

Discussion

1. Who Is Kernen Construction
2. Legal Standards – Why This Hearing Is Different
3. Issues Before the Board
4. Issues Not Before the Board
5. Technical Responses (Grading, Regulatory Floodplain, Noise)
6. Staff Report Clarifications
7. Summary



Kernen Construction

- Founded in 1986; is an engineering, contracting, construction and construction materials business.
- Kernen has provided services and construction materials for many, many projects that are used every day by Humboldt County residents.
- Kernen also provides critical services and construction materials for public agencies, including Humboldt County.
- Almost **100** full-time employees; anticipated payroll for 2024 will be almost \$8 million.
- Almost all this money stays in the community because all of Kernen's employees are Humboldt County residents. They are also Humboldt County voters.



Legal Standards – Why This Hearing Is Different

County Code

14.2 REVOCATION

14.2.1 **Grounds for Revocation.** A development permit or variance may be revoked or modified by the Board of Supervisors after a Public Hearing, upon finding that:

14.2.1.1 The permit or variance was obtained or extended by fraud, material omissions or misstatements of fact.

14.2.1.2 The permit or variance granted is being, or recently has been, exercised contrary to the terms or conditions of such approval, or in violation of any statute, Code section, law or regulation.

14.2.1.3 The use for which the permit or variance was granted is so conducted as to be a nuisance.

14.2.1.4 The use for which such permit or variance was granted has ceased to exist or has been suspended for one (1) year or more.



Legal Standards – Why This Hearing Is Different

Constitutional Principles

1. Vesting
2. Due Process
3. Equal Protection



Legal Standards – Why This Hearing Is Different

Constitutional Principles – Vesting

- Kernens use permit is **vested** under state constitutional vesting principles.

(See, e.g., *Avco Community Developers v. South Coast Regional Commission* (1976) 17 Cal.3d 785; *Malibu Mountains Recreation, Inc. v. County of Los Angeles* (1998) 67 Cal.App.4th 359.)

- The County **may not** revoke Kernens use permit without a **valid evidentiary basis** and without affording Kernens its full right to **due process**.

(*Kerley Industries, Inc. v. Pima County* (9th Cir. 1986) 785 F.2d 1444, 1446 [once granted, a use permit cannot be taken away arbitrarily, for improper reasons, or without appropriate procedural safeguards].)



Legal Standards – Why This Hearing Is Different

Constitutional Principles – Due Process

- Kernen must be allowed an **opportunity to be heard**.
- The County must provide a **fair and impartial hearing body or officer**.

(See *Haas v. County of San Bernardino* (2002) 27 Cal.4th 1017.)

- Must be **no other reasonable way to correct the condition**.

(*Leppo v. City of Petaluma* (1971) 20 Cal.App.3d 711; *Armistead v. City of Los Angeles* (1957) 152 Cal.App.2d 319.)



Legal Standards – Why This Hearing Is Different

Constitutional Principles – Equal Protection

- Selective enforcement is **unlawful** and could violate Kernens's right to equal protection.

(See, e.g., *Squaw Valley Dev. Co. v. Goldberg* (9th Cir. 2004) 375 F.3d 936, *Genesis Environmental Servs. v. San Joaquin Valley Unified Air Pollution Control Dist.* (2003) 113 Cal.App.4th 597.)



Issues Before the Board

- Was Kernen required to obtain a grading permit before constructing its advanced stormwater best management practices (BMPs)?
- If so, does its failure to do so constitute grounds for revocation or modification of its CUP?



Issues **NOT** Before the Board

- Hours of operation
- Noise
- Soil sampling
- CATS lawsuit
- Regional Water Board action



Issues **NOT** Before the Board

- **Hours of operation**
 - No hours of operation condition in CUP
 - “this is not a violation that can be the basis for a revocation but should be addressed as part of a modification to the permit” – Staff Report, p. 11
 - And, no evidence that work outside of “normal” hours constitutes a nuisance
- Noise
- Soil sampling
- CATS lawsuit
- Regional Water Board action



Issues **NOT** Before the Board

- Hours of operation
- **Noise**
 - No allegations in Staff Report that Kernan has violated a noise condition
 - NorthPoint conducted noise testing and determined that Kernan's operations are in compliance (but no mention of this in the Staff Report)
 - No other **evidence** that Kernan has violated a noise condition
- Soil sampling
- CATS lawsuit
- Regional Water Board action



Noise

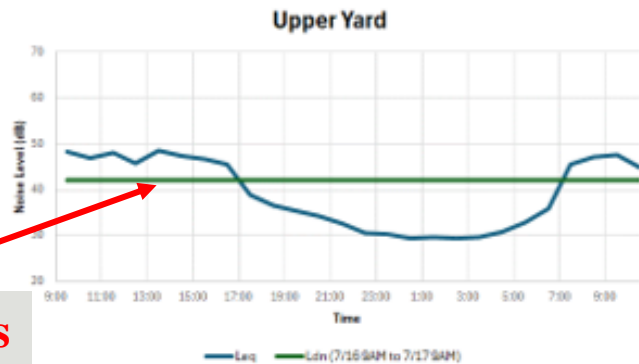
Operating Restriction #B-6 of CUP-00-27/SP-00-65 states that, “Applicant shall ensure that noise generated by the operations shall not exceed 60 Ldn at nearby residential properties”.

Where the Ldn represents daily levels of noise exposure averaged on a daily basis, while Leq represents the equivalent energy noise exposure averaged over for a shorter time period, typically one hour.

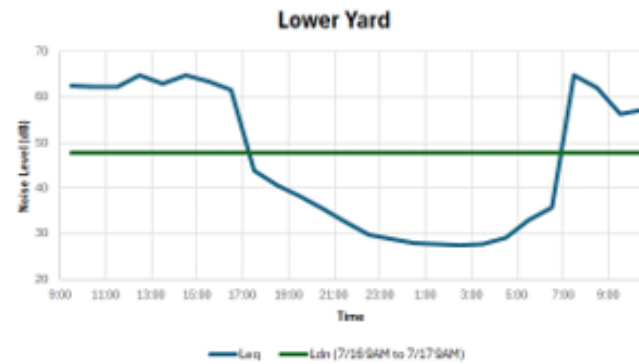
A noise monitoring study was completed and submitted to the County on August 23, 2024. The Ldn results are all less than 60 dB and are in compliance with the permit CUP-00-27/SP-00-65. Kernens Noise Monitoring Study (August 2024). Both Ldn and Leq results were provided to the County.



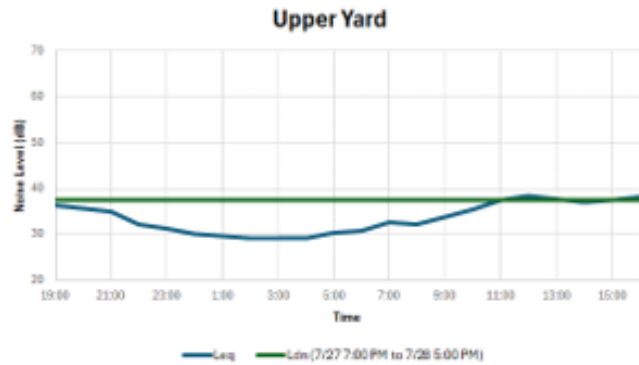
Tuesday 9AM - Wednesday 9AM



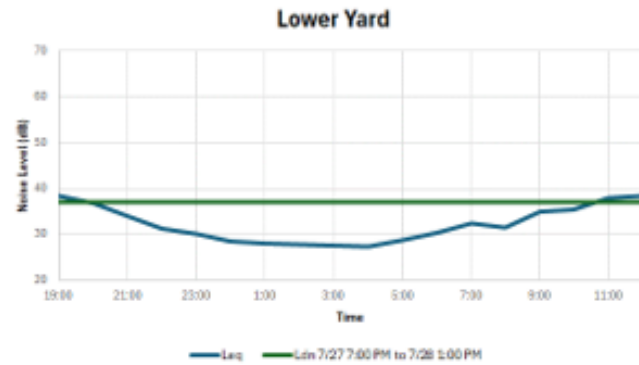
Tuesday 9AM - Wednesday 9AM



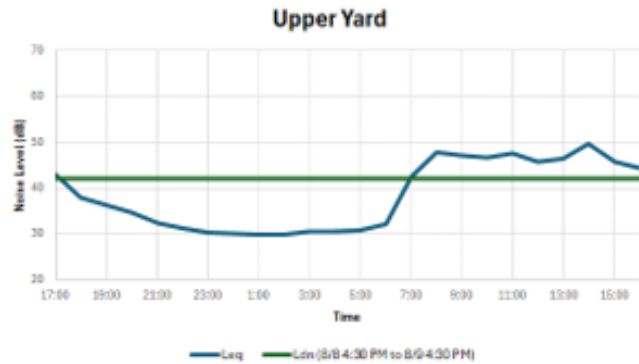
Saturday 7:00 PM - Sunday 5PM



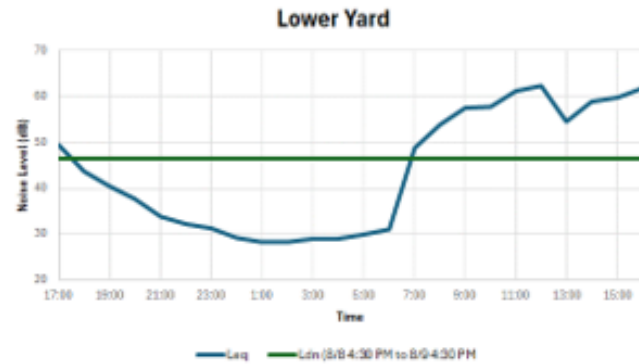
Saturday 7:00 PM - Sunday 12:45 PM



Thursday 4:30 PM - Friday 4:30 PM

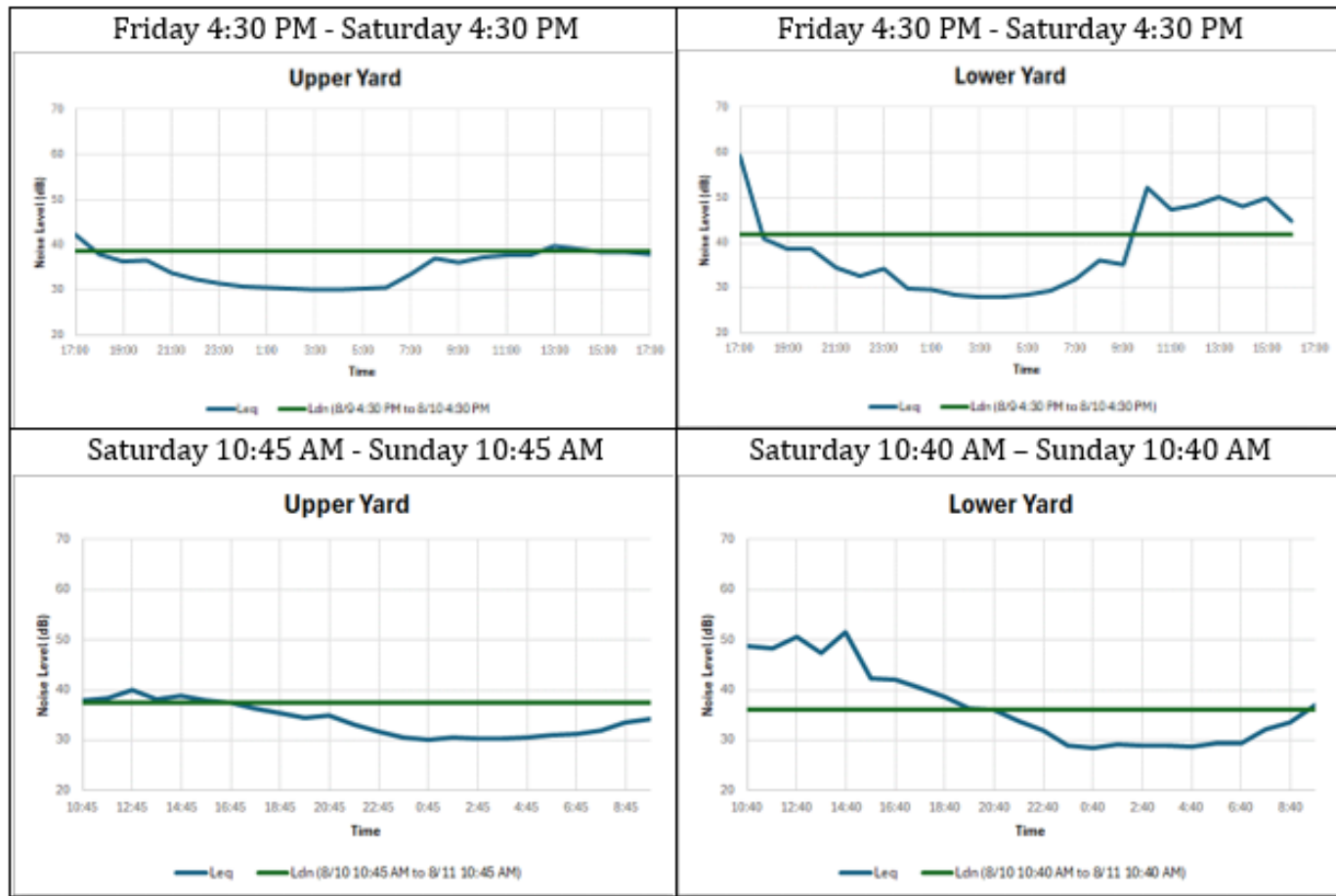


Thursday 4:30 PM - Friday 4:30 PM



Green Line is Ldn





Issues **NOT** Before the Board

- Hours of operation
- **Noise**
 - No allegations in Staff Report that Kernan has violated a noise condition
 - NorthPoint conducted noise testing and determined that Kernan's operations are in compliance (but no mention of this in the Staff Report)
 - No other **evidence** that Kernan has violated a noise condition
- Soil sampling
- CATS lawsuit
- Regional Water Board action



Issues **NOT** Before the Board

- Hours of operation
- Noise
- **Soil sampling**
 - Even though the CUP has been in effect for 23 years, the County has never requested Kernens's screening program.
 - Kernens is **not** required to submit soil tests to the County (as alleged in Staff Report, pp. 11, 12-13)
 - Kernens is **not** required to submit records of material accepted to the County (as alleged in Staff Report, pp. 11, 12-13)

8. The applicant/operator shall have a screening program to ensure that hazardous, designated, contaminated soil or unauthorized wastes are not received. The program shall include screening criteria, laboratory testing by a certified lab when necessary, and record keeping. The program shall be designed and enforced to the satisfaction of the Division of Environmental Health.

- CATS lawsuit
- Regional Water Board action



Issues **NOT** Before the Board

- Hours of operation
- Noise
- Soil sampling
- **CATS lawsuit**
 - Lawsuit settled with **no admission of any violation**
 - Plaintiffs (several neighbors) accepted the settlement in exchange for a cash payment and Kernens' agreement to make changes to how it manages stormwater
- Regional Water Board action



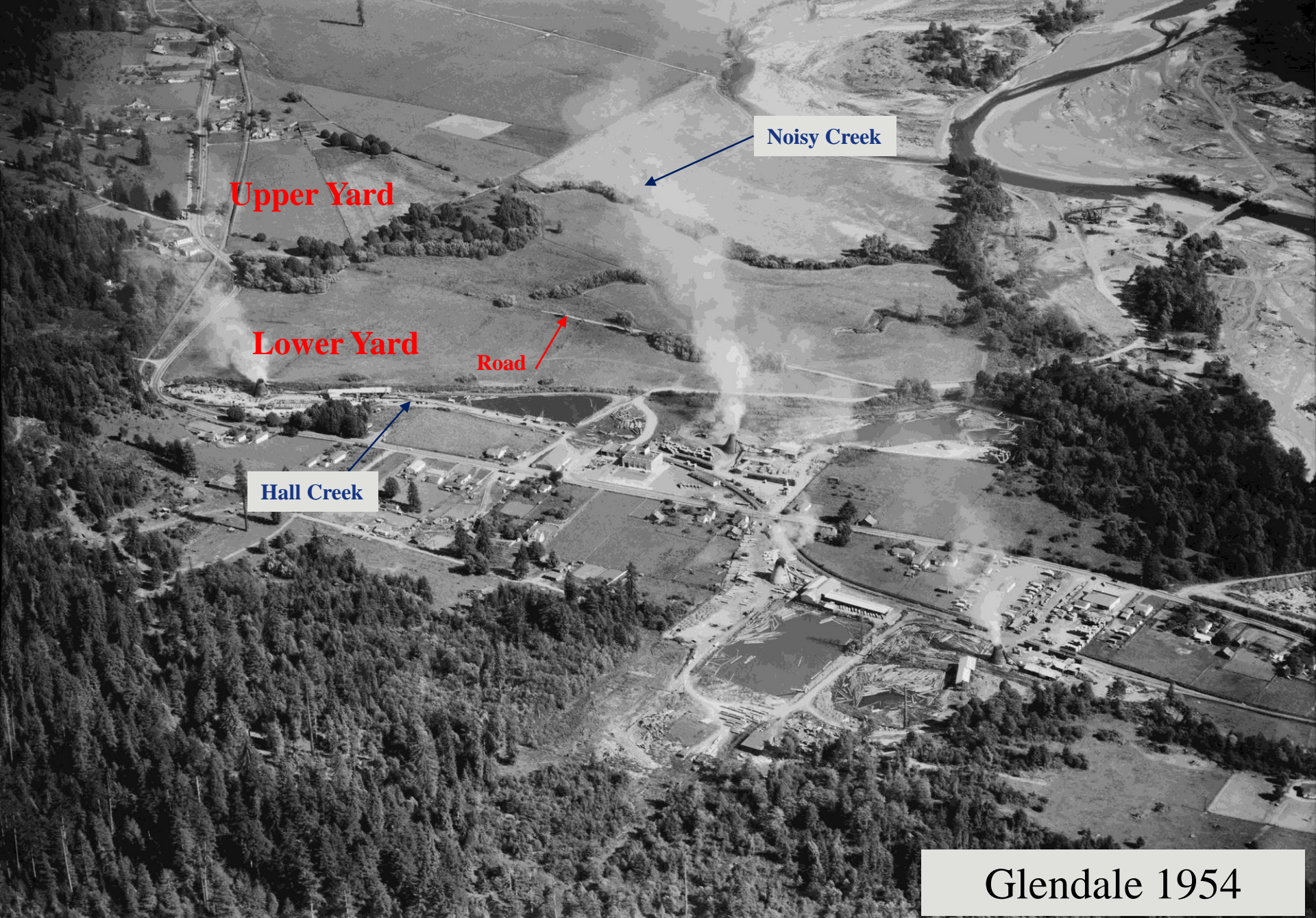
Issues NOT Before the Board

- Hours of operation
- Noise
- Soil sampling
- CATS lawsuit
- **Regional Water Board action**
 - Alleges certain violations related to offsite run-on that entered and exited Kernen's facility, which is not a violation of any law
 - Action is not final, but Kernen is working with the Regional Board to address its concerns



Site History





Upper Yard

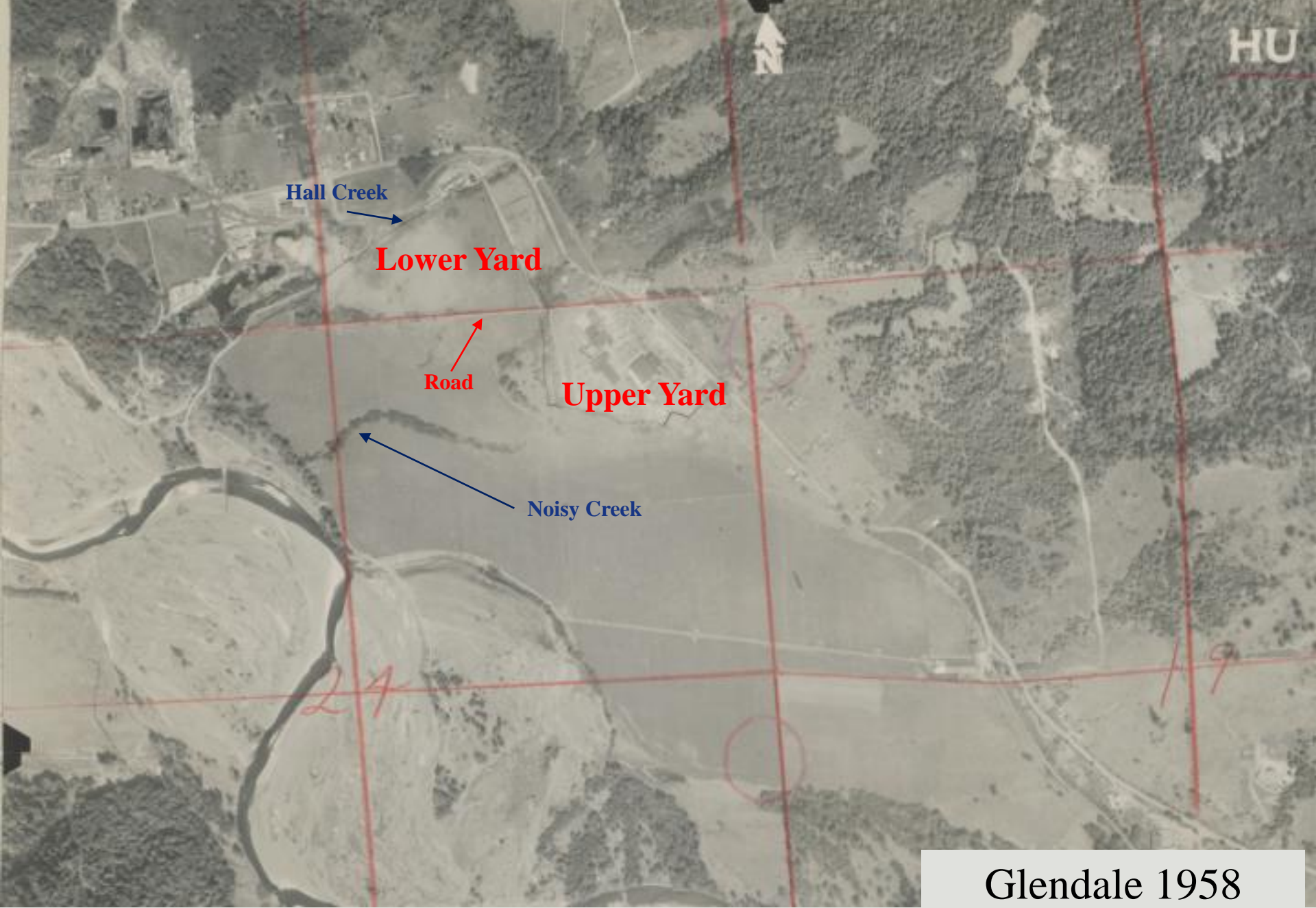
Lower Yard

Road

Noisy Creek

Hall Creek

Glendale 1954



Hall Creek



Lower Yard

Road

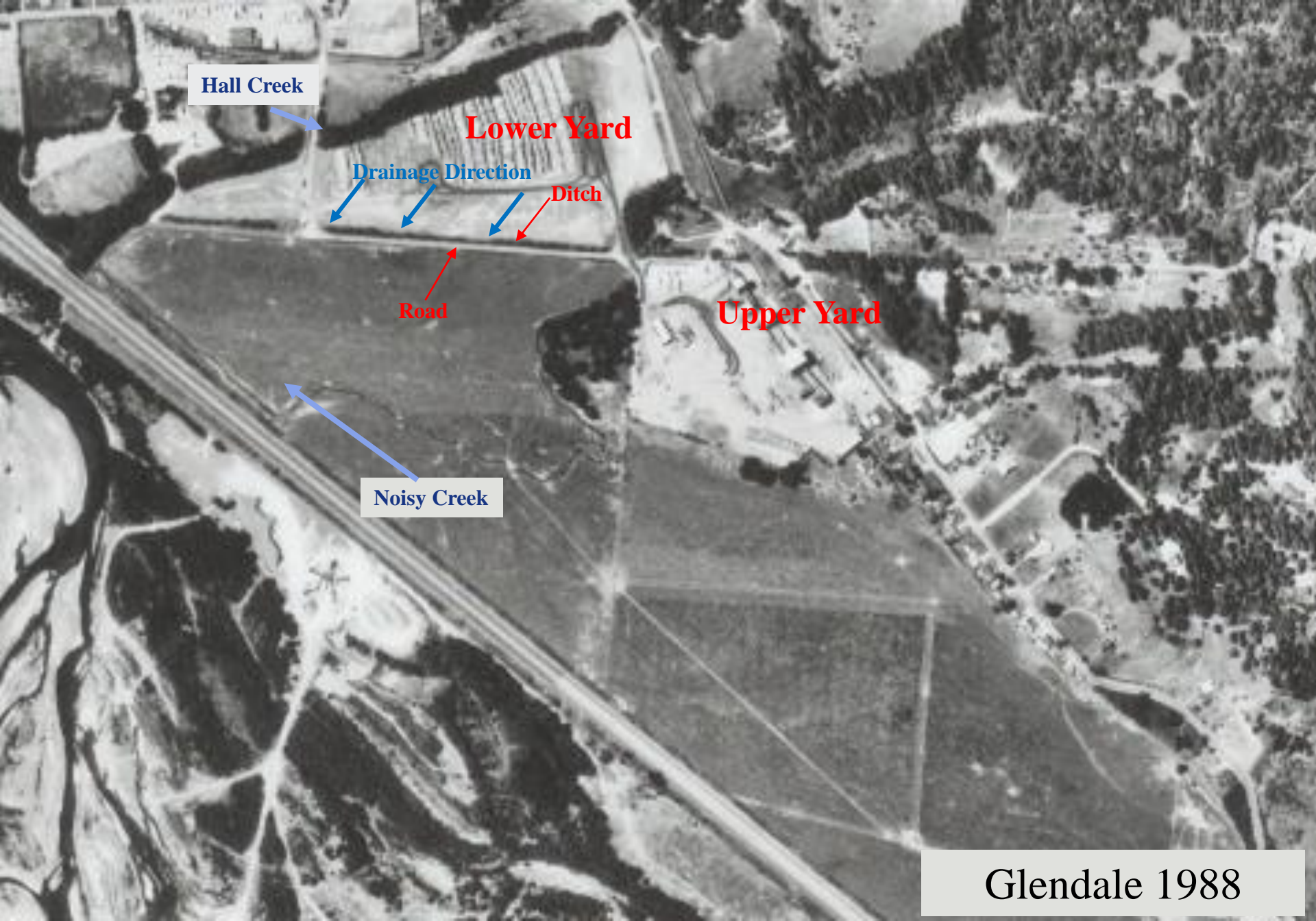


Upper Yard

Noisy Creek



Glendale 1958



Hall Creek

Lower Yard

Drainage Direction

Ditch

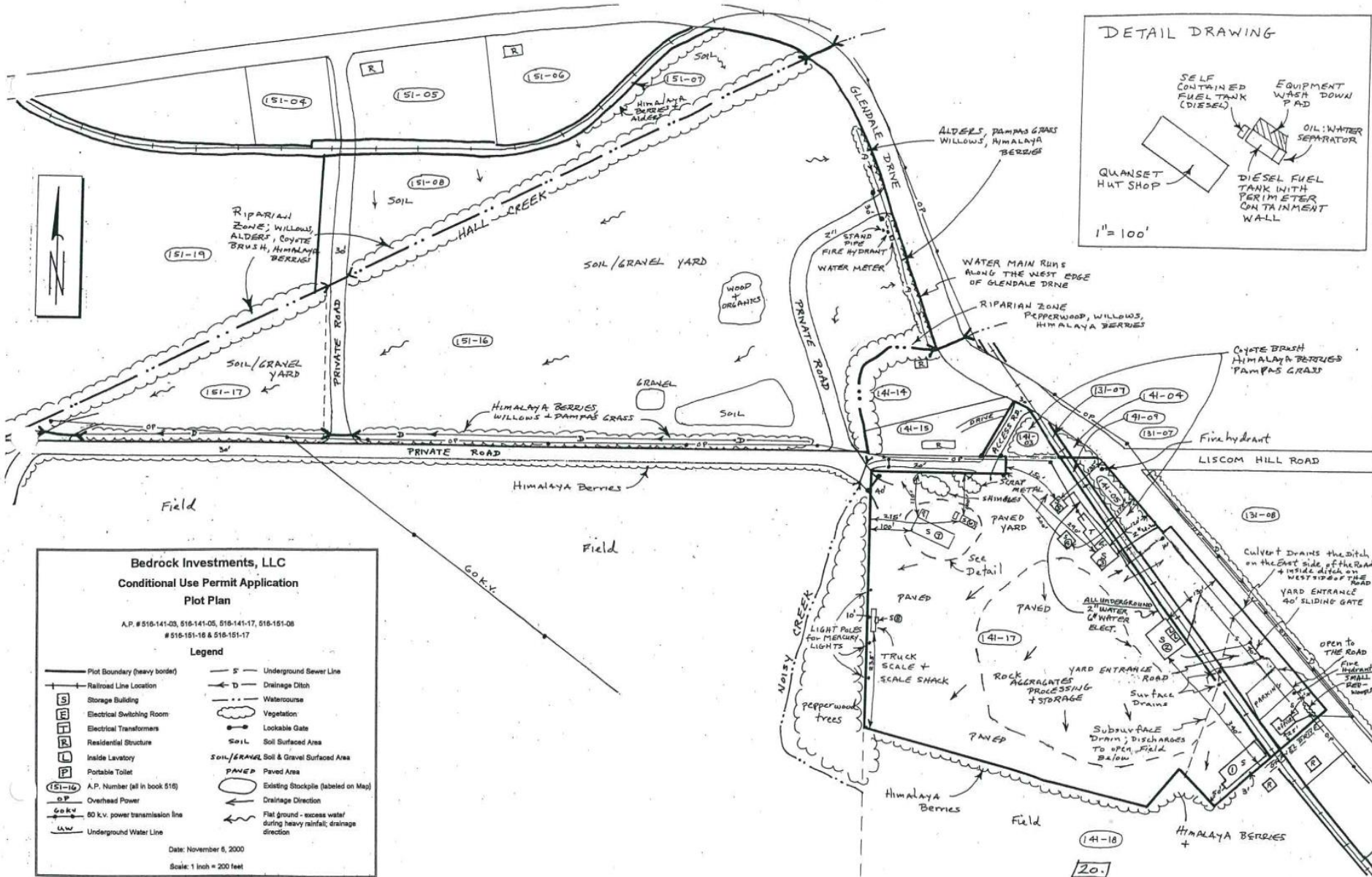
Road

Upper Yard

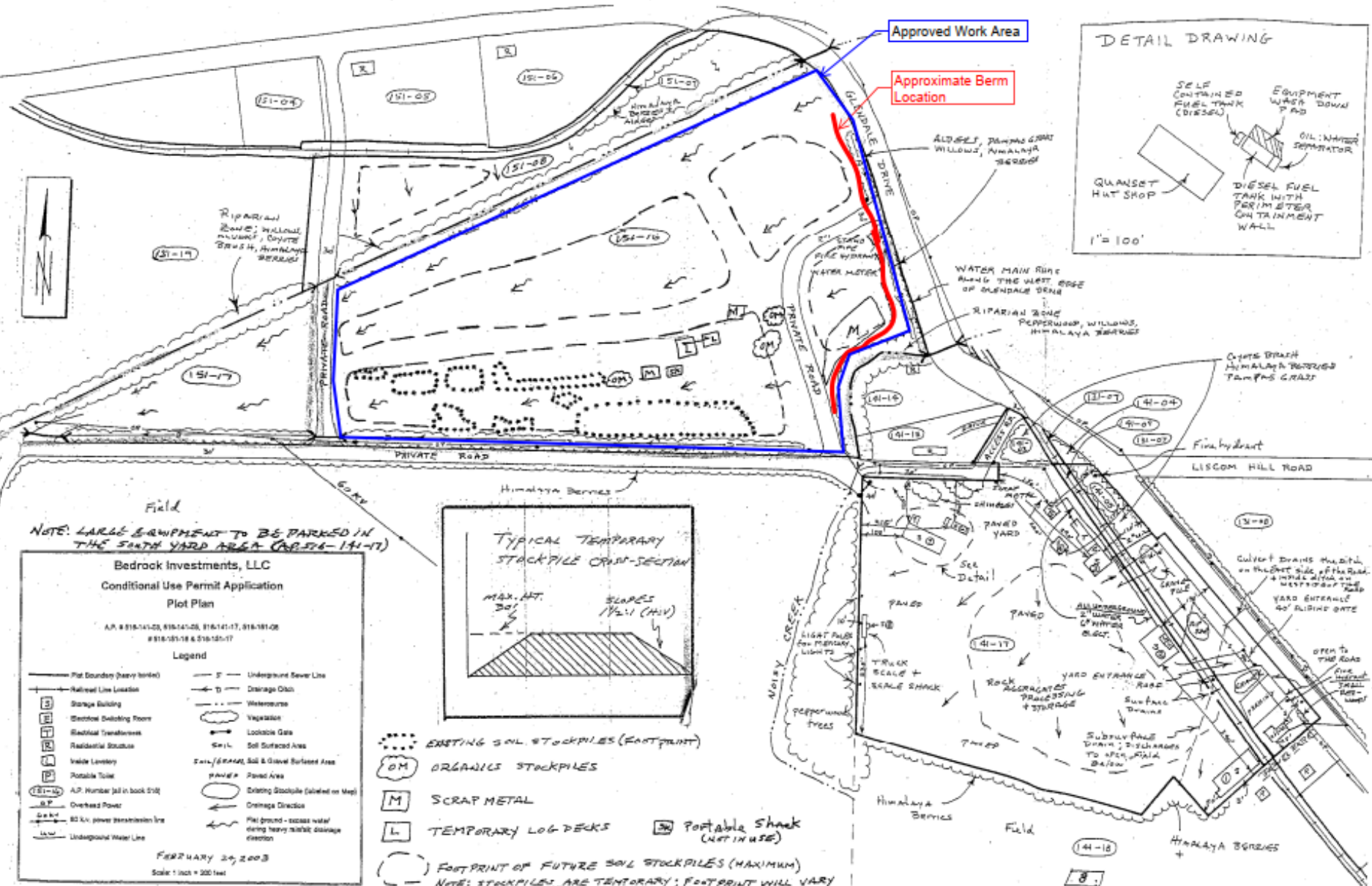
Noisy Creek

Glendale 1988

2000 Existing Conditions Site Map – Use Permit Application Package



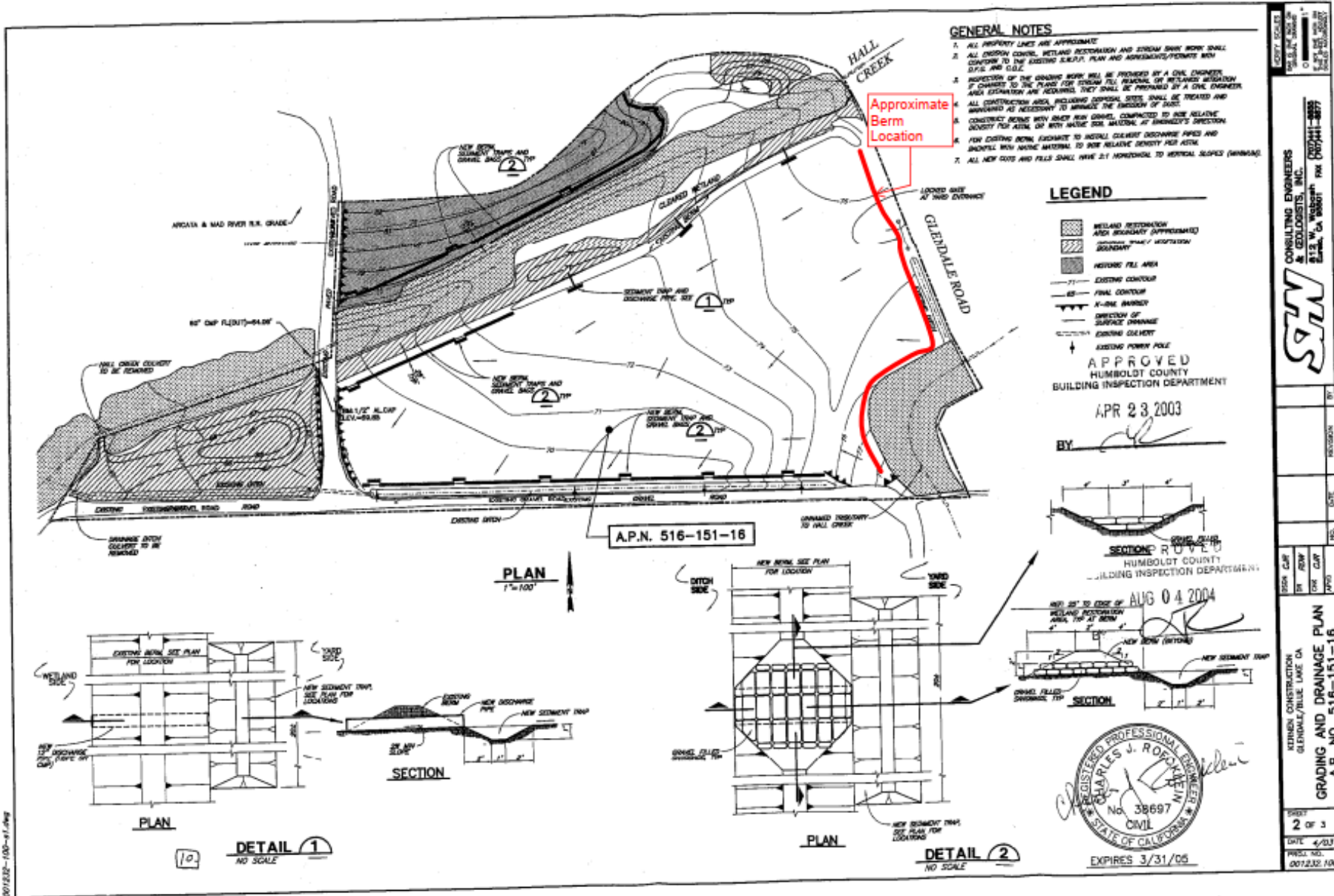
2003 Update Site Map – Submitted and Approved with Grading Permit Application



History of Active North Yard



2003 Grading and Drainage Plan - Approved with Grading Permit Application



KEY
 S.W. CONSULTING ENGINEERS & GEOLOGISTS, INC.
 213 W. WASHINGTON
 SUITE 200
 EUREKA, CA 95501
 PH: (707) 441-3877
 FAX: (707) 441-3878

APPROVED
 HUMBOLDT COUNTY
 BUILDING INSPECTION DEPARTMENT
 APR 23 2003
 BY _____

REGISTERED PROFESSIONAL ENGINEER
 CHARLES J. ROSENBERG
 No. 38697
 CIVIL
 STATE OF CALIFORNIA

EXPIRES 3/31/05

GRADING AND DRAINAGE PLAN
 A.P. NO. 516-151-16

SHOOT
 2 OF 3
 DATE 4/03
 PROJECT NO. 007232-100

NATIONAL FLOOD INSURANCE PROGRAM
ELEVATION CERTIFICATE

O.M.B. No. 3067-0077
 Expires July 31, 2002

Important: Read the instructions on pages 1-7

SECTION A - PROPERTY OWNER INFORMATION

For Insurance Company Use:

BUILDING OWNER'S NAME
 Becrock Investments, LLC

BUILDING STREET ADDRESS (Including Apt., Unit, Suite, and/or Bldg. No.) OR P.O. ROUTE AND BOX NO.
 1760 Glendale Drive (not mailing address)

CITY STATE ZIP CODE
 Blue Lake CA 95521

PROPERTY DESCRIPTION (Lot and Block Numbers, Tax Parcel Number, Legal Description, etc.)
 APN 516-151-16

BUILDING USE (e.g., Residential, Non-residential, Addition, Accessory, etc. Use a Comments area, if necessary)
 Wetland Mitigation, Materials Handling & Stockpiling

LATITUDE/LONGITUDE (OPTIONAL) HORIZONTAL DATUM: SOURCE: GPS (Type): USGS Quad Map Other:

(##° - ##' - ##.##" or ##.#####) NAD 1927 NAD 1983

SECTION B - FLOOD INSURANCE RATE MAP (FIRM) INFORMATION

B1. NFIP COMMUNITY NAME & COMMUNITY NUMBER
 Humboldt County 060060 0620C

B2. COUNTY NAME
 Humboldt

B3. STATE
 CA

B4. MAP AND PANEL NUMBER	B5. SUFFIX	B6. FIRM INDEX DATE	B7. FIRM PANEL EFFECTIVE/REVISED DATE	B8. FLOOD ZONE (S)	B9. BASE FLOOD ELEVATION(S) (Zone AO, use depth of flooding)
060060-0620	C	February 8, 1999	February 8, 1999	A, C	66.3

B10. Indicate the source of the Base Flood Elevation (BFE) data or base flood depth entered in B9.
 FIS Profile FIRM Community Determined Other (Describe): See Comments

B11. Indicate the elevation datum used for the BFE in B9: NGVD 1929 NAVD 1986 Other (Describe):

B12. Is the building located in a Coastal Barrier Resources System (CBRS) area or Otherwise Protected Area (OPA)? Yes No Designation Date

SECTION C - BUILDING ELEVATION INFORMATION (SURVEY REQUIRED)

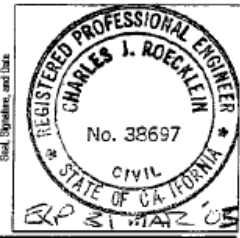
C1. Building elevations are based on: Construction Drawings* Building Under Construction* Finished Construction
 *A new Elevation Certificate will be required when construction of the building is complete.

C2. Building Diagram Number #1 (Select the building diagram most similar to the building for which this certificate is being completed - see pages 6 and 7. If no diagram accurately represents the building, provide a sketch or photograph.)

C3. ELEVATIONS - ZONES A1-A30, AE, AH, A (WITH BFE), VE, V1-V30, V (WITH BFE), AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO
 Complete items C3.a-l below according to the building diagram specified in item C2. State the datum used. If datum is different from the datum used for the BFE in Section B, convert the datum to that used for the BFE. Show field measurements and datum conversion calculation. Use the space provided or the Comments area of Section D or Section G, as appropriate, to document the datum conversion.
 Datum NGVD 1929 Conversion/Comments SAME DATUM AS SECTION B

Elevation reference mark used HWM D-27 Does the elevation reference mark used appear on the FIRM? Yes No

<input type="checkbox"/> a) Top of bottom floor (including basement or enclosure)	N/A	ft.(m)
<input type="checkbox"/> b) Top of next higher floor	N/A	ft.(m)
<input type="checkbox"/> c) Bottom of lowest horizontal structural member (V zones only)	N/A	ft.(m)
<input type="checkbox"/> d) Attached garage (top of slab)	N/A	ft.(m)
<input type="checkbox"/> e) Lowest elevation of machinery and/or equipment servicing the building (Describe in a Comments area)	N/A	ft.(m)
<input checked="" type="checkbox"/> f) Lowest adjacent (finished) grade (LAG)	59	0 ft.(m) (See
<input checked="" type="checkbox"/> g) Highest adjacent (finished) grade (HAG)	78	0 ft.(m) Comments)
<input type="checkbox"/> h) No. of permanent openings (flood vents) within 1 ft. above adjacent grade	N/A	
<input type="checkbox"/> i) Total area of all permanent openings (flood vents) in C3.h	N/A	sq. in. (sq. cm)



SECTION D - SURVEYOR, ENGINEER, OR ARCHITECT CERTIFICATION

This certification is to be signed and sealed by a land surveyor, engineer, or architect authorized by law to certify elevation information.
 I certify that the information in Sections A, B, and C on this certificate represents my best efforts to interpret the data available.
 I understand that any false statement may be punishable by fine or imprisonment under 18 U.S. Code, Section 1001.

CERTIFIER'S NAME CHARLES J. ROECKLEIN LICENSE NUMBER RCE 38697

TITLE SENIOR CIVIL ENGINEER COMPANY NAME SHN Consulting Engineers & Geologists, Inc.

ADDRESS 812 W. WABASH CITY Eureka STATE CA ZIP CODE 95501

SIGNATURE [Signature] DATE 4/8/03 TELEPHONE 707/441-8855





299

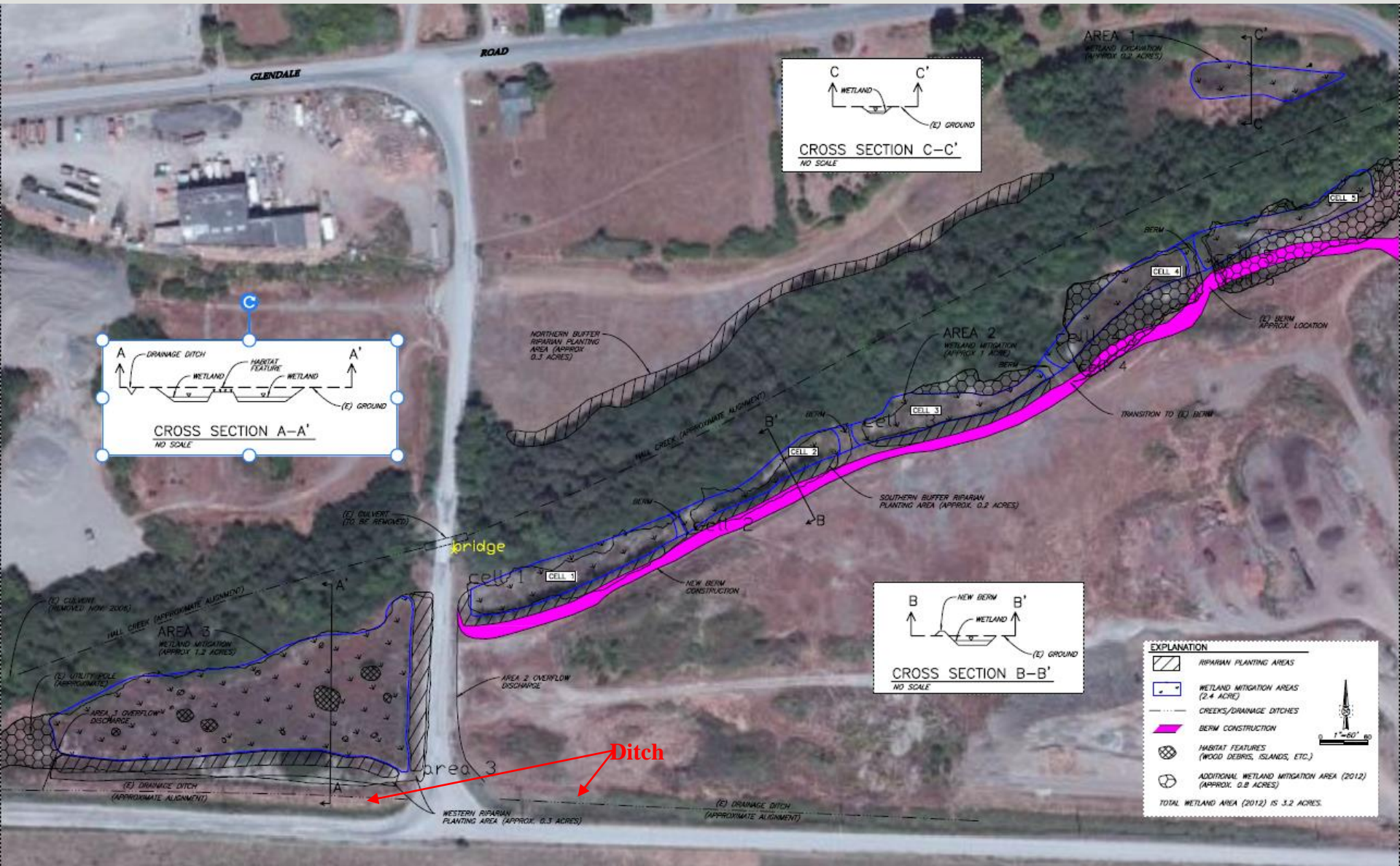
Google Earth

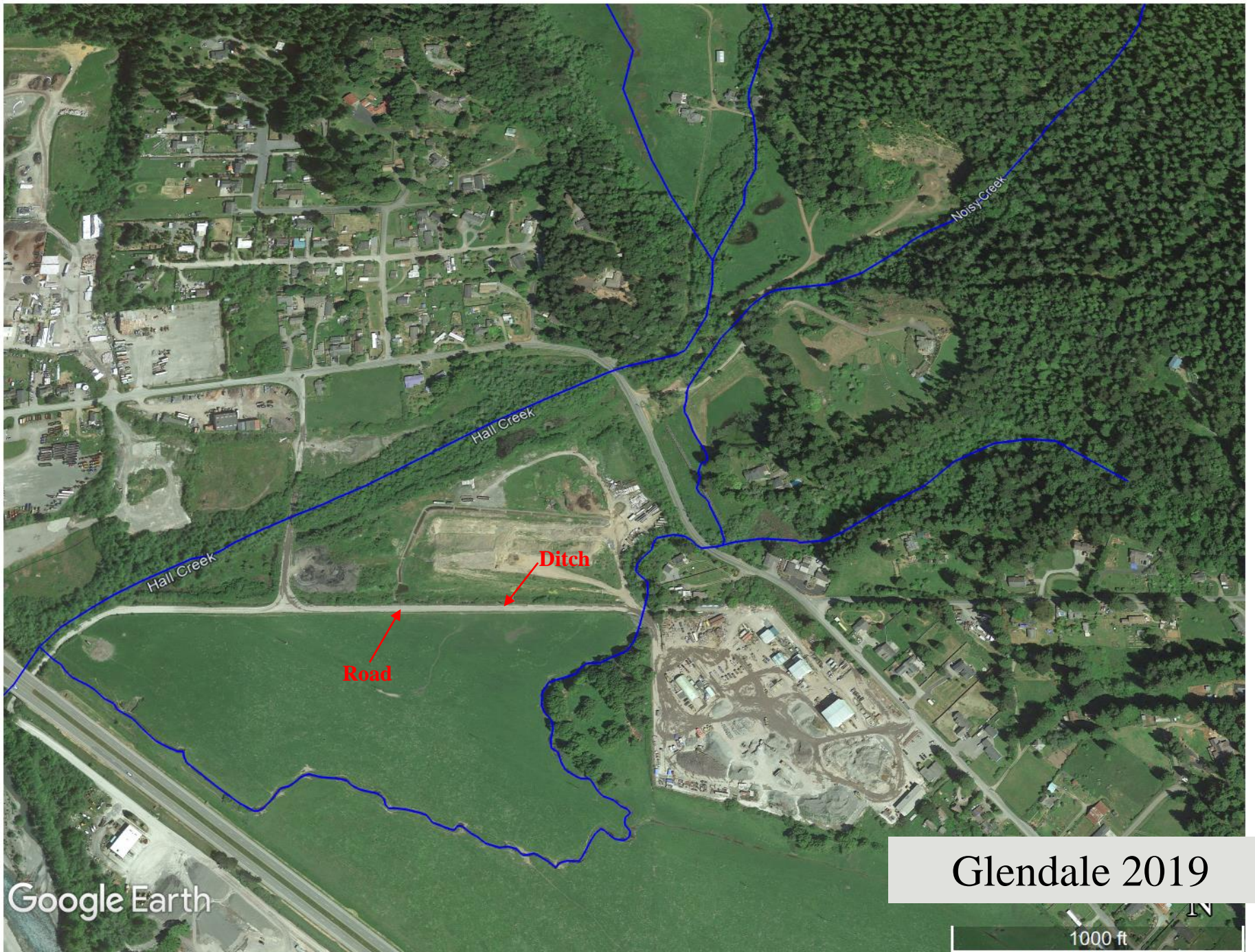
Image © 2024 Maxar Technologies
www.maxar.com

Glendale 2003

1000 ft

2007 Wetland Mitigation and Fill Project – As-Built



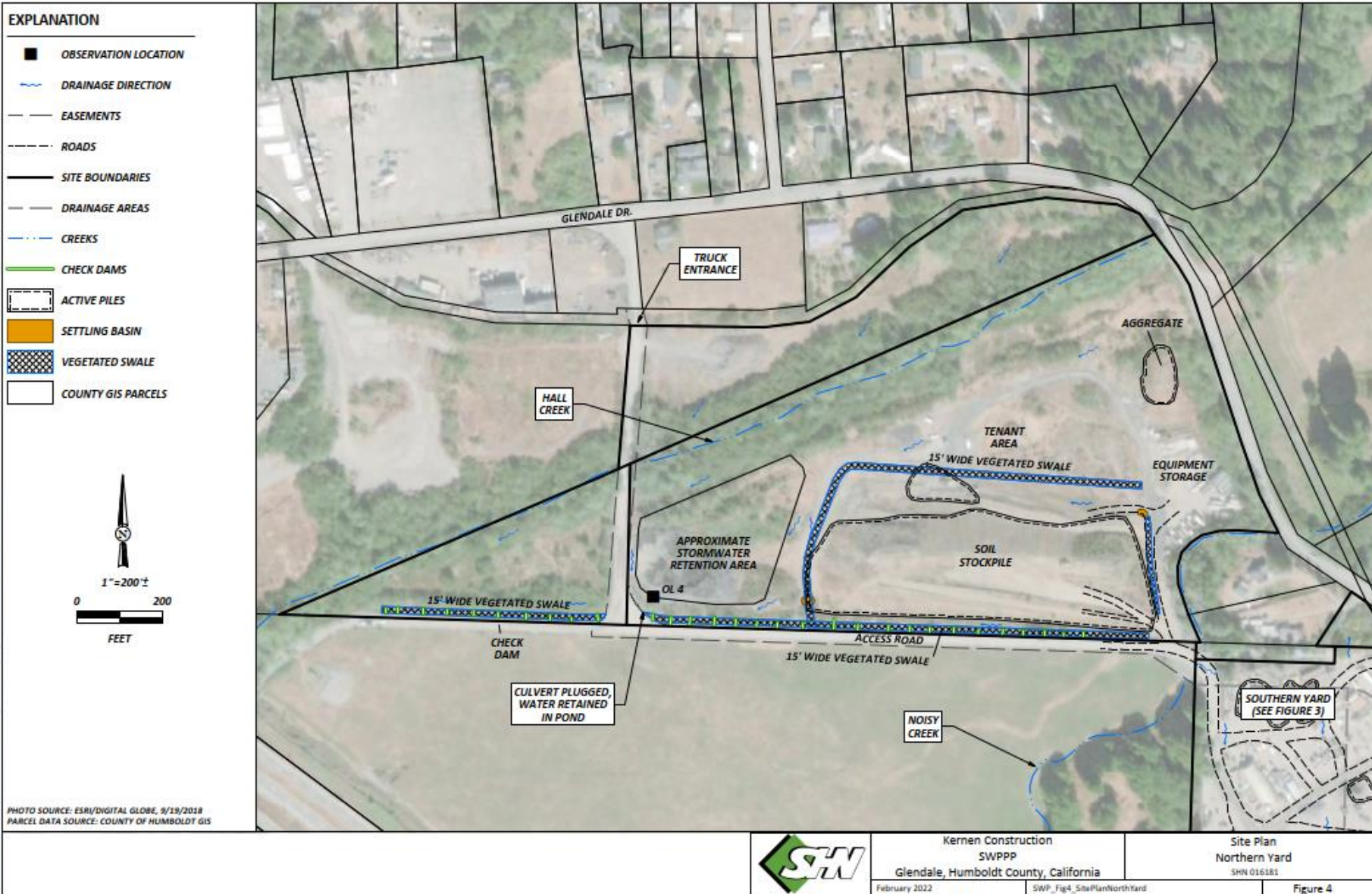


Google Earth

Glendale 2019

1000 ft

2022 SWPPP Map



August 2024 – Pre-Berm



October 2024 – Post Berm



August 2024 – Pre-Berm





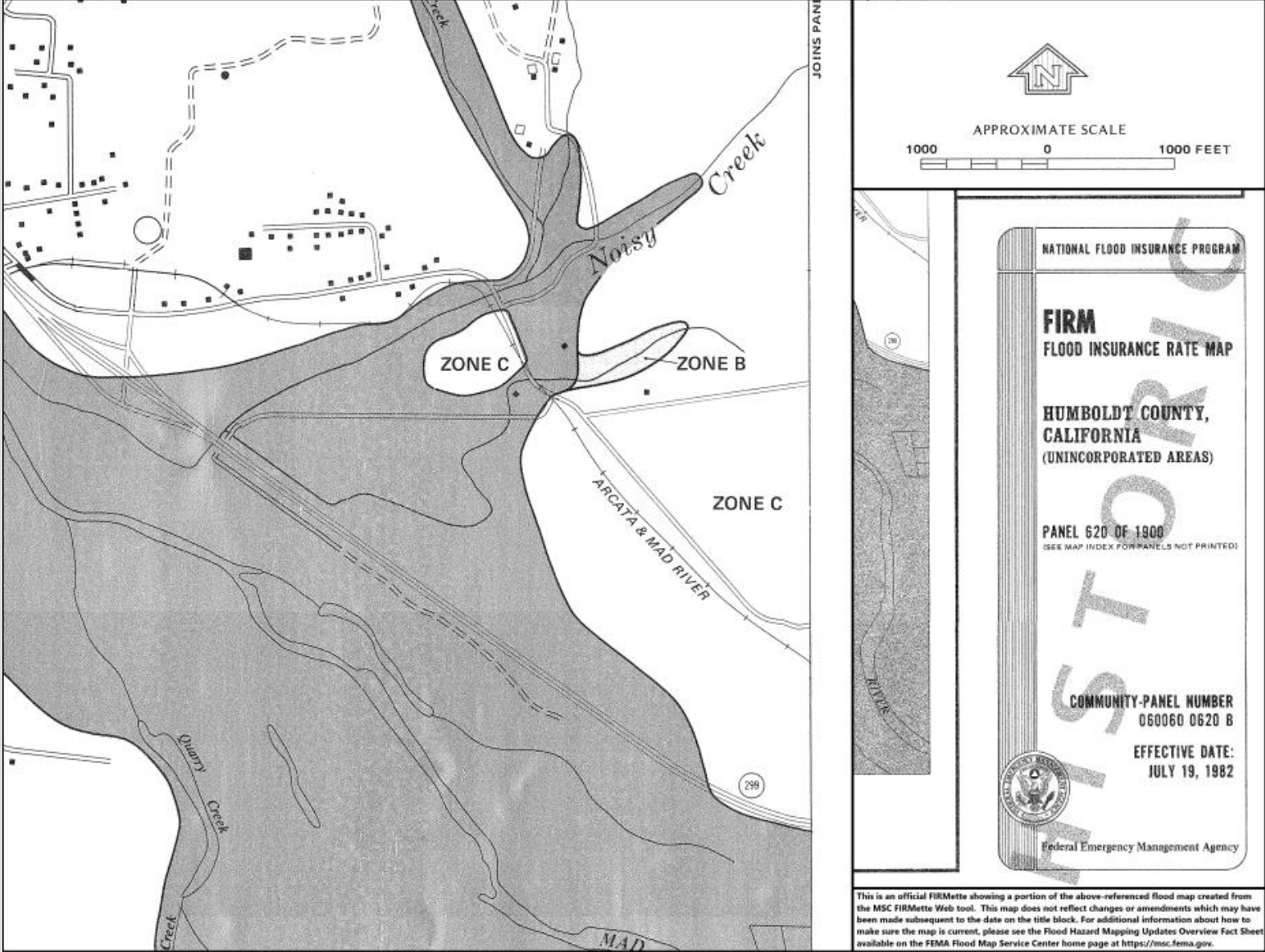




Site is Not in a Regulated Floodplain



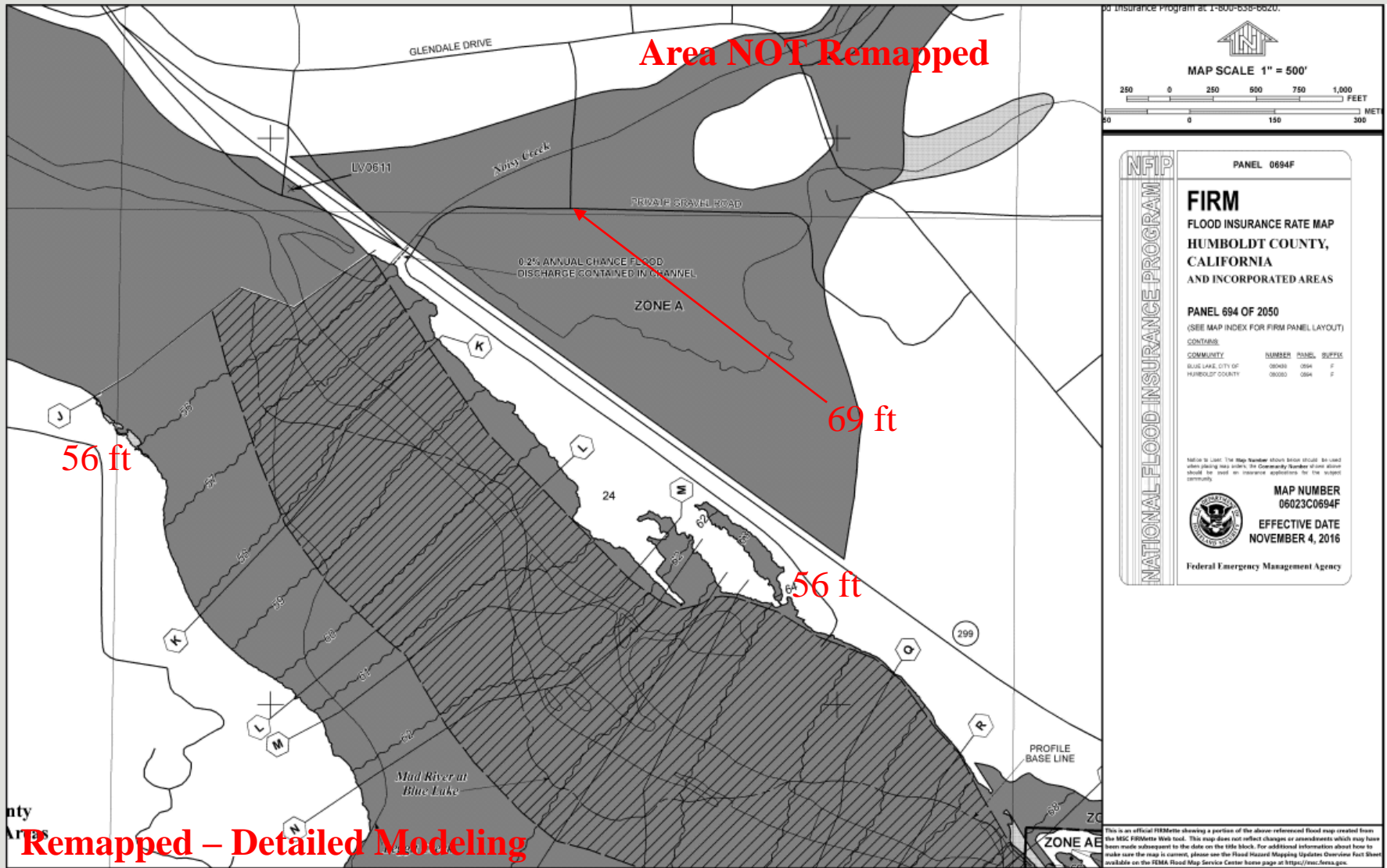
Original FIRM 1982



This is an official FIRMette showing a portion of the above-referenced flood map created from the MSC FIRMette Web tool. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For additional information about how to make sure the map is current, please see the Flood Hazard Mapping Updates Overview Fact Sheet available on the FEMA Flood Map Service Center home page at <https://msc.fema.gov>.



Current FIRM 2016



NATIONAL FLOOD INSURANCE PROGRAM
ELEVATION CERTIFICATE

O.M.B. No. 3067-0077
 Expires July 31, 2002

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 Becrock Investments, LLC

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 1760 Glendale Drive (not mailing address)

CITY STATE ZIP CODE
 Blue Lake CA 95521

PROPERTY DESCRIPTION (Lot and Block Numbers, Tax Parcel Number, Legal Description, etc.)
 APN 516-151-16

BUILDING USE (e.g., Residential, Non-residential, Addition, Accessory, etc. Use a Comments area, if necessary)
 Wetland Mitigation, Materials

LATITUDE/LONGITUDE (OPTIONAL)
 (##° - ##' - ##.##" or ##.###")

Converts to 69.6 ft Current Datum NAVD88

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B1. NFIP COMMUNITY NAME & COMMUNITY NUMBER
 Humboldt County 060060 0620C

B2. COUNTY NAME
 Humboldt

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B4. MAP AND PANEL NUMBER	B5. SUFFIX	B6. FIRM INDEX DATE	B7. FIRM PANEL EFFECTIVE/REVISED DATE	B8. FLOOD ZONE (S)	B9. BASE FLOOD ELEVATION(S) (Zone AO, use depth of flooding)
060060-0620	C	February 8, 1999	February 8, 1999	A, C	66.3

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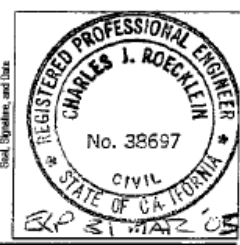
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C3. ELEVATIONS - ZONES A1-A30, AE, AH, A (WITH BFE), VE, V1-V30, V (WITH BFE), AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO
 Complete items C3.a-l below according to the building diagram specified in item C2. State the datum used. If datum is different from the datum used for the BFE in Section B, convert the datum to that used for the BFE. Show field measurements and datum conversion calculation. Use the space provided or the Comments area of Section D or Section G, as appropriate, to document the datum conversion.
 Datum NGVD 1929 Conversion/Comments SAME DATUM AS SECTION B

Elevation reference mark used HWM D-27 Does the elevation reference mark used appear on the FIRM? Yes No

<input type="checkbox"/> a) Top of bottom floor (including basement or enclosure)	N/A	ft.(m)
<input type="checkbox"/> b) Top of next higher floor	N/A	ft.(m)
<input type="checkbox"/> c) Bottom of lowest horizontal structural member (V zones only)	N/A	ft.(m)
<input type="checkbox"/> d) Attached garage (top of slab)	N/A	ft.(m)
<input type="checkbox"/> e) Lowest elevation of machinery and/or equipment servicing the building (Describe in a Comments area)	N/A	ft.(m)
<input checked="" type="checkbox"/> f) Lowest adjacent (finished) grade (LAG)	69	0 ft.(m) (See
<input checked="" type="checkbox"/> g) Highest adjacent (finished) grade (HAG)	78	0 ft.(m) Comments)
<input type="checkbox"/> h) No. of permanent openings (flood vents) within 1 ft. above adjacent grade	N/A	
<input type="checkbox"/> i) Total area of all permanent openings (flood vents) in C3.h	N/A	sq. in. (sq. cm)



SECTION D - SURVEYOR, ENGINEER, OR ARCHITECT CERTIFICATION

This certification is to be signed and sealed by a land surveyor, engineer, or architect authorized by law to certify elevation information.
 I certify that the information in Sections A, B, and C on this certificate represents my best efforts to interpret the data available.
 I understand that any false statement may be punishable by fine or imprisonment under 18 U.S. Code, Section 1001.

CERTIFIER'S NAME CHARLES J. ROECKLEIN LICENSE NUMBER RCE 38697

TITLE SENIOR CIVIL ENGINEER COMPANY NAME SHN Consulting Engineers & Geologists, Inc.

ADDRESS 812 W. WABASH CITY Eureka STATE CA ZIP CODE 95501

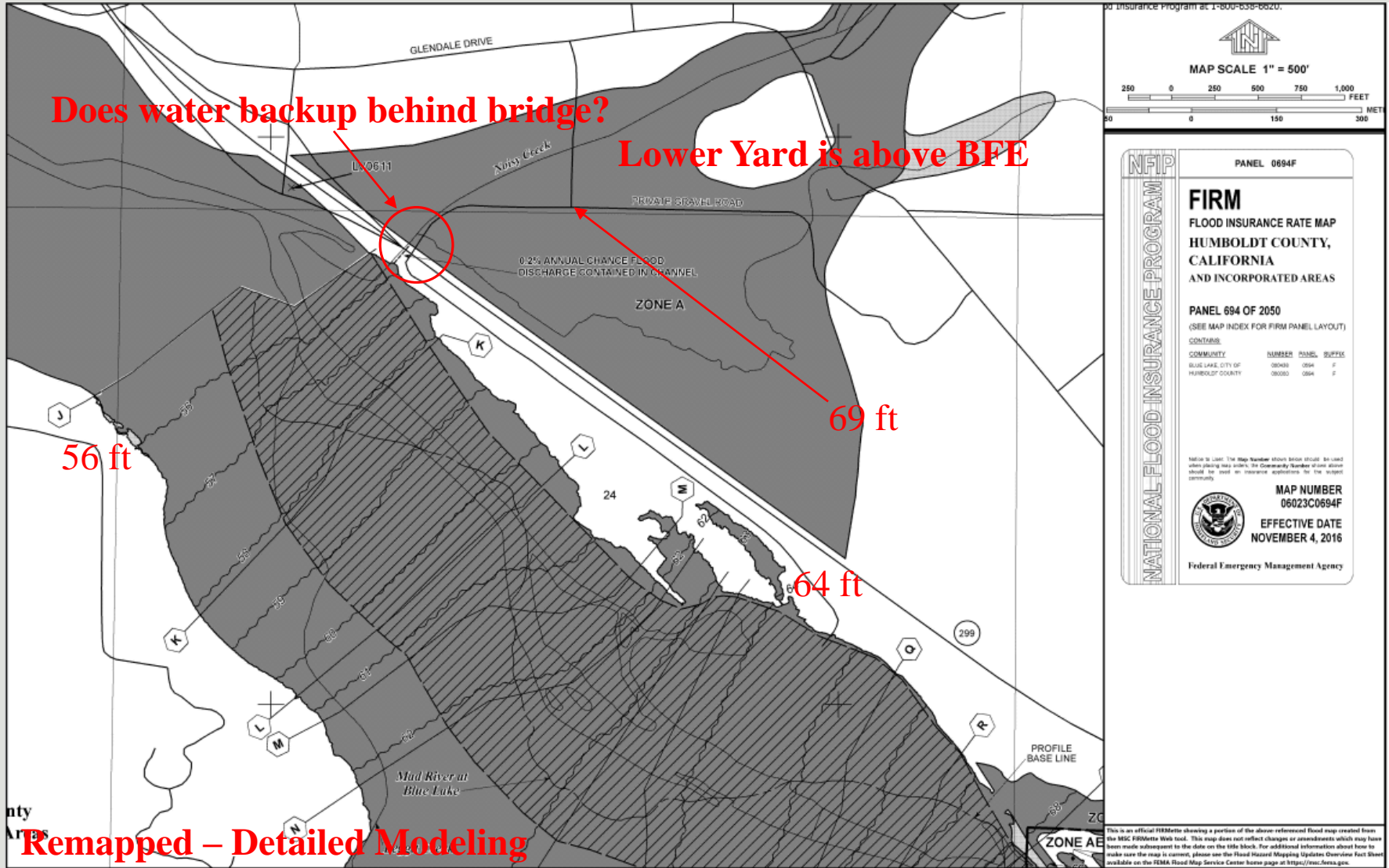
SIGNATURE *Charles J. Roecklein* DATE 4/8/03 TELEPHONE 707/441-8855



IMPORTANT: In these spaces, copy the corresponding information from Section A.			For Insurance Company Use:
BUILDING STREET ADDRESS (including Apt., Unit, Suite, and/or Bldg. No.) OR P.O. ROUTE AND BOX NO. 1760 Glendale Drive (not mailing address)			Policy Number
CITY Blue Lake	STATE CA	ZIP CODE 95521	Company NAIC Number
SECTION D - SURVEYOR, ENGINEER, OR ARCHITECT CERTIFICATION (CONTINUED)			
Copy both sides of this Elevation Certificate for (1) community official, (2) insurance agency/company, and (3) building owner.			
COMMENTS			
B10. High water mark data for Mad River, Flood of December 1964 Corps of Engineers, HWM D-27.			
C3 f, g. Area to be graded is above base flood elevation.			
<input type="checkbox"/> Check here if attachments			
SECTION E - BUILDING ELEVATION INFORMATION (SURVEY NOT REQUIRED) FOR ZONE AO AND ZONE A (WITHOUT BFE)			
For Zone AO and Zone A (without BFE), complete items E1 through E4. If the Elevation Certificate is intended for use as supporting information for a LOMA or LOMR-F, Section C must be completed.			
E1. Building Diagram Number _____ (Select the building diagram most similar to the building for which this certificate is being completed - see pages 6 and 7. If no diagram accurately represents the building, provide a sketch or photograph.)			
E2. The top of the bottom floor (including basement or enclosure) of the building is _____ ft.(m) _____ (cm) <input type="checkbox"/> above or <input type="checkbox"/> below (check one) the highest adjacent grade. (Use natural grade, if available.)			
E3. For Building Diagrams 5-8 with openings (see page 7), the next higher floor or elevated floor (elevation b) of the building is _____ ft.(m) _____ (cm) above the highest adjacent grade. Complete items C3.h and C3.i on front of form.			
E4. For Zone AO only: If no flood depth number is available, is the top of the bottom floor elevated in accordance with the community's floodplain management ordinance? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown. The local official must certify this information in Section G.			
SECTION F - PROPERTY OWNER (OR OWNER'S REPRESENTATIVE) CERTIFICATION			
The property owner or owner's authorized representative who completes Sections A, B, C (Items C3.h and C3.i only), and E for Zone A (without a FEMA-issued or community-issued BFE) or Zone AO must sign here. The statements in Sections A, B, C, and E are correct to the best of my knowledge.			
PROPERTY OWNER'S OR OWNER'S AUTHORIZED REPRESENTATIVE'S NAME			
ADDRESS	CITY	STATE	ZIP CODE
SIGNATURE	DATE	TELEPHONE	
COMMENTS			
<input type="checkbox"/> Check here if attachments			
SECTION G - COMMUNITY INFORMATION (OPTIONAL)			
The local official who is authorized by law or ordinance to administer the community's floodplain management ordinance can complete Sections A, B, C (or E), and G of this Elevation Certificate. Complete the applicable item(s) and sign below.			
G1. <input type="checkbox"/> The information in Section C was taken from other documentation that has been signed and embossed by a licensed surveyor, engineer, or architect who is authorized by state or local law to certify elevation information. (Indicate the source and date of the elevation data in the Comments area below.)			
G2. <input type="checkbox"/> A community official completed Section E for a building located in Zone A (without a FEMA-issued or community-issued BFE) or Zone AO.			
G3. <input checked="" type="checkbox"/> The following information (Items G4-G9) is provided for community floodplain management purposes.			
G4. PERMIT NUMBER	G5. DATE PERMIT ISSUED	G6. DATE CERTIFICATE OF COMPLIANCE/OCCUPANCY ISSUED	
G7. <input type="checkbox"/> This permit has been issued for: <input type="checkbox"/> New Construction <input type="checkbox"/> Substantial Improvement			
G8. <input type="checkbox"/> Elevation of as-built lowest floor (including basement) of the building is:	69.0 ft.(m)		Date: NOV 2003
G9. <input type="checkbox"/> BFE or (in Zone AO) depth of flooding at the building site is:	66.2 ft.(m)		Date: NOV 2003
LOCAL OFFICIAL'S NAME	TITLE		
COMMUNITY NAME	TELEPHONE		
SIGNATURE	DATE		
COMMENTS			
<input type="checkbox"/> Check here if attachments			



Current FIRM 2016

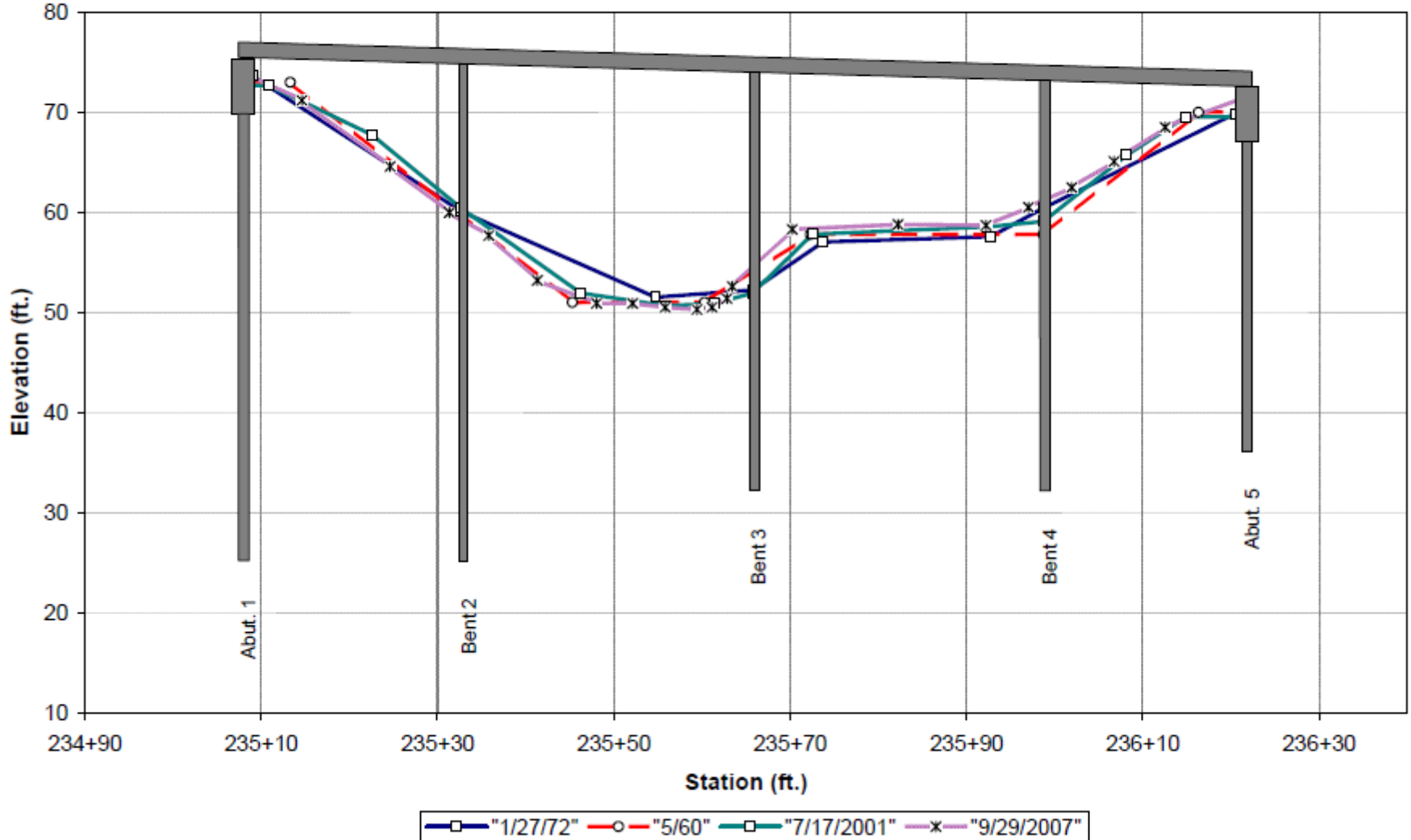


Remapped – Detailed Modeling

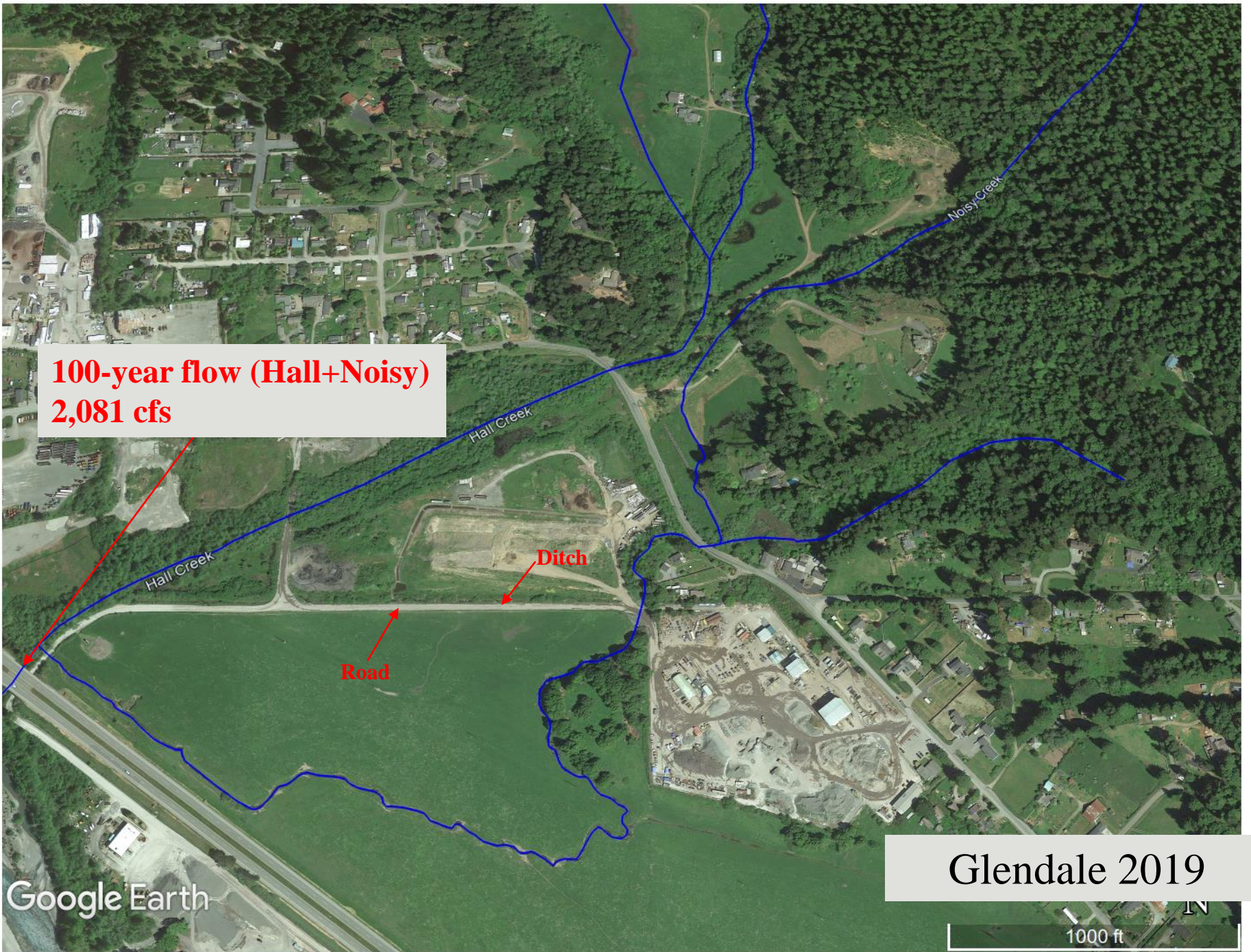


Mill Creek - Upstream

Obtained Hall Creek bridge cross-section from Caltrans (AKA Mill Creek)



**100-year flow (Hall+Noisy)
2,081 cfs**



Glendale 2019

Mill Creek Bridge Cross-Section

User-defined

Invert Elev (ft) = 51.00
 Slope (%) = 0.70
 N-Value = 0.035

Calculations

Compute by: Known Q
 Known Q (cfs) = 2081.00

Highlighted

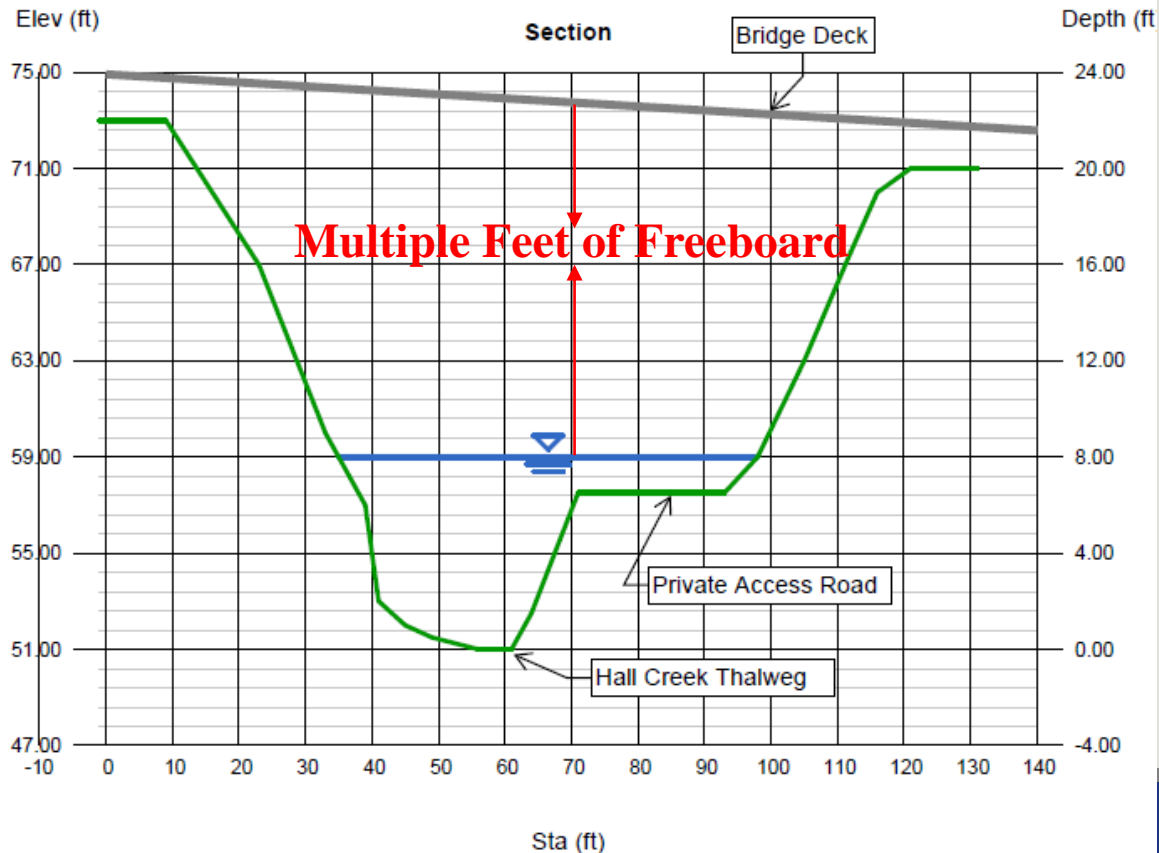
Depth (ft) = 8.00
 Q (cfs) = 2,081
 Area (sqft) = 247.76
 Velocity (ft/s) = 8.40
 Wetted Perim (ft) = 68.29
 Crit Depth, Yc (ft) = 7.21
 Top Width (ft) = 63.00
 EGL (ft) = 9.10

(Sta, El, n)-(Sta, El, n)...

(9.00, 73.00)-(23.00, 67.00, 0.035)-(33.00, 60.00, 0.035)-(39.00, 57.00, 0.035)-(41.00, 53.00, 0.035)-(45.00, 52.00, 0.035)-(49.00, 51.50, 0.035)
 -(56.00, 51.00, 0.035)-(61.00, 51.00, 0.035)-(64.00, 52.50, 0.035)-(71.00, 57.50, 0.035)-(93.00, 57.50, 0.035)-(98.00, 59.00, 0.035)-(105.00, 63.00, 0.035)
 -(112.00, 67.50, 0.035)-(116.00, 70.00, 0.035)-(121.00, 71.50, 0.035)

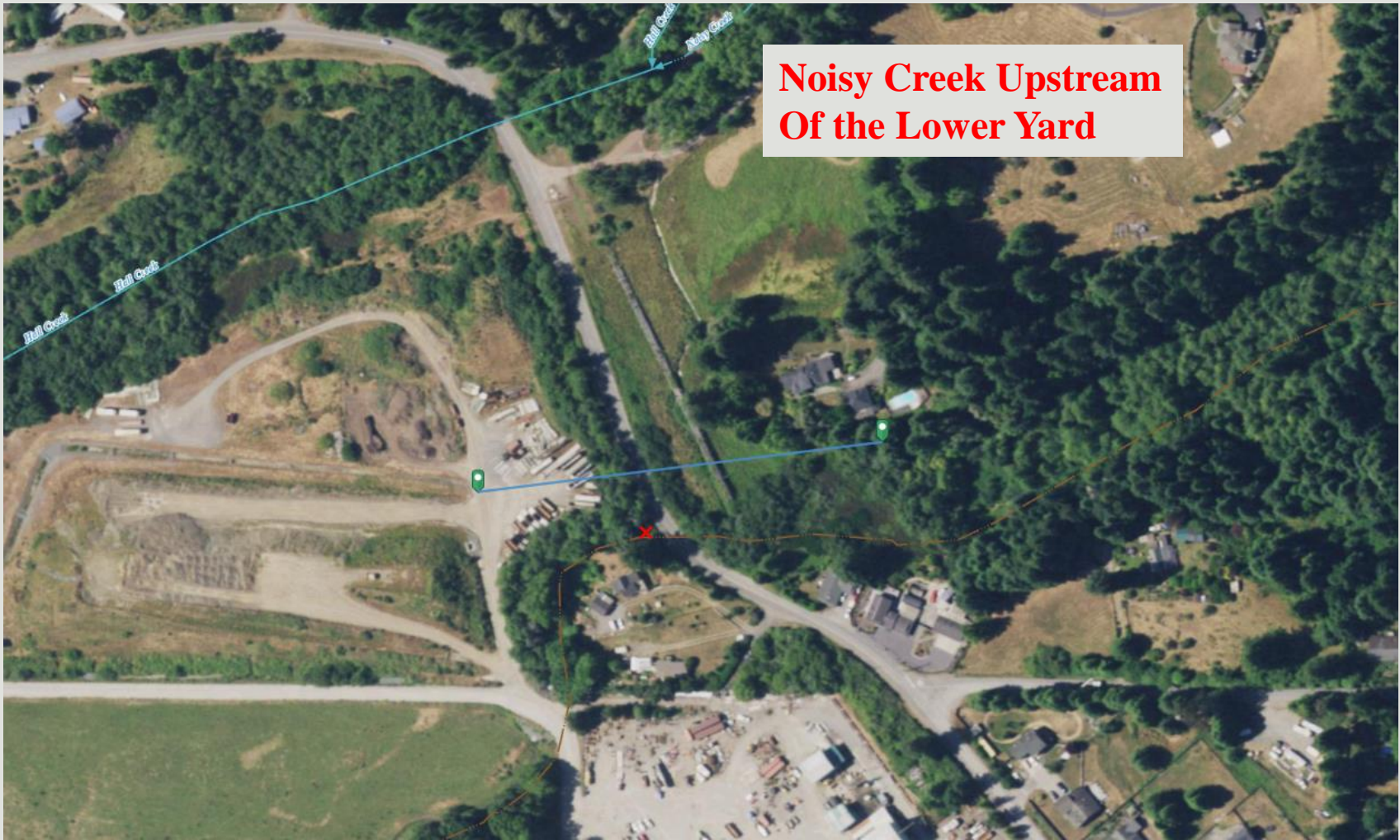
100-year flow (Hall+Noisy)

Hall Creek - Looking Upstream





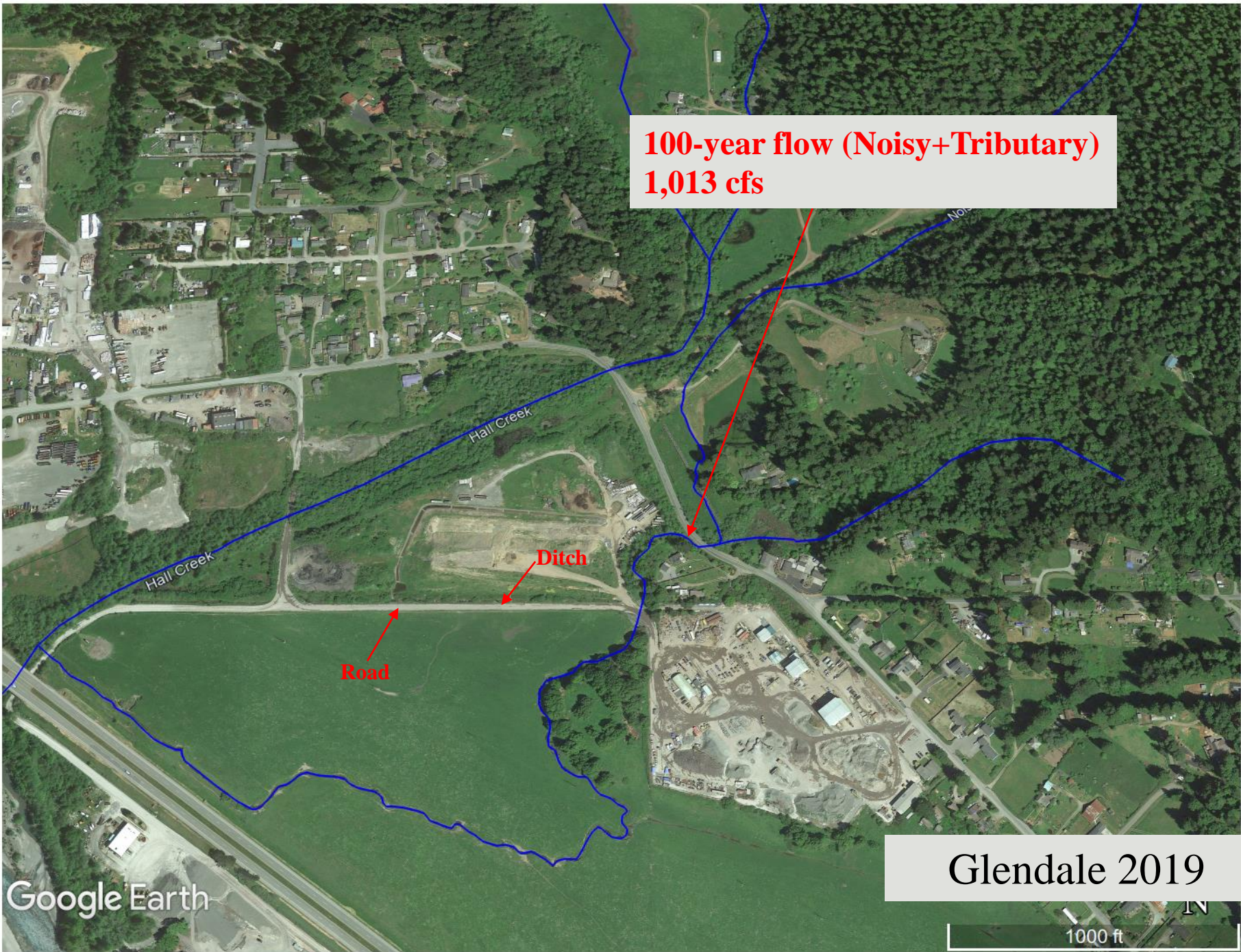




**Noisy Creek Upstream
Of the Lower Yard**



**100-year flow (Noisy+Tributary)
1,013 cfs**



Google Earth

Glendale 2019

1000 ft



Glendale Cross-Section with Existing Conditions

User-defined

Invert Elev (ft) = 80.15
 Slope (%) = 1.80
 N-Value = 0.035

Calculations

Compute by: Known Q
 Known Q (cfs) = 1013.00

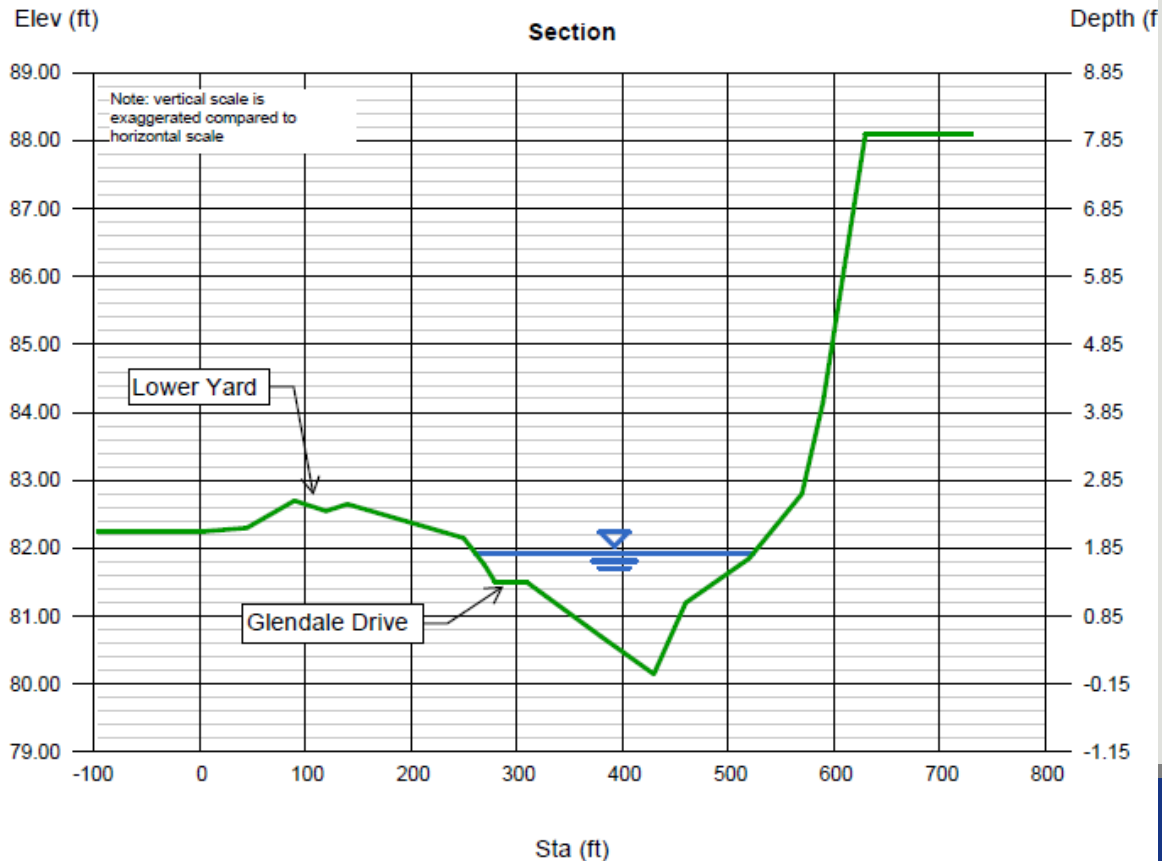
Highlighted

Depth (ft) = 1.77
 Q (cfs) = 1,013
 Area (sqft) = 209.60
 Velocity (ft/s) = 4.83
 Wetted Perim (ft) = 262.22
 Crit Depth, Yc (ft) = 1.75
 Top Width (ft) = 262.18
 EGL (ft) = 2.13

(Sta, El, n)-(Sta, El, n)...

(5.00, 82.25)-(45.00, 82.30, 0.035)-(90.00, 82.70, 0.035)-(120.00, 82.55, 0.035)-(140.00, 82.85, 0.035)-(250.00, 82.15, 0.035)-(270.00, 81.75, 0.035)
 -(280.00, 81.50, 0.035)-(310.00, 81.50, 0.035)-(380.00, 80.70, 0.035)-(430.00, 80.15, 0.035)-(480.00, 81.20, 0.035)-(520.00, 81.85, 0.035)-(570.00, 82.80, 0.035)
 -(590.00, 84.15, 0.035)-(630.00, 88.10, 0.035)

Cross Section at Glendale Drive - Looking North on Glendale Drive



Channel Report

Hydraflow Express Extension for Autodesk® Civil 3D® by Autodesk, Inc.

Friday, Nov 1 2024

Glendale Cross-Section with Berm

User-defined

Invert Elev (ft) = 80.15
 Slope (%) = 1.80
 N-Value = 0.035

Calculations

Compute by: Known Q
 Known Q (cfs) = 1013.00

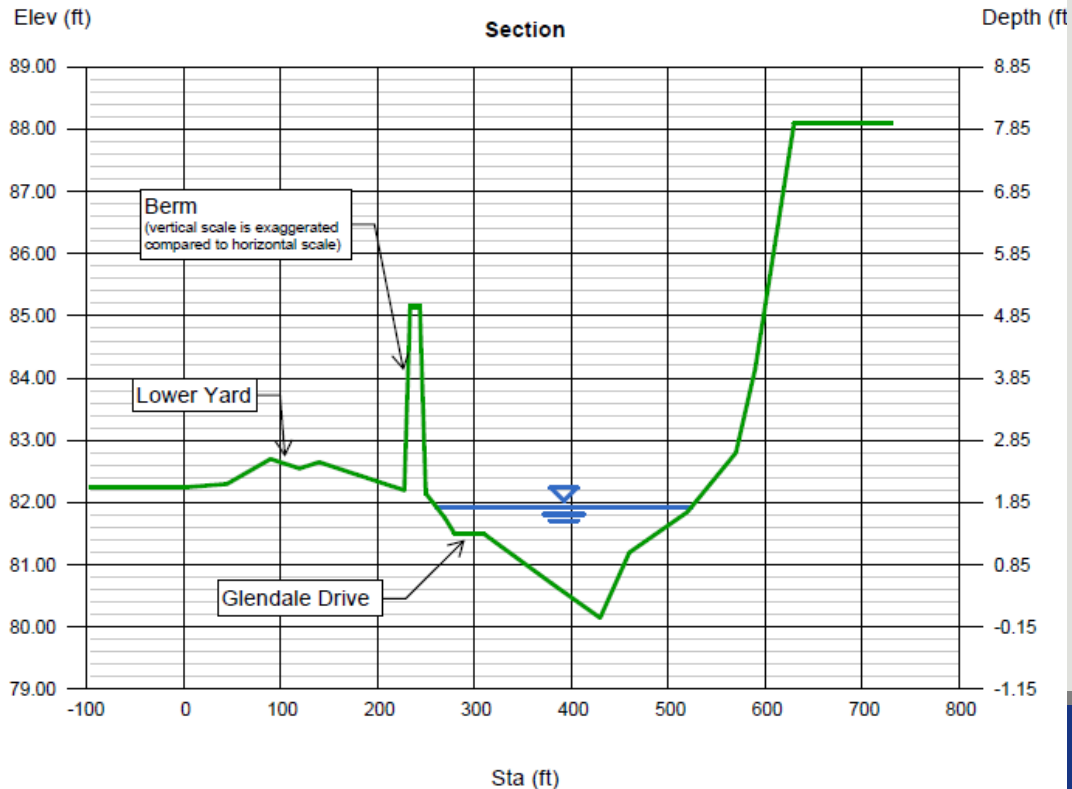
Highlighted

Depth (ft) = 1.77
 Q (cfs) = 1,013
 Area (sqft) = 209.60
 Velocity (ft/s) = 4.83
 Wetted Perim (ft) = 262.22
 Crit Depth, Yc (ft) = 1.75
 Top Width (ft) = 262.18
 EGL (ft) = 2.13

(Sta, El, n)-(Sta, El, n)...

(5.00, 82.25)-(45.00, 82.30, 0.035)-(90.00, 82.70, 0.035)-(120.00, 82.55, 0.035)-(140.00, 82.65, 0.035)-(228.00, 82.20, 0.035)-(234.00, 85.15, 0.035)
 (-244.00, 85.15, 0.035)-(250.00, 82.20, 0.035)-(250.00, 82.15, 0.035)-(270.00, 81.75, 0.035)-(280.00, 81.50, 0.035)-(310.00, 81.50, 0.035)-(380.00, 80.70, 0.035)
 (-430.00, 80.15, 0.035)-(480.00, 81.20, 0.035)-(520.00, 81.85, 0.035)-(570.00, 82.80, 0.035)-(590.00, 84.15, 0.035)-(630.00, 88.10, 0.035)

Cross Section at Glendale Drive - Looking North on Glendale Drive



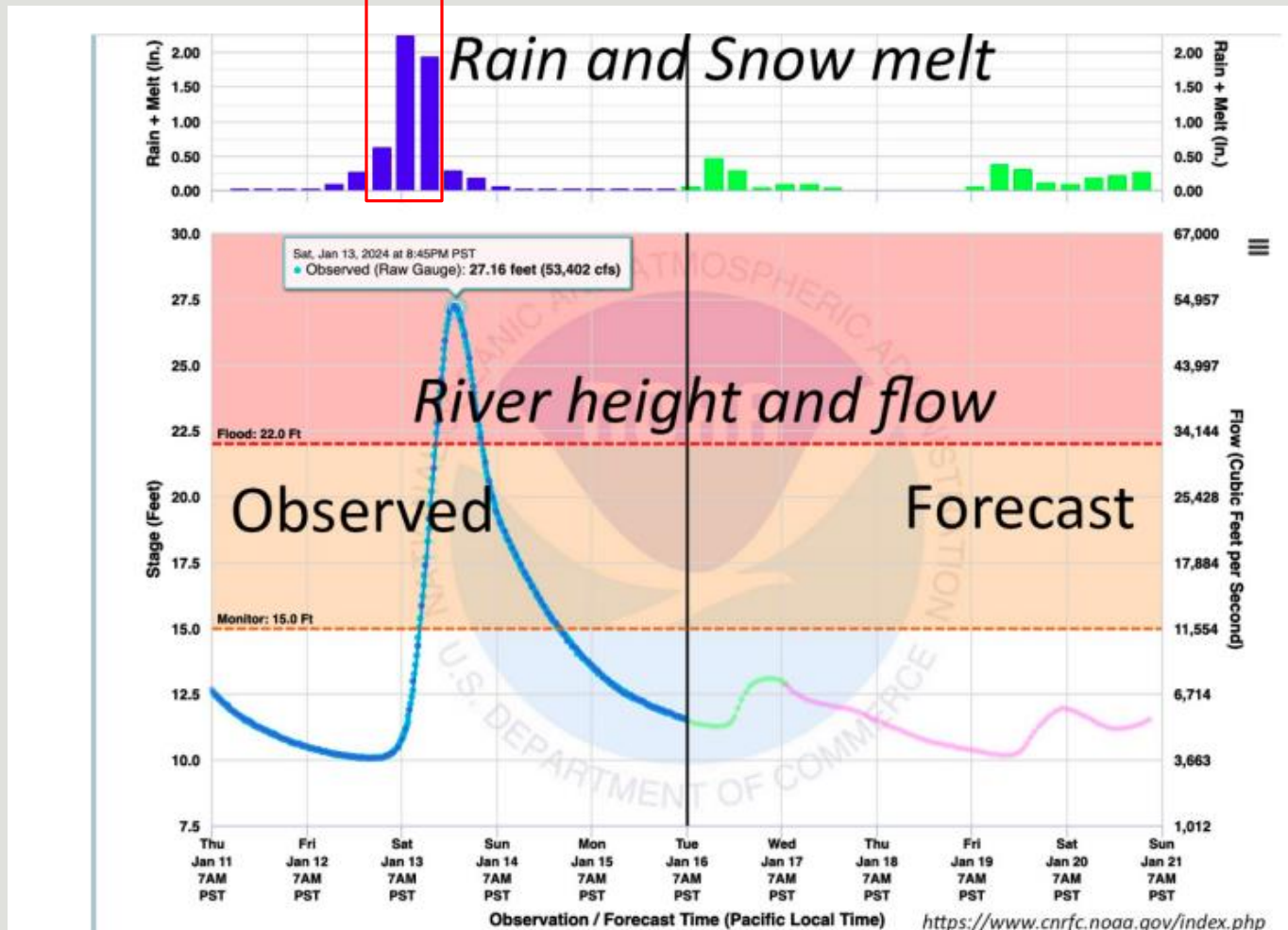


Area = 0.5 acres

Ave Depth = 0.5 ft

Impact Upstream = +0.04 ft

Intensity of Jan 13 event = 4.0 inches over 3 hrs



Source: Times Standard, Jan 20, 2024



PDS-based precipitation frequency estimates with 90% confidence intervals (in inches)¹

Duration	Average recurrence interval (years)									
	1	2	5	10	25	50	100	200	500	1000
5-min	0.165 (0.142-0.193)	0.213 (0.184-0.250)	0.280 (0.240-0.329)	0.337 (0.287-0.401)	0.420 (0.342-0.520)	0.488 (0.387-0.620)	0.560 (0.432-0.735)	0.640 (0.476-0.868)	0.755 (0.534-1.08)	0.851 (0.577-1.27)
10-min	0.237 (0.204-0.277)	0.306 (0.263-0.358)	0.401 (0.344-0.472)	0.483 (0.411-0.574)	0.602 (0.491-0.746)	0.699 (0.555-0.889)	0.803 (0.619-1.05)	0.917 (0.682-1.24)	1.08 (0.765-1.54)	1.22 (0.827-1.82)
15-min	0.286 (0.247-0.335)	0.370 (0.318-0.433)	0.485 (0.417-0.571)	0.584 (0.497-0.695)	0.728 (0.593-0.902)	0.845 (0.671-1.08)	0.971 (0.748-1.27)	1.11 (0.825-1.50)	1.31 (0.926-1.87)	1.48 (1.00-2.20)
30-min	0.391 (0.337-0.457)	0.505 (0.435-0.592)	0.663 (0.569-0.780)	0.799 (0.679-0.949)	0.995 (0.811-1.23)	1.16 (0.917-1.47)	1.33 (1.02-1.74)	1.52 (1.13-2.06)	1.79 (1.26-2.55)	2.02 (1.37-3.00)
60-min	0.509 (0.439-0.596)	0.658 (0.567-0.771)	0.863 (0.741-1.02)	1.04 (0.884-1.24)	1.30 (1.06-1.60)	1.50 (1.19-1.91)	1.73 (1.33-2.27)	1.97 (1.47-2.68)	2.33 (1.65-3.33)	2.62 (1.78-3.91)
2-hr	0.757 (0.653-0.886)	0.960 (0.827-1.12)	1.24 (1.07-1.46)	1.49 (1.26-1.77)	1.84 (1.50-2.28)	2.13 (1.69-2.71)	2.45 (1.89-3.21)	2.79 (2.08-3.79)	3.29 (2.33-4.70)	3.71 (2.52-5.52)
3-hr	0.948 (0.818-1.11)	1.19 (1.03-1.40)	1.53 (1.32-1.80)	1.82 (1.55-2.17)	2.25 (1.84-2.79)	2.60 (2.07-3.31)	2.98 (2.30-3.91)	3.39 (2.52-4.60)	3.99 (2.82-5.70)	4.49 (3.05-6.69)
6-hr	1.41 (1.22-1.65)	1.76 (1.52-2.06)	2.24 (1.93-2.64)	2.66 (2.26-3.16)	3.26 (2.66-4.04)	3.76 (2.98-4.78)	4.29 (3.30-5.62)	4.86 (3.62-6.60)	5.70 (4.03-8.14)	6.40 (4.34-9.52)
12-hr	2.09 (1.80-2.44)	2.65 (2.28-3.11)	3.42 (2.94-4.03)	4.08 (3.47-4.85)	5.02 (4.09-6.22)	5.78 (4.59-7.35)	6.58 (5.07-8.63)	7.44 (5.54-10.1)	8.68 (6.14-12.4)	9.69 (6.57-14.4)
24-hr	2.89 (2.57-3.33)	3.78 (3.36-4.36)	4.99 (4.42-5.76)	6.01 (5.28-6.98)	7.44 (6.36-8.87)	8.58 (7.22-10.4)	9.78 (8.06-12.1)	11.1 (8.91-14.0)	12.9 (10.0-16.9)	14.4 (10.9-19.4)
2-day	3.84 (3.41-4.42)	5.13 (4.55-5.91)	6.87 (6.07-7.92)	8.32 (7.31-9.66)	10.4 (8.87-12.4)	12.0 (10.1-14.6)	13.7 (11.3-17.0)	15.5 (12.5-19.7)	18.1 (14.1-23.8)	20.2 (15.3-27.3)
3-day	4.42 (3.93-5.09)	5.97 (5.29-6.87)	8.04 (7.11-9.27)	9.78 (8.59-11.4)	12.2 (10.5-14.6)	14.2 (11.9-17.2)	16.2 (13.4-20.1)	18.4 (14.8-23.3)	21.5 (16.7-28.1)	23.9 (18.1-32.3)
4-day	4.87 (4.32-5.60)	6.58 (5.83-7.57)	8.87 (7.85-10.2)	10.8 (9.49-12.5)	13.5 (11.5-16.1)	15.6 (13.1-19.0)	17.9 (14.7-22.1)	20.2 (16.3-25.6)	23.6 (18.4-30.9)	26.3 (19.9-35.5)
7-day	5.89 (5.23-6.78)	7.89 (6.99-9.08)	10.6 (9.34-12.2)	12.8 (11.2-14.8)	15.9 (13.6-19.0)	18.4 (15.4-22.3)	20.9 (17.2-25.9)	23.6 (19.0-29.9)	27.4 (21.3-35.9)	30.5 (23.0-41.1)

Staff Report Clarifications

- “Special Permit was approved to address unpermitted filling of wetlands in the Northern Yard”
 - This is incorrect. During a wetland delineation conducted in 2000 it was discovered that 0.63 acres of wetland had been inadvertently filled on the north side of Hall Creek. The Special Permit was to mitigate the inadvertent fill and fill an additional 2.82 acres of wetland in conjunction with development of the property. The purpose was to allow the remaining yard to be utilized for soil stockpiling and material storage.
- “The stormwater pond was constructed without agency consultation to determine effectiveness and there has been no evaluation of an engineered plan or actual work to ensure the design is not likely to result in failure of the water impoundment releasing water into the creeks or surface”
 - The pond has been sized and evaluated by a licensed engineer.
 - It was thought that the pond was covered under the existing grading permit for the Use Permit due to COA A.11, “The applicant shall file an erosion control plan with monitoring guidelines with the Building Inspection Division. Per Department of Fish and Game recommendations, the applicant shall incorporate retention areas where all surface runoff will be directed and/or extend the series of berms throughout the site to provide for containment of sediment and contaminated materials”.
 - The stormwater pond volume is equal to 21 times the 85th percentile runoff of the site.



Staff Report Clarifications

- “These <Stormwater Pond Pumps> have been run by generator power and were confirmed by staff to be audible at the residences on the north side of Glendale Drive”
 - This is not a CUP violation.
- Complaints of work in the yard on September 30 and October 16 past 11 pm were not related to the construction of the berm.
- The berm is not a “flood control” berm. The purpose of the berm is to prevent off-site run-on into the lower yard to meet the requirements of the Waterboard’s Industrial General Permit.
- A complaint was filed with the RWQCB who issued a notice of violation in May 2024. The NOV alleged a violation of the Industrial General Permit by discharging industrial stormwater from the site during significant rain events during January and February 2024.
 - Kernen did not violate the Industrial General Permit. Offsite run-on is not a violation.
 - Kernen has responded to all the items in the NOV.



Staff Report Clarifications

- “The location of the berm is not in a location where stockpiling of material was contemplated or allowed and the berm was constructed as close as 10 feet from the top of bank of Noise Creek, well within the SMA”
 - This is incorrect. The berm is well within the approved area of CUP 00-27. This is highlighted previously in the staff report which states, “The remaining yard was then permitted to be utilized for soil stockpiling and some material storage”. The CUP approved stockpiles up to 30 feet in height. The approved grading plan for the CUP shows the area approved for a 30-foot-tall stockpile of soil. The berm was mostly graded within a stockpiled area.
 - At the time of the CUP, no buffer zone was proposed for Noisy Creek only a 4-foot tall chain link fence at the vegetation edge to prevent intrusion. The berm was constructed outside of this fence.
- “The department received a complaint, and a report was filed with the Sherriff's Office about a noisy activity occurring after 8pm on Oct. 15, 2024. According to the Sherriff Corporal who responded, he encountered Kernen workers in the large building at approximately 8:30 pm. He noted they appeared to be working on a large dump truck. This activity was a violation of the hours of operation”
 - This is incorrect. CUP 00-27 does not specify hours of operation. This is clarified later in the staff report.



Legal Standards Revisited

Issue	Violation of Existing Permit Conditions or Law?	Nuisance?	Grounds for Permit Revocation or Modification?
Hours of Operation	No – no hours of operation requirement in the CUP.	No –no evidence of public nuisance.	No.
Noise	No – no evidence that Kernan has violated CUP noise limits	No –no evidence of public nuisance.	No.
Soil Sampling	No – no requirement to submit soil tests or records of sources	No – no evidence of public nuisance.	No.
CATS Lawsuit	No – case settled with no admission of any violation.	No – no evidence of a public nuisance.	No.
Water Board NOV	No – NOV is erroneous and being contested.	No – NOV is erroneous and being contested.	No.
SW BMP Grading Permit Issue	No – berm already authorized by existing approvals.	No – no evidence of a public nuisance.	No.

