



# Public Notice

Applicant: Elmwood Bradley Oaks, L.P.

Permit Application No.: SWF-2009-00031

Date: September 1, 2010

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US Army Corps  
of Engineers  
Fort Worth District

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. David Madden

Phone Number: (817) 886-1741

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 associated with the proposed construction of an earthen dam that would result in the impoundment of 50 surface acres, located south of Athens, Anderson County, Texas.

**APPLICANT:** Elmwood Bradley Oaks, L.P.  
325 N. Saint Paul St., Suite 4850  
Dallas, Texas 75201

**APPLICATION NUMBER:** SWF-2009-00031

**DATE ISSUED:** September 1, 2010

**LOCATION:** The proposed dam and impoundment would be constructed on an unnamed ephemeral tributary of Wolf Creek, north of the intersection of State Highway (SH) 19 and Farm to Market (FM) 837, approximately 14 miles south of Athens, Anderson County, Texas (Sheet 1 of Sheets 1-6). The proposed lake construction project would be found on the Coon Creek Lake, Texas, United States Geological Survey (USGS) 7.5-minute topographic map. The project area is centered at approximately N 32.0074° latitude; W -95.778° longitude in Hydrologic Unit 12030201.

**OTHER AGENCY AUTHORIZATIONS:** Section 401 State Water Quality Certification.

**PROJECT DESCRIPTION:** The applicant proposes to discharge approximately 950 cubic yards (CY) of dredged and fill material associated with construction of the dam into approximately 434 linear feet (0.09 acre) of the unnamed ephemeral tributary to Wolf Creek which flows to Catfish Creek then to the Trinity River (Sheets 2-3 of Sheets 1-6). The proposed dam and reservoir would result in filling and impoundment a total of 4,800 linear feet (1.1 acres) of ephemeral waters United States.

The proposed lake would be used primarily for recreation however it would also supply water for domestic livestock.

The project site is located on a 729-acre tract of land that has been used primarily for agriculture purposes with approximately 430-acres within the contributing watershed for the proposed reservoir. Much of the property is now under a forestry management plan to improve the amount of forested lands and increase forest biodiversity and wildlife habitat and enhance watershed protection. The topography is gently rolling, ranging from approximately 340 feet to just over 400 feet above mean sea level (MSL). According to the Anderson County Soil Survey, there are two soil types within the footprint of the reservoir; the Thenas associated with the ephemeral channel and the Kirvin-Sacul associated with the upland pasture.

Based on the review of aerial photography and field surveys, there are two vegetative communities present within the proposed reservoir site, a narrow riparian zone (approximately 25-feet on each side of the incised 10-foot wide channel) and upland pasture. The dominant plant species occurring along the riparian zone includes southern red oak (*Quercus falcata*), sweetgum (*Liquidambar styraciflua*), winged-elm (*Ulmus alata*), sugarberry (*Celtis laevigata*), eastern red cedar (*Juniperus virginiana*), black willow (*Salix nigra*), yaupon (*Ilex vomitoria*), and greenbrier (*Smilax* sp.). The upland pasture is improved bermudagrass (*Cynodon dactylon*).

Construction of the proposed project would result in the discharge of approximately 950 CY of dredged and fill material into waters of the U.S. The approximately 2,350 feet long dam would have a base of 323 feet wide by 44 feet high, 384 feet MSL and would require approximately 3,052 CY of material and would impound 571-acre feet of water (Sheets 3-6 of Sheets 1-6). The service spillway would consist of a 30-inch diameter riser with a 30-inch diameter outfall pipe. Water depths of the lake would range from shallow areas around the perimeter to a maximum of 38-feet deep, having an average depth of 8 feet. The alternate spillway would be 248-feet wide.

The applicant considered various alternatives during the proposed project evaluation process. The proposed project was selected by the applicant after consideration of environmental and engineering factors. The reservoir was sited and sized so it would inundate areas already cleared for agricultural grazing and abut forested and less disturbed areas. Another alternative evaluated would have been constructing the dam and reservoir on the adjacent Wolf Creek, an intermittent stream with permanent pools, however this would have impacted more aquatic and wildlife habitat. Moving the dam and reservoir to an upland area so as to not impact jurisdictional waters proved not to be a viable option as runoff would not supply adequate hydrology. Decreasing the size of the reservoir would decrease the benefits such as providing adequate fish habitat and domestic livestock watering. The applicants preferred alternative, however, would result in fewer impacts to jurisdictional waters while still meeting the projects objectives.

The applicant proposes to compensate for unavoidable adverse impacts to 1.1 acres of waters of the U.S. by purchasing 3.5 mitigation bank credits from the Rattlesnake Mitigation Bank.

The proposed project has received a Texas Commission on Environmental Quality (TCEQ) water rights permit (Permit No. 12144 dated September 17, 2008) and Neches & Trinity Valleys

Groundwater Conservation District well operation permits dated April 18, 2008 for irrigation and recreation use maintaining the proposed reservoir at or near the normal pool elevation.

**PUBLIC INTEREST REVIEW FACTORS:** This application will be reviewed in accordance with 33 CFR 320-331, 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), 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 hearing to consider all comments concerning water quality if requested in writing. A request for a public hearing 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 Anderson County where the bald eagle (*Haliaeetus leucocephalus*) is known to occur or may occur as migrants. The bald eagle is delisted and being monitored. The Louisiana black bear (*Ursus americanus luteus*) and *Geocarcinus minimum* are listed as threatened and are known to occur in Anderson County. The subject property contains no large bodies of water such as sea coasts, large lakes, streams, or rivers that are required for nesting and feeding by the bald eagle, therefore, the subject property can be excluded as containing potential habitat for the bald eagle. The subject property does not contain any habitat conditions that are prime or unique for the black bear and *Geocarcinus minimum*, however. Our initial review indicates that the proposed work would have no effect on federally-listed endangered or threatened species.

**NATIONAL REGISTER OF HISTORIC PLACES (NRHP):** The applicant proposes to address historic properties and cultural resources in accordance with the requirements of Section 106 of the National Historic Preservation Act (NHPA). An archaeological survey conducted by Native Heritage Preservation Associates, LLC. was conducted with a 100% pedestrian survey and systematic shovel testing across the site. As a result of the survey and shovel testing, two isolated artifacts were located. The low density of prehistoric archeological site is attributed to the shallow and eroded sediments in the small basin, and the ephemeral nature of the stream. No historic properties were found within the survey area. The study concludes that the proposed Lake Velma reservoir would not endanger cultural or historic resources.

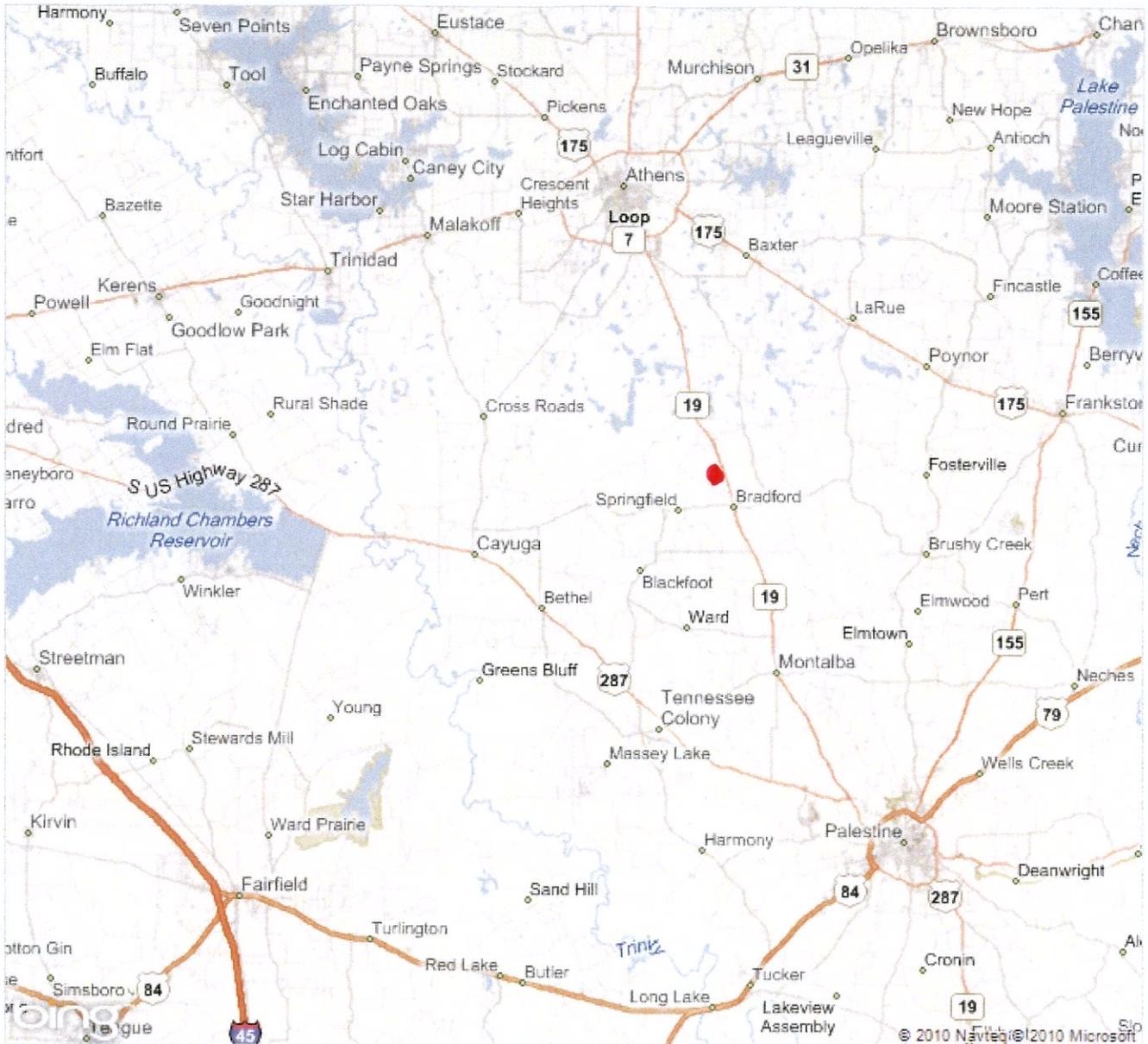
**FLOODPLAIN MANAGEMENT:** The USACE is sending a copy of this public notice to the local floodplain administrator. In accordance with 44 CFR part 60 (Flood Plain Management Regulations Criteria for Land Management and Use), the floodplain administrators of participating communities are required to review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

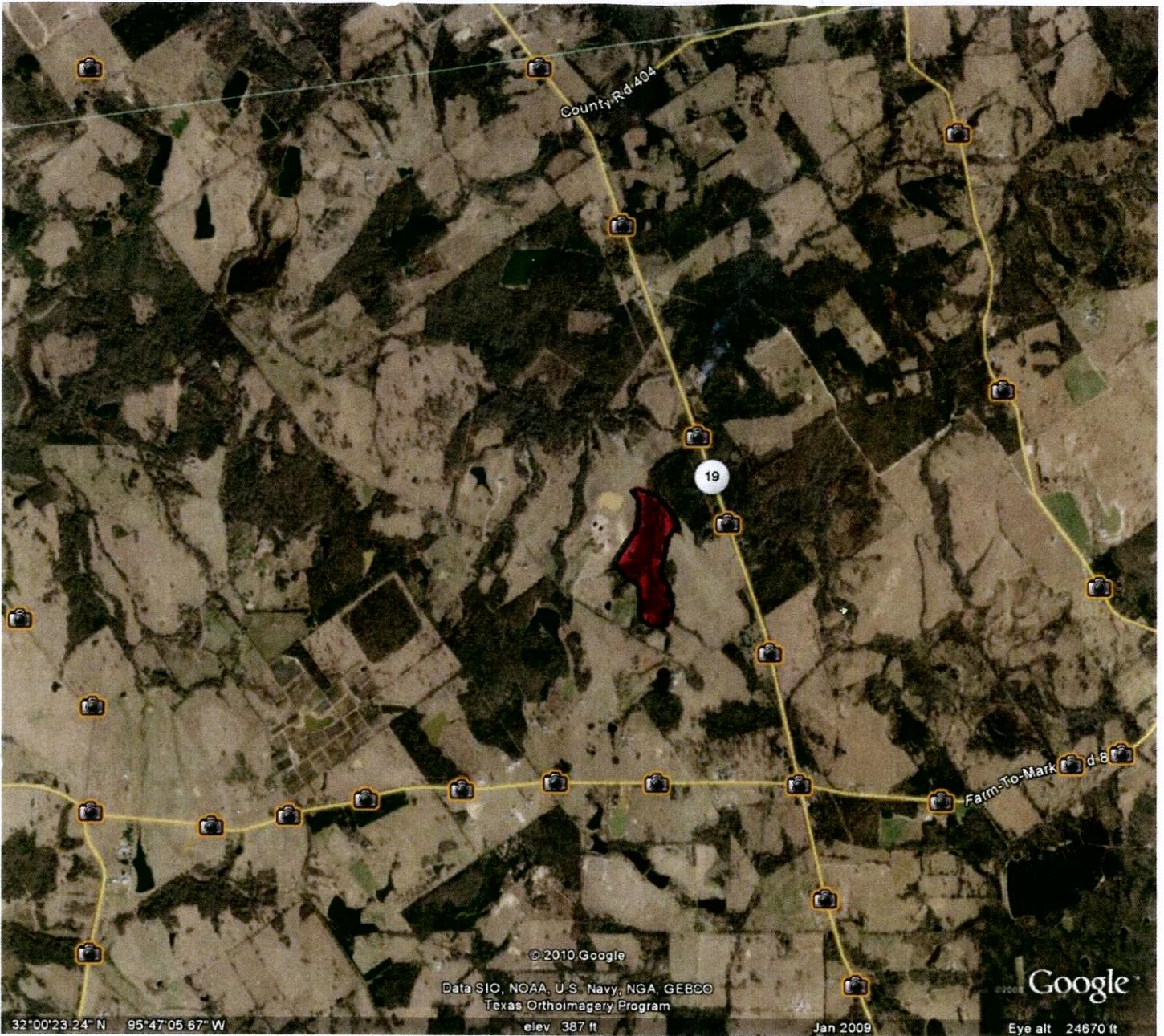
**PUBLIC HEARING:** Prior to the close of the comment period any person may make a written request for a public hearing setting forth the particular reasons for the request. The District Engineer will determine whether the issues raised are substantial and should be considered in his permit decision. 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 October 1, 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 Mr. David Madden; 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



## Vicinity Map Showing Location Of Proposed Lake Velma Project

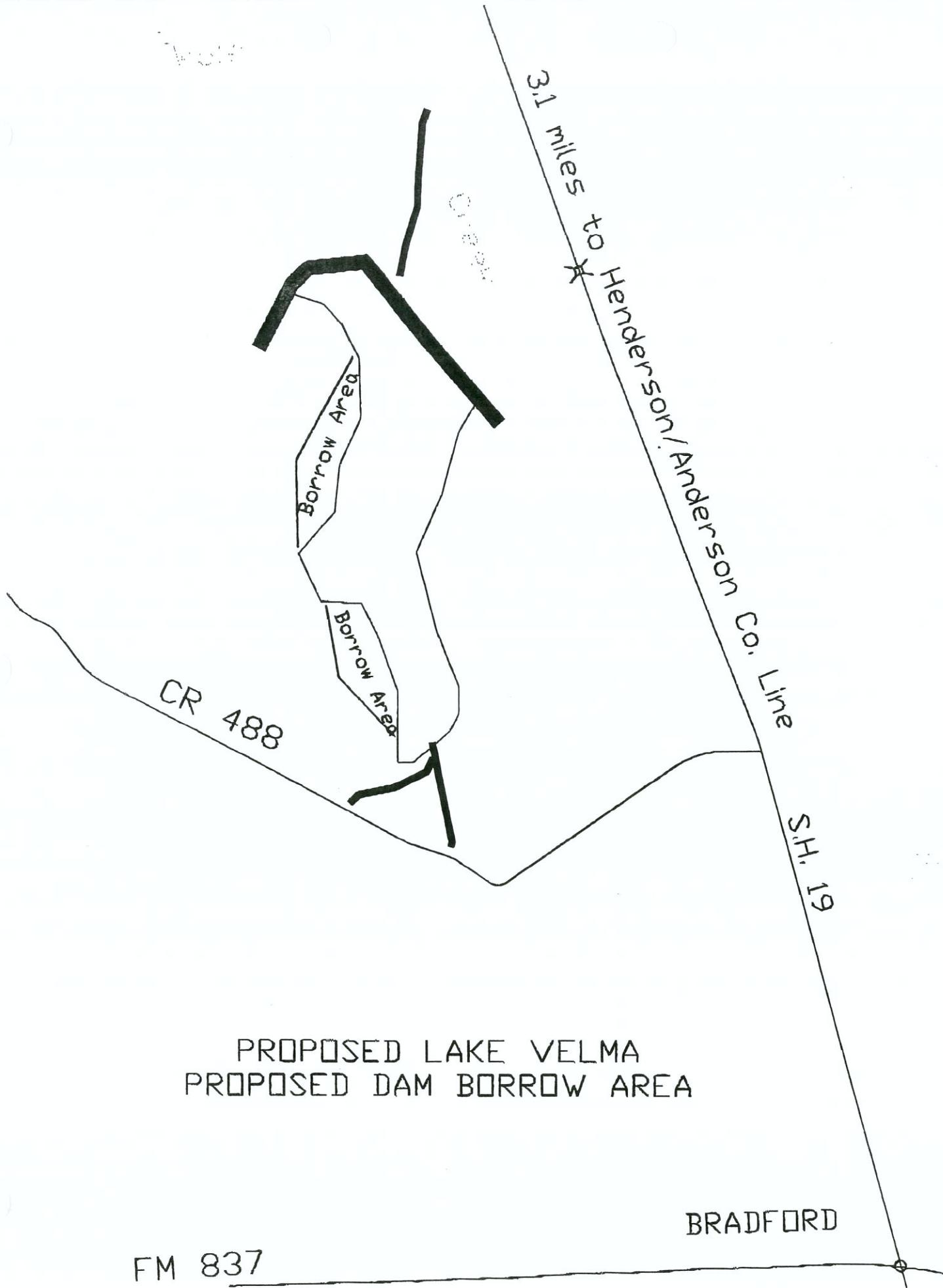


## Aerial Map Of The Proposed Lake Velma Project In Anderson County



## Enlarged Aerial Map Of The Proposed Lake Velma Project In Anderson County

Velma



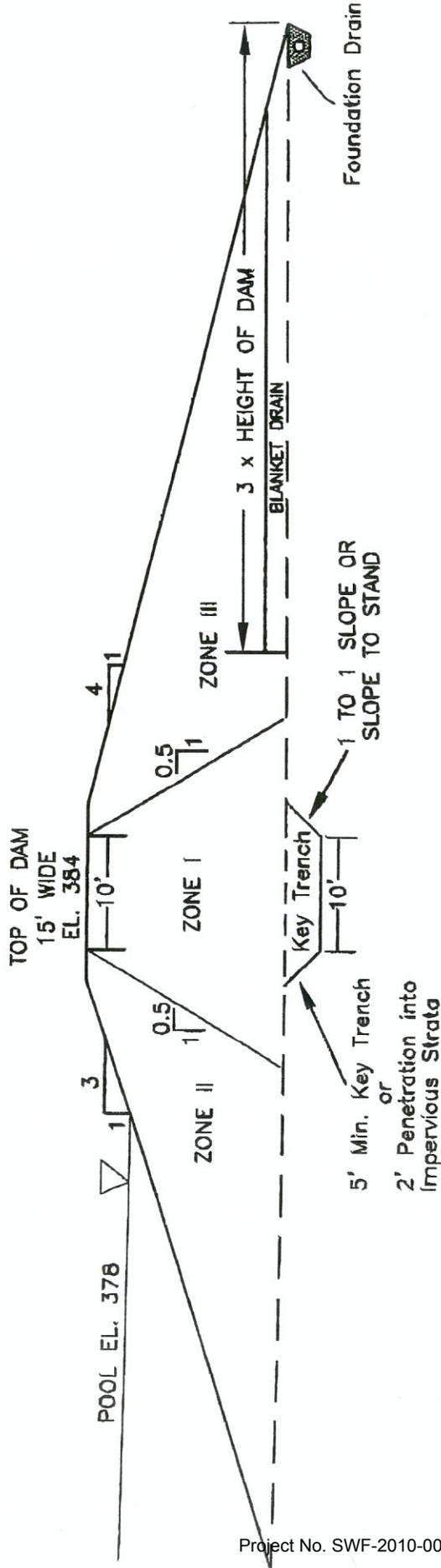
PROPOSED LAKE VELMA  
 PROPOSED DAM BORROW AREA

BRADFORD

FM 837

# ELMWOOD BRADLEY OAKS, L.P. LAKE VELMA PROJECT

ANDERSON COUNTY, TEXAS



TYPICAL DAM CROSS SECTION  
N.T.S.

STAGE DISCHARGE CURVE

The principal spillway is composed of an inlet at the bottom of the lake with a stand pipe to maintain the elevation of the lake as shown in Fig. 4.

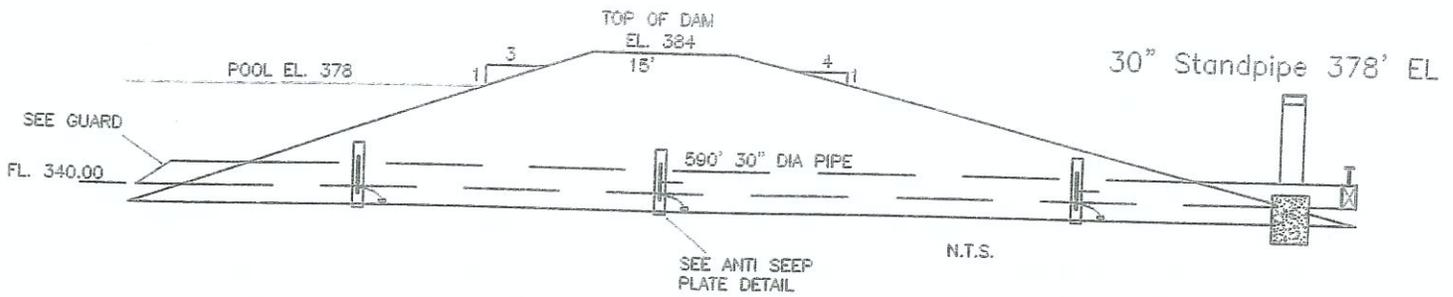


Fig. 4: Detail principal (service) spillway.

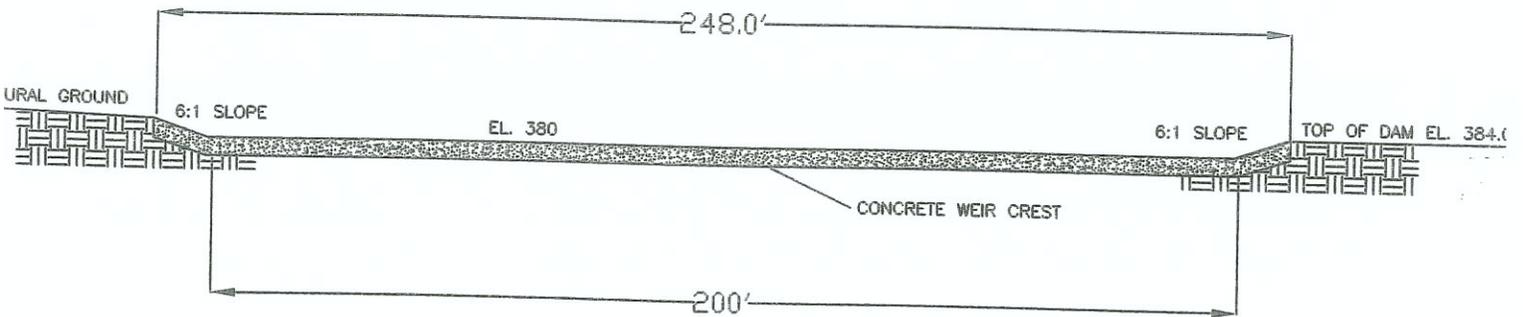


Fig. 5: Detail of the broad crested weir emergency spillway.