

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION INTO THE) CASE NO.
JURISDICTIONAL STATUS OF THE RT. 504) 2014-00063
GAS LINE OPERATIONS)

ORDER

On March 11, 2014, the Commission, on its own motion, established this matter to investigate the jurisdictional status of a natural gas facility and operation located along KY 504 in Sandy Hook, Elliott County, Kentucky, ("Rt. 504 Gas Line") owned, operated, and managed by Dale E. Stevens and Liddie A. Lewis ("Joint Owners"). There were no requests for intervention.

BACKGROUND

On or about January 10, 2014, the Office of the State Fire Marshal ("Fire Marshal") notified Commission Staff that a complaint had been received regarding the sale of natural gas to a number of residents who live along KY 504 in Elliott County. On January 15, 2014, Commission Staff and representatives of the Fire Marshal met with the complainant and conducted a joint field investigation beginning at the complainant's residence. Upon inspection, the Fire Marshal reported that "[c]omplainant advises that he buys natural gas from Dale Stevens by the year . . . Stevens has several wells in the area and he distributes natural gas to 22 or more customers from these wells . . . the gas lines 'appeared to be black water line . . . that was spliced in many places by

radiator hose clamps, black tape and duct tape.”¹ On January 24, 2014, the Fire Marshal and Commission Staff met with Joint Owners and the Fire Marshal advised of the “numerous violations that were present” and asked Joint Owners to identify the location of each of their customers. The Fire Marshal also informed Joint Owners that the system would have to be brought up to code or dismantled by April 1, 2014.²

In response to a written request from the Commission’s Executive Director,³ Mr. Stevens denied ownership of any gas wells but confirmed owning “oil wells that produce a questionable supply of natural gas as a by-product of the oil production”⁴ He further stated that the oil wells were drilled in the 1960s and that the owners decided to “put the gas line in instead of burning it off . . . and that each subsequent owner maintained the lines that were placed there initially and replaced them when necessary . . . I am simply the most recent owner of the oil wells in question.”⁵

On April 9, 2014, Commission Staff met with Joint Owners in an informal conference in order to clarify information that had been previously provided. In response to questions raised at the April 9, 2014 informal conference,⁶ Mr. Stevens responded on April 21, 2014, that he had confirmed with the Fire Marshal that the shut-off date for

¹ Commonwealth of Kentucky Department of Housing, Buildings & Construction, Division of Fire Prevention, Investigation Report, Date of Occurrence Jan. 15, 2014 (Jan. 16, 2014).

² Commonwealth of Kentucky Department of Housing, Buildings & Construction, Division of Fire Prevention, Investigation Report, Date of Occurrence Jan. 24, 2014 (Jan. 27, 2014).

³ Letter from Jeff Derouen, Executive Director, Kentucky Public Service Commission, to Dale E. Stevens and/or Liddie A. Lewis, owners of Rt. 504 Gas Line (Jan. 21, 2014).

⁴ Dale E. Stevens Response to Jeff Derouen, Executive Director, Kentucky Public Service Commission’s letter of January 21, 2014 (Feb. 3, 2014), Item 1.

⁵ *Id.*

⁶ Letter from Jeff Derouen, Executive Director, Kentucky Public Service Commission (Apr. 15, 2014).

the gas line could be moved to May 1, 2014, due to weather conditions. Mr. Stevens also stated that:

I have already constructed a burn pipe to dispose of the gas once it is disconnected on May 1, 2014. The gas line will be shut off on May 1 and I will immediately begin disconnecting the existing gas line and moving it to the oil property and on property that I personally own on Rt. 504. I hope this satisfies the commission and puts this issue to an end. Like I said at the meeting I have no desire to be considered a utility.⁷

On June 23, 2014, Commission Staff requested detailed information from Joint Owners regarding the status of the Rt. 504 Gas Line.⁸ Through responses filed on July 3, 2014, Joint Owners describe in detail how the gas line had been disconnected and state in part:⁹

Activities were prioritized and completed in the following order. A burn pipe was erected the third week of March on the Pennington Oil Property to accommodate 3 wells. On May 1, 2014 the Rt. 504 Gas line was severed at each end, located on the oil property, and plugged off. No homes were connected to the gas pipe on the Pennington property thus terminating gas to all end users.¹⁰

...

At or around the first week of June work began dismantling gas line leading from the wells to the main line located parallel to Rt. 504. By June 30, 2014 burn pipes were erected at all wells, lines leading from the wells to the main

⁷ Letter from Dale E. Stevens to Jeff Derouen, Executive Director, Kentucky Public Service Commission (Apr. 21, 2014).

⁸ Commission Staff's Initial Request for Information to Rt. 504 Gas Line Operations (June 23, 2014).

⁹ Dale E. Steven's Response to Commission Staff's Initial Request for Information (July 3, 2014).

¹⁰ *Id.* at 1.

line were terminated and pipe used for transporting gas. . . were removed.¹¹

In addition, Joint Owners state that in May of 2014, the owners of the Miriam Andrews/Conley House (“Conley House”), located at 3450 KY 504, Olive Hill, KY, one of the prior customers of the Rt. 504 Gas Line constructed a new gas pipeline connecting the Conley House directly to one of Joint Owners’ oil wells, identified as “Well 1,” located on property directly across KY 504 from the Conley House on property identified as Pennington Property.¹² Joint Owners state that no compensation has been paid nor will be paid in the future for any natural gas supplied from Well 1 to the Conley House.¹³

On August 21, 2014, Commission Staff met with Joint Owners for an on-site review and investigation of the Rt. 504 Gas Line and to confirm that the changes to the system outlined in Joint Owner’s July 3, 2014 response had been made as represented. According to Commission Staff, the main pipelines that had been serving the area appear to have been disconnected and portions of the pipe removed and stockpiled. A memorandum describing this on-site review and investigation is attached as an Appendix to this Order.¹⁴

LEGAL STANDARD

Pursuant to KRS 278.040(2), the Public Service Commission has exclusive jurisdiction over the regulation of rates and service of utilities in the state. KRS

¹¹ *Id.*

¹² *Id.*, Item 1.a.

¹³ *Id.*

¹⁴ Memorandum from Melissa Holbrook, Investigation Regarding Jurisdiction of Route 504 Natural Gas Operator Dale Stevens (Aug. 21, 2014).

278.010(3) defines a utility as “any person except . . . a city, who owns, controls, or operates or manages any facility used or to be used for or in connection with . . . (b) [t]he production, manufacture, storage, distribution, sale, or furnishing of natural or manufactured gas, or a mixture of same, to or for the public, for compensation, for light, heat, power, or other uses; [or] (c) [t]he transporting or conveying of gas, crude oil, or other fluid substance by pipeline to or for the public, for compensation.

KRS 278.020(1) provides in part that:

No person, partnership, public or private corporation, or combination thereof shall commence providing utility service to or for the public or begin the construction of any plant, equipment, property, or facility for furnishing to the public any of the services enumerated in KRS 278.010 . . . until that person has obtained from the Public Service Commission a certificate that public convenience and necessity require the service or construction.

KRS 278.990(1) provides in part:

Any officer, agent, or employee of a utility, as defined in KRS 278.010, and any other person who willfully violates any of the provisions of this chapter or any regulation promulgated pursuant to this chapter, or fails to obey any order of the commission from which all rights of appeal have been exhausted, or who procures, aids, or abets a violation by any utility, shall be subject to either a civil penalty to be assessed by the commission not to exceed two thousand five hundred dollars (\$2,500) for each offense or a criminal penalty of imprisonment for not more than six (6) months, or both.

FINDINGS

The Commission finds that the Joint Owners owned and operated a facility used in connection with the production, manufacture, storage, distribution, sale, and furnishing of natural gas to the public, for compensation, for light, heat, power, or other

uses,¹⁵ and that this facility transported and conveyed gas by pipeline to the public, for compensation.¹⁶

The Commission also finds that subsequent to the Joint Owners' being made aware that the Rt. 504 Gas Line was operating as a public utility, and that it would be subjected to Commission regulation as a public utility, the Joint Owners took the necessary actions to dismantle and to shut down¹⁷ the Rt. 504 Gas Line operation and they have ceased providing any utility service to the public for compensation. Based upon the Joint Owners' cooperation and their prompt actions, we find that penalties under KRS 278.990 should not be levied against them at this time. However, the Joint Owners should be put on notice that in the future, pursuant to KRS 278.020(1), they should obtain a Certificate of Public Convenience and Necessity, prior to "[p]roviding utility service to or for the public or beginning the construction of any plant, equipment, property or facility for furnishing to the public any of the services enumerated in KRS 278.010 . . . ,” such as the Rt. 504 Gas Line. Finally, the Commission finds that any future violations of the Commission's rules and regulations would subject Joint Owners to civil or criminal penalties.

¹⁵ KRS 278.010(3)(b).

¹⁶ KRS 278.010(3)(c).

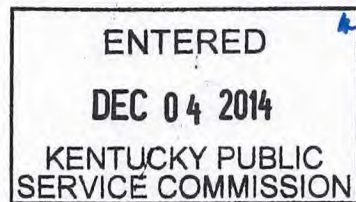
¹⁷ As noted earlier, the owner of the Conley House, a prior customer of the Rt. 504 Gas Line, has constructed a new gas line to Well #1. Any natural gas obtained by the Conley House from this new line is free of charge and is not being furnished "to or for the public, for compensation," and does not meet the definition of a utility pursuant to KRS 278.010(3).

IT IS THEREFORE ORDERED that:

1. The Joint Parties have ceased providing natural gas to or for the public for compensation and are no longer operating as a jurisdictional utility as defined in KRS 278.010(3(b) and (c); therefore this case is dismissed as moot.

2. The Joint Parties are put on notice, pursuant to KRS 278.020(1) and KRS 278.990, that any action taken to again provide utility service to the public for compensation without prior Commission approval shall subject them to the penalties provided for under KRS 278.990.

By the Commission



ATTEST:



Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2014-00063 DATED **DEC 04 2014**

**COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION**

Investigation Regarding Jurisdiction of Route 504 Natural Gas Operator Dale Stevens

KY Route 504

Sandy Hook, Kentucky

August 21, 2014

Case Number: 2014-00063

BRIEF

Inspector: Melissa Holbrook

Date of Inspection: August 21, 2014

Purpose of inspection: Investigation Regarding Jurisdiction of Route 504 Natural Gas Operator Dale Stevens

Number of Customers: 21 Total Customers

Area of Operation: KY Route 504 Elliott County

Supply Source: 7 Oil Wells

Company Representative(s) Involved in Inspection: Dale Stevens and Liddie Lewis

PSC Representatives: Bill Aitken, Jason Hurt, James Rice, Melissa Holbrook, Joel Grugin, and Mark McCullough.

Summary of items and facilities inspected:

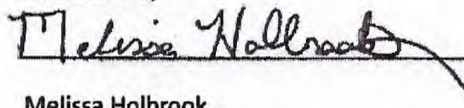
On Thursday, August 21, 2014 a Gas Branch inspection team conducted an on-site review with Mr. Dale Stevens to confirm or verify that the changes to the system outlined in Mr. Steven's written response to the Commission had been made. Gas branch inspectors present were Bill Aitken, Joel Grugin, Melissa Holbrook, and Mark McCullough. Jason Hurt, Gas Branch Manager and James Rice, Asst. Director, Engineering Division were also present. The following was observed:

1. The Andrews/ Conley property is being furnished natural gas from a well, shown as well 1 in Mr. Stevens written response. During the inspection staff observed buried plastic pipe from well head 1 to the drip tank; aboveground steel pipe from the drip tank to the property line of Pennington property and Andrews / Conley property; transition to buried plastic pipe at this point; and buried plastic pipe continuing through Andrews / Conley property on the south side of Route 504. The buried plastic pipe transitions to aboveground steel pipe on the south side of Route 504 prior to passing through a storm culvert of Route 504 to the Andrews Conley property on the north side of Route 504. The aboveground steel pipe then transitions to buried plastic pipe on the Andrews / Conley property located on the north side of Route 504 and then service a residence and barn on the Andrews / Conley property. See pictures 1-9.

2. At the time of inspection the main pipeline appeared to be disconnected. Evidence to this would be that the team observed various locations where the main had been cut and the pipe piled in the brush along the access road to the well serving the Andrews/Conley property and in various other locations along Route 504. See pictures 10-13 for visual observations of cut and disconnected main pipe. See pictures 14-18 for visual observations of piles of abandoned pipe.

In addition the team saw no evidence of connections at any of the 7 wells for furnishing gas other than the connection serving the Andrews/Conley property. According to Mr. Stevens the gas produced from these oil wells is now being burned off through stand pipe installations at various locations.

Submitted By

A handwritten signature in black ink that reads "Melissa Holbrook". The signature is written in a cursive style and is underlined with a single horizontal line.

Melissa Holbrook



Well 1



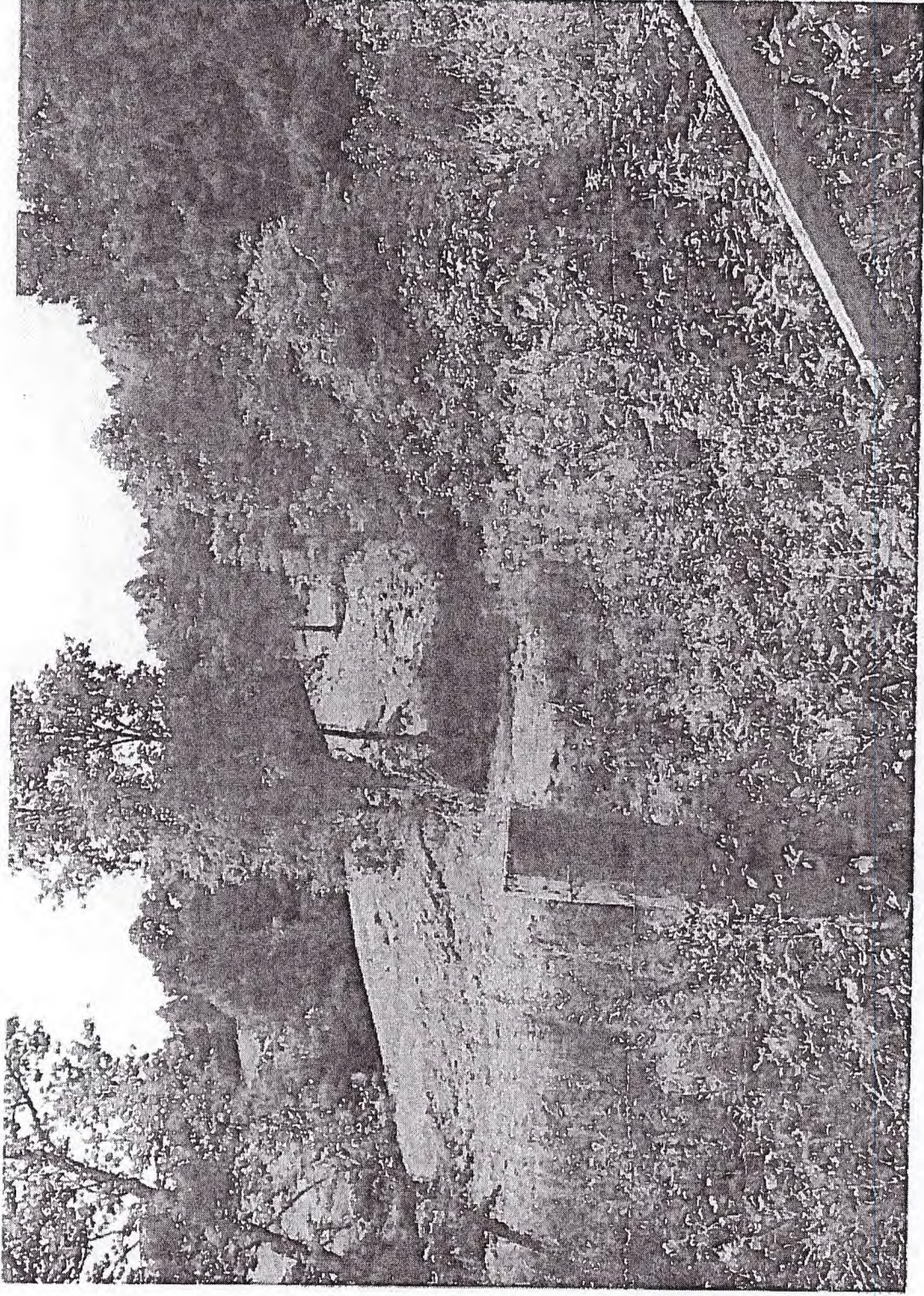
Drip Tank



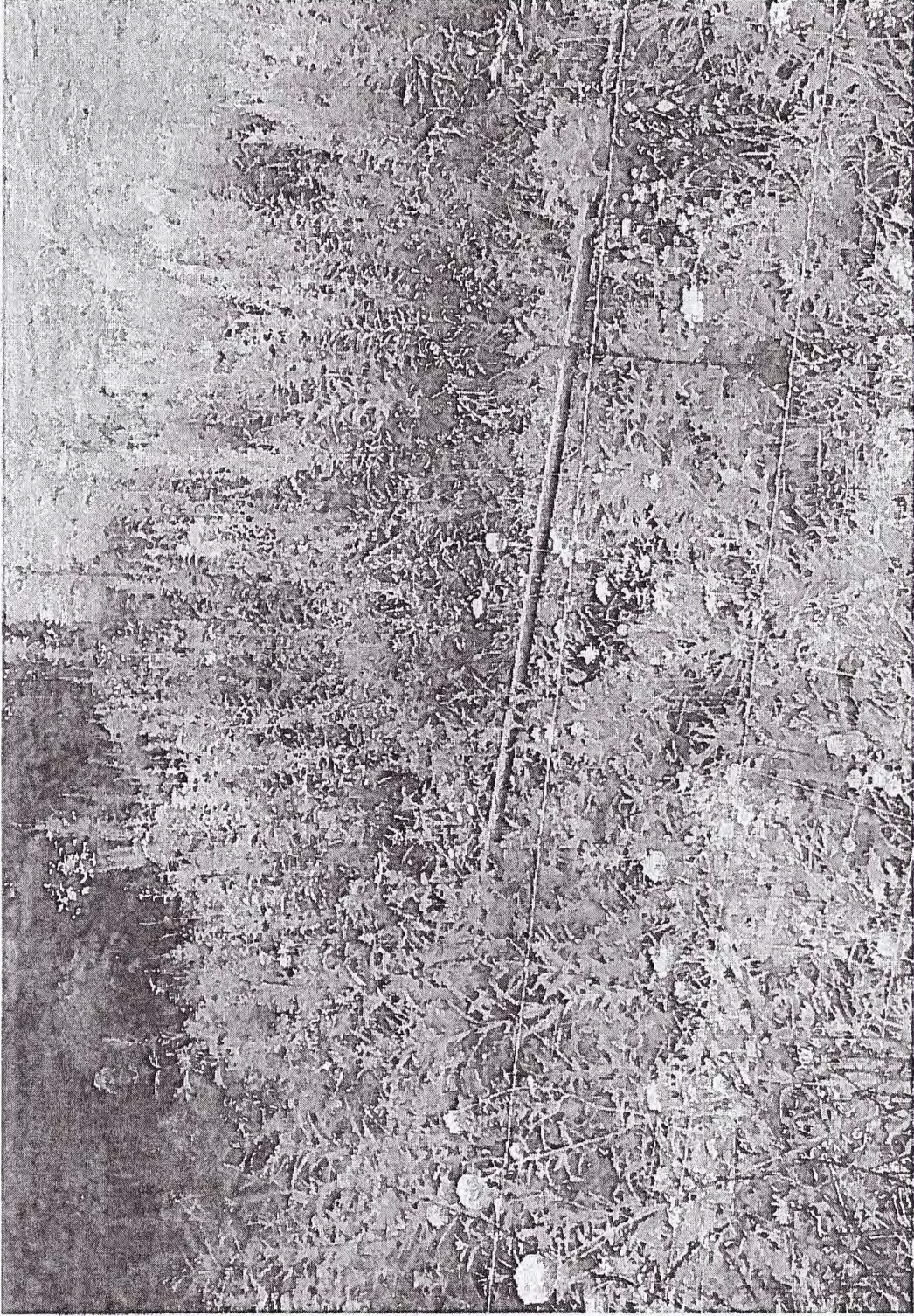
Steel pipe from drip tank



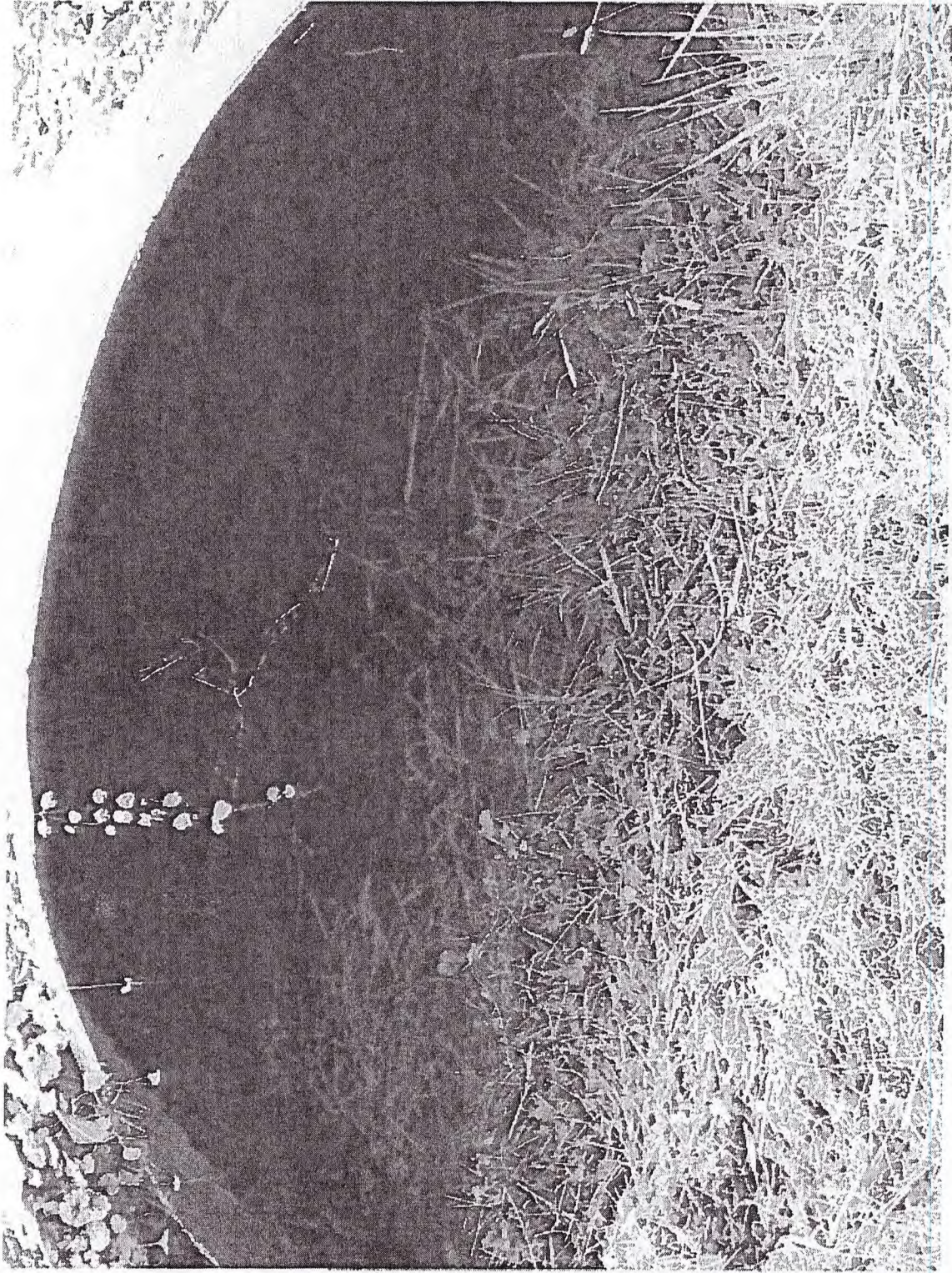
Transition from above ground steel to buried plastic at Pennington property line.



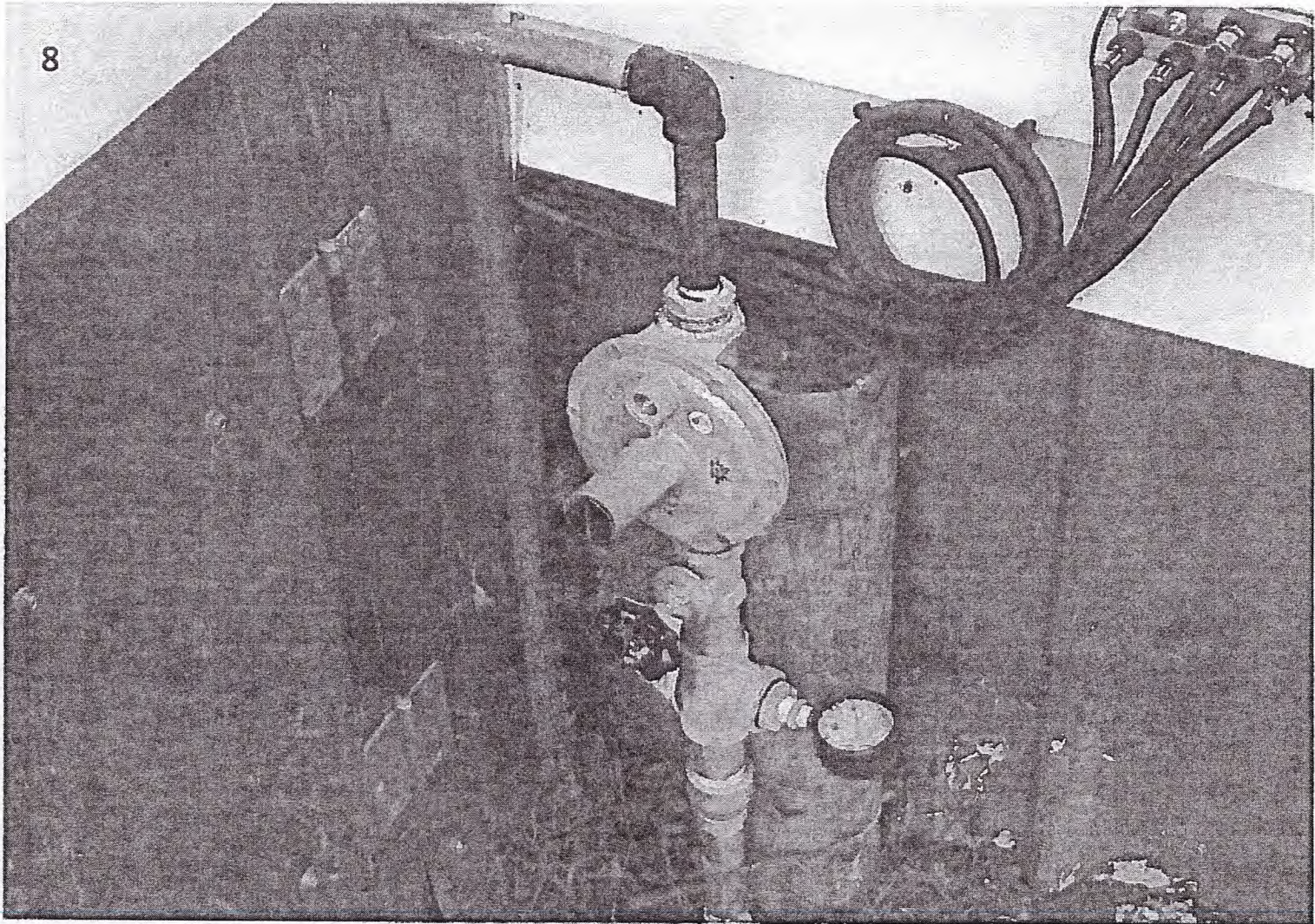
Buried plastic pipe along Andrews/Conley Property south side of Route 504.



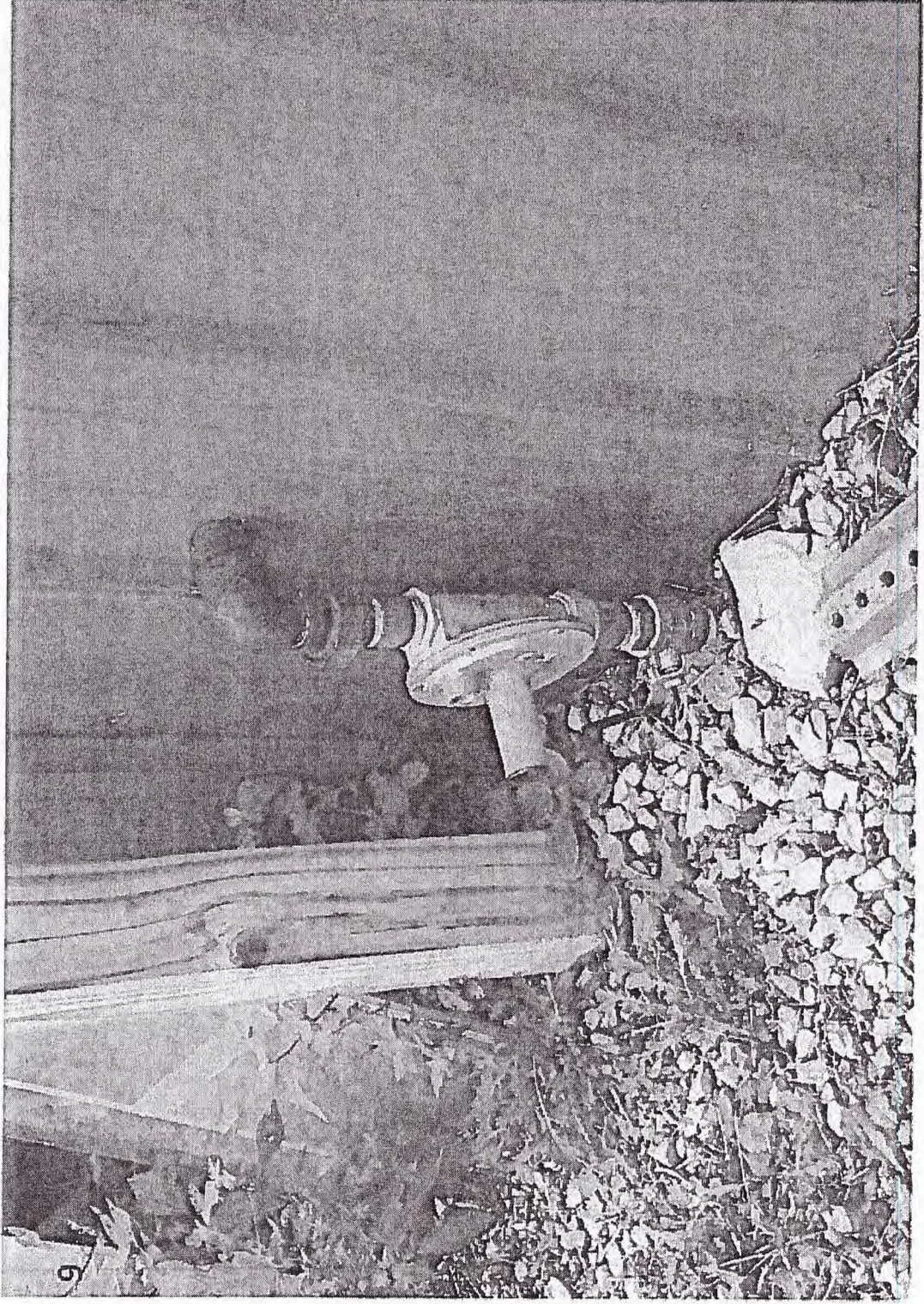
Above ground steel prior to passing through culvert



Route 504 Culvert



Regulator at Andrew / Conley Residence



Regulator at Andrews / Conley Barn

Liddie A Lewis
P.O. Box 742
Sandy Hook, KENTUCKY 41171

Dale E Stevens
P.O. Box 742
Sandy Hook, KENTUCKY 41171