

MINUTES OF THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



9.14

During the oral communication section of the agenda for Tuesday, February 23, 2010, Robert Mabee read his statement into the record.

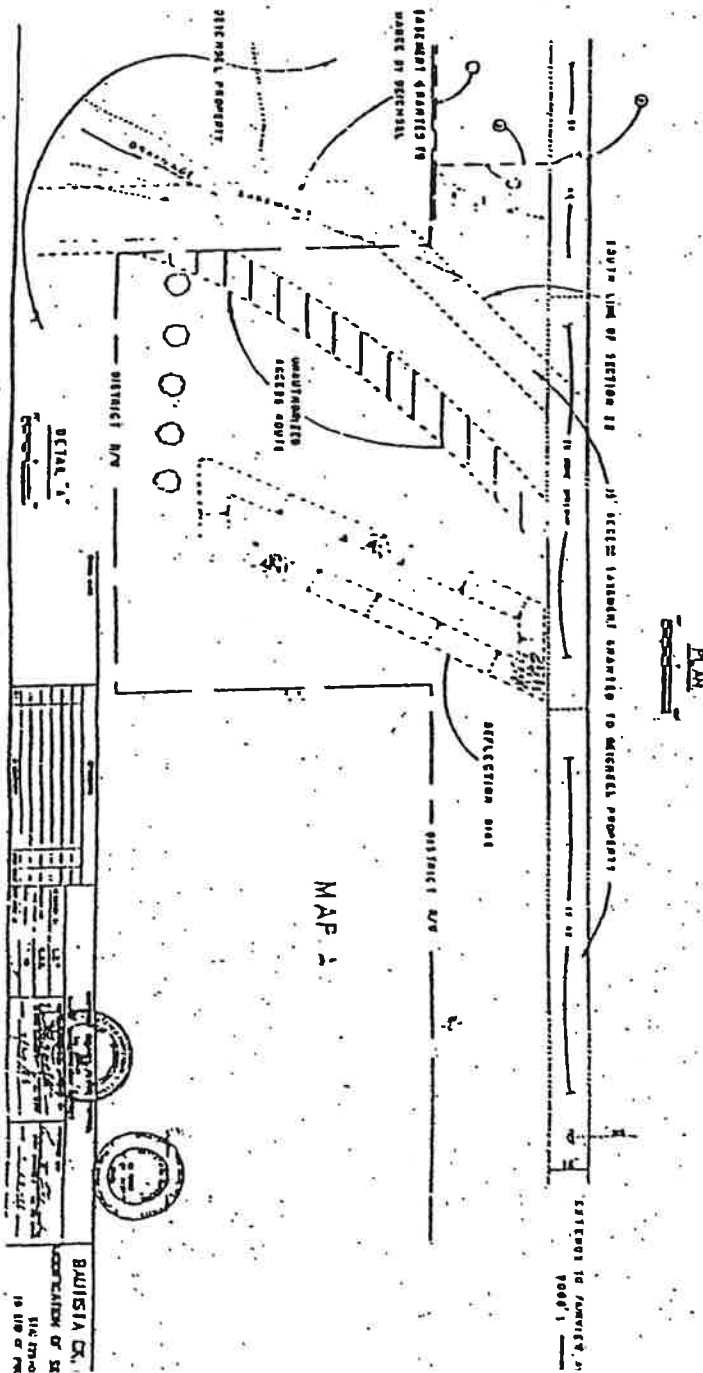
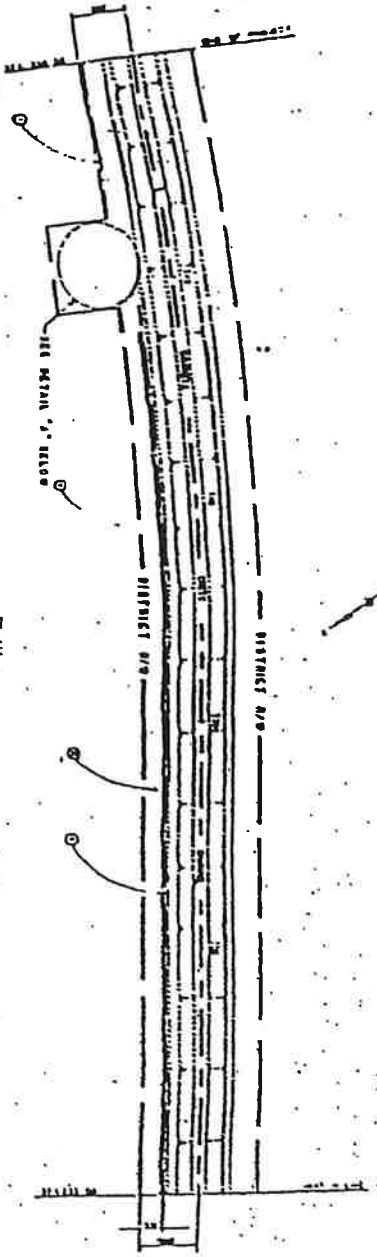
**ATTACHMENTS FILED WITH
CLERK OF THE BOARD**

**AGENDA NO.
9.14**

OVER A YEAR AGO WHEN I FIRST CAME BEFORE THIS BOARD FEB-23-2010 SUPERVISOR STONE SAID ON VIDEO THAT I COULD SPEAK BEFORE THIS BOARD AS MANY TIMES AS I WANT, BUT THE BOARD WOULD TURN A DEAF EAR. ARE YOU DEAF AND DUMB MR STONE OR SIMPLY A IGNORANT CORRUPT POLITICIAN. IF SO I WILL REPEAT MY STATEMENT EACH WEEK UNTIL YOU UNDERSTAND. I HAVE BEEN BEFORE THIS BOARD 75 TIMES AND HAVE GIVEN TO THIS BOARD OVER 90 PUBLIC DOCUMENTS THAT ERAND YOU FIVE SUPERVISORS AS THIEVES OF THE PUBLIC TRUST. AS RETIRED SHERIFF BOB DOYLE SAID IN THE PRESS ENTERPRISE FEB-16-THE STENCH OF CORRUPTION IS IN THIS ROOM. I HAVE 4 DOCUMENTS TODAY THAT SHOW FRAUD AND COVER UP IN STONES DISTRICT-EVEN YOU FIVE SUPERVISORS IN YOUR LIMITED MENTAL CAPACITY SHOULD BE CONCERNED-NO-1-CERTIFIED ENG DRAWINGS BEFORE AND AFTER THOUSANDS OF CUBIC YDS OF DIRT WAS PLACED OVER A LEVEE IN PROJECT NO-4-0-030 FOR RIVERSIDE COUNTY FLOOD CONTROL-DOCUMENT NO 2-A PICTURE SHOWING THOUSANDS OF CUBIC YDS OF DIRT PLACED OVER THE LEVEE AND ALSO ENCRANCHING INTO BAUTISTA CANYON ACCESS ROAD. EVEN YOU FIVE AS DENSE AS YOU ARE CAN UNDERSTAND PICTURES. DOCUMENT NO-3 - A MEMORANDUM TO COUNTY COUNSEL PAMALA WALLS FROM LINDA HERNANDEZ STATING THAT AFTER RESEARCHING THE STATUE OF LIMITATIONS THAT UNDER CIVIL CODE 26523 IF DIRECTED BY THE BOARD OF SUPERVISORS THE DISTRICT ATTORNEY MAY BRING A CIVIL ACTION IN THE NAME OF THE PEOPLE TO REMOVE THE ENCRANCHMENTS IN THE PUBLIC ROAD. HOWEVER THE BOARD OF SUPERVISORS, WHO ALSO ARE THE FLOOD CONTROL BOARD WOULD THEN EXPOSE THEMSELVES AS LICING, CORRUPT, INCOMPETENT BOARD OF SUPERVISORS. AS THE WORK WAS DONE WITHOUT ANY PERMITS IT WOULD REQUIRE PERMITS, COUNTY-STATE, FEDERAL TO REMOVE THE ENCRANCHMENTS IN THE PUBLIC ROAD. AS FLOOD CONTROL DIRECTOR WILLIAMS HAS SAID-IT WILL COST A LOT OF MONEY. YOU HAVE THE DISTRICT ATTORNEY IN YOUR POCKET-NO-4-A REPORT BY THE U-S-CORPS OF ENG DATED MAY-27-08 DESCRIBING THE COMPROMISE OF A LEVEE CRITICAL TO THE WATER FLOW IN THE BAUTISTA FLOOD CONTROL CHANNEL. THE REPORT STATES THAT THE FLOOD CONTROL CHANNEL COULD FAIL BECAUSE OF THE FILL PLACED OVER THE LEVEE. THE REPORT EXPLAINS IN DETAIL HOW THE CHANNEL COULD FAIL IN TERMS THAT EVEN A FOOL OR A SUPERVISOR CAN UNDERSTAND. ALONG SIDE THE CHANNEL THAT COULD FAIL IS THE NEW VALLE VISTA ELEMENTARY SCHOOL-610 CHILDREN AT RISK-WOULD YOU HAVE PUT YOUR NEW 80 MILLION DOLLAR ANIMAL CONTROL SHELTER ALONG SIDE THE CHANNEL-YOU FIVE CORRUPT INCOMPETENT SUPERVISORS ADMIT COVERING OVER THE LEVEE, BUT HAVE TOLD THE CORPS OF ENG THAT YOU HAVE NO MONEY TO RESTORE THE LEVEE TO THE ORIGINAL SAFE DESIGN-OVER 4 YEARS AGO SUPERVISOR STONE PROMISED ME A INVESTIGATION AND AUDIT-THE SAME PROMISE THAT I RECIEVED FROM COUNTY AUDITOR ROBERT BYRD-YOU HAVE ALL BEEN UP TO THE PUBLIC TROUBT TO LONG.

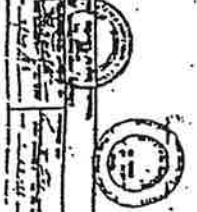
ROBERT MABEE
3086 MIBUEL ST
RIVERSIDE-92506
951-788-4858

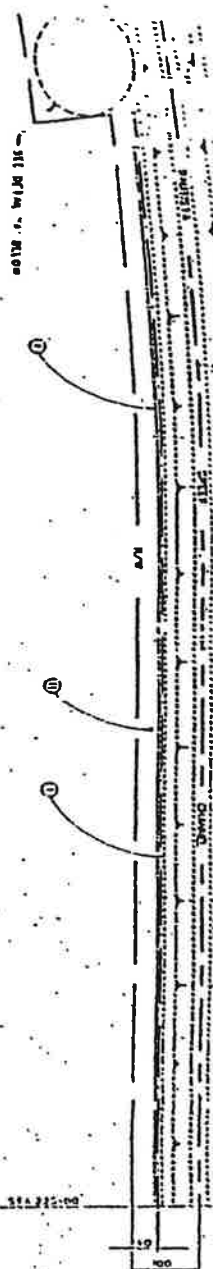
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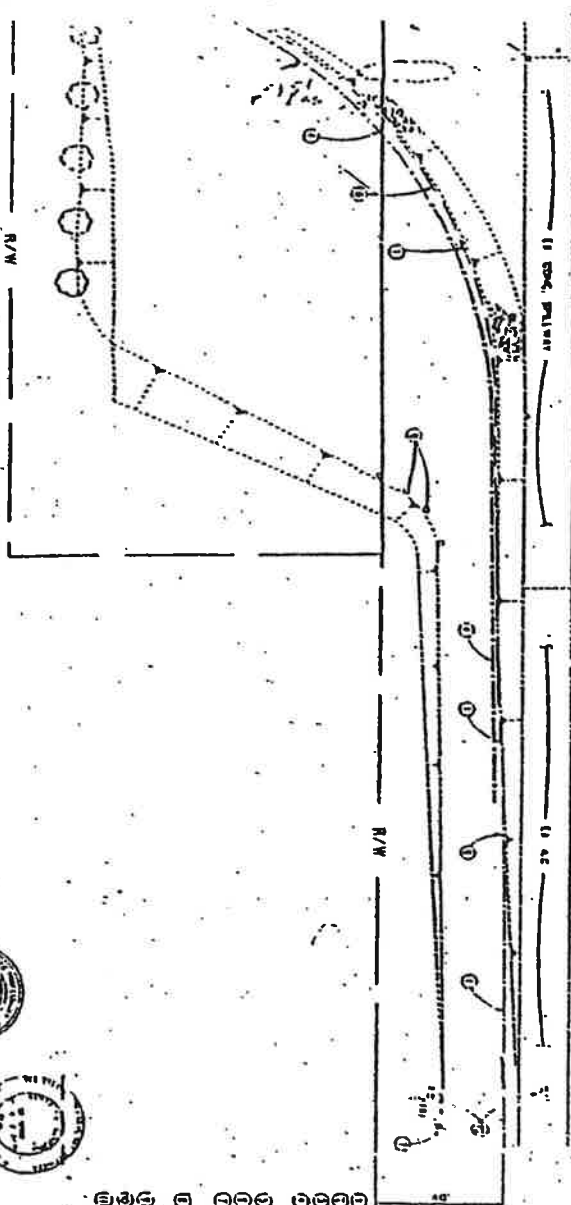
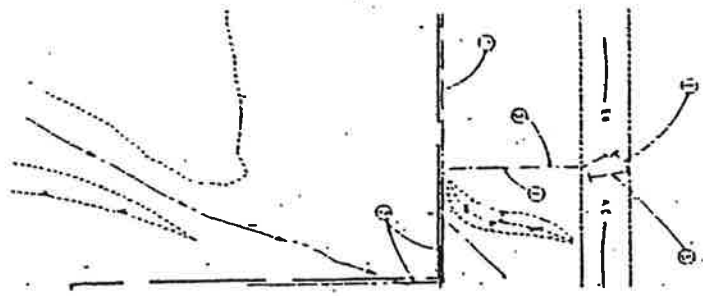
MAP 2

BAWISIA CO.
SECTION OF 22
10 110' x 100'





PLAN



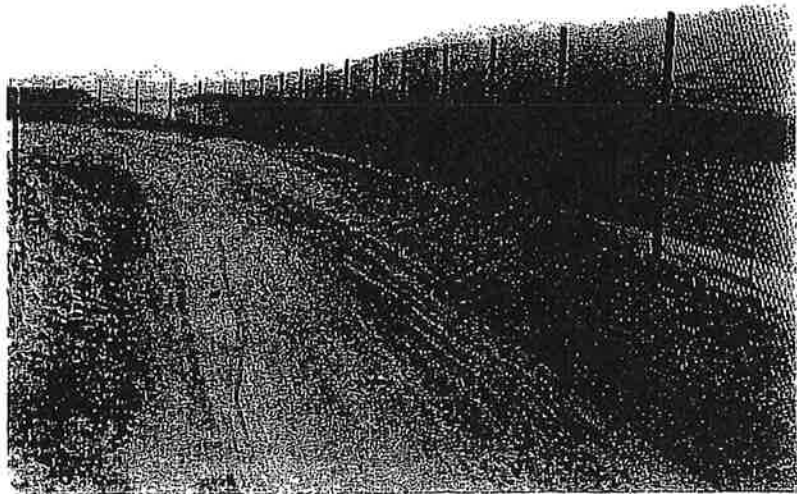
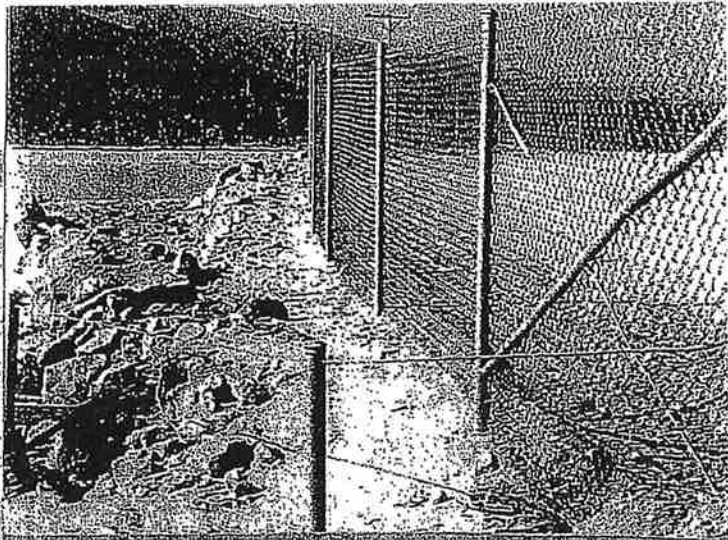
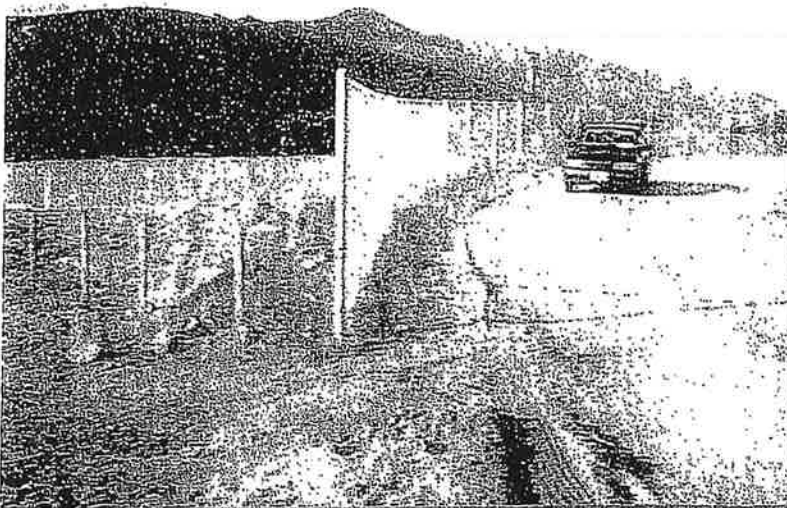
NOTES

1. INITIAL FLOW LINE FROM THE STD. PERMITS
2. INITIAL CHANNEL IMPROVEMENT PER DETAIL ON SHEET 1.
3. REWORK TO IMPROVE TO STANDARD PERMITS
4. REWORK TO IMPROVE TO STANDARD PERMITS
5. REWORK TO IMPROVE TO STANDARD PERMITS
6. REWORK TO IMPROVE TO STANDARD PERMITS
7. REWORK TO IMPROVE TO STANDARD PERMITS
8. REWORK TO IMPROVE TO STANDARD PERMITS
9. REWORK TO IMPROVE TO STANDARD PERMITS
10. REWORK TO IMPROVE TO STANDARD PERMITS

PROJECT NO. 4-0-020 DRAWING NO. 4-507 SHEET NO. 5 OF 15	
PROJECT TITLE BAJUSTIA CK. CHANNEL MODIFICATION OF SDC DRAINAGE	
DATE 5/11/50	DRAWN BY J. L. B.
CHECKED BY J. L. B.	APPROVED BY J. L. B.
PROJECT LOCATION BAJUSTIA CK. CHANNEL	PROJECT NO. 4-0-020
SHEET NO. 5 OF 15	DRAWING NO. 4-507

JULY 29-1

WORK IN PROGRESS
 ROAD BY FLOODING
 AND UNSTABLE AT
 2004-49-1952-201
 REVISIONS - MAY 12-1
 PERMITS REQUIRED



MEMORANDUM



RIVERSIDE COUNTY COUNSEL

May 1, 2008

TO: Pamela J. Walls, Assistant County Counsel

FROM: Linda M. Hernandez, Paralegal II

RE: Statute of Limitations on Public Nuisance

Pursuant to your request, I have researched the statute of limitations on a public nuisance as it relates to both public entities and private individuals.

Pursuant to *Govt Code* §26528, the DA may bring a civil action in the name of the people of the State of California if he is directed to do so by the Board of Supervisors. *Govt Code* §26529 authorizes County Counsel to bring civil actions in counties where there is an appointed County Counsel. *Civil Code* §3490 provides that there is no statute of limitations on a public nuisance (i.e. there is no prescriptive right). It has been construed to mean that the statute of limitations is not a defense if the action is brought by a public agency (*Mangini v. Aerojet-General Corp.*, (1991) 230 Cal.App.3d 1125). However, if a private person wants to bring an action on a public nuisance, then the statute of limitations is be found in *CCP* §338(b).

Beck Development Co., Inc. vs. Southern Pacific Transportation Co., 44 Cal.App.4th 1160 (1996) clearly states:

“While there is no statute of limitations in an action brought by a public entity to abate a public nuisance, there is a three-year statute of limitations in a nuisance action brought by a private party.”

CA Civil Code §3479 indicates that “if a nuisance is of such a character (i.e. blocking a road) that it will presumably continue indefinitely, then it is considered permanent and the statute of limitations runs from the time the nuisance is created.”



DEPARTMENT OF THE ARMY

LOS ANGELES DISTRICT CORPS OF ENGINEERS

P.O. BOX 532711

LOS ANGELES, CALIFORNIA 90053-2325

May 27, 2008

REPLY TO
ATTENTION OF

Mr. Steve Stump
Operations and Maintenance
Riverside County Flood Control and
Water Conservation District
1995 Market Street
Riverside, CA 92501

Dear Mr. Stump:

On May 13, 2008, in response to a citizen concern, two engineers from the U.S. Army Corps of Engineers, Los Angeles District, Hydrology and Hydraulics Branch, conducted a field investigation of Bautista Creek Channel in Hemet, Riverside County, California. The purpose for the field investigation was to evaluate whether "drainage levee" modifications within the Riverside County Flood Control and Water Conservation District (RCFCWCD) right-of-way in the Bautista Creek Channel have compromised the project's original design performance. The Field Investigation Report is enclosed.

Based on the field investigation, we concluded that one of the modifications within the RCFCWCD right-of-way may compromise the project's original design performance. In addition, two of the modified "drainage levees" need maintenance.

We therefore recommend: 1) For the "drainage levee" at channel station 244+25, either a) the excess fill be removed and the original "drainage levee" be exposed; or b) the existing concrete spillway be extended upstream 50 ft and the low spots in the fill be raised to prevent sheet flow from undermining the sideslope paving and cause channel failure and, 2) For the "drainage levees" at channel stations 196+50 and 208+00, the vegetation on the levees be removed and the stone revetment be inspected to ensure that the size and thickness match the as-built construction plans.

If you have any questions or concerns about this matter please contact either Mr. Van Crisostomo or Mr. Rick Andre of my staff at (213) 452-3558 or (213) 452-3564 respectively.

Sincerely,

Robert E. Koplin, PE

Chief, Engineering Division

Enclosure

MEMORANDUM FOR RECORD

SUBJECT: Field Investigation, Bautista Creek Channel, Right Bank, From the Fairview Avenue Bridge to Station 246+25, Hemet, California

1. References:

- a. Email from LTC Anthony G. Reed, Subject: Mr. Mabee's Two Concerns, dated 19 April 2008
- b. *General Design for Bautista Creek Channel, Design Memorandum No. 2, San Jacinto River and Bautista Creek Improvements*, U.S. Army Corps of Engineers, Los Angeles District, dated September 1959
- c. *Bautista Creek Channel, As-built Construction Plans*, File No. 172, U.S. Army Corps of Engineers, Los Angeles District, dated October 1961
- d. Letter from the Corps to Riverside County Flood Control District, Subject: Approval of Bautista Creek Channel Levee Modification (EE88-23), dated 14 December 1987.

2. On 13 May 2008, Messrs. Van Crisostomo and Rick Andre of the Hydrology and Hydraulics Section inspected the subject site pursuant to a request by LTC Anthony G. Reed, Deputy District Commander, Los Angeles District, U.S. Army Corps of Engineers (Ref. 1a). The purpose for the field investigation was to evaluate whether "drainage levee" modifications within the Riverside County Flood Control and Water Conservation District (RCFCWCD) right-of-way in the Bautista Creek Channel have compromised the project's original design performance.

3. Mr. Crisostomo and Mr. Andre were met at the project site by Mr. Robert Mabee, a local resident, who acted as their escort for the site visit. The inspection focused on a 1.7 mile reach of the right bank of the channel from the Fairview Avenue Bridge to approximately station 244+25. Mr. Mabee claimed that RCFCWCD altered several "drainage levees" and changed the drainage pattern of the sheet flow entering the channel.

4. This reach of the Bautista Creek Channel is an incised, trapezoidal concrete-lined channel. The basewidth is 25 ft and the sideslopes are 2:25 to 1. The channel depth is between 11.5 to 12 ft. The design flow rate for this reach is 16,500 cfs. The flow is supercritical with a velocity of 45 ft/s. The concrete channel itself is well-maintained. Along the right bank (looking downstream) of the channel are three "drainage levees" that direct sheet flow towards the channel.

Enclosure

CESPL-ED-HH

SUBJECT: Field Investigation, Bautista Creek Channel, Right Bank, From the Fairview Avenue Bridge to Station 246+25, Hemet, California

5. The Design Memorandum (Ref. 1b) and as-built construction plans (Ref. 1c) were checked to determine if the "drainage levees" are original project features and to confirm their intended function. According to the Design Memorandum, "Side-drainage investigations indicated that large side flows would reach the channel along the right (northeast) bank. Because the top of the channel would be at or near ground level, these flows would be discharged over the top of the channel banks for nearly the entire length of the channel. Therefore, the maintenance roadway along the right bank would be paved to prevent undermining of the side-slope paving. Low cross dikes may be required at intervals to divert the flow into the channel; the specific locations of these dikes would be determined before contract plans and specifications are complete." Furthermore, the as-built construction plans confirm that the "drainage levees" were constructed as part of the Bautista Creek Channel project. In addition, concrete spillways were constructed at the end of these "drainage levees" to prevent the undermining of the concrete sideslope when sheet flow from the surrounding drainage areas flows into the channel (Attachment 1).

6. Per Reference 1d, the Corps approved a permit for the RCFCWCD to modify these "drainage levees". Except for the "drainage levee" at station 244+25, the proposed modifications were followed, i.e. the "drainage levees" were truncated approximately 20 ft to widen the maintenance road and then the existing concrete spillway extended to the end of the truncated "drainage levee" (Attachment 2). At station 244+25 the "drainage levee" was not truncated as indicated in the approved permit plans. Instead, it was buried with miscellaneous fill (it is unknown who placed the fill). This fill alters the sheet flow drainage pattern and causes the flow to enter the channel over parts of the right bank not protected by a concrete spillway. This could potentially undermine the sideslope paving and cause channel failure. Originally, the side inflow from the surrounding drainage area was wide and shallow, confined at the downstream end by the "drainage levee" and the upstream end by high ground (Attachment 3). Now, because of the fill, the sheet flow is now concentrated, and the fill may not be high enough to direct all the sheet flow towards the channel. There are low spots along the fill that would likely be overtopped during high flow events and may cause sheet flow to go over parts of the right bank not protected by a concrete spillway

7. In addition to concerns about the construction of the "drainage levee" at station 244+25, Messrs. Andre and Crisostomo observed that the "drainage levees" at station 196+50 and 208+00 are overgrown with vegetation. Also, the stone revetment for these "drainage levees" is thin at some locations.

8. Based on the field investigations, we concluded that one of the modifications within the RCFCWCD right-of-way may compromise the project's original design performance. In addition, two of the modified "drainage levees" need maintenance.

CESPL-ED-HH

SUBJECT: Field Investigation, Bautista Creek Channel, Right Bank, From the Fairview Avenue Bridge to Station 246+25, Hemet, California

9. For the "drainage levees" at station 196+50 and 208+00, we recommend that the vegetation on the "drainage levees" be removed. We also recommend that Geotech Branch inspect the stone revetment to determine if the size and thickness match the as-built construction plans.
10. For the "drainage levee" at station 244+25, we recommend that either 1) the excess fill be removed and the original "drainage levee" be exposed; or 2) that the existing concrete spillway be extended upstream 50 ft and the low spots in the fill be raised to prevent sheet flow from undermining the sideslope paving and cause channel failure.

Encl



Rick Andre
Hydraulic Engineer



Van Crisostomo, PE
Hydraulic Engineer

Oral ✓

**Riverside County Board of Supervisors
Request to Speak**

Submit request to Clerk of Board (right of podium),
Speakers are entitled to three (3) minutes, subject
Board Rules listed on the reverse side of this form.

SPEAKER'S NAME: ROBERT MABEE

Address: 3086 Miguel St
(only if follow-up mail response requested)

City: RIVERSIDE **Zip:** 92506

Phone #: 760-4658

Date: 2-23-2010 **Agenda #** _____

PLEASE STATE YOUR POSITION BELOW:

Position on "Regular" (non-appealed) Agenda Item:

_____ **Support** _____ **Oppose** _____ **Neutral**

Note: If you are here for an agenda item that is filed
for "Appeal", please state separately your position on
the appeal below:

ORAL COMMUNICATIONS

_____ **Support** _____ **Oppose** _____ **Neutral**

I give my 3 minutes to: _____