

JOINT PUBLIC NOTICE

29 July 2019

United States Army
Corps of Engineers
New Orleans District
Regulatory Branch
7400 Leake Avenue
New Orleans, Louisiana 70118

(504) 862-2045
jennifer.e.burkett@usace.army.mil
Project Manager
Jennifer Burkett
Permit Application Number
MVN 2004-0957-1 EBB

State of Louisiana
Department of Environmental Quality
ATTN: Water Quality Certifications
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313

(225) 219-3225
Project Manager
Elizabeth Hill
WQC Application Number
WQC 190726-02

Interested parties are hereby notified that a permit application has been received by the New Orleans District of the U.S. Army Corps of Engineers pursuant to: [X] Section 10 of the Rivers and Harbors Act of March 3, 1899 (30 Stat. 1151; 33 USC 403); and/or [X] Section 404 of the Clean Water Act (86 Stat. 816; 33 USC 1344).

Application has also been made to the Louisiana Department of Environmental Quality for a Water Quality Certification (WQC) in accordance with statutory authority contained in LRS30:2047 A(3), and provisions of Section 401 of the Clean Water Act (P.L.95-17).

MAINTENANCE DREDGING AND DOCKS ON EMPIRE CANAL IN PLAQUEMINES PARISH

NAME OF APPLICANT: Daybrook Fisheries, Inc. c/o ELOS Environmental Resources Management, Attention: Arianna Lee at 3838 North Causeway Boulevard, Suite 3000, Metairie, Louisiana 70002.

LOCATION OF WORK: On Empire Canal, at 136 Daybrook Road, Empire, in Plaquemines Parish, Louisiana, as shown on the attached drawings.

Hydrologic Unit Code: 08090301; East – Central Louisiana Coastal
Latitude: 29.380833, Longitude: -89.594444

The work described below was completed prior to obtaining a Department of the Army permit and was in violation of Section 10 of the Rivers and Harbors Act and Section 301 of the Clean Water Act. All legal issues concerning the unauthorized work have been deferred.

CHARACTER OF WORK: To excavate and install and maintain fill to construct new bulkheads and docks, a drainage ditch culvert, a conveyor belt, restore marsh, and perform maintenance dredging, all to serve an existing commercial development. Project implementation will require permanent impacts to 0.67 acres of other waters of the US for the drainage canal and approximately one acre of non-vegetated waterbottoms for bulkheads and backfill, as well as temporary impacts to 0.41 acres of non-vegetated waterbottoms for maintenance dredging. Dredged material will be disposed of in non-wetland areas on site. No impacts to special aquatic sites are required for project implementation; no compensatory mitigation is anticipated at this time.

The applicant may be required to fully or partially restore the project site to pre-project conditions, if issuance of a permit is determined not to be in the overall public interest.

The comment period for the Department of the Army Permit and the Louisiana Department of Environmental Quality WQC will close **20 days** from the date of this joint public notice. Written comments, including suggestions for modifications or objections to the proposed work, stating reasons thereof, are being solicited from anyone having interest in this permit and/or this WQC request and must be mailed so as to be received before or by the last day of the comment period. Letters concerning the Corps of Engineers permit application must reference the applicant's name and the Permit Application Number, and be mailed to the Corps of Engineers at the address above, **ATTENTION: REGULATORY BRANCH**. Similar letters concerning the Water Quality Certification must reference the applicant's name and the WQC Application number and be mailed to the Louisiana Department of Environmental Quality at the address above. **Individuals or parties may request an extension of time in which to comment on the proposed work by writing or e-mailing the Corps of Engineers Project Manager listed above. Any request must be specific and substantively supportive of the requested extension, and received by this office prior to the end of the initial comment period. The Section Chief will review the request and the requestor will be promptly notified of the decision to grant or deny the request. If granted, the time extension will be continuous to the initial comment period and, inclusive of the initial comment period, will not exceed a total of 30 calendar days.**

The application for this proposed project is on file with the Louisiana Department of Environmental Quality and may be examined during weekdays between 8:00 a.m. and 4:30 p.m. Copies may be obtained upon payment of costs of reproduction.

Corps of Engineers Permit Criteria

The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit 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 the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline 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 U.S. Army Corps of Engineers 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 U.S. Army Corps of Engineers to determine whether to make, modify, condition, 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 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.

The New Orleans District is unaware of properties listed on the National Register of Historic Places near the proposed work. The possibility exists that the proposed work may damage or destroy presently unknown archeological, scientific, prehistorical, historical sites, or data. Issuance of this public notice solicits input from the State Archeologist and State Historic Preservation Officer regarding potential impacts to cultural resources.

Our initial finding is that the proposed work would neither affect any species, nor habitat designated as critical to the recovery of any species, listed as endangered by the U.S. Department of Commerce.

The New Orleans District has determined that a portion of the project footprint is located in waters known to be utilized by the pallid sturgeon (*Scaphirhynchus albus*) and concluded the activity is not likely to adversely affect this species based on the Standard Local Operating Procedure for Endangered Species in Louisiana (SLOPES), dated October 22, 2014, between the U.S. Army Corps of Engineers, New Orleans and U.S. Fish and Wildlife Service, Ecological Services Office. If hydraulic dredging is to be utilized, the cutterhead/suction dredge recommendations shall be included as permit conditions.

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The applicant's proposal would result in the destruction or alteration of 1.41 acres of **EFH** utilized by various life stages of red drum and penaeid shrimp. Our initial determination is that the proposed action would not have a substantial adverse impact on EFH or federally managed fisheries in the Gulf of Mexico. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the National Marine Fisheries Service.

If the proposed work involves deposits of dredged or fill material into navigable waters, the evaluation of the probable impacts will include the application of guidelines established by the Administrator of the Environmental Protection Agency. Also, a certification that the proposed activity will not violate applicable water quality standards will be required from the Department of Environmental Quality before a permit is issued.

The applicant has certified that the proposed activity described in the application complies with and will be conducted in a manner that is consistent with the Louisiana Coastal Resources Program. The Department of the Army permit will not be issued unless the applicant received approval or a waiver of the Coastal Use Permit by the Department of Natural Resources

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

You are requested to communicate the information contained in this notice to any other parties whom you deem likely to have interest in the matter.

Michael V. Farabee
Chief, Eastern Evaluation Section

Attachments



Source: USGS 7.5' Quadrangles, Empire, LA (29089D5) and Buras, LA (29089C5), 2018.
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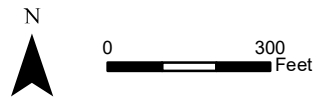
Legend
 [Blue Box] Approximate Property Boundary

Figure 1
Topographic Vicinity Map
 Daybrook Fisheries, Inc.
 136 Daybrook Road
 Empire, Louisiana



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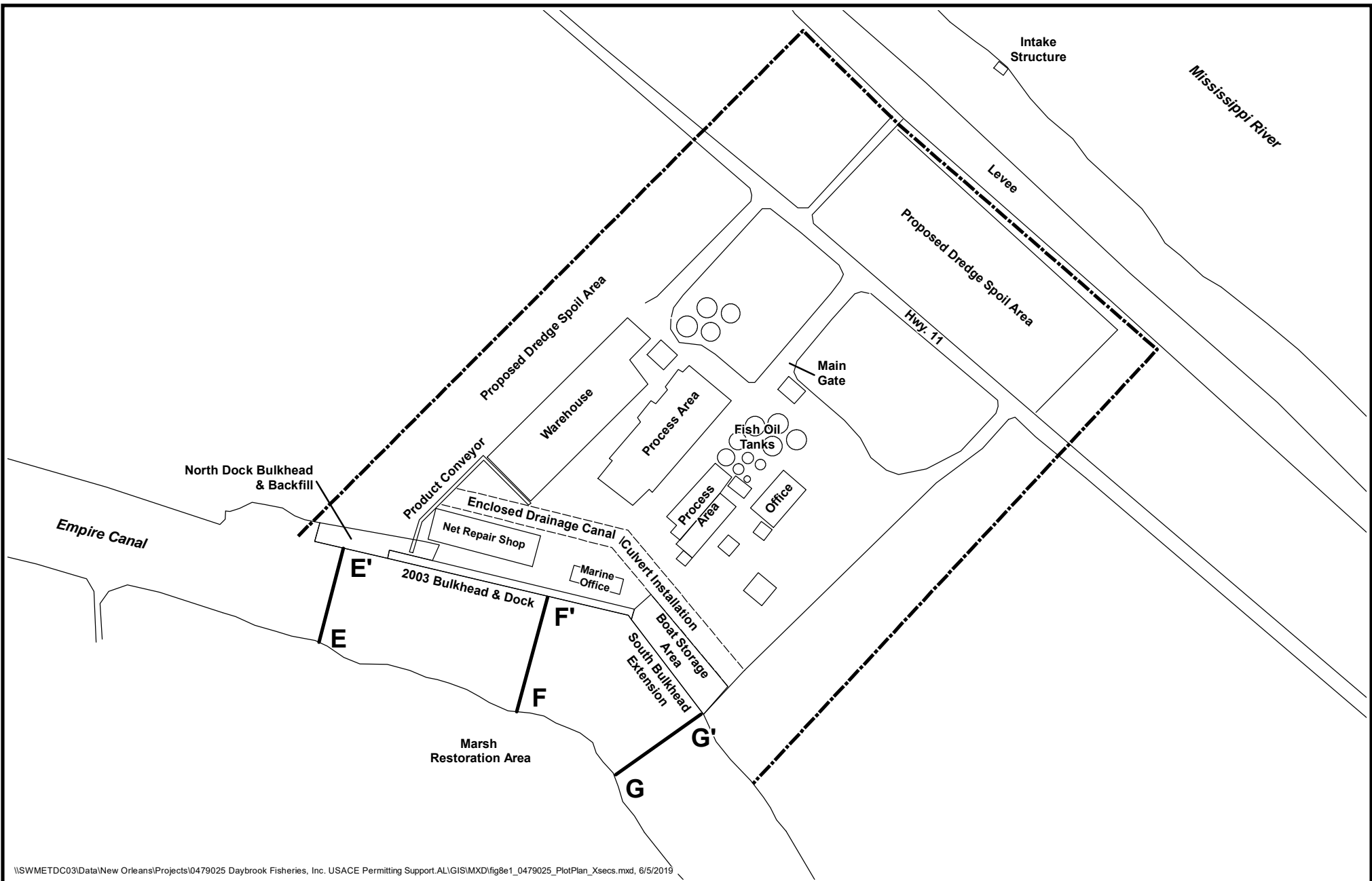
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- | | | |
|--|---|--|
| Exists but Not Documented | Exists and Documented | Approximate Property Boundary |
| Exists and Status To Be Determined | New Work | |

Figure 8.e.2
Daybrook Facility Aerial
 Daybrook Fisheries, Inc.
 136 Daybrook Road
 Empire, Louisiana



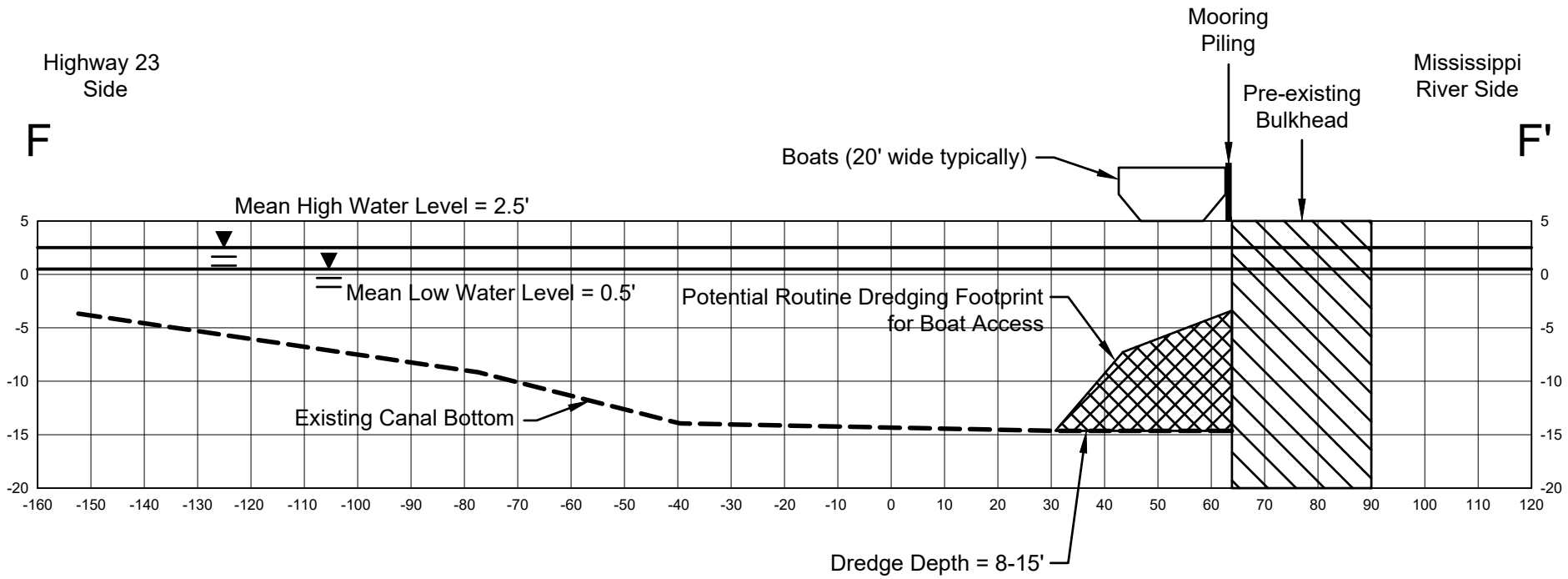
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--- Approximate Property Boundary

Figure 8.e.1
Daybrook Facility Plot Plan
 Daybrook Fisheries, Inc.
 136 Daybrook Road
 Empire, Louisiana



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 Pre-Existing Bulkhead¹ (F-F')

Figure 8.e.4
Routine Dredging Footprint
 Daybrook Fisheries, Inc.
 136 Daybrook Road
 Empire, Louisiana

Figure 9.b.3
 A TOPOGRAPHIC SURVEY OF
 DAYBROOK FISHERIES SITE
 LOCATED IN EMPIRE, LA

DATE: 10/2018
 DRAWN BY: PES
 DESIGNED BY: PES
 CHECKED BY: BRG

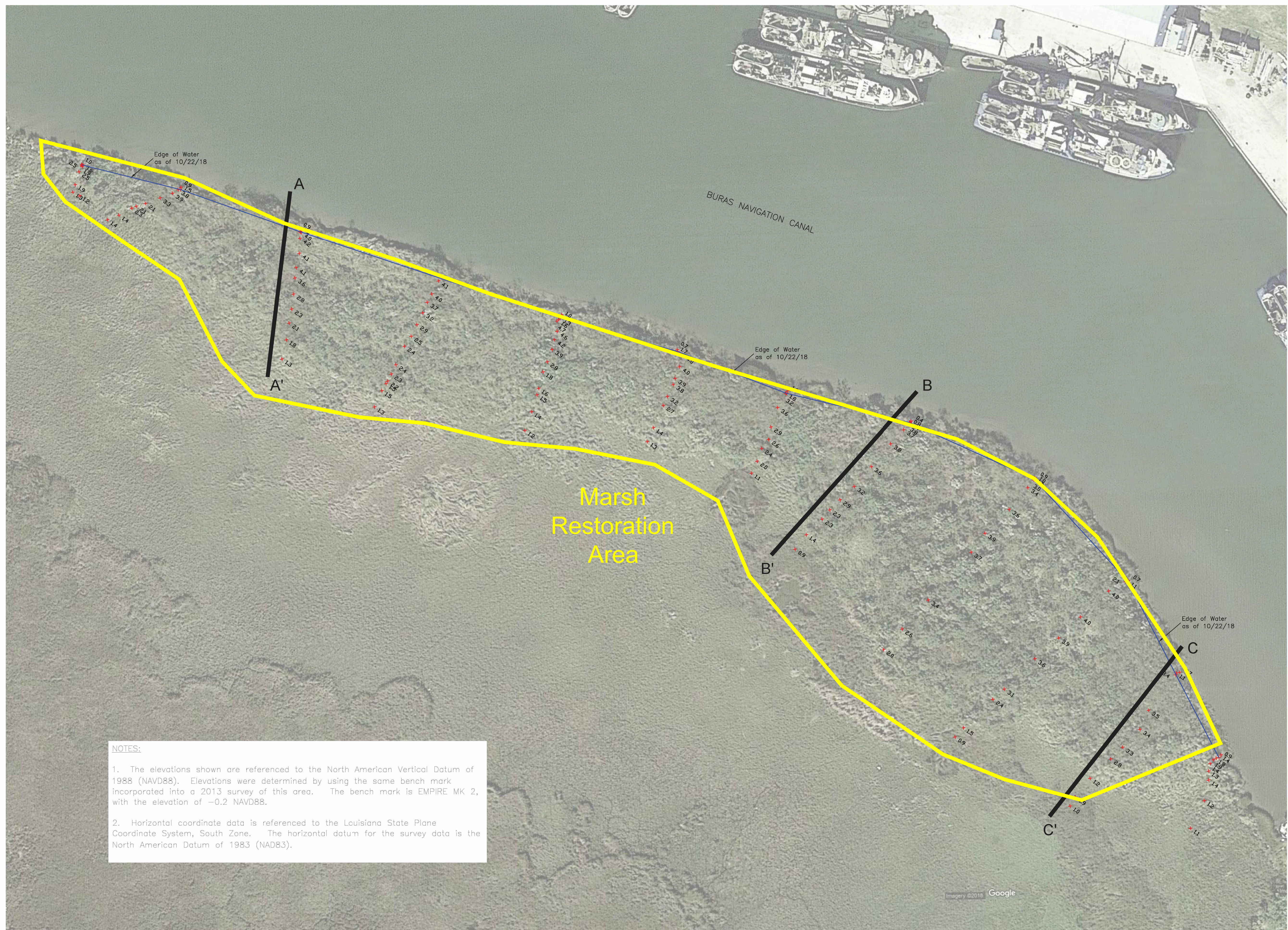
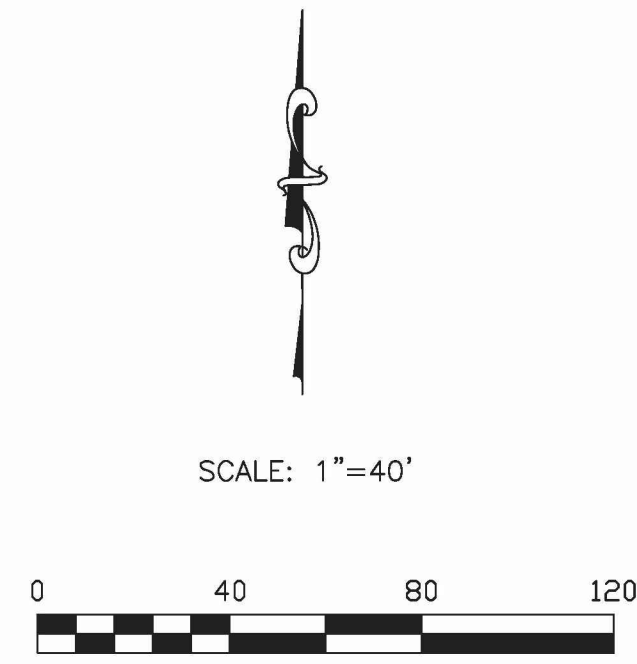
BRYANT HAMMETT & ASSOCIATES, LLC
 CIVIL ENGINEERING & LAND SURVEYING



NO.	DESCRIPTION	BY

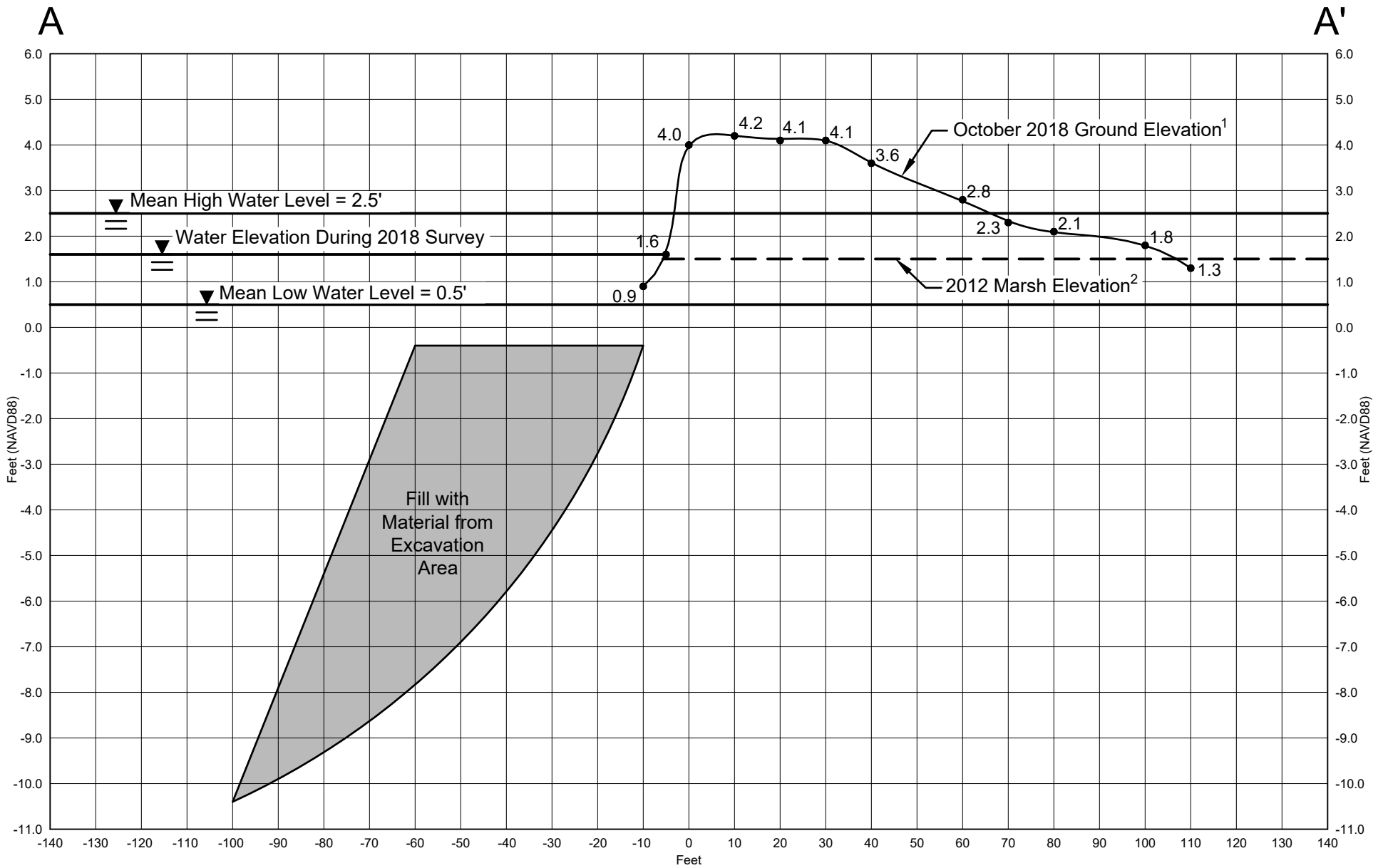


FILE NO.:



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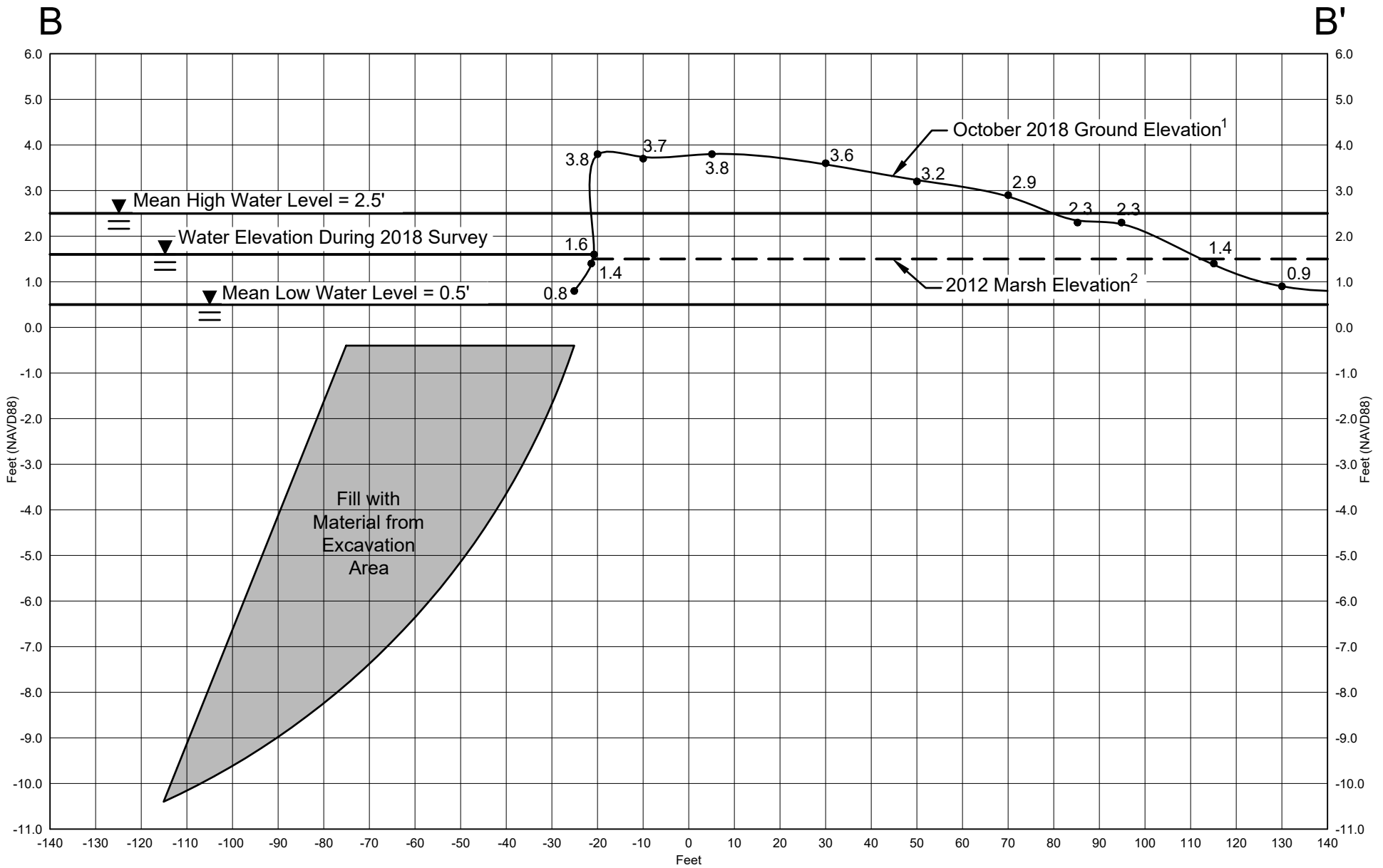
- The elevations shown are referenced to the North American Vertical Datum of 1988 (NAVD88). Elevations were determined by using the same bench mark incorporated into a 2013 survey of this area. The bench mark is EMPIRE MK 2, with the elevation of -0.2 NAVD88.
- Horizontal coordinate data is referenced to the Louisiana State Plane Coordinate System, South Zone. The horizontal datum for the survey data is the North American Datum of 1983 (NAD83).



Notes:

1. The elevations shown are referenced to the North American Vertical Datum of 1988 (NAVD88). Elevations were determined by using the same bench mark incorporated in a historical survey of the area (Figure 9.B.2). The bench mark is EMPIRE MK2, with the elevation of -0.2 NAVD88.
2. The USACE determined that Daybrook must excavate the spoils to return the ground elevation to pre-disposal marsh elevation (+1.50 NAVD88).

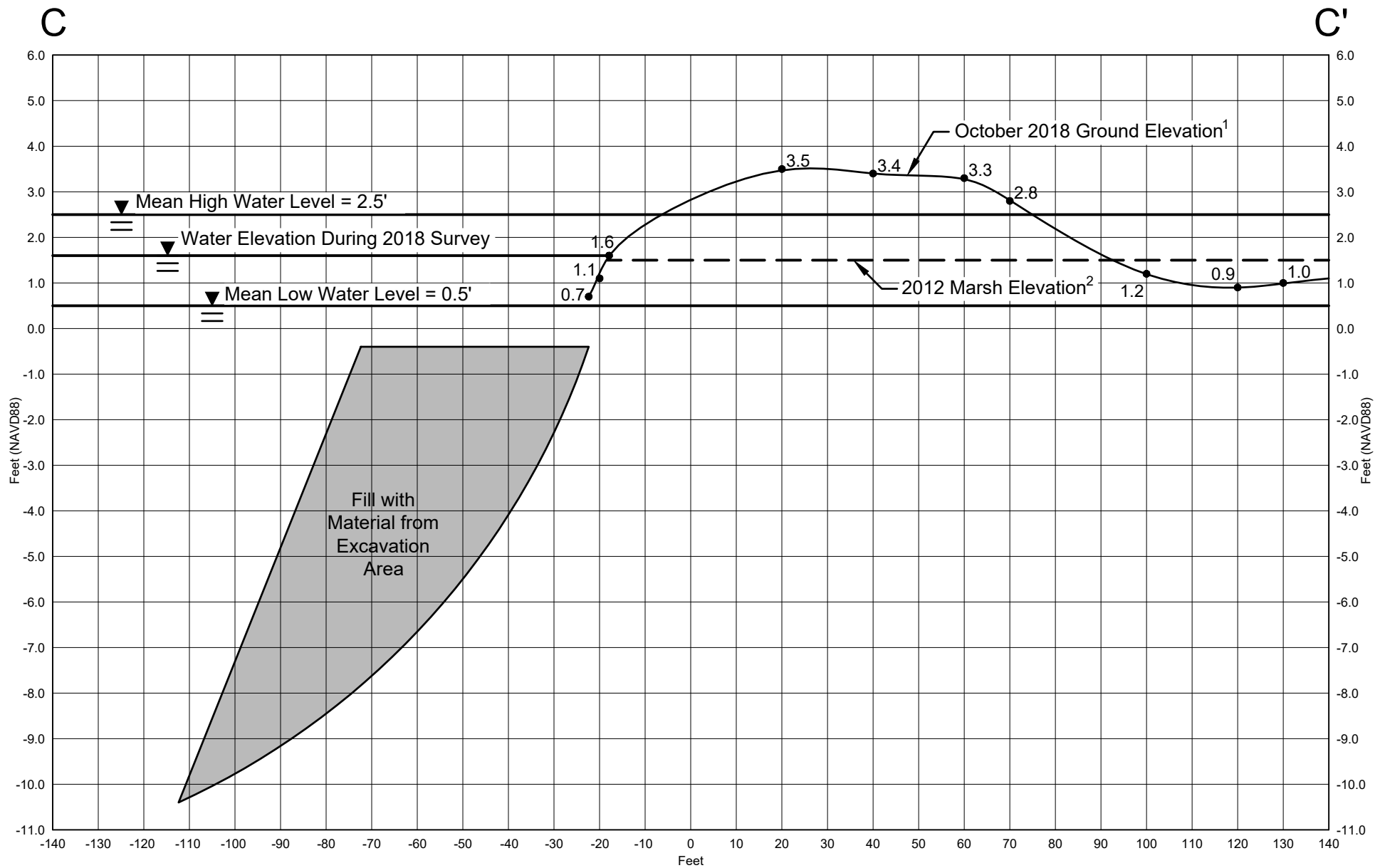
Figure 9.b.4
October 2018 Survey A-A'
 Daybrook Fisheries, Inc.
 136 Daybrook Road
 Empire, Louisiana



Notes:

1. The elevations shown are referenced to the North American Vertical Datum of 1988 (NAVD88). Elevations were determined by using the same bench mark incorporated in a historical survey of the area (Figure 9.B.2). The bench mark is EMPIRE MK2, with the elevation of -0.2 NAVD88.
2. The USACE determined that Daybrook must excavate the spoils to return the ground elevation to pre-disposal marsh elevation (+1.50 NAVD88).

Figure 9.b.5
October 2018 Survey B-B'
 Daybrook Fisheries, Inc.
 136 Daybrook Road
 Empire, Louisiana



Notes:

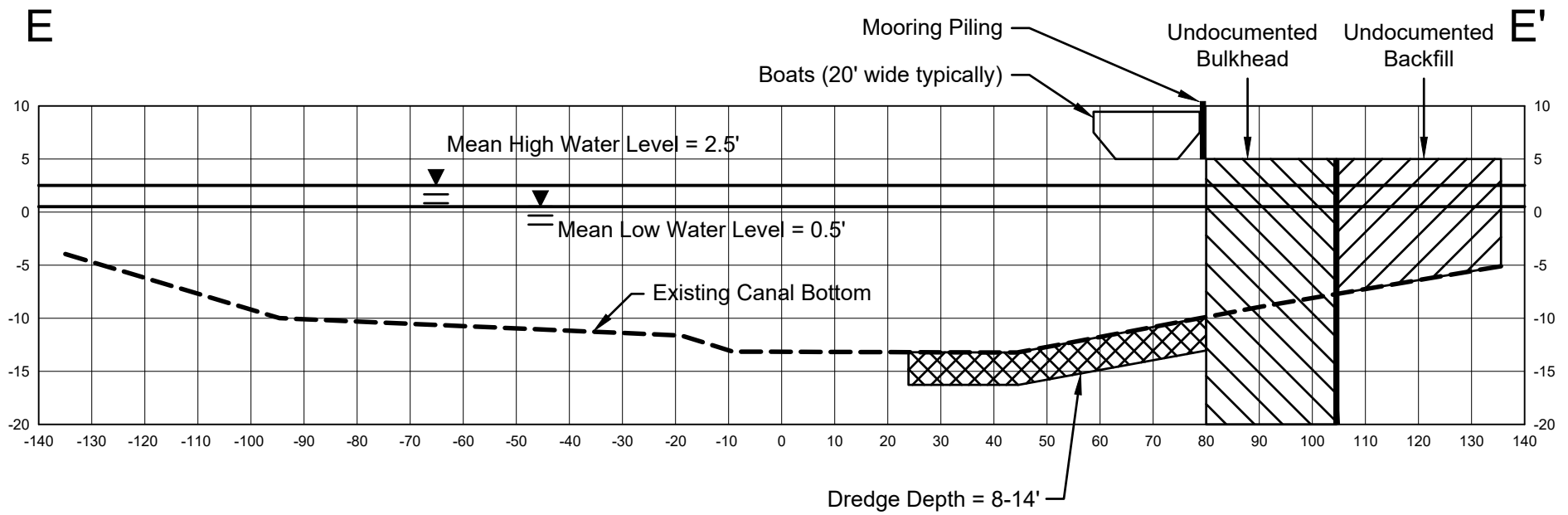
1. The elevations shown are referenced to the North American Vertical Datum of 1988 (NAVD88). Elevations were determined by using the same bench mark incorporated in a historical survey of the area (Figure 9.B.2). The bench mark is EMPIRE MK2, with the elevation of -0.2 NAVD88.
2. The USACE determined that Daybrook must excavate the spoils to return the ground elevation to pre-disposal marsh elevation (+1.50 NAVD88).

Figure 9.b.6
October 2018 Survey C-C'
 Daybrook Fisheries, Inc.
 136 Daybrook Road
 Empire, Louisiana



Highway 23
Side

Mississippi
River Side



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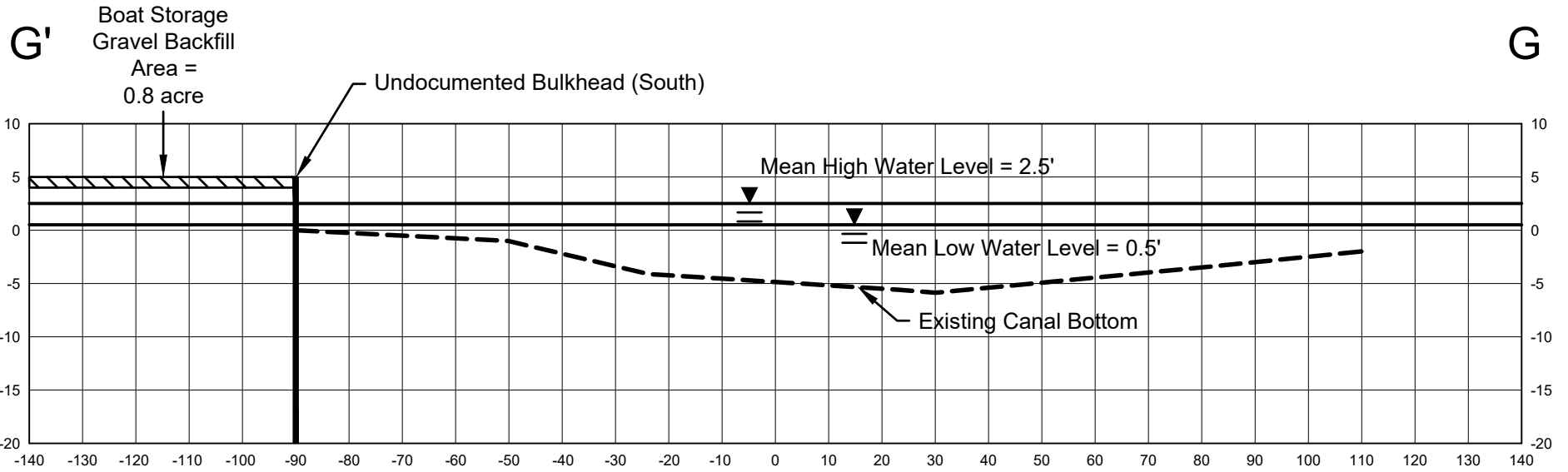
-  Undocumented Bulkhead
-  Undocumented Backfill

Figure 9.c.4
North Bulkhead, Dock & Backfill
Daybrook Fisheries, Inc.
136 Daybrook Road
Empire, Louisiana

Mississippi
River Side

Highway 23
Side



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Figure 9.c.5 Southern Bulkhead Expansion

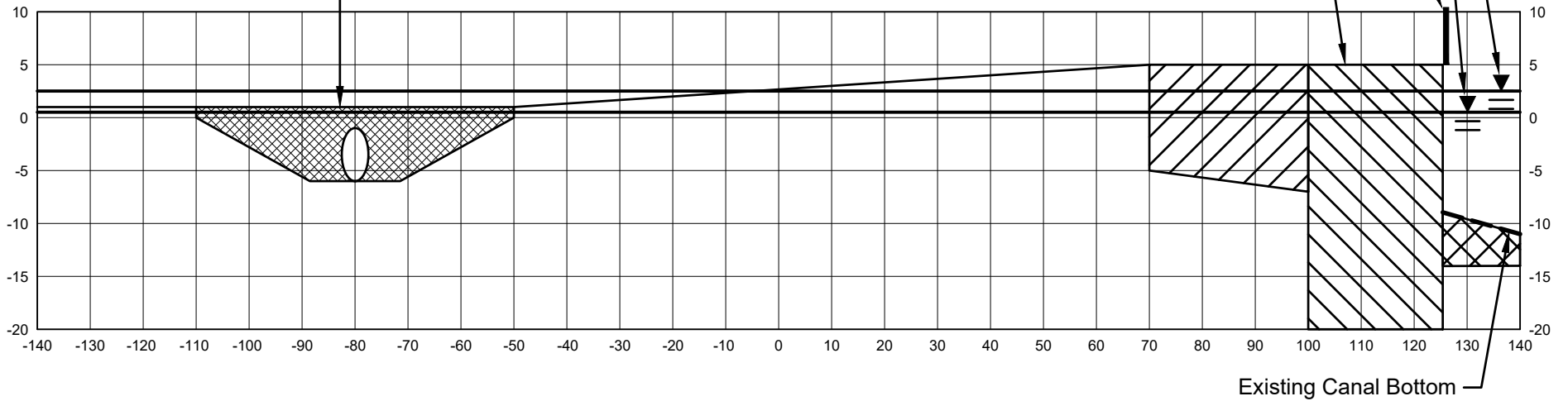
Daybrook Fisheries, Inc.
136 Daybrook Road
Empire, Louisiana

Mississippi
River Side

Highway 23
Side

Parish Drainage
Canal Backfill
(Area = 285 ft.²)
with 5' Dia. Culvert

Mean High Water Level = 2.5'
Mean Low Water Level = 0.5'
Mooring Piling
Undocumented Bulkhead



\\USBDCFS02\Data\New Orleans\Projects\0479025 Daybrook Fisheries, Inc. USACE Permitting Support.AL\GIS\CAD\0479025_xsecs_v4.dwg, 7/19/2019



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

-  Undocumented Bulkhead
-  Undocumented Backfill
-  Dredge

Figure 9.c.6
Parish Drainage Ditch Culvert
Installation and Backfill

Daybrook Fisheries, Inc.
136 Daybrook Road
Empire, Louisiana