



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

March 12, 2019

Regulatory Division

SUBJECT: Project Number SWF-2019-00034, Vitruvian Pond Dredging

Ms. Lisa Pyles
Town of Addison
16801 Westgrove Drive
Town of Addison, Texas 75001

Dear Ms. Pyles:

This letter is in regard to the information received January 16, 2019, concerning the proposal to conducting dredging operations from Vitruvian Pond. This project has been assigned Project Number SWF-2019-00034. Please include this number in all future correspondence concerning this project.

We have reviewed this project in accordance with Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and implementing regulations. Under Section 404, the U. S. Army Corps of Engineers (USACE) regulates the discharge of dredged and fill material into waters of the United States, including wetlands. Our responsibility under Section 10 is to regulate any work in, or affecting, navigable waters of the United States. Based on your description of the proposed work, and other information available to us, we have determined that this project will not involve activities subject to the requirements of Section 10. However, this project will involve activities subject to the requirements of Section 404. Therefore, it will require Department of the Army authorization. The USACE based this decision on a preliminary jurisdictional determination that there are waters of the United States on the project site.

We have evaluated this project under the letter of permission (LOP) procedural requirements of CESWF-95-LOP-2. We have determined that the project meets the terms and conditions associated with those procedures. You are hereby authorized by this Letter of Permission under Section 404 to conduct dredging operations of accumulated sediments in the Vitruvian Pond. You shall conduct the work in accordance with the attached LOP conditions, Texas Commission on Environmental Quality Section 401 Water Quality Certification (Pages 1 through 3 of 3, dated July 7, 1995) and the plans and drawings attached hereto which are incorporated in, and made a part of, this Letter of Permission (Sheets 1 through 9 of 9, dated March 12, 2019 and titled "USACE, SWF-2019-00034, Vitruvian Pond Dredging") and the special conditions listed below. The special conditions for this permit are as follows:

1. All dredged material removed from the project area must be disposed of in uplands. The disposal site(s) shall be identified and provided to the Regulatory Division, Fort Worth District, USACE for review and approval prior to the disposal of any material.

species listed as threatened or endangered by the U.S. Fish and Wildlife Service within our permit area. However, please note that you are responsible for meeting the requirements of the general condition on endangered species.

This permit should not be considered as an approval of the design features of any activity authorized or an implication that such construction is considered adequate for the purpose intended. It does not authorize any damage to private property, invasion of private rights, or any infringement of federal, state, or local laws or regulations.

You may accept this LOP or object to this LOP and request that the LOP be modified in accordance with the enclosed Notification of Administrative Appeal Options and Process and Request For Appeal (NAAOP-RFA). If you elect to object to this LOP, you must complete Section II (Request For Appeal or Objections to an Initial Proffered Permit) of the enclosure and return it to the District Engineer, ATTN: Chief, Regulatory Division CESWF-DE-R, P.O. Box 17300, Fort Worth, Texas 76102-0300. If we do not receive an objection from you within 60 days of the date of this letter, or if you conduct work under the terms and conditions of this LOP, we will consider that you accept this permit in its entirety and you will conduct the work in accordance with the plans, description and all terms and conditions of the LOP, and you will forfeit all rights to appeal this LOP or its terms and conditions.

Thank you for your interest in our nation's water resources. If you have any questions concerning our regulatory program, please refer to our website at <http://www.swf.usace.army.mil/regulatory> or contact Mr. John Derinzy at the address above or telephone (817) 886-1742.

Please help the regulatory program improve its service by completing the survey on the following website: http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey

Sincerely,


 Stephen L. Brooks
Chief, Regulatory Division

Enclosures

Copies Furnished:

Mr. Ross Rogers
Integrated Environmental Solutions
610 Elm Street, Suite 300
McKinney, Texas 75069

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Ms. Lisa Pyles, Town of Addison		File Number: SWF-2019-00034	Date: 3-12-2019
Attached is:			See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A	
X	PROFFERED PERMIT (Standard Permit or Letter of permission)	B	
	PERMIT DENIAL	C	
	APPROVED JURISDICTIONAL DETERMINATION	D	
	PRELIMINARY JURISDICTIONAL DETERMINATION	E	

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/appeals.aspx> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

Mr. John Derinzy
Regulatory Division
USACE, Fort Worth District
819 Taylor Street
Fort Worth, Texas 76102-00300

If you only have questions regarding the appeal process you may also contact:

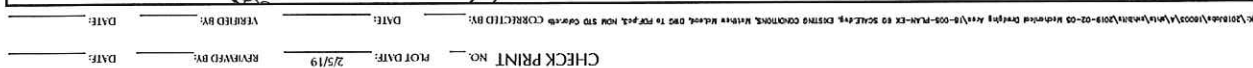
Mr. Elliott Carman
Administrative Appeals Review Officer (CESWD-PD-O)
U.S. Army Corps of Engineers
1100 Commerce Street, Suite 831
Dallas, Texas 75242-1317
469-487-7061

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

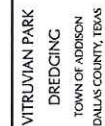
Telephone number:



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DRAWING IS REDUCED

NATHAN D. MAIER CONSULTING ENGINEERS, INC.
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WILLIAM L. WALLACE	60771	02/05/2019
Type or Print Name	PES	Date

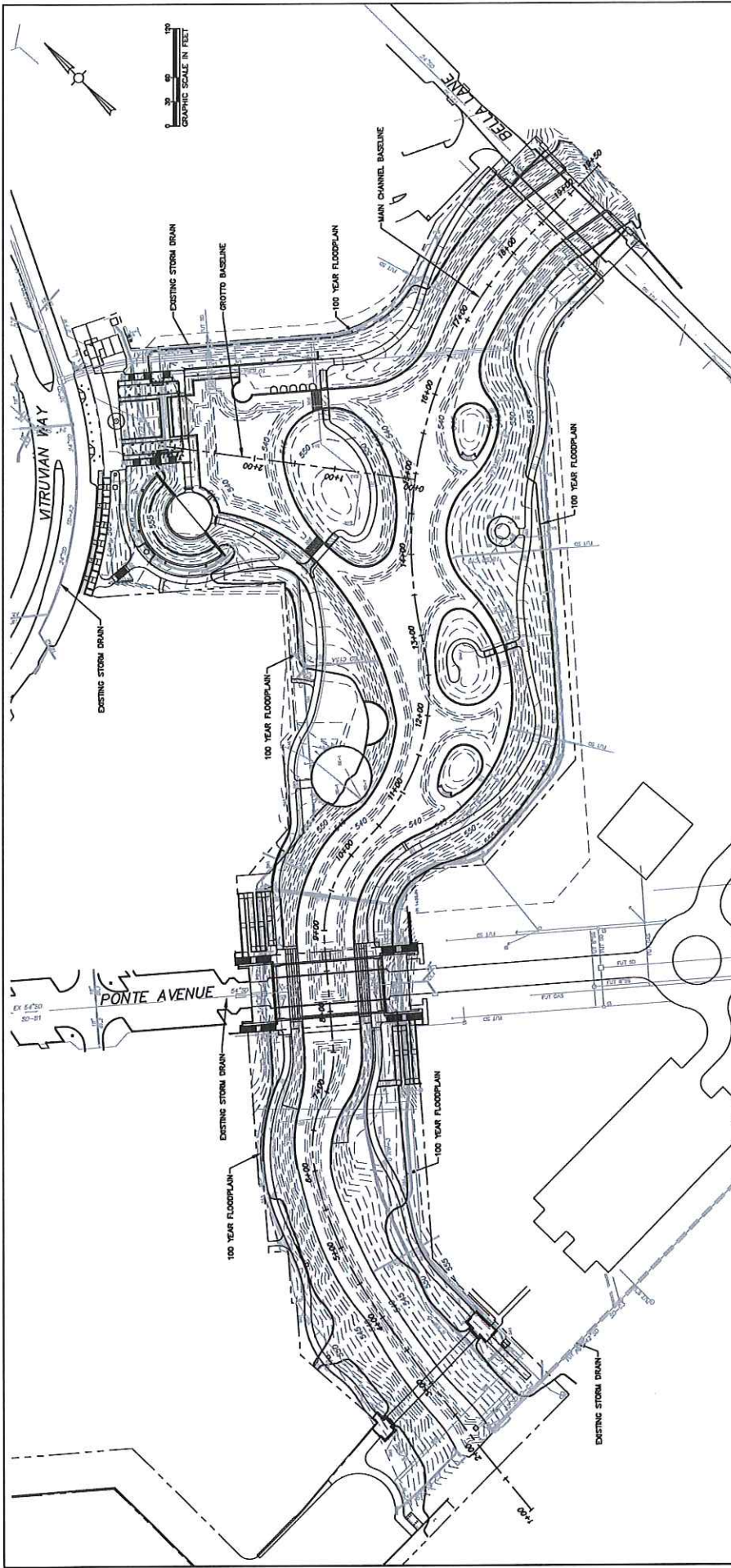
[illegible]2377 Merit Drive / Suite 700 / Dallas, Texas 75251
(214) 739-1741 / www.ndncc.com

EXISTING CONDITIONS

3

Old job number
18-005

design	drawn	checked	scale	date
NDM	NDM	NDM	NDM	2/5/19



NOTE: PREVIOUS CONDITIONS AND 100 YEAR FLOODPLAIN LIMITS BASED ON PLANS FOR THE CONSTRUCTION OF VITRUVIAN PARK AND THE IMPROVEMENTS TO VITRUVIAN PARK FOR VITRUVIAN PARK PUBLIC INFRASTRUCTURE - PHASE 1C TOWN OF ADDISON, TEXAS PUBLIC WORKS #2009-04 BY ICON CONSULTING ENGINEERS, INC. DATED APRIL 26, 2010.

USACE, SWF-2019-00034, Vitruvian Pond Dredging,
Page 2 of 9

CHECK PRINT NO. _____
REVISED BY: _____ DATE: _____
VERIFIED BY: _____ DATE: _____
CORRECTED BY: _____ DATE: _____

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WILLIAM L. WALLACE 60271 12052018
Type of Permit Name: _____

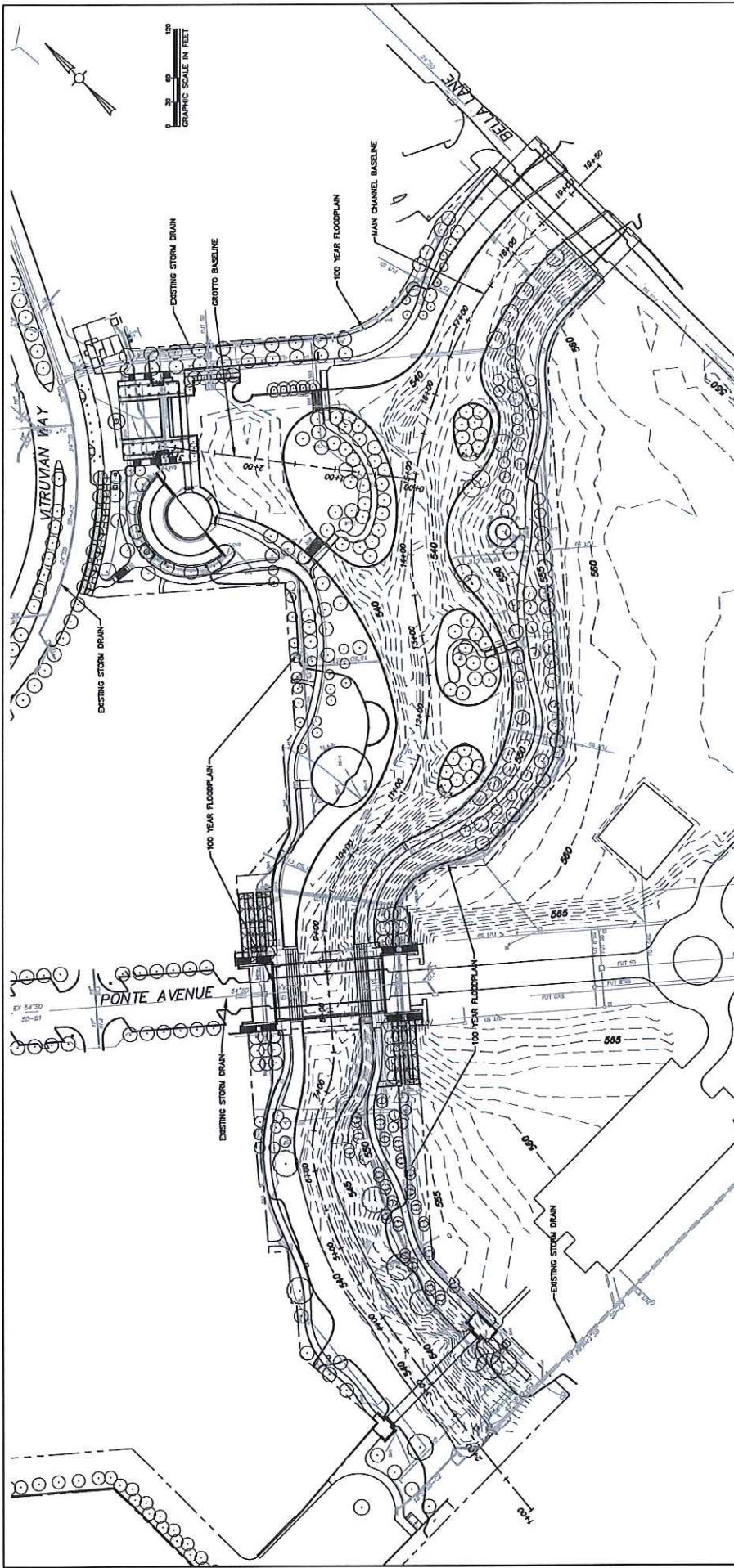
DATE	REVISION

NDM NATHAN D. MAIER
CONSULTING ENGINEERS, INC.
TYPE NO. 12056 TEPAS NO. 10039-09
12377 Mehl Drive / Suite 700 / Dallas, Texas 75251
(214) 739-7471 / www.ndmce.com



VITRUVIAN PARK
DREDGING
TOWN OF ADDISON
DALLAS COUNTY, TEXAS

PREVIOUS CONDITIONS			
DATE	BY	REVISION	DATE
NDM	NDM	NDM	12/4/18
18-005			



NOTES:
1. EXISTING CONDITIONS BASED ON NDM SURVEY OF JULY 19, 2018 AND AUGUST 20, 2018.

USACE, SWF-2019-00034, Vitruvian Pond Dredging,
Page 3 of 9

CHECK PRINT NO. 12/4/18
DATE: 12/4/18
REVIEWED BY: DATE:
CORRECTED BY: DATE:
APPROVED BY: DATE:

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This document was prepared under the authority of:
WILLIAM L. WALLACE - 62771 - 12042018
Type of Print Name P&P Date

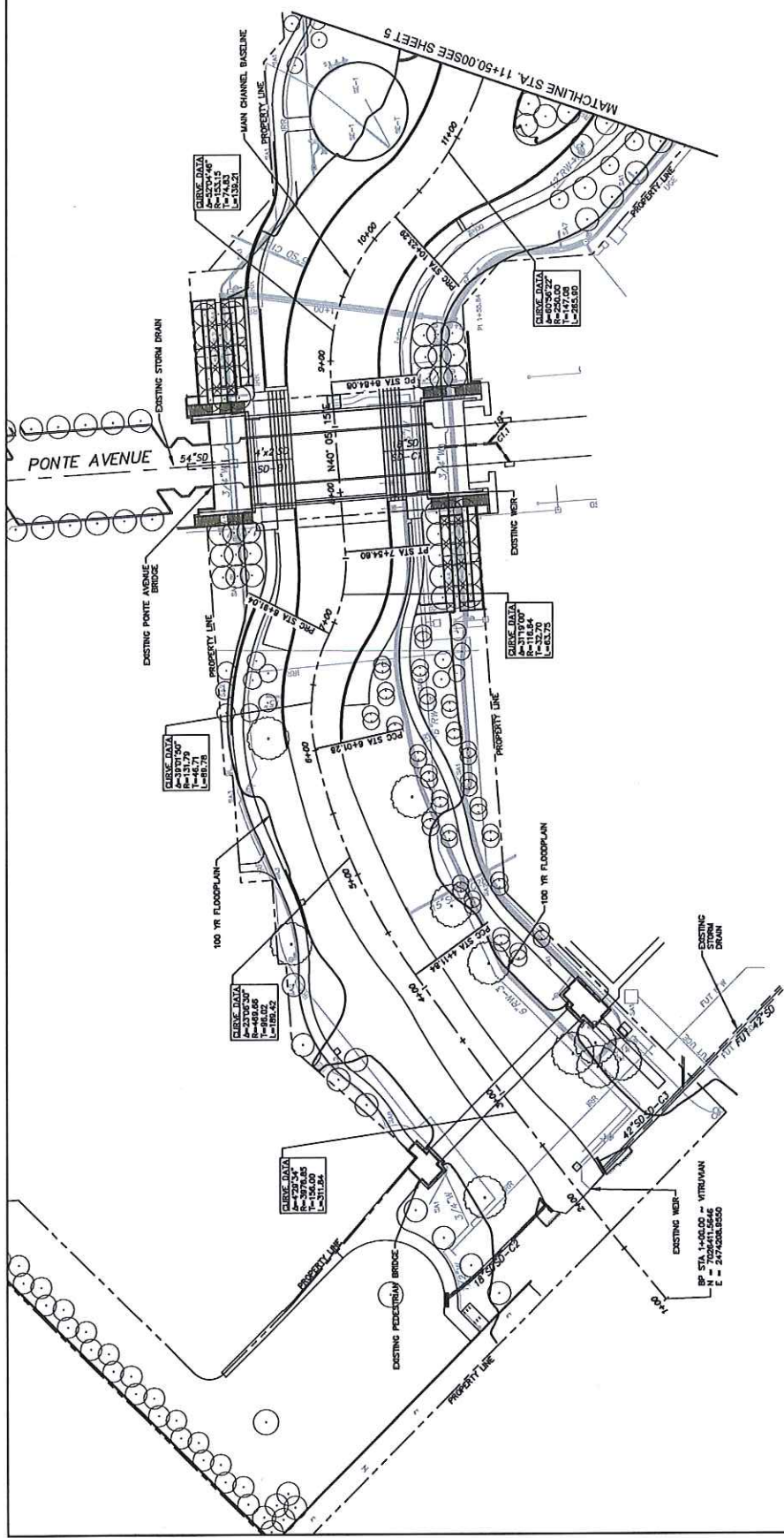
NO.	REVISION	DATE

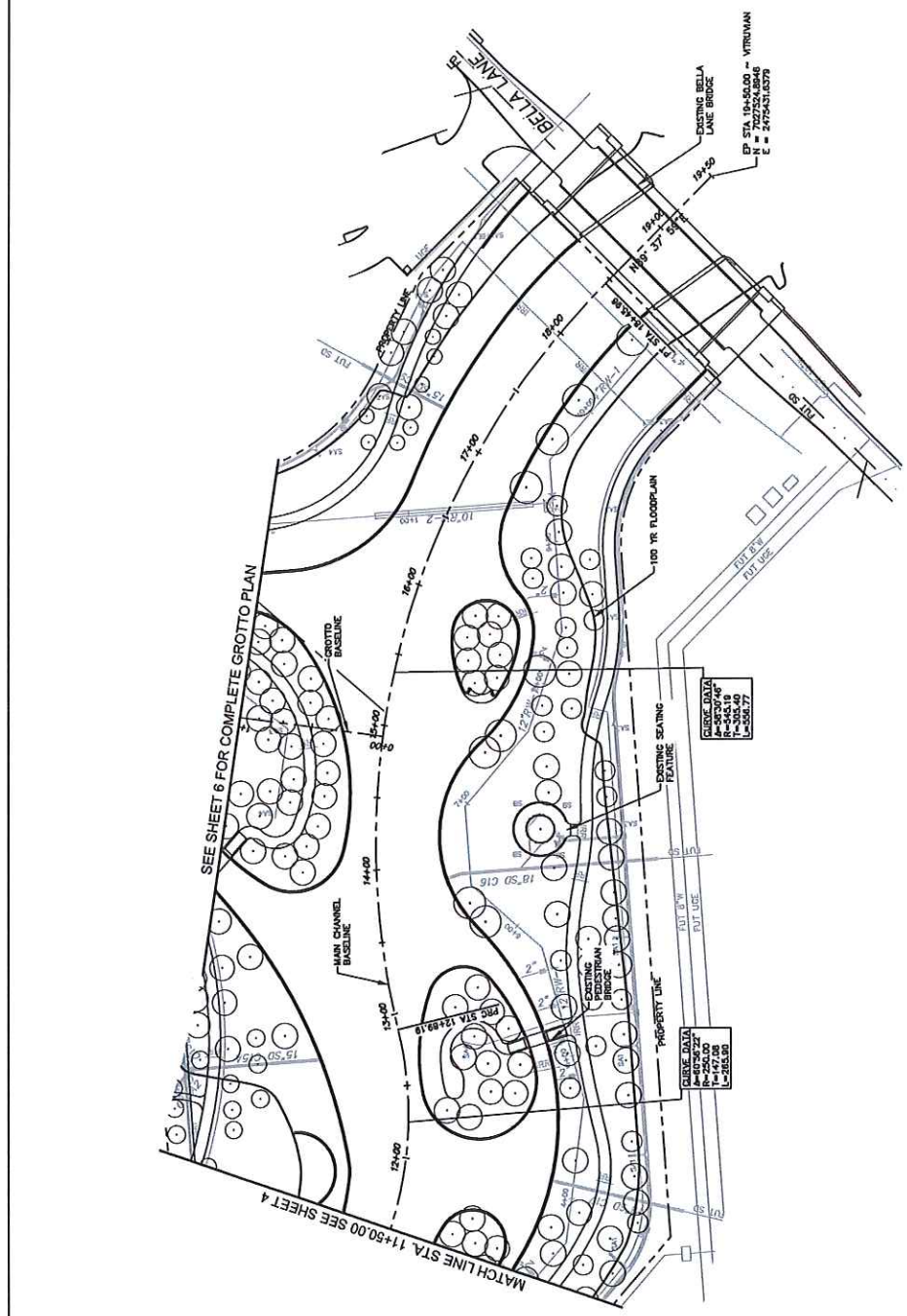
NDM NATHAN D. MAIER
CONSULTING ENGINEERS, INC.
TYPE NO. 1-286 / T&E NO. 191919-09
12377 Merit Drive / Suite 700 / Dallas, Texas 75251
(214) 739-7411 / www.ndmce.com



VITRUVIAN PARK
DREDGING
TOWN OF ADDISON
DALLAS COUNTY, TEXAS

EXISTING CONDITIONS			
NO.	REVISION	DATE	BY
NDM	NDM	NDM	NDM
3	12/4/18	18-005	18-005





USACE, SWF-2019-00034, Vitruvian Pond Dredging,
 Page 5 of 9

NATHAN D. MAIER CONSULTING ENGINEERS, INC.
 12377 Merit Drive / Suite 700 / Dallas, Texas 75251
 (214) 739-1741 / www.ndmce.com

ADDISON
 VITRUVIAN PARK
 DREDGING
 TOWN OF ADDISON
 DALLAS COUNTY, TEXAS

SHEET NO. 5
 DATE 12/4/18
 DRAWN BY NDM
 CHECKED BY NDM
 DESIGNED BY NDM
 PROJECT NO. SWF-2019-00034

NATHAN D. MAIER CONSULTING ENGINEERS, INC.
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 The document was prepared under the authority of:
 WILLIAM L. WALLACE 62771 1204/0018
 Type of Print Name PEP Date

IN WITNESS WHEREOF,
 on 12/04/2018 at ADDISON, TEXAS
 WILLIAM L. WALLACE
 PROJECT ENGINEER



GRAPHIC SCALE IN FEET

BAR IS ONE INCH
IN FULL-SIZE DRAWING
ADJUST SCALE IF
DRAWING IS REDUCED

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NDM
NATHAN D. MAIER
CONSULTING ENGINEERS, INC.
TYPE NO: F-256 / TEMPL NO: 100189-00

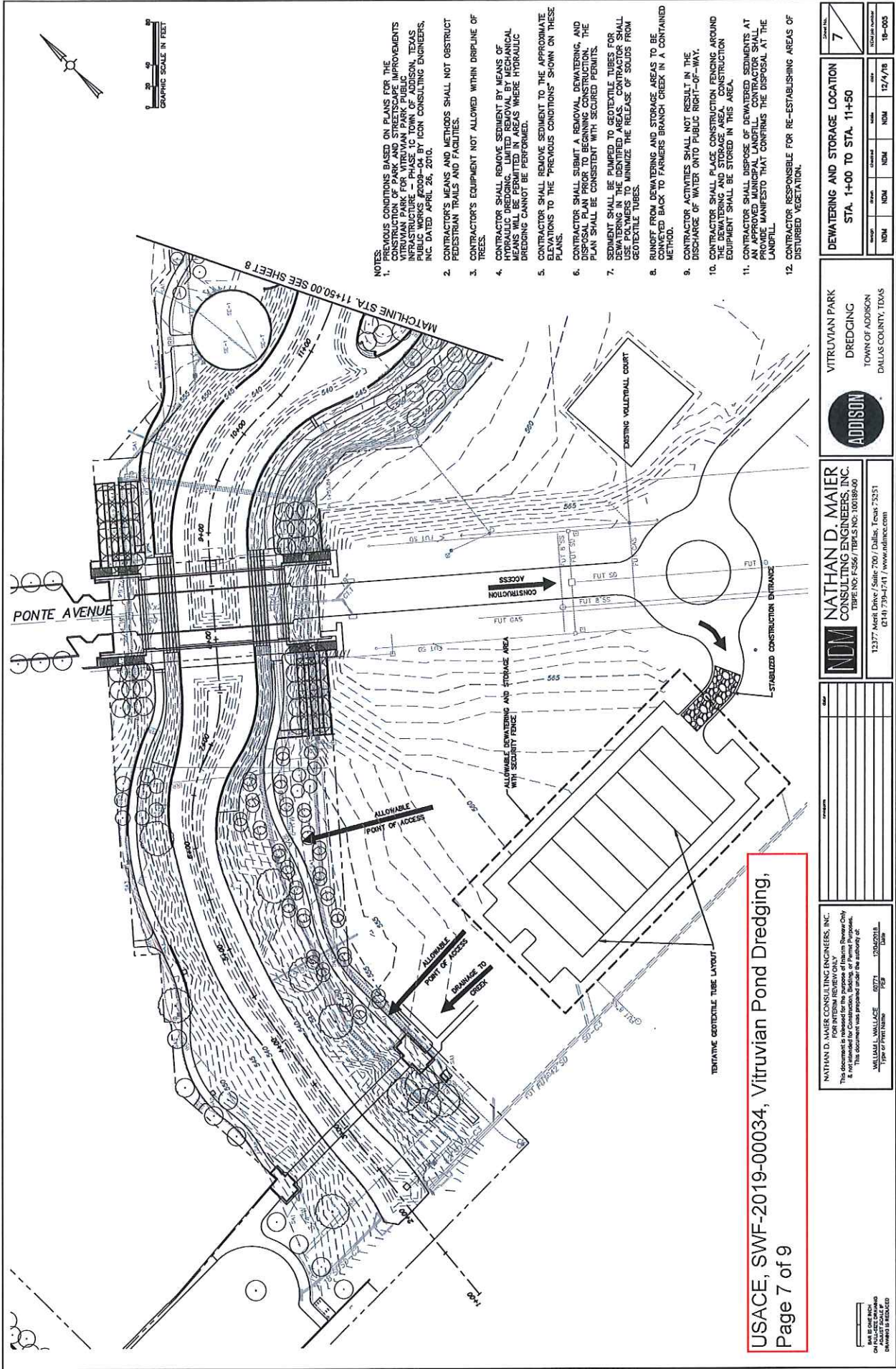
12377 Mehl Drive / Suite 700 / Dallas, Texas 75251
(214) 709-4741 / www.ndmce.com

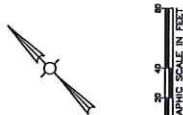


VITRUVIAN PARK
DREDGING
TOWN OF ADDISON
DALLAS COUNTY, TEXAS

GROTTO
SITE PLAN & BASELINE DATA
STA. 0+00 TO STA. 3+20

Sheet No. 6
NCMA job number 18-005





1. PREVIOUS CONDITIONS BASED ON PLANS FOR THE CONSTRUCTION OF PARK AND STREETCARE IMPROVEMENTS PROJECTS IN THE CITY OF ADDISON, TEXAS INFRASTRUCTURE - PHASE 1C TOWN OF ADDISON, TEXAS PUBLIC WORKS #2009-04 BY ICON CONSULTING ENGINEERS, INC. DATED APRIL 26, 2010.
2. CONTRACTOR'S MEANS AND METHODS SHALL NOT OBSTRUCT PEDESTRIAN TRAILS AND FACILITIES.
3. CONTRACTOR'S EQUIPMENT NOT ALLOWED WITHIN DRIFTLINE OF TREES.
4. CONTRACTOR SHALL REMOVE SEDIMENT BY MEANS OF HYDRAULIC DREDGING, LIMITED REMOVAL BY MECHANICAL MEANS WILL BE PERMITTED IN AREAS WHERE HYDRAULIC DREDGING CANNOT BE PERFORMED.
5. CONTRACTOR SHALL REMOVE SEDIMENT TO THE APPROXIMATE ELEVATIONS TO THE PREVIOUS CONDITIONS' SHOWN ON THESE PLANS.
6. CONTRACTOR SHALL SUBMIT A REMOVAL, Dewatering, AND RESTORATION PLAN TO THE CITY WITH SEVERED PERMITS.
7. SEDIMENT SHALL BE PLACED TO GEOTEXTILE TUBES FOR Dewatering IN THE IDENTIFIED AREAS. CONTRACTOR SHALL USE POLYMERS TO MINIMIZE THE RELEASE OF SOLIDS FROM GEOTEXTILE TUBES.
8. RUNOFF FROM Dewatering AND STORAGE AREAS TO BE CONVEYED BACK TO FARMERS BRANCH CREEK IN A CONTAINED METHOD.
9. CONTRACTOR ACTIVITIES SHALL NOT RESULT IN THE DISCHARGE OF WATER ONTO PUBLIC RIGHT-OF-WAY.
10. CONTRACTOR SHALL PLACE CONSTRUCTION FENCING AROUND THE Dewatering AND STORAGE AREA. CONSTRUCTION EQUIPMENT SHALL BE STORED IN THIS AREA.
11. CONTRACTOR SHALL DISPOSE OF Dewatered SEDIMENTS AT AN APPROVED MICHIGAN DEPOT. CONTRACTOR SHALL PROVIDE A WRITESTO THAT CONFIRMS THE DISPOSAL AT THE LANDFILL.
12. CONTRACTOR RESPONSIBLE FOR RE-ESTABLISHING AREAS OF DISTURBED VEGETATION.

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NOTES:

1. PREVIOUS CONDITIONS BASED ON PLANS FOR THE CONSTRUCTION OF PARK AND STREETSCAPE IMPROVEMENTS (PARKS AND STREETS) SHALL BE MAINTAINED. THE INFRASTRUCTURE - PHASE 1C ZONING, TEXAS PUBLIC WORKS #2009-04 BY ICON CONSULTING ENGINEERS, INC. DATED APRIL 26, 2010.
2. CONTRACTOR'S MEANS AND METHODS SHALL NOT OBSTRUCT PEDESTRIAN TRAILS AND FACILITIES.
3. CONTRACTOR'S EQUIPMENT NOT ALLOWED WITHIN DRAINAGE OF TREES.
4. CONTRACTOR SHALL REMOVE SEDIMENT BY MEANS OF HYDRAULIC DREDGING, LIMITED REGION, BY MEANS OF HYDRAULIC DREDGING NOT BE PERMITTED IN AREAS WHERE HYDRAULIC DREDGING CANNOT BE PERFORMED.
5. CONTRACTOR SHALL REMOVE SEDIMENT TO THE APPROXIMATE ELEVATION OF THE "PREVIOUS CONDITIONS" SHOWN ON THESE PLANS.
6. CONTRACTOR SHALL SUBMIT A REMOVAL DOWNSPACING, DISPOSAL PLAN PRIOR TO BEGINNING CONSTRUCTION. THE PLAN SHALL BE CONSISTENT WITH SECURED PERMITS.
7. SEDIMENT SHALL BE PUMPED TO GEOTECHNICAL TUBES FOR DOWNSPACING IN THE IDENTIFIED AREAS. CONTRACTOR SHALL USE PUMPERS TO MINIMIZE THE RELEASE OF SOLIDS FROM GEOTECHNICAL TUBES.
8. RUNOFF FROM DOWNSPACING AND STORAGE AREAS TO BE REMOVED BACK TO FARMERS BRANCH CREEK IN A CONTAINED METHOD.
9. CONTRACTOR ACTIVITIES SHALL NOT RESULT IN THE DISCHARGE OF WATER ONTO PUBLIC RIGHT-OF-WAY.
10. CONTRACTOR SHALL PLACE CONSTRUCTION FENCING AROUND THE DOWNSPACING AND STORAGE AREA. CONSTRUCTION EQUIPMENT SHALL BE STORED IN THIS AREA.
11. CONTRACTOR SHALL DISPOSE OF DOWNSPACING SEDIMENTS AT AN APPROPRIATE LOCATION. CONTRACTOR SHALL PROVIDE MANIFESTO THAT CONFIRMS THE DISPOSAL AT THE LANDFILL.
12. CONTRACTOR RESPONSIBLE FOR RE-ESTABLISHING AREAS OF DISTURBED VEGETATION.

USACE, SWF-2019-00034, Vitruvian Pond Dredging,
Page 9 of 9

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**US Army Corps
of Engineers ®**
Fort Worth District

Public Notice

Number: CESWF-95-LOP-2

Activity: Excavation Activities

Date Issued: July 7, 1995

This public notice is to inform you of the issuance of the Letter of Permission procedure listed above.

Regulatory Program

Since its early history, the U.S. Army Corps of Engineers has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the U.S. Army Corps of Engineers Regulatory Program.

Section 10

The U.S. Army Corps of Engineers is directed by Congress under Section 10 of the Rivers and Harbors of 1899 (33 USC 403) to regulate *all work or structures in or affecting the course, condition or capacity of navigable waters of the United States*. The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

Section 404

The U.S. Army Corps of Engineers is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the *discharge of dredged and fill material into all waters of the United States, including wetlands*. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

Contact

Fort Worth District
Regulatory Branch
PO Box 17300
Fort Worth, TX 76102-0300
(817)886-1731

Albuquerque District
Regulatory Branch
505 South Main, Ste 142
Las Cruces, NM 88001
(575)556-9939

Galveston District
Regulatory Branch
PO Box 1229
Galveston, TX 77553-1229
(409) 766-3930

Tulsa District
Regulatory Office
1645 South 101st East Ave.
Tulsa, OK 74128
(918)669-7619

WATER QUALITY CERTIFICATION:

The TCEQ has certified pursuant to Section 401 of the Clean Water Act, for the activities for which they are responsible, that the LOP procedure would not result in a violation of established Texas Water Quality Standards provided the standard provisions in Appendix B are followed. The Railroad Commission of Texas (RCT) has waived certification pursuant to Section 401 of the Clean Water Act, for the activities for which they are responsible.

AUTHORIZATION FROM OTHER AGENCIES:

The permittee is responsible for obtaining any additional federal, state, or local permits that may be required, which include, but are not limited to:

1. When streambed materials such as sand, shell, gravel and marl are to be disturbed or removed from state-owned waters in Texas, the permittee may be required to obtain a permit from the Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744.
2. Activities outside the permit area of the USACE that may affect a federally listed endangered or threatened species or its critical habitat could require permits from the U.S. Fish and Wildlife Service to prevent a violation of the Endangered Species Act under Section 9.
3. All activities in Texas located on lands under the jurisdiction of the Texas General Land Office, 1700 North Congress Avenue, Austin, Texas 78701-1495, must have prior approval from that office.
4. Any work on lands or in waters under the jurisdiction of any river authority or other operating agency may require a permit from that authority or agency.
5. Projects involving government property on USACE reservoirs will require submission of detailed design information to the reservoir manager and the manager's approval of the proposed activity.
6. Activities within a 100-year floodplain may require a permit from the local floodplain administrator or the TCEQ. In addition, evidence that the project meets non-encroachment restrictions in regulatory floodways may be required.
7. Storm water runoff from construction activities that result in a disturbance of one or more acres, or are a part of a common plan of development that will result in the disturbance of one or more acres, must be controlled and authorized under Texas Pollutant Discharge Elimination System (TPDES) general permit TXR150000. A copy of the general permit, application (notice of intent), and additional information is available at: http://www.tceq.texas.gov/permitting/stormwater/wq_construction.html or by contacting the TCEQ Storm Water & Pretreatment Team at (512) 239-4671.
8. Activities associated with the exploration, development, or production of oil, gas, or geothermal resources, including the transportation of oil or gas prior to the refining of such oil or the use of such gas in manufacturing or as a fuel, as described in Tex. Nat. Res. Code Ann. Section 91.101, may require authorization from the Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967.

Fort Worth District: Regulatory Branch, U.S. Army Corps of Engineers, Fort Worth District, ATTN: CESWF-PER-R, P.O. Box 17300, Fort Worth, TX 76102-0300, or telephone the Regulatory Branch at (817) 886-1731.

Albuquerque District: Regulatory Office, U.S. Army Corps of Engineers, Albuquerque District, 505 South Main, Ste 142, Las Cruces, NM 88001, or telephone the Regulatory Office at (575) 556-9939

Galveston District: Regulatory Branch, U.S. Army Corps of Engineers, Galveston District, ATTN: CESWG-CO-R, P.O. Box 1229, Galveston, TX 77552-1229, or telephone the Regulatory Branch at (409) 766-3930

Tulsa District: Regulatory Branch, U.S. Army Corps of Engineers, Tulsa District, Regulatory Office, 1645 South 101st East Ave., Tulsa, OK 74128, or telephone the Regulatory Branch at (918) 669-7619

This procedure will also suffice as the LOP application for work proposed in navigable waters of the United States under Section 10 of the Rivers and Harbors Act of 1899.

EVALUATION PROCEDURES:

Prior to authorizing any project, the USACE shall coordinate with the EPA, FWS, Texas Parks and Wildlife Department, either the TCEQ or RCT, depending on the nature of the proposed activities, and, for projects that would be located within the boundaries of the Galveston District, the National Marine Fisheries Service to obtain their concurrence with authorizing the proposed work under this LOP procedure. Should one of the appropriate agencies not concur, the proposed work would require authorization by individual permit. A verbal or written response from each contacted agency is required to complete the interagency coordination process. Pre-application coordination with these agencies through the USACE is highly recommended.

Work may not proceed prior to written notification that the District Engineer has issued an LOP. It is the applicant's responsibility to insure that the authorized project meets the terms and conditions set forth in the LOP; failure to abide by them will constitute a violation of the Clean Water Act and/or the Rivers and Harbors Act of 1899. Projects outside the scope of this LOP procedure may be considered for authorization by individual permit.

APPENDIX A

CONDITIONS OF LETTERS OF PERMISSION ISSUED UNDER "LETTER OF PERMISSION PROCEDURE, EXCAVATION ACTIVITIES"

GENERAL CONDITIONS:

1. In issuing an LOP, the Department of the Army relies in part on the information provided by the permittee. If that information proves to be false, incomplete, or inaccurate, the LOP may be revoked.
2. Projects authorized by LOP shall comply with all terms and conditions herein. Failure to abide by such conditions invalidates the authorization and may result in a violation of the law, requiring restoration of the site or other remedial action.
3. An LOP should not be considered as an approval of the design features of any authorized project or an implication that such is considered adequate for the purpose intended; a Department of the Army LOP merely expresses the consent of the Federal Government to the proposed work insofar as public rights are concerned. An LOP does not authorize any damage to private property, invasion of private rights, or any infringement of federal, state or local laws or regulations. Nor does it relieve the permittee from the requirement to obtain a local permit from the jurisdiction within which the project is located and to address all non-encroachment restrictions within a regulatory floodway of such local jurisdiction as identified by the Federal Emergency Management Agency.
4. This LOP procedure may be modified or suspended in whole or in part if it is determined that the individual or cumulative impacts of work that would be authorized using this procedure are contrary to the public interest. The authorization for individual projects may also be summarily modified, suspended, or revoked, in whole or in part, upon a finding by the District Engineer that immediate suspension of the project would be in the public interest.
5. Any modification, suspension or revocation of the District Engineer's authorization shall not be the basis for any claim for damages against the United States.
6. An LOP does not authorize the interference with any existing or proposed Federal project, and the permittee shall not be entitled to compensation for damage or injury to the authorized structures or activities that may result from existing or future operations undertaken by the United States in the public interest.
7. No attempt shall be made by the permittee to prevent the full and free public use of all navigable waters of the United States, at or adjacent to the authorized project.
8. There shall be no unreasonable interference with navigation by the existence or use of the permanent and temporary authorized structures.
9. The permittee shall make every reasonable effort to conduct the authorized activities in a manner that will minimize any adverse impact of the work on water quality, fish and wildlife, and the natural environment, including adverse impacts to migratory waterfowl breeding areas, spawning areas, and trees, particularly mast-producing trees such as oaks and hickories.

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WORK DESCRIPTION: As described in the public notice dated March 20, 1995.

SPECIAL CONDITIONS: None

GENERAL: This certification, issued pursuant to the requirements of Title 30, Texas Administrative Code, Chapter 279, is restricted to the work described in the application or joint public notice. This certification may be extended to any minor revision of the COE permit when such change(s) would not result in an impact on water quality. The Texas Commission on Environmental Quality (TCEQ) reserves the right to require full joint public notice on a request for minor revision. The applicant is hereby placed on notice that any activity conducted pursuant to the COE permit which results in a violation of the state's surface water quality standards may result in an enforcement proceeding being initiated by the TCEQ or a successor agency.

STANDARD PROVISIONS: These following provisions attach to any permit issued by the COE and shall be followed by the permittee or any employee, agent, contractor, or subcontractor of the permittee during any phase of work authorized by a COE permit.

1. The water quality of wetlands shall be maintained in accordance with all applicable provisions of the Texas Surface Water Quality Standards including the General, Narrative, and Numerical Criteria.
2. The applicant shall not engage in any activity which will cause surface waters to be toxic to man, aquatic life, or terrestrial life.
3. Permittee shall employ measures to control spills of fuels, lubricants, or any other materials to prevent them from entering a watercourse. All spills shall be promptly reported to the TCEQ by calling the State of Texas Environmental Hotline at 1-800-832-8224.
4. Sanitary wastes shall be retained for disposal in some legal manner. Marinas and similar operations which harbor boats equipped with marine sanitation devices shall provide state/federal permitted treatment facilities or pump out facilities for ultimate transfer to a permitted treatment facility. Additionally, marinas shall display signs in appropriate locations advising boat owners that the discharge of sewage from a marine sanitation device to waters in the state is a violation of state and federal law.
5. Materials resulting from the destruction of existing structures shall be removed from the water or areas adjacent to the water and disposed of in some legal manner.
6. A discharge shall not cause substantial and persistent changes from ambient conditions of turbidity or color. The use of silt screens or other appropriate methods is encouraged to confine suspended particulates.
7. The placement of any material in a watercourse or wetlands shall be avoided and placed there only with the approval of the Corps when no other reasonable alternative is

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16. Surface water shall be essentially free of floating debris and suspended solids that are conducive to producing adverse responses in aquatic organisms, putrescible sludge deposits, or sediment layers which adversely affect benthic biota or any lawful uses.
17. Surface waters shall be essentially free of settleable solids conducive to changes in flow characteristics of stream channels or the untimely filling of reservoirs, lakes, and bays.
18. The work of the applicant shall be conducted such that surface waters are maintained in an aesthetically attractive condition and foaming or frothing of a persistent nature is avoided.
Surface waters shall be maintained so that oil, grease, or related residue will not produce a visible film of oil or globules of grease on the surface or coat the banks or bottoms of the watercourse.
19. This certification shall not be deemed as fulfilling the applicant's/permittee's responsibility to obtain additional authorization/approval from other local, state, or federal regulatory agencies having special/specific authority to preserve and/or protect resources within the area where the work will occur.