

# **Public Notice**

Applicant: Laredo Four Winds, LTD

Project No.: SWF-2015-00209

Date: June 28, 2017

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. Steve Lindamood, Project Manager

Phone Number: 817-886-1670

#### 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 (DA) 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 construction of a mixed-use development in the city of Laredo, Webb, County, Texas.

APPLICANT: Laredo Four Winds, LTD.

c/o Mr. Richard M. Hachar

3302 Cuatro Vientos Drive, Suite 23B

Laredo, Texas 78046

APPLICATION NUMBER: SWF-2015-00209

DATE ISSUED: June 28, 2017

LOCATION: The proposed mixed-use development would be located in the city of Laredo, Webb County, Texas. The project site is located at the northeast corner of Cuatro Vientos Blvd. (Loop 20) and Wormser Road (Exhibit 1 of 9). The proposed project would be located approximately at 27.471219° latitude and -99.446360° longitude on the Laredo South 7.5-minute USGS quadrangle map in the USGS Hydrologic Unit Rio Grande 130800022805.

OTHER AGENCY AUTHORIZATIONS: State Water Quality Certification

PROJECT DESCRIPTION: The applicant proposes to discharge approximately 140 cubic yards of dredged and fill material into approximately 0.09-acre of waters of the United States in conjunction with the construction of the Cuatro Vientos East Subdivision. Total proposed impacts to waters of the U.S. (WOUS) would include permanent impacts to 1,532 linear feet (0.09-acre) of ephemeral tributaries. This includes direct and permanent impacts to three unnamed ephemeral tributaries (Exhibit 2 of 9) to Chacon Creek.

I. INTRODUCTION: The applicant is proposing to construct an approximately 153-acre master-planned development. The applicant's plans include 680 single-family residential lots, a commercial retail pad, a park, and nature trail system. The development also includes all associated infrastructure, including interior roads, utilities, and an on-channel detention pond. According to the applicant, the city of Laredo's Subdivision Ordinance, requires the 3 dead-end access roads and a drainage corridor to the east. The applicant's stated purpose for these design features is to prevent "land locking" of the proposed development from other landowners' potential development opportunities. The applicant asserts they do not own the property to the east of the proposed project area and has no plan to develop the property to the east. And such, applicant asserts the proposed development should be considered a single and complete project.

PURPOSE AND NEED STATEMENT: The purpose of the project is to provide a residential and commercial development in the Laredo area, where projected population trends would increase demand for new residential and commercial developments. According to the applicant, US Census (2016) data indicate Laredo's population grew by 19,416 between 2010 and 2015. Additionally, the Texas Department of State Health Services projects Laredo's population will total 317,733 in 2020 (TDSHS, 2016). The applicant believes the aforementioned population data, and their twenty plus years of development experience, supports their opinion that current infrastructure is not adequate to meet the demands of the growth projections. The applicant states that, with the continued economic growth in the Laredo area, there will be a need and demand for new residential and commercial developments.

II. EXISTING CONDITIONS: The applicant is proposing to construct the subject project on an approximately 153-acre tract of land that is currently undeveloped. Two ephemeral tributaries that would be filled originate near the center of the project area and flow from southeast to northwest into a larger ephemeral stream that runs parallel with Cuatro Vientos Road (Loop 20) before exiting the project area to the north; a portion of the larger on-site tributary would also be filled on its far western stream reach. In addition, there is a man-made pond with two small ephemeral tributaries with ephemeral flows into the pond. The pond and its tributaries have been previously determined to be isolated, non-jurisdictional features, and subsequently not subject to Section 404 of the CWA.

The *Soil Survey of Webb County, Texas* illustrated 2 soil types within the project site. These soil types include the Copita fine sandy and the Verick fine sandy series. Both soil types share similar characteristics of fine sandy loamy soils formed from Calcareous loamy residuum weathered from sandstone.

The FEMA FIRM (Map Panel 4810591380C dated April 2, 2008) illustrates 100 percent of the project site within Zone X (areas determined to be outside the 0.2 percent chance annual floodplain).

According to the applicant, previous land use consisted of rangeland for cattle grazing and oil/gas exploration. As such the undeveloped property is characterized by semi-dense, thorny, scrubshrub vegetation, open grasslands areas, and areas that have been actively grazed by livestock. Parts of the site have been previously cleared for seismic surveys and access roads.

The landform of the property is sloping with elevations ranging from 575 to 490 feet above mean sea level (USGS, 1979).

- III. ADVERSE IMPACTS OF THE PROPOSED PROJECT: According to the current master plan, adverse direct and permanent impacts to ephemeral tributaries would total 0.09-acre, including 0.08-acre in lot fill and 0.01-acre in road crossings (Exhibit 2).
- IV. ALTERNATIVES TO THE PROPOSED PROJECT: The USACE has not yet evaluated this alternatives analysis. The applicant developed and utilized a set of selection criteria to evaluate the project which included the following:

- A site, which is near southeast Laredo area, has a demand for new single family residential units. The applicant states that residential subdivisions are in demand in this area because of Loop 20 and newly constructed commercial and retail development;
- A Site located in close proximity to Loop 20 to ensure ease of access to the Laredo and newly constructed commercial and retail development along Loop 20;
- To accommodate a comparable large-sized residential development, which consists
  of residential lots and their associated infrastructure, complimentary land uses, and
  related amenity features, and a parcel with Loop 20 frontage for retail and commercial
  lots.
- A Site that would minimize impacts to environmental features, especially potential waters of the United States.

The applicant utilized the above selection criteria to identify two additional conceptual alternatives to evaluate the preferred alternative. These alternatives were developed based on an aerial photograph search of undeveloped properties that could be reasonably linked together to make one large-scale development at the minimum acreage threshold. The geographic boundary for locating alternative sites was set to a 3-mile radius from the intersection of Loop 20 and Wormser Road.

#### NO ACTION ALTERNATIVE

The applicant states that under the No-Action-Alternative, the applicant would stop development and restore the previous impacts that have occurred. Under the No-Action-Alternative, no additional lots would be built, creating an even greater supply deficit in available and soon-to-be available single family residential units within Laredo.

#### ALTERNATIVE SITE ANALYSIS

The applicant stated that an extensive analysis of available properties was conducted within a 3-mile geographic radius of the intersection of Loop 20 and Wormser Road. From an aerial photography survey, two additional development assemblages (Exhibit 9 of 9) were located and selected for their analysis. The area of FEMA FIRM 100-year floodplain and accompanying floodway were calculated and excluded from potential developable acres.

Alternative Site #1 – was located on the south side of Wormser Road, 0.4 miles east of its intersection with Loop 20. The approximately 480-acre tract of land was located in the southeastern portion of Laredo and did have some land frontage to Loop 20 (approximately 1,500 linear feet) for commercial opportunities. Based on the applicant's aerial photography interpretation, the site has approximately 14,200 linear feet of stream tributaries and 5 acres of impoundments. Additionally, they stated none of the site was within the 100-year floodplain. The site was ultimately rejected by the applicant

because of its size (too large), prohibitive cost, inadequate frontage to Cuatro Vientos Blvd (Loop 20), and large amount of aquatic features.

Alternative Site #2 – was located on the east side of Loop 20 at Cielito Lindo Boulevard. The tract of land consisted of 2 parcels totaling approximately 180 acres. The tract was located in the southeastern portion of Laredo and had approximately 3,000 linear feet of frontage along Loop 20. Approximately 115 acres of the 180-acre tract were mapped within the 100-year floodplain. Based on the applicant's aerial photography interpretation, they concluded the on-site aquatic features consisted of an approximately 30-acre impoundment and abutting wetlands, as well as 5,500 linear feet of stream channels. The site was ultimately rejected by the applicant because of the large amount of undevelopable acreage (64%) associated with the floodplain and aquatic features.

Applicant's Preferred Alternative (Cuatro Vientos East Development) – is located at the northeast corner intersection of the Loop 20 and Wormser Road. The tract of land is located in southeastern Laredo and totals approximately 153 acres. The land features approximately 3,300 linear feet of frontage to Loop 20 and is immediately adjacent to existing residential and commercial development. None of the site was within the 100-year floodplain. Based on the applicant's interpretation of their delineation of potential waters of the U.S., including wetlands, they concluded that the site contained 3,146 linear feet (0.18-acre) of ephemeral tributaries. Based on the aforementioned site selection criteria, the applicant selected the subject Cuatro Vientos site as their preferred alternative.

#### *ON-SITE ALTERNATIVES*

The applicant considered three design alternatives for the preferred development site. According to the applicant, they were unable to avoid all impacts to on-site aquatic features, because the location of the ephemeral stream channels posed a substantial challenge to their effective design of the subject development and associated appurtenances. The applicant has proposed to avoid and minimize impacts to potential waters of the U.S. to the greatest extent practicable by adjusting the proposed project site plan to avoid impacts to 1,542 linear feet (0.11-acre) of ephemeral tributaries, and designing a mitigation plan that would create and hydrologically connect an additional 2,030 linear feet (0.23-acre) of constructed stream channel and enhance 4.56 acres of associated riparian corridor.

Alternative Design 1: Commercial Pad and Retention Pond – Initially, the site plan proposed impacts to 3,074 linear feet (0.2-acre) of ephemeral tributaries to facilitate the construction of the residential subdivision, a commercial pad, and a retention pond. The proposed commercial pad and retention pond were located in the northwest portion of the project area. This area is where the ephemeral tributary runs parallel with Loop 20 and flows off-site to the north. In the applicant's opinion, this commercial tract was especially valuable because of the pad location in relation to a major road and entrance road to the development. This alternative was rejected in favor of a design with reduced impacts to aquatic features.

Alternative Design 2: Commercial Pad and Detention Pond – This proposed site plan would have impacts to 2,395 linear feet of ephemeral tributaries (0.14-acre) to facilitate the construction of the residential subdivision, a commercial pad, and a detention pond weir structure. This plan was also rejected in favor of a design that minimized impacts to aquatic features to the maximum extent practicable.

Preferred Design: Detention Pond – The preferred site plan (Exhibit 2 of 9) would impact 1,532 linear feet (0.09-acre) of ephemeral tributaries to facilitate the construction of the proposed development. This plan would remove the retention pond and 1 of the commercial pads previously proposed to impact aquatic features. In place of the retention pond, a detention pond is proposed for construction. According to the applicant, this design would reduce impacts to ephemeral streams by 50% in comparison to Alternative Design 1.

V. COMPENSATORY MITIGATION: To offset unavoidable adverse impacts to potential waters of the U.S., the applicant proposes to provide on-site Permittee Responsible Mitigation (PRM). The applicant proposes to avoid, preserve, and enhance portions of the primary ephemeral tributary in the project area. The applicant proposes to enhance the existing tributary by preserving 1,542 linear feet (0.11-acre) of tributary, enhancing 4.56 acres of riparian corridor with native trees and shrubs, and creating 2,030 linear feet (0.23-acre) of highly sinuous pilot channel to be constructed within a 2.10 acre trapezoidal channel in creating the 2.10 acres of drainage area. In total, the applicant is proposing to enhance and create 3,572 linear feet of tributary (Exhibits 2, 4, 7, and 8). The mitigation area will be protected in perpetuity through a conservation easement. As of the date of this public notice, the proposed project is not within the service area of an existing USACE approved mitigation bank.

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 TCEO'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 Webb County where the Least tern (*Sterna antillarum*), Ashy dogweed (*Thymophylla tephroleuca*), Gulf Coast jaguarundi (*Herpailurus yagouaroundi*), and the Ocelot (*Leopardus pardalis*) are known to or believed to occur or may occur as migrants. All of the aforementioned species are listed as endangered species in this county. Our initial review indicates that the proposed work would have no effect on federally-listed endangered or threatened species.

NATIONAL REGISTER OF HISTORIC PLACES: The area of the proposed Cuatro Vientos Project has never been surveyed for the presence of historic or prehistoric cultural resources. There are no properties eligible for, or listed on, the National Register of Historic Places within the proposed development. Based on similar areas in Webb County, the area has a high likelihood of containing prehistoric or historic sites. A survey of the permit area will be required to identify and assess any cultural resources identified.

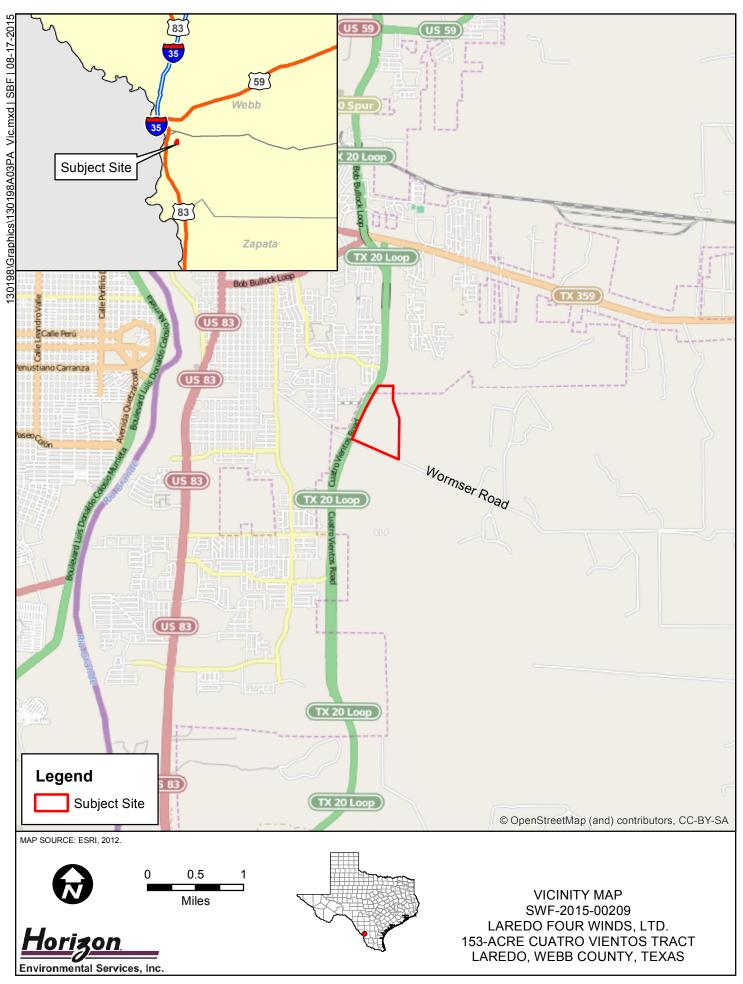
FLOODPLAIN MANAGEMENT: The USACE is sending a copy of this public notice to the local floodplain administrator. In accordance with 44 CFR part 60 (Flood Plain Management Regulations Criteria for Land Management and Use), the floodplain administrators of participating communities are required to review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

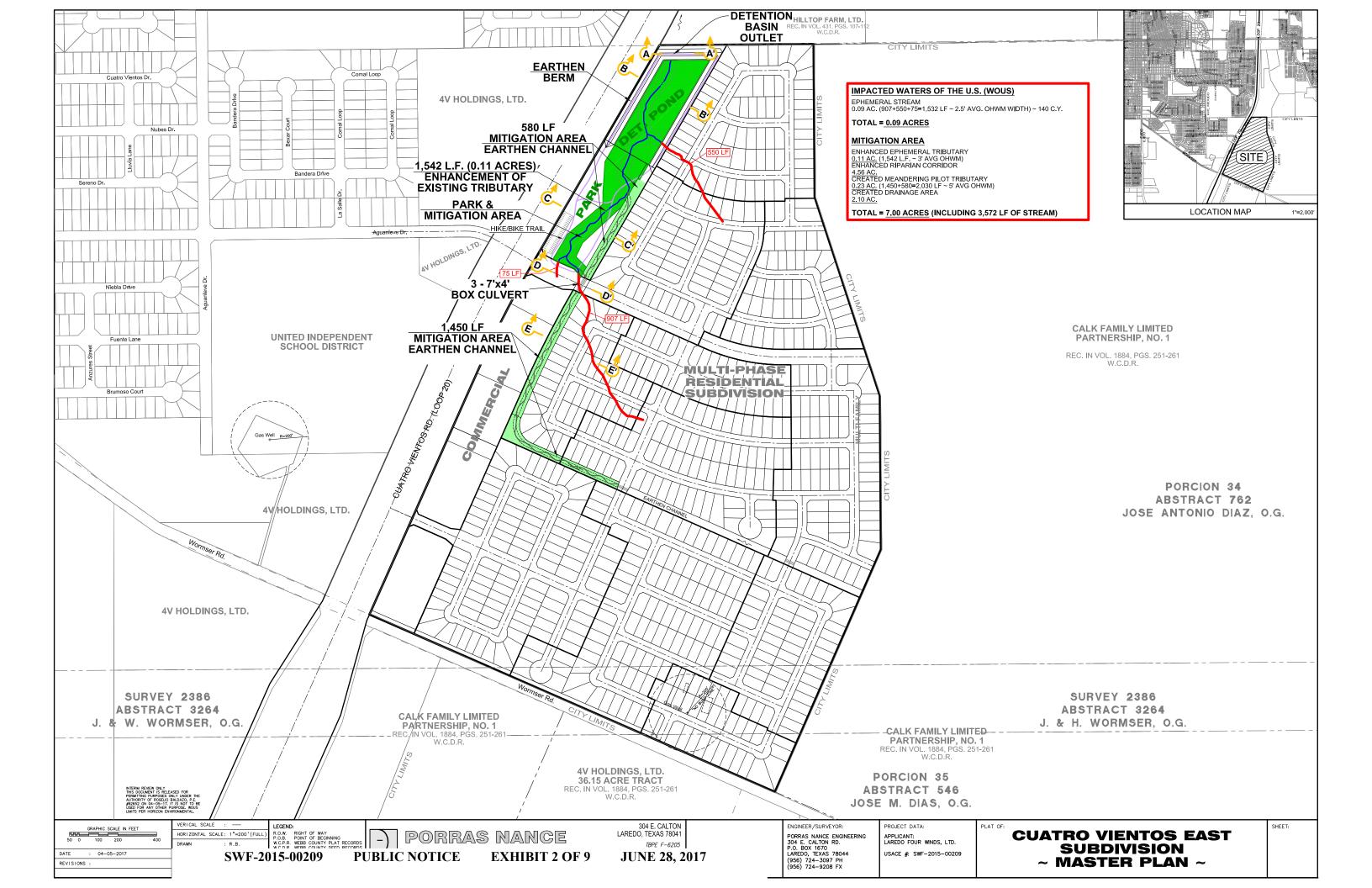
SOLICITATION OF COMMENTS: The public notice is being distributed to all known interested persons in order to assist in developing fact upon which a decision by the USACE may be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted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

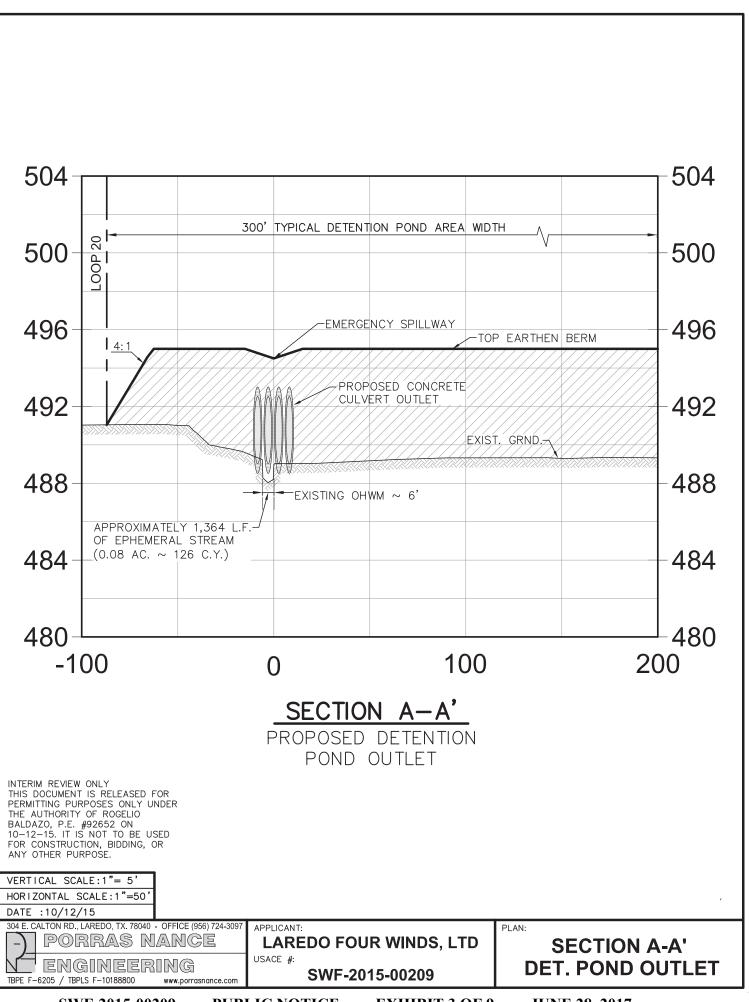
PUBLIC HEARING: Prior to the close of the comment period any person may make a written request for a public hearing setting forth the particular reasons for the request. The District Engineer will determine whether the issues raised are substantial and should be considered in his permit decision. If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

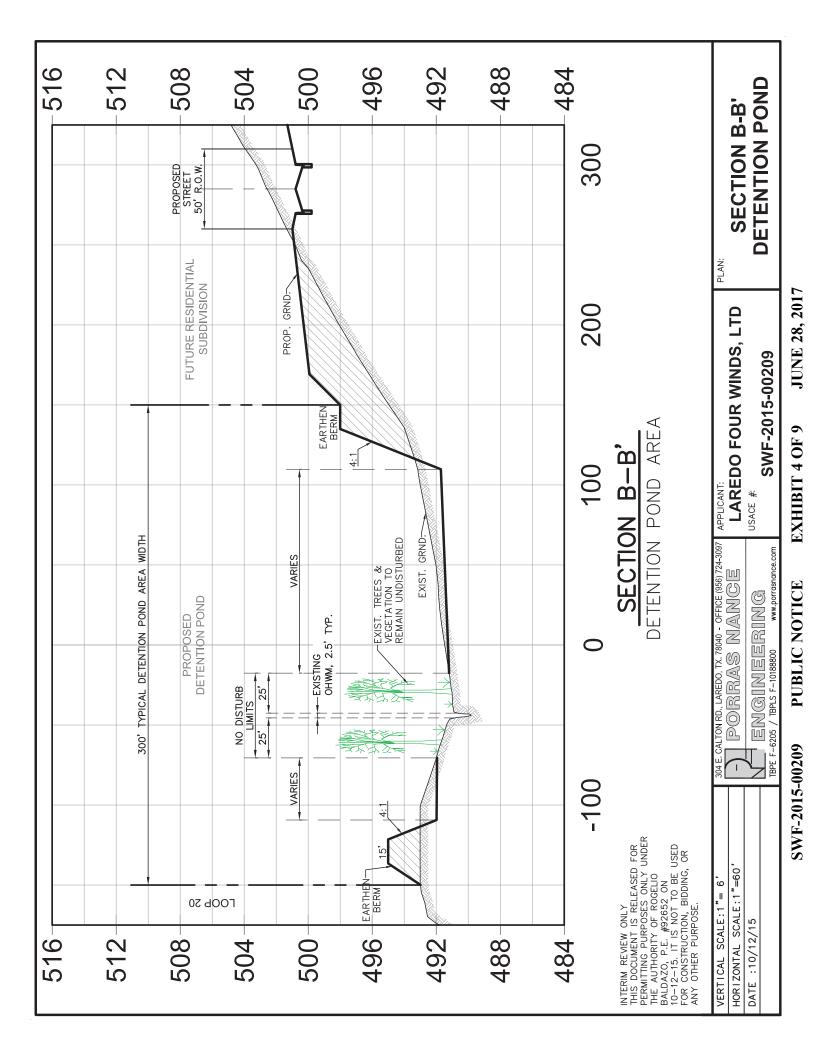
CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before July 28, 2017, which is the close of the comment period. Extensions of the comment period may be granted for valid reasons provided a written request is received by the limiting date. If no comments 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 Division, CESWF-DE-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 Steve D. Lindamood at (817) 886-1670. Please note that names and addresses of those who submit comments in response to this public notice may be made publicly available.

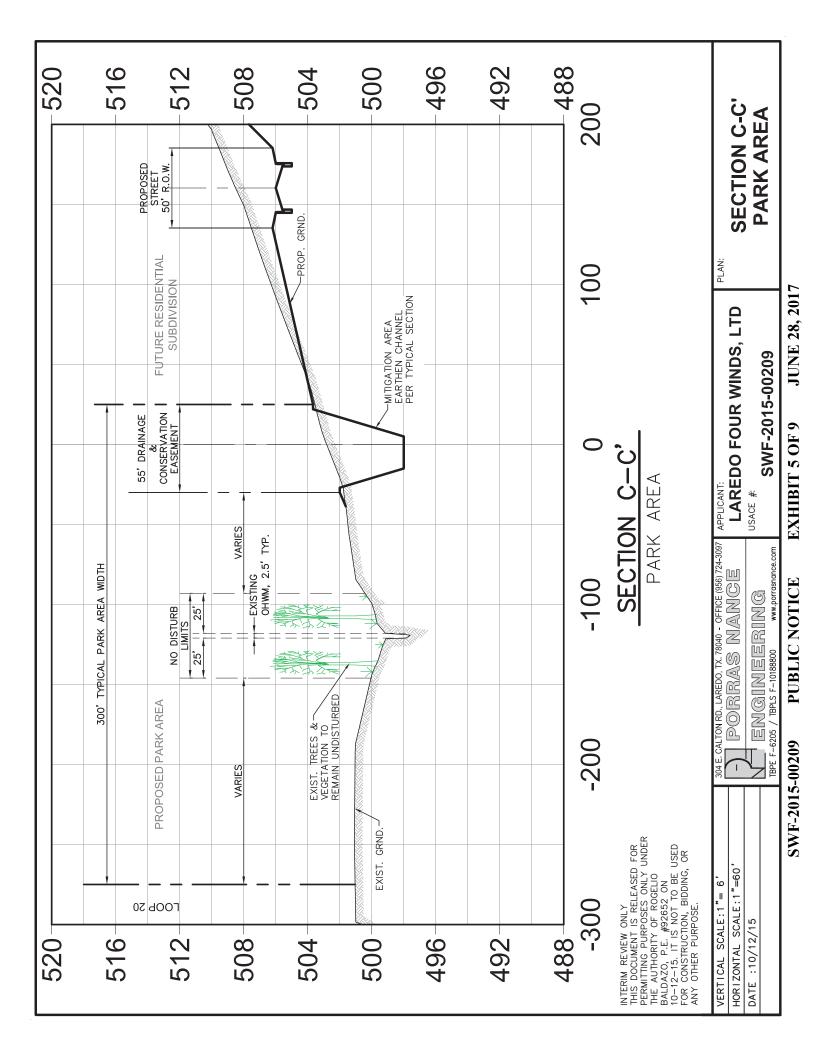
DISTRICT ENGINEER FORT WORTH DISTRICT CORPS OF ENGINEERS

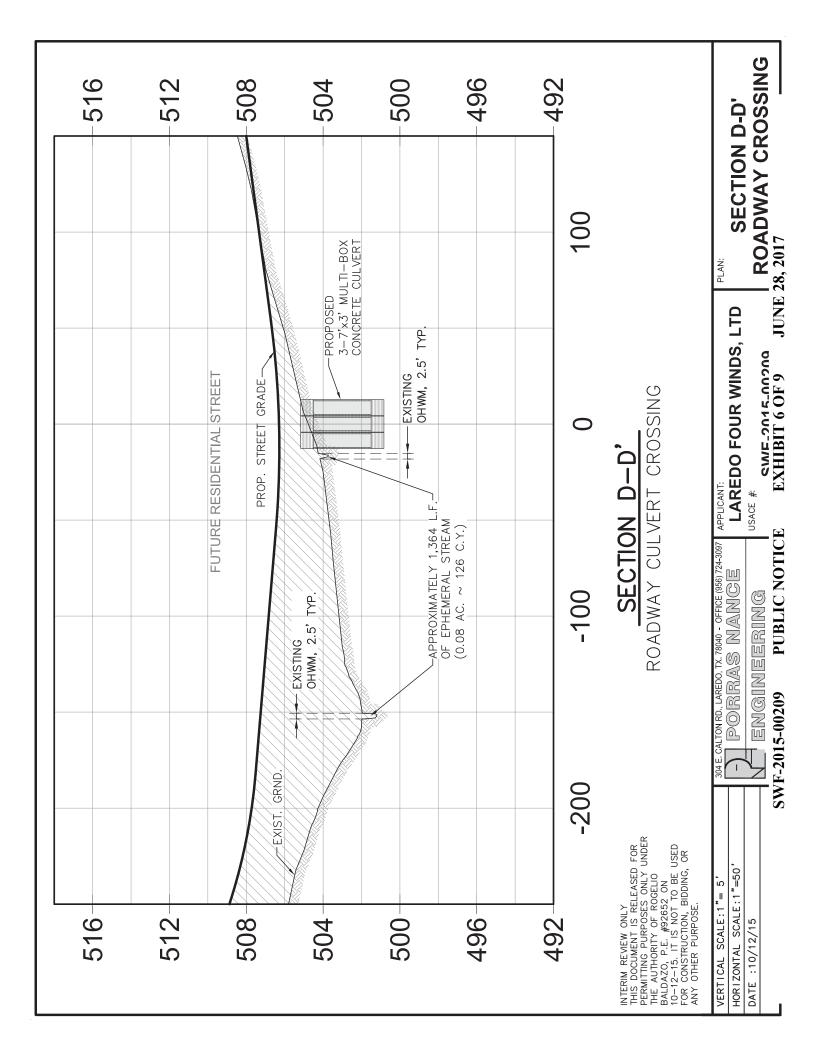


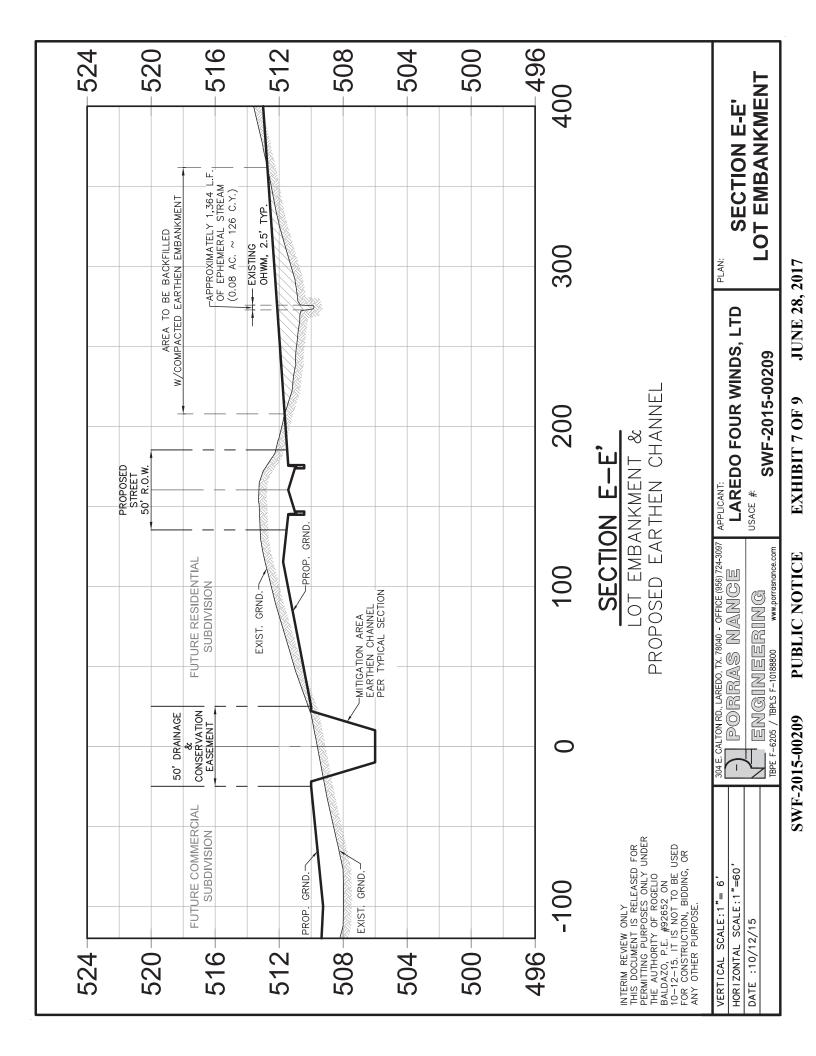


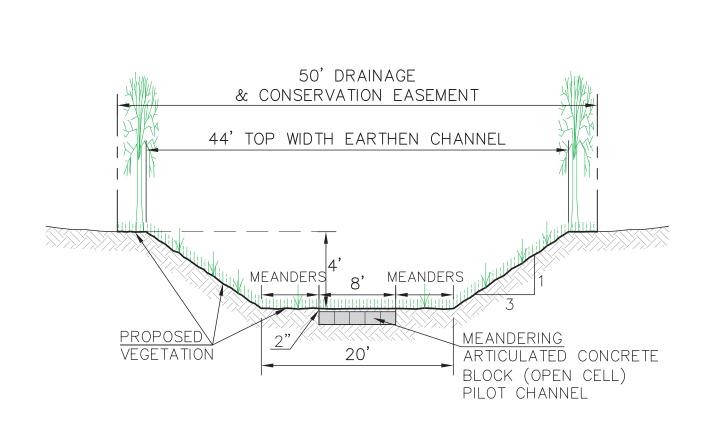












# TYPICAL SECTION MITIGATION AREA EARTHEN CHANNEL

APPLIES TO SECTION C-C' & E-E'

INTERIM REVIEW ONLY
THIS DOCUMENT IS RELEASED FOR
PERMITTING PURPOSES ONLY UNDER
THE AUTHORITY OF ROGELIO
BALDAZO, P.E. #92652 ON
10-12-15. IT IS NOT TO BE USED
FOR CONSTRUCTION, BIDDING, OR
ANY OTHER PURPOSE.

VERTICAL SCALE:1"= 5'
HORIZONTAL SCALE:1"=10'

DATE :10/12/15

304 E. CALTON RD., LAREDO, TX. 78040 - OFFICE (956) 724-3097

ENGINEERING

PE F-6205 / TBPLS F-10188800 www.porrasn

APPLICANT:

LAREDO FOUR WINDS, LTD
USACE #:

SWF-2015-00209

PLAN:

TYPICAL SECTION EARTHEN CHANNEL

## **Alternatives Location Map**

