

Response to Webster to Supervisors re EA 43201 MND, June 4, MSHCP, the MSHCP document states *“it should be noted that achievement of the variable target acreages will be measured on a Core and Linkage or Area Plan and Area Plan Subunit basis, not on an individual project or Cell/Cell Group basis”*

- The wildlife agencies confirmed the Los Olivos property is not appropriate for conservation under the MSHCP since the Property does not include any habitat or resources identified for conservation in Rough Step 6, Southwest Area Plan, Core 2, Subunit 5, or Cell Group Z in which the property is located. Even though the tributary to linkage is severely constrained, having been fully channelized north of Leon Road, the Los Olivos project is proposing to entirely avoid the riparian and jurisdictional areas associated with the drainage on the easterly portion of the site. The balance of the site has very limited conservation value since it is completely disturbed from decades of farming operations and contains no habitat or resources identified by the MSHCP. The site is also severely constrained due to edge conditions including being surrounded by two MSHCP covered roads to the south and east (Los Alamos Road and future Clinton Keith Road), a residential subdivision directly north and a heavy equipment yard to the west.
- The project obtained its HANS Consistency letter in February of 2018.

The County/RCA failed to accurately describe and consider existing conditions surrounding the project site, that were relevant and material to the Project’s MSHCP Consistency Analysis and JPR (Joint Project Review), and to MSHCP Reserve Assembly goals. Sixty-seven acres of RCA conservation lands just 260 feet south of the project site (the Rindahl/Kelly properties, aka Liberty Fields), were acquired in June and July of

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2018. These RCA properties were not considered in evaluating the suitability of the project site for conservation or its potential contribution to Reserve Assembly; their existence is omitted entirely from EA 43201 and all project records. This omission from the record is important, because lack of potential connectivity to existing conservation lands was cited in EA 43201 as a major reason not to conserve any land on the project site.

Why were these RCA acquisitions omitted from the MSHCP Consistency Analysis for the Project? Two reasons were given during the 4/3/19 Planning Commission hearing. First, Applicants averred that they had completed the HANS process prior to RCA acquisition of the Rindahl/Kelly properties:

Jeremy Krout (Applicant's Representative) 4/3/2019 Planning Commission hearing

00:18:00 “..when we filed the application in June of 2017, that actually, the sites to the south, that she references in the letter were not owned by RCA at the time. We went through our full process, had the determination of consistency with the MSHCP. And later, in July of 2018, the sites to the south were conserved.”

This is factually incorrect. Applicants were still in the HANS process, meeting with the County, RCA, Dudek and Wildlife Agencies to resolve problems with the Project's MSHCP consistency analysis, in July and August of 2018, *after the RCA properties were purchased:*

Jeremy Krout (Applicant's Representative) 4/3/2019 Planning Commission hearing

00:13:40 “And then we had all HANS meetings with the Wildlife Agencies, and the County and RCA in March and May of 2018, followed by 2nd all HANS meetings, a number of them, in July and August of 2018.”

Response: This is not correct. The HANS Consistency letter was delivered February 15, 2018 and meetings with the Wildlife Agencies took place in Spring 2018. See previous response letters.

And no final letter from the RCA, finding that the Project was consistent with the MSHCP, had been transmitted to the County as of August 30, 2018:

Email between Don Copland (County Biologist) and Dionne Harris (Project Planner)

From: Copeland, Don
Sent: Thursday, August 30, 2018 2:22 PM
To: Harris, Dionne <DHarris@RIVCO.ORG>; Poonamallee, Matthew <MPoonama@RIVCO.ORG>
Subject: RE: TTM37294 (APN 480100009 and 480100075)

Do you have access to our Drive Y:\HANS - ERP\Cases 02300-02399\HANS02367

We don't have a final letter from RCA, we meet with them next week, I might ask about

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that.

From: Harris, Dionne
Sent: Thursday, August 30, 2018 11:11 AM

To: Copeland, Don <dcopelan@RIVCO.ORG>; Poonamallee, Matthew
<MPoonama@rivco.org>
Subject: FW: TTM37294 (APN 480100009 and 480100075)
Importance: High

Hi Don and Matthew,

Can you provide me with any documentation on JPR's and RCA's determination?

Thank you,

Dionne Harris, MArch
Urban Regional Planner II

Response: This is not correct. The HANS Consistency letter was delivered February 15, 2018. No other letter is required under the MSHCP.

Moreover, Applicants are incorrect in believing that the filing dates of their HANS Application or JPR stop the clock in the review process, or that the JPR is set in stone. The environmental review process includes EA 43201, which is required to provide complete, accurate and current information on the Project's environment. And the end point is not a determination by the RCA, but approval by the Board of Supervisors:

Charles Landry, Executive Director RCA (personal communication 5/9/2019)

"Under the MSHCP, neither the RCA nor the Wildlife Agencies provide final approval to development projects; only the Permittees (Cities/County) have this ability. Both the RCA and the Wildlife Agencies provide review of projects and provide a consistency analysis pursuant to the MSHCP. The Joint Project Review (JPR) document that is sent to the Wildlife Agencies and the Permittee by the RCA is sometimes later revised based on further coordination with the Wildlife Agencies, Permittee, and/or Applicant."

Second, PC Taylor-Berger dismissed consideration of the Rindahl/Kelly properties as inappropriate, without a deed of sale. Given that the deed of sale was in hand, her point is moot. In addition, her assertion that it would be inappropriate to consider properties "proposed" for conservation in the MSHCP consistency analysis, is belied by the JPR itself. The Regional Map from the Project JPR is shown below; "proposed development" is shown in yellow, and "proposed conservation" in green. Thus, identification and evaluation of surrounding properties that are proposed for conservation or development is standard procedure, and is obviously important for MSHCP Reserve Assembly. Equally obvious is that the Regional Map used for this project is seriously out of date; e.g., half of Mcelhinney Middle School, which opened in August 2009, is designated "proposed conservation."

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RCA acquisition of the Rindahl/Kelly properties (X1 on the Regional Map, below)
began in January 2017, after the RCA quashed Mr. Kelly's development aspirations:

May 4, 2016 - "Liberty Fields, JPR 16-04-20-01, would develop lands needed for conservation, therefore this project can't be found consistent with the Reserve Assembly goals of the MSHCP." *Liberty Fields, JPR 16-04-20-01, Dudek.*

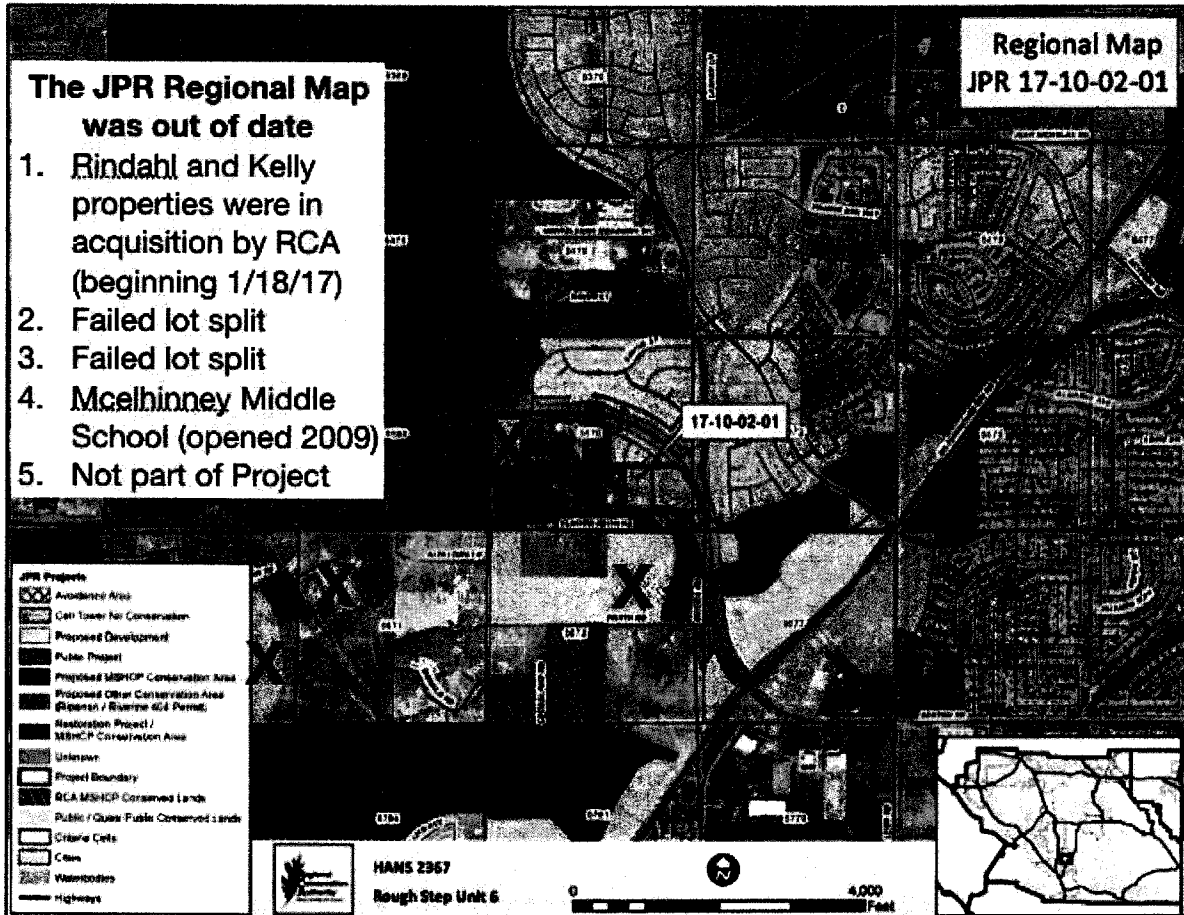
January 18, 2017 - "The RCA and the owner/project applicant agreed to follow the provisions of Section 6.1.1.B.2.b of the MSHCP for Full Inclusion of Property in the WR MSHCP." *Liberty Fields HANS Appraisal, Project Summary and Appraisal Support Documentation, October 2017.*

April 2, 2018 - Agreement for Purchase signed by RCA and Liberty Fields owners (**prior to the 1st all HANS meeting for the Los Olivos project, 4/19/18**).

June 7, 2018 - Purchase of Rindahl property completed (**3 months prior to completion of the HANS process for the Los Olivos project**).

Response: This is not correct. See response above.

Both the proposed, and later existing, conservation status of these properties should have been considered during evaluation of the Los Olivos project site in regard to MSHCP Reserve Assembly. But RCA failed to communicate this information to Applicants, County, Dudek and the Wildlife Agencies.



Conclusion to IV. The RCA's and County's analysis and determination that the project is consistent with the MSHCP were based on grossly incomplete and inaccurate information, invalidating the determination. Misrepresentation of the nearby conservation lands as proposed development (in bright yellow) clearly and inevitably biased the analysis toward undervaluation of the property's conservation value to the MSHCP. Current information on the Project's environs are not provided in EA 43201, which entirely omits the existing conservation lands, and available evidence indicates that their existence was not disclosed to the Wildlife Agencies for their consideration. The Project JPR should be revised and resubmitted to the Wildlife Agencies for review, and EA 43201 should be revised and recirculated.

Response: This is not correct. See response above. The Los Olivos project received its JPR consistency finding on February 15, 2018. Subsequent meetings with the RCA and wildlife agencies and the HANS process concluded prior to the purchase of as Rindahl/Kelly properties to the south of the subject site. The first meeting with the RCA and wildlife agencies was in April 2018 and the second meeting in May 2018 that concluded the discussions.

V. The Drainage Report (EA 43201, Appendix K) for the Project is Defective; it Contains Material Errors and Omissions that have not been critically reviewed by County staff.

1. Riverside County staff have advised the applicant that:

07/26/17
14:16

Riverside County LMS
CONDITIONS OF APPROVAL

Page: 7

TRACT MAP Tract #: TR37294

Parcel: 480-100-076

5. DRT CORRECTIONS REQUIRED

5. FLOOD RI. 1

DRT COMMENTS: 6/15/2017 (cont.)

REQUIRED

3. Stormwater runoff from a tributary drainage area of approximately 20 acres impacts the westerly boundary of the site. The exhibit indicates these flows would be collected

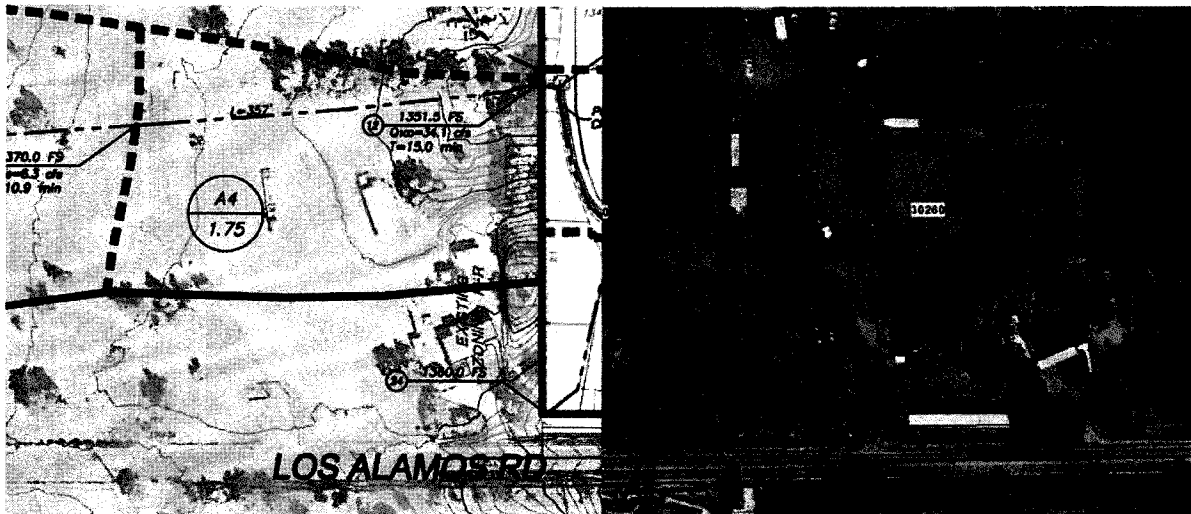
Yet applicants Drainage report (EA 43201, Appendix K) only accounts for 14.7 acres impacting the westerly boundary, a significant underestimation that has not been addressed by the County in its review. If the actual watershed feeding stormwater into the project is more than 30% larger than Applicant has designed, the entire project needs to be re-engineered. **The record is replete with Applicants testimony affirming their**

Response to Webster to Supervisors re EA 43201 MND, June 4, view that the County Flood Control statement of 6/15/2017 is not true, but there is no evidence in the record showing County's independent review of this discrepancy.

Response: See letters from Proactive Engineering Consultants dated March 28 (2 separate letters), April 1, April 2, April 9 and May 30, 2019.

2. Applicant's Drainage Report fails to accurately describe existing conditions that dictate stormwater drainage across 30260 Los Alamos Road towards the westerly boundary of the Project. Applicants ignore the existence of a County-TLMA culvert that transfers stormwater from several acres south of Los Alamos Road towards the Project.

2A. The effects of a large horse arena (circa 2015), for which there is a Riverside County approved grading plan (BGR150086), cannot be simply ignored if the drainage report is to be credible. In addition, there is a trench on the west side of the arena, to divert run-off water from the south and west, to the north, and prevent erosion of the arena:

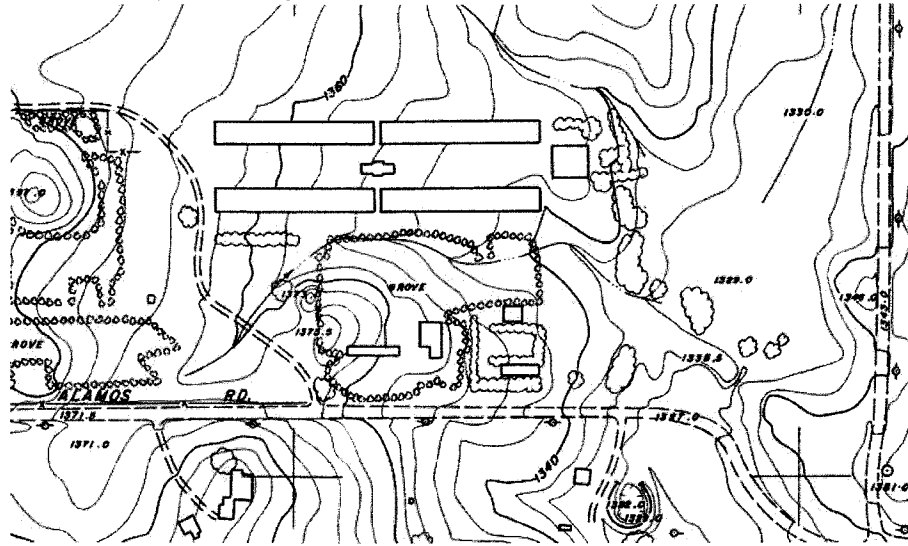


**EA 43201 Drainage Report
Applicant's map pre-dates
grading for arena**

**2016 County GIS Map, arrows
show stormwater flow from ~5
acres south of Los Alamos Road**

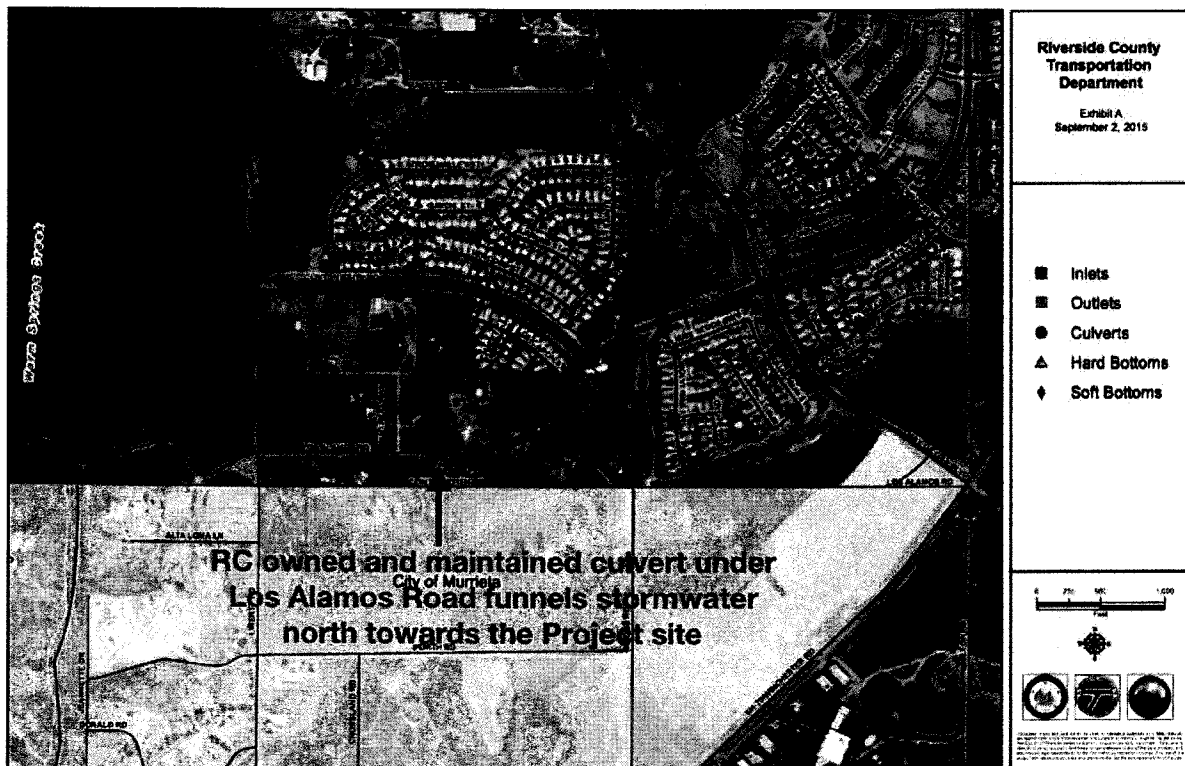
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The arena's grading maintains the historic drainage of stormwater into the NW boundary of the Project, shown as an arrow in this 1975 Flood Control map:



Response: See letters from Proactive Engineering Consultants dated March 28 (2 separate letters), April 1, April 2, April 9 and May 30, 2019. The horse arena area is included in the drainage study per Ms. Webster's own exhibits. Simply changing the use doesn't change the calculated flow area.

2B. Applicants fail to include in their drainage report flows of stormwater from south of Los Alamos Road via County Transportation Department culvert 12480/12481 into the 14.7 acre sub-watershed in Applicant's Drainage Report.



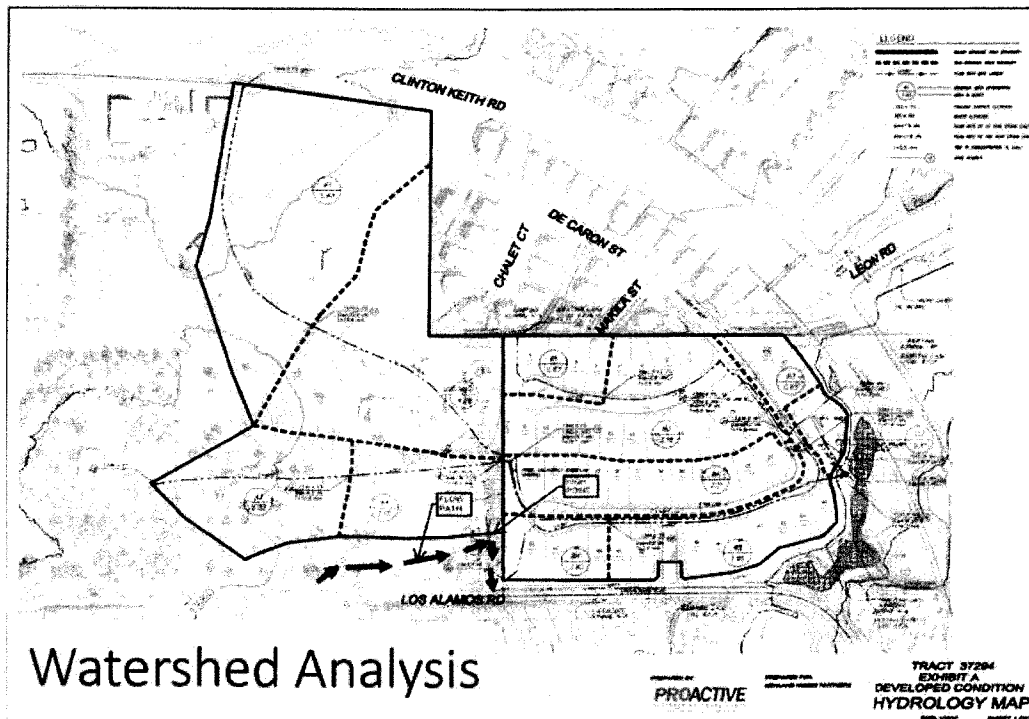
Sub-watershed south of Los Alamos Road is missing from the Hydrology Map

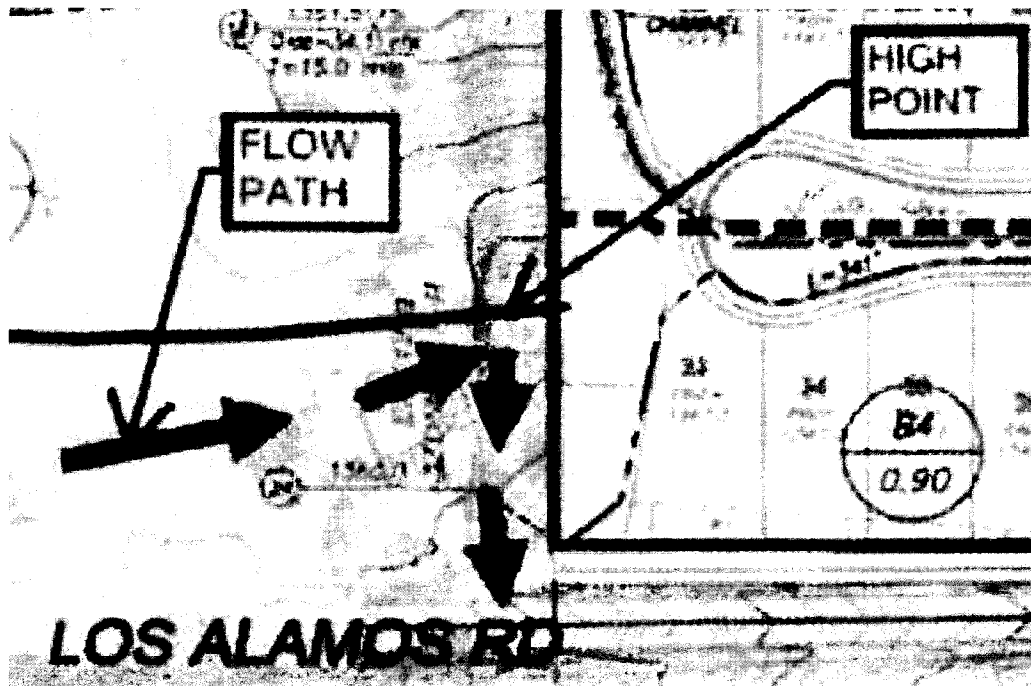
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It is obvious that inclusion of the sub-watershed south of Applicant's 14.7 acre watershed produces a tributary drainage area of approximately 20 acres impacting the westerly boundary of the Project, as explained to Applicants in 2017 by County Flood Control:

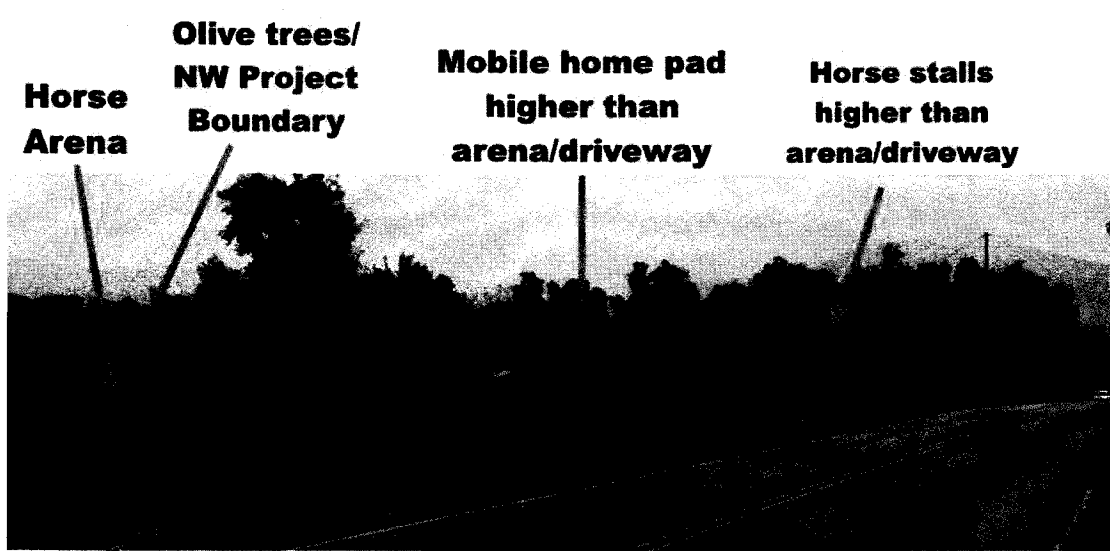
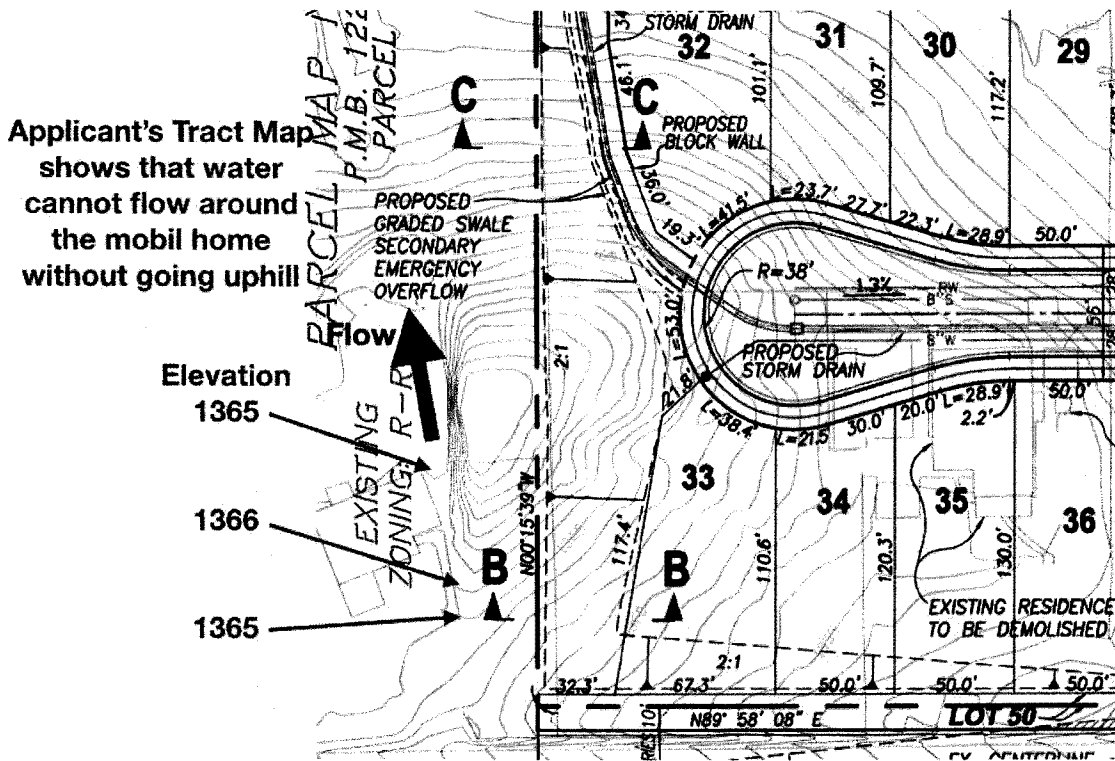
Response: See letters from Proactive Engineering Consultants dated March 28 (2 separate letters), April 1, April 2, April 9 and May 30, 2019.

2C. County has relied entirely on Applicant's submissions, and the Planning Commission accepted their 4/3/2019 testimony (Mr. Krout) that stormwater flows towards and around a decades-old mobile home —





when, in fact, the contours on the Applicant's own Tract map show the land sloping downwards to the north of the mobile (at 1366' on SW corner of map detail, below), so stormwater moves northwards into the Applicant's 14.7 acre sub-watershed;



Reflector marking Culvert that directs storm water from S of Los Alamos Road to the N, towards NW boundary of Project

Conclusion to V. Given that RCTLMA culvert 12480/12481 exists and transfers water from several acres south of Los Alamos Road towards the Project's NW boundary, Applicant's April 2, 2019 statement to the Planning Commission that "the drainage south of Los Alamos Road does not flow north to the other side of Los Alamos" is false, and the drainage analysis of the watershed westerly of the Project is seriously defective. Because a substantial portion of the watershed west of the project site remains unaccounted for by the Applicant's Drainage Report, the County has no sound basis for approval of the Project, since there are clear reasons to doubt that the infrastructure proposed to handle stormwater from this western watershed will be adequate to the task.

Response: See letters from Proactive Engineering Consultants dated March 28 (2 separate letters), April 1, April 2, April 9 and May 30, 2019.

VI. The analysis of the floodplain in the eastern third of the Project site is grossly defective because: 1. The floodplain analysis in the EA 43201 record lacks key elements required by Riverside County Flood Control and Water Conservation District regarding “REQUIRED CONTENT AND FORMAT FOR HYDRAULIC REPORTS UTILIZING HEC-RAS OR HEC-2” (RCFC_Hydraulic_study_reqs. pdf); and 2. The record fails to document any independent expert review of Applicant’s description of the existing floodplain by County staff in the context of accepted guidelines for Flood Risk Analysis (FEMA Floodplain Management NFIP Guidebook; FEMA Guidance for Flood Risk Analysis, including those reference in RCFC-WCD literature).

1. The RCFC-WCD requirements for HEC-RAS that were ignored by Applicant include:

Areas of ineffective flow must be clearly shown.

A description of the Manning’s “n” values used and explanation for why they were chosen must be provided in the Narrative and Supporting documents.

The requirement to determine if proposed water surface elevations are more than one foot higher than existing elevations, triggering “discussions” with RCFC-WCD, is rendered opaque by the Applicant’s failure to provide a “table comparing existing and proposed water surface elevations and velocities at each cross-section” as specified with respect to the requirement that “the report must be organized in a logical manner and a summary of the results and associated impact resulting from the project must be given in the text portion of the report.”

2. The absence of a floodplain analysis report that conforms to RCFC-WRC standards in the package to be reviewed by County staff and the Planning Commission indicates a failure to document independent and competent review by the County, which will invalidate any approvals by the Board concerning CEQA and hydrology/flooding. One clear example of the problems resulting from the inadequate floodplain report concerns the existence of massive multi-trunk eucalyptus trees on either side of the main water channel, shown in the 3 figures below. Trees on left, Project creek exiting over Los Alamos Road on right:



Feb 24, 1998



These mature trees serve to hold back water in the floodplain, along with the other vegetation that has grown explosively in the last decade (due to year-round run-off from upstream urban development), and these aspects of the floodplain are routinely handled with guidance from agencies such as FEMA and the USACE; Applicants have made no effort to address these fundamentals.

The non-compliance of the floodplain study with RCFC-WRC requirements renders impossible the required environmental assessment of the Project's potential impacts on the existing floodplain on the eastern third of the project site (~4 acres, between Leon and Los Alamos Roads). The Project site serves to reduce downstream flooding by serving as a multi-acre detention-basin system between Leon Road to the north and Los Alamos Road (and two residences) to the south. The detention-basin system consists of numerous physical barriers to the passage of water to the south, from the two 24-by-9 foot culverts at Leon Road that dump stormwater from a 2.5 square mile urban watershed onto the Project site. First, at Los Alamos Road, the raised road bed acts as a dam (with only an 18-inch round culvert serving to carry water under the road), so that even a fraction of an inch of rain results in formation of a temporary lake on the north side of the road. Second, visible from Los Alamos Road looking north (see photos above), are considerable mounds of earth and massive eucalyptus trees that serve to impede stormwater flow in the floodplain, thereby promoting infiltration/percolation of stormwater into the ground - i.e. reducing the amount of water available to contribute to the flooding hazard at Los Alamos Road and the two residences in the flood hazard zone south of the road. Third, the entire floodplain is thickly packed with vegetation, whose growth has exploded over the past decade in response to the year-round run-off from upstream tract houses required to regularly soak their lawns to keep them green, even in the record heat during an historic drought; this vegetation slows water flow in the floodplain, which can be correctly analyzed if appropriate Manning's "n" values are used as described above.

Conclusion to VI. The Applicants' proposal to place vast quantities of fill in an existing floodplain/flood hazard area is not supported by scientific evidence that meets the standards set forth by RCFC-WRC. County staff have failed to demand revisions of the file that are required to assure the Board that the Project will not be a site, or cause, of a flood emergency, and so the EA 43201 MND must be rejected.

Response: This is not correct. A HEC-RAS analysis was provided to County Flood Dept. County Flood dept. independently reviewed and accepted analysis provided by JLC Engineering. On multiple occasions, we have requested Ms. Webster's hydrology consultant to contact the project engineers. The project is not proposing to remove the existing trees or change topography within the floodplain. Any

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functionality of these trees and vegetation growth to reduce water velocities will continue to function after development of the Los Olivos project as they have previously. See letters from Proactive Engineering Consultants dated March 28 (2 separate letters), April 1, April 2, April 9 and May 30, 2019 regarding hydrology studies.

VII. The Applicant and County have failed to justify reliance on deferred mitigation regarding identification/location of water well(s) and septic system(s) on the project site, in compliance with state water laws.

In 2017, Applicant was instructed by County as follows:

E HEALTH DEPARTMENT

5.E HEALTH. 1 DRT - 6/12/17 DEH CORRECTIONS REQUIRED

This is for the review of a Schedule A subdivision of 12.6 acres into 48 single family residential lots. The following items need to be addressed:

- 1) Properly locate and plot locations of all existing wells and onsite wastewater treatment systems (OWTS) for this project. Records for PM19797 show that wells were proposed for the sites. If wells are no longer being used, provide documentation showing current water service for the existing structures and information about destruction permits for wells and OWTS.

Despite Applicants' generation of large numbers of maps for review by the County, Applicants have failed to map wells and septic systems associated with the decades-old, occupied residence on the Project site. Moreover, Applicants have falsely stated that water wells/septic are absent from the project site (noted in written comments to the Planning Commission prior to the 3/20/2019 hearing).

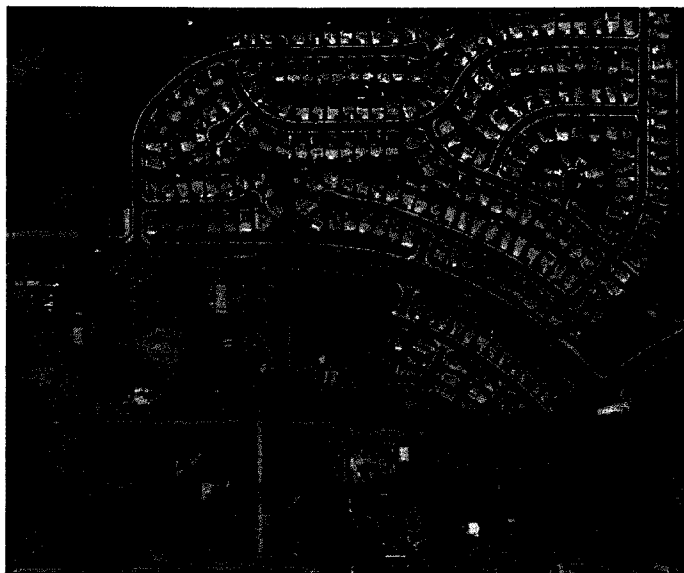
The County would be justified in deferring mitigation until after CEQA review ***only if*** substantial evidence confirms the regulatory process would achieve the performance standards, and the County has adopted specific performance standards so the mitigation will be achieved. ***However, the standard has not been met, given the County's inability to show competent oversight of water well /septic system destruction in the recent development tract 29484 (Horton Country Roads) adjacent to the EA 43201 Project site.***

Like the proposed Project, Horton Country Roads Tract 29484 involved creation of dozens of tract homes in place of a single, decades-old residence with an on-site well and septic system, in the eastern portion of the proposed tract (see following 2004 GIS satellite image with proposed Horton parcels outlined) :

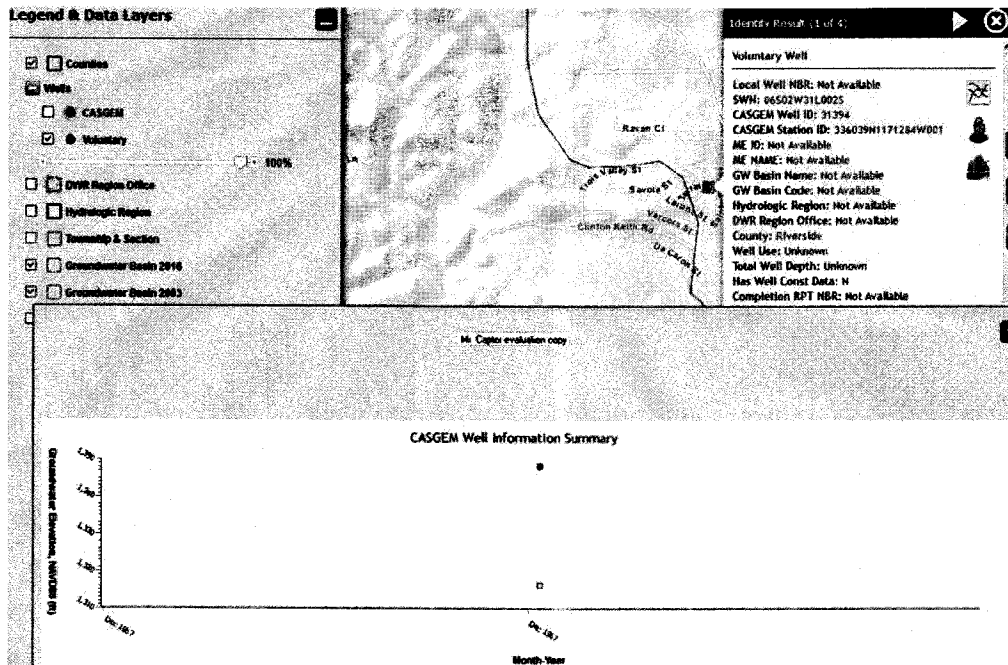
2004:



Below,
the 2016 GIS satellite image shows the complete Horton Country Roads project, with its southern border adjacent to the EA 43201 Project site (bottom right 2 parcels):



State Water Board online CASGEM records provide details of the water well near the historic residence on the Horton project site, mapped relative to the current Horton Country Roads' streets:



The Riverside County Department of Health found no record of permitted well destruction for the Horton Country Roads project in response to my April 19, 2019 Public Records Act request. Earlier efforts to obtain records from Riverside County Transportation and Land Management also failed to provide any evidence of compliance by developers and County regarding well destruction. This lack of any evidence that the proposed deferred-mitigation regulatory process would achieve the performance standards was presented in writing to the Planning Commission prior to the 4/3/2019 hearing.

Conclusion to VII. County has failed to demonstrate commitment to protection of Groundwater resources under and around the Project site with respect to compliance with State Water Laws governing destruction of abandoned water wells and septic systems, by not requiring Applicant to acknowledge and map well and septic systems, and liaise with County Health prior to completion of the CEQA review. The County's failure to record well and septic system destruction for the completed Horton project (adjacent to the EA 43201 Project site), as required by State Laws that are aimed at protecting state water quality, indicates that the County does not have specific performance standards for achieving necessary mitigation of potentially significant adverse impacts on groundwater resources. Therefore, the MND for the Project is inappropriate and should be rejected.

Webster to Supervisors re EA 43201 MND, June 4, 2019 Hearing

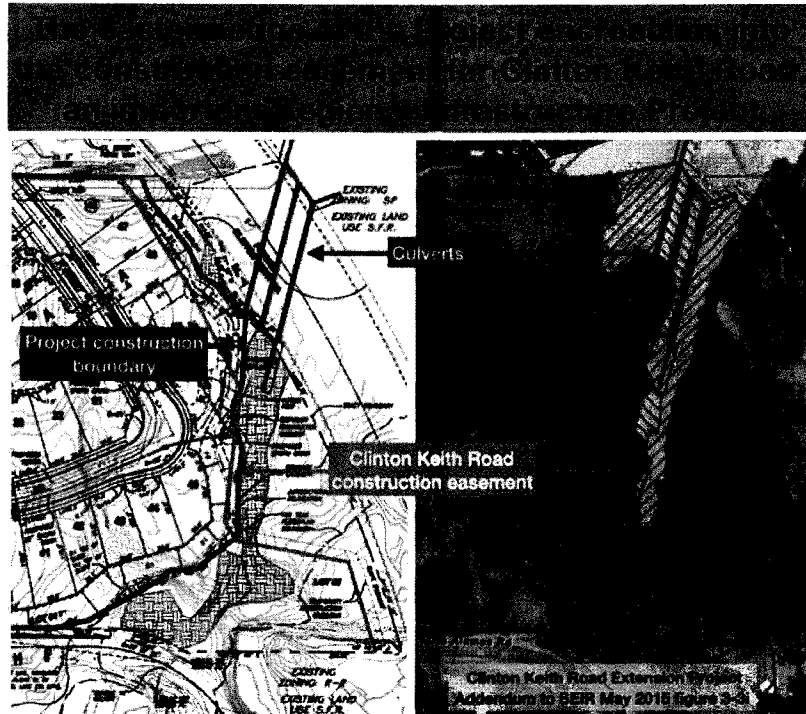
Response: The Los Olivos Project has been conditioned by the Environmental Health Department (060- E Health. 1) as follows: Any existing wells and/or onsite wastewater treatment systems (OWTS) shall be properly removed and/or destroyed under permit with Department of Environmental Health. The existing well is located on proposed lot 36. The applicant can and will comply. It is not feasible or reasonable to request removal of the utilities to the existing house prior to a project approval. Applicant has no knowledge as to the existence or lack of existence of a well located in other nonaffiliated tracts.

Objection VIII. Cumulative environmental impacts of the Project due to its overlap with the County's proposed Clinton Keith Road Extension are not addressed.

After my initial review of the EA 43201 Project documents at the beginning of March, it was clear to me that the Project file lacked acknowledgement and analysis of the strong interactions between the Project and the County's proposed extension of Clinton Keith Road. The physical overlap of the EA 43201 Project's eastern Flood Hazard Area with the Study Area identified as "Drainage 15" in the Clinton Keith Road Extension environmental documents has not been described and analyzed beyond acknowledgement of the problem, as pointed out by my submissions during Public Hearing, and feeble statements saying that the County is responsible for determining what impacts and mitigations apply, if any.

The EA 43201 record fails to address the combined (cumulative) impacts of the EA 43201-CKR-extension dual project with respect to drainage/flooding, biological resources and local circulation. On March 15, 2019, I alerted Supervisor Washington and RCTLMA Director Perez of my concerns about how EA 43201 will likely complicate CKR-extension design and approval with respect to local traffic, including that on Los Alamos Road. This issue must be addressed prior to approval of future CKR construction, and solutions to this matter seem to be evermore distant even though the Board committed to act in good faith to this end on June 7, 1994 (Settlement Agreement appended to this letter).

I subsequently communicated to County Planning on the morning of March 31st, 2019:



While the County did respond by adding an April 2, 2019 Condition of Approval to bolster and protect the County's construction easement, there remains an unacceptable absence of consideration of impacts applicable to CKR Drainage 15, under current study by the County through ongoing serial EIR production and review - which is also subject to good faith engagement by the County as laid out in the settlement the Board approved June 7, 1994. In addition to the local circulation analysis including Los Alamos Road through full EIR, the settlement also requires analysis by the County through full EIR of:

- areas a qualified historian determines are historically significant (triggered by Ms. Rita Gentry's correspondence in the EA 43201 record)
- raptor foraging areas (triggered by the Red-tailed hawk nest on the project site; and the White-tailed Kite, kestrels and other hawks that forage over and around the east end of Los Alamos Road)
- seasonal wetlands
- riparian areas adjacent to wetlands
- wildlife movement corridors
- Santa Margarita River watershed
- Recreational uses in the vicinity of and along Los Alamos Road

Approval of the EA 43201 MND would constitute a gross violation of the County's obligations in the Settlement Agreement, agreed to by the Board on June 7, 1994. The EA 43201 MND cannot be permitted to destroy the valuable resources listed above, when the County's ongoing EIR review of the area where the two projects overlap will enable their protection.

These considerations render relevant an important rationale for transfer of the EA 43201 site into conservation:

wrc-rca.org

Conclusion to VIII. Lack of an EIR for the areas of the EA 43201 Project that overlap with the current CKR-extension project EIR study area would undercut required environment protection of local traffic networks, and natural, historic and recreational resources as specified in the Settlement Agreement, agreed to by the Board on June 7, 1994. It is not possible to dis-entangle a developer's request to put vast quantities of dirt into a floodplain, from a County's aim to build a creek/wetland crossing on the very same

area of land without both projects being considered in a single study of the cumulative impacts.

Response:

- The Los Olivos project is not a party to the settlement agreement between Ms. Webster and the County of Riverside. However, upon our review of the Settlement Agreement we see no such requirements on the part of the County. That being stated, the Los Olivos project would not undercut required environmental protection of local traffic networks or natural, historic or recreational resources. There has been extensive coordination between the project applicant, county flood department and the county transportation department to ensure that both the future Clinton Keith extension project and the Los Olivos project can work together.
- A settlement agreement between Ms. Webster and the County regarding the County's obligations regarding the Clinton Keith Road project should not impact the ability of Mr. Richard to develop his own property consistent with the County General Land Use designation and with appropriate biological, transportation and flood mitigation incorporated into the conditions of approval.
- The CKR project, unlike the Los Olivos project will have unavoidable impacts to the riparian habitat in this area and will be required to mitigate for any impacts to Army Corps and CDFW jurisdictional areas related to their improvements when the final project design is completed and the County requests agency permits.
- The project is located entirely on private property and will have no impact on recreational activities that previously occurred along Los Alamos Road.
- The Los Olivos project has been designed with only a single EVA point of connection onto Los Alamos Road that will not add any additional traffic onto the street. However, the EVA will allow for vehicles on Los Alamos Road to pass the area through the Los Olivos tract in the event of an emergency. This is a life and safety issue that should be applauded.
- The HEC RAS analysis included both the Clinton Keith and Los Olivos projects on a stand-alone basis but also showing how the two projects would work together.

IX. The EA 43201 MND Does Not Represent the County's Independent Judgement.

The record for the Project is replete with unacceptable instances where

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County staff's and Planning Commission's recommendation to the Board are based on private discretionary staff approvals of exceptions to General Plan and CEQA that were shielded from public view. My input through the public review process has already resulted in 3 new CoAs for this project: one to protect and bolster the County's construction easement for a Regional infrastructural improvement project (Clinton Keith Road Extension, between Leon and Winchester Roads); and two for an additional \$45,000 in transportation fees, to compensate for the additional trips this project will generate by exceeding its GP and SH-79 PA housing allotment. Had the County adequately reviewed EA 43201, it would not have been left to the public to protect the County's own construction easement, point out that the project was 23% over its GP housing allotment with no additional transportation mitigation, identify multiple obvious defects in the hydrology report, or inform decision makers that the project is building in a floodplain and is inconsistent with both the County General Plan and MSHCP. This evidence for a serious lack of oversight by the County is compounded by the hidden fact that "the Consultant who prepared the document" turned out to be Applicant's Representative, Mr. Krout (EPD Solutions), and that his role in drafting EA 43201 is omitted from the face of the document. Only in my examination of the public record during the present review process, has a consistent pattern of "approvals" come to light, in which County staff "promise" entitlements to the Applicant that are in defiance of the County's General Plan and CEQA, in the areas of traffic impacts, biological resources, stormwater analysis, floodplain and flooding hazard analysis and, lastly, protection of groundwater resources.

Response:

- The transfer of excess units within the Highway 79 Policy Area under SWAP 9.2 is completely consistent with the general plan. In fact, SWAP 9.2 does not require that projects utilizing excess units pay an additional transportation fee on top of the transportation development impact fee that is already paid for each new housing unit. No previous projects have paid an additional \$5000/unit fee for the additional units, however, the applicant is willing to contribute the funds to the County to help fund additional Highway 79 policy area improvements that will benefit the overall area and agreed to add conditions of approval agreeing to the additional fee.
- County staff has spent over 600 hours working on the Los Olivos project to date, a figure that shows the extensive level of review and coordination that has been performed by county staff to independently analyze and review all aspects of the development. County staff can comment on the plethora of revisions and additional studies it demanded over the last 2+ years.

Webster to Supervisors re EA 43201 MND, June 4, 2019 Hearing

Conclusion to IX. Approval by the Board of the EA 43201 MND and associated resolutions would represent an abuse of discretion, because of failure to comply with CEQA and attendant County policies and Ordinances.

Thank you for your consideration. Sincerely yours,

Cecelia Webster

30255 Los Alamos Road

Murrieta CA 92563

951-265-0921

cecilia.webster@verizon.net

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



On motion of Supervisor Cenicerros, seconded by Supervisor Dunlap and duly carried by unanimous vote, IT WAS ORDERED that the attached Settlement Agreement and Mutual Release concerning the action entitled Cecelia Webster v. County of Riverside and Board of Supervisors of the County of Riverside (Riverside Superior Court Case No. 218564) is approved and the Chairman of the Board of Supervisors is authorized to sign same.

I hereby certify that the foregoing is a full, true and correct copy of an order made and entered on June 7, 1994 of Supervisors Minutes.

EACH DOCUMENT TO WHICH THIS CERTIFICATE **WITNESS** my hand and the seal of the Board of Supervisors ATTACHED IS CERTIFIED TO BE A FULL, TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE AND OF RECORD IN MY OFFICE

Dated: August 13, 2014

Dated: June 7, 1994

(seal)

Kecia Harper-Mem
Clerk of the Board of Supervisors
County of Riverside, California

Gerald A. Maloney, Clerk of the Board of Supervisors, in and for the County of Riverside, State of California.

By: [Signature]

By: [Signature]

Deputy

AGENDA NO.

xc: Co. Counsel

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release ("Agreement") is entered into this 7th day of June, 1994, by and between Cecelia Webster, an individual, and the County of Riverside, a political subdivision of the State of California, concerning the following facts:

RECITALS

A. On May 14, 1991, the County of Riverside ("County") declared its intention to form the Southwest Area Road and Bridge Benefit District ("District") by adopting Resolution No. 91-214.

B. On January 21, 1992, the County formed the District by adopting Resolution No. 92-050 and the Negative Declaration for Environmental Assessment No. 35841.

C. On February 20, 1992, Cecelia Webster ("Petitioner") challenged formation of the District by filing a petition for writ of mandate in the case entitled: Cecelia Webster v. County of Riverside and Board of Supervisors of Riverside County (Riverside Superior Court Case No. 217120)

D. On March 31, 1992, the County repealed Resolution No. 92-050 as a result of boundary adjustments and reformed the District by adopting Resolution No. 92-169 and the Negative Declaration for Environmental Assessment No. 35841.

E. On April 30, 1992, Petitioner again challenged formation of the District by filing a petition for writ of mandate in the case entitled: Cecelia Webster v. County of Riverside and Board of Supervisors of the County of Riverside (Riverside Superior Court Case No. 218564).

F. On June 9, 1992, Petitioner dismissed the action referenced in Recital C. without prejudice.

G. On October 15, 1992, judgment was entered for Petitioner in the action referenced in Recital E. and a peremptory writ of mandate was issued directing the County to, among other things, void and/or vacate its actions of March 31, 1992 and prepare new environmental documentation in compliance with the California Environmental Quality Act.

H. The County prepared new Environmental Assessment No. 36392 in response to the writ and released it for review on November 12, 1992.

I. On November 17, 1992, the County declared its intention to reform the District by adopting Resolution No. 92-527.

J. On December 2, 1992, the County appealed the judgment referenced in Recital G.

K. On December 7, 1992, the County filed a return to the writ referenced in Recital G. advising the trial court that the matter had been appealed.

L. On January 26, 1993, the County repealed Resolution No. 92-169 and reformed the District by adopting Resolution No. 93-056 and the Negative Declaration for Environmental Assessment No. 36392.

M. On February 16, 1993, Petitioner filed a motion to dismiss the appeal referenced in Recital J.

N. On June 11, 1993, Petitioner's motion to dismiss the appeal referenced in Recital J. was granted.

O. On September 27, 1993, the County filed a supplemental return to the writ referenced in Recital G. advising the trial court that the County had fully complied with the terms thereof by taking the action referenced in Recitals H., I. and L.

P. On October 6, 1993, Petitioner filed a notice of motion to reject the County's supplemental return and to enforce judgment.

Q. On November 1, 1993, the trial court rejected the County's supplemental return, ordered the parties to conduct a settlement conference and set a briefing schedule and trial date.

NOW, THEREFORE, it is mutually agreed as follows:

AGREEMENT

A. The County's Obligations

1. The County shall prepare a conceptual alignment study for the segment of Clinton Keith Road between Interstate 215 and State Route 79 and shall begin processing, but not necessarily complete, a general plan amendment to fix the alignment within twelve (12) months of the operative date of this Agreement, unless a longer period of time is mutually agreed to by the parties. The County and Petitioner shall jointly identify the alternate routes to be evaluated in the alignment study.

2. The County shall prepare a draft Environmental Impact Report ("EIR") for the general plan amendment and the District within twelve (12) months of the operative date of this Agreement, unless a longer period of time is mutually agreed to by

the parties. The EIR shall be prepared and processed in accordance with the California Environmental Quality Act in all respects, except that the discussion of environmental impacts shall be limited to only those impacts that the general plan amendment and District may have on the following:

- a. Stephens' kangaroo rat habitat;
- b. California Gnatcatcher habitat;
- c. The habitat of any other plant or animal species listed as endangered or threatened by the United States or the State of California;
- d. Coastal sage scrub habitat;
- e. Raptor foraging areas;
- f. Seasonal wetlands;
- g. Riparian areas adjacent to watercourses;
- h. Wildlife movement corridors;
- i. The Santa Margarita River and San Jacinto River watersheds;
- j. Areas listed on the National Register of Historic Places;
- k. Areas a qualified historian determines are eligible for listing on the National Register of Historic Places;
- l. Areas a qualified historian determines are historically significant;
- m. Areas a licensed archeologist determines are culturally significant;
- n. Recreational uses in the vicinity of and along Los Alamos Road; and
- o. Existing local circulation networks, including Los Alamos Road and the roads, lanes and driveways accessing Los Alamos Road.

3. The EIR shall also evaluate how each alternate route referenced in the alignment study will affect the items listed in section A.2. hereof.

4. The County shall transmit a preliminary draft of the alignment study and a screen check copy of the EIR to Petitioner within ten (10) days after their completion, unless a longer period of time is mutually agreed to by the parties.

5. The County shall vacate and set aside Resolution No. 93-056 and the Negative Declaration for Environmental Assessment No. 36392 within sixty (60) days after certification of the final EIR and adoption of the general plan amendment, unless a longer period of time is mutually agreed to by the parties.

6. The County shall hold a duly noticed public hearing to consider reformation of the District at the same time it takes the action described in Section A.5. hereof and shall relate the reformation date back to the time of original formation if the District is, in fact, reformed. The County shall incorporate the mitigation measures identified in the EIR into the conditions of approval for the District or shall reject such measures as infeasible prior to reformation.

7. The County shall continue to collect all fees authorized by Resolution No. 93-056 until that resolution is vacated and set aside, but shall not expend fees actually collected for anything other than administrative costs. The County shall also continue to collect fees after reformation of the District pending formal and final adjudication of the adequacy of the EIR referenced in Section A. hereof in the event of a legal challenge thereto, but shall not expend fees actually collected for anything other than administrative costs. Administrative costs shall include, but not be limited to, the costs of EIR preparation and the costs of legal services.

8. The County shall reimburse Petitioner \$1,173.80 for all filing fees previously paid to the Superior Court within thirty (30) days of the operative date of this Agreement.

9. Except as provided in this Agreement, the County does hereby release Petitioner from any and all claims, demands, and/or causes of action, known, unknown or suspected which relate in any way to the lawsuits referenced in Recitals C. and E. hereof. The County does hereby waive and relinquish all rights and benefits under Section 1542 of the California Civil Code, which provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

The County acknowledges that it may hereafter discover facts different from or in addition to those it now knows or believes to be true and agrees that this release shall be and remain effective in all respects notwithstanding such additional or different facts.

This release is not, however, intended to and shall not, in fact, constitute a release of any rights, obligations or warranties under this Agreement.

B. Petitioner's Obligations

1. Petitioner shall dismiss with prejudice the lawsuits referenced in Recitals C. and E. hereof within thirty (30) days of the operative date of this Agreement. Petitioner shall, however, retain the right to file a new lawsuit challenging the adequacy of the EIR referenced in Section A. hereof.

2. Petitioner shall not object to the County's collection of fees pursuant to Resolution No. 93-056 pending reformation of the District.

3. Petitioner shall not object to the County's collection of fees after reformation of the District pending formal and final adjudication of the adequacy of the EIR referenced in Section A. hereof in the event of a legal challenge thereto.

4. Petitioner shall not object to expenditure of the fees referenced in Sections B.2. and 3. hereof for administrative costs. Administrative costs shall include, but not be limited to, the costs of EIR preparation and the costs of legal services.

5. Petitioner shall not file a lawsuit of any kind or nature concerning the formation or operation of any other road and bridge benefit district outside the boundaries of the first and third supervisorial districts for a period of five (5) years after the operative date of this Agreement.

6. Except as provided in this Agreement, Petitioner does hereby release the County from any and all claims, demands, and/or causes of action, known, unknown or suspected which relate in any way to the lawsuits referenced in Recitals C. and E. hereof. Petitioner does hereby waive and relinquish all rights and - benefits under Section 1542 of the California Civil Code, which provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his

favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

Petitioner acknowledges that she may hereafter discover facts different from or in addition to those she now knows or believes to be true and agrees that this release shall be and remain effective in all respects notwithstanding such additional or different facts.

This release is not, however, intended to and shall not, in fact, constitute a release of any rights, obligations or warranties under this Agreement.

C. Miscellaneous Provisions

1. The recitals are expressly incorporated into the operative provisions of this Agreement and made a part hereof.

2. This Agreement constitutes the entire agreement between the parties with respect to its subject matter and it is a fully integrated agreement.

3. No other agreement, implied or expressed, written or oral, entered into prior to or contemporaneously with this Agreement shall be used to vary the terms of this Agreement. All parties hereby waive any claim that any terms have been omitted from this Agreement by mistake or inadvertence. Each party agrees that by entering into this Agreement it has not relied on any statement or representation made by any other party which is not contained in this Agreement.

4. No modification or amendment of this Agreement shall be valid unless in writing signed by the parties to be charged. No term or condition of this Agreement may be waived by any party unless the waiver is in writing and signed by the parties to such waiver. No party shall be estopped to enforce this Agreement or any provision hereof, unless such estoppel is based upon a writing signed by the party to be estopped.

5. This Agreement shall be binding upon and shall inure to the benefit of the parties signatory hereto and each such party's legal representatives, successors and assigns.

6. This Agreement and all rights hereunder shall be assignable and all duties hereunder delegable but such assignment and/or delegation shall not release the assignor/delegator from any obligations hereunder.

7. Except as provided in Sections A.8. and C.8. hereof, each of the parties agrees to pay its own attorneys' fees, costs and expenses including, but not limited to, attorneys' fees and costs incurred in connection with the claims released herein and in connection with the making and execution of this Agreement.

8. In the event that any party hereto should bring any action, suit or other proceeding to remedy, prevent, rescind, negate, modify, reform or obtain relief from a breach of this Agreement or arising out of a breach of this Agreement, the prevailing party shall recover all of such party's reasonable attorneys' fees and costs, including experts' fees, incurred in each and every such action, suit, or other proceeding, including any and all appeals or petitions therefrom.

9. This Agreement is entered into for the purpose of settling disputed claims and nothing contained in this Agreement shall be construed as an admission of liability or absence of liability by any party.

10. Time is of the essence with respect to each provision of this Agreement in which time is a factor.

11. California law shall govern the construction, interpretation and operation of this Agreement.

12. In the event that any provision of this Agreement should be held void, voidable, unlawful or, for any reason, unenforceable, the surviving provisions shall remain in full force and effect.

13. Each of the parties acknowledges that this Agreement has been negotiated at arms-length among persons knowledgeable concerning the subject matter of this Agreement.

14. Each party represents to every other party that in entering into this Agreement, it has made a careful and full investigation of all other facts, law and circumstances upon which it relies in signing this Agreement, and in so signing it has relied solely on its own careful and full investigation and not on any representation of any party not contained in this Agreement.

15. Each party acknowledges that it has been adequately represented in the making and execution of this Agreement. Accordingly, each party intentionally relinquishes and waives any right to rescind this Agreement. Any rule of law, including but not limited to California Civil Code § 1654, which could require interpretation of any ambiguities in this Agreement against the drafter is inapplicable and is hereby waived. This Agreement shall be deemed to be drafted by each and all of the parties.

Webster to Supervisors re EA 43201 MND, June 4, 2019 Hearing

this Agreement, understands it and consents to the facts, terms and conditions set forth herein.

17. Each party signing this Agreement represent and warrants that it has authority to sign on behalf of the person or entity it binds by its signature and that any and all action necessary to grant such authority by said entity have been performed.

18. This Agreement may be signed in counterpart and when so signed and delivered shall constitute one original document.

IN WITNESS WHEREOF, the parties have signed this Agreement as of the day and year first above written, which day and year shall constitute the operative date of this Agreement.

Dated: 6/7/94

Cecelia Webster
Cecelia Webster

Dated: 6/7/94

COUNTY OF RIVERSIDE

By: Kay Caniceros
Chairman

ATTEST:

GERALD A. MALONEY
Clerk of the Board

APPROVED AS TO FORM

WILLIAM C. KATZENSTEIN
County Counsel

By: Nancy Romero
Deputy

By: Katherine A. Lind
Katherine A. Lind
Deputy County Counsel

[SEAL]

KAL\SA-WEB.FIN

Notes:

1. The project proponent of TTM37294 has the responsibility to educate and display this condition of approval to the prospective all home buyers.
2. The Transportation Department shall monitor the Emergency Vehicle Access road and may install a gate to maintain its function as an emergency access.

Attachments:

- Response Letter titled "Tract Map 37294, Los Olivos".
- Response Letter titled "County of Riverside Environmental Assessment Number 43201 (TR37294, CZ07937, and PP26249)".
- Response Letter titled "Response to Initial Study and Mitigated Negative Declaration/EA 43201 Comments provided by Rita Gentry, Professional Archaeologist and Local Resident".
- Response Letter titled "Response to 5/30/19 Letter from Justin Roberts (Letter received 5/30/19) "June 4, 2019 Public Hearing. Comments Objecting to: Change of Zone No. 7937, Tentative Tract Map No. 37294 and Plot Plan No. 26249 – Intent to Adopt a Mitigated Negative Declaration – EA43021 Third Supervisorial District"
- Response Letter titled "Response to Webster to Supervisors re EA 43201 MND, June 4, 2019".