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August 24, 2011

David G. Harris  
Chunn, Price & Harris  
19115 FM 2252, Suite 11  
San Antonio, Texas 78266

Sent via Email: [dharris@cphattorneys.com](mailto:dharris@cphattorneys.com)

Robert W. Wilson  
Gale, Wilson & Sanchez  
115 E. Travis, 19<sup>th</sup> Floor  
San Antonio, Texas 78205

Sent via Email: [rwwilson@gws-law.com](mailto:rwwilson@gws-law.com)

Dear Counsel:

The City Council on Monday night, August 22, 2011, reviewed the written report of the independent expert who evaluated the Range. As you can see from his resume attached, he is highly regarded in the field and is relied upon by local, regional, state and national law enforcement, as well as our Federal military for his knowledge and expertise in the area of shooting range safety and design.

After consideration of the information that the City possessed, which has been made available to the parties by Texas Public Information Act request, and personally inspecting the Pistol and CHL ranges, and inspecting the bullets provided by the property owner, the City's retained expert found safety hazards at the range significant enough to recommend closure of the two pistol ranges inspected until properly designed safety measures could be installed.

In the hope that sharing the results of the considerable investment the City has made into evaluating the public safety concerns would help resolve the dispute between the parties and better ensure the protection of the general public, the City Council waived the confidential nature of the report and instructed me to share it with each of you; therefore, a copy is also attached. Further, the expert's background and report will also be posted on the City's website for public consumption.

As you can see, the expert found that both the Pistol Range and the CHL Range as currently configured do *not* provide appropriate protection to prevent a discharged bullet from leaving range property. As you know, the discharge of a firearm in such a way that the bullet crosses a property line without the written consent of the owner is a violation of Texas law. It is clear and obvious that bullets currently penetrate the existing safety features and there is a high probability that bullets fired

Counsel  
August 24, 2011  
Page 2

on the property are leaving range property. The City is pleading with the range owners through this letter that they follow the independent expert's advice and immediately close both the Pistol and CHL Ranges for only the minimal amount of time it takes to obtain and install properly designed safety structures that prevent and further minimize potential for bullets to leave the range and are designed consistent with the recommendation made in the Report.

The expert further estimated design costs for the appropriate structures to be \$7,000 to \$10,000 and that the materials and installation of the baffles would cost approximately \$27 per square foot. The City believes these costs are reasonable when compared to the possible risk associated with even a single injury from a stray bullet that leaves the range property.

The City is confident in its hope and expectation that with this information the Range owners will do the right thing to protect themselves from potential liability, protect the public from any associated danger and do what is necessary to avoid any further controversy.

If you have any questions, please contact me at (512) 279-6431 or by email at [george.hyde@rampage-aus.com](mailto:george.hyde@rampage-aus.com)

Very truly yours,

DENTON, NAVARRO, ROCHA & BERNAL  
A Professional Corporation

  
GEORGE E. HYDE

GEH/ha  
Enclosures: As stated

Counsel  
August 24, 2011  
Page 3

bcc: Nancy Cain  
City Administrator  
City of Garden Ridge  
(w/o enclosures)

Sent via Email: [administrator@ci.garden-ridge.tx.us](mailto:administrator@ci.garden-ridge.tx.us)

R:\Garden Ridge-City Attorney Services (21756)\Bracken Rifle Range\Correspondence\Ltr to Counsel 001.doc



## Kerry O'Neal – Project Manager, Lead Range Designer

**Years of Relevant Experience:** 25  
**Educational Background:** Fullerton Junior College, Wildlife-Biology  
**Professional Registrations, Certifications, And Memberships**  
General Contractor License- Idaho, Alaska  
40 HR HAZWOPER Training  
California Department of Fish and Game Firearms Instructor  
Representative-National Rifle Association  
Police Academy PC832 course  
Hunting Educational Program Teacher  
San Bernadino Sheriff's Department –Sheriff's Training School

### Career Summary

Mr. O'Neal has over 25 years experience in the construction industry specializing in small arms firing ranges; he has experience at more than 100 shooting range facilities throughout the United States. As a General Contractor, Mr. O'Neal has been involved with costing, managing, and construction of both residential and commercial properties. Interests in the gun and firing range industries stems from continued interests in hunting and outdoors. As a representative for the National Rifle Association, Mr. O'Neal was tasked to understand lead issues and their impact on closing ranges. During that study, Mr. O'Neal developed a greater understanding of the environmental aspects of the firing range industry, including lead recycling and range remediation. Mr. O'Neal then developed a patent for a bullet containment system to minimize the impacts of lead as well as provide a safe shooting environment. He is the patent inventor of the Granular Ballistic Rubber Trap (US Patent No. 6173956) and recognized as a Weatherby Firearms-Ballistics Expert and Product Development. Mr. O'Neal is the owner of TRS Range Services, LLC with Ms. Noreen Powers.

### Representative Projects:

The following is a partial listing of Mr. O'Neal's project experience. Additional information is available on request.

**Indoor Firing Ranges** – Mr. O'Neal has worked on the design and planning for indoor firing ranges, including:

- **Idaho Army National Guard, Gowen, Idaho.** Mr. O'Neal was the technical lead and prime construction manager for the design-build of the Live Fire Shoot House and support buildings to include ammunition storage, after action review, and operational building.
- **Federal Bureau of Investigation, Washington DC.** Mr. O'Neal completed an evaluation of the existing indoor firing range with recommendations for upgrades and modifications.
- **Meridian Police Department, Meridian, Idaho.** Mr. O'Neal has worked with and developed a conceptual plan for the department's proposed indoor firing range, offices, and classroom.
- **U.S. Defense Supply Center, Columbus Ohio.** Mr. O'Neal designed and installed the bullet containment system, safety ceiling, and overhead baffling for the indoor training range.

**Outdoor Firing Ranges** – Mr. O'Neal has provided his expertise in construction and ranges at over 100 outdoor firing ranges, including:

### **Federal Bureau of Investigation, Locations Throughout US**

Mr. O'Neal is the Project Manager and lead technical and construction personnel on over 10 FBI firing ranges. The project work has included removal and recycling of lead; upgrades to targetry; modification of backstops and bullet containment systems; installation of overhead baffling systems; design and installation of range-sniper and rappel towers. The project locations (partial listing) include: Quantico, Virginia; Chicago, Illinois; Las Vegas, Nevada; New Orleans, Louisiana; Pass Christian, Mississippi; New Haven, Connecticut. Highlighted projects include:

- **Site Restoration for FBI El Toro Marine Corps Base, California.** Mr. O'Neal was the firing range consultant and on-site supervisor. The project includes the installation of a granular bullet system,

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designed by Mr. O'Neal. Mr. O'Neal provided on-site expertise in site drainage improvements, design-build of classroom. Mr. O'Neal coordinated in-house labor on the removal and demolition of damaged vegetation and structures.

- **Firing Range Modification for FBI, Camp Villere, Louisiana.** Mr. O'Neal was the firing range consultant and on-site supervisor for design and installation of a granular ballistic rubber bullet trap and support classroom. He provided design-build services on a 3,200 square foot classroom that allowed the customer to add features during the construction process.
- **Site Improvements and New Targetry,-FBI, Kaneohe Marine Corps Base, Hawaii.** Mr. O'Neal was the project supervisor for all projects done in Hawaii for the FBI. For the first project, Mr. O'Neal oversaw the replacement of pneumatic targetry systems. On the second project, Mr. O'Neal supervised removal of existing backstop, recycling and screening of the rubber, installation of a new berm with backfill and the installation of a new ballistic rubber backstop on concrete for added support. The third phase of the project, Mr. O'Neal supervised the installation of a 315 ft. of retaining walls.

**Renovations at the Hampton Police Department Firing Range, Hampton, Virginia.** Mr. O'Neal was the site manager, lead designer, and construction superintendent responsible for the design and installation of five overhead baffles at the Department's pistol and rifle firing range. Mr. O'Neal provided the designed and oversaw installation of a granular ballistic rubber bullet trap at two of the Departments firing ranges.

**Renovations at the Twin Falls Police Department Range, McAllen, Texas.** Mr. O'Neal was the construction supervisor responsible for the design and construction at the Twin Fall Police Department Firing Range. The existing range was modified to produce a 10-position range with shooting positions up to 50-yards. A granular ballistic rubber backstop, designed by Mr. O'Neal, was installed, along with 9-ballistic steel overhead baffles. The shooting area was graded and concrete lines installed to complete the project on-time and on-budget.

#### **Consulting-Design-Planning Services, partial listing**

Mr. O'Neal has provided his expertise in consulting on range design for law enforcement agencies, range users, and expert witness services.

**Shawnee County Sheriff, Topeka, Kansas.** Mr. O'Neal evaluated the County's existing firing range to determine safety issues. Additional services have included site evaluation of other potential properties for relocating the range. Mr. O'Neal has presented the proposed range designs for county board approval.

**Boise Police Department, Boise, Idaho.** Mr. O'Neal evaluated the County's existing firing range to determine safety/sound issues. Additional services have included site evaluation of potential properties for relocating the range and development of conceptual plans.

**California Inland Fish and Game, San Bernardino, California.** Mr. O'Neal conducted site evaluations and provided deposition and expert witness services for the gun range.

**Idaho Department of Fish and Game, Farragut, Idaho.** Mr. O'Neal conducted site evaluations, range design recommendations and provided deposition and expert witness services for the state run firing range.

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August 10, 2011

Mr. George Hyde  
Denton, Navarro, Rocha & Bernal, P.C.  
2517 N. Main Ave.  
San Antonio, Texas 78212

Delivered via email  
george.hyde@rampage-aus.com

**Re: Evaluation of Bracken Range and Rifle Club Firing Ranges  
San Antonio, Texas**

Dear Mr. Hyde;

**TRS RANGE SERVICES, LLC (TRS)** has prepared the following summary of the site evaluation of the Bracken Range and Rifle Club. The site evaluation was conducted on Wednesday July 15, 2011 between 7 AM and 9 AM. The following persons were present during the site evaluation:

- Mr. Kerry O'Neal, **TRS**
- Mr. George Hyde, Denton, Navarro, Rocha and Bernal, P.C.
- Owner, Bracken Range and Rifle Club and legal counsel

The figures and photographs referenced in this summary are included as Attachment 1 to this letter.

## **SITE INFORMATION**

**TRS** has developed our understanding of site conditions based on information provided by Denton, Navarro, Rocha and Bernal, P.C. that includes information provided in an email, dated July 13, 2011, as well as discussions on site and a visual inspection of down range subdivisions and effected residences.

The emailed file information includes:

- Incident reports of projectiles found at residences downrange of firing positions
- Internal city correspondence regarding the firing range issues and possible solutions
- Presentation on the shooting range and City Council meeting minutes regarding the shooting range
- Copy of the text of S.B. No. 766 – Liability of Sport Gun Club Owners and proposed amendments

**TRS** prepared the attached site maps using readily available imagery from the Google Earth website (dated July 13, 2011). **TRS** did not receive any maps from the property owner and none were available from the city of Garden Ridge, City of San Antonio or the Comal County planning department. The Bracken Range and Rifle Club is located at 19140 Marbach Lane, San Antonio, Texas, as shown on Figure 1. Surrounding properties include:

<b>Direction</b>	<b>Description/Proximity</b>
North	Agricultural area with scattered residences
South	Agricultural area with scattered residences
West	Agricultural area with scattered residences
East	Quarry adjacent to property; residential area approximately 1260' East/NE of range

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\*The closest downrange property is approximately 1,600 feet northeast.

The entire shooting range is approximately 2 acres in size. **TRS** evaluated the following two ranges identified in the current controversy as suspect (as shown on Figure 2):

- CHL Range
- Pistol Range

**TRS'** site evaluation indicates that the firing range sits on a level site that is approximately 40 vertical feet lower than the surrounding residential developments. The scope of inspection services by **TRS** was limited to the ranges made available at the time of the site visit. **TRS** evaluated the Pistol and CHL ranges because they are positioned such that the residential areas were down range in the direct line of fire (Figure 2). During the site evaluation, **TRS** took photographs of specific conditions that are presented below. Please note that any discussion of elevations and berm heights are relative and represent **TRS'** best estimate since a survey was not conducted and no site-specific elevation data was available.

### PISTOL RANGE EVALUATION

#### Pistol Range Observations:

The Pistol Range is 15 to 25 yards with 36 position firing ranges that includes:

- A wooden covered area with metal roofing at the firing positions. An angled wooden baffle also is present at the firing line, constructed of two layers plywood,  $\frac{3}{4}$ " rubber panel, and corrugated metal roofing material. The roof and baffle locations are shown from the interior of the covered area in Photograph 1.
- An earthen berm surrounding the range at approximately 12 feet above ground surface.
- A wooden baffle constructed on top of the earthen berm to approximately 6 to 8 feet (Photograph 2). The wooden baffle consists of a two layers of treated plywood attached to 2 x 4 posts filled with  $3\frac{1}{2}$ " granular chopped rubber.
- There is evidence of some minor erosion below the wooden baffle wall where additional plywood has been added.

#### TRS Pistol Range Findings:

- The pistol range has evidence of bullets penetrating the existing firing line canopy baffle at the following locations:
  - Lane 25: 3 bullet holes (Photograph 3)
  - Lane 26: 2 bullet holes (Photograph 4)
  - Lane 29: 3 bullet holes (Photograph 5)
  - Lane 30: 1 bullet hole (Photograph 6)
  - Lane 31: 1 bullet hole (Photograph 7)
  - Lane 33: 3 bullet holes (Photograph 8)
  - Lane 36: 1 bullet hole (Photograph 9)
- The wooden canopy baffle is not designed to adequately stop pistol or rifle calibers (see photographs 10 and 11).
- Erosion at the base of the wooden baffle wall may result in openings and has the potential for bullets to leave the bullet containment area.
- The granular chopped rubber within the baffles is not installed at a thickness sufficient to stop pistol calibers.
- There is potential for bullets to leave the firing range area.

#### TRS Pistol Range Recommendations:

Bullet containment and secondary baffles should be designed with materials and structures that have the capability to stop pistol rounds from penetration. Materials should be selected based on range use, minimization of ricochet, and consideration of maintenance requirements. Recommended materials include appropriately designed steel (minimum 10 gauge mild steel), with plywood and rubber facing and/or rubber thickness greater than 20 inches. Any designs should take into consideration local soil conditions, wind loads,

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and other factors to safely support the baffle structures. Figure 3 is a conceptual drawing showing commonly accepted materials in use at pistol ranges.

### CHL RANGE EVALUATION

The CHL Range is a 15 yard firing range used for tactical training.

#### CHL Range Observations:

- There is a baffle constructed of wood only at the backstop (see photograph 12).

#### TRS CHL Range Findings:

- The CHL range has evidence of bullets penetrating the plywood wall above the bullet trap at the following locations:
  - Lane 1 (Photograph 13)
  - Lane 7 (Photograph 14)
  - Bullet penetration at the edge of the baffle (Photograph 15)

#### TRS CHL Range Recommendations:

- The range should be modified and designed based on the use of the range (tactical versus static).
- The range design should include infield baffles at locations to minimize the potential for bullets to leave the range. The baffle designs should consider materials, elevations, and long-term maintenance.
- The range design should evaluate elevations, shooting trajectories, and other conditions to minimize the potential for bullets to leave the range.
- The existing overhead baffle at the firing line should be extended and constructed of materials capable of stopping pistol calibers.
- Baffles should be constructed using materials capable of stopping pistol rounds. **TRS** recommends a steel surface with attached plywood and ballistic rubber panels. **TRS** estimates the cost of materials and installation for these baffles to be approximately \$27 per square foot. The actual square footage would need to be determined during the design layout and engineering. This price does not include engineering and permitting for any structures at the site. Design costs are estimated at \$7,000.00-\$10,000.00.

### SUMMARY OF TRS' EVALUATION:

There is clear and obvious evidence of bullets penetrating the existing safety features based on **TRS'** site evaluation. **TRS** recommends that the **Bracken Range and Rifle Club** Pistol and CHL Ranges be closed until properly designed safety structures can be installed.

If you have any additional questions or need further information please contact me at 951-314-3121.

Sincerely,



Kerry O'Neal  
**TRS RANGE SERVICES, LLC**

Attachment 1 – Figures and Photographs



**Attachment 1**  
**Figures and Photographs**  
**Bracken Range and Rifle Club Firing Ranges**  
**San Antonio, Texas**



Background Image 2008 NAIP, USDA, Comal County, TX.

Down Range Residential Area

Range Location  
19140 Marbach Ln.  
San Antonio, TX

1260

Figure 1 - Range & Surrounding Land uses  
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Background Image Google Earth, 7-13-11

CHL Range

Parking Area

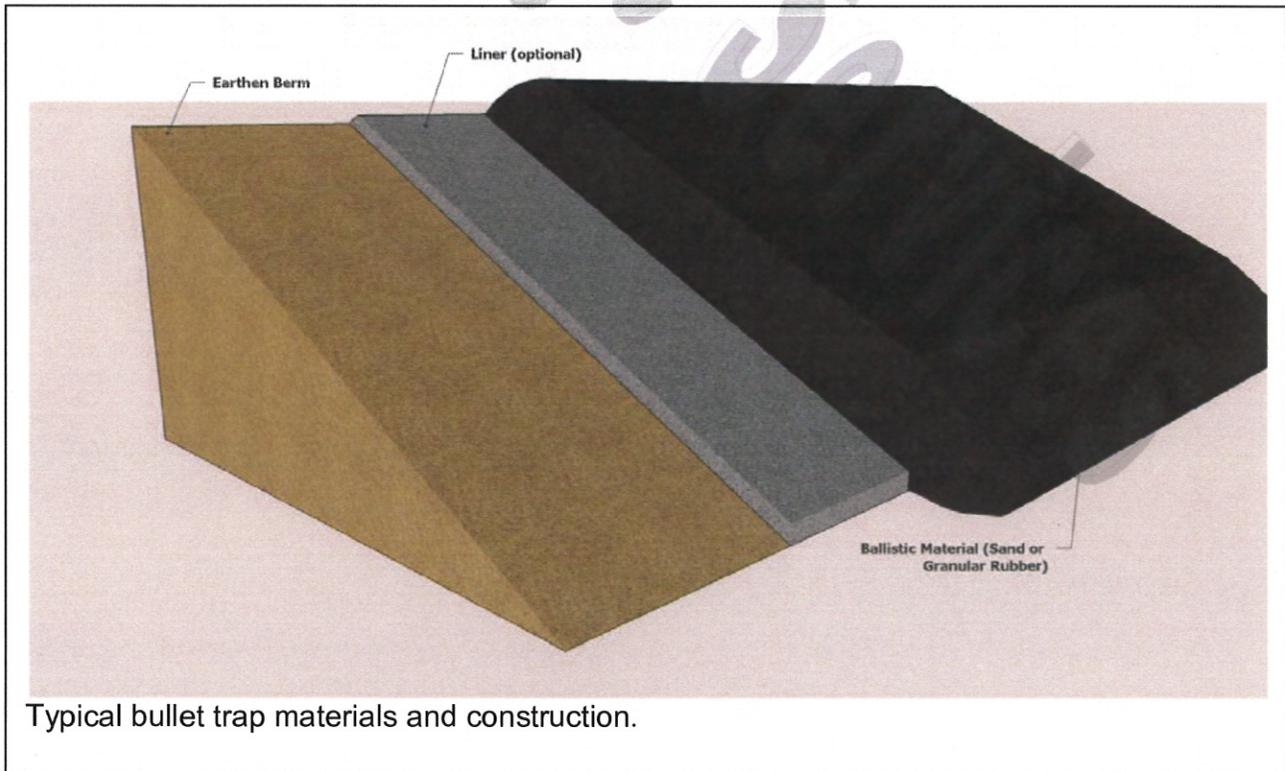
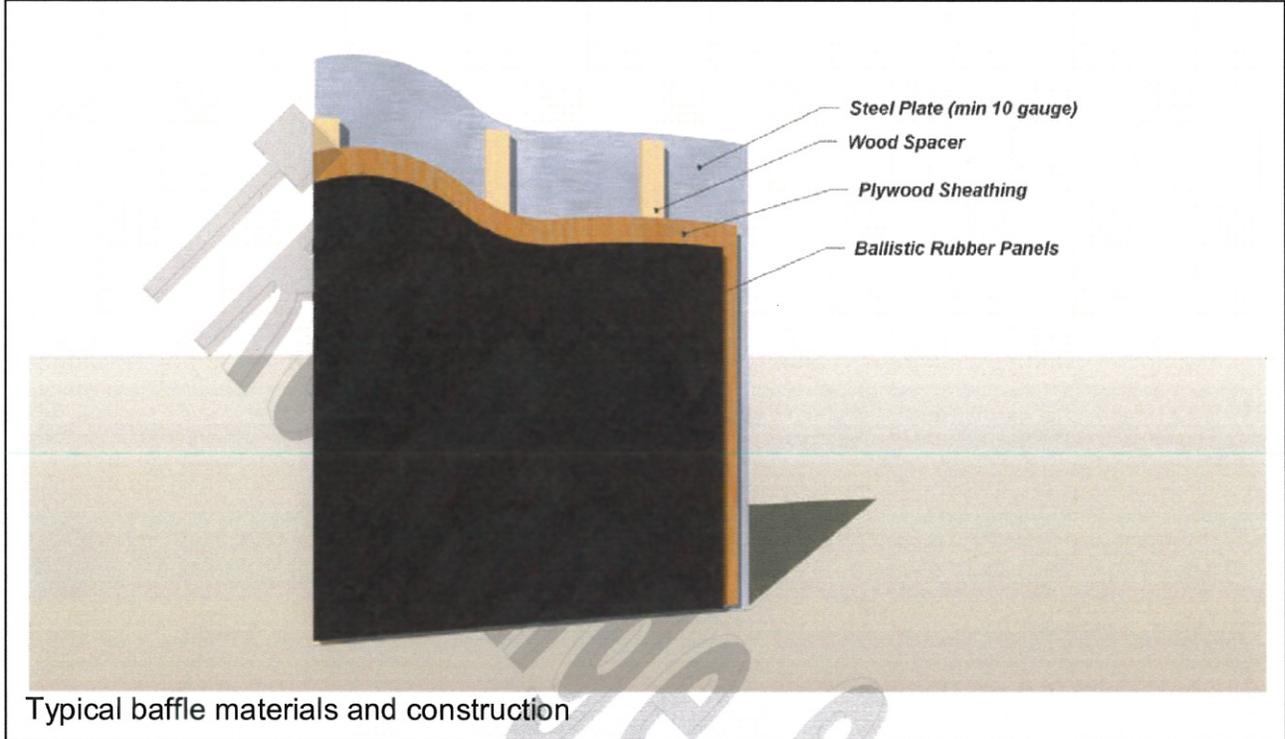
Pistol Ranges

Covered Firing Positions



Figure 2 - Range Layout  
Attorney/Client Privileged Information

**Figure 3. Conceptual drawings of commonly accepted materials for use at pistol ranges.**  
*Note that graphics are not for use in construction. TRS can provide engineered drawings upon request.*



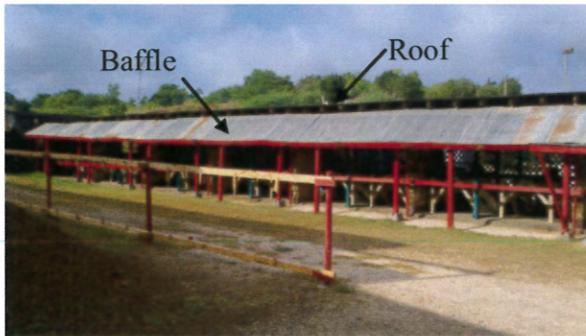
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Photograph 1



Photograph 2



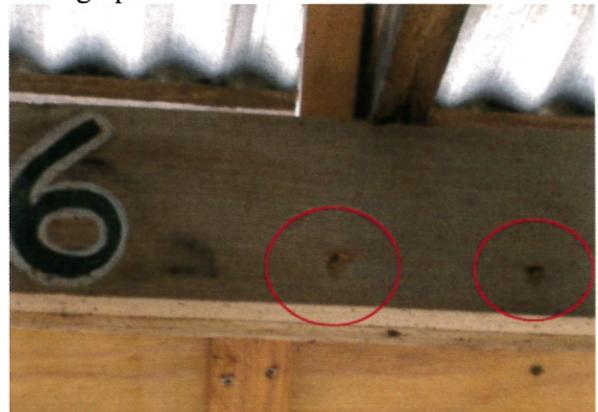
Pistol range backstop and wall

Photograph 3



Bullet Holes at shooting position 25

Photograph 4



Bullet holes at shooting position 26

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Photograph 5



Bullet holes at shooting position 29

Photograph 6



Bullet holes at shooting position 30

Photograph 7



Bullet holes at shooting position 31

Photograph 8



Bullet holes at shooting position 33

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Photograph 9



Bullet holes at shooting position 36

Photograph 10



Bullet holes through canopy at pistol range

Photograph 11



Bullet holes through canopy at pistol range

Photograph 12



Backstop at CHL

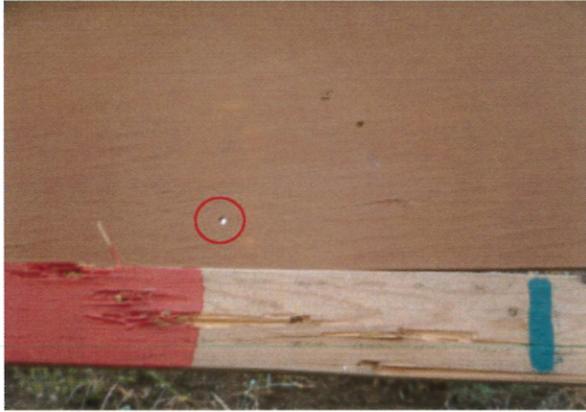
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Photograph 13



Bullet holes through backstop at CHL

Photograph 14



Bullet holes through backstop at CHL

Photograph 15



Bullet holes through backstop at CHL

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