

# Appendix H



# ASHBY USA, LLC

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November 30, 2006

John H. Robertus, Executive Officer  
Attn: Kristen Schwall  
California Regional Water Quality Control Board, San Diego Region  
9174 Sky Park Court  
Suite 100  
San Diego CA 92123-4353

Ref: WPN: 10-3020657.02, 18-2001091.02:schwk  
NOV No. R9-2006-0135

Subject: Required Technical Report

Dear Kristen:

Pursuant to the Notice of Violation dated November 2, 2006 as referenced above please find following, our response.

**1. IMMEDIATE ACTION SECTION:**

Please find listed below all areas of the Notice of Violation (NOV) that identifies "discharge of sediment" into the Municipal Separate Storm Sewer System or Waters of the United States and what actions were taken:

**Violation:**

- I. FAILURE TO CONSTRUCT AS REQUIRED BY 401 CERTIFICATION 01C-091  
CONDITION 8:**
- a. The existing low flow wash will remain in its natural condition...

**Observation:**

Your site was documented as having disturbed Long Valley Channel Wash from its natural conditions.



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## **Ashby USA, LLC Response:**

Any disturbance to the low flow wash was completed at the direction of the City of Temecula or as approved by the permit and permit modifications. As a result of the site meeting on Wednesday November 15, 2006 with the City of Temecula and CRWQCD, all such disturbances that were not specifically approved by the permit are in the process of being removed and returned to their natural condition and be completed by November 30, 2006 as show on exhibit "A" and sediment traps will only be placed within the permitted areas of impact at the bridge crossings to prevent any sediment discharge from the site.

## **Violation:**

### **II. FAILURE TO SUBMIT A CONSERVATION EASEMENT OR DEED RESTRICTION THAT PROHIBITS THE REMOVAL OF VEGETATION.**

II.1 Pursuant to 401 certification 01C-091 Condition 10

- a. Ashby USA, LLC shall submit, within 90 days of the issuance of this certification, a draft conservation easement or deed restriction that prohibits the removal of native vegetation including, but not limited too, mowing, pruning, and spraying, in Santa Gertrudis Creek and Long Valley Wash on the project site.
- b. Ashby USA, LLC shall submit proof of a completed conservation easement or deed restriction within one year of the issuance of the certification.
- c. Ashby USA, LLC shall also provide written verification that the Riverside County Flood Control and Water Conservation District (RCFCWCD) agree to this prohibition.

## **Observations:**

No draft or final easement or deed restriction has been developed. RCFCWCD has not agreed to the prohibition

## **Ashby USA, LLC Response:**

The drainage facility will be owned in fee by RCFCWCD and as noted in the NOV, RCFCWCD has not agreed to this prohibition. As discussed in the site meeting on Wednesday November 15, 2006, this issue is ongoing and is in the process of being resolved.

## **Violation:**

### **III. FAILURE TO COMPLETE THE MITIGATION**

III.1 Pursuant to condition 1 of Minor Modification 2 to 401 Certification 01C-091

- a. A revised mitigation plan shall be submitted to this office for approval within 60 days of the date of the modification letter, October 20, 2005



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**Observation:**

A mitigation plan was not submitted by December 20, 2005

**Ashby USA, LLC Response:**

A mitigation plan was submitted on 11/08/2005 to the ACOE and was sent out for comments to all agencies; due to the response of the agencies, a redesign was necessary, inclusive of modeling for sediment transport and hydrology. A Multi-Agency meeting including the Water Board was held on 3/15/2006 to discuss the Conceptual Mitigation Plan. On July 6, 2006 a meeting was held at the Water Board to discuss the Conceptual Mitigation Plan and the addition of the offsite area to the mitigation plan; the new plan required the remodeling of the Hydrology and Sediment Transport. The Final Mitigation plan was submitted to all agencies on October 24, 2006.

III.2 Pursuant to condition 2 of Minor Modification 2 to 401 Certification 01C-091

- a. Mitigation shall be constructed within 1 year that impacts occur, or additional mitigation may be required

**Observation:**

The impacts occurred prior to the issuance of Minor Modification 2 on October 20, 2005, so the date of impacts for the purpose of Minor Modification 2 is established as the issuance date of Minor Modification 2. The mitigation is required to be implemented by one year from the October 20, 2005 which is October 20, 2006.

**Ashby USA, LLC Response:**

Condition 2 of minor modification 2 states "Mitigation shall be constructed within 1 year that the impacts occur..."; the permit does not state that this is at the start of the impacts. A notice of completion for the work within the impacts has not been issued; the completion of the impacts is expected during winter/spring 2006/2007, therefore in compliance with the permit the mitigation should begin no later than one year after the impacts occur. Further construction of the mitigation area will begin upon the approval of the mitigation plan by all agencies.

**Violation:**

**IV. FAILURE TO PROPERLY IMPLEMENT POST CONSTRUCTION BMP**

IV.1 Pursuant to 401 Certification 01C-091 condition 16

- a. Post-construction Best Management Practices (BMP's) that will be implemented to treat and control urban and storm water runoff... These BMP's will be implemented and maintained as described in the water Quality Management Plan (WQMP).





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- b. The WQMP says “as much as possible, the 4 detention basins shall be designed to function similar to “constructed wetlands” or “enhanced wet ponds” ... While their primary function is to temporarily detain 100-year storm runoff to prevent down stream impacts, these basins shall also be designed to help maintain water quality.

**Observation:**

The detention basin outlet fails to detain and treat the water quality volume and the basin was not designed to function as much as possible like “constructed wetlands” or “enhanced wet ponds”

**Ashby USA, LLC Response:**

As stated in the NOV, this detention basin is still under construction, therefore the installation of post construction BMP's have not been completed. We were directed by the City of Temecula to install construction BMP'S and create a sediment trap to allow for first flush, and percolation time. An engineering firm has been contracted to evaluate the placement of a standpipe in the basin to temporarily detain the 2 and 10 year event and prevent any negative down stream impacts. The design and implementation shall be approved by the City of Temecula prior to installation. Please note, that the original design of the basin was approved and construction completed prior to the implementation of the Water Quality Criteria initiated in 2005.

**Violation:**

**V. FAILURE TO PREVENT DOWNSTREAM EROSION**

V.1 Pursuant to 401 certification 01C-091 condition 16

- a. These BMP's will be implemented and maintained as described in the WQMP
- b. The WQMP discusses the potential for development to cause “water traveling at higher speeds which can erode or scour more soils away when it discharges into natural channels.” The WQMP also says “sedimentation and urban pollutants from this development can generally be controlled with a combination of special design features and Best Management Practices (BMP's), most of which control erosion during and after construction. Section F of this report outlines the BMP's recommended for this project.”

**Observation:**

The detention basin outlet is causing downstream erosion. The WQMP includes only preliminary designs of the basin and not a detailed design of the outlet and erosion control measures, but the intent to control downstream erosion is clear in the WQMP. Erosion Control should have been addressed in the final design and installation of the detention basin.



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## Ashby USA, LLC Response:

Due to the topography of this area the discharge point of the basin is not the only source of water for this unnamed tributary to the Santa Gertrudis Creek; as shown in the attached Photo documentation (exhibit "A") there are several major erosion conditions on private property downstream that significantly contribute to the sediment within the unnamed tributary. Due to the fact that an irrigated grassy swale has been placed upstream to the complainants' property and there has been no further upstream erosion or sediment discharge since 2003 from Roripaugh Ranch (as demonstrated by the type and amount vegetation in the tributary as exemplified in exhibit "A") any nuisance flow downstream would be a direct result of irrigation run off from the adjacent property and from the private property downstream of the Roripaugh Ranch Project.

- V.2 Pursuant to water Quality order No. 99-08-DWQ, Section A.5a.2(c) and ' A.8:
- a. Temporary onsite drainages to carry concentrated flow shall be selected to comply with local ordinances, to control erosion, to return flows to their natural drainage courses, and to prevent damage to downstream properties.
  - b. The out flow from a sediment basin that discharges into a natural water course shall be provided with outlet protection to prevent erosion or scour of the embankment or channel.

## Observation:

The detention basin drains areas which are still under construction and could be considered a sediment basin under the General Construction Permit. The basin is temporarily being used to carry concentrated flows from the construction area. There were significant deposits of sediment and erosion observed downstream of the basin. There was scouring of the embankment from erosion caused by the low and high velocity flows within the natural waterway downstream of the sediment basin. These effects have the potential to be more pronounced during the wet season.

## VI. **FAILURE TO MAINTAIN AND REPAIR BEST MANAGEMENT PRACTICES (BMP's) TO REDUCE OR ELIMINATE SEDIMENT DISCHARGES IN STORM WATER RUNOFF**

VI.1 Pursuant to Water Quality Order No. 99-08-DWQ, Section A.11

- a. Inspections will be performed before and after storm events ... to identify BMP effectiveness and implement repairs of design changes as soon as feasible



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## **Observation:**

The basin is erroneously designed as a flow-through system eliminating sediment settling time. It is probable that the offsite storm water discharges from the basin are sediment-laden because the sediment is not allowed to settle before discharging. This is the likely cause of the sediment depositions noted above.

## **Ashby USA, LLC Response:**

The home builders (not Ashby USA, LLC.) in the plateau have placed appropriate BMP's as directed by the City of Temecula, as such, waters entering the detention basin are considered as free from sediment. As stated in the NOV, this detention basin is still under construction, therefore the installation of post construction BMP's have not been completed. We were directed by the City of Temecula to install construction BMP'S and create a sediment trap within the basin if needed to allow for first flush and percolation. An engineering firm has been contracted to evaluate the placement of a standpipe in the basin to temporarily detain the 100 year run off and prevent any negative down stream impacts. The design and implementation shall be approved by the City of Temecula prior to installation.

VI.2 Pursuant to water Quality Order No. 99-08-DWQ, Section A.8

a. The discharger must consider any additional site-specific and seasonal conditions...when designing sediment control BMP's.

## **Observation:**

The rip rap at the headwall appeared ineffective in minimizing downstream erosion. The rip rap was covered with sediment eliminating its usefulness in reducing the velocity and energy of concentrated storm water flows from the sediment basin.

## **Ashby USA, LLC Response:**

These impacts were addressed in NOV R9-2003-0197 issued April 22, 2003, NOV R9-20030392 issued on November 4, 2003, and ACL Order R9-2003-0302 issued on November 12, 2003. As a result of these violations, the following significant construction and post construction BMP's were installed per the direction of the City of Temecula, the discharge point was reduced to a 6" opening; the rip rap at the discharge point was increased. As well as the fact that all season BMP's on the plateau include Silt fencing and wattle on all lots, Storm Drain inlet protection with filter fabric with gravel bag dams. Photo 10 of the inspection report is inaccurate, as shown in the photos in exhibit "A" it is clearly identified that the outlet of the detention basin is on the Roripaugh Ranch Property, photo 10 from the NOV identifies an abandoned check dam that was placed in 2003 and it is not on the Roripaugh Ranch Project as located by the proximity of the property line fence in the background (white rail fence). As directed by the City of Temecula a secondary downstream rip rap area was added to further reduce velocity. Gravel bag check dams have also been placed between the primary and



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secondary rip rap to reduce velocities for any additional seasonal flow. Please see the photos in exhibit "A" to view existing conditions.

## Violation

### VII. **FAILURE TO PREVENT DISCHARGES OF NON-STORM WATER**

VII.1 Pursuant to Water Quality Order No. 99-08-DWQ, Special Provision C.3

- a. Discharge of non-storm water are authorized only when they do not cause or contribute to a violation of any water quality standard and are controlled through implementation of appropriate BMP's for elimination or reduction of pollutants.

## Observation:

A discharge from an irrigation pipe was observed carrying sediment to the storm drain. BMP's were being removed at the time of the Regional Board Arrival

## Ashby USA, LLC Response:

As stated in the inspection report an above ground irrigation high line was broken in a curb adjacent area, the subcontractor who broke the line in effort to prevent any further damage removed some of the existing BMP's. As a result of the work going on in the area some of the construction BMP's were in the process of being replaced because of the fact that a street sweeper was scheduled that day. Despite this work we maintained the filter fabric and gravel bags at the nearest downstream Storm Drain Inlet at intersection of Pourroy and Murrieta Hot Springs Road (which is replaced monthly). As stated in the inspection report onsite Ashby field crews responded within 15 minutes and immediately replaced all of the BMP's as the gravel bags were already stockpiled onsite as they are part of our SWPPP and were being replaced upon completion of the street sweeping operation. Stormwater Compliance Inc., an independent monitoring company was notified of the incident and was onsite later that day to confirm all BMP's were in place and no further action was required. Stormwater Compliance Inc. schedules periodic training sessions are held with Ashby LLC and their contractors to ensure that we remain in compliance, our last training was held on September 21, 2006 with all of the personnel (Ashby USA, LLC and Subcontractors) working onsite. The fact that only 10-20 Gallons of water reached the inlet in 30 minutes over such a short distance is confirmation that the SWPPP plan and the BMP's installed minimized any potential sediment discharge as well as the fact that the Storm Drain Inlet was protected by required BMP. We do not believe that and sediment laden water entered the storm drain system as filtration BMP's were installed at the storm drain inlet.



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## 2. STORM WATER POLLUTION PREVENTION PLAN STATUS

Please find the following attachments:

- a. an 11" x 17" reduction of the site SWPPP map showing all Construction BMP's
- b. a statement giving the exact date construction began
- c. Photo copies of all annual Compliance Certifications
- d. A photocopy of the SWPPP Signatory Requirement page

## 3. SITE STATUS REPORT SECTION

Please see the attached report form Stormwater Compliance Inc.

## 4. HYDROLOGIC STUDY SECTION

- a. Please find following the studies completed for the Basin in the Plateau
- b. Please find following the WQMP for Tract 29353, 29353-2 which include all of the relevant data for the basins in 29353 and 29353-2

Thank you for the opportunity to respond to this Notice of Violation. I would like the opportunity to meet with you and go over each item. If you have any comments please feel free to contact me at your earliest convenience.

Respectfully,

John Bergin  
Project Manager  
jbergin@ashbyusa.com



Ashby USA  
Notice of Violation Response  
Photos  
November 28, 2006

Exhibit "A"



Disturbed road leading to tributary to Santa Gertrudis Creek and head wall  
from sediment basin from Prairie Area.

November 22, 2006





Outfall headwall from sediment basin with rip rap for Phases 1-5  
(The Plateau)



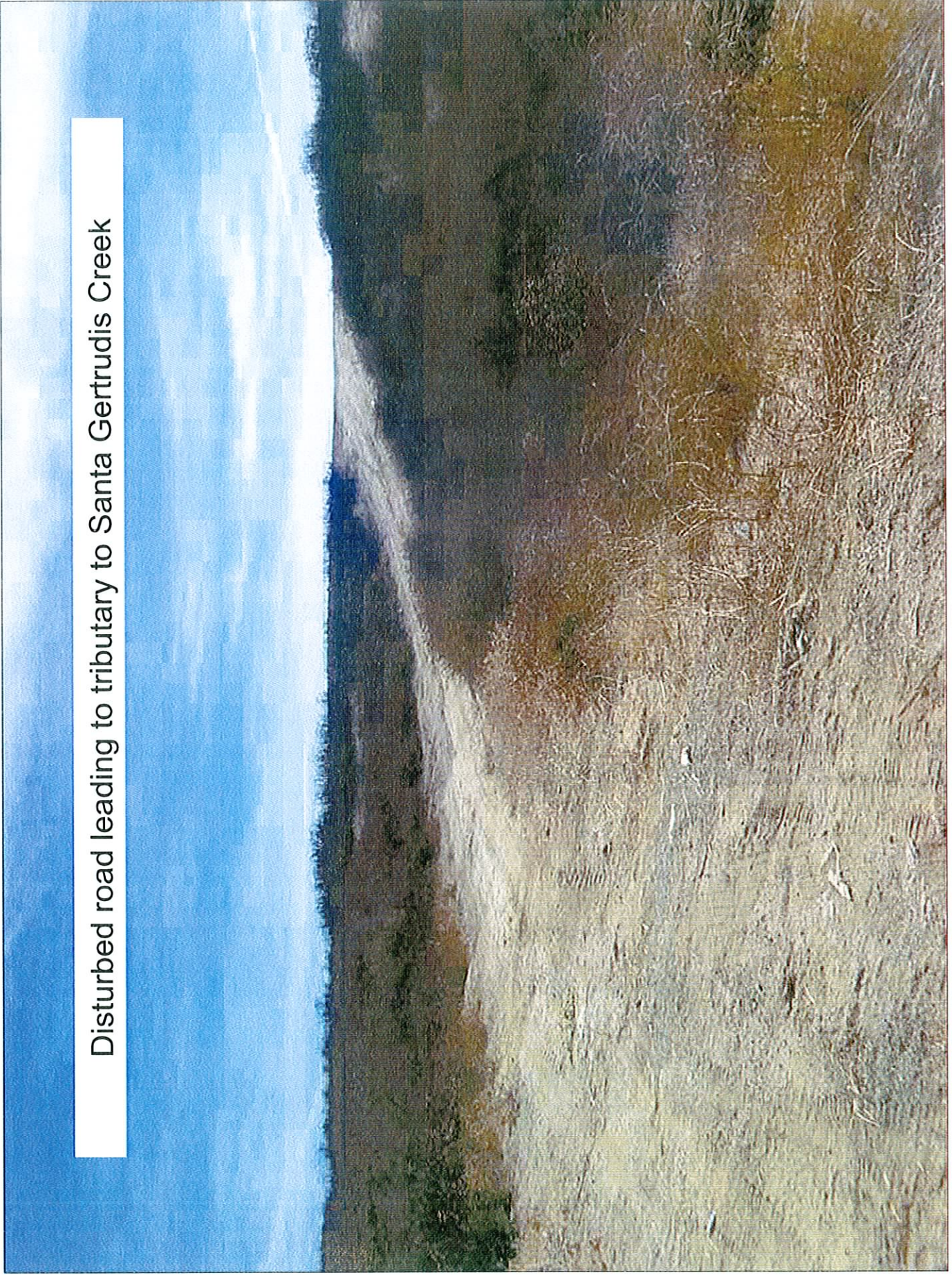


Tributary below headwall with gravel bag check dams installed per City.



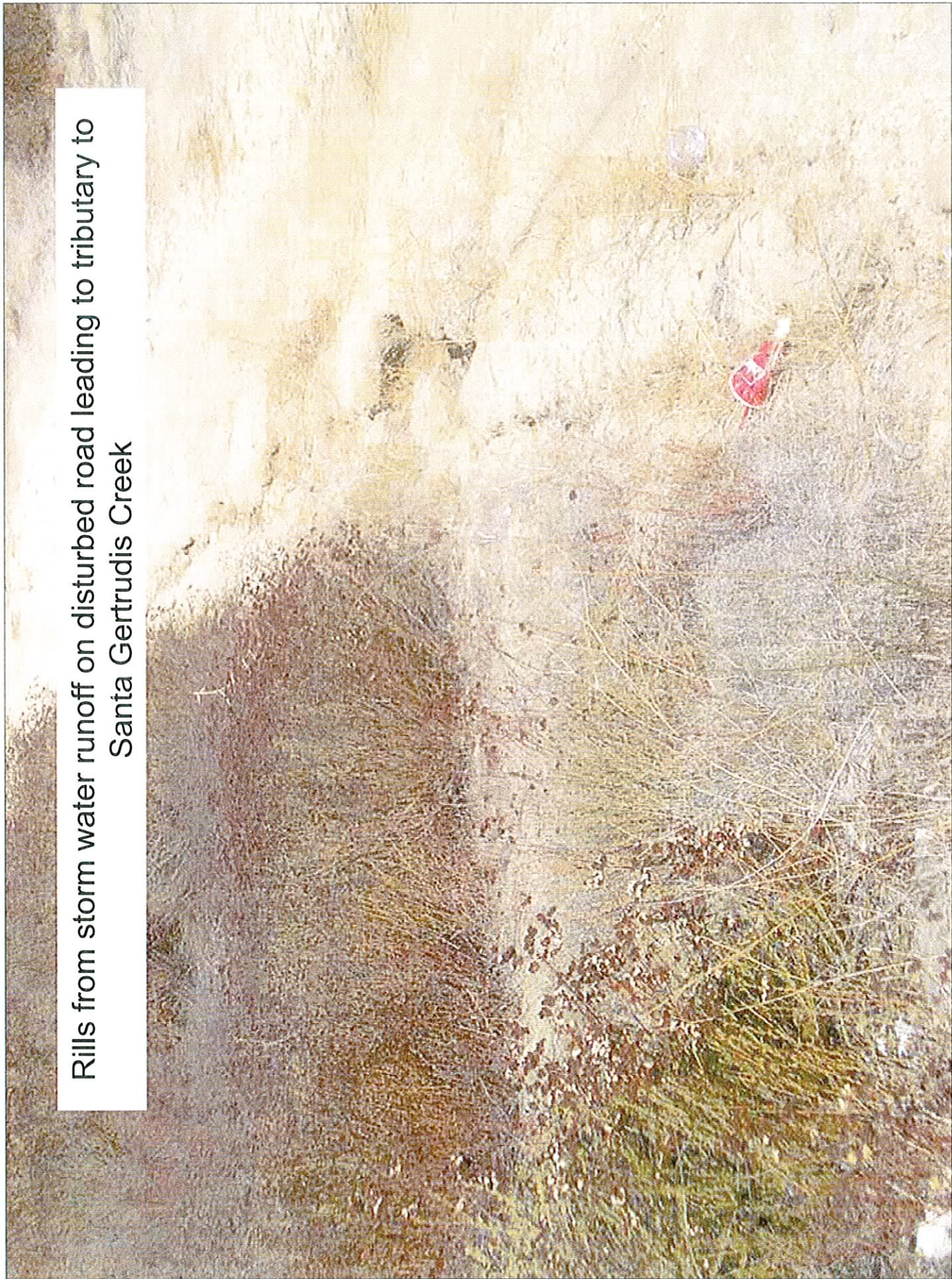


Disturbed road leading to tributary to Santa Gertrudis Creek





Rills from storm water runoff on disturbed road leading to tributary to  
Santa Gertrudis Creek







Gullies (4-6 ft. deep) from undisturbed area adjacent to disturbed road in same area as headwall from sediment basin that discharge .

November 22, 2006



Tributary to Santa Gertrudis Creek below headwall



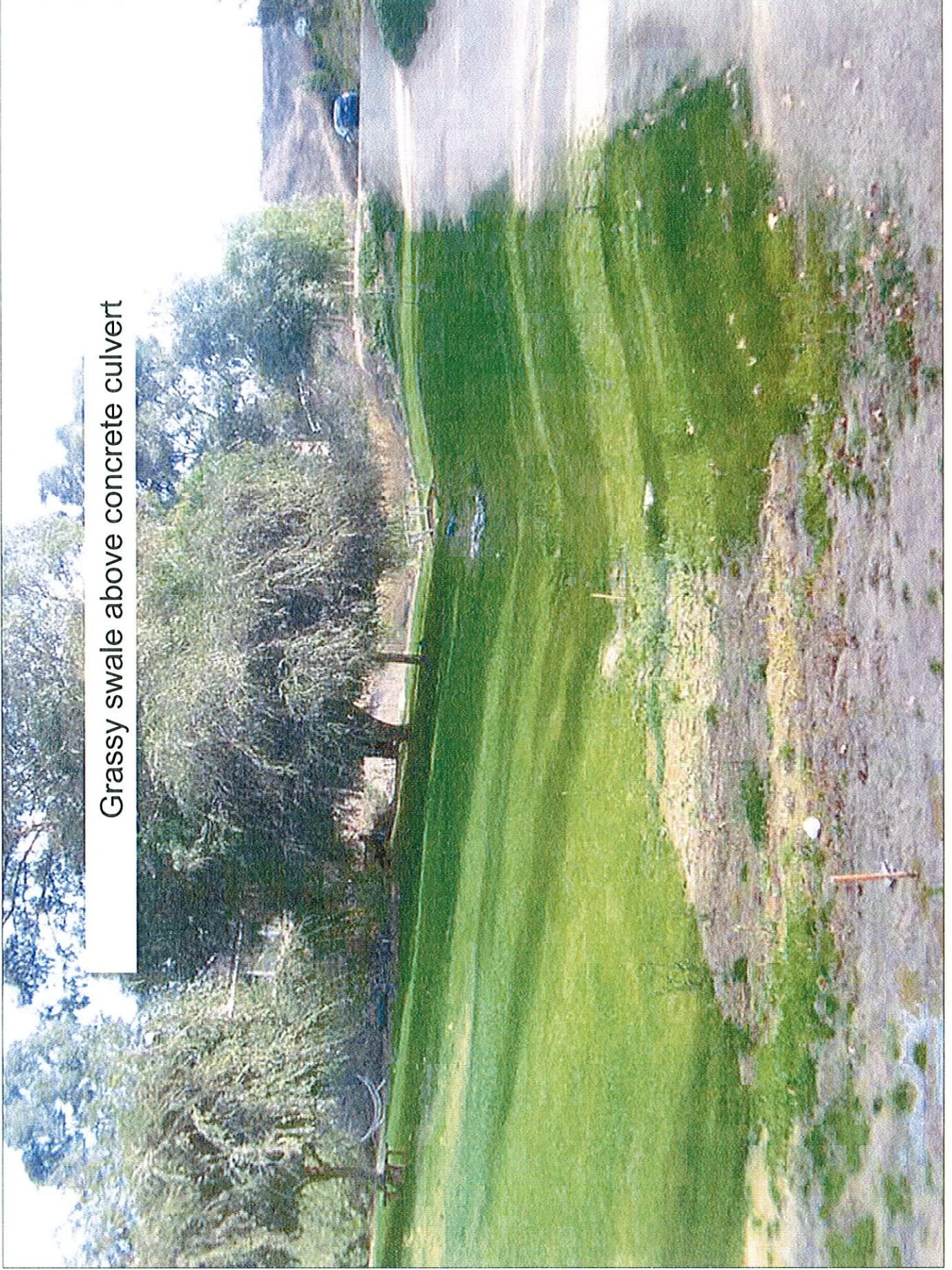


Natural waterway below headwall from sediment basin



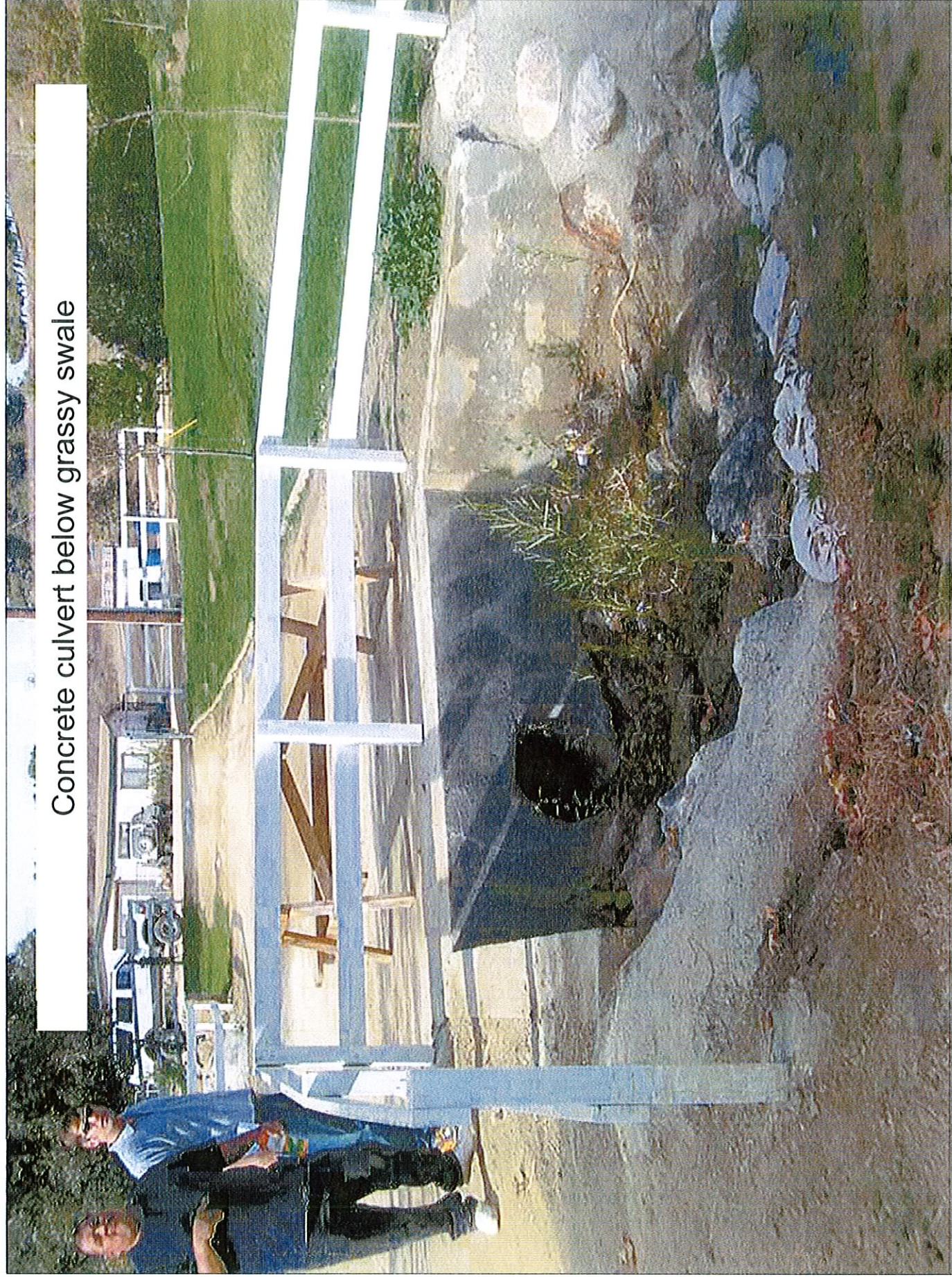


Grassy swale above concrete culvert



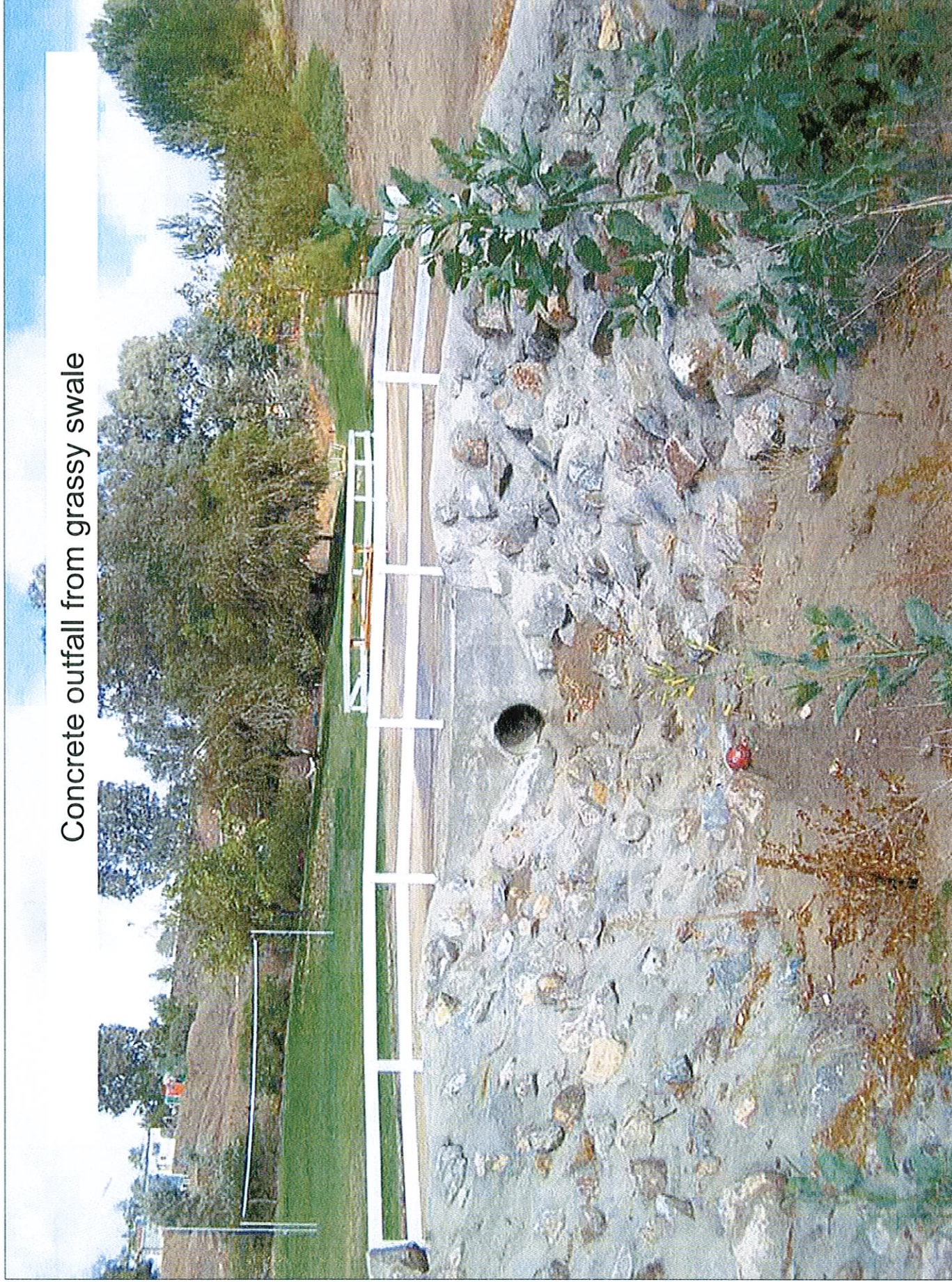


Concrete culvert below grassy swale





Concrete outfall from grassy swale



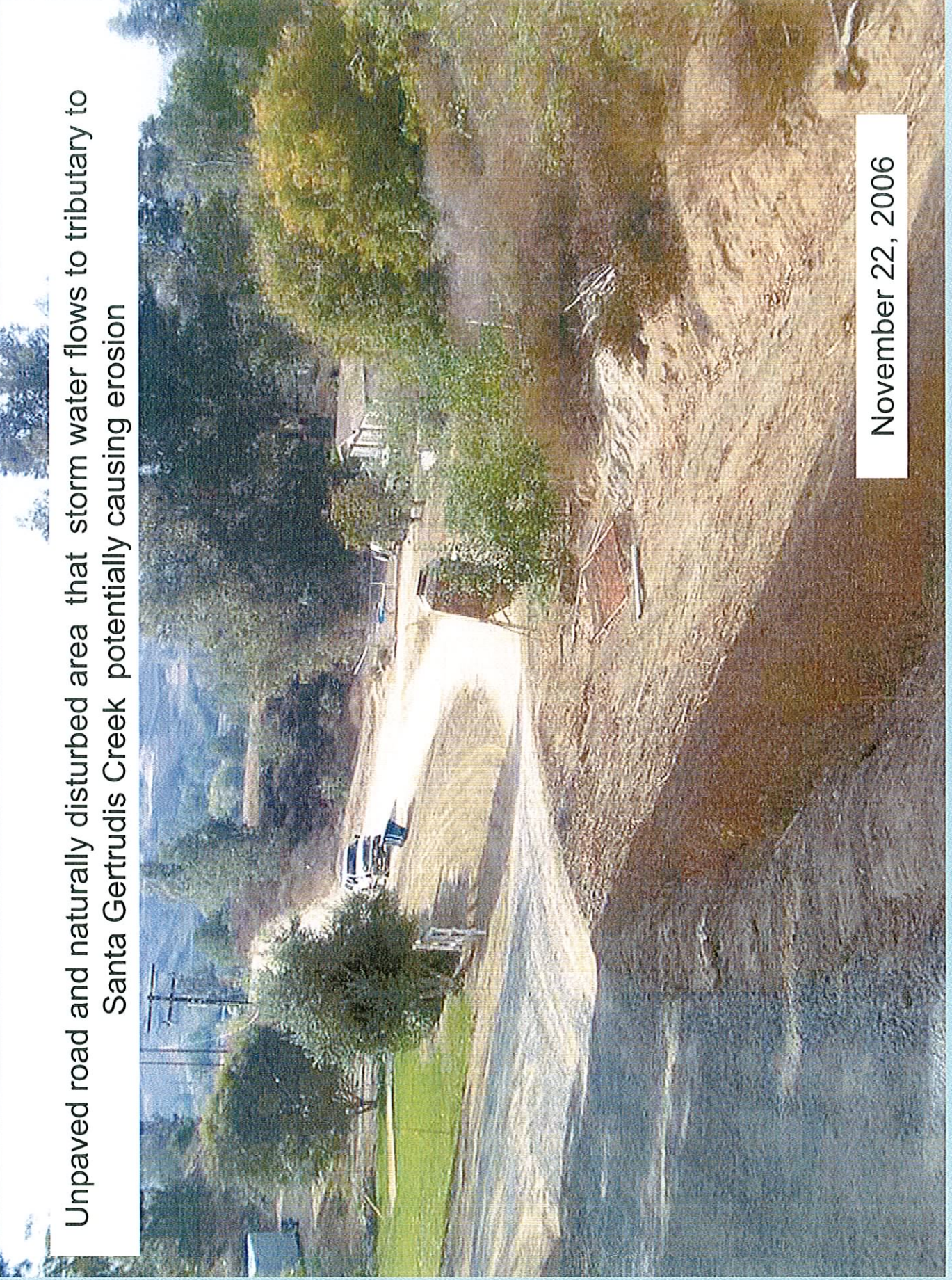


Landscaped slope with plastic spillway above natural disturbed area





Unpaved road and naturally disturbed area that storm water flows to tributary to Santa Gertrudis Creek potentially causing erosion

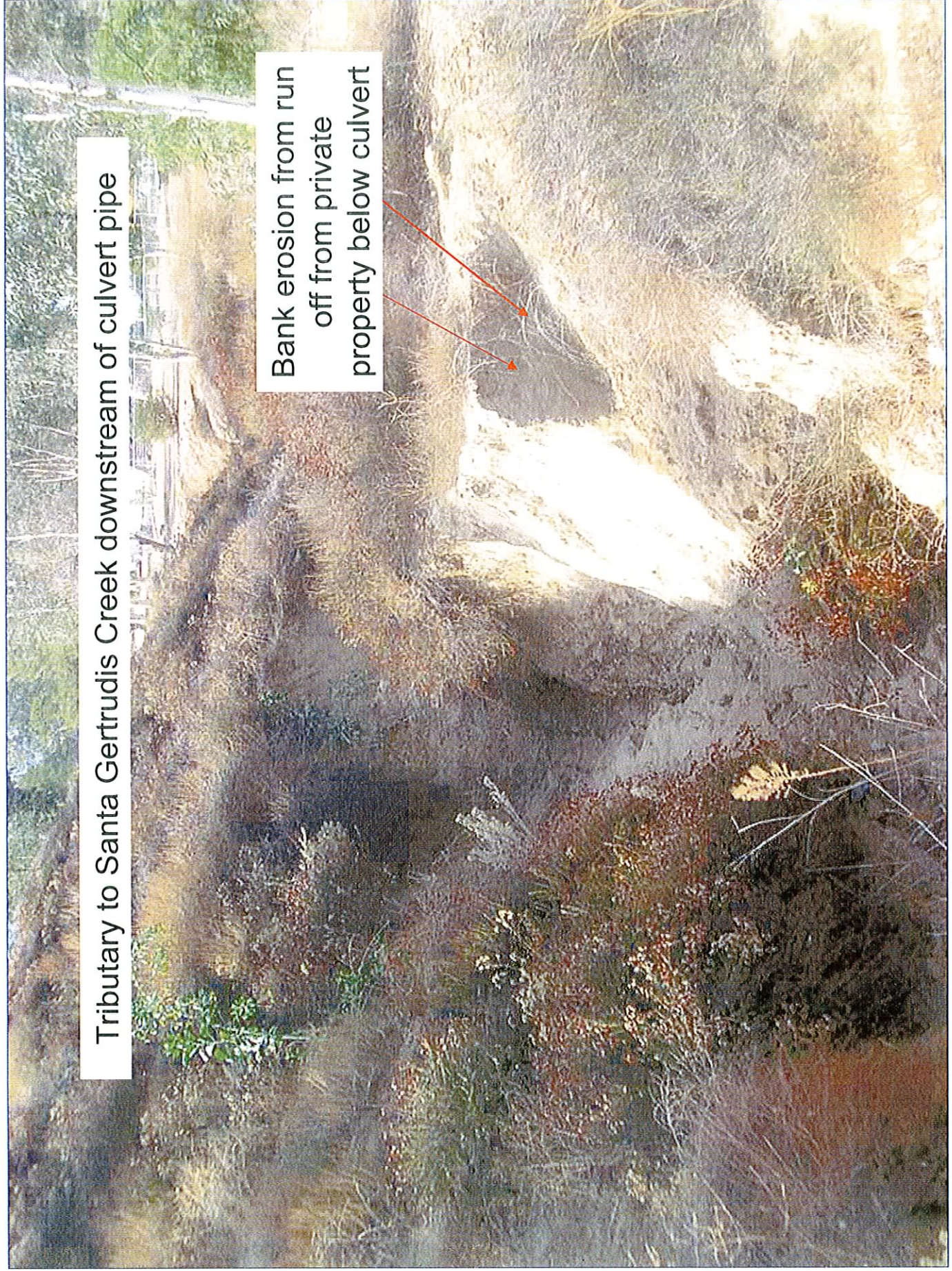


November 22, 2006



Tributary to Santa Gertrudis Creek downstream of culvert pipe

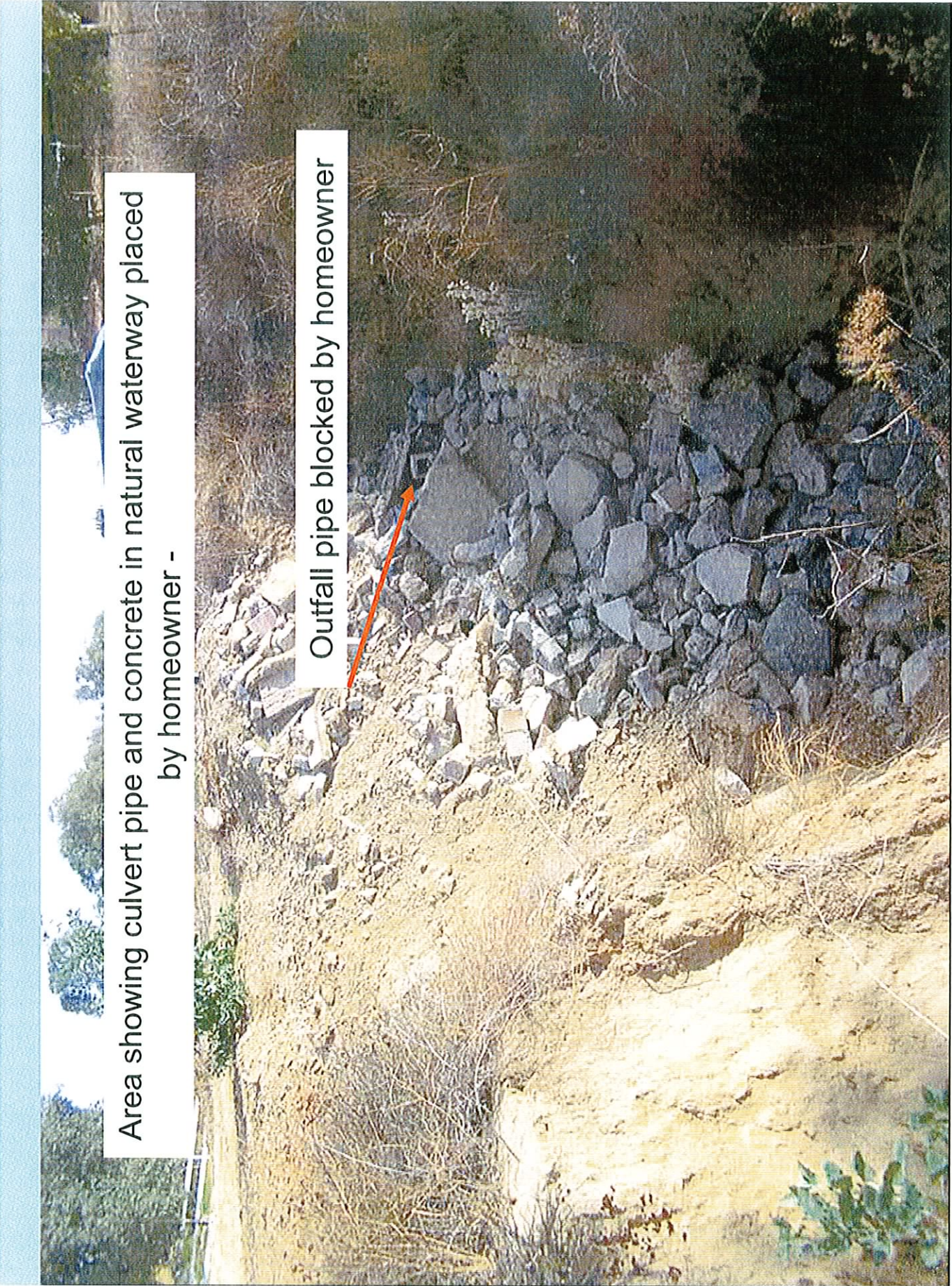
Bank erosion from run  
off from private  
property below culvert





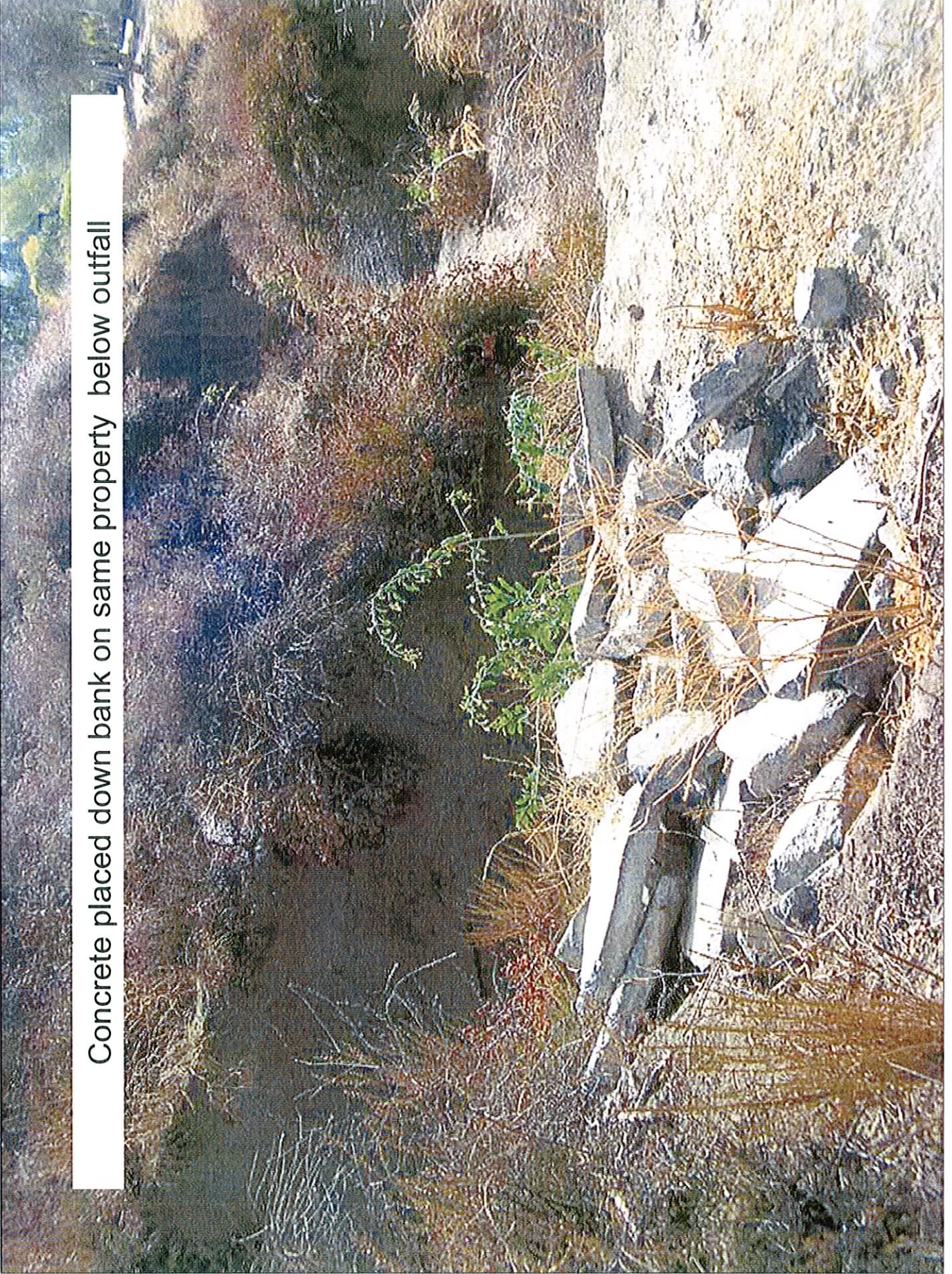
Area showing culvert pipe and concrete in natural waterway placed by homeowner -

Outfall pipe blocked by homeowner





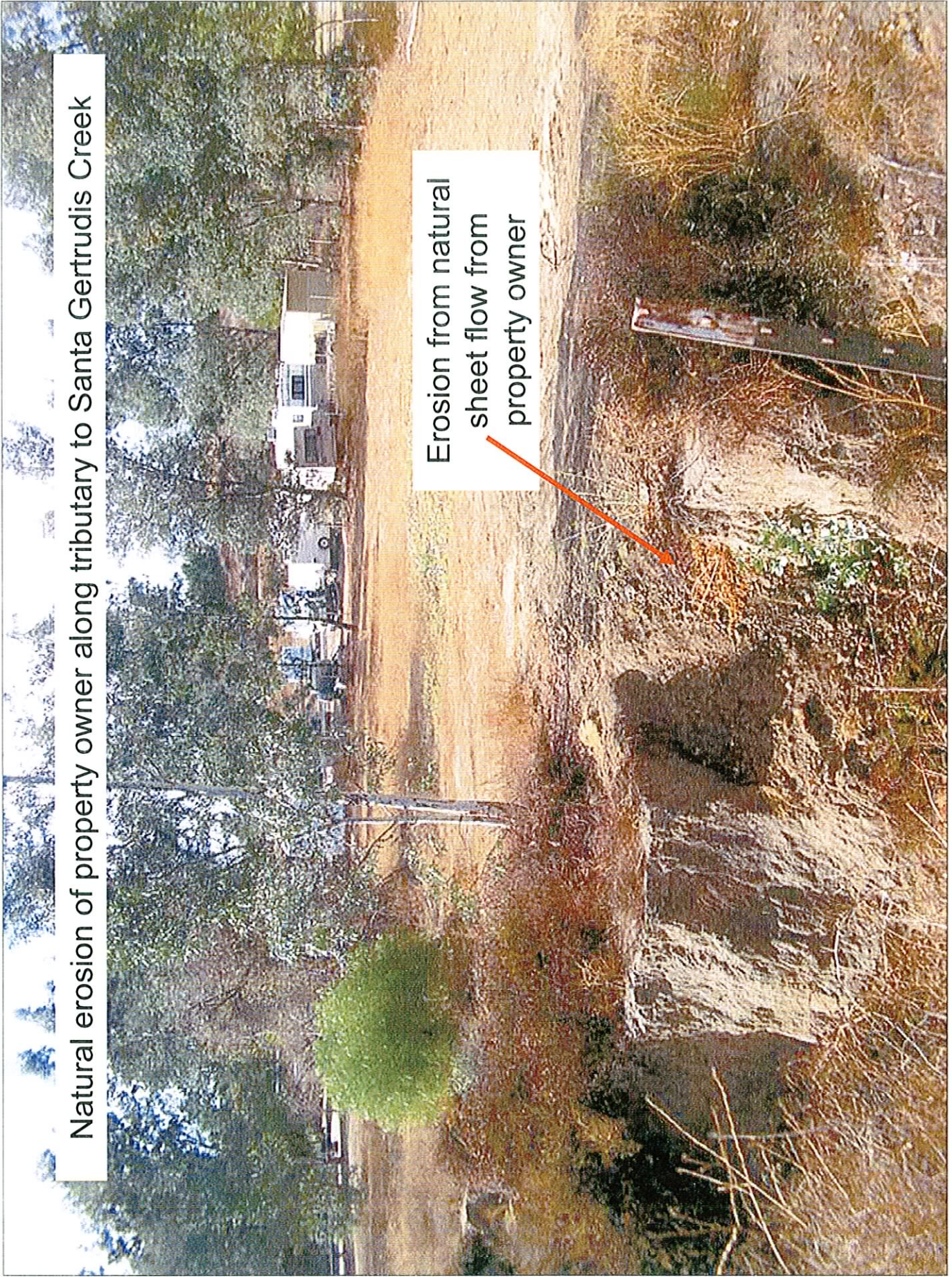
Concrete placed down bank on same property below outfall





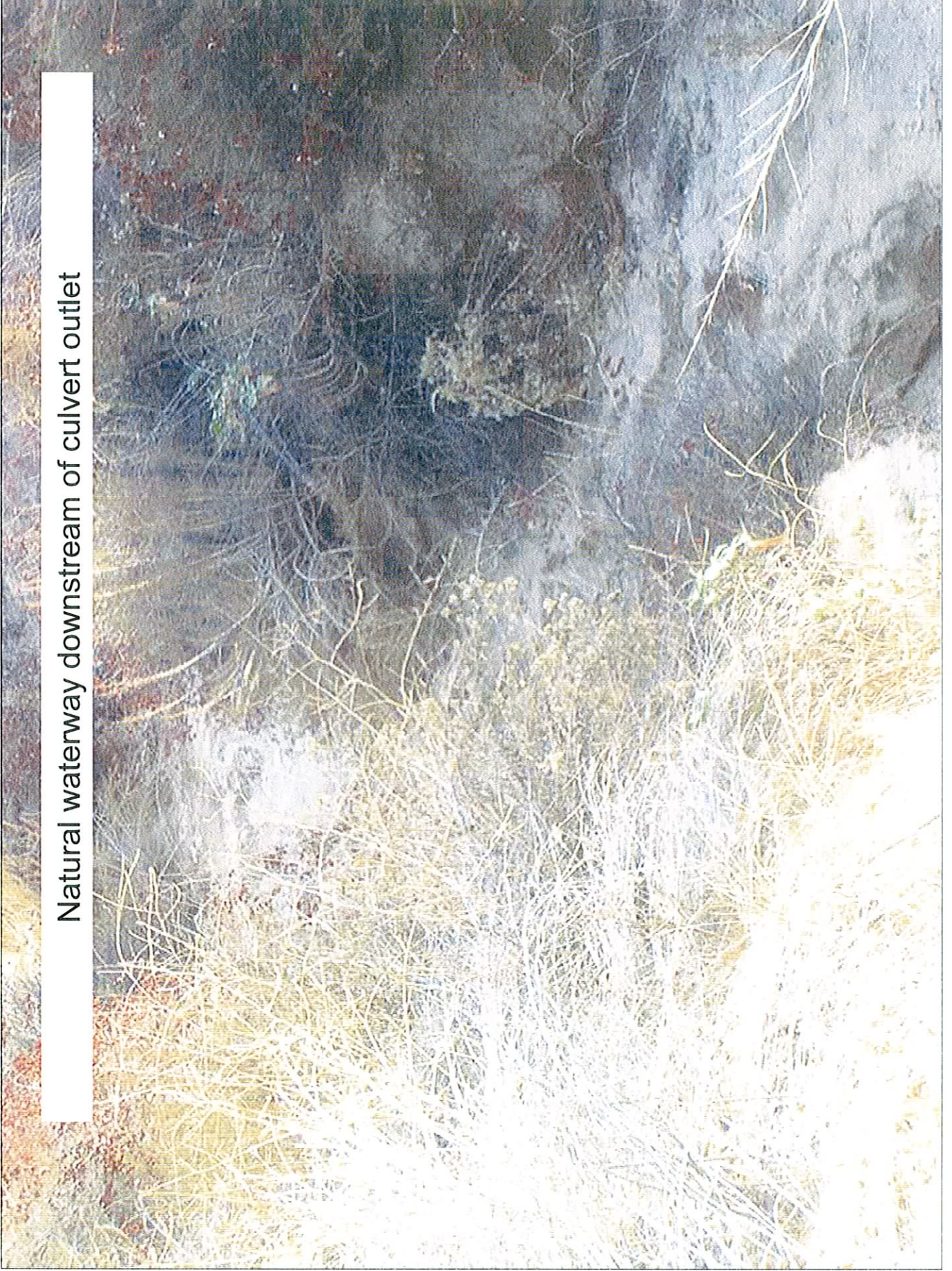
Natural erosion of property owner along tributary to Santa Gertrudis Creek

Erosion from natural sheet flow from property owner



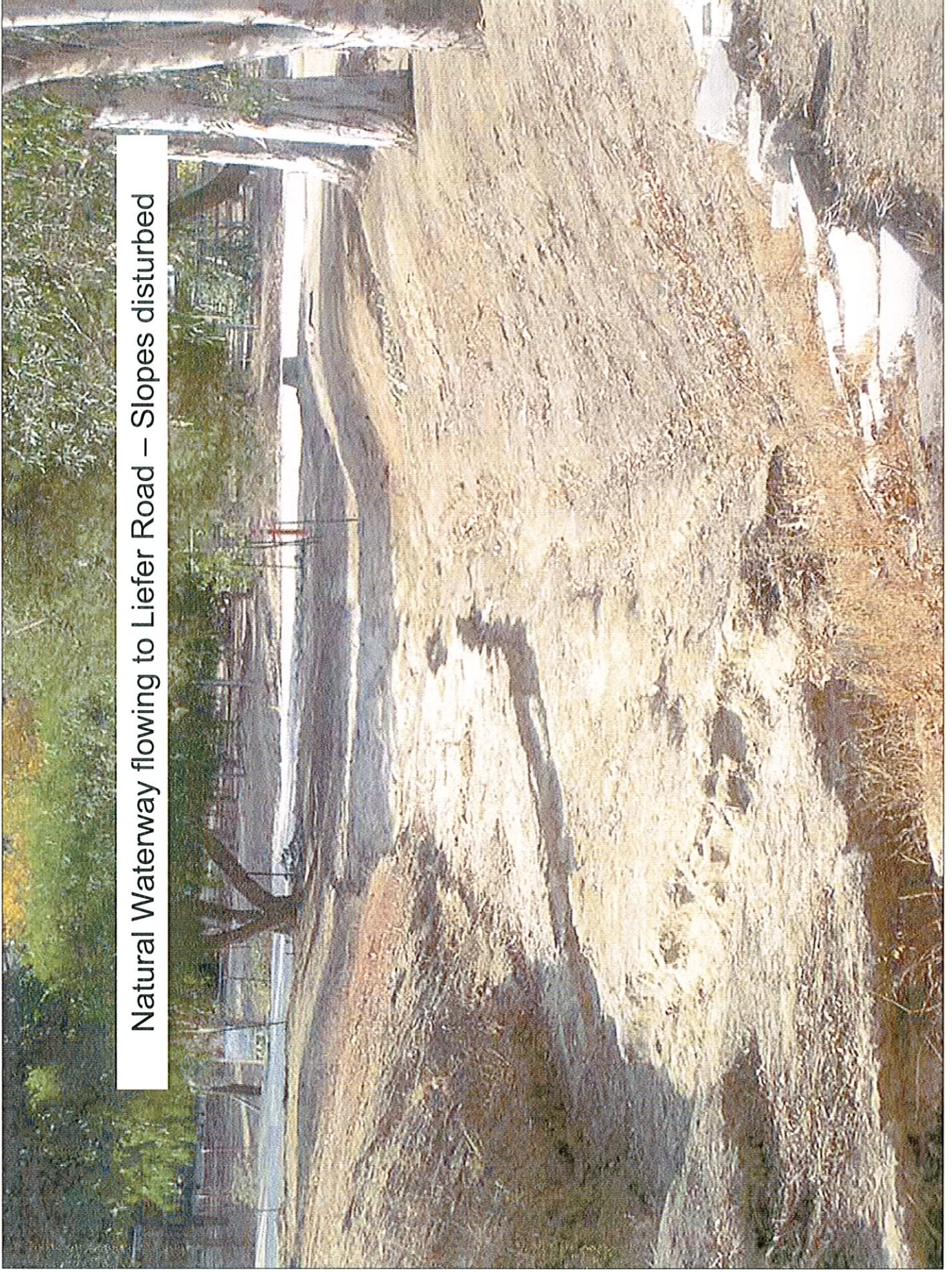


Natural waterway downstream of culvert outlet

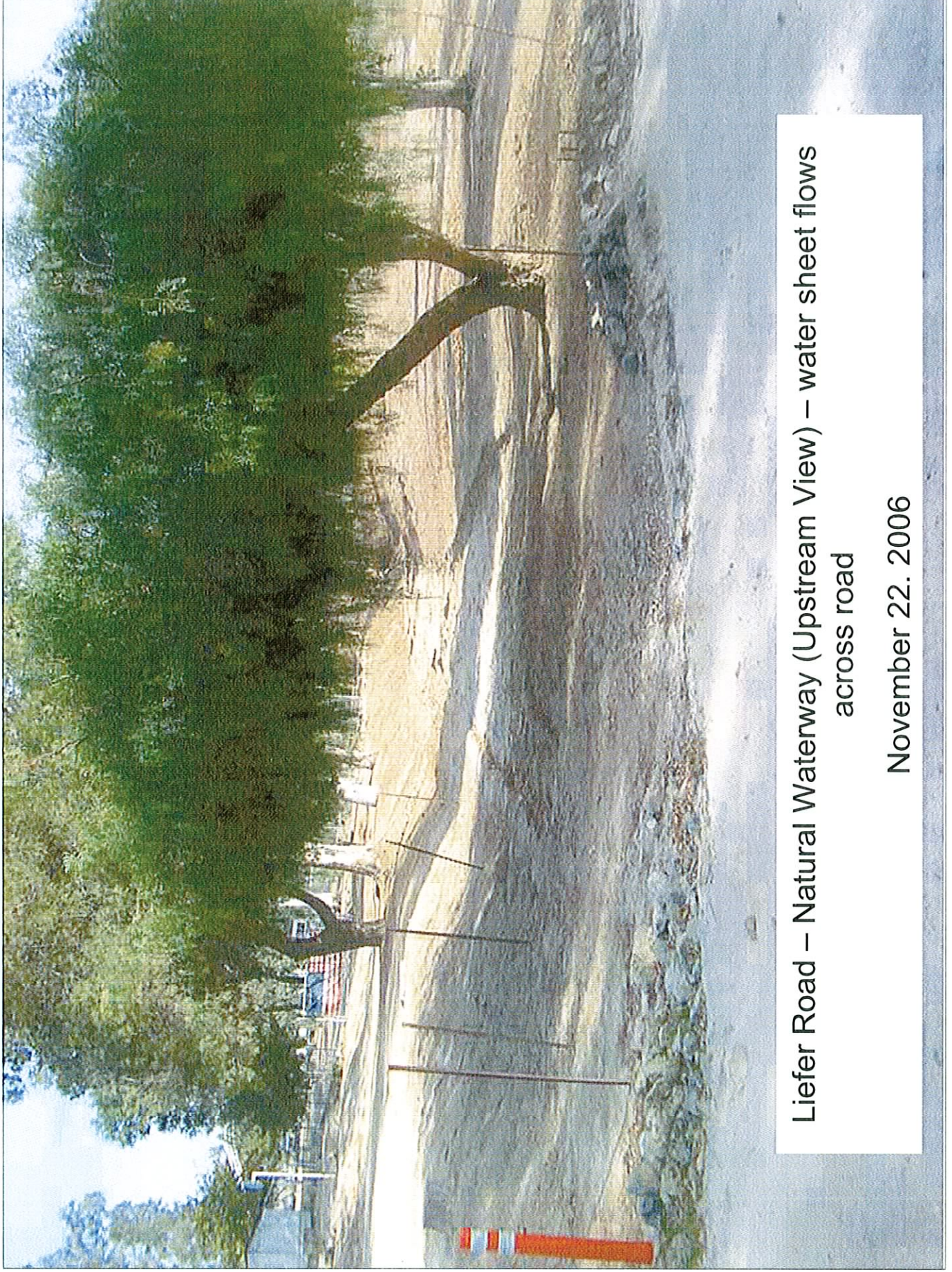




Natural Waterway flowing to Liefer Road – Slopes disturbed







Liefer Road – Natural Waterway (Upstream View) – water sheet flows across road  
November 22. 2006



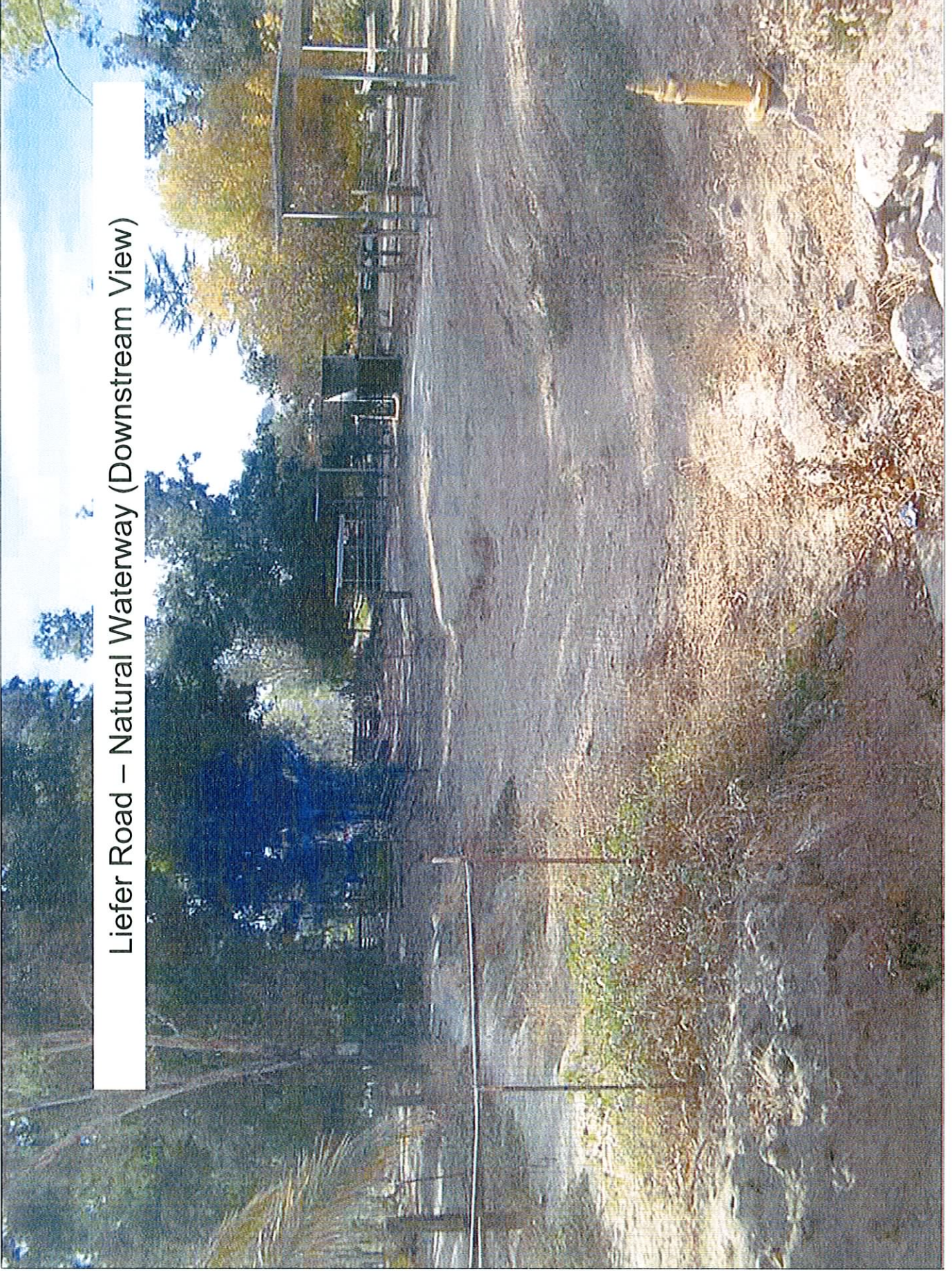
Homeowner adjacent to tributary to Santa Gertrudis Creek @ Liefer Rd.

Rills on unpaved driveway





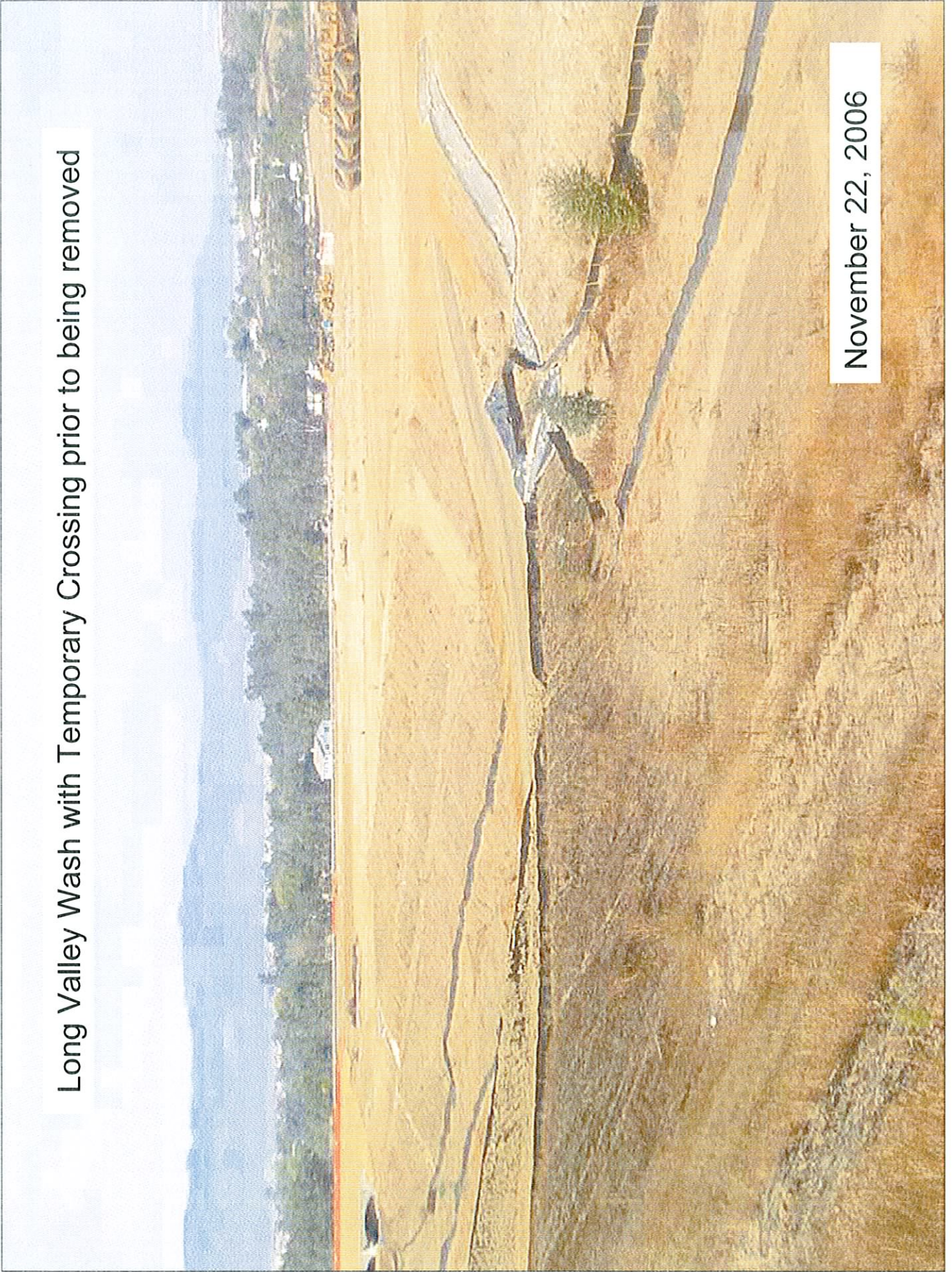
Liefer Road – Natural Waterway (Downstream View)





Long Valley Wash with Temporary Crossing prior to being removed

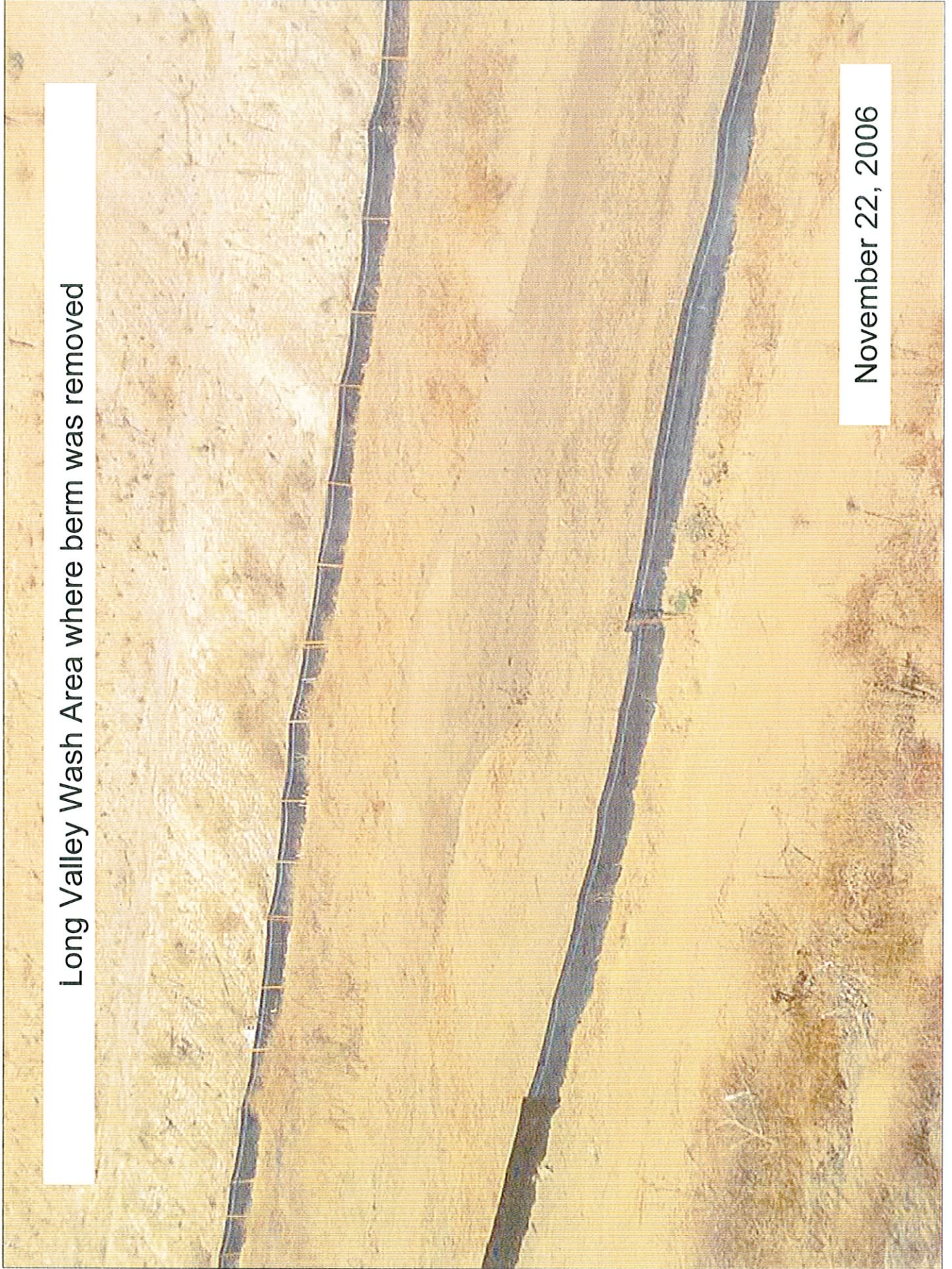
November 22, 2006





Long Valley Wash Area where berm was removed

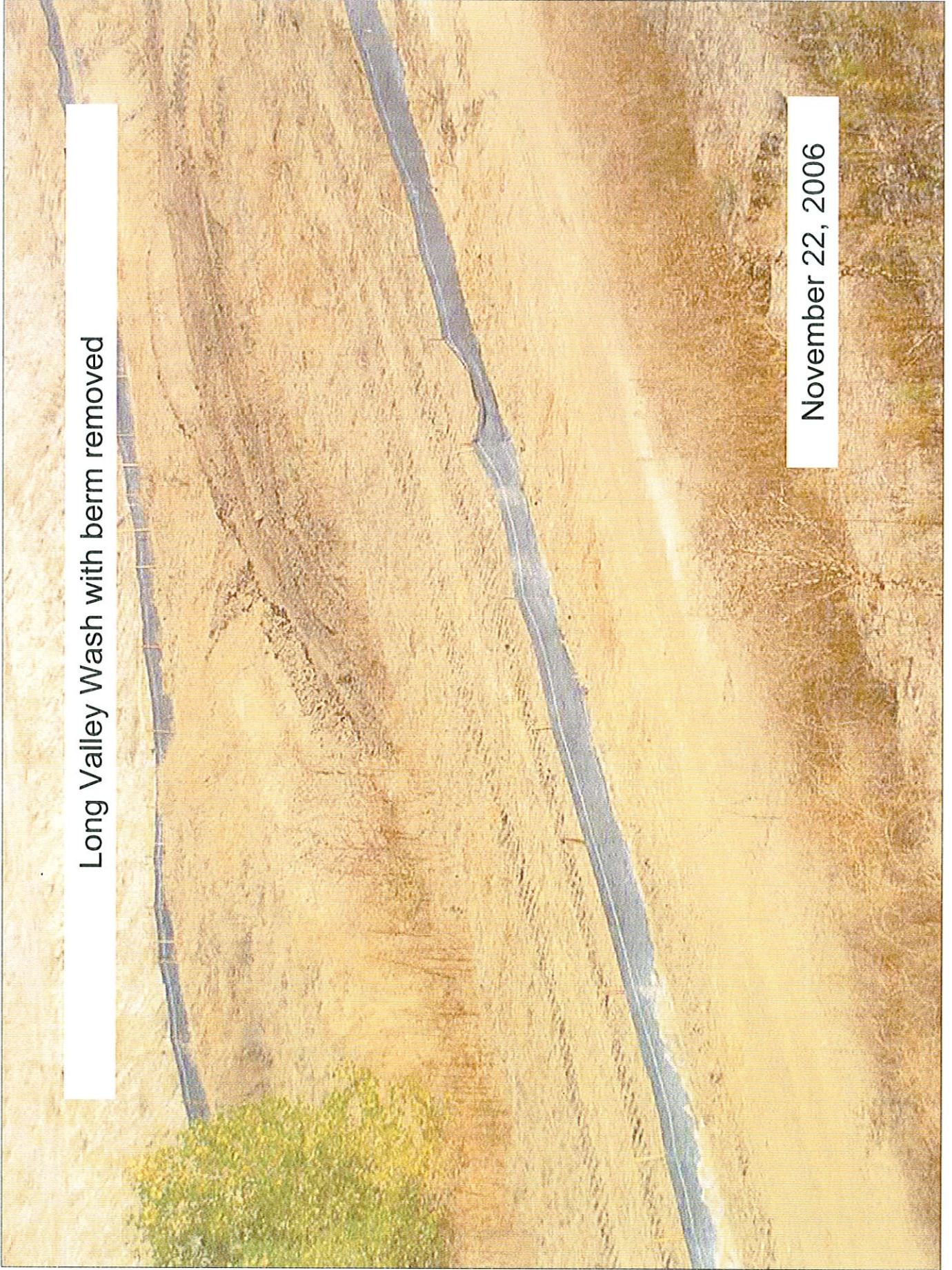
November 22, 2006





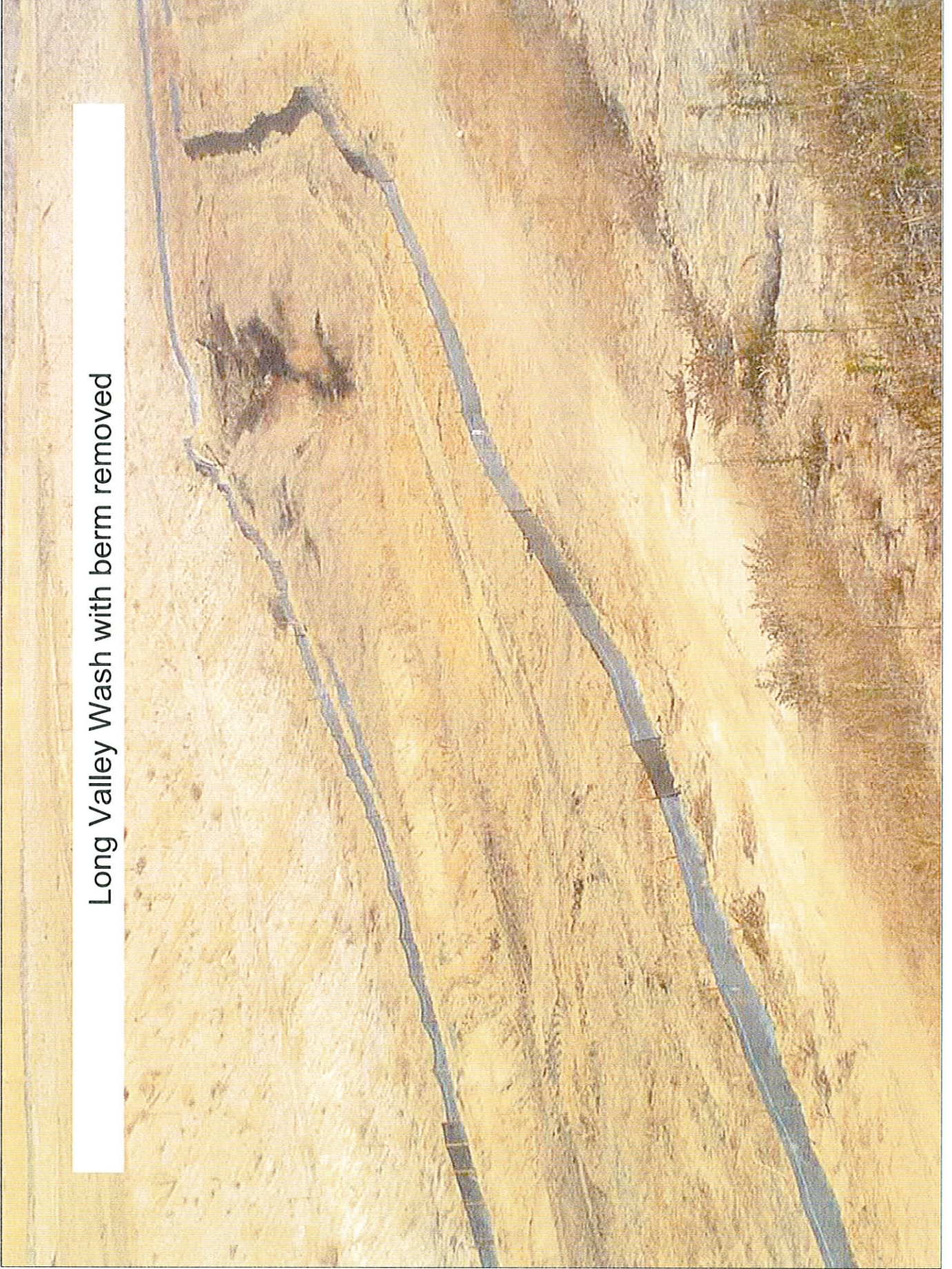
Long Valley Wash with berm removed

November 22, 2006



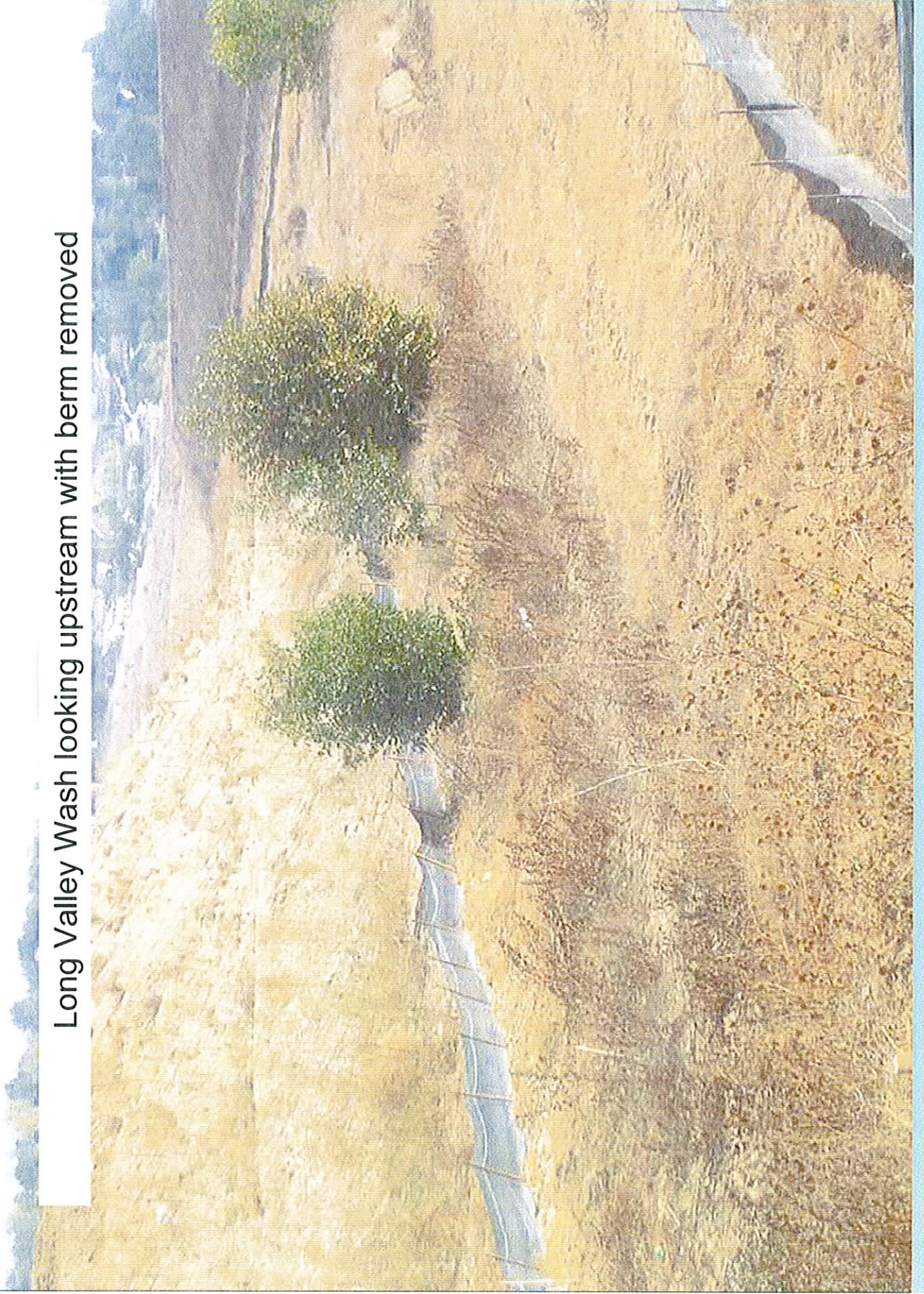


Long Valley Wash with berm removed



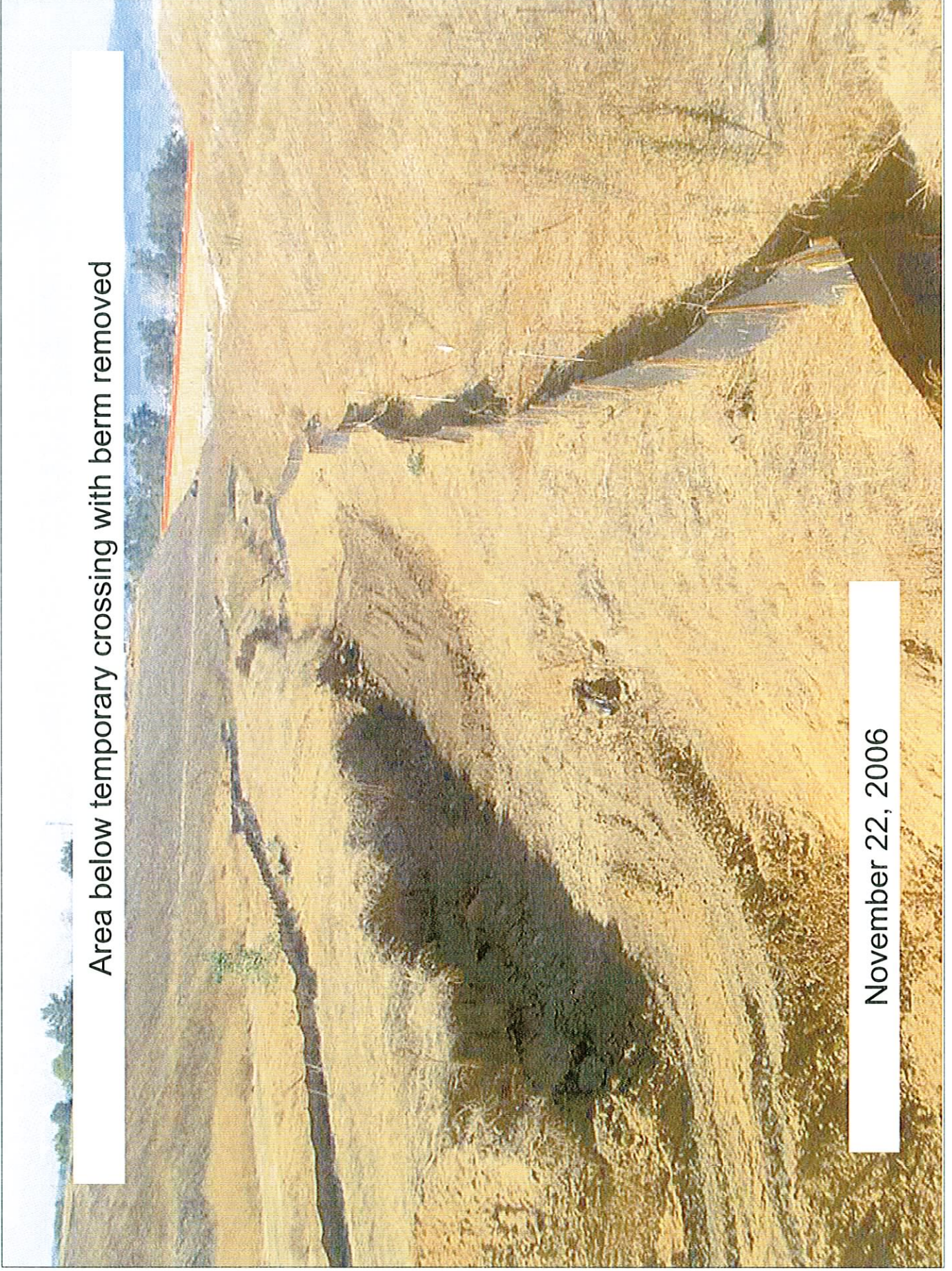


Long Valley Wash looking upstream with berm removed





Area below temporary crossing with berm removed



November 22, 2006