

2012 AUG 13 PM 3:08

COUNTY OF SANTA BARBARA
CLERK OF THE
BOARD OF SUPERVISORS

Jessica and Andrew Brown
1215 Franklin Ranch Road
Goleta CA 93117

Board of Supervisors
County of Santa Barbara
C/O Clerk of the Board

RE: Response to Richard Cappella (COMB) letter
dated 7/12/2012

Dear Chairperson Farr; Supervisor Carbajal, Wolf, Gray and
Lavagnino:

The COMB letter of 7/24/2012 letter makes several incorrect
statements while leaving out other important details. Briefly I
will submit the important corrections for the record.

*First Mr. Capella states that there was an unpermitted
/unauthorized fill that created 24 feet of fill over the COMB
pipe.*

This is incorrect. In fact the fill was permitted and
authorized. (**Attachment 1**) The 1999 LUP created by Penfield and
Smith, approved by Santa Barbara County Planning and Development
and Grading **authorized** importation of **8400 CYs** of fill that
allowed 28 feet of fill over the COMB pipe at the extreme
easterly portion. (**Attachment 2**) **All easements** were marked and
described on plans including those of COMB and Goleta Water. A
dig alert was called and **David Aldt from COMB**, marked the
location of the COMB pipe. Bobs Backhoe, a licensed contractor
performed the work with Mr. Bissell, the grading inspector
performing routine inspections.

**It was not until October 2010 that COMB sent a letter to
the County of Santa Barbara Planning and Development that stated
any work within the federal easement managed by COMB must be
approved by COMB.**

This project was truncated in 2001 with only **7000 CYs** of
imported fill. With the approval of Mr. Bissell the westerly
half was raised to a level varying between 4 and 6 feet of
elevation. This gave that portion a maximum of 24 feet of dirt
above the pipe in the highest location. The easterly half of the
project had less than the approved amount imported. If it was
built completely to County approved plan, it would have resulted
in 28 feet of fill over the COMB pipe. At the time of 1999 LUP
there was no requirement for COMB approval. However COMB did

have actual notice by virtue of the "dig Alert" in 1999. In 2006 Mr. Bohnett inspected the site and finalized the project as built. Our full bond was returned.

The fill was authorized and but for this authorize permitted fill none of the rest of this process would have taken place.

Second, Mr. Capella discusses the verbiage in Emergency Permit issued by Planning and Development. He states the work is limited to that written description and was issued to Browns and COMB jointly. He also states that none of COMB's work was outside the 80 foot wide COMB easement.

This is incorrect.

The grading permit 11GRD-00000-00135 issued on 1/11/12 to COMB only and paid for by COMB only. The only signature is a COMB signature. COMB maintained possession of this permit. **(Attachment 3)**

The Emergency Permit describes the removal and "placement" of the overburden. The placement of the overburden per approved plan was substantially outside the COMB easement. Additionally Mr. Bonnet's hand sketched with a magic marker overlay of the 10/7/11 Penfield and Smith plan, shows a substantial portion of the fill being placed outside the easement. **(Attachment 4)**

Because COMB was the only party to sign and pay for the grading permit, actually paid the contractor for work that was done outside of the easement and maintained control of the project for the entire time, COMB is responsible for the project now.

Third, Mr. Cappella speaks of the contract with Lapidus and the purchase order dated 12/20/12 for \$25,000 for the COMB portion of that contract. Therefore COMB did not have anything to do with the violation that occurred on 2/1/12.

This is incorrect also. COMB did in fact directly create a violation on 2/1/12. COMB, as required by the terms of the purchase order contract, is solely responsible for the grading operation.

The contract arrangement was for the Browns to pay the first \$60,300 with payments due as progress payments. The final \$25,000 would be paid after the final Emergency permit was

finished. The remaining \$6,700 would be paid by Browns once the arena and round pen were complete. Additionally COMB contracted with licensed Geotechnical Engineer and Surveyors to monitor the entire project. COMB paid in excess of \$10,000 for this daily service.

The invoices and immediate payments were as follows: (attachment 5)

- 1) 1/13/12 30% completion \$27,600 Paid 1/14/12 by Browns
- 2) 1/20/12 70% completion \$32,200 Paid 1/21/12 by Browns

The remaining portion of the removal and placement of the overburden was paid for entirely by COMB. Although the purchase order was signed on 12/20/12 Dr. Mowery **did not pay** Lapidus until after 2/1/12 when all the removal of the fill from over the pipe was complete and the placement of that fill per engineered plan.

Under the terms of the purchase order: (Attachment 6)

Authorized Representative:-Contractor shall not accept direction from any person other than the General Manager or the person(s) whose name(s) is (are) inserted on the reverse as "other authorized representative(s)". (i.e. Dr. Mowry) (emphasis added)

Work continued until about 2/1/12 when Mr. Bohnett posted a Stop Work/Red Tag.

Dr. Mowery, a licensed PHD civil engineer in the state of California, was on site every day. He felt the drainage needed to be sloped away from the bank and back toward the hill. This would be the desired practice for erosion and environmental reasons. This caused the limits of the grading to be exceeded. Dr. Mowry had a discussion with Jeff Thomas asking if Santa Barbara County wanted to assume responsibility for proper drainage. If not Dr. Mowry would take full responsibility for the drainage and the commensurate grading.

The Payment by COMB is as follows:

- 3) 2/2/12 92% completion \$25,000 Paid 2/12 by COMB

Because the arena and round pen have not yet been completed the remaining 8% or \$6,700 **has not** been paid as per contract.

The project was in total control of COMB even when Browns were paying the first \$60,300. Dr. Mowry was on site every day as well as COMB Geotechnical engineers and surveyors. When the violation occurred COMB was in charge and under contract required to be the only person that could direct the activities

of the contractors. Dr. Mowry in a discussion told Mr. Thomas why he extended grading past emergency permit limits. The contractor has not finished the grading for the arena and the round pen and the contractor has not been paid for the work not yet completed.

Fourth, Mr. Cappella states a) COMB does not need a permit to perform work within their easement, b) that Browns gave a Right of Way and Revocable License agreement and c) COMB did not perform any work outside their easement.

(C) is incorrect, COMB did, by description listed in the Right of Entry (ROE), intend to work outside of the easement. Once the project commenced, Dr. Mowry the only person allowed by contract to direct the contractor, performed work outside the easement as described and drawn on both the grading permit and the ROE.

During an early discussion with Dr. Mowry the Browns were told that COMB was exempt for any county building ordinance as long as the work was within the federal easement.

CA Government Code **53091**.

(d) Building ordinances of a county or city shall not apply to the location or construction of facilities for the production, generation, storage, treatment, or transmission of water, ...by a local agency.

(e) Zoning ordinances of a county or city shall not apply to the location or construction of facilities for the production, generation, storage, treatment, or transmission of water, ...for facilities that are subject to Section 12808.5 of the Public Utilities Code...

However there was no where within the easement to safely place the removed fill without overburdening the pipe elsewhere. He asked Browns to sign a Right of Entry and Revocable License (ROE) that would allow COMB to place the removed fill outside of the easement. He provided us a document that COMB attorneys drafted and had used with other land owners that were similarly situated. This ROE had appropriate modifications crafted by COMB that specifically described the work to be performed and a surveyed description of the area to be affected. Set forth as follows: **(Attachment 7)**

"This Right of Entry and Revocable License agreement (Agreement) shall cover the entire property within area including the road and staging area; and shall be for the purpose of grading the property for the protection of the South Coast Conduit pipeline....and other purposes as maybe incidental to such activities as described in Penfield and Smith Plans dated 7 October 2011 and modified on the Alternative Grading Plan dated 9 December 2011. This is to include the relocation of all buildings to new indicated area.....This

agreement shall be subject to the following provisions, requirements and restrictions.

3) COMB agrees to defend, indemnify and hold OWNERS harmless from any claims or damages resulting from COMB's use of the property, unless said claims or damages are as a result, in part or wholly, of the Owner's gross negligence.

5) The term of this agreement shall continue until revoked by OWNERS.

There is no requirement to record a ROE; it is fully binding and enforceable without recording.

COMB did the work described and drawn in both the Right of Entry (ROE) and Emergency permit including substantial grading outside of the easement. Once the project commenced, Dr. Mowry was the only person allowed by contract to direct the operation. The ROE agreement and terms will remain in effect until Browns terminate the ROE.

Fifth, Mr. Cappella states that MR. Salentine and his attorney do not object to the work COMB did to remove the overburden and because COMB performed no work outside the easement the pad that was created was not work that COMB performed.

This is incorrect also. COMB did create the "Pad" as described and illustrated in the Emergency Permit, Grading permit and Right of Entry. COMB was in control of the project from inception and provided Geotechnical and Surveying contractors to help monitor the job. When scope of the project was exceeded it was at the behest of COMB and under the control of COMB as evidenced by the discussion between Dr. Mowry and Jeff Thomas.

Therefore, since all of the grading work was under the control of COMB, Mr. Salentine and his attorney cannot object to any issues that relate to the pad. Dr. Mowry, by contractual obligation was the *only* person from whom the contractor could receive instructions. The arena and round pen were never completed and the contractor will not be paid for until they are completed.

CONCLUSIONS

An Analysis of the facts demonstrates the following:

- 1) There was a permit for the 1999 fill that authorized approximately 28 feet of fill over the COMB pipe. But for this approved 1999 LUP, with the easements delineated, issued by the County of Santa Barbara there would have been no grading violations later. COMB sent an employee to mark the location of the pipe prior to commencement and there for had notice. Less fill was brought in than authorized and the configuration was modified as approved by Mr. Bissell. In 2006 Mr. Bohnett inspected and signed off the permit as complete as built. The bond was returned. It was not until October of 2010 that COMB sent a letter to Planning and Development that demanded that all work done within their easement must sent to COMB for approval. Browns were landowners that depended on experts to design and approve the 1999 LUP that overburdened the pipe.
- 2) The Emergency Grading permit of 2011 was **paid** for by COMB only and **signed** for by COMB only. The emergency LUP was issued jointly to COMB and Browns. The Emergency Permit describes work outside of the COMB easement. COMB created a Right of Entry that allowed COMB to place the removed overburden outside of the easement because there was no place safe to place the fill within the easement. COMB directed the entire project, including the work outside of the easement. These facts mandate that COMB is responsible for the performance of the project.
- 3) COMB provided a contractor, Geotechnical Engineers and surveyors for the project. Browns paid for the first 70% of the grading work which removed the overburden from the pipe, keyed, benched and recompacted the soil per plan. The next 22% was paid for by COMB via a purchase order contract with the contractor. Terms of the contract state that Dr. Mowry was the only person authorized to direct the project. During this phase, grading was done outside the scope of the emergency permit to better the drainage. This resulted in a stop work order/violation. Dr. Mowry in a conversation with Jeff Thomas assumed all responsibility for that grading. The remaining 8% of the contract to build the arena and round pen has not been completed yet and has not been paid yet.

Since Dr. Mowry, by contract, was the only authorized agent to direct the contractor, Geotechnical Engineers and Surveyors COMB is responsible for the grading of the entire project and the violation.

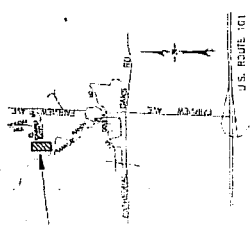
- 4) COMB did the work described and drawn in both the Right of Entry (ROE) and Emergency permit including substantial grading outside of the easement. Once the project commenced, Dr. Mowry was the only person allowed by contract to direct the operation. The ROE was drafted by COMB and states COMB will defend and fully indemnify the Browns for any damages that arise from COMBs use of the described and drawn area covered by the ROE. The ROE agreement and terms will remain in effect until Browns terminate the ROE. Since COMB prepared the ROE and was the only agency authorized to direct the contractors, COMB is responsible for all activities covered in the Permit and ROE.
- 5) Mr. Salentine and his attorney have written and stated that they have no issue with any of the work performed by COMB to remove the overburden. COMB was responsible by Purchase order contract and ROE for the complete project. COMB also was authorized to work outside of their easement by the terms of the Emergency Permit and the ROE. Dr. Mowry was on site everyday and by contract was the only person allowed to give direction to the contractors. As stated previously, Dr. Mowry assumed all responsibility for any grading that surpassed the scope of the Emergency Permit. Since all grading that occurred during this project was under control of COMB, Mr. Salentine and his attorney have no complaint against any grading.

Respectfully,

Andrew and Jessica Brown

Table of Attachments

1. 1999 Penfield and Smith approved LUP and Grading permit with all easements and elevation delineated.
2. Photograph of 1999 Approved fill in current configuration with elevation overlay
3. 2011 Grading permit issued to COMB only
4. Mr. Bohnett's Emergency Permit scope of grading overlay of Penfield and Smith 2011 plan
5. Grading Contractors invoices to Browns for progress payments
6. COMB Purchase Order contract with Grading Contractor
7. COMB Right of Entry (ROE) from Browns



PROJECT SITE

APN 077-030-024

APN 077-030-025

APN 077-030-033

APN 077-030-013

APN 077-030-00

APN 077-030-012



EASEMENTS

1. EASEMENT FOR PUBLIC UTILITIES AS SHOWN TO SANJOAQUIN ELECTRIC CO. (SEE SHEET 11)
2. EASEMENT FOR PUBLIC UTILITIES AS SHOWN TO CALIFORNIA ELECTRIC CO. (SEE SHEET 11)
3. EASEMENT FOR PUBLIC UTILITIES AS SHOWN TO CALIFORNIA ELECTRIC CO. (SEE SHEET 11)
4. EASEMENT FOR PUBLIC UTILITIES AS SHOWN TO CALIFORNIA ELECTRIC CO. (SEE SHEET 11)
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8. EASEMENT FOR PUBLIC UTILITIES AS SHOWN TO CALIFORNIA ELECTRIC CO. (SEE SHEET 11)
9. EASEMENT FOR PUBLIC UTILITIES AS SHOWN TO CALIFORNIA ELECTRIC CO. (SEE SHEET 11)
10. EASEMENT FOR PUBLIC UTILITIES AS SHOWN TO CALIFORNIA ELECTRIC CO. (SEE SHEET 11)
11. EASEMENT FOR PUBLIC UTILITIES AS SHOWN TO CALIFORNIA ELECTRIC CO. (SEE SHEET 11)
12. EASEMENT FOR PUBLIC UTILITIES AS SHOWN TO CALIFORNIA ELECTRIC CO. (SEE SHEET 11)

EXISTING UNDERGROUND FACILITIES

EXISTING UNDERGROUND FACILITIES AS SHOWN ON SHEET 11. THE LOCATION OF THESE FACILITIES IS APPROXIMATE AND SHOULD BE VERIFIED BY THE CONTRACTOR PRIOR TO CONSTRUCTION.

GRADING NOTES

1. ALL EXISTING GRADE SURFACES SHALL BE MAINTAINED UNLESS OTHERWISE NOTED.
2. ALL EXISTING GRADE SURFACES SHALL BE MAINTAINED UNLESS OTHERWISE NOTED.
3. ALL EXISTING GRADE SURFACES SHALL BE MAINTAINED UNLESS OTHERWISE NOTED.
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11. ALL EXISTING GRADE SURFACES SHALL BE MAINTAINED UNLESS OTHERWISE NOTED.
12. ALL EXISTING GRADE SURFACES SHALL BE MAINTAINED UNLESS OTHERWISE NOTED.

EARTHWORK QUANTITIES

ITEM	DESCRIPTION	QUANTITY
1	EXCAVATION	1000
2	FILL	2000
3	GRADING	5000

GRADING NOTES

1. ALL EXISTING GRADE SURFACES SHALL BE MAINTAINED UNLESS OTHERWISE NOTED.
2. ALL EXISTING GRADE SURFACES SHALL BE MAINTAINED UNLESS OTHERWISE NOTED.
3. ALL EXISTING GRADE SURFACES SHALL BE MAINTAINED UNLESS OTHERWISE NOTED.

CONSTRUCTION NOTES

1. ALL EXISTING GRADE SURFACES SHALL BE MAINTAINED UNLESS OTHERWISE NOTED.
2. ALL EXISTING GRADE SURFACES SHALL BE MAINTAINED UNLESS OTHERWISE NOTED.
3. ALL EXISTING GRADE SURFACES SHALL BE MAINTAINED UNLESS OTHERWISE NOTED.



Penfield & Smith, Inc.
 2700 S. JAVELINE BLVD., SUITE 100
 SAN JOAQUIN, CALIF. 95834
 TEL. (916) 486-1111
 FAX (916) 486-1112
 PENFIELD & SMITH, INC.
 LICENSE NO. 44323
 CIVIL ENGINEER
 STATE OF CALIFORNIA

DATE: 11/15/00
 DRAWN BY: J. SMITH
 CHECKED BY: J. SMITH
 APPROVED BY: J. SMITH
 TITLE: CIVIL ENGINEER



PROTECT STMS

ENGINEERING APPROVED
SEP 20 1961

COPIED
SEP 20 1961
CIVIL ENGINEERING

NO. 12333 02
SHEET 1 OF 2
DATE 12/12/58

SOIL STOCKPILE AREA
A.P.N. 077-030-013
MR. & MRS. ANDY BROWN PROPERTY
STATE PARKWAY, PLACENTIA, CALIFORNIA

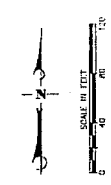
Penfield & Smith
ENGINEERS & SURVEYORS
1177 AVENUE P
SAN FRANCISCO, CALIFORNIA 94109
PENFIELD & SMITH
1177 AVENUE P
SAN FRANCISCO, CALIFORNIA 94109

CLIENT: MR. & MRS. ANDY BROWN
SITE: SOIL STOCKPILE AREA
DATE: 12/12/58

REVISIONS:
NO. 1
DATE
BY

DATE: 12/12/58

DATE: 12/12/58



Approved 1999 LUP

Attachment 2



Approved 1999 Fill

18 ft to Pipe
8 ft overburden

28 ft to pipe
18 ft overburden

Attachment 3 A



County of Santa Barbara Planning and Development Building and Safety Division

Santa Barbara 568-3030 Fax 568-3103/Santa Maria 954-6250 Fax 954-6258

Grading Permit

11GRD-00000-00135

Application Date: 09/21/2011

Issuance Date: 01/11/2012

Issued By: [Signature]

Project Details

Site Information: 1215 FRANKLIN RANCH RD, GOLETA, CA 93117
Acreage: 10.49 Zoning: RR-5 Assessor Parcel: 077-030-013
Work Description: GRADING - EMERGENCY PERMIT FOR ABATEMENT OF OVERBURDEN MATERIALS OVER COMB PIPELINE AREA ONLY TO ABATE 09BDV-00000-00151 AND 07ZEV-00000-00309
FINAL CLEARANCE: GRADING

Owner, Agent, Contractor, Architect, Engineer

Owner: BROWN, JESSICA & ANDREW LIVING TRUST 6036 LA GOLETA RD, GOLETA, CA 93117
Applicant: BROWN, JESSICA & ANDREW LIVING TRUST 6036 LA GOLETA RD GOLETA, CA 93117
License#: (805) 895-5488

Valuation Detail

Table with 5 columns: Unit Type, Occupancy, Unit Amount, Unit Cost, Job Value. Total Value: [Blank]

Required Clearances/Conditions

Proj Des-01 Project Description J. Ritterbeck PD DEV REV 2004
This Land Use Permit is based upon and limited to compliance with the project description, and all conditions of approval set forth below, including mitigation measures and specified plans and agreements included by reference, as well as all applicable County rules and regulations.
The project description is as follows:
A Land Use Permit to allow for a park trailer to be a residential second unit of approximately 247 square feet and legalization of an existing unpermitted horse shed of approximately 720 square feet. No specimen trees are proposed for removal. Grading will be approximately 7,000 cy of balanced cut and fill to create a new riding arena. The parcel will be served by the Goleta County Water District, private septic system, and the County Fire Department. Access will continue to be provided off of Franklin Ranch Road. The property is a 10.49-acre parcel zoned RR and shown as Assessor's Parcel Number 077-030-013, located at 1215 Franklin Ranch Road in the Goleta Area, Second Supervisorial District.
Any deviations from the project description, exhibits or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

See Last Page for legal declarations

Attachment: 3 B

Permit Number 11GRD-00000-00135

Worker's Compensation

I hereby affirm and declare under penalty of perjury that I will maintain a Certificate of Consent to self insure for Worker's Compensation or a Certificate of Worker's Compensation Insurance on file with the Santa Barbara County Building and Safety Division (Sec. 3700 of the California Labor Code). I have, and will maintain worker's compensation insurance as required by the Labor Code, for the performance of the work for which this permit is issued.

Insurer: _____

Policy#

Exp.Date

I further affirm and declare that I shall not employ any person in any manner so as to violate the Worker's compensation Laws of the State of California

OWNER BUILDER/CONTRACTOR DECLARATION

- I Affirm and declare that I am a licensed contractor under the provisions of Chapter 9 of the California State Contractor's Law and my license is in full force and effect.
- I affirm and declare that I am exempt from the Cal. State Contractor's Law for the following reasons:
- I, as owner of the property, or my employees with the wages as their sole compensation, will perform the work and the structure is not intended or offered for sale within one year from date of issuance of this permit (Business and Professions Code, Sec. 7044).

Signature of Permittee

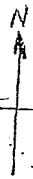
Bruce Masry

Date

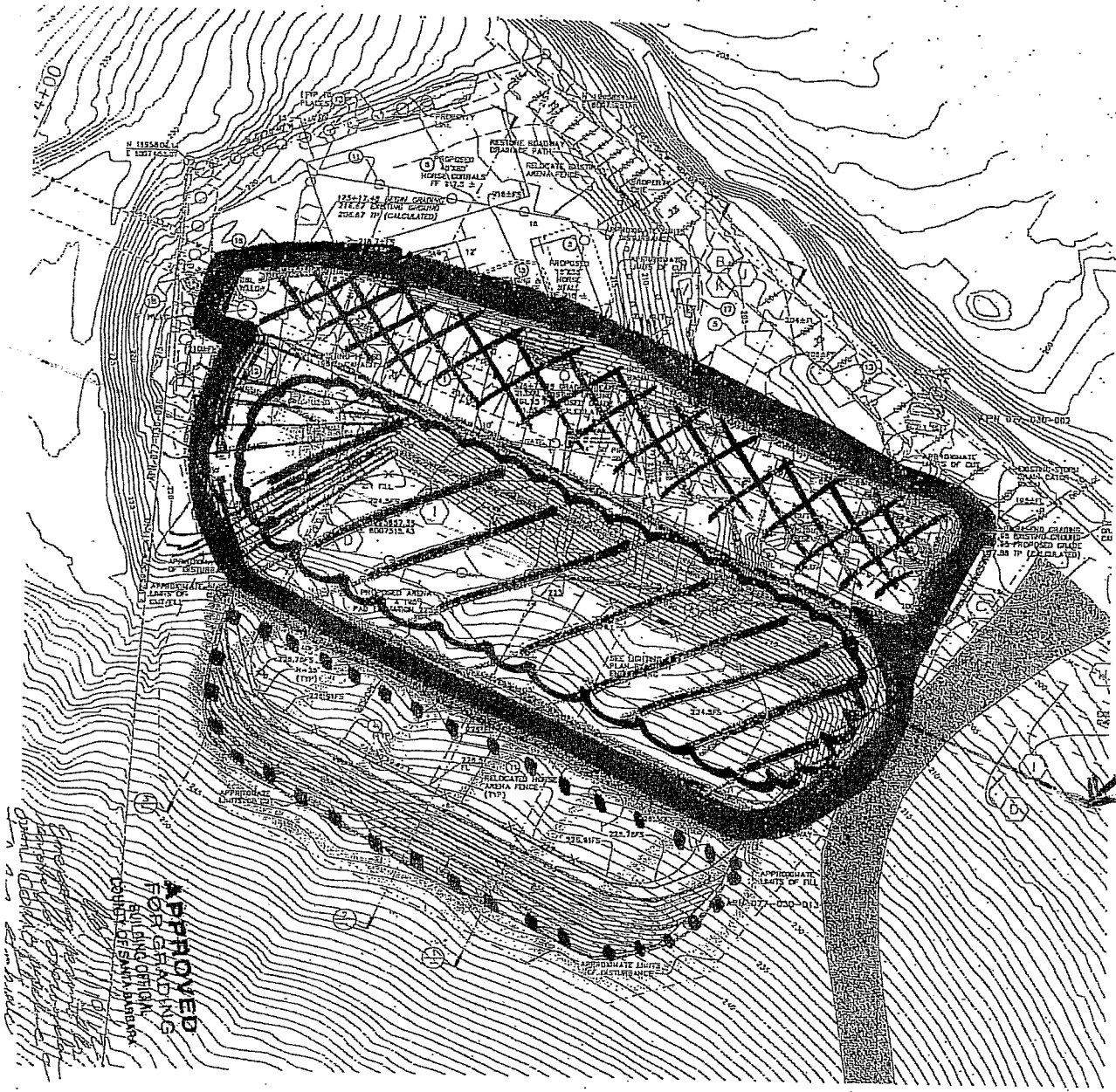
1/11/2012

Grading Permit

Attachment 4

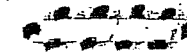





SCALE 1-40



APPROVED
FOR GRADING
BY THE DISTRICT
ENGINEER
OF THE DISTRICT OF
COLUMBIA

COMB
Front
Edge

-  - Staging + soil mixing area (NO grading allowed in this area; grubbing ok)
-  - Limits of emergency grading
-  - Limits of emergency temporary engineered stockpile
-  - Area of excavation

Attachment 5A

Peter Lapidus Construction, Inc.

1975 Cravens Lane
Carpinteria, CA 93013

Invoice

Date	Invoice #
1/13/2012	2684

Bill To
Andy & Jessica Brown 1215 Franklin Ranch Rd Goleta, CA

Terms	Due on receipt
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Description	Qty	Rate	Amount
APN # 0777-030-013 PLC Contract dated 01-08-2012 Excavate Key bench & compact soil generated within pipeline casement. Grading for horse facility.			
30 % Complete Progress Billing	0.3	92,000.00	27,600.00

Progress invoice #1	Total	\$27,600.00
	Payments/Credits	\$0.00
	Balance Due	\$27,600.00

Attachment 5 B

Peter Lapidus Construction, Inc.

1975 Cravens Lane
Carpinteria, CA 93013

Invoice

Date	Invoice #
1/20/2012	2687

Bill To
Andy & Jessica Brown 1215 Franklin Ranch Rd Goleta, CA

Terms	Due on receipt
-------	----------------

Description	Qty	Rate	Amount
APN # 0777-030-013 PLC Contract dated 01-08-2012 Excavate Key bench & compact soil generated within pipeline easement. Grading for horse facility.		0.00	0.00
Progress Billing 40% Total complete 70%	0.35	92,000.00	32,200.00

	Total	\$32,200.00
	Payments/Credits	\$0.00
	Balance Due	\$32,200.00

Attachment C A

PURCHASE ORDER

CACHUMA OPERATION & MAINTENANCE BOARD
3301 Laurel Canyon Road
Santa Barbara, CA 93105-2017
Telephone (805) 687-4011 - FAX (805) 569-5825

Important terms of this Purchase Order-Agreement are printed on the following pages. For your protection, make sure that you read and understand all provisions before signing. The terms and conditions are incorporated in this document and will constitute a part of the contract between the parties when signed.

TO: PETER LAPIDUS CONSTRUCTION, INC.
1975 Cravens Lane
Carpinteria CA 93013
PH: (805) 745-1447 FAX: (805) 745-5957

DATE: December 20, 2011
P.O. #: 11-12-17

The undersigned Contractor will perform the following work per attached proposal dated 12/16/2011.

Remove overburden on South Coast Conduft ~ 1215 Franklin Ranch Road, APN# 077-030-013 (Brown Property)

Contract price: \$25,000.00 (Time and Materials)(Not-to-Exceed)

Completion date: January 31, 2012

Instructions: Please sign and return both originals along with appropriate insurance documentation. Upon acceptance by the Cachuma Operation and Maintenance Board, a copy will be signed and promptly returned to you. Insert below the names of your authorized on-site representatives.

Accepted: Cachuma Operation & Maintenance Board

Contractor:

By: *Bruce Manning*
Title: General Manager

Peter Lapidus Construction, Inc.
(Business Name)
By: *[Signature]*
Title: President

Other authorized representatives:

On-site representatives:
Peter Lapidus

COMB PURCHASE ORDER AGREEMENT

Workers' Compensation Insurance - By his/her signature hereunder, Contractor certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing the performance of the work of this agreement.

Indemnification - Contractor agrees, to the fullest extent permitted by law, to indemnify and hold COMB, its directors, officers, employees, or authorized volunteers harmless from any damage, liability, or cost (including attorney's fees and costs of defense) to the extent caused by Contractor's negligent acts, errors or omissions in the performance of services under this agreement including sub-contractors or others for whom Contractor is legally liable.

GENERAL CONDITIONS

Laws, Regulations and Permits - The Contractor shall give all notices required by law and comply with all laws, ordinances, rules and regulations pertaining to the conduct of the work. The Contractor shall be liable for all violations of the law in connection with work furnished by the Contractor. If the Contractor observes that the drawings or specifications are at variance with any law or ordinance, rule or regulation, he/she shall promptly notify the COMB engineer in writing and any necessary changes shall be made by written instruction or change order. If the Contractor performs any work knowing it to be contrary to such laws, ordinances, rules or regulations and without giving notice to the COMB engineer, the Contractor shall bear all costs arising therefrom.

Safety - The Contractor shall execute and maintain his/her work so as to avoid injury or damage to any person or property. The Contractor shall comply with the requirements of the specifications relating to safety measures applicable in particular operations or kinds of work.

In carrying out his/her work, the Contractor shall at all times exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed, and be in compliance with all applicable federal, state and local statutory and regulatory requirements including California Department of Industrial Relations (Cal/OSHA) regulations; and the U.S. Department of Transportation Omnibus Transportation Employee Testing Act. Safety precautions, as applicable, shall include but shall not be limited to: adequate life protection and life saving equipment; adequate illumination; instructions in accident prevention for all employees, such as the use of machinery guards, safe walkways, scaffolds, fall protection, ladders, bridges, gang planks, confined space procedures, trenching and shoring, and other safety devices; equipment and wearing apparel as are necessary or lawfully required to prevent accidents, injuries, or illnesses; and adequate facilities for the proper inspection and maintenance of all safety measures.

The Contractor shall be responsible for the safeguarding of all utilities. At least two working days before beginning work, the Contractor shall call the Underground Service Alert (USA) in order to determine the location of sub-structures. The Contractor shall immediately notify COMB and the utility owner if he/she disturbs, disconnects, or damages any utility.

In accordance with Section 6705 of the California Labor Code, the Contractor shall submit to COMB specific plans to show details of provisions for worker protection from caving ground during excavations of trenches of five feet or more in depth. The excavation/trench safety plan shall be submitted to and accepted by COMB prior to starting excavation. The trench safety plan shall have details showing the design of shoring, bracing, sloping or other provisions to be made for worker protection from the hazard of caving ground. If such a plan varies from the shoring system standards established by the Construction Safety Orders of the California Department of Industrial Relations (Cal/OSHA), the plan shall be prepared by a California registered civil or structural engineer. As part of the plan, a note shall be included stating that the registered civil or structural engineer certifies that the plan complies with the Cal/OSHA Construction Safety Orders, or that the registered civil or structural engineer certifies that the plan is not less effective than the shoring,

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bracing, sloping or other provisions of the Safety Orders. In no event shall the Contractor use a shoring, sloping, or protective system less effective than that required by said Construction Safety Orders. Submission of the plan in no way relieves the Contractor of the requirement to maintain safety in all areas. If excavations or trench work requiring a Cal/OSHA permit are to be undertaken, the Contractor shall submit his/her permit with the excavation/trench work safety plan to COMB before work begins.

Pursuant to Labor Code Section 6708 each Contractor and subcontractor shall maintain or make available adequate emergency first aid treatment for its employees, agents and representatives, sufficient to comply with the Federal Occupational Safety & Health Act (P.L. 91-596; OSHA). The names and telephone numbers of at least two medical doctors practicing in the vicinity and the telephone number of the local ambulance service shall be prominently displayed adjacent to telephones.

Safety Measures and Public Convenience - The Contractor shall provide for the protection of all persons and property as herein specified. Attention is called to "Construction Safety Orders: and General Safety Orders" of the California State Industrial Accident Commission to which the Contractor is required by law to conform.

Commercial General Liability and Automobile Liability Insurance - The Contractor shall provide and maintain at all times during the performance of this agreement, the following commercial general liability and automobile liability insurance:

Coverage - Coverage for commercial general liability and automobile liability insurance shall be at least as broad as the following:

1. Insurance Services Office (ISO) Commercial General Liability Coverage (Occurrence Form CG 0001)
2. Insurance Services Office (ISO) Business Automobile Liability Coverage (Form CA 0001), covering Symbol 1 (any auto)

Limits - The Contractor shall maintain limits no less than the following:

1. General Liability - One million dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit or products-completed operations aggregate limit is used, either the general aggregate limit shall apply separately to the project/location (with the ISO CG 2503, or ISO CG 2504, or insurer's equivalent endorsement provided to COMB) or the general aggregate limit and products-completed operations aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability - One million dollars (\$1,000,000) for bodily injury and property damage each accident limit.

Required Provisions - The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. COMB, its directors, officers, employees or authorized volunteers are to be given insured status (via ISO endorsement CG 2010, CG 2033, or insurer's equivalent for general liability coverage) as respects: liability arising out of the activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, occupied or used by the Contractor; and automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to COMB, its directors, officers, employees, or authorized volunteers.

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2. For any claims related to the project, the Contractor's insurance shall be primary insurance as respects COMB, its directors, officers, employees, or authorized volunteers. Any insurance, self-insurance, or other coverage maintained by COMB, its directors, officers, employees, or authorized volunteers shall not contribute to it.
3. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to COMB, its directors, officers, employees, or authorized volunteers.
4. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. Each insurance policy required by this agreement shall state, or be endorsed to state, that coverage shall not be canceled by the insurance carrier or the Contractor, except after thirty (30) days (10 days for non-payment of premium) prior written notice by U.S. mail has been given to COMB.

Such liability insurance shall indemnify the Contractor and his/her sub-contractors against loss from liability imposed by law upon, or assumed under contract by, the Contractor or his/her sub-contractors for damages on account of such bodily injury (including death), property damage, personal injury, completed operations, and products liability.

The general liability policy shall cover bodily injury and property damage liability, owned and non-owned equipment, blanket contractual liability, completed operations liability, explosion, collapse, underground excavation, and removal of lateral support.

The automobile liability policy shall cover all owned, non-owned, and hired automobiles.

All of the insurance shall be provided on policy forms and through companies satisfactory to COMB.

Deductibles and Self-Insured Retentions - Any deductible or self-insured retention must be declared to and approved by COMB. At the option of COMB, the insurer shall either reduce or eliminate such deductibles or self-insured retentions as respects COMB, its directors, officers, employees, agents and authorized volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Acceptability of Insurers - Insurance is to be placed with insurers having met current A.M. Best rating of no less than A:-VII or equivalent or as otherwise approved by COMB.

Workers' Compensation and Employer's Liability Insurance - The Contractor and all sub-contractors shall insure (or be a qualified self-insured) under the applicable laws relating to workers' compensation insurance, all of their employees working on or about the construction site, in accordance with the "*Workers' Compensation and Insurance Act*," Division IV of the Labor Code of the State of California and any Acts amendatory thereof. The Contractor shall provide employer's liability insurance in the amount of, at least, \$1,000,000 per accident for bodily injury and disease.

Responsibility for Work - Until the completion and final acceptance by COMB of all the work under and implied by this agreement, the work shall be under the Contractor's responsible care and charge. The Contractor shall rebuild, repair, restore and make good all injuries, damages, re-erections, and repairs occasioned or rendered necessary by causes of any nature, except those beyond the Contractor's control.

The Contractor shall waive all rights of subrogation against COMB, its directors, officers, employees, or authorized volunteers.

Evidences of Insurance - Prior to execution of the agreement, the Contractor shall file with COMB a certificate of insurance (Acord Form 25-S or equivalent) signed by the insurer's representative evidencing the coverage required by this

agreement. Such evidence shall include an additional insured endorsement signed by the insurer's representative and evidence of waiver of rights of subrogation against COMB (if builder's risk insurance is applicable). Such evidence shall also include confirmation that coverage includes or has been modified to include Required Provisions 1-5.

The Contractor shall, upon demand of COMB, deliver to COMB such policy or policies of insurance and the receipts for payment of premiums thereon.

Continuation of Coverage - If any of the required coverages expire during the term of this agreement, the Contractor shall deliver the renewal certificate(s) including the general liability additional insured endorsement and evidence of waiver of rights of subrogation against COMB (if builder's risk insurance is applicable) to COMB at least ten (10) days prior to the expiration date.

Sub-Contractors - In the event that the Contractor employs other consultants (sub-consultants) as part of the services covered by this Agreement, it shall be the Contractor's responsibility to require and confirm that each sub-consultant meets the minimum insurance requirements specified above.

Authorized Representatives - Contractor shall not accept direction or orders from any person other than the General Manager or the person(s) whose name(s) is (are) inserted on the reverse as "other authorized representative(s)."

Payment Terms - Upon completion of work as listed in the COMB Purchase Order payment, unless otherwise specified in this agreement, is to be 30 days after acceptance by COMB.

Guarantee - The Contractor hereby guarantees that the entire work constructed and/or performed by him under this Agreement will meet fully all requirements thereon as to quality of workmanship and of materials furnished by him.

Permits - All permits required by governmental authorities will be obtained at COMB's expense, and Contractor will comply with local, state and federal regulators and statutes including the Cal/OSHA requirements.

Changes to Work, Method, Cost, etc. - Any change in the scope of the work to be done, method of performance, nature of materials or price thereof, to any other matter materially affecting the performance of nature of the work will not be paid for or accepted unless such change, addition or deletion be approved in advance, in writing by a supplemental purchase order executed by COMB. Contractor's "on-site representatives" have the authority to execute such written change for Contractor.

Termination of or Default on Contract - If the Contractor abandons the work, or fails to proceed with the work as rapidly as required by this Agreement, COMB may declare him in default and relet the work in the manner set forth by law for letting the original Agreement, or it may complete the work by direct purchase of labor and materials.

Termination without Cause - COMB may terminate this Agreement for any reason by giving Contractor at least fifteen (15) days prior written notice of such termination. Such termination shall not relieve COMB from responsibility for payment for services rendered by Contractor prior to the date of termination but shall relieve COMB of its obligations for the full payment of compensation due under this Agreement for the Services of Contractor after the notice of termination.

This document shall become a valid contract only when accepted by Contractor, and subsequently by COMB, and together with the Contractor's Proposal and/or Sample Work Reports shall constitute the entire agreement between the parties.

G F

Peter Lapidus Construction, Inc.
Lic. #773908
1975 Cravens Lane
Carpinteria, CA 93013
Phone/Fax (805) 745-1447/(805) 745-5957
Cellular (805) 331-8711

PROPOSAL AND CONTRACT

For: COMB

Date: 12-16-11

Location: 1215 Franklin Ranch Road, APN # 077-030-013, station 175+00 to 179+00
south coast conduit.

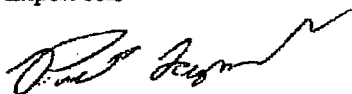
Description: Remove fill over pipeline within easement to bring fill level to 12' or less
over COMB pipeline.

Cost \$25,000

Time & materials not to exceed \$25,000 without additional approval.

Exclusions;

- Survey
- Compaction testing
- Clear & grub & disposal.
- Demolition.
- Export soil



Signature of acceptance _____ Date _____

Attached

7 A

Right of Entry and Revocable License Agreement

Project: **Brown Property Grading**

Assessor Parcel Number: 077-030-013

The Cachuma Operations Maintenance Board (COMB), a Joint Powers Authority political subdivision of the State of California, hereinafter referred to as "COMB", and Jessica and Andrew Brown hereinafter referred to as "OWNERS", do hereby agree as follows:

OWNERS hereby grant to COMB, its authorized agents or contractors, officers and employees, a right of entry and revocable license, to enter upon and move workers, equipment, and materials over, within and upon the real property located in the unincorporated area of the COMB of Santa Barbara, State of California, more particularly described as Assessor Parcel Number 077-030-013 and commonly known as the Jessica and Andrew Brown Living Trust, hereinafter the "Property". Said Property is further identified on the property map (Figures 1 and 2) which is attached hereto and incorporated herein by reference.

This right of entry and revocable license agreement ("Agreement") shall cover the entire Property within the project area including the road and staging area; and shall be for the purpose of grading the property for protection of the South Coast Conduit pipeline along for periodic maintenance thereof, and for such other purposes as may be incidental to such activities as described in Penfield and Smith Plans dated 7 October 2011 and modified on the Alternative Grading Plans dated 9 December 2011. This is to *include* relocation of all buildings to new indicated area. This work *excludes*, but not limited to; the removal of any trees, grading of Mr. John Salentine's easement road, creation of a "V" ditch adjacent to Salentine's easement, etc... This does include the elevation change and grading modifications of the removal of fill over COMB to allow up to 12 feet of cover over the SCC and the 5 foot lower pad than was shown on the 21 September 2011 Plan by Penfield and Smith to be created with spoils. This Agreement shall be subject to the following provisions, requirements, and restrictions:

1. The COMB, its authorized agents, employees and contractors shall exercise reasonable precautions necessary to prevent damage to and protect the Property during COMB'S entry thereon.
2. By COMB'S exercise of this Agreement, OWNERS assume no liability for loss or damage to COMB'S property, or injury to or death of any agent, employee, or contractor of COMB, unless said loss, damage, injury, or death is as a result, in part or wholly, of the OWNERS' gross negligence.
3. COMB agrees to defend, indemnify and hold OWNERS harmless from any claims or damages resulting from COMB'S use of the Property, unless said claims or damages are as a result, in part or wholly, of the OWNERS' gross negligence.
4. COMB, its authorized agents, employees and contractors shall replace and/or repair any damages to OWNERS property as a result of the rights granted under this Agreement. If

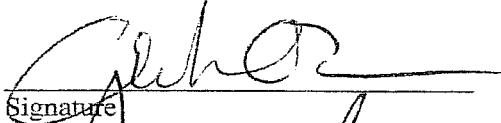
7B

any improvements are damaged or removed by COMB, its authorized agents, employees and contractors, it shall be restored or replaced by COMB to as near the original condition and location as is practicable. If any mature trees are damaged to the extent that they do not survive, COMB shall replace each such tree with two of the same or similar trees of not less than 5-gallon size as OWNERS' sole remedy.

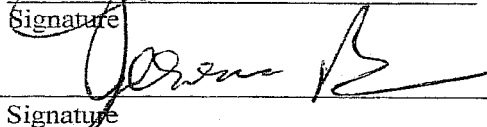
5. The term of this Agreement shall continue until revoked by OWNERS.
6. By their signatures, the OWNERS do hereby certify that they are, collectively, the sole owners of the Property. Further, the signatories below warrant that they are authorized to sign on behalf of the OWNERS. OWNERS have communicated the contents, rights and duties of this Agreement to all parties having an interest in the Property.

OWNERS:

COMB:



Signature



Signature

Andrew Brown Trustee of Jessica and
Andrew Brown Living Trust
Jessica Brown Trustee of Jessica and
Andrew Brown Living Trust

Print Name/Title

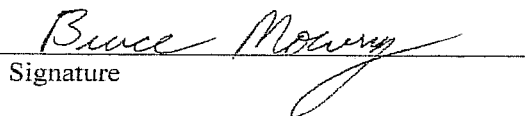
Owner

Address

1215 Franklin Ranch Road
Goleta, CA 93117

City, State, Zip

Date



Signature

Bruce Mowry
Cachuma Operations Maintenance Board

Print Name/Title

General Manager

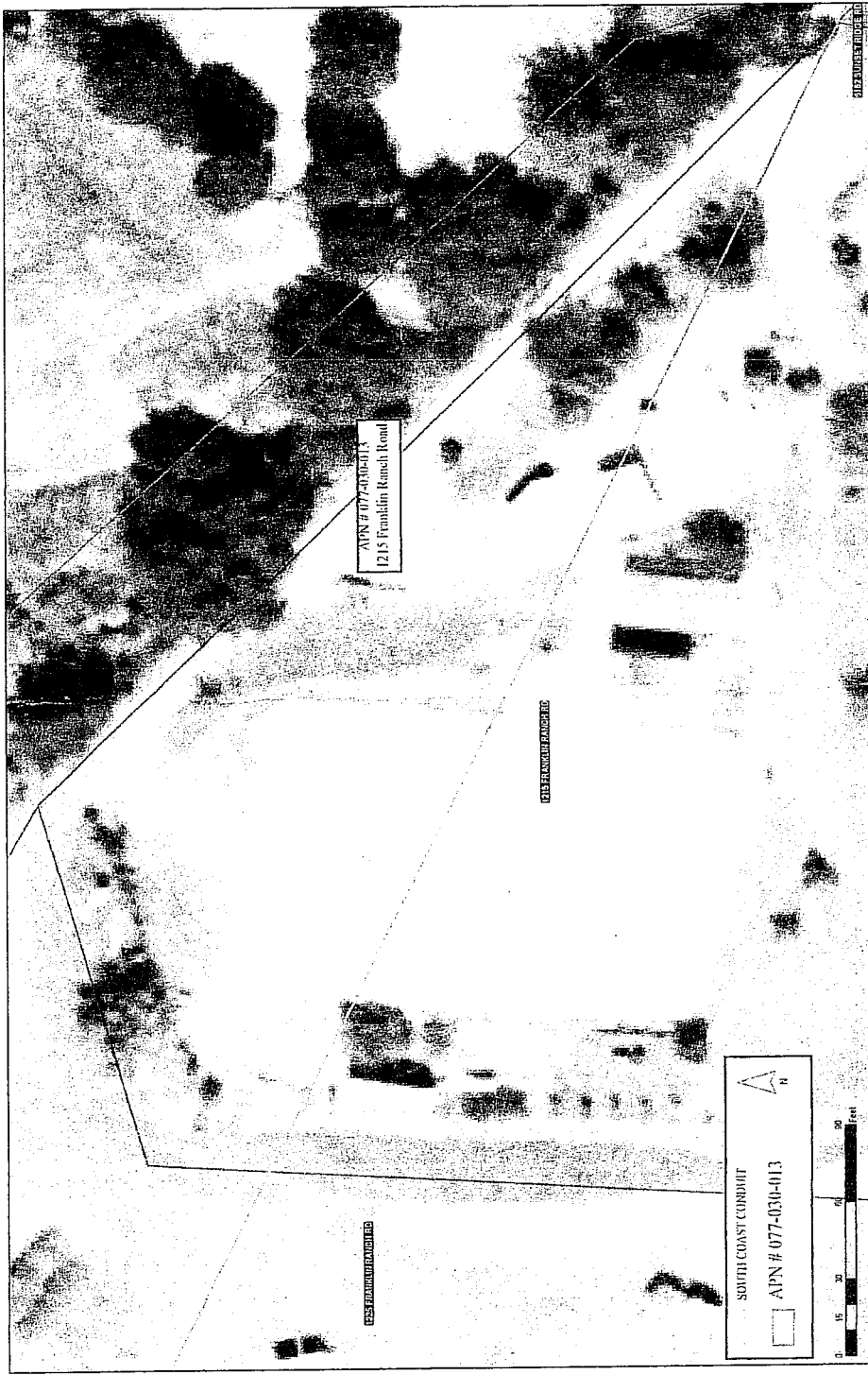
Address

3301 Laurel Canyon Road
Santa Barbara, CA 93105

City, State, Zip

12-18-2011
Date

7c



This data is for informational purposes and has not been prepared for legal, engineering, or surveying purposes. This data is provided with the understanding that it is not guaranteed to be correct or complete, and conclusions drawn from such information are the responsibility of the user. This map is for reference only. The California Department of Transportation and Maintenance (Caltrans) shall not be liable for any errors, omissions, or damages that result from inappropriate use of this document. No level of accuracy is claimed for the data shown herein and thus should not be used to obtain coordinate values, bearings, or distances.

Figure 1

7 D

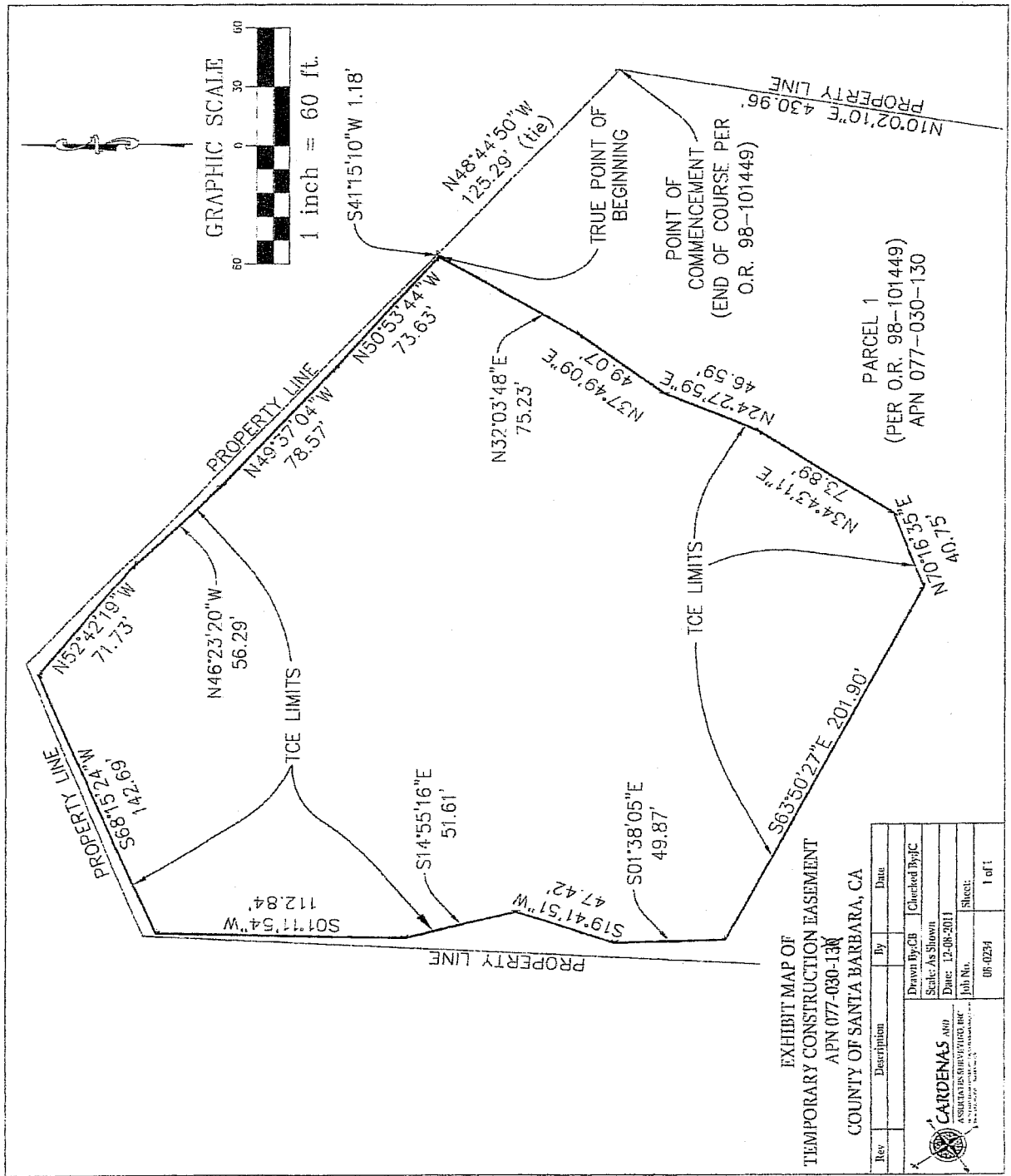


Figure 2

7 R

Temporary Construction Easement
APN 077-030-013
Legal Description

That certain parcel of land in the Los Dos Pueblos Rancho in the County of Santa Barbara, State of California, described as follows:

Commencing at the end of the course N10°02'10"E 430.96 feet describing Parcel 1 in Official Record 98-101449 in records of said county;

Thence N48°44'50"W 125.29 feet along the northerly property line of said Parcel 1;

Thence leaving the northerly property line S41°15'10"W 1.18 feet to the True Point of Beginning;

Thence N50°53'44"W 73.63 feet;

Thence N49°37'04"W 78.57 feet;

Thence N46°23'20"W 56.29 feet;

Thence N52°42'19"W 71.73 feet;

Thence S68°15'24"W 142.69 feet;

Thence S01°11'54"W 112.84 feet;

Thence S14°55'16"E 51.61 feet;

Thence S19°41'51"W 47.42 feet;

Thence S01°38'05"E 49.87 feet;

Thence S63°50'27"E 201.90 feet;

Thence N70°16'35"E 40.75 feet;

Thence N34°43'11"E 73.89 feet;

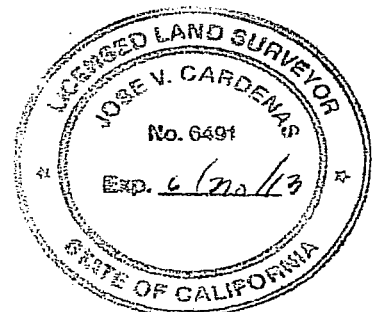
Thence N24°27'59"E 46.59 feet;

Thence N37°49'09"E 49.07 feet;

Thence N32°03'48"E 75.23 feet to the True Point of Beginning;

Said Described parcel containing 2.13 acres more or less.

End of Description



JVC
12/2/18

