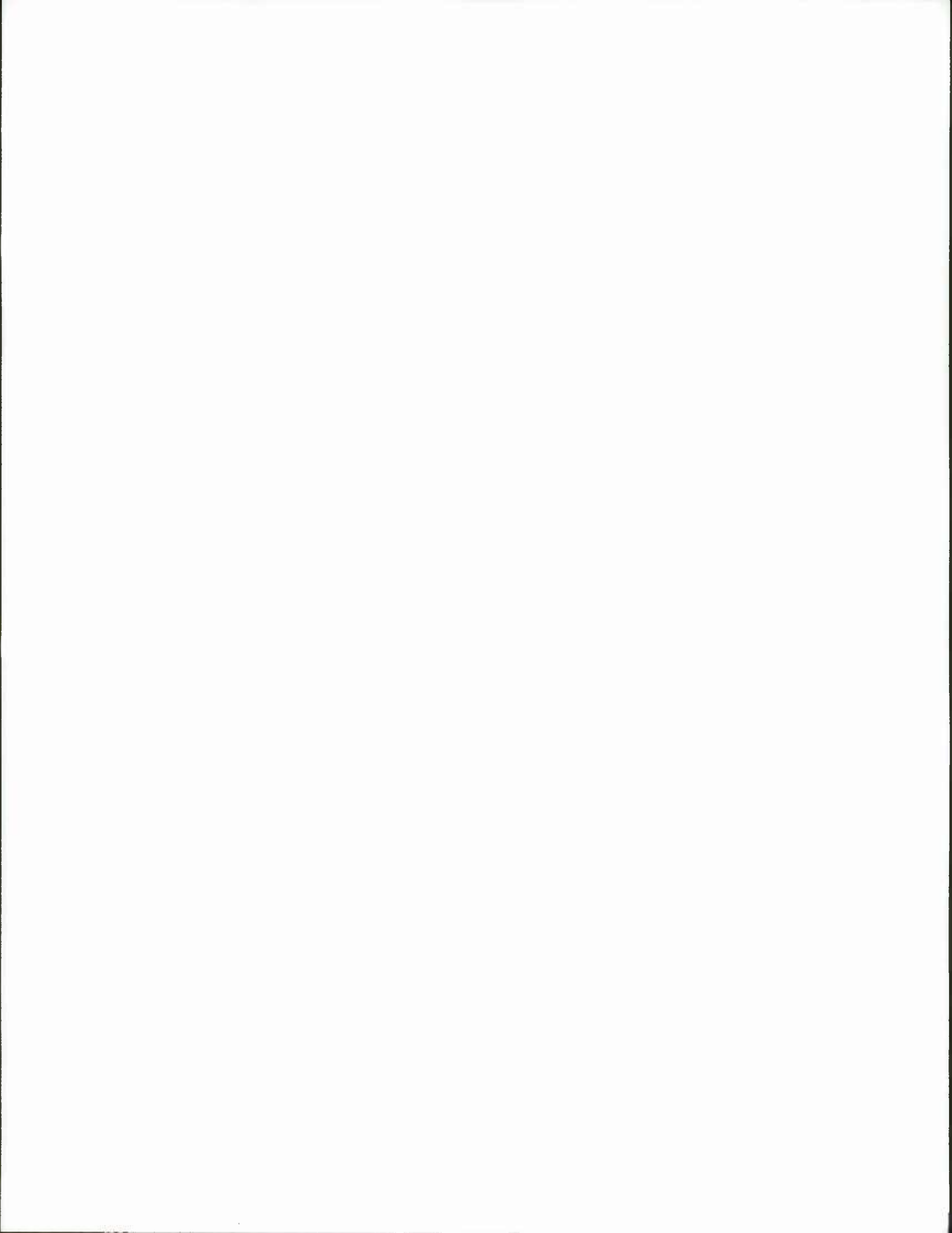
Applicants believe that 290 square feet is the minimum adjustment necessary to afford relief from the regulations; the area it covers is not a functional buffer and the platform and French drain provide environmental protection and protection of the Applicants' property from shoreline erosion caused by wind-driven, overtopping waves, high tides and storm surges and Applicants use of a denitrification system reduces pollutants into the Bay.



Minimum Necessary:

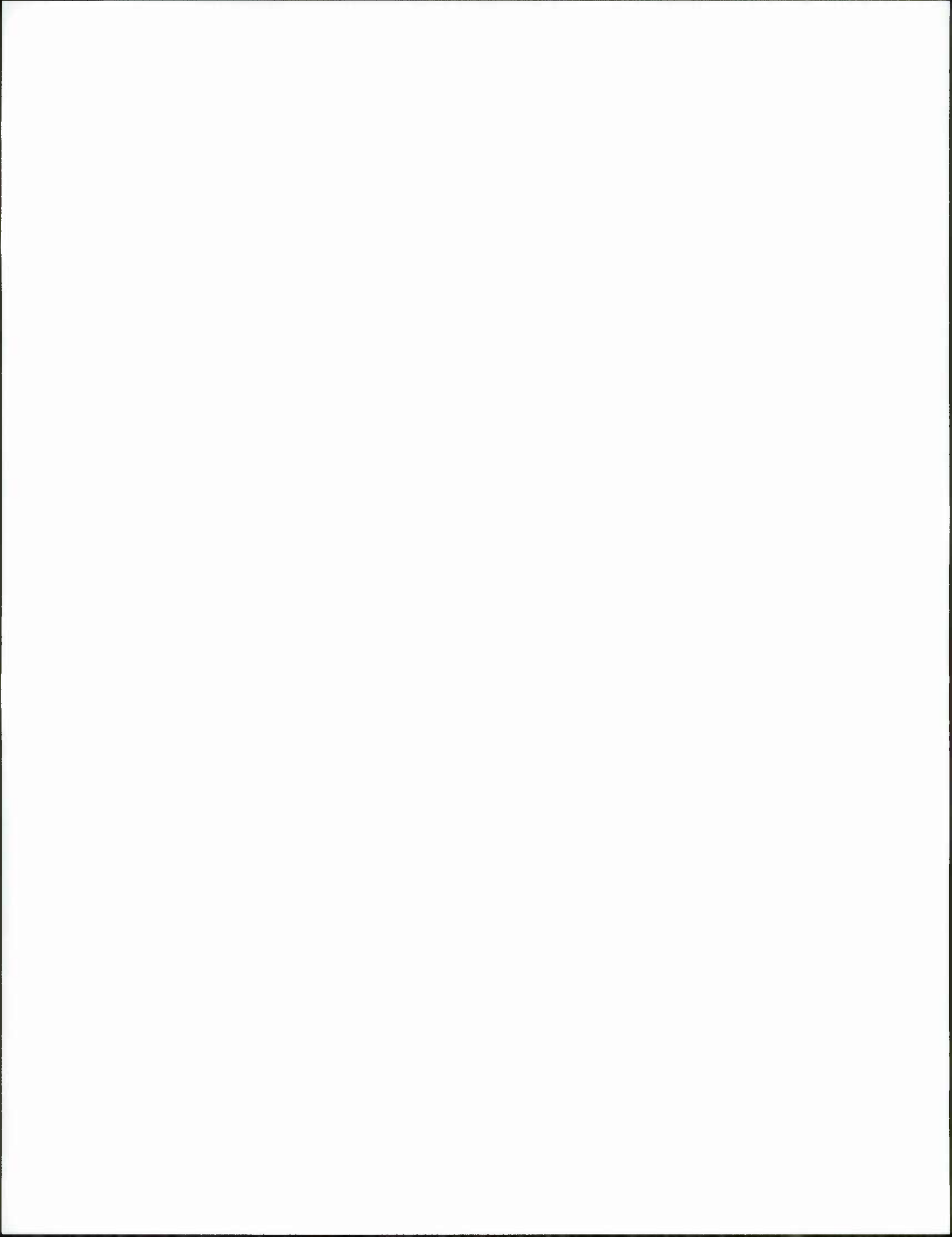
45



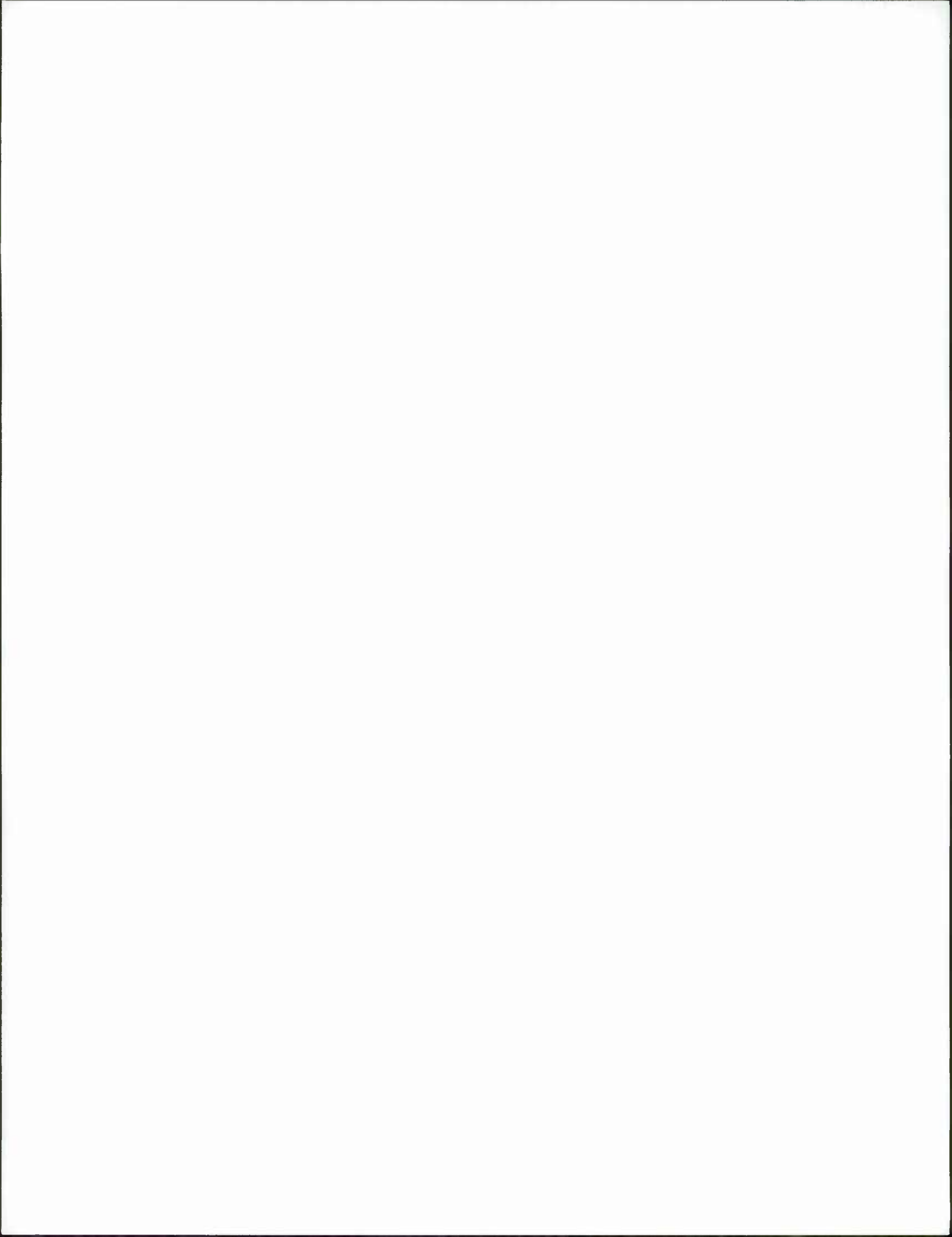


46



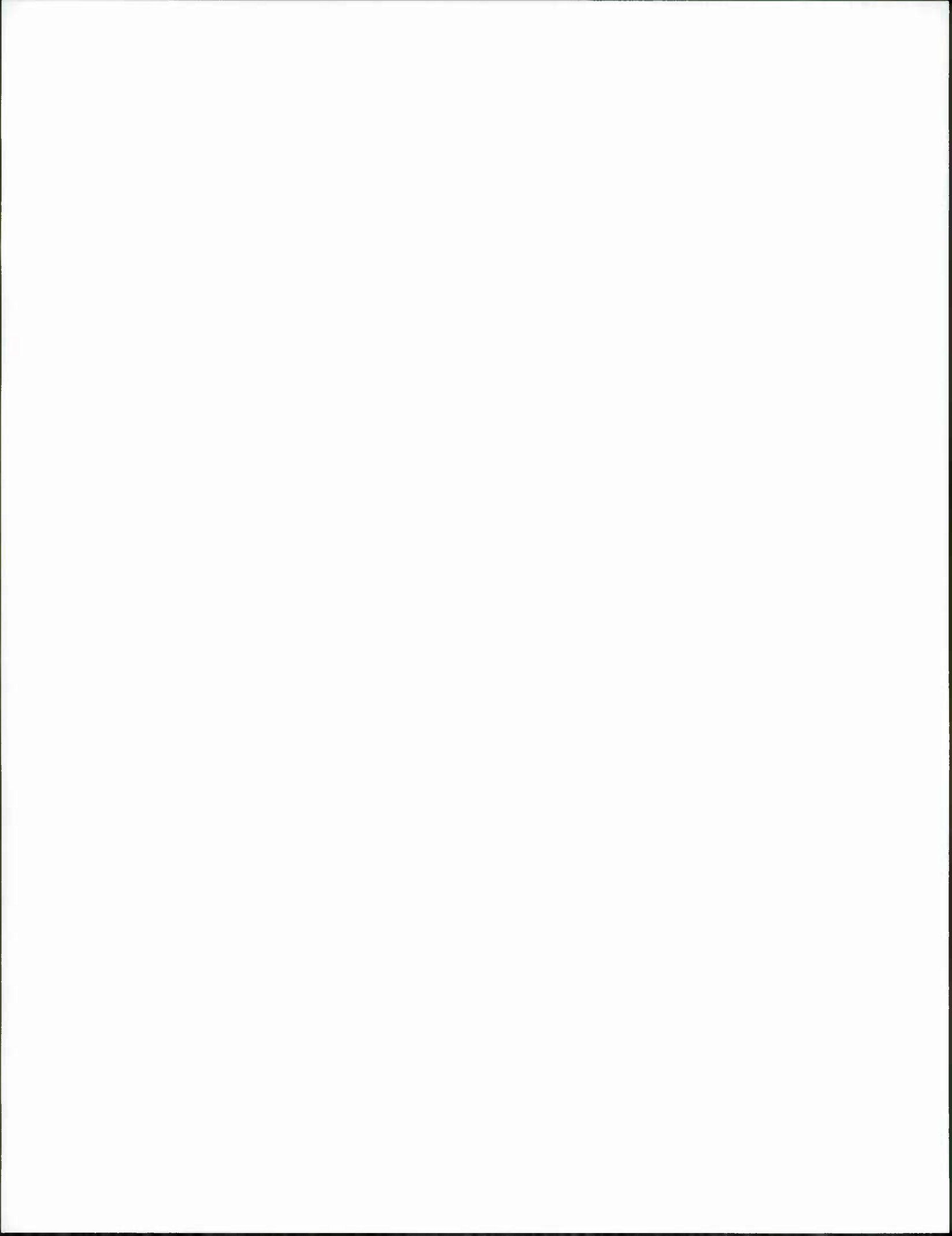






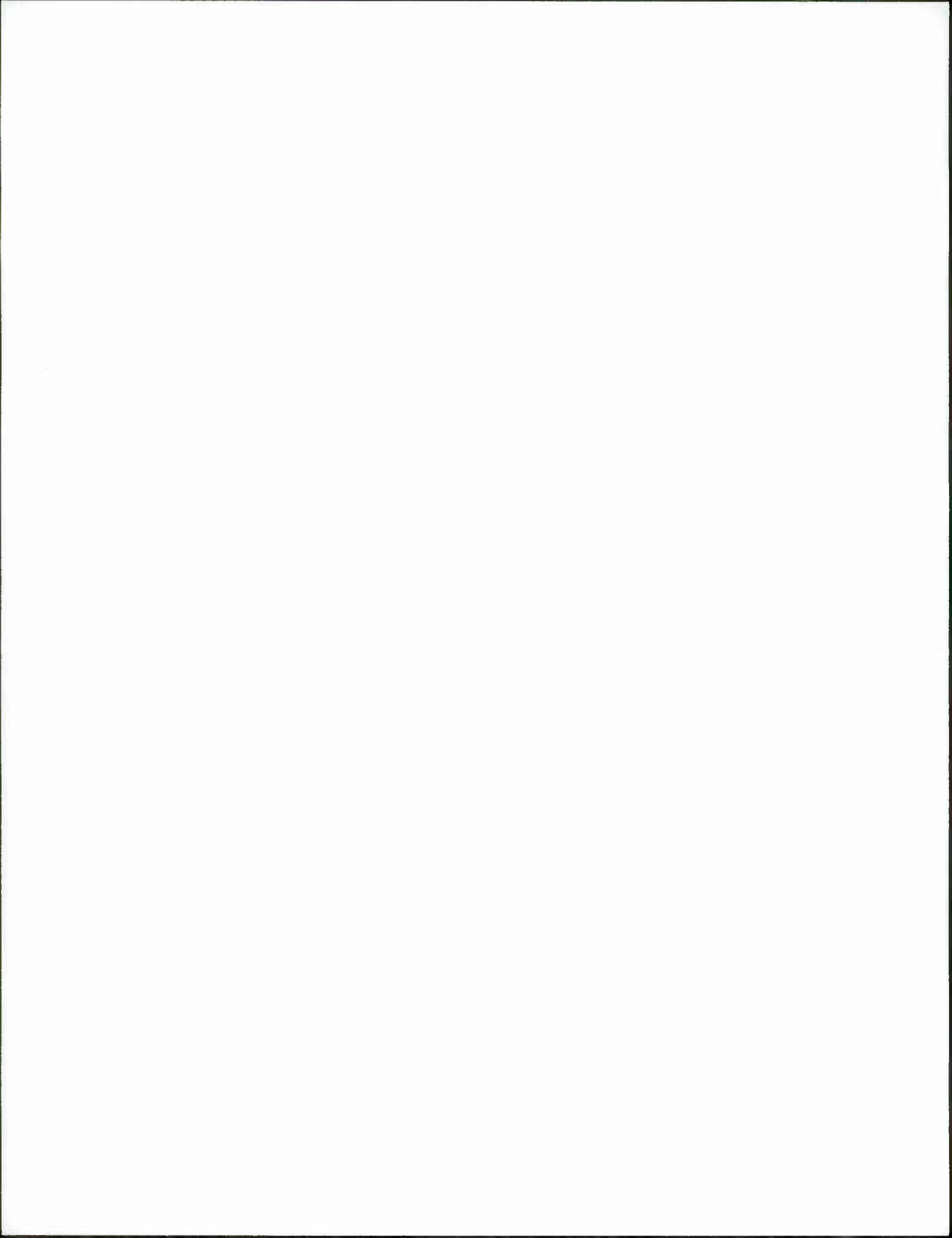


stairs and landing permitted by MDE 1

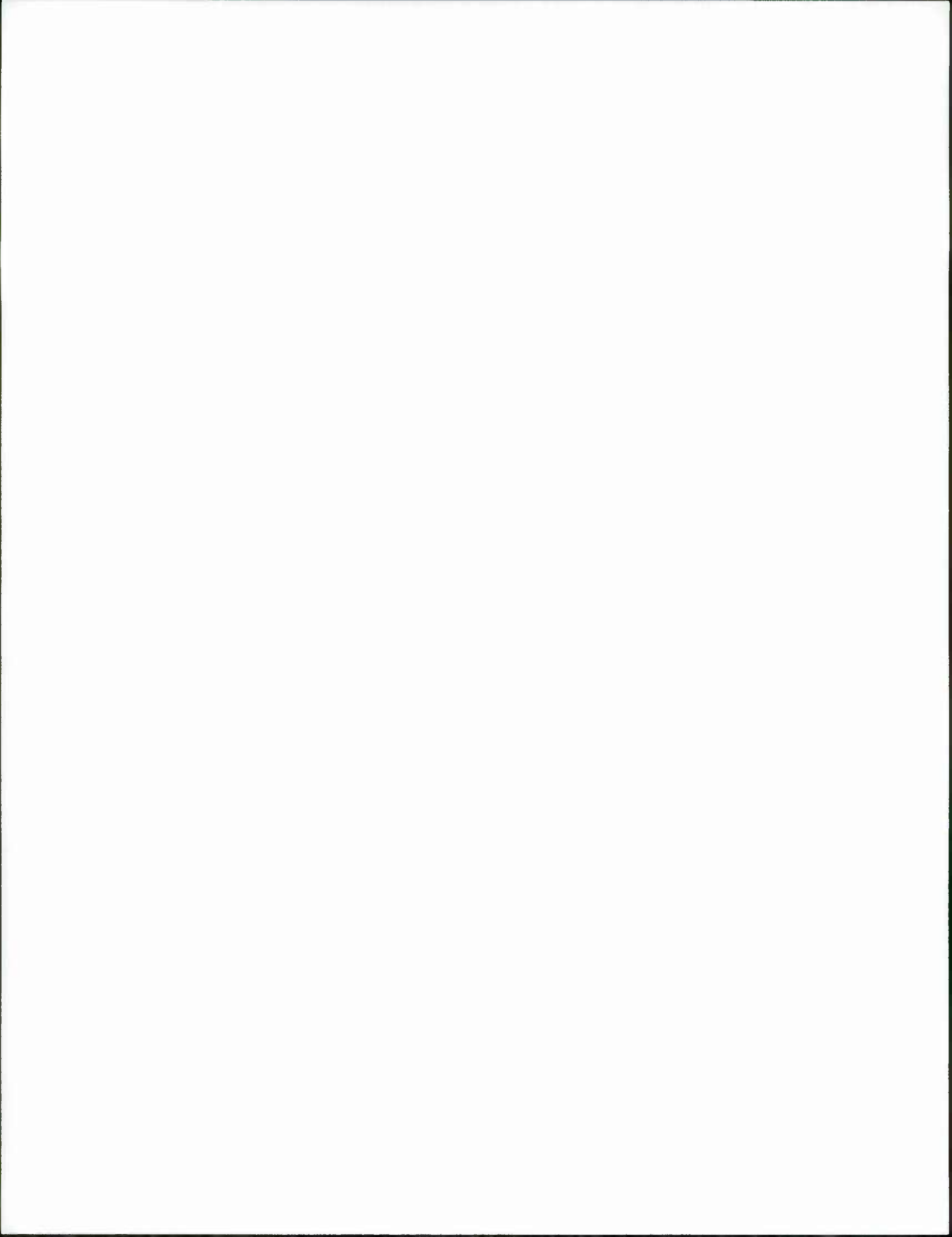




dry storage for boat under platform with ramp







51

Maryland Department of the Environment
Central Division
1800 Washington Boulevard Ste. 420
Baltimore, MD 21230
P: (410) 537-3510 F: (410) 537-3733

Field Inspection Report by: Adriana Frangos

Permit / Approval Numbers: 04-PR-0219

Inspection Date: 6/19/2007

Facility Address: 55 Chesapeake Ave.
Prince Frederick, MD 20678

Site Name: Dares Beach - 55 Chesapeake Ave.

Site Status: Complete

Permit Type: Tidal Wetlands

Site Condition: Compliance Assistance Met

Contact(s): Catherine Mayo, owner

Recommended Action: Dead File
Refer to others(see findings)

Evidence Collected: VISUAL OBSERVATION

Inspection Reason: Follow-up(Non-Compliance)

INSPECTION FINDINGS

Inspection of the site was made today as a follow-up for non-compliance. Property owner Catherine Mayo advised me last week that pier/deck dimensions were reduced as requested at last inspection dated 5/8/06. I met on site with Mrs. Mayo. Inspection consisted from permit review and taking measurements of the dimensions of pier/deck.

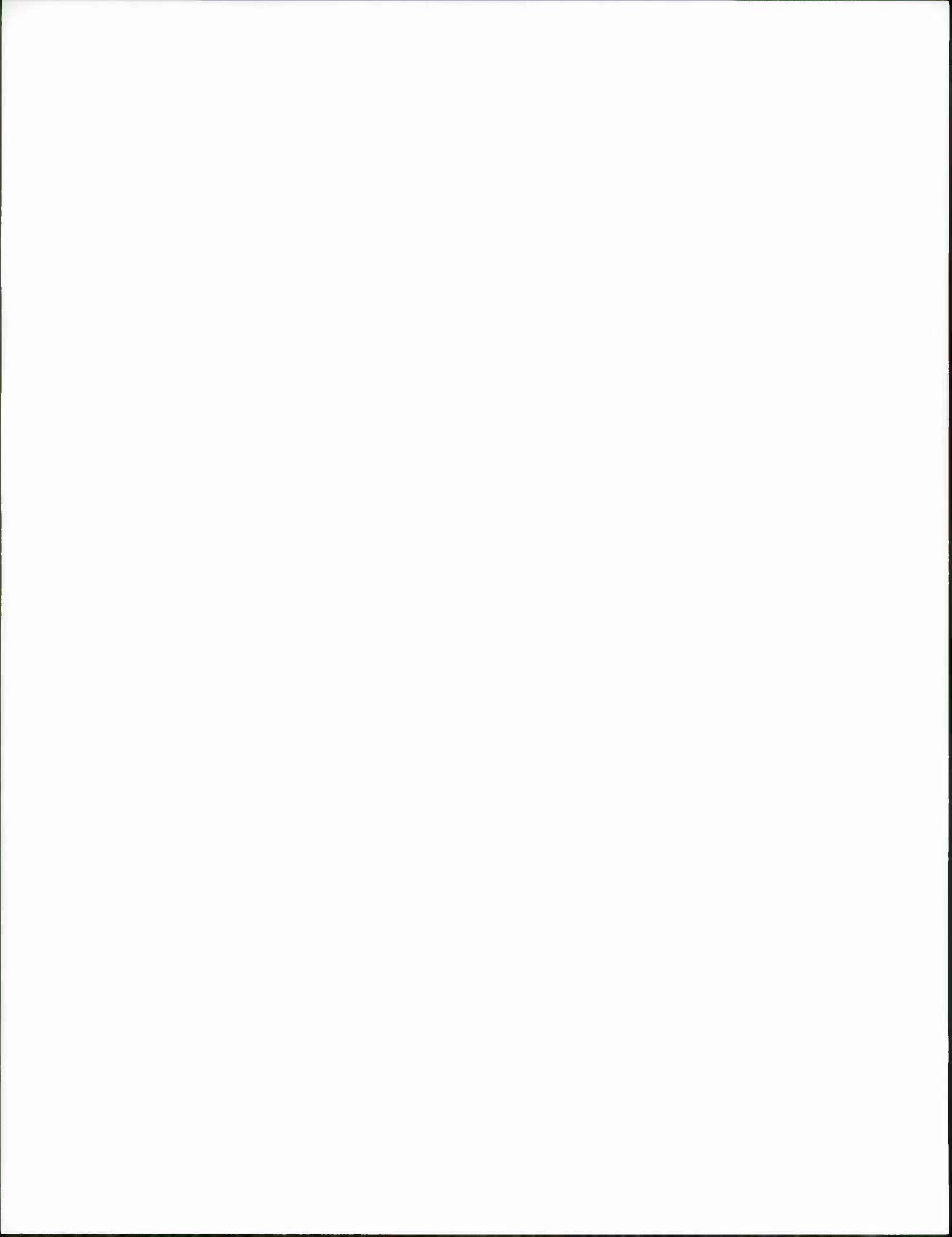
Following are the findings of inspection:

1. The width of the end deck/platform was reduced and is now 8'11" (originally 10'). The length of the deck/platform did not change and is 20'. Square footage: approx. 178 sq. ft. (originally 200 sq. ft.)
2. The width of the lowered deck (landing at the bottom of the steps over revetment) was reduced and is now 3'1" (originally 3'3"). Also the length of the lowered deck was reduced and is now 7'5" (originally 15'3"). Square footage approx. 23 sq. ft.
3. The new reduced total square footage of decking is approx. 201 sq. ft. This is acceptable by the Department.

The site is now in compliance and in satisfactory conditions. On my next office day copy of this report will be faxed to owner and findings of the inspection will be referred to Robert Tabisz, Tidal Wetlands Division, MDE. As the permit 04-PR-0219 expired this authorization will be than dead filed.

Inspector: Adriana Frangos

Received by: Catherine Mayo



52

Permit / Approval Numbers: 04-PR-0219

Inspection Date: 5/8/2007

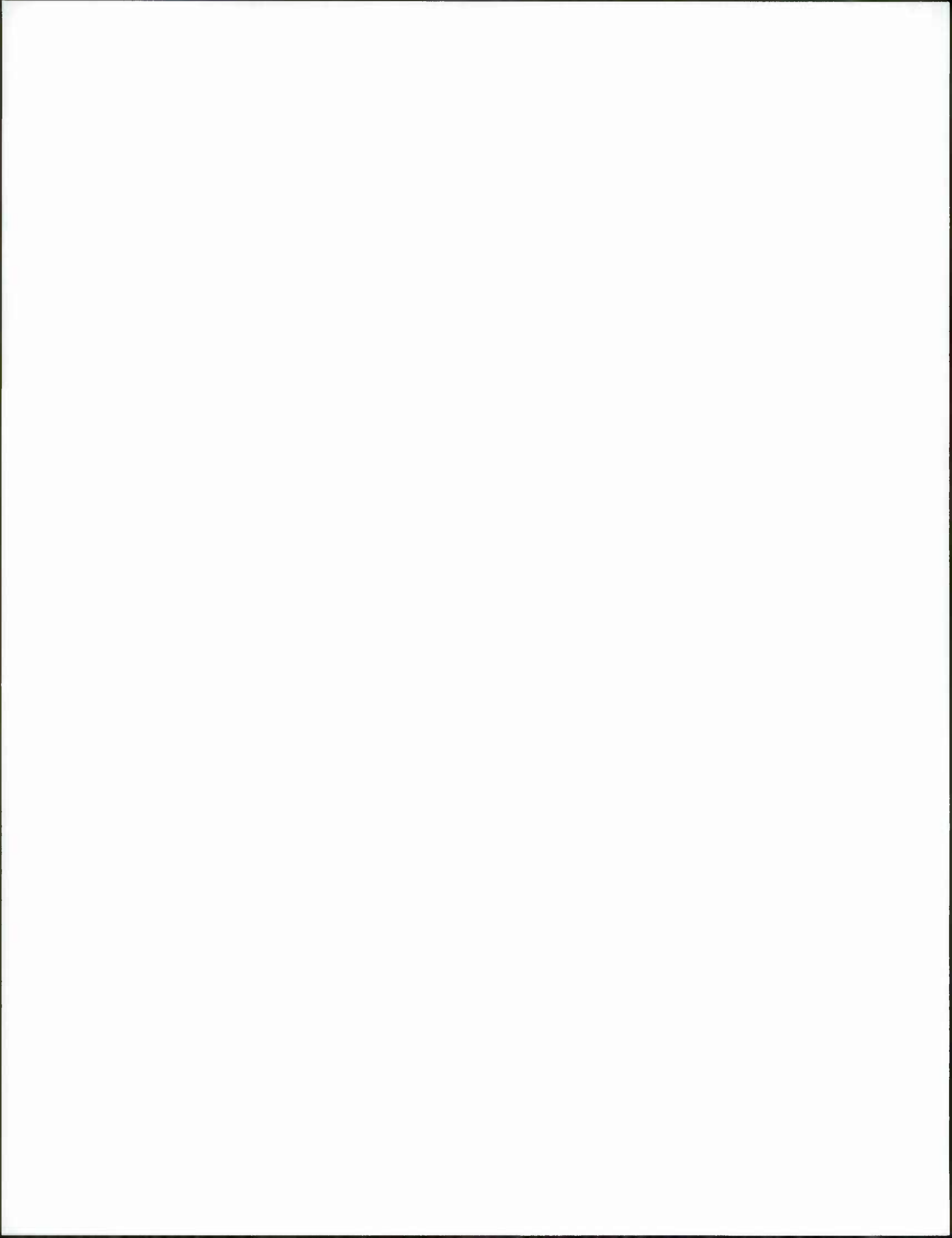
Facility Address: 55 Chesapeake Ave.
Prince Frederick, MD 20678

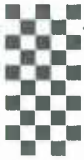
All corrective actions should be performed within 30 days since receipt of this report.

Additional investigation will be made approx. in 30 days to verify compliance. If you have any questions or concerns please do not hesitate to contact me or Robert Tabisz, Tidal Wetland Division, on numbers above.

Inspector: Adriana Frangos
Adriana FrangosReceived by: Cathy Mayo5/9/07

Bob Tabisz stated that to bring site in compliance Mrs. Mayo agreed to remove lowered deck. Mr. Tabisz also stated the stairs leading to lowered deck do not have to be removed.





53

THE WILMER OPHTHALMOLOGICAL INSTITUTE
THE JOHNS HOPKINS UNIVERSITY SCHOOL OF MEDICINE
THE JOHNS HOPKINS HOSPITAL

Daniel Finkelstein, M.D.
Professor of Ophthalmology
The Bioethics Institute

600 N. Wolfe Street, Maumenee 219
Baltimore MD 21287-9227
(410) 955-3429
Fax: (410) 955-0868
email: df@jhmi.edu

April 17, 2007

Mrs. Catherine Mayo
55 Chesapeake Avenue
Prince Frederick, MD 20678

VISUALLY
IMPAIRED

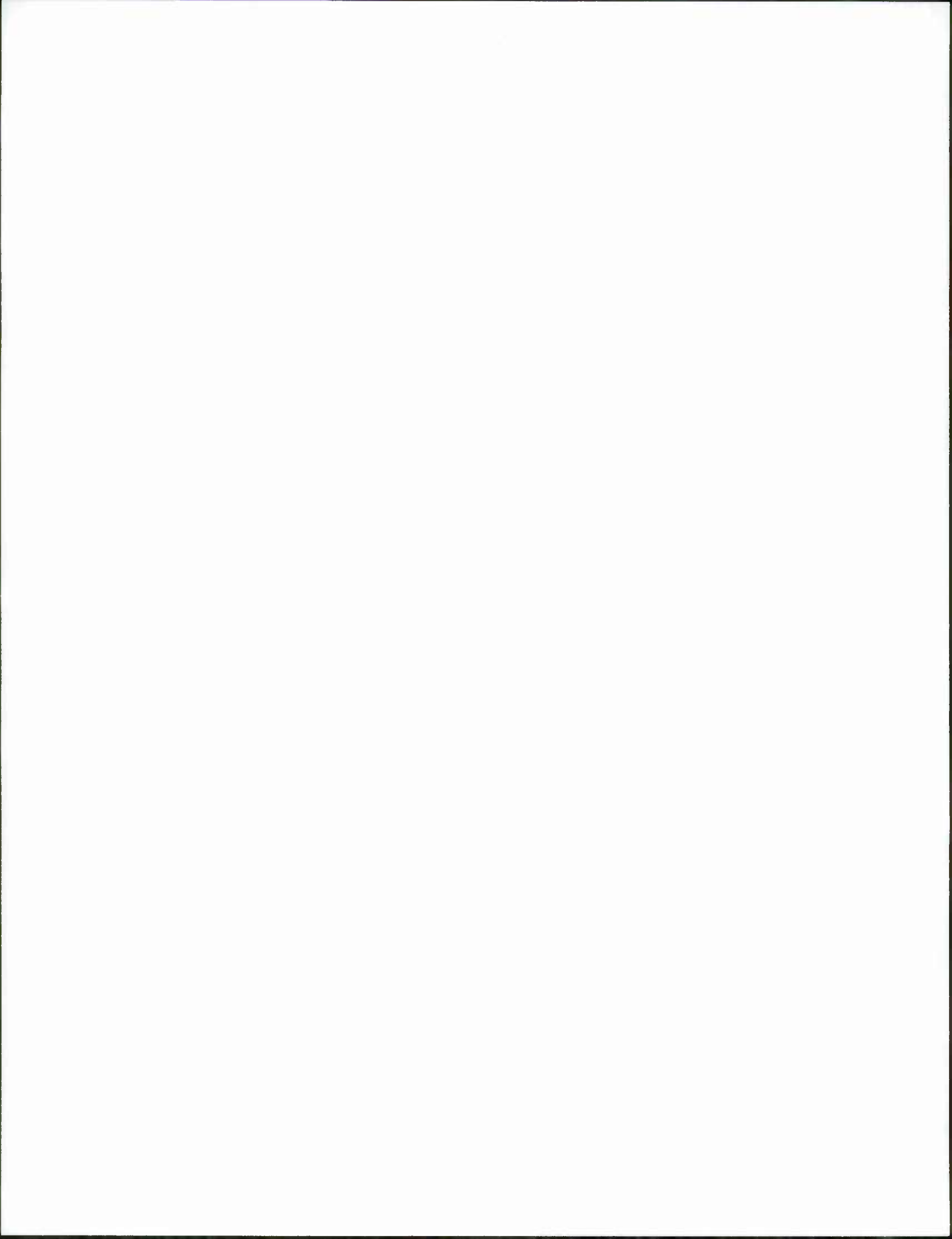
Dear Mrs. Mayo:

Because of your retinitis pigmentosa, you have lost significant superior visual field in each eye with central visual field reduced to 20 degrees in each eye that can not be corrected.

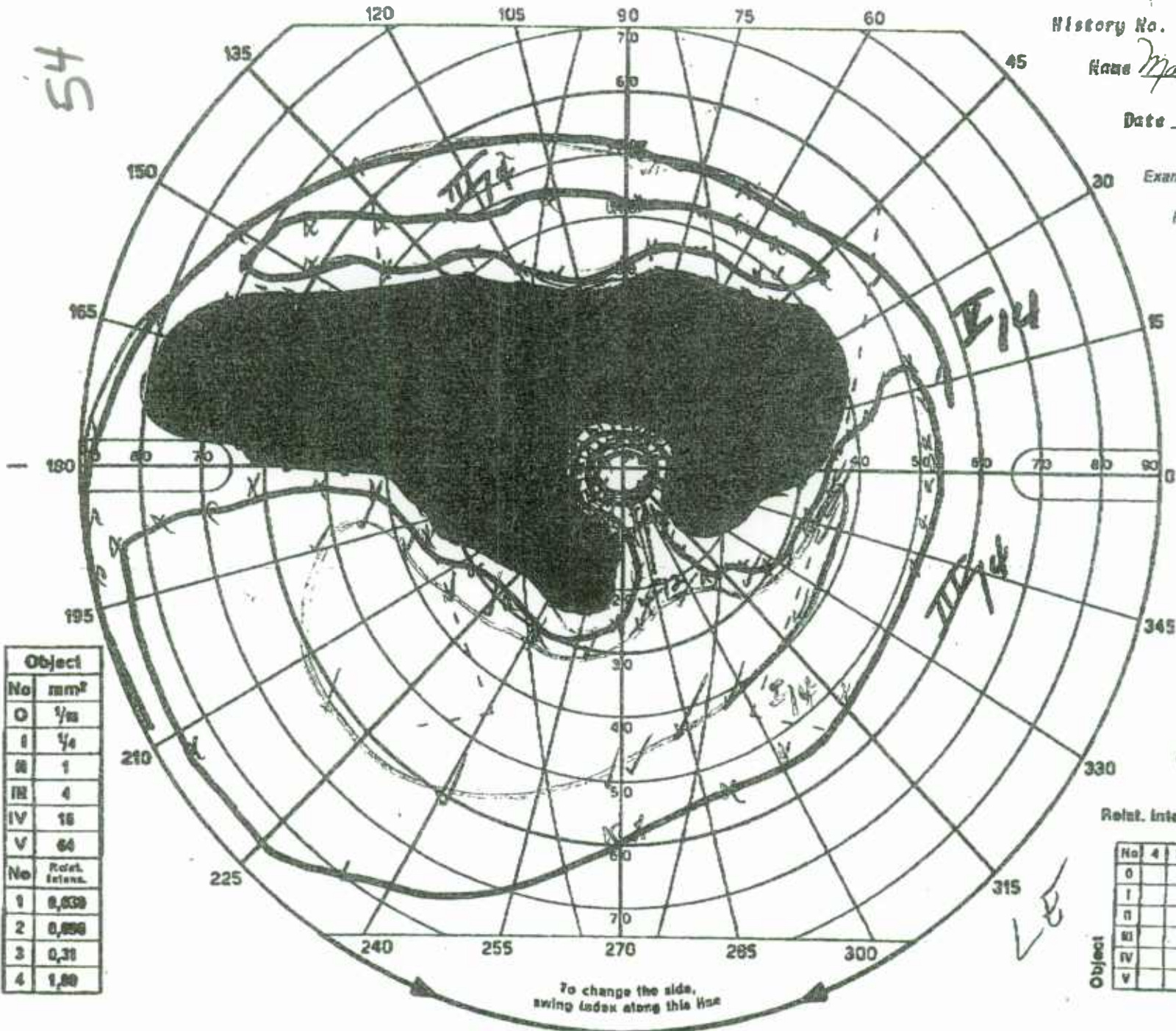
Please do not hesitate to contact me if I can provide any further information in this regard.

Sincerely,

Daniel Finkelstein, M.D.



54



Object	
No	mm ²
0	1/8
I	1/4
II	1
III	4
IV	16
V	64
No	Ret. Intens.
1	0.030
2	0.090
3	0.31
4	1.00

History No. 82254529

Name Mary Catherine

Date 5-2-05

Examiner T. F. LA. COT

Pupil Diameter _____ MM

Testing:
 Satisfactory
 Unsatisfactory _____

Fixation:
 Good
 Fair _____
 Poor _____

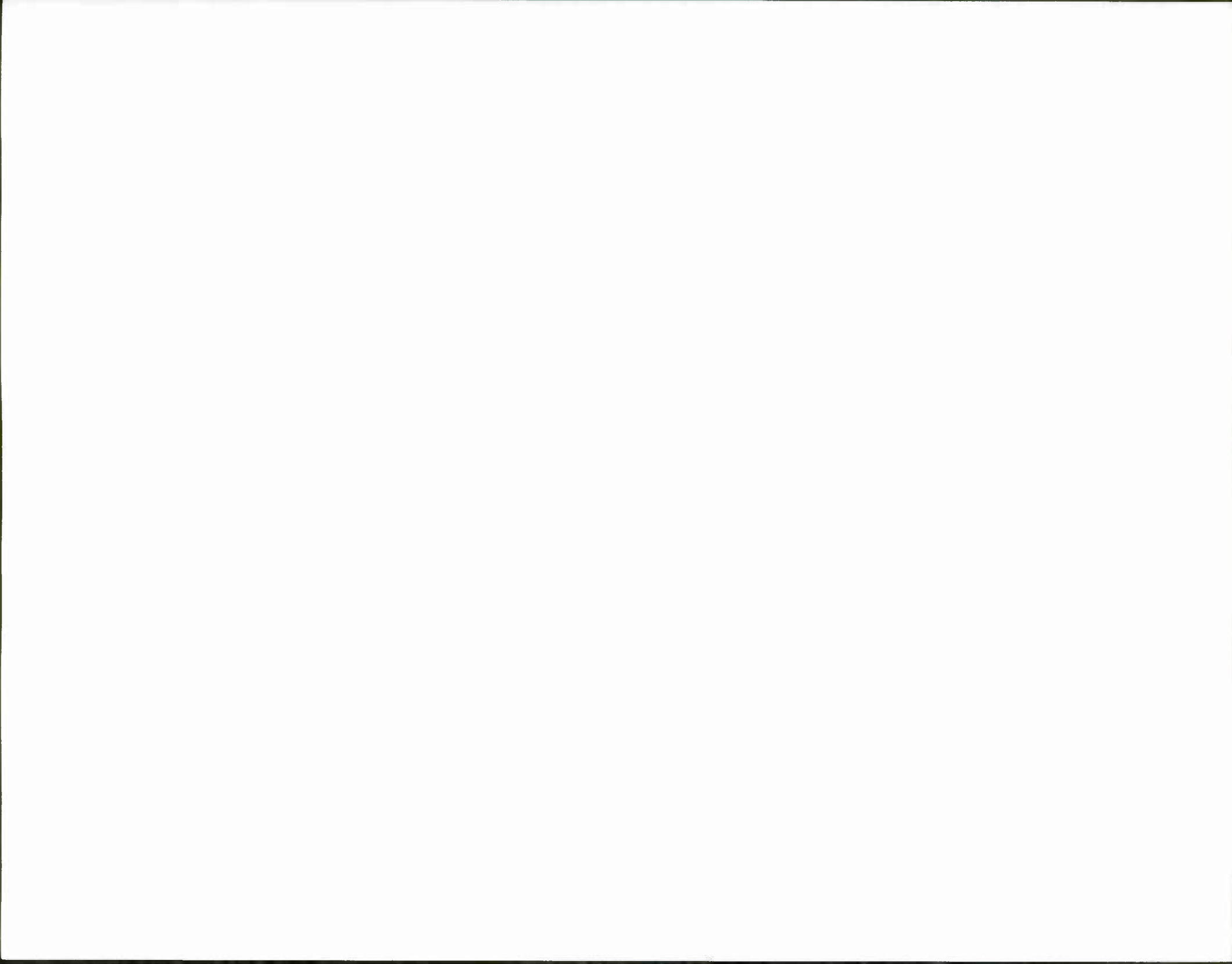
Threshold 25° Temporal
 15° below horizontal
 15° above horizontal

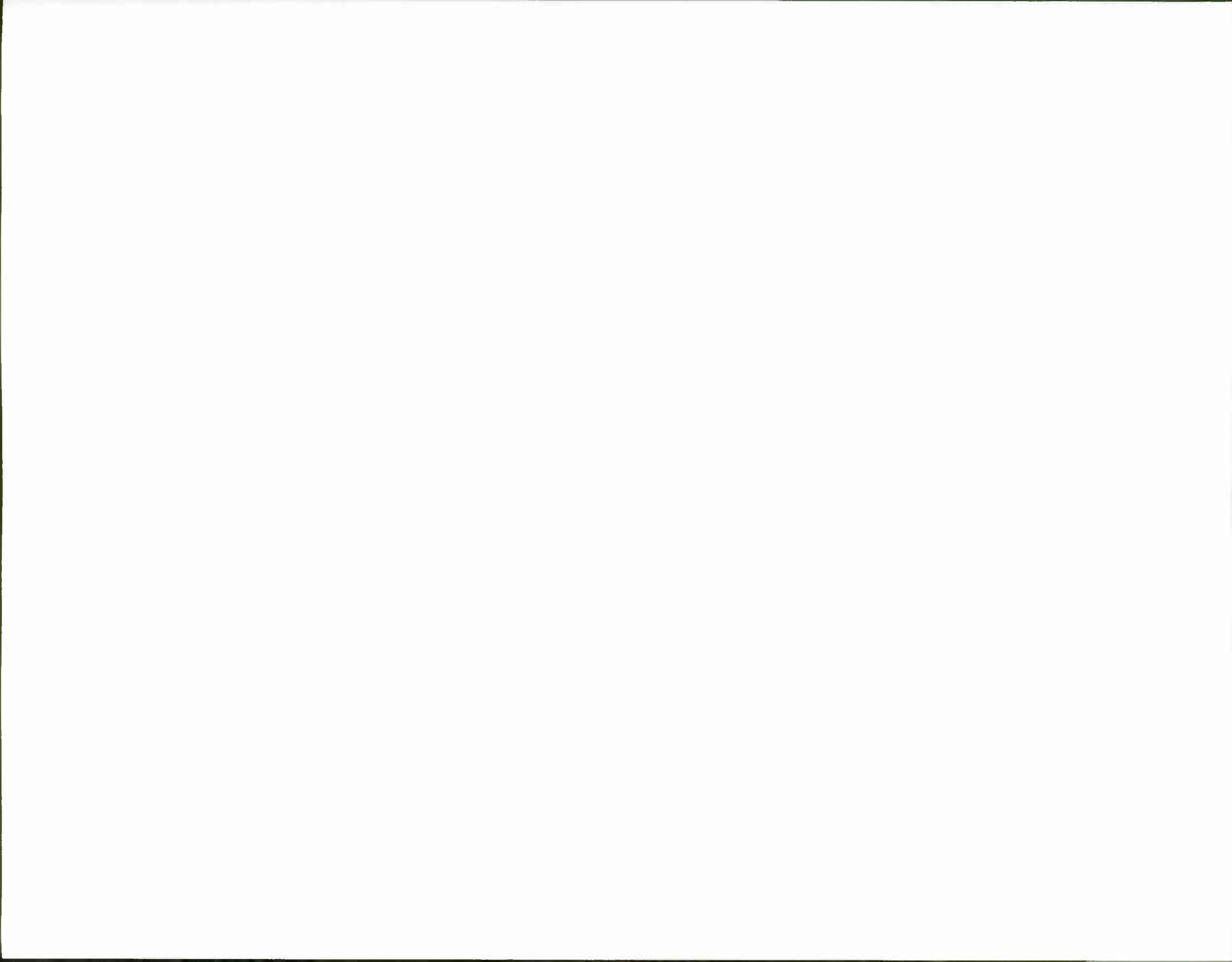
Color
 (W) R G B

Object	Relat. Intens.				Correction
	No	4	3	2	
0					
I					
II					
III				X	
IV					
V					

+3.00 sph.

To change the side, swing index along this line





Foundation Fighting Blindness : [Retinitis Pigmentosa](#) > What is Retinitis Pigmentosa?

[Printer Friendly Version](#)



56

What is Retinitis Pigmentosa?

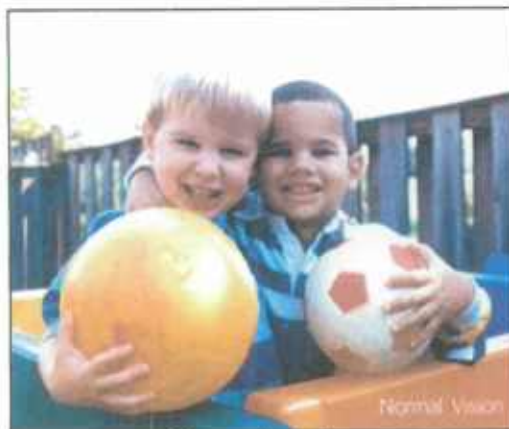
Retinitis pigmentosa (RP) is the name given to a group of inherited eye diseases that affect the retina. Retinitis pigmentosa causes the degeneration of photoreceptor cells in the retina. Photoreceptors capture and process light helping us to see. As these cells degenerate and die, patients experience progressive vision loss.

There are two types of photoreceptor cells: rod cells and cone cells. Rod cells are concentrated along the perimeter of the retina. Rod cells help us to see images that come into our peripheral or side vision. They also help us to see in dark and dimly lit environments. Cone cells are concentrated in the macula of the retina, and allow us to see fine visual detail in the center of our vision. Cone cells also allow us to perceive color. Together, rods and cones are the cells responsible for converting light into electrical impulses that are transmitted to the brain where "seeing" actually occurs.

Symptoms

The most common feature of all forms of [Retinitis Pigmentosa](#) is a gradual degeneration of the cones. Most forms of RP first cause the degeneration of rod cells. These forms of Retinitis pigmentosa, sometimes called rod-cone dystrophy, usually begin with night blindness. Night blindness is something that normally sighted individuals encounter when entering a dark movie theatre on a sunny day. However, patients with Retinitis pigmentosa cannot adjust well to dark and dimly lit environments.

As the disease progresses and more rod cells degenerate, patients lose their peripheral vision. Patients with Retinitis Pigmentosa often experience a ring of vision loss in their mid-periphery with some remaining vision in their very far periphery. Others report the sensation of tunnel vision, as though they are seeing through a straw. Many patients with Retinitis Pigmentosa retain a small degree of central vision throughout their life.

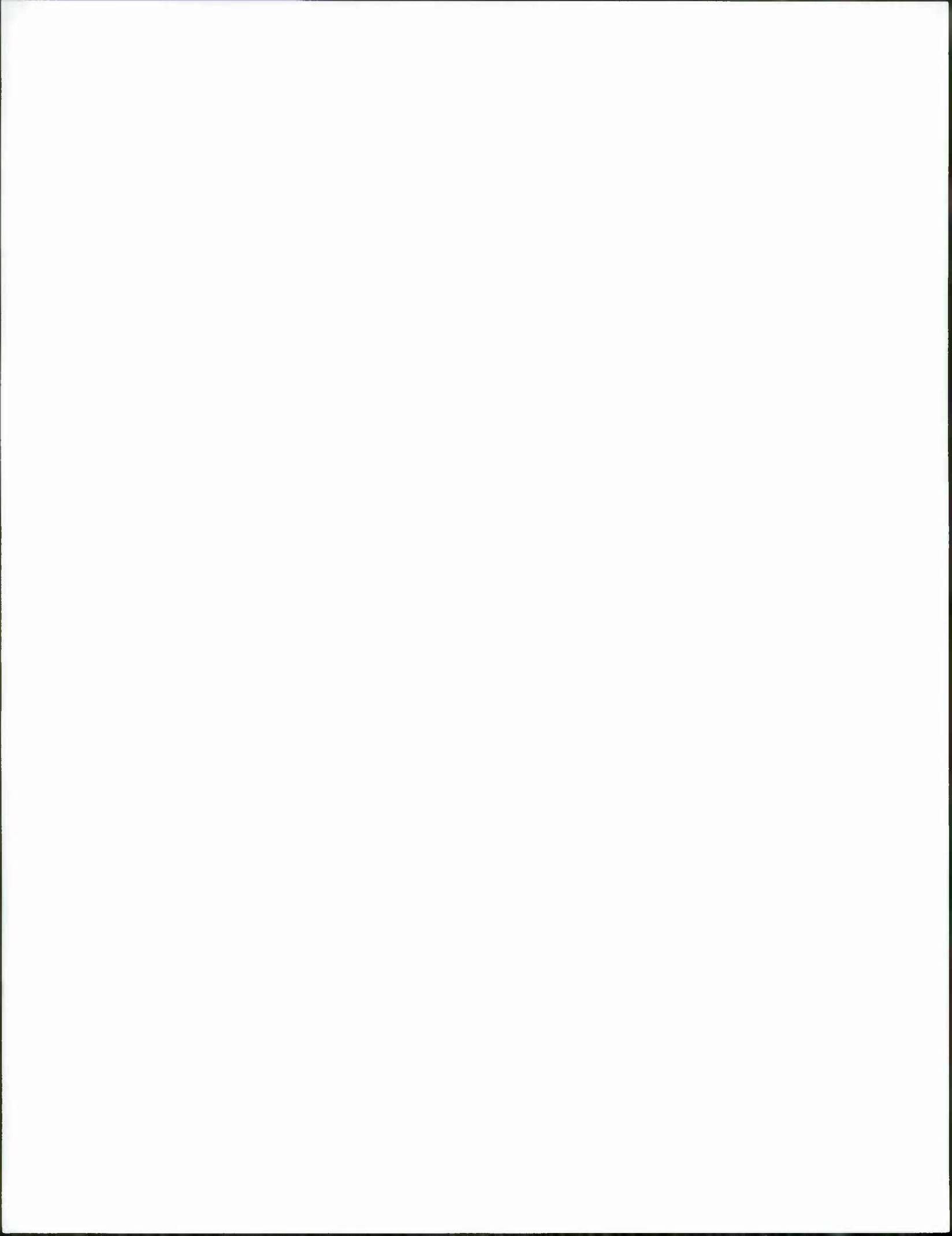


Normal vision



As seen by a person with retinitis pigmentosa

Other forms of Retinitis Pigmentosa, sometimes called cone-rod dystrophy, first affect central vision. Patients first experience a loss of central vision that cannot be corrected with glasses or contact lenses.

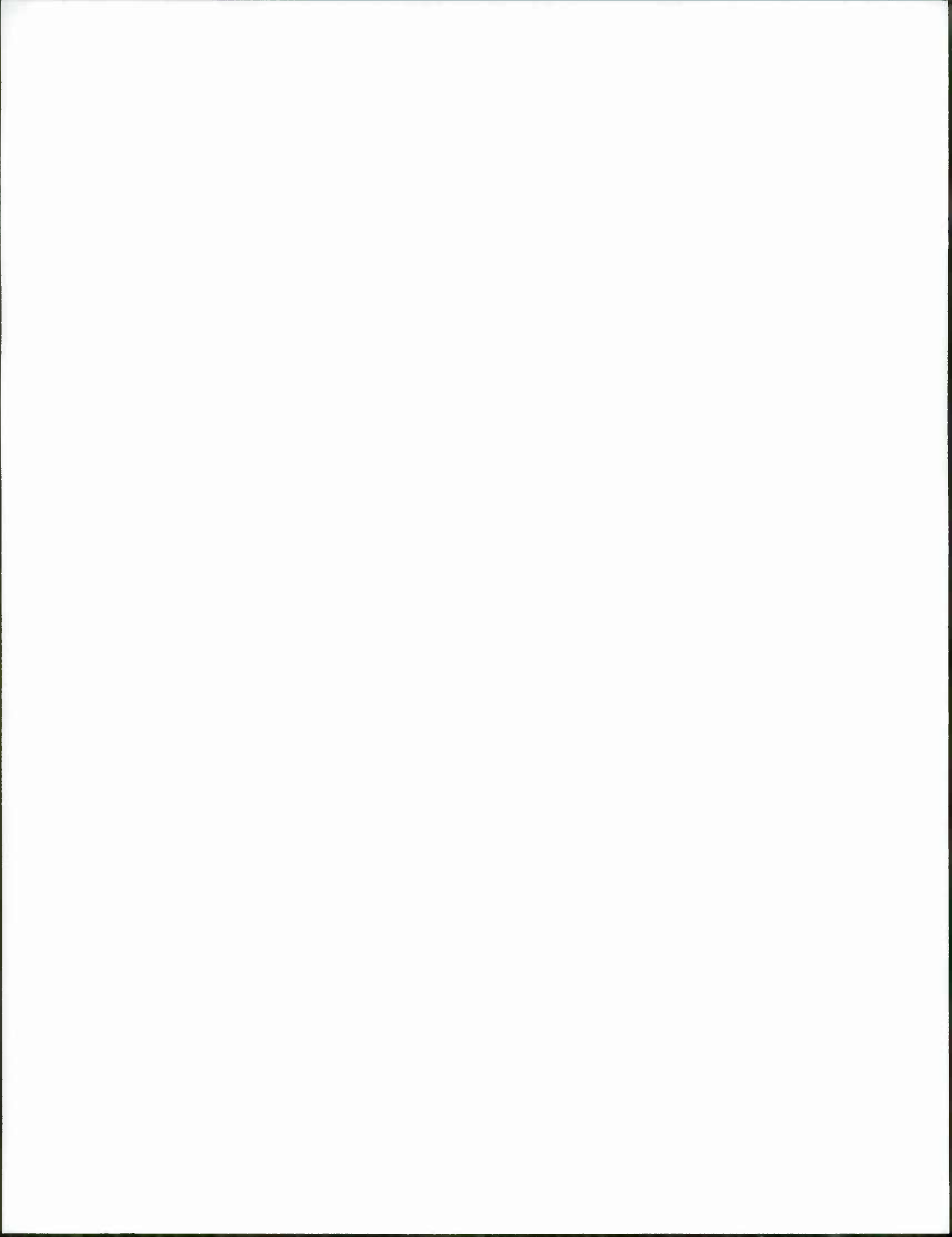


- d. special conditions or circumstances exist that are peculiar to the land or structure within Calvert County and that a literal enforcement of provisions within the County's Critical Area Program would result in unwarranted hardship.

APPLICANTS' RESPONSE:

In addition to previous statements, special conditions exist on Applicants' land, e.g., topography, extreme narrowness of the lot, lack of dry storage area for water-related equipment and accessories, undersized revetment and seaside forces that are peculiar to the land and the a literal enforcement of the provisions within the County's Critical Area Program would result in unwarranted hardship.

Staff Reports includes satellite aerial photograph from May 2003 and notes that "no structures are visible between the house and the waterfront in the photos." The Board should note that lack of vegetation on the waterfront and that portion of the buffer is less than functional and a great location to store equipment for water-dependent activities such as boating, fishing, crabbing, fossiling, jet-skiing. Applicants submit additional photos taken between 1972 to date which support their statement that the first 25' of the waterfront does not function as a naturally vegetated buffer but that the remainder of the property does hold vegetation which has not been disturbed.



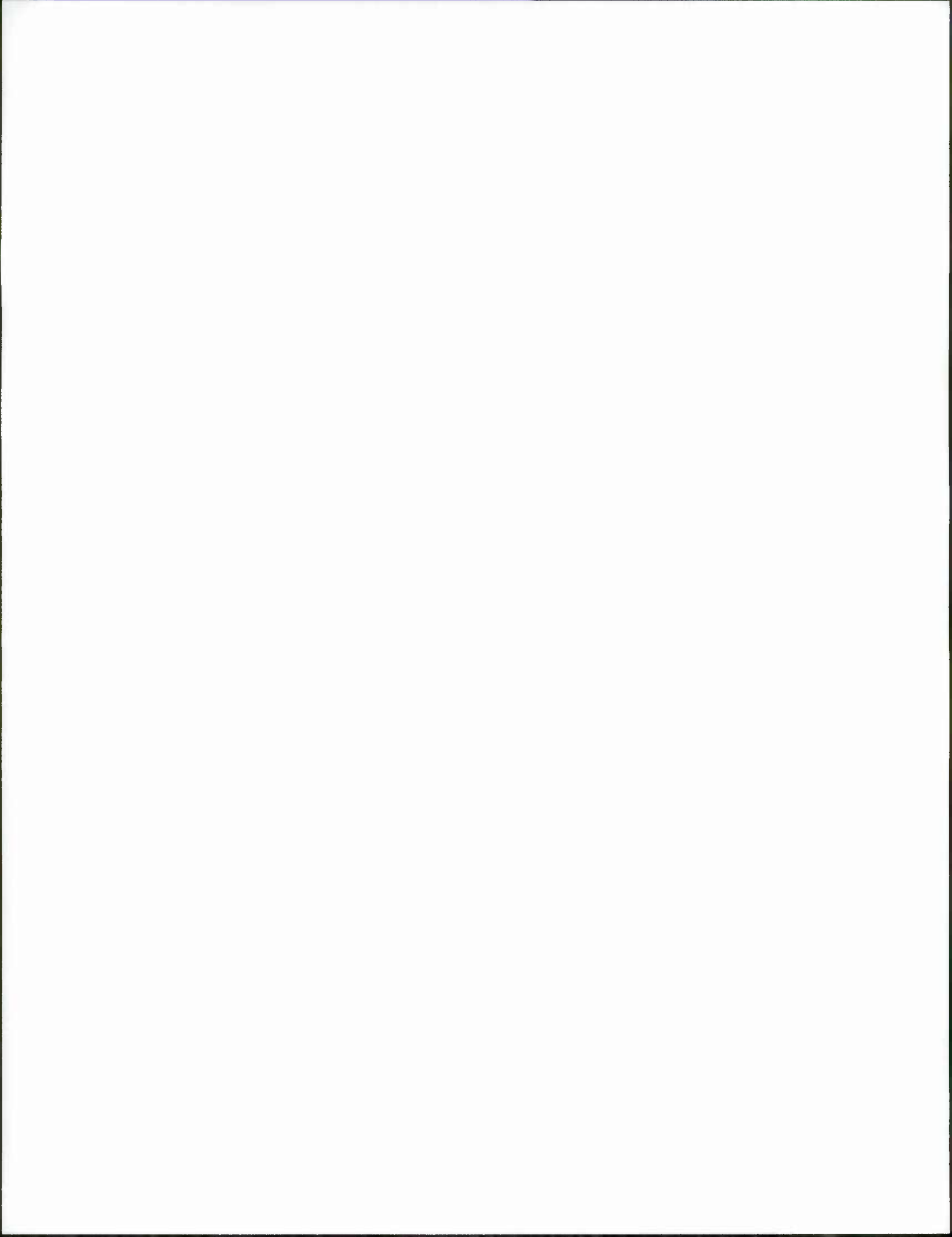
Area not naturally vegetated (see also pictures from seaside forces)



Post Agnes 1972/1973 1



April 15, 2005 1



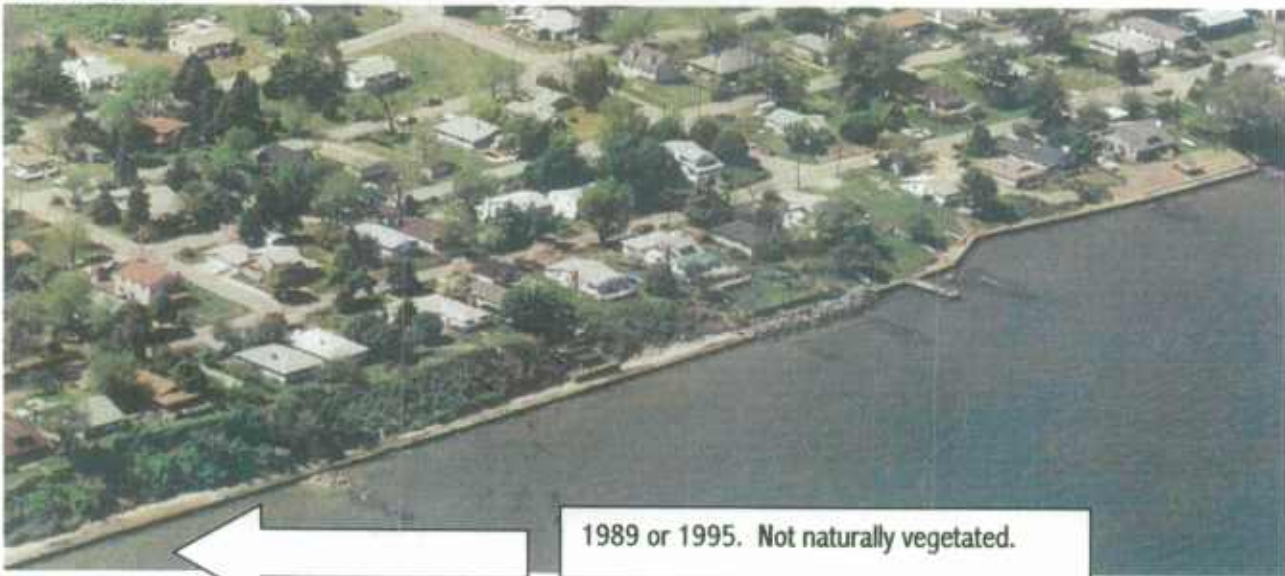
59



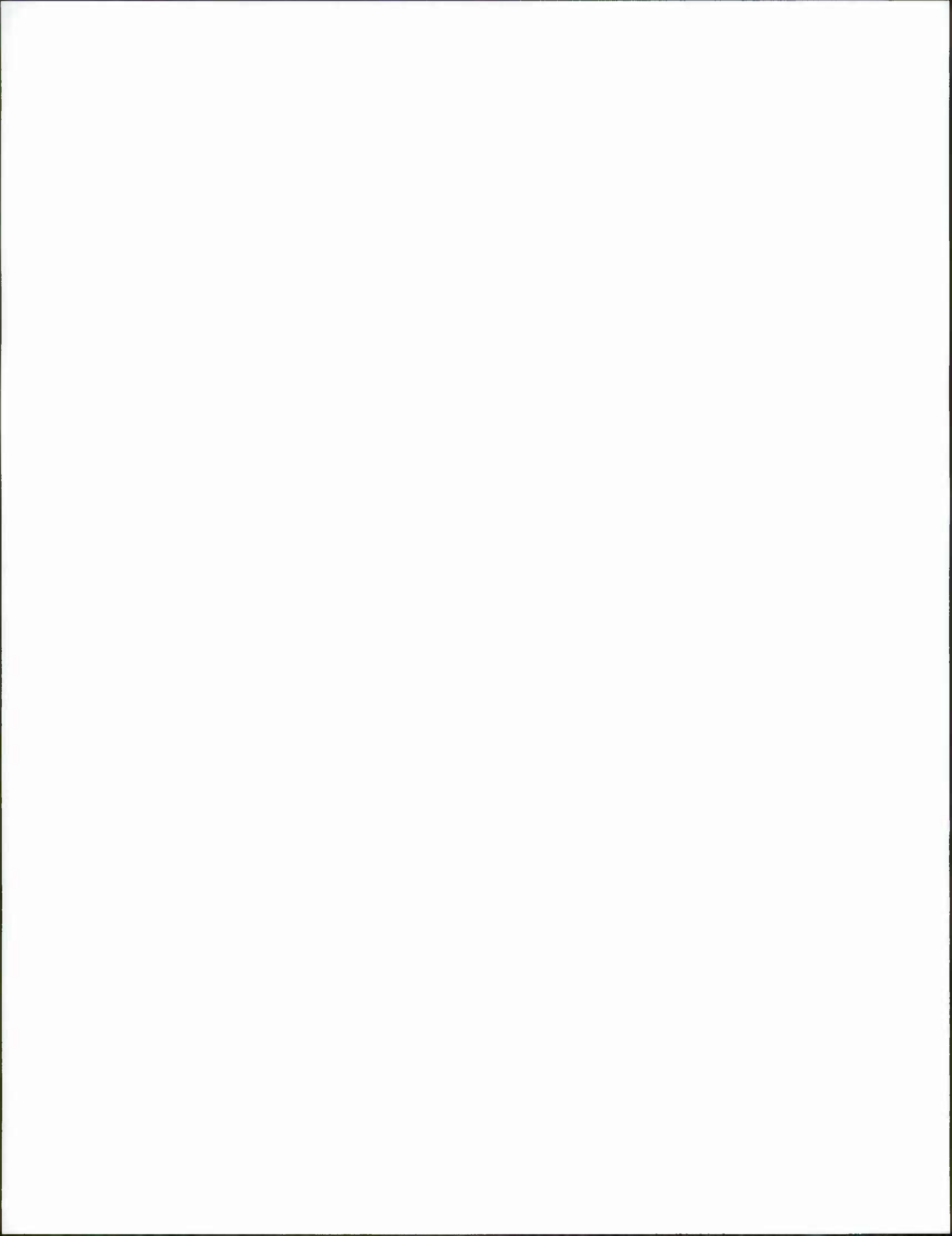
October 28, 2006 1



Winter 2001/02 1



1989 or 1995. Not naturally vegetated.





1 in. = 120.2 feet



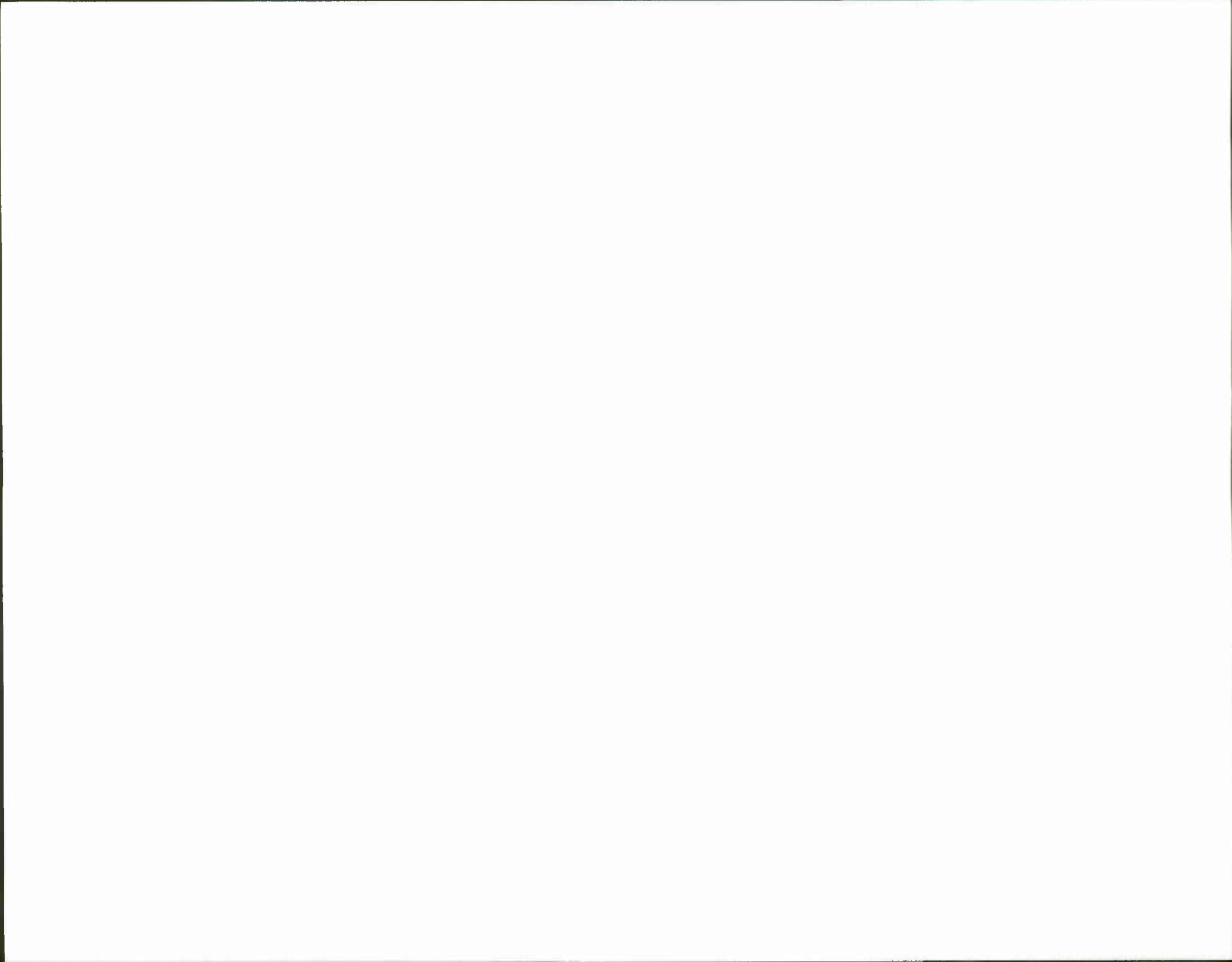
BOA 05-3203

MAYO

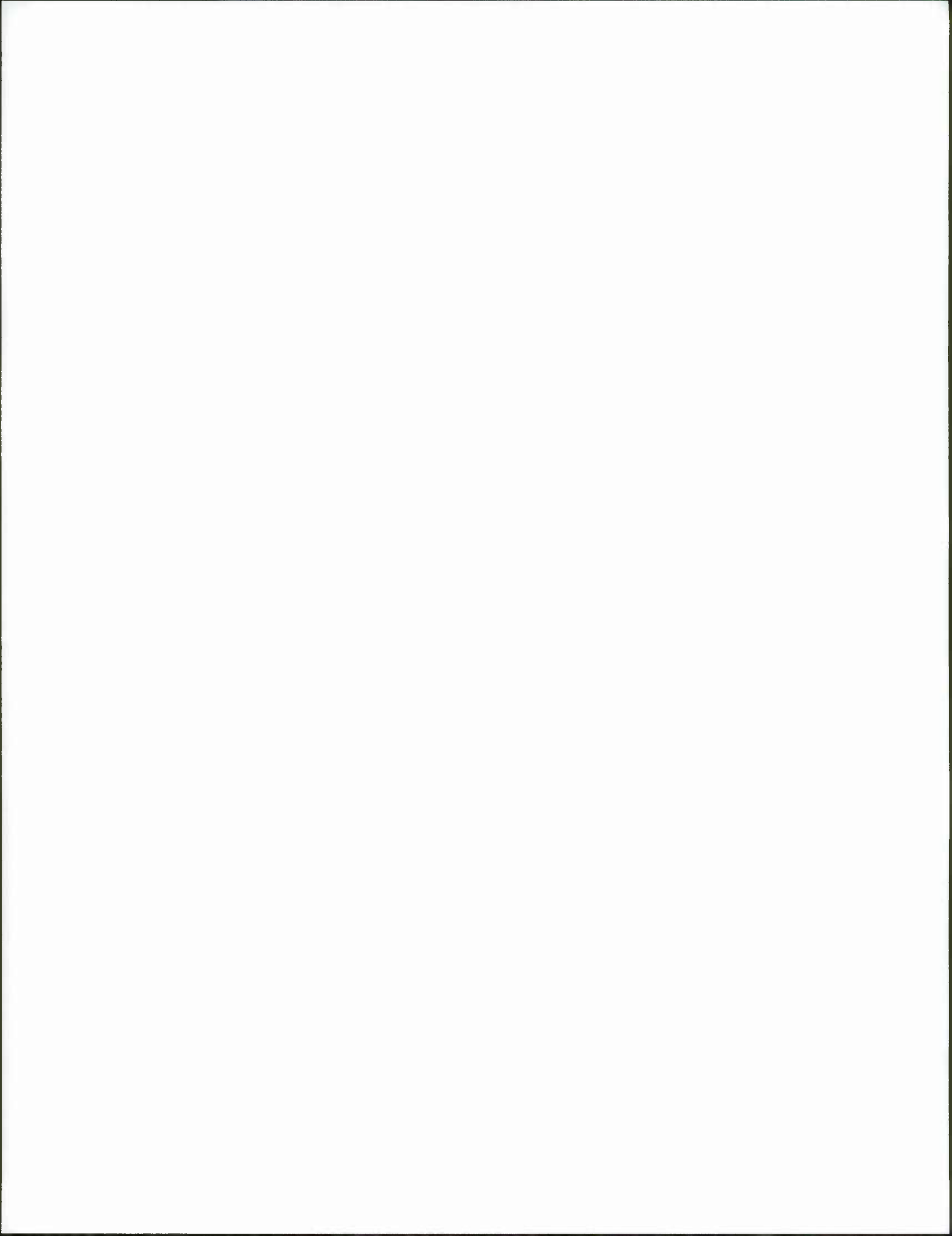
The data represented here is maintained to the best ability of Calvert County Government. Users assume any and all risks associated with decisions based on this data. Aerial imagery complies with Department of Homeland Security requirements. Acquisition date: April 6, 2003

87









SEASIDE FORCES TO SUPPORT ELEVATED STORAGE PLATFORM

August 2003, pre-Isabel

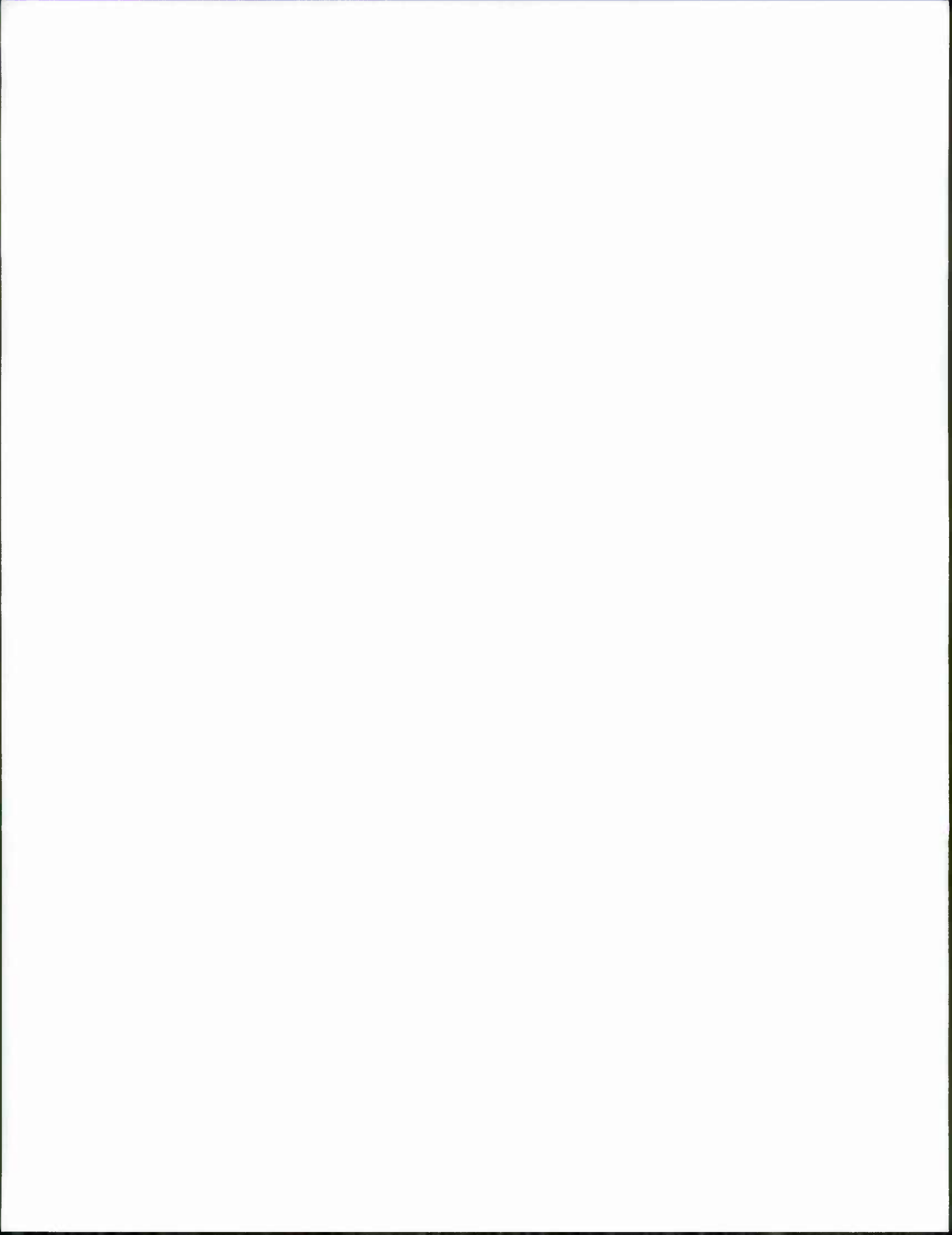
62



1 or 2 days after Isabel 2003



floating debris 1



63

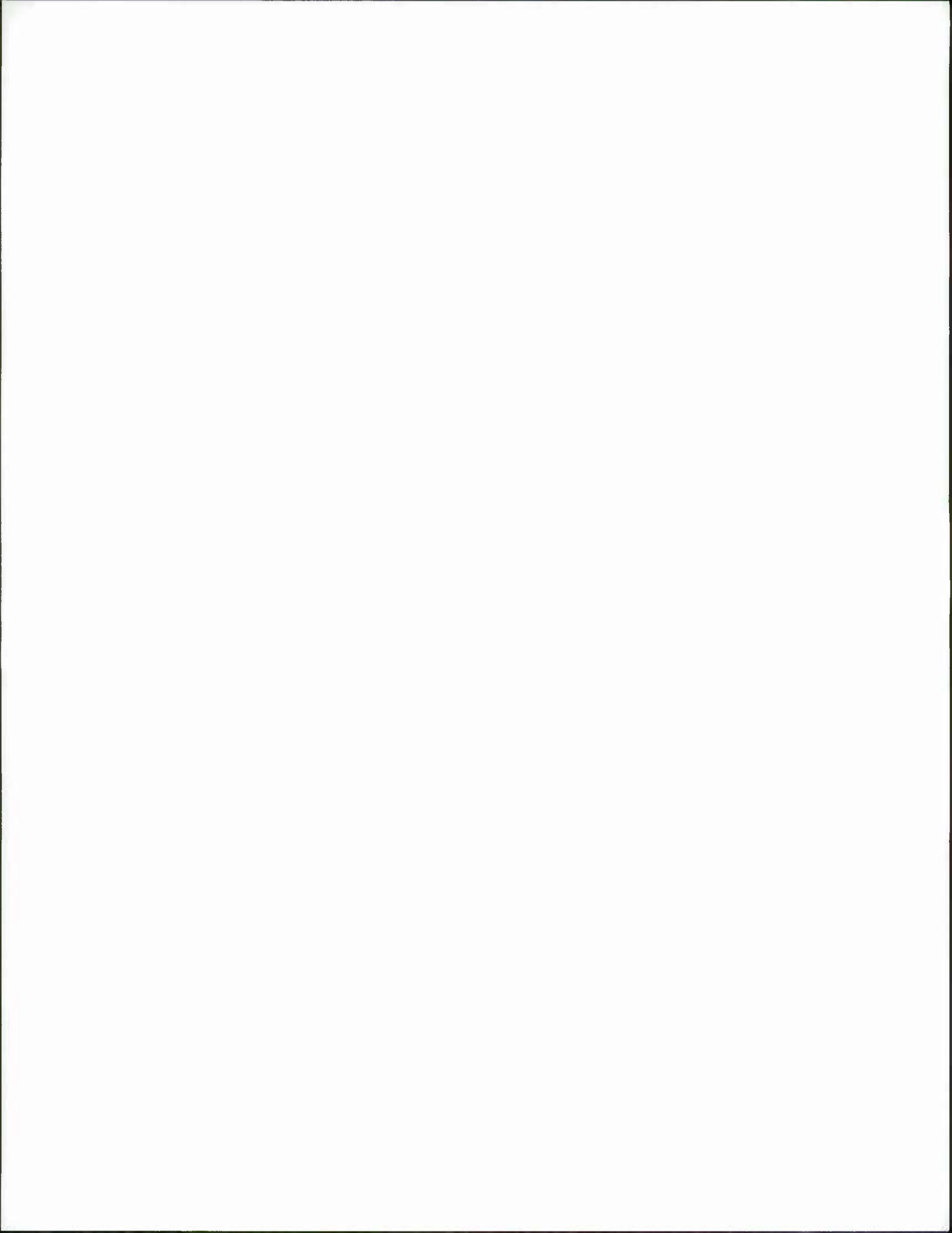


floating debris 2



eroded cliff from storm surge 1

Isabel



September 22, 2003:

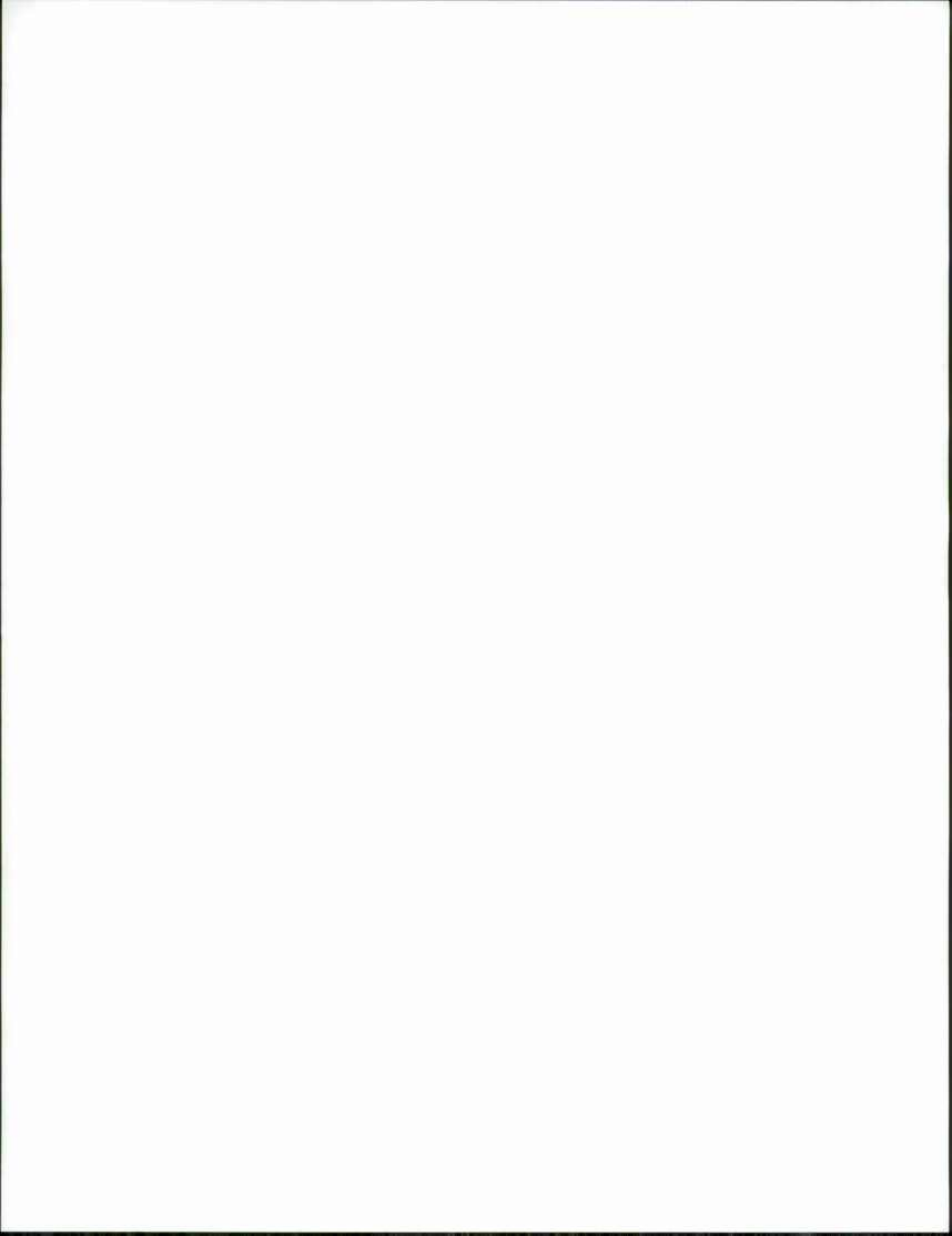


revetment and chinking strewn about 1



eroded cliff from storm surge 2

Isabel



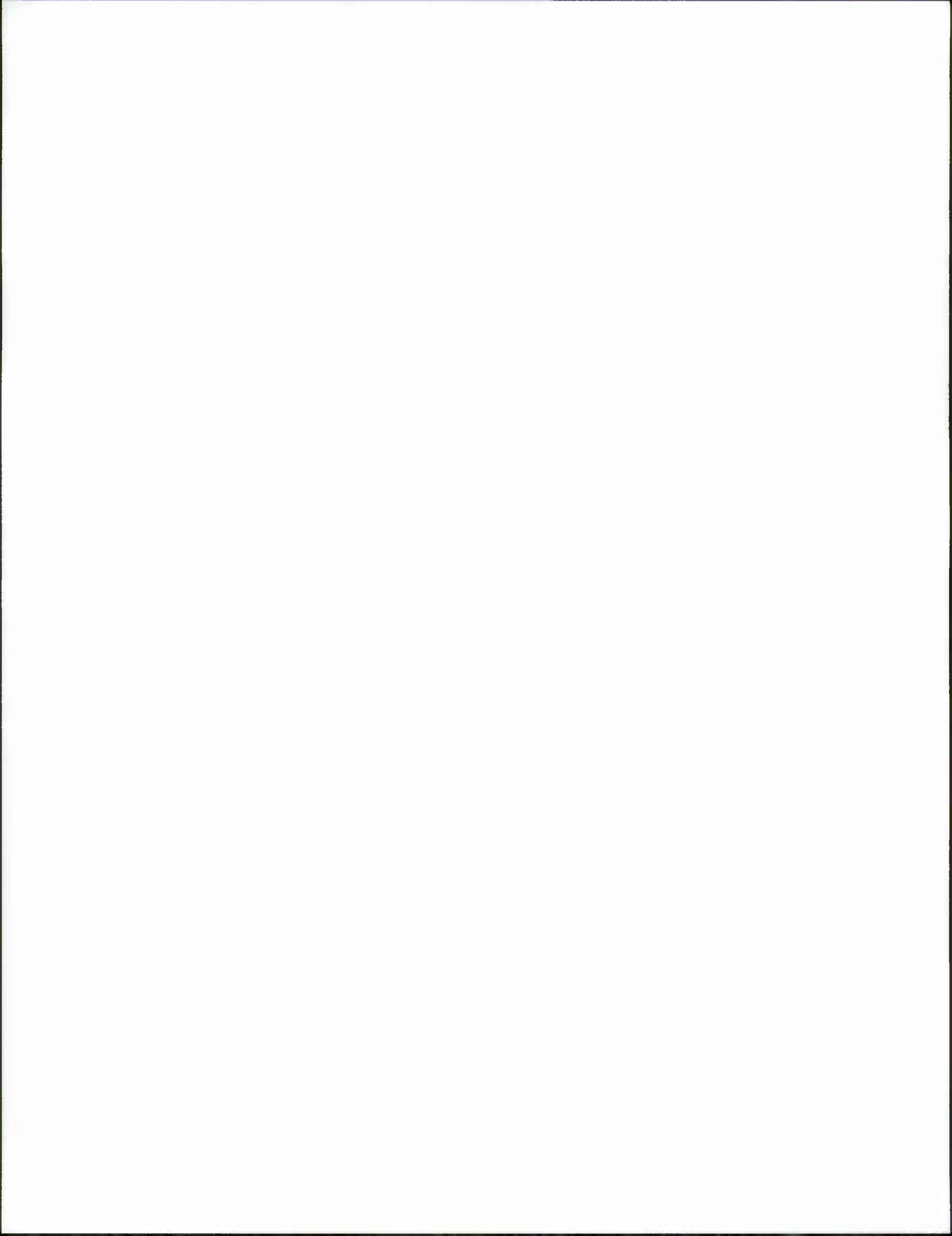
65



trying to repair revetment 1



Isabel





exposed footers 1



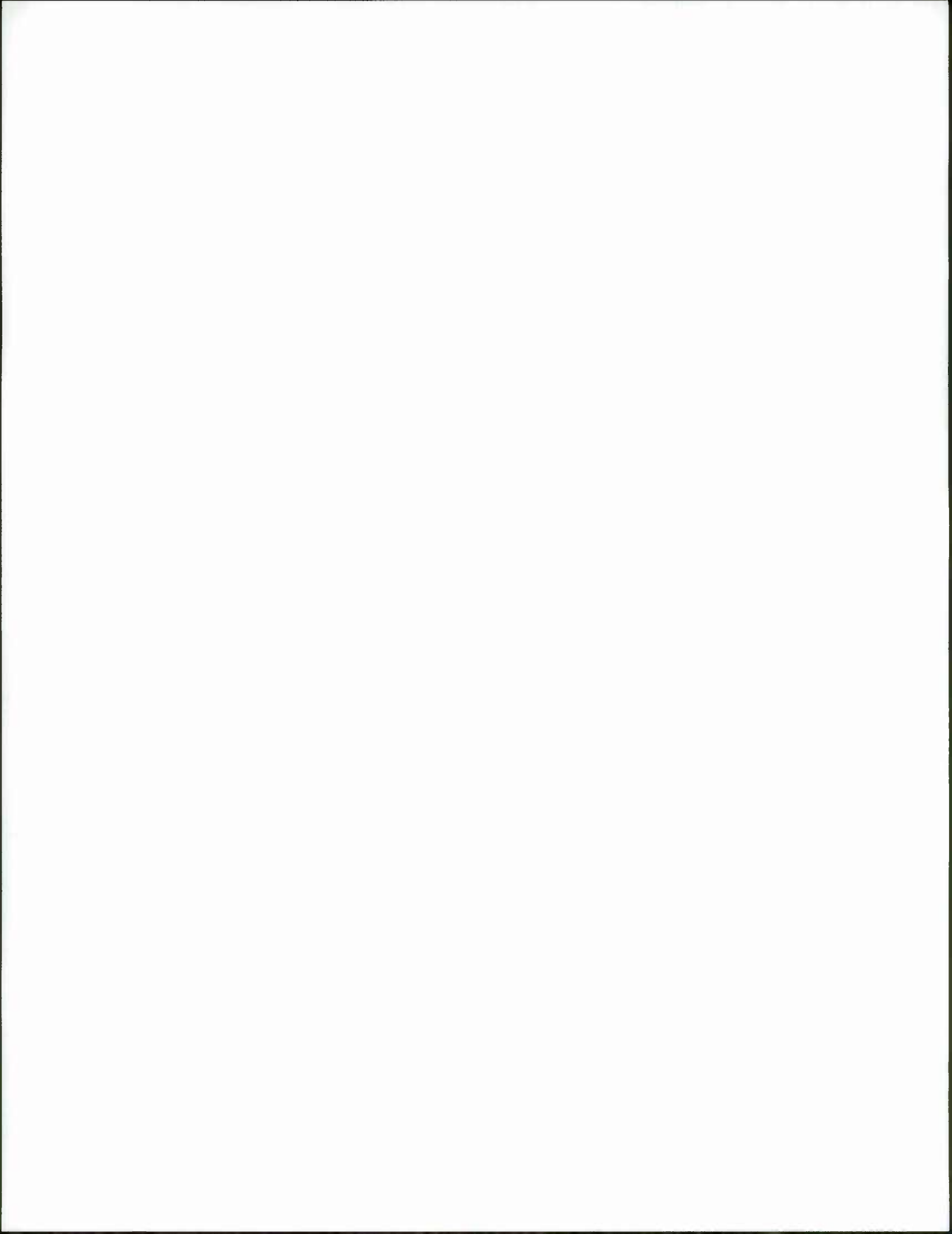
repaired footers 1



floating debris 3

Isabel

Floating debris (trees) destroy armor stone revetment

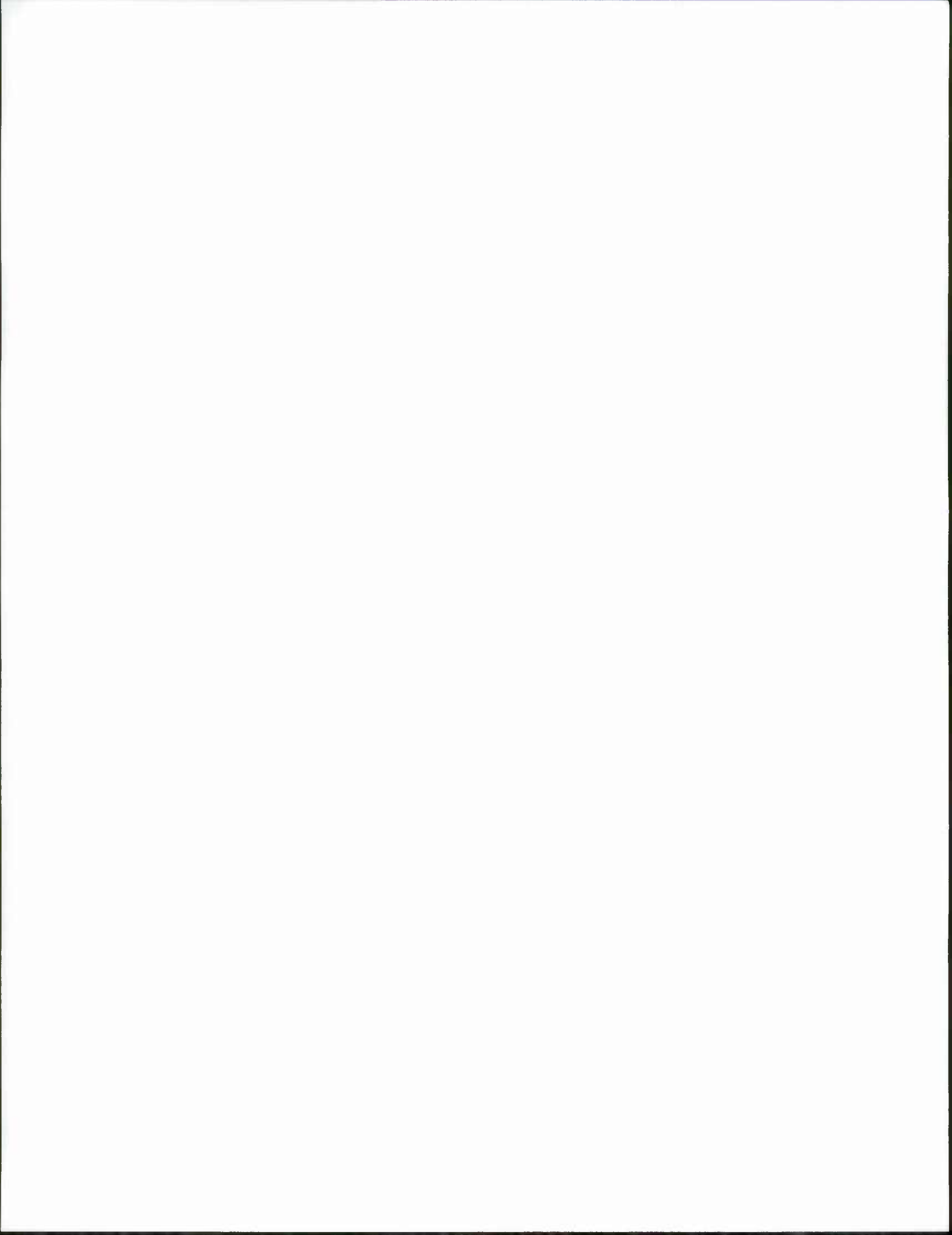


11-28-03

67



September 5, 2004

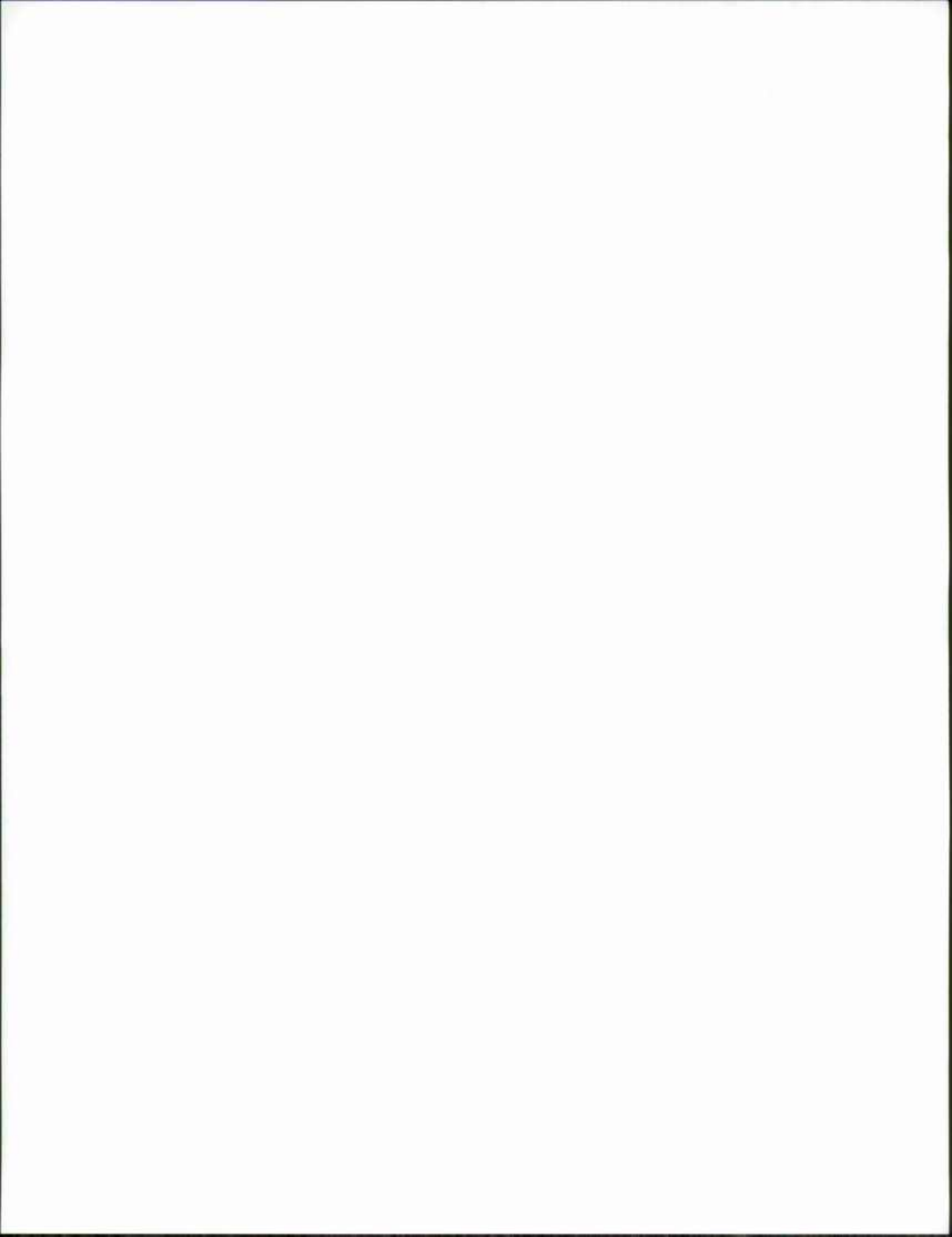


68



November 28, 2003





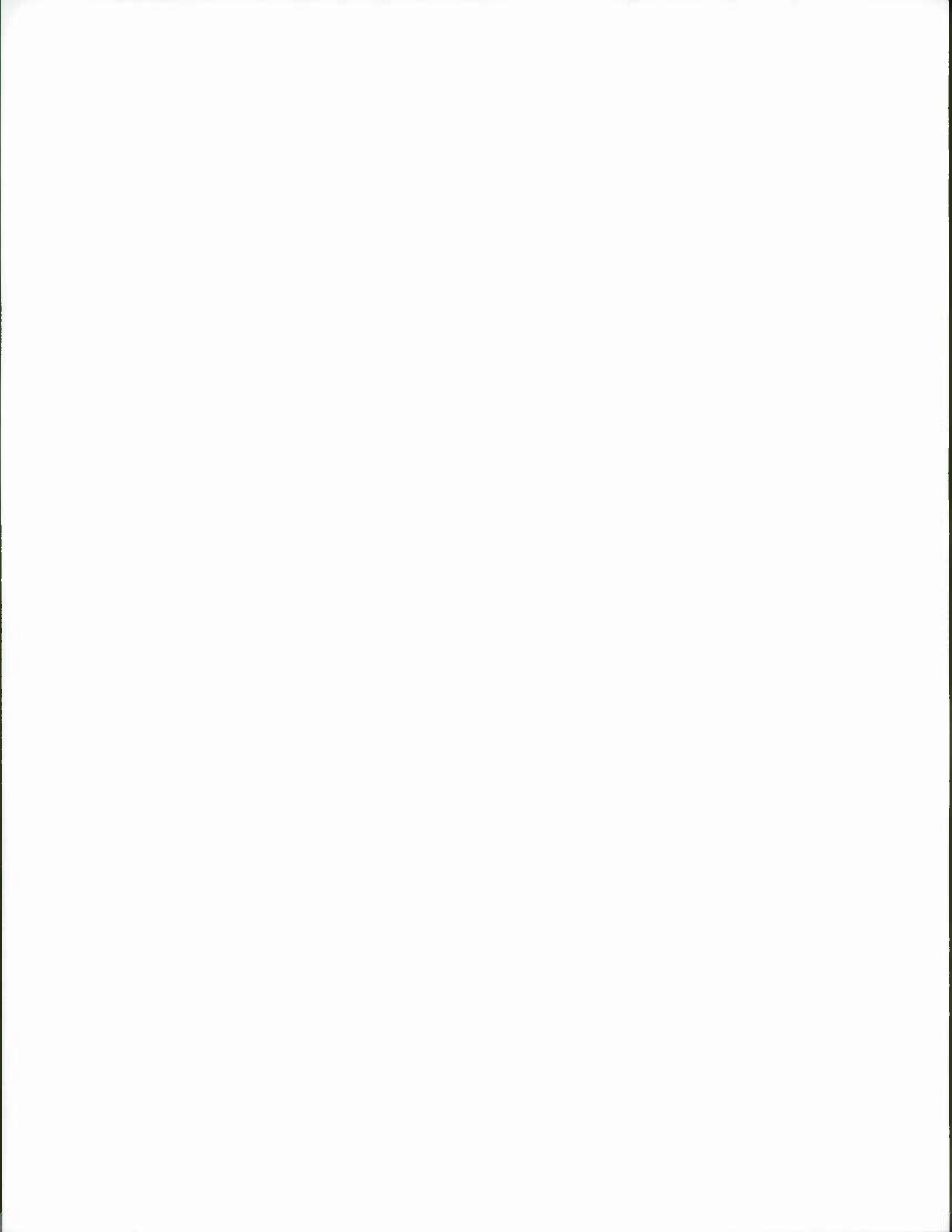
9-8-04

69



March 1, 2005:

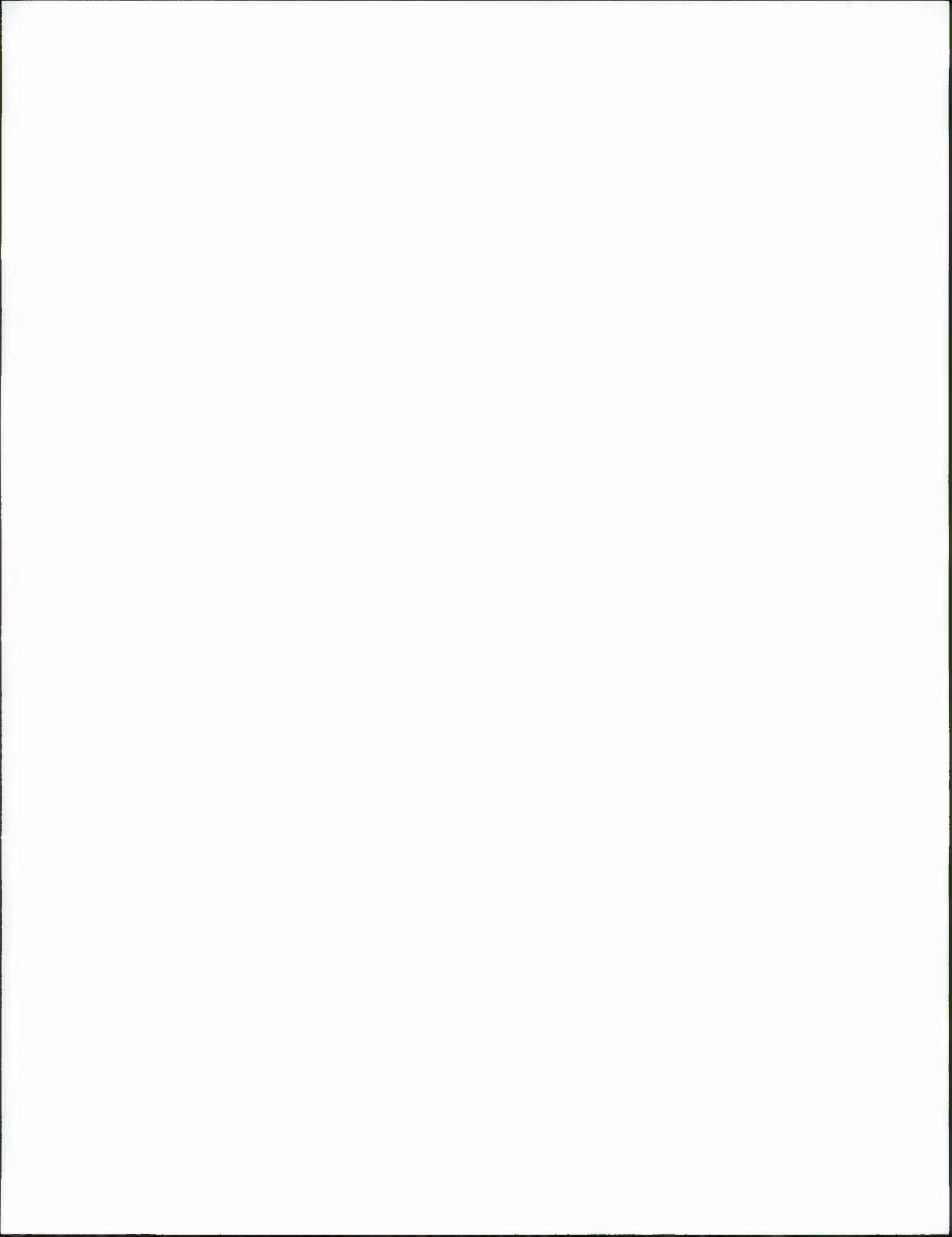




July 8, 2005:

70

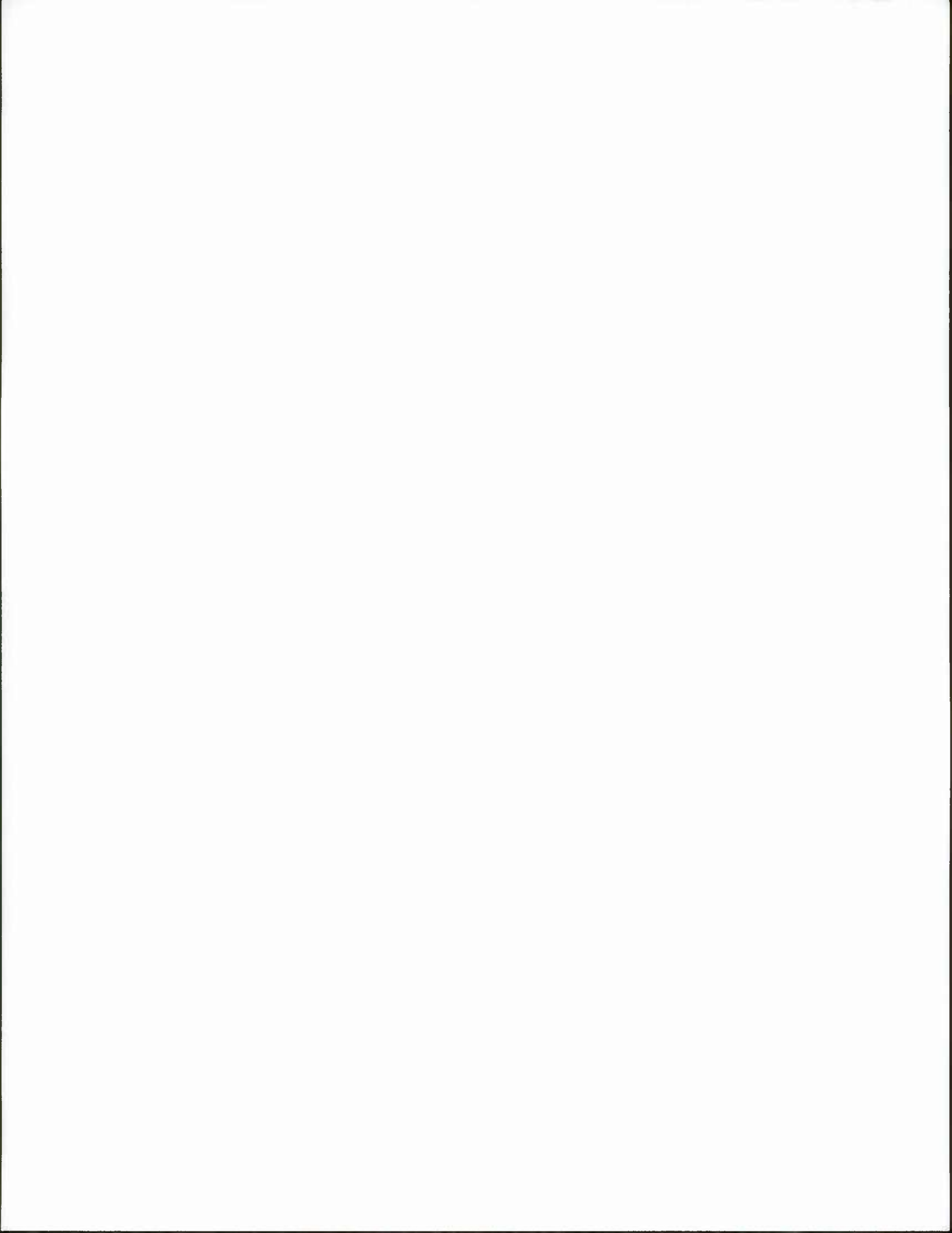




71



7-8-05



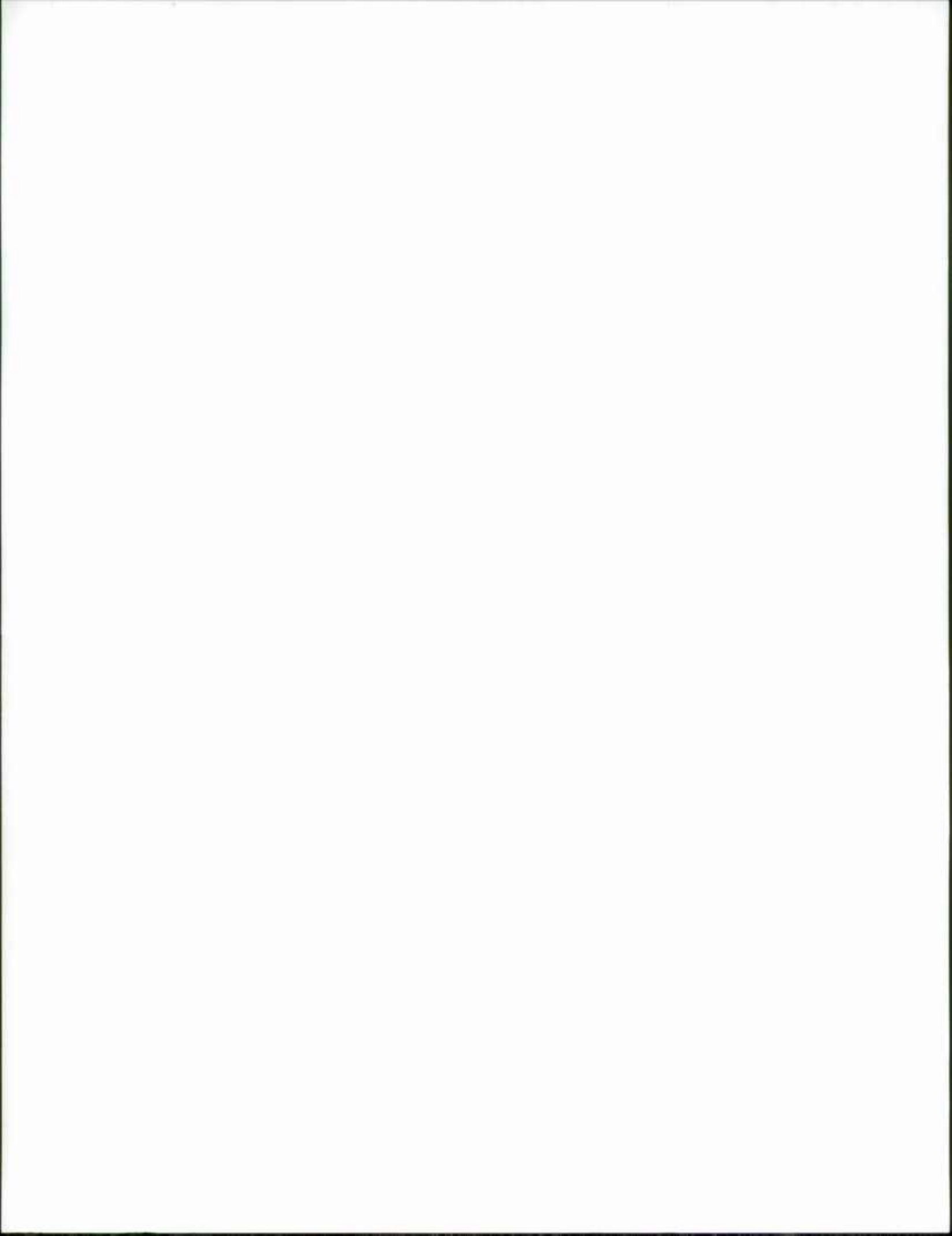
72

September 2, 2006 – Ernesto
Waves moved picnic table and destroyed
vegetation and temporary boat ramp



Boat tied down but most everything inside
boat washed away; motor was stored on platform





Ernesto, continued

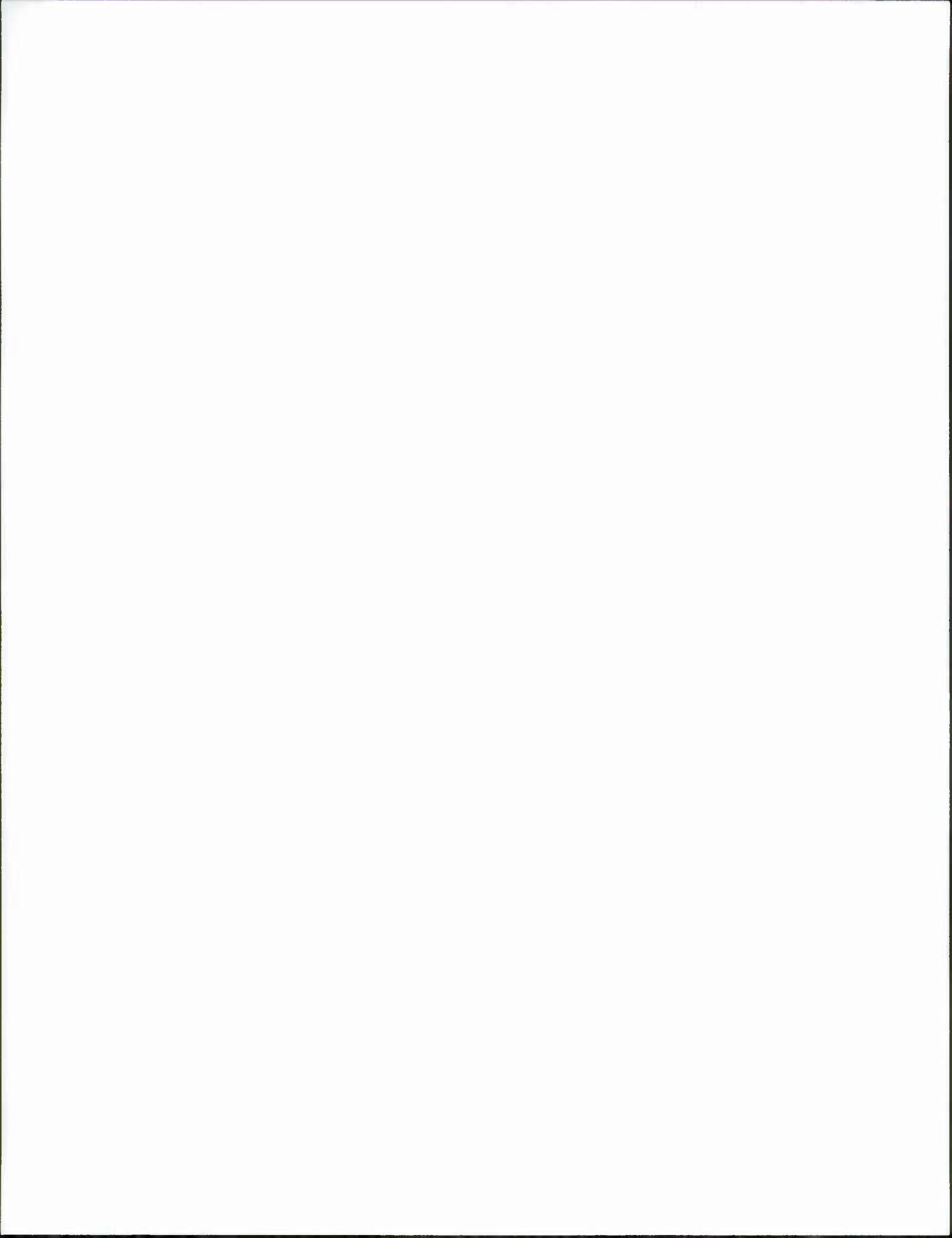
move & broke log

73



More damage to revetment:





74

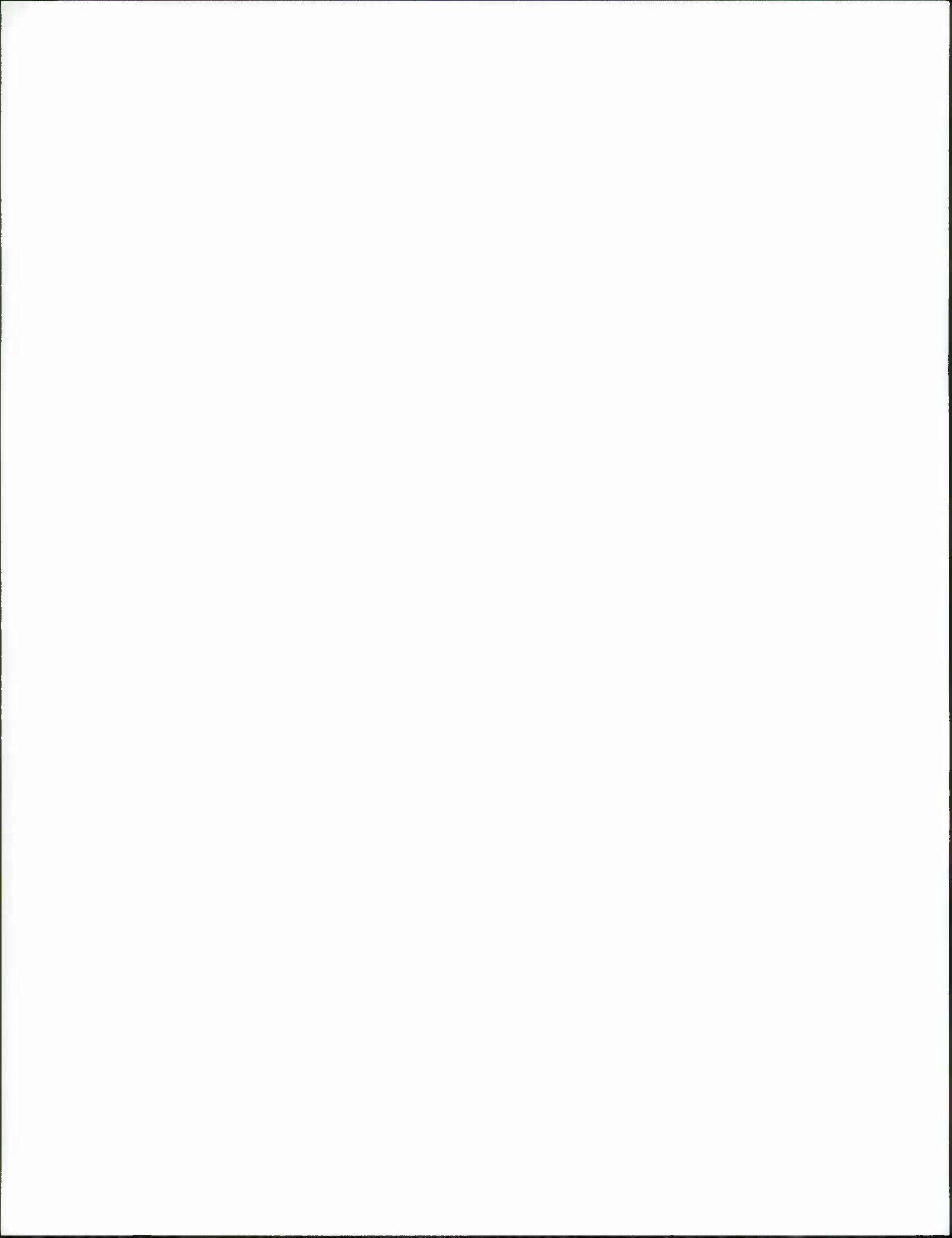
June 3, 2007:



More damage to revetment



6.3.07

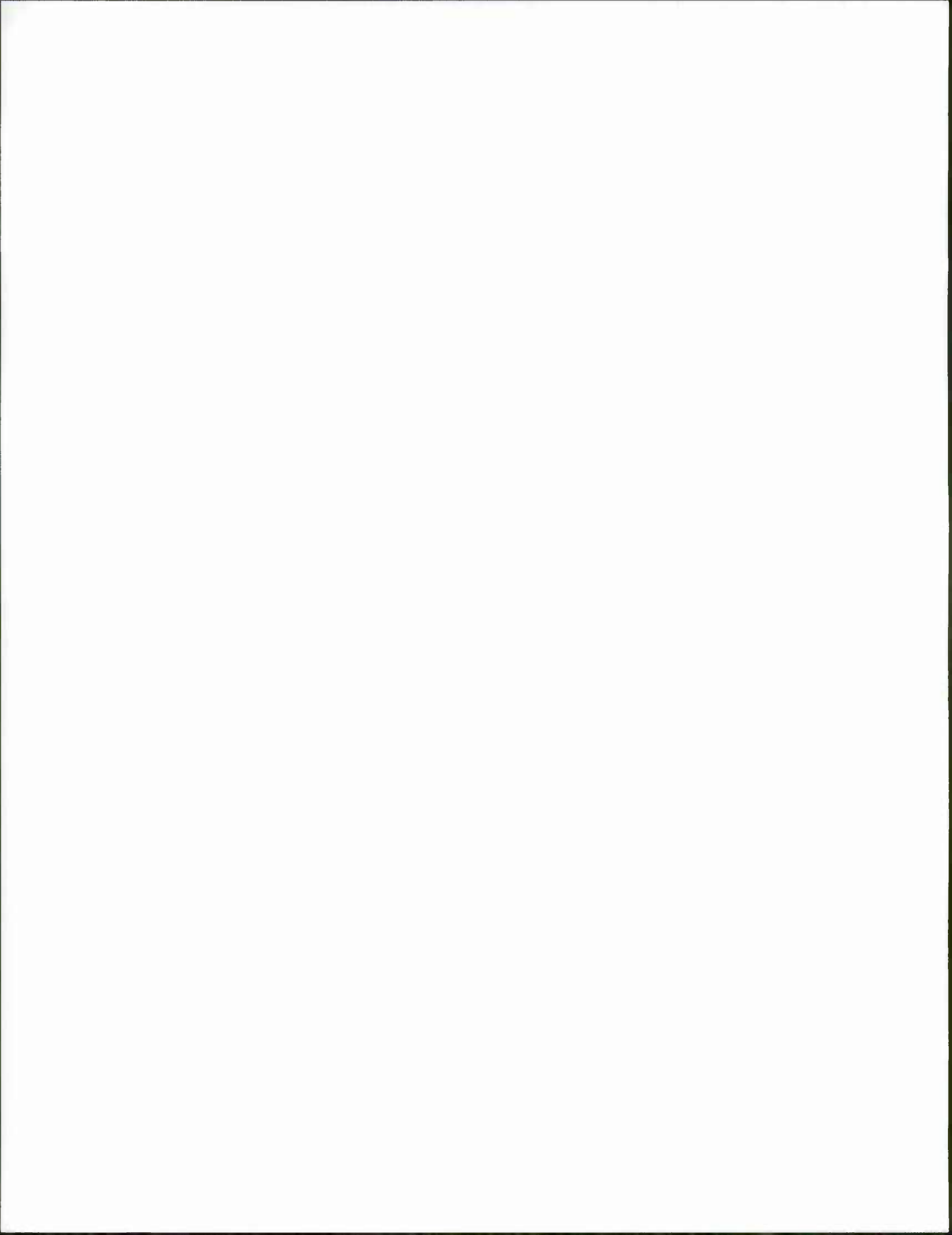


75



6-3-07

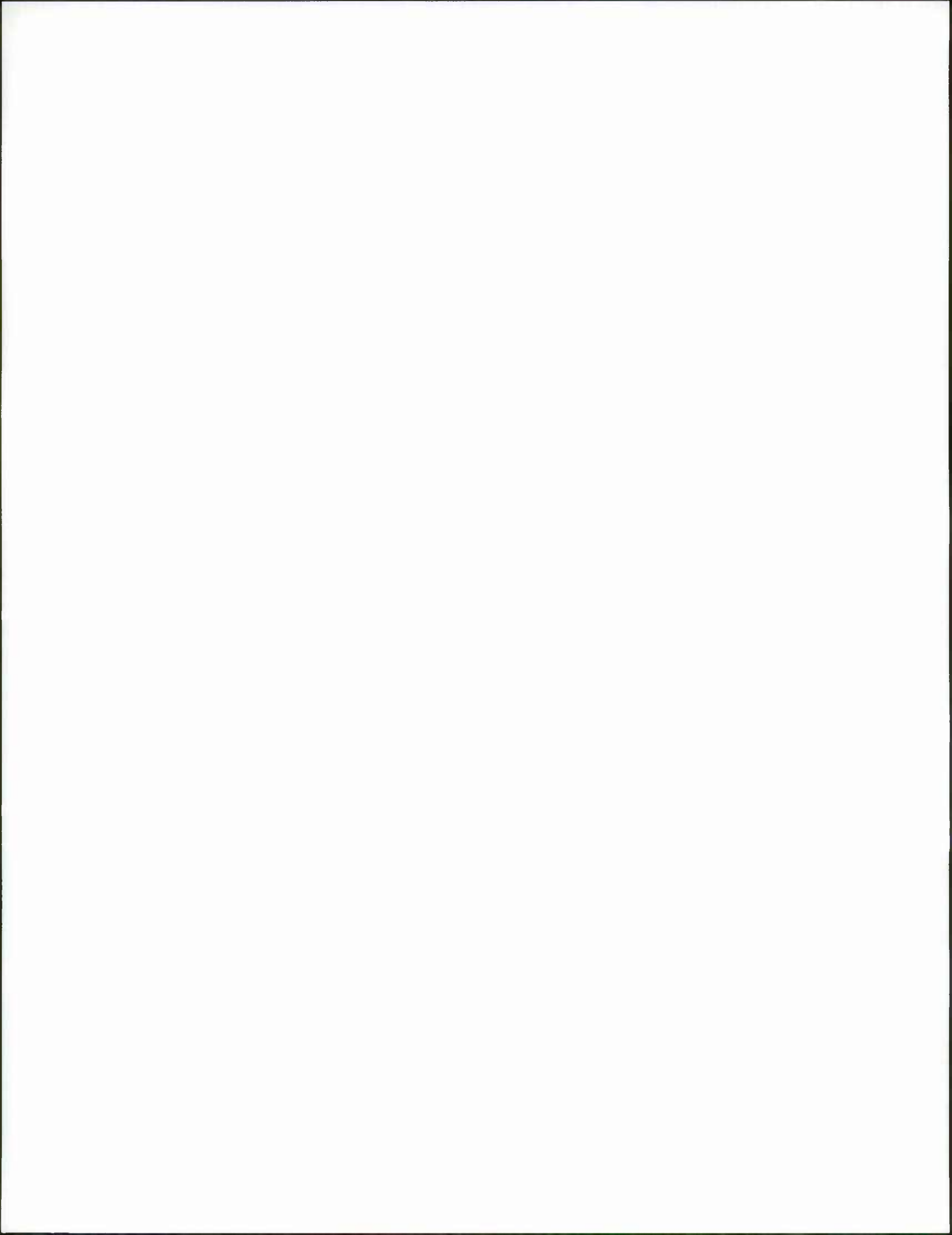
6.3.07



76



6-3-07



77



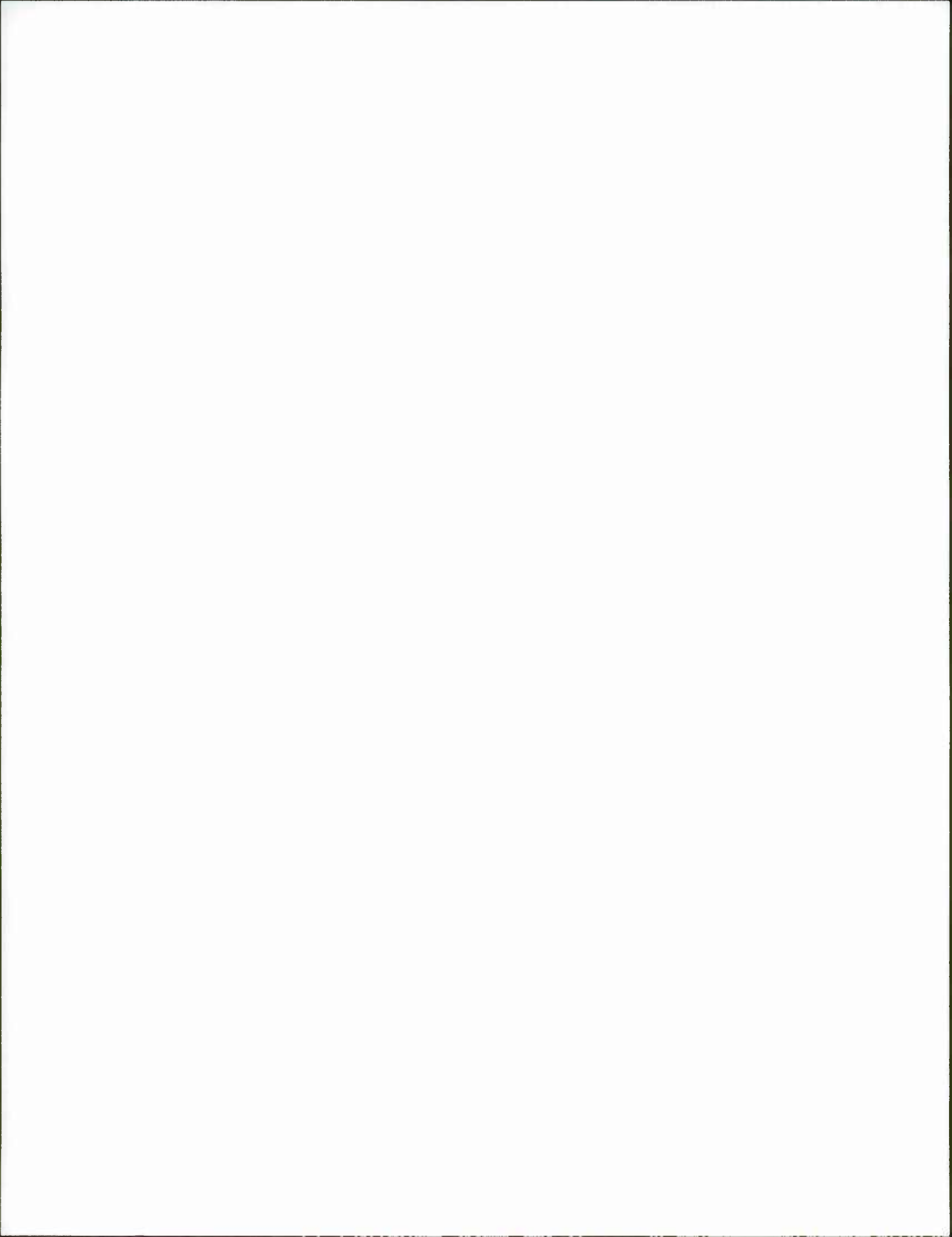
July 24, 2007:



August 3, 2007 (storm happened during evening, I think)



6/3/07



78

8/3/07



5-11 + 5-12, 2008

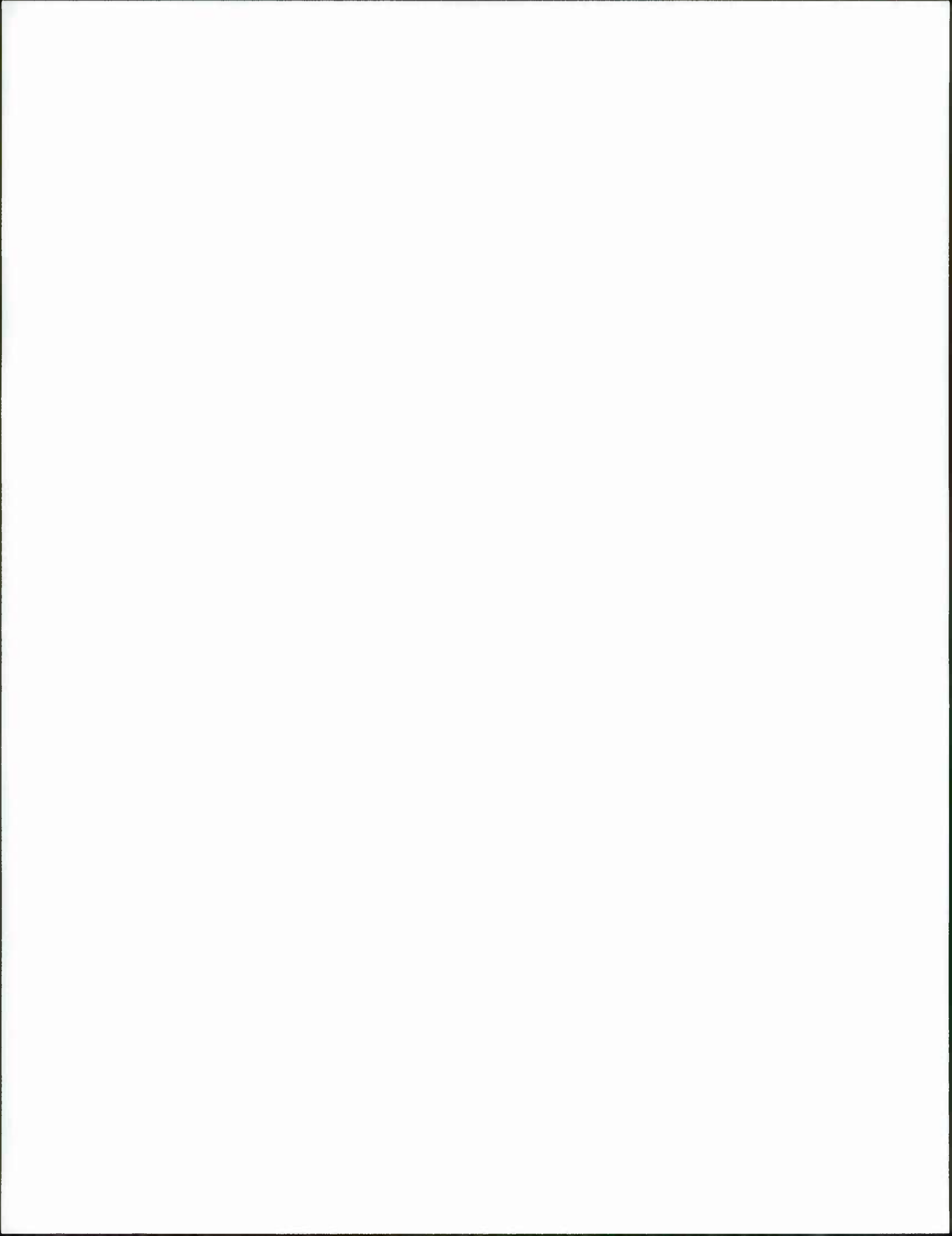
Damaged revetment

8/3/07



May 11 and May 12, 2008 (2-days of high winds)
Vegetated prior to storm





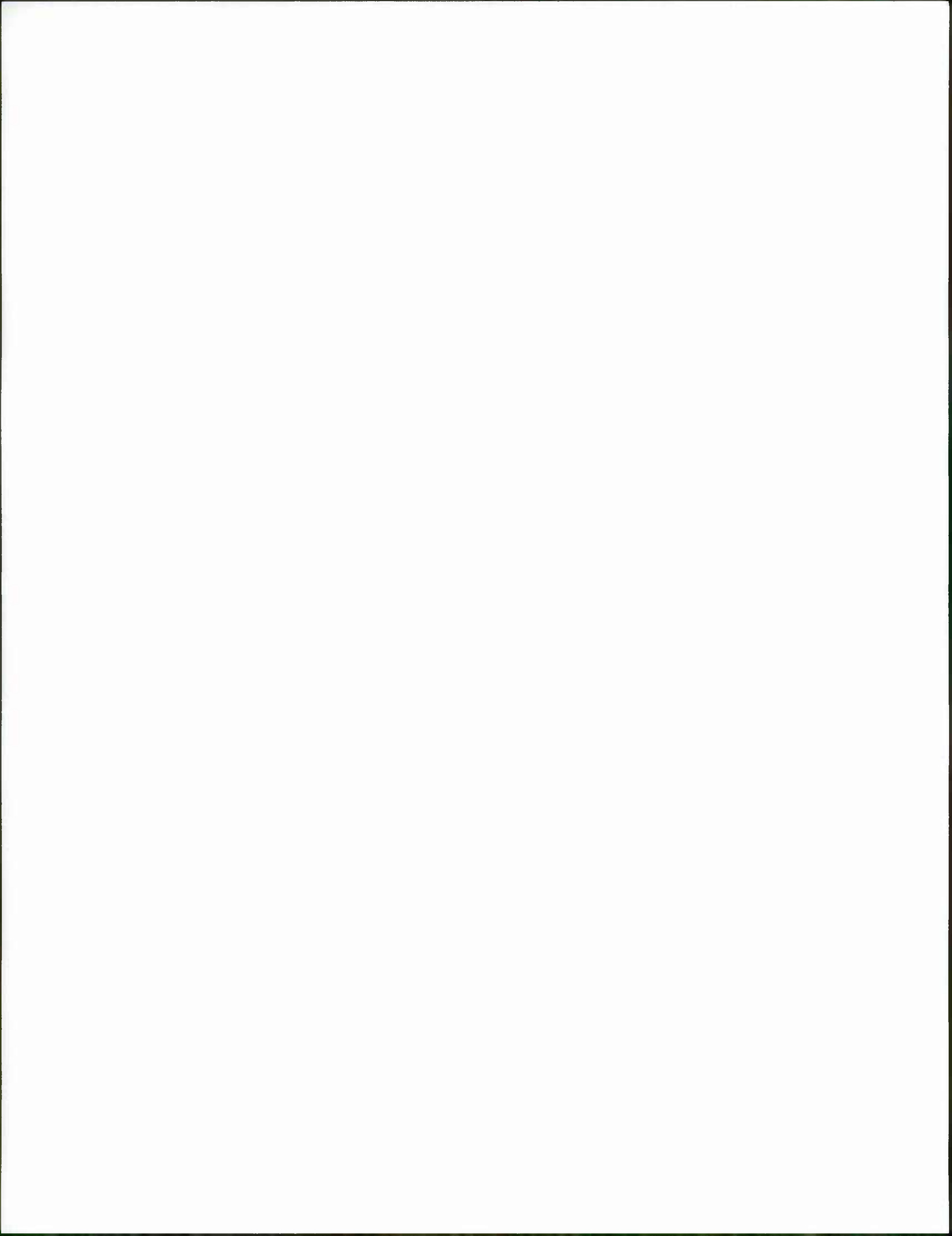
79



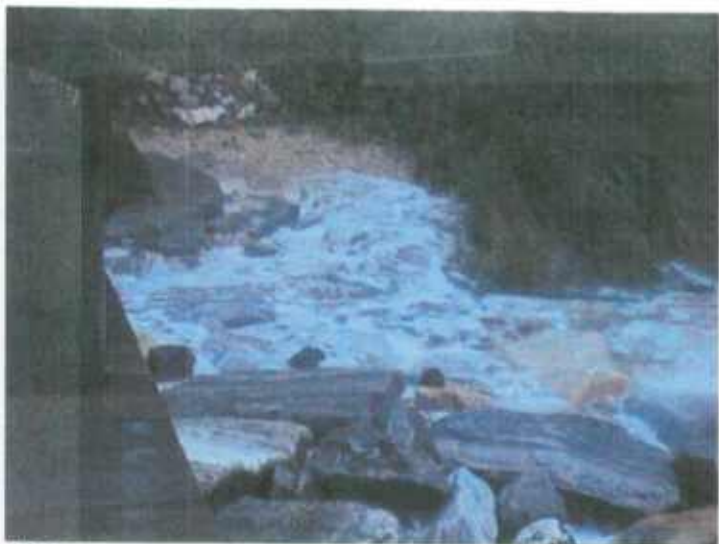
Waves over the steps down to toe of cliff



5/11+12/08



80



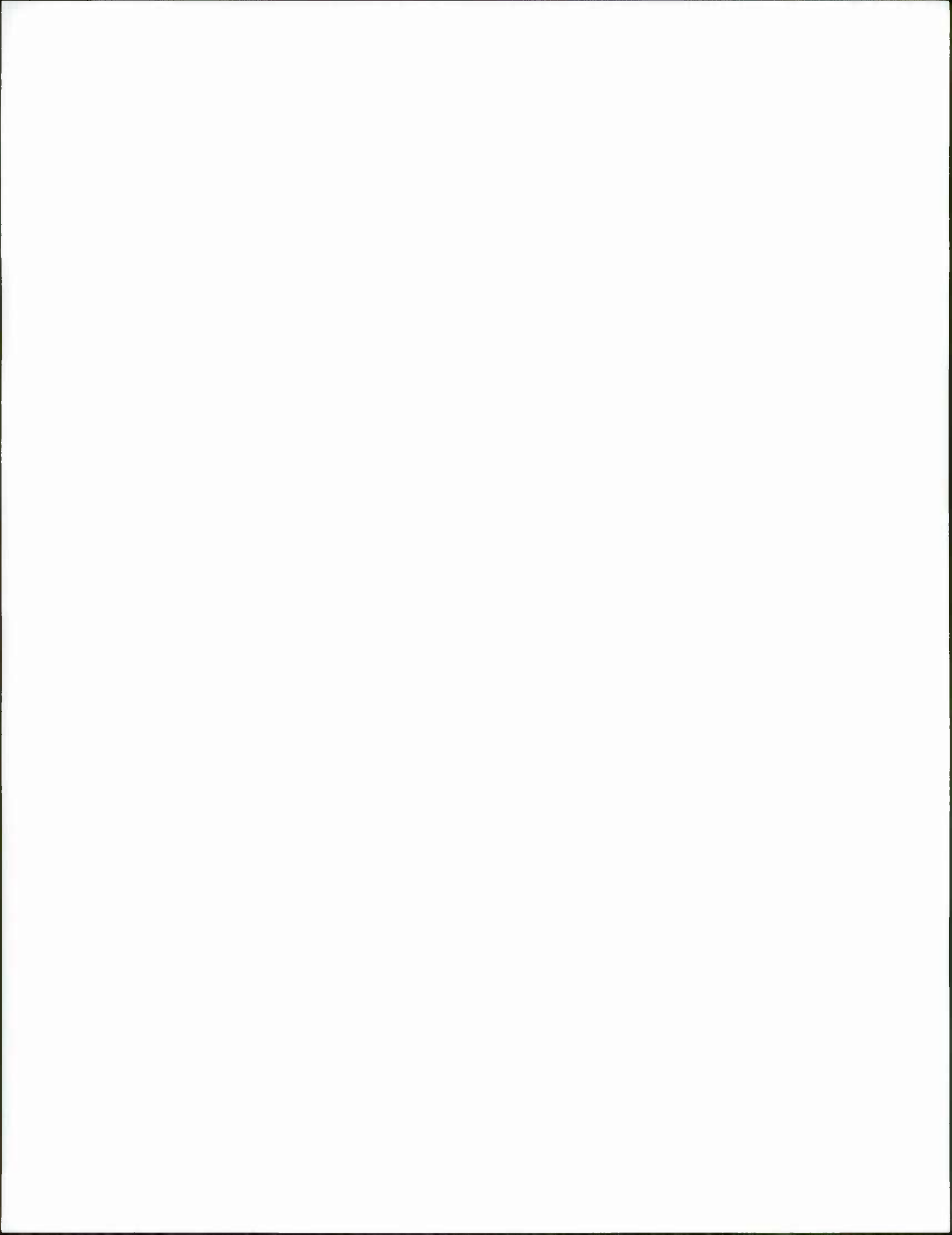
debris 1



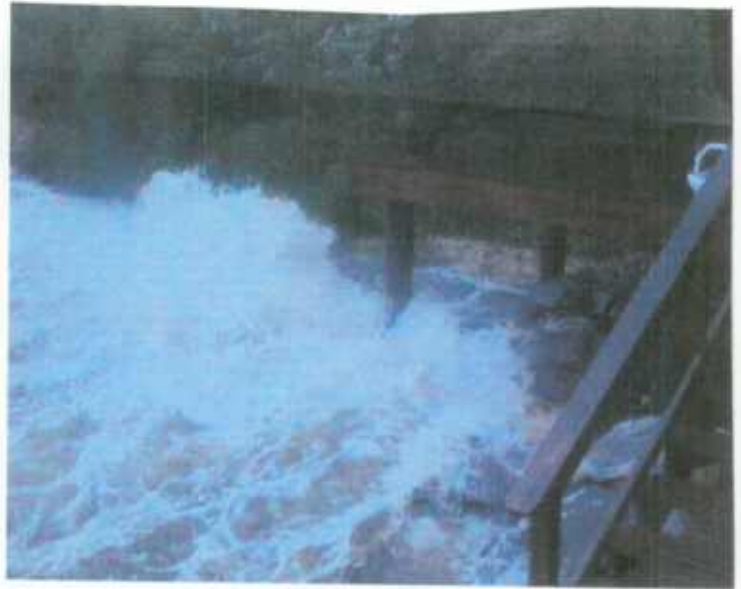
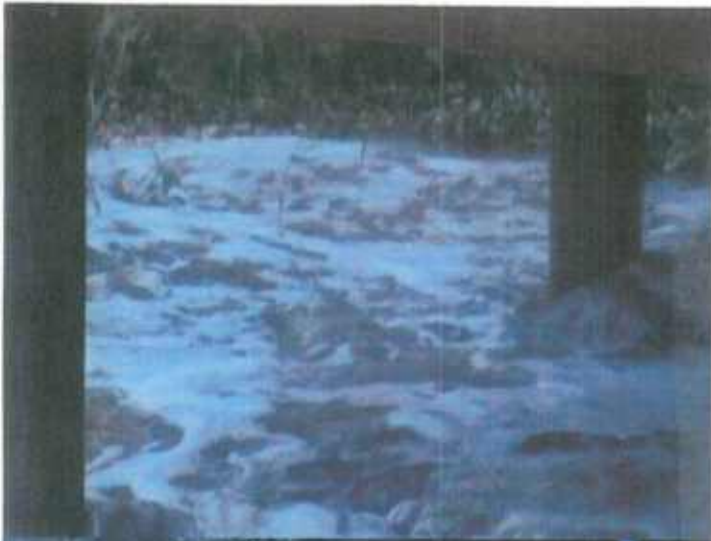
water under platform to cliff toe 1



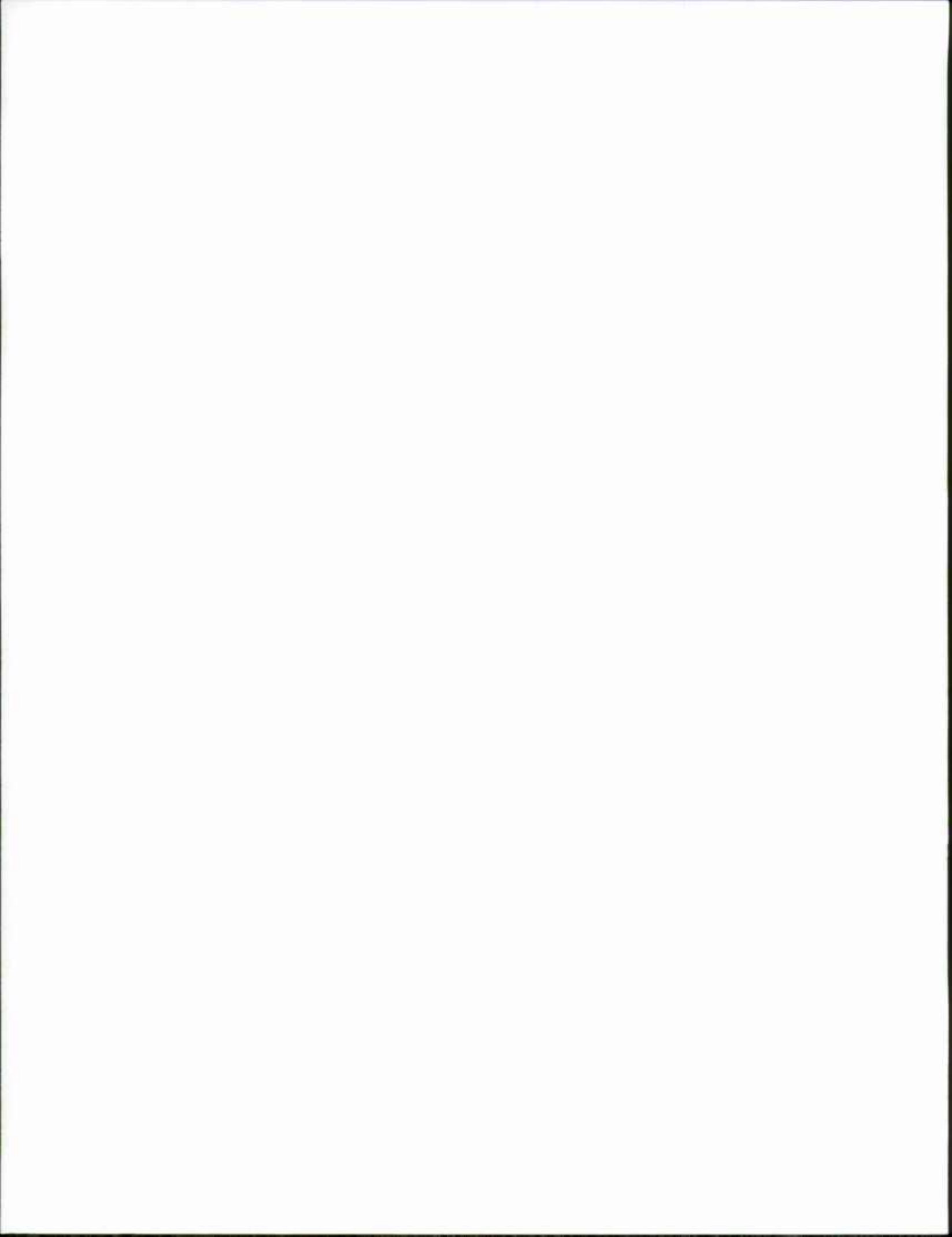
5/11 + 12/08



81



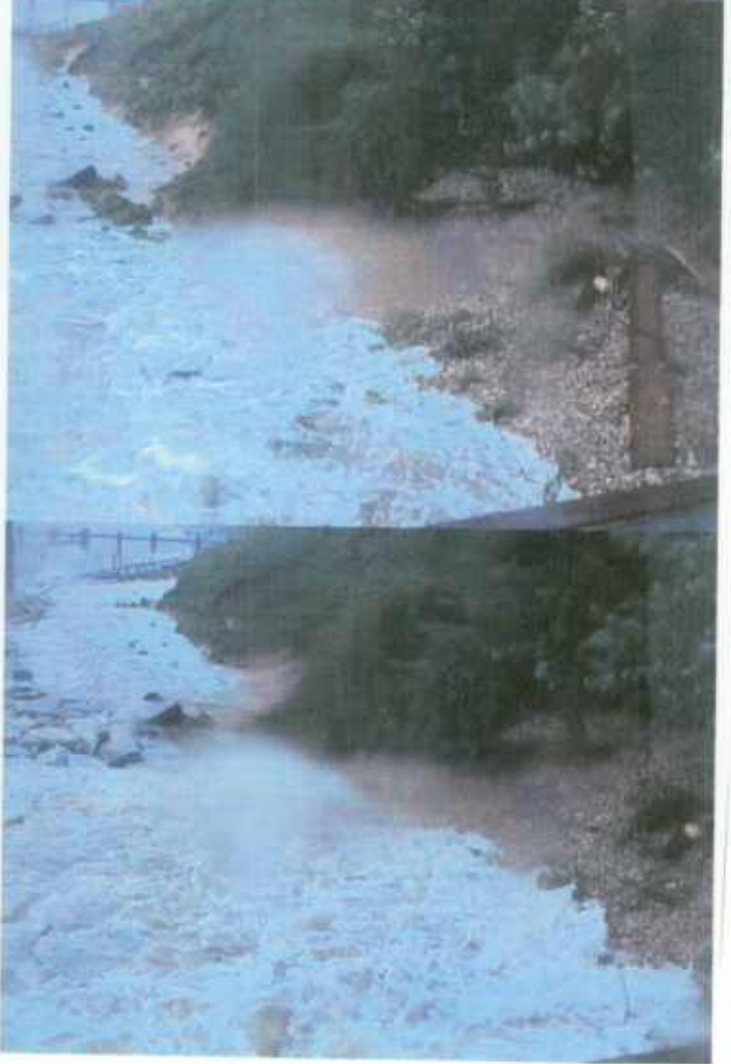
5-11 + 5-12, 2008



82

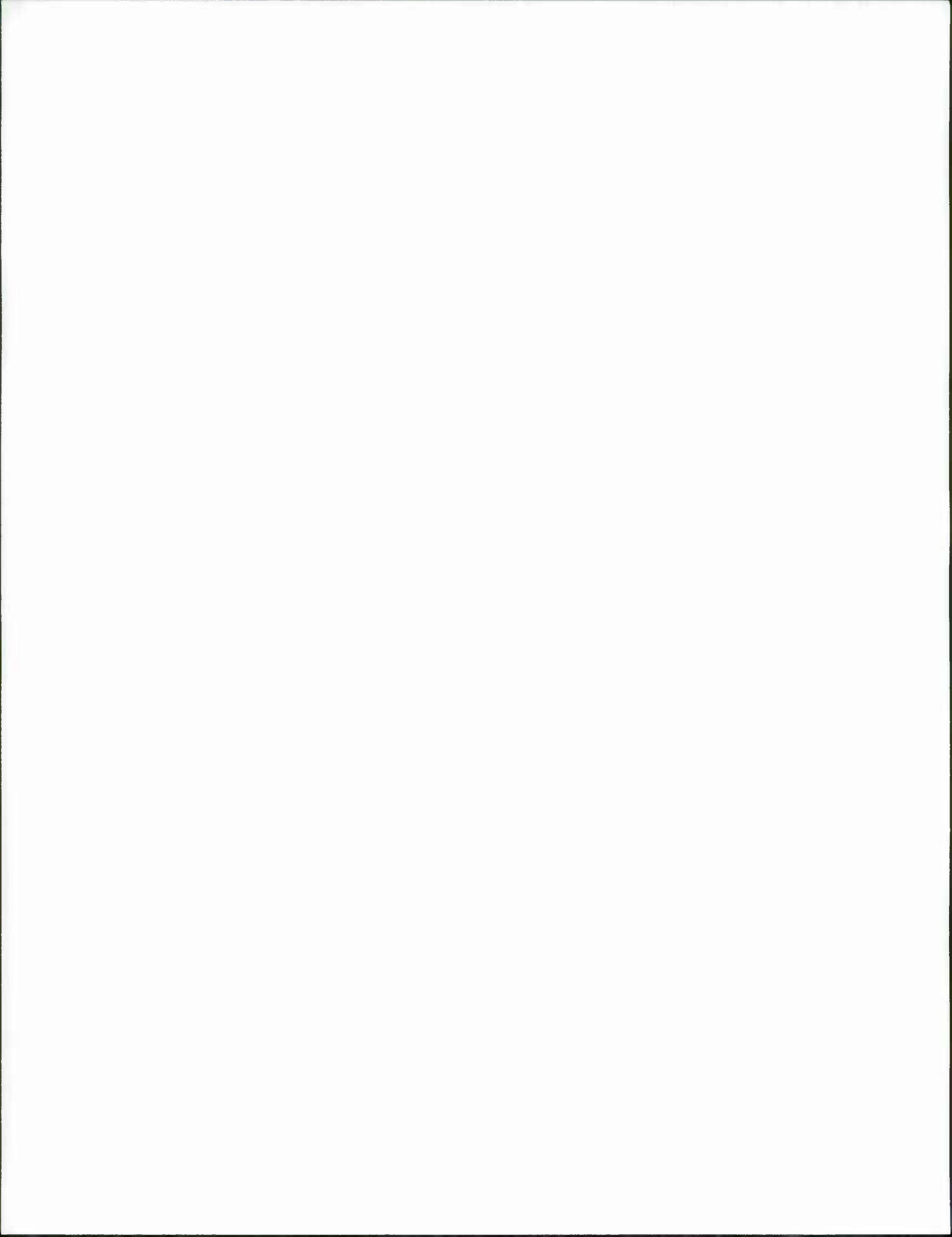


waves reach toe of cliff 1



floating debris 4

5-11 ~ 5-12, 2008



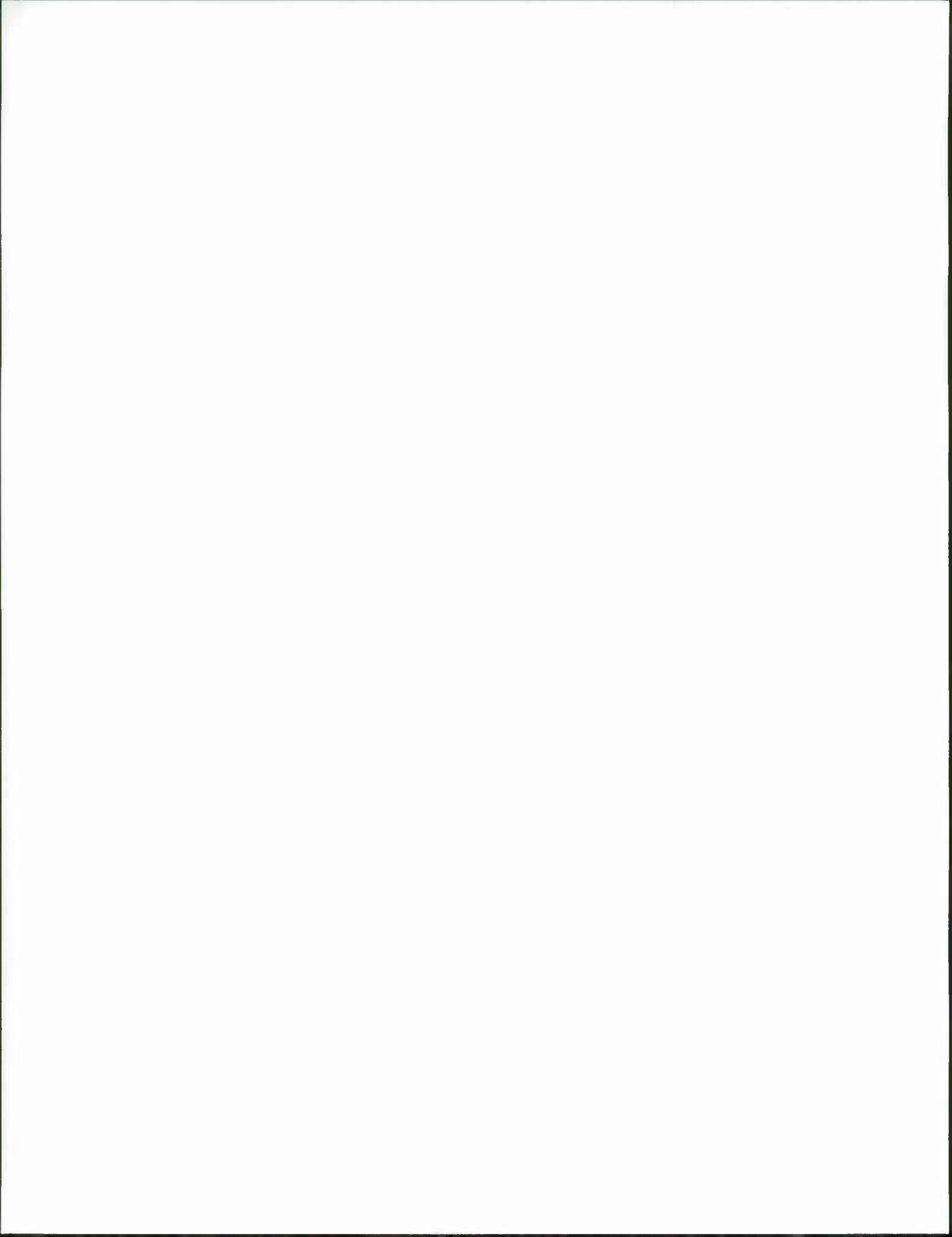
83



25' from old bulkhead/revetment 1



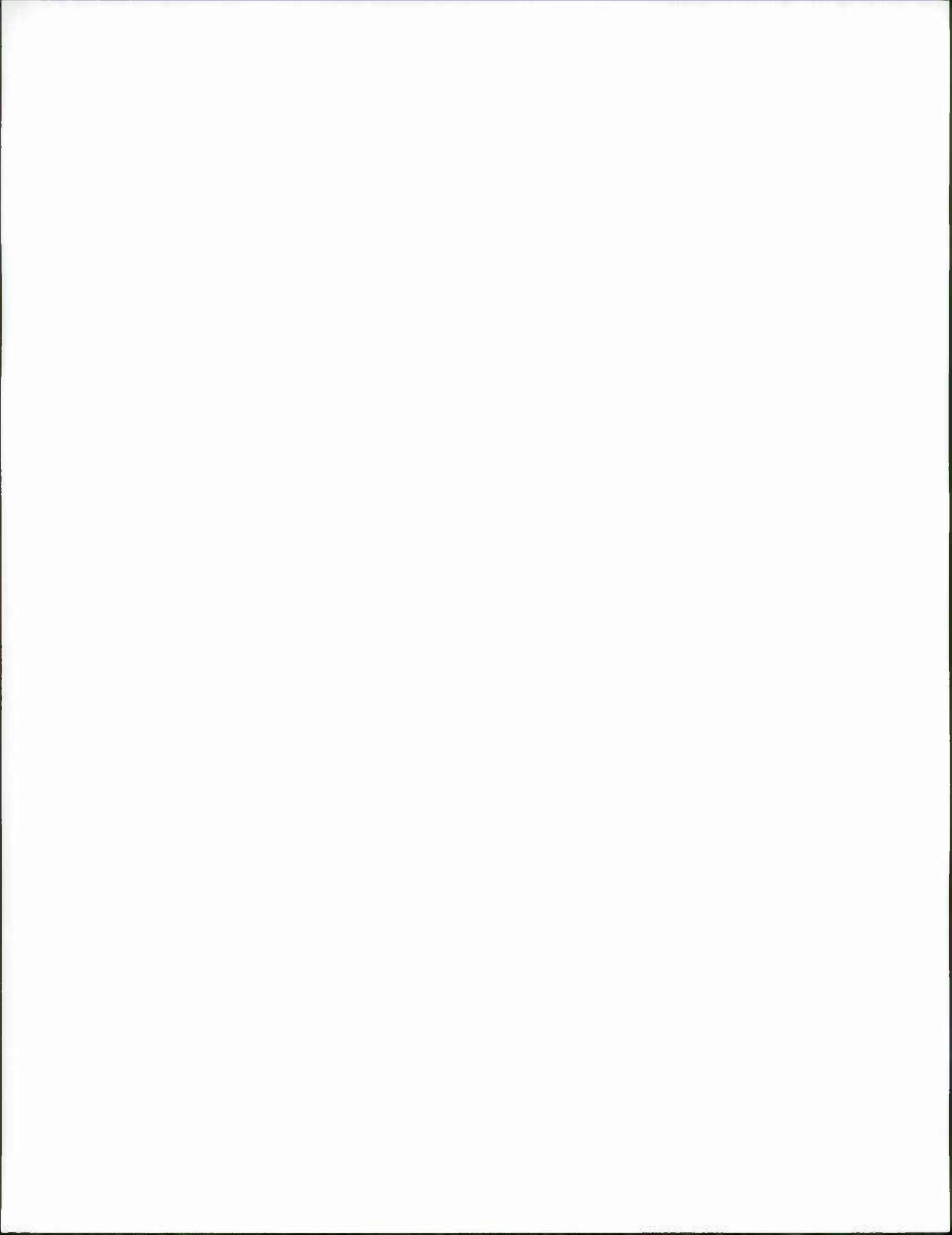
5-11 ~ 5-12, 2008



84



5-11 & 5-12, 2008

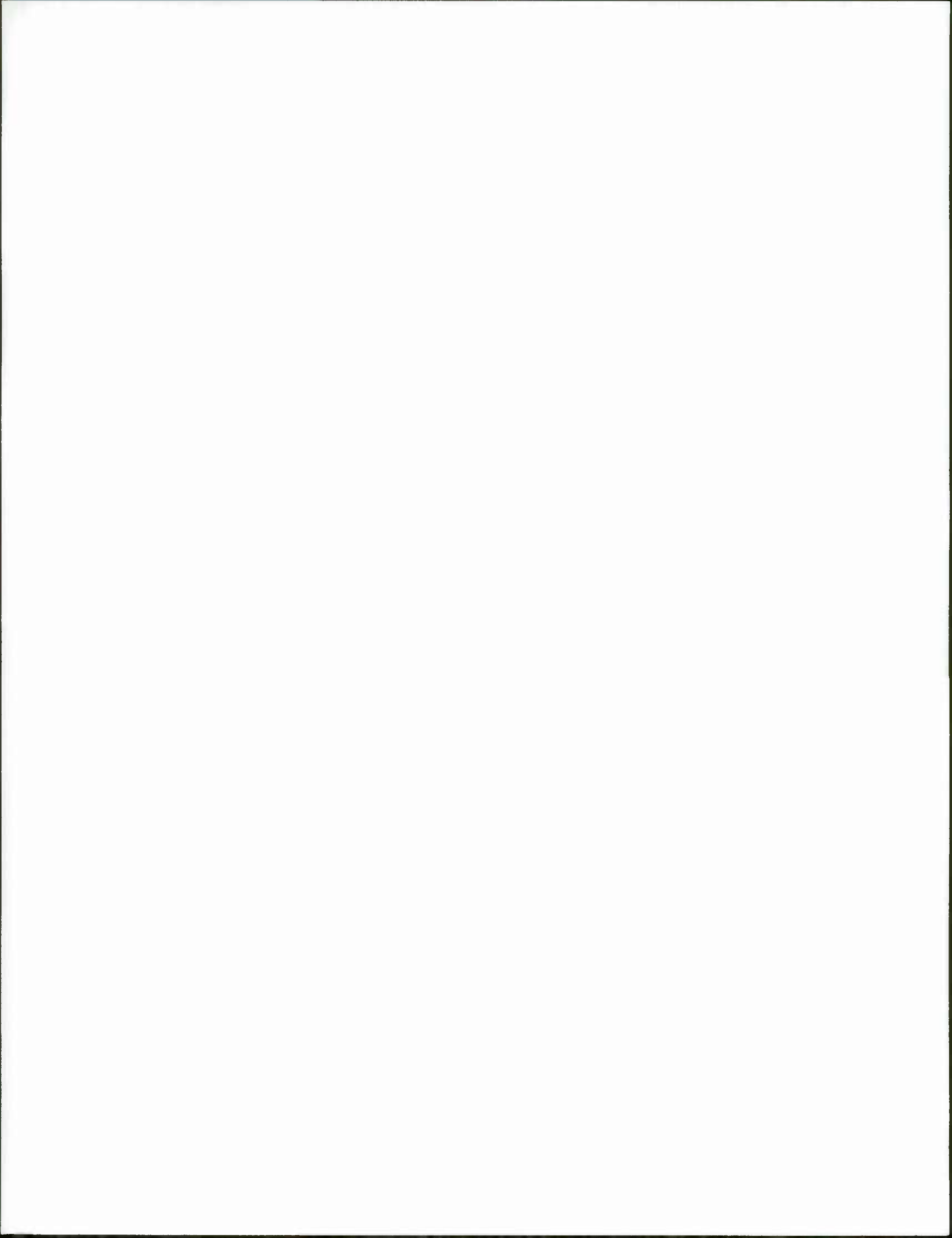


85



floating debris 5

5-11 + 5-12
2008



86



Revetment damaged again



waves reach toe of cliff 2 back of platform

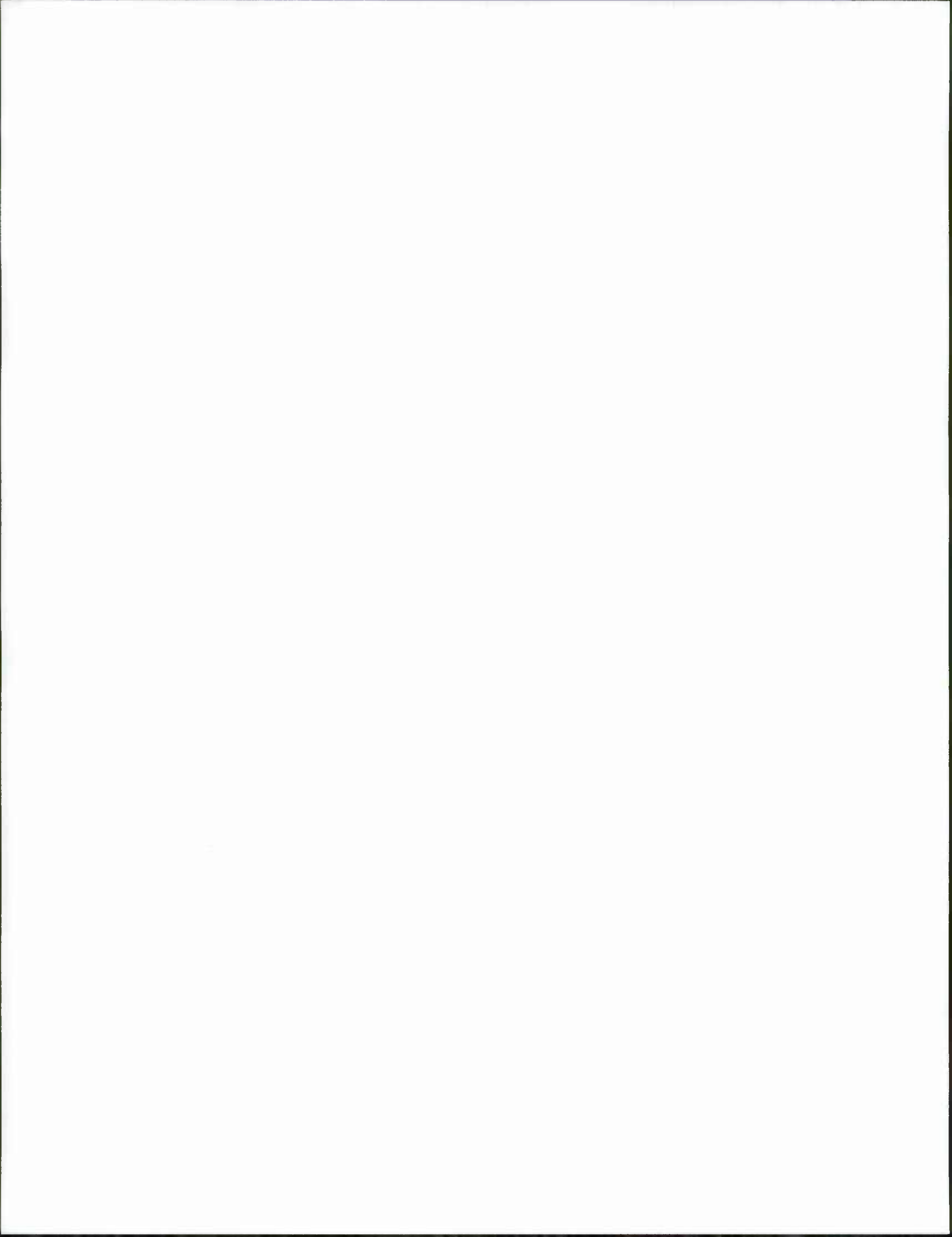


This structure floated in on May 12, 2008 1



5-11 +

5-12, 2008



- e. a literal interpretation of the Critical Area Legislation and the Calvert County Critical Area Program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of the County.

APPLICANTS' RESPONSE:

In Littleton (04-3081, after-the-fact storage shed), the Board held that "waterfront [storage] sheds . . . are rights commonly enjoyed by other properties. . . within the buffer."

We are not requesting an impervious structure such as a shed; we are requesting an elevated open board wood decked storage platform for our equipment for water-related sports, activities and recreation.

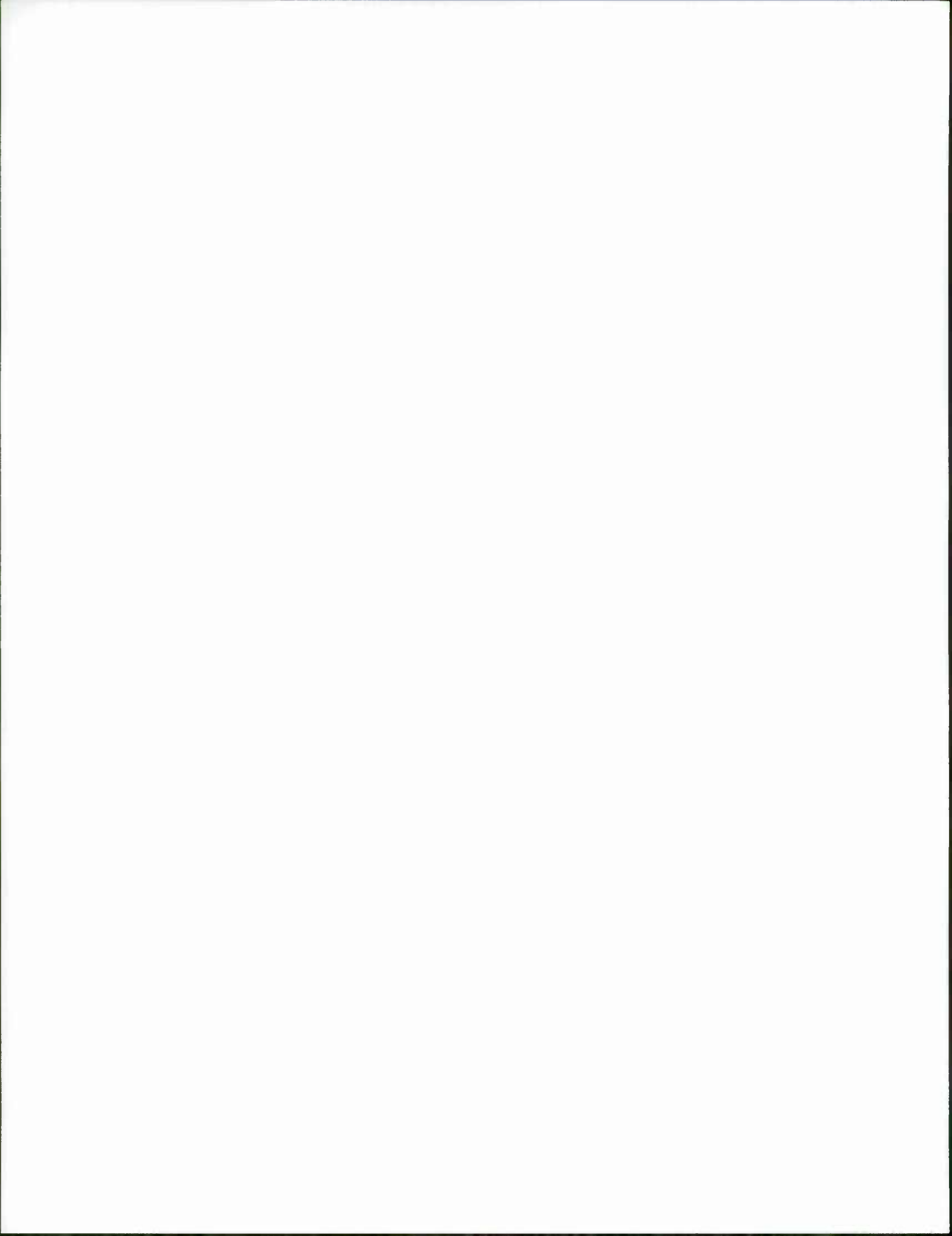
Open board decks and platforms of similar sizes have been built throughout the neighborhood, and denying this Applicant the ability to construct a similarly sized open board storage platform would deprive the applicant of rights commonly enjoyed by other property owners within the Critical Area and within the subject community. The Applicants' decks cantilevered to their house are 4 ½ deep; they are required by Code for egress from their casement windows located 4" off the floor. They are used for storage of lawn chairs and a grill, propane tanks and a propane crab cooker and pot. They are not functional decks – you can't use them to entertain or for a picnic table. But, we are not requesting a deck. We are requesting an elevated platform for storage of our equipment and accessories related to water-dependent activities. The Board has stated that a "6 to 8-foot deck is minimal and that it has approved decks 3 times that size."

It is the CAC's opinion that our 4 ½' egress deck is reasonable and that our inability to construct and retain a second deck is not a right commonly enjoyed by properties in their area. Please note that the "second deck" is a storage platform for water-dependent recreational activities. Many properties in our neighborhood have significant decks and multiple decks:

It should also be noted that Applicants' septic system is on the streetside and not on the waterside or in the buffer as are others in Dares Beach.

A similar example of the Board granting non-conforming structures to neighboring properties occurs for garages and storage sheds next to the street here in Dares Beach – they do not meet the minimum 25' setbacks but because our community is comprised of antiquated non-conforming lots and there are pre-existing garages and sheds next to the street, the county has given variances for similarly located structures. Likewise with the location of Applicants' storage platform, other neighbors have structures in the buffer so it is in keeping with the neighborhood.

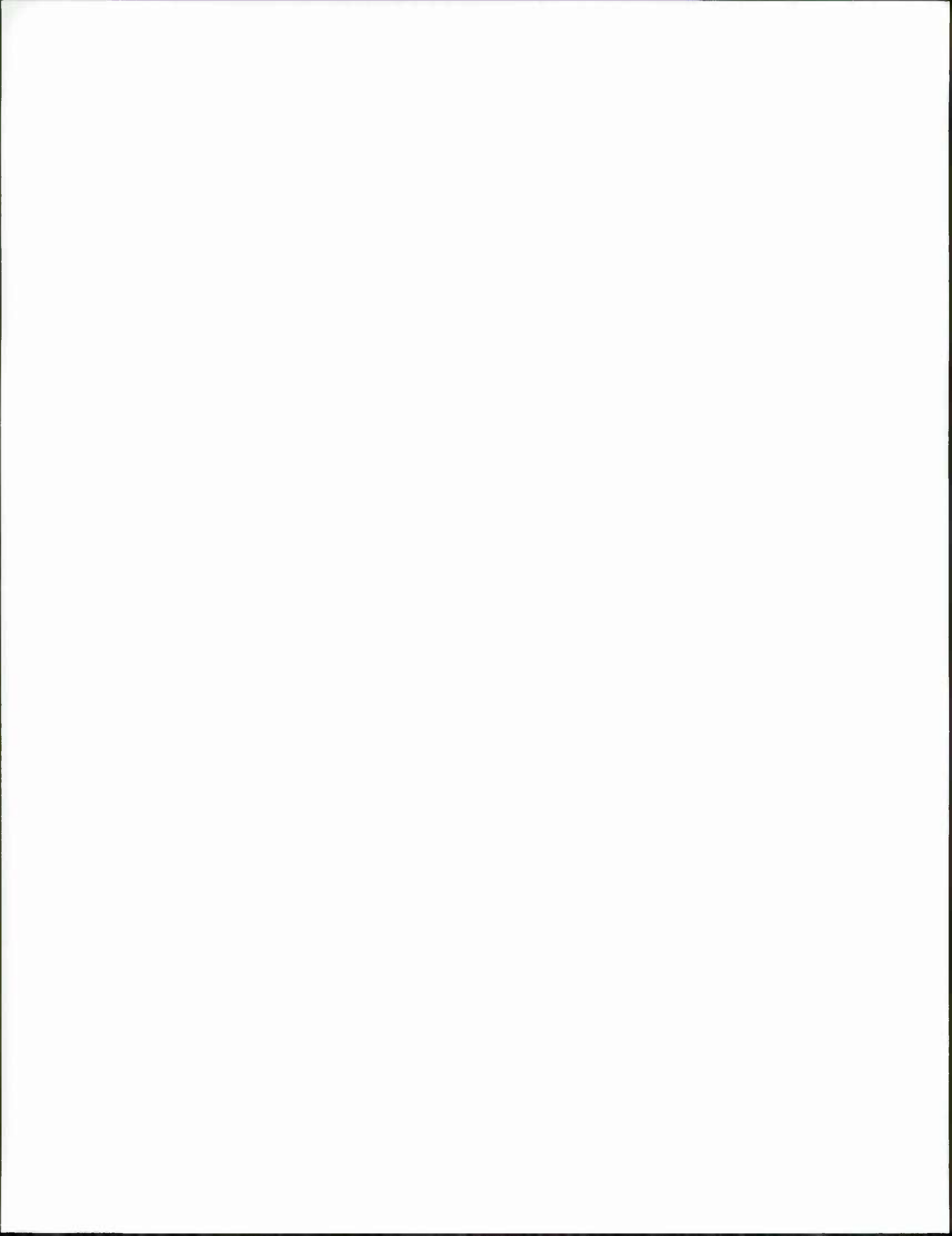
Even if we had not previously constructed the platform, we would still need a variance because of the topography of our property. And now, with the new buffer regulations, our entire property is located within the buffer and on a cliff. A variance for any structure will be required. The location of the elevated storage platform for equipment associated with water-dependent activities and it is located on the the only logical place on our property. The area of the buffer where the platform is located is compromised by seaward forces which routinely removes all vegetation within the reach of wave action and damaging floating debris.



Applicants removed no vegetation or growth to form the structure and the pilings supporting the structure are permitted. The platform does not affect the stability of the cliff and in fact protects it from destruction caused by storm debris. Locating the picnic tables on the top of the cliff will compromise the undercut cliff. Denying the Applicants the storage platform will deprive the Applicants of rights commonly enjoyed by other properties in similar areas within the Critical Area of the County.

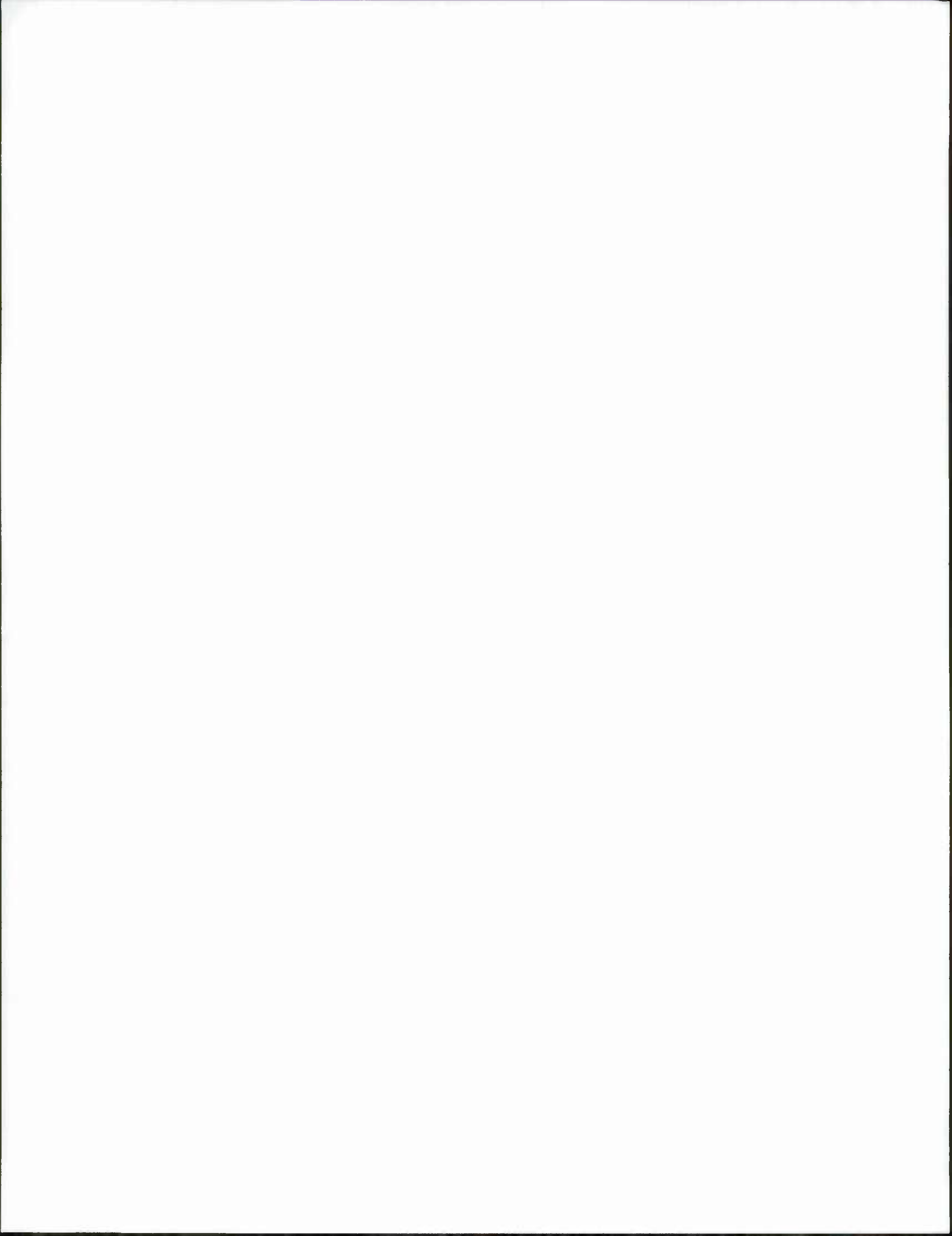
From my limited research, the Board granted Littleton (04-3081) an after-the-fact storage shed in the buffer; Scientists Cliffs (06-2393) storage sheds and platforms in the buffer; Western Shores (06-3243) storage sheds and platforms in the buffer.

Perkins (07-3427) a deck in the buffer; Baier (05-3198; 02-2825) reduced the front setbacks for attached decks in the buffer; Anderson (06-3326) attached deck in the buffer; Williams (04-3027) reduced front setbacks for attached decks in the buffer.



Applicants' 4 1/2' deep decks for window egress. They are not functional decks and are used for storage too.







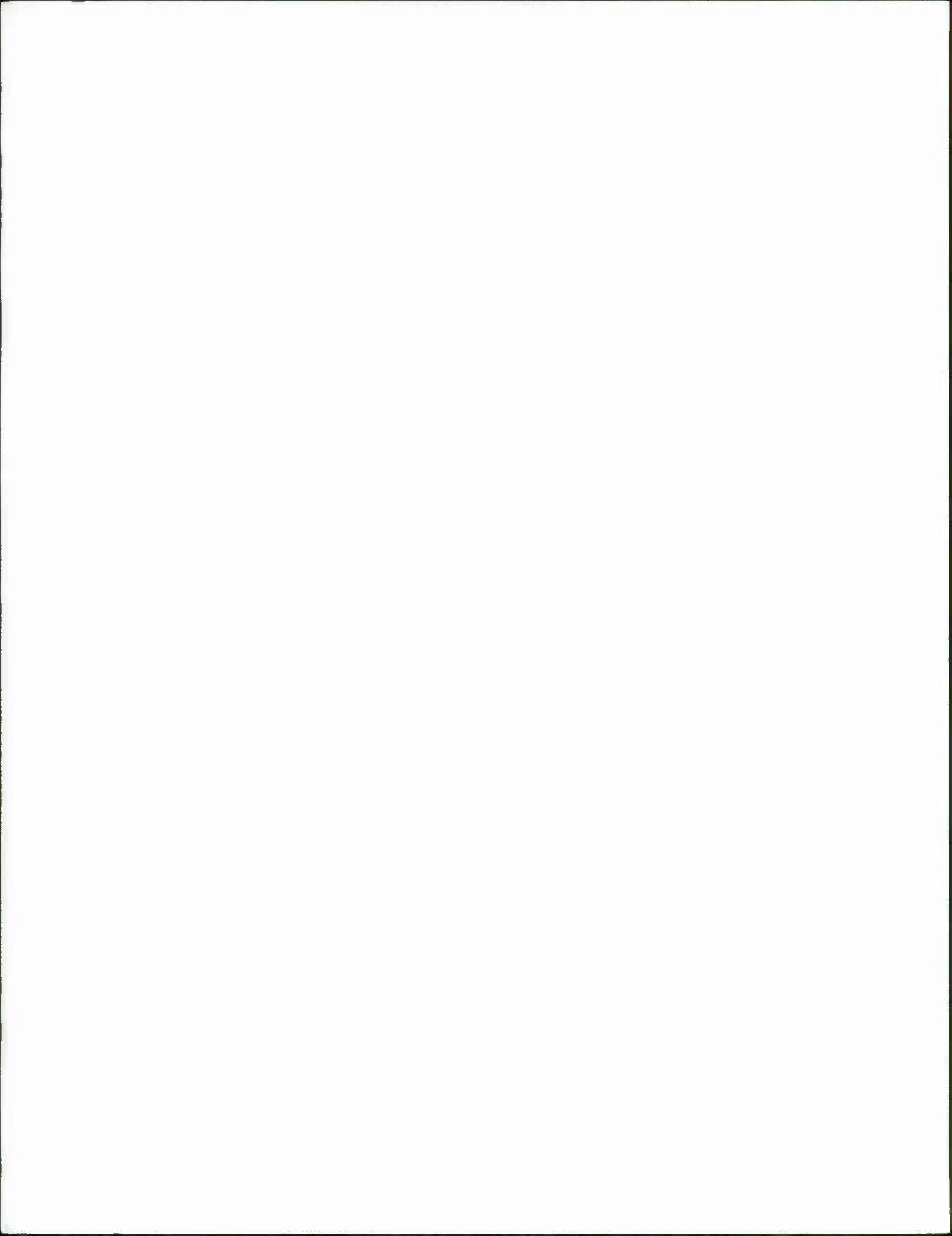
Elevated storage and lockers 1



Elevated storage and lockers 2



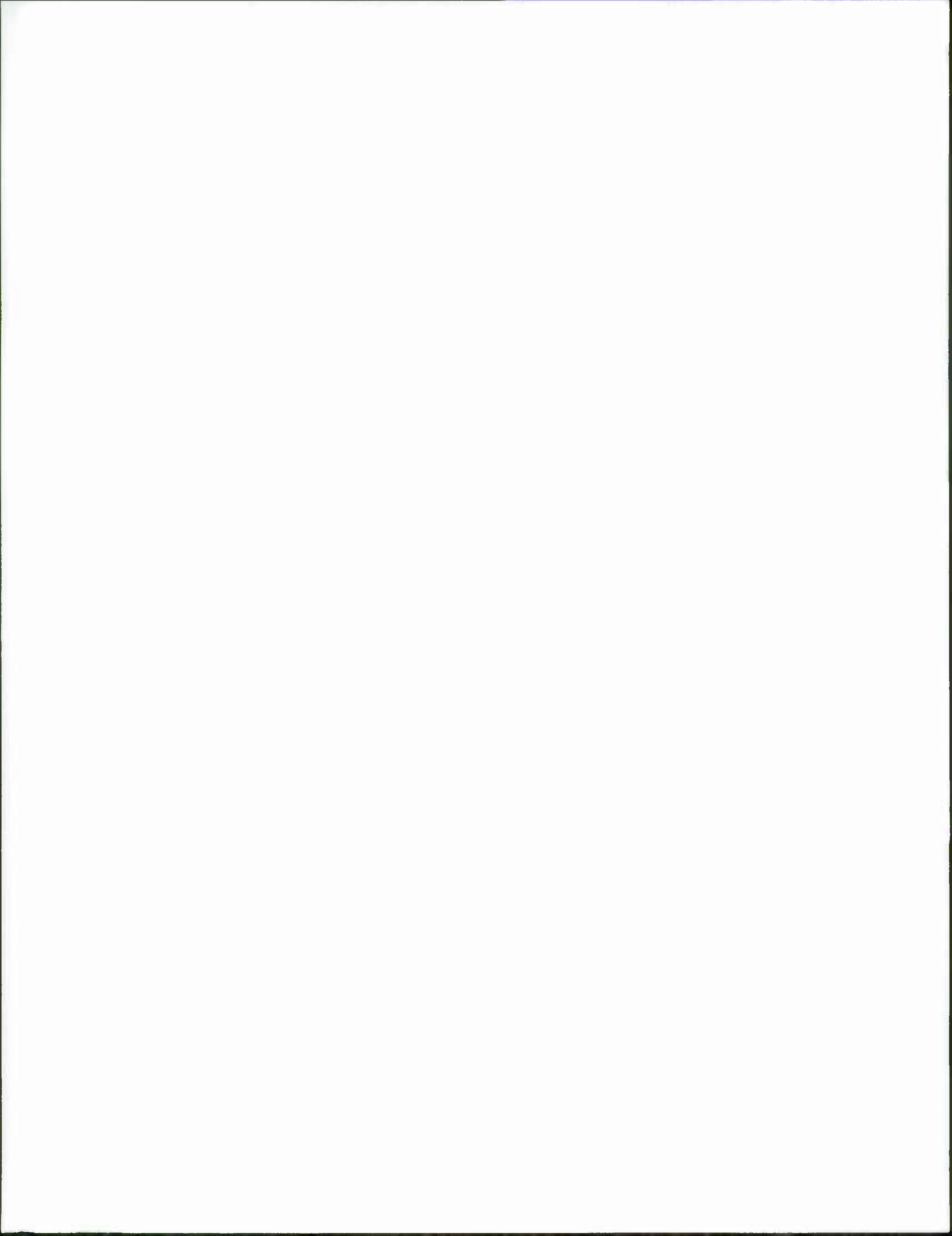
Elevated storage and lockers 3

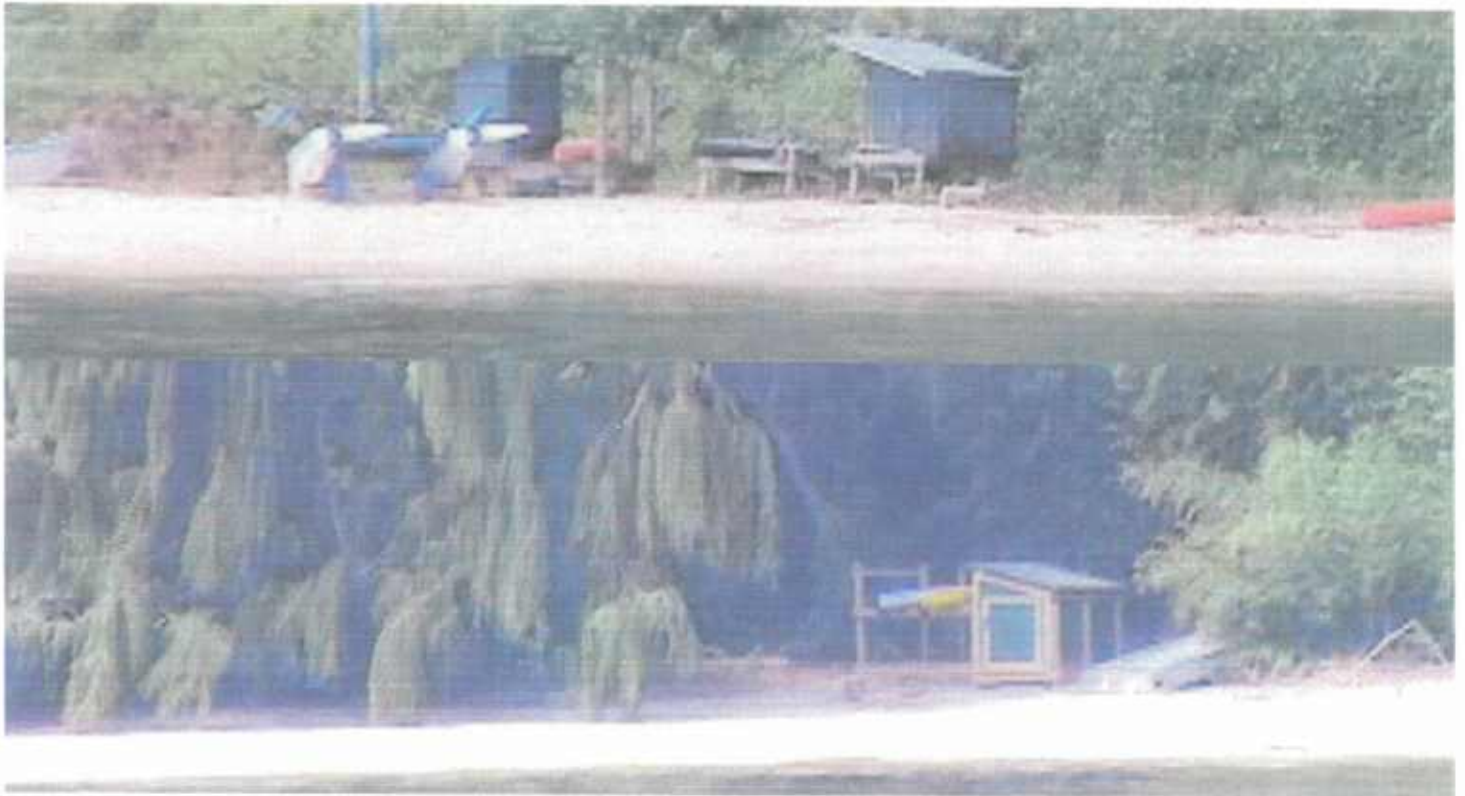




Elevated storage and lockers 4



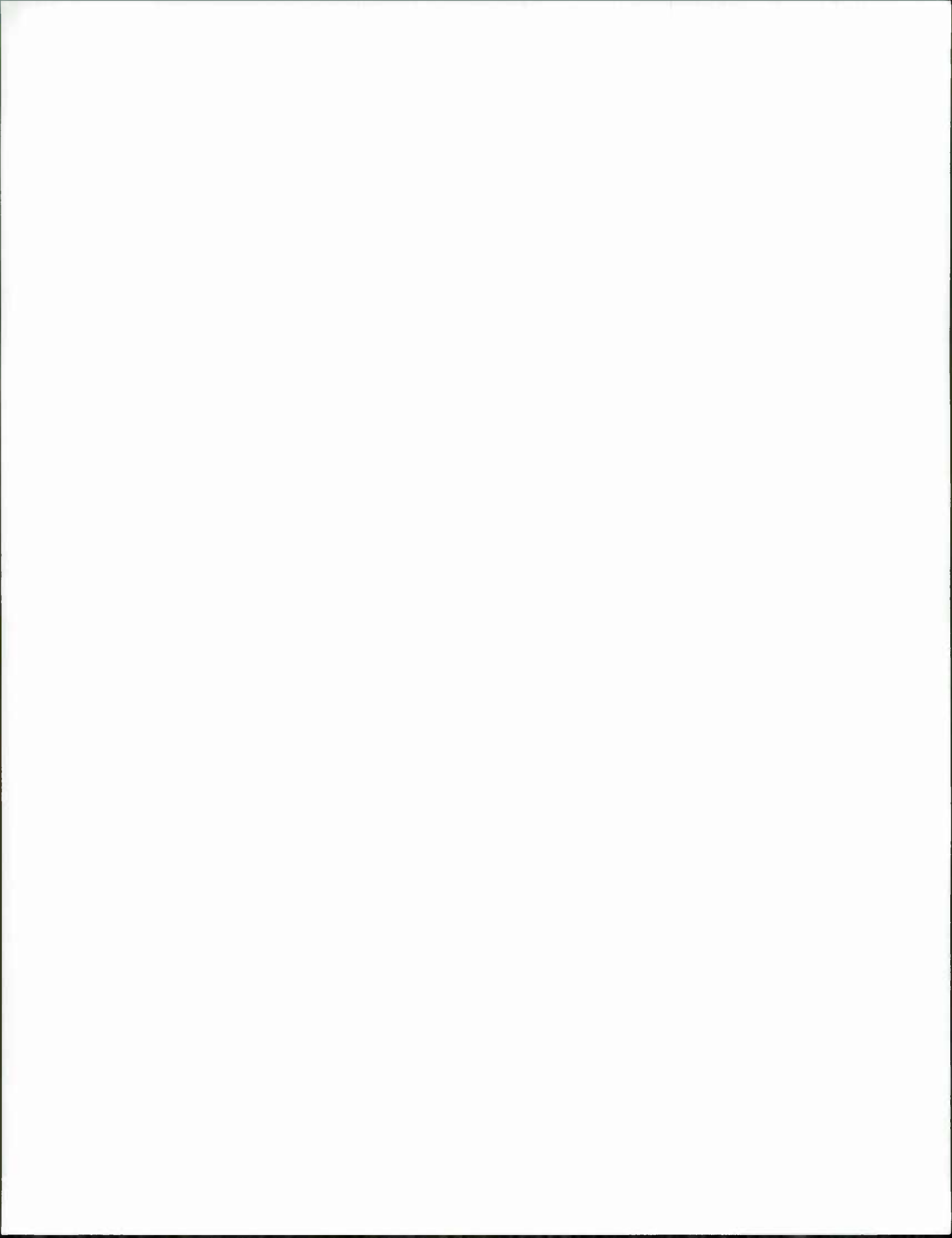




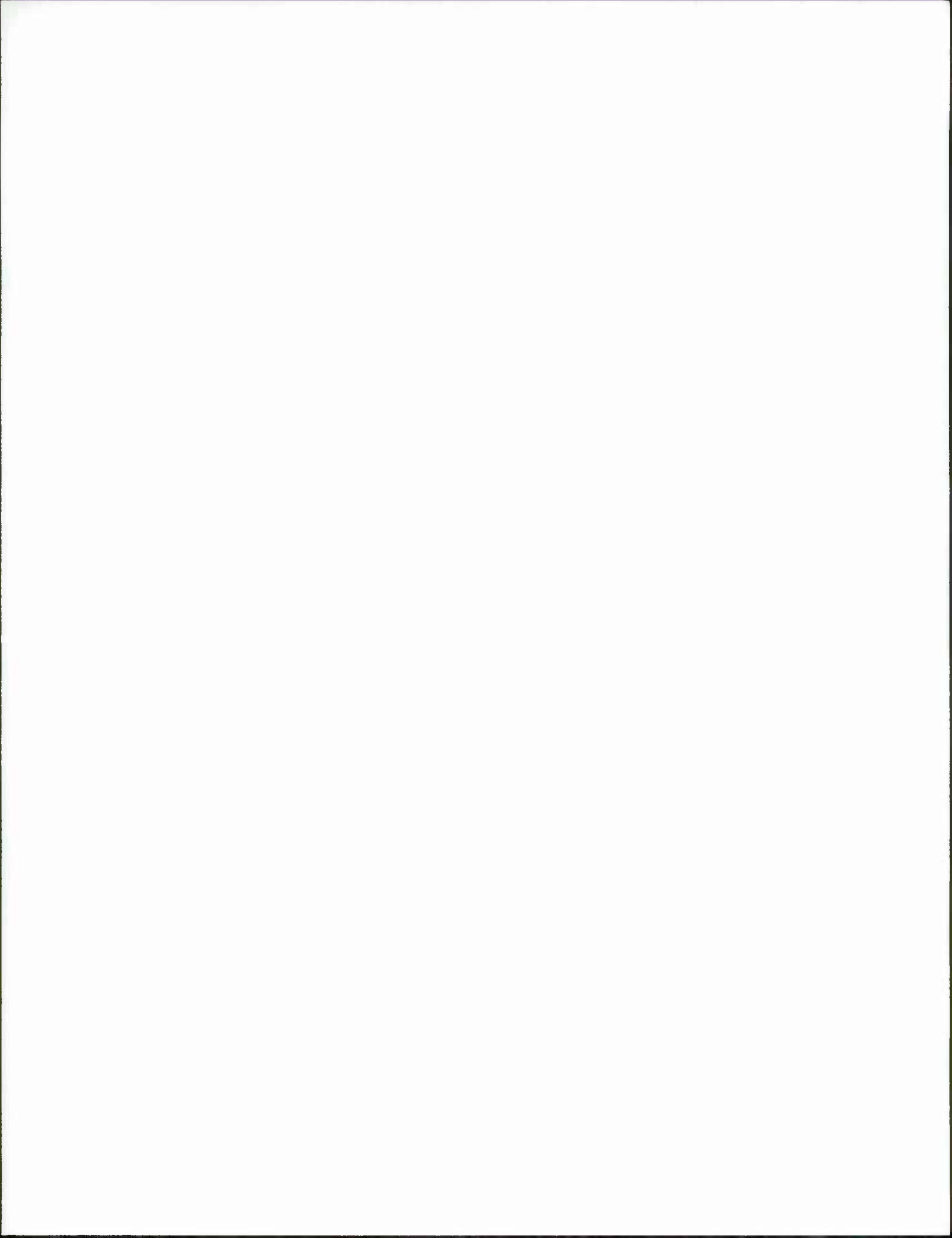
Elevated storage and lockers 5



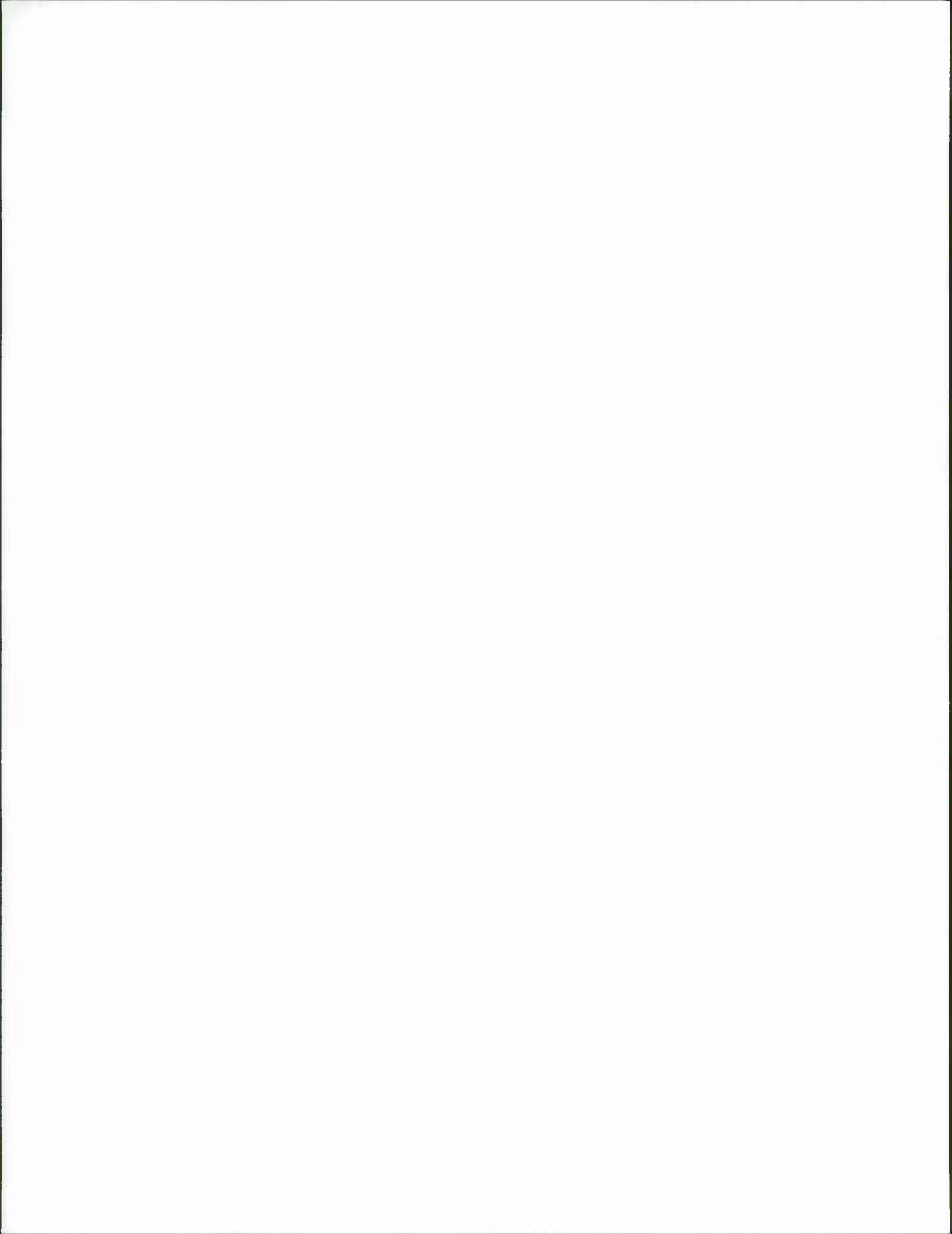
Elevated storage and lockers 6







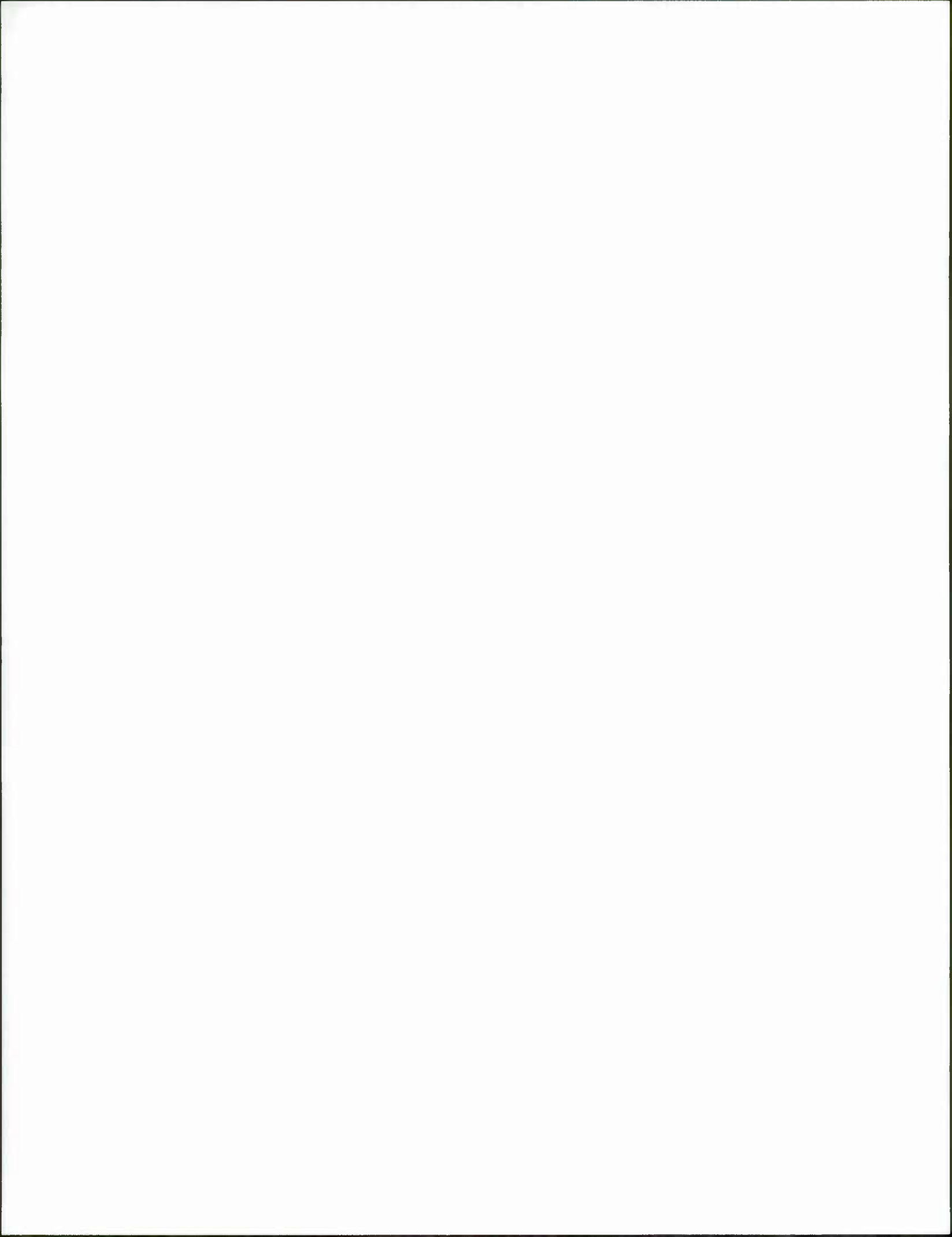




Dry storage D.B. waterfront properties

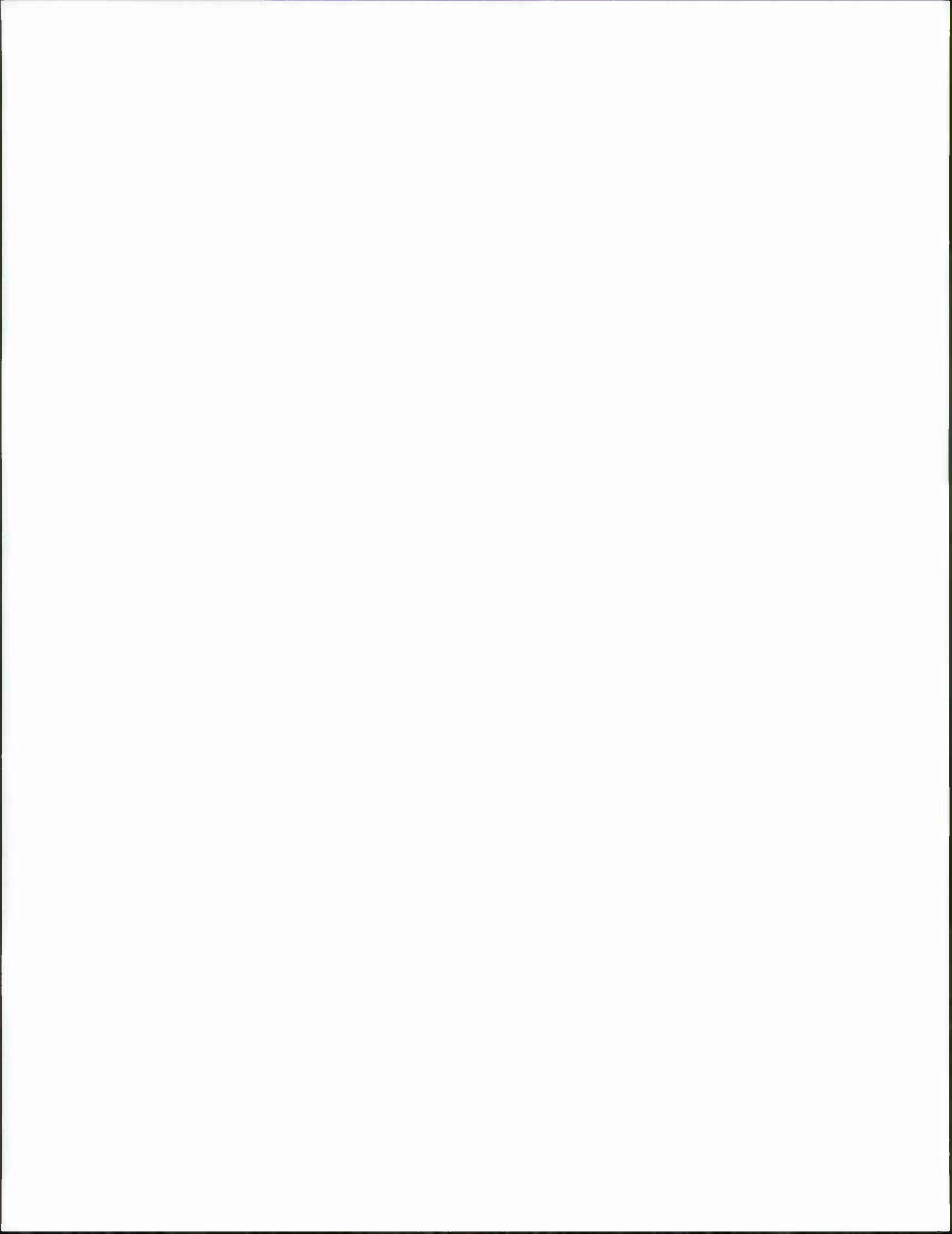
93





94





- f. the granting of a variance will not confer upon an applicant any special privilege that would be denied by the Calvert County Critical Area Program to other lands or structures within the County's Critical Area; and

APPLICANTS' RESPONSE:

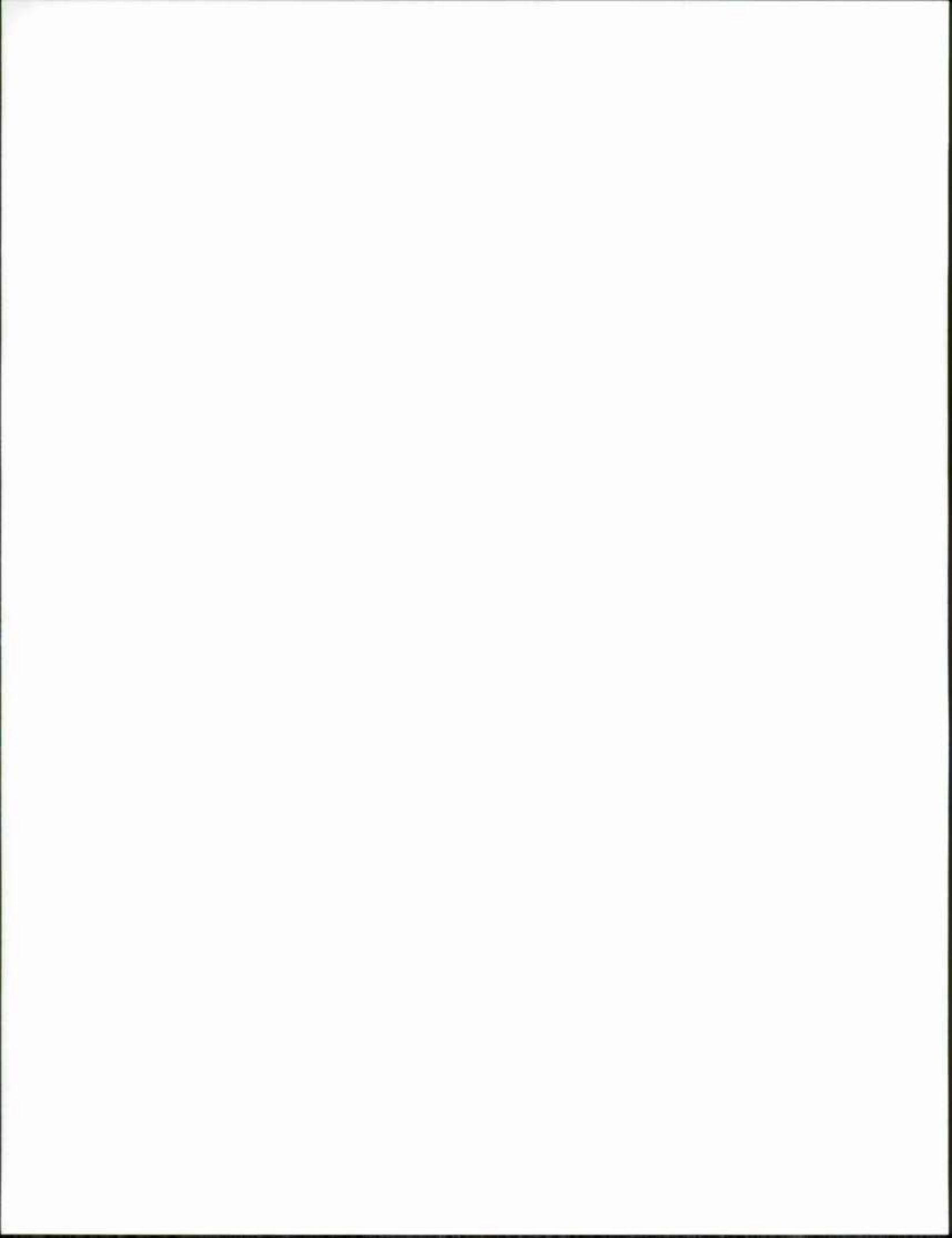
The Board has stated that, at least in the Dares Beach area, "there are a lot of differences over short distances." The Board also noted that the buffers "in Dares Beach have been substantially changed prior to Isabel."

The channelward side of our buffer does not hold vegetation because of seaside forces which erode the base of our cliff. In similar cases, the Board has found that the granting of this particular kind of variance would not confer on the applicant any special privilege:

Littleton (04-3081)

Scientist Cliffs (06-2393)

Western Shores (06-3243)





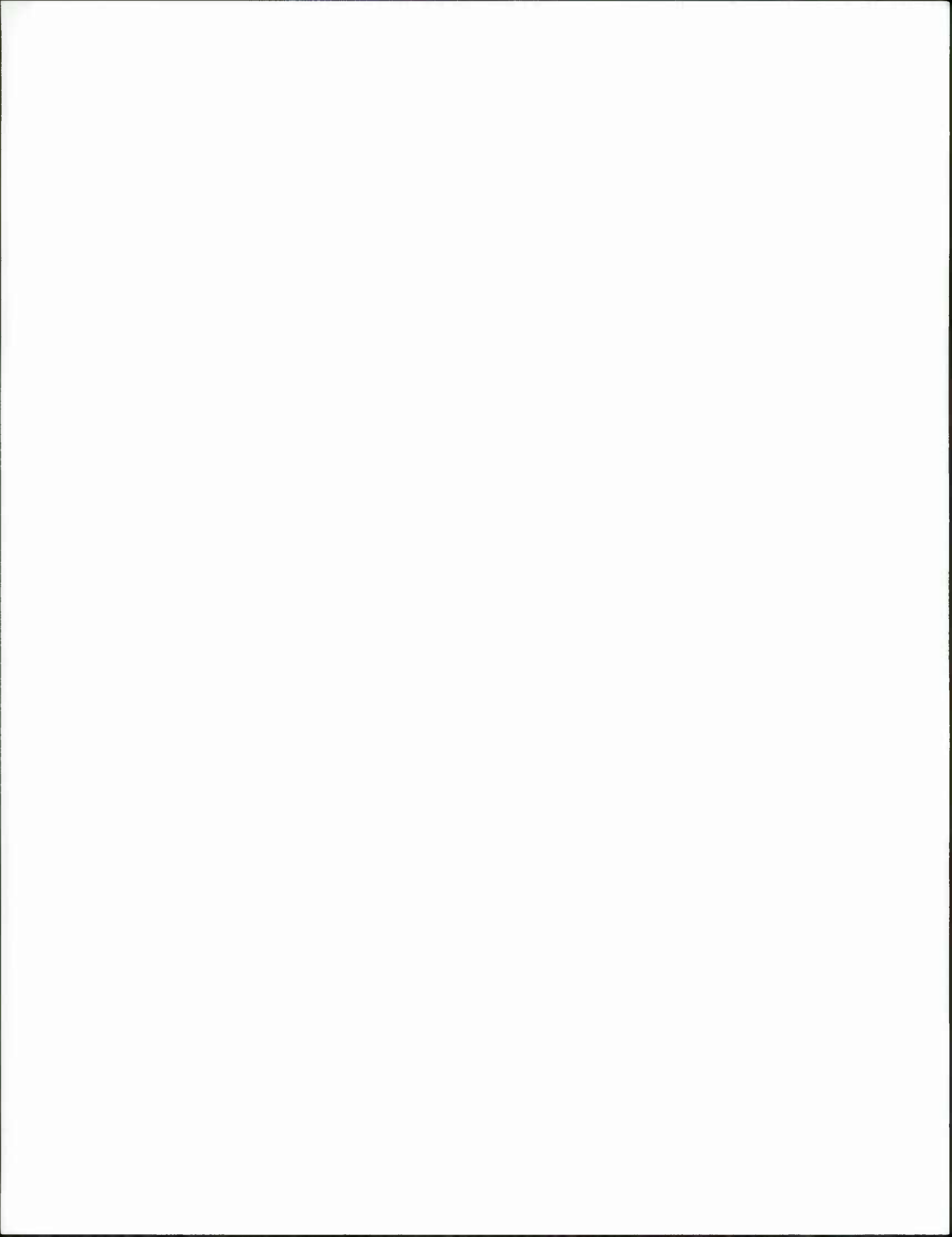
Elevated storage and lockers 1



Elevated storage and lockers 2



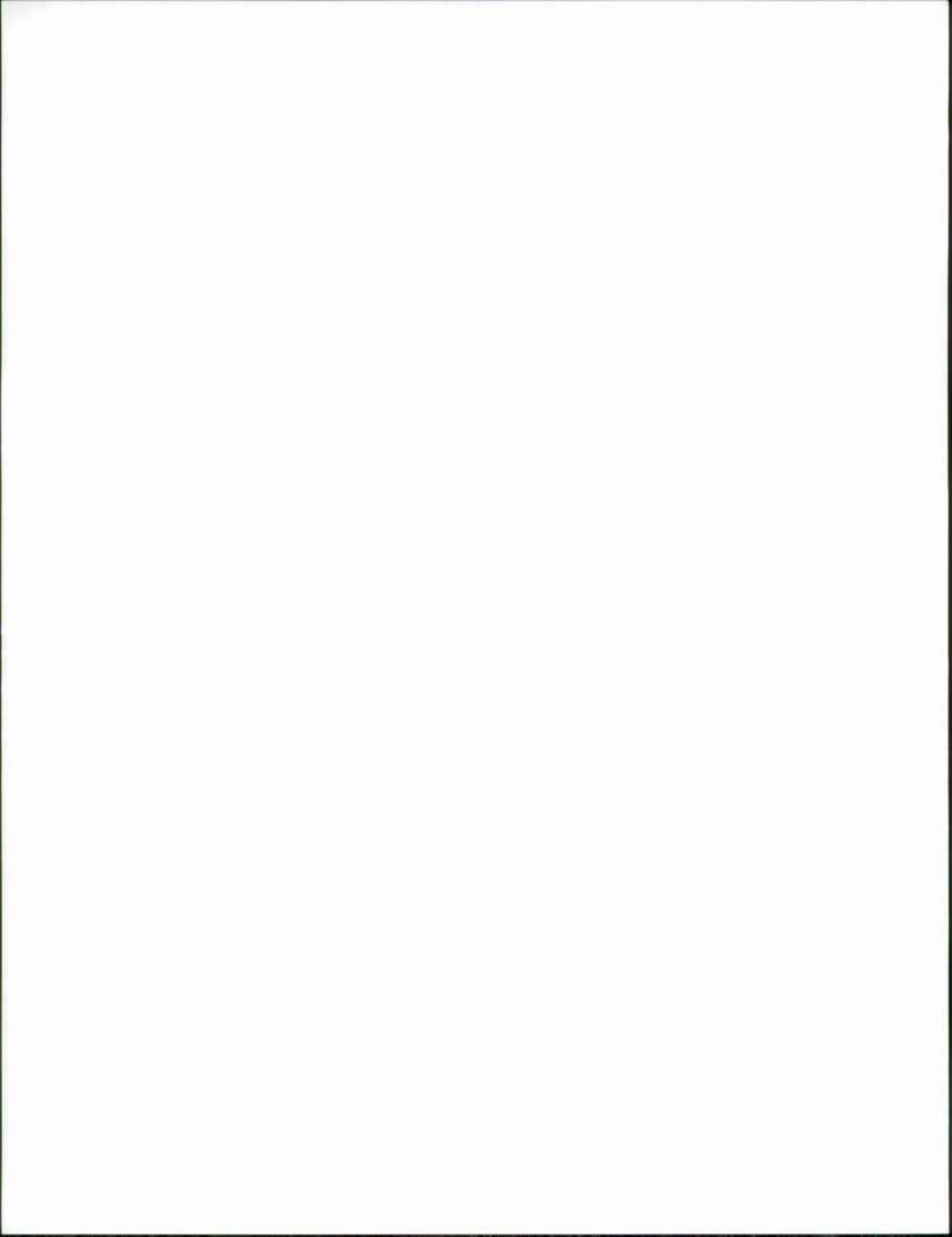
Elevated storage and lockers 3





Elevated storage and lockers 4



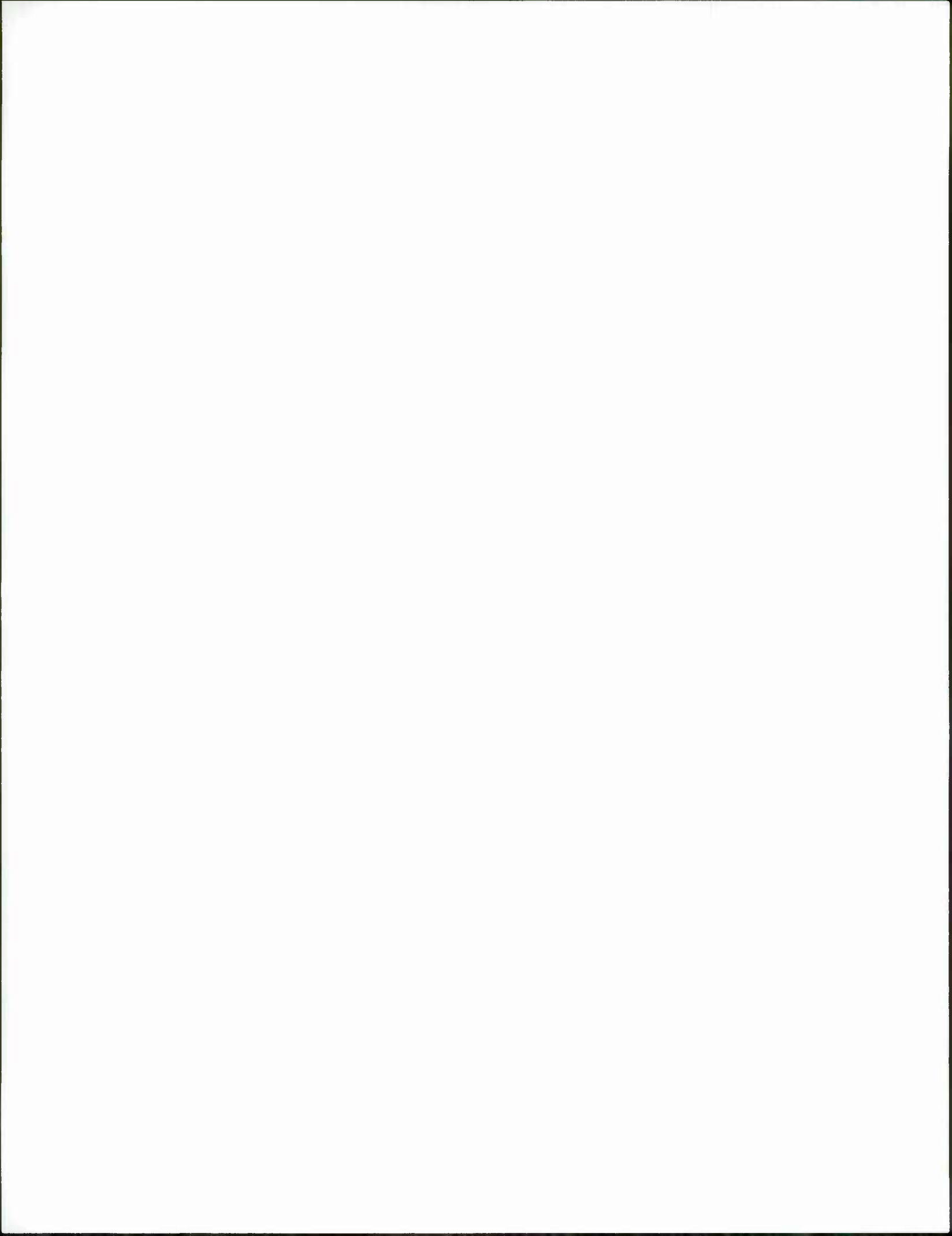




Elevated storage and lockers 5



Elevated storage and lockers 6



- g. the variance request is not based upon conditions or circumstances which are the result of actions by the applicant, nor does the request arise from any condition relating to land or building use, either permitted or nonconforming, on any neighboring property.

APPLICANTS' RESPONSE:

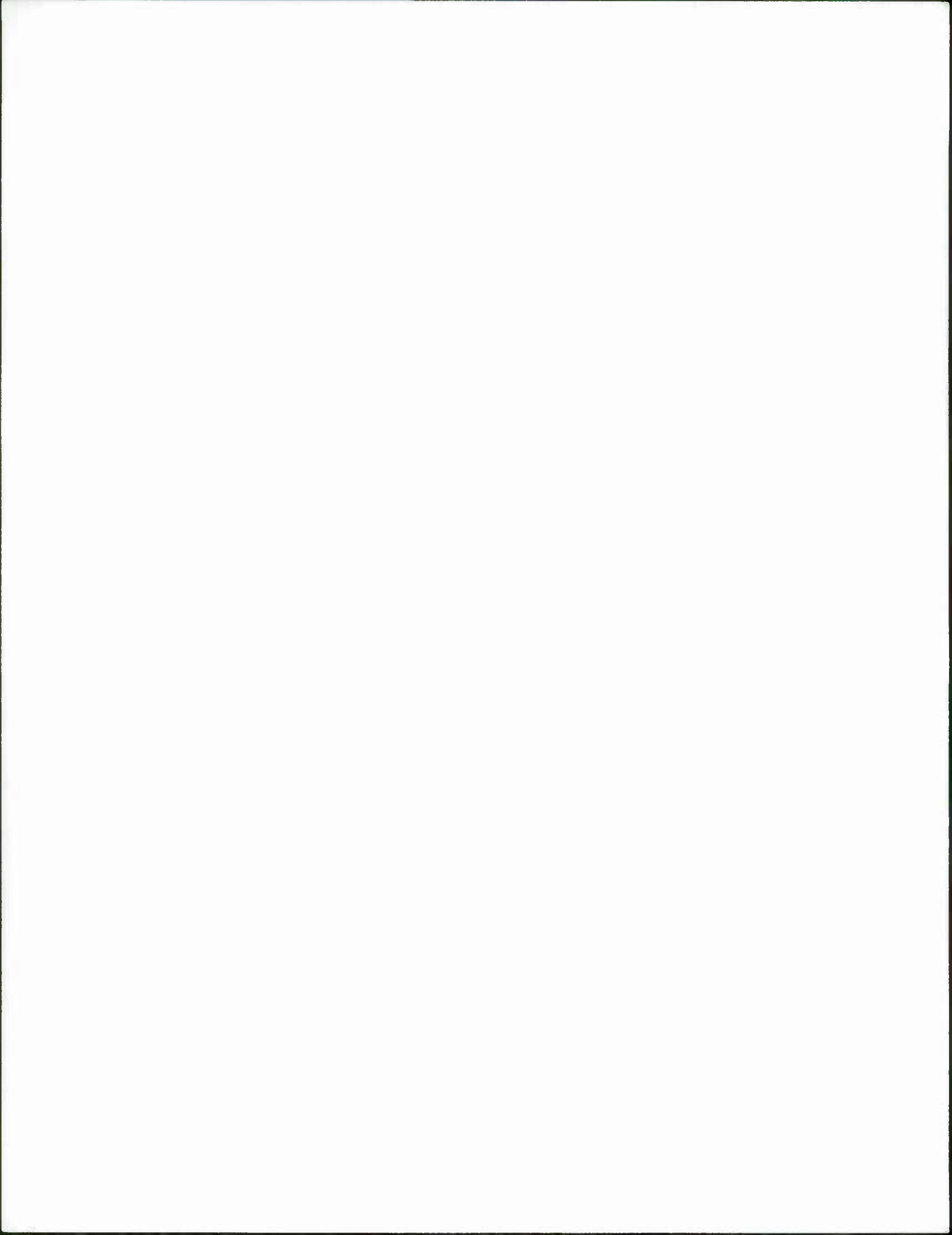
The Board may consider the fact that this request is after-the-fact. Applicants assert that the request is personal to their needs and the extreme topography and elevation of their narrow waterfront lot. Further, even if Applicants had not constructed the open board platform, they would still require a storage platform of similar for the equipment associated with their water-related activities and for access into the water. As the Board indicated in Celentano 07-3395 and other after-the-fact cases, the Board's actions can bring an after-the-fact structure into compliance. The Board further noted that special circumstances, such as property on public water and sewer connections or having a denitrification system and stormwater management features are pretty important items of mitigation to the Board. The Board and CAC also state that wood minimizes impact and enhances water quality benefits because there are infiltration benefits and minimal disturbances to the buffer. Applicants have an MDE-approved de-nitrification system and their rooftop runoff is underground and all stormwater has been engineered away from the Bay.

The Board found in Littleton 04-3081 that the construction of a boat equipment shed was after the fact and a result of actions by the Applicant, that the request arose from topographical conditions relating to land and for building use for water-dependent activities. Applicants claim the same situation exists for them.

There was no clearing or grading out to attach the platform to the permitted pilings. The revetment contractor graded for access and to install the revetment, French drain. He installed the pilings. Isabel removed the land/cliff. The pilings are permitted.

Post-Isabel, we did no re-grading as was done on neighboring properties. We had the opportunity, as other neighbors, but did not believe it would be effective because the fill dirt washes out into the Bay because of overtopping waves.

Our revetment is now undersized by at least 4 feet from pre-Isabel standards and our contractor did not install the complete splash wall we requested. He used the funds to cover the cost of the French drain because we would not pay for the French drain. The elevated platform protects the cliff base and our personal property and accessories for water-dependent activities.

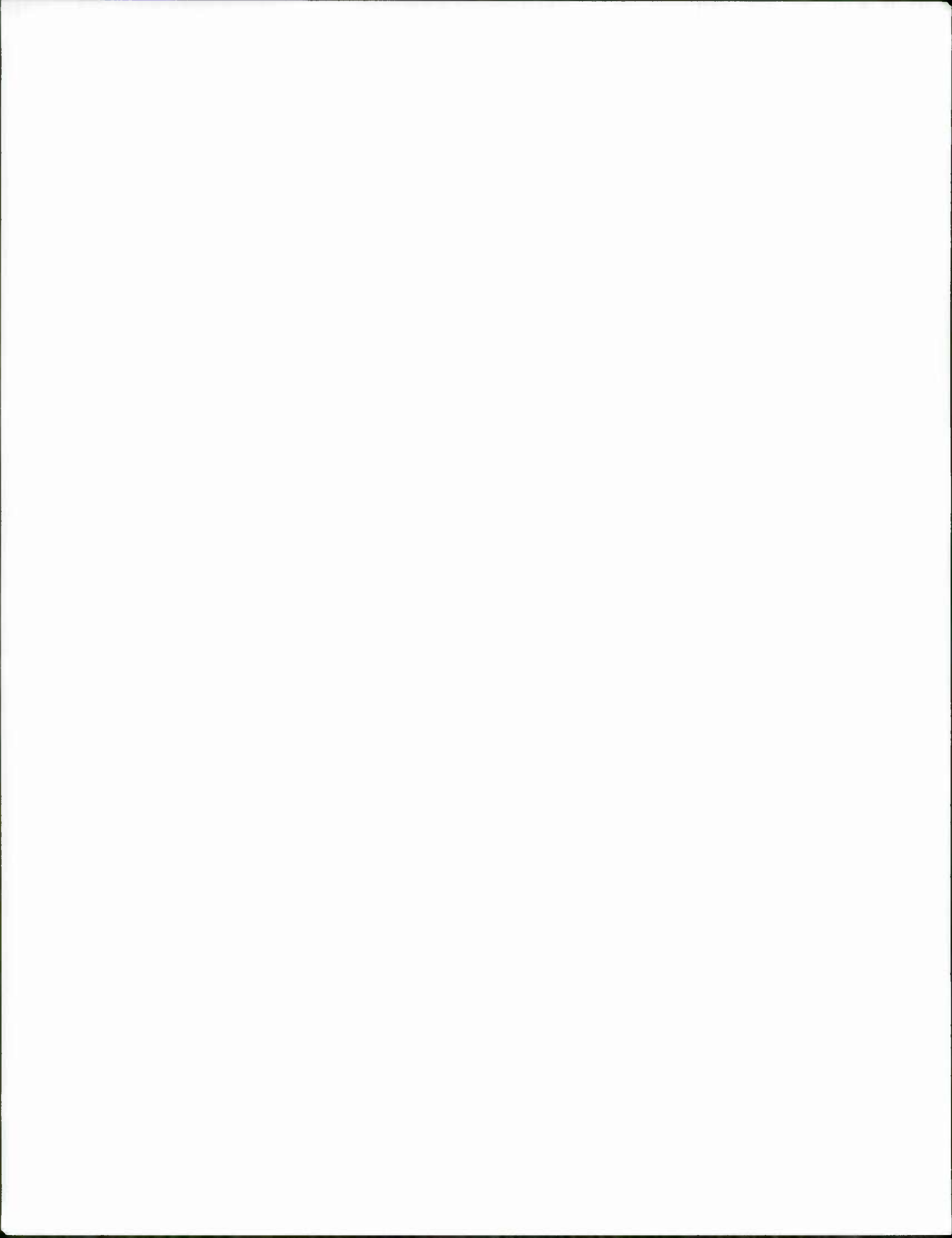


- h. the granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the County's Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law.

APPLICANTS' RESPONSE:

In Littleton (04-3081), the Board held that "the granting of the variance will not adversely affect water quality or adversely impact fish, wildlife or plant habitat within the County's Critical Area, and the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law as the shed is small and no clearing was required for its placement in the buffer." Our storage platform is open board, elevated and no clearing or grading was required for its placement in the buffer.

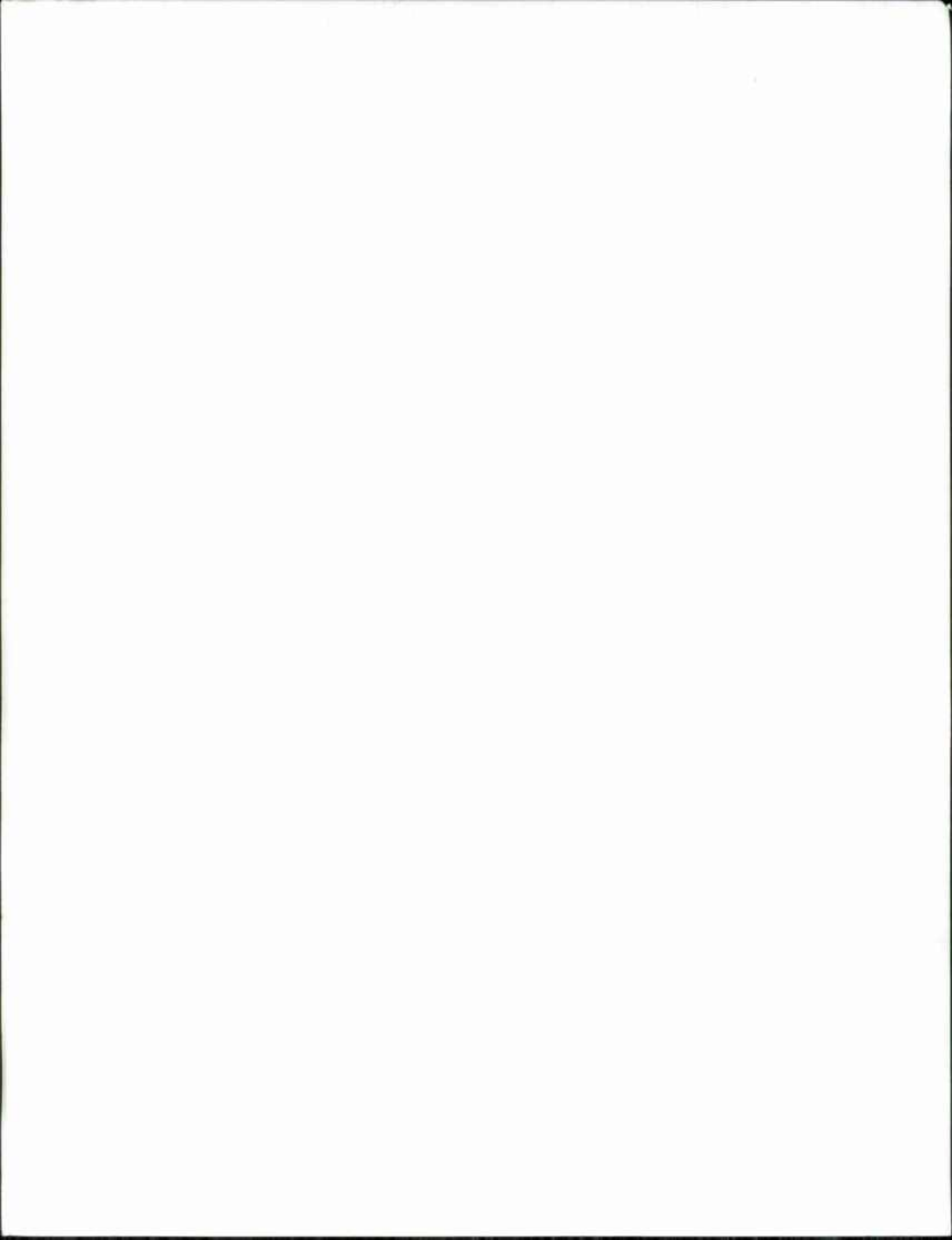
CAC states that the existence of the deck prevents establishment of a vegetated buffer in that area and that such vegetation would provide benefits . . . County law recognizes that a "naturally vegetated full functioning . . ." Applicants state that the existence of the elevated platform does not prevent the establishment of a naturally vegetated fully functioning buffer. Seaside forces prevent that as illustrated in the pictures. In addition, Applicants require additional revetment and splash wall to protect their property. This request is for storage of equipment related to water-dependent activities, even though the County and CAC refer to it as a deck.

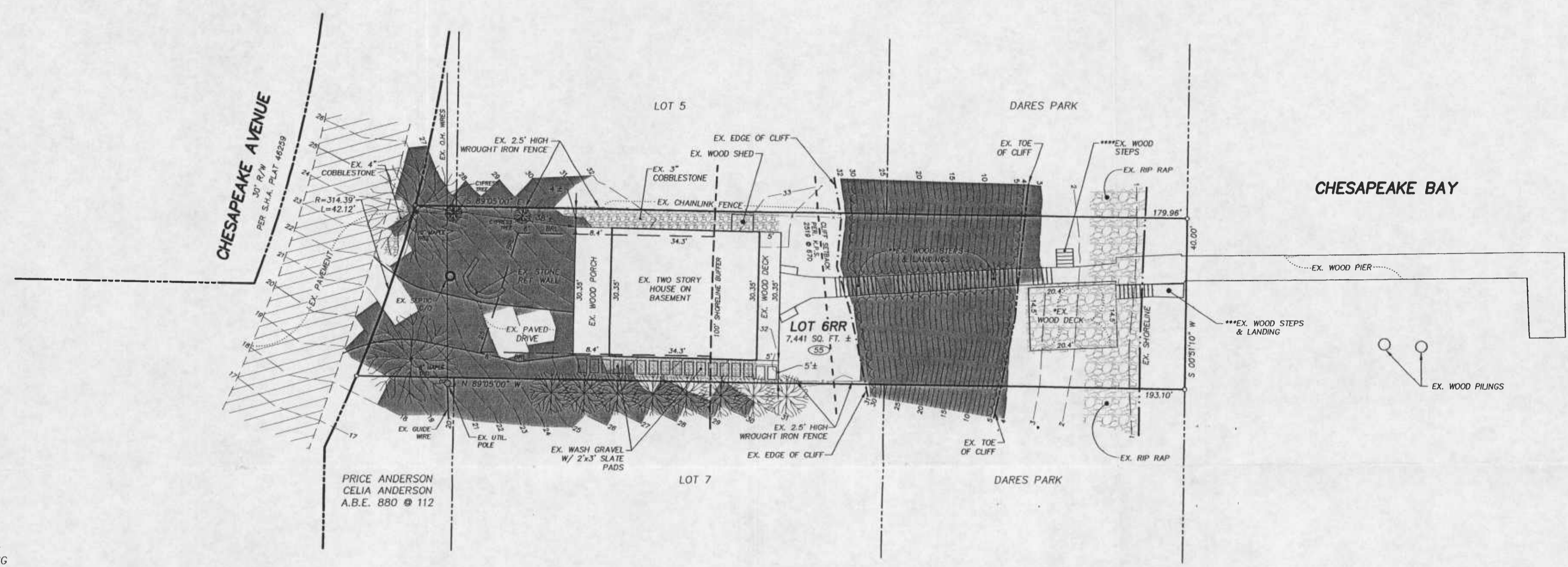


Additional comments:

The Board has stated that 'to meet a variance, the Board wants something in return – that it looks for a situation clearly or less than the current situation. It wants mitigation – an environmental impact less than the current situation" because it has concerns about the buffer and its hardening.

Applicants opine that this area of their property is not a functional buffer and that the French drain prevents contaminates and runoff from entering the Bay and the riprap stabilizes the soil and prevents it from washing back out into the Bay and these items substantially improve the buffer, along with the MDE-approved denitrification system and underground drainage away from the Bay. The Applicants have added understory trees, shrubs and deep rooted grasses to enhance the buffer. The Applicants are more than willing to work with staff to improve the vegetation on the cliff by removing invasive, non-native species and replanting with deep-rooted native species. Applicants will continue to enhance and protect the natural buffer because it protects their cliff and their property and will work with staff to biologically engineer the base of their cliff by planting, on the secondary slope, trees and shrubs that have deep tap roots, perhaps even install gabions at the toe of the cliff with willow cuttings intertwined to provide future protection and additional habitat. We would plant sea grasses and additional vegetation to further enhance the buffer.





INFORMATION STATEMENT

30.35' X 34.3' TWO STORY HOUSE ON BASEMENT
 8.4' X 30.35' PORCH
 5' X 30.35' DECK
 6' X 104.7' WOOD PIER
 **14.5' X 20.4' WOOD DECK
 ***4' X 71.1' WOOD STEPS & LANDING
 ****3' X 15.8' WOOD STEPS & LANDING
 *****3.9' X 4.5' WOOD STEPS

LOT AREA: 7,441 SQ. FT. ±
 LOT AREA ABOVE MHW: 7,027 SQ. FT. ±
 EX. IMPERVIOUS AREA: 1,920 SQ. FT. ± (27.3%)
 FORESTED AREA: 1,618 SQ. FT. ± (23.0%)

OWNER: DANNY & CATHY MAYO
 DEED: K.P.S. 1586 @ 381 & K.P.S. 2198 @ 107
 TAX I.D.#: 02-028077

SOILS MAP #22
 SOIL TYPE: ShD2 SASSAFRAS FINE SANDY LOAM,
 10 TO 15 PERCENT SLOPES,
 MODERATELY ERODED
 Es ESCARPMENTS

THIS LOT IS IN THE CRITICAL AREA.

THIS PLAT WAS PREPARED WITHOUT BENEFIT OF A TITLE REPORT WHICH MAY REVEAL ADDITIONAL CONVEYANCES, EASEMENTS, RIGHTS-OF-WAY OR BUILDING RESTRICTION LINES NOT SHOWN.

THIS PLAT IS NOT A BOUNDARY SURVEY AND DOES NOT MEET THE MINIMUM STANDARDS FOR A BOUNDARY SURVEY AS DEFINED BY COMAR REGULATIONS.

THIS PLAT IS A "SPECIAL PURPOSE SURVEY" PER SECTION 09.13.06.10 OF COMAR REGULATIONS.

THIS PLAT IS NOT TO BE RELIED UPON FOR THE ESTABLISHMENT OR LOCATION OF FENCES, GARAGES, BUILDINGS, OR OTHER EXISTING OR FUTURE IMPROVEMENTS.

THE TOPOGRAPHY SHOWN HEREON IS BASED ON A FIELD RUN TOPOGRAPHIC SURVEY BY: C.O.A., INC. IN JULY 2007. CONTOUR INTERVAL: 1' DATUM: ASSUMED

I HEREBY CERTIFY, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT THE IMPROVEMENTS INDICATED HEREON ARE LOCATED AS SHOWN. THIS IS NOT A PROPERTY LINE SURVEY.

Mary G. Pulliam L.S. 21270 1-16-08
 REGISTERED SURVEYOR DATE

LEGEND

- CLIFF SETBACK PER K.P.S. 2519 @ 670
- 100' SHORELINE BUFFER
- EX. SHORELINE
- EX. EDGE OF CLIFF
- EX. TOE OF CLIFF
- EXISTING TREELINE
- ASSIGNED HOUSE NUMBER
- 15% OR GREATER SLOPES

AS-BUILT LOCATION OF EXISTING IMPROVEMENTS & TOPOGRAPHY
 LOT 6RR ~ BLOCK B ~ PLAT 3
DARES BEACH

SECOND DISTRICT, CALVERT COUNTY, MARYLAND
 FOR: DANNY & CATHY MAYO
 SUBDIVISION PLAT RECORDED IN PLAT BOOK K.P.S. 2519 @ 669



COA COLLINSON, OLIFF & ASSOCIATES, INC.
 Surveyors • Engineers
 Land Planners
 110 MAIN STREET
 PRINCE FREDERICK, MARYLAND 20678
 410-535-3101 • 301-855-1599 • FAX 410-535-3103

DATE	1-16-08	SCALE	1" = 20'
JOB NO.	1-9454	DRAWN BY	NJM
FLDR REF.		APPROVED	
DATE		REVISION	
APR 25 2008			
CRITICAL AREA COMMISSION Chesapeake & Atlantic Coastal Bays			