



APPENDIX A
LOCATION MAP and SITE PLAN



Location: Walker County, Texas
 Image Source: N/A
 Projection: NAD 83, UTM Zone 15
 GIS Contact: Matt Baker (mbaker@bergoliver.com)

LEGEND		ACRES
	Project Boundary (Open Air)	17.82
	Project Boundary (Enclosed)	1.24

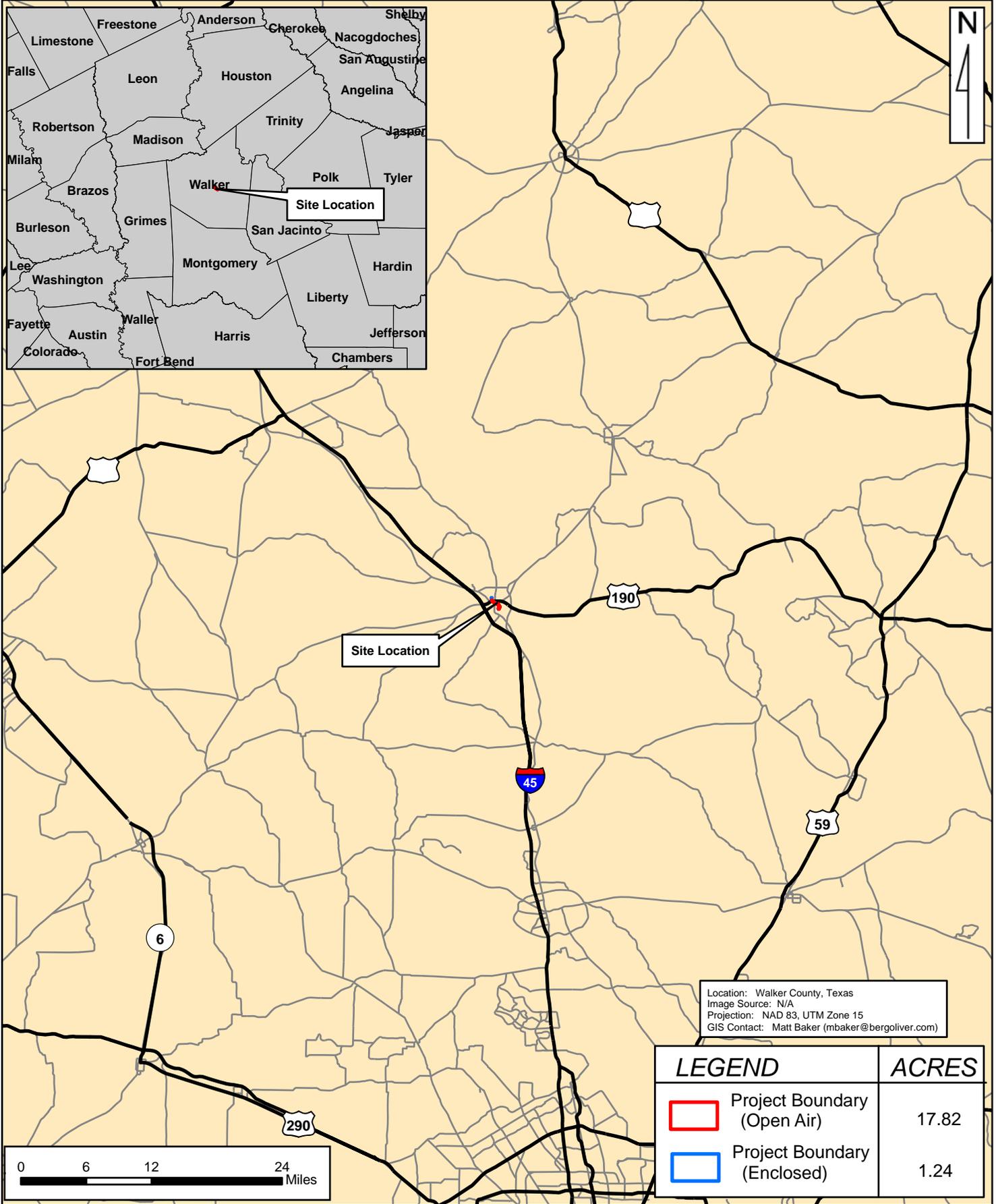
SITE LOCATION MAP

Project #: 8371
 For: Klotz Associates, Inc.
 Location: 1.5-mile Town Creek Drainage Improvement Project
 Walker County, Texas

REVISIONS
Dec. 12, 2011 by MDB
July 31, 2012 by MER

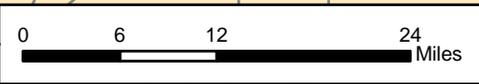
BERG•OLIVER ASSOCIATES, INC.
 ENVIRONMENTAL SCIENCE, ENGINEERING
 & LAND USE CONSULTANTS
 14701 ST. MARY'S LANE, SUITE 400
 HOUSTON, TEXAS 77079 PHONE (281)589-0898 <http://www.bergoliver.com>





Location: Walker County, Texas
 Image Source: N/A
 Projection: NAD 83, UTM Zone 15
 GIS Contact: Matt Baker (mbaker@bergoliver.com)

LEGEND		ACRES
	Project Boundary (Open Air)	17.82
	Project Boundary (Enclosed)	1.24



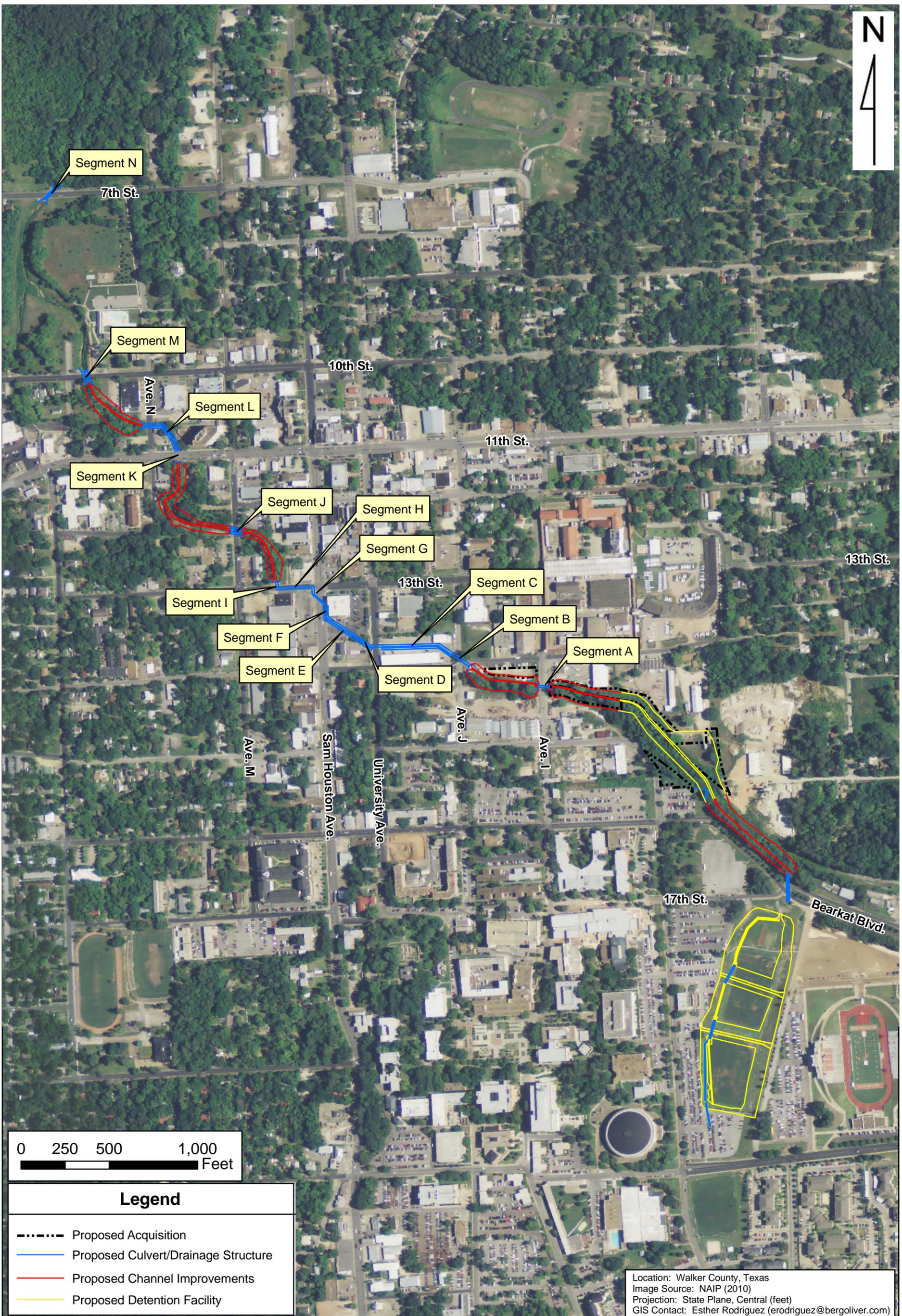
SITE VICINITY MAP

Project #: 8371
 For: Klotz Associates, Inc.
 Location: 1.5-mile Town Creek Drainage Improvement Project
Walker County, Texas

REVISIONS
Dec. 12, 2011 by MDB
July 31, 2012 by MER

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Legend	
	Proposed Acquisition
	Proposed Culvert/Drainage Structure
	Proposed Channel Improvements
	Proposed Detention Facility

Location: Walker County, Texas
 Image Source: NAIP (2010)
 Projection: State Plane, Central (feet)
 GIS Contact: Esther Rodriguez (erodriguez@bergoliver.com)

PROJECT LAYOUT MAP

Project #: 8371
 For: Klotz Associates, Inc.
 Location: 1.5-mile Town Creek Drainage Improvement Project
 Walker County, Texas

REVISIONS
Aug. 1, 2012 by MER

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APPENDIX B
SITE PHOTOGRAPHS



Typical view of Town Branch near northern terminus (7th Street).



Typical view of wooded section of Town Branch with stone embankment (10th Street to Avenue N).



View adjacent to Huntsville City Hall, with wood embankments and concrete-lined section.



Typical view of box culvert road crossing, showing structural damage (at 13th Street entrance to downtown section).



Typical view of Town Branch adjacent to TDCJ Walls Unit (14th Street to Avenue I).



Typical view of debris lining Town Branch bottom adjacent to Walls Unit and SHSU (14th Street to 17th Street).



View of outfalls and erosion near southern project terminus (Avenue H to Bearkat Boulevard).



Typical view of Town Branch along southern project terminus (Sycamore Avenue).



Location of former Miller's Texaco/Wilburn Dickerson Chevron LPST site at 1504 11th Street.
View is facing south from shopping center adjoining to north.



Former Citgo PST facility location at NE corner of 14th St and Sam Houston Ave. View facing northeast.



Location of former Diamond Shamrock LPST facility, NW corner of 14th St and Sam Houston Ave. View facing NW. Shopping center adjoining to north is the one where the creek is buried, but that location is farther north in the center (just south of 13th St).



Location of former Charlie's Used Cars LPST site, SW corner of 14th St and Sam Houston Ave.



Typical debris in southern portion of project area. Note crushed drainage pipe.

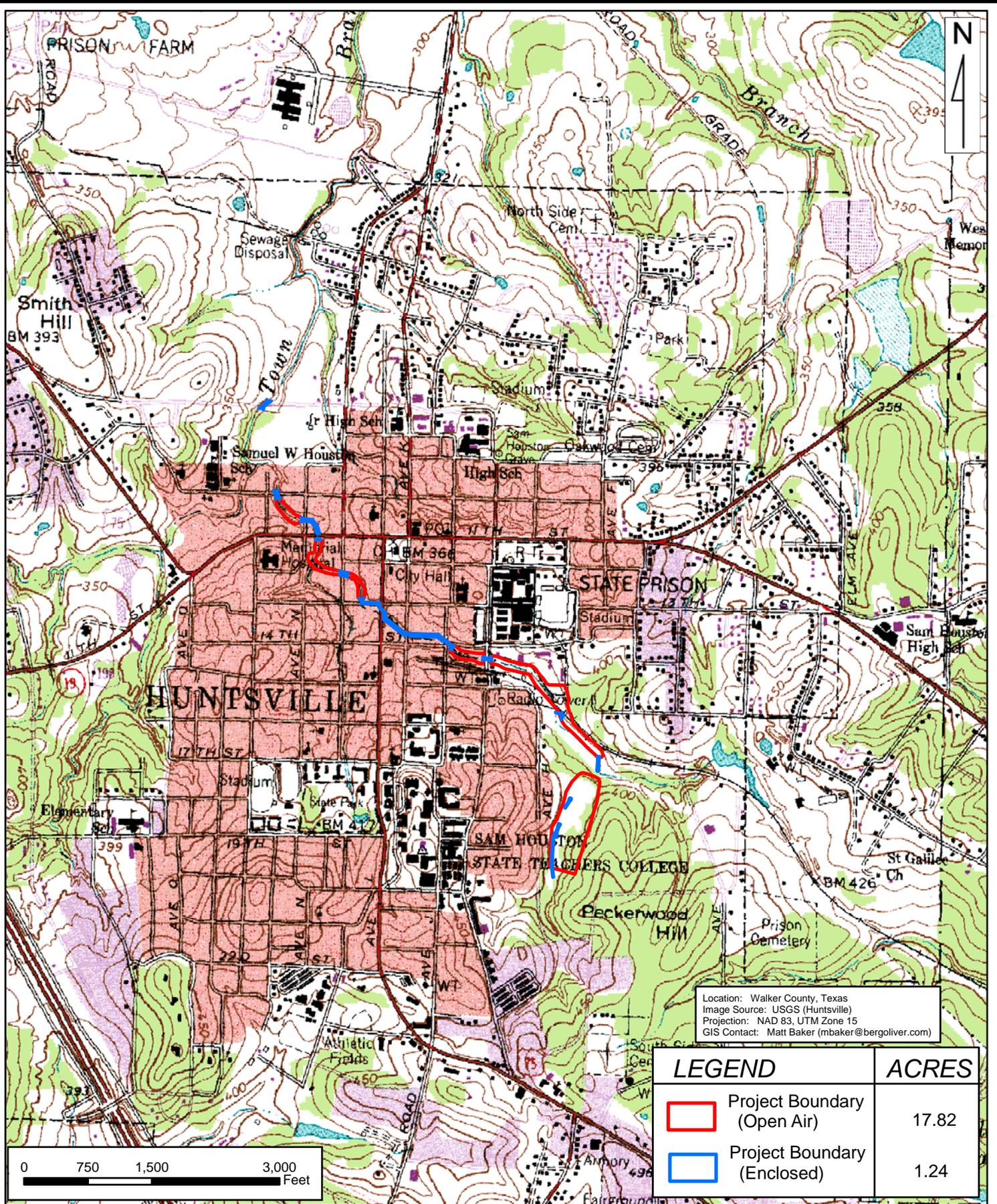


Remnant RR tracks in southern portion of project area.



APPENDIX C

TOPOGRAPHIC, SOIL, FLOODPLAIN and NWI MAPS



Location: Walker County, Texas
 Image Source: USGS (Huntsville)
 Projection: NAD 83, UTM Zone 15
 GIS Contact: Matt Baker (mbaker@bergoliver.com)

LEGEND		ACRES
	Project Boundary (Open Air)	17.82
	Project Boundary (Enclosed)	1.24

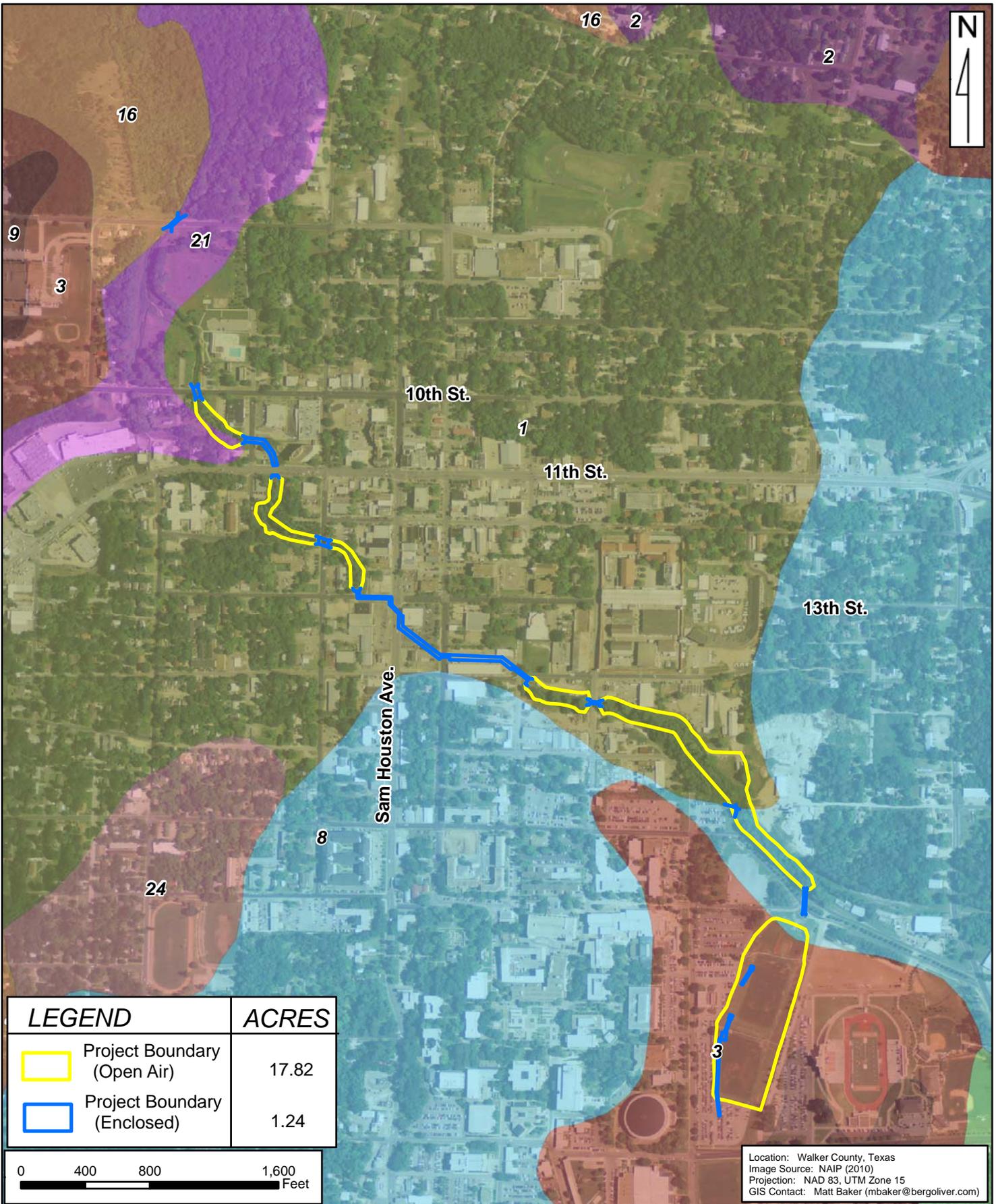
USGS TOPOGRAPHIC MAP - HUNTSVILLE QUAD

Project #: 8371
 For: Klotz Associates, Inc.
 Location: 1.5-mile Town Creek Drainage Improvement Project
 Walker County, Texas

REVISIONS
Dec. 12, 2011 by MDB
July 31, 2012 by MER

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LEGEND	ACRES
Project Boundary (Open Air)	17.82
Project Boundary (Enclosed)	1.24



Location: Walker County, Texas
 Image Source: NAIP (2010)
 Projection: NAD 83, UTM Zone 15
 GIS Contact: Matt Baker (mbaker@bergoliver.com)

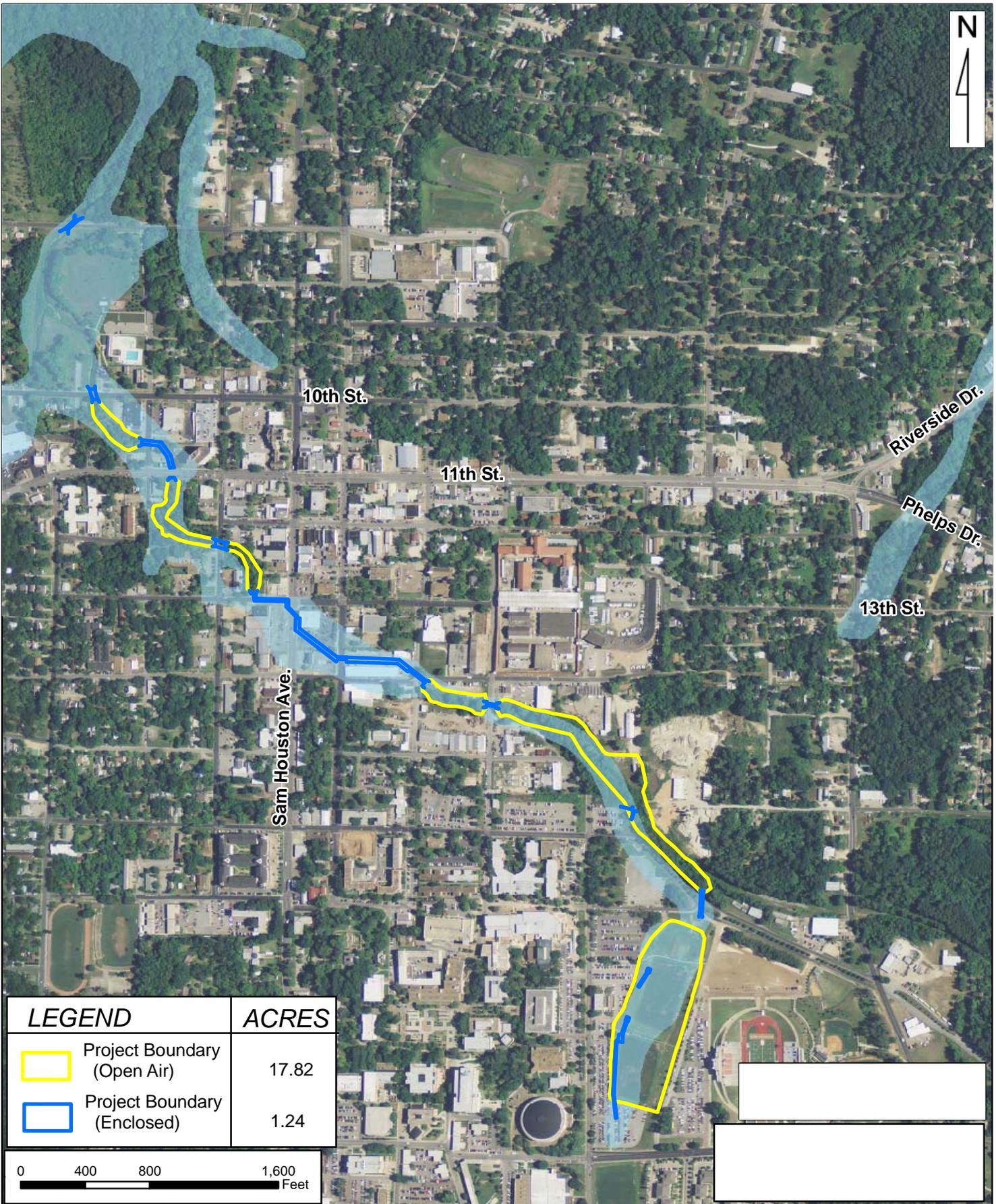
NRCS COUNTY SOILS ON 2010 NAIP AERIAL

Project #: 8371
 For: Klotz Associates, Inc.
 Location: 1.5-mile Town Creek Drainage Improvement Project
 Walker County, Texas

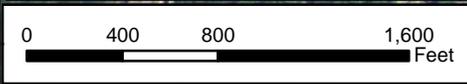
REVISIONS
Dec. 12, 2011 by MDB
July 31, 2012 by MER

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LEGEND	ACRES
 Project Boundary (Open Air)	17.82
 Project Boundary (Enclosed)	1.24



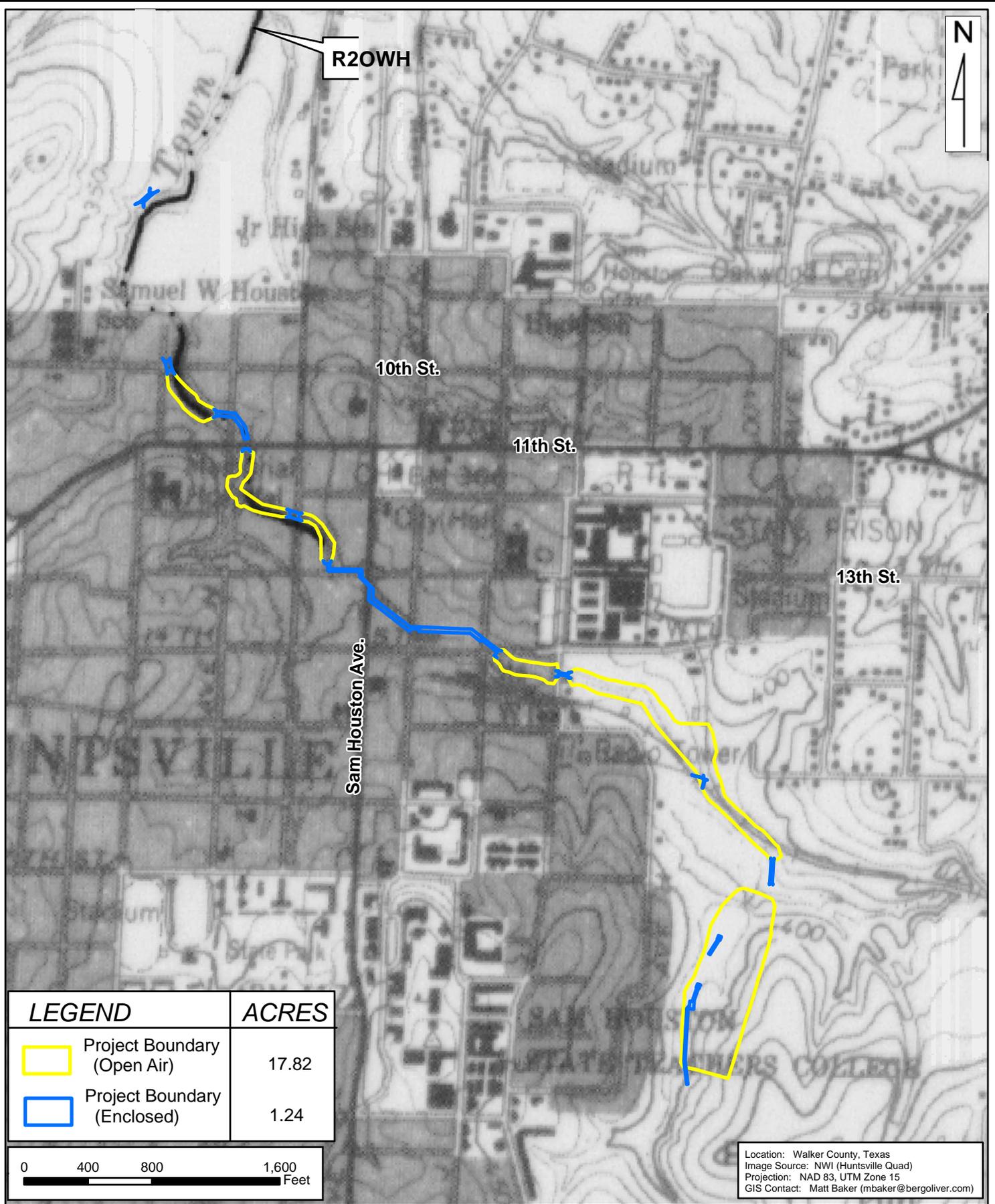
FEMA 100-YEAR FLOODPLAIN ON 2010 NAIP AERIAL

Project #: 8371
 For: Klotz Associates, Inc.
 Location: 1.5-mile Town Creek Drainage Improvement Project
 Walker County, Texas

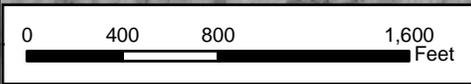
REVISIONS
Dec. 12, 2011 by MDB
July 31, 2012 by MER

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LEGEND	ACRES
Project Boundary (Open Air)	17.82
Project Boundary (Enclosed)	1.24



Location: Walker County, Texas
 Image Source: NWI (Huntsville Quad)
 Projection: NAD 83, UTM Zone 15
 GIS Contact: Matt Baker (mbaker@bergoliver.com)

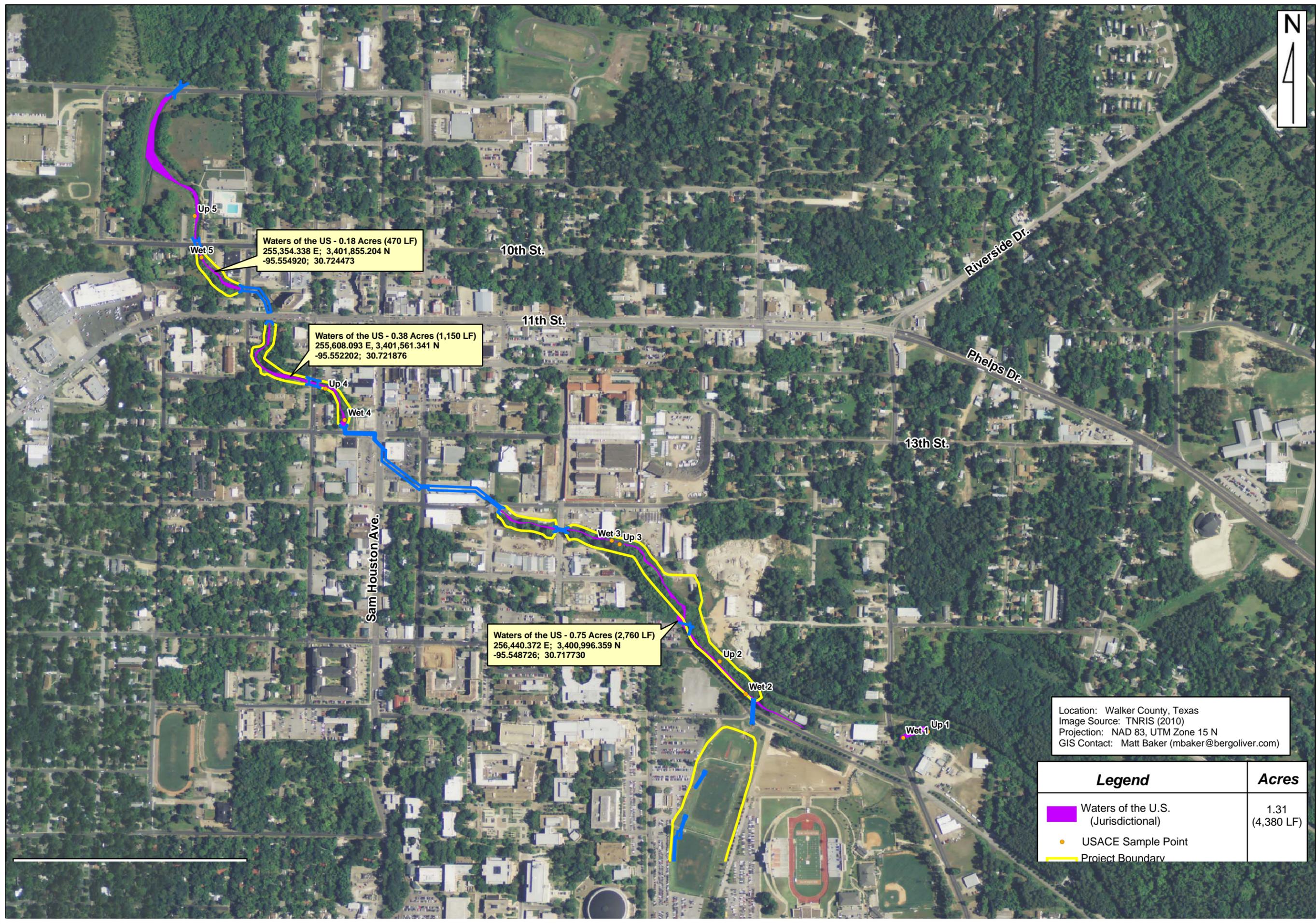
NWI MAP

Project #: 8371
 For: Klotz Associates, Inc.
 Location: 1.5-mile Town Creek Drainage Improvement Project
 Walker County, Texas

REVISIONS
Dec. 12, 2011 by MDE
July 31, 2012 by MER

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Waters of the US - 0.18 Acres (470 LF)
 255,354.338 E; 3,401,855.204 N
 -95.554920; 30.724473

Waters of the US - 0.38 Acres (1,150 LF)
 255,608.093 E; 3,401,561.341 N
 -95.552202; 30.721876

Waters of the US - 0.75 Acres (2,760 LF)
 256,440.372 E; 3,400,996.359 N
 -95.548726; 30.717730

Location: Walker County, Texas
 Image Source: TNRIS (2010)
 Projection: NAD 83, UTM Zone 15 N
 GIS Contact: Matt Baker (mbaker@bergoliver.com)

Legend	Acres
Waters of the U.S. (Jurisdictional)	1.31 (4,380 LF)
USACE Sample Point	
Project Boundary	

**WETLAND DETERMINATION AND CLASSIFICATION
 SITE LOCATION MAP**



BERG-OLIVER ASSOCIATES, INC.
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REVISIONS
Jan. 20, 2012 by MDB
Aug. 2, 2012 by MER

Project #: 8371
For: Klotz Associates, Inc.
Location: 1.5 mile Town Creek Drainage Improvement Project
 Walker County, Texas

APPENDIX D

**8-STEP NARRATIVE FOR FLOODPLAINS AND WETLANDS
(EXECUTIVE ORDERS 11988 / 11990 AND 44 CFR, PART 9)**

TOWN CREEK DRAINAGE IMPROVEMENT PROJECT
Executive Order 11988 – Floodplain Management Eight-Step Decision Making Process

Executive Order 11988 (Floodplain Management) requires federal agencies “to avoid to the extent possible the long and short term adverse impacts associated with the occupancy and modification of the floodplain and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative.” FEMA’s implementing regulations are at 24 CFR Part 9, which includes an eight step decision making process for compliance with this part. This eight step process is applied to the proposed Town Creek Drainage Improvement. Most of the existing Project area lies within the 100-year floodplain of Town Creek. The steps in the decision making process are as follows:

Step 1 Determine if the proposed action is located in the Base Floodplain.

The proposed project involves slope and cross-section stabilization, removal and/or replacement of deteriorating and insufficient existing underground drainage structures, installation of velocity control structures to mitigate erosive shear forces, and creation/improvement of adjacent detention ponds along approximately 1.5 miles of Town Creek between 7th Street and Bearkat Boulevard in downtown Huntsville. The majority of the proposed Town Creek Drainage Improvement facilities, including the underground drainage structures, velocity control structures, and the existing detention facility, will be located inside of the 100- and 500-year floodplains.

Most of the Town Creek Drainage Improvement project is within the 100-year floodplain (“Base floodplain”) of Town Creek (according to Flood Insurance Rate Map # 48471C0360D (published August 16, 2011)). The floodplain in relation to the community and the Town Creek Drainage Improvements are depicted in Appendix C of the Environmental Report. The Town Creek Drainage Improvements will place underground drainage structures and velocity control structures such as headwalls and wing walls at roadway crossings, and a headwall near 11th Street.

Step 2 Early public notice (Preliminary Notice)

A public notice concerning the Town Creek Drainage Improvement will be published in the *Huntsville Item* newspaper together with the Notice of Availability of the draft NEPA document. The *Item* is the local newspaper for the Huntsville area, including the floodplain area of Town Creek. An Environmental Assessment Report for the Town Creek Drainage Improvements was prepared and is undergoing review for compliance with the National Environmental Policy Act. In addition, the U.S. Army Corps of Engineers (USACE) held a public comment period for the issuance of the Clean Water Act permit for the project from April 2 to May 2, 2014. An additional interagency coordination notice was issued by USACE on August 19, 2014 which solicited input from a limited number of interested parties.

Step 3 Identify and evaluate alternatives to locating in the base floodplain.

A portion of the existing community to be served by the Town Creek Drainage Improvement is within the 100- and 500-year floodplains. Town Creek must serve the drainage needs of existing development, including residences, businesses, and public institutions within the 100- and 500-year floodplains. Additionally, during hurricanes the City of Huntsville serves as a shelter city during coastal evacuations, and Walker County’s Emergency Management headquarters in the Huntsville Annex Building lies within the 100-year floodplain. Therefore, flooding or structural collapse during a hurricane event has the potential to disproportionately impact emergency response measures and vulnerable segments of the public both within and beyond the 100-year floodplain. In order to serve existing development located

within and beyond floodplains, the project is proposed to: (1) stabilize the slope and underground structures to prevent erosion and subsidence, and (2) prevent flooding in downtown Huntsville during heavy rainfall events.

The underground drainage structures will be buried underground, and will therefore have no adverse impacts to the 100-year and 500-year floodplains. Slope and cross-sectional stabilization is designed to improve the capacity of Town Creek, and would also have no adverse impacts.

Alternative drainage improvements with greater detention and less channel modification, as well as alternatives with less detention and greater channel modification, were considered and determined to be infeasible. Due to the highly developed nature of the project area (downtown Huntsville), limited land is available for greater volumes of detention. Conversely, most of Town Creek's right-of-way through downtown Huntsville is constrained and cannot contain additional in-line volume beyond that proposed in the Build Alternative.

Slope stabilization as part of the Town Creek Drainage Improvement inherently needs to be performed in order to control erosion in Town Creek. The No Build Alternative or alternatives which do not involve slope stabilization within Town Creek would not address this erosion.

Step 4 Identify impacts of proposed action associated with occupancy or modification of the floodplain.

Impact on natural function of the floodplain

The Town Creek Drainage Improvement would not negatively affect the functions and values of the 100-year floodplain. The purpose of the proposed project would be to improve the functions and values of the floodplains during both normal and extreme weather. The Town Creek Drainage Improvement would not place within 100- or 500-year floodplains structures which would impede or redirect flood flows. Slope and cross-section stabilization of open portions of Town Creek would be designed to enable flood flows. Underground drainage structures would not result in fill added to floodplains. The Town Creek Drainage Improvement will not facilitate development in the 100-year floodplain, and will not facilitate development (including critical facilities such as hospitals, emergency services, fire stations, etc.) in the 500-year floodplain to any greater degree than in non-floodplain areas of the community. No development is anticipated within the 500-year floodplain. Compliance with applicable ordinances and building codes would be required of any new development within floodplains.

Impact of the flood water on the proposed facilities

The Town Creek Drainage Improvements would not be affected by flood water.

Step 5 Design or modify the proposed action to minimize threats to life and property and preserve its natural and beneficial floodplain values.

The Town Creek Drainage Improvement is designed to minimize floodplain impacts. If constructed as designed, the Town Creek Drainage Improvements would address existing threats to life and property as well as improve the natural and beneficial floodplain values of Town Creek.

Step 6 Re-evaluate the proposed action.

The project will not expose any segment of the population to additional flood hazards because it does not include a housing component, and will not facilitate development in the floodplains to any greater degree than non-floodplain areas of the community. The project will not aggravate the current flood hazard because the proposed facilities and structures are designed to enable flood flows within the existing floodway. The project will not disrupt floodplain values because it will not increase water levels in the

floodplain, and will not reduce habitat in the floodplain. Therefore, it is still practicable to construct the proposed project within the floodplain. Alternatives consisting of locating additional detention outside the floodplain or taking “no action” are not practicable nor do they address the project need.

Step 7 Findings and Public Explanation (Final Notification)

After evaluating alternatives, including impacts and mitigation opportunities, the City determined that the proposed project is the most practical alternative. The City of Huntsville must prepare and provide a Public Notice to be issued 15 days prior to the start of construction of any final decision where proposed floodplain or wetland project is the only practicable alternative.

It is our determination that there is no practicable alternative to locating most of the project in the 100- and 500-year floodplains of Town Creek because:

1. By definition, the Town Creek Drainage Improvements must be performed within the 100-year and 500-year floodplains of Town Creek. A portion of the community exists within the floodplains, and drainage improvements must be implemented to address existing flooding and structural hazards.
2. A “no action” plan would not resolve or improve the existing flooding and structural problems in the downtown Huntsville section of Town Creek.

Step 8 Implement the action

The proposed Town Creek Drainage Improvements will be constructed in accordance with applicable floodplain development requirements.



APPENDIX E
AGENCY COORDINATION



BERG ♦ OLIVER ASSOCIATES, INC.

Environmental Science & Land Use Consultants
14701 St. Mary's Lane, Suite 400, Houston, Texas 77079
(281) 589-0898 fax: (281) 589-0007
Houston ♦ Dallas/Fort Worth ♦ WDBE/HUB ♦ www.bergoliver.com

March 9, 2015

Ms. Amy Turner
Wildlife habitat Assessment Program
Wildlife Division
4200 Smith School Road
Austin, TX 78744-3291

RE: Town Creek Channelization Improvements
Huntsville, Walker County, Texas
FEMA Grant Application No. DR 1791-TX-120

Dear Ms. Turner:

This letter is in response to your March 4, 2015 letter received by Ms. Amy Brook of Berg-Oliver Associates, Inc.). The letter commented on the above-mentioned proposed project submitted for review to the Texas Parks and Wildlife Department (TPWD). TPWD had already reviewed the majority of the project during the Clean Water Act Section 404 Individual Permit (IP) process in 2014 (SWG-2012-01017). However, the limits of the project in the IP only include those areas required by the USACE; non-jurisdictional actions/areas were not included (i.e., a proposed adjacent detention facility and the creek channel west of Ave. J). Therefore, we requested review of the remaining portions of the project to complete the agency coordination requirement for the grant application.

Listed below are comments and recommendations, with responses from the sponsoring agency, the City of Huntsville.

1) TPWD Comment – Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MBTA) provides for a year-round closed season for non-game birds and prohibits the taking of migratory bird nests and eggs, except as permitted by the U.S. Fish and Wildlife Service (FWS).

Recommendation: Construction activities such as, but not limited to, tree felling as well as vegetation clearing, trampling, or maintenance should occur outside the April 1 - July 15 migratory bird nesting season of each year the project is authorized and lasting for the life of the project. To comply with the MTBA, the proposed site should be surveyed for migratory bird nest sites prior to construction or future maintenance activities. Since raptors nest in late winter and early spring, all construction activities as identified above should be excluded from a minimum zone of 100 meters around any raptor nest during the period of February 1- July 15.

Ms. Amy Turner – Wildlife Division
March 9, 2015
Page 1

City of Huntsville's Response: Measures such as additional surveys prior to construction to ensure active nests are not present would be taken prior to vegetation clearing and bridge and culvert reconstruction. If construction activities identified above must occur during the period between April 1 and July 15, no vegetation containing active nests, eggs, or young will be removed should they occur on the project site. Construction activities will be excluded from a minimum zone of 100 meters around any raptor nest as requested.

2) TPWD Comment - Wetland Resources

Project documents indicate that wetlands and streams would be impacted by the proposed project. Area wetlands retain floodwaters, preventing stormwater from rapidly entering the receiving water bodies, thereby maintaining the water body's flood peak and duration. These wetlands contribute significantly to the removal of excess nutrients, pollutants, and sediment from water before it reaches the water bodies.

Wetland mitigation is out-of-kind and insufficient to compensate for impacts to stream functions. For unavoidable stream impact, stream compensation is **required** under 33 CFR §332.3(e)(3); item II.B.2. in Compensatory Mitigation for Losses of Aquatic Resources (73 Federal Register 19596, April 10, 2008); and the Interim Galveston District Stream Condition Assessment Standard Operating Procedure for Compensatory Stream Mitigation (dated July 7, 2011).

Recommendations: TPWD recommends mitigation for all impacts to aquatic resources. The wetland and stream mitigation plan should be developed in consultation with TPWD. Mitigation of all impacts to the aquatic resources, regulated and non-regulated, should be coordinated with Winston Denton with our Coastal Program; he can be reached at 281 -534- 1038.

City of Huntsville's Response: An approved Individual Permit was obtained from the USACE for this project, which included agency coordination (e.g., U.S. EPA, TCEQ, and TPWD). Impacts to aquatic resources and mitigation have been addressed through this process.

3) TPWD Comment - Aquatic Resources Relocation

Under TPW Code Section 12.0 IS, 12.0 19, 66.015 and TAC 52. 101-52.105, 52.202, and 57.25 1-57.259, TPWD regulates the introduction and stocking of fish, shellfish, and aquatic plants into public waters of the state. The *Permit to Introduce Fish, Shellfish or Aquatic Plants into Public Waters* allows for movement (i.e., introduction, stocking, transplant, relocation) of aquatic species in waters of the state. Movement of aquatic species, even within the same river or estuary, has potential natural resources risk (e.g., exotics, timing for successful survival). Therefore, a permit is required to minimize that risk.

Dewatering activities can impact aquatic resources through stranding fish and mussels. Other harmful construction activities can trample, dredge or fill areas exhibiting stationary aquatic resources such as plants and mussels. To avoid or reduce impacts, TPWD may require relocating aquatic life to an area of suitable habitat outside the project footprint. Relocation activities are done under the authority of a TPWD *Permit to Introduce Fish, Shellfish or Aquatic Plants into Public Waters*. Information regarding this permit can be obtained at <http://www.tpwd.state.txus/publications/fishboat/forms/>. Aquatic Resource Relocation Plans are used to plan resource handling activities and assist in the permitting process. If dewatering activities and other project-related activities cause mortality to fish and wildlife species, then the responsible party would be subject to investigation by the TPWD Kills and Spills Team (KAST) and

will be liable for the value of the lost resources under the authority of TPW Code Sections 12.00 11 (b)(1) and 12.301.

Recommendations: If open-cut trenching within streams occurs during times when water is present and dewatering activities or other harmful construction activities such as dredge or fill are involved, then TPWD may require relocating potentially impacted native aquatic resources in conjunction with a *Permit to Introduce Fish, Shellfish or Aquatic Plants into Public Waters* and an Aquatic Resource Relocation Plan. Aquatic Resource Relocation Plans can be submitted to Steven Mitchell, TPWD Region 3 KAST at steven.mitchell@tpwd.texas.gov to initiate coordination prior to construction for a *Permit to Introduce Fish, Shellfish or Aquatic Plants into Public Waters*.

City of Huntsville's Response: No open-cut trenching or dewatering is proposed as part of the construction activities associated with the proposed project. Most fill activities involve placement of material above the typical stream level. Additionally, no mussels and minimal aquatic plants were observed within the existing Town Creek. Therefore, a *Permit to Introduce Fish, Shellfish or Aquatic Plants into Public Waters* is not considered necessary.

4) TPWD Comment - Rare and Protected Species

Section 68.015 of the Parks and Wildlife Code regulates state-listed species. Please note that there is no provision for take (incidental or otherwise) of state-listed species. The TPWD Guidelines for Protection of State-Listed Species includes a list of penalties for take of state-listed species (http://www.tpwd.state.tx.us/huntwild//wild/wildlife_diversity/habitat_assessment/media/tpwd_statelisted_species.pdf). For purposes of relocation, surveys, monitoring, and research, terrestrial state-listed species may only be handled by persons permitted through the TPWD Wildlife Permits Office. For the above-listed activities that involve aquatic species please contact the TPWD Kills and Spills Team (KAST) for the appropriate authorization. For more information on Wildlife Permits please visit <http://www.tpwd.state.tx.us/business/permits/land/wildlife/research/>. For more information on KAST please visit http://www.tpwd.state.tx.us/landwater/water/environconcerns/kills_and_spills/regions/.

The Texas Natural Diversity Database (TXNDD) is intended to assist users in avoiding harm to rare species or significant ecological features. Given the small proportion of public versus private land in Texas, the TX DD does not include a representative inventory of rare resources in the state. Please note that absence of information in the database does not imply that a species is absent from that area. Although it is based on the best data available to TPWD regarding rare species, the data from the TXNDD do not provide a definitive statement as to the presence, absence or condition of special species, natural communities, or other significant features within your project area. These data are not inclusive and cannot be used as presence/absence data. This information cannot be substituted for on-the-ground surveys. The TXNDD is updated continuously based on new, updated and undigitized records; for questions regarding a record or to obtain digital data, please contact TexasNatural.DiversityDatabase@tpwd.texas.gov.

No records of rare, threatened, or endangered species have been documented within 1.5 miles of the proposed project area in the TXNDD.

Recommendation: TPWD recommends that the project sponsors consult the above-referenced TPWD county lists to determine if habitat for state-threatened species occurs within the project area. An on-the-ground survey by a qualified biologist should be performed in areas of suitable habitat to

determine if species are present. If present, the project sponsors should incorporate actions into the project to avoid impacts to these species.

City of Huntsville's Response: Site surveys by qualified biologists did not reveal any evidence of any state- or federally-listed species residing in or utilizing the project area, and no suitable habitat for listed species is present within the project area.

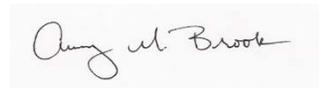
5) TPWD Comment - Revegetation

Recommendation: TPWD recommends that the Walker County reseed disturbed soils with a mixture of grasses and forbs native [to] Walker County. To enhance native grasses available to wildlife in the project area, TPWD recommend that Bermuda grass be avoided to the extent possible in reseeding efforts, though TPWD understands that slopes may require certain grasses to control erosion. As an introduced species that can be extremely invasive, its use in federally funded projects may be inconsistent with Executive Order 13112 on Invasive Species.

For assistance in determining the best native seed mix for the project area, please contact our staff. Runoff control measures should be maintained until native plants have been reestablished on disturbed areas.

City of Huntsville's Response: Following construction, areas would be reestablished with a seed mixture following typical County and regional specifications. The seed mixes and any trees replanted/replaced would be irrigated during the construction phase of the project and no permanent irrigation would be done. Sedimentation controls, such as Best Management Practices, would be utilized to minimize construction impact and maintained until plants have reestablished. Sedimentation controls, such as Best Management Practices, would be utilized to minimize construction impact and maintained until plants have reestablished.

Sincerely,



Amy M. Brook
Senior Associate
Transportation & Public Works



March 4, 2015

Life's better outside.®

Amy Brook
Berg ♦ Oliver Associates, Inc.
14701 St. Mary's Lane, Suite 400
Houston, Texas 77079

Commissioners

Dan Allen Hughes, Jr.
Chairman
Beeville

Ralph H. Duggins
Vice-Chairman
Fort Worth

T. Dan Friedkin
Chairman-Emeritus
Houston

Roberto De Hoyos
Austin

Bill Jones
Austin

James H. Lee
Houston

Margaret Martin
Boerne

S. Reed Morian
Houston

Dick Scott
Wimberley

Lee M. Bass
Chairman-Emeritus
Fort Worth

RE: Town Creek Channelization Improvements
Huntsville, Walker County, Texas
BOA Project No. 8371

Dear Ms. Brook:

The Texas Parks and Wildlife Department (TPWD) has received your request for information regarding potential impacts to threatened and endangered species and for information on other issues of concern relating to the project referenced above. Under section 12.0011 of the Texas Parks and Wildlife Code, TPWD is charged with "providing recommendations that will protect fish and wildlife resources to local, state, and federal agencies that approve, permit, license, or construct developmental projects" and "providing information on fish and wildlife resources to any local, state, and federal agencies or private organizations that make decisions affecting those resources."

TPWD Wildlife Habitat Assessment Program is now accepting projects through electronic submittal. Future project review requests can be submitted to WHAB@tpwd.texas.gov. If submitting requests electronically, please include geographic location files when available (e.g. GIS shape file, .kmz, etc.).

Please be aware that a written response to a TPWD recommendation or informational comment received by a state governmental agency may be required by state law. For further guidance, see the Texas Parks and Wildlife Code, Section 12.0011, which can be found online at <http://www.statutes.legis.state.tx.us/Docs/PW/htm/PW.12.htm#12.0011>. For tracking purposes, please refer to TPWD project number ERCS-10553 in any return correspondence regarding this project.

Project Description

The City of Huntsville proposed to conduct channelization improvements on Town Creek, in Walker County, Texas. The City proposes to stabilize the slopes and cross-sections, remove and/or replace deteriorating and insufficient existing underground drainage structures, install velocity control structures to mitigate erosive shear forces, and create and improve detention ponds along approximately 1.5 miles of Town Creek between 7th Street and Bearkat Boulevard in downtown Huntsville.

Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MBTA) provides for a year round closed season for non-game birds and prohibits the taking of migratory bird nests and eggs, except as permitted by the U.S. Fish and Wildlife Service (FWS).

Recommendation: Construction activities such as, but not limited to, tree felling as well as vegetation clearing, trampling, or maintenance should occur outside the April 1- July 15 migratory bird nesting season of each year the project is authorized and lasting for the life of the project. To comply with the MTBA, the proposed site should be surveyed for migratory bird nest sites prior to construction or future maintenance activities. Since raptors nest in late winter and early spring, all construction activities as identified above should be excluded from a minimum zone of 100 meters around any raptor nest during the period of February 1- July 15.

Please contact FWS at (505) 248-6879 for further information.

Wetland Resources

Project documents indicate that wetlands and streams would be impacted by the proposed project. Area wetlands retain floodwaters, preventing stormwater from rapidly entering the receiving water bodies, thereby maintaining the water body's flood peak and duration. These wetlands contribute significantly to the removal of excess nutrients, pollutants, and sediment from water before it reaches the water bodies.

Wetland mitigation is out-of-kind and insufficient to compensate for impacts to stream functions. For unavoidable stream impacts, stream compensation is **required** under 33 CFR §332.3(e)(3); item II.B.2. in Compensatory Mitigation for Losses of Aquatic Resources (73 Federal Register 19596, April 10, 2008); and the Interim Galveston District Stream Condition Assessment Standard Operating Procedure for Compensatory Stream Mitigation (dated July 7, 2011).

Recommendation: TPWD recommends mitigation for all impacts to aquatic resources. The wetland and stream mitigation plan should be developed in consultation with TPWD. Mitigation of all impacts to the aquatic resources, regulated and non-regulated, should be coordinated with Winston Denton with our Coastal Program; he can be reached at 281-534-1038.

Aquatic Resources Relocation

Under TPW Code Section 12.015, 12.019, 66.015 and TAC 52.101-52.105, 52.202, and 57.251-57.259, TPWD regulates the introduction and stocking of fish, shellfish, and aquatic plants into public waters of the state. The *Permit to Introduce Fish, Shellfish or Aquatic Plants into Public Waters* allows for movement (i.e., introduction, stocking, transplant, relocation) of aquatic species in waters of the state. Movement of aquatic

species, even within the same river or estuary, has potential natural resources risk (e.g., exotics, timing for successful survival). Therefore, a permit is required to minimize that risk.

Dewatering activities can impact aquatic resources through stranding fish and mussels. Other harmful construction activities can trample, dredge or fill areas exhibiting stationary aquatic resources such as plants and mussels. To avoid or reduce impacts, TPWD may require relocating aquatic life to an area of suitable habitat outside the project footprint. Relocation activities are done under the authority of a TPWD *Permit to Introduce Fish, Shellfish or Aquatic Plants into Public Waters*. Information regarding this permit can be obtained at <http://www.tpwd.state.tx.us/publications/fishboat/forms/>. Aquatic Resource Relocation Plans are used to plan resource handling activities and assist in the permitting process. If dewatering activities and other project-related activities cause mortality to fish and wildlife species, then the responsible party would be subject to investigation by the TPWD Kills and Spills Team (KAST) and will be liable for the value of the lost resources under the authority of TPW Code Sections 12.0011 (b) (1) and 12.301.

Recommendation: If open-cut trenching within streams occurs during times when water is present and dewatering activities or other harmful construction activities such as dredge or fill are involved, then TPWD may require relocating potentially impacted native aquatic resources in conjunction with a *Permit to Introduce Fish, Shellfish or Aquatic Plants into Public Waters* and an Aquatic Resource Relocation Plan. Aquatic Resource Relocation Plans can be submitted to Steven Mitchell, TPWD Region 3 KAST at steven.mitchell@tpwd.texas.gov to initiate coordination prior to construction for a *Permit to Introduce Fish, Shellfish or Aquatic Plants into Public Waters*.

Rare and Protected Species

Section 68.015 of the Parks and Wildlife Code regulates state-listed species. Please note that there is no provision for take (incidental or otherwise) of state-listed species. The *TPWD Guidelines for Protection of State-Listed Species* includes a list of penalties for take of state-listed species (http://www.tpwd.state.tx.us/huntwild/wild/wildlife_diversity/habitat_assessment/media/tpwd_statelisted_species.pdf). For purposes of relocation, surveys, monitoring, and research, terrestrial state-listed species may only be handled by persons permitted through the TPWD Wildlife Permits Office. For the above-listed activities that involve aquatic species please contact the TPWD Kills and Spills Team (KAST) for the appropriate authorization. For more information on Wildlife Permits please visit <http://www.tpwd.state.tx.us/business/permits/land/wildlife/research/>. For more information on KAST please visit http://www.tpwd.state.tx.us/landwater/water/environconcerns/kills_and_spills/regions/.

The Texas Natural Diversity Database (TXNDD) is intended to assist users in avoiding harm to rare species or significant ecological features. Given the small proportion of public versus private land in Texas, the TXNDD does not include a representative

Ms. Amy Brook
March 4, 2015
Page 4 of 5

inventory of rare resources in the state. Please note that absence of information in the database does not imply that a species is absent from that area. Although it is based on the best data available to TPWD regarding rare species, the data from the TXNDD do not provide a definitive statement as to the presence, absence or condition of special species, natural communities, or other significant features within your project area. These data are not inclusive and **cannot be used as presence/absence data**. This information cannot be substituted for on-the-ground surveys. The TXNDD is updated continuously based on new, updated and undigitized records; for questions regarding a record or to obtain digital data, please contact TexasNatural.DiversityDatabase@tpwd.texas.gov.

No records of rare, threatened, or endangered species have been documented with 1.5 miles of the proposed project area in the TXNDD.

Recommendation: TPWD recommends that the project sponsors consult the above-referenced TPWD county lists to determine if habitat for state-threatened species occurs within the project area. An on-the-ground survey by a qualified biologist should be performed in areas of suitable habitat to determine if species are present. If present, the project sponsors should incorporate actions into the project to avoid impacts to these species.

Revegetation

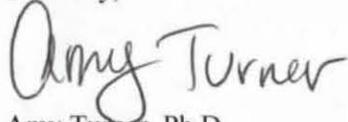
Recommendation: TPWD recommends that the Walker County reseed disturbed soils with a mixture of grasses and forbs native Walker County. To enhance native grasses available to wildlife in the project area, TPWD recommends that Bermuda grass be avoided to the extent possible in reseeding efforts, though TPWD understands that slopes may require certain grasses to control erosion. As an introduced species that can be extremely invasive, its use in federally funded projects may be inconsistent with Executive Order 13112 on Invasive Species.

For assistance in determining the best native seed mix for the project area, please contact our staff. Runoff control measures should be maintained until native plants have been reestablished on disturbed areas.

Ms. Amy Brook
March 4, 2015
Page 5 of 5

TPWD advises review and implementation of these recommendations. If you have any questions, please contact me at (361) 576-0022.

Sincerely,

A handwritten signature in black ink that reads "Amy Turner". The signature is written in a cursive style with a large, prominent "A" and "T".

Amy Turner, Ph.D.
Wildlife Habitat Assessment Program
Wildlife Division

/ajt:ERCS-10553



HRA Gray & Pape LLC.

Mr. Bill Martin
Texas Historical Commission
108 West 16th Street
Austin, TX 78701

February 4, 2015

CONCUR
by William A. Martin
for Mark Wolfe
State Historic Preservation Officer
Date 2/24/15
Track# _____

RECEIVED
FEB 09 2015

Re: Continuing Cultural Resources Consultation for Proposed Drainage Improvements to Town Branch in the City of Huntsville in Walker County, Texas

Lead Federal Agency: The Federal Emergency Management Agency (FEMA)

Dear Mr. Martin,

FEMA has provided the City of Huntsville, Texas with a grant to initiate engineering and hydrological studies for proposed drainage improvements to Town Branch. Consultation related to the project between the Texas Historical Commission (THC), the City, and relevant Federal Agencies has occurred over the past few years, and several attachments related to project communication are provided for your reference. Federal review agencies include FEMA and the United States Army Corps of Engineers (USACE), Galveston District. The project is located on lands owned or controlled by one or more political subdivisions of the state of Texas and is therefore subject to review pursuant to the Antiquities Code of Texas. Project plans have been refined since our initial consultation request, therefore this letter is provided to your office to offer additional recommendations regarding the need for archaeological survey, and to request documented concurrence with these recommendations.

Consultation was initiated with a request for review letter drafted by HRA Gray & Pape in November 8, 2011. At that time, project plans were incomplete, and a recommendation was made that archaeological survey should be conducted along undisturbed sections of the creek and within the footprint of proposed detention basin facilities. The THC concurred with this recommendation. Archaeological fieldwork was not initiated pending land owner permission, the finalization of project plans, and decisions made regarding the location of proposed detention ponds.

In April of 2014 your office informed Mr. Aron Kullhavey of the City of Houston that the project could proceed without further THC review, based on documentation submitted by the

City. A copy of that letter is enclosed. The letter appears to be associated with project limits as defined by the USACE, therefore it is unclear if all project impacts were presented for your review at that time.

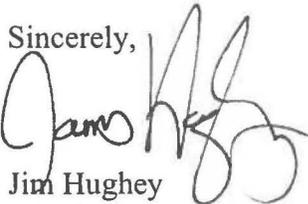
In December 2014 the USACE jurisdictional limits of this project were issued an Individual Permit (IP) (SWG-2012-01017). However, since the limits of the project in the IP only include those areas required by the USACE, non-jurisdictional actions/areas were not included.

Current project plans indicate that in addition to the IP limits, impacts will include a proposed adjacent detention facility and work along the creek channel west of Ave. J among other plan revisions that have been incorporated since the initial 2011 consultation. Enclosed please find a series of exhibits depicting the current project configuration.

As indicated above, HRA Gray & Pape initially recommended that a targeted archaeological survey would be appropriate for the project. Based on current project plans, and based on recent consultation between your office, the USACE, and the City of Huntsville, HRA Gray & Pape amends its earlier recommendation. Proposed impacts associated with channel improvements are situated within areas that have been previously disturbed by prior channelization or bank stabilization. The proposed detention facility will be located on property in use for football/sports practice or similar activities. HRA Gray & Pape recommends that archaeological survey not be required for any portions of the project that have not already been addressed by THC review.

If you have any questions or comments or are in need of additional information, please do not hesitate to contact me at (713) 541-0473 or via email at jhughey@hragp.com.

Sincerely,



Jim Hughey
Principal Investigator
HRA Gray & Pape

Enc.

Cc. William Proctor, Berg-Oliver Associates, Inc.
Amy Brook, Berg-Oliver Associates, Inc.

BOA #8371
HRAGP#711.00/828.00



HRA Gray & Pape LLC.

Mr. Mark S. Wolfe
Texas Historical Commission
108 West 16th Street
Austin, TX 78701

CONCUR
by William A. Martin
for Mark Wolfe
State Historic Preservation Officer
Date 12/8/11
Track# 201203136

RECEIVED

NOV 14 2011

TEXAS HISTORICAL COMMISSION

November 8, 2011

Re: Request for Initial Cultural Resources Consultation for Proposed Drainage Improvements to Town Branch in the City of Huntsville in Walker County, Texas

Lead Federal Agency: The Federal Emergency Management Agency (FEMA)

Dear Mr. Wolfe,

On October 25, 2011, Berg-Oliver Associates, Inc. contracted HRA Gray & Pape, LLC (HRA Gray & Pape) of Houston, Texas, to conduct a cultural resources desktop assessment along approximately 2.4 kilometers (1.5 miles) for a project involving proposed improvements to the existing Town Branch drainage system in the City of Huntsville, Walker County, Texas (see attached figures).

The Lead Federal Agency for this project is the Federal Emergency Management Agency (FEMA). FEMA has provided the City of Huntsville, Texas with a grant to initiate engineering and hydrological studies concerning the feasibility of the proposed project. Therefore, this project is considered a federal undertaking and is subject to review under Section 106 of the National Historic Preservation Act of 1966 as amended. The project is also located on lands owned or controlled by one or more political subdivisions of the state of Texas and is therefore also subject to review pursuant to the Antiquities Code of Texas.

Research activities, including a review of previously recorded cultural resources and surveys, and analysis of the environmental conditions along the length of the project, were initiated on November 1, 2011. This letter documents the results of these activities, along with our assessment regarding the potential for additional historic property identification within the Area of Potential Effect and recommendations concerning the need for cultural resources surveys.

see attachment 1

PROJECT DESCRIPTION

The project area falls within the *Huntsville* (3095-314) 7.5-minute United States Geological Survey (USGS) topographic quadrangle map. According to the *Town Branch Drainage Analysis Report* published in February of 2010:

"the proposed project will upgrade the existing drainage system known as Town Branch (a.k.a. Town Creek). This natural creek runs the length of the City from southeast to northwest for approximately 6 miles. The limits of the project are from Bearkat Boulevard to 7th Street....The project involves removal and replacement of existing drainage structures, mainly decommissioned railroad tanker cars, and cross section improvements in the open channel areas. The proposed drainage structures will add increased capacity to the drainage system. The enclosed sections of Town Branch are between Avenue J and 13th Street, 11th Street to Avenue N and at various roadway crossings. These channel segments were closed to allow roadways and business development along Town Branch. The existing underground storm water infrastructure is located beneath existing parking lots, roadways and very close to various building structures. There are no residential developments located along Town Branch within the limits of the project".

The project may also include the rehabilitation of a non-functioning detention basin near the southeastern end of the project area. Once available, detailed plans will be shared with the appropriate project review agencies. Based on the project description, the project is 2.4 linear kilometers (1.5 miles) and will widen the existing drainage by a maximum of 30 meters (100 feet) in some locations. Therefore, the archaeological Area of Potential Effect (APE) subsumes no more than 7.4 hectares (18.4 acres). Due to widening and the potential installation of a new detention basin, the depth of the APE may be deep, or in excess of 1 meter (3 feet). The architectural APE is considered to include the same footprint as the archaeological APE but includes immediately adjacent properties with the potential for indirect visual impacts posed by the project.

SOILS WITHIN THE PROJECT AREA

According to a review of information published online by the Soil Survey Staff, National Cooperative Soil Survey, Web Soil Survey (SSS NCSS WSS 2011), soils recorded within the project area mainly consist of Annona-Urban land complex and Depcor-Urban land complex, with small amounts of Gawker and Kanebreak soils and Ferris clay in the northern portion of the project area.

Soils in the urban landscape have often been disturbed by activities like surface removal, leveling, filling, and compaction. Urban land is a miscellaneous term to describe soils so altered or obscured by construction that they can not be identified. A soil complex is a mixture of two or more soils in an intricate pattern such that it is impractical to map them separately. In this way, the Annona-Urban land and Depcor-Urban land complexes are a mix of Annona and Depcor series soils with Urban land (SSS NCSS WSS 2011).

Prison Cemetery (THC no. WA-C037) is located approximately 1.2 kilometers (0.75 mile) southeast of the southern portion of the project area.

Five cultural resource surveys have been completed within a 1.6 kilometer (1 mile) radius of the current project area. A small area survey was conducted southwest of the project area near archaeological site 41WA46 and the historic Steamboat House. No further information was available on the THC Atlas regarding this survey, though it may correspond to the work by Prewitt and Associates in 1979. In 1998, the U. S. Department of Housing and Urban Development sponsored a cultural resource survey south of the project area. No further information was available regarding this survey.

The City of Huntsville sponsored a cultural resource survey north of the project area in 1999 near archaeological site 41WA99. No further information was available regarding this survey. In 2005, Moore Archaeological Consultants performed a cultural resource survey sponsored by the City of Huntsville. The area surveyed under permit number 3816 was located near the north end of the current project around 10th Street and Avenue N. Three acres were surveyed and a total of 14 shovel tests were excavated during the survey. No new cultural resources were recorded (Mangum and Moore 2005).

In 2007, Moore Archaeological Consultants performed a cultural resource survey west of the project area for the U. S. Army Corps of Engineers –Galveston District. The survey of 9.7 hectares (24 acres) included the excavation of 40 shovel tests. No new cultural resources were recorded (Mangum and Moore 2007).

RECOMMENDATIONS

Cultural resources field surveys have not yet been performed for this project. Based on the results of archival research outlined in this letter and an analysis of geological characteristics associated with the project area, it is the opinion of HRA Gray & Pape that an archaeological survey with shovel testing and targeted mechanical deep testing is warranted along undisturbed sections of Town Branch where widening of the open channel is proposed as well as at the location of a new detention basin. These areas contain a moderate-high potential for containing intact archaeological deposits. Based on known project plans, an archaeological survey is not recommended along previously channelized sections of the drainage way, particularly within existing city streetscapes as these areas are very unlikely to contain intact archaeology.

Although the railroad tanker cars used as culverts beneath the City of Huntsville were installed in the 1960s, HRA Gray & Pape recognizes that these structures are not considered significant historical architectural features as they have been repurposed for uses not inherent in their design. HRA Gray & Pape recommends conducting a survey of historic structures and National Register assessment of known historic-age structures within and adjacent to the APE. Notable historic-age buildings include the Walker County Annex Building located at 1100 University and City Hall located at 1212 Avenue M. This [City Hall] location is adjacent to an open channel section of Town Branch. According to the *Town Branch Drainage Analysis Report of 2010*, "the City Hall building has had flood waters up to the brick ledge several times during large flood event [and] the underground drainage system is comprised of deteriorated railroad tank cars and is located only a few feet from the southern and western portion of the [Walker

County Annex] building foundation. Failure of the storm drainage system adjacent to the County Annex will most likely render the Annex building structurally unsafe and unusable".

HRA Gray & Pape is requesting initial cultural resources consultation concerning the methods, research results and recommendations outlined in this letter. If you have any questions or comments regarding the methods or results associated with our research, or are in need of additional information, please do not hesitate to contact me at (713) 541-0473 or via email at ksoltysiak@hragp.com.

Sincerely,



Kristi Soltysiak
Principal Investigator
HRA Gray & Pape

Enc.

Cc. William Proctor, Berg-Oliver Associates, Inc.
Amy Brook, Berg-Oliver Associates, Inc.

BOA #8371
HRAGP#711.00



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

December 23, 2014

REPLY TO
ATTENTION OF:

Evaluation Branch

SUBJECT: Permit Application – SWG-2012-01017

City of Huntsville
1212 Avenue M
Huntsville, Texas 77340-4608

Gentlemen:

Enclosed for your review and signature are two copies of an initial proffered permit for activities conducted in waters of the United States, including wetlands.

Enclosed you will find a combined Notification of Administrative Appeal Options and Process (NAP) and Request for Appeal (RFA) form. If you decline the terms and special conditions of this initial proffered permit, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. To initiate the appeal process, you must submit a completed RFA to the District Engineer (DE) at the letterhead address. In addition to the RFA, enclose the unsigned initial proffered permit and a letter to the DE explaining your objections to the initial proffered permit. Your objections must be received by the DE within **60 days** of the date of this notice, or you will forfeit your right to appeal the initial proffered permit in the future. The DE will render his decision, and a proffered permit will be sent to you. It is not necessary to submit an RFA form to this office if you accept the initial proffered permit terms and conditions.

If, after reviewing the proffered permit, you are still unsatisfied with the proffered permit because of certain terms and conditions therein, you may appeal under the Corps of Engineers Administrative Appeal Process by completing Section II of the RFA form enclosed with your proffered permit. Send the RFA to the following address:

Mr. Elliott Carman
Regulatory Appeals Officer
Southwest Division USACE (CESWD-PD-O)
1100 Commerce Street, Suite 831
Dallas, Texas 75242-1317
Telephone: 469-487-7061; FAX: 469-487-7199

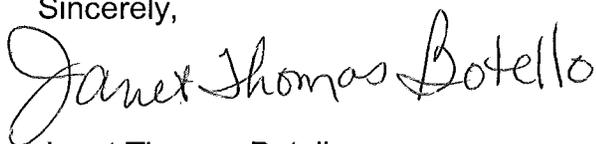
This form must be received by the division engineer within **60 days** of the date of this notice or you will forfeit your right to appeal. It is not necessary to submit an RFA form to the Division Office if you accept this proffered permit in its entirety.

A detailed description of the appeal process can be found at:
<http://1.usa.gov/1x0Q72N>.

If you accept the initial proffered permit, sign and date both copies in the spaces provided. Within ten days, both original copies of the accepted permit should be returned to us for approval. Once countersigned, one copy of the signed permit will be returned to you. The permit is not valid until signed by us.

We are ready to assist you in whatever way possible. If you have any questions, please contact Elizabeth Shelton at the letterhead address or by telephone at 409-766-3937.

Sincerely,

A handwritten signature in black ink that reads "Janet Thomas Botello". The signature is written in a cursive, flowing style.

Janet Thomas Botello
Chief, Evaluation Branch

Enclosures



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

December 23, 2014

REPLY TO
ATTENTION OF:

Evaluation Branch

SUBJECT: Permit Application – SWG-2012-01017

City of Huntsville
1212 Avenue M
Huntsville, Texas 77340-4608

Gentlemen:

The above numbered permit has been approved and a signed copy is enclosed for your retention.

Also enclosed are ENG Form 4336, and a copy of "Notice to Permittee" which provides important information for permit administration. You should notify the District Engineer, in writing, upon completion of the authorized work. To assist us in improving our service to you, please complete the survey found at <http://per2.nwp.usace.army.mil/survey.html>.

Sincerely,

A handwritten signature in black ink that reads "Janet Thomas Botello".

Janet Thomas Botello
Chief, Evaluation Branch

Enclosures

Copy Furnished w/encl:

U.S. Environmental Protection Agency, Federal Activities Branch, 1445 Ross Avenue,
Suite 1200, Dallas Texas 75202-2750

NOTICE TO PERMITTEES

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 effect until revoked, relinquished, or the structures 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 4 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 Commander 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 Commander 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 pipelines are 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 Commander 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 COMMANDER
GALVESTON DISTRICT
CORPS OF ENGINEERS

DEPARTMENT OF THE ARMY PERMIT

Permittee City of Huntsville

Permit No. SWG-2012-01017

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 discharge fill material to re-establish 2,333 linear feet (0.68 acres) of Town Creek during excavation, bank lay back, and earthwork that will create floodplain benches within the top of bank limits. To plant black willow saplings and desirable hardwood species seedlings along 2,309 linear feet of the channel and banks, to place coconut husk matting to stabilize the soil, and to install toe logs as bank stabilization features. To install a rock filter dam to capture sediment within the channel of Town Creek. The project will be conducted in accordance with the attached plans, in 13 sheets and the construction notes, Attachment A, in 2 sheets.

Project Location: In Town Creek between the starting point at 17th Street and the ending point at 14th Street and Avenue J, in Huntsville, Walker County, Texas.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on 31 December 2020. 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.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

If the final stream assessment report documents a reduction in the average stream condition index from the initial post-construction average stream condition index, the permittee must implement adaptive management techniques in coordination with the Corps of Engineers, Galveston District, Regulatory Division.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

- Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
- Section 404 of the Clean Water Act (33 U.S.C. 1344).
- Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

- a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
- b. This permit does not grant any property rights or exclusive privileges.
- c. This permit does not authorize any injury to the property or rights of others.
- d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.
- 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.

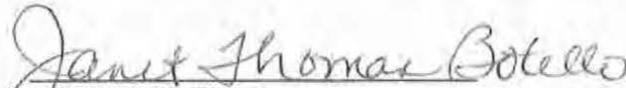


(PERMITTEE)
CITY OF HUNTSVILLE

12-23-14

(DATE)

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



(DISTRICT ENGINEER)
JANET THOMAS BOTELLO, CHIEF
EVALUATION BRANCH
FOR COLONEL RICHARD P. PANNELL

23 December 2014

(DATE)

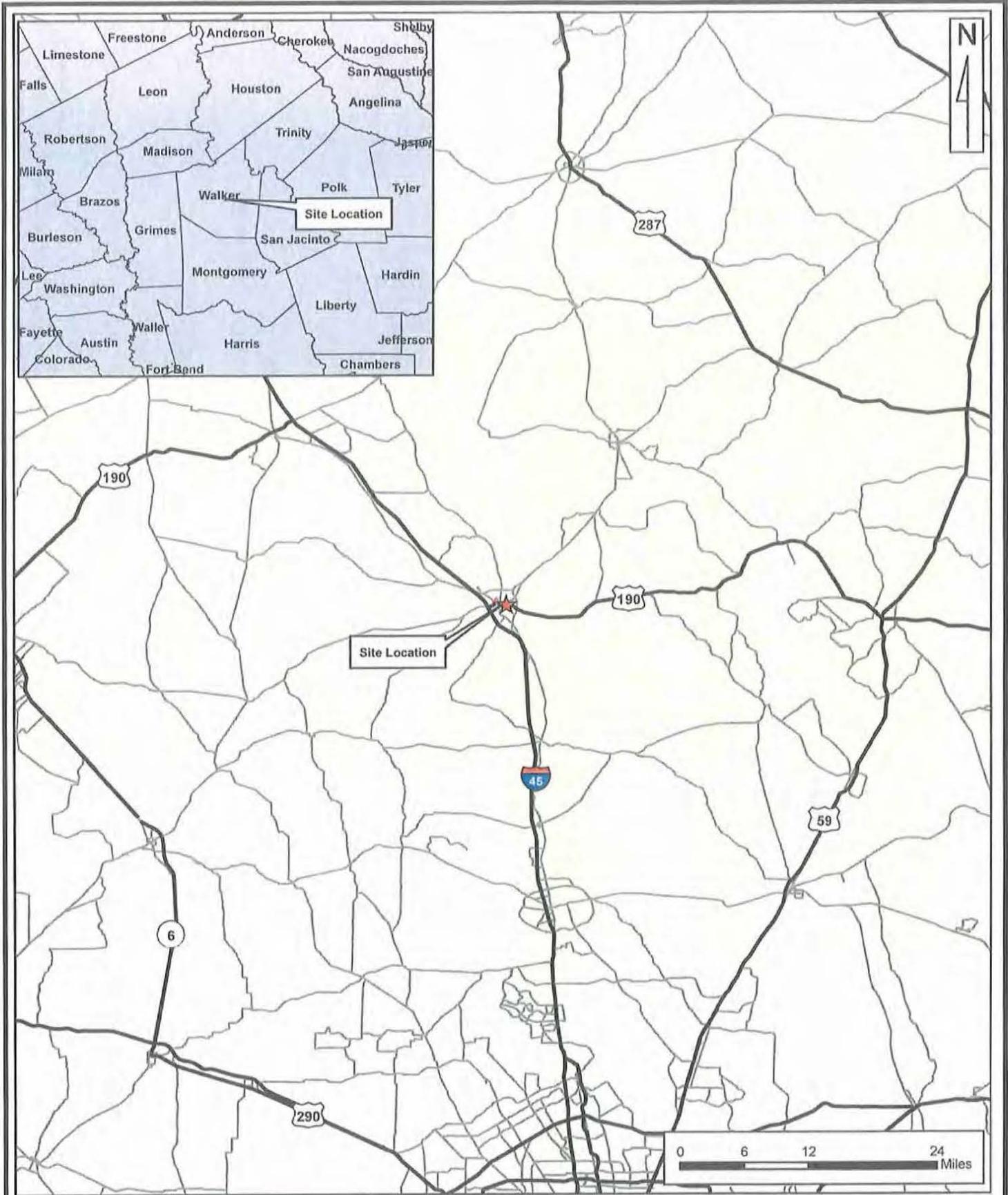
When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated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

(TRANSFEREE - Typed/Printed Name)

(DATE)

(TRANSFEREE - Signature)

(Mailing Address)



PERMITTED PLANS

SITE VICINITY MAP

Project #: 8371
 For: Klotz Associates, Inc.
 Location: Town Creek Drainage Improvement Project
Walker County, Texas

REVISIONS
Dec. 12, 2011 by MDB

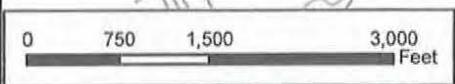
BERG+OLIVER ASSOCIATES, INC.
 ENVIRONMENTAL SCIENCE, ENGINEERING
 & LAND USE CONSULTANTS
 14701 ST. MARY'S LANE, SUITE 400
 HOUSTON, TEXAS 77079 PHONE (281)569-0898 <http://www.bergoliver.com>





LEGEND

 Limits of Town Creek Drainage Improvements



SITE LOCATION MAP

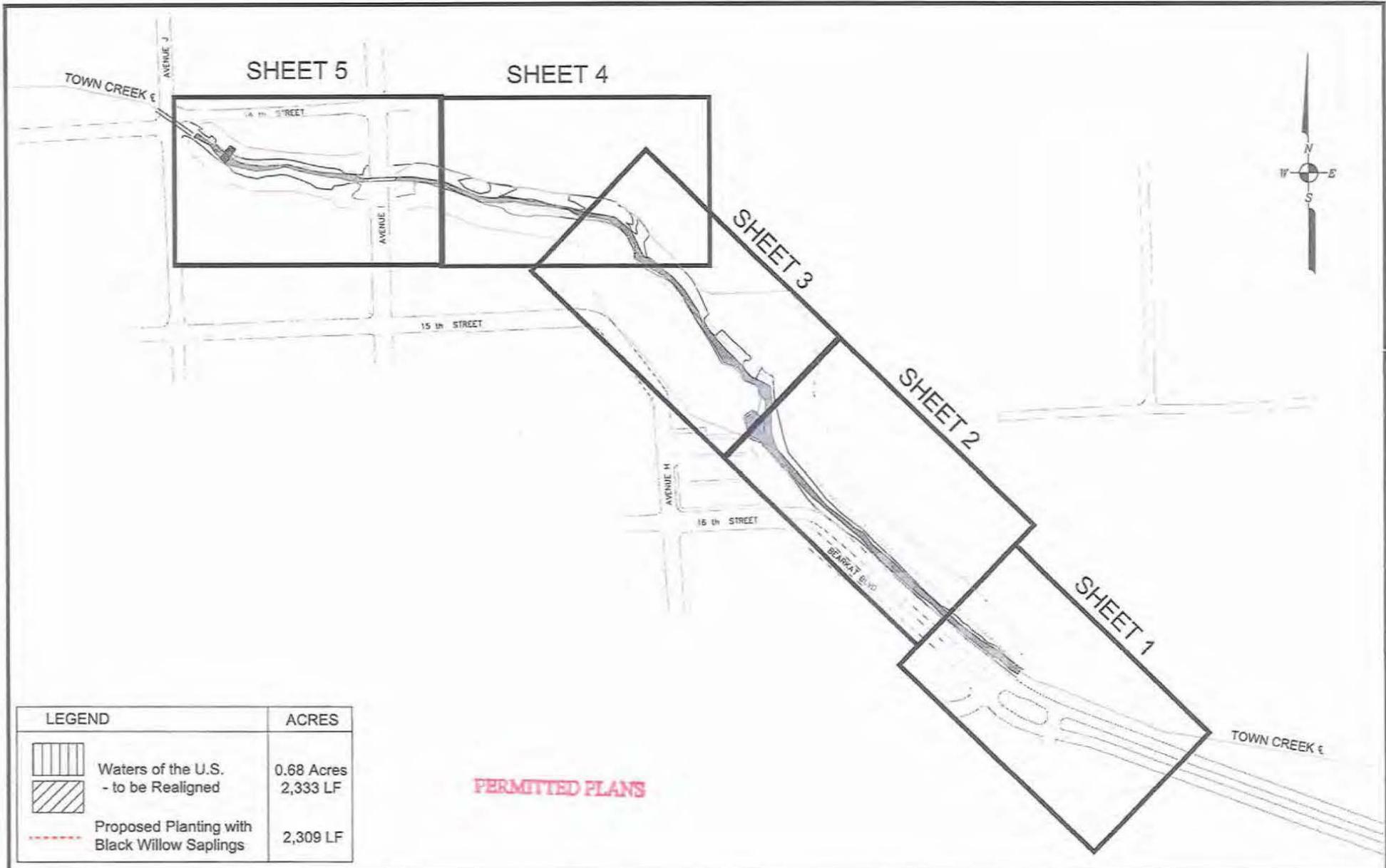
PERMITTED PLANS

Project #: 8371
 For: Klotz Associates, Inc.
 Location: Town Creek Drainage Improvement Project
Walker County, Texas

REVISIONS	
Dec. 12, 2011	by MDE

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 & LAND USE CONSULTANTS
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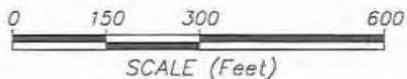




LEGEND	ACRES
	Waters of the U.S.
	- to be Realigned
	Proposed Planting with Black Willow Saplings
	0.68 Acres
	2,333 LF
	2,309 LF

PERMITTED PLANS

PROPOSED TOWN CREEK DRAINAGE IMPROVEMENTS OVERVIEW



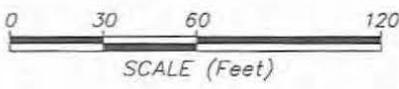
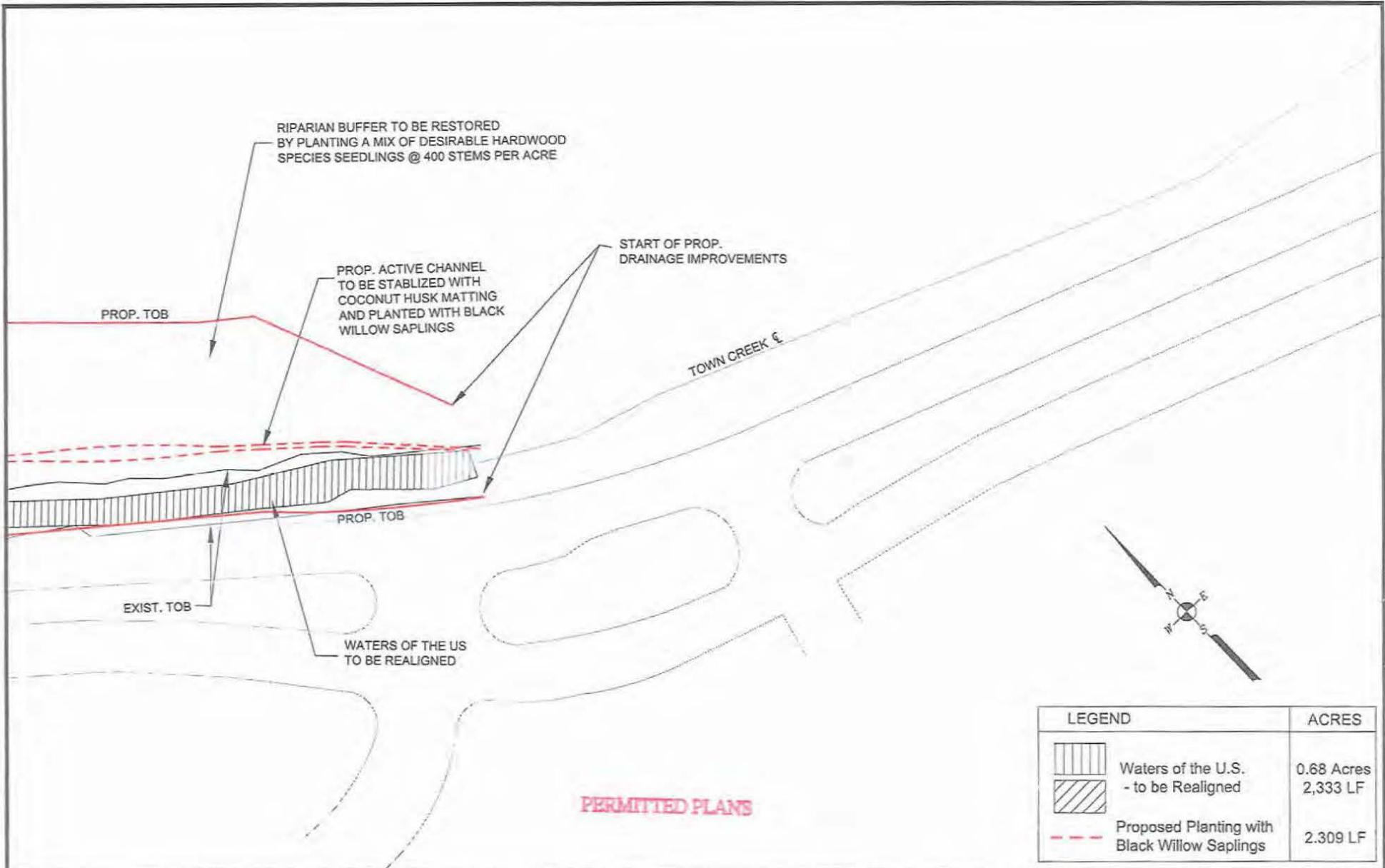
PROJECT #: 8371
 FOR: Klotz Associates, Inc.
 LOCATION: Town Creek Drainage Improvement Project
 Harris County, Texas

REVISIONS:
Feb. 7, 2013 by MGB
June 16, 2014 by MGB
Oct. 31, 2014 by MGB

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 PHONE (281) 589-0898 <http://www.bergoliver.com>



11/25/2014



**PROPOSED TOWN CREEK DRAINAGE IMPROVEMENTS
SHEET 1**

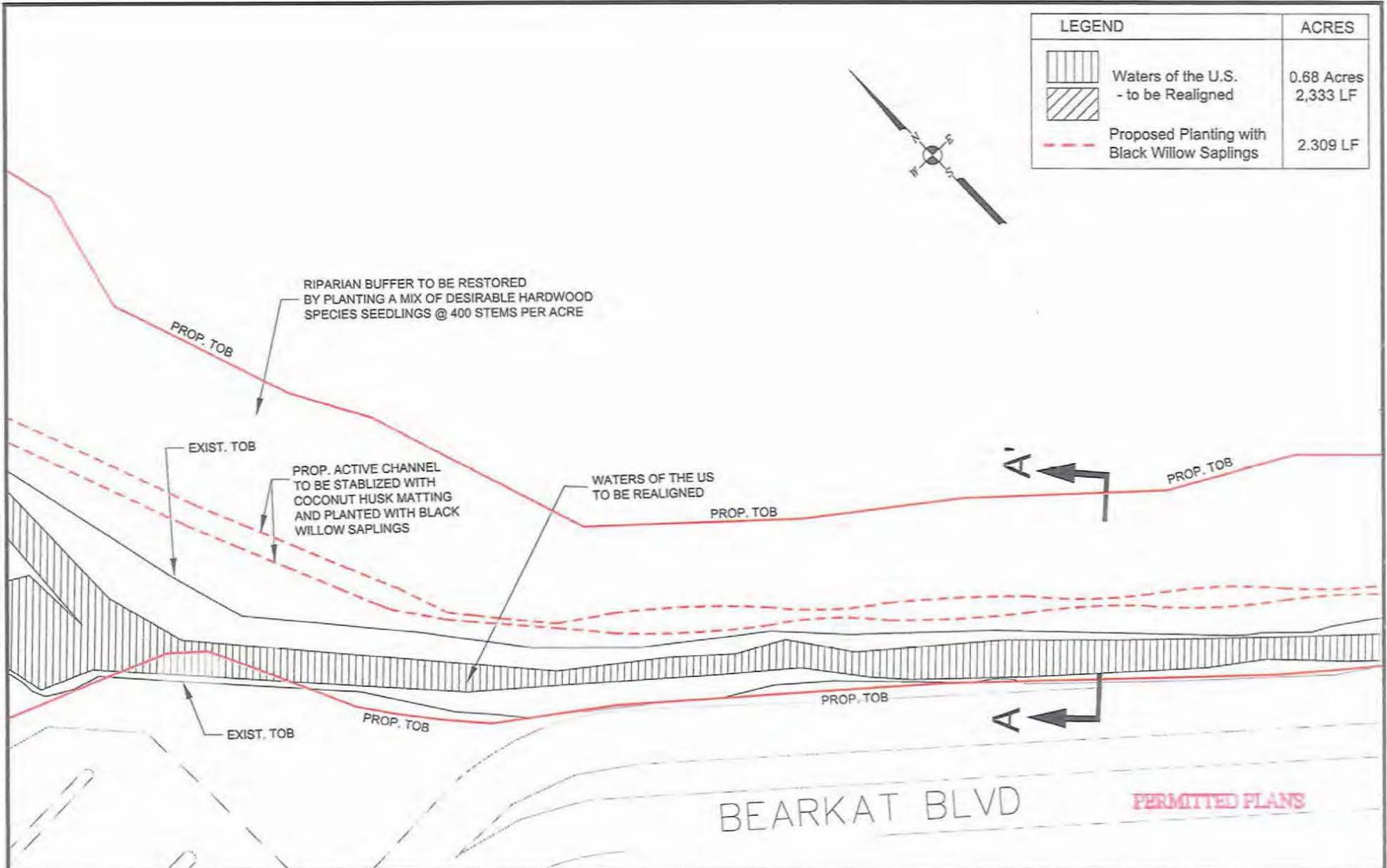
PROJECT #: 8371
 FOR: *Klotz Associates, Inc.*
 LOCATION: *Town Creek Drainage Improvement Project
Walker County, Texas*

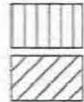
REVISIONS:
Feb. 6, 2013 by MDB
June 16, 2014 by MDB
Oct. 31, 2014 by MDB

BERG & OLIVER ASSOCIATES, INC.
 ENVIRONMENTAL SCIENCE, ENGINEERING &
 LAND USE CONSULTANTS
 14701 ST. MARY'S LANE, SUITE 400 HOUSTON, TX 77079
 PHONE (281) 569-0898 <http://www.bergoliver.com>



NOV 09 2014



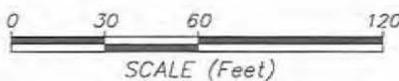
LEGEND		ACRES
	Waters of the U.S. - to be Realigned	0.68 Acres 2,333 LF
	Proposed Planting with Black Willow Saplings	2.309 LF

RIPARIAN BUFFER TO BE RESTORED
BY PLANTING A MIX OF DESIRABLE HARDWOOD
SPECIES SEEDLINGS @ 400 STEMS PER ACRE

PROP. ACTIVE CHANNEL
TO BE STABILIZED WITH
COCONUT HUSK MATTING
AND PLANTED WITH BLACK
WILLOW SAPLINGS

WATERS OF THE US
TO BE REALIGNED

**PROPOSED TOWN CREEK DRAINAGE IMPROVEMENTS
SHEET 2**



PROJECT #: B371
 FOR: Klotz Associates, Inc.
 LOCATION: Town Creek Drainage Improvement Project
Walker County, Texas

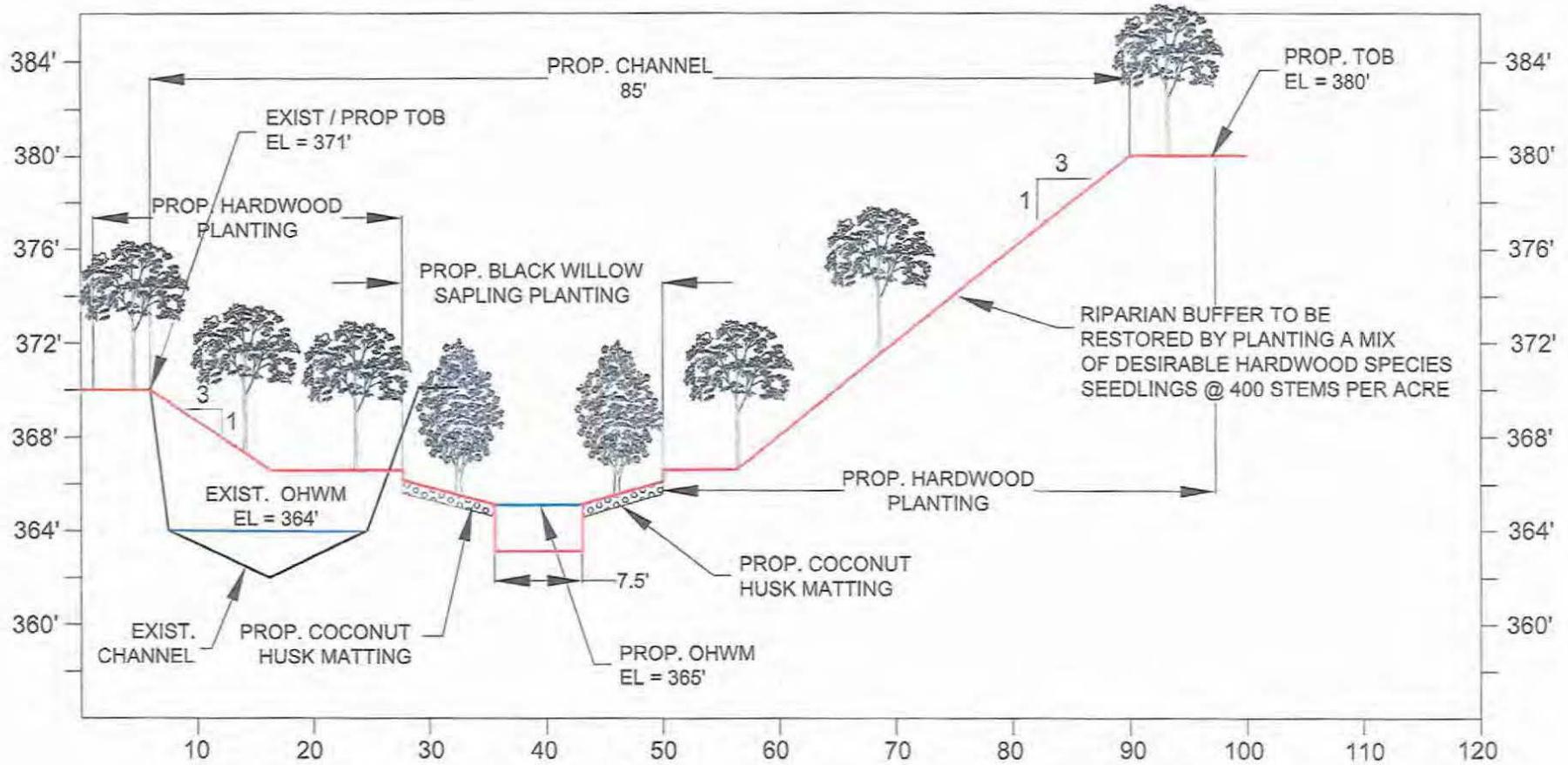
REVISIONS:
Feb. 6, 2013 by MGB
June 16, 2014 by MGB
Oct. 31, 2014 by MGB

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 PHONE (281) 589-0898 <http://www.bergoliver.com>



A

A'



 PROP. COCONUT HUSK MATTING

PERMITTED PLANS

PROPOSED TOWN CREEK DRAINAGE IMPROVEMENTS
CROSS SECTION A-A'

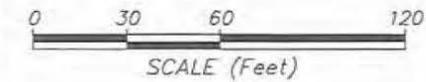
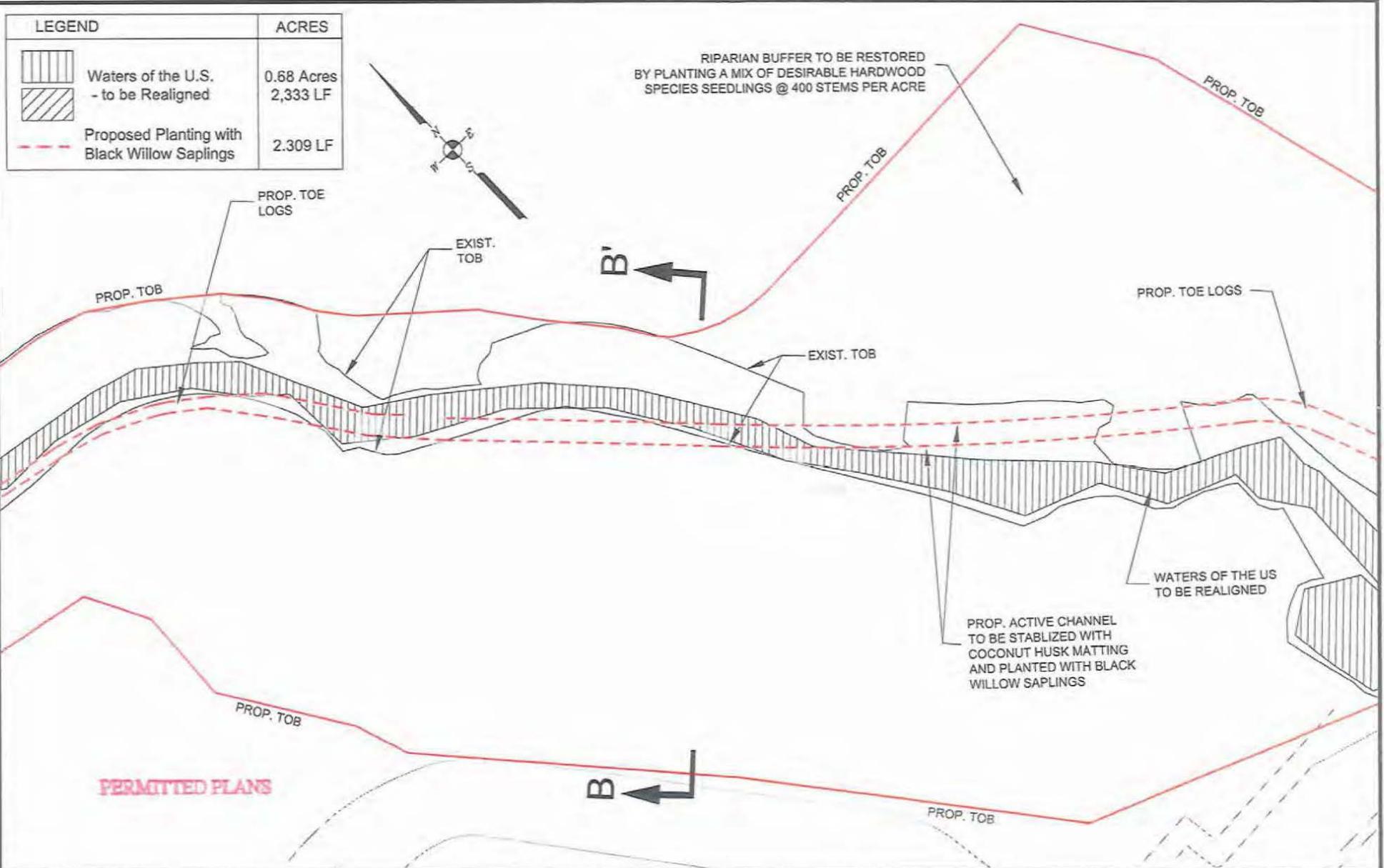
PROJECT #: 8371
 FOR: Klotz Associates, Inc.
 LOCATION: Town Creek Drainage Improvement Project
 Walker County, Texas

REVISIONS:
Feb. 6, 2013 by MOB
June 16, 2014 by MOB
Oct. 31, 2014 by MOB

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NOV 20 2014



PROPOSED TOWN CREEK DRAINAGE IMPROVEMENTS
SHEET 3

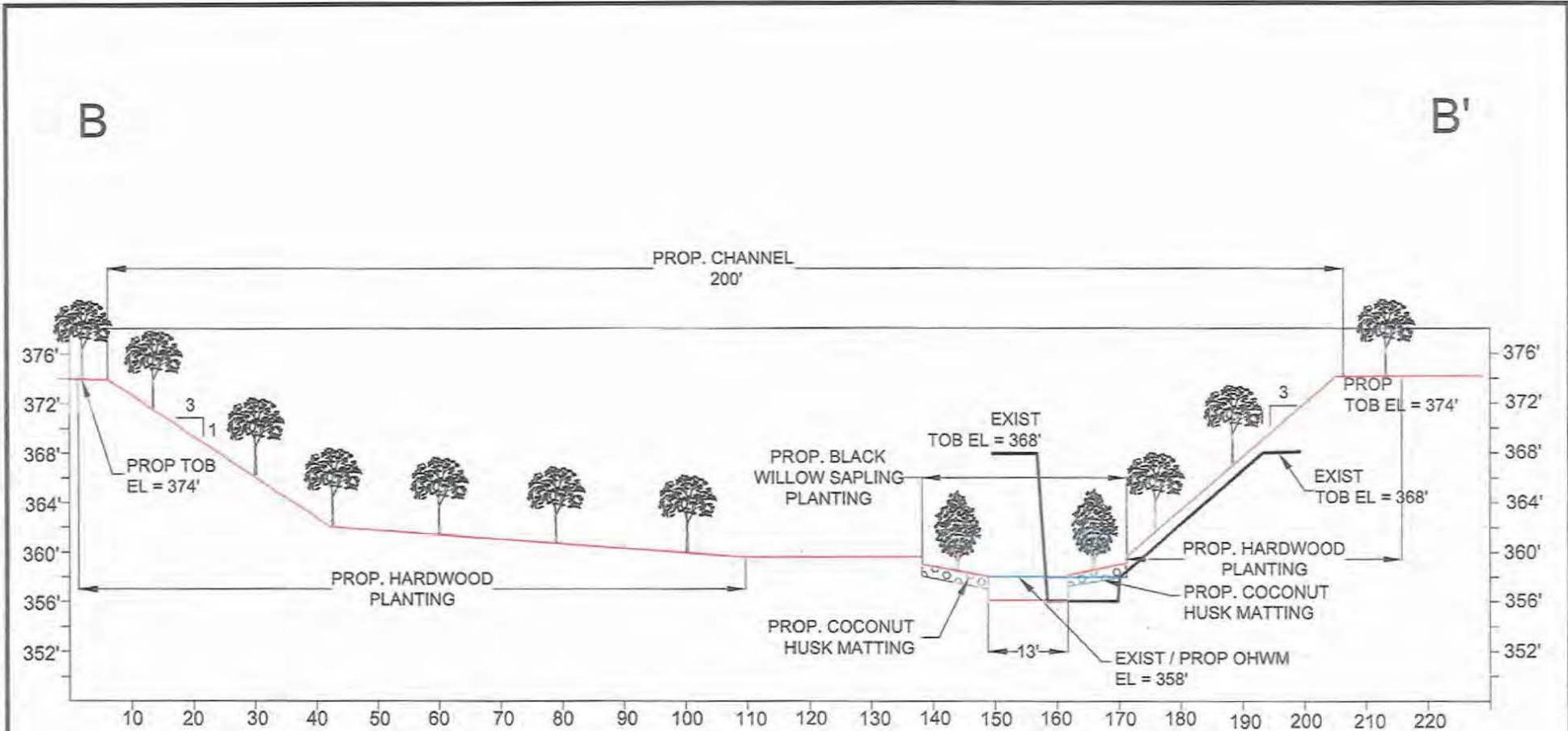
PROJECT #: 8371
 FOR: Klotz Associates, Inc.
 LOCATION: Town Creek Drainage Improvement Project
 Walker County, Texas

REVISIONS:
Feb. 6, 2013 by MDR
June 16, 2014 by MDR
Oct. 31, 2014 by MDR

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NOV 03 2014



PERMITTED PLANS

 PROP. COCONUT HUSK MATTING

PROPOSED TOWN CREEK DRAINAGE IMPROVEMENTS
CROSS SECTION B-B'

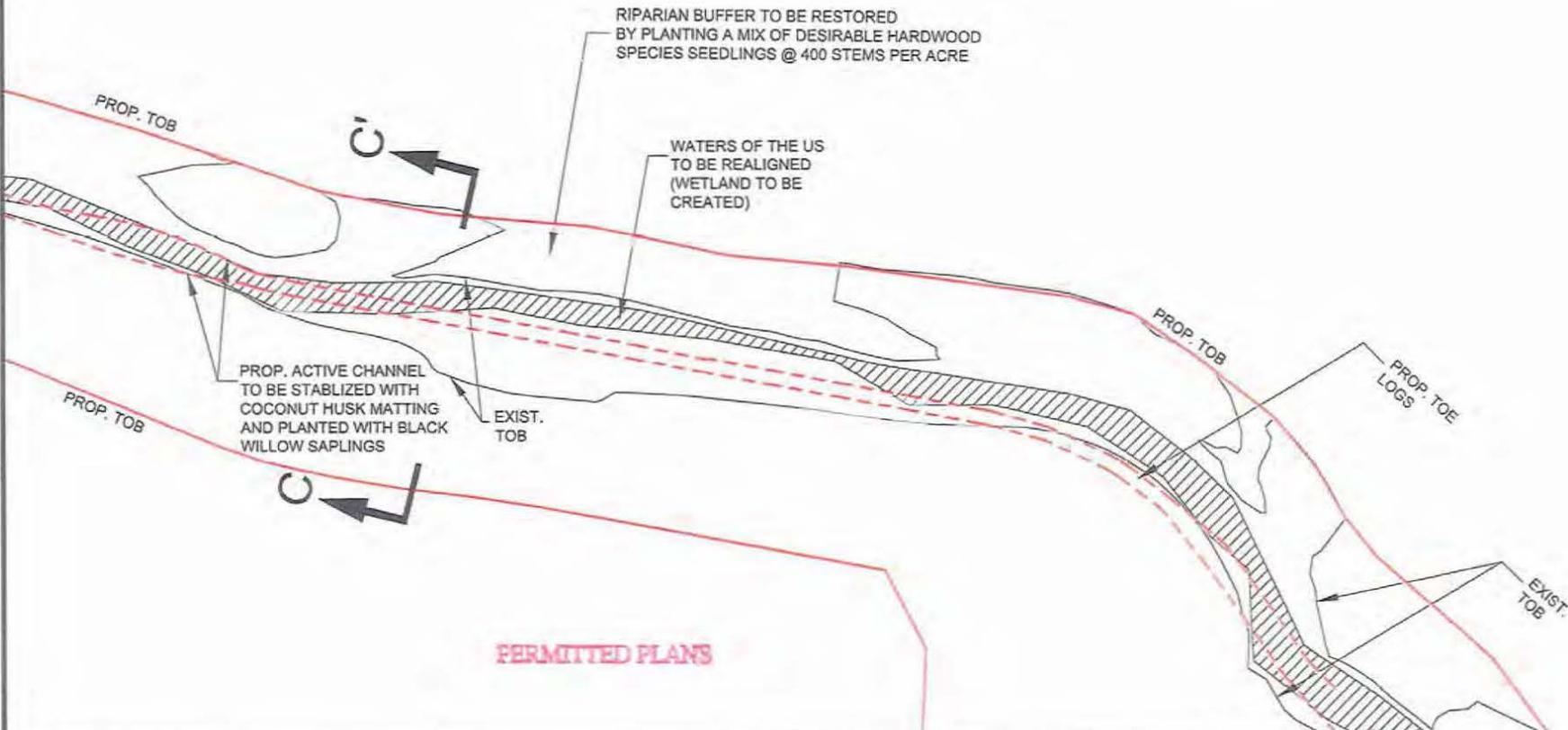
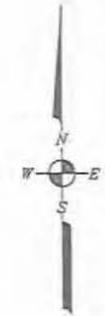
PROJECT #: 8371
 FOR: Klotz Associates, Inc.
 LOCATION: Town Creek Drainage Improvement Project
 Walker County, Texas

REVISIONS:
Feb. 6, 2013 by MGB
June 16, 2014 by MGB
Oct. 31, 2014 by MGB

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 PHONE (281) 589-0898 <http://www.bergoliver.com>

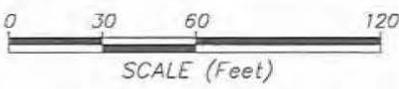


LEGEND		ACRES
	Waters of the U.S. - to be Realigned	0.68 Acres 2,333 LF
	Proposed Planting with Black Willow Saplings	2.309 LF



PERMITTED PLANS

PROPOSED TOWN CREEK DRAINAGE IMPROVEMENTS
SHEET 4



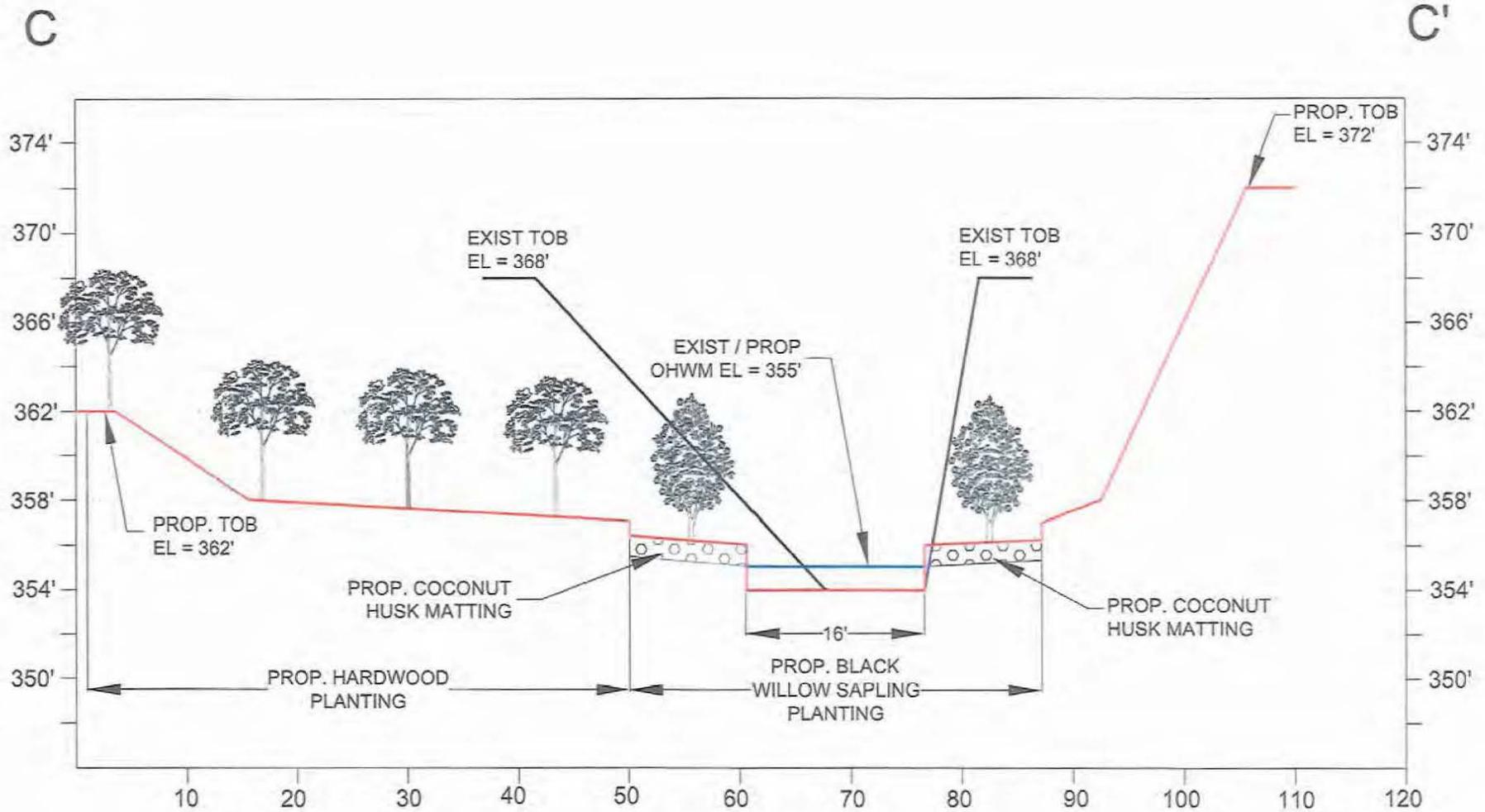
PROJECT #: 0371
 FOR: *Klotz Associates, Inc.*
 LOCATION: *Town Creek Drainage Improvement Project*
Walker County, Texas

REVISIONS:
Feb. 6, 2013 by MDB
June 16, 2014 by MDB
Oct. 31, 2014 by MDB

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 14701 ST. MARY'S LANE, SUITE 400 HOUSTON, TX 77079
 PHONE (281) 589-0898 <http://www.bergoliver.com>



NOV 03 2014



 PROP. COCONUT HUSK MATTING

PERMITTED PLANS

PROPOSED TOWN CREEK DRAINAGE IMPROVEMENTS
CROSS SECTION C-C'

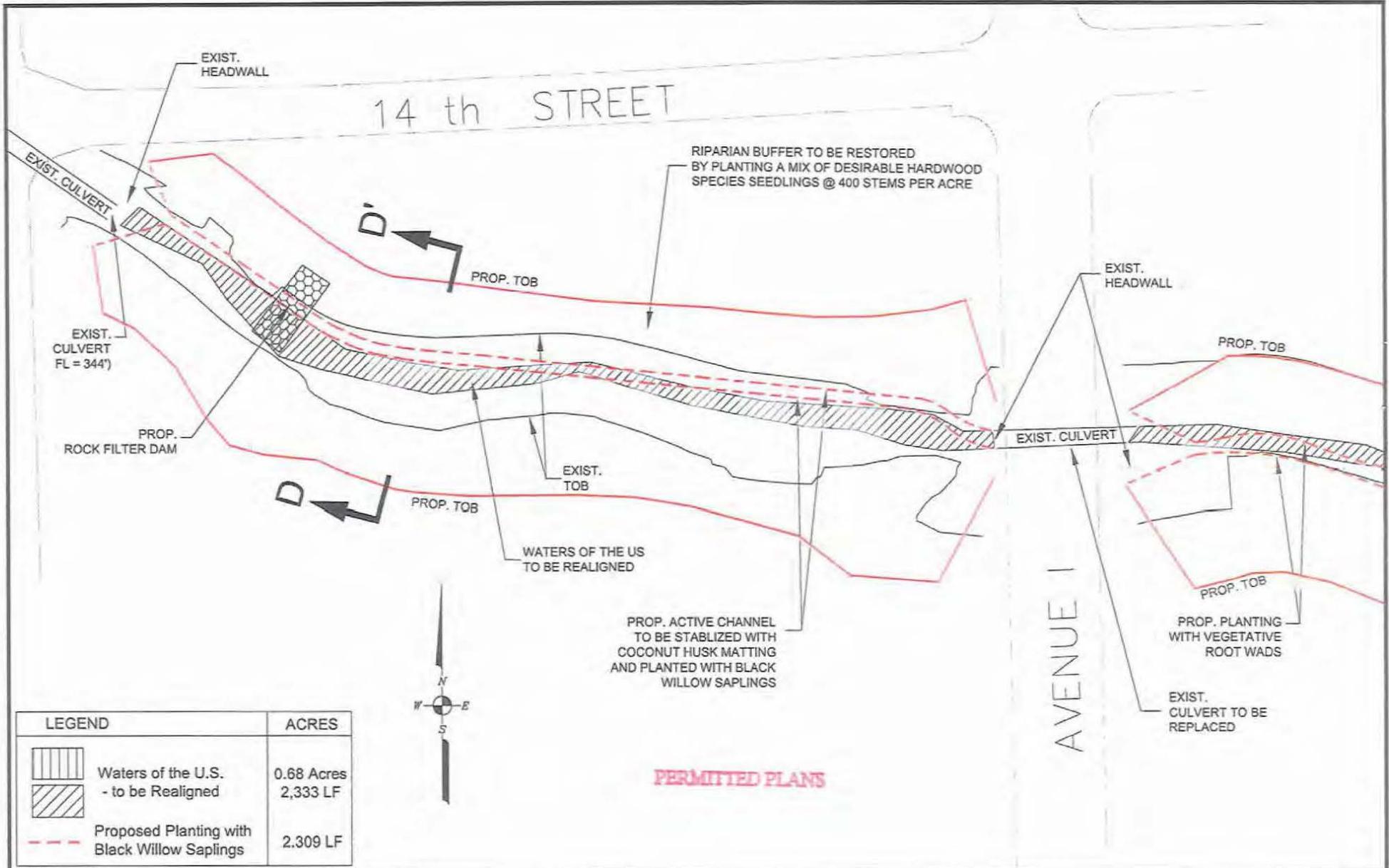
PROJECT #: 8371
 FOR: Klotz Associates, Inc.
 LOCATION: Town Creek Drainage Improvement Project
Walker County, Texas

REVISIONS:
Feb. 6, 2013 by MDR
June 16, 2014 by MDR
Oct. 31, 2014 by MDR

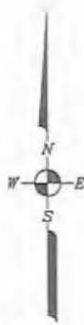
BERG & OLIVER ASSOCIATES, INC.
 ENVIRONMENTAL SCIENCE, ENGINEERING &
 LAND USE CONSULTANTS
 14701 ST. MARY'S LANE, SUITE 400 HOUSTON, TX 77079
 PHONE (281) 589-0898 <http://www.bergoliver.com>



NOV 23 2014

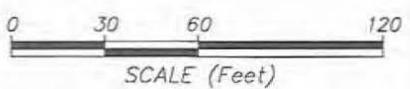


LEGEND	ACRES
Waters of the U.S. - to be Realigned	0.68 Acres 2,333 LF
Proposed Planting with Black Willow Saplings	2.309 LF



PERMITTED PLANS

**PROPOSED TOWN CREEK DRAINAGE IMPROVEMENTS
SHEET 5**



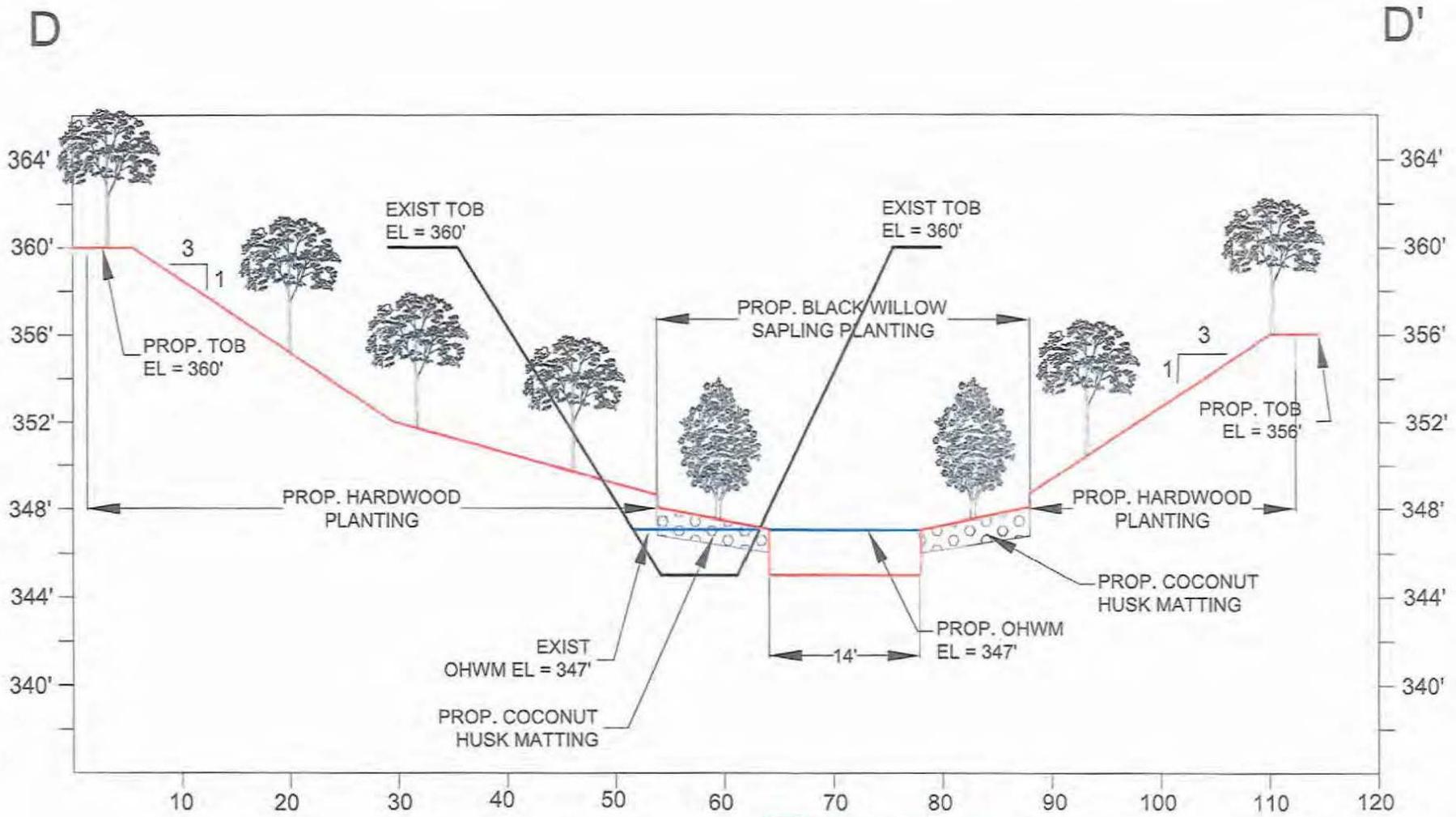
PROJECT #: 8371
 FOR: *Klotz Associates, Inc.*
 LOCATION: *Town Creek Drainage Improvement Project
Walker County, Texas*

REVISIONS:
Feb. 5, 2013 by MDB
June 16, 2014 by MDB
Oct. 31, 2014 by MDB

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 LAND USE CONSULTANTS
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NOV 03 2014



PERMITTED PLANS

 PROP. COCONUT HUSK MATTING

PROPOSED TOWN CREEK DRAINAGE IMPROVEMENTS
CROSS SECTION D-D'

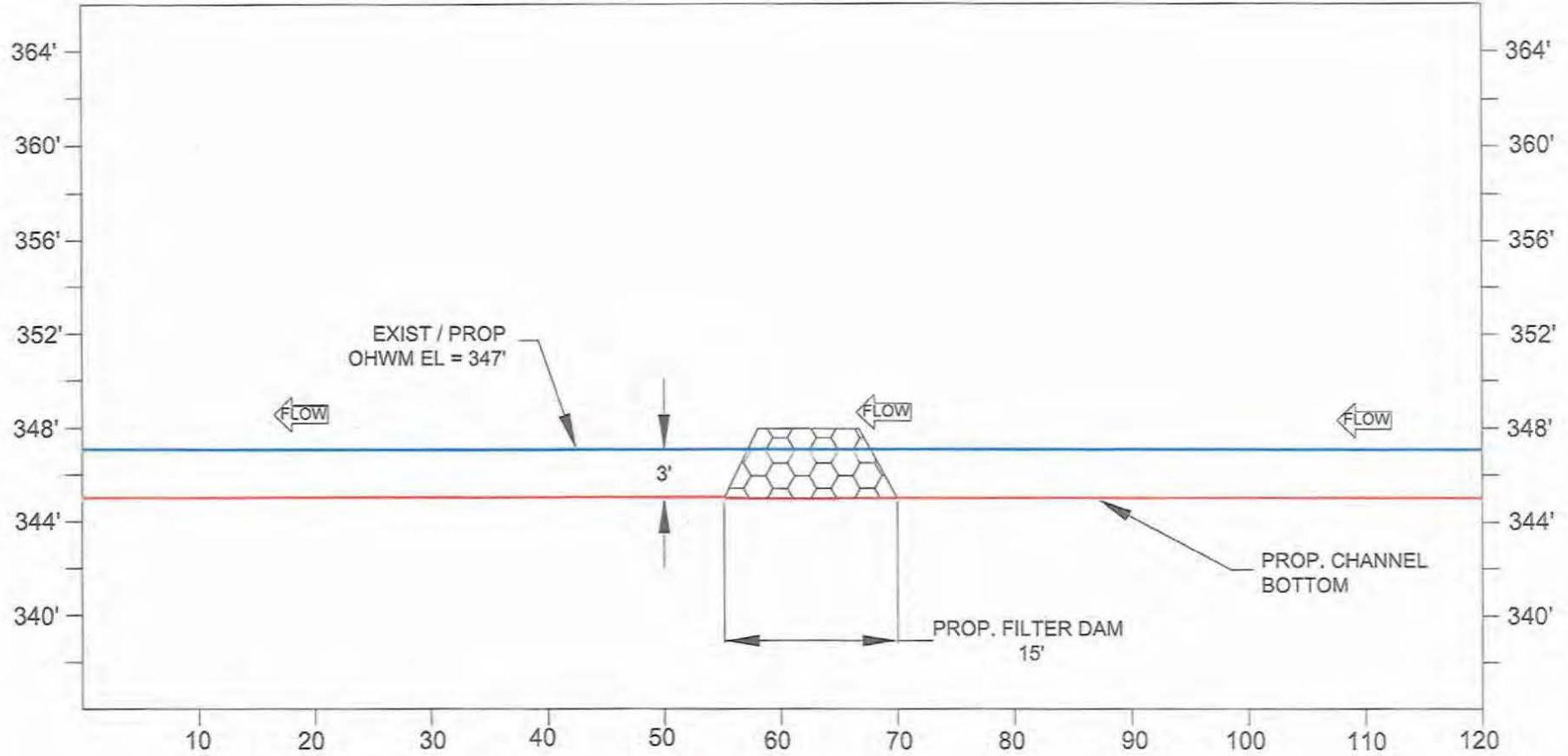
PROJECT #: 0371
 FOR: Klotz Associates, Inc.
 LOCATION: Town Creek Drainage Improvement Project
 Walker County, Texas

REVISIONS:
Feb. 6, 2013 by MGB
June 16, 2014 by MGB
Oct. 31, 2014 by MGB

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NOV 03 2014



PERMITTED PLANS

PROPOSED TOWN CREEK DRAINAGE IMPROVEMENTS
TYPICAL FILTER DAM PROFILE VIEW

PROJECT #: 8371
 FOR: Klotz Associates, Inc.
 LOCATION: Town Creek Drainage Improvement Project
Walker County, Texas

REVISIONS:
Feb. 6, 2013 by MGB
June 16, 2014 by MGB
Oct. 31, 2014 by MGB

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NOV 03 2014

NOV 25 2014

PERMITTED PLANS

The City of Huntsville
Town Creek Rehabilitation Construction Notes
Huntsville, Walker County, Texas

Project Location

The USGS Quad reference map for the project site is Huntsville, Texas. The project site is located northwest and southeast of the State Highway 30 and State Highway 75 intersection in Huntsville, Walker County, Texas at UTM coordinates 3,401,504.670m.N and 256,125.370m.E (NAD83).

Background

The Applicant is proposing to re-establish 2,333 linear feet of Town Creek for the purpose of improving storm water management and reduce localized flooding.

Construction Notes

An active channel with a varying bottom width and 3:1 side slopes will be constructed within the overall proposed channel. The purpose of the active channel creation is to create a multi-tiered channel. The active channel is designed to contain a 2-year storm event.

Coconut husk matting will be installed along the entire length of the active channel during construction to stabilize the side slopes of the active channel.

Black willow (*Salix nigra*) saplings will be planted along the entire length of the active channel to ensure long term stability of the active channel.

Desirable hard wood seedlings including a mix of oak (*Quercus nigra* and *Quercus phellos*) and elm (*Ulmus crassifolia*) will be planted along the banks and side slopes of the overall channel to restore the riparian buffer along the entire channel at a density of 400 stems per acre. The exact species composition will be dependent upon species availability at the time of planting.

The side slopes of the overall channel will be over-seeded with a grass mix to ensure long term stability of the overall channel.

Toe logs will be mechanically driven in the toe of the channel where appropriate to ensure stability of the channel toe.

The Corps of Engineers, Galveston District, Chief, Compliance Branch, Regulatory Division, will be provided as-built drawings at the conclusion of construction.

Site Protection

The site will be protected under a deed restriction to be recorded with Walker County.

A copy of the signed deed restriction will be furnished to the Chief, Compliance Branch, Regulatory Division, Galveston District within six months from the start of work within jurisdictional areas.

Any changes needed to the deed restriction must have review and written approval of the Chief, Compliance Branch, Regulatory Division, Galveston District.

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Zak Covar, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



DEC 18 2014

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

December 18, 2014

Ms. Elizabeth Shelton
Galveston District CESWG-PE-RE
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229

Re: USACE Permit Application No. SWG-2012-01017

Dear Ms. Shelton:

This letter is in response to the Statement of Findings (SOF) dated December 8, 2014, for the Joint Public Notice dated April 2, 2014, on the City of Huntsville proposed stream improvement project. The project is located in Huntsville, Walker County, Texas.

The Texas Commission on Environmental Quality (TCEQ) has reviewed the public notice and related application information along with the SOF. On behalf of the Executive Director and based on our evaluation of the information contained in these documents, the TCEQ certifies that there is reasonable assurance that the project will be conducted in a way that will not violate water quality standards. General information regarding this water quality certification, including standard provisions of the certification, is included as an attachment to this letter.

The applicant proposes to discharge fill material below the ordinary high water mark during excavation, bank lay-back, and earthwork to re-establish 2,333 linear feet of Town Creek to improve stormwater management and reduce localized flooding. The applicant proposes to lay back the stream banks, create a bench and floodplain within the top of bank limits of Town Creek. The applicant proposes to plant black willow saplings and desirable hardwood species seedlings along 2,309 linear feet of the channel and up the banks as well as place coconut matting and install toe logs as additional bank stabilization features. The applicant also proposes to install a rock filter dam to capture sediment prior to the entry of the stream into the existing underground culverts.

The applicant does not propose any mitigation, but proposes that the project will be self-mitigating.

The TCEQ has reviewed this proposed action for consistency with the Texas Coastal Management Program (CMP) goals and policies in accordance with the CMP regulations (Title 31, Texas Administrative Code (TAC), Section (§)505.30) and has determined that the action is consistent with the applicable CMP goals and policies.

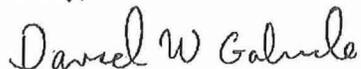
Ms. Elizabeth Shelton, Project Manager
U.S. Army Corps of Engineers
USACE Permit Application No. SWG-2012-01017
Page 2
December 18, 2014

This certification was reviewed for consistency with the CMP's development in critical areas policy (31 TAC §501.23) and dredging and dredged material disposal and placement policy (31 TAC §501.25). This certification complies with the CMP goals (31 TAC §501.12(1, 2, 3, 5)) applicable to these policies.

No review of property rights, location of property lines, or 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.

If you require additional information or further assistance, please contact Ms. Brittany M. Lee, Water Quality Assessment Section, Water Quality Division (MC-150), at (512) 239-5210 or by email at Brittany.Lee@tceq.texas.gov.

Sincerely,



David W. Galindo
Water Quality Division Director
Texas Commission on Environmental Quality

DWG/BML/tc

Attachment

cc: Mr. Aron Kullhavey, City of Huntsville, 1212 Avenue M, Huntsville, Texas 77340

DEC 18 2014

Ms. Elizabeth Shelton, Project Manager
USACE Permit Application No. SWG-2012-01017
Attachment – Dredge and Fill Certification
Page 1 of 3

WORK DESCRIPTION: As described in the public notice dated April 2, 2014, and the December 8, 2014, Environmental Assessment and Statement of Findings.

SPECIAL CONDITIONS: None

GENERAL: This certification, issued pursuant to the requirements of Title 30, Texas Administrative Code, Chapter 279, is restricted to the work described in the December 8, 2014, Environmental Assessment and Statement of Findings and shall be concurrent with the Corps of Engineers (COE) permit. This certification may be extended to any minor revision of the COE permit when such change(s) would not result in an impact on water quality. The Texas Commission on Environmental Quality (TCEQ) reserves the right to require full joint public notice on a request for minor revision. The applicant is hereby placed on notice that any activity conducted pursuant to the COE permit which results in a violation of the state's surface water quality standards may result in an enforcement proceeding being initiated by the TCEQ or a successor agency.

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

1. The water quality of wetlands shall be maintained in accordance with all applicable provisions of the Texas Surface Water Quality Standards including the General, Narrative, and Numerical Criteria.
2. The applicant shall not engage in any activity which will cause surface waters to be toxic to man, aquatic life, or terrestrial life.
3. Permittee shall employ measures to control spills of fuels, lubricants, or any other materials to prevent them from entering a watercourse. All spills shall be promptly reported to the TCEQ by calling the State of Texas Environmental Hotline at 1-800-832-8224.
4. Sanitary wastes shall be retained for disposal in some legal manner. Marinas and similar operations which harbor boats equipped with marine sanitation devices shall provide state/federal permitted treatment facilities or pump out facilities for ultimate transfer to a permitted treatment facility. Additionally, marinas shall display signs in appropriate locations advising boat owners that the discharge of sewage from a marine sanitation device to waters in the state is a violation of state and federal law.
5. Materials resulting from the destruction of existing structures shall be removed from the water or areas adjacent to the water and disposed of in some legal manner.
6. A discharge shall not cause substantial and persistent changes from ambient conditions of turbidity or color. The use of silt screens or other appropriate methods is encouraged to confine suspended particulates.

7. The placement of any material in a watercourse or wetlands shall be avoided and placed there only with the approval of the Corps when no other reasonable alternative is available. If work within a wetland is unavoidable, gouging or rutting of the substrate is prohibited. Heavy equipment shall be placed on mats to protect the substrate from gouging and rutting if necessary.
8. **Dredged Material Placement:** Dredged sediments shall be placed in such a manner as to prevent any sediment runoff onto any adjacent property not owned by the applicant. Liquid runoff from the disposal area shall be retained on-site or shall be filtered and returned to the watercourse from which the dredged materials were removed. Except for material placement authorized by this permit, sediments from the project shall be placed in such a manner as to prevent any sediment runoff into waters in the state, including wetlands.
9. 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 TCEQ shall be contacted by calling the State of Texas Environmental Hotline at 1-800-832-8224. Dredging activities shall not be resumed until authorized by the Commission.
10. Contaminated water, soil, or any other material shall not be allowed to enter a watercourse. Non-contaminated storm water from impervious surfaces shall be controlled to prevent the washing of debris into the waterway.
11. Storm water runoff from construction activities that result in a disturbance of one or more acres, or are a part of a common plan of development that will result in the disturbance of one or more acres, must be controlled and authorized under Texas Pollutant Discharge Elimination System (TPDES) general permit TXR150000. A copy of the general permit, application (notice of intent), and additional information is available at: http://www.tceq.texas.gov/permitting/stormwater/wq_construction.html or by contacting the TCEQ Storm Water & Pretreatment Team at (512) 239-4671.
12. Upon completion of earthwork operations, all temporary fills shall be removed from the watercourse/wetland, and areas disturbed during construction shall be seeded, ripped, 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 affect the biological, chemical, or physical properties of the receiving waters.
13. Disturbance to vegetation will be limited to only what is absolutely necessary. After construction, all disturbed areas will be re-vegetated to approximate the pre-disturbance native plant assemblage.
14. 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 water, including wetlands.

DEC 18 2014

Ms. Elizabeth Shelton, Project Manager
USACE Permit Application No. SWG-2012-01017
Attachment – Dredge and Fill Certification
Page 3 of 3

15. 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.
16. Surface water shall be essentially free of floating debris and suspended solids that are conducive to producing adverse responses in aquatic organisms, putrescible sludge deposits, or sediment layers which adversely affect benthic biota or any lawful uses.
17. Surface waters shall be essentially free of settleable solids conducive to changes in flow characteristics of stream channels or the untimely filling of reservoirs, lakes, and bays.
18. The work of the applicant shall be conducted such that surface waters are maintained in an aesthetically attractive condition and foaming or frothing of a persistent nature is avoided. Surface waters shall be maintained so that oil, grease, or related residue will not produce a visible film of oil or globules of grease on the surface or coat the banks or bottoms of the watercourse.
19. This certification shall not be deemed as fulfilling the applicant's/permittee's responsibility to obtain additional authorization/approval from other local, state, or federal regulatory agencies having special/specific authority to preserve and/or protect resources within the area where the work will occur.

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: City of Huntsville		File Number: SWG-2012-01017	Date: 12/23/14
Attached is:			See Section below
X	INITIAL PROFFERED PERMIT (Standard Permit or Letter of Permission)	A	
	PROFFERED PERMIT (Standard Permit or Letter of Permission)	B	
	PERMIT DENIAL	C	
	APPROVED JURISDICTIONAL DETERMINATION	D	
	PRELIMINARY JURISDICTIONAL DETERMINATION	E	

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at

http://www.usace.army.mil/CECW/Pages/reg_materials.aspx or Corps regulations at 33 CFR Part 331.

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

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

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

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

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

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

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

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

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

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

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

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:
Elizabeth A. Shelton, Regulatory Specialist
CESWG-RD-E, P.O. Box 1229
Galveston, Texas 77553-1229
Telephone: 409-766-3937; FAX: 409-766-6301

If you only have questions regarding the appeal process you may also contact:
Mr. Elliott Carman
Administrative Appeals Review Officer (CESWD-PDO)
U.S. Army Corps of Engineers
1100 Commerce Street, Suite 831
Dallas, Texas 75242-1317
469-487-7061 (phone)

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

Signature of appellant or agent.

Date:

Telephone number:

CESWG-RD-E

Application: SWG-2012-01017

MEMORANDUM FOR THE RECORD

SUBJECT: Department of the Army Environmental Assessment and Statement of Findings for the Above – Numbered Permit Application

This document constitutes the Environmental Assessment, Section 404(b)(1) Guidelines Evaluation (attached), Public Interest Review, and Statement of Findings for the subject application.

1. Applicant.

City of Huntsville
1212 Avenue M
Huntsville, TX 77340

LATITUDE & LONGITUDE (NAD 83):

Start Latitude: 30.716622 North; Longitude: -95.542797 West

End Latitude: 30.720139 North; Longitude: -95.548897 West

2. Corps Authority. The US Army Corps of Engineers, Galveston District (Corps) will evaluate the proposed activity under Section 404 of the Clean Water Act (33 USC 1344).

3. Project and Site Description. The applicant proposes to discharge fill material below the ordinary high water mark during excavation, bank lay back, and earthwork to re-establish 2,333 linear feet (0.68 acres) of Town Creek to improve stormwater management and reduce localized flooding. The applicant proposes lay back the banks to create a bench and floodplain within the top of bank limits of the channel of Town Creek. The applicant proposes to plant with black willow saplings and desirable hardwood species seedlings along 2,309 linear feet of the channel and up the banks and place coconut husk matting and install toe logs as additional bank stabilization features. The applicant proposes to install a rock filter dam to capture sediment prior to the entry of the stream into the existing underground culverts. The project is located in Town Creek between the starting point at 17th Street and the ending point at 14th Street and Avenue J, in Huntsville, in Walker County, Texas. The USGS Quad reference map is: Huntsville, Texas.

Avoidance and Minimization Information: The applicant has stated that they have avoided and minimized the environmental impacts by use of Natural Channel Stream Design. The capacity of Town Creek will not be increased by the proposed project further reducing the environmental impacts. The applicant initially proposed to work within 3,770 linear feet of Town Creek.

PERMIT APPLICATION – SWG-2012-01017

SUBJECT: Department of the Army Environmental Assessment and Statement of Findings for the Above – Numbered Permit Application

This design was eliminated because reducing the linear footage of the proposed work to the proposed 2,333 linear feet still accomplished the goals of the proposed project and further minimized the environmental impacts. The applicant is minimizing the detrimental impacts of the earthwork by stabilizing the banks with coconut husk matting, use of toe logs, and planting along the channel and up the banks with black willow saplings and desired hardwood species seedlings.

Compensatory Mitigation: The proposed project design has avoided and minimized impacts. It is anticipated the design will create a net positive measurable biological and ecological impact to the existing stream habitat of Town Creek. Therefore, compensatory mitigation for the project impacts will not be required. The applicant used the SWG Stream Condition Assessment dated May 2014 to evaluate the function of Town Creek. The calculated averaged (8 transects) Reach Condition Index (RCI) for the pre-construction condition of Town Creek was 1.64. The applicant anticipates the proposed project will generate a RCI estimated at 2.8 to 3.2 upon completion of construction. The applicant will monitor the stream condition for two years and the restored riparian corridor for a period of ten years. The applicant will be financially responsible for short term and long term management of the project and also responsible for repairs and changes, if necessary.

4. Purpose and Need.

Applicant's Stated Purpose and Need:

The applicant's stated purpose and need is to reduce flooding during small rain events, improve the overall drainage, and provide a net positive ecological and biological habitat creation within Town Creek. The proposed work is designed to restore the original channel of Town Creek and to prevent and reduce future erosion.

Basic Project Purpose and Water Dependency Determination:

The basic project purpose is to reduce flooding and erosion risk of Town Creek. There are no special aquatic sites impacted by the proposed project. The proposed project does not require access or proximity to or siting within a special aquatic site to fulfill its basic purpose; therefore, in accordance with 40 CFR Part 230, Section 404(b)(1) Guidelines the proposed project is not water dependent.

Overall Project Purpose:

The overall project purpose is to reduce flooding risk, prevent and reduce future erosion, and improve the ecological habitat of Town Creek.

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5. Existing Conditions. The project is located within the banks of Town Creek from 14th Street to Bearkat Boulevard within the City of Huntsville. The project is surrounded by commercial and public infrastructure development. Historically, Town Creek was a natural tributary of Parker Creek that flowed toward Lake Livingston and collected rainwater runoff from the surrounding area. The City of Huntsville developed around Town Creek and the subsequent minimal drainage improvements resulted in major erosion of the channel of Town Creek and increased flooding of the areas surrounding this stream. The project boundaries do not contain any wetlands.

6. Background. The applicant proposes to re-establish the historic drainage pathway of Town Creek because of frequent localized flooding occurring within the City of Huntsville. This area has been designated as one of the highest priorities by the Texas Emergency Management Office and FEMA for flood risks. Town Creek is a historic tributary of Parker Creek which flows into Lake Livingston to the northeast. Portions of the development of the City of Huntsville and Sam Houston State University were designed to feed stormwater into Town Creek. Stormwater improvements within Town Creek were not adequate to handle the stormwater load. As a result small rain events have caused severe localized flooding since the 1970s. Due to the additional stormwater, the original channel has eroded creating a much wider, steeper banked and less efficient drainage channel. This decrease in efficiency has increased the potential for upstream and downstream flooding due to the drainage system operating incorrectly. The erosion is creating structural integrity issues along the banks surrounding Town Creek causing safety issues for the general public and land owners. The continued erosion is also creating siltation and sedimentation issues within and downstream of Town Creek. The restoration of the Town Creek channel by the laying back of the existing banks is necessary to restore Town Creek since a large amount of the original channel and bank has eroded.

The applicant utilized the Natural Channel Design Checklist published by the EPA, USFWS, and Stream Mechanics (2011) to assist with the design of the proposed project. The project design mimics that of the example given within the text “flows larger than bank full should be transported on a flood plain or flood-prone area.” The intent of the project design is to: 1) stop urban flooding which is a major source of pollutants, sediment, and suspended solids; and 2) allow Town Creek to flow within a vegetated restored floodplain. The project design has allowed the floodplain of Town Creek to be extended to the widest points as possible through the project length with the exception of those areas that are restricted by urban development such as roads and buildings.

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7. Scope of Analysis.

a. NEPA: The determination of what is the appropriate Scope of Analysis governing the Corps' permit review and decision is guided by the Corps' National Environmental Policy Act (NEPA) regulations for the regulatory program: 33 CFR 325, Appendix B. The Scope of Analysis should be limited to the specific activity requiring a Department of the Army (DA) permit and any additional portions of the entire project over which there is sufficient Federal control and responsibility to warrant NEPA review. Appendix B states that factors to consider in determining whether sufficient "control and responsibility" exist include: 1) whether or not the regulated activity comprises "merely a link" in a corridor type project; 2) whether there are aspects of the upland facility in the immediate vicinity of the regulated activity which affect the location and configuration of the regulated activity; 3) the extent to which the entire project will be within Corps jurisdiction; and 4) the extent of cumulative Federal control and responsibility. Generally, the Corps' area of responsibility includes all waters of the U.S. as well as any additional areas of non-jurisdictional waters or uplands where the district determines there is adequate Federal control and responsibility to justify including those areas within the Corps' NEPA scope of analysis. This normally includes upland areas in the immediate vicinity of the waters of the U.S. where the regulated activity occurs (Standard Operating Procedures for the U.S. Army Corps of Engineers Regulatory Program – July 2009).

(1) Factors.

(i) With regard to the first factor that must be considered in the determination of sufficient Federal control and responsibility, the regulated activities associated with this flood risk management project do not comprise a link in a corridor type of project.

(ii) With regard to the second factor, the design of upland portions of the flood risk management project occurring in the immediate vicinity of the regulated activities does not affect the location and configuration of the regulated activities. The water of the U.S. will receive indirect ecological benefits from the adjacent upland riparian corridor.

(iii) With regard to the third factor, the extent to which the entire project will be within Corps jurisdiction, the proposed flood risk management project will directly impact 2,333 linear feet of Town Creek, a jurisdictional relatively permanent water of the U.S.. The adjacent upland riparian corridor of Town Creek will also be impacted by this proposed project.

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(iv) With regard to the fourth factor that must be considered in the determination of sufficient Federal control and responsibility, during our consideration of the extent of cumulative Federal control and responsibility for this project, we appropriately relied on and fully considered, information and reports from Federal agencies pursuant to their responsibilities under the Fish and Wildlife Coordination Act, the Endangered Species Act (ESA), and Essential Fish Habitat (EFH) regulations (National Marine Fisheries Service – NMFS). ESA threatened or endangered species consultation with the FWS and EFH consultation with NMFS was not required for this permit action. Our staff archeologist reviewed the project site and determined that there are no properties listed in the National Register of Historic Places for the permit area. No further coordination was required pursuant to our responsibilities under 33 CFR 325, Appendix C.

The applicant will receive funding from FEMA to construct the project which will assist with alleviating flood risks in the local area. The project has not yet received its Section 401 Clean Water Act water quality certification from the TCEQ. This clearance is pending and will be required before construction is initiated. No other requests for approval were denied by Federal and state land use planning authorities.

(2) Determined Scope. In conclusion, based on our examination of NEPA (33 CFR 325, Appendix B) and applicable program guidance (e.g. CEQ's Considering Cumulative Effects under the National Environmental Policy Act and the Standard Operating Procedures for the U.S. Army Corps of Engineers Regulatory Program – July 2009), we have determined that the appropriate scope for this project is over the entire property which consists of the direct impacts to Town Creek and the adjacent upland riparian corridor.

The proposed project is not a link in a corridor project, the design of the upland portions does not affect the regulated activities, and only the water of the U.S. is within our jurisdiction. The water of the U.S. will receive indirect ecological benefits from the activities occurring within the adjacent upland riparian corridor. Therefore, sufficient Federal control and responsibility does exist to warrant expanding our review to areas outside our jurisdiction, inclusive of those areas adjacent to project features that require DA permit authorization. Our Scope of Analysis for uplands will include the direct impacts to uplands resulting from planting and other activities within the stream riparian corridor.

b. National Historic Properties Act (NHPA) "Permit Area". The determination of what is the appropriate Scope of Analysis governing the Corps' permit review and decision is guided by the Corps' NHPA regulations for the regulatory program: 33 CFR 325, Appendix C.

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(1) Tests. Activities outside waters of the United States are included because of all of the following tests are satisfied: Such activity would not occur but for the authorization of the work or structures within the waters of the United States; Such activity is integrally related to the work or structures to be authorized within waters of the United States (or, conversely, the work or structures to be authorized must be essential to the completeness of the overall project or program); and such activity is directly associated (first order impact) with the work or structures to be authorized.

(2) Determined Scope. We have determined that the appropriate scope for this project is over the entire project area.

c. Endangered Species Act (ESA) “Action Area.” The determination of what is the appropriate Scope of Analysis governing the Corps’ permit review and decision is guided by the Endangered Species Act of 1973.

(1) Action area means all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action.

(2) Determined Scope. We have determined that the appropriate ESA action area for this project is over the entire project area.

8. Environmental Assessment.

a. Alternatives. A key provision of the 404(b)(1) guidelines is the “practicable alternative test” which requires that “no discharge of fill material shall be permitted if there is a practicable alternative to the proposed fill which would have a less adverse impact on the aquatic ecosystem.” This is especially true when the proposed project is not water dependent. The applicant must demonstrate that there are no less damaging sites available and that all onsite impacts to waters of the United States have been avoided to the maximum practicable extent possible. For an alternative to be considered “practicable”, it must be available and capable of being done after taking into consideration cost, existing technology, and logistics in light of the overall project purpose. The applicant considered the following siting criteria to determine the preferred alternative: 1) reduction of flooding risk potential 2) reduction of erosion risk 3) improvement of the structural integrity of the banks of Town Creek 4) minimal environmental impacts. Three alternatives were considered based on the above siting criteria.

(1) No Action Alternative. This alternative involves permit denial. Under this scenario, the applicant would not re-establish the floodplain capacity of Town Creek.

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The applicant would continue to rely on the existing conditions and the inefficient and engineered design of Town Creek. Reliance on the existing conditions of Town Creek does not alleviate the flood and erosion risk to the adjacent urban infrastructure. This is not a practicable alternative because it does not meet the project's purpose and need.

(2) Offsite Alternatives. This alternative considers offsite locations and technology that would manage flows within Town Creek to reduce the flooding risk to the adjacent urban development within the City of Huntsville. However, the project is funded with grant monies from FEMA to construct a project that would reduce the risk of flooding in this specific location. The project purpose is to reduce the localized recurrent flooding and to alleviate the erosion and structural integrity of the channel of Town Creek. Alternative land locations and technology to reduce the existing normal flow within Town Creek could reduce the localized flooding risk potentially not during high flow flash flood events. The flash flood event high flow rate would still provide a source of erosion and potentially decrease the structural integrity of the existing banks of Town Creek. This alternative could reduce the flooding risk but would not mitigate the existing erosion in the channel and the existing degradation of the structural integrity of the banks. In addition, the related construction costs to achieve this alternative could exceed the limited grant funding budget as provided by FEMA. As such, this alternative is not practicable because it would not achieve the overall project purpose.

(3) Onsite Alternative 1. This onsite alternative considered reestablishment of 3,770 linear feet of Town Creek. This distance started at the intersection of Town Creek and Bearkat Boulevard and ended at 14th Street. This distance is the entire length of the open channel of Town Creek prior to its entrance to an underground culverted system. This alternative involved earthwork modification to the banks, installation of concrete armoring for bank stabilization, and concrete and riprap for in-stream habitat elements. During project design it was determined a reduction of the linear distance still accomplished the project purpose of reducing localized flooding risks, preventing and reducing erosion risk, and improving the structural integrity of the banks. Although this longer distance onsite alternative meets the project purpose and is practicable it does not reduce the environmental footprint of impact to Town Creek. Therefore, this alternative is not the least environmentally damaging practicable alternative.

(4) Onsite Alternative 2 (Applicant's Preferred Alternative). This onsite alternative is the applicant's preferred alternative. This alternative involves removal of most hard structures such as concrete blocks and riprap and the removal of an engineered pilot channel within the banks of Town Creek. The proposed project involves earthwork within 2,333 linear feet to excavate and lay back the banks and create floodplain benches within the top of bank limits.

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To stabilize the banks the applicant will place coconut husk matting to hold soil in place, place toe logs as in stream structures, and plant black willow saplings and desired hardwood species seedlings along the channel of Town Creek. The only hard structure placed in the channel of Town Creek will be a rock filter dam to capture sediment prior to the entry of the stream into the existing underground culverts. This onsite alternative design meets the project purpose of mitigating localized flooding and erosion risks and improving the structural integrity of the existing banks of Town Creek. This onsite alternative does not exceed the grant funded budget as provided by FEMA. In addition this onsite alternative provides a positive ecological benefit to the habitat of Town Creek. Therefore, this alternative is the least environmentally damaging practicable alternative.

b. Environmental Setting. The project is located within the banks of Town Creek from 14th Street to Bearkat Boulevard within the City of Huntsville. The project is surrounded by commercial and public infrastructure development. Historically, Town Creek was a natural tributary of Parker Creek that flowed toward Lake Livingston and collected rainwater runoff from the surrounding area. The City of Huntsville developed around Town Creek and the subsequent minimal drainage improvements resulted in major erosion of the channel of Town Creek and increased flooding of the areas surrounding this stream. The project boundaries do not contain any wetlands.

c. Environmental Impacts. The possible consequences of this proposed work were studied for environmental concerns, social well-being, and the public interest, in accordance with regulations published in 33 CFR 320-332. 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, as they relate to the least environmentally damaging practicable alternative described in the alternative analysis section.

(1) Historic and Cultural Resources. The National Register of Historic Places has been consulted and no properties are listed in the permit area. In addition, the permit area has been so extensively modified that little likelihood exists for the proposed project to impinge upon a historic property, even if present within the affected area.

(2) Water Quality. Temporary turbidity is probable during construction operations, resulting in minimal damage to fish and wildlife habitat and other biota. No lasting water pollution will occur.

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(3) Endangered Species. While Red-cockaded woodpecker is known to exist within Walker County, the proposed work within the project area will have No Affect on this species or its habitat/critical habitat. There is no suitable habitat for this species within the project boundaries.

(4) Fish and Wildlife Values. The majority of the project runs through a developed urban environment. During construction activities, there would be short-term adverse impacts to any wildlife species in the project vicinity associated with increased noise and the presence of construction equipment. In all, the proposed work would temporarily, though not adversely, impact wildlife habitat.

(5) Essential Fish Habitat (EFH). No known impacts will occur to essential fish habitat as listed under the Magnuson-Stevens Fishery Conservation and Management Act.

(6) Wetlands/Special Aquatic Sites. There are no wetlands or special aquatic sites within the project boundaries.

(7) Shoreline Erosion and Accretion. The proposed project is designed to alleviate the future erosion risk of the banks of Town Creek.

(8) Recreation. The majority of the project runs through a developed urban environment. It anticipated the project area will be clearly marked during the construction timeframe. Therefore, the proposed project will have minimal impacts to the recreational use of Town Creek.

(9) Aesthetics. The proposed work will have a temporary adverse impact upon the aesthetic value of the site caused by the presence of construction equipment and machinery. During the construction activity, there would be a generation of noise. However, it is expected that the activities would be performed during daylight hours, be temporary, and be within normal ranges for construction equipment. Therefore, the project will not adversely impact the aesthetic value of the area, and should enhance the aesthetic quality of the waterbody as it traverses through the developed urban environment.

(10) Land Use. There are no known land use classifications or coastal zone management plans that would adversely affect the project. The land use in the project area is urban, developed, and residential.

(11) Navigation. Navigation occurring in the area will not be adversely affected by this project.

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(12) Federal Projects. The project will not adversely impact any Federal Project.

(13) Floodplain Values. The project will create a floodplain within the existing banks of Town Creek. The flood storage now provided by these areas will be contained within the existing banks of Town Creek. Other floodplain values such as fish and wildlife habitat and erosion control will not be adversely affected by the project. The creation of the floodplain will improve the existing ecological habitat conditions of Town Creek.

(14) Floodplain Hazards. Executive Order 11988, Floodplain Management, requires that Federal agencies avoid activities that directly or indirectly result in the development of a floodplain area. The majority of the project site is designated by the Federal Emergency Management Agency (FEMA) (Walker County, Panel 48471C0360D (August 16, 2011) as Zone A, AE, AO, an area that is within the 1-percent annual chance flood, 100-year flood. The project purpose will reduce the impacts of floods to the adjacent urban environment and infrastructure within the Town Creek watershed. The fill and structures authorized by this permit would not conflict with the intent of Executive Order 11988.

(15) 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 except for water quality certification.

The project site is not located within the Texas Coastal Zone and, therefore, does not require certification from the Texas Coastal Management Program.

This project is considered a Tier II project. The Texas Commission on Environmental Quality (TCEQ) has not yet acted on the applicant's request for water quality certification under Section 401 of the Clean Water Act. The Corps will provide the TCEQ with a copy of this permit decision document when finalized. The final permit decision document will contain the environmental assessment and mitigation and §404(b)(1) analysis. The TCEQ will then make its determination whether the project will comply with state surface water quality standards in accordance with Section 401 of the Clean Water Act. The Corps will provide a permit decision to the applicant when the following procedures have been completed. The TCEQ will either provide its certification decision (issuance or denial) to the Corps, or request an extension from the Corps within 10 working days from receipt of the Corps decision document. If the TCEQ does not provide a certification decision or request an extension within the 10 day period, the Corps will presume waiver of certification in accordance with 33 CFR 325.2(b) and proceed with the issuance or denial of the permit.

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If TCEQ requests an extension of time, the Corps will determine the merit of the time extension request and the length of the extension based on 33 CFR 325.2(b) and notify TCEQ of its intended decision. If the Corps decides to deny or modify a request for extension, TCEQ will have 10 working days from the date it is notified of the intended action of the Corps on the request for extension in which to either certify or deny certification.

(16) Other Factors Considered. The following factors were considered during the evaluation process but were determined to not be particularly relevant to this application: general environmental concerns, conservation, safety, energy needs, economics, water supply and conservation, air pollution, food and fiber production, and mineral needs.

d. Cumulative & Secondary Impacts. An assessment of cumulative impacts takes into consideration the consequences that past, present, and reasonably foreseeable future projects had, have, or will have on an ecosystem. Every permit application must be considered on its own merits. 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 impacts that result from 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.

Cumulative impacts can result from many different activities including the addition of materials to the environment from multiple sources, repeated removal of materials or organisms from the environment, and repeated environmental changes over large areas and long periods. More complicated cumulative effects occur when stresses of different types combine to produce a single effect or suite of effects. Large, contiguous habitats can be fragmented, making it difficult for organisms to locate and maintain populations between disjunctive habitat fragments. Cumulative impacts may also occur when the timings of perturbations are so close in space that their effects overlap.

Impacts resulting from the proposed project will be felt in Town Creek watershed. Per the 2006 National Land Cover database, approximately 21% of the watershed is wetlands, 5% is open water, and 78% is uplands/developed. The proposed project is similar in purpose but not design to other flood risk mitigation projects. Development surrounding the proposed project has increasingly occurred since 1950. Key issues of concern in this watershed are flooding risks and an increase in pollutants and sediment load to downstream waterbodies.

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The impacts that are expected in that area from the proposed project include a temporary impact to aquatic habitat from the flood risk management project. The proposed project will discharge fill material below the ordinary high water mark in 2,333 linear feet of Town Creek during earthwork to create the needed floodplain. Avoidance and minimization methods proposed for this project are incorporated into the natural stream channel design for the project components and use of construction best management practices to minimize construction related impacts. There is no compensatory mitigation proposed as the project is designed to be self-mitigating. Monitoring and adaptive management requirements will result in a no net loss of aquatic resources within this watershed.

Other past and present actions that have had impacts or are occurring within this watershed are previously unsuccessful attempts, such as riprap, at bank stabilization and modification of stormwater flow into Town Creek. The impacts from these actions include an engineered channel that has a high erosion risk and loss of its banks. Resulting natural resource changes and stresses include a stream that conveys stormwater load inefficiently and erosive banks that have a high risk of undermining the adjacent urban development.

Future conditions within the study area are expected to be an improved channel condition that reduces flooding risk and pollutant and sediment load to downstream waters. The existing conditions and a review of aerial photography over a twenty year time period indicated no change in the amount of roadway and/or commercial development surrounding Town Creek. Reasonably foreseeable future actions that could affect these conditions/aquatic resources include increased stormwater flow into the confines of Town Creek from an action that generates an economic incentive to increase the density of development along the proposed project. The overall impact that can be expected if these impacts are allowed to accumulate is another inefficient over engineered and designed stream channel to convey the increased stormwater load to downstream waterbodies.

When considering the overall impacts that will result from this project, in relation to the overall impacts from similar past, present, and reasonably foreseeable future projects, their cumulative impacts are not considered to be significantly adverse. Associated compensatory mitigation requirements for projects requiring a DA permit will help offset such losses. It is likely we will receive similar projects in the future, which will go through a comparable review process. Overall, the project will result in minimal environmental impacts and minimal impacts on fish and wildlife values.

9. General Evaluation Criteria Under the Public Interest Review.

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a. The relative extent of the public and private need for the proposed work: The public need is directly related to the project purpose. The project will provide reduced flooding risks to the adjacent developed urban environment of the City of Huntsville. The project is a public project therefore there are no private needs.

b. The practicability of using reasonable alternative locations and/or methods to accomplish the objective of the proposed structure or work: There are no unresolved conflicts regarding resource use.

c. The extent and permanence of the beneficial and/or detrimental effects, which the proposed work is likely to have on the public and private uses which the area is suited: The beneficial effects associated with utilization of the property would be permanent. It is anticipated the proposed project will provide a flood risk reduction, be self-mitigating, and provide a net ecological benefit to the habitat of Town Creek.

10. Coordination and Resolution of Comments.

a. Corps Internal Review Concerns. The proposed action was coordinated with Corps offices by Internal Review notice dated 1 April 2014. The Operations Division-Navigation Branch and Real Estate Division responded to the notice stating that they had no objection to the proposed work. No response was received from the Programs and Project Management Division, Houston-Galveston Resident Engineer Office, and Engineering Division Offices.

b. Public Notice Coordination. The formal evaluation process began with publication of a 30-day public notice on 2 April 2014. The comment period for the public notice closed on 2 May 2014.

The project description published for public notice coordination was as follows: The applicant proposes to discharge fill material during excavation, bank lay back, and realignment of 2,333 linear feet (0.68 acres) of Town Creek to improve stormwater management and reduce localized flooding. The main pilot channel of Town Creek will be re-established to its historical location which is an average of 2.5 feet from its current location. The applicant proposes to construct within the realigned channel the following in-stream structures in an effort to reduce erosion: 428 linear feet of overhanging vegetation, 1,723 linear feet of planting with vegetative root wads, riffle and plunge pools, j-hook vanes, and rip-rap to maintain channel integrity. The applicant anticipates use of these in-stream habitat features will allow for the creation of floodplain wetlands and provide a net increase in aquatic resource area. The capacity of Town Creek will not be increased by this proposed project.

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Copies of the public notice were forwarded to concerned Federal, State, and local agencies, organized groups, individuals and navigation districts. These entities included but are not limited to the following:

U.S. Fish and Wildlife Service (FWS)
National Marine Fisheries Service (NMFS)
Environmental Protection Agency (EPA)
U.S. Coast Guard (USCG)
Texas Parks and Wildlife Department (TPWD)
Texas Historical Commission (THC)
Texas Coastal Coordination Council (CCC)
General Land Office (GLO)
National Ocean Survey, Atlantic Marine Center (NOS)
Galveston Bay Foundation (GBF)
American Waterways Operators (AWO)
Adjacent Property Owners

c. Response to the Public Notice.

(1) Federal Agencies. No response was received from the NMFS.

The FWS responded by electronic mail, dated 29 April 2014, stating that because of the current workload, their biologists are unable to adequately investigate this application; therefore, they can take no action on this permit at this time.

The EPA responded by letter, dated 28 April 2014, stating that they do not support this project as designed. The project appears to be a floodwater conveyance project and not a natural channel design. The project design would result in increased bank erosion and aggradations of the improperly designed channel corridor. In addition, placement of in-stream structures and armoring of outside bends of the new channel would likely result in impinging flow and rotational bank failure. The EPA recommended the applicant use root wad vanes for in-stream structures and use soil bioengineering techniques for bank protection if needed. The EPA stated concerns that the project would increase the conveyance of urban stormwater runoff to downstream receiving waters potentially causing water quality impairment and increased flood risk. The EPA stated the project design does not appear to be the least environmentally damaging alternative to achieve the project purpose. The EPA recommended the reach be designed for high flows to spread over a densely vegetated floodplain adjacent to the bankful channel and allow floodplain processes to attenuate flood pulses. The EPA further recommended use of root wad vanes in conjunction with transplants or a brush layer to direct the thalweg toward the center of the channel to reduce erosion.

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The EPA recommended an interdisciplinary team including a fluvial geomorphologist design and assess the proposed work. The EPA requested clarification between the work plan and the project plans. The work plan states planting an adjacent detention pond but the project plans does not depict construction of an adjacent detention pond. The EPA requested clarification on the definition of vegetative root wads. The EPA asked if this definition refers to vegetative transplants or root wad vanes set into banks to deflect flow. The EPA disagreed that the project is self-mitigating because the current project design is not a natural stream channel design. A self-mitigating project could be achieved by designing the proposed project with natural stream channel design. The EPA recommended use of the transect methods as described in the 2013 Galveston District Stream Condition Assessment. The EPA stated in-kind compensatory mitigation would be required for any remaining unavoidable impacts. The EPA requests no permit be issued at this time due to water quality concerns, and a lack of avoidance, minimization and mitigation to impacts to waters of the U.S.

The Corps requested via letter, dated 6 May 2014, that the applicant confirm use of the June 2013 Level 1 Galveston District Stream Assessment Tool to evaluate the pre- and post-construction conditions of the stream, that the applicant consider use of a well-qualified stream consultant with prior experience in natural stream channel design to evaluate the currently proposed project design, and that the applicant demonstrate the project is self mitigating by ensuring the mitigation work plan is illustrated appropriately on the project plans.

(2) Federally Recognized Native American Tribes and Affiliated Groups. No response was received from any federally recognized Native American Tribes and/or affiliated groups.

(3) State and Local Agencies. The TPWD responded by electronic mail/letter, dated 1 May 2014, stating their concerns with an adequate alternative analysis for the proposed project, concerns with the design plans, and concerns with a mitigation plan for restoring stream functions in Town Creek. The TPWD stated the proposed project as designed does not appear to be the least environmentally damaging practicable alternative to achieve the project purpose. The TPWD disagreed that the applicant has avoided and minimized wetland impacts to the greatest extent possible. The TPWD recommended the applicant provide a revised alternative analysis that includes measures for improving stream and water quality functions by enhancing vegetative cover, improving flow by removing specific blockages and upgrading existing culverts. The TPWD recommended the applicant design the proposed project using natural stream channel design and incorporate root-wad clusters to deflect flow for erosion protection and soil bioengineering techniques for bank stability.

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The TPWD stated the Galveston District Stream Condition Assessment tool was not appropriately used to assess the existing or post-construction stream conditions. The TPWD recommended the applicant implement a stream restoration plan for Town Creek following the 2008 Compensatory Mitigation Rule. The TPWD stated the applicant should coordinate with the Corps on the interpretation of stream condition scoring and compensation requirements. The TPWD recommended the applicant hire a qualified stream consultant with experience and expertise in stream channel design and implementation. The TPWD stated the consultant should provide a detailed portfolio and have formal education and training in fluvial geomorphology or stream ecology. The TPWD echoed similar concerns of the EPA regarding the proposed project design, construction of a potential adjacent detention pond, downstream water quality and downstream flooding risks. The TPWD echoed similar concerns of the EPA regarding the current designed project being self-mitigating and the use of transect methods appropriately in the Galveston District Stream Condition Assessment. The TPWD requested the recommendations be incorporated into a revised project and mitigation plans and provided for review and comment.

The THC responded by letter, dated 18 April 2014, to the City of Huntsville, stating the proposed project will not adversely affect sites listed on the National Register of Historic Places or those eligible for inclusion on the National Register. Therefore, this project may proceed without further consultation with the THC provided the significant archeological deposits are not encountered during construction developments. The Corps Staff Archeologist reviewed the project and determined the permit area has been so extensively modified that little likelihood exists for the proposed project to impinge upon a historic property, even if present within the affected area.

The TCEQ responded by letter, dated 2 May 2014, requesting the applicant to explain the discrepancy regarding the distance Town Creek will be realigned between the text of the public notice and the information reflected on the published project plans. The TCEQ requested the applicant complete and return an Alternative Analysis and Tier II Questionnaire. The TCEQ requested an explanation on why restoring the current channel was not a viable option. The TCEQ requested detailed information on what options were considered to minimize impacts and why these options were eliminated. The TCEQ stated the mitigation plan provided for review conflicts with the project plans. The TCEQ requested clarification on the use of stream armoring, details on the type of material proposed to be used, and to explain how the use of armoring is self-mitigating. The TCEQ stated the channel design as proposed seems to create pinch points, or narrowing in some areas. The TCEQ stated streams that have pinch points tend to incise over time, cause bank erosion, and form head cuts rather than convey water properly. The TCEQ requested an explanation on how these potential effects will be mitigated by the proposed stream design.

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The TCEQ questioned if floodplain benches can be utilized as a stream feature throughout the entire length of the proposed project. The TCEQ asked if the applicant could use trees and woody debris to stabilize the bench areas rather than non-native materials such as riprap, interlocking concrete blocks, or rock structures. The TCEQ stated fluvial geomorphological principles should be adhered to in the project design. The TCEQ requested clarification on how the objectives and goals of this project will be met without increasing the capacity of Town Creek. The TCEQ stated the project plans reflect meanders that increase sinuosity, a positive approach to the project, but the meanders are limited in space and armored on one side. The TCEQ requested the applicant consider designing stable stream meanders without the use of stream armoring. The TCEQ stated the project plans depict stream width variations throughout the project which could encourage the channel to create an overflow channel which leads to a braided channel. Braided systems can change the aquatic use of the stream and can also decrease stream function. The TCEQ requested an explanation on how the proposed channel width variation will not cause channel braiding. The TCEQ recommended use of the TCEQ stream assessment methods, Surface Water Quality Monitoring Procedures, Volume 1 and 2 for a functional assessment of the stream pre- and post-construction. The TCEQ stated if the post-construction stream functions are not similar or greater than the pre-construction stream functions then additional monitoring and/or compensatory mitigation may be required. The TCEQ requested details on how on-site water quality functions will be maintained. The TCEQ requested a copy of the mitigation construction plan with detailed views of the proposed work for review. The TCEQ stated the following concerns with the mitigation plan: no site protection described, the performance standards do not include planting survivability and monitoring, and the adaptive management plan does not include details of measures to be taken if the performance standards are not met. The TCEQ stated the applicant should consult with TPWD for a list of appropriate plant species. The TCEQ stated monitoring should include a minimum of two bankful events and the stream should demonstrate function and stability prior to conclusion of monitoring. The TCEQ stated the long term management plan includes conducting work below the ordinary high water mark to remove accumulated sediment and requested the applicant understand that appropriate authorizations are needed to conduct this work. The TCEQ requested additional information regarding the characteristics and stream classification of Town Creek such as site photos and baseline stream assessment data using the TCEQ stream assessment methods.

(4) Individual and Organized Groups. No response was received from any individual.

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The Sierra Club (SC) responded by letter, dated 7 April 2014, stating the applicant has not documented or demonstrated the proposed project will provide a net increase in aquatic resource area, that installation of multiple habitat elements will restore ecological function, that the project will have any water quality benefits, and that the project will be self-mitigating. The SC stated there is no discussion of the current status of riparian vegetation on Town Creek, if there are any impacts from the proposed project upon the existing vegetation, no discussion on existing ecological functions or the post-construction ecological functions, and stated there is no documentation provided stating if any riparian woodland or bottomland hardwood forested wetland vegetation exists along Town Creek. The SC expressed concerns that the Corps states the project information has not been verified. The SC stated the applicant has not provided a mitigation plan. The SC stated the Corps has not verified an onsite wetland delineation and the public notice states that a historical investigation has not been done. The SC states an alternative project design that includes disconnecting part of the watershed and implementing low impact development to reduce watershed flood flows to reduce stress and allow recovery of Town Creek was not documented or discussed. The SC questioned the conflicting statements between the public notice and provided mitigation plan regarding the final reach condition index (RCI) of the stream at the conclusion of construction and regarding the capacity of Town Creek and the desire to create in-line detention to create deep pool habitat. The SC stated the mitigation plan and mitigation work plan do not indicate where the undercut banks will occur. The SC stated an objection to the conclusion that Black Willow is an invasive species and stated this species is a beneficial riparian woodland and bottomland hardwood forested wetland species. The SC stated the monitoring requirements in the mitigation plan are not sufficient and the period should be for five years. The SC stated the mitigation plan does not describe how sediment and debris will be removed by maintenance activities. The SC stated the mitigation plan does not provide any financial assurances.

d. Applicant's Response to Comments. The comment letters received during the public notice comment period were forwarded to the applicant by letter dated 6 May 2014. The applicant responded to the comments by letter, dated 23 May 2014.

In response to EPA, Corps, TPWD, TCEQ, and SC comments regarding the project design and the recommendation to use natural stream channel design, the applicant responded the Natural Channel Design Review Checklist published by the EPA, USFWS, and Stream Mechanics (2011) was used during the project design process. The applicant stated the proposed design of the new channel mimics that of the example given in the text "flows larger than bank full should be transported on a floodplain or flood-prone area." The applicant stated the project purpose is to stop urban flooding which is a source of pollutants, sediment, and suspended solids and to allow for Town Creek to flow within a vegetated restored floodplain.

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The project design will allow stream meanders while maintaining a floodplain with a relatively constant width. The floodplain has been extended to the widest points possible except where restricted by roads, buildings, and other urban development. The applicant stated bankful benches have been added along the entire length of Town Creek where possible. The applicant stated they have incorporated multiple in-stream habitat structures as well as sediment drop basins to manage sediment flows. The applicant believes the use of in-stream habitat structures will provide a positive effect upon the post-construction water quality and aquatic habitat potential, and decrease erosion and suspended solids within Town Creek. The applicant stated they have chosen to use rock/concrete material to construct rock/log vanes, j-hooks, and root wads in an effort to use these habitat structures and have them not decay within 5 years. The applicant stated they will use bioengineering for the banks for erosion protection and it is unknown when maintenance desiltation will be performed.

In response to the EPA and TPWD statement the project appears to be a floodwater conveyance project and not a natural channel design, the applicant stated the existing Town Creek is an extremely shallow, highly eroded, v-shaped ditch. The proposed project will create a new channel that has a controlled floodplain within its banks. The applicant stated the project is designed to decrease erosion through the implementation of a wide but controlled floodplain, multiple in-stream habitat structures, and floodwater retention.

In response to the EPA and TPWD recommendation the applicant use root wad vanes for in-stream structures and use soil bioengineering techniques for bank protection if needed, the applicant responded they prefer to utilize long lasting artificial materials, such as large rocks, artificial reef balls, and/or concrete rip rap contained in gabion baskets, to mimic the recommended root wad vane placement.

In response to the EPA and TPWD concerns for increased conveyance of urban stormwater runoff, downstream water quality impairment, and increased flood risk, the applicant responded the proposed project is designed to not increase flow rate.

The applicant stated stormwater currently overtops the banks of Town Creek during normal rainfall events, causing flooding of the immediate adjacent areas. This regular flooding event increases the sediment and pollutant load entering Town Creek and the downstream waterbodies. The applicant stated the proposed project has been designed to contain these overbank flooding events by allowing the stream to meander within the confines of an engineered floodplain. The proposed project will convert the current active floodplain from the adjacent urban development to an area containing floodplain wetlands and vegetated habitats within the proposed design high banks.

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In response to the EPA and TPWD concern the project design does not appear to be the least environmentally damaging alternative, the applicant responded they have revised the project design to leave the relict channel of Town Creek intact and there will be no changes to the existing riparian buffer width. The addition of floodplain wetlands and erosion protection measures and the creation of an engineered floodplain will improve the water quality of the floodwaters of Town Creek.

In response to the EPA and TPWD recommendation a fluvial geomorphologist design and assess the proposed work, the applicant responded the design was developed utilizing the Natural Channel Design Review Checklist published by the EPA, USFWS, and Stream Mechanics (2011).

In response to the EPA and TPWD request for clarification regarding an adjacent detention pond and the definition of vegetative root wads, the applicant responded the statement regarding the planting of the detention pond was in error and has been removed from the text of the work plan. The applicant stated the term vegetative root wads is defined as herbaceous plantings to be planted along the bank of the channel.

In response to the EPA and TPWD statement that they disagree the project is self-mitigating, the applicant responded they have previously addressed the concerns of the project design being self-mitigating.

In response to the Corps, EPA, and TPWD request for use of the June 2013 Galveston District Stream Condition Assessment Level 1, the applicant stated they have reassessed the stream using this tool and have provided the report with their response letter.

In response to the Corps request to consider use of a well qualified stream consultant with prior experience in natural stream channel design to evaluate the currently proposed project design, the applicant responded they believe the project team is qualified to design the proposed project.

In response to the Corps request the applicant demonstrate the project is self-mitigating by ensuring the mitigation work plan is illustrated appropriately on the project plans, the applicant responded they have revised the project plans to add additional detail and correctly reflect the redesigned portions of the project. The revised project plans include leaving the relict channel of Town Creek unaltered where possible, creation of additional floodplain wetlands and other floodwater retention areas such as artificial ox-bow ponds and increase the bottom width of the channel to move away from a v-shaped channel design.

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The revised drawings also reflect the current and proposed floodplain, additional in-stream features where possible, and a profile view of the channel with proposed water levels.

In response to the TCEQ request the applicant explain the distance discrepancy between the public notice text and the project plans, the applicant responded through the majority of the project area, 1,583 linear feet, the proposed new channel of Town Creek will be approximately 2-3 feet from its current location. In the furthest east sections, 750 linear feet, of Town Creek, the new channel will range between 30-60 feet away from the existing channel.

In response to the TCEQ request for a completed Alternative Analysis and Tier II Questionnaire, the applicant responded a completed questionnaire has been included with their response letter dated 23 May 2014.

In response to the TCEQ request for detailed information on how the project minimizes potential adverse water quality impacts and downstream flooding, the applicant responded the project is designed to eliminate current localized flooding which causes large amounts sediments and pollutants from the adjacent urban environment to enter the waters of Town Creek. The project design will create an engineered floodplain inside the banks of Town Creek currently confined by surrounding urban development. The banks of Town Creek will be contoured to remove the existing rubble and debris and replaced with soil to allow for vegetative growth. The applicant stated downstream flooding would not increase as the total flow rate of Town Creek will not increase.

In response to the TCEQ request for clarification and details on the use of stream armoring, the applicant responded they have chosen to utilize rocks and riprap structures to mimic root wad and log vane in-stream habitat structures. The toe of the banks of the meandering portions of the new channel will not be armored with interlocking block pavers.

In response to the TCEQ statement the channel design as proposed seems to create pinch points which tend to cause bank erosion and form head cuts rather than convey water properly and the TCEQ request for an explanation on how these potential effects will be mitigated by the proposed stream design, the applicant responded the pinch points within the channel have been designed with corresponding bank protection mechanisms to decrease the future likelihood of future erosion issues and decrease flow velocity.

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In response to the TCEQ question if floodplain benches can be utilized as a stream feature throughout the entire length of the proposed project and if trees and woody debris can be used for stabilization rather than non native materials, the applicant responded that floodplain benches have been added to every available location throughout the project length. The applicant stated the use of root wad vanes and other natural material is undesirable due to their unreliability to withstand years of decay in this type of environment.

In response to the TCEQ request to explain how the project purpose to reduce flooding will be achieved without increasing the capacity of Town Creek, the applicant responded the stream currently floods over its existing banks. The proposed design would contain the flow within the normal embankments.

In response to the TCEQ request the applicant consider designing stable stream meanders without the use of stream armoring, the applicant responded the stream meanders were designed to be armored to decrease erosion in these areas and deflect flow from the bank. The armoring will also decrease the velocity of the water flow and promote bench flooding within these areas. The applicant will discuss this further with the Corps as they are receptive to the idea of utilizing specific placement of flow/velocity deflectors in these areas of the proposed channel versus the current design of entire bank armoring.

In response to the TCEQ recommendation for use of the TCEQ stream assessment methods, the applicant responded that they have reassessed the stream using the Corps 2013 Galveston District Stream Condition Assessment Tool. The updated data sheets utilized in this tool are included with their response letter.

In response to the TCEQ request for details on how on-site water quality functions will be maintained, the applicant responded they will review the TCEQ RG-415 and RG-416 methodologies and determine if they are suitable for use within this system. The applicant stated the normal flow of Town Creek does not contain an amount of water that causes flow or provide an accurate measurement of water quality.

In response to the TCEQ request for a copy of the mitigation construction plan and the TCEQ and TPWD concerns regarding aspects of the provided mitigation plan, the applicant responded they have revised their mitigation plan and included the revised plan with their response letter. The applicant stated the monitoring would be conducted for a period of three years. The applicant stated they will use all appropriate measures and notifications prior to de-silting maintenance activities. The applicant stated the City of Huntsville will be the financially responsible party for monitoring and repairs. The applicant stated the project design incorporates features that provide stream restoration.

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In response to the TPWD request for an alternative analysis, the applicant responded due to the project location and specific purpose of reducing localized flooding there are no alternative locations to relocate the project. The applicant stated the project has been redesigned to allow for some areas of the relict channel of Town Creek to remain unfilled to serve as floodwater retention and aquatic habitat.

In response to the SC statement the applicant has not documented or demonstrated the proposed project will provide a net increase in aquatic resource area, that installation of multiple habitat elements will restore ecological function, that the project will have any water quality benefits, and that the project will be self-mitigating, the applicant responded that they believe the redesigned project demonstrates through use of the 2013 Galveston District Stream Condition Assessment tool that the project will increase the reach condition index of the stream post-construction and create an increase in aquatic resource area.

In response to the remaining SC comments regarding deficient information not provided within the public notice, the applicant responded they cannot respond as these comments as they are a critique of the Corps permitting process. The applicant stated they do not control the information provided with the Corps public notice.

e. Corps's Consideration of Substantive Public Notice Comments. The TCEQ requested an explanation on why restoring the current channel was not a viable option and how the proposed channel width variation will not cause channel braiding. The applicant did not directly address this issue in their response to comments letter. The applicant responded the revised project plans reflect that the current channel will remain unaltered where possible.

The TCEQ requested additional information regarding the characteristics and stream classification of Town Creek. The applicant did not directly address this issue in their response to comments letter. In other responses the applicant described the existing conditions of Town Creek. In addition the applicant provided a revised Galveston District Stream Condition Assessment Tool with their response letter that characterizes the conditions of the existing stream.

The SC questioned the technical components of the mitigation plan and mitigation work plan, components of the project design regarding in-line detention to create deep pool habitat, and objected to the conclusion that Black Willow is an invasive species. The applicant did not directly address this issue in their response to comments letter. The applicant stated they have revised their mitigation plan and provided the revised plan with their response letter.

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The Corps reviewed the revised project plans received on 30 June 2014 for the stated changes as indicated in the applicant's response letter. The Corps requested additional information and edits to the provided revised project plans via electronic mail dated 17 July 2014. The additional information requested a change to the colors used on the project plans because project features were indistinguishable, a cross sectional drawing of the sediment basin, and an updated Galveston District Stream Condition Assessment Tool data sheets. The requested information was provided via electronic mail dated 22 July 2014. The Corps requested additional edits to the Stream Condition Assessment data forms, the project plans, and the adaptive management plan via electronic mail dated 30 July 2014. The final revisions to the requested documents were received via electronic mail on 18 August 2014. The revised documentation was coordinated through an interagency coordination notice.

f. Interagency Coordination Notice. The formal evaluation process continued with publication of a 15-day interagency coordination notice on 19 August 2014.

The project description published for the interagency coordination notice was as follows: The applicant has revised their project design as a result of comments received through the public notice published on 2 April 2014. The applicant revised their plans to incorporate more natural stream channel design features. The applicant has removed the use of hard structures as in stream habitat features and also removed the initial design of armoring the banks. The applicant proposes to discharge fill material during excavation, bank lay back, and earthwork to re-establish 2,333 linear feet (0.68 acres) of Town Creek to improve stormwater management and reduce localized flooding. The applicant proposes lay back the banks to create a bench and floodplain within the top of bank limits of the channel of Town Creek. The applicant proposes to plant and create 0.45 acres of wetlands along the channel and install a rock filter dam to capture sediment prior to the entry of the stream into the existing underground culverts. The applicant anticipates use of these project design features will create additional floodplain wetlands and provide a net increase in aquatic resource area. The capacity of Town Creek will not be increased by this proposed project. The applicant removed all initially proposed in-stream structures and the initially proposed pilot channel to minimize the disturbance to the stream channel. It is anticipated the stream will create a needed pilot channel. The proposed project will create a net positive measureable biological and ecological impact on the Town Creek stream system. The proposed project design has avoided and minimized impacts and it is anticipated the design will provide a net benefit to the existing habitat of Town Creek. Therefore, compensatory mitigation for the project impacts will not be required. The applicant has provided a work and adaptive management plan (attached) that describes the goals and objectives of the project and the proposed adaptive management techniques.

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The applicant used the SWG Stream Condition Assessment dated May 2014 to evaluate the function of Town Creek. The data sheets were attached to the notice.

Copies of the interagency coordination notice were forwarded to concerned Federal, State, and local agencies, organized groups, individuals and navigation districts. These entities included but are not limited to the following:

U.S. Fish and Wildlife Service (FWS)
Environmental Protection Agency (EPA)
Texas Commission on Environmental Quality (TCEQ)
Texas Parks and Wildlife Department (TPWD)
General Land Office (GLO)
The Sierra Club (SC)
Adjacent Property Owners

g. Response to the Interagency Coordination Notice.

(1) Federal Agencies. The EPA responded by letter, dated 3 September 2014, stating they support the redesign of the proposed channel to include a flood-prone area with wetland plantings adjacent to portions of the channel, rather than the originally proposed v-shaped ditch. The applicant states that “it is anticipated the stream will create a needed pilot channel” and “water within the restored channel will be allowed to naturally take its own course within the channel bottom.” The EPA questioned if these statements and project design have been based on existing successful or stable stream restoration projects in the vicinity. The applicant stated in “goals and objectives” the new channel will create increased sinuosity and deep pool habitat. The EPA questioned what this statement is based on. The EPA stated it may be appropriate to include some bio-engineered and/or in-stream structures for bank stabilization particularly in the more constrained areas where wetland plantings are not proposed and erosion potential is high. The EPA stated they are not opposed to adaptive management, since these costs will not be included in the initial construction costs of the project but cautioned the City should ensure its project maintenance budget is adequate for a potentially significant amount of adaptive management. The EPA also stated the proposed rock filter dam will also require regular maintenance to remove accumulated sediment. The EPA stated the Stream Assessment data forms indicate an increase in riparian buffer condition through the stream reach. The EPA requested the applicant be more specific about the improvements. The EPA questioned if the buffer improvements are proposed to occur within the banks of the channel, if there are additional plantings proposed in adjacent riparian areas, how will it be improved in more constrained transects. The EPA also questioned inconsistencies in the riparian buffer condition for the pre-construction assessment data forms.

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The EPA stated these inconsistencies should be addressed or revised even though the resultant reach condition index will likely show a net increase due to anticipated channel stability and condition benefits and removal of unnatural materials from the stream. The EPA stated there are polygons adjacent to the existing channel indicated on the revised project plans and requested clarification of what these polygons represent. The EPA stated it is unclear how the impact factor of 4 was chosen on the pre-construction Stream Condition Assessment form. The EPA stated the resulting compensation requirement is 15,328 credits and if this is accurate the post-construction credits will not provide adequate compensation. The EPA stated the applicant should address this issue and the potential need to mitigate stream impacts. The EPA recommended the applicant clarify or provide further information about the above stated concerns. The EPA recommended the applicant provide financial assurances to allow for potentially extensive amounts of adaptive management to address stability and erosion as the stream channel forms.

(2) Federally Recognized Native American Tribes and Affiliated Groups. No response was received from any federally recognized Native American Tribes and/or affiliated groups.

(3) State and Local Agencies. The TPWD responded by electronic mail/letter, dated 5 September 2014, stating they appreciate the applicant's redesign of the proposed channel to include wetland features adjacent to portions of the channel rather than the originally proposed v-shaped ditch. The TPWD stated it is unclear how the applicant determined the stream will create its own pilot channel within the newly excavated 25 foot wide channel bottom. The TPWD requested the applicant provide documentation on how the new channel will create increased sinuosity of the stream when it appears more linear than the original stream. The TPWD requested documentation on how deep pool habitat will be created, achieved, and maintained through installation of a filter dam to reduce flow surges during high rainfall events. The TPWD recommended providing documentation or specific details on how their engineering design plans will facilitate a natural stream formation in the newly excavated bottom of the channel. The TPWD also requested the applicant demonstrate how the proposed design plans compare to a similar or a reference stream in the vicinity. The TPWD requested a maintenance plan for removing sediments behind the filter dam. The TPWD stated concerns with errors within the revised Galveston District Stream Condition Assessment data forms. The data forms project an increase in the riparian buffer conditions throughout the entire stream length. The TPWD questioned how the applicant intends to increase or enhance the riparian buffer of each post-construction stream reach. This information was not demonstrated in the proposed plans. The TPWD questioned discrepancies between the riparian buffer conditions over multiple transects in the pre-construction and post-construction data forms.

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The TPWD questioned the scoring on the data sheets for the channel alteration scores and recommended the necessary corrections to the data forms be made and submitted to TPWD for review and comment. The TPWD stated concerns with the removal of all erosion control structures and reliance on adaptive management strategies on an “as needed basis” to control erosion and stabilize banks. The TPWD stated they disagree with this type of post-construction adaptive management strategy to address problems after a design plan fails. The TPWD recommended use of in-stream structures such as root wad vanes and soil bioengineering techniques for bank protection and stabilization during initial construction especially in constrained areas.

(4) Individual and Organized Groups. No response was received from any individual or organized group.

h. Applicant's Response to Interagency Coordination Notice Comments. The comment letters received during the interagency coordination notice comment period were forwarded to the applicant by letter dated 8 September 2014. The applicant responded to the comments by letter, dated 17 September 2014.

In response to EPA and TPWD questions if the revised project design has been based on existing successful or stable stream restoration projects in the vicinity and if the new channel will create increased sinuosity and deep pool habitat, and the statement it might be appropriate to include some bio-engineered and/or in-stream structures for bank stabilization, the applicant responded they did not base their channel design on existing successful or stable stream restoration projects in the vicinity because none exist. The applicant stated they based their revised project design on natural stream channel design and the concept of allowing water flow in a wider channel to create its own course versus artificially engineering a path for the water to flow. The applicant stated this design should allow for a stable stream bed and bank and allow the stream to form its own equilibrium within the confines of the new wider channel. The applicant stated the increased sinuosity and deep pools will be created within the wider flow area of the stream because the stream has a greater area to meander and the variations in flow rate will create the deep pool habitat by natural erosion of the stream bed. The applicant further stated only the banks of the stream will be adaptively managed to ensure a stable bank.

PERMIT APPLICATION – SWG-2012-01017

SUBJECT: Department of the Army Environmental Assessment and Statement of Findings for the Above – Numbered Permit Application

In response to the EPA statement that the applicant should ensure its project maintenance budget is adequate for the adaptive management needs of the project and recommendation to provide financial assurances for the adaptive management of the project design, the applicant responded they will have a line item in their future maintenance operating budget for the potential adaptive management practices that may be needed in the future to ensure the success of the proposed project design.

In response to the EPA and TPWD request for additional details on how the riparian buffer condition will be improved through the stream reach and questions regarding inconsistencies in the riparian buffer condition for the pre-construction assessment data forms, the applicant responded they are proposing to plant wetlands and trees within the channel to improve water quality and riparian buffer. The applicant is also proposing to plant on the high bank of the new channel as well to improve the riparian buffer. The applicant reviewed the pre-construction assessment data sheets against the field data and desktop aerial photography in conjunction with the Corps oversight and determined the data sheets correctly describe the pre-construction condition of Town Creek. The applicant maintains that corrections to the submitted stream tool data sheets are not warranted.

In response to the EPA request for clarification on what the polygons adjacent to the existing channel indicated on the revised project plans, the applicant responded the polygons represent the existing high bank of Town Creek. They appear to be closed polygons because of the project boundary limits and erosion areas that currently exist along Town Creek.

In response to the EPA recommendation for clarification on how the impact factor of 4 was chosen on the data forms and statement on the resulting compensation requirement and the potential need to mitigate stream impacts, the applicant responded the impact factor on the data forms was an error. The proposed project is self-mitigating because the reach condition index will be higher post-construction therefore no mitigation is required. The applicant stated they have revised the data form to remove the impact factor and included the revised data form with their response letter.

In response to TPWD concerns with removal of all erosion control structures and reliance on adaptive management strategies and recommended use of in-stream structures such as root wad vanes and soil bioengineering techniques for bank protection and stabilization, the applicant responded they decided to remove all in-stream structures to allow the stream to form and develop a natural channel versus engineering the stream pattern and in-stream habitat. This approach will allow for a more stable, natural stream and allow the applicant to address any future erosion problems through adaptive management practices.

PERMIT APPLICATION – SWG-2012-01017

SUBJECT: Department of the Army Environmental Assessment and Statement of Findings for the Above – Numbered Permit Application

i. Corps's Consideration of Substantive Comments. The TPWD requested a maintenance plan for removing sediments behind the filter dam. The applicant did not directly address this issue in their response to comments letter. The applicant stated in other responses there will be a line item in the applicant's future maintenance operating budget for any potential adaptive management practices that may be needed to ensure the success of the project design.

The Stream Condition Assessment data forms were corrected by the applicant to remove the impact factor which was included in error. The impact factor should not have been included in the summary form since the design of the proposed project does not result in a loss of stream habitat. The Stream Condition Assessment data forms reflected variances in the riparian buffer conditions because the existing and proposed post-construction conditions of the riparian buffer does and will change. Therefore, no corrections were needed to this variable in the provided data forms. The applicant further reviewed the data sheets against the field data and desktop aerial photography in conjunction with Corps oversight. The applicant and the Corps determined the provided data sheets accurately reflect the changes that does and will occur to the riparian buffer along the 2,333 linear feet of Town Creek. The Corps believes the applicant has adequately addressed all concerns regarding the Galveston District Stream Condition Assessment data forms and potential mitigation requirements.

The Corps and its stream subject matter technical expert reviewed the agency comments and concerns with the project design received in response to the interagency coordination notice. The review resulted in additional suggestions for natural stream channel design features that could further address the agency concerns and recommendations regarding soil bioengineering techniques, riparian corridor planting, the use of a pilot channel, and the use of in stream habitat structures. The Corps requested the applicant consider these suggestions and provide revised project plans and construction notes to reflect these design features. The Corps received the revised plans and construction notes via electronic mail on 3 November 2014. The revised plans reflected the use of coconut husk matting to stabilize the soil after completion of the earthwork and the use of toe logs as in stream habitat structures. The revised plans further reflect the planting of black willow saplings along a created pilot channel and planting of desirable hardwood species seedlings along the banks to further stabilize the banks and replace the removed riparian corridor. The construction notes reflected the intent of the applicant to monitor the stream condition for a period of two years and the growth of the riparian corridor for a period of ten years. The Corps believes these revised project plans and construction notes adequately address the agency concerns and comments regarding the proposed stream design.

PERMIT APPLICATION – SWG-2012-01017

SUBJECT: Department of the Army Environmental Assessment and Statement of Findings for the Above – Numbered Permit Application

11. Compensation and Other Mitigation Actions.

a. Compensatory Mitigation.

- (1) Is compensatory mitigation required? yes no
- (2) Is the impact in the service area of an approved mitigation bank?
 yes no
(i) Does the mitigation bank have appropriate number and resource type of credits available? yes no
- (3) Is the impact in the service area of an approved in-lieu fee program?
 yes no
(i) Does the in-lieu fee program have appropriate number and resource type of credits available? yes no
- (4) Check the selected compensatory mitigation option(s):
 mitigation bank credits
 in-lieu fee program credits
 permittee-responsible mitigation under a watershed approach
 permittee-responsible mitigation, on-site and in-kind
 permittee-responsible mitigation, off-site and out-of-kind
- (5) If a selected compensatory mitigation option deviates from the order of the options presented in 33 CFR 332.3(b)(2)-(6), explain why the selected compensatory mitigation option is environmentally preferable. Address the criteria provided in 33 CFR 332.3(a)(1) (i.e., the likelihood for ecological success and sustainability, the location of the compensation site relative to the impact site and their significance within the watershed, and the costs of the compensatory mitigation project): N/A
- (6) Other Mitigation Actions. N/A

12. Determinations.

- a. Public Hearing. No request to hold a public hearing for the proposed project was received during the public interest review.
- b. Section 176(c) of the Clean Air Act General Conformity Rule Review: The proposed project has been analyzed for conformity applicability pursuant to regulations implementing Section 176(c) of the Clean Air Act.

PERMIT APPLICATION – SWG-2012-01017

SUBJECT: Department of the Army Environmental Assessment and Statement of Findings for the Above – Numbered Permit Application

It has been determined the activities proposed under this permit will not exceed *de minimis* levels of direct emissions of a criteria pollutant or its precursors and are exempted by 40 CFR PART 93.153. Any later indirect emissions are generally not within the Corps continuing program responsibility and generally cannot be practicably controlled by the Corps. For these reasons, a conformity determination is not required for this individual permit.

c. Relevant Presidential Executive Orders.

(1) EO 13175, Consultation with Indian Tribes, Alaska Natives, and Native Hawaiians. Through our coordination with the federally recognized Native American Tribes, affiliated groups, and Corps staff archaeologist we have determined that this action has no substantial direct effect on one or more Indian Tribes.

(2) EO 11988, Floodplain Management. The alternatives to the location within the floodplain, minimization, and compensation of the effects of the proposed project were considered above.

(3) EO 12898, Environmental Justice. In accordance with Title III of the Civil Right Act of 1964 and EO 12898, it has been determined that the project would not directly or through contractual or other arrangements, use criteria, methods, or practices that discriminate on the basis of race, color, or national origin nor would it have a disproportionate effect on minority or low-income communities.

(4) EO 13112, Invasive Species. There were no invasive species issues involved.

(5) EO 13212 and 13302, Energy Supply and Availability. The proposed project is not one that will increase the production, transmission, or conservation of energy, or strengthen pipeline safety.

d. The following Special Condition will be Added to the Authorization:

1. If the final stream assessment report documents a reduction in the average stream condition index from the initial post-construction average stream condition index, the permittee must implement adaptive management techniques in coordination with the Corps of Engineers, Galveston District, Regulatory Division.

PERMIT APPLICATION – SWG-2012-01017

SUBJECT: Department of the Army Environmental Assessment and Statement of Findings for the Above – Numbered Permit Application

Rationale: In accordance with 33 CFR 325.4 Conditioning of permits, the district engineer will add special conditions to Department of Army permits when such conditions are necessary to satisfy legal requirements or to otherwise satisfy the public interest requirements. The above special condition is required for fulfillment of the public interest requirements specified according to 33 CFR 320.4(o)(3) Navigation.

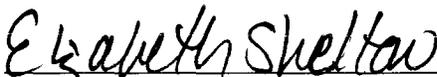
e. Findings of No Significant Impact. There have been no significant environmental effects identified resulting from the proposed work. The impact of this proposed activity on aspects affecting the quality of the human environment has been evaluated and it is determined that this action does not require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

f. Compliance with 404(b)(1) guidelines. 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)(1) of the Clean Water Act. We have determined that the proposed discharge complies with the 404(b)(1) guidelines.

g. Public Interest. We find that issuance of a Department of the Army permit is not contrary to the public interest.

FOR THE COMMANDER:

PREPARED BY:



ELIZABETH SHELTON
Regulatory Specialist

Date: 8 December 2014

REVIEWED BY:



JANET THOMAS BOTELLO
Chief, Evaluation Branch
Regulatory Division, Galveston District

Date: 8 December 2014

APPENDIX F
HAZARDOUS MATERIALS REGULATORY DATABASE
RECORDS AND MAP

Friday, May 25, 2012

Client

BERG-OLIVER ASSOCIATES, INC.

14701 St. Mary's Lane

Ste 400

Houston, TX 77079

Target Property

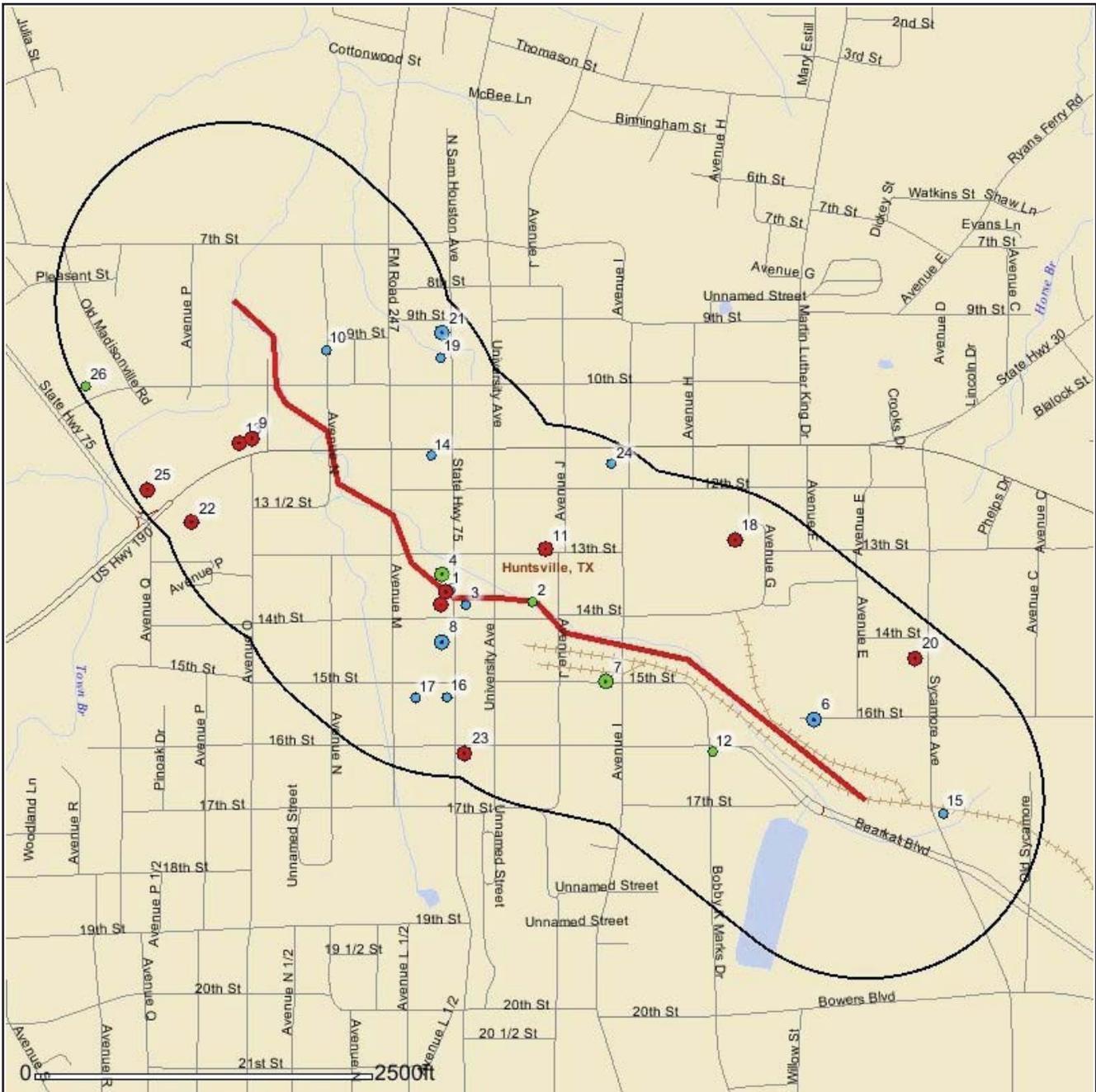
Town Creek Drainage Improvements

Huntsville, TX 77340

ES#: 85615

PO#: 8371c

Databases Searched	Distance Searched	# Mapped	# Not Mapped	Total
Federal - ASTM 1527-05/AAI Required				
National Priority List (NPL)	1.000	0	0	0
Delisted National Priority List (DNPL)	0.500	0	0	0
CERCLIS (CER)	0.500	0	0	0
CERCLIS NFRAP (CER NFRAP)	0.500	0	0	0
RCRA CORRACTS (RCRA COR)	1.000	0	0	0
RCRA non-CORRACTS TSD (RCRA TSD)	0.500	1	0	1
RCRA Generators (RCRA GEN)	0.250	2	0	2
Federal Brownfields (FED BWN)	0.500	0	0	0
Federal Institutional Control (FED IC)	0.500	0	0	0
Federal Engineering Control (FED EC)	0.500	0	0	0
ERNS List (ERNS)	0.250	0	0	0
State - ASTM 1527-05/AAI Required				
State/Tribal Equivalent NPL (ST NPL)	1.000	0	0	0
State/Tribal Equivalent CERCLIS (ST CER)	0.500	0	0	0
State/Tribal Disposal or Landfill (SWLF)	0.500	0	0	0
State/Tribal Leaking Storage Tank (LPST)	0.500	17	0	17
State/Tribal Storage Tank (PST)	0.250	20	0	20
State/Tribal Institutional Control (ST IC)	0.250	0	0	0
State/Tribal Engineering Control (ST EC)	0.500	0	0	0
State/Tribal Voluntary Cleanup (VCP)	0.500	0	0	0
State/Tribal Brownfield (ST BWN)	0.500	0	0	0
State/Tribal Hazardous Waste (HW)	0.250	8	0	8
Non-ASTM/AAI Required Databases				
RCRA (RCRA)	0.250	6	0	6
Dry Cleaners (DRYC)	0.250	4	0	4
Total Sites Found		58	0	58



★ Target Site

- Single Site
- Cluster Site
- Large Tract
- Cluster Site with Large Tract

RCRA COR, RCRA TSD, CER, LPST, NPL, ST NPL, SWLF

- Single Site
- Cluster Site
- Large Tract
- Cluster Site with Large Tract

RCRA GEN, ST & FED BWN, ST & FED EC, ST & FED IC, DNPL, CER NFRAP, PST, VCP, ST CER

- Single Site
- Cluster Site
- Large Tract
- Cluster Site with Large Tract

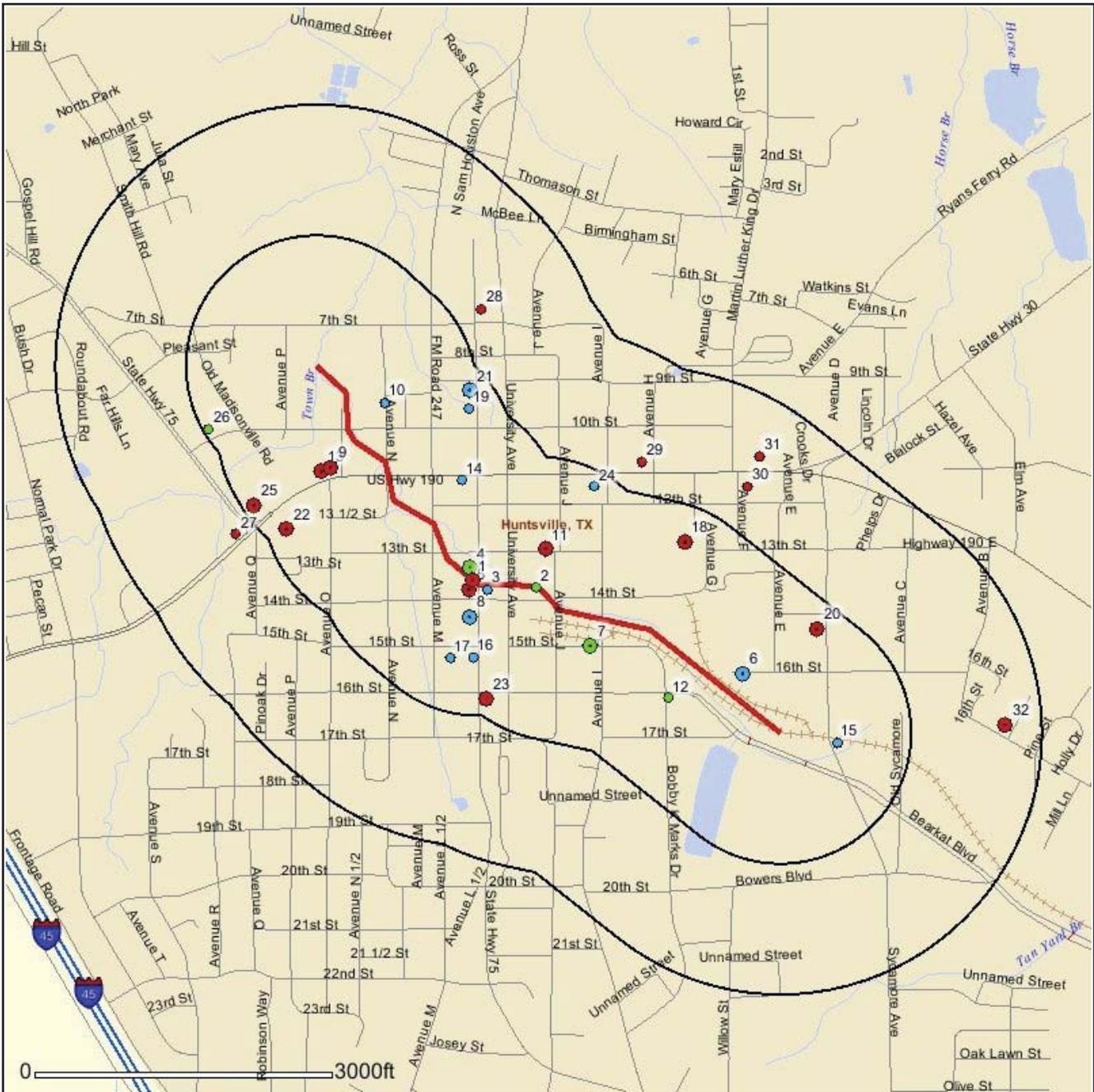
ERNS, IHW, RCRA, DRYC, AIRS

- Limited Access Hwy
- Primary Highway
- Secondary Highway
- Roads
- Ramps
- Railroad
- County
- State
- Urban Area
- Water Bodies

One inch = 0.24 miles

Banks Environmental Data
1601 Rio Grande St., Suite 500
Austin, Texas 78701
PH 512-478-0059
FAX 512-478-1433
banks@banksinfo.com
www.banksinfo.com
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★ Target Site

- Single Site
- Cluster Site
- Large Tract
- Cluster Site with Large Tract
- Single Site
- Cluster Site
- Large Tract
- Cluster Site with Large Tract
- Single Site
- Cluster Site
- Large Tract
- Cluster Site with Large Tract

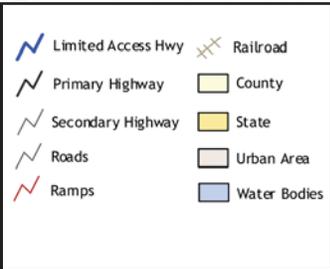
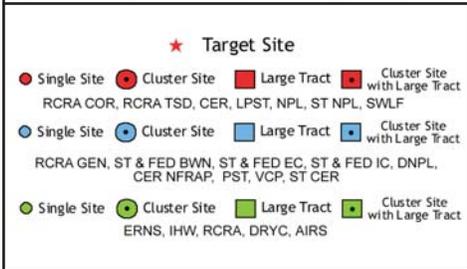
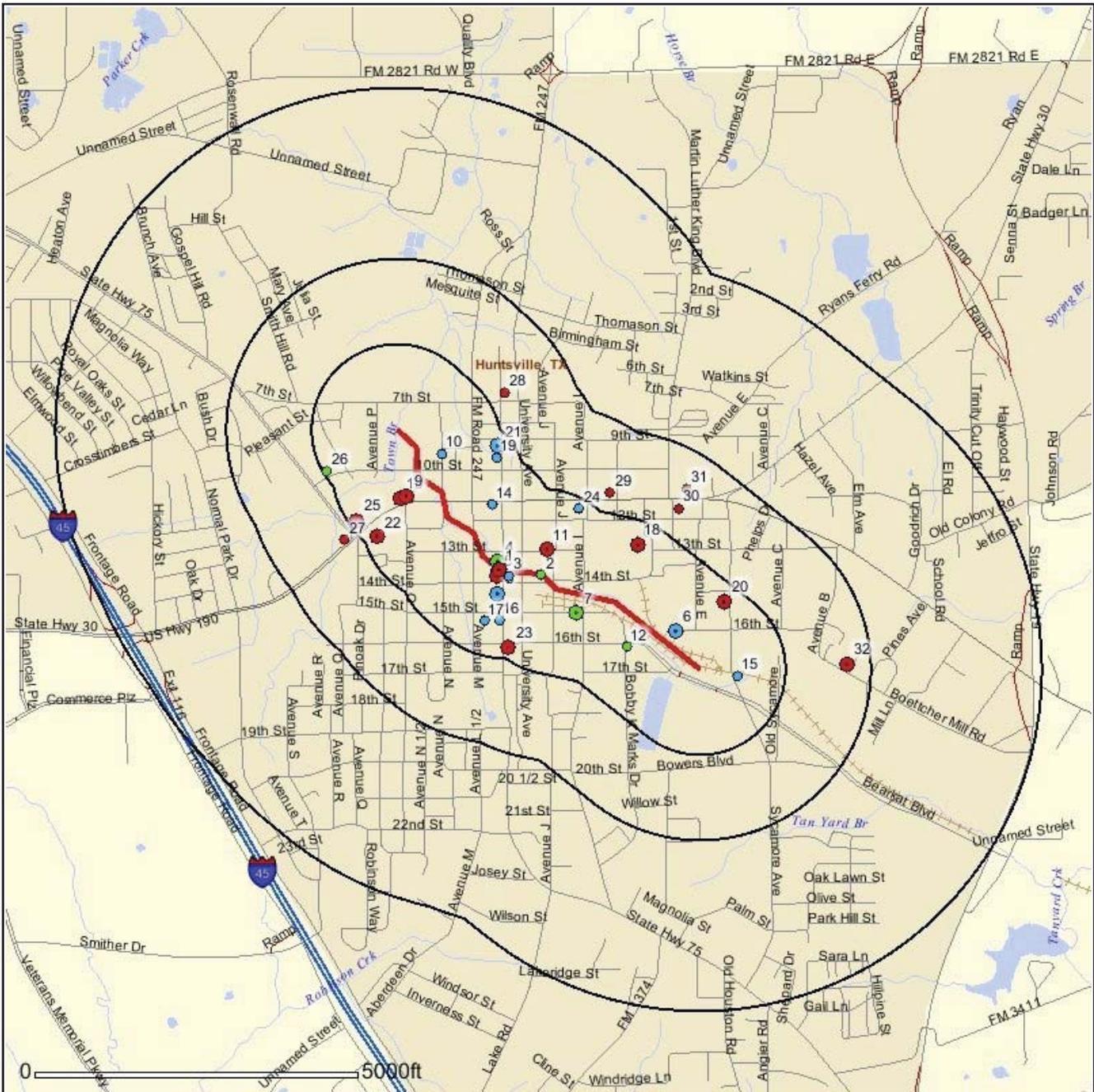
RCRA COR, RCRA TSD, CER, LPST, NPL, ST NPL, SWLF
RCRA GEN, ST & FED BWN, ST & FED EC, ST & FED IC, DNPL, CER NFRAP, PST, VCP, ST CER
ERNS, IHW, RCRA, DRYC, AIRS

- Limited Access Hwy
- Primary Highway
- Secondary Highway
- Roads
- Ramps
- Railroad
- County
- State
- Urban Area
- Water Bodies

One inch = 0.32 miles

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One inch = 0.49 miles

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★ Target Site

- Single Water Well
- Water Well Cluster
- Single Oil/Gas/Other Well
- Oil/Gas/Other Well Cluster
- Water Well/Oil/Gas/Other Well Cluster Site

- Limited Access Hwy
- Primary Highway
- Secondary Highway
- Roads
- Ramps
- Railroad
- County
- State
- Urban Area
- Water Bodies

One inch = 0.24 miles

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Map ID	Well ID	Owner	Well Type	Elevation
1	60-20-206	City of Huntsville Well #9.	Water: Unused	360 ft
2	60-20-202	City of Huntsville Well #10.	Water: Plugged or Destroyed	377 ft
3	60-20-201	City of Huntsville Well #8.	Water: Unused	364 ft
4	60-20-208	Texas Refrigerator & Ice Co.	Water: Unused	374 ft
5	60-20-205	City of Huntsville Well #7.	Water: Plugged or Destroyed	436 ft

Source

U.S. Geological Survey, Texas Water Development Board (GW and Submitted Driller's Report), Texas Commission of Environmental Quality (PWS), Railroad Commission of Texas (Production Data)

Disclaimer

This well scan from Banks Environmental Data, Inc. has included a digital search of state and federal wells currently digitized in our geospatial database. Since this scan includes only well data that is currently mapped in our geospatial database, more wells could exist within the search area. For a complete well search or to locate more details, please contact Banks to obtain a full Water Well Report or Oil & Gas Well/Pipeline Search Report. More detailed individual well records can also be obtained from Banks for an additional cost, please reference a well ID # from this well scan.

All well locations are based on information obtained from state and federal sources. Although Banks performs quality assurance and quality control on all data, inaccuracies of the records and mapped locations could possibly be traced to the specific regulatory authority or individual well driller. Banks Environmental Data, Inc. cannot fully guarantee the accuracy of the data or well location(s) of the maps and records maintained by the state and federal agencies.

Database	Distance from Target Property	Map ID	Facility Site Name	Facility Site Address	Site Details Page #
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*Sites are sorted by database tier, database, and distance from the target site.

RCRA TSD	0.18 miles N	18	TDCJ HUNTSVILLE UNIT	815 12TH ST HALL C, HUNTSVILLE, TX 77340	20
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RCRA GEN	0.18 miles N	18	TDCJ HUNTSVILLE UNIT	815 12TH ST HALL C, HUNTSVILLE, TX 77340	22
RCRA GEN	0.21 miles NE	21	MILLER MEMORIAL USARC	920 S SAM HOUSTON AVE, HUNTSVILLE, TX 77340	24

LPST	Target Property	1	CHARLIES USED CARS	1402 SAM HOUSTON AVE, HUNTSVILLE, TX 77340	26
LPST	0.02 miles SW	5	DIAMOND SHAMROCK 587	1328 SAM HOUSTON AVE, HUNTSVILLE, TX 77340	31
LPST	0.07 miles SW	9	WILBURN DICKERSON CHEVRON	1504 11TH ST, HUNTSVILLE, TX 77340	35
LPST	0.08 miles N	11	HUNTSVILLE 295 C O WL8350	1014 13TH ST, HUNTSVILLE, TX 77340	39
LPST	0.09 miles SW	13	WESTERN BEVERAGE	AVE O AVENUE O ON 11TH STREET, HUNTSVILLE, TX 77340	41
LPST	0.18 miles N	18	MOTOR POOL UNIT	815 12TH ST, HUNTSVILLE, TX 77342	42
LPST	0.2 miles NE	20	U RENT UM	1410 SYCAMORE, HUNTSVILLE, TX 77340	46
LPST	0.21 miles SW	22	HUNTSVILLE NISSAN	1569 11TH ST, HUNTSVILLE, TX 77340	48
LPST	0.22 miles S	23	GULF OIL CORP 107711	1603 S SAM HOUSTON AVE, HUNTSVILLE, TX 77340	50
LPST	0.23 miles SW	25	FUTURE WALGREENS FORMER GAS STA	1570 11TH ST, HUNTSVILLE, TX 76443	53
LPST	0.29 miles SW	27	MARTINEZ GULF	1608 11TH ST, HUNTSVILLE, TX 77340	54
LPST	0.3 miles NE	28	JAYS GROCERY AND MARKET	561 S SAM HOUSTON AVE, HUNTSVILLE, TX 77340	58
LPST	0.31 miles NE	29	OTIS APPLICANCE TXDOT ROW	800 11TH ST, HUNTSVILLE, TX 77340	61
LPST	0.33 miles NE	30	STOP N GO 2802	525 11TH ST, HUNTSVILLE, TX 77340	62
LPST	0.39 miles NE	31	CIRCLE K 82	520 E 11TH ST, HUNTSVILLE, TX 77340	66
LPST	0.43 miles E	32	HUNTSVILLE MUNICIPAL AIRPORT	N HWY 75 SAM HOUSTON AVE, HUNTSVILLE, TX 77340	70
LPST	0.43 miles E	32	BOETTCHERS MILL STORE	201 BOETTCHERS MILL DR, HUNTSVILLE, TX 77340	74

PST	Target Property	1	CHARLIES USED CARS	1402 SAM HOUSTON AVE, HUNTSVILLE, TX 77340	78
PST	Target Property	3	CITGO	1329 SAM HOUSTON AVE, HUNTSVILLE, TX 77340	83
PST	0.02 miles SW	5	MS EXPRESS 738	1328 SAM HOUSTON AVE, HUNTSVILLE, TX 77340	87
PST	0.04 miles NE	6	TRANSMIT MIX CONCRETE & MATERIALS	615 16TH ST, HUNTSVILLE, TX 77340	90
PST	0.06 miles S	8	GOODYEAR TIRE & RUBBER	1412 SAM HOUSTON, HUNTSVILLE, TX 77340	91
PST	0.07 miles SW	9	MILLERS SERVICE STATION	1504 11TH ST, HUNTSVILLE, TX 77340	92
PST	0.07 miles E	10	SOUTHWESTERN BELL TELEPHONE CO	912 N AVE, HUNTSVILLE, TX 77340	96
PST	0.08 miles N	11	HUNTSVILLE DIAL 295 C O WL8350	1014 13TH ST, HUNTSVILLE, TX 77340	97
PST	0.09 miles SW	13	TUNE UP PLUS	1506 11TH ST, HUNTSVILLE, TX 77340	99
PST	0.1 miles NE	14	JIF E MART 1	1233 11TH ST, HUNTSVILLE, TX 77340	100



Mapped Sites Summary

Town Creek Drainage Improvements

Database	Distance from Target Property	Map ID	Facility Site Name	Facility Site Address	Site Details Page #
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*Sites are sorted by database tier, database, and distance from the target site.

PST	0.11 miles E	15	EUGENE MCCAFFETY	1711 SYCAMORE, HUNTSVILLE, TX 77340	103
PST	0.14 miles S	16	66 CAR CARE CENTER	1502 SAM HOUSTON AVE, HUNTSVILLE, TX 77340	104
PST	0.15 miles S	17	HUNTSVILLE FUNERAL HOME	1215 15TH ST, HUNTSVILLE, TX 77340	107
PST	0.18 miles N	18	TDCJ HUNTSVILLE UNIT	815 12TH ST, HUNTSVILLE, TX 77340	108
PST	0.19 miles NE	19	GOINES TEXACO	912 SAM HOUSTON AVE, HUNTSVILLE, TX 77340	111
PST	0.2 miles NE	20	U-RENT-M	1410 SYCAMORE, HUNTSVILLE, TX 77340	114
PST	0.21 miles NE	21	MILLER MEMORIAL US ARMY RESERVE CTR	920 S SAM HOUSTON AVE, HUNTSVILLE, TX 77340	116
PST	0.21 miles SW	22	HUNTSVILLE CHEV NISSAN	1569 11TH ST, HUNTSVILLE, TX 77340	117
PST	0.22 miles S	23	GULF OIL CORP	1603 S SAM HOUSTON AVE, HUNTSVILLE, TX 77340	118
PST	0.22 miles NE	24	POOKIES EXXON	901 11TH ST, HUNTSVILLE, TX 77340	121

HW	0.04 miles NE	6	A SUBSIDIARY OF TRINITY INDUSTRIES INC	615 16th St, Huntsville, TX 77340	124
HW	0.05 miles S	7	M-I HOLDINGS HUNTSVILLE	920 15th St, Huntsville, TX 77340	125
HW	0.06 miles S	8	GOODYEAR AUTO SERVICE CENTER	1412 Sam Houston Ave, Huntsville, TX 77340	126
HW	0.08 miles SW	12	PPG INDUSTRIES	TX	127
HW	0.18 miles N	18	TDCJ HUNTSVILLE UNIT	815 12th St, Huntsville, TX 77340	128
HW	0.18 miles N	18	HUNTSVILLE PRINT SHOP	815 12TH ST, HUNTSVILLE, TX 77340	129
HW	0.21 miles SW	22	HOLLAND CHEVROVLET NISSAN	1569 11TH ST, HUNTSVILLE, TX 77340	130
HW	0.23 miles SW	25	WALGREEN 1062	1570 11th St, Huntsville, TX 77340	131

RCRA	0.02 miles NE	4	C & K CLEANERS	1310 SAM HOUSTON AVE, HUNTSVILLE, TX 77340	132
RCRA	0.04 miles NE	6	TRANSIT MIX CONCRETE & MATERIALS COMPANY	615 16TH ST, HUNTSVILLE, TX 77340	134
RCRA	0.05 miles S	7	M-I HOLDINGS LLC	920 15TH ST, HUNTSVILLE, TX 77340	136
RCRA	0.06 miles S	8	THE GOODYEAR TIRE & RUBBER COMPANY	1412 SAM HOUSTON AVE, HUNTSVILLE, TX 77340	138
RCRA	0.21 miles SW	22	HOLLAND CHEVROVLET NISSAN	1569 11TH STREET, HUNTSVILLE, TX 77340	140
RCRA	0.23 miles SW	25	WALGREEN CO	1570 11TH ST, HUNTSVILLE, TX 77340	142

DRYC	Target Property	1	LUCKY STAR CLEANERS	1402 SAM HOUSTON AVE STE A, HUNTSVILLE, TX 77340	144
DRYC	Target Property	2	CLOTHES N TIME	1329 UNIVERSITY AVE, HUNTSVILLE, TX 77340	145
DRYC	0.02 miles NE	4	C K CLEANERS	1310 SAM HOUSTON AVE, HUNTSVILLE, TX 77340	146
DRYC	0.24 miles SW	26	LUCKY STAR CLEANERS	40 STATE HIGHWAY 75 N, HUNTSVILLE, TX 77340	147

End of Mapped Sites Summary Section

APPENDIX G
PUBLIC NOTICE AND PUBLIC COMMENT AND RESPONSE TABLE

**Federal Emergency Management Agency
PUBLIC NOTICE**

Notice of Availability of the Draft Environmental Assessment for the City of Huntsville Town Creek Drainage Improvement Project, Walker County, Texas
HMGP-DR-1791-TX Project #120

Interested persons are hereby notified that the City of Huntsville has applied to the Federal Emergency Management Agency (FEMA), through the Texas Division of Emergency Management (TDEM), for Hazard Mitigation Grant Program (HMGP) funding under Section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act. FEMA's Hazard Mitigation Grant Program provides grants to states and local governments to implement long-term hazard mitigation measures that reduce the loss of life and property due to natural disasters and to enable mitigation measures to be implemented during the immediate recovery from a disaster.

FEMA proposes to provide funding to the City for improvements along approximately 1.5 miles of Town Creek between 7th Street and Bearkat Boulevard in downtown Huntsville. From 7th Street to 14th Street, railroad tanker cars will be replaced with reinforced concrete box culverts and drainage lines; existing culverts will be replaced and added; cross sections and banks will be modified above the Ordinary High Water Mark of Town Creek; and a new headwall with wing walls will be placed at the southern entrance to the 11th Street culvert. From 14th Street to 17th Street full channel improvements will create uniform creek slopes and bottoms with a shelf on the western bank. An in-channel detention facility within an expanded creek right-of-way will be constructed in the portion of the creek near Avenue J. A four-foot tall drop structure will be placed at the downstream end of the detention facility. From the southern end of the proposed detention facility to the southern terminus of the proposed project, full channel improvements will create uniform creek slopes and bottoms via full reshaping of the creek. An existing detention area utilized as a sports field at Sam Houston State University will undergo cross-section improvements to correct existing hydrological deficiencies.

A draft Environmental Assessment (EA) has been prepared to assess the potential impacts of the proposed action and alternatives on the human and natural environment in accordance with the National Environmental Policy Act of 1969 (NEPA), the Council for Environmental Quality (CEQ) regulations implementing NEPA (40 CFR Parts 1500 – 1508), the National Historic Preservation Act, Executive Order 11988, Executive Order 11990, and the implementing regulations of FEMA (44 CFR Parts 9 and 10). The draft EA evaluates alternatives that provide for compliance with applicable environmental laws. The alternatives evaluated include (1) no action; (2) the proposed action described above.

The draft EA is available for review and comment at the City of Huntsville City Hall, City Hall 1212 Avenue M, Huntsville, TX 77340 Monday-Friday 8 am-5 pm from March 29 to April 13, 2015. An electronic version of the draft EA can be requested from Dorothy Weir, FEMA Region 6, at dorothy.weir@fema.dhs.gov or viewed on FEMA's website at <http://www.fema.gov/media-library/assets/documents>.

The comment period will end 15 days from the initial notice publication date. Written comments on the draft EA can be mailed, emailed, or faxed to Dorothy Weir, Environmental Specialist, FEMA Region 6, 800 N Loop 288, Denton, TX 76209, Fax: 940-297-0152; dorothy.weir@fema.dhs.gov. If no substantive comments are received, the draft EA will become final and a Finding of No Significant Impact (FONSI) will be issued for the project. Substantive comments will be addressed as appropriate in the final documents.

#	Date	Commenter	Comment	Comment Category	Applicable EA Section(s)	Response
1	3/29/15	Mr. George Russell	The Ethician Foundation owns the last remaining natural and wild section of the creek in the 9 block Central Business District of Huntsville which is also a Cultural District. We have recently spent over \$30,000 building a public board walk along the E. bank above the flood plain so that citizens can observe the urban wildlife habitat. Graduate students in the Biology Department are allowed to make us of our "park" for research purposes, most recently involved with urban ornithology.	Project Area Information.	4.1	No response required.
2	3/29/15	Mr. George Russell	This part of the creek is also very important archaeologically and, although we are open minded about very careful work to remove cement and other anglo-caused debris in the creek bed we are especially concerned about the well-being of the huge Alligator Snapping Turtle that is known to traverse the section of the creek between 11th Street and 13 th Street. There are also Common Snapping Turtles that reside in the pool at the 13th Street head wall that was very carefully constructed a few years ago.	Archeology; Biological Resources	4.3; 4.4	Alligator Snapping Turtle is a state threatened species. It may migrate several miles along rivers; active March-October; breeds April-October. TPWD had no record of the turtle within 1.5 miles of project area. Potential presence of turtle now acknowledged in EA. The following condition has been added to the EA and Finding of No Significant Impact (FONSI) and is a requirement of the FEMA grant: The City of Huntsville will advise construction contractors of the potential presence of the Alligator Snapping Turtle within Town Creek. The City must comply with Chapters 67 and 68 of the Texas Parks and Wildlife Code which regulates state-listed species. The proposed action must not result in the take of any state listed species as defined in Section 1.101(5) of the Texas Parks and Wildlife Code.
3	3/29/15	Mr. George Russell	Our staff archaeologist, Bruce Moore, has discovered Paleo artifacts in association with remains of extinct mega-fauna in parts of Town Creek. Some of these finds, including effigies may be viewed and examined in our MUSEUM OF TEXAS ARTS at 1425 University Avenue. Mr. Moore has also discovered and recovered 19th century materials from Anglo-culture from the creek bed. It would be positive for further investigations to take place along the entire course of the project due to the fact that since the Clovis era humans have made use of the spring fed creeks that formerly criss-crossed Huntsville due to the abundance of native wildlife.	Archeology	4.4	No archaeological sites or artifacts have been registered or reported through the Texas Historical Commission, or the NRHP. The identification of undisturbed archaeological sites is not anticipated. Due to the archaeological potential of the area, should any cultural resources be discovered or identified during the implementation of the project, an inadvertent discovery clause, detailing the required procedures has been outlined in section 4.4. of the EA. This clause will be a condition and requirement of the federal grant. We encourage the in-place documentation and registration of archaeological sites via the THC, prior to the collection or removal of resources on public lands, or individuals other than the landowner.
4	3/29/15	Mr. George Russell	In 1835 Pleasant Gray located his trading post a very short distance from Town Creek to take advantage of trading opportunities with Native Americans. The 1844 George Washington Rogers Home is situated just above the portion of the creek that was tragically destroyed and placed in tank cars between University Avenue and Sam Houston Avenue just to the south of 14th Street. Our foundation also owns that historic structure and it would be great to open the channel to its original pre-Anglo configuration.	Historic Properties	4.4	Pleasant Gray's Trading Post is located at 1105 Universtiy Avenue. It is several blocks from the proposed work. The George Washington Rogers Home is located at 1418 University. Work is not taking place on this parcel. Existing underground drainage structures are being replaced with reinforced concrete box culverts about a block north of this structure. These two homes are not within the APE for the project.
5	3/29/15	Mr. George Russell	I have not yet reviewed the Draft EA but want to make certain that you and your staff are fully aware of the delicate nature of this rare urban ecosystem and archaeological zone and that special precautions are taken to insure that any work that we may authorize does not cause irreparable harm. My staff and I will be happy to visit with you and your staff to work out any details about how best to proceed.	Project Area Information	EA OVERALL	No response required.

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6	4/8/15	Mr. George Russell	I have waded through the EA and Appendices for a first reading and the EA itself for a second reading. I still cannot wrap my head around how the EA would meet even the lowest level of standards as a professionally produced document.	EA Inadequate	EA OVERALL	The draft EA meets the FEMA regulations in 44 CFR Part 10.9. It was reviewed and approved by the Regional Environmental Officer and by the Office of Chief Counsel.
7	4/8/15	Mr. George Russell	As I have little time to thoroughly expose the fact, in my professional opinion, that the document is FATALLY FLAWED and the process should begin again from scratch or be elevated to an EIS if this is what EA's in 2015 have been reduced to, my comments will be by necessity truncated as the situation is vastly more complex than the EA would lead the average reader to believe.	EA Inadequate	EA OVERALL	Per NEPA, and FEMA's implementing regulations, an EIS is prepared when a proposed action will have significant impact on the environment, per 40 CFR 1508.27. FEMA is determining significance of impact through the EA process.
8	4/8/15	Mr. George Russell	TEXAS OPEN RECORDS ACT REQUEST PERTAINING TO THE TOWN CREEK DRAINAGE PROJECT	Involvement with Project at State/Local Level.	NA	No response required. This is a Texas Open Records Act Request that was reportedly submitted to the state in 2009. FEMA is responding to comments on the draft EA for the Town Creek project.
9	4/8/15	Mr. George Russell	When I asked for a tape of the City Council Meeting of 29 September 2009 as stated occurred in the EA, it was discovered that NO SUCH MEETING OCCURRED. I consider this subterfuge to be a FATAL FLAW in the EA, which should be returned to be re-written using proper etiquette and standard scientific procedures to comply with both State and Federal Laws.	Factual Correction	APPENDIX D	Appendix D of the EA has been revised and reference to this meeting has been removed. This edit does not change the overall meaning of the Step 7 review of the 8-step process. The applicant is still required to publish final notice as a condition of the grant award.
10	4/8/15	Mr. George Russell	2.0 PURPOSE OF AND NEED FOR THE PROJECT "...many local homes..." An on the ground survey of the area and a Google Earth inspection of the area compared to the flood plain map indicates that there are ZERO LOCAL HOMES in the Project Area at all from 10th Street to Sycamore at all and the few low value homes in the area between 7th and 10th are not in the flood plain and there is no work anticipated in this channelized biological desert.	Purpose and Need Misleading	2.0	There are 7 houses within the 100-year floodplain along 10th Street at Avenue O. Two (2) are on north side about 300 feet west of O, and the rest are right at O on the south side (both corners). As far as we can tell, the former houses along the Creek south of 10th street are all now in use as businesses and an arts/historic museum [the converted houses are a law office at 11th and N (NWC), the Arts and Visitors Center at 11th and O, and GiddyUp Glamour at 11th and N (SWC)]. Apartments near Bearkat are outside floodplain. The EA does not imply all buildings that will benefit from project are in the floodplain. Buildings outside of the floodplain may also benefit from the project. Clarification on this point has been added to EA. EA has been revised to state several" rather than "many" local homes.
11	4/8/15	Mr. George Russell	3.0 ALTERNATIVES "...local residences...many local homes...private residences" There are NONE OF THE ABOVE IN THE PROJECT AREA. There are four dishonest, bogus, and nonsensical "SCARE WORD REFERENCES" to promote the need for this destructive and wasteful project. This kind of dishonesty in an EA should be sufficient cause to VOID it in its entirety, considering that the EA is chock-full of FATAL FLAWS, incomplete and erroneous propaganda meant to promote an absurd and environmentally unjustifiable waste of tax dollars.	Purpose and Need Misleading	2.0; 3.0	There are 7 houses within the 100-year floodplain along 10th Street at Avenue O. Two (2) are on north side about 300 feet west of O, and the rest are right at O on the south side (both corners). As far as we can tell, the former houses along the Creek south of 10th street are all now in use as businesses and an arts/historic museum [the converted houses are a law office at 11th and N (NWC), the Arts and Visitors Center at 11th and O, and GiddyUp Glamour at 11th and N (SWC)]. Apartments near Bearkat are outside floodplain. EA has been revised to state several" rather than "many" local homes.

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12	4/9/15	Mr. George Russell	In both 2.0 PURPOSE AND NEED FOR THE PROJECT And 3.0 ALTERNATIVES It is FALSELY stated that "personal property would be at risk". What "personal property" could possibly be at risk other than a vehicle left in the flood plain during a rain event in which case it would be covered by the owner's insurance coverage?	Purpose and Need Misleading	2.0; 3.0	This is not a false statement. Personal property in the form of vehicles, homes, contents are at risk from flooding in the project area. Who pays for that (whether it is out of someone's pocket or by their personal insurance) is not relative to the purpose of the project to protect property from flood damage in the first place.
13	4/9/15	Mr. George Russell	It has already been established that there are no personal residences in the flood plain and thus from a cost effective standpoint how does it make any sense at all to spend \$11 million to protect virtually nothing at all of a "personal nature".	Not the best use for tax dollars	1.1; 2.0	We have identified 7 houses that are within the 100-year floodplain. These 7 houses identified within the floodplain and all possessions within those houses are also covered by the term 'personal property'. Onsite reconnaissance would need to be made to the houses to confirm if they are currently occupied. The project has been determined eligible under the Hazard Mitigation Grant Program and has met the cost benefit analysis of that program.
14	4/9/15	Mr. George Russell	It appears that the preparers of the EA have in their computers a "boiler plate" of things that could theoretically happen under some circumstances in other parts of the country but NOT in downtown Huntsville, Texas. This virtually worthless EA from the standpoint of having any credibility at all is either the product of laziness and failure to check even the most basic of facts or of planned and plotted fabrications to cause FEMA computers and staff to believe that there may actually be a genuine need for this obvious boondoggle and supreme waste of tax dollars to protect only properties owned by Mayor Mac Woodward and his family businesses which are built on top of the rusty tank cars. I am hereby asking FEMA to cease and desist from any further action on this matter and investigate how it could have come this far without "whistle blowers" calling foul.	EA Inadequate	EA OVERALL	The draft EA meets the FEMA regulations in 44 CFR Part 10.9. It was reviewed and approved by the Regional Environmental Officer and by the Office of Chief Counsel. The project is an eligible Hazard Mitigation Grant Program project that meets the benefit cost analysis requirements of the program.
15	4/9/15	Mr. George Russell	Thanks. What procedure should I use to request a formal investigation into what appears to me to be an attempt to take money from FEMA for a virtually bogus project that it appears at this point would only protect a couple of Mayor Mac Woodward's property investments.	Conflict of Interest	NA	No response required. FEMA is responding to comments on the draft EA for the Town Creek project.
16	4/9/15	Mr. George Russell	I am working on more FATAL FLAWS of which there are several more. With the clock ticking and it being hard to deal with the City Hall bureaucracy the sands of time may play out before I am able to expose all of the bogus data and other information fabricated to make it appear that the project is worthy of spending \$11 million tax dollars on to protect buildings owned by the Mayor's family enterprises that were foolishly built on top of a natural creek.	Not the best use for tax dollars	1.1; 2.0	The project is an eligible Hazard Mitigation Grant Program project that meets the benefit cost analysis requirements of the program.
17	4/9/15	Mr. George Russell	FEMA's highest and best use of Federal Tax Dollars would be to purchase the old metallic and hideously ugly shopping center on top of the creek for the \$676,240 that it is appraised at or \$829,590 including the land so that green space could be expanded downtown and remove the offending foolishly cheaply built structures worth only \$34 per square foot by the CAD.	Not the best use for tax dollars	1.1; 2.0	The project is an eligible Hazard Mitigation Grant Program project that meets the benefit cost analysis requirements of the program.

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18	4/9/15	Mr. George Russell	Please add to my comments as this fact contributes to the fact that the cost of protecting the privately owned buildings would far exceed the value of the structures. That simply is NOT a cost effective use of tax dollars.	Not the best use for tax dollars	1.1; 2.0	The project is an eligible Hazard Mitigation Grant Program project that meets the benefit cost analysis requirements of the program.
19	4/9/15	Mr. George Russell	At present my research indicates that the Mayor, then a City Council Member did NOT recuse himself as prescribed by law, nor have I found any indication in the MINUTES FROM THE HUNTSVILLE CITY COUNCIL MEETING HELD ON THE 6 TH DAY OF OCTOBER, 2009, that Councilman Mac Woodward (Now Mayor Mac Woodward) filed an AFFIDAVIT DISCLOSING THE NATURE OF HIS INTEREST IN THE MATTER.	Conflict of Interest	NA	No response required. FEMA is responding to comments on the draft EA for the Town Creek project.
20	4/10/15	Mr. George Russell	Miss Lee: James Patton thinks that either you or Linda Pease may have a copy of the 1993 Hardy Heck and Moore Historic Building Survey and the 1981 HGAC Survey. Please see if you can locate copies for me to examine.	Involvement with Project at State/Local Level; Historic Properties	4.4	No response required. This is a request from Mr. Russell to the City. FEMA did obtain a copy of the 1993 report to review
21	4/10/15	Mr. George Russell	Another FATAL FLAW in the document that is alleged to be a credible objective EA in regard to the Town Creek "Destruction" Plans FALSELY states: "As no known archeological sites and historic properties are located within or immediately adjacent to the proposed project site, no impacts to archeological or cultural resources are anticipated." The number of outright lies, distortions, concoctions, fabrications and other nonsense in order to justify destroying what little is left of historic Town Creek is mind boggling.	Historic Properties; Archeology	4.4	Currently, no sites have been registered with the THC or the NRHP. Due to the potential for as-yet unidentified and undisturbed archaeological sites in the area, a clause has been included in section 4.4 that will require the assessment, and associated SHPO consultation, of any resources encountered during the implementation of the project prior to the continuation of work in the vicinity of an unanticipated discovery.
22	4/10/15	Mr. George Russell	Ms. Weir: Please add this message as a preliminary report on proof that I will hopefully have time to document that proves that the entire EA should be shredded and thrown in a recycling bin. Any moneys spent for this FATALLY FLAWED document should be refunded to the taxpayers.	EA Inadequate	EA OVERALL	The project is an eligible Hazard Mitigation Grant Program project that meets the benefit cost analysis requirements of the program. The draft EA meets the FEMA regulations in 44 CFR Part 10.9. It was reviewed and approved by the Regional Environmental Officer and by the Office of Chief Counsel.
23	4/10/15	Mr. George Russell	Miss Lee: I found that I had submitted a TORA request for information about the "Town Creek Drainage Project" on 2 August 2009, (copy attached) but for the life of me can't recall ever receiving the documentation requested. Would you please check your files and records to determine if the City ever complied with my TORA request? If you find a DVD with the data or a paper trail indicating that the City ever responded please let me know so that I can refresh my mind.	Involvement with Project at State/Local Level	NA	No response required. FEMA is responding to comments on the draft EA for the Town Creek project.
24	4/10/15	Mr. George Russell	Thanks for attempting to find the documents anyway. If my recollection serves me Baine asked me to withdraw the request by promising that there would be ZERO damage to the native creek in the plan which was a typical bald-faced lie by Baine.	Involvement with Project at State/Local Level	NA	No response required. FEMA is responding to comments on the draft EA for the Town Creek project.

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25	4/10/15	Mr. George Russell	APPENDIX F: A former dry cleaning establishment is located just to the south of the "project" at 1416 Sam Houston Avenue. This "cleaners" was in business for several decades at that location back in the days when there was little if any concern for the presence of toxic chemicals associated with "on premises" dry cleaning. In recent years the building was purchased by John Kerr Smither, a cousin of Mayor Mac Woodward. Because of Mr. Smither's "political connections" he has, to my knowledge, never been accountable for violations of city codes and my recollection is that there has never been any mitigation for any contaminated soil or contamination to the water table that might have eventually found its way into Town Creek. The "HAZARDOUS MATERIALS REGULATORY DATABASE RECORDS AND MAP" mention only "drop off places" for clothes to be cleaned and there is no mention of the probable hazardous former dry cleaning establishment at 1416 Sam Houston Avenue.	Hazardous Materials	4.9	The potential for impacts to the project area from the former dry cleaners is low due to its distance from and topographically cross-gradient position to the proposed ROW. Additionally, there are no known environmental impacts at the former dry cleaner site, unless someone has information they're withholding. In our opinion (Berg Oliver Haz Mat Specialist), sampling and testing soils and/or groundwater within the proposed ROW for potential impacts from the former dry cleaner site is unwarranted. There is nothing showing up other than the Goodyear at 1412 Sam Houston and another cleaners at 13th Street on the EPA enviro mapper. Also, the TCEQ website does not have any sites listed in Walker County. See link and explanation that "If a county does not appear on this list, it is because there is no state or federal Superfund site in that county. This index includes all sites—those where cleanup is complete as well as those for which cleanup or assessment is in progress. No TCEQ remediation actions were found using the central query for dry cleaner registration or remediation. Unless this citizen has substantive information and can make more of a compelling argument, the inadvertent discovery of hazardous materials during work is sufficient.
26	4/10/15	Mr. George Russell	6.0 PUBLIC INVOLVEMENT The EA states that FEMA would be responsive to the needs of the community and the plan would meet "the intent of Federal environmental and cultural resource laws, including NEPA, and complying with all necessary provisions." If this statement is true then FEMA should withdraw any and all support and funding for the economic and environmental disaster as outlined in the EA which would not conform to NEPA in any way and would totally destroy an exceedingly rare old growth urban forest ecosystem with its myriad forms of life and cause irreparable harm to the aesthetics of the historic central part of Huntsville, ostensibly to protect an ill conceived and foolishly built hideously ugly strip center, that the Mayor's family business built on top of Town Creek.	EA Inadequate; Historic Properties; Biological Resources; Conflict of Interest	4.3; 4.4; 6.0	FEMA has complied with NEPA per 44 CFR Part 10. The project complies with federal environmental laws and executive orders. The proposed action will impact approximately 1.46 acres of existing vegetation. This acreage is scattered along the length of the proposed project and is not concentrated in any one area. The existing vegetation would be replaced with landscaped and maintained vegetation. FEMA does not interpret this vegetation removal as a significant impact per 40 CFR 1508.27.
27	4/10/15	Mr. George Russell	The EA also mentions that USACE "held a public comment period" and input was solicited from a "limited number of interested parties." I have no recall of being informed about any USACE public comment periods nor as a party that owns historic and environmentally critical properties being on the list of "interested parties".	USACE EA	6.0; APPENDIX E	Appendix E: Agency Coordination" contains the U.S. Army Corps of Engineers (USACE) permit and environmental decision document for this project. These documents outline the Corps' public involvement and comment process. The statement in the FEMA EA is correct. FEMA cannot speak to why the Corps did not directly inform Mr. Russell of the project. The Corps permit only applies to the work proposed from 17th to 14th Street

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28	4/10/15	Mr. George Russell	On 6 October 2009, City Manager Bill Baine stated before Council that he "had about seven meetings with land owners, plus other parties. He did meet with me and lied through his teeth about the extent of the project which he said would not damage or destroy any part of the remaining rare old growth urban forest ecosystems and that the project was for hiking, biking, and to build retention ponds at the headwaters on college property where there was already an undersized retention basin that seemed to be the only genuine problem except for needing to line the tank cars as TxDot does under highways rather than tear them up. The stated recommendation in 2009 was to remove the tank cars and "restore" the creek to its natural channel configuration. It was suggested that "tank car" area be left open as a less expensive solution to restore the creek channel.	Involvement with Project at State/Local Level	NA	The FEMA EA evaluates the proposed action as presented in the EA. This is the version of the project that has been put forward to FEMA for funding.
29	4/10/15	Mr. George Russell	I asked to be contacted by Klotz and any other design firm and told Baine that since I had more environmental and historical knowledge than anyone in Walker County I would be happy to provide my expertise pro bono.	Involvement with Project at State/Local Level	NA	No response required. FEMA is responding to comments on the draft EA for the Town Creek project.
30	4/10/15	Mr. George Russell	The only thing that Baine asked me for was the right to have the trees on our part of Town Creek measured and inventoried and permission to have convicts under the supervision of David Zellar who is City Arborist and Archaeologist remove litter, broken glass, and broken bricks and concrete from the channel. I gave that permission but the work was never performed. I was never provided a copy of the inventory	Involvement with Project at State/Local Level	NA	No response required. FEMA is responding to comments on the draft EA for the Town Creek project. The FEMA EA evaluates the proposed action as presented in the EA. This is the version of the project that has been put forward to FEMA for funding.
31	4/10/15	Mr. George Russell	I am also Forest Practices Chair Emeritus, Lone Star Sierra Club and offered to provide my extensive expertise in urban forest ecology to Klotz et al.	Involvement with Project at State/Local Level	NA	No response required. FEMA is responding to comments on the draft EA for the Town Creek project.
32	4/10/15	Mr. George Russell	Lindsay Lauer and her boss who is now retired asked for a tour of our historic Smither Warehouse property that is adjacent to the project boundary. I gave the tour. I visited with Lauer today at her Main Street office and she had been led to believe the same thing about the project being environmentally benign and an aesthetic and recreational improvement.	Involvement with Project at State/Local Level	NA	The FEMA EA evaluates the proposed action as presented in the EA. This is the version of the project that has been put forward to FEMA for funding.
33	4/10/15	Mr. George Russell	I just returned from visiting with Linda Pease whose office is in the City owned Wynne Home Arts Center that borders the project area. She also had been misled to believe that there would only be an enhancement of the creek side environment with walking paths etc. and had never been told that any native trees would be damaged or destroyed or that the beautiful creek would be turned into a sterile ditch such as is a virtual environmental desert in the already destroyed section between 7 th and 10 th Street.	Involvement with Project at State/Local Level	NA	The FEMA EA evaluates the proposed action as presented in the EA. This is the version of the project that has been put forward to FEMA for funding.
34	4/10/15	Mr. George Russell	The bottom line is that we were all lied to which is unacceptable behavior on the part of the plotters and planners who kept the extent of the environmental and aesthetic destruction in the plan a deep dark secret until just a few days ago.	Involvement with Project at State/Local Level	NA	The FEMA EA evaluates the proposed action as presented in the EA. This is the version of the project that has been put forward to FEMA for funding.
35	4/10/15	Mr. George Russell	An EA and plan based on lying to the public is not acceptable and the plan must be scrapped until such time as a legitimate plan can be formulated that adheres to both the spirit and letter of the law.	Involvement with Project at State/Local Level	NA	The FEMA EA evaluates the proposed action as presented in the EA. This is the version of the project that has been put forward to FEMA for funding. The project does not violate any federal environmental law or executive order.

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36	4/10/15	Mr. George Russell	4.4 CULTURAL RESOURCES The EA falsely states: "As no known archeological sites and historic properties are located within or immediately adjacent to the proposed project site, no impacts to archeological or cultural resources are anticipated. Fact: City Arborist /Archaeologist David Zellar is well aware of the important artifacts from Native American and Anglo-Pioneer cultures that line the banks, slopes, and bottoms of the Town Creek Channel. Obviously, Klotz et al did not bother to consult with the City staff person that could have provided information about Pleistocene Mega-Fauna fossils, Native American stone tools and 19 th century artifacts that are abundantly found in and adjacent to Town Creek.	Archeology	4.4	Under Section 106 of the NHPA, FEMA and USACE, through the EA contractor staff, consulted with the SHPO and received concurrence from SHPO that no historic properties (resources eligible for or listed in the NRHP) would be adversely affected by the proposed project. A requirement of the grant is that if in-place archaeological materials are inadvertently discovered during project implementation, that work must stop and the City must contact the SHPO. Not all archaeological materials are eligible for listing in the NRHP therefore not all are subject to the NHPA. Some language has been added and edited in Section 4.4 of the EA.
37	4/10/15	Mr. George Russell	Another well known local resource is Bruce Moore, who has extensively explored Town Creek and recovered numerous artifacts that have been displayed in the Walker County Courthouse, The Gibbs-Powell House Museum and in the Museum of Texas Arts and the museum storage areas in the Museum of Texas Furniture and Texas Stoneware.	Archeology	4.4	As far as FEMA and SHPO understand, none of Mr. Moore's discoveries have been reported to the Texas Historical Commission so that their eligibility for the NRHP can be determined and so that they can be officially recorded in the state's Atlas of historical resources. Artifacts should be recorded and documented <i>in-situ</i> . Archaeological material should only be collected and/or removed by, or with explicit permission from, the property owner.
38	4/10/15	Mr. George Russell	I am a Cultural Ecologist/Anthropologist/Archaeologist by training and am also the PRESERVATION SPECIALIST WALKER COUNTY HISTORICAL COMMISSION and advisor to the City of Huntsville Historical Preservation Committee as well as President of the Ethician Foundation that owns critical historic and natural resources in and adjacent to the project area. I hereby INCORPORATE BY REFERENCE : the readily available survey commissioned by the City entitled: HISTORIC RESOURCES SURVEY OF HUNTSVILLE, TEXAS: An Inventory Prepared for The City of Huntsville March 1993; prepared by Hardy-Heck and Moore, Inc. Austin, Texas. This survey which Klotz et obviously ignored states in the acknowledgements: "...and Mr. George Russell, who availed himself to project personnel and provided significant information as he scrutinized the draft documents." I offered by expertise pro-bono for the project at hand but my offer of assistance was ignored to the detriment of the legitimacy of the totally unprofessionally and dishonestly fabricated EA.	Historic Properties	4.4	We have obtained a copy of this report which provides an inventory of buildings, structures and objects built prior to 1945. We have reviewed this document, and find its content valuable. The proposed project should have no impact on any of the documented structures. However, should any unanticipated impacts to historic resources occur, Section 4.4 of the EA states that work on the project must stop until the unanticipated effects are evaluated.
39	4/10/15	Mr. George Russell	The fact that TOWN CREEK was essential to the founding of Huntsville by Pleasant Gray who located his trading post in the Town Creek Watershed due to the presence of Native Americans who were drawn to Town Creek due to the crystal pure spring water and the associated fish and wildlife as a food source as well as the native Pecan trees and other food bearing plants, should be reason enough for Klotz et al to not have made such a false and absurd statement. Town Creek was lined with buildings beginning in the earliest parts of Huntsville's development as an Anglo community. Numerous National Register and/or National Register eligible properties and at least one National Register eligible Historic District are located on or adjacent to the project area that anyone from Klotz et al just cruising down the street looking for "dogs and cats" to list in the EA would have seen to wit: From memory from West to East:	Historic Properties	4.4	The EA has been revised in Section 4.4 to define the area of potential effect for the proposed action. We have obtained a copy of the 1993 report titled "Historic Resources Survey of Huntsville, Texas" by Hardy, Heck, Moore Inc., which provides an inventory of buildings, structures and objects built prior to 1945. We have reviewed this document, and find its content valuable. The proposed project should have no impact on any of the documented buildings, structures or objects. However, should any unanticipated impacts to historic resources occur, Section 4.4 of the EA states that work on the project must stop until the unanticipated effects are evaluated.

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40	4/10/15	Mr. George Russell	1. The Wynne Home Arts Center which borders Town Creek and which would be heavily damaged aesthetically and environmentally if the project is allowed to be realized as planned. Ms. Peace spoke today of numerous species of wildlife that inhabit the grounds of the property, especially in the woods along the creek.	Historic Properties	4.4	They Wynne Home Arts Center is located at 1428 Eleventh St Huntsville, TX 77340. No work is being done to any building, historic or other, as part of this project.
41	4/10/15	Mr. George Russell	2. At least two additional historic buildings that would be negatively impacted on 11 th Street.	Historic Properties	4.4	Unclear which structures are being referenced and how the structures would be impacted. No work is being directly done to any buildings. The area of potential effect definition has been added to Section 4.4 of the EA.
42	4/10/15	Mr. George Russell	3. The archaeologically and ecologically significant Ethician Foundation Urban Wildlife Sanctuary between Avenue M and 13 th Street that is lined with a public observation boardwalk. Bruce Moore recovered Catahoula Quartzite Native American tools during the construction of the board walk and lookouts over the creek.	Archeology	4.4	As far as FEMA and SHPO understand, none of Mr. Moore's discoveries have been reported to the Texas Historical Commission so that their eligibility for the NRHP can be determined and so that they can be officially recorded in the state's Atlas of historical resources. Artifacts should be recorded and documented <i>in-situ</i> . Archaeological material should only be collected and/or removed by, or with explicit permission from, the property owner. Should any in-place, previously unidentified archaeological artifacts be discovered during construction, and inadvertent discovery clause has been included in the EA that provides instructions for moving forward
43	4/10/15	Mr. George Russell	4. The Ethician Foundation's Main Street National Register eligible Historic District that borders the subject and that contains 12 historic structures including the 1844 George Washington Rogers House that was constructed to overlook Town Creek. Rogers was a friend of Sam Houston and sold Houston his first 2.5 acre tract when Houston decided to allow his wife to move from the wilderness to town so that she could be closer to civilization while he was in Washington D. C. as a U. S. Senator. This Town Creek Associated Historic District is adjacent to the former creek channel that underlies the non-historic aesthetically obnoxious Gibbs Strip Center, especially along 14 th Street from University Avenue (Historic Main Street) to Avenue J in the form of the 1940 historic structure that serves as THE ETHICIAN LIBRARY OF TEXANA, ETHICIAN MUSEUM OF TEXAS STONEWARE, ETHICIAN MUSEUM OF TEXAS FURNITURE, and depository of Geological and Archaeological discoveries from the local area. City staff toured this historic building as a part of the planning process to enhance, not damage or destroy the beauty and ecology of Town Creek. Klotz et al certainly had access to this data about the historic resources lining Town Creek's banks. Purposefully withholding this information about the abundant archaeological sites and historic properties is simply UNETHICAL and UNCONSONABLE in order to fabricate a misleading document to present to FEMA to justify an irresponsible and wasteful project of no public benefit but only private benefits to Mayor Mac Woodward's family enterprises that were foolishly constructed on top of Town Creek.	Historic Properties	4.4	Under Section 106 of the NHPA, FEMA and USACE, through the EA contractor staff, consulted with the SHPO and received concurrence from SHPO that no historic properties (resources eligible for or listed in the NRHP) would be adversely affected by the proposed project. A requirement of the grant is that if unanticipated affects negatively impact historic properties, that work must stop and the City must contact the SHPO. Not all historic structures are eligible for listing in the NRHP therefore not all are subject to the NHPA. No work is being done to any building, historic or other, as part of this project. The archeological sites discussed above have not been documented by a qualified archeologist and no site report forms have been filed with the Texas Historical Commission. Should construction activities uncover an archaeological site, activities must halt, per the Inadvertend Discovery Clause, until the site can be assessed and a recommendation made by a qualified archaeologist.

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44	4/10/15	Mr. George Russell	5. Perhaps even more outrageous is the fact that some of the rails from the 1870's rail line that connected Phelps with Huntsville still exist right in the middle of an area that would be destroyed by the project and which is blessed with old growth huge trees, ancient native grape vines and an abundant diversity of wildlife. Anyone driving along the street can see the historic railroad tracks.	Historic Properties	4.4	These tracks exist in the portion of the project area that was subject to review by the Corps. The Corps consulted with the SHPO and SHPO responded that "the proposed realignment and stormwater management construction along Town Creek will not adversely affect sites listed on the National Register of Historic Places or those eligible for inclusion on the National Register. Therefore, this project may proceed without further consultation with this office, provided that significant archeological deposits are not encountered during construction developments. If buried archeological deposits are discovered during the development phases of this project, work should be stopped in the immediate area of such finds and this office should be notified immediately."
45	4/10/15	Mr. George Russell	FATAL FLAW #7 CONFLICTS OF INTEREST: Mayor Mac Woodward's serious CONFLICT OF INTEREST in promoting and voting to pursue the FEMA grant that would protect and enhance the value or protection of properties that he has significant financial interests in to wit: (1) FIRST NATIONAL BANK, formerly called the Gibbs National Bank and in which unless he sold his stock or shares before he voted to approve the expenditure of City tax dollars to promote the FEMA grant, is on or adjacent to the covered up Town Creek channel. (2) THE GIBBS STRIP CENTER that was built atop the Town Creek channel is still an asset that Mayor Mac Woodward and/or his family is seriously financially vested in and that would consume well over \$1,000,000 in FEMA grant money and City of Huntsville tax dollars to deal with. 7 April 2009 Council Meeting: "Councilmember Forbus moved to approve Resolution 2009-08 authorizing the City Manager to apply for and accept the Town Creek Drainage Grant through FEMA in the amount of \$11,200,000 with a 25% cash and in-kind match; and Councilmember Woodward seconded the motion." The motion failed. 21 April 2009 Council Meeting: Woodward was not about to give up on receiving a FEMA and City of Huntsville taxpayer windfall that would enhance or protect his personal and/or family vested financial interests. "Councilmember Forbus moved to approve Resolution 2009-08 authorizing the City Manager to apply for and accept the Town Creek Drainage Grant through FEMA, in the amount of \$11,100,000 with a 25% cash and in-kind match. Councilmember Woodward seconded the motion. This motion passed with a 5-3 vote; Mayor Turner, Councilmember's Mahaffey and Cole opposed. Had Woodward revealed his serious CONFLICT OF INTEREST to Council and the public, filed the mandatory AFFIDAVIT, restrained from taking an active role in promoting the grant application, and abstained from voting, I feel certain that Mr. Forbus would never have made the motion in the first place and we would not be attempting to defend historic TOWN CREEK FROM DESTRUCTION IN VIOLATION OF NEPA AND ASSOCIATED LAWS, RULES, REGULATIONS, AND ETHICS IN GENERAL. In my opinion as an Ethician, but not a lawyer, the vote taken on 21 April 2009 should be null and void from an ethical standpoint and perhaps null and void from a legal standpoint as well thus voiding this entire destructive scheme.	Conflict of Interest	NA	No response required. FEMA is responding to comments on the draft EA for the Town Creek project. These comments have been forwarded to FEMA program and TDEM for consideration.
46	4/10/15	Mr. George Russell	All that would be necessary to solve any possible future flooding problem along Town Creek would be to properly engineer and enlarge the existing retention pond and creating another one on the north side of the wooded part of Town Creek opposite the HISTORIC WALLS UNIT OF THE PRISON AND THIS ALSO ADJACENT BUILDING THAT HOUSES AN IMPORTANT POPULATION OF BATS.	Suggested Project Alternatives	3.0	This alternative was not one proposed by the City and was not evaluated in the EA. The proposed action alternative is an eligible activity under FEMA's Hazard Mitigation Grant Program.

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47	4/10/15	Mr. George Russell	It seems virtually impossible for me to believe that all of the numerous FATAL ERRORS, concoctions, fabrications, and outright lies were all HONEST MISTAKES. It is my opinion, having dealt with misleading EA's and EIS's in regard to The National Forests of Texas and associated with The Red-Cockaded Woodpecker that distortions of the truth are not uncommon for unethical and erroneous data to be "planted" in such documents on behalf of Special Interests, in this case, those persons at City Hall that have wanted to channelize all of Town Creek for decades, and those commercial interests and "conflicted" politicians that would have the taxpayers foot the bill for their foolishness in building a third rate structure right on top of the creek channel.	Conflict of Interest	EA OVERALL	FEMA has reviewed the EA and supporting documentation and consultations at the regional and Headquarters level and feels the EA is sound.
48	4/11/15	Mr. George Russell	APPENDIX B SITE PHOTOGRAPHS: The EA is misleading on multiple fronts and follows a benign and positive project as promoted back in 2009 in which tank cars would be removed, the creek opened back up and restored with native vegetation. Inventories of all native trees and plants would be conducted, species inventories would be an important part of the project to insure that there would be no net negative benefit to the environment, and the beauty of Town Creek and its use for recreational purposes would be enhanced with bicycle paths, nature trails, and sidewalks.	EA Inadequate	APPENDIX B	The FEMA EA evaluates the proposed action as presented in the EA. This is the version of the project that has been put forward to FEMA for funding. A detailed project description is given on pages 2-3 of the EA. NEPA is a process law, and does not mandate that a federal agency choose a certain outcome or alternative.
49	4/11/15	Mr. George Russell	The EA tries to hide behind a smoke screen of fabricated data, distortions, and the pretense that NEPA and other Federal and State statutes would not be violated when in fact the real plan would totally violate the letter and spirit of NEPA and violation of the public trust that had been given during the "sales" period in six years before.	EA Inadequate	EA OVERALL	The FEMA EA evaluates the proposed action as presented in the EA. This is the version of the project that has been put forward to FEMA for funding. FEMA has complied with NEPA regulation for the preparation of Environmental Assessments as outlined in 44 CFR Part 10.9 and with various federal environmental laws as described in the EA, including but not limited to the Endangered Species Act, National Historic Preservation Act, Clean Water Act, and Executive Order 11988 for Floodplain Management. NEPA is a process law, and does not mandate that a federal agency choose a certain outcome or alternative.
50	4/11/15	Mr. George Russell	14 snapshots, some dark, and 4 of the 13 of modern buildings having little if any bearing on the project do NOT constitute a proper, representative, or adequate illustration of what the project area currently looks like.	EA Inadequate	APPENDIX B	FEMA has determined the visual quality of the photos is adequate. Photos are not a required element of an EA. Per 44 CFR Part 10.9, an EA is a concise public document to determine whether to prepare an environmental impact statement...Preparation of an environmental assessment generally will not require extensive research or lengthy documentation." The photos give a sense of the project area along its various portions, but they are not meant to provide exhaustive documentation of every stretch of the project area.

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51	4/11/15	Mr. George Russell	2 snapshots are of portions of Town Creek what were destroyed under the heavy hand of City Engineer Glen Isbell who was obsessed with destroying our trees on the original Sam Houston Homestead and destroying our natural section of Town Creek that we purchased some 23 years ago to protect from channelization. His obsession and hatred of anything beautiful or natural finally bore fruit when he orchestrated the senseless destruction of over \$500,000 worth of our multi-million dollar investment in the natural beauty and heritage of Huntsville. His obvious next step would be to finish off the total destruction of Town Creek, hence the project at hand as well as the Mayor's obsession with tricking FEMA and local taxpayers to pay to protect the absurdity of placing Town Creek into tank cars on his family's private properties so that they could construct buildings on top of the creek and the flood plain. A description of the pathetic group of photos is as follows:	EA Inadequate	APPENDIX B	These photos illustrate the existing condition of the creek prior to FEMA involvement and provide the setting and baseline for the proposed action. The project proposed for FEMA funding is eligible under and meets the cost benefit requirements of FEMA's Hazard Mitigation Grant Program.
52	4/11/15	Mr. George Russell	1. A view of the wasteland created by channelizing Town Creek from 7 th to 10 th Creek. This section has zero aesthetic, recreational or wildlife habitat value.	EA Inadequate	APPENDIX B	No response required.
53	4/11/15	Mr. George Russell	2. A view of the WPA era Catahoula stone wall that lines the banks of Town Creek between 10 th Street and Avenue N. This rock work is HISTORIC and is National Register eligible yet the EA, in typical dishonesty states that the ONLY historic features of no historic value are the rusty tank cars.	Historic Properties	APPENDIX B; 4.4	According to the City, this wall will not be altered as part of the proposed scope of work for Town Creek at this section. The scope of work in the EA was updated to explain this fact.
54	4/11/15	Mr. George Russell	3. A view of the ecological desert and concrete lined ditch that uglifies the lawn of City Hall.	EA Inadequate	APPENDIX B	No response required.
55	4/11/15	Mr. George Russell	4. This head wall is only a few years old, is structurally sound and in perfect condition and the small break at the upper right of the box culvert has no structural value to the new head wall that was designed by me and City staff. It was installed with zero damage to the native vegetation except that I allowed one limb to be trimmed off of an adjacent old growth Pecan Tree. I furnished 1903 historic bricks for the public sidewalk pro bono publico and I recently made the same gift of historic bricks from the head wall to the public board walk that follows the E. bank of the last section of native creek in the 9 block historic central business district which is also an official State Cultural District, a fact of course not mentioned in the EA. No mention of the Urban Wildlife Sanctuary on both side of the creek was mentioned either.	EA Inadequate	APPENDIX B	These photos illustrate the existing condition of the creek prior to FEMA involvement and provide the setting and baseline for the proposed action.
56	4/11/15	Mr. George Russell	5. This is a good photo to show that the N side of the creek where there are no old growth trees could be excavated to form a large retention pond on State Property that would cost very little to create and would solve a high percentage of the alleged perceived problem keeping in mind that in recent years Huntsville was in the direct path of two Hurricanes: Rita and Ike and there was little if any flooding of Town Creek.	EA Inadequate	APPENDIX B	Siting a retention pond in this location was not an alternative that was analyzed in this EA.
57	4/11/15	Mr. George Russell	6. A good photo of the debris that could be removed by hand by convict labor at little cost to the taxpayers and nothing close to \$11 million dollars which would deepen the channel and add to the volume of the creek's carrying capacity. Cost of this project would be less than \$10,000.	EA Inadequate	APPENDIX B	The proposed project meets the cost/benefit of FEMA's Hazard Mitigation Grant Program. Debris removal was not an alternative that was looked at in this EA to meet the purpose and need of reducing flood risk in downtown Huntsville.

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58	4/11/15	Mr. George Russell	7. This photo proves my point that this junk could easily be removed and a nice ecologically friendly retention pond be constructed for less than \$100,000 with public enhancements which would solve over 50% of any potential flooding problem.	EA Inadequate	APPENDIX B	The proposed project meets the cost/benefit of FEMA's Hazard Mitigation Grant Program. Debris removal was not an alternative that was looked at in this EA to meet the purpose and need of reducing flood risk in downtown Huntsville.
59	4/11/15	Mr. George Russell	8. A poor view of the flood plain forest but proves my point that the natural flood plain should be left intact with its native vegetation and already compromised areas be enlarged at very little expense.	EA Inadequate	APPENDIX B	The proposed project meets the cost/benefit of FEMA's Hazard Mitigation Grant Program. The project has met the requirements of Executive Order 11988 for Floodplain Management.
60	4/11/15	Mr. George Russell	9, 10, 11, 12. These are worthless dark photos of third rate modern buildings that have no bearing on the project.	EA Inadequate	APPENDIX B	The photos are meant to provide context for the project setting.
61	4/11/15	Mr. George Russell	13. Another good photo of an area that could be dug out and enlarged at low cost with little damage to the environment.	EA Inadequate	APPENDIX B	Siting a retention pond in this location was not an alternative tha was analyzed in this EA.
62	4/11/15	Mr. George Russell	14. Once again the photo proves the BIG LIE that there is nothing historic in or adjacent to the proposed project area. The tracks follow the original line from Phelps to University Avenue and will no doubt need to be professionally studied and excavated by archaeologists. Remember that the EA states that these important historic artifacts that may date to the 1870's don't exist but then by foolishly inserting two photos showing historic assets, the authors of the EA prove their own lack of competence in a complete cover up of the actual facts in the case.	Historic Properties	APPENDIX B; 4.4	Under Section 106 of the NHPA, FEMA and USACE, through the EA contractor staff, consulted with the SHPO and received concurrence from SHPO that no historic properties (resources eligible for or listed in the NHPA) would be adversely affected by the proposed project. A requirement of the grant is that if unanticipated affects negatively impact eligible or listed historic properties, that work must stop and the City must contact the SHPO. Not all historic structures, buildings and/or objects are eligible for listing in the NRHP therefore not all are subject to the NHPA.
63	4/11/15	Mr. George Russell	Sort of like burglars believing they have committed the perfect crime only to discover that one left his wallet behind.	EA Inadequate	APPENDIX B	No response required.
64	4/11/15	Mr. George Russell	WHAT IS MISSING? A complete photographic essay of several hundred photos that could have been taken in half a day, of the length of the project area and the historic assets directly adjacent should have been included in the EA if it were not to be FATAALLY FLAWED in multiple places, i.e. throughout. (1) Huge old growth specimen trees. (2) The George Washington Rogers House and the National Register Eligible Historic District that borders the project area at 14 th Street. (3) The Wynne Home Arts Center (4) The Town Creek Boardwalk at 13 th Street. (5) The historic homes on 11 th Street that border the project. (6) The old growth riparian habitat on the natural sections that have not been ruined by incompetent or 1960's schooled "engineers" who were trained only to destroy and not to built with nature rather than against it.	EA Inadequate	APPENDIX B	PHOTOS are not a required element of an EA. Per 44 CFR Part 10.9, an EA is a "concise public document to determine whether to prepare an environmental impact statement... Preparation of an environmental assessment generally will not require extensive research or lengthy documentation."

#	Date	Commenter	Comment	Comment Category	Applicable EA Section(s)	Response
65	4/11/15	Mr. George Russell	The FATAL ERRORS I have documented so far represent only the tip of the iceberg in exposing the abject insanity in concocting an almost totally wasteful project that would do IRREPARABLE HARM TO OUR NATURAL ENVIRONMENT, OUR HERITAGE, OUR ARCHAEOLOGICAL ASSETS, AND THE AESTHETIC BEAUTY OF HUNTSVILLE in order to protect Mayor Mac Woodward's tacky strip center that was foolishly built on top of Town Creek. THIS PROJECT MUST BE SCRAPPED as being a nightmare out of the era of \$5,000 hammers and \$20,000 toilet seats of the 1960's. Go back to the drawing board and I will help design a low cost solution to any potential flooding problem just as I offered in 2009. Neither the Federal Government via a FEMA GRANT nor the local taxpayers, who are already overtaxed to pay for other enhancements to the mayor's extensive private property holdings, should be required to pay even one penny to salvage the Gibbs Shopping Center that should be purchased by FEMA without objection from me, torn down and Town Creek restored.	EA Inadequate; Conflict of Interest; Archeology; Historic Properties; Biological Resources	4.3; 4.4; EA OVERALL	NEPA is a process law, and does not mandate that a federal agency choose a certain outcome or alternative. FEMA has determined that the proposed project will not significantly impact (per 40 CFR 1508.27) the environment and therefore FEMA will not be preparing an Environmental Impact Statement. The proposed project is eligible for funding under FEMA's Hazard Mitigation Grant Program and has met the benefit cost requirement and all other eligibility requirements of that grant program.
66	4/11/15	Mr. Charles Smither	The draft Environmental Assessment (EA) has failed to properly assess the potential impacts of the proposed action on the human and natural environment and has failed to consider more desirable alternatives beside "NO ACTION". The draft EA should be rejected and no FONSI should be issued for the project.	EA Inadequate	EA OVERALL	FEMA has complied with NEPA per 44 CFR Part 10. The draft EA was reviewed and approved by the Regional Environmental Officer and by the Office of Chief Counsel. 44 CFR Part 10 Preparation of environmental assessments" does not mandate that multiple alternatives be included in the EA. Several alternatives were considered and dismissed by the City as noted in Section 3.3. In addition, the portion of the project permitted by USACE went through multiple design changes based on Clean Water Act requirements.
67	4/11/15	Mr. Charles Smither	I have lived in Huntsville most of my life and have officed in the downtown area within sight of the project sections between Avenue M and Avenue J since the mid 1970's. With the exception of one flooding incident in the late 1960's or early 1970's the only regular flooding I am aware of is at Bearkat Blvd. at the site of the SHSU detention facility, where it is proposed to "correct hydrological deficiencies". Occasional flooding may have occurred at 7th Street due to the limited capacity of the culverts there, where it is proposed to quadruple the culvert capacity. Existing road culverts between these two points (north and south ends of the project area) do not seem to be creating a current problem, nor do the "open" sections of the creek.	Project Area Information; Purpose and Need Misleading	2.0	The project is an eligible Hazard Mitigation Grant Program project that meets the benefit cost analysis requirements of the program. A rain event in Huntsville on April 16, 2015 caused flooding of the streets at City Hall (M and 13th).
68	4/11/15	Mr. Charles Smither	In regard to the deteriorating 6' diameter steel tank car drainage sections, the vast majority of that system was installed by private property owners in order to more fully utilize and develop their property and the repair and maintenance of that system should be the responsibility of the property owners.	Not the best use for tax dollars	2.0	The proposed scope of work is eligible for federal funding under FEMA's Hazard Mitigation Grant Program.

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69	4/11/15	Mr. Charles Smither	Any flooding at 7th Street could be corrected by adding additional culverts or total replacement with a more expensive concrete reinforced box culvert if necessary. Flooding at Bearkat Blvd. could be corrected by SHSU "fixing" the recognized deficiencies of the detention facility, or by raising the short section of the road that actually floods. If necessary, Bearkat Blvd. could be permanently closed on either side of the flooding area with traffic re-routed to the next cross-street Bowers Blvd.	Suggested Project Alternatives	3.0	This alternative was not one proposed by the City and was not evaluated in the EA. The proposed action alternative is an eligible activity under FEMA's Hazard Mitigation Grant Program. Alternatives were considered, as discussed in Section 3.3. Alternative were also considered as part of the Corp's Environmental Assessment for the section of the project that required a Clean Water Act permit (see Appendix
70	4/11/15	Mr. Charles Smither	To the best of my recollection this project was initiated by the then City Manager in an attempt to "grab" as much FEMA and other grant money possible in the period following the destructive hurricanes and rain events affecting Houston and the Gulf Coast area at the time.	Not the best use for tax dollars; Conflict of Interest	EA OVERALL	The proposed scope of work is eligible for federal funding under FEMA's Hazard Mitigation Grant Program.
71	4/11/15	Mr. Charles Smither	In regard to the specifics of the report itself, the following examples illustrate the poor quality of the work done: 1) In Sec. 1.2 (Project Location) and Sec. 4.5 Burnett Street is identified as a division point within the project area. THERE IS NO SUCH STREET.	Factual Correction	1.2	This error has been correct in the EA. The text now reads The project boundary borders recreational land uses from 7th Street to Avenue N, residential, commercial and governmental land uses (including City government buildings and the Walls Unit of the Texas Department of Criminal Justice (TDCJ)) from Avenue N to Bearkat Boulevard, and institutional (Sam Houston State University [SHSU]) and commercial land uses along Bearkat Boulevard to the project terminus."
72	4/11/15	Mr. Charles Smither	2) The report refers to Huntsville Town Hall, Town Branch, and Huntsville Annex instead of the correct City Hall, Town Creek, and Walker County Annex.	Factual Correction	APPENDIX B; 2.0; APPENDIX D	Huntsville Annex" was updated to "Walker County Annex" on page 1 of the draft EA, but this section was subsequently deleted as the Annex no longer houses emergency services. "Town Hall" was updated to "City Hall" in photo #3 of Appendix B. Town Branch was left as is; it is labled as such on USGS topographic maps.
73	4/11/15	Mr. Charles Smither	3) On page 25 the report says construction of the project would have little or no negative cumulative impact on the surrounding community and environment. I believe that there would be major disruptions of travel and business during the construction period for the 4 major street culvert replacements and the installation of 1,580' of underground storm sewer. There are 14 businesses located in the Midway Plaza between University Avenue and Avenue J, where the storm sewer runs the length of the parking lot.	Cumulative Impacts; Traffic	5.0; 4.7	Edits have been made to address traffic concerns in Section 4.7 of the EA.

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74	4/11/15	Mr. Charles Smither	4) The report describes in great detail the crosssections and shapes of the southern portion of the open channel revisions but no detail at all of the revisions to the central section of the open creek.	EA Inadequate; Scope of Work	3.2	The detail provided in the Appendix E for the work proposed between 14th Street and Avenue J and 17th Street and Bearkat Boulevard came out of the permitting process between the City and USACE. This section of the project required a Clean Water Act Section 404 permit, which is why there are detailed permitted plans. Work on other sections of the open creek will remain above the Ordinary High Water Mark. The City has coordinated with the Corps, and the Corps made a preliminary determination that an individual Clean Water Act permit would not be required for this work. FEMA has conditioned the project and the FONSI states The City of Huntsville must comply with all conditions of U.S. Army Corps of Engineers (USACE) Permit No. SWG-2012-01017 and Texas Commission on Environmental Quality Section 401 Clean Water Act water quality certification. For portions of the project affecting Town Creek that are not included as part of permit SWG-2012-01017, the City must coordinate with and obtain any required Section 404 Permit(s) from the USACE and/or any Section 401/402 Permit(s) from the State prior to initiating work, and comply with all conditions of the required permit(s)."
75	4/11/15	Mr. Charles Smither	5) In Sec 2.0 (Purpose of and need for the project) reference in regard to flooding is made to "many local homes, critical government facilities, and personal property". A simple look at detailed City of Huntsville maps shows NOT A SINGLE HOME within the 100 year floodplain in the project area. Although parts of 7 commercial buildings and parts of two shopping centers are in the floodplain, there is only one building (NE corner of Avenue M and 13th Street) that is fully within the floodplain. The "critical government facility" referred to was the Walker County Emergency Management Office, which is no longer located in the project area and thus is no longer at risk. No description is offered regarding description or value of personal property.	Purpose and Need Misleading	2.0	The purpose and need section has been revised and reference to the Walker County Annex Building has been removed since emergency response activities are no longer coordinated from that location. There are 7 houses within the 100-year floodplain along 10th Street at Avenue O. Two (2) are on north side about 300 feet west of O, and the rest are right at O on the south side (both corners). As far as we can tell, the former houses along the Creek south of 10th street are all now in use as businesses and an arts/historic museum [the converted houses are a law office at 11th and N (NWC), the Arts and Visitors Center at 11th and O, and GiddyUp Glamour at 11th and N (SWC)]. Apartments near Bearkat are outside floodplain. The EA does not imply all buildings that will benefit from project are in the floodplain. Buildings outside of the floodplain may also benefit from the project. Clarification on this point has been added to EA. EA has been revised to state several" rather than "many" local homes.

#	Date	Commenter	Comment	Comment Category	Applicable EA Section(s)	Response
76	4/11/15	Mr. Charles Smither	Since the original grant application there have been multiple hurricane and heavy rain events in Huntsville without any problems in the downtown area.	Purpose and Need Misleading	2.0	The project is an eligible Hazard Mitigation Grant Program project that meets the benefit cost analysis requirements of the program. A rain event in Huntsville on April 16, 2015 caused flooding of the streets at City Hall (M and 13th).
77	4/11/15	Mr. Charles Smither	A major failure of the report relates to the failure to address the relationship of the proposed project to the vision of the HUNTSVILLE COMPREHENSIVE PLAN which sets out such goals and statements as: 1. Prevent and/or mitigate adverse impacts on Huntsville's natural features and assets (such as natural vegetation and mature trees). 2. Development and resource protection to result in outcomes that preserve and bolster community character. 3. Protect existing trees on properties and along streets. 4. Preserving trees and natural areas that give character to the community. 5. Pursue open space preservation ... to protect loss of natural protective buffers ... preserve the positive visual amenities such natural areas provide. 6. Natural vegetation and mature trees are part of the beauty of Huntsville	Involvement with Project at State/Local Level	NA	The Huntsville Comprehensive Plan is a City document that is not under the purview of FEMA. The City submitted the Town Creek project to FEMA, through the Texas Division of Emergency Management, for consideration for funding. FEMA determined that the project was eligible for and met the cost benefit analysis requirement of the Hazard Mitigation Grant Program. FEMA does not have control over how/if the City implements local plans.
78	4/11/15	Mr. Charles Smither	I believe there are many alternatives to "fixing" any existing problems other than the proposed project to "replace everything" (at a cost in excess of ten million dollars) and leave downtown Huntsville with an "open drainage ditch" after extensive reshaping of creek banks and after dense woody vegetation is replaced with landscaped and maintained vegetation in the open creek areas.	Suggested Project Alternatives	3.0	There may be alternatives, and some were considered by the City in the planning process and in negotiations with Corps for the Clean Water Act permitting process. FEMA has determined that the proposed action alternative is eligible for and meets the cost benefit analysis requirement of the Hazard Mitigation Grant Program.
79	4/11/15	Mr. Charles Smither	Going to the heart of the matter, to my knowledge there has been no major disaster declaration for the City of Huntsville for flooding and therefore a grant to implement long-term hazard mitigation measures is not appropriate.	Not the best use for tax dollars	2.0	FEMA has determined that the proposed action alternative is eligible for and meets the cost benefit analysis requirement of the Hazard Mitigation Grant Program.
80	4/11/15	Mr. Charles Smither	Attached: Draft copy of my remarks to Huntsville City Council meeting of April 7, 2015	Involvement with Project at State/Local Level	NA	No response required.
81	4/13/15	Mr. George Russell	Subject: FATALLY FLAWED EA AND SOME FINAL COMMENTS BEFORE THE 5 PM CUTOFF (I volunteer to give tours of the area to show the actual truth in the matter rather than for FEMA to rely on a flawed EA)	EA Inadequate	EA OVERALL	No response required.

#	Date	Commenter	Comment	Comment Category	Applicable EA Section(s)	Response
82	4/13/15	Mr. George Russell	City of Huntsville Town Creek Project: I wish to hereby INCORPORATE BY REFERENCE the comments mailed to Ms. Weir on 11 April 2015 by Mr. Charles W. Smither. I have reviewed Mr. Smither's comments and find them to be credible, timely, and inclusive.	NA	NA	No response required.
83	4/13/15	Mr. George Russell	I concur that no FONSI should be issued for the project, that the project as currently envisioned be scrapped and leading to egregious violations of NEPA and other State and Federal rules and statutes. In the event that FEMA deems a credible project if totally revised for the net positive good of the community its taxpayers and its environmental, historic, and aesthetic heritage, then a project as complex as outlined should be documented with an EIS rather than a concocted hodgepodge EA of virtually zero validity.	EA Inadequate	EA OVERALL	FEMA has complied with NEPA per 44 CFR Part 10. The draft EA was reviewed and approved by the Regional Environmental Officer and by the Office of Chief Counsel. The project complies with federal environmental laws and executive orders. Per NEPA, and FEMA's implementing regulations, an EIS is prepared when a proposed action will have significant impact on the environment, per 40 CFR 1508.27. FEMA is determining significance of impact through the EA process. NEPA is a process law, and does not mandate that a federal agency choose a certain outcome or alternative.
84	4/13/15	Mr. George Russell	Tragically a great deal of time and energy and thus tax dollars were wasted in sending the defective and fatally flawed EA to various agencies for oversight and comments. The Department of the Army Environmental Assessment, for example, states: "Therefore, this project may proceed without further consultation with the THC provided the significant archaeological deposits are not encountered during construction developments." The fact is that Town Creek was inhabited by Pleistocene Mega-Fauna and Native American cultures that date back at least to the period of Clovis tool makers so as long as 15,000 years ago. Any work in any of the remaining creek channels will have to be attended by a team of professional archaeologists as the historic and archaeological materials will be scientifically important and should not be disturbed except by trained specialists.	EA Inadequate; Archeology; Historic Resources; USACE EA	4.4; APPENDIX E	Under Section 106 of the NHPA, FEMA and USACE, through the EA contractor staff, consulted with the SHPO and received concurrence from SHPO that no historic properties (resources eligible for or listed in the NHPA) would be adversely affected by the proposed project. A requirement of the grant is that if unanticipated affects negatively impact historic properties, that work must stop and the City must contact the SHPO. Not all historic structures are eligible for listing in the NRHP therefore not all are subject to the NHPA.
85	4/13/15	Mr. George Russell	The "application" also states that "little likelihood exists for the proposed project to impinge upon a historic property, even if present within the affected area." These statements in the Department of the Army Environmental Assessment and Statement of Findings were based on mis-information in the EA, apparently to cause the Army to give a green light to a project based on purposeful deception.	Historic Properties; USACE EA	4.4; APPENDIX E	Under Section 106 of the NHPA, FEMA and USACE, through the EA contractor staff, consulted with the SHPO and received concurrence from SHPO that no historic properties (resources eligible for or listed in the NHPA) would be adversely affected by the proposed project. A requirement of the grant is that if unanticipated affects negatively impact historic properties, that work must stop and the City must contact the SHPO. Not all historic structures are eligible for listing in the NRHP therefore not all are subject to the NHPA.
86	4/13/15	Mr. George Russell	Therefore, having no further time to devote to commenting on this patently Fatally Flawed EA, I wish to repeat that the EA should be shredded and recycled, the FEMA funds withdrawn and used on an actual credible and worthy project elsewhere where actually needed and that any work on PRIVATE PROPERTY be accomplished with private funds of the property owners, that work on the SHSU property be conducted with State Funds, and that the rare and endangered old growth forest ecosystems on both private, state and city properties that remain in the flood plain be protected from any construction activities.	EA Inadequate; Not the best use for tax dollars	EA OVERALL	The project is an eligible Hazard Mitigation Grant Program project that meets the benefit cost analysis requirements of the program.

#	Date	Commenter	Comment	Comment Category	Applicable EA Section(s)	Response
87	4/13/15	Mr. George Russell	Thank you for your kind attention to this very dangerous attempt to subvert tax dollars away from actual critical needs and in this case apply much of the funding to private properties to benefit the private property owners who foolishly built on top of Town Creek.	Not the best use for tax dollars	1.1; 2.0	The project is an eligible Hazard Mitigation Grant Program project that meets the benefit cost analysis requirements of the program. NEPA is a process law, and does not mandate that a federal agency choose a certain outcome or alternative.
88	4/13/15	Mr. George Russell	Our Ethician Foundation Archaeologist learned about the EA with its multiple dishonest statements including the statements about there being little if anything historical or archaeological associated with Town Creek. He is preparing a letter to attach to the comments file and will submit his comments before 5 pm.	Archeology; Historic Resources	4.4	No response required.
89	4/13/15	Mr. Bruce Moore	Please include this data sheet from the USGS concerning the Catahoula Formation in my comments. http://mrddata.usgs.gov/geology/state/sgmc-unit.php?unit=TXOGc%3B0	Archeology; Historic Resources	4.4	No response required.
90	4/13/15	Mr. Bruce Moore	To include in the comments. http://www.texasbeyondhistory.net/tejas/ancestors/first.html	Archeology; Historic Resources	4.4	No response required.
91	4/13/15	Mr. Bruce Moore	Subject: The archaeological discoveries along Town Creek, Huntsville, Texas in the project area described in the EA. I, Bruce, W. Moore of 913 10 th Street, Huntsville, Texas 77340 serve The Ethician Foundation as "staff archaeologist", which is a voluntary position. I have extensively explored Town Creek since 1994, or for over 20 years. Due to the fact that Town Creek was inhabited by Mega and other fauna for tens of thousands of years, Native Americans began to exploit the wildlife bounty during the Archaic Period beginning up to 16 thousand years ago, with firm physical evidence dating back 10,000 years ago. 10,000 years of confirmed human occupation along Town Creek has left an extremely important archaeological legacy which includes exploitation of minerals associated with the Catahoula Formation, especially petrified palm, petrified soft and hardwoods, sandstone, and quartzite for making tools. The Catahoula Formation dates to the Oligocene period of from 23 to 33.9 million years ago. I have discovered native American tools in Town Creek dating back to the time of paleo-human occupancy including the San Patrice cultural period of around 8,000 B. C. or 10,000 years ago.	Archeology	4.4	No archaeological sites or artifacts have been registered or reported through the Texas Historical Commission, or the NRHP. Due to the archaeological potential of the area, should any cultural resources be discovered or identified during the implementation of the project, an inadvertent discovery clause, detailing the required procedures has been outlined in section 4.4. of the EA. We encourage the in-place documentation and registration of archaeological sites via the THC, prior to the collection or removal of resources on public lands, or individuals other than the landowner.
92	4/13/15	Mr. Bruce Moore	Subsequent cultural evidence includes Native American arrow point, knives and other tools made from Catahoula quartzite, gem quality opalized petrified wood, other petrified wood types and the State Stone of Texas which is Catahoula Formation petrified palm wood. These Native American artifacts found in Town Creek would naturally date from 10,000 years ago until just past the establishment of Pleasant Gray's Trading Post at a spring in the Town Creek watershed in what is today historic downtown Huntsville.	Archeology	4.4	No archaeological sites or artifacts have been registered or reported through the Texas Historical Commission, or the NRHP. Due to the archaeological potential of the area, should any cultural resources be discovered or identified during the implementation of the project, an inadvertent discovery clause, detailing the required procedures has been outlined in section 4.4. of the EA. We encourage the in-place documentation and registration of archaeological sites via the THC, prior to the collection or removal of resources on public lands, or individuals other than the landowner.

#	Date	Commenter	Comment	Comment Category	Applicable EA Section(s)	Response
93	4/13/15	Mr. Bruce Moore	With the arrival of more Anglo pioneers who exploited the pure spring waters of the Town Creek Watershed, buildings were constructed on and above the banks of the creek including the Walls Unit of the Texas Prison System that have been clad in more modern brick but which dates back to 1848. The very historic Walls of the Prison and the historic State owned building housing an important population of bats is on the north side of the Town Creek flood plain.	Historic Properties; Biological Resources	4.3; 4.4	No work is being done to the buildings at the Walls Unit. Mexican free-tail bats are known to live in an abandoned warehouse near the prison. The prison, warehouse, and the bats will not be impacted by the proposed project. Work is not being done to the prison structure or warehouse.
94	4/13/15	Mr. Bruce Moore	Other properties that still exist on the banks and adjacent to the project area and that were made to appear in the EA that they did not exist include, in addition to, the two historic prison elements, the Ethician Prison Foundation Museum of Texas Furniture and Texas Stoneware (c 1940), the historic Barr Home (c1895), The George Washington Rogers Home (1844), the King Russell Ethician Museum of Texas Arts (1894), The Wynne Home Arts Center (1880's) and at least two or three other historic homes and the c1930's building that houses the City Hall Café.	Historic Properties	4.4	The EA does not reference every eligible and listed NRHP structure by name in the EA. Rather, the EA states that the area contains "three archaeological sites, 23 historical markers, three cemeteries, and two NRHP- listed properties within a 1-mile radius of the proposed site (see Appendix E). None of these cultural resources were recorded within or immediately adjacent to the Area of Potential Effect (APE)." Documentation of historic structures is based on the official database maintained by the Texas Historical Commission. See responses to comments #4 and #40.
95	4/13/15	Mr. Bruce Moore	Thus, I have recovered numerous historic bottles and other worthy artifacts that have been displayed in the Gibbs-Powell House Museum, The Wynne Home Arts Center, The County Courthouse and most recently in the Museum of Texas Arts with study collections housed in the Museum of Texas Furniture. Having explored the entire length of Town Creek except for the portions in tank cars, I have discovered archaeological materials along all open air portions of the creek including a tool manufactured by Native Americans from a Mastadon tooth along with other fossil evidence of Pleistocene Mega-Fauna. The natural and relatively undisturbed portions of Town Creek are a treasure trove of historical artifacts including rails from the rail bed of the train that ran from Phelps, Texas to University Avenue (then Main Street) beginning in 1872. The EA would mislead any reader into complacency by making readers believe that there is little if anything of historical or archaeological significance in or adjacent to the proposed project area.	Archeology	4.4	There is no record of these findings at the THC. We encourage the in-place documentation and registration of archaeological sites via the THC, prior to the collection or removal of resources on public lands, or individuals other than the landowner. The City is required to stop work and notify the SHPO/THC if any archeological items are discovered during project implementation.
96	4/13/15	Mr. Bruce Moore	It is my opinion that the project would cause IRREPARABLE HARM to not only our geologic and archaeological heritage but would create nothing better than the sterile eyesore between 7 th Street and 10 th Street where I have never seen any human or example of native wildlife as the riparian forest has been destroyed, making that part of Town Creek a wasteland that no one can gain any enjoyment or pleasure from visiting.	EA Inadequate; Not the best use for tax dollars	EA OVERALL	The project is an eligible Hazard Mitigation Grant Program project that meets the benefit cost analysis requirements of the program. Given the various mitigation and minimization measures summarized in the EA and the FONSI, FEMA has determined that the project will have no significant impact to resources and that an Environmental Impact Statement is not warranted. NEPA is a process law, and does not mandate that a federal agency choose a certain outcome or alternative.
97	4/13/15	Mr. Bruce Moore	Therefore, please cancel this unwarranted, costly and terribly destructive project as being totally unnecessary to reduce flooding. It seems to me that it is a tragically costly boondoggle to reward those private investors who created any current potential problems in the first place by placing parts of Town Creek in tank cars, and constructing buildings in or over the flood plain. Thank you for your kind consideration.	Not the best use for tax dollars	1.1; 2.0	The project is an eligible Hazard Mitigation Grant Program project that meets the benefit cost analysis requirements of the program. Given the various mitigation and minimization measures summarized in the EA and the FONSI, FEMA has determined that the project will have no significant impact to resources and that an Environmental Impact Statement is not warranted.

APPENDIX H
FINDING OF NO SIGNIFICANT IMPACT



FEMA

FINDING OF NO SIGNIFICANT IMPACT

CITY OF HUNTSVILLE TOWN CREEK DRAINAGE IMPROVEMENT PROJECT HUNTSVILLE, WALKER COUNTY, TEXAS HMGP-DR-1791-TX PROJECT #120

BACKGROUND

In accordance with 44 Code of Federal Regulations (CFR) for the Federal Emergency Management Agency (FEMA), Subpart B, Agency Implementing Procedures, Section 10.9, an Environmental Assessment (EA) has been prepared pursuant to Section 102 of the National Environmental Policy Act (NEPA) of 1969, as implemented by the regulations promulgated by the President's Council on Environmental Quality (CEQ; 40 CFR Parts 1500-1508). The purpose of the proposed project is to minimize flooding and erosion along Town Creek in downtown Huntsville during rainfall events and to reduce the risk of flood damage to homes, government facilities, and infrastructure in downtown. This EA informed FEMA's decision on whether to prepare an Environmental Impact Statement (EIS) or a Finding of No Significant Impact (FONSI).

The City of Huntsville (City) has applied for Hazard Mitigation Grant Program (HMGP) funding, through the Texas Division of Emergency Management (TDEM), under HMGP-DR-1791-TX Project #120. Through HMGP, FEMA provides grants to states and local governments to implement long-term hazard mitigation measures. The purpose of HMGP is to reduce the loss of life and property due to natural disasters and to enable mitigation measures to be implemented during the immediate recovery from a disaster. HMGP is authorized under Section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

Two project alternatives were considered in this EA: 1) No Action; 2) Stabilization of the slopes and cross-sections; removal and/or replacement of deteriorating and insufficient existing underground drainage structures; installation of velocity control structures to mitigate erosive shear forces; and creation and improvement of detention ponds along approximately 1.5 miles of Town Creek between 7th Street and Bearkat Boulevard in downtown Huntsville (Proposed Action).

Under the No Action Alternative, the City would do nothing to improve Town Creek or to minimize flooding to downtown Huntsville. The applicant would continue to rely on existing conditions and the inefficient design of Town Creek. Adjacent urban infrastructure would still be at risk to flood and erosion damage. The No Action Alternative does not meet the proposed project's purpose and need.

The Proposed Action involves improvements along approximately 1.5 miles of Town Creek between 7th Street and Bearkat Boulevard in downtown Huntsville. From 7th Street to 14th Street, railroad tanker cars will be replaced with reinforced concrete box (rcb) culverts and drainage lines; existing culverts will be replaced and added; cross sections and banks will be modified above the Ordinary High Water Mark (OHWM) of Town Creek; and a new headwall with wing walls will be placed at the southern entrance to the 11th Street culvert. From 14th Street to 17th Street full channel improvements will create uniform creek slopes and bottoms with a shelf on the western bank. An in-channel detention facility within an expanded creek right-of-way will be constructed in the portion of the creek near Avenue J. A four-foot tall drop structure will be placed at the downstream end of the detention facility. From the southern end of the proposed detention facility to the southern terminus of the proposed project, full channel improvements will create uniform creek slopes and bottoms via full reshaping of the creek. An existing detention area utilized as a sports field at Sam Houston State University will undergo cross-section improvements to correct existing hydrological deficiencies.

A public notice was posted in the Huntsville Item and on FEMA's website, and the draft EA was made available at a local public building and on FEMA's website for public comment. Public comments were received from three individuals on the project. Those comments and FEMA's responses to them have been included in Appendix G of the final EA.

FINDINGS

The Town Creek drainage improvement project would not impact geology, prime and unique farmland, groundwater, wetlands, threatened and endangered species, critical habitat, migratory bird species, invasive species, essential fish habitat, cultural resources, minority and low-income populations, traffic, and hazardous materials. During construction activities, short-term impacts to air quality, surface water quality, common wildlife species, vegetation, and noise are anticipated. The project will result in impacts to waters of the U.S. via the discharge of fill material to re-establish 2,333 linear feet (0.68 acres) of Town Creek. Long-term benefits are expected for public health and safety and floodplains. No long-term adverse impacts are anticipated. All adverse impacts require conditions to minimize and mitigate impacts to the proposed project site and surrounding areas.

CONDITIONS

The following conditions must be met as part of this project. Failure to comply with these conditions may jeopardize the receipt of federal funding.

1. The applicant is required to obtain and comply with all local, state, and federal permits, approvals and requirements prior to initiating work on this project.

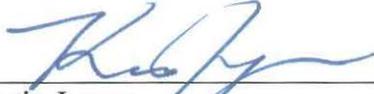
2. Excavated soil and waste materials will be managed and disposed of in accordance with applicable local, State, and Federal regulations. If contaminated materials are discovered during the construction activities, the work will cease until appropriate procedures and permits can be implemented.
3. Fuel-burning equipment running times will be kept to a minimum and engines will be properly maintained.
4. A Storm Water Pollution Prevention Plan must be prepared and a National Pollutant Discharge Elimination System permit must be obtained prior to construction. Best management practices, such as installing silt fences and re-vegetating bare soils, would minimize runoff.
5. The City of Huntsville must coordinate with the local floodplain administrator and obtain required permits prior to initiating work. All coordination pertaining to these activities and applicant compliance with any conditions should be documented and copies forwarded to the state and FEMA for inclusion in the permanent project files.
6. The City of Huntsville must prepare and provide public notice in line with 44 CFR §9.12(e) issued 15 days prior to the start of construction of any final decision where a proposed floodplain or wetland project is the only practicable alternative.
7. In accordance with 44 CFR, Part 65.3 – Identification and Mapping of Special Hazard Areas, if floodplain boundaries will be changed as a result of the project, the applicant will submit to FEMA a Letter of Map Revision (LOMR) not later than six months after the date such information becomes available.
8. The City of Huntsville must comply with all conditions of U.S. Army Corps of Engineers (USACE) Permit No. SWG-2012-01017 and Texas Commission on Environmental Quality Section 401 Clean Water Act water quality certification. For portions of the project affecting Town Creek that are not included as part of permit SWG-2012-01017, the City must coordinate with and obtain any required Section 404 Permit(s) from the USACE and/or any Section 401/402 Permit(s) from the State prior to initiating work, and comply with all conditions of the required permit(s).
9. The City of Huntsville will limit vegetation management work during the peak migratory bird nesting period of April 1 through July 15 as much as possible to avoid destruction of individuals, nests, or eggs. If vegetation clearing activities must occur during the nesting season, the City of Huntsville will implement measures such as additional surveys prior to construction to ensure active nests are not present prior to vegetation clearing. No vegetation containing active nests, eggs, or young will be removed should they occur on the project site. Construction activities will be excluded from a minimum zone of 100 meters around any raptor nest.

10. The City of Huntsville will advise construction contractors of the potential presence of the Alligator Snapping Turtle within Town Creek. The City must comply with Chapters 67 and 68 of the Texas Parks and Wildlife Code which regulates state-listed species. The proposed action must not result in the take of any state listed species as defined in Section 1.101(5) of the Texas Parks and Wildlife Code.
11. In the event that archaeological deposits, including any Native American pottery, stone tools, bones, or human remains, are uncovered, the project shall be halted and the City of Huntsville shall stop all work immediately in the vicinity of the discovery and take reasonable measures to avoid or minimize harm to the finds. The City must secure the area, and ensure that access to the sensitive area is restricted. In the event of an unexpected discovery, or if it appears that an Undertaking has affected a previously unidentified property or affected a known historic property in an unanticipated manner, the City shall immediately notify Texas Division of Emergency Management (TDEM), who shall immediately notify FEMA of the discovery. Upon notification of the unanticipated discoveries, or unanticipated affects, FEMA would consult with the State Historic Preservation Office (SHPO) or Tribal Historic Preservation Office (THPO) and Tribes. Work in sensitive areas cannot resume until consultation is completed and appropriate measures have been taken to ensure that the project complies with the National Historic Preservation Act.
12. To reduce noise levels during construction, construction activities will take place during working hours enforceable by local ordinance.
13. Changes, additions, and/or supplements to the approved scope of work which alter the existing use and function of the structure, including additional work not funded by FEMA but performed substantially at the same time, will require re-submission of the application prior to construction to FEMA for re-evaluation under the National Environmental Policy Act.

CONCLUSIONS

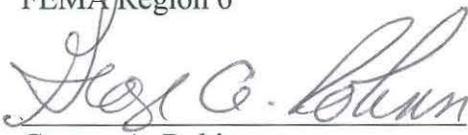
Based on the findings of the EA, coordination with the appropriate agencies, comments from the public, and adherence to the project conditions set forth in this FONSI, FEMA has determined that the proposed project qualifies as a major federal action that will not significantly affect the quality of the natural and human environment, nor does it have the potential for significant cumulative effects. As a result of this FONSI, an EIS will not be prepared (44 CFR Part 10.9) and the proposed project as described in the attached EA may proceed.

APPROVAL



Kevin Jaynes
Regional Environmental Officer
FEMA Region 6

Date 5/11/15



George A. Robinson
Regional Administrator
FEMA Region 6

Date 5/14/15