

# DEPARTMENT OF THE ARMY REGIONAL GENERAL PERMIT: SWG-1994-00026



#### A. AUTHORIZATION:

Permit: Artificial Reef Structures

Issuing Office: Department of the Army (DA), U.S. Army Corps of Engineers

(Corps), Southwest Division (SWD), Galveston District (SWG)

Effective Date: August 6, 2021

Expiration Date: August 6, 2026

**Permittee:** Texas Parks and Wildlife Department (TPWD)

**Project Description:** This regional general permit (RGP) authorizes the construction, maintenance, and repair of artificial reef structures as part of work conducted by the TPWD.

**Geographic Limits:** In the Gulf of Mexico, within the regulatory jurisdiction of the Galveston District excluding Louisiana waters, in water depths of 300 meters or less.

**Completion of Activity:** Work authorized under this permit for a project-specific verification must be completed by the RGP expiration date. However, if the project-specific verification is issued within two years prior to the RGP expiration date, the verification expires two years from the verification date.

**Notification to Agencies:** Copies of each verification issued under this permit will be furnished to the Department of Defense Siting Clearinghouse, U.S. Coast Guard (USCG), National Oceanic and Atmospheric Administration (NOAA) – National Ocean Service (NOS), and the Bureau of Safety and Environmental Enforcement (BSEE).

#### **B. PERMIT TERMS:**

This permit authorizes the construction, maintenance, and repair of artificial reef structures as part of work conducted by the TPWD. As defined at 33 CFR 322.2(g), an artificial reef is a structure which is constructed or placed in the navigable waters of the U.S. or in the waters overlying the outer continental shelf for the purpose of enhancing fishery resources and commercial and recreational fishing opportunities.

- 1. Regulatory Authority: Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C 403, Section 10) regulating the authorization of certain structures or work in or affecting navigable waters of the U.S.
- **2. Activity Limitations/Restrictions:** The following limitations and restrictions apply to the activities authorized under this permit.
  - a. Materials proposed for use in artificial reef construction shall follow the applicable recommendations and guidelines provided in TPWD's *Texas Public*

Reef Building Program Standard Operating Procedures and Guidelines (2012) and Texas Artificial Reef Plan (1990), the Gulf and Atlantic States Marine Fisheries Commission's Guidelines for Marine Artificial Reef Materials (2004), the Environmental Protection Agency and Maritime Administration's National Guidance: Best Management Practices for Preparing Vessels Intended to Create Artificial Reefs (2006), and the National Oceanic and Atmospheric Administration's National Artificial Reef Plan (2007).

- b. All materials shall be selected to avoid/minimize movement of reef materials caused by sea conditions or currents.
- c. All materials shall be clean and free of petroleum and other hydrocarbons (including oil, grease, and creosote), toxic residues (including mercury, cadmium, and lead), and loose, free-floating material or other deleterious substances.
- d. Structures shall maintain a minimum 85-foot vertical clearance above the reef. Projects proposing clearance depths of less than 85 feet may be authorized under this permit but must receive approval from the USCG prior to construction (see General Condition 9a).
- e. Structures shall not be sited within 2 nautical miles of a safety fairway.
- f. Structures authorized under this permit shall not be sited within 1,000 feet from proposed, active, or out of service pipelines not associated with the rig being reefed.
- g. Structures shall not be sited within 500 feet of sensitive biological habitat associated with the topographic features identified in the Bureau of Ocean Energy Management's (BOEM) *Western and Central Gulf of Mexico Topographic Features Stipulation Map Package*. The March 2018 issuance of this publication is included in this permit as Attachment A for reference. However, if BOEM issues a revision of this document, the revision should be used. The current version may be accessed on BOEM's website at <a href="https://www.boem.gov/regions/gulf-mexico-ocs-region/oil-and-gas-gulf-mexico-ocs-region/oil-and-
- h. This permit authorizes the maintenance and repair of any previously authorized structure that continues to meet the terms and conditions of this permit.
- i. The permittee may request a written waiver to exceed the specified limits of any of these activity limitations/restrictions. However, a waiver will only be granted if the district engineer makes a written determination concluding that the effects of the proposed work and/or structures will result in no more than minimal adverse environmental effect. The activity will not be authorized until the district engineer issues the waiver.
- **3. Excluded Activities:** The following activities are <u>ineligible</u> for authorization by this permit.
  - a. This permit does not authorize activities that are likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or that will directly or indirectly destroy or adversely modify designated critical habitat or habitat proposed for such designation.
  - b. This permit does not authorize activities that would impact special aquatic sites, including: wetlands, seagrass, macro-algae, coral reefs, live bottom (marine areas supporting growth of sponges, sea fans, corals, and other

RGP: SWG-1994-00026 Page 2 of 9

- sessile micro-invertebrates generally associated with rock outcrops), oyster reefs, and scallop, mussel or clam beds.
- c. This permit does not authorize activities or structures that obstruct any federal navigation channel, anchorage, or fairway.
- d. This permit does not authorize placement of reef material or anchors associated with reef construction activities on top of active, out of service, or abandoned pipelines not associated with the rig being reefed.
- e. This permit does not authorize construction within danger zones or restricted areas identified in 33 CFR 334 or within marine sanctuaries established pursuant to the Marine Protection, Research and Sanctuaries Act (16 U.S.C. 1432).
- f. This permit does not authorize the use or installation of fish aggregating devices.
- **4. Mitigation:** The following factors will be considered when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects of the proposed activity are no more than minimal.
  - a. Proposed activities must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the U.S. to the maximum extent practicable at the project site.
  - b. Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.
  - c. Where the determination is made that mitigation is required to ensure no more than minimal adverse environmental effect, the activity shall be authorized with project-specific special conditions stating the mitigation requirements. The conditions will include the necessary conceptual or detailed mitigation plan or a requirement that the applicant submit a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal.
  - d. When compensatory mitigation is required, no work in waters of the U.S. may occur until a specific mitigation plan has been approved or it has been determined that prior approval of a final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation.
- **5. Regulatory Discretion:** If the determination is made that the applicant's proposed activity would result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest, the applicant will be notified that either:
  - a. the proposed activity does not qualify for authorization under this permit and instruct the applicant on the procedures to seek authorization under an Individual Permit; or,
  - b. the proposed activity is authorized under this permit subject to the applicant's submission of an approved mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal; or,
  - c. the proposed activity is authorized under this permit with specific modifications or conditions that reduce the adverse environmental effects so that they are no more than minimal.

RGP: SWG-1994-00026 Page 3 of 9

#### C. PRECONSTRUCTION NOTIFICATION:

All activities authorized by this permit require TPWD to provide notification to district engineer by submission of a pre-construction notification (PCN) as early as possible. A determination of completeness will be completed within 30 calendar days of receipt. If it is determined that the PCN is incomplete, TPWD will be notified within this 30-day period with a request for the additional information necessary to make the PCN complete. As a general rule, additional information necessary to make the PCN complete will only be requested once. However, if all the information requested is not provided, then TPWD will be notified that the PCN is still incomplete and the PCN review process will not commence until all the requested information has been received. Written verification by the district engineer is required prior to commencing activities authorized by this permit. The PCN shall include the following information:

- 1. A completed and signed Application for DA Permit form (Form ENG 4345).
- 2. A copy of all DA authorizations previously issued for the work area.
- Description of the existing site conditions as evidenced by marine survey or inspection.
- 4. A description of the proposed project, including but not limited to: the type and quantity (if applicable) of material to be discharged, how the material will be transported to the proposed site, and deployment method.
- 5. A description of the provisions for siting, constructing, monitoring, operating, maintaining, and managing the proposed artificial reef.
- 6. A statement of estimated start and completion dates.
- 7. Description of the anchoring methods to be used.
- 8. Project plans that include clear and concise plan view and cross-section drawings showing construction methods and all direct and indirect (permanent and temporary) impacts to waters of the U.S. on 8½ by 11-inch white paper. This may include an overview sheet and subsequent plan view sheets "zoomed –in" on specific project components. Color drawings and drawings super-imposed over an aerial background may be accepted, if they are legible and clearly demonstrate all impacts to waters of the U.S. Project plans shall include:
  - a. vicinity map with the precise location of the project with geographic coordinates (decimal degrees);
  - b. plan view and cross-section drawings showing all pertinent structures, elevations, clearances, dimensions, types and quantities of materials, and the relative locations of all structures and boundaries of the reef site;
  - all plan drawings and/or maps shall display water depths and vertical clearances measured in feet relative to Mean Lower Low Water (MLLW) as used by the NOS navigation charts;
  - d. mapped locations of any special aquatic resources (i.e. seagrass, macroalgae, coral reefs, live bottom, wetlands, oyster reefs, and scallop, mussel or clam beds) located within 0.5 nautical mile of any portion of the proposed

RGP: SWG-1994-00026 Page **4** of **9** 

- project including the resource type, size (in acres or square feet), geographic location, and clearly delineated boundaries; and,
- e. mapped locations of any shipping lanes, anchorage, general navigation channels, safety fairways, and/or National Marine Sanctuaries within 2 nautical miles of any portion of the proposed project.
- 9. If requesting a waiver of any of the limitations/restrictions listed in Section B, provide an explanation regarding the reason for the request.
- 10. If any ESA listed species (or species proposed for listing) or designated critical habitat (or habitat proposed for such designation) might be affected or is in the vicinity of the activity or if the activity is located in designated critical habitat (or habitat proposed for such designation), the PCN must include the name(s) of those endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or utilize the designated critical habitat (or habitat proposed for such designation) that might be affected by the proposed activity.
- 11. If the proposed activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity and/or include a vicinity map indicating the location of the historic property.
- 12. A statement that the work will be conducted in compliance with the terms and conditions of this permit and any additional special conditions issued with the project-specific verification.

#### D. GENERAL CONDITIONS:

- **1. Navigation:** No activity authorized by this permit may cause more than a minimal adverse effect on navigation.
  - a. Aids to navigation shall be permitted and placed in accordance with USCG regulation 33 CFR 66.
  - b. Any safety lights and signals prescribed by the USCG, through regulation or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the U.S.
  - c. The permittee understands and agrees that, if future operations by the U.S. 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 U.S. No claim shall be made against the U.S. on account of any such removal or alteration.

RGP: SWG-1994-00026 Page **5** of **9** 

- 2. Historic Properties: No activity is authorized under this permit that may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied. When reviewing PCNs, the district engineer will comply with the current procedures for addressing the requirements of Section 106. The district engineer shall determine whether the proposed activity has the potential to cause effects on the historic properties. If it is determined that Section 106 consultation is required, the district engineer will notify the prospective permittee within 45 days of receipt of a complete PCN that consultation is required. As a result of consultation, the district engineer may impose special conditions on individual project verifications to avoid historic properties by a sufficient margin. If avoidance of the potential historic property is not feasible, further archeological investigations shall be required prior to authorization. An activity shall not be authorized under this permit until the district engineer has notified the permittee that the activity has no potential to cause effects to historic properties or that Section 106 consultation has been completed.
- 3. Discovery of Previously Unknown Remains and Artifacts: If any previously unknown historic, cultural, or archeological remains and artifacts are discovered while accomplishing the activity authorized by this permit, the permittee shall immediately notify the district engineer of what was found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
- 4. Endangered Species: No activity is authorized under this permit that "may affect" a listed species or designated critical habitat unless ESA section 7 consultation addressing the consequences of the proposed activity on listed species or critical habitat has been completed. When reviewing PCNs, the district engineer will comply with the requirements of the ESA. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to threatened or endangered listed species and designated critical habitat. If it is determined that ESA section 7 consultation is required, the district engineer will notify the prospective permittee within 45 days of receipt of a complete PCN that consultation is required. As a result of formal or informal consultation, the district engineer may add species-specific permit conditions to individual verifications. An activity shall not be authorized under this permit that "may affect" a listed species or designated critical habitat until the district engineer has notified the permittee that ESA section 7 consultation has been completed.
- 5. Migratory Birds: The permittee is responsible for ensuring their activity complies with the Migratory Bird Treaty Act. The permittee is responsible for contacting the appropriate local office of the FWS to determine applicable measures to reduce impacts to migratory birds, including whether "incidental take" permits are necessary and available under the Migratory Bird Treaty Act for a particular activity.

RGP: SWG-1994-00026 Page **6** of **9** 

- 6. Proper Maintenance: Any authorized structure shall be properly maintained by the permittee, including maintenance to ensure public safety and compliance with the terms and conditions of this permit, as well as any special conditions added to project-specific authorizations. The permittee shall only be relieved of this requirement if the permittee makes a good faith transfer to a third party in compliance with General Condition 10 of this permit. Should the permittee wish to cease to maintain the authorized activity/structure(s) for the use described in Part A of this permit or abandon without a good faith transfer, the permittee shall seek alternative authorization from the Corps.
- 7. Texas Coastal Management Program Consistency: Work authorized under this general permit shall be conducted to remain consistent with the Texas Coastal Management Program's Goals and Policies outlined in the Texas Administrative Code Title 31, Part 16, Chapter §501, Subchapter B.
- 8. Activities Affecting Structures or Works Built by the United States: If an activity authorized under this general permit also requires review by, or permission from, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a Corps federally authorized Civil Works project (a "USACE project"), the activity is not authorized by this permit until the appropriate Corps office issues the Section 408 permission or completes its review to alter, occupy, or use the USACE project.
- **9. Compliance:** The permittee shall be responsible for ensuring compliance with all the terms and conditions of this permit, including the following:
  - a. No work shall be performed until the permittee has obtained USCG approval for clearance depths less than 85 feet.
  - b. No work shall be performed until the permittee notifies the owner (lease holder) or operator of any marked utilities or structures in the block or adjacent blocks where the reef is to be located.
  - c. The permittee shall notify SWG, in writing, of the date that the work authorized herein commences.
  - d. The permittee shall be responsible for ensuring that whomever performs, supervises or oversees any portion of the work associated with the construction of the project has a copy of and is familiar with all the terms and conditions of this permit and any special conditions included in the projectspecific verification.
  - e. The permittee shall allow representatives from SWG to inspect the authorized activity to ensure that it is, or has been, accomplished in accordance with the terms and conditions of the permit.
  - f. The permittee shall be responsible for any materials that are moved by sea conditions or that break loose from authorized structures and any damage caused by such materials.
  - g. When structures or work authorized by this permit are determined by the district engineer to have become abandoned or cease to be used for the purpose for which they were permitted, the permittee is required to remove these structures and clear the area of all obstructions and submit written notice to SWG within 30 calendar days of completion.

RGP: SWG-1994-00026 Page **7** of **9** 

10. Transfer of Permit: If the permittee sells the property associated with this permit verification, the permittee may transfer the permit verification to the new owner by submitting a letter to the SWG to validate the transfer. A copy of the permit verification must be attached to the letter, and the letter must contain the following statement and signature:

"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, including any special conditions, 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)	(Date)

#### E. FURTHER INFORMATION:

#### 1. Limits of this Authorization:

- a. This permit does not obviate the need to obtain other federal, state, or local permits, approvals, or 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.
- **2. Limits of Federal Liability:** In authorizing a project under this general 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 US 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; or,
  - e. Damage claims associated with any future modification, suspension, or revocation of this permit.
- **3. Reliance on Applicant's Data:** The determination to authorize the activity under this general permit as not contrary to the public interest will be made in reliance on the information provided by the applicant.
- 4. Re-evaluation of Permit Decision: The Corps may re-evaluate its decision to authorize an activity under this general permit at any time the circumstances warrant. Such a re-evaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7. Circumstances that may warrant a re-evaluation include, but are not limited to, the following:

RGP: SWG-1994-00026 Page **8** of **9** 

- a. The applicant fails to comply with the terms and conditions of this permit;
- b. The information provided by the applicant to support their permit application proves to have been false, incomplete, or inaccurate; and/or,
- c. Significant new information surfaces that this office did not consider in reaching the original public interest decision.
- 5. Enforcement: The Corps will, at its discretion, take reasonable measures to inspect permitted activities, as required, to ensure that these activities comply with the specified terms and conditions herein. If the Corps determines that a permittee has violated the terms and conditions of this permit, such noncompliance may result in a determination that it is appropriate to use the enforcement procedures contained in 33 CFR 326.4. In accordance with these procedures, attempts to resolve the non-compliance state of the permit may take the form of the permitted project being voluntarily brought into compliance by the permittee or a permit modification (33 CFR 325.7(b)). The referenced enforcement procedures also provide for the issuance of a written order requiring compliance. However, issuance of an order is not a prerequisite to legal action. If the permittee fails to comply with the order, the Corps may consider using the suspension/revocation procedures in 33 CFR 325.7(c) and/or recommend legal action in accordance with 33 CFR 326.5.

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

FOR THE DISTRICT ENGINEER:

ROBERT W. HEINLY

Robert W. Heinly

CHIEF, POLICY ANALYSIS BRANCH REGULATORY DIVISION, GALVESTON DISTRICT

FOR COLONEL TIMOTHY R. VAIL

6 August 2021

DATE

RGP: SWG-1994-00026 Page **9** of **9** 

# Leasing Activities Information

# Western and Central Gulf of Mexico Topographic Features Stipulation Map Package

for Oil and Gas Leases in the Gulf of Mexico

March 2018



#### Introduction

These maps indicate the areas affected by the Topographic Features Stipulation which is routinely applied to leases in the vicinity of certain geographic features. For specific information regarding the stipulation, see the appropriate Notice of Sale and the Biological NTL No. 2009-G39.

(http://www.boem.gov/Regulations/Notices-To-Lessees/2009/09-G39.aspx)

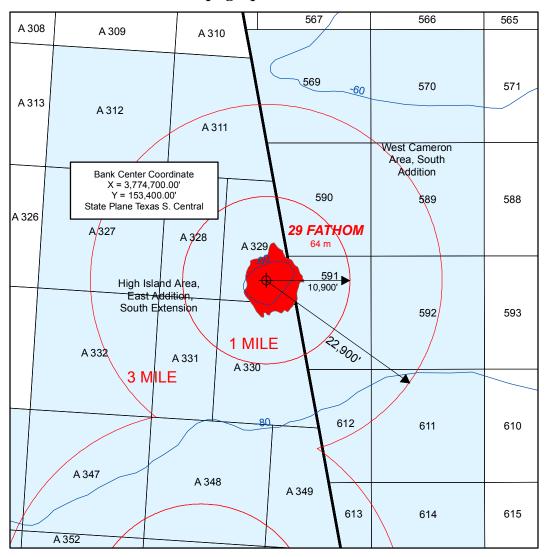
For additional information you may contact Dr. Arie Kaller of the BOEM, Gulf of Mexico Region, Office of Environment Biological Sciences Unit at <a href="mailto:arie.kaller@boem.gov">arie.kaller@boem.gov</a> or (504) 736-2983.

# SWG-1994-00026 Artificial Reef RGP: Attachment A

#### **Table of Contents**

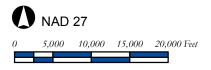
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<u>NAME</u>	<u>Numbe</u>
29 FATHOM	1
32 FATHOM	2
ALDERDICE	3
APPLEBAUM	4
ARANSAS	5
BAKER	6
BIG DUNN BAR	7
BLACKFISH RIDGE	8
BOUMA	9
BRIGHT	10
CLAYPILE	11
COFFEE LUMP	12
DIAPHUS	13
DREAM	14
EAST FLOWER GARDENS	15
ELVERS	16
EWING-1	17
EWING-2	18
FISHNET	19
GEYER	20
HOSPITAL	21
JAKKULA	22
MACNEIL	23
MCGRAIL	24
MYSTERIOUS	25
NORTH HOSPITAL	26
PARKER	27
RANKIN-1	28
RANKIN-2	29
REZAK	30
SACKETT	31
SIDNER	32
SMALL DUNN BAR	33
SONNIER	34
SOUTH BAKER	35
SOUTHERN	36
STETSON	37
SWEET	38
WEST FLOWER GARDENS	30

#### Topographic Features



#### **29 FATHOM**

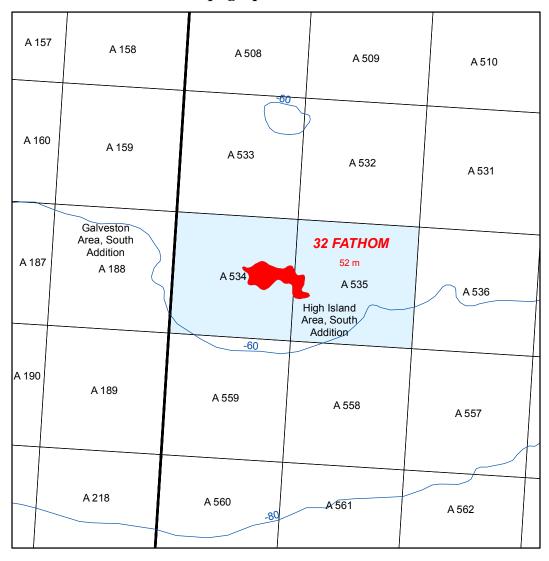






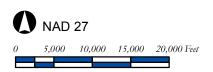
Page 1 of 39

#### Topographic Features



#### 32 FATHOM

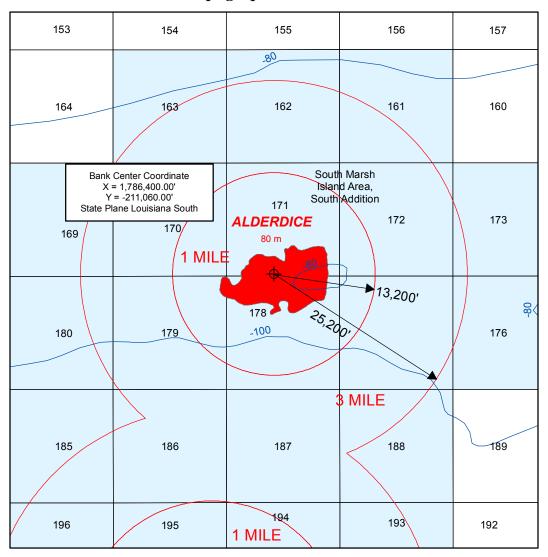






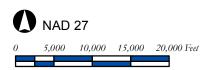
Page 2 of 39

#### Topographic Features



#### ALDERDICE

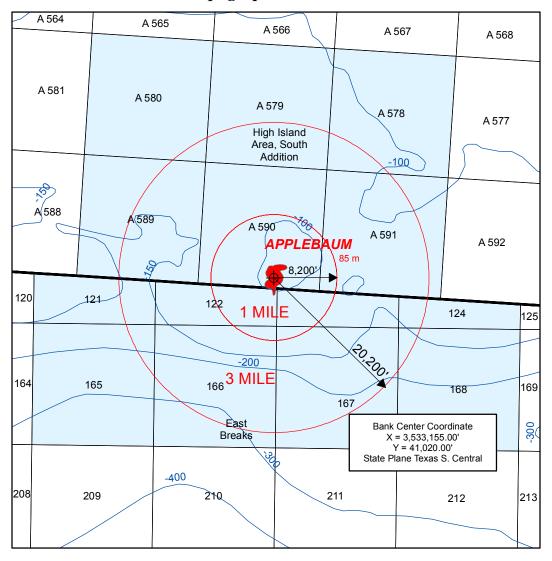






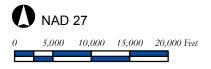
Page 3 of 39

#### Topographic Features



#### **APPLEBAUM**

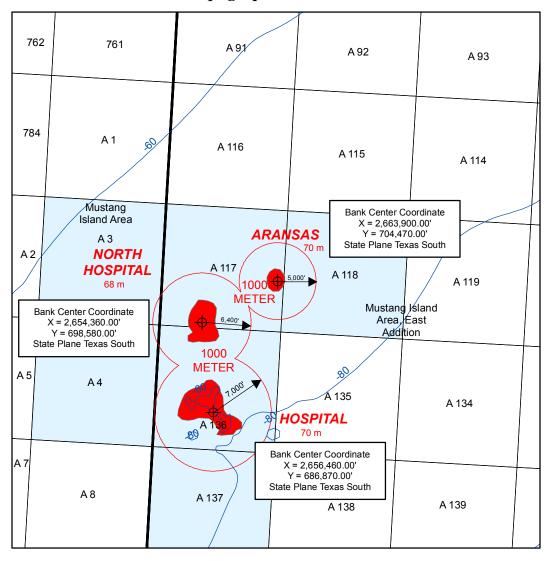






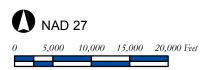
Page 4 of 39

#### Topographic Features



#### **ARANSAS**

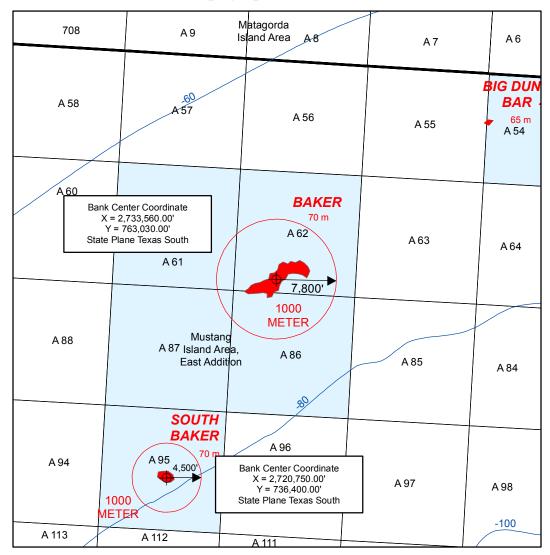






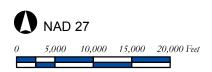
Page 5 of 39

#### Topographic Features



#### **BAKER**

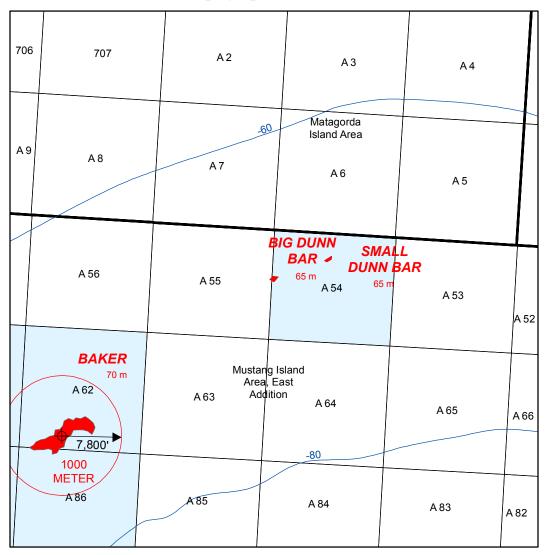






Page 6 of 39

#### Topographic Features



#### **BIG DUNN BAR**

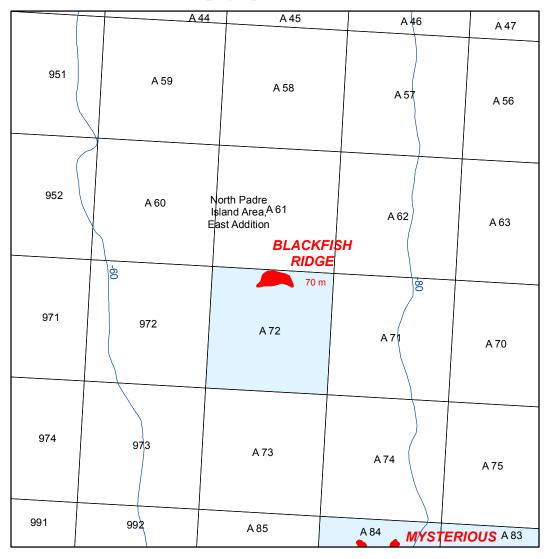






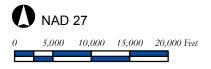
Page 7 of 39

#### Topographic Features



#### **BLACKFISH RIDGE**

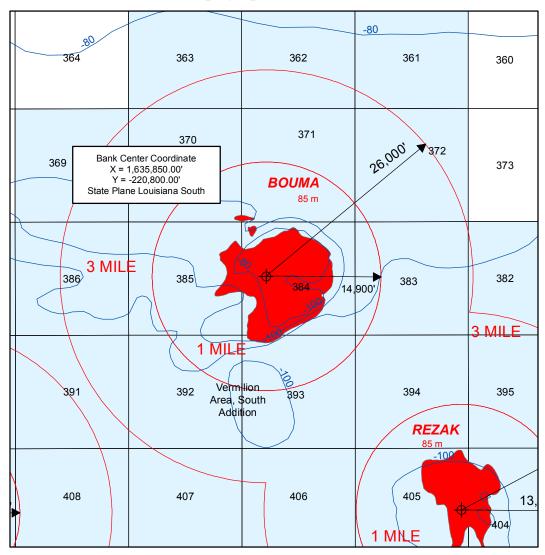






Page 8 of 39

#### Topographic Features



#### **BOUMA**

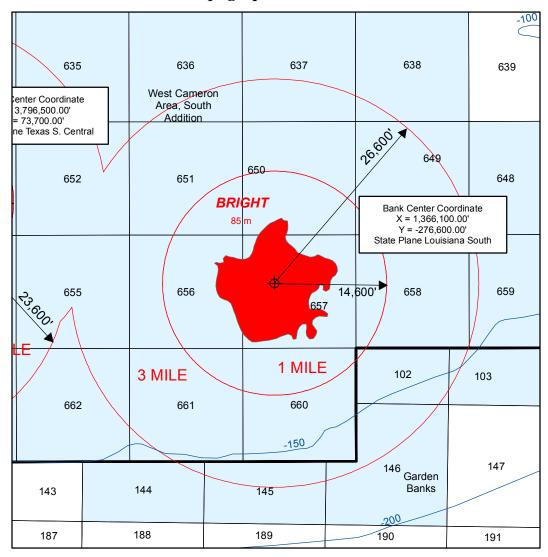






Page 9 of 39

#### Topographic Features



#### **BRIGHT**







Page 10 of 39

#### Topographic Features

		A 421	A 420	A 419	
A 436	A 437	A 438	A 439	A 440	
A 449	A 448	High Island Area, South Addition A 4447  1000 METER	CLAYPILE 50 m A 446  Bank Center Coord	A 445	
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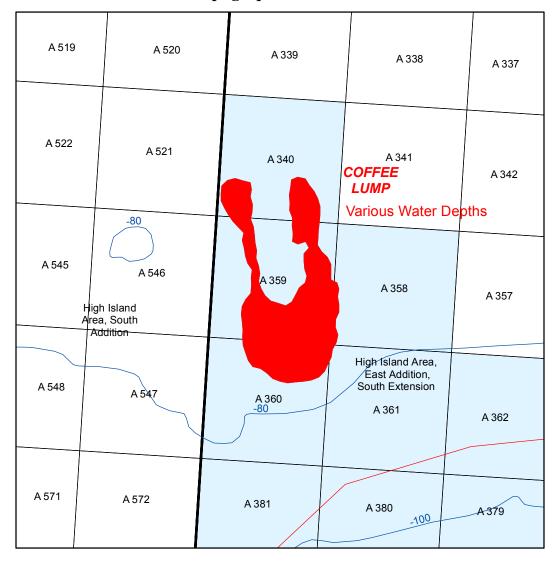






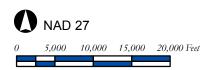
Page 11 of 39

#### Topographic Features



#### **COFFEE LUMP**







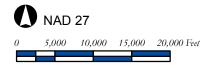
Page 12 of 39

#### Topographic Features

309	308		299		298		297		296
330	331		300		301		302		303
333	Ship S Area, S Additi 332	South	315		314 <b>DIAPHUS</b> 85 m	>	outh		312
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#### **DIAPHUS**

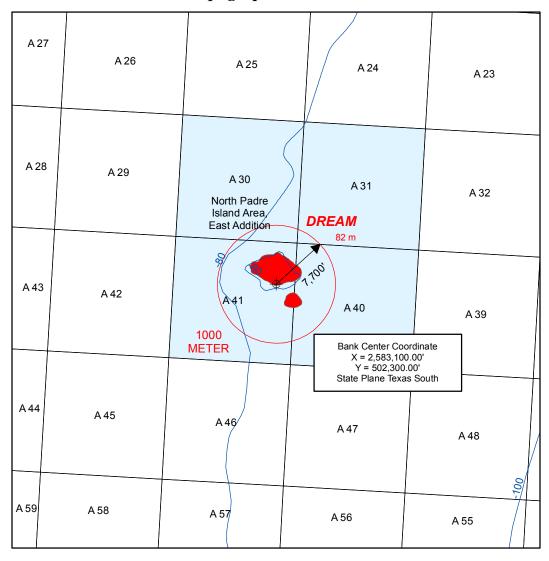






Page 13 of 39

#### Topographic Features



#### DREAM

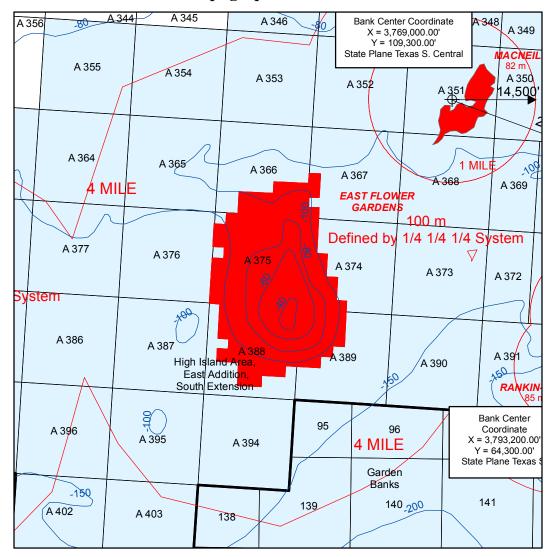






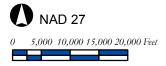
Page 14 of 39

#### Topographic Features



#### EAST FLOWER GARDENS

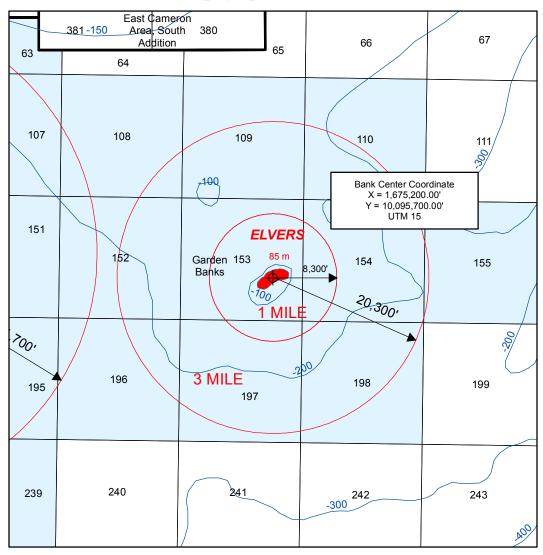






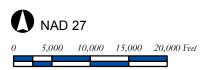
Page 15 of 39

#### Topographic Features



#### **ELVERS**

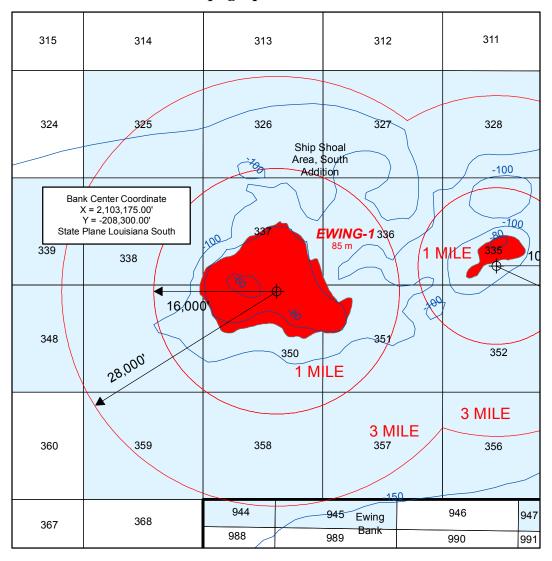






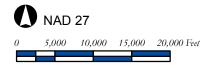
Page 16 of 39

#### Topographic Features



#### **EWING-1**

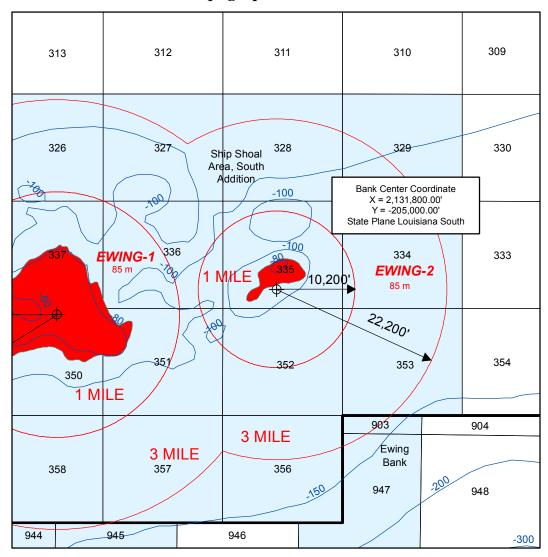






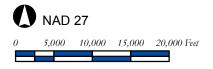
Page 17 of 39

#### Topographic Features



#### **EWING-2**

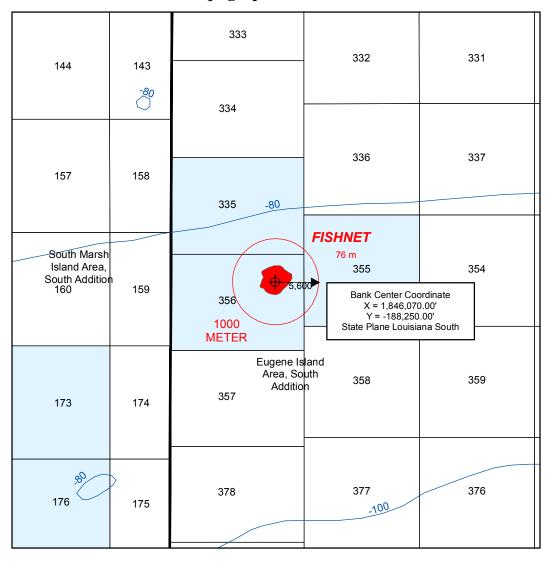






Page 18 of 39

#### Topographic Features



#### **FISHNET**

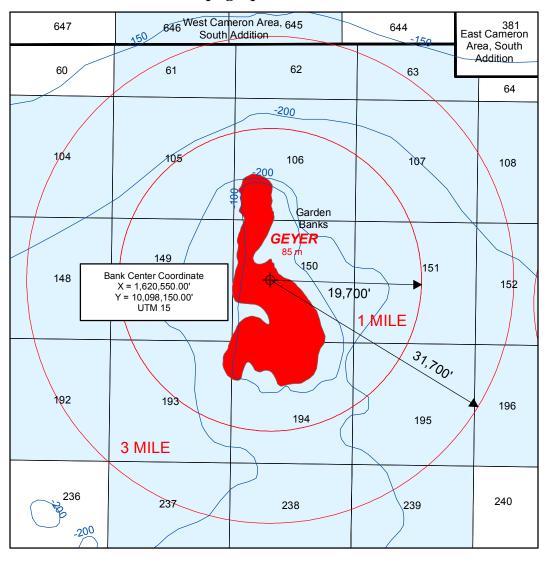






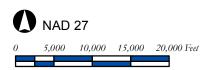
Page 19 of 39

#### Topographic Features



#### **GEYER**

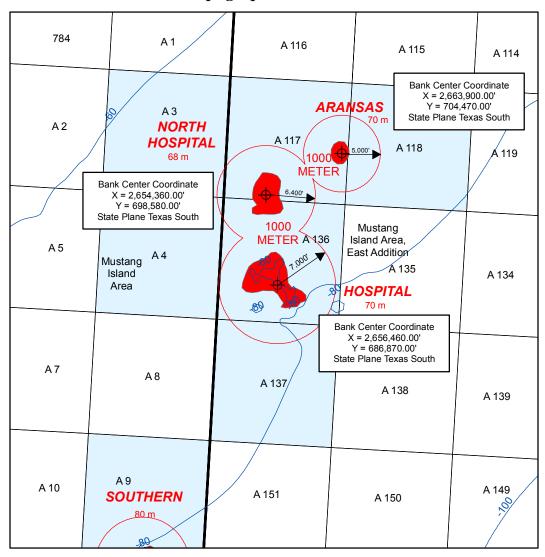






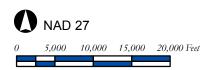
Page 20 of 39

#### Topographic Features



#### HOSPITAL

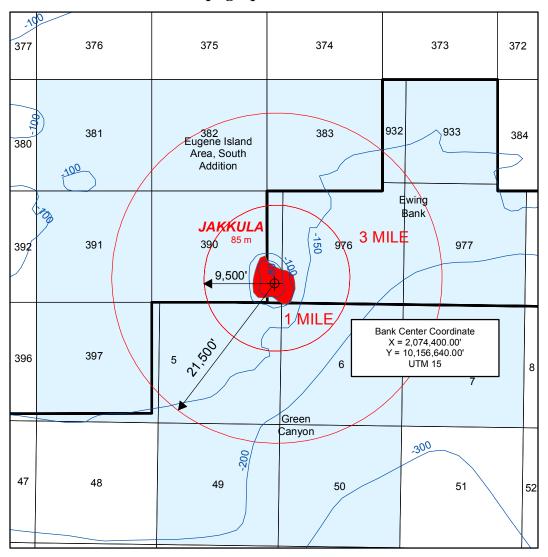






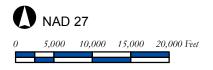
Page 21 of 39

#### Topographic Features



#### **JAKKULA**

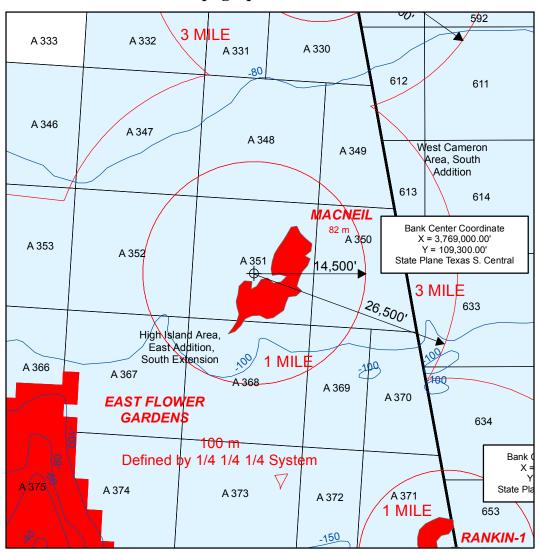




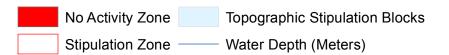


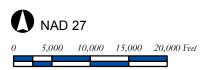
Page 22 of 39

#### Topographic Features



#### **MACNEIL**

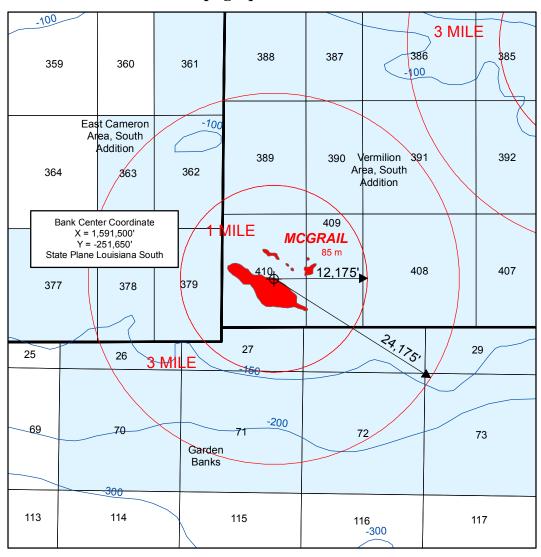






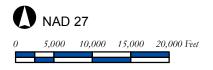
Page 23 of 39

#### Topographic Features



#### **MCGRAIL**

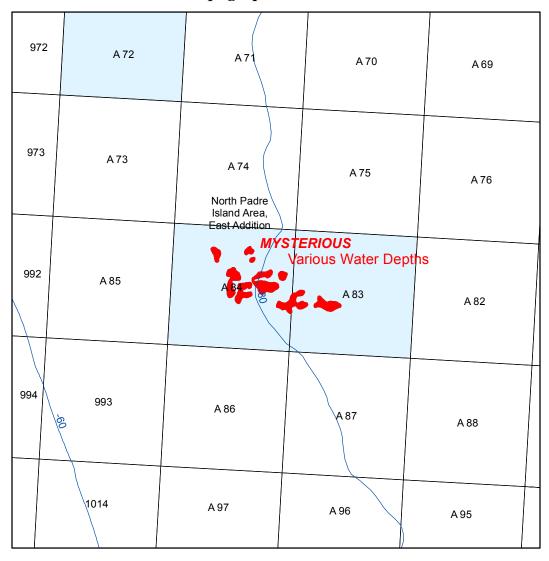






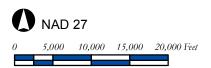
Page 24 of 39

## Topographic Features



# **MYSTERIOUS**

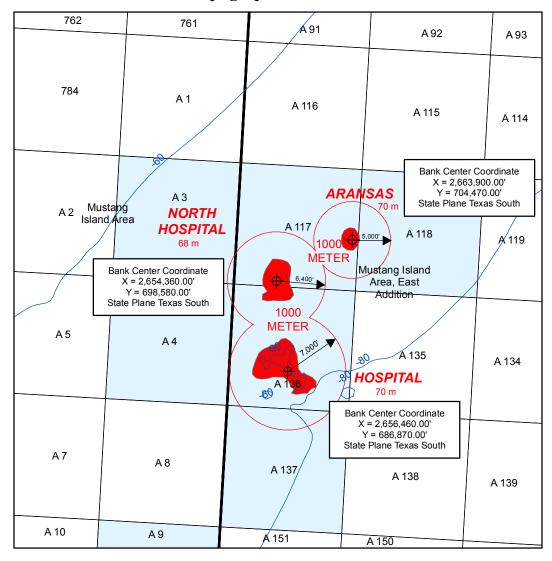






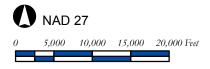
Page 25 of 39

## Topographic Features



### **NORTH HOSPITAL**

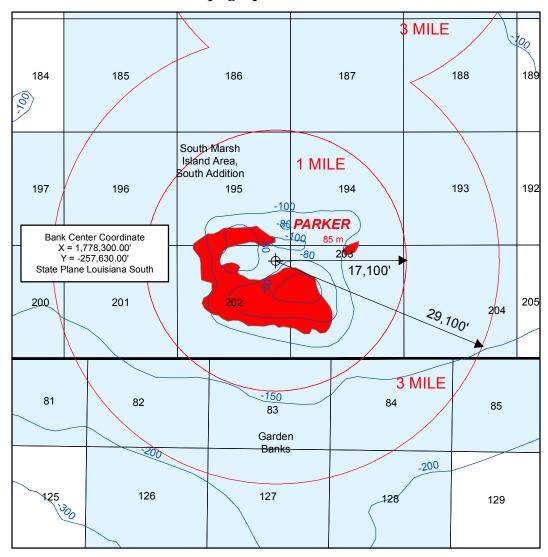






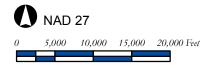
Page 26 of 39

## Topographic Features



#### **PARKER**

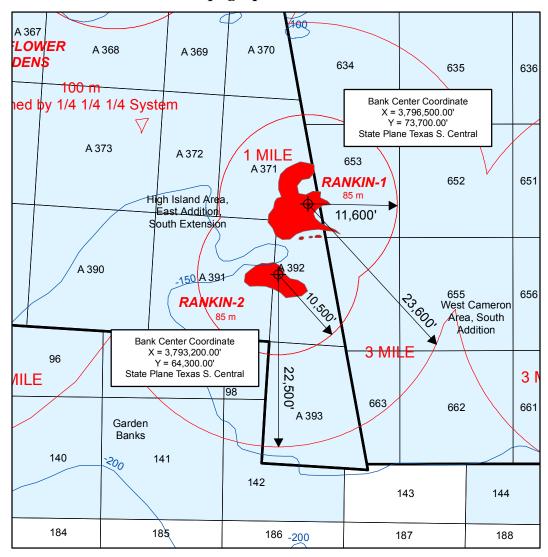






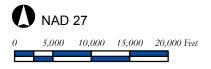
Page 27 of 39

## Topographic Features



## **RANKIN-1**

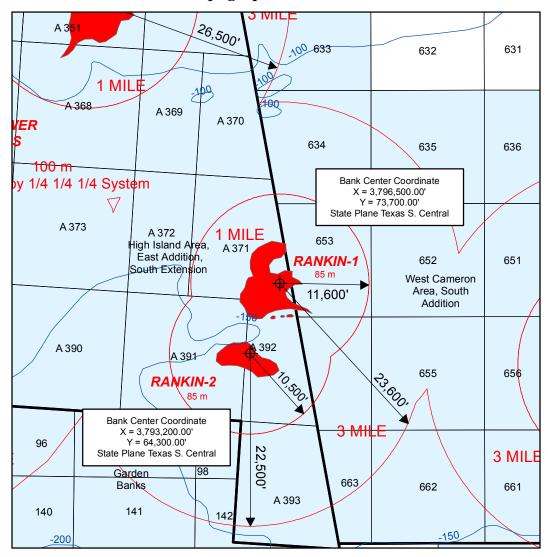




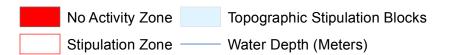


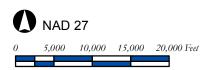
Page 28 of 39

## Topographic Features



## **RANKIN-2**

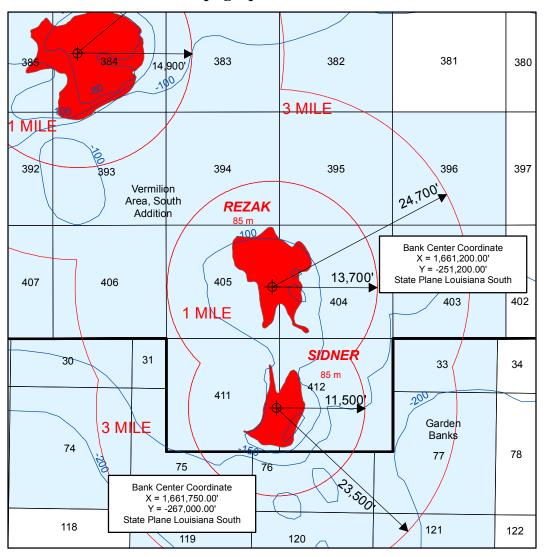






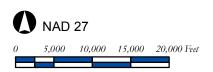
Page 29 of 39

## Topographic Features



#### REZAK

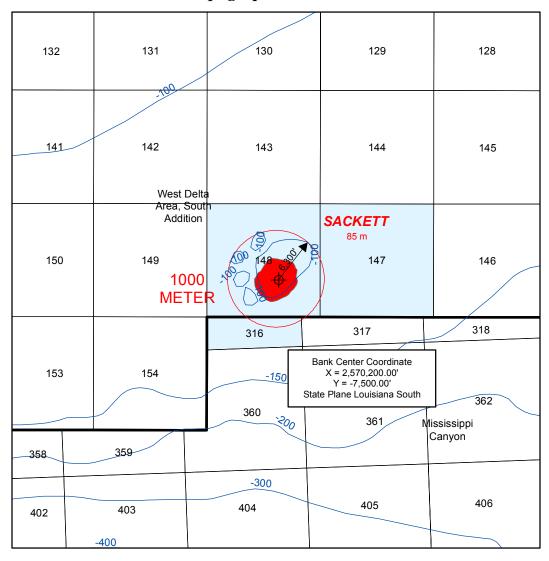






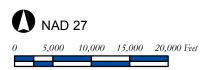
Page 30 of 39

## Topographic Features



#### SACKETT

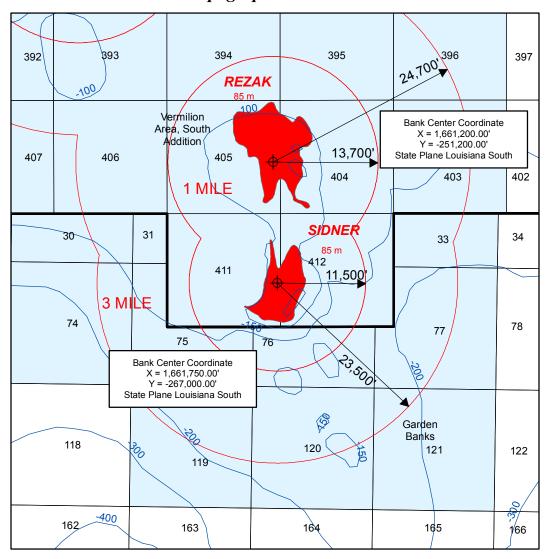






Page 31 of 39

#### Topographic Features



#### **SIDNER**

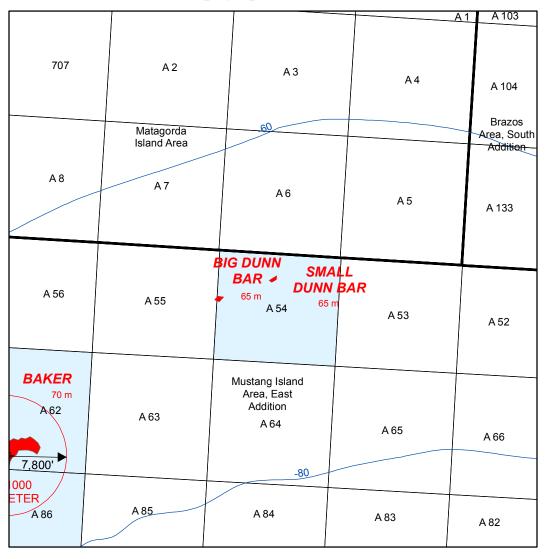






Page 32 of 39

## Topographic Features



## SMALL DUNN BAR

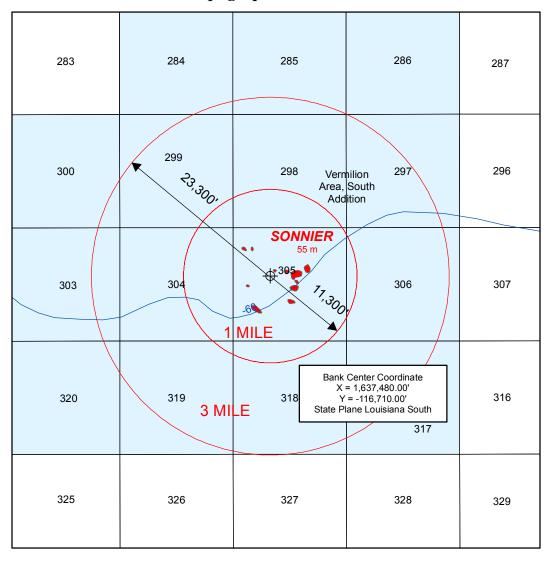






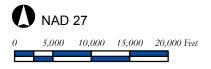
Page 33 of 39

## Topographic Features



## **SONNIER**

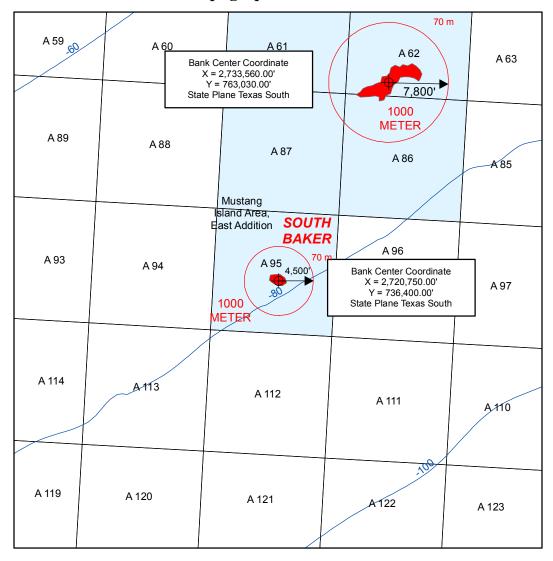






Page 34 of 39

## Topographic Features



#### **SOUTH BAKER**

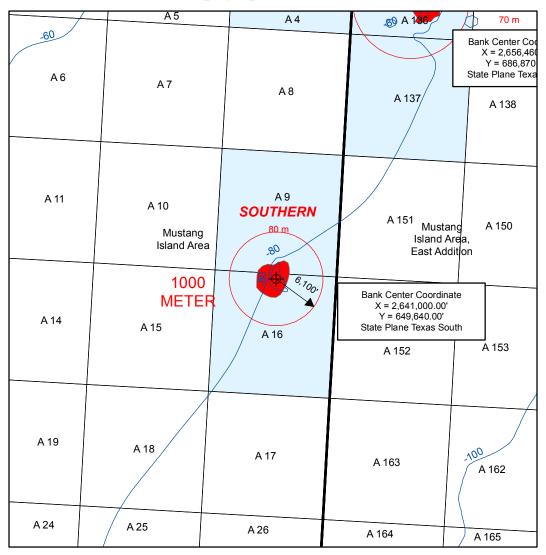






Page 35 of 39

## Topographic Features



#### SOUTHERN

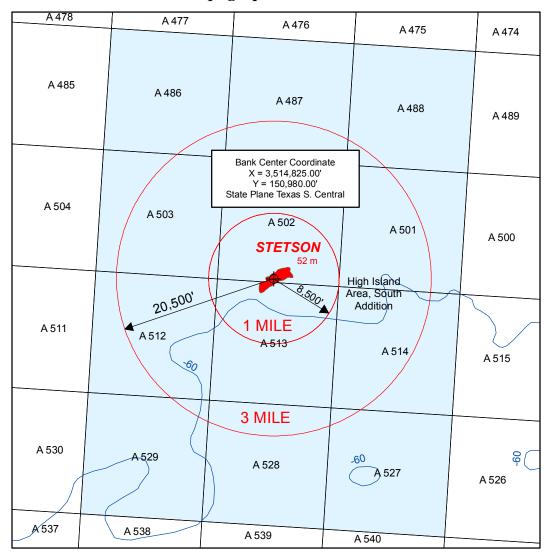






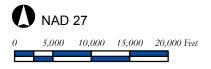
Page 36 of 39

## Topographic Features



#### STETSON

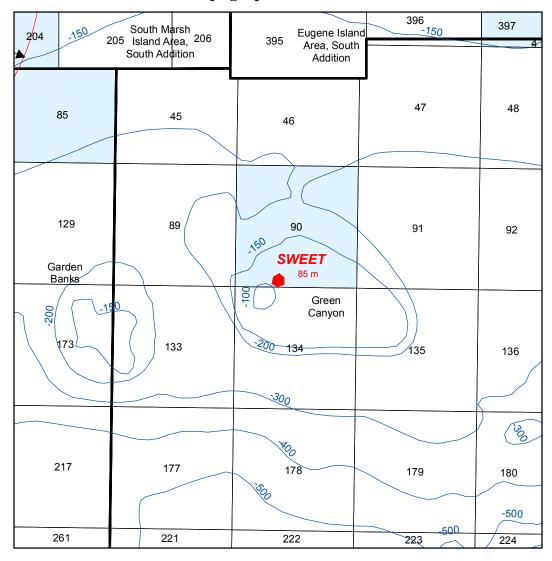






Page 37 of 39

## Topographic Features



#### **SWEET**

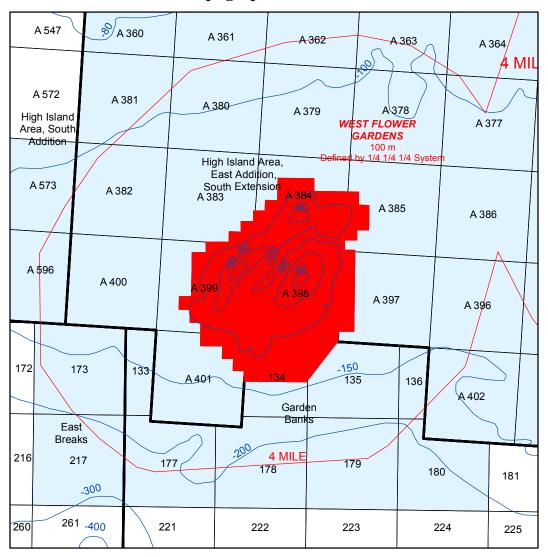






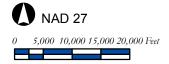
Page 38 of 39

## Topographic Features



# **WEST FLOWER GARDENS**







Page 39 of 39