

**REAL ESTATE PLAN**

**PECAN CREEK FLOOD CONTROL PROJECT  
CITY OF GAINESVILLE, COOKE COUNTY, TEXAS**

**DATE OF REPORT**

**JULY 6, 2005**

**PREPARED BY**

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

**This Real Estate Plan has been prepared in accordance with ER 405-1-12 dated 1 May 1998.**

PREPARED BY:



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Fort Worth District, Corps of Engineers  
Real Estate Division, Technical Resources Branch

RECOMMENDED BY:



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## **PURPOSE**

This Real Estate Plan has been prepared in support of the feasibility study that describes the lands, easements, and right of way (LER) required for the Pecan Creek Flood Control project in the City of Gainesville, Texas. The City of Gainesville is the local sponsor and will acquire all LER. Authority for the project is Section 205 of the 1948 Flood Control Act.

In the early 1980s, the Gainesville experienced heavy storms which caused flooding along Pecan Creek. The City requested the USACE, Fort Worth District to perform a feasibility study under Section 205 of the 1948 Flood Control Act. The feasibility study was completed in 1987 and recommended a \$6.9 million project. At that time, the City was unable to obtain the level of funding required to continue the project. The City experienced additional flooding in 1989, 1990, and 1993 and requested the Corps perform a new feasibility study that addresses the current conditions.

## **LAND, EASEMENT, AND RIGHT-OF-WAY FOR THE RECOMMENDED PLAN**

The subject property is located within the City of Gainesville, Texas. Gainesville is located approximately 80 miles north of Dallas/Fort Worth and approximately 7 miles south of the Texas/Oklahoma border. An estimated 53 tracts of land will be acquired for the project.

Pecan Creek flows from north to south and bisects the City. The northern boundary of the project is Olive Street and the southern boundary is Anthony Street. The existing channel is 70 feet wide (from top of bank to top of bank) and encompasses an estimated total of 12.63 acres. The project will entail widening out the existing channel to 110 feet (from top of bank to top of bank) and require an additional 30 feet (15 foot on both sides of the creek) for maintenance. Other areas will be needed for a temporary 24 month easement for a contractor staging area, a permanent area for the disposal of spoil, and for a mitigation area.

The following land, easements, and right-of-way are necessary for the project.

- 12.63 acres of existing channel
- 12.63 acres for channel improvement and permanent maintenance easement
- 24.07 acres for temporary easement (disposal of spoil material)
- 2.0 acres for temporary easement (construction staging area)
- 22.05 acres for mitigation area

Based on information provided by the Project Manager, the cost-share for the project has not been finalized, but at this point is estimated at 50% Federal and 50% local. (The City is responsible for all LER costs which will be credited against their share.)

Table 1 identifies the estates, acreages, and estimated values of the lands.

<p style="text-align: center;">TABLE 1 LANDS, EASEMENTS, AND RIGHTS OF WAY PECAN CREEK FLOOD CONTROL PROJECT GAINESVILLE, TEXAS</p>		
ESTATE	ACRES	ESTIMATED VALUE
PROJECT PURPOSE: Flood Control		
PROJECT FEATURE: Flood Control		
Channel Improvement Easement	25.26	\$490,958
Temporary Work Area Easement	26.07	\$ 38,611
Fee Simple (Mitigation Land)	22.05	\$240,125

**Channel Improvement Easement:**

A perpetual and assignable right and easement to construct, operate, and maintain channel improvement works on, over, and across the land described above for the purposes as authorized by the Act of Congress approved Section 205 of the 1948 Flood Control Act, including the right to clear, cut, fell, remove and dispose of any an all timber, trees, underbrush, buildings, improvements, and/or other obstructions therefrom; to excavate: dredge, cut away, and remove any or all said land and to place thereon dredge or spoil material; and for such other purposes as may be required in connection with said work of improvement; reserving, however, to the owners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the roads and highways, public utilities, railroads, and pipelines.

Temporary Work Area Easement:

A temporary easement and right-of-way in, on, over and across the land described above for a period not to exceed two (2) years, beginning with date possession of the land is granted to the City of Gainesville, for use by the City of Gainesville, its representatives, agents, and contractors as a work area, including the right to deposit fill, spoil and waste material thereon and move, store, and remove equipment and supplies and erect and remove temporary structures on the land and to perform any other work necessary and incident to the construction of Pecan Creek Flood Reduction Project, together with the right to trim, cut, fell and remove therefrom all trees, underbrush, obstructions, and any other vegetation, structures, or obstacles within the limits of the right-of-way; reserving, however to the landowners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easements hereby acquired; subject however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

**NON-STANDARD ESTATES**

There are no non-standard estates associated with this project.

**EXISTING FEDERAL PROJECT**

There is no existing Federal project that lies fully or partially within the project area.

**FEDERALLY OWNED LAND**

There is no federally owned land associated with this project.

**NAVIGATIONAL SERVITUDE**

Pecan Creek is not a navigational stream/river. Therefore, navigation servitude is not applicable.

**PROJECT AREA**

Maps depicting the project area are attached.

## **FLOODING OF PROJECT AREA**

Based on calculations performed by the Hydrology and Hydraulics Section of the Fort Worth District, no significant flooding to private property will be caused by the construction and maintenance of the flood control project.

## **BASELINE COST ESTIMATE FOR REAL ESTATE**

Property values included in the cost estimate are based on a Gross Appraisal, dated April 12, 2005, prepared by Thurman Schweitzer and approved by Rocky Lee, MAI, SRA, of the Real Estate Division of the Fort Worth District. The Fort Worth District, Technical Resources Branch, staff estimated administrative cost. Contingencies have been added to the estimates as follows:

- 01.23.03.01 Real Estate Planning Documents, 10% based on reasonable cost estimates
- 01.23.03.02 Real Estate Acquisition Documents, 10% based on reasonable certainty
- 01.23.03.03 Real Estate Condemnation Documents, 25% based on the expectation of at least 6 condemnations
- 01.23.03.05 Real Estate Appraisal Documents, 25% based on reasonable certainty of contract costs
- 01.23.03.06 Real Estate PL 91-646 Asst. Documents, 10% based on reasonable certainty
- 01.23.03.15 Real Estate Payment Documents, based on contingencies (20%) assigned by the Appraiser in the Gross Appraisal
- 01.23.03.17 Real Estate LERRD Accounting Documents, 25% based on reasonable certainty regarding accounting requirements

Costs are presented in Table 2, as follows. Estimates are presented in the standard Code of Accounts from MCACES Model Database, October 1994.

Table 2  
 REAL ESTATE COST ESTIMATE FOR PROJECT IMPLEMENTATION  
 PECAN CREEK FLOOD CONTROL PROJECT  
 GAINESVILLE, TEXAS

ACCT	DESCRIPTION	ESTIMATE	CONTINGENCY
01	Lands & Damages		
01.23	Construction Contract Documents		
01.23.03	Real Estate Analysis Documents		
01.23.03.01	Real Estate Planning Documents	\$10,000	\$1,000
01.23.03.02	Real Estate Acquisition Documents		
	Acquisitions by Local Sponsor	\$424,000	\$42,400
	Review of Local Sponsor	\$26,500	\$2,650
01.23.03.03	Real Estate Condemnation Documents		
	Condemnations by Local Sponsor	\$36,000	\$9,000
	Review of Local Sponsor	\$1,500	\$375
01.23.03.05	Real Estate Appraisal Documents		
	Appraisals by Local Sponsor	\$95,400	\$23,850
	Review of Local Sponsor	\$26,500	\$6,625
01.23.03.06	Real Estate PL 91-646 Asst. Documents		
	PL 91-646 Asst. by Local Sponsor (Admin)	\$9,000	\$900
	Review of Local Sponsor	\$1,000	\$100
01.23.03.15	Real Estate Payment Documents		
	Payments by Local Sponsor (Land)	\$769,694	\$153,939
	Payments by Local Sponsor (PL 91-646)	\$87,500	\$17,500
	Review of Local Sponsor	\$10,000	\$2,000
01.23.03.17	Real Estate LERRD Crediting Documents	\$10,000	\$2,500
	<b>TOTAL ADMIN &amp; PAYMENTS</b>	<b>\$1,507,094</b>	
	<b>TOTAL CONTINGENCY</b>		<b>\$262,839</b>
	<b>GRAND TOTAL</b>	<b>\$1,769,933</b>	

**RELOCATION ASSISTANCE PROGRAM P.L. 91-646**

An estimated 3 residential structures (733 Gossett, 718 Main, 700 block of Pecan and 1 commercial structure (731 California) will be acquired. For the purposes of this report, the maximum cap of \$22,500 is estimated for each household.

Likewise, for the purpose of this report, fixed payment (in lieu of) amount of \$20,000 is estimated for each business.

- 3 X \$22,500 = \$67,500
- 1 X \$20,000 = \$20,000
- Estimated total: \$87,500

## **MINERAL AND TIMBER ACTIVITY**

In north central Texas, exploration, leasing and well drilling in the Barnett Shale formation, has increased greatly in the last 2 to 3 years and is ongoing. Municipal ordinances generally provide for a review and approval process, but are not an absolute shield against wells within incorporated areas. Some cities and school districts for example are leasing their oil and gas rights and allowing development of wells in order to generate income. Directional drilling technology allows for flexibility in location of wells.

In suburban areas, dense development and small tract size make well development difficult because of distance requirements and numerous owners. These factors coupled with the municipal controls make it unlikely that mineral development would interfere with our project. Southern Cooke County, which is at the edge of the Barnett Shale formation, may experience some drilling for natural gas. I am not aware of any case in the area where such activity has impinged on the operation of a flood control project.

Because of the suburban location, the mineral estate is deemed to have a very nominal value, say \$50 per acre. It is most likely that mineral rights have long ago been severed from surface ownership and are highly fractionalized. Administrative costs to acquire or subordinate mineral rights would be inordinately high. For these reasons, no minerals are proposed for acquisition on this project.

The trees within the project area have been discussed with the Fort Worth District Forester and photographs of the project area reviewed. Based on this level of inspection, he has offered the opinion that some merchantable timber may be within the subject area, but not of significant quantity to be profitable.

## **NON-FEDERAL SPONSOR'S CAPABILITY TO ACQUIRE LERRD**

The City of Gainesville is responsible for acquiring LERRD. A checklist has been prepared in accordance with Chapter 12 of ER 405-1-12 and is attached. The

REAL ESTATE PLAN: Pecan Creek Flood Control Project, City of Gainesville, Texas

City of Gainesville is aware of the requirements of PL 91-646, as amended, and the requirements for documenting expenses for credit purposes.

The City has also been advised of the risks associated with acquiring LERRD before execution of the PCA. The Corps will work with the sponsor throughout the project, to the extent appropriate and allowable; to ensure that there is understanding of the Federal real estate principles. Action will also be taken to address any policy issues that could significantly impact the project.

### **ZONING ORDINANCES**

There are no special Zoning Ordinances proposed for enactment with the project.

### **MILESTONES FOR REAL ESTATE ACQUISITION**

Significant milestones for the acquisition of real estate have been entered into P2 by the Project Manager.

### **FACILITY OR UTILITY RELOCATIONS**

Based on input from the Civil Design Section of the Fort Worth District, approximately 720 feet of water lines, 1,490 feet of sanitary sewer lines, 900 feet of gas lines, 1,000 feet of telephone lines, and 1,000 feet of electric lines will be affected by the project. These are noted in Appendix C, Civil Design.

A legal opinion, previously prepared by the Fort Worth District Real Estate Division Staff Attorney, states that the relocation of all utility lines will be the responsibility of the project sponsor if none of the lines fall within the public right-of-way. If a utility is operating within a public right-of-way, it is usually under a license and must be relocated at its own expense because it has no property rights even though it incurs cost as a result of the forced relocation.

### **CONTAMINANTS ON REAL ESTATE ACQUISITIONS**

The Planning, Environmental, and Regulatory Division of the Fort Worth District have verified that there are no known HTRW lands in the project area or adjacent areas.

**OPPOSITION BY LANDOWNERS IN PROJECT AREA**

No landowners in the project area have come forward to give positive or negative responses concerning this project.

**OTHER REAL ESTATE ISSUES**

There are no real estate issues relevant to planning, designing, or implementing this project.

## CHECKLIST TO ACQUIRE LERRD

### I. Legal Authority

- a. Does the sponsor have legal authority to acquire and hold title to real property for project purposes? **Yes**
- b. Does the sponsor have the power of eminent domain for this project? **No**
- c. Does the sponsor have "quick-take" authority for this project? **No**
- d. Are any of the lands/interested in land required for the project, located outside the sponsor's political boundary? **No**
- e. Are any of the lands/interests in land required for the project owned by an entity whose property the sponsor cannot condemn? **No**

### II. Human Resource Requirements

- a. Will the sponsor's in-house staff require training to become familiar with the real estate requirements of Federal projects including PL 91-646, as amended? **No**
- b. If the answer to II.a is yes, has a reasonable plan been developed to provide such training? **Not applicable**
- c. Does the sponsor's in-house staff have sufficient real estate acquisition experience to meet its responsibilities for the project? **Yes**
- d. Is the sponsor's projected in-house staffing level sufficient considering other work load, if any, and the project schedule? **Yes**
- e. Can the sponsor obtain contractor support, if required, in a timely fashion? **Yes**
- f. Will the sponsor likely request USACE assistance in acquiring real estate? **No**

### III. Other Project Variables

- a. Will the sponsor's staff be located within reasonable proximity to the project site? **Yes**
- b. Has the sponsor approved the project/real estate schedule/milestones/ **Yes**

### IV. Overall Assessment

- a. Has the sponsor performed satisfactorily on other USACE projects? **Not applicable**
- b. With regard to this project, the sponsor is anticipated to be: **Fully Capable**

V. Coordination

- a. Has this assessment been coordinated with the sponsor? **Yes**
- b. Does the sponsor concur with this assessment? **Yes**

Information provided by Carlos Vigil, City of Gainesville.





**Map of Mitigation and Disposal Areas**

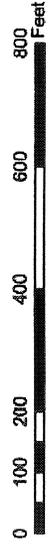




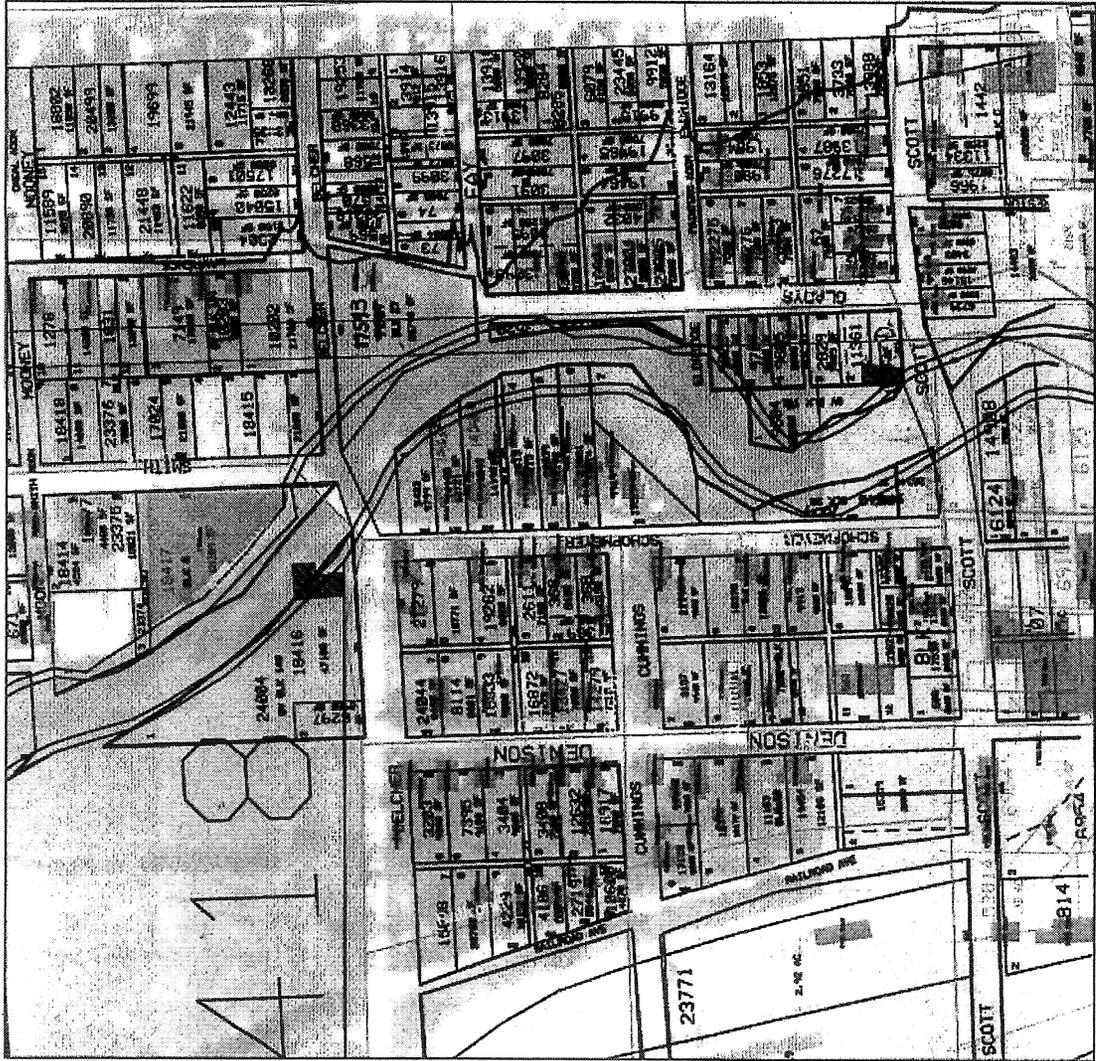
**Pecan Creek Feasibility Study**  
 Plan Formulation  
 Channel Evaluation

**Legend**

-  Structures
-  Civil Design
-  100year
-  City\_buyout\_Jan\_04



US Army Corps  
 of Engineers  
 Fort Worth District  
 UTM Nad 83 Zone 14  
[http://projects.cmfj.org/gainesville/pecan\\_creek\\_design](http://projects.cmfj.org/gainesville/pecan_creek_design)



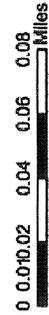
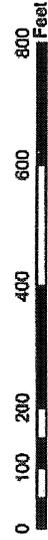


**Pecan Creek Feasibility Study**

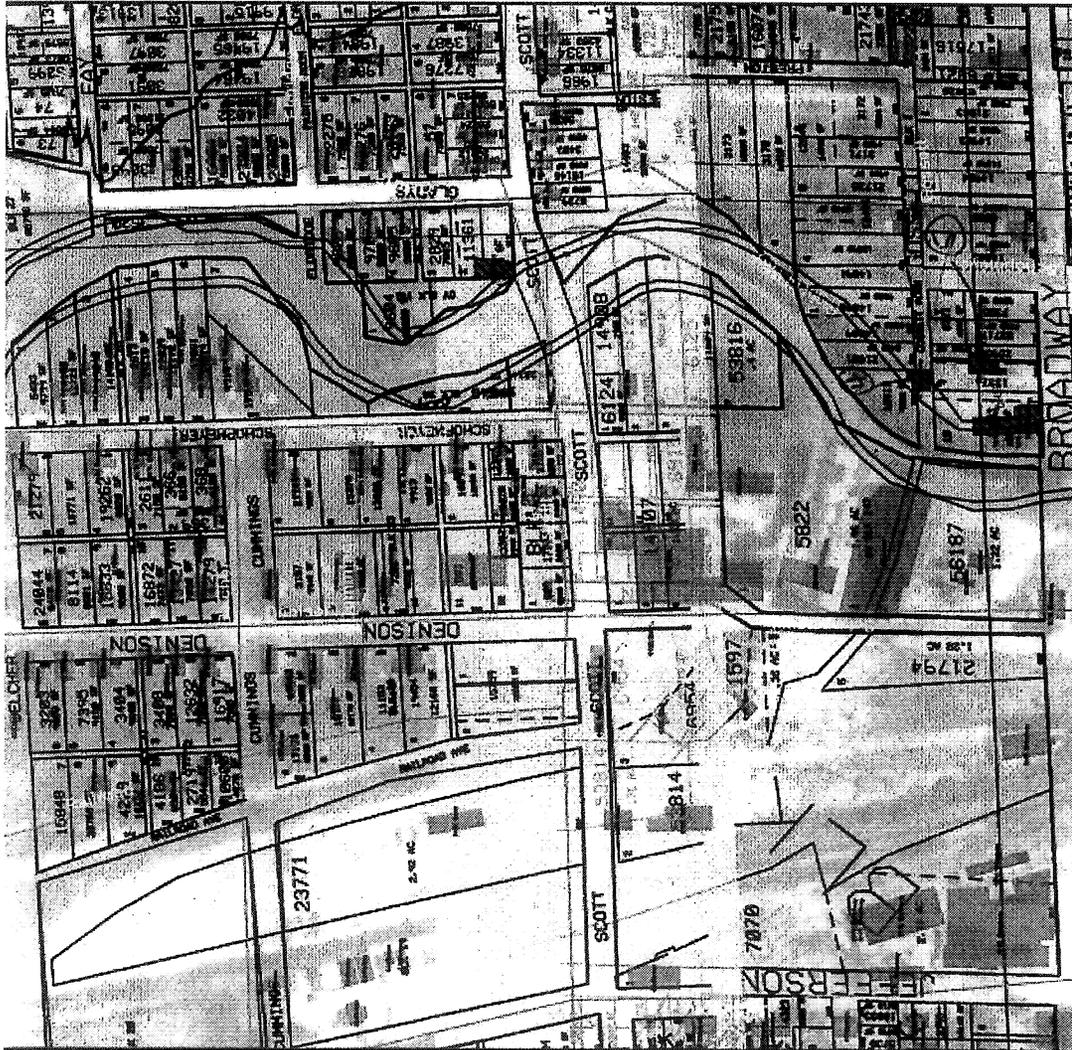
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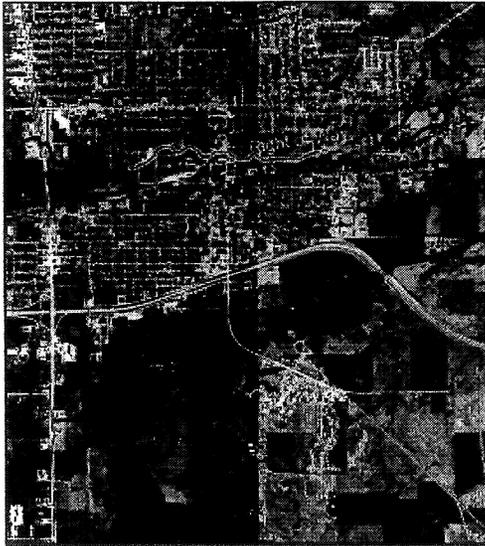
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 US Army Corps  
 of Engineers @  
 Fort Worth District  
 UTM Nod 83 Zone 14  
 www.fgproject.usace.army.mil/gainestd/fgproject\_design



REAL ESTATE PLAN: Pecan Creek Flood Control Project, City of Gainesville, Texas



**Pecan Creek Feasibility Study**  
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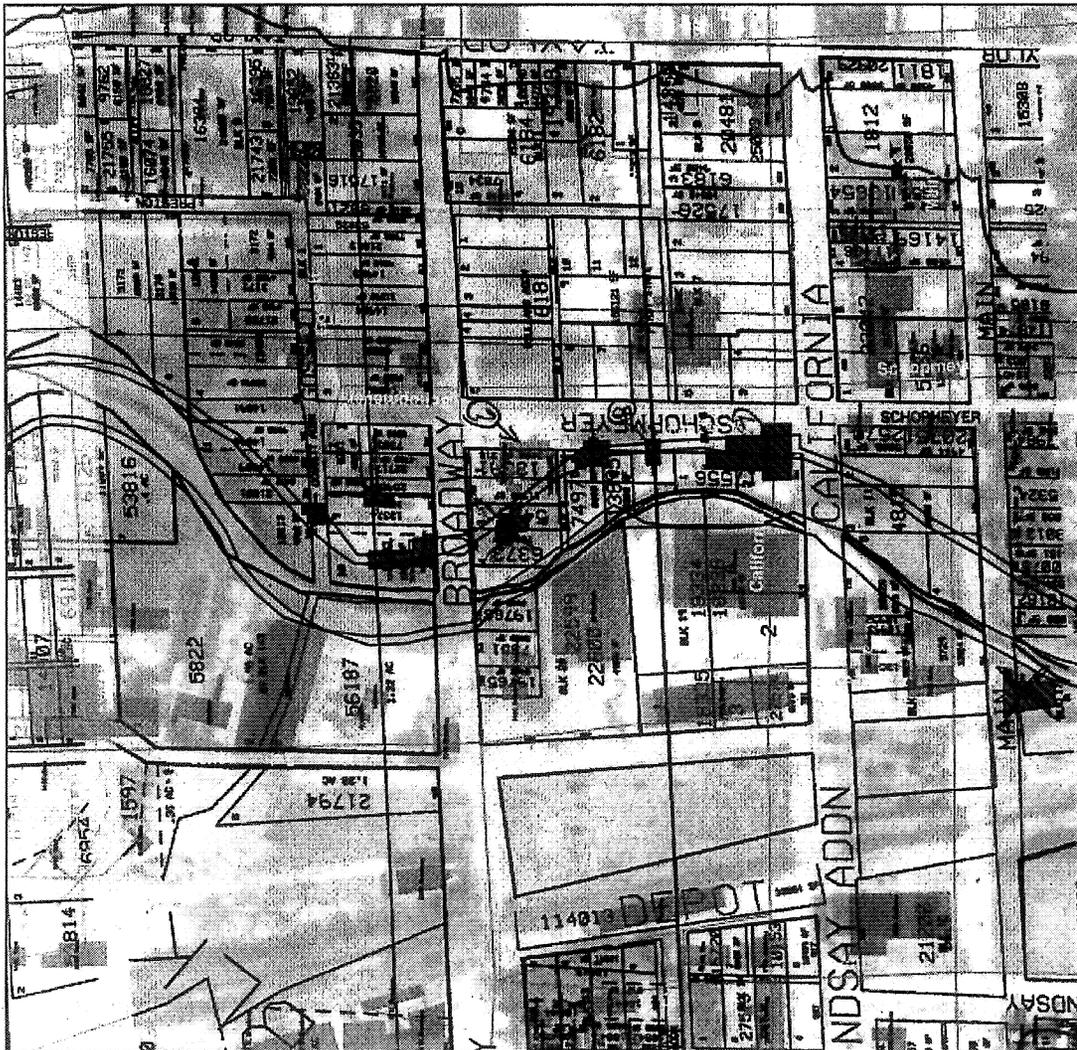
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 US Army Corps  
 of Engineers  
 Fort Belvoir  
 Denver, CO

UTM: NAD 83 Zone 14  
 srs: GCS:NorthCarolinaStatePlaneNAD83  
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 projection: Lambert Conformal Conic  
 units: US Feet





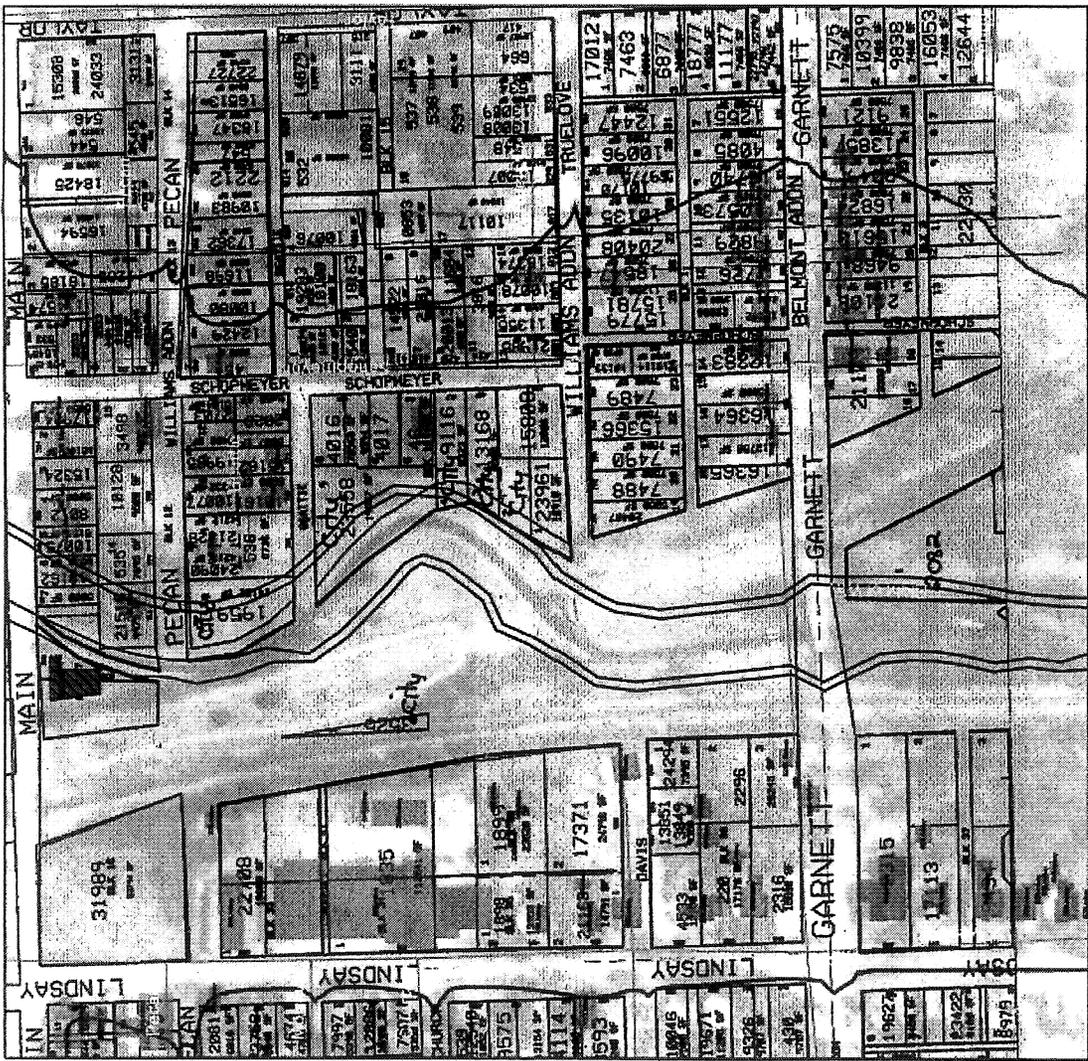
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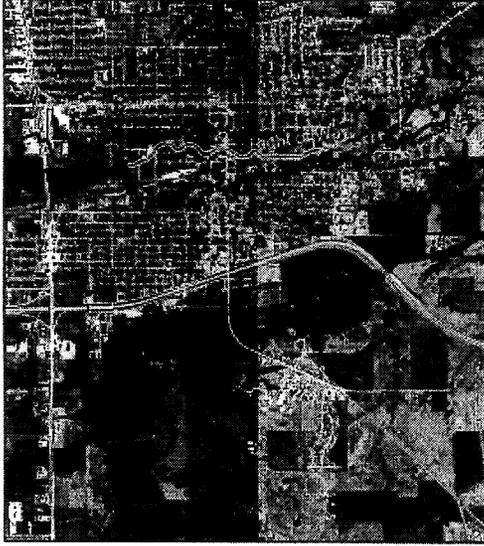
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US Army Corps of Engineers & Fort Worth District  
UTM Nad 83 Zone 14  
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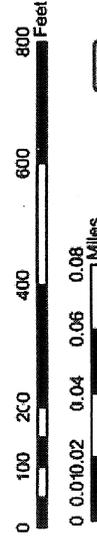




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