



Public Notice

U.S. Army Corps
of Engineers
Tulsa District

Reply To:

U.S. Army Corps of Engineers
ATTN: Regulatory Office
2488 East 81st Street
Tulsa, Oklahoma 74137-4290

SWT-2014-608
Public Notice No.

July 20, 2018
Public Notice Date

August 19, 2018
Expiration Date

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 U.S.C. 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 U.S.C. 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

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

Application No. SWT-2014-00608

**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 (DA) permit and water quality certification pursuant to Sections 404 and 401 of the Clean Water Act (CWA). The ODEQ hereby incorporates this public notice and procedure as its own public notice and procedure by reference thereto.

Applicant: Mr. David Elliott
6621 Talmadge Lane
Dallas, TX 75230

Agent: Mr. Brandon Wall
Wall Engineering, LLC
PO Box 1457
Durant, OK 74702

Location: The proposed project is located in Sections 1, 2, 11, and 12, Township 1 South, Range 14 East, and Section 6, Township 1 South, Range 15 East, in Atoka County, Oklahoma. The proposed impoundment can be found on the Lane NE, Oklahoma 7.5 Minute USGS Quadrangle map at North 34.489466 Latitude and West 95.788764 Longitude.

Project Description: The application is to construct a 259-acre lake. The construction would consist of an earthen dam embankment within Tenmile Creek to facilitate livestock watering and irrigation of crops. The construction of farm/stock ponds are generally exempt from regulation under Section 404(f)(1), but due to the size of the proposed project, an application for a DA permit has been submitted.

Purpose: The overall purpose of this work is to develop a reliable supply of water of at least 48 million gallons, including under drought conditions within the South Valley X Ranch. The project is not a water dependent activity.

Summary Table of Impacts:

Original Proposal					
Location	Impact Activity	Type of Water	Type of Fill Material	Qty of Material cubic yards (cys) below OHWM	Footprint [linear feet (lf) and/or acres (ac)]
Tenmile Creek	Earthen Dam	Intermittent Stream	Earthen Fill Material	4,238 cys	1,379 lf and/or 2.07 ac
Tenmile Creek	Impoundment	Intermittent Stream	Conversion to open water	N/A	6,741 lf and/or 8.18 ac
Unnamed tributary of Tenmile Creek	Impoundment	Intermittent Stream	Conversion to open water	N/A	5,699 lf and/or 4.91 ac
Unnamed tributary of Tenmile Creek	Impoundment	Intermittent Stream	Conversion to open water	N/A	3,969 lf and/or 2.05 ac
Total:				4,238 cys	17,788 lf and/or 17.21 ac

Description of Work: The applicant proposes to place 4,238 cys of earthen fill material within 1,379 lf of Tenmile Creek to construct an earthen dam embankment, creating a 259-acre lake/impoundment. The lake would also impact 6,741 lf of Tenmile Creek and, 5,699 lf and 3,969 lf of unnamed tributaries of Tenmile Creek, by converting the stream channels to open water. Construction of the lake would also include an outlet structure and an earthen emergency spillway.

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 dam and corresponding inundated area were located during the design phase in an area containing no wetlands as an impact avoidance measure. In terms of impacted streambed, the site was selected that is closest to the area to be irrigated so that the total dam height required for irrigation is minimized thereby minimizing the impacted upstream stream bed. Other sites evaluated contained 5,500+ additional feet of impacted area for fulfillment of the project goals. With the minimization efforts, the final amount of impacted streambed was 17,788 linear feet of intermittent bed (17.21 acres.)

Mitigation: Furthermore, the applicant proposes the following as compensatory mitigation for the unavoidable impacts to aquatic resources expected from the proposed project:

The proposed mitigation for the impacted streambed will consist of a conservation easement on 12,500 lf/ 18.77 acres of Tenmile Creek and 10,250 lf/ 9.25 acres of unnamed tributary. The easement would preserve the streambed and would restrict activities of impact such as silviculture and habitat disturbance. The streambed is of similar type and quality as what is being impacted.

In order to avoid downstream impact during lake construction and filling, a minimum low flow will be maintained in Tenmile Creek.

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. Compensatory Mitigation for unavoidable impacts may be required to ensure that this activity requiring a Section 404 permit, if issued complies with the Section 404 (b)(1) Guidelines. The Corps bears the final decision on the need for and extent of mitigation required if the project proposed herein is authorized.

Government Comments and/or Authorizations obtained or received: The State of Oklahoma, Department of Agriculture, Food, and Forestry, Forestry Services, cited the proposed project would be a valuable firefighting resource in southeast Oklahoma.

Project Setting: The proposed project site is located approximately 6.5 miles southwest of Daisy, Oklahoma, in rural northeastern Atoka County. The proposed project site is within the Ouachita Mountains Ecoregion and is bordered on all sides by rural, undeveloped, Oak-Southern Pine forest. The elevation of the proposed project area ranges between 919 to 1050 feet above Mean Sea Level.

Existing Condition: Some activities associated with the spillway construction and vegetation clearing in the uplands have been under construction previously. No work has taken place in the last two years.

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.

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*), red-cockaded woodpecker (*Picoides borealis*), whooping crane (*Grus americanus*), American burying beetle (*Nicrophorus americanus*), Ouachita rock pocketbook (*Arkansia wheeleri*), scaleshell mussel (*Leptodea leptodon*), winged mapleleaf (*Quadrula fragosa*), indiana bat (*Myotis sodalists*), northern long-eared bat (*Myotis septentrionalis*). There were no critical habitats identified at the proposed project location. A copy of this notice is being furnished to

the U.S. Fish and Wildlife Service and appropriate state agencies. The IPAC consultation number is 02EKOK00-2018-SLI-2098.

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.

Evaluation Factors: 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.

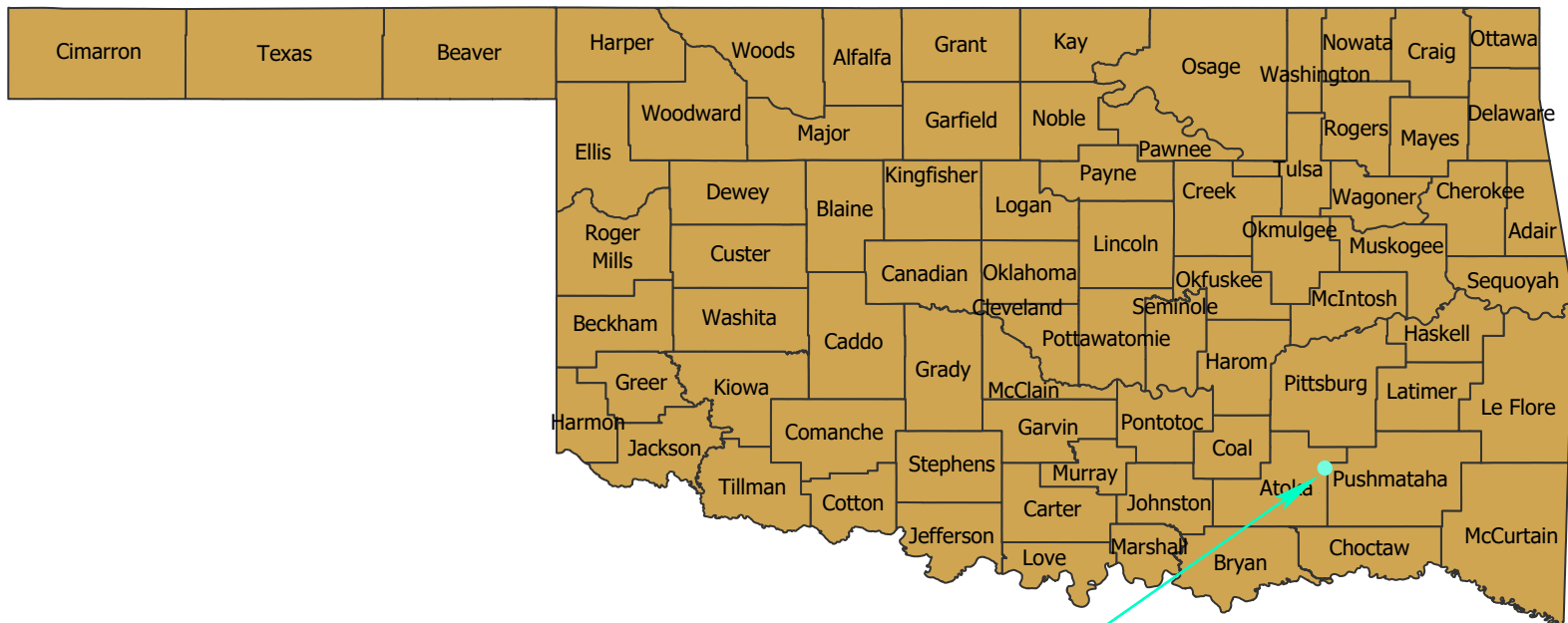
Plans and Data: Plans showing the location of the proposed activity and other data are enclosed with this notice. If additional information is desired, it may be obtained from Mr. Rob Hoffmann, Tulsa District Corps of Engineers, ATTN: Regulatory Office, 2488 East 81st Street, Tulsa, OK 74137; or telephone 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, floodplain administrators, state historic preservation officers, 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 81st Street, Tulsa, OK 74137; or email CESWT-RO@usace.army.mil, please include the public notice number SWT-2014-00608 in the subject line of the message.

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



Proposed Project Location

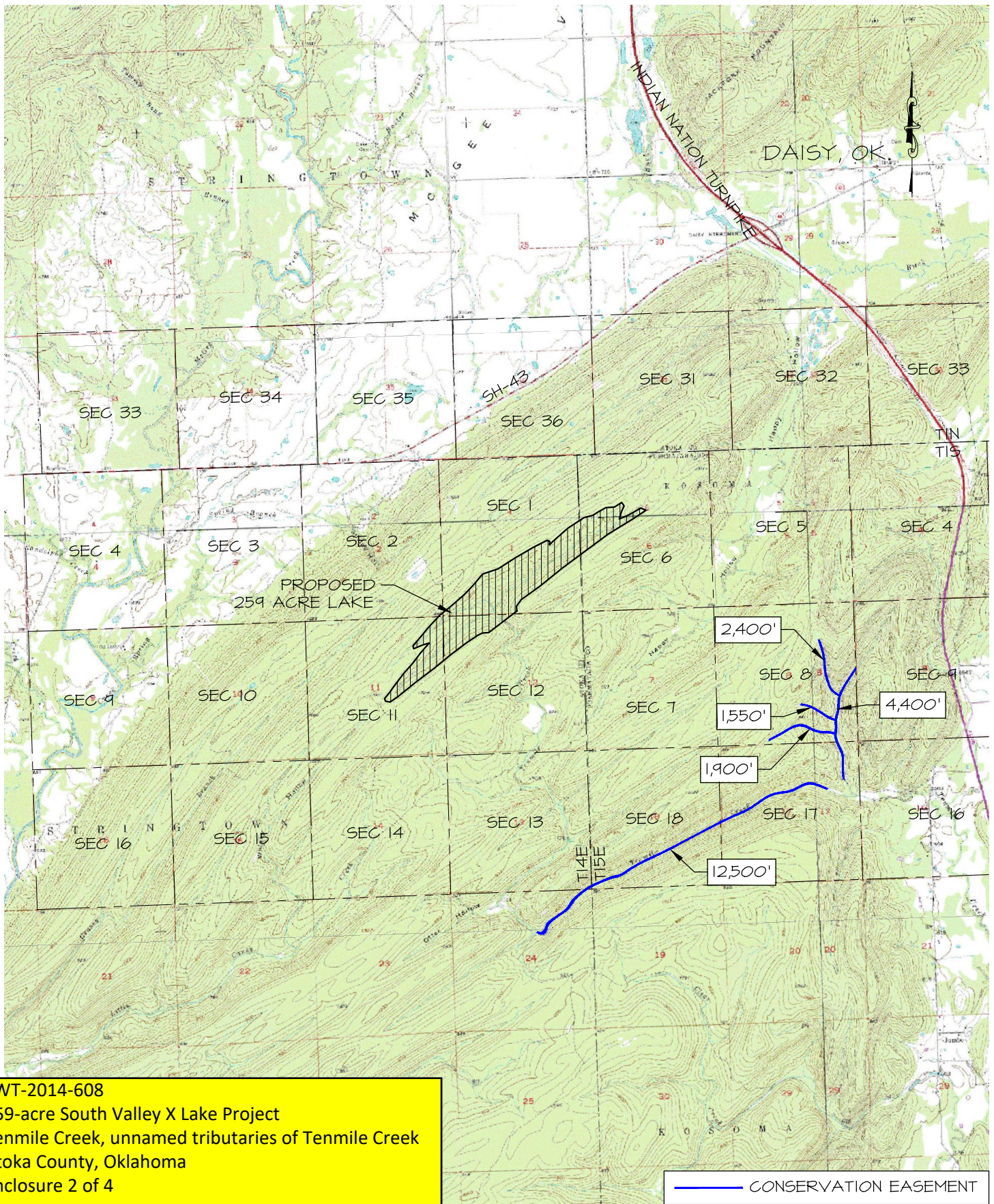
SWT-2014-608


259-acre South Valley X Lake Project

Tenmile Creek, unnamed tributaries of Tenmile Creek

Atoka County, Oklahoma

Enclosure 1 of 4



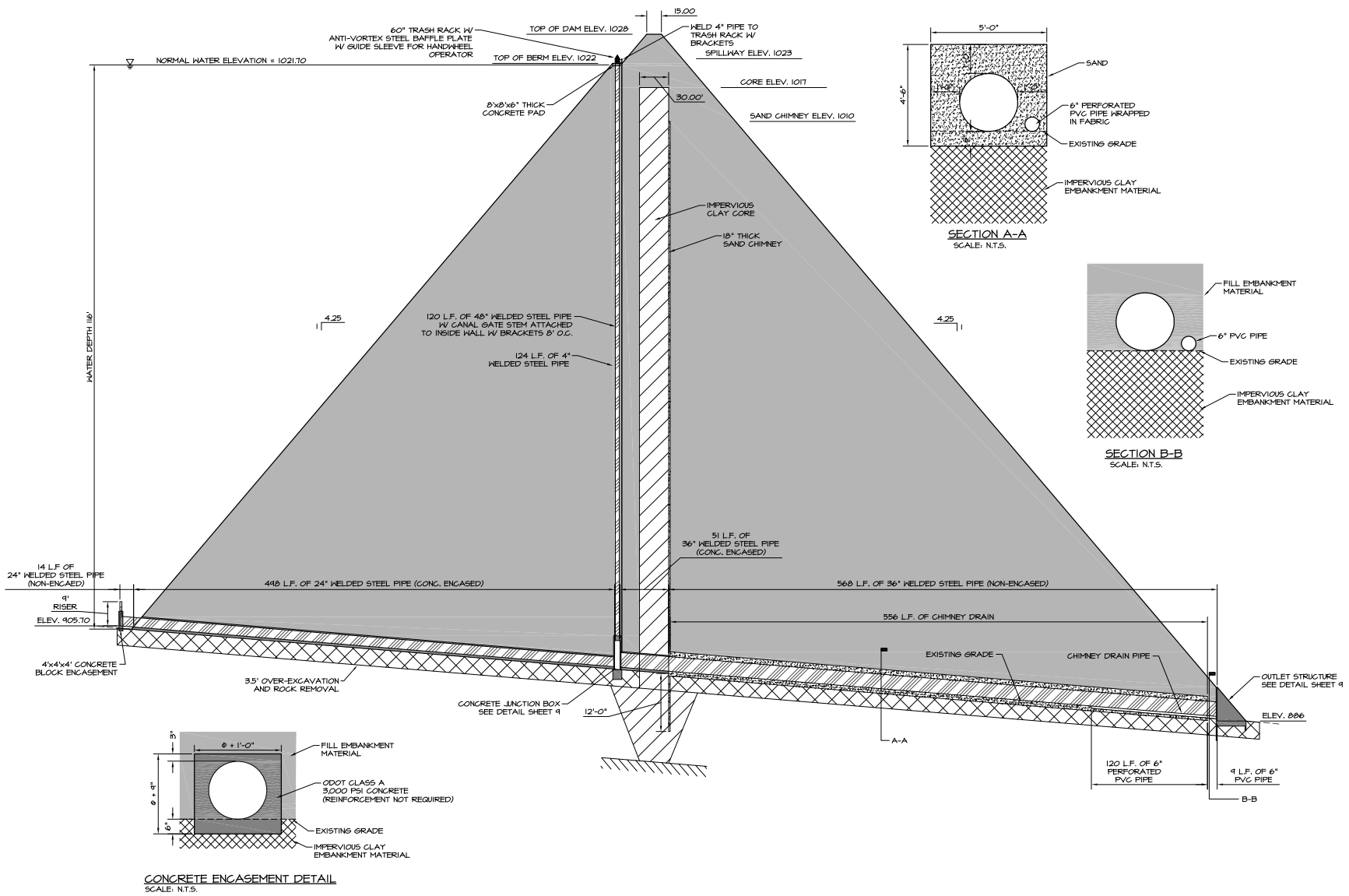
DRAWN JA	SCALE 1"=5,000'	VALLEY X RANCH ATOKA/PUSHMATAHA COUNTY	 Wall Engineering Engineering Better Communities	EXHIBIT EX-2
PROJECT NO. PSR-14-01	DATE 07/18	PROPOSED SOUTH VALLEY X LAKE AERIAL LOCATION MAP		

SUBMITTAL REVISIONS:	
DATE	BY

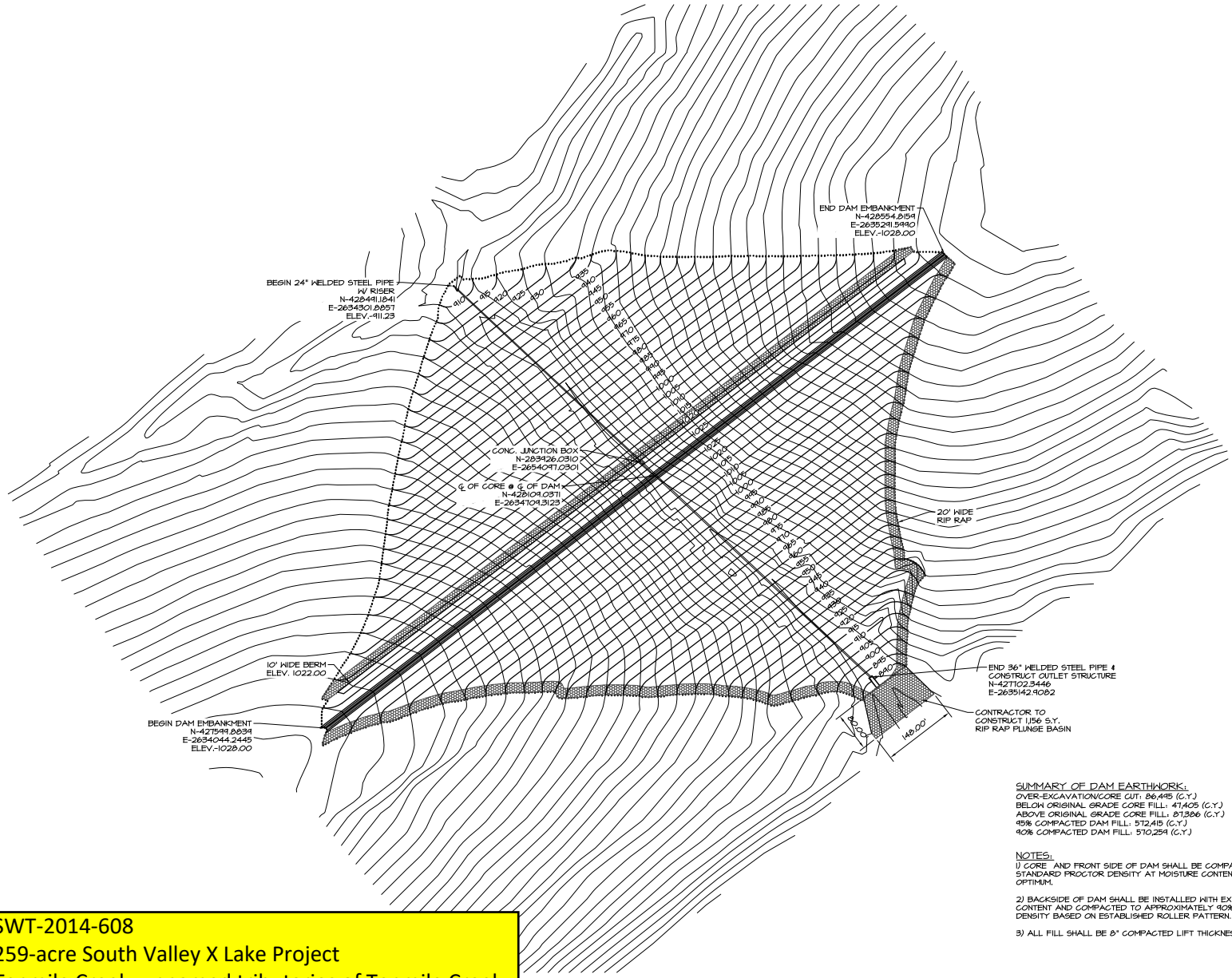
PINE SPRINGS RANCH
SOUTH VALLEY X LAKE CONSTRUCTION
DAISY, OKLAHOMA
PROPOSED DAM SECTION
AT DRAIN PIPE LOCATION

PROJECT NO.	PSR-14-01
DATE	06/14
DRAWN BY:	JA
CHECKED BY:	JR
REVIEWED BY:	BW
SCALE:	NOT TO SCALE
BAR IS ONE-HALF INCH ON ORIGINAL DRAWING IF NOT ONE-HALF INCH ON THIS SHEET, ADJUST SCALES ACCORDINGLY	

SHEET
11



SWT-2014-608
259-acre South Valley X Lake Project
Tenmile Creek, unnamed tributaries of Tenmile Creek
Atoka County, Oklahoma
Enclosure 3 of 4



SUBMITTAL REVISIONS:		
DATE	BY	

PINE SPRINGS RANCH
SOUTH VALLEY X LAKE CONSTRUCTION
DAISY, OKLAHOMA
DAM GRADING PLAN

PROJECT NO. PSR-14-01
DATE 06/14
DRAWN BY: JA
CHECKED BY: JR
REVIEWED BY: BN
SCALE: 1"=200'
BAR IS ONE-HALF INCH ON ORIGINAL DRAWING 0' 12'
IF NOT ONE-HALF INCH ON THIS SHEET, ADJUST SCALES ACCORDINGLY
SHEET

SWT-2014-608
259-acre South Valley X Lake Project
Tenmile Creek, unnamed tributaries of Tenmile Creek
Atoka County, Oklahoma
Enclosure 4 of 4