



File: A3-2863

August 21, 1997

Carlo Asquini  
SS #2, Site 4, Comp 17  
Kamloops, BC, V2C 6C3

Dear Carlo:

**Re: Approval Application for Changes in and about Cherry Creek**

Approval for the above has been granted, and the approval document verifying this is attached.

This Approval or a copy of it should be kept at the work site so that it may be shown to a Ministry official upon request.

If you have any questions or concerns regarding this Approval, please contact the Regional Water Management Office.

Yours truly,

R.W. Costerton, P. Eng.  
Hydrotechnical Engineer  
Southern Interior Region

Attachment

cc: Conservation Officer Service, Kamloops, Attn: Al Breitkreutz  
Fish & Wildlife Branch, Kamloops, Attn: Rick Howie

Ministry of  
Environment,  
Lands and Parks

BC Environment  
Southern Interior Region

Telephone: (250) 371-6200  
Facsimile: (250) 828-4000

Mailing Address & Location:  
1259 Dalhousie Drive,  
Kamloops, B.C.  
V2C 5Z5



## APPROVAL

### Changes in and about a stream

#### WATER ACT - SECTION 7 (1)

Carlo Asquini is hereby authorized to make changes in and about a stream as follows:

- A. The stream is Cherry Creek.
- B. The changes to be made in and about the stream are construction of approximately an 80 foot (25 m) length of gabion bank protection on each side of Cherry Creek within Lot A, Plan 9050, KDYD.
- C. All works shall comply to design sketch submitted by Carlo Asquini for the application except that the streambed width (between the base of the gabion baskets) will be at least 8 feet (2.44 m). One section, up to 15 feet long, may be narrower, but it must be at least 7 feet (2.14 m) wide. At some locations the streambanks will have to be pulled back before the bank is protected. Areas near the upstream and downstream ends will be wider than 8 feet. This requirement is based on matching the hydraulic capacity of the natural channel upstream.
- D. Two features must be added to the proposed works as mitigation for the loss of fisheries habitat resulting from the gabion walls. Large 18 inch diameter (45 cm) rocks shall be placed at six locations on the stream bed along the base of the gabion wall. Also, 20 shrubs or trees shall be planted along the top of the gabion wall. These measures are intended to provide some cover and sheltered areas for fish. The planting must be completed by June 1998 and monitored to ensure a 80 percent survival rate.
- E. The gabions must be placed low enough so that the natural scour of the creek bed during flood, including the local scour caused by the "fish rocks", does not undermine the gabion wall.
- F. Instream work shall be undertaken during the normal work window of July 15 to September 30, 1997 to minimize the impact on the fisheries' resource.
- G. Care shall be exercised during all phases of the work to minimize siltation.

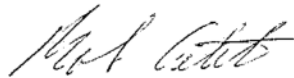
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- H. Where possible work shall be conducted from the top of the bank. Equipment shall not be operated in the channel unless it is unavoidable, and then the disturbance of the bed and banks must be minimized.
- I. The holder of this approval shall take reasonable care to avoid damaging any land, works, trees or other property, and shall make full compensation to the owners for any damage or loss resulting from the exercise of the rights granted with this approval.
- J. Vegetation along the banks shall be disturbed as little as possible. No trees shall be removed or destroyed.
- K. All disturbed areas of the banks shall be restored to their original condition.
- L. Any machinery operated on the site shall be in good repair and be free of hydraulic leaks and excess surface oil and grease.
- M. Rock used as riprap at the upstream end or base of the gabions shall be clean, durable, angular in shape and suitably graded and sized to resist movement by flood flows.
- N. The upstream end of the gabions must be curved back into the bank so that the bank protection is not outflanked by erosion farther upstream.
- O. The following individuals are holders of domestic water licences downstream: David and Sandra Rawson and Darryll McPherson. They are to be advised prior to the commencement of construction and are to be provided with an alternate supply of fresh water should water quality be adversely affected. The work should not generate enough silt to cause a problem downstream. If this becomes a problem the work must be stopped until a cleaner method can be implemented.
- P. Prior to carrying out any maintenance of the works under this approval, the holder is to attain the consent of the Regional Water Manager, Southern Interior Region. The Regional Water Manager must also be notified prior to any other instream work (in addition to the gabion construction authorized herein).



R.W. Costerton, P.Eng.  
Hydrotechnical Engineer  
Southern Interior Region

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Date: August 21, 1997

23 July 98

## Meeting with Carlo Asquini

- Notify us of the additional work to protect the toe of the gabion walls; before any of the work is done instream.

On another note Notation allegedly is removed from title upon its sale, so a future owner could "legalize" the construction. This seems very unlikely to me.

~~- Beaver dam; beaver trapped in '88~~  
"

Pat Catlett

21 Aug 97

10:30am On-site with Aquino + Rob C.

Proposal for gabions both sides with 5' bed width is to "flume like" and fast.

Finally agreed to match the ups natural channel width of 8', except for a 15' long section @ 7'; Add 6 rocks to break up flow + provide shelter for fish, and plant TOTB with shrubs or willows.

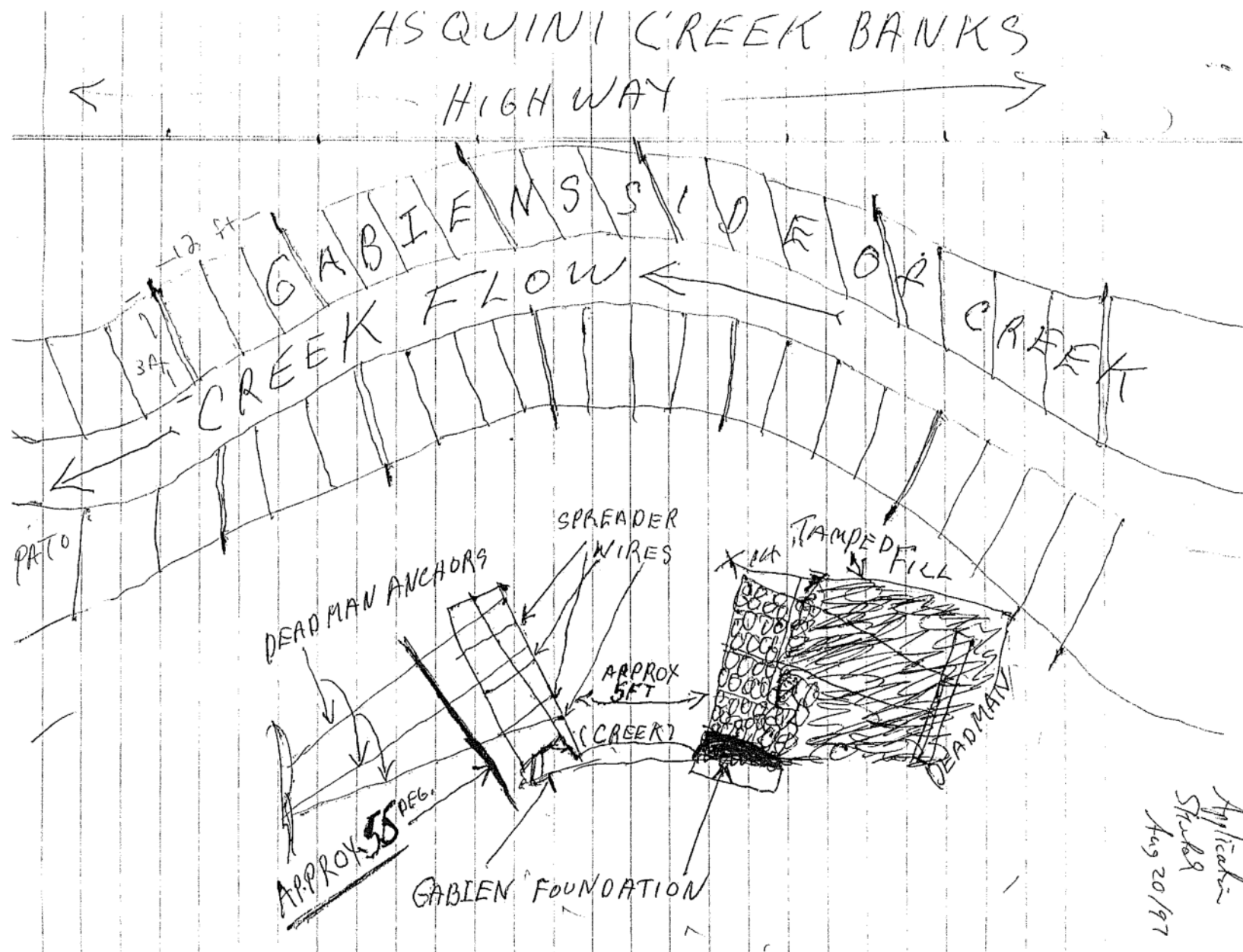
Talked to Rick Horne before on-site and said I would try to reduce the "flume-like" nature of this section. Although gabions both sides is not ~~what~~ what I would prefer there are few options with the house and Hwy so close.

4:00 PM gave approval to Carlo Aquino.

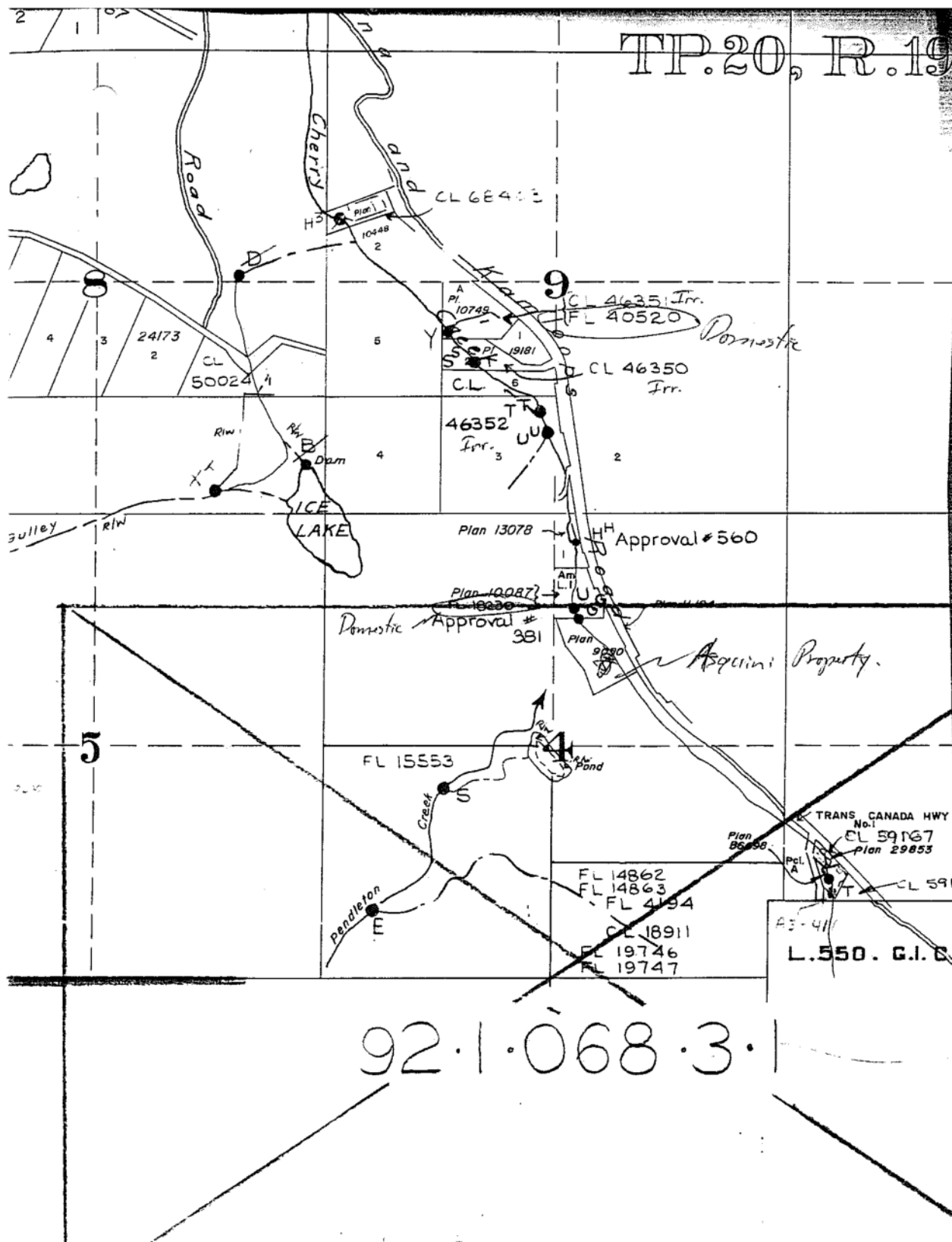
4:30 PM Rob Ober will monitor work on Monday.

5:00 PM Carlo doesn't want to talk to d/s domestic (i.e. Ladder (Seal)) so I said keep it so clean there will be nothing to complain about. He is going to use filter cloth to catch sediment at d/s end project.

Rob Carter



TP.20, R.19



Licence No: F040520 File No: 0255651 Priority Date: 1964/03/31  
Proc Stat/Date: N/A Lic Stat/Date: C 1991/07/26  
Exp Date: \_\_\_\_\_ Lic Exempt: NO  
Dist/Prec.: 13F KAM - KAMLOOPS Region: 03 S INT - KAMLOOPS  
Appurtenancy  
L A OF SEC 9 TP 20 R 19 W6M PLAN 10749

Four of the Sources

Cherry Creek

Licensee 1 of 1 Client Number: 027251 Receives Bill? Y  
Name: MCPHERSON DARRYL  
Address: SS 2 COMP 9 SITE 4 Postal Code: V2C 6C3  
KAMLOOPS BC Work Phone No: ( ) -  
Home Phone No: ( ) -  
Other Phone Code: \_\_\_\_\_  
Other Phone No: ( ) -  
Country: \_\_\_\_\_  
Client Exempt: NO Client Last Updated: 1993/08/17 By Region: 00



Licence No: F018230 File No: 0227058 Priority Date: 1959/08/10  
Pro Stat/Date: N/A Lic Stat/Date: C 1991/07/26  
Exp Date: \_\_\_\_\_ Lic Exempt: NO  
Dist/Prec.: 13F KAM - KAMLOOPS Region: 03 S INT - KAMLOOPS  
Appurtenancy  
L 1 OF SEC 4 TP 20 R 19 W6M PLAN 10087

Four of the Sources

Cherry Creek

Licensee 1 of 1 Client Number: 027312 Receives Bill? Y  
Name: RAWSON DAVID L & SANDRA N  
Address: SS 2 COMP 43 SITE 4 Postal Code: V2C 6C3  
KAMLOOPS BC Work Phone No: ( ) -  
Home Phone No: ( ) -  
Other Phone Code: \_\_\_\_\_  
Country: \_\_\_\_\_ Other Phone No: ( ) -  
Client Exempt: NO Client Last Updated: 1993/03/29 By Region: 00

## **Costerton, Bob**

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**From:** Olsen, Rod  
**To:** Costerton, Bob  
**Cc:** Breitzkreutz, Al; Zackodnik, Al; Thompson, John; Doyle, Paul  
**Subject:** C. Asquini-Cherry Creek  
**Date:** Thursday, August 14, 1997 5:25PM

Bob,  
Mr C. Asquini was actively working in Cherry creek this week trying to add rock gabions to the creek bank to stop erosion. Mr. Asquini was ordered to stop the work by CO Lockwood and has complied pending meeting with yourself to discuss a possible approval for the work. In absence of any water engineering staff to identify scheduling conflicts I have taken the liberty of booking a meeting with Mr Asquini on Wed August 20th at 0930 hrs to review his request. If possible I would like to discuss the situation with you prior to the Aug. 20th meeting, so there is a coordinated MOELP approach to the situation.

From an investigative perspective Mr Asquini's actions in building his home and reinforcing the creek banks have violated the water act and fisheries act, however the actions were conducted in the belief that he had past MOELP approval to conduct works in the stream. While Mr Asquini is wrong in his belief that he had blanket approval and ignorance of the law isn't supposed to be an excuse, misinterpreted approval is a viable defence. The best action in this situation is to "clean the slate" identify the proper avenue for future works and clearly lay out the legal implications if the proper course of action is not followed.

Hopefully we can come to a reasonable resolution to Mr Asquini's situation.

## **Costerton, Bob**

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**From:** Olsen, Rod  
**To:** Costerton, Bob  
**Subject:** Asquini  
**Date:** Wednesday, August 20, 1997 2:22PM

Bob,  
Here is the information for the Carlo Asquini approval: Carlo Asquini phone<sup>s.22</sup> , SS #2 Site 4 Comp 17  
Kamloops BC V2C 6C3 (Lazy Acres Rd Cherry Creek). Good luck tomorrow!

# MESSAGE

Date 1/14 Time Ans. Service  
 To Paul Doyle -> Des A.

WHILE YOU WERE OUT

s.22

From Ted Fulker

s.22

TELEPHONE

Telephoned		Please call	
Called to see you		Will call again	
Wants to see you		Returned your call	

MESSAGE Backhoe in creek  
digging Took pictures  
Des - I phoned 8:30 Aug 13.  
(got msg from Beryl this am)  
and talked to s.22 said I

would pass message on to you  
 Operator URGENT ☐  
 46-501 pink and that you had been Hilroy  
 46-502 yellow out to see backhoe. Ted

**Anderson, Des**

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**From:** Anderson, Des  
**To:** Costerton, Bob  
**Cc:** Lockwood, Josh  
**Subject:** Cherry Creek  
**Date:** Monday, August 11, 1997 5:10PM

Bob,  
I went out with S.22 today to at a Section 7 violation on Cherry Creek. This was at the residence of Carlo Asquini. As my camera was not working, I borrowed yours and took some photographs. These are still in the camera, as I did not use the whole film).

From talking to this gentleman, I suspect you already know a lot about the history. He had a tractor equipped with a backhoe in the creek, preparing for the installation of gabions. The corner of new home is only 5.5 m from the centreline of the creek (where it exists today). The creek banks have undergone erosion on both sides adjacent to his property. According to Mr. Asquini, this erosion was initiated by a beaver dam - which he dismantled during the 1997 freshet. The distance from the corner of his house to the top of the eroded (left) bank is about 2.2 m. This bank is nearly vertical and unstable. A gravel berm (excavated from the creek bed) is placed against the toe of this bank, thus keeping the water causing further erosion. Clearly, Mr. Asquini would like to get the gabions in place before next freshet, as the footings of his home is at considerable risk of being undercut by erosion during an extreme runoff event.

Mr. Asquini proposes to install gabion 1' wide x 3' high x 10' long (estimates), on a 30 degree back slope. Josh said he intends to install 10 gabions on either side. HE HAS NOT APPLIED FOR A SECTION 7 APPROVAL.

As you are probably aware, there is a highway culvert with a down spout on the embankment opposite. It will be important to ensure that discharge from this culvert is directed OVER the gabions and NOT behind the gabions. It is my understanding that Mr. Asquini intends to use the rounded river gravel (from the creek bed) as a base for the gabions. Although I did not mention this to Mr Asquini, angular rock would interlock better, thus providing a more stable base.

I shall be back S.22

Hope this information helps - Josh can provide more details.

Des.