

DEPARTMENT OF THE ARMY PERMIT

Permittee Port of Corpus Christi Authority

Permit No. SWG-2025-00112

Issuing Office Galveston District

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: To excavate approximately 1,000 cubic yards (CY) of unvegetated water bottom, and discharge approximately 15,800 CY of rock/stone, and install one (1) seawater intake and two (2) outfall diffuser structures associated with the construction of a 100-million-gallon per day (MGD) seawater desalination facility on Harbor Island near Port Aransas, Nueces County, Texas. The intake structure, which will impact approximately 11,300 square feet (SF) of unvegetated Gulf of America (Gulf) water bottom, will be located 1.3 miles offshore southeast of San Jose Island in the Gulf at a depth of approximately minus (-) 35 feet mean lower low water (MLLW). The intake structure will connect to Harbor Island and be installed via a tunnel boring machine (TBM) or similar technology. A Gulf high-rate outfall diffuser structure, impacting approximately 55,000 SF, will be located approximately 1.8 miles offshore of San Jose Island and 0.5 miles further southeast from the intake. The Gulf outfall diffuser will connect to Harbor Island via a 14-foot-outer-diameter discharge pipe installed via TBM or similar technology. The Gulf intake and outfall pipe route and alignment will follow the alignment of the authorized "Bluewater Texas Terminal" project. A second approximate 100-foot-long high-rate outfall diffuser structure will be located adjacent and parallel to the Corpus Christi Ship Channel (CCSC) southeast of Harbor Island at a depth of approximately (-) 64 feet MLLW. Muck soils removed during tunneling will be maintained onsite in uplands during construction and dewatered similarly to dredge material, with a dewatering outfall structure into Redfish Bay adjacent to Aransas Channel. Once sufficient dewatering has occurred the material will be used onsite as upland grading material. The facility will include marine life protection screens and a return channel.

The finished water pipelines will include two parallel pipes of 48 - 52" diameter installed by upland open trenching and micro tunneling and/or horizontal directional drilling (HDD) below marine wetlands, open water, and sand/mud flats. The finished water pipeline will connect to existing onsite Aransas Pass, Texas, water distribution infrastructure. The project will be conducted in accordance with the attached plans, in 14 sheets.

Project Location: The project is located in the Corpus Christi Ship Channel (CCSC), Aransas Channel, Lydia Ann Channel, and Gulf of America (Gulf), on Harbor Island, in Port Aransas, Nueces County, Texas.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on 31 December 2035. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

1. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.
2. When structures or work authorized by this permit are determined by the District Engineer to have become abandoned, obstructive to navigation or cease to be used for the purpose for which they were permitted, such structures or other work must be removed, the area cleared of all obstructions, and written notice given to the Corps of Engineers, Galveston District, Regulatory Division, within 30 days of completion.
3. The permittee must install and maintain, at the permittee's expense, any safety lights, signs and signals required by US Coast Guard, through regulations or otherwise, on the permittee's fixed structures. To receive a US Coast Guard Private Aids to Navigation marking determination, at no later than 30 days prior to installation of any fixed structures in navigable waters and/or prior to installation of any floating private aids to navigation, you are required to contact the Eighth Coast Guard District (dpw), 500 Poydras St. Suite 1230, New Orleans, LA 70130, (504) 671-2328 or via email to: [D8oanPATON@uscg.mil](mailto:D8oanPATON@uscg.mil). For general information related to Private Aids to Navigation please visit the Eighth Coast Guard District web site at: <https://www.atlanticarea.uscg.mil/District-8/District-Divisions/Waterways/PATON/>.
4. This permit does not authorize the permittee to take an endangered species. To legally take a listed species, the permittee must have separate authorization under the Endangered Species Act (ESA), either a Section 10 permit or a Biological Opinion (BO) with "incidental take" provisions with which the permittee must comply. The attached U.S. Fish and Wildlife Service (FWS) Letter of Concurrence (No. 2025-0024909) dated 20 May 2025, and the National Marine Fisheries Service (NMFS) Letter of Concurrence (SERO-2025-01100) dated 28 May 2025, contain and/or reference conservation and best management practices identified within the February 2025 biological assessment (BA) that would avoid and minimize potential effects to listed species. Authorization under this permit is conditional upon compliance with the measures contained and/or referenced in the FWS and the NMFS concurrence letters. Failure to comply with these measures will constitute noncompliance with your permit. If you are unable to implement any of these measures, you must immediately notify the Corps, so we may reinitiate consultation as appropriate, prior to initiating the work, in accordance with Federal law. The FWS and NMFS are the appropriate authorities to determine compliance with the ESA. For further clarification on this subject, the permittee should contact either the FWS or NMFS depending on the species in question.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

(X ) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

( ) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

- a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
- b. This permit does not grant any property rights or exclusive privileges.
- c. This permit does not authorize any injury to the property or rights of others.
- d. This permit does not authorize interference with any existing or proposed Federal project.

(REVERSE OF ENG FORM 1721)

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

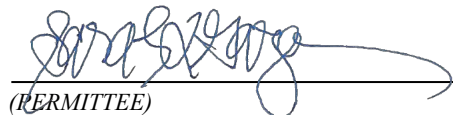
5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

  
(PERMITTEE)

**SARAH L. GARZA**  
**DIRECTOR OF ENVIRONMENTAL PLANNING AND COMPLIANCE**  
**PORT OF CORPUS CHRISTI AUTHORITY**

9/12/2025

(DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

  
(DISTRICT ENGINEER)

**ROBERT W. HEINLY**  
**CHIEF, POLICY ANALYSIS BRANCH**  
**FOR COLONEL DAVID W. DAKE**

16 September 2025

(DATE)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

\_\_\_\_\_  
(TRANSFeree – Typed/Printed Name)

\_\_\_\_\_  
(DATE)

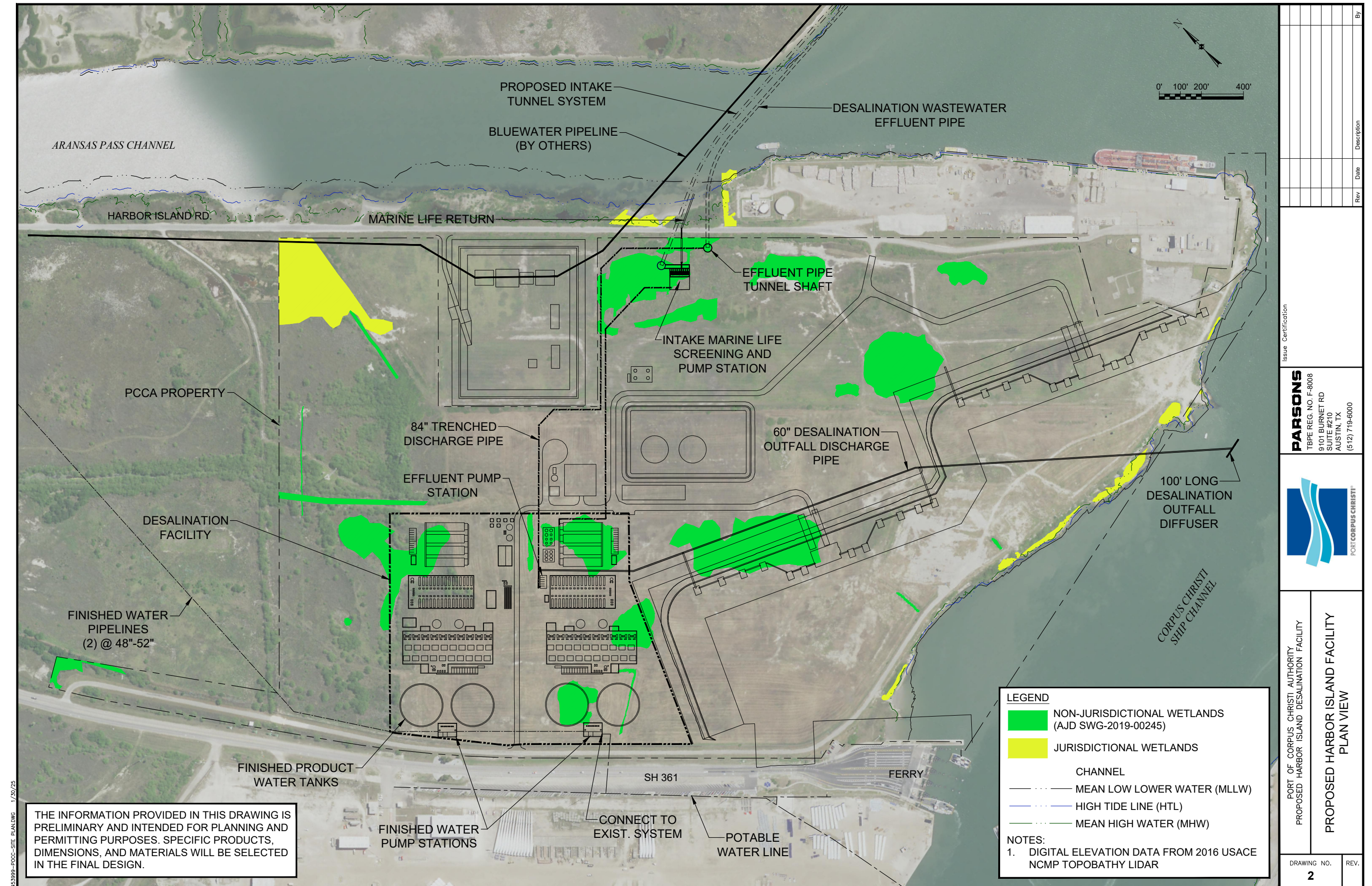
\_\_\_\_\_  
(TRANSFeree - Signature)

\_\_\_\_\_  
(Mailing Address)

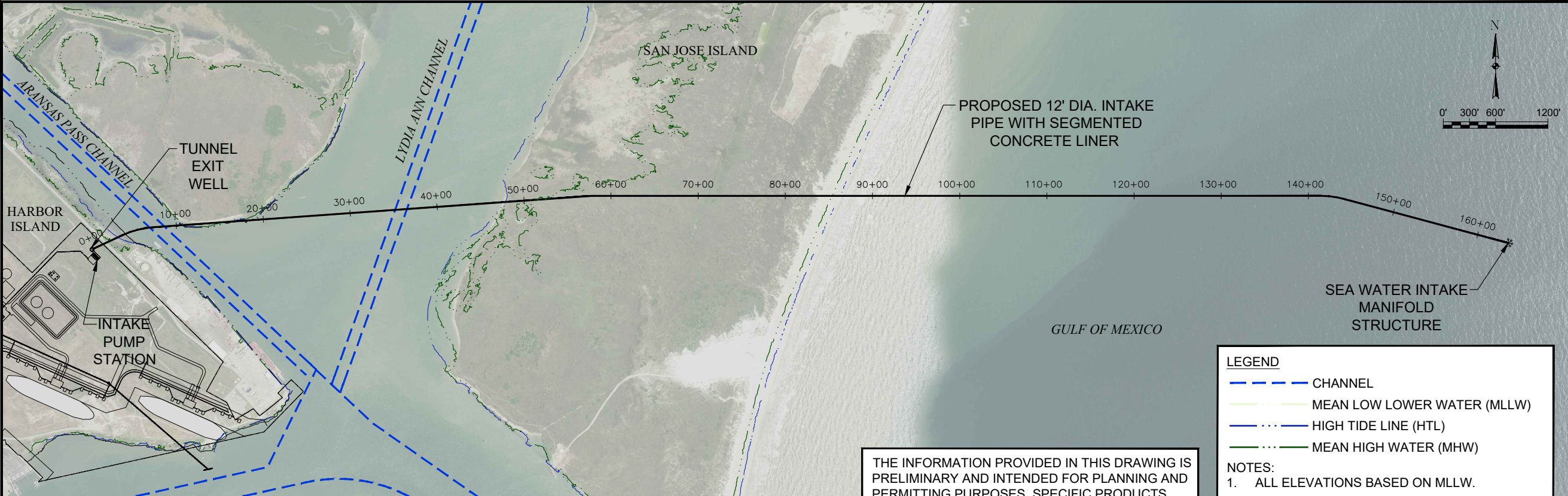












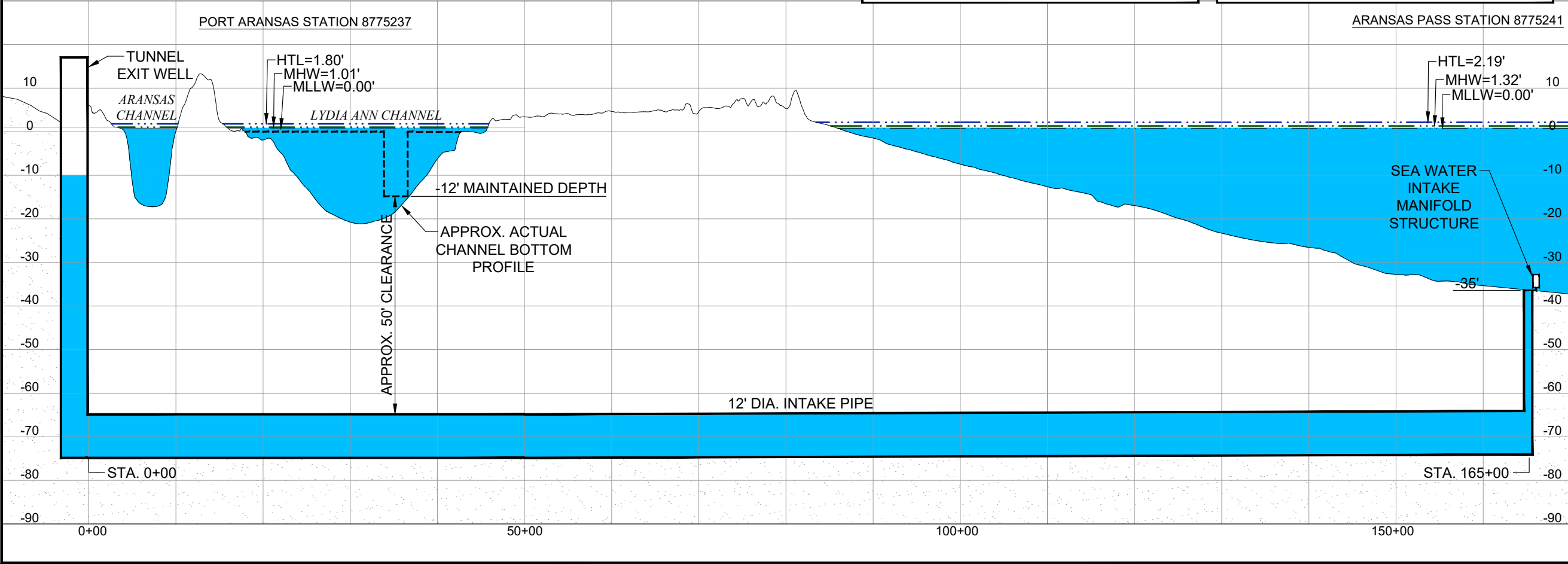
THE INFORMATION PROVIDED IN THIS DRAWING IS PRELIMINARY AND INTENDED FOR PLANNING AND PERMITTING PURPOSES. SPECIFIC PRODUCTS, DIMENSIONS, AND MATERIALS WILL BE SELECTED IN THE FINAL DESIGN.

**LEGEND**

- CHANNEL
- MEAN LOW LOWER WATER (MLLW)
- HIGH TIDE LINE (HTL)
- MEAN HIGH WATER (MHW)

**NOTES:**

- ALL ELEVATIONS BASED ON MLLW.
- DIGITAL ELEVATION DATA FROM 2016 USACE NCMP TOPOBATHY LIDAR



| Rev | Date | Description | By |
|-----|------|-------------|----|
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Issue Certification

**PARSONS**  
TBP REG. NO. F-8008  
9101 BURNET RD  
SUITE #210  
AUSTIN, TX  
(512) 719-6000

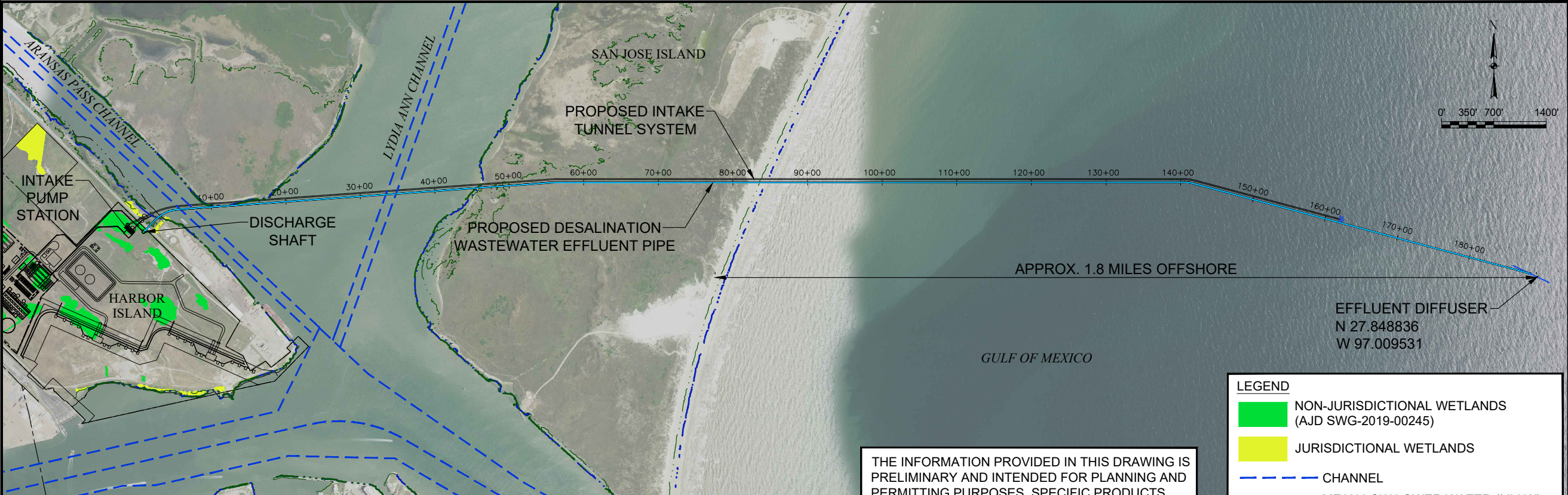


PORT OF CORPUS CHRISTI AUTHORITY  
PROPOSED HARBOR ISLAND DESALINATION FACILITY

**INTAKE ROUTE  
PLAN AND PROFILE**

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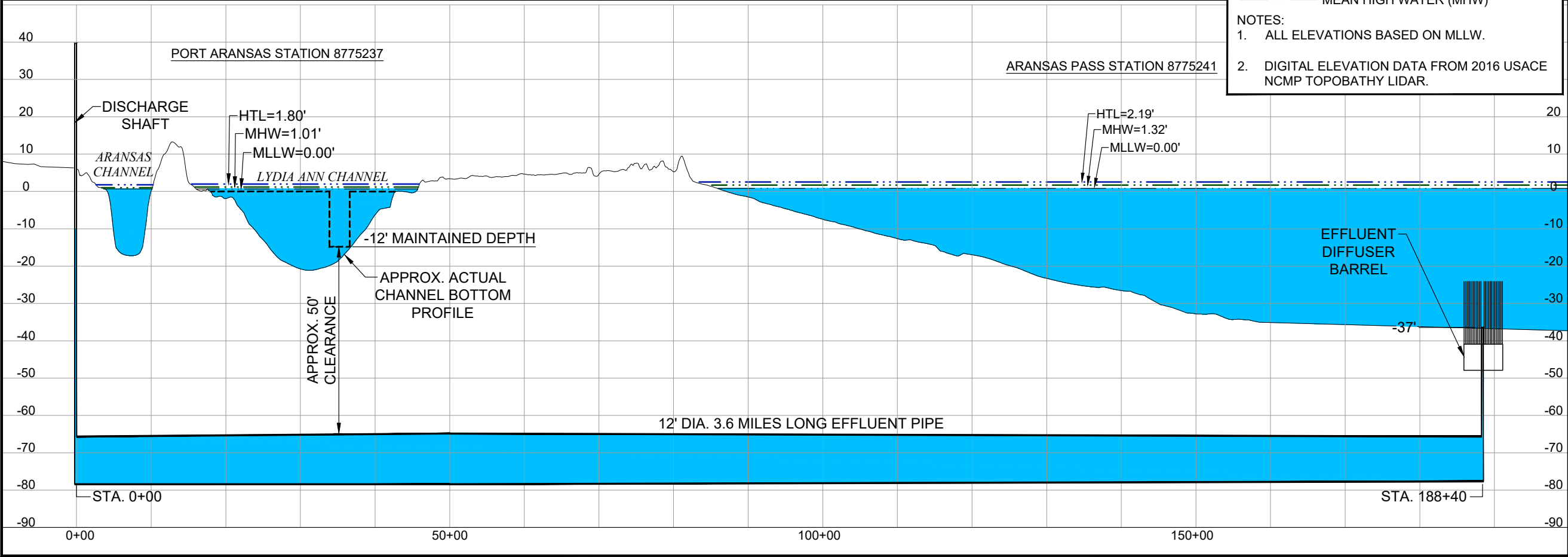
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**LEGEND**

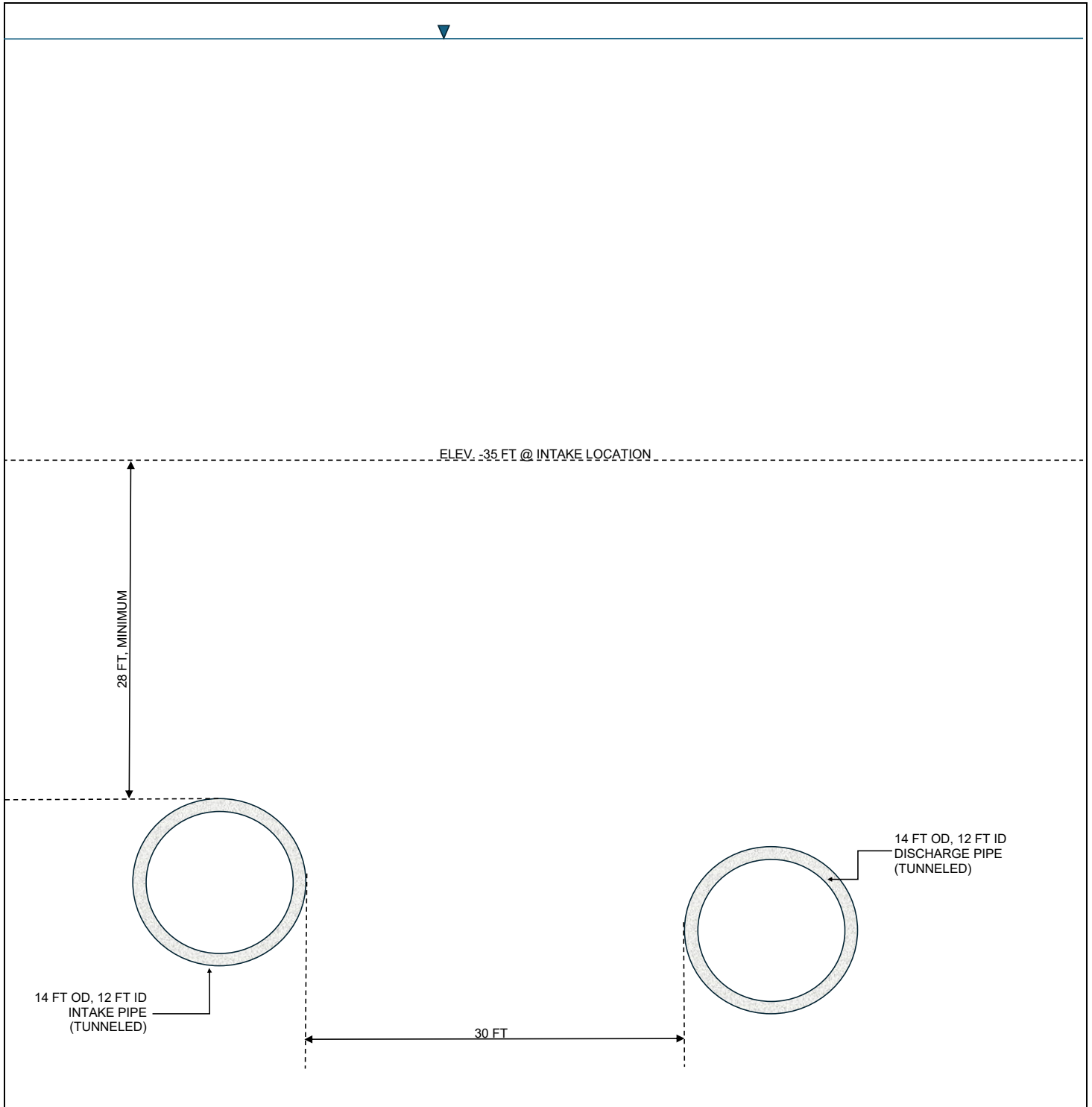
- NON-JURISDICTIONAL WETLANDS (AJD SWG-2019-00245)
- JURISDICTIONAL WETLANDS
- CHANNEL
- MEAN LOW LOWER WATER (MLLW)
- HIGH TIDE LINE (HTL)
- MEAN HIGH WATER (MHW)

**NOTES:**

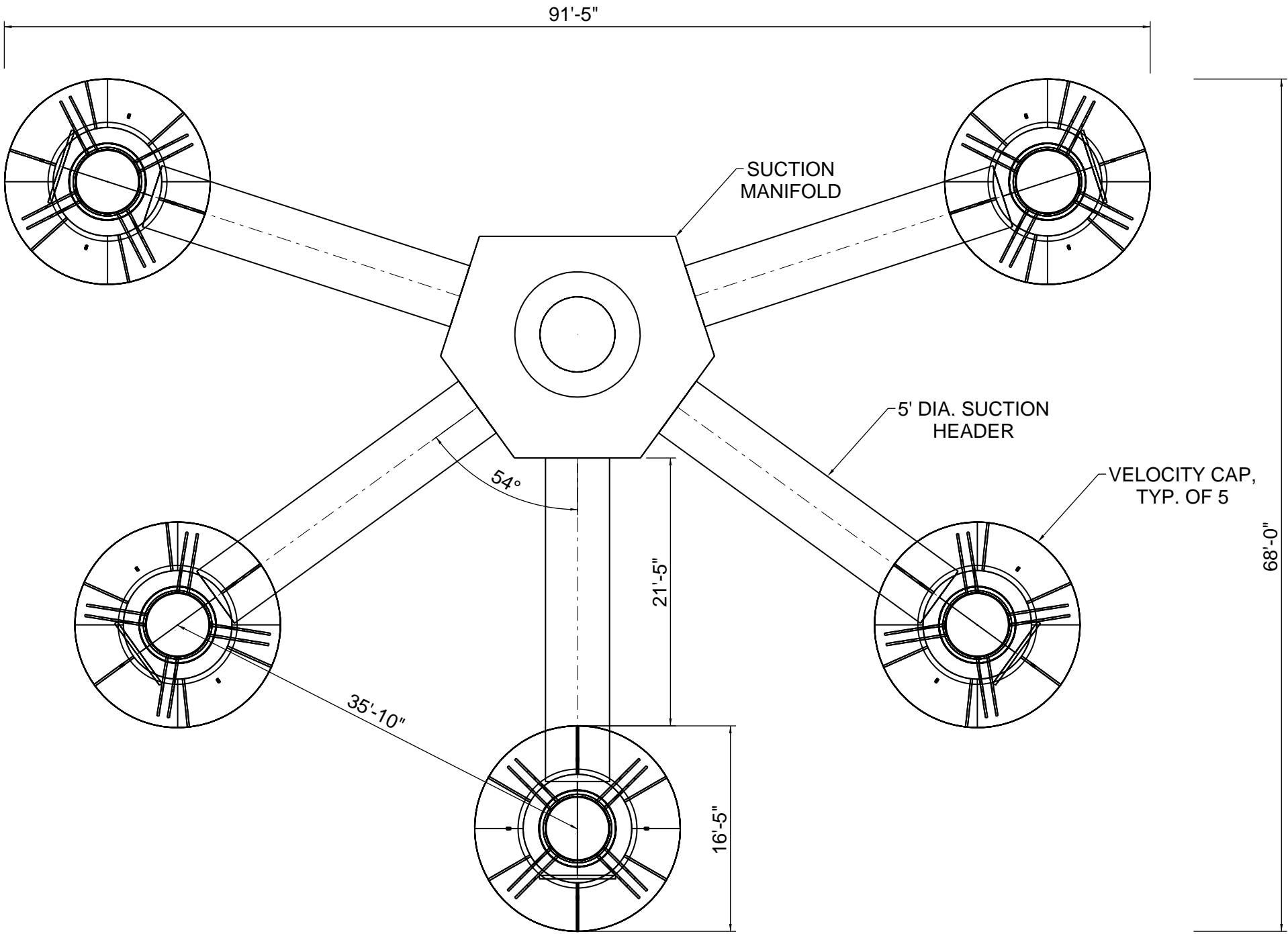
- ALL ELEVATIONS BASED ON MLLW.
- DIGITAL ELEVATION DATA FROM 2016 USACE NCMP TOPOBATHY LIDAR.



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| Issue Certification                          |      | By |
| Description                                  |      |    |
| Date   |      |    |
| Rev  |      |    |
| Issue Certification                          |      |    |
| PARSONS                                      |      |    |
| TBP REG. NO. F-8008                          |      |    |
| 9101 BURNET RD                               |      |    |
| SUITE #210                                   |      |    |
| AUSTIN, TX                                   |      |    |
| (512) 719-6000                               |      |    |
| PORT OF CORPUS CHRISTI AUTHORITY             |      |    |
| PROPOSED HARBOR ISLAND DESALINATION FACILITY |      |    |
| EFFLUENT ROUTE                               |      |    |
| PLAN AND PROFILE                             |      |    |
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DRAWING NO. 5: Intake and Diffuser Tunnels Section



TYPICAL INTAKE STRUCTURE PLAN  
NOT TO SCALE

NOTES:  
1. DIMENSIONS PRESENTED FOR PRELIMINARY LAYOUT AND APPROXIMATE SIZING ONLY. NOT INTENDED FOR CONSTRUCTION.

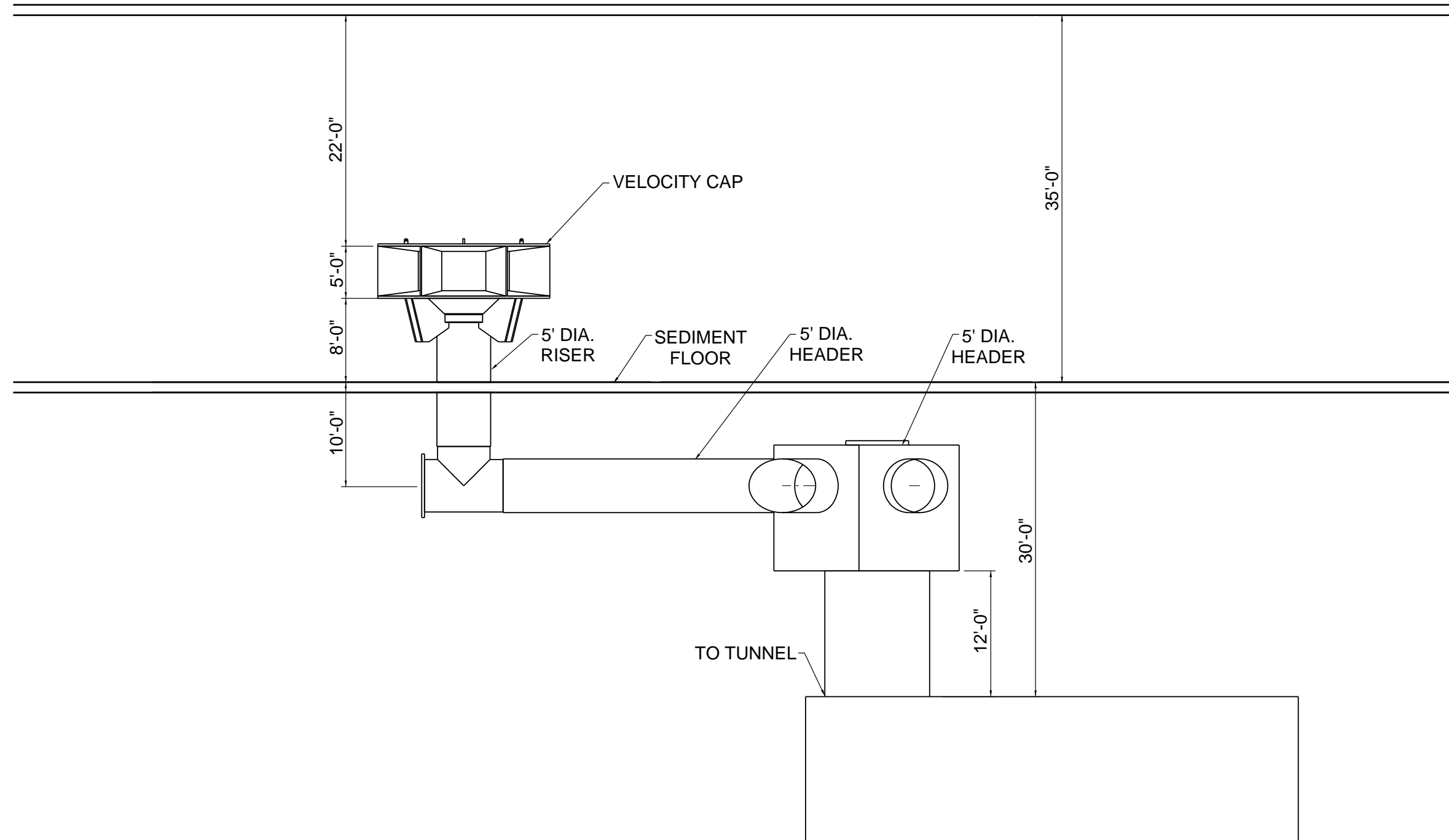
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451565-CCH-KIT PLAN.DWG 2/2/23



2000 W. Sam Houston Pkwy S.,  
Suite 1400  
Houston, Texas 77042  
Phone: (713) 783-8700  
TBPE Firm Registration No. F-4991

|  |  |      |      |             |    |
|--|--|------|------|-------------|----|
| Issue Certification  |  | Rev  | Date | Description | By |
| <b>PARSONS</b><br>TBPE REG. NO. F-8008<br>9101 BURNET RD<br>SUITE #210<br>AUSTIN, TX<br>(512) 719-6000 |  |      |      |             |    |
|  |  |      |      |             |    |
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|  |  |      |      |             |    |
|                   |  |      |      |             |    |
| PORT OF CORPUS CHRISTI AUTHORITY<br>PROPOSED HARBOR ISLAND DESALINATION FACILITY                       |  |      |      |             |    |
| TYPICAL INTAKE STRUCTURE PLAN  |  |      |      |             |    |
| DRAWING NO.<br><b>6</b>  |  | REV. |      |             |    |




## INTAKE STRUCTURE SECTION

NOT TO SCALE

NOTES:  
1. DIMENSIONS PRESENTED FOR PRELIMINARY LAYOUT AND APPROXIMATE SIZING ONLY. NOT INTENDED FOR CONSTRUCTION.

THE INFORMATION PROVIDED IN THIS DRAWING IS PRELIMINARY AND INTENDED FOR PLANNING AND PERMITTING PURPOSES. SPECIFIC PRODUCTS, DIMENSIONS, AND MATERIALS WILL BE SELECTED IN THE FINAL DESIGN.

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| PORT OF CORPUS CHRISTI AUTHORITY<br>PROPOSED HARBOR ISLAND DESALINATION FACILITY |  | <br>PORT CORPUS CHRISTI®   |             |
| INTAKE STRUCTURE SECTION   |  | <div> <div> <b>PARSONS</b><br/>           TBPE REG. NO. F-8008<br/>           9101 BURNET RD<br/>           SUITE #210<br/>           AUSTIN, TX<br/>           (512) 719-6000         </div> <div>           Issue Certification         </div> </div> |             |
|  |  | Rev   | Date        |
|  |  |   | Description |
|  |  |   | By          |



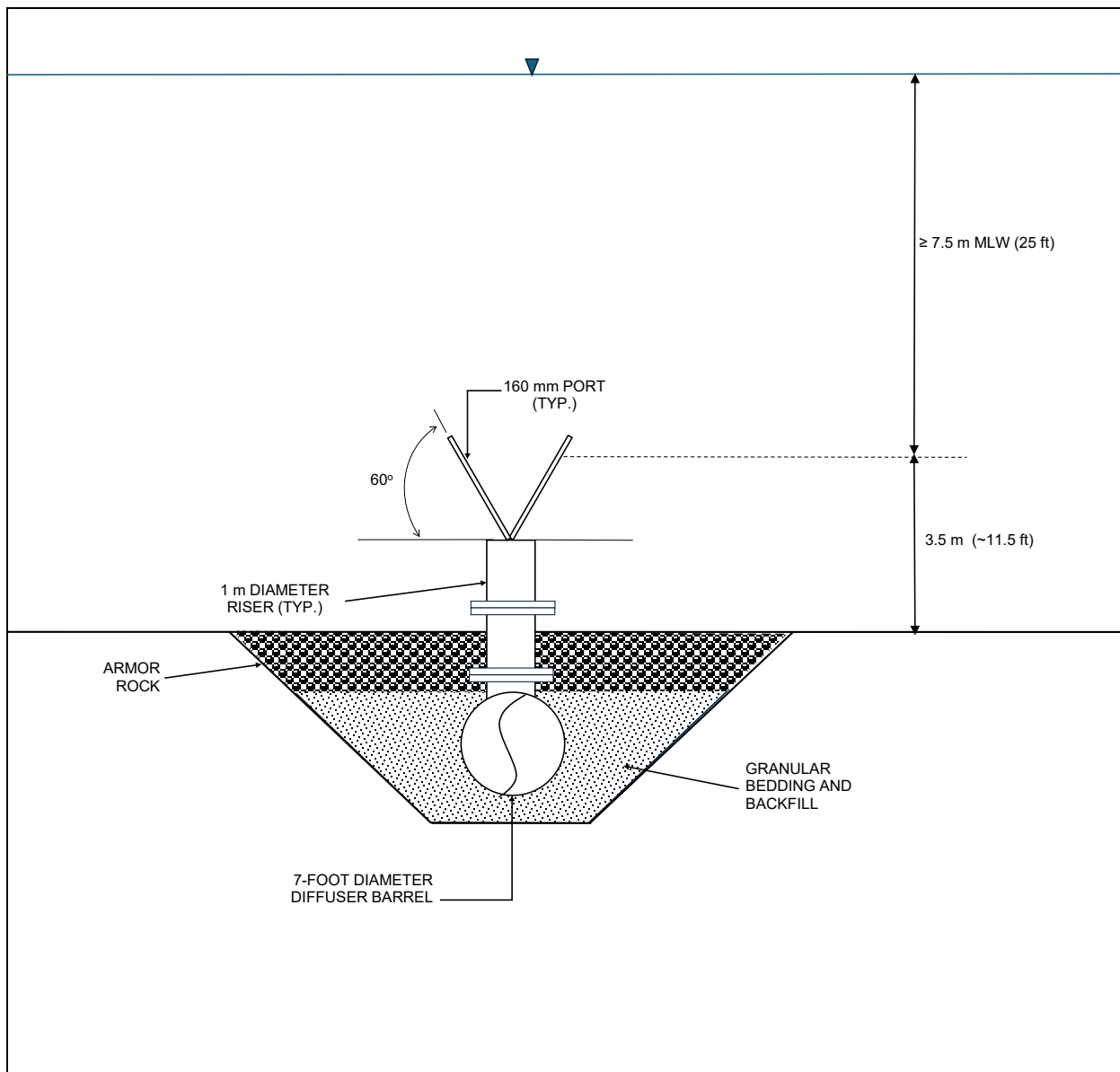




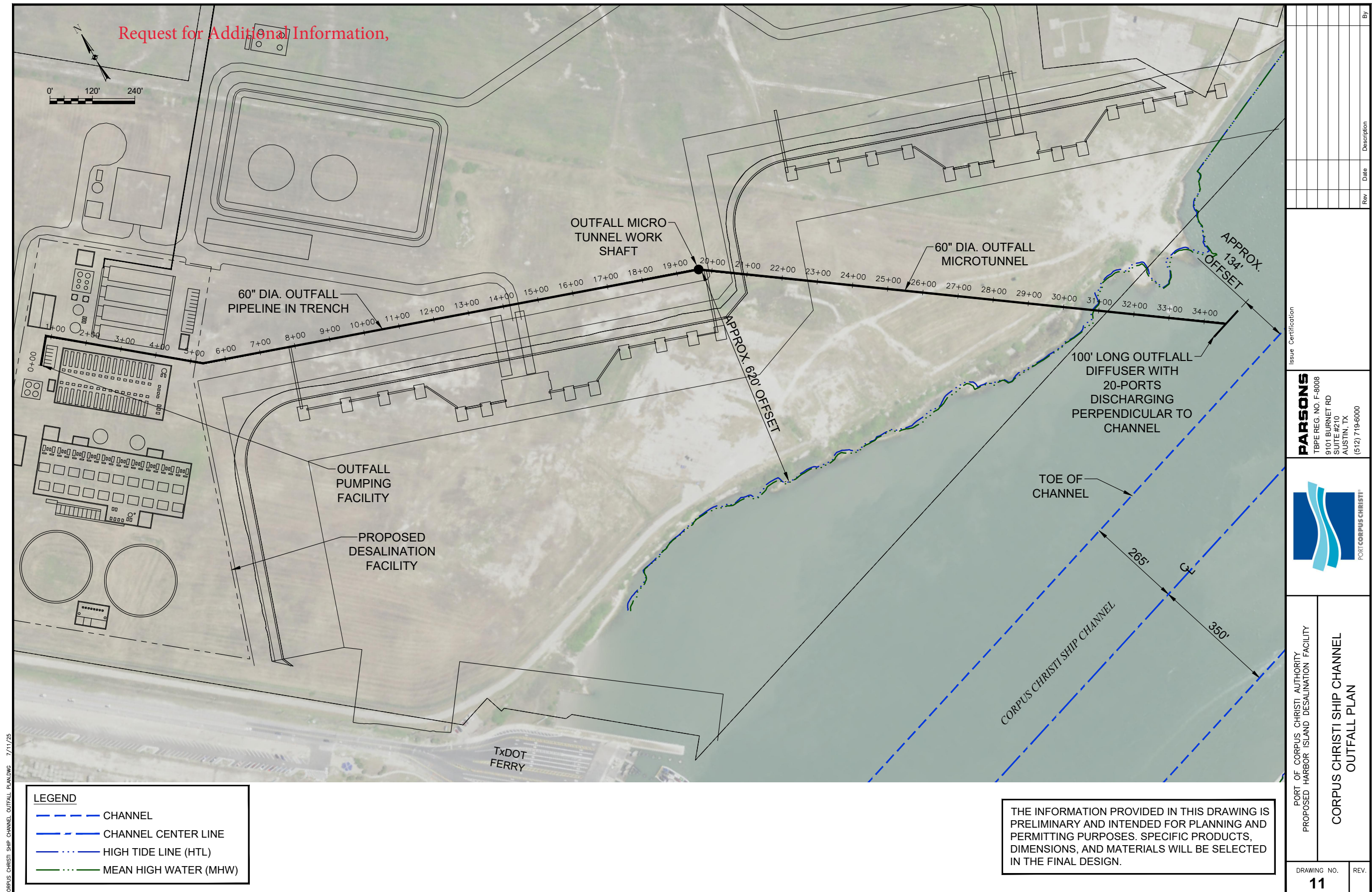


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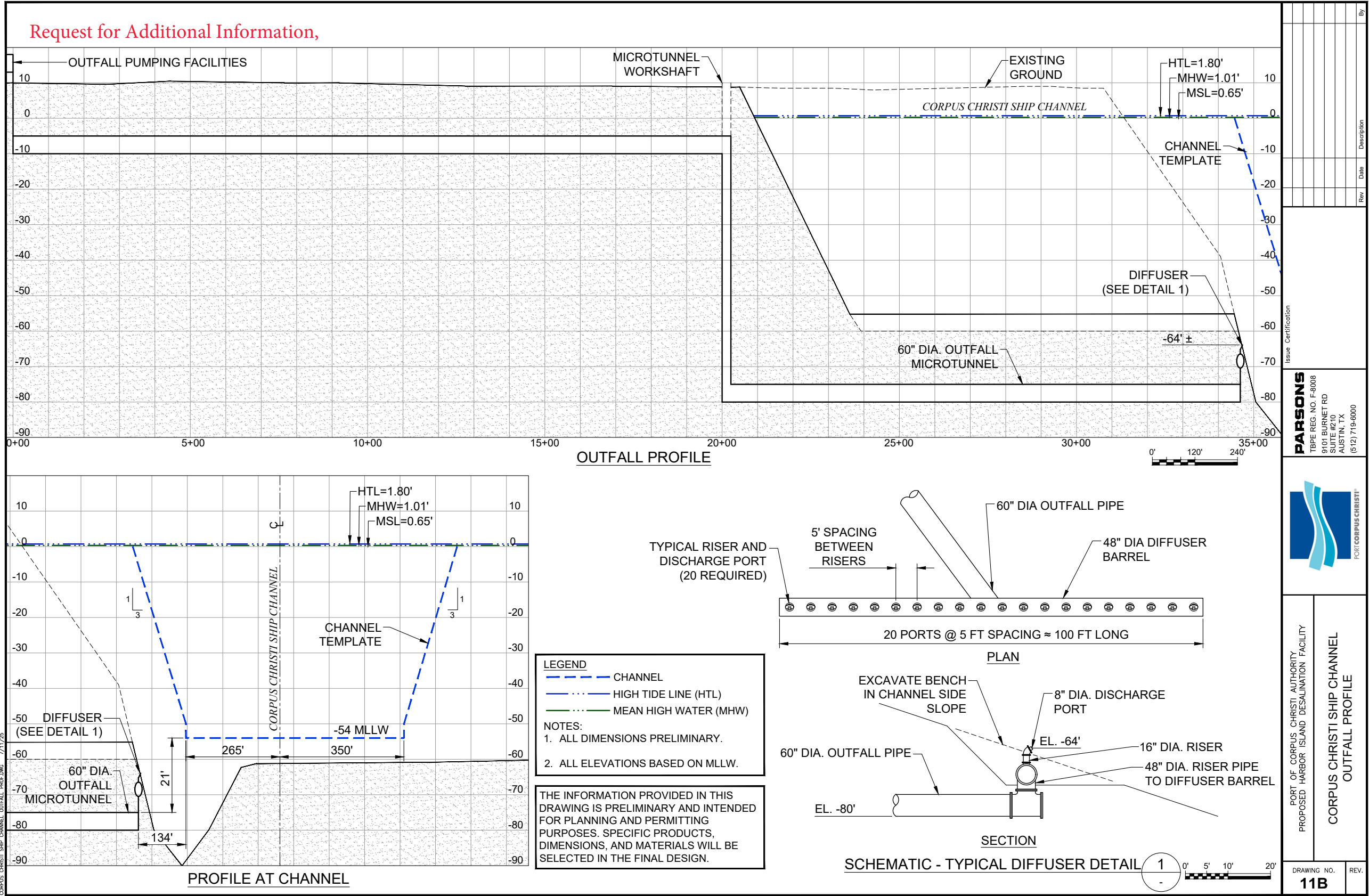
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| DRAWING NO.<br><br>9 | PORT OF CORPUS CHRISTI AUTHORITY<br>PROPOSED HARBOR ISLAND DESALINATION FACILITY<br><br>EFFLUENT DIFFUSER | <br>PORT CORPUS CHRISTI® | <b>PARSONS</b><br>TBPE REG. NO. F-8008<br>9101 BURNET RD<br>SUITE #210<br>AUSTIN, TX<br>(512) 719-6000 | Issue Certification |    |  |  |
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| REV.                 |   | Rev   | Date   | Description         | By |  |  |



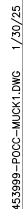
DRAWING 10: High-rate Diffuser Port and Riser Schematic



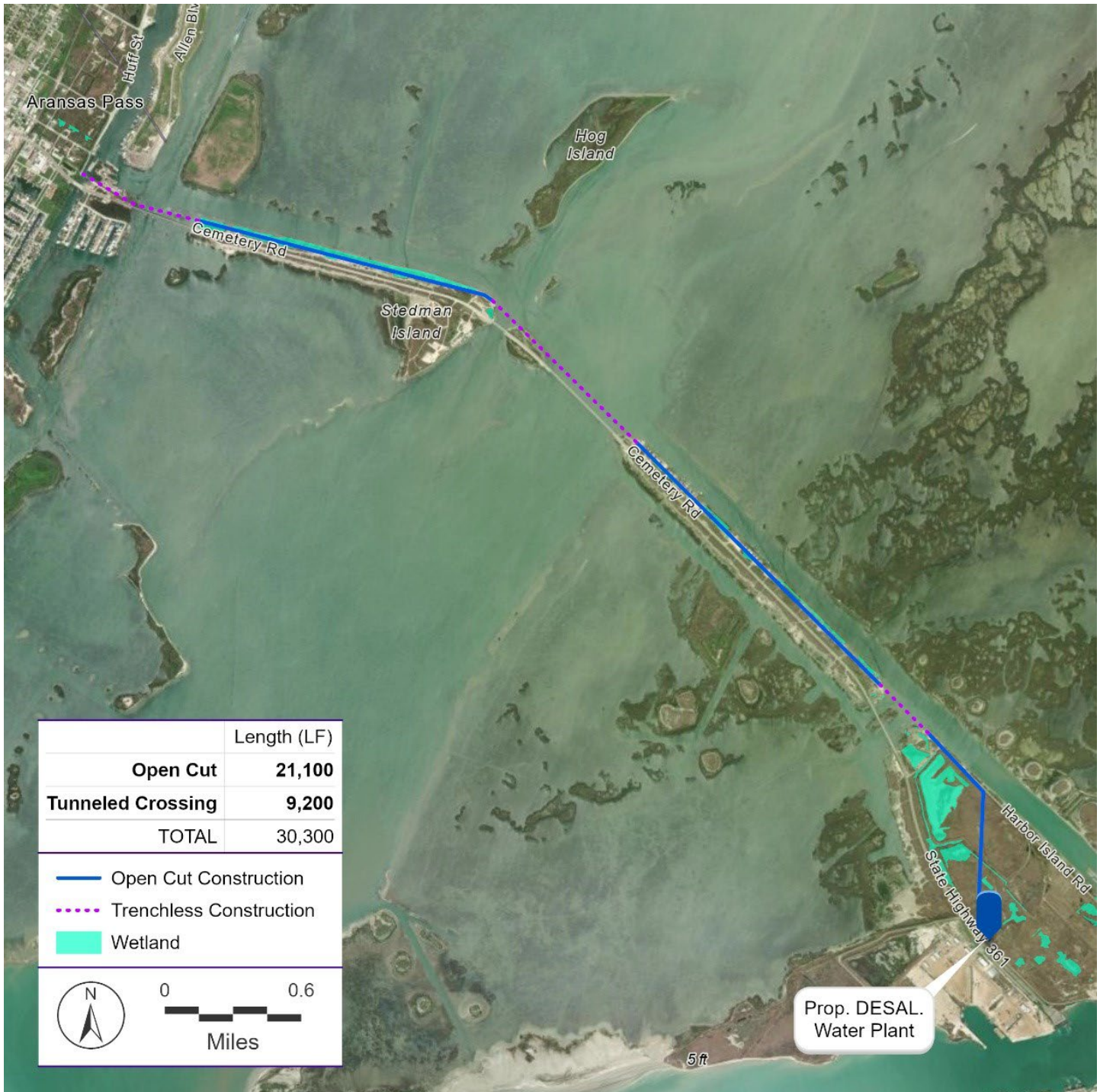












DRAWING NO. 12: Treated Water Pipeline

## NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

|  |  |                                    |                         |
|--|--|------------------------------------|-------------------------|
| Applicant: <b>Port of Corpus Christi Authority</b> |  | File Number: <b>SWG-2025-00112</b> | Date: <b>09/08/2025</b> |
| Attached is:                                       |  |                                    | See Section below       |
| <input checked="" type="checkbox"/>                | INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission) |                                    | A                       |
| <input type="checkbox"/>                           | PROFFERED PERMIT (Standard Permit or Letter of permission)         |                                    | B                       |
| <input type="checkbox"/>                           | PERMIT DENIAL WITHOUT PREJUDICE                                    |                                    | C                       |
| <input type="checkbox"/>                           | PERMIT DENIAL WITH PREJUDICE                                       |                                    | D                       |
| <input type="checkbox"/>                           | APPROVED JURISDICTIONAL DETERMINATION                              |                                    | E                       |
| <input type="checkbox"/>                           | PRELIMINARY JURISDICTIONAL DETERMINATION                           |                                    | F                       |

### SECTION I

The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/appeals/> or Corps regulations at 33 CFR Part 331.

**A: INITIAL PROFFERED PERMIT:** You may accept or object to the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

**B: PROFFERED PERMIT:** You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**C. PERMIT DENIAL WITHOUT PREJUDICE: Not appealable**

You received a permit denial without prejudice because a required Federal, state, and/or local authorization and/or certification has been denied for activities which also require a Department of the Army permit before final action has been taken on the Army permit application. The permit denial without prejudice is not appealable. There is no prejudice to the right of the applicant to reinstate processing of the Army permit application if subsequent approval is received from the appropriate Federal, state, and/or local agency on a previously denied authorization and/or certification.

**D: PERMIT DENIAL WITH PREJUDICE: You may appeal the permit denial**

You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**E: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information for reconsideration**

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice means that you accept the approved JD in its entirety and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.
- **RECONSIDERATION:** You may request that the district engineer reconsider the approved JD by submitting new information or data to the district engineer within 60 days of the date of this notice. The district will determine whether the information submitted qualifies as new information or data that justifies reconsideration of the approved JD. A reconsideration request does not initiate the appeal process. You may submit a request for appeal to the division engineer to preserve your appeal rights while the district is determining whether the submitted information qualifies for a reconsideration.

**F: PRELIMINARY JURISDICTIONAL DETERMINATION: Not appealable**

You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also, you may provide new information for further consideration by the Corps to reevaluate the JD.

**POINT OF CONTACT FOR QUESTIONS OR INFORMATION:**

If you have questions regarding this decision you may contact:

Kevin Mannie  
Regulatory Division, Policy Analysis Branch  
(CESWG-RD-P)  
U.S. Army Corps of Engineers, Galveston District  
2000 Fort Point Road  
Galveston, Texas 77550  
Telephone: 409-766-3016; Fax: 409-766-3826  
Email: Kevin.S.Mannie@usace.army.mil

If you have questions regarding the appeal process, or to submit your request for appeal, you may contact:

Mr. Jamie Hyslop  
Administrative Appeals Review Officer  
Southwestern Division (CESWD-PD-O)  
U.S. Army Corps of Engineers  
1100 Commerce Street, Suite 831  
Dallas, Texas 75242-1317  
Phone: 469-216-8324  
Email: Jamie.r.hyslop@usace.army.mil



**SECTION II – REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT**

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. Use additional pages as necessary. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15-day notice of any site investigation and will have the opportunity to participate in all site investigations.

\_\_\_\_\_  
Signature of appellant or agent.

Date:

Email address of appellant and/or agent:

Telephone number:



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
Southeast Regional Office  
263 13<sup>th</sup> Avenue South  
St. Petersburg, Florida 33701-5505  
<https://www.fisheries.noaa.gov/region/southeast>

05/28/2025

F/SER31: JJV  
SERO-2025-01100

Kevin Mannie  
Regulatory Project Manager  
U.S. Army Corps of Engineers, Galveston District  
Department of the Army  
5151 Flynn Parkway, Suite 306  
Corpus Christi, Texas 78411-4318

Ref.: SWG-2025-00112, Harbor Island Desalination Project, Port Aransas, Nueces County,  
Texas – EXPEDITED TRACK

Dear Kevin Mannie,

This letter responds to your April 14, 2025, request pursuant to Section 7 of the Endangered Species Act (ESA) for consultation with the National Marine Fisheries Service (NMFS) on the subject action. We reviewed the action agency's consultation request document and related materials. We requested additional information and clarification on project components via email on May 6, 2025. We received a complete email response on May 20, 2025 and initiated the project consultation the same day. Based on our knowledge, expertise, and the action agency's materials, we concur with the action agency's conclusions that the proposed action is not likely to adversely affect the NMFS ESA-listed species and/or designated and proposed critical habitat.

Updates to the regulations governing interagency consultation (50 CFR part 402) were effective on May 6, 2024 (89 Fed. Reg. 24268). We are applying the updated regulations to this consultation. The 2024 regulatory changes, like those from 2019, were intended to improve and clarify the consultation process, and, with one exception from 2024 (offsetting reasonable and prudent measures), were not intended to result in changes to the Services' existing practice in implementing section 7(a)(2) of the Act. 84 Fed. Reg. at 45015; 89 Fed. Reg. at 24268. We have considered the prior rules and affirm that the substantive analysis and conclusions articulated in this letter of concurrence would not have been any different under the 2019 regulations or pre-2019 regulations.

This concludes your consultation responsibilities under the ESA for species and/or designated critical habitat under NMFS's purview. Reinitiation of consultation is required and shall be requested by the action agency where discretionary Federal action agency involvement or control over the action has been retained or is authorized by law and: (a) take occurs; (b) new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered in this consultation; (c) the action is subsequently modified in a manner that causes an effect to the listed species or critical habitat not previously considered in this consultation; or (d) if a new species is listed or critical habitat designated that may be affected by the action.



We look forward to further cooperation with you on other projects to ensure the conservation of our threatened and endangered marine species and designated critical habitat. If you have any questions on this consultation, please contact Jennifer Valvo, Ph. D., Consultation Biologist, by email at [Jennifer.Valvo@noaa.gov](mailto:Jennifer.Valvo@noaa.gov).

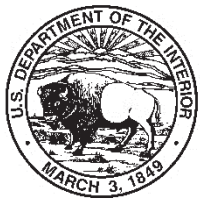
Sincerely,

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for  
Dennis Klemm  
Acting Assistant Regional Administrator  
for Protected Resources

File: 1514-22.f.8



# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

Texas Coastal and Central Plains Ecological Services Office

Corpus Christi Sub-Office  
4444 Corona Drive, Suite 215  
Corpus Christi, Texas 78411  
PHONE: 361/994-9004



In Reply Refer To:  
2025-0024909

May 20, 2025

Kevin Mannie, Project Manager  
U.S. Army Corps of Engineers  
Galveston District  
5151 Flynn Parkway, Suite 306  
Corpus Christi, Texas 78411-4318

Dear Mr. Mannie:

The U.S. Fish and Wildlife Service (Service) received an April 14, 2025, letter from the Department of the Army, U.S. Army Corps of Engineers (Corps) requesting initiation of informal consultation under section 7(a)(2) of the Endangered Species Act (ESA) for permit application #SWG-2025-00112. The Service also received the “Biological Assessment Harbor Island Seawater Desalination Facility Corpus Christi, Texas” (BA). The applicant, Port of Corpus Christi Authority, proposes to construct a 100-million gallon per day seawater desalination facility on Harbor Island, in Port Aransas, Nueces County, Texas.

The Service evaluated the proposed action pursuant to the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 et seq.) for possible impacts. Section 7 of the Act requires that all Federal agencies consult with the Service to ensure that the actions authorized, funded, or carried out by such agencies do not jeopardize the continued existence of any threatened or endangered species or adversely modify or destroy designated critical habitat of such species. After review of the BA, the Service sent a May 9, 2025, letter to the Corps recommending additional conservation measures. In response, the Corps agreed to include the Service’s additional conservation measures in a May 15, 2025, email.

The Corps is requesting concurrence with its determination that the proposed project **may affect but is not likely to adversely affect** the federally listed threatened West Indian manatee (*Trichechus manatus*), rufa red knot (*Calidris canutus rufa*), piping plover (*Charadrius melodus*), eastern black rail (*Laterallus jamaicensis ssp. jamaicensis*), and the endangered whooping crane (*Grus americana*) and northern aplomado falcon (*Falco femoralis septentrionalis*). The Corps determined that the proposed project **is not likely to adversely modify** piping plover critical habitat. The Service concurs with the Corps’ determinations. This concurrence is based upon a review of Service files and the implementation of the following agreed-upon conservation measures to reduce potential effects to listed species and critical habitat down to insignificant and/or discountable levels.

General conservation measures

- Minimization of excavation and vegetation removal by using previously disturbed areas, as available
- Construction methods and access routes will be selected to reduce the movement of heavy equipment, soil disturbance, and persistent tracks or tire ruts
- Minimization of vehicular traffic and equipment to only what is necessary, and operating equipment and vehicles at slow speeds to avoid direct mortality
- Use of silt fencing to delineate and protect potential nesting or foraging habitat and wetlands in or around the project area. Silt fencing will be properly maintained during all phases of construction and removed entirely following completion of work.
- Minimization of light disturbances as practicable, including turning off temporary construction site lights when work is not occurring and restricting work activities to daylight hours
- Employing a “soft-start” to construction activities after period of on-site inactivity by gradually increasing the intensity of work activities over a 30 minute period to allow individuals to relocate as needed
- Prior to starting work, on-site personnel may engage in a pre-construction meeting regarding use of conservation measures, information on identifying protected species and habitats potentially occurring in the project area, and a review of work strategies and other permit requirements necessary avoid impacts
- Use of biological monitors on-site to observe operations ahead of heavy machinery
- If individuals, nests, or eggs are observed by biological monitors or personnel on-site, the Service’s Texas Coastal Ecological Field Services will be notified immediately. If individuals enter the Project area, work will cease immediately until the animal leaves on its own.

Red knot and piping plover – The combined season for peak occurrence for these two species is July 15 through May 15, although some juvenile red knots do not migrate and can stay in South Texas year-round.

- Employees should be educated in the identification of piping plovers and red knots, their habitat, agreed-upon conservation measures, and contact numbers to call in the event a piping plover or red knot is injured.
- Access to the site should be confined to the immediate needs of the proposed project. More than 30 people working in or adjacent to shorebird habitat can significantly reduce species presence; therefore, numbers of people in these areas should be minimized.
- Materials and vehicles required for the project should be staged in upland areas and transported as needed to the proposed work site.
- Equipment should be driven above the “wet line” on the beach to minimize disturbance of piping plovers.
- Avoid impacts to mud or wind tidal flats. Mud or wind tidal flats compress under the weight of construction vehicles, and the resulting depressions or ruts may remain for years. These ruts act as dams, depriving the upper reaches of wind tidal flats from salt water, thereby reducing survival of benthic infauna that the shorebirds feed on. The Service recommends that the number of vehicles transiting from the upland areas to the project site be kept to a

minimum, and that vehicles all use the same pathway.

- After the project is completed, the mud or wind tidal flats should be restored to preconstruction slope and contours, and all ruts should be leveled.
- Any future maintenance activities or other work done at the proposed project site should be scheduled during the summer, when the piping plovers are not present.
- Crews should avoid working in important shorebird habitats when winter winds above 20 miles per hour co-occur with temperatures below 40 degrees. These conditions cause the birds to roost, often in vehicle tire ruts, to conserve energy.
- If a piping plover or red knot is found in the active work area, work will be stopped until the birds leave the construction site of their own accord. A 75-foot avoidance buffer should be implemented for any piping plover or red knot observed in and around the active work area for the duration of the bird's presence in that area.

Eastern black rail - The species may be present in all Texas coastal counties year-round if habitat is present. The species is most vulnerable during breeding, chick rearing, and the flightless molt period. Where black rails are present, avoid disturbance activities March 1st through September 30th in eastern black rail habitat (e.g., dense overhead cover, moist soils that are occasionally dry and interspersed or adjacent to shallow water, depths up to 5 centimeters but typically <3 centimeters). If this timing restriction cannot be achieved, the following measures will be implemented:

- Survey pre-project to assess eastern black rail presence or project proponents may assume presence within suitable habitat. Survey recommendations will be given project by project; please coordinate with the Texas Coastal and Central Plains Ecological Services Field Office.
- Limit project activity to daylight hours to the extent possible. If nighttime work is required, direct the lighting at work zone and turn off when not needed, as possible. All permanent lighting should be pointed away from potential eastern black rail habitat, down shielded, and follow the International Dark-Sky Association guidelines (<https://www.darksky.org/>) or Bird City Texas guidelines (<https://tpwd.texas.gov/wildlife/birding/bird-city-texas>).
- A biological monitor should ensure a sufficiently slow pace [5 miles per hour or less] of all equipment moving through potential habitat to allow birds to escape ahead of equipment. This secretive species is highly unlikely to fly and will typically freeze or run to escape oncoming disturbance.
- Do not remove all eastern black rail habitat in a day. Leave pockets of habitat (refugia) and/or have a biological monitor ensure dense herbaceous covered pathways are maintained into unaffected areas. The refugia remaining within the project area may be cleared after two days, as needed. Acceptable refugia size for large projects is approximately 10 feet by 20 feet. For small wetland-adjacent projects use linear clearing toward the remaining habitat.
- The biological monitor will have authority to stop work immediately upon discovery of any eastern black rail (alive, injured, or dead). The Texas Coastal and Central Plains Ecological Services Field Office should be contacted immediately at 361-533-6765.
- Projects involving revegetation of disturbed areas should use native herbaceous plants mimicking the local site composition. Propagation of woody species should be avoided in eastern black rail habitat restoration areas.
- National Research standard for call back surveys can be found at [Eastern Black Rail Call-Response Survey Protocol for Range-Wide Monitoring | FWS.gov](#).
- Surveys, as outlined in the above referenced document, shall be conducted April 1st to June 15th to verify presence or absence of the species.

- Survey results are valid through February of the following year. Any work that extends into the follow breeding season, will require an additional survey effort.
- Should the survey results indicate that no rails are present, work may continue as normal. If active nests are found, the Service recommends leaving a buffer of vegetation at least 100 feet around nests until young have fledged and the molting period has ended.
- Prior to the initiation of any survey efforts the Service requests documentation on the qualifications of the Surveyors, proposed locations for the survey points, verification of audio files to be used, and a schedule. The Service will review these for compliance with the protocol and coverage.
- Clearing of habitat outside of the breeding, chick-rearing, and flightless molt period (i.e., October- February) should be completed using the minimization measures listed above as the species is present on the Texas coast year-round.

West Indian manatee – Strandings and sightings of the West Indian manatee have been documented in all Texas coastal counties. Project construction and operations employees will be advised that manatees may approach the proposed project area.

- Provide materials, such as a poster, to assist in identifying manatees.
- Employees should be instructed not to feed or water manatees.
- If a manatee is sighted, contact the Service at 361-533-6765 and the Texas Marine Mammal Stranding Network at 800-962- 6625. Any collision with and/or injury to a manatee shall be reported immediately to the Texas Marine Mammal Stranding Network and the Service at the numbers above.
- The permittee will instruct all personnel associated with the project of the potential presence of manatees and the need to avoid collisions with manatees. All construction personnel are responsible for observing water-related activities for the presence of manatee(s).
- The permittee will advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees, which are protected under the Marine Mammal Protection Act of 1972 and the Endangered Species Act of 1973.
- Siltation barriers shall be made of material in which manatees cannot become entangled, are properly secured, and are regularly monitored to avoid manatee entrapment.
- If manatee(s) are seen within 100 yards (91 meters) of the active daily construction/dredging operation or vessel movement, all appropriate precautions shall be implemented to ensure protection of the manatee. These precautions shall include the operation of all moving equipment no closer than 50 feet (15 meters) to a manatee. Operation of any equipment closer than 50 feet to a manatee shall necessitate immediate shutdown of that equipment. Activities will not resume until the manatee(s) has departed the project areas of its own volition.
- If a manatee(s) is sighted in or near the project area, all vessels associated with the project shall operate at “no wake/idle” speeds within the construction area and at all times while in waters where the draft of the vessel provides less than a four- foot clearance from the bottom. Vessels shall follow routes of deep water whenever possible.
- The permittee understands and agrees that all in-water lines (rope, chain, and cable, including the lines to secure turbidity curtains) must be stiff, taut, and non-looping. Examples of such lines are heavy metal chains or heavy cables that do not readily loop and tangle. Flexible in-water lines, such as nylon rope or any lines that could loop or tangle, must be enclosed in a plastic or rubber sleeve/tube to add rigidity and prevent the line from looping and tangling.



In all instances, no excess line is allowed in the water. Where appropriate, in-water wires and cables should be fitted with PVC sleeve from the surface to the bottom to prevent any potential scraping of the passing manatees.

- Breakwaters, pilings, and similar structures must be designed with an exit path to avoid potential wedging and entrapment, including at low tide. Structures that are enclosed at one end must have at least a 5-foot wide opening to allow manatees enough room to freely navigate and exit the area. Oyster reefs and similar structures should allow 5-foot openings every 75 feet.

Whooping crane - Whooping cranes spend the winter in Port Aransas. Avoid work during the whooping crane wintering season, November 1 through April 30. If proposed actions cannot avoid the wintering season, the following will be implemented:

- Tall structures including buildings, construction equipment 15 feet high or higher, fences, and antennas in the area will be marked/flagged or laid down on the ground at night or when not in use to provide higher visibility and avoid or minimize potential whooping crane collisions.
- Workers will be educated, with approved Service materials, to recognize whooping cranes, their habitat, and their federally endangered status.
- A biological monitor with stop work authority will be present from start to finish of the project in the event a whooping crane appears on the work site.
- If a whooping crane does appear near the site and is within 1,000 feet of the construction area, work should cease until it has moved beyond that distance or left the area.
- Fence construction designs should include fence markings and be <4 feet (~1.1 meters) in height to minimize collisions.
- Report any sightings of whooping cranes to the Texas Coastal and Central Plains Ecological Services Field Office in Corpus Christi at (361) 533-6765.

Northern aplomado falcon – Northern aplomado falcons are known to nest on San Jose and Mustang islands. Breeding and fledging occur March to July.

- Construction activities for roads, fences, or other facilities that must be built within 500 meters of occupied northern aplomado falcon habitat should occur between August 1 and February 29 to avoid the northern aplomado falcon breeding season.
- Identification of suitable habitats and pre-activity surveys for the northern aplomado falcon should be conducted during project planning and typically include systematic observations in suitable habitat for territorial northern aplomado falcons and/or nest sites.
- A 500 meter no-fly zone around a nesting structure should be established to reduce potential impacts within the birds hunting range. Should drones or aircrafts need to pass over nesting areas, 2,000 feet above ground level should be maintained over the area.
- Northern aplomado falcon home range size is estimated to be about 8,400 acres but can be as small as 2,000 acres in South Texas. For management purposes, this can be described as a circle with a radius of 1 kilometer around a particular habitat feature (e.g., a nest site or the preferred roosting site of a territorial northern aplomado falcon).
- Projects that would require land clearing and have associated noise and artificial lighting components should be located at least 1 kilometer outside of any known northern aplomado falcon territory.
- All personnel involved with the on-the-ground construction or maintenance for the proposed



action will receive training in the species, the agreed-upon conservation measures, and the role of the construction monitor.

- During construction or maintenance activities in or within .5 miles of northern aplomado falcon habitat (or such distance that noise, light, or other effects reach the habitat), a construction monitor with authority to halt construction at any time the appropriate conservation measures are not being properly implemented will be present on site.
- New power lines should be insulated and marked to avoid northern aplomado falcon collisions and electrocution consistent with the latest guidance on “Suggested Practices for Avian Protection on Power Lines, State of the Art” by the Avian Powerline Interaction Committee; [https://www.aplic.org/uploads/files/2643/SuggestedPractices2006\(LR-2\).pdf](https://www.aplic.org/uploads/files/2643/SuggestedPractices2006(LR-2).pdf).

The Corps made a determination of **no effect** for the Attwater’s greater prairie-chicken (*Tympanuchus cupido attwateri*), South Texas ambrosia (*Ambrosia cheiranthifolia*), slender rush-pea (*Hoffmannseggia tenella*), loggerhead sea turtle (*Caretta caretta*), green sea turtle (*Chelonia mydas*), leatherback sea turtle (*Dermochelys coriacea*), hawksbill sea turtle (*Eretmochelys imbricata*), Kemp’s ridley sea turtle (*Lepidochelys kempii*), monarch butterfly (*Danaus plexippus*), and tricolored bat (*Perimyotis subflavus*). The Service does not provide concurrence for “no effect” determinations but acknowledges receipt of your correspondence. Our acknowledgement does not provide incidental take of listed species for your project, and if the impacts of the project change such that adverse effects or incidental take may occur, please contact the Service to reinitiate consultation.

No further endangered species consultation will be required unless: 1) the identified action is subsequently modified in a manner that causes an effect on a listed species or designated critical habitat; 2) new information reveals the identified action may affect federally protected species or designated critical habitat in a manner or to an extent not previously considered; 3) a new species is listed or a critical habitat is designated under the ESA that may be affected by the identified action; or, 4) the project is not completed within five years from the date of this consultation. If you have any questions or comments, please feel free to contact Mary Kay Skoruppa at 346-815-0009 or via email to [mary\\_kay\\_skoruppa@fws.gov](mailto:mary_kay_skoruppa@fws.gov).

Sincerely,

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Catrina Martin  
Assistant Field Supervisor