Meeting of the Central Valley Flood Protection Board October 28, 2011

Staff Report – Petition for Reconsideration of Board Enforcement Order Mr. Lino Catabran Sacramento County

1.0 - ITEM

Petition for Reconsideration Pursuant to Title 23, Section 23 of Board Enforcement Order 2011-138 adopted on August 26, 2011, and to consider clarification of written findings in support of the Order.

<u>2.0 – PETITIONER / PROPERTY OWNER</u>

Mr. Lino Catabran 5291 Garden Highway Sacramento, CA 95833

3.0 - BACKGROUND

On August 26, 2011 the Board held an enforcement hearing for encroachments (excavation, placement of a solid masonry block wall, and utility lines) constructed without Board authorization on Mr. Catabran's property. At the conclusion of the hearing the Board adopted Enforcement Order 2011-138 (Order) to remove all of the encroachments within sixty (60) days (Attachment A, Exhibit A).

On September 23, 2001 staff received a written petition for reconsideration (petition) from attorney Timothy V. Kassouni representing Mr. Catabran requesting the Board to reconsider its Order (Attachment A).

The Petition detailed why, in the opinion of the petitioner, the Order "is not supported by substantial evidence, contains errors of law, and resulted in an abuse of discretion..."

4.0 - RECONSIDERATION REGULATIONS

California Code of Regulations, Title 23, Article 4.1, Section 23 reads:

(a) No later than thirty (30) days after adoption by the board of a decision or order, any interested person affected by the decision or order may petition the board for reconsideration of the matter for any of the following causes:

- 1. Irregularity in the proceeding, or any ruling, or abuse of discretion which prevented a fair hearing;
- 2. The decision of order is not supported by substantial evidence;
- 3. There is relevant evidence, which could not have reasonably been produced previously;
- 4. Error in law;
- 5. The application or matter, upon a vote of the board, failed to be approved; and;
 - (A) There were one or more members of the board absent from the proceedings at the time the application or matter was considered and voted upon, except that absences due to abstention shall not be counted; and
 - (B) The number of votes by which the application or matter failed to be approved is equal to or less than the number of board members that were absent.
- (b) The petition for reconsideration shall be in writing and contain the following::
 - 1. Name and address of petitioner;
 - 2. The specific action of which petitioner requests reconsideration;
 - 3. The specific reason the action was inappropriate or improper;
 - 4. The specific action which the petitioner requests;
 - 5. A statement that copies of the petition and accompanying material have been sent to all interested parties.
- (c) The board may:
 - 1. Refuse to reconsider the decision or order if the petition fails to raise substantial issues related to the criteria set forth in subdivision (a); or
 - 2. After review of the record and the petition:
 - (A) Deny the petition upon finding that the decision or order was proper;
 - (B) Set aside or modify the decision or order;
 - (C) Take other appropriate action.

5.0 – REVIEW OF PETITION

Staff and Board counsel reviewed the Petition and determined that it meets the 30-day requirement of Section 23(a), and meets the requirements of Section 23(b).

Staff and counsel also reviewed the August 26, 2011 hearing transcripts (Attachment B) and all other documents making up the decision record (Attachments C and D) and determined that the petition raises substantial issues related to the criteria set forth in subdivision (a).

Therefore, the Board should review the record and petition and make one of the findings in section 23(c)(2). A copy of the record and the petition are attached as Exhibits A-D.

The Board may also consider clarification of the written findings it adopted on August 26, 2011, in support of the Enforcement Order.

6.0 - CONCLUSION

In summary the petition was filed in a timely manner and contains sufficient supporting information to meet the requirements of Section 23(a), and provides all the information required by Section 23(b).

Staff and counsel agree that the Board action includes reviewing the record and petition and making one of the findings in section 23(c)(2).

7.0 - Attachments

- A. Petition for Reconsideration (includes Enforcement Action and Order)
- B. August 26, 2011 Hearing Transcript
- C. August 26, 2011 Staff Report and Presentation
- D. August 26, 2011 Petitioner's Documents and Presentation





RECEIVED

September 23, 2011

SEF 23 LO

Central Valley Flood Protection Board 3310 El Camino Ave., Room 151 Sacramento, CA 95821

Re: Petition for Reconsideration: Lino Catabran. Enforcement Action 2011-138

Dear Honorable Board:

This firm represents Lino Catabran, the owner of property located at 5291 Garden Highway, Sacramento, CA, 95837. Pursuant to California Code of Regulations, Title 23, Section 23, this correspondence shall serve as Mr. Catabran's formal petition for reconsideration of the Central Valley Flood Protection Board's August 26, 2011 order of removal of the existing parallel masonry block wall and associated utilities on the property.

On August 30, 2011, Jay S. Punia, P.E. forwarded to Mr. Catabran's representative, Eric Rasmussen, correspondence confirming this Board's August 26 decision. This correspondence in turn attached the Board's May 20, 2011 Enforcement Notice and Order dated May 20, 2011 ("Enforcement Notice"). These documents are attached hereto as Exhibit "A" for ease of reference. For the following reasons, the Board's August 26 decision is not supported by substantial evidence, contains errors of law, and resulted in an abuse of discretion in light of Mr. Catabran's inability to even attend the hearing in light of a medical condition. Mr. Catabran respectfully requests that the masonry block wall and associated utilities remain on the property. At a minimum, the August 26 decision should be vacated and the hearing rescheduled to allow Mr. Catabran an opportunity to attend the hearing and present his arguments and evidence in full.

The Encroachment Removal Enforcement Notice ("Encroachment Notice"), dated May 20, 2011, cites four allegedly violated regulations: Title 23, Division 1 of the California Code of Regulations; 33 CFR 208.10; California Water Code section 8708; and California Water Code section 8709. 33 CFR 208.10 includes provisions for the maintenance and operation of levees.

The Encroachment Notice states that the United States Army Corps of Engineers "has ... determined" that the wall and associated utilities violate this provision of the Code of Federal Regulation. However, there is nothing in the Encroachment Notice or the staff report to substantiate this contention. Ms. Meegan Nagy, Chief of the Sacramento District of the Flood Protection and Navigation Section of the United States Army Corps of Engineers, had been copied on certain correspondence drafted by the Board (see, e.g., April 12, 2011 correspondence from Len Marino to Mr. Catabran), yet there is nothing in the record to indicate that Ms. Nagy or anyone else from the Army Corps of Engineers independently agreed with or confirmed the

KASSOUNI LAW

Central Valley Flood Protection Board September 23, 2011 Page 2 of 4

findings of Board staff. Thus, there is no substantial evidence in the record to support this contention.

In addition, the Board's decision is premised upon 23 CCR section 133(c)(2). That section provides in part that "fences parallel to the levee must be an open type and constructed to provide for the unobstructed visual inspection of the levee slope and toe from the levee crown roadway." However, the Board ignores 23 CCR section 133(c)(3), which provides: "(3) Where the entire area is at least one (1) foot above the design flood plane, no restrictions apply to fences, walls, and similar structures." (Emphasis added.)

Indeed, 23 CCR section 133(c)(2) only applies if two preconditions are met. First, the proposed development must be "within the area located between the waterward levee shoulder and a point sixty-five (65) feet waterward from the centerline of levee." (23 CCR 133(c).) Second, only if the area is *less* than one (1) foot above the design flood plane are there fence restrictions. Otherwise, there are no fence restrictions. The term "design flood plane" is defined as the "water surface elevation at design flow as determined by the Army Corps of Engineers, the Board, or Federal Emergency Management Agency, or other higher elevations based upon best available information, as determined by the board." (23 CCR section 4.)

There is no evidence in the record of the Board or other specified governmental entity having determined the "water surface elevation at design flow," nor is there evidence that the fence is located "within the area located between the waterward levee shoulder and a point sixty-five (65) feet waterward from the centerline of levee." As such there is no substantial evidence that the masonry wall falls within the stricture of 23 CCR section 133(c), as opposed to the far more lenient allowance provided for in 23 CCR section 133(d).

Further, as a practical matter the masonry wall in no way impedes RD 1000 visual inspection of the levee slope and toe from the levee crown roadway. The wall runs parallel to Mr. Catabran's the existing house, therefore the sight line is already impeded, and the wall does nothing to exacerbate existing conditions on site. The staff report's reliance on California Department of Transportation Highway Design Manual section 405.1 is equally misplaced, at the section addresses intersections, which is not at issue with Mr. Catabran's property.

For similar reasons, the masonry wall does not constitute a nuisance under Water Code section 8709. There is no obstruction or interference with the maintenance and operation of the levee, given the existing construction of the house parallel to the wall.

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Central Valley Flood Protection Board September 23, 2011 Page 3 of 4

Mr. Catabran has proceeded in good faith throughout this process, and any errors were due to regrettable miscommunication with the Board staff. The wall was meticulously designed by a licensed architect, installed at a cost of thousands of dollars, and should be permitted as built. (See Staff Report at Attachment B, Exhibit C.) To force Mr. Catabran to remove the fence is, quite frankly, an abuse of the public power, especially given the absence of substantial evidence to support the abatement order and the staff's failure to even acknowledge the fence allowance in 23 CCR section 133(c)(3), as discussed above.

This Board has complete authority to allow the fence to remain in place by way of a variance, or by reliance on 23 CCR section 6, which provides that the "Executive Officer may waive the requirement for a permit for minor alterations within an adopted plan of flood control that would not be injurious to the adopted plan of flood control." It is respectfully submitted that--given the existence of Mr. Catabran's house parallel to the wall--there is no injury to the adopted plan of flood control. A substantial portion of the fence as built is only three feet high which easily allows for visual inspections at any time.

Finally, it is a regrettable abuse of discretion for this Board to have refused to allow a continuance of the hearing in light of Mr. Catabran's medical condition. Indeed, Mr. Catabran was not able to attend the hearing and Eric Rasmussen made an appearance on his behalf with little if any time to review the matter and provide substantive comment and evidence. On July 21, 2011, Mr. Rasmussen forwarded correspondence to Mr. Benjamin Carter, President of the Board, requesting a continuance under the circumstances, but was denied for reasons unknown. Attached hereto as Exhibit "B" is a copy of Mr. Rasmussen's letter. Mr. Catabran's primary care physician is Dr. Lisa Ho at U.C. Davis, and Dr. John Boyle is a psychiatrist who is treating Mr. Catabran. These physicians can be contacted to substantiate Mr. Catabran's condition and inability to attend the hearing in August.

Mr. Catabran had also contacted Angeles Caliso via e-mail on September 9, 2011, requesting the name of the court reporter who transcribed the hearing so that a transcript could be obtained in light of his inability to attend the hearing, and to assist in the preparation of this petition. Again, for reasons unknown, this information has not been provided.



Central Valley Flood Protection Board September 23, 2011 Page 4 of 4

It is unclear if there are any "interested parties" that should receive copies of this petition, or precisely what that term means. We are only aware of the necessity for receipt by the Board. Should the Board request that additional parties receive this petition, we will do so promptly.

In sum, Mr. Catabran respectfully requests that the masonry block wall and associated utilities remain on the property. At a minimum, the August 26 decision should be vacated and the hearing rescheduled to allow Mr. Catabran an opportunity to attend the hearing and present his arguments and evidence in full.

Thank you for your consideration of this petition.

Sincerely,

cc:

Lino Catabran Eric Rasmussen

Exhibit A

CENTRAL VALLEY FLOOD PROTECTION BOARD

3310 El Camino Ave., Rm. 151 SACRAMENTO, CA 95821 (916) 574-0609 FAX: (916) 574-0682 PERMITS: (916) 574-2380 FAX: (916) 574-0682



Sent via certified mail

August 30, 2011

Mr. Eric Rasmusson Representative for Mr. Lino Catabran 2200 L Street Sacramento, California 95816

Subject: Enforcement Action: 2011-138

Property Owner: Mr. Lino Catabran

Property Address: 5291 Garden Highway, Sacramento, California 95833

Dear Mr. Rasmusson:

On August 26, 2011, the Central Valley Flood Protection Board (CVFPB) voted unanimously to order the removal of the existing parallel masonry block wall and associated utilities per CVFPB Enforcement Notice & Order dated May 20, 2011. A copy of this order is attached to this letter. The removal of items identified on the order must be completed within 60-days from the date of this letter and no later than November 1st (beginning of the flood season). Please refer to the "Enforcement Conditions" attached to the Notice & Order for removal and restoration conditions.

Should you have any questions, please contact Ms. Angeles Caliso at (916) 574-2386, or by e-mail at acaliso@water.ca.gov.

Sincerely,

Jay S. Punia, P.E. Executive Officer

Attachments: CVFPB Enforcement Notice & Order No. 2011-138 dated May 20, 2011

cc: See attached list

Mr. Eric Rasmusson (Mr. Catabran's Representative) August 30, 2011 Page 2 of 2

cc: Ms. Meegan Nagy, Chief Flood Protection & Navigation Section Sacramento District U.S. Army Corps of Engineers 1325 J Street Sacramento, California 95814-2922

> Mr. Paul Devereux, General Manager Reclamation District 1000 1633 Garden Highway Sacramento, California 95833

Mr. Don Rasmussen, Branch Chief Mr. David Pesavento, Section Chief Mr. Clay Thomas, Inspector Flood Project Integrity and Inspection Branch (Department of Water Resources)

CENTRAL VALLEY FLOOD PROTECTION BOARD

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ENCROACHMENT REMOVAL ENFORCEMENT ORDER

The State of California - Central Valley Flood Protection Board (Board) has determined that encroachments in violation of the California Water Code or of the more specific California Code of Regulations (CCR) Title 23 Waters, Division 1 are constructed works or activities that threaten the successful execution, functioning, operations, or maintenance of an adopted plan of flood control. California Water Code Section 8709 also states that an encroachment that interferes with or obstructs such operation and maintenance constitutes a public nuisance. You are therefore requested to cease the encroaching activity and remove the encroachments described in the enforcement notice. You may obtain a compliance inspection of the encroachment removal by contacting the inspection section identified in the notice ten (10) days prior to the start of removal work. Restoration of the encroachment removal site shall be completed in accordance with the specifications found in the California Code of Regulations Title 23, Div 1, Article 8, Section 120 Levees which are summarized in the attached enforcement conditions.

Respondents Rights: The landowner or person owning, undertaking, or maintaining the work that is the subject of the attached notice is the respondent. The respondent has the opportunity to an enforcement hearing which must be requested in writing within 30 days of receipt of this notice. All hearings are open to the public and are held by one or more members of the Board or a designated hearing officer. Failure to file a hearing request response within thirty (30) days constitutes a waiver of the respondent's right to a hearing. The respondent and other parties may request the board provide a copy of any document not exempt from disclosure under the Public Records Act that is relevant to the enforcement proceedings. The Board may charge a reasonable fee for each copy.

Board's Rights: If the respondent fails to comply with this notice within the specified timelines, the Board may seek judicial enforcement and commence and maintain a suit in the name of the People of the State of California for the prevention and abatement of the nuisance. A failure to comply with this notice renders the owner or operator of any of the encroaching structures liable to any person for the damages caused by the structure's failure. The Board may also physically remove the violating encroachments using a contractor or the local maintaining agency and recover its costs from the respondent. Further, the Board may abate violations or threats to the adopted plan of flood control by requiring you to take an action, at your cost, that may include, but is not limited to: (1) removal of the work; (2) alteration of the work; (3) performance of additional work; (4) implementation of specified mitigation for effects on the environment; (5) compliance with additional reasonable conditions; (6) filing an application for a permit pursuant to this division; or (7) revocation of a permit.

Jay S. Punia Executive Officer

EDMUND G. BROWN JR., GOVERNOR

CENTRAL VALLEY FLOOD PROTECTION BOARD

3310 El Camino Ave., Rm. 151 SACRAMENTO, CA 95821 (916) 574-0609 FAX: (916) 574-0682 PERMITS: (916) 574-2380 FAX: (916) 574-0682



ENFORCEMENT CONDITIONS

Property Owner:

Mr. Lino Catabran

Malling Address:

5291 Garden Highway Sacramento, CA 95833 Date: May 20, 2011

Enforcement Action: 2011-138

Encroachment Location:

Sacramento River, Project Levee (East Bank), Unit 1, Levee Mile 9.02-9.11

Local Maintaining Agency:

Reclamation District 1000

Assessor Parcel Number:

201-0330-031

GENERAL CONDITIONS:

- These enforcement conditions are issued under the provisions of Sections 8700-8723 of the California Water Code and the provisions of the California Code of Regulations, Title 23 Waters, Division 1, Article 8 Standards.
- 2. The property owner is responsible for all personal liability and property damage which may arise out of failure on the property owner's part to perform the obligations under this enforcement order. 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 property owner shall hold each of them harmless from each claim.
- 3. Should any of the work not conform to the conditions of this enforcement notice, the property owner, 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 described.

REMOVAL CONDITIONS:

- 1. The Property Owner shall contact the Encroachment Control and Land Use Section by telephone at (916) 574-0609, to schedule an inspection conference at least 10 working days prior to start of work.
- 2. Encroachment removal work defined by this enforcement notice can NOT be completed during the flood season from November 1st through April 15th.
- 3. All unauthorized encroachment items within the levee section and easement area mentioned in the attached Enforcement Notice need to be removed.

RESTORATION CONDITIONS:

- Backfill all voids following the removal of the unauthorized encroachments within the levee section and easement area.
- 2. Fill material shall be placed in 4-inch to 6-inch layers, moisture conditioned with water or by drying to ± 2. percent of optimum moisture content, and compacted with a vibratory plate compactor or hand operated hammer to a minimum of 97 percent relative compaction as measured by ASTM Method D698.
- 3. Levee fill material must be free of stones or lumps exceeding three (3) inches in greatest dimension, and must be free of vegetative matter or other unsatisfactory materials.

- Fill on levee section shall be keyed into the existing levee section whenever there is substantial fill, as
 determined by the inspector.
- 5. The finished slope of the levee must be 3:1 (horizontal: vertical) on the waterside of the levee.
- 6. Levee surfaces left barren due to encroachment removal shall be re-vegetated with sod or seeded grass.

CENTRAL VALLEY FLOOD PROTECTION BOARD

3310 El Camino Ave., Rm. 151 SACRAMENTO, CA 95821 (916) 574-0609 FAX: (916) 574-0682 PERMITS: (916) 574-2380 FAX: (916) 574-0682



Sent Via U.S. Certified Mall Return Receipt Requested

ENCROACHMENT REMOVAL ENFORCEMENT NOTICE

Property Owner: Mailing Address: Mr. Lino Catabran

5291 Garden Highway

Sacramento, CA 95833

Date: May 20, 2011

Enforcement Action: 2011-138

Encroachment Location:

Sacramento River, Project Levee (East Bank), Unit 1, Levee Mile 9.02 - 9.11

Reclamation District 1000 Local Maintaining Agency:

Assessor Parcel Number:

201-0330-031

Description: The State of California - Central Valley Flood Protection Board (Board) staff has documentation that encroachment violations of the State Plan of Flood Control exist within its jurisdiction at this encroachment location consisting of the following:

Excavation on the waterside hinge point for the installation of a masonry block wall.

Placement of a parallel solid masonry block wall (varying from 6-8 ft high) including 2 gates within 10-feet from the waterside levee hinge point.

Placement of utility lines associated with the new masonry block wall and new landscaping.

Regulations: These encroachments are in violation of provisions in the California Water Code and the California Code of Regulations (CCR) Title 23 Waters, Division 1. The United States Army Corps of Engineers has also determined that these encroachments are in violation of provisions of the Code of Federal Regulations (CFR) Title 33--Navigation and Navigable Water, Part 208 -Flood Control Regulations. The provisions are as follows:

- 33 CFR 208.10 Local flood protection works; maintenance and operation of structures and facilities.
- California Water Code Section 8708 Flood Control Interference with Maintenance & Operation of Works.
- California Water Code Section 8709 Flood Control Public Nuisance: Abatement.

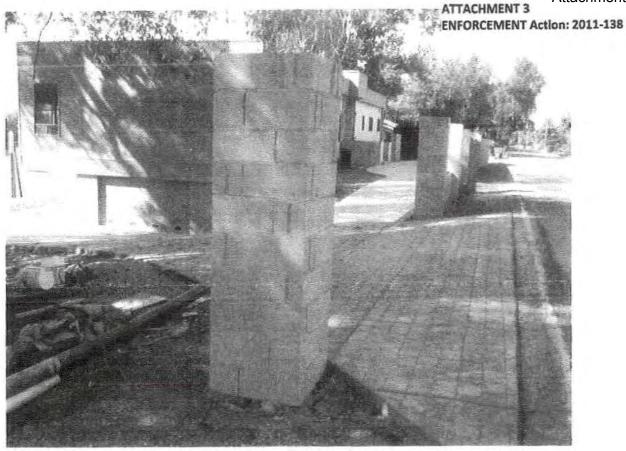
Conditions: Removal of the identified encroachments shall be completed in accordance with the attached enforcement conditions within sixty (60) days of receipt of this notice. To comply with this notice please schedule a compliance inspection within 10 days of the start of removal work. The rights of the Respondent and the Board are detailed in the attached enforcement order.

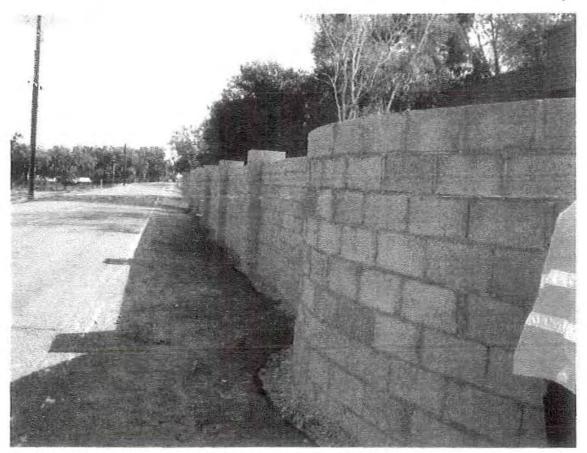
Staff Contact: The staff member assigned this enforcement action is: Angeles Caliso, Staff Engineer, Encroachment Control and Land Use Section; E-mail: acaliso@water.ca.gov; Desk: (916) 574-2386.

Jay S. Punia **Executive Officer**

Attachments:

- 1. Enforcement Order
- 2. Enforcement Conditions
- 3. Site photos taken on November 3, 2010





Source: Board staff site visit November 3, 2010 (property: 5291 Garden Highway, Sacramento CA)

Exhibit B

July 21, 2011

Mr. Benjamin Carter, President Central Valley Flood Protection Board 3310 El Camino Ave., Room 151 Sacramento CA 95821

Re: Enforcement Action: 2011-138 Request for Continuance

Dear Board President Carter and honorable Board Members in Session:

I was retained by the Catabran family on July 20, 2011 to represent them in the above referenced matter. I have contacted your staff and have respectfully requested that they the hearing scheduled for tomorrow July 22, 2011 be rescheduled. I made this request based on the following reasons:

- · Mr. Catabran in currently under a physician's care and is unable to attend or participate.
- I have not had sufficient time to review the lengthy staff report and even more lengthy complete file.

It is my intention, based on the Catabran's direction to attempt to find a reasonable solution to the recently constructed improvements in question. While I understand based on my brief discussion with Chief of Enforcement Curt Taras that there may have already been considerable attempts to discuss this matter, I've only just been brought into this matter and again, would respectfully request that the Board grant a brief postponement which will allow me to better understand the issue and meet with staff to determine what available options there might be.

As a matter of reference, I have been involved in flood control matters for well over 20 years in Northern/Central CA.I was one of the original founding consultants of Sacramento Citizens for Flood Safety which successfully led the first 2 of 3 successful special assessments for flood control and most recently, led several clients in their support of the Natomas area assessment for levee improvements. I continue to work closely with the Sacramento Area Flood Control Agency, the West Sacramento Flood Control Agency and with other groups such as RD-1000. I understand the importance of limiting encroachments both for inspection purposes and basic levee integrity reasons.

Again, I would respectfully request a postponement and opportunity to resolve this issue outside of formal enforcement process.

Respectfully,

Eric D. Rasmusson

MEETING

STATE OF CALIFORNIA

THE RESOURCES AGENCY

CENTRAL VALLEY FLOOD PROTECTION BOARD

OPEN SESSION

THE RESOURCES BUILDING

1416 NINTH STREET

AUDITORIUM

SACRAMENTO, CALIFORNIA

FRIDAY, AUGUST 26, 2011 8:37 A.M.

JAMES F. PETERS, CSR, RPR CERTIFIED SHORTHAND REPORTER LICENSE NUMBER 10063

APPEARANCES

BOARD MEMBERS

- Mr. Benjamin Carter, President
- Ms. Teri Rie, Vice-President
- Mr. Butch Hodgkins, Secretary
- Mr. John Brown
- Mr. John Moffatt
- Ms. Emma Suarez
- Mr. Mike Villines
- Mr. Jared Huffman, Ex Officio, represented by Ms. Tina Cannon-Leahy

STAFF

- Mr. Jay Punia, Executive Officer
- Mr. Len Marino, Chief Engineer
- Mr. Dan Fua, Supervising Engineer
- Mr. Curt Taras, Supervising Engineer
- Mr. Eric Butler, Senior Engineer
- Mr. Dave Williams, Senior Engineer
- Ms. Angeles Caliso, Staff Engineer
- Mr. Martin Janolo, Staff Engineer
- Mr. Gary Lemon, Staff Engineer
- Ms. Amber Woertink, Staff Assistant
- Ms. Deborah Smith, Legal Counsel

APPEARANCES CONTINUED

DEPARTMENT OF WATER RESOURCES

- Mr. Gary Bardini, Deputy Director
- Ms. Lani Arena, Federal Liaison
- Ms. Nancy Finch, Senior Staff Counsel
- Mr. Rod Mayer, Assistant Deputy Director
- Mr. Mike Mierzwa, Supervising Engineer
- Mr. Mike Mirmazaheri, Chief, Bay-Delta Levees Branch
- Mr. Jeff Schuette, Senior Environmental Scientist
- Mr. Keith Swanson, Chief, Maintenance Office
- Mr. John Wilusz, Senior Engineer

ALSO PRESENT

- Mr. John Bassett, Sacramento Area Flood Control Agency
- Mr. Martin Burnham
- Mr. Gilbert Cosio, MBK Engineers
- Mr. Paul Devereux, Reclamation District 1000
- Mr. Dante John Nomellini, Reclamation District 5
- Ms. Meegan Nagy, United States Army Corps of Engineers
- Mr. Chris Neudeck, Kjeldsen, Sinnock & Neudeck, Inc.
- Mr. Eric Rasmusson, Rasmusson Public Affairs
- Mr. Scott Shapiro, Downey Brand
- Dr. Marty Spongberg
- Mr. Branden Strahm, Olsson Associates

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All right. Ladies and gentlemen, we'll move on to Item 9C. Closing the public -- closing the hearing on Item 18672.

And now we'll open the hearing for an encroachment removal enforcement hearing for Mr. Lino Catabran at 5291 Garden Highway in Sacramento, California. This is to conduct a hearing regarding the Enforcement Removal Notice number 2011-138 dated May 20th, 2011, ordering removing of a newly constructed parallel solid masonry wall along the east levee of the Sacramento River Flood Control Project in Sacramento county.

Ms. Caliso, good afternoon. Welcome.

(Thereupon an overhead presentation was

Presented as follows.)

STAFF ENGINEER CALISO: Good afternoon, President Carter, members of the Board. Angeles Caliso, Board staff, presenting before you Item 9c.

--000--

STAFF ENGINEER CALISO: This afternoon, what is in front of you is to consider ordering compliance of Enforcement Action number 2011-138 to remove the following encroachments:

--000--

STAFF ENGINEER CALISO: Excavation on the waterside hinge point of the levee for the installation of

the masonry block wall. Item number 2, placement of a parallel solid masonry block wall in varying height from six to eight feet, which includes two gates on the levee within 10 feet from the waterside hinge point. And Item number 3, the placement of utility lines associated with the masonry block wall and the landscaping on the levee.

--000--

STAFF ENGINEER CALISO: This view in front of you is a vicinity map of where the project is located.

Downtown Sacrament at the bottom of the screen. And at the far left-hand side of the screen is I-5 and the property there identified. So the property is just south of I-5 east of Garden -- Sacramento River.

--000--

STAFF ENGINEER CALISO: This is an aerial view of the property. Garden Highway to the east of the property and Sacramento River to the west.

The location of the unauthorized encroachments that are in question are identified there in that red box. And I will show you some photos of what the property looks like.

--000--

STAFF ENGINEER CALISO: So this is a photo standing on Garden Highway looking at the solid masonry wall that's in question, which is here. This is another

view looking northbound onto the property. And you can see the solid masonry wall with some landscaping to the right and then some other landscaping taking place on the left.

--000--

PRESIDENT CARTER: Excuse me, Ms. Caliso, if there's anybody near a mic that has a cell phone if they would please turn it off. I hear a bug and I'm going to take my gavel and kill it.

(Laughter.)

PRESIDENT CARTER: So please check your cell phones. Thank you.

Please proceed.

STAFF ENGINEER CALISO: Thank you. So this is another photo just on -- this is actually on the property. This is looking towards Garden Highway, so you can see the solid wall that was constructed there. It's parallel to the Garden Highway. And then lastly, just one other view looking at the solid masonry wall with the bulb out and some additional improvements there in front of the home.

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STAFF ENGINEER CALISO: Some of the applicable laws and regulations that apply to this action are the California Water Code Section 8534, which states that, "The Board has the authority to enforce the erection,

maintenance, and protection of such levees, embankments and channel rectification as will, in its judgment, best serve the interests of the State."

Also, in accordance with Section 8708 in which the Board has given assurances to the Army Corps of Engineers to operate and maintain flood control works in accordance with the federal law.

And Section 8709, which states that if the respondent fails to remove the unauthorized encroachment, the Board may commence a suit to abate the nuisance.

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STAFF ENGINEER CALISO: California Code of Regulations Title 23, Section 6(a), which states, that every proposal plan of work would require Board approval prior to commencing any work.

Section 112(a), in which the Board -- states that the Board would require application to be filled for all work within the floodways under the Board's jurisdiction. And Section 20(a), which states that the Executive Officer may commence an enforcement proceeding against the landowner who has undertaken unauthorized work within the Board's jurisdiction.

Section 133(c)(2), which states that "...fences parallel to the levee must be an open type and constructed to provide for the unobstructed visual inspection of the

levee slope and toe from the levee crown roadway."

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STAFF ENGINEER CALISO: Continuing on with applicable laws and regulations. Some of the other ones that apply would be the California Department of Transportation, CalTrans, their Highway Design Manual which states that at signalized intersection a substantial clear line of sight shall be maintained between the driver and the vehicle, and this is to provide a safe entrance and exit onto the property.

Sacramento county, according to their Code

Section 12.12.020, "Obstructions at Private Driveways and

Public Streets" states that "it is unlawful to...install

or maintain...any sign...fence, or other obstruction to

the view that does not comply with County Improvement

Standards."

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STAFF ENGINEER CALISO: This section up on the screen now shows what's prepared before staff and is also part of the staff report that was provided to the respondent and on the website.

And what it shows here is the landside is to the right, the waterside will be to the left of the screen.

Here's Garden Highway at the center of it. And then you have the newly constructed retaining wall or solid wall

placed there. And so the Board has a flood control easement at this location, which extends from approximately the levee -- the landside levee toe, and it goes over to the bank of the Sacramento River. And that was deeded per book number 473, deed number -- deed 473, I'm sorry, page 74. That was transferred -- that was obtained by the Reclamation District 1000 on July 25th, 19 -- oh, that's a typo -- 1917 in which the following rights were transferred: The right to construct, replace, renew, maintain, and operate a levee over and upon all those lots.

And then following on June 2009, the District and -- the Reclamation District 1000 and the Sacramento San Joaquin Drainage District executed a joint-use agreement, in which the rights to do the operation and maintenance of the levee were shared -- were being shared between the Board -- between the two agencies. And this was recorded through the joint-use agreement CA 5049.

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STAFF ENGINEER CALISO: I'm sorry. I'm having some technical difficulties here.

The other item that is important to highlight is that the proposed encroachment -- that the constructed wall is actually within a county right of way that was obtained for public access. So, as you can see, the right

of way is delineated here with this solid -- not solid, but dashed blue line, and the wall is clearly within that right of way.

That right of way was obtained by the Sacramento county through a document that was recorded at the County Recorder's Office in book 101, page 79.

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STAFF ENGINEER CALISO: Some quick background on the case. This is all part of your staff report, Section 5.1. I'm just going to go through some -- highlight some of the main items. And if you'd like me to go through each one of the different dates that I have on the screen, I'd be willing to do so.

VICE-PRESIDENT RIE: Ms. Caliso?

STAFF ENGINEER CALISO: Uh-huh.

VICE-PRESIDENT RIE: A quick question. The right of way, does Sacramento County own the right of way or does our Board own that right of way?

STAFF ENGINEER CALISO: The deed was to Sacramento County.

VICE-PRESIDENT RIE: Okay. And we have an easement?

STAFF ENGINEER CALISO: Correct, that covers -- that also covers the area of the right of way, the county's right of way.

VICE-PRESIDENT RIE: Thank you.

STAFF ENGINEER CALISO: Um-hmm.

So the first time that our office was notified of the encroachment was on September 1st, 2010, in which the Reclamation District 1000 notified the respondent that they needed a permit before pursuing any additional work.

Following that, staff visited the site and spoke with the respondent. In September 23rd, when the staff communicated with the respondent, we were moving under the impression that the respondent was going to comply with the Board and stop all the work.

So, however, in October 6, 2010, staff was notified by the District that the work had continued without the authorization. And, at that point, a Notice of Violation was issued by the inspector.

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STAFF ENGINEER CALISO: Following that, we were still notified that the work had continued after he had been notified. So on October 18th, staff sent a notice to the respondent informing him to cease and desist, stop all work. The District also followed with a cease and desist letter to the applicant -- or to the respondent.

And then, at that point in time, on April 12, 2011, staff decided -- or returned the application that been originally submitted by the respondent on the basis

that he failed to follow procedure, and the work -- there was a violation existing within the property in question.

So the application was returned to the applicant.

And, at that point in time, staff initiated an Enforcement Action.

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STAFF ENGINEER CALISO: On May 20th, the actual Enforcement Order was issued to the respondent. On June 13th the hearing was received -- a hearing request was received by the respondent and staff acknowledged the request for a hearing on June 13th.

The respondent requested to meet with them. So we met with them on June 14th. And at that time, we informed him of the July 22nd date for the hearing.

Following that, there was some back and forth communication between the applicant -- or the respondent, I'm sorry, and the -- the respondent was requesting to postpone the item. At which point in time, staff informed him that we were moving forward with the item as scheduled on our July meeting.

Then in July 20th, we received notification that Mr. Rasmusson was acting for Mr. Catabran as his representative, so he was forwarded copies of the documentation from the July Board meeting.

July 21st, there was a letter that was submitted

by Mr. Rasmusson requesting continuance of the item. And then that takes us on to the communication between then and now. On July 22nd, the Board granted the continuance of this hearing to this month. July 26th, Mr. Rasmusson was notified. Just a few days after that, he was notified of the continuance was granted, and that it would be on a one-time basis.

And then on August 15, the agenda was provided to Mr. Rasmusson. And August 17th, the copy of -- August 16th, I'm sorry, the copy of the staff report was submitted to Mr. Rasmusson.

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STAFF ENGINEER CALISO: We'll start off with Item number 1, which is the cut on the levee for the installation of the block wall. This photo here was taken by staff during our site visit on September 21st, 2010. Garden Highway, as you can see up here, on the top of the screen. And you can see the visual excavation and earth work that was going on at the time that the staff visited the site.

The Board's regulations that are applicable to these items are Section 6(a), which -- and Section 112(a), which essentially requests that the applicant or any work -- before any work takes place that a permit from the Board must be secured.

Section 112(b), that the banks and levees of the channels shall not be cut, excavated, or filled during the -- or remain filled during the flood season. And Section 115(a), dredge, spoil, waste material, regardless of the composition should not be placed within the levee slopes or within the projects of the floodway without Board approval.

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STAFF ENGINEER CALISO: So there is some obvious spoils and other placement of material all throughout the site when we visited the area -- or visited the property.

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STAFF ENGINEER CALISO: The second item noticed on the Enforcement Order is the masonry wall, which is within 10 feet from the fog line of Garden Highway. So this is a photo showing the masonry wall that was constructed, and also shows some dimensions of the wall that was constructed there.

The applicable codes -- the applicable code to a regulation that it applies are Section 133(c)(2), which states that fences that are parallel to the levee must be an open type to provide the visual inspection for the -- for the levee -- for the levee slope and the toe from the crown of the roadway.

And as you can see, this photo shows very clearly

how that's -- it's impossible to do so.

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STAFF ENGINEER CALISO: This other photo was taken by Board staff on a site visit on June 22, 2011. And this shows some other dimensions of the other property. So there is a portion of the fence that was constructed to a -- the solid portion of the panels that were constructed, two of them, were measured to be about 3'2" in height. Whereas, the posts and some of the columns were about seven -- 6'9".

The applicable codes here would be the Title 23, the Board's Special Regulations Section 133, and the special sections or details that contain that are -- call out for fences, parallel fences to the levee, but a solid portion of this should shot exceed a maximum height of two feet. And then the columns should not be higher than four feet.

So this clearly shows that even the panels that were constructed are still not meeting that section of our regulations.

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STAFF ENGINEER CALISO: Item 3, the placement of the utility lines associated with the wall is -- it's hard to see from this photo, but there is some landscaping that has taken place or that was placed here behind the wall.

And some utility lines, electrical lines, which the county noticed the respondent for -- issued a Notice of Violation to the respondent for not having a permit or having a county authorization to construct or to place the electrical lines for the service of the wall.

The applicable regulation -- the applicable codes to the regulations here are Section 123(a)(1), which states that, "...conduits, utility lines, and appurtenant structures may not be installed within the levee section, within ten (10) feet of levee toes...unless authorized by..." in this case, it will be the Board.

And the Army Corps of Engineers, the vegetation manual ETL 1110-2571, which states that the waterside levee slope plus an additional 15 feet should be clear of vegetation with the exception of essentially grass.

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STAFF ENGINEER CALISO: Some history related to this particular property. Prior Board Permits. There was a Board Order issued in December 19th, 1980 to Mr. Robert Renovicks. And that one was for granting a variance to the setback, the 65-foot setback, along Garden Highway for the placement of the dwelling, and then associated utilities along with that.

Permit 13650, which was issued in September 2nd, 1983 to Mr. Robert Renovicks, and it granted the

authorization to construct the boat dock and a gangway.

And the last communication -- or the last permit associated with this one was a letter of authorization that was issued to Mr. Lino Catabran on March 2nd 2007, in which the previous permits for the application -- I'm sorry, for this property were going to be changed to reflect the new landowner, which would be Mr. Lino Catabran, and also it granted authorization to repair foundation to the existing dwelling.

Part of that letter of authorization that was issued in 2007 included a special condition, which states -- Condition Number 8, that quote, "No further work, other than that approved by this letter, shall be done in this area without prior approval of the Reclamation Board", end quote.

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STAFF ENGINEER CALISO: Agency comments related to this action. The Reclamation District has been in support of this Enforcement Action, as documented through their Notice of Violation, cease and desist letters, and other communication with the respondent and ourselves.

The Army Corps of Engineers have expressed support with the Board staff and the Board taking Enforcement Actions on encroachments that are non-compliant with Title 23. This area of Garden Highway

has already been inspected, and the periodic inspection reports have already been issued. So this work was not noted as part of those reports, but we do expect that if this -- that if no action gets -- takes place for this particular property, that it may be noted in future periodic inspection reports.

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STAFF ENGINEER CALISO: CEQA analysis. The Board staff has for the following CEQA determination, essentially that the project is categorically exempt under CEQA, Section 15321 Class 21A, Actions of Regulatory Agencies to Enforce their Standards.

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STAFF ENGINEER CALISO: And finally, we reach to the staff recommendation. Staff determines that this -the items that were just presented that constitute a significant evidence that the encroachments will interfere with the performance of the flood control facility pursuant to Water Code Section 8708 and 8709, the State is obligated to enforce the removal of encroachments that impact the integrity of the levee pursuant to Water Code Section 8708.

And finally, that the Board determined to adopt the Enforcement Action 2011-138 as issued, ordering the --with a removal of the encroachments being exempt from

CEQA, and ordering the removal of the unauthorized encroachments and restoration of the levee, as stated in the Enforcement Order number 2011-38.

With that, I will answer any questions you may have.

PRESIDENT CARTER: Mr. Moffatt.

BOARD MEMBER MOFFATT: Do we have a copy of the 2007 permit?

STAFF ENGINEER CALISO: Yes. It was actually a Letter of Authorization in this case, but let me pull that up.

So what we have here is the letter from our office, essentially, to Mr. Catabran. And it identifies the work that is being authorized to take place at the property. So it includes the replacing of an existing --okay. So your February 27, 2000 letter states --

BOARD MEMBER MOFFATT: And maybe I can help. Can you just show me the part where we say no additional authorized -- no work is authorized.

STAFF ENGINEER CALISO: Yes. That is here. This is Condition number 8 on the second page of that letter.

And it's stated -- it's right up on the screen.

BOARD MEMBER MOFFATT: And then my second question is on an earlier slide in your presentation, you had the timeline of contacts. There was one that was on

the screen, but you didn't say it, and that was, I think, an August 17th Email from Mr. Rasmusson.

STAFF ENGINEER CALISO: Yes.

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BOARD MEMBER VILLINES: An Email requesting a meeting.

STAFF ENGINEER CALISO: Okay. I have that one actually.

BOARD MEMBER MOFFATT: And my question is this, is that the first contact we got from either Mr. Rasmusson or Mr. Catabran following our action to extend the -- to continue the hearing?

STAFF ENGINEER CALISO: Yes, correct. Following our letter that we sent out on July 26th notifying him that the request for a hearing had been postponed to this month, we notified him that the hearing would be scheduled for the 25th or 26th, because at the time I think we were unclear on which date, but that there would be no further requests -- or no further requests for a continuance would be granted.

From that point on until the July 17th date Email that Mr. Rasmusson sent to Mr. Marino, we had no communication with either him nor the respondent.

BOARD MEMBER VILLINES: August 17th.

STAFF ENGINEER CALISO: August 17th, yes.

BOARD MEMBER MOFFATT: So last Wednesday.

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1 STAFF ENGINEER CALISO: Um-hmm.
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2 BOARD MEMBER MOFFATT: Okay. That's all.

PRESIDENT CARTER: Mr. Villines, did you have

4 | something?

5 BOARD MEMBER VILLINES: I did, but ladies first.

I'll let you go.

PRESIDENT CARTER: Okay.

Ms. Rie.

VICE-PRESIDENT RIE: I have a question about the wall. Would the wrought iron fence have been acceptable, because there's some correspondence in the staff report about an iron fence on the plans and getting some sort of approval from Reclamation District 1000? So was that approved and would that have been acceptable? And how did we get from the iron fence to the masonry wall?

STAFF ENGINEER CALISO: Sure. And I can answer that. The application that was submitted by Mr. Catabran -- let me find that application. It actually requested -- let me pull that, so that I can show you the actual application.

I apologize. I think it was part of the staff report, so I will bring that up. So Exhibit C from the staff report -- Attachment B, Exhibit C from the staff report. The application that was submitted by the respondent called out for emergency replacement of a

broken driveway, new landscape, fenced gates, sprinklers and lighting.

And what was attached to that application was a photo or a small -- a picture of what the fence would look like that they were willing to -- that they were looking at installing. Part of that application had a small quote, and it's really hard to read here. But essentially what -- there's a subnote from the architects or the engineer that prepared those plans, essentially saying that the actual details of that fence must be confirmed with the agencies having jurisdiction over the project.

So the application was accepted as that.

However, the District's endorsement specifically identified or stated that no solid fence. It had to be a wrought iron fence and that was the intent.

We provided Mr. Catabran photos or the -- some exhibits that show fences that are similar along Garden Highway, that have been approved that would be in conformance with our regs. And one of the ones that we thought would -- he would be following given the details that he had submitted would be this fence, the solid masonry wall, which calls out a two-foot high maximum and four-foot high maximum columns.

So these are the types of fences that are typically endorsed by the District within RD 1000, and

that you will see along Garden Highway.

VICE-PRESIDENT RIE: So a solid wall would have been acceptable, as long as it met those requirements?

STAFF ENGINEER CALISO: No. A solid wall would have been acceptable if the panel portion of it was no -- is no higher, no taller than two feet.

VICE-PRESIDENT RIE: Okay.

BOARD MEMBER BROWN: Mr. Chairman?

VICE-PRESIDENT RIE: Go ahead.

PRESIDENT CARTER: Mr. Brown.

BOARD MEMBER BROWN: Part of the concern of having fences like wrought iron and such is that you can see what's happening on the other side. And I noticed with this fence it's just a driveway in and out. Having ready access like that, would that satisfy the requirements for being able to see what's happening on the other side, if there was no gate installed?

STAFF ENGINEER CALISO: So you're saying just leaving this?

BOARD MEMBER BROWN: Yeah, part of the reasoning for having the lower fence and wrought iron is such that if there's a verbal or boil occurring on the other side of the fence you can drive by and see it. Well as long as there was no gate here, it begs the question then, it's a driveway that if -- assuming that it's open all the time,

if that would satisfy that requirement, being able to see what's on the other side of the fence, is the question?

STAFF ENGINEER CALISO: I think we would have to confirm that -- the problem with allowing solid fences and solid walls, and particularly this one, is that the minute that you leave the property owner to put up this visual -- what would it be called? I'm trying to find the word

BOARD MEMBER VILLINES: Barrier.

STAFF ENGINEER CALISO: -- barrier there, you don't know what's going to happen. So over time, the District as they're doing their inspections, additional work could be taking place on the property and without any knowledge.

So I think part of the reasoning, and this is just going on my -- just my own opinion of keeping the two-foot maximum high, is not only to allow access, but also to be able to see whether or not additional work is taking place without any authorization. And the minute you put up a solid barrier there, you're essentially preventing in your -- people will become more comfortable doing -- taking -- you know, taking initiation to do additional work without going forward and getting additional permits.

BOARD MEMBER MOFFATT: Plus too, wouldn't there be a difference between an RD 1000 truck driving on the

public road to see those things versus driving down into someone's private property driveway to see those things, right?

of it -- from communications with the District and the Corps is that when you put up fences like this, the inspectors in both the District and the Army Corps would be hesitant to cross over or go past the boundary and feel like they're encroaching onto the landowner's -- going into their driveway.

So for the most part, they would stay within that five foot area between the Garden Highway and where the fence is located. So I think it could be taken as, you know -- the access could -- I mean, they could -- they do have the rights to access it, but I think it could be limited.

PRESIDENT CARTER: Ms. Suarez, did you have something?

BOARD MEMBER SUAREZ: Yes, quickly, Ms. Caliso.

Are you familiar with the August 25th letter from

Rasmusson Public Affairs to President Carter that's been distributed to the Board?

STAFF ENGINEER CALISO: I actually did not get a chance to see that. I was out of the office late last afternoon, so I didn't see that communication that came

through.

BOARD MEMBER SUAREZ: Is there anybody from the staff that is familiar with this letter?

SUPERVISING ENGINEER TARAS: Curt Taras, Chief of Permitting and Enforcement. Yes, I received a phone call from Mr. Rasmusson last night. And he said he would be resending me an Email and I checked it on my BlackBerry, and had a chance to read that letter.

BOARD MEMBER SUAREZ: Well, I just wanted to give you an opportunity to address on the first paragraph of the letter the -- Mr. Rasmusson states that, unfortunately, staff -- even though the applicant or the defendant in this Enforcement Action tried to communicate with us, staff would not grant us a meeting and has directed us to work directly with the Board. I'm kind of curious about getting some information regarding that particular statement, if somebody is familiar with the communications.

SUPERVISING ENGINEER TARAS: Mr. Rasmusson

Emailed myself, the Chief Engineer, and I believe maybe a

few others were on the CC list, requesting a meeting about

less than a week before this hearing. And since our staff

was tied up with preparing for Board meeting preparation,

the hearing, the decision was made that it was best to

present all evidence at the hearing. And a proposal to

comply was not submitted.

So the applicant had -- I, over the phone, verbally mentioned to the applicant's representative that a offer to comply could be added to the evidence before this hearing, prior to the hearing. But the fact that it had been publicly noticed and it was on our agenda, that the staff needed to focus on preparation for the hearing, and that the applicant's concerns could be raised at the Board meeting.

BOARD MEMBER SUAREZ: Thank you for that description. I just -- if that's an accurate representation, and I don't doubt that that's what happened, it's kind of contrary to what we've done in the past. And I understand that perhaps this is a situation that there was a lot going on. But in the past, especially on enforcement actions, we have counted and hoped that staff would, to the last minute, try to work with the party that is affected, so matters could be resolved before having to come before this Board.

SUPERVISING ENGINEER TARAS: Of course. And our staff has met with the applicant on site, at our office, on multiple occasions, as shown in the background of events. And those meetings had occurred. It's just at the 11th hour, we can't -- we have to focus on the main duty which is to present a sound hearing to this Board.

Thank you.

VICE-PRESIDENT RIE: Just to --

PRESIDENT CARTER: Mr. Villines.

BOARD MEMBER VILLINES: Thank you. Real quick on the fence. I understand why we'd want to keep it lower or open, but the reality is, is there's a house right behind the fence, so we couldn't see that part of the property anyways.

So I'm curious, what does our easement allow us to do? Is the easement only for emergency purposes or what are we allowed to do with the easement that we have? And if we were driving by, even if this wall didn't exist, which, you know, I mean, it's a safety issue probably for them to a great degree. But even if it didn't exist, we wouldn't be able to see past the house anyways. So that must be a regular occurrence along there. I'm just kind of curious your thoughts on that, and what does our easement allow us to do?

STAFF ENGINEER CALISO: Okay. Well, the original deed in which the District obtained rights for not only this parcel but other parcels there, it was pretty broad. It didn't limit it to inspections. But let me read part of the deed, which was attached to the staff report, Attachment C, Exhibit A.

And the first paragraph on there does state

that the first party, in this case, at that time, it was between the Natomas Company being the grantor and the Reclamation District being the grantee. That it is -- has acknowledged -- the receipt is hereby acknowledged, has granted in by this represent does grant unto the party of the second part, being the district, and to it successors and assigns forever the rights to construct, replace, renew, repair, maintain, and operate a levee over and upon all of those certain lots, pieces or parcels of land situated lying and being within the County of Sacramento.

And then it goes on to describe each parcel.

BOARD MEMBER BROWN: So we already have an easement there.

BOARD MEMBER VILLINES: Just the last question on this. Is the gate, the actual driveway where you drive down, like Mr. Brown was asking, is that an open gate? Is that a -- is it chained? Is it gated? What is it?

STAFF ENGINEER CALISO: At this time, the gate has not been installed. When the -- the last time that staff visited the site, which was on the 22nd, there's obviously -- there's a railing, a little footing that was placed there to put in the gates. The plans originally called out for a wrought iron fence or gate I believe.

So although, it wasn't constructed, we knew that because of the current construction, there was the plan to

put in a wrought iron fence.

PRESIDENT CARTER: Ms. Rie.

VICE-PRESIDENT RIE: Ms. Caliso, in the order to comply, it says restore the levee as it was before. What was their before? It's not entirely clear. There was a house there. And I'm just wondering was there a driveway, like a gravel driveway that was flush with the road or was there a slope down, and then did it slope down from the road and then slope back up to the house? Can you give us a description of what was there before they repaired the driveway and put in the wall?

STAFF ENGINEER CALISO: Okay. So before, this aerial, I think, gives you a better picture of what was there before this work took place. So this aerial was taken from Google maps. And I believe that date is wrong, because this was before this year.

But this one you can see here, there was just essentially just a paved driveway, like a half circle that went in and served the property. And all there was -- outside of it was just some vegetation, some trees and other that were right up against Garden Highway. So there was no other structures or any sort. Just another driveway further south on the property that would provide access to the back of the parcel. And then just a half circle at the front of the property.

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VICE-PRESIDENT RIE: So that paved driveway, is it -- from looking Google maps, is it flush with Garden Highway?
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STAFF ENGINEER CALISO: I believe so, yes. I believe there might have been some slight slope to it, but I think it was a fairly gentle move, like two percent.

VICE-PRESIDENT RIE: Okay. So when we're asking them to remove the driveway and restore the levee, what are we asking them to do?

STAFF ENGINEER CALISO: Essentially, what it is, is removing the wall and the excavations of where they're removing the footings with everything that came with it, and restoring the crown of the levee with the slope. And the flat work could be done. I mean, the flat work could be done. The new driveway that is there could remain, but it's the wall that is the main issue that is a concern for staff and the District.

VICE-PRESIDENT RIE: Okay. So the concrete driveway that they just put in, that's okay. We're not asking them to take that out?

STAFF ENGINEER CALISO: Correct.

VICE-PRESIDENT RIE: Okay. We're only asking them to remove the wall and the footings?

24 STAFF ENGINEER CALISO: Let me pull up the Notice 25 and Order.

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VICE-PRESIDENT RIE: So the driveway is okay.
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    It's mainly the wall that you're concerned about?
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             STAFF ENGINEER CALISO: Well, the driveway would
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    still have to be permitted. I mean, the flatwork and
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    stuff -- we would still have to issue some sort of permit
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    for it.
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             VICE-PRESIDENT RIE: But do we want them to
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    completely remove the driveway and then apply for a permit
9
    and then reconstruct it?
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             STAFF ENGINEER CALISO: I mean, I think that will
   be up to the Board and how it feels that that can be best
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12
    done. If during the removal of the wall it is necessary
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    to remove a portion of the driveway, then that might have
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    to be done, but if they are able to salvage the driveway
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    as it's currently constructed, then maybe it could remain.
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             VICE-PRESIDENT RIE: Okay. Thank you.
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             PRESIDENT CARTER: All right. Ms. Caliso, thank
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   you very much.
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             We'd like to invite the applicant to come up and
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    offer testimony and evidence.
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             (Thereupon an overhead presentation was
             Presented as follows.)
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             MR. RASMUSSON: Mr. President, members of the
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   Board. I'm Eric Rasmusson with Rasmusson Public Affairs
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and was retained by Mr. Catabran in late July immediately

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prior to the first scheduled enforcement hearing.

Before -- I guess, before I start my formal presentation, let me address a couple of things while they're still fresh in my mind.

I immediately began a conversation string with Mr. Taras when I was retained in late July, and had asked for continuances. Obviously, this process -- this project had been going for some time. I needed some time to familiarize myself. It's also important to note that Mr. Catabran was then, and continues to be, under a physician's care and was unable to attend that hearing, and frankly was unable to assist me much in any preparation for that hearing as well. Because of the short notice, there was also an availability issue, honestly, that I had.

My first conversation with Mr. Taras where he made it very clear that he wasn't interested in continuing this process any longer. Nonetheless, I understood the frustration. I understand it's fair. I inherit a fair bit of that, as the new guy on the block. But nonetheless, submitted to you a request for that continuance which you graciously granted. That was on July 22nd, your Board hearing of July 22nd.

Contrary to what Mr. Taras just testified to, on July 25th, I had a personal conversation on the telephone

with Mr. Taras, where I wanted to know what happened at the hearing. It hadn't been up on the website yet. I wanted to know what happened to the continuance, and based on that, figure out where we go from there.

Mr. Taras told me that, in fact, you had granted the continuance. And I said, okay, Mr. Taras, where do we go from here? I would really like to sit down and talk to you. Can you put the appropriate staff people together, so we can start crafting a solution to this.

I understand where you've been. I understand the frustration. I understand a little bit of the frustration, because I really didn't have all of the documents or all of the background yet. But I knew that this needed to be solved. This didn't need to be torn down. This didn't need to be an enforcement action. This didn't need to result in legal activity.

I've been involved in flood control issues for 20 some years now -- over 20 years. And I knew that this -- there was a solution. There something we could do to come to terms. And I asked Mr. Taras could we have that meeting? And he made -- he was very clear. He said, "Sure, but you're going to have to bring to us -- you're going to have to submit to us in writing a proposed compromise. And before you even do that, you're going to have prove to me that you're allowed, by the county, to

even have anything in the right of way".

So with vacations and some of the staffing issues, we went to work at the county. I'm pretty familiar with the county planning department and county records. We immediately went to see, because as -- I don't know if you could really see on the Google map, but there was a fence there. There was a fence was roughly the width of the house. It was very old and it was buried in frankly a very dangerous thicket, where Mr. Catabran had been contacted by the Highway Patrol and the Sheriff's Department twice with that thicket getting a little thick and a little close to the road.

So there was the issue there, but there was an existing structure there. We had to go to the county to try and find some easement. And what we learned can't be any surprise to you, is that, in fact, there were a lot of those fences and walls done in the seventies, eighties, even the early nineties.

And while, I guess for lack of a better term, nobody wanted to set a precedent that it was okay to put something there, everybody understood that those houses were 30 -- 20, 30 feet from the Garden Highway, a relatively noisy close Garden Highway, and some barrier was reasonable. So there were a bunch of these fences that were developed over the years. This fence had been

there for at least 20 years as far as I know.

So we tried to find some record, something somewhere that the county had said, "Okay, put a fence there", 20, 30 years ago. We were unable to do so. That was two or three weeks worth of work frankly. There was also an issue with the particular records person that I needed to talk to who understood if there was ever a record of that fence being there, he was the one guy. And he was on vacation for, I believe it was, eight business days during the early to mid-August.

So here we are. I contacted Mr. Taras by phone before you saw any of those Emails and asked him, "Mr. Taras, can we sit down? I know we have a hearing coming up. We plan on being there. No more continuances. But can we pull RD 1000 staff together, can we have a meeting?"

And he said, "I told you, you're going to have to give..." -- and I explained to him what had happened at the county, I said -- he said, "You're going to have to give me a proposal to comply". And I started trying to get him to clarify what compliance meant. And it became very clear what compliance meant, was tear down the wall.

And what we were looking for was a solution that allowed some quiet enjoyment of that house at 5291 Garden Highway. We were looking for a solution, a compromise,

call it what you will, but looking for a solution. But he said you wanted to submit a plan for compliance how and when we were going to tear the wall down.

So you understand, you know, never the twain shall meet. So I suggested that perhaps -- and I understand the frustration, and I really did experience it. So I thought perhaps cooler heads would prevail, and I Emailed Mr. Punia. I Emailed Mr. Marino, I believe. I may have Emailed a couple of people hoping for some hope for compromise.

And what we received was that we don't have time with the preparation, with staff cuts, and all these things -- all these understandable things. There won't be any meeting. Bring your evidence to the Board and let the chips fall where they may.

In the meantime, I didn't stop. I had a personal conversation with Paul Devereux from RD 1000, where we kind of went over the background. He was very helpful in helping me understand where we've been and kind of where things were headed.

But I also, in some discussions with Board staff, realized that while they said they didn't have time to meet with us, either on-site -- and I understand that, but even at the office. There was a meeting that was held a week ago today with all staff and all people involved

except us. So all the Board staff. It was an enforcement hearing and I understand these things have to happen, but it would have been easy to have that -- it would have been acceptable to us to have that meeting with staff and all of the legal folks and everything you needed to do in preparation for the hearing, but also stay another hour and come listen to me, who's pretty new to the project suggest some things that maybe hadn't been considered before.

So I just wanted to focus a little bit on that point and clear some things up. There was, in fact, significant conversation held with the Board staff prior to that August 17th, I think, last Wednesday, when the first evidence in the Email string started showing up.

Let me go back to just a brief presentation. I understand that you're running a bit behind and have more business on your agenda, so I will be as brief as possible.

I said that I'd been involved in flood control issues for 20 years. I was actually the founder and staffed Citizens for Flood Safety back in the early nineties. And my firm and the clients I represent were involved in all three of -- or three of the flood assessments to raise money for flood control and levee improvements.

I've served as a spokesman for levee improvement and funding of flood control improvements. Certainly worked with Congressman Matsui and later Congresswoman Matsui and continue to do so for funding. I have appeared in hearings and meetings in Washington D.C. on several occasions at both of their requests. And I've also worked extensively with the American River Flood Control District on legislation addressing encroachments in semi-urban areas, understanding that they have different needs perhaps than the traditional rural environment in levees and farm areas.

These are relatively urban areas with urban needs. There was some special legislation that was required. I worked closely with the American River Flood Control District on coming to terms with that.

So I say that as means of background to tell you that I understand. I really do understand the importance of your Board protecting -- your Board and RD 1000 protecting the integrity of the levees. I do. I've been involved in it. And in being involved in a particular person's campaign for a flood control board, I took part in a levee patrol to -- it was kind of a ride along with the levee folks. So I understand what it is they're looking for, and I understand the importance with which -- the importance that comes with that job.

I believe that over the months in some of the correspondence, and while I think Ms. Angeles did a very good job in giving you, I think, a concise background on what they've been through with this project, it may have mischaracterized Mr. Catabran. And I want to try and put a bit more of a public face, while understanding that he can't be here today.

He's a life-long Sacramentan. Mr. Catabran fell in love with the Sacramento River and the Garden Highway as a kid. You've heard the story before from lots of folks, I'm sure. He, in fact, picked tomatoes -- he was telling me the other day in one of the moments he could talk to me. He picked tomatoes, while in high school, directly across from where his house -- in the sixties, directly across from where his house is now located.

He was also a firefighter in the Natomas area and his district covered the Garden Highway. That's in the 1970s. He will tell you, and he tells lots of people, including the media when they come to witness the flood fights, that you haven't really driven the Garden Highway until you've driven it Code 3 in an emergency vehicle up and down. He's done that. He understands.

He rented his first home in 1972 on the Garden Highway, and pledged one day to have his dream home on the river. And In 19 -- in 2003, he and his wife Linda bought

that dream home, and it's the one we're talking about today at 5291 Garden Highway.

Around 2006 they -- it was determined that they had serious foundational issues threatening the very structure of the house. And they, as witnessed by the permit or the Letter of Authorization, they invested \$350,000 into the foundation, foundational repairs. It resulted in the house being raised two feet and a concrete and steel basement.

And it also, when they were -- as included with the permit, the foundation of the house included some excavation and clean up, because there had been some collapse. So it actually extended a bit, though it was underground and perhaps not visible, but in front of the house a little bit. And it was determined that some of the intrusion, some of the piers and foundation had been coming from that very old, very large thicket, and had to be removed.

So that was -- that kind of came out of all of that repair that happened with the basement, but it also resulted in the house being raised two feet, which exacerbated some of the noise, some of the visibility issues and some of the need for some kind of barrier like the wall.

Now, again, your staff did a good job of

explaining to you, I think, some of the timeline with the process, but I think there were a couple of things missed.

Mr. Catabran has not ignored the process. When he first had plans for that wall, he went to the county. He's born and raised in Sacramento. Hadn't done a lot of construction work, a lot of work, but you go to the County to get -- as your first step to get your permit.

And then he says that somebody at the county told him no permit was required, except for the electrical for the gate. When he was ready to install the gate, he should come and apply for the permit. He began his work

A couple if -- two or three weeks later he was notified by RD 1000 that, "Hey, you need a permit from us and you need to talk to the Board". And Mr. Catabran, at that time, that day, filed an application with RD 1000, which was later deemed to be incomplete. I mean, it's not easy to file an application all the time. It takes a couple of times to get all the documents, get everything just right.

He filed his application. Went to all of the various agencies. Got everybody -- it took him three days, but he got everybody the proper number of copies of the plans, the proper sizes, all of the documentation that everybody required. He made a big effort to try and comply, albeit somewhat in arrears, but comply with RD

1000's demand, for lack of a better term.

And the misunderstanding, I think -- part of the misunderstandings that have resulted in us being here start today. If I may refer you -- or start there. If I may refer you to -- it's hand numbered, it's the fourth piece in that packet that was just delivered to you. My name is at the top, but I think it's hand numbered, number four.

And it's an Email string. And it's good communication, but what it -- where I think it started the misunderstanding was that somebody at the Board said what we have -- what you're proposing to us is different than what RD 1000 has endorsed or has on record.

So Mr. Catabran said, "Paul, I Emailed that to you. You should have that", to Mr. Devereux pardon me. And Mr. Devereux, being ever the gentleman that he is -- I've worked with him extensively and I know -- he said, "You're right, Lino. It was sent to me. I don't know why I didn't open it. I just didn't open it. I have it now. Thank you very much."

But that was -- so you've got a lot of people talking. You've got several different processes. You've got the county that you're going to have to deal with.

You've got the Board. You've got RD 1000. I suppose he had been told that there may be some Corps of Engineers

issues. You have a bunch of people you're talking to.
You've got Emails that are going this way and that.
You're having separate conversations with all those

4 agencies.

5 It became, at some point, very frustrating both
6 to staff and to Mr. Catabran. But it's also important to

to staff and to Mr. Catabran. But it's also important to look at the date, that frustration became concern, in that he had an open -- the structural part of the wall was done. When they told him to stop work, the structural part was done. But it was -- it had not been faced. It was an exposed block wall, not sealed, not anything, and you had significant exposed soil between the house and the wall.

And it was September. It was getting on -- when the cease and desist letter came, it was October. We had already had some rain. And we already had, most of the folks we listened to, saying we've got a big winter coming. So Mr. Catabran finished some -- using the vegetation manual - I may have gotten that name wrong - but using the vegetation manual, he did, in fact, do some soil erosion control and he faced -- using just the rock facing, he faced that existing wall the work of which had already been done.

So when the cease and desist letter came on October 18th, I think I have that number too, in your

packet. It's an Email from Caliso Angeles, that says,
"You are hereby noticed to stop all work at your property
immediately". The next line is very important and I would
ask that you look at that. "You are only authorized to do
any work that is necessary to stabilize the site for
erosion and public safety". And, in fact, that's what he
did.

He finished the driveway. He finished the yard. Had he not -- and he faced -- he put the facing on that block wall. Had he not done that erosion control and finished that little bit, you know, I hesitate to say what would have happened between the road and his home with the torrential rains that we received.

The excavation that was showed in one of those pictures, the excavation for the wall, was actually the -- in large part, the hole that was left when that rotten fence finally fell and was removed the rest of the way, and that thicket was removed as part of the recommendation when they repaired their foundation. So I think that's very important.

The rest of that packet I don't think we need to go through for time's sake. But it's important, I wanted you to see it, because it wasn't that Mr. Catabran and his family sat and ignored and continued to do work and just thumbed their nose at District staff or the Board staff.

In fact, there was correspondence going back and forth throughout. And, at the time, when he finally he feels he complied to the Cease and Desist Order, he really thought that the application was continuing to be processed. No news was good news kind of. Although, he'd asked for some updates that he didn't receive.

And then in April we find out that because of the perception that work had continued to been be done, the application was being kicked back.

So he really felt, I think at some point, that he had no choice but to do a certain amount of work. It is still an unfinished project. There have been no gates installed. There was some bare wire, I believe that was sticking out, so a light fixture was put on. But there's no gates. There's no transformer or motor or tracks ready for the gate. And, in fact, there's been no -- on that small, the two to three foot panel that you saw in the picture, there's been no wrought iron installed or anything along those lines.

So, in fact, I think he tried. It's not always easy to comply with these very, oftentimes competing processes. I really believe truly that he tried to comply. He tried to be a good neighbor, and tried to work with the Board and the District and the county, but it just kind of got sideways and got tangled just a bit.

Let me, again, emphasize that when Mr. Catabran received the Cease and Desist Order structural work stopped. Let me -- I think you saw that -- it's a more recent picture, I think, from -- also from Google Earth. But this is, I think, speaks directly to visibility.

And when I was on my levee patrol a few years ago, one of the things they wanted to see, it was very clear, as they drove along Garden Highway, they wanted to be able to see as much as possible.

If you see this is -- now, I'm pulled over a little bit here on Garden Highway, but I'm right on the fog line. You can see it. And you can see -- you have pretty good visual access from the Garden Highway, not getting out of your car, not walking on private property, but you have decent visual access of the wall -- between the wall and the home.

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MR. RASMUSSON: And this is from the other end.

You have pretty good access. So from both ends you see, I
don't know, you can estimate ass well as I, between 80 and
90 percent of the area between the house and the road.

It's only about, I believe, 30 feet between the house and the road.

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MR. RASMUSSON: It's also important. This

particular photo is also important. As you travel south along the Garden Highway and you pass Mr. Catabran's house and you look to your right, the flood fighters and levee patrol folks can look down and actually see to the water, and see some portion behind the home.

And it really is important to note, and I think Mr. Villines you may have brought it up, that the wall as it's proposed, as it's built, as it currently sits is no wider than the home. So if that whole wall came out, you only get that 30 feet of improved pavers, that's what you get to see, the 30 feet of improved pavers. The house blocks the view to the water, until you get past the house. And even with the gate -- the wrought iron gate, if it's installed, and even with the wall as it sits, you see, you have -- you know, you have some visibility.

This is a picture that I think I actually got from the District, but it shows kind of the width of the wall and the fact that if the wall is removed, you have the house still there. It also shows that there is some access, both visual and on foot, if you wanted to, where you could walk just a few steps on either side of the house. There's access there on either side of the house and have a very good view, a complete view of the levee all the way to the water.

But again, from the road, as you pass, you have a

diagonal view directly behind the house on the north side. You have an even better view down an improved driveway past the garage and where you can actually see the pier and dock, as well as the levee.

with me for just a second.

So it was with, you know, some frustration that I couldn't convince staff that something less than complete removal and begging forgiveness was an acceptable compromise. We wanted to do something. We wanted to see what -- if they really had a problem with site line with that pillar on the garage side that was causing site view issues, we could maybe move that. Maybe there was some wrought iron panel, cut a whole, do some clear glass through some of the masonry, something along those lines. I mean we really did try to do that.

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MR. RASMUSSON: We also noted that there was some -- one or two recently approved projects. One of the projects that I think I'll be able to show you is -- I believe it's -- forgive me. I'm going to have to go back.

The -- I believe it's this one. Okay. Technical difficulties. There is one. It has a -- it's the -- bear

I believe this, at 3941 Garden Highway, was just recently approved and built. And, in fact, I think it received its approvals after the construction of Mr.

Catabran's wall. And it has some of the same issues, electrical a little closer to the road than you might find in manuals and some others. It also has significant vegetation, if you see, along on that picture -- both pictures, frankly, but the one on the left. That wrought iron fence suddenly has significant vegetation. It's got worse visibility than ours. It's a beautiful wall, and I think it's probably important to the homeowner, and we're not suggesting that it's not, but we're asking for -- we were asking for the Board to work with us I think in much the same way that these folks had.

And again, you know, I want to thank the staff for talking to me as much as they did, but would like to suggest that in light of my client's oftentimes awkward, but I think, good faith attempts to work with the regulations and work with the Board -- the Board and the District -- Board and District staff, I would like to respectfully ask that you allow this wall to stand and direct staff to continue that permitting process that my client started and never asked to have stopped, continue that permitting process and try and work us through. So that we can come back, and if a variance is needed, we can deal civilly and all, you know, agree, where we can, and move on from there.

With that, I'd answer any questions you might

have. And I apologize for taking a little bit long, but I thought it was very important to at least have you hear my client's side.

4 PRESIDENT CARTER: Any questions for Mr.

Rasmusson.

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Mr. Moffatt.

BOARD MEMBER MOFFATT: Go head.

BOARD MEMBER VILLINES: Go ahead.

BOARD MEMBER MOFFATT: Go ahead.

BOARD MEMBER VILLINES: Two quick things. You

11 said, "if it's installed", is that based -- what does that

12 when you meant --

MR. RASMUSSON: The gate.

BOARD MEMBER VILLINES: Yeah.

MR. RASMUSSON: The plans call for an electrified wrought iron gate completely visible, see-through wrought iron gate to be installed. It could have a Knox Box or, you know, the law enforcement access box that would allow some access, but I don't think it would significantly impair the view, but it is planned to have a gate, but it is not there. The work has not been done.

BOARD MEMBER VILLINES: But this is the plan. If it were to go through, you'd have a fence up, not the clear view that we were talking about earlier.

MR. RASMUSSON: Well, it's a wrought iron fence,

and it's a relatively clear view.

BOARD MEMBER VILLINES: Yeah. I meant -- I used the wrong, but I got you.

MR. RASMUSSON: Yeah, it's a wrought iron.

BOARD MEMBER VILLINES: The second one. When you said, and I'm not challenging this. I'm just curious to follow your line of words, you know, that you guys really tried to work on the fence and with our staff, and it just -- maybe just didn't work out. What does that mean? I mean, did you -- were there -- did you engage our staff and say, "Hey, what if we cut the whole middle section out and put wrought iron in between there or we put the glass?" I mean, were those proposed to our staff?

MR. RASMUSSON: Mr. Villines, I think I have to answer that question in two parts. There was significant correspondence and a meeting or two or three that occurred with my client and staff before I was involved, so I don't really understand -- really know. But my client suggested that there really was no room for compromise. It was tear the wall down or not.

I believe in my Email, and certainly in my telephone conversations with Mr. Taras, I indicated that some kind of see-through panels could be installed. I mean, those were potential compromises that we would consider. That could include a wrought iron section in

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between some of the pillars or maybe the whole thing wouldn't be block wall. You could have some kind of windows, if you will, of wrought iron or something, so ---
BOARD MEMBER VILLINES: But those weren't proposed?
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MR. RASMUSSON: They were proposed verbally by me and I believe -- Curt, did I -- I might have -- I think I included some conceptual suggestion in an Email to him when I asked for one of those meetings, but they were -- I never really got the chance to sit down and actually make that proposal.

BOARD MEMBER VILLINES: Well, if it's appropriate, I'd love to hear from Mr. Taras, but that's up to you.

PRESIDENT CARTER: In a moment.

BOARD MEMBER VILLINES: Okay.

MR. RASMUSSON: And I think it's important, Mr. Moffatt, if I may. I mean no ill will with staff. And again, I acknowledge that there's a certain amount of the frustration that staff has with this project that I understand I get to inherit as the new guy coming in. But it is my sincere hope that we can work something out. That an enforcement action, I know in flood circles, an Enforcement Action when you have a good citizen who would like to do the right thing is the absolute last resort.

And I, as his representative standing before you today, don't really think we're at that last resort and would like your help.

I'm sorry.

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BOARD MEMBER MOFFATT: No, no. I'm trying to understand what I think you said earlier, when you referred to your document number 4, which this Email from Mr. Catabran back to Paul Devereux was dated October 19th. So you're saying by that time, the wall was built?

MR. RASMUSSON: Yes.

BOARD MEMBER MOFFATT: Just not finished.

MR. RASMUSSON: It just wasn't finished. It was an exposed block wall, and the contractor made it very clear as the rain started, that there were going to be some significant erosion to the grout that was used, because it wasn't meant to be an exposed wall and needed to be faced.

BOARD MEMBER MOFFATT: Okay. So explain -- if you could run me through what happened between September 21st, when DWR, the Flood Board staff, and the RD 1000 staff did a site visit, and we have these pictures of bare earth, where was the miscommunication or misunderstanding between September 21st and I assume work that had to have --

MR. RASMUSSON: Sure.

BOARD MEMBER MOFFATT: -- for that wall to be built by October 19th had to have gotten under way by say October 11th or something like that. I mean, there's -- MR. RASMUSSON: I believe that the wall had been

MR. RASMUSSON: I believe that the wall had been started in September, in early September.

BOARD MEMBER MOFFATT: But that's not what these pictures show.

MR. RASMUSSON: That's my understanding. Maybe in late September. I think it was last September. You know what, I can't -- I don't -- I haven't been -- I would have loved to have been able to sit down with staff and really understand some of their -- some of the timeline, but we weren't able to do that, and I have got somewhat of an incomplete file. But it's my understanding that the work that had been started by staff -- I mean, the work that had been started my Mr. Catabran was the wall, and that RD 1000 came out and said stop, so -- and I may not have --

BOARD MEMBER MOFFATT: But the letter from RD 1000 says it was the removal of the landscaping shrubs, et cetera, et cetera that triggered their initial letter on September 1st.

MR. RASMUSSON: And I think originally Mr. Catabran felt that the letter of authorization for the foundation work allowed for him to address that problem.

And he had been told by the contractor of the foundation that much of the landscaping, much of the erosion that had already happened in that front yard needed to be addressed. So as part of that he addressed it.

I do not have a copy of that Letter of Authorization, so I'm speaking anecdotally, but I believe that's what he felt at that time. But it became a part of the overall plan with the wall. And obviously, that's where I think ultimately, as you heard from staff, they're not really asking for the driveway to be removed or -- there's really insignificant landscaping. And again, I think it was done by landscape contractor who understood the vegetation manual. Their real focus has always been the wall, so that's what I'm focused on, Mr. Moffatt. I'm sorry, I'm not more versed in the landscaping.

BOARD MEMBER MOFFATT: I'm not talking about the landscaping. I mean, I'm talking about the wall. And you know, you're claiming on behalf of your client that he moved forward in good faith, and maybe there was some confusion. But I'm trying to piece things together, with respect to he's given a letter by RD 1000 on September 1st that says stop. And it says any work you do prior to obtaining a permit will need to be removed, if it's not subsequently approved.

But then you state by October 19th the wall is

built. And I'm -- if there is a good faith
misunderstanding there on Mr. Catabran's part, I'd like to
understand it, but I don't.

MR. RASMUSSON: Yeah. I don't have a great answer for that, Mr. Moffatt.

BOARD MEMBER MOFFATT: I mean, even from the period of September 21st when our staff was out there and took these pictures of bare earth, and less than a month later the wall is built.

MR. RASMUSSON: It is my understanding that through the records, talking to the contractor, and my limited conversations with my client, that on September 21st, in late September, that wall was done. When the cease and desist letter came -- I've been focused on the cease and desist letter. When that cease and desist letter came, the wall was done, the structural work was done. And their -- I have -- I don't know -- I don't have a good answer, because I wasn't involved in it, John.

BOARD MEMBER VILLINES: That's not based on -that's not -- I'm just cutting in. I'm sorry. But that's
not based on the information you've given us. What you've
given us right here is a paper trail, a date, and then the
wall gets finished, and then we're going to work in good
faith. But in terms of where Mr. Moffatt is going, that's
not -- you've given us the information and it makes you --

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MR. RASMUSSON: This was part of your staff, and part of the --

BOARD MEMBER VILLINES: Let me just throw one thing at you, and then I'll leave you alone.

MR. RASMUSSON: Yeah, sure.

BOARD MEMBER VILLINES: I'm sorry, this isn't meant to be cross-examination as you're answering his question.

MR. RASMUSSON: Yeah, yeah.

BOARD MEMBER VILLINES: If the wall was already up on October 19th, were -- is your client prepared now to take sections of the wall out, if they were to strike a compromise and say put clear panels in or put, you know -- I mean, that wall was up. It was solid. There really wasn't, you know, somebody saying let's work together. It was up. So I'm just curious is your client agreeing to, or are you, on his behalf, saying that we can cut sections of that wall out if we wanted to or something? I'm just curious about what your answer is.

MR. RASMUSSON: I think it's my -- very obviously, my client's preference that the wall be allowed to stand as is constructed.

Absent that, we have made every indication to staff that we would certainly be willing to consider some see-through panels of some kind, whether they're wrought

iron or they're plexiglass or whatever. Rather than submit a formal plan for that, we thought it was more important to sit with staff and find out exactly what it was they needed. Do they need to be the entire panel? Can they be, you know, half height, half width, whatever. So the answer is yes, I believe my client would be willing -- more than willing to consider a compromise short of tearing down that wall.

But he has asked me to come and ask you to let the wall stand the width of the house. That wall comes down, you still have the house blocking, understanding that there's some discrepancies with the process and some work may have gotten ahead of -- gotten done ahead of when it should have.

PRESIDENT CARTER: Last question. The hour is getting late. We're going to -- we public testimony to continue with.

Ms. Rie.

VICE-PRESIDENT RIE: To follow up on the conversation about the type of panels and whether your client is willing to take them out. In our regulations, and I'll just give you the section if you want to look at it later. It's Section 133, Part (c)(2), and part (c)(3). And depending on where the fence or the wall is in relation to the design flood elevation, there are

restrictions and then there are no restrictions, depending on where you are in relation to that flood elevation.

Do you know where the flood elevation is and where this wall is in relation to the flood elevation?

MR. RASMUSSON: I do not. I would imagine that it was part of the plan, part of the topography that was submitted with the application. But off the top of my head, I'm sorry, I do not. I know that it is exactly level with the Garden Highway. And the Garden Highway serves as the top of that first levee, so I...

VICE-PRESIDENT RIE: Okay. Well, as we get into other testimony, you might want to take a look at that -- MR. RASMUSSON: I will.

VICE-PRESIDENT RIE: -- because if the wall is within a foot of the design flood elevation, it needs to be open. If it's above, at least a foot above the design flood elevation, then there's a little bit more flexibility.

PRESIDENT CARTER: Thank you.

Thank you, Mr. Rasmusson.

I have one card. Mr. Bassett, would you like to address the Board.

MR. BASSETT: Thank you, President Carter. John Bassett, Director of Engineering for the Sacramento Area Flood Control Agency.

SAFCA and the State are currently in a project, which assuming that the Corps of Engineers comes on board with it, we'll spend about \$780 million in improving the levees around the Natomas Basin.

At the conclusion of that, the levee improvements, we will have to work with the State Board, State DWR, the Corps to address existing encroachments that may still pose a threat to the integrity of the levee. We should not allow new ones that are obviously in violation of the State standards for the Natomas Basin to be added during our construction.

We recommend that the Board enforce their standards. We should also not allow a fence of any sort or vegetation to encroach the county road right of way. There are two issues of visibility on this wall. One is for the flood control aspect looking through the wall to observe the integrity of the flood control feature. The other one is someone pulling out of the driveway onto the Garden Highway has to be able to look left and right and see oncoming traffic. With the wall as close as it is to the Garden Highway, you have restrictions on the ability to see oncoming traffic and be safe in pulling out onto the roadway.

So if the Board does consider leaving the wall as it is, as close as it is to the Garden Highway, in

addition to opening up certain panels on the wall to provide the visibility for the flood control aspect, I would also recommend that the wall be shortened on the North and South end to open up the visual ability, so someone pulling out of the driveway does not see one of those piers directly to the left or right when they're pulling out into the roadway.

So to narrow it, make it shorter than the full length of the house, so that there is width and open space, so you can see beyond the walls as you pull out into the roadway. I can take any questions you have or that's it.

VICE-PRESIDENT RIE: Question.

PRESIDENT CARTER: Go ahead.

VICE-PRESIDENT RIE: Mr. Bassett, do you know where the design floodplain is in relation to the road and this wall? Because Title 23 says that there's no restrictions if they're at least one foot above the design floodplain.

MR. BASSETT: I guess to answer that, you have to answer what is currently the design floodplain?

For the SAFCA improvements it's the 200-year water surface. The design floodplain, I think by your regulations, is the 1957 flood profile.

VICE-PRESIDENT RIE: Well, do you know where the

1957 profile is in relation to this wall and the road?

MR. BASSETT: Not exactly, but backing up a
little bit. The system was designed to have at least
three feet of freeboard above the 1957 profile. We can
definitely provide that to you, if you would like that. I
don't have it with me today. But I think RD 1000 when
the -- probably has more than the three feet to the top of
the levee. So it may be anywhere from three to five feet
down from the crown.

VICE-PRESIDENT RIE: The only reason why I ask is because Title 23, it says there's no restrictions on fences and walls, if you're at least one foot above the design floodplain.

MR. BASSETT: Yes.

VICE-PRESIDENT RIE: And it doesn't define what the design floodplain is, but that's what Title 23 says, so I'm just asking the question. I'm looking for some clarification from the experts.

MR. BASSETT: It's taken as the '57 profile for this area officially. The new one will be whatever comes out of the Central Valley plan or the State's guidelines under the urban levee design standards is the 200-year level, which is right at the top of the crown of the levee there right now.

VICE-PRESIDENT RIE: Thank you.

PRESIDENT CARTER: Thank you.

LEGAL COUNSEL SMITH: And just for clarification, there is a definition in Section 4 of Design Floodplain, but I don't know if it's that helpful. It says, "Design floodplain means the water surface elevation at design flow as determined by the Army Corps of Engineers, the Board or FEMA, or any higher elevations based upon best available information as determined by the Board.

VICE-PRESIDENT RIE: Thank you.

PRESIDENT CARTER: Thank you.

MR. BASSETT: Thank you.

PRESIDENT CARTER: Are there any members of the public that wish to testify in support of the application?

Okay. Any members of the public that wish to

testify in opposition to the application.

MR. DEVEREUX: Yeah. President Carter, members of the Board, Paul Devereux. I'm manager for Reclamation District 1000. I'm just here supporting the action of your staff here in this Enforcement Action.

We did notify Mr. Catabran, as indicated in September when we noticed obviously some obstruction going on, and advised him of the need for the permit.

Subsequently, I did endorse a permit application that he submitted soon thereafter, but it was clearly for a wrought iron fence. He subsequently changed the plans

and had some sort of a wall in there, but I did not endorse a wall, and the District doesn't support solid walls.

We do have to have visibility and access along the levee, even with the new levee being constructed. And the photos you see here, you know, in the middle of the day looking, you know, where you can pull in and see on the side of the wall. You've got to put yourself in a truck at 2 o'clock in the morning when it's raining cats and dogs or in a foggy February morning and you're trying to see what the heck is going on out there, that's the time, and that's why we need visibility when we're driving by and doing our inspections, and so we continue to want that.

My concern with this is, as far as the timeline, is the work was being done out there. We wrote the letter. He came in with the gate. I told Mr. Catabran, I said I'll work with you to make it a safe site, you know, get the driveway, get the stairs into your house. I know we've got to make it a safe situation for winter. But that's where I told him I said that's where we've got to go.

And then any other work, I said you need to work with this Board here. I made it clear. We're not the permitting agency. You know, you guys are. And I tried

to make it clear to him that this is permit he needs to do the work.

He started working on the wall. He started getting the pillars up. You know, I'm assuming that's for the fence that he thinks he's going to put in. Then all of a sudden, we see the solid connection between the pillars, and that's when I wrote the cease and desist, and said, "No. It's not for a solid wall".

And that was on the 18th of October. The State had actually issued a cease and desist on October the 6th. And all through the winter he continued to work on facing, and then suddenly the panel's came up, and it was well after we had told him to top. So that was my concern is that he just kept on working even after that.

So we're here to support the action and get something out here, because a solid wall just doesn't work for us.

Thank you.

PRESIDENT CARTER: Thank you.

VICE-PRESIDENT RIE: Question for Mr. Devereux.

MR. DEVEREUX: Yeah.

VICE-PRESIDENT RIE: In Section 133 of our regulations there is some allowance for walls along the Garden Highway. Are there cases when you do allow those?

MR. DEVEREUX: Not a solid wall. I mean a

wall --

VICE-PRESIDENT RIE: Okay. So even though our regulations state that, usually you want to see those open?

MR. DEVEREUX: Yeah. There have been times in the past where solid walls have come in. And as, you know, Eric has pointed out, there are some solid walls out there. But I can tell you pretty much to a point every solid wall was recommended to be rejected by our District. And prior Boards of yours, you know, made some latitude on that in variances, but our District has never supported a solid wall.

VICE-PRESIDENT RIE: So despite what the regulations state, you would really like to see an open wall.

MR. DEVEREUX: Visibility. It has to be visibility and access. How you achieve that, you know, details can be worked out, but it's visibility and access.

VICE-PRESIDENT RIE: All right. Thank you.

PRESIDENT CARTER: Ms. Nagy.

MS. NAGY: Good afternoon, President Carter, members of the Board. Meegan Nagy from the Army Corps of Engineers.

I'm here to support staff as well on this decision. This is -- the Corps is clearly concerned about

access and visibility. We've seen that a lot on our periodic inspections. As staff noted, this wall was put up after our periodic inspection was conducted. However, had it been there at the time we conducted it, it clearly would have been an unacceptable condition. And we'd be looking at you today to do an Enforcement Action just like we are right now.

So we need to make clear to folks that this is an unacceptable action. They cannot go out there, especially after a cease and desist and continue to put up walls. Especially, we're talking about the Natomas Basin. Mr. Bassett talked about the investment that both the State and the locals are putting in to Natomas. And the consequences behind that Natomas levee are one of the most threatening places that your Board has jurisdiction over in all of the Central Valley. It's a very deep floodplain. And I'm looking at not the one property owner who wants a wall and is concerned about the noise, I'm looking at the 80,000 people that are behind that levee when we look at something.

The wall, in the condition as it is, if it came across the Corps' desk would be denied. We are concerned to ensure that accessibility and visibility are maintained and that the structural integrity of the levee at whatever the levee will be after SAFCA construction is intact.

So again, I support staff decision. And if there's any questions, I'd be happy to answer them.

PRESIDENT CARTER: Thank you very much.

Are there any other members of the public that wish to testify in support or opposition of the application?

Okay. Ladies and gentlemen, we'll close the public testimony portion of the hearing. Does the Board have any questions or comments of the staff, applicant?

VICE-PRESIDENT RIE: Yes.

PRESIDENT CARTER: Go ahead.

VICE-PRESIDENT RIE: Mr. Taras, do you want to address those sections in Section 133 that give some more flexibility to fences and walls, despite the objections of the Corps and the objections of Reclamation District 1000?

SUPERVISING ENGINEER TARAS: Mr. Rie -- this is

Curt Taras speaking -- I believe the citations you're

quoting from the California Code of Regulations correspond

to (c), "Within the area located between the waterward

levee shoulder and a point 65 feet waterward from the

centerline levee, the following conditions apply:"

There are graphics that we have that supplement these written descriptions. And based on those graphics, a wall -- a solid wall is not permissible by regulation. The only walls that are see-through or have the standards

that we'll show you here in a second in our graphic, are permissible by regulation.

So this is the document. Go ahead and show them the full cover from beginning to the end. This is the special encroachment standards that are referenced in Title 23, at the conclusion of the -- of that -- of the special encroachment standards for RD 1000. And they have graphics here that show different zones of construction. And it wants everything essentially setback off of the levee.

So I believe the allowance of a wall that's over the floodplain is only allowed in areas in the floodway not on the levee.

So I'll blow that up. Zone A, which is the location where this wall is, states, "No surface or subsurface improvements permitted, other than utility crossings installed at right angles at the centerline of the levee, ramps, stairways, and walkways, and fences that conform to drawings on page 25-5. Vegetation shall comply with Guide for Vegetation on project levees. The levee crown shall be kept clear of any foliage."

Now I'll go down to the next drawing, and those are the fences. And this document was submitted to Mr. Rasmusson --

BOARD MEMBER VILLINES: Is that 25-5?

SUPERVISING ENGINEER TARAS: That's 25-5, yes.

And this document was sent to Mr. Catabran, and it should have been in Mr. Rasmusson's files as staff's guidance for what types of fences are acceptable. Now, it still doesn't resolve the issue that Engineer Bassett brought up about the fences in the county right of way, obstruct sight distance for vehicle traffic. There's a ton of other codes -- safety codes that are not being met by the way the fence is currently constructed.

And as a licensed engineer, I'm very aware of them. So a simple direction to just replace fence in kind in the same location with one of these fences may violate other California building codes.

VICE-PRESIDENT RIE: Mr. Taras, did the County issue a permit?

SUPERVISING ENGINEER TARAS: I called the County myself. They did not receive an application for a permit for that fence.

VICE-PRESIDENT RIE: Well, based on the testimony, I believe Mr. Rasmusson spoke to the County and they said an electrical permit would be required. Did they get the electrical permit? Was that issued?

BOARD MEMBER VILLINES: It was actually the landowner talked to the County and told him that.

SUPERVISING ENGINEER TARAS: There was a Notice

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of Violation issued by the County for the electrical connections being conducted without a County permit.

VICE-PRESIDENT RIE: Okay.

SUPERVISING ENGINEER TARAS: And then I talked about the sight distance issue. And the planner of the day said, yes, they must comply with the County requirements for sight distance also.

PRESIDENT CARTER: Any other questions?

Mr. Brown.

BOARD MEMBER BROWN: Mr. Taras, in your staff recommendation --

SUPERVISING ENGINEER TARAS: Staff recommendation is to --

BOARD MEMBER BROWN: -- you have that the Board determine the encroachment removal to be exempt from CEQA, approve Enforcement Action 2011-138 to order removal of the unauthorized encroachments and order restoration to the site. And order restoration as may be permitted by this Board --

SUPERVISING ENGINEER TARAS: We can modify that to state that, sir.

BOARD MEMBER BROWN: And that would include the wrought iron fence or something that you could see through, is that what you'd do?

SUPERVISING ENGINEER TARAS: If the Board's

wishes are that. We would ask that the fence be removed, and the applicant go through the Encroachment Permitting process, so that the Board has a chance to review the applicant's proposal for a fence. We can check it for conformance against code, make sure they have the proper county variance to encroach within the County's right of way, and bring it before the Board as a consent item for a code conforming fence.

BOARD MEMBER BROWN: And that's your recommendation?

SUPERVISING ENGINEER TARAS: That's my recommendation, but that the Board should vote today to endorse the enforcement order as written in the documents you have in your staff report.

PRESIDENT CARTER: Any other questions?

16 Comments?

What's your pleasure, ladies and gentlemen?

MR. RASMUSSON: Mr. President, do I have an opportunity to rebut some of the things staff said or -- because the public hearing was closed, am I precluded from doing so?

PRESIDENT CARTER: I'll give you five minutes.

MR. RASMUSSON: Fine. Thank you. I shouldn't take anymore than that.

When -- you've heard about the visibility and the

importance of visibility on foggy days and rainy days. I certainly understand and agree. But you remove that wall, and what visibility do you have? You get to see the house. You don't get to see the levee. You get to see pavers and an improved driveway, and it really does not block what the levee patrol folks are looking for.

I would encourage you, and while some of my testimony was regarding when the work was done, I focused on the cease and desist. And my client is adamant that when he received his cease and desist, no further structural work happened. Prior to that, there may have been some frustration on both parties' parts, and some work may have gotten done.

So with that, understanding the process, but since the cease and desist, he is adamant that no work has been done.

BOARD MEMBER VILLINES: Which one?

MR. RASMUSSON: The one that I focused on was the October 18th one. The October 6th he may have been referring to, but the one that I had focused on was the October 18th, I believe from Mr. Devereux. I do not even have a copy in my files of the October 6th. I mean, I haven't seen a copy of the October 6th cease and desist.

What I would ask is that, you have an applicant who is living on the Garden Highway, feels privileged to

do so, who is asking you for some help. And I think he even sent you a letter back in -- during the time of the process asking this Board for some assistance, asking for help. If you could direct your staff to go back and let's start the discussion a little bit again, and try and come up with a reasonable compromise, a reasonable solution to this, absent complete enforcement, which really doesn't get us much, and just starting over, that's what I would specifically request of this Board.

Thank you again for your time.

PRESIDENT CARTER: Thank you. Ladies and gentlemen, what's your pleasure?

BOARD MEMBER SUAREZ: Mr. President, I'm ready to move to adopt staff recommendation.

PRESIDENT CARTER: So you're moving to adopt the staff recommendation.

BOARD MEMBER SUAREZ: Correct, as so very well stated by Mr. Brown.

LEGAL COUNSEL SMITH: I think there's one thing that needs to be added to the staff recommendation and that would be a timeline within which the removal would have to take place. I don't think that the staff recommendation specifies a time.

BOARD MEMBER SUAREZ: Mr. Taras, do you have a recommendation regarding a timeline?

SUPERVISING ENGINEER TARAS: Staff would recommend 60 days or no later than November 1st, start of flood season for the year 2011.

PRESIDENT CARTER: Do we have a -- do you accept that modification --

BOARD MEMBER SUAREZ: Yes, sir.

PRESIDENT CARTER: -- in terms of the timing?

Is there a second to the motion?

SECRETARY HODGKINS: I'll second it.

PRESIDENT CARTER: Okay. We have a second.

Discussion?

VICE-PRESIDENT RIE: I have a question. When I read the staff report, I got the impression that the staff was asking that the driveway be removed and restored to its original condition. So what do we mean by that?

STAFF ENGINEER CALISO: Angeles Caliso, Board staff. If I may answer that. The Enforcement Order that is before you as a hearing today has three items identified on the staff report. And it does not identify the driveway as one of the items on the Enforcement Order. It's strictly limited to the excavation that took place for the installation of the block wall, and then any other utilities, appurtenances related to the block wall itself. So the driveway was not mentioned and was not part of the Enforcement Order.

PRESIDENT CARTER: So you said there were three things. You just mentioned excavation and utilities. I assume the third is the wall?

STAFF ENGINEER CALISO: Right.

PRESIDENT CARTER: Okay. Any other questions, comments?

BOARD MEMBER MOFFATT: I had a question. Removal of the utilities, and perhaps restoration of the slope.

Doesn't that potentially imply a removal of part of the driveway potentially?

STAFF ENGINEER CALISO: Correct. Yeah, that would imply. And that was why my statement from early to Ms. Rie's question was that if during the time that this removal of the fence took place, if it was necessary to remove a portion of the driveway, then that would have to be done. But that wasn't included as part of the order that was issued to the applicant -- or to the respondent.

BOARD MEMBER MOFFATT: I just -- Mr. President, from my perspective, I'm prepared to vote for the motion today. I would -- I guess I'll offer for suggestion an additional condition that any other work that the Board staff thinks is necessary, I think in the letter from Mr. Rasmusson there was an implication that if you remove the wall and you remove all these things as you enter into flood season, there's potentially issues there.

So, you know, if heavy rains et cetera, et cetera, I don't know if there's, you know, potentially a washout issue. If you just remove the wall and do nothing, you know, should some sort of low lying vegetation be planted, I mean, you know, giving some leeway to Board staff and perhaps the RD 1000 staff whoever to make sure that that area, once the wall is gone, is at least secure heading into the flood season, unless -- you know, unless the work to do that, restore the slope, actually, you know, will be good enough, you know, I don't know.

PRESIDENT CARTER: So your suggestion is to be sure that the site is safe for flood season?

BOARD MEMBER MOFFATT: Yeah. So an additional condition on the permit is take care of the wall --

PRESIDENT CARTER: We're not issuing them a permit.

BOARD MEMBER MOFFATT: Oh, darn it. I'm sorry. The Enforcement Order. I apologize -- is get rid of the wall, get rid of the utility, repair the slope and do anything else the Board needs to make sure that that area is safe heading into the flood season, I mean, within reason. And I offer that. It might not be necessary. I'm, you know --

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SUPERVISING ENGINEER TARAS: Yes. Curt Taras.

Board Member Moffatt, Attachment A, Board Enforcement

Notice and Order has attached to it enforcement

conditions. Page one of two, Restoration Conditions.

Number one, "Backfill all voids following the removal of the unauthorized encroachments within the levee section and easement area".

And then it goes on to give compaction requirements, what type of material, that it's supposed to be well compacted. It's all covered. And that it's actually supposed to be reseeded with like a grass or some sort of erosion vegetation to keep it intact throughout the rainy season.

Thank you.

PRESIDENT CARTER: Okay.

LEGAL COUNSEL SMITH: Another question that maybe Mr. Taras can answer is, does the Enforcement Order, since that's basically what the Board would be adopting with the motion, does it also state what happens if, after 60 days, the items aren't removed and the order isn't followed?

SUPERVISING ENGINEER TARAS: I think that's spelled out in Water Code, that failure to comply with a Board order has -- the State retains the ability to file a suit in the name of the State of California.

LEGAL COUNSEL SMITH: I guess what I'm specifically asking is that the regulations allow the

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Board to physically remove -- to order physical removal and recover its costs if the order isn't complied with. I just want to make sure that that is something, A, the Board wishes to order, and ask whether that's covered in the order that the Board would be adopting?
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SUPERVISING ENGINEER TARAS: So the staff suggestion on that matter would be RD 1000 would act in the instance that the wall was not removed on behalf of the Board, and be able to recover its costs through a lien on the respondent's property.

I would suggest that let staff report back to the Board come November 1st whether the action was taken or not, and then make that choice at that point.

BOARD MEMBER BROWN: Mr. Taras -- do you want to vote on this or do you want another...

PRESIDENT CARTER: You have something to add to this process?

BOARD MEMBER BROWN: The fence can be two feet and the pile asters four feet?

SUPERVISING ENGINEER TARAS: A fence. A fence maybe -- a permissible fence may be two feet high along the length and then four feet on the columns, but --

BOARD MEMBER BROWN: Would there be an alternative for the applicant to consider to -- that could be added in to this motion to where the solid fence could

be cut down to two feet in height and then any wrought iron that he would like to install on up to the five or six feet on top of that and cap the fence?

I know this stone wall fence is hard to cut through. I don't know whether -- there's a couple engineers on the Board -- whether that would be an option or not. But the thing that we want to see is that it complies with the requirements, period.

SUPERVISING ENGINEER TARAS: That's correct.

BOARD MEMBER BROWN: And if you and the applicant can come up with something that you concur that would meet those requirements, in addition to, or along with what we're recommending here or what we're going to be ready to adopt, I would be receptive to that.

SUPERVISING ENGINEER TARAS: If the Board votes in favor of the Enforcement Order, I believe it places staff in a strong position to come back to the Board with a code-compliant fence, either by a modification of the existing fence or a replacement fence in the future.

BOARD MEMBER BROWN: Mr. Chairman. Would that acceptable if we put that onto the motion?

PRESIDENT CARTER: Assuming that the -- my understanding is that another problem with this fence is the location and its proximity to Garden Highway. So portions of this existing fence or maybe all of it needs

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to be moved back to -- setback from Garden Highway, in which case the whole thing has to come down anyway.
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BOARD MEMBER BROWN: Okay. Fine. I'm ready to vote.

VICE-PRESIDENT RIE: Question, Mr. Taras. What was there before, right on the edge of the highway, was it vegetation and dirt, do you know?

SUPERVISING ENGINEER TARAS: I don't. The applicant probably would be able to describe that further, but I believe the existing site plan that was submitted with the application showed one driveway entrance. Now, there are two. There's an entry and an exit. And there was not a wall. There was some vegetation kind of providing a bit of -- I don't know the specifics of the pre-construction condition.

BOARD MEMBER VILLINES: There was one of the photos that we saw, Mr. Taras, that did have the circular driveway.

SUPERVISING ENGINEER TARAS: The aerial. Bring back the aerial please.

BOARD MEMBER VILLINES: Not only the fence -SUPERVISING ENGINEER TARAS: We also have a
topographical map that was submitted by the applicant of
the --

BOARD MEMBER VILLINES: I don't know if that

matters.

SUPERVISING ENGINEER TARAS: -- existing condition.

BOARD MEMBER VILLINES: It was an unsafe thicket, as he mentioned.

VICE-PRESIDENT RIE: Well, let me just get to the point. Mr. Taras, Ms. Caliso, what I'm concerned about when we state to bring it back to its original condition. If they remove the wall, and, you know, if there was a circular driveway, then I would assume that's a hard surface. But where there was vegetation, if you were to restore it, you would have dirt and, you know, I guess they could plant grass. But that's not a condition you want to have on the edge of the Garden Highway, because if someone gets off the pavement and they go in the grass, you know, their car could potentially hit their house.

So in this process of having them remove the wall, I think we need to allow the option to put some sort of temporary fence in to avoid anybody's tires getting stuck on the edge of a dirt surface and spinning out. And I would --

SUPERVISING ENGINEER TARAS: As we wrote in the original notification, when the Cease and Desist was issued, the applicant was also told that they could do work to stabilize the site or protect their belongings and

property. So we will work with the applicant to obtain a satisfactory system that works and is co-compliant.

VICE-PRESIDENT RIE: Okay. So as part of this removal process, you can work with them to put in some kind of temporary barrier or --

SUPERVISING ENGINEER TARAS: Yes.

VICE-PRESIDENT RIE: -- appropriate size fence, so we can avoid --

SUPERVISING ENGINEER TARAS: Construction-type fence. We will definitely work with the applicant to obtain that, while we're waiting for a final --

VICE-PRESIDENT RIE: Well, not even a construction fence, but even a permanent fence to avoid the condition of having a dirt surface on the edge of the pavement, because that's not going to be a safe situation to have dirt right at the edge of the pavement separating their house and the Garden Highway, because it looks like it's pretty narrow.

PRESIDENT CARTER: We're not permitting a permanent fence here. We are talking about an enforcement action. If we want a permanent fence, then we'll have an encroachment hearing. So this is talking about the existing fence. If there's a public safety issue and there's an encroachment needed, that's another matter. That's not the subject of this hearing.

SUPERVISING ENGINEER TARAS: I have no further comment, but I believe my Chief Engineer does.

Thank you.

CHIEF ENGINEER MARINO: Good afternoon. Len
Marino, Chief Engineer. I recommend that in acting this
motion, you might want to require that the applicant
obtain a demolition permit from the County. We're trying
to -- we're kind of getting in areas here that are outside
of our Title Act. The County has regulations that dictate
how to demolish a structure. And one of those things that
would also be in that permit would be to use best
management practices for erosion, runoff, and site
remediation, in light of the fact that we're getting into
the flood season here. And I think you could also address
the barrier situation that Board Member Rie is speaking
of. And that could be just wrapped up into a demolition
permit.

VICE-PRESIDENT RIE: Thank you, Mr. Marino.

PRESIDENT CARTER: Okay. Any other questions,
comments?

Okay. I'm going to give Mr. Rasmusson two minutes. You may respond to the Board's proposed action only.

MR. RASMUSSON: Thank you so much. It's -- while the vote is yet to be taken, it's pretty clear that there

is going to be -- there is some support for enforcement and some abatement of the wall. But I would suggest adding on to some of the members' comments that it doesn't need to be complete removal of the wall, but removal of a part of the panels, substitution of wrought iron or other see-through panels or something, but removal of the portion that is of particular concerns and addresses the visibility issue, and whatever safety might come.

And as far as the sight line, I had some discussions with some of the folks from the County. And, in fact, I suggested to Mr. Taras one of our suggestions we want to talk about, we would take that southern most end of the wall and move it in and back, so that that site line is a little bit -- it's really -- that's the only exit from the driveway. The northern driveway is an entrance, and the only exit is on that southern side just by its very nature.

So we would move -- we had suggest moving that pillar back, so that it would improve those sight lines or cutting it down or whatever staff really preferred. So we'd be willing to do that.

So if your action could be modified to abate it to a certain point that would be acceptable for visibility standards, it would, I think, direct staff and be a very clear message to my client that he needs to work as

that -- as part of this enforcement action to make the wall more palatable and more acceptable, understanding that any further encroachments would have to come back for an Encroachment Permit. And, in fact, I think the permitting process would have to continue as it is.

So I would again ask for your assistance with my client. Whatever mistakes were made in the past, were in the past. Since I've gotten involved, I really want to lead this to an acceptable solution. And I would ask for your support in that.

Thank you.

PRESIDENT CARTER: Thank you. Any other questions, comments?

Mr. Punia, call the roll, please.

15 EXECUTIVE OFFICER PUNIA: Board Member Mike

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17 BOARD MEMBER VILLINES: Aye.

18 EXECUTIVE OFFICER PUNIA: Board Member Emma

19 | Suarez?

BOARD MEMBER SUAREZ: Aye.

21 EXECUTIVE OFFICER PUNIA? Board Member Butch

22 | Hodgkins?

23 SECRETARY HODGKINS: Aye.

24 EXECUTIVE OFFICER PUNIA: Board Member John

25 | Moffatt?

257 1 BOARD MEMBER MOFFATT: Aye. 2 EXECUTIVE OFFICER PUNIA: Board Member John 3 Brown? 4 BOARD MEMBER BROWN: Aye. 5 EXECUTIVE OFFICER PUNIA: Board Member Teri Rie? 6 VICE-PRESIDENT RIE: Aye. 7 EXECUTIVE OFFICER PUNIA: Board President Ben 8 Carter? 9 PRESIDENT CARTER: Aye. 10 The motion carries unanimously. 11 Thank you very much, ladies and gentlemen. Let's take a 10-minute recess and we will 12 13 continue with our agenda. 14 (Thereupon a recess was taken.) 15 PRESIDENT CARTER: Ladies and gentlemen, if I 16 could ask you to take your seats. We're going to go ahead 17 with our agenda. 18 If it doesn't present an extreme hardship to DWR, 19 would you mind swapping 10A and 10B. 20 DWR MAINTENANCE OFFICE CHIEF SWANSON: Your 21 preference. DWR BAY-DELTA LEVEES BRANCH CHIEF MIRMAZAHERI: 22 Ι like the idea. 23 2.4 (Laughter.) PRESIDENT CARTER: Okay. And in exchange --25

Meeting of the Central Valley Flood Protection Board August 26, 2011

Staff Report – Enforcement Hearing

Mr. Lino Catabran Sacramento County

<u>1.0 – ITEM</u>

Enforcement Action: 2011-138

Encroachment Enforcement Hearing for Mr. Lino Catabran, property owner of 5291 Garden Highway, Sacramento, California.

Conduct a hearing regarding the Encroachment Removal Enforcement Notice No. 2011-138, dated May 20, 2011 (Attachment A) that was sent to the Respondent, to consider ordering removal of unauthorized encroachments and restoration to the East levee of Sacramento River Flood Control Project. The encroachments listed in the notice are summarized into three categories, as follows:

Item I: Excavation on the waterside hinge point of the levee for the installation of a

masonry block wall.

Item II: Placement of a parallel solid masonry block wall (varying from 6-8 ft high),

including 2 gates on the levee within 10-feet from the waterside levee hinge

point.

Item III: Placement of utility lines associated with the new masonry block wall and new

landscaping on the levee.

2.0 - RESPONDENT/PROPERTY OWNER

Mr. Lino Catabran 5291 Garden Highway Sacramento, CA 95833

Assessor's Parcel Number (APN) 201-0330-031

Angeles Caliso Page 1 of 11

3.0 - LOCATION

The encroachments are located on the Sacramento River East levee in Natomas, approximately 0.64 miles downstream from Interstate 5, and between Levee Mile 9.02-9.11, Unit No. 1, Reclamation District 1000 in Sacramento County. Figures 1a and 1b show the vicinity map and an aerial view of the property at 5291 Garden Highway, respectively.

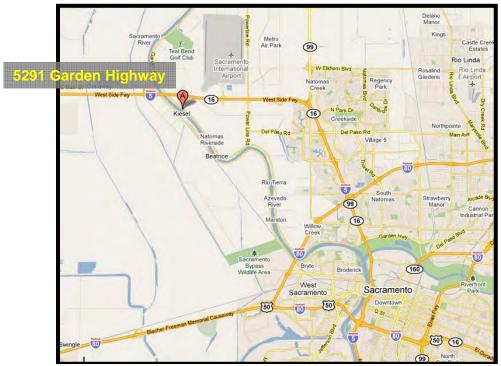


Figure 1a- Vicinity map of the property at 5291 Garden Highway (Source: Google Maps)



Figure 1b- Aerial view of the property at 5291 Garden Highway (Source: Bing Maps.)

Angeles Caliso Page 2 of 11

Enforcement Action: 2011-138 Agenda Item No. 9C

4.0 -APPLICABLE LAWS AND REGULATIONS

4.1 – Water Code

The Central Valley Flood Protection Board ("Board") has the authority to enforce the "erection, maintenance and protection of such levees, embankments and channel rectification as will, in its judgment, best serve the interests of the State" (Water Code § 8534). In addition, the Board has given assurances to the US Army Corps of Engineers ("Corps") that the State will maintain and operate federal flood control works in accordance with federal law (Water Code § 8708). The Board must approve any encroachment into an adopted plan of flood control, such as the East levee of the Sacramento River (Water Code § 8710). Unauthorized encroachments that may interfere with or obstruct the operation or maintenance of the flood control works constitute a public nuisance and as such, if the respondent fails to remove such unauthorized encroachment, the Board may commence and maintain a suit in the name of the people of the State to abate the nuisance (Water Code § 8709)

4.2 - California Code of Regulations Title 23 (CCR 23)

The Board's Regulations state that "every proposal or plan of work...requires a Board approval prior to commencing any work" (CCR 23, Section 6 (a)).

The board requires applications to be filed for all proposed encroachments within the floodways under its jurisdiction (identified in Table 8.1) and on levees adjacent thereto, on any stream which may affect those floodways (CCR 23, Section 112 (a)).

The General Manager [subsequently re-titled as Executive Officer] may institute an enforcement proceeding by serving a notice by certified mail, return receipt requested, to the landowner or person (referred to hereafter as the "respondent") owning, undertaking or maintaining a work that is in violation of this division or threatens the successful execution, functioning or operation of an adopted plan of flood control (CCR 23, Section 20 (a)).

The construction of the solid masonry block wall interferes with RD 1000 visual inspections and as such is in violation of the Board's Regulations Section 133 (c)(2), which states "...fences parallel to the levee must be an open type and constructed to provide for the unobstructed visual inspection of the levee slope and toe from the levee crown roadway."

4.3 – Other applicable Codes/Regulations

Sacramento County Code 12.12.020 "Obstructions at Private Driveways and Public Streets" states that "it is unlawful to...install or maintain...any sign...fence, or other obstruction to the view that does not comply with County Improvement Standards."

California Department of Transportation (Caltrans) Highway Design Manual states that "at unsignalized intersection a substantially clear line of sight should be maintained between the driver of a vehicle waiting at the crossroad and the driver of the approaching vehicle. Adequate time must be provided for the waiting vehicle to either cross all lanes of through traffic, cross the near lanes and turn left, or turn right, without requiring through traffic to radically alter their speed" (Caltrans Highway Design Manual 405.1 (2) (a)). See Attachment E for exhibit.

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5.0 - STAFF ANALYSIS

Enforcement Action: 2011-138

5.1 - Background

The following is a chronology of the events related to this enforcement:

- September 1, 2010 The Local Maintaining Agency, Reclamation District 1000 (RD 1000), notified the Respondent of the unauthorized encroachments (Attachment B, Exhibit A).
- September 21, 2010 Board staff visited the site with RD Manager and DWR Inspector and provided the Respondent a copy of the Board's encroachment permit application form.
- September 23, 2010 Board staff notified Respondent that the submitted encroachment application was lacking RD1000 endorsement and provided initial review comments on the submitted site plan via e-mail (Attachment B, Exhibit B).
- September 23, 2010 The Respondent delivered copies of permit application with the LMA endorsement to CVFPB offices (Attachment B,Exhibit C).
- October 6, 2010 Board staff was notified that the Respondent continued to work on the property and DWR Inspector visited the site and issued an NOV (Attachment B, Exhibit D).
- October 18, 2010 Board staff notified Respondent to stop all work at the property via email (Attachment B, Exhibit E).
- October 18, 2010 Reclamation District 1000 issues Cease and Desist letter to Respondent on (Attachment B, Exhibit F).
- October 19, 2010 Respondent replied to staff's cease and desist order on (Attachment B, Exhibit G).
- April 12, 2011 Board staff sent to Respondent notifying him that his submitted application would not be processed as the work on the property was not in compliance with the Board's Title 23 requirements (Attachment B, Exhibit H).
- April 20, 2011
 Board staff coordinated with Sacramento County on the work taken place at this property and as a result, Sacramento County issued a Notice of Violation to the Respondent on (Attachment B, Exhibit I).
- May 20, 2010 Board Staff Enforcement Notice & Order was issued to the Respondent (Attachment A).
- June 9, 2011 The Respondent requested a hearing appealing the issued Enforcement Order and requested copies of all documents related to his case (Attachment B, Exhibit J).
- June 13, 2011 Board staff sent the Respondent acknowledgment of hearing request and DVD with copies of documents related to the case (Attachment B, Exhibit K).

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Agenda Item No. 9C

Enforcement	Action:	2011	I-138
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•	June 22, 2011	At the request of the Respondent, Board staff met with the Respondent at Board's office.
•	July 8, 2011	Respondent was mailed Notice of Hearing, along with a copy of the Board's agenda for the Enforcement Order hearing (Attachment B, Exhibit L).
•	July 20, 2011	Board staff sent letter to Mr. Eric Rasmusson (representing Mr. Catabran) with copies of staff report and other items related to the case (Attachment B, Exhibit M).
•	July 21, 2011	Received letter from Mr. Eric Rasmusson requesting continuance of the scheduled enforcement hearing for Mr. Catabran (Attachment B, Exhibit N).
•	July 26, 2011	Board staff sent letter to Mr. Rasmusson notifying that his request for postponement was granted by the Board and notified him Enforcement hearing scheduled for August (Attachment B, Exhibit O).
•	August 15, 2011	A copy of the Board's agenda with the scheduled hearing time was sent to Mr. Rasmusson (Attachment B, Exhibit P).

5.2 - Easements

On July 25, 1917, Reclamation District 1000 acquired the Deed recorded on Book 473, Page 74 which covers the Respondent's property (parcel 9), in which the following rights were transferred:

"...the right to construct, replace, renew, repair, maintain and operate a levee over and upon all those certain lots..." (Attachment C, Exhibit A and Figure 2a)

On June 26, 2009, RD 1000 and the Sacramento San Joaquin Drainage District (SSJDD) through the Board executed a Joint Use Agreement (CA 5049), which transferred rights originally obtained by RD1000 in 1917 to be jointly used the Board (Attachment C, Exhibit B).

On November 15, 1926, Sacramento County obtained a road easement which was recorded on Book 101 Page 79 of the County's Official Records. See Figure 2a for exhibit showing the limits of the easement.

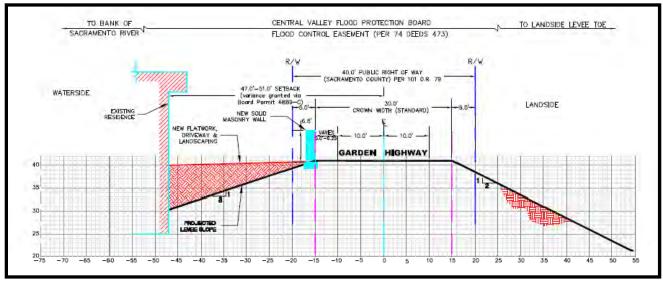


Figure 2a- Cross section at Respondent's property. (Source: CVFPB Staff). See Attachment D for full size.

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The basis for Board staff's encroachment removal and restoration identified in the Encroachment Removal Enforcement Notice 2011-138 dated May 20, 2011 is summarized as follows:

Item I: Excavation on the waterside hinge point for the installation of a masonry block wall.

• The levee embankment was cut in order to accommodate the parallel solid masonry wall without Board approval (see Figure 2b and 2c). This is a violation of the Board's Regulations Section 112 (b), which states that "banks, levees, and channels of floodways along any stream, its tributaries, or distributaries may not be excavated, cut, filled, obstructed, or left to remain excavated during the flood season."



Figure 2b- Cut on waterside levee slope in preparation for block wall. Board staff site visit on September 21, 2010.

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Figure 2c- Cut on waterside levee slope in preparation for block wall. Board staff site visit on September 21, 2010.

Item II: Placement of a parallel solid masonry block wall (varying from 6-8 ft high), including 2 gates within 10-feet from the waterside levee hinge point.

- The Respondent placed uncontrolled fill material for the reconfiguration of the driveway without prior Board approval. This action is in violation of the Board's Regulations Section 115 (a) which states "dredged, spoil, or waste materials, regardless of their composition, may not be deposited on the levee crown, levee slopes, or within the limits of a project floodway without specific prior approval of the board."
- The Board's Special Regulations for RD 1000 allow for parallel fences on the waterside, provided that the panels do not exceed 2-ft and the columns not exceed 4-ft. The panels were measured 6-feet 3-inches and 3-feet 4-inches and the columns were 6-feet 6inches. See figures 3a, 3b and 4a.
- The construction of the solid masonry block wall interferes with RD 1000, State and Corps visual inspections and as such is in violation of the Board's Regulations Section 133 (c)(2), which states "...fences parallel to the levee must be an open type and constructed to provide for the unobstructed visual inspection of the levee slope and toe from the levee crown roadway."

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Figure 3a - New solid masonry wall. Board staff site visit June 22, 2011



Figure 3b - New solid masonry wall. Board staff site visit June 22, 2011

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Item II: Placement of utility lines associated with the new masonry block wall and new landscaping.

- New vegetation placed adjacent to the masonry wall is in violation of the U.S. Army
 Corps of Engineers ("Corps") vegetation policy Engineering Technical Letter 1110-2-571
 which requires the waterside levee slope plus 15-feet adjacent to the levee toe to be
 vegetation-free with the exception of perennial grasses. See figure 4a for photo of the
 site showing the new vegetation.
- The placement of utility lines associated with the masonry block wall are in violation of the Board's Regulations Section 123 (a)(1), which states "...conduits, utility lines and appurtenant structures may not be installed within the levee section, within ten (10) feet of levee toes....unless authorized by the General Manager..."



Figure 4a- New landscaping and parallel block wall constructed. Board staff site visit on June 22, 2011.

6.0 -CEQA ANALYSIS

Enforcement Action: 2011-138

Board staff has prepared the following CEQA determinations:

The Board, acting as the CEQA lead agency, has determined the project (enforcement action) is categorically exempt in accordance with CEQA Guidelines Section 15321 under Class 21 (a) actions of regulatory agencies to enforce standards and Section 15301 under Class 1 covering the minor alteration of existing public or private structures and facilities.

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Enforcement Action: 2011-138 Agenda Item No. 9C

7.0 – STAFF RECOMMENDATION

The information contained in this Staff report constitutes significant evidence that these encroachments interfere with the maintenance, performance, or functioning of the Sacramento River Flood Control Project and the adopted plan of flood control pursuant to Water Code sections 8708 and 8709. Pursuant to Water Code section 8708, the State has given assurances to the Corps that the State will maintain and operate federal flood control works. Therefore, the State is obligated to enforce the removal or modification of encroachments that impact the flood control system operations and maintenance. Furthermore, pursuant to Water Code section 8709, if an encroachment "does or may interfere with or obstruct the operation or maintenance" of the flood control works, the encroachments constitute a public nuisance. Therefore, the Board may commence or authorize actions to abate such nuisance.

For the reasons stated on this staff report, Board staff recommends the Board determine the encroachment removal to be exempt from CEQA, approve enforcement action 2011-138 to order removal of the unauthorized encroachments and order restoration of the site.

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8.0 - LIST OF ATTACHMENTS

- A. Board Enforcement Notice and Order No. 2011-138 dated May 20, 2011
- B. Correspondence
 - Exhibit A- RD 1000 Notified Respondents of violation in letter dated September 1, 2010
 - Exhibit B- Board staff email to Respondent on September 23, 2010
 - Exhibit C- Submitted Encroachment permit application with RD1000 endorsement
 - Exhibit D- DWR Inspector visited site and issued NOV dated October 6, 2010
 - Exhibit E- Board staff email to Respondent directing a cease and desist on October 18, 2010
 - Exhibit F- RD 1000 Cease and Desist letter to Respondent dated October 18, 2010
 - Exhibit G- Respondent's response to Board staff email dated October 18, 2010
 - Exhibit H- Letter dated April 12, 2011, to Respondent declining to process application
 - Exhibit I Sacramento County NOV issued on April 20, 2011
 - Exhibit J- Email dated June 9, 2011 from Respondent requesting a hearing
 - Exhibit K- Hearing request acknowledgement letter sent to Respondent on June 13, 2011
 - Exhibit L- Notice to Respondent to appear for hearing dated July 8, 2011
 - Exhibit M Letter to Mr. Rasmusson with copy of staff report dated July 20, 2011
 - Exhibit N Request for continuance letter from Mr. Rasmusson dated July 21, 2011
 - Exhibit O Letter dated July 26, 2011 to Mr. Rasmusson notifying of new date for hearing
 - Exhibit P E-mail dated August 15, 2011 to Mr. Rasmusson with copy of Board Meeting Agenda
- C. Easement Information
 - Exhibit A- Deed Recorded on Book 473 Page 74
 - Exhibit B- Joint Use Agreement dated June 26, 2009 (CA 5049)
- D. CVFPB Site cross section dated July 12, 2011
- E. Caltrans Highway Design Manual Appendix J Exhibit

Report Prepared by: Angeles Caliso

Document Review: Len Marino, Curt Taras, Ali Porbaha

Ward Tabor

Angeles Caliso Page 11 of 11

ATTACHMENT A

Enforcement Notice & Order No. 2011-138 Issued May 20, 2011

CENTRAL VALLEY FLOOD PROTECTION BOARD

3310 El Camino Ave., Rm. 151 SACRAMENTO, CA 95821 (916) 574-0609 FAX: (916) 574-0682 PERMITS: (916) 574-2380 FAX: (916) 574-0682



ENCROACHMENT REMOVAL ENFORCEMENT ORDER

The State of California - Central Valley Flood Protection Board (Board) has determined that encroachments in violation of the California Water Code or of the more specific California Code of Regulations (CCR) Title 23 Waters, Division 1 are constructed works or activities that threaten the successful execution, functioning, operations, or maintenance of an adopted plan of flood control. California Water Code Section 8709 also states that an encroachment that interferes with or obstructs such operation and maintenance constitutes a public nuisance. You are therefore requested to cease the encroaching activity and remove the encroachments described in the enforcement notice. You may obtain a compliance inspection of the encroachment removal by contacting the inspection section identified in the notice ten (10) days prior to the start of removal work. Restoration of the encroachment removal site shall be completed in accordance with the specifications found in the California Code of Regulations Title 23, Div 1, Article 8, Section 120 Levees which are summarized in the attached enforcement conditions.

Respondents Rights: The landowner or person owning, undertaking, or maintaining the work that is the subject of the attached notice is the respondent. The respondent has the opportunity to an enforcement hearing which must be requested in writing within 30 days of receipt of this notice. All hearings are open to the public and are held by one or more members of the Board or a designated hearing officer. Failure to file a hearing request response within thirty (30) days constitutes a waiver of the respondent's right to a hearing. The respondent and other parties may request the board provide a copy of any document not exempt from disclosure under the Public Records Act that is relevant to the enforcement proceedings. The Board may charge a reasonable fee for each copy.

Board's Rights: If the respondent fails to comply with this notice within the specified timelines, the Board may seek judicial enforcement and commence and maintain a suit in the name of the People of the State of California for the prevention and abatement of the nuisance. A failure to comply with this notice renders the owner or operator of any of the encroaching structures liable to any person for the damages caused by the structure's failure. The Board may also physically remove the violating encroachments using a contractor or the local maintaining agency and recover its costs from the respondent. Further, the Board may abate violations or threats to the adopted plan of flood control by requiring you to take an action, at your cost, that may include, but is not limited to: (1) removal of the work; (2) alteration of the work; (3) performance of additional work; (4) implementation of specified mitigation for effects on the environment; (5) compliance with additional reasonable conditions; (6) filing an application for a permit pursuant to this division; or (7) revocation of a permit.

Jay S. Punia Executive Officer

CENTRAL VALLEY FLOOD PROTECTION BOARD

3310 El Camino Ave., Rm. 151 SACRAMENTO, CA 95821 (916) 574-0609 FAX: (916) 574-0682 PERMITS: (916) 574-2380 FAX: (916) 574-0682



ENFORCEMENT CONDITIONS

Property Owner:

Mr. Lino Catabran

Mailing Address:

5291 Garden Highway Sacramento, CA 95833

Encroachment Location:

Sacramento River, Project Levee (East Bank), Unit 1, Levee Mile 9.02-9.11

Date: May 20, 2011

Enforcement Action: 2011-138

Local Maintaining Agency:

Reclamation District 1000

Assessor Parcel Number:

201-0330-031

GENERAL CONDITIONS:

- These enforcement conditions are issued under the provisions of Sections 8700-8723 of the California Water Code and the provisions of the California Code of Regulations, Title 23 Waters, Division 1, Article 8 Standards.
- 2. The property owner is responsible for all personal liability and property damage which may arise out of failure on the property owner's part to perform the obligations under this enforcement order. 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 property owner shall hold each of them harmless from each claim.
- Should any of the work not conform to the conditions of this enforcement notice, the property owner, 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 described.

REMOVAL CONDITIONS:

- 1. The Property Owner shall contact the Encroachment Control and Land Use Section by telephone at (916) 574-0609, to schedule an inspection conference at least 10 working days prior to start of work.
- 2. Encroachment removal work defined by this enforcement notice can NOT be completed during the flood season from November 1st through April 15th.
- 3. All unauthorized encroachment items within the levee section and easement area mentioned in the attached Enforcement Notice need to be removed.

RESTORATION CONDITIONS:

- Backfill all voids following the removal of the unauthorized encroachments within the levee section and easement area.
- 2. Fill material shall be placed in 4-inch to 6-inch layers, moisture conditioned with water or by drying to ± 2 percent of optimum moisture content, and compacted with a vibratory plate compactor or hand operated hammer to a minimum of 97 percent relative compaction as measured by ASTM Method D698.
- 3. Levee fill material must be free of stones or lumps exceeding three (3) inches in greatest dimension, and must be free of vegetative matter or other unsatisfactory materials.

- 4. Fill on levee section shall be keyed into the existing levee section whenever there is substantial fill, as determined by the inspector.
- 5. The finished slope of the levee must be 3:1 (horizontal: vertical) on the waterside of the levee.
- 6. Levee surfaces left barren due to encroachment removal shall be re-vegetated with sod or seeded grass.

CENTRAL VALLEY FLOOD PROTECTION BOARD

3310 El Camino Ave., Rm. 151 SACRAMENTO, CA 95821 (916) 574-0609 FAX: (916) 574-0682 PERMITS: (916) 574-2380 FAX: (916) 574-0682



Sent Via U.S. Certified Mail Return Receipt Requested

ENCROACHMENT REMOVAL ENFORCEMENT NOTICE

Property Owner: Mailing Address:

Mr. Lino Catabran 5291 Garden Highway

Sacramento, CA 95833

Date: May 20, 2011

Enforcement Action: 2011-138

Encroachment Location:

Sacramento River, Project Levee (East Bank), Unit 1, Levee Mile 9.02 - 9.11

Local Maintaining Agency:

Reclamation District 1000

Assessor Parcel Number:

201-0330-031

Description: The State of California - Central Valley Flood Protection Board (Board) staff has documentation that encroachment violations of the State Plan of Flood Control exist within its jurisdiction at this encroachment location consisting of the following:

1. Excavation on the waterside hinge point for the installation of a masonry block wall.

2. Placement of a parallel solid masonry block wall (varying from 6-8 ft high) including 2 gates within 10-feet from the waterside levee hinge point.

3. Placement of utility lines associated with the new masonry block wall and new landscaping.

Regulations: These encroachments are in violation of provisions in the California Water Code and the California Code of Regulations (CCR) Title 23 Waters, Division 1. The United States Army Corps of Engineers has also determined that these encroachments are in violation of provisions of the Code of Federal Regulations (CFR) Title 33--Navigation and Navigable Water, Part 208 –Flood Control Regulations. The provisions are as follows:

- 1. 33 CFR 208.10 Local flood protection works; maintenance and operation of structures and facilities.
- 2. California Water Code Section 8708 Flood Control Interference with Maintenance & Operation of Works.
- California Water Code Section 8709 Flood Control Public Nuisance; Abatement.

Conditions: Removal of the identified encroachments shall be completed in accordance with the attached enforcement conditions within sixty (60) days of receipt of this notice. To comply with this notice please schedule a compliance inspection within 10 days of the start of removal work. The rights of the Respondent and the Board are detailed in the attached enforcement order.

Staff Contact: The staff member assigned this enforcement action is: Angeles Caliso, Staff Engineer, Encroachment Control and Land Use Section; E-mail: acaliso@water.ca.gov; Desk: (916) 574-2386.

Signed.

Jay S. Punia Executive Officer

Attachments:

- 1. Enforcement Order
- 2. Enforcement Conditions
- 3. Site photos taken on November 3, 2010

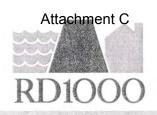




Source: Board staff site visit November 3, 2010 (property: 5291 Garden Highway, Sacramento CA)

ATTACHMENT B CORRESPONDENCE

Exhibit A	RD 1000 Notified Respondents of violation in letter dated September 1, 2010	
Exhibit B	Board staff email to Respondent on September 23, 2010	
Exhibit C	Submitted Encroachment permit application with RD1000 endorsement	
Exhibit D	DWR Inspector visited site and issued Notice of Violation dated October 6, 2010	
Exhibit E	Staff email to Respondent directing a cease and desist on October 18, 2010	
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Exhibit K	Hearing request acknowledgement letter dated June 13, 2011	
Exhibit L	Notice to Respondent to appear for hearing dated July 8, 2011	
Exhibit M	Letter dated July 20, 2011 to Mr. Eric Rasmusson with copies of staff report	
Exhibit N	Continuance request letter from Mr. Rasmusson dated July 21, 2011	
Exhibit O	Board staff letter dated July 26, 2011 to Mr. Rasmusson informing him of new hearing date.	
Exhibit P	Copy of Board Agenda sent to Mr. Rasmusson via e-mail on August 15, 2011	



RECLAMATION DISTRICT 1000

September 1, 2010

Lino and Linda Catabran 5291 Garden Highway Sacramento, CA 95837

Dear Mr. and Mrs. Catabran;

During a recent patrol along the Garden Highway levee by staff from our District, we noticed the levee area had been cleared and today plants and shrubs were delivered presumably to plant within the cleared area. Our District along with the State and Sacramento Area Flood Control Agency have done extensive outreach to residents along the Garden Highway advising them of the need for an encroachment permit from the Central Valley Flood Protection Board (CVFPB) with an endorsement by our District for any activity on or adjacent to the levee including the planting you appear ready to do.

We know you are aware of these regulations because in 2007 you requested and received permission from the State Reclamation Board (predecessor to the CVFPB) to modify the foundation of the residence. That approval explicitly stated it was only for the work included in your letter and any additional work would require prior approval of the CVFPB. Please be advised any work you do prior to obtaining a permit will need to be removed if it is not subsequently approved or does not meet the guidelines for vegetation on levees.

It is important to understand the need for these regulations. The levees along the Sacramento River protect the lives and property of thousands of Natomas residents as well as numerous businesses, schools, churches and other public property including Sacramento International Airport. During the flood season, our crews need to inspect the levee slope for erosion, seepage or other signs of levee distress. We must be able to access areas on and adjacent to the levee for emergency flood fight activities including placement of sandbags, visquine, large rocks or other materials. During non-flood season, our crews inspect the levees for necessary repairs, trim vegetation obstructing our view of the levee slope, and monitor for burrowing animals who may threaten the integrity of the levee system. It is important than any encroachment upon the levee and adjacent area not impede our ability to perform these crucial functions. If you have any questions about this letter you may contact me at 916-922-1449.

Sincerely,

Paul Devereux

General Manager/District Engineer

Jay Punia (CV Flood Protection Board) CC

Ali Porbaha (CV Flood Protection Board Encroachment Control)
Ryan Larson (Corps of Engineers)

Jim Day (Day, Carter, Murphy)

Caliso, Angeles

From: Caliso, Angeles

Sent: Thursday, September 23, 2010 1:17 PM

To: 'LINO CATABRAN'

Cc: Paul Devereux; Porbaha, Mohammad (Ali); Taras, Curt **Subject:** RE: 5291 Garden Hwy Emergency Permit Lot topography

Attachments: RD 1000 Special Encroachment Standards.pdf; Corps ETL 1110-2-571 Vegetation.pdf; Std

Project Levee Section.pdf; Catabran markup.pdf

Lino.

Since Paul already has a copy of the package, I suggest you re-submit the package with their endorsement to our office. I will go ahead and keep the package you submitted and replace the cover page with the RD endorsement once we receive it. Please note that our offices are closed every 2nd, 3rd and 4th Friday of each month due to furloughs.

Our application processing time is approximately 3 months. Given your situation, I will do my best to expedite your application. However, you should know that part of our permitting process includes obtaining concurrence from the U.S. Army Corps of Engineers. Once our review is complete and we have the Corps' review letter, we will schedule your application for the next available Board meeting. This meetings are held once a month, typically every 4th Friday of the month. However, with the current furloughs, they have been changed to the 4th Thursday of the month. You can find more information on this at our website (see link on my signature below).

Based on the plans that you submitted, my initial comments are as follows:

- No structures or utilities can be installed within 15' from the edge of the levee crown. Therefore, the drinking fountain and retaining wall must be relocated towards the waterside (closer to home).
- The only vegetation allowed within 15' from the edge of the levee crown is grass. See attached US Army Corps ETL 1110-2-571 for details on vegetation.
- The levee section cannot be penetrated.
- The parallel fence must be see-through to allow for inspections. See attached RD1000 standards for allowed fences
- Identify/show the center line of the levee and of Garden Highway.
- Provide cross section (per attached marked-up plan) showing horizontal and vertical information for the proposed work.

I'm also attaching a copy of the Board's standards for RD1000 to assist you in revising/modifying your plans. Also, you can find a copy of the Board's regulations on our website at the following link: http://www.cvfpb.ca.gov/regulations/Title23Tierlupdates Register2009.pdf

I will be out of the office next week (Monday thru Wednesday), but I will be checking my email periodically. In the time being, if you have any questions, or need additional information, please call.

Best Regards,

Angeles Caliso

Central Valley Flood Protection Board

(916) 574-2386 Office | (916) 628-0540 Mobile | (916) 574-0682 Fax

Email: acaliso@water.ca.gov | www.cvfpb.ca.gov

From: LINO CATABRAN [mailto:linoc@att.net] Sent: Thursday, September 23, 2010 9:36 AM

To: Caliso, Angeles **Cc:** Paul Devereux

Subject: Re: 5291 Garden Hwy Emergency Permit Lot topography

Good morning, and please call me Lino. I just got off the phone with Paul Devereux. He said he should be done with plan before noon tomorrow. I have left a complete package with him. Would it be ok if you held your package until I can add signed copy or should I pick up the package and have him sign all copies?

Once that is complete what is the approximate timeline before I can restart construction? In areas that there is no grading to be done, can I start building forms for driveway and footings? I appreciate your help.

Lino 916 240 8531

From: "Caliso, Angeles" <acaliso@water.ca.gov>

To: LINO CATABRAN < linoc@att.net >; "Dawson, Charles" < sdawson@water.ca.gov >

Cc: "Porbaha, Mohammad (Ali)" <mporbaha@water.ca.gov>; Paul Devereux <pdevereux@rd1000.org>; "Petersen,

Michael" < michaelp@water.ca.gov>

Sent: Thu, September 23, 2010 8:13:40 AM

Subject: RE: 5291 Garden Hwy Emergency Permit Lot topography

Mr. Catabran,

Thank you for submitting your application on such a timely manner. I did receive the original copies you hand-delivered to our office. However, your application is incomplete. Item #4 on the application requires the endorsement from the reclamation district, in this case RD 1000. Please get the District's signature and re-submit your package. Attached is a scan copy of the application you submitted. I will be mailing you back the package you submitted.

If you have any questions or need additional information, feel free to contact me.

Best Regards,

Angeles Caliso

Central Valley Flood Protection Board

(916) 574-2386 Office I (916) 628-0540 Mobile I (916) 574-0682 Fax

Email: acaliso@water.ca.gov | www.cvfpb.ca.gov

From: LINO CATABRAN [mailto:linoc@att.net]
Sent: Wednesday, September 22, 2010 2:03 PM

To: Caliso, Angeles; Dawson, Charles

Subject: 5291 Garden Hwy Emergency Permit Lot topography

I just wanted to make sure that you recieved the application I dropped at your office yesterday. I left it with someone with the last name Tice, I think. I am also attaching the lot topography which is also shown in the landscape plan but is hard to see. If I am missing anything please call me at home or on cell. 916 924 9999 home or cell 916 240 8531. I am obviously concerned about completing at least the steps and driveway before it starts raining. My contractor is trying to work with me but luckily for him he has a busy schedule.

I would llike to talk with you today for an update.

State of California

Attachment C DEPARTMENT OF WATER RESOURCES CENTRAL VALLEY FLOOD PROTECTION BOARD

California Natural Resources Agency

APPLICATION FOR A CENTRAL VALLEY FLOOD PROTECTION BOARD ENCROACHMENT PERMIT

			(For Office Use Only)
Description of proposed work:	EMERGEN	Ly REPLACET	20 TUBI
1. Description of proposed work:	NEW LA	LOSCAPE, FE	DCE, ONTE
PRINKLERS, LIGHTIM	O 4		APN 201-0330-8
	<	ACTO.	
2. Location: 5291 GARDE		County, in Section	1
Township:	(N) (S), Range	(W), M. D. B. & M.
3. LIND CATABR	AN	of 52RI GAT	Address
Name of Applic	eant		916-924-999
SACRAMENTO	State	Zip Code	Telephone Number
1) Ot commissed by Resolution	9/23/20 Date	onditions Attached Trustee	☐ No Conditions Date
January 812010 - corry of January 812010 - corry of 5. Names and addresses of adjace		ring a common boundary v	vith the land upon which the
contents of this application apply application form or an attached s	y. If add ional space is r sheet.	equired, list harries and ad-	dresses on back of the
THE BE LAU	JOHLIN S	225 CARDE	Zip Code New York 95837
Name		Address	Zip Code
ALBERY DEG	OZMAN =	5277 GAR	Den they 95837
TILBERG DEG	OZHAN "	S Z V C GAIN	Area (1230)

Attachment C 6. Has an environmental determination been made of the proposed work under the California Environmental Quality Pending ☐ Yes Act of 1970? If yes or pending, give the name and address of the lead agency and State Clearinghouse Number: SCH No. 7. When is the project scheduled for construction? Please check exhibits accompanying this application. A. Map showing the location of the proposed work. B. Drawings showing plan and elevation views of the proposed work, scale, materials of construction, etc. C. Drawings showing the cross section dimensions and elevations of levees, berms, stream banks, flood plain, low flow, etc. Photograph depicting the project site. 9. Is the applicant acting for the owner of the proposed works? Yes

Signature of Applicant

For additional information:

If yes, the name, address and telephone number of the owner is

HARDSCAPE/LANDSCAPE RENOVATION

DONALD JOSEPH INC.
Architecture Design Planning

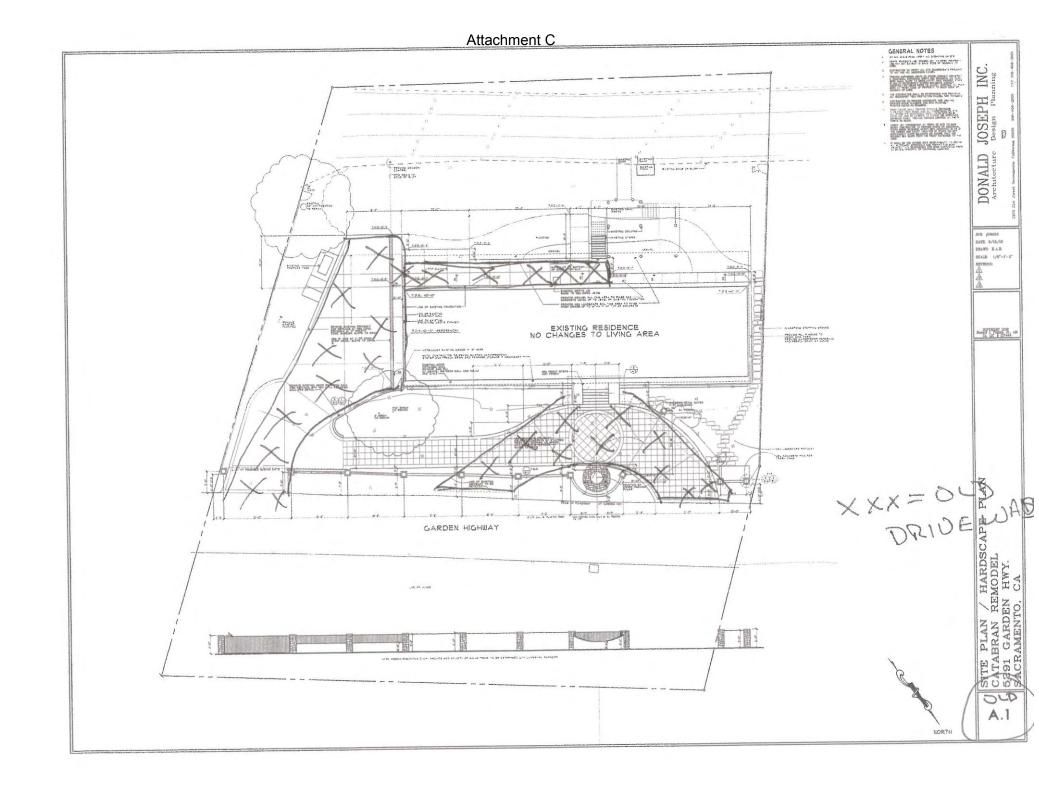
JOB: #08002 DATE: 5/85/08 DRAWN M.L.B.

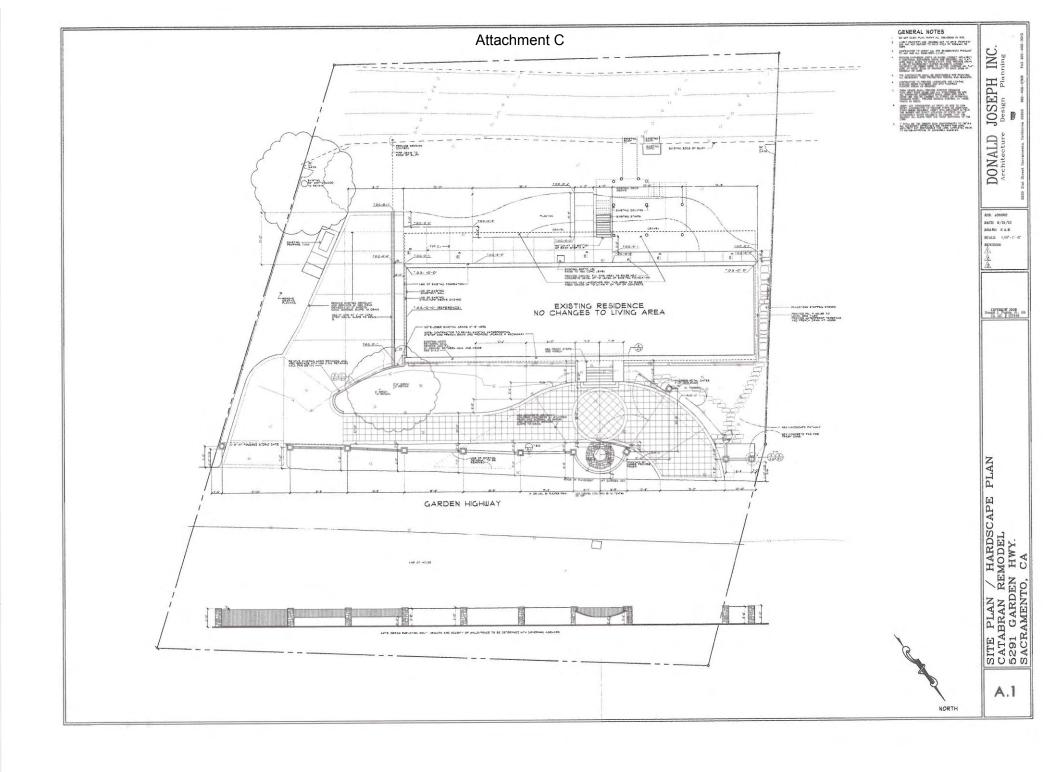
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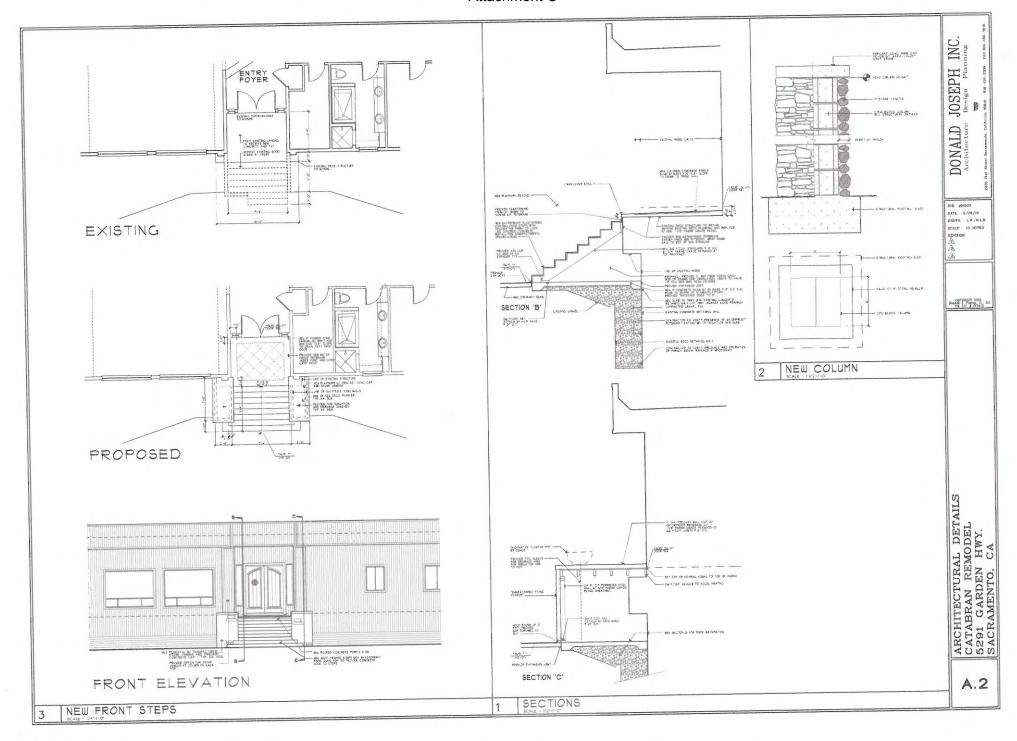
CATEBRAN RESIDENCE 5291 GARDEN HIGHWAY SACRAMENTO, CALIFORNIA

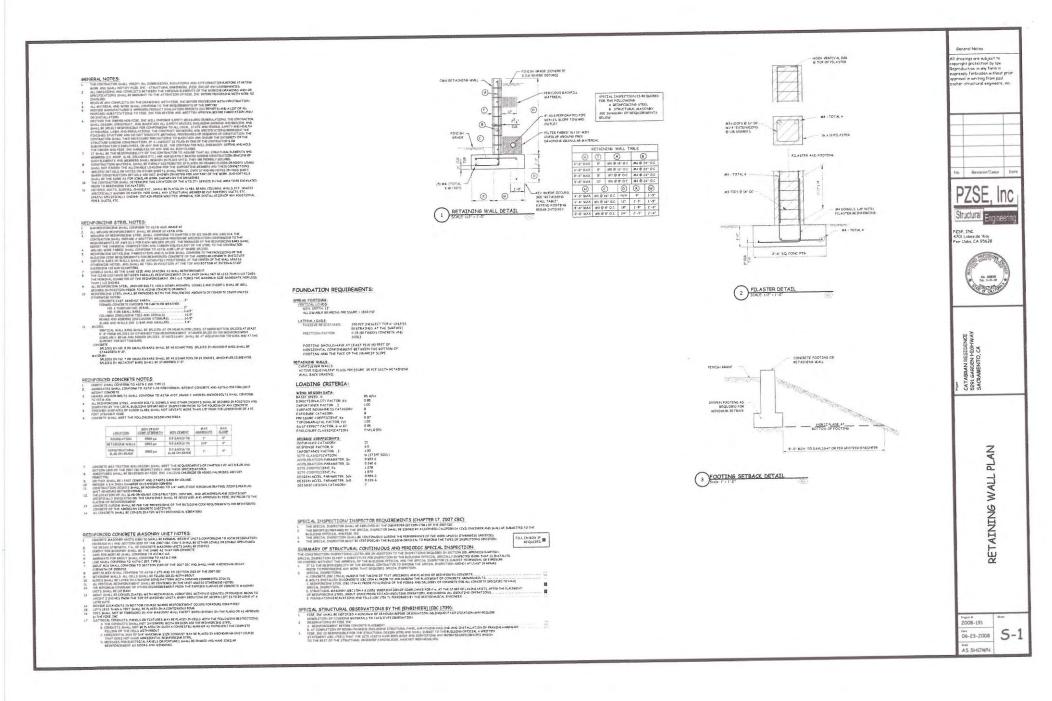
NO CHANGE TO AREA OR FOOTPRINT OR FLOOR HEIGHT OF EXISTING RESIDENCE. SCOPE OF WORK IS FOR NEW EXTERIOR HARDSCAPE AND LANDSCAPE ONLY

BBREVIATIONS	GENERAL NOTES	PROJECT INFORMATION
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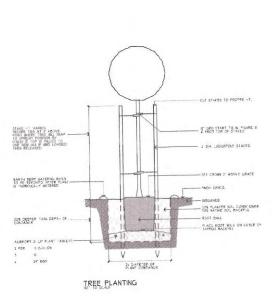
ALL IRRIGATION MATERIALS SHALL BE NOW AND IN PERFECT CONDITION AND SHALL BE OF THE SATE SIZE AND TYPE SPECIFED. REGISTOR VALVES SHALL BE INSTALLED IN PLANTER AREAS AND SCREENED BY SHRUBBERY MIEMEVER POSSIBLE. INSTALLED AGREES TO MOTEY INDERGROUND SERVICE ALERT - MODIFIED AGREES TO COMMENCING ANY EXGAVATION BORI FUC. FIRE AND RITHINGS ASSEMBLY - THE FIRE AND FITTINGS SHALL BE THOROUGHLY CLEARED OF DRT. DUST, AND HOSTURE DEFORE APPLYING SOLVENT. CONTRACTOR ULL MAKE SOLVENT 18:05 MTH A NOW-SYNTHETIC BRISTLE BRUSH IN THE FOLLOWING SEQUENCE CUT PIPE SQUARE WITH FINE TOOTH HACKSAN 2 BURR THE CUT THE END 3. CHEAN DRY AND POSTURE FROM PURE AND FITTING SOCKET APPLY SOLVENT TO ASIDE OF FITTING SOCKET IVERT THE LATER 5 APPLY SOLVENT TO OUTSIDE OF PIPE 4 STAB PARE TO STOP M HITTING SOCKET BITH A ROTATION HOVERENT OF APPROX V4 TURK. I HOLD JOINT FOR BO SECONDS TO SET. 8 DO NOT APPLY MATER PRESSURE FOR 24 HOURS. NOTE: DO NOT USE AN EXCESSIVE AFOINT OF SOLVENT. ALL EXCESS SOLVENT SHOULD BE MIPED OFF EXCESSIVE SOLVENT UPLIFIED THE PIPE. IRRIGATION GUARANTEE MATERIA'S AND ABOR SHALL BE GRANANTEED AGAINST ANY DEFECT OF MATERIA: OF BORCHANSHIP FOR A PERSON LOKEL YEAR FROM DATE OF COPPLETION FRESH GRADE DRABAGE SYSTEM 3/8 x 4 REDBOOD BENDER BOARD BENDER BOARD SHALL BE A STANDARD 3/8 x 4 REDBOOD. STAKES SHALL BE NOW MR STAKES NALS SHALL BE BY COTTON CALVANZED HARS. 24 PEDROOD READER BOARD HEADER BOARD SHALL BE ROUGH 244 REDUCOD STAKES SHALL BE MAD FIR STAKES WALS SHALL BE ME CONTROL GRIVANZED WAS S TREE AND SHRUB PLANTING

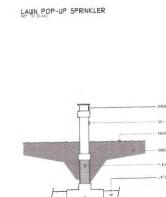
SOD BISTALLATION GROWD COVER SHALL BE CAREFULLY FLANTED TO NEURE FARMER DO DERBANCE OF PLANT ROOTS. SOL. ARCHAD ROOTS SHALL BE FIRST CREEDED COVER SHALL BE SPACED AS SECURED ON PLAN CARE SHALL BE TAKEN TO PREVENT PLANTS FROM DEPRO, OUT REPORT OF EDITING PLANTAL TOLLORIS BEHALLTON FERTILIZER SHALL BE APPLIED AS THE STRUMENTS. ALL FILL SO. SHALL BE OF CONSISTENT TEXTURE AND FRANCE FOR THEOS, ASPRALL, CONCRETE, AND/OR THARD FAN PLANT HATERIAL SOD LAWN SOD LAWS SHALL BE FREE OF MOXICUS SMEDS, MEECLS. PRISTS AND DISEASE, SOD SHALL BE WELL-ROOTED SITH A LAY FIRSTLY SOL BASE. FERTLEER PRE-EMERGENCE HERBICIDE PRE-BHERSENCE HERDICIDE SHALL DE RONSTAR BRAND OR EQUAL AND APPLED AS PER MANUFACTURER'S INSTRUCTIONS. THEE STAKES AND THE THER STAKES SHALL BE I'D AMETIE LODGEPOLE PINE
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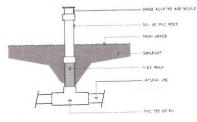
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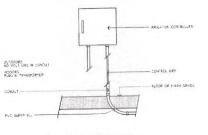
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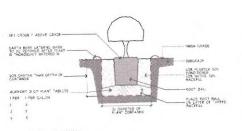








WALL MOUNT CONTROLLER NOTE MOUNT CONTROLLER SECURELY TO LALL OR BULDAG



SHRUB PLANTING

INC. JOSEPH Design Plan DONALD

PLEXIBLE CUT-OFF RISER MENGTH AS NECESSARD

- PART TEE OF ELL

200000 HOL DATE: 8/26/08 SHAWN: M.L.B./S.M. BCALE: 1/6"=1"-0"

CA LC # C)7449

LANDSCAPE DETAILS CATABRAN REMODEL 5291 GARDEN HWY. SACRAMENTO, CA

Lino:

Per Linda and your selections, we have so far selected the following to plant in your front yard:

Acer Palmatum, 5 -7 mature trees, various varieties
Betula Pendula, replace birch trees that had to be removed due to driveway restructure
Buxus, suffriticosa and Green Gem
Daphne odorata
Escallonia compacta
Euphorbia, Tasmanian Tiger
Gardenia, radicans
Grevillia noellii
Liriope muscari
Miscanthus, morning light
Nandina, Compacta and harbor dwarf
Podocarpus, macrophyllus
Pittosporum, Wheeler's Dwarf

Jackie Bird Clancy's Garden

Resolution No. 2010-02

WHEREAS, Reclamation District No. 1000 (District) operates and maintains levees under the authority of the California Central Valley Flood Protection Board (CCVFPB)and the California Water Code; and

WHEREAS, the CCVFPB and Title 23 of the California Water Code require any encroachment on or adjacent to the levee or within the designated floodway have an encroachment permit be issued by the CCVFPB with appropriate conditions to insure they do not impede or impair the operations and maintenance of the flood control system; and

WHEREAS, such permit applications are reviewed and endorsed by the local maintaining agency responsible for the operations and maintenance of the levee system where the encroachment is proposed and allows for conditions to be included in the permits to address issues including, but not limited to, operations, maintenance, public safety and flood emergency response; and

WHEREAS, endorsement of the permit applications for levees surrounding the Natomas basin are the purview of the District and various actions through the years by past District Boards have granted authority to the General Manager to endorse permit applications; and

WHEREAS, the Board desires to enumerate a clear policy on how future permit applications are to be reviewed and endorsed by the District

NOW, THEREFORE BE IT RESOLVED:

The Reclamation District No. 1000 Board of Trustees desires to delegate their authority to endorse encroachment permit applications to the District General Manager for routine encroachments and those which do not involve District policy issues. A determination as to which permits will be endorsed by the General Manager shall be left to his or her judgment, provided however, that all such endorsements shall be presented to the Board of Trustees at the next scheduled Board meeting.

Those permit applications which are not routine in nature, present policy issues or are likely to be controversial shall be brought to the Board for consideration and action at which time the Board may delegate signature authority to the General Manager if approved. This will include all permit applications where the General Manager is recommending denial to the California Central Valley Flood Protection Board.

CERTIFICATION

I, Terrie Figueroa, Secretary of Reclamation District No, 1000, hereby certify that the foregoing Resolution 2010-02 was duly adopted by the Board of Trustees of Reclamation District No, 1000 at a regular meeting held January 8, 2010 and made a part of the minutes thereof.

Terrie Figueroa

District Secretary



RECLAMATION DISTRICT 1000

Permit Conditions

Permit Application No. Unnumbered

Location: 5291 Garden Highway (Sacramento River RM 69.5L approx)

Applicant: Lino and Linda Catabran

Description: Replace existing driveway, construct wrought iron fence, and place

landscaping including miscellaneous plants and trees

CONDITIONS:

 Maintenance of all encroaching structures, facilities, vegetation or any other items or matters approved under this permit shall remain the responsibility of the Permittee.

- 2. Permittee may be required, at the Permittee's sole cost and expense, to remove, alter, relocate, or reconstruct all or any part of the permitted work if such 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 the encroaching facilities interferes with the District's ability to operate and maintain its flood control facilities or if the encroaching facilities are damaged by any cause.
- Permittee(s) hereby agree(s) to indemnify and hold and save the District and its employees harmless from any damage, costs or liability, including all costs of defense, which may arise as result of the exercise of this Permit.
- Permittee(s) agree(s) to replace or repair any District property used and/or damaged as a result of the exercise of this Permit to the satisfaction of the District.
- Proposed wrought iron fence shall be located a minimum of 5 feet from the existing fog line of the Garden Highway.
- 6. No trees are permitted in the levee section as determined by RD 1000 and the Central Valley Flood Protection Board (CVFPB) until such time as the levee improvements under the Natomas Levee Improvement Project are completed adjacent to this property. With completion of the levee improvements, the vegetation variance approved by the Corps of Engineers would apply allowing the trees to be planted.

- 7. Vegetation shall be maintained in a manner acceptable to RD 1000 and shall provide for reasonable visibility of the levee slope from the Garden Highway as determined by RD 1000 and the CVFPB. This shall require at least annual trimming and thinning prior to the flood season (November 1) which shall be at the Permittee's sole expense. Should RD 1000 have to trim or thin the vegetation to meet this condition, such costs shall be reimbursed by the Permittee.
- Permittee acknowledges RD 1000, CVFPB, and other flood control officials or their authorized representatives may access the levee slope and immediately adjacent area as necessary to carry out their flood control responsibilities and shall provide access through any gates or fences to the satisfaction of RD 1000 and the CVFPB.

State of California

DEPARTMENT OF WATER RESOURCES
Division of Flood Management/Flood Project Inspection Section

The Resources Agency

NOTICE OF VIOLATION

DATE 10-6-10	RD-1000	L	ANDOWNER/CONTRACTOR		
PHONE NO.	ADDRESS	SARDER	1 Huy		
A Department of Water Resources' Inspector has found you in violation of Title 23 of the California Code of Regulations which protects floodways and flood control structures.					
TYPE OF VIOLATION					
1. MUNAUTHORIZED EI	NCROACHMENT	4.	IMPROPER MAINTENANCE		
2. UNAUTHORIZED SI	POIL OR WASTE	5.	OTHER:		
3. MUNAUTHORIZED W	ORK				
REQUESTED CORRECTION	STOP ALL U	JORK			
Corrective action must be taken no late	er than				
If you have questions about this notice	, please contact the inspec	ctor listed belov	w. If corrective action is not taken, the		
Department may request that enforcen	nent action be taken again	st you.			
Received By		1	1 464		
Inspector CLAY THON	Phone I	No. 916 2	14-3532 Pager		
Comments					
DWR 168T (Rev. 7/03)	Original-White; LMA-Gre	een; Rec. Bd-Cana	ary; Inspector-Pink; Landowner/Contractor-Goldenrod		

Caliso, Angeles

From: Caliso, Angeles

Sent: Monday, October 18, 2010 10:34 AM

To: 'LINO CATABRAN'

Cc: Porbaha, Mohammad (Ali); Taras, Curt; Marino, Len; Thomas, Clay; 'Paul Devereux'; Lemon,

Gary

Subject: NOTICE: Cease & Desist All work at 5291 Garden Hwy **Attachments:** RE: 5291 Garden Hwy Emergency Permit Lot topography

Importance: High

Mr. Catabran,

You are hereby noticed to stop all work at your property immediately. You are only authorized to do any work that is necessary to stabilize the site for erosion and public safety. All other work must wait until you have a Board approved permit.

When you hand-delivered your Board application to me on September 23, 2010, I informed you that you could not continue with any work until you received a Board permit. Furthermore, I informed you that no encroachments would be allowed to be built within 15 feet from the waterside crown hinge point. This included your proposed fence, water feature, utility lines, and landscaping (with the exception of grass). Refer attached email on 09/23/10 with comments on your submitted plans.

We have been informed that you have continued to work on your property after you were notified to stop all work on the following dates:

- September 1, 2010 Letter from RD1000
- September 21, 2010 Board staff, DWR Inspector & RD 1000 Manager site visit to your property
- September 23, 2010 Meeting with me at our office, delivering RD endorsement of your Board application
- October 6, 2010 DWR Inspector issued Notice of Violation during a site visit to your property

If you fail to follow this notice, your submitted Board application will NOT be processed and an Enforcement Action will be initiated.

Best Regards,

Angeles Caliso I Water Resources Engineer Central Valley Flood Protection Board

Encroachment Control & Land Use Section

3310 El Camino Avenue, Room 151 I Sacramento, CA 95821 (916) 574-2386 Office I (916) 628-0540 Mobile I (916) 574-0682 Fax

Email: acaliso@water.ca.gov | www.cvfpb.ca.gov

Caliso, Angeles

From: Paul Devereux [pdevereux@rd1000.org]
Sent: Monday, October 18, 2010 6:44 PM

To: linoc@att.net

Cc: Porbaha, Mohammad (Ali); Punia, Jay; Caliso, Angeles; 'Mike Blickle'

Subject: Cease and desist block wall

Attachments: 5291 Garden Highway (Catabran)--cease and desist order.pdf

Lino,

Attached is my cease and desist order for any more work on your site—particularly the solid block wall. This wall is in violation of the California Water Code Title 23 standards. With a solid wall I cannot see to do my job to operate and maintain the levee. The plans you submitted to me showed a wrought iron fence which, if there is no vegetation, provides visibility. The wall will have to be removed, so I am notifying you now so it can be removed more easily before the concrete sets.

I have been trying to work with you to make sure the site is safe for you and your family and then secure the appropriate permit to work next spring on the remainder. However, your actions are not consistent with trying to work with me! I know the State also has told you to stop working and issued you two notices to that affect.

Paul Devereux General Manager/District Engineer Reclamation District No. 1000 916-922-1449 pdevereux@rd1000.org



RECLAMATION DISTRICT 1000

October 18, 2010

Lino and Linda Catabran 5291 Garden Highway Sacramento, CA 95837

Subject:

Cease and Desist Order

Dear Mr. and Mrs. Catabran;

You are hereby notified to cease and desist any further work on the area adjacent to your home along the Sacramento River levee which includes any more work on the block wall under construction today. I drove by your house today after receiving a phone call from our District Superintendent indicating you had constructed a solid block wall 6 to 8 feet in height within 10 feet of the waterside levee hinge point. This solid wall is in violation of the California Water Code Title 23 and is unacceptable to the District.

I have been assisting you to get authority from the Central Valley Flood Protection Board to restore the area along the levee in front of your house to make it safe for you and your family. This was to be limited to replacing the driveway and entrance stairs to your house. The encroachment permit application I endorsed and sent to the Central Valley Flood Protection Board included plans which clearly delineated a **wrought iron fence** in front of your house along the driveway. Subsequent to my endorsement of the permit, you were instructed by the CVFPB staff to cease any further work until the permit was approved. And subsequently, I believe they allowed you to continue work to stabilize and restore the levee. I reiterated these limitations when you visited my office this past Friday. However, the solid wall was never approved by me or the CVFPB. The wall will need to be removed.

Our District needs to be able to monitor the area along the levee during high water and access the levee to respond in an emergency. The solid wall will block our view of the levee and adjacent area. These issues were described in detail in my September 1, 2010 letter to you. Please call me so we can clear up any confusion and get the wall removed so we have visibility and access along the levee for the coming flood season.

Sincerely,

Paul Devereux

General Manager/District Engineer

CC

Jay Punia (CV Flood Protection Board)
Ali Porbaha (CV Flood Protection Board Encroachment Control)

Ryan Larson (Corps of Engineers) Jim Day (Day, Carter, Murphy)

Caliso, Angeles

From: LINO CATABRAN [linoc@att.net]
Sent: Tuesday, October 19, 2010 12:12 PM

To: Caliso, Angeles

Cc: Porbaha, Mohammad (Ali); Taras, Curt; Marino, Len; Thomas, Clay; Paul Devereux; Lemon,

Gar

Subject: Re: NOTICE: Cease & Desist All work at 5291 Garden Hwy

Ms Caliso, I have terminated all work as directed and apologize for any problems that I have caused. I am going to review the attachments that you have sent and will respond within 24 hours. I believe all work completed is compliant with your regulations. The fence is fifteen feet from center line at its closest point. It is only that close for a couple of inches then curves away to eight feet from the fog line. The north 40 ft of the exterior wall height is 5 ft and the columns are 5ft 8". This section is also directly in front of the home and does not block any view of the levee or river. Going south after 5 ft wall and as soon as the home no longer blocks river view, the wall drops to 2 1/2 ft. As shown in the plan it is to have wrought iron in those panels. The two gates are also wrought iron. In regards to the ability to see the levee and river, this project has resulted in hundreds of additional feet of visibility.

Please accept my apology for any grief I have caused.

Sincerely, Lino Catabran

From: "Caliso, Angeles" < acaliso@water.ca.gov >

To: LINO CATABRAN < linoc@att.net>

Cc: "Porbaha, Mohammad (Ali)" <<u>mporbaha@water.ca.gov</u>>; "Taras, Curt" <<u>ctaras@water.ca.gov</u>>; "Marino, Len" <<u>lmarino@water.ca.gov</u>>; "Thomas, Clay" <<u>cathom@water.ca.gov</u>>; Paul Devereux <<u>pdevereux@rd1000.org</u>>; "Lemon,

Gary" < glemon@water.ca.gov >

Sent: Mon, October 18, 2010 10:34:17 AM

Subject: NOTICE: Cease & Desist All work at 5291 Garden Hwy

Note: Forwarded message is attached.

Mr. Catabran,

You are hereby noticed to stop all work at your property immediately. You are only authorized to do any work that is necessary to stabilize the site for erosion and public safety. All other work must wait until you have a Board approved permit.

When you hand-delivered your Board application to me on September 23, 2010, I informed you that you could not continue with any work until you received a Board permit. Furthermore, I informed you that no encroachments would be allowed to be built within 15 feet from the waterside crown hinge point. This included your proposed fence, water feature, utility lines, and landscaping (with the exception of grass). Refer attached email on 09/23/10 with comments on your submitted plans.

We have been informed that you have continued to work on your property after you were notified to stop all work on the following dates:

- September 1, 2010 Letter from RD1000
- September 21, 2010 Board staff, DWR Inspector & RD 1000 Manager site visit to your property
- September 23, 2010 Meeting with me at our office, delivering RD endorsement of your Board application
- October 6, 2010 DWR Inspector issued Notice of Violation during a site visit to your property

If you fail to follow this notice, your submitted Board application will NOT be processed and an Enforcement Action will be initiated.

Best Regards,

Angeles Caliso I Water Resources Engineer
Central Valley Flood Protection Board
Encroachment Control & Land Use Section

3310 El Camino Avenue, Room 151 I Sacramento, CA 95821 (916) 574-2386 Office I (916) 628-0540 Mobile I (916) 574-0682 Fax

Email: <u>acaliso@water.ca.gov</u> | <u>www.cvfpb.ca.gov</u>

STATE OF CALIFORNIA - CALIFORNIA NATURAL RESOURCES AGENCY

EDMUND G. BROWN JR., GOVERNOR

CENTRAL VALLEY FLOOD PROTECTION BOARD

3310 El Camino Ave., Rm. 151 SACRAMENTO, CA 95821 (916) 574-0609 FAX: (916) 574-0682 PERMITS: (916) 574-2380 FAX: (916) 574-0682



Via certified mail

April 12, 2011

Mr. Lino Catabran 5291 Garden Highway Sacramento, California 95837

Subject: Application No. 18635

Dear Mr. Catabran:

After further review of your application No. 18635 to the Central Valley Flood Protection Board ("Board"), Board staff has determined your application to be non-conforming with California Code of Regulations Title 23 and therefore your application will not be processed for the following reasons:

- You failed to obtain Board authorization prior to the commencement of the work, as required by California Code of Regulations, Title 23, Section 6 (a). You failed to follow the various notices issued to you by RD 1000 and Board staff to stop all work on your property until a Board permit was obtained. See attached Exhibits A, B, C, and D.
- 2. Your application requested authorization for a wrought iron fence. However, the fence you constructed consists of 8-ft high solid masonry and a wrought iron gate. Solid masonry walls along Garden Highway, within RD 1000, cannot exceed a height of 2 feet and the piers cannot exceed 4 feet in height. See attached Exhibit E.
- 3. The work constructed at your property will impair the inspection of the project levee and floodway. It interferes with periodic maintenance and will impair floodfighting, patrolling and other flood emergency activities of the floodway or project levee (pursuant to California Code of Regulations, Title 23, Section 15 (a) (4), (5) and (6)).
- 4. During a site visit of your property on November 3, 2010, the Board staff notified you that the unauthorized parallel fence was too close to Garden Highway's fog line and informed you that a Board permit was required before any work could take place.
- 5. A building permit from Sacramento County may be required for the work that has already taken place at your property. Please contact Mr. George Booth at (916) 874-6484.

Mr. Lino Catabran April 12, 2011 Page 2 of 2

The work constructed is in violation of the Board's Regulations and our office will be initiating an enforcement action against you for the unauthorized work completed without a Board permit. If you need further information, please contact Ms. Angeles Caliso at (916) 574-2386 or via e-mail at acaliso@water.ca.gov.

Sincerely.

Len Marino, P.E. Chief Engineer

Attachments:

Exhibit A: RD1000 letter dated September 1, 2010

Exhibit B: Notice of Violation issued by DWR Inspector on October 6, 2010

Exhibit C: RD1000 Cease & Desist e-mail correspondence and letter dated October 18, 2010

Exhibit D: Board Cease & Desist Order via email on October 18, 2010

Exhibit E: Fences on the waterside of RD1000

Exhibit F: Board staff site visit photos on November 3, 2010

cc: Ms. Meegan Nagy, Chief
Flood Protection & Navigation Section
Sacramento District
U.S. Army Corps of Engineers
1325 J Street
Sacramento, California 95814-2922

Mr. George Booth Department of Water Resources Sacramento County 827 7th Street, #301 Sacramento, CA 95814

Mr. Don Rasmussen, Branch Chief Mr. David Pesavento, Section Chief Mr. Clay Thomas, Inspector Flood Project Integrity and Inspection Branch Department of Water Resources

Robin Brewer, Senior Staff Counsel Department of Water Resources



RECLAMATION DISTRICT 1000

September 1, 2010

Lino and Linda Catabran 5291 Garden Highway Sacramento, CA 95837

Dear Mr. and Mrs. Catabran;

During a recent patrol along the Garden Highway levee by staff from our District, we noticed the levee area had been cleared and today plants and shrubs were delivered presumably to plant within the cleared area. Our District along with the State and Sacramento Area Flood Control Agency have done extensive outreach to residents along the Garden Highway advising them of the need for an encroachment permit from the Central Valley Flood Protection Board (CVFPB) with an endorsement by our District for any activity on or adjacent to the levee including the planting you appear ready to do.

We know you are aware of these regulations because in 2007 you requested and received permission from the State Reclamation Board (predecessor to the CVFPB) to modify the foundation of the residence. That approval explicitly stated it was only for the work included in your letter and any additional work would require prior approval of the CVFPB. Please be advised any work you do prior to obtaining a permit will need to be removed if it is not subsequently approved or does not meet the guidelines for vegetation on levees.

It is important to understand the need for these regulations. The levees along the Sacramento River protect the lives and property of thousands of Natomas residents as well as numerous businesses, schools, churches and other public property including Sacramento International Airport. During the flood season, our crews need to inspect the levee slope for erosion, seepage or other signs of levee distress. We must be able to access areas on and adjacent to the levee for emergency flood fight activities including placement of sandbags, visquine, large rocks or other materials. During non-flood season, our crews inspect the levees for necessary repairs, trim vegetation obstructing our view of the levee slope, and monitor for burrowing animals who may threaten the integrity of the levee system. It is important than any encroachment upon the levee and adjacent area not impede our ability to perform these crucial functions. If you have any questions about this letter you may contact me at 916-922-1449.

Sincerely,

Paul Devereux

General Manager/District Engineer

cc Jay Punia (CV Flood Protection Board)

Ali Porbaha (CV Flood Protection Board Encroachment Control)

Ryan Larson (Corps of Engineers) Jim Day (Day, Carter, Murphy) The Resources Agency

State of California

Division of Flood Management/Flood Project Inspection Section

NOTICE OF VIOLATION

DATE 10-6-10 RD-1000	LANDOWNER/CONTRACTOR
ADDRESS	CARDEN HUSY
A Department of Water Resources' Inspector has found you in violation of Title 23 of the California Code of Regulations which protects floodways and flood control structures.	in violation of Title 23 of the flood control structures.
TYPE OF VIOLATION	
1. ☑ UNAUTHORIZED ENCROACHMENT 2. ☐ UNAUTHORIZED SPOIL OR WASTE 5. [☐ IMPROPER MAINTENANCE
REQUESTED CORRECTION STAP ALL CLOCK K	
Corrective action must be taken no later than	low. If corrective action is not taken, the
Inspector CLAY THOMAS Phone No. 916	Phone No. 916 214-3532 Pager

Attachment C

Original-White; LMA-Green; Rec. Bd-Canary; Inspector-Pink; Landowner/Contractor-Goldenrod

DWR 168T (Rev. 7/03)

Caliso, Angeles

From: Sent: Paul Devereux [pdevereux@rd1000.org]

To:

Monday, October 18, 2010 6:44 PM linoc@att.net

Cc:

Porbaha, Mohammad (Ali); Punia, Jay; Caliso, Angeles; 'Mike Blickle'

Subject:

Cease and desist block wall

Attachments:

5291 Garden Highway (Catabran)--cease and desist order.pdf

Lino,

Attached is my cease and desist order for any more work on your site—particularly the solid block wall. This wall is in violation of the California Water Code Title 23 standards. With a solid wall I cannot see to do my job to operate and maintain the levee. The plans you submitted to me showed a wrought iron fence which, if there is no vegetation, provides visibility. The wall will have to be removed, so I am notifying you now so it can be removed more easily before the concrete sets.

I have been trying to work with you to make sure the site is safe for you and your family and then secure the appropriate permit to work next spring on the remainder. However, your actions are not consistent with trying to work with me! I know the State also has told you to stop working and issued you two notices to that affect.

Paul Devereux General Manager/District Engineer Reclamation District No. 1000 916-922-1449 pdevereux@rd1000.org



RECLAMATION DISTRICT 1000

October 18, 2010

Lino and Linda Catabran 5291 Garden Highway Sacramento, CA 95837

Subject:

Cease and Desist Order

Dear Mr. and Mrs. Catabran;

You are hereby notified to cease and desist any further work on the area adjacent to your home along the Sacramento River levee which includes any more work on the block wall under construction today. I drove by your house today after receiving a phone call from our District Superintendent indicating you had constructed a solid block wall 6 to 8 feet in height within 10 feet of the waterside levee hinge point. This solid wall is in violation of the California Water Code Title 23 and is unacceptable to the District.

I have been assisting you to get authority from the Central Valley Flood Protection Board to restore the area along the levee in front of your house to make it safe for you and your family. This was to be limited to replacing the driveway and entrance stairs to your house. The encroachment permit application I endorsed and sent to the Central Valley Flood Protection Board included plans which clearly delineated a **wrought iron fence** in front of your house along the driveway. Subsequent to my endorsement of the permit, you were instructed by the CVFPB staff to cease any further work until the permit was approved. And subsequently, I believe they allowed you to continue work to stabilize and restore the levee. I reiterated these limitations when you visited my office this past Friday. However, the solid wall was never approved by me or the CVFPB. The wall will need to be removed.

Our District needs to be able to monitor the area along the levee during high water and access the levee to respond in an emergency. The solid wall will block our view of the levee and adjacent area. These issues were described in detail in my September 1, 2010 letter to you. Please call me so we can clear up any confusion and get the wall removed so we have visibility and access along the levee for the coming flood season.

Sincerely,

Paul Devereux

General Manager/District Engineer

CC

Jay Punia (CV Flood Protection Board)
Ali Porbaha (CV Flood Protection Board Encroachment Control)
Ryan Larson (Corps of Engineers)
Jim Day (Day, Carter, Murphy)

Caliso, Angeles

From:

Caliso, Angeles

Sent:

Monday, October 18, 2010 10:34 AM

To:

'LINO CATABRAN'

Cc:

Porbaha, Mohammad (Ali); Taras, Curt; Marino, Len; Thomas, Clay; 'Paul Devereux'; Lemon,

Gar

Subject: Attachments: NOTICE: Cease & Desist All work at 5291 Garden Hwy RE: 5291 Garden Hwy Emergency Permit Lot topography

Importance:

High

Mr. Catabran,

You are hereby noticed to stop all work at your property immediately. You are only authorized to do any work that is necessary to stabilize the site for erosion and public safety. All other work must wait until you have a Board approved permit.

When you hand-delivered your Board application to me on September 23, 2010, I informed you that you could not continue with any work until you received a Board permit. Furthermore, I informed you that no encroachments would be allowed to be built within 15 feet from the waterside crown hinge point. This included your proposed fence, water feature, utility lines, and landscaping (with the exception of grass). Refer attached email on 09/23/10 with comments on your submitted plans.

We have been informed that you have continued to work on your property after you were notified to stop all work on the following dates:

- September 1, 2010 Letter from RD1000
- September 21, 2010 Board staff, DWR Inspector & RD 1000 Manager site visit to your property
- September 23, 2010 Meeting with me at our office, delivering RD endorsement of your Board application
- October 6, 2010 DWR Inspector issued Notice of Violation during a site visit to your property

If you fail to follow this notice, your submitted Board application will NOT be processed and an Enforcement Action will be initiated.

Best Regards,

Angeles Caliso | Water Resources Engineer

Central Valley Flood Protection Board Encroachment Control & Land Use Section

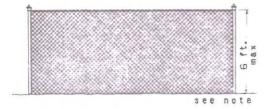
3310 El Camino Avenue, Room 151 | Sacramento, CA 95821 (916) 574-2386 Office | (916) 628-0540 Mobile | (916) 574-0682 Fax

Email: acaliso@water.ca.gov | www.cvfpb.ca.gov

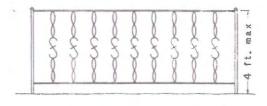
FENCES ON RIVER LEVEE

LEFT BANK SACRAMENTO RIVER AMERICAN RIVER TO NATOMAS CROSS CANAL

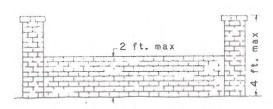
FOR BERMS WHERE FILL IS LESS THAN
ONE FOOT ABOVE PROJECT DESIGN FLOOD PLANE



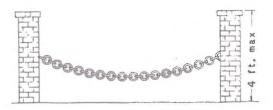
METAL POSTS AND CHAIN LINK FENCE TOP RAIL AND POSTS MAY BE ORNAMENTAL



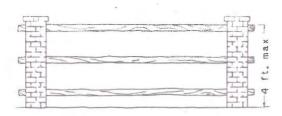
ORNAMENTAL METAL FENCE



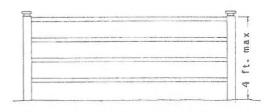
SOLID MASONRY WALL OR CURB
MATERIAL OPTIONAL—BRICK, CUT STONE,
RUBBLE OR CONCRETE. PIERS MAY BE OMITTED.
SPACING OF PIERS 8.0 FT. MINIMUM



BRICK PIERS AND CHAIN FENCE MATERIAL FOR PIERS OPTIONAL—BRICK, CUT STONE, RUBBLE OR CONCRETE. SPACING OF PIERS 8.0 FT. MINIMUM.



BRICK PIERS AND WOOD RAILS
MATERIAL FOR PIERS OPTIONAL—BRICK, CUT
STONE, RUBBLE, CONCRETE, WOOD, OR METAL,
SIZE OF PIER OPTIONAL. SPACING OF
PIERS 8.0 FT. MINIMUM.



WOOD POSTS AND RAIL FENCE SPACING OF POSTS 8.0 FT. MINIMUM.

NOTE: Where the elevation of the top of the fill on berms is less than one foot above project design flood plane, chain link fences up to six feet high may be installed on the waterward slope of the levee and within 65 feet from the centerline of the levee. For inspection purposes, no plantings, fence slats, or other materials will be placed on or adjacent to the fence that will restrict maximum visibility through the fence. For permitted vegetation, refer to "Guide for Vegetation on Project Levees".

EXHIBIT F





Source: Board staff site visit November 3, 2011 (property: 5291 Garden Highway, Sacramento CA)





Source: Board staff site visit November 3, 2011 (property: 5291 Garden Highway, Sacramento CA)

Attachme CUILDING INSPECTION

www.bldginspection.org (916) 875-5296

For Inspections (916) 875-5381

4101 Branch Center Rd, Sacramento 95827 Fax: (916) 854-9228

827 7th St., Rm. 102, Sacramento 95814 Fax: (916) 854-9229

6015 Watt Ave., Ste. 4, N. Highlands 95660 Fax: (916) 874-2632

OF VIOLATION

Property Location: 5291 SALL	ten Hwy	Date: <u>4/ 2// //</u>
Owner:	<u> </u>	
Address:		
City:	State:	ZIP:
You are hereby notified that the follow Chapter 16.04, Sacramento County C		
Camply with notice Cassince of Mathen wind	ERNIERATION FIRM.	es at first of
Rivide seimet for i	Rectard to como u	all
ermits Required: Building		
Other Lland, Caucala	lired In Plans Required	nie Heneo
ARNING: Investigative fees based on the hapter 16.02, Sacramento County Code	e loaded rate will be assessed whether	er a permit is issued or not as per
he above listed violations must be corrected orrections have been completed. If you have ppreciated	days. Please notify the understand days. Please notify the understand days. Please call this department of the understand days.	nent. Thank you, your cooperation is
and the part of th		

within 10 days from the date of this notice.

Failure to resolve the listed violations may result in a Notice of Pending Enforcement Action being filed with the Sacramento County Recorder's office within thirty days from the date of this notice, effectively clouding the property title.

Failure to correct the listed violations may result in Building Inspection referring this matter to the County Counsel.

Compliance with this notice, before, on, or after the above compliance date does not prevent prosecution by the County Counsel's Office on any of the above violations of the Sacramento County Code.

White - OWNER

Yellow - FILE

Pink - SUPERVISOR

Caliso, Angeles

From: Caliso, Angeles

Sent: Friday, June 10, 2011 3:35 PM

To: LINO CATABRAN

Cc: Porbaha, Mohammad (Ali)

Subject: RE: Board hearing

Mr. Catabran,

We acknowledge your request for a hearing. We will be sending you a letter with copies of the requested correspondence related to this enforcement action.

We are available to meet with you on Tuesday June 14, 2011 between 9 am - 11 am. Please let us know what time works best for you.

Best Regards,

Angeles Caliso

Central Valley Flood Protection Board

(916) 574-2386 Office I (916) 574-0682 Fax Email: acaliso@water.ca.gov I www.cvfpb.ca.gov

From: LINO CATABRAN [mailto:linoc@att.net]
Sent: Thursday, June 09, 2011 2:48 PM

To: Caliso, Angeles Subject: Board hearing

Ms Caliso, please accept this email as a written request for a board hearing regarding the security wall at my residence. I will need time to interview & obtain legal assistance in this important matter. I would still like the opportunity to first meet with you and your supervisor in hopes of resolving this at a lower level.

When we last spoke you said you would email copies of correspondence that you referenced. I have not received them.

Regards,

Lino Catabran

CENTRAL VALLEY FLOOD PROTECTION BOARD

3310 El Camino Ave., Rm. 151 SACRAMENTO, CA 95821 (916) 574-0609 FAX: (916) 574-0682 PERMITS: (916) 574-2380 FAX: (916) 574-0682



Sent Via U.S. Certified Mail

June 13, 2011

Mr. Lino Catabran 5291 Garden Highway Sacramento, California 95833

Subject: Acknowledgement of Receipt of Request for Hearing

Enforcement Action: 2011-138
Property Owner: Mr. Lino Catabran

Property Address: 5291 Garden Highway, Sacramento, California 95833

Dear Mr. Catabran:

The staff of the Central Valley Flood Protection Board (Board) hereby acknowledges the receipt of your e-mail dated June 9, 2011, requesting an enforcement hearing. In addition, attached is a CD with copies of all the correspondence related to this enforcement action. If there are any additional documents not included in the CD, please let us know within 2 weeks from receipt of this letter.

A written notice of the hearing date will be mailed to you at least ten (10) days prior to the date of the hearing.

Should you have any questions, please contact Mr. Ali Porbaha, Chief of the Encroachment Control and Land Use Section, at (916) 574-2378, or by e-mail at mporbaha@water.ca.gov.

Sincerely,

Jay S. Punia Executive Officer

Attachments: As referenced above

cc: (See attached list).

Mr. Lino Catabran June 13, 2011 Page 2 of 2

cc: Mr. Paul Devereux, General Manager Reclamation District 1000 1633 Garden Highway Sacramento, California 95833

> Ms. Meegan Nagy, Chief Flood Protection & Navigation Section Sacramento District U.S. Army Corps of Engineers 1325 J Street Sacramento, California 95814-2922

Mr. George Booth Department of Water Resources Sacramento County 827 7th Street, #301 Sacramento, California 95814

Robin Brewer, Senior Staff Counsel Department of Water Resources

CENTRAL VALLEY FLOOD PROTECTION BOARD

3310 El Camino Ave., Rm. 151 SACRAMENTO, CA 95821 (916) 574-0609 FAX: (916) 574-0682 PERMITS: (916) 574-0685 FAX: (916) 574-0682



July 8, 2011

Mr. Lino Catabran 5291 Garden Highway Sacramento, California 95833

Subject: Enforcement Action: 2011-138

Property Owner: Mr. Lino Catabran

Property Address: 5291 Garden Highway, Sacramento, California 95833

Dear Mr. Catabran:

Your requested hearing for Enforcement Action 2011-138 will be held at 10 AM on Friday, July 22, 2011. The location for the hearing will be at the Resources Building Auditorium, on the first floor, at 1416 Ninth Street, Sacramento, CA 95814. Attached to this letter is a copy of the Agenda for the Board meeting and a copy of the Board Enforcement Proceeding Governing Procedures.

Should you have any questions, please contact Mr. Ali Porbaha, Chief of the Encroachment Control and Land Use Section, at (916) 574-2378, or by e-mail at mporbaha@water.ca.gov.

Sincerely,

Curt Taras, PE, MSCE, Chief

Floodway Encroachment and Enforcement Branch

Attachments: As referenced above

"Celebrating 100 Years of Flood Management"

CENTRAL VALLEY FLOOD PROTECTION BOARD

California Natural Resources Agency – State of California 3310 El Camino Avenue, Room 151
Sacramento, California 95821
Phone (916) 574-0609 – Fax (916) 574-0682
http://www.cvfpb.ca.gov

BOARD MEMBERS

Ben Carter, President
Teri Rie, Vice-President
Butch Hodgkins, Secretary
John Brown, Member
Emma Suarez, Member
Mike Villines, Member
John Moffatt, Member
Jared Huffman, Ex Officio Member
Fran Pavley, Ex Officio Member

BOARD STAFF

Jay Punia, Executive Officer Len Marino, Chief Engineer Dan Fua, Supervising Engineer Curt Taras, Supervising Engineer Eric Butler, Senior Engineer Lorraine Pendlebury, Staff Analyst Amber Woertink, Staff Assistant

BOARD COUNSEL

Deborah Smith, Legal Counsel

<u>AGENDA</u>

CENTRAL VALLEY FLOOD PROTECTION BOARD MEETING

Friday, July 22, 2011 – 8:30 AM The Resources Building Auditorium, First Floor 1416 Ninth Street, Sacramento, CA 95814

NOTE: THE BOARD WILL CONSIDER TIMED ITEMS AS CLOSE AS POSSIBLE TO THE LISTED TIME, BUT NOT BEFORE THE TIME SPECIFIED. UNTIMED ITEMS MAY BE HEARD IN ANY ORDER.

- 1. ROLL CALL
- 2.* APPROVAL OF MINUTES May 27, 2011
- 3.* APPROVAL OF AGENDA
- **4. PUBLIC COMMENTS** (non-agendized items only)
- 5. RECOGNITION OF SERVICE JOE COUNTRYMAN (Board President Benjamin Carter)
- 6. REPORT OF ACTIVITIES OF THE DEPARTMENT OF WATER RESOURCES (Gary Bardini)
 - Central Valley Flood Protection Plan Status Update Key Policy Issues (Jeremy Arrich)

*action item

Anyone may upon request obtain a copy of background or other material on an agenda item that has been distributed to the Members of the Board. A fee covering the cost of the provision of such materials may be charged. If you need reasonable accommodations due to a disability, or need language assistance, please contact the Equal Opportunity Management Investigations Office at (916) 653-6952, or TDD (916) 653-6934 at least a week prior to the meeting.

7. REPORT OF ACTIVITIES OF THE EXECUTIVE OFFICER (Jay Punia)

8.* CONSENT CALENDAR

A. Permit No. 18166-1, Sacramento Regional Transit District (Sungho Lee)

Consider approval of Permit No. 18166-1 to construct a 2000-foot aerial concrete structure to support light rail improvements over Morrison Creek east of Franklin Blvd. in the City of Sacramento for the South Sacramento Corridor Phase 2 project and includes embankment, abutments, temporary crossings, falsework, bents, bridge (aerial structure over Morrison creek/UPRR), track, and retaining walls. (Sacramento County)

B. Permit No. 18387, Reclamation District 1601 (Nancy Moricz)

Consider approval of Permit No. 18387 to authorize an existing non-federal backup levee/county road re-alignment and appurtenances along the left (south) bank levee of Sevenmile Slough. (Sacramento County)

C. Permit No. 18517-A, Reclamation District 17 (Steve Dawson)

Consider approval of Permit No. 18517-A, to install landscape planting, irrigation improvements, Shoreblock (articulated concrete-block mat covering the exposed gravel portions of the seepage berm), concrete curb at base of Shoreblock, bicycle/pedestrian trail adjacent to curb, bollards on bicycle/pedestrian trail concrete mow strips and retain above/below ground utilities (i.e. street lights, fire hydrants) within the 15-foot-wide area landward of the berm toe for the previously constructed landside seepage berm on the right (east) bank levee of the San Joaquin River. (San Joaquin County)

D. Permit No. 18518-A, Reclamation District 17 (Steve Dawson)

Consider approval of Permit No. 18518-A, to install landscape planting, irrigation improvements, Shoreblock (articulated concrete-block mat covering the exposed gravel portions of the seepage berm), concrete curb at base of Shoreblock, bicycle/pedestrian trail adjacent to curb, bollards on bicycle/pedestrian trail concrete mow strips and retain above/below ground utilities (i.e. street lights, fire hydrants) within the 15-foot-wide area landward of the berm toe for the previously constructed landside seepage berm on the right (east) bank levee of the San Joaquin River. (San Joaquin County).

E. Permit No. 18519-A, Reclamation District 17 (Steve Dawson)

Consider approval of Permit No. 18519-A, to install landscape planting, irrigation improvements, Shoreblock (articulated concrete-block mat covering the exposed gravel portions of the seepage berm), concrete curb at base of Shoreblock, bicycle/pedestrian trail adjacent to curb, bollards on bicycle/pedestrian trail concrete mow strips and retain above/below ground utilities (i.e. street lights, fire hydrants) within the 15-foot-wide area landward of the berm toe for the previously constructed

Central Valley Flood Protection Board Meeting—July 22, 2011 Page 3

landside seepage berm on the right (east) bank levee of the San Joaquin River. (San Joaquin County)

F. Permit No. 18586, George Turkmany (Alison Tang)

Consider approval of Permit No. 18586 to authorize an 8-inch diameter, 80-foot deep PVC domestic water well with a submersible pump on the overflow area of the right (north) bank levee of the Stanislaus River. (San Joaquin County)

G. Permit No. 18652, Ojii Bros. Farms, LLC (Sterling Sorenson)

Consider approval of Permit No. 18652 to allow the installation of a state-of-the-art, self cleaning, and retractable Intake Screens, Inc. fish screen system on an existing permitted agricultural diversion owned and operated by Ojii Bros. Farms, Inc. (Sutter County)

H. Permit No. 18653, California Department of Transportation, District 3 (Nancy Moricz)

Consider approval of Permit No. 18653 to authorize two existing cast-in-place reinforced box girder concrete bridge structures crossing Auburn Ravine at Highway 65 near Moore Road, north of the City of Roseville. (Placer County)

I. Permit No. 18660, Sutter Mutual Water Company (Sterling Sorenson)

Consider approval of Permit No. 18660 to allow the installation of a state-of-the-art, self cleaning, and retractable Intake Screens, Inc. fish screen system on an existing permitted agricultural diversion owned and operated by Sutter Mutual Water Company. (Sutter County)

J. Permit No. 18662, California Department of Transportation, District 10 (Deb Biswas)

Consider approval of Permit No. 18662 to widen the existing bridge from four-lanes to six-lanes over Lone Tree Creek by adding two 12-foot lanes in the median. (San Joaquin County)

K. Permit No. 18665, Tulare Co. Resource Management Agency (Nancy Moricz)

Consider approval of Permit No. 18665 to remove the existing single-lane Mountain Road M319 bridge over the South Fork of the Kaweah River and replace it with a precast concrete, pre-stressed box girder two-lane bridge along the same alignment as the existing bridge. (Tulare County)

L. Permit No. 18667, Kent Lang (Gary Lemon)

Consider approval of Permit No. 18667 to remove an 18-inch diameter steel pipe through the levee and replace it with an 18-inch diameter steel pipe up and over the right (west) bank levee of the Sacramento River. (Yolo County)

M. Permit No. 18668, Placer County Parks Division (David Williams)

Consider approval of Permit No. 18668 to construct 3 bridges on upper Coon Creek at Hidden Falls Regional Park. (Placer County)

• Items on the Consent Calendar may be removed at the request of any Board member or person.

Central Valley Flood Protection Board Meeting—July 22, 2011 Page 4

N. Operations, Maintenance, Repair, Replacement and Rehabilitation (OMRR&R), Three Rivers Levee Improvement Authority (TRLIA) (Kelly Fucciolo/Charles Rabamad)

Consider approval and execution of the Reclamation District 784/TRLIA OMRR&R Agreement for the Feather River and the Upper Yuba Levee Improvement Projects between the Central Valley Flood Protection Board and RD 784/TRLIA.

9.* HEARINGS AND DECISIONS

A. <u>Encroachment Removal Enforcement Hearing for Mr. Lino Catabran, 5291 Garden Highway, Sacramento, California</u> (*Curt Taras*) – **10:00 AM**

Conduct a hearing regarding the Enforcement Removal Notice No. 2011-138, dated May 20, 2011 that was sent to Mr. Lino Catabran to consider ordering removal of a newly constructed parallel solid masonry wall along the East levee of the Sacramento River Flood Control Project.

10. INFORMATIONAL BRIEFINGS

A. <u>Presentation and Discussion: Central Valley Flood System Conservation Strategy</u> (David Carlson, DWR)

BREAK FOR LUNCH

- B. <u>Briefing on the Delta Levees Subventions Criteria and Procedures</u> (Mike Mirmazaheri and John Wilusz, DWR)
- C. <u>Briefing on the Draft EIS/EIR for the San Joaquin River Restoration Program</u> (Kevin Faulkenberry, DWR, and Alicia Forsythe, SJRRP)

11. BOARD COMMENTS AND TASK LEADER REPORTS

12. FUTURE AGENDA

13. CLOSED SESSION

- ➤ To discuss litigation (Giudice v. State of California et. al; San Joaquin County Superior Court Case No. 39-2011-00256176-CU-OR-STK) pursuant to Govt. Code section 11126(e)(1). (Deborah Smith, Deputy Attorney General)
- Pursuant to the authority of Government Code section 11126, subdivisions (e)(1), (e)(2)(B)(i), and (e)(2)(C)(i), the Board will meet in Closed Session to consider potential litigation involving the Board.

14. ADJOURN

For further information about items on this agenda, please contact Amber Woertink at awoertin@water.ca.gov, 3310 El Camino Ave., Room 151, Sacramento, CA 95821, or (916) 574-0609.

CENTRAL VALLEY FLOOD PROTECTION BOARD ENFORCEMENT PROCEEDINGS PURSUANT TO TITLE 23

The Central Valley Flood Protection Board ("Board") has authority pursuant to the Water Code and Title 23 of the California Code of Regulations to enforce standards for the erection, maintenance, and operation of levees, channels, and other flood control works within its jurisdiction, including but not limited to standards for encroachments, construction, vegetation, and erosion control measures.

The Board's regulations related to enforcement proceedings are located in Title 23, Division 1, Chapter 1, Article 4, sections 20 through 22 of the California Code of Regulations ("CCR"), and can be found at the Board's website at www.cvfpb.ca.gov by clicking the "Regulations" tab. This document provides a summary of the governing procedures for enforcement proceedings undertaken by the Board pursuant to Title 23.

Governing Procedures

A. Initiation and Notice; Interested Parties

The Executive Officer may initiate an enforcement proceeding pursuant to section 20 of the Board's regulations by serving a notice by certified mail, return receipt requested, to the landowner or person (referred to as the "respondent") owning, undertaking or maintaining a work that is in violation of the division or that threatens the successful execution, functioning or operation of an adopted plan of flood control. The notice must state the acts or omissions which the Executive Officer believes to constitute the violation, as well as specify the statutes or regulations the respondent is alleged to have violated.

The notice must be accompanied by an order requiring the respondent to respond within 30 days of receipt of the notice. The notice and order must state that the Board may seek judicial enforcement should the respondent fail to respond in a timely manner and that the Board may abate violations by such actions identified in section 22 of the Board's regulations. Such actions may include, for example, physical removal of the encroachments at respondent's cost and expense.

Other interested parties may become parties to an enforcement proceeding by filing a notice to that effect with the Board. The Board shall mail a copy of that notice to the respondent within 10 days of receipt.

Notwithstanding the above notice requirements, if there is work that has not been approved by the Board, the Executive Officer or Chief Engineer may issue an order for compliance with Division 1 of Title 23 of the regulations, including an order to stop work.

B. Hearing Procedures

The respondent shall have the opportunity for a hearing, which must be requested in the respondent's timely response to the notice of enforcement hearing. Failure by the respondent to file such a response within 30 days of receipt of the notice constitutes a waiver of the respondent's right to a hearing.

A full hearing or partial hearing may be held before the entire Board or before a committee of one or more Board members at any place within the state. If the hearing is held before less than the full Board, the Board President shall designate a hearing officer to prepare a record of the evidence and a proposed decision for consideration by the full Board at a subsequent Board meeting. All hearings must be open to the public.

Written notice of the hearing shall be mailed to the respondent and each other party at least 10 days prior to the hearing. Respondents and other parties shall be mailed a copy of any staff report or recommendations on the enforcement proceedings at least 10 days prior to the hearing.

The Administrative Procedure Act's ("APA") Bill of Rights, which sets forth basic requirements of due process, is incorporated into the Board's enforcement hearing procedures (Government Code section 11425.10). The Board has not adopted the formal hearing requirements found in Chapter 5 of the APA (Government Code section 11500 et. seq.). At the hearing, the respondent will be provided the opportunity to present and rebut evidence. The presentation of evidence is subject to the reasonable control and limitation by the Board President, acting chair, or appointed hearing officer, including the length and manner of presentation of evidence. The Board President, acting chair, or appointed hearing officer may also place other controls or limitations as he or she deems appropriate to the specific proceeding. Prior hearings before the Board have typically followed the following format and order:

- Board staff presentation of evidence
- Respondent presentation of evidence
- Board staff rebuttal
- Respondent rebuttal

Cross examination is not typically allowed, but the Board can ask questions at any time during any presentation. Once the Board President, acting chair, or hearing officer closes the hearing, typically no additional evidence is permitted unless allowed by the Board President, acting chair, or hearing officer.

C. Requests for Documents

The respondent and other parties may request that the Board provide a copy of any document that is relevant to the proceedings and that is not exempt from disclosure under the Public Records Act (Government Code section 6521 et. seq.). The Board may charge a reasonable fee for each copy.

D. Board Decision

After the conclusion of the hearing, the Board shall issue a decision in writing based upon the record, including a statement of the factual and legal basis of the decision. Where the full Board hears the matter, the Board may either vote on the matter on the day of the hearing or, if deemed appropriate by the Board, at a subsequent meeting after the preparation of a proposed decision and order or revised written findings. If a hearing officer is appointed, the hearing officer shall prepare a proposed decision within 30 days after the conclusion of the hearing and the Board shall adopt its final decision based upon the record of evidence at the next regularly scheduled Board meeting after issuance of the proposed decision.

The Board decision shall by order specify what action must be taken by the respondent, if any, at respondent's cost, and the time within which such action must be taken. The required action may include, but is not limited to:

- 1) Removal of the work;
- 2) Alteration of the work;
- 3) Performance of additional work:
- 4) Implementation of specified mitigation for effects on the environment;
- 5) Compliance with additional reasonable conditions, including but not limited to requiring the respondent to permit inspection by the Board, its officers, staff, or authorized representatives of the Department of Water Resources during and after construction and requiring the respondent to file with the Board reports and data, including a description of all work done. The Board may request in writing at any time any reports or data, even if not expressly stated in a condition to the decision:
- 6) Filing an application for a permit;
- 7) Revocation of the permit.

The Board decision may also give notice that if the respondent does not comply with the decision within a reasonable time, the Board may take actions to abate violations or threats to the adopted plan of flood control, such as physical removal, and recover its costs from the respondent.

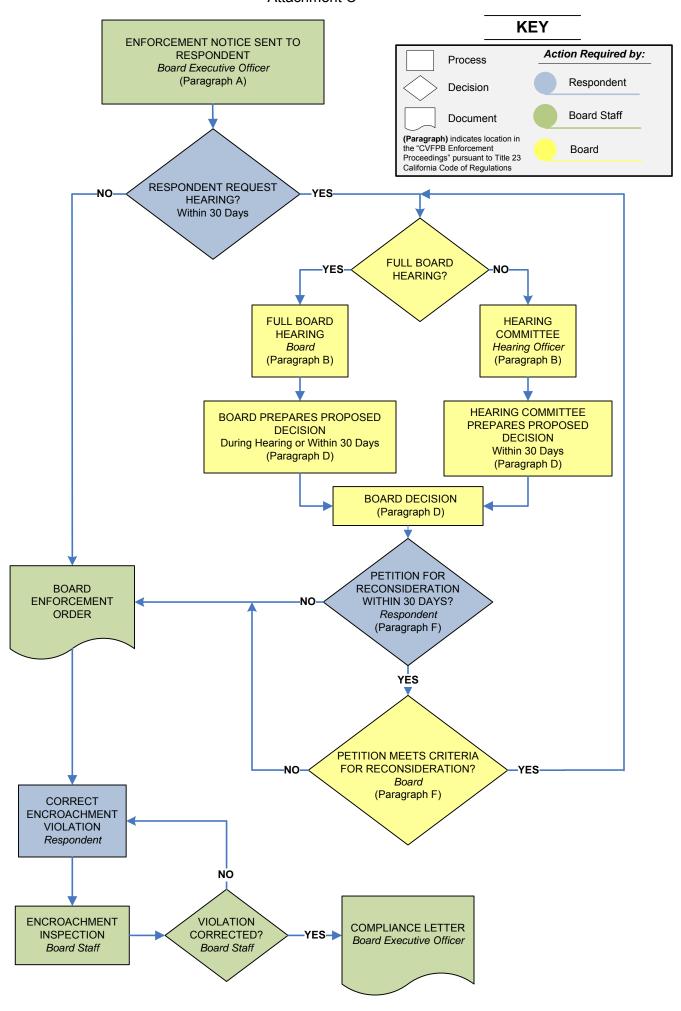
E. Additional Procedures

If the respondent believes that additional procedures or regulations apply to their particular proceeding, the respondent may request that such additional procedures be incorporated. The respondent should advise Board enforcement staff of the request in advance of the hearing and specify the basis of the request. Such requests will be considered on an individual basis.

F. Reconsideration

No later than 30 days after adoption by the Board of a decision or order, any interested person affected by the decision or order may petition the Board for reconsideration for any of the reasons stated and in the manner stated in section 23 of the Board's regulations.

BOARD ENFORCEMENT PROCEEDING



STATE OF CALIFORNIA - CALIFORNIA NATURAL RESOURCES AGENCY

CENTRAL VALLEY FLOOD PROTECTION BOARD

3310 El Camino Ave., Rm. 151 SACRAMENTO, CA 95821 (916) 574-0609 FAX: (916) 574-0682 PERMITS: (916) 574-0685 FAX: (916) 574-0682



July 20, 2011

Mr. Eric Rasmusson Respondent's Representative 2200 L Street Sacramento, California 95816

Subject: July Board Meeting - Agenda Item 9A Staff Report

Enforcement Action: 2011-138
Property Owner: Mr. Lino Catabran

Property Address: 5291 Garden Highway, Sacramento, California 95833

Dear Mr. Rasmusson:

Thank you for contacting our offices. Per your phone call on July 20, 2011, you informed us that you are representing Mr. Catabran with respect to the subject matter. Attached is a copy of the Staff Report for the enforcement hearing scheduled to be heard by our Board on July 22, 2011 at approximately 10 am. Please note that these documents are also publicly available on our website at

http://www.cvfpb.ca.gov/meetings/2011/072211Item9A Enf Hearing StaffReportandAttachments.pdf

Should you have any questions, please contact Ms. Angeles Caliso at (916) 574-2386, or by email at acaliso@water.ca.gov.

Sincerely,

Curt Taras, PE, MSCE, Chief

Floodway Encroachment and Enforcement Branch

Attachments: As referenced above

Caliso, Angeles

From: Caliso, Angeles

Sent: Wednesday, July 20, 2011 1:09 PM

To: 'eric@rpaco.org'

Cc: Taras, Curt; Porbaha, Mohammad (Ali); Tabor, Ward; Marino, Len

Subject: Enforcement Hearing 2011-138 (Catabran)

Importance: High

Tracking: Recipient Delivery Read

'eric@rpaco.org'

Taras, Curt Delivered: 7/20/2011 1:09 PM Read: 7/20/2011 1:11 PM

 Porbaha, Mohammad (Ali)
 Delivered: 7/20/2011 1:09 PM

 Tabor, Ward
 Delivered: 7/20/2011 1:09 PM

 Marino, Len
 Delivered: 7/20/2011 1:09 PM

Mr. Rasmusson,

Please see attached document related to the subject matter. The hard copy will be going out on the mail today. However the documents are also available on our website at the following link: http://www.cvfpb.ca.gov/meetings/2011/072211Item9A Enf Hearing StaffReportandAttachments.pdf

Should you have any additional questions, feel free to contact me.

Best Regards,

Angeles Caliso | Water Resources Engineer Central Valley Flood Protection Board Encroachment Control & Land Use Section

3310 El Camino Avenue, Room 151 | Sacramento, CA 95821 (916) 574-2386 Office | (916) 574-0682 Fax

Email: acaliso@water.ca.gov | www.cvfpb.ca.gov



Catabran_Rasmuss on Itr_07.20.1...



July 21, 2011

Mr. Benjamin Carter, President Central Valley Flood Protection Board 3310 El Camino Ave., Room 151 Sacramento CA 95821

Re: Enforcement Action: 2011-138 Request for Continuance

Dear Board President Carter and honorable Board Members in Session:

I was retained by the Catabran family on July 20, 2011 to represent them in the above referenced matter. I have contacted your staff and have respectfully requested that they the hearing scheduled for tomorrow July 22, 2011 be rescheduled. I made this request based on the following reasons:

- Mr. Catabran in currently under a physician's care and is unable to attend or participate.
- I have not had sufficient time to review the lengthy staff report and even more lengthy complete file.

It is my intention, based on the Catabran's direction to attempt to find a reasonable solution to the recently constructed improvements in question. While I understand based on my brief discussion with Chief of Enforcement Curt Taras that there may have already been considerable attempts to discuss this matter, I've only just been brought into this matter and again, would respectfully request that the Board grant a brief postponement which will allow me to better understand the issue and meet with staff to determine what available options there might be.

As a matter of reference, I have been involved in flood control matters for well over 20 years in Northern/Central CA.I was one of the original founding consultants of Sacramento Citizens for Flood Safety which successfully led the first 2 of 3 successful special assessments for flood control and most recently, led several clients in their support of the Natomas area assessment for levee improvements. I continue to work closely with the Sacramento Area Flood Control Agency, the West Sacramento Flood Control Agency and with other groups such as RD-1000. I understand the importance of limiting encroachments both for inspection purposes and basic levee integrity reasons.

Again, I would respectfully request a postponement and opportunity to resolve this issue outside of formal enforcement process.

Respectfully.

Eric D. Rasmusson

CENTRAL VALLEY FLOOD PROTECTION BOARD

3310 El Camino Ave., Rm. 151 SACRAMENTO, CA 95821 (916) 574-0609 FAX: (916) 574-0682 PERMITS: (916) 574-0685 FAX: (916) 574-0682



Sent via certified mail

July 26, 2011

Mr. Eric Rasmusson Representative for Mr. Lino Catabran 2200 L Street Sacramento, California 95816

Subject: Enforcement Action: 2011-138

Property Owner: Mr. Lino Catabran

Property Address: 5291 Garden Highway, Sacramento, California 95833

Dear Mr. Rasmusson:

As requested on your letter dated July 21, 2011, the Central Valley Flood Protection Board ("Board") voted during our meeting on July 22, 2011 to grant your request for a continuance on the subject matter. The hearing will be scheduled for either August 25 or August 26, 2011. Please reserve these dates as the Board will not grant any additional requests for continuance of this case and the hearing will proceed as scheduled with or without the presence of Mr. Catabran. We will confirm the date and time for the hearing no later than August 12, 2011 when the Board's agenda is finalized and published on the Board's website.

For future reference, please note that the agenda and related documents are publicly available on our website at http://www.cvfpb.ca.gov/

Should you have any questions, please contact Ms. Angeles Caliso at (916) 574-2386, or via e-mail at acaliso@water.ca.gov.

Sincerely,

Curt Taras, PE, MSCE, Chief

Floodway Encroachment and Enforcement Branch

Caliso, Angeles

From: Caliso, Angeles

Sent: Monday, August 15, 2011 2:31 PM

To: 'Eric@RPAco.org'

Cc: 'LINO CATABRAN'; Porbaha, Mohammad (Ali); Taras, Curt; 'Meegan Nagy'; Tabor, Ward

Subject: CVFPB August 26th, 2011 Agenda **Attachments:** August 26 2011 Agenda_Rev.pdf

Importance: High

Tracking: Recipient Read

'Eric@RPAco.org'
'LINO CATABRAN'

Porbaha, Mohammad (Ali) Read: 8/15/2011 2:59 PM

Taras, Curt Read: 8/15/2011 2:45 PM

'Meegan Nagy'

Tabor, Ward Read: 8/15/2011 3:37 PM

Mr. Rasmussen

Please find attached to this email our Central Valley Flood Protection Board meeting August 26, 2011 Agenda. Enforcement Hearing for Mr. Catabran is scheduled for **1:00 PM** (not AM as noted our agenda). We will be sending you a revised staff report for the case within the next day. For future reference, you can find the agenda and related meeting documents on our website.

Should you have any additional questions, feel free to contact me.

Best Regards,

Angeles Caliso I Water Resources Engineer Central Valley Flood Protection Board Encroachment Control & Land Use Section

3310 El Camino Avenue. Room 151 | Sacramento. CA 95821

(916) 574-2386 Office I (916) 574-0682 Fax Email: acaliso@water.ca.gov | www.cvfpb.ca.gov

ATTACHMENT C

EASEMENT INFORMATION

Exhibit A – Deed Recorded on Book 473 Page 74

Exhibit B- Joint Use Agreement between RD1000 and SSJDD dated June 26, 2009

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State of California, SS. On this 10th day of September, in the year one thousand nine hundred and thirteen, before me, T.A. Farrell, a Notary Public in and for the County of Sacramento, State of California, residing therein, duly commissioned and sworn, personally appeared C.A. White known to me to be the person described in and whose name is subscribed to the within instrument, and he acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official Seal at my office in the said County of Sacramento, State of California, the day and year in this certificate first above written.

(Seal

T.A. Farrell Notary Public in and for the County of Sacramento, State of California.

Recorded at request of J.W.S. Butler & B.F.Van Dyke Sep.6,1917 at 10h 20' A.M.

Natomas Company of California,
-toReclamation District No. 1000.

THIS INDENTURE, made and entered into this 25th day of July, A.D. 1917, by and between Natomas Company of California, a corporation incorporated organized and existing under and by virtue of the

laws of the State of California, the party of the first part, and Reclamation District No. 1000, a reclamation district created by act of the legislature of the State of California, approved April 8th, A.D. 1911, the party of the second part, WITNESSETH: That the party of the first part, for and in consideration of the sum of ten dollars (\$10), gold coin of the United States, to it paid by the party of the second part, the receipt of which is hereby acknowledged, has granted, and by these presents does grant unto the party of the second part, and to its successors and assigns forever, the right to construct, replace, renew, repair, maintain and operate a leves over and upon all those certain lots, pieces or parcels of land situate, lying and being in the County of Sacramento, State of California, particularly described as follows:

-(1) Commencing at the northeast corner of the southeast quarter (1) of Section thirty-six (36), Township ten (10) north, Range four (4) east, Mount Diablo Base and Meridian; running thence along the northerly boundary line of the south-east quarter (1) of the said Section thirty-six (36) north 89° 09' west four hundred and ten (410) feet to a point fifty (50) feet distant from and at right angles to the center line of levee of Reclamation District No. 1000 as now staked out and located; thence by a line parallel to and fifty (50) feet distant from the said center line of the said leves, south 00° 19' east eight hundred and six (806) feet; thence by a curve to the left of seven hundred sixty-six and eight-tenths (766.8) feet radius eight hundred seven and four-tenths (807.4) feet; thence south 60° 391 (27.2) east thirty-seven and two-tenths feet to the easterly boundary line of the said Section thirty-six (36), the said easterly boundary line being the center of the Marysville Road, as it runs along and adjacent to the said easterly boundary line of the said Section thirtysix (36); and thence along the said easterly boundary line of the said Section thirty-six (36) north 00° 412' west one thousand four hundred eighty-two and three-tenths (1482.3) feet to the said point of commencement; containing twelve and twenty-five hundredths (12.25) acres, , more or less.

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(2) Commencing at the northeast corner of Section seven (7), Township nine (9) north, Range five (5) east, Mount Diablo Base and Meridian; running thence along the easterly boundary line of the said Section seven (7) south 00° 07½ west two thousand sixteen and three-tenths (2016.3) feet to a point four hundred and fifty (450) feet distant from and at right angles to the westerly right of way line of the Western Pacific Railway Company's right of way; thence by a line parallel to and four hundred and fifty (450) feet distant from the said westerly right of way line of the said Western Pacific Railway Company's right of way north 08' 27½' west two thousand thirty-two and three-tenths (2032.3) feet to a point in the northerly boundary line of the said Section seven (7); and thence along the said northerly boundary line of the said Section seven (7) north 88° 50½' east three hundred three and four-tenths (303.4) feet to the said point of commencement; containing seven and two-hundredths (7.02) acres, more or less.

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(3) Commencing at a point in the easterly boundary line of Section twenty-seven (27), Township nine (9) north, Range four (4) east, Mount Diablo Base and Meridian, where the said easterly boundary line is intersected by a line parallel to and sixty (60) feet distant from and at right angles to the center line of leves of Reclamation District No. 1000, as now staked out and located, the said point being south 00° 232 west two thousand eight hundred thirteen and six-tenths (2813.6) feet from the northeast corner of the said Section twenty-seven (27); thence by a line parallel to and sixty (60) feet distant from the said center line of the said levee, north 78° 512' west five hundred ninety and two-tenths (590.2) feet; thence by a curve to the left of sven thousand six hundred ninety-nine and five-tenths (7699.5) feet radius, five hundred and fifty (550) feet to a point on the boundary line between the lands now owned by or formerly belonging to Natomas Consolidated of California, a corporation, and Alden Anderson, the said boundary line also being the westerly bank of Second Bannon Slough; thence along the said last-mentioned boundary line in a southerly direction two hundred and forty (240) feet to the left bank of the Sacramento River; thence along the said left bank of the said Sacramento River down stream in an easter ly direction one thousand one hundred and seventy (1170) feet to a point in the easterly boundary line of the said Section twenty-seven (27); and thence along the said easterly boundary line of the said Section twenty-seven (27) north 00° 23% east two hundred and three (203) feet to the said point of commencement; containing four and ninety-six hundredths (4.96) acres, more or less.

(4) Commencing at a point in the westerly boundary line of Section twenty-seven (27). Township nine (9) north, Range four (4) east, Mount Diablo Base and Meridian, where the said westerly boundary line is intersected by a line parallel to and fifty (50) feet distant from and at right angles to the center line of the levee of Reclamation District No. 1000 as how staked out and located, the said point being south three thousand four hundred and forty (3440) feet from the northwest corner of the said Section twenty-seven (27); thence by a line parallel to and fifty (50) feet distant from the said center line of the said levee north 51° 282' east two hundred ninety-one and two-tenths (291.2) feet; thence by a curve to the right of two thousand nine hundred fourteen and nine-tenths (2914.9) feet radius one thousand eight hundred sixty-two and nine-tenths (1862.9) feet; thence north 88° 052' east nine hundred and sixty-five (965) feet; thence by a curve to the right of seven thousand six hundred eighty-nine and five-tenths (7689.5) feet radius forty (40). feet to a point in the boundary line between the lands now owned by or formerly belonging to Natomas Consolidated of California, a corporation, and Alden Anderson; thence along the said last mentioned boundary line due south two hundred and five (205) feet to a point on the left bank of the Sacramento River; thence along the said left bank of the said Sacramento River up stream with its meanderings in a westerly direction three thousand one

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hundred and twenty-five (3125) feet to a point in the westerly boundary line of the said Section twenty-seven (27); and thence along the said westerly boundary line of the said Section twenty-seven (27) in a northerly direction two hundred and forty (240) feet to the said point of commencement; containing sixteen and two-tenths (16.2) acres, more or less. (5) Commencing at a point in the easterly boundary line of Section twenty-eight (28), Township nine (9) north, Range four (4) east, Mount Diablo Base and Meridian, where the said easterly boundary line is intersected by a line parallel to and fifty (50) feet northerly from and at right angles to the center line of leves of Reclamation District No. 1000, as now staked out and located, the said point being southerly three thousand four hundred and forty (3440) feet from the northeast corner of the said Section twenty-eight (28); thence by a line parallel to and fifty (50) feet distant from the said center line of the said levee south 51° 282' west one thousand eight hundred and twenty (1820) feet; thence by a curve to five and four-tenths (905.4) feet radius one thousand two hundred the right of nine hundred sixty-nine and nine-tenths (1259.9) feet; thence north 48° 092. west four hundred fifty and six-tenths (450.6) feet; thence by a curve to the right of two thousand eight hundred fourteen and nine-tenths (2814.9) feet radius six hundred eighteen and two-tenths (618.2) feet; thence north 35° 342' west two thousand one hundred fourteen and three-tenths (2114.3) feet; thence by a curve to the right of five thousand six hundred seventy-nine and seven-tenths (5679.7) feet radius one thousand one hundred and forty (1140) feet; thence north 24° 042; west two hundred eleven and seventy-two hundredths (211.72) feet; thence by a curve to the right of five thousand six hundred sixty-four and seven-tenths (5664.7) feet radius four hundred fifteen and twenty-five hundredths (415.25) feet; thence north 19° 522 west two hundred forty and ninety two-hundredths (240.92) feet; thence by a curve to the right of five thousand six hundred sixty-four and seven-tenths (5664.7) feet radius, ninety-eight (98) feet to a point in the boundary line between the lands now owned by or formerly belonging to Hatomas Consolidated of California, a corporation, and V.S. and C.K. McClatchy; thence along the said last mentioned boundary line due west one hundred ninety-eight and no-tenths (198.0) feet to the left bank of the Sacramento River; thence along the said left bank of the said Sacramento River down stream with its meanderings about nine thousand (9000) feet to, the point of intersection with the easterly boundary line of the said Section twenty-eight (28); and thence along the said easterly boundary line of the said Section twenty-eight (28) due north two hundred and forty (240) feet to the said point of commencement; containing fifty-one and five-tenths (51.5) acres, more or less. (6) Commemoing at a point in the northerly boundary line of Section twenty (20), Township nine (9) north, Range four (4) east, Mount Diablo Base and Meridian, the said northerly boundary line being the dividing line between thelands now owned by or formerly belonging to Natomas Consolidated of California, a corporation, and San Juan Investment Company, a corporation, where the said northerly boundary line is intersected by a line parallel to and fifty (50) feet easterly from the center line of the levee of Reclamation District No. 1000 as now staked out and located, the said point being south 89° 45' west five hundred and seventy-six (576) feet from the northeast corner of the said Section twenty (20); thence in a southerly direction by a curve to the right of two thousand nine hundred fourteen and nine tenths (2914.9) feet radius one hundred and sixty-five (165) feet; thence south 03° 52' west six hundred six and thirty-five hundredths (606.35) feet; thence by a curve to the left of five thousand six hundred seventy-nine and seven-tenths (6679.7) feet radius six hundred elev en and sixty-seven hundredths (611.67) feet; thence south 2°15' east one thousand five hundred eighty-four and ninety-four hundredths (1584.94) feet; thence by a curve to the left of nine thousand two hundred forty-seven and three-tenths (9247.3) feet radius three hundred and sixty (360) feet to a point in the boundary line between the lands now owned by or formerly belonging to Natomas Consolidated of California and V.S. and C.K. McClatchy; thence along the said last mentioned boundary line due west two hundred and forty-two (242) feet to the left bank of the Sacramento River; thence along the said left bank of the said Sacramento River up stream with its meanderings in a northerly direction three thousand three hundred and ninety (3390) feet to a point in the said northerly boundary line of the said Section twenty (20); and thence along the said northerly boundary line of the said Section twenty (20) north 89° 45° east two hundred and five (205) feet to the said point of commencement; containing twenty and one-tenth (20.1) acres, more or less.

(7) Commencing at a point in the westerly boundary line of Section eight (8), Township nine (9) north, Range four (4) east, Mount Diablo Base and Meridian, the said westerly boundary line being the dividing line between the lands now owned by or formerly belonging to Fred W. Kiesel and Natomas Consolidated of California, a corporation, where the said westerly boundary line is intersected by a line parallel to and fifty (50) feet northerly from the center line of levee of Reclamation District No. 1000 as now staked out and located the said point being south 00° 12' west two thousand two hundred and thirty (2230) feet from the northwest corner of the said Section eight (8); thence by a line parallel to and fifty (50) feet northerly from the said center line of the said levee in an easterly direction by a curve to the right of one thousand nine hundred sixty and onetenth (1960.1) feet radius one hundred (100) feet; thence north 75° 2521 east twenty-six and three-tenths (26.3) feet; thence by a curve to the right of one thousand nine hundred sixty and one-tenth (1960.1) feet radius one thousand four hundred eight and six-tenths (1408.6) feet; thence by a curve to the right of four thousand nine hundred ninety-six and six-tenths (4996.6) feet radius one thousand seven hundred ninety-seven and nine-tenths (1797.9) feet; thence by a curve to the right of four thousand three hundred forty-seven and three-tenths (4347.3) feet radius two thousand four hundred ninety-two and four-tenths (2492.4) feet; thence south 08° 37' east two thousand two hundred seventy-nine and twotenths (2279.2) feet to a point in the southerly boundary line of the northeast quarter (1) of Section Seventeen (17), Township nine (9) north, Range four (4) east, Mount Diablo Base and Meridian, the said southerly boundary line being the dividing line between the lands now owned by or formerly belonging to said Natomas Consolidated of California and the San Juan Investment Company, a corporation; thence along the said southerly boundary line of the northeast quarter (1) of the said Section seventeen (17) south 89° 45' west two hundred and five (205) feet to the left bank of the Sacramento River; thence along the said left bank of the said Sacramento River up stream with its meanderings in a northwesterly direction about seven thousand six hundred and ninety (7690) feet to a point in the westerly boundary line of the said Section eight (8); and thence along the said westerly boundary line of the said Section eight (8) north 00° 12' east two hundred and twenty (220) feet to the said point of commencement; containing sixty-five and no-tenths (65.0) acres, more or less.

(6) Commencing at a point in the northerly boundary line of Section twelve (12), Township nine (9) north, Range three (3) east, Mount Diablo Base and Meridian, where the said northerly boundary line is intersected by the easterly right of may line, River Levee, Reclamation District No. 1000, the said point being fifty (50) feet distant from and at right angles to the center line of levee, Reclamation District No. 1000, as now staked out and located, the said point being further described as being west two thousand two hundred and twelve (2212) feet from the northeast corner of the said Section twelve (12), the said northerly boundary line of the said Section twelve (12) also being the dividing line between the lands now owned by or formerly belonging to Natomas Consolidated of California,

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a corporation, and Clarke & Cox Farms Company, a corporation; thence by a line parallel to and fifty (50) feet distant from the said center line of the said levee south 33° 42' east four thousand six hundred sixty-one and three-tenths (4661.3) feet; thence by a curve to the left of nine hundred five and four-tenths (905.4) feet radius three hundred fiftyfour and five-tenths (354.5) feet; thence south 56° 08' east two and nine-tenths (2.9) feet; thence by a curve to the left of one thousand six hundred sixty-nine and one-tenth (1669.1) feet radius two thousand twenty-six and six-tenths (2025.6) feet; thence north 54° 18' east one thousand seven hundred sixty-nine and one-tenth (1769.1) feet to a point in the boundary line between the lands now owned by or formerly belonging to Natomas Consolidated of California and F.W. Kiesel, the said point being fifty (50) feet distant and at right angles to the said center line of the said levee; thence along the said property line south 00° 12' west three hundred and ninety (390) feet to the left bank of the Sacramento River; thence along the said left bank of the said Sacramento River with its meanderings up stream in a westerly and northwesterly direction nine thousand three hundred and sixty (9360) feet to a point in the said northerly boundary line of the said Section twelve (12); and thence along the said northerly boundary line of the said Section twelve (12) due east two hundred and thirty (230) feet to the said point of commencement; containing sixty and five-

tantha (66/6) seres more or less

(9) Commencing at a point in the boundary line between Swamp Land Surveys Nos. 404 and 898, the said line being the dividing line between the lands now owned by or formerly belonging to Natomas Consolidated of California, a corporation, and R.H. and L. Welhausen, where the said boundary line is intersected by the easterly right of way line, River Levee, Reclamation District No. 1000,, the said point being fifty (50) feet distant from and at right angles to the center line of the said levee, as now staked out and located, and being further described as south 52° 30' west one thousand four hundred sixty-five and onetenth (1465.1) feet from the northeast corner of the said Swamp Land Survey No. 404; thence south 44° 1621 east nine hundred sixty-eight and two-tenths (968.2) feet; thence by a curve to the left of two thousand eight hundred fourteen and nine-tenths (2814.9) feet radius three hundred thirty-four and nine-tenths (334.9) feet; thence south 51° 052° east two thousand seven and six-tenths (2007.6) feet; thence by a curve to the right of fourteen thousand three hundred seventy-three and six-tenths (14,373.6) feet radius four hundred eight and one-tenth (408.1) feet to a point in the boundary line between the lands now owned by or formerly belonging to said Natomas Consolidated of California and the Clarke & Cox Farms Company, a corporation, the said point being fifty (50) feet destant from and at right angles to the said center line of levee of said Reclamation District No. 1000, as now staked out and located; thence along the said property line south 46° 45' west one hundred and eighty (180) feet to the left of the Sacramento River; thence along the said left bank of the said Sacramento River with its meanderings in a northwesterly direction three thousand seven hundred and seventy (3770) feet to its point of intersection with the said boundary line between the lands now owned by or formerly belonging to the said Natomas Consolidated of California and the said R.H. and L. Welhausen; and thence along the said last mentioned line north 52° 30' east three hundred and seventeen (317) feet to the said point of commencement; containing eighteen and four-tenths (18.4) acres, more or less. 110) Commencing at a point in the northerly toundary line of section twenty-six (26) Township ten (10) north, Range three (3) east, Mount Diablo Base and Meridian, where the said northerly boundary line is intersected by a line parallel to and fifty (50) feet easter ly from the center line of levee of Reclamation District No. 1000, as now staked out and located, the said point being three thousand three hundred and seventy (3370) feet from

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the northeast corner of Section twenty-six (26), Township ten (10) north, Range three (3) east, Mount Diablo Base and Meridian; thence by a line parallel to and fifty (50) feet distant from the said center line of the said levee south 51° 462' west seven hundred seventy-three and five-tenths (773.5) feet; thence by a curve to the left of one thousand eight hundred sixty and one-tenth (1860.1) feet radius six hundred and nineteen (619) feet; thence south 32° $42\frac{1}{2}$ 1 west two hundred ninety-four and three-tenths (294.3) feet; thence by a curve to the left of two thousand eight hundred fourteen and nine-tenths (2814.9) feet radius one hundred and fifty-eight (158) feet; thence south 29° $29^{1\over 2}$ west one thousand ninety-six and two-tenths (1096.2) feet; thence by a curve to the left of one thousand eight hundred sixty and one-tenth (1860.1) feet radius four hundred ninety-six and seven-tenths (496.7) feet; thence by a curve to the left of three thousand seventy-five and four-tenths (3075.4) feet radius one thousand eighty-one and sixtenths (1081.6) feet; thence by a curve to the left of eight thousand five hundred fortyfour and four-tenths (8544.4) feet radius seven hundred twenty and eight-tenths (720.8) feet; thence south 10° $47\frac{1}{2}$ east one thousand seven hundred and thirty-eight (1738) feet; thence by a curve to the left of four thousand five hundred thirty-three and eighttenths (4533.8) feet radius five hundred eighty-four and two-tenths (584.2) feet; thence by a curve to the left of two thousand eight hundred fourteen and nine-tenths (2814.9) feet radius four hundred eighty and seven-tenths (480.7) feet; thence south 27° 572' east one hundred and eighty (180) feet to a point in the northerly boundary line of Swamp Land Survey No. 898, the said last mentioned line being the dividing line between the lands now owned by or formerly belonging to R., H. and L. Welhausen and Matomas Consolidated of California, a corporation; thence along the said last mentioned line south 630 301 west one hundred and eighty-five (185) feet to the left bank of the Sacramento River; thence along the said left bank of the said Sacramento River with its meanderings in a , northerly direction eight thousand two hundred and ten (8210) feet to its point of intersection with the said northerly boundary line of the said Section twenty-six (26); and thence along the said northerly boundary line of the said Section twenty-six (26) north 89° $54\frac{1}{8}$ east four hundred and sixty-five (465) feet to the said point of commencement; containing fifty and six-tenths (50.6) acres, more or less.

(11) Commencing at a point in the southerly boundary line of Section twenty-three (23), Township ten (10) north, Range three (3) east, Mount Diablo Base and Meridian, where the said southerly boundary line is intersected by a line parallel to and fifty (50) feet easterly from the center line of leves of Reclamation District No. 1000, as now staked out and located, the said point being south 89° 542 west three thousand three hundred and seventy (3370) feet from the southeast corner of the said Section twenty-three (23); thence by a line parallel to and fifty (50) feet easterly from the said center line of the said levee north 51° $46\frac{1}{2}$ ' east two thousand two hundred and fifty-eight (2258) feet; thence by a curve to the left of one thousand nine hundred sixty and one-tenth (1960.1) feet radius four hundred eighty and four-tenths (480.4) feet; thence north 37° 441 east one thousand three hundred seventy-nine and one-tenth (1379.1) feet; thence by a curve to the right of two thousand eight hundred fourteen and nine-tenths (2814.9) feet radius three hundred sixty-eight and five-tenths (360.5) feet; thence north 45° 14° east one thousand four hundred seventy-two and thirty-six hundredths (1472.36) feet; thence by a ourve to the left of five thousand seven hundred seventy-nine and seven-tenths (5779.7) feet radius one thousand two hundred thirty-nine and one-tenth (1239.1) feet; thence north 32° 57' east two hundred four and six-tenths (204.6) feet to a point in the northerly boundary line of Section twenty-four (24), Township ten (10) north, Range three (3)

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east, Mount Diablo Base and Meridian, the said point being 89° 321' west three thousand five hundred and thirty-eight (3538) feet from the northeast corner of the said Section twentyfour (24); thence along the said northerly boundary line of the said Section twenty-four (24) south 89° 32½' west three hundred and minety (390) feet to the left bank of the Sacram ento River; thence along the said left bank of the said Sacramento River with its meanderings in a southwesterly direction seven thousand five hundred and ten (7510) feet to a point in the southerly boundary line of the said Section twenty-three (23); and thence along the said southerly boundary line of the said Section twenty-three (23) north 89° 542' east four hundred and sixty-five (465) feet to the said point of commencement; containing thirtyseven and fifty-four hundredths (37.54) acres, more or less.

(12) Commencing at a point in the southerly boundary line of Section thirteen (13), Township ten (10) north, Range three (3) east, Mount Diablo Base and Meridian, where the said southerly boundary line is intersected by a line parallel to and fifty (50) feet easterly from the center line of levee of Reclamation District No. 1000, as now staked out and located, the said point being south 89° 322' west three thousand five hundred and thirty-eight (3538) feet from the southeast corner of the said Section thirteen (13); thence by a line parallel to and fifty (50) feet easterly from the said center line of the said levee, north 32° 571 east eight hundred four and one-tenth (804.1) feet; thence by a curve to the left of three thousand four hundred eighty-seven and nine-tenths (3487.9) feet radius one thousand five hundred seventy-four and six-tenths (1574.6) feet; thence north 07° 05' east five hundred eighty-eight and two-tenths (588.2) feet; thence by a curve to the left of five thousand seven hundred seventy-nine and seven-tenths (5779.7) feet radius four hundred sixty-four and one-tenth (464.1) feet; thence north 02° 29' east nine hundred thirty-nine and threetenths (939.3) feet; thence by a curve to the right of five thousand six hundred seventynine and seven-tenths (5679.7) feet radius three hundred sixty-eight and four tenths (368.4) feet; thence north 06° 12' east one thousand eight hundred eighty-one and eight-tenths (1881.8) feet: thence by a curve to the right of five thousand six hundred seventy-nine and seventenths (5679.7) feet radius six hundred sixty-five and eight-tenths (665.8) feet; thence north 12° 55' east five hundred thirty and six-tenths (530.6) feet; thence by a curve to the right of five thousand six hundred seventy-nine and seven-tenths (5679.7) feet radius three hundred one and five-tenths (301.5) feet; thence north 15° 57% east one hundred fourteen and five-tenths (114.5) feet to a point in the northerly boundary line of the southeast quarter (2) of Section twelve (12), Township ten (10) north, Range three (3) east, Mount Diablo Base and Meridian; thence along the said northerly boundary line of the southeast quarter (1) of the said Section twelve (12) in a westerly direction two hundred and forty (240) feet to the left bank of the Sacramento River; thence along the said left bank of the said Sacramento River with its meanderings in a southwesterly direction eight thousand three hundred and fifteen (8315) feet to a point in the southerly boundary line of the said Section thirteen (13); and thence along the said southerly boundary line of the said Section thirteen (13) north 89° 3221 east three hundred and ninety (390) feet to the said point of commencement; containing forty-six and five hundredths (46.05) acres, more or less. TOOSTHER with all and singular the tenements, hereditaments and appurtenances thereunto belon ing, or in anywise apportaining, and the reversion and reversions, rents, issues and profits thereof.

TO HAVE AND TO HOLD, all and singular the said premises, together with the appurtenances, unto the said party of the second part and to its successors and assigns forever. IN WITHESS WHEREOF, the party of the first part has hereunto caused its corporate name to be signed and its corporate Seal to be affixed by its officers thereunto duly authorized, the

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day and year first above written.

(Corporate Seal) NATOMAS COMPANY OF CALIFORNIA,

By Leon Sloss, Vice-President.
By P.C.Knapp, Secretary.

State of California, (Scity and County of San Francisco.)

On this 30th day of July, A.D. 1917, before me, Mattie G. Stirling, a Notary Public in and for the City and County of San Francisco, State of California, personally appeared Leon Sloss and P.C.Knapp, known to me to be the Vice-President and the Secretary, respectively, of Natomas Company of California, the corporation which executed the foregoing instrument, and acknowledged to me that such corporation executed the

IN WITHESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

(Seal) Mattie G. Stirling Notary Public in and for the City and County of San Francisco, State of California.

Recorded at request of John T. Pig ott Sep. 6, 1917 at 10h 30' A.M.

E. Baldani, et al.

Pacific Gas and Electric Company.

GRANT OF RIGHT OF WAY for ELECTRIC TRANSMISSION LINE.

We - Jointly and severally, E.Baldani, A. Baldani D.Baldani, S. Baldani and G. Baldani, of the

County of Sacramento, State of California, for and in consideration of the sum of one dollar (\$1.00) in lawful money of the United States of America to us paid by the Pacific Gas and Electrict Company, a corporation duly organized and existing under and by virtue of the laws of the State of California, the receipt whereof is hereby acknowledged, do hereby grant unto the said corporation, its successors or assigns, the right and privilege of erecting, maintaining and using, for the transmission and distribution of electricity and for all purposes connected therewith, a single line of poles and wires suspended thereon and all necessary and proper crossarms and braces and other fixtures for use in commection therewith, and also a right of way along said line of poles, together with the right of ingress thereto and egress therefrom along said line, over and across our land situate in the County of Sacramento, State of California, and more particularly described as follows:

Being in Wright & Kimbrough Tract #1, Located in Sections 4 and 9. Tp 8 N. R. 5 E. Recorded in Book A at Surveys on page 36, Office Sacramento County Recorder.

The route of said line of poles and wires across said land shall be as follows:

Three feet east of the westerly boundary of our several lots which face east on 54th.

Street.

The said corporation is also hereby granted the right to trim any trees along said line of poles and wires whenever considered by it necessary for the complete enjoyment of the rights hereby granted.

IN WITHESS WHEREOF, We have executed these presents this 27th day of August, 1917.

When recorded, return this document to:

NAME

Department of Water Resources Division of Engineering

MAILING **ADDRESS** Real Estate Branch, Room 425

P.O. Box 942836

CITY, STATE ZIP CODE Sacramento, CA 94236-0001

Attachment (

Sacramento County Recorder Craig A. Kramer, Clerk/Recorder BOOK 20090731 PAGE 1752

Friday, JUL 31, 2009 3:48:19 PM Ttl Pd \$0.00

Nbr-0005992725

SJS/57/1-10

JOINT USE AGREEMENT

Sacramento , California

June 26 ,2009

Project: Sacramento River Bank Protection

PARCEL CA 05049

This Agreement, entered into on the date above written, by and between Reclamation District Number 1000 of the State of California, a public entity formed as a special district by special act of the California Legislature, hereinafter called DISTRICT, and the SACRAMENTO AND SAN JOAQUIN DRAINAGE DISTRICT, acting by and through The Central Valley Flood Protection Board of the State of California, hereinafter called BOARD;

WITNESSETH THAT:

WHEREAS, DISTRICT owns and is in possession of real property, rights of way, and easements for reclamation and levee purposes, described in Exhibit "A" attached hereto and made a part hereof; and,

WHEREAS, DISTRICT desires to grant to BOARD the right to jointly use the said property rights; and, to the extent permitted under the instruments granting the real property, rights of way and easements to District,

Construct, reconstruct, enlarge, fence, plant with trees, shrubs, and other a) vegetation, preserve and retain all vegetative growth desirable for project purposes, repair and use flood control works, which shall include, but not be limited to, access, haul, and patrol roads, levees, ditches, embankments, channels, berms, fences, and appurtenant structures, and operate and maintain said flood control works in conformity with the Code of Federal Regulations, Corps of Engineers' Standard Operation and Maintenance Manual, and State of California Standards.

JUN 1 7 2009

- b) Clear and remove from said flood control works any and all natural or artificial obstructions, improvements, trees, and vegetation necessary for construction, operation, maintenance, repair, reconstruction, and emergency flood fight.
- Flow waters and material and by said flow erode.
- d) Place or deposit earth, debris, sediment, or other material.
- e) Excavate and remove earth, debris, sediment, or other material, including that placed or deposited as above.
- f) Locate or relocate roads and public utility facilities by grantee or others.
- g) Restrict the rights of the Grantor, his successors and assigns, without limitations, to explore, extract, remove, drill, mine, or operate through the surface or upper 100 feet of the subsurface in exercise of the Grantor's interest in any minerals, including oil and gas.
- h) Restrict any use by others which may interfere with any of the uses listed herein or any use necessary or incidental thereto.

WHEREAS, BOARD desires to accept the grant of the right to jointly use the said property rights;

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, DISTRICT and BOARD do hereby mutually agree as follows:

- DISTRICT hereby perpetually agrees to the construction, reconstruction, maintenance or use by BOARD and the United States Army Corps of Engineers and their contractors of the flood control project works ("Project Works") upon or across the DISTRICT's property, excluding pumping plants and interior canals and drainage ditches.
- 2. In the event that the future use of DISTRICT's works shall at any time or times necessitate rearrangement, relocation, or reconstruction of any of the Project Works then existing in the area of joint use, DISTRICT shall notify BOARD of such necessity in accordance with Water Code Sections 8710 through 8723, and DISTRICT agrees to pay the cost of such rearrangement, relocation, or reconstruction of the Project Works following BOARD's approval of all plans and specifications for the said improvement, relocation, or reconstruction, which approval shall not be unreasonably withheld.

- 3. BOARD shall pay the cost of any construction, reconstruction, modification, alteration, or relocation of DISTRICT's works in the area of joint use when such construction, rearrangement, modification, alteration, or relocation is requested by BOARD or its authorized agent, and BOARD shall submit to DISTRICT for approval all plans and specifications of any proposed construction, modification, or alteration by BOARD of DISTRICT's works within the area of joint use, which approval shall not be unreasonably withheld.
- DISTRICT shall pay the cost of repair and maintenance of the Project Works in the area of joint use at its full expense, excepting damage resulting from BOARD's acts.
- 5. When work is to be performed within the area of joint use where facilities are located, the BOARD shall comply with the following provision:
 - a. Except in emergencies, BOARD shall give reasonable notice to DISTRICT, and to the underlying fee owner if other than DISTRICT, before performance of any construction or construction related activities, such as topographic surveys, geotechnical investigations or environmental surveys, in the area of joint use.
 - b. In all cases, BOARD shall make adequate provisions for the protection of the public in the area of joint use and provide such safety devices as are generally required on construction projects.
 - c. All work shall be planned and carried out so there will be minimum inconvenience to the public in the area of joint use.
 - d. All work shall be planned and carried out so that there is no unreasonable interference with the DISTRICT's use of its facilities.
- 6. DISTRICT and BOARD shall use said area of joint use in such a manner as not to unreasonably interfere with the rights and responsibilities of the other.
- 7. BOARD may, with DISTRICT's permission in writing, assign the rights granted herein; said assignments shall not, however, relieve the BOARD of duties

EXHIBIT "A"

PARCEL CA 05049

- All that real property lying within the DISTRICT's boundary as shown on Exhibit "B", attached hereto and made a part hereof, and situated in the County of Sacramento, State of California, conveyed to the DISTRICT and to its successors and assigns, described as follows:
- <u>UNIT 100</u>: A right of way for reclamation purposes conveyed by Regina Welhausen, et al, by deed dated September 17, 1912, and recorded September 24, 1912, in Deed Book 362, at Page 295, Official Records of said County, containing 18.59 acres, more or less.
- <u>UNIT 101:</u> A right of way for reclamation purposes conveyed by Regina Welhausen, Et Al, by deed dated December 10, 1912, and recorded December 30, 1912, in Deed Book 367, at Page 461, Official Records of said County, containing 0.32 acre, more or less.
- <u>UNIT 102:</u> A right of way for reclamation purposes conveyed by San Juan Investment Co. by deed dated September 23, 1912, and recorded November 1, 1912, in Deed Book 367, at Page 54, Official Records of said County, containing 11.97 acres, more or less.
- <u>UNIT 103:</u> A right of way for reclamation purposes conveyed by San Juan Investment Co. by deed dated March 7, 1927, and recorded March 9, 1927, in Book 116, at Page 353, Official Records of said County, containing 12.51 acres, more or less.
- <u>UNIT 104:</u> A right of way for reclamation purposes conveyed by Fredrick W. Kiesel, by deed dated September 23, 1912, and recorded November 1, 1912, in Deed Book 367, at Page 57, Official Records of said County, containing 8.36 acres, more or less.
- <u>UNIT 105</u>: A right of way for reclamation purposes conveyed by Fredrick W. Kiesel, by deed dated September 23, 1912, and recorded November 20, 1912, in Deed Book 367, at Page 188, Official Records of said County, containing 7.18 acres, more or less.
- <u>UNIT 106</u>: A right of way for reclamation purposes conveyed by Clarke & Cox Farms Co., by deed dated September 23, 1912, and recorded December 20, 1912, in Deed Book 367, at Page 411, Official Records of said County, containing 19.8 acres, more or less.
- <u>UNIT 107:</u> A right of way for levee purposes conveyed by Valentine S. McClatchy, et al, by deed dated April 5, 1913, and recorded April 12, 1913, in Deed Book 371, at Page 404, Official Records of said County, containing 9.03 acres, more or less.
- <u>UNIT 108:</u> A right of way for levee purposes over an upon all those certain lots, pieces or parcels of land described and numbered (8) through (17), conveyed by Natomas Consolidated of California by deed dated January 29, 1913, and recorded April 12, 1913, in Deed Book 371, at Page 395, Official Records of said County, containing a total of 366.45 acres, more or less.

- <u>UNIT.109</u>: A right of way for levee purposes over an upon all those certain lots, pieces or parcels of land described and numbered (1) through (12), conveyed by Natomas Company of California by deed dated July 25, 1917, and recorded September 6, 1917, in Deed Book 473, at Page 74, Official Records of said County, containing a total of 390.12 acres, more or less.
- <u>UNIT 110:</u> All that real property conveyed by Natomas Company by deed dated August 1, 1938, and recorded September 13, 1938, in Book 699, at Page 268, Official Records of said County, containing of 9.07 acres, more or less.
- <u>UNIT 111:</u> All that real property and right of way for private road purposes conveyed by Elmer F. Christophel and Winifred L. Christophel, his wife, by deed dated May 9, 1958, and recorded May 29, 1958, in Book 3518, at Page 248, Official Records of said County, containing of 2.2 acres, more or less.
- <u>UNIT 112:</u> All that real property conveyed by Elmer F. Christophel and Winifred L. Christophel, his wife, by deed dated May 30, 1969, and recorded June 3, 1969, in Book 69-07-03, at Page 263, Official Records of said County, containing of 0.3072 acres, more or less.
- <u>UNIT 113:</u> A levee maintenance and open space easement conveyed by California Farm Bureau Federation, a California Non-Profit Corporation, by deed dated November 20, 1996, and recorded December 11, 1996, in Document 199612111004, Official Records of said County.
- TOGETHERWITH all of that real property lying within the DISTRICT's boundary as shown on the hereinafter Exhibit "B", situated in the County of Sutter, State of California, conveyed to the DISTRICT and to its successors and assigns, described as follows:
- <u>UNIT 200:</u> A right of way for reclamation purposes conveyed by Charles F. Roth by deed dated July 11, 1912, and recorded July 12, 1912, in Book 49 of Deeds, at Page 156, Official Records of said County, containing 10.45 acres, more or less.
- <u>UNIT 201:</u> A right of way for reclamation purposes conveyed by Final Order or Judgment of Condemnation in the Superior Court of the State of California, Case No. 1346, against defendant Margaret Lyall, et al, dated August 1, 1912, and recorded August 1, 1912, in Book 49 of Deeds, at Page 239, Official Records of said County, containing 5.69 acres, more or less.
- <u>UNIT 202:</u> A right of way for reclamation purposes conveyed by D. W. Hobson, et al, by deed dated August 8, 1912, and recorded November 2, 1912, in Book 49 of Deeds, at Page 442, Official Records of said County, containing 3.67 acres, more or less.
- <u>UNIT 203:</u> A right of way for reclamation purposes conveyed by F. H. Bennett, et ux, by deed dated January 31, 1913, and recorded February 4, 1913, in Book 50 of Deeds, at Page 46, Official Records of said County, containing 5.04 acres, more or less.

<u>UNIT.204:</u> A right of way for levee purposes over an upon all those certain lots, pieces or parcels of land described and numbered (2) through (7) by Natomas Consolidated of California by deed dated January 29, 1913, and recorded May 19, 1913, in Book 50 of Deeds, at Page 387, Official Records of said County, containing 147.70 acres, more or less.

<u>UNIT 205:</u> A right of way for levee purposes over an upon all those certain lots, pieces or parcels of land described and numbered (1) through (8), conveyed by Natomas Company of California by deed dated July 25, 1917, and recorded September 6, 1917, in Book 59, of Deeds, at Page 227, Official Records of said County, containing a total of 189.39 acres, more or less.

-7-

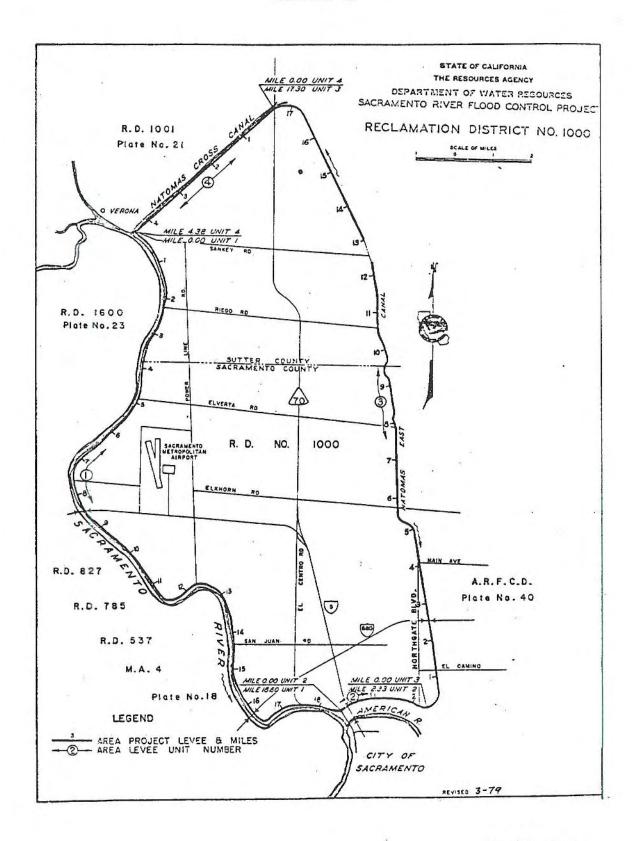
imposed upon it by this agreement. DISTRICT will not unreasonably withhold permission.

8. DISTRICT may, with BOARD permission in writing, assign the rights and responsibilities granted herein to a local district responsible for the maintenance of Project Works. Said assignment shall not, however, relieve the DISTRICT of duties imposed upon it by this Agreement. BOARD will not unreasonably withhold its consent.

IN WITNESS WHEREOF, the parties hereto have caused these present to be executed in duplicate by their respective officers, thereunto duly authorized.

Reclamation District No. 1000 of the State of California	SACRAMENTO AND SAN JOAQUIN DRAINAGE DISTRICT, acting by and through The Central Valley Flood Protection Board of the State of California
By: Paul Devereux, General Manager	By: Fay Punia
Date: 06/26/2009	Date: 7/6/09
for Reclamation District No. 1000	Approved as to Legal Form and Sufficiency for The Central Valley Flood Protection Board
James M. Day, Jr., General Counsel Date:	Nancy Finch, Staff Counsel III Date: 2009

Exhibit "B"

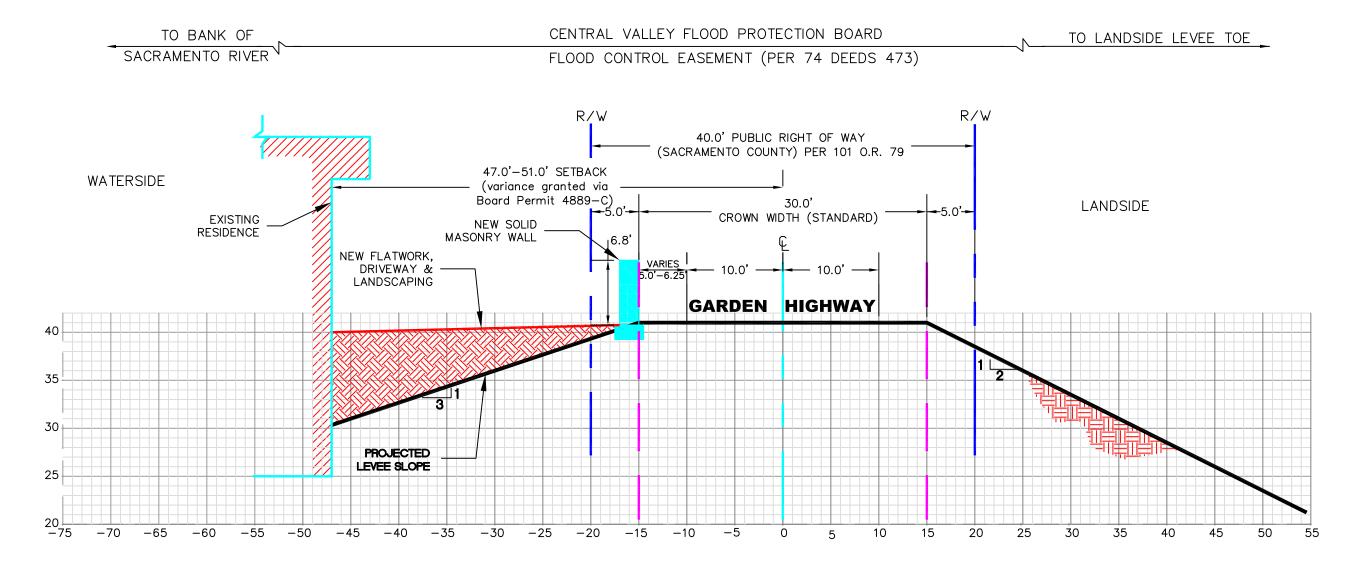


CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT State of California County of Dacramenti personally appeared who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized TERRIE A. FIGUEROA capacity(ies), and that by his/her/their signature(s) on the Commission # 1726605 instrument the person(s), or the entity upon behalf of lotary Public - California Sacramento County which the person(s) acted, executed the instrument. My Comm. Biplies Feb 24, 2011 I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct. WITNESS my hand and official seal Signature Place Notary Seal Above OPTIONAL Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document. **Description of Attached Document** Title or Type of Document: Number of Pages: _ Signer(s) Other Than Named Above: Capacity(ies) Claimed by Signer(s) Signer's Name: 101 Signer's Name:_ ☐ Individual ☐ Individual S Corporate Officer — Title(s): General Manager ☐ Corporate Officer — Title(s): _ □ Partner — □ Limited □ General □ Partner — □ Limited □ General Attorney in Fact ☐ Attorney in Fact OF SIGNER Top of thumb here Top of thumb here □ Trustee □ Trustee Guardian or Conservator Guardian or Conservator Other: Other: Signer Is Representing: Signer Is Representing: Keclamation District

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT State of California who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized DELIA GRIJALVA capacity(ies), and that by his/her/their signature(s) on the COMM. #1719574 instrument the person(s), or the entity upon behalf of Notary Public - California which the person(s) acted, executed the instrument. Sacramento County Comm. Expires Jan. 23, 2011 I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct. WITNESS my hand and official seal. Signature Signature of Notary Public Place Notary Seal Above OPTIONAL -Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document. **Description of Attached Document** Title or Type of Document: Number of Pages: Document Date: Signer(s) Other Than Named Above: Capacity(ies) Claimed by Signer(s) Signer's Name: Signer's Name: < Individual Individual ☐ Corporate Officer — Title(s): _ Corporate Officer — Title(s): ☐ Partner — ☐ Limited ☐ General Partner — ☐ Limited ☐ General ☐ Attorney in Fact Attorney in Fact OF SIGNER Top of thumb here ☐ Trustee Trustee ☐ Guardian or Conservator Guardian or Conservator & Other: General Manage Other: Signer Is Representing: Signer Is Representing: VFMO

ATTACHMENT D

Site Cross section prepared by CVFPB Staff



5291 GARDEN HIGHWAY - SECTION SCALE: 1"=10'

CENTRAL VALLEY FLOOD PROTECTION BOARD

ENFORCEMENT ORDER NO. 2011-138
RESPONDENT: MR. LINO CATABRAN
5291 GARDEN HIGHWAY

APN: 201-0330-031

JULY 12, 2011

PREPARED BY: A. CALISO



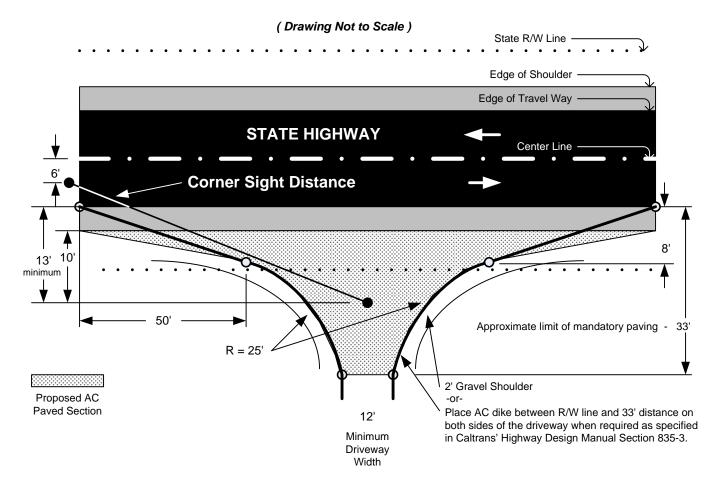
SHEET 1 OF 1

ATTACHMENT E

Caltrans Highway Design Manual Appendix J Exhibit

Standard Private and Commercial Driveway Approach

For Rural Areas With Unimproved Frontage On Conventional State Highways



Source: Caltrans Highway Design Manual, Appendix J (March 2007)

ENFORCEMENT HEARING



Enforcement Action No. 2011-138

Respondent: Mr. Lino Catabran

Address: 5291 Garden Highway,

Sacramento CA

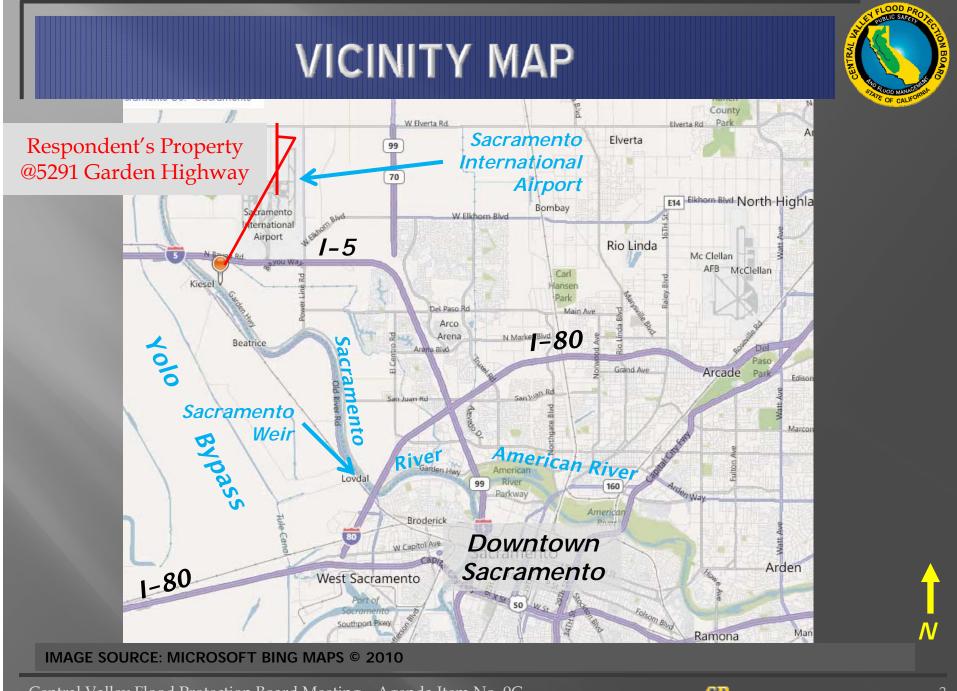
August 26, 2011

BOARD ACTION



Consider ordering compliance with Enforcement Action No. 2011-138 to remove the following unauthorized encroachments:

- Item I: Excavation on the waterside hinge point of the levee for the installation of a masonry block wall.
- Item II: Placement of a parallel solid masonry block wall (varying 6-8 ft high); including 2 gates on the levee within 10-ft from the waterside hinge point.
- Item III: Placement of utility lines associated with the new masonry block wall and new landscaping on the levee



LOCATION MAP



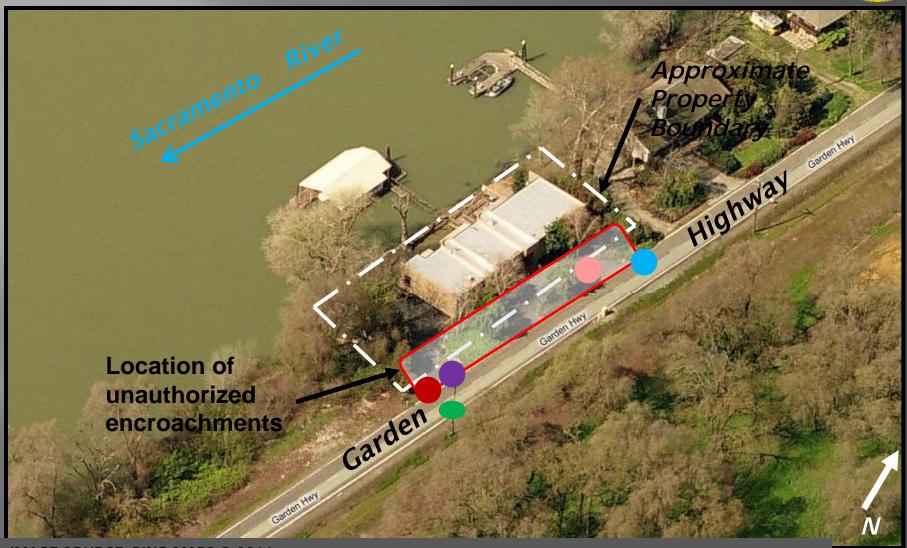


IMAGE SOURCE: BING MAPS © 2011

APPLICABLE LAWS & REGULATIONS



CALIFORNIA WATER CODE:

- Pursuant to §8534- Board has authority to enforce "the erection, maintenance and protection of such levees, embankments and channel rectification as will, in its judgment, best serve the interests of the State"
- Pursuant to §8708- Board has given assurances to the USACE to maintain and operate federal flood control works in accordance with federal law
- Pursuant to §8709- If respondent fails to remove the unauthorized encroachment, the Board may commence a suit to abate the nuisance.

APPLICABLE LAWS & REGULATIONS CONTINUED:



CALIFORNIA CODE OF REGULATIONS TITLE 23:

- Pursuant to §6 (a)- "every proposal or plan of work...requires a Board approval prior to commencing any work".
- Pursuant to §112 (a)- "The board requires applications to be filed for all proposed encroachments within the floodways under its jurisdiction (identified in Table 8.1) and on levees adjacent thereto, on any stream which may affect those floodways".
- Pursuant to §20 (a)- "The Executive Officer may institute an enforcement proceeding...to the landowner or person (referred to hereafter as the "respondent") owning, undertaking or maintaining a work that is in violation of this division or threatens the successful execution, functioning or operation of an adopted plan of flood control".
- Pursuant to §133 (c)(2)- "...fences parallel to the levee must be an open type and constructed to provide for the unobstructed visual inspection of the levee slope and toe from the levee crown roadway."

APPLICABLE LAWS & REGULATIONS CONTINUED:



CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS):

 Highway Design Manual 405.1 (2) (a)- "at unsignalized intersection a substantial clear line of sight should be maintained between the driver of a vehicle waiting at the crossroad and the driver of the approaching vehicle...

SACRAMENTO COUNTY:

Pursuant to Code 12.12.020- Obstructions at private driveways and public street states: "it is unlawful...to install or maintain...any sign..fence or other obstruction to the view that does not comply with County Improvement Standards."

EASEMENTS/ROW

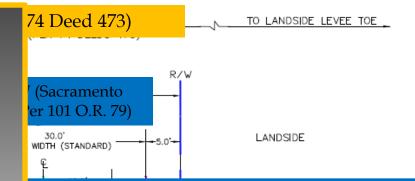


Flood Control Rights

On July 25, 2917 RD 1000 acquired Deed recorded on Book 473 Page 74 in which the following rights were transferred:

"...the right to construct, replace, renew, repair, maintain and operate a levee over and upon all those certain lots..." (SR Attachment C, Exhibit A)

On June 26, 2009, RD1000 and SSJDD executed a Joint Use Agreement (CA 5049) which transferred rights originally obtained by RD1000 in 1917 to be jointly used by the Board (SR Attachment C, Exhibit B)



Road Easement

On November 15, 1926,
Sacramento County obtained a road easement recorded on Book 101 Page 79.

IMAGE SOURCE: CVFPB Exhibit (Staff Report Attachment D)

BACKGROUND



- September 1, 2010 The Local Maintaining Agency, Reclamation
 District 1000 (RD 1000), notified the Respondent of the unauthorized
 encroachments (SR B, A).
- September 21, 2010 Board staff visited the site with RD Manager and DWR Inspector and provided the Respondent a copy of the Board's encroachment permit application form.
- September 23, 2010 Board staff notified Respondent that the submitted encroachment application was lacking RD1000 endorsement and provided initial review comments on the submitted site plan via e-mail (SR B, B).
- September 23, 2010 The Respondent delivered copies of permit application with the LMA endorsement to CVFPB offices (SR B,C).
- October 6, 2010 Board staff was notified that the Respondent continued to work on the property and DWR Inspector visited the site and issued an NOV (SR B, D).

BACKGROUND - CONTINUED



- October 18, 2010 Board staff notified Respondent to stop all work at the property via email (SR B, E).
- October 18, 2010 Reclamation District 1000 issues Cease and Desist letter to Respondent on (SR B, F).
- October 19, 2010 Respondent replied to staff's cease and desist order on (SR B, G).
- April 12, 2011 Board staff sent to Respondent notifying him that his submitted application would not be processed as the work on the property was not in compliance with the Board's Title 23 requirements (SR B, H).
- April 20, 2011 Board staff coordinated with Sacramento
 County on the work taken place at this property and as a
 result, Sacramento County issued a Notice of Violation to the
 Respondent on (SR B, I).

BACKGROUND CONTINUED



- May 20th Enforcement Order Issued (SR A)
- June 13th Hearing request acknowledgment letter sent to Respondent (SR B,K)
- June 14th Board staff met with Respondent and informed him of hearing scheduled for July 22, 2011 Board meeting
- June 15th Sent email to Respondent asking to reserve July 22nd for hearing
- July 7th Staff sent Respondent copy of Agenda
- July 8th Respondent sent e-mail requesting postponement as he was unable to retain legal counsel
 - July 8th Staff acknowledged Respondent's request & informed him hearing may continue as scheduled

BACKGROUND CONTINUED



- July 12th Respondent sent email requesting postponement for medical reasons
- July 20th Staff mailed Mr. Rasmusson (Respondent's representative) copy of staff report and related documents (SR B, M)
- July 21st staff received letter from Mr. Rasmusson requesting continuance of hearing (SR B,N)
- July 22nd Board granted continuance of hearing as requested
- July 26th— Mr. Rasmusson notified request for continuance was granted and hearing scheduled for August (SR B, O)
- August 15th—copy of Agenda was sent to Mr. Rasmusson (SR B, P)
- August 16th copy of staff report was sent to Mr. Rasmusson
- August 17th Email from Mr. Rasmusson requesting meeting

ITEM I: LEVEE CUT FOR BLOCK WALL

CENTRAL MONOS OF STATES OF CHILD AND STATES OF

Violations to CCR Title 23:

§6 (a)- "every proposal or plan of work...requires a Board approval prior to commencing any work".

§112 (a)- "The board requires applications to be filed for all proposed encroachments within the floodways under its jurisdiction (identified in Table 8.1) and on levees adjacent thereto, on any stream which may affect those floodways".

§ 112 (b) -"banks, levees, and channels of floodways along any stream, its tributaries, or distributaries may not be excavated, cut, filled, obstructed, or left to remain excavated during the flood season"

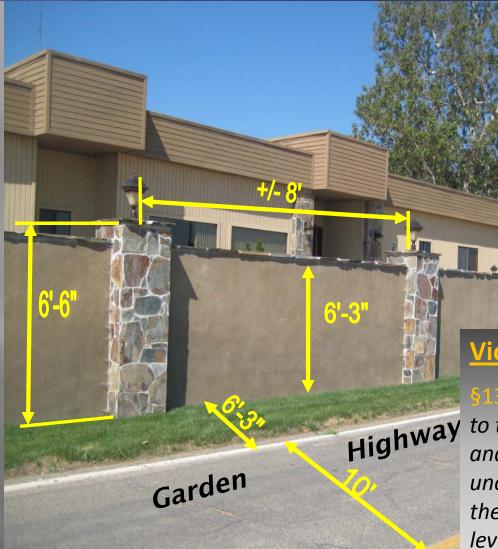
§ 115 (a) "dredged, spoil, or waste materials, regardless of their composition, may not be deposited on the levee crown, levee slopes, or within the limits of a project floodway without specific prior approval of the board"



IMAGE SOURCE: Board staff site visit on September 21, 2010

ITEM II: PLACEMENT OF SOLID MASORY BLOCK WALL W/IN 10-FT FROM FOG LINE



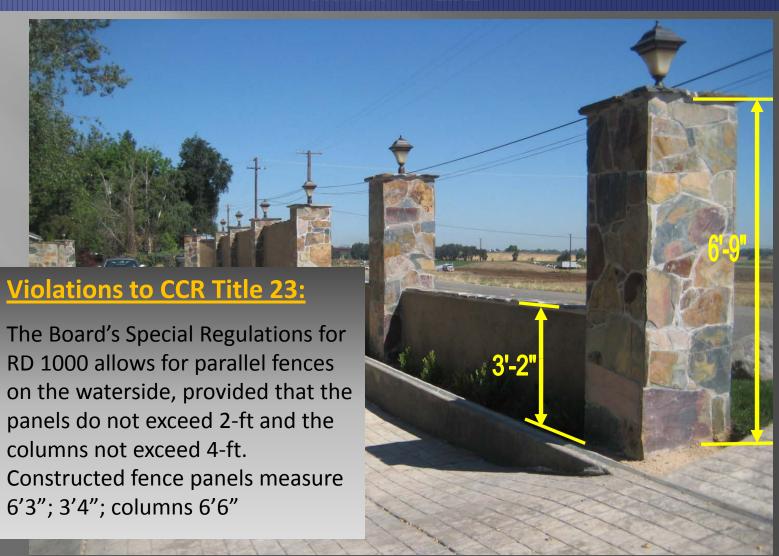


Violations to CCR Title 23:

Highway
Highway
to the levee must be an open type
and constructed to provide for the
unobstructed visual inspection of
the levee slope and toe from the
levee crown roadway."

ITEM II: PLACEMENT OF SOLID MASORY BLOCK WALL W/IN 10-FT FROM FOG LINE





RD1000 Exhibit

ITEM III: Placement of utility lines associated with landscaping & wall





Violations to CCR Title 23:

§ 123 (a)(1) states "...conduits, utility lines and appurtenant structures may not be installed within the levee section, within ten (10) feet of levee toes....unless authorized by the General Manager..."

U.S. Army Corps of Engineers:

ETL 1110-2-571 (vegetation) which requires the waterside levee slope plus 15-feet adjacent to the levee toe to be vegetation-free with the exception of perennial grasses.

PRIOR BOARD PERMITS



- Board Order <u>4889-C BD</u> issued on December 19, 1980 to Mr. Robert J.
 - Name changed from Mr. & Ms. E.J. Piercy & Mr. F. Shermer to Mr. Robert
 J. Ronevicz (4889 A)
 - Granted variance to the 65' setback for the placement of a single family dwelling; authorization for placement of fill, septic tank, leach lines, driveway ramps and bank protection.
- PERMIT No. 13650-GM issued on September 2, 1983 to Mr. Robert J.
 Ronevicz
 - Granted authorization for construction of 20' x 8' boat dock & walkway
- Letter of authorization dated <u>March 2, 2007</u> to Mr. Lino Catabran
 - Changed permit name from Robert J. Roneviz to Lino Catabran and granted authorization to repair foundation of existing dwelling (B.O. 4889) and repair of paved drive
 - Condition 8 states "No further work, other than approved by this letter, shall be done in this area without prior approval of the Reclamation Board."

AGENCY COMMENTS



- Reclamation District 1000 supports Board staff's enforcement action (per NOV, Cease & Desist and other communication).
- The USACE has expressed support of enforcement actions related encroachments that are not Title 23 compliant.
 - USACE Periodic Inspection before work began at this property and not noted but may be noted in future

CEQA ANALYSIS



Board staff has prepared the following CEQA determinations:

The Board, acting as the CEQA lead agency, has determined the project is categorically exempt in accordance with CEQA Guidelines Section 15321 under Class 21 (a) actions of regulatory agencies to enforce standards and Section 15301 under Class 1 covering the minor alteration of existing public or private structures and facilities.

STAFF RECOMMENDATION



Staff recommends the following:

- These determinations constitute as significant evidence that said encroachments will interfere with maintenance and performance of the Sacramento River Flood Control Project pursuant to Water Code §8708 and 8709.
- The State is obligated to enforce removal of encroachment that impact the integrity of the levee pursuant to Water Code §8708
- The Board determine the following:
 - Adopt Enforcement Action No. 2011-138
 - The encroachment removal is exempt from CEQA
 - Order the removal of unauthorized encroachments and restoration of levee in accordance with Enforcement Action No. 2011-138

QUESTIONS



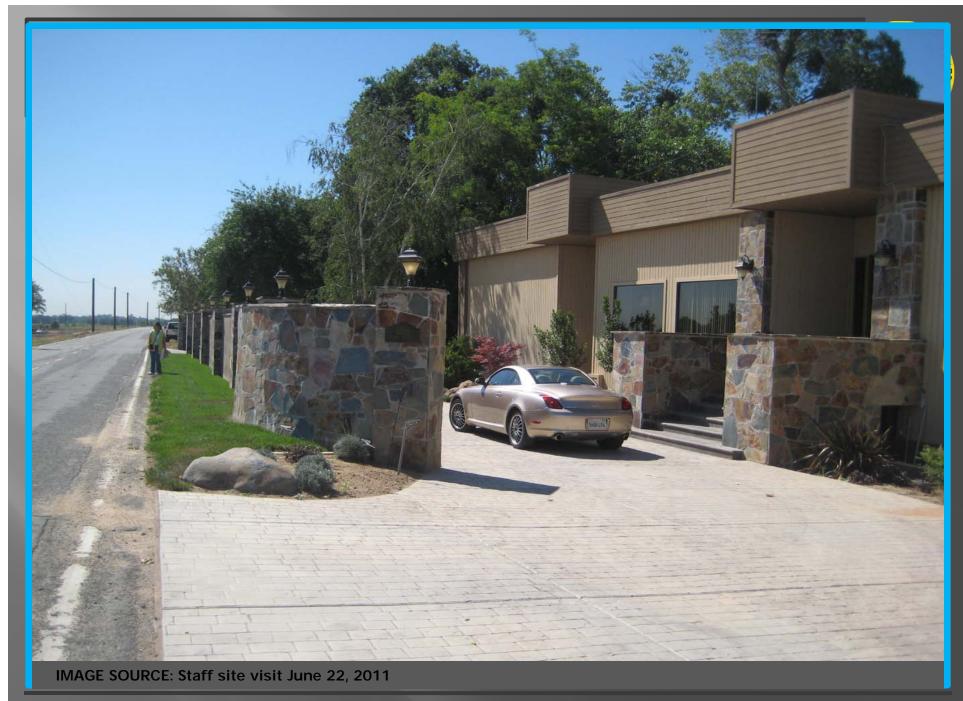




IMAGE SOURCE: Staff site visit June 22, 2011









Eric Rasmusson

From:

LINO CATABRAN [linoc@att.net]

Sent:

Wednesday, August 24, 2011 3:48 PM

To:

Eric@RPAco.org

Subject:

Fw: 5291 Garden Hwy Emergency Permit Lot topography









RD 1000 Special Encroachment S... 110-2-571 Vegetatio

Corps ETL

Std Project Levee Section.pdf

markup.pdf

---- Forwarded Message ----

From: "Caliso, Angeles" <acaliso@water.ca.gov>

To: LINO CATABRAN < linoc@att.net>

Cc: Paul Devereux <pdevereux@rd1000.org>; "Porbaha, Mohammad (Ali)" <mporbaha@water.ca.gov>; "Taras, Curt"

<ctaras@water.ca.gov>

Sent: Thu, September 23, 2010 3:17:19 PM

Subject: RE: 5291 Garden Hwy Emergency Permit Lot topography

Lino,

Since Paul already has a copy of the package, I suggest you re-submit the package with their endorsement to our office. I will go ahead and keep the package you submitted and replace the cover page with the RD endorsement once we receive it. Please note that our offices are closed every 2nd, 3rd and 4th Friday of each month due to furloughs.

Our application processing time is approximately 3 months. Given your situation, I will do my best to expedite your application. However, you should know that part of our permitting process includes obtaining concurrence from the U.S. Army Corps of Engineers. Once our review is complete and we have the Corps' review letter, we will schedule your application for the next available Board meeting. This meetings are held once a month, typically every 4th Friday of the month. However, with the current furloughs, they have been changed to the 4th Thursday of the month. You can find more information on this at our website (see link on my signature below).

Based on the plans that you submitted, my initial comments are as follows:

- No structures or utilities can be installed within 15' from the edge of the levee crown. Therefore, the drinking fountain and retaining wall must be relocated towards the waterside (closer to home).
- The only vegetation allowed within 15' from the edge of the levee crown is grass. See attached US Army Corps ETL 1110-2-571 for details on vegetation.

- The levee section cannot be penetrated. Attachment D
- The parallel fence must be see-through to allow for inspections. See attached RD1000 standards for allowed fences.
- Identify/show the center line of the levee and of Garden Highway.
- · Provide cross section (per attached marked-up plan) showing horizontal and vertical information for the proposed work.

I'm also attaching a copy of the Board's standards for RD1000 to assist you in revising/modifying your plans. Also, you can find a copy of the Board's regulations on our website at the following link: http://www.cvfpb.ca.gov/regulations/Title23Tierlupdates_Register2009.pdf

I will be out of the office next week (Monday thru Wednesday), but I will be checking my email periodically. In the time being, if you have any questions, or need additional information, please call.

Best Regards,

Angeles Caliso Central Valley Flood Protection Board

(916) 574-2386 Office I (916) 628-0540 Mobile I (916) 574-0682 Fax

Email: acaliso@water.ca.gov http://www.cvfpb.ca.gov/> | www.cvfpb.ca.gov

http://www.cvfpb.ca.gov/>

From: LINO CATABRAN [mailto:linoc@att.net] Sent: Thursday, September 23, 2010 9:36 AM

To: Caliso, Angeles Cc: Paul Devereux

Subject: Re: 5291 Garden Hwy Emergency Permit Lot topography

Good morning, and please call me Lino. I just got off the phone with Paul Devereux. He said he should be done with plan before noon tomorrow. I have left a complete package with him. Would it be ok if you held your package until I can add signed copy or should I pick up the package and have him sign all copies?

Once that is complete what is the approximate timeline before I can restart construction? In areas

that there is no grading to be done, can I start building forms for driveway and footings? I appreciate your help.

Lino 916 240 8531

From: "Caliso, Angeles" <acaliso@water.ca.gov>

To: LINO CATABRAN catt.net>; "Dawson, Charles" <sdawson@water.ca.gov>

Cc: "Porbaha, Mohammad (Ali)" <mporbaha@water.ca.gov>; Paul Devereux <pdevereux@rd1000.org>; "Petersen, Michael" <michaelp@water.ca.gov>

Sent: Thu, September 23, 2010 8:13:40 AM

Subject: RE: 5291 Garden Hwy Emergency Permit Lot topography

Mr. Catabran,

Thank you for submitting your application on such a timely manner. I did receive the original copies you hand-delivered to our office. However, your application is incomplete. Item #4 on the application requires the endorsement from the reclamation district, in this case RD 1000. Please get the District's signature and re-submit your package. Attached is a scan copy of the application you submitted. I will be mailing you back the package you submitted.

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From: LINO CATABRAN [mailto:linoc@att.net]
Sent: Wednesday, September 22, 2010 2:03 PM

To: Caliso, Angeles; Dawson, Charles

Subject: 5291 Garden Hwy Emergency Permit Lot topography

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i would i	llike to	talk with	vou todav	tor an	update.

Thanks Lino

	Information from ESE	NOD32	Antivirus,	version o	of virus	signature	database	6407
(20110824)								

The message was checked by ESET NOD32 Antivirus.

http://www.eset.com

Eric Rasmusson

From:

LINO CATABRAN [linoc@att.net]

Sent:

Wednesday, August 24, 2011 3:49 PM

To:

Eric@RPAco.org

Subject:

Fw: 5291 Garden Hwy Emergency Permit Lot topography



Permit Conditions Unnumbered--...

---- Forwarded Message ----

From: Paul Devereux <pdevereux@rd1000.org>

To: LINO CATABRAN < linoc@att.net>; "Caliso, Angeles" < acaliso@water.ca.gov>

Sent: Thu, September 23, 2010 3:21:03 PM

Subject: RE: 5291 Garden Hwy Emergency Permit Lot topography

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I am willing to work with you and the Central Valley FCB staff to expedite improvements to make your house safe and habitable. We can discuss once the application has been submitted and Angeles is able to talk to people in her office.

Thanks

Paul Devereux

General Manager/District Engineer

Reclamation District No. 1000

916-922-1449

pdevereux@rd1000.org <mailto:pdevereux@rd1000.org>

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To: LINO CATABRAN < linoc@att.net>; "Dawson, Charles" < sdawson@water.ca.gov>

Cc: "Porbaha, Mohammad (Ali)" <mporbaha@water.ca.gov>; Paul Devereux <pdevereux@rd1000.org>; "Petersen,

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Thanks Lino

Information from ESET NOD32 Antivirus, version of virus signature database 6407 (20110824)

The message was checked by ESET NOD32 Antivirus.

http://www.eset.com

Eric Rasmusson

From:

LINO CATABRAN [linoc@att.net]

Sent:

Wednesday, August 24, 2011 3:50 PM

To:

Eric@RPAco.org

Subject:

Fw: 5291 Garden Hwy Emergency Permit Lot topography

---- Forwarded Message ----

From: LINO CATABRAN linoc@att.net>
To: Paul Devereux <pdevereux@rd1000.org>
Cc: Linda Catabran <2lindacat@att.net>
Sent: Thu, September 23, 2010 3:41:56 PM

Subject: Re: 5291 Garden Hwy Emergency Permit Lot topography

Hi Paul, thank you so much for your early completion, the email and even a phone follow-up. I haven't had that kind of service from a governmental agency before. I am headed to pick up plans now and deliver to Angeles. Thanks again Lino

From: Paul Devereux <pdevereux@rd1000.org>

To: LINO CATABRAN < linoc@att.net>; "Caliso, Angeles" < acaliso@water.ca.gov>

Sent: Thu, September 23, 2010 1:21:03 PM

Subject: RE: 5291 Garden Hwy Emergency Permit Lot topography

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Subject: RE: 5291 Garden Hwy Emergency Permit Lot topography

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Thank you for submitting your application on such a timely manner. I did receive the original copies you hand-delivered to our office. However, your application is incomplete. Item #4 on the application requires the endorsement from the reclamation district, in this case RD 1000. Please get the District's signature and re-submit your package. Attached is a scan copy of the application you submitted. I will be mailing you back the package you submitted.

If you have any questions or need additional information, feel free to contact me.

Best Regards,

Angeles Caliso

Central Valley Flood Protection Board

(916) 574-2386 Office (916) 628-0540 Mobile (916) 574-0682 Fax

Email: acaliso@water.ca.gov http://www.cvfpb.ca.gov/> www.cvfpb.ca.gov http://www.cvfpb.ca.gov/> www.cvfpb.ca.gov/> www.cvfpb.ca.gov/

From: LINO CATABRAN [mailto:linoc@att.net]
Sent: Wednesday, September 22, 2010 2:03 PM

To: Caliso, Angeles; Dawson, Charles

Subject: 5291 Garden Hwy Emergency Permit Lot topography

I just wanted to make sure that you recieved the application I dropped at your office yesterday. I left it with someone with the last name Tice, I think. I am also attaching the lot topography which is also shown in the landscape plan but is hard to see. If I am missing anything please call me at home or on cell. 916 924 9999 home or cell

916 240 8531. I am obviously concerned about completing at least the steps and driveway before it starts raining. My contractor is trying to work with me but luckily for him he has a busy schedule.

I would like to talk with you today for an update.

Thanks Lino

Information from ESET NOD32 Antivirus, version of virus signature database 6407 (20110824)

The message was checked by ESET NOD32 Antivirus.

http://www.eset.com

Eric Rasmusson

From:

LINO CATABRAN [linoc@att.net]

Sent:

Wednesday, August 24, 2011 3:52 PM

To: Subject:

Eric@RPAco.org Fw: Thanks

---- Forwarded Message ----

From: LINO CATABRAN linoc@att.net>
To: "Caliso, Angeles" <acaliso@water.ca.gov>
Sent: Fri, September 24, 2010 11:59:25 AM

Subject: Thanks

Thank you for taking the time to explain the concerns relevent to the project. It really didn't make sense before that there was this huge concern for replacing a driveway. But I get it now. If I lived on the other side of the levee, I wouldn't want anything done to lessen the integrity of the river's barrier.

It might be worthwhile for you to address the Garden Hwy residents at one of the meetings. I hope your training is worthwhile and fun. Lino

From: "Caliso, Angeles" <acaliso@water.ca.gov>

To: LINO CATABRAN < linoc@att.net>

Cc: Paul Devereux <pdevereux@rd1000.org>; "Porbaha, Mohammad (Ali)" <mporbaha@water.ca.gov>; "Taras, Curt"

<ctaras@water.ca.gov>

Sent: Thu, September 23, 2010 1:17:19 PM

Subject: RE: 5291 Garden Hwy Emergency Permit Lot topography

Lino,

Since Paul already has a copy of the package, I suggest you re-submit the package with their endorsement to our office. I will go ahead and keep the package you submitted and replace the cover page with the RD endorsement once we receive it. Please note that our offices are closed every 2nd, 3rd and 4th Friday of each month due to furloughs.

Our application processing time is approximately 3 months. Given your situation, I will do my best to expedite your application. However, you should know that part of our permitting process includes obtaining concurrence from the U.S. Army Corps of Engineers. Once our review is complete and we have the Corps' review letter, we will schedule your application for the next available Board meeting. This meetings are held once a month, typically every 4th Friday of the month. However, with the current furloughs, they have been changed to the 4th Thursday of the month. You can find more information on this at our website (see link on my signature below).

Based on the plans that you submitted, my initial comments are as follows:

- No structures or utilities can be installed within 15' from the edge of the levee crown. Therefore, the drinking fountain and retaining wall must be relocated towards the waterside (closer to home).
- The only vegetation allowed within 15' from the edge of the levee crown is grass. See attached US Army Corps ETL 1110-2-571 for details on vegetation.
- The levee section cannot be penetrated.
- The parallel fence must be see-through to allow for inspections. See attached RD1000 standards for allowed fences.
- · Identify/show the center line of the levee and of Garden Highway.
- Provide cross section (per attached marked-up plan) showing horizontal and vertical information for the proposed work.

I'm also attaching a copy of the Board's standards for RD1000 to assist you in revising/modifying your plans. Also, you can find a copy of the Board's regulations on our website at the following link: http://www.cvfpb.ca.gov/regulations/Title23Tierlupdates_Register2009.pdf

I will be out of the office next week (Monday thru Wednesday), but I will be checking my email periodically. In the time being, if you have any questions, or need additional information, please call.

Best Regards,

Angeles Caliso

Central Valley Flood Protection Board

(916) 574-2386 Office I (916) 628-0540 Mobile I (916) 574-0682 Fax

Email: acaliso@water.ca.gov http://www.cvfpb.ca.gov">l www.cvfpb.ca.gov

http://www.cvfpb.ca.gov/>

From: LINO CATABRAN [mailto:linoc@att.net] Sent: Thursday, September 23, 2010 9:36 AM

To: Caliso, Angeles Cc: Paul Devereux

Subject: Re: 5291 Garden Hwy Emergency Permit Lot topography

Good morning, and please call me Lino. I just got off the phone with Paul Devereux. He said he should be done with plan before noon tomorrow. I have left a complete package with him. Would it be ok if you held your package until I can add signed copy or should I pick up the package and have him sign all copies?

Once that is complete what is the approximate timeline before I can restart construction? In areas that there is no grading to be done, can I start building forms for driveway and footings? I appreciate your help.

Lino 916 240 8531

From: "Caliso, Angeles" <acaliso@water.ca.gov>

To: LINO CATABRAN linoc@att.net; "Dawson, Charles" <sdawson@water.ca.gov>

Cc: "Porbaha, Mohammad (Ali)" <mporbaha@water.ca.gov>; Paul Devereux <pdevereux@rd1000.org>; "Petersen, Michael" <michaelp@water.ca.gov>

Sent: Thu, September 23, 2010 8:13:40 AM

Subject: RE: 5291 Garden Hwy Emergency Permit Lot topography

Mr. Catabran,

Thank you for submitting your application on such a timely manner. I did receive the original copies you hand-delivered to our office. However, your application is incomplete. Item #4 on the application requires the endorsement from the reclamation district, in this case RD 1000. Please get the District's signature and re-submit your package. Attached is a scan copy of the application you submitted. I will be mailing you back the package you submitted.

If you have any questions or need additional information, feel free to contact me.

Best Regards,

Angeles Caliso Central Valley Flood Protection Board

(916) 574-2386 Office I (916) 628-0540 Mobile I (916) 574-0682 Fax Email: acaliso@water.ca.gov http://www.cvfpb.ca.gov/ I www.cvfpb.ca.gov http://www.cvfpb.ca.gov/>

From: LINO CATABRAN [mailto:linoc@att.net]
Sent: Wednesday, September 22, 2010 2:03 PM

To: Caliso, Angeles; Dawson, Charles

Subject: 5291 Garden Hwy Emergency Permit Lot topography

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I would llike to talk with you today for an update.

	Information from ESET NOD32 Antivirus, version of virus signature database 6407
(20110824)	
The message	was checked by ESET NOD32 Antivirus.
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Eric Rasmusson

From: Sent:

LINO CATABRAN [linoc@att.net]
Wednesday, August 24, 2011 3:53 PM

To:

Eric@RPAco.org

Subject:

Fw: Emergency permit to replace driveway 5291 Garden Hwy

---- Forwarded Message ----

From: LINO CATABRAN < linoc@att.net>

To: Benjamin Carter President <bcarter@water.ca.gov>

Sent: Thu, October 7, 2010 3:38:03 PM

Subject: Emergency permit to replace driveway 5291 Garden Hwy

My home and the safety of my wife and family are in jeoprady! I am being told to stop the replacement of an existing driveway after it had been removed. We have already had some rain and as we know the weather is unpredictable. The first and second year I lived here my garage flooded. Then I discovered the wood piers the home was built on were on the verge of collapse. To save my home a steel and concrete basement was built. The home had to be raised about 2 ft forcing the replacement of the entry steps. The concrete driveways were badly cracked and getting worse each winter when rain would further erode its base.

I had a landscape plan drawn by architect firm of Donald Joseph Inc who has designed many homes on the Garden Hwy. I took the plans to the county permit counter and was told the only permit required was for the electrical wiring to the gates and the engineering for any retaining wall over 6 ft. Thinking everything was good I had all of the driveways, sidewalks, flower beds, retaining walls, shrubs, front steps and most trees removed. A few days later I recieved a letter from RD1000 informing me that a permit was required. I spoke with Mr Deveroux and he told me which offices I would need to contact. Knowing the importance of finishing this job before rain, I hand carried 5 copies of every document requested directly to the person requesting it.

Yesterday I recieved a notice of violation. I was told that all work should stop. I have been told the permit process is normally 6 to 8 months. If it rains before the concrete is poured there will be dirt, debris and whatever else is in the soil streaming into the Sacramento River. My home and garage will be accessible only by foot and there is not anyplace to park that is paved. I cannot let that happen. I first moved to Garden Hwy in 1972 while a fireman in this Natomas District. I have a true love and respect for the river and do not want cause problems. I need to get this work going. This a mulltiple week project that if stopped it would take several days to even restart.

I am attaching the new plan as well as the old driveway configuration. The new wall and gates is consistant with the neighborhood and was approved by the county and RD1000 and follows the guidelines provided by Central Valley Flood Protection. I can also provide pictures to show the exposure we face.

Please help!!!

Sincerely, Lino Catabran 916 240-8531 cell

Information from ESET NOD32 Antivirus, version of virus signature database 6407 (20110824)

The message was checked by ESET NOD32 Antivirus.

http://www.eset.com

Eric Rasmusson

From:

LINO CATABRAN [linoc@att.net]

Sent:

Wednesday, August 24, 2011 3:55 PM

To:

Eric@RPAco.org

Subject:

Fw: Emergency permit to replace driveway 5291 Garden Hwy





FinalFinal conc.pdf orig landscape.pdf

---- Forwarded Message ----

From: LINO CATABRAN linoc@att.net>
To: Jay Punia <jpunia@water.ca.gov>
Sent: Thu, October 7, 2010 3:55:44 PM

Subject: Emergency permit to replace driveway 5291 Garden Hwy

My home and the safety of my wife and family are in jeopardy! I am being told to stop the replacement of an existing driveway after it had been removed. We have already had some rain and as we know the weather is unpredictable. The first and second year I lived here my garage flooded. Then I discovered the wood piers the home was built on were on the verge of collapse. To save my home a steel and concrete basement was built. The home had to be raised about 2 ft forcing the replacement of the entry steps. The concrete driveways were badly cracked and getting worse each winter when rain would further erode its base.

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Please help!!!
Sincerely,
Lino Catabran
916 240-8531 cell
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(20110824)
The message was checked by ESET NOD32 Antivirus.
http://www.eset.com

Eric Rasmusson

From: Sent: LINO CATABRAN [linoc@att.net] Wednesday, August 24, 2011 3:55 PM

To:

Eric@RPAco.org

Subject:

Fw: Emergency permit to replace driveway 5291 Garden Hwy





FinalFinal conc.pdf orig landscape.pdf

---- Forwarded Message ----

From: LINO CATABRAN linoc@att.net>
To: Jay Punia <jpunia@water.ca.gov>
Sent: Thu, October 7, 2010 3:55:44 PM

Subject: Emergency permit to replace driveway 5291 Garden Hwy

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Sincerely,	
Lino Catabran	

916 240-8531 cell

Information from ESET NOD32 Antivirus, version of virus signature database 6407 (20110824)

The message was checked by ESET NOD32 Antivirus.

http://www.eset.com

Eric Rasmusson

From:

LINO CATABRAN [linoc@att.net]

Sent:

Wednesday, August 24, 2011 3:56 PM

To:

Eric@RPAco.org

Subject:

Fw: Emergency permit to replace driveway 5291 Garden Hwy





FinalFinal conc.pdf orig landscape.pdf

---- Forwarded Message ----

From: LINO CATABRAN < linoc@att.net>

To: "Porbaha, Mohammad (Ali)" <mporbaha@water.ca.gov>; "Taras, Curt" <ctaras@water.ca.gov>

Cc: Angeles Caliso <acaliso@water.ca.gov> Sent: Thu, October 7, 2010 4:24:53 PM

Subject: Emergency permit to replace driveway 5291 Garden Hwy

My home and the safety of my wife and family are in jeopardy! I am being told to stop the replacement of an existing driveway after it had been removed. We have already had some rain and as we know the weather is unpredictable. The first and second year I lived here my garage flooded. Then I discovered the wood piers the home was built on were on the verge of collapse. To save my home a steel and concrete basement was built. The home had to be raised about 2 ft forcing the replacement of the entry steps. The concrete driveways were badly cracked and getting worse each winter when rain would further erode its base.

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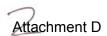
Please help!!!

Sincerely,

Lino Catabran

916 240-8531 cell

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Eric Rasmusson

From: LINO CATABRAN [linoc@att.net]

Sent: Wednesday, August 24, 2011 3:57 PM

To: Eric@RPAco.org

Subject: Fw: NOTICE: Cease & Desist All work at 5291 Garden Hwy

---- Forwarded Message ----

From: "Caliso, Angeles" <acaliso@water.ca.gov>

To: LINO CATABRAN < linoc@att.net>

Cc: "Porbaha, Mohammad (Ali)" <mporbaha@water.ca.gov>; "Taras, Curt" <ctaras@water.ca.gov>; "Marino, Len" <lmarino@water.ca.gov>; "Thomas, Clay" <cathom@water.ca.gov>; Paul Devereux

<pdevereux@rd1000.org>; "Lemon, Gary" <glemon@water.ca.gov>

Sent: Mon, October 18, 2010 12:34:17 PM

Subject: NOTICE: Cease & Desist All work at 5291 Garden Hwy

Note: Forwarded message is attached.

Mr. Catabran,

You are hereby noticed to stop all work at your property immediately. You are only authorized to do any work that is necessary to stabilize the site for erosion and public safety. All other work must wait until you have a Board approved permit.

When you hand-delivered your Board application to me on September 23, 2010, I informed you that you could not continue with any work until you received a Board permit. Furthermore, I informed you that no encroachments would be allowed to be built within 15 feet from the waterside crown hinge point. This included your proposed fence, water feature, utility lines, and landscaping (with the exception of grass). Refer attached email on 09/23/10 with comments on your submitted plans.

We have been informed that you have continued to work on your property after you were notified to stop all work on the following dates:

- September 1, 2010 Letter from RD1000
- September 21, 2010 Board staff, DWR Inspector & RD 1000 Manager site visit to your property
- September 23, 2010 Meeting with me at our office, delivering RD endorsement of your Board application
- October 6, 2010 DWR Inspector issued Notice of Violation during a site visit to your property

If you fail to follow this notice, your submitted Board application will NOT be processed and an Enforcement Action will be initiated.

Best Regards,

Angeles Caliso I Water Resources Engineer
Central Valley Flood Protection Board
Encroachment Control & Land Use Section
3310 El Camino Avenue, Room 151 I Sacramento, CA 95821
(916) 574-2386 Office I (916) 628-0540 Mobile I (916) 574-0682 Fax

Email: acaliso@water.ca.gov | www.cvfpb.ca.gov

Information from ESET NOD32 Antivirus, version of virus signature database 640′ (20110824)
The message was checked by ESET NOD32 Antivirus.
http://www.eset.com

Eric Rasmusson

From: Sent:

LINO CATABRAN [linoc@att.net] Wednesday, August 24, 2011 3:59 PM

To:

Eric@RPAco.org

Subject:

Fw: Cease and desist block wall maybe duplicate

---- Forwarded Message ----

From: LINO CATABRAN linoc@att.net>
To: Paul Devereux <pdevereux@rd1000.org>
Sent: Tue, October 19, 2010 1:20:26 PM
Subject: Re: Cease and desist block wall

Paul, I have stopped construction and regret any misunderstanding or action on my part that conflicts with your duty and responsibility. I did however provide you with the revised plan on September 15. I will forward the email and attachment. It should be the same plan that was submitted with the application. Your response was that the wall needed to be at least 5 feet from the fog line and I altered the plan to incorporate that requirement. Ms Caliso also informed me that the fence would have to be fifteen feet from center line and it is. It is only that close for a couple of inches then curves away to eight feet from the fog line. The north 40 ft of the exterior wall height is 5 ft and the columns are 5ft 8". This section is also directly in front of the home and does not block any view of the levee or river. Going south after 5 ft wall and as soon as the home no longer blocks river view, the wall drops to 2 1/2 ft. As shown in the plan it is to have wrought iron in those panels. The two gates are also wrought iron.

In regards to RD 1000's ability to see the levee and river, this project has resulted in hundreds of additional feet of visibility.

Please keep in mind that the county said I did not need permits except for electrical for gates. As soon as I received your letter I acted immediately to provide everyone with their requests. The problem I faced was that all sidewalks, driveways, gates, fences, and even the front steps had been removed. I had no security, if it rained I would have no access. The final portion of the driveway was poured Saturday and it rained Sunday. When I spoke with you briefly last Friday I said I planned to leave work open in case something changed and an inspection was required. I did not want to be a problem resident but felt compelled to protect my home.

Please accept my apology for any grief I have caused.

Sincerely, Lino

From: Paul Devereux <pdevereux@rd1000.org>

To: linoc@att.net

Cc: "Porbaha, Mohammad (Ali)" <mporbaha@water.ca.gov>; Jay Punia <jpunia@water.ca.gov>; "Caliso, Angeles" <acaliso@water.ca.gov>; Mike Blickle <mblickle@rd1000.org>

Sent: Mon, October 18, 2010 6:44:17 PM Subject: Cease and desist block wall

Lino,

Attached is my cease and desist order for any more work on your site—particularly the solid block wall. This wall is in violation of the California Water Code Title 23 standards. With a solid wall I cannot see to do my job to operate and maintain the levee. The plans you submitted to me showed a wrought iron fence which, if there is no vegetation, provides visibility. The wall will have to be removed, so I am notifying you now so it can be removed more easily before the concrete sets.
I have been trying to work with you to make sure the site is safe for you and your family and then secure the appropriate permit to work next spring on the remainder. However, your actions are not consistent with trying to work with me! I know the State also has told you to stop working and issued you two notices to that affect.
Paul Devereux
General Manager/District Engineer
Reclamation District No. 1000
916-922-1449
pdevereux@rd1000.org <mailto:pdevereux@rd1000.org></mailto:pdevereux@rd1000.org>
Information from ESET NOD32 Antivirus, version of virus signature database 6407
The message was checked by ESET NOD32 Antivirus.
http://www.eset.com

Eric Rasmusson

From:

LINO CATABRAN [linoc@att.net]

Sent:

Wednesday, August 24, 2011 4:00 PM

To:

Eric@RPAco.org

Subject:

Fw: NOTICE: Cease & Desist All work at 5291 Garden Hwy

---- Forwarded Message ----

From: LINO CATABRAN linoc@att.net>
To: "Caliso, Angeles" <acaliso@water.ca.gov>

Cc: "Porbaha, Mohammad (Ali)" <mporbaha@water.ca.gov>; "Taras, Curt" <ctaras@water.ca.gov>; "Marino, Len" <lmarino@water.ca.gov>; "Thomas, Clay" <cathom@water.ca.gov>; Paul Devereux <pdevereux@rd1000.org>; "Lemon, Clay" <cathom@water.ca.gov>; "Lemon, Clay" <cathom@water.ca.gov>; "Ali Devereux <pdevereux@rd1000.org>; "Lemon, Clay" <pdevereux

Gary" < glemon@water.ca.gov>

Sent: Tue, October 19, 2010 2:12:24 PM

Subject: Re: NOTICE: Cease & Desist All work at 5291 Garden Hwy

Ms Caliso, I have terminated all work as directed and apologize for any problems that I have caused. I am going to review the attachments that you have sent and will respond within 24 hours. I believe all work completed is compliant with your regulations. The fence is fifteen feet from center line at its closest point. It is only that close for a couple of inches then curves away to eight feet from the fog line. The north 40 ft of the exterior wall height is 5 ft and the columns are 5ft 8". This section is also directly in front of the home and does not block any view of the levee or river. Going south after 5 ft wall and as soon as the home no longer blocks river view, the wall drops to 2 1/2 ft. As shown in the plan it is to have wrought iron in those panels. The two gates are also wrought iron. In regards to the ability to see the levee and river, this project has resulted in hundreds of additional feet of visibility.

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Sincerely, Lino Catabran

From: "Caliso, Angeles" <acaliso@water.ca.gov>

To: LINO CATABRAN < linoc@att.net>

Cc: "Porbaha, Mohammad (Ali)" <mporbaha@water.ca.gov>; "Taras, Curt" <ctaras@water.ca.gov>; "Marino, Len" <lmarino@water.ca.gov>; "Thomas, Clay" <cathom@water.ca.gov>; Paul Devereux <pdevereux@rd1000.org>; "Lemon,

Gary" <glemon@water.ca.gov>

Sent: Mon, October 18, 2010 10:34:17 AM

Subject: NOTICE: Cease & Desist All work at 5291 Garden Hwy

Note: Forwarded message is attached.

Mr. Catabran,

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When you hand-delivered your Board application to me on September 23, 2010, I informed you that you could not continue with any work until you received a Board permit. Furthermore, I informed you that no encroachments would be allowed to be built within 15 feet from the waterside crown hinge point. This included your proposed fence, water feature, utility lines, and landscaping (with the exception of grass). Refer attached email on 09/23/10 with comments on your submitted plans.

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Best Regards,

Angeles Caliso I Water Resources Engineer
Central Valley Flood Protection Board
Encroachment Control & Land Use Section
3310 El Camino Avenue, Room 151 I Sacramento, CA 95821
(916) 574-2386 begin_of_the_skype_highlighting (916) 574-2386
end_of_the_skype_highlighting Office I (916) 628-0540 Mobile I (916) 574-0682 Fax
Email: acaliso@water.ca.gov http://www.cvfpb.ca.gov/> I www.cvfpb.ca.gov/

In (20110824)	formation from ESET NOD32 Antivirus, version of virus signature database 6407
The message v	vas checked by ESET NOD32 Antivirus.
http://www.ese	et.com>
Eric Rasmuss	on
From: Sent: To: Subject:	LINO CATABRAN [linoc@att.net] Wednesday, August 24, 2011 4:01 PM Eric@RPAco.org Fw: Work at 5291 Garden Hwy
To: Paul Devereux	BRAN linoc@att.net> < pdevereux@rd1000.org> er 21, 2010 1:49:46 PM
completed before by here daily so not be building	ted to inform you that I hope to get the drainage for concrete and future landscaping ore predicted rain, as authorized by Ms Caliso. I know many RD1000 employees drive or I thought I should let you know in advance that there will be workers here. They will anything. You also have my personal assurance that I will not continue building this have approval from SVFCB.
realize how clo	work with me on the wall. Until I removed the thickets of shrubs and trees I did not se my house is to the road. It is only 40' from the road to my living room windows. Educed the road noise significantly. It has also created privacy and increased security ouple of pictures taken from the Garden Hwy at the property line. All consideration is
Lino Catabran	
lr (20110824)	nformation from ESET NOD32 Antivirus, version of virus signature database 6407
The message	was checked by ESET NOD32 Antivirus.
<http: td="" www.es<=""><td>set.com></td></http:>	set.com>

Eric Rasmusson

From: Sent: LINO CATABRAN [linoc@att.net] Wednesday, August 24, 2011 4:02 PM

To:

Eric@RPAco.org

Subject:

Fw: visibility 5291 Garden Hwy



---- Forwarded Message ----

From: Lino Catabran linoc@att.net>
To: Paul Devereux <pdevereux@rd1000.org>
Sent: Fri, October 22, 2010 1:04:14 PM
Subject: visibility 5291 Garden Hwy

This was taken on the Garden Hwy at the north property line. The Wrought iron gate would be between the two tall pillars and would not hinder view Lino Sent from my iPad

Eric Rasmusson

From: Sent: LINO CATABRAN [linoc@att.net] Wednesday, August 24, 2011 4:04 PM

To: Subject: Eric@RPAco.org Fw: 5291 grdn hwy



---- Forwarded Message ----

From: Lino Catabran linoc@att.net>
To: Paul Devereux <pdevereux@rd1000.org>
Sent: Fri, October 22, 2010 1:06:38 PM

Subject: 5291 grdn hwy

This is the view from the north driveway outside of the gate area Lino Sent from my iPad

Eric Rasmusson

From: Sent: LINO CATABRAN [linoc@att.net] Wednesday, August 24, 2011 4:04 PM

To: Subject: Eric@RPAco.org Fw: 5291 grdn hwy



---- Forwarded Message ----

From: Lino Catabran linoc@att.net>
To: Paul Devereux <pdevereux@rd1000.org>
Sent: Fri, October 22, 2010 1:17:04 PM

Subject: 5291 grdn hwy

taken from the Garden Hwy south end Lino Sent from my iPad

Eric Rasmusson

From: Sent: LINO CATABRAN [linoc@att.net]

Wednesday, August 24, 2011 4:08 PM Eric@RPAco.org

To: Subject:

Fw: 5291 Garden Hwy



---- Forwarded Message ----

From: Lino Catabran < linoc@att.net>

To: Paul Devereux <pdevereux@rd1000.org> **Sent:** Fri, October 22, 2010 1:29:54 PM

Subject: 5291 Garden Hwy

View from Garden Hwy at north end looking toward river. Please remember that before this project began the river could barely be seen. The removal of all the shrubs and trees next door (5295) was instigated and subsidized by me. I also plan to reattach side fence panels until I can get OK for new. Also unable to get help here this week so they should be working first of week. Lino Sent from my iPad

Eric Rasmusson

From:

LINO CATABRAN [linoc@att.net]

Sent:

Wednesday, August 24, 2011 4:09 PM

To: Subject: Eric@RPAco.org
Fw: Board hearing

---- Forwarded Message ----

From: "Porbaha, Mohammad (Ali)" <mporbaha@water.ca.gov>

To: LINO CATABRAN < linoc@att.net>

Cc: "Caliso, Angeles" <acaliso@water.ca.gov>

Sent: Mon, June 13, 2011 6:39:02 PM

Subject: RE: Board hearing

Dear Mr. Catabran

Thanks for the information you provided in your message. We will make ourselves available to meet with you in our office on Tuesday (6/17) sometime between 9am to 11am or alternatively between 2pm to 3pm. Please let us know your time preference. Thanks.

Best regards,

ALI PORBAHA

Encroachment Control and Land Use Section

CVFPB

From: LINO CATABRAN [mailto:linoc@att.net]

Sent: Monday, June 13, 2011 4:07 PM

To: Caliso, Angeles

Cc: Porbaha, Mohammad (Ali) Subject: Re: Board hearing

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(916) 574-2386 Office I (916) 574-0682 Fax

Email: acaliso@water.ca.gov http://www.cvfpb.ca.gov/> | www.cvfpb.ca.gov/> | ww

From: LINO CATABRAN [mailto:linoc@att.net]

Sent: Friday, June 10, 2011 4:21 PM

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To: LINO CATABRAN < linoc@att.net>

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Sent: Fri, June 10, 2011 3:34:53 PM

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Sent: Thursday, June 09, 2011 2:48 PM

To: Caliso, Angeles Subject: Board hearing

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<a href="mailto:http://www.eset.com			
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Angeles Caliso Central Valley Flood Protection Board (916) 574-2386 Office I (916) 574-0682 Fax Email: acaliso@water.ca.gov http://www.cvfpb.ca.gov/> I www.cvfpb.ca.gov

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Subject: RE: Board hearing

See you at 2:00pm today. The address is 3310 El Camino Avenue, Room 151. Thanks.

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Cc: Caliso, Angeles

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Eric Rasmus	son
From: Sent: To: Subject:	LINO CATABRAN [linoc@att.net] Wednesday, August 24, 2011 4:14 PM Eric@RPAco.org Fw: Enforcement Order #2011-138
To: LINO CATAB Cc: "Porbaha, Mo <ctaras@water.c Sent: Wed, June</ctaras@water.c 	ngeles" <acaliso@water.ca.gov> RAN <linoc@att.net> phammad (Ali)" <mporbaha@water.ca.gov>; Paul Devereux <pdevereux@rd1000.org>; "Taras, Curt"</pdevereux@rd1000.org></mporbaha@water.ca.gov></linoc@att.net></acaliso@water.ca.gov>
next step in our p 2011 at our head	ming to our offices to meet with us regarding the subject matter. As we concluded in the meeting, the process is to schedule your case before our Board. Our next Board meeting is scheduled for July 22, quarters in downtown Sacramento. We will inform you as soon as we have determined if your case will If you have any conflicts with the tentatively proposed date, please notify us as soon as possible so that ordingly.
Central Valley Floor Encroachment Con 3310 El Camino Ave (916) 574-2386 Office	d Protection Board trol & Land Use Section nue, Room 151 Sacramento, CA 95821 tel (916) 574-0682 Fax er.ca.gov <mailto:acaliso@water.ca.gov> www.cvfpb.ca.gov <http: www.cvfpb.ca.gov=""></http:></mailto:acaliso@water.ca.gov>
I (20110824)	nformation from ESET NOD32 Antivirus, version of virus signature database 6407
The message	was checked by ESET NOD32 Antivirus.
	set.com>

Eric Rasmusson

From: Sent: LINO CATABRAN [linoc@att.net] Wednesday, August 24, 2011 4:14 PM

To:

Eric@RPAco.org

Subject:

Fw: CVFPB July 22, 2011 Board Meeting Agenda



---- Forwarded Message ----

From: "Caliso, Angeles" <acaliso@water.ca.gov>

To: LINO CATABRAN < linoc@att.net>

Cc: Paul Devereux <pdevereux@rd1000.org>; Meegan Nagy <Meegan.G.Nagy@usace.army.mil>; "Porbaha, Mohammad (Ali)" <mporbaha@water.ca.gov>; "Taras, Curt" <ctaras@water.ca.gov>; "Tabor, Ward" <wtabor@water.ca.gov>;

Houston. John (MSA) <houstonj@SacCounty.NET>; Booth. George (MSA) <boothg@SacCounty.NET>

Sent: Thu, July 7, 2011 6:05:52 PM

Subject: FW: CVFPB July 22, 2011 Board Meeting Agenda

Mr. Catabran,

Please find the attached July 22, 2011 Agenda for the Central Valley Flood Protection Board's monthly meeting. Your hearing has been scheduled for 10 am (Agenda Item 9A). We will also be mailing you a hard copy of the agenda tomorrow and you should receive a copy of the Staff Report at least 7 days prior to the Board meeting. The auditorium is equipped with projectors and a lap top will be available for your use if you wish to have a presentation for the Board.

Also, you can find additional information about the Board and the agenda on our website at (www.cvfpb.ca.gov http://www.cvfpb.ca.gov/). If you have any additional questions feel free to call.

Best Regards,

Angeles Caliso I Water Resources Engineer
Central Valley Flood Protection Board
Encroachment Control & Land Use Section
3310 El Camino Avenue, Room 151 I Sacramento, CA 95821

(916) 574-2386 Office I (916) 574-0682 Fax Attachment D

Email: acaliso@water.ca.gov <mailto:acaliso@water.ca.gov> I www.cvfpb.ca.gov

http://www.cvfpb.ca.gov/>

	Information from ESET	NOD32 Antivirus,	version of viru	is signature	database 64	07
(20110824)						

The message was checked by ESET NOD32 Antivirus.

http://www.eset.com

Eric Rasmusson

From:

LINO CATABRAN [linoc@att.net]

Sent:

Wednesday, August 24, 2011 4:15 PM

To:

Eric@RPAco.org

Subject:

Fw: CVFPB July 22, 2011 Board Meeting Agenda

---- Forwarded Message ----

From: Lino C linoc@att.net>

To: "Caliso, Angeles" <acaliso@water.ca.gov>

Cc: Paul Devereux <pdevereux@rd1000.org>; Meegan Nagy <Meegan.G.Nagy@usace.army.mil>; "Porbaha, Mohammad (Ali)" <mporbaha@water.ca.gov>; "Taras, Curt" <ctaras@water.ca.gov>; "Tabor, Ward" <wtabor@water.ca.gov>;

Houston. John (MSA) <houstonj@SacCounty.NET>; Booth. George (MSA) <boothg@SacCounty.NET>

Sent: Fri, July 8, 2011 8:59:19 AM

Subject: Re: CVFPB July 22, 2011 Board Meeting Agenda

I have been unable to find counsel to represent me at this meeting. I therefore ask to be rescheduled.

Lino

Sent from my iPad

On Jul 7, 2011, at 4:05 PM, "Caliso, Angeles" < <u>acaliso@water.ca.gov</u> mailto:acaliso@water.ca.gov> wrote:

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(916) 574-2386 Office I (916) 574-0682 Fax
Email: acaliso@water.ca.gov <mailto:acaliso@water.ca.gov> I www.cvfpb.ca.gov <http://www.cvfpb.ca.gov/>

<July 22, 2011 Agenda.pdf>

Information from ESET NOD32 Antivirus, version of virus signature database 6407 (20110824)

The message was checked by ESET NOD32 Antivirus.

http://www.eset.com

Eric Rasmusson

From: Sent: LINO CATABRAN [linoc@att.net] Wednesday, August 24, 2011 4:16 PM

To:

Eric@RPAco.org

Subject:

Fw: CVFPB July 22, 2011 Board Meeting Agenda



---- Forwarded Message ----

From: "Caliso, Angeles" <acaliso@water.ca.gov>

To: Lino C < linoc@att.net>

<lmarino@water.ca.gov>

Sent: Fri, July 8, 2011 5:09:33 PM

Subject: RE: CVFPB July 22, 2011 Board Meeting Agenda

Mr. Catabran,

We have received your request. We will present your request to our Board at our July 22nd meeting. Please be aware that the Board has the discretion to continue with the hearing as scheduled and published on the agenda.

In addition, we have prepared a package to provide you with additional information on how the enforcement hearing is conducted. Attached is a copy of this package that is being sent in over-night mail to your home.

If you have any additional questions, feel free to call.

Angeles Caliso

Central Valley Flood Protection Board

(916) 574-2386 Office I (916) 574-0682 Fax

Email: acaliso@water.ca.gov <mailto:acaliso@water.ca.gov> I www.cvfpb.ca.gov <http://www.cvfpb.ca.gov/>

From: Lino C [mailto:linoc@att.net]
Sent: Friday, July 08, 2011 6:59 AM

To: Caliso, Angeles

Cc: Paul Devereux; Meegan Nagy; Porbaha, Mohammad (Ali); Taras, Curt; Tabor, Ward; Houston.

John (MSA); Booth. George (MSA)

Subject: Re: CVFPB July 22, 2011 Board Meeting Agenda

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Lino

Sent from my iPad

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Also, you can find additional information about the Board and the agenda on our website at (www.cvfpb.ca.gov http://www.cvfpb.ca.gov/). If you have any additional questions feel free to call.

Best Regards,

Angeles Caliso I Water Resources Engineer Central Valley Flood Protection Board Encroachment Control & Land Use Section 3310 El Camino Avenue, Room 151 I Sacramento, CA 95821 (916) 574-2386 Office I (916) 574-0682 Fax Email: acaliso@water.ca.gov <mailto:acaliso@water.ca.gov I www.cvfpb.ca.gov <http://www.cvfpb.ca.gov/>

<July 22, 2011 Agenda.pdf>

http://www.eset.com

Information from ESET NOD32 Antivirus, version of virus signature database 6407 (20110824) _____

The message was checked by ESET NOD32 Antivirus.

Eric Rasmusson

From: LINO CATABRAN [linoc@att.net]

Sent: Wednesday, August 24, 2011 3:45 PM

To: Eric Rasmusson

Subject: Fw: Cease and desist block wall

---- Forwarded Message ----

From: LINO CATABRAN linoc@att.net>
To: Paul Devereux <pdevereux@rd1000.org>
Sent: Tue, October 19, 2010 6:52:39 PM
Subject: Re: Cease and desist block wall

Paul, I am glad that you did receive it. I thought I substituted the revised plan with the full size prints but I certainly have been wrong before. The fence is five feet off fogline and only has that closeness for a few inches. The majority is over 7 feet and as much as eight. Also even from a vehicle on the Garden Hwy, you can see behind the entire wall through the gate on the north end. As to the final two panels, they are at planned height except for wrought iron panels. Please come by and walk or drive the exterior of the fence. I really want to be a good neighbor.

The CVFPB indicated their concern was not the height or material but only with the distance from the certerline and the closest point is 15 ft.

Lino

From: Paul Devereux <pdevereux@rd1000.org>

To: LINO CATABRAN linoc@att.net> **Sent:** Tue, October 19, 2010 3:34:11 PM **Subject:** RE: Cease and desist block wall

Lino,

I did find an unopened email in my box from Sept 15 like you just forwarded to me. However, I had not opened that email to see the changes you proposed. When I endorsed the permit application on Sept 23, it was based on the full sized plans you had submitted which indicated a wrought iron fence. My conditions on the endorsement said the FENCE had to be a minimum of 5 feet off the fogline. There are only a handful of solid 6 foot walls along the Garden Highway and I can tell you the District did not endorse any of them. The predecessor to the CVFPB the State Reclamation Board approved a variance to their standards for those walls over the objections of the District. I appreciate your view that our visibility may be improved over what was there before, but solid walls on the levee will not be endorsed by our District. Even with the fill and work at your house, I am still required to inspect and monitor the waterside of the levee during high water times, and the solid wall will not allow me to do this. I notice the last two panels have not been constructed and perhaps we can work something out so that some of the wall has see through fencing. It may still require some of the panels be modified. I don't

know what the CVFPB will want to do though.

Paul

From: LINO CATABRAN [mailto:linoc@att.net] Sent: Tuesday, October 19, 2010 11:20 AM

To: Paul Devereux

Subject: Re: Cease and desist block wall

Paul, I have stopped construction and regret any misunderstanding or action on my part that conflicts with your duty and responsibility. I did however provide you with the revised plan on September 15. I will forward the email and attachment. It should be the same plan that was submitted with the application. Your response was that the wall needed to be at least 5 feet from the fog line and I altered the plan to incorporate that requirement. Ms Caliso also informed me that the fence would have to be fifteen feet from center line and it is. It is only that close for a couple of inches then curves away to eight feet from the fog line. The north 40 ft of the exterior wall height is 5 ft and the columns are 5ft 8". This section is also directly in front of the home and does not block any view of the levee or river. Going south after 5 ft wall and as soon as the home no longer blocks river view, the wall drops to 2 1/2 ft. As shown in the plan it is to have wrought iron in those panels. The two gates are also wrought iron.

In regards to RD 1000's ability to see the levee and river, this project has resulted in hundreds of additional feet of visibility.

Please keep in mind that the county said I did not need permits except for electrical for gates. As soon as I received your letter I acted immediately to provide everyone with their requests. The problem I faced was that all sidewalks, driveways, gates, fences, and even the front steps had been removed. I had no security, if it rained I would have no access. The final portion of the driveway was poured Saturday and it rained Sunday. When I spoke with you briefly last Friday I said I planned to leave work open in case something changed and an inspection was required. I did not want to be a problem resident but felt compelled to protect my home.

Please accept my apology for any grief I have caused.

Sincerely, Lino

From: Paul Devereux <pdevereux@rd1000.org>

To: linoc@att.net

Cc: "Porbaha, Mohammad (Ali)" <mporbaha@water.ca.gov>; Jay Punia <jpunia@water.ca.gov>; "Caliso,

Angeles" <acaliso@water.ca.gov>; Mike Blickle <mblickle@rd1000.org>

Sent: Mon, October 18, 2010 6:44:17 PM Subject: Cease and desist block wall

Lino,

Attached is my cease and desist order for any more work on your site—particularly the solid block wall. This wall is in violation of the California Water Code Title 23 standards. With a solid wall I cannot see to do my job to operate and maintain the levee. The plans you submitted to me showed a wrought iron fence which, if there is no vegetation, provides visibility. The wall will have to be removed, so I am notifying you now so it can be removed more easily before the concrete sets.

I have been trying to work with you to make sure the site is safe for you and your family and then secure the appropriate permit to work next spring on the remainder. However, your actions are not consistent with trying to work with me! I know the State also has told you to stop working and issued you two notices to that affect.

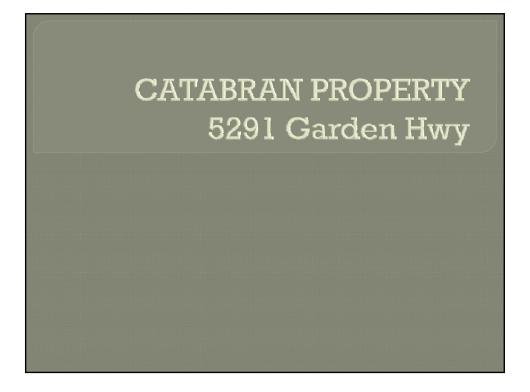
Paul Devereux General Manager/District Engineer Reclamation District No. 1000 916-922-1449 pdevereux@rd1000.org

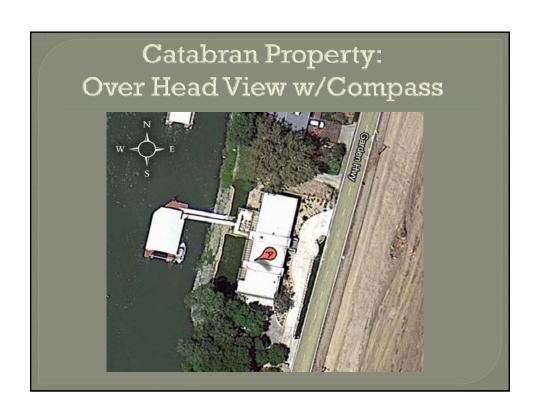
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(20110824)	

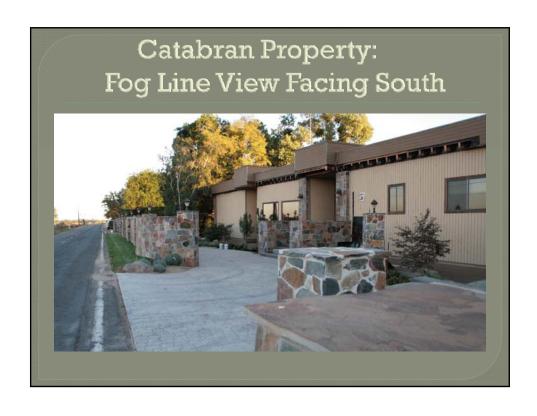
The message was checked by ESET NOD32 Antivirus.

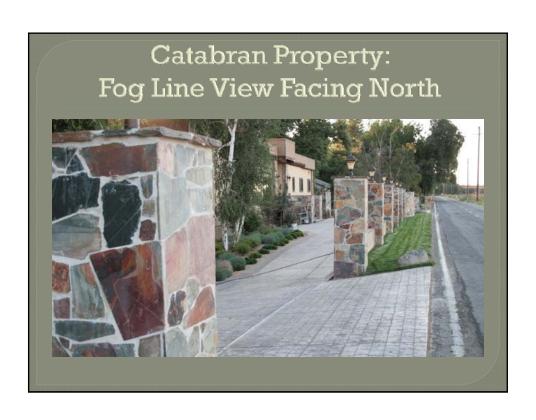
http://www.eset.com

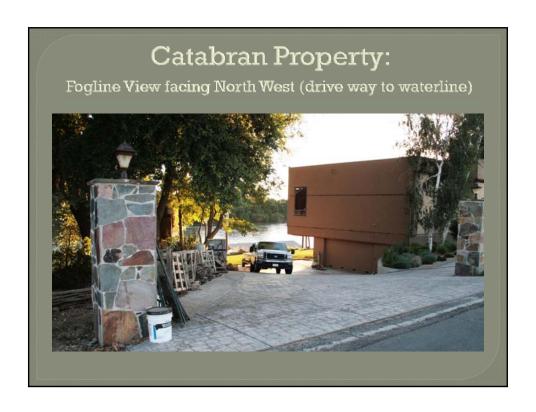
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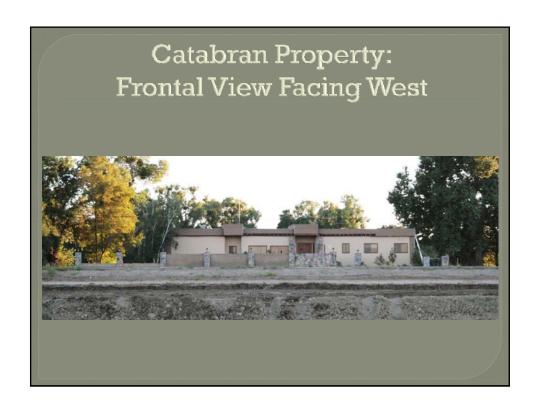












RECENTLY APPROVED PROJECTS ALONG GARDEN HIGHWAY

