



GALVESTON DISTRICT REAL ESTATE PLAN

CEDAR BAYOU DMMP
(Channel from Mile -2.5 to Mile3.0)

CHAMBERS - LIBERTY COUNTIES, TEXAS

March 2014

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EXHIBITS

EXHIBIT A: Cedar Bayou Dredged Material Management Plan (DMMP) Real Estate Map (Placement Areas and Proposed PA 7)

EXHIBIT B: Cedar Bayou Dredged Material Management Plan (DMMP) Real Estate Map (Aerial of Proposed PA 7)

EXHIBIT C: Segment Map

EXHIBIT D: Boundary Survey of Proposed PA 7

EXHIBIT E: Risk Letter to Non-Federal Sponsor for Acquiring Land Before Execution of the LCA

EXHIBIT F: Assessment of Non-Federal Sponsor's Real Estate Acquisition Capability Survey

EXHIBIT G: Mitigation Area

I. GENERAL. In 2010, the U.S. Army Corps of Engineers, Galveston District (the “District”) completed a preliminary assessment of the Cedar Bayou Project’s lower channel, located in the vicinity of Baytown, Texas (the “Project”). The result was the Cedar Bayou Navigation Channel, Texas Final Preliminary Assessment Report, dated February 2010. The Preliminary Assessment Report recommended a new Dredged Material Management Plan (DMMP) be developed for the Project. This recommendation was based on existing capacity and engineering and environmental issues with the Project’s current placement areas (PA). In addition, it advocated new PA alternatives be considered with the capability of providing a minimum of 20 years of dredge material capacity for the future maintenance of the Project’s 5.8 mile lower channel. The District coordinated with Non-Federal Sponsor (NFS), Chambers-Liberty Counties Navigation District (CLCND), throughout the DMMP analysis.

II. PROJECT TYPE & APPLICABILITY. In October of 2010, the District began developing the DMMP analysis. The DMMP Report sets forth the Project plan formulation selected by the District to resolve the problems identified in the Preliminary Assessment Report. This Real Estate Plan (“REP”) is the real estate work product of the District’s Real Estate Division and is written in support of the DMMP Report. It identifies and describes the lands, easements, rights-of-way, relocations (i.e., P.L. 91-646 relocations and utility/facility relocations), borrow material, and dredged or excavated material disposal areas (LERRD), required for the construction, operation and maintenance of the Project. Further, the REP describes the estimated LERRD value, together with the estimated administrative and incidental costs incurred as a result of acquiring LERRD for the Project.

The DMMP Report supports the lower 5.8 mile channel of the authorized Project. The table below sets forth the multiple authorizations applicable to the Project, including dates and descriptions of authorized Project features. These authorizations provide the historical foundation for this REP in support of this DMMP.

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Table 1: Authorized Project Features for Cedar Bayou, Texas

Date	Project and Work Authorized	Documents
September 19, 1890	Congress, by act of September 19, 1890, appropriated as follows: “Improving Cedar Bayou, Texas, by removal of bar at the mouth of said bayou, where it empties into Galveston Bay; Completing improvement, eighteen thousand one hundred and fifty dollars.”	Rivers and Harbor Act of 1890 (26 Stat. 444)
July 3, 1930	Provides for a “channel 10 feet deep and 100 feet wide from Houston Ship Channel to a point on bayou 11 miles above the mouth.” The Project also includes the jetties at the mouth of the bayou provided for under the previous Project.	Rivers and Harbor Act of 1930, P.L. 520 (S. Doc. No. 107, 71 st Cong., 2d sess.)
November 17, 1986	Deauthorization of “the Project for navigation, Cedar Bayou (mile 3.0 to mile 11.0), Harris, Texas, authorized by the River and Harbor Act of September 19, 1890, as amended by the River and Harbor Act of July 3, 1930, Public Law 520, Seventy-first Congress.”	WRDA 1986, P.L. 99-662, (100 Stat 4219), Sec 1002
December 11, 2000	Reauthorization “for construction of a navigation channel 12 feet deep by 125 feet wide from Mile - 2.5 (at the junction with the Houston Ship Channel) to Mile 11.0 on Cedar Bayou.”	WRDA 2000, P.L. 106-541, (114 STAT. 2632), Sec 349(a)(2).
November 8, 2007	Section 349(a)(2) of the WRDA 2000 (114 Stat. 2632) is amended by striking “12 feet deep by 125 feet wide” and inserting “that is 10 feet deep by 100 feet wide”.	WRDA 2007, P.L. 110-114 (121 Stat. 1041), Sec. 3147

III. SCOPE & CONTENT. Generally, for a DMMP Report the REP assesses the current condition of Project PAs and determines the need for additional resources to operate and

maintain the Project for a period of 20 years. This REP focuses on a plan for maintenance dredging and placement of dredged materials for the Project's lower channel, as does this DMMP Report. The entire Cedar Bayou Project consists of 14 miles of channel (mile -2.7 to mile 11). The Project's lower channel is 5.8 miles (mile -2.7 to mile 3) in length and is divided into two reaches referred to as the Bay Reach and the Bayou Reach as shown in Exhibit "A".

The Bay reach begins at the intersection of the Houston Ship Channel (HSC) at (STA 0 +00) and ends at (STA 150+00). The Bayou Reach begins at (STA 150+00) and ends at (STA 301+56.27). A DMMP develops a long-term management strategy for dredge material placement taking into consideration many variables including, but not limited to, applicable laws and policies.

Furthermore, dredged material management planning is conducted by USACE:

- 1) to ensure that maintenance dredging activities are performed in an environmentally acceptable manner,
- 2) utilizing sound engineering techniques,
- 3) to ensure selected plans are economically justified, and
- 4) to ensure that long-term placement facilities are available.

Finally, it is the policy of USACE that all DMMPs include an assessment of potential beneficial use (BU) of dredged material for environmental purposes including fish and wildlife habitat creation and restoration and/or hurricane and storm damage reduction. The result is a report that identifies a long-term management strategy for dredge materials within a Project.

IV. PURPOSE OF REP. The purpose of the REP is to support the DMMP by identifying the real estate requirements for the plan, as set forth in the DMMP Report. This DMMP Report recommends a plan for the maintenance of the Project over the next 20 years, including the construction of a new PA, PA 7. The DMMP Report does not contemplate the placement of new work material or the material requested to be placed by third parties. It does, however, estimate that approximately 2.3 million cubic yards (CY) of maintenance dredge material will be dredged from the lower channel of Cedar Bayou during the applicable 20-year period. This REP includes an assessment of the real estate requirements for the plan including the following:

- a) Description of LERRD for each Project Feature and Purpose;
- b) Description of LERRD for the Project Already Owned by the Non-Federal Sponsor;

- c) Proposed Estates and Non-Standard Estates and Justifications for Use;
- d) Existing Federal Project Fully or Partially Within the LERRD Required for the Project;
- e) Existing Federally Owned Land within the LERRD Required for the Project;
- f) LERRD Required for the Project Subject to Navigation Servitude;
- g) Map Depicting Project Area;
- h) Project Induced Flooding;
- i) Baseline Cost Estimate for Real Estate;
- j) P.L. 91-646 Relocation Assistance Benefits Anticipated;
- k) Present or Anticipated Mineral Activity that May Affect the Project;
- l) Assessment of the Non-Federal Sponsor's Legal and Professional Capability and Experience to Acquire and Provide LERRD for the Project;
- m) Application or Enactment of Zoning Ordinances Proposed in Connection with the Project;
- n) Land Acquisition Schedule;
- o) Description of Facility or Utility Relocations;
- p) Impact on the Real Estate Acquisition Process and the LERRD Value Estimated Due to Known or Suspected Contaminants;
- q) Discussion of Known or Anticipated Support for or Opposition to the Project by Landowners in the Project Area;
- r) Statement to Non-Federal Sponsor Regarding the Risks Associated with Acquiring Land Before the Execution of the PCA; and,
- s) Description of Any Other Real Estate Issues Relevant to Planning, Designing, or Implementing the Project.

a. Description of LERRD for each Project Feature and Purpose.

Maintenance material dredged for the Project has historically been placed in the six PAs originally coordinated under the *Final Environmental Impact Statement for Maintenance Dredging Cedar Bayou Channel, Texas*, dated 12 June 1975 (1975 Environmental Impact Statement (EIS)). The 1975 EIS identified the 6 PA's as: PA 1 (Hog Island), PAs 2, 3 and 4 (unconfined open water), PA 5 (Boaz Island) and PA 6 (confined upland) (EXHIBIT "A"). Currently, PAs 1 thru 5 are no longer available to the Project due to engineering or environmental constraints. PAs 1 thru 5 were deemed not available for use in the *Cedar Bayou*

Navigation Channel, Texas, and Final Preliminary Assessment dated February 2010. A more detailed explanation of PAs 1 thru 5 statuses can be found in the main report. **(Section II. PROJECT CONDITIONS of the DMMP Report)**

The DMMP Tentatively Selected Plan (TSP) concludes that all the dredge material placement requirements for the proposed 20 year period can be met through the existing capacity within PA 6 and the additional capacity made available through the construction of PA 7. Each of these PAs will be discussed in turn.

i. Placement Area 6 (PA 6).

PA 6 is an upland PA that was acquired a revocable easement by the NFS in 1974. The easement acquired by the NFS contained two estates, a 70-acre Spoil Disposal and Pipeline Crossing Easement. The NFS conveyed an easement of the same type to the Government *dated 15 March 1974, recorded 23 April 1974, recording number E134653, deed record Vol.355 Pg.441.* The language of the easement conveyed to the Government is as follows:

“WHEREAS, the party of the first part is the owner of a certain tract of land situated in Chambers County, State of Texas.....

WHEREAS, the party of the second part as local Project sponsor desires to make available to the United States of America and its assigns said tract of land for the purpose of depositing spoil from dredging operations conducted in connection with the aforesaid improvement.....

...party of the first part does hereby grant, bargain, sell, and convey unto the party of the second part and its assigns the right and privilege to deposit on the hereinabove described tract of land or any part thereof during the term of this easement any and all spoil and other matter excavated in the improvement and maintenance of the aforesaid improvement, including the rights to construct, operate, maintain and remove levees, ditches, spillways and drains. RESERVING HOWEVER, to the party of the first part, its successors and assigns, all such rights and privileges in said tract of land as may be used and enjoyed without interfering with or abridging the rights and easements hereby conveyed to the party of the second part.

Incidental to the foregoing, party of the first part hereby grants to party of the second part and its assigns the license and permission during the term hereof for pipeline crossings upon lands of party of the first part (that are shown as shaded areas and identified as Pipeline Crossing Easement on the attached drawings marked Exhibit B), such crossings being permitted in locations within those areas as needed for the transportation of spoil from locations along Cedar Bayou to the disposal site described in Exhibit A hereof

TO HAVE AND TO HOLD said easement unto the party of the second part and its assigns for the purposes aforesaid until same shall be terminated by party of the first part. Such termination is permitted at any time provided that party of the first part shall first give to party of the second part a 90-day notice in writing of its intention to so terminate. Provided, however, that this provision shall be inoperative during the term of any dredging contract which is in force or advertised and contemplates the use of the premises described herein.”

Chambers County acquired PA 6, in fee, from USX Corporation via a Special Warranty Deed dated 14 March 1996, recorded in Volume 291, Page 401 of the Official Public Records of Chambers County, Texas. In 2012, Chambers County conveyed PA 6, in fee, to Chambers-Liberty Counties Navigation District (CLCND) via a Special Warranty Deed dated 17 April 2012, recorded 28 March 2012, at document number 75799, deed record Vol.1344, pg 635. The DMMP Report TSP requires the NFS assure the availability of and capacity in PA 6 for the next 10 years. The NFS shall convey to the Government a non-revocable, Non-Standard Perpetual Disposal Easement for PA 6. The NFS shall provide to the Government, for its review and approval, a title policy demonstrating the NFS's title to PA 6. This Non- Standard Perpetual Disposal Easement is further described in section “c.” set forth below.

PA 6 is located on the east bank of the Bayou Reach approximately one mile North East of the Bay Reach. This is an efficient location for the placement of dredged materials obtained from the Bayou Reach which begins at Station 150+00 and extends to Station 301+56.27. PA 6 has historically been the sole placement area used for all dredge material from the Bayou Reach. Dredge materials from the Bayou Reach have been conveyed to PA 6 through a dredge pipeline, authorized by the Easement set forth above and located on lands identified on Exhibit B to said Easement and identified as Exhibit “C” to this REP and described above in section “**i. Placement Area 6 (PA 6)**”.

While the PA 6 easement covers a 70 acre area, the existing configuration of PA 6 prevents efficient use of the complete site due to the long narrow corridors on the east and west sides. An estimated 552,600 CY of dredged material will be placed in PA 6 for the first 3 dredge cycles of the of the DMMP's 20 year period, at which point PA 6 will reach full capacity. A more detailed explanation on the condition of PA 6 can be found in the main report. **(Section II. PROJECT CONDITIONS of the DMMP Report).**

ii. **Proposed PA 7.** PA 7, as proposed, is an upland PA that will be constructed approximately three miles North West of the mouth of Cedar Bayou and 0.10 miles southeast of existing PA 6. Construction of PA 7 will require the acquisition of a 110-acre property (the "Property") that was previously developed as a recreational vehicle park (Exhibit "B"). The site is bounded by Tri-Cities Beach Road to the south, HL&P canal to the west, Cedar Bayou to the north, and vacant property to the east. Existing infrastructure within the site includes asphalt surfaced roads, and underground utilities including storm and sanitary sewers, and water distribution pipes. An estimated 1,800,000 CY of dredge material will be placed in proposed PA 7 for the DMMP's 20 year period. Dredge material from the Bay Reach will be conveyed to PA 7 via a non-permanent dredge pipeline which will be floated within the navigable waters of the HL&P canal during dredge cycles. When it becomes necessary to place dredge materials from the Bayou Reach into PA 7, a non-permanent dredge pipeline will again be utilized.

Two design features for proposed PA 7, as currently defined, may lie outside the currently identified acquisition footprint. These features are the pipe for the outfall structure and the proposed mitigation area. During (Preconstruction Engineering Design) PED, at a minimum a title search and survey of the lands required for this acquisition will have to occur to assure the all lands necessary for PA 7 are acquired.

The NFS shall acquire fee simple title to the property (Engineering Regulation (ER) 405-1-12; 12-9). The NFS shall also convey to the Government a Non-Standard Perpetual Disposal Easement for the placement of dredge materials in PA 7. Standard Estate# 1 and the Non-Standard Perpetual Disposal Easement are described further in section "c." set forth below. Prior to issuance of the solicitation for a construction contract that requires real property

interests, the District Chief of Real Estate is required to certify in writing to the District element responsible for such solicitation that sufficient real property interests are available to support construction pursuant to the contract (ER) 405-1-12). The NFS shall provide to the Chief of Real Estate all documentation necessary to confirm such interests have been acquired, pursuant the agreed upon land acquisition schedule, and that the Non-Standard Perpetual Disposal Easement required has been conveyed to the Government as set forth above.

- iii. Mitigation Feature.** The proposed project has been designed with the smallest practicable footprint to still meet the requirements of the proposed project. Construction of PA 7 would permanently impact 2.56 acres of estuarine wetlands located in the southernmost canals. All impacts to wetlands would be mitigated pursuant to the Mitigation Plan described in detail in Section 5.0 of the Environmental Assessment. Based upon the conclusions of a Habitat Evaluation Procedure (HEP) Analysis, developed by the U.S. Fish and Wildlife Service (USFWS) and performed on the proposed impact area for the TSP, it was determined that 2.64 acres of in-kind mitigation would be required to fully mitigate for impacts resulting from the construction of PA 7 (Exhibit “G”).
- iv. Borrow Material.** The proposed plan does not require any borrow material outside of proposed PA 7. The initial construction of the containment dike will consist of borrowing materials from the inside of the perimeter containment dikes of proposed PA 7.
- v. Access/Staging Areas.** The proposed plan does not require any Access/Staging Areas. The construction of the containment dike s would be conducted within proposed PA 7 property boundaries.
- vi. Recreation Features.** The proposed plan does not have any recreation features.
- vii. LERRD Crediting.** The NFS is responsible for acquiring and furnishing all lands, easements, rights-of-way, relocations (i.e., P.L. 91-646 relocations and utility/facility relocations), borrow material, and dredged or excavated material disposal areas for the Project. ER 405-1-12 paragraph 12-35 states, as a general rule, the NFS is “entitled to credit

against its share of Project costs for the value of” LERRD “it provides ...that are required for the Project.” ER 405-1-12 paragraph 12-38 lists the exception to this general rule. The exceptions include LERRD previously provided as an item of a cooperation agreement; LERRD acquired with the use of Federal funds; LERRD that is Federal lands; LERRD in excess of the interest required for the Project; LERRD that is part of a Section 14 Project; LERRD acquired through the exercise of navigation servitude; and contingency values designated for LERRD in reconnaissance estimates, gross appraisals, etc.

PAs 1 thru 4 were constructed under Navigational Servitude¹; therefore the NFS will not be eligible for LERRD credit related to PA’s 1 thru 4. PA’s 5 and 6 were constructed under a prior authorization. The NFS shall not receive credit for the value of any LER, including incidental costs, which have been provided previously as an item of cooperation for another Federal project, including projects that preceded enactment of WRDA 1986. To date the NFS has not submitted a request for credit for PA’s 5 and 6. All LERRD credit requests must comply with ER 405-1-12 paragraph 12-35 and any additional requirements set forth in the Local Cooperation Agreement (LCA). If submitted, credits for PAs 5 and 6 will be accounted for under the prior LCA. The NFS will be eligible for LERRD credit related to the acquisition of the property required for PA 7 under the amended LCA developed from this DMMP Report. Requests for such credit must comply with ER 405-1-12 paragraph 12-35 and any additional requirements set forth in the amended LCA.

b. Description of LERRD for the Project Already Owned by the NFS. The description of the LERRD for the Project already owned by the Non-Federal Sponsor is PA 6 described in section “a, i” above.

¹ Navigation servitude is the dominant right of the Government under the Commerce Clause of the U.S. Constitution (U.S. CONST. Art. I, §8, cl.3) to use, control and regulate the navigable waters of the United States and the submerged lands hereunder for various commerce-related purposes including navigation and flood control. In tidal areas, the servitude extends to all lands below the mean high water mark. In non-tidal areas, the servitude extends to all lands within the bed and banks of a navigable stream that lie below the ordinary high water mark. *United States v. Cress*, 243 U.S. 316, 37 S.Ct. 380, 61 L.Ed. 746 (1917), *Kaiser Aetna v. United States*, 444 U.S. 164, 100 S.Ct. 383, 62 L.Ed.2d 332 (1979). The Government’s rights under the navigation servitude exist irrespective of the ownership of the banks and bed of a stream below the ordinary high water mark and irrespective of western water rights under prior appropriation doctrine.

c. Proposed Estates and Non-Standard Estates and Justifications for Use. The estate to be acquired by the NFS for proposed PA 7 is #1 Fee. The NFS shall convey a non-standard perpetual work area easement- dredge material disposal area to the Government.

Maintenance dredging of the Federal Project channel is a 100% Federal responsibility and is accomplished through Federal dredging contracts. Perpetual easements conveyed to the Federal Government are needed to assure all project placement areas, which are built for the purpose of supporting the Federal navigation projects, are available to the Government as often and for as long as they are needed to support the project. The Government is also responsible for managing the navigation projects to assure sufficient placement area capacity exists to meet the needs of the Federal navigation project now and in the future.

Perpetual easements allow the Government to better restrict/control non-federal use, maximum quantities placed by non-federal interests, and remove any potential for interference with federal dredge contractors. Finally, the Government has certain Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) liabilities already as an operator and transporter of materials put into the placement area. Perpetual easements provide the property interest necessary for the Government to issue outgrants to non-federal users that will require testing and approval of non-federal dredged materials prior to placement into the Federal project placement areas, thus protecting the Government from additional CERCLA liability. A description of fee estate and non-standard perpetual disposal easement are set forth below.

i. Fee Estate- Estate No. 1 Fee for Placement Areas

The fee simple title to (the land described in Schedule A) 1/ (Tract Nos. ____, ____, and ____), subject however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

ii. Non-Standard Perpetual Work Easement-Dredged Material Disposal Area

A perpetual and assignable right and easement on, over, and across (the land described in Schedule A) (Tracts Nos. _____, _____, and _____), for the purpose of constructing, operating, and maintaining a dredged material disposal area, including the right to perform any work required in connection with said work of improvement; the right to borrow and/or deposit dredged material thereon; the right to move, store and remove equipment and supplies; the right to clear, cut, fell, remove and dispose of any timber, trees, underbrush, vegetation, structures, buildings, improvements and/or other obstructions therefrom; the right to excavate, dredge, cut away, and remove any or all thereon dredge or spoil material; the right to regulate the conduct of parties or impact of parties on said easement and to issue any instrument necessary to control such conduct, and to collect the fair market value for and administrative fees associated with this conduct reserving, however, to the owners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

The Non-Standard Perpetual Disposal Easement shall also provide for the rights of the Government in the event third-party entities request to place dredge material in PA 6 and/or proposed PA 7 or otherwise utilize PA 6 and PA 7, including but not limited to, the impact such third-party use will have on PA 6 and PA 7 capacity and the Government's obligation, if any, to raise containment dikes under the amended LCA. The language covering these rights will need to be developed and reviewed upon completion of the District's "Outgrant Policy" referred to in section "s", currently under development.

d. Existing Federal Project Fully or Partially Within the LERRD Required for the Project. The Project lies entirely within the Cedar Bayou Project, as authorized in Table 1 above.

e. Existing Federally Owned Land within the LERRD Required for the Project. There is no existing federally owned land within the LERRD required for this Project.

f. LERRD Required for the Project Subject to Navigation Servitude. There will be no new LERRD required for the Project subject to Navigation Servitude.

g. Map Depicting Project Area. See Exhibits A - D.

h. Project Induced Flooding. There will be no induced flooding by virtue of the construction of the Project.

i. Baseline Cost Estimate for Real Estate. The baseline cost estimate (BCE) identifies the estimated cost for the Federal Government and NFS to execute the real estate component of the formulated plan, as set forth in the DMMP Report. In addition to breaking the BCE into its Federal and NFS components, the BCE is further divided into two broad cost categories: acquisition and crediting. Acquisition costs are those direct, indirect, due diligence, and administrative costs associated with the acquisition of LERRDs. Crediting cost are those cost associated with the preparation, audit, review and approval of allowable direct and indirect acquisition cost for cost share crediting purposes. The tasks associated with these cost categories are further defined in the paragraphs below.

NFS

- a. *NFS Acquisition.* For the NFS, BCE acquisition costs include the fair market value of the LERRD required for the construction, operation and maintenance of the project, including those required for relocating displaced persons from homes, farms or business under P.L. 91-646, as amended; incidental acquisition costs, such as appraisal, title work, etc.; estimated risk-based contingencies; mitigation cost; and the administrative staff support for all these activities, as required.
- b. *NFS Crediting.* The NFS's BCE crediting costs include, but are not limited to the preparation and submission of appraisal, title, accounting and other documents to support the LERRD credit request process.

Federal

- a. *Federal Acquisition.* Federal BCE acquisition costs include, but are not limited to, work performed by the following specialties: Appraisal, Real Estate Contracting Officer (RECO), Management, Cartography, Realty Specialist, and Administration.

The Appraiser will review appraisal reports provided by the NFS prior to acquisition and approve, reject, or request modifications to the report, as appropriate. During the acquisition phase, the RECO will review land acquisition for approval within his/her authority and forward request to acquire exceeding his/her approval authority to the appropriate contract review authority. The Cartographer has multiple mapping tasks throughout the acquisition process including, but not limited to, mapping that accurately reflects the real estate requirements and changes to the Project footprint that occur during the acquisition phase. The Realty Specialist provides oversight and support to the NFS for all aspects of the Project's real estate components. This includes, but is not limited to, acquisition support (P.L. 91-646, Condemnation, etc.), due diligence reviews, acquisitions scheduling, regulatory compliance, finalization of Attorney's Opinion's of Compensability, when required, and contract clearances. Additionally, the Realty Specialist will assure the Government's real estate interests in the Project are legally perfected. Management provides oversight for all these activities. Administrative staff provides the administrative support for all these specialties, as required.

- b. *Federal Crediting.* Federal BCE crediting costs include, but are not limited to, the Appraiser's review of all acquisitions to assure credit requested is supported by an approved appraisal. The Realty Specialist provides technical assistance to the NFS in support of LERRD credit claims, performs initial credit claim compliance reviews, and coordinates management's review of crediting packages submitted. Real Estate managers and the RECO will perform final compliance reviews of credit requests submitted and issue formal LERRDs credit approvals, when appropriate. The cost for administrative support for these activities, as required, is also an included cost.

BCE for This Project

The NFS BCE for the Project is \$4,172,355.00. The Federal BCE is \$32,500 these estimates are detailed in the table below.

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**Cedar Bayou DMMP
(Channel from Mile -2.5 to Mile3.0)
Non-Federal Real Estate Baseline Cost Estimate**

Non-Federal Costs

**Project: Cedar Bayou DMMP
(Total Parcels =1)**

(a) Land Payments

(Proposed PA 7) (23% contingency)

(b) Project Related Administration

(\$10,000 x # of parcels) (25% contingency)

(c) Appraisals

(\$2,500 per appraisal) (25% contingency)

(d) Condemnations

(15% of total parcels x \$7,500 per parcel) (25% contingency)

(f) PL 91-646

**(g) Facility/Utility Relocation Execution Costs
(For Construction Costs See Cost Engineering Appendix)**

(\$13,600 per unit) (25% contingency)

**(h) LERRD Crediting/Audit Compliance
Calculation for Crediting/Audit Compliance**

NFS COST to PROCESS LERRD

NFS COST to PROCESS LERRD Contingency Costs (25%)

Total NFS Cost

	AMOUNT	CONTINGENCY
(a) Land Payments	\$3,351,000.00	\$770,730.00
(b) Project Related Administration	\$10,000.00	\$2,500.00
(c) Appraisals	\$5,000.00	\$1,250.00
(d) Condemnations		
(f) PL 91-646		
(g) Facility/Utility Relocation Execution Costs		
(h) LERRD Crediting/Audit Compliance	\$25,500.00	\$6,375.00
NFS COST to PROCESS LERRD	\$25,500.00	
NFS COST to PROCESS LERRD Contingency Costs (25%)	\$6,375.00	
Total NFS Cost	\$31,875.00	
	\$3,391,500.00	\$780,855.00

TOTAL CONTRACT #1 - NON-FEDERAL COSTS =

\$4,172,355.00

**Cedar Bayou DMMP
(Channel from Mile -2.5 to Mile3.0)
Federal Real Estate Baseline Cost Estimate**

Federal Costs

**Project: Cedar Bayou DMMP
(Total Parcels = 1)**

	AMOUNT	CONTINGENCY
(a) Appraisal Reviews (1)	\$1,000.00	\$250.00
(b) Mapping	\$4,100.00	\$1,025.00
(c) Acquisition Reviews/RE Acquisition Support and Due Diligence Requirements	\$12,400.00	\$3,100.00
(c) Condemnation Reviews *BCE Assumes no condemnation required.		
(e) PL 91-646 (Review) *BCE Assumes no 91-646 relocations.		
(g) Facility/Utility Relocations *BCE Assumes no facility/utility relocations.		
(h) LERRD Crediting/Audit Compliance		
<u>Calculation for Crediting/Audit Compliance</u>	\$8,500.00	\$2,125.00
Federal Cost to Process LERRD	\$8,500.00	
Federal Cost to Process LERRD Contingency (25%)	\$2,125.00	
Total Federal Cost to Process LERRD	\$10,625.00	
	\$26,000.00	\$6,500.00

TOTAL FEDERAL COSTS =

\$32,500.00

j. P.L. 91-646 Relocation Assistance Benefits Anticipated. No P.L. 91-646 assistance is required for the Project.

k. Present or Anticipated Mineral Activity that May Affect the Project. There are no known mineral interests within the proposed Project area.

l. Assessment of the NFS’s Legal and Professional Capability and Experience to Acquire and Provide LERRD for the Project. See Exhibit “F”

m. Application or Enactment of Zoning Ordinances Proposed in Connection with the Project. No application or enactment of zoning ordinances is proposed in connection with the Project.

n. Land Acquisition Schedule. An acquisition schedule has not been determined at this time. The NFS will be required to acquire the land for proposed PA 7, after an amended LCA/PPA has been signed and prior to the advertisement for construction, such that PA 7 can be constructed and available for use as scheduled. Description of acquisition milestones are listed below.

Milestones are based on the Project Partnership Agreement being signed	
Transmittal of ROW drawings & estate(s)	30 days after PPA signed
Obtain Surveys	60 days after transmittal of ROW drawings & estate(s)
Obtain Title Evidence	60 days after obtaining surveys
Obtain Appraisals & Reviews	60 days after obtaining titles
Authorization to Proceed with Offer	10 days after obtaining appraisals & reviews
Conclude Negotiations	90 days after start of negotiations
Conclude Closings	45 days after concluding closings
Conclude Condemnations	240 days after condemnation process starts
Attorney Certify Availability of LERRD	15 days after condemnations concluded
Corps Certifies Availability of LERRD	5 days after NFS Attorney Certifies LERRD
Review LERRD Credit Request	45 days after receiving LERRD documentation
Approve or Deny LERRD Credit Requests	5 days after concluding review of LERRD documentation

- o. Description of Facility or Utility Relocations.** There are no known facility/utility relocations within the proposed Project area.

- p. Impact on the Real Estate Acquisition Process and the LERRD Value Estimated Due to Known or Suspected Contaminants.** There are no known hazardous or toxic wastes or other environmental contaminants on or within the proposed Project area.

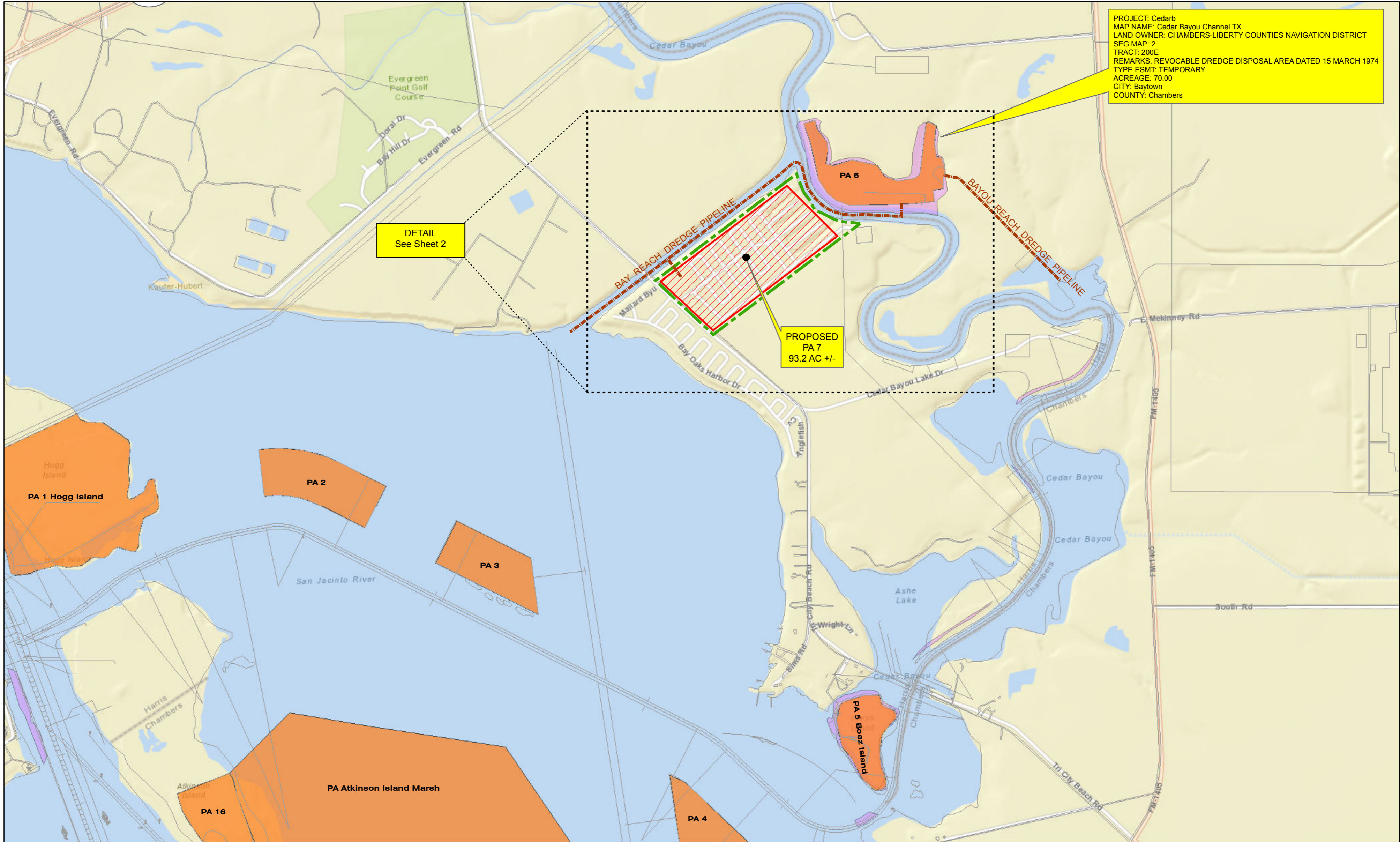
- q. Discussion of Known or Anticipated Support for or Opposition to the Project by Landowners in the Project Area.** Cedar Bayou’s primary purpose and function is commercial navigation. NFS and waterway users are all supportive of the Project. No resistance by landowners is expected.

- r. Statement to Non-Federal Sponsor Regarding the Risks Associated with Acquiring Land Before the Execution of the PCA.** See Exhibit “E”

- s. Description of Any Other Real Estate Issues Relevant to Planning, Designing, or Implementing the Project.**

New Potential Owner - At the time of this report, a gross appraisal was conducted. It revealed the Property for proposed PA 7 is under a contract for purchase. The current owner is a willing seller and if the land is sold, an assessment of the new owner’s willingness to sell the Property to the NFS will need to be made. If the new owner is unwilling to sell, condemnation would have to be initiated. The REP will be updated accordingly to reflect the status of this issue during Pre-construction Engineering Design (PED).

Third Party Use - A District Project Delivery Team (PDT) is currently developing an Outgrant Policy for the Commander’s review and approval. The policy will address, among other things, third party request to utilize Project PA’s. This REP will be updated accordingly to reflect the final District Outgrant policy during PED.







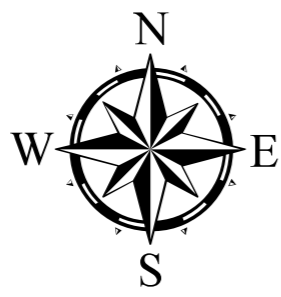
PROJECT: Cedar Bayou Channel TX
 MAP NAME: Cedar Bayou Channel TX
 LAND OWNER: CHAMBERS-LIBERTY COUNTIES NAVIGATION DISTRICT
 SEG MAP: 2
 TRACT: 200E
 REMARKS: REVOCABLE DREDGE DISPOSAL AREA DATED 15 MARCH 1974
 TYPE ESMT: TEMPORARY
 ACREAGE: 70.00
 CITY: Baytown
 COUNTY: Chambers

DETAIL
 See Sheet 2

PROPOSED
 PA 7
 93.2 AC +/-

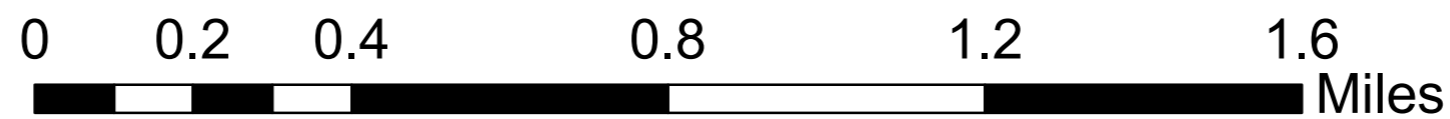
Legend

-  Dredge Pipeline
-  Reddy, S. Malladi (Acs 110.0)
-  USACE_PA
-  USACE_Tract



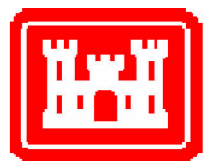
Sheets 1 of 2

**Cedar Bayou Dredged Material Management Plan (DMMP)
 Real Estate Map
 City of Baytown, Harris County, TX**



PREPARED BY:
 REAL ESTATE DIVISION
 DATE: 10 Jan 13

DATUM: NORTH AMERICAN 1983 FEET
 PROJECTION: STATE PLANE
 ZONE: SOUTH CENTRAL ZONE



**US Army Corps
 of Engineers**
 Galveston District

EXHIBIT "B"

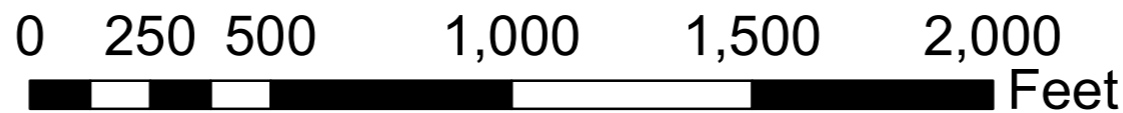
W:\Real Estate\Cadastral\Projects Galveston\Cedar Bayou\Cedar Bayou DMMP\GIS\Cedar Bayou DMMP2.mxd



- Legend**
- Dredge Pipeline
 - Reddy, S. Malladi (Acs 110.0)
 - Exxon 30Ft Wide Gas PL Esmt
 - USACE_PA
 - PA 7 (93.2 AC) Proposed



Cedar Bayou Dredged Material Management Plan (DMMP)
 Real Estate Map
 City of Baytown, Harris County, TX



PREPARED BY:
 REAL ESTATE DIVISION
 DATE: 10 Jan 13

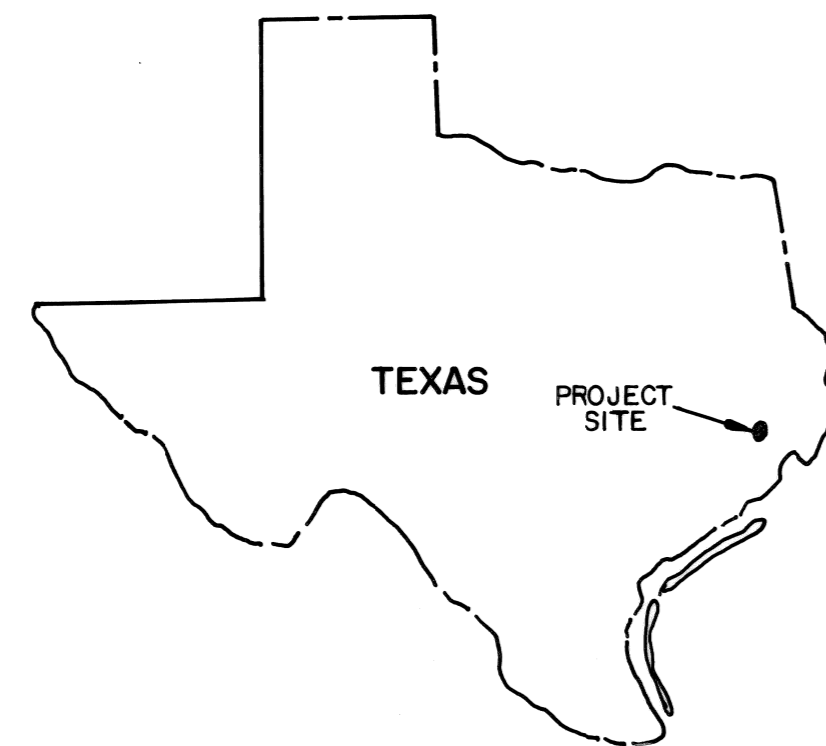
DATUM: NORTH AMERICAN 1983 FEET
 PROJECTION: STATE PLANE
 ZONE: SOUTH CENTRAL ZONE



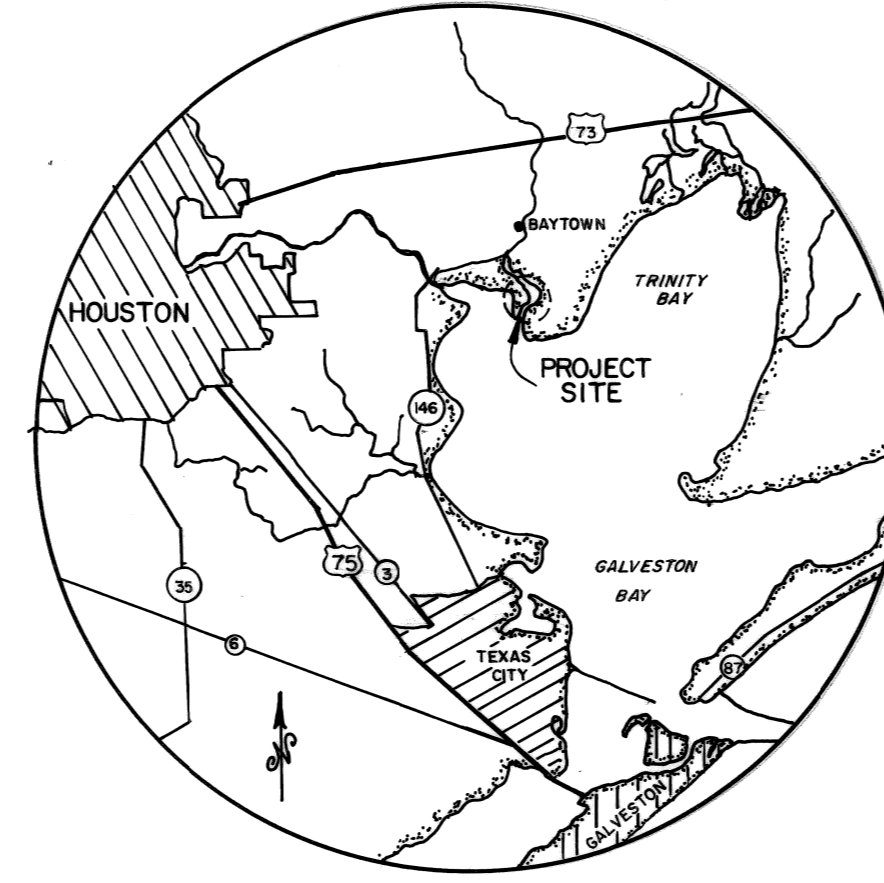
US Army Corps
 of Engineers
 Galveston District

TRACT REGISTER				
TRACT NO.	LAND OWNER	ACREAGE		REMARKS
		FEE	ESMT	
200 E	CHAMBERS-LIBERTY COUNTIES NAV. DIST.		70.00	Revocable Dredge Disposal Area, dtd. 15 March 1974

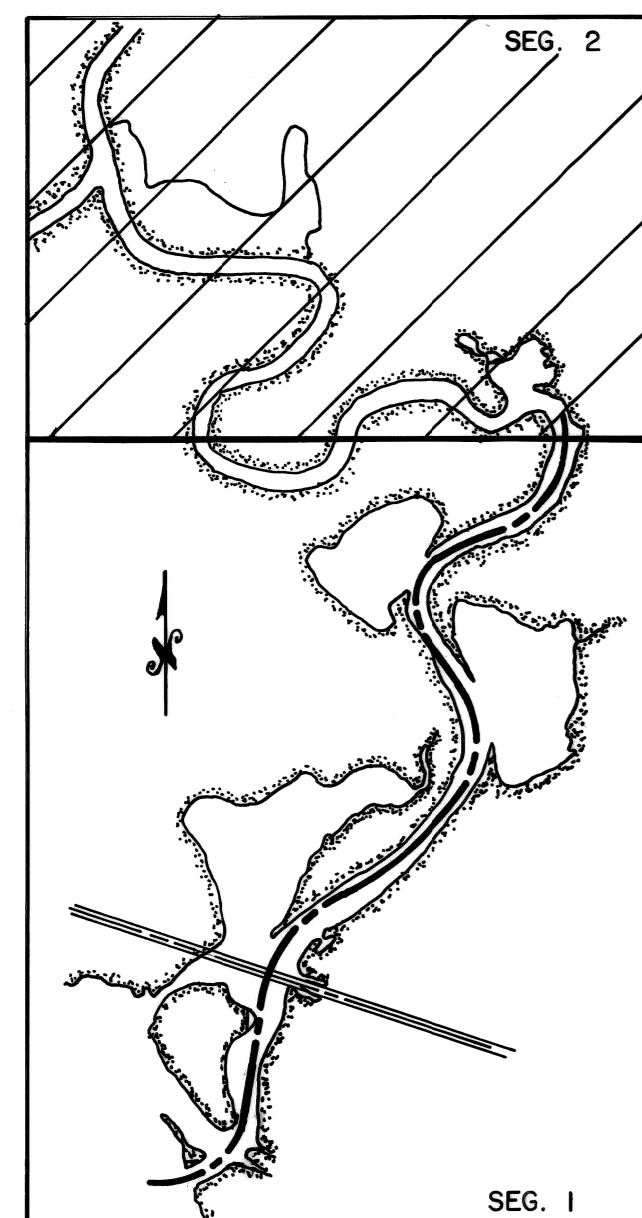
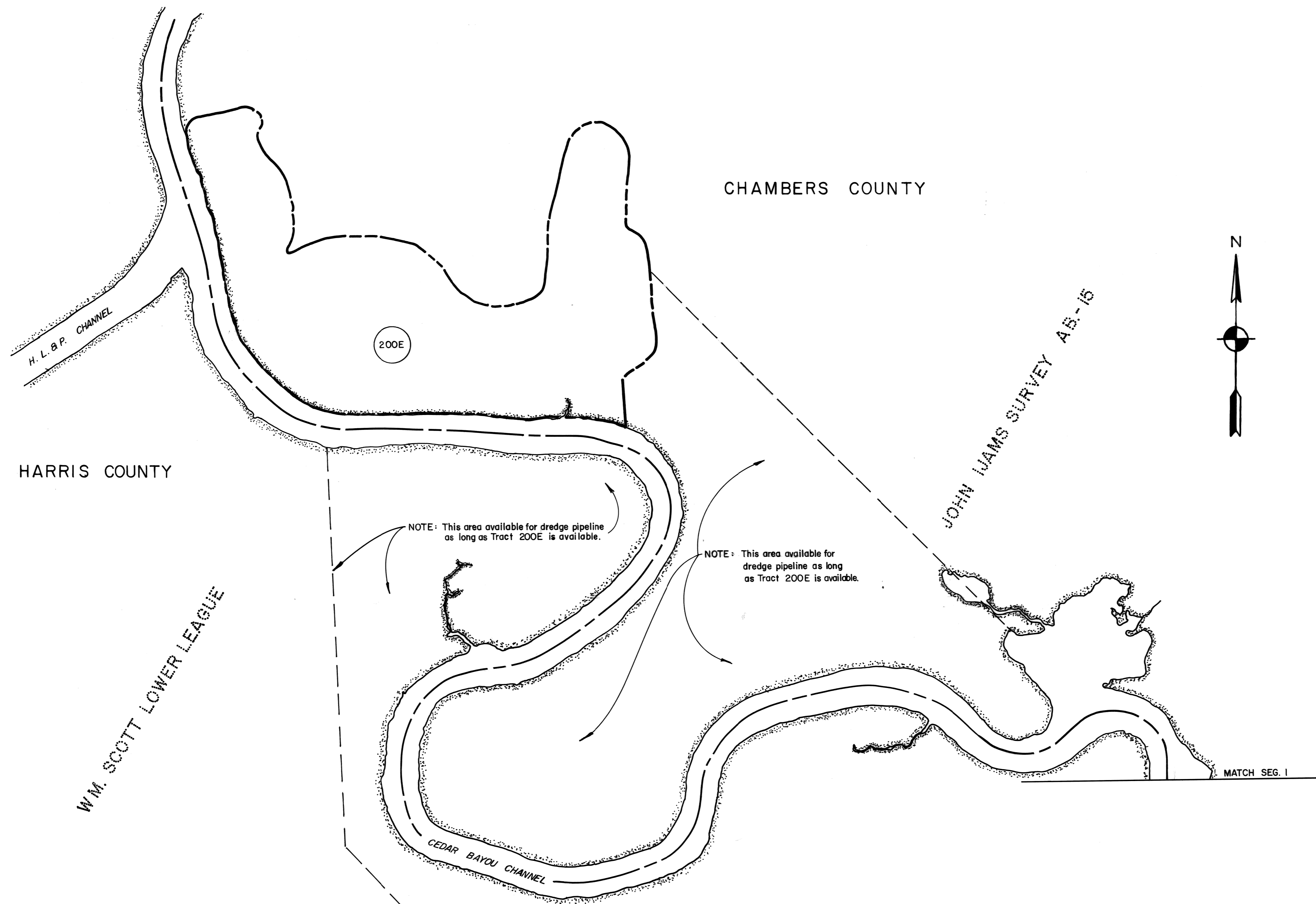
EXHIBIT "C"



STATE INDEX



VICINITY MAP
SCALE OF MILES



SEGMENT INDEX

PROJECT MAP (CONTINUATION SHEET)	
DEPT. OF THE ARMY	USING SERVICE CORPS OF ENGINEERS
STATE TEXAS	TRANSPORTATION FACILITIES
COUNTY CHAMBERS & HARRIS	RAILROADS
DIV. SOUTHWESTERN	STATE ROADS FM 2354
DIST. GALVESTON	FEDERAL ROADS
ARMY AREA 4th	AIRLINES
4 MILES SE OF BAYTOWN	
MILES OF	

SEGMENT 2

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, GALVESTON
CORPS OF ENGINEERS
SOUTHWESTERN DIVISION

REAL ESTATE

CEDAR BAYOU CHANNEL

RECOMMENDED BY: *Janice M. Roehl*
Sgt. Acquisition Realty Specialist

APPROVED BY: *Simon D. Cooper*
Sgt. Real Estate Division

DATE: 23 July 86

OFFICE, CHIEF OF ENGINEERS, WASHINGTON, D. C. 20315

AUDITED

INSTALLATION OR PROJECT NO. GALV-2-0010

400 Scale 0 400 800

SHEET 2 OF 2 DRAWING NO.

ACQUISITION AUTHORIZATION
River & Harbor Act of July 3, 1930
Public Law No. 520
Senate document No. 107, 71st
Congress 2nd Session.

DATE AUDIT APPROVED	DATE	REVISIONS	BY
8-11-86	6-27-86	FINAL AUDIT	C.M.G.

DRAWING NUMBER
PLAN HOLD CORPORATION • IRVINE, CALIFORNIA
REVISION BY NUMBER/DATE
REVISION NO. 1 OF 1

DRAWING NUMBER
CEDAR BAYOU
PLAN HOLD CORPORATION • IRVINE, CALIFORNIA
REVISION BY NUMBER/DATE
REVISION NO. 1 OF 1

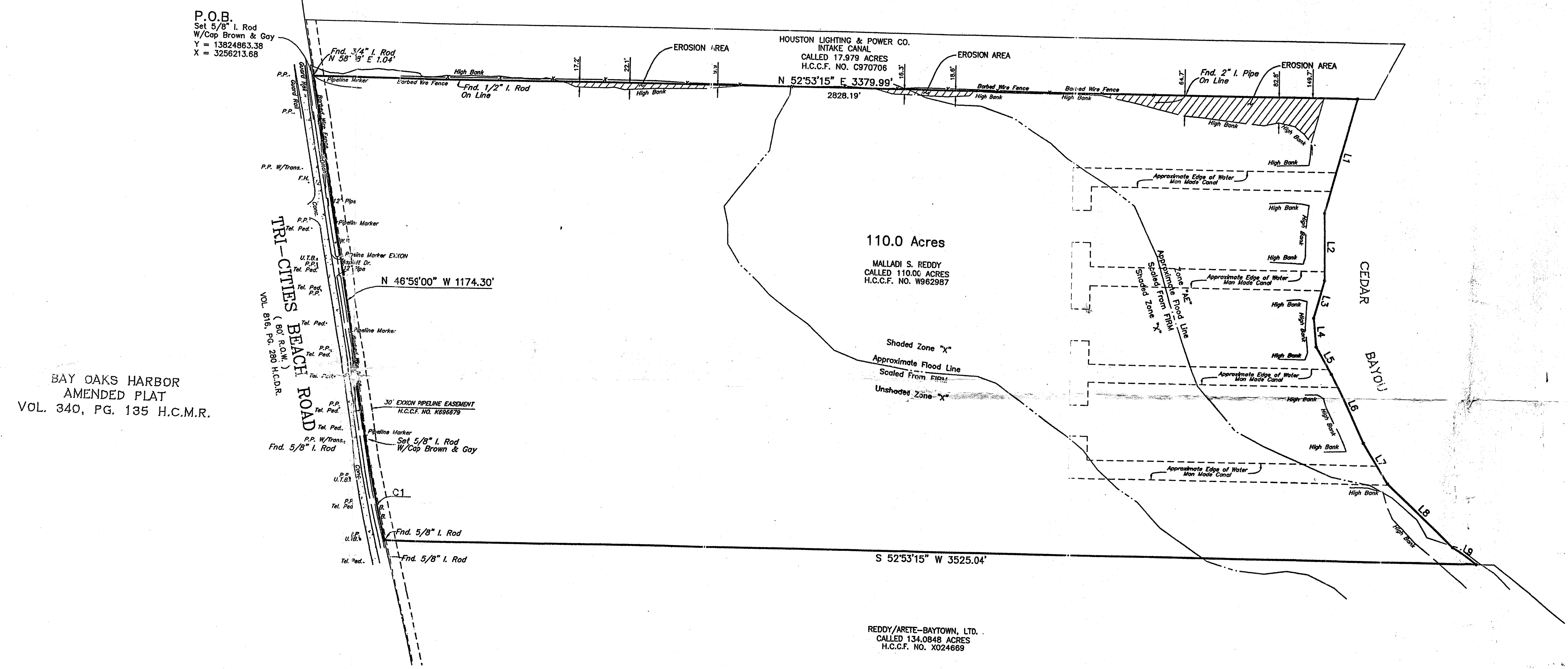
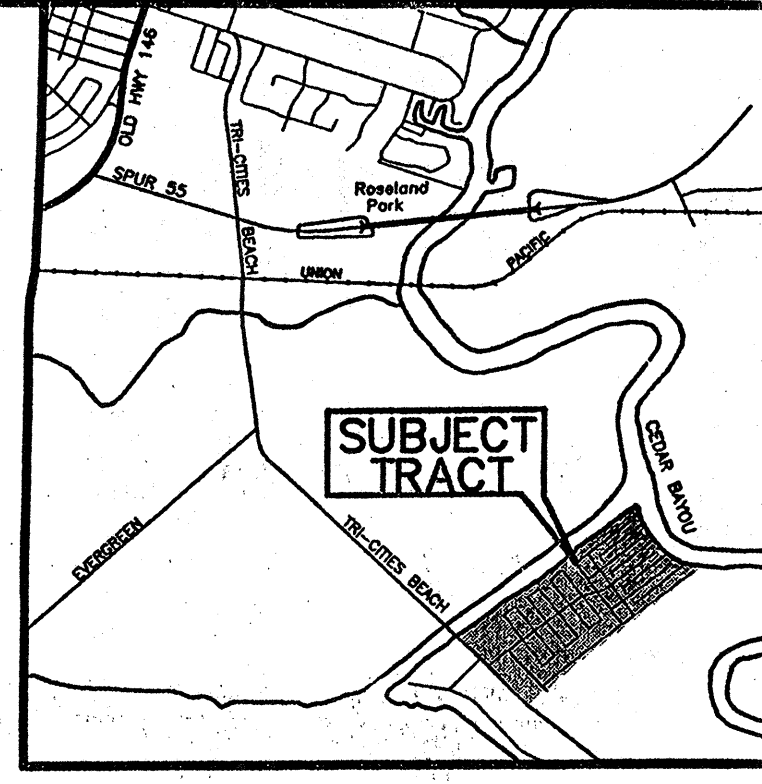
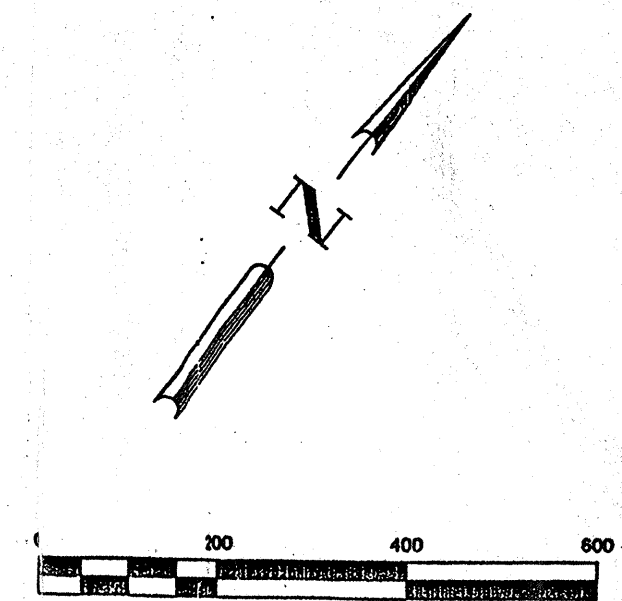
DRAWING NUMBER
PLAN HOLD CORPORATION • IRVINE, CALIFORNIA
REVISION BY NUMBER/DATE
REVISION NO. 1 OF 1

DRAWING NUMBER
PLAN HOLD CORPORATION • IRVINE, CALIFORNIA
REVISION BY NUMBER/DATE
REVISION NO. 1 OF 1

EXHIBIT "D"
Survey of Proposed PA-7

LEGEND

- A.E. Aerial Easement
- Conc. Concrete
- D.E. Drainage Easement
- Elec. Electric
- Eas't Easement
- F.C. Film Code
- F.H. Fire Hydrant
- Find. Found
- H.C.C.F. Harris County Clerk's File
- H.C.D.R. Harris County Deed Records
- H.C.M.R. Harris County Map Records
- I. Iron
- No. Number
- Ped. Pedestal
- Pg. Page
- P.P. Power Pole
- R.O.W. Right-of-Way
- San. Sanitary
- S.E. Sewer Easement
- Storm Storm
- T.C.B. Traffic Control Box
- Tel. Telephone
- T.L.S. Traffic Light Support
- T.P. Telephone Pole
- Trans. Transformer
- T.V. Television
- U.E. Utility Easement
- U.T.B. Underground Traffic Box
- Vol. Volume



DESCRIPTION OF A 110.00 ACRE TRACT OF LAND SITUATED IN THE WILLIAM SCOTT LOWER LEAGUE, ABSTRACT 65 CITY OF BAYTOWN, HARRIS COUNTY, TEXAS

BEING A 110.00 acre tract of land situated in the William Scott Lower League, Abstract Number 65, City of Baytown, Harris County, Texas, being all of a called 110.00 acre tract of land described in a deed recorded under Harris County Clerk's File Number W522987, being more particularly described by metes and bounds as follows with bearing orientation based on the Texas State Plane Coordinate System, South Central Zone, F.I.P.S. 4204, NAD83, 2001 adjustment:

Beginning at a 5/8-inch iron rod with cap stamped "BROWN & GAY" set in the southeast right-of-way line of Tri-Cities Beach Road and the southeast line of the Houston Lighting & Power Company 17,979 acre "Intake Canal" tract, at a fence corner, for the west corner of said 110.00 acre tract, from which a found 3/4-inch iron rod bears N 58°18' E, 1.04 feet. Said set iron rod having a State Plane Coordinate Value of Y=13,824,863.38 and X=3,256,213.68.

THENCE N 52°53'15" E, with the northwest line of said 110.00 acre tract and the southeast line of said 17,979 acre tract of land, at 2,828.19 feet pass a found 2-inch iron pipe in line, a total distance of 3,370.99 feet to a point in the southwest bank of Cedar Bayou, for the east corner of said 17,979 acre tract and the north corner of said 110.00 acre tract;

THENCE with the northeasterly line of said 110.00 acre tract and the southwesterly bank of Cedar Bayou the following courses and distances:

- S 21°46'48" E, 380.53 feet;
- S 37°51'15" E, 210.17 feet;
- S 21°44'08" E, 123.19 feet;
- S 42°31'20" E, 90.89 feet;
- S 67°33'40" E, 101.93 feet;
- S 62°20'06" E, 245.48 feet;
- S 69°06'21" E, 151.25 feet;
- S 83°59'34" E, 291.03 feet;
- S 83°59'34" E, 291.03 feet;

N 84°21'42" E, 98.98 feet to a point in the northwest line of a called 134.0848 acre tract described in a deed recorded under Harris County Clerk's File Number X024669, for the east corner of said 110.00 acre tract;

THENCE S 52°53'15" W, a distance of 3,525.04 feet, with the northwest line of said called 134.0848 acre tract and the southeast line of said 110.00 acre tract, to a found 5/8-inch iron rod in the southeast right-of-way line of Tri-Cities Beach Road, at the common corner of said called 134.0848 acre tract and said 110.00 acre tract for the west corner of this tract;

THENCE with the southeast right-of-way line of Tri-Cities Beach Road and northwest line of said 110.00 acre tract, a distance of 324.90 feet, with the arc of a curve to the right having a radius of 5640.07 feet, a central angle of 03°18'02" and a chord with bears N 48°37'01" W, 324.88 feet to a 5/8-inch iron rod with cap stamped "BROWN & GAY" set at the point of tangency;

THENCE N 48°59'00" W, a distance of 1,174.30 feet with the southeast right-of-way line of Tri-Cities Beach Road and northwest line 110.00 acre tract to the POINT OF BEGINNING and containing 110.00 acres of land.

BAY OAKS HARBOR
AMENDED PLAT
VOL. 340, PG. 135 H.C.M.R.

NUMBER	BEARING	DISTANCE
L1	S 21°46'48" E	380.53'
L2	S 37°51'15" E	210.17'
L3	S 21°44'08" E	123.19'
L4	S 42°31'20" E	90.89'
L5	S 67°33'40" E	101.93'
L6	S 62°20'06" E	245.48'
L7	S 69°06'21" E	151.25'
L8	S 83°59'34" E	291.03'
L9	N 84°21'42" E	98.98'

NUMBER	ARC LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD DISTANCE
C1	324.90	5640.07	03°18'02"	N 48°37'01" W	324.88

REDDY/ARETE-BAYTOWN, LTD.
CALLED 134.0848 ACRES
H.C.C.F. NO. X024669

- Notes:
- Bearing orientation is based on Texas State Plane Coordinate System South Central Zone, F.I.P.S. 4204, NAD83 2001 Adjustment.
 - The property lies in unshaded Zone "X" (areas determined to be outside the 500-year flood plain), shaded Zone "X" (areas of 500-year flood, areas of 100-year flood with average depths of less than 1 foot or with drainage areas less than 1 square mile, and areas protected by levees from 100-year flood) and in Zone "AE" with base flood elevation determined as delineated on the Flood Insurance Rate Map For Harris County, Texas and Incorporated Areas, Map Number's 48201C0955 J and 82201C0950 J, revised November 6, 1998.
 - This survey was made in reliance upon that certain Commitment for Title Insurance issued by First American Title Insurance Company under G.F. Number 1X04-355504-H101, dated effective March 03, 2004 issued March 5, 2004.
 - The property is subject to all easements, building lines, and conditions, covenants, and restrictions as set forth in plats recorded under Volume 330, Page 105 and Volume 340, Page 135 of the Harris County Map Records and in Harris County Clerk's File Number L888778.
 - Improvements are not shown on this survey at the instruction of the client.
 - The property is subject to an undefined Pipeline Easement to Humble Oil & Refining Company Recorded in Volume 2374, Page 12 Harris County Deed Records.

61,938 SQ. FT. OF LAND EFFECTED BY EROSION

I, Richard Fussell, a Registered Professional Land Surveyor of the State of Texas, do hereby certify that this map correctly represents a survey completed on the ground in accordance with the Texas Society of Professional Surveyors standards and specifications for a Category 1A, Condition II Survey.

Dated this the 4th day of March, 2004.

Richard Fussell, RPLS No. 4148
Sriv & Gay Engineers, Inc.
11490 Westheimer, Suite 700
Houston, Texas 77077
Telephone: (281) 558-8700

BROWN & GAY
ENGINEERS, INC. ©

CIVIL ENGINEERS & SURVEYORS
HOUSTON, TEXAS

BOUNDARY SURVEY OF
110.0 ACRES OF LAND SITUATED IN
THE WILLIAM SCOTT LOWER LEAGUE
ABSTRACT 65
BAYTOWN
HARRIS COUNTY, TEXAS

P.C.:	B.D.	Date:	MARCH, 2004	Sheet	1
TECH.:	R.K.	Scale:	1" = 200'		
R.P.L.S.:	R.F.	Job No.:	ARE25-T1		
Coordinate File:	R:\Projects\ARE25-T1\GALVS\BASS.DWG				



EXHIBIT "E"

DEPARTMENT OF THE ARMY
GALVESTON DISTRICT, CORPS OF ENGINEERS
P. O. BOX 1229
GALVESTON, TEXAS 77553-1229

June 18, 2013

Real Estate Division

Ms. Mary Beth Stengler
Chambers-Liberty Counties Navigation District
P.O. Box 581
Anahuac, TX 77514

Dear Ms. Stengler:

It is our understanding, that you may or have begun acquiring rights-of-way in connection with the Cedar Bayou Dredged Material Management Plan (DMMP) Project prior to execution of an amended Local Cooperation Agreement (LCA) with the Federal Government. We appreciate your support for this proposed project, but our regulations require us to inform you that **IF FOR ANY REASON, THE AMENDED LCA NEVER GETS SIGNED OR IF CONGRESS FAILS TO AUTHORIZE OR FUND THE PROJECT, ANY LAND YOU ACQUIRED OR ANY MONEY YOU SPEND IN YOUR EFFORTS TO ACQUIRE LAND WILL BE AT THE SOLE RISK OF CHAMBERS-LIBERTY COUNTIES NAVIGATION DISTRICT.** Furthermore, for any property that qualifies for Federal participation in the project, your acquisition efforts must be in compliance with all of the provisions of P.L. 91-646, the Federal Relocation Assistance Law.

Please ensure that records are kept regarding purchase price and real estate administrative expenses such as title evidence, surveys and appraisal fees. This will be necessary for you to receive credit in the event of Federal Authorization. Be advised that regulations dictate that credit will not be given for real estate administrative costs for properties acquired five years' prior to execution of an amended LCA.

If you have any questions, please contact Mr. Kenny Pablo of my staff at (409) 766-3816 or Kenneth.Pablo@usace.army.mil.

Sincerely,


Orlando Rosas
Chief, Real Estate Division

ASSESSMENT OF NON-FEDERAL SPONSOR'S
REAL ESTATE ACQUISITION CAPABILITY
Chambers-Liberty Counties Navigation District (CLCND)

I. Legal Authority:

- a. Does the sponsor have legal authority to acquire and hold title to real property for project purposes? (Yes/No)
- b. Does the sponsor have the power of eminent domain for this project? (Yes/No)
- c. Does the sponsor have "quick-take" authority for this project? (Yes/No)
- d. Are any of the lands/interests in land required for the project located outside the sponsor's political boundary? (Yes/No)
- e. Are any of the lands/interests in land required for the project owned by an entity whose property the sponsor cannot condemn? (Yes/No)

II. Human Resources Requirements:

- a. How many in-house staff will be available for real estate acquisitions? _____Qty
- b. Will the sponsor's in-house staff require training to become familiar with the real estate requirements of Federal projects including P.L. 91-646, as amended? (Yes/No)
- c. If the answer to "II.b." is "Yes", has a reasonable plan been developed to provide such training? (Yes/No)
- d. Does the sponsor's in-house staff have sufficient real estate acquisition experience to meet its responsibilities for the project? (Yes/No)
- e. Is the sponsor's projected in-house staffing level sufficient considering its other work load, if any, and the project schedule? (Yes/No)
- f. Can the sponsor obtain contractor support, if required in a timely fashion? (Yes/No)
- g. Does the sponsor plan on contracting acquisition support for this project? (Yes/No)
- h. Will the sponsor likely request USACE assistance in acquiring real estate? (Yes/No) (If "Yes", provide description)

III. Other Project Variables:

- a. Will the sponsor's staff be located within reasonable proximity to the project site? (Yes/No)
- b. Has the sponsor approved the project/real estate schedule/milestones? (Yes/No)

IV. Coordination:

- a. Has this assessment been coordinated with the sponsor? (Yes/No)
- b. Does the sponsor concur with this assessment? (Yes/No)

V. Overall Assessment (**To be filled out by USCOE SWG-RE Personnel**):

- a. Has the sponsor performed satisfactorily on other USACE projects? (Yes/No)
- b. With regard to this project, the sponsor is anticipated to be (Please Check One Below):
____Highly Capable/Fully Capable
____Moderately Capable/Marginally Capable
____Insufficiently Capable (If sponsor is believed to be "insufficiently capable", provide explanation)
- c. Does the sponsor anticipate any changes to the information provided above? (Yes/No) (If "Yes", provide description)

Prepared by: _____ Date: _____

Name: _____

Title: _____

Chambers-Liberty Counties Navigation District





Reviewed by: _____ Date: _____
Kenny Pablo, SWG Realty Specialist

Reviewed by: _____ Date: _____
Brian Murphy, Chief of Acquisition and Support Branch

Reviewed by: _____ Date: _____
Bob Behrens, Real Estate Attorney Office of Counsel

Reviewed by: _____ Date: _____
Orlando Rosas, Chief Real Estate Division



-  Mitigation Alternative Plan 1 (2.64 acres)
-  Remaining Intertidal Emergent Wetlands (2.88 acres)
-  Proposed Placement Area
-  Proposed Outfall Structure

CEDAR BAYOU INTAKE CHANNEL

CEDAR BAYOU

0 125 250 375 500 Feet