

*Part*

*476*

*c*

AMENDED AND RESTATED DECLARATION OF COVENANTS  
CONDITIONS AND RESTRICTIONS OF  
LAKE COVE SECTION 11

THE STATE OF TEXAS §  
COUNTY OF HARRIS §

KNOW ALL BY THESE PRESENTS:

This Amended and Restated Declaration made on the date hereinafter set forth by The Villas at Lake Cove, Ltd. ("Declarant" herein), a Texas limited partnership by and through its Operating General Partner, The Villas at Lake Cove CCB Operations, LLC ("General Partner") and having its principal office at 2411 Fountainview, Suite 215, Houston 77057, Harris County, Texas.

WITNESSETH:

WHEREAS, it is the desire of Declarant to place certain restrictions, covenants, conditions, stipulations and reservations upon and against the property known as LAKE COVE SECTION 11, a subdivision in the City of Seabrook, Harris County, Texas, according to the map or plat thereof recorded under Harris County Clerk's File Number X475446, Film Code No. 554123 of the Map Records of Harris County, Texas, (the "Property" as hereafter defined) in order to establish a uniform plan for the development, improvement and sale of the Property, and to insure the preservation of such uniform plan for the benefit of both the present and future Owners of Lots in the Property;

NOW, THEREFORE, Declarant hereby adopts, establishes and imposes upon LAKE COVE SECTION 11, and declares the following reservations, easements, restrictions, covenants and conditions applicable thereto, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property, and for the welfare and benefit of the Owners of Lots in the Property, which reservations, easements, covenants, restrictions and conditions shall run with the land and shall be binding upon all parties having or acquiring any right, title or interest therein, or any part thereof, and shall inure to the benefit of each Owner thereof for the welfare and protection of property values.

*kw*

SECTION 1  
DEFINITIONS

Wherever used in this Declaration, the following words and/or phrases shall have the following meanings, unless the context clearly requires otherwise.

1.01 "Architectural Control Committee" or "ACC" shall mean and refer to the Lake Cove Section 11 Architectural Control Committee provided for in Section 8.1 hereof.

1.02 "Area of Common Responsibility" shall mean the Common Area, together with those areas, if any, which by the terms of this Declaration or by contract or agreement with a Neighborhood or any other party, become the responsibility of the Association. The office of any property manager employed by or contracting with the Association, if located on the Property, and road rights-of-ways within or adjacent to the Property described on Exhibit "A" hereto, may be part of the Area of Common Responsibility.

RP 028-21-0954

1.03 "Articles of Incorporation" or "Articles" shall mean the Articles of Incorporation of the Lake Cove Community Association, Inc., and any amendments thereto, as filed with the Secretary of State of the State of Texas.

1.04 "Assessment" shall mean the General Assessments, Special Assessments, and/or any other amounts or sums due by any Owner to the Association pursuant to the provisions of this Declaration, or any combination thereof, levied by the Association for purposes of obtaining funds to pay Association Expenses as provided herein.

1.05 "Association" shall mean and refer to Lake Cove Community Association, Inc., a non-profit, non-stock, membership corporation incorporated under the laws of the State of Texas, its successors and assigns.

1.06 "Association Expenses" shall mean and include the actual and estimated expenses of operating the Association, both for general and Neighborhood purposes, including a capital contribution to establish a defined reserve fund, all as may be found to be necessary and appropriate by the Board of Directors of the Association and Neighborhood Representative of Section 11 pursuant to this Declaration and the Association's By-Laws and Articles of Incorporation.

1.07 "Board of Directors" or "Board" shall mean the governing body of the Association.

1.08 "Boat Ramp" shall refer to the area for a concrete boat ramp as recorded on the Plat of Lake Cove Section 6, which is leased or deeded to the Association.

1.09 "By-Laws" shall mean the By-Laws of the Association incorporated herein by reference, and as they may be amended from time to time provided therein.

1.10 "Canal" shall mean the common area under water, as recorded on the Plats and deeded to the Association.

1.11 "Canal Lot" shall mean any Lot fronting a Canal, bulkheaded or unbulkheaded.

1.12 "Class B Control Period" shall mean the period of time during which the Class "B" Member is entitled to appoint the members of the Board of Directors, as provided in the By-Laws.

1.13 "Coastal Easement Permit": See Exhibit "B" attached hereto.

1.14 "Common Area" shall mean and refer to the Canals and all those areas of land within the Lake Cove Subdivision (Sections 1 through 10 inclusive), except the Lots and the public streets shown thereon, together with such other property as the Association may, at any time or from time to time, acquire by purchase or otherwise, subject, however, to the easements, limitations, restrictions, dedications and reservations applicable thereto by virtue hereof and/or by virtue of the respective Lake Cove Subdivision Plats, and/or by virtue of prior grants or dedications by the Declarant or Declarant's predecessors in title. References herein to "the Common Area" shall mean and refer to Common Area as defined in the Declaration and all

Supplemental Declarations of Lake Cove Sections 1 through 10 inclusive, and/or as shown on the respective plats of those sections.

1.15 "Common Area of Section 11 Subdivision" shall mean and refer to all those areas of land within the Properties as shown on the Section 11 Subdivision Plat, except the Lots shown thereon, together with such other property as the Association may, at any time or from time to time, acquire by purchase or otherwise; subject, however, to the easements, limitations, restrictions, dedications and reservations applicable thereto by virtue hereof and/or by virtue of the Section 11 Subdivision Plat, and/or by virtue of prior grants or dedications by Declarant or Declarant's predecessors in title. References herein to "the Common Area of Section 11" shall mean and refer to Common Area of Section 11 Subdivision as defined respectively in the Declaration and all Supplemental Declarations and/or as shown on the Section 11 Subdivision Plat.

1.15 "Common Expenses" shall mean and include the actual and estimated expenses of operating the Association, including any reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the By-Laws and the Articles of Incorporation.

1.16 "Common Facilities" shall mean and refer to all existing and subsequently provided improvements upon or within the Common Area, except those as may be expressly excluded herein. Also, in some instances, Common Facilities may consist of improvements for the use and benefit of the Owners of the Lots in the Property, as well as other Owners in the subdivision, constructed on portions of one or more Lots or on acreage owned by Declarant (or Declarant and others, or the Association) which has not been brought within the scheme of this Declaration. By way of illustration, Common Facilities may include, but not necessarily be limited to, the following: structures for recreation, tennis courts, swimming pool, volleyball courts, gazebos, storage or protection of equipment, fountains, statuary, sidewalks, gates, common driveways, landscaping, boat ramp, parking area, any other similar appurtenant improvements. References herein to "the Common Facilities (any Common Facility)" shall mean and refer to Common Facilities as defined respectively in the Declaration and all Supplemental Declarations.

1.17 "Corner Lot" shall refer to a lot which abuts on more than one street.

1.18 "Corps of Engineers Permit" shall mean and refer to Exhibit "C" attached hereto. Further, any reference herein to "Permit" shall serve to indicate the Corps of Engineers Permit attached hereto as Exhibit "C", and incorporated herein.

1.19 "Declarant" shall mean and refer to The Villas at Lake Cove, Ltd., a Texas Limited Partnership through its Operating General Partner The Villas at Lake Cove CCB Operations, LLC ("General Partner") and its successors-in-title and assigns. In the instrument of conveyance to any such successor-in-title or assignee or by a separate written instrument placed on record in the real property records of Harris County, Texas, such successor-in-title or assign shall be designated as the "Declarant" hereunder at the time of such conveyance; provided, upon such designation of such successor Declarant, all rights of the former Declarant in and to such status as "Declarant" hereunder shall cease, it being understood that as to all of the property described in Exhibit "A" attached hereto which is now or hereafter subjected to this

Declaration, there shall be only one person or legal entity entitled to exercise the rights and power of the "Declarant" hereunder at any one point in time.

1.20 "Declaration" shall mean this Amended and Restated Declaration of Covenants, Conditions and Restrictions for Lake Cove Section 11, any Supplemental Declaration and such documents as may be hereafter amended.

1.21 "Design Plan" shall refer to the obstruction plan submitted to the Committee for approval.

1.22 "Easement" shall mean a right granted for the purpose of limited public or semi-public use across, over or under private land.

1.23 "Exempt Property" shall have the meaning set forth in Section 11.09.

1.24 "Fence" shall be defined as a structure built for the purpose of separating or enclosing Lots or parcels of land for reason of security, privacy, ornamentation, or other reason. A "fence" connotes a structure which may serve as a visual screen or as a barrier.

1.25 "Hedgerow" shall be defined as an unbroken row of shrubs or trees which are planted and maintained to serve a function similar to that of a fence or wall.

1.26 "Improvements" shall mean all structures or other improvements to any portion of the properties of any kind whatsoever, whether above or below grade, including, but not limited to, structures, buildings, utility installations, storage, loading and parking facilities, walkways, driveways, landscaping, signs, site lighting, site grading, and earth movement, and any exterior additions, changes or alterations thereto.

1.27 "Landscape Easements or Reserves" shall mean and refer collectively to Landscape Easements and/or Reserves to include Project Identity Easements.

1.28 "Lot" and/or "Lots" shall mean and refer to any Lot or Lots shown on the Section 11 Subdivision Plat, as hereafter defined, or as may be defined by replat, all of which are restricted hereby to use for single family residential purposes.

1.29 "Member" shall refer to every Person or entity owning a Lot in the Section 11 Subdivision excluding persons or entities having an interest merely as security for the performance of an obligation.

1.30 "Mitigation Reserves" shall mean those areas as outlined and defined in the Lake Cove 404 Permit attached hereto and incorporated by reference herein, and as shown on the recorded Plat.

1.31 "Mortgage" shall mean and refer to a deed of trust, a mortgage or other similar security instrument granting, creating, or conveying a lien or security interest in a Lot

1.32 "Mortgagee" shall mean a beneficiary or holder of a Mortgage.

1.33 "Neighborhood Representative of Section 11" shall mean the person representing the Section 11 Subdivision as defined hereinafter in Section 10.02.

1.34 "Owner" shall mean and refer to the record Owner, whether one or more Persons, of the fee simple title to any Lot which is part of the Properties, including contract sellers, but excluding those having an interest merely as security for the performance of an obligation or those owning an easement right, a mineral interest, or a royalty interest.

1.35 "Party Wall" shall mean the bulkhead at the location of each boundary line between each Lot and/or Reserve comprising the Canal Frontage Property.

1.36 "Person" shall mean any natural person, corporation, joint venture, partnership, association, trust or other legal entity.

1.37 "Permit" shall mean the Department of the Army Permit No.19664, dated June 7, 1993, issued by the U.S. Army Corps of Engineers to Lake Cove Subdivision, a copy of which is attached hereto as Exhibit "C", incorporated herein by reference, and made a part hereof for all purposes.

1.38 "Property" or "Properties" shall mean and refer to the real property contained within the Lake Cove Section 11 Subdivision as more fully described on the Plat thereof recorded under Harris County Clerk's File Number X475446, Film Code No. 554123 of the Map Records of Harris County, Texas, and (i) such addition thereto of all or any portion of the real property described in Exhibit "A" attached hereto and as may be brought within the jurisdiction of the Association by Declarant and made subject to this Declaration by Supplemental Declaration, and (ii) such additions of other real property as may be brought within the jurisdiction of the Association in accordance with this Declaration.

1.39 "Restricted Reserve" shall mean those mitigation areas, if any, shown on the recorded plat of Section 11, future sections to plat, and/or all areas provided for within the Permit.

1.40 "Residence" shall be defined as a detached dwelling for occupation by a single family, as well as by any domestic employee(s) whom the family may retain.

1.41 "Screen" shall mean any approved shrub, hedgerow, fence or other device or improvement which blocks an area from view from another area and is distinctly differentiated from enclosure.

1.42 "Street" shall refer to any street, drive, boulevard, road, alley, lane, avenue, or thoroughfare as shown on a Section 11 Subdivision Plat.

1.43 "Section 11 Subdivision" shall mean and refer to the subdivision of land in Lake Cove Section 11 created by the filing of a map, plat or any replat thereof in the Office of the County Clerk of Harris County, Texas, in the Map Records of said County.

1.44 "Section 11 Neighborhood Facilities" shall mean all facilities or services built, installed, maintained, operated or provided by the The Villas at Lake Cove, Ltd. ("Developer")

in the Section 11 Subdivision for the general benefit of the Owners in the Section 11 Subdivision, including without limitation:

- 1.44.1 all private streets within the Section 11 Subdivision;
- 1.44.2 all streetlights within the Section 11 Subdivision;
- 1.44.3 all Section 11 Subdivision perimeter fencing and any entry identification monuments;
- 1.44.4 All Section 11 Subdivision landscaping inside the gates and Subdivision landscaping located outside the gates associated with the entry of the Subdivision;
- 1.44.5 any controlled access gates, and any other access limiting structure or device in the Section 11 Subdivision;
- 1.44.6 landscape reserves including the Restricted Reserves, and the mitigation reserve immediately north of lots 1 and 2 in Block 1 and including the boat dock systems associated with the landscape reserves and walkways associated therewith in the Section 11 Subdivision; and
- 1.44.7 other Neighborhood Facilities or services in the Section 11 Subdivision as from time to time so designated by majority vote of the Owners.

1.45 "Section 11 Subdivision Plat" shall mean and refer to the recorded map or plat of the Lake Cove Section 11, a subdivision, recorded under Harris County Clerk's File Number X475446, Film Code No. 554123 of the Map Records of Harris County, Texas, and/or any subsequent replat thereof.

1.46 "Supplemental Declaration" shall mean an amendment or supplement to this Declaration executed by or consented to by Declarant which subjects additional property to this Declaration and/or imposes, expressly or by reference, additional or changed restrictions and obligations on the land described therein, or designates General Land Use Restrictions. The term shall also refer to the instrument recorded by the Association pursuant to Section 12 of this Declaration to subject additional property to this Declaration.

1.47 "Waterfront Lot" shall refer to any Lot which abuts, adjoins, or is adjacent to any portion of the waterway of Wildwood Bayou.

1.48 "Waterfront or Back Property Line" shall mean the line as recorded on the final Plat of Lake Cove Section 11 nearest to the waterway.

1.49 "Waterway" shall mean any water area which is included in the waters of canals or access to any water area.

## SECTION 2. RESERVATIONS, EXCEPTIONS AND DEDICATIONS

2.01 Recorded Subdivision Maps of the Properties. The Section 11 Subdivision Plat dedicates for use as such, subject to the limitations set forth therein, the streets and easements shown thereon, and such Section 11 Subdivision Plat further establishes certain restrictions applicable to the Properties, including, without limitation, certain minimum setback lines. All

dedications, limitations, restrictions and reservations shown on the Section 11 Subdivision Plat are incorporated herein and made a part hereof, as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed or conveyance, executed or to be executed by or on behalf of Declarant, conveying the Property or any part thereof, whether specifically referred to in such contract, deed or conveyance.

2.02 Easements - General. Easements for the installation and maintenance of utilities are reserved as shown and provided for on the Section 11 Subdivision Plats and/or as dedicated by separate instruments. Neither Declarant nor any utility company or authorized political subdivision using the easements referred to herein shall be liable for any damages done by them or their assigns, agents, employees or servants, to fences, shrubbery, trees, flowers, improvements or other property of the Owner situated on the land covered by such easements as a result of construction, maintenance or repair work conducted by such parties or their assigns, agents, employees or servants.

2.03 Changes and Additions. Declarant reserves the right to make changes in and additions to the above easements for the purpose of most efficiently and economically installing the improvements. Further, Declarant reserves the right, without the necessity of the joinder of any Owner or other person or entity, to grant, dedicate, reserve or otherwise create, at any time or from time to time, easements for public utility purposes, (including, without limitation, gas, electricity, telephone and drainage) in favor of any person or entity furnishing or to furnish utility services to the Properties, along and on either or both sides of any side lot line, which such easements shall have maximum width of five feet (5') on each side of such side lot line.

2.04 Cable T.V. Declarant reserves the right to hereafter enter into a franchise or similar type agreement with one or more Cable Television Companies on behalf of the Association for Section 11 Subdivision, and Declarant shall have the right and power in such agreement or agreements to grant such Cable Television Company or companies the uninterrupted right to install and maintain communications cable and related ancillary equipment and appurtenances within the utility easements or rights-of-way reserved and dedicated herein and in the plat referenced above, and Declarant does hereby reserve unto the Association, its successors and assigns the sole and exclusive right to obtain and retain all income, revenue and other things of value paid to or to be paid by such Cable Television Companies pursuant to any such agreements between Declarant and such Cable Television Companies.

2.05 Installation and Maintenance. There is hereby created a blanket easement upon, across, over and under all of the property within the Section 11 Subdivision for ingress and egress in connection with installing, but not limited to, water, storm and sanitary sewer, telephones, electricity, cable television, security, gas and appurtenances thereto. Also, there is hereby created a blanket easement upon, across, over and under all of the Property within the Section 11 Subdivision for ingress and egress for the purpose of maintaining building exteriors and landscapes, shrubs and grass. By virtue of this easement, it shall be expressly permissible for the utility companies and other entities supplying service to install, affix, and maintain pipes, wires, conduits, service lines, or other utility facilities or appurtenances thereto, on, above, across, and under the Lots with the utility easements from time to time existing and from service lines situated with such easements to the point of service to any structure. Notwithstanding the provisions in this paragraph, no sewer, electrical lines, water lines, or other utilities or appurtenances thereto may be installed or relocated on the Lots until approved by Declarant or his successors or assigns; provided that no approval of any Owner other than Declarant shall be

SECTION 11 SUBDIVISION

required. The utility companies furnishing service shall have the right to remove all trees situated within the utility easements shown on the Section 11 Subdivision Plat or herein granted, and to trim overhanging trees and shrubs located on portions of the lot abutting such easements.

2.06 Emergency and Service Vehicles. An easement is hereby granted to all police, fire protection, ambulance and other emergency vehicles, and to garbage and trash collection vehicles and other service vehicles to enter upon the Lots in the performance of their duties. Further, an easement is hereby granted to the Association, its officers, agents, employees, and management personnel to enter Lots to render any service.

2.07 Title Subject to Easements. It is expressly agreed and understood that the title to any parcel of land within the Properties conveyed by Declarant by contract, deed or other conveyance shall be subject to an easement for roadways or drainage, water, gas, sewer, storm sewer, electric light, electric power, telegraph or telephone purposes and no deed or other conveyance of the Lot shall convey any interest in any pipes, lines, poles or conduits, or in any utility facility or appurtenances thereto constructed by or under Declarant or any easement owner, or their agents, through, along or upon the premises affected thereby, or any part thereof, to serve said Properties or other lands appurtenant thereto. The right to maintain, repair, sell or lease such appurtenances to any municipality or other governmental agency or to any public service corporation or to any other party, is hereby expressly reserved to Declarant.

2.08 Coastal Easement. The Association is the holder of Coastal Easement CE No. 930158 granted by the State of Texas (General Land Office and School Land Board) dated October 19, 1993, attached hereto as Exhibit "B" and incorporated by reference herein. No Owner or resident shall violate or permit the violation of this easement in any way so long as the same is in full force and effect.

2.09 Department of the Army Permit. The Canal and Waterfront Lots are also subject to that certain Department of the Army Permit (the "Permit") dated June 7, 1993, Application No. 19664, and Amendments thereto, attached hereto as Exhibit "C" and incorporated by reference herein. No Owner or resident shall violate or permit the violation of the Permit in any way so long as the same is in full force and effect.

2.10 Governmental Authorities. The subdivision is also subject to all City of Seabrook zoning, regulations, ordinances, and authorities along with any and all other state and/or federal applicable laws.

SECTION 3.  
CANALS

3.01 Construction of Canals. Declarant shall cause the Canals to be constructed in compliance with all applicable governmental rules and regulations including, but not limited to, the terms and provisions of the Permit. Upon completion of construction, the Association shall thereafter be responsible for the maintenance of the Canals in accordance with the terms and provisions hereof. Declarant shall transfer, assign and convey to the Association, by plat dedication, that portion of the Reserve shown on the recorded plat designated as "Channel", and referenced within the Permit for the benefit of Common Area use, access, and maintenance for the Lake Cove Membership. The Mitigation Reserves have been reserved and retained for the benefit of Declarant, the Association, and all Owners, pursuant to Section 4 below.

RECORDED



3.02 Maintenance of Canals. The Association shall maintain the Canals in a neat, orderly and attractive appearance, and shall maintain the water quality within the Canals sufficient to meet all applicable federal, state and local water quality criteria, including, without limitation, the Permit. The Association shall cause all man-made and natural debris to be removed from the Canals and water circulation structures connecting the Canals, in accordance with the Permit. The Association shall be responsible for the dredging of the Canals, and such dredging shall be a Common Expense since the Canals are Common Area. At such time as the Canals are transferred to the Association by Declarant, the Association shall thereafter assume and be responsible for the water quality monitoring required by the Permit.

3.03 Canal Area Use Restrictions. The Canal Area shall be used solely and exclusively for the construction, operation and maintenance of navigable waterways to provide ingress and egress to and from Wildwood Bayou and Clear Lake for all properties comprising Lake Cove Subdivision, as shown on the Plat; provided, however, nothing contained herein shall in any manner alter, affect or diminish the rights of the Owners of portions of the Property adjacent to the Canals to construct, operate and maintain within the Canals bulkheads, wharves, piers, and boat docks, subject to the terms and conditions of the Permit including, but not limited to, maintenance of a minimum channel width as platted and/or from bulkhead to bulkhead, whichever is greater in width, as required by the Permit, the recorded plat, and all other applicable laws, rules and regulations from any and all governmental agencies. Owners may also exercise and enjoy any and all other rights and privileges appurtenant to their property as riparian or literal owners.

3.04 Construction of a Bulkhead. In conjunction with any application for architectural review, each Owner is required to submit with the application a copy of any permit required by the Corps of Engineers, General Land Office, or any other applicable governmental agent. All bulkheads shall be constructed and remain uniform in nature. Wood shall be used exclusively and uniformly unless and until 65% of Lot Owners agree to convert to an alternate material, as may be approved by the Architectural Control Committee. Thereafter, all Lot Owners will be required to convert at such time as replacement is needed.

3.05 Maintenance of a Bulkhead. Each Owner of a Canal Lot shall be responsible for the continuous maintenance, repair and/or replacement of the Bulkhead in accordance with the requirements of the Corps of Engineers, State of Texas Land Office, any other governmental agency, or the ACC. The responsibility and maintenance of each Bulkhead shall be that of each Owner and/or to the extent shared, as it may relate to any respective Party Wall as herein defined. Each Owner shall at all times keep and maintain his Canal Frontage Property adequately backfilled and vegetated so as to prevent erosion of the land behind the Bulkhead and prevent undermining of the Bulkhead by ground water, seepage, wave action or otherwise; further, no construction within the rear Lot building line setback shall be permitted which will materially increase the loads carried by the Bulkhead, nor shall any building or other structure be permitted on any Canal Frontage Property, which will materially increase the loads carried by the Bulkhead or otherwise adversely affect the structural integrity of the Bulkhead.

#### SECTION 4 WETLAND MITIGATION RESERVES

4.01 Mitigation Reserves. Declarant hereby grants and retains for the benefit of Declarant and of the Association and its respective mortgagees, contractors, independent

2025-1-28-2025

contractors' agents, and assigns, permanent and perpetual easements and all rights of access on, over, and across the following described portions of the Property for the purposes hereinbelow stated, to-wit:

(a) Replanting wetland vegetation, if necessary;

(b) Entering upon the Mitigation Reserves at any time and from time to time for the purposes of performing the maintenance and other obligations of the Declarant and the Association under this Declaration and in accordance with the Permit, including, but not limited to, the right to clear and dispose of all man-made and natural debris from the Canals and/or Mitigation Reserve, and Common Areas; and

(c) All Reserves indicated per the Section 11 Subdivision Plat, or as defined within the Permit, for the purposes of exercising the rights, duties and obligations of the Declarant and the Association under this Declaration.

4.02 Mitigation Areas. In conjunction with the construction of the Canals and Bulkheads, Declarant shall create the mitigation areas on the Canal Frontage Property within those strips of land shown on the recorded plat or as defined within the Permit.

AFTER THE INITIAL CREATION BY DECLARANT, THE ASSOCIATION SHALL MAINTAIN THE MITIGATION AREAS WITHIN THE CANAL PROPERTY AS COMMON AREA PROPERTY OF THE ASSOCIATION, IN THE MANNER REQUIRED BY THE PERMIT, INCLUDING REPLANTING IF NECESSARY.

4.03 Use of and Limitations on Reserves. The Owner of a portion of the Property upon which an easement is located pursuant to Section 4.1 hereof shall be entitled to use and enjoy said Reserve in common with the Declarant and the Association and their respective representatives as long as such use does not interfere with the use thereof by the Declarant, the Association, or the Permit issued by the Corps of Engineers.

4.04 Management. The Mitigation Reserves shall be administered, operated and managed by the Association in accordance with the terms and provisions of this Declaration and the Permit. The Board of Directors shall develop a plan to govern the management of the Mitigation Reserves in compliance with the environmental requirements of the Permit.

4.05 Use Restrictions.

A. The Mitigation Reserves shall be used solely and exclusively for passive, restricted-access open space, and for no other purpose. Without limiting the generality of the foregoing, no portion of the Mitigation Reserves shall be used for any purpose or activity other than:

(1) bird watching; and

(2) limited maintenance activity by the Association in accordance with the dictates of the Corps of Engineers, State of Texas General Land Office, and any other applicable governmental agency.

B. The existing natural vegetation shall be preserved, and no cutting of live trees or vegetation of any type shall be permitted; provided, however, the Association shall be permitted to conduct related maintenance activities which the Association, in its

reasonable judgment, deems necessary or advisable to maintain or enhance the existing natural vegetation in accordance with any and all federal, state or other governmental requirements.

C. No clearing, paving or construction of improvements of any type or character shall be permitted within the Mitigation Reserves except as follows: The Association shall have the right to construct and maintain fences, signs, gates, barriers or other control devices which the Association, in its reasonable judgment, deems necessary to restrict access to the Mitigation Reserves subject to the provisions of the Permit. All such improvements must comply with the plan approved by the U.S. Army Corps of Engineers pursuant to the Permit.

D. No hunting, discharge or display of fireworks, or any other activity which is detrimental to or inconsistent with the natural habitat of the Mitigation Reserves, shall be permitted within the Mitigation Reserves.

E. No dumping of debris, dirt, grass clippings, or any other composite of debris of any type is permitted within the Mitigation Reserves or Canal.

4.06 Limited Access. The Association shall operate and administer the Mitigation Reserves in a manner that will preserve the existing natural environment and habitat. Access shall be limited to pedestrian traffic only, and no motorized vehicles of any type shall be permitted within the Mitigation Reserves, except for limited maintenance operations permitted by this Declaration.

4.07 Dissolved Oxygen Pump System. This system is the responsibility of the Association, and maintenance thereof shall be performed in accordance with the U.S. Corps of Engineers, Permit No. 19664 (attached hereto as Exhibit "C").

## SECTION 5. USE RESTRICTIONS

5.01 Land Use and Building Type. Only one detached single family residence, of traditional design may be constructed on each Lot. The main residential structure may not exceed two and one-half (2 1/2) stories in height without the approval of the ACC. The ACC may approve up to 3 stories. The main residential structure must be constructed with an attached garage (or detached if approved by the ACC) capable of housing a minimum of two (2) cars and a maximum of four (4) cars. Such construction on any Lot shall be subject to and performed in accordance with the City of Seabrook Building Codes in existence at the time construction of such building commences. All residences must be kept in good repair and must be painted when necessary to preserve their attractiveness and for the protection of property values. For those Lots which are located on a Canal, no accessory or storage building shall be permitted on any such Lot. All mailboxes must be approved by the ACC prior to installation.

Any portion of a garage that is reasonably visible from any street shall be of brick or masonry, unless otherwise approved by the ACC. In addition to the main residence house, accessory buildings for the use and exclusive benefit of the property may be built on the Lots with approval of the ACC, (excluding Canal Lots), but not more than one (1) accessory building in addition to a "detached garage" may be built or placed on any non waterfront Lot and no

SECTION 5  
USE RESTRICTIONS

accessory building of any type shall be used or occupied as living quarters. Fabricated metal carports are not permitted. Subject to approval of the Architectural Control Committee, a porte-cochere may be built; however, such improvements must be masonry, compatible and in harmony with the masonry materials used on the primary dwelling, and be attached to the attached or detached garage.

5.02 Residential Use. Each and every Lot is hereby restricted to Single Family Residential Use only. No part of the Lot shall ever be used, caused, allowed or authorized to be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending, or other non-residential purpose (including, but not limited to), garage or yard sales; provided, however, that one garage or yard sale - not exceeding two (2) days in length - per Lot per year shall be permissible and subject to ordinances of the City of Seabrook. Notwithstanding the foregoing, an Owner may have a home office in their home, provided such home office does not allow for customers, vendors, suppliers, or patients to come to their home and create traffic, parking, or noise nuisances. No structure other than one single family residence and its ACC approved accessory building shall be constructed, placed on or permitted to remain on any Lot in the Section 11 Subdivision. As used herein, the term "Residential Use" shall be construed to prohibit the use of any Lot for duplex houses, garage apartments for rental purposes, or apartment houses.

5.03 Accessory Buildings. Provided the express written consent of the Architectural Control Committee is secured prior to construction, installation and/or placement on any Lot of one (1) lawn storage building provided the roof line of such structure is like in style to the primary dwelling with a maximum height of eight feet (8'0"); and/or one (1) childrens' play structure, limited to a maximum height of nine feet (9'0") from ground to highest point of such play structure, may be placed on a Lot. Otherwise no building of any kind shall ever be moved from another location onto any Lot. It is intended hereby that, unless otherwise specifically approved pursuant to Section 8.6 hereof, only new construction shall be placed and erected on any Lot within the Property. No accessory building of any type shall be used or occupied as living quarters. However, quarters over a garage or a building designed specifically for domestic employees and/or guests may be occupied as living quarters. At no time shall a portion of the main residence or separate living quarters be rented. No metal carports of any kind shall be built, placed, or constructed on any Lot. The accessory buildings and/or play structures must be placed on the Lot to the rear of the main residential dwelling so as not to be visible from the fronting street. No accessory buildings of any type may be placed on any Canal Lot. This requirement is designed to protect the visual integrity of the Canal Lots from the waterway.

5.04 Bulkhead.

A. As part of the construction of the Canals, Declarant shall cause a Bulkhead to be constructed on the Canal Frontage Property, in accordance with the Permit. Such Bulkhead shall be an appurtenance to each Lot and Reserve on which it is located and shall run with the title to such Lot and/or Reserve.

B. Each Owner of Canal Frontage Property shall maintain the Bulkhead on such Owners' property in accordance with the original design and construction, both as to structural integrity and appearance, sufficient to:

- (1) Prevent erosion of the Owner's property; and

(2) Provide support for the adjoining Bulkhead located on the adjacent property in accordance with the provisions of Section 5.05 below.

5.05 Party Wall Agreement. Declarant, for itself, its successors and assigns, and all succeeding Owners of Canal Frontage Property, hereby declares, covenants and agrees that, after construction of the Bulkhead in accordance with the Permit, such Bulkhead at the location of each boundary line between each Lot and/or Reserve comprising the Canal Frontage Property shall constitute a Party Wall which shall be owned, used and maintained by each Canal Frontage Property Owner subject to the following:

A. As to each Party Wall located on a boundary line of his property, each Canal Frontage Property Owner shall hold, enjoy and be entitled to, and shall be subject to all of the rights, duties and obligations of the owner of a party wall easement at law;

B. Each Canal Frontage Property Owner shall have, own and hold an easement and right of support, together with the right and privilege of joining to and using, each Party Wall located on a boundary line of his property;

C. If any portion of the Bulkhead is damaged or destroyed by the act, default or negligence of the Owner of Canal Frontage Property, such Owner shall promptly rebuild and repair the Bulkhead on his property and shall compensate the adjoining property Owners for any damages to their respective property;

D. If a Party Wall shall be damaged or destroyed by a cause other than the act, default or negligence of any Owner, such Party Wall shall be repaired and rebuilt at the joint expense of each Owner entitled to the use thereof on the basis of 50% each of the net costs of restoration after the application of any sum or sums received by either Owner from insurance covering such casualty risk. Each Owner hereby grants to each adjoining Owner a lien on and against his Canal Frontage Property to secure the payment of his allocated share of such repair and restoration costs, and each Owner hereby grants to each adjoining Owner a perpetual easement for the purposes of going on to such Owner's Canal Frontage Property to repair and restore the Party Wall in the event of damage (the provisions of this Section 5.05D being applicable only to Owners and Lots and Reserves entitled to the use of the damaged Party Wall);

E. Each Owner shall at all times keep and maintain his Canal Frontage Property adequately backfilled and vegetated so as to prevent erosion of the land behind the Bulkhead and prevent undermining of the Bulkhead by ground water, seepage, wave action or otherwise; and further, no changes shall be made in the grade of any Canal Frontage Property nor shall any building or other structure be permitted on any Canal Frontage Property which will materially increase the loads carried by the Bulkhead or otherwise materially adversely affect the structural integrity of the Bulkhead; and

F. The covenants and conditions of this Section 5.05 shall run with the title to each Lot and Reserve comprising the Canal Frontage Property and shall be binding upon and inure to the benefit of each Canal Frontage Property Owner and their respective successors, administrators, executors and assigns; provided, however, that no present or future Owner of Canal Frontage Property shall be liable under the terms hereof except for their acts or defaults as the Owner of Canal Frontage Property.

RECORDED  
—  
INDEXED  
—  
FILED

5.06 Remedial Action by the Association. Should any Owner fail to maintain the Bulkhead as required by Section 5.04 above, or damage the Mitigation Areas, then in such event, after fifteen day's written notice to such Owner requesting remedy of such violation, the Association shall have the right, but not the obligation, to take the actions specified in the notice of such violations. The Declarant, for itself and each subsequent Owner, hereby grants to the Association the right, license, easement and authority to enter upon each Lot and Reserve for the purposes of correcting the violations as hereinabove set forth, and neither the Association nor any of its employees, agents or contractors shall be liable for trespass or any other legal or equitable violation in pursuing the remedies herein provided for. All costs and expenses incurred by the Association in effecting such remedy or abatement pursuant to this Section 5.06 will be paid, upon demand, to the Association by the Owner of the Lot (or Reserve) for which such costs and expenses are incurred. If such costs and expenses are not paid to the Association within ten days after written demand to the Owner, said amounts shall accrue interest at a rate that is the great of: (i) 18% per annum, or (ii) the highest amount of interest allowed by applicable law. Further, if said costs and expenses are not paid to the Association by the Owner within thirty (30) days after the date of written demand therefor, said costs and expenses, together with interest thereon and costs of collection and all other amounts for which an Owner can become liable hereunder, shall be a charge on the land and shall be a continuing lien upon the Lot (or Reserve) for which such costs and expenses are incurred in the same manner and subject to all the provisions of Section 11.05 hereof. All such costs and expenses, together with such interest, collection costs, and reasonable attorneys' fees, shall be the personal obligation of the Owner of such Lot (or Reserve) at the time such costs and expenses are incurred. The suit to recover a money judgment (together with reasonable attorneys' fees and costs as aforesaid) may be maintainable without filing or foreclosing a lien securing the same.

5.07 Boat Ramp, Boat Ramp Area and Canal. The Boat Ramp, Boat Ramp Area and Canal are hereby designated as Common Areas for the use and benefit of and maintenance by the Association and the Members thereof. Each Association member has the right to the use and enjoyment of the Boat Ramp, Boat Ramp Area, Canal and piers of the Boat Ramp Area including any bulkhead of the Boat Ramp Area, but it is hereby restricted and limited to only such uses as are incidental to members' use and enjoyment to the Common areas will not harm, damage, or in any way adversely affect the placement or structural soundness and effectiveness of the Common Areas. In the event of any damage or harm to the Common Areas, including the Boat Ramp, Boat Ramp Area, bulkhead piers and Canal, by reason of any action of a Member or such Member's guest, such Common Areas shall be repaired or replaced at the sole cost and expense of the Member responsible therefor. In the event said Member fails and refuses to make the required repairs or replacement and such failure or refusal continues for three (3) days after written demand to repair or replace is given to such Member by the Association, Declarant or their assigns, the Association, Declarant, or their assigns may charge the Member who caused said damages for the costs involved to complete the work. Each Member agrees, by purchase of a Lot, to pay such costs immediately upon demand, which such costs shall be deemed a maintenance assessment against such Owner's Lot secured by a lien thereon in the same manner as the lien for annual and special assessments set forth within these restrictions. The Canals are designated as "No Wake Zones". Each Member who owns a boat may only own and operate boats that have operational mufflers and those mufflers must be turned on.

5.08 Use of Boat Ramp and Boat Ramp Area. The Boat Ramp and Boat Ramp Area within the Lake Cove Subdivision shall not be used by any person for any purpose except that



property or persons using any of the Common Areas or Reserves, Waterways, Boat Ramp, or Boat Ramp Area, and it is the responsibility of each user of any Common Areas, Common Areas of Section 11 Subdivision, or Reserves, Boat Ramp, Boat Ramp Area, or Waterways to provide for their own safety, and to abide by U.S. Coast Guard, and other regulatory agencies having jurisdiction, rules and regulations.

5.15 Prohibition of Offensive Activities. No activity, which is not related to single family residential purposes (whether for profit or not) shall be conducted on any Lot. No noxious or offensive activity of any sort shall be permitted nor shall anything be done on any Lot which may be or become an annoyance or a nuisance to the residents of the Section 11 Subdivision. This restriction shall not apply to prevent or prohibit normal sales activities required to sell new homes in, on or around the Properties and the lighting effects utilized to display model homes, if any. The determination of the Neighborhood Representative shall be conclusive in the qualifications of any condition or circumstance to be deemed a nuisance.

5.16 Use of Temporary Structures. Except for temporary or portable sales and construction offices, storage areas, model homes, signs, and portable toilet facilities, located and maintained on the Property by Declarant or with Declarant's approval, or as may be determined by Declarant to be necessary or convenient while selling Lots, selling or constructing residences and constructing other improvements upon the Property, no structure of a temporary character, whether trailer, basement, tent, shack, garage, barn or other accessory building, shall be occupied, maintained or used on any Lot at any time as a residence, or for any other purpose, with the exception of a lawn storage building and/or a children's play structure which may be constructed or placed on a Lot only after the building or play structure, or the plans and specifications for same, have been approved in writing by the Architectural Control Committee. Builders in the Subdivision may use garages as sales offices for the time during which such Builders are marketing homes within the Section 11 Subdivision. At the time of the sale of a residence by a Builder any garage appurtenant to such residence used for sales purposes must have been reconverted to a functioning garage capable of housing a minimum of two (2) cars prior to occupancy by a resident.

5.17 Playhouses, Pools, or Other Amenity Structures. No above ground pools are permitted on any Lot either permanently or temporarily. An above ground pool shall be defined as a pool which is capable of holding a water surface of twelve inches (12") or more above the finished ground elevation of the Lot and is made of a non-masonry material and can be easily removed. This provision is not intended to preclude children's plastic pools or above ground spas which are containerized by a surface wooden deck perimeter not to exceed a height of 42". Additionally, an above ground pool shall not include a built in pool that is constructed of masonry material and is above the ground because of declining topography on the rear of waterfront lots. Playhouse or fort style structures which are approved under Section 8.6 are limited to an overall height of nine feet (9'0") or as may be otherwise approved by the Architectural Control Committee. Play structures, pools, playground equipment of any type, or amenity structures of any type shall require the approval of the Architectural Control Committee. Notwithstanding the foregoing, Basketball goals shall require the approval of the ACC. Trampolines shall be prohibited on the Canal Lots.

5.18 Storage of Automobile, Boats, Trailers and Other Vehicles. Except as permitted in the next sentence of this Section 5.18, no vehicle (with or without motor) may be parked or stored (even on a temporary basis) on any part of any Lot (or any portion of a grassed area of a



020-21-0920  
RE

Lot), easement, right-of-way, private street, or common area unless such vehicle is concealed from public view inside an enclosed garage or within another approved enclosure. Passenger automobiles, passenger vans or pick-up trucks that are in operating condition (as evidenced by current, unexpired license plates and inspection stickers, in daily use as motor vehicles on the streets and highways of the State of Texas, and do not exceed six feet six inches (6'6") in height, or seven feet six inches (7'6") in width and twenty-one (21') in length) may be parked in the driveway on such Lot. No non-motorized vehicles, trailers, boats, marine craft, hovercraft, aircraft, machinery or equipment of any kind may be parked or stored on any part of any Lot, easement, right-of-way, private street, or common area unless such object is concealed from public view inside an enclosed garage or other ACC approved enclosure. No repair work, dismantling or assembling of motor vehicles or other machinery or equipment shall be done or permitted on any street, driveway, or any portion of any Lot. No motor bikes, motorcycles, motor scooters, "Go-Carts" or other similar vehicles shall be permitted to be operated on the Property, if, in the sole judgment of the Neighborhood Representative, such operation, by reason of noise or fumes emitted, or by reason of manner of use, shall constitute a nuisance or jeopardize the safety of any Owner, Tenant or resident of any Lot, or their families. The Board of Directors of the Association may adopt rules for the regulation of admission and parking of vehicles within the common areas, including the assessment of charges to Owner(s), or resident(s) of the Property who violate, or whose invitees violate, such rules. If a complaint is received about a violation of any part of this Section, the Architectural Control Committee will be the final authority on such matter. This restriction shall not apply to any vehicle, machinery, or maintenance equipment temporarily parked and in use for or in connection with the construction, repair or maintenance of subdivision facilities or improvements on Lots within the Property.

No Owner or any visitor or guest of any Owner shall be permitted to perform work on automobiles or other vehicles on Lots, in driveways or streets in the Section 11 Subdivision other than work on the Owner's or resident's vehicles of a temporary nature. For the purposes of the foregoing term, "temporary" shall mean that the vehicle shall not remain in driveways or streets in excess of forty-eight (48) hours and that no compensation is received for such work.

5.19 Mineral Operations. No derrick or other structures designed for the use in boring for water, oil or natural gas or other minerals shall be erected, maintained or permitted upon any Lot, nor shall any tanks for the storage, holding, treatment or processing of water, oil, gas or other minerals be permitted upon any Lot.

5.20 Animals and Livestock. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any lot. Consistent with its use as a residence, dogs, cats or other household pets may be kept on a Lot, provided that they are not kept, bred or maintained for any business purposes and further provided that no more than two (2) such pets shall be kept on a Lot. All "Household pets", for purposes of this Declaration shall mean domestic animals commonly and traditionally kept in homes as pets, shall not include any wild, semi-wild, or semi-domesticated animal. Specifically excluded from the definition of household pets for purposes of this Declaration are reptiles, ferrets and raccoons. The foregoing notwithstanding, pit bulldogs shall not be kept on any Lot. Regular feeding of wild animals, including but not limited to the Muscovy ducks, so as to cause a nuisance and/or to create a potential community health risk shall not be allowed and will result in the responsible party reimbursing the Association for the remedial action.

All animals must be properly tagged for identification and contained in an approved enclosure or fenced area. No animal may be chained or leashed outside of enclosed or fenced area unless being walked on a leash. Whenever an animal is removed from its enclosure, it must be in the possession of its owner or the owner's agent and must be restrained by a proper leash of chain, rope, plastic, leather or similar material. It is the pet owner's responsibility to keep the Lot clean and free of pet debris.

5.21 Lot Maintenance. The Owners and occupants of all Lots shall at all times keep all weeds and grass thereon cut in the sanitary, healthful and attractive manner and shall in no event use any Lot for storage of materials and equipment except for normal residential requirements or incident to construction of improvements thereon as herein permitted. The drying of clothes in public view is prohibited. If outside drying of clothes is desired, the Owner or Occupant desiring outside drying shall construct and maintain a fenced drying yard or other suitable enclosure to screen drying clothes from public view. Similarly, all yard equipment, wood piles, or storage piles shall be screened by a fenced service yard or other similar facilities so as to conceal them from view from neighboring Lots, any street or other property. No Lot shall be used or maintained as a dumping ground for trash, nor will the accumulation of garbage, trash or rubbish of any kind thereon be permitted. Burning of trash, garbage, leaves, or grass will not be permitted. Trash, garbage or other waste materials shall be kept in sanitary containers constructed of metal, plastic or masonry materials with sanitary covers or lids. Equipment for the storage or disposal of waste materials resulting from the construction of improvements erected upon any Lot may be placed upon such Lot at the time construction is commenced and may be maintained thereon for a reasonable time, so long as the construction progresses without undue delay, until the completion of the improvements, after which these materials shall either be removed from the Lot or stored in a suitable enclosure on the Lot. In the event of default on the part of the Owner or occupant of any Lot in observing any of the above requirements, and such default continues unresolved for ten (10) days after written notice thereof is mailed to the last known address of the Owner involved, (without the requirement of certification), Declarant or any employee, agent or contractor of the Association may, without liability to the Owner or occupant in trespass or otherwise, enter upon said Lot and cause to be cut such weeds, and grass, and remove or cause to be removed such garbage, trash and rubbish, or do any other reasonable thing necessary to restore compliance with these restrictions so as to place said Lot in a neat, attractive, healthful and sanitary condition, and such costs shall be added to and become part of the assessment to which such Lot is subject. The Association, shall have the right but not the obligation to contract or arrange for regular garbage pick-up service for the Lot Owners. The Owner or occupant, as the case may be, agrees by the purchase or occupancy of the residence on a Lot to pay for such work or service immediately upon receipt of a statement therefor. In the event of the failure to pay such statement, the amount thereof may be added to the annual maintenance charge assessed against such Lot and shall become a charge thereon which shall be collectible in the same manner as the regular annual maintenance charge provided for herein.

5.22 Building Materials. No Lot shall be used for the storage of any materials whatsoever, except that material used in the construction of improvements erected upon any Lot may be placed upon such Lot at the time construction is commenced. During initial construction or remodeling of the residence by Builders in the Section 11 Subdivision, building materials may be placed or stored outside the property lines. Building materials may remain on Lots for a reasonable time, so long as the construction progresses without undue delay, after which time these materials shall either be removed from the Lot or stored in a suitable enclosure on the Lot. Under no circumstances shall building materials be placed or stored on the street paving.

5.23 Permitted Hours for Construction Activity. Except in an emergency or when unusual circumstances exist (as determined by the Neighborhood Representative), outside construction work or noisy interior construction work shall be permitted between the hours of 7:00 a.m. and 9:00 p.m. or as further permitted in accordance with such ordinances as may be defined by the City of Seabrook.

SECTION 6  
PROPERTY RIGHTS IN THE COMMUNITY PROPERTIES

6.01 Owner's Easement for Access and Enjoyment. Subject to the right of the Association to adopt rules and regulations governing the use of the Common Area and to user fees for Recreational Facilities, every Member shall have an easement of access and a right and easement of enjoyment in the Common Areas, and such right and easement shall be appurtenant to and shall pass with the title to every Lot or Site subject to the following rights of the Association:

A. The Association shall have the right to borrow money and in aid thereof to mortgage the Common Areas and Common Facilities upon approval by two-thirds (2/3) of the votes cast by each class of Members at a Meeting of Members. In the event of a default under or foreclosure of any such mortgage, the rights of the lender or foreclosure sale purchaser shall be subject to the easement of enjoyment of the Members, except that the lender or foreclosure sale purchaser shall have the right, after taking possession of such Common Areas and Common Facilities, to charge admission and other fees as a condition to continued enjoyment by the Members of any recreational facilities and to open the enjoyment of such recreational facilities to a reasonable wider public until the mortgage debt owed to such lender, or the purchase price paid by the foreclosure purchaser, interest thereon at a rate not to exceed eighteen percent (18%) per annum, and other reasonable expenses incident to maintenance of such Common Areas incurred by the lender or foreclosure sale purchaser shall be satisfied or recovered, whereupon the possession of such Properties shall be returned to the Association and all rights hereunder of the Members shall be fully restored.

B. The Association shall have the right to take such steps as are reasonably necessary to protect the Common Areas and Common Facilities against foreclosure of any such mortgage.

C. The Association shall have the right to suspend the voting rights and enjoyment of any Member for any period during which any assessment or other amount owed by such Member to the Association remains unpaid in excess of thirty (30) days. In the event any assessments have been or are being expended to provide services for the Members (for example, garbage collection services) the Association shall have the right to terminate or cause to be terminated such services for any member during the period said Member is in default in excess of thirty (30) days in the payment of any assessment against said Member's Lot or Site.

D. The Association shall have the right to establish reasonable rules and regulations governing the members use and enjoyment of the Common Areas and Common Facilities and to suspend the enjoyment rights and the voting rights of any Member for any period not to exceed sixty (60) days for any infraction of such rules and

2025-10-27 10:00 AM

regulations. The Association shall have the right to delegate such rules and regulations. The Association shall have the right to delegate management of the Common Areas and Common Facilities.

E. Upon approval by two-thirds (2/3) of each class of Members, the Association shall have the right to transfer or convey all of any part of the Community Properties, or interests therein, to any public authority for such purposes and subject to such conditions as may be approved by said two-thirds (2/3) of each class of Members provided, however, this provision shall not be construed to limit the right of the Association to grant or dedicate public or private utility easements in portions of the Community Properties.

6.02 Delegation of Use. Each Member shall have the right to extend his rights and easements of enjoyment to the Community Properties to the members of his family, to his tenants who reside or work on the Property, and to such other persons as may be permitted by the Association.

Only Owners shall have the right to use the Recreational Facilities and the Board shall have the authority to prevent use by any other Persons; provided, however, the Board may permit the use of the Recreational Facilities or of certain such facilities by others upon the payment to the Association of such consideration as the Board in its sole discretion determines to be reasonable after taking into consideration the anticipated usage of the Recreational Facilities by such individuals and the amount of the present and anticipated future recreational facilities assessments. Such payments shall not be assessments but shall be in the nature of user fees and shall be in addition to any user fees that the Board may require to be paid by the Owners.

The Board may also, by agreement with other non-profit corporations, acquire property and facilities from such other corporations which shall become a part of the Common Area. As consideration for the acquisition of property and/or facilities, the Board may grant members of other non-profit corporations a perpetual or limited right to use the Common Area and/or the Recreational Facilities which are owned by the Association, with or without payment of a user fee. The Board may also enter into agreements with other non-profit corporations pursuant to which the Members of the Association are granted the right to use the facilities owned by other non-profit corporations and the Members of such other non-profit corporations are granted the right to use the facilities owned by the Association.

6.03 Underground Electrical Distribution System. An underground electrical distribution system will be installed within the Section 11 Subdivision which will be designated an Underground Residential Subdivision and which underground service area shall embrace all Lots in the Section 11 Subdivision. The Owner of each Lot in the Underground Residential Subdivision shall, at his own cost, furnish, install, own and maintain (all in accordance with the requirements of local governing authorities and the National Electric Code) the underground service cable and appurtenances from the point of the electric company's metering on customer's structure to the point of attachment at such company's installed transformers or energized secondary junction boxes, such point of attachment to be made available by the electric company at a point designated by such company at the property line of each Lot. The electric company furnishing service shall make the necessary connections at said point of attachment and at the meter. In addition, the Owner of each Lot shall, at his own cost, furnish, install, own and maintain a meter loop (in accordance with the then current standards and specifications of the



Declarant to maintain and carry on, upon such portion of the Properties as Declarant may deem necessary, such facilities and activities as in the sole opinion of Declarant may be required, convenient, or incidental to Declarant's and such Owner's development, construction, and sales activities related to their Properties, including, but without limitation: the right of access, ingress and egress for vehicular and pedestrian traffic over, under, on or in the Properties; the right to tie into any portion of the Properties with driveways, parking areas and walkways; the right to tie into and/or otherwise connect and use (without a tap-on or any other fee to Declarant or such Owner, but with applicable tap-on and other fees to the company or Person providing utility services for so doing), replace, relocate, maintain and repair any device which provides utility or similar services including, without limitation, electrical, telephone, natural gas, water, sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Properties; the right to carry on sales and promotional activities in the Properties; the right to place signs in the Common Area and in road rights-of-ways within the Properties; and the right to construct and operate business offices, construction trailers, model residences, information and sales offices. Declarant and any such Owner may use Units owned or leased by Declarant or such Owner as model residences and sales offices.

6.05 No Partition. Except as is permitted in this Declaration or amendments hereto, there shall be no partition of the Common Area or any part thereof, nor shall any Person acquiring any interest in the Properties, or any part thereof seek any judicial partition unless the Properties have been removed from the provisions of this Declaration. This Section shall not be construed to prohibit the Declarant from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Declaration.

6.06 No Liability. Neither Declarant, the Board of Directors of the Association, the Neighborhood Representative of Section 11, nor the respective agents, employees and architects of each, shall be liable to any Owner or any other party for any loss, claim or demand asserted on account of the administration of these restrictions or the performance of the duties hereunder, or any failure or defect in such administration and performance. These restrictions can be altered or amended only as provided herein and no person is authorized to grant exceptions or make representations contrary to the intent of this Declaration. No approval of plans and specifications and no publication of minimum construction standards shall be construed as representing that such plans, specifications or standards will, if followed, result in a properly designed residence structure. Such approvals and standards shall in no event be construed as representing or guaranteeing any residence will be built in a good, workmanlike manner. The acceptance of a deed to a Lot by an Owner in the subdivision shall be deemed a covenant and agreement on the part of the Owner, and the Owner's heirs, successors and assigns, that Declarant and the Board of Directors of the Association and the Neighborhood Representative of Section 11, as well as their agents, employees and architects, shall have no liability under this Declaration except for willful misdeeds.

6.07 House Numbers. House numbers and similar matter used in the Section 11 Subdivision must be harmonious with the overall character and aesthetics of the community, as determined within the sole discretion of the Architectural Control Committee. House numbers shall be no greater than six inches (6") in height or width and, if used, shall be affixed to the main residence on the Lot.

6.08 Private Utility Lines. All electrical, telephone and other utility lines and facilities which are located on a Lot, and are not owned by a governmental entity or a public utility

company shall be installed in underground conduits or other underground facilities unless otherwise approved in writing by the A CC.

6.09 Enforcement of Exterior Maintenance. In the event of violation of any covenant or restriction herein by any Owner or occupant of any Lot and the continuance of such violation after ten (10) days written notice thereof, or in the event the Owner or occupant has not proceeded with due diligence to complete appropriate repairs and maintenance after such notice, the Association shall have the right (but not obligation), through its agents or employees, to repair, maintain and restore the Lot and/or the exterior of the residence, not limited to include gutters, siding, broken windows, fencing, etc., and any other existing improvements located thereon, to the extent necessary to prevent rat infestation, diminish fire hazards, protect property values and accomplish necessary repairs, maintenance and/or restoration. The Association may render a statement of charge to the Owner or occupant of such Lot for the Cost of such work. The Owner and occupant agree by the purchase and occupying of the Lot to pay such statement immediately upon receipt. The cost of such work, plus interest thereon at the maximum rate permitted under the laws of the State of Texas, shall become a part of the assessment payable by said Owner and payment thereof shall be secured by the lien created pursuant to this Declaration. The Association, its agents and employees shall not be liable, and are hereby expressly relieved from any liability, for trespass or other tort in connection with the performance of the exterior maintenance and other work authorized herein.

6.10 Drainage Swales. The Owners shall maintain any drainage swale located on their Lot free from obstructions and debris, so that such swales remain capable of serving the purpose for which they were constructed.

6.11 Duty to Restore. In the event that a building is damaged or destroyed by fire or other natural causes, the Owner shall completely restore the building to its original condition as existed before the damage or destruction occurred, or else the Owner must completely remove the building and its foundation and plumbing from the Lot and return the Lot to an attractive and safe condition. Construction activity to repair or remove said building must be initiated within six (6) months and be completed within eight (8) months of the date of such damage or destruction. The building may be restored to substantially the same plans and specifications, including materials, as the original without the approval of the Committee. However, plans shall be submitted to the ACC as required for new construction and alterations pursuant to Section 7.6.

6.12 Delegation of Use. Each Member in good standing shall have the right of enjoyment to Common Areas, including the members of his residence family or tenants. Visitors shall be accompanied by a Member in the Common Areas.

6.13 Minimum Elevation. The building placed or erected on any Lot for use and occupancy as a dwelling shall be constructed in compliance with all federal, state, and local regulations and standards, and satisfy all mandatory minimum elevation requirements as to the interior living area of the residential structure. Minimum elevation shall be constructed in accordance with the requirements of the City of Seabrook and/or all other applicable jurisdictions.

SECTION 7  
ARCHITECTURAL RESTRICTIONS

2025-1-23-2025

7.01 Air Conditioners. No window or wall type air conditioners shall be permitted to be used, erected, placed, or maintained on or in any building or on any Lot.

7.02 Antennas. No electronic antenna or device of any type to include, without limitation, ham radio antennas, etc., shall be erected, constructed, placed or permitted to remain on any Lot house, garage or building constructed on any Lot, unless they are placed to the interior of an attic and located so as to be completely concealed from public view. No antennas, radio, T.V. Towers or antenna of any type shall be erected as a free-standing structure, mounted to any exterior wall or roof of any building on a Lot, or be erected and supported by any type of guy wires or guying device.

7.03 Boat Docks. Subject to prior review and approval by the ACC, Boat Docks are permitted, subject to such construction being parallel to the Bulkhead, with dimensions not to exceed 23.5' in width, unless otherwise approved by the ACC. All construction must be wood, unless otherwise approved by the ACC. The design of the Boat Dock structure, whether covered or not covered, must be approved by the ACC and be in compliance with the promulgated design standards. Boat Docks must be located contiguous to the bulkhead, and completely within the side setback lot lines of the Lot boundary, as though the side setback lot lines were extended into the Canal, unless otherwise approved by the ACC. Additionally, Boat Dock structures must comply with any and all applicable City of Seabrook Ordinances. No Dock may encroach into the boat approach of an adjacent Owner's Dock, or into any Mitigation Reserves, unless approved by the ACC. No Boat Dock may extend into the primary straight of the Canal, unless approved by the ACC.

7.04 Boat Lifts. Boat Lifts may be permitted subject to application and written approval from the Architectural Control Committee.

7.05 Building Site. No Owner of one or more adjoining Lots or portions thereof may consolidate or re-divide such Lots. Each of the resulting building sites, as provided per the recorded plat or replat thereof, shall be a single Lot for purposes of these restrictions. The minimum building set back lines shall be as prescribed on the recorded plat or as prescribed by the City of Seabrook.

7.06 Curb Ramps. As required by applicable federal, state or local law, curbs with accompanying sidewalks shall have curb ramps (depressions in the sidewalk and curb) at all crosswalks to provide safe and convenient movement of physically handicapped persons confined to wheelchairs. Such curb ramps will be provided at the time of construction of any sidewalks and shall be constructed in accordance with specifications provided by the applicable governmental authority. Maintenance shall be the responsibility of the Lot Owner affected.

7.07 Driveways. On each Lot the Builder shall construct and the Owner shall maintain at Owner's expense the driveway from the garage to the abutting street, including the portion of the driveway in the street easement, and the Builder shall repair at his expense any damage to the Street or curb occasioned by connecting driveway thereto. Driveway access shall be from the fronting street unless otherwise specifically approved by the ACC; excepting corner Lots wherein plans have been specifically approved for access from the side street. All side street access must be approved by the Architectural Control Committee.

2250-1-2202



7.08 Driveway Access. Driveway access will be provided from the front lot line except on those corner lots where a hardship is created due to the configuration of the selected plan for the construction of a residence, provided such access is not in conflict with the landscaping along Lakeside Drive, the entry structures, or any ordinance of the City of Seabrook.

7.09 Exterior Paint. The exterior surfaces of all structures located in the Section 11 Subdivision shall not be painted unless the Architectural Control Committee gives its prior written approval of the color of paint to be used. Application for Architectural Review is required regardless of an Owner's intent to repaint with the same color, for the benefit of communicating and documenting the exterior activity to the ACC. The purpose of this covenant is to maintain harmony of the exterior paint colors of the structures throughout the subdivision. Iridescent colors or tones which are considered to be brilliant or iridescent are not permitted. Accordingly, the Architectural Control Committee shall not be obligated to approve any color of exterior paint that is different from the original paint applied to the exterior of the buildings.

7.10 Exterior Walls. No residences shall have less than 85% brick, or masonry concrete ("stucco"), on its exterior wall area, unless otherwise approved by the ACC. Detached garages wherein the front face is visible from the fronting street must have a brick or masonry front elevation and may be complimented by wood siding of a type and design approved by the Architectural Control Committee or its designated representative. The requirement for a brick front does not apply to those garages which are not visible from the fronting street. The interior walls of attached garages must have sheetrock or similar wall board. Any construction materials used other than brick or masonry concrete must have complete ACC approval.

7.11 Garages. No garage shall ever be changed, altered or otherwise converted for any purpose inconsistent with the housing of a minimum of two (2) and a maximum of four (4) automobiles at all times. All Owners, their families, tenants and contract purchasers shall, to the greatest extent practicable, utilize such garages for the garaging of vehicles belonging to them. The location of all garages and of all automobile access openings to attached or detached garages must be approved in writing by the Architectural Control Committee.

7.12 Garbage Disposals Required. Each kitchen in each dwelling or living quarters situated on any Lot shall be equipped with a garbage disposal, which shall at all times be kept in good operating condition.

7.13 Grass, Shrubbery and Trees. The Owner of each Lot used as a residence shall sod with grass the area between the front of his residence and the curb line of the abutting street and any side yard building line which is not enclosed to the rear of the Lot. The grass shall be of a type and within standards prescribed by the ACC. Grass and weeds shall be kept mowed; curbs, driveways and sidewalks shall be edged; bushes, shrubs, trees, and other ornamental plants shall be trimmed to create and maintain an attractive appearance and the height of such shrubs shall maintain a proportionate height to residence. Additionally, the planting of any hedge shall maintain a height which is compatible to the maximum height of permitted fences. No hedge may be planted in front of a building line which may constitute the visual appearance or perception of a fence. Hedges must be installed subject to criteria within Section 7.13. Dead or damaged trees, which might create a hazard to property or persons within the Subdivision shall be promptly removed or repaired, and if not removed by Owner upon request, then the Declarant or Association may remove or cause to be removed such trees at the expense of Owner by giving twenty (20) days notice.

Each Lot is required to plant and maintain by the Owner a minimum of one (1) hardwood tree, with a minimum size of five inch (5") caliper of the live oak, pecan or cypress species. The hardwood tree is required to be located to the front of the Lot between the building set back line and the sidewalk. Ornamental trees are required to be a minimum of three inch (3") caliper and must be selected from the species of Magnolia, Crepe Myrtle, Red Bud, Southern Wax Myrtle, Dogwood, Bradford Pear, Pine, or such other species approved by the ACC. Other species of trees may be approved for installation on the Lot subject to review and approval by the Architectural Control Committee. Each waterfront lot shall be required to plant one 4" hardwood tree on the rear of the lot and one 3" ornamental tree on the rear of the lot. The initial responsibility of trees shall be the burden of the Builder. However, failure of the Builder to install required trees at the time of occupancy does not diminish the responsibility of the Owner at such time this restriction may be noted. The requirement of three trees is necessary to provide and protect the aesthetic enrichment of the community. Notwithstanding the foregoing, the ACC may modify the requirements of this Section 7.13 based on an approved architectural landscape plan.

7.14 Location of the Improvements upon the Lot. No building shall be located on any Lot nearer to the front Lot line or nearer to the street side Lot line on corner Lots than the minimum building setback line shown on the Section 11 Subdivision Plat. All setbacks will be subject to compliance with the City of Seabrook. In the event these Restrictions are more stringent than the City of Seabrook, then the Restrictions shall define any and all specific setbacks. Unless specifically approved pursuant to the provisions of Section 8.12 below, no part of the main residential building shall be located nearer than five feet (5') to an interior side Lot line or ten feet (10') to any street side Lot line on a corner lot. Any detached or attached garage located a distance of sixty-five feet (65') or more from the front property line of a Lot may be located not less than five feet (5') from an interior side Lot line. Notwithstanding any provision hereof to the contrary, no building or structure constructed on a Lot shall be allowed to encroach upon another Lot or to be situated closer than fifteen feet (15') to a building or structure or any adjoining Lot, excepting detached garages. Unless otherwise approved in writing by the ACC, each main residential building shall face the front of the Lot. For the purpose hereof, the term "Front Lot Line" shall mean the property line of a Lot that is adjacent or contiguous to a street or road shown on the Section 11 Subdivision Plat, or if two or more property lines are adjacent to a street, the "Front Lot Line" shall be the property line adjacent to a street that has the shortest dimension abutting a street, and the term "Street Side Lot Line" shall mean and refer to all property lines of any Lot that are adjacent to a street except the Front Lot Line, and the term "Interior Side Lot Line" shall mean and refer to all property lines other than the Front Lot Line and the Street Side Lot Line. All residences on each Lot shall face the Lot line having the shortest dimension abutting a Street (front lot line). Residences on Corner Lots shall have a presentable frontage, as determined by the ACC, on each Street on which they face. Garages shall be "attached" unless otherwise specifically approved by the ACC. An "attached garage" is one which is part of the main residential structure, while a "detached garage" is one which is a separate structure.

7.15 Minimum Square Footage with Improvements. Each one story dwelling constructed on a Lot shall contain a minimum of Two Thousand Four Hundred (2,400) square feet of livable area, exclusive of open porches and garages, and each multi-story dwelling shall contain a minimum of Two Thousand Four Hundred (2,400) square feet of livable area,

SEABROOK



7.21 Walls, Fences and Hedges. No hedge in excess of three feet (3') in height shall be erected or maintained nearer to the Front Lot Line than the building set-back line adjacent to the walls of the dwelling existing on such Lot. No side or rear fence or wall shall be more than six feet (6') in height. All fences and walls shall be of cedar construction or better. No chain link, chicken wire, or other wire fence will be permitted on any Lot. No fence or wall to be constructed on typical interior Lots shall be erected on any Lot nearer to the Street than the building setback lines as shown on the Subdivision Plat. The ACC has the right to deviate its approval for the style and type of materials to be used based on the location of the Lot within the subdivision. It is the intent to maintain visual continuity especially along entryways and/or main thoroughfares and/or adjacent to common area properties.

In reference to all Canal or Waterfront Lots, no fence shall be permitted on any Canal or Waterfront Lot, other than natural plantings, hedges, wrought iron or cedar fence which have been approved in writing in advance by the Architectural Control Committee, pursuant to Section 8.6 hereof. No such fence, hedge, wrought iron or cedar fence shall be permitted forward of the point of actual construction of the front of the main residence house. Starting at the point of actual construction of the front of the main residence house, any permitted fence or hedge shall not exceed six feet (6') in height as long as the main residence house is parallel to such fence or hedge. Thereafter, any such fence or hedge shall gradually taper down to a maximum of four feet (4') in height over the remaining distance which shall be no closer than ten feet (10') from the edge of the bulkhead facing the Lot. The overall length of such fence or hedge shall not exceed the length from the point of actual construction of the front of the main residence house to five feet (5') from the edge of the bulkhead facing the Lot. No fence or hedge shall be permitted on Canal or Waterfront Lots other than along the side lot boundary lines and across the rear of the Lot connecting from one side Lot boundary line to the other side Lot boundary line. However, such fence across the rear of the Lot shall not exceed four feet (4') in height and shall be of wrought iron only. Notwithstanding anything contained herein to the contrary, the design and materials of the fencing may be modified upon prior written approval by the Architectural Control Committee.

SECTION 8  
ARCHITECTURAL CONTROL COMMITTEE

8.01 Creation, Purpose and Duties. The Architectural Control Committee (ACC) of Section 11 Subdivision shall consist of two (2) members who shall be Joseph L. Watson and Himanshu Amin. In the event of the death, resignation or removal of any initial or subsequent member of the ACC, the remaining member or members, or the Designated Representative, shall have the power to appoint successor member(s) to the ACC. Any member of the ACC may be removed with or without cause by the vote of a majority of the remaining members of the ACC, and in the event of a tie vote the Designated Representative may cast the deciding vote. The ACC may from time to time appoint a Designated Representative to act on its behalf. The Designated Representative of the ACC shall be Joseph L. Watson.

After such time as there has been built and constructed on each and every Lot in the Section 11 Subdivision a residential dwelling and related improvements, or at such earlier time as the ACC may elect, the duties and responsibilities of the Architectural Control Committee shall be assumed by, and its powers assigned to, the Board of Directors of the Association. At

1050-12-820  
FH

the time the ACC ceases to serve as the Architectural Control Committee (at the completion of the conditions set forth above or at such earlier time as the Architectural Control Committee may elect), it shall assign the rights and powers, duties and obligations of the Architectural Control Committee to the Board of Directors of the Association, such assignment to be evidenced by an instrument in writing, executed and acknowledged by the members of the ACC or its Designated Representative, and filed of record in the appropriate records of the County Clerk of Harris County, Texas. The address for submission of applications for architectural review may change from time to time.

No person serving on the ACC shall be entitled to compensation for services performed; however, the ACC may employ one or more architects, engineers, attorneys or other consultants to assist the ACC in carrying out its duties hereunder, and the Association shall pay such consultants for services rendered to the ACC.

8.02 Minimum Construction Standards. The Architectural Control Committee may from time to time promulgate an outline of minimum acceptable construction standards; provided, however, that such outline will serve only as a minimum guideline and the ACC shall not be bound thereby or prohibited from imposing additional (even more stringent) requirements or adopting amendments to the Minimum Construction Standards to relax, reduce or otherwise modify such standards from time to time.

8.03 Remodeling, Renovation and Redecorating of Exterior Walls. No remodeling, renovation or redecoration of any exterior wall of any building on a Lot which in any manner changes the visual appearance of such exterior wall (including but not limited to changing the color, appearance, texture or reflective character of any exterior surface; the addition or alteration of shutters, awnings or other window coverings; or the addition of wall applications) shall be allowed until the plans and specifications describing the work to be performed have been approved in writing by the Architectural Control Committee as provided in Section 8.6 below. Such remodeling, renovation or redecoration shall, for the purposes hereof, be deemed to constitute an alteration of the building.

8.04 Responsibility. The Association, the Board of Directors, the Neighborhood Representative of Section 11, the Architectural Control Committee or the members thereof shall not be liable in damages to anyone submitting Plans or specifications to them for approval or to any Owner or resident of any Lot affected by these restrictions by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such Plans or specifications. Every person who submits Plans or specifications to the ACC for approval agrees, by submission of such Plans and specifications and every Owner agrees, that he will not bring any action or suit against the Association, the Board of Directors, the Neighborhood Representative of Section 11, the ACC or any of the members thereof to recover any such damages. The Association, the Board of Directors, the Neighborhood Representative, the ACC, and the members thereof shall be not liable to any person under any theory or under any circumstances in connection with the approval or disapproval of Plans including without limitation, any liability based on soundness of construction, adequacy of drawings and specifications, or otherwise.

8.05 Powers of the ACC. No building, structure or improvement shall be erected or placed in the Subdivision, and no exterior alteration thereof shall be made until the plans and specifications and plot plan showing location and exterior elevations of the building, structure or

6055-12-320  
PH

improvement (the "Plans"), have been submitted to and approved in writing as to harmony of exterior design and color with existing structures, as to location with respect to topography and finished ground elevation, and as to compliance with minimum construction standards by the ACC. An "Improvement" is defined as any building, accessory building, parking area, fence, wall, landscaping, pole, exterior lighting, sprinkler system, driveway, sidewalks, pools, greenhouses, awnings, antennas, boat dock, boat house, docks, piers, and any other similar structure and additions thereto and alterations thereof. The Plans may be requested to also include a certificate executed by a licensed architect with respect to the proposed building, structure or improvement as to the adequacy of the drawings and specifications and compliance with all applicable architectural standards; should such certificate be a requirement of the City of Seabrook then same must be submitted to the ACC.

The ACC shall have the right to specify architectural and aesthetic requirements for building sites, minimum setback lines, and location, height and extent of fences, walls or other screening devices, the orientation of structures with respect to streets, walks, paths and structures on adjacent property and a limited number of acceptable exterior materials and finishes that may be utilized in construction or repair of improvements. The ACC shall have full power and authority to reject any plans and specifications that do not comply with the restrictions herein imposed or that do not meet its minimum construction or architectural design requirements or that might not be compatible with the overall character and aesthetics of the Subdivision. The ACC shall have the right, exercisable at its discretion, to grant variances to the architectural restrictions in specific instances where the ACC in good faith deems that such variance does not adversely affect the architectural, aesthetic, and/or environmental integrity of the Subdivision or the common scheme of development. All variance grants shall be in writing, addressed to the Owner requesting the variance; describing the applicable restrictions to which the variance is granted, listing conditions imposed on the granted variance and listing the specific reasons for granting of the variance. Failure by the ACC to respond within thirty (30) days to a request for a variance shall operate as a denial of the variance.

Should any Owner or Occupant proceed with any construction, alterations or exterior changes without first applying for the written approval by the Architectural Control Committee, such Owner or Occupant will be in violation of this Declaration and will be required to submit plans, specifications and plot plans, together with such other documents as the ACC deems appropriate, even after construction has commenced. The Architectural Control Committee will have one hundred twenty (120) days from receipt of the last of any required documentation (submitted after commencement of construction, alteration, or exterior changes without prior written approval) to respond by approval, disapproval, or modification requirements. The Association shall have the right to inspect, obtain restraining orders and/or temporary or permanent injunctions to terminate or halt construction which has not been reviewed and approved by the ACC in accordance herewith. The Architectural Control Committee shall have full and complete authority to approve any construction of any improvement on any Lot, and its judgment shall be final and conclusive. All reasonable enforcement costs and attorney's fees incurred by the Association in connection with the Association's exercise of the right to obtain restraining orders and/or temporary or permanent injunctions under this Section 8.5 shall be recoverable against the Owner and/or Occupant in violation of this Declaration and the provisions hereof. The Owner or Occupant, as the case may be, agrees by the purchase or occupancy of the residence on a Lot to pay all such reasonable costs of enforcement and attorney's fees immediately upon receipt of a statement therefor. In the event of the failure to pay such statement, the amount thereof may be added to the annual maintenance charge assessed

against such Lot and shall become a charge thereon which shall be collectible in the same manner as the regular annual maintenance charges provided for herein.

8.06 Architectural Review Requirements. To preserve the architectural and aesthetic appearance of the Section 11 Subdivision, no construction of improvements, or modifications, additions, or alterations to existing improvements, shall be commenced by any Owner with respect to any of the Lots, unless and until two (2) copies of the plans and specifications and related data (including, if required by the ACC, as applicable, a survey showing the location of trees of six inches (6") in diameter at a height of four feet (4') above ground and other significant vegetation) showing the nature, color, type, shape, height, materials and location of the same shall have been submitted to and approved in writing by the appropriate Architectural Committee as to the compliance of such plans and specifications with such design guidelines as may be promulgated by the Architectural Committee from time to time including the harmony of external design, location, and appearance in relation to surrounding structures and topography. One copy of such plans, specifications, and related data so submitted shall be retained in the records of the appropriate Architectural Committee, and the other copy shall be returned to the Owner marked "approved", "approved with conditions as noted", or "disapproved". The Architectural Committee may establish a reasonable fee sufficient to cover the expense of reviewing plans and related data and to compensate any consulting architects, landscape architects, urban designers, inspectors, or attorneys retained in accordance with the terms hereof. Notwithstanding the foregoing, no permission or approval shall be required to paint in accordance with an originally-approved color scheme, or to rebuild in accordance with originally-approved plans and specifications. Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of his primary dwelling or to paint the interior of his primary dwelling any color desired. The ACC shall have the sole discretion to determine whether plans and specifications submitted for approval are acceptable to the Association.

Disapproval of plans and specifications may be based by the ACC upon any ground which is consistent with the objectives and purposes of this Declaration as determined by the design guidelines which shall be promulgated by the ACC from time to time, including purely aesthetic considerations, so long as such grounds are not arbitrary or capricious.

The ACC shall, within, thirty (30) days after receipt of the Plans, advise the submitting party of its approval or disapproval of same. In the event the ACC does not advise the party submitting the Plans by written notice given within such thirty (30) day period of the disapproval or objection of the Plans as submitted, the decision of the ACC shall be conclusively presumed to have been disapproved. The aforesaid thirty (30) day period for the ACC's review of the Plans shall not commence to run until all the described drawings, plans, and specifications comprising the Plans have been received by the ACC in final form. In the event the ACC shall object to or disapprove all or any portion of the Plans, the party submitting the Plans shall cause the Plans to be modified to the extent required by the ACC and resubmit revised Plans as set forth above. All buildings or other structures built on the Lot shall be constructed in accordance with the Plans as finally approved by the ACC; the decision of the ACC shall be conclusive. In the event construction does not commence on a project for which Plans have been approved within one (1) year of such approval, the Owner shall submit the Plans to the ACC for a renewal of its approval. In addition to submitting final plans and drawings to the ACC for approval, building materials must be available as part of the approval process as requested by the ACC. Notwithstanding the foregoing, no deemed approval shall operate so as to waive any other covenants and restrictions

AS-1-2-3-4

set forth herein. The Owner shall be held responsible for compliance with the Recorded Restrictions with regard to any and all improvements.

8.07 Landscaping Approval. To preserve the aesthetic appearance and theme of the Lake Cove project, no landscaping, grading, excavation, or filling of any nature whatsoever shall be implemented and installed on a Lot by any Owner unless and until the plans therefor have been submitted to and approved in writing by the appropriate Committee. The provisions of Section 8.5 hereof regarding time for approval of plans, right to inspect, right to enjoin and/or require removal, and so forth shall also be applicable to any proposed landscaping, clearing, grading, excavation or filling.

8.08 Approval Not A Guarantee. The review and approval of plans pursuant to this Section is made on the basis of aesthetic considerations only and no approval of plans and specifications and no publication of design guidelines shall be construed as representing or implying that such plans, specifications, or design guidelines will, if followed, result in properly designed improvements. Such approvals and design guidelines shall in no event be construed as representing or guaranteeing that any improvements built in accordance therewith will be built in a good and workmanlike manner. Neither Declarant, the Association, nor the Architectural Committee shall be responsible or liable for any defects in any plans or specifications submitted, revised, or approved pursuant to the terms of Section 8.6, any loss or damages to any person arising out of the approval or disapproval of any plans or specifications with any governmental ordinances and regulations, nor any defects in construction undertaken pursuant to such plans and specifications. The purpose of such reviews primarily seeks to conform the aesthetic appearances of development within the Properties.

8.09 Appeal to the Board of Directors. In the event that plans and specifications submitted for approval in accordance with the provisions hereof are disapproved by the ACC, the Owner shall have the right to appeal the decision to the Board of Directors by written notice of appeal received by the manager of the Association or the President or Secretary of the Board of Directors within thirty (30) days after the date of disapproval. Procedures for such appeal shall be determined by the Board of Directors.

8.10 Right to Inspect. Any member of the Board of Directors or the Architectural Control Committee and their representatives shall have the right, but not the obligation during reasonable hours to enter upon and inspect any Lot with respect to which construction is underway to determine whether or not the plan and specifications therefor have been approved and are being complied with. Such Person or Persons shall not be deemed guilty of trespass by reason of such entry. In the event the ACC shall determine that such plans and specifications have not been approved or are not being complied with, the ACC shall be entitled to enjoin further construction and to require the removal or correction of any work in place which does not comply with approved plans and specifications. In addition to any other remedies available to the Association, the Board of Directors may record in the appropriate land records a notice of violation against the Property.

8.11 No Waiver Of Future Approvals. The approval by the applicable ACC or the Board of Directors of any plans and specifications for any work done or proposed, or in connection with any other matter requiring the approval and consent of such committees or the Board of Directors, shall not be deemed to constitute a waiver of any right to withhold approval



or consent as to any similar plans and specifications, drawings, or matters whatsoever subsequently or additionally submitted for approval or consent.

8.12 Variance. The ACC and the Board of Directors may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing, (b) be contrary to the restrictions set forth in the body of this Declaration, or (c) estop the ACC or Board of Directors from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit or the terms of any financing, shall not be considered a hardship warranting a variance.

8.13 Compliance with Guidelines. Any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of the guidelines and procedures promulgated by the ACC may be excluded by the Board of Directors from the Properties without liability to any person, subject to the notice and hearing procedures contained in the By-Laws.

## SECTION 9 LANDSCAPE RESERVES

9.01 Grant of Easement. The Association is hereby granted an easement and right-of-way over and across the Landscape Easement and/or Reserves and/or street right-of-ways together with the right of ingress and egress thereto for the purposes of maintaining, improving and preserving the landscaping, monuments, and other improvements that may be located thereon and hereafter constructed thereon, subject to the provisions of these Restrictions.

9.02 Owners Obligations. The Owner of any Lot and/or Site upon which a landscape easement is located shall no later than the time of construction of the initial improvements thereon, cause the landscape easement to be improved in accordance with the requirements contained in Section 5.27, unless same has been previously improved by the Developer. As used in the foregoing sentence, "improvements" shall mean and refer to buildings and other above ground structures and shall not mean or refer to streets or utilities. Thereafter, the maintenance (and replacement, if deemed necessary by the Board of Directors) of the landscaping installed by the Owner thereof shall be the responsibility of the Owner. The Owner shall at all times keep his Lot and/or Site mowed and free of trash and rubble.

9.03 Prohibition by Owner. No Owner shall plant, place, fix, install or construct or remove any vegetation, hedge, tree, shrub, fence, wall, monument, structure or improvement of any kind or store any of his personal property on the Landscape Areas or any part thereof without the written consent of the ACC being first obtained. The foregoing sentence notwithstanding however, an Owner may cause to be constructed drives, entries, streets and rights-of-ways over and across the Landscape Easements in order to afford ingress and egress to a Site, provided such drives, entries, streets and rights-of-ways so constructed comply with the design guidelines and all laws and restrictions applicable thereto. The Board of Directors may, without liability to the Owner or Owners, remove anything placed on the Landscape Areas in violation of the provisions of this paragraph and recover the cost of such removal from the Owners responsible. Every Owner and occupant agrees, by the purchase or occupation of any

DECLARATION OF RESTRICTIONS

Site or Lot or part thereof, to pay such cost immediately upon receipt of an invoice therefor. The Board of Directors shall not be liable to any Owner under the theory of trespass, conversion or under any other legal theory in connection with the exercise by it of its right to enter upon the Landscape Reserves and remove therefrom any object which violates the foregoing provisions.

9.04 Rights of Association. The Association shall have the right, subject to the requirements of the landscape guidelines, to conduct landscaping activities upon and within the Common Areas. The Association shall have the right, but no obligation, to install, operate, maintain, repair and/or replace public street lighting, hike and bike trails, jogging paths, walkways and other similar improvements, provided such lighting, trails, paths, walkways and other improvements be constructed with the Common Areas and rights-of-ways of major thoroughfares.

SECTION 10  
THE ASSOCIATION  
LAKE COVE COMMUNITY ASSOCIATION, INC.

10.01 Organization. The Association has been organized and formed as a nonprofit corporation under the laws of the State of Texas, and it shall be governed by the Articles of Incorporation and the By-Laws of said Association. All duties, obligations, liens and rights hereunder in favor of the Association shall be vested in said corporation. The principal purposes of the Association are the collection, expenditure, and management of the maintenance funds, enforcement of the restrictions contained herein and in Supplemental Declarations, providing for the maintenance and preservation of the Area of Common Responsibility and the facilities of the Association and architectural control of the Lots, and to establish a method for the administration, maintenance, preservation, use and enjoyment of the property now and hereafter subject to this Declaration.

10.02 Board. The Association shall act through a Board of Directors, which shall manage the affairs of the Association as provided in the By-Laws. The initial Board shall consist of three (3) members appointed by Declarant as provided for in the Articles of Incorporation. The Members of the Association shall elect the Board of Directors based on the terms and conditions as provided in the By-Laws. Any Owner in Section 11 Subdivision may be elected to the Board of Directors. The initial Neighborhood Representative shall be Joseph Watson and he shall serve for a 3 year term commencing from the date of recording of these Declarations. The Neighborhood Representative, shall oversee the management and the affairs of the Section 11 Subdivision in conjunction with the Board of Directors. The Neighborhood Representative shall not have the right to vote with the Board of Directors, but shall have the right to attend and participate in all Board of Director meetings, including executive sessions. The Neighborhood Representative shall have the responsibility of reviewing and approving the annual budget of the Section 11 Subdivision and all checks disbursed in payment of expenses of the Neighborhood Facilities. All payments made or checks issued on behalf of the Section 11 Subdivision are required to have the approval of the Neighborhood Representative. The Neighborhood Representative shall have the authority to manage the violations of these Declarations in the Section 11 Subdivision, or the Neighborhood Representative may appoint a committee in the Section 11 Subdivision to manage the violations. Such violations shall be reported by the Neighborhood Representative or by its appointed committee to the Board. Each Neighborhood Representative shall serve for a term of 3 years unless such term is shortened due to resignation. The Owners in the Section 11 Subdivision shall elect the replacement Neighborhood

Representative or successor Neighborhood Representative during the month of October just prior to the annual homeowners meeting and such replacement or successor Neighborhood Representative shall be required to own a Lot in the Section 11 Subdivision.

10.03 Address/Location. Each Owner is required to provide and maintain at all times with the Association, or its designated management agent, current information regarding such Owner's address and phone number and the name, address and phone number of the occupant or property manager, if any, of each Lot owned.

10.04 Voting and Membership Limitations. The Association shall have two (2) classes of voting membership:

(A) Class "A": Class "A" members shall be all Owners, with the exception of Declarant, and shall be entitled to one (1) vote for each Lot owned by such member in the Subdivision; provided however, when more than one person holds an interest in any lot, all such persons shall be members, and the single vote for such Lot shall be exercised by the one (1) natural person named by them as they among themselves determine from time to time by written notice executed by them, given to the Association in the manner prescribed by it from time to time, but in no event shall more than one (1) vote be cast with regard to any Lot. Any member failing to give the above prescribed notice shall not be entitled to vote and shall be disqualified in that respect unless waived by the Association by an instrument in writing duly executed by it.

(B) Class "B". Class "B" members shall be the Declarant. The Class "B" members shall be allowed three (3) votes for each Lot in the Section 11 Subdivision in which the Declarant qualifies as the Owner thereof. Class "B" membership shall cease and be converted to Class "A" members when all Lots in the Section 11 Subdivision have been sold to Owners other than Declarant.

10.05 Voting. Any owner who is delinquent in the payment of any assessment shall not be entitled to vote during any period in which such assessment is delinquent. Any action by the Association shall require the approval of a majority of the votes eligible to be cast at any duly called meeting. Any action of the Board shall require the approval of a majority of the total members thereof.

10.06 Agents. No person serving on the Board shall be entitled to compensation for services performed, however, the Board may employ one or more architects, engineers, land planners, management companies, accountants, bookkeepers, attorneys or other consultants to assist the Board in carrying out its duties hereunder, and the Association shall pay such consultants for services rendered to the Board, such payment to be made out of the Assessments. No member of the Board shall be personally liable for any actions committed in the scope of services performed as a member of the Board, in the exercise of said member's good faith discretion.

10.07 By-Laws. The Association may make and establish such rules or by-laws as it may choose to govern the organization and administration of the Association, provided, however, that such rules or by-laws are not in conflict with the terms and provisions hereof.

10.08 Inspection of Records. The members of the Association shall have the right to inspect the books and records of the Association at reasonable times during the normal business hours by appointment.

SECTION 11  
MAINTENANCE ASSESSMENTS

11.01 Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, and (3) other charges assessed against an Owner and his Lot as provided in this Declaration, such assessments and charges to be established and collected as herein provided. The annual and special assessments, as well as the other charges described within this Declaration, together with interest, collection costs and reasonable attorney's fees, shall be a charge on the Lot and shall be secured by a continuing lien upon the Lot against which each such assessment is made. Each such assessment and other charges, together with interest, collection costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessments fell due. Each assessment shall be a charge on the Lot and a continuing lien upon the Lot against which each such assessment is made and shall not be affected by any change in the Ownership thereof.

11.02 Purpose of Assessments. The Assessments levied by the Association shall be used to promote the recreation, health, and welfare of the residents in the Property, for the improvement, maintenance and management of any Common Area and Common Facilities of the Association, and to enable the Association to fulfill its responsibilities. The responsibilities of the Association shall include, but not be limited to, the maintenance and repair of the Common Area and Common Facilities, if any; constructing and maintaining parkways, right-of-ways, easements, esplanades, Common Area, and other public areas; construction and operation of all street lights; purchase and/or operating expenses of recreation areas, if any; payment of all legal and other expenses incurred in connection with the collection and conditions established under this Declaration; payment of all reasonable and necessary expenses in connection with the collection and administration of the maintenance charges and assessments; employing policemen and watchmen, if desired; caring for vacant lots and doing other things or things necessary or desirable in the opinion of the Board of Directors to keep the Lots neat and in good order, or which is considered of general benefit to the Owners or occupants of the Lots; and obtaining liability, workers compensation, property and Director and Officer liability insurance in amounts deemed proper by the Board of Directors of the Association and the establishment of a Maintenance Reserve. It is understood that the judgment of the Board of Directors in the expenditure of said funds shall be final and conclusive so long as such judgment is exercised in good faith.

11.03 Rate of Assessment. All Lots in the Property shall commence to bear their applicable maintenance fund assessment simultaneously from the date of conveyance of the first Lot to an Owner other than Declarant. Lots which are or at any time have been occupied, shall be subject to the annual assessment determined by the Board of Directors according to the provisions of Section 11.4. Lots which are not and have never been occupied, and which are owned by a Declarant, or the person who built (or causes to be built) the residential dwelling on the Lot, shall be subject to an annual assessment equal to one-half (1/2) of the annual assessment

5  
0  
8  
0  
-  
2  
1  
-  
0  
9  
0  
5  
  
P  
E  
T

applicable to occupied lots. The rate of assessment for any calendar year for any individual Lot, will change within that calendar year as the character of ownership and the status of occupancy changes, however, once any Lot has become subject to assessment at the full rate, it shall not thereafter revert to assessment at the lower rate. The applicable assessment for each Lot shall be prorated for each calendar year according to the rate applicable for each type of ownership of the Lot during that calendar year. Both annual and special assessments on all Lots shall be fixed at uniform rates (i.e., the same rate for each Lot); provided, however, that such assessments shall not commence with regard to any Lot until such Lot is conveyed to an Owner other than the Declarant, notwithstanding any provision contained in this Declaration to the contrary. In addition to the assessments described hereinabove, each Owner in the Section 11 Subdivision, excluding Declarant or the builder, shall be subject to an annual Neighborhood assessment ("Neighborhood Assessment") for the operating and maintenance of the Section 11 Neighborhood Facilities. The Neighborhood Assessment will be set by the Declarant. The Neighborhood Assessment will be due on the same dates as the other assessments as set forth herein and collected by the Association. Each Owner of a boat slip that owns a Non-Waterfront Lot shall be assessed by the Association an additional fee of \$250.00 annually for the maintenance of their boat slip. Notwithstanding the foregoing, the Owners of boat slips that own a Non-Waterfront Lot may be subject to a special assessment for repairs or rebuilding of their boat slips. All Owners of boat slips that are Owners of Non-waterfront Lots shall be required to abide by the rules and regulations attached hereto as Exhibit "E" which are subject to change from time to time.

11.04 Basis and Maximum Level of Annual Assessments. Annual assessments for the year in which a Lot is sold by the Declarant to an Owner, as well as the annual assessment due for the next succeeding calendar year of annual assessment, shall be due and payable in advance upon the sale of such Lot. Thereafter, all such annual assessments shall be payable in advance on January 1 of each year. From and after the first day of January of the year immediately following the conveyance of the first Lot to an Owner other than Declarant, the maximum annual assessment may be increased by the Board of Directors of the Association, effective the first day of January of each year, in conformity with the rise, if any, in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Department of Labor, Washington, D.C., or if discontinued, by any successor or comparable index for the preceding month of September of each year; or, alternatively, by an amount not to exceed fifteen percent (15%) over the prior year's actual rate, whichever is greater, in either event without a vote of the members of the Association. Written notice of the annual assessment shall be sent to every Owner subject thereto at the address of each Lot or at such other address provided to the Association in writing pursuant to Section 11.03. Assessments are due on January 1 of each year and considered delinquent if not received by January 31. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of the annual assessment period, which shall begin on the first day of January of each year. The maximum annual assessment may be increased above that established by the Consumer Price Index formula or the above mentioned percentage increase only if the increase is approved by the affirmative vote of two-thirds (2/3) of all Members eligible to vote of the Association at a meeting duly called for that purpose. In lieu of notice to and a meeting of members as provided in the By-Laws of the Association, a door-to-door canvass may be made to secure the required two-thirds (2/3) written approval of the Members eligible to vote for such increase in the annual assessment or for the special assessment as provided below. The voting process for this action may be handled by mail ballot as long as the ballots contain the Name, property address, certification by the

Secretary of the Association, alternate address of the Member, if applicable, and the date and signature of the Member. Ballots may be returned by U.S. mail in envelopes specifically marked as containing ballots for the special election, or may be collected by door to door canvass. Upon levying of any increased assessment pursuant to the provisions of this Section 11.04, the Association shall cause to be recorded in the Official Public Records of Real Property of Harris County, Texas, a sworn and acknowledgeable affidavit of the President (or any Vice President) and of the Secretary of the Association which shall certify, among other items that may be appropriate, the total number of each class of Members eligible to vote as of the date of the voting, the quorum required, the number of votes represented, the number of each class voting "for" and "against" the levy, the amount of the increased assessment so authorized, and the date by which the increased assessment must be paid to avoid being delinquent. Such increase shall become effective on the date specified in the document evidencing such approval, and shall be filed for record in the Official Public Records of Real Property in Harris County, Texas. Assessments for any year in which a Lot is sold by Declarant shall be prorated to the date of closing, and assessments shall be due from the Owner thereof from that date forward.

11.05 Effect of Nonpayment of Assessments; Remedies of the Association. Any assessments which are not paid when due shall be delinquent and bear interest at the highest non-usurious rate permitted by law, or if no such limitation is imposed, then at the rate of eighteen percent (18%) per annum from thirty (30) days after the due date until paid. If any assessment is not paid within thirty (30) days after the due date, the Association may bring an action at law against the Owner personally obligated to pay the same, and/or foreclose on the Lien herein retained against the Lot. Interest, costs of Court, and reasonable Attorney's fees (when placed with an Attorney for collection, whether with or without suit) incurred in any such action shall be added to the amount of such assessment or charge. Each such Owner, by his acceptance of a Deed to a Lot, hereby expressly vests in the Association or its representative the right and power to institute and maintain an action against such Owner personally for the collection of such assessments and charges as a debt and to enforce the Lien by any methods available for the enforcement of such liens, including foreclosure by non-judicial action as provided for in Section 51.002 of the Real Property Code of the State of Texas, and such Owner expressly grants to the Association the power of sale, and judicial foreclosure in connection with the Lien. No Owner may waive or otherwise escape said Lien and liability for the assessments provided for herein by non-use of the Common Areas or Reserves, or abandonment or divestiture of ownership of a Lot for any annual or special assessment which became due and payable during the time when such Owner owned the Lot.

11.06 Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Board of Directors may levy, in any assessment year, a special assessment applicable to the current year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided any such assessment shall have the approval of two-thirds (2/3) of the votes of those members of each class who are voting in person or by proxy at a meeting duly called for this purpose. Likewise, subject to the provisions of Section 11.04, the voting process for this action may also be handled by mail ballot as long as the ballots contain the name, property address, certification by the Secretary of the Association, alternate address of the member, if applicable, and the date and signature of the member. Ballots may be returned by U.S. mail in envelopes specifically marked as containing ballots for the special election or may be collected by door to door canvass. Upon the levying of any Special Assessment pursuant to the provisions of this Section 11.6, the

Association shall cause to be recorded in the real property records of the Harris County Clerk's Office, a sworn and acknowledged affidavit of the President (or any Vice President) and of the Secretary of the Association which shall certify, among other items that may be appropriate, the total number of each class of members eligible to vote as of the date of the voting, the quorum required, the number of each class of votes represented, the number of each class voting "for" and "against" the levy, the amount of the Special Assessment authorized, the date by which the Special Assessment must be paid in order to avoid being delinquent.

11.07 Notice and Quorum for any Action Authorized. Written notice of any meeting called for the purpose of taking any action authorized under Sections 11.04 or 11.06 shall be sent to all members not less than fifteen (15) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. If the vote of the members is conducted by mail or door to door canvass, the approval of two-thirds (2/3) of the total membership of each class is required.

11.08 Subordination of the Lien to Mortgages. All regular and special maintenance charges or assessments and other charges, as hereinabove provided for, shall constitute and be secured by a separate and valid and subsisting lien, hereby created and fixed, and which shall exist upon and against each Lot and all improvements thereon, for the benefit of the Association. Subject to the conditions that the Association be made a party to any Court proceeding to enforce any superior lien, the lien hereby created shall be subordinate and inferior to:

(A) All liens for taxes or special assessments levied by the City, County and State governments, or any political subdivision or special district thereof, and

(B) All liens securing amounts due or to become due under any mortgage, vendor's lien, or deed of trust filed for record prior to the date payment of any such charges or assessments become due and payable, and

(C) All liens, including, but not limited to, vendor's liens, deeds of trust and other security instruments which secure any loan made to an Owner for any part of the purchase price of any Lot or for any part of the cost of constructing, repairing, adding to, or remodeling the improvements and appurtenances situated on any Lot.

Any foreclosure, or deed in lieu of foreclosure, of any such superior lien under the power of sale of any mortgage, deed of trust or other security instrument, or through Court proceedings in which the Association has been made a party, shall cut off and extinguish the liens securing maintenance charges or assessments which became due and payable prior to the date of such foreclosure or the date of execution of the deed in lieu thereof, but no such foreclosure or deed in lieu thereof shall free any Lot from the lien securing subsequent assessments applicable to such Lot.

Each Owner, by his assertion of title or claim or ownership or by his acceptance of a deed to a Lot, or deed in lieu, whether or not it shall be so recited in such deed, shall be conclusively

deemed to have expressly vested in the Association and in its officers and agents, the right, power, and authority to take all action which the Association shall deem proper for the collection of assessments and/or for the enforcement and foreclosure of the liens securing the same.

11.09 Exempt Property. All properties dedicated to, and accepted by, a local public authority exempt from taxation by the laws of the State of Texas, and all Common Areas and Reserves, shall be exempt from the assessments and charges created herein. Notwithstanding the foregoing, no Lot which is used, or is intended for use, as a residence shall be exempt from said assessments and charges and the Lien herein securing payment thereof.

## SECTION 12 ANNEXATION

12.01 Annexation Without Approval of Class "A" Membership. Declarant shall have the unilateral right, privilege, and option, from time to time at any time until all property described on Exhibit "A" has been subjected to this Declaration or December 31, 2020, whichever is earlier, to subject to the provisions of this Declaration and this jurisdiction of the Association all or any portion of the real property described in Exhibit "A", attached hereto. Additionally, Declarant shall retain the right but not the obligation to annex any tract of land which is designed exclusively as single family lots and which is contiguous to any border surrounding the property described on Exhibit "A" without the requirement of vote or joinder by any other Owner until December 31, 2020. Such annexation shall be accomplished by filing in the public records of Harris County, Texas, a Supplemental Declaration annexing such property. Such Supplemental Declaration shall not require the consent of Members, but shall require the consent of the owner of such property, if other than Declarant. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein. Declarant shall have the unilateral right to transfer to any other Person the right, privilege, and option to annex additional property which is herein reserved to Declarant, provided that such transferee or assignee shall be the developer of at least a portion of the real property described in Exhibit "A" and that such transfer is memorialized in a written, recorded instrument executed by the Declarant.

12.02 Annexation With Approval of Class "A" Membership. Subject to the consent of the Owner thereof, the Association may annex real property other than that described on Exhibit "A", and following the expiration of the right granted to the Declarant in Section 1, any property, to the provisions of this Declaration and to the jurisdiction of the Association. Such annexation shall require the affirmative vote of Members representing a majority of the Class "A" votes of the Association present at a meeting duly called for such purpose and of the Declarant, so long as Declarant owns property subject to this Declaration or which may become subject thereto in accordance with Section 12.01 hereof. Annexation pursuant to this Section shall be accomplished by filing of record in the public records of Harris County, Texas, a Supplemental Declaration describing the property being annexed. Any such Supplemental Declaration shall be signed by the President and the Secretary of the Association, and by the owner of the property being annexed, and any such annexation shall be effective upon filing, unless otherwise provided therein. The relevant provisions of the By-Laws dealing with regular or special meetings, as the case may be, shall apply to determine the time required for and the proper form of notice of any meeting called for the purpose of considering annexation of property pursuant to this Section 12.02 and to establish the quorum requirement for such meeting.



After additions or annexations are made to the development, all assessments collected by the Association from the Owners in the annexed areas shall be commingled with the assessments collected from all other Owners so that there shall be a common maintenance fund for the properties.

12.03 Acquisition of Additional Common Area. Declarant may convey to the Association additional real estate, improved or unimproved, located within the properties described in Exhibit "A", which upon conveyance or dedication to the Association shall be accepted by the Association and thereafter shall be maintained by the Association for the benefit of such class or classes of persons as are identified in the deed of conveyance.

12.04 Withdrawal of Property. Declarant reserves the right to amend this Declaration unilaterally at any time so long as it holds an option to expand the community pursuant to Section 12.01, without prior notice and without the consent of any Person for the purpose of removing certain portions of the Properties then owned by the Declarant, or its affiliates from the provisions of this Declaration.

12.05 Amendment. No provision within Section 12 may be amended without the prior written consent of Declarant, so long as the Declarant owns any property described in Exhibit "A".

### SECTION 13 GENERAL PROVISIONS

13.01 Term. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and shall be enforceable by the Association or the Owner of any Properties subject to this Declaration or any Supplemental Declaration, their respective legal representative, heirs, successors and assigns, for an initial term of forty (40) years from the date these covenants are recorded. After which time they shall be automatically extended for successive periods of ten (10) years.

When Class B membership ceases and converts to Class A membership, then the covenants and restrictions of this Declaration may be changed or terminated only by an instrument executed by the then Owners representing seventy-five (75%) of all the Lots within the Property, wherein such change or termination shall be evidenced by a document properly recorded in the Official Public Records of Real Property of Harris County, Texas. During the last twelve (12) months of the initial term above stated and during any such ten (10) year automatic extension periods, the covenants and restrictions of this Declaration may be changed or terminated only by an instrument signed by the then Owners of not less than fifty-one percent (51%) of all the Lots in the Property and properly recorded in the Official Public Records of Real Property of Harris County, Texas, provided no such change and/or amendment shall alter the effectiveness of these covenants and restrictions until the natural expiration of the original term or the automatic extension term then in effect.

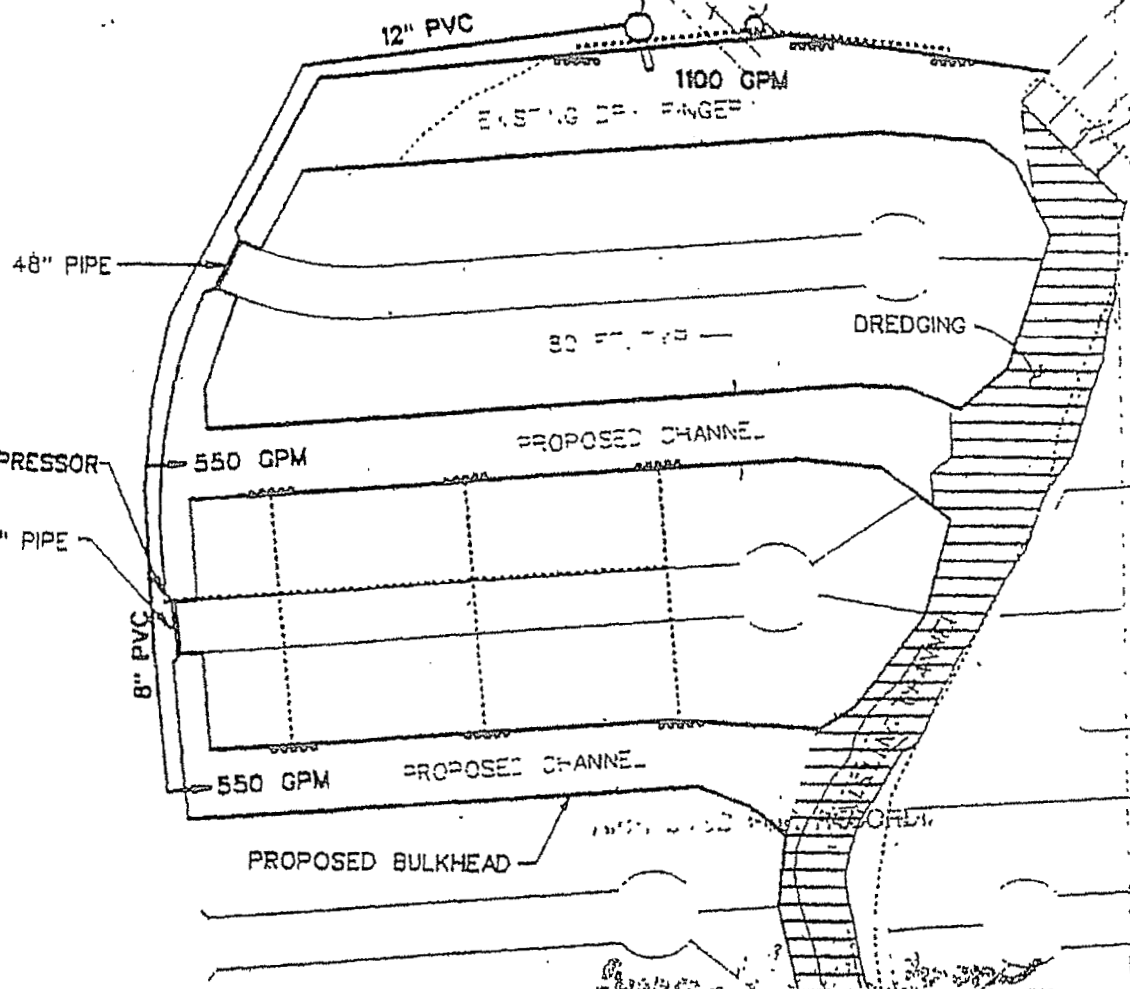
13.02 Enforcement. The Association, any Owner, or the Declarant, and their respective successors and assigns, shall have the right to enforce by a proceeding at law or in equity all easements, restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration and in connection therewith shall be entitled to recover all reasonable collection costs and attorney's fees. Failure by the Association or by any

C-8

PROPOSED WATER LINE  
PROPOSED AIR LINE  
PROPOSED AIR DIFFUSER  
(TYPICALLY 30' LONG)

~~501-21-0136~~  
PUMP STATION WITH  
SCREENED GRAVITY INTAKE  
PROPOSED  
304" PUMP  
AIR COMPRESSOR STATION

LAKEVIEW DRIVE  
EXISTING RECREATION CENTER



REF 028-21-1033

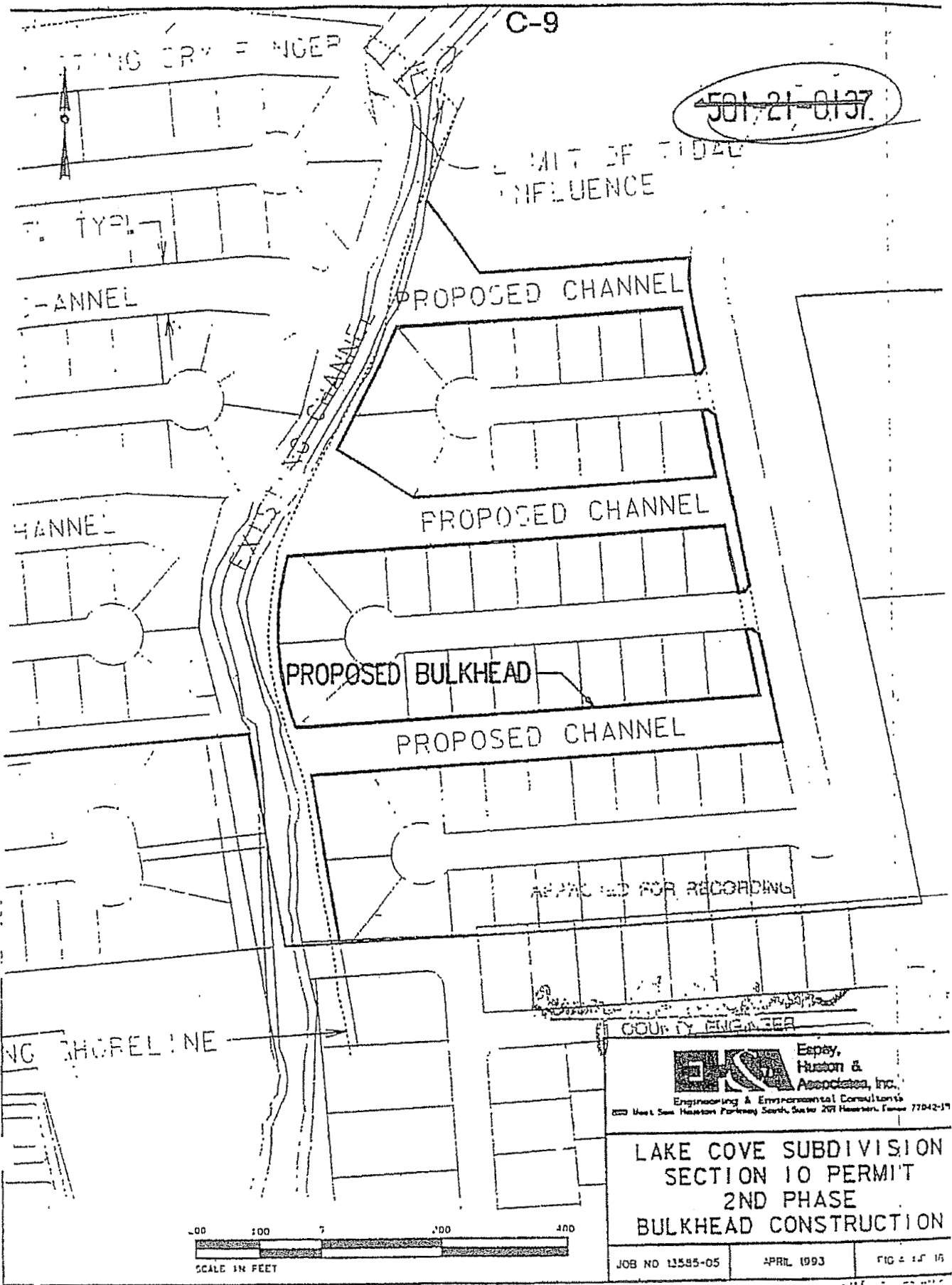
COUNTY ENGINEER  
**Epsy, Houston & Associates, Inc.**  
Engineering & Environmental Consultants  
607 West End Houston, Fortney South, Suite 201 Houston, Texas 77012

LAKE COVE SUBDIVISION  
SECTION 10 PERMIT  
1ST PHASE  
D.O. PUMP STATION



JOB NO. 13585-05    JULY, 1992    FIG. 3A OF 15

REP 028-21-1034



C-9

501-21-0137

LIMIT OF TIDAL INFLUENCE

EXISTING CHANNEL

PROPOSED CHANNEL

PROPOSED CHANNEL

PROPOSED CHANNEL

PROPOSED CHANNEL

PROPOSED CHANNEL

PROPOSED BULKHEAD

PROPOSED CHANNEL

APPLICABLE FOR RECORDING

EXISTING SHORELINE

COUNTY ENGINEER

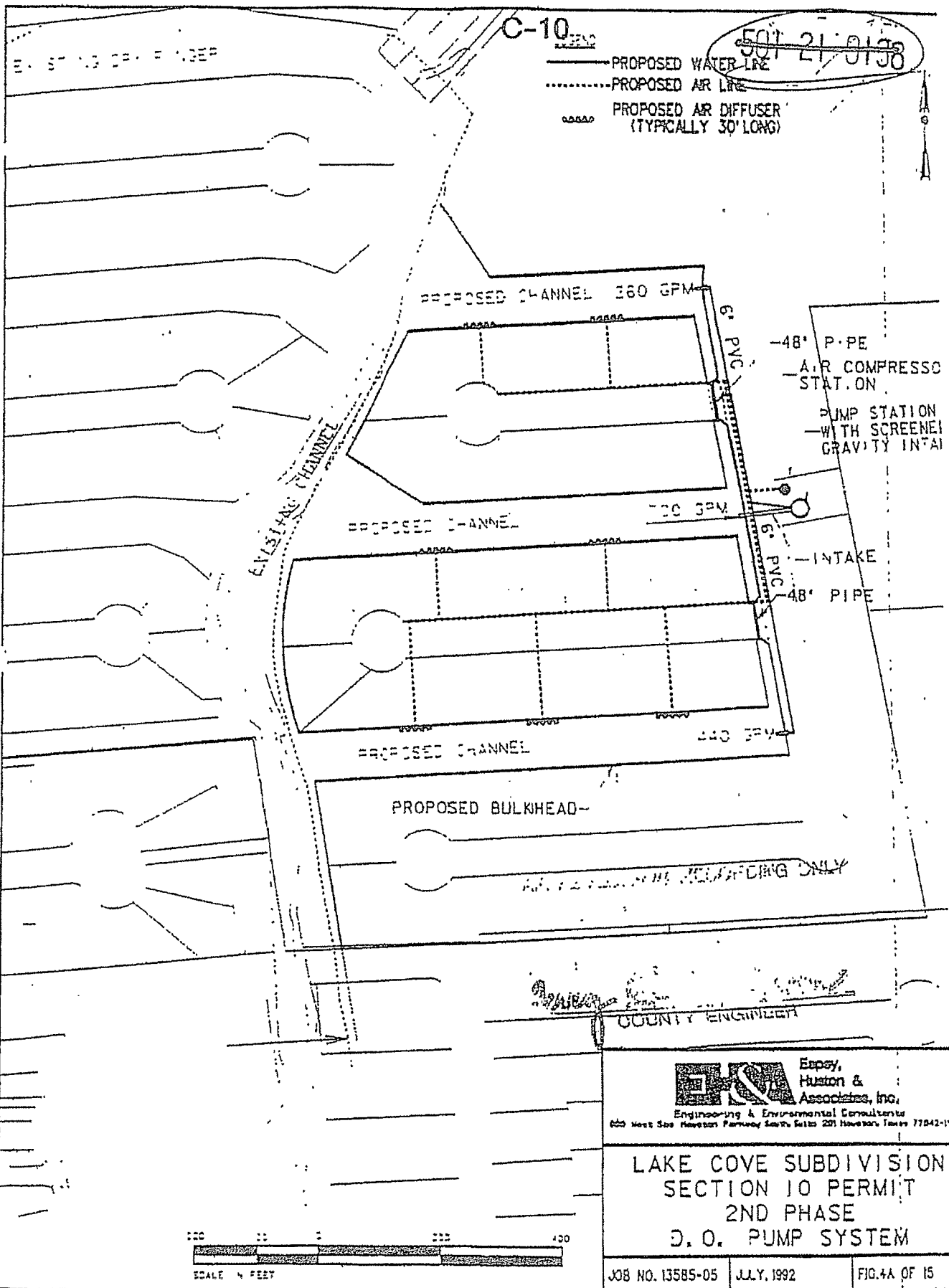
**E&A** Espay, Huston & Associates, Inc.  
 Engineering & Environmental Consultants  
 200 West Sam Houston Parkway South, Suite 201 Houston, Texas 77042-17

**LAKE COVE SUBDIVISION  
 SECTION 10 PERMIT  
 2ND PHASE  
 BULKHEAD CONSTRUCTION**



JOB NO 11585-05	APRIL 1993	FIG 2 OF 15
-----------------	------------	-------------

REF 028-21-1035



501 21 0138

C-10

- PROPOSED WATER LINE
- PROPOSED AIR LINE
- o o o o o PROPOSED AIR DIFFUSER (TYPICALLY 30' LONG)

PROPOSED CHANNEL 260 GPM

PROPOSED CHANNEL

PROPOSED CHANNEL

PROPOSED BULKHEAD

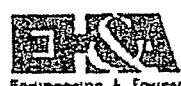
- 48" P.P.E
- AIR COMPRESSOR STATION
- PUMP STATION WITH SCREENED GRAVITY INTAKE

200 GPM

140 GPM

FOR PERMANENT RECORDING ONLY

COUNTY ENGINEER



Epsy, Houston & Associates, Inc. Engineering & Environmental Consultants

600 West 5th Street Houston, Texas 77002-11

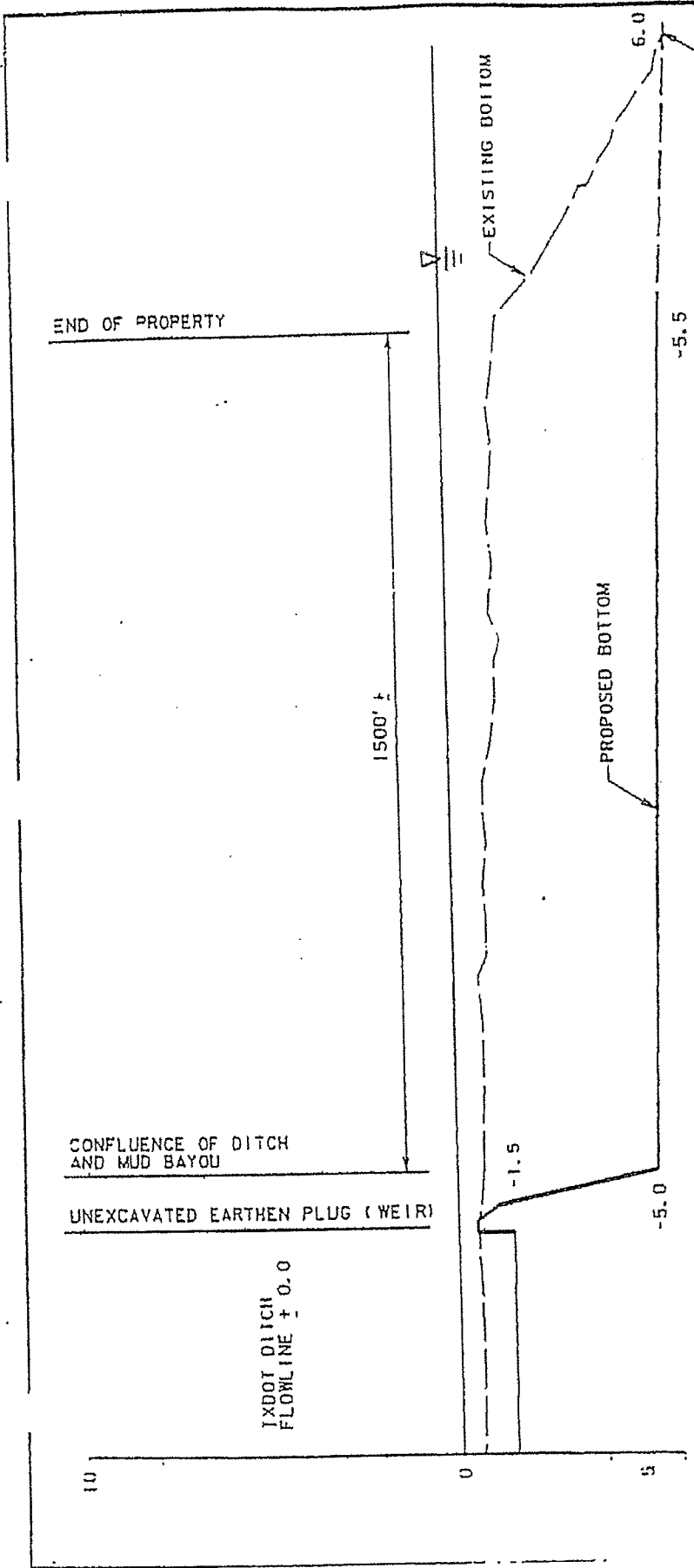
LAKE COVE SUBDIVISION  
SECTION 10 PERMIT  
2ND PHASE  
D. O. PUMP SYSTEM



JOB NO. 13585-05	JULY, 1992	FIG. 4A OF 15
------------------	------------	---------------

501-21-0139

C-11



MATCH EXISTING BOTTOM (-6.0 to -5.5 FT. MSL)

APPROVED FOR RECORDING ONLY

*[Handwritten signature]*  
CCENT. 10/1/11

**EHA** Espey, Huston & Associates, Inc.  
Engineering & Environmental Consultants  
200 West Sam Houston Parkway South, Suite 201 Houston, Texas 77042-1911

LAKE COVE SUBDIVISION  
SECTION 10 PERMIT  
PROFILE AT MUD BAYOU

JOB NO. 3895-C5	DATE 11/11	SCALE 1" = 10'
-----------------	------------	----------------

C-12

MAY NO. 146  
5/11/21/2016

EXISTING SECTION 2

LAKESIDE DRIVE

DISCHARGE POINT  
DISCHARGE PIPE

EXCAVATED DITCH

STATE OF TEXAS  
DRAINAGE P.C.U.  
OF SEABROOK  
DRAINAGE EASEMENT

EXISTING RECREATION CENTER

PROPOSED BOAT RAMP

DISPOSAL DREDGE AREA

PROPOSED WEIR  
STATE OF TEXAS  
INFLUENCE

EXISTING DRY POND

PROPOSED CHANNEL

PROPOSED CHANNEL

PROPOSED CHANNEL

PROPOSED CHANNEL

1ST PHASE DREDGING

PROPOSED CHANNEL

TURBIDITY CURTAIN

PROPOSED DIKE TO CONTROL DREDGING SPOILS  
APPROVED FOR RECORDING ONLY

**EHA** Espy, Huston & Associates, Inc.  
Engineering & Environmental Consultants  
200 West Sam Houston Parkway South, Suite 201 Houston, Texas 77042

LAKE COVE SUBDIVISION  
SECTION 10 PERMIT  
PROPOSED DREDGE SPOIL PLAN



553-1-2-320  
RE

other person entitled to enforce any covenant or restriction herein shall in no event be deemed a waiver of the right to do so thereafter. It is hereby stipulated, the failure or refusal of any Owner or any occupant of a Lot to comply with the terms and provisions hereof would result in irreparable harm to other Owners, to Declarant and to the Association. Thus, the covenants, conditions, restrictions and provisions of this Declaration may not only be enforced by an action for damages at law, but also may be enforced by injunctive or other equitable relief (i.e., restraining orders and/or injunctions) by any court of competent jurisdiction, upon the proof of the existence of any violation or any attempted or threatened violation. Any exercise of discretionary authority by the Association concerning a covenant created by this Declaration is presumed reasonable unless the court determines discretionary authority was arbitrary, capricious or inconsistent with the scheme of the development (i.e., the architectural approval or disapproval for similar renovations relative to a given location within the Property.

The Association on its own behalf or through the efforts of its management company may initiate, defend or intervene in litigation or any administrative proceeding affecting the enforcement of a covenant created by this instrument or for the protection, preservation or operation of the Property covered by this Declaration. Notification will be deemed to have been given upon deposit of a letter in the U.S. mail addressed to the Owner alleged to be in violation. Any cost that has accrued pursuant to this Section shall be secured and collectible in the same manner as established herein for the security and collection of annual assessments.

13.03 Intentionally Deleted

13.04 Non Waiver. Failure of the Association, Declarant or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed to be a waiver of the right to do so thereafter, nor of the right to enforce any other restriction.

13.05 Captions. Section numbers and sub-section numbers appearing herein are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such sections or sub-sections, nor in anywise affect the covenants, conditions, charges, encumbrances and restrictions hereinabove set forth.

13.06 Titles. The titles of this Declaration contained herein are for convenience only and shall not be used to construe, interpret, or limit the meaning of any term or provision in this Declaration.

13.07 Severability. Invalidation of any one of those covenants by judgment or other court order shall in no way affect any of the other provisions which shall remain in full force and effect.

13.08 Interpretation. If this Declaration or any word, clause, sentence, paragraph or other part thereof shall be susceptible of more than one or conflicting interpretations, then the interpretation which is most nearly in accordance with the general purpose and objectives of this Declaration shall govern.

13.09 Omissions. If any punctuation, word, clause, sentence or provision necessary to giving meaning, validity or effect to any other word, clause, sentence or provision appearing in this Declaration shall be omitted herefrom, then it is hereby declared that such omission was





another association may be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to the merger. The surviving or consolidated association shall administer the covenants and restrictions applicable to the properties of the other association as one scheme. No such merger or consolidation, however, shall affect any revocation, change or addition to the covenants established by this Declaration or any Supplemental Declaration.

EXECUTED this 6th day of September, 2006.

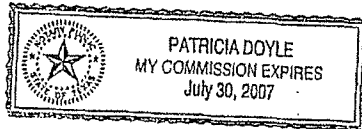
DECLARANT:  
The Villas at Lake Cove, Ltd.  
a Texas Limited Partnership

By: The Villas at Lake Cove CCB Operations, LLC  
its General Partner

By:   
Joseph L. Watson, President

THE STATE OF TEXAS §  
  §  
COUNTY OF HARRIS §

This instrument was acknowledged before me on this 6th day of September, 2006, by Joseph L. Watson, President of The Villas at Lake Cove CCB Operations, LLC, the General Partner of The Villas at Lake Cove, Ltd., a Texas limited partnership, and he acknowledged to me that he executed the foregoing for the purposes therein expressed, and in the capacity therein stated.



Notary Public, State of Texas

After recording, return to:  
The Villas at Lake Cove, Ltd.  
2411 Fountainview, Suite 215  
Houston, Texas 77057

C:\winword\Ccr-1c11-2006.doc

2006-09-06 10:52:52 AM

METES AND BOUNDS DESCRIPTION

BEING a tract of land situated in the Ritson Morris Survey, Abstract No. 52, in Harris County, Texas; being portions of that certain tract of land in the deed to Lake Cove Investments, Inc. recorded in Harris County Clerk's File No. M426510, Deed Records of Harris County, Texas and described by metes and bounds as follows:

COMMENCING at a 3/4 inch pipe on the south line of Repeadorf Road, being the Northeast corner of said Lake Cove tract and the Northwest corner of that certain tract of land described in the deed to Houston Lighting and Power Co. recorded in Volume 4671, Page 406, Deed Records of Harris County, Texas; THENCE South 89 degrees 02 minutes 58 seconds West with the South line of said Road, 241.24 feet to the Northwest corner of that certain 10.0096 acre tract of land described in Amendment to Partial Release by Amoco Pipeline Co. recorded in Harris County Clerk's File No. M426865, Deed Records of Harris County, Texas; THENCE South 07 degrees 31 minutes 51 seconds East with a West line of said 10.0096 acre tract, at 5.3 feet a 5/8 inch iron rod in all 691.79 feet to a re-entrant corner of said 10.0096 acre tract; THENCE North 89 degrees 52 minutes 59 seconds West, 3.03 feet to a Westerly corner of said 10.0096 acre tract; THENCE South 07 degrees 31 minutes 51 seconds East, with a West line of said 10.0096 acre tract, 523.16 feet to a 5/8 inch iron rod for the Easterly Southeast corner of Lot 44 Block 2, Lake Cove Section 4, a subdivision recorded in Film Code No. 5631492, Map Records of Harris County, Texas, said iron rod also being the Northeast corner of Lake Cove Section 8, recorded in Film Code No. 423074, Map Records of Harris County, Texas; THENCE South 82 degrees 46 minutes 35 seconds West, with a Northerly line of said Section 8, and a South line of said section 4, 55.34 feet to a 5/8 inch Hult-Zollars plastic capped iron rod; THENCE South 47 degrees 31 minutes 35 seconds West, with a North line of said Section 8, continuing with the South line of Section 4, passing its Southwest corner and continuing with the South line of Lake Cove Section 6, a subdivision recorded in Film Code No. 402041, Map Records of Harris County, Texas, in all 855.96 feet to a 5/8 inch Hult-Zollars plastic capped iron rod for the Northwest corner of said Section 8; THENCE South 42 degrees 28 minutes 25 seconds East, with a Westerly line of said Lake Cove Section 8, crossing an estuary of Clear Lake, in all 128.00 feet to a 5/8 inch Hult-Zollars plastic capped iron rod for the West corner of Lot 7 Block 1, Lake Cove Section 8; THENCE South 47 degrees 31 minutes 35 seconds West with a common line of Lot 1 Block 1, and Reserve "E", Lake Cove Section 9, a subdivision recorded in Film Code No. 452006, Map Records of Harris County, Texas, crossing Water Way, a 60 foot wide street, continuing with a common line of Reserve "A" and Reserve "B", said Section 9, in all a distance of 325.76 feet; THENCE South 25 degrees 37 minutes 00 seconds West, with a common line of said Reserve "A" and said Reserve "B" 68.23 feet; THENCE South 12 degrees 00 minutes 02 seconds West with a common line of said Reserve "A" and Reserve "B" 20.73 feet to a 5/8 inch Hult-Zollars plastic capped iron rod and the POINT OF BEGINNING of this tract herein described.

THENCE North 70 degrees 06 minutes 55 seconds East with a South line of said Reserve "A", 91.58 feet to a 5/8 inch Hult-Zollars plastic capped iron rod;

THENCE North 87 degrees 50 minutes 34 seconds East with said South line, 90.78 feet to a 5/8 inch Hult-Zollars plastic capped iron rod;

THENCE South 03 degrees 56 minutes 14 seconds East with a West line of said Section 9, 118.96 feet to a 5/8 inch Hult-Zollars plastic capped iron rod on the North line of Lake Cove Circle, a street whose width varies;

THENCE South 18 degrees 28 minutes 40 seconds East with said West line crossing said street, 81.16 feet to a 5/8 inch Hult-Zollars plastic capped iron rod;

THENCE South 07 degrees 03 minutes 25 seconds East with said West line, 1050.73 feet to a 5/8 inch Hult-Zollars plastic capped iron rod;

THENCE South 00 degrees 08 minutes 25 seconds West with said West line, 170.00 feet to a 5/8 inch Hult-Zollars plastic capped iron rod at the Southwest corner of said Section 9;

THENCE North 89 degrees 51 minutes 34 seconds West with a North line of Wildwood Section 2, a subdivision recorded in Volume 74, Page 64, Map Records of Harris County, Texas, 418.72 feet to a 1/2 inch iron rod;

THENCE North 89 degrees 10 minutes 29 seconds West with a North line of said Section 2, at 195.65 feet a 5/8 inch Hult-Zollars plastic capped iron rod, continuing, in all a total distance of 256.06 feet to a point on the mean higher high water line of an estuary of Clear Lake as determined by survey dated May 12, 1992 by Landtech Consultants;

Ex. "A"

028-1-0918

the meanders of said higher high water line on the Easterly line of said estuary the following distances:

- gress 02 minutes 55 seconds West, 125.07 feet;
- gress 48 minutes 57 seconds East, 64.32 feet;
- gress 30 minutes 22 seconds West, 119.23 feet;
- gress 04 minutes 08 seconds West, 109.29 feet;
- gress 50 minutes 32 seconds West, 60.00 feet;
- gress 46 minutes 24 seconds West, 110.77 feet;
- gress 38 minutes 10 seconds East, 88.08 feet;
- gress 01 minutes 20 seconds East, 85.59 feet;
- gress 08 minutes 30 seconds East, 83.33 feet;
- gress 14 minutes 18 seconds East, 71.24 feet;
- gress 06 minutes 08 seconds East, 78.53 feet;
- gress 54 minutes 68 seconds East, 28.94 feet;
- gress 50 minutes 06 seconds East, 54.66 feet;
- gress 36 minutes 44 seconds East, 47.04 feet;
- gress 11 minutes 30 seconds East, 52.88 feet;
- gress 02 minutes 25 seconds East, 77.89 feet;
- gress 48 minutes 36 seconds East, 46.99 feet;
- gress 12 minutes 02 seconds East, 62.31 feet;
- gress 31 minutes 38 seconds East, 115.51 feet;

ing the mean higher high water line, North 64 degrees 31 minutes 27 seconds East, 7.69 feet;

h 77 degrees 59 minutes 58 seconds East with a South line of Reserve "B" said Section 9, to the POINT OF BEGINNING and containing 16.6282 acres of land;

is based from the plat of record, Lake Cove Section 8.

is of the mean higher high water line referenced herein is based on a Survey dated May 12, 1992 Consultants, Inc., Paul P. Kwan RPLS and D.D. Shine LSLS, RPLS. Excavation has occurred in of this line. The meanders of said higher high water line are as of April 27 through April 29.

RECORDED

EX. "A"

**Prominence Security Agency, INC.**  
"Protection into the 21<sup>st</sup> Century"

**EIN# 76-0523597**

**Invoice for Security Guard Services**

**Invoice#: 187**

**Date: 07/10/07**

**Bill To: FRONTENAC HOA/PRIME SITES**  
**8955 KATY FWY #301**  
**Houston, TX 77024**  
**Project: Security Guard Services**

<b>Personnel</b>	<b>Description</b>	<b>Rate</b>	<b>Extension</b>
<b>2</b>	<b>Provided Patrol Security from 07-01-07 to 07-15-07 Security System Maintenance Rate.</b>	<b>Flat Rate</b>	<b>1,894.89</b>

**\*Payment is due on or Before the 1<sup>st</sup> & 15<sup>th</sup> of  
every month, Promptly.**

**Total Amount: \$1,894.89**

**Thank you and may God Bless you!**

**\*Please mail payments to: 7103 Savannah Glen Lane**  
**Richmond, Texas 77469**  
**Phone# (713) 726-8444 Fax: (281) 239-2200**

# The State of Texas



Austin, Texas

## EASEMENT ON COASTAL PUBLIC LANDS

EASEMENT NO. CE 930158



STATE OF TEXAS

§

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF HARRIS

§

(1) By virtue of the authority granted by Texas Natural Resources Code, Chapter 33 (Vernon 1978), and by School Land Board, Title 31, Texas Administrative Code, Chapter 155 (Hart, November 1, 1986) (Land Resources), and subject to all rules and regulations promulgated by the Commissioner of the Texas General Land Office and/or the School Land Board of Texas pursuant thereto and all other applicable statutes and amendments to the Texas Natural Resources Code, the STATE OF TEXAS, hereinafter called GRANITOR, acting by and through the School Land Board and its Chairman, Garry Mauro, Commissioner of the General Land Office, hereby grants to Lake Cove Community Association, Inc. 6300 Richmond, Suite 120, Houston, Texas 77057-5916, (713) 785-5704, hereinafter called GRANTEE, GRANTEE's heirs, successors, and assigns, an easement for dredging of a channel on coastal public lands in Harris County, Texas, described as follows:

Mud Bayou, City of Seabrook, adjacent to Lake Cove  
Section 1, Harris County, Texas

To be encumbered by:

A proposed project consisting of dredging of a channel encumbering a total of 133,579 sq. ft., Mud Bayou, Harris County, Texas. See Exhibits A, B and C attached hereto and made a part hereof.

(2) This easement is for a total period of five (5) years, beginning on the date of execution by GRANITOR, unless the same be renewed, extended, cancelled, or changed by the proper official of the State of Texas as authorized by law.

Ex. "B"

RECORDED



(3) As consideration for the granting of this easement, GRANTEE agrees to pay to the Commissioner of the Texas General Land Office at Austin, Texas, the sum of Nine Thousand Sixteen and 57/100 Dollars (\$9,016.57). The first payment of Five Thousand Nine and 21/100 Dollars (\$5,009.21) will be due for 1993. Subsequent payments will be due in the amount of One Thousand One and 84/100 Dollars (\$1,001.84) for the years of 1994, 1995, 1996 and 1997.

(4) In addition to the rental, GRANTEE shall pay and discharge all taxes, general and special assessments, and other charges of every description which during the term of this easement may be levied on or assessed against the land or the improvements constructed upon the above-described premises, provided that such taxes result from this easement. GRANTEE shall pay all such taxes, charges, and assessments to the public office charged with the collection thereof not less than five (5) days before the same shall become delinquent, and GRANTEE agrees to indemnify and hold GRANIOR harmless from all such taxes, charges, and assessments. GRANTEE shall have the right in good faith at his sole cost and expense to contest any such taxes, charges, and assessments, and shall be obligated to pay the contested amount only if and when finally determined to be owed.

(5) Failure of GRANTEE to make a rental payment on or before the date the same becomes due shall, at the option of the Commissioner of the General Land Office, make all rental payments due and payable immediately. All money due GRANIOR under the terms of this agreement shall bear interest at the rate of ten percent (10%) per annum from the date when due until actually paid.

(6) It is agreed that when any structure is placed on the above-described premises, the location of the easement shall thereby become fixed at the location of such structure and the course and location of said easement shall not be changed except by agreement with the Commissioner of the Texas General Land Office and any other governmental agency with jurisdiction over same.

(7) The grant of this easement is conditioned upon GRANTEE's ownership, or possessory interest, in the adjacent littoral property. Upon a change in ownership or of possessory interest, this easement may be assigned to the subsequent owner, according to the rules of the School Land Board and this agreement, or it will be terminated upon the transfer of the interest in the adjacent littoral property.

(8) GRANTEE shall not assign or sublease the rights granted in this easement in whole or in part to any third party for any purpose without the prior written approval of the Commissioner of the Texas General Land Office.

(9) GRANTEE shall permit GRANIOR's agents, representatives, and employees to enter into and on the above-described premises at all reasonable times for the purpose of inspection and for any other reasonable purpose necessary to protect GRANIOR's interest in the premises herein granted.

(10) GRANIOR reserves the right to use any or all of the area contained within the easement described above for any purpose not inconsistent with the use of the easement by GRANTEE.

93  
94  
95  
96  
97

PP 93-21-1001

(11) The land covered by this easement is subject to prospecting and developing of minerals by GRANIOR or GRANIOR's authorized representatives. GRANTEE will allow GRANIOR, GRANIOR's authorized representatives, holders of mineral leases, and other permittees who have written approval from the Texas General Land Office the right of ingress and egress over the above-described premises for the purposes designated in the permit or lease.

(12) GRANTEE may not charge any holder of a valid mineral lease or permit from GRANIOR customary surface damages for the use of the premises herein granted. All such damage payments shall be made directly to GRANIOR. GRANTEE, however, may seek compensation for damages to personal property in an action against the holder of a valid mineral lease or permit issued by GRANIOR. This damage limitation in no way limits the liability of third parties in an action at law for damages inflicted upon GRANTEE by the acts of negligence.

(13) GRANTEE shall have the right to file a criminal complaint or institute civil proceedings to protect GRANTEE's right of possession and easement interest in the premises herein granted.

(14) GRANTEE shall use the highest degree of care and all proper safeguards to prevent pollution of air, ground, and water in and around the above-described area and shall comply with the rules and orders which the Commissioner of the Texas General Land Office deems necessary for the protection and preservation of public lands and water. In the event of pollution which is the result of GRANTEE's use of the above-described premises, GRANTEE shall use all means reasonably available to recapture all pollutants which have escaped and shall be responsible for all damage of any nature arising from such pollution.

(15) GRANTEE agrees to keep the Commissioner of the Texas General Land Office informed of GRANTEE's current address and agrees to inform the Commissioner of any change of address of GRANTEE prior to any such change.

(16) GRANTEE shall not use, or permit the use of, the premises for any illegal purposes. GRANTEE will comply, and will cause its officers, employees, agents, and invitees to comply, with all applicable laws, ordinances, rules, and regulations of governing agencies concerning the use of the premises.

(17) GRANTEE agrees to indemnify and hold GRANIOR, its officers and employees, harmless for liability or damages of any kind or character without limit and without regard to the cause or causes thereof or the negligence of any party or parties, arising directly or indirectly from the use of the premises herein granted and/or any breach by GRANTEE of the terms, covenants, or conditions provided herein.

(18) In the event that GRANTEE fails to pay any money due under the terms of this agreement when the same becomes due, or is in breach of any condition or covenant set forth herein, the Commissioner of the Texas General Land Office shall have the right, at his option, to forfeit this agreement and terminate all rights inuring to the GRANTEE herein by sending written notice of such forfeiture



2001-12-23  
11:00 AM

by United States Mail to the last known address of GRANTEE. Upon sending of such written notice, this agreement shall terminate and all rights granted herein to GRANTEE shall revert to GRANIOR (subject to reinstatement by the School Land Board, at its option). Such forfeiture and termination shall not prejudice the rights of GRANIOR for any claim of payments due.

(19) Upon termination of this easement, GRANTEE shall, within one hundred twenty (120) days from said termination, remove all of GRANTEE's personal property and all structures and man-made improvements authorized by this agreement, provided all money due hereunder has been paid. GRANTEE shall take whatever measures are necessary to restore the area involved as nearly as practicable to the same condition that existed before GRANTEE entered thereon, except as otherwise approved or required in writing by the Commissioner of the Texas General Land Office.

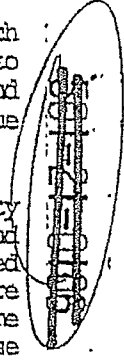
(20) A waiver by GRANIOR of a breach of this easement by GRANTEE does not constitute a continuing waiver or a waiver of any subsequent breach of this easement.

(21) By executing this contract, the person signing below attests that he is the littoral property owner.

(22) GRANTEE acknowledges that the dredging to be performed by and under the provisions of this easement will result in a substantial alteration of the shoreline of the tract subject hereto. GRANTEE has been advised by GRANIOR that the lands outside the bulkhead which will become submerged as a direct result of this dredging will be claimed by GRANIOR as state-owned submerged lands. GRANTEE acknowledges and accepts this determination and hereby releases and relinquishes any claim of interest, title, or ownership in and to newly submerged lands to GRANIOR. Any renewal, modification, amendment, or assignment of this easement shall include all of the newly submerged lands within the legal description of the easement area.

(23) GRANTEE further agrees to comply with the following conditions:

- A. GRANTEE shall follow the detailed water quality maintenance plan outlined by the Texas Water Commission; and
- B. GRANTEE shall minimize turbidity from dredging by using a silt screen during all dredging operations; and
- C. GRANTEE shall follow the mitigation plan for shallow water habitat as outlined by the interagency review team. See Exhibit C; and



REF 028-21-1000



D. GRANTEE shall notify GRANITOR thirty (30) days prior to project initiation; and

IN TESTIMONY WHEREOF, witness my hand and seal of the Texas General Land Office this 19th day of OCTOBER, 19 93.  
(Date of the Commissioner's signature)

501 21 0107

LAKE COVE COMMUNITY ASSOCIATION, INC.

THE STATE OF TEXAS

BY: Collin S. Campbell  
Collin S. Campbell  
Name  
President  
Title  
GRANTEE

BY: Garry Mauro  
GARRY MAURO  
Commissioner of the  
Texas General Land Office  
Chairman, School Land Board  
GRANITOR

APPROVED  
AUG THK  
CLERK CP  
EXECUTION

REF 028-21-1004

STATE OF TEXAS

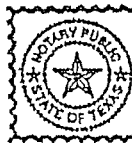
COUNTY OF Harris

This instrument was acknowledged before me on October 4, 1993,

by Collin S. Campbell, President, Lake Cove Community Association, Inc.  
(Name of Officer/Title of Officer) (Name of Corporation)

a Texas Corporation, on behalf of said corporation.  
(State of Corporation)

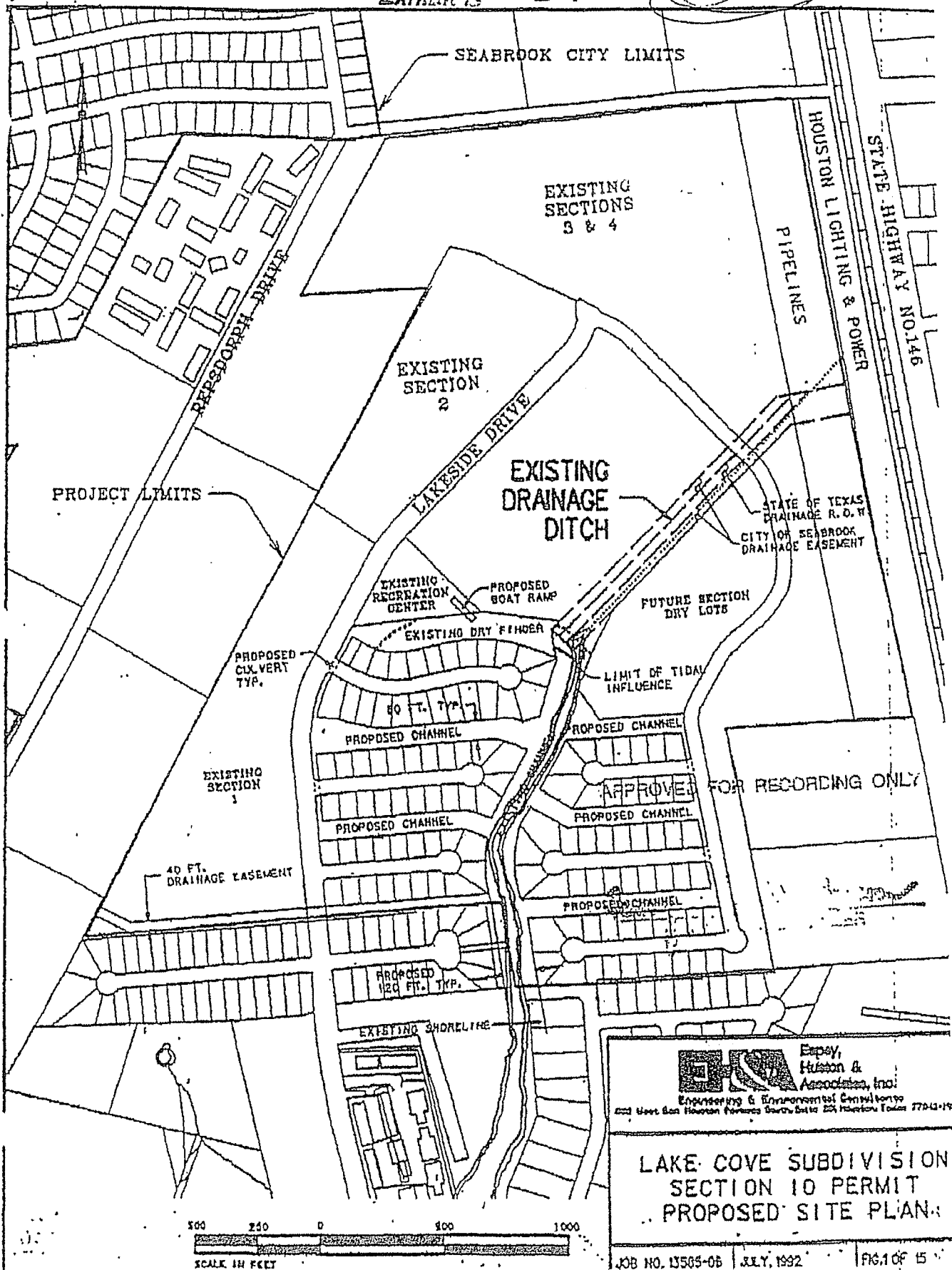
Leslie S. Whitt  
Notary Public



LESLIE S. WHITT Leslie S. Whitt  
NOTARY PUBLIC name  
State of Texas  
Comm. Exp. 07-26-95  
My commission expires:



~~JULY 1992~~



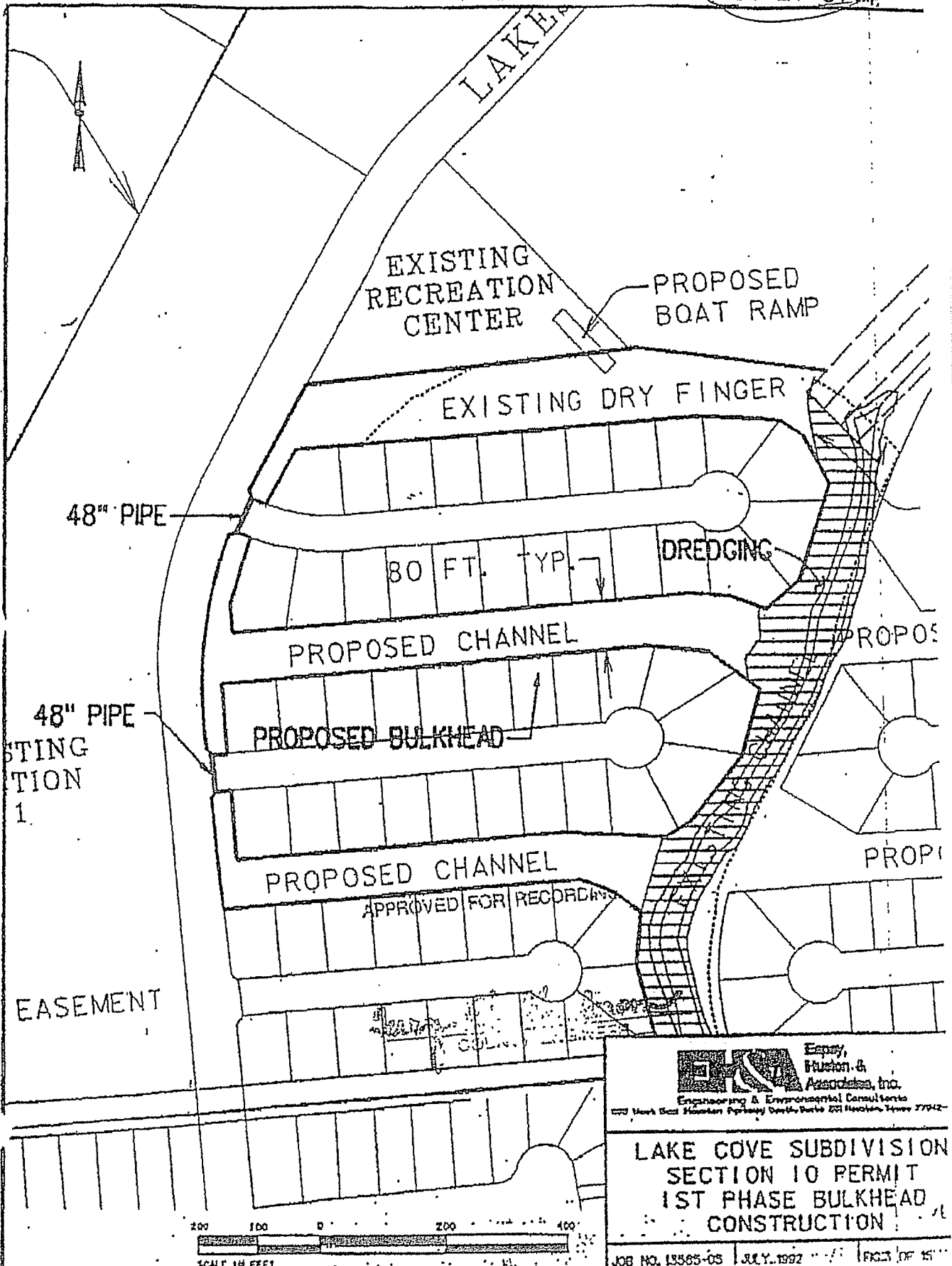
028-21-1008

**EHA** Epsy, Huston & Associates, Inc.  
 Engineering & Environmental Consultants  
 222 West San Houston Parkway, Suite 224 Houston, Texas 77042-1114

**LAKE COVE SUBDIVISION  
 SECTION 10 PERMIT  
 PROPOSED SITE PLAN**

JOB NO. 13505-05 | JULY, 1992 | FIG. 1 OF 15





RP 028-21-1008

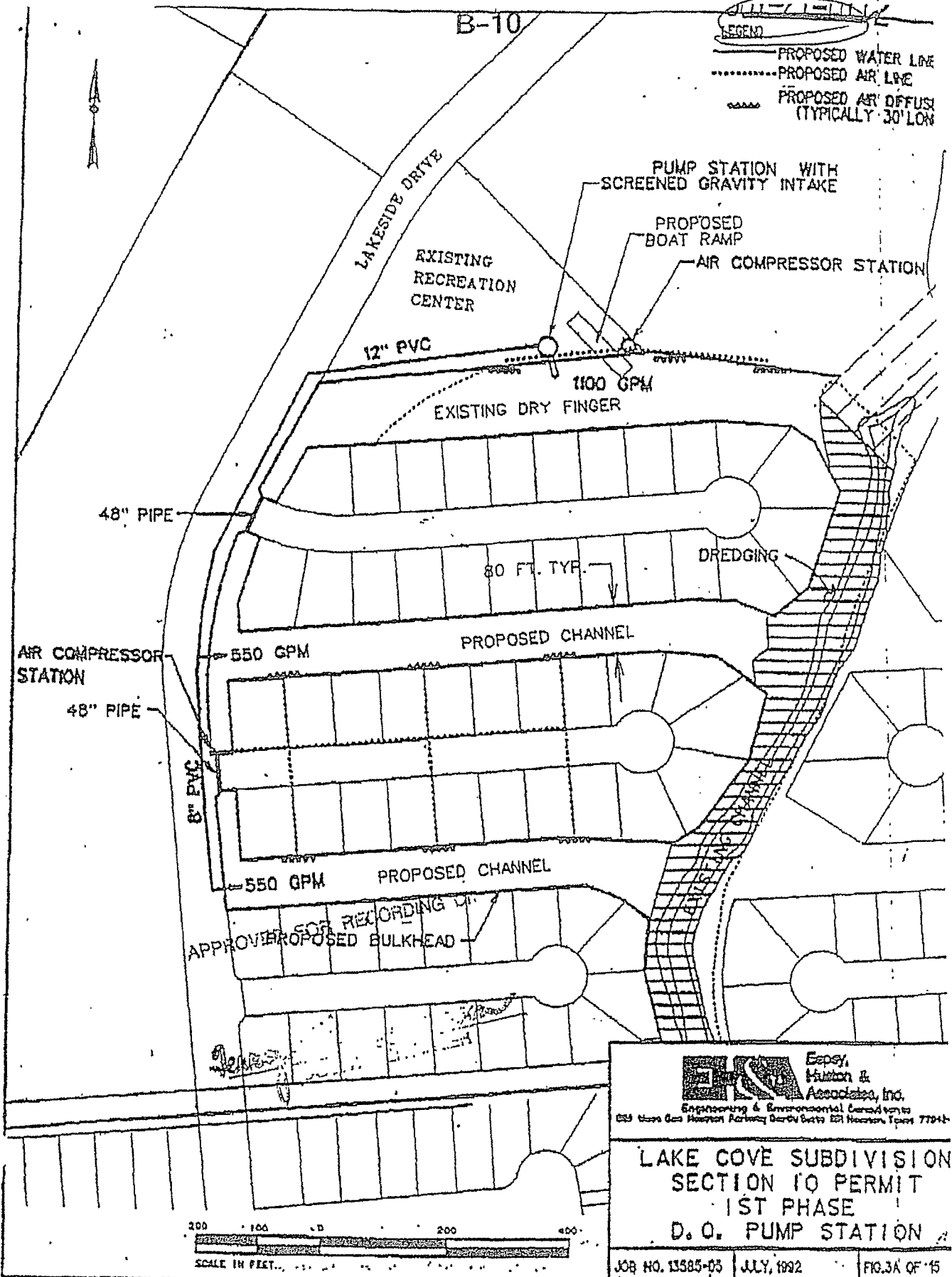


**Espy, Huston & Associates, Inc.**  
 Engineering & Environmental Consultants  
 1001 West 83rd Houston Parkway South, Suite 201 Houston, Texas 77042

**LAKE COVE SUBDIVISION  
 SECTION 10 PERMIT  
 1ST PHASE BULKHEAD  
 CONSTRUCTION**

JOB NO. 13365-05 | JULY, 1992 | PAGE 1 OF 15

REP 028-21-108



**E&A** Espey, Huston & Associates, Inc.  
 Engineering & Environmental Consultants  
 683 West Gas Houston Parkway South Suite 101 Houston, Texas 77042

**LAKE COVE SUBDIVISION  
 SECTION 10 PERMIT  
 1ST PHASE  
 D. O. PUMP STATION**

JOB NO. 13585-03    JULY, 1992    FIG. 3A OF 15

B-11

JUL 21 1992

EXISTING DRY FINGER

LIMIT OF TIDAL INFLUENCE

FT. TYP.

CHANNEL

PROPOSED CHANNEL

CHANNEL

PROPOSED CHANNEL

PROPOSED BULKHEAD

PROPOSED CHANNEL

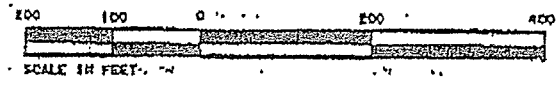
APPROVED FOR RECORDING ONLY

NG SHORELINE

RE 028-21-1010

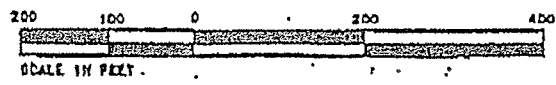
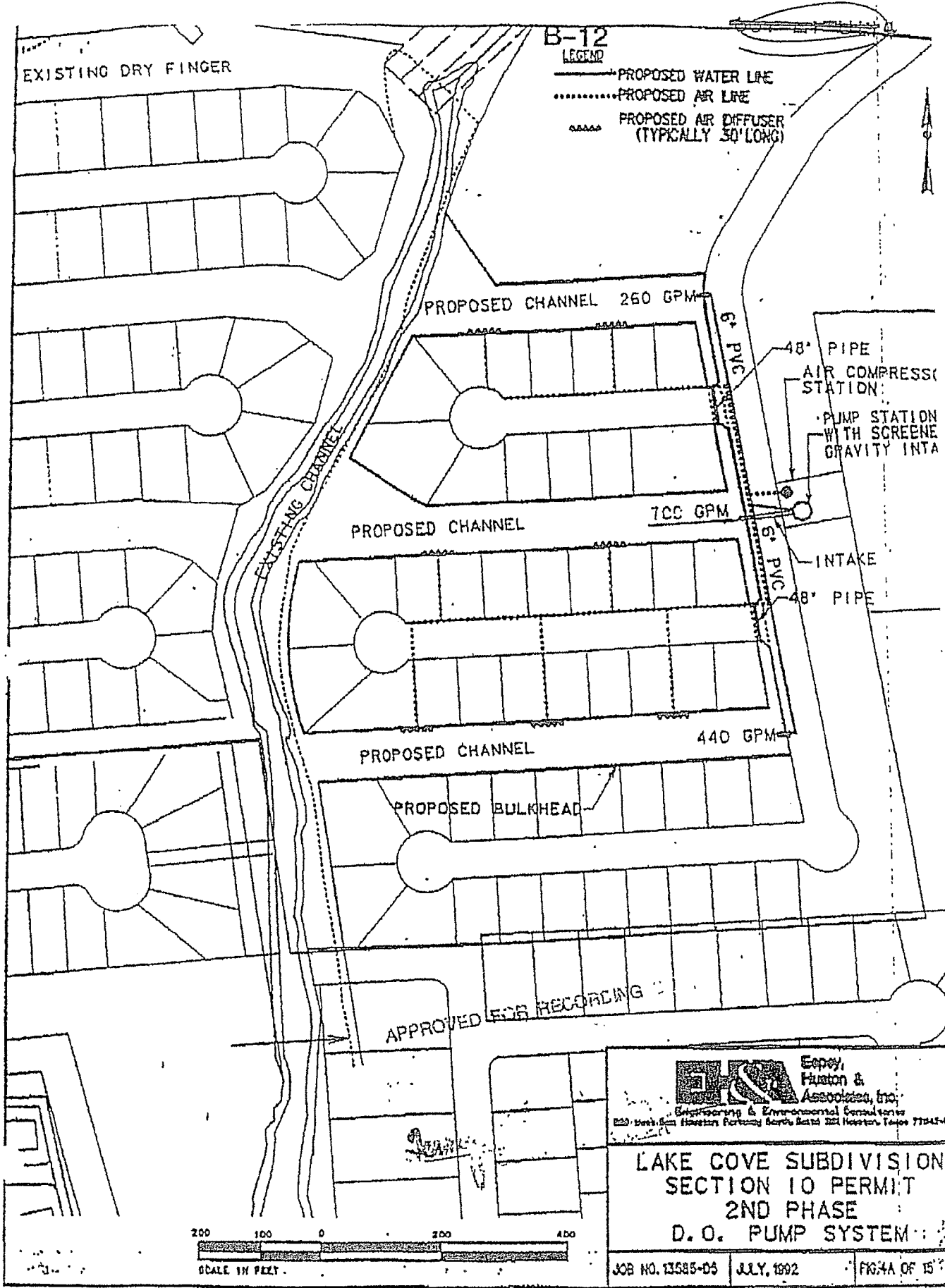
**Espy, Huston & Associates, Inc.**  
 Engineering & Environmental Consultants  
 222 West Sam Houston Parkway South, Suite 201 Houston, Texas 77043-4400

**LAKE COVE SUBDIVISION  
 SECTION 10 PERMIT  
 2ND PHASE  
 BULKHEAD CONSTRUCTION**



JOB NO. 13585-05 | JULY, 1992 | FIG. 4 OF 15

SP 028-21-1011



**EHP** Epsy, Houston & Associates, Inc.  
Engineering & Environmental Consultants  
220 West Loop Houston, Texas 77027-2201

**LAKE COVE SUBDIVISION  
SECTION 10 PERMIT  
2ND PHASE  
D. O. PUMP SYSTEM**

JOB NO. 13585-05 | JULY, 1992 | FIG. 4A OF 15



STREET LIGHTS

PELINES

NG & PUMPLI

DRIVE

PROPOSED 6'x 8'  
BOX CULVERT

STATE OF TEXAS  
DRAINAGE R. O. V

CITY OF SEABROOK  
DRAINAGE EASEMENT

PROPOSED FRINGE  
WETLANDS  
0.75 AC.

EXIST. PROPOSED  
SHALLOW WATER  
HABITAT 0.19 AC.

PROPOSED  
BOAT RAMP

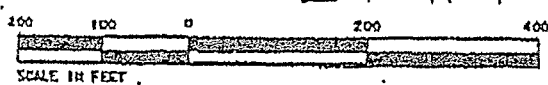
UNEXCAVATED EARTHEN  
PLUG (WEIR) APPROVED FOR REPAIRING ONLY

FINGER

FRINGE WETLANDS  
0.24 AC.

LIMIT OF TIDAL  
INFLUENCE

PROPOSED CHANNEL



**EMA** Espey, Hanson & Associates, Inc.  
Geography & Environmental Consulting  
222 West Oak Street, Houston, Texas 77042-11

LAKE COVE SUBDIVISION  
SECTION 10 PERMIT  
PHASE ONE  
MITIGATION SITE

JOB NO. 13585-05 JULY, 1992 FIG. 7 OF 15

REF 028-21-1012



FRINGE WETLANDS  
(0.10 AC.)

EXISTING  
RECREATION  
CENTER

PROP.  
BOAT  
RAMP

SHALLOW WATER  
HABITAT 0.47 AC.

10' TYPICAL

SHALLOW WATER  
HABITAT 0.58 AC.

80 FT. TYP.  
5' WETLAND TYPICAL  
0.05 AC.

PROPOSED CHANNEL

EXISTING  
SECTION  
1

25' TYP.

PROPOSED CHANNEL

APPROVED FOR RECORDING ONLY

40 FT.  
DRAINAGE EASEMENT

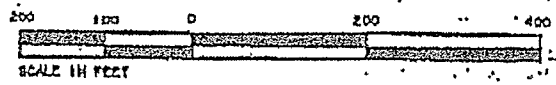


Eppley,  
Huxton &  
Associates, Inc.

Engineering & Environmental Consultants

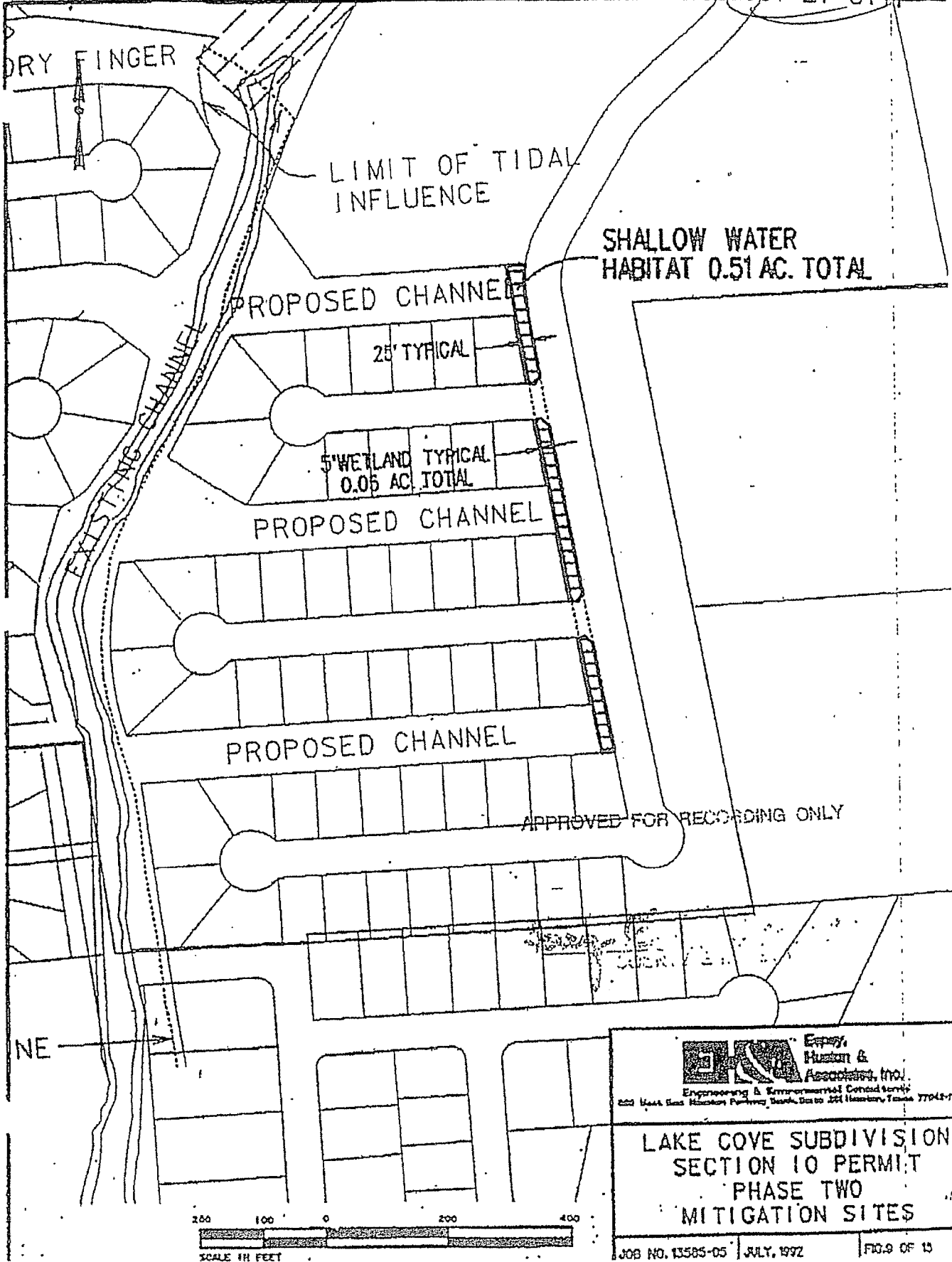
200 West Oak Hillview Parkway, Suite 201, Peabody, MA 01962-1514

LAKE COVE SUBDIVISION  
SECTION 10 PERMIT  
PHASE ONE  
MITIGATION SITES



SCALE IN FEET

REP 028-21-1015



511 21 0117

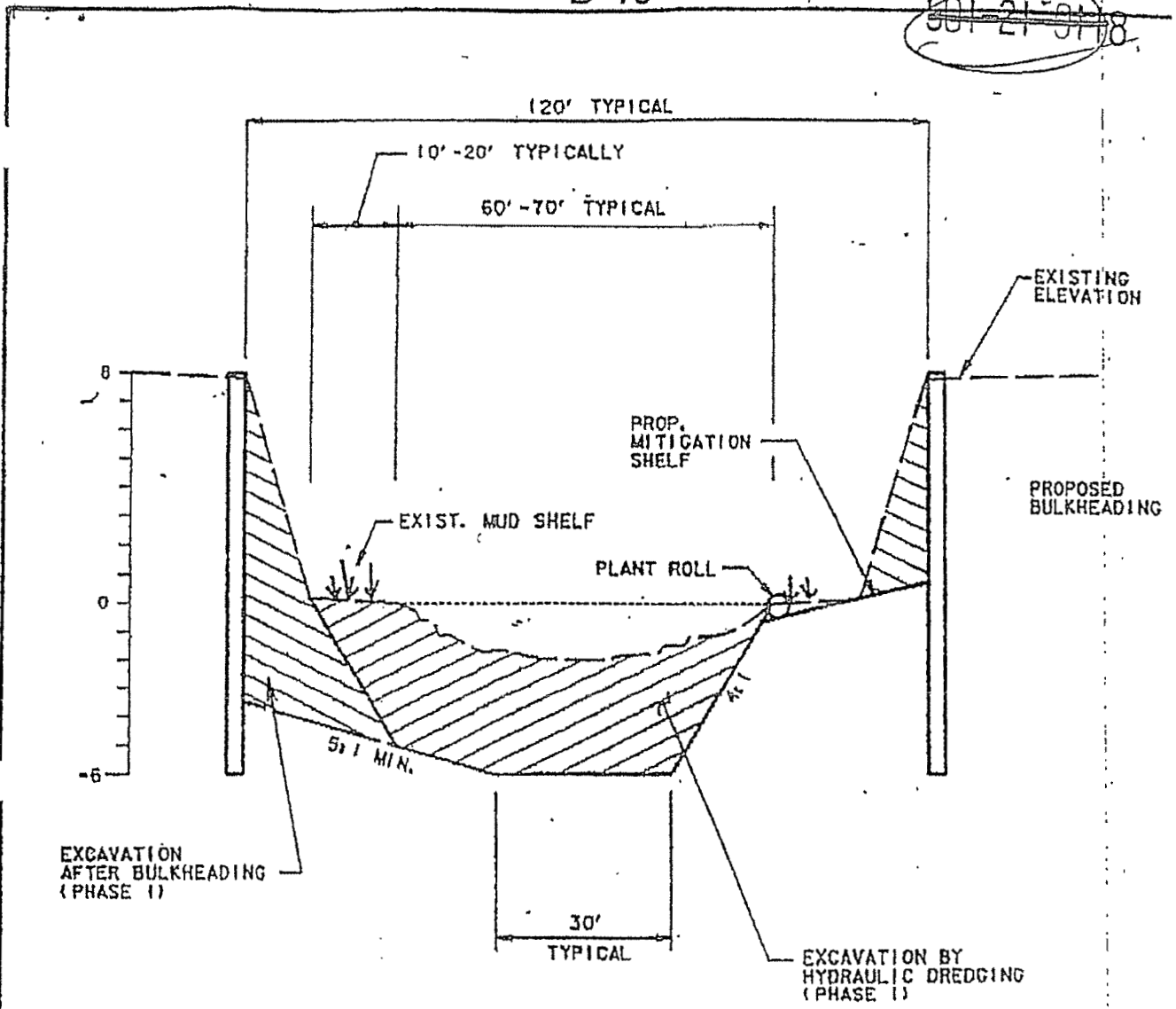


**Ernst, Hunter & Associates, Inc.**  
 Engineering & Environmental Consultants  
 200 West Loop Houston Parkway South, Suite 201 Houston, Texas 77046-71

**LAKE COVE SUBDIVISION  
 SECTION 10 PERMIT  
 PHASE TWO  
 MITIGATION SITES**

JOB NO. 13585-05 | JULY, 1992 | FIG. 9 OF 13

501-21-0118



MUD BAYOU SECTION  
WITH MITIGATION SHELF  
SECTION B - (PHASE II)

APPROVED FOR RECORDING ONLY

*[Handwritten signature]*

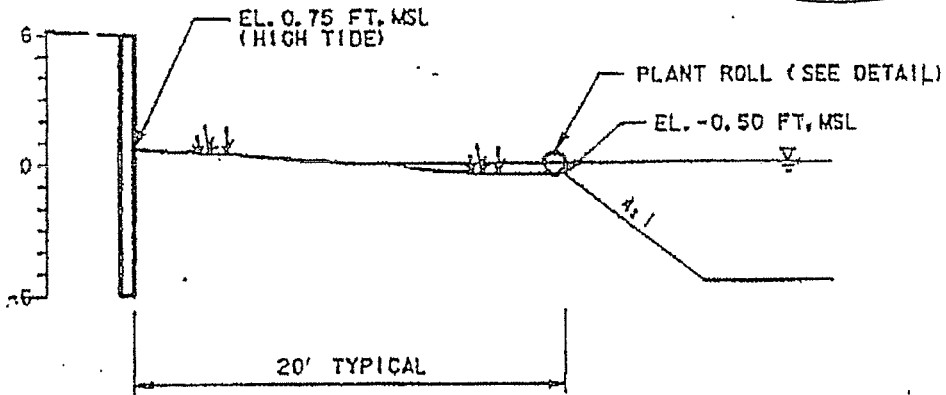
**Espey, Huxton & Associates, Inc.**  
 Engineering & Environmental Consultants  
 621 West Oak Mountain Parkway South, Suite 201 Houston, Texas 77042-41

LAKE COVE SUBDIVISION  
SECTION 10 PERMIT  
PROPOSED TYPICAL SECTION

RF 028-21-1015

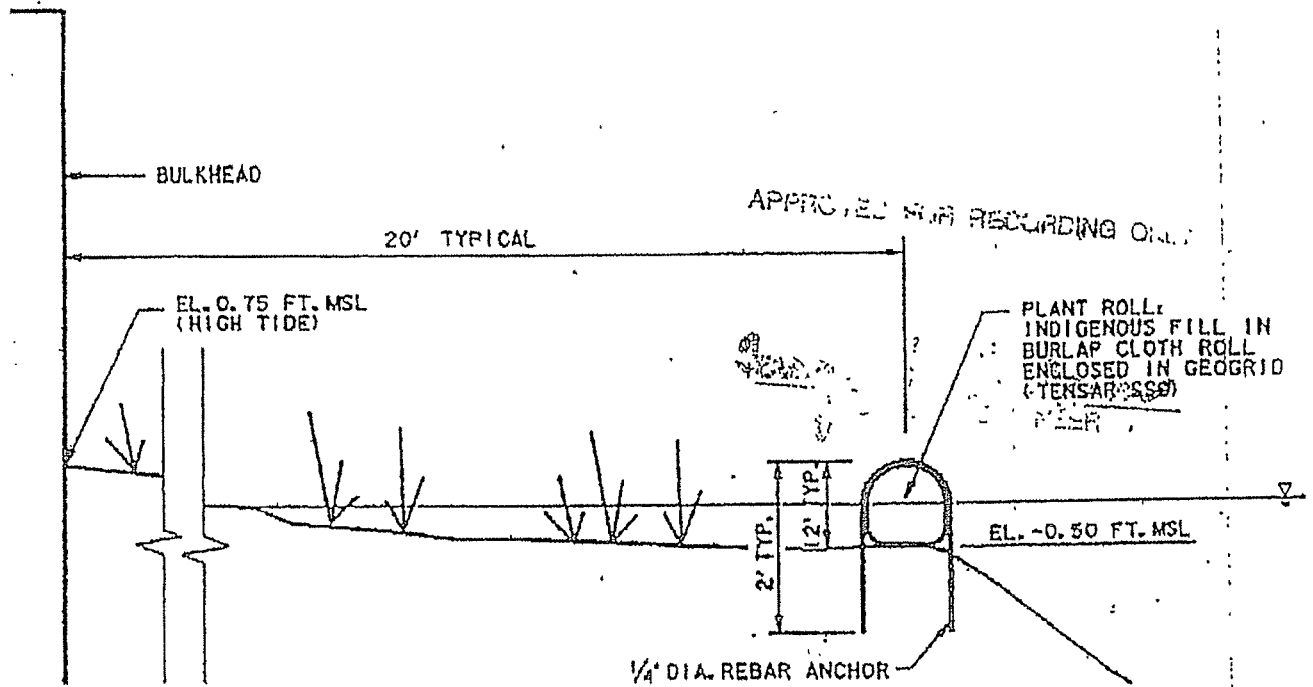


501-21-0119



MITIGATION SHELF DETAIL


REF 028-21-1016



PLANT ROLL DETAIL

NOTE:

1. ROLL PROPOSED TO BREAK WAVE ENERGY AND PREVENT EROSION.
2. ROLL DEPRESSED TO ELEVATION -0.25 EVERY 50' AND AT ENDS.
3. ROLL COMPRISED OF TENSAR WITH BURLAP LINER 7/8-INCH OVERLAP FOR SEAM APPROXIMATELY 16-INCHES IN DIAMETER DEPRESSED TO 12-INCHES HIGH.

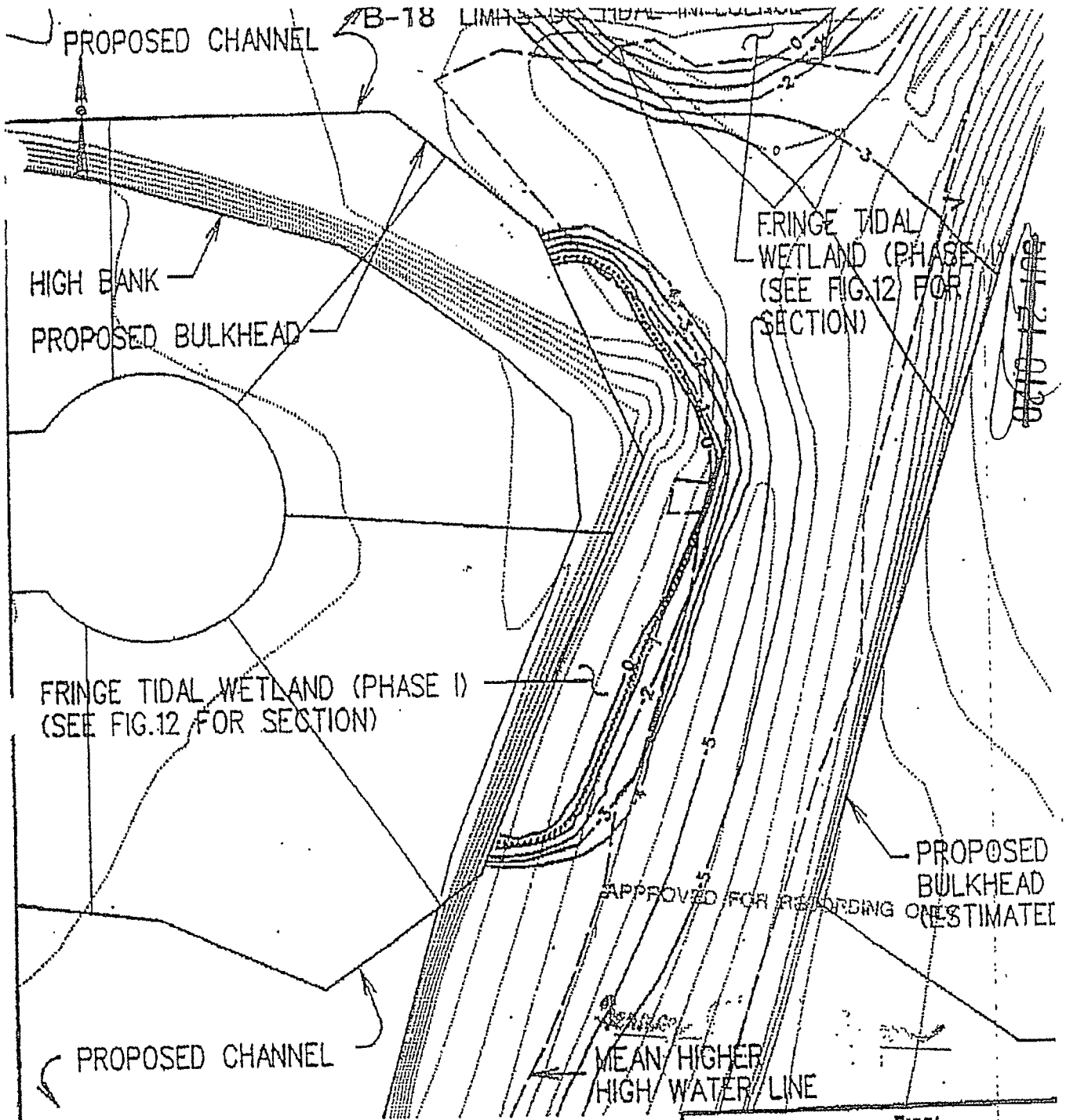

**Epcor, Houston & Associates, Inc.**  
 Engineering & Environmental Consultants  
 602 West Deer Houston Parkway, Suite 201 Houston, Texas 77060-1141

---

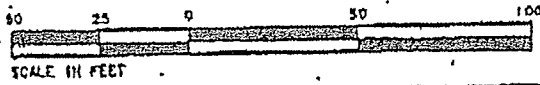
**LAKE COVE SUBDIVISION  
 SECTION 10 PERMIT  
 MITIGATION SHELF DETAIL**


JOB NO. 13505-06 | JULY 1982 | FIG. 12 OF

REF 02B-21-1017



- EXISTING CONTOUR
- PROPOSED CONTOUR
- ..... PLANT ROLL EROSION PROTECTION




**Espy, Huston & Associates, Inc.**  
 Engineering & Environmental Consultants  
 601 West San Antonio Parkway, Suite 221, Houston, Texas 77048-11

**LAKE COVE SUBDIVISION**  
**SECTION 10 PERMIT**  
**MUD BAYOU**  
**MITIGATION AREA**

JOB NO. 13585-05	JULY, 1992	FIG. 13 OF 15
------------------	------------	---------------

B-19

PROPOSED CHANNEL

HIGH BANK

MEAN HIGHER HIGH WATER LINE

PROPOSED CHANNEL

FRINGE TIDAL WETLAND PHASE I (SEE DETAIL FOR SECTION)

FRINGE TIDAL WETLAND PHASE II (SEE FIG.12 FOR SECTION)

APPROVED FOR RECORDING ONLY

FRINGE TIDAL WETLAND PHASE II (SEE FIG.12 FOR SECTION)

PROPOSED CHANNEL

REF 028-21-1018

- EXISTING CONTOUR
- PROPOSED CONTOUR
- ..... PLANT ROLL EROSION PROTECTION

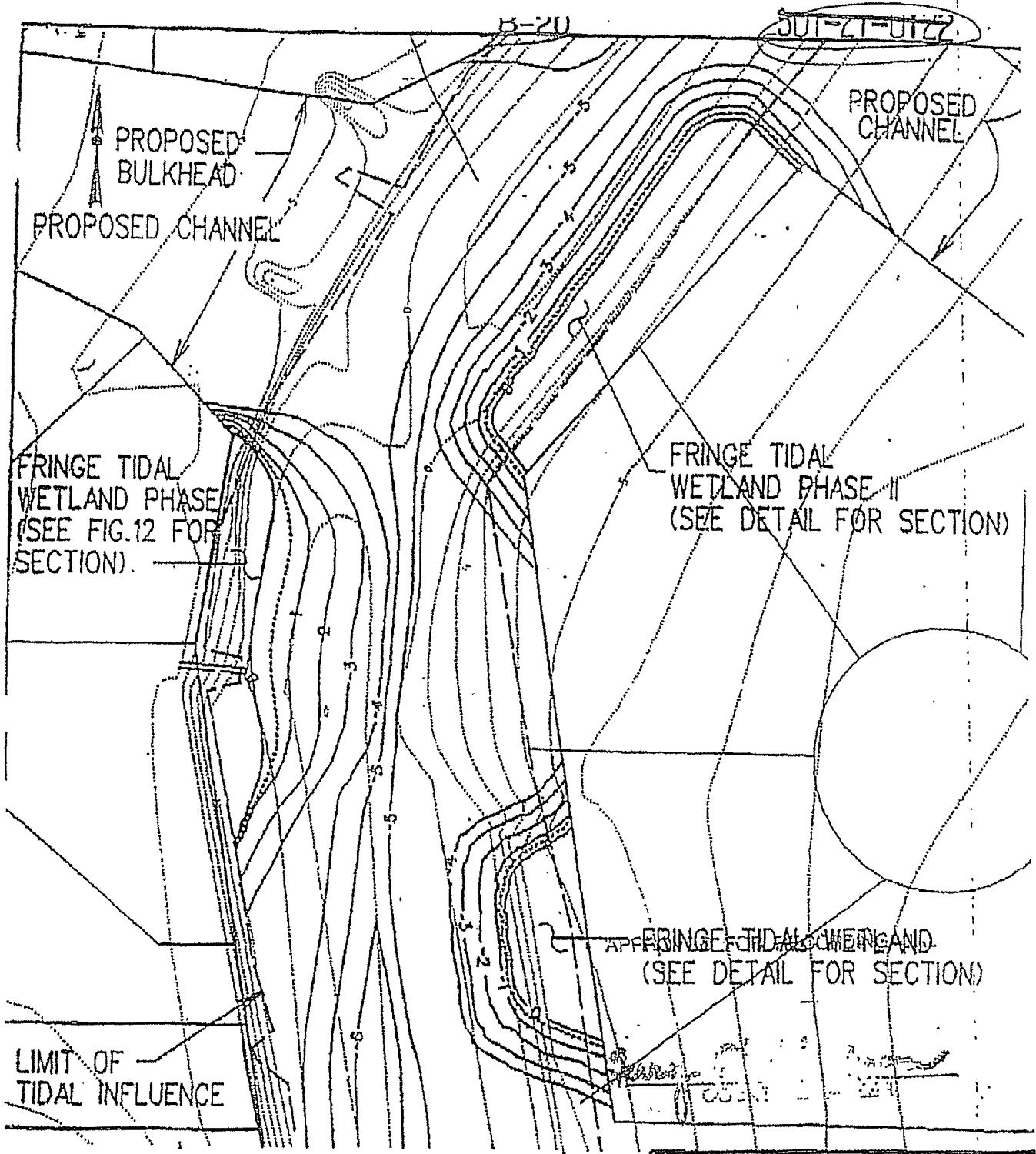


**EHA** Espey, Huston & Associates, Inc.  
 Engineering & Environmental Consultants  
 602 West San Houston Parkway, South Darto 231, Houston, Texas 77042

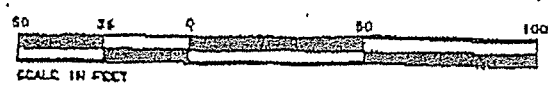
**LAKE COVE SUBDIVISION  
 SECTION 10 PERMIT  
 MUD BAYOU  
 MITIGATION AREAS**

JOB NO. 13585-05	JULY, 1992	FIG.14 OF 15
------------------	------------	--------------

REF 028-21-1019



- EXISTING CONTOUR
- PROPOSED CONTOUR
- - - - - PLANT ROLL EROSION PROTECTION



**EPA** Espey, Houston & Associates, Inc.  
 Engineering & Environmental Consultants  
 603 West Base Houston Parkway South, Suite 221 Houston, Texas 77042-1114

**LAKE COVE SUBDIVISION  
 SECTION 10 PERMIT  
 MUD BAYOU  
 MITIGATION AREAS**

JOB NO. 13585-01 | JULY, 1992 | FIG. 15 OF 12





**Espey, Huston & Associates, Inc.**  
Engineering & Environmental Consultants

B-21

11 MAR 1993

Exhibit C

1972 - 1992  
Commemorating  
-- 20 Years of Quality  
Consulting Services

~~501-21-0123~~

February 16, 1993

Colonel John P. Basilotto  
District Engineer, Galveston District  
Department of Army, Corps of Engineers  
P.O. Box 1229  
Galveston, Texas 77553-1229

EH&A Job No. 13585-05

Dear Colonel Basilotto:

Re: Applicant Response to Agency Comments  
Application 19664

Permit application 19664 is to allow dredging to widen and deepen Mud Bayou and to construct lateral channels. The following is a response to agency comments to the aforementioned application. The basic premise of the agencies' response appears to be that the existing State Highway 146 ditch and Mud Bayou areas provide fishery habitat and that mitigation would inadequately offset the adverse impacts of the proposed activity. The proposed improvements will result in (1) an improvement to the water quality of Mud Bayou to a much greater extent than the project impact on the water quality, (2) the wetlands and shallow water habitat of Mud Bayou will be maintained in acreage, and (3) the estuarine habitat value will be increased. Enclosed are revisions to the original permit application exhibits to reflect the project revisions proposed as a part of the response.

Existing Conditions:

Currently, Mud Bayou within the project is a 60- to 80-foot wide dead-end channel that has a maximum depth of 2 feet over a mud bottom with adjoining fringe wetlands. The shallow water habitat for the existing bayou is 2.26 acres consisting of mud bottom with 0.6 acres of wet marsh at the northern extent of the bayou. The adjacent fringe wetlands, totaling 0.93 acres, vary from 5 to 15 feet in width and are predominantly *Iva frutescens*. The bayou terminates approximately 4,000 feet north of Clear Lake.

North of the bayou is an existing ditch which drains the urbanized State Highway 146 (S.H. 146) area. The ditch is 1,240 feet in length with a general bottom elevation of 0.0 within the ditch. A pilot channel exists which has a flow line of -0 to -1.0 ft. with pockets to -2.0 ft. msl. The pilot channel vegetation is comprised of *Spartina patens*, *Iva frutescens*, *Scirpus robustus*, and other tidal marsh vegetation. The National Marine Fisheries staff reported seine catches of spotted sea trout, striped mullet, bay anchovy, brown shrimp, white shrimp, and blue crab in the pilot channel, reflecting the tidal influence and estuarine function.

Due to the urban drainage area of S.H. 146 ditch consisting of a shopping center, and numerous commercial sites, it is considered the primary source of nutrients affecting existing Mud Bayou water quality. A runoff analysis model of the watershed and Highway 146 ditch runoff indicated substantial stormwater runoff loading to Mud Bayou. Dissolved oxygen (D.O.) readings greater

HP 029-21-1020

A PLANET PACIFIC COMPANY

800 West Sam Houston Parkway South, Suite 201 • Houston, Texas 77042-19  
(713) 781-8800 TEL • (713) 781-8010 FAX

Title Data HT TDI15286 HA Y244344.067



Espey, Huston & Associates, Inc.

Colonel John P. Baslotta

Page 2

February 16, 1993

than saturation and high nutrient concentrations in the water samples collected by agency staff support the runoff model findings.

Proposed Conditions:

The applicant proposes to widen and deepen Mud Bayou to a maximum of 8 feet while matching the downstream depths, and excoavate lateral canals into uplands.

As discussed in a previous paragraph, the primary source of water quality degradation is the S.H. 146 inflow including urban runoff. The applicant proposes to improve the water quality of Mud Bayou inflow by trapping a substantial volume of nutrients, suspended solids, and associated urban runoff constituents in the S.H. 146 ditch confines, which will also improve and expand the habitat value of the estuarine ditch.

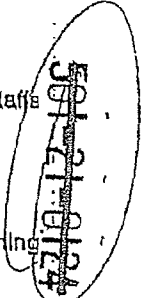
The applicant proposes to deepen the ditch up to 2 feet, widen the ditch, and revegetate marsh grasses to improve sedimentation efficiency. The low pool water elevation will be maintained by tidal influence and restricted flows for drainage. The existing ditch outfall configuration into Mud Bayou will be left intact to serve as an earthen plug or weir that allows tidal interaction, yet restricts low-flow conditions while protecting the bottom from scour of sediments, and allowing for higher flows. As a part of the improvements, the applicant proposes to re-establish vegetation on the expanded bottom with tidal marsh vegetation. The revegetation will use soil excavated from on-site marsh wetlands to establish a mitigation area with elevations of -2.0 ft. msl to 0.0 ft. msl (see attached exhibits).

The plant community as well as the depth and width of the ditch will provide a means to remove, hold, and treat the suspended solids and nutrients in the runoff from small events and first-flush runoff for larger events. The removal of suspended solids and detention of first flush flow will also provide a sink of nutrients for the sustained growth of the vegetation. The runoff study conducted by EH&A using the EPA calculation methodology (see EH&A study dated April 19, 1992) estimated an overall reduction of 70 percent for suspended solids within the ditch confines for larger events.

In Mud Bayou, the applicant proposes to mitigate existing fringe wetlands with tidally submerged marsh wetlands along shelves 20 feet wide adjoining the face of the bulkhead along Mud Bayou. The shelves will be constructed with a plant roll along the channel interface to preclude erosion from boating activities and/or propeller wash (see detail). The plant roll will support the vegetation root matrix while providing wave attenuation as a result of the plant roll materials, semi-open construction, and height.

The mitigation shelf will be interrupted only for lateral canals and short segments for adjacent property owner water access. To provide water quality and habitat support, the applicant proposes to construct a tidal marsh at the ends of the lateral canals and along the shallow flushing canals.

Although the fringe wetlands to be constructed are of different physical structure, literature supports the concept that the proposed intertidal wetlands dominated by grasses will benefit the



NOT FOR CONSTRUCTION



Espy, Huston & Associates, Inc.

Colonel John P. Baslotti

Page 3

February 16, 1993

species of concern more than the existing intermittently inundated *Iva* spp. fringes wetlands currently adjoining Mud Bayou.

The total mitigation will provide a minimum of 1:1 compensation for jurisdictional wetlands and shallow water habitat (see enclosed summary).

The other issue addressed by the agency letters is that of impact on the aquatic resources of Mud Bayou. The applicant proposes to minimize the short-term impact to the best extent practical and improve the habitat value and Mud Bayou water quality in order to maximize aquatic resource use in the long term.

A review of the existing conditions reveals a bayou which has a mud bottom adjoined by fringe wetlands dominated by *Iva* spp. and one area of wet marsh, approximately 0.5 acres, at the confluence of the Mud Bayou and the northerly drainage ditch. The species listed by the agencies as those impacted the greatest would be brown and white shrimp (*Penaeus* spp), spotted sea trout (*Cynoscion nebulosus*), red drum (*Sciaenops ocellata*), and blue crab (*Callinectes sapidus*).

A review of the literature concerning these and other species indicates that the post-larval/juvenile stages are the most sensitive to stress resulting from the physical and water quality characteristics of Mud Bayou. The bayou, as a habitat, is assumed to attract the fish because of food and cover. A major source of both functions is the tidally-influenced marsh vegetation that supports the food chain. The existing fringe wetlands of marsh elder and assorted minority species provide habitat value, but most literature refers to the tidal marsh vegetation as premier nursery and habitat area. The proposed tidal marsh provides cover and food in the form of the vegetation, detritus, and the invertebrate species it supports. The applicant proposes to provide mitigation along Mud Bayou in the form of tidally-submerged shelves to form wetland marsh areas to enhance the habitat value of the area for both invertebrates, fish, and birds, as well as assist in water quality improvements.

Other literature has indicated that some of the greatest stresses on the juvenile fish are caused by factors such as inadequate food supply, rapid temperature fluctuations, water quality degradation, dissolved oxygen depletion, and predation. As discussed, the proposed improvements are to increase habitat value with tidal wetlands marsh comprised predominantly of *Spartina alterniflora*. The tidal marshes are anticipated to increase detritus, provide increased habitat for invertebrates and benthic organisms to increase the food supply, and provide shelter to reduce juvenile predation.

Temperature fluctuations from rapid frontal passages is also reported to stress juvenile and adult fish. The proposed permit activities will provide an equal acreage of shallow water area for shelter and feeding, but also provide adjacent areas with more depth and greater volume to buffer the sudden temperature effects of fronts.

Similarly, the larger volume of water will provide a dilution factor for extreme events due to tidally-induced or off-site runoff water quality problems. In addition, the nutrient assimilative nature of the bayou has been increased due to the increase in tidal marsh acreage. According to the EH&A runoff assessment, projections of water quality impacts due to adjacent project development are on order of magnitude lower than the existing off-site loading conditions. The

501 21 0129

501 21 0129



Espey, Huston & Associates, Inc.

Colonel John P. Basifotto

Page 4

February 16, 1993

water quality improvements provided by the upstream ditch improvements will more than offset normal single-family development non-point source loadings.

Dissolved oxygen (D.O.) levels are a concern for any tributaries in the Gulf Coast region. The sampling of existing water quality in Mud Bayou indicates that nutrient levels and the resulting algal blooms threaten D.O. concentrations. The proposed improvements will remove much of the nutrient loading to the bayou and, therefore, decrease the potential nutrient support for algal blooms. Further concern about D.O. problems by the TWC and other agencies resulted in the applicant proposing to provide supplemental dissolved oxygen support for the lateral canals through the use of a compressor and associated air diffusers in the lateral canals. The D.O. diffusers shown on Figures 3 and 4 are sized and located to divide the canals into zones with a maximum length of 300 feet centered around the initial design of 30-foot long diffusers. The diffusers will result in a cross-channel current for oxygen distribution. The reliability of a mechanical D.O. system will be based upon the use of centrifugal compressors which are easily repaired and/or replaced and have records of long-term use.



The lateral distribution of the diffused oxygen flows along the length of the canals will be assisted by tidal action, and also by a circulation pump system from May 1 to October 1. The circulation system basic components are shown on Figures 3 and 4. The pump stations will be using two submersible pumps with the flows varying for each phase dependent upon the volumes needed for a turnover of five days or less. The dual pumps will alternate to minimize wear, and should a pump need repair or replacement, the single pump will function to provide the design flows. The TWC has requested that the system be operated from May through October to provide supplemental D.O. support during the periods of traditional water quality problems.

The minimum D.O. of 4.0 mg/l for the lateral channels will be monitored from May through October for three years following the 80 percent of development completion. The monitoring shall occur at a frequency of once every two weeks for samples one foot from top and bottom for each canal and Mud Bayou. The system is proposed to supplement the D.O. for the lateral channels and the samples on Mud Bayou will serve as a baseline.

The applicant agrees to increase the D.O. output through the air diffusers should the D.O. samples drop below a monthly average of 3.5 mg/l or if more than 50 percent of the samples are less than 3.8 mg/l for the lateral canals.

D.O. levels at the bottom of the channels and Mud Bayou are a concern and bottom monitoring is proposed. The proposed diffuser and circulation mechanical D.O. support systems will provide adequate D.O. to the lateral canals and also provide spillover support to the Mud Bayou area through tidal exchanges, a wider but shaded fetch, and circulation provided by the proposed D.O. support system.

Another water quality issue of concern by the EPA is the effect of salinity stratification. The applicant proposes to match the flowline downstream of the property by extending the flowline south to match the proposed -6.0 ft. msl if possible. Preliminary soundings indicate that the downstream flowline within 400 feet of the south property line is approximately -6.0 ft. msl. If impractical, the proposed flowline depth will be adjusted to match the downstream flowline depth (a minimum -5.5 ft. msl). Depths of upstream Mud Bayou and lateral canals will slope up, or

ENCLOSURE





Espey, Huston & Associates, Inc.

Colonel John P. Baslotta

Page 5

February 16, 1993

shallower, from the southerly tie-in depth. Lateral canals will also slope toward Mud Bayou to preclude entrapment of saltwater wedges.

The proposed improvements will provide the same acreage of shallow water habitat as the proposed canals which could be used by benthic populations. The resulting dissolved oxygen levels will provide support for benthic habitat support as well as upper water column.

CORPUS

Summary:

The primary concerns addressed by the agency comments are the water quality and habitat impacts of the project.

The proposed improvements will decrease off-site loading of nutrients, suspended solids, and other constituents, and increase the assimilative capacity and habitat value of the drainage ditch. Mud Bayou will have increased acreage of tidal marshes which will increase the detritus and associated food chain available and provide more cover and a similar volume of shallow water habitat.

Stresses caused by temperature and D.O. fluctuations will be buffered or eliminated by the design concepts and construction.

Therefore, the proposed improvements should not pose any long-term decrease in wetland values or acreage, loss of habitat or use for aquatic resources, or degradation of water quality.

Enclosed are copies of the exhibits for support of these discussions, including a summary of mitigation areas for comparison of existing and proposed acreages. The exhibits are provided to show greater definition of the proposed plans for improvements and the proposed mitigation areas.

Please contact EH&A if there are any questions concerning this letter or the revised exhibits. Thank you and the Corps staff for your assistance in the permit review process.

Very truly yours,

*Tom King*

Tom King

TK:SC  
Enclosures

23-21-1024



Espy, Huston & Associates, Inc.

SUMMARY OF MITIGATION AREAS

WETLANDS

Existing:

• Mud Bayou Fringe Wetlands	.93	acres
• Pocket Wetlands	.53	acres
• Hwy. 146 Ditch Wetlands	<u>.29</u>	acres
Total	1.75	acres

Proposed:

• Mud Bayou Fringe Wetlands	.80	acres
• Fringe Wetlands Hwy. 146 Drainage Ditch	.75	acres
• Canal Wetlands Mitigation Sites	<u>.20</u>	acres
Total	1.75	acres

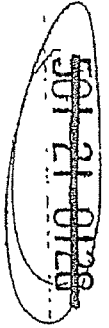
SHALLOW WATER HABITAT

Existing:

• Mud Bayou	2.26	acres
• Ditch Tidal Influence	<u>.19</u>	acres
Total	2.45	acres

Proposed:

• Hwy. 146 Ditch Bottom	.25	acres
• Lateral Canal Loop Channels		
Phase 1	.33	acres
Phase 2	.51	acres
• Recreation Center Shallow Water Area	.47	acres
• Mud Bayou Shallow Water Area	<u>.67</u>	acres
Total	2.48	acres



REP 028-21-1025

13585-05

RECEIVED

JUN 20 1993

PCMI

 **This notice of authorization must be conspicuously displayed at the site of work.**

United States Army Corps of Engineers

7 June 19 93

A permit to perform dredging operations (hydraulic/mechanical), to construct bulkheading, and to place fill for mitigation work, in Mud Bayou, at location N of Nasa Road 1, E of Lakeside Drive, and W of Hwy. 146, Seabrook, Harris County, Texas,

has been issued to Lake Cove Subdivision on 7 June 19 93

Address of Permittee 6300 Richmond, Suite 201, Houston, Texas 77057

Permit Number

19664

*Bruce H. Bennett*  
 BRUCE H. BENNETT  
 FOR COLONEL JOHN P. BASILOTTO  
 District Commander

ENG FORM 4336, Jul 81 (33 CFR 320-330) EDITION OF JUL 70 MAY BE USED

(Proponent: CECW-O)

028-21-1026

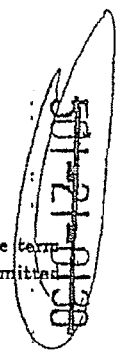
COPIES TO FILE

DEPARTMENT OF THE ARMY PERMIT

Permittee Lake Cove Joint Venture

Permit No. 19664

Issuing Office Galveston District



NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: To perform dredging operations by hydraulic and mechanical methods, to construct bulkheading, and to place fill for mitigation work, for the purpose of providing boat access to the proposed subdivision and recreational area, in accordance with the attached plans, in sixteen sheets, entitled "LAKE COVE SUBDIVISION," with two additional sheets attached to plans, entitled "NOTES TO THE PERMIT PLANS."

Project Location: Mud Bayou, north of Nasa Road 1, east of Lakeside Drive, and west of Highway 146, Seabrook, Harris County, Texas.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on 31 December 1996. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

ENG FORM 1721, Nov 88

EDITION OF SEP 82 IS OBSOLETE.

(33 CFR 325 (Appendix A))

NOTES-2024



501-21-013

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

John King, agent for Lake Cove Joint Venture      June 7, 1993  
 (PERMITTEE)      (DATE)  
 LAKE COVE JOINT VENTURE

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

Bruce H. Bennett      07 JUN 1993  
 (DISTRICT ENGINEER)      (DATE)  
 BRUCE H. BENNETT, Acting Chief,  
 North Evaluation Section  
 FOR COLONEL JOHN P. BASILOTTO

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

\_\_\_\_\_  
 (TRANSFEREE)      (DATE)

REF 028-21-1028

C-4  
NOTICE TO PERMITTEES

~~301-21-0132~~

Department of the Army Permits for Work in Navigable Waters require attention to administration and policies which are often misunderstood or disregarded. To avoid possible misinterpretations and to expedite procedures, permit post-authorization requirements and pertinent information are outlined as follows:

1. Permits remain in affect until revoked, relinquished, or the structure are removed. An extension of time for completion of structures or work may be granted provided that a public notice is issued and that evidence is furnished of the bona fide intention of the permittee to complete the work within a reasonable time. If work or structures are not completed within the time provided in the permit, it is the permittee's responsibility to request an extension of time at least four months before the expiration date.

2. Maintenance of authorized completed structures may be done at any time without extending the completion period. It is, however, required that the District Engineer be notified prior to commencement of maintenance.

3. SPECIAL REGULATIONS GOVERN MAINTENANCE WORK INVOLVING DREDGING OR FILL. This maintenance is not authorized by the original permit and specific prior approval is required before such work is commenced in navigable waters. Your request for authorization should be submitted in time for public notice requirements and coordination with other agencies.

4. If ownership of structures or work covered by a permit is transferred the District Engineer must be notified immediately. The notification will provide information so that permit responsibilities can be changed to the new owner or assignee.

5. Permittees are reminded that the Area Engineer must be notified as soon as possible of the time for commencement of construction or work, and immediately upon completion. If pipelines across Federal project channels are covered by the permit, the Area Engineer should be informed of the date the pipeline is to be placed in time for him to arrange for an inspector to be present.

6. All material changes in location or plans must be submitted promptly to the District Engineer for approval before construction is begun.

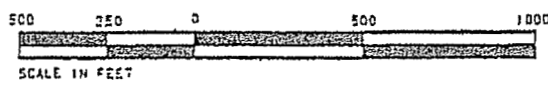
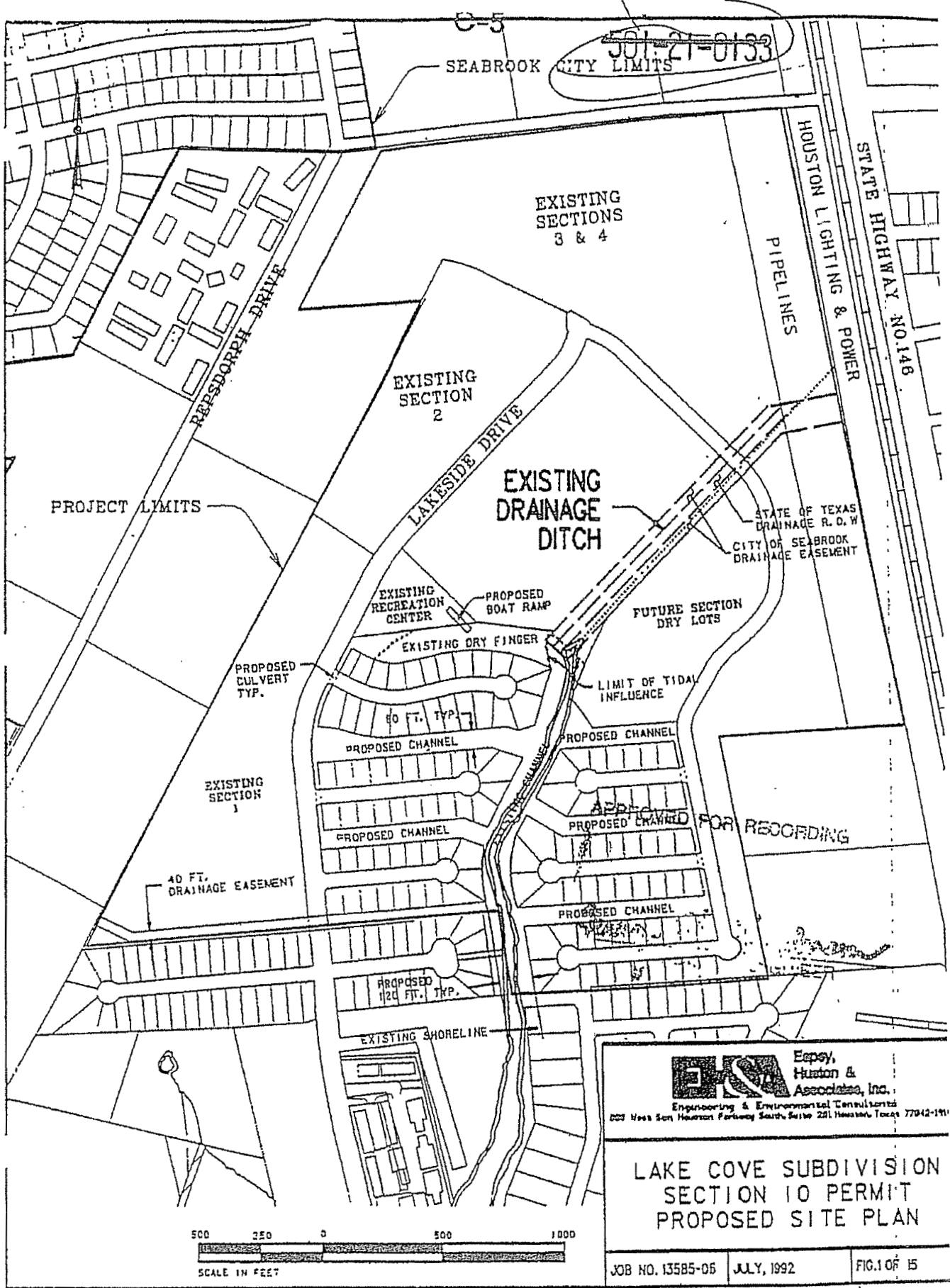
7. Permits should not be considered as an approval of design features of any structure authorized or an implication that such structure is adequate for the purpose intended.

DISTRICT ENGINEER  
GALVESTON DISTRICT  
CORPS OF ENGINEERS

SWG FL 279  
24 April 85

RR 028-21-1028

RE 028-21-1030

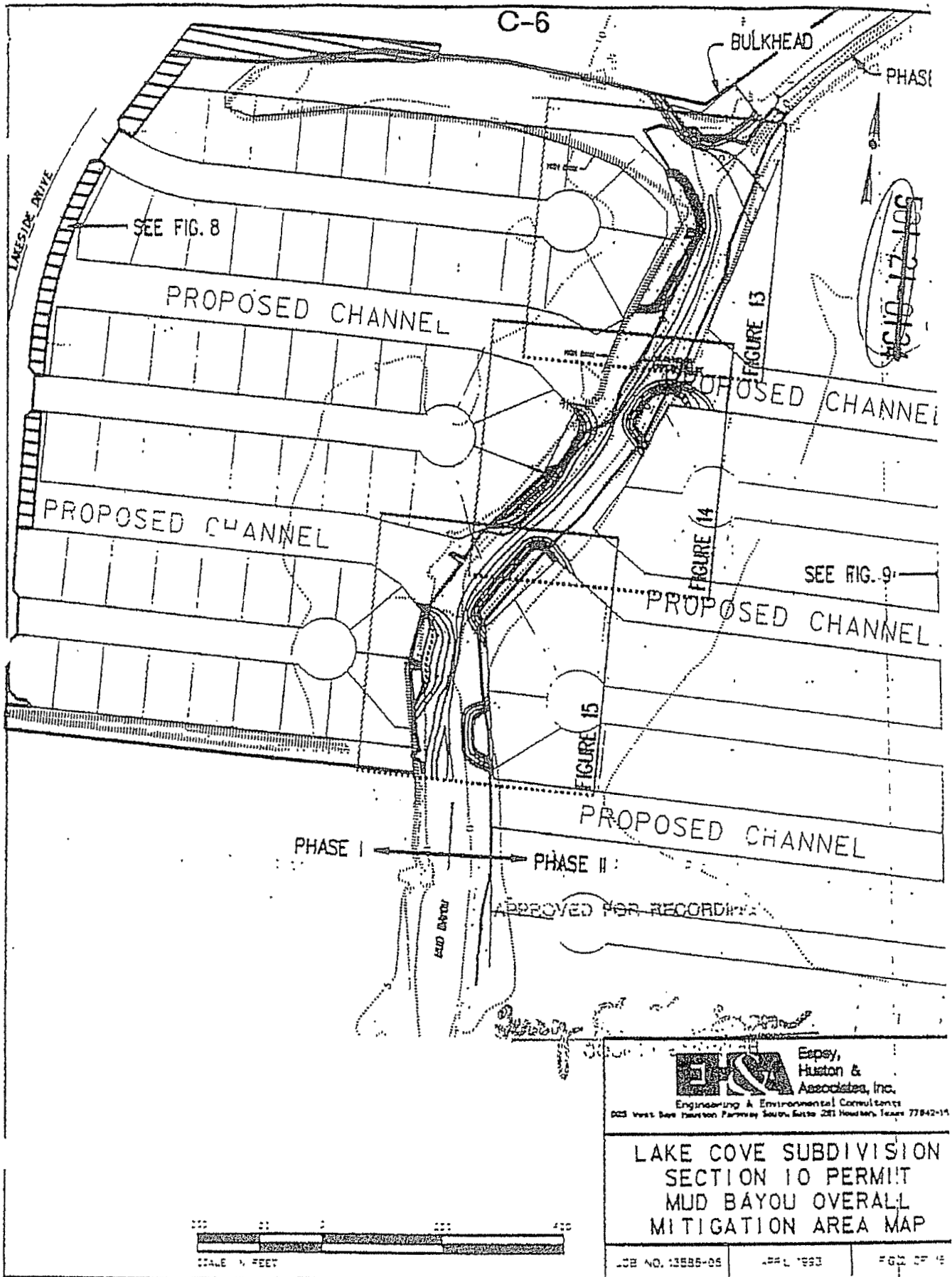


**EISA** Espey, Houston & Associates, Inc.  
Engineering & Environmental Consultants  
207 West Sam Houston Parkway South, Suite 221, Houston, Texas 77042-1911

**LAKE COVE SUBDIVISION  
SECTION 10 PERMIT  
PROPOSED SITE PLAN**

JOB NO. 13585-05    JULY, 1992    FIG. 10 OF 15

RP 028-21-1031

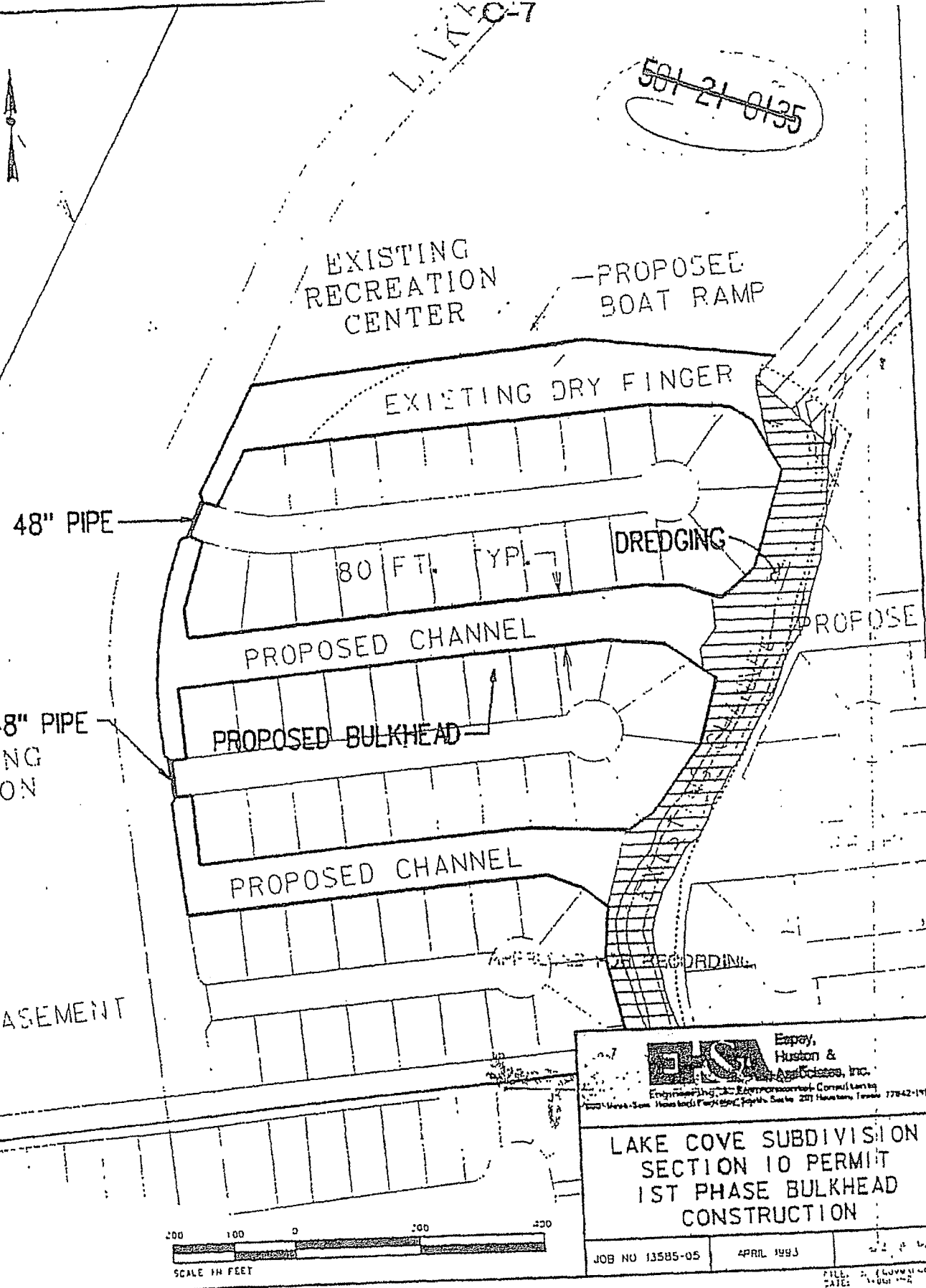


**EHA** Epsy, Huston & Associates, Inc.  
 Engineering & Environmental Consultants  
 603 West Base Houston Parkway South, Suite 281 Houston, Texas 77042-1114

**LAKE COVE SUBDIVISION  
 SECTION 10 PERMIT  
 MUD BAYOU OVERALL  
 MITIGATION AREA MAP**

JOB NO. 13585-05	APR. 1993	PAGE 02 OF 15
------------------	-----------	---------------

RP 028-21-1032



501-21-0135



EASEMENT



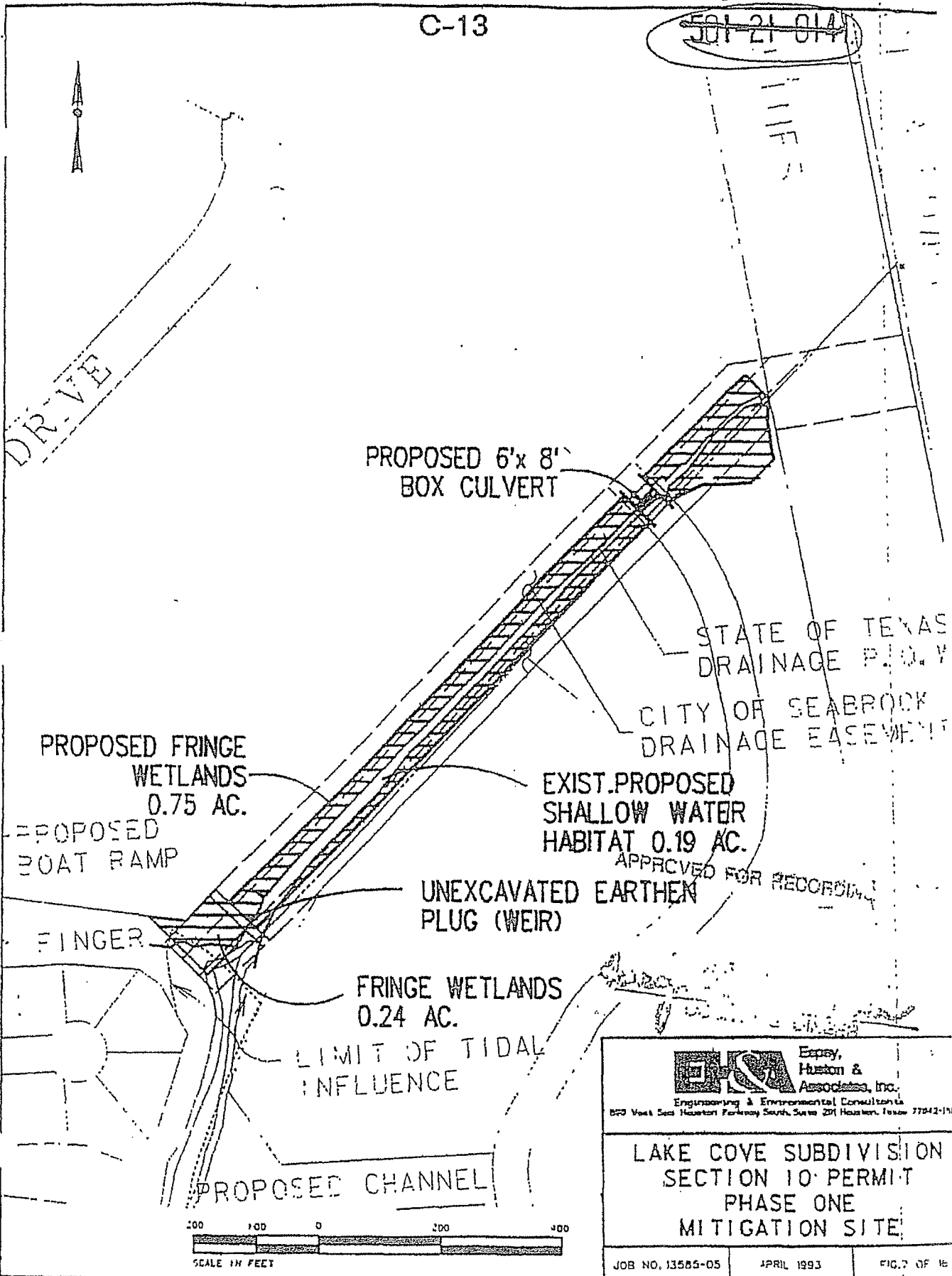
**Espy, Huston & Associates, Inc.**  
 Engineers, Planners, Environmental Consultants  
 2001 West Loop, Houston, Texas 77042-1911

**LAKE COVE SUBDIVISION  
 SECTION 10 PERMIT  
 1ST PHASE BULKHEAD  
 CONSTRUCTION**

JOB NO 13585-05	APRIL 1993	DATE
-----------------	------------	------

C-13

501-21-01A  
JUL 21 01A



DRIVE

PROPOSED 6'x 8'  
BOX CULVERT

STATE OF TEXAS  
DRAINAGE P.D.O.V

CITY OF SEABROOK  
DRAINAGE EASEMENT

PROPOSED FRINGE  
WETLANDS  
0.75 AC.

PROPOSED  
BOAT RAMP

EXIST. PROPOSED  
SHALLOW WATER  
HABITAT 0.19 AC.

UNEXCAVATED EARTHEN  
PLUG (WEIR)

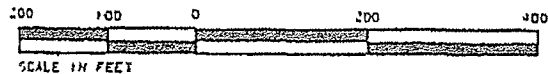
APPROVED FOR RECORDING

FINGER

FRINGE WETLANDS  
0.24 AC.

LIMIT OF TIDAL  
INFLUENCE

PROPOSED CHANNEL



ERM  
 Espar, Houston & Associates, Inc.  
 Engineering & Environmental Consultants  
 670 West Loop Houston Parkway South, Suite 201 Houston, Texas 77042-1101

LAKE COVE SUBDIVISION  
 SECTION 10 PERMIT  
 PHASE ONE  
 MITIGATION SITE

JOB NO. 13585-05      APRIL 1993      FIG. 2 OF 16

C-14

501-21-0142



FRINGE WETLANDS  
(0.10 AC.)

EXISTING  
RECREATION  
CENTER

PROP.  
BOAT  
RAMP

SHALLOW WATER  
HABITAT 0.47 AC.

10' TYPICAL

SHALLOW WATER  
HABITAT 0.58 AC.

80 FT. TYP.  
5' WETLAND TYPICAL  
0.05 AC.

PROPOSED CHANNEL

EXISTING  
SECTION  
1

25' TYP.

APPROVED CHANNEL  
PROPOSED CHANNEL RECORDING ONLY

40 FT.  
DRAINAGE EASEMENT



Engineering & Environmental Consultants  
229 West Sam Houston Parkway South, Suite 201 Houston, Texas 77042-11

LAKE COVE SUBDIVISION  
SECTION 10 PERMIT  
PHASE ONE  
MITIGATION SITES



JOB NO 13585-05      APRIL 1993      FIG 9 OF 15

C-15

501-21-0143

LAKE COVE



LIMIT OF TIDAL INFLUENCE

SHALLOW WATER HABITAT 0.51 AC. TOTAL

PROPOSED CHANNEL

25' TYPICAL

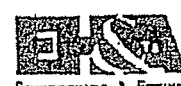
5' WETLAND TYPICAL  
0.05 AC. TOTAL

PROPOSED CHANNEL

PROPOSED CHANNEL

APPROVED FOR RECORDING ONLY

NE



Epsy,  
Huxson &  
Associates, Inc.

Engineering & Environmental Consultants  
223 West Saw Haxson Parkway South, Suite 201 Houston, Texas 77042-1711

LAKE COVE SUBDIVISION  
SECTION 10 PERMIT  
PHASE TWO  
MITIGATION SITES

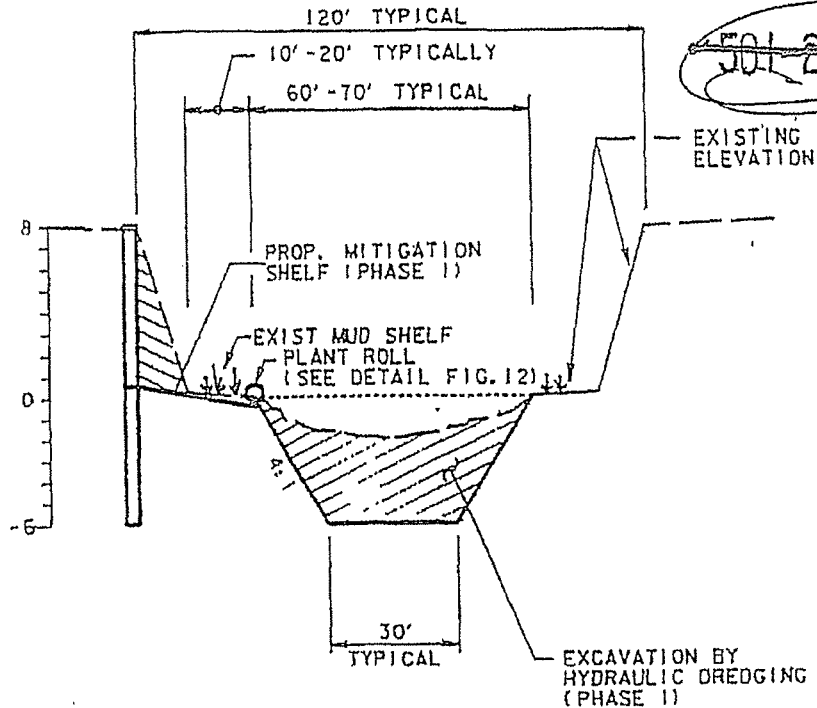


JOB NO. 13585-05      APRIL 1993      FIG 9 OF 16

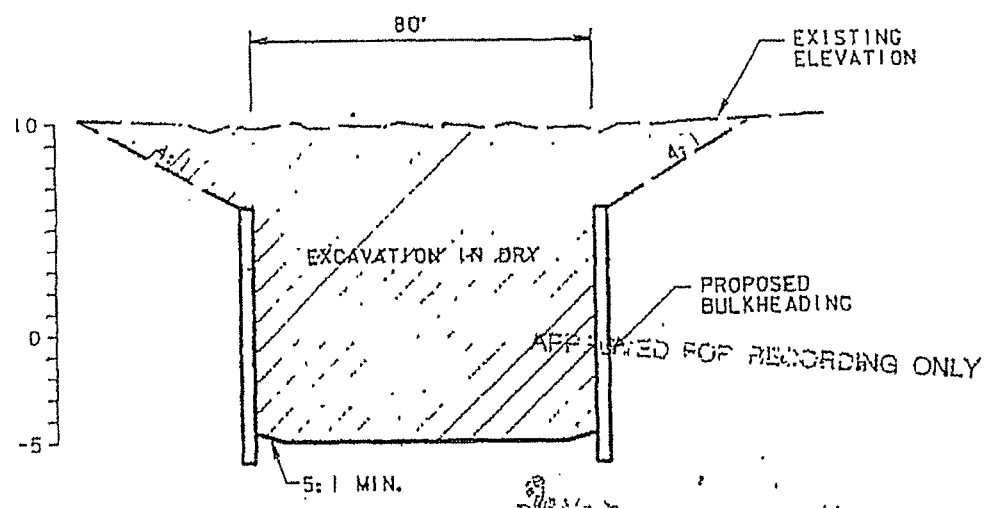


C-16

~~501 21-0144~~  
~~501 21-0144~~



MUD BAYOU SECTION WITH MITIGATION SHELF SECTION A (PHASE I)



LATERAL CANAL SECTION



Engineering & Environmental Consultants  
1201 West Sam Houston Parkway South, Suite 201 Houston, Texas 77042-1

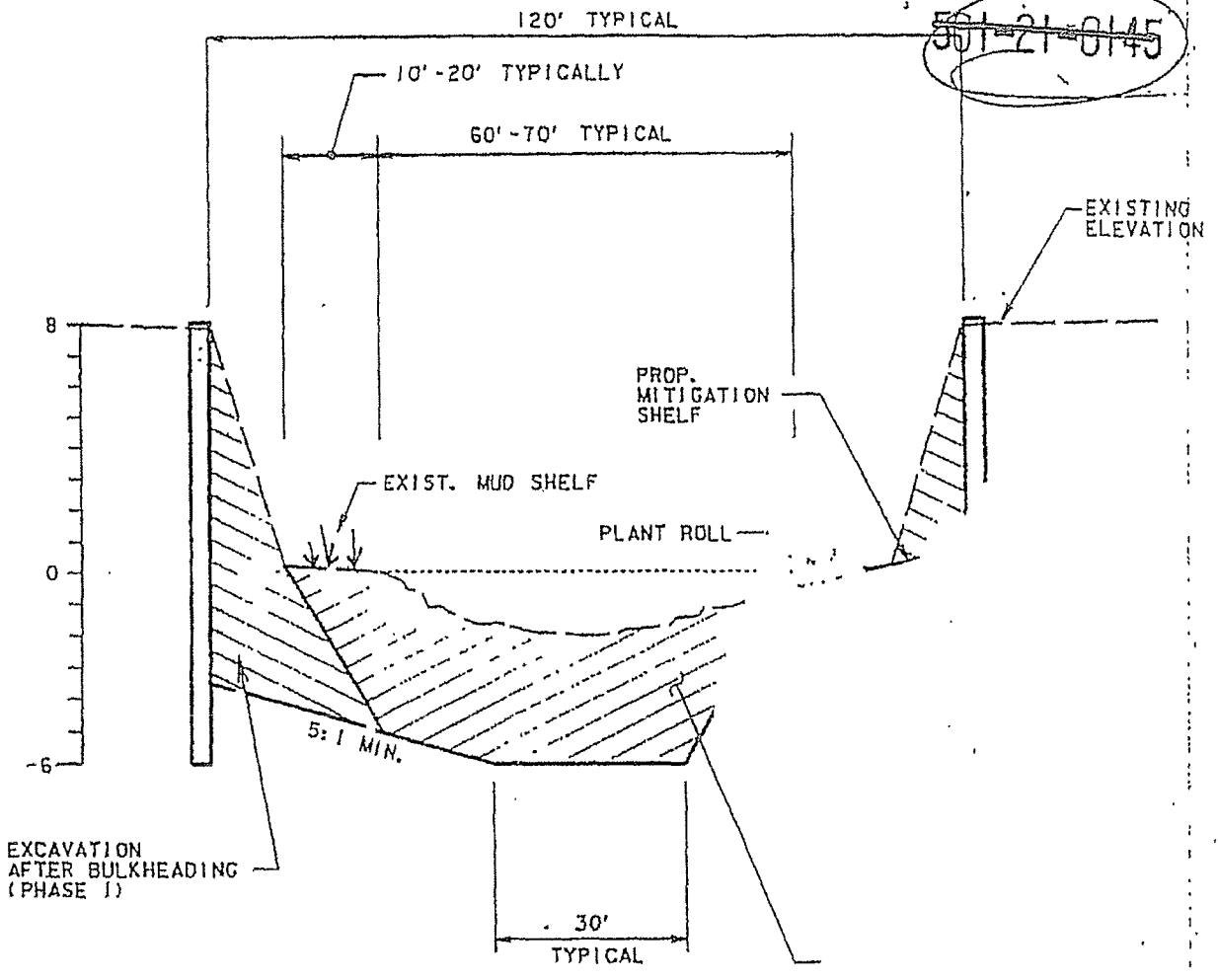
LAKE COVE SUBDIVISION  
SECTION 10 PERMIT  
PROPOSED SECTIONS

JOB NO. 13585-05    APRIL 1993    FIG. C OF

BY ERM 4-1-93

C-17

501-21-0145



MUD BAYOU SECTION  
WITH MITIGATION SHELF  
SECTION B - (PHASE II)

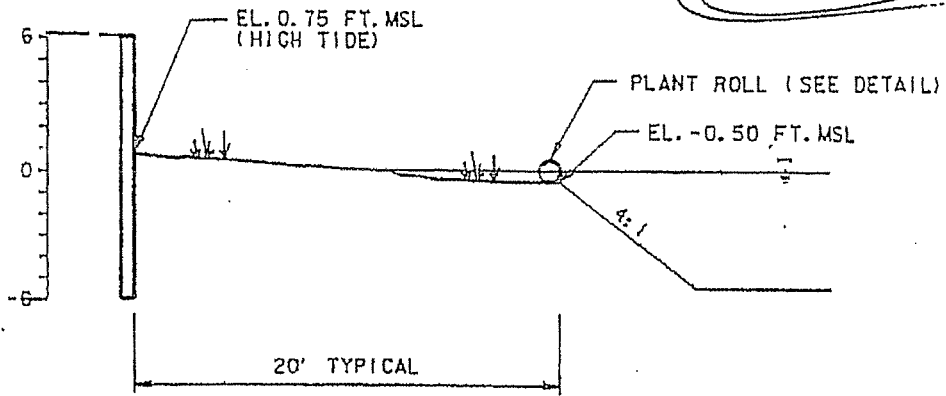
APPROVED FOR RECORDING ONLY

Essey, Houston & Associates, Inc.  
Engineering & Environmental Consultants  
200 West Sam Houston Parkway South, Suite 201 Houston, Texas 77042-1914

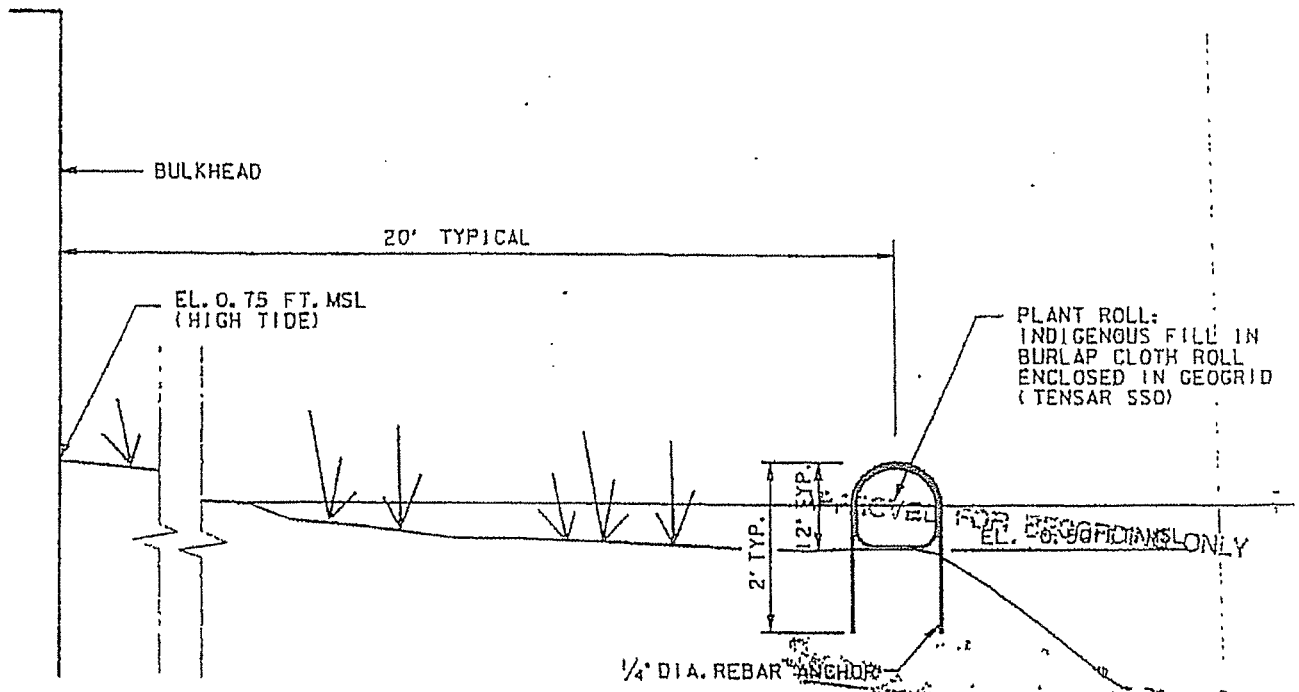
LAKE COVE SUBDIVISION  
SECTION 10 PERMIT  
PROPOSED TYPICAL SECTION

JOB NO. 12585-05	APRIL 1993	FIG. 11 OF
------------------	------------	------------

501-21-0140



MITIGATION SHELF DETAIL



PLANT ROLL DETAIL

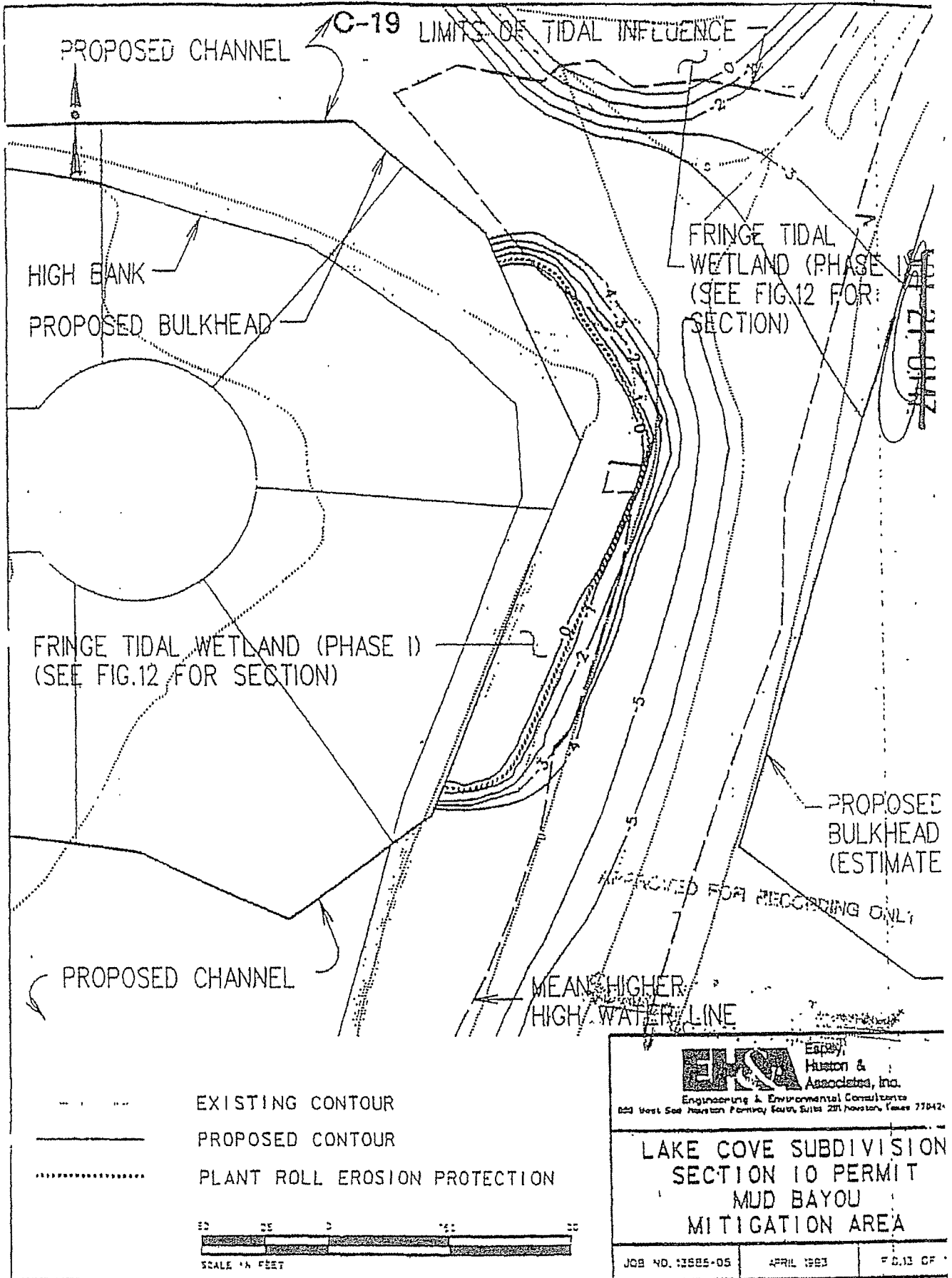
NOTE:

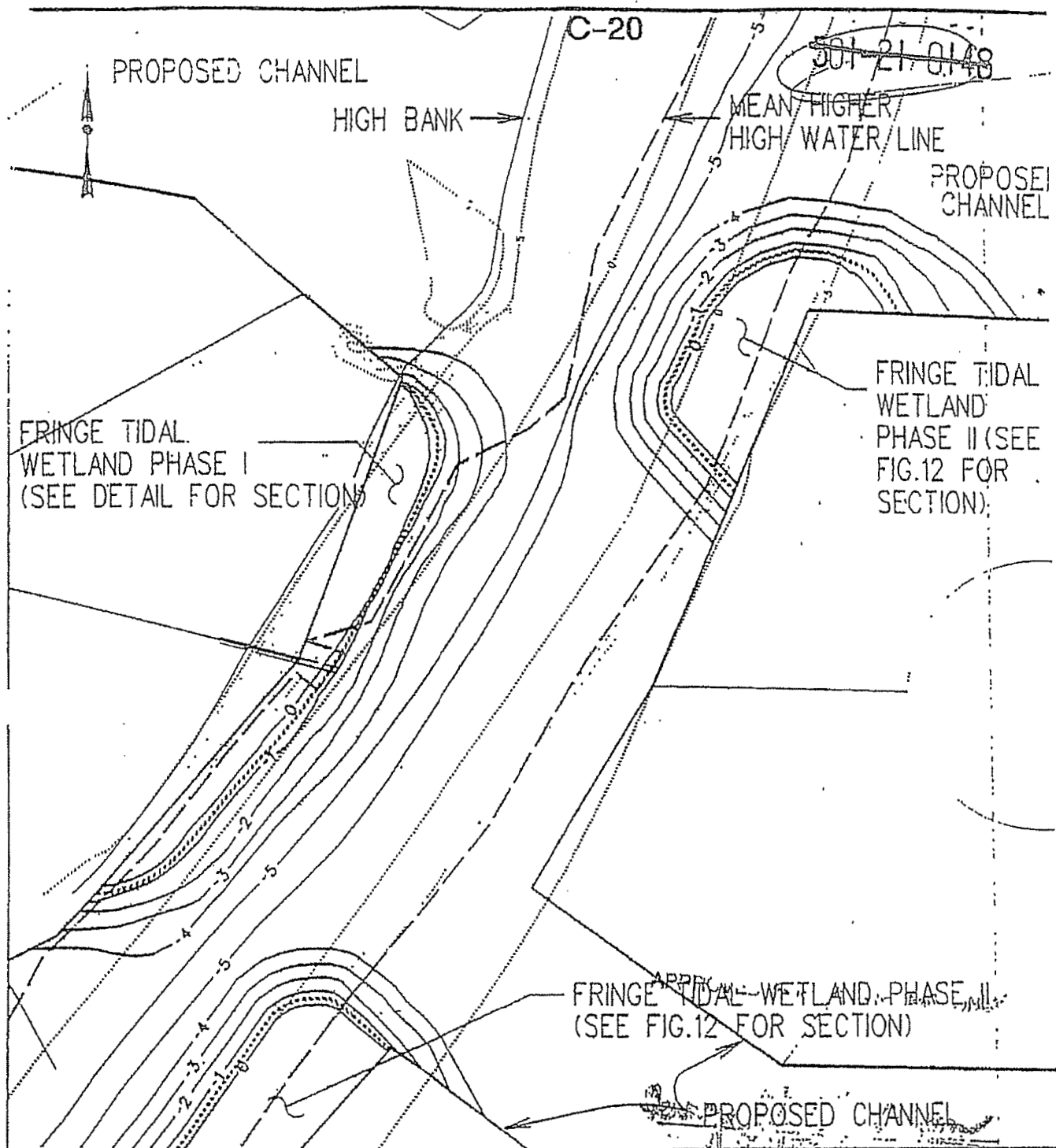
1. ROLL PROPOSED TO BREAK WAVE ENERGY AND PREVENT EROSION.
2. ROLL DEPRESSED TO ELEVATION -0.25 EVERY 50' AND AT ENDS.
3. ROLL COMPRISED OF TENSAR WITH BURLAP LINER w/6-INCH OVERLAP FOR SEAM. APPROXIMATELY 16-INCHES IN DIAMETER DEPRESSED TO 12-INCHES HIGH.


 E.K.A. Huson & Associates, Inc.  
 Engineering & Environmental Consultants  
 603 West Sam Houston Parkway South, Suite 201 Houston, Texas 77042-1174

LAKE COVE SUBDIVISION  
SECTION 10 PERMIT  
MITIGATION SHELF DETAIL

JOB NO. 13585-05      APRIL 1993      FIG. 2 OF 4





301-21-0148

C-20

PROPOSED CHANNEL

HIGH BANK

MEAN HIGHER HIGH WATER LINE

PROPOSED CHANNEL

FRINGE TIDAL WETLAND PHASE I (SEE DETAIL FOR SECTION)

FRINGE TIDAL WETLAND PHASE II (SEE FIG.12 FOR SECTION)

FRINGE TIDAL WETLAND PHASE II (SEE FIG.12 FOR SECTION)

PROPOSED CHANNEL

- EXISTING CONTOUR
- PROPOSED CONTOUR
- ..... PLANT ROLL EROSION PROTECTION



**ERCA** Epcy, Huxton & Associates, Inc.  
 Engineering & Environmental Consultants  
 222 West Sea Houston Parkway South Suite 201 Houston, Texas 77042-1111

**LAKE COVE SUBDIVISION  
 SECTION 10 PERMIT  
 MUD BAYOU  
 MITIGATION AREAS**

JOB NO. 13585-05	APRIL 1993	FIG. 12 OF 16
------------------	------------	---------------

C-21

501-21-0149  
PROPOSED CHANNEL

PROPOSED BULKHEAD  
PROPOSED CHANNEL

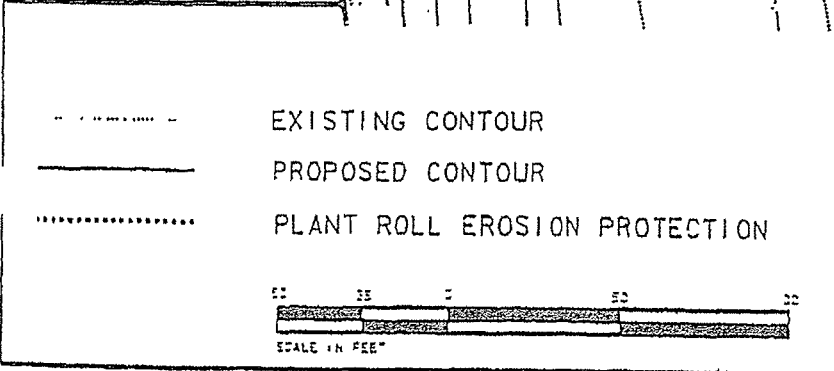
FRINGE TIDAL WETLAND PHASE I  
(SEE FIG.12 FOR SECTION)

FRINGE TIDAL WETLAND PHASE II  
(SEE DETAIL FOR SECTION)

APPROVED FOR REVISION  
FRINGE TIDAL WETLAND  
(SEE DETAIL FOR SECTION)

LIMIT OF TIDAL INFLUENCE

SECTION 10

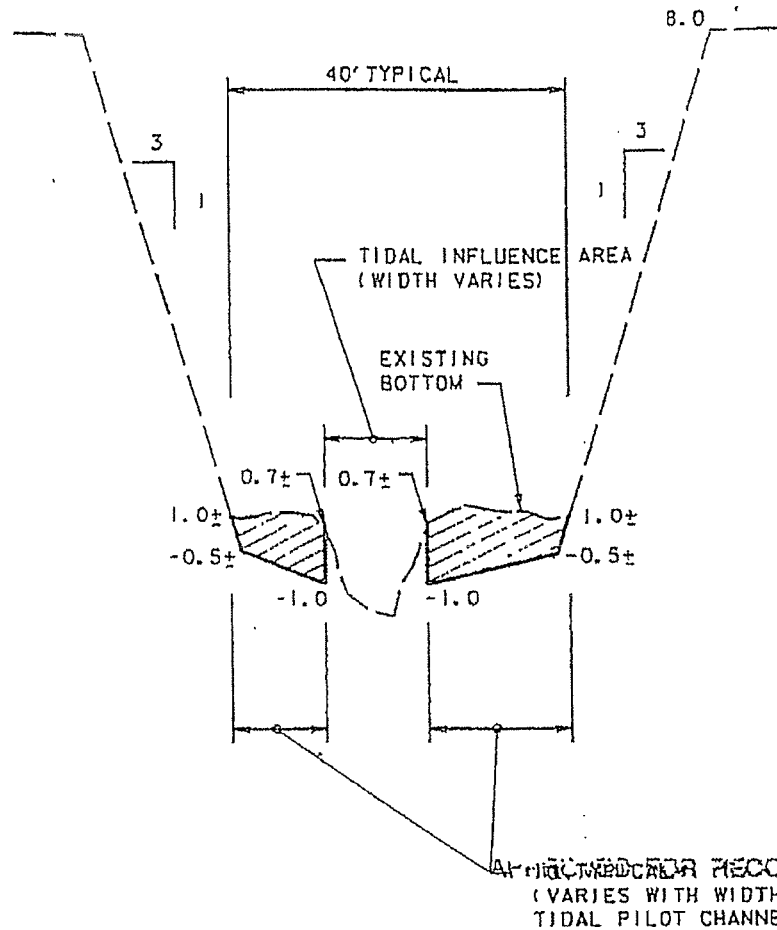


**ELSA** Espey, Houston & Associates, Inc.  
 Engineering & Environmental Consultants  
 603 West San Houston Parkway North, Suite 201 Houston, Texas 77042-1111

LAKE COVE SUBDIVISION  
 SECTION 10 PERMIT  
 MUD BAYOU  
 MITIGATION AREAS

JOB NO 13585-01      APRIL 1993      PAGE 02 OF 15


FOI 21 0150



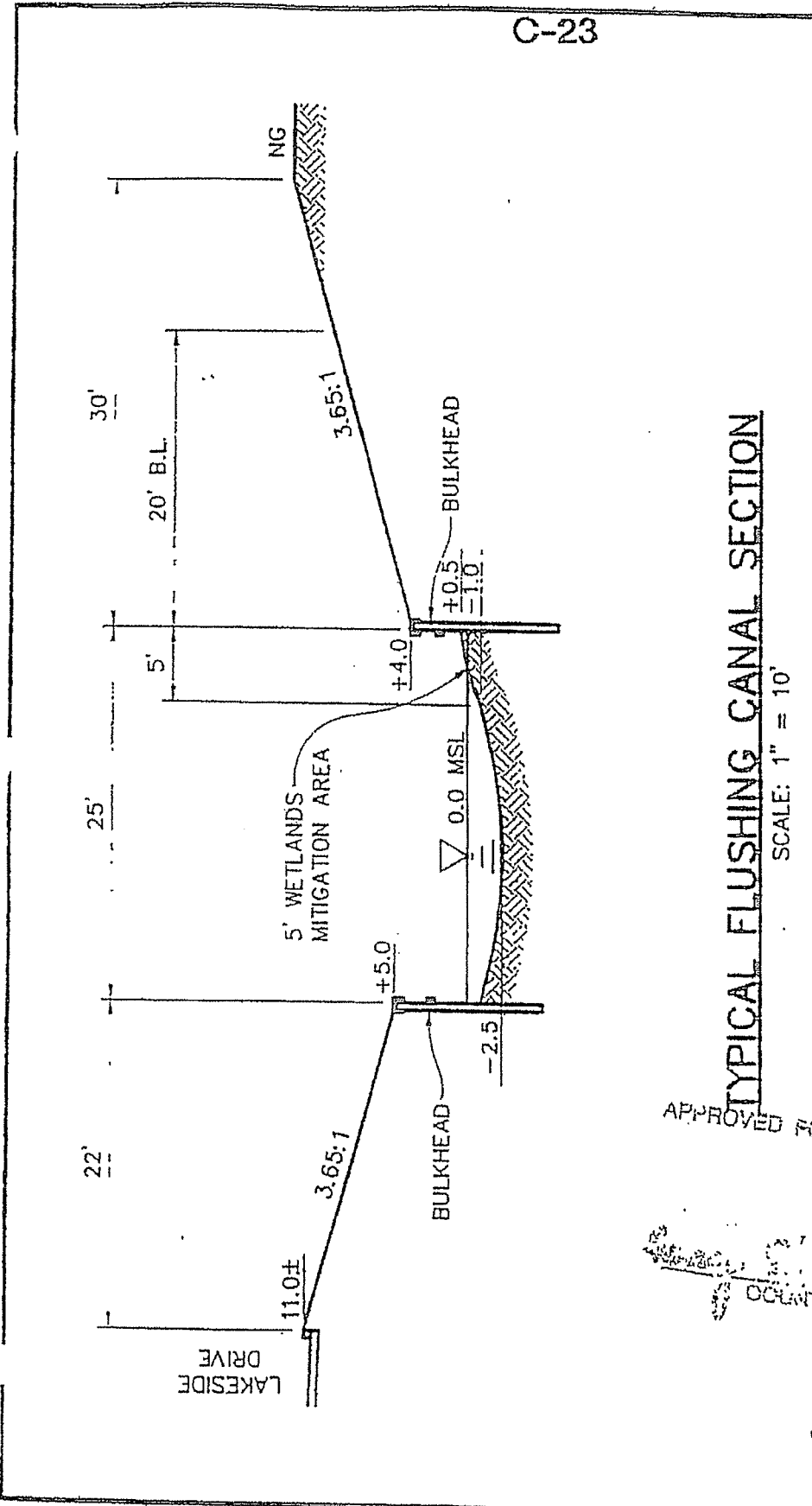
TYPICAL NORTH DITCH  
COUNT ENGINEER

NOTE:

1. EXCAVATION OF CHANNEL BOTTOM TO OCCUR FROM EDGE OF TIDAL INFLUENCE TO INTERCEPT WITH SIDE SLOPE.
2. BOTTOM AREA WITHIN TIDAL INFLUENCE TO BE LEFT AS IS FOR ELEVATION AND VEGETATIVE COVER.

 <b>Espey, Huston &amp; Associates, Inc.</b> Engineering & Environmental Consultants <small>200 West Loop Houston Parkway South, Suite 201 Houston, Texas 77042-11</small>		
<b>LAKE COVE SUBDIVISION SECTION 10 PERMIT PROPOSED TYPICAL SECTION</b>		
JOB NO. 12585-05	APRIL 1993	FIG. 5 OF

C-23



**TYPICAL FLUSHING CANAL SECTION**  
 SCALE: 1" = 10'

APPROVED FOR [Signature]

[Signature]  
 COUNTY ENGINEER

**EPA**  
**Espey, Houston & Associates, Inc.**  
 Engineering & Environmental Consultants  
 600 West Sam Houston Parkway South, Suite 201, Houston, Texas 77062

LAKE COVE SUBDIVISION  
 SECTION 10 PERMIT  
 PROPOSED TYPICAL SECTION

JOB NO: 13585-05	APRIL, 1992	SHEET 16A OF 16
------------------	-------------	-----------------





501-21-0153  
MAY 1993



Espey, Huston & Associates, Inc.

— NOTES TO THE PERMIT PLANS —

Mitigation at 1:1 Ratio

Tidal Marsh Mitigation

- North ditch widened to provide tidal marsh mitigation.
- Mitigation shelves built along Mud Bayou to provide tidal marsh close to shallow bayou fringes.
- Mitigation tidal marsh built at upstream end of excavated dry finger to provide tidal marsh close to shallow water in flushing canals and near recreation center.
- 5' tidal marsh strip adjoining flushing channels at upper end of lateral canals.

Shallow Water Habitat Mitigation

- Flushing channel shallow water habitat.
- Shallow water adjoining recreation center tidal marsh mitigation area.
- Shallow water adjoining mitigation shelves.

Dissolve Oxygen Maintenance System

- Compressor stations with diffusers along lateral canals to distribute D.O. along and across canals
- Pump circulation system to promote flows along length of lateral canals to aid D.O. distribution.
- System to be operated May through October
- D.O. to be monitored May through October.
  - Sampling once every two weeks at 1 foot from top and bottom for each canal and Mud Bayou.
- Applicant to increase air flow if D.O. of monthly average less than 3.5 mg/l or if greater than 50 percent of samples less than 3.8 mg/l.

LAKE COVE JOINT  
VENTURE  
#19664  
MAY 1993

John Hall, Chairman  
Pam Reed, Commissioner  
Peggy Garner, Commissioner

C-26



501-21-0154 FEB 1993

## TEXAS WATER COMMISSION

PROTECTING TEXANS' HEALTH AND SAFETY BY PREVENTING AND REDUCING POLLUTION  
February 4, 1993

Ms. Jane M. Boslet  
Galveston District SWGCC-RP  
Corps of Engineers  
P.O. Box 1229  
Galveston, Texas 77553

RE: USCOE Permit No. 19664  
County: Harris  
Watercourse: Segment No. 2425

Dear Ms. Boslet:

In response to the Joint Public Notice or copy of the application for the referenced permit dated September 23, 1992, this conditional certification is issued pursuant to the provisions of Section 401 of the Clean Water Act. Contingent upon completion of the project as described in the application and/or notice and within the provisions included in Attachment 1, we certify that the project will not cause a violation of established Texas Water Quality Standards. This certification is limited to those water quality considerations under the jurisdiction of this agency according to the various statutes which this agency administers. Please note that the special provisions appearing in Attachment 1 have been developed to address our water quality concerns related to the lowering of Dissolved Oxygen concentrations below 4.0 mg/l that could result with this type of development. The conditions have been developed in consultation with the applicant and other resource agencies.

Our review has been primarily of the information provided by the applicant or the Public Notice. No review of property rights, location of property lines, nor the distinction between public and private ownership has been made and this certification may not be used in any way with regard to questions of ownership.

We appreciate your cooperation in this matter, and if we can be of additional assistance, please contact Mr. Charles Eanes, Permits Section, Watershed Management Division at 512/463-8245.

Sincerely,

*Thomas W. Nelson for*  
Jesús Garza  
Executive Director

Attachment No. 1

cc: Lake Cove Joint Venture  
6300 Richmond, Suite 201  
Houston, Texas 77057

Espey, Huston, & Assoc., Inc.  
800 W. Sam Houston Parkway, Suite 124  
Houston, Texas 77042

P.O. Box 13087 • 1700 North Congress Avenue • Austin, Texas 78711-3087 • 512/463-7830

501 21 0159

TEXAS WATER COMMISSION  
RE: USCOE Permit No. 19664  
Lake Cove Joint Venture  
Attachment 1, Dredge and Fill Certification  
Page 1 of 4, February 4, 1993

WORK DESCRIPTION: As described in public notice dated September 23, 1992.

SPECIAL PROVISIONS:

1. An aeration and circulation system designed to maintain a Dissolved Oxygen concentration above 4.0 mg/l in the lateral canals shall be installed concurrent with the development of the subdivision. The aeration system must be operated during the period May 1 to October 1 of each year.

2. Dissolved Oxygen will be monitored during the period May through October as follows:

a. Monitoring will occur during the period May through October and shall begin upon construction and connection of the west side canals and extend for 3 years following the subdivision reaching 90% of development. Monitoring shall be at a frequency of at least every two weeks for the first three summers following connection of the west side canals and monthly during the following years.

b. Samples, taken 1 ft. from the surface and bottom, will be obtained from each canal and at least one location in Mud Bayou,

c. Monitoring may be accomplished by a citizens monitoring group approved by the Texas Water Commission.

d. The results of each years monitoring shall be submitted to the Austin and Houston District Office of the Commission by no later than December 10th and the report shall reference the Corps of Engineer permit number. The report to the Austin office shall be addressed to the attention of the Standards and Assessment Division.

3. The applicant shall cause to have the covenants of the homeowners' association amended to include language stating that the homeowners' association is responsible for operation and maintenance of the aeration system in conformance with all state statutes and the rules of the Texas Water Commission and its successor agencies. The covenant shall run with the real property and be binding on all parties having any right, title, or interest in the described properties or any part thereof, their heirs, successors, and assigns.

501 21 0159

501-21-0150

TEXAS WATER COMMISSION  
RE: USCOE Permit No. 19664  
Lake Cove Joint Venture  
Attachment 1, Dredge and Fill Certification  
Page 2 of 4, February 4, 1993

4. The developer shall contribute a sum of \$10,000.00 to the homeowner's association. The contribution shall occur when five canal lots have been sold. The developers' contributions shall be used by the homeowner's association to repair/replace pumps which comprise the aeration system or to expand the aeration system in the event the initial aeration system fails to maintain a 4.0 mg/l Dissolved Oxygen concentration. The determination that additional aeration is required shall be made by the Commission and may occur at any time after the monitoring data shows D.O. levels that average less than 3.5 mg/l for any month's sampling of any lateral canal or if more than 50% of all measurements for a canal are below 3.8 mg/l. The determination may occur after receipt of the first set of monitoring data until one year after the final report is received by the Commission.

5. A suitable mitigation plan shall be developed which incorporates avoidance or recreating of as much fringe wetland area as possible along the main channel of the Mud Bayou in front of the bulkheads. Mitigation for wetland and shallow water losses must be at least 1:1.

6. The use of septic systems for the treatment of domestic sewage shall be avoided and no system may be installed without first obtaining approval from local and/or state approving authorities.

GENERAL REQUIREMENTS: This certification is restricted to the work as described in the public notice or application for water quality certification. This certification may be extended to any extension of time to complete the work, minor revisions in the extent of the work, provided such change will not have an adverse impact on water quality; or maintenance dredging subsequent to issuance of the original U.S. Army Corps of Engineers (COE) permit. This certification expires concurrently with the expiration of the COE permit, however, the Commission reserves the right to require full joint public notice on a request for minor revision or extension of time.

STANDARD PROVISIONS: The following provisions attach to any permit issued by the Corps of Engineers 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 Corps permit.

1. 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 Texas Water Commission at 1-800-633-9363.

~~501-21-0157~~

TEXAS WATER COMMISSION  
 RE: USCOE Permit No. 19664  
 Lake Cove Joint Venture  
 Attachment 1, Dredge and Fill Certification  
 Page 3 of 4, February 4, 1993

2. (a) Sanitary wastes shall be retained for disposal in some legal manner.  
 (b) 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 are required to 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/or federal law.
3. 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.
4. 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 particulate.
5. 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 available. If work within a wetland is unavoidable, heavy equipment shall be placed on mats, if necessary, to protect the substrate from gouging and rutting.
6. Dredge Material Placement: Dredged sediments shall be placed in such a manner as to prevent any sediment runoff (a) onto any adjacent property not owned by the applicant, (2) into a wetland or (3) into waters in the state.
7. If contaminated spoil that was not anticipated or provided for in the permit application is encountered during dredging, dredging operations shall be immediately terminated and the Texas Water Commission, Permits Section, shall be contacted at (512) 463-8201 during business hours. Dredging activities shall not be resumed until authorized by the Commission.
8. Contaminated water, soil or any other material shall not be allowed to enter a watercourse. Noncontaminated stormwater from impervious surfaces shall be controlled to prevent the washing of debris into the waterway.
9. Upon completion of earthwork operations all temporary fills shall be removed from the watercourse/wetland and areas disturbed during construction shall be seeded, riprapped, or given some other type of protection to minimize subsequent soil erosion. Any fill material shall be clean and of such composition that it will not adversely effect the biological, chemical or physical properties of the receiving waters.

501-21-0158

TEXAS WATER COMMISSION  
 RE: USCOE Permit No. 19664  
 Lake Cove Joint Venture  
 Attachment 1, Dredge and Fill Certification  
 Page 4 of 4, February 4, 1993

10. Disturbance to vegetation will be limited to only what is absolutely necessary. After construction, all disturbed areas will be revegetated to approximate the pre-disturbance native plant assemblage, in accordance with the mitigation plan.
11. Where the control of weeds, insects and other undesirable species is deemed necessary by the permittee, control methods which are nontoxic to aquatic life or human health shall be employed when the activity is located in or in close proximity to a waterway/wetland.
12. Concentrations of taste and odor producing substances shall not interfere with the production of potable water by reasonable water treatment methods, impart unpalatable flavor to food fish including shellfish, result in offensive odors arising from the water, or otherwise interfere with reasonable use of the water in the state.
13. Surface water shall be essentially free of floating debris and suspended solids that are conducive to producing adverse responses in aquatic organisms or putrescible sludge deposits or sediment layers which adversely affect benthic biota or any lawful uses.
14. 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.
15. The work of the applicant shall be conducted such that surface waters are maintained in an aesthetically attractive condition, foaming or frothing of a persistent nature is avoided and 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.
16. The applicant shall not engage in any activity which will cause surface waters to be toxic to man, aquatic life or to terrestrial life.
17. 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.
18. 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.

PERMIT APPLICATION-19664

~~501-21-0159~~

WV  
BOSLET/3944  
CESWG-CO-RN

ENVIRONMENTAL ASSESSMENT  
AND  
STATEMENT OF FINDINGS

1. Name and Address of Applicant.

Lake Cove Joint Venture  
6300 Richmond, Suite 201  
Houston, Texas 77057

2. Corps Authority. Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act.

3. Project Site and Description. The proposed project is located in Mud Bayou, north of Nasa Road 1, east of Lakeside Drive, and west of Highway 146, in Seabrook, Harris County, Texas. The work involves hydraulically and mechanically dredging 15,000 cubic yards of material from Mud Bayou, increasing the depth from -2.0 to -6.0 feet mean sea level (MSL) (-5.5 feet MSL at the northern end) and increasing the width from 50-75 feet to 120 feet. The material will be disposed of in a 13-15-acre leveed upland area east of the northern ditch leading into the bayou. Any drainage from the disposal area will enter the northern ditch. Five new 80-foot wide lateral canals will be excavated out of uplands to a depth of -2.5 feet at the terminal ends, to -4.0 feet MSL in the canal proper, and to -5.5 to -6.0 feet MSL at their confluence with Mud Bayou. The terminal ends of the canals will be connected with shallow canals measuring 30 feet wide and -2.5 feet deep MSL. At street crossings, 48-inch culverts will be installed to match the flowline with 2.5 feet of water, 1-foot of airspace, and 0.5-foot of siltation. Both Mud Bayou and the lateral canals will be bulkheaded in the dry prior to canal excavation.

The project will impact 1.75 and 2.45 acres of existing wetlands and shallow water habitat, respectively. The applicant proposes to create 1.75 acres of fringing emergent wetlands. A total of 0.75 acres of emergent marsh will be created when the applicant deepens the existing northern ditch to -1.5 feet MSL and widens the bottom to 2-3 feet. The ditch will be constructed so as to meander along its 1,250-foot length. A narrow shelf will be constructed on which topdressing from impacted emergent wetlands will be placed as well as a mixture of 100 trees comprised of willow oak, water oak, and bald cypress will be planted at appropriate elevation dependent upon the species. Another 0.8 acres of fringing wetlands will be created around the ends of the land fingers where they meet Mud Bayou. The shoreline will be sloped to include a 20-foot wide shelf on which rolls of emergent marsh vegetation and soils will be laid and anchored. The third site for emergent marsh creation totals 0.2 acres and will be located





501-21-0161

PERMIT APPLICATION - 19664

access, constructing wetlands at the tips of canal peninsulas to prevent future erosion of the shoreline and to provide fish and wildlife habitat, and installation of aeration systems in the canals to maintain water quality.

c. Environmental Setting. Mud Bayou is a 60-80-foot-wide shallow water, tidally influenced channel draining into Clear Lake. The lower end of Mud Bayou is developed with home sites, bulkheaded shorelines, and a depth of -6.0 feet mean sea level (MSL). The upper 2,000 feet is approximately 2-3 feet deep MSL and 70-100 feet wide. This area is lined with fringe intertidal marsh species including marsh hay cordgrass (Spartina patens), marsh elder (Iva frutescens), salt marsh bulrush (Scirpus robustus), salt marsh aster (Aster tenuifolia), and black needle rush (Juncus romarianus). Water birds including great blue herons, ospreys, great egrets, and belted kingfishers wade and feed in the wide, shallow water habitat in the northern end of the bayou. Juvenile fish and invertebrate species include mullet, speckled trout, brown shrimp, white shrimp, blue crab, and anchovies. The vicinity of the project site has undergone substantial development in terms of recreational boating, commercial enterprises (stores, restaurants, etc.), apartment complexes, and individual residential housing.

d. Environmental Impacts. The possible consequences of this proposed work were studied for environmental concerns, social well-being, the public interests, and in accordance with regulations published in 33 C.F.R. 320-330. All factors which may be relevant to the proposal must be considered. The following factors were determined to be particularly relevant to this application and were evaluated appropriately.

(1) Historic and Cultural Resources. A cultural resources survey was conducted in the permit area. The results of the investigation indicate that the project area had been subjected to substantial modifications from earlier construction activity. As a consequence, no cultural deposits or historic properties determined eligible for inclusion to the National Register of Historic Places were found to exist within the permit area.

(2) Navigation. Navigation will be available for subdivision residents and residents living north of Mud Bayou who will be able to utilize the boat ramp at the existing recreational center.

501-21-0162

(3) Water Quality. The Texas Water Commission certified that the project would not violate established Texas Water Quality Standards pursuant to the provisions of Section 401 of the Clean Water Act with several Special Provisions.

(4) Endangered Species. No known endangered species or their critical habitat will be affected by the proposed work.

(5) Fish and Wildlife Values. Fish and wildlife habitat will be altered as a result of this project. A total of 1.75 acres of emergent marsh habitat that provides nursery, forage, and cover for fish and wildlife and will be lost as a result of construction. In order to compensate for this loss, 1.75 acres of uplands will be converted into fringing wetlands. Mud Bayou will be deepened from an existing -2.0 feet MSL to -6.0 feet MSL. These existing shallow water areas provide habitat for juvenile red drum, spotted seatrout, Atlantic croaker, mullet, bay anchovy, shrimp, and blue crabs in which to live. To compensate for the 2.45 acres of shallow water habitat lost, a total of 2.48 acres will be created out of uplands.

(6) Recreation. The impacts of this project will enable the public and adjacent landowners greater boating access.

(7) Wetlands. A total of 1.75 acres of tidally influenced fringe wetlands will be impacted by the project, including marsh hay cordgrass (Spartina patens), marsh elder (Iva frutescens), salt marsh bulrush (Scirpus robustus), salt marsh aster (Aster tenuifolia), and black needle rush (Juncus roemerianus). To compensate for these losses, three types of new fringing marsh will be created, totalling 1.75 acres.

Sixteen-inch diameter plant rolls filled with the excavated wetland soils and seeds will be placed on a 20-foot-wide terraced shelf at -0.5-foot MSL and anchored in place at the terminal ends of the canal peninsulas. Every 50-feet the roll will be depressed to -0.25-foot elevation to allow for ample water circulation.

(8) Other Federal, State, or Local Requirements. All required Federal, State, and/or local authorization or certifications necessary to complete processing of this application have been obtained. No required authorizations or certifications have been denied and none are known to exist which would preclude finalization of this permit action.

501-21-0163

(9) Other Factors Considered. The following factors were considered during the evaluation process but were determined to not be particularly relevant to this application; conservation, economics, aesthetics, general environmental concerns, flood hazards, flood plain values, land use, shore erosion and accretion, water supply and conservation, energy needs, safety, food and fiber production and mineral needs.

e. Cumulative Impacts. The assessment of cumulative impacts takes into consideration the effects upon an ecosystem of past, present, and reasonably foreseeable future projects. Every application must be considered on its own merits and its impacts on the environment must be assessed in light of historical permitting activity along with anticipated future activities in the area. Although a particular project may constitute a minor impact in itself, the cumulative effect of a large number of such projects could cause a significant impairment of water resources and interfere with the productivity and water quality of existing aquatic ecosystems.

Canal-lot subdivisions have been permitted in the past and will likely continue to be evaluated in the future. The Clear Lake shoreline has numerous similar housing developments. This project is designed to allow for minimal environmental impacts to Mud Bayou and includes provisions to improve and maintain water quality, tidal wetlands, and stormwater runoff purification. The proposed work will not add to adverse cumulative impacts in the area.

f. Findings of No Significant Impacts. There have been no significant adverse environmental effects identified resulting from the proposed work. The impact of this proposed activity on aspects affecting the quality of the human environment has been evaluated and it is determined that this action does not require an Environmental Impact Statement.

5. Statement of Findings.

a. Coordination. The formal evaluation process began with publication of a public notice on 23 September 1993. Copies of the public notice were forwarded to concerned Federal, State, and local agencies, organized groups, individuals, and navigation districts. These entities included the following:

- U.S. Fish and Wildlife Service
- National Marine Fisheries Service
- Environmental Protection Agency
- U.S. Coast Guard
- Texas Parks and Wildlife Department

501-21-0164

PERMIT APPLICATION - 19664

Texas Historical Commission  
 General Land Office  
 National Ocean Survey, Atlantic Marine Center  
 American Waterways Operators  
 Adjacent Property Owners

b. Response to the Public Notice.

(1) Federal Agencies. On 22 October 1992, the Environmental Protection Agency (EPA) requested and was granted a 30 day extension of time to comment, in order to review water quality data. On 26 October 1992, the National Marine Fisheries Service (NMFS) recommended any subdivision construction be without canals and alterations to Mud Bayou. They commented that water quality within the bayou is already poor during summer months and that studies in Florida and North Carolina canal subdivisions violated water quality criteria at canal depths that exceeded 4-5 feet. The NMFS also stated that they felt the proposed weir would restrict movement of living marine resources in the bayou and that the mitigation appeared insufficient. By letter dated 28 October 1992, the U.S. Fish and Wildlife Service (USFWS) identified several concerns over the proposed project including the destruction of fish and wildlife habitat from dredging and enlarging Mud Bayou, the creation of anaerobic conditions as a result of deepening the bayou, the placement of a weir at the northern drainage ditch that would decrease tidal exchange, reliance upon aeration systems in excavated finger canals to effectively prevent fish kills and placing mitigation sites in the finger canals, and the low value habitat that mitigation created in the northern fresh water drainage ditch would have for fish and wildlife. The USFWS recommended that the applicant restrict dredging in Mud Bayou channel so as to remain 15 feet from the shoreline, that mitigation occur at 1:1 and include survival rates of 70% at the end of the second growing season with regrading/replanting occurring as required, use of proper construction methods to prevent excessive turbidity in the bayou, provide annual mitigation and water quality reports. On 12 November 1992, the NMFS Regional Office responded by supporting and reiterating the Southeast Regional Office's 22 October 1992 comment letter. They stated that the proposed project would adversely and unacceptably impact aquatic resources of national importance.

(2) State and Local Agencies. On 28 October 1992, the Texas Parks and Wildlife Department (TPWD) stated concerns over not providing adequate mitigation to compensate for habitat and water quality filtering functions of the disturbed wetlands. They recommended that the applicant restrict dredging to no closer than 20 feet from the existing banks and that access to

501-21-0165

PERMIT APPLICATION - 19664

the channel could be achieved by constructing piers. Dredging the northern "dry finger" should be avoided to prevent impacts to existing wetlands and the community boat ramp should be relocated. Utilizing the northern drainage ditch as a mitigation site should not occur because a "park-like" creation would offer little functional habitat for fish or wildlife. They stated that finger canals have traditionally resulted in poor water quality and fish kills and that water aeration systems are not recommended. They noted similar systems installed in Oyster Creek and larger canals along Taylor Lake have not prevented fish kills from occurring. On 23 October 1992, the Texas Water Commission (TWC) requested and was granted a 60 day extension of time to collect and review data. On 30 October 1992, a cultural resources survey was submitted to the State Historic Preservation Officer.

(3) Individuals and Organized Groups. By letter dated 14 October 1992, the Lone Star Chapter of the Sierra Club (LSCSC) stated that proposing mitigation within easements is inappropriate. They also commented that the mitigation should be at a 2:1 and that the project is not water dependent. On 26 October 1992, the Galveston Bay Foundation (GBF) stated that they felt the proposed canals would not have sufficient water movement to prevent algae growth and fish kills due to inadequate dissolved oxygen (D.O.). They stated that the proposed mitigation should be at a 2:1 and that further deterioration of the shoreline and bayou bottom caused by increased boating may occur.

c. Applicant Response to Public Notice Comments. By letter dated 17 December 1992, all comment letters were sent to the applicant for review. After consulting with the applicant's agent, the TWC issued a conditional water quality certification for the proposed project on 4 February 1993. On 16 February 1993, the applicant submitted revised project plans. By telephone, on 8 March 1993, the additional information concerning details, placement, and operation of the proposed aeration system was requested from the agent. On 11 March 1993, the additional information was received.

d. Coordination of Revised Plans.

(1) Federal Agencies. Revised plans were coordinated with Federal and State resource agencies by letter dated 12 March 1992. By letter dated 25 March 1993, the USFWS offered no objections to the issuance of the permit. On 29 March 1993, the EPA offered no further objections to the issuance of the permit. By letter dated 26 March 1993, the NMFS recommended revisions be incorporated into the permit including a cross section of the northern drainage ditch including created wetlands, that mitiga-

501-21-0166

PERMIT APPLICATION - 19664

tion planting be conducted the first spring after canal construction, identification of a borrow area for Spartina alterniflora transplants and specifications for obtaining source material, monitoring transplanted sites 60 days after initial planting and replanting/regrading within 30 days if 50% survival is not achieved, additional planting after the second growing season if 70% coverage is not achieved, and monitoring with annual progress reports and photo documentation of mitigation sites up to three years following initial planting submitted to the Federal and State resource agencies.

(2) State and Local Agencies. On 26 March 1993, the TPWD requested and was granted an extension of time to comment on the revised plans until 2 April 1993. The Texas Historical Commission concurred with the revised plans on 25 March 1993.

e. Request for Clarification of Revised Plans. On 26 March 1993, further clarification and details concerning the proposed design of wetland sites at the inner end of the canals, timing of the mitigation construction, and a specific monitoring plan for the mitigation creation was requested from the agent. On 30 March 1993, these revisions were received and subsequently coordinated with Federal and State resource agencies at a meeting on 31 March 1993. On 5 April 1993 the TPWD stated concerns over the proposed design of the wetland sites at the inner end of the canals, dredging width of the bayou, timing of the mitigation construction, and survival and monitoring criteria details. On 8 April 1993, the GBF recommended that the mitigation conditions proposed in the NMFS' 26 March 1993 letter be included in the permit.

f. Resolution of Comments and Coordination of Final Revisions. The TPWD letter dated 5 April 1993 was sent to the applicant on 8 April 1993. On 4 May 1993, final revisions were received from the applicant and subsequently coordinated with Federal and State agencies by letter dated 5 May 1993. On 7 May 1993, the NMFS stated they had no further objections if the first paragraph under Mitigation Planting stated "...50 percent survival after one month and 70 percent coverage after one year" rather than "...50 percent survival after one month or 70 percent survival after one year." By letter dated 10 May 1993, the NMFS offered no further objections to the proposed project. On 12 May 1993, the TWC offered no objections to the final revisions. On 14 May 1993, the USFWS offered no objections to the proposed project. On 19 May 1993, the LSCSC stated that mitigation should be 2:1 and include all impacted areas. They also questioned the use of air compressors and diffusers and stated that replanting should continue for three years. By telephone, on 19 May 1993, the TPWD recommended that the applicant state that Spartina

501-21-0167

PERMIT APPLICATION - 19664

alterniflora would be the species used for wetland creation and that they be planted on 3-foot centers. They also stated that they did not like the proposed project, but understood that there was little else that the applicant could do to improve the design.

g. Coordination of Final Comments. By telephone and facsimile, the LSCSC and the TPWD comments were forwarded to the applicant's agent on 19 May 1993. By letter dated 20 May 1993, the applicant requested a decision on the permit. By facsimile received on 21 May 1993, the applicant included the NMFS and TPWD recommendations. They stated that rather than specifying planting on 3-foot centers, they are attempting to locate and use 1-foot square mats of Spartina alterniflora for wetland creation. In any event, sources of planting materials will be submitted to the Corps for review prior to using.

After review of all submitted information and revision of the project plans, it is our opinion that the applicant has designed a project that will not adversely impact the Mud Bayou environment. While the bayou will change in size and use, improvements have been made to the environment. The creation of wetlands along an existing linear mowed ditch, north of the bayou will filter sediments and road surface runoff from State Highway 146 before it enters the bayou. Traditionally, canal lot subdivisions have been designed with narrow, dead-end canals and no provisions to maintain water circulation. The proposed project includes culverts under the streets that will connect newly created fringing marsh. Street surface runoff will pass through these wetlands before entering the bayou. The canals will be constructed at elevations, lengths, and widths that will encourage circulation. The Texas Water Commission's water quality certification includes several provisions to ensure that proper dissolved oxygen levels are maintained. Water quality parameters may even improve above existing and historical levels. Mitigation construction is of the type where success rates have been established. Provisions have been included to ensure monitoring of the sites. As a result of the measures and construction practices the applicant has included, impacts to the environment have been both avoided and minimized.

h. Conclusion. We have reviewed and evaluated, in light of the overall public interest, the documents and factors concerning this permit application, as well as the stated views of other interested Federal and non-Federal agencies and the concerned public, relative to the proposed work in navigable waters of the United States. This evaluation is in accordance with the guidelines contained in 40 C.F.R. 230 pursuant to Section 404(b) of the Clean Water Act.



~~501-21-0168~~

PERMIT APPLICATION - 19664

Based on our review, we find that the proposed project is not contrary to the public interest and that a Department of the Army permit should be issued.

FOR THE COMMANDER:

B7B  
BENNETT

4 June 1993  
(date)

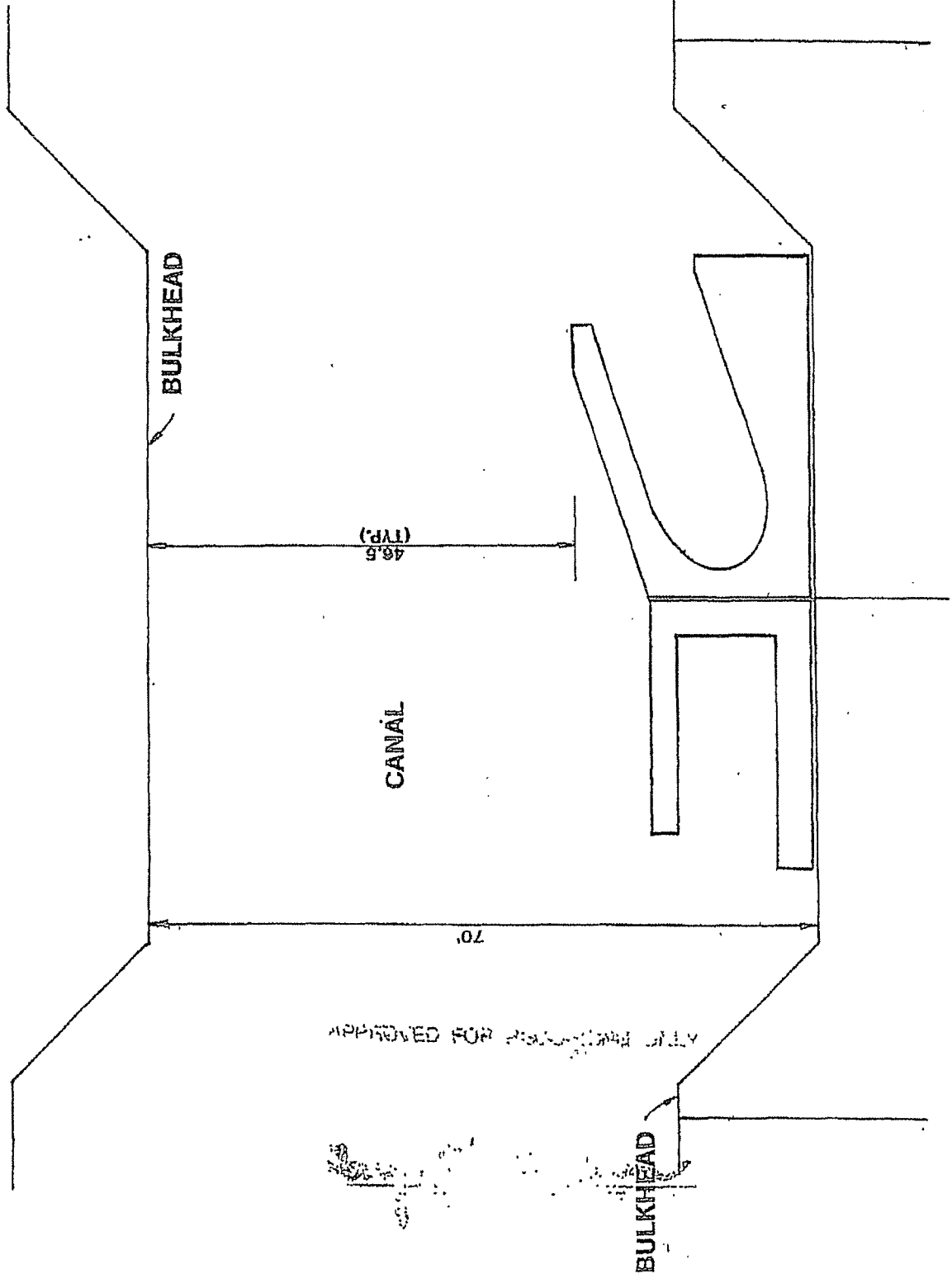
Marcos De La Rosa  
MARCOS DE LA ROSA, P.E.  
Chief, Regulatory Branch

U  
S  
A  
R  
M  
Y  
C  
O  
R  
D  
S  
A  
N  
D  
E  
N  
G  
I  
N  
E  
E  
R  
I  
N  
G  
C  
O  
U  
N  
C  
I  
L  
O  
F  
C  
O  
N  
S  
U  
L  
T  
I  
N  
G  
E  
N  
G  
I  
N  
E  
E  
R  
S

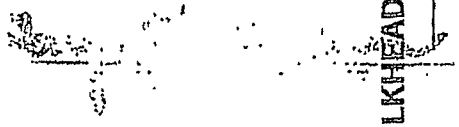
11/11

501-21-0169

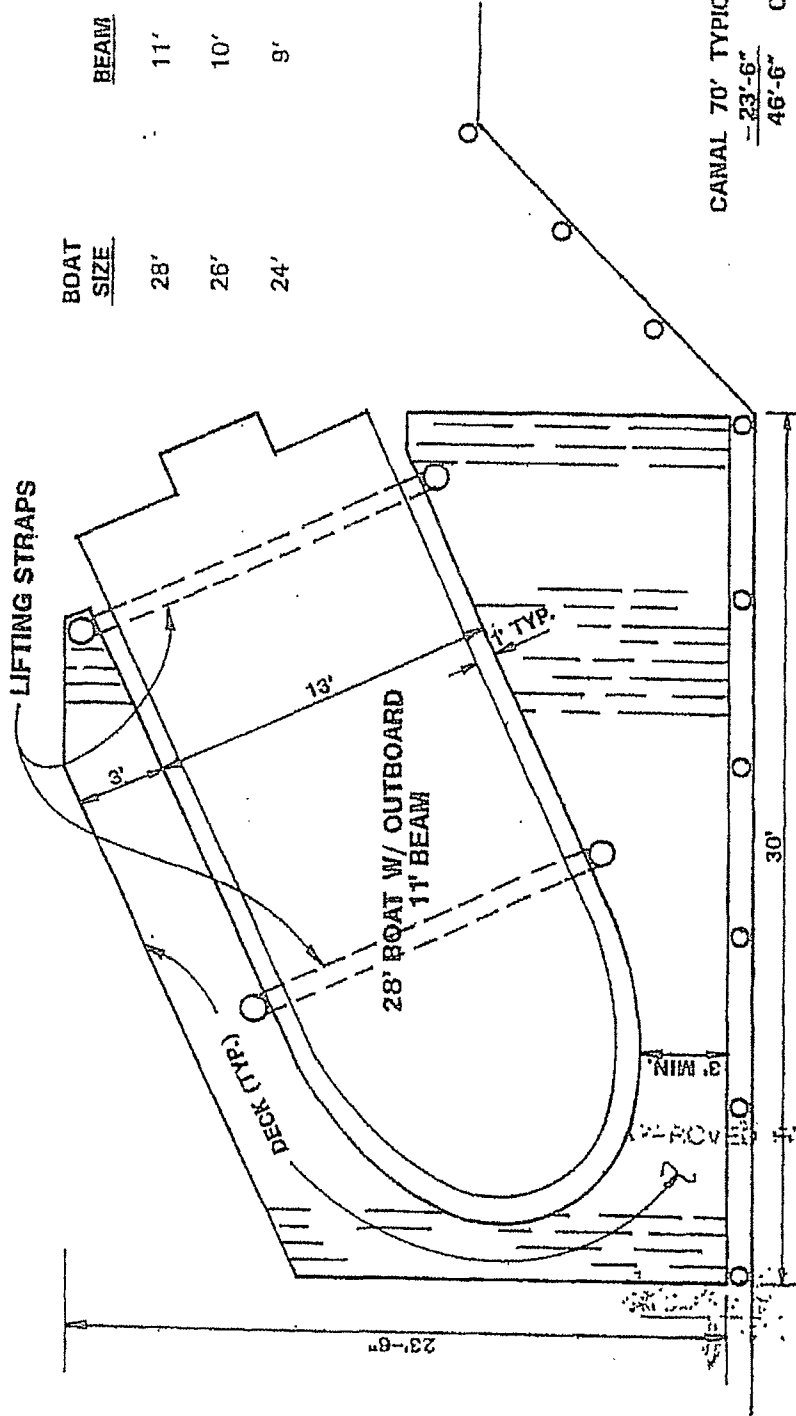
SEE PLAN FOR LOCATION



APPROVED FOR CONSTRUCTION ONLY



SEE REFERENCE DRAWINGS



BOAT SIZE	BEAM	DOCK MIN. DIMENSIONS
28'	11'	30' x 23'-6"
26'	10'	30' x 23'
24'	9'	30' x 22'

"D-1"

~~501-21-0170~~

CANAL 70' TYPICAL  
 -23'-6"  
 46'-6" CLEARANCE

CANAL 80' TOTAL  
 -23'-6"  
 -23'-6"  
 33' CLEARANCE

TYPICAL BOAT SLIP  
 N.T.S.

FOR RECORDING

"D-2"

501-21-0174  
501-21-0174

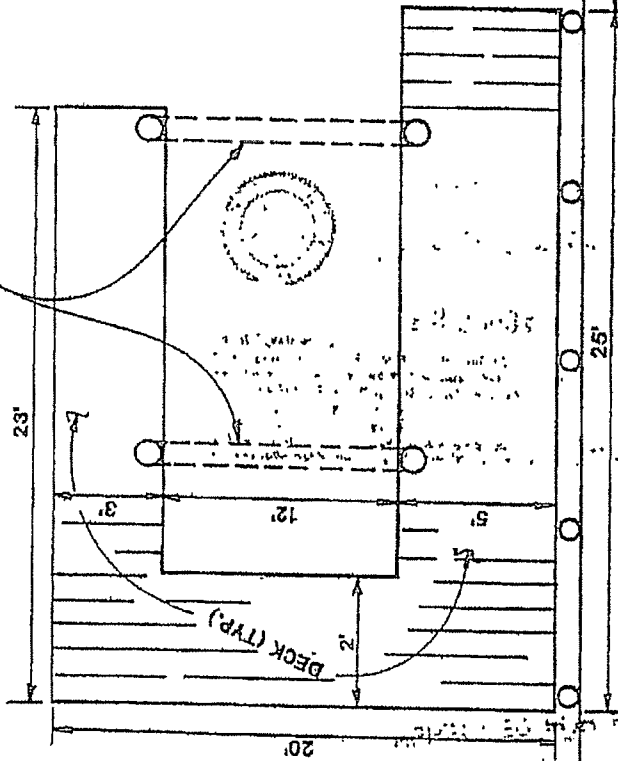
ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS VOID AND UNENFORCEABLE UNDER FEDERAL LAW THE STATE OF TEXAS COUNTY OF HARRIS I hereby certify that this instrument was FILED in the Public Records on the date and at the time stamped hereon by me, and was duly RECORDED in the PUBLIC RECORDS of Real Property of Harris County, Texas on

FEB -7 2005



*Dorely L. Kaufman*  
COUNTY CLERK  
HARRIS COUNTY, TEXAS

LIFTING STRAPS



TYPICAL BOAT SLIP  
N.T.S.

FILED  
03 FEB -7 PM 4:39  
COUNTY CLERK  
HARRIS COUNTY, TEXAS

RECORDER'S MEMORANDUM:

At the time of recordation, this Instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blockouts, additions and changes were present at the time the Instrument was filed and recorded.

Σx." E "

RECORDER'S MEMORANDUM:  
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

RULES AND REGULATIONS

The following are the rules and regulations pertaining to the owners of boat slips located at Dock System A, Dock System B, and Dock System C.

1. No parties on the boat slips or dock systems.
2. No leasing or subleasing of boat slips
3. Boat slips are for owners use only
4. No furniture, temporary or permanent, including patio or deck furniture, is allowed on the boat slips or dock systems
5. No boat restoration projects may take place in the boat slips
6. No tents on the boat slips or dock system
7. No umbrellas on the boat slips or dock system
8. No camping on the boat slips or dock system
9. No cooking, grilling or barbequing on the boat slips or dock system
10. No loud music or offensive noises are allowed on the boat slips or dock system
11. No pets allowed on the boat slips or dock system, except for transporting them to and from a boat
12. Cleats must be of a marine type for the purpose of being used at a marine dock
13. No tying off to adjacent private bulkheads and/or fences
14. No mooring in front of adjacent private property
15. No overnight stays on boats (owners cannot sleep on their boat overnight at the boat slip)
16. No garbage cans on boat slips or dock systems
17. No permanent or temporary shade arbors or gazebos on boat slips or dock system
18. No boat houses
19. No roofs over boat slips
20. No shelves, lockers, racks, poles or hooks on boat slips or dock system.
21. Storage of boat equipment will be allowed in a white fiberglass dock box, sold and marketed as a dock box that is approved by the Architectural Control Committee of Lake Cove Section 11.
22. Owners of boat slips may not park their vehicles, trailers, or boats anywhere on Blue Canoe for loading, unloading or waiting purposes. Owners of boat slips may not park their vehicles, trailers, or boats anywhere on Ketch Court or Water Way for loading, unloading, or waiting purposes, unless you are a Ketch Court or Water Way resident and are parking in front of your own home on Ketch Court or Water Way respectively. Boat slip owners may park in the guest parking spaces located on Waterway near Dock System A while loading, unloading or waiting on a temporary basis.
23. No flood lights at boat slips or dock system
24. No all night lights at boat slips or dock system
25. No alcohol on boat slips or dock system
26. No floating docs or floating storage device of any kind at boat slips or dock system
27. No fuel storage or fuel containers, or fueling of vessels at the dock system or boat slips
28. No storage of outboard motors or fishing accessories unless it is stored inside of a dock box
29. No storage of paddle boats, canoes, kayaks, PWC, rafts, row boats, or other floating craft on land or water unless it is the only vessel stored at the boat slip.
30. Any improvements or changes to a boat slip, including but not limited to electrical or plumbing lines, shall require approval by the Architectural Control Committee of Lake Cove Section 11.
31. All boat lifts shall require the approval by the Architectural Control Committee of Lake Cove Section 11.

CONFIDENTIAL

Return to:  
Vivian Moulton, P.C.  
2411 Fountain View #215  
Houston, Tx. 77057

✓

2006 SEP 12 PM 1:42  
FILED  
COUNTY CLERK  
HARRIS COUNTY, TEXAS

3 3 2 1 2 5 3 0

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.  
THE STATE OF TEXAS  
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED. In the Official Public Records of Real Property of Harris County, Texas on

SEP 12 2006



*Broady L. Keyser*

COUNTY CLERK  
HARRIS COUNTY, TEXAS