

RIVER ISLANDS

A T L A T H R O P

April 11, 2011

Ms. Terry Macaulay
Deputy Executive Officer
Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, CA 95814

RECEIVED
DELTA COUNCIL
MAILROOM

2011 APR 13 PM 3:55

Subject: Comments – Second Staff Draft of Delta Plan

Dear Ms. Macaulay:

We offer the following comments to the Second Staff Draft Delta Plan (“Draft Plan”) as provided for review on March 18, 2011. We appreciate the opportunity to address the Council on this important document.

As we have outlined in previous correspondence to the Delta Protection Commission, the State of California and various other agencies, we are the developers of the River Islands at Lathrop master planned community located in Lathrop, California. Our project is located on the Stewart Tract, entirely within the city limits of Lathrop and within the Secondary Zone of the Delta. We own all 4,800 acres of the project area in fee and have numerous entitlements already approved by the City of Lathrop and other agencies for development of the project; please see Attachment 1. Recently, the Delta Protection Commission removed the Stewart Tract (and therefore our project) from any further consideration from removal from the Secondary Zone with its Primary Zone Study required by State law. The Delta Protection Commission took this action unanimously, based upon information provided by our company, the City of Lathrop and others.

We are concerned that some of the policies included in the Draft Plan are contrary to the Delta Protection Commission’s action, State law and could be construed as an illegal taking under the State and Federal constitutions. The specific language is included as policy RR P6, included in Chapter 7, page 41, lines 23 through 33 of the Draft Plan:

“No covered action in the following geographical areas shall diminish existing or potential value as flood plains except as provided in this Delta Plan:

- ◆ *Areas located in Yolo Bypass (Fremont Weir to Cache Slough, including the confluence of Putah Creek into the bypass) and through the Cache Slough area to the Sacramento River;*



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- ◆ *The Consumnes River/Mokelumne River confluence generally defined as the region from the southern border of New Hope Tract through Glanville Tract and from the Sacramento River to the eastern boundary of the legal Delta.*
- ◆ *The San Joaquin River/South Delta Floodplain, including all of Pescadero Tract, Paradise Cut, and Stewart Tract and Reclamation Districts R-2075, R-2064, R-2085, R-2094, R-2095, the portion of R-1007 generally north of Bethany Road, and the portion of R-2058 north of Interstate 205.*

This policy is not intended, and shall not be construed as authorizing the Council or any entity acting pursuant to this section, to exercise their power in a manner which will take or damage private property for public use, without the payment of just compensation. This policy is not intended to affect the rights of any owner of property under the Constitution of the State of California or the United States.”

The last paragraph of the policy, while stating that it is not the Council's intention to not, "affect the rights of any owner of property under the Constitution of the State of California or the United States," would not prohibit the adverse taking of the Stewart Tract and Paradise Cut, since at a minimum, the policy's implementation would severely diminish the existing and future property values of our land, as well as the other properties listed in Policy RR P6. Further, the policy appears to be geared to "cover" the exact area withheld from further consideration in the Delta Protection Commission's Primary Zone Study and would specifically hinder any future development within the listed areas, even though in some cases, especially in our case, land would be included with a city boundary, the Secondary Zone of the Delta (where development is allowed) and land use entitlements are already procured. Please be advised also, that 900 acres of our property on the Stewart Tract is already outside the 100 year flood plain as defined by FEMA and the 200 year flood plain as defined by the State of California Department of Water Resources (DWR); see Attachment 2. The entirety of our project area has already been issued a Letter of Map Revision (LOMR) to remove all areas slated for development from the 100 year flood plain and the project is conditioned by the City of Lathrop to achieve a minimum 200 year flood protection as required by DWR.

We feel that the inclusion of the Stewart Tract and Paradise Cut in Policy RR P6 would also create significant adverse effect on the City of Lathrop, San Joaquin County and the region at large for the following reasons:

1. Economic Considerations - River Islands is a vital economic resource to the City of Lathrop in terms of varied and diverse housing opportunities, the creation of over 17,000 new jobs within its planned Employment Center and Town Center, as well as new retail and service opportunities. The River Islands project is fully entitled, has already constructed substantial infrastructure for its initial development and is ready for both residential and non-residential construction to begin today.

2. Enhanced Recreational Opportunities - The proposed development project results in enhanced local and regional recreational opportunities within the south Delta. River Islands contains hundreds of acres of open space and will provide numerous recreational opportunities for not only area residents, but for the south Delta region as well, with the construction of numerous parks, trails, lakes and other water features, as well as the construction of the Lathrop Landing Marina, group boat docks located around the project's perimeter, as well as fishing piers in a number of locations.
3. Environmental Benefits - The proposed development will enhance habitat opportunities regionally through the restoration and preservation of over 700 acres of Paradise Cut, the only flood bypass within the south Delta region. This regional flood bypass (which will also be improved to provide regional flood protection to other areas of Lathrop and the south San Joaquin County region, not just River Islands), is home to the endangered Riparian Brush Rabbit and other critical species. River Islands has been active in working with the appropriate Federal and State agencies for years on preserving and enhancing this vital resource area, even in advance of obtaining their entitlements to develop.

It should be noted also, that we are active members of the U.S. Army Corps of Engineers Lower San Joaquin River Feasibility Study for increased and improved flood protection for the entire south Delta region, which may include an expanded and further improved Paradise Cut. Through this process, which includes many stakeholders, including the State of California, San Joaquin County, local reclamation districts and others, the Corps has acknowledged the urbanization of the Stewart Tract and the importance of Paradise Cut in the improvement of regional flood protection and ecosystem restoration. As the property owner and main proponent of such an improvement, we believe our project is the catalyst to bring these important improvements to fruition.

Lastly, there is critical regional and State-wide infrastructure located on the Stewart Tract that would adversely affected by permanently placing it within a flood plain, including Interstate 5, two major electrical transmission lines owned by Pacific Gas and Electric, trans-continental fiber optic facilities, two separate major rail lines owned by the Union Pacific Railroad and other facilities. Both Union Pacific and PG&E facilities were damaged in the floods of 1997 (see Attachment 3) and future flood protection improvements on the Stewart Tract would protect such facilities.

We respectfully request that the Stewart Tract and Paradise Cut be removed from Policy RR P6 and that no other proposed policy that may be included in future drafts of the Delta Plan include policy statements or other language that would negatively affect our property rights and hinder the development of our land as currently allowed by State and local law.

Should you have any questions regarding this letter, please contact me at (209) 879-7900 or by email at sdelloso@cambaygroup.com. Until the Stewart Tract and Paradise Cut is officially

Letter to Delta Stewardship Council
Re: Second Staff Draft Delta Plan
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removed from the Delta Plan, we also request to continue to receive updates, correspondence and meeting notices to this office at the address shown on the letterhead.

Sincerely,



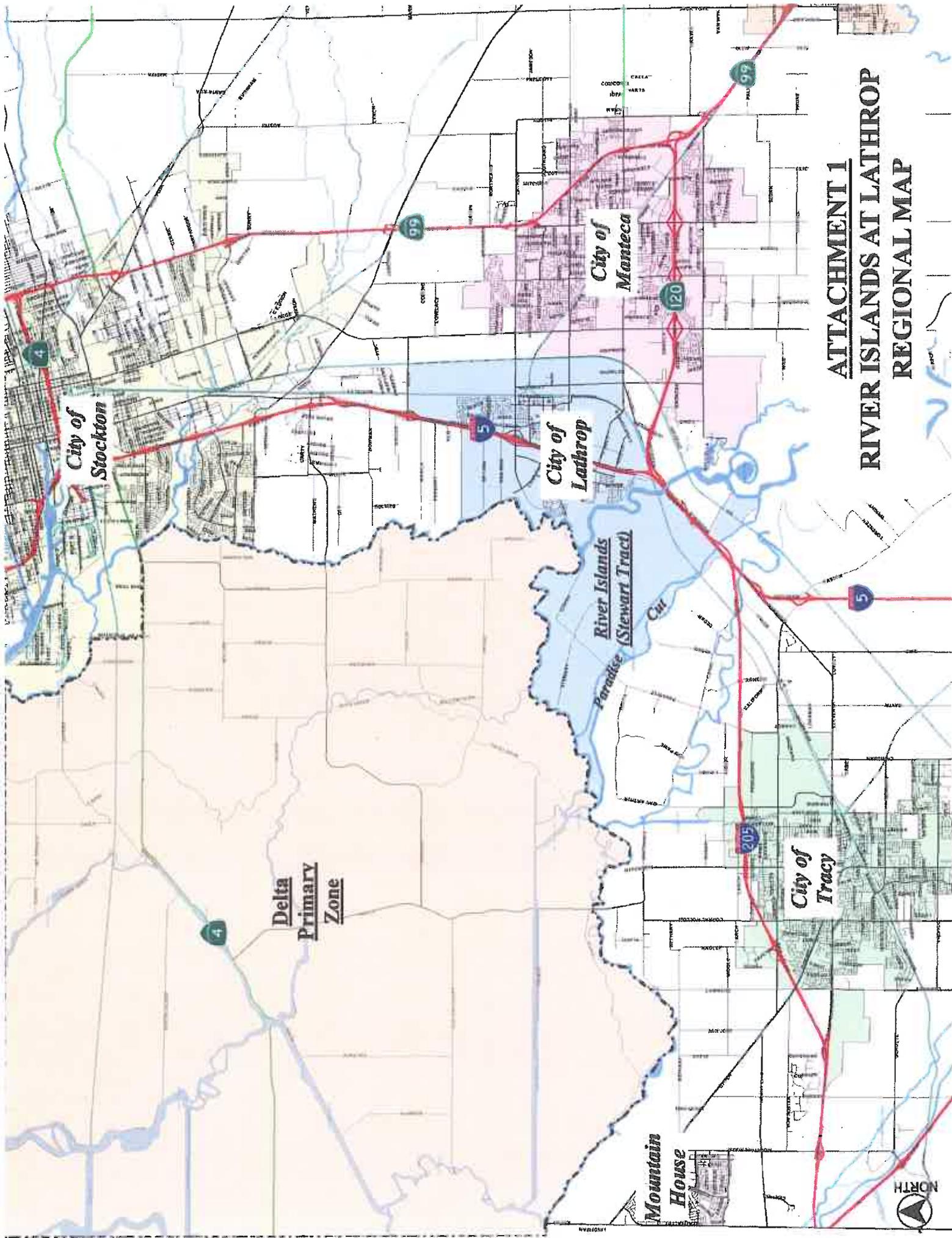
Susan Dell'Osso
Project Director

Enclosed:

Attachment 1: River Islands at Lathrop Regional Map
Attachment 2: River Islands Phasing Map
Attachment 3: 1997 Event – UPRR Railroad

cc: Mayor and City Council of the City of Lathrop
Frank L. Ruhstaller, Chairman, San Joaquin County Board of Supervisors
Cary Keaten, City Manager of the City of Lathrop
Glenn Gebhardt, Director of Community Development/City Engineer, City of Lathrop
Kerry Sullivan, Community Development Director, San Joaquin County

ATTACHMENT 1
RIVER ISLANDS AT LATHROP
REGIONAL MAP



City of Stockton

City of Lathrop

City of Manteca

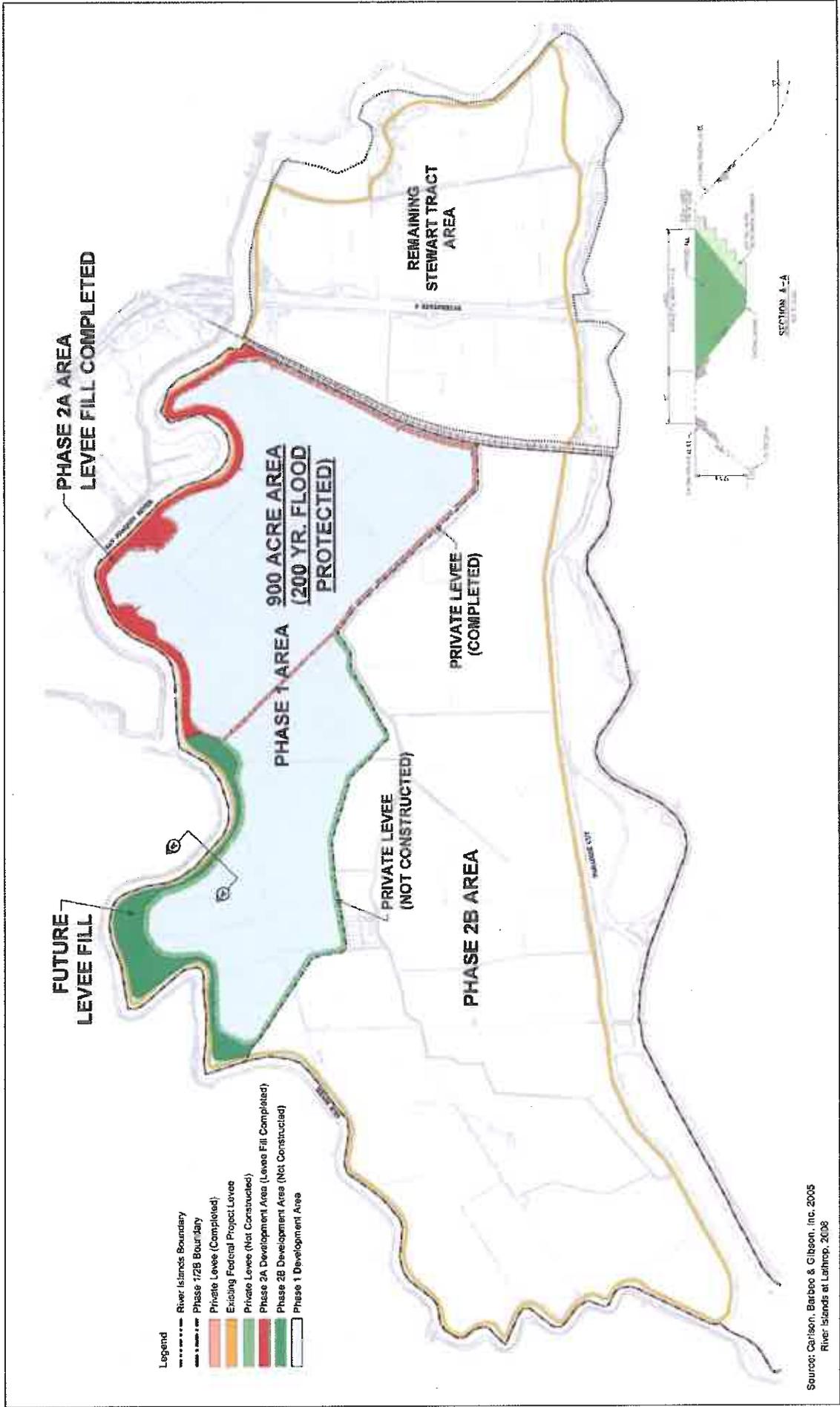
City of Tracy

Delta Primary Zone

River Islands (Stewart Tract)

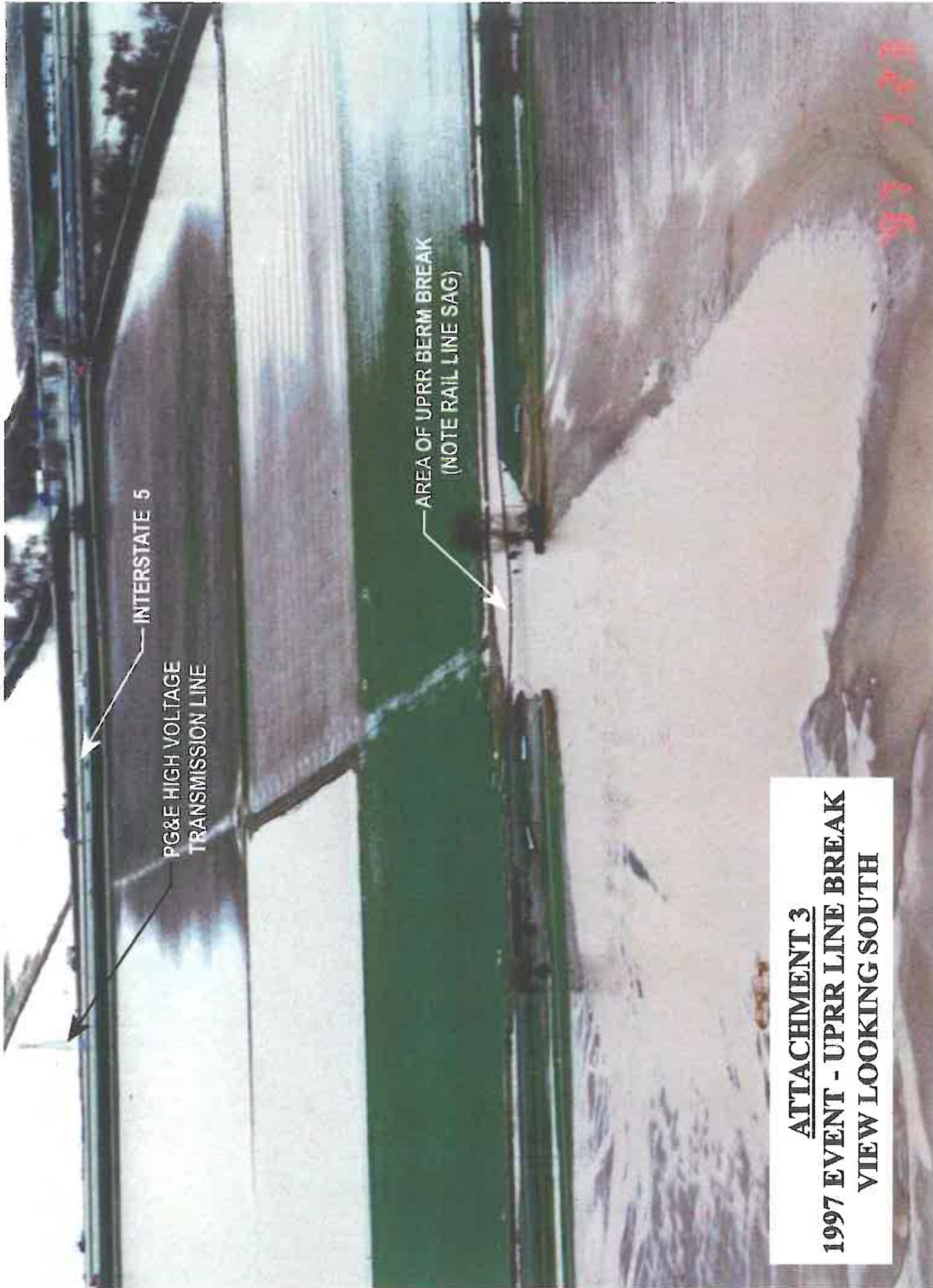
Mountain House





Source: Carlson, Barboe & Gibson, Inc. 2003
River Islands at Lathrop, 2008

ATTACHMENT 2
River Islands at Lathrop Phasing



INTERSTATE 5

PG&E HIGH VOLTAGE
TRANSMISSION LINE

AREA OF UPRR BERM BREAK
(NOTE RAIL LINE SAG)

ATTACHMENT 3
1997 EVENT - UPRR LINE BREAK
VIEW LOOKING SOUTH