



# Public Notice

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U.S. Army Corps  
of Engineers  
Tulsa District

Reply To:  
U.S. Army Corps of Engineers  
ATTN: Regulatory Office  
1645 South 101st East Avenue  
Tulsa, OK 74128-4609

SWT-2010-583  
Public Notice No.

June 25, 2018  
Public Notice Date

July 25, 2018  
Expiration Date

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## **PURPOSE**

The purpose of this public notice is to inform you of a proposal for work in which you might be interested and to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest.

## **SECTION 10**

The U.S. Army Corps of Engineers is directed by Congress through Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate all work or structures in or affecting the course, condition, or capacity of navigable waters of the United States. The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

## **SECTION 404**

The U.S. Army Corps of Engineers is directed by Congress through Section 404 of the Clean Water Act (33 USC 1344) to regulate the discharges of dredged and fill material into all waters of the United States. These waters include lakes, rivers, streams, mudflats, sandflats, sloughs, wet meadows, natural ponds, and wetlands adjacent to other waters. The intent of the law is to protect these waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical, and biological integrity.

## **NOTICE TO PUBLISHERS**

This public notice has been provided as a public service and may be reprinted at your discretion. However, any cost incurred as a result of reprinting or further distribution shall not be a basis for claim against the Government.



**DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, TULSA DISTRICT  
2488 EAST 81<sup>ST</sup> STREET  
TULSA, OKLAHOMA 74137-4290**

Application No. SWT-2010-583

**JOINT PUBLIC NOTICE  
U.S. ARMY CORPS OF ENGINEERS  
AND  
OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY (ODEQ)  
(30-DAY COMMENT PERIOD)**

Interested parties are hereby notified that the District Engineer (DE) has received an application for a Department of the Army permit and water quality certification pursuant to Sections 404 and 401 of the Clean Water Act. The ODEQ hereby incorporates this public notice and procedure as its own public notice and procedure by reference thereto.

Applicant: Mr. Tim Halter  
TPH Capital, L.L.C.  
780 Wagoner Way  
Lantana, TX 76226

Location: The proposed project is in Section 34, Township 3 North, Range 4 East, near Mannsville, Johnston, Oklahoma. The project site can be found on the Ravia and Troy, Oklahoma 7.5 Minute USGS Quadrangle map at North Latitude 34.247049 and West Longitude -96.866460.

Project Description: The application is for an After-the-Fact Permit for the unauthorized discharge of fill material into Sycamore Creek to facilitate the construction of a dam, including a principle and emergency spillway, resulting in the creation of Halter Lake.

Purpose: The basic purpose of this work is to construct a dam. The project is not a water dependent activity. The overall purpose of this work is to create a lake for personal use.

Table of Impacts:

Original Proposal					
Number or Location	Impact Activity	Type of Water	Type of Fill Material	Qty of Material cys below OHWM	Footprint (ac and/or lf)
Dam	Discharge of dredge or fill material	Stream	Native earthen material	2,300 cys	380 lf
Lake	Inundation	Stream	Water	N/A	4,600 lf

cubic yards (cys), ordinary high water mark (OHWM), acre (ac), linear feet (lf)

Description of Work: The applicant's proposal is to leave the previously unauthorized earthen dam in place. The proposal includes the placement of approximately 2,300 cys of earthen fill material into Sycamore Creek and will result in the permanent inundation of approximately 4,600 linear feet of Sycamore Creek. The applicant used native earthen material and conventional earthwork methods and equipment to complete the construction.

Avoidance and Minimization Information: The applicant provided the following statement with regard to how avoidance and minimization of impacts to aquatic resources was incorporated into the project plan:

The lake construction resulted in the  
"...preserving over 6,000 linear feet of the creek bed, which was undisturbed, but flooded  
Created an additional 10-12,000 feet of new shoreline  
Created excellent fish habitat  
Used select existing timber in lake basin and rearranged it to create the best fish habitat possible  
Studied the different elevations to enhance them for fish habitat  
Purchased permanent fish attractors/habitat  
Left some standing timber to create "snags" for birds  
Created an island as a safe zone for nesting migratory waterfowl  
Flattened some of the shallow areas to initiate aquatic vegetation growth as a nursery for newly hatched fish as well as a safe food source for migrating birds during spring and fall."

Mitigation: No mitigation was proposed by the applicant.

This mitigation plan is the applicant's proposal. The Corps has made no determination at this time with regard to the adequacy of the proposed mitigation relative to the federal mitigation rules and guidance, including Tulsa District's Mitigation and Monitoring Guidelines. The Corps is accepting comments on the need for and nature of the proposed mitigation in addition to comments on the applicant's primary proposal. The Corps bears the final decision on the need for and extent of mitigation required if the project proposed herein is authorized.

Project Setting: This project is located within the Arbuckle Uplift. The Arbuckle Uplift is characterized by tall grass prairie and oak savanna, with a mosaic of limestone, granite, dolomite, sandstone, and shale. Most streams have a spring influence, with cool clear water, which supports fish fauna distinct from neighboring regions.

Existing Condition: The proposed project site is comprised of undeveloped, rural land. Additionally, the proposed project is located within an area of undeveloped rural land a few agricultural areas, based on 2018 aerial imagery.

Cultural Resources: The DE is responsible to ensure compliance with the National Historic Preservation Act of 1966 (NHPA) (Public Law 89-665), as amended and other cultural resources laws and Executive Orders. A preliminary review of the state's records has been completed for the presence of sites included in, or eligible for inclusion in the National Register of Historic Places, as well as the Oklahoma Landmark Inventory Database. There are no known historic properties, as defined by the NHPA, in or within the vicinity of the proposed permit area.

This notice has been provided to the Oklahoma State Historic Preservation Office, Oklahoma Archaeological Survey, Native American Tribal governments, and other interested parties. If you have information pertaining to cultural resources within the permit area, please notify the Corps project manager identified within this notice to assist in a complete evaluation of potential effects. The DE will evaluate any input received and may require further investigations within the permit area, if warranted.

Threatened and Endangered Species: The following federally listed species are known to occur in the vicinity or are listed for the county in which the proposed action is located: least tern (*Sterna antillarum*), piping plover (*Charadrius melodus*), red knot (*Calidris canutus rufa*), whooping crane (*Grus Americana*), American burying beetle (*Nicrophorus americanus*). A copy of this notice is being furnished to the U.S. Fish and Wildlife Service and appropriate state agencies. This notice constitutes a request to those agencies for information on whether any other listed or proposed-to-be-listed endangered or threatened species may be present in the area which would be affected by the proposed activity.

We are currently assessing the potential effects of the proposed action on these species and will comply with the Endangered Species Act with regard to any effect of our decision on this permit application.

Environmental Considerations: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts of the proposed activity and its intended use on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof: conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownerships, and, in general, the needs and welfare of the people. A permit will be denied if the discharge does not comply with the Environmental Protection Agency's 404(b)(1) Guidelines. Subject to the 404(b)(1) Guidelines and any other applicable guidelines or criteria, a permit will be granted unless the DE determines that it would be contrary to the public interest.

Plans and Data: Plans showing the location of the proposed activity and other data are enclosed with this notice. If additional information is desired, it may be obtained from PM name, Tulsa District Corps of Engineers, ATTN: Regulatory Office, 2488 East 81<sup>st</sup> Street, Tulsa, OK 74137-9998; or telephone 918-669-7400.

Comments: In order to consider and evaluate the impacts of this proposed activity the Corps is soliciting comments from the public, federal, state, and local agencies and officials, Indian tribes, and other interested parties. Comments concerning the issuance of this permit should be received by the DE no later than the expiration date of this public notice. You may submit comments to mailing address Tulsa District Corps of Engineers, ATTN: Regulatory Office, 2488 East 81<sup>st</sup> Street, Tulsa, OK 74137-9998; or email CESWT-RO@usace.army.mil, please include the public notice number SWT-2010-583 in the subject line of the message.

Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity. Any person may request in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

At the request of the Oklahoma Water Resources Board's National Flood Insurance Program State Coordinator, we are sending a copy of this notice to the local floodplain administrator to apprise the administrator of proposed development within their jurisdiction. In accordance with 44 CFR Part 60 (Criteria for Land Management and Use), participating communities are required to review all proposed development to determine if a floodplain development permit is required. The local floodplain administrator is required to perform this review for all proposed development and maintain records of such review.

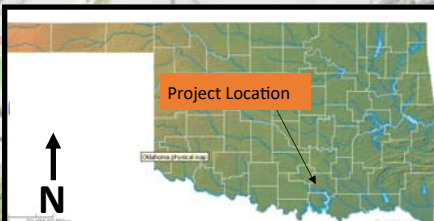
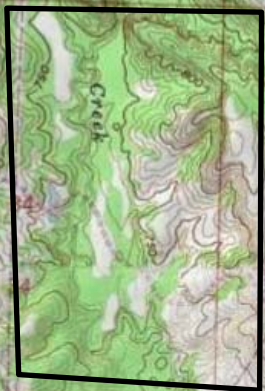
Comments concerning water quality impacts will be forwarded to ODEQ for consideration in issuing a Section 401 Water Quality Certification for the proposed project. Work may **not** commence until decisions have been made on both Sections 401 and 404.

Andrew R. Commer  
Chief, Regulatory Office

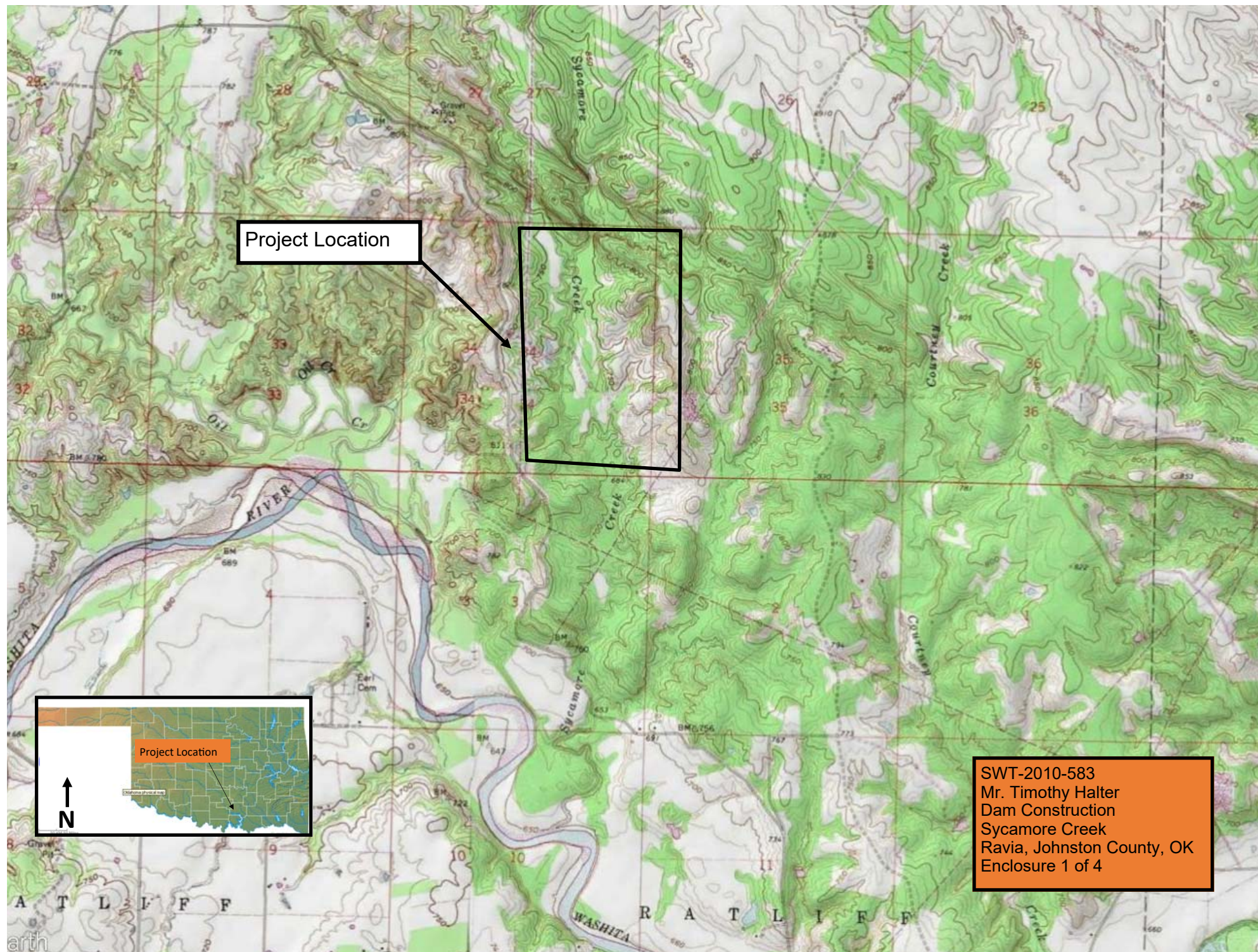
Enclosures



Project Location



SWT-2010-583  
Mr. Timothy Halter  
Dam Construction  
Sycamore Creek  
Ravia, Johnston County, OK  
Enclosure 1 of 4







Project Location

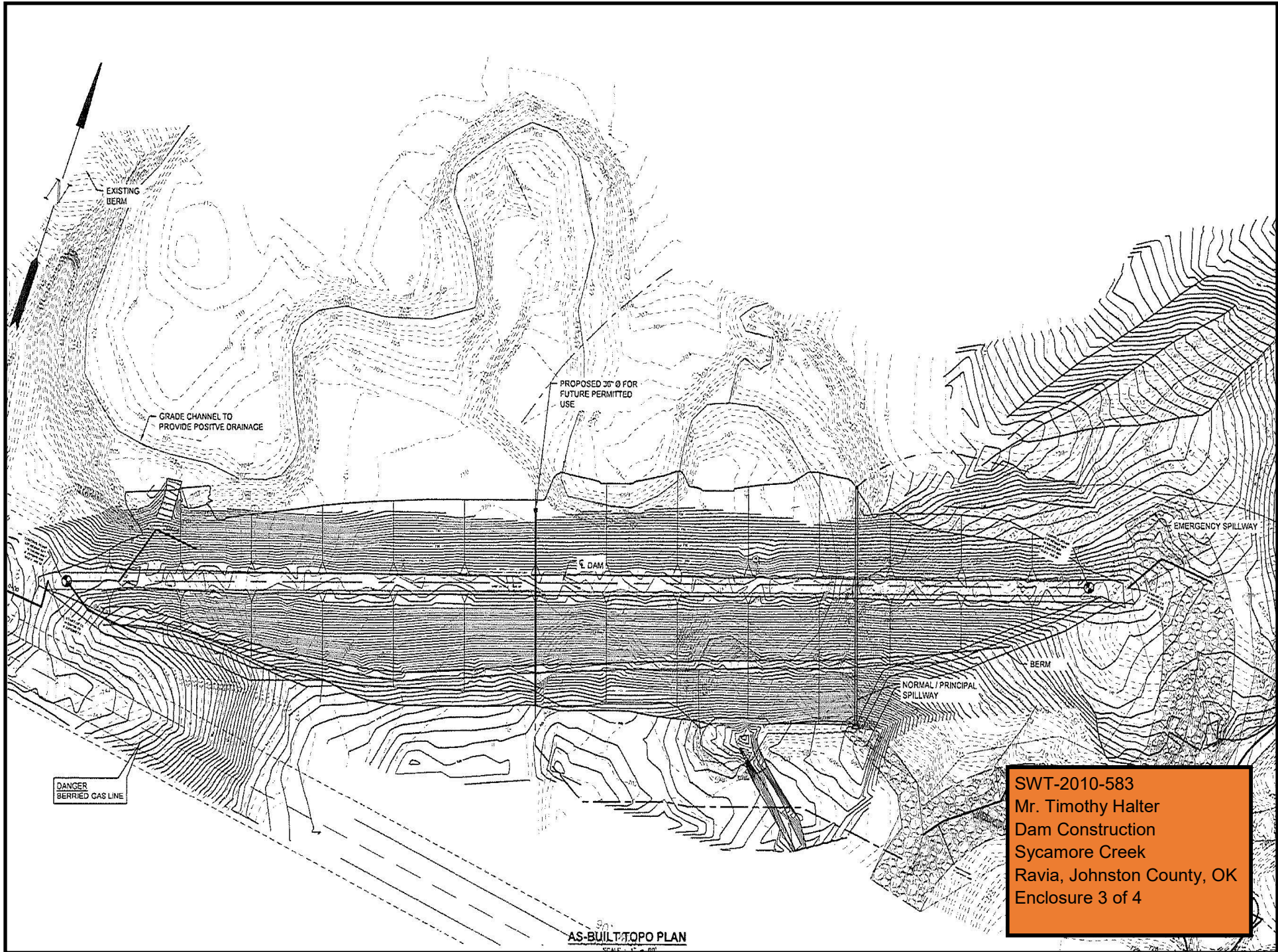
Location of the Lake

Location of the Dam

SWT-2010-583  
Mr. Timothy Halter  
Dam Construction  
Sycamore Creek  
Ravia, Johnston County, OK  
Enclosure 2 of 4

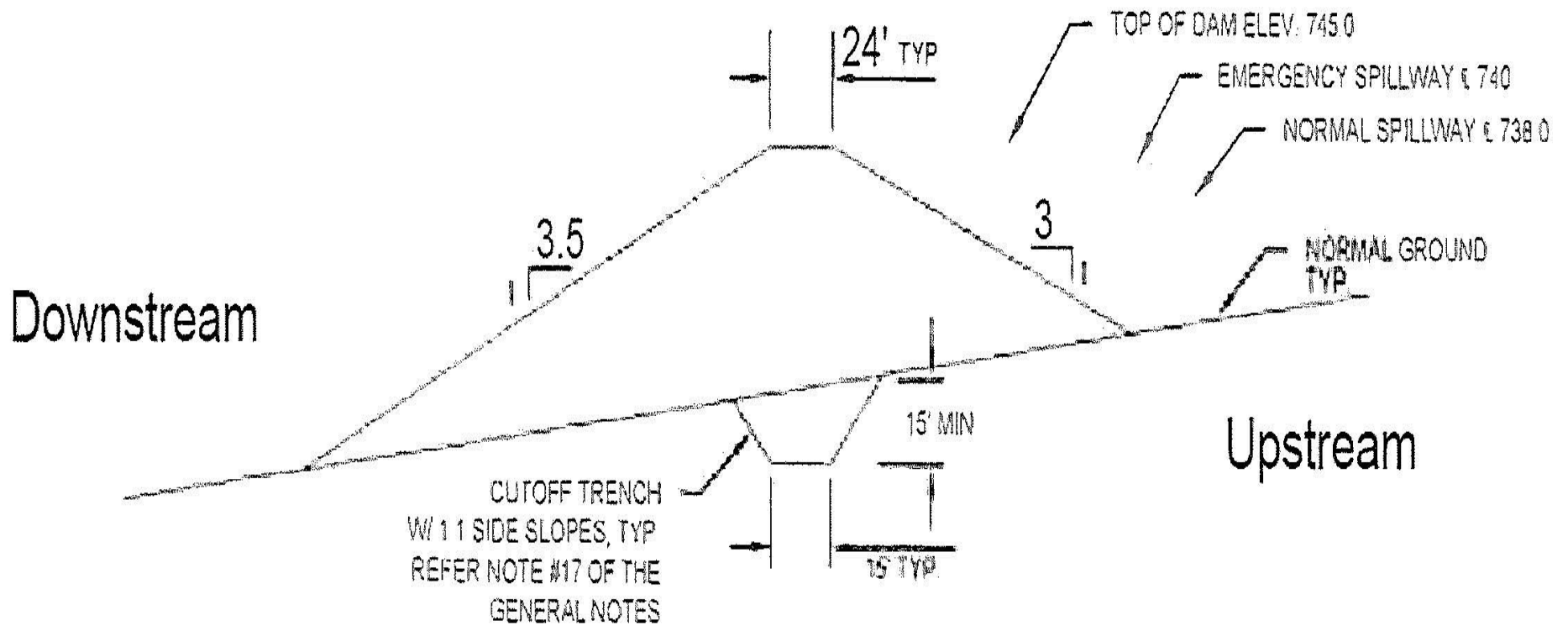






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Enclosure 3 of 4





## Typical X-Section

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 Dam Construction  
 Sycamore Creek  
 Ravia, Johnston County, OK  
 Enclosure 4 of 4