

**Meeting of the Central Valley Flood Protection Board
October, 2010**

Staff Report – Encroachment Permit

**Mort Friedman
Fence, Wall, and Landscaping, Sacramento County**

1.0 – ITEM

Consider approval of Permit No. 18612 (Attachment B)

2.0 – APPLICANT

Mort Friedman

3.0 – LOCATION

The project is located on the overflow area, waterside of the right (north) bank levee of the American River, in the City of Carmichael, Sacramento County.
(see Attachment A)

4.0 – DESCRIPTION

To authorize the existing landscaping along with a 230-foot-long iron fence and retaining wall on the overflow area of the American River.

5.0 – PROJECT ANALYSIS

The fence and retaining wall were constructed ten years ago to replace the original fence, which was severely damaged in the 1997 flood. The property owner was not aware the replacement of the fence and installation of the retaining wall required an encroachment permit.

5.1 – Hydraulic Analysis

The Board's staff agrees with MBK Engineers that; the 230-foot-long fence and retaining wall are located 190 feet from the levee and do not represent a hydraulic or geotechnical risk to the levee system.,

5.2 – Geotechnical Analysis

No Geotechnical Analysis is required.

5.3 – Additional Staff Analysis

Other fences and landscaping were allowed on the waterside of the levee at this area with the endorsement of the maintenance agency.

6.0 – AGENCY COMMENTS AND ENDORSEMENTS

- The U. S Army Corps of Engineers 208.10 comment letter has not yet been received for this application. Upon receipt of a favorable letter and review by Board staff it will be incorporated into the permit as Exhibit A.
- American River Flood Control District has endorsed the authorization of these encroachments without conditions.

7.0 – CEQA ANALYSIS

Board staff has prepared the following CEQA determination:

The County of Sacramento, as lead agency under CEQA, approved the project on November 18, 2010 and determined that the project was categorically exempt under Class 1 (CEQA Guidelines Section 15301) covering existing facilities and Class 5 (CEQA Guidelines Section 15305) covering minor alterations in land use limitations that do not result in changes in land use or density.

The Board, acting as a responsible agency under CEQA, has reviewed the County of Sacramento's determination and has independently determined that the project is exempt from CEQA under Class 1 (CEQA Guidelines Section 15301) covering existing facilities and Class 5 (CEQA Guidelines Section 15305) covering minor alterations in land use limitations that do not result in changes in land use or density.

8.0 – SECTION 8610.5 CONSIDERATIONS

1. Evidence that the Board admits into its record from any party, State or local public agency, or nongovernmental organization with expertise in flood or flood plain management:

The Board will make its decision based on the evidence in the permit application and attachments, this staff report, and any other evidence presented by any individual or group.

2. The best available science that related to the scientific issues presented by the executive officer, legal counsel, the Department or other parties that raise credible scientific issues.

The accepted industry standards for the work proposed under this permit as regulated by Title 23 have been applied to the review of this permit.

3. Effects of the decision on the entire State Plan of Flood Control:

The existing fence and retaining wall which was constructed 10 years ago (located 190 feet from the levee) and the existing landscaping have no effect on the State Plan of Flood Control.

4. Effects of reasonable projected future events, including, but not limited to, changes in hydrology, climate, and development within the applicable watershed:

Existing wall, fence and the landscaping do not represent a hydraulic or geotechnical risk to the levee system.

9.0 – STAFF RECOMMENDATION

Staff recommends that the Board determine the project to be exempt from CEQA and to approve the permit conditioned upon receipt of a favorable U.S. Army Corps of Engineers comment letter.

10.0 – LIST OF ATTACHMENTS

- A. Location Maps and Photos
- B. Draft Permit No. 18612 BD

C. Planting Map

Design Review:

Sam Brandon

Environmental Review:

James Herota and Andrea Mauro

Document Review:

Mitra Emami P.E., Curt Taras P.E., Len Marino P.E.



1620 McClaren Drive



1771 Tribute Rd., Suite A
Sacramento, CA 95815

Phone: 916-456-4400 Fax: 916-456-0253

www.mbkengineers.com

Friedman Property

Vicinity Map

Scale: 1 inch = 2,000 feet
Client: XXXX
Date: 01/11/2010
Drawn By: NWW
Requested By: RR





Source: 2009 NAIP Aerial Image

MBK
ENGINEERS
 1771 Tribute Rd., Suite A
 Sacramento, CA 95815
 Phone: 916-456-4400 Fax: 916-456-0253
 www.mbkengineers.com

Friedman Property

Plan View

Scale: 1 inch = 200 feet
 Client: XXXX
 Date: 02/11/2010
 Drawn By: NWW
 Requested By: RR

0 200

 Scale in Feet



Historic Fence on Friedman Property, Facing East.

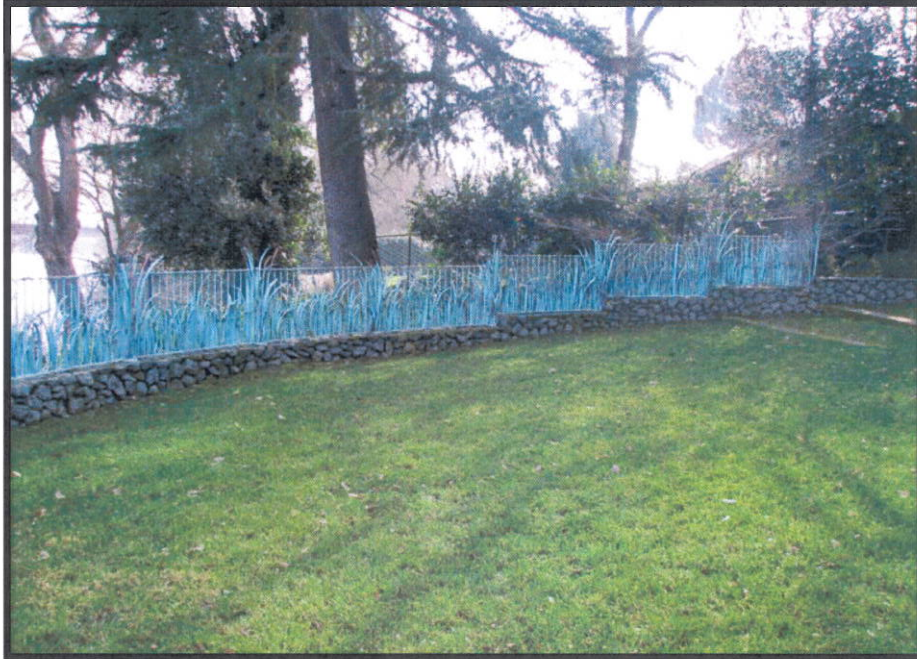


Historic Fence on Friedman Property, Facing Southeast.

1620 McClaren Drive – Friedman Property

Photographer - Ric Reinhardt





New Fence on Friedman Property, Facing South



New Fence on Friedman Property, Facing Northeast.

1620 McClaren Drive – Friedman Property

Photographer - Ric Reinhardt



DRAFT

STATE OF CALIFORNIA
THE RESOURCES AGENCY
THE CENTRAL VALLEY FLOOD PROTECTION BOARD

PERMIT NO. 18612 BD

This Permit is issued to:

Mort and Marcy Friedman
1620 McClaren Drive
Carmichael, California 95608

To authorize existing landscaping along with a 230-foot-long iron fence and retaining wall on the overflow area of the right (north) bank levee of the American River. The project is located in Carmichael at 1620 McClaren Drive (Section 33, T9N, R6E, MDB&M, American River Flood Control District, American River, Sacramento County).

NOTE: Special Conditions have been incorporated herein which may place limitations on and/or require modification of your proposed project as described above.

(SEAL)

Dated: _____

Executive Officer

GENERAL CONDITIONS:

ONE: This permit is issued under the provisions of Sections 8700 – 8723 of the Water Code.

TWO: Only work described in the subject application is authorized hereby.

THREE: This permit does not grant a right to use or construct works on land owned by the Sacramento and San Joaquin Drainage District or on any other land.

FOUR: The approved work shall be accomplished under the direction and supervision of the State Department of Water Resources, and the permittee shall conform to all requirements of the Department and The Central Valley Flood Protection Board.

FIVE: Unless the work herein contemplated shall have been commenced within one year after issuance of this permit, the Board reserves the right to change any conditions in this permit as may be consistent with current flood control standards and policies of The Central Valley Flood Protection Board.

SIX: This permit shall remain in effect until revoked. In the event any conditions in this permit are not complied with, it may be revoked on 15

days' notice.

SEVEN: It is understood and agreed to by the permittee that the start of any work under this permit shall constitute an acceptance of the conditions in this permit and an agreement to perform work in accordance therewith.

EIGHT: This permit does not establish any precedent with respect to any other application received by The Central Valley Flood Protection Board.

NINE: The permittee shall, when required by law, secure the written order or consent from all other public agencies having jurisdiction.

TEN: The permittee is responsible for all personal liability and property damage which may arise out of failure on the permittee's part to perform the obligations under this permit. If any claim of liability is made against the State of California, or any departments thereof, the United States of America, a local district or other maintaining agencies and the officers, agents or employees thereof, the permittee shall defend and shall hold each of them harmless from each claim.

ELEVEN: The permittee shall exercise reasonable care to operate and maintain any work authorized herein to preclude injury to or damage to any works necessary to any plan of flood control adopted by the Board or the Legislature, or interfere with the successful execution, functioning or operation of any plan of flood control adopted by the Board or the Legislature.

TWELVE: Should any of the work not conform to the conditions of this permit, the permittee, upon order of The Central Valley Flood Protection Board, shall in the manner prescribed by the Board be responsible for the cost and expense to remove, alter, relocate, or reconstruct all or any part of the work herein approved.

SPECIAL CONDITIONS FOR PERMIT NO. 18612 BD

THIRTEEN: If the construction project extends onto land owned in fee and/or easement by the Sacramento and San Joaquin Drainage District acting by and through the Central Valley Flood Protection Board (Board), the permittee should secure an easement, license, or temporary entry permit from the Board prior to commencement of work. Contact Angelica Aguilar at (916) 653-5782.

FOURTEEN: All work approved by this permit shall be in accordance with the submitted drawings and specifications except as modified by special permit conditions herein. No further work, other than that approved by this permit, shall be done in the area without prior approval of the Central Valley Flood Protection Board.

FIFTEEN: The permittee is responsible for all liability associated with construction, operation, and maintenance of the permitted facilities and shall defend, indemnify, and hold the Central Valley Flood Protection Board and the State of California; including its agencies, departments, boards, commissions, and their respective officers, agents, employees, successors and assigns (collectively, the "State"), safe and harmless, of and from all claims and damages arising from the project undertaken pursuant to this permit, all to the extent allowed by law. The State expressly reserves the right to supplement or take over its defense, in its sole discretion

SIXTEEN: The permittee shall defend, indemnify, and hold the Central Valley Flood Protection Board and the State of California, including its agencies, departments, boards, commissions, and their respective officers, agents, employees, successors and assigns (collectively, the "State"), safe and harmless, of and from all claims and damages related to the Central Valley Flood Protection Board's approval of this permit, including but not limited to claims filed pursuant to the California Environmental Quality Act. The State expressly reserves the right to supplement or take over its defense, in its sole discretion.

SEVENTEEN: The permittee shall maintain the permitted encroachment(s) and the project works within the utilized area in the manner required and as requested by the authorized representative of

the Department of Water Resources, and American River Flood Control District or any other agency responsible for maintenance.

EIGHTEEN: The Central Valley Flood Protection Board, Department of Water Resources, and The American River Flood Control District shall not be held liable for any damages to the permitted encroachment(s) resulting from flood fight, operation, maintenance, inspection, or emergency repair.

NINETEEN: The permittee may be required, at permittee's cost and expense, to remove, alter, relocate, or reconstruct all or any part of the permitted encroachment(s) if removal, alteration, relocation, or reconstruction is necessary as part of or in conjunction with any present or future flood control plan or project or if damaged by any cause. If the permittee does not comply, the Central Valley Flood Protection Board may remove the encroachment(s) at the permittee's expense.

TWENTY: The permittee should contact the U.S. Army Corps of Engineers, Sacramento District, Regulatory Branch, 1325 J Street, Sacramento, California 95814, telephone (916) 557-5250, as compliance with Section 10 of the Rivers and Harbors Act and/or Section 404 of the Clean Water Act may be required.

TWENTY-ONE: The permittee shall be responsible for repair of any damages to the project levee and other flood control facilities due to construction, operation, or maintenance of the proposed project.

TWENTY-TWO: If the project, or any portion thereof, is to be abandoned in the future, the permittee or successor shall abandon the project under direction of the Central Valley Flood Protection Board and Department of Water Resources, at the permittee's or successor's cost and expense.

TWENTY-THREE: The permittee acknowledges that the fence, retaining wall, and landscaping are located within the American River adopted plan of flood control and may be subject to periodic flooding.

TWENTY-FOUR: If the existing encroachment(s) result in any adverse hydraulic impact(s) to the flood project levee and/or floodway, the permittee shall provide appropriate mitigation acceptable to The Board.

TWENTY-FIVE: Debris that may accumulate on the permitted encroachment(s) and related facilities shall be cleared off and disposed of outside the floodway after each period of high water.

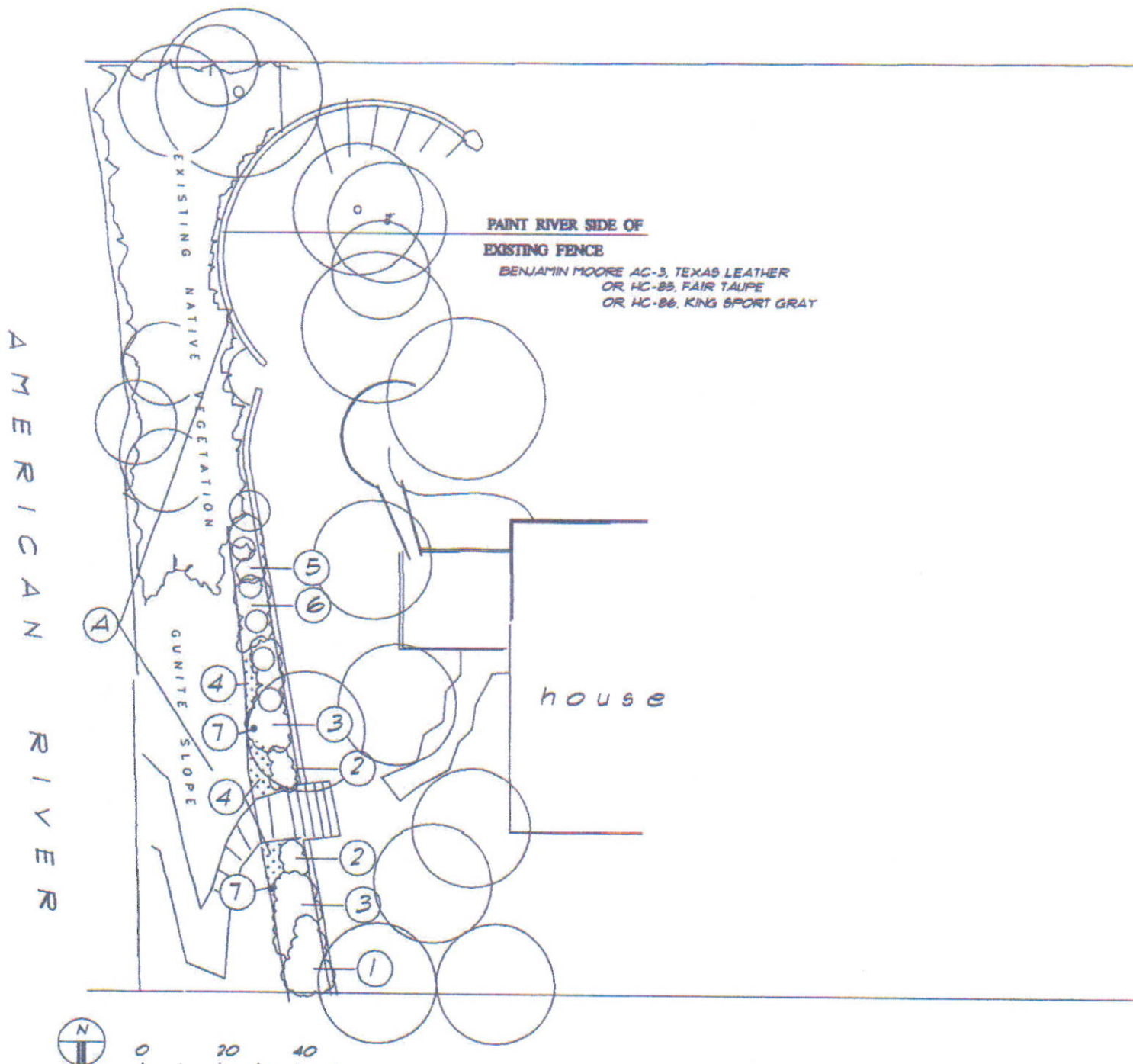
TWENTY-SIX: Cleared trees and brush shall be completely burned or removed from the floodway, and downed trees or brush shall not remain in the floodway during the flood season from November 1 to April 15.

TWENTY-SEVEN: Any additional encroachment(s) on the levee section or within the American River floodway require an approved permit from The Board and shall be in compliance with Board's regulations (Title 23 California Code of Regulations).

TWENTY-EIGHT: Landscaping, appurtenances, and maintenance practices shall conform to standards contained in Section 131 of the Central Valley Flood Protection Board's Regulations.

TWENTY-NINE: The permittee shall comply with all conditions set forth in the letter from the

Department of the Army dated _____, which is attached to this permit as Exhibit A and is incorporated by reference.



FRIEDMAN RESIDENCE, 1620 MC CLAREN DRIVE, CARMICHAEL, CA. 95608
RIVERSIDE PLANTING

FRIEDMAN RESIDENCE RIVERSIDE PLANTING

SCOPE OF WORK

- (A) EXISTING FENCE TO BE PAINTED ALONG RIVER SIDE
A MEDIUM NATURAL EARTH TONE COLOR
BENJAMIN MOORE AC-3, TEXAS LEATHER
OR, HC-85, FAIR TAUPE
OR, HC-86, KING SPORT GRAY
- (B) REMOVE EXISTING LAWN BELOW WALL
- (C) REDUCE IRRIGATION TIME FOR NEW SHRUBBERY
- (D) CHECK COVERAGE - CORRECT IRRIGATION AS REQUIRED
- (E) PLANT ACCORDING TO SIZE & SPACING AS NOTED

PLANT LIST

- (1) CORNUS STOLONIFERA, REDTWIG DOGWOOD
5 GALLON @ 5' O.C.
- (2) SPIRAEA JAPONICA
5 GALLON @ 3' O.C.
- (3) EUPHORBIA WULFINII
5 GALLON @ 3' O.C.
- (4) VIOLA ODORATA, WILD VIOLET
1 GALLON @ 1' O.C.
- (5) RHAMNUS CALIFORNICA, COFFEEBERRY
5 GALLON @ 4' O.C.
- (6) MAHONIA AQUIFOLIUM
5 GALLON @ 3' O.C.
- (7) FICUS PUMILA MINIMA, CREEPING FIG
TRAIN TO SPREAD OUT OVER EXISTING GUNITE SURFACE
5 GALLON WHERE SHOWN ALONG EDGE OF GUNITE