

**Miller and Fasse, P.C.**

**Attorneys**

710 North 8<sup>th</sup> West, Riverton, Wyoming 82501 Telephone: (307) 856-4459 Fax: (307) 856-4284

**William L. Miller**

**Thomas A. Fasse**

City of Lander Board of Adjustments  
c/o RaJean Strube Fossen  
240 Lincoln Street  
Lander Wyoming 82520

Re: Request for a Non-Conforming Use Permit for  
690 Evergreen Lane, Lander, Wyoming

Dear Ms. Fossen,

I represent Kent Simon and Lesli Bartell who own property located at 670 Evergreen Lane in Lander Wyoming. My client's property adjoins the Zerga property for which a non-conforming use permit is being requested.

My clients object to a non-conforming use permit for the reasons set forth below. The present zoning is for residential which does not allow for more than two residential structures. The request for a non-conforming use permit would increase that to six residential structures. The easement for the Zerga property is based on a 1983 judgment which granted the Zergas an easement to their property. A copy of that judgment is attached as Exhibit "A". The easement provided by said judgment is defined by metes and bounds and is somewhere between 37.3 feet to 21 feet in width. The easement is for residential purposes and is not a public right of way. The existing is not adequate for six residences and does not conform to any current code requirements.

The detail of the Fremont County Assessors assessment for the property taxes for the Zerga property is attached as Exhibit "B" indicates that the Zergas are being assessed as for one residential structure and several farm utility buildings. I am also including with this letter, photographs the County Assessor office has taken of these buildings. The buildings being assessed as farm utility buildings do not appear to have been inhabited for a long time. The Zergas have chosen to pay taxes based on this parcel containing one residential building and have not used or paid taxes on the property based on six residential units.

My clients are concerned that the road is too narrow to handle traffic for six residential units. In addition, the road is not a maintained road and has no road base for most of the road that passes across my client's property. It becomes muddy and rutted when there is moisture. In addition, there are trees lining the road which makes it difficult to see oncoming vehicles. The road has trees growing on both sides of it for most of the way. The road is not wide enough for two vehicles to safely pass.

Any use of this property for anything other than a single-family residence was abandoned long ago by the Zergas. The tax assessment shows the structures referred to as farm utility buildings were constructed in 1935. An equipment storage building appears to have been built in 1983 but for the most part these are very old buildings and the Zergas have chosen to not use them or to be taxed on them as residential buildings.

If anyone purchasing this property or the Zergas wanted to upgrade or remodel the existing structures on the property it would require a building permit from the city. The city would require the buildings to meet the present code and that would be very expensive and probably cost prohibitive to bring any of these buildings to code. This is since they were constructed in 1935 and are currently being taxed as a farm utility building.

The existing easement is not a public street and the city would consider it a driveway. If there were any attempt in the future to subdivide this property the city building code and regulation would require that the driveway be brought up to city standard which would be very expensive and cost prohibitive. The Zergas have not submitted any plans to the city as to what improvements if any they are going to do to this property, what work if any would be done on the existing structures, but simply want to obtain a non-conforming use permit without submitting any plans as to how the non-conforming use permit would be used. My clients are concerned about potential impacts the non-conforming use permit might have on the value of their land and their ability to use their land.

In summary, If the buildings on the property that are now classified as farm utility buildings were ever used in the past as residences that use has long been abandoned by the Zergas and it is not realistic to think they will ever be used as residences again. The Zergas do not maintain the road and have not made any attempts to improve it or develop it to make it more passable and durable for increased traffic. The present request for non-conforming use does include any plans to upgrade the old farm utility buildings. It does not appear to be financially realistic for the buildings to be brought to code, for fire and other access to be made available to this project and the Zergas are not presenting any realistic plan for how this might be implemented. They are requesting a blank non-conforming use permit without any detail as to how it may be used in the future.

The request for the non-conforming use permit should be denied at this time for the concerns set forth above until a realistic plan that would conform with the current building code and other requirements is presented to the city.

Sincerely,



WILLIAM L. MILLER  
WLM/dm

CC: Kent Simon and Lesli Bartell

IN THE DISTRICT COURT OF FREMONT COUNTY, WYOMING  
NINTH JUDICIAL DISTRICT

VICTOR GEORGE ZERGA and )  
BERTHA JOAN ZERGA, )  
Plaintiffs, )

vs. )

JOSEPH E. SPRIGGS; JANET A. )  
SPRIGGS; JAMES W. SPRIGGS, SR.; )  
HAZEL B. SPRIGGS; S. CONANT )  
PARKS; CLARA H. PARKS; HAROLD )  
H. PARKS; NONA L. PARKS; SAIRUEL )  
PARKS; and the unknown claimants )  
and heirs, et al.; )  
Defendants. )

JUDICIAL NO. 130 PAGE 251

Civil No. 19776

FREMONT COUNTY, WY  
FILED  
IN THE DISTRICT COURT

MAY 24 1983  
*Erna Stephenson*  
Erna Stephenson Clerk of Court

By \_\_\_\_\_  
DEPUTY CLERK

JUDGMENT

This matter came on for hearing before Judge W. J. Nicholas on April 13, 1982 upon Plaintiffs' and Defendants' Motion for Summary Judgment, and the Court at the conclusion of the hearing determined that Spurlock and Associates, Inc. should be engaged to compute the location of the line and curve turning easterly off Evergreen Lane between Plaintiffs' land and Defendants' land, and the Court further permitted both parties to augment the record. The parties thereupon filed additional material with the Court, and Spurlock and Associates, Inc. completed their work in locating and describing the aforesaid curve as requested by the Court.

Judge W. J. Nicholas retired from the Bench on or about December 31, 1982 without rendering a complete decision in the above-captioned matter, and this case is now before Judge Robert B. Ranck for decision. The Court has reviewed the file in its entirety, including all documents and photographs filed therein, and has met in chambers with the Plaintiffs' attorney and Defendants' attorney on March 10, 1983 and again met with both attorneys and surveyor John F. Hart on the premises on March 29, 1983. The Court having reviewed the file in its entirety, having viewed the premises on several occasions, and having considered statements of counsel, who have stipulated that no other evidence would be produced had this matter gone to trial, the Court finds as follows:

1. Plaintiffs are in possession and are the owners of a certain parcel of real property located in Fremont County, State of Wyoming, described as follows:

2023-1448998  
Page 1 of 8 Fees: \$33.00  
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Julie A. Freese, Fremont County Clerk

Kopriva  
Logerski



Exhibit  
A-1/8

A tract of land in the SE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 7, T. 33 N., R. 99 W., 6th P.M., Fremont County, Wyoming, more particularly described as follows, to-wit:

Beginning at Corner No. 1 of this tract which point is located N. 39° 08.8' W. a distance of 956.12' more or less from the South quarter section corner of Section 7, T. 33 N., R. 99 W., of the 6th P.M., and proceeding thence S. 1° 02' E. a distance of 205.0' to corner No. 2 of this tract; thence proceeding N. 89° 57.7' W. a distance of 320.0', more or less, to corner No. 3 of this tract, thence proceeding N. 1° 02' W. a distance of 205.0 feet to corner No. 4 of this tract; thence proceeding S. 89° 57.7' E. a distance of 320.0', more or less, to corner No. 1 of this tract, the point of beginning hereinbefore described; the area of which tract is 1.506 acres, more or less.

2. Defendants, Joseph E. Spriggs and Janet A. Spriggs, are in possession and are the owners of a certain parcel of real property, adjoining the above-described property of the Plaintiffs on the south which property is described as follows:

The west 170 feet of a tract described as follows:

A tract of land located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 7, Township 33 North, Range 99 West, 6th P.M., Fremont County, Wyoming, more particularly described as follows: Beginning at Point No. 1 which point bears N. 57° 49.6' W. a distance of 688.33 feet from the SW corner of said Section 7; thence N. 89° 57.7' W. a distance of 320 feet to Point No. 2; thence N. 1° 02' W. a distance of 180 feet to Point No. 3; thence S. 89° 57.7' E. a distance of 320 feet to Point 4; thence S. 1° 02' E. a distance of 180 feet more or less, to Point of beginning hereinbefore mentioned. The entire above tract contains 1.32 acres more or less.

3. Defendants, James W. Spriggs, Sr. and Hazel B. Spriggs, are in possession and are the owners of a certain parcel of real property located in Fremont County, State of Wyoming, described as follows:

The East 150 feet of a tract described as follows:

A tract of land located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 7, Township 33 North, Range 99 West, 6th P.M., Fremont County, Wyoming, more particularly described as follows: Beginning at Point No. 1 which point bears N. 57° 49.6' W. a distance of 688.33 feet from the SW corner of said Section 7; thence N. 89° 57.7' W. a distance of 320 feet to Point No. 2; thence N. 1° 02' W. a distance of 180 feet to Point No. 3; thence S. 89° 57.7' E. a distance of 320 feet to Point 4; thence S. 1° 02' E. a distance of 180 feet more or less, to Point of beginning hereinbefore mentioned. The entire above tract contains 1.32 acres more or less.

4. Plaintiffs, Victor George Zerga and Bertha Joann Zerga, together with their predecessors in title, families, guests, tenants, and invitees have used Evergreen Lane (as it presently exists from

Amoretti Street to Plaintiffs' south boundary) and they have used that roadway on the northerly portion of Defendants' land turning easterly from Evergreen Lane, all as included in and more particularly described in Exhibit "A" attached hereto and incorporated herein, as a roadway for ingress and egress to Plaintiffs' residence and the six apartments known as the K & L Villa Apartments. Plaintiffs and their families, guests, tenants, and invitees therefore have a roadway easement in and to said Evergreen Lane and the easterly roadway described in Exhibit "A".

5. Defendants, Joseph E. Spriggs, Janet A. Spriggs, James W. Spriggs, and Hazel B. Spriggs, together with their families, guests, and invitees likewise have a roadway easement for ingress and egress to Defendants' residences and for personal use in and to that part included in Exhibit "A" which lies on Defendants' land and along the southerly portion of Plaintiffs' land.

6. Defendants and their families have used as a footpath, bicycle path, and horse path that strip of land extending from Plaintiffs' south boundary to Plaintiffs' north boundary, which strip is described more particularly in Exhibit "B" attached hereto and incorporated herein by this reference. Defendants and their families should be entitled to continue using the path as they have been, however excluding use for any motorized vehicles.

7. Plaintiffs, Defendants, their families, and their heirs, successors and assigns all have a right to maintain the surface of the roadway easement described in Exhibit "A", so long as there is no interference with the use of same by the other parties.

8. The currently used and traveled portions of the easements described in Exhibits "A" and "B" should not be ~~disproportionately~~ widened or expanded from their present width by any of the parties, or their families, tenants, agents, employees, heirs, successors, assigns, or by anyone acting under their control, authority, or direction.

9. Each party herein should pay their own costs and attorney's fees, and each party should also pay one-half of the survey expenses charged by John P. Hart for his work, as directed by this Court, since March 29, 1983.

10. The claims for damages, whether actual damages or punitive damages, by each of the parties should be dismissed.

Judgment  
Zerga vs. Spriggs, et al.

Page -4-

11. There are no genuine issues of material fact, and each party is entitled to judgment as a matter of law regarding their respective easement or easements, and to that extent each party's Motion for Summary Judgment should be granted.

IT IS THEREFORE ORDERED, CONSIDERED, ADJUDGED, AND DECREED as follows:

(1) Plaintiffs, Victor George Zerga and Bortha Joan Zerga, their family, tenants, guests, and invitees, and Plaintiffs' heirs, successors, and assigns be and they hereby are granted a roadway easement in Evergreen Lane and the roadway along the northerly portion of Defendants' land turning easterly from Evergreen Lane, said easement being for ingress and egress, and being more particularly described in and as part of Exhibit "A" attached hereto and incorporated herein. Said easement shall be for residential and personal use in connection with Plaintiffs' residence and the K & L Villa Apartments, for guests and invitees of Plaintiffs and their tenants, for ingress and egress by utility companies, and for Plaintiffs' maintenance and improvement of their easement, including but not limited to improvement of the surface thereof, such as grading and/or graveling the easement.

(2) Defendants, Joseph E. Spriggs, Janet A. Spriggs, James W. Spriggs, Sr., and Hazel B. Spriggs, their families, guests, and invitees, and their heirs, successors, and assigns be and they are hereby granted a roadway easement in that part included in Exhibit "A" which lies on Defendants' land and the southerly portion of Plaintiffs' land. Said easement shall be for ingress and egress to Defendants' residences, and for personal use, ingress and egress by utility companies, and for maintenance and improvement of the surface thereof by grading and/or graveling the easement.

(3) Furthermore, Defendants and their families and Defendants' heirs, successors, and assigns be and they are hereby granted an easement to be used as a footpath, bicycle path, and/or horse path in that 4-foot strip of land described more particularly in Exhibit "B" attached hereto and incorporated herein by this reference.

(4) All Plaintiffs and all Defendants, together with their respective families, servants, agents, employees, and all persons acting under their control, authority, and direction, and their respective

heirs, successors, and assigns be and they hereby are forever enjoined and restrained from interfering with, restricting, or otherwise hindering in any manner whatsoever the usage and/or reasonable maintenance of the easement described in Exhibit "A" or the usage of the easement described in Exhibit "B", by the other parties, their families, guests, invitees, and tenants, and the other parties' heirs, successors, and assigns.

(5) As pertains to the maintenance of Exhibit "A", all parties and their families, tenants, agents, employees, heirs, successors, assigns, and all persons acting under their control, authority, or direction be and they hereby are ordered to exercise due care so as not to ~~signifi-~~  
<sup>AB</sup> ~~causally~~ widen or expand from its historic and present width and breadth ~~the~~  
<sup>B</sup> ~~causally~~ alter the grade of same.

(6) Pursuant to the foregoing, both parties be and they are hereby required to relocate any and all fences which may be necessary in order for both parties to comply with the easements as described in Exhibits "A" and "B" incorporated herein, and all such fence relocations be and they hereby are to be completed by the respective parties on or before June 15, 1983.

(7) The Undertaking in Injunction furnished by Plaintiffs and filed October 19, 1979 pursuant to Rule 65(c) W.R.C.P. be and the same is hereby released to Plaintiffs.

(8) Plaintiffs and Defendants shall each pay their own attorney's fee and costs incurred herein, and each party shall pay one-half of the survey expenses of John F. Hart for his work, as directed by this Court, as of March 29, 1983.

(9) The claims for damages, whether actual damages or punitive damages, asserted by each of the parties be and they hereby are dismissed.

Dated this May 24, 1983.

Approved as to form and content:

Ron M. Kopriva  
Ron M. Kopriva  
Attorney for Plaintiffs

Donald L. Legerski  
Donald L. Legerski  
Attorney for Defendants Spriggs

BY THE COURT:

Robert B. Kane, Jr.  
District Court Judge

The State of Wyoming

County of Fremont  
I, Kristi H. Green, Clerk of the Ninth Ju  
District Court within and for said Cour  
in the State aforesaid Do Hereby Cert  
Foregoing to be a Full, True and Com

Signed Mad Legerski



A roadway easement located in the SE¼ SW¼ Section 7, and the NE¼ NW¼ Section 18, T33N, R99W, 6th P.M., County of Fremont, WY., more particularly described as follows:

Beginning at Corner No. 1, which bears N38°56'E a distance of 695.52 feet from the SW Corner of said SE¼ SW¼ of Section 7 (a brass cap), thence proceed S0°04'40"E a distance of 721.02 feet more or less to Corner No. 2; thence proceed east a distance of 36.84 feet to Corner No. 3; thence proceed south a distance of 150.55 feet more or less to Corner No. 4, which point is on the northerly boundary of Amoretti Street; thence proceed S73°58'E along said northerly boundary a distance of 37.38 feet to Corner No. 5; thence proceed north a distance of 160.88 feet to Corner No. 6; thence proceed north a distance of 40.00 feet to Corner No. 7; thence proceed S89°13'49"W a distance of 51.94 feet more or less to Corner No. 8; thence proceed N0°10'54"W a distance of 633.37 feet to Corner No. 9; thence proceed around a curve to the right a distance of 30.02 feet to Corner No. 10 (the curve has a radius of 21.19 feet and the chord from Corner No. 9 to Corner No. 10 is 27.57 feet in length and bears N30°48'50"E;) thence proceed N80°59'57"E a distance of 117.80 feet to Corner No. 11; thence proceed N85°07'18"E a distance of 72.20 feet to Corner No. 12; thence proceed N1°02'W a distance of 12.85 feet to Corner No. 13; thence proceed S87°49'42"W a distance of 68.56 feet to Corner No. 14; thence proceed S87°49'42"E a distance of 153.59 feet to Corner No. 15; thence proceed S0°04'40"W a distance of 4.32 feet more or less to Corner No. 1, the point of beginning,

Excepting however that portion of Wood Street, as described in a Warranty Deed, Book 148 of Microfilm, page 74, recorded January 27, 1981, which intersects the above described easement.

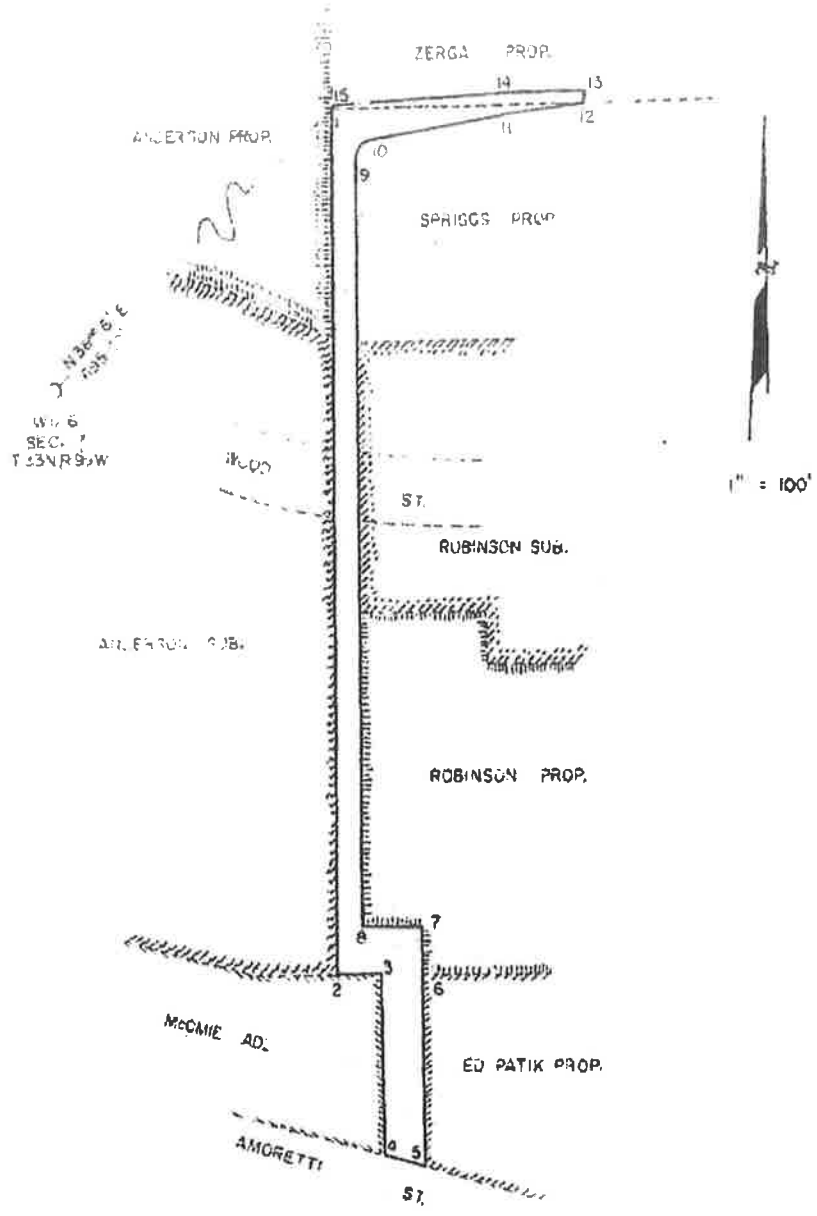
This roadway contains 0.610 acres more or less.

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Page 6 of 8 Fees: \$33.00  
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Julie A. Freese, Fremont County Clerk

EXHIBIT "A"



ROAD EASEMENT EVERGREEN LANE



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 Page 7 of 8 Fees: \$33.00  
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 Julie A. Freese, Fremont County Clerk

EXHIBIT "A" (Continued)

A 4 foot easement located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ , Section 7, T33N, R99W, 6th P.M., County of Fremont, Wyoming, being 2 feet on each side of the following described centerline.

Beginning at Point No. 1, which point is on the south boundary of the Zerga tract as described in W.D. Book 120 page 167, and bears N38°56'E a distance of 695.52 feet, thence S89°57'42"E a distance of 2 feet from the southwest corner of said SE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 7 (a brass cap), thence proceed N0°04'40"W a distance of 205.0 feet more or less to the northerly boundary of said Zerga tract and end of easement.

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Page 8 of 8 Fees: \$33.00  
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Julie A. Freese, Fremont County Clerk

EXHIBIT "B"

# Detail of R0005494

EXHIBIT B

Parcel 171

PIDN: 33990730006600  
 Tax ID: 000000000005459 Property Taxes  
 Tax District: 0151  
 Property Owner(s): ZERGA VICTOR GEORGE & BERTHA JOAN  
 Mailing Address: 690 EVERGREEN LN  
 LANDER, WY 82520  
 Street Address: 690 EVERGREEN LN  
 Location: TWP 33N RNG 099W SEC 07 TR IN SESW  
 2023 Market Value: \$ 379,320 (\$ 159,283 Land + \$ 220,037 Improvements)  
 2023 Assessed Value: \$ 36,036

Land	Acres	Square Feet	Class
	1.51	65,802	Residential
	1.51	65,802	Total

Residential 1	Stories	Sq Ft	Exterior	Roof Cover	Bedrooms	Year Built	Sketch(s)	Photo(s)
<b>Ranch 1 Story</b>	1.0	1425	Frame Siding	Wood Shake	2	1939	1 sketch(s)	2 photo(s)
2 baths with 3 fixtures								
Add On Heat - Wood Stove		1						
Add On Gazebos EA								
Porch Encl Solid Wall		375						
<b>Out Building 9000</b>	Stories	Sq Ft	Exterior	Roof Cover	Bedrooms	Year Built	Sketch(s)	Photo(s)
<b>Farm Utility Building</b>	1.0	704	Wood Frame		0	1935	1 sketch(s)	1 photo(s)
Add On Slab Roof - Ave		64						
<b>Out Building 9001</b>	Stories	Sq Ft	Exterior	Roof Cover	Bedrooms	Year Built	Sketch(s)	Photo(s)
<b>Prefabricated Storage Shed Buildings</b>	0.0	160	Wood Frame		0	2002	1 sketch(s)	1 photo(s)
<b>Out Building 9002</b>	Stories	Sq Ft	Exterior	Roof Cover	Bedrooms	Year Built	Sketch(s)	Photo(s)
<b>Farm Utility Building</b>	1.0	462	Wood Frame		0	1935	1 sketch(s)	1 photo(s)
Add On Finished in OutBuilding - SF		462						
<b>Out Building 9003</b>	Stories	Sq Ft	Exterior	Roof Cover	Bedrooms	Year Built	Sketch(s)	Photo(s)
<b>Farm Utility Building</b>	1.0	675	Wood Frame		0	1935	1 sketch(s)	1 photo(s)
Add On Canopy Wood Av		80						
Add On Finished In OutBuilding - SF		675						
<b>Out Building 9004</b>	Stories	Sq Ft	Exterior	Roof Cover	Bedrooms	Year Built	Sketch(s)	Photo(s)
<b>Farm Utility Building</b>	1.0	576	Wood Frame		0	1935	1 sketch(s)	1 photo(s)
Add On Finished In OutBuilding - SF		576						
<b>Out Building 9005</b>	Stories	Sq Ft	Exterior	Roof Cover	Bedrooms	Year Built	Sketch(s)	Photo(s)
<b>Farm Utility Building</b>	1.0	286	Wood Frame		0	1935	1 sketch(s)	1 photo(s)
Add On Canopy Wood Av		110						
Add On Finished in OutBuilding - SF		286						
<b>Out Building 9006</b>	Stories	Sq Ft	Exterior	Roof Cover	Bedrooms	Year Built	Sketch(s)	Photo(s)
<b>Equipment Storage</b>	1.0	728	Frame Siding	Composition Shingle	0	1983	1 sketch(s)	1 photo(s)
Add On Heat - Wood Stove		1						
<b>Out Building 9007</b>	Stories	Sq Ft	Exterior	Roof Cover	Bedrooms	Year Built	Sketch(s)	Photo(s)
<b>Farm Utility Building</b>	1.0	1113	Frame Aluminum	Composition Shingle	2	1935	1 sketch(s)	1 photo(s)
Add On Finished in OutBuilding - SF		1113						

Year built may not be original year built due to remodeling and additions.

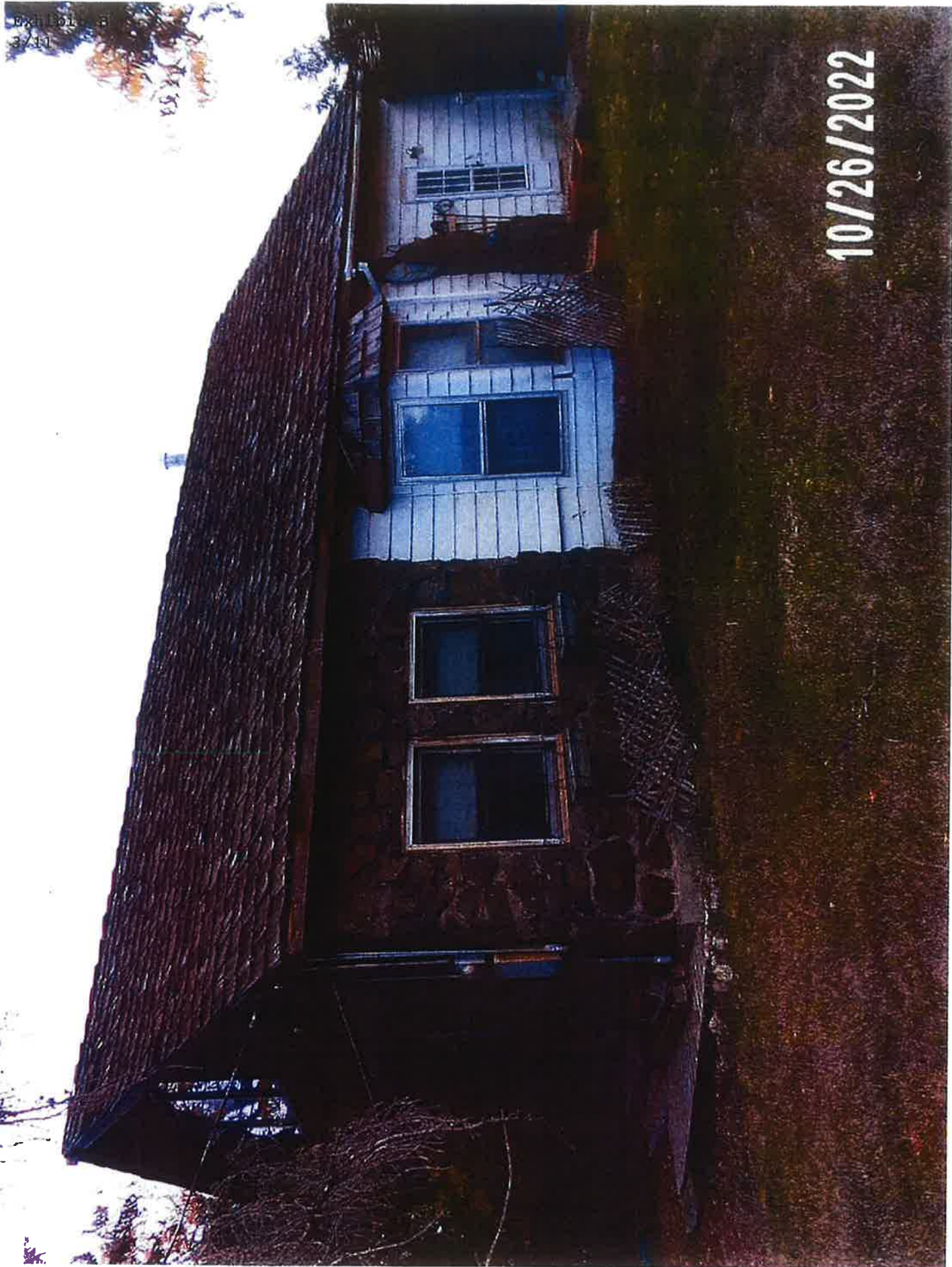


Exhibit B  
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10/26/2022





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3/11

Exhibit  
4/11

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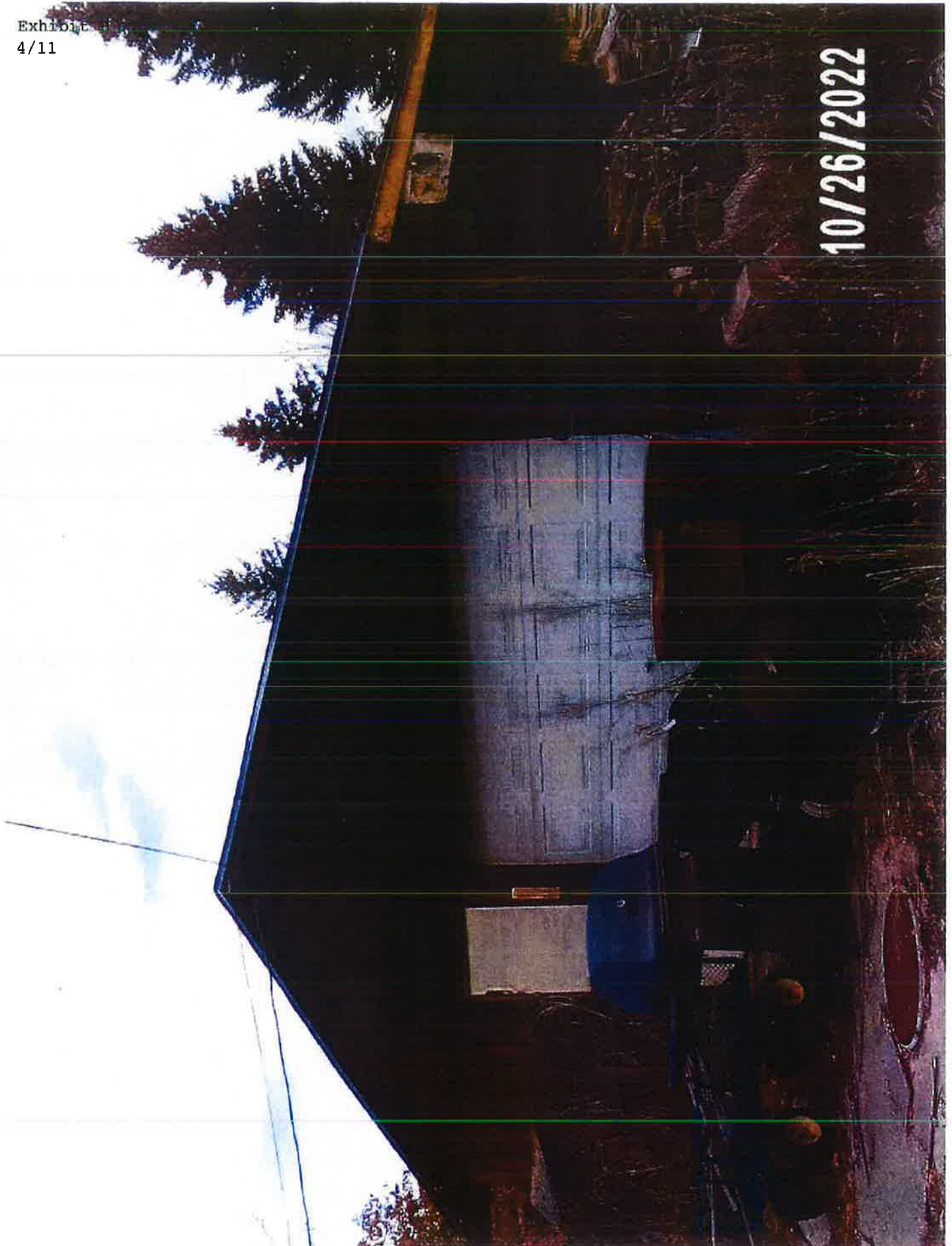
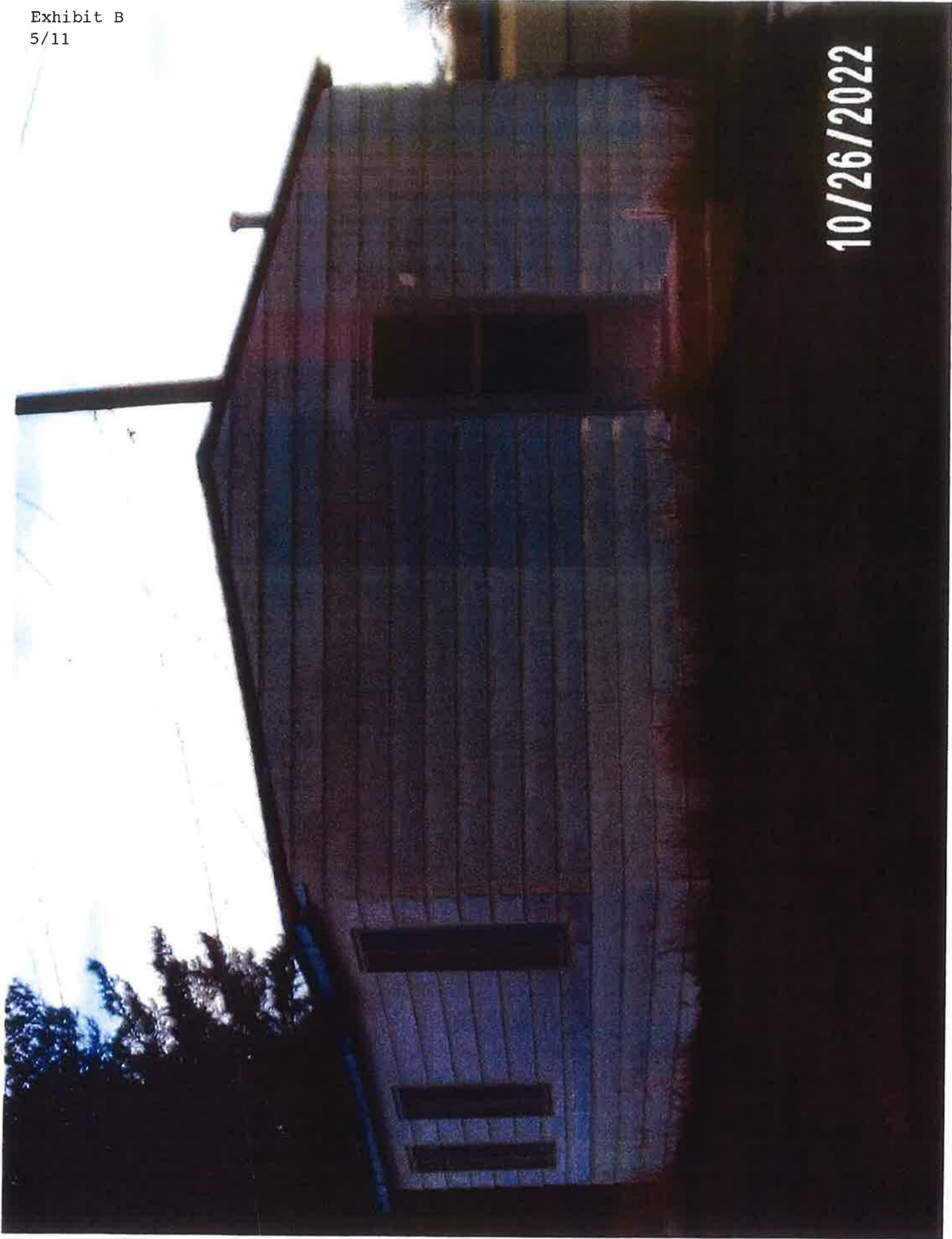




Exhibit B  
5/11



10/26/2022



Exhibit B  
6/11

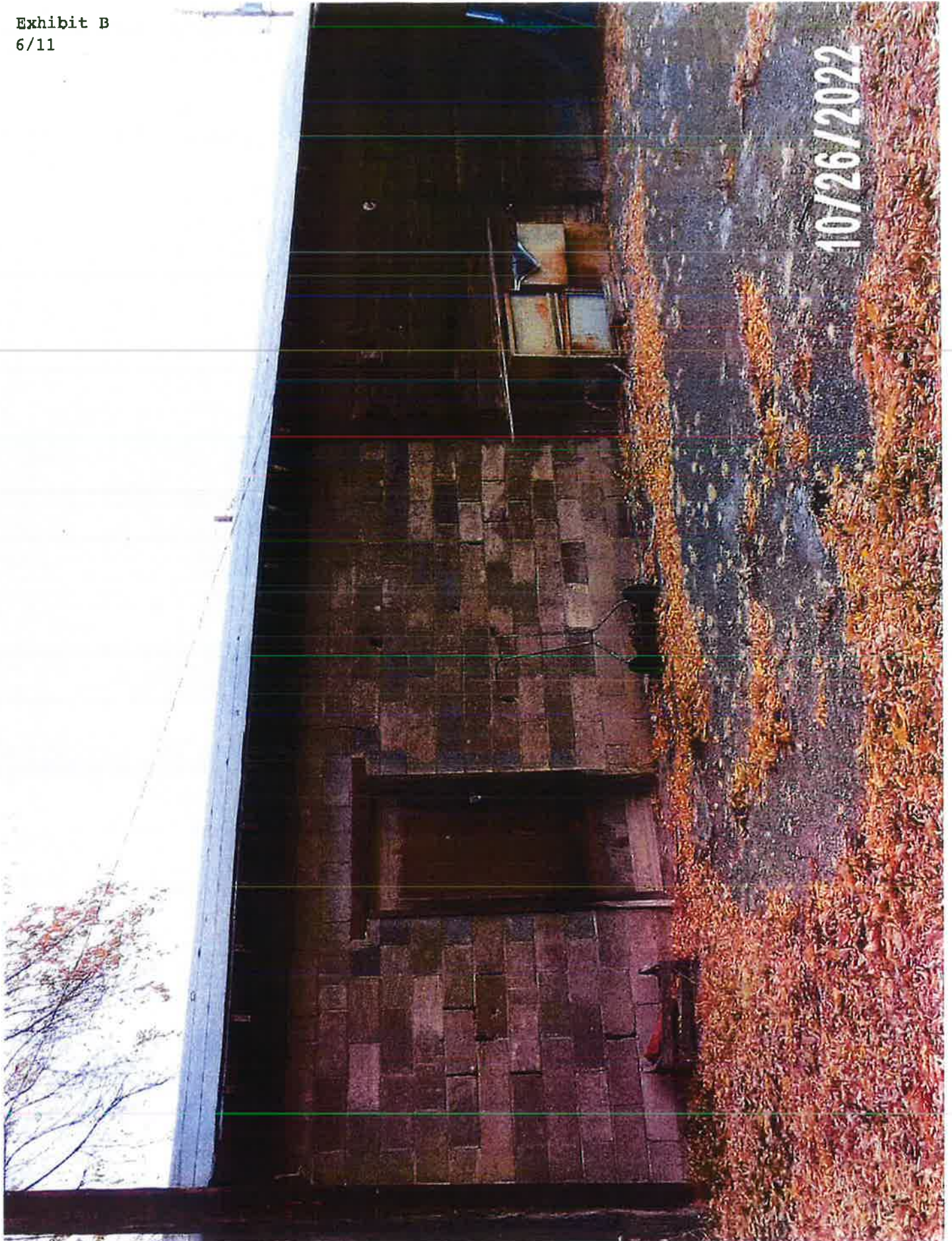




Exhibit B  
7/11

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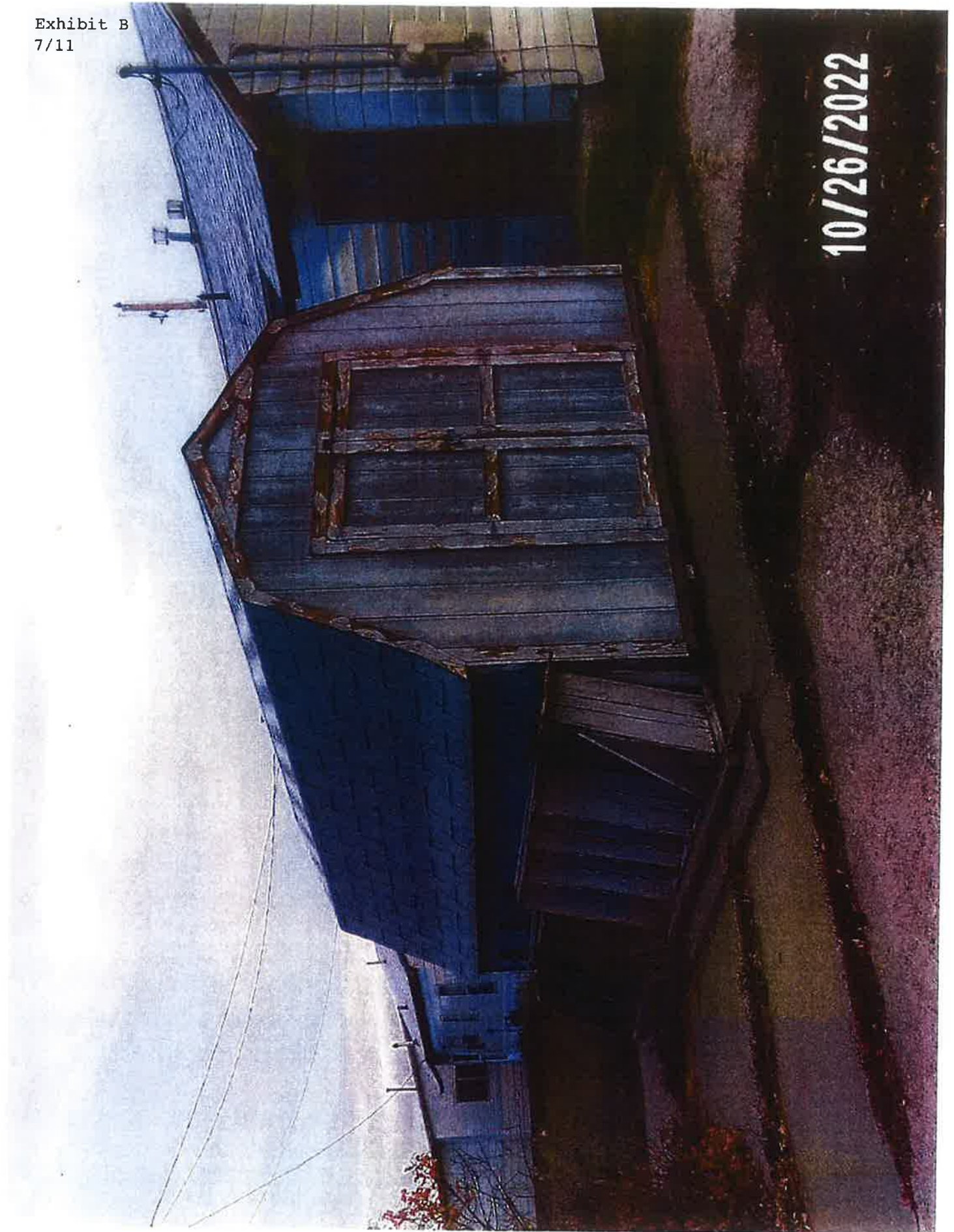


Exhibit B  
8/11

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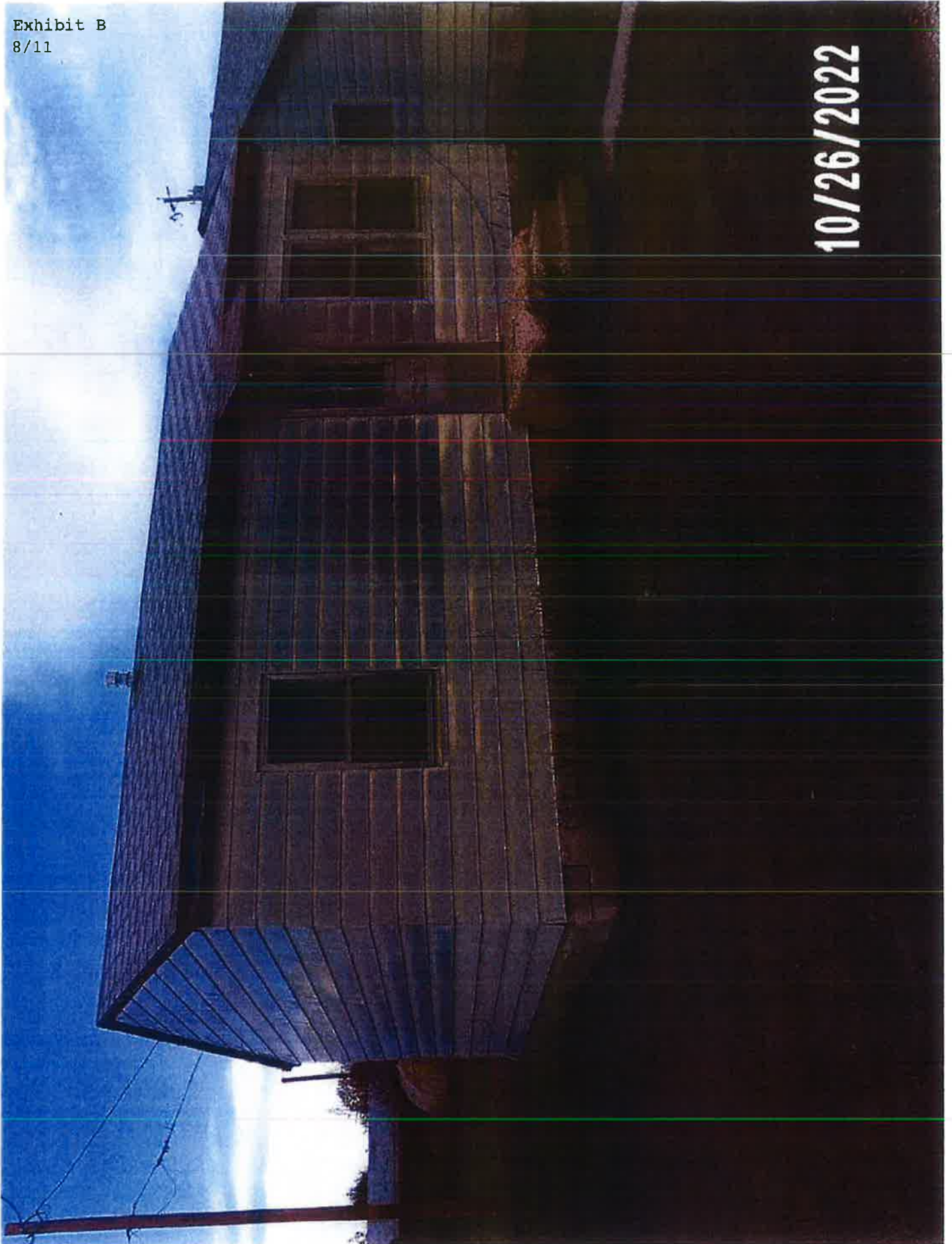




Exhibit B  
9/11

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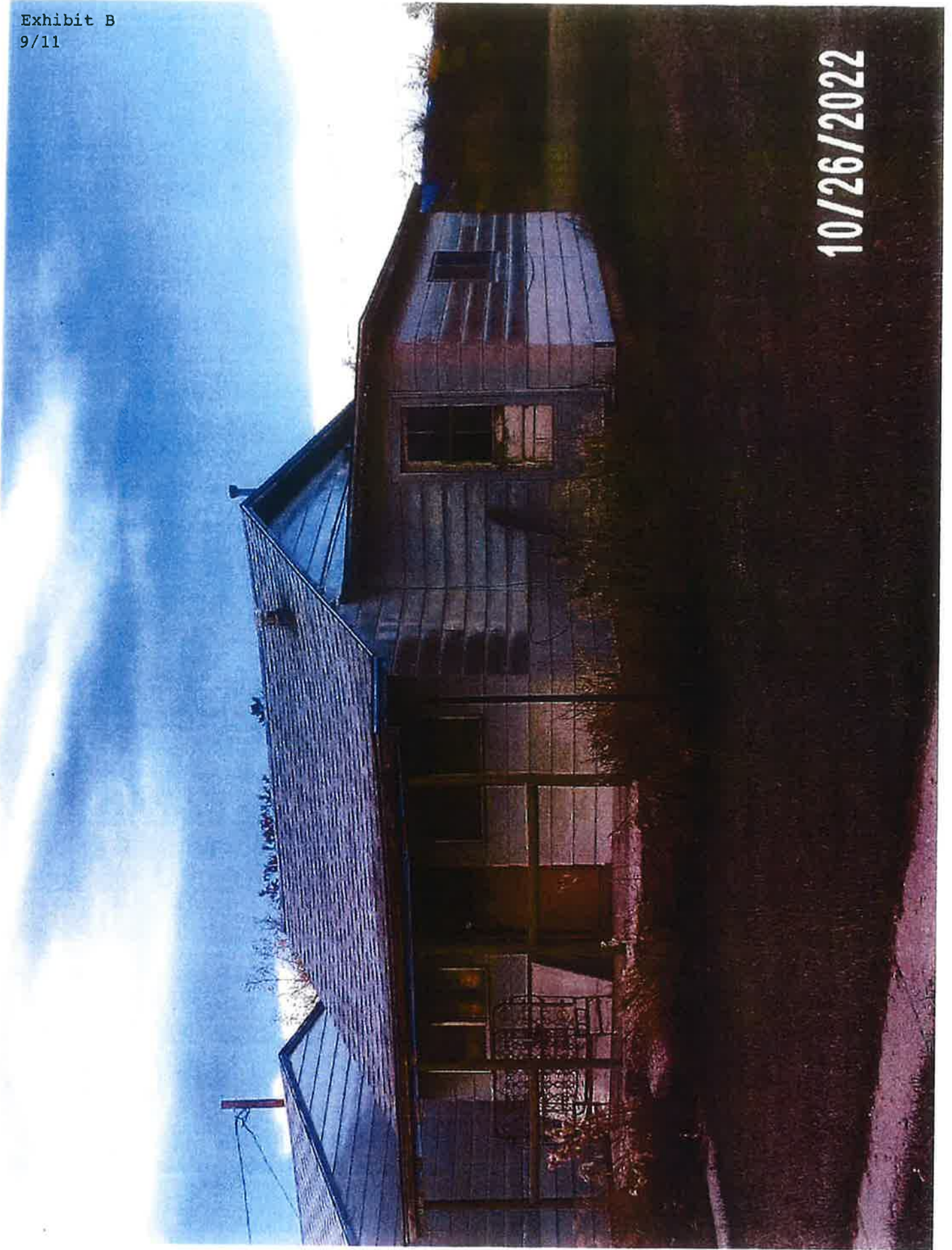
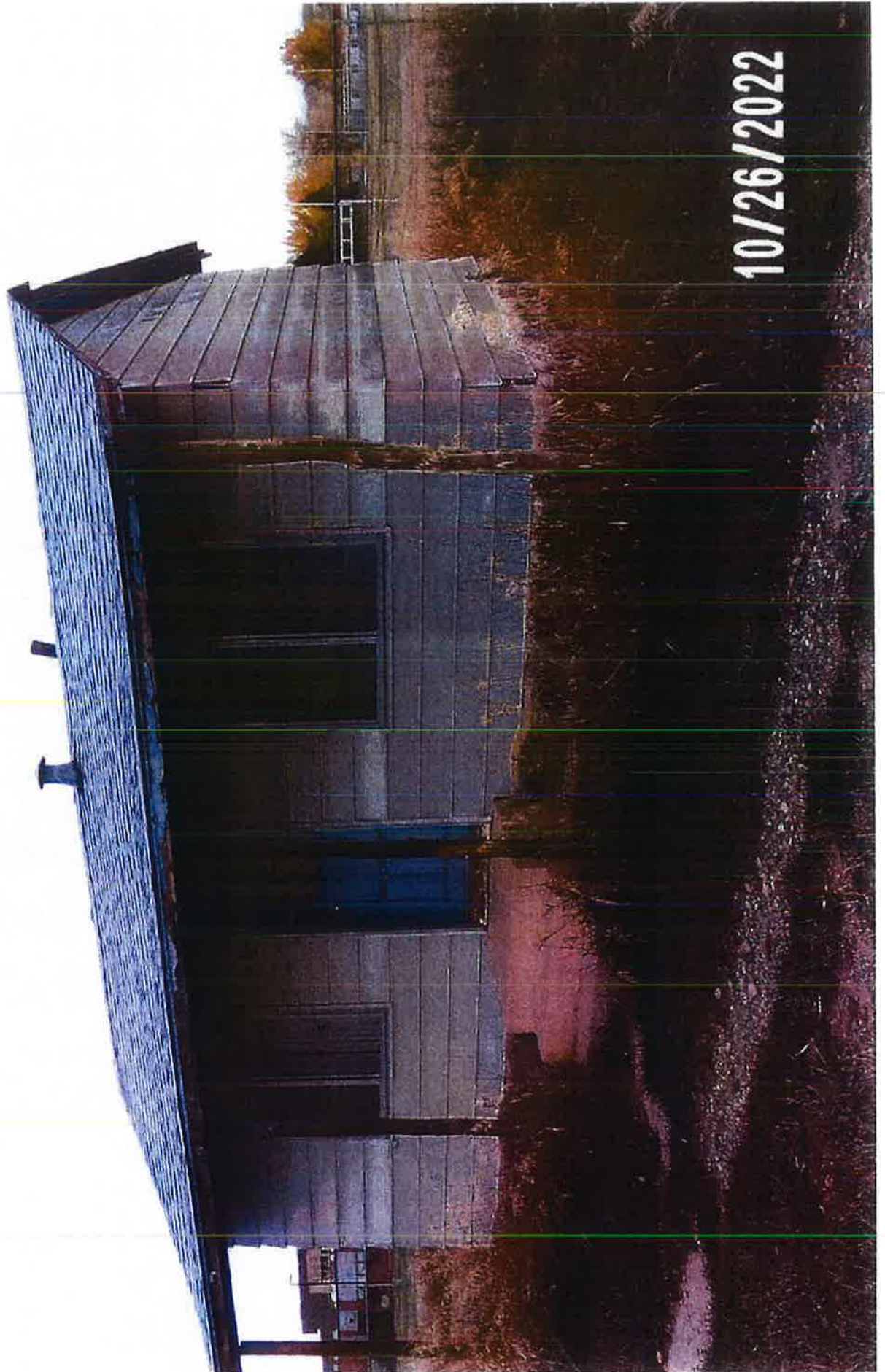




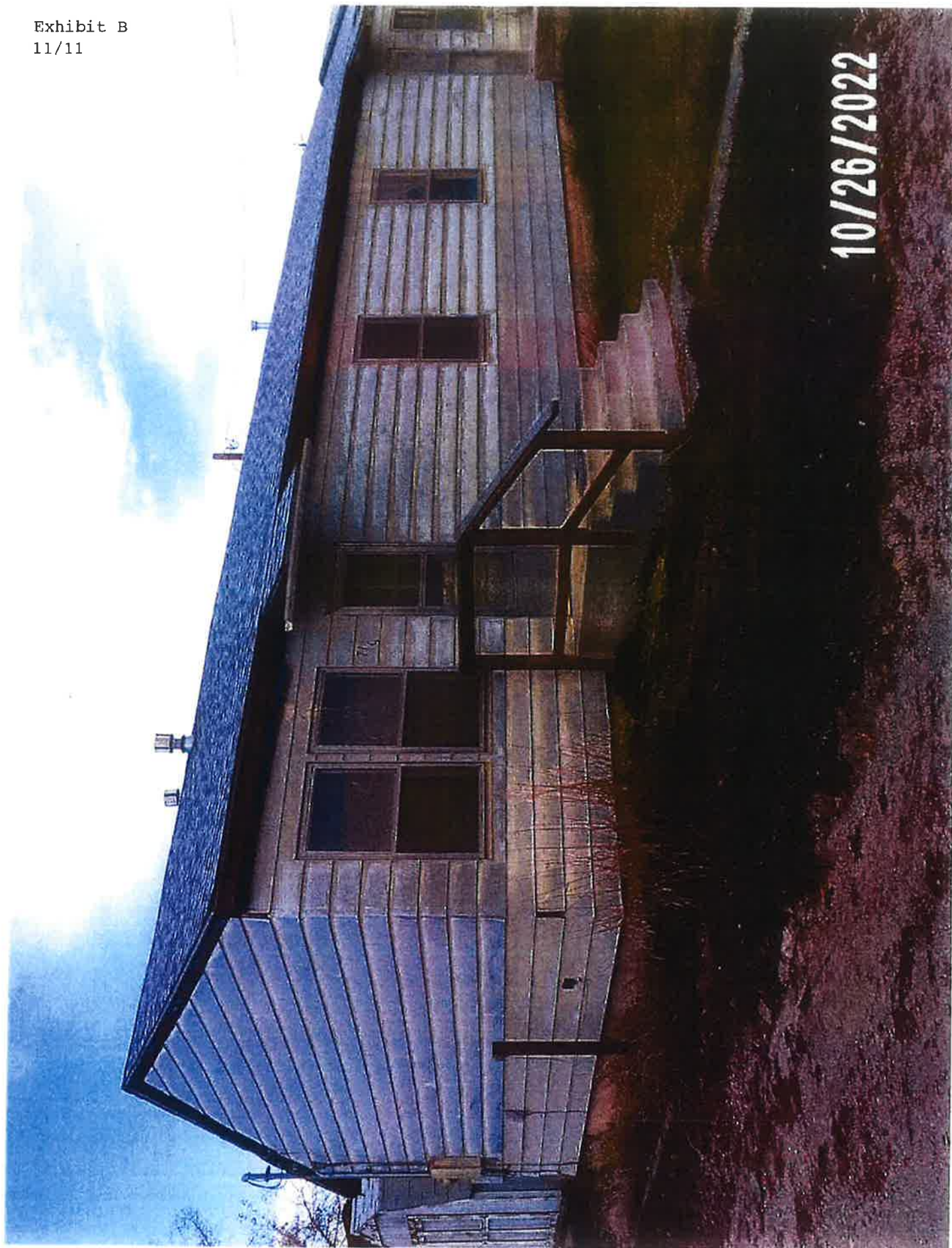
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