



Public Notice

Applicant: Sabine River Bottom Partners, L.P.

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

Permit Application No.: SWF-2007-00091

Date: April 2, 2010

The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

Regulatory Program

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

Section 10

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

Section 404

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

Contact

Name: Mr. Darvin Messer

Phone Number: (817) 886-1744

JOINT PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT

AND

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

SUBJECT: Application for a Department of the Army Permit under Section 404 of the Clean Water Act (CWA) and for water quality certification under Section 401 of the CWA to discharge dredged and fill material into waters of the United States (U.S.) associated with the construction of an earthen dam that would result in an impoundment of approximately 98 surface acres near Grand Saline, Van Zandt County, Texas.

APPLICANT: Mr. Scott Sealy, Jr.
Sabine River Bottom Partners, L.P.
8401 North Central Expressway, Suite 150
Dallas, Texas 75225

APPLICATION NUMBER: SWF-2007-00091

DATE ISSUED: March 29, 2010

LOCATION: The proposed earthen dam and impoundment would be located near Grand Saline, Van Zandt County, Texas (Sheets 1-3 of 8). The proposed project would be located approximately at Latitude 32.43556 and Longitude -95.40457 on the Grand Saline 7.5-minute USGS quadrangle map in the USGS Hydrologic Unit 120100.

OTHER AGENCY AUTHORIZATIONS: Section 401 State Water Quality Certification; Water Use Permit #12098; Floodplain Development Permit #01-Dam

PROJECT DESCRIPTION: The applicant proposes to construct an earthen dam that would result in an impoundment of approximately 98 surface acres, the Sealy Lake project. (Sheets 3-8 of 8). The proposed dam would be 19 feet maximum height and approximately 3,900 feet long and utilize a 4 foot diameter drop pipe as its service spillway and an alternate spillway would be constructed that would be 200 feet wide. As proposed, the impoundment's normal storage would be 579 acre-feet of water. The applicant's stated purpose of the proposed project would be to increase water supply for an ongoing livestock operation, improve fisheries and wildlife habitat and enhance watershed protection.

Waters of the U.S. located on the proposed project site consist of approximately 3.0 acres of forested wetlands and approximately 7,700 linear feet (1.6 acre) of an unnamed ephemeral tributary of Caney Creek and unnamed intermittent and ephemeral tributaries to the Sabine River (Sheet 3 of 8). Construction of the dam and its resulting impoundment would impact these waters. The applicant proposes discharging approximately 170,000 cubic yards of fill material to construct the dam which would directly impact 380 linear feet of stream and 1.6 acres of forested wetland. An additional 7,283 feet of stream and 0.3 acre of forested wetland would be inundated by the impounded waters. An additional 1.1 acres of the forested wetland would be impacted by temporary construction activities on the north side of the dam. Adverse impacts to waters of the United States would total 4.6 acres.

All surface drainage within the proposed project site is ultimately conveyed to Caney Creek and the Sabine River. The forested wetland area is dominated by a vegetation cover of willow oak (*Quercus phellos*), Shumard oak (*Quercus shumardii*), water oak (*Quercus nigra*), green ash (*Fraxinus pennsylvanica*), river birch (*Betula nigra*), common buttonbush (*Cephalanthus occidentalis*), soft rush (*Juncus effusus*), beaked panicum (*Panicum anceps*), and smartweed (*Polygonum spp.*). The vegetation along the intermittent and ephemeral tributaries within the project site is composed of post oak (*Quercus stellata*), willow oak, Shumard oak, winged elm (*Ulmus alata*), southern red oak (*Quercus falcata*), river birch, pecan (*Carya illinoensis*), water oak, American elm (*Ulmus americana*), persimmon (*Diospyros virginiana*), cedar elm (*Ulmus crassifolia*), sweetgum (*Liquidambar styraciflua*), Osage-orange (*Maclura pomifera*), green ash, and black walnut (*Juglans nigra*). Common midstory vegetation includes black tupelo (*Nyssa sylvatica*), eastern red cedar (*Juniperus virginiana*), yaupon (*Ilex vomitoria*), and eastern redbud (*Cercis canadensis*). Understory vegetation is comprised mainly of wild oats (*Chasmanthium latifolium*), narrow-leaf wood-oats (*Chasmanthium sessiliflorum*). The Federal Emergency Management Agency (FEMA) floodplain maps indicate that the project site lies within the 100-year floodplain of the Sabine River (100-year floodplain elevation delineated on sheets 3 and 4 of 8). The applicant has provided a copy of floodplain development permit, #01-Dam, obtained from Van Zandt County.

The applicant considered no-build and other building site alternatives during the project planning process. The no-build alternative was eliminated because all investments in planning and engineering the wildlife enhancement/management project would be lost while the purpose and need for the project would not be met. Additionally, the consequences for not building the project are that the opportunity for the integrated creation, enhancement, and preservation of fish and wildlife habitat designed to improve the forest's biodiversity would be lost, and versus minimizing watershed protection and the protection of riparian areas, the opportunity to maximize the protection and enhancement of these areas would be lost. Other building sites were eliminated due to small watershed sizes at those locations. The applicant further stated that the proposed plan had been minimized from an original design of 120 acres to reduce adverse impacts to waters of the U.S.

The applicant's proposed compensatory mitigation plan consists of restoration, enhancement and preservation of 8,460 linear feet (28.9 acres) of stream and 8.1 acres of medium quality forested

wetland adjacent to the project site (upstream and downstream). Restoration and enhancement measures proposed include riparian corridor and wetland plantings to replace trees removed by recent logging operations. The applicant also proposes to exclude compensatory mitigation areas from ongoing silvicultural management rotation and protecting them in perpetuity through application of deed restriction or other appropriate legal instrument.

PUBLIC INTEREST REVIEW FACTORS: This application will be reviewed in accordance with 33 CFR 320-332, the Regulatory Program of the U. S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U. S. Environmental Protection Agency pursuant to Section 404(b)(1) of the CWA. The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the public interest. That decision will reflect the national concerns for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including its cumulative effects. Among the factors addressed are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

The USACE is soliciting comments from the public; federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the USACE in determining whether to issue, issue with modifications, or conditions, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

STATE WATER QUALITY CERTIFICATION: This project would result in a direct impact of greater than three acres of waters of the state or 1,500 linear feet of streams (or a combination of the two is above the threshold), and as such would not fulfill Tier I criteria for the project. Therefore, Texas Commission on Environmental Quality (TCEQ) certification is required. Concurrent with USACE processing of this Department of the Army application, the TCEQ is reviewing this application under Section 401 of the Clean Water Act, and Title 30, Texas Administrative Code Section 279.1-13 to determine if the work would comply with State water quality standards. By virtue of an agreement between the USACE and the TCEQ, this public notice is also issued for the purpose of advising all known interested persons that there is pending before the TCEQ a decision on water quality certification under such act. **Any comments concerning this application may be submitted to the Texas Commission on**

Environmental Quality, 401 Coordinator, MSC-150, P.O. Box 13087, Austin, Texas 78711-3087. The public comment period extends 30 days from the date of publication of this notice. A copy of the public notice with a description of the work is made available for review in the TCEQ's Austin Office. The TCEQ may conduct a public meeting to consider all comments concerning water quality if requested in writing. A request for a public meeting must contain the following information: the name, mailing address, application number, or other recognizable reference to the application; a brief description of the interest of the requestor, or of persons represented by the requestor; and a brief description of how the application, if granted, would adversely affect such interest.

ENDANGERED AND THREATENED SPECIES: The USACE has reviewed the U.S. Fish and Wildlife Service's latest published version of endangered and threatened species to determine if any may occur in the project area. The proposed project would be located in Van Zandt County where the bald eagle (*Haliaeetus leucocephalus*) is known to occur or may occur as a migrant. The bald eagle has been delisted and is being monitored. Our initial review indicates that the proposed work would have no effect on federally-listed endangered or threatened species.

NATIONAL REGISTER OF HISTORIC PLACES: (Applicant Survey)The USACE has reviewed the latest complete published version of the National Register of Historic Places and found no listed properties to be in the project area. However, presently unknown scientific, archaeological, cultural or architectural data may be lost or destroyed by the proposed work under the requested permit. The project area is currently being researched for any historical and/or cultural significance. Upon completion of the research, and pending its discoveries, the application information will be supplemented.

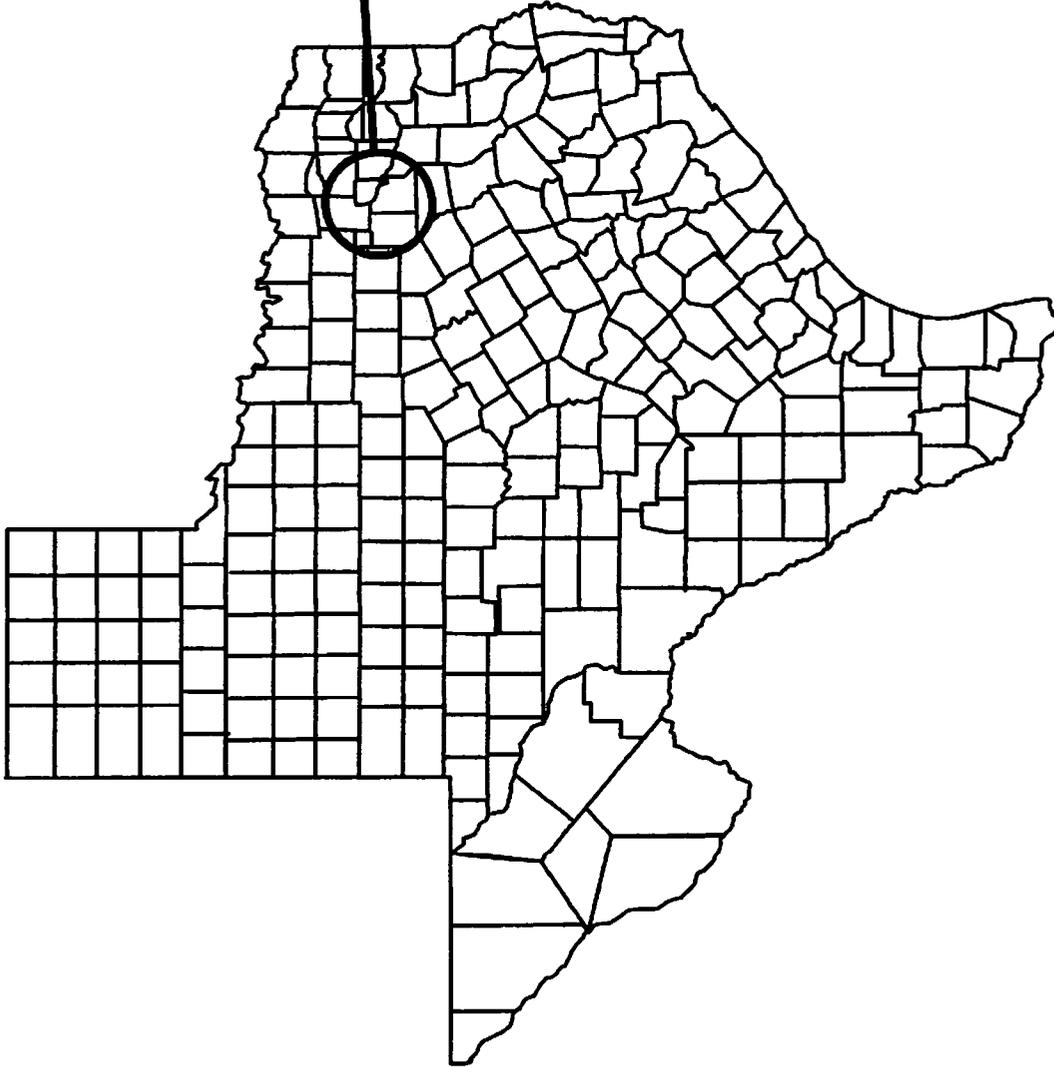
FLOODPLAIN MANAGEMENT: The USACE is sending a copy of this public notice to the local floodplain administrator. In accordance with 44 CFR part 60 (Flood Plain Management Regulations Criteria for Land Management and Use), the floodplain administrators of participating communities are required to review all proposed development to determine if a floodplain development permit is required and maintain records of such review.

SOLICITATION OF COMMENTS: The public notice is being distributed to all known interested persons in order to assist in developing fact upon which a decision by the USACE may be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition.

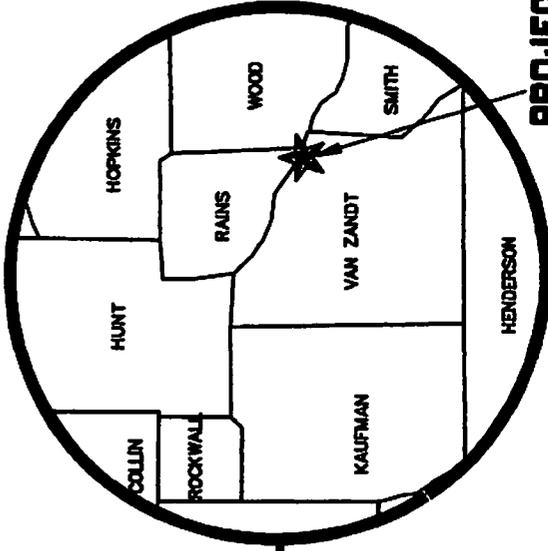
PUBLIC HEARING: Prior to the close of the comment period any person may make a written request for a public hearing setting forth the particular reasons for the request. The District Engineer will determine whether the issues raised are substantial and should be considered in his permit decision. If a public hearing is warranted, all known interested persons will be notified of the time, date, and location.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before May 5, 2010, which is the close of the comment period. Extensions of the comment period may be granted for valid reasons provided a written request is received by the limiting date. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to ; Regulatory Branch, CESWF-PER-R; U. S. Army Corps of Engineers; Post Office Box 17300; Fort Worth, Texas 76102-0300. You may visit the Regulatory Branch in Room 3A37 of the Federal Building at 819 Taylor Street in Fort Worth between 8:00 A.M. and 3:30 P.M., Monday through Friday. Telephone inquiries should be directed to (817) 886-1731. Please note that names and addresses of those who submit comments in response to this public notice may be made publicly available.

**DISTRICT ENGINEER
FORT WORTH DISTRICT
CORPS OF ENGINEERS**



STATE OF TEXAS
N.T.S.



PROJECT SITE

DETAIL OF VAN ZANDT COUNTY
N.T.S.

VELVIN & WOODS
CONSULTING ENGINEERS, INC.

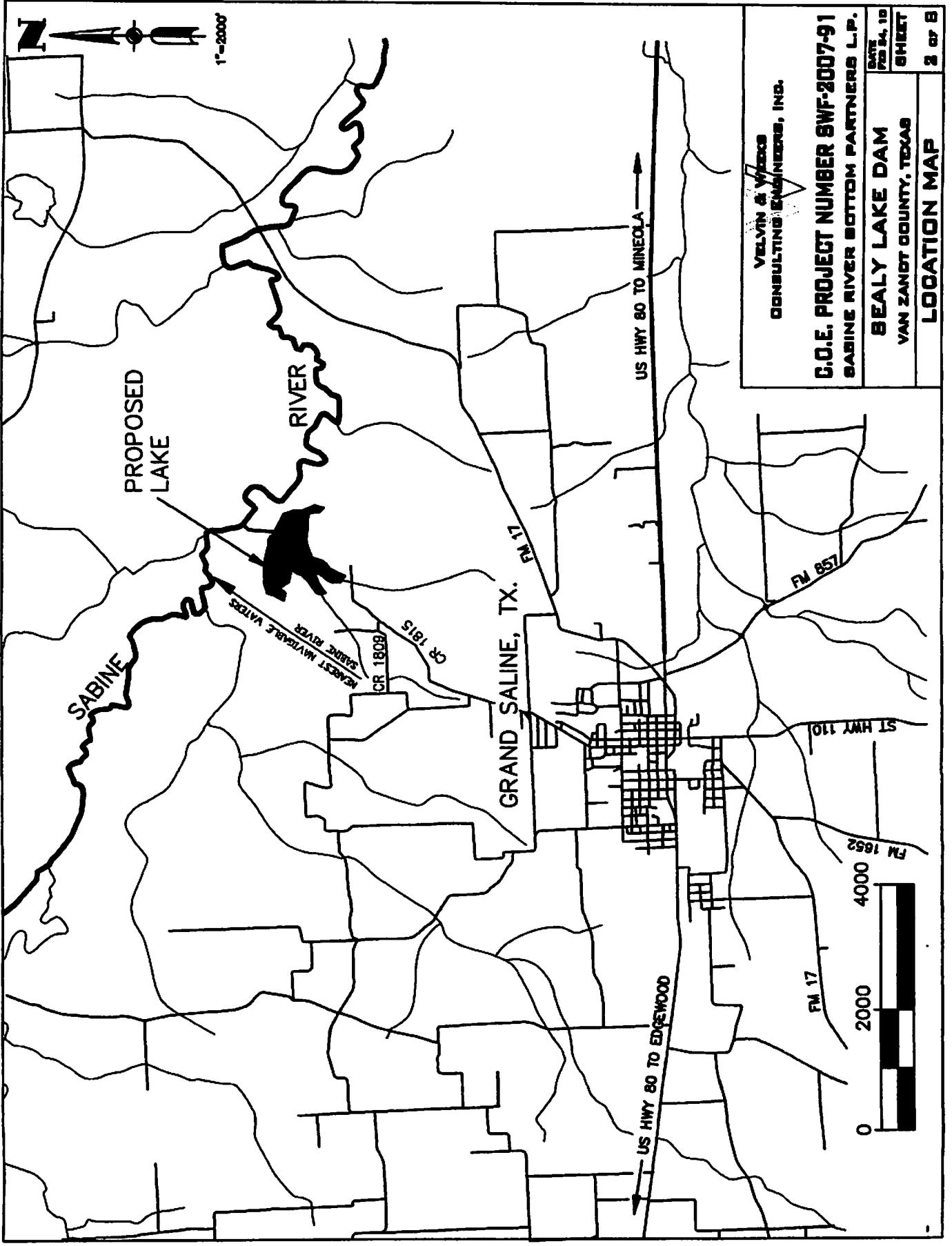
C.O.E. PROJECT NUMBER SWF-2007-91
SABINE RIVER BOTTOM PARTNERS L.P.

SEALY LAKE DAM
VAN ZANDT COUNTY, TEXAS

DATE
FEB 24, 10
SHEET

REGIONAL MAP

1 of 8



VELVIN & WOODS
CONSULTING ENGINEERS, INC.

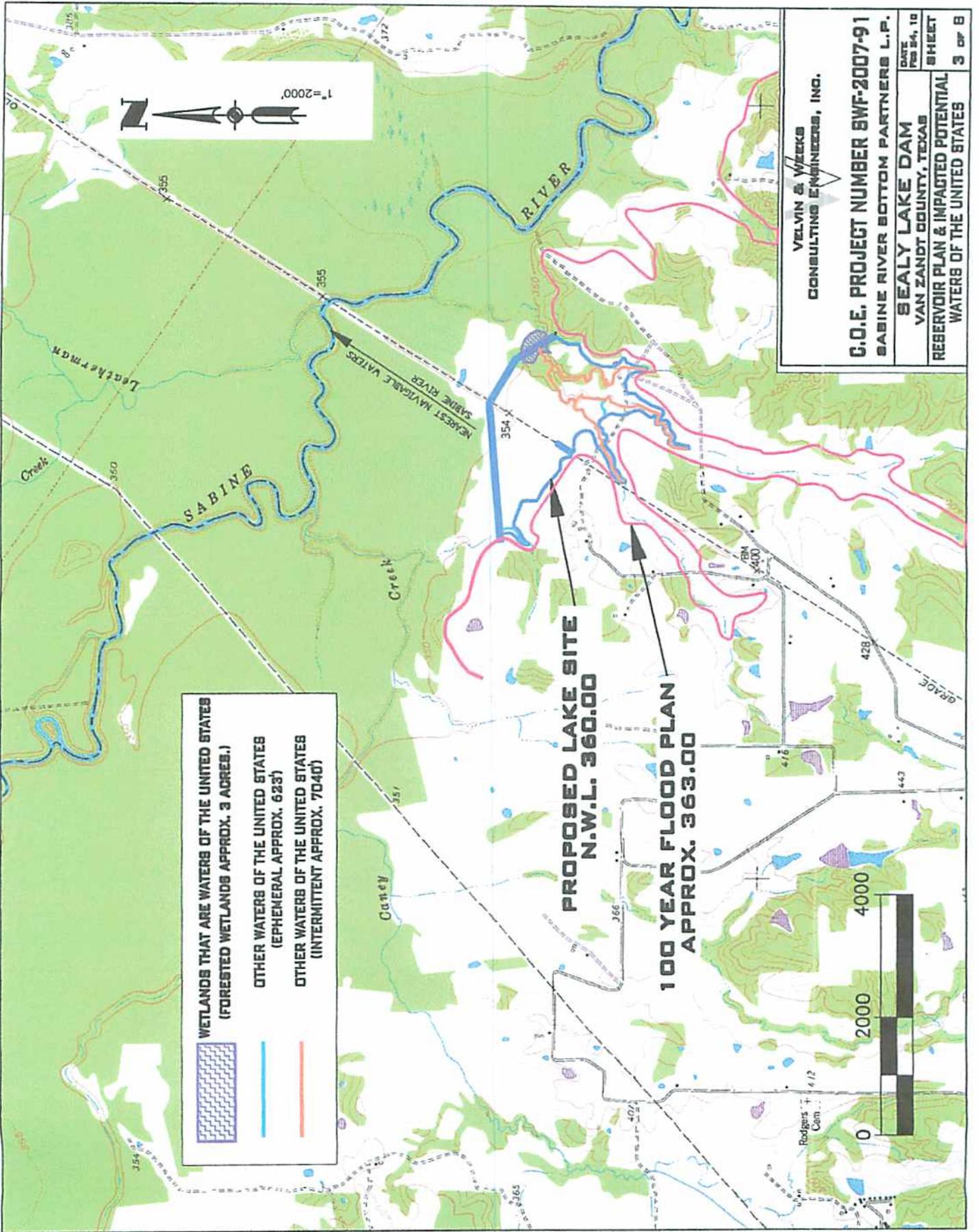
C.O.E. PROJECT NUMBER SWF-2007-91
SABINE RIVER BOTTOM PARTNERS L.P.

BEALY LAKE DAM
VAN ZANDT COUNTY, TEXAS

DATE: FEB 24, 10
SHEET: 2 OF 8

LOCATION MAP





WETLANDS THAT ARE WATERS OF THE UNITED STATES
 (FORESTED WETLANDS APPROX. 3 ACRES.)

OTHER WATERS OF THE UNITED STATES
 (EPHEMERAL APPROX. 623')

OTHER WATERS OF THE UNITED STATES
 (INTERMITTENT APPROX. 7040')

PROPOSED LAKE SITE
N.W.L. 360.00

100 YEAR FLOOD PLAN
APPROX. 363.00



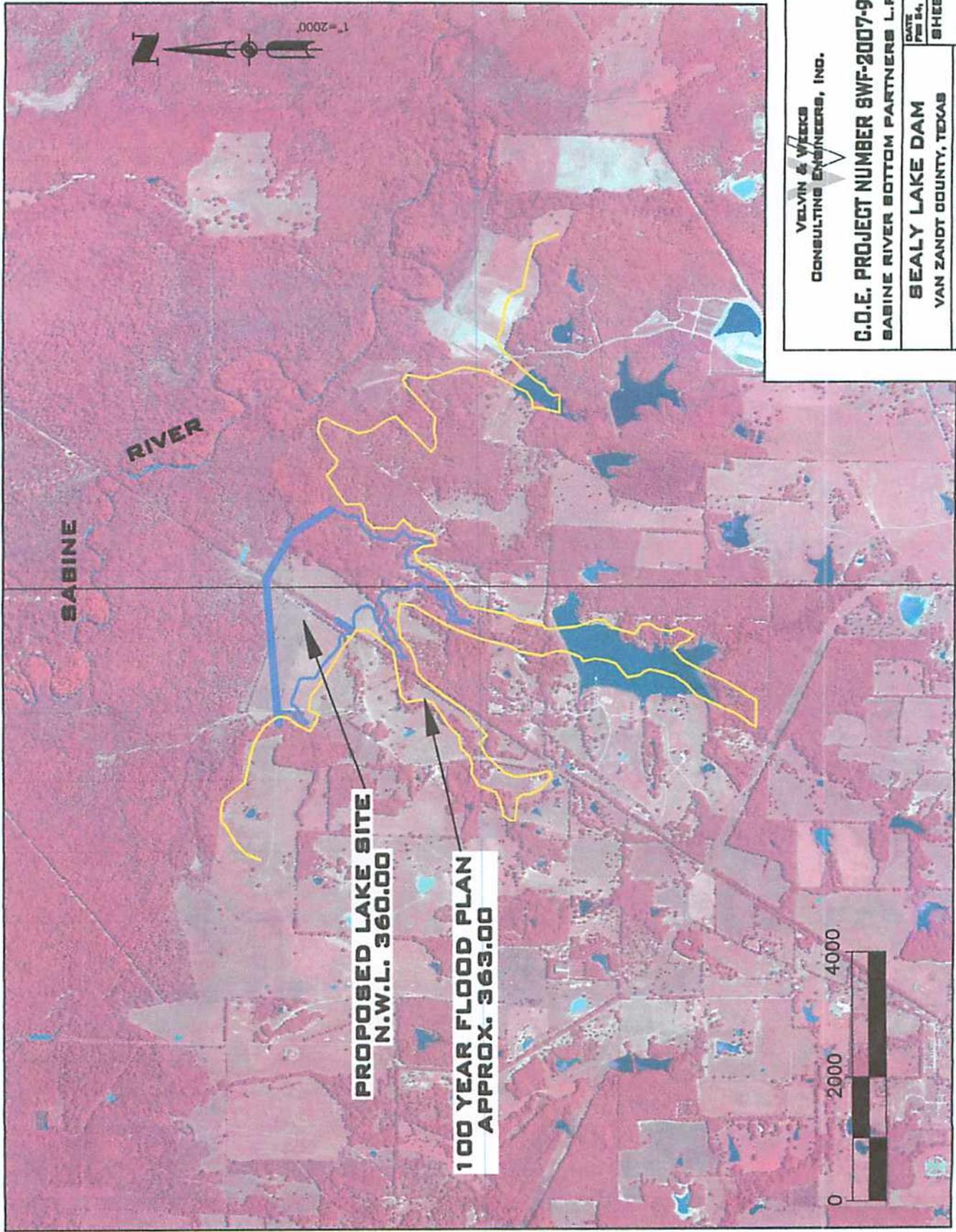
VELVIN & WEEKS
CONSULTING ENGINEERS, INC.

G.O.E. PROJECT NUMBER BWF-2007-91
SABINE RIVER BOTTOM PARTNERS L.P.

SEALY LAKE DAM
VAN ZANDT COUNTY, TEXAS

DATE FEB 24, 10
 SHEET 3 OF 8

RESERVOIR PLAN & IMPACTED POTENTIAL
WATERS OF THE UNITED STATES



SABINE RIVER

SABINE

PROPOSED LAKE SITE
N.W.L. 360.00

100 YEAR FLOOD PLAN
APPROX. 363.00



VELVIN & WEEKS
CONSULTING ENGINEERS, INC.

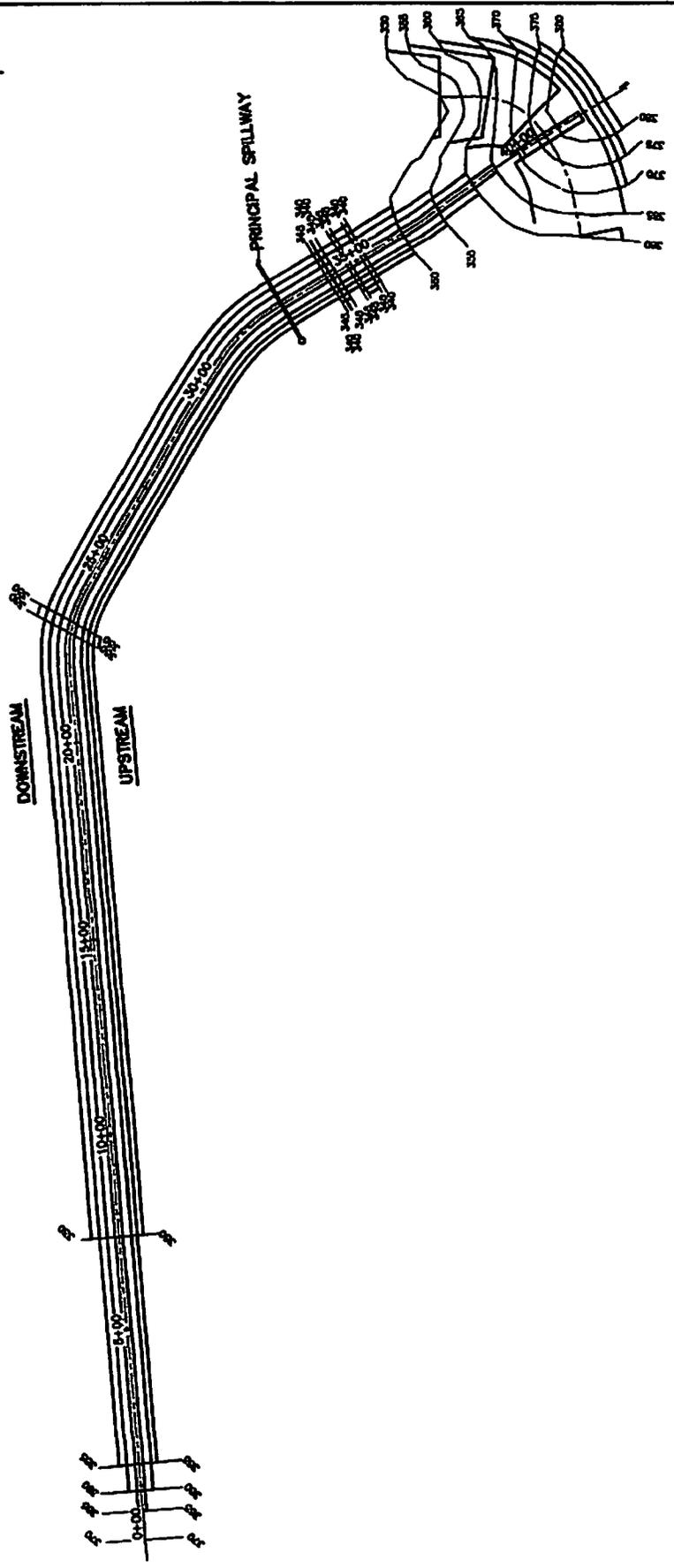
G.O.E. PROJECT NUMBER SWF-2007-91
SABINE RIVER BOTTOM PARTNERS L.P.

BEALY LAKE DAM
VAN ZANDT COUNTY, TEXAS

DATE
FEB 24, 10

SHEET
4 OF 8

AERIAL OF LAKE SITE



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G.O.E. PROJECT NUMBER SWF-2007-91
SABINE RIVER BOTTOM PARTNERS L.P.

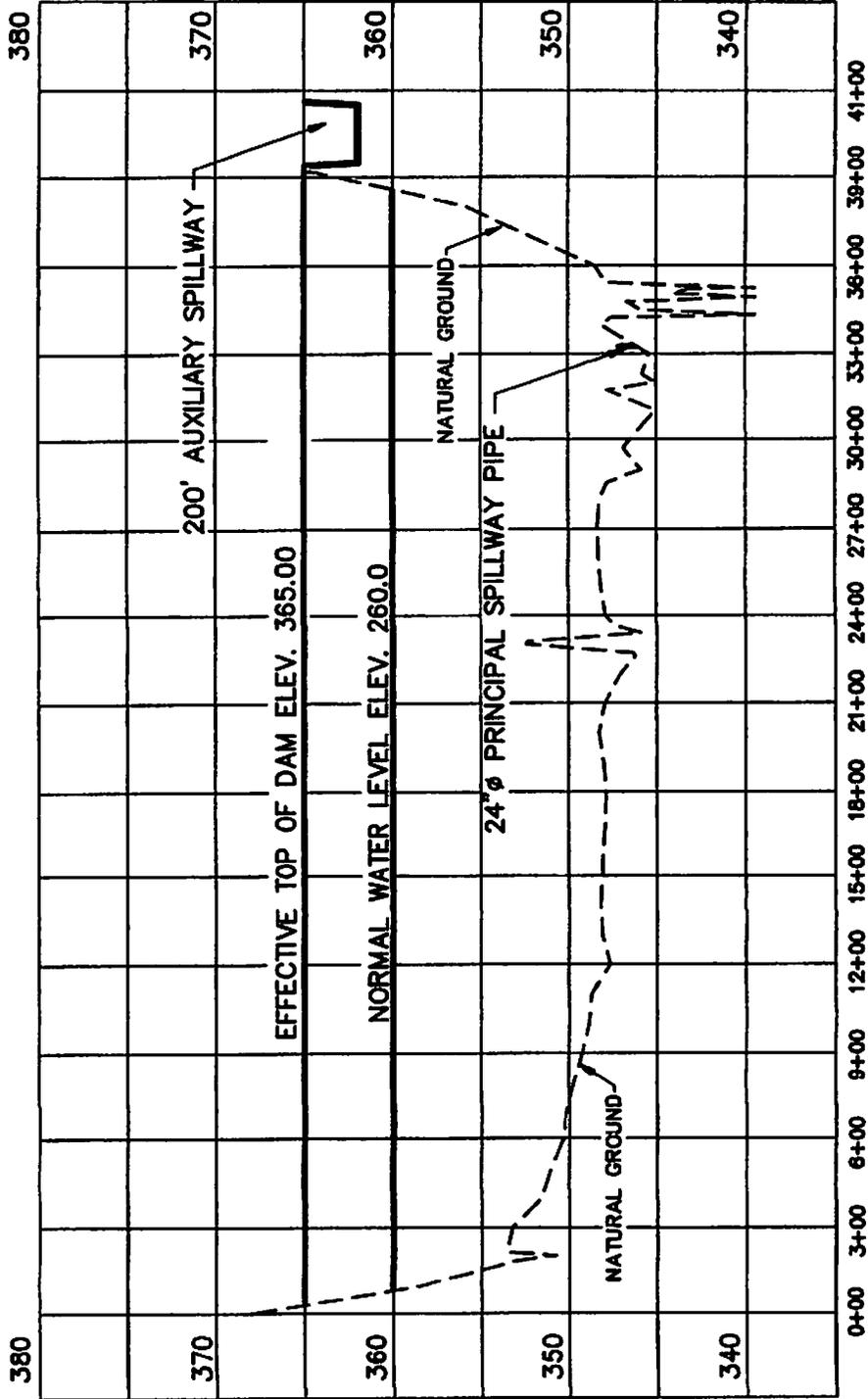
DATE
FEB 24, 10

BEALY LAKE DAM
VAN ZANDT COUNTY, TEXAS

SHEET
5 OF 8

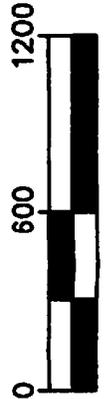
PLAN OF DAM STRUCTURE





PROFILE OF DAM

1" = 300' H
 1" = 10' V



VELVIN & WOODS
 CONSULTING ENGINEERS, INC.

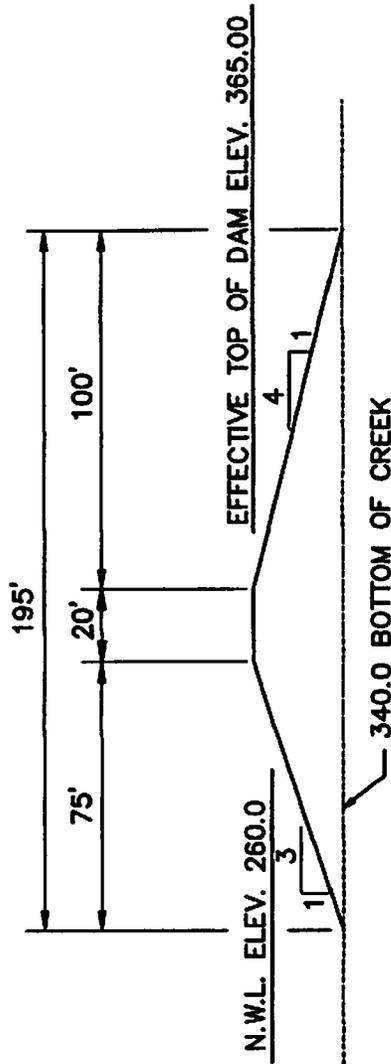
G.O.E. PROJECT NUMBER
 SABINE RIVER BOTTOM PARTNERS L.P.

BEALY LAKE DAM
 VAN ZANDT COUNTY, TEXAS

DATE
 FEB 24, 10

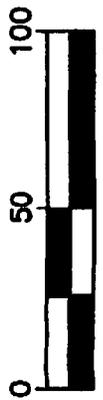
SHEET
 6 OF 8

PROFILE OF DAM



TYPICAL SECTION OF DAM

1" = 50'



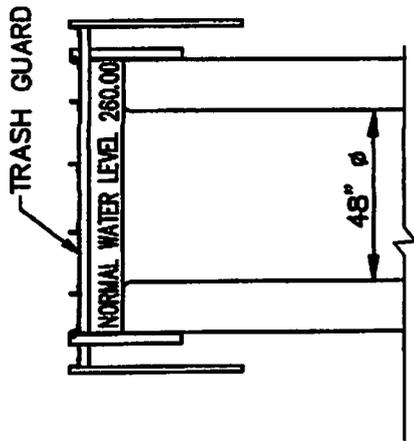
VELVIN & WOODS
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GABINE RIVER BOTTOM PARTNERS L.P.

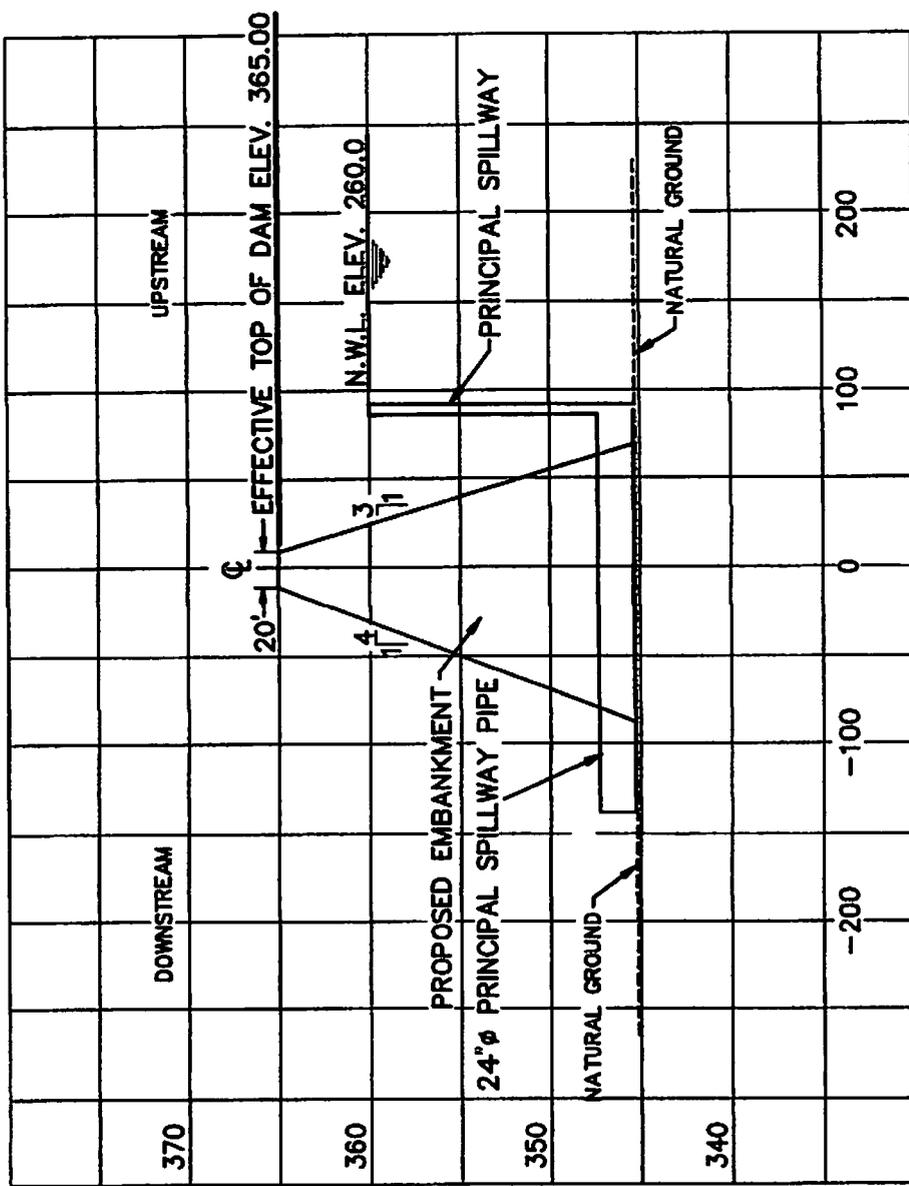
BEALY LAKE DAM
VAN ZANDT COUNTY, TEXAS

TYPICAL SECTION OF DAM

DATE
FEB 24, 10
SHEET
7 OF 8



DETAIL
N.T.S.



TYPICAL SECTION PRINCIPAL SPILLWAY

1" = 100' H
1" = 10' V



VELVIN & WOODS
CONSULTING ENGINEERS, INC.

G.O.E. PROJECT NUMBER SWF-2007-91
BABINE RIVER BOTTOM PARTNERS L.P.

DATE FEB 24, 10	SHEET 61827
VAN ZANDT COUNTY, TEXAS	
TYPICAL SECTION PRINCIPAL SPILLWAY	
B OF 8	