



Department of Communications, Energy and Natural Resources  
Roinn Cumarsáide, Fuinnimh agus Acmhainní Nádurtha

21st December, 2009

Mr Nick Webb  
The Sunday Independent  
Independent House  
Talbot Street  
Dublin 1

**FOI Request Reference: FOI/2009/40**

Dear Mr Webb,

I refer to the request you have made under the Freedom of Information Acts, 1997 and 2003 requesting access to correspondence between the following bodies (RTE, Comreg, ESB group, Bord na Mona, Bord Gais, SEI, Eirgrid & Digital Hub) and the Department relating to procurement practices.

Your request was circulated to the relevant divisions and the Decision makers in each division have considered your request and the outcome of their deliberations are contained in the attached schedules of records and attached documents.

You may appeal this decision within 4 weeks from the date of this notification; the appeal will involve a complete reconsideration of the matter by a more senior member of the staff of this Department. In the event that you need to make such an appeal you can do so by writing to the Freedom of Information Unit, Department of Communications, Energy & Natural Resources, Elm House, Earlsvale Road, Cavan. Your correspondence should include a fee of €75.00 for processing the appeal. Payment should be made by way of bank draft, money order, postal order or personal cheque made payable to Department of Communications, Energy & Natural Resources.

Yours sincerely

pp *Frank O'Brien*  
Frank O'Brien  
FOI Unit

**FOI Request Reference: 0040/2009**

**Schedule of Records: Summary of Decision Making**

Description of request: Access to correspondence between the following bodies and the Department detailing how they've adhered to good procurement practices as reported annually by the Chairman to the Minister and also whether there have been any breaches or issues since 1/1/2006

Record No.	Brief Description & Date of Record	File Ref.	No. of Pages	Relevant facts	Findings/ conclusions (Public Interest Considerations, (If applicable))	Grant/refuse/ part-grant	Basis of Refusal: Section of Act	Record edited/Identify deletions
1.	Chairperson's Report to the Minister for Communications, Marine & Natural Resources in accordance with Paragraph 10.2 of the Code of Practice for the Governance of State Bodies – Year Ended 31 December 2006	S1/1 – Z/07	3			Part-Grant		
2.	Chairperson's Report to the Minister for Communications, Energy & Natural Resources in accordance with Paragraph 10.2 of the Code of Practice for the Governance of State Bodies – Year Ended 31 December 2007	S1/1 – Z/08	3			Part-Grant		
3.	Chairperson's Report to the Minister for Communications, Energy & Natural Resources in accordance with Paragraph 10.2 of the Code of Practice for the Governance of State Bodies – Year Ended 31 December 2008	S1/1 – Z/09	3			Part-Grant		

**Radio Telefís Éireann**

**Chairman's Report to the Minister for Communications, Energy and Natural  
Resources in accordance with Paragraph 10.2 of the Code of Practice for the  
Governance of State Bodies**

**Year ended 31 December 2007**

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CHAIRMAN'S REPORT	2-3

*ATTACHMENTS*

RTÉ ANNUAL REPORT FOR THE YEAR ENDED 31 DECEMBER 2007

**Foreword**

The RTÉ Authority adopted the Code of Practice for the Governance of State Bodies ("Code of Practice") at its meeting on 17 January 2002. It has also adopted the corporate governance and other obligations imposed by the Ethics in Public Office Act, 1995 and the Standards in Public Office Act, 2001.

This report fulfils RTÉ's reporting requirements to the Minister for Communications, Energy and Natural Resources, as set out in paragraph 10.2 of the Code of Practice.

**Statement of compliance**

In my opinion, RTÉ and its subsidiary undertakings have complied with the requirements of the Code of Practice during 2007 and up to the date of this report. More specifically:

- i) All appropriate procedures for financial reporting, internal audit, procurement and asset disposals are being carried out;
- ii) Codes of Business Conduct for Directors and Employees have been put in place and adhered to;
- iii) Government policy on the pay of the Chief Executives and all State body employees is being complied with;
- iv) Government guidelines on the payment of Directors' emoluments are being complied with; and
- v) Guidelines for the Appraisal and Management of Capital Expenditure Proposals, issued by the Department of Finance, are being complied with.

As required by paragraph 12.1 of the Code of Practice I also confirm that RTÉ did not engage in any "offensive" tax avoidance transactions during 2007 and, in my opinion, RTÉ complied with its obligations under tax laws during 2007.

*Significant post balance sheet events*

There were no significant post balance sheet events affecting RTÉ between the year-end date of 31<sup>st</sup> December 2007 and the date of the approval of the Group Financial Statements for the Year Ended 31<sup>st</sup> December 2007, being 13 March 2008.

Mary Finan  
Chairman

On behalf of the RTÉ Authority  
13 March 2008

1

# **RTÉ**

**Radio Telefís Éireann**

**Chairman's Report to the Minister for Communications, Energy and Natural Resources in accordance with Paragraph 10.2 of the Code of Practice for the Governance of State Bodies**

**Year ended 31 December 2008**

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RTÉ ANNUAL REPORT FOR THE YEAR ENDED 31 DECEMBER 2008

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This report fulfils RTÉ's reporting requirements to the Minister for Communications, Energy and Natural Resources, as set out in paragraph 10.2 of the Code of Practice.

### Statement on the system of internal financial control

The corporate governance section in the 2008 annual report outlines the system of internal financial control in place during the year. This statement is in compliance with the requirements set-out in paragraph 10.2 (iii) and Appendix E of the Code of Practice.

KPMG's audit report in respect of RTÉ's group financial statements for the year ended 31<sup>st</sup> December 2008 is unqualified.

### Statement of compliance

In my opinion, RTÉ and its subsidiary undertakings have complied with the requirements of the Code of Practice during 2008 and up to the date of this report. More specifically:

- i) All appropriate procedures for financial reporting, internal audit, procurement and asset disposals are being carried out;
- ii) Codes of Business Conduct for Directors and Employees have been put in place and adhered to;
- iii) Government policy on the pay of the Chief Executives and all State body employees is being complied with;
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As required by paragraph 12.1 of the Code of Practice I also confirm that RTÉ did not engage in any "offensive" tax avoidance transactions during 2008 and, in my opinion, RTÉ complied with its obligations under tax laws during 2008.

### *Significant post balance sheet events*

The 15<sup>th</sup> RTÉ Authority completed its term of office on 31 December 2008 and a new Authority was appointed by Government with effect from 24 February 2009.

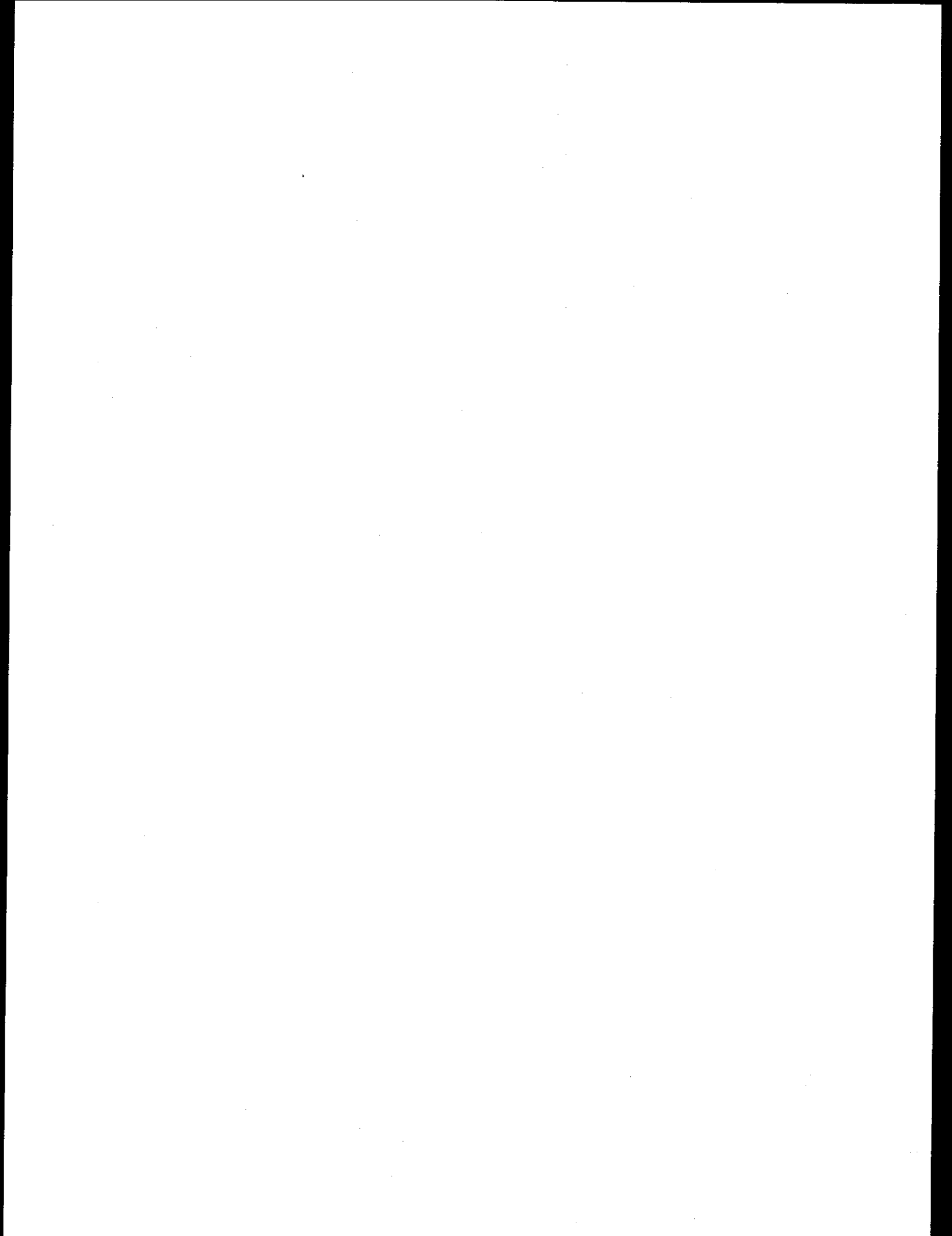
There were no other significant post balance sheet events affecting RTÉ between the year-end date of 31<sup>st</sup> December 2008 and the date of the approval of the group financial statements for the year ended 31<sup>st</sup> December 2008, being 30 April 2009.

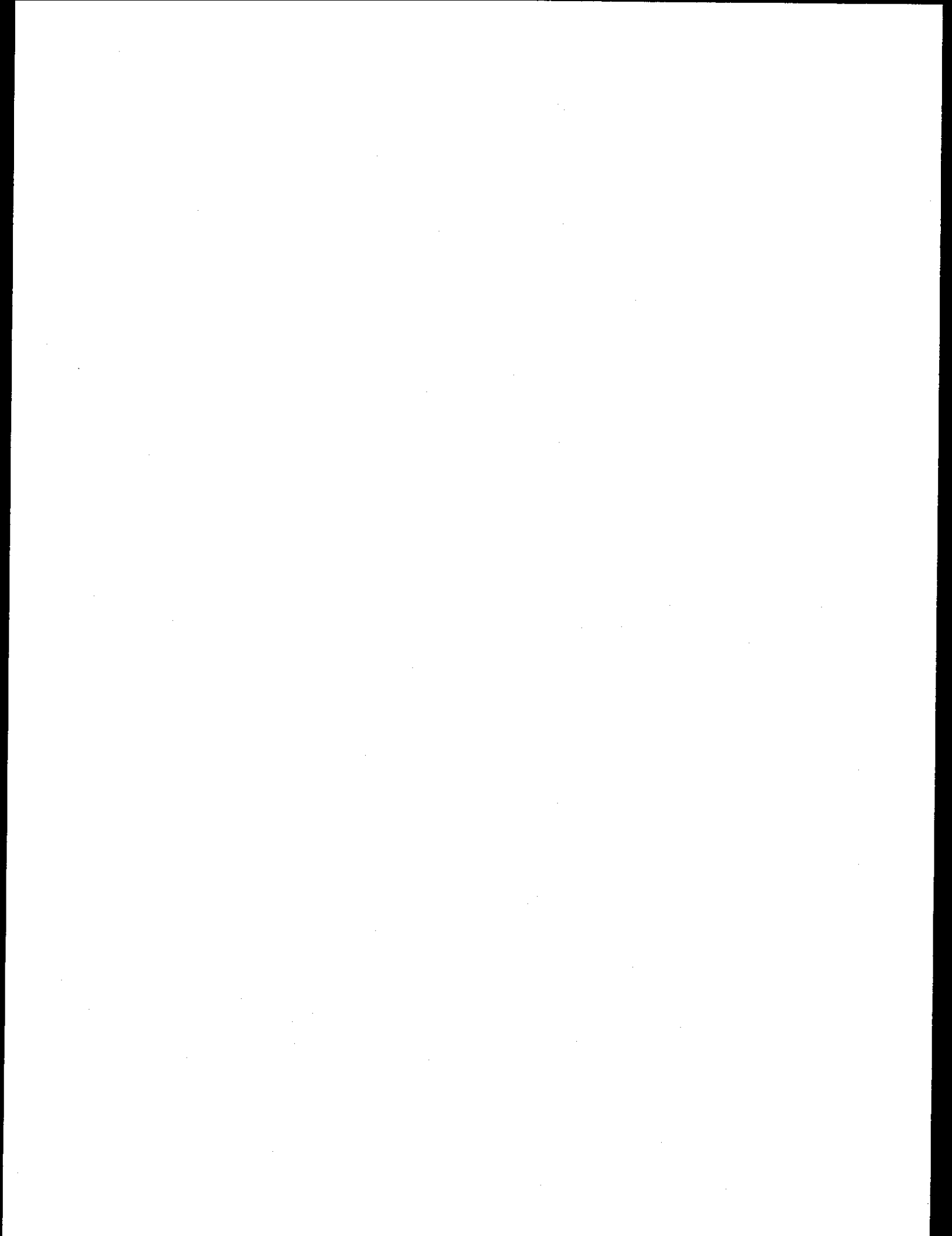
*Tom Savage*

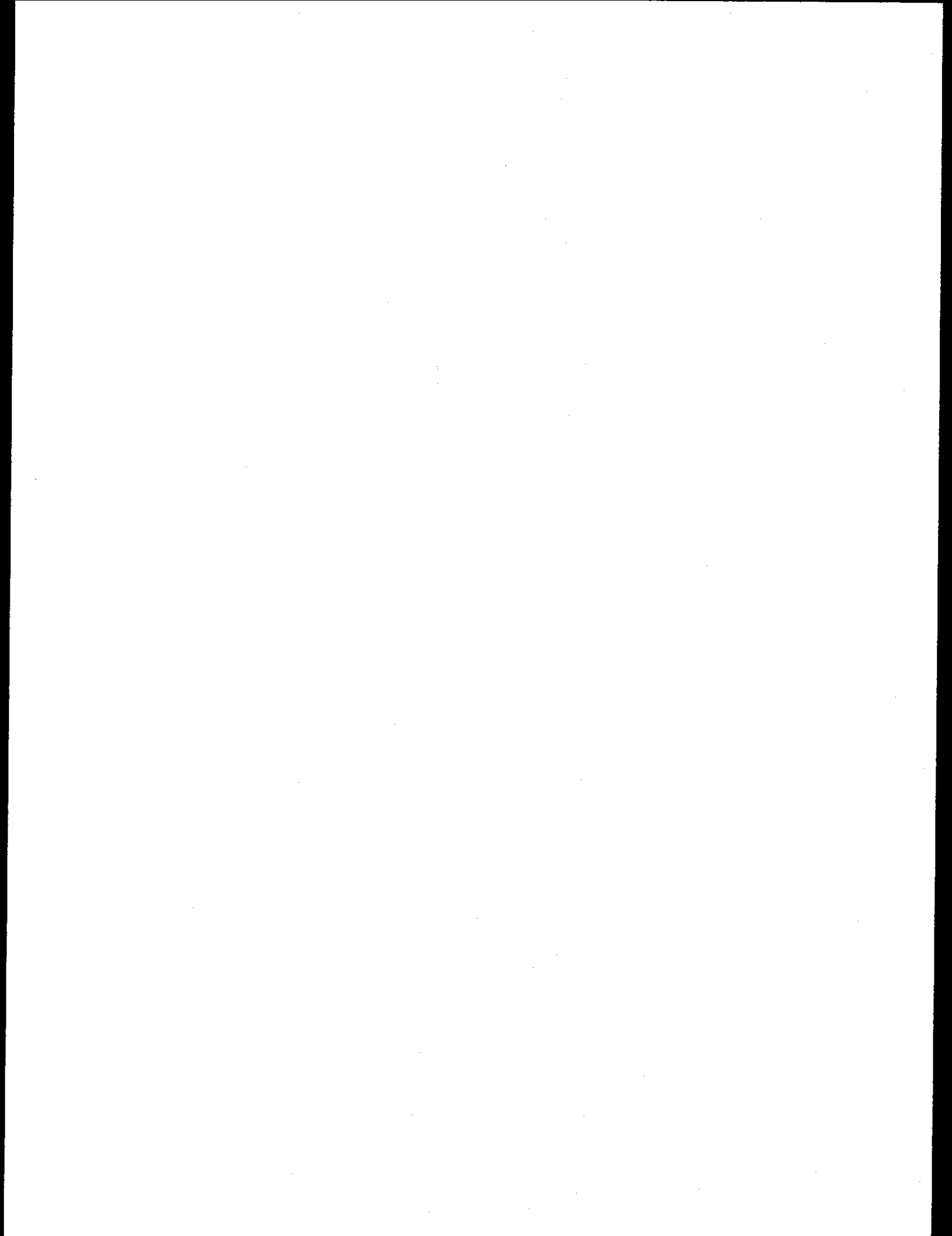
Tom Savage  
Chairman

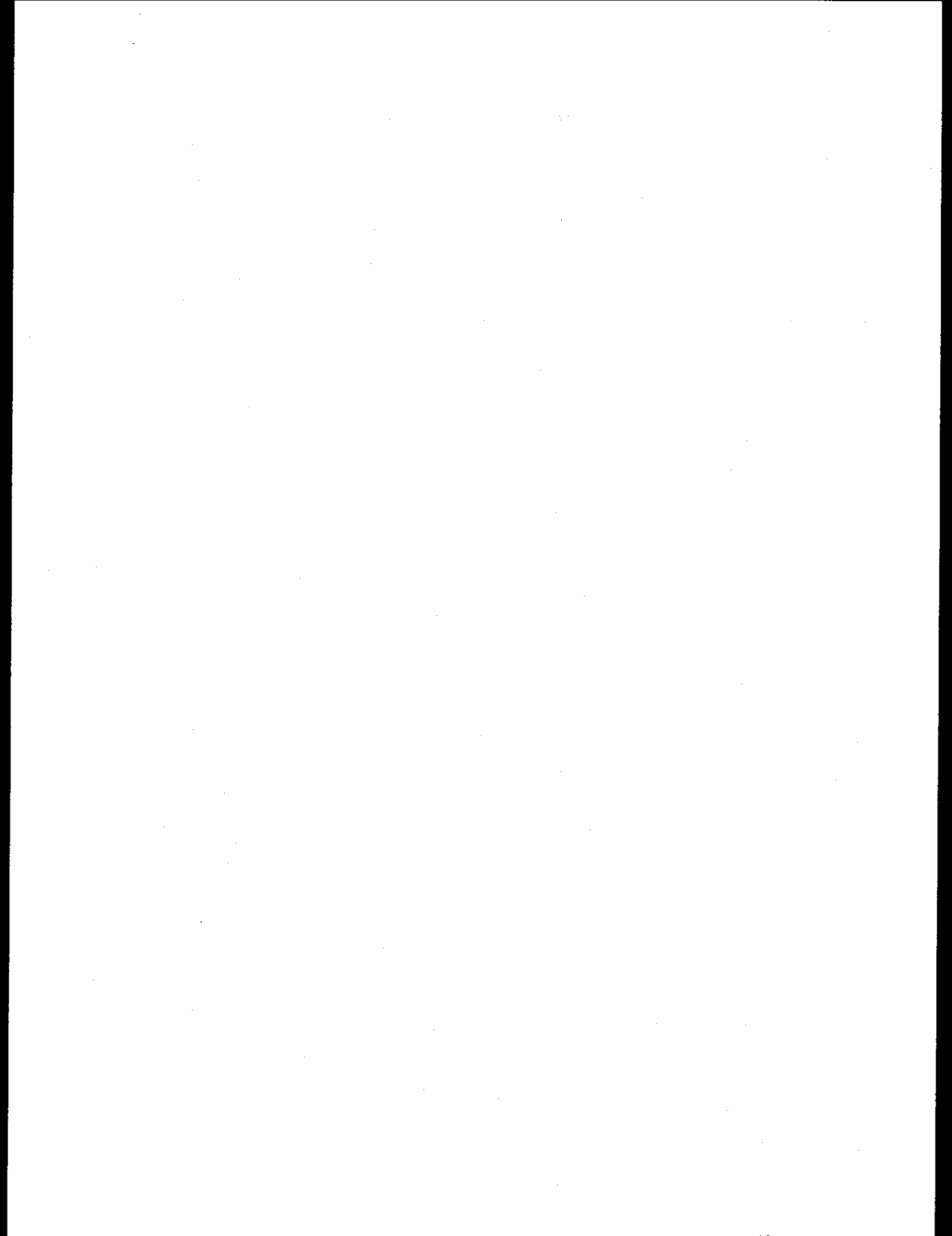
On behalf of the RTÉ Authority  
30 April 2009

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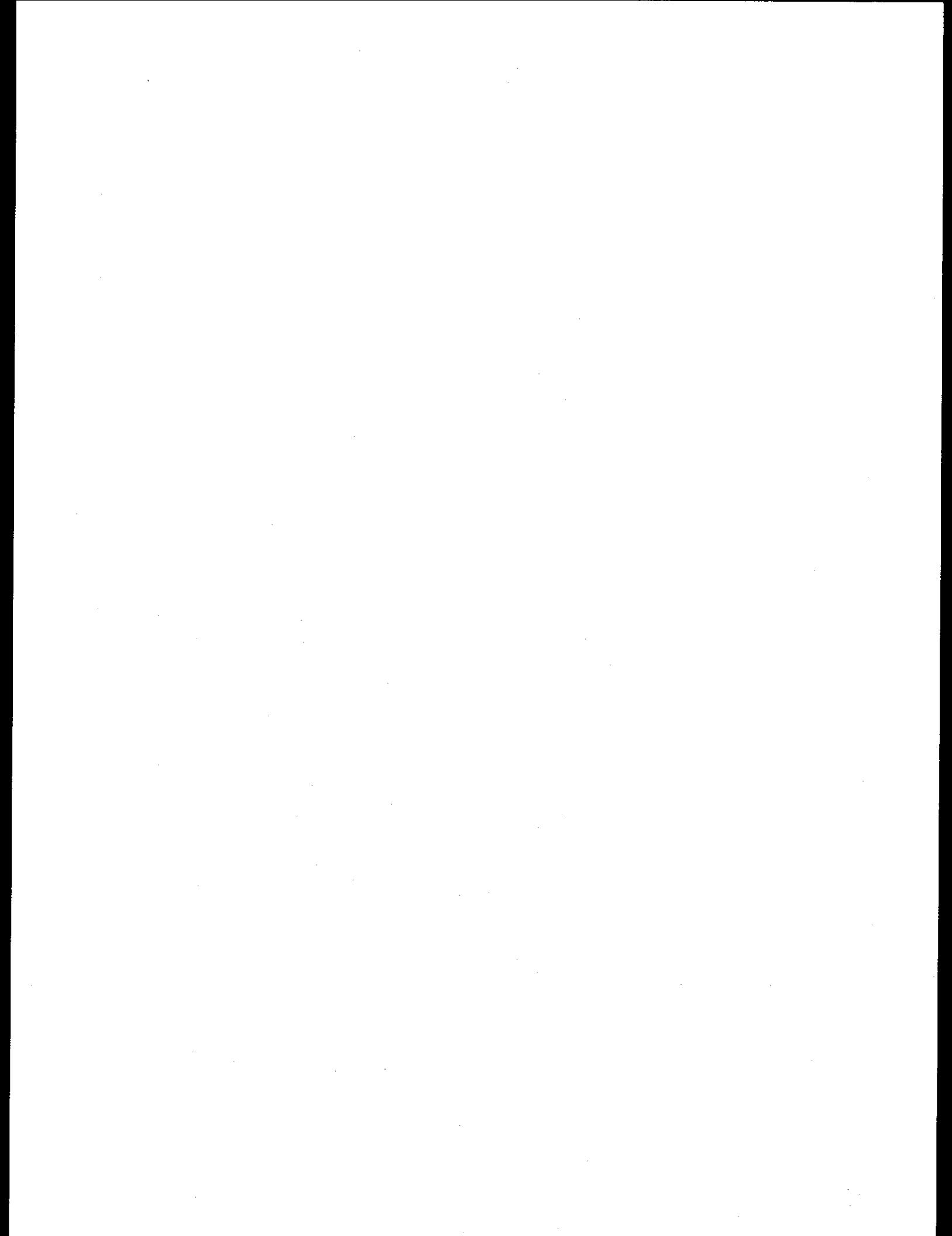


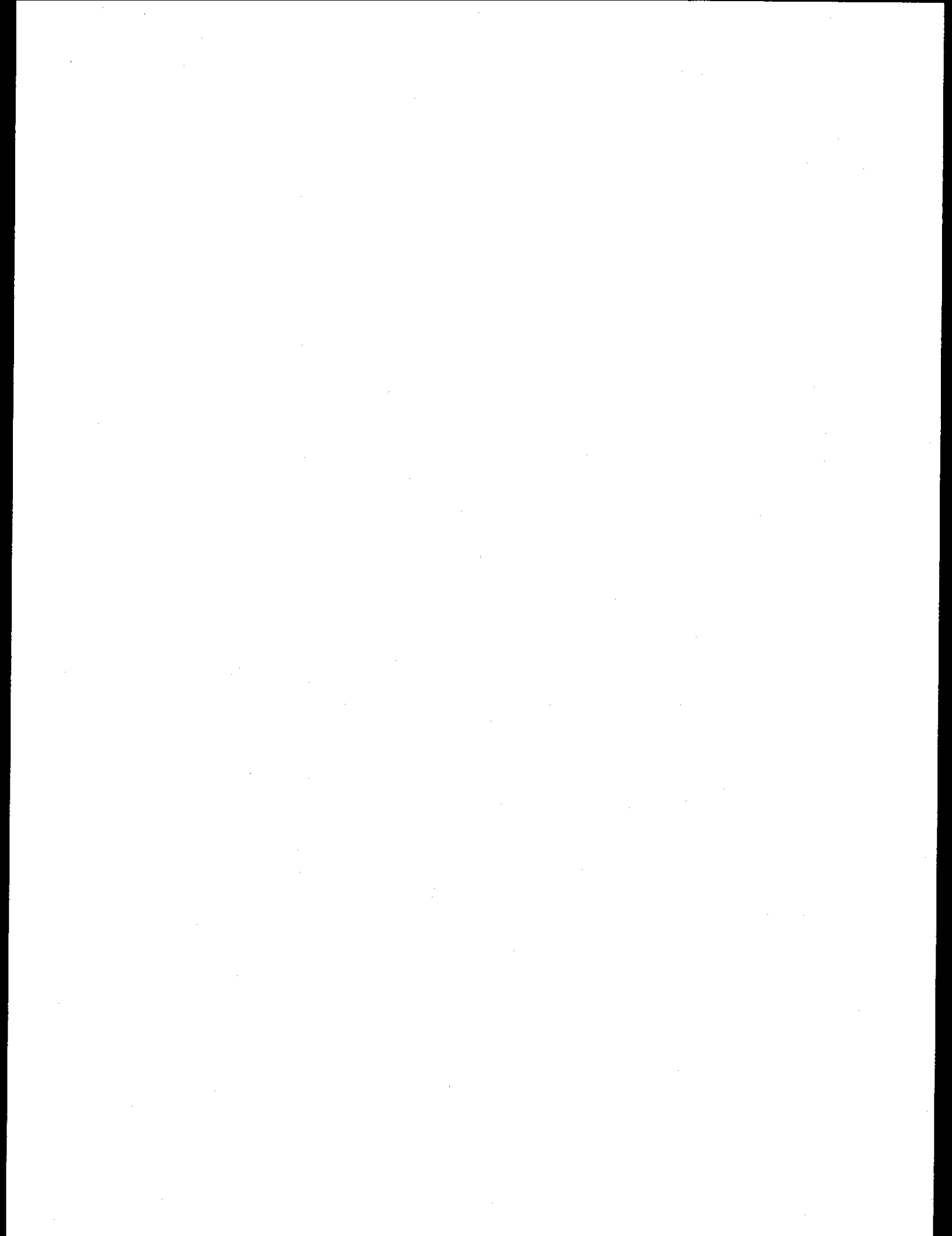
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Yours sincerely,

*Lochlann Quinn*

Lochlann Quinn  
CHAIRMAN





[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Section 10.2 (ii) - Procedures for financial reporting, internal audit, procurement and assets disposal.**

I confirm that to the best of my knowledge, information and belief after due enquiry, all appropriate procedures for financial reporting, internal audit, procurement and asset disposals are being complied with.

[REDACTED]

[REDACTED]

[REDACTED]

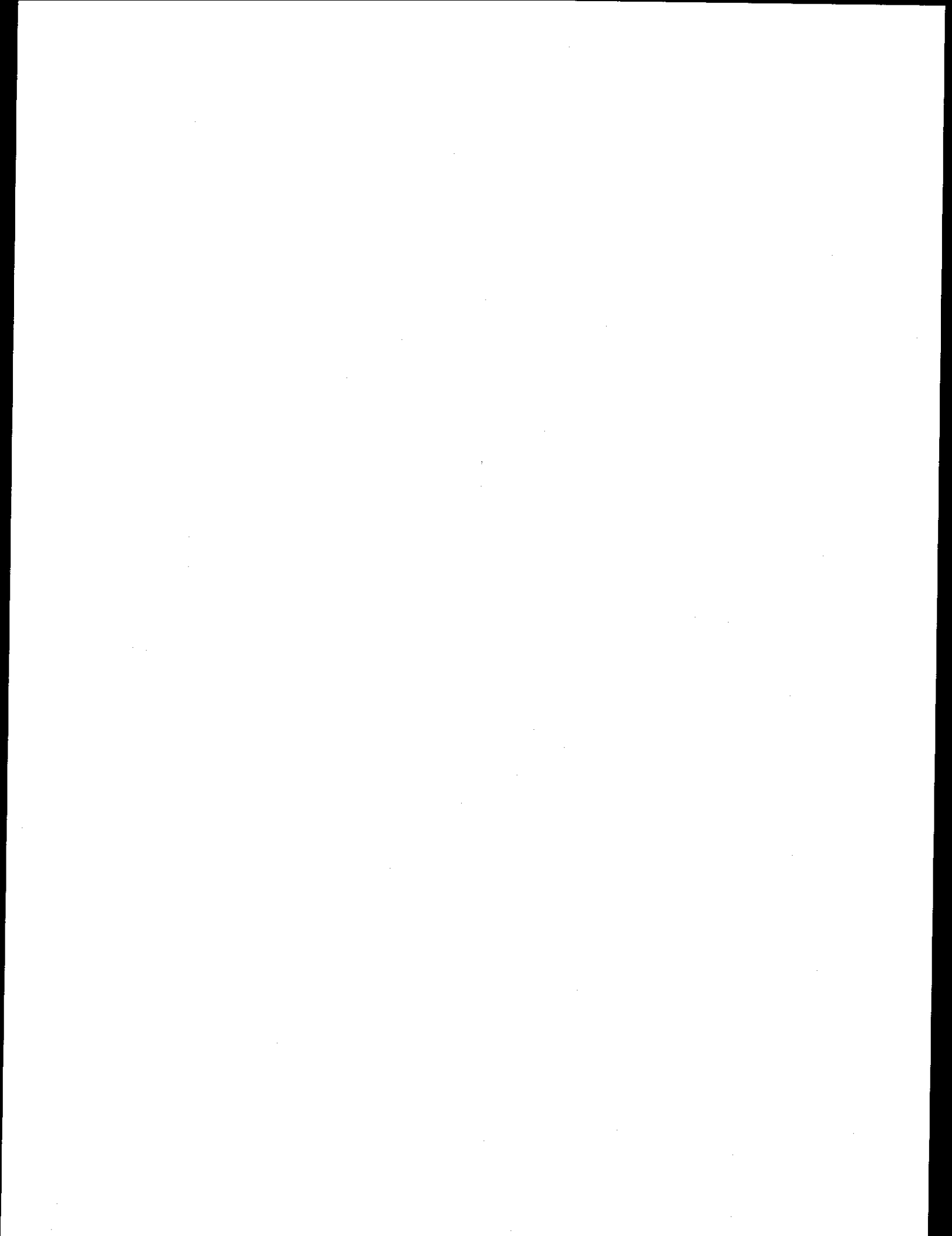
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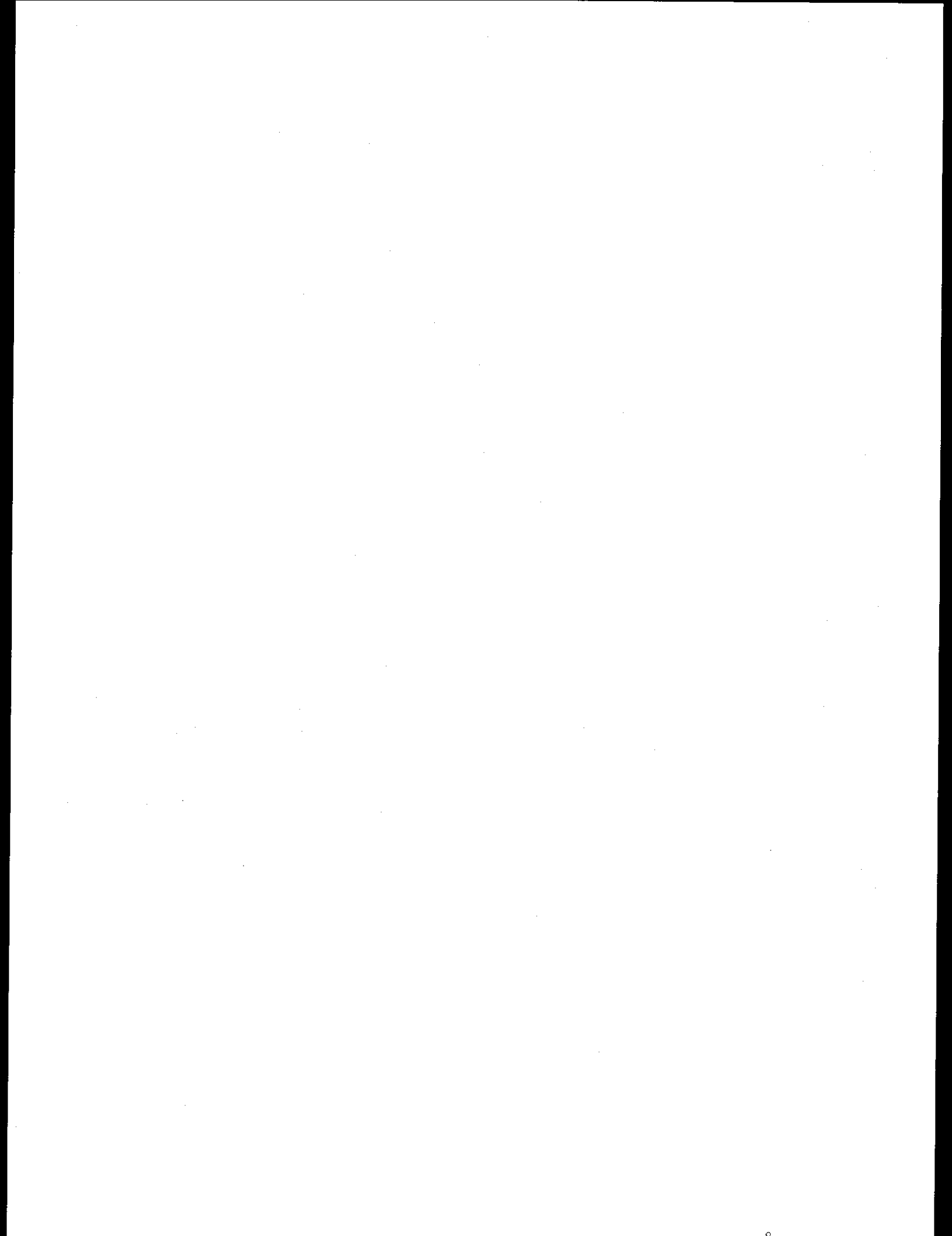
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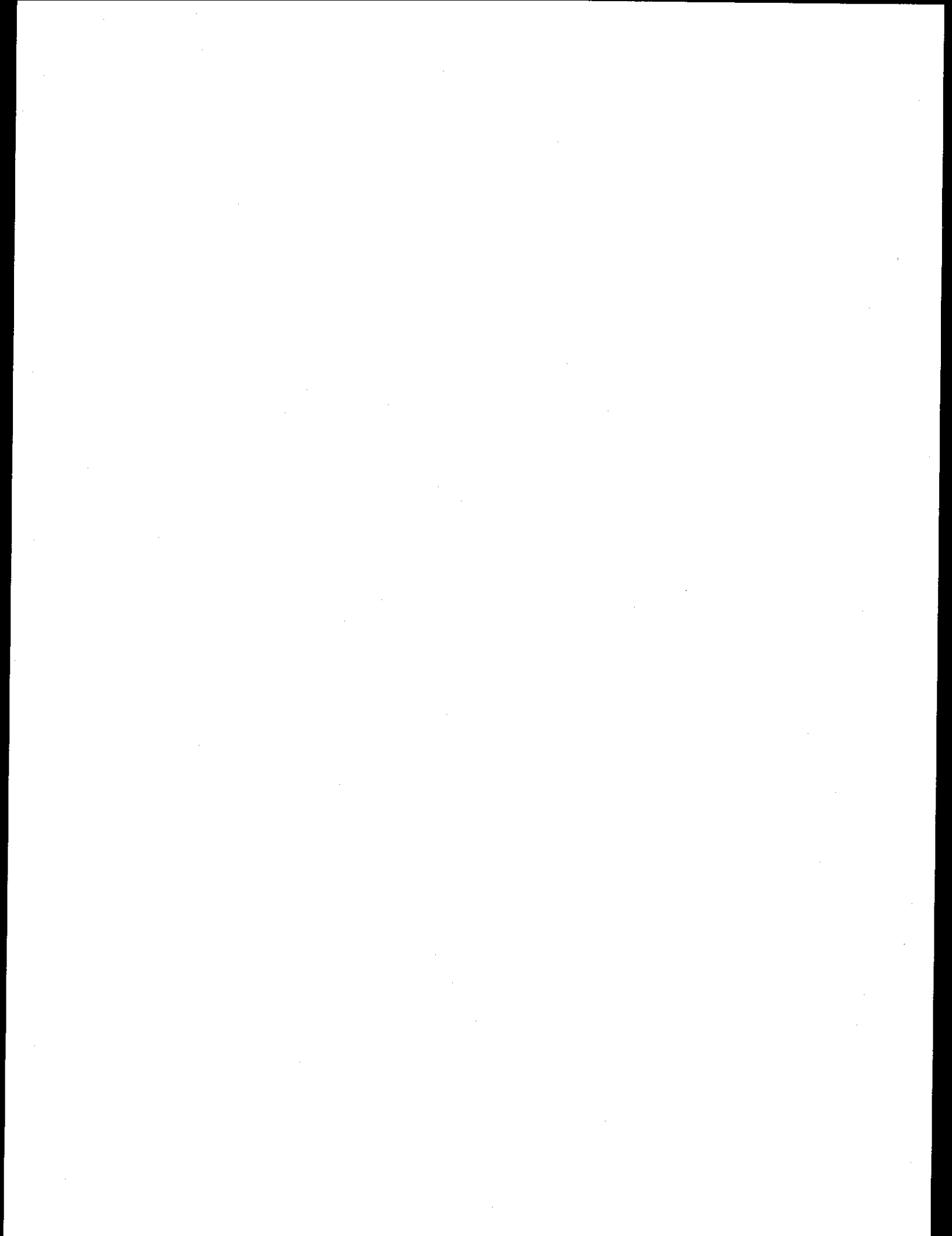
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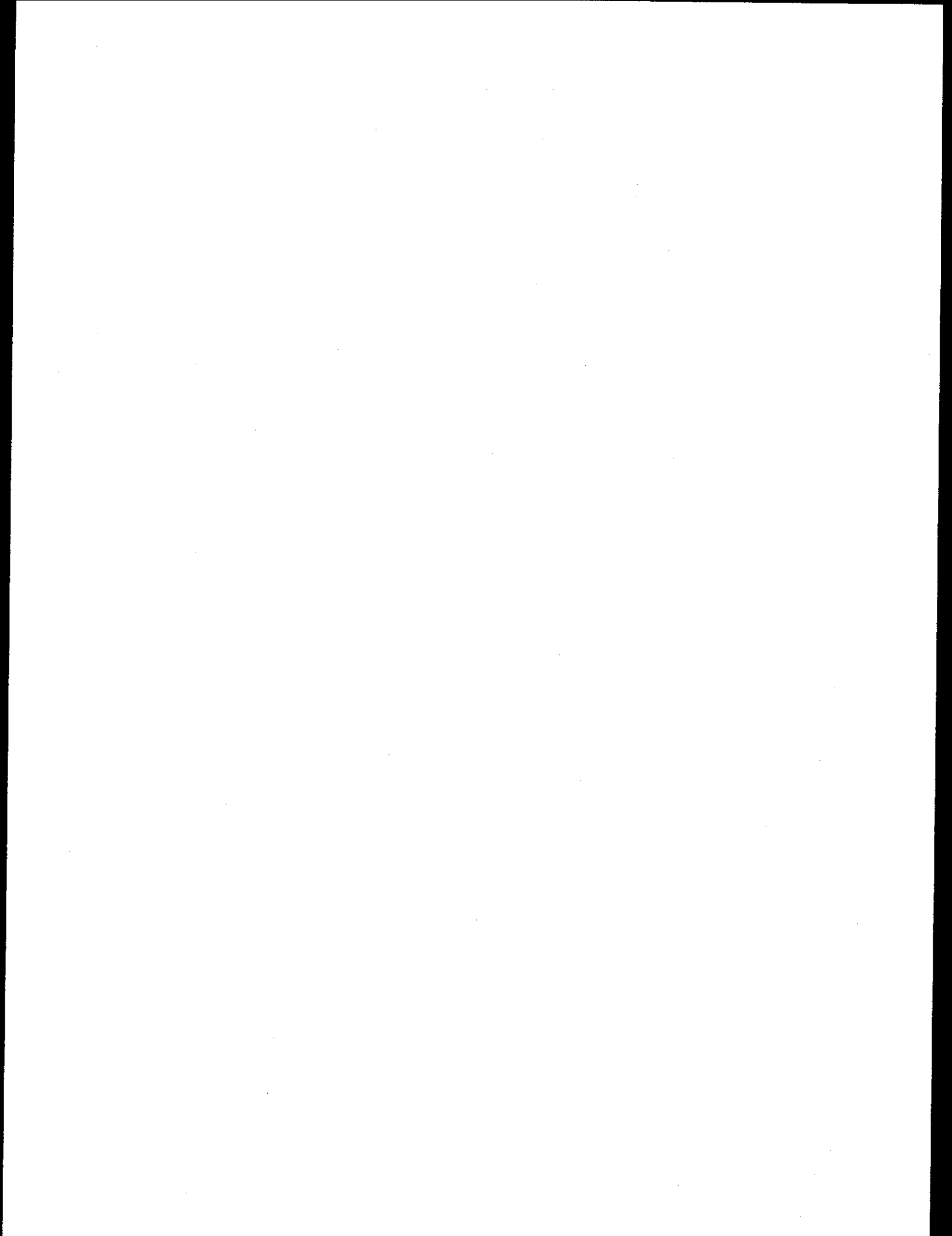
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Tadhg O'Donoghue - Chairman

Electricity Supply Board  
27 Lower Fitzwilliam Street, Dublin 2, Ireland.  
Phone: 353-1-702 7032 Fax: 353-1-702 6680  
Email: tadhg.odonoghue@esb.ie Website: www.esb.ie

21 June 2007

22 JUN 2007

Mr Eamon Ryan, T.D.  
Minister for Communications, Energy and Natural Resources  
Department of Communications, Energy and Natural Resources  
29-31 Adelaide Road  
Dublin 2

FAO BT, SW, EOLC  
For Observations \_\_\_\_\_  
For Action \_\_\_\_\_  
For Follow Up \_\_\_\_\_  
For Information \_\_\_\_\_  
C.C. \_\_\_\_\_  
Date 25.06.2007

Dear Minister,

RE: 2006 CONSOLIDATED FINANCIAL STATEMENTS

As required under the Code of Practice for the Governance of State Bodies (the "Code") I enclose the annual audited consolidated financial statements for ESB in respect of the year ended 31 December 2006, which were approved by the Board, on April 18<sup>th</sup>.

[REDACTED]

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[REDACTED]

[REDACTED]

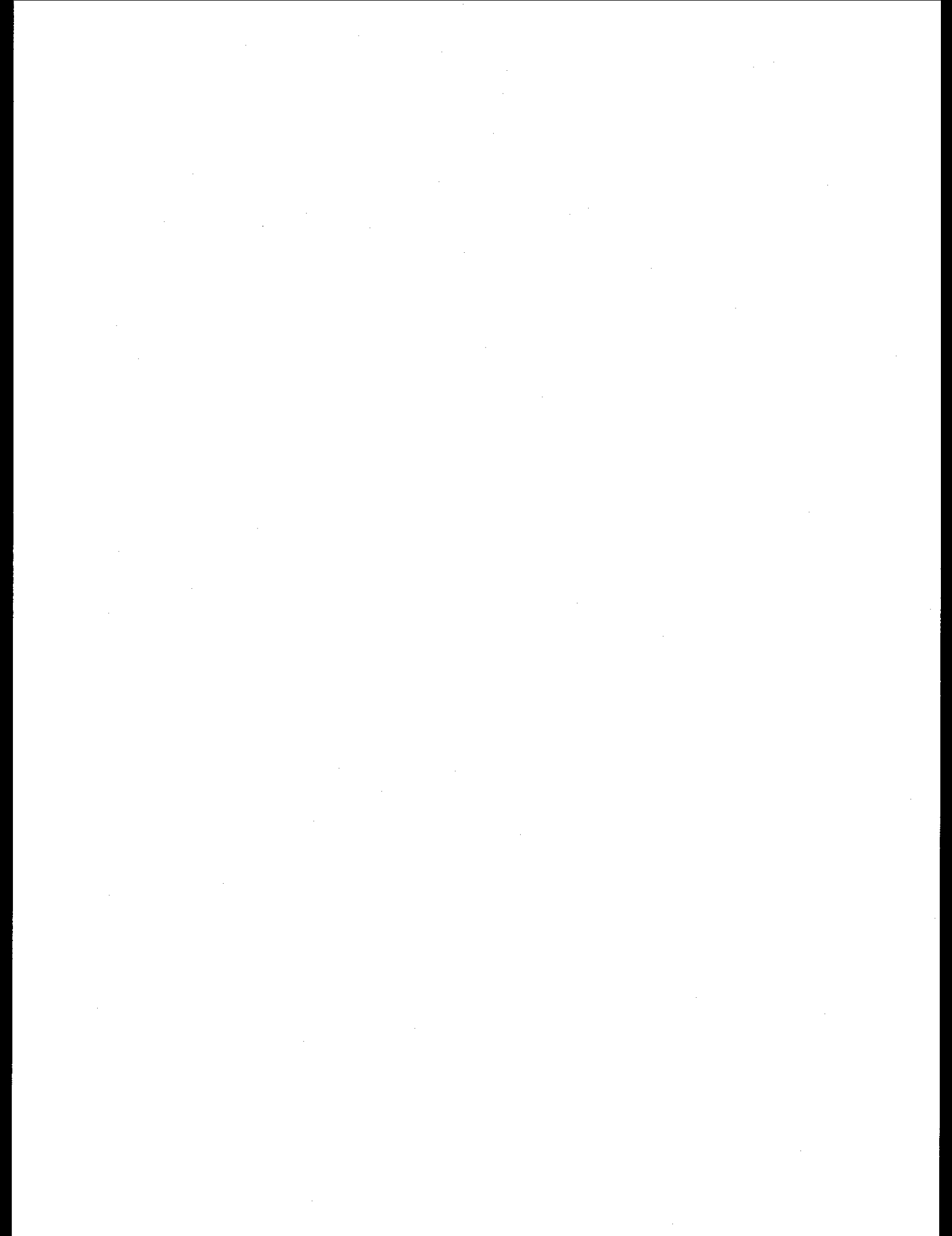
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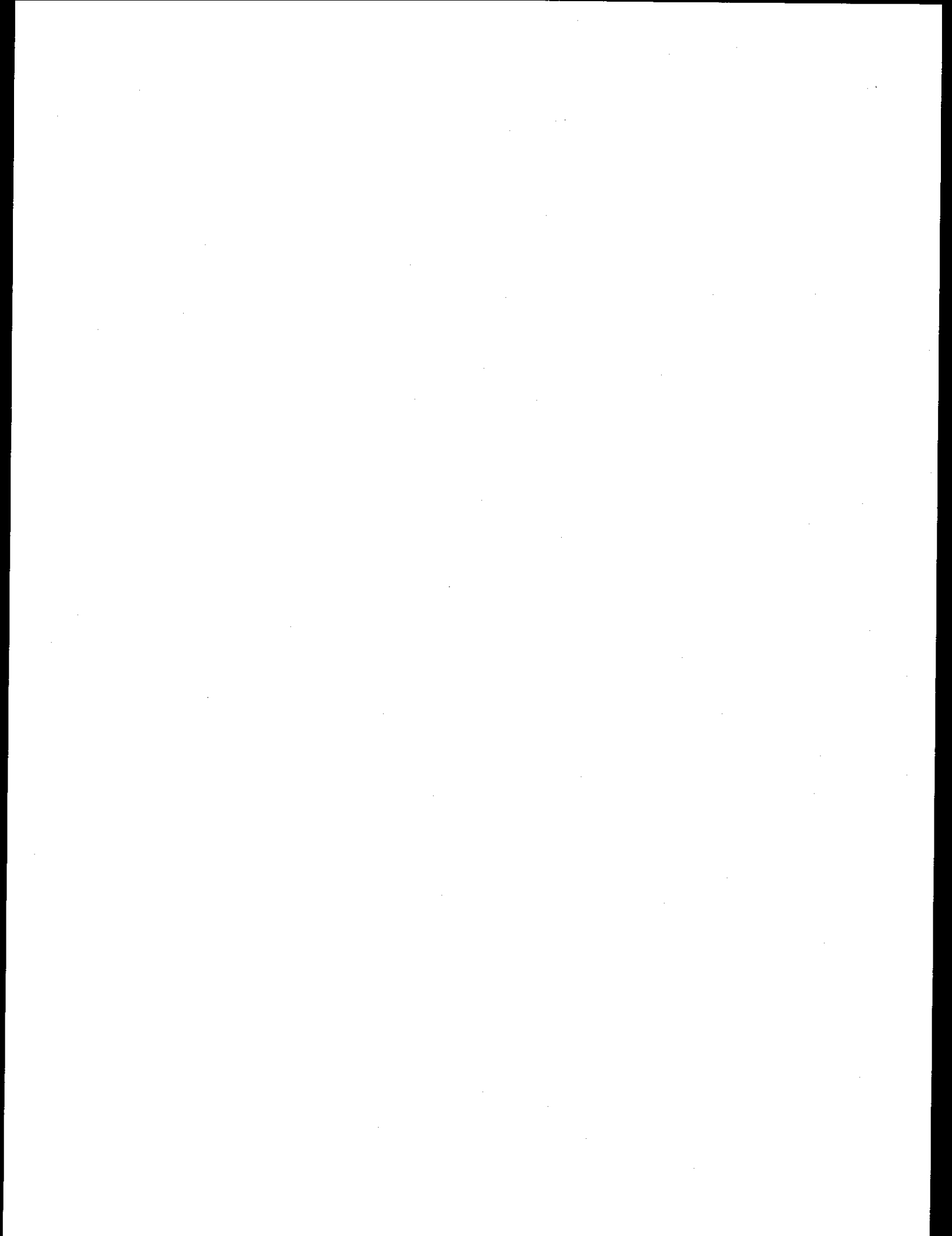
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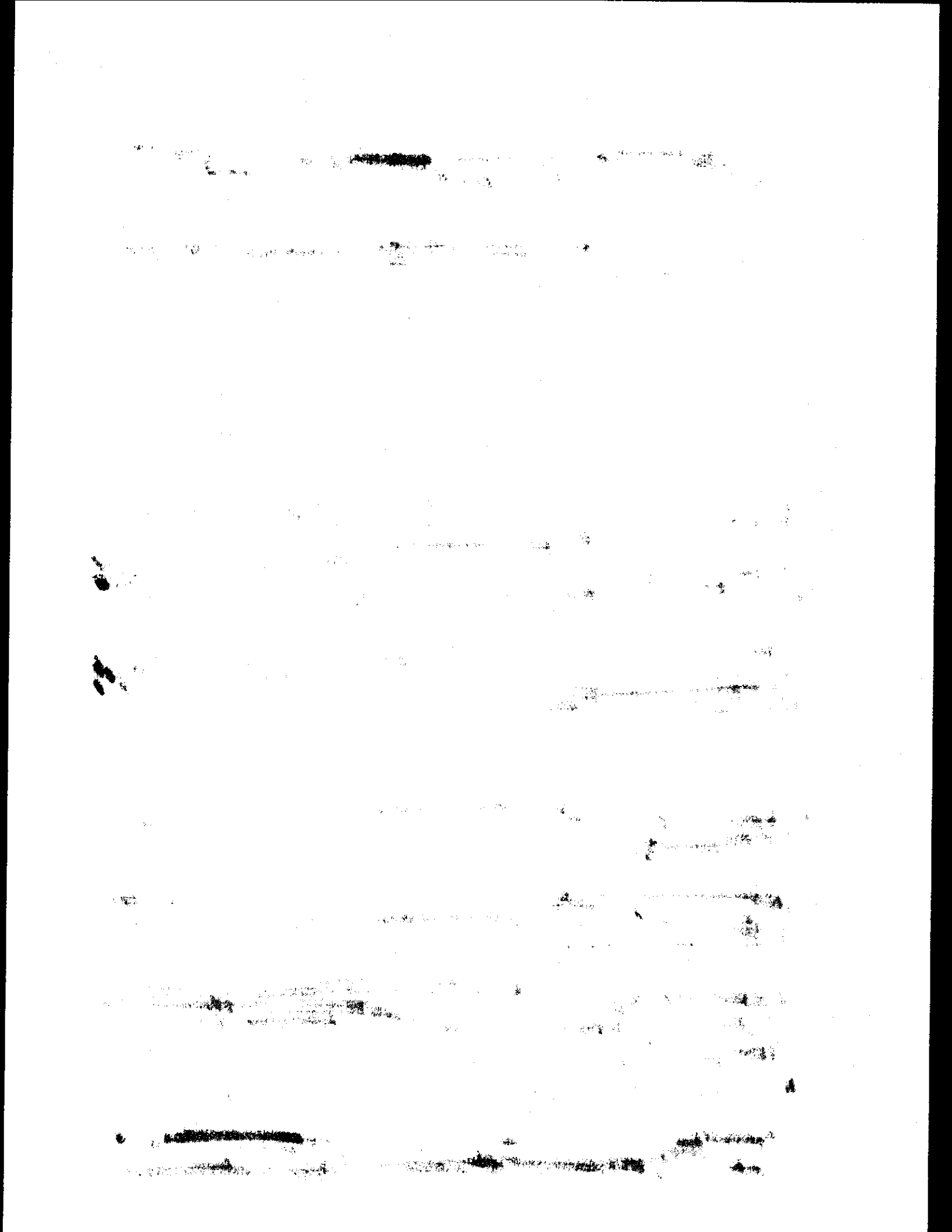
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Yours sincerely,

*Tadhg O'Donoghue*  
Tadhg O'Donoghue  
CHAIRMAN







[REDACTED]

[REDACTED]

**Section 10.2 (ii) - Procedures for financial reporting, internal audit, procurement and assets disposal.**

I confirm that to the best of my knowledge, information and belief after due enquiry, all appropriate procedures for financial reporting, internal audit, procurement and asset disposals are being complied with.

[REDACTED]

[REDACTED]

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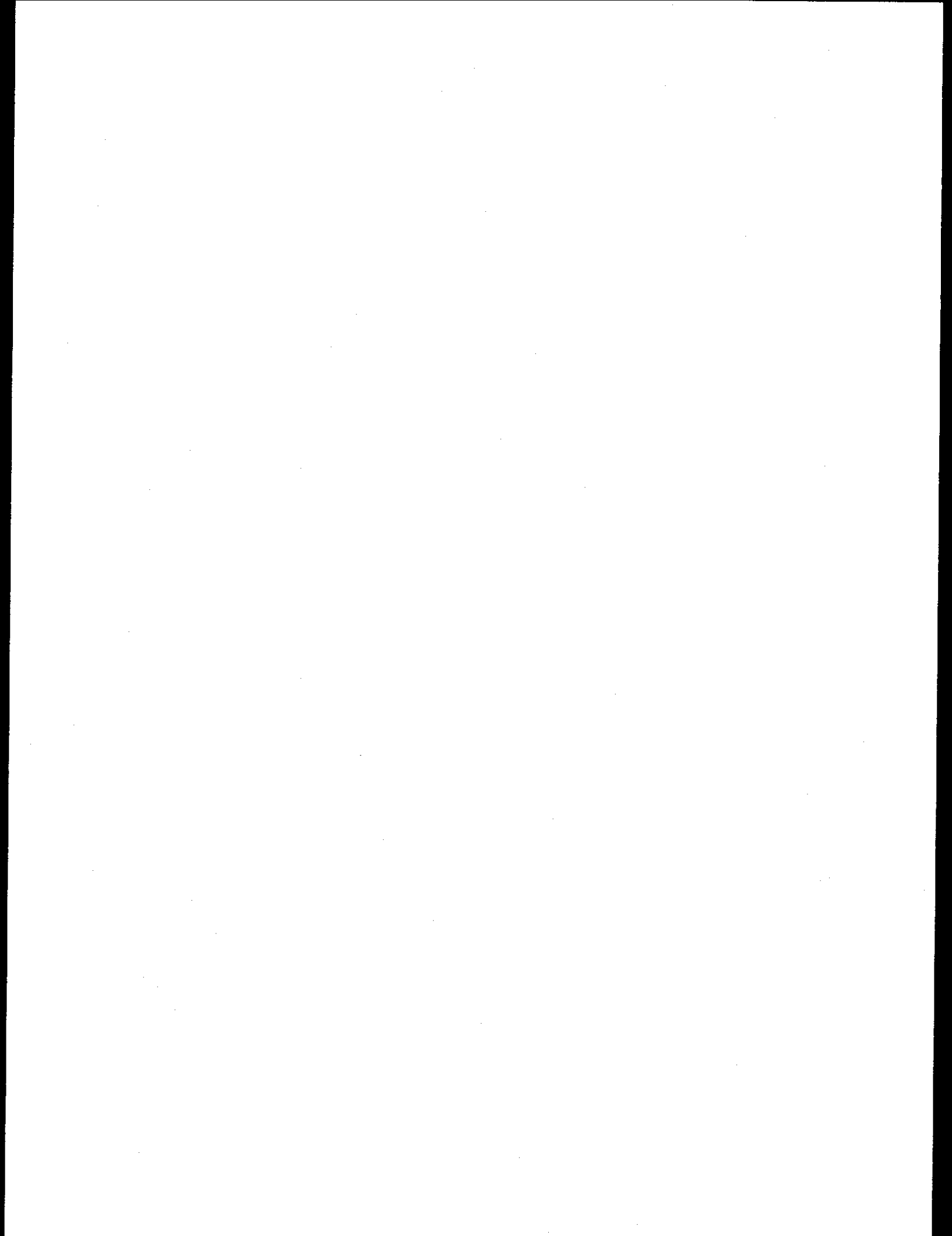
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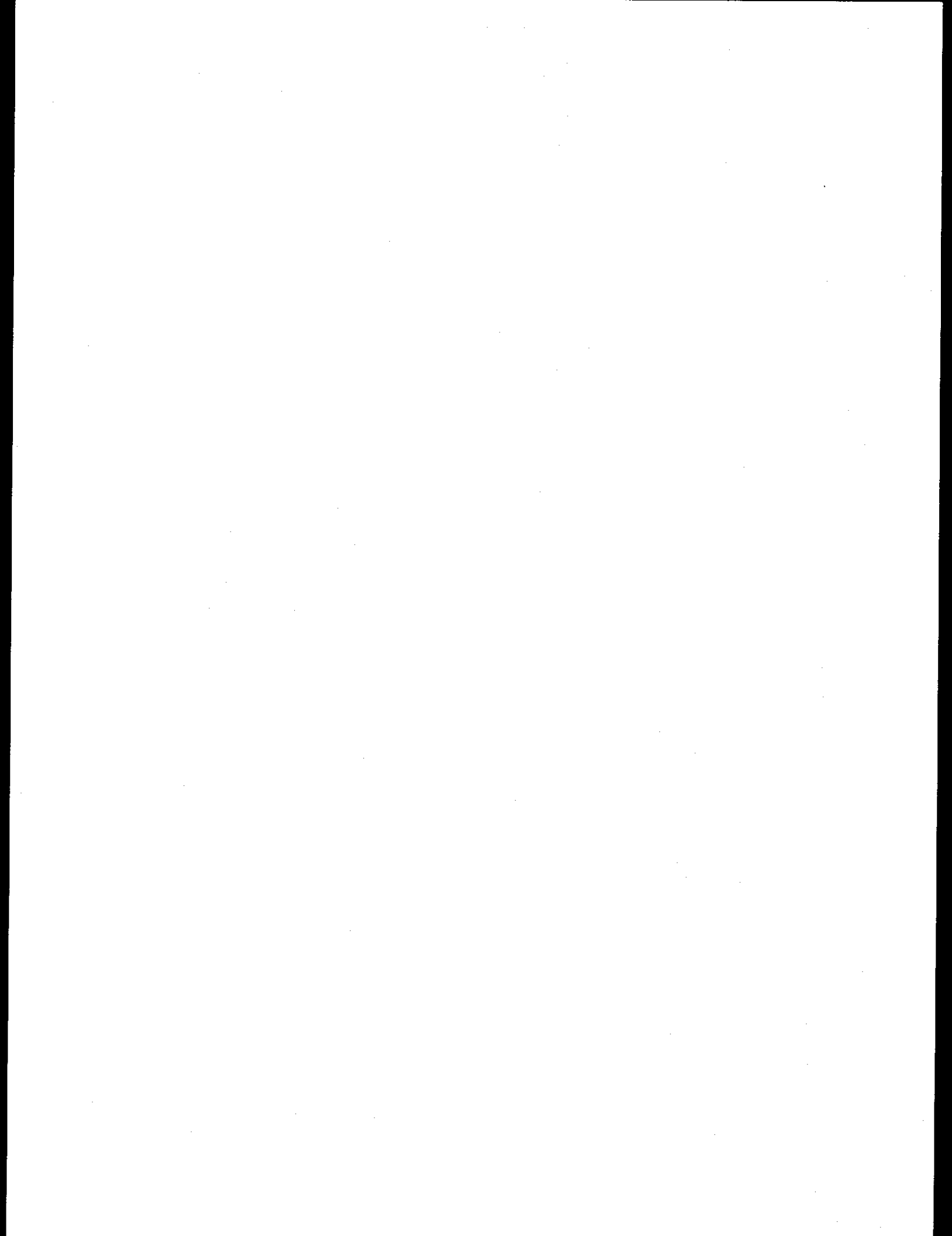
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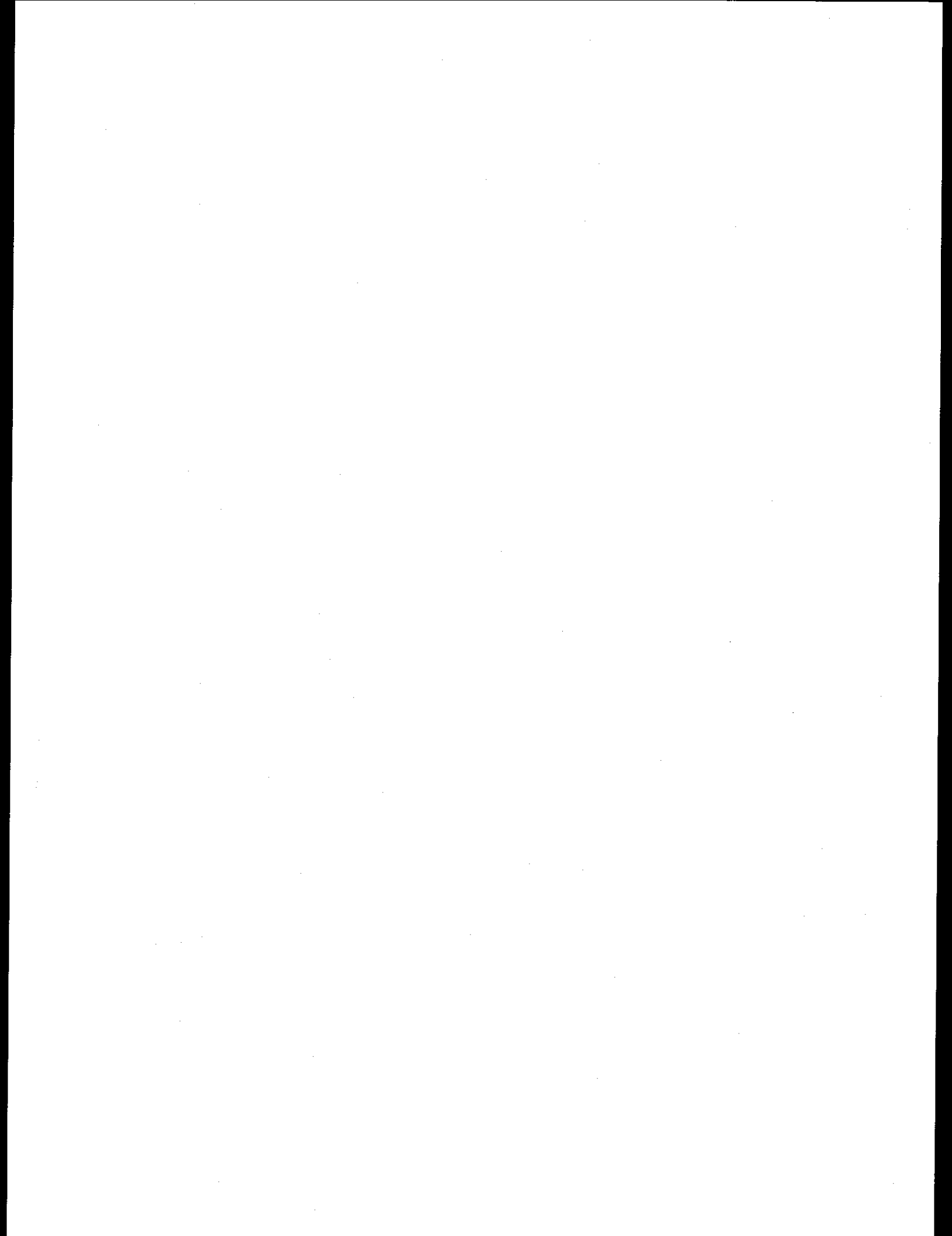
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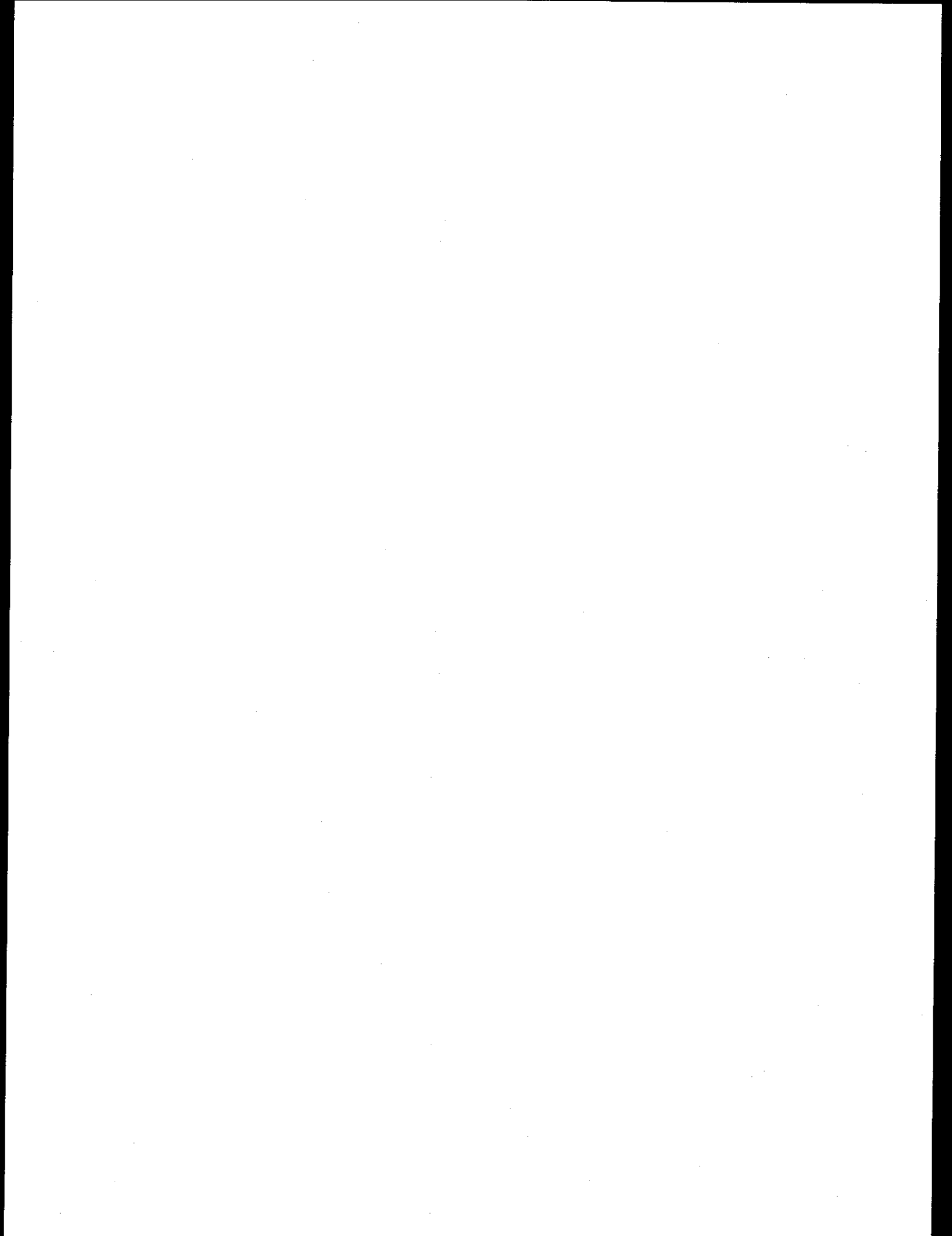
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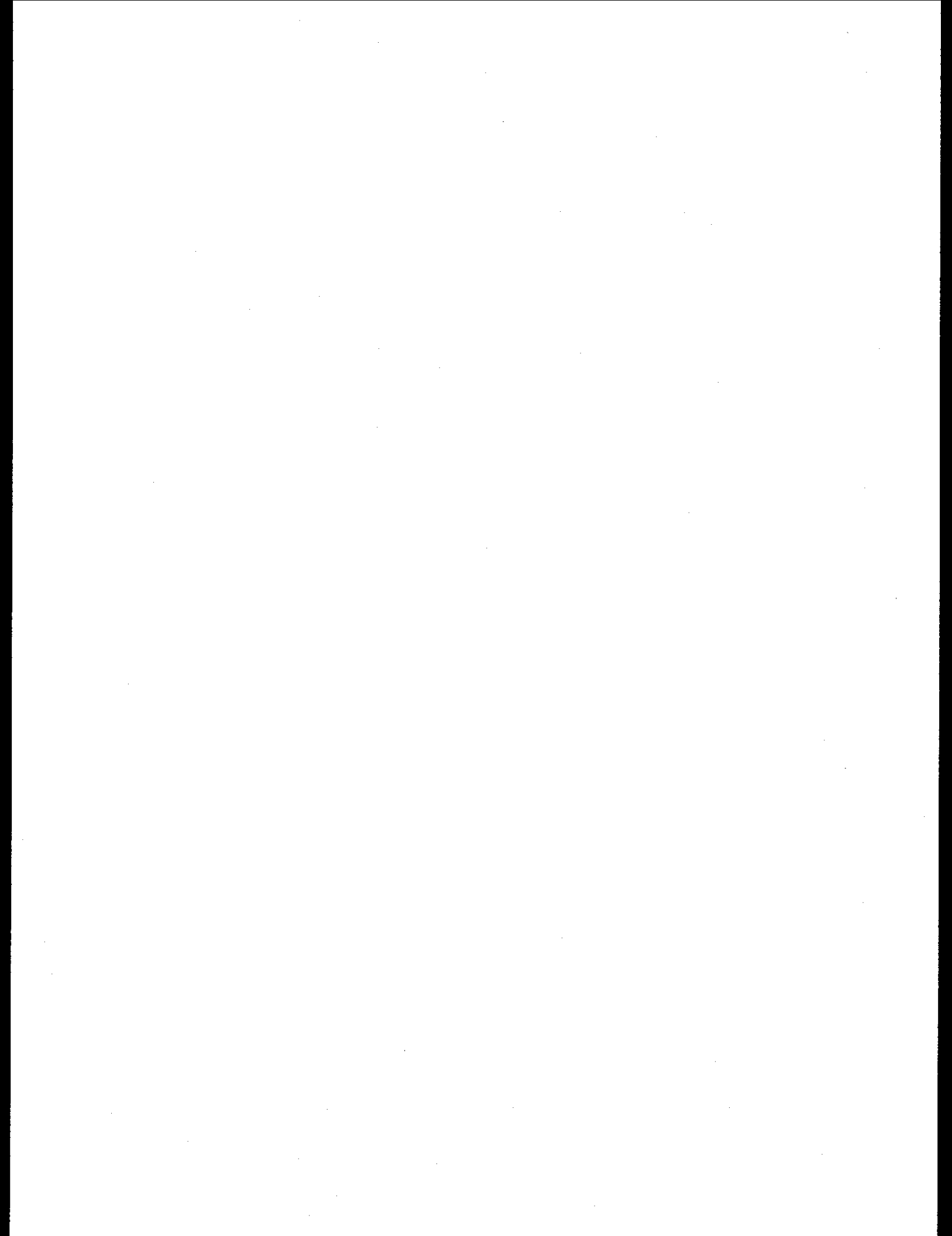
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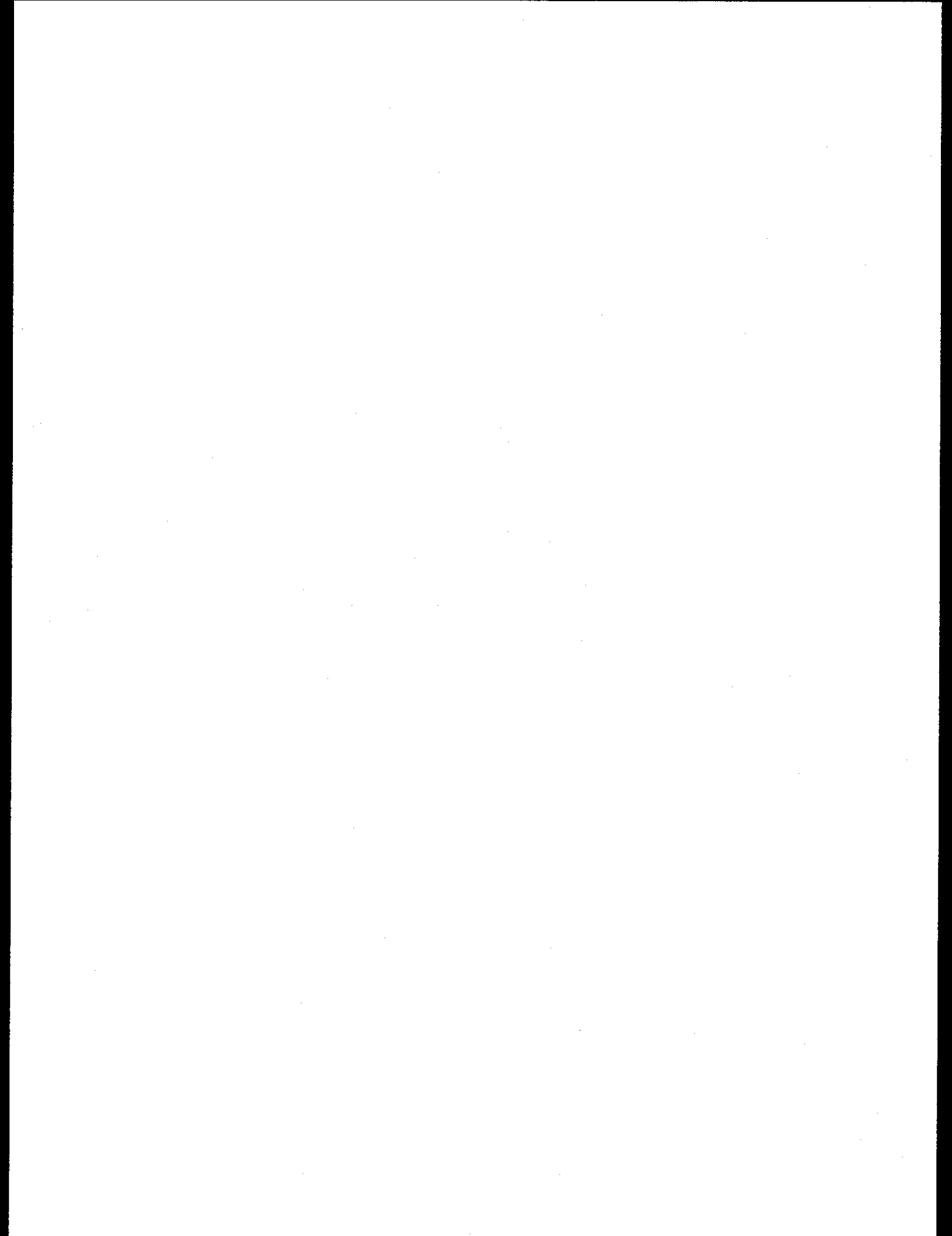


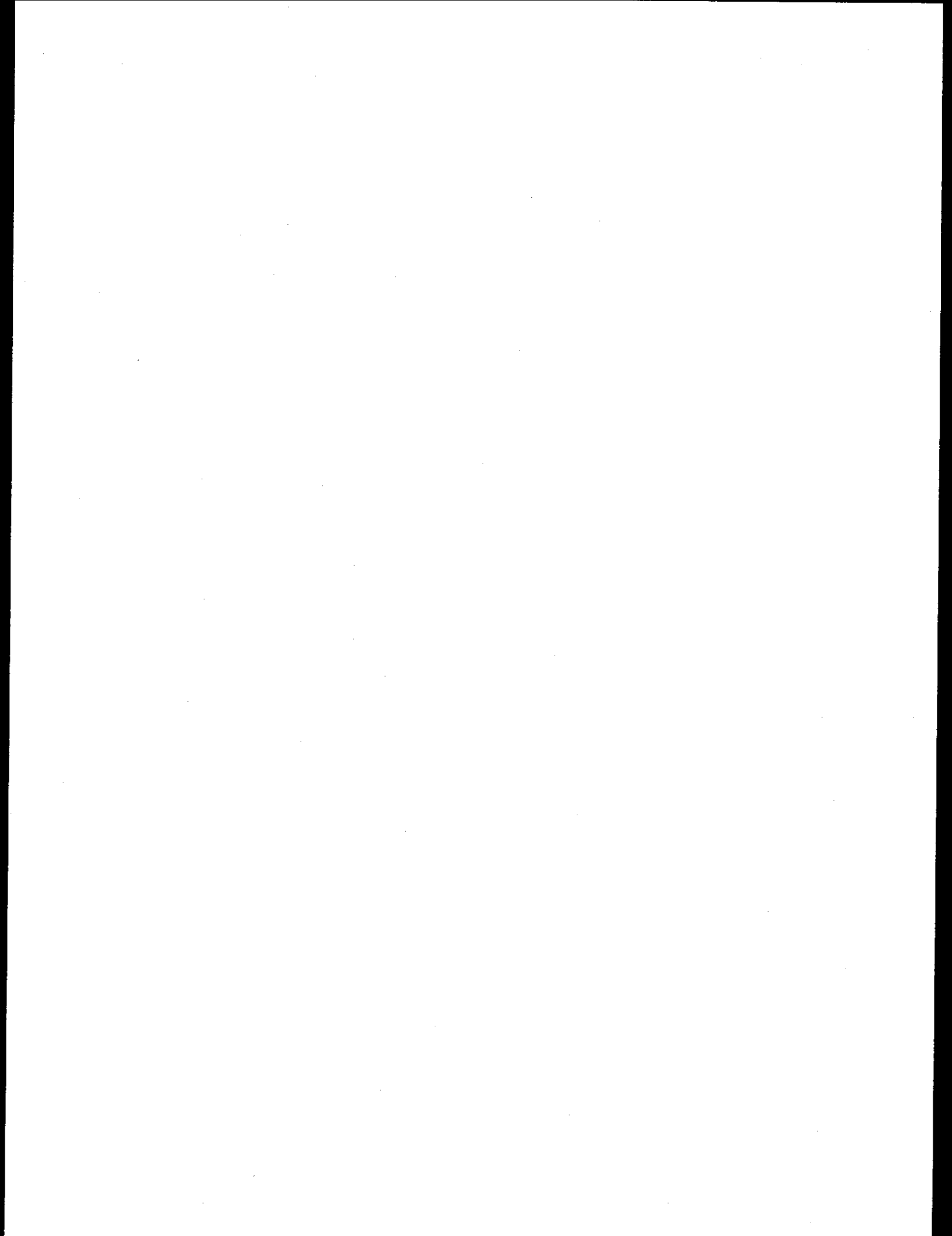












22 JUN 2006

ONS

Electricity Supply Board

Lower Fitzwilliam Street, Dublin 2, Ireland.  
Phone: 353-1-702 7032 Fax: 353-1-702 6680  
Email: tadhg.odonoghue@mail.esb.ie www.esb.ie



Tadhg O'Donoghue  
Chairman

Acmhainn  
Oifig

22 June 2006

FAO EDC, SW, BT, Min, TH

For Observations \_\_\_\_\_

For Action \_\_\_\_\_

For Follow Up \_\_\_\_\_

For Information \_\_\_\_\_

CC \_\_\_\_\_ 22/6/06

Date \_\_\_\_\_

Mr Noel Dempsey T.D.  
Minister for Communications, Marine and Natural Resources  
Department of Communications, Marine and Natural Resources  
29-31 Adelaide Road  
Dublin 2

Dear Minister,

**RE: 2005 CONSOLIDATED FINANCIAL STATEMENTS**

As required under the Code of Practice for the Governance of State Bodies (the "Code"), the annual audited consolidated financial statements for ESB in respect of the year ended 31 December 2005, which have been approved by the Board, have been forwarded to your Department

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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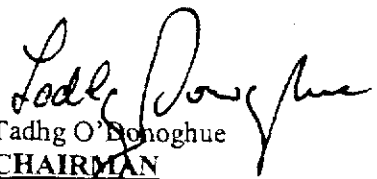
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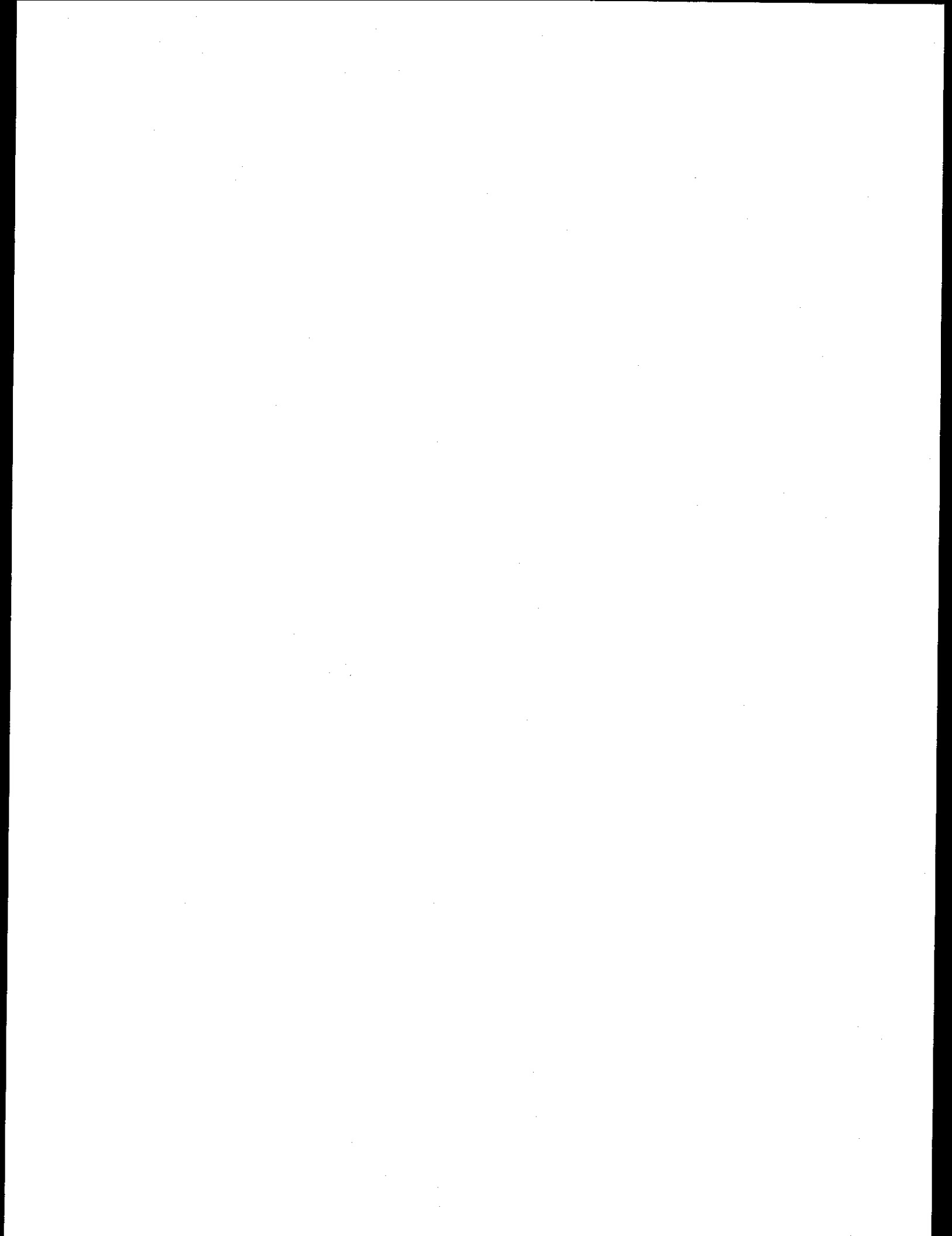
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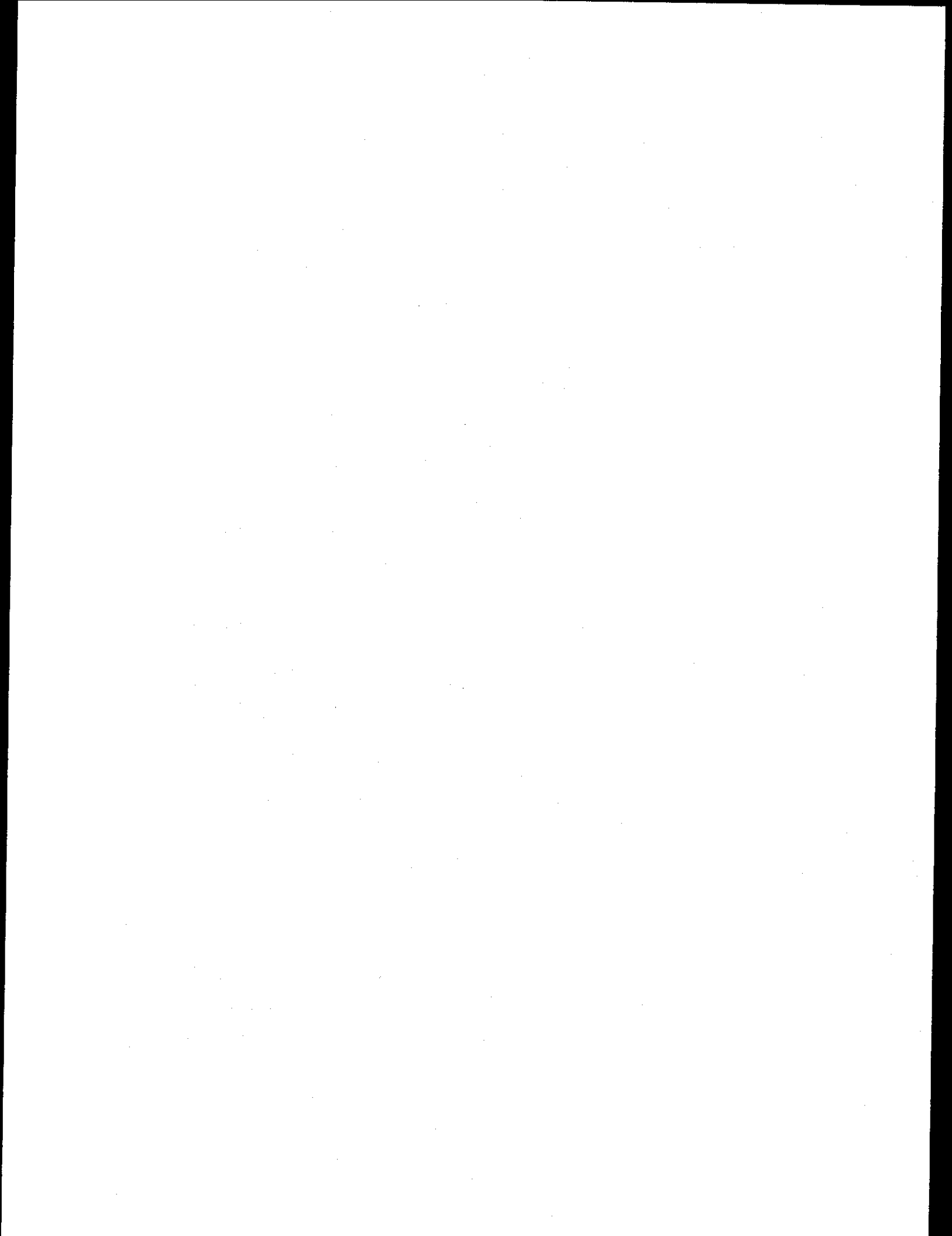
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[REDACTED]

Yours sincerely,

  
Tadhg O'Donoghue  
CHAIRMAN





[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Section 10.2 (ii) - Procedures for financial reporting, internal audit, procurement and assets disposal.**

I confirm that to the best of my knowledge, information and belief after due enquiry, all appropriate procedures for financial reporting, internal audit, procurement and asset disposals are being complied with.

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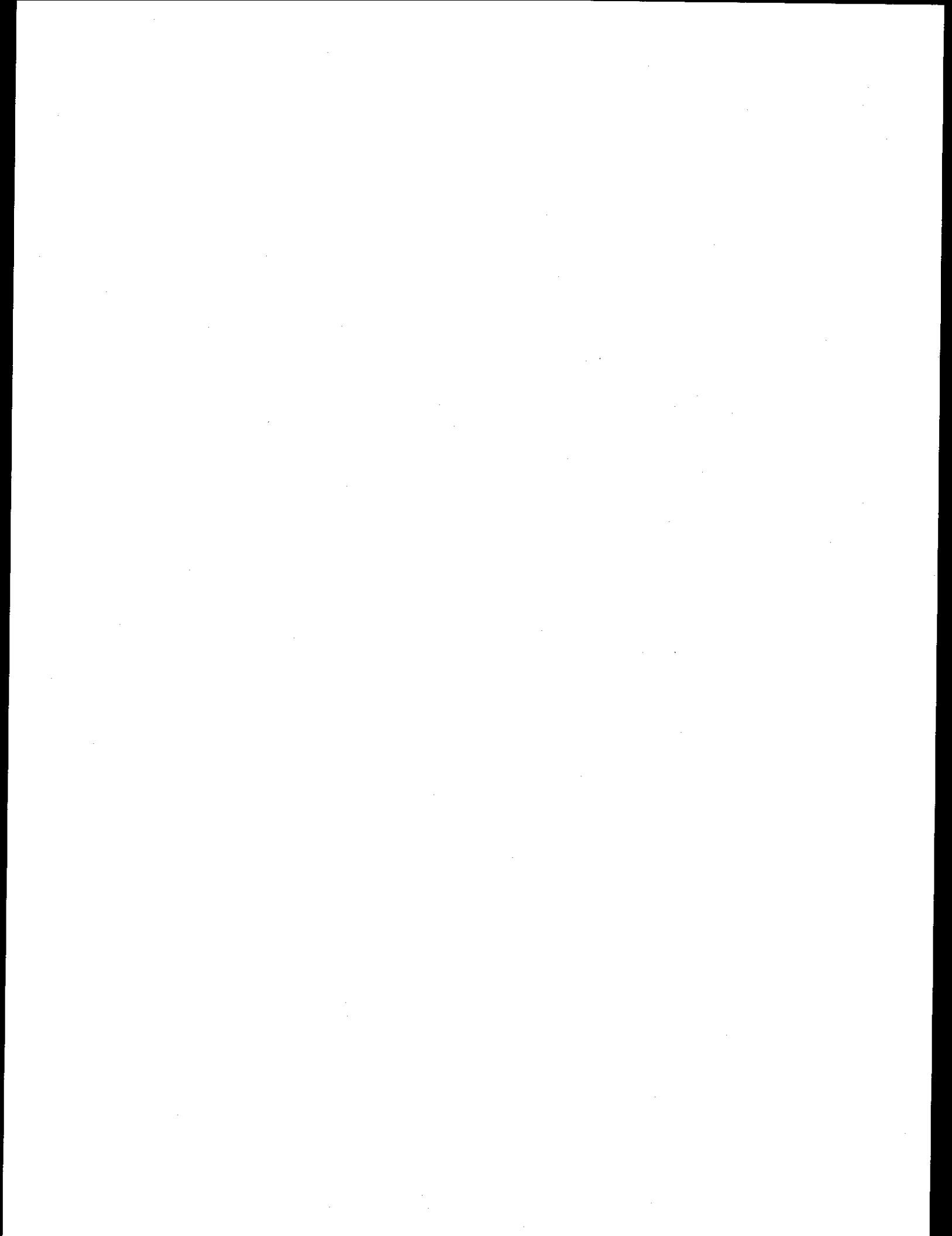
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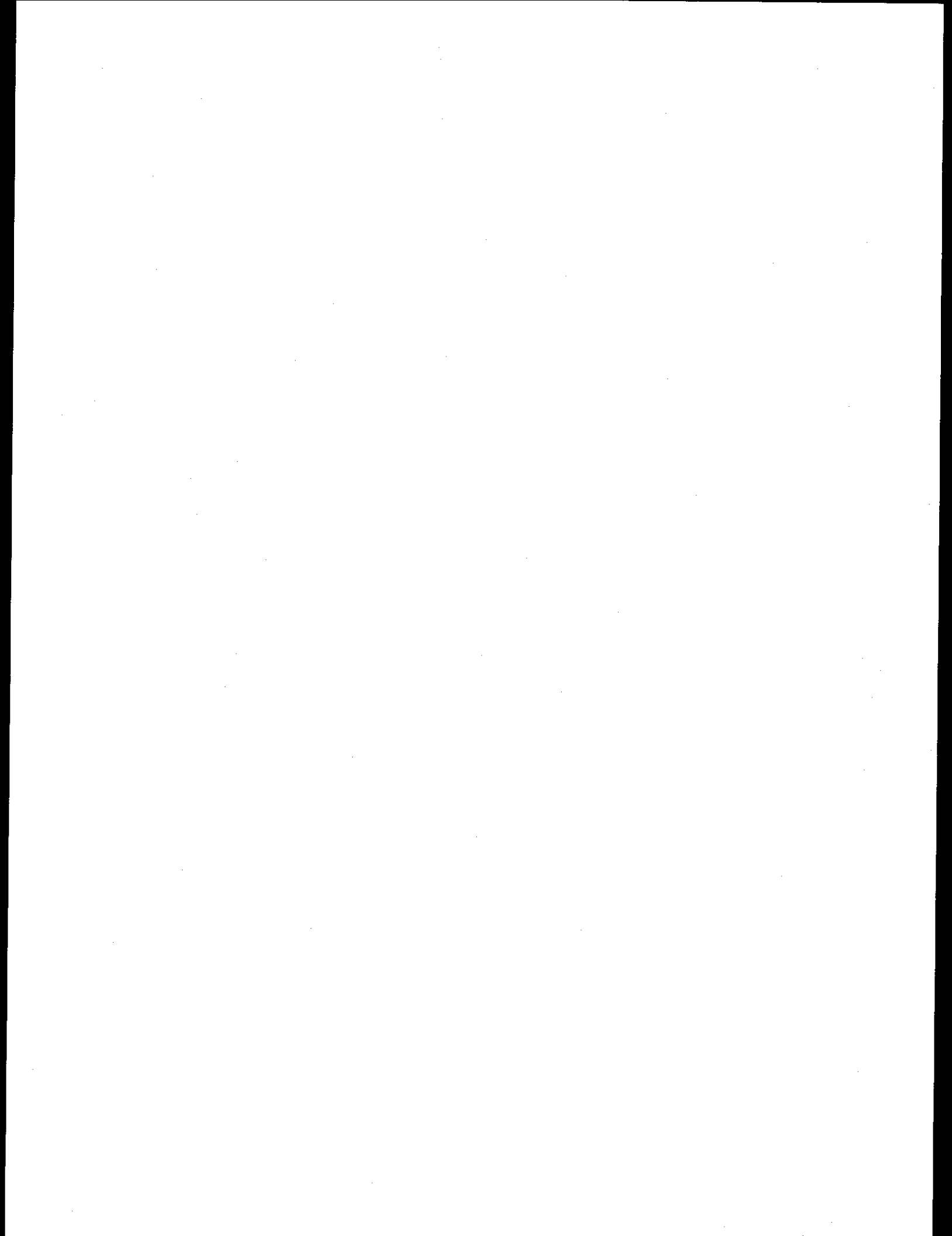
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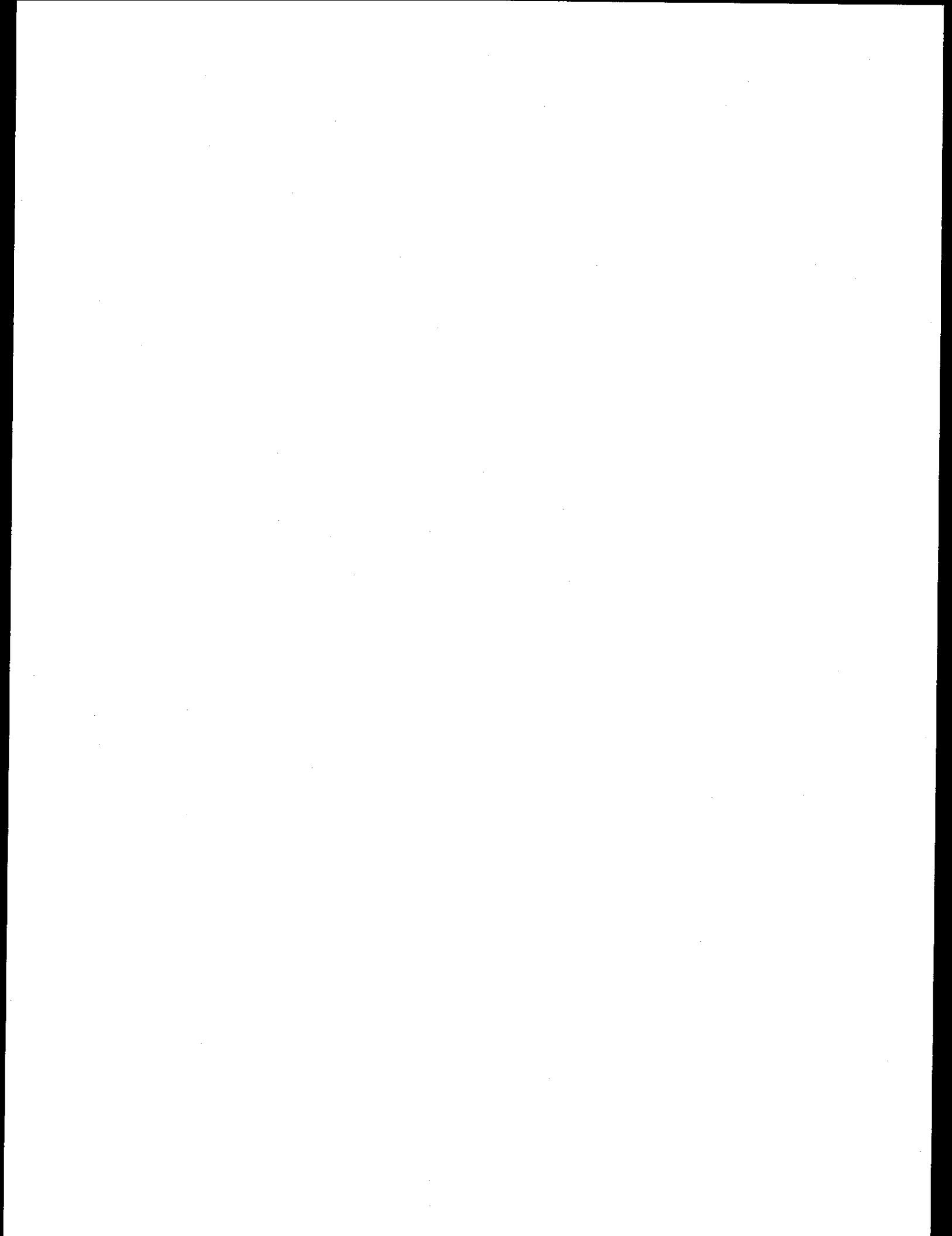
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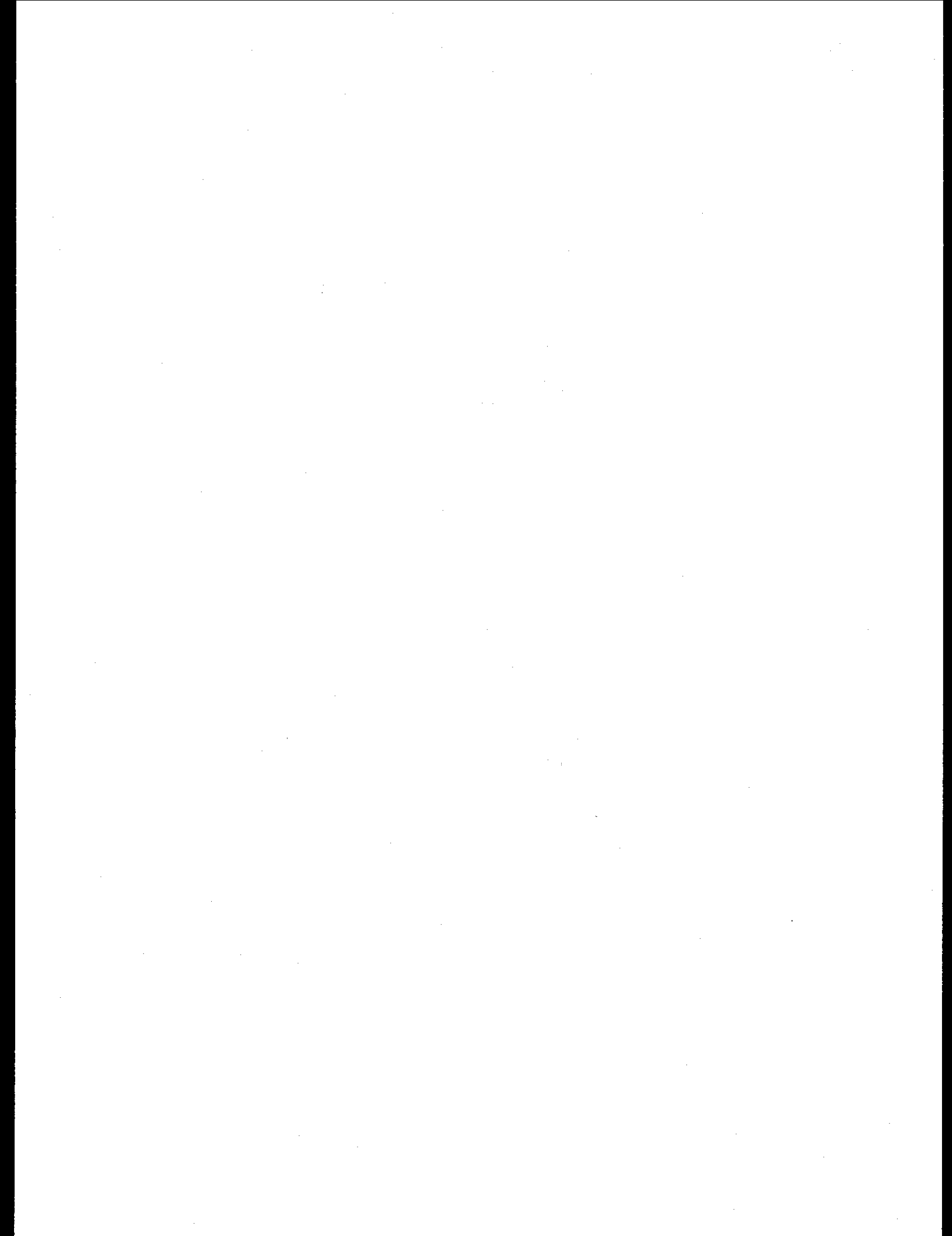
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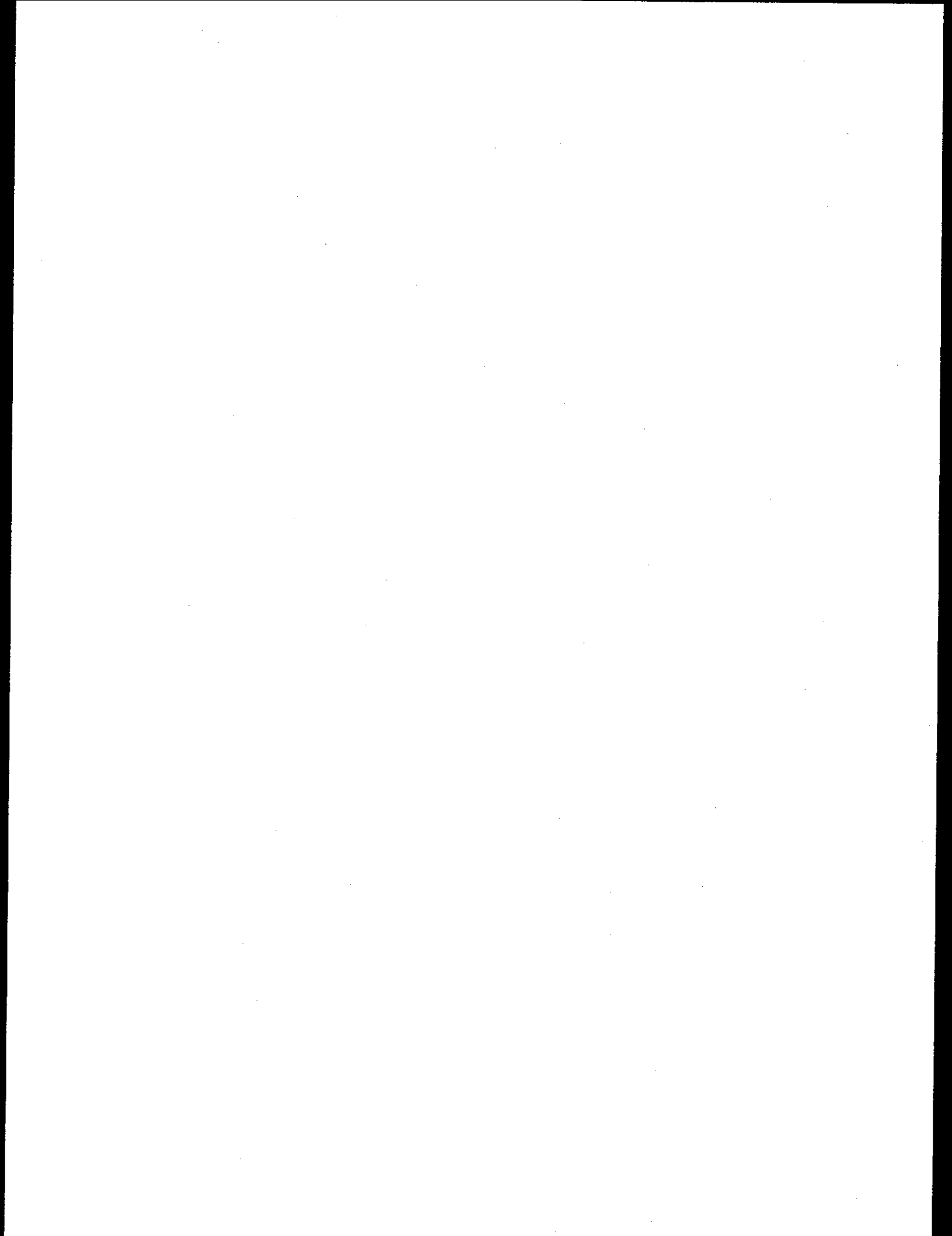
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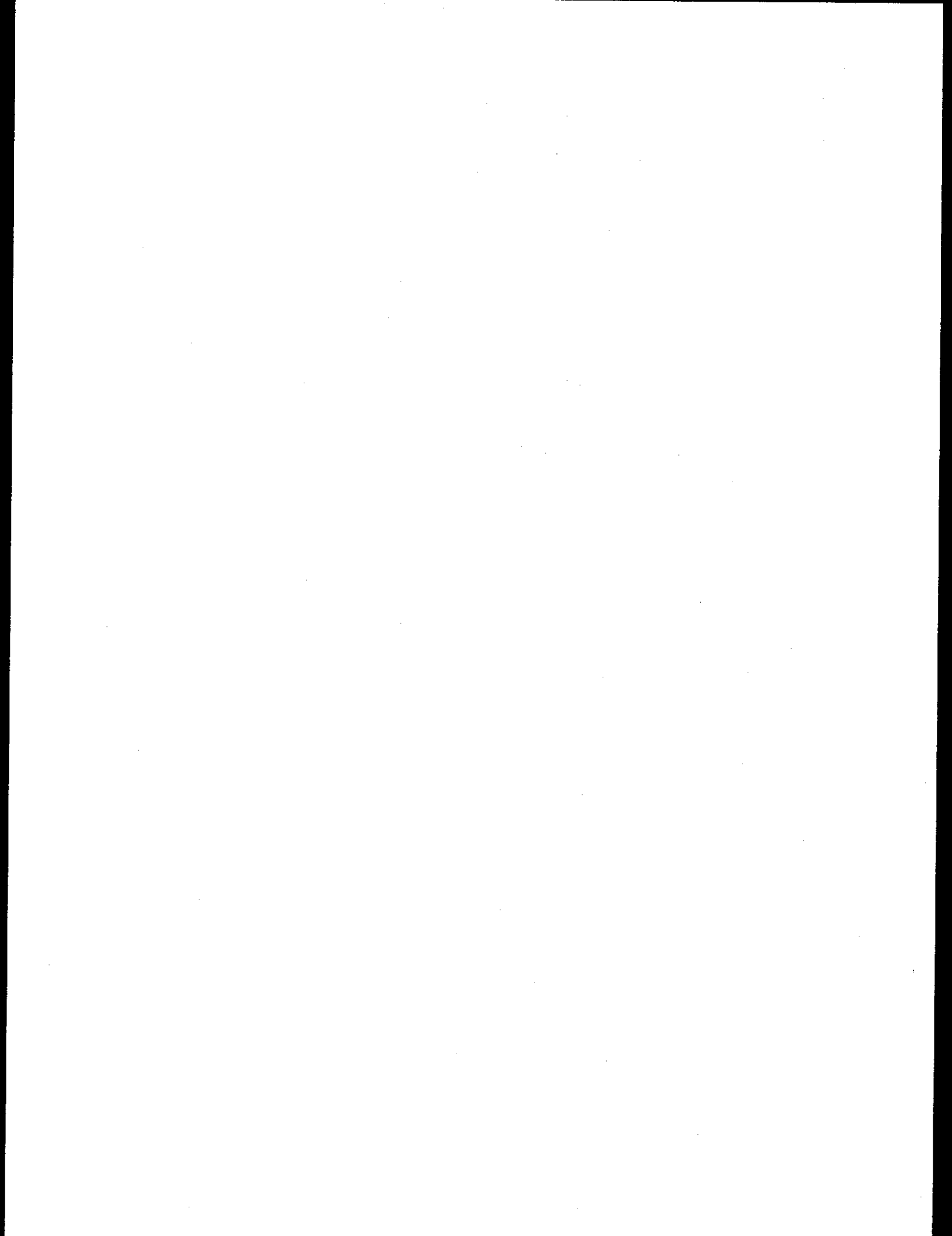


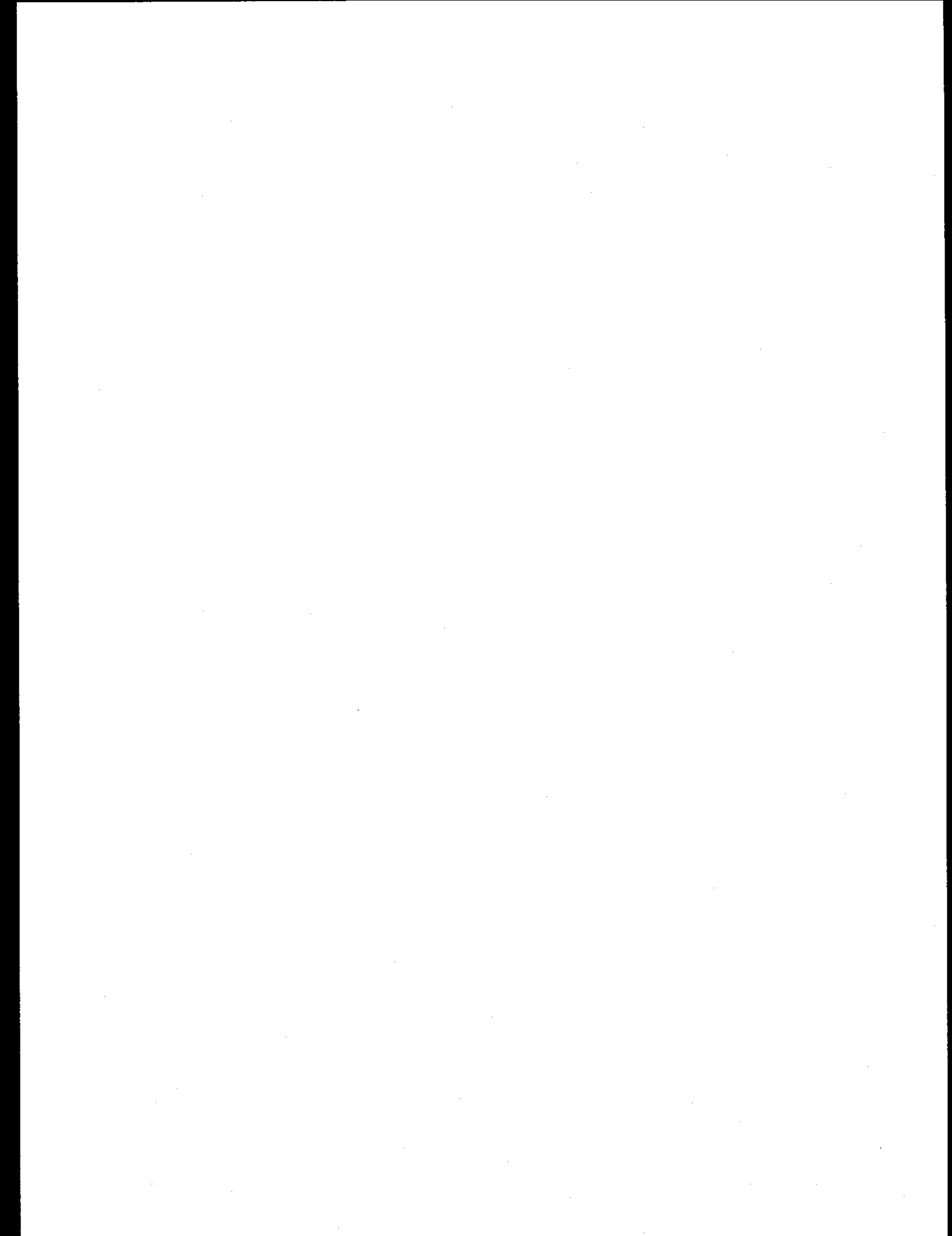


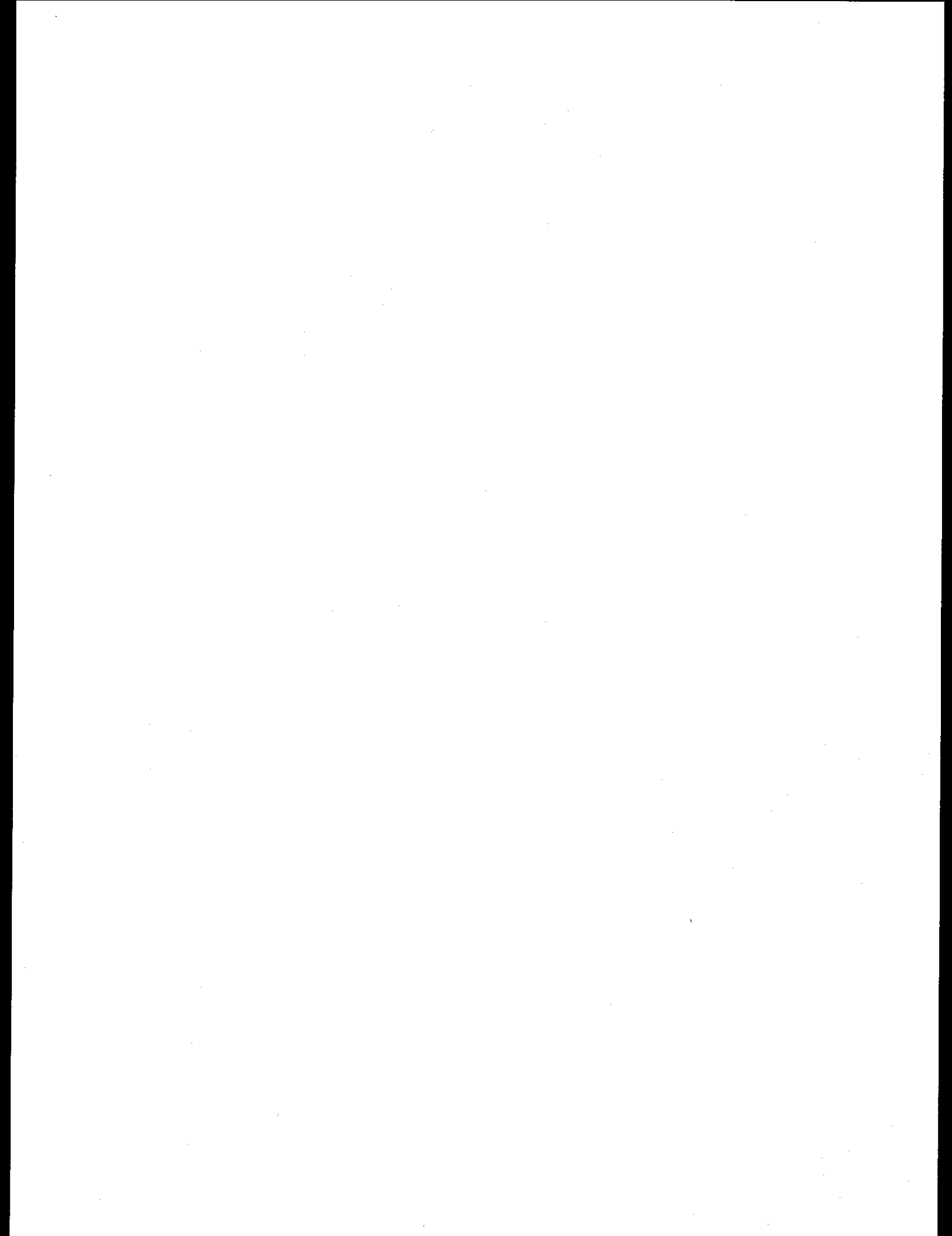














An Boinn Cumarsáide,  
Fóiníníh agus Acmhainní Nádurtha  
Baile Átha Cliath 2.

Department of Communications,  
Energy and Natural Resources,  
Dublin 2.

Our Ref: BO 2009 312

15<sup>th</sup> June 2009

Mr. John Redmond  
Company Secretary  
ESB  
Lower Fitzwilliam Street  
Dublin 2

Dear John,

I enclose a copy of representations received by the Minister from Frank Hughes regarding the ESB architectural competition for the new HQ building in Dublin.

It would be appreciated if you could, as a matter of urgency, arrange to furnish us with material for inclusion in the Minister's reply.

Yours sincerely,

Eilish Ruddle  
Eilish Ruddle  
Electricity (Corporate) Division

Tel: +353 1 678 2935

*Encls.*



Corporate Centre

Electricity Supply Board

Lower Fitzwilliam Street, Dublin 2, Ireland.

Uíall MacLiam Lochtair, Baile Átha Cliath 2, Éire.

Phone: 353-1-676 5831/702 6515 Fax: 353-1-676 4970 Website: www.esb.ie

6 July 2009

Ms Eilish Ruddle  
Dept of Communication  
Energy and Natural resources  
29-31 Adelaide Road  
Dublin 2

Dear Eilish

**Your Ref: BO 2009 312**

I refer to representations received from Mr. Frank Hughes in respect of the new ESB HQ building.

Mr Hughes' letter raises a number of concerns at various aspects of the competition. While I would like to address some of these individually, I also want to address a general point about procurement and governance procedures within ESB.

As a large, commercially successful and socially conscious utility, ESB has developed particularly robust and comprehensive procurement and governance procedures concerning the tendering of all major project work. These procedures address the requirements laid out in various governmental and EU directives and also embody the commercial, technical and social ethos of ESB. We believe our approach gives us the appropriate balance between internal and external expertise and crucially provides clarity around responsibility and authority for delivery.

ESB has followed these robust processes and procedures in the design competition that is being conducted in connection with the potential redevelopment of ESB's head office site. We employ many architects as well as quantity surveyors, civil and structural engineers within the company with significant relevant experience. We have and will continue to use this expertise on the project. We have accordingly already made decisions about how to separate architectural, engineering and construction activities. We will also ensure appropriate advice is maintained at all levels of the project delivery organisation to ensure completion of a successful project.

However, we are conscious that there are numerous viewpoints and sources of expertise when considering the best way to successfully undertake projects of this magnitude. In this instance, therefore, ESB consulted with external experts (architects, engineers and developers) and undertook a comprehensive review of the RIAI procedures for architectural design competitions. We are therefore satisfied that our process is fit for purpose.

Turning to some specific concerns raised by Mr Hughes, I would point out the following:

- The competition is being conducted by ESB. It is an extremely important project for the company and accordingly is being managed by senior ESB employees who are fully accountable to the ESB Board and responsible for the long-term success of the project. In addition, two of the five jury members will be architects thereby ensuring that issues of architectural design will be carefully considered by the jury. We believe this structure meets design and governance requirements.
- Given the large-scale nature of the project, the condition in the competition rules specifying a minimum annual turnover is regarded by ESB as entirely proportionate. It is prudent in ensuring that the successful architect appointed on foot of the contest has sufficient resources to be able to carry out the role of project architect over the project period. ESB ensured in its competition rules that joint applications could be submitted, allowing practices that did not meet the turnover condition to make a submission jointly with other practices. In that regard, you should note that of the total of c.70 firms that submitted expressions of interest c.30 of these are from Irish firms, representing a broad spectrum of Irish architectural practices. We therefore do not believe that we have unfairly excluded smaller practices.
- Regarding the point on Design versus Design and Build solutions the intention was to focus on the quality of design. We also determined that in order to encourage maximum flexibility and allow more independent architects to submit design, independent of build solutions, it was appropriate to separate these two phases. Commercially and regarding financial counterparty risk, we also believe this route is prudent in today's environment.
- ESB is fully aware of the importance of sustainable development and has included this specifically within the contest technical brief. ESB expects that any new development will be at the forefront of sustainable design and will aim for a BREEAM excellent rating. ESB is also examining with external environmental experts the potential of new green innovations in building design. ESB is confident that the proposed HQ building will be an outstanding example of sustainable development.

If you require further information please let me know.

Yours sincerely,



John Redmond  
**Company Secretary and**  
**Head of Corporate Affairs**

# Schedule of Records - Summary of Decision Making

## FOI Request Reference:

Rec. No	Brief description and date of record	File Ref	No. of page	Decision: Grant/Part Grant/ Refuse	Basis of Refusal: Section of Act	Reason for Decision (for and against release)	Public Interest Considerations	Record Edited/ Identify Deletions
1.	Letter from Chair Bord na Mona, July 2006	FP 2/37	3	Granted				Deletions not relevant to request.
2.	Letter from Chair Bord na Mona, July 2007	FP2/38	4	Do.				Do.
3.	Letter from Chair Bord na Mona, July 2008	FP2/39	4	Do				Do.
4.	Letter from Chair, Bord na Mona, July 2009	FP2/40	3	Do.				Do.