



DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS, ANTILLES OFFICE
400 FERNANDEZ JUNCOS AVENUE
SAN JUAN, PUERTO RICO 00901-3299

AUG 13 2008

REPLY TO
ATTENTION OF

Antilles Regulatory Section
199905598(IP-ML)

Mr. Ovidio García-Amador
PO Box 340
Mayagüez, PR 00681-0340

Dear Mr. García-Amador:

We are pleased to enclose the Department of the Army permit and a Notice of Authorization, which should be displayed at the construction site. Work may begin immediately, in accordance with the terms and conditions of the permit. The Chief, Antilles Regulatory Section, as representative of the District Engineer, must be notified of:

- a. The date of commencement of the work,
- b. The dates of work suspensions and resumption of work if suspended over a week, and
- c. The date of final completion.

The Section Chief is responsible for inspections to determine that permit conditions are strictly adhered to. A copy of the permit and drawings must be available at the site of work.

**IT IS NOT LAWFUL TO DEVIATE FROM
THE APPROVED PLANS ENCLOSED.**

Sincerely,


José M. Rosado, P.E.
Acting Deputy District Engineer
for the Antilles

Enclosures



This notice of authorization must be
conspicuously displayed at the site of work.

United States Army Corps of Engineers

EXPIRES: May 28, 2008

A permit to Fill 1.2 acre of waters of the U. S. for the relocation of a portion of the Boquilla Creek and a tributary

at PR-2, Km. 179, intersection with PR-64, El Maní Sector, Sabanetas Ward, Mayagüez, Puerto Rico

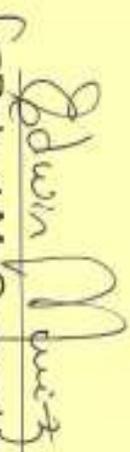
has been issued to Mr. Ovidio García on May 28, 2003

Address of Permittee P.O. Box 340

Mayagüez, Puerto Rico 00681-0340

Permit Number

199905598(IP-ML)


for Robert M. Carpenter
Colonel, U. S. Army
District Engineer



DEPARTMENT OF THE ARMY PERMIT



Permittee: Mr. Ovidio García-Amador, GIP Investments GP&SR, Inc., and Mr. Florencio Berríos, Berríos Realty, Inc.

Permit No: 199905598(IP-ML)

Issuing Office: U.S. Army Engineer District, Jacksonville

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

[Handwritten signature]
[Handwritten initials]
You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: To discharge fill material over 1.2 acres of waters of the United States in three open water channels, as shown in the drawings (channel B-B, 2180m², channel C-C, 800m², and channel D-D, 1820m²). Channel B-B would be filled and relocated by the excavation of a 61 x 15.24 x 1.83 meters retention pond, an open water channel of 85 x 8 x 3.5 meters, and the installation of a 125 x 6.6 x 5.2 meters box culvert, all in uplands. These structures are identified as H-H, G-G, and A-A respectively. Channel C-C would be filled and relocated by the installation of a 230 x 3.5 x 2 meters box culvert in uplands, identified as F-F. Channel D-D would be covered with concrete. A 210 meters long x 5 meters wide soil cement fringe would be built between boxculvert A-A and the property line.

The work described above is to be completed in accordance with the 10 pages of drawings affixed at the end of this permit instrument.

Project Location: The project is located at PR-2, Km. 179, intersection with PR-64, El Maní Sector, Sabanetas Ward, Mayagüez, Puerto Rico.

Latitude & Longitude: Latitude: 18°14'53"N
Longitude: 67°09'40"W

Permit Conditions:

General Conditions:

Permittee: Mr. Ovidio García-Amador, GIP Investments GP&SR, Inc., and Mr. Florencio Berríos, Berríos Realty, Inc.
Permit No: 199905598(IP-ML)
Page 2

1. The time limit for completing the work authorized ends on MAY 28 2008. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature and the mailing address of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

1. No work may commence until the Puerto Rico Planning Board issues an approved siting permit ("Consulta de Ubicación"). Copy of this approval must be provided to the Corps no later than 30 days from the date the Board issues the resolution. If the final project approved by the Board varies from the project description in page one of this permit, or conflict with any of the Special Conditions of this permit, you may not proceed with the project until you obtain a permit modification from the Corps.

Permittee: Mr. Ovidio García-Amador, GIP Investments GP&SR, Inc., and Mr. Florencio Berríos, Berríos Realty, Inc.

Permit No: 199905598(IP-ML)

Page 3

2. The permittee agrees to mitigate impacts to waters of the United States by the creation of 0.45 acre of riparian habitat and 0.8 acre of forested wetlands. A 370m long x 5m wide channel (channel I-I) shall be excavated in upland in the location shown in Drawing 9 enclosed. The wetland area will be excavated in uplands at the intersection of channel I-I and existing channel, as shown on the drawing. Native woody species would be planted along the created channel banks. *Pterocarpus officinalis* saplings would be planted in the 0.8-acre of wetlands to be created. The permittee shall submit a detailed mitigation plan according to the Regulatory Guidance Letter 01-01 within 90 days from the issuance of this permit. No work shall commence until the Corps approves this plan. The plan shall include a schedule of activities as detailed below:

a. Mitigation Construction: Construction of the mitigation site refers to the required site grading to establish necessary hydrology, and species planting activity. Mitigation construction shall commence concurrent with the authorized impacts. The permittee shall notify the Corps the date of mitigation construction commencement. The construction of the mitigation shall be completed within a year from its' commencement. Should the plantings not be progressing successfully the permittee is responsible for any replanting, etc. of the mitigation area. The construction phase of the mitigation would be finalized once the mitigation is stable, this is, when the root system is sufficiently developed to adapt to ambient soil moisture conditions. This determination should be made within a term no longer than 90 days from the finalization of the planting activity. The permittee shall notify the Corps the date of mitigation construction finalization.

b. Compensatory Mitigation Post Construction Assessment: The permittee shall submit a Compensatory Mitigation Post Construction Assessment within 90 days from the completion of the construction of each mitigation(s) site. The report shall be submitted to Antilles Regulatory Section, U.S. Army Corps of Engineers. A "third party" not involved with the construction of the wetland mitigation shall perform the Post-Construction Assessment for the mitigation site(s). The Corps will review the Compensatory Mitigation Post Construction Assessment to determine if the initial construction of the mitigation is adequate. The Corps may require corrective actions as deemed necessary. The post construction assessment shall include the information below:

1) Summary of the original mitigation goals and objectives, and a discussion the level of attainment of these goals at each mitigation site or type.

2) Summary of the results of a functions and values assessment of the mitigation site(s). Use the same methodology used to determine the functions and values of the impacted wetlands.

3) For wetlands: a delineation of the area of wetlands in each mitigation site using the 1987 Wetlands Delineation Manual (Technical Report Y-87-1). Supporting documents shall include: (1) data sheets for corresponding data points along each transect; and (2) a survey performed by a Professional Surveyor showing the wetland boundaries, elevations, features to provide hydrology, the representative transects and sampling plots. These transects must be the same that will be used in subsequent monitoring reports.

4) The size of the each mitigation area. A comparison of the area and extent of the constructed mitigation area with the area versus the extent of mitigation as indicated in the permit. This comparison shall be made on the as-built drawings. Also provide a drawing that shows the major vegetation community types. Identify any deviations from original plan.

5) Photos of each mitigation site: To ensure that photos can be used for comparison, photo location(s) should be selected, labeled and marked on appropriate drawings or sketches. Photos for the post construction assessment and subsequent monitoring reports must be taken from these location(s). Both aerial and ground photographs should be provided.

6) Establish sampling plot(s) within each mitigation site or wetland type. These plots must be used to prepare subsequent monitoring reports to report mitigation progress. Each plot must be labeled, marked on the ground, and identified on drawings and/or surveys.

c. Mitigation Monitoring: Once the Corps has accepted the initial construction of wetlands, the monitoring period will commence. You shall monitor the mitigation site on a quarterly basis during the first two years, and bi-annually thereafter, for 5 years. At the end of each monitoring year, the permittee shall submit to the Antilles Regulatory Section, U.S. Army Corps of Engineers a monitoring report. The first monitoring report will be due one year from the date the Corps agrees with the Compensatory Mitigation Post Construction Assessment. Contents of the monitoring report should be as follows:

1) Summarize the original mitigation goals and discuss the level of attainment of these goals at each mitigation site.

2) Summary of the results of a functions and values assessment of the mitigation site(s), using the same methodology used to determine the functions and values of the impacted wetlands.

3) Indicate if all slopes, soils, substrates, and constructed features within and adjacent to the mitigation site(s) are stabilized?

4) Report the status of all erosion control measures on the compensation site(s). Are they in place and functioning? If temporary measures are no longer needed, have they been removed?

5) Describe the monitoring inspections that occurred since the last report.

6) Soils data, commensurate with the requirements of the soils portion of the 1987 Delineation Manual data form, shall be collected and reported. Describe the hydrology of the mitigation.

7) If monitoring wells or gauges were installed as part of the project, this hydrology data should be submitted.

8) Concisely describe remedial actions performed during the monitoring year to meet the performance standards – actions such as removing debris, replanting, controlling invasive plant species (with biological, herbicidal, or mechanical methods), re-grading the site, applying additional topsoil or soil amendments, adjusting site hydrology, re-planting seedlings that were washed away by a storm, digging more channels to get water to remote parts of the site, etc. Also describe any other remedial actions done at each site.

9) Provide estimates of percent vegetative cover for each mitigation site or mitigation type, and percent cover of the invasive specie for each mitigation site or mitigation type.

10) What fish and wildlife use the site(s) and what do they use it for (nesting, feeding, shelter, etc.)?

11) By species planted, describe the general health and vigor of the surviving plants, the prognosis for their future survival and a diagnosis of the cause(s) of morbidity or mortality.

12) What remedial measures are recommended to achieve or maintain achievement of the performance standards and otherwise improve the extent to which the mitigation site(s) replace the functions and values lost because of project impacts?

13) Provide representative photos of each mitigation site and/or mitigation type taken from the same locations for each monitoring event. (See Post Construction Assessment requirements)

Permittee: Mr. Ovidio García-Amador, GIP Investments GP&SR, Inc., and Mr. Florencio Berríos, Berríos Realty, Inc.
Permit No: 199905598(IP-ML)
Page 6

3. The permittee shall provide adequate maintenance to the box culvert underneath PR-64, such to keep the culvert free of contaminants and sediments that may reach the Boquilla Creek estuary.

4. The permittee shall provide adequate maintenance to the installed box culverts and constructed open channel within the project site, to avoid turbid discharges to channel D-D that may reach the Boquilla Creek estuary.

5. The permittee shall install grease and trash collection devices in the stormwater retention pond, such to prevent contaminants from being discharged to channel D-D and reach the Boquilla Creek estuary. These devices shall be installed immediately after construction of the pond. The Corps shall be notified when the pond construction is completed and the devices installed, to perform an inspection.

6. Best management practices for erosion control shall be implemented and maintained at all times during the discharge and excavation activities. The measures shall prevent siltation and turbid discharges out of the project site, toward wetlands downstream the project site at the Boquilla Creek. All control devices shall be left and maintained in place until all discharge / excavation work is completed.

7. All material excavated as result of the project and mitigation construction shall be deposited in uplands. It is not authorized to either temporarily or permanently discharge the removed material in waters of the U.S. or wetlands other than the authorized in the project description.

8. The permittee shall provide as-built drawings of the authorized work, and a completed As-Built Certification Form herewith provided. The drawings are to be submitted within 60 days after completion of the authorized work, including mitigation, or at the expiration of the construction window of the permit, whichever comes first. The drawings and Certification Form must be signed and sealed by a Professional Engineer in Puerto Rico. In the event that the completed work deviates from the approve permit drawings and special conditions, the permittee shall describe, on the Certification Form, the deviations between the authorized by the permit and the work as constructed. A blank form is provided in attachment 4(a). Please note that the depiction and description of the deviations on the drawings and Certification Form does not necessarily mean the Corps of Engineers will approve them.

a. The As-Built drawings shall include the following:

1) Plan view and cross-sections of the project as built.

Permittee: Mr. Ovidio García-Amador, GIP Investments GP&SR, Inc., and Mr. Florencio Berríos, Berríos Realty, Inc.
Permit No: 199905598(IP-ML)
Page 7

2) Location of the authorized work footprint (as shown on the permit drawings) with an overlay of the work as constructed.

3) List any deviations between the work authorized by the permit and the work as constructed. Clearly indicate on the as-built drawings any deviations that have been listed.

4) The Department of the Army Permit number.

5) Include pre- and post-construction aerial photographs of the project site, if available.

b. As-built drawings shall be submitted to:

Chief, Antilles Regulatory Section
U.S. Army Corps of Engineers
400 Fernández Juncos Avenue
San Juan, PR 00901-3299

9. Within 60 days of completion of the work authorized and mitigation required, the attached "Self-Certification Statement of Compliance" must be completed and submitted to the U.S. Army Corps of Engineers. Mail the completed form to the Chief, Antilles Regulatory Section U.S. Army Corps of Engineers, 400 Fernandez Juncos Avenue, San Juan, Puerto Rico 00901.

Further Information:

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

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

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

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

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.

Permittee: Mr. Ovidio García-Amador, GIP Investments GP&SR, Inc., and Mr. Florencio Berríos, Berríos Realty, Inc.
Permit No: 199905598(IP-ML)
Page 8

- 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 projects.

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

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

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

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

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



Permittee: Mr. Ovidio García-Amador, GIP Investments GP&SR, Inc., and Mr. Florencio Berríos, Berríos Realty, Inc.
Permit No: 199905598(IP-ML)
Page 9

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

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

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

OVIDIO GARCIA-AMADOR
GIP Investments GP&SR, Inc.

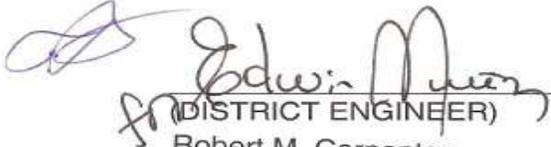
7/31/03
(DATE)

FLORENCIO BERRÍOS,
Berríos Realty, Inc.

7/31/03
(DATE)

Permittee: Mr. Ovidio García-Amador, GIP Investments GP&SR, Inc., and Mr. Florencio Berríos, Berríos Realty, Inc.
Permit No: 199905598(IP-ML)
Page 10

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



for
Robert M. Carpenter
Colonel, U.S. Army
District Engineer

13 Aug 03

(DATE)

Permittee: Mr. Ovidio García-Amador, GIP Investments GP&SR, Inc., and Mr. Florencio Berríos, Berríos Realty, Inc.
Permit No: 199905598(IP-ML)
Page 11

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



(TRANSFEREE-SIGNATURE)

(DATE)

(NAME-PRINTED)

(ADDRESS)

(CITY, STATE, AND ZIP CODE)

DEPARTMENT OF THE ARMY PERMIT

Attachments to Department of the Army Permit Number 199905598(IP-ML)

1. PERMIT DRAWINGS: 10 pages, dated 28 May 2003
2. As-built certificate
3. Self Certification Statement of Compliance

A handwritten signature in blue ink, consisting of a large, stylized initial 'A' followed by a horizontal line extending to the right, and the letters 'asa' written below it.

AS-BUILT CERTIFICATION BY PROFESSIONAL ENGINEER

Submit this form and one set of as-built engineered drawings to the Chief, Antilles Regulatory Section, U.S. Army Corps of Engineers, 400 Fernandez Juncos Avenue, San Juan, Puerto Rico 00901-3299. If you have questions regarding this requirement, please contact the Antilles Regulatory Section at (787) 729-6905/6944.

1. Department of the Army Permit Number: _____

2. Permittee Information: _____

Name _____

Address _____

3. Project Site Identification: _____

Physical location/address _____

4. As-Built Certification:

I hereby certify that the authorized work, including any mitigation required by Special Conditions to the permit, has been accomplished in accordance with the Department of the Army permit with any deviations noted below. This determination is based upon on-site observation, scheduled and conducted by me or by a project representative under my direct supervision. I have enclosed one set of as-built engineering drawings.

Signature of Engineer

Name (Please type)

(FL, PR or VI) Reg. Number

Company Name

Address

(Affix Seal)

City State ZIP

Date

Telephone Number

Deviations from the approved permit drawings and special conditions:
(attach additional pages if necessary)

SELF-CERTIFICATION STATEMENT OF COMPLIANCE

Permit Number: _____

Permittee's Name & Address (please print or type): _____

Telephone Number: _____

Location of the Work: _____

Date Work Started: _____ Date Work Completed: _____

Description of the Work (e.g. bank stabilization, residential or commercial filling, docks, dredging, etc.): _____

Acreage or Square Feet of Impacts to Waters of the United States: _____

Describe Mitigation completed (if applicable): _____

Describe any Deviations from Permit (attach drawing(s) depicting the deviations): _____

I certify that all work, and mitigation (if applicable) was done in accordance with the limitations and conditions as described in the permit. Any deviations as described above are depicted on the attached drawing(s).

Signature of Permittee

Date



Handwritten signature in purple ink.



Location Map

ELITE VALLEY TOWN CENTER

BO. SABANETAS, MAYAGUEZ, P.R.

PERMIT NO. 199905593(IP-ML)
 DRAWING 1 of 10
 DATE: May 28, 2003

Lambert Coordinates: X 75,443
 Y 46,126
 Latitude: 18° 15 min North
 Longitude: 67° 09 min West

DRAWING SHOWING THE SITE EXISTING CONDITIONS

- AGENDA: B-B- Existing Channel to be Filled**
- C-C- Existing Channel to be Filled**
- D-D- Existing Channel to be Improved**

ORLANDO GONZALEZ PROPERTY

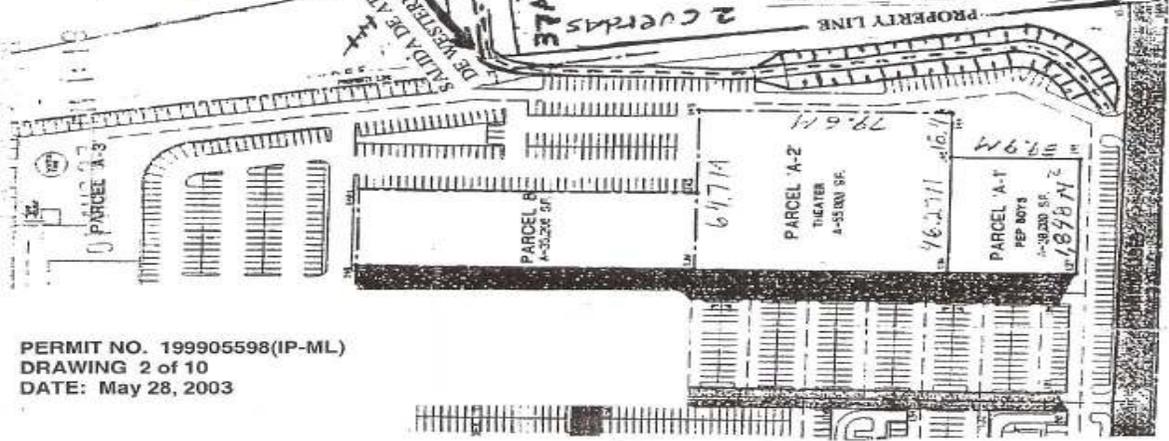
366 METROS

Existing Channel to be Improved

PARCELA "A" D
 Area 21.4 cuerdas

INVEST. GP & SR
 TOMO - 1098
 FOLIO - 201
 FINCA - 33,493

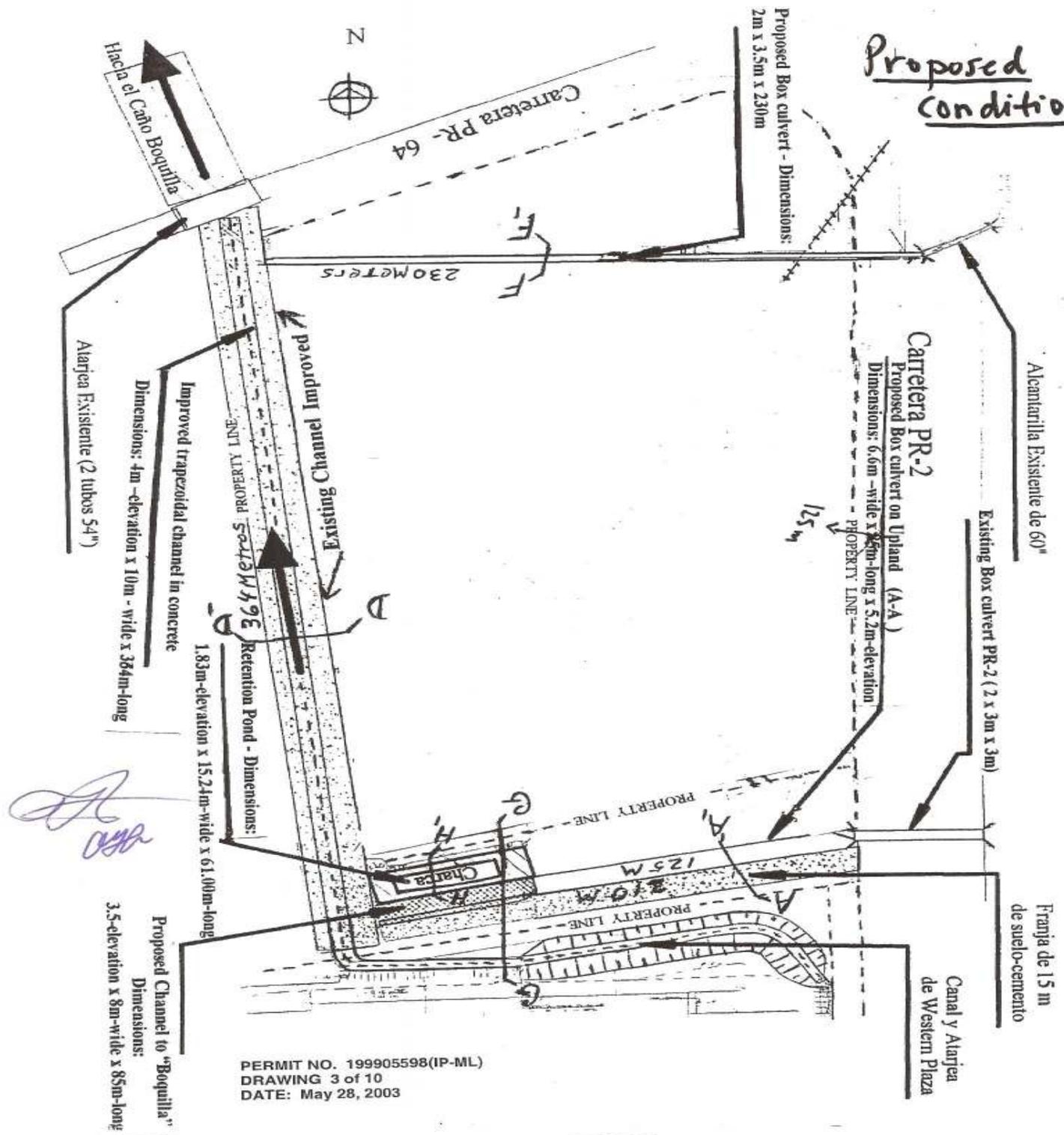
INVEST. GP & SR
 TOMO - 518
 FOLIO - 117
 FINCA - 14,574



PERMIT NO. 199905598(IP-ML)
 DRAWING 2 of 10
 DATE: May 28, 2003



Proposed Conditions



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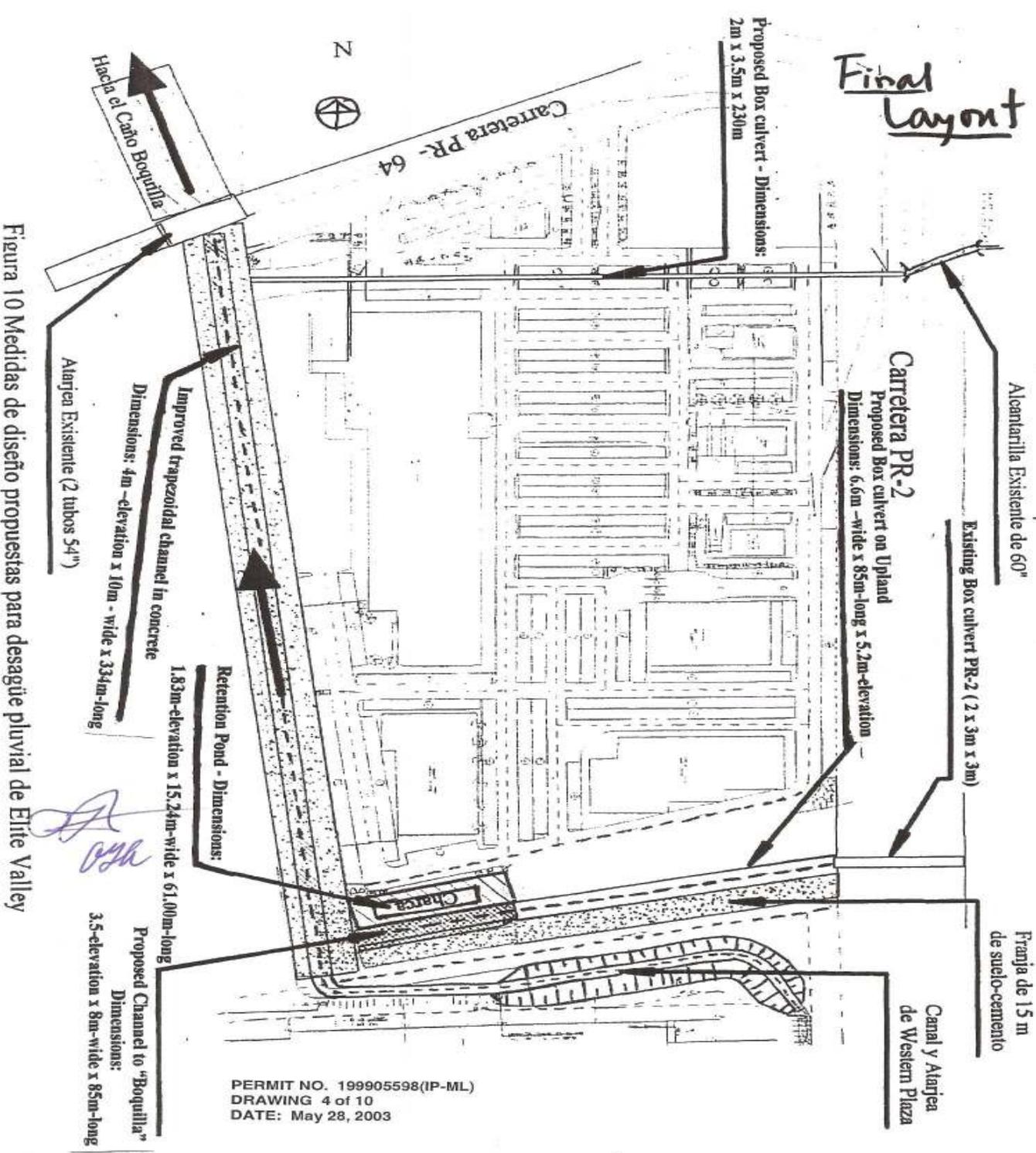


FIGURE 2

Figura 10 Medidas de diseño propuestas para desagüe pluvial de Elite Valley

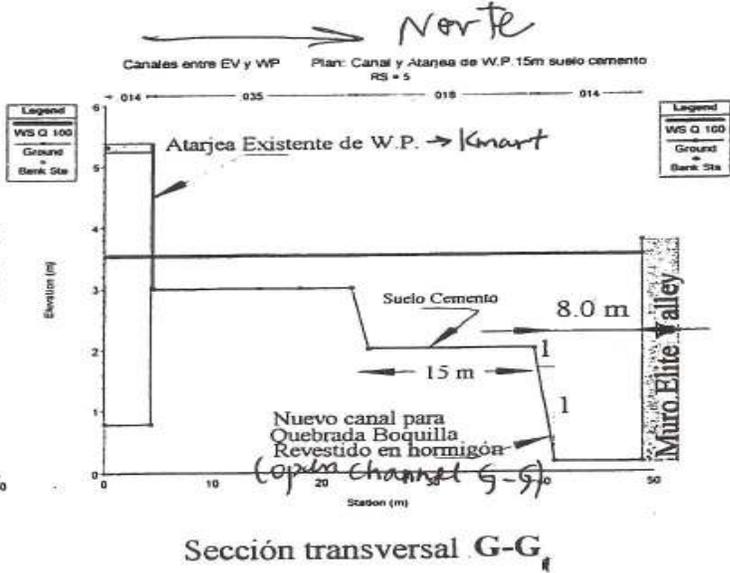
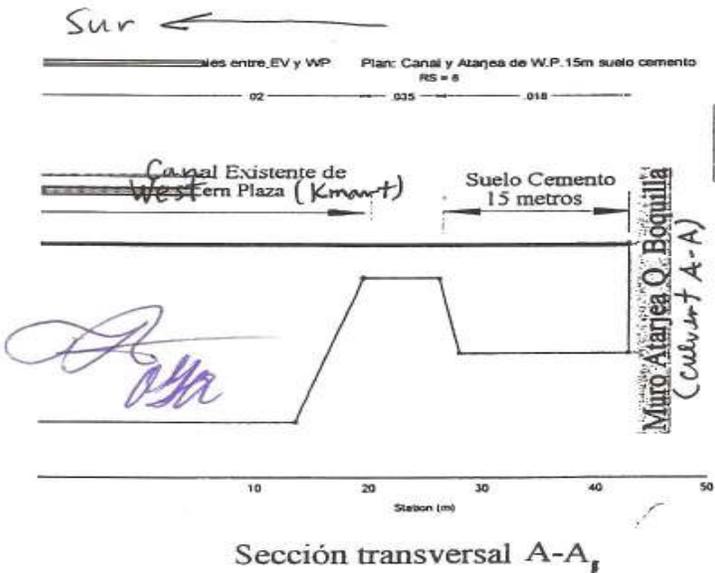
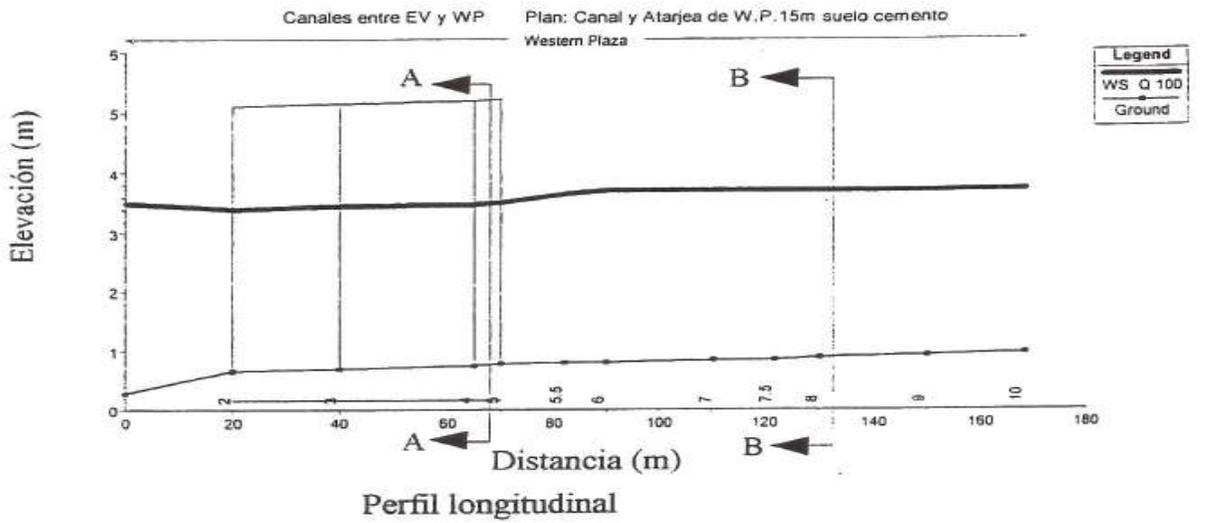


Figura 19. Esquemático de canales y atarjeas hacia el oeste

PERMIT NO. 199905598(IP-ML)
DRAWING 5 of 10
DATE: May 28, 2003

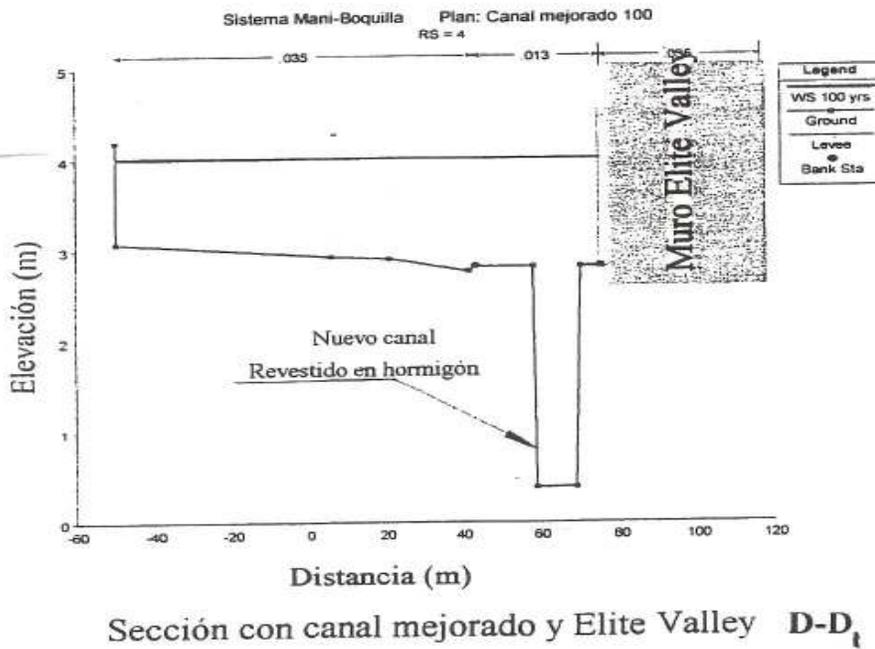
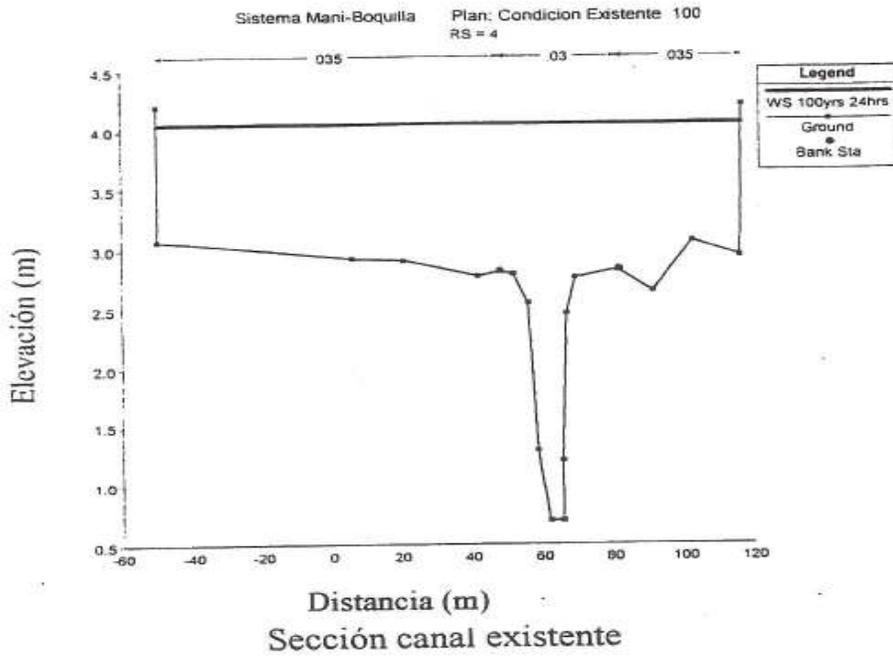
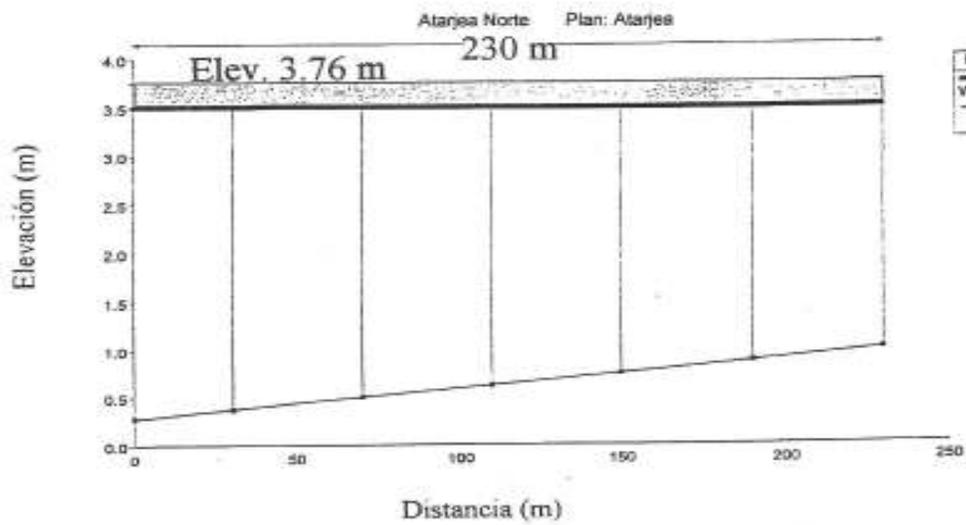


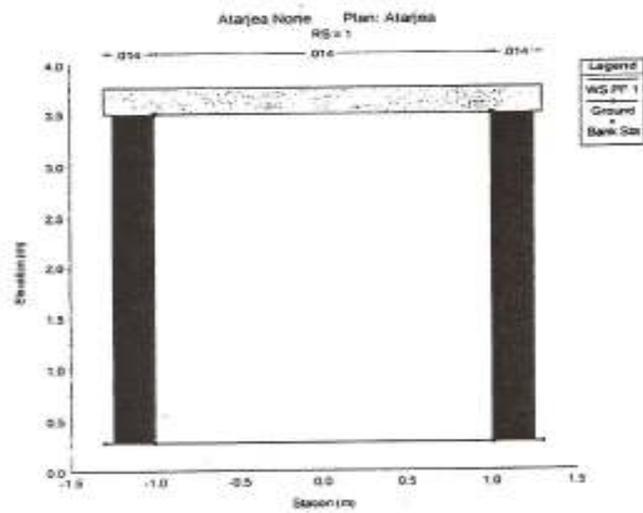
Figura 21. Secciones transversales con y sin mejoras para canal hacia el norte

PERMIT NO. 199905598(IP-ML)
DRAWING 6 of 10
DATE: May 28, 2003



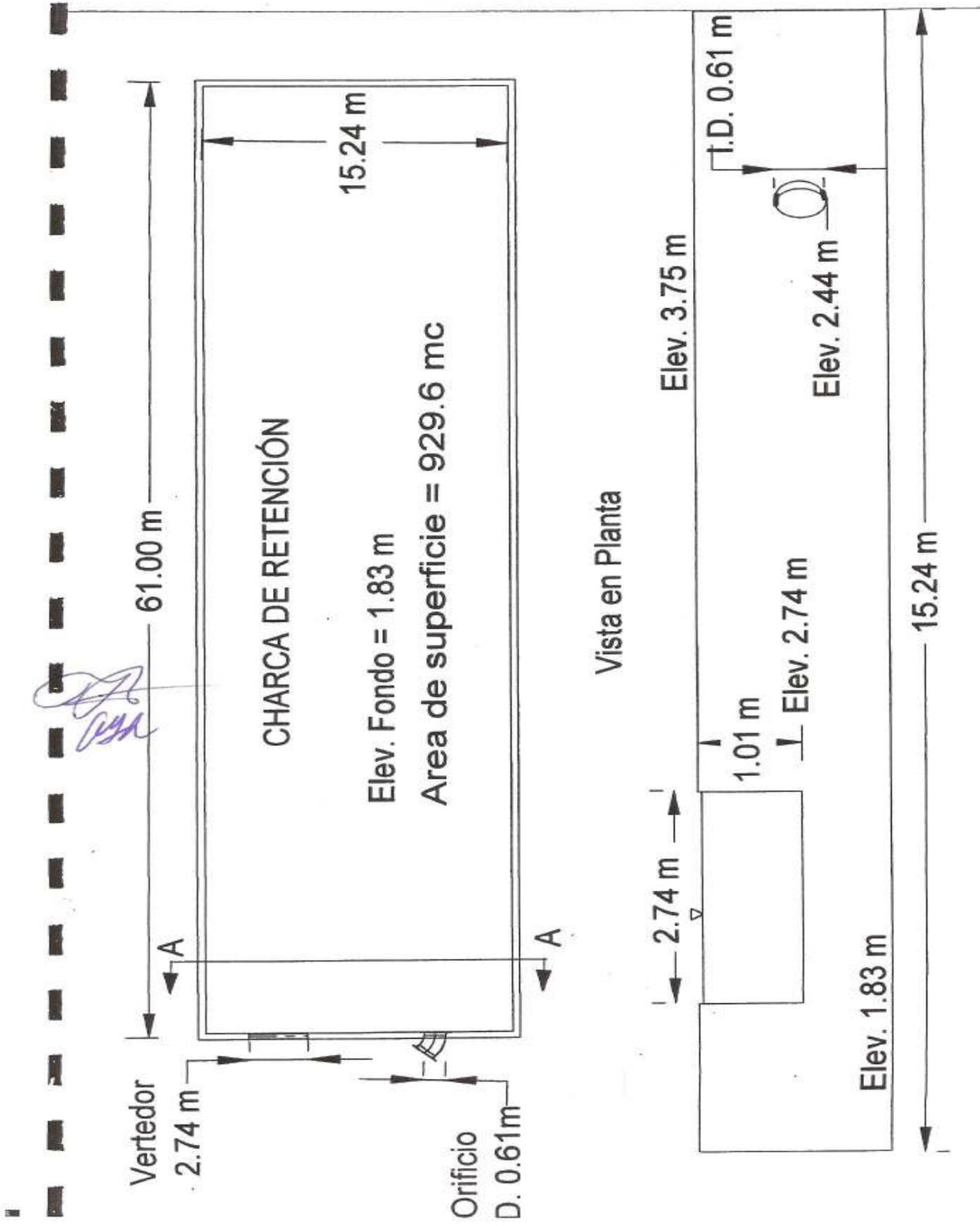
Perfil longitudinal

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Sección Transversal Típica F-F₁

PERMIT NO. 199905598(IP-ML)
 DRAWING 7 of 10
 DATE: May 28, 2003



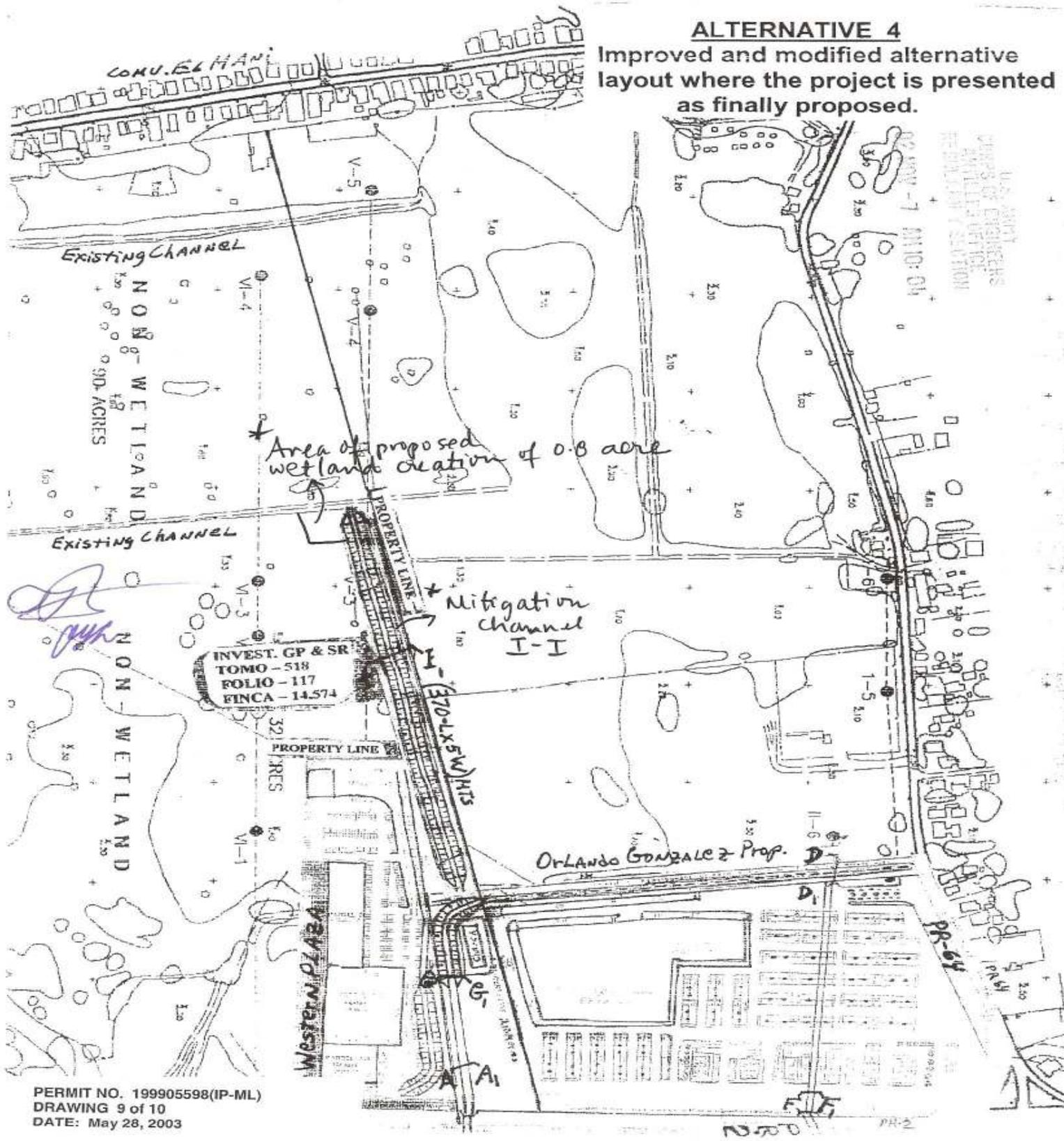
PERMIT NO. 199905598(IP-ML)
 DRAWING 8 of 10
 DATE: May 28, 2003

Figura 15. Esquemático de Charca de Detención

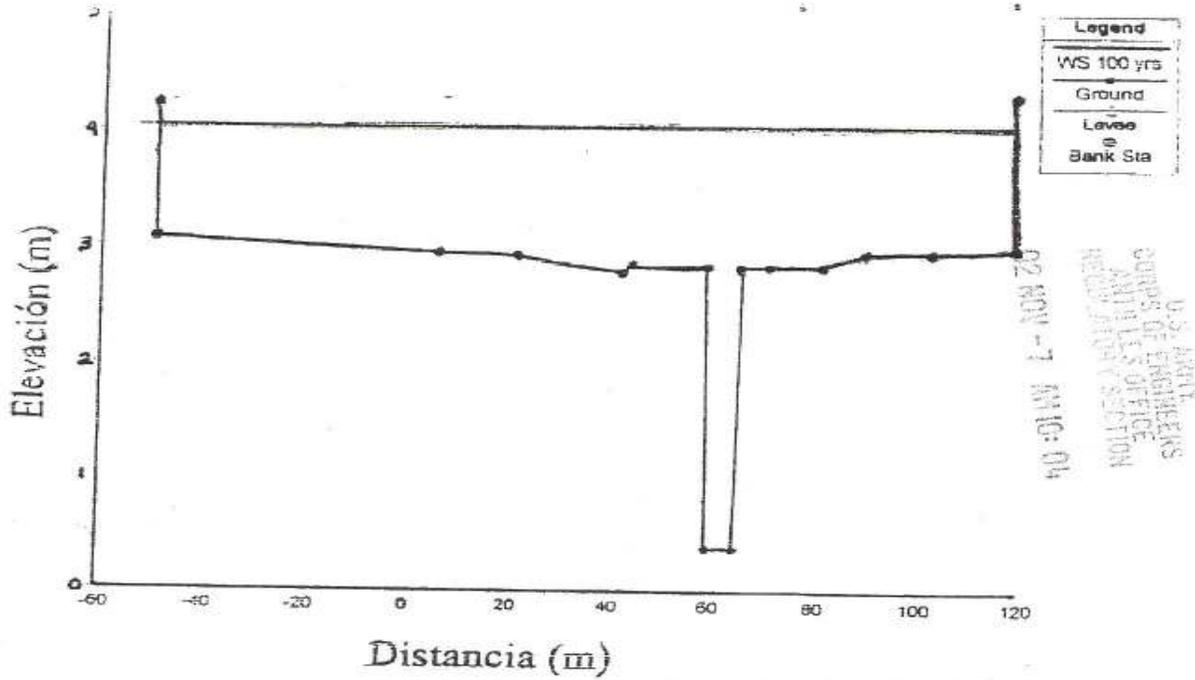
ALTERNATIVE 4

Improved and modified alternative layout where the project is presented as finally proposed.

U.S. ARMY
CORPS OF ENGINEERS
WATERWAYS DIVISION
REGIONAL OFFICE
MEMPHIS, TENNESSEE



PERMIT NO. 199905598(IP-ML)
DRAWING 9 of 10
DATE: May 28, 2003



PERMIT NO. 199905598(IP-ML)
DRAWING 10 of 10
DATE: May 28, 2003