

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

**ORIGINAL  
FILE COPY**

IN RE: TERRITORIAL DISPUTE BETWEEN  
CLAY ELECTRIC COOPERATIVE, INC.  
AND FLORIDA POWER CORPORATION  
IN ALACHUA COUNTY.

DOCKET NO. 900064-EU

DIRECT PREFILED TESTIMONY OF PAUL H. WATERS  
ON BEHALF OF CLAY ELECTRIC COOPERATIVE, INC.

DOCUMENT NUMBER-DATE  
03553 APR 25 1990  
FPSC-RECORDS/REPORTING

1 Q. Would you please state your name and business address.  
2 A. My name is Paul H. Waters, 8616 NW 39th Avenue, Gainesville,  
3 FL 32606.  
4 Q. What is your occupation?  
5 A. I am district manager of the Gainesville district office for  
6 Clay Electric Cooperative, Inc.  
7 Q. What is your background and training?  
8 A. I graduated from Georgia Institute of Technology in 1969 with  
9 a bachelor of industrial engineering, and I was licensed by  
10 the State of Florida as a professional engineer in 1974. My  
11 license number is 20272. My work experience with an electric  
12 utility began with Florida Power & Light from 1965 to 1968  
13 while attending Georgia Tech as a coop student. I worked in  
14 the Division of Engineering office in Daytona Beach, Florida,  
15 performing various tasks including engineering cost  
16 estimating, surveying, and field engineering. After  
17 graduation in 1969 I worked with the City of Gainesville  
18 (Gainesville Regional Utilities) through 1980 in the  
19 engineering department, advancing to Division Chief of  
20 Engineering Service for the electric, water and waste water  
21 utility systems. From 1980 through 1982 I worked as a  
22 salesman with North Supply Company calling on electric  
23 utilities in Florida, Georgia and Alabama. From 1982 to  
24 present, I have been employed by Clay Electric Cooperative,  
25 Inc., starting in the engineering department as Division



1 Chief of Distribution Engineering. I became district manager  
2 of the Gainesville district office in December of 1986.

3 Q. What is the purpose of your testimony?

4 A. As district manager of the Gainesville district office it is  
5 my general responsibility to oversee the engineering design  
6 and line construction associated with the extension of  
7 distribution facilities to provide service to new customers  
8 and new developments. I am in charge of our district  
9 engineer, Steve Law, as well as all other staff personnel in  
10 my office.

11 Q. Are you familiar with a development known as Marchant Meadows  
12 just north of the Town of Archer?

13 A. Yes I am. Marchant Meadows is located in the geographical  
14 area served by the Gainesville District office and our office  
15 has a responsibility to provide customer support, maintenance  
16 and construction of new facilities in this area. I have  
17 frequently been in the area where Marchant Meadows is located  
18 both before and after the development started.

19 Q. Has Clay Electric historically provided electric service to  
20 customers in this area?

21 A. Yes. As shown on Exhibit \_\_\_\_\_ (WCP-4) there have been 11  
22 accounts that have been served or that are now being served  
23 by Clay Electric within the general boundary of State Road  
24 241, U.S. 41, and County Road SW22. Seven of those accounts  
25 within the development have been retired at the request of

1 the developer. We have active services to a customer  
2 adjacent to Lot 23 in the development area, and two active  
3 services immediately adjacent to Lots 24 and 25 just south of  
4 the development. The oldest service on the development area  
5 was established in 1947 to serve a saw mill and the most  
6 recent of the retired services was activated in 1972.

7 Q. Are you familiar with the ownership of this property,  
8 historically?

9 A. Yes, it has been owned by the Marchant family for many years.  
10 The Marchant's sold off most of the property, which forms a  
11 triangle bounded by State Road 241, Highway U.S. 41, and  
12 County Road SW22. The Marchant's sold all but the southern  
13 portion of the property to the Patten Corporation, and have  
14 retained the southern portion and continue to be served by  
15 Clay Electric at that site.

16 Q. Are you familiar with the FPC express feeder line that runs  
17 down State Road 241 coming from its Archer substation?

18 A. Yes I am. According to our company's information, that  
19 express feeder line was constructed in early 1971.

20 Q. Mr. Waters, you have indicated that all the Clay accounts on  
21 the actual development have been retired, but that some were  
22 established in 1971 and 1972.

23 A. That's correct, as you can see from Exhibit \_\_\_\_\_ (WCP-4)  
24 the earliest account on State Road 241 was established in  
25 1963. The source of the service was from our facilities on



1 the eastern side of 241. Subsequent thereto, we established  
2 services in 1971 and 1972 to homesites on the west side of  
3 241 which is now property of the developer.

4 Q. To your knowledge did FPC ever object to the construction of  
5 those facilities that you just referred to?

6 A. We have no record of there being any objection.

7 Q. But wouldn't it be necessary for Clay to build under the  
8 express feeder, that is, cross under it to reach the  
9 property?

10 A. Yes. FPC did not object to our serving those locations  
11 because they had agreed with Clay that they would not serve  
12 any customers off that line. Back in 1970, FPC had requested  
13 a permit from Alachua County to construct a primary, or  
14 express, feeder from its Archer substation into the Town of  
15 Archer. Clay Electric was notified of the permitting  
16 process. FPC wrote to Clay Electric asking if Clay had any  
17 objections to the construction of the primary feeder. In a  
18 letter dated December 28, 1970 from E. T. Martin, General  
19 Manager of Clay Electric to E. E. Dearmin, Division Manager  
20 with FPC, Mr. Martin indicated that Clay had no objection to  
21 the construction of the line as a tie line or a two-way feed  
22 to the community of Archer. I believe that letter is  
23 attached to Mr. Phillips' testimony as Exhibit \_\_\_\_\_ (WCP-  
24 5). Mr. Dearmin wrote back to Mr. Martin, Exhibit \_\_\_\_\_  
25 (WCP-6) stating that FPC would not use the express feeder to

1           serve any customers. In short, Clay regarded the area as its  
2           service area since at least 1947 when service was established  
3           on the geographic area and was already serving a homesite  
4           along 241 in 1963. It was therefore logical that there would  
5           be no objections from FPC to our adding additional services  
6           to the development in 1971 and in 1972 since FPC had  
7           represented that their express feeder was not for the purpose  
8           of serving any distribution customers along that route.

9           Q. Did you have any contact with the Patten Corporation prior to  
10          the development being started?

11          A. Yes. Billy Woodington with Patten Corporation came to the  
12          Gainesville district office to discuss the requirements for  
13          Clay Electric service to the development. He spoke with  
14          Arlee Terrell, who was then our district engineer. Mr.  
15          Terrell introduced me to Mr. Woodington and indicated that  
16          Mr. Woodington had requested information from Clay Electric  
17          regarding service to the site, and a letter from Clay  
18          Electric stating that Clay agreed it would extend service to  
19          the proposed development.

20          Q. Did you send a letter to Mr. Woodington indicating that Clay  
21          would serve the property as requested by Mr. Woodington?

22          A. Yes we did. I believe the letter was mailed sometime in June  
23          of 1989.

24          Q. Are you familiar with the cost estimate furnished by Mr. Law,  
25          Exhibit \_\_\_\_\_ (SL-1)?



1           A. Yes I am, I worked with Mr. Law on the preparation of the  
2 estimate and I believe it's reasonable. However, it is an  
3 estimate, and the actual cost depends on how fast the  
4 development is constructed, where each customer actually  
5 desires service, and inflation cost depending on how long it  
6 takes to build out the development. I am also familiar with  
7 Exhibit \_\_\_\_\_ (SL-2) on service to the back lot lines as  
8 the developer requested from Florida Power Corporation.

9           Q. Both Mr. Law and Mr. Lea have described the location of the  
10 Clay Electric distribution facilities around the area and  
11 then provide exhibits to their direct testimony. Do you have  
12 any additional comments to add about the matters they  
13 testified to and the exhibits?

14          A. I assisted in furnishing information necessary to complete  
15 those exhibits and have reviewed them. They accurately  
16 reflect the location of our distribution facilities and I  
17 concur with the testimony of Mr. Lea and Mr. Law regarding  
18 such matters. In addition, I have attached hereto Exhibit  
19 \_\_\_\_\_ (PW-1) which shows just the southern portion of  
20 the property being developed, our distribution system  
21 immediately adjacent thereto, and the extension of service by  
22 FPC to the developer's sales office. The detail on a lot of  
23 the other exhibits is so small, it is hard to tell what  
24 actually happened without a blowup of that portion of the  
25 area. As you can see from Exhibit \_\_\_\_\_ (PW-1), FPC has an

1 express feeder identified by a green line running down State  
2 Road 241. Although the drawing may appear to show it being  
3 on the developer's property, it's actually in the county road  
4 right-of-way. The red line shows the tap off the FPC line on  
5 241 to run over 1,000 feet across the property to the  
6 developer's sales office on U.S. 41. The lines highlighted  
7 in blue are Clay Electric's distribution system.

8 Q. Do you have any doubt in your mind that Clay Electric can  
9 provide adequate and reliable service to this area?

10 A. Absolutely no doubt in my mind. Clay Electric has served and  
11 continues to serve the geographic area and all surrounding  
12 areas. We have planned a system to do so and will continue  
13 to plan for service to this area in the future. We have  
14 recently upgraded our Archer substation and our feeder line  
15 to this site to provide for the planned growth of the area,  
16 although the upgrading was not done just to serve this site.

17 Q. How would you describe the character of the area in which the  
18 disputed land lies?

19 A. I have attached an exhibit of photographs, Exhibit \_\_\_\_\_  
20 (PW-2) which will assist in describing the property. First,  
21 its rural made up of farmland, oak and pine trees. The  
22 pictures on Exhibit \_\_\_\_\_ (PW-2) are referenced by numbers  
23 and I will refer to them by numbers. Picture number 11A  
24 shows the developer's office from the rear. It also shows  
25 the FPC pole and transformer and the service drop to the



1 sales office. On the far side of the sales office is U. S.  
2 Highway 41. Picture number 5A shows U.S. 41 looking  
3 southeast across the property. You can see part of the sale  
4 office on the left side and in the distance in the center of  
5 the photograph you can see the Marchant home just south of  
6 the property. Picture 13A shows an existing Clay pole on the  
7 property which was a retired service to an old sawmill. In  
8 the background you see one of the new FPC poles crossing the  
9 property. This picture is taken from the sales office area  
10 looking north.

11 Picture number 7 was taken looking north at the intersection  
12 of U.S. 41 and State Road 241. 41 goes off to the left and  
13 241 goes off to the right. The property in the immediate  
14 triangle formed by the intersection is still owned by the  
15 Marchant family. Picture number 9 was taken a few hundred  
16 yards farther north on State Road 241 adjacent to the  
17 Marchant property which is on the left. You can see the Clay  
18 facilities on the right side of the road and the FPC express  
19 feeder on the left side.

20 Picture number 11 shows the FPC express feeder on State Road  
21 241 and the tap from that express feeder heading left or west  
22 across the developer's property across Marchant Meadows.

23 Picture number 13 is a little farther north up to 41. This  
24 picture was taken looking southwest across 241 into the  
25 Marchant property. You can see the FPC express feeder and a

1 Clay Electric distribution pole next to it. That pole was  
2 constructed to serve a residence that had been on the  
3 property. Picture number 19 again shows the FPC express  
4 feeder on the left side and the Clay facilities on both sides  
5 on State Road 241 about half way up the developer's property.  
6 Picture number 23 was taken from State Road 241 looking east  
7 down County Road SW20-A, also known as SW 103rd Avenue. The  
8 FPC express feeder line runs down County Road SW20-A to the  
9 FPC substation. You can also see the Clay Electric  
10 facilities crossing SW20-A. The next picture, number 27,  
11 shows County Road SW22, the norther boundary of the  
12 developer's property looking east. Clay's lines are on the  
13 north side of the road. The developer's property lies to the  
14 south or left side of the road. Picture number 28 was taken  
15 from U.S. 41 looking southeast at the intersection of County  
16 Road SW22 and U.S. 41. The developer's property lies between  
17 the intersection of these two roads. This intersection is in  
18 the northwest corner of the developer's property. Picture  
19 number 30 was taken on U.S. 41 heading south adjacent to the  
20 developer's property. The facilities shown belong to Clay  
21 Electric, with service to a dairy farm shown in the picture.  
22 The developer's property is on the east or left side of the  
23 road. Picture number 32 was taken a few hundred yards  
24 farther south on U.S. 41. The picture shows Marchant Meadows  
25 looking southeast across the property from U.S. 41. Finally,



1 picture number 36 was taken just north of the developer's  
2 office on U.S. 41, looking south. The sales office is on the  
3 left side of the road (east) and Clay's facilities are shown  
4 on the right side.

5 Q. Mr. Waters, except for the FPC service to the sales office  
6 are there any customers of FPC in the areas you have just  
7 described in these photographs.

8 A. No, all the customers in the areas shown in the photographs  
9 and in the areas surrounding this property are Clay  
10 Electric's customers.

11 Q. Mr. Waters, when were the pictures taken that you have  
12 described?

13 A. On March 13, 1990. That was the date that you and I met with  
14 Steve Law and Terry Clayton on the property at the sales  
15 office. You then took the pictures and they accurately  
16 represent the condition and character of the property  
17 including all improvements shown as existed on March 13,  
18 1990, from my own personal observation.

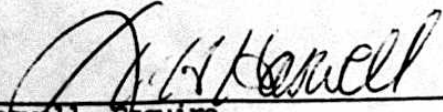
19 Q. Does this conclude your testimony?

20 A. Yes it does, but I reserve the right to make further comments  
21 in the event of new information that may be developed in  
22 discovery.

1

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TO BE SWORN TO AT THE HEARING.

  
\_\_\_\_\_  
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Direct Pre-Filed Testimony of Paul H. Waters has been furnished to PAMELA I. SMITH, ESQUIRE, Staff Attorney, Florida Power Corporation, P. O. Box 14042, St. Petersburg, FL 33734; and MICHAEL A. PALECKI, ESQUIRE, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, FL 32301 by U.S. Mail this 24 day of April, 1990.

\_\_\_\_\_  
Of Counsel



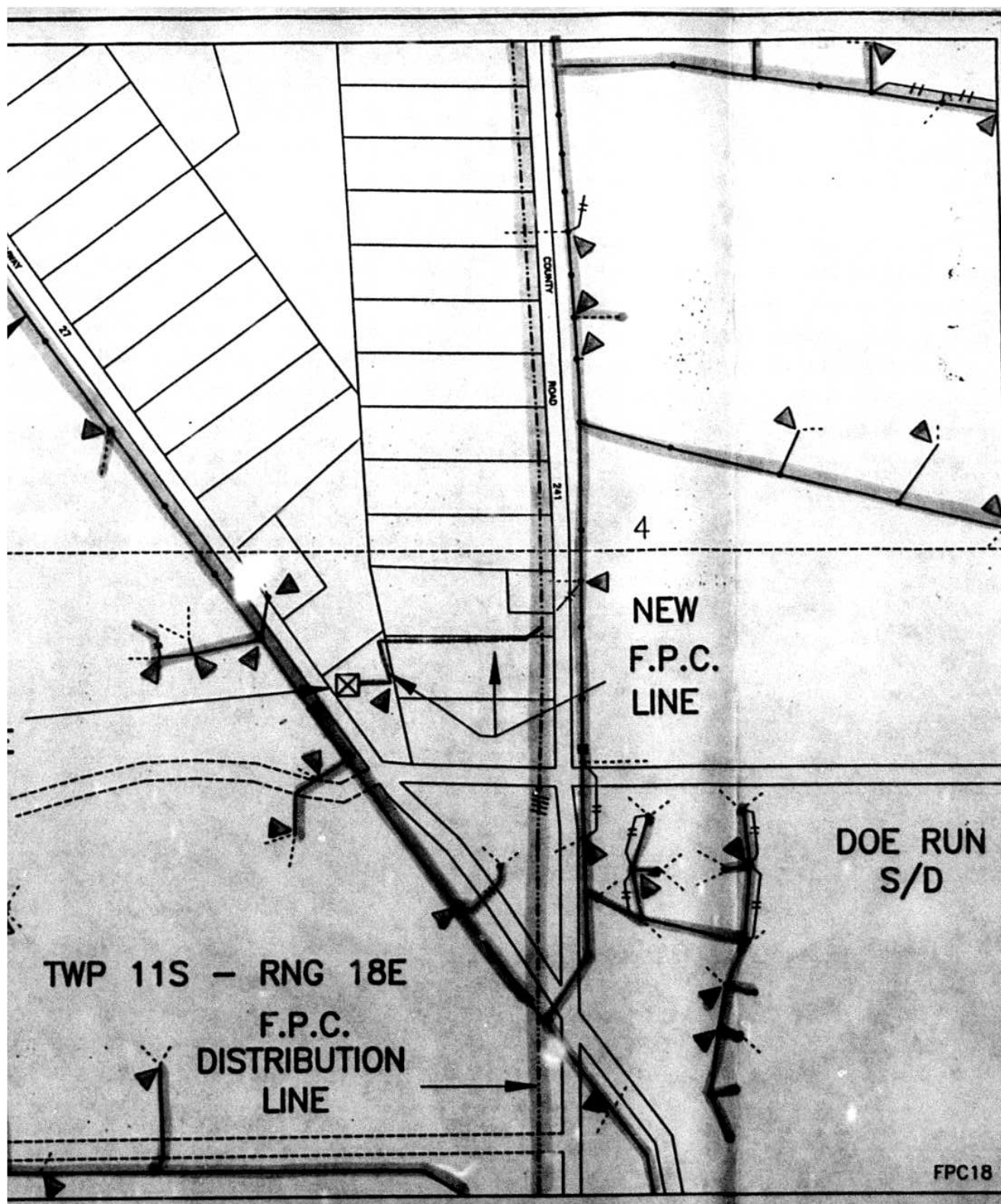


EXHIBIT (PW-1)

CEC

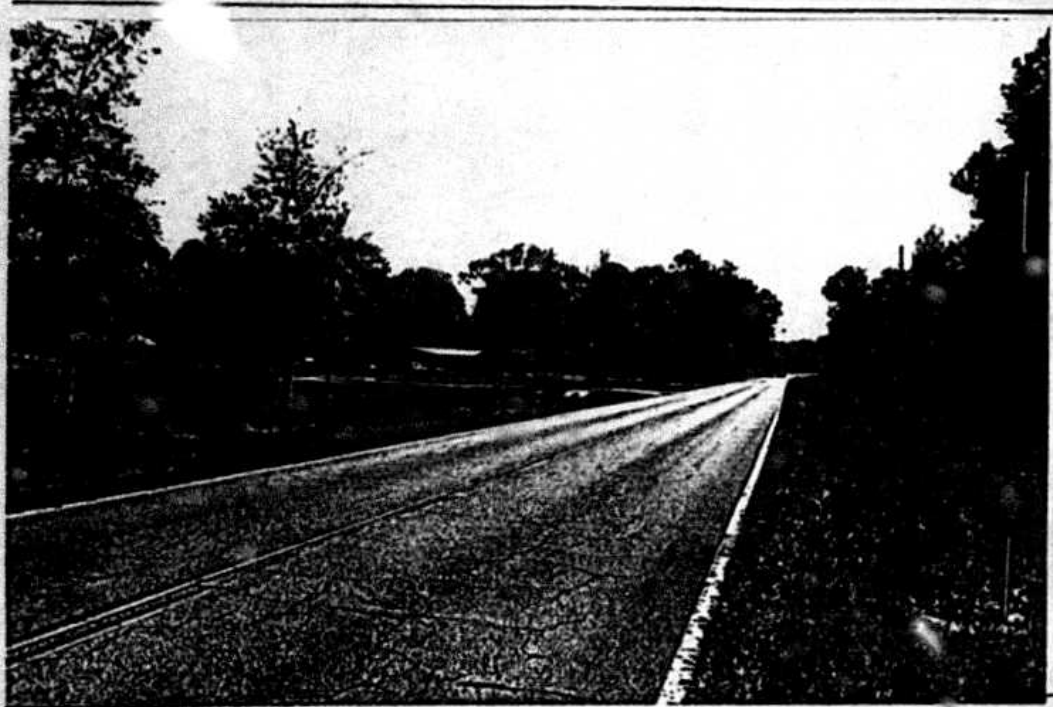
TWP 11S - RNG 18E  
F.P.C.  
DISTRIBUTION  
LINE

4  
NEW  
F.P.C.  
LINE

DOE RUN  
S/D

FPC18

#36

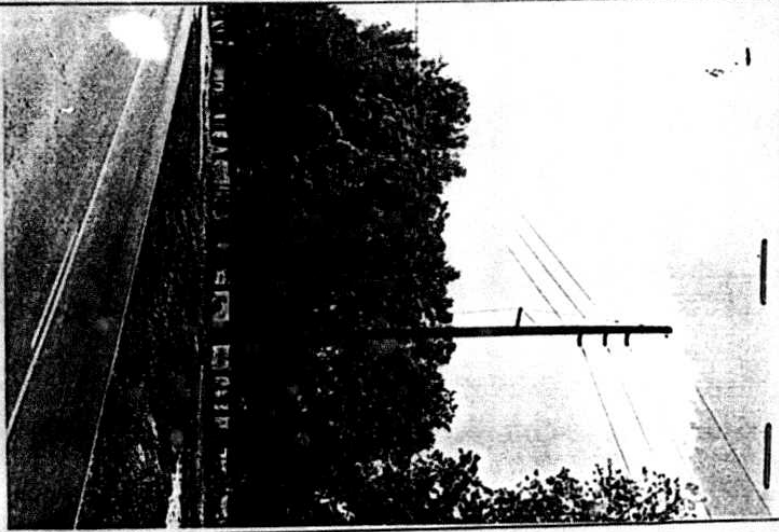




#11



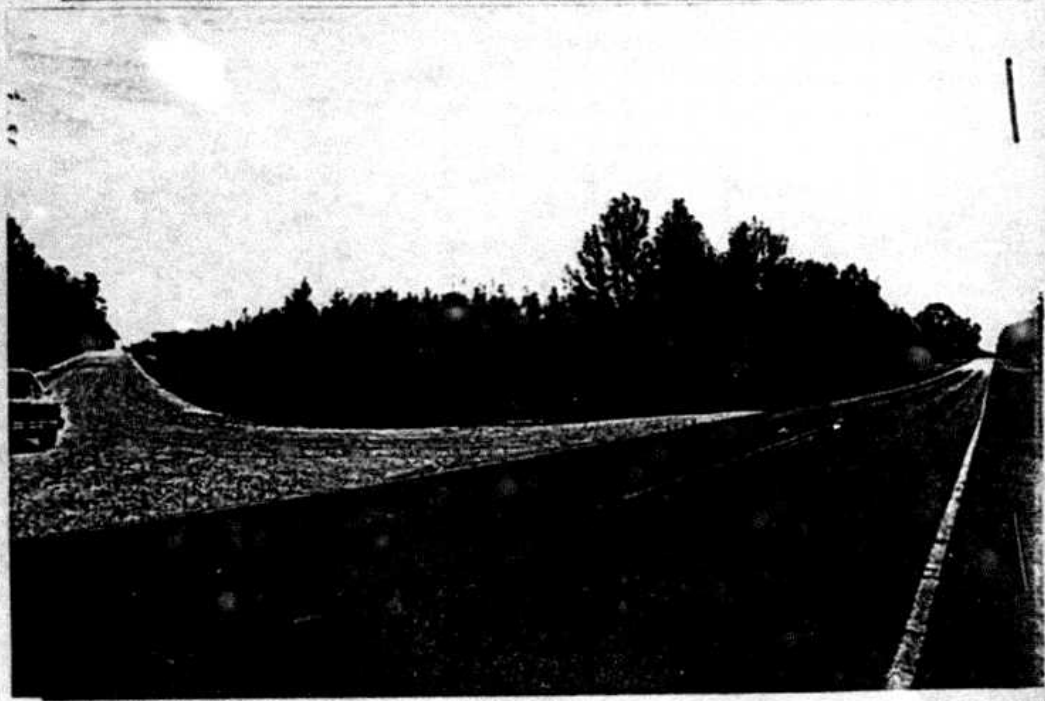
#13



#19



#28



#30

