

Attachment No. 12

SAN DIEGO REGIONAL
WATER QUALITY CONTROL BOARD

January 22, 2008

2008 JAN 24 PM 11:31

From: Paul Cline
26 Roswell Ave #B
Long Beach, CA 90803

To: Ben Neill
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100,
San Diego, CA 92123-4340
(858) 467-2952

Dear Ben,

Enclosed are color and black-&-white printouts of emails that I sent to you in the Fall of 2007. I have affixed my signature to each email printout.

I also have many photos of SWPPP violations that I have yet to send, but will hopefully get organized for forwarding to you.

In photographing possible SWPPP violations, I have utilized 3 digital cameras that I own. All cameras are set to record the date and time on the JPG file created by the camera for each photo. I have all original, unaltered, photo images that I can provide upon request.

Sincerely,



From: 15pta@sbceo.org
To: Ben Neill <BNeill@waterboards.ca.gov>
Subject: Re: Dirty Storm Water Flows in Vista #2

Ben,

attached are some photos that will help you in locating the Vista Village Sprinter Station storm drain inlet that has no BMPs in place - as of today, there are still no BMPs in place at this inlet.

If you need any further help in locating this inlet, just let me know.

Thanks, Paul

Quoting Ben Neill <BNeill@waterboards.ca.gov>:

Paul,
Where is this storm drain in relation to the Vista Village station?

Ben Neill

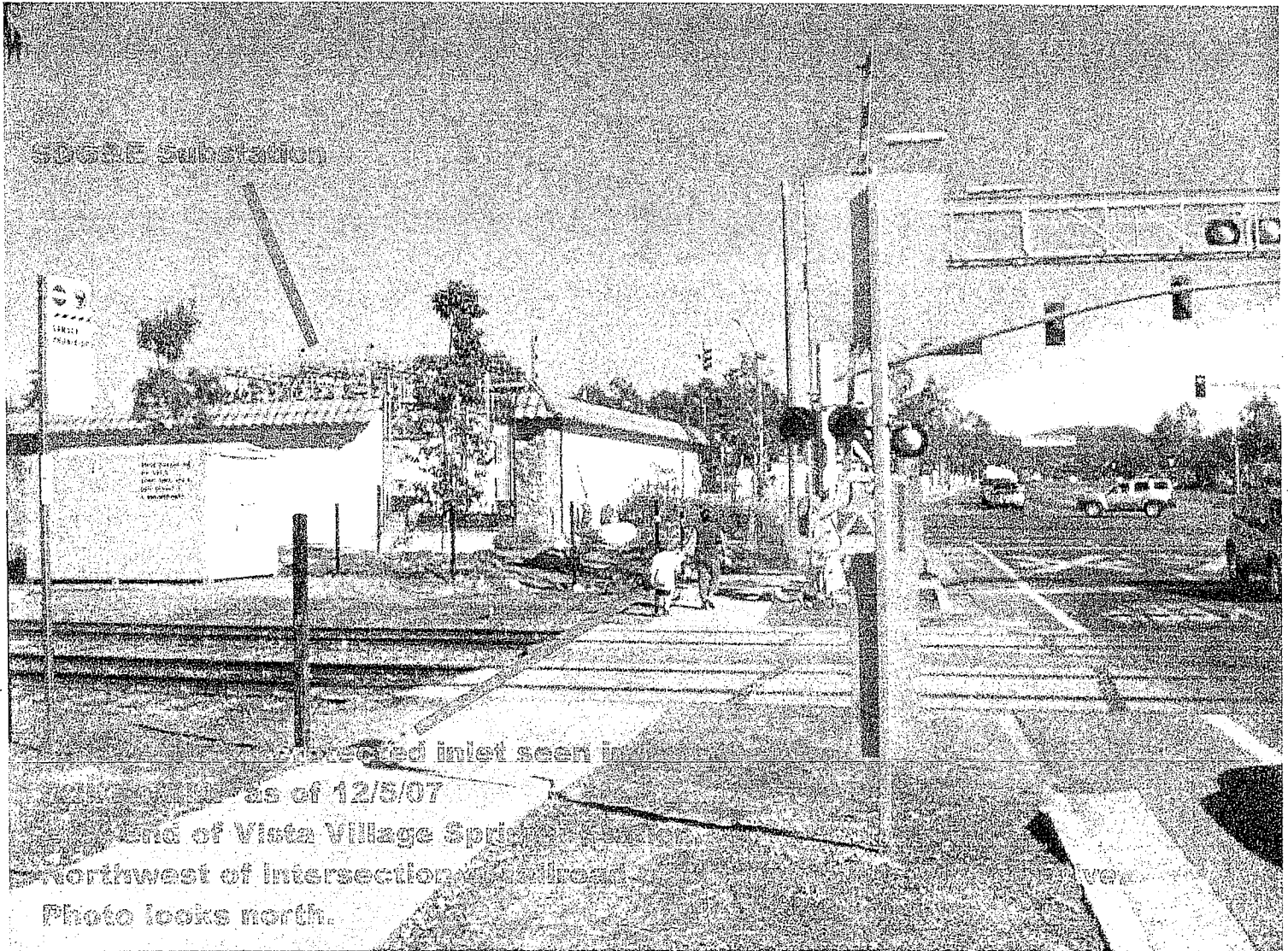
|||<15pta@sbceo.org> 11/30/2007 11:29 AM >>>
...snip...

railroad tracks right next to the SDG&E electrical substation on the west side of the intersection.

Thanks, Paul

*Photos taken on dates indicated.
Photos taken by Paul Cline.
Photoshop used to add text & lines*

Paul Cline



Vista Village East Dec5a.jpg

Vista Village Station Sprinter Station • Dec 5, 2007



Location of unprotected inter seen in Nov 30 video.

Still no BMP as of 12/5/07

East end of Vista Village Sprinter Station.

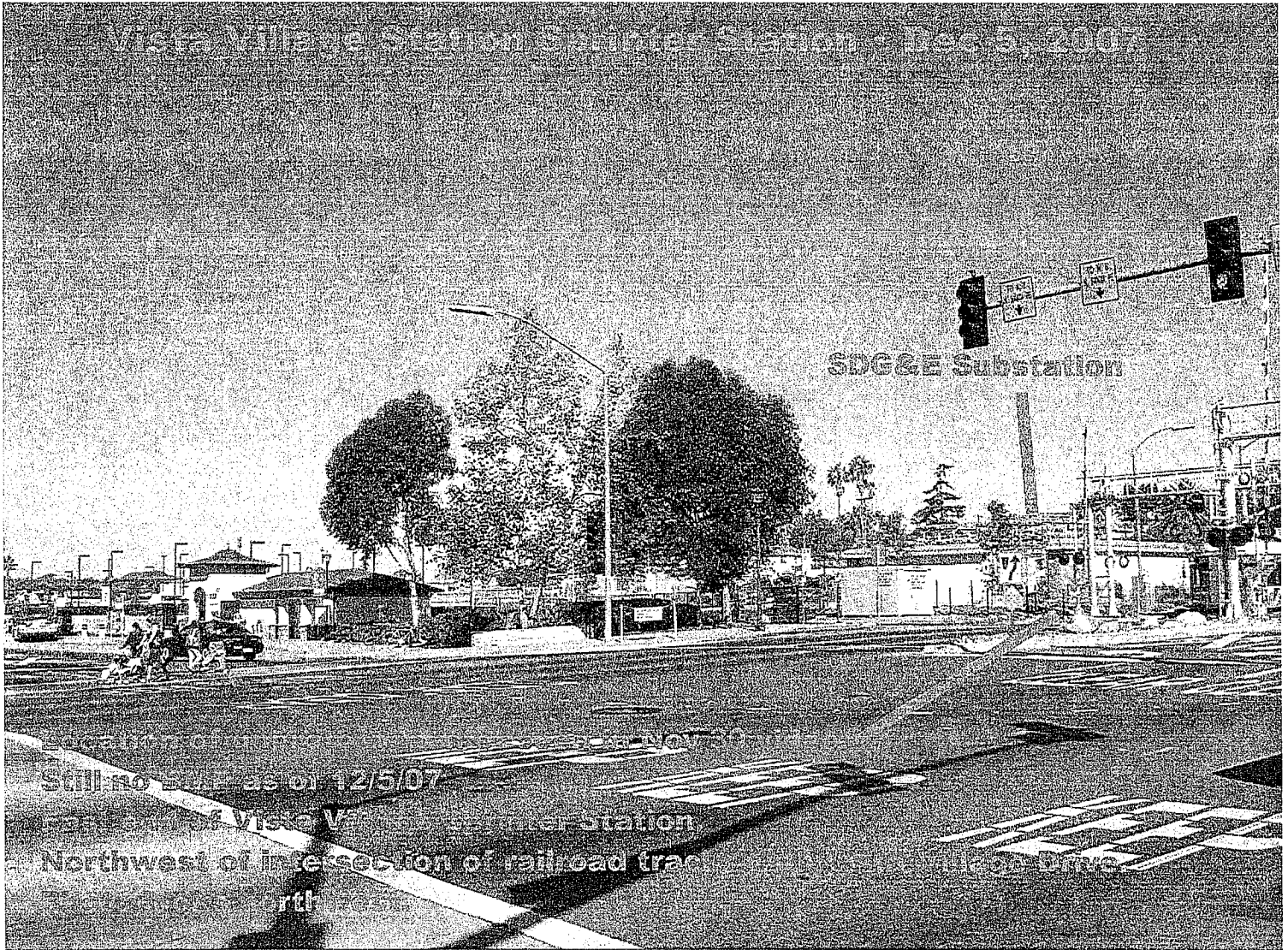
Northwest of intersection of railroad tracks with Vista Village Drive.

Photo looks south along Vista Village Drive.

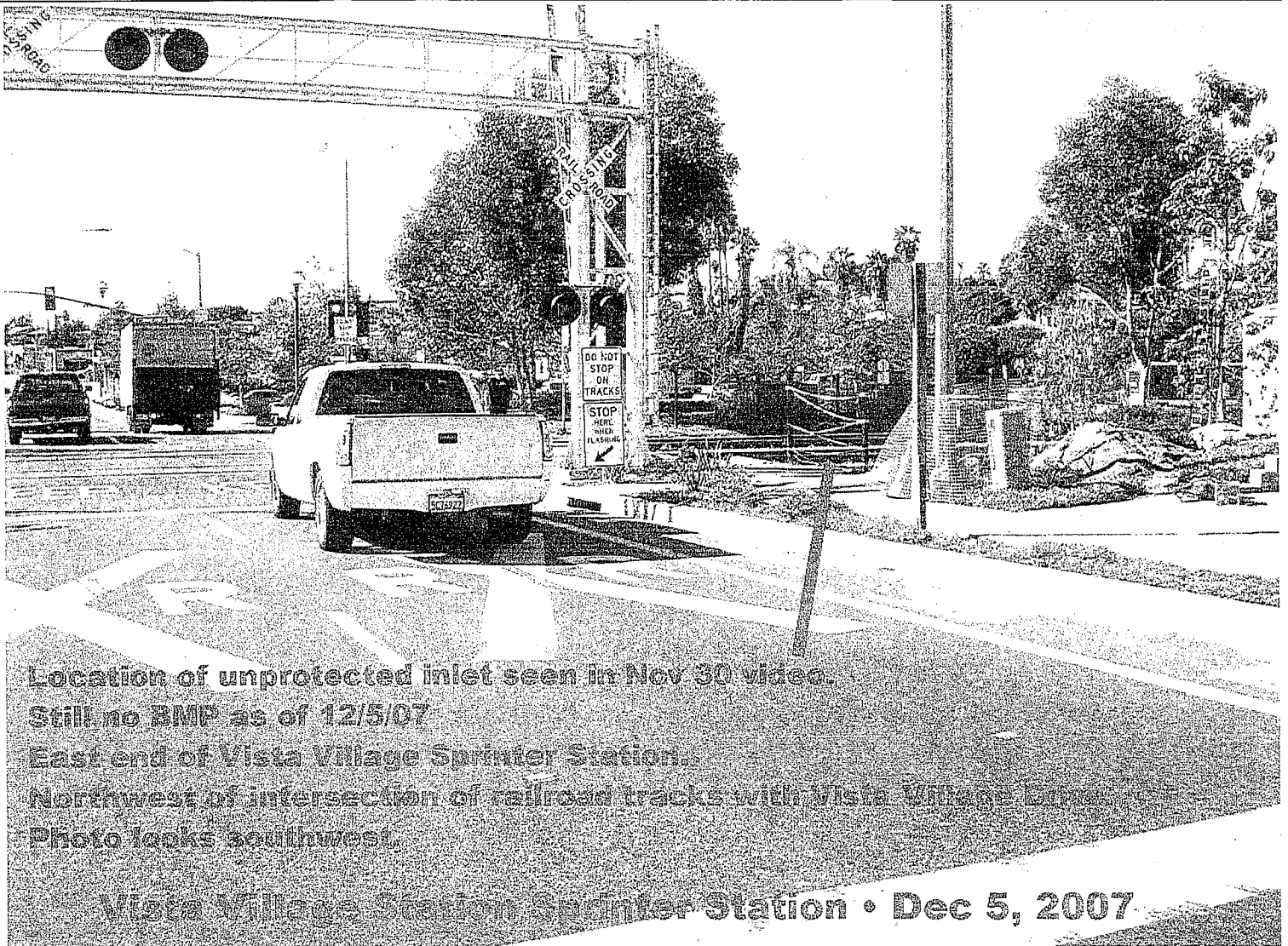
Vista Village East Dec5b.jpg



Vista Village East Dec5c.jpg



Vista Village East Dec5d.jpg



Location of unprotected inlet seen in Nov 30 video.
Still no BMP as of 12/5/07
East end of Vista Village Sprinter Station.
Northwest of intersection of railroad tracks with Vista Village Lane.
Photo looks southwest.

Vista Village Station Sprinter Station • Dec 5, 2007

Vista Village East Dec5e.jpg



Vista Village East Dec5f.jpg

From: 15pta@sbceo.org
To: Ben Neill <BNeill@waterboards.ca.gov>
Subject: Re: Dirty Storm Water Vista Village #2

Ben,

I paid a visit to the site today and some of the photographs taken are attached. I found the source of the dirt in the storm water flow - it was slope erosion that flowed over fiber rolls - there is still significant dirt upstream in the storm channel (the channel that feeds the inlet is on NCTD property for as far as I was able to track it).

While at the Vista Village Station/Transit Center, I noticed that storm water flows had carried dirt off the Sprinter construction site out to the sidewalk and the bus parking area/street where the storm water would then flow to a storm drain located in the street that has no BMPs in place.

Rain is predicted for all day Friday and into Saturday and it does not look like NCTD is going to repair the BMPs at this site, nor does it look like they are going to clean up the dirt that has washed past their BMPs and are now poised to flow into the water of the USA.

Let me know if you need more information about the location of the inlet shown in the video I sent you Friday. (in the photos I accidentally wrote Dec 1 where I should have written Nov 30).

Thanks, Paul

Quoting Ben Neill <BNeill@waterboards.ca.gov>:

Paul,

If you could please give some more information about this movie also. Where exactly is this inlet? What is the source of dirty water entering the inlet?

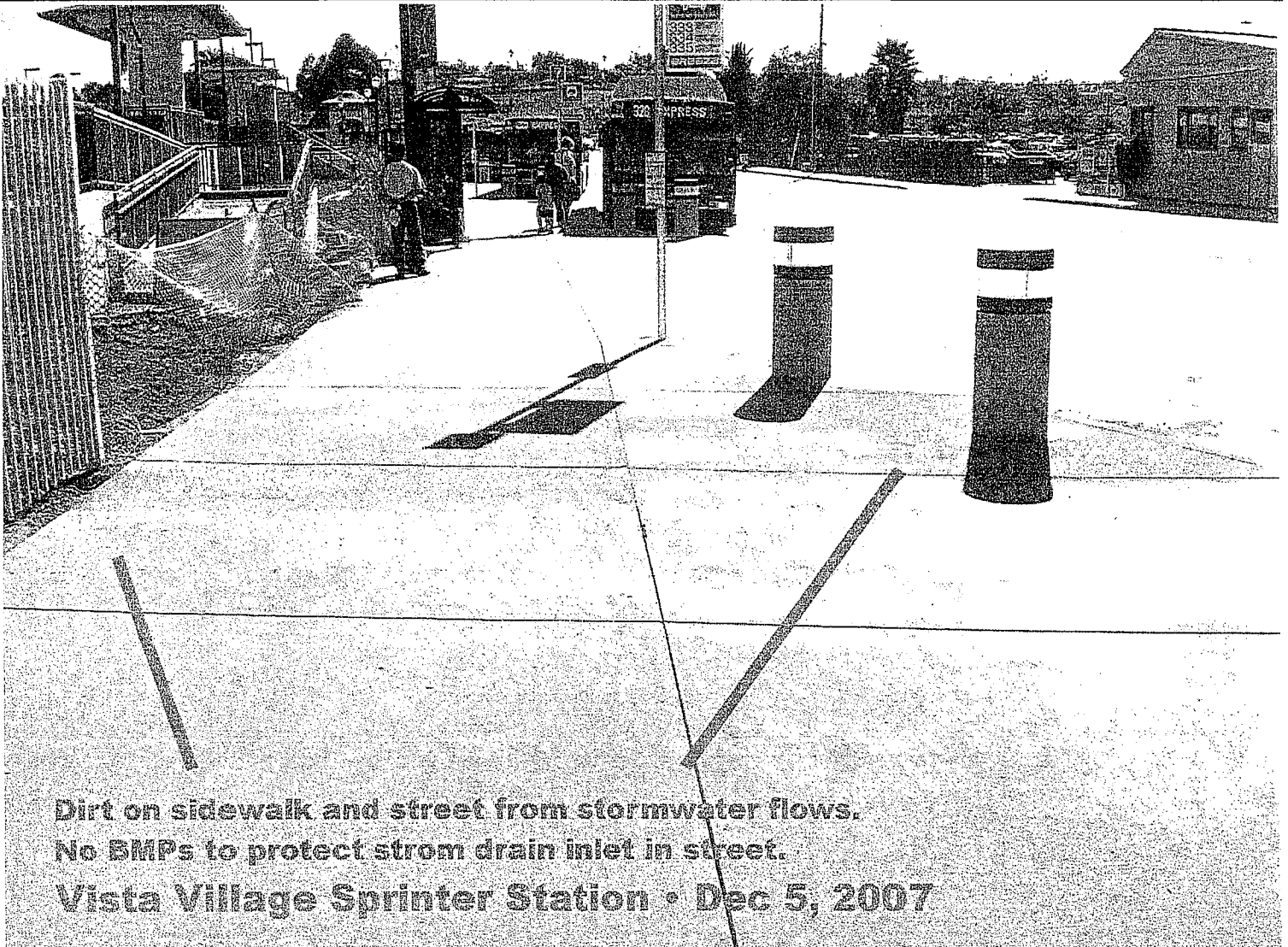
...snip...

In addition to the dirty water, this storm drain also has litter in it that will eventually flow into US waters as the day passes.

Thanks, Paul

Photos taken on date indicated.
Photos taken by Paul Cline.
Text & lines added to photos using Photoshop.



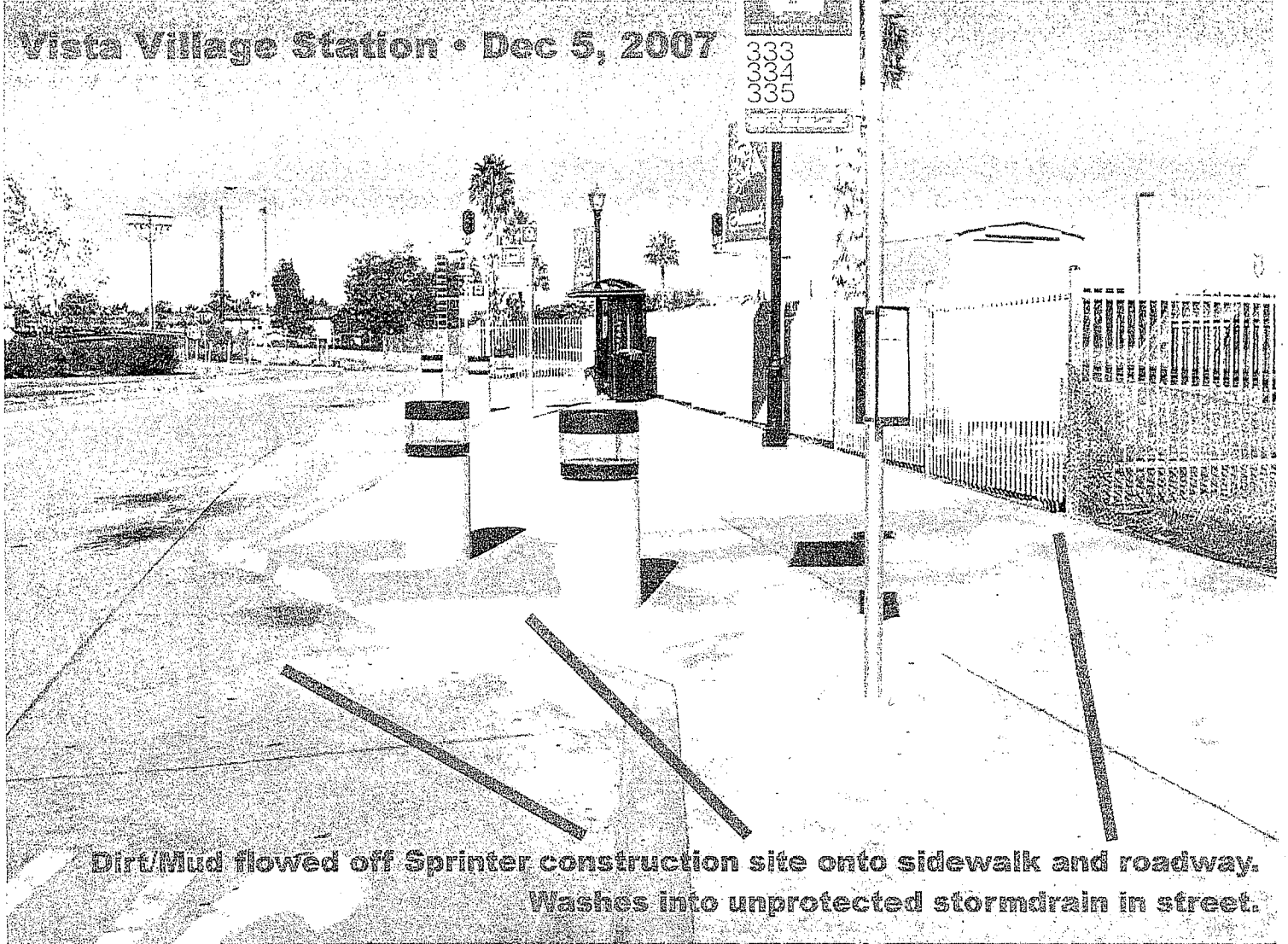


**Dirt on sidewalk and street from stormwater flows.
No BMPs to protect storm drain inlet in street.**

Vista Village Sprinter Station • Dec 5, 2007

Vista Village Dirt Dec5a.jpg

Vista Village Station • Dec 5, 2007

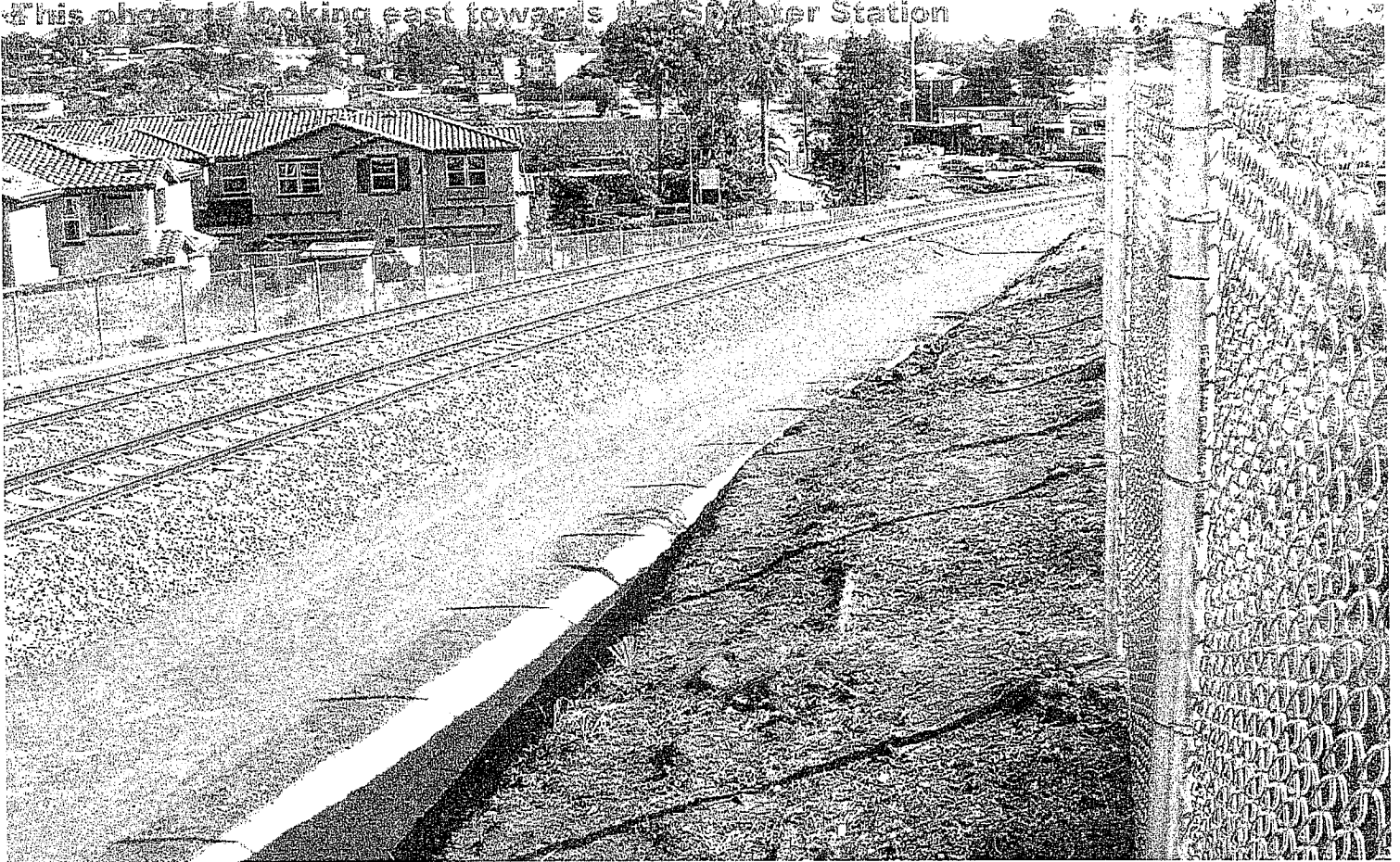


Dirt/Mud flowed off Sprinter construction site onto sidewalk and roadway. Washes into unprotected stormdrain in street.

Vista Village Dirt Dec5b.jpg

West of Vista Village Sprinter Station • Dec 5, 2007

Dirt has eroded off slope, over fiber rolls, and into storm drain channel.
This location is about 1/8-1/4 mile west of the Vista Village ticket station.
This photo is looking east towards the Sprinter Station



Vista Village Dirt West Dec5a.jpg

West of Vista Village Sprinter Station • Dec 5, 2007

Notice gullies in hillside where dirt has washed down into storm drain channel that flows into storm drain inlet. All of this is on NCTD property.

Photo taken about 1/8-1/4 mile west of the Vista Village ticket station.

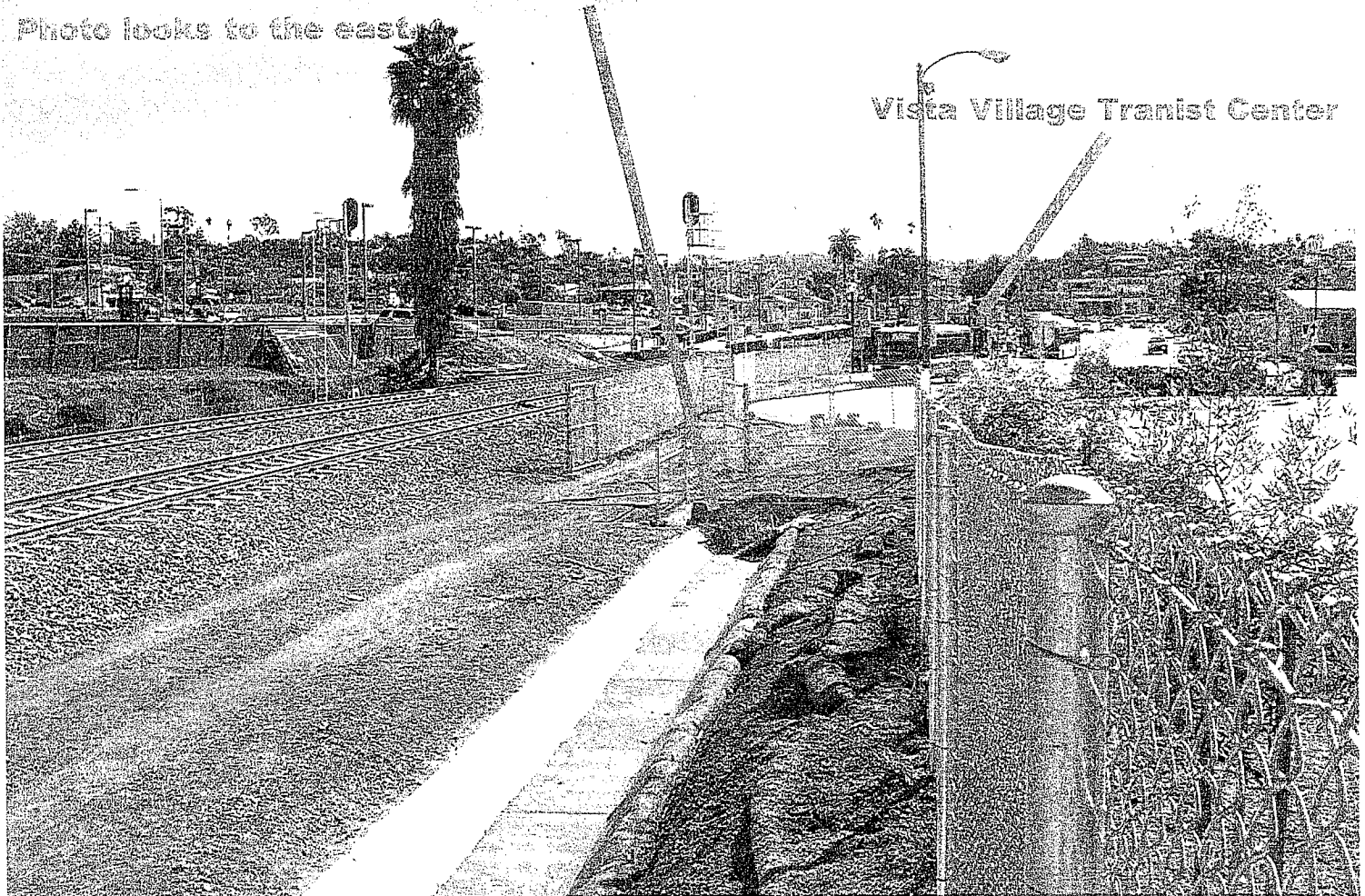


Vista Village Dirt West Dec5b.jpg

West of Vista Village Sprinter Station • Dec 5, 2007

This inlet was shown in video taken Dec 1.

Photo looks to the east.



Vista Village Dirt West Dec5c.jpg



Vista Village Dirt West Dec5d.jpg

From: 15pta@sbceo.org
To: "bneill@waterboards.ca.gov" <bneill@waterboards.ca.gov>
Cc: "CClemente@waterboards.ca.gov...snip...ppeuron@waterboards.ca.gov">
Subject: SWPPP Violation @ Crouch Street Station

Ben,

The attached photo shows dirty water flowing into the parking lot drain that empties directly into the adjacent creek. The location of the photo is at the Crouch Street Sprinter Station in a business's parking lot alongside Oceanside Blvd. Last month, NCTD added a patch of gravel in an attempt to protect this storm drain from the disturbed slope of dirt created by NCTD. The gravel patch has proved itself to be wholly inadequate, which is really no surprise considering that 90% of the slope was unprotected.

Thanks, Paul

Oceanside • Nov 30 • Crouch Street Station



Crouch St Station Nov30.jpg

Photo taken on date indicated.
Photo taken by Paul Cline.
Photoshop used to add text & line.

From: 15pta@sbceo.org
To: "bneill@waterboards.ca.gov" <bneill@waterboards.ca.gov>
Cc: "CClemente@waterboards.ca.gov...snip...ppeuron@waterboards.ca.gov">
Subject: NCTD SWPPP Violations in San Marcos

Ben,

In the attached photo, you can see SWPPP violations at the San Marcos Civic Center Sprinter Station. In addition to the visible violations, NCTD has tracked dirt onto the roadways of San Marcos from the vehicle exit point for this work area and NCTD has neglected to sweep up the dirt tracked off-site. This dirt has been washing into storm drains as the rain has been falling all day today.

Thanks, Paul

ps: the truck that is in the back of this photo will likely leave a long trail of mud on San Marcos streets when the driver exits the construction area.

San Marcos • Nov 30 • Civic Center Station Uncovered piles of material and debris



San Marcos Nov30.jpg

Photo taken on date indicated.

Photo taken by Paul Cline.

Text & lines added using Photoshop

Paul Cline

From: 15pta@sbceo.org
To: "bneill@waterboards.ca.gov" <bneill@waterboards.ca.gov>
Cc: "ppeuron@waterboards.ca.gov...snip...jrobertus@waterboards.ca.gov">
Subject: SWPPP Violations in San Marcos #3

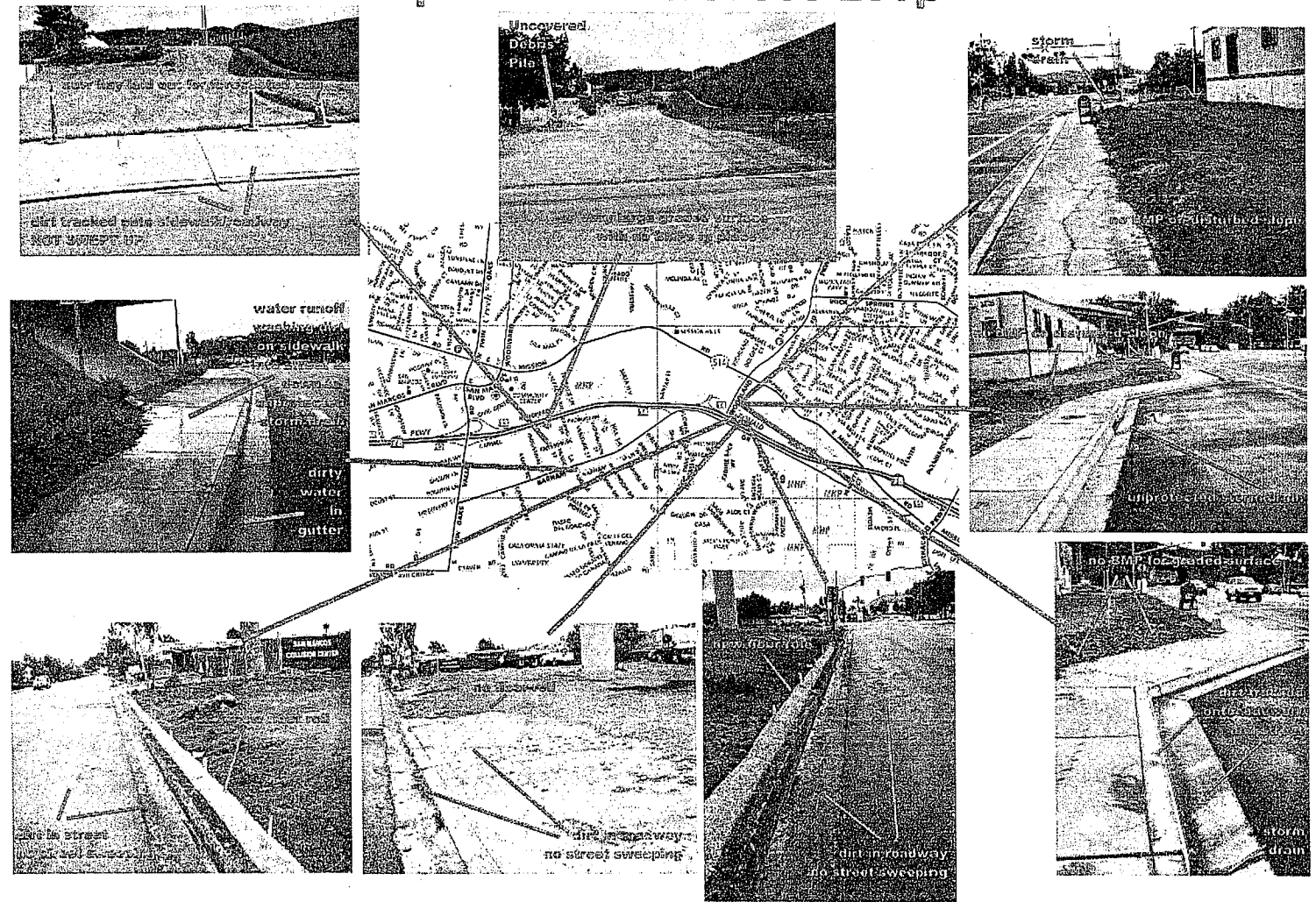
Ben,

Attached is a JPG file of some more of the SWPPP violations that I observed on September 22, 2007 at the Sprinter construction site located along what NCTD refers to as the San Marcos Loop.

If you have any questions about the exact locations represented in each photo, I will be happy to provide further explanation.

Paul

City of San Marcos • Sept 22 2007 • Rainy Day Sprinter San Marcos Loop



SWPPP SM Loop-3 09-22-07.jpg

Photos taken on date indicated.

Photos taken by Paul Cline.

Image produced with Photoshop.

From: 15pta@sbceo.org
To: "bneill@waterboards.ca.gov" <bneill@waterboards.ca.gov>
Cc: "ppeuron@waterboards.ca.gov...snip...jrobertus@waterboards.ca.gov">
Subject: SWPPP Violations in San Marcos #2

Ben,

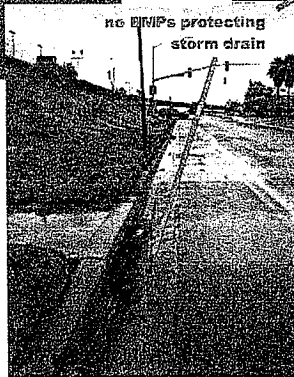
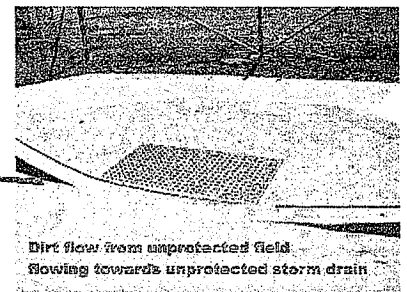
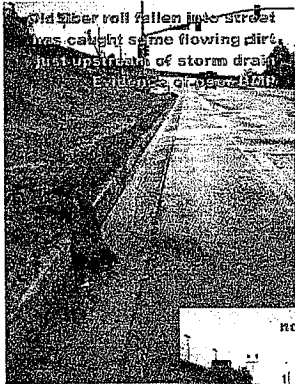
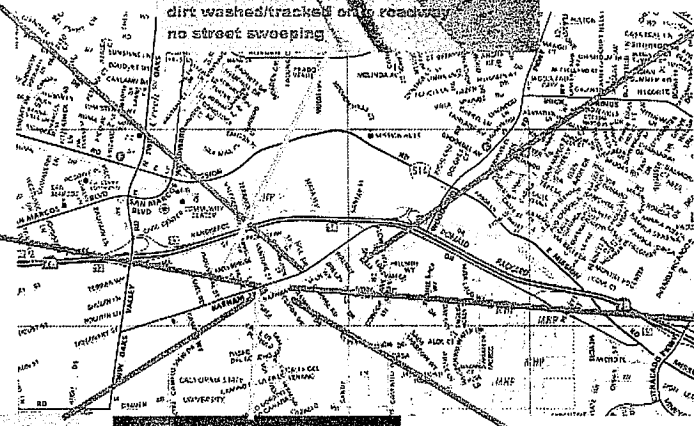
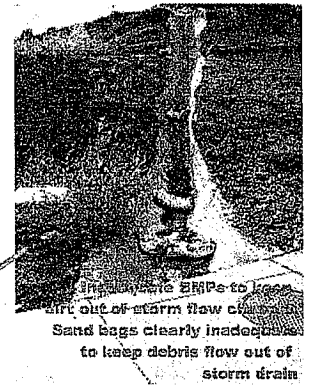
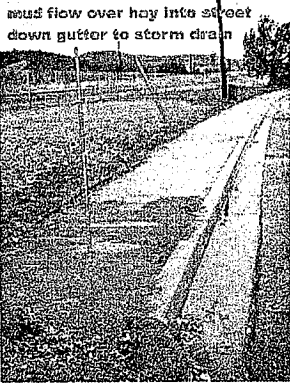
Attached is a JPG file of some more of the SWPPP violations that I observed on September 22, 2007 at the Sprinter construction site located along what NCTD refers to as the San Marcos Loop.

If you have any questions about the exact locations represented in each photo, I will be happy to provide further explanation.

Paul

City of San Marcos • Sept 22 2007 • Rainy Day

Sprinter San Marcos Loop



SWPPP SM Loop-2 09-22-07.jpg

Photos taken on date indicated.
Photos taken by Paul Cline.
Image produced with Photoshop.
Paul Cline

From: 15pta@sbceo.org
To: "bneill@waterboards.ca.gov" <bneill@waterboards.ca.gov>
Cc: "ppeuron@waterboards.ca.gov...snip...jrobertus@waterboards.ca.gov">
Subject: SWPPP Violations is San Marcos #1

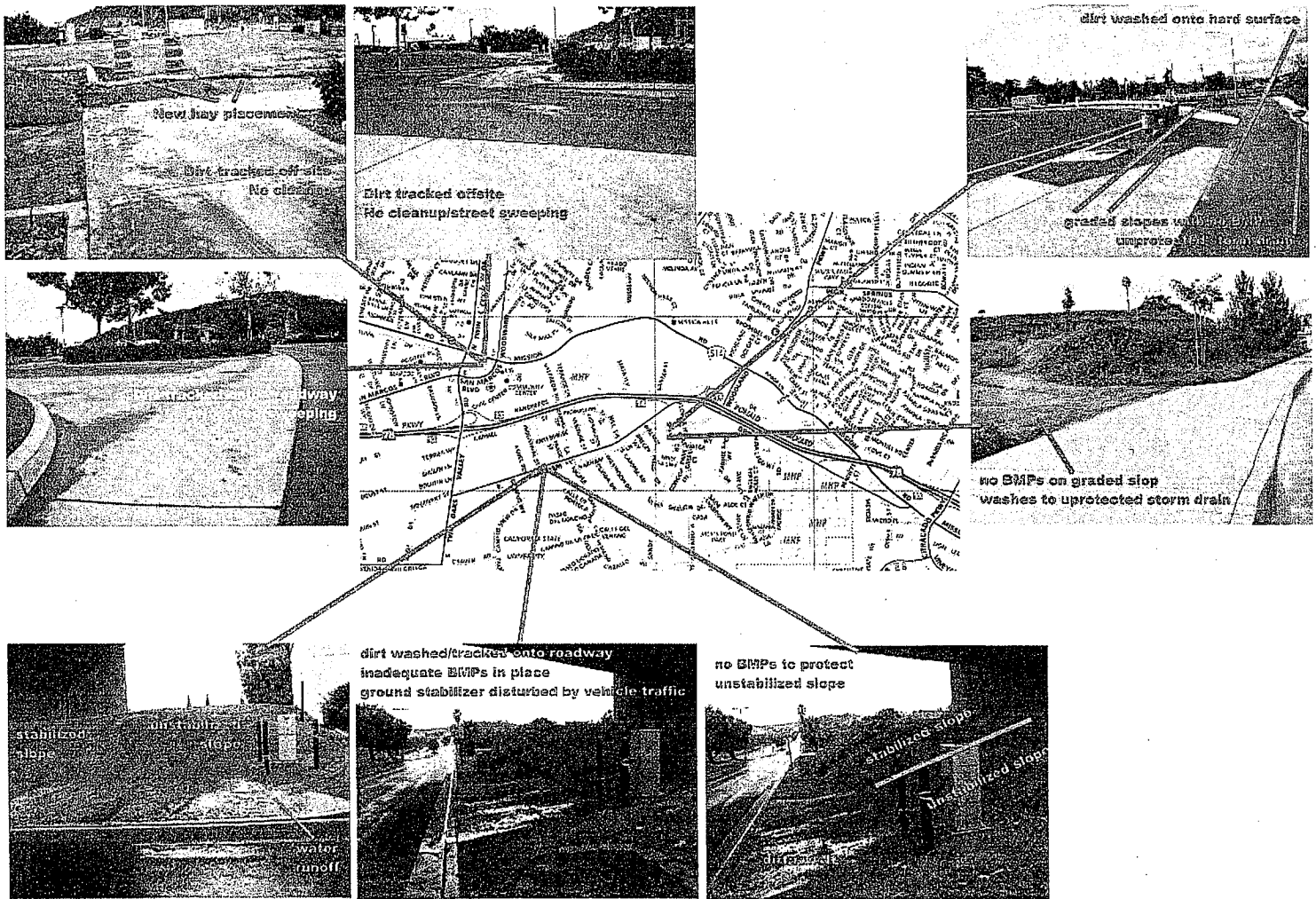
Ben,

Attached is a JPG file of some of the SWPPP violations that I observed on September 22, 2007 at the Sprinter construction site located along what NCTD refers to as the San Marcos Loop.

If you have any questions about the exact locations represented in each photo, I will be happy to provide further explanation.

Paul

City of San Marcos • Sept 22 2007 • Rainy Day Sprinter San Marcos Loop



SWPPP SM Loop-1 09-22-07.jpg

Photos taken on date indicated.

Photos taken by Paul Cline.

Image produced with Photoshop.

From: 15pta@sbceo.org

To: "bneill@waterboards.ca.gov" <bneill@waterboards.ca.gov>

Cc: "ppeuron@waterboards.ca.gov...snip...jrobertus@waterboards.ca.gov"

Subject: SWPPP Violations in Oceanside #3

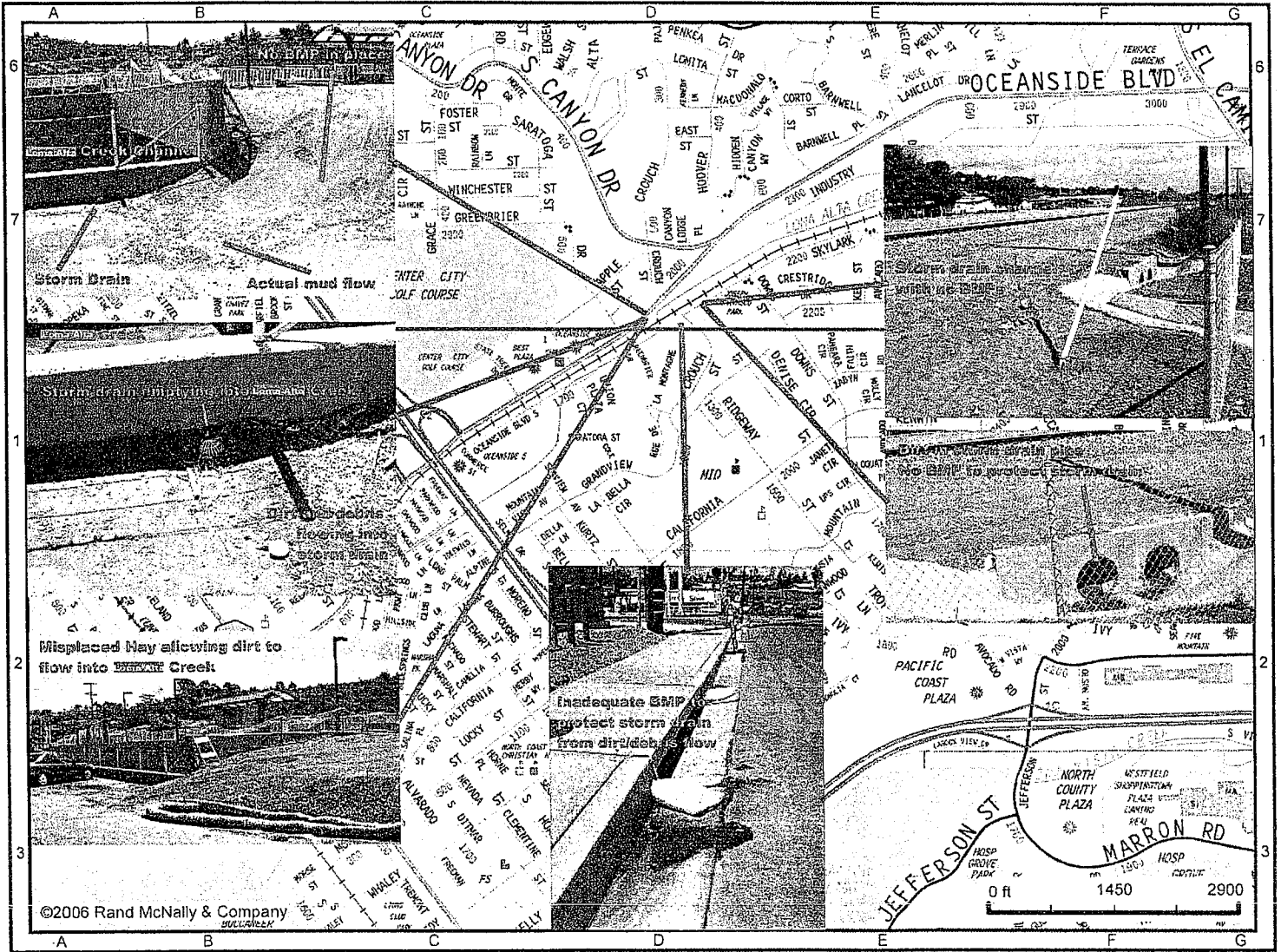
Ben,

Attached is a JPG file of some of the SWPPP violations that I observed on September 22, 2007 at the Sprinter construction site located at the Crouch Street Station in Oceanside.

If you have any questions about the exact location represented in each photo, I will be happy to provide further explanation.

Paul

City of Oceanside • Sept 22 2007 • Rainy Day Sprinter Crouch Street Station



SWPPP Crouch09-22-07.jpg

Photos taken on date indicated.

Photos taken by Paul Cline.

Image produced with Photoshop.

Paul Cline

From: 15pta@sbceo.org
To: "bneill@waterboards.ca.gov" <bneill@waterboards.ca.gov>
Cc: "ppeuron@waterboards.ca.gov...snip...jrobertus@waterboards.ca.gov">
Subject: SWPPP Violations in Oceanside #2

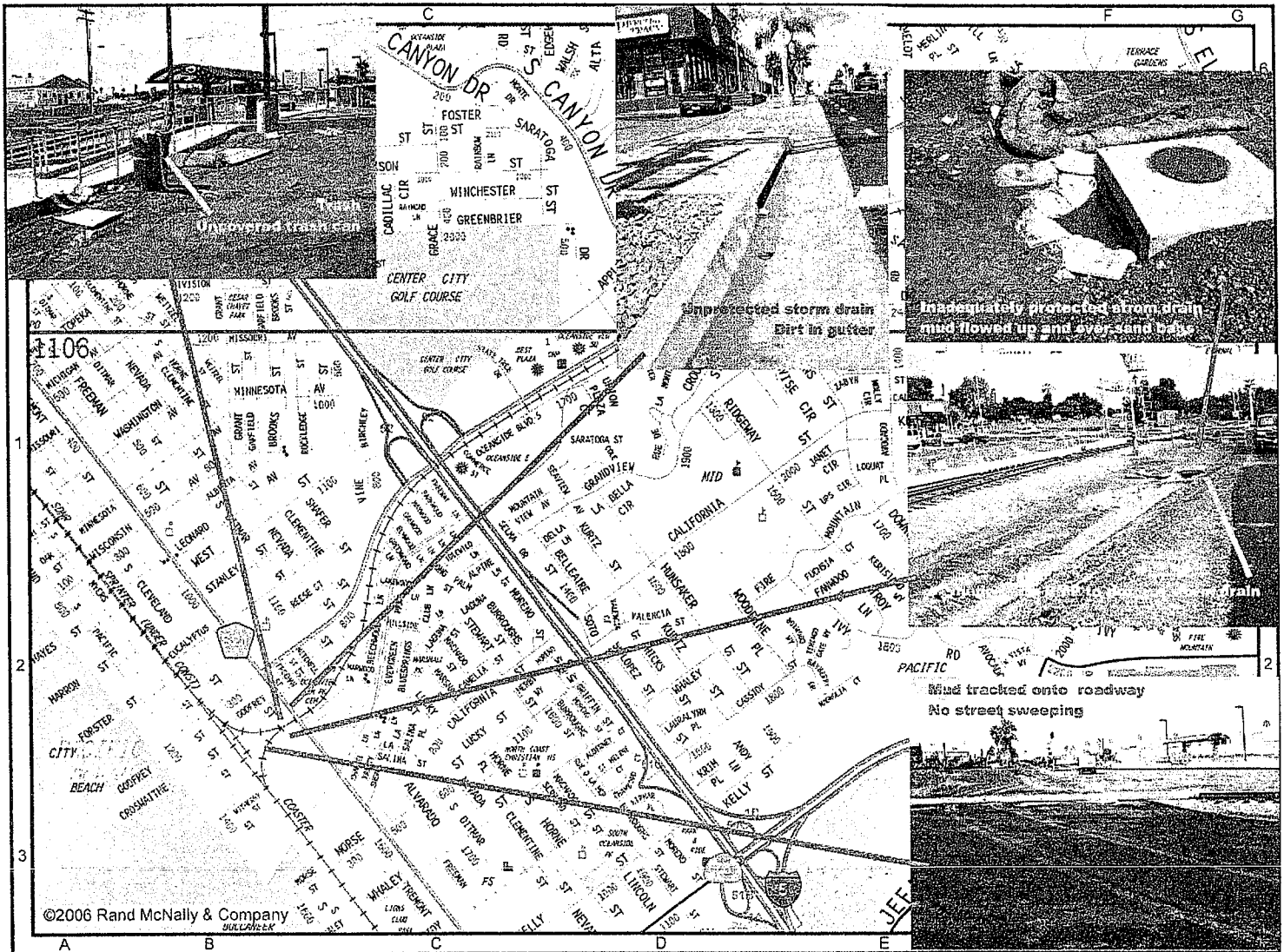
Ben,

Attached is a JPG file of some more of the SWPPP violations that I observed on September 22, 2007 at the Sprinter construction site located at the Coast Highway Station.

If you have any questions about the exact location represented in each photo, I will be happy to provide further explanation.

Paul

City of Oceanside • Sept 22 2007 • Rainy Day Sprinter Coast Highway Station



SWPPP Coast Hwy-2 09-22-07.jpg

Photos taken on date indicated.

Photos taken by Paul Cline.

Image produced with Photoshop.

From: 15pta@sbceo.org
To: "bneill@waterboards.ca.gov" <bneill@waterboards.ca.gov>
Cc: "ppeuron@waterboards.ca.gov...snip...jrobertus@waterboards.ca.gov"
Subject: SWPPP Violations in Oceanside #1

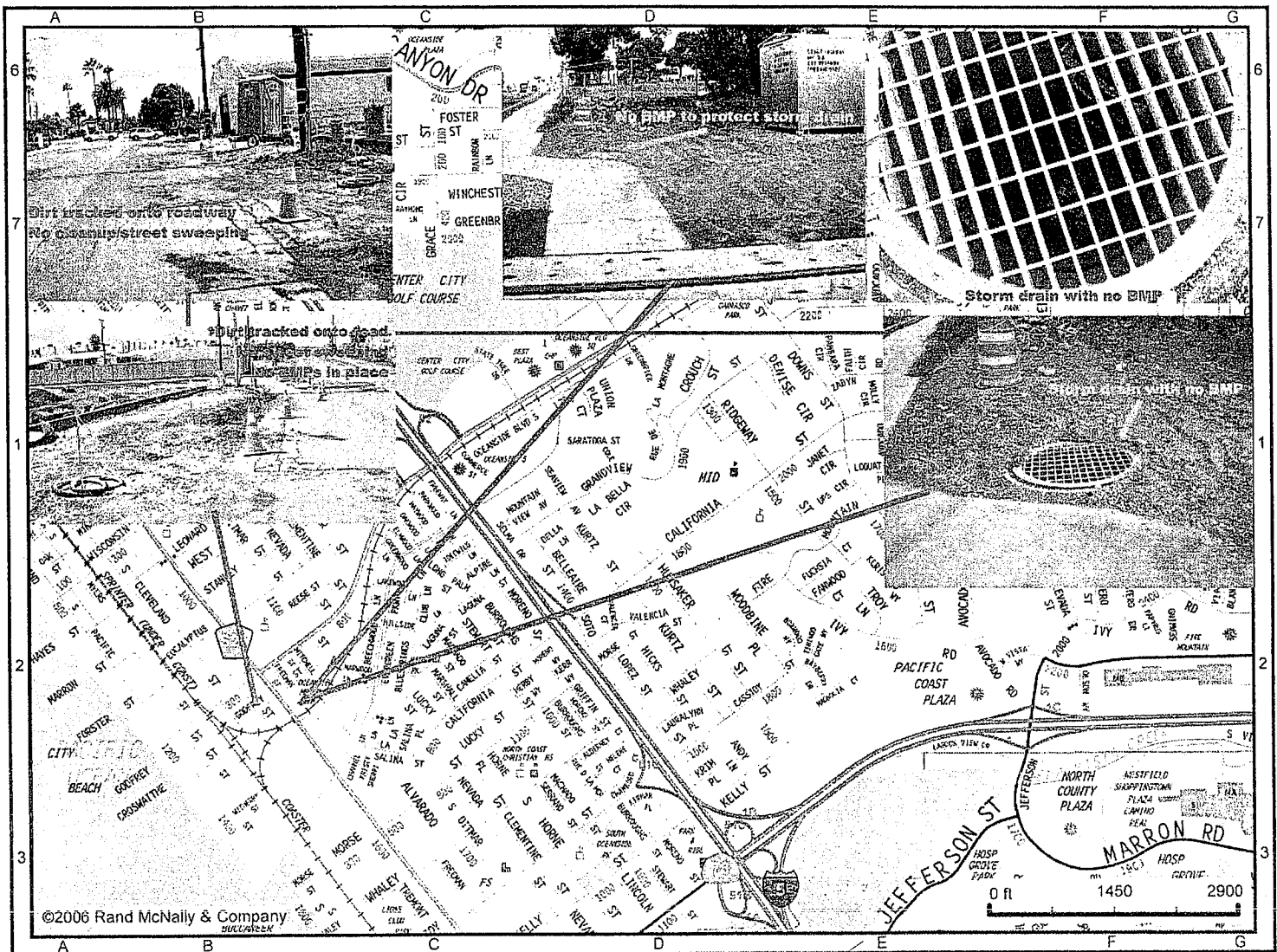
Ben,

Attached is a JPG file of some of the SWPPP violations that I observed on September 22, 2007 at the Sprinter construction site located at the Coast Highway Station.

If you have any questions about the exact location represented in each photo, I will be happy to provide further explanation.

Paul

City of Oceanside • Sept 22 2007 • Rainy Day Sprinter Coast Highway Station



SWPPP Coast Hwy-1 09-22-07.jpg

Photos taken on date indicated.
Photos taken by Paul Cline.
Image produced within Photoshop.



LOS ANGELES DISTRICT, CORPS OF ENGINEERS
SAN DIEGO FIELD OFFICE
16885 WEST BERNARDO DRIVE, SUITE 300A
SAN DIEGO, CALIFORNIA 92127

FILED 06 2005
BY: *ERW*

REPLY TO:
ATTENTION OF:

February 1, 2006

Office of the Chief
Regulatory Branch

SUBJECT: NOTICE OF NON-COMPLIANCE WITH PERMIT CONDITIONS
ENFORCEMENT CASE NO. 200100289-TCD

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

North County Transit District Capital Projects and Construction
Attention: Mr. Don Bullock, Manager
810 Mission Avenue
Oceanside, California 92054

West Coast Rail Constructors
FCI Constructors, Inc.
2585 Business Park Drive
Vista, California 92081

Dear Mr. Bullock

It has come to my attention that you have failed to comply with one or more Special Condition(s) required in DA Permit 200100289-TCD, which authorized you to construct the Oceanside to Escondido Rail-Trail (Sprinter) Project bisecting Reidy, San Marcos, Buena, Buena Vista, and Loma Alta Creeks and/or tributaries to these Creeks, in northern San Diego County, California. The project corridor lies within the cities of Oceanside, Vista, San Marcos and Escondido and an unincorporated portion of San Diego County.

Specifically, Special Condition No. 7 of the permit states:

"The permittee shall permanently impact no more than 5.28 acres, and/or temporarily impact no more than 3.73 acres, of waters of the United States, including jurisdictional wetlands. The permittee shall fence (with silt barriers) the limits of the construction corridor in the vicinity of any waters of the US, including jurisdictional wetlands, to prevent additional waters/wetlands impacts and the spread of silt from the construction zone into adjacent waters/wetlands. The permittee shall submit to the Corps (cc: USFWS, RWQCB, and CDFG) for approval final construction and excavation plans and dated/labeled photographs showing fenced and marked

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limits of impacts, and all Corps jurisdictional areas to be impacted and preserved, within 30 days of the date of this permit, and prior to initiating waters/wetlands impacts authorized by this permit. If waters/wetlands impacts occur outside these limits, all work shall cease, and the Corps shall be notified immediately. Any waters/wetlands impacts that occur outside the fenced and marked limits shall be mitigated at a minimum 5:1 ratio, and shall be subject to the requirements in the special conditions of this Department of the Army authorization."

Additionally, Special Condition No. 1a states that the permittee shall:

"Comply with the Biological opinion 1-6-97-11R1 dated June 03, 2002 and subsequent amendments."

Furthermore, Special Condition No. 3 states:

"This Corps permit does not authorize you to take an endangered species, in particular the California gnatcatcher and least Bell's vireo. In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (ESA) (e.g. ESA Section 10 permit, or a Biological Opinion (BO) under ESA Section 7, with "incidental take" provisions with which you must comply). The enclosed FWS BO contains mandatory terms and conditions to implement the reasonable and prudent measures that are associated with "incidental take" that is also specified in the BO. Your authorization under this Corps permit is conditional upon your compliance with all of the mandatory terms and conditions associated with incidental take of the attached BO, which terms and conditions are incorporated by reference in this permit. Failure to comply with the terms and conditions associated with incidental take of the BO, where a take of the listed species occurs, would constitute an unauthorized take, and it would also constitute non-compliance with your Corps permit. The FWS is the appropriate authority to determine compliance with the terms and conditions of its BO and with the ESA."

It has come to our attention that, on more than one occasion, your contractors have discharged fill material beyond the silt barriers and into wetland and non-wetland waters of the United States in Loma Alta Creek and its tributaries. The Corps is currently evaluating the overall extent of the excessive jurisdictional impacts. We have been informed that the FWS is also currently evaluating whether or not the permittee is in compliance with the terms and conditions of its BO and with the ESA.

On an administrative level, the permit may be suspended, revoked or modified and administrative penalties assessed. Pursuant to Section 309(g) of the Clean Water Act, the Corps of Engineers is able to levy Class I Administrative Penalties of up to \$11,000 per violation of a Special Condition of a permit, to a maximum of \$27,000. Among the other enforcement options available are actions in Federal District Court for fines and injunctions requiring work cessation and/or restoration. The court may also require that the restoration be performed by a third party and be funded through a money judgment against the permittee.

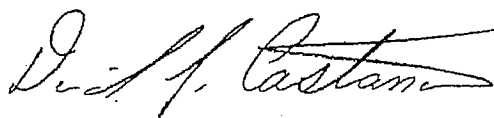
However, we believe this matter can still be resolved amicably. Within the next 30 days, please provide any relevant information you have relating to this matter, and evidence you are actively seeking to comply with the aforementioned Special Condition(s). Please submit this information to the Chief, Regulatory Branch, Attn: Mr. Terry Dean, 16885 West Bernardo Drive,

Suite 300 A, San Diego, California 92127. Failure to comply with this order may result in Administrative Penalties.

If you have any questions regarding this matter, please contact Mr. Dean in our Regulatory Branch at (858) 674-5386.

I am forwarding copies of this letter to: California Department of Fish and Game, Attention: Larry Eng, Ms. Tamara Spear, 4949 View Ridge Avenue, San Diego, California 92123; California Regional Water Quality Control Board, Region 9, San Diego Region, Attention: Mr. Michael McCann; Manager, Mr. Christopher Means, Watershed Branch, 9174 Sky Park Court, Suite 100, San Diego, California 92123; U.S. Fish and Wildlife Service, Attention Ms. Michelle C. Moreno, 6010 Hidden Valley Road, Carlsbad, California 92011.

Sincerely,



David J. Castanon
Chief, Regulatory Branch

Cc: BRG Consulting, Inc.
Attn: Erich Lathers, President
304 Ivy Street
San Diego, California 92101



City of Vista

RECEIVED
DEC 1 8 2006
BY: *Jm*

RECEIVED
DEC 1 4 2007
BY: *EJL*

August 3, 2006

Mr. Don Bullock
North County Transit District
810 Mission Avenue
Oceanside, CA 92054-2825

RE: Corrective Work Needed for Storm Drain Connection

Dear Mr. Bullock:

Enclosed is a photograph taken of the drainage channel at west of Santa Fe Avenue between Guajome Street and Main Street. As you can see, the connection between the storm drain pipe and the City's concrete channel, performed by the Sprinter contractor, is deficient. Note also that there is dirt and debris that has been piled against the fence and spilled into the channel. The Sprinter Contractor appears to be in violation of Storm water Pollution Prevention regulations because he has spilled soil into a drainage channel, and there are no measures in place along the graded area next to the channel to prevent erosion of sediment over the wall of the channel and into the Buena Vista creek. As you know, we have recently been experiencing rain storms in Vista.

Please immediately take the necessary steps to correct the connection point and clear the drainage channel and prevent further sedimentation and pollution of the creek, and require the contractor to perform remedial measures to correct the defective work in accordance with the Standard Specifications for Public Works Construction (Greenbook).

Sincerely,

L. Shyja
Larry Pierce
Larry Pierce
Director of Public Works / City Engineer

Enc.
c: Morris Vance, Mayor
Rita Geldert, City Manager

01640

007379

