

2009-0378

INTRODUCED BY: MARCUS M. LAMBERT, COUNCILMAN, DISTRICT VI

ORDINANCE NO. 09-10-1

An ordinance to approve and authorize the execution of Department of the Army License No. DACW29-3-09-240 to allow the continued use of the Bonnet Carre' Spillway Road from Norco to Montz.

WHEREAS, the St. Charles Parish Police Jury on January 24, 1971, was issued License No. DACW29-3-71-78 by the U. S. Army Corps of Engineers for the maintenance and operation of a public road through the Bonnet Carre' Spillway; and,

WHEREAS, said license was for a period of five (5) years and was extended on February 20, 1976, December 6, 1984, January 12, 1989, September 10, 1993, January 25, 1999, and January 25, 2004; and,

WHEREAS, the current license expired on January 24, 2009, and it is the intent of the Parish Council to approve the new license through January 24, 2014.

THE ST. CHARLES PARISH COUNCIL HEREBY ORDAINS:

SECTION I. That License No. DACW29-3-09-240 for the Bonnet Carre' Spillway Road is hereby approved.

SECTION II. That the Parish President is hereby authorized to execute said License on behalf of the St. Charles Parish.

The foregoing ordinance having been submitted to a vote, the vote thereon was as follows:

YEAS: SCHEXNAYDRE, AUTHEMENT, RAYMOND, TASTET, BENEDETTO, HOGAN, COCHRAN, LAMBERT, NUSS
NAYS: NONE
ABSENT: NONE

And the ordinance was declared adopted this 5th day of October, 2009, to become effective five (5) days after publication in the Official Journal.

License, Spillway Road 2009

CHAIRMAN: [Signature]

SECRETARY: [Signature]

DLVD/PARISH PRESIDENT: October 6, 2009

APPROVED: _____ DISAPPROVED: _____

PARISH PRESIDENT: [Signature]

RETD/SECRETARY: October 6, 2009

AT: 3:55 p.m. RECD BY: [Signature]

DEPARTMENT OF THE ARMY LICENSE
BONNET CARRE SPILLWAY PROJECT
TRACT NOS. 113, 114, 115, 116, 117, 118, 119 AND 120
SECTIONS 1, 2 AND 46, TOWNSHIP 12 SOUTH, RANGE 8 EAST
TRACT NOS 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 112, AND 113
SECTIONS 12 AND 13, TOWNSHIP 12 SOUTH, RANGE 7 EAST
ST. CHARLES PARISH, LOUISIANA

THE SECRETARY OF THE ARMY, hereinafter referred to as the Secretary, acting under his general administrative powers, hereby grants to **St. Charles Parish**, hereinafter referred to as the grantee, a license to **improve, operate and maintain a maintenance road, (measuring approximately 8500 feet long by 21 feet wide, utilizing 4.1 acres)**, over, across, in and upon lands of the United States, as identified in **Exhibits A and B**, attached hereto and made a part hereof, hereinafter referred to as the premises.

THIS LICENSE is granted subject to the following conditions:

1. TERM

This license is granted beginning **January 25, 2009**, and ending **January 20, 2014**, but revocable at will by the Secretary.

2. CONSIDERATION

The consideration for this license shall be the construction, operation and maintenance of the premises for the benefit of the general public in accordance with the terms and conditions hereinafter set forth.

3. NOTICES

All notices and correspondence to be given pursuant to this license shall be addressed, if to the grantee, to St. Charles Parish, P.O. Box 302, Hahnville, Louisiana 70057; and if to the United States, to the District Engineer, Attention: Chief, Real Estate Division, U.S. Army Corps of Engineers, P.O. Box 60267, New Orleans, Louisiana 70160-0267; or as from time to time otherwise be directed by the parties. Notice shall be deemed to have been duly given if and when enclosed in a properly sealed envelope addressed as aforesaid, and deposited, postage prepaid, in a post office regularly maintained by the United States Postal Service.

4. AUTHORIZED REPRESENTATIVES

Except as otherwise specifically provided, any reference herein to "Secretary", "District Engineer", "Installation Commander", or "said officer" shall include their duly authorized representatives. Any reference to "grantee" shall include any duly authorized representatives.

5. SUPERVISION BY THE DISTRICT ENGINEER

The use and occupation of the premises shall be subject to the general supervision and approval of the District Engineer, New Orleans District hereinafter referred to as said officer, and to such rules and regulations as may be prescribed from time to time by said officer.

6. APPLICABLE LAWS AND REGULATIONS

The grantee shall comply with all applicable Federal, state, county and municipal laws, ordinances and regulations wherein the premises are located.

7. CONDITIONAL USE BY GRANTEE

The exercise of the privileges herein granted shall be:

- a. without cost or expense to the United States;
- b. subject to the right of the United States to improve, use or maintain the premises;
- c. subject to other outgrants of the United States on the premises;
- d. personal to the grantee, and this license, or any interest herein, may not be transferred or assigned.

8. CONDITION OF PREMISES

The grantee acknowledges that it has inspected the premises, knows its condition, and understands that the same is granted without any representations or warranties whatsoever and without any obligation on the part of the United States.

9. COST OF UTILITIES

The grantee shall pay the cost, as determined by the officer having immediate supervision over the premises, of producing and/or supplying any utilities and other services furnished by the Government or through Government-owned facilities for the use of the grantee, including the grantee's proportionate share of the cost of operation and maintenance of the Government-owned facilities by which such utilities or services are produced or supplied. The Government shall be under no obligation to furnish utilities or services. Payments shall be made in the manner prescribed by the officer having such jurisdiction.

10. PROTECTION OF PROPERTY

The grantee shall keep the premises in good order and in a clean, safe condition by and at the expense of the grantee. The grantee shall be responsible for any damage that may be caused to property of the United States by the activities of the grantee under this license, and shall exercise due diligence in the protection of all property located on the premises against fire or

damage from any and all other causes. Any property of the United States damaged or destroyed by the grantee incident to the exercise of the privileges herein granted shall be promptly repaired or replaced by the grantee to a condition satisfactory to said officer, or at the election of said officer, reimbursement made therefore by the grantee in an amount necessary to restore the property to a condition satisfactory to said officer.

11. RESTORATION

On or before the expiration of this license or its termination by the grantee, the grantee shall vacate the premises, remove the property of the grantee, and restore the premises to a condition satisfactory to said officer. If, however, this license is revoked, the grantee shall vacate the premises, remove said property and restore the premises to the aforesaid condition within such time as the District Engineer may designate. In either event, if the grantee shall fail or neglect to remove said property and restore the premises, then, at the option of said officer, the property shall either become the property of the United States without compensation therefore, or said officer may cause the property to be removed and no claim for damages against the United States or its officers or agents shall be created by or made on account of such removal and restoration work. The grantee shall also pay the United States on demand any sum which may be expended by the United States after the expiration, revocation, or termination of this license in restoring the premises.

12. NON-DISCRIMINATION

The grantee shall not discriminate against any person or persons or exclude them from participation in the grantee's operations, programs or activities because of race, color, religion, sex, age, handicap or national origin in the conduct of operations on the premises. The grantee will comply with the Americans with Disabilities Act and attendant Americans with Disabilities Act Accessibility Guidelines (ADAAG) published by the Architectural and Transportation Barriers Compliance Board.

13. TERMINATION

This license may be terminated by the grantee at any time by giving the District Engineer at least ten (10) days notice in writing provided that no refund by the United States of any consideration previously paid shall be made and provided further, that in the event said notice is not given at least ten (10) days prior to the rental due date, the grantee shall be required to pay the consideration for the period shown in the Condition on **CONSIDERATION**.

14. ENVIRONMENTAL PROTECTION

a. Within the limits of their respective legal powers, the parties to this license shall protect the premises against pollution of its air, ground and water. The grantee shall comply with any laws, regulations, conditions, or instructions affecting the activity hereby authorized if and when issued by the Environmental Protection Agency, or any Federal, state, interstate or local governmental agency having jurisdiction to abate or prevent pollution. The disposal of any toxic or hazardous materials within the premises is specifically prohibited. Such regulations,

conditions, or instructions in effect or prescribed by said Environmental Protection Agency, or any Federal, state, interstate or local governmental agency are hereby made a condition of this license. The grantee shall not discharge waste or effluent from the premises in such a manner that the discharge will contaminate streams or other bodies of water or otherwise become a public nuisance.

b. The grantee will use all reasonable means available to protect the environment and natural resources, and where damage nonetheless occurs from the grantee's activities, the grantee shall be liable to restore the damaged resources.

c. The grantee must obtain approval in writing from said officer before any pesticides or herbicides are applied to the premises.

15. HISTORIC PRESERVATION

The grantee shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archaeological, architectural or other cultural artifacts, relics, remains or objects of antiquity. In the event such items are discovered on the premises, the grantee shall immediately notify said officer and protect the site and the material from further disturbance until said officer gives clearance to proceed.

16. DISCLAIMER

This license is effective only insofar as the rights of the United States in the premises are concerned; and the grantee shall obtain any permit or license which may be required by Federal, state, or local statute in connection with the use of the premises. It is understood that the granting of this license does not preclude the necessity of obtaining a Department of the Army permit for activities which involve the discharge of dredge or fill material or the placement of fixed structures in the waters of the United States, pursuant to the provisions of Section 10 of the Rivers and Harbors Act of 3 March 1899 (33 U.S.C. § 403), and Section 404 of the Clean Waters Act (33 U.S.C. § 1344).

THIS LICENSE is not subject to Title 10, United States Code, Section 2662, as amended.

IN WITNESS WHEREOF I have hereunto set my hand by authority/direction of the Secretary of the Army this 16th day of October, 2009.

Sheila B. Mills
Printed Name

Sheila B. Mills
Signature

MARY C. JOHNSON
Printed Name


Mary C. Johnson
Signature

Janet R. Cuppi
Linda C. LaBure
Chief, Real Estate Division
U.S. Army Corps of Engineers
New Orleans District

APPROVED AS TO LEGAL SUFFICIENCY:
M. Hays
Mike Hays
ATTORNEY ADVISOR
U.S. Army Engineer District
New Orleans

THIS LICENSE is also executed by the grantee this 6th day of October, 2009

ST. CHARLES PARISH

By: 

Printed Name: V.J. St. Pierre, Jr.

Title: Parish President

Nicole Breaux
Signature

Nicole Breaux
Printed Name


Valarie Berthelot
Signature

Valarie Berthelot
Printed Name

CERTIFICATE OF AUTHORITY

I, Leon C. Vint, do hereby certify that I am the principle legal officer of the ST. CHARLES PARISH (Parish), that the Parish is a legally constituted public body with full authority and legal capability to adhere and comply with the terms and conditions for License No. DACW29-3-09-240, and subsequent amendments thereto, for the purposes of improving, operating and maintaining a maintenance road, in connection with the Bonnet Carre Spillway Project, and that the persons who executed License No. DACW29-3-09-240 on behalf of the Parish has acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification on this 7th day of October, 2009.

Signed: 

Printed name: Leon C. Vint

Title: Director of Legal Services

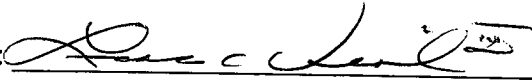
ACKNOWLEDGMENT

STATE OF Louisiana

COUNTY/PARISH OF St. Charles

On this 6th day of October, 2009, before me appeared V.J. St. Pierre, Jr.,
to me personally known, who, being by me duly sworn, did say that he is the Parish President
of St. Charles Parish (Parish), by authority duly and legally granted and bestowed upon him, and
that the Parish acknowledged the License No. DACW29-3-09-240 to be the free act and deed of the
Parish and the Parish has no seal.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Signed: 

Printed Name: Leon E. Vial

Notary Public

State of Louisiana

Parish of St. Charles

My Commission Expires: at death

Bar Association Number: 12061

ACKNOWLEDGEMENT OF WITNESS FOR LICENSE NO. DACW29-3-09-240

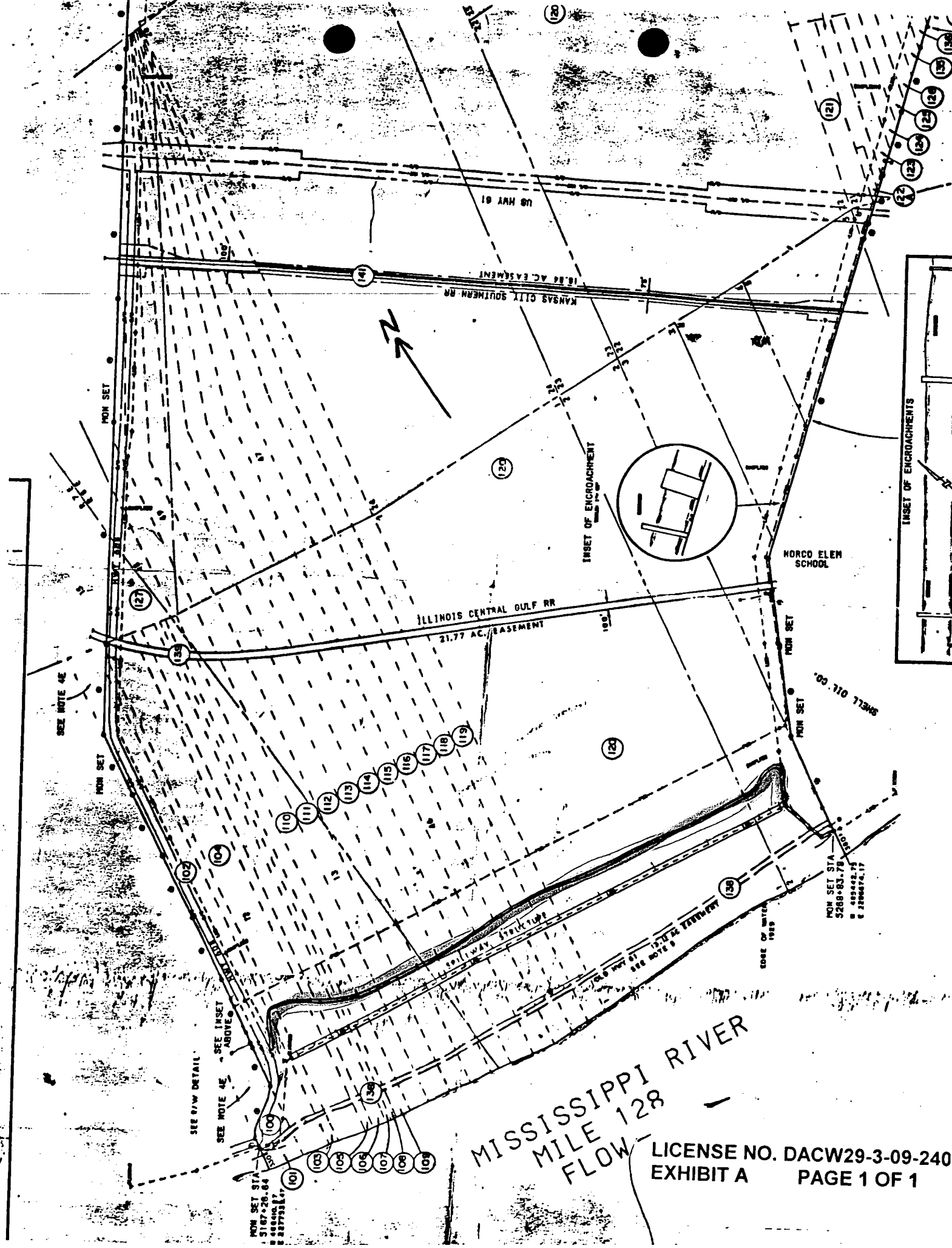
BEFORE ME, the undersigned authority, this day personally came and appeared the undersigned person, duly sworn, who did depose and state that she executed the foregoing amendment agreement as subscribing witness thereto, and that the amendment agreement was signed and executed by JANET R. CRUPPI, and that she knows JANET R. CRUPPI to be the identical person who executed the same and saw JANET R. CRUPPI sign her name in her capacity as Deputy Chief, Real Estate Division, CEMVN, on behalf of the United States, as the voluntary act and deed of the United States, and for the purposes and considerations therein expressed, in her presence and in the presence of the other subscribing witness.

Signed: Sheida B. Mills (Apparer)
Printed Name: Sheida B. Mills

SWORN TO AND SUBSCRIBED BEFORE ME this 19th day of October 2009.

Signed: Mike Hays (Notary)
Printed name: _____
Louisiana Bar Association Number: LOUISIANA 06700
My Commission expires is for life

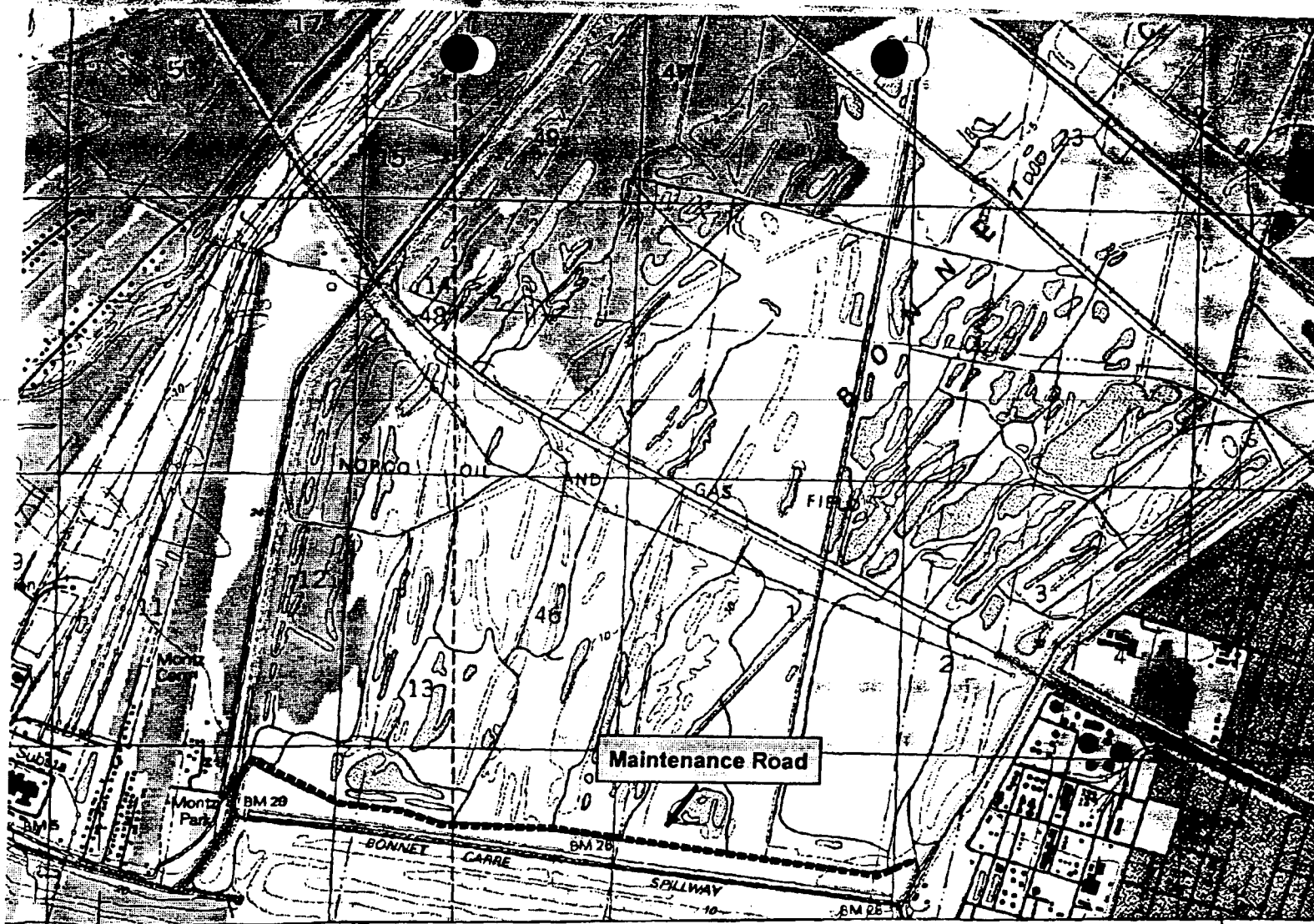
TERRY MICHAEL HAYS
ATTORNEY / NOTARY PUBLIC
ST. TAMMANY PARISH



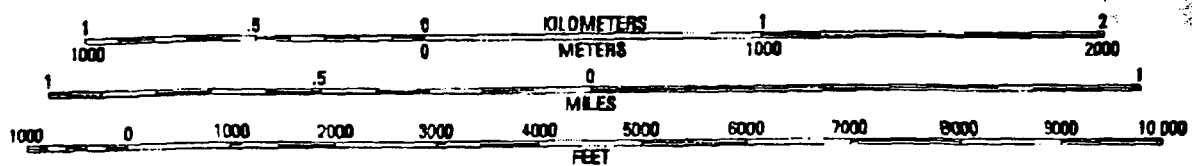
MISSISSIPPI RIVER
 MILE 128
 FLOW

MON SET STA
 5187+26.84
 448484.17
 237731.47

MON SET STA
 5288+63.78
 448484.17
 237731.47



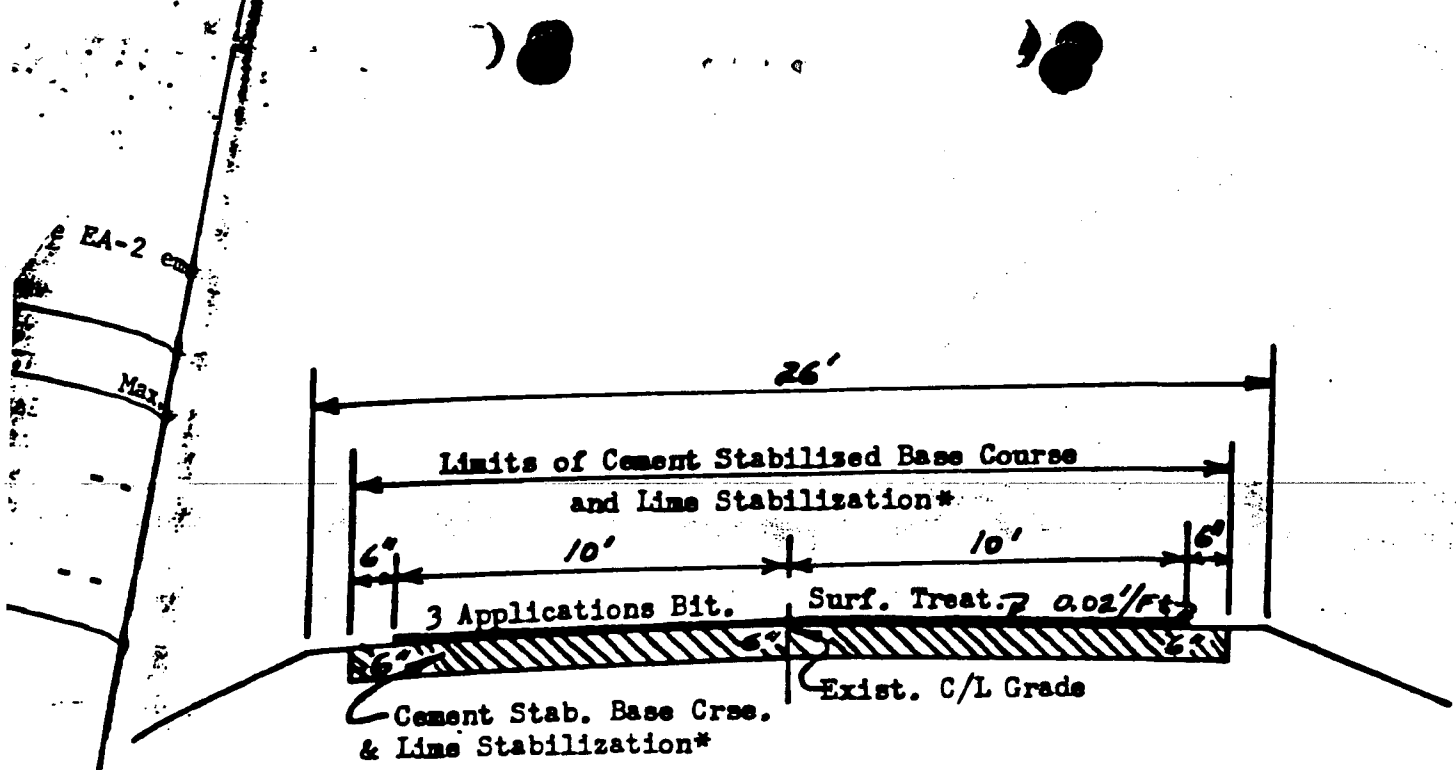
SCALE 1:24 000



CONTOUR INTERVAL 5 FEET
 NATIONAL GEODETIC VERTICAL DATUM OF 1929

THIS MAP COMPLIES WITH NATIONAL MAP ACCURACY STANDARDS
 FOR SALE BY U.S. GEOLOGICAL SURVEY, DENVER, COLORADO 80225, OR RESTON, VIRGINIA 22092.
 AND LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT, BATON ROUGE, LOUISIANA 70804
 A FOLDER DESCRIBING TOPOGRAPHIC MAPS AND SYMBOLS IS AVAILABLE ON REQUEST

Figure 1. Maintenance Road within the Bonnet Carre Spillway.
 From Laplace 7.5 minute 1992 quadrangle



**NORMAL FINISHED SECTION FOR
CEMENT STABILIZED BASE COURSE**

SURFACE EXTENDED TO 26 FEET AT THE RAMPS OVER THE
EAST AND WEST GUIDE LEVEES

* Lime Stabilization (Log Mile 0.3 to Log Mile 1.9)

LICENSE NO. DACW29-3-09-240
EXHIBIT B PAGE 2 OF 2

TYPICAL SECTION
STATE PROJECT NO. 713-24-27
ST. CHARLES PARISH
LOUISIANA