

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: May 18, 2010 (X) Consent () Regular
() Workshop () Public Hearing

Department

Submitted By: Environmental Resources Management
Submitted For: Environmental Resources Management

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: a Consent of Easement with the United States Army Corps of Engineers (USACE) for installing riprap and native estuarine vegetation associated with the Jupiter Ridge Shoreline Restoration Project as part of a grant application with the Florida Inland Navigation District (FIND).

Summary: A Consent of Easement agreement is required to be executed between the County and the USACE prior to the commencement of construction activities. The executed Consent to Easement agreement is also required by FIND in order to make the Jupiter Ridge Shoreline Restoration Project eligible to receive funding under the Waterway Assistance Program, District 1 (SF).

Background and Justification: The Jupiter Ridge Shoreline Restoration Project is situated along the eastern shoreline of the Atlantic Intracoastal Waterway at the western boundary of the Jupiter Ridge Natural Area. Project components include the construction of 23 limestone oyster reef/breakwaters along 7,600 feet of eroding water frontage and planting of approximately 1.2 acres of native estuarine vegetation.

The County is required to execute a Consent of Easement agreement with the USACE prior to the commencement of construction activities associated with the restoration project. The executed Consent to Easement agreement is also required by FIND in order for the project to receive funding under the Waterways Assistance Program.

Attachments:

- 1. Consent of Easement Agreement

Recommended by: Richard E. Wabuly 4/29/10
Department Director Date

Approved by: [Signature] 5/13/10
County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	_____	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? (Match) Yes _____ No X
 Budget Account No.: Fund ___ Department ___ Unit ___ Object ___
 Program _____

B. Recommended Sources of Funds/Summary of Fiscal Impact


No fiscal impact – required by permit.

C. Department Fiscal Review:

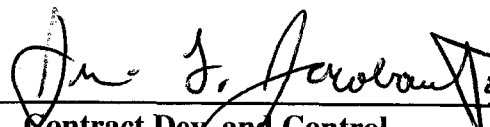
III. REVIEW COMMENTS

A. OFMB Fiscal and /or Contract Dev. and Control Comments:

No fiscal impact.



 OFMB *JB*
5/14/10



 Contract Dev. and Control
5/10/10
E. Jones 5/10/10

5/13/10

B. Legal Sufficiency:



 Assistant County Attorney

C. Other Department Review:

 Department Director

**DEPARTMENT OF THE ARMY
CONSENT TO EASEMENT
TO USE CORPS OF ENGINEERS RIGHT-OF-WAY**

Consent No. DACW17-9-10-0005
Project: Intracoastal Waterway,
Jacksonville to Miami, Palm Beach
County, Florida
Tract Nos. 532, 539, 541, 544,
545, 546-A, 549, 552 and 553,

THIS CONSENT TO EASEMENT AGREEMENT, made by and between the **UNITED STATES OF AMERICA, DEPARTMENT OF THE ARMY**, hereinafter referred to as the "Government", acting by and through the Chief, Real Estate Division, U.S. Army Corps of Engineers, Jacksonville District, hereinafter referred to as "said officer," and **Palm Beach County, Florida**, hereinafter referred to as the "Grantee":

WHEREAS, the Government has acquired a right-of-way easement over the above-numbered tracts of land, which easement, by its terms, reserves to the Government, in perpetuity, the right to use said easement for the construction, improvement, and maintenance of the Intracoastal Waterway, Jacksonville to Miami, Palm Beach County, Florida; and

WHEREAS, the Grantee has requested permission to install, use, maintain, and remove riprap and native estuarine vegetation in, on, across, over, and under a portion of the lands identified as Tract Nos. 532, 539, 541, 544, 545, 546-A, 549, 552 and 553, Sections 6, 7, 8, 17 and 18, Township 41 South, Range 43 East, Palm Beach County, Florida. The area comprising 3.50 acres, more or less, is shown in red on Exhibit "A" attached hereto and made a part hereof.

NOW THEREFORE, this consent is granted and accepted under the following conditions:

1. That it is understood that this consent is effective only insofar as the property rights of the Government in the land to be occupied are concerned, and that it does not relieve the Grantee from the necessity of obtaining grants from the owners of the fee and/or other interests, therein, nor does it obviate the requirement that the Grantee obtain State or local assent required by law for the activity authorized herein.

2. That any proposed improvements or use authorized herein shall

not be commenced until appropriate rights shall have been obtained by the Grantee from the record owners and encumbrancers of the fee title to the lands involved, or until the Grantee has obtained all Federal, State, or local permits required by law.

3. That the proposed improvements or use authorized herein shall be consistent with the terms and conditions of this consent; and that any improvements or use not specifically identified and authorized shall constitute a violation of the terms and conditions of this consent which may result in a revocation of this consent and in the institution of such legal proceedings as the Government may consider appropriate, whether or not this consent has been revoked or modified.

4. That the exercise of the privileges hereby consented to shall be without cost or expense to the Government and under the supervision of and subject to the approval of the said officer having immediate jurisdiction over the property and subject to such regulations as he may from time to time prescribe, including, but not limited to, the specific conditions, requirements, and specifications set forth in paragraph 14 below.

5. That the Grantee shall supervise and maintain the said improvements and cause it to be inspected at reasonable intervals, and shall immediately repair any damage found therein as a result of such inspection, or when requested by said officer to repair any defects. Upon completion of the installation of said improvements or the making of any repairs thereto, the premises shall be restored immediately by the Grantee, at the Grantee's own expense, to the same condition as that in which they existed prior to the commencement of such work, to the satisfaction of said officer.

6. That any property of the Government 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 the satisfaction of the said officer, or in lieu of such repair or replacement, the Grantee shall, if so required by said officer and at his option, pay to the Government an amount sufficient to compensate for the loss sustained by the Government by reason of damage to or destruction of Government property.

7. That the Government shall not be responsible for damages to the property or injuries to persons which may arise from or be incident to the exercise of the privileges herein granted, or for damages to the property of the Grantee, or for damages to the

property or injuries to the person of the Grantee, or the persons of Grantee's officers, agents, servants, or employees, or others who may be on said premises at the invitation of the Grantee or the invitation of one of them, arising from Governmental activities on or in the vicinity of the said premises, and the Grantee shall hold the Government harmless from any and all claims to the extent allowed by law.

8. That the Government shall in no case be liable for any damage, either hidden or known, to any improvements herein authorized which may be caused by any action of the Government, under the rights obtained in its easements, or that may result from the future operations undertaken by the Government, and no claim or right to compensation shall accrue from such damage, and if further operations of the Government require the alteration or removal of any improvements herein authorized, the Grantee shall, upon due notice, from said officer, alter or remove said improvements without expense to the Government and subject to the supervision and approval of the said officer and no claim for damages shall be made against the Government on account of such alterations or removal.

9. That construction and/or operation, maintenance, and use of any improvements incident to the exercise of the privileges herein granted shall be in such a manner as not to conflict with the rights of the Government, nor to interfere with the operations by the Government under such rights nor to endanger lives and safety of the public.

10. That this consent may be terminated by the Government or said officer upon reasonable notice to the Grantee if the Government or said officer shall determine that any improvements or use to which consent is herein granted interferes with the use of said land or any part thereof by the Government, and this consent may be annulled and forfeited by the declaration of the Government or said officer for failure to comply with any or all of the provisions and conditions of this consent, or for nonuse for a period of two (2) years, or for abandonment.

11. That upon relinquishment, termination, revocation, forfeiture, or annulment of this consent, the Grantee shall vacate the premises, remove all property of the Grantee therefrom, and restore the premises to a condition satisfactory to the said officer. If the Grantee shall fail or neglect to remove the said property and so restore the premises, then at the option of the Government or said officer, the said property shall either become the property of the Government without compensation

therefor, or the Government or said officer, may cause it to be removed, and the premises to be so restored at the expense of the Grantee, and no claim for damages against the Government, or its officer or agents, shall be created by or made on account of such removal and restoration.

12. That the Grantee within the limits of its respective legal powers shall comply with all Federal, interstate, State, and/or local governmental regulations, conditions, or instructions for the protection of the environment and all other matters as they relate to real property interests granted herein.

13. That the Grantee shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archeological, architectural, or other cultural artifacts, relics, vestiges, remains, or objects of antiquity. In the event such items are discovered on the premises, the Grantee shall immediately notify the District Engineer, Jacksonville District, Post Office Box 4970, Jacksonville, Florida 32232-0019, and the site and the material shall be protected by the Grantee from further disturbance until a professional examination of them can be made or until a clearance to proceed is authorized by the District Engineer.

14. That construction shall be in accordance with the drawings attached hereto and made a part hereof as Exhibit "B" and with Department of the Army Permit No. 2009-01649 (IP-EGR), incorporated herein by reference. That no additional structures shall be constructed waterward of the Government's right-of-way line and that any structures currently within the right-of-way must be removed by the Grantee, at Grantee's expense, if future needs of the Government so require.

15. That this consent may not be transferred to a third party without the prior written notice to the Chief, Real Estate Division, U.S. Army Corps of Engineers, Jacksonville District, Post Office Box 4970, Jacksonville, Florida 32232-0019, and by the transferee's written agreement to comply with and be bound by all the terms and conditions of this consent. In addition, if the Grantee transfers the improvements authorized herein by conveyance of realty, the deed shall reference this consent and the terms and conditions herein and the consent shall be recorded along with the deed in the Registrar of Deeds or with other appropriate official.

This consent is not subject to Title 10, United States Code, Section 2662.

IN WITNESS WHEREOF, I have hereunto set my hand, by authority of the Secretary of the Army, this _____ day of _____ 2009.

UNITED STATES OF AMERICA

Approved As To Form
And Legal Sufficiency

BY: _____
JOHN M. BAKER
Chief, Real Estate Division
U.S. Army Engineer District
Jacksonville, Florida

BY: _____
Assistant County Attorney

AGREED TO AND ACCEPTED

Approved As To Terms
and Conditions

PALM BEACH COUNTY, FLORIDA

BY: Richard E. Walesky
Richard E. Walesky
Environmental Resources Mgmt.

By: ITS BOARD OF COUNTY COMMISSIONERS

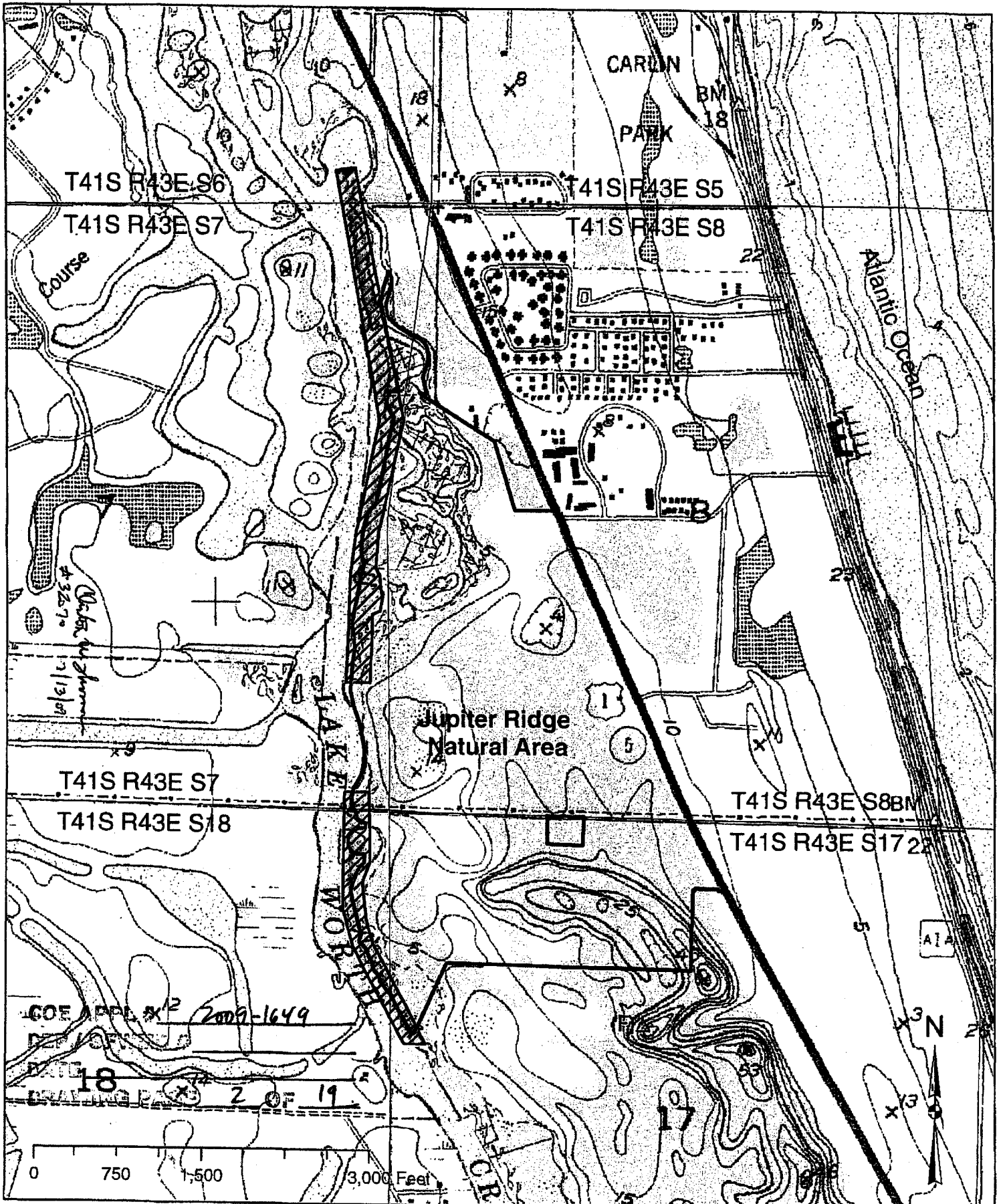
By: _____
Burt Aaronson, Chair

ATTEST:

By: _____

CERTIFICATE OF AUTHORITY

I, _____, certify that I am the _____ of the Board of County Commissioners, Palm Beach County, Florida, that _____ who signed the foregoing instrument on behalf of the grantee was then _____ of Palm Beach County Board of County Commissioners. I further certify that the said officer was acting within the scope of powers delegated to this officer by the governing body of the grantee in executing said instrument.



Legend



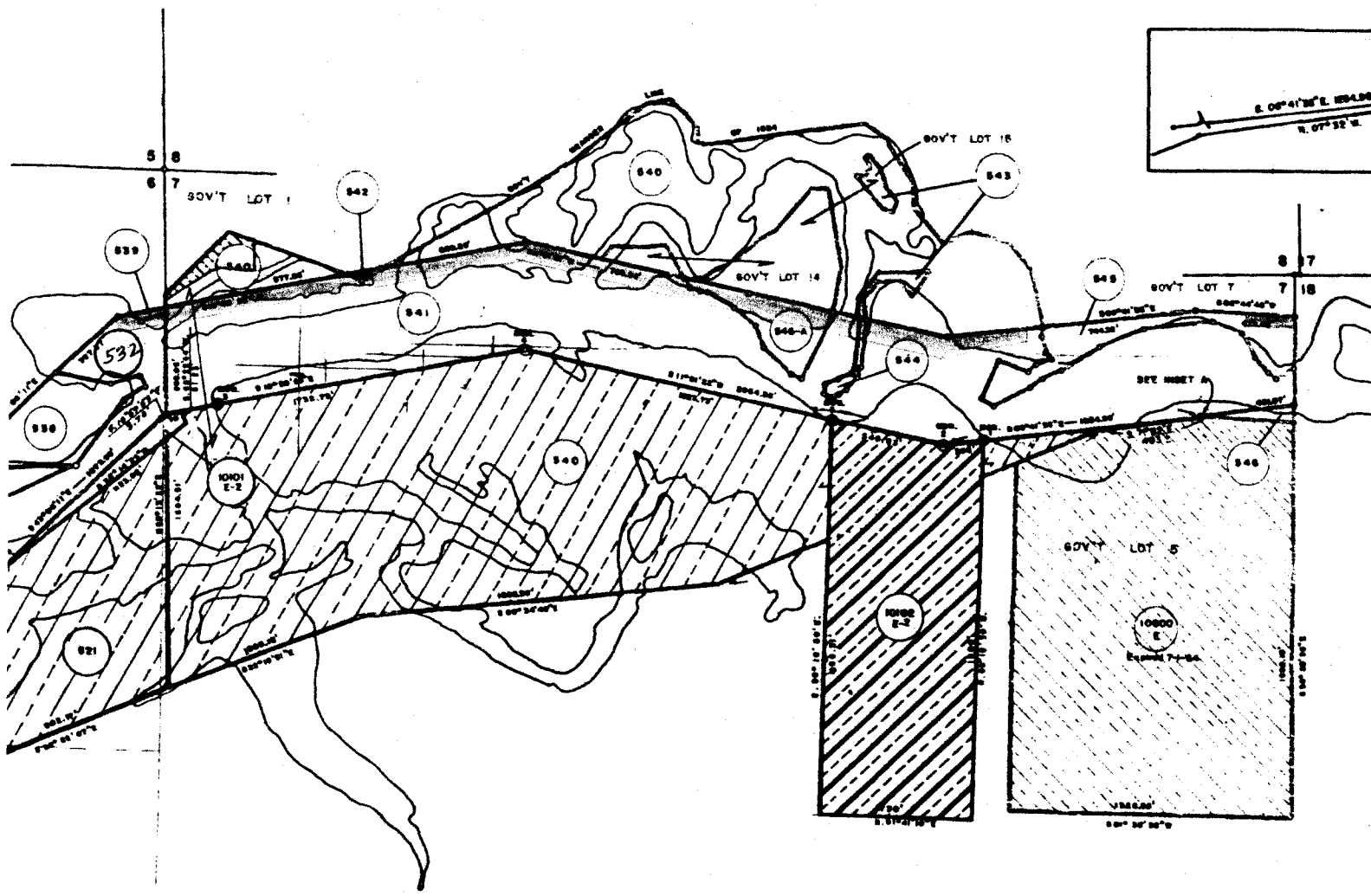
-  JUR_Boundary
-  General Project Area

Figure 2
 Jupiter Ridge Natural Area
 Shoreline Restoration Project
 USGS Quadrangle Map



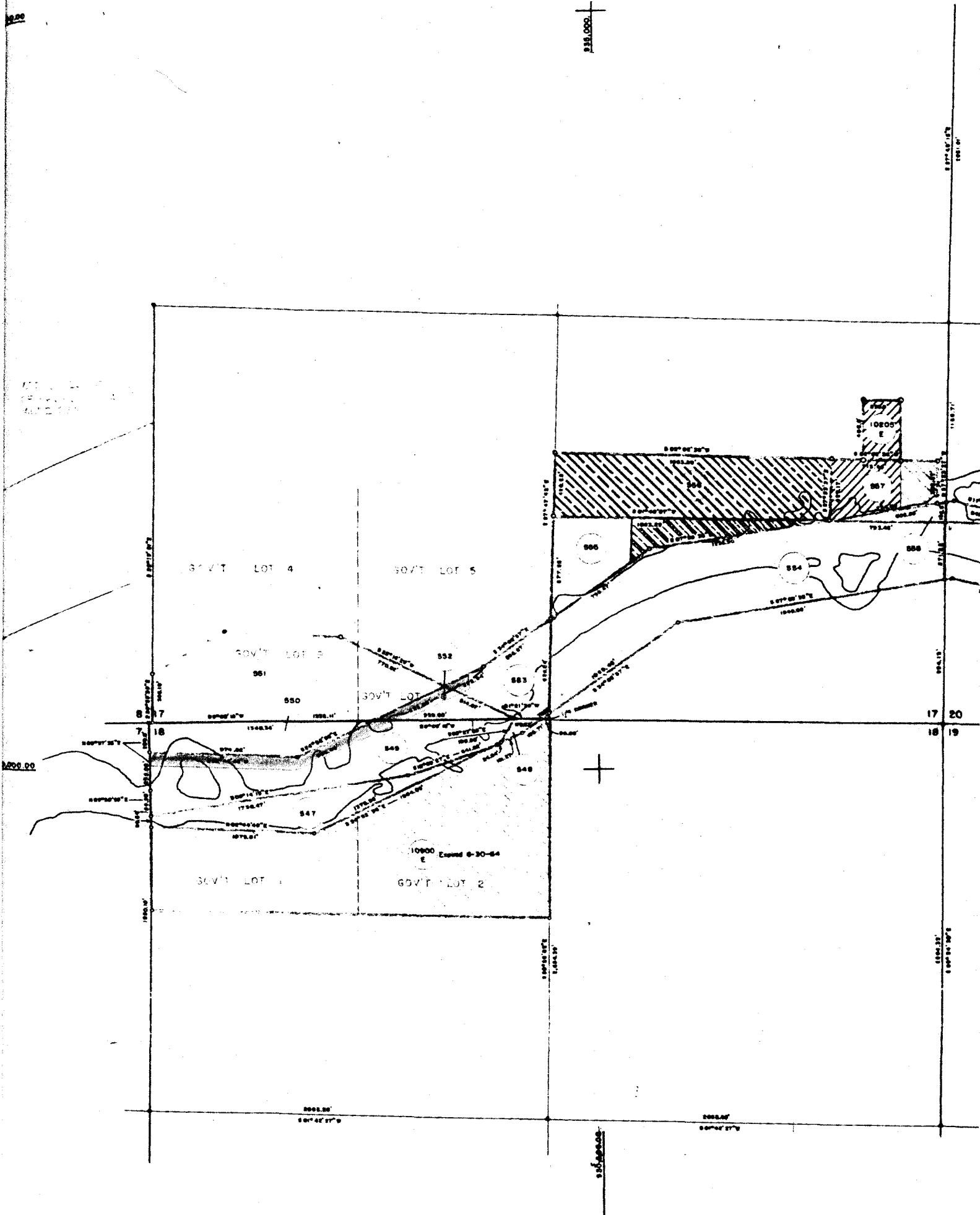
Palm Beach County
 Department of
 Environmental Resources Management
 2300 North Jog Road, 4th Floor
 West Palm Beach, FL 33411
 (561) 233-2400

EXHIBIT "A"



- 1000 AC. (EASE) 40.50 AC. IN TRACT 531 AND 62.70 AC. IN TRACT 541 CONVEYED TO JONATHAN'S LANDS, INC. BY G.C.D. DATED 1-7-74. 5.85 AC. RECORDED IN TRACT 1000E-1, 2.84 AC. IN TRACT 1000E-2 AND 1.23 AC. IN TRACT 1000E-3.
- 2.84 AC. (EASE) PORTION OF TRACT 1000E-1, CONVEYED TO JONATHAN'S LANDS, INC. BY G.C.D. DTD. 9 APRIL 74.
- 30.00 AC. (EASE) ALL OF TRACT 1000E-2, CONVEYED BY G.C.D. DATED 1 DEC 77 TO JONATHAN'S LANDS, INC.
- 5.36 ACRES (EASE) PORTION OF TR. 521, CONVEYED TO ROBERT F. GREGGELL BY GCD DATED 17-JUNE-1961.
- 0.55 ACRE EASE. (PORTION OF TRACT 521) CONVEYED TO HERBERT R. AND ANNA J. BRANCH BY G.C.D. DTD. 9-DEC-61.
- 0.55 ACRES EASE. (PORTION OF TR. 540) CONVEYED TO JUPITER WILLET CORP BY G.C.D. DTD. 22 MARCH 1963.
- 1.52 ACRES EASE. (PORTION OF TRACT 521) CONVEYED TO F.L.M. BY G.C.D. DTD. 24 OCTOBER 1964.

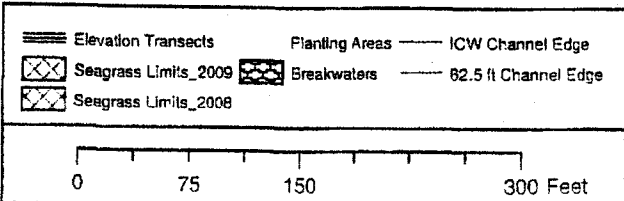
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20 MAR 68	PORTION OF TR. 521 RELEASED	R
28 APR 68	PORTION OF TR. 540 RELEASED	R
28 APR 68	PORTION OF TR. 521 RELEASED	R
27 JULY 61	PORTION OF TR. 521 RELEASED	R
17 OCT 70	ALL TR. 1000E-2 RELEASED	E
28 APR 70	PORTION OF TR. 1000E-1 RELEASED	R
8-30-70	SUPPLEMENTAL AGMT TO 8-30-74	R
1-28-70	TRACTS 1000E-1 AND 1000E-2 ACQUIRED	R
1-28-74	TRACTS 1000E-1 AND 1000E-2 ACQUIRED	R
1-7-74	PORTIONS OF TRACTS 521 AND 540 DISPOSED OF	R
11-8-68	TR. 1000E-2 reduced to 1.23 ac.	R
10-1-64	TR. 1000E-2	R
7-1-64	TR. 1000E-2	R
8-9-60	TR. 1000E-1, E-2 original 8-1-63	R
8-24-60	Map return, portion of sheet 106 and sheets 107 & 108	R
8-16-62	Tr. 1000E-2 & 1000E-1 added	R
8-10-61	Tr. 1000E-1, 1000E-2 & 1000E-3 added	R
12-8-60	G.C.D. for Tr. 543 and a portion of Tr. 540 amended	R
8-20-60	5.85 Ac. out of Tr. 543 & 28.00 Ac., a portion of Tr. 540 G.C.D.	R
2-16-64	25.40 Ac., a portion of Tr. 521, G.C.D.	R
1-31-68	Channel alignment and shore lines corrected.	R
4-29-74		
MICRO FILMED	DATE	REVISIONS





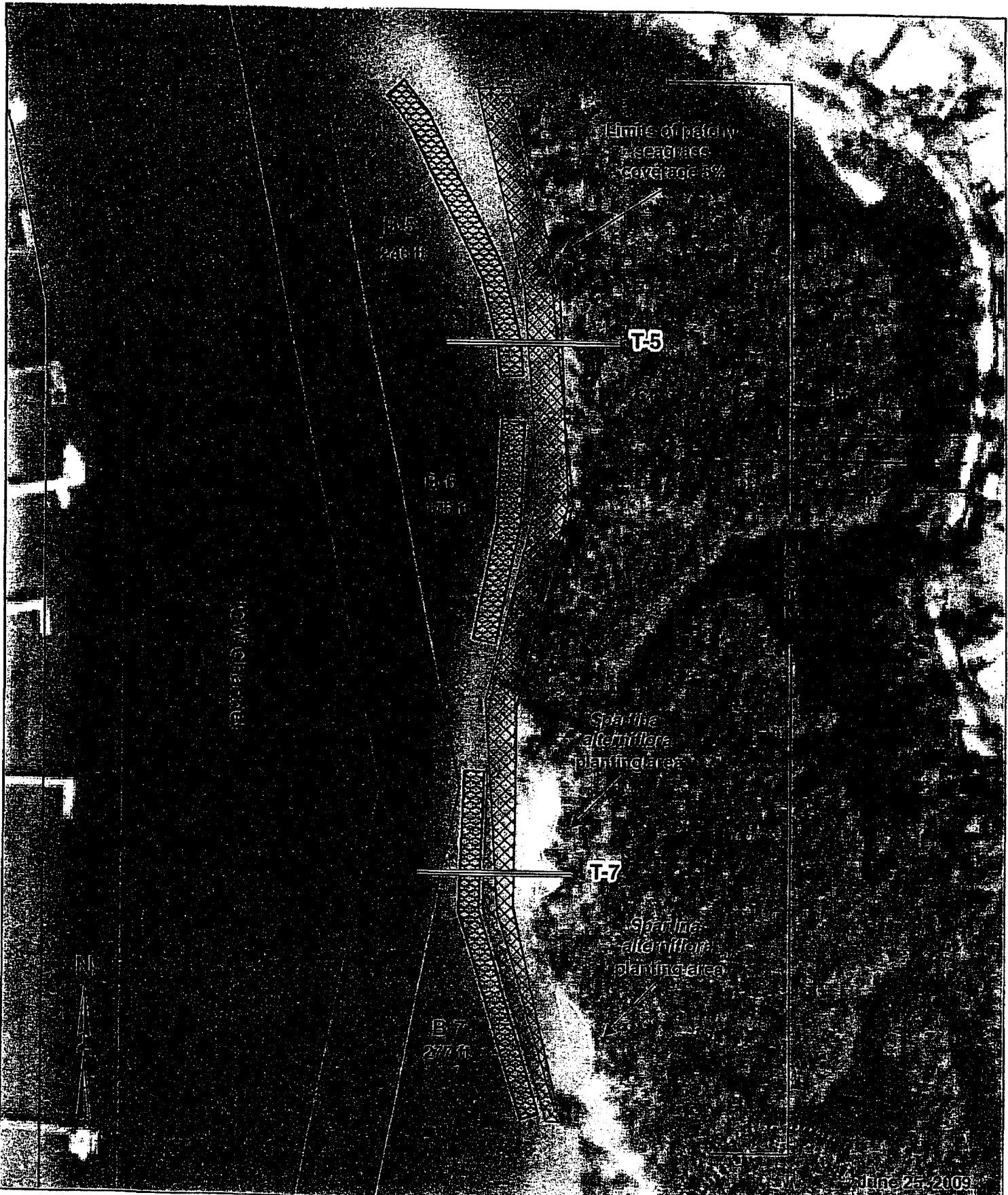
**JUPITER RIDGE
NATURAL AREA**
2008 Aerial Photography

Figure 4b
Shoreline Restoration Project
Zone 1 Plan View



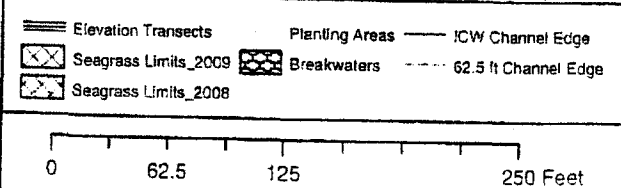
Clinton W. Hummer # 32078
 Palm Beach County 7/13/09
 Department of
 Environmental Resources Management
 2300 North Jog Road, 4th Floor
 West Palm Beach, FL 33411
 (561) 233-2400

EXHIBIT "B"



**JUPITER RIDGE
NATURAL AREA**
2008 Aerial Photography

Figure 4c
Shoreline Restoration Project
Zone 2 Plan View



Clinton W. Thomas #32072 7/13/09
Palm Beach County
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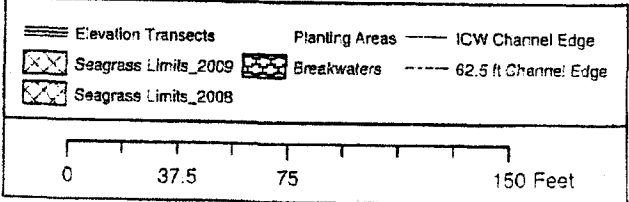
EXHIBIT "B"

COE APPR. *[Signature]*
 DEP/SE/ID. *[Signature]*
 DATE *[Date]*
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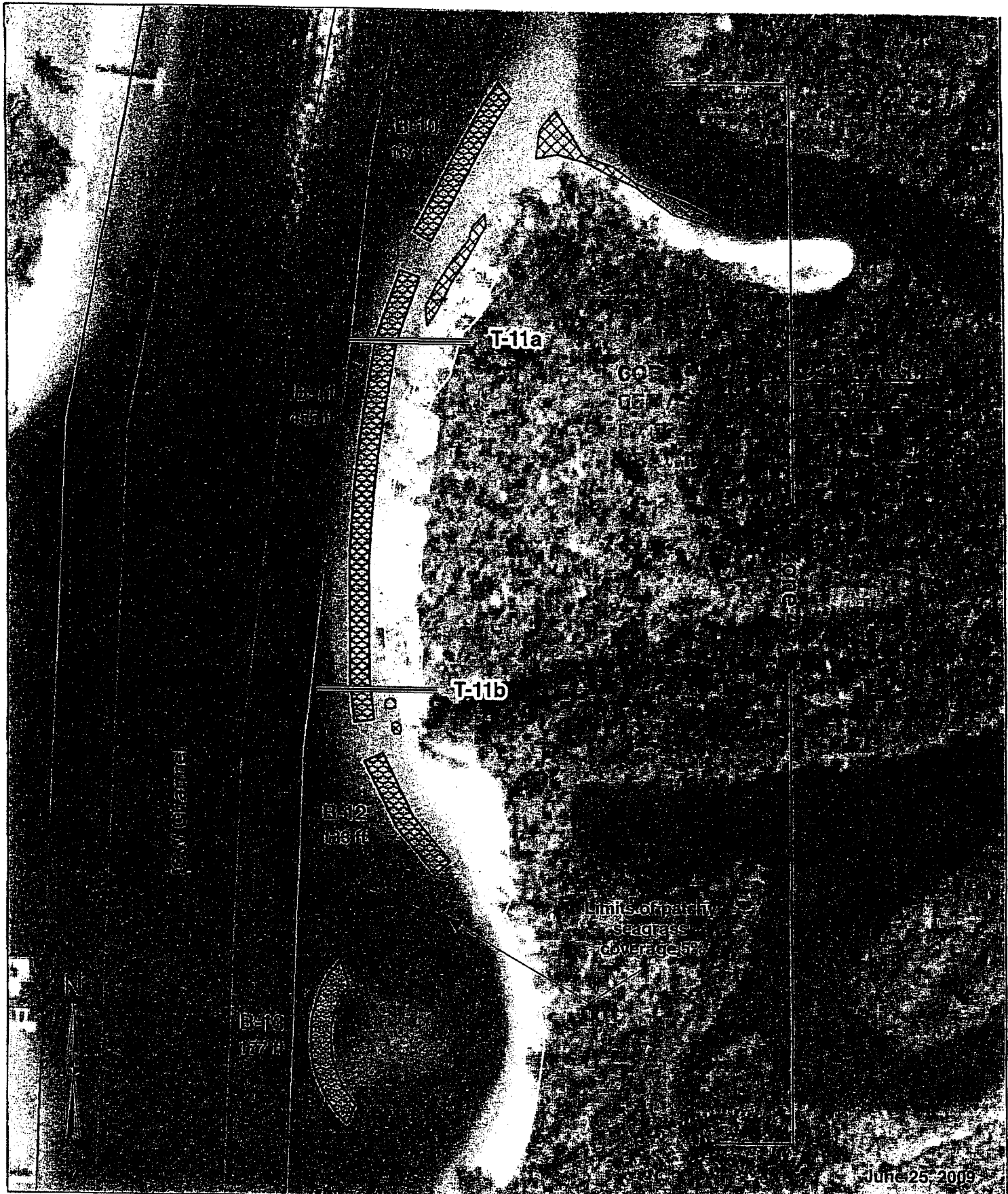
DATE 25 2009

**JUPITER RIDGE
 NATURAL AREA**
 2008 Aerial Photography
 Figure 4d
 Shoreline Restoration Project
 Zone 3 Plan View



Clinton W. Jensen # 32070 7/13/09
 Palm Beach County
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EXHIBIT "B"



**JUPITER RIDGE
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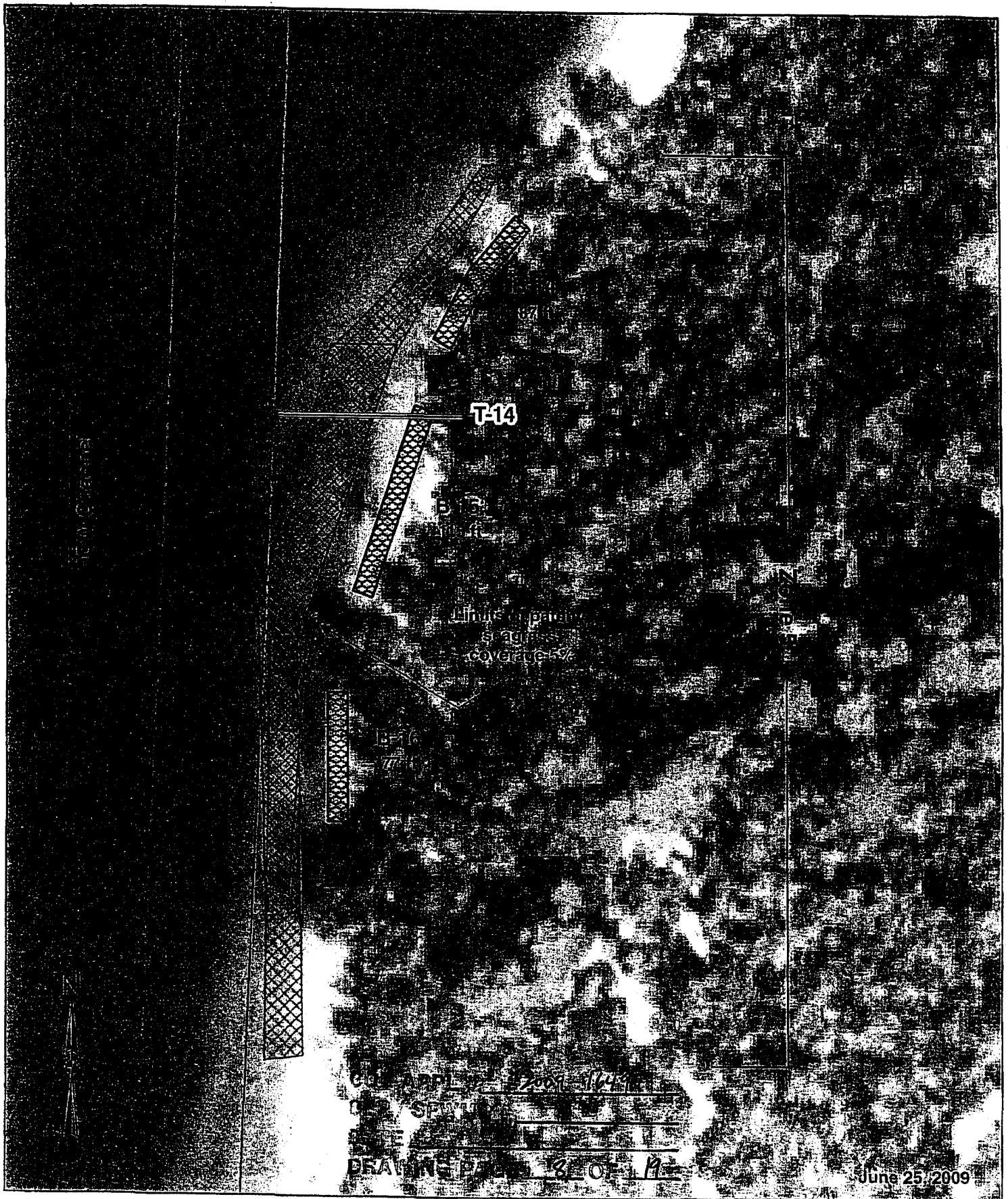
Figure 4e
Shoreline Restoration Project
Zone 4 Plan View

Elevation Transects	Planting Areas	ICW Channel Edge
Seagrass Limits_2009	Breakwaters	62.5 ft Channel Edge
Seagrass Limits_2008		

0 75 150 300 Feet

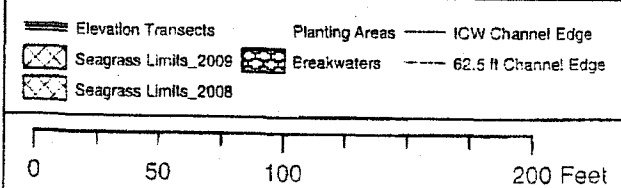
CP-1016 to Annex #32070 7/13/09

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**JUPITER RIDGE
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Figure 4f
Shoreline Restoration Project
Zone 5 Plan View

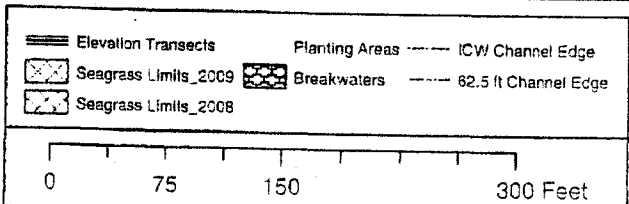


Written by *Shannon* # 32070
Palm Beach County 7/13/09
Department of
Environmental Resources Management
2300 North Jog Road, 4th Floor
West Palm Beach, FL 33411
(561) 233-2400

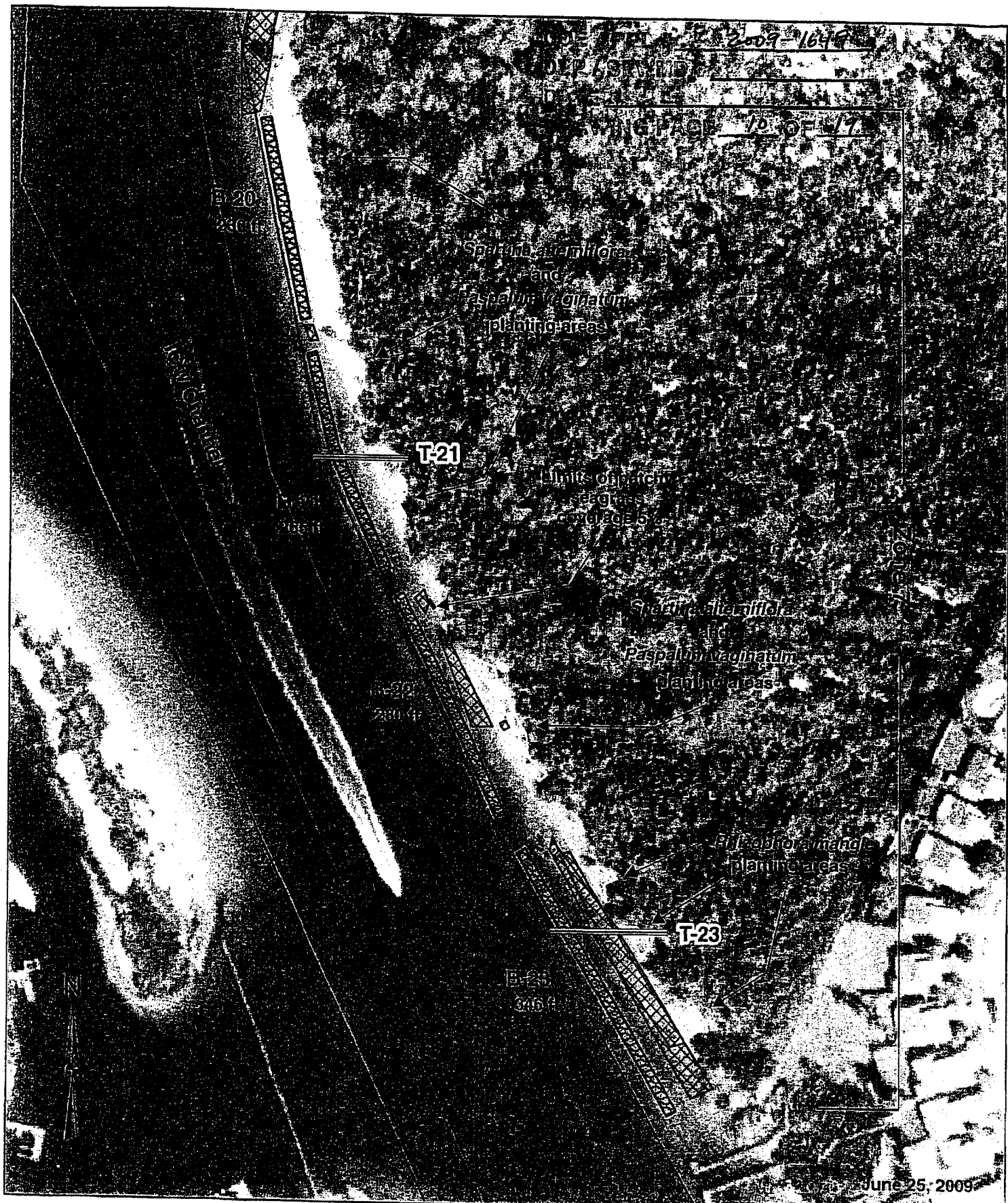
EXHIBIT 8



JUPITER RIDGE NATURAL AREA
 2008 Aerial Photography
 Figure 4g
 Shoreline Restoration Project
 Zone 6 Plan View



Clinton W. Johnson # 32070
 Palm Beach County 7/13/09
 Department of Environmental Resources Management
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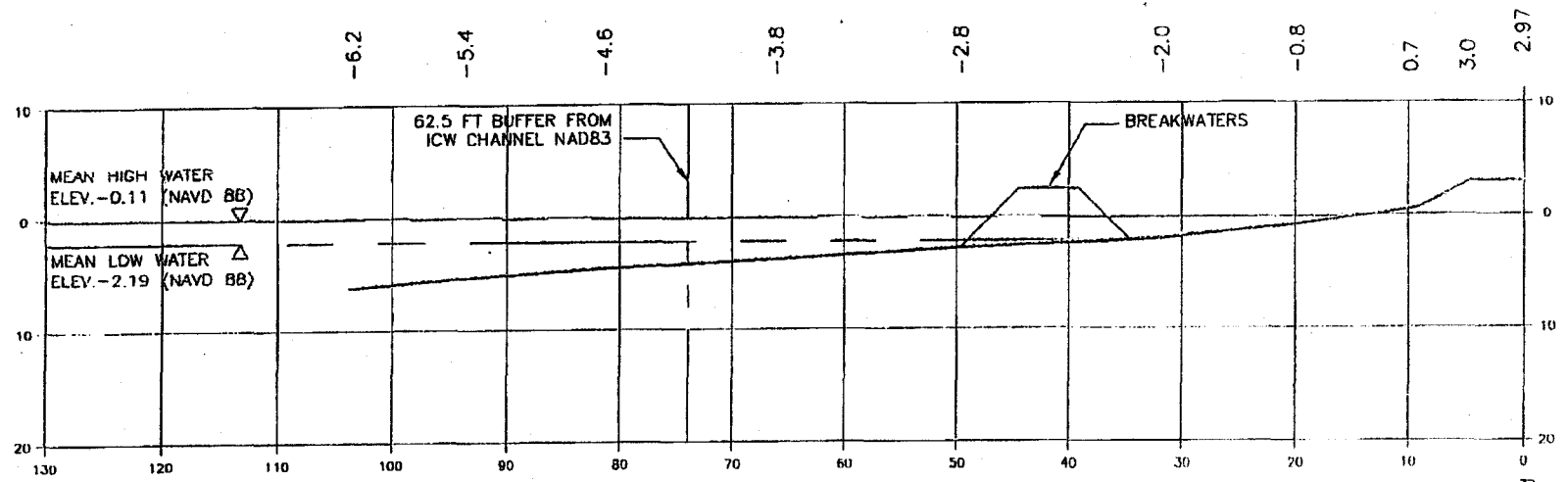
**JUPITER RIDGE
NATURAL AREA**
2008 Aerial Photography

Figure 4h
Shoreline Restoration Project
Zone 7 Plan View

	Elevation Transects		Planting Areas		ICW Channel Edge
	Seagrass Limits_2009		Breakwaters		62.5 ft Channel Edge
	Seagrass Limits_2008				

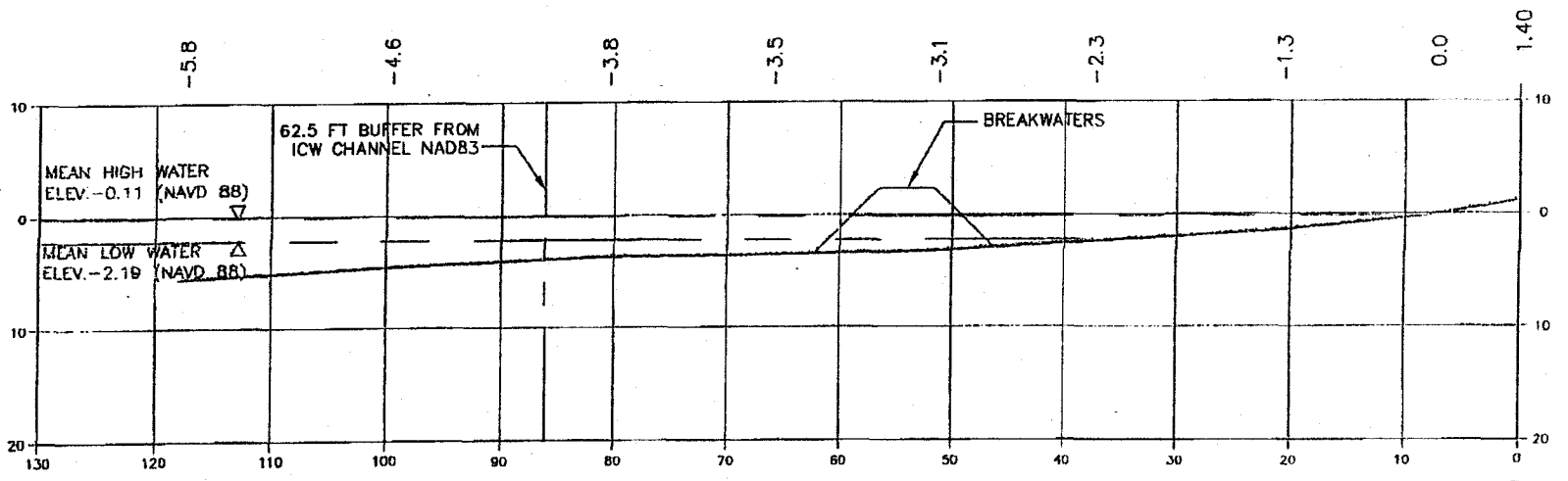
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Order to Purchase # 32010
Palm Beach County 7/13/09
Department of
Environmental Resources Management
2300 North Jog Road, 4th Floor
West Palm Beach, FL 33411
(561) 233-2400



T-1

COE APPL # 2009-1649
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 DATE _____
 DRAWING PAGE 11 OF 19



T-4

Clifton W. Hammer
 #32070 7/13/09

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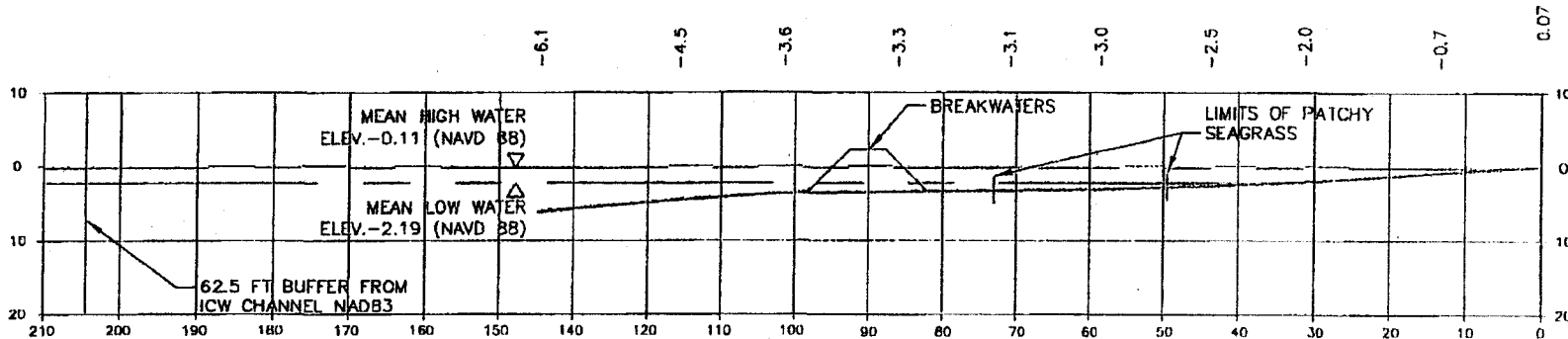
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Field Book No:	

SEAL

Project: JUPITER RIDGE NATURAL AREA
 CROSS SECTIONS

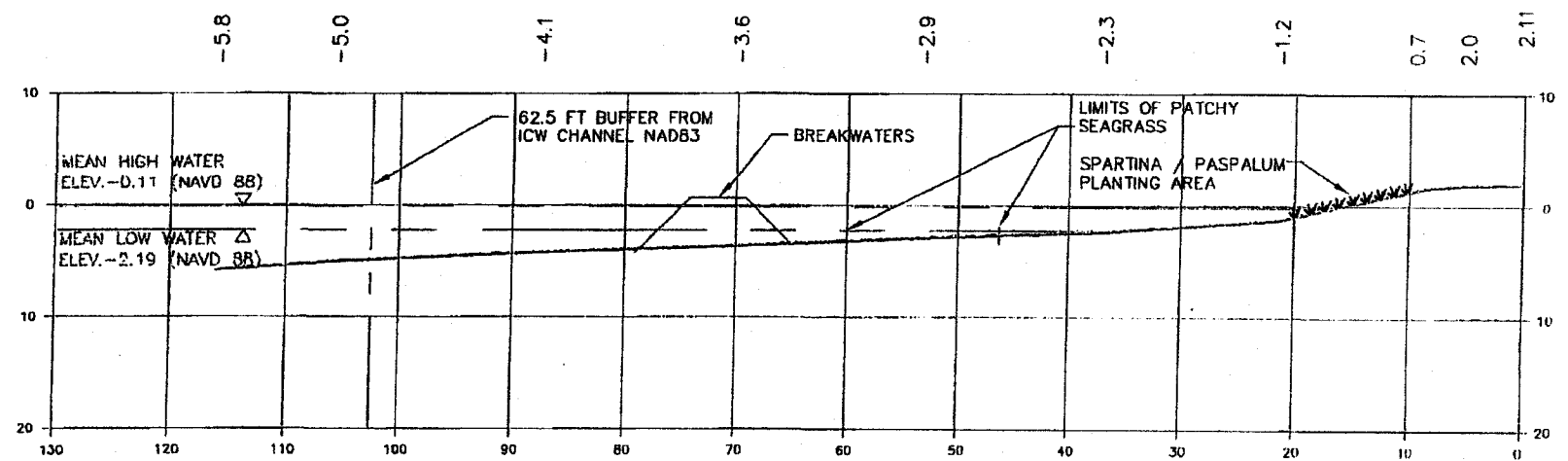
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FIGURE #5



T-5

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T-7

Clinton W. Shuman
 # 32070 7/13/09

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 ENVIRONMENTAL RESOURCES MANAGEMENT
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 WEST PALM BEACH, FLORIDA 33411
 (561) 239-2400

No.	Revision	By	Date

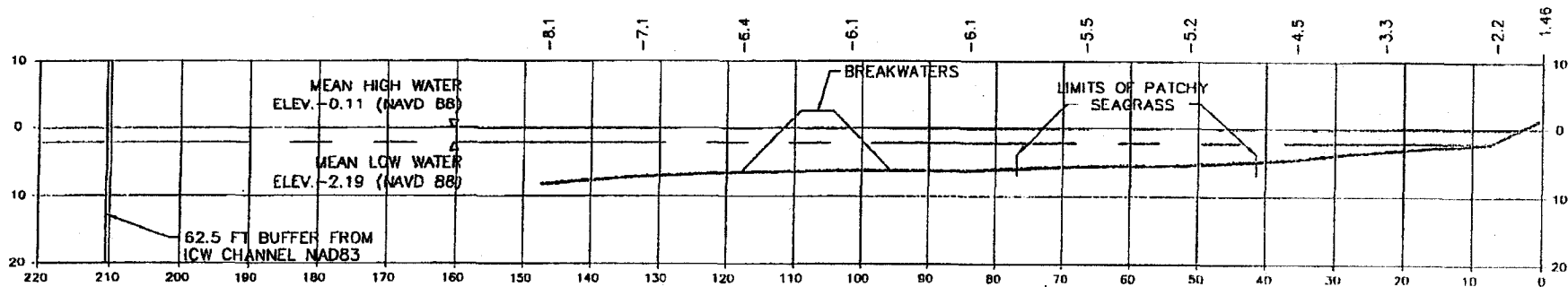
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 Checked: [Signature]
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 Field Book No: _____

SEAL

Project: **JUPITER RIDGE NATURAL AREA**
 CROSS SECTIONS

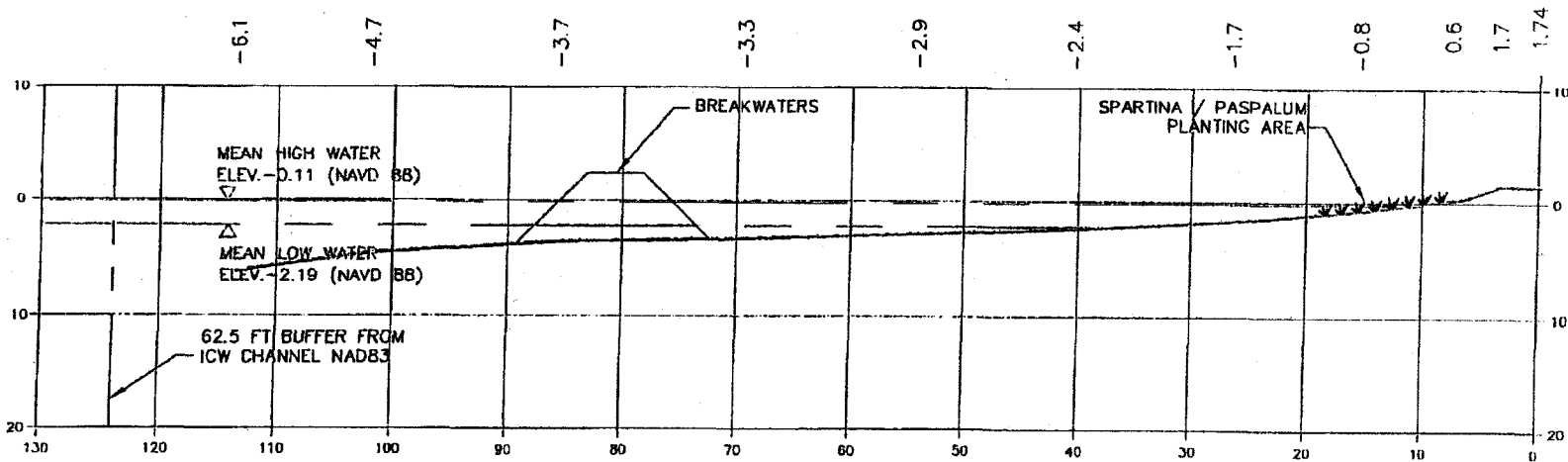
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FIGURE #6



T-9

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 DATE _____
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T-11A

Clinton W. Stroman
 #3209c 7/13/09

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 DEPARTMENT OF
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 (888) 255-2400

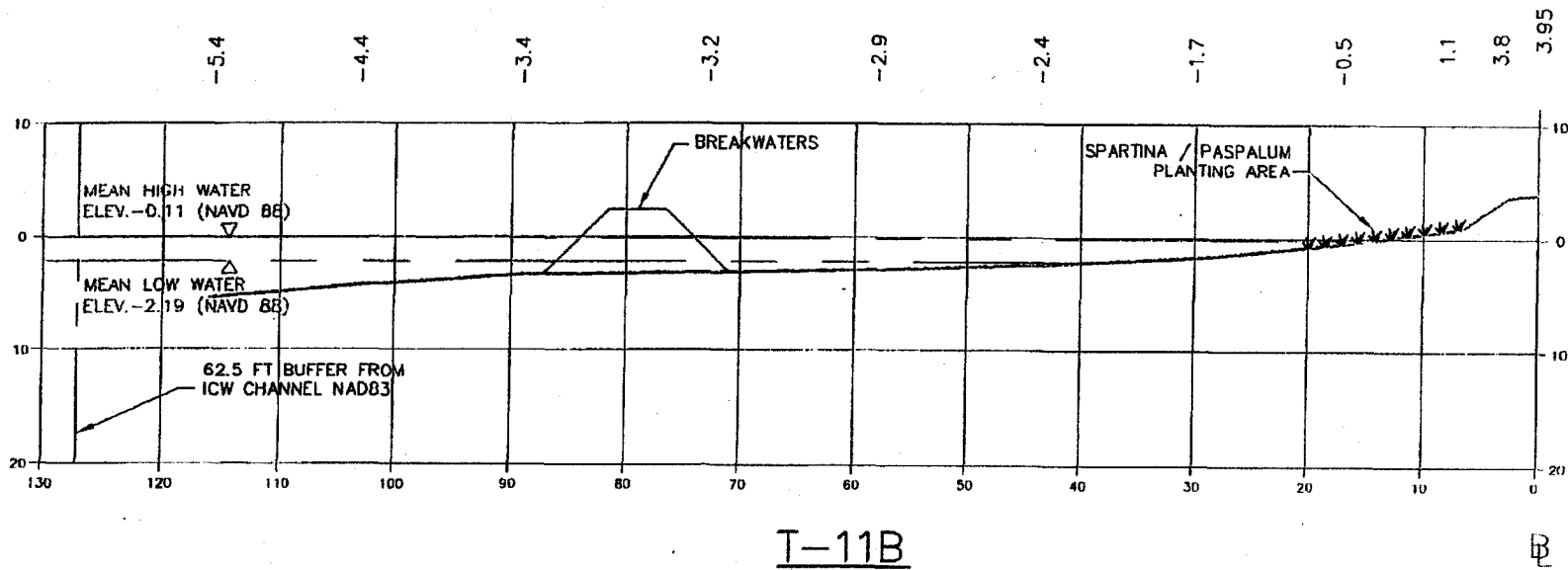
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Field Book No:	

SEAL

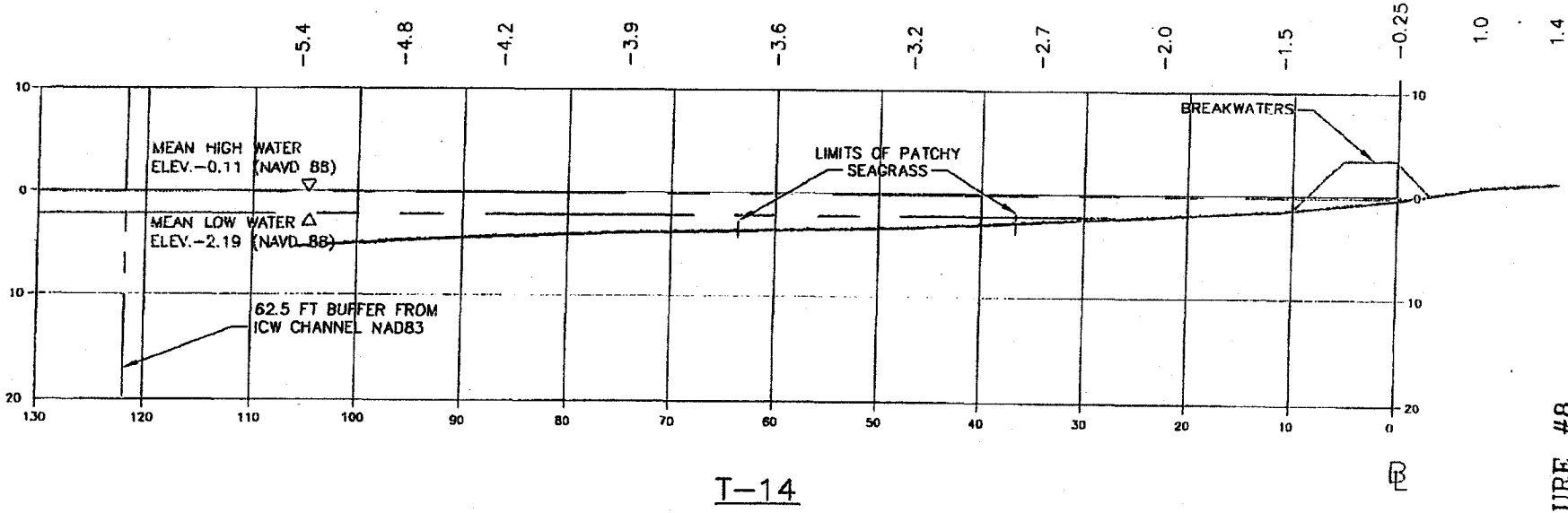
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**JUPITER RIDGE
 NATURAL AREA**
 CROSS SECTIONS

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FIGURE #7



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Clinton W. Shannon
 #32070 7/13/09

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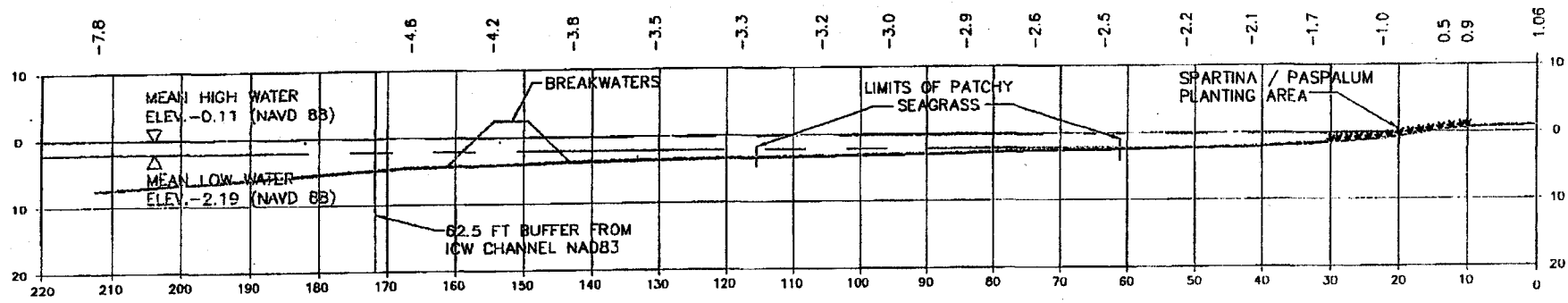
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Field Book No.:	

SEAL

Project: **JUPITER RIDGE
 NATURAL AREA**
 CROSS SECTIONS

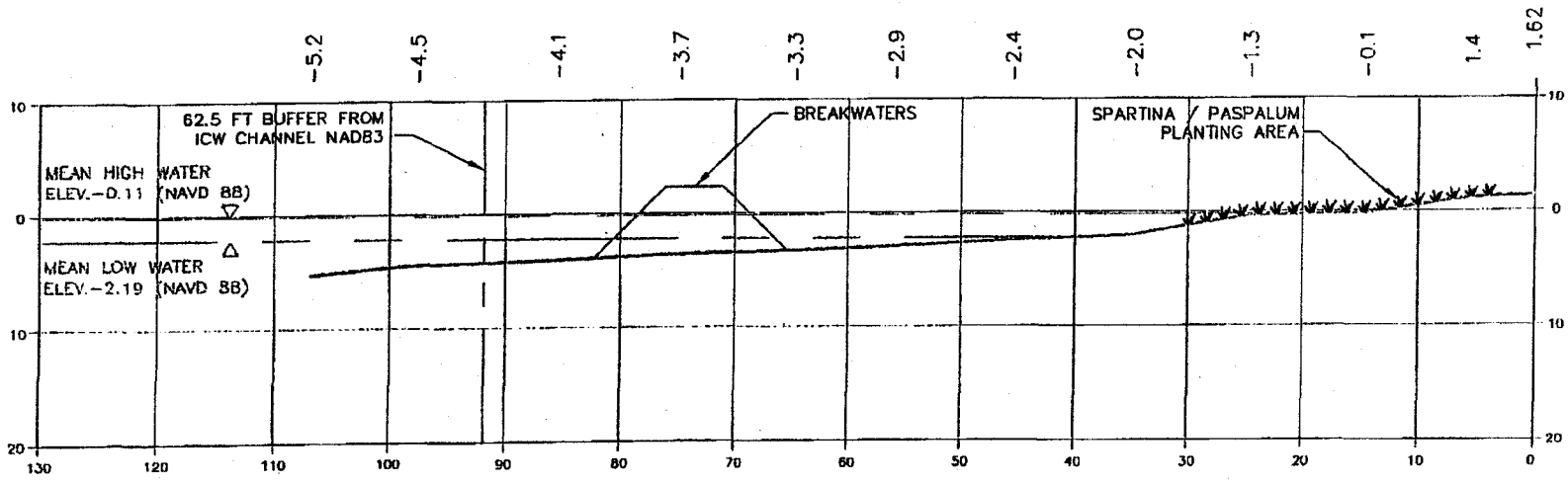
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 of
 Project No.

FIGURE #8



T-19

COE APPL # 2009-1649
 DEP / SPWMD # _____
 DATE _____
 DRAWING PAGE 15 OF 19



T-21

Christina L. Thomas
 #32070 7/13/09

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 WEST PALM BEACH, FLORIDA 33411
 (561) 233-2400

Scale	AS SHOWN
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Field Book No.	

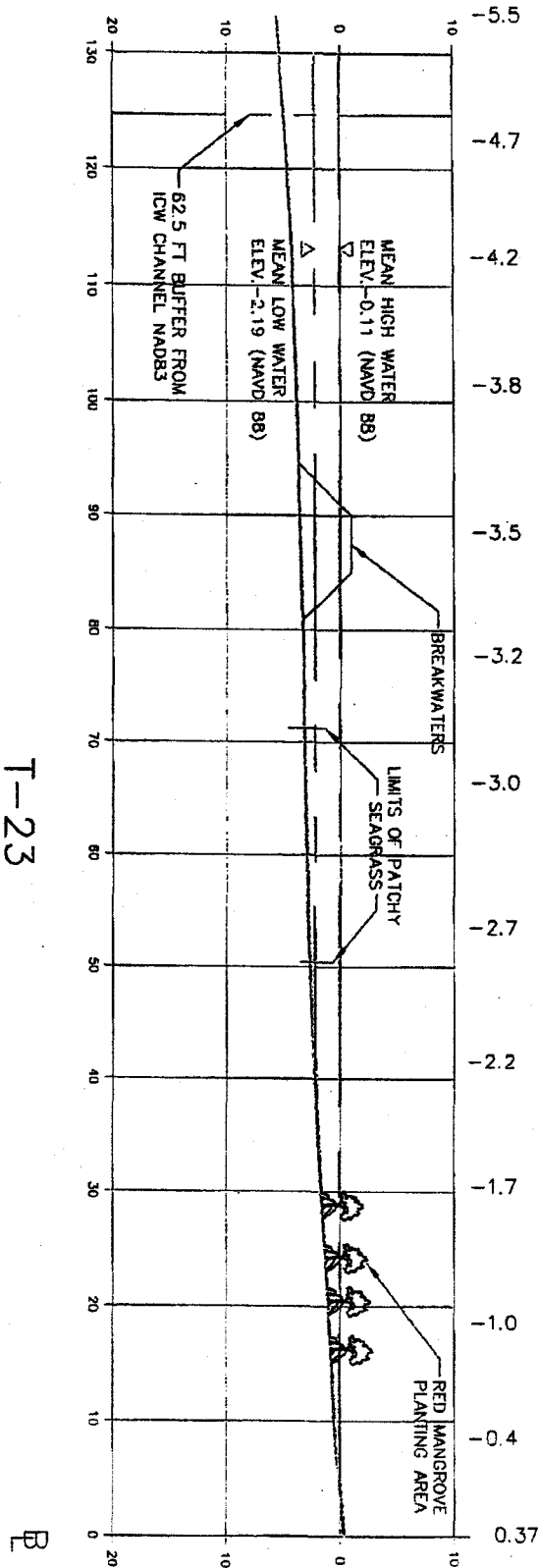
SEAL

Project
**JUPITER RIDGE
 NATURAL AREA**
 CROSS SECTIONS

Sheet
 T-15 & T-21
 of
 Project #

FIGURE #9

COS APPL # 2009-1649
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 DATE _____
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Winter to show
 # 32070 7/13/09

FIGURE #10

Sheet T-23 of 11 Project No.	JUPITER RIDGE NATURAL AREA CROSS SECTIONS	SFAL	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th>Rev</th> <th>By</th> <th>Check</th> <th>Date</th> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </table>	Rev	By	Check	Date					<p> PALM BEACH COUNTY DEPARTMENT OF ENVIRONMENTAL RESOURCES MANAGEMENT 2300 NORTH JOE ROAD, 4TH FLOOR WEST PALM BEACH, FLORIDA 33411 (561) 233-2400 </p>
Rev	By	Check	Date									