

American River Flood Control District
Fence Encroachment at 2316 Rogue River Drive
Staff Report

Discussion:

In December 2016, the District observed that a large walnut tree had fallen near the levee toe at 2316 Rogue River Drive and damaged two adjacent residential structures. A remaining tree at that location showed signs of declining health and was suspected to be a risk for toppling also. The District had a property boundary/encroachment survey that indicated the fence at 2316 Rogue River was 9-feet encroached onto the flood control easement and that the tree was also likely to be on the District easement. The survey was performed by Psomas for SAFCA to identify encroachments and is not an exact property boundary survey.

The District Board of Trustees directed the General Manager to approach the homeowner at 2316 Rogue River and offer to remove the standing hazard tree if the homeowner agreed to re-locate his encroached fence to the property line. The homeowner, Mr. Nathan Davis, agreed to the offer and the District paid a tree service to remove the tree and grind out the stump.

District crews placed a temporary plastic construction fence on the property line and installed two semi-permanent stakes at the property line corner points.

Mr. Davis indicated that he would install a new fence on the property line at some point in the future.

On January 16, 2018, District crews observed that fence construction had begun at the location but suspected the work was not placed on the correct property line alignment. The General Manager contacted Mr. Davis and scheduled a meeting in the field for Thursday January 18. Measurements in the field indicated the fence footing was 18-inches inset onto the homeowner's property on the eastern corner point and 18-inches onto the flood control easement on the western corner point. Mr. Davis requested that his fence be allowed to stay in its currently constructed location, but the GM indicated that the matter would need to be referred to the Board of Trustees. The GM offered to contact the Board President and request a Special Meeting be held to address this request.

Considerations:

The two residential parcels on either side of 2316 Rogue River Drive each have encroached fences. One fence is 6-feet encroached and the other is 9-feet encroached. These two fences will need to be relocated to the property line at some point in the future.

Mr. Davis relocated his fence to be further away from the levee than it was prior to the agreement with the District. Mr. Davis contends that since part of the fence is on his property and part is on the property controlled by the District, that the result is net neutral to the District.

It will be very difficult to administer and implement a fence relocation policy if the District accepts fence line location accuracy of 'plus or minus' 18-inches. That is not an accurate tolerance for administering District stewardship of public lands uniformly to all residents along the levee. Negotiations with residents in the future would have to be shown not to have an arbitrary tolerance for proximity to the actual property line.

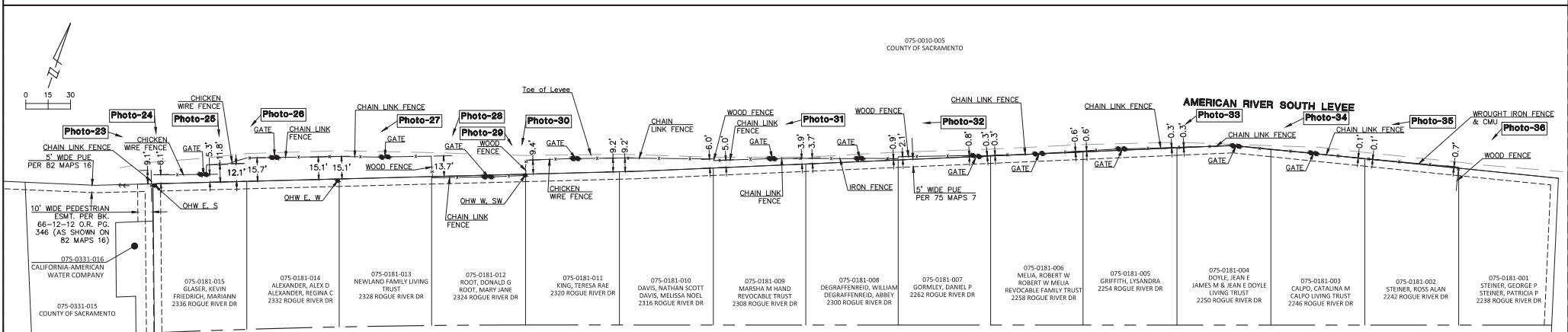
Recommendation:

The General Manager recommends that the District offer to remove the constructed portion of the fence at 2316 Rogue River with the intention of preserving as much of the materials as possible. The District should be on-site to verify that the fence is re-installed on the actual property line with a deviation of no more than 6-inches.

Approximate Property Line Location

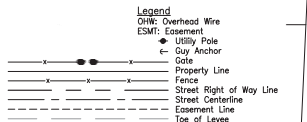






Notes

1. The purpose of this survey is to provide information about possible encroachments for selected properties along the American River South Levee. Photos surveyed fences and utility poles to determine their locations relative to the residential property lines. Dimensions shown are the distances that the fence/pole is over (north of) the property line.
2. The residential property lines were established by Psomas utilizing found record monumentation along the centerlines of the streets. The record subdivision lot lines were calculated and placed by best-fit method onto the found record monumentation. Individual lot surveys were not performed.
3. This right of way exhibit was prepared without the benefit of title reports.
4. The orthophotography (photo date 1/11/2012) shown hereon was compiled for the USACE for 1"=100' scale use as part of the American River Common Features project and is based on Second Order, Class II NAD83 project control established by Psomas which is the same control used to perform this survey.
5. Due to height distortion inherent in the orthophotography, the distance from buildings to property/encroachment lines may appear different than actual conditions.



	DESIGNED				BENCHMARK	
	DRAFTED	A.B.				
	CHECKED	S.E.B.				
	REV	DATE	DESCRIPTION	BY	APP'D	ELEV.

PSOMAS
 1075 Creekside Ridge Drive, Suite 200
 Roseville, CA 95678
 (916) 788-8122 (916) 788-0600 (FAX)

RIGHT OF WAY EXHIBIT

SAFCA
AMERICAN RIVER SOUTH LEVEE ENCROACHMENTS

CITY OF SACRAMENTO SACRAMENTO COUNTY CALIFORNIA

DATE: 08/20/2014 SHEET: **4**

SCALE: 1" = 30'

PROJECT NUMBER: 65AF021700 OF: **4**

Malane Chapman

From: Nathan Davis <ndavis@ccha.org>
Sent: Thursday, January 18, 2018 12:04 PM
To: Tim Kerr
Subject: RE: Fence offset
Attachments: Upstairs.JPG; Tree trunk size.JPG; Side of house.JPG; Cooper's Bedroom 2.jpg; Tree in backyard.jpg; Backyard Sept 2017.jpg; Cooper's Bedroom 1.jpg

Good morning Tim:

I appreciate both you and Ross coming out and meeting with me at the property this morning. As I mentioned it was never my intent not to honor our agreement, my landscaper began building the fence on the property line where I understood it to be. I would be very receptive of the opportunity to meet with your board in a special session if one can be arranged. I also wanted your input if you think it would be helpful if I provided a letter or reached out to board members (turns out that Cyril Shah and I belong to the same social club). You know your board best and I don't want to inject myself if it's not needed or desired.

I have attached some pictures to this e-mail if they can help you with your interactions with board members. As I mentioned on the levee this morning I do feel my request to the board may be distinct from other requests they've heard for the following reasons:

- Unlike others who might have been requesting encroachment relief as they built pools or other structures beneficial to their homes, I am requesting relief because a tree, not on my property, fell on my house. There has not been much that has been beneficial to me and my family through this 13 month ordeal.
- I did not have a copy of the Psomas report prior to starting to erect the planter box and as I noted to you that Psomas stated they did not survey individual lot surveys when preparing this report. I was using an a different estimate location and thought I was building the entire fence on my property.
- The assessor's parcel map indicates that the property line in my back yard may not be a straight line between two points.
- The backyard landscaping repair is the result of the tree falling and was basically destroyed (see attached picture) after the tree, tractors, sawdust, home reconstruction activities, and lack of water (utilities were shutoff for a few months) did their damage on the yard.

I also think my request is beneficial to the ARFD as, by the Psomas measurements, I am encroaching on the western portion by about 18 inches and I'm also shy of the property line by roughly the same amount on eastern side. The effect of this is that from the top of the levee to both points you actually have a more "squared" gradual levee slope.

Thanks again Tim. Let me know what you and your board prefers and what else I can provide.

Sincerely,
 Nathan Davis

-----Original Message-----

From: Tim Kerr [mailto:tkerr@arfcd.org]
 Sent: Tuesday, January 16, 2018 12:35 PM

To: Nathan Davis <ndavis@ccha.org>
Subject: RE: Fence offset

Nathan,
See you Thursday at 8:30.

Thanks,
Tim

Tim Kerr, P.E.
General Manager
American River Flood Control District
Office 916.929.4006
Fax 916.929.4160
Cell 916.417.4161

-----Original Message-----

From: Nathan Davis [mailto:ndavis@ccha.org]
Sent: Tuesday, January 16, 2018 12:26 PM
To: Tim Kerr <tkerr@arfed.org>
Subject: Re: Fence offset

Tim:

Thanks for taking my call, just to confirm my landscaper and I will meet you at 8:30am on Thursday morning at my house.

Nathan

> On Jan 16, 2018, at 11:28 AM, Tim Kerr <tkerr@arfed.org> wrote:

>

> Hi Mr. Davis,

> My crew noticed fence construction occurring at your parcel at 2316 Rogue River Drive. It appears the alignment is not going in on the property line as agreed. The upstream corner is correct but the downstream corner is on the flood easement by about 2-feet.

>

> We would very much appreciate if your could correct this. We will not be able to cost-share in the construction of the fence if it is not on the property line. Also, my Board would need to consider any other State requirements for pursuing this as an unauthorized encroachment.

>

> Thanks for your help,

> Tim

>

> Tim Kerr, P.E.

> General Manager

> American River Flood Control District

> Office 916.929.4006

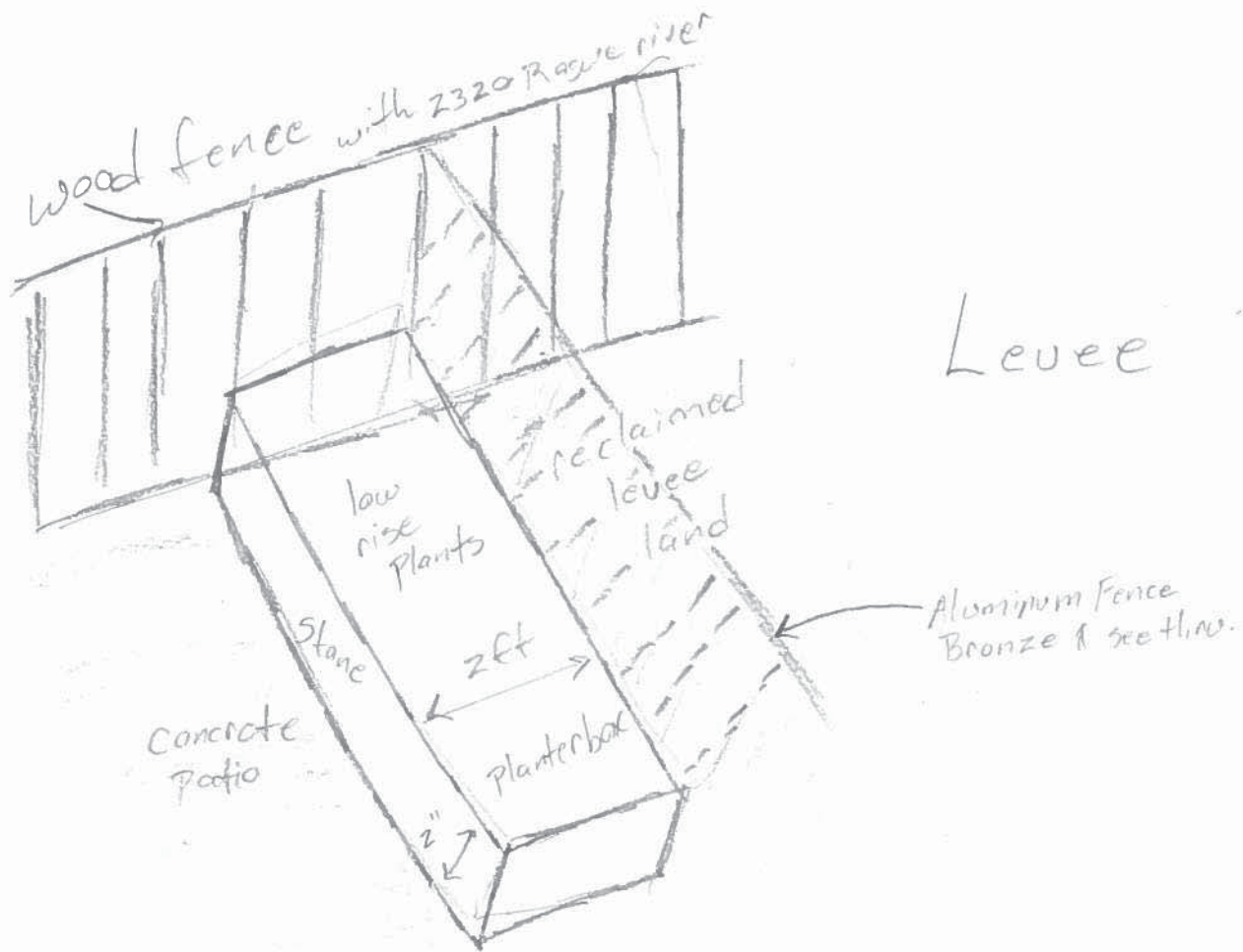
> Fax 916.929.4160

> Cell 916.417.4161

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> -----Original Message-----

> From: Tim Kerr
> Sent: Tuesday, January 16, 2018 11:23 AM
> To: Tim Kerr <tkerr@arfed.org>
> Subject: Fence offset
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> <IMG_0035.JPG>



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