

### **PUBLIC NOTICE**

Albuquerque District

**Application Number:** SPA-2014-00231-LCO

Date: November 12, 2014

Comments Due: December 12, 2014

# JOINT PUBLIC NOTICE U.S. ARMY CORPS OF ENGINEERS, ALBUQUERQUE DISTRICT, AND TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

**SUBJECT**: The United States (U.S.) Army Corps of Engineers, Albuquerque District, (Corps) and the Texas Commission on Environmental Quality (TCEQ) are evaluating an application for a Department of the Army permit and water quality certification for a proposal by Geltmore, LLC to construct a mixed-use development in the City of El Paso, El Paso County, Texas. Construction of the proposed project would result in approximately 4.96 acres (ac) or approximately 6,120 linear feet (lf) of permanent impacts to waters of the U.S. This notice is to inform interested persons of the proposed activity and to solicit comments.

**AUTHORITY**: This permit and water quality certification application is being evaluated under Sections 404 and 401 of the Clean Water Act (CWA) for the discharge of dredged or fill material into waters of the U.S.

**APPLICANT**: Mr. Paul Silverman

Geltmore, LLC

5211 San Mateo Blvd. NE, Suite 130 Albuquerque, New Mexico 87109 Email: <a href="mailto:paul.Silverman@Geltmore.com">Paul.Silverman@Geltmore.com</a>

**AGENT:** Mr. Ronald Bohannan

Tierra West, LLC

5571 Midway Park Place NE Albuquerque, New Mexico 87109

Phone: (505) 858-3100

Email: rrb@tierrawestllc.com

**LOCATION**: The proposed project site is located on vacant land situated primarily east of Interstate 10 (I-10), with a small portion on the west side of I-10, just north of Executive Center Boulevard, and south of Montecillo Drive (see Figure 1 of 12). The center coordinates of the site are approximately latitude 31.80257 and longitude -106.51648 (NAD 83). Waters of the U.S. located within the proposed project site consist of two ephemeral streams named Flow Path 20 and Paragon Channel. Both streams are tributaries to the Rio Grande in the City of El Paso, El Paso County, Texas.

**PROJECT PURPOSE:** The basic project purpose is residential and commercial development. Based on available information, the overall project purpose is to construct a residential and commercial development in accordance with the City of El Paso's Smart Code in the city limits of El Paso, El Paso County, Texas. The applicant believes there is a need to provide commercial services and housing in the City of El Paso.

**PROJECT DESCRIPTION**: The applicant proposes to construct a mixed-use residential and commercial development on a 196 acre vacant parcel that is surrounded by existing commercial, retail and residential development. The proposed project has been designed in accordance with El Paso's Smart Code zoning ordinance. The attached Site Plan shows the build out of the proposed development that would contain 1,000 residential units, approximately 1,000,000 square feet (sq ft) of retail stores, approximately 200,000 sq ft of institutional uses and approximately 500,000 sq ft of commercial uses (See Figure 3 of 12).

There are approximately 8.68 ac (10,771 lf) of waters of the U.S. within the proposed project area in two ephemeral streams, Flow Path 20 and Paragon Channel. The average width of Flow Path 20 at the ordinary high water mark (OHWM) is approximately 25 lf and the average width of Paragon Channel at the OHWM is approximately 22 lf. Both ephemeral streams are tributaries to the Rio Grande.

Construction of the proposed development would result in approximately 4,054 lf (2.40 ac) of impacts to Flow Path 20 and approximately 2,066 lf (2.52 ac) of impacts to Paragon Channel. Figures 5 to 6 contain detailed plans of how each ephemeral stream would be affected by this development and the following is a detailed discussion of the proposed impacts.

Starting with Flow Path 20 at Station 0+00 (see Figures 5 and 7), which is the beginning of the arroyo from an existing box culvert under Mesa Street, the channel would be unaffected until it intersects an existing power line crossing. From Station 3+04 to station 6+50 (see Figures 5 and 7) the channel would be realigned to provide for a transportation crossing structure consisting of an 8 ft by 8 ft box culvert to allow El Paso Electric vehicular access to an existing substation. The developer proposes to realign the open channel and enhance it by planting native vegetation. The channel realignment would then reconnect to the undisturbed channel at Station 6+50 (see Figures 5 and 7).

Flow Path 20 continues as a natural channel a short distance to Station 9+07 (see Figure 5 and 7) where an 8 ft by 8 ft box culvert would be installed for a roadway crossing at Mesa Park. This new box culvert would extend to Station 17+24 (see Figure 5 and 7) where it would open up into a section of open channel that would be realigned in order to channelize flows away from adjacent structures where erosion is currently threatening these properties. Installation of the box culvert would lower and stabilize an existing large grade difference or headcut within Flow Path 20 located adjacent to a major transmission power line and a City of El Paso Fire Station. This box culvert would protect the City Fire Station and transmission line from erosion that is currently threatening both properties.

From Station 17+24 to Station 25+ 19 (see Figures 5 and 7) Flow Path 20 would be realigned to prevent erosion to the adjacent properties. This portion of Flow Path 20 would be left in an open channel that would be planted with native vegetation. The side slope next to the proposed development would also be reinforced with rock to prevent erosion. The realigned channel would reconnect to the existing Flow Path 20 channel just downstream of an existing storage facility located on the upper bank outside of the existing flood plain to the east.

From Station 27+ 17 to Station 28+67 (see Figures 5 and 7) there is a small portion of Flow Path 20 that cuts into the bank and is causing moderate erosion. This area would be filled in using clean soil and reinforced with rock to prevent additional erosion and stabilize the bank. The new stream bank would also be planted with native vegetation to create a riparian or buffer zone.

Flow Path 20 would continue to flow as a natural channel into a large area that would be used for storm water ponding during large rain events. The channel bottom would be realigned at this location to match up with a proposed crossing to extend Montecillo Drive. The rest of this area would remain natural with some additional native plantings to enhance habitat.

Flow Path 20 at this point, would enter a 36-inch concrete pipe at Station 3 7+ 12 (see Figure 6 and 8). The concrete pipe would continue until Station 57+48 where it would open into the existing channel before it crosses under I-10 through an existing 19-ft diameter multi-plate structure.

Paragon Channel would remain in its natural state between stations 0+00 and 15+13 (see Figures 9 and 11). A portion of this channel is braided and would be crossed by the extension of Montecillo Drive between Station 0+00 and Station 7+07 (see Figures 9 and 11). That portion of the channel would be filled, raising the existing grade in order to construct the Montecillo Drive extension. The road embankment would be reinforced with rock to protect against erosion and planted with native vegetation.

The rest of Paragon Channel to Station 15+ 13 (see Figure 10 and 12) would be enhanced with rock and planted with native vegetation to protect against erosion and enhance habitat. At Station 15+ 13 the channel would enter an 8 ft by 8 ft box culvert that would connect to an existing box culvert under I-10 at Station 28+66. The box culvert would be installed for the purpose of extending Aldea El Paso. This roadway extension would connect to a planned interchange and frontage road system to be built by Texas Department of Transportation (TXDOT).

Once Paragon Channel crosses under I-10 it would open back up into a natural channel. This portion of the natural channel banks would be stabilized with rock and native vegetation plantings for habitat. An approximately 6.55 acre detention pond would be created along the western edge of Paragon Channel outside the OHWM for the purpose of capturing trash and sediment resulting from large rain events. The detention pond would also be used to control peak water flows during large rain events preventing flooding and erosion downstream prior to discharging to the Rio Grande. The ponding area fringe would be planted with native vegetation.

**PROPOSED MITIGATION:** The applicant would avoid impacts to approximately 3.76 ac of waters of the U.S. located within the proposed project site.

The applicant would minimize adverse impacts to approximately 2.11 ac of waters of the U.S. by installing a storm water management system, reducing a large drop in channel grade where a significant headcut exists, and stabilizing the eroding channels and banks in several locations throughout the proposed project site. The applicant is proposing to install two detention ponds within the proposed project site for the purpose of containing flood events along the two stream channels. One detention pond would be constructed alongside Paragon Channel resulting in 6.55 ac of storm water management. The second detention pond would be located on Flow Path 20, where a 36-inch culvert would be installed that would slow down water flows and allow it to back up into the floodplain within the proposed project site. The applicant is also proposing to place a portion of Flow Path 20 in a box culvert at a sudden and large drop in channel grade that is causing significant erosion and currently threatens adjacent properties. Installation of the box culvert at this location would prevent additional erosion and protect adjacent properties from damage. The applicant would stabilize eroding channels and banks throughout the proposed project site by installing box culverts within those portions where erosion is significant.

Compensatory mitigation is required for unavoidable adverse impacts to waters of the U.S. that would result from the proposed project. The applicant proposes to permanently impact approximately 4.96 ac of waters of the U.S. The applicant conducted an evaluation of the functions and services of waters of the U.S. affected by their proposed action and they have developed a draft compensatory mitigation and monitoring plan. The applicant is proposing to conduct enhancement mitigation activities in and along approximately 26.36 ac of Paragon Channel and approximately 5.45 ac of Flow Path 20, including planting native trees and shrubs within the riparian zone and enhancing water supply to existing vegetated areas using a drip irrigation system that would contain reclaimed on-site wastewater. The applicant has proposed compensatory mitigation at a ratio of 2.8:1, which would provide enhancement of approximately 13.88-ac of ephemeral streams. The applicant's draft mitigation and monitoring plan currently proposes a total of approximately 31.81 ac of enhancement mitigation of ephemeral streams.

WATER QUALTIY 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, TCEQ certification is required. Concurrent with Corps 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. Through an agreement between the Corps 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 complete application may be reviewed in the Corps' 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.

#### **ADDITIONAL INFORMATION:**

Environmental Setting: There is approximately 10,771 If of ephemeral streams that are waters of the U.S. within the proposed project area. The proposed project area is located within the Chihuahuan Basins and Playas Subregion of the Chihuahuan Deserts Ecoregion. The area is located on the bajadas extending to the southwest from the slopes of the Franklin Mountains. Drainage through the two subject arroyos (Flow Path 20 and Paragon Channel) originates in the Franklin Mountains, and ultimately drains into the Rio Grande, which is located southwest of the proposed project area.

The proposed project area is located within an ecological zone that harbors plant species indicative of the Chihuahuan Desert Scrub and Floodplain/Riparian communities.

The subject arroyos are both dominated by a desert willow (*Chilopsis linearis*) and mesquite (*Prosopis glandulosa*)/sand dropseed (*Sporobolus cryptandrus*) association. Other common species on the arroyos' upland ecotone include creosote (*Larea tridentata*), lechugilla (*Agave lechugilla*), sotol (*Dasylirion wheeleri*), ocotillo (*Foquieria spledens*), prickly pear (*Opunitia* spp), sand dropseed, and black grama (*Bouteloua eriopoda*). Range production on this site averages 225 pounds of forage per acre, per year (NRCS 2013).

Soils within the proposed project area include the Delnorte-Canutio association (NRCS 2013). These soils occur on fan piedmonts and hills with parent material of Pleistocene-age gravelly alluvium. Surface layers are comprised of very gravelly loams and very gravelly sandy loams. These soils have no frequency of ponding or flooding. No hydric soils are present (NRCS 2013), nor do prime or unique farmlands occur within the proposed project area (NRCS 2013).

Wildlife in the vicinity of the proposed project area includes various small mammals, diverse avifauna, reptiles, amphibians, and big game species. Wildlife typical of the general area includes coyotes (*Canis latrans*), desert cottontails (*Sylvilagus audubonii*), kangaroo rats (*Dipodomys* spp.), common ravens (*Corvus corax*), turkey vultures (*Cathartes aura*), swallows (*Hirundo* spp.), mourning doves (*Zenaida macroura*), western kingbirds (*Tyrannus verticalus*), red-tailed hawks (*Buteo jamaicensis*), bull snakes (*Pituophis catenifer sayi*), and whiptail lizards (*Cnemidophorus* spp.). Avifauna observed within the proposed project site during a biological site survey includes turkey vultures, common ravens, western kingbirds, mockingbirds (*Mimus polyglottos*), a broad-tailed hummingbird (*Selasphorus platycercus*), and mourning doves. Other wildlife observed include black-tailed

jackrabbits (*Lepus californicus*), desert cottontails, and whiptail lizards.

**Alternatives**. The applicant has provided information concerning project alternatives. The following alternatives have been proposed by the applicant:

No build: Under the no build alternative, the mixed-use development would not be constructed in the City of El Paso. Consequently, the applicant would not establish a residential and commercial development at this location in accordance with the City of El Paso's Smart Code in an area of the city that, according to the applicant, needs such services. This alternative would avoid all construction- and operation-related impacts that would occur under the proposed project; however it would not meet the applicant's proposed project basic purpose and objectives.

Upland site: There is currently one vacant site in the City of El Paso that would be large enough to support the type of development being proposed. The other site is a tract of land located west of I-10, but is currently owned by Centex and El Paso Water Utilities and is not available for purchase.

Natural arroyo project: Under this alternative, the majority of Flow Path 20 and Paragon Channel would be left in their natural condition with the exception of a box culvert that would be placed in Paragon Channel to allow for access road construction and future TXDOT improvements along I-10. Alternate access points to and from the existing transportation network would also be constructed. This alternative would not include a storm water conveyance system and detention ponds. The runoff resulting from the new development would be contained on the property by using large retention basins constructed in uplands. This alternative would result in minimal permanent impacts to waters of the U.S.

Partial channel development project: Under this alternative, the majority of Flow Path 20 and Paragon Channel would be left in their natural condition with the exception of a box culvert to be placed in Paragon Channel to allow for access road construction and future TXDOT improvements along I-10. Alternate access points to and from the existing transportation network would also be constructed. This alternative would include a detention pond to be constructed on each of the arroyos. The detention ponds would be designed to capture the first flush storm water runoff, allowing sediment to deposit before flows discharge into the Rio Grande. These ponds would also control the volume of storm water discharge downstream that would minimize flooding events at the major intersection of Executive Center Boulevard, Paisano Drive, and a railroad crossing. No storm water conveyance system would be constructed within the two arroyos. This alternative would result in approximately 2.41 ac of permanent fill in waters of the U.S.

Total channel development project: Under this alternative, the majority of waters of the U.S. located within the proposed project site would be filled. This alternative would result in approximately 306,227 sq ft (7.03 ac) of permanent fill in waters of the U.S. for channel stabilization and storm water conveyance systems. Approximately 5,770 cubic yards (cy) of fill would be placed in Paragon Channel to channelize the 100-year flows, stabilize channel slopes, construct a detention basin, and construct a box culvert to

convey the storm water under three new roadways as part of a new overpass. Approximately 7,301 cy of fill would be placed in Flow Path 20 to channelize the 100-year flows, stabilize channel slopes, construct a detention basin, and construct a 36-inch diameter concrete pipe to convey the storm water from an existing I-10 crossing structure to a new detention basin.

Other alternatives may develop during the review process for this permit application. All reasonable project alternatives, in particular those which may be less damaging to the aquatic environment, will be considered.

**EVALUATION FACTORS**: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the described 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 described activity, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the described activity 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, consideration of property ownership and, in general, the needs and welfare of the people. The activity's impact on the public interest will include application of the Section 404(b)(1) guidelines promulgated by the Administrator, Environmental Protection Agency (40 CFR Part 230).

The Corps 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 Corps to determine whether to issue, issue with special 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 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.

HISTORIC PROPERTIES: An intensive pedestrian survey of the proposed Area of Potential Effects (APE) was conducted by Epsilon Systems on June 2013. The APE is defined as encompassing the entire approximately 196-ac site (Figure 1 of 12). A total of 17 Isolated Finds (IFs) were inventoried during the course of the fieldwork, all located within the APE. No archaeological sites or other historic resources were identified, and no cultural materials were collected during the course of the investigation. The IFs are recommended as ineligible for inclusion in the National Register of Historic Places under any criteria due to the fact that they have not, and likely will not, contribute important information relevant to the historic or prehistoric use of the region.

conducted in July 2013; a review of the U.S. Fish and Wildlife Service (USFWS) master species list for El Paso County, Texas; and correspondence with USFWS, Austin Texas Ecological Services Field Office, marginally suitable habitat exists within the project site for two federally-listed endangered species: Sneed's pincushion cactus (*Coryphantha sneedii var. sneedii*) and the Northern Aplomado falcon (*Falco femoralis septentrionalis*).

Sneed's pincushion cactus was not found within the proposed project site during the field survey. The proposed disturbance area within Flow Path 20 and Paragon Arroyo floodplains routinely floods and is dominated by species adapted to this regime; therefore, the proposed project site does not contain required habitat components for the Sneed's pincushion cactus.

Northern Aplomado falcons were not found or heard during the field survey nor were any of their nests observed. The Northern Aplomado falcon is typically not found within highly developed human communities such as what exists at the proposed project site; therefore, the site does not contain required habitat components for the falcon.

Based on this information, the Corps has made a preliminary determination that the proposed project will have no effect, on any federally-listed endangered or threatened species or their critical habitat.

**FLOODPLAIN MANAGEMENT**: The Corps 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.

#### **COMMENT SUBMITTAL AND DEADLINES:**

The Corps is soliciting comments from all known interested persons in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered to determine whether to issue, issue with special conditions, or deny a permit for this proposal.

All comments pertaining to this Public Notice must reach this office on or before **December 12, 2014**, 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. Prior to the close of the comment period, anyone may request, in writing, that a public hearing be held to consider issues raised for this application. Requests shall specifically state the particular reason(s) for holding a public hearing. If the Corps determines that the information received in response to this notice is inadequate for thorough evaluation of the application, a public hearing may be warranted. If a public hearing is warranted, interested parties will be notified of the time, date, and location. Comments and requests for additional information should be submitted to:

U.S. Army Corps of Engineers, Albuquerque District 505 South Main Street, Suite 142 Las Cruces, New Mexico 88001 575-652-3708

E-mail: Justin.C.Riggs@usace.army.mil

Please note that names and addresses of those who submit comments in response to this public notice may be made publicly available through the Freedom of Information Act.

### DISTRICT ENGINEER ALBUQUERQUE DISTRICT CORPS OF ENGINEERS

#### Maps and Drawings Attachments:

Figure 1: Project Site Map

Figure 2: Location Map

Figure 3: Project Layout Map

Figure 4: Master Grading Plan Map

Figure 5: Flow Path 20 High Water Mark: Existing Surface page 1

Figure 6: Flow Path 20 High Water Mark: Existing Surface page 2

Figure 7: Flow Path 20 High Water Mark: Proposed Surface page 1

Figure 8: Flow Path 20 High Water Mark: Proposed Surface page 2

Figure 9: Paragon Channel High Water Mark: Existing Surface page 1

Figure 10: Paragon Channel High Water Mark: Existing Surface page 2

Figure 11: Paragon Channel High Water Mark: Proposed Surface page 1

Figure 12: Paragon Channel High Water Mark: Proposed Surface page 2

## Project Site Map

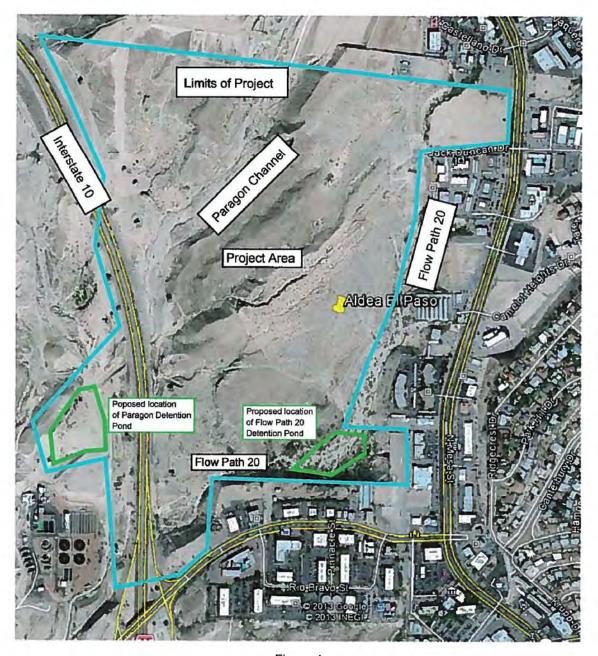


Figure 1

SPA-2014-00231-LCO

October 10, 2014



### **Location Map**



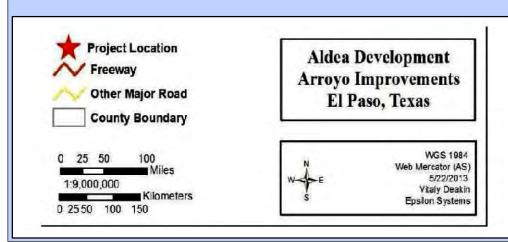


Figure 2
SPA-2014-00231-LCO
October 10, 2014

## Project Layout Map

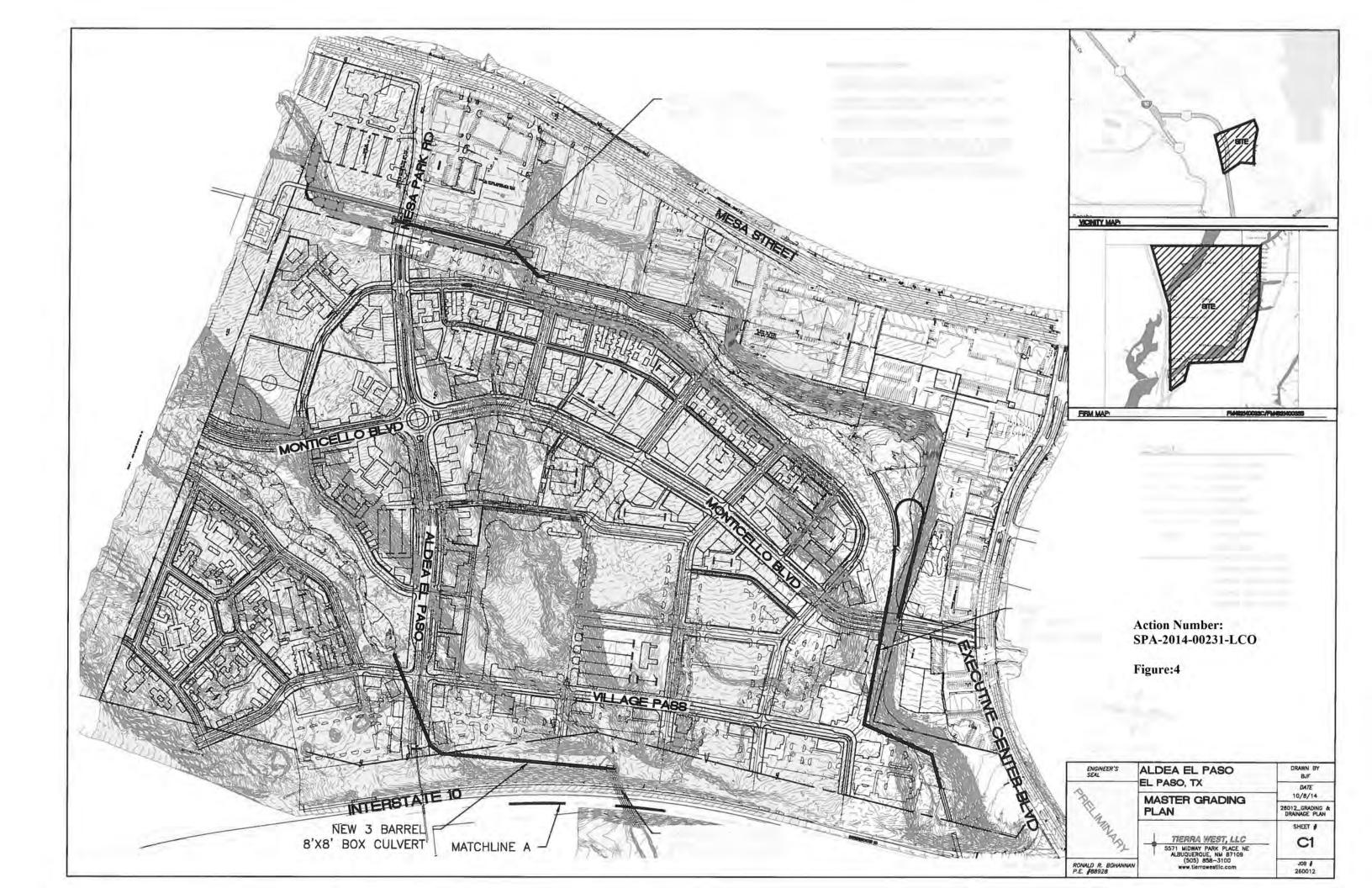


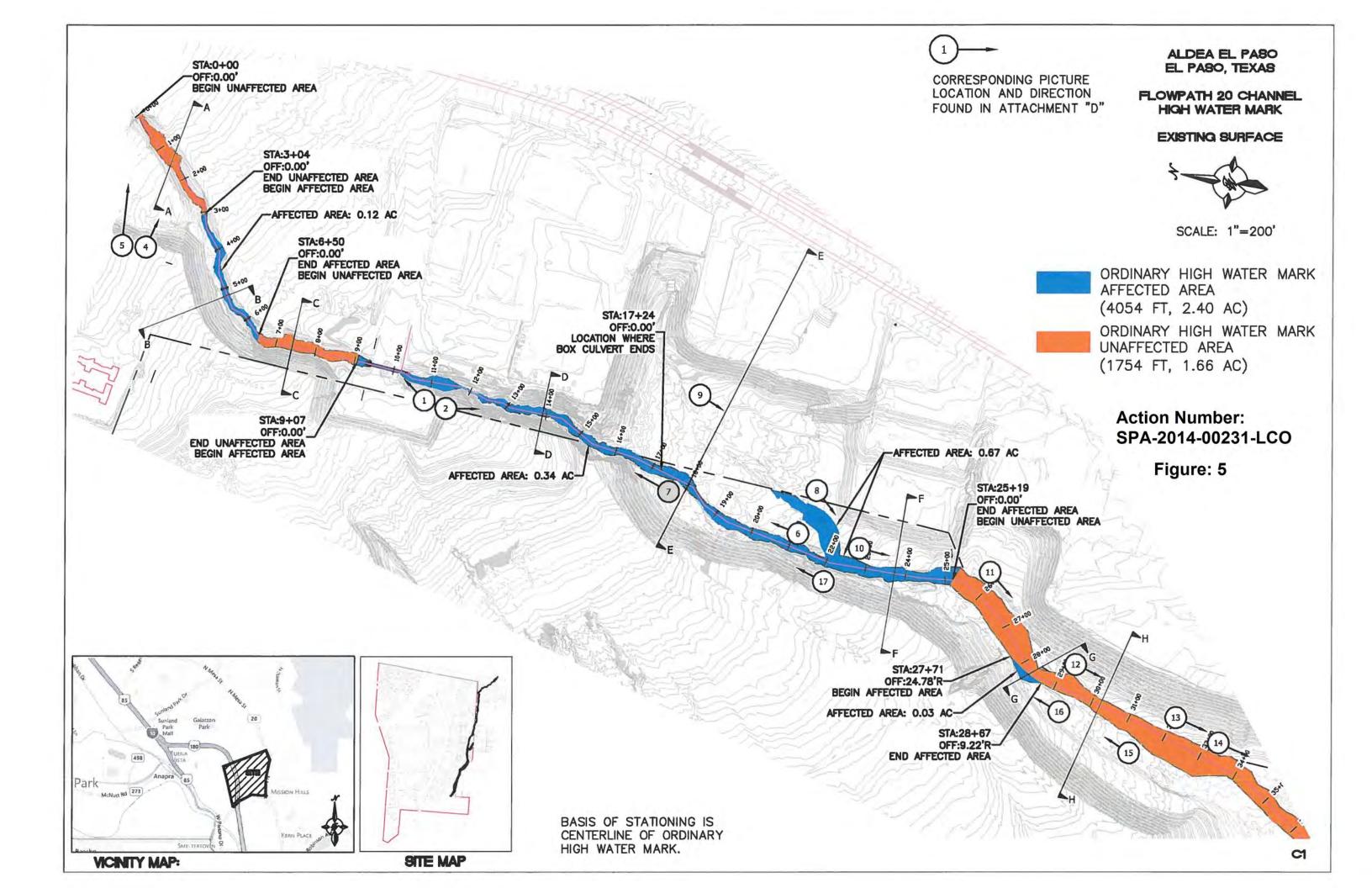
Action Number: SPA-2014-00231-LCO

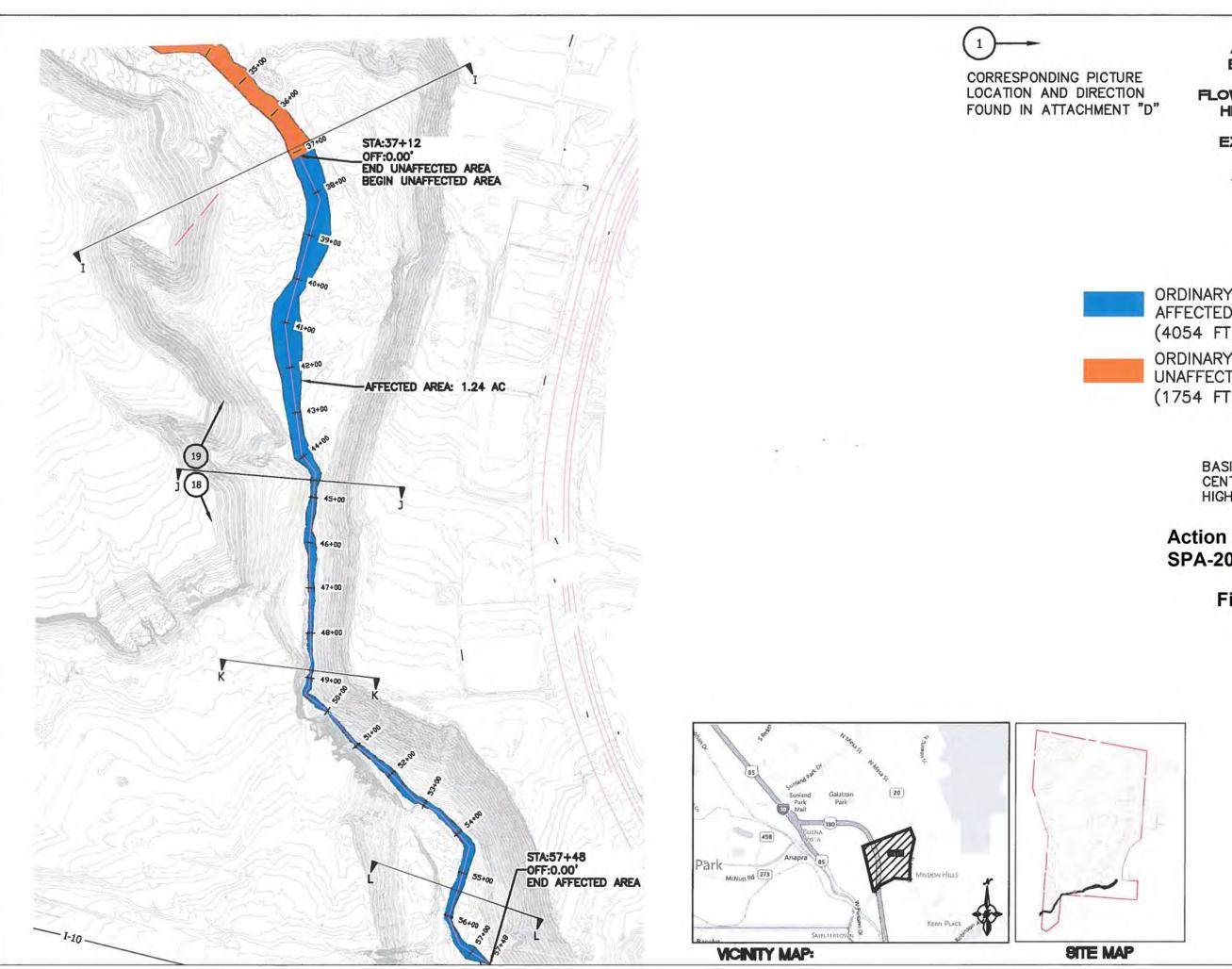
Figure: 3

October 10,2014









ALDEA EL PASO EL PASO, TEXAS

FLOWPATH 20 CHANNEL HIGH WATER MARK

EXISTING SURFACE



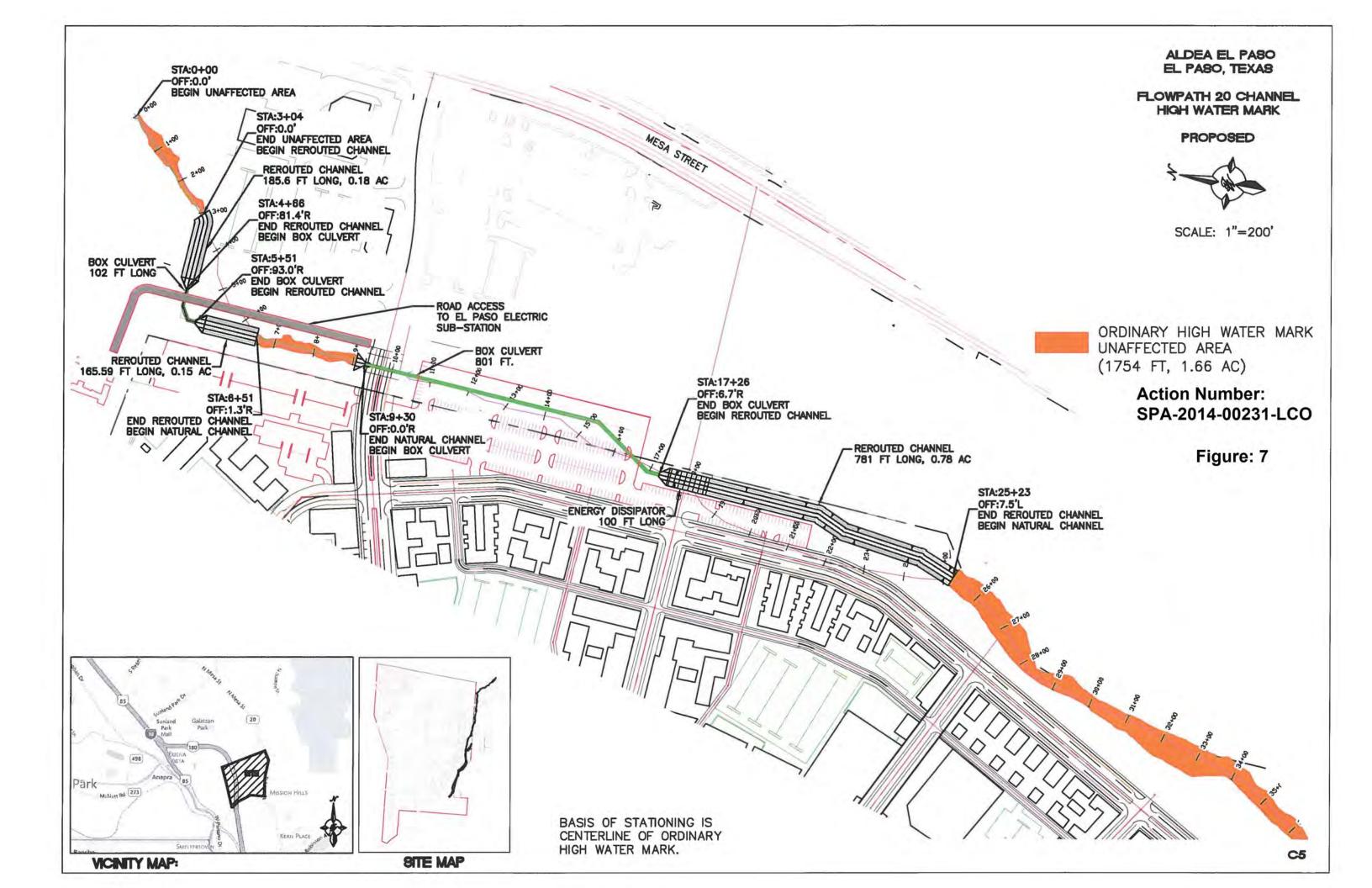
SCALE: 1"=200'

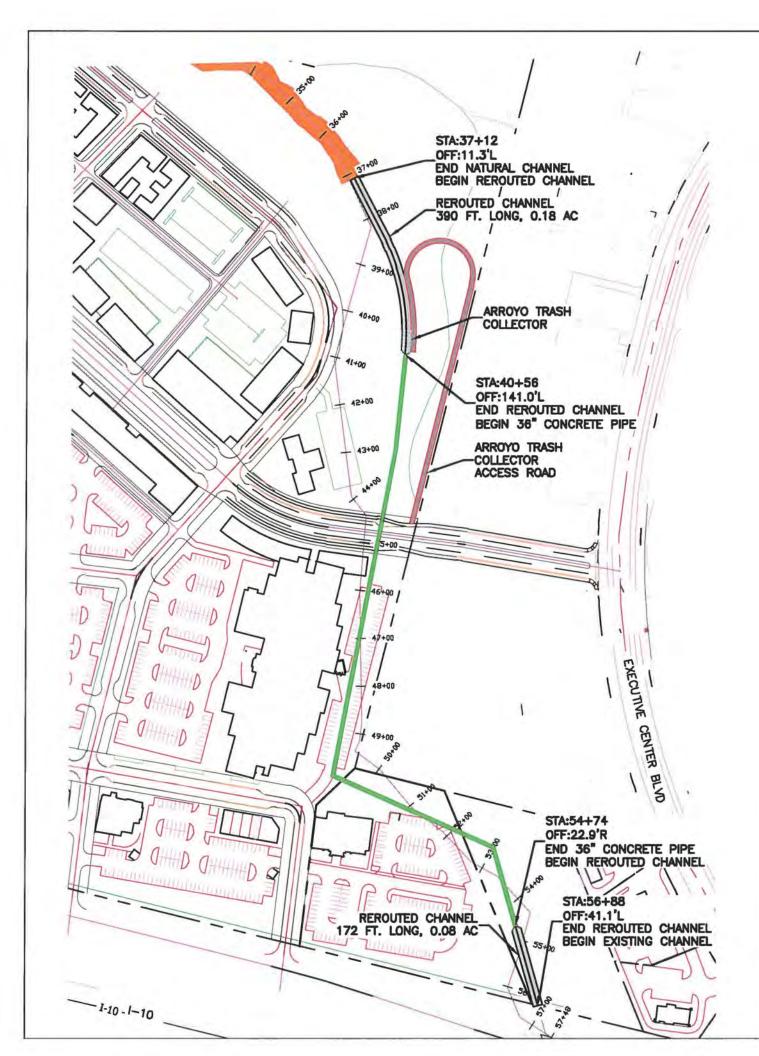
ORDINARY HIGH WATER MARK
AFFECTED AREA
(4054 FT, 2.40 AC)

ORDINARY HIGH WATER MARK
UNAFFECTED AREA
(1754 FT, 1.66 AC)

BASIS OF STATIONING IS CENTERLINE OF ORDINARY HIGH WATER MARK.

Action Number: SPA-2014-00231-LCO





STORM DRAIN

ALDEA EL PASO EL PASO, TEXAS

FLOWPATH 20 CHANNEL HIGH WATER MARK

**PROPOSED** 

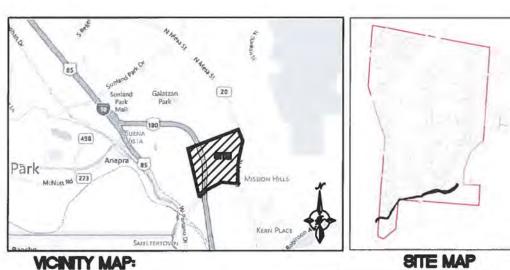


SCALE: 1"=200'

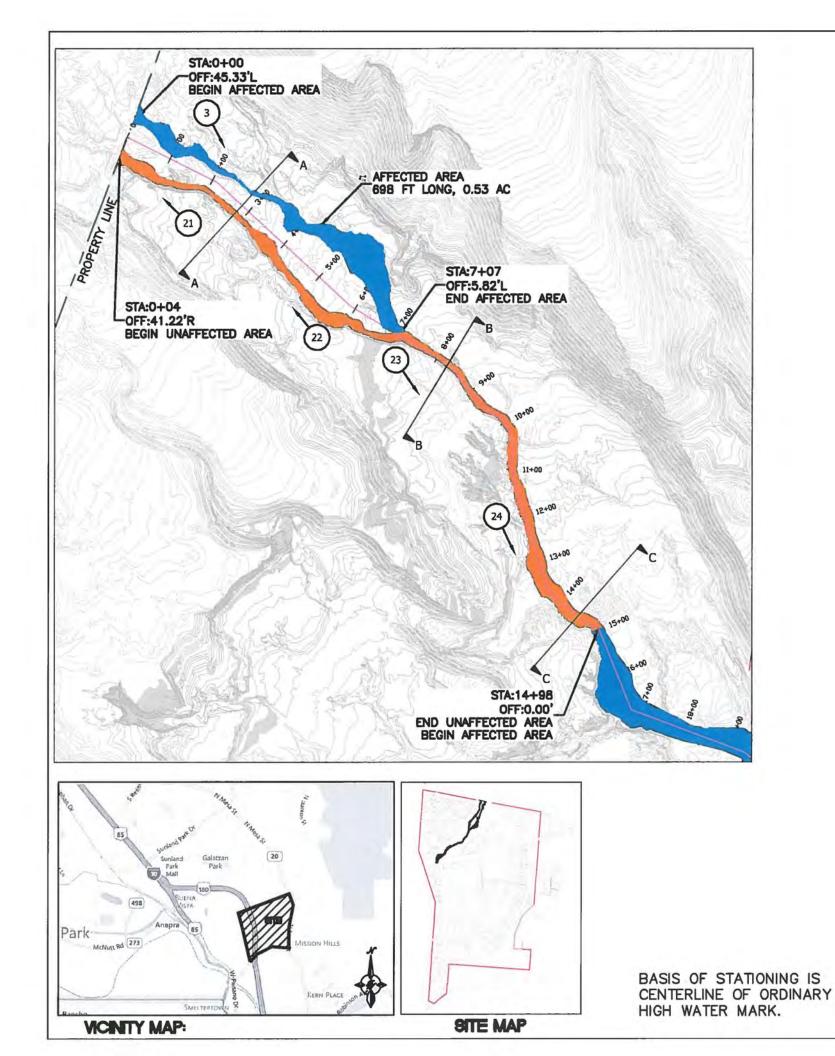
ORDINARY HIGH WATER MARK UNAFFECTED AREA (1754 FT, 1.66 AC)

> BASIS OF STATIONING IS CENTERLINE OF ORDINARY HIGH WATER MARK.

**Action Number:** SPA-2014-00231-LCO









CORRESPONDING PICTURE LOCATION AND DIRECTION FOUND IN ATTACHMENT "D"

ALDEA EL PASO EL PASO, TEXAS

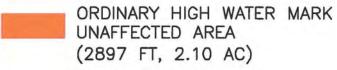
PARAGON CHANNEL HIGH WATER MARK

EXISTING SURFACE

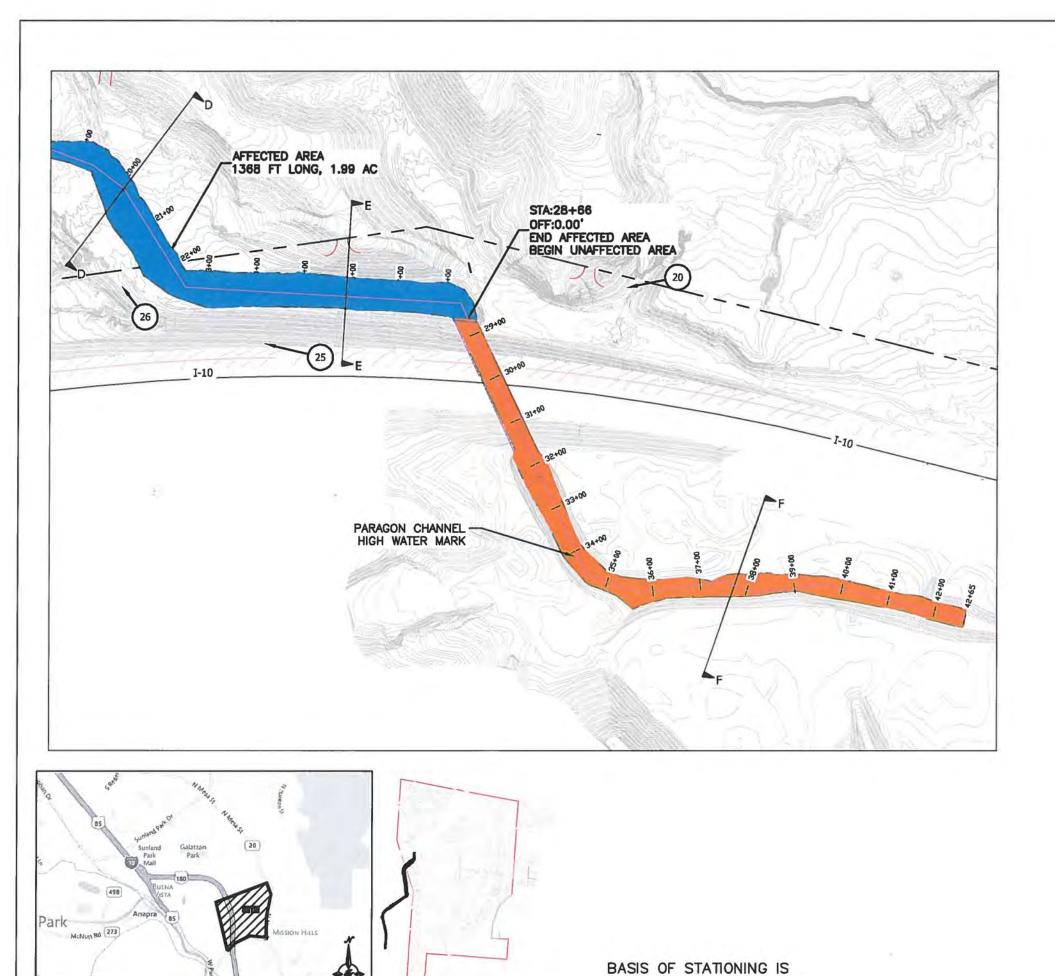


SCALE: 1"=200'

ORDINARY HIGH WATER MARK AFFECTED AREA (2066 FT, 2.52 AC)



Action Number: SPA-2014-00231-LCO



SITE MAP

VICINITY MAP:

CENTERLINE OF ORDINARY

HIGH WATER MARK.



CORRESPONDING PICTURE LOCATION AND DIRECTION FOUND IN ATTACHMENT "D"

ALDEA EL PASO EL PASO, TEXAS

PARAGON CHANNEL HIGH WATER MARK

**EXISTING SURFACE** 

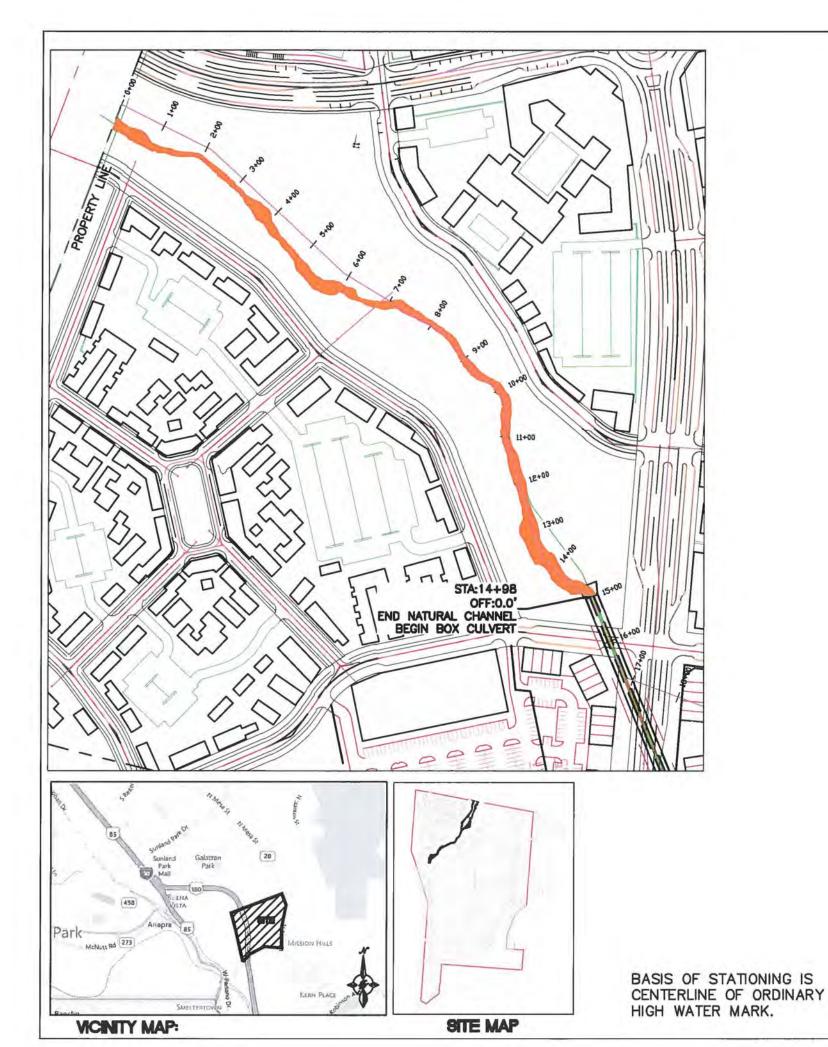


SCALE: 1"=200'

ORDINARY HIGH WATER MARK AFFECTED AREA (2066 FT, 2.52 AC) ORDINARY HIGH WATER MARK

UNAFFECTED AREA
(2897 FT, 2.10 AC)

Action Number: SPA-2014-00231-LCO



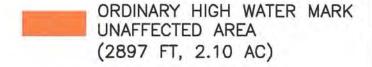
ALDEA EL PASO EL PASO, TEXAS

PARAGON CHANNEL HIGH WATER MARK

PROPOSED



SCALE: 1"=200'



Action Number: SPA-2014-00231-LCO

