



CITY of CALABASAS

October 23, 2020

Bruce Westin [Manager/Responsible Person]
Goose Trust [Member/Responsible Person]
Topanga Land LLC [Property Owner/Responsible Person]
1612 Hanover Court
Fort Collins, CO 80526

**NOTICE OF NUISANCE DETERMINATIONS
AND REQUEST TO ABATE**

*[Calabasas Lot (APN 2072-031-011)]
[Code Enforcement Case CE1902011]*

Dear Responsible Persons:

This notice is issued to you pursuant to Calabasas Municipal Code ("CMC"), Section 8.20.060 C. It is based on a consensual City inspection on October 4, 2019 by Senior Building Inspector Ruben Flores, Senior Planner Michael Klein, and Code Enforcement Officer Armando Saavedra,¹ as well as subsequent offsite inspections.

You continue to maintain installations and development at the above-referenced lot that constitute violations of the CMC and nuisance conditions. They are as follows:

Section 1: Building and Safety Division Determinations:

1.1 Mr. Westin sent an email to Senior Building Inspector Ruben Flores on August 21, 2019 that states in part as follows:

"...I would like to finished building the patio (approx 10ft by 10ft) on the above lot and also build a stairway to access the property (i.e a walkway)..."

¹ Officer Armando Saavedra took photos and measurements during that inspection, which are included with this notice. He also took photos after that date that are included in this notice.

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Re: Notice of Nuisance Determinations and Request to Abate
Calabasas Lot (APN 2072-031-011)
Code Enforcement Case CE1902011

October 23, 2020

Page 2

1.2 Deck (i.e., Patio). The deck is a structure² (see Appendix 1 for photos). The structure and its concrete footings require a building permit, which has not been obtained from the Building and Safety Division.

1.3 The Calabasas Building Code applies to this lot. The Building Code does not exempt decks of any height above grade from the requirement of a building permit. The October 4, 2019 City inspection revealed the deck structure has the following dimensions: length is 136" (11' – 4") and width is 113 ½" (9' – 5 ½"). Its distance from grade at its lowest point is 11". A portion of the deck is 44 inches above grade.³

1.4 The deck is not eligible for a building permit because it violates the Development Code, as discussed in Section 2 of this notice.

1.5 The responsible persons are subject to the following provisions of the CMC because of the unpermitted deck structure:

Section 15.04.840:

A. A violation of any of the provisions of this chapter or the codes adopted shall constitute a nuisance and may be abated by the city ... in any other manner provided by law for the abatement of such nuisance.

Section 8.20.040:

B. Additional Unlawful Nuisances. ... it is unlawful for any responsible person to maintain, or to allow another to maintain, property in the city so that any of the following conditions exist thereon:

² Mr. Westin initially informed the City he was building a shed. He thereafter reported that he would like to use that structure as a deck. The Calabasas Building Code (adopting the 2016 California Building Code, and then the 2019 California Building Code) requires a permit for a deck structure pursuant to Section 105.1. That section states in part as follows: "An owner ...who intends to construct ... a ... structure ... shall first make application to the building official and obtain the required permit."

³ If the Calabasas Residential Code were to apply to this lot (which is not the case), the deck would not be exempt from the requirement of a building permit because it is more than 30 inches above grade at any point.

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Re: Notice of Nuisance Determinations and Request to Abate
Calabasas Lot (APN 2072-031-011)
Code Enforcement Case CE1902011
October 23, 2020
Page 3

12. Maintaining any building, structure or property which has been constructed or is maintained in violation of any specific requirements or prohibition applicable to the building or structure or property contained in the building and construction or zoning regulations of this city ...

Section 2: Planning Division Determinations:

Deck:

2.1 The lot is located within the Rural Community ("RC") Zone. It is also located within the OT (Old Topanga) and SC (Scenic Corridor) Overlay Zones.

2.2 The lot has not been improved with an approved and permitted single-family residence, according to Planning Division records and a site inspection.

2.3 The deck and footings (see Appendix 1 for photos) constitute development. CMC Section 17.90.020 defines "development" in part as "any ... construction activity or alteration of the land ..." Grading in the form of excavations to install steps or for other purposes is also a form of development.

2.4 Decks in single-family residential zones (including the RC Zone) and their uses are customarily a part of, and clearly incidental and secondary to, a residence (which elements are part of the definition in Section 17.90.020 for "Accessory Uses and Structure, Residential"). CMC Section 17.11.010 A.2. also defines an "accessory use" in a consistent manner – "An accessory use ... means that the use is allowed as long as it is ancillary to another permitted use ..."

2.5 Use of a deck on this lot (whether for standing, sitting, lying or for any other purpose) is not a listed "permitted" use under Table 2-2 [Land Use Table] of Chapter 17.11 [Allowable Land Uses]. Use of the deck is therefore prohibited, when not accessory to a legally established single-family residence, pursuant to CMC Section 17.11.010 A.

2.6 Unenclosed decks and platforms are exempt from land use permit requirements (but not specific development standards in Chapter 17.12) if they meet criteria in CMC Section 17.02.020 B.1. The deck on this lot is not exempt from land use permit requirements because it requires a building permit according to the Building and Safety Division and a portion of the deck is over eighteen (18) inches above grade.

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Calabasas Lot (APN 2072-031-011)
Code Enforcement Case CE1902011

October 23, 2020

Page 4

2.7 The deck does not comply with CMC Section 17.12.165 A.1, which states as follows: "Accessory uses and structures shall be incidental to and not alter the character of the site from that created by the principal use." The owner is also not in compliance with CMC Section 17.12.010, which states in part as follows: "B. Land uses covered by this chapter shall conform with the provisions applicable to the specific use, in addition to other applicable provisions of this development code."

2.8 The responsible persons are subject to the following provisions of the CMC with regard to the deck:

Section 17.01.040:

A. New Land Uses or Structures—Changes to Existing Land Uses or Structures. It is unlawful, and a violation of this development code, for any person to establish, construct, reconstruct, alter, maintain, or replace any use of land or structure, except in compliance with the requirements of this Code.

Section 17.80.020

A. Any structure or use which is established, operated, erected, moved, altered, enlarged or maintained, contrary to the provisions of this development code or any applicable condition of approval is hereby declared to be unlawful and a public nuisance. This subsection shall also apply, without limitation, to any improved or unimproved land that is altered, graded or maintained in violation of this development code.

Oak Tree Regulations:

2.9 CMC Section 17.90.020 of the Development Code (Title 17 of the CMC) includes the following definitions that are pertinent to oak trees:

"Alter/Alteration" means, with respect to an oak tree, any action that may cause damage, stress, injury, death or disfigurement of an oak tree or scrub oak, including removing, transplanting, detaching, cutting or pruning, poisoning, over-watering, or excavating or paving within the protected zone of the oak tree.

"Encroach/Encroachment," with respect to an oak tree means any intrusion of human activity into the protected zone of an oak

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Calabasas Lot (APN 2072-031-011)
Code Enforcement Case CE1902011

October 23, 2020

Page 5

tree, including ... excavating, paving... or the construction of structures or other improvements.

"Protected zone" means a defined area surrounding an oak tree within which work activities are strictly controlled ... The protected zone shall be no less than fifteen (15) feet from the trunk of an oak tree or fifty (50) feet from the trunk of a heritage oak ...

2.10 Planning Division records confirm no oak tree permits have been issued for the lot.

Westerly⁴ Portion of Deck Encroaching into Oak Tree's Protected Zone:

2.11 The westerly portion of the deck (see Appendix 2 for photos) is five (5) feet, four (4) inches from a live multi-trunk Coast Oak (also known as California Live Oak), which tree trunks are equal to or greater than four inches dbh (diameter at breast height).

2.12 The westerly portion of the deck is encroaching into the protected zone of that tree by over nine (9) feet. That encroachment may cause damage or stress to that tree.

2.13 The responsible persons violated CMC Section 17.32.010 C.1. by not obtaining an oak tree permit from the City before constructing the deck. That section states: "(a) No person shall alter any oak tree or scrub oak habitat on any real property within the city, unless a valid oak tree permit is issued pursuant to the provisions of this section and the guidelines."

Northerly⁵ Portion of Deck Encroaching into Oak Tree's Protected Zone:

2.14 The northerly portion of the deck (see Appendix 3 for photos) is six (6) feet, eight (8) inches from a live multi-trunk Coast Oak, which tree trunks are equal to or greater than four inches dbh (diameter at breast height).

2.15 The northerly portion of the deck is encroaching into the protected zone of that tree by over seven (7) feet. That encroachment may cause damage or stress to that tree.

⁴ This is an approximation.

⁵ This is an approximation.

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Re: Notice of Nuisance Determinations and Request to Abate
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Code Enforcement Case CE1902011

October 23, 2020

Page 6

2.16 The responsible persons violated CMC Section 17.32.010 C.1. (a) by not obtaining an oak tree permit from the City before constructing the deck.

Stairs Encroaching into Oak Tree's Protected Zone:

2.17 Several stairs (risers and treads) that Mr. Westin confirmed he installed during the October 4, 2019 inspection (see also Subsection 1.1 and Appendix 4 for a photo) are within five (5) feet of a live multi-trunk Coast Oak, which tree trunks are equal to or greater than four inches dbh (diameter at breast height).

2.18 The stairs are encroaching into the protected zone of that tree by ten (10) or more feet. That encroachment may cause damage or stress to that tree.

2.19 The responsible persons violated CMC Section 17.32.010 C.1. (a) by not obtaining an oak tree permit from the City before installing the encroaching stairs. If additional stairs encroach into the protected zones of other Live Oak trees, they also violate Section 17.32.010 C.1. (a).

Nuisance Due to Violations of Oak Regulations:

2.20 The responsible persons are in violation of CMC Section 8.20.040 by reason of not having obtained an oak tree permit for the encroachments discussed in this section. Section 8.20.040 states in part as follows:

B. Additional Unlawful Nuisances. Except as may be authorized by this Code, it is unlawful for any responsible person to maintain, or to allow another to maintain, property in the city so that any of the following conditions exist thereon:

12. Maintaining any ... property ... in violation of any specific requirements or prohibition applicable to the ... property contained in the ... zoning regulations of this city ...

Lights on Live Oak Tree:

2.21 Officer Saavedra reports taking a photo of lights on a tree on the lot on March 3, 2020 (see Appendix 5), which is a multi-trunk Live Oak with trunks equal to or are greater than four inches dbh (diameter at breast height). The lights may cause damage or stress to that tree.

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Calabasas Lot (APN 2072-031-011)
Code Enforcement Case CE1902011

October 23, 2020

Page 7

2.22 The responsible persons violated CMC Section 17.32.010 C.1. (a) by not obtaining an oak tree permit from the City before installing the lights. The lights constitute a nuisance pursuant to CMC Section 8.20.040 B.12. If other lights are present on additional Live Oak trees with trunks equal to or are greater than four inches dbh (diameter at breast height), those lights also violate Section 17.32.010 C.1. (a).

2.23 The responsible persons are, pursuant to CMC Section 17.32.010 J.2., required to obtain a retroactive oak tree permit from the city for all oak tree encroachments that are on the lot and comply with any mitigation measures as conditions of that permit.

Installation of Solar Panels and Supporting Post:

2.24 Officer Saavedra reports taking photos of a post with two solar panels on the lot on March 3, 2020 and July 29, 2020 (see Appendix 6).

2.25 The installation constitutes "development" pursuant to CMC Section 17.90.020.

2.26 A zoning clearance approval is required for the post and solar panels pursuant to CMC Section 17.62.110 (A). They are not eligible for that approval because the lot has not been improved with an approved primary structure (i.e., one that accommodates the primary use of the lot).

PLEASE UNDERTAKE THE FOLLOWING CORRECTIVE ACTIONS TO ABATE THE NUISANCE CONDITIONS DISCUSSED IN THIS REPORT:

A. Tender an application to the Planning Division **by November 30, 2020** for an oak tree permit to authorize: (i) demolition of the deck and footings on the lot, as well as removal of all demolition debris; and, (ii) removal of all stair treads on the lot that are encroaching into protected zones of all Live Oak Trees. **That application must also include your proposal to retain or remove lights on all Live Oak Trees on the lot.**

(i) A proper submittal must include a fully completed application (see attached form), a dated/signed report⁶ from an ISA Certified Arborist

⁶ The report must assess the current condition and health of each tree, and discuss procedures to follow for undertaking the corrective actions, as well as any mitigation measures that must be implemented (and their duration) after completion of the actions in order to promote the health of each tree. An incomplete or deficient report would constitute a missed deadline.

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Calabasas Lot (APN 2072-031-011)
Code Enforcement Case CE1902011

October 23, 2020

Page 8

for each tree whose protected zone is encroached into and a nonrefundable fee of \$3,227.00.

(ii) Failure to tender a proper submittal due to incompleteness, the omission of a required document, or another deficiency, **would constitute a missed deadline.**

(iii) The Planning Division and/or its consultant, may after considering the report, request additional information and/or documents from you, which you must provide **within ten (10) days of each request.** Failure to act in a timely manner, or to not comply with a request, would constitute a missed deadline.

B. Obtain a permit from the Building and Safety Division **within five (5) days** of the issuance of an oak tree permit to remove the concrete footings and demolish the deck, and lawfully dispose of all demolition debris. Failure to do so would constitute a missed deadline.

C. Complete the deck demolition project and obtain a final inspection approval from the Building and Safety Division **within twenty (20) days** of issuance of a demolition permit. Complete all oak-tree related remediation actions that may be required by the oak tree permit in that period as well. Failure to do so would constitute a missed deadline.

(i) Please schedule an inspection using the following protocols:

(a) Email the request to tempbdpermit@cityofcalabasas.com, or by telephone and leaving a voicemail message at (818) 224-1738;

(b) Reference Code Enforcement Case Number CE1902011, and

(c) Include your name and telephone number so the inspector can contact you to confirm your inspection request.

D. Remove all stair treads on the lot that are encroaching into the protected zones of **all Live Oak trees** on the lot and pass a City inspection **within twenty (20) days** of the issuance of an oak tree permit. Complete all oak-tree related remediation actions that may be required by the oak tree permit in that period as well.

(i) Please contact Senior Planner Michael Klein by email (mklein@cityofcalabasas.com) or by phone [(818) 224-1710] to schedule an inspection appointment.

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Calabasas Lot (APN 2072-031-011)
Code Enforcement Case CE1902011

October 23, 2020

Page 9

E. Complete all actions that are authorized by an oak tree permit with regard to lights on **all Live Oak Trees** on the lot and pass a City inspection **within twenty (20) days** of the issuance of an oak tree permit.

(i) Contact Senior Planner Michael Klein to schedule an inspection appointment.

F. Remove **all posts and solar panels** from the lot and pass a City inspection **by November 4, 2020**.

(i) Contact Senior Planner Michael Klein to schedule an inspection appointment.

You face the following consequences if you do not meet the above-stated deadlines:

AA. The Community Development Director would, in accordance with Section 8.20.070 of the CMC, conduct an administrative review hearing concerning the conditions discussed herein and whether they constitute a nuisance. Written notice of the date/time/place of the hearing at City Hall would be sent to you. Your failure to attend or be represented at the hearing shall constitute an abandonment of an appeal and your failure to exhaust administrative remedies.

BB. After considering all testimony and evidence submitted at the administrative review hearing, the Director would render a written decision to affirm, modify, or dismiss the Request to Abate. The decision would be served upon you. If the Request to Abate is affirmed and the Director declares the lot to be a public nuisance, she may issue an Order to Abate Nuisance Conditions to you. The decision would include information to file a proper and timely appeal, should you wish to contest the decision and/or an Order to Abate. If you file a timely appeal, you would be given advance written notice of a hearing date, time and place before the City Manager.

CC. If there is an appeal hearing, the City Manager would, at its conclusion: (i) terminate the proceeding and dismiss the matter; or, (ii) confirm the decision of Community Development Director, or, (ii) modify the Director's decision based upon evidence. If the City Manager does not dismiss the matter, he shall declare the lot a public nuisance and issue an Order to Abate Nuisance Conditions to you.

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Calabasas Lot (APN 2072-031-011)
Code Enforcement Case CE1902011

October 23, 2020
Page 10

DD. If an Order to Abate Nuisance Conditions is issued and you disregard it, the City may cause the nuisance conditions on the lot to be abated in accordance with the CMC and state laws.

To learn more about regulations in Chapter 8.20 [Public Nuisance and Abatement] of the CMC that pertain to Sections AA, BB, CC, and DD above, you may view Chapter 8.20 online by using the following link: https://library.municode.com/ca/city_of_calabasas/codes/code_of_ordinances.

Copies of additional City photos of the lot that were taken on October 4, 2019 are attached to this notice as Appendix 7.

Building and Safety Division:

By: 
Ruben Flores, Senior Building Inspector

Dated: 10/23/20

Planning Division:

By: 
Michael Klein, Senior Planner, AICP

Dated: 10-23-2020

Cc: Bruce Westin [Manager/Responsible Person]
Goose Trust [Member/Responsible Person]
Topanga Land LLC [Property Owner/Responsible Person]
5757 Wayne Newton Blvd., # 11721
Las Vegas, NV 89111

SERVED BY PERSONAL DELIVERY OR BY FIRST CLASS MAIL AND POSTING.
COPY SERVED BY EMAIL: brucewestin01@gmail.com

APPENDIX 1





July 29, 2020

APPENDIX 2



APPENDIX 3



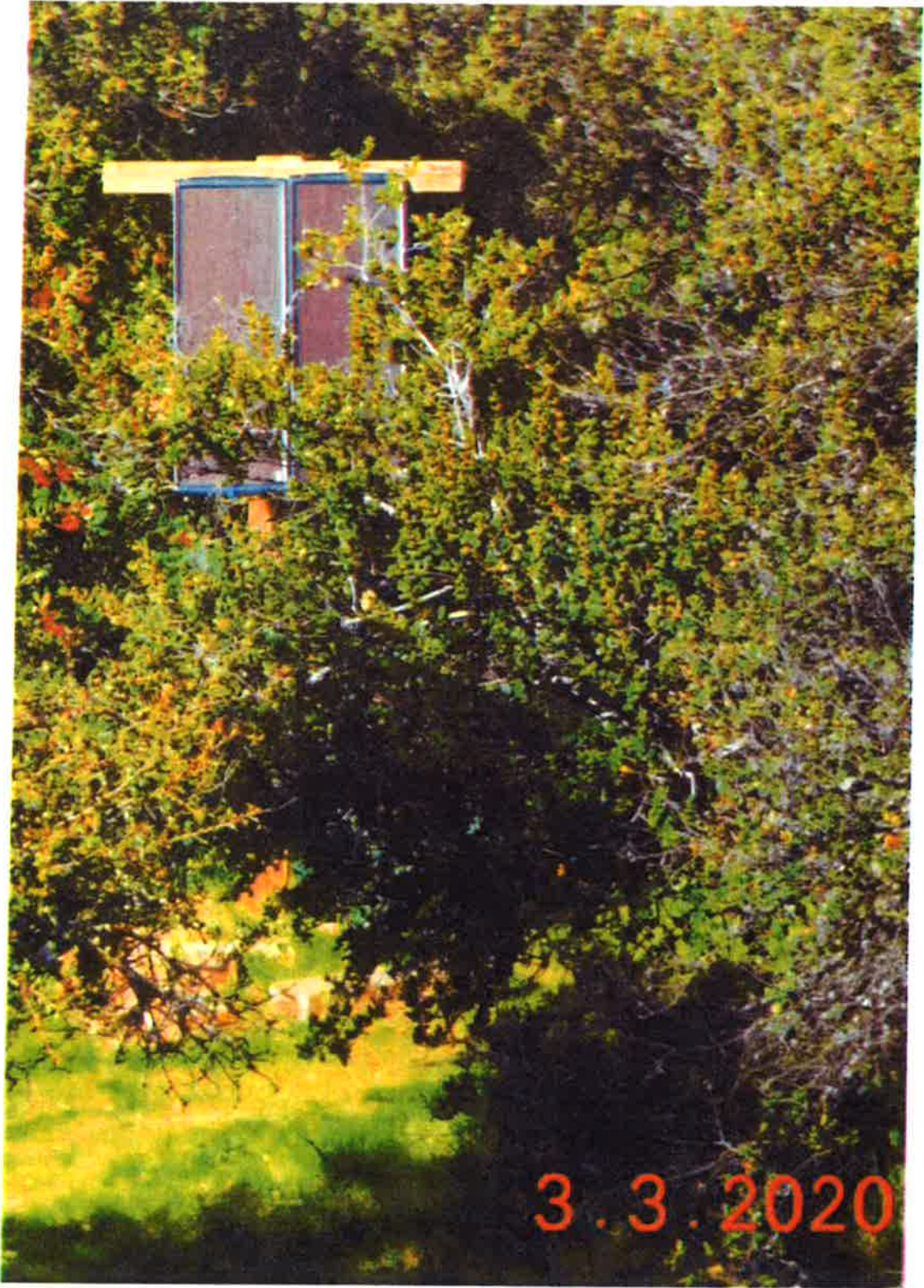
APPENDIX 4



APPENDIX 5



APPENDIX 6

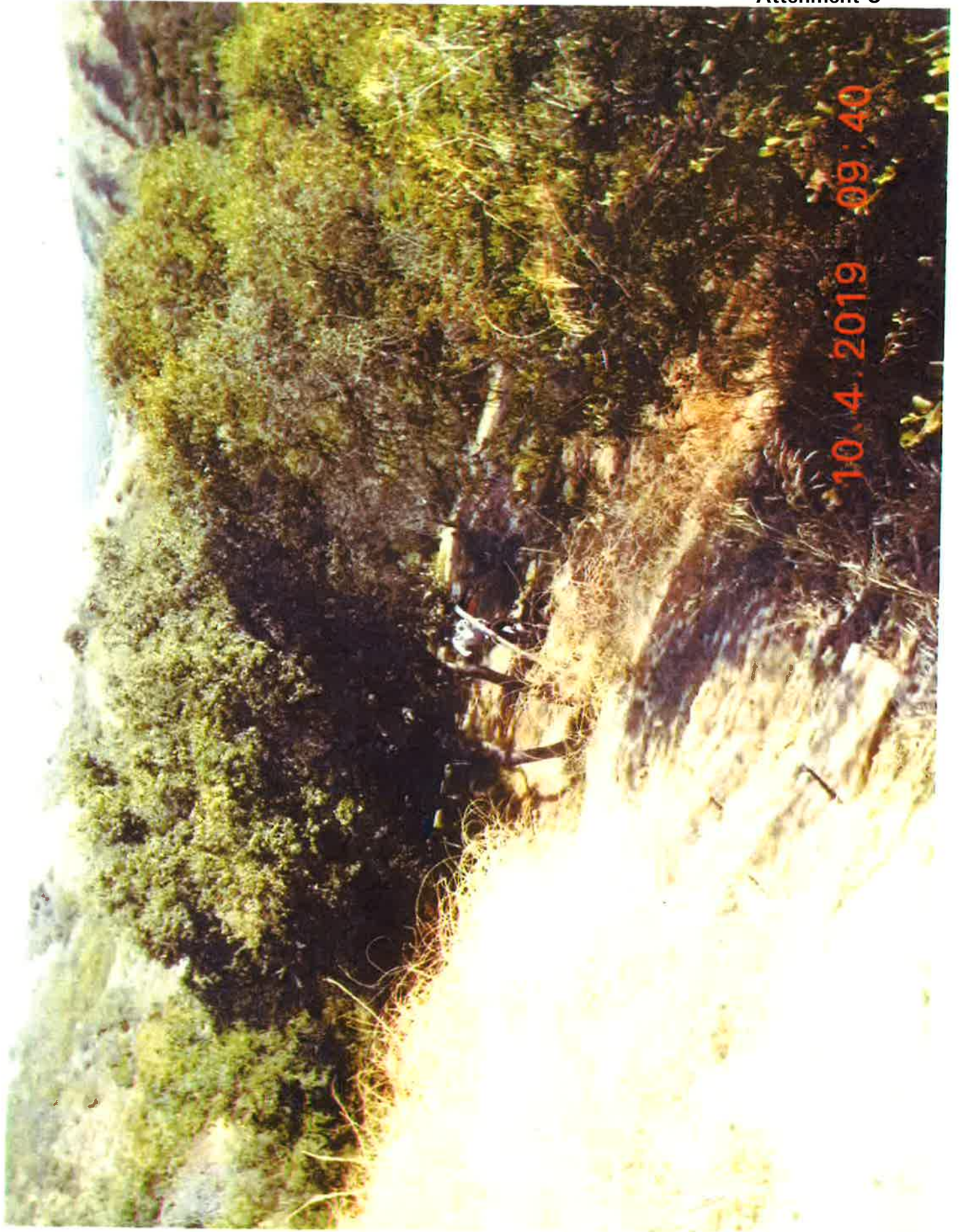




APPENDIX 7

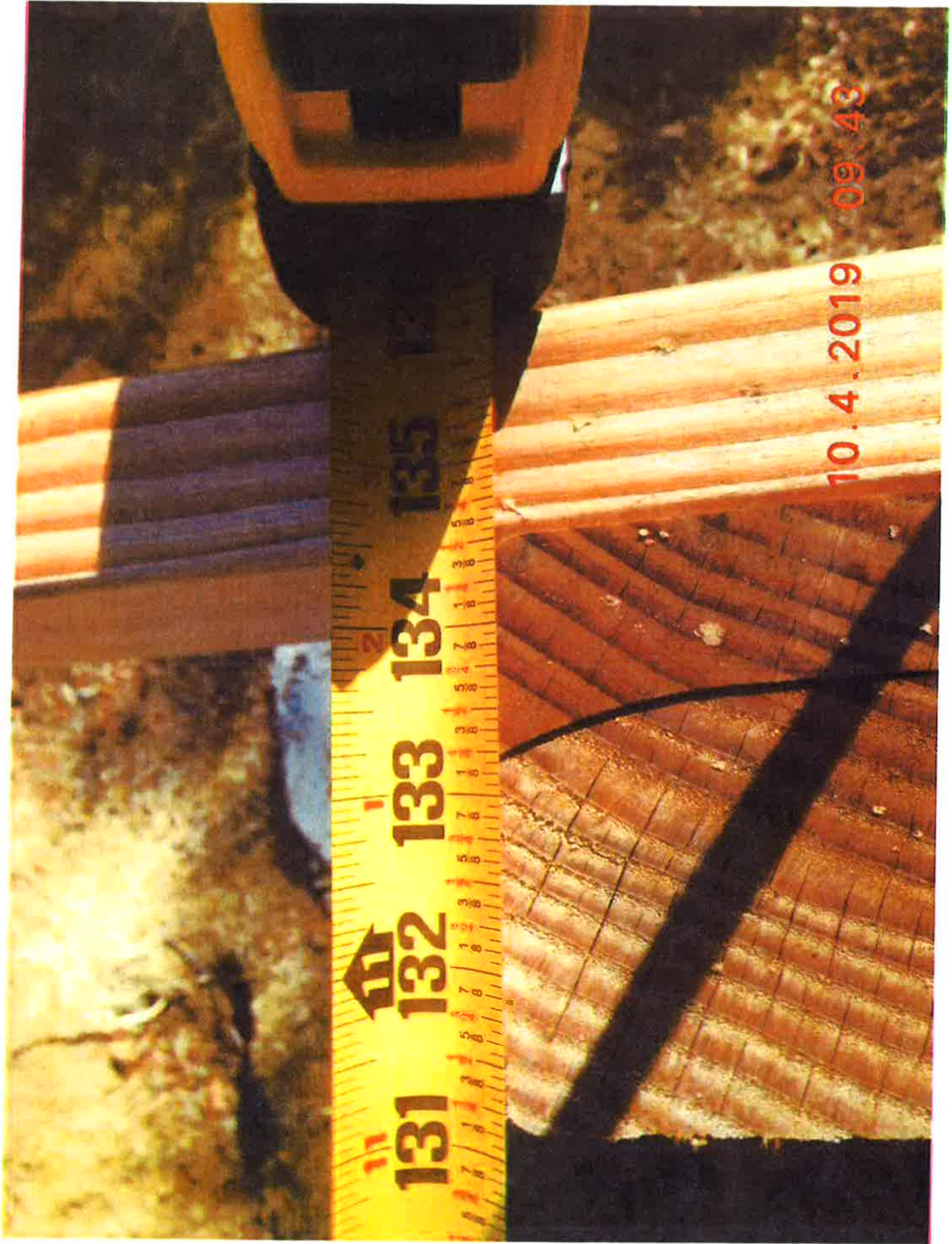








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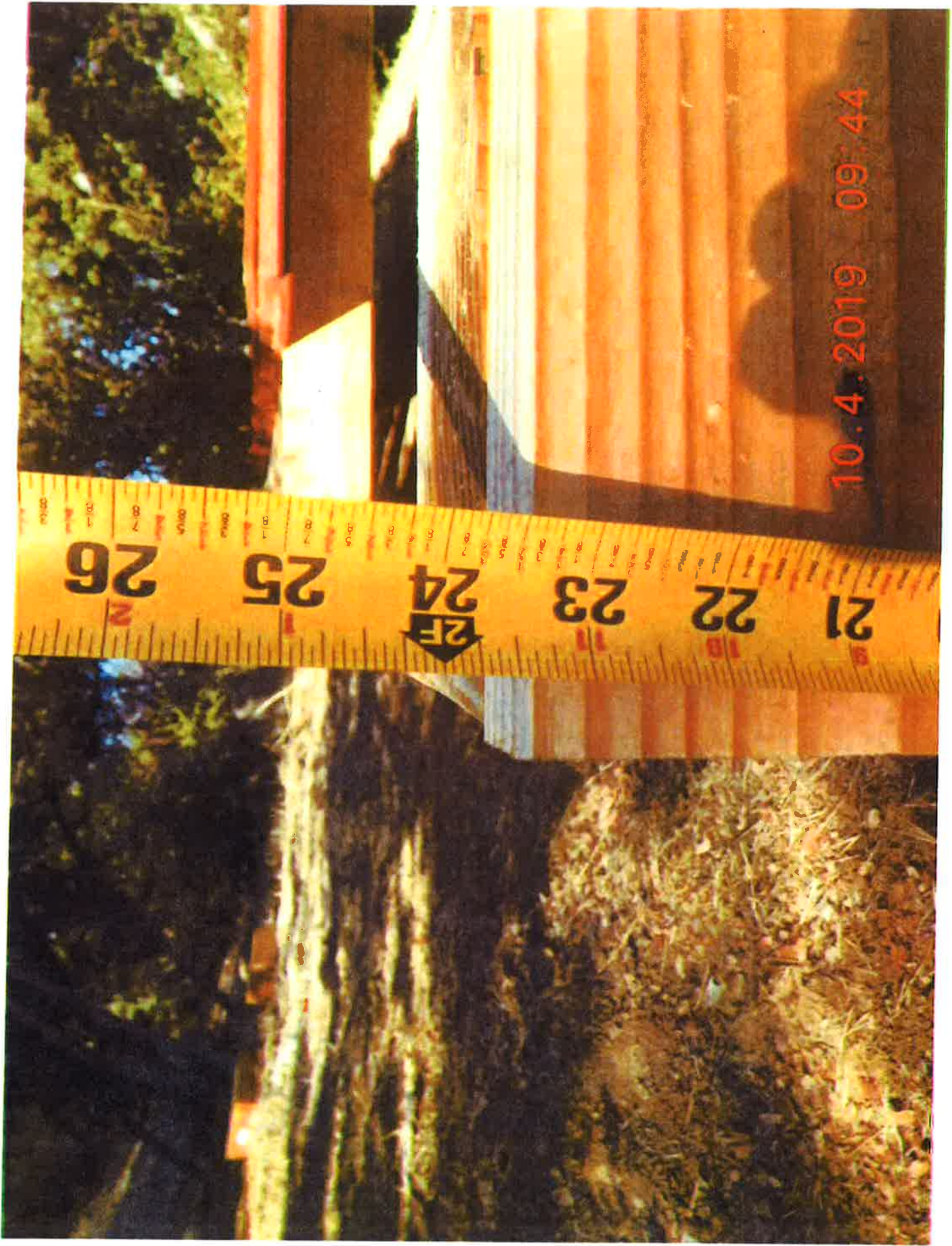




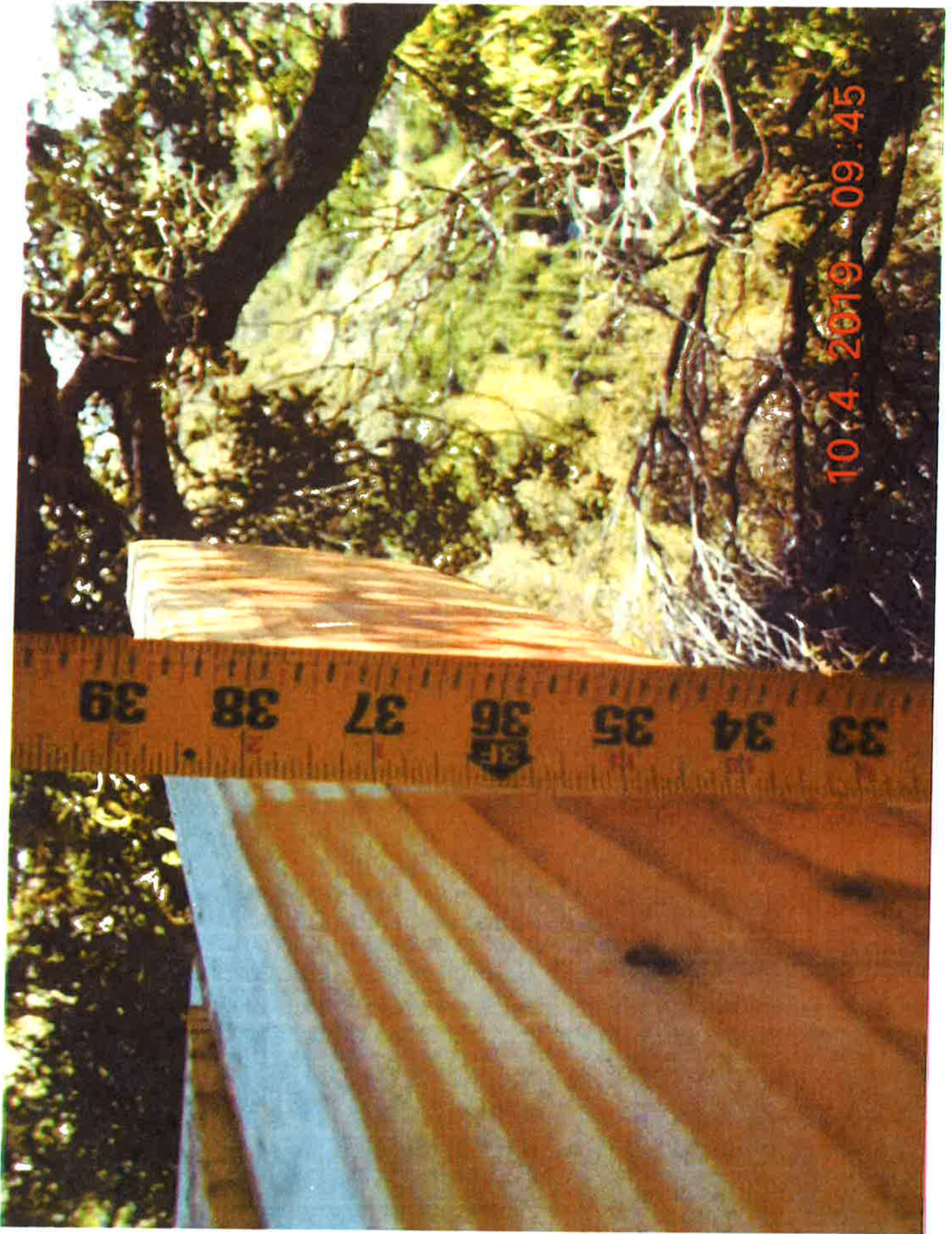


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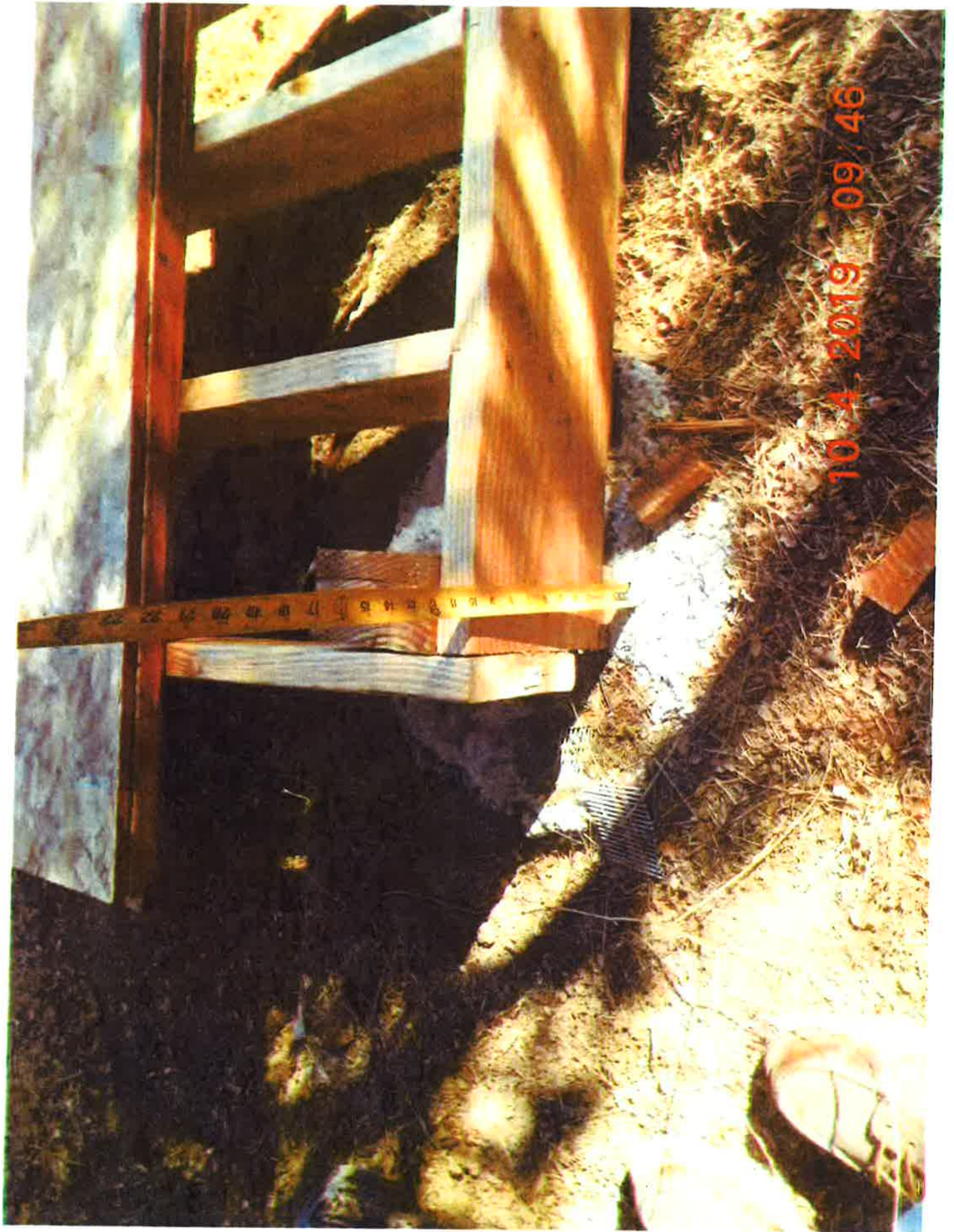


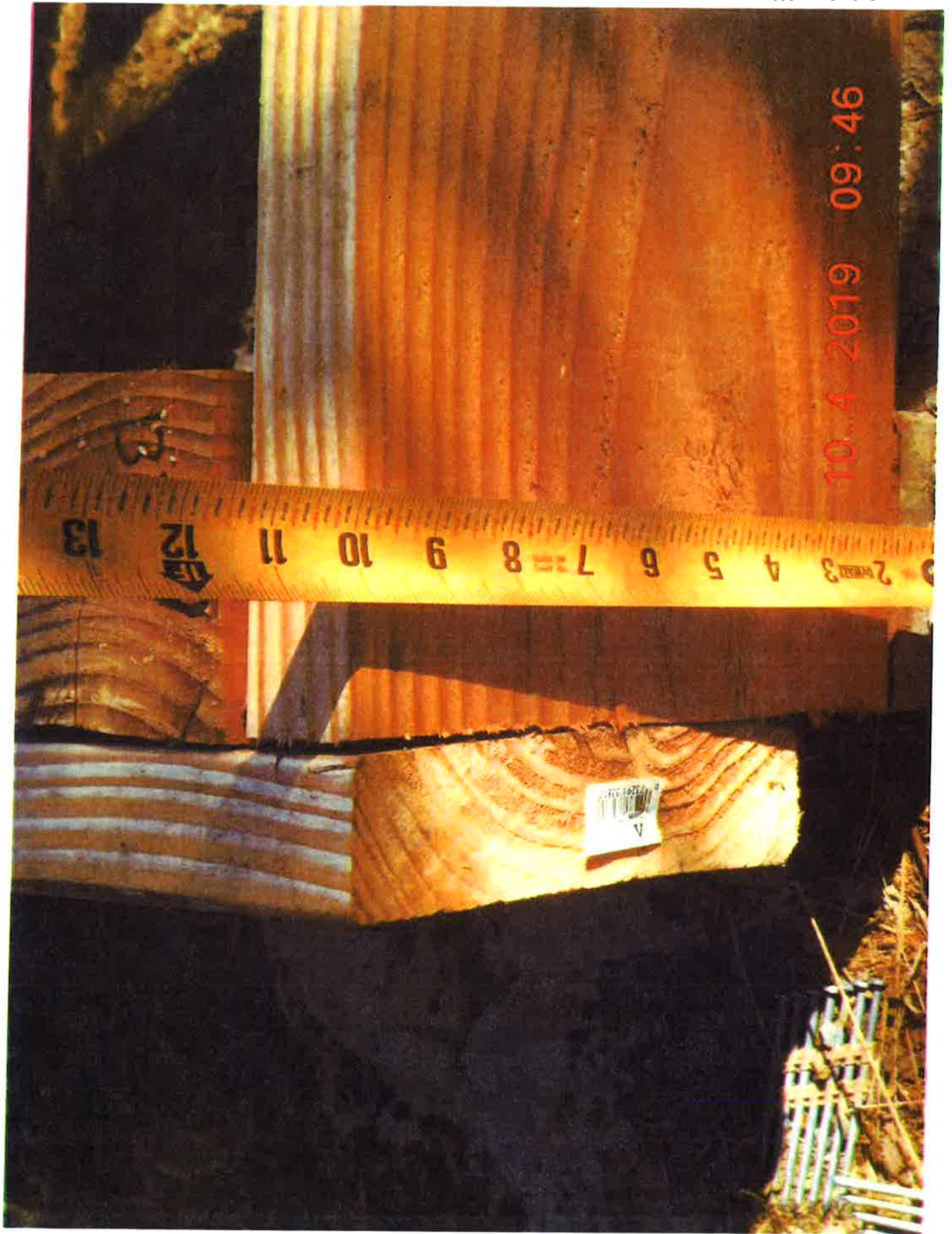






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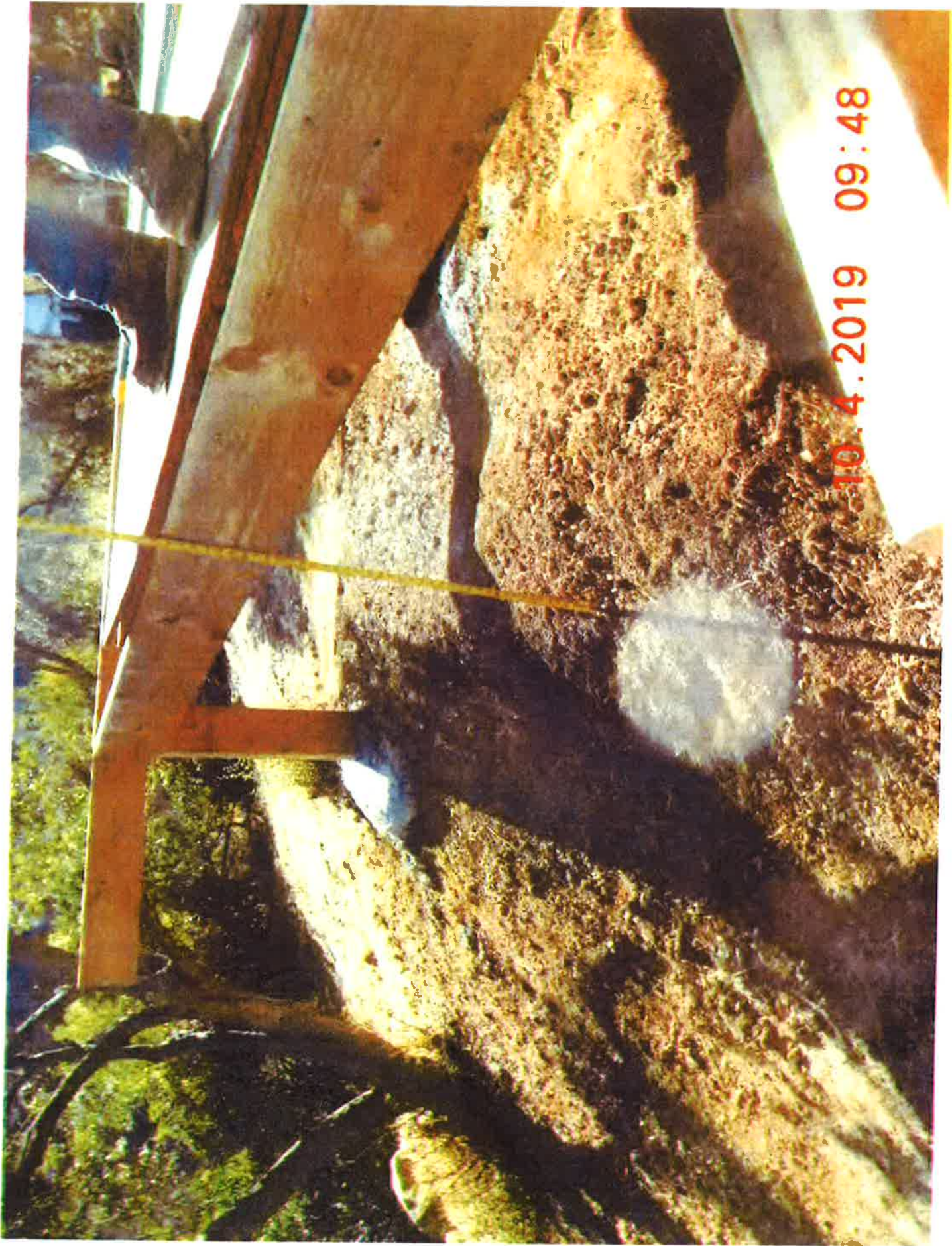




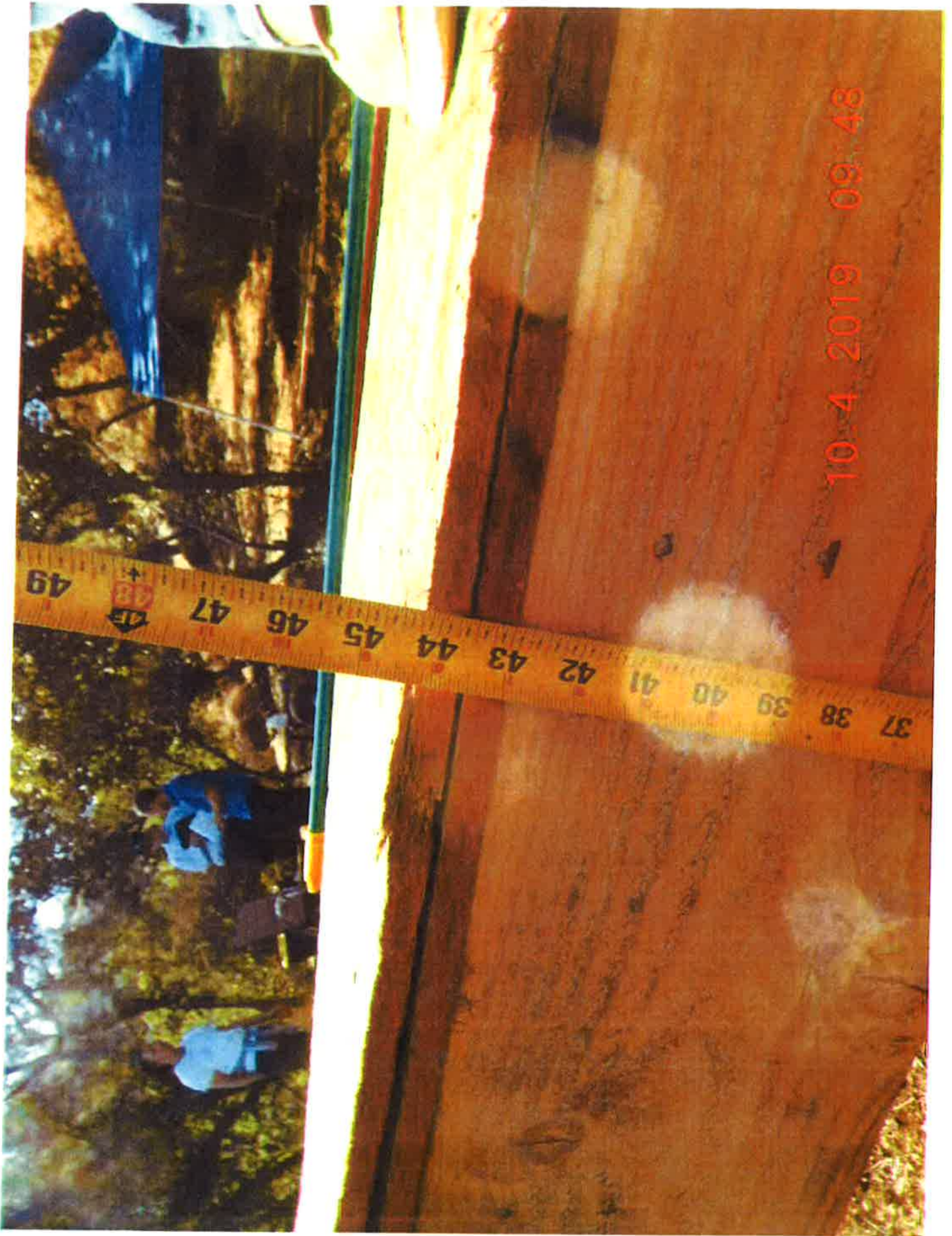






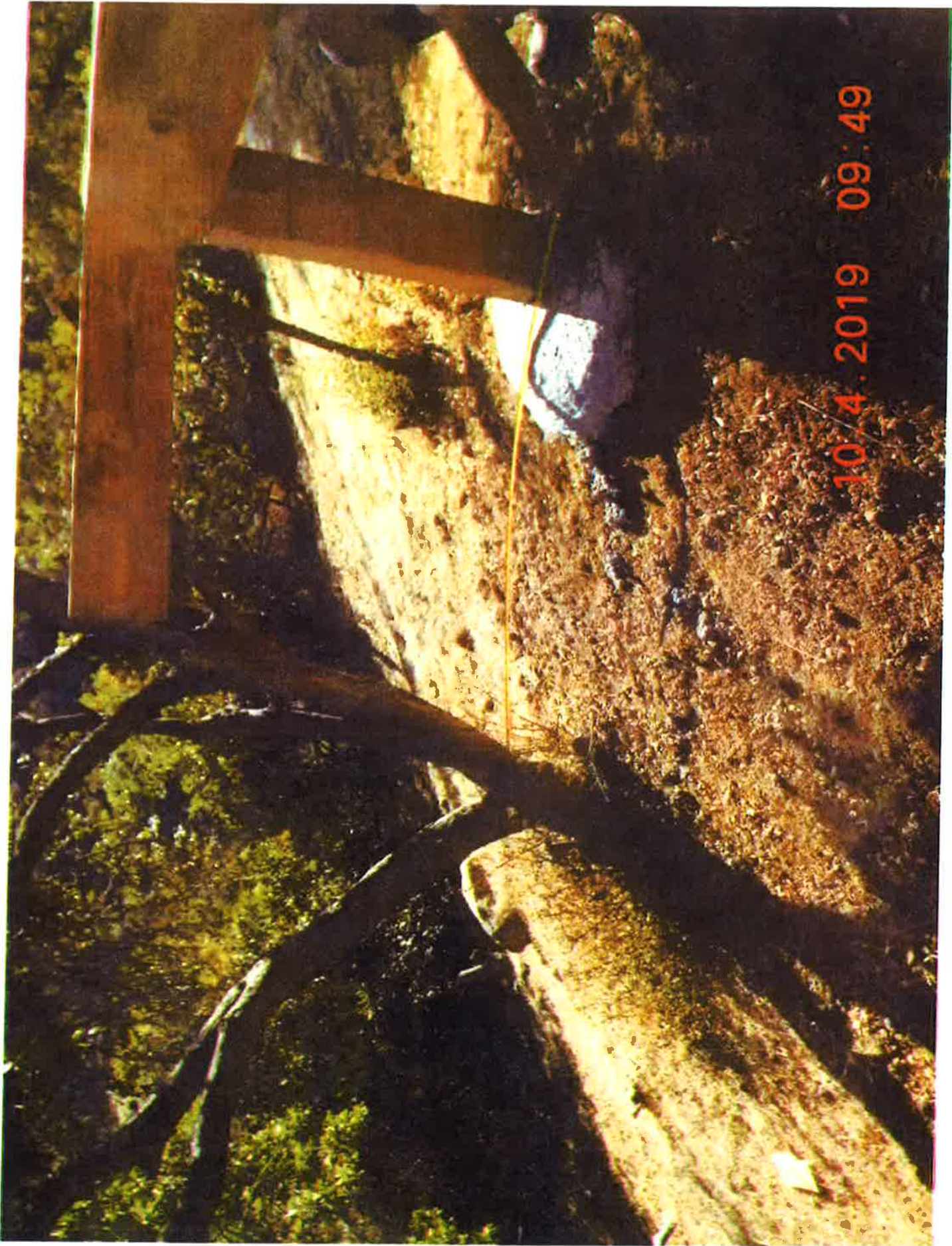


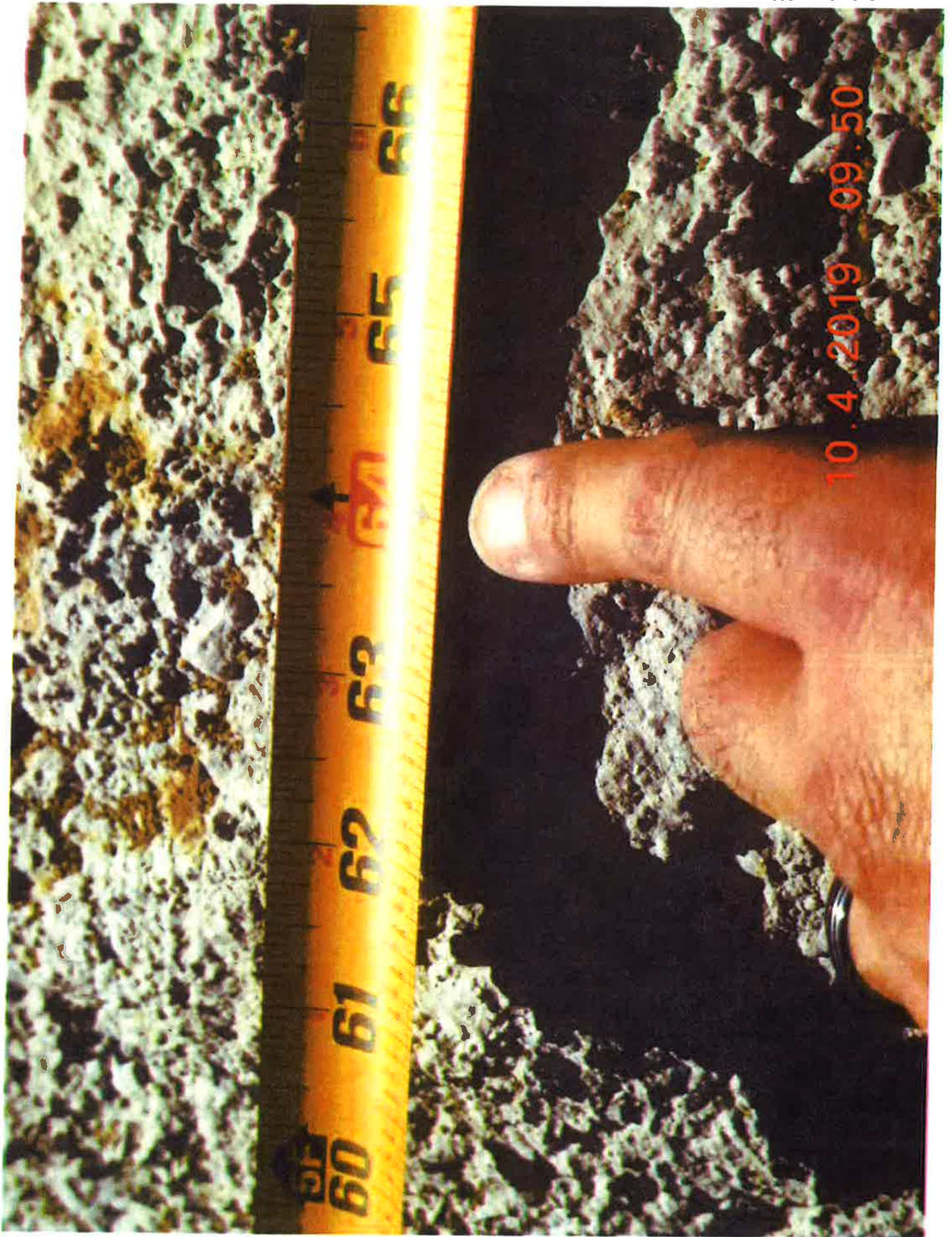
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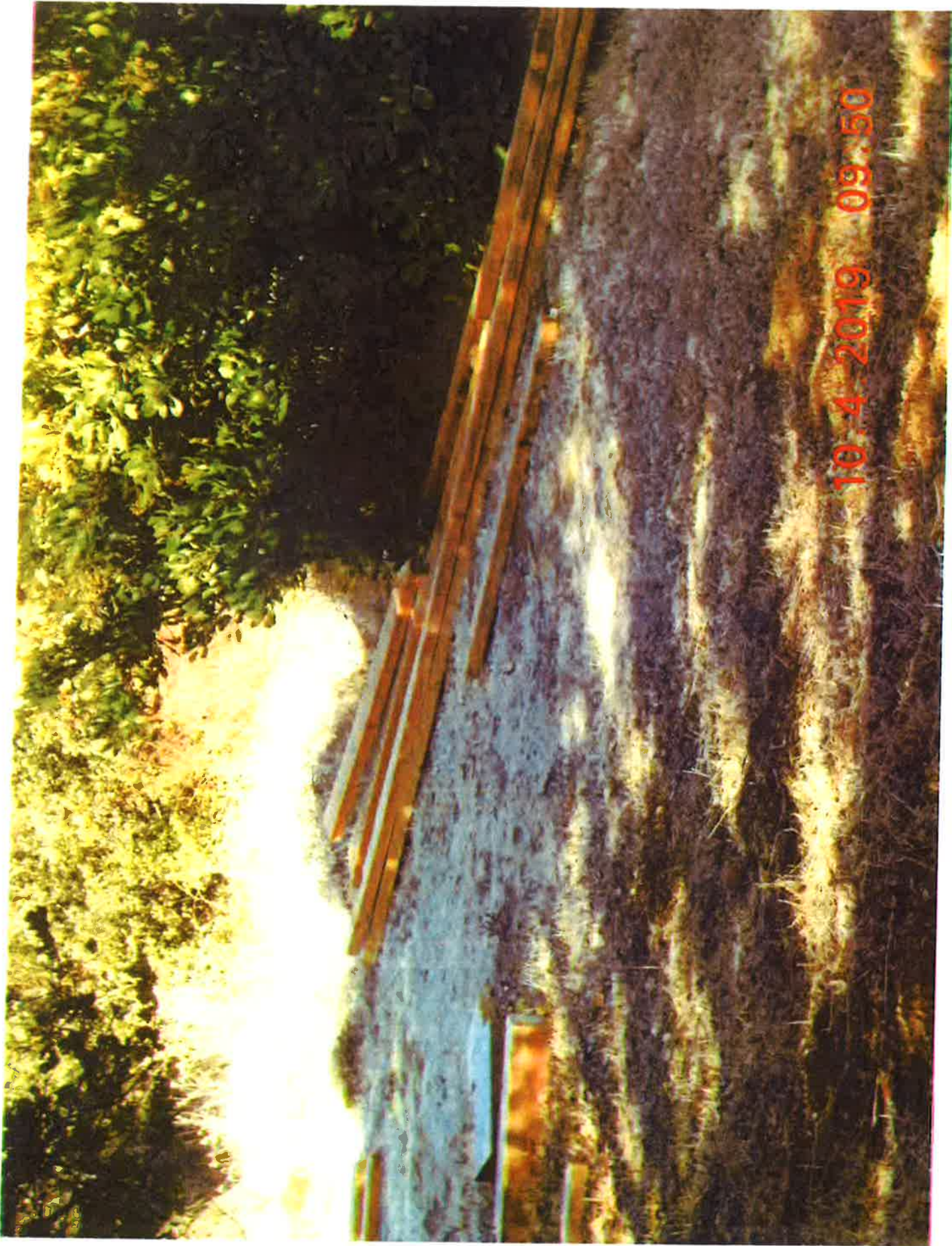


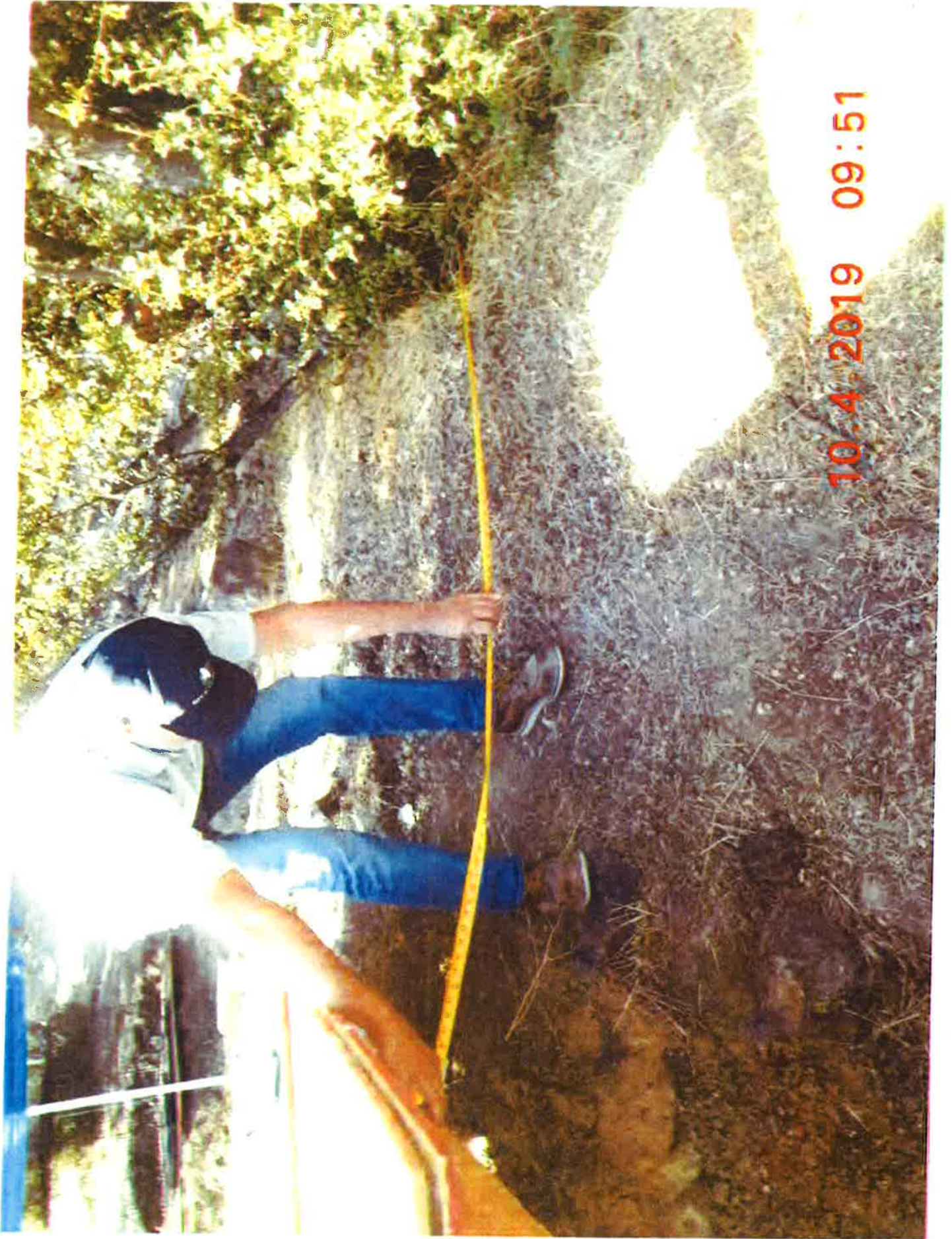


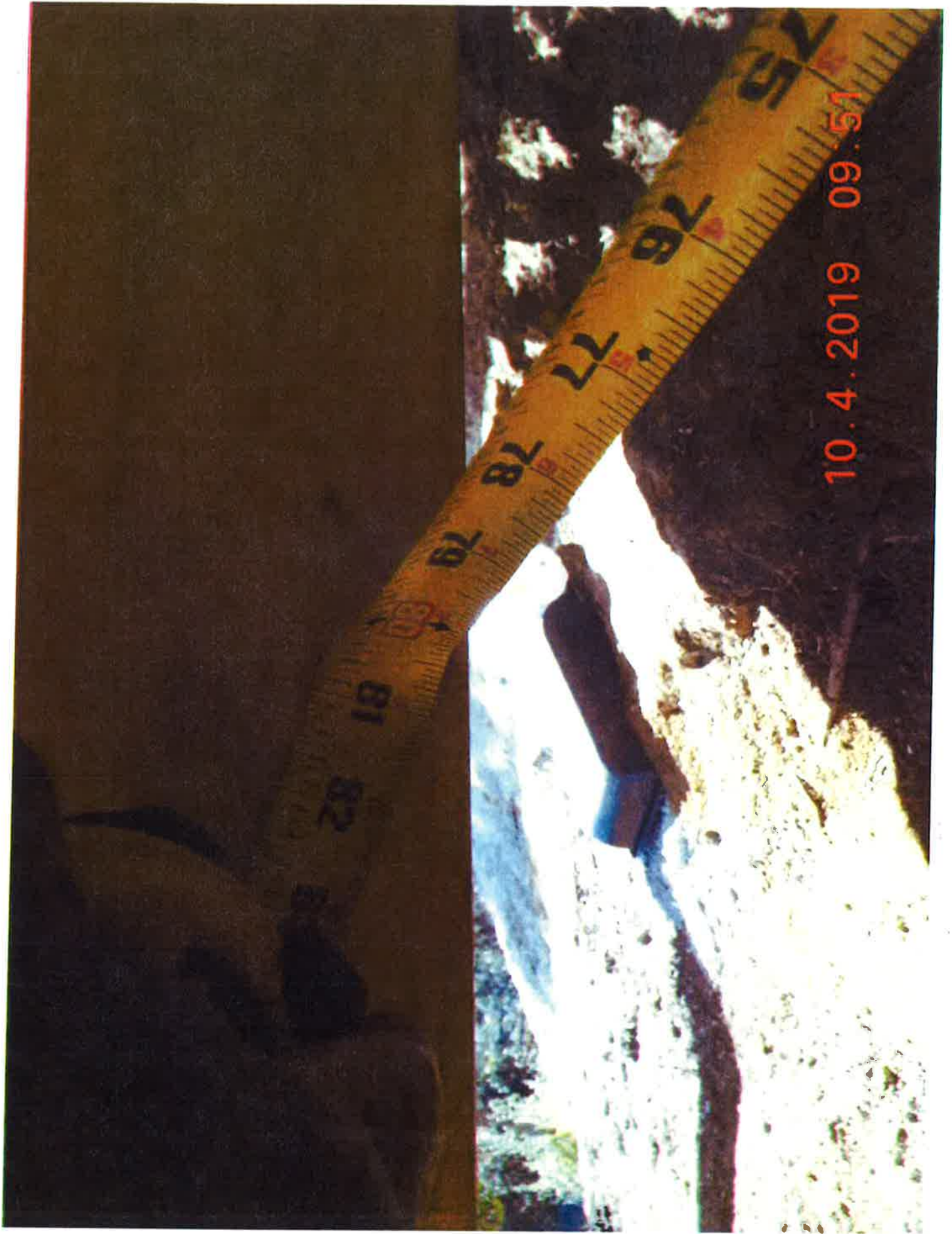




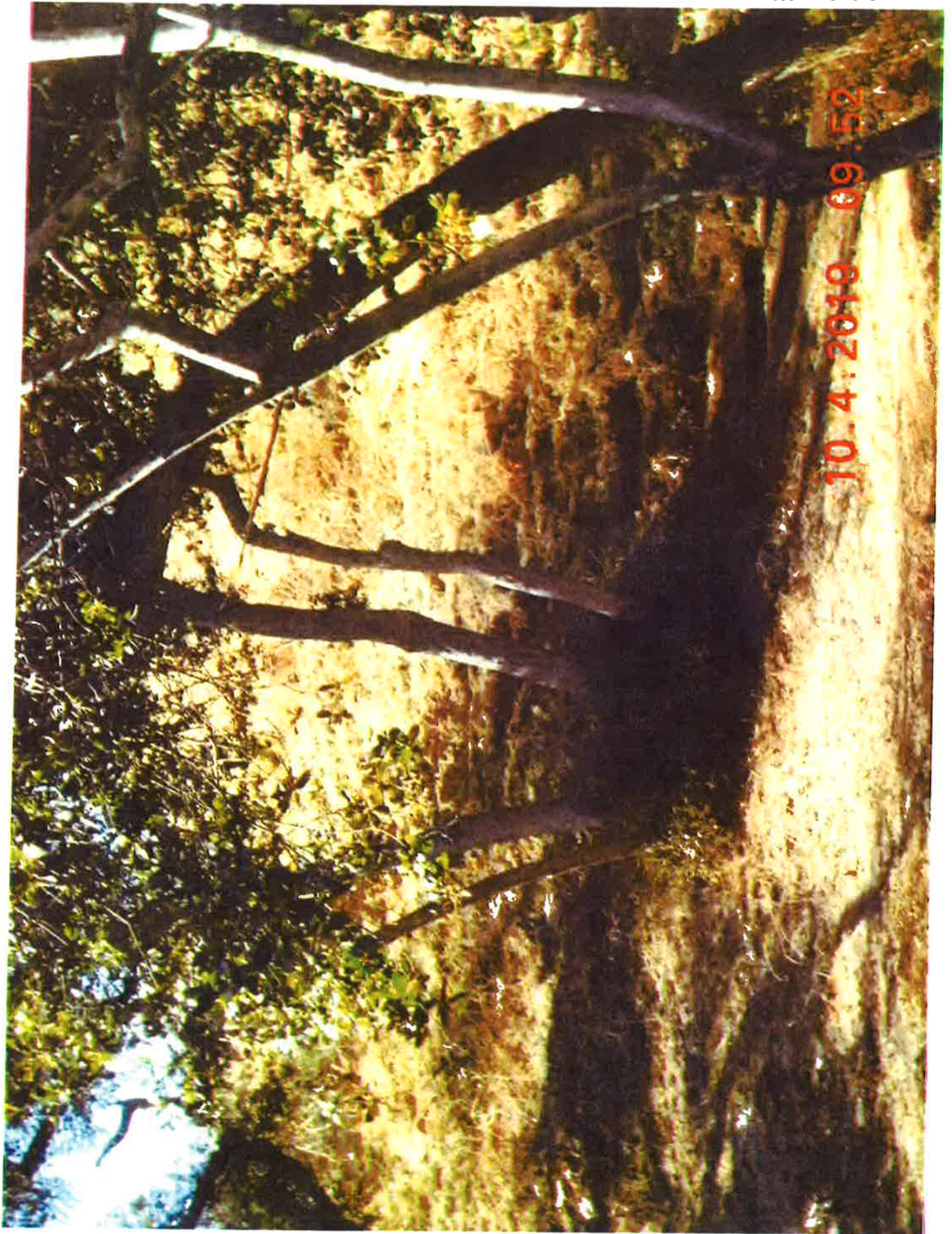


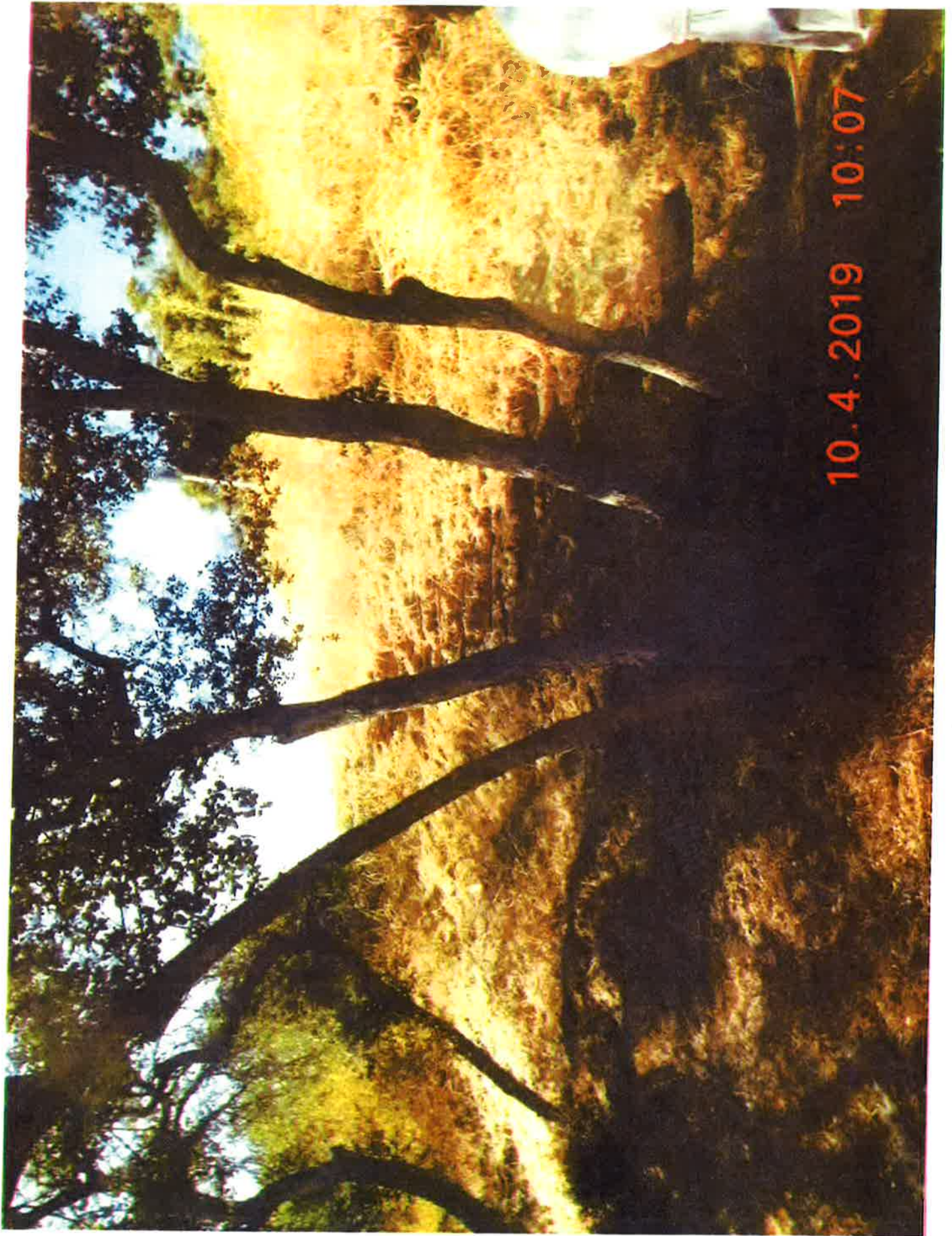




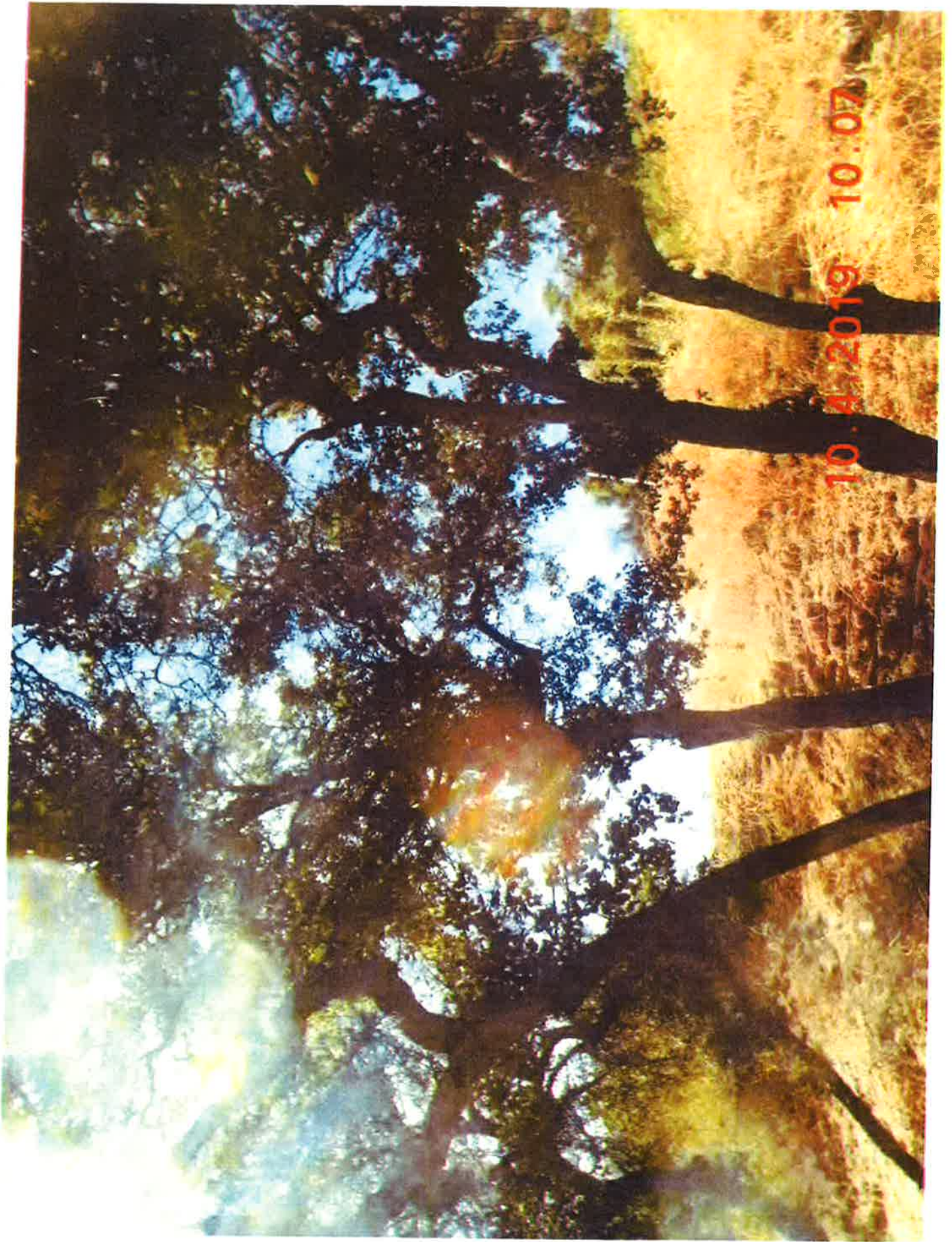


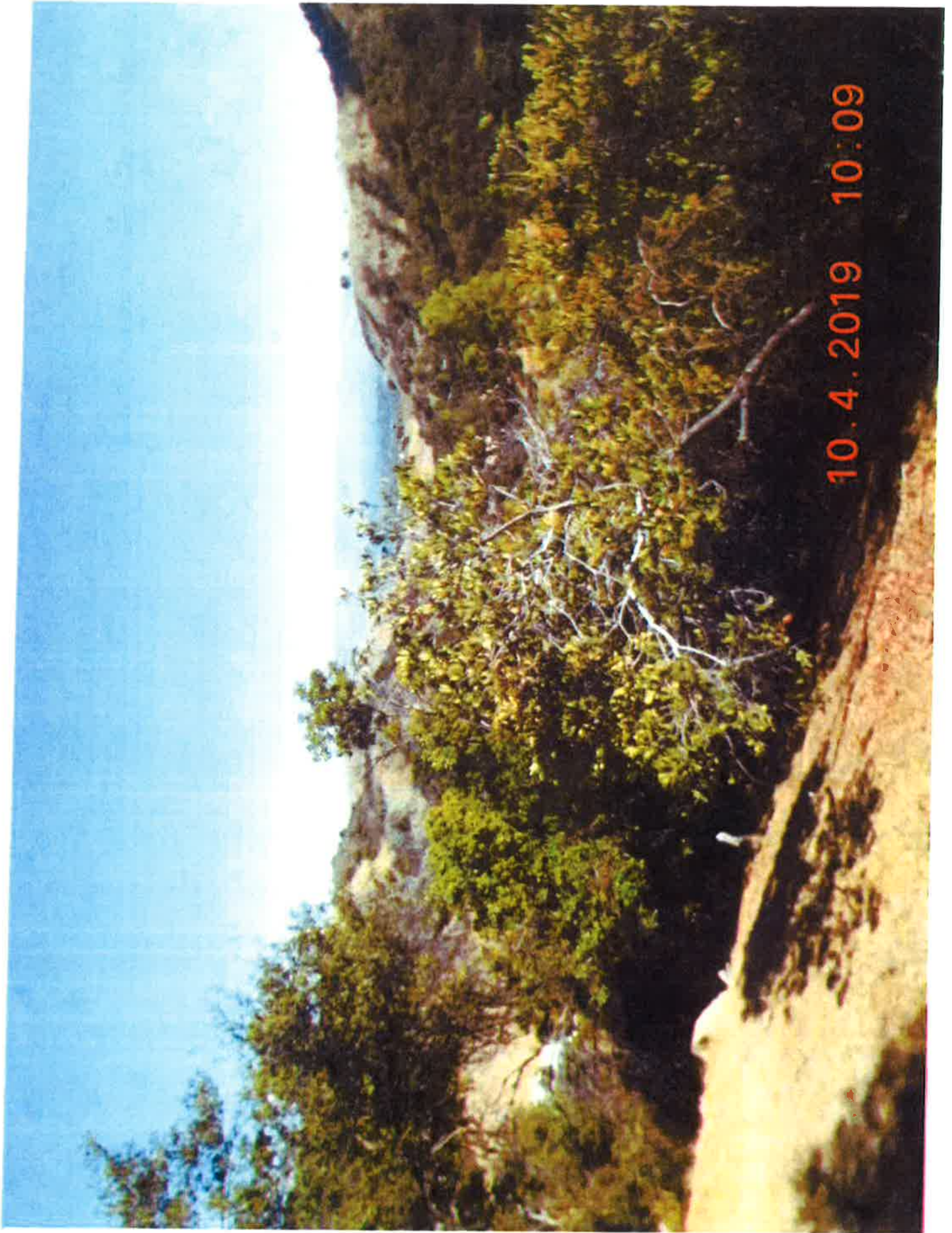












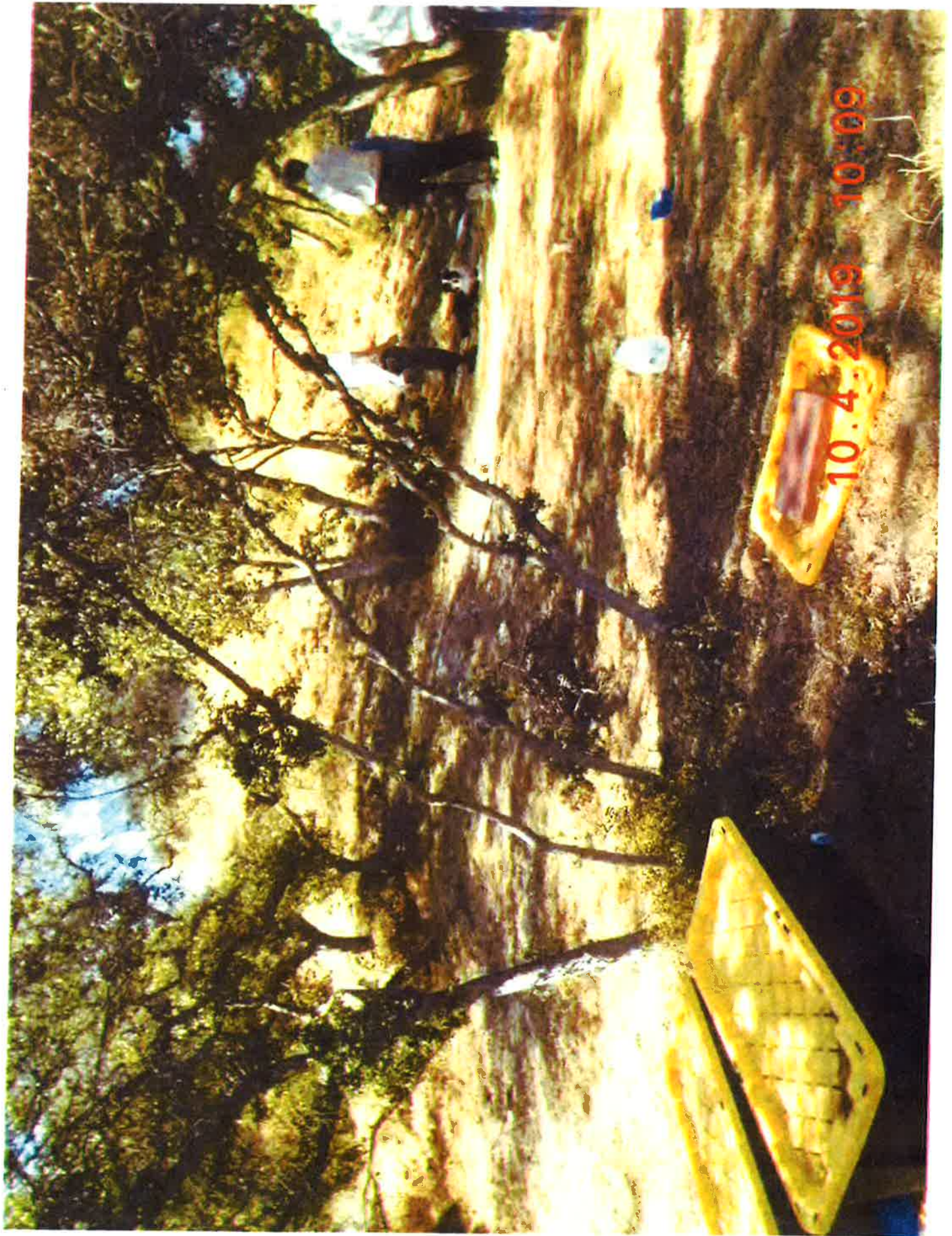




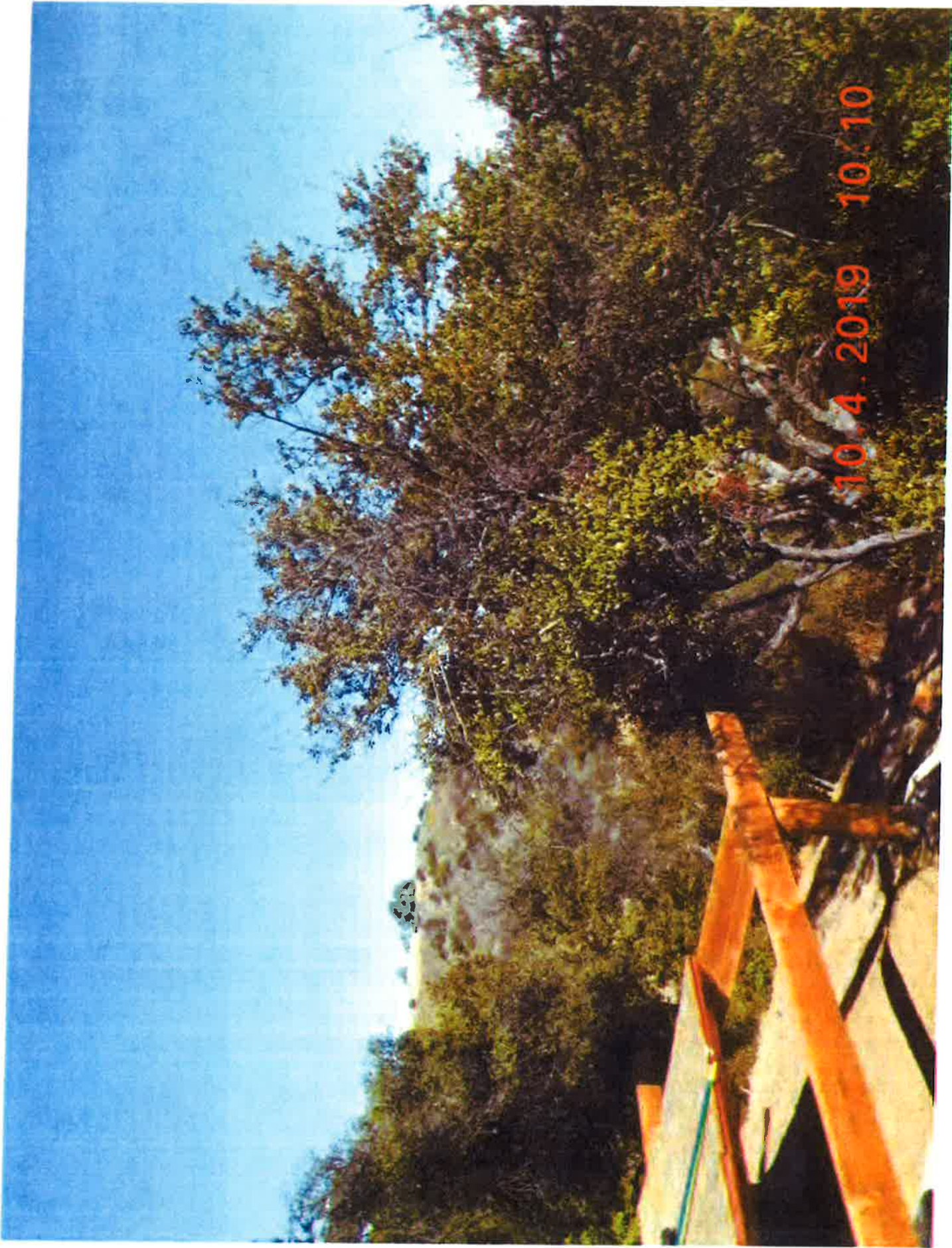




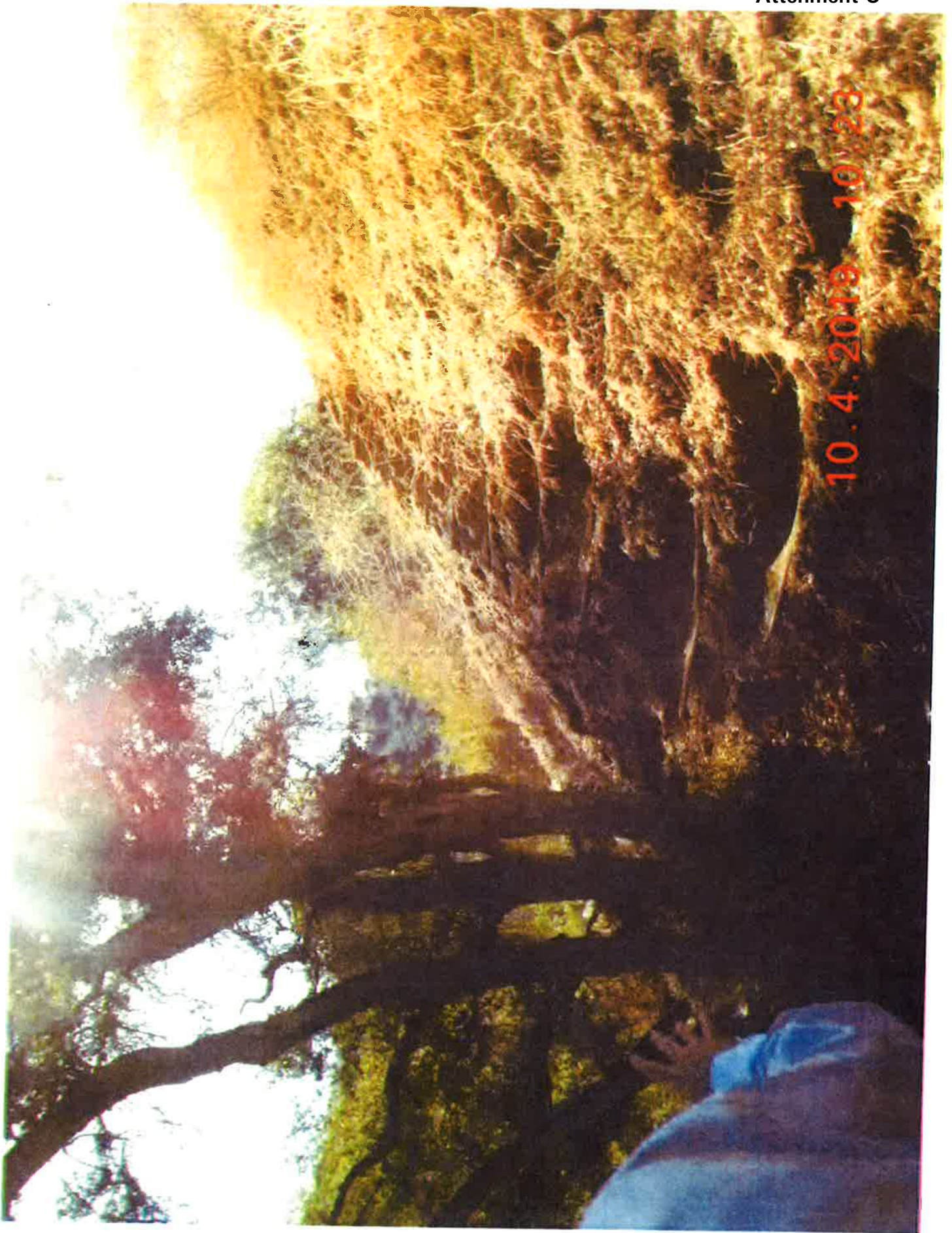
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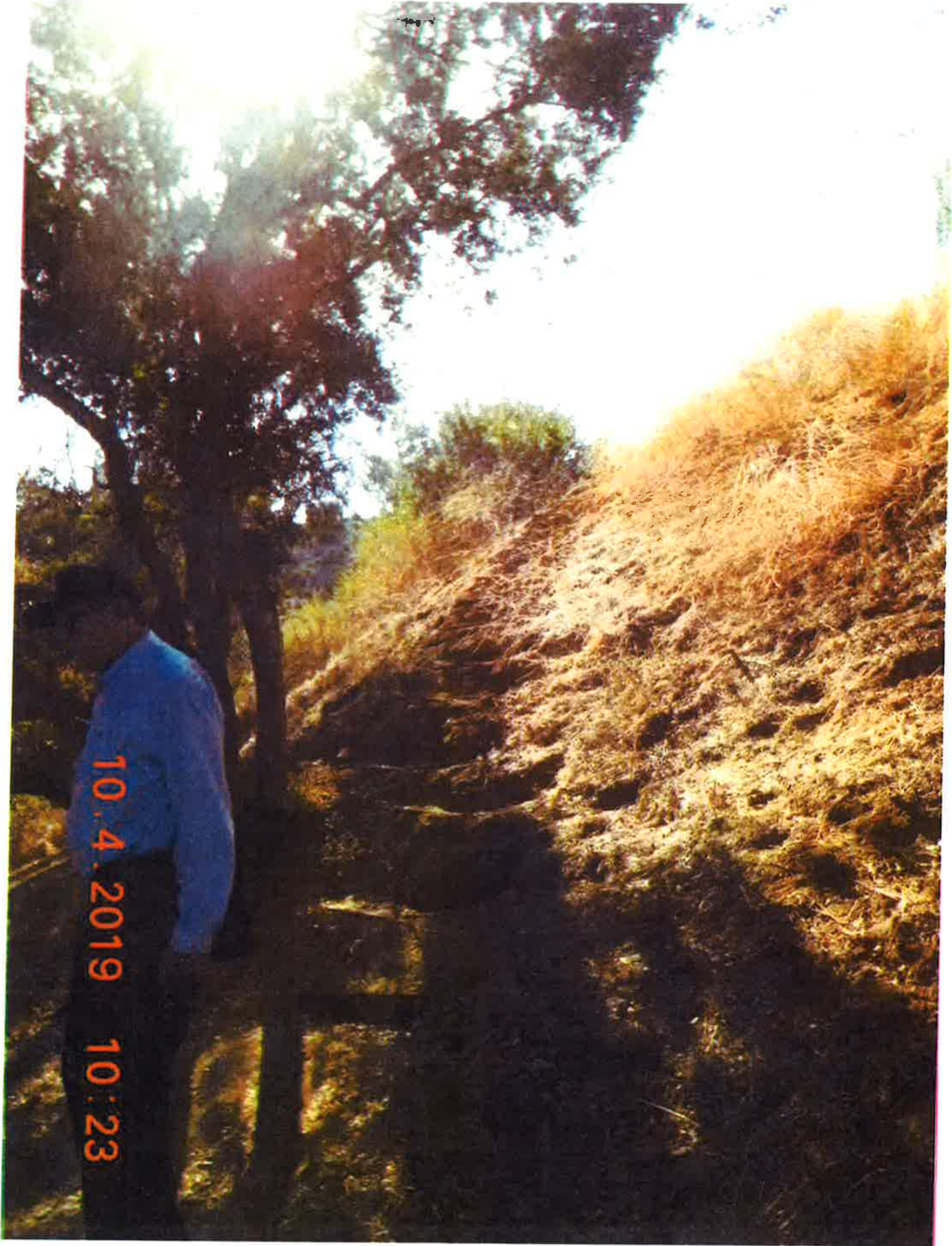


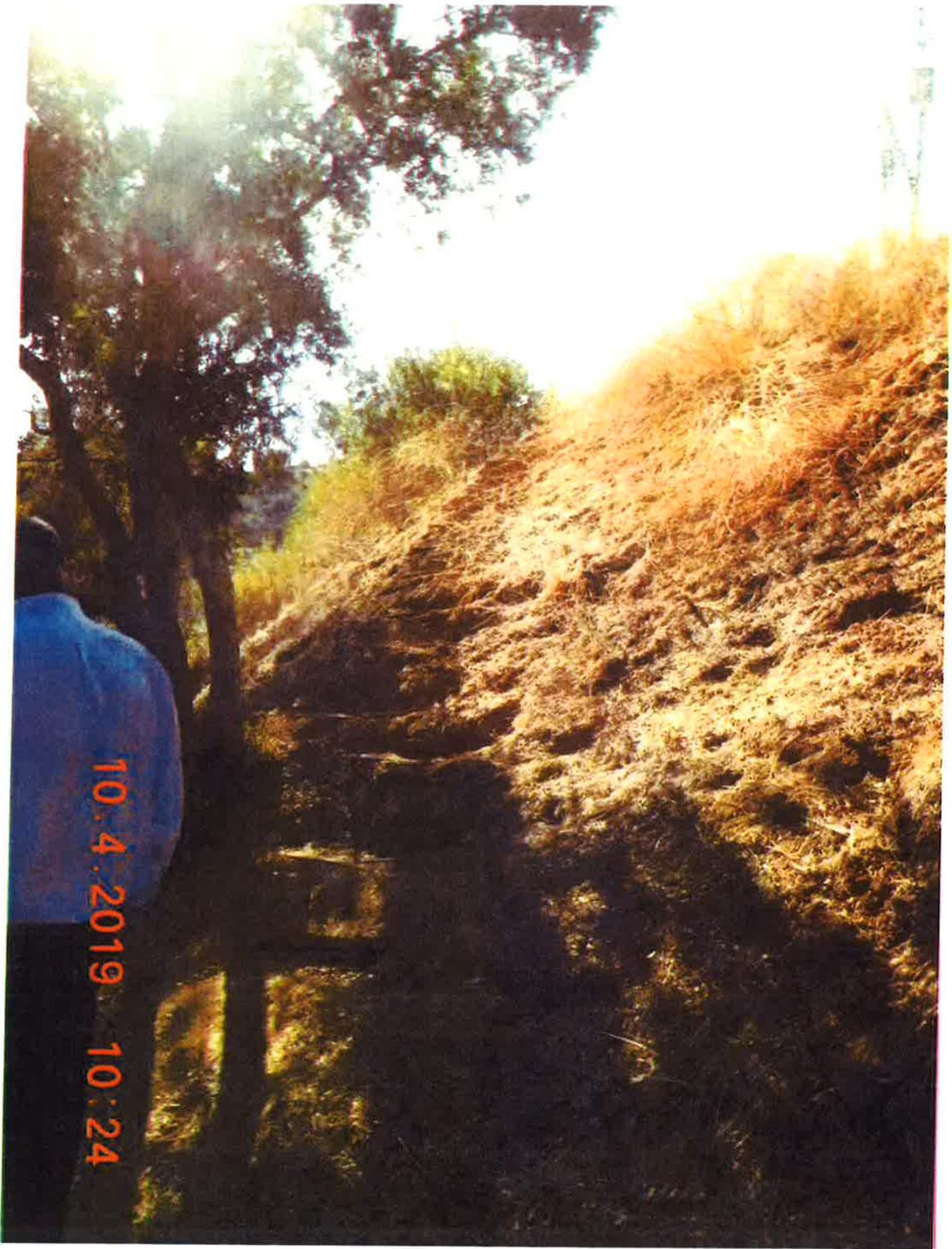






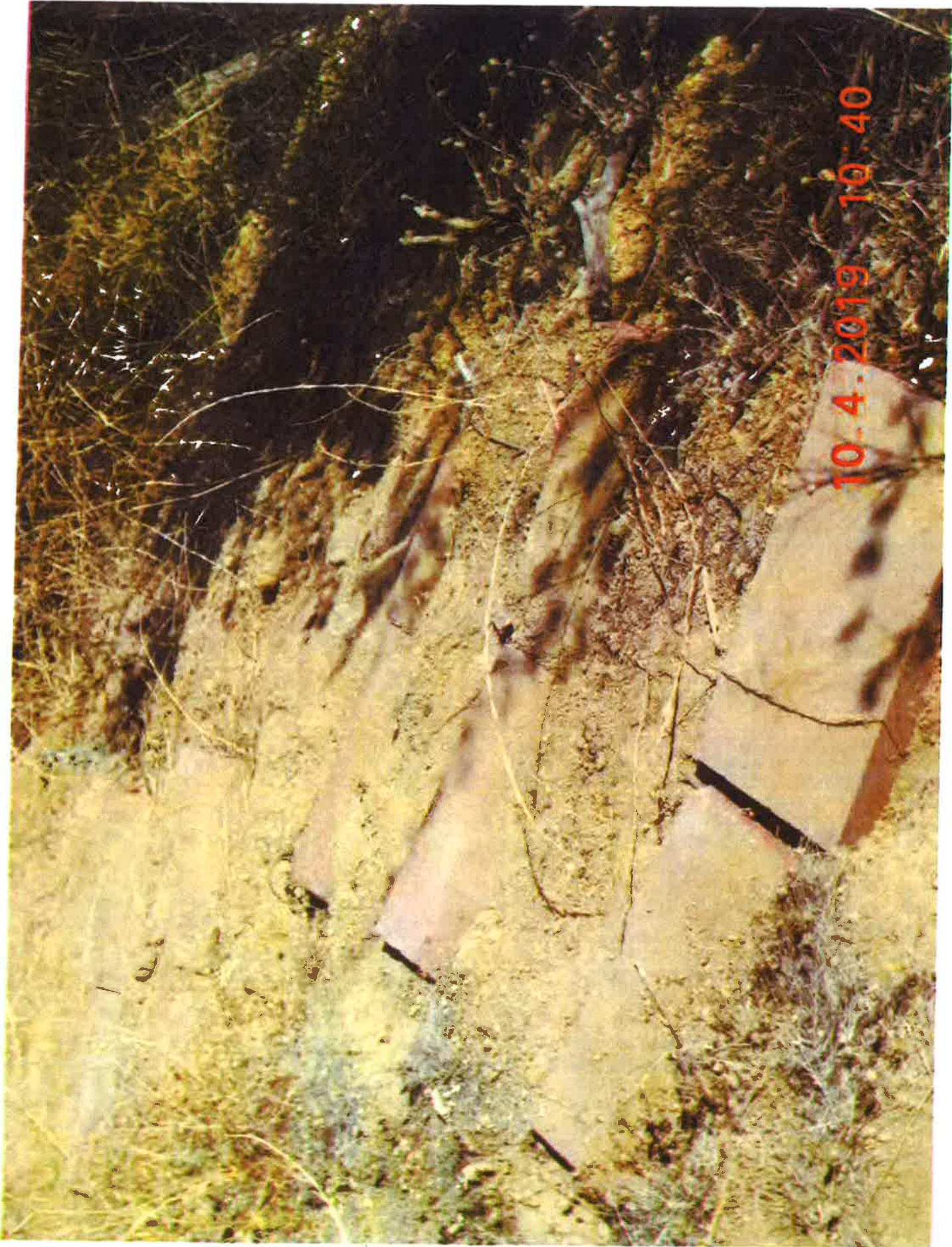






10.4.2019 10:24









CITY of CALABASAS

Community Development Department
Planning Division
100 Civic Center Way
Calabasas, CA 91302
T: 818.224.1600
F: 818.225.7329

www.cityofcalabasas.com

OAK TREES

Supplemental Application

For Oak Tree Permits, Minor (Healthy) Oak Tree Permits and Retroactive Oak Tree Permits

OAK TREE PERMIT SUMMARY

Request is for: Encroachment into protected zone Removal

of Trees Impacted: Encroachments Removals

% of Protected Zone encroached upon: _____

Tree Species: Valley Oak Coast Live Oak Scrub Oak

MINOR (HEALTHY) OAK TREE PERMIT SUMMARY

No. of Oak Trees to be pruned: _____

Estimated no. of branches to be pruned: _____

Size range of diameter of branches to be pruned: _____

Person/company performing the work: *(Complete Below)*

Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Phone: _____ Fax: _____

Cell / Other Phone: _____ E-mail: _____

For Healthy Oak Tree Permits complete the diagram on Page 3

RETROACTIVE OAK TREE PERMITS

(To be completed only if work was done previously without a permit.)

1. Does this project impact Scrub Oak: _____ Yes _____ No
If this Application is for Shrub Oak Habitat only, go directly to item 9 below.
2. How many Oak trees are Impacted: _____
3. What Species are the impacted Trees: _____ Valley Oak _____ Coast Live Oak
4. What is the approximate size of the trunk(s): _____
5. How many Oak Trees have been removed: _____
6. How many Oak Trees have been pruned: _____
7. Estimate number of branches pruned: _____
8. Size range of diameter of branches pruned: _____
9. Are trees adjacent or on a slope: _____ Yes _____ No
10. What was the purpose of the Oak Tree removal or pruning:
(use additional sheets if necessary) _____

11. When was work performed: _____

12. Who performed work: *(Complete Below)*
 Name: _____
 Address: _____
 City: _____ State: _____ Zip Code: _____
 Phone: _____ Fax: _____
 Cell / Other Phone: _____ E-mail: _____
13. If different from the applicant, who authorized the work: *(Complete Below)*
 Name: _____
 Address: _____
 City: _____ State: _____ Zip Code: _____
 Phone: _____ Fax: _____
 Cell / Other Phone: _____ E-mail: _____
14. Please complete the diagrams on page two of this supplemental questionnaire
(for information on how to complete this section, see examples on page 3)
Address the following:
 Indicate on the tree or shrub oak plot plan the approximate location of the impacted tree(s).
 Indicate on the plan view and elevation view the extent of the impacted foliage.
 Indicate on the elevation view any impacts to the oak tree drip line.

FOR INFORMATION ON HOW TO COMPLETE THIS SECTION, SEE EXAMPLES ON PAGE 4

Oak Tree Plot Plan
(complete below or attach additional sheets)

A rectangular diagram representing a plot plan. The top boundary is labeled "Property Line". The left and right boundaries are also labeled "Property Line" vertically. The bottom boundary is labeled "Public Sidewalk or Street Frontage".

Public Sidewalk or Street Frontage

Scrub Oak Plot Plan
(complete below or attach additional sheets)

A rectangular diagram representing a plot plan. The top boundary is labeled "Property Line". The left and right boundaries are also labeled "Property Line" vertically. The bottom boundary is labeled "Public Sidewalk or Street Frontage".

Public Sidewalk or Street Frontage

Plan View **Tree No.:** _____

(complete below or attach additional sheets)

A large, empty rectangular box intended for drawing the plan view of the tree.

Shade area(s) of tree affected.

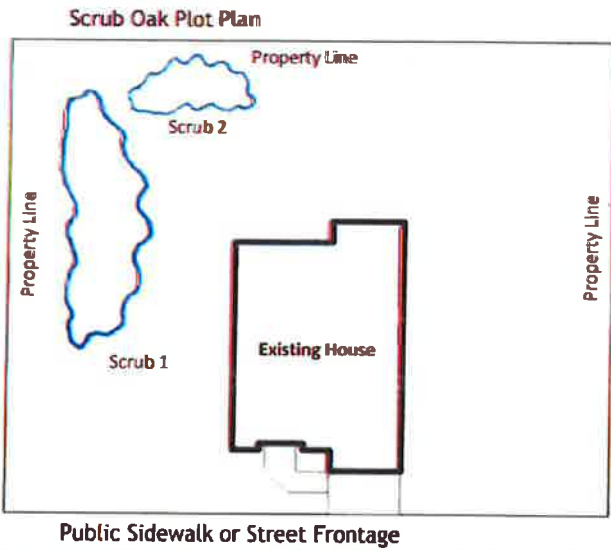
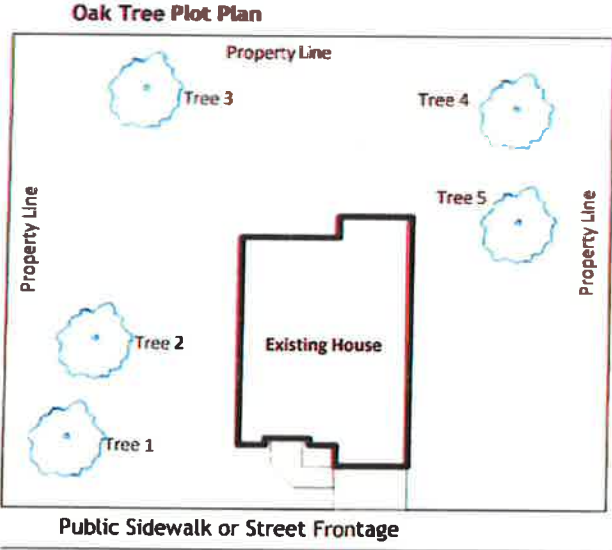
Elevation View **Tree No.:** _____

(complete below or attach additional sheets)

A large, empty rectangular box intended for drawing the elevation view of the tree.

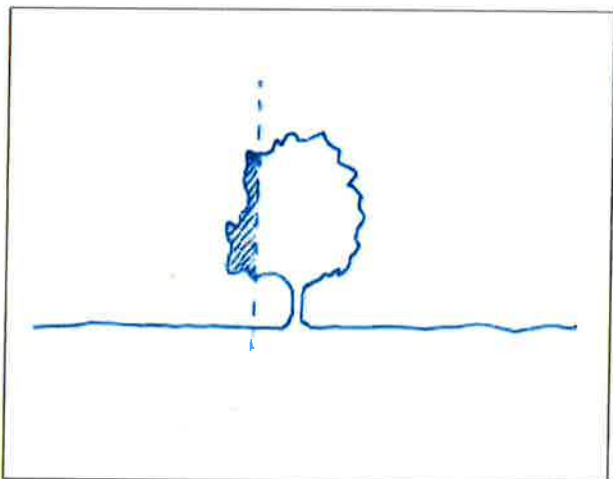
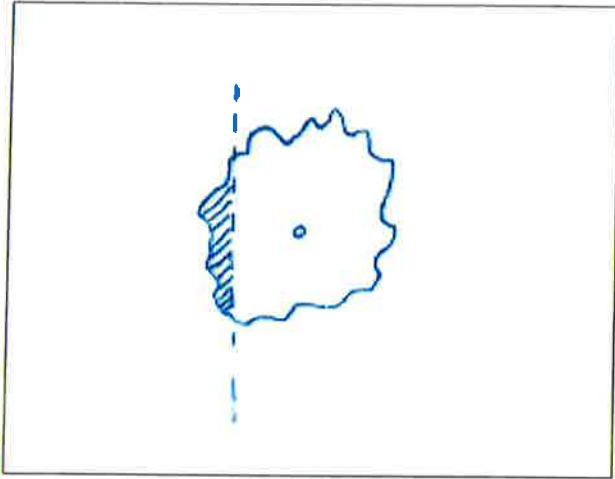
Shade area(s) of tree affected.

Plan Example:



Plan View Tree No.: _____

Elevation View Tree No.: _____



Shade area(s) of tree affected.

Shade area(s) of tree affected.



CITY of CALABASAS

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Application Filing Requirements SUBMITTAL CHECKLIST

MINIMUM APPLICATION FILING REQUIREMENTS

This checklist will be used by staff to determine if an application contains the appropriate materials and documents to begin the application process. All items listed below must be included. If any items are not included the project will not be accepted for submittal. This checklist is not used to determine whether a project application is complete for purposes of the Permit Streamlining Act.

Oak Tree Permit:

- Completed *General Land Use and Development Application* and filing fees.
- Completed *Supplemental Application – Oak Trees*.
- Two (2) copies of an Oak Tree Location Map prepared in accordance with the City's *Oak Tree Preservation Guidelines*.
- Two (2) copies of an Oak Tree Report. The applicant shall submit an oak tree report, prepared by a city-qualified arborist prepared in accordance with the City's *Oak Tree Preservation Guidelines*.

Note: For a list of individuals/companies that are qualified to prepare an Oak Tree Report, contact the City of Calabasas Planning Division. Additional Copies of the final Oak Tree Report may be required to be submitted prior to scheduling of hearing before the Planning Commission.

- Public hearing information prepared in accordance with the *Public Notice Requirements*.
- Any other plans or information that the Community Development Director deems necessary to facilitate processing of the application.

APPLICATION REVIEW AND APPROVAL BODIES:

Community Development Director, Planning Commission or City Council (depending on nature of request)

Minor (Healthy) Oak Tree Permit:

- Completed *General Land Use and Development Application* and filing fees.
- Completed *Supplemental Application – Oak Trees*.
- Any other plans or information that the Community Development Director deems necessary to facilitate processing of the application.

APPLICATION REVIEW AND APPROVAL BODIES:

Community Development Director