

<b>DOCKETED</b>	
<b>Docket Number:</b>	24-OPT-02
<b>Project Title:</b>	Compass Energy Storage Project
<b>TN #:</b>	259591
<b>Document Title:</b>	Orange County Transportation Authority Comments - Comment Letter
<b>Description:</b>	N/A
<b>Filer:</b>	System
<b>Organization:</b>	Orange County Transportation Authority
<b>Submitter Role:</b>	Public Agency
<b>Submission Date:</b>	10/17/2024 5:19:40 PM
<b>Docketed Date:</b>	10/18/2024

*Comment Received From: Orange County Transportation Authority  
Submitted On: 10/17/2024  
Docket Number: 24-OPT-02*

## **Comment Letter**

*Additional submitted attachment is included below.*



*AFFILIATED AGENCIES*

*Orange County  
Transit District*

*Local Transportation  
Authority*

*Service Authority for  
Freeway Emergencies*

*Consolidated Transportation  
Service Agency*

*Congestion Management  
Agency*

October 17, 2024

Ms. Renee Longman  
California Energy Commission  
715 P Street  
Sacramento, CA 95814

Via: [efiling.energy.ca.gov/Ecomment/Ecomment.aspx?docketnumber=24-OPT-02](https://efiling.energy.ca.gov/Ecomment/Ecomment.aspx?docketnumber=24-OPT-02)

**Subject: Compass Energy Storage Project – San Juan Capistrano -  
Docket Number 24-OPT-02**

Dear Ms. Longman:

The Orange County Transportation Authority (OCTA) appreciates the opportunity to comment on the Compass Energy Storage Project in the City of San Juan Capistrano, Orange County. OCTA is the owner of the railroad right-of-way located adjacent to the east of the project site. Sole access to the site is through the geometrically constrained Rancho Capistrano public railroad crossing. The railroad right-of-way is active as passenger rail service (the Southern California Regional Rail Authority and Amtrak Pacific Surfliner) and freight operators (BNSF Railway) utilize this railroad line throughout the day. OCTA would like to share concerns about the design and siting of the facility in proximity to Oso Creek drainage course and highlight risks that this facility may pose to the railroad right-of-way.

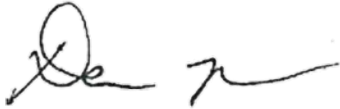
The planned location of this project is immediately adjacent to an unimproved area of Oso Creek that is experiencing high velocity/volume flows. Recently, this has led to severe erosion on the Saddleback Church property, which is located immediately adjacent and to the north of the proposed project site. Attachment A is a February 2021 presentation prepared by Orange County Public Works which highlights the Oso Creek hydraulic issues. On page 17 of the presentation, Location #1 is just to the south of the existing concrete lined portion of the Oso Creek channel, this location reflects the high velocity creek flows into the Saddleback private property, immediately adjacent to the proposed Compass Energy Project. This issue should be addressed to mitigate further erosion and potential impact to the active railroad right-of-way.

Ms. Renee Longman  
October 17, 2024  
Page 2

The Rancho Capistrano public railroad crossing is the only access to the proposed development. The California Public Utility Commission (CPUC), in its capacity as the State Rail Safety Agency, has reviewed and approved the Rancho Capistrano crossing to be used as a public crossing with specific conditions. Attachment B is the CPUC's approval of the Rancho Capistrano crossing, and it includes specific scope to control vehicular movements to ensure crossing safety. OCTA is concerned that many large construction materials, supply, equipment delivery, and maintenance trucks will need to cross the Rancho Capistrano crossing. These types of vehicles may not appropriately fit the geometrics of the crossing as it had been designed for and may pose a safety risk to the public and the operating railroads.

Thank you for your consideration of these concerns. Should you have any questions or comments, please contact me at (714) 560-5907 or at [dphu@octa.net](mailto:dphu@octa.net).

Sincerely,

A handwritten signature in black ink, appearing to read 'Dan Phu', with a stylized flourish at the end.

Dan Phu  
Manager, Environmental Programs

c: Jim Beil, OCTA

Enclosures



# SJC10 Rehabilitation Project Concepts

February 23, 2021

# Agenda


- Introductions
- Background
  - South Orange County Water Quality Improvement Plan (WQIP) – Channel Erosion
  - Historical SJC10 Efforts
- SJC10 Existing Conditions
- SJC10 Rehabilitation Project Concepts
- Roundtable discussion
- Next Steps



An aerial photograph of a coastal region, likely in Southern California. A multi-lane highway curves through the foreground and middle ground. To the right of the highway is a residential or commercial development with various buildings. In the background, a large body of water, possibly a bay or ocean, stretches to the horizon under a clear sky. The overall scene is bright and sunny.

# Introductions

Jacqui Sedighi  
South OC WMA

An aerial photograph of a river winding through a landscape with trees and some buildings. The image is faded and serves as a background for the text.

# Background: South OC WQIP – Channel Erosion

Jacqui Sedighi  
County of Orange

# Highest Priority Water Quality Conditions

## Priorities



Human Pathogen Health Risk



Channel Erosion



Unnatural Water Balance



## Goals and strategies

Focus on human waste source control

Focus on stream rehabilitation

Focus on unnatural, unpermitted dry weather runoff elimination







# MILESTONES

## Channel Erosion

Develop intent, process, and qualities of the Geomorphically Referenced Basis of Design (GRBoD) projects

Complete channel rehabilitation alternatives and feasibility studies



An aerial photograph of a coastal region, likely in Southern California. A multi-lane highway curves through the landscape, bordered by greenery and some industrial or commercial buildings. In the background, a large body of water, possibly a bay or ocean, is visible under a clear sky. The overall scene is bright and sunny.

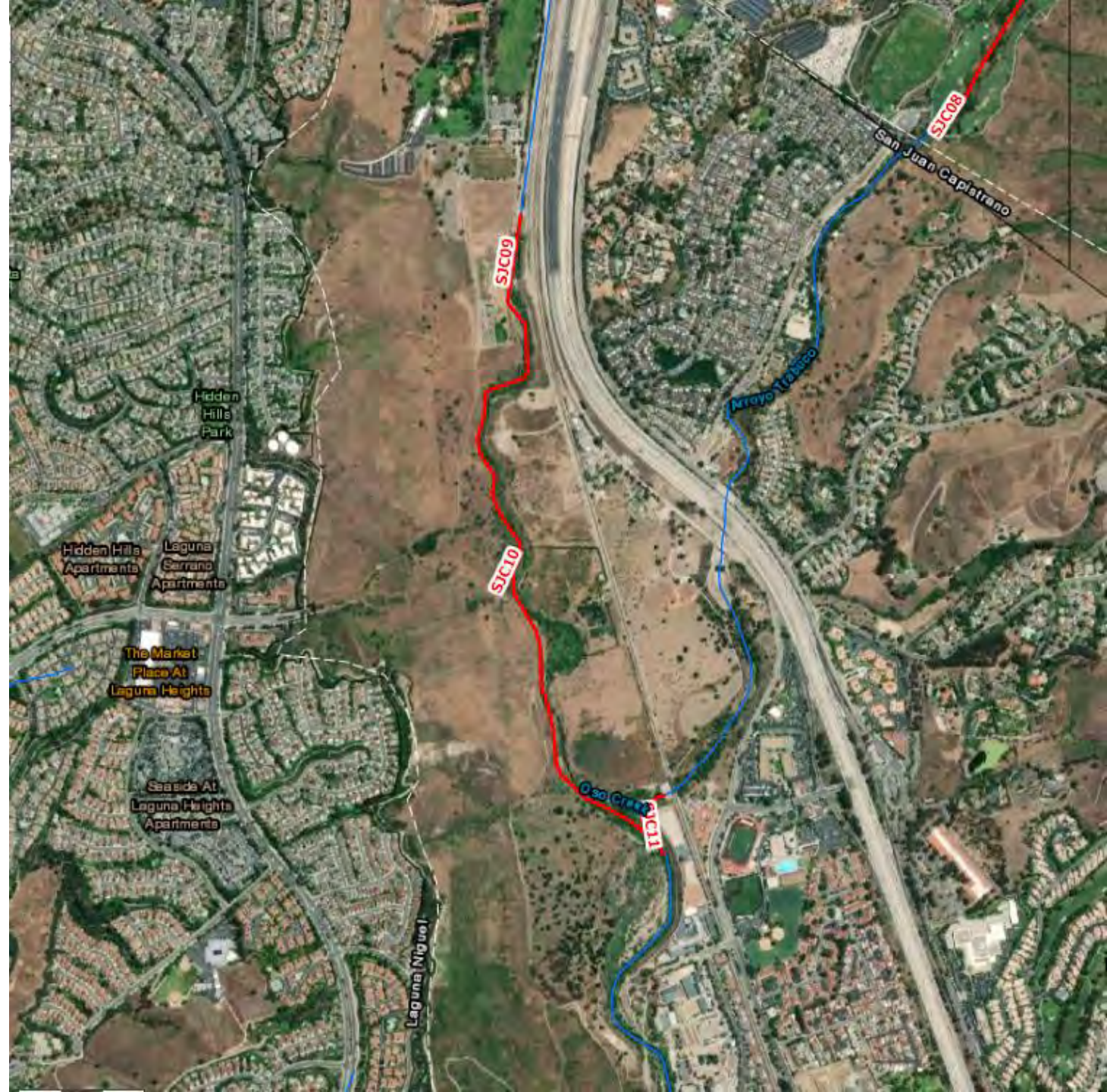
# Background: Historical SJC10 Efforts

Jacqui Sedighi  
County of Orange



# SJC10

- **Location context:** Oso creek located west of I-5 in San Juan Capistrano
- **Current status:** stakeholder interest in implementing a solution
  - Hsaio family – greenhouses falling into the creek
  - Saddleback Church – field collapsed during recent rain

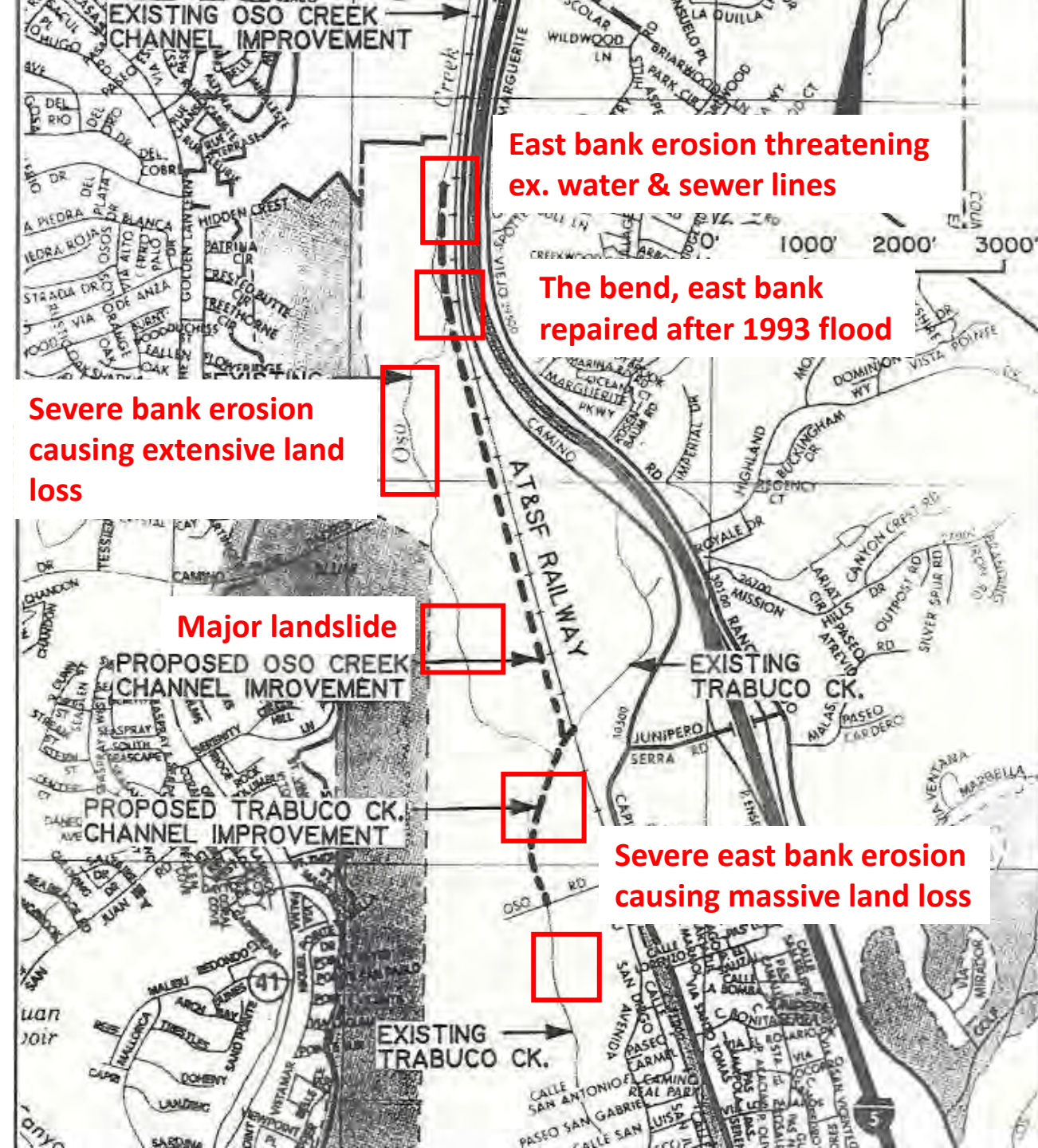




# Efforts from 1990s

## Problem:

- Both Oso and Trabuco incised due to reduction of upstream sediment supply
- Severe bank erosion and loss of valuable land, expected to become worse as meandering develops (1983, 1993...).
- Specific problem areas:
  - Potential failure of water & sewer lines – Oso Creek upstream
  - Major landslide adjacent to Oso Creek
  - Potential failure of railway and pipelines at crossing of Trabuco Creek
  - Potential failure of water line at the Oso Road crossing of Trabuco Creek





# Efforts from 1990s

## Proposed solution:

- “Erosion control measures shall be implemented immediately”
- Three alternatives for Oso Creek
  - Alt A – 34' W x 10' H reinforced concrete (R.C.) channel
  - Alt B – 18' W x 16' H R.C. channel
  - Alt C – 18' W x 16' H R.C. box culvert

<u>Alt. A:</u> 34'W x 10'H R.C. Channel:	\$4.67 million + 10.9 Acres of R/W (approximately \$820/LF)
<u>Alt. B:</u> 18'W x 16'H R.C. Channel:	\$4.86 million + 10.6 Acres of R/W (approximately \$850/LF)
<u>Alt. C:</u> 18'W x 16'H R.C. Box Culvert:	\$8.46 million + 10.5 Acres of R/W (approximately \$1,480/LF)

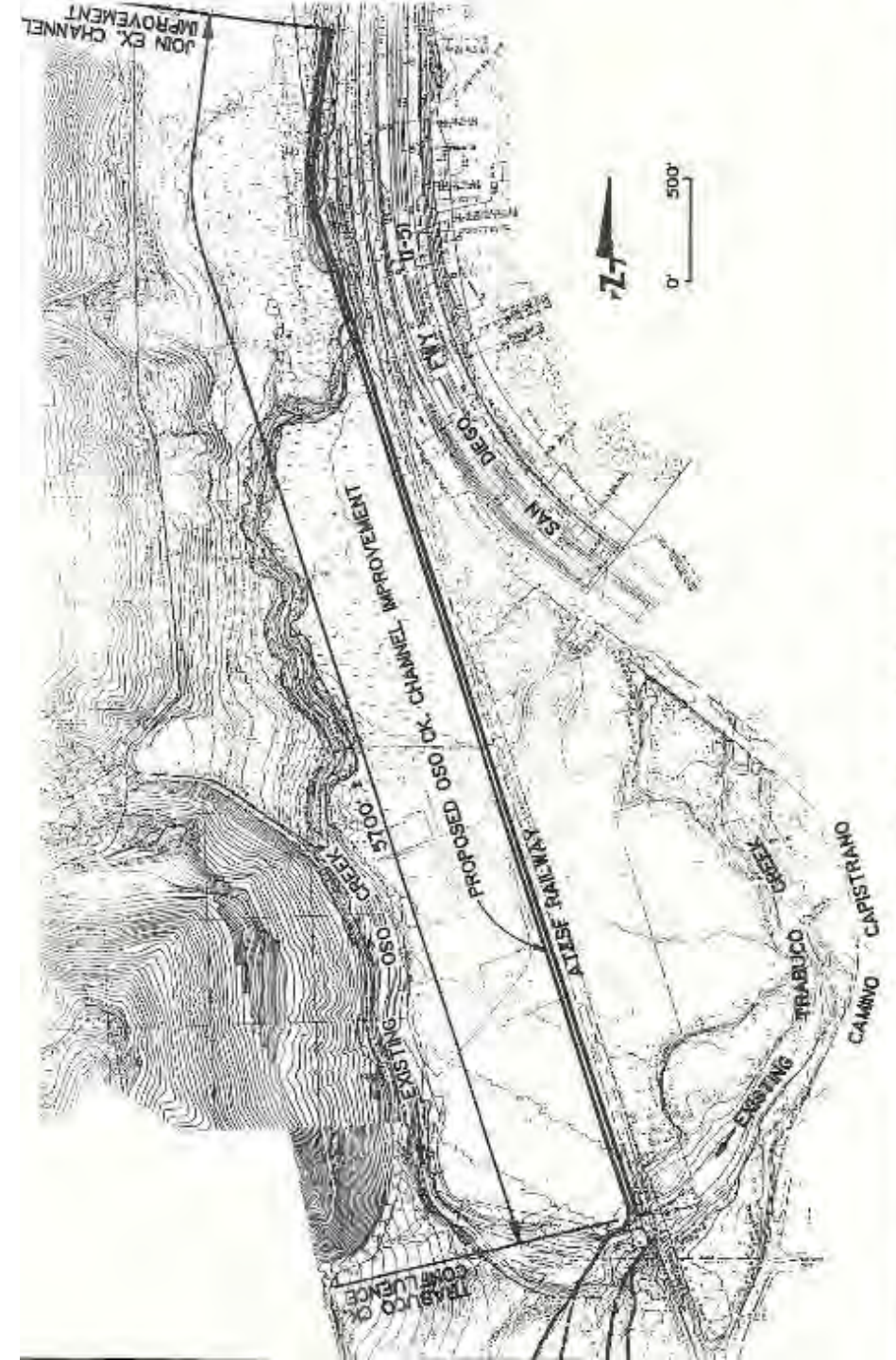


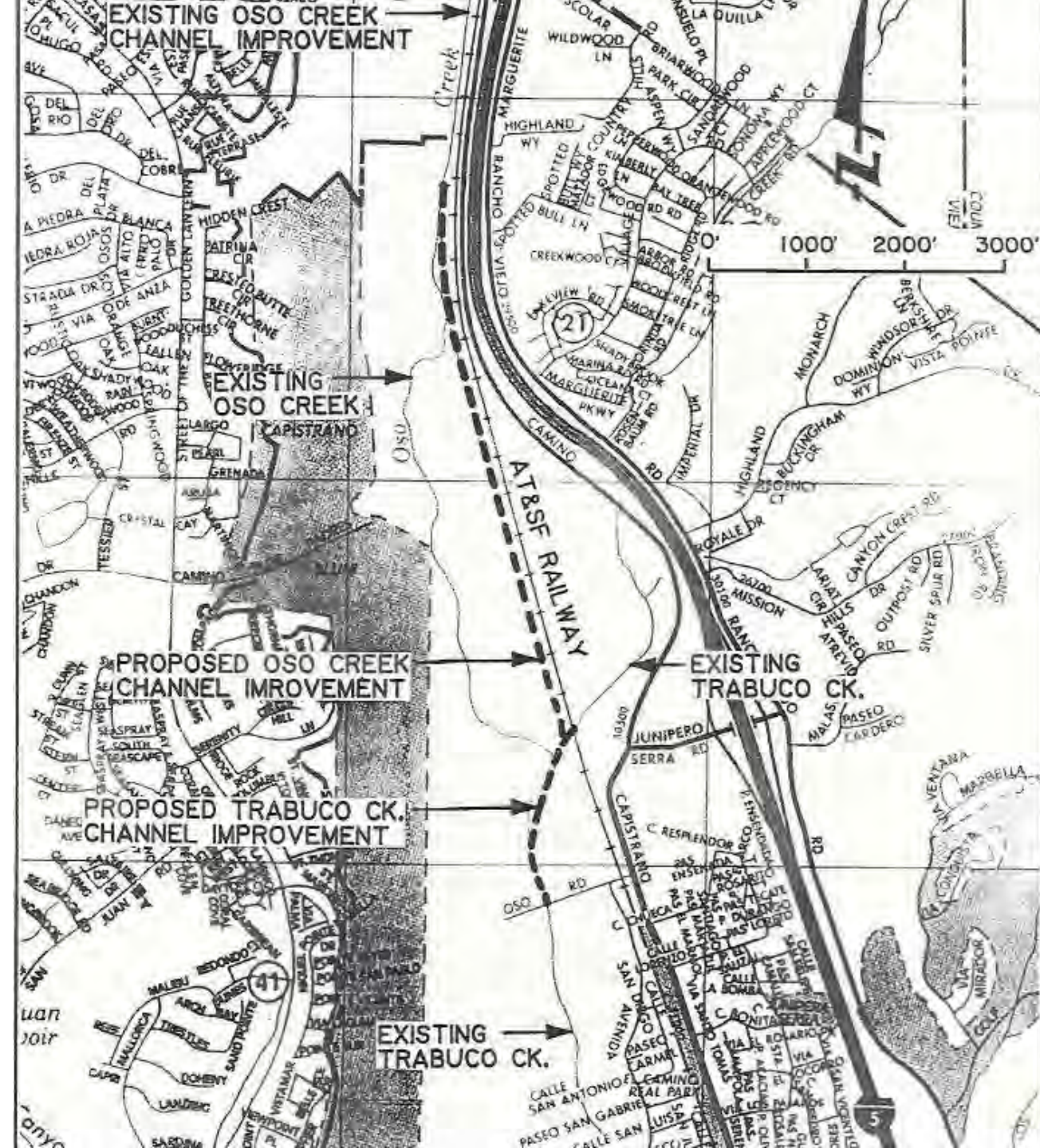
Figure 12 Proposed Oso Creek Channel Alignment



# Efforts from 1990s

## Outcomes:

- Cost-sharing example was developed but consensus was not reached
- OCTA moved forward with a smaller individual project to address the immediate need





1994

5/31/94



Terminal Reservoir

Image U.S. Geological Survey

Google Earth



1985

Imagery Date: 5/31/1994 33°31'42.48" N 117°40'21.25" W elev 209 ft eye alt 11656 ft

KS



2020

10/2020

Terminal Reservoir

Image © 2021 Maxar Technologies

Google Earth

Imagery Date: 10/15/2020 33°31'42.48" N 117°40'21.25" W elev 209 ft eye alt 11656 ft

1985



# Rehabilitation Alternatives and Feasibility Studies:

## Rehabilitation Project Concepts for SJC10

Chris Pendroy, MS, CPSWQ, QSD/P, ENV SP

Kayla Kilgo, PhD, PE, ENV SP

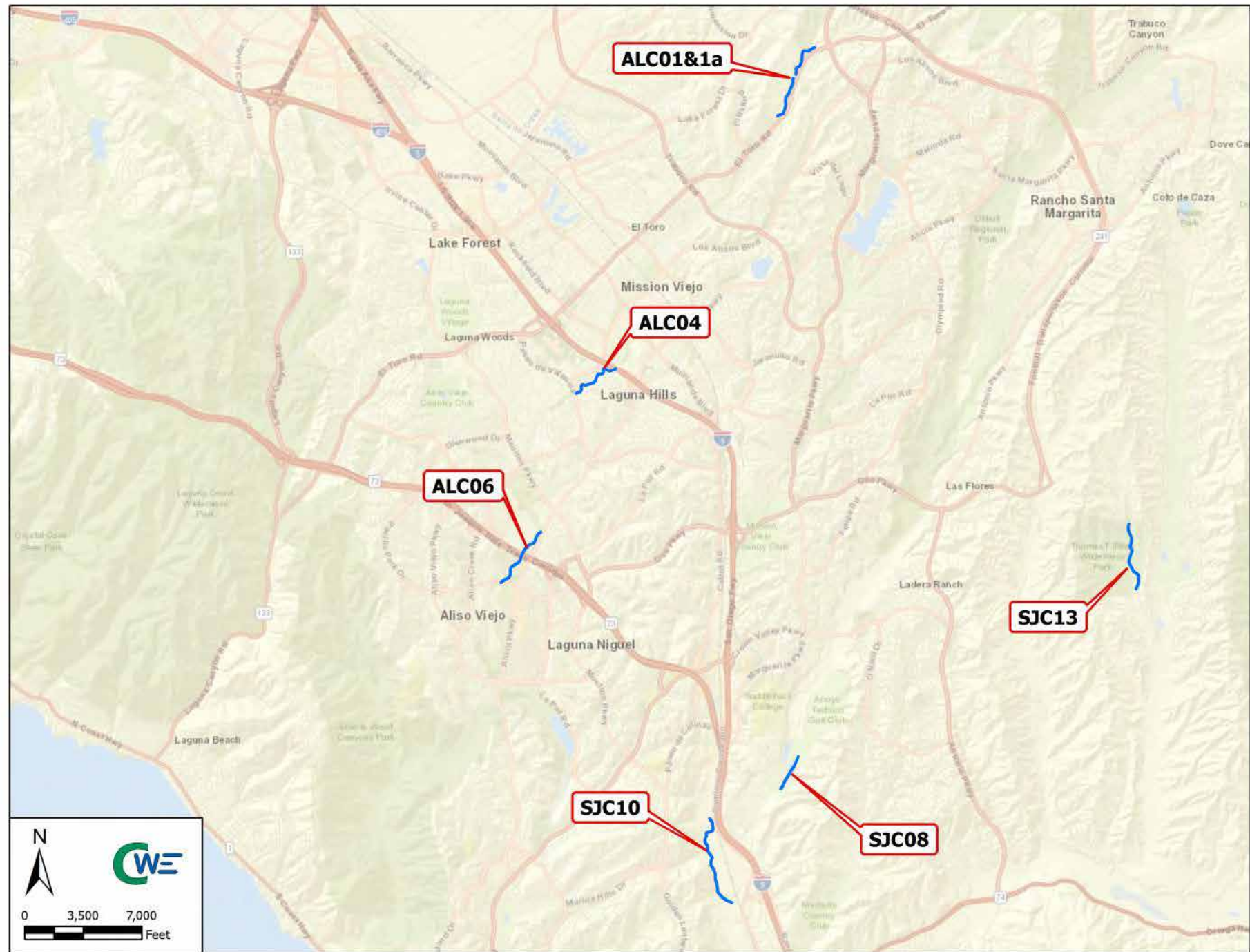
Ben Willardson, PhD, PE, D.WRE, QSD/P

# SJC10 Existing Conditions

Kayla Kilgo and Chris Pendroy  
CWE



# Study Reaches





# SJC10 (Part of Oso Creek)





# Intensive Bank Erosion

Right bank erosion near the upstream end of the study reach



Left bank erosion viewed from right bank downstream of greenhouse location





# Upstream End of SJC10

Rip rap near upstream end of study reach



Looking downstream from the rip rap lined banks





# Wolman Pebble Count Location 1

Looking upstream from Wolman Pebble Count Location 1



Looking downstream from Wolman Pebble Count Location 1





# Downstream of Location 1

Right bank erosion



Right bank erosion and evidence of recent collapse





# Recently Collapsed Bank

Looking downstream



Recent collapse along right bank



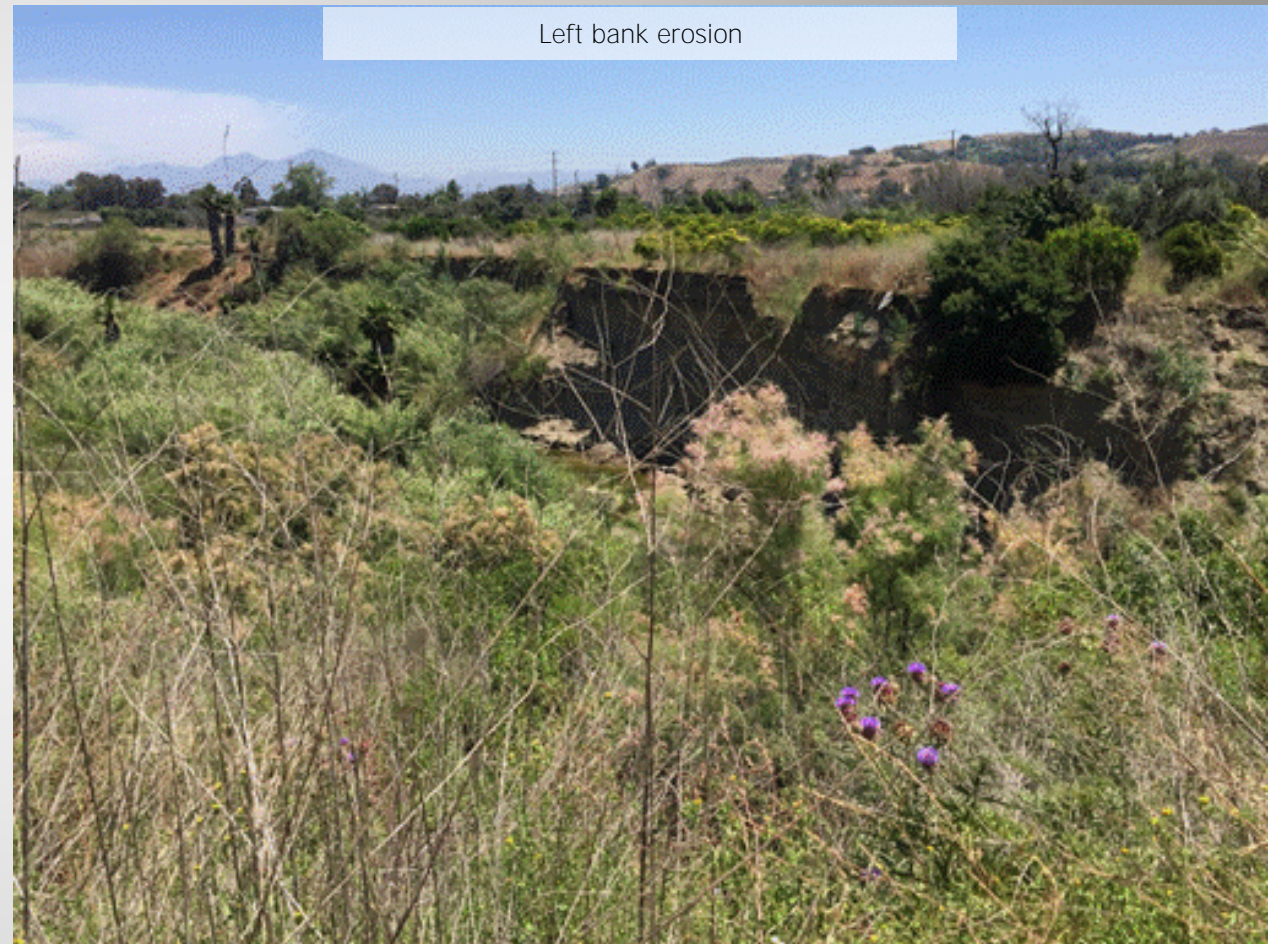


# Bank Erosion

Right bank erosion



Left bank erosion





# Bank Erosion

Left bank erosion near greenhouses



Left bank erosion near greenhouses





# Bank Erosion

Looking downstream of greenhouses



Looking upstream towards greenhouses





# Bank Erosion

Concrete tank with eroded foundation on right bank



Dislocated and sediment filled RCP on right bank





# Oso and Trabuco Creek Confluence

Heavy vegetation downstream of confluence viewed from right bank



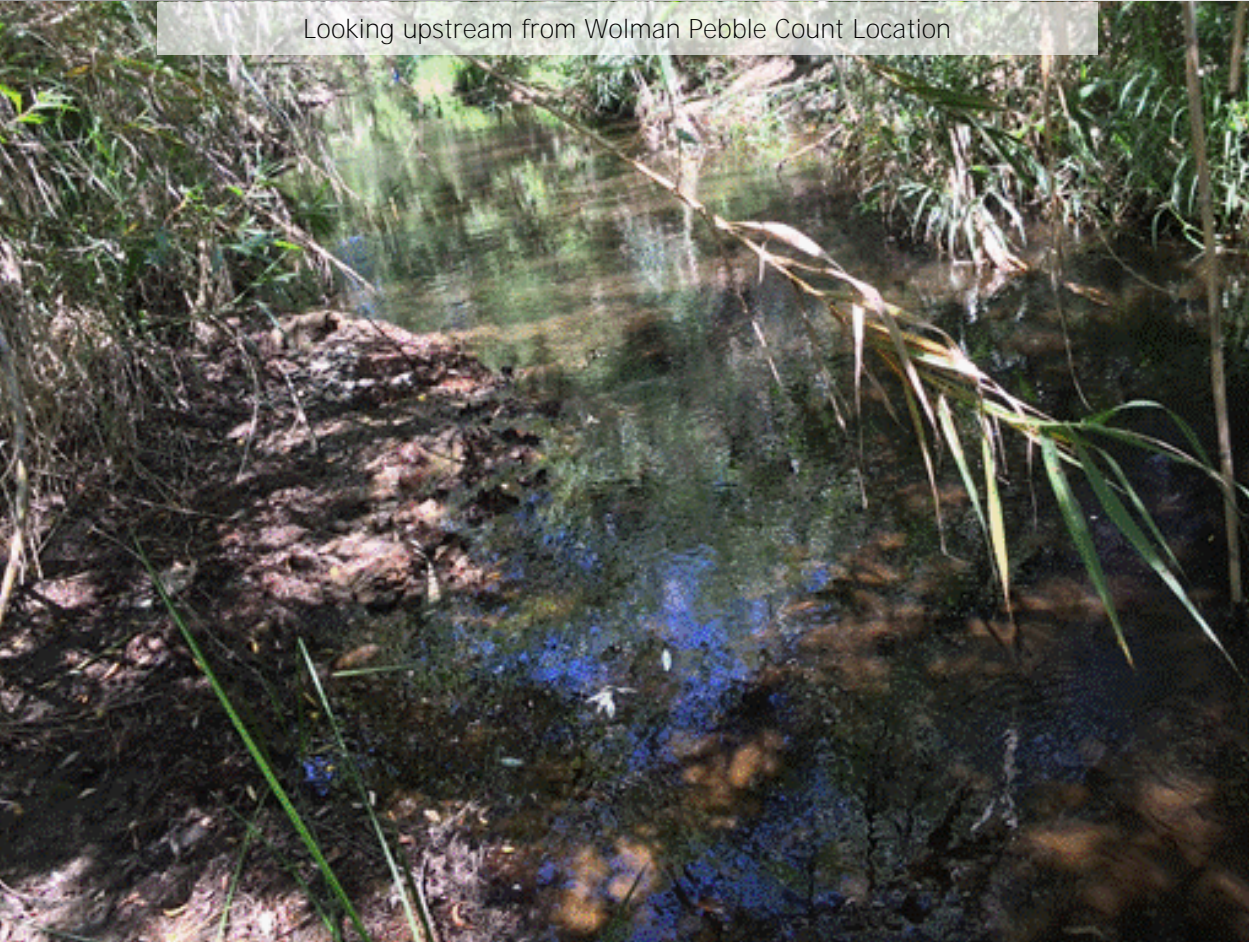
Right bank erosion along Trabuco Creek upstream of confluence with Oso Creek





# Wolman Pebble Count Location 2

Looking upstream from Wolman Pebble Count Location

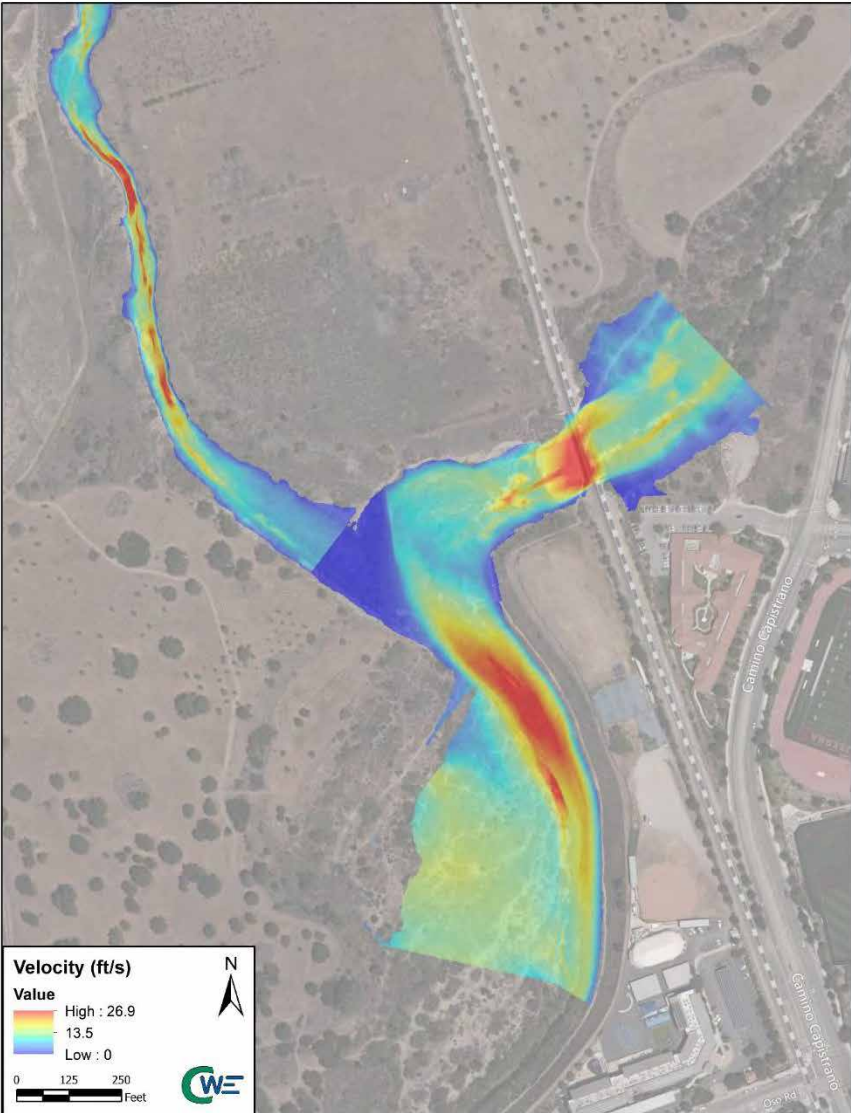
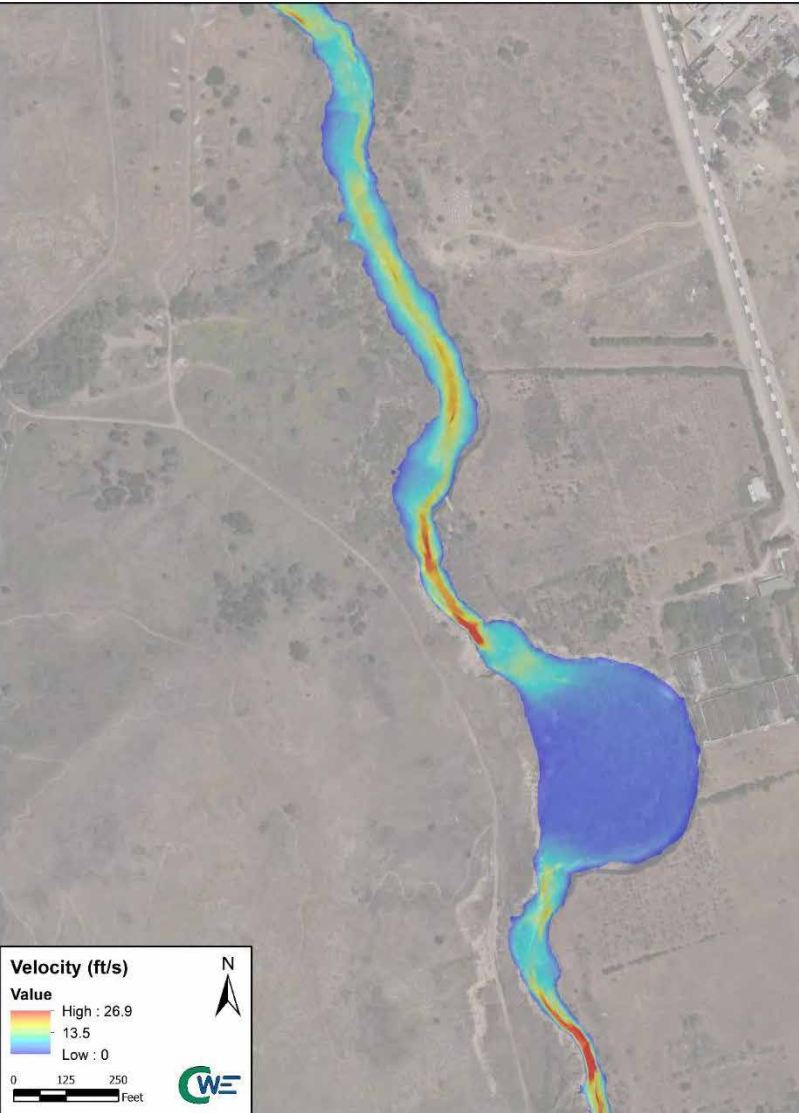
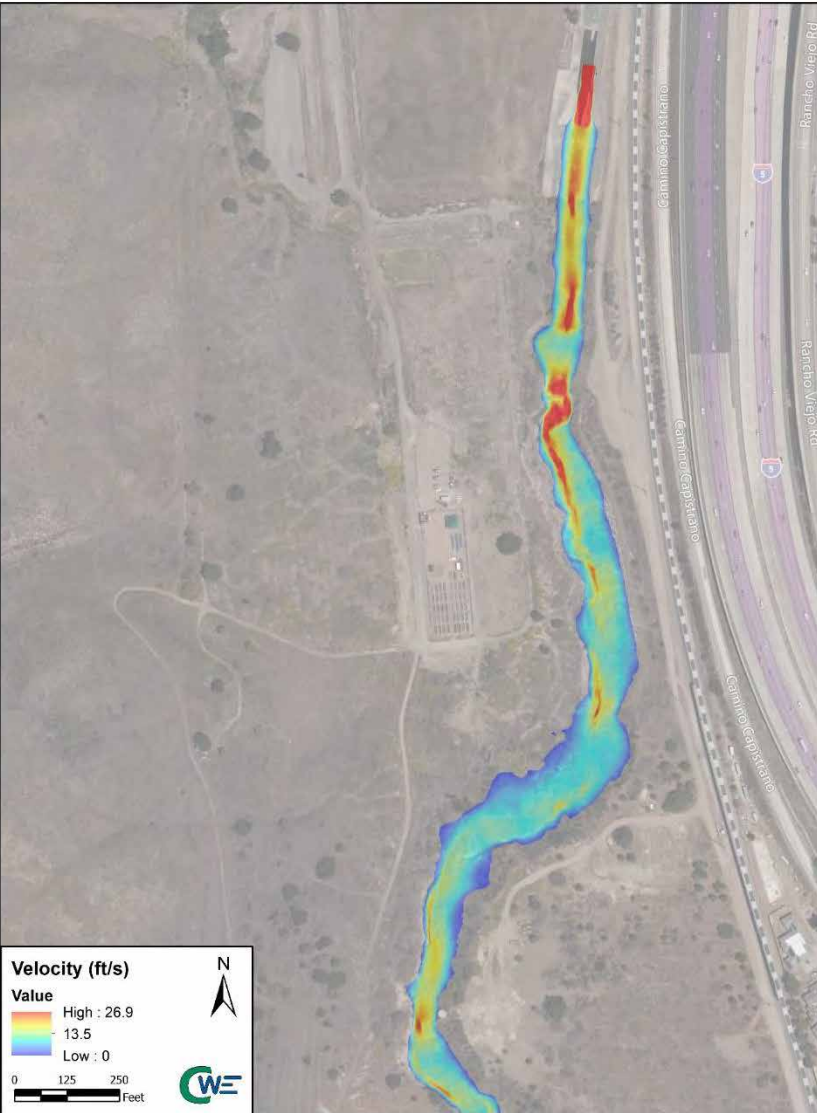


Looking downstream from Wolman Pebble Count Location





# Existing Conditions Velocities

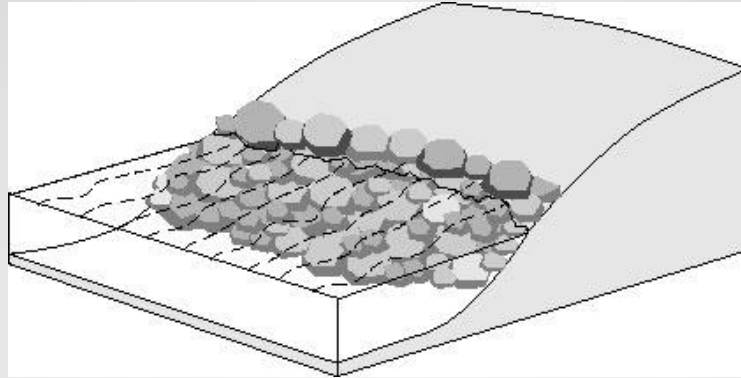


# SJC10 Rehabilitation Design Concepts

Ben Willardson and Chris Pendroy  
South OC WMA

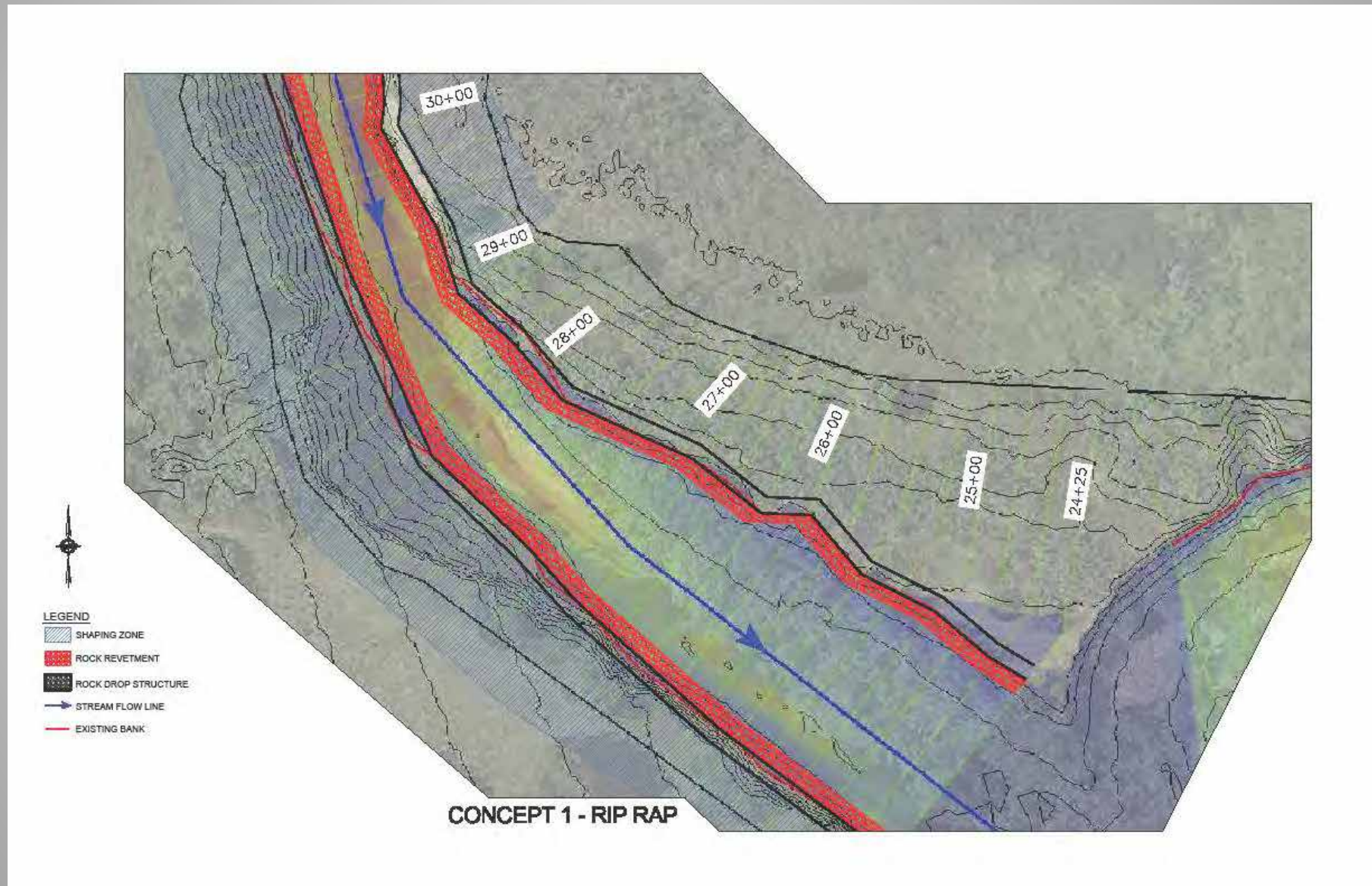


# Concept #1: Rip Rap Revetment



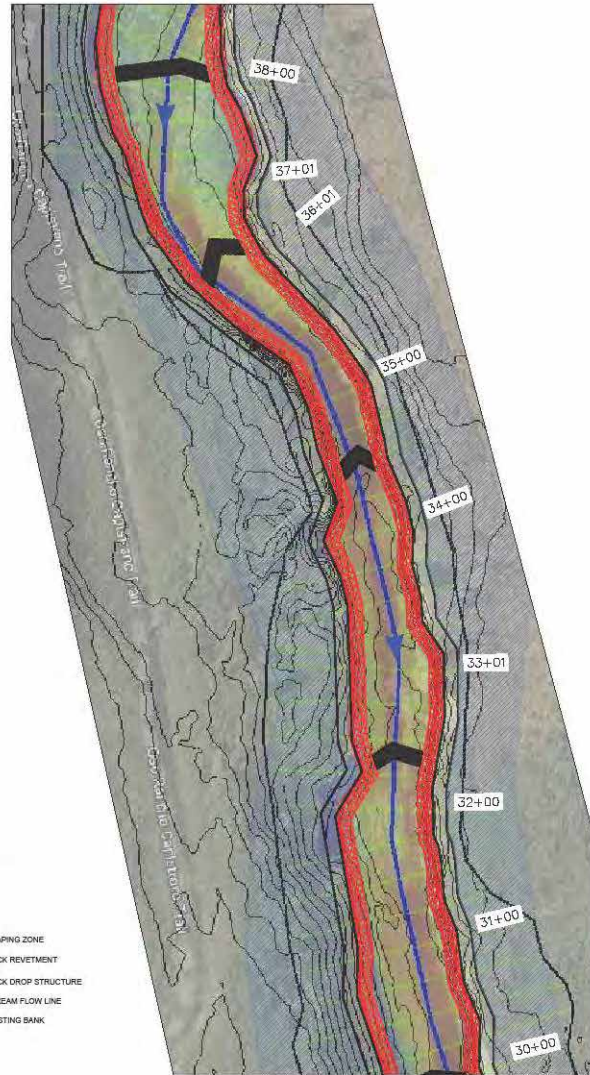


# Concept #1: Rip Rap Revetment

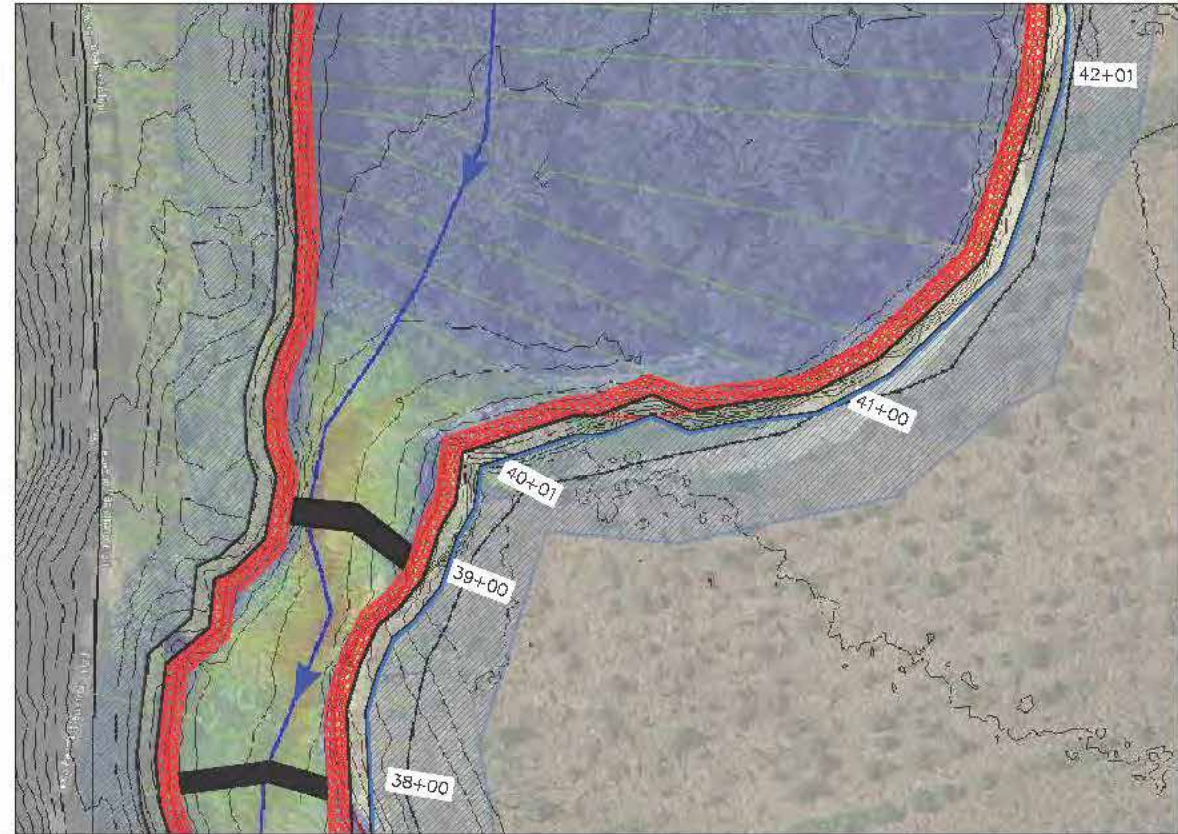




# Concept #1: Rip Rap Revetment



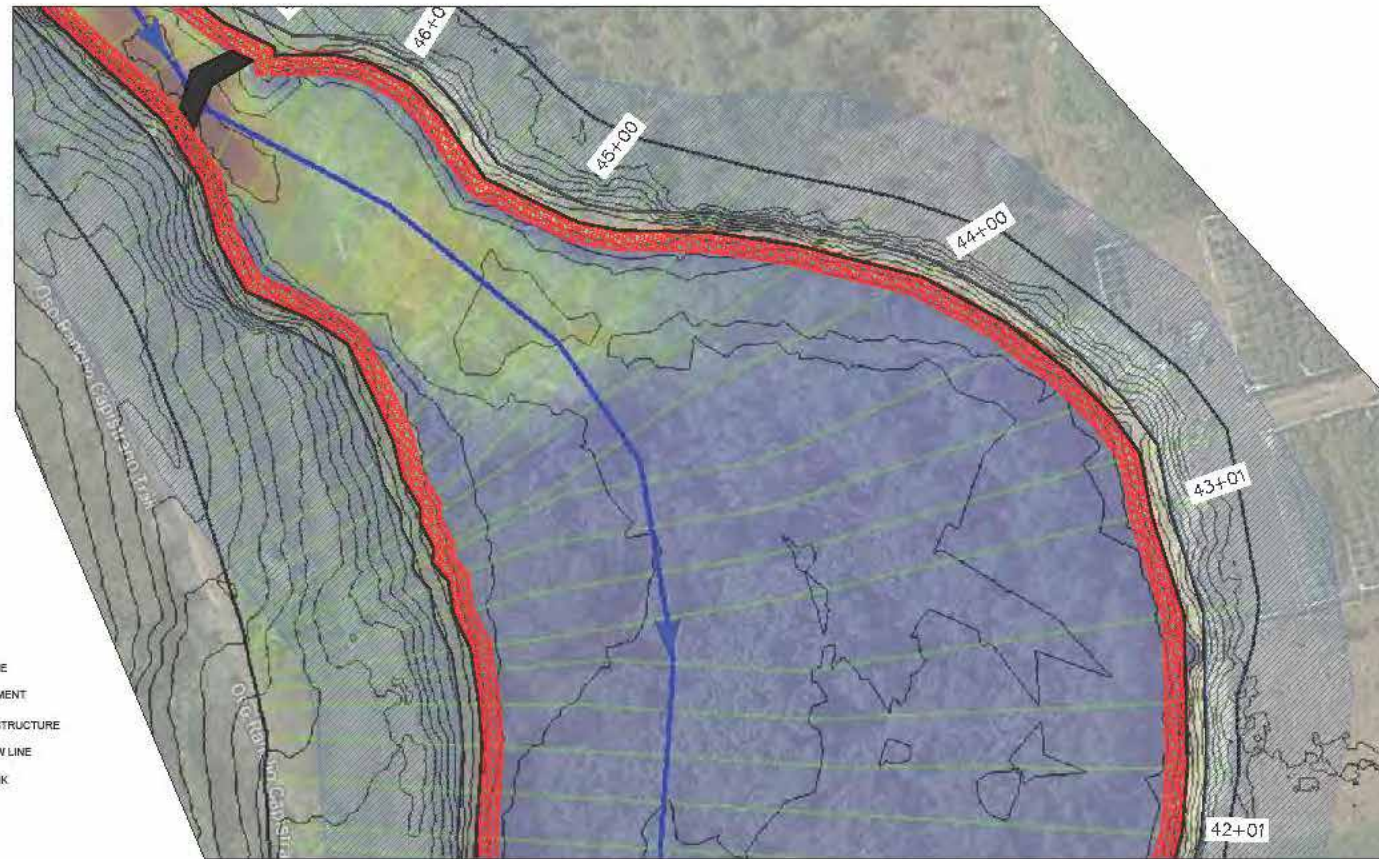
CONCEPT 1 - RIP RAP



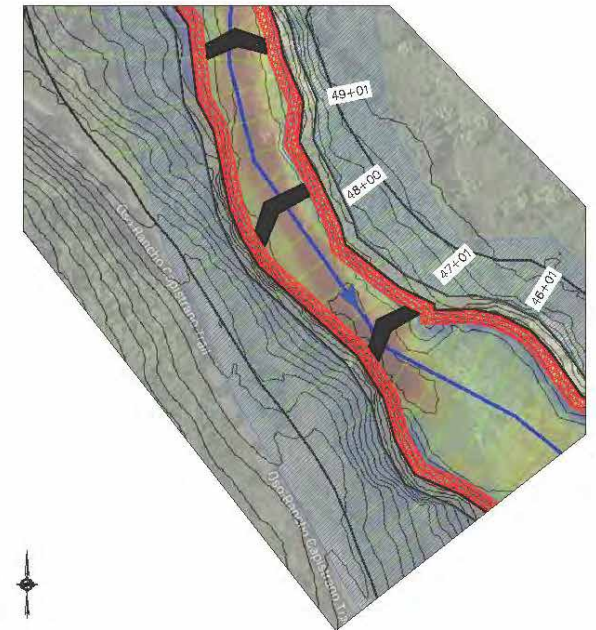
CONCEPT 1 - RIP RAP



# Concept #1: Rip Rap Revetment



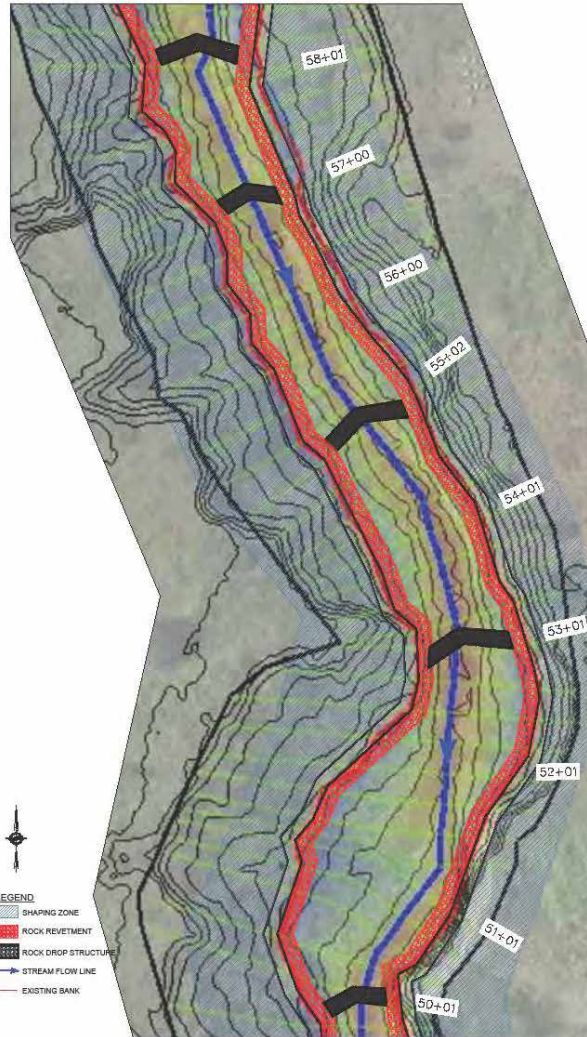
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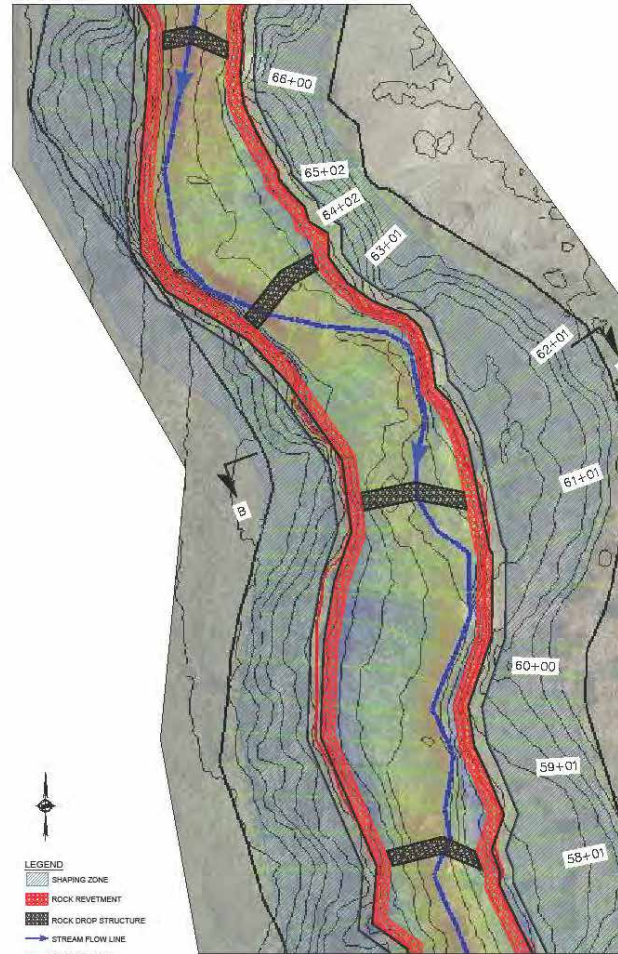
CONCEPT 1 - RIP RAP



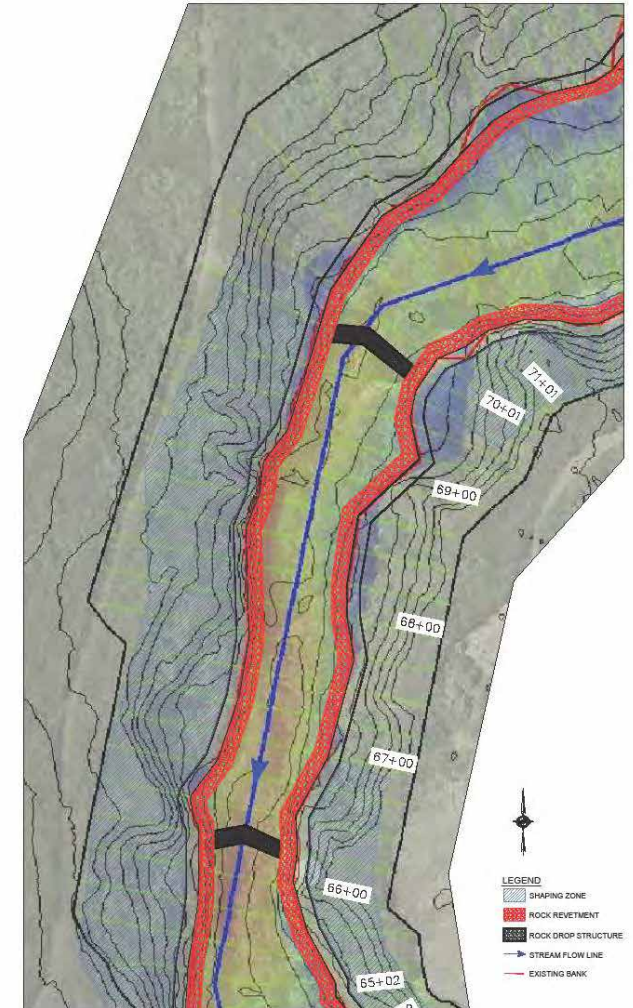
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CONCEPT 1 - RIP RAP



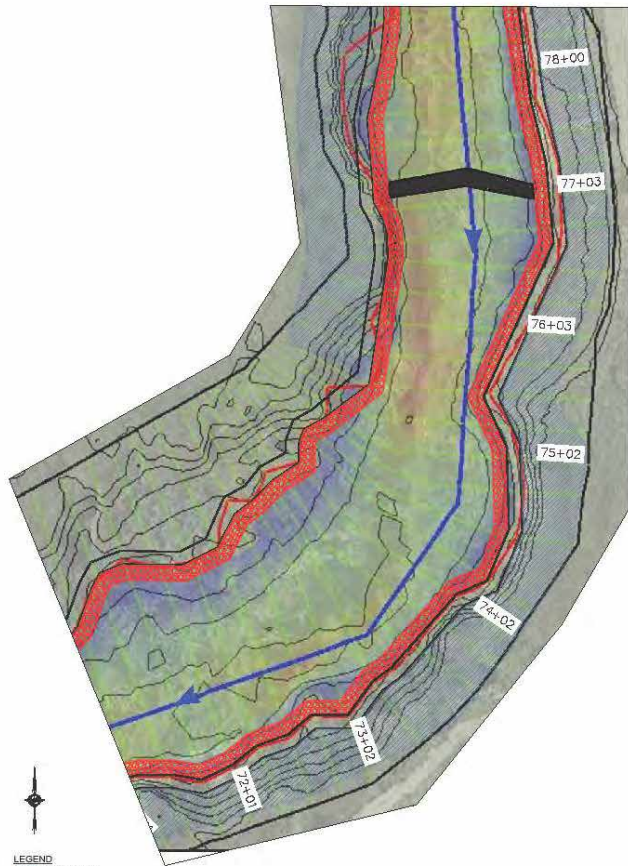
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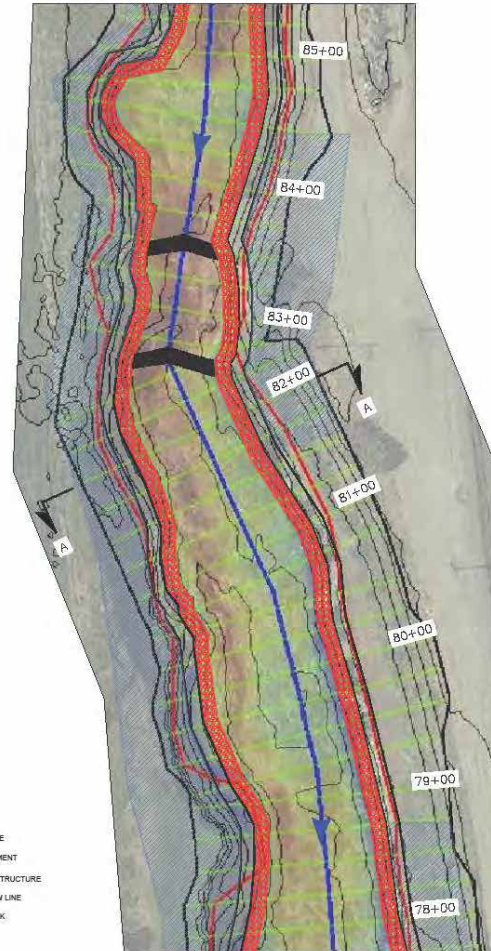
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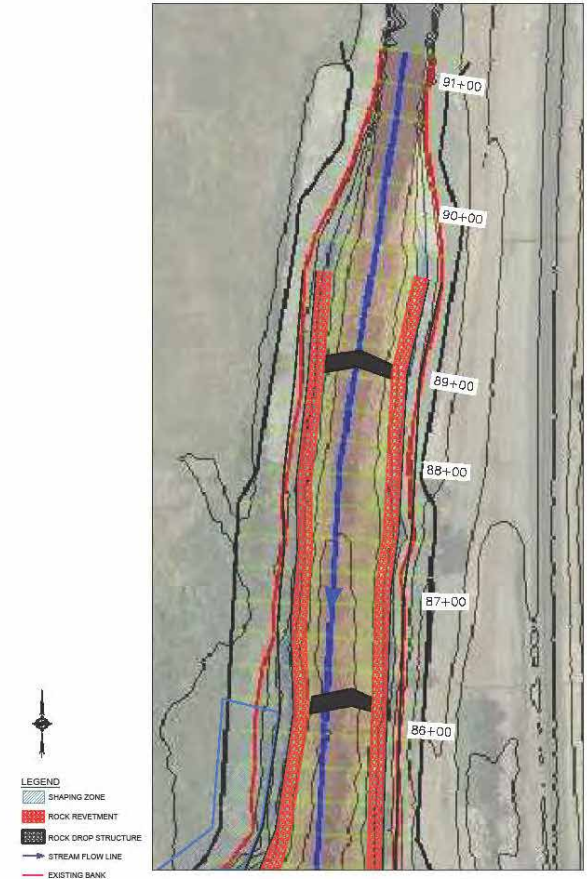
# Concept #1: Rip Rap Revetment



CONCEPT 1 - RIP RAP

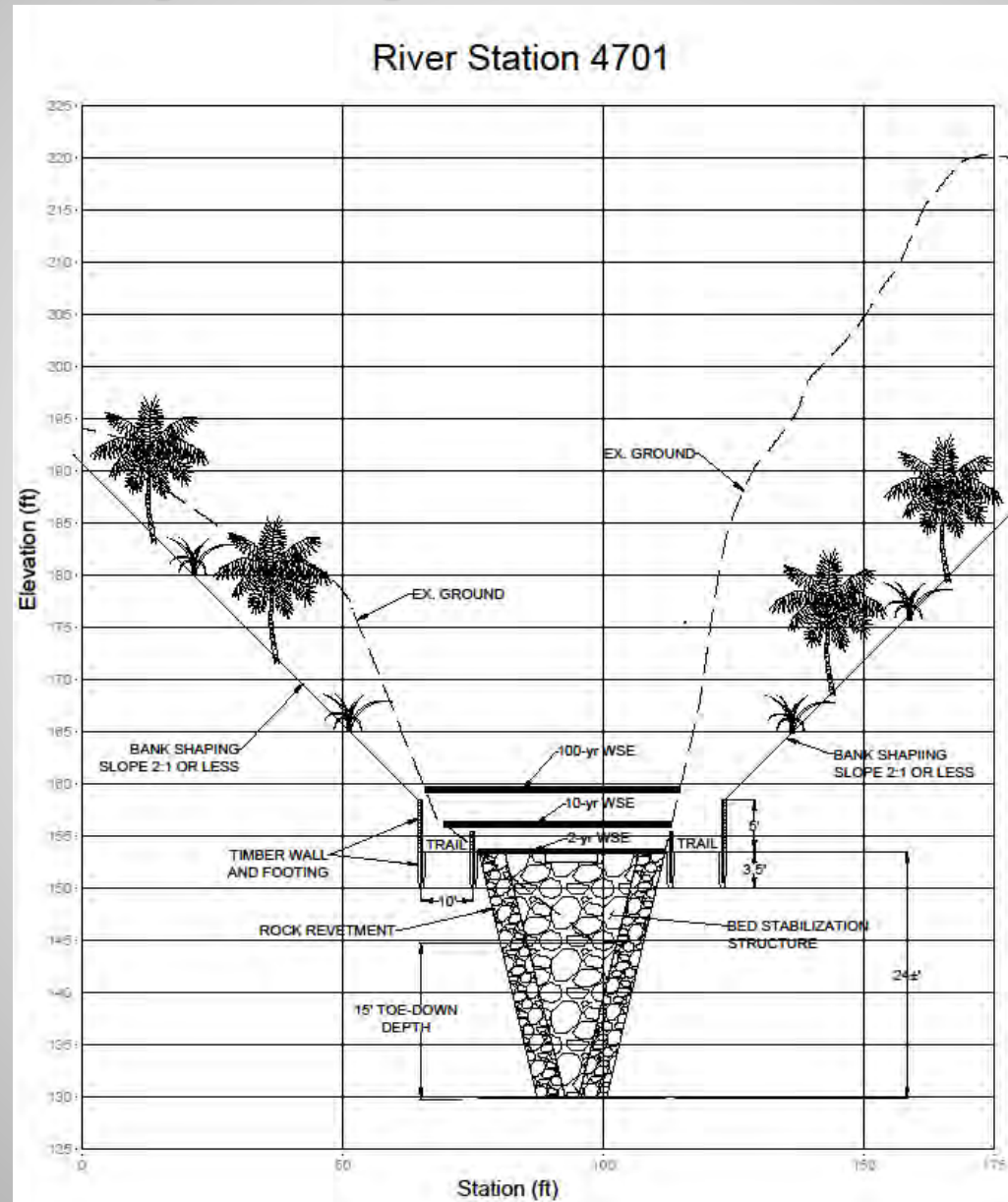


CONCEPT 1 - RIP RAP



CONCEPT 1 - RIP RAP

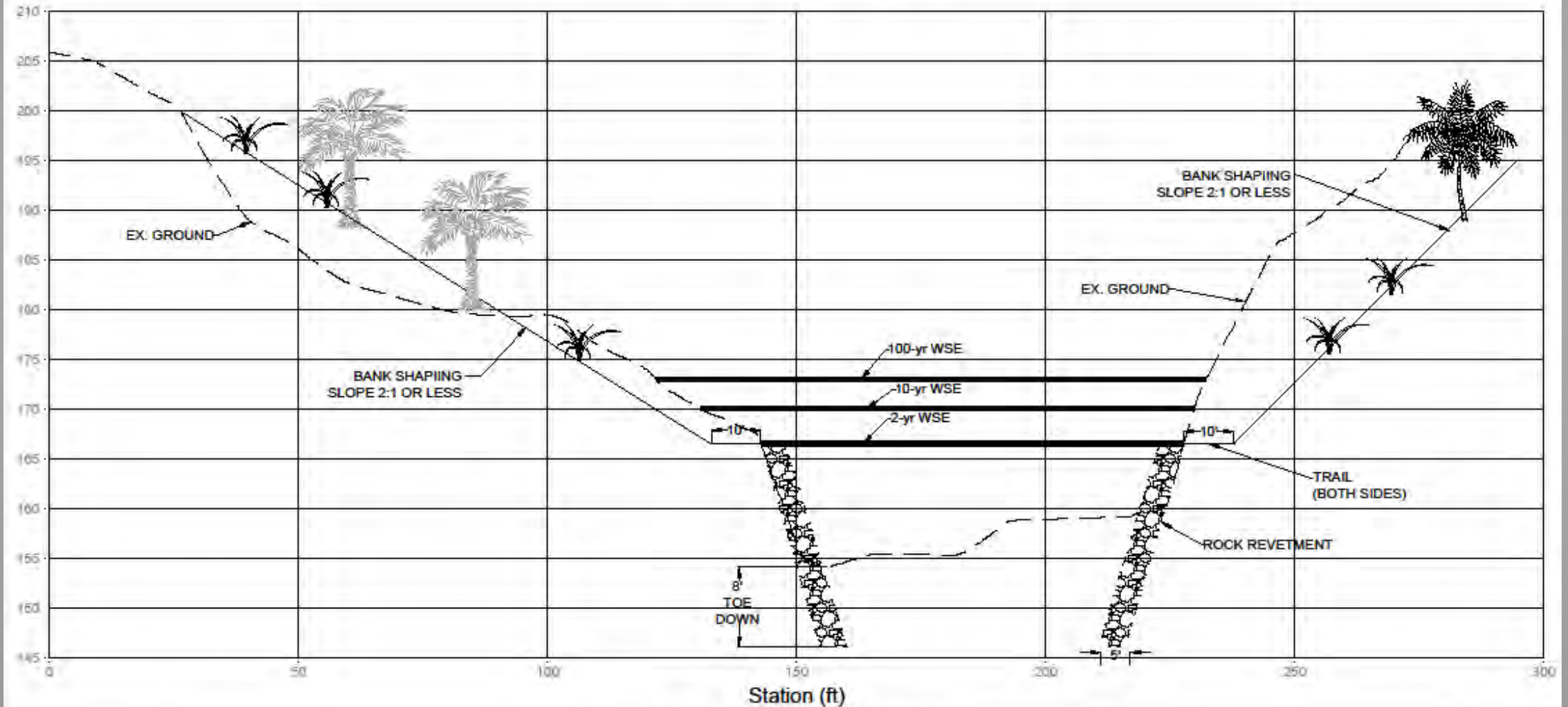
# Concept #1: Rip Rap Revetment





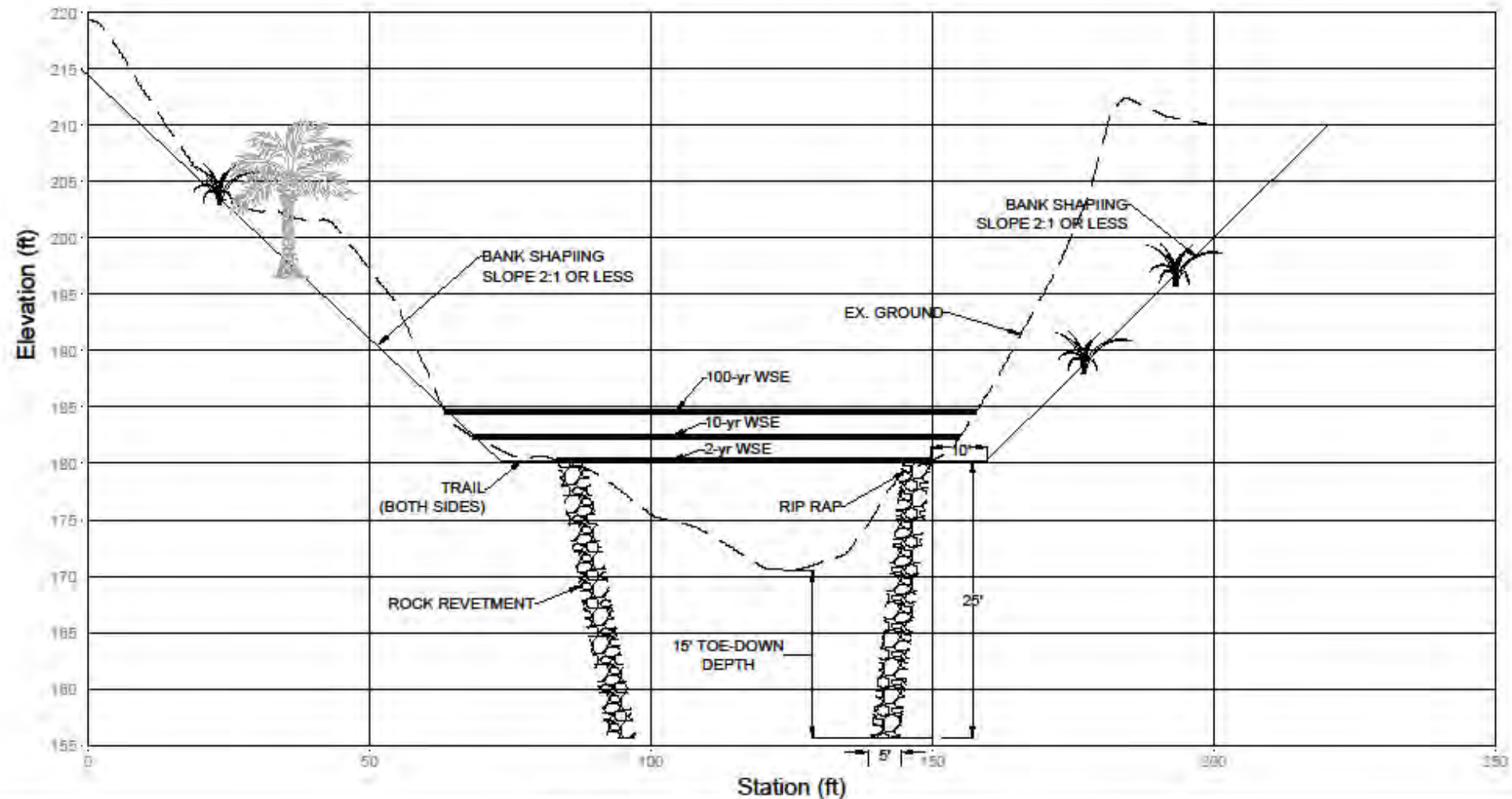
# Concept #1: Rip Rap Revetment

River Station 6201



# Concept #1: Rip Rap Revetment

River Station 8200





# Concept #1: Costs

ITEM #	DESCRIPTION	UNIT/LF	QUANTITY [LF ]	UNIT PRICE/LF	COST
1	Mobilization (5%)	LS	1	\$2,410,200	\$2,410,200
2	Clearing and Grubbing	SF	13,055	\$13	\$169,715
Riprap Revetment					
3	Excavation	CY	13,055	\$210	\$2,741,550
4	Backfill	CY	13,055	\$90	\$1,174,950
5	4T Rock	TON	13,055	\$2,200	\$28,721,000
Bed Stabilization					
6	Excavation	CY	1,310	\$333	\$436,230
7	Backfill	CY	1,310	\$249	\$326,190
8	2T Rock	TON	1,310	\$1,814	\$2,376,864
Bank Shaping and Planting					
9	Excavation	CY	10,475	\$300	\$3,142,500
10	Backfill	CY	10,475	\$600	\$6,285,000
11	Planting	SF	10,475	\$5	\$52,375
12	Mulching	SF	10,475	\$18	\$188,550
ENGINEER'S ESTIMATE					\$48,025,124
30% Contingency					\$14,407,537
CONSTRUCTION BUDGET					\$62,432,661

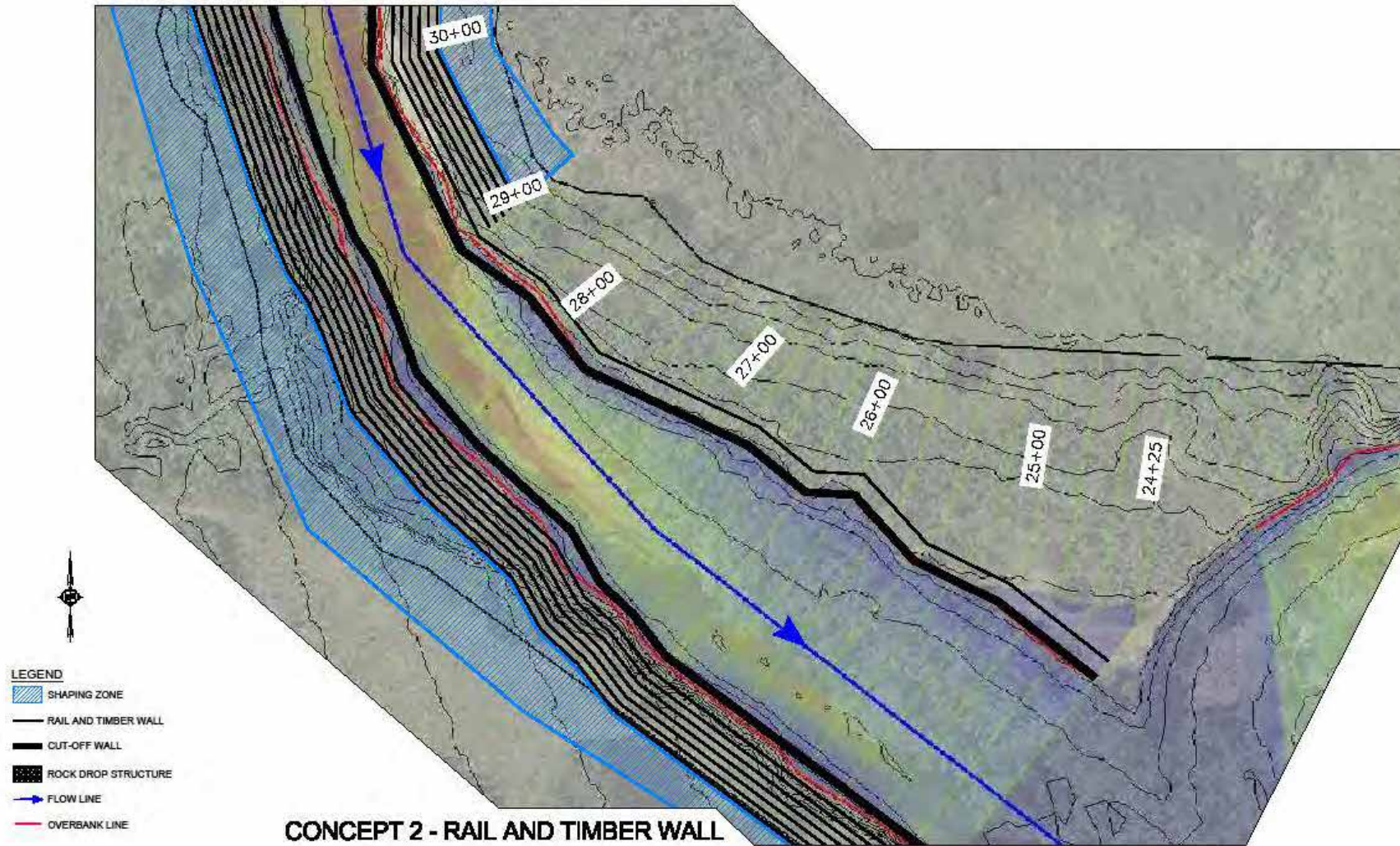


# Concept #2: Rail and Timber Wall



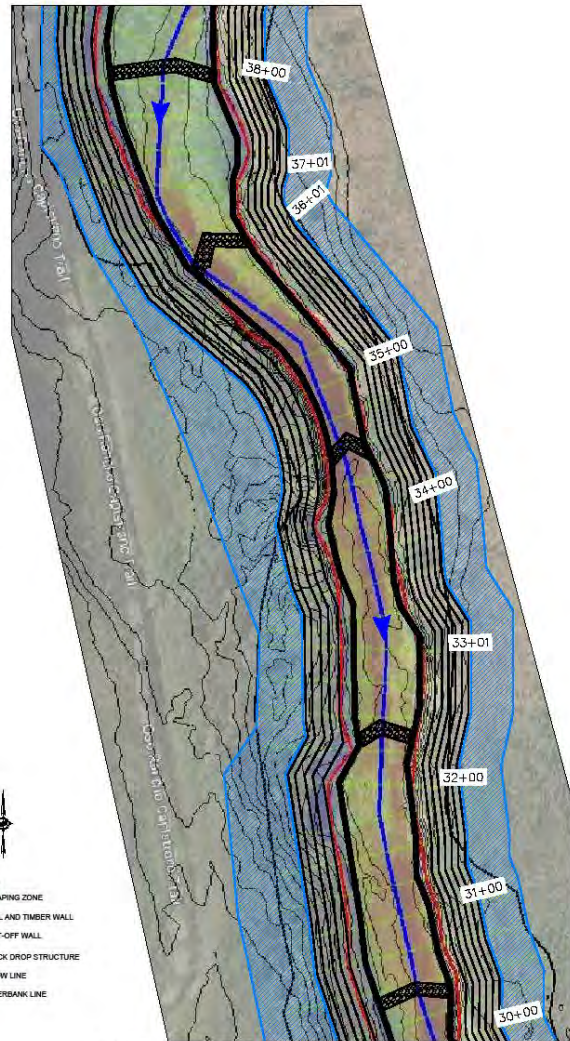


# Concept #2: Rail and Timber Wall

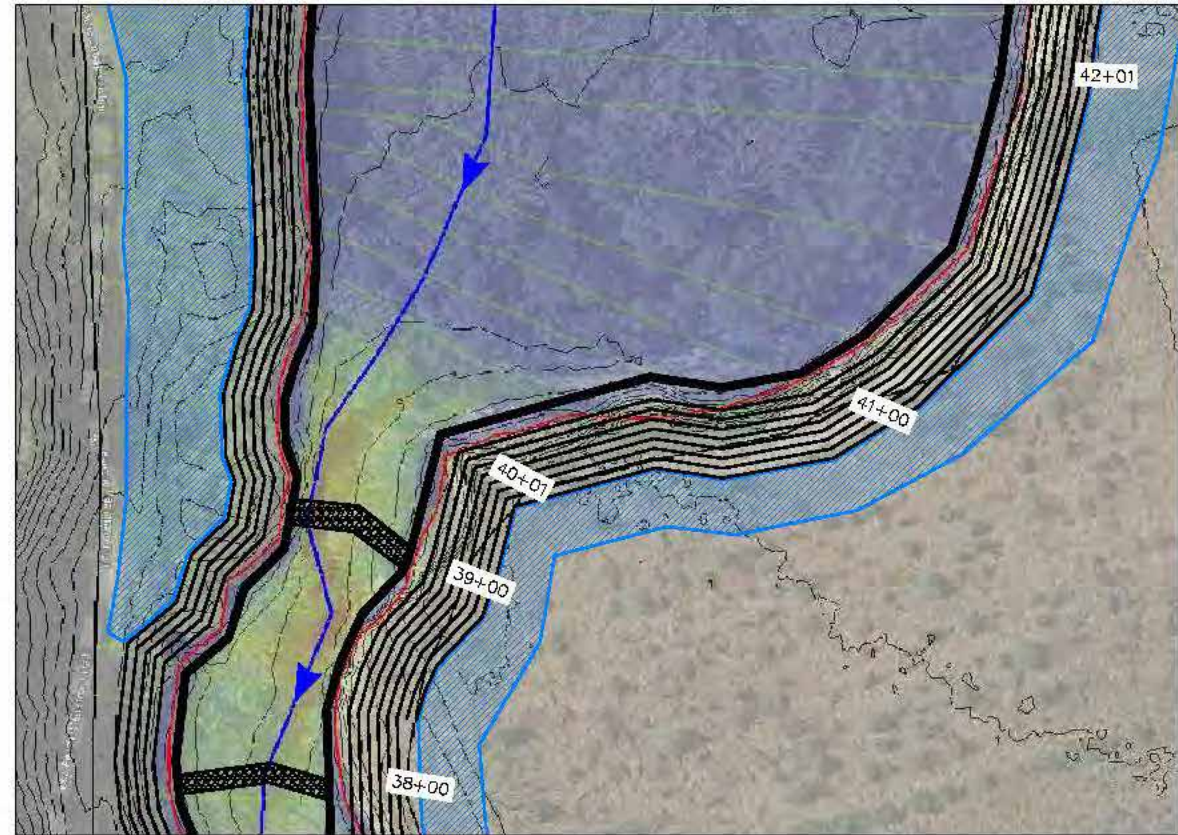




# Concept #2: Rail and Timber Wall



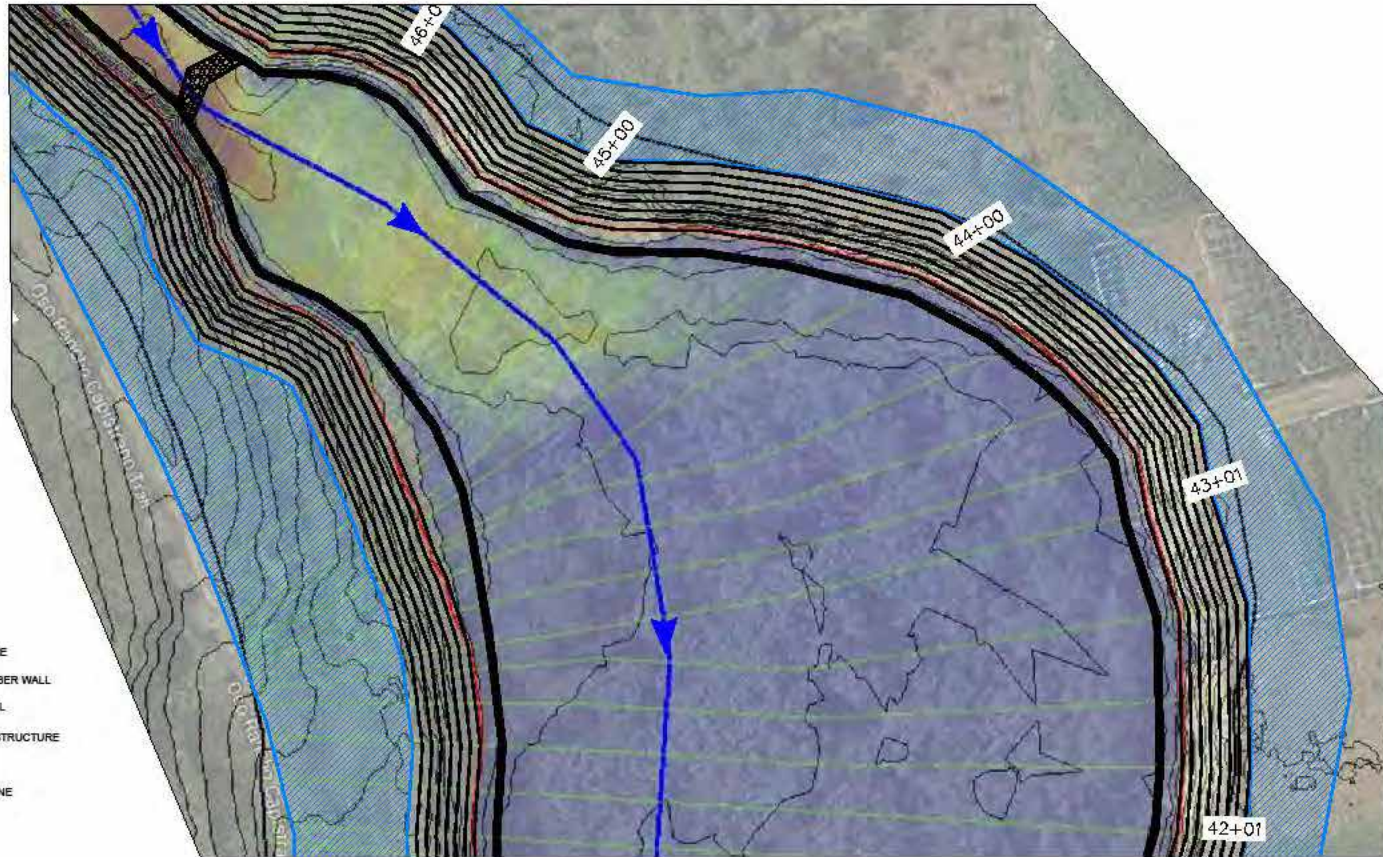
CONCEPT 2 - RAIL AND TIMBER WALL



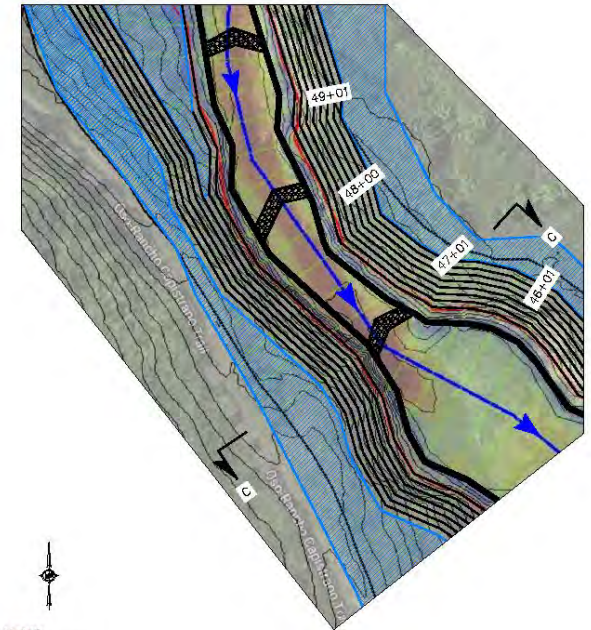
CONCEPT 2 - RAIL AND TIMBER WALL



# Concept #2: Rail and Timber Wall



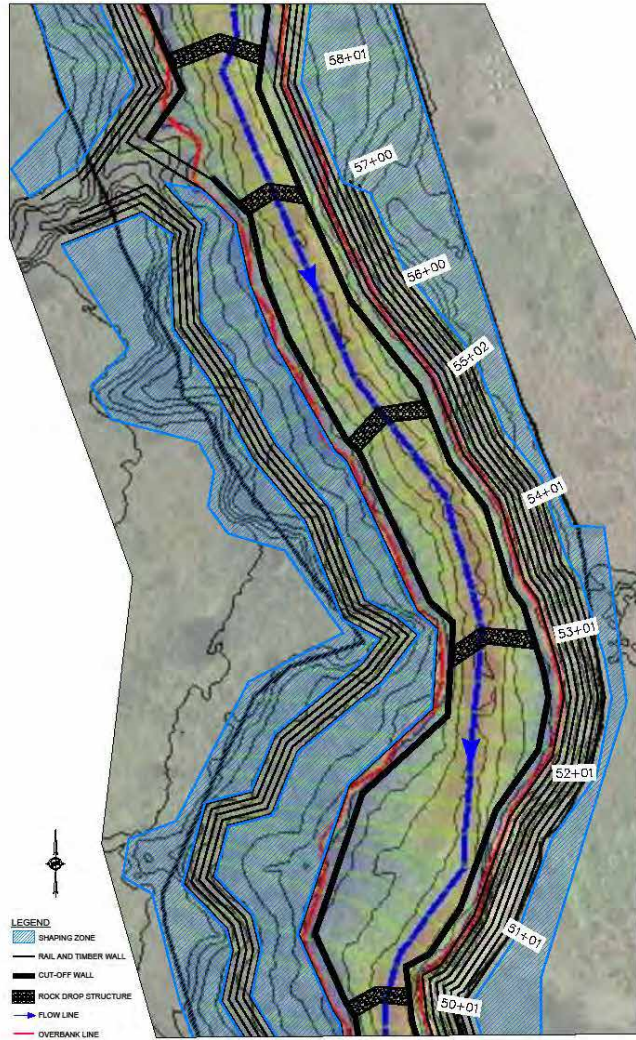
CONCEPT 2 - RAIL AND TIMBER WALL



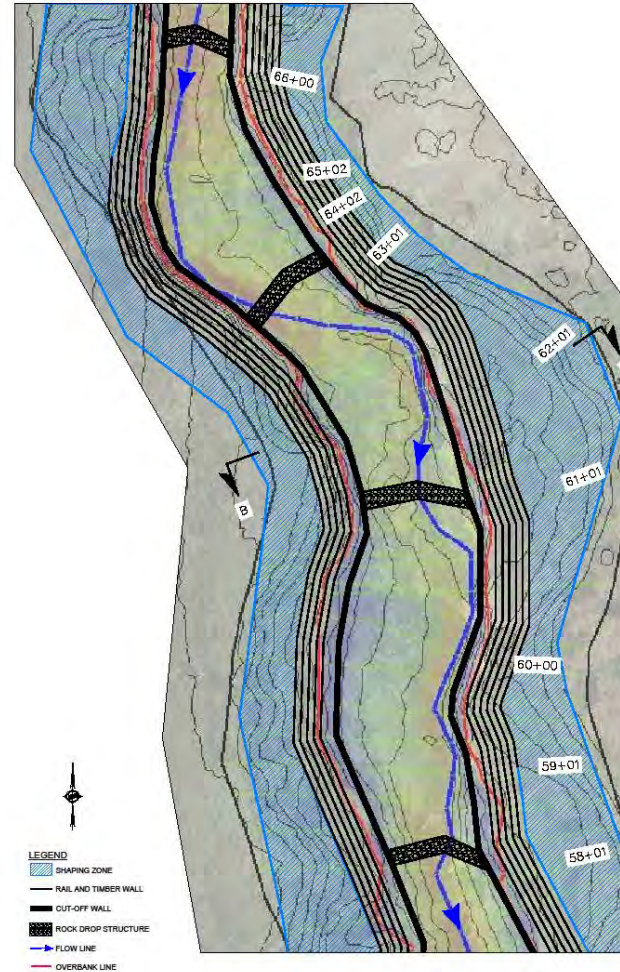
CONCEPT 2 - RAIL AND TIMBER WALL



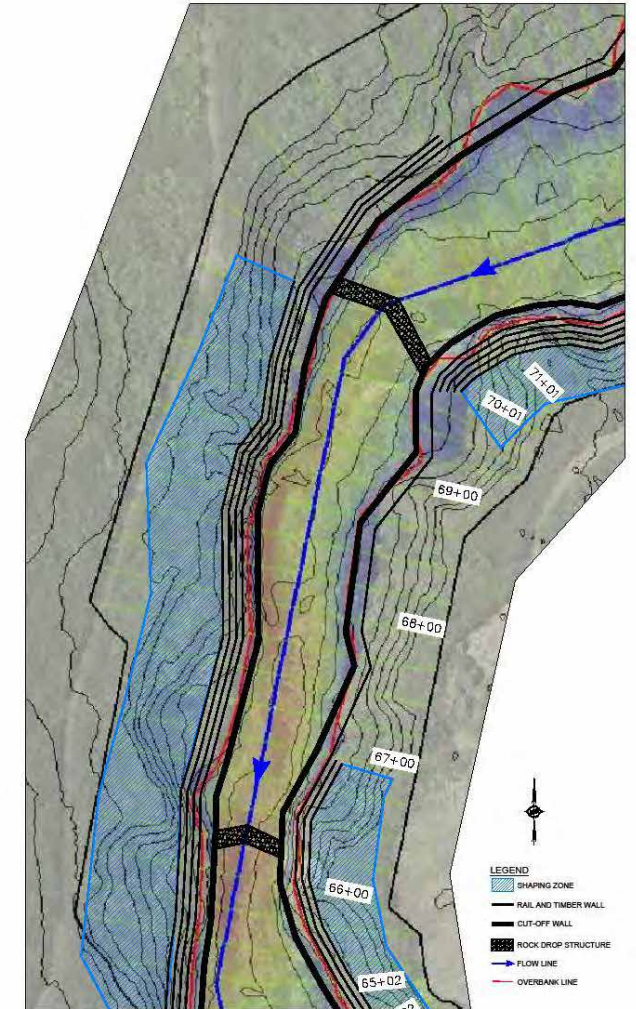
# Concept #2: Rail and Timber Wall



CONCEPT 2 - RAIL AND TIMBER WALL



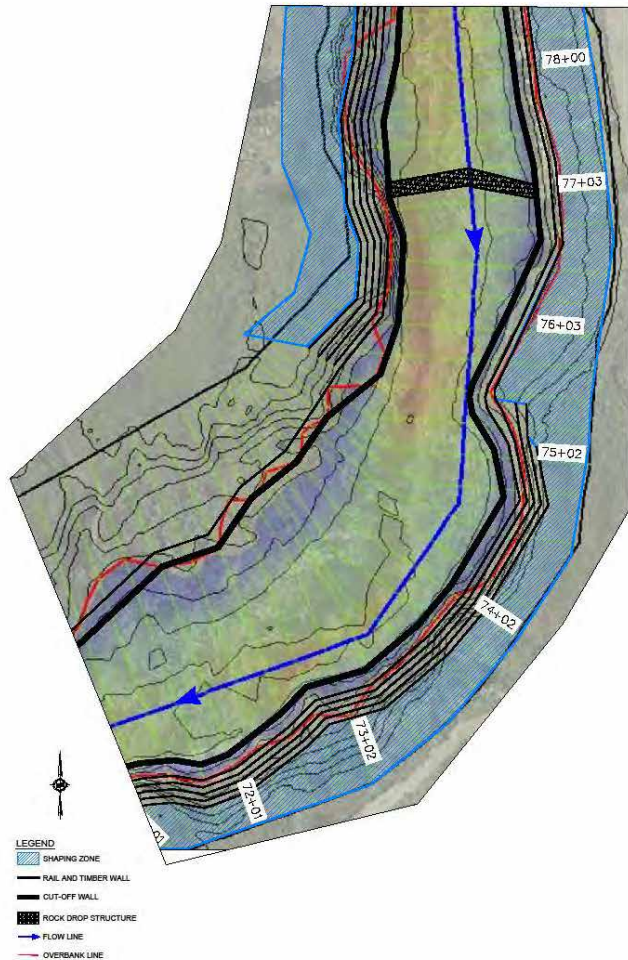
CONCEPT 2 - RAIL AND TIMBER WALL



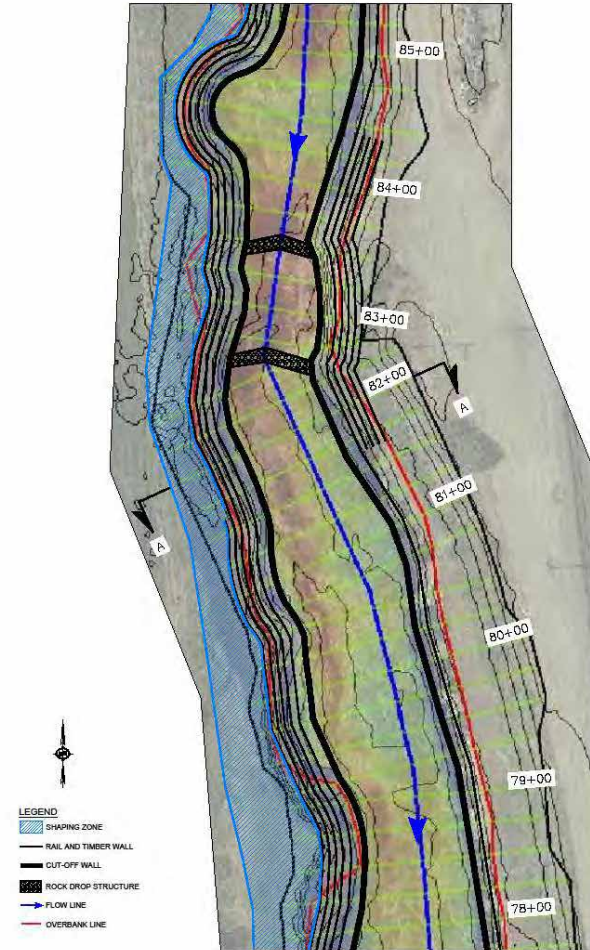
CONCEPT 2 - RAIL AND TIMBER WALL



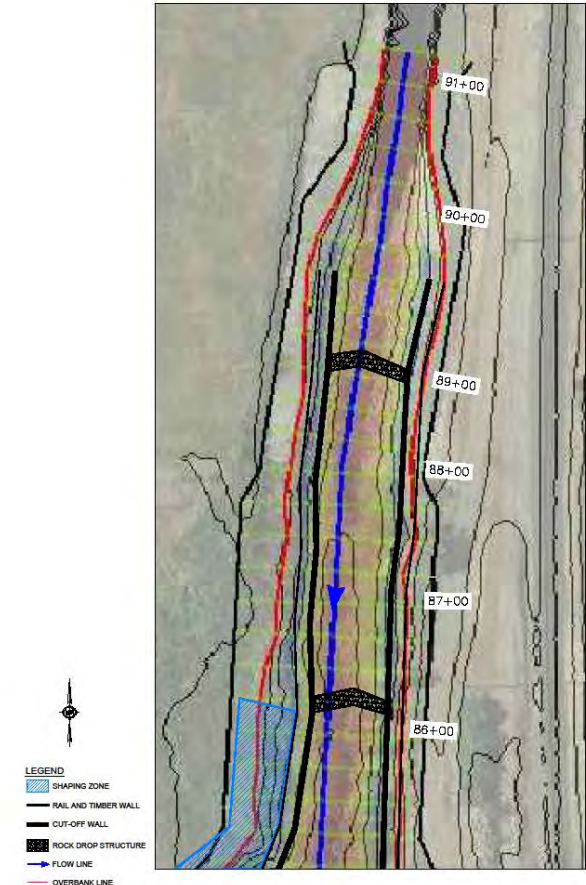
# Concept #2: Rail and Timber Wall



CONCEPT 2 - RAIL AND TIMBER WALL



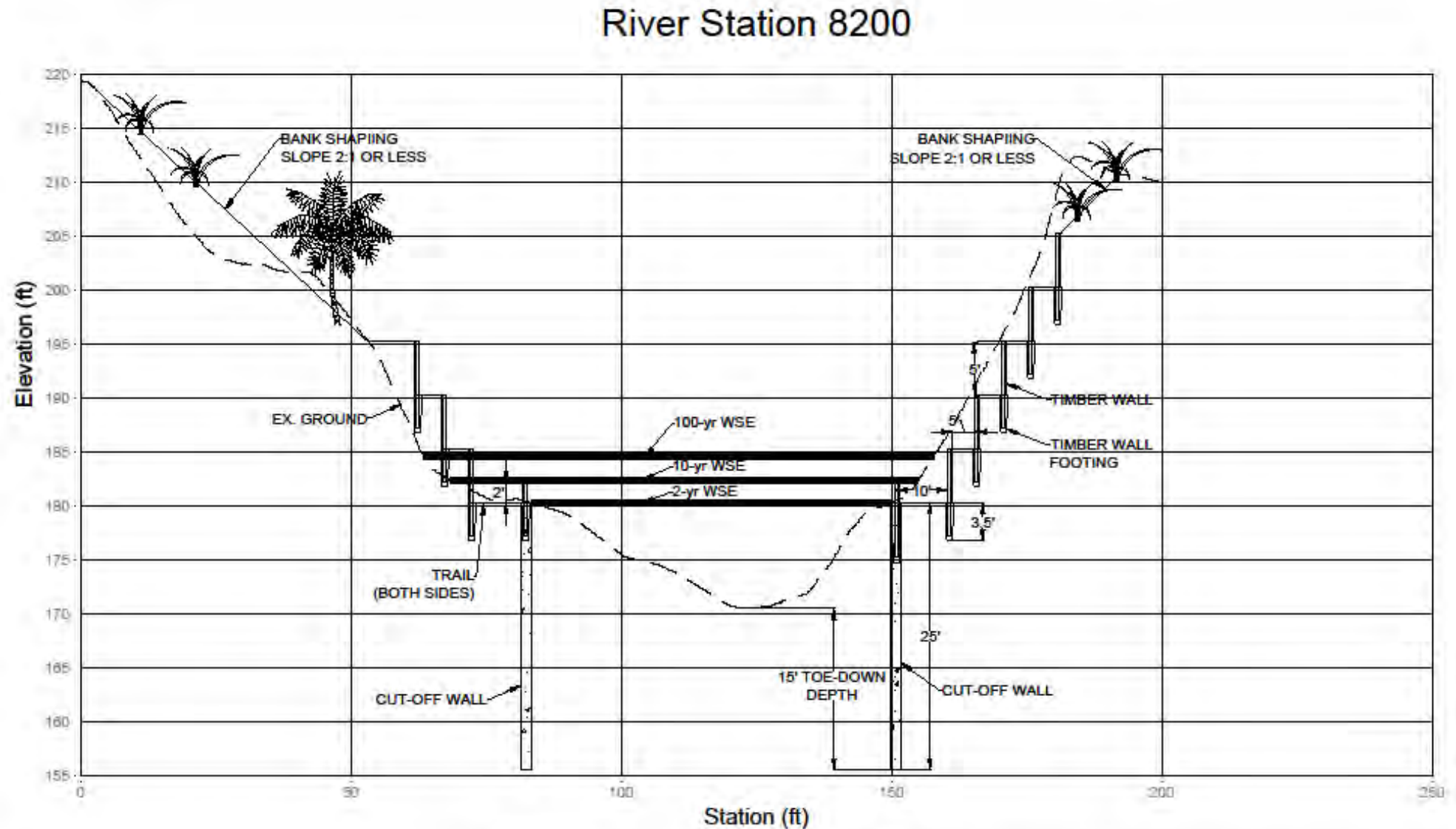
CONCEPT 2 - RAIL AND TIMBER WALL



CONCEPT 2 - RAIL AND TIMBER WALL

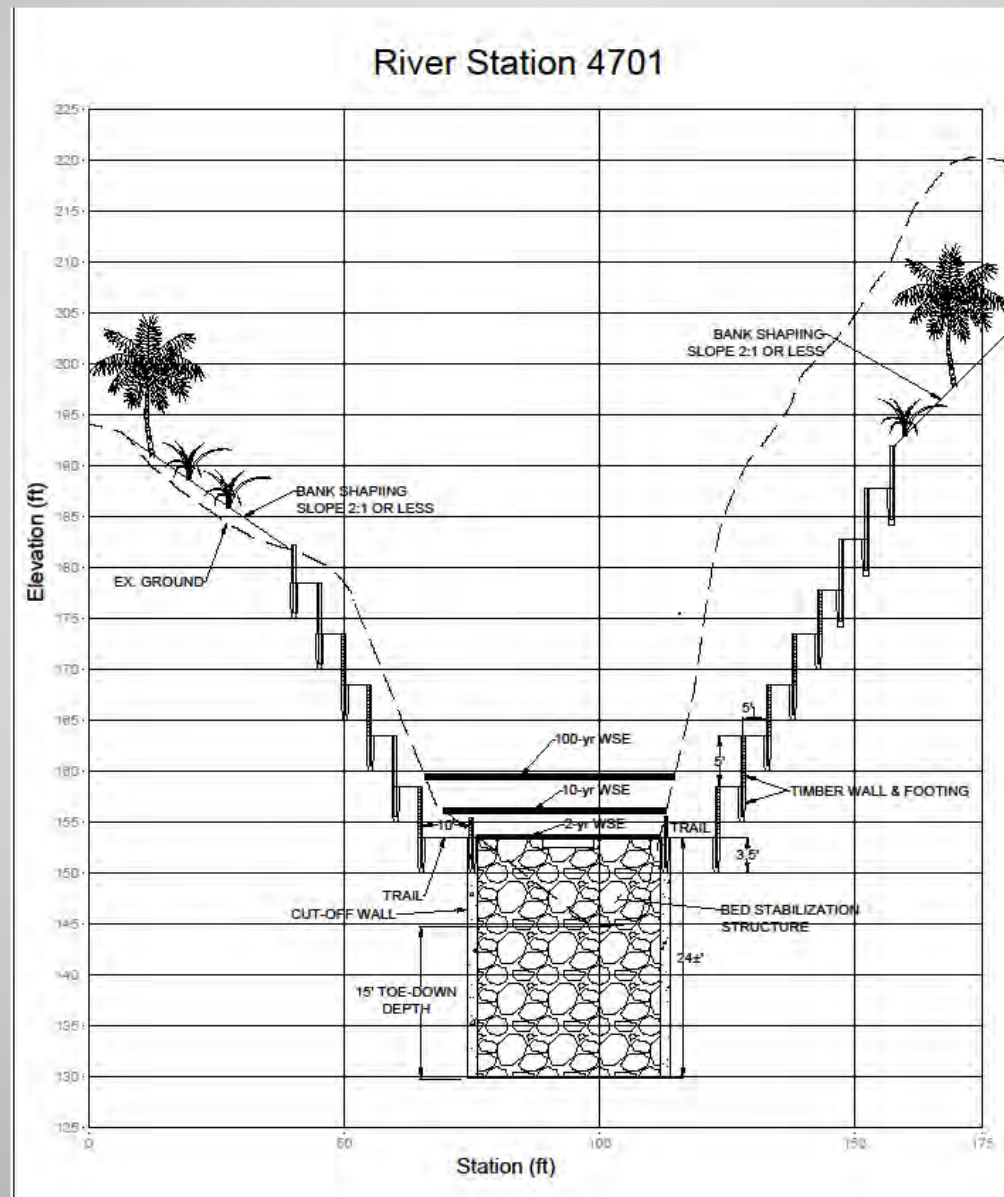


# Concept #2: Rail and Timber Wall



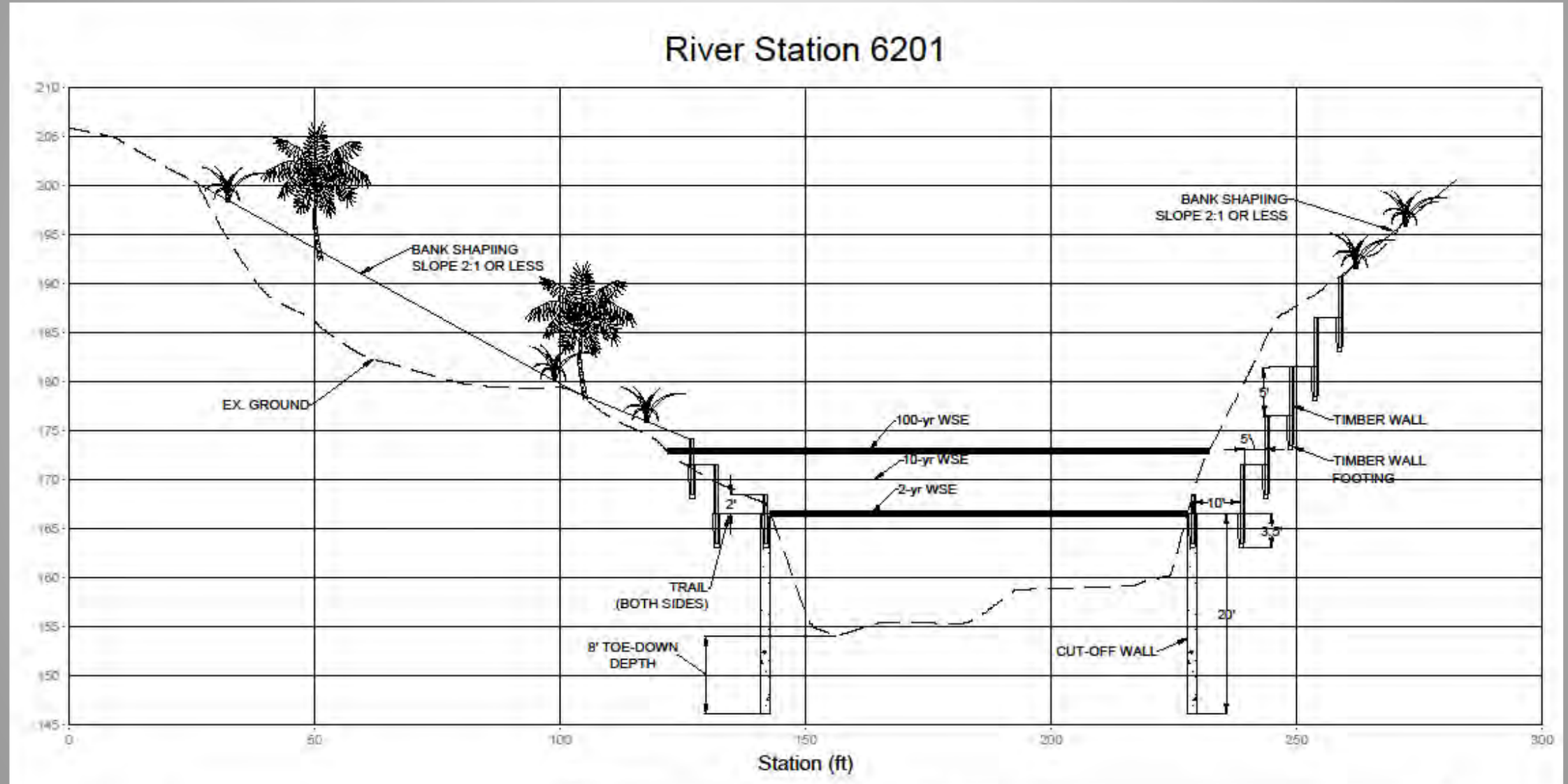


# Concept #2: Rail and Timber Wall





# Concept #2: Rail and Timber Wall



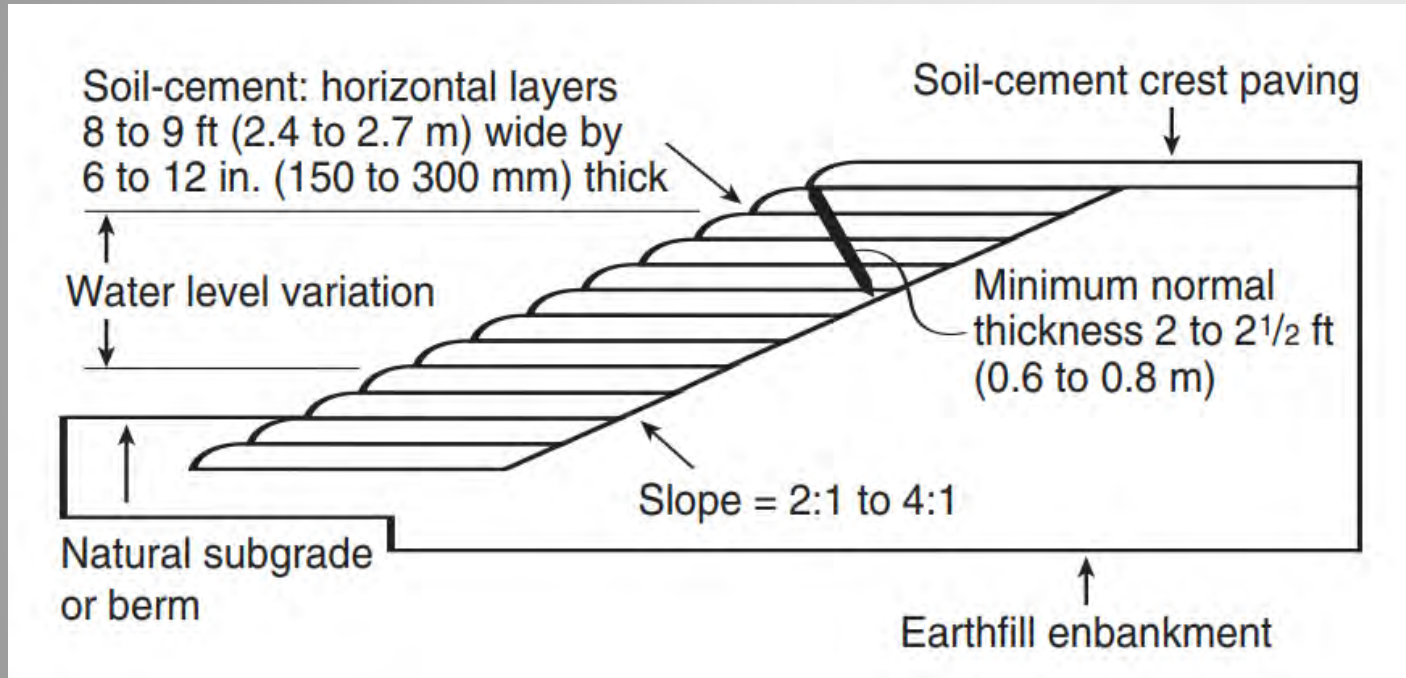


# Concept #2: Costs

ITEM #	DESCRIPTION	UNIT/LF	QUANTITY [LF ]	UNIT PRICE/LF	COST
1	Mobilization (5%)	LS	1	\$3,063,200	\$3,063,200
2	Clearing and Grubbing	SF	11,970	\$13	\$155,610
Rail and Timber Wall					
3	Excavation	CY	11,970	\$375	\$4,488,750
4	Backfill	CY	11,970	\$750	\$8,977,500
5	Toe-down Wall	LF	11,970	\$1,295	\$15,501,150
6	Wood Rail and Timber Wall	LF	11,970	\$1,275	\$15,261,750
Bed Stabilization					
6	Excavation	CY	1,410	\$333	\$469,530
7	Backfill	CY	1,410	\$249	\$351,090
8	2T Rock	TON	1,410	\$1,814	\$2,558,304
Bank Shaping and Planting					
9	Excavation	CY	11,120	\$300	\$3,336,000
10	Backfill	CY	11,120	\$600	\$6,672,000
11	Planting	SF	11,120	\$5	\$55,600
12	Mulching	SF	11,120	\$18	\$194,600
ENGINEER'S ESTIMATE					\$61,085,084
30% Contingency					\$18,325,525
CONSTRUCTION BUDGET					\$79,410,609

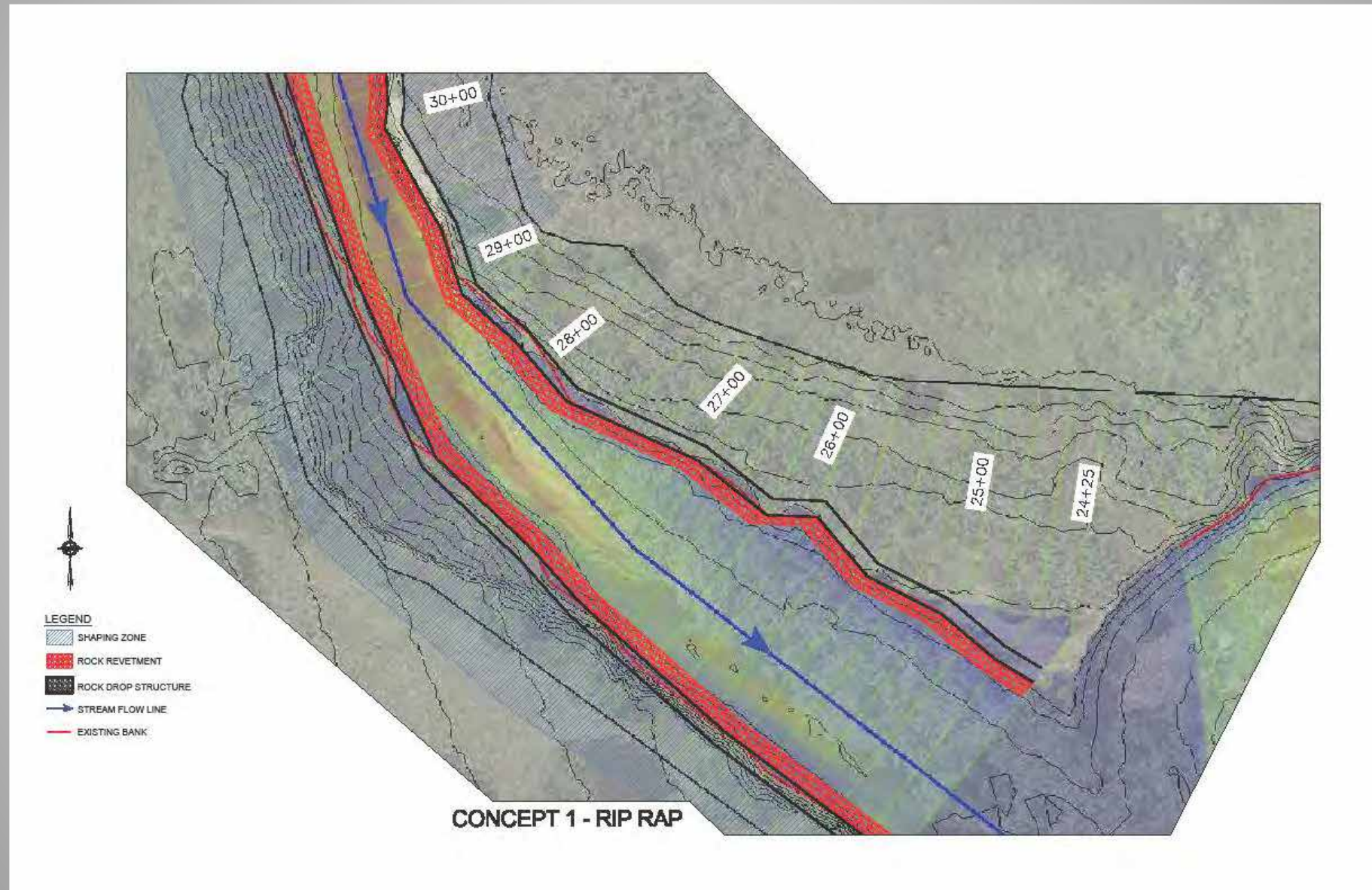


# Concept #3: Soil-Cement



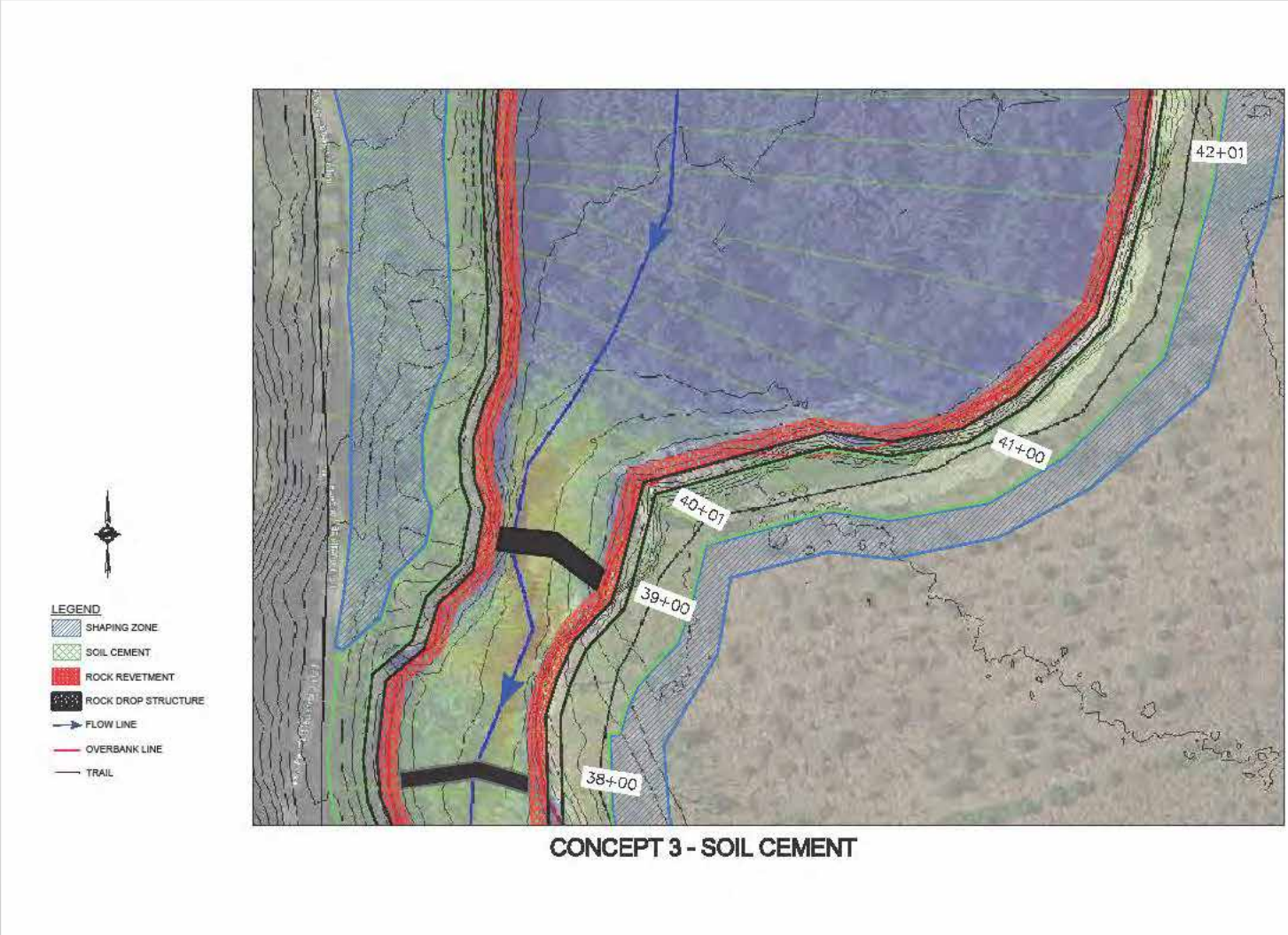
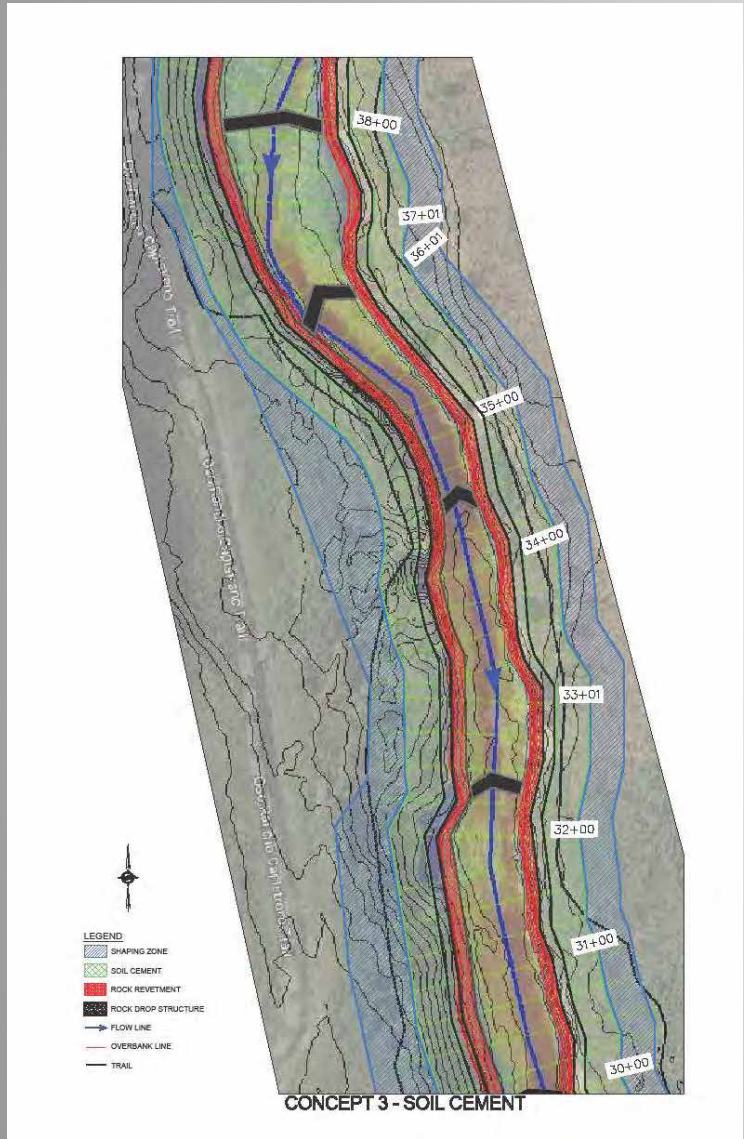


# Concept #3: Soil-Cement



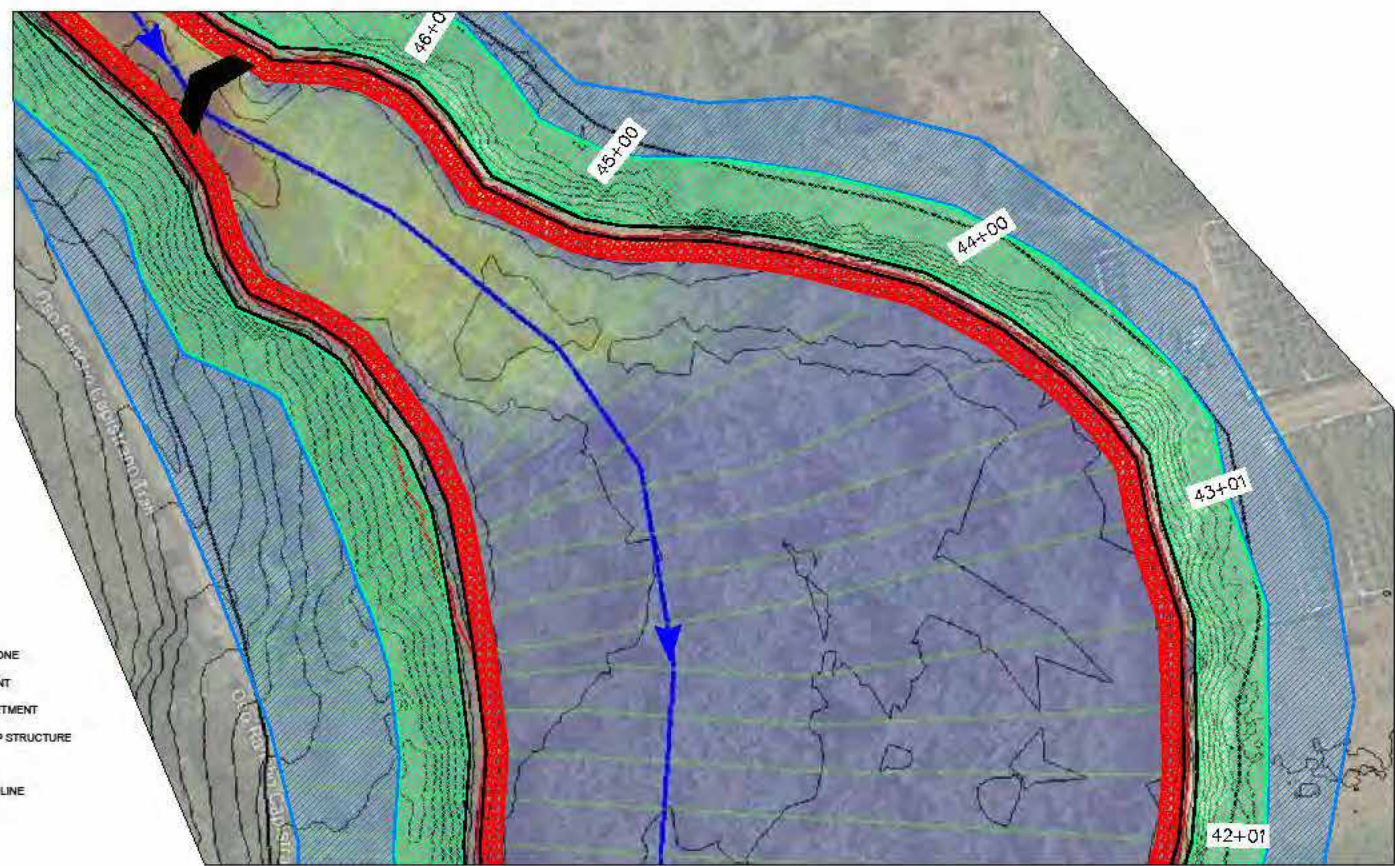


# Concept #3: Soil-Cement

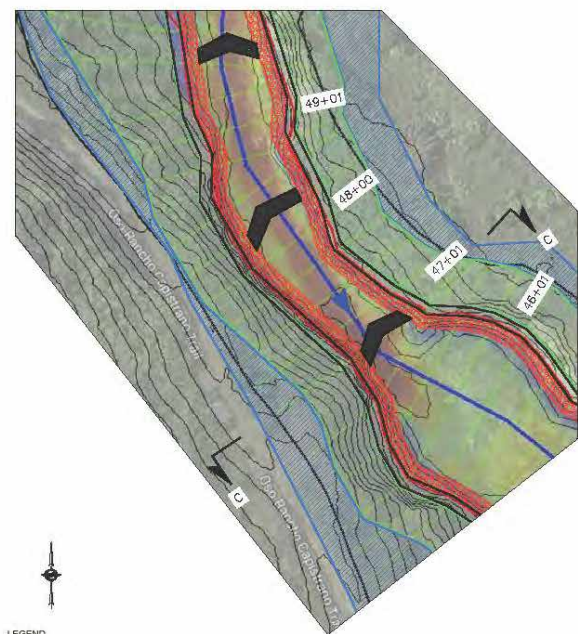




# Concept #3: Soil-Cement



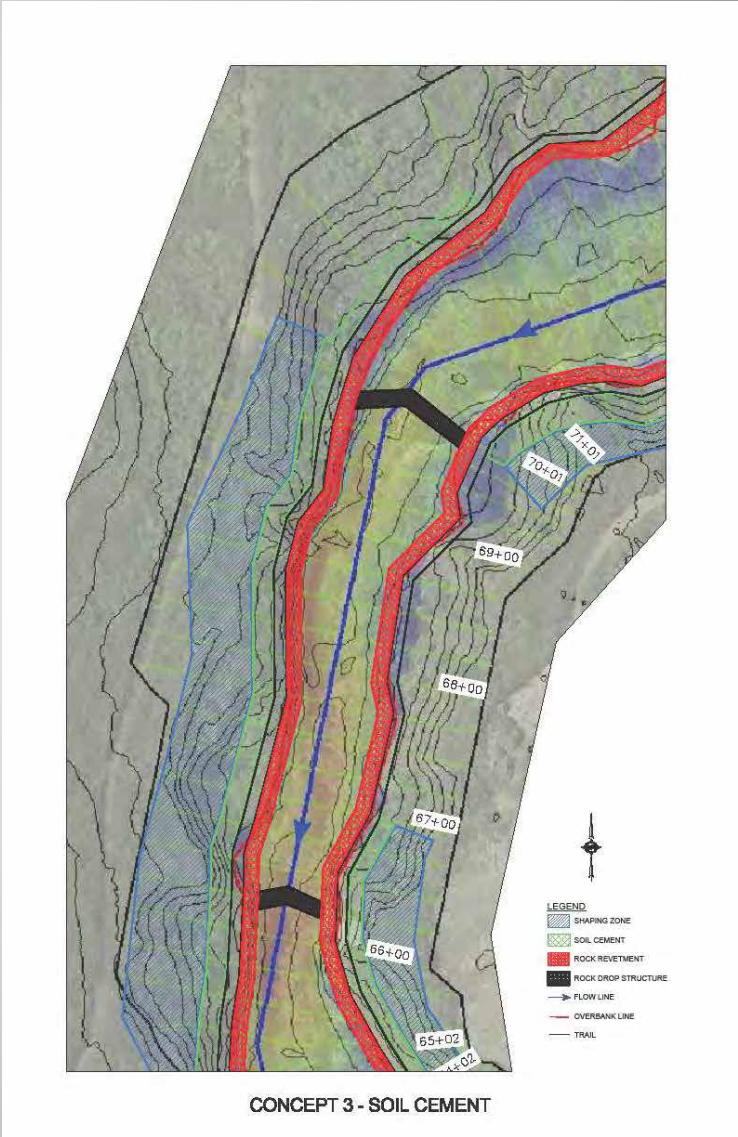
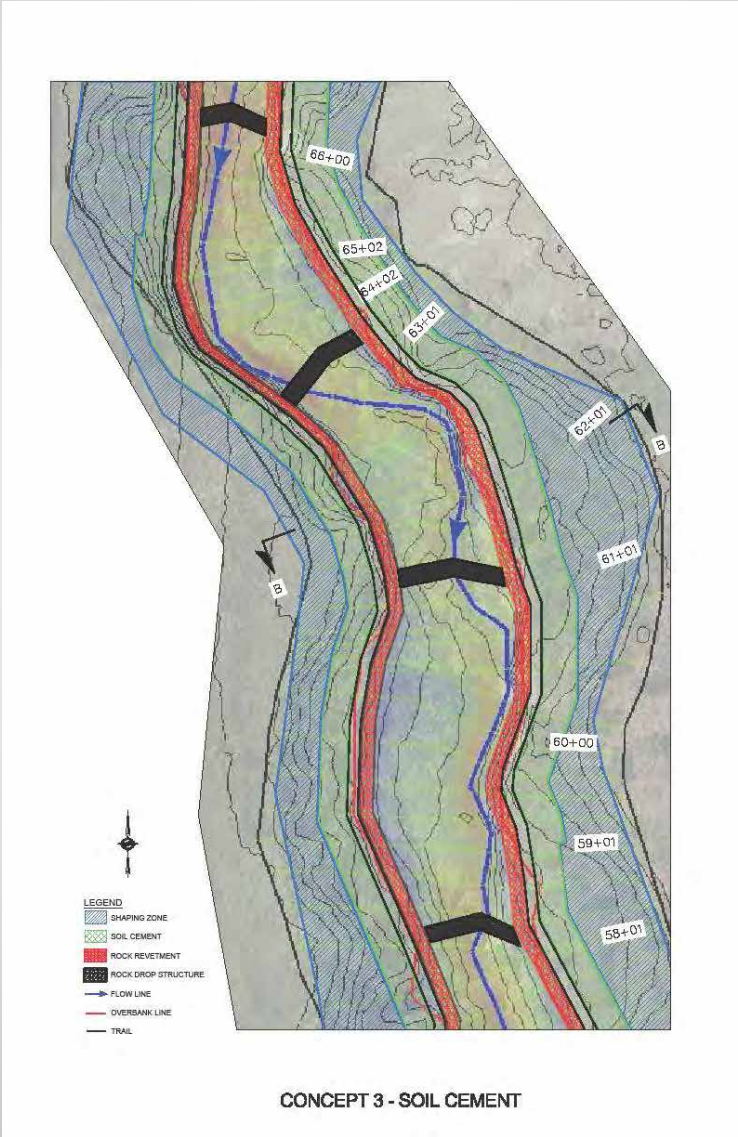
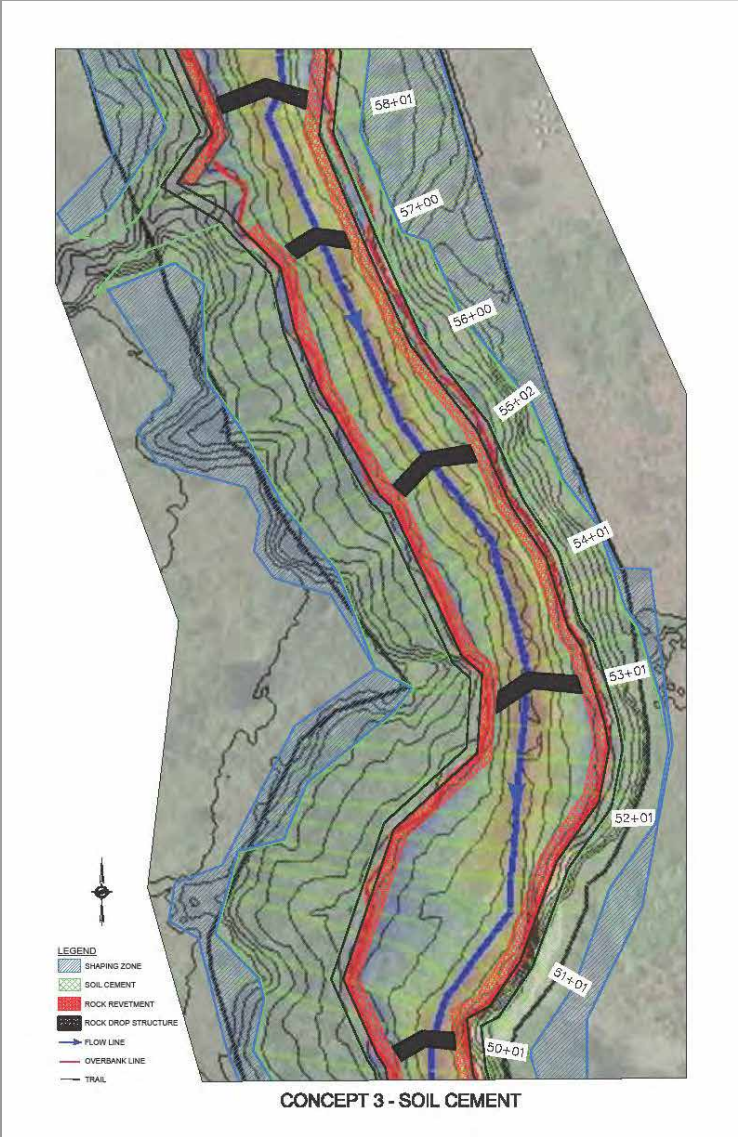
CONCEPT 3 - SOIL CEMENT



CONCEPT 3 - SOIL CEMENT

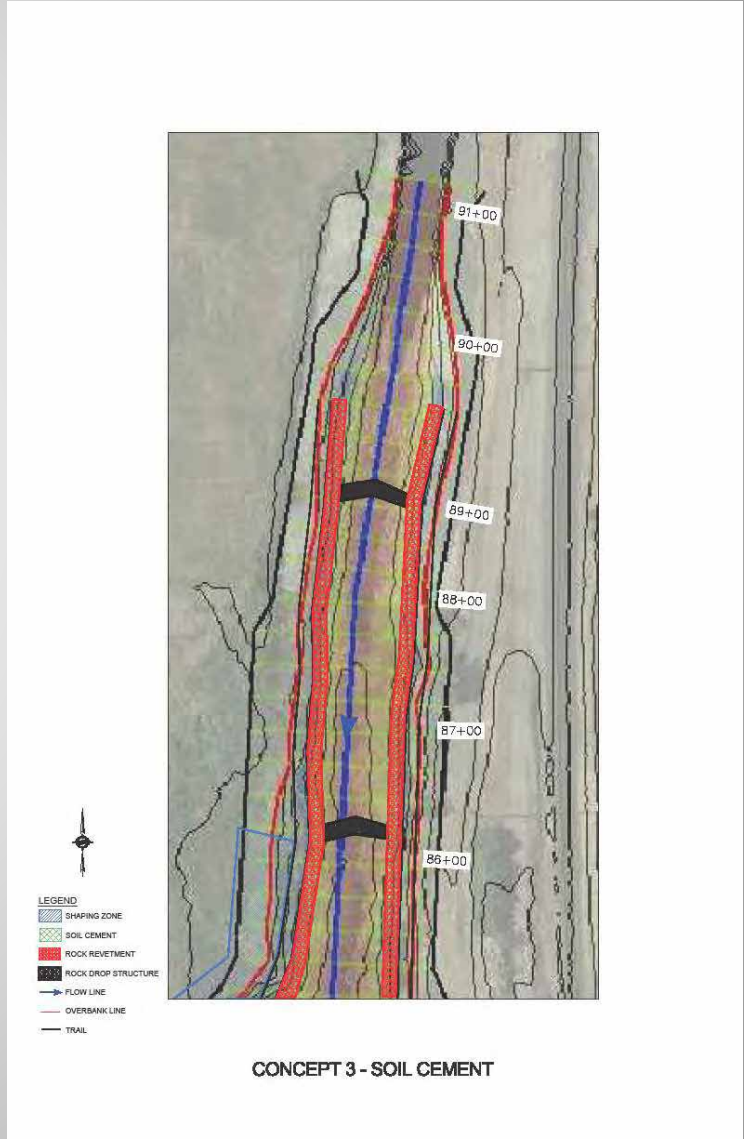
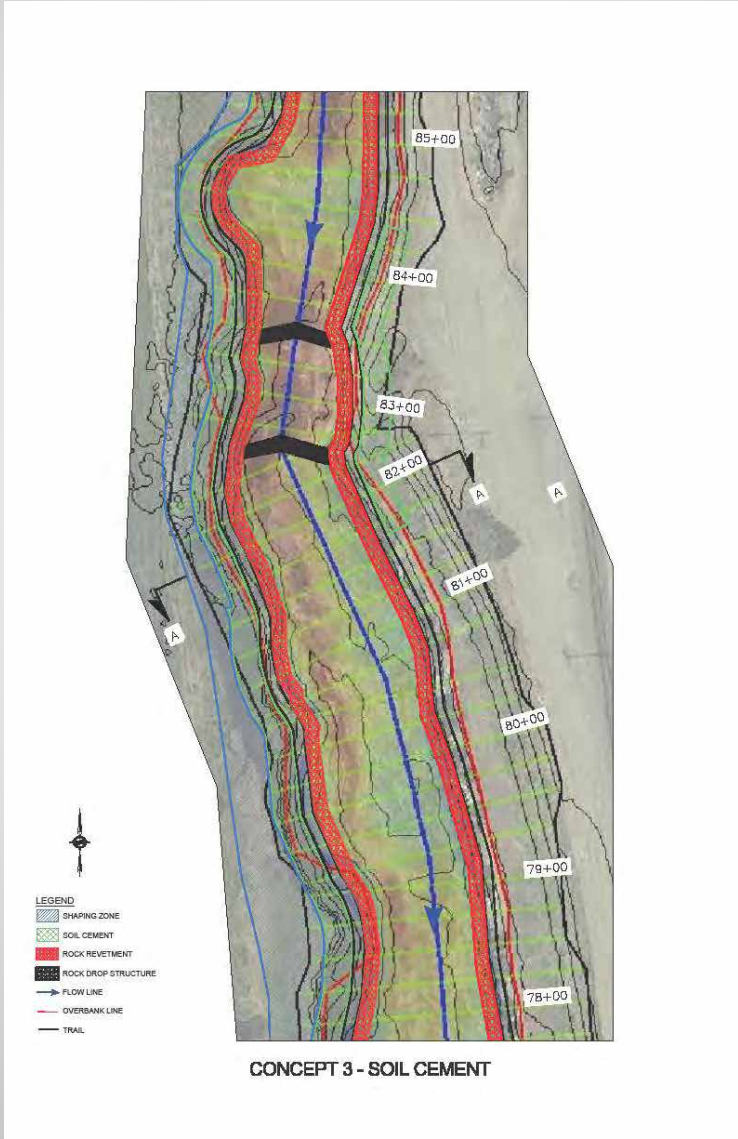
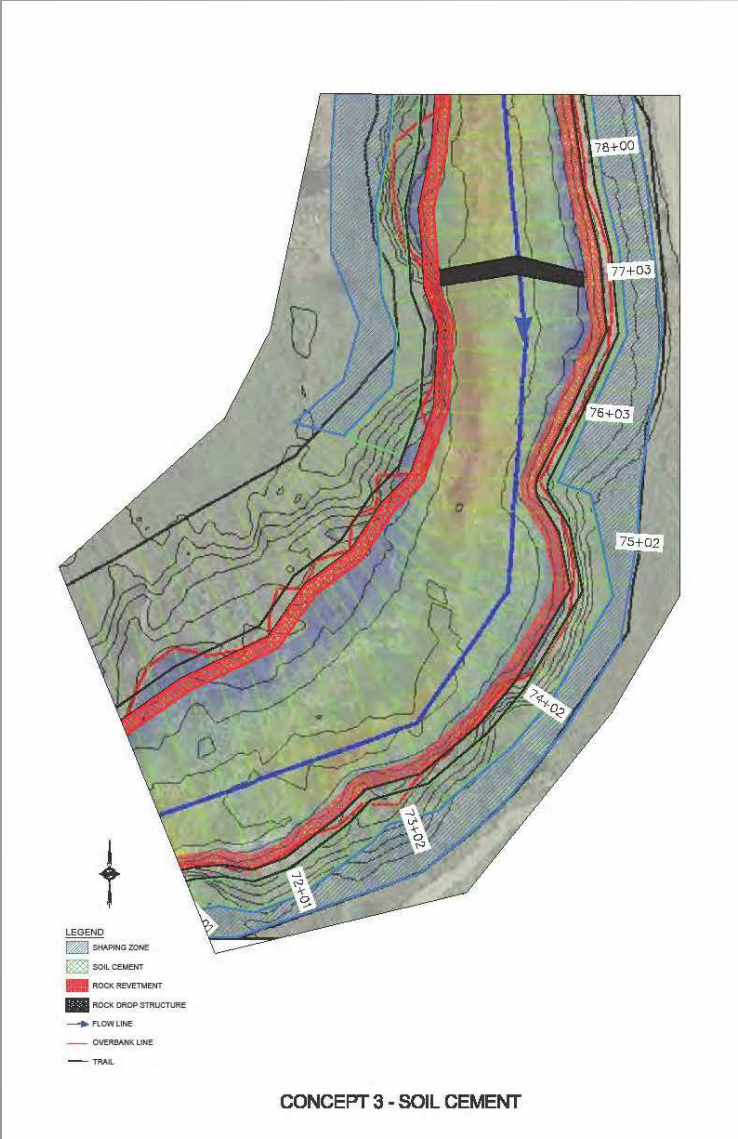


# Concept #3: Soil-Cement



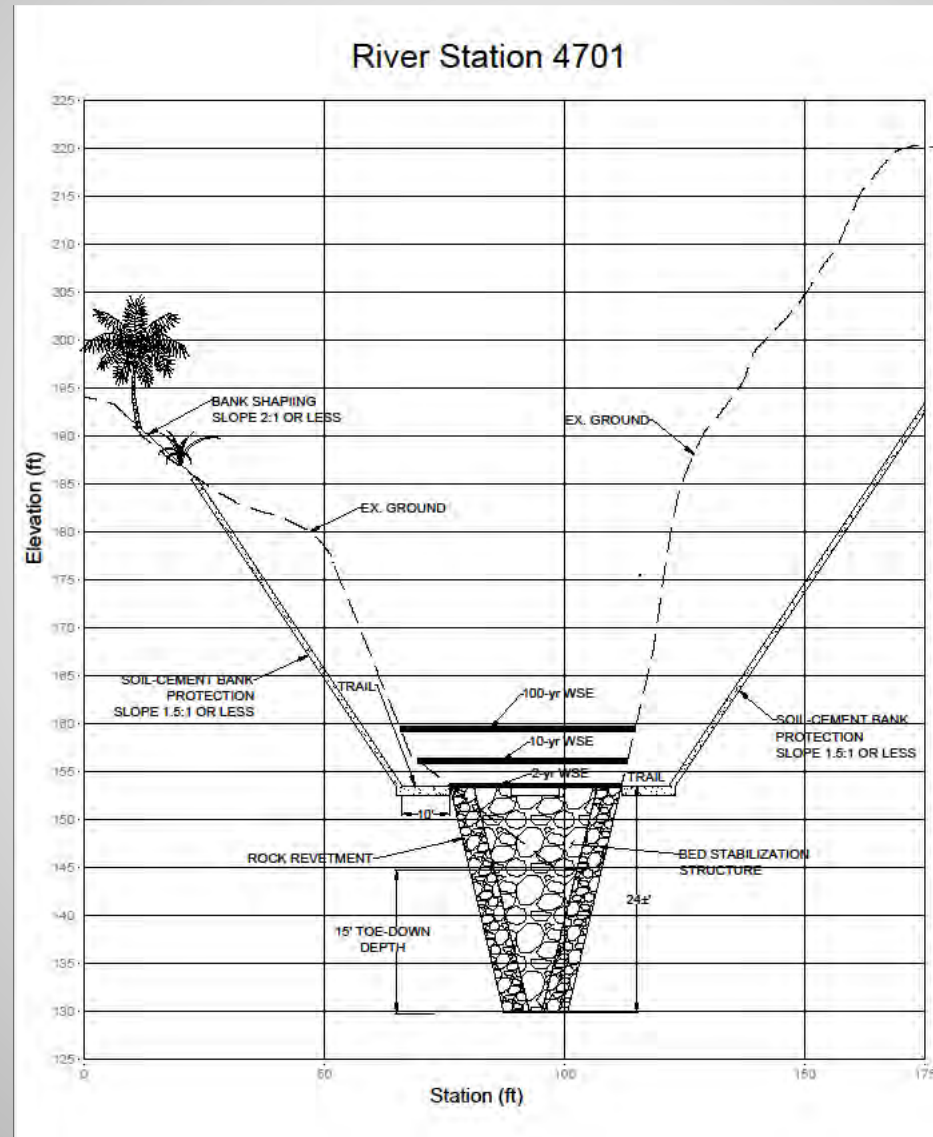


# Concept #3: Soil-Cement





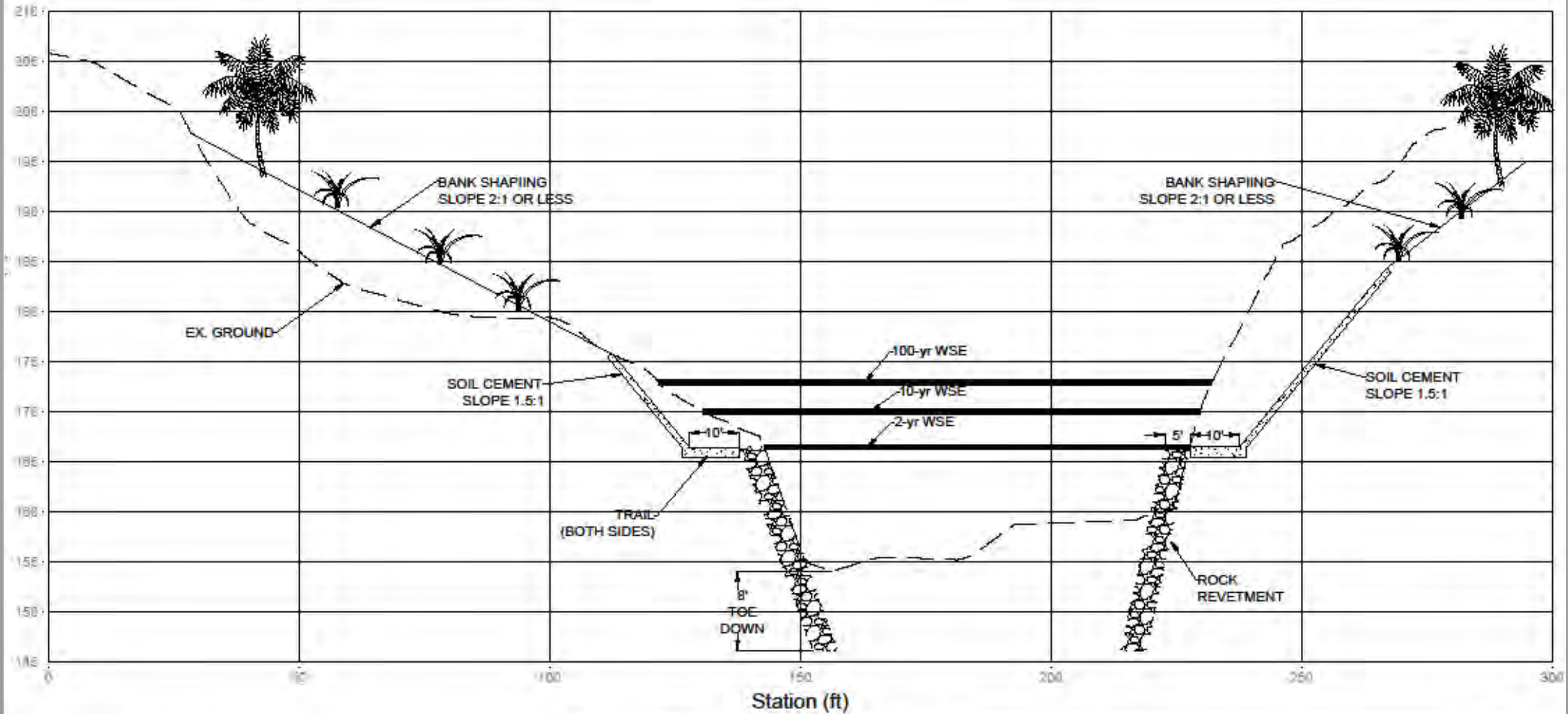
# Concept #3: Soil-Cement





# Concept #3: Soil-Cement

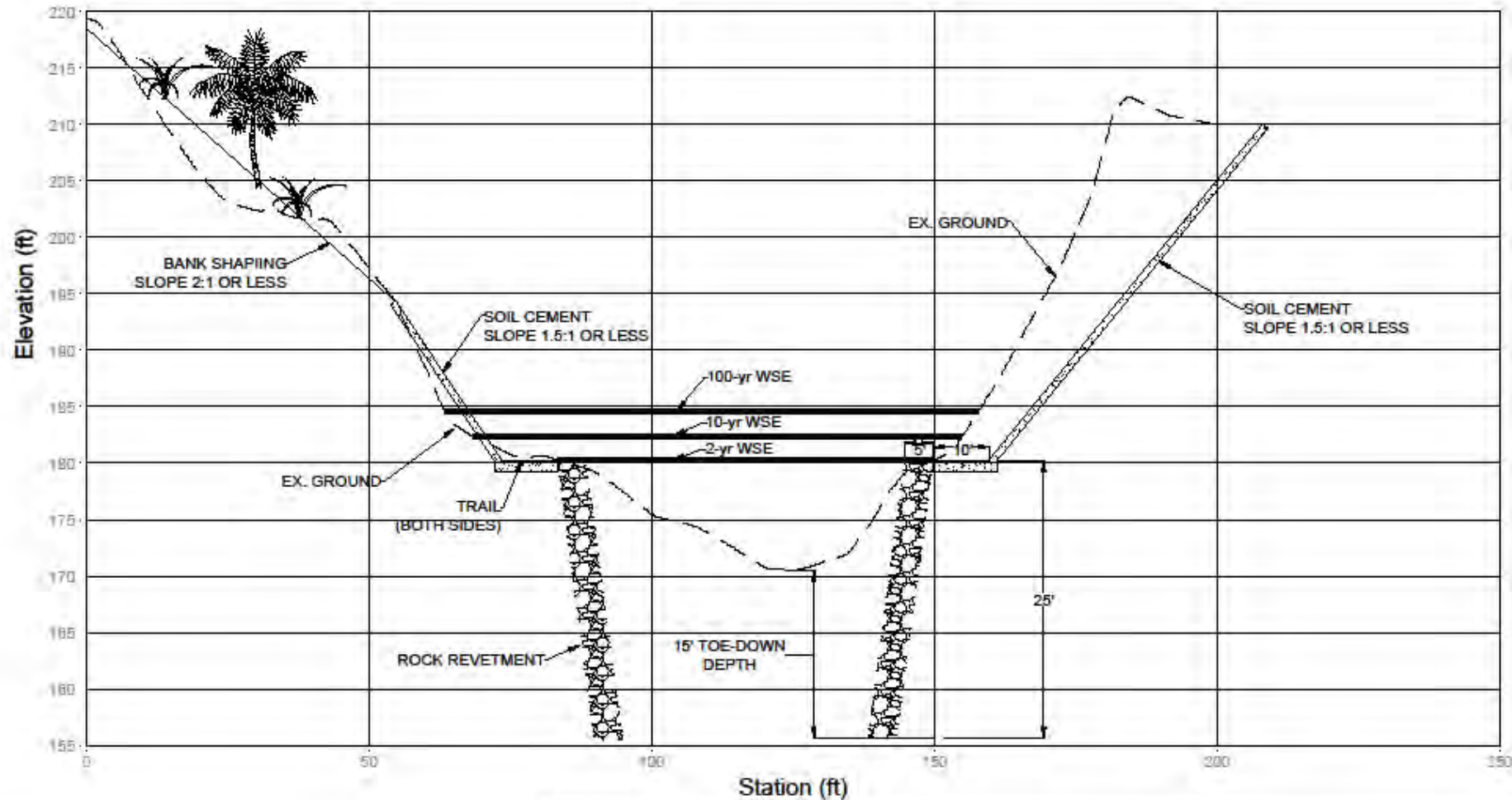
River Station 6201





# Concept #3: Soil-Cement

River Station 8200



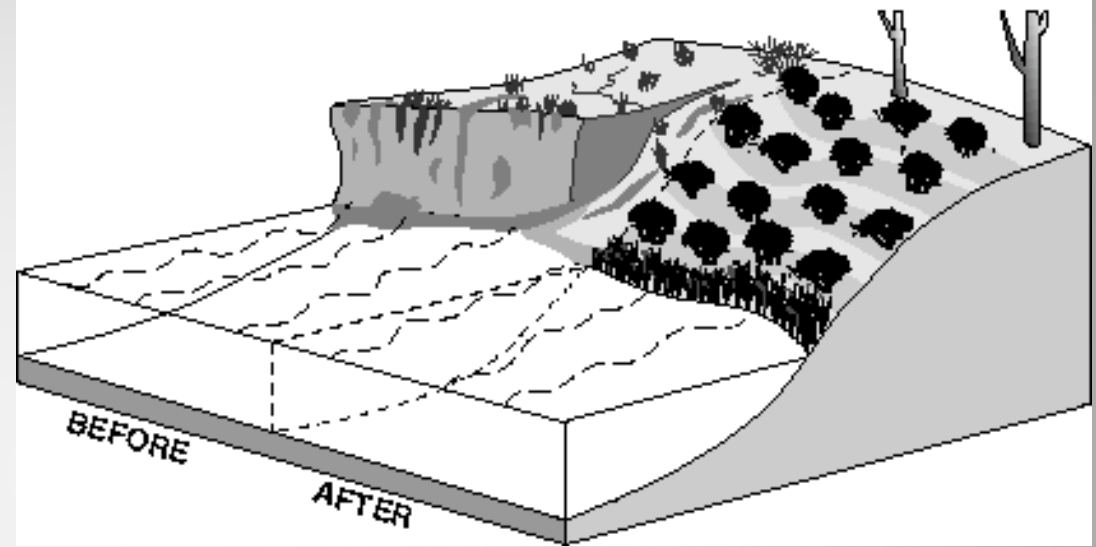


# Concept #3: Costs

ITEM #	DESCRIPTION	UNIT/LF	QUANTITY [LF ]	UNIT PRICE/LF	COST
1	Mobilization (5%)	LS	1	\$2,177,700	\$2,177,700
2	Clearing and Grubbing	SF	10,795	\$13	\$140,335
Soil Cement					
3	Excavation	CY	10,795	\$210	\$2,266,950
4	Backfill	CY	10,795	\$90	\$971,550
5	Soil Cement	TON	10,795	\$75	\$809,625
6	4T Rock	TON	10,795	\$2,200	\$23,749,000
Bed Stabilization					
7	Excavation	CY	1,480	\$333	\$492,840
8	Backfill	CY	1,480	\$249	\$368,520
9	2T Rock	TON	1,480	\$1,814	\$2,685,312
Bank Shaping and Planting					
10	Excavation	CY	10,530	\$300	\$3,159,000
11	Backfill	CY	10,530	\$600	\$6,318,000
12	Planting	SF	10,530	\$5	\$52,650
13	Mulching	SF	10,530	\$18	\$184,275
ENGINEER'S ESTIMATE					\$43,375,757
30% Contingency					\$13,012,727
CONSTRUCTION BUDGET					\$56,388,484

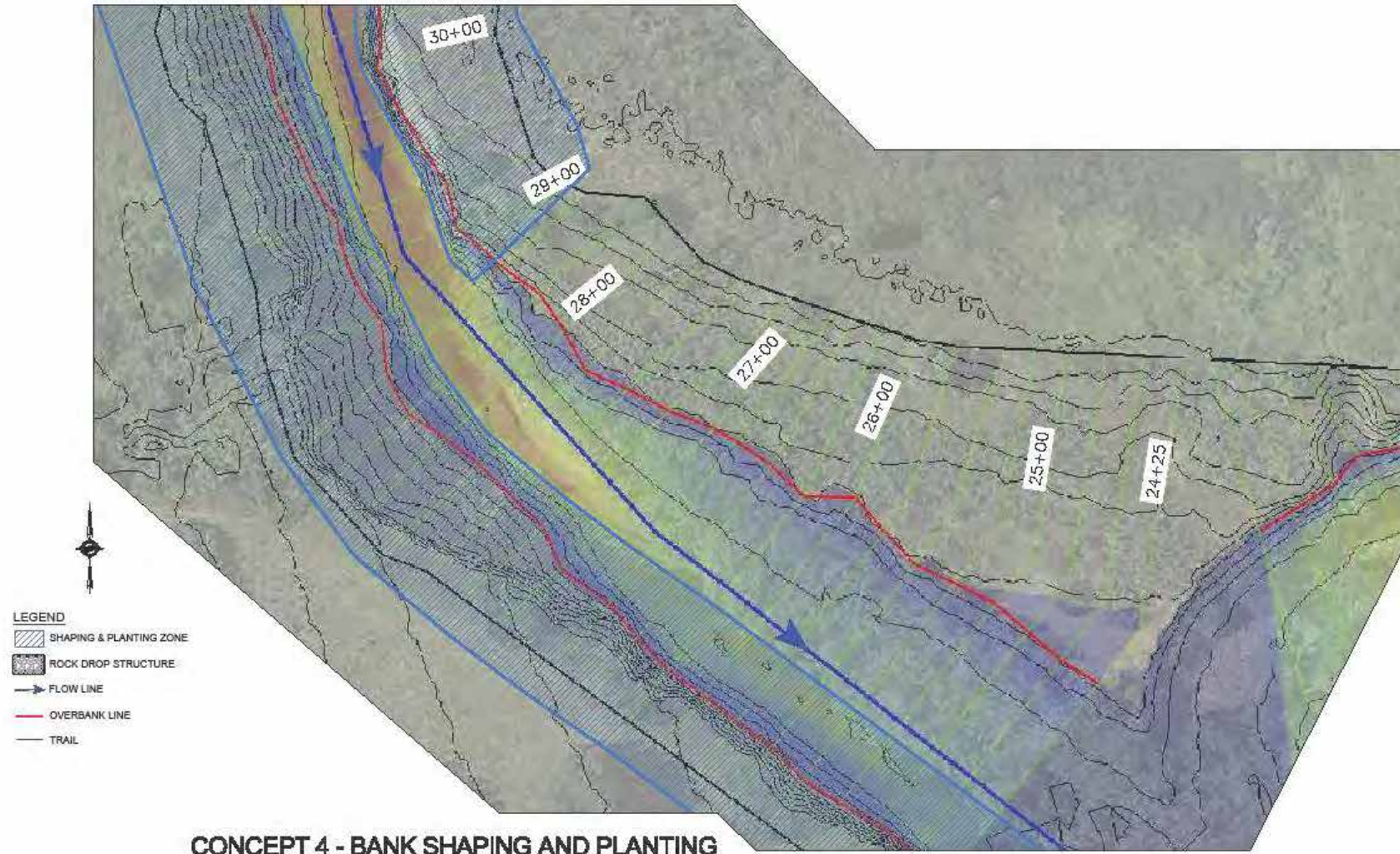


# Concept #4: Bank Shaping and Planting



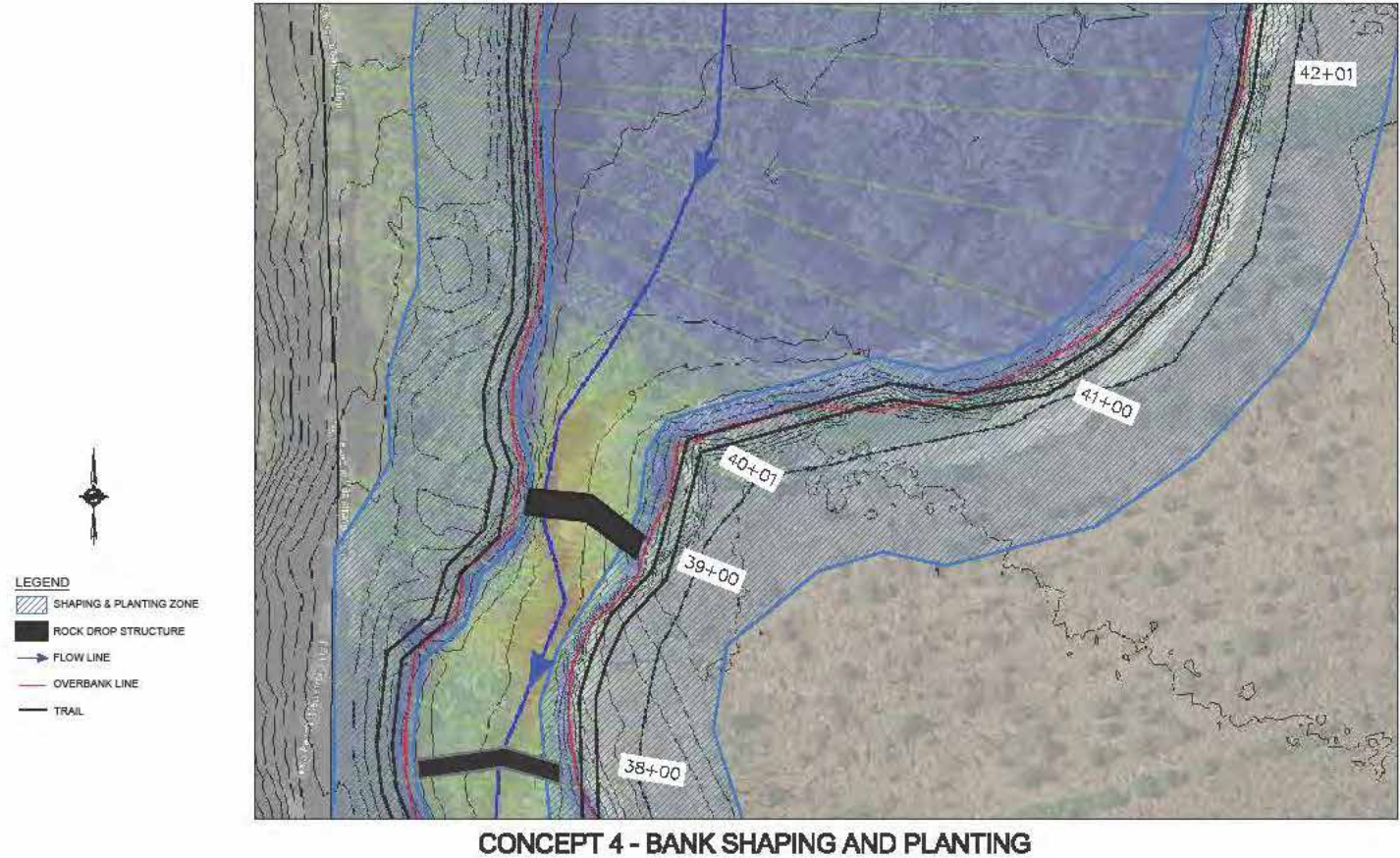
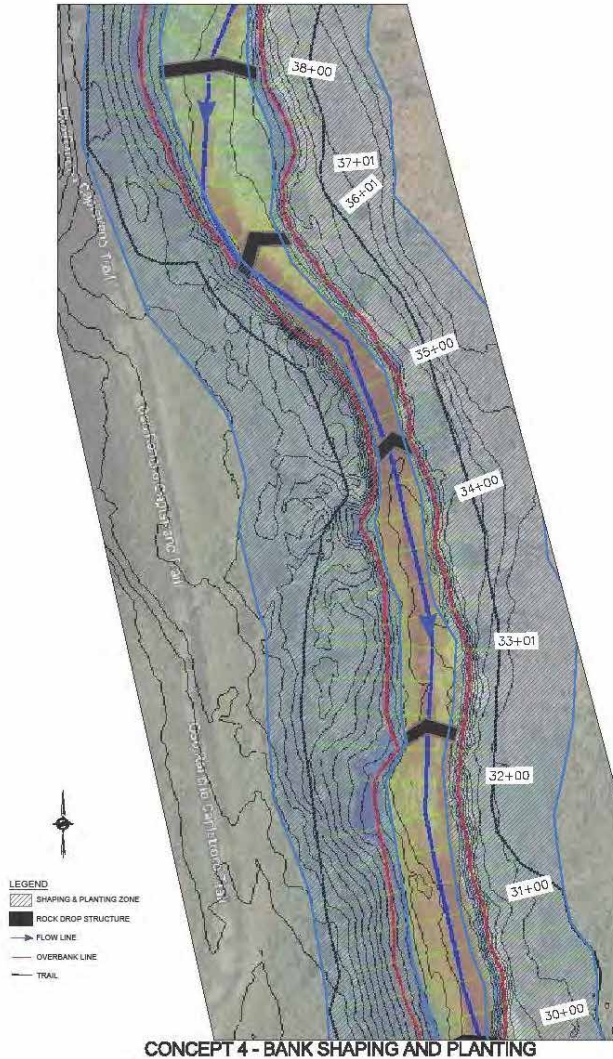


# Concept #4: Bank Shaping and Planting



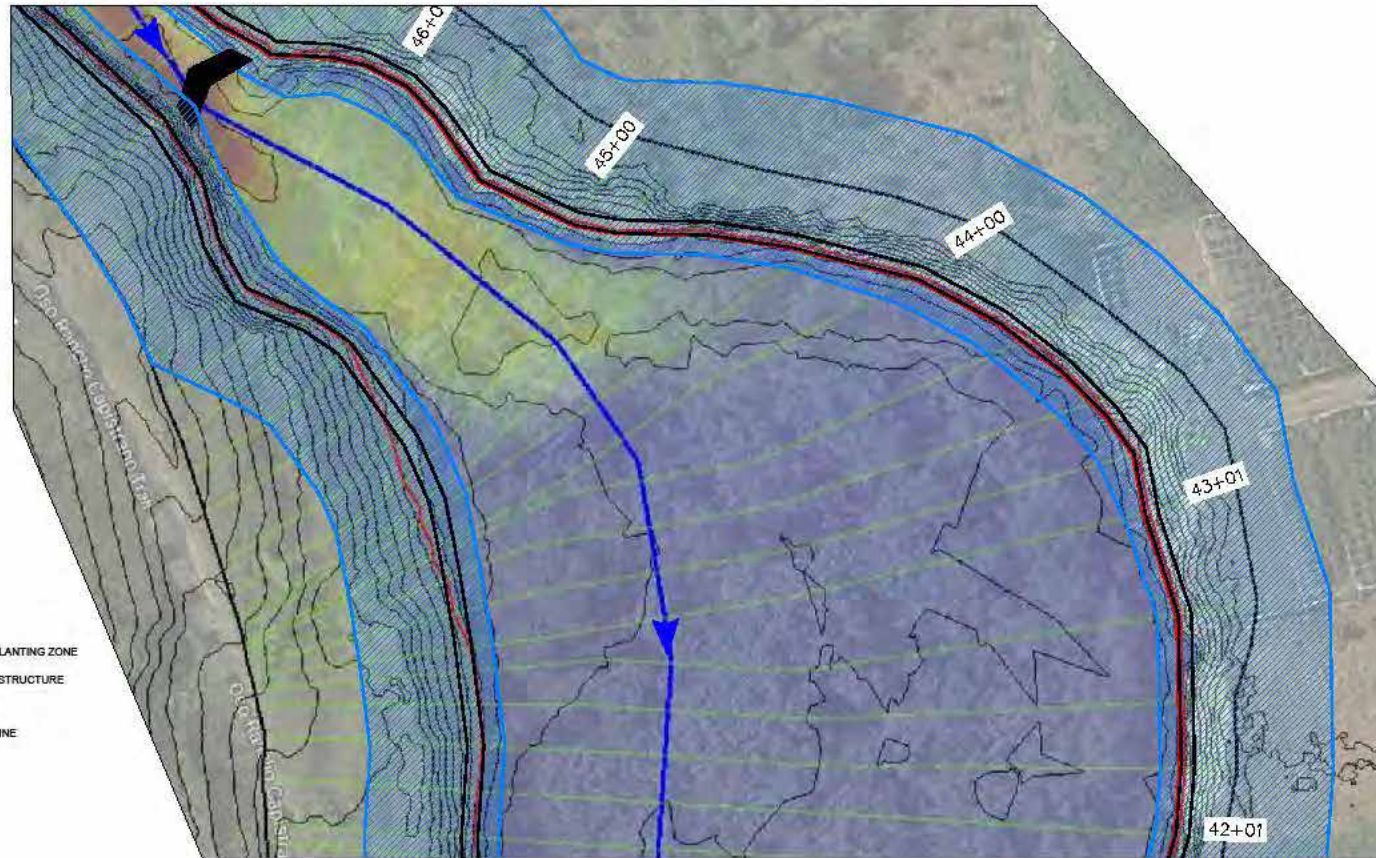


# Concept #4: Bank Shaping and Planting

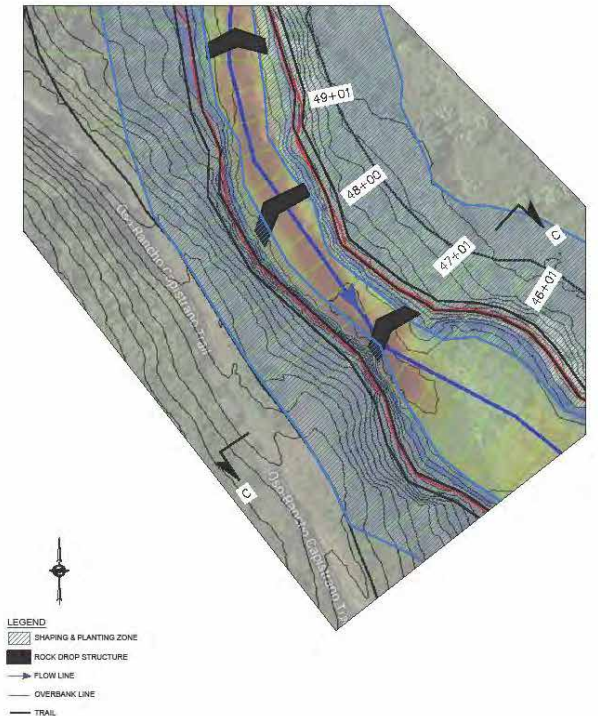




# Concept #4: Bank Shaping and Planting



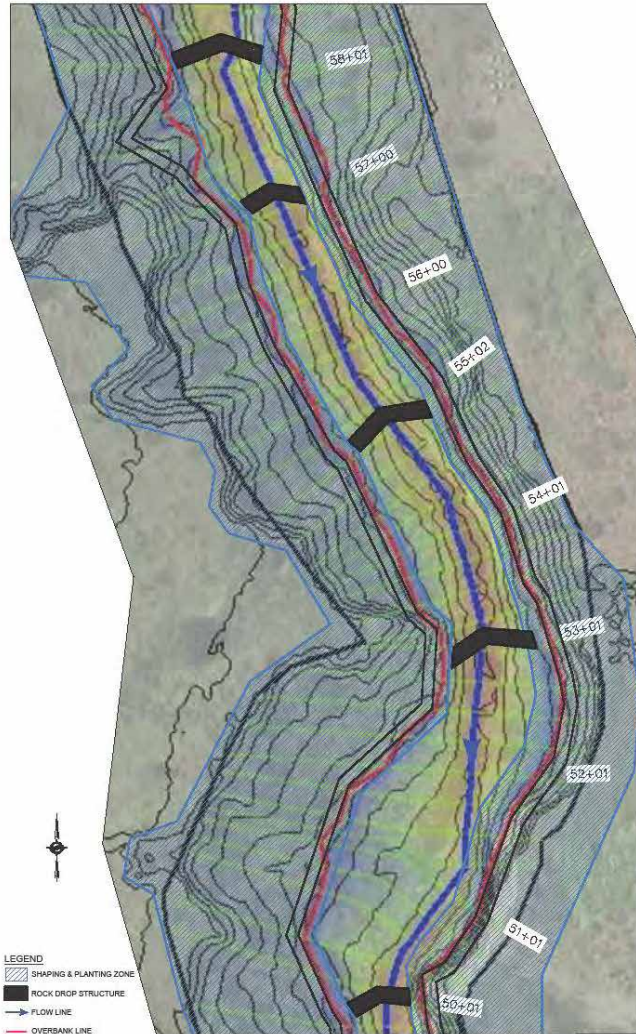
CONCEPT 4 - BANK SHAPING AND PLANTING



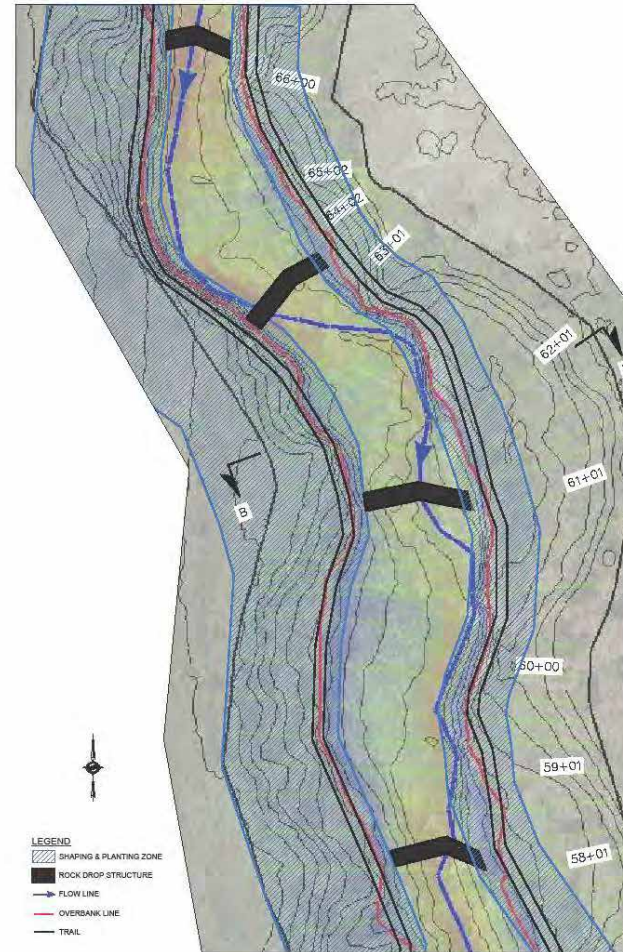
CONCEPT 4 - BANK SHAPING AND PLANTING



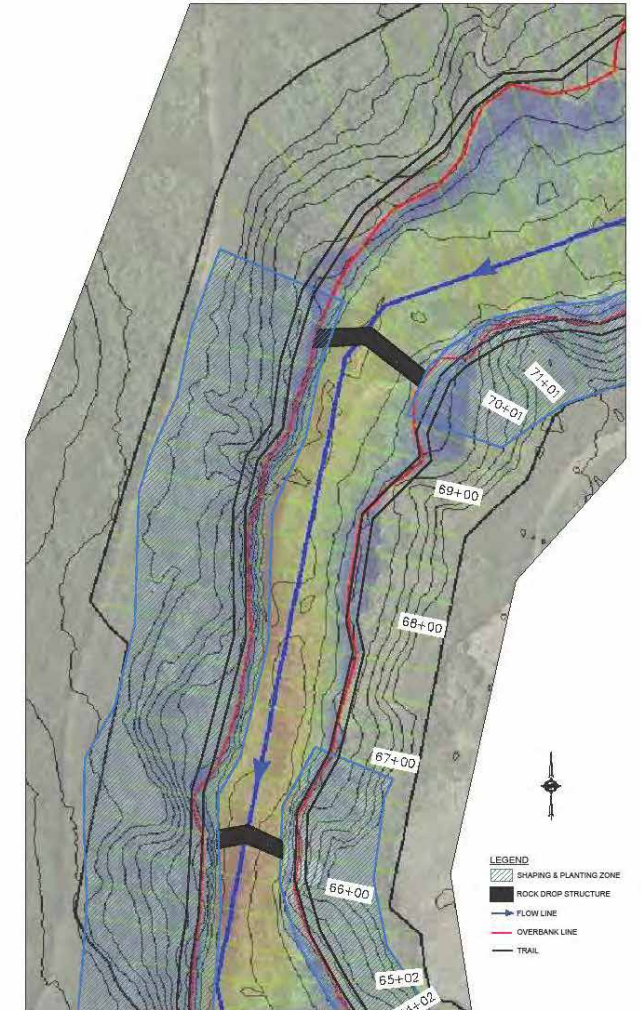
# Concept #4: Bank Shaping and Planting



CONCEPT 4 - BANK SHAPING AND PLANTING



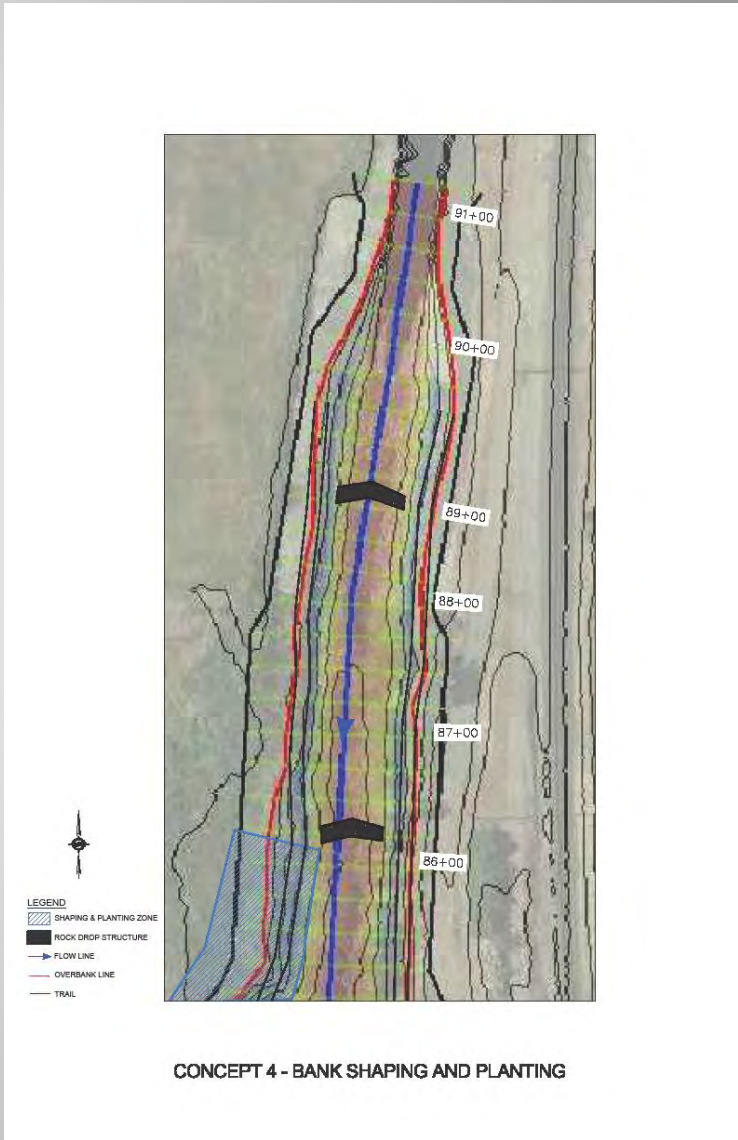
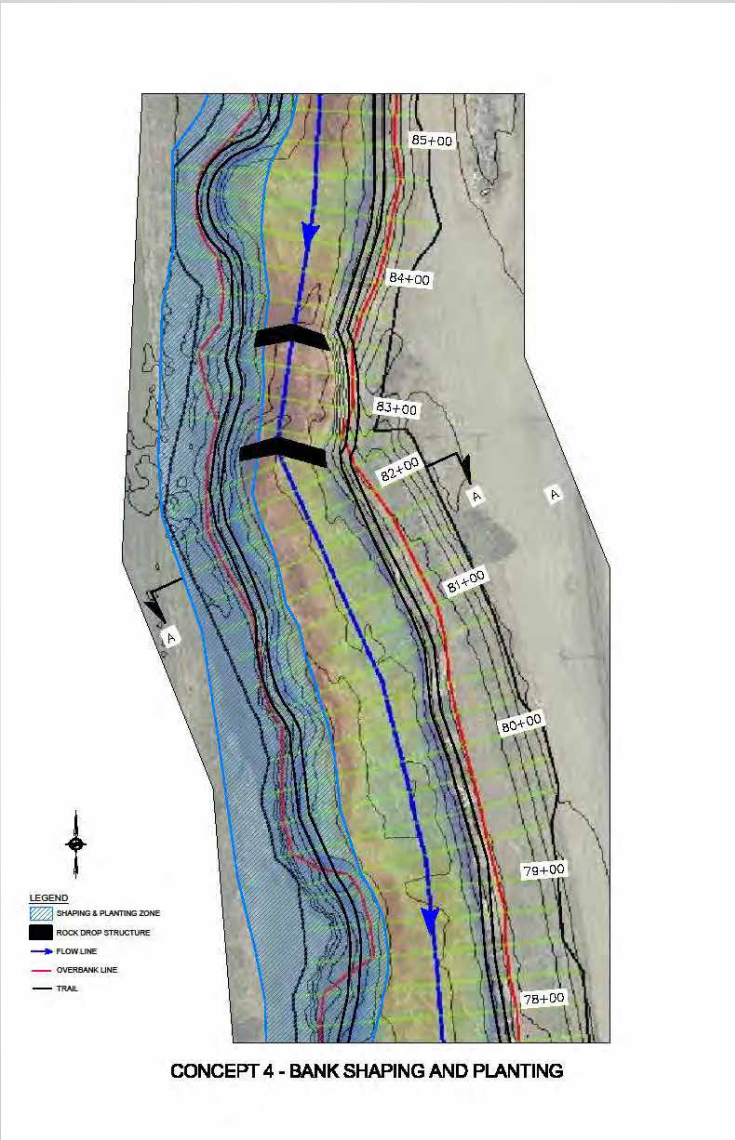
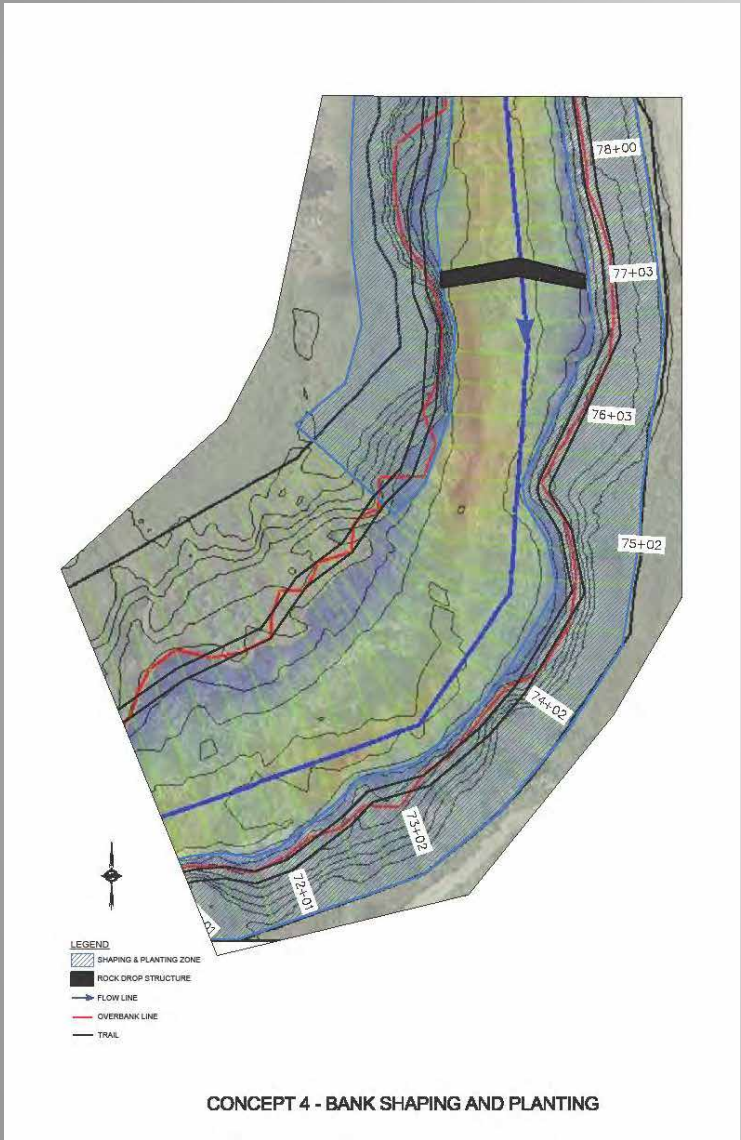
CONCEPT 4 - BANK SHAPING AND PLANTING



CONCEPT 4 - BANK SHAPING AND PLANTING

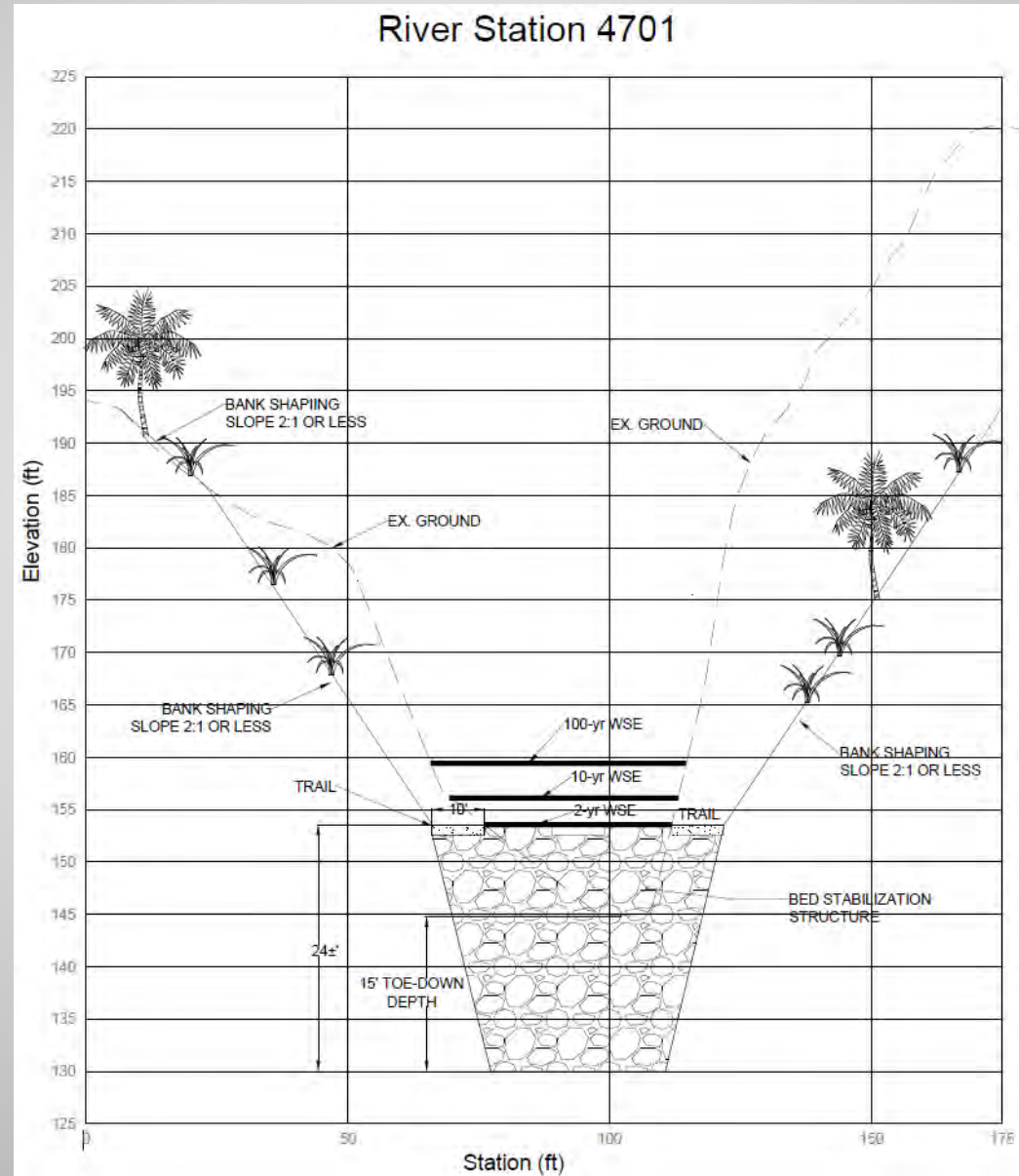


# Concept #4: Bank Shaping and Planting



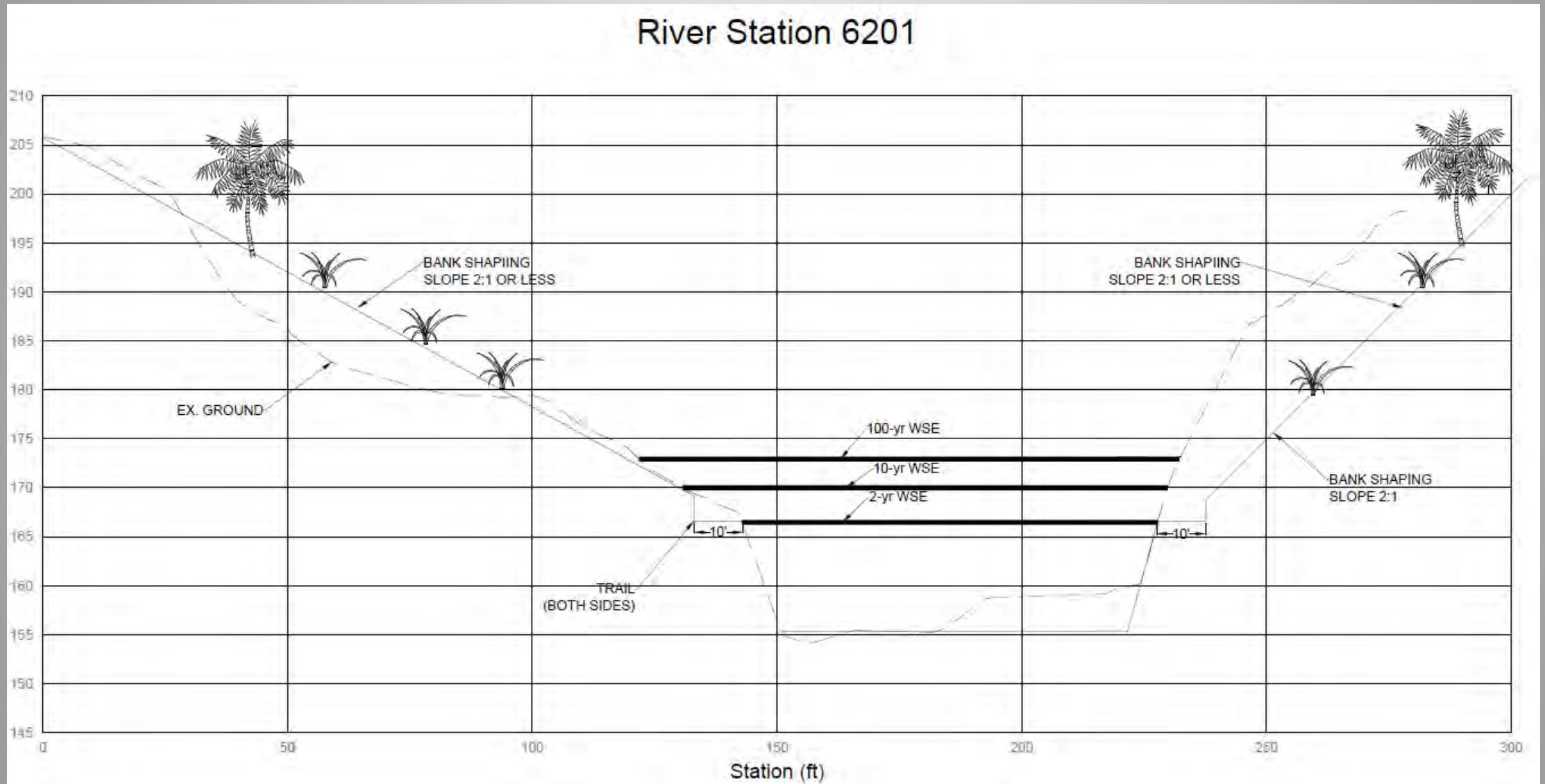


# Concept #4: Bank Shaping and Planting





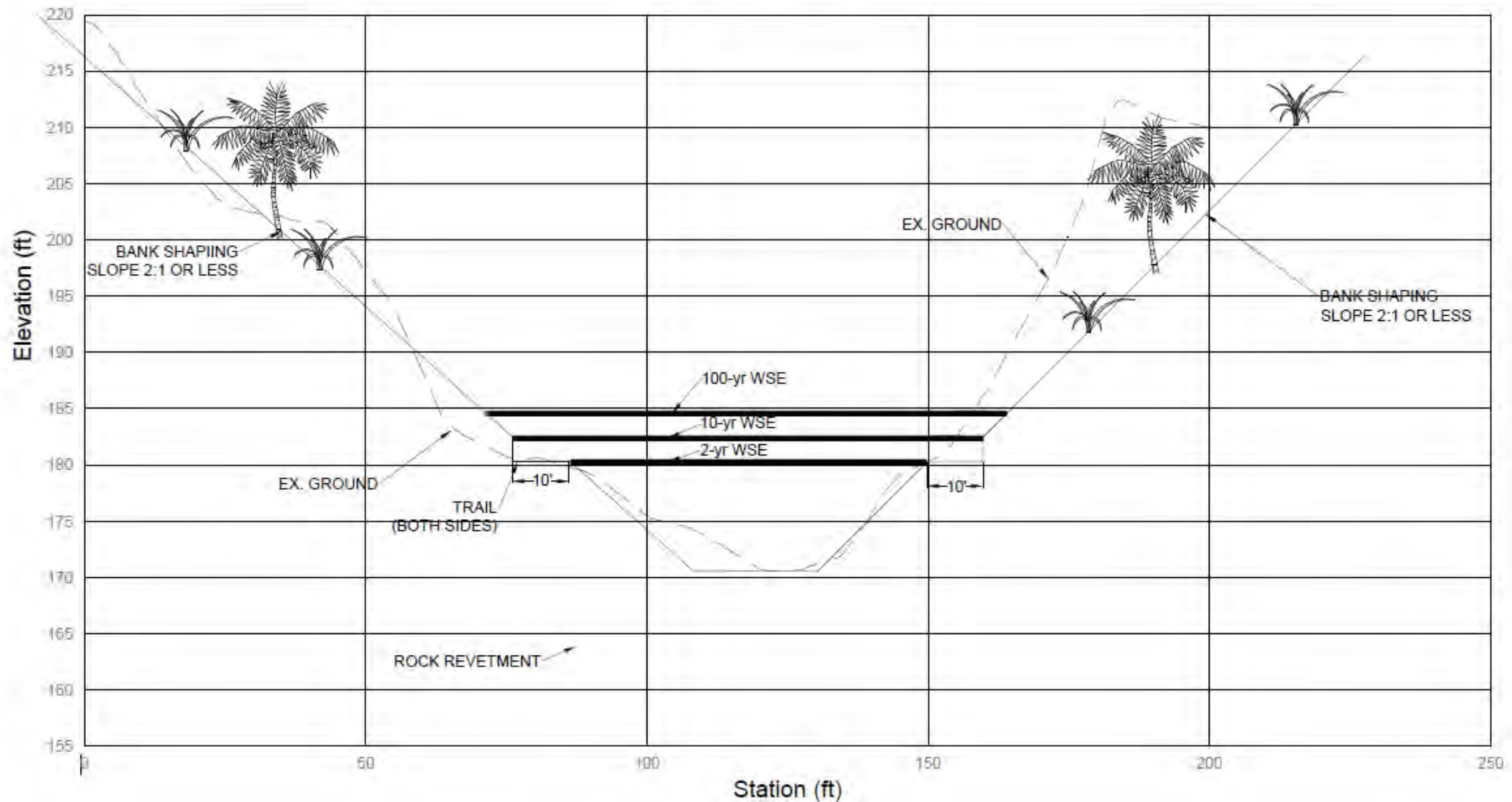
# Concept #4: Bank Shaping and Planting





# Concept #4: Bank Shaping and Planting

River Station 8200





# Concept #4: Costs

ITEM #	DESCRIPTION	UNIT/LF	QUANTITY [ LF ]	UNIT PRICE/LF	COST
1	Mobilization (5%)	LS	1	\$866,900	\$866,900
2	Clearing and Grubbing	SF	10,480	\$13	\$136,240
Bed Stabilization					
3	Excavation	CY	2,085	\$333	\$694,305
4	Backfill	CY	2,085	\$249	\$519,165
5	2T Rock	TON	2,085	\$1,814	\$3,783,024
Bank Shaping and Planting					
6	Excavation	CY	10,480	\$375	\$3,930,000
7	Backfill	CY	10,480	\$750	\$7,860,000
8	Planting	SF	10,480	\$5	\$52,400
9	Mulching	SF	10,480	\$18	\$183,400
ENGINEER'S ESTIMATE					\$18,025,434
30% Contingency					\$5,407,630
CONSTRUCTION BUDGET					\$23,433,064



# Roundtable

Open discussion


# Next Steps

Jacqui Sedighi  
South OC WMA



# Next Steps

- Obtain input – Send additional comments by 3/9
- Convene again to discuss comments and how to best move forward

An aerial photograph of a coastal city, likely San Francisco, showing a large bay, a highway (Golden Gate Bridge area), and surrounding urban areas. The image is faded and serves as a background for the text.

# Group Discussion



ALJ/ES2/jt2

Date of Issuance: 3/20/2020

Decision 20-03-013 March 12, 2020

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of the City of San Juan Capistrano for authorization to modify and convert an existing private at-grade road crossing of Rancho Capistrano to a public crossing of the Southern California Regional Rail Authority's Orange Subdivision at Mile Post 194.32, Proposed CPUC Number 101OR-194.32, USDOT Number 026782R, County of Orange.

Application 19-09-001

**DECISION AUTHORIZING THE CITY OF SAN JUAN CAPISTRANO TO  
MODIFY AND CONVERT THE EXISTING RANCHO CAPISTRANO PRIVATE  
CROSSING TO A PUBLIC CROSSING IN THE CITY OF SAN JUAN  
CAPISTRANO, ORANGE COUNTY**

**Summary**

Pursuant to Public Utilities Code Sections 1201 and 1202, we authorize the City of San Juan Capistrano to modify and convert the Rancho Capistrano private at-grade highway-rail crossing to a public at-grade highway-rail crossing, over the Southern California Regional Rail Authority's Orange Subdivision tracks at Mile Post 194.32.

This proceeding is closed.

## **1. Factual Background**

The City of San Juan Capistrano (City or Applicant) requests authority to modify and convert the existing Rancho Capistrano private at-grade crossing to a public at-grade crossing in the City of San Juan Capistrano, Orange County.<sup>1</sup>

The crossing provides the only access to a private property owned by Saddleback Valley Community Church, which is also the current holder of the private crossing license agreement. The identified need for the project is to convert the existing, publicly used private crossing into a public crossing with additional roadway safety features.<sup>2</sup>

The Southern California Regional Rail Authority (SCCRA) operates and maintains the Metrolink regional passenger rail system through the crossing, while the Orange County Transportation Authority (OCTA), as a member agency of SCRRRA, owns the railroad right-of-way. Other railroad users of the crossing include the National Railroad Passenger Corporation (Amtrak), which operates its Pacific Surfliner Amtrak passenger trains on the Orange Subdivision, and BNSF Railway Company, which operates freight trains on the Orange Subdivision.

The Rancho Capistrano roadway is proposed to retain its current alignment, having one lane of travel in either direction. The existing private crossing is currently configured with one (1) main track, but is in the process of being modified to include a total of two (2) tracks with the completion of the

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<sup>1</sup> The City submitted a separate application to the Federal Railroad Administration to establish a “quiet zone” for the crossing, which provides an exemption to the rule requiring trains to sound their horns when approaching public highway-rail grade crossings.

<sup>2</sup> Application at 4-5.



“Laguna Nigel-San Juan Capistrano Passing Siding” project to be constructed by OCTA (OCTA Project). The OCTA Project is not considered as part of this application.

## **2. Procedural Background**

The City submitted an application for authority to modify and convert the Rancho Capistrano private at-grade highway-rail crossing to a public at-grade highway-rail crossing on August 3, 2019. An amendment to the Application was filed by the City on November 4, 2019.

On November 22, 2019, the California Public Utilities Commission’s Rail Safety Division (RSD) provided a response to the Application and the November 4, 2019 amendment. Based upon RSD’s review of the filings, RSD concluded that the Application complies with the Commission’s Rules, as well as all applicable requirements of the Commission’s General Orders (GOs) 26-D, 72-B and 75-D. No party protested the Application.

On January 9, 2020, a telephonic prehearing conference (PHC) was held to discuss the scope, schedule, need for hearing, and other matters relevant to the management of the proceeding. On February 18, 2020, the assigned Commissioner issued a Scoping Memo and Ruling.

## **3. Jurisdiction**

The California Public Utilities Commission (CPUC or Commission) has jurisdiction over railroad crossings pursuant to California Public Utilities Code (Pub. Util. Code) §§ 1201 and 1202. Rule 3.7 of the Commission’s Rules of Practice and Procedure<sup>3</sup> governs applications to construct a public road,

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<sup>3</sup> All references to Rules or Rule refer to the Commission’s Rules of Practice and Procedure.

highway, or street across a railroad. The Commission's GOs govern applicable safety and engineering requirements, including: GO 26-D, which prescribes the minimum clearance requirements for all construction of tracks or structures adjacent to tracks; GO 72-B, which governs the construction and maintenance of crossings, and GO75-D, which governs warning devices for at-grade highway-rail crossings.

#### **4. Issues Before the Commission**

The assigned Commissioner's February 18, 2020 Scoping Memo and Ruling identified the following issues to be determined through the course of the proceeding:

1. Whether the Application meets all Commission requirements, including those in Rule 3.7, and General Orders 26-D, 72-B and 75-D, such that the Commission should grant the City's Application to modify and convert Rancho Capistrano crossing to a public at-grade highway-rail crossing over the Southern California Regional Rail Authority's Orange Subdivision at Mile Post 194.32.
2. Whether the Applicant has complied with the California Environmental Quality Act.
3. Whether the Commission should grant the City a period of three years from the application approval date to complete the proposed project.

#### **5. Compliance with the California Environmental Quality Act**

The California Environmental Quality Act of 1970 (CEQA, as amended, Public Resources Code Section 21000 *et seq.*) applies to discretionary projects to be carried out or approved by public agencies. A basic purpose of CEQA is to inform governmental decision-makers and the public about potential, significant environmental effects of the proposed activities.



Under CEQA, the lead agency is either the public agency that carries out the project or has the greatest responsibility for supervising or approving the project.<sup>4</sup> The City is the lead agency under CEQA for the purposes of identifying environmental impacts from modifying and converting the Rancho Capistrano private at-grade highway-rail crossing to a public at-grade highway-rail crossing. Since the Commission must issue a discretionary decision in order for the project to proceed, the Commission is a responsible agency under CEQA,<sup>5</sup> and must consider the lead agency's environmental documents and findings before acting on or approving this project.<sup>6</sup>

The City has determined that the conversion of the Rancho Capistrano crossing is exempt from CEQA on the basis that the improvements would be located on the existing site and have the same purpose and capacity as the structure being reconstructed, thus satisfying "the criteria for a Class 1 (Existing Facilities) and Class 2 (Replacement or Reconstruction) Categorical Exemption Under the California Environmental Quality Act (CEQA) per Section 15301(b) and 15302(c), respectively, of the CEQA guidelines."<sup>7</sup> On August 19, 2019, a Notice of Exemption was filed with the County of Orange indicating the status as a statutory exemption.<sup>8</sup>

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<sup>4</sup> CEQA Guidelines (Title 14 of the California Code of Regulations (14 Cal. Code Regs.)), §§ 15050 and 1505.

<sup>5</sup> 14 Cal. Code Regs. § 15381.

<sup>6</sup> 14 Cal. Code Regs. § 15091.

<sup>7</sup> Exhibit C at 3.

<sup>8</sup> Exhibit C to the Application.

The Commission reviewed and considered the Notice of Exemption and finds it adequate for our decision-making purposes. The Commission's Energy Division will file a Notice of Exemption with the CEQA Clearinghouse stating the Commission considered the document as it relates to the proposed at-grade crossing.

## **6. Filing, Safety and Engineering Requirements**

Applications for the construction of at-grade railroad crossings must meet the requirements of Rule 3.7, as well as the safety and engineering requirements of GOs 26-D (clearances on railroads and street railroads), 72-B (construction and maintenance of crossings), and 75-D (warning devices).

Pursuant to Rule 3.7, applications for an at-grade crossing must include a statement demonstrating 1) the need to be served by the public at-grade crossing, 2) why a separation of grades is not practicable, and 3) the signs, signals, or other warning devices the Applicant proposes to include at the crossing.<sup>9</sup>

The identified need for the project is to convert the existing, publicly used private crossing into a public crossing with additional roadway safety features.<sup>10</sup> The City states that a separation of grades is not practicable at this site given the adjacent tracks and close proximity of the crossing to Camino Capistrano and the State Route 73 connector to Interstate 5, which would make implementation of a grade separation complex. A grade-separated crossing may also impact traffic circulation and existing adjacent land uses.<sup>11</sup> Currently, the Rancho Capistrano private crossing is configured with two (2) CPUC Standard No. 9 automatic gate

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<sup>9</sup> Rule 3.7(c).

<sup>10</sup> Application at 5.

<sup>11</sup> *Ibid.* at 5-6.



warning devices. In addition to these automatic gate warning devices, and the replacement of right-of-way fencing, the proposed crossing configuration includes new crossing surfaces and signage, mountable and non-traversable raised medians, as well as improvements to the adjacent intersection of Rancho Capistrano with Camino Capistrano.<sup>12</sup>

RSD conducted a site visit to the crossing on January 25, 2019. Based upon the site visit, and review of the filings in A.19-09-001, RSD found no safety issues, and determined that the Application conforms with all requirements of the Commission's Rules and GOs. RSD recommends approval of the project.<sup>13</sup>

Given the location of this crossing, the inclusion of additional safety measures, and RSD's review of the site and Application, the Commission finds it reasonable to grant the City's request to modify and convert the Rancho Capistrano private at-grade crossing to a public at-grade crossing. We also find the City provided materials sufficient to satisfy Rule 3.7, as well as GOs 26-D, 72-B, and 75-D, as detailed in Appendix A.

## **7. Three Years to Construct**

The City does not request a specific time period for crossing modification authorization. In its response, RSD recommends a three-year authorization time period, based on the allotted time typically authorized for crossing modifications.<sup>14</sup> No party objected to the proposed time period when discussed during the PHC. The Commission finds reasonable RSD's recommendation, and adopts it here.

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<sup>12</sup> *Ibid* at 7-10.

<sup>13</sup> RSD Response at 2 and 5.

<sup>14</sup> RSD Response at 2.

## **8. Conclusion**

The Application conforms to our rules for granting authority to construct a public road across a railroad. Accordingly, we grant the City authority to modify and convert the Rancho Capistrano private at-grade highway-rail crossing to a public at-grade highway crossing, subject to compliance with the terms and conditions set forth in the Ordering Paragraphs. All outstanding motions not addressed in this decision are denied.

## **9. Waiver of Comment Period**

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Pub. Util. Code and Rule 14.6(c)(2), the otherwise applicable 30-day period for public review and comment is waived.

## **10. Assignment of Proceeding**

Genevieve Shiroma is the assigned Commissioner and Ehren Seybert is the assigned Administrative Law Judge in this proceeding.

## **Findings of Fact**

1. The proposed crossing meets the requirements of Rule 3.7.
2. The proposed crossing meets the requirements of GOs 26-D, 72-B, and 75-D.
3. The City of San Juan Capistrano is the lead agency for this project under CEQA.
4. A Notice of Exemption was filed with the County of Orange on August 19, 2019, stating that the project satisfies the criteria for Categorical Exemption under CEQA.



### **Conclusions of Law**

1. The Commission reviewed and considered the environmental compliance documents submitted by the City of San Juan Capistrano, including the Notice of Exemption.

2. The Commission's Energy Division should file a Notice of Exemption with the CEQA Clearinghouse stating the Commission considered the document as it relates to the proposed crossing.

3. RSD's request for Commission authorization to construct the railroad crossing within three years is reasonable.

4. The application should be granted.

### **O R D E R**

#### **IT IS ORDERED** that:

1. The City of San Juan Capistrano is authorized to modify and convert the Rancho Capistrano private at-grade highway-rail crossing to a public at-grade highway-rail crossing over the Southern California Regional Rail Authority's Orange Subdivision tracks at Mile Post 194.32.

2. The crossing shall have the configurations and safety features described and specified in the application and its attached exhibits. The public at-grade highway-rail crossing shall be identified as California Public Utilities Commission Crossing Number 101OR-194.32 and United States Department of Transportation Crossing Number 026782R.

3. The City of San Juan Capistrano shall comply with all applicable rules, including California Public Utilities Commission General Orders and California Manual on Uniform Traffic Control Devices.

4. The City of San Juan Capistrano shall assume maintenance responsibility to the approaches of the public at-grade highway-rail crossing upon the conversion.

5. Within 30 days after completion of the work authorized by this decision, the City of San Juan Capistrano shall notify the California Public Utilities Commission's Rail Crossings and Engineering Branch of the Rail Safety Division by submitting the following documents:

- a. A completed California Public Utilities Commission Standard Form G (Report of Changes at Highway Grade Crossing and Separations), for the completion of the authorized work. Form G requirements and forms can be obtained at the California Public Utilities Commission web site at [www.cpuc.ca.gov/crossings](http://www.cpuc.ca.gov/crossings). The completed report must be submitted via email to [rceb@cpuc.ca.gov](mailto:rceb@cpuc.ca.gov).
- b. A copy of executed agreement for the easement west of the crossing as shown in Exhibit D.
- c. A copy of executed crossing license agreement between the City of San Juan Capistrano and the Orange County Transportation Authority as shown in Exhibit E.
- d. Emergency Notification System signs must be installed at the crossing to comply with General Order 75-D.

6. This authorization shall expire if not exercised within three years of the issuance of this decision unless time is extended or if the above conditions are not satisfied. Authorization may be revoked or modified if public convenience, necessity or safety so require.

7. A request for extension of the three-year authorization must be submitted to the California Public Utilities Commission's Rail Crossings and Engineering Branch of the Rail Safety Division at least 30 days before the expiration of that period. A copy of the extension request shall be sent to all interested parties.



8. The Commission's Energy Division shall file a Notice of Exemption with the State Clearinghouse stating the Commission considered the document in relation to the proposed at-grade crossing.

9. The application is granted as set forth above.

10. All outstanding motions not addressed in this decision are hereby denied.

11. Application 19-09-001 is closed.

This order is effective today.

Dated March 12, 2020, at Sacramento, California.

MARYBEL BATJER

President

LIANE M. RANDOLPH

MARTHA GUZMAN ACEVES

CLIFFORD RECHTSCHAFFEN

GENEVIEVE SHIROMA

Commissioners

## Appendix A SUMMARY OF FILING REQUIREMENTS

### Rule 3.7

Rule	
3.7(a)	Southern California Regional Rail Authority (SCRRA) Orange Subdivision Mile Post 194.32. The legal location description is included as Exhibit A to A.19-09-001.
3.7(b)	The nearest public crossings are State Route 73/Interstate 5 Southbound Connector (CPUC No. 101OR-194.10-A) to the north of the Project, and Oso Road (CPUC No. 101OR-196.10), to the south of the Project.
3.7(c)	The application includes an explanation demonstrating the public need to convert the existing publicly-used private crossing into a public crossing, with additional safety features (Application at 5); a statement showing why a grade-separated crossing is not practicable (Application at 5-6), and; a statement showing the signs, signals, and other crossing warning devices which the applicant proposes to provide (Application at 7-10 and amended Exhibit F1-F3)
3.7(d-f)	The required maps and figures are included as Exhibit A, revised Exhibits F1-F3, and Exhibit F4.

### Applicable Safety and Regulatory Requirements:

1. The proposed side clearances of 12 feet (') from the centerline of the track to a side obstruction is greater than the minimum clearance of 8' 6 inches for tangent tracks (GO 26-D § 3.2).
2. The proposed roadway crossing width of 29' complies with minimum requirement of 24' (GO 72-B § 4).
3. All warning devices are substantially in compliance with the Manual on Uniform Traffic Control Devices (GO 75- D § 4).
4. The crossing is proposed to include CPUC Standard No. 9 automatic gate warning devices (GO 75- D § 6).

(End of Appendix A)