DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, MOBILE DISTRICT
CORPS OF ENGINEERS
P.O. BOX 2288
MOBILE, ALABAMA 36628-0001

REPLY TO
ATTENTION OF:

June 23, 2010

Regulatory Division
Coastal Branch

EMERGENCY PUBLIC NOTICE
FOR PROPOSED CLOSURE OF WEST FOWL RIVER, PORTERSVILLE BAY

In accordance with 33 CFR Part 325.2(e)(4), emergency procedures have been initiated for authorization of work in wake of a recent explosion on a drilling rig in the Gulf of Mexico (Deepwater Horizon Incident / Mississippi Canyon 252) and subsequent oil spill affecting areas within the regulatory boundaries of the U.S. Army Corps of Engineers (USACE), Mobile District, South Atlantic Division.

To: See Distribution List

From: Don Mroczko, Mobile District, Regulatory Division

Subject: Department of the Army Notification Number SAM-2010-0901-DEM, City of Bayou La Batre, West Fowl River

Applicant: City of Bayou La Batre
Attention: Mayor Stan Wright
13785 South Wintzell Avenue
Bayou La Batre, AL 36509

Agent: Barry Vittor & Associates, Inc.
Attention: Dr. Barry Vittor
8060 Cottage Hill Road
Mobile, Alabama 36695

Proposed Work: The applicant proposes to construct an emergency, temporary oyster shell berm across West Fowl River, at a point located approximately 1,600 feet upstream from where West Fowl River enters Portersville Bay. The shell berm will extend into the brackish marsh at each end, as depicted in the site plan. The total area of impact will be approximately 1,600 square feet (0.04 acre). When the berm is removed, the affected marsh will be restored to pre-impact conditions.

The shell berm will be constructed using clean shell obtained from the local seafood processing shops. It will be transported to the construction site by a shallow-draft (2 ft) deck barge capable of hauling 100 tons of material at a time. The barge will be brought to the site from Portersville Bay and off-loaded from the barge with a 320 Caterpillar track-hoe and placed on geotextile fabric to achieve the cross section shown in the attached drawings. If turbidity is generated by the shell placement, a type 3 turbidity curtain will be deployed around the construction site.

Location: Approximately 1,600 feet upstream from where West Fowl River enters Portersville Bay (Latitude N30° 21' 45.7", Longitude West -88° 10' 53.9"), Mobile County, Alabama.

Purpose: To construct an emergency, temporary oyster shell berm across West Fowl River, to reduce the hydraulic action of tide and wind-drive circulation that could carry oil from the Deepwater Horizon oil

spill into the upper reaches of the River, including extensive brackish marshes, the Narrows, and potentially East Fowl River. All activities required for clean-up of hazardous substances will be subject to the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR Part 300). All fill would be removed from within one year of Department of the Army project authorization.

We request immediate review and email response no later than 12:00 p.m., Thursday, June 24, 2010. If no major objections are received, we plan to authorize this request by Emergency Permit. Should we receive no agency comment, this will be considered as agency concurrence/waiver or no objection to the proposed project.

Pursuant to 33 CFR 325.2(e)(4), this Notice is being forwarded for agency review pursuant to the under the District Emergency Permit Procedures for the States of Alabama and Mississippi within the Boundaries of the Mobile District, South Atlantic Division which were implemented April 30, 2010. The Emergency Permit Procedure will evaluate activities under the following authorities: Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 USC 403), Section 404 of the Clean Water Act (33 USC 1344) and Section 103 of the Marine Protection Research and Sanctuaries Act of 1972 (33 USC 1413).

In an emergency situation the district engineer will make every reasonable effort to receive comments from the U.S. Fish and Wildlife Service and National Marine Fisheries Service. Section 402.5 (a) and (b), Emergencies, of the Endangered Species Act of 1973, states that where emergency circumstances mandate the need to consult in an expedited manner, consultation may be conducted informally through alternative procedures that the Director determines to be consistent with the requirement of sections 7(a)–(d) of the Act. This provision applies to situations involving acts of God, disasters, casualties, national defense or security emergencies, etc. Formal consultation would be initiated as soon as practicable after the emergency is under control.

In an emergency situation the district engineer will make every reasonable effort to receive comments from the SHPO and the ACHP, when the proposed undertaking can reasonably be expected to affect a potentially eligible or designated historic property and will comply with the provisions of 33 CFR 325 Appendix C to the extent that time and the emergency situation allows.

If you have any questions, please email me at donald.e.mroczko@usace.army.mil or call me at (251) 690-3185.

Enclosures:
Application (3 pages)
Vicinity Map
Plan View and Cross Section Drawings
Project Description

DISTRIBUTION LIST - ALABAMA

Emergency Permit Notification sent via e-mail to the following:

CESAM-RD: Nelson Sanchez, Craig Litteken
CESAM-RD-C: Munther Sahawneh, Joy Earp, Matt Grunewald, Damon Young
CESAM-OP: Wynne Fuller, Duane Poiroux
CESAM-OP-GW: Stephen Reid
CESAM-OP-N: Steve Hrabovsky, Nathan Lovelace, George Rush
CESAM-PD-MsCIP: Susan Rees, Tom Smith
USCG: LTJG Lisa G. Hartley, David Ormes, LT Commander Michael Barton, Mobile MTSRU
EPA: Brittany Croll, Rosemary Hall, Timothy Landers, Clay Miller, Tom Welborn
USFWS: Patric Harper, Bill Pearson, Dan Everson
NMFS: Mark Thompson
ADEM: Scott Brown
ADCNR: Will Brantley, Carl Ferraro, Jeff Jordan
BP America, Inc.: Katherine Hughes, Lyle Trumbull, MC252 Email Retention, MC252 Environmental Unit Deputy, MC252 Environmental Unit Lead, Pfeiffja, Fauthdp
PUBLIC: Posted on Corps website.

JOINT APPLICATION AND NOTIFICATION
U. S. DEPARTMENT OF ARMY, CORPS OF ENGINEERS
ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

This form is to be used for proposed activities in waters of the United States within the political boundaries of the State of Alabama.

PLEASE TYPE OR PRINT IN INK

1. Date: June (month) 23 (day) 2010 (year)

APPLICATION NUMBER (TO BE ASSIGNED BY CORPS)
SAM-2010-00900-DEM

2. Applicant: Mayor Stan Wright

Name and Address: City of Bayou La Batre
13785 S. Wintzell Avenue
Bayou La Batre, AL 36509

Telephone Number during business hours:

A/C ( ) _____ Residence

A/C (251) 824-2816 Office

Official Use Only

Coe _____

ADEM _____

State Clearinghouse _____

Date Received JUN 23 2010

3. Designation of Agent, Statement of Authorization,

I hereby designate and authorize

Barry A. Vittor & Associates, Inc.

to act on my behalf in the processing of this permit application and to furnish, upon request, supplemental information in support of the application.

6-23-10

Signature of Applicant Date

Agent:

Name and Address:

Barry A. Vittor & Associates, Inc.
8060 Cottage Hill Rd
Mobile, AL 36695

Telephone Number during business hours:

A/C (251) 633-6100

A/C (251) 633-6738

4. Project Location:

Street Address N/A City/Community Bayou La Batre

Name of Waterway West Fowl River Latitude N 30° 21' 45.7" Longitude W 88° 10' 53.9"

Geographic Location: Section _____ Township _____ Range _____ County _____

Loran C coordinates (if applicable) _____

5. Project Description, including all aspects of the project. Describe completely and in detail. Include any structures such as piers, wharfs, bulkheads, pipelines, boathouses, boatramps, groins, jetties, and appurtenances, as well as any dredging, excavation, or fill activities. Attach additional sheets if necessary.

The City of Bayou La Batre intends to construct an emergency, temporary oyster shell berm across West Fowl River, at a point located approximately 1,600 ft upstream from where West Fowl River enters Portersville Bay. The purpose of this berm is to reduce the hydraulic action of tide- and wind-driven circulation that could carry oil from the BP oil spill into the upper reaches of the River, including extensive brackish marshes, the Narrows, and potentially East Fowl River. The berm would be removed once the danger of oil spill impact has been eliminated.

5. Project Description (continued)

6. Dredging Project Specifications (Show locations and dimensions of proposed dredge areas on attached plans. Include existing and proposed depths.).

New Work_____ Maintenance Work_____
Cubic yards of material to be removed_____ Type of material_____
Surface area (square feet) impacted_____
Method of excavation_____
Nature of area to be dredged (check one) Upland_____ Wetland _____ Waterbottom_____
Other (explain)_____

7. Specifications for Discharge of Dredged or Fill Material (Show locations and dimensions of all disposal or fill areas on attached plans.).

Cubic yards of fill 8,475 cu yds Type of fill Oyster fill
Surface area (square feet) impacted 34,295 ft^2
Source of fill material (check one) Commercially obtained X Dredged material_____ Borrowed on-site_____
Other (explain)_____
How will discharged material be contained? (Include erosion control measures, levees, etc.)_____
Nature of disposal/fill areas (check one) Upland_____ Wetland X Waterbottom X
Other (explain)_____

8. Additional information relating to the proposed activity.
Are oyster reefs located within or near the project area? Yes X No_____ If yes, explain: Scattered oyster beds occur approximately 200 ft downstream from the proposed project site.
Will this project result in the siting, construction, and/or operation of an energy-related facility? Yes_____ No X
Is the project area greater than 25 acres in size? Yes_____ No X
Is any portion of the activity for which authorization is sought now complete? Yes_____ No X If yes, explain:
_____ Month and year activity took place_____
If project is for maintenance work of existing structures or existing channels, describe legal authorization for the existing work. Provide permit number, dates or other form of authorization_____

9. Describe the purpose and public benefit, if any, of the project. Describe the relationship between the project and any secondary or future development the project is designed to support. Public benefit involves protection of sensitive natural resources
Intended use: Public X Private _____ Commercial _____ Other (explain)_____

10. Project Schedule:
Proposed start date Immediately Proposed completion date within 30 days

11. Names and address of adjoining property owners, lessees, etc. whose property also adjoins the waterway. Also identify the owners on the plan views in Attachment.

12. List all authorizations or certifications received or applied for from federal, state or local agencies for any Structures, construction, discharges, deposits or other activities described in or directly related to this application. Note that the signature in Item 13 certifies that application has been made to or that permits Are not required from the following agencies. If permits are not required place NA space for Type Approval.

Agency	Type Approval	Identification No.	Date of Application	Date of Approval	Date of Denial
AL Dept. of Environmental Management					
U. S. Army Corps of Engineers					
Alabama State Docks					
City/County					
Other					

13. Application is hereby made for authorization to conduct the activities described herein. I agree to provide any additional information/data that may be necessary to provide reasonable assurance or evidence to show that the proposed project will comply with the applicable state water quality standards or other environmental protection standards both during construction and after the project is completed. For projects within the coastal area of Mobile and Baldwin Counties, I certify that the proposed project for which authorization is sought complies with the approved Alabama Coastal Area Management Program and will be conducted in a manner consistent with the program. I agree to provide entry to the project site for inspectors from the environmental protection agencies for the purpose of making preliminary analyses of the site and monitoring permitted works. I certify that I am familiar with responsible for the information contained in this application, and that to the best of my knowledge and belief such information is true, complete and accurate. I further certify that I posses the authority to undertake the proposed activities or I am acting as the duly authorized agent of the applicant.
(SIGNATURE OF APPLICANT OR AGENT REQUIRED BELOW)

Signature of Applicant or Agent

6-23-10
Date

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willingly falsifies, conceals, or covers up by any trick, scheme or device a material fact or make any false, fictitious or fraudulent statements or representations or makes o uses any false writing or document knowing same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years or both.

14. In addition to the completed application, the following attachments are required:

Provide a vicinity map showing the location of the proposed site along with a written description of how to reach the site from major highways or landmarks. Provide accurate drawings of the project site with existing structures and proposed activities show in detail. All drawings must be to scale or with dimensions noted on drawings and must show a plan view and across section or elevation. **All plans and attachments must be of reproducible quality on 8 _ inch *11 inch paper. FEES ARE REQUIRED IN CONJUCTION WITH ADEM CERTIFICATION:**
ADEM WILL CONTACT APPLLICANT WITH FEE REQUIREMENTS.

15. APPLICATION SUBMISSION INFORMATION

Contact the Corps of Engineers prior to submittal with any questions or to request acceptable alternate content/format. An instruction package, example PAP and SPCC plans, and other information are available upon request. Complete this form, attach additional information as necessary, and submit signe original to:

(Statewide, Except Tennessee River Watershed)
District Engineer, Attn: Regulatory Branch
U.S. Army Corps of Engineers - **Mobile District**
Post Office Box 2288
Mobile, Alabama 36628-0001
Phone: (251) 690-2658 Fax: (251) 690-2660
WebPage: www.sam.usace.army.mil/

OR

(Tennessee River Watershed Only)
District Engineer, Attn: Regulatory Branch
U.S. Army Corps of Engineers - **Nashville District**
3701 Bell Road
Nashville, Tennessee 37214
Phone: (615) 369-7500 Fax: (615) 369-7501
WebPage: www.orn.usace.army.mil/

Submit signed copy of application and attachments to:

(Statewide)
Mining & Nonpoint Source Section
Field Operations Division, ADEM
PO Box 301463
Montgomery, AL 36130-1463 or
1400 Coliseum Boulevard
Montgomery, AL 36110-2059
Phone: (334) 394-4311 Fax: (334) 394-4326
Email: mnps@adem.state.al.us
WebPage: www.adem.state.al.us

(Mobile, Baldwin, & Washington Counties Only)
Coastal Section - Mobile Branch
Field Operations Division, ADEM
4171 Commander's Drive
Mobile, AL 36615
Phone: (251) 432-6533 Fax: (251) 432-6598
Email: coastal6@adem.state.al.us
WebPage: www.adem.state.al.us

(Statewide)
Alabama State Port Authority
Environmental, Health & Safety
1400 ASD Boulevard Room 216
Mobile, AL 36602
Phone: (251) 441-7085
Fax: (251) 441-7255
WebPage: www.asdd.com

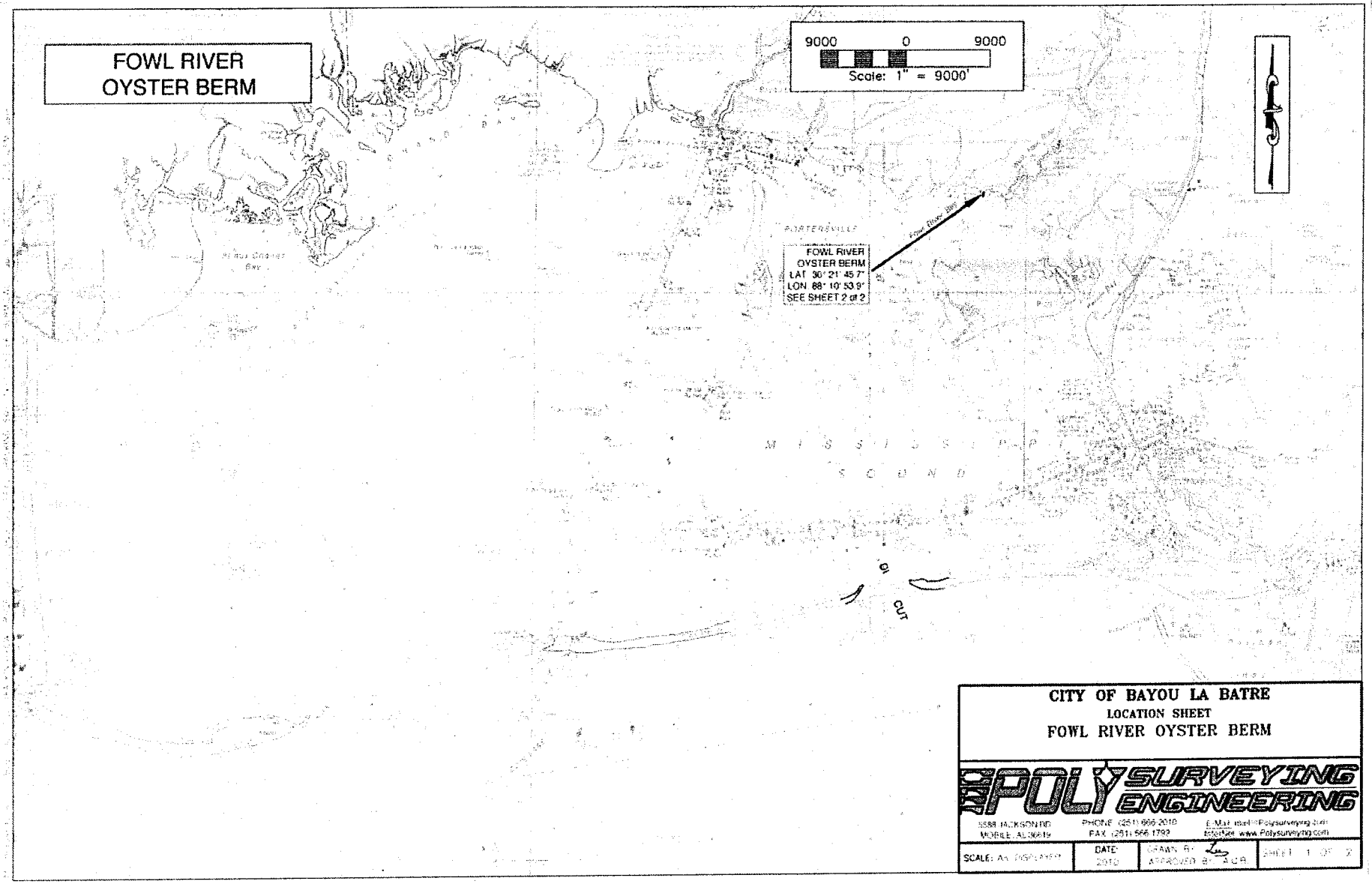

FIGURE 1. Project vicinity map for West Fowl River.

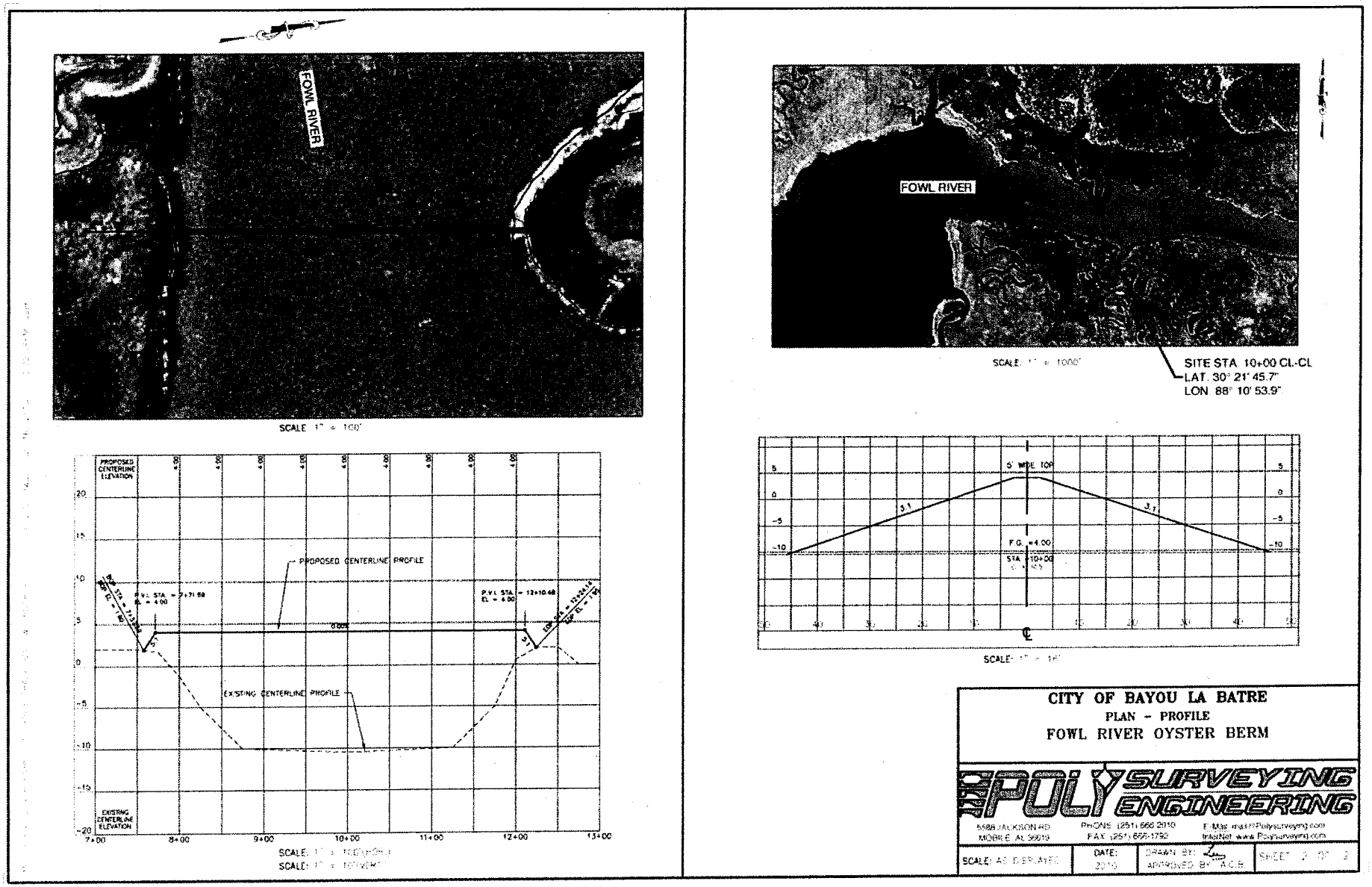

FIGURE 2. Profile and plan views of the oyster berm project at West Fowl River.

SAM-2010-0901-DEM

City of Bayou La Batre

West Fowl River Closure

6/23/2010

The shell berm will extend into the brackish marsh at each end, as depicted in the site plan. The total area of impact will be approximately 1600 sq ft (0.04 ac). When the berm is removed, the affected marsh areas will be restored to pre-impact conditions.

The shell berm will be constructed using clean shell obtained from local seafood processing shops and presently stockpiled at J & W Marine Enterprises. It will be transported to the construction site by a shallow-draft (2 ft) deck barge capable of hauling 100 tons of material at a time. The barge will be brought to the site from Portersville Bay and off-loaded from the barge with a 320 Caterpillar track-hoe and placed on geotextile fabric to achieve the cross section shown in the attached drawings. If turbidity is generated by the shell placement, a Type 3 turbidity curtain will be deployed around the construction site.