



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-2021-00180
Public Notice No.

January 3, 2023
Public Notice Date

February 3, 2023
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
U.S. ARMY CORPS OF ENGINEERS, TULSA DISTRICT
2488 EAST 81ST STREET
TULSA, OKLAHOMA 74137-4290

Application No. SWT-2021-00180

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. Edwin Evers
3500 S. 4080 Rd.
Talala, OK 74080

Agent: Mr. Steve Votaw
PO Box 335
Vinita, OK 74301

Location: The proposed project is located at Section 18, Township 24 N, Range 15 E, in Talala, Rogers County, Oklahoma. The project site can be found on the Nowata, Oklahoma 7.5 Minute USGS Quadrangle map at North Latitude: 36.557998, and West Longitude: 95.753728.

Project Description: The application is to construct a dam across unnamed tributary of Rabb Creek to facilitate the creation of a personal lake.

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

Summary Table of Impacts:

Number or Location	Impact Activity	Type of Water	Type of Fill Material	Qty of Material cys below OHWM	Footprint (ac and/or lf)
W1	Discharge of dredge or fill material	wetland	Native earthen material	1,323 cyds	0.82 ac

S4	Discharge of dredge or fill material	stream	Native earthen material	108 cyds	338 lf / 0.07 ac
P1	Excavation/Inundation	pond	Native earthen material	1,033 cyds	0.64 ac
P2	Excavation/Inundation	pond	Native earthen material	888 cyds	0.55 ac
S1 (lower reach)	Inundation	stream	N/A	N/A	2,067 lf / 0.37 ac
S1 (upper reach)	Excavation/Inundation	stream	Native earthen material	242 cyds	1,500 lf / 0.15 ac
S2	Excavation/Inundation	stream	Native earthen material	16 cyds	80 lf / 0.01 ac
S3	Excavation/Inundation	stream	Native earthen material	48 cyds	256 lf / 0.03 ac
W2	Inundation	wetland	N/A	N/A	1.00 ac
cubic yards (cys), ordinary high water mark (OHWM), acre (ac), linear feet (lf)					

Description of Work: The applicant proposes to discharge approximately 1,323 cys of earthen fill material into 0.82 acre of one wetland (W1) and 108 cyds of earthen fill material into 388 linear feet of an unnamed tributary of Rabb Creek (S4) for the construction of the proposed dam, including overflow pipe and outfall structure. The applicant also proposes to excavate two ponds (P1: 1,033 cubic yards, 0.64 acre; P2: 888 cubic yards, 0.55 acre) and three streams (S1 upper reach: 242 cubic yards, 1,500 linear feet; S2: 16 cubic yards, 80 linear feet; S3: 48 cubic yards, 256 linear feet). The proposed discharge for the dam construction and excavation will result in the permanent inundation of two ponds (P1: 0.64 acre; P2: 0.55 acre), three unnamed tributaries of Rabb Creek (S1 upper and lower reaches: 3,567 linear feet; S2: 80 linear feet, S3: 256 linear feet), and one wetland (W2: 1.00 acre). The applicant proposes to use native earthen material and conventional earthwork methods and equipment to complete the construction. The completed dam, as proposed, would have a 707.00 normal pool elevation and be 33.8 surface acres.

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 proposed dam includes a pipe to ensure downstream flow. The proposed lake creation has been designed to avoid impacts to a portion of the on-site waters.

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

The applicant has submitted the “Compensatory Waterway Mitigation Plan, Evers Lake Project, Talala, Rogers County, Oklahoma” dated September 2022. The plan includes on-site mitigation within stream reaches immediately adjacent to the proposed impacts.

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 Authorizations obtained or received:

Oklahoma Water resource Board, Construction Permit, Evers Dam 2021-03-01, Application Submitted, Approval Pending.
Oklahoma Department of Environmental Quality, Water Quality, Approval Pending

Project Setting: This project is located within the Osage Questas, consisting of a plain that contains sandstone, shale, and limestone. Natural vegetation is mostly tall grass prairie. Land use and land cover in this ecoregion consists mostly of rangeland, grassland, cropland and woodland in rugged areas.

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 with 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.

Threatened and Endangered Species: 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 Ms. Eva Zaki-Dellitt, Tulsa District Corps of Engineers, ATTN: Regulatory Office, 2488 East 81st Street, Tulsa, OK 74137; or telephone 918-669-7400.

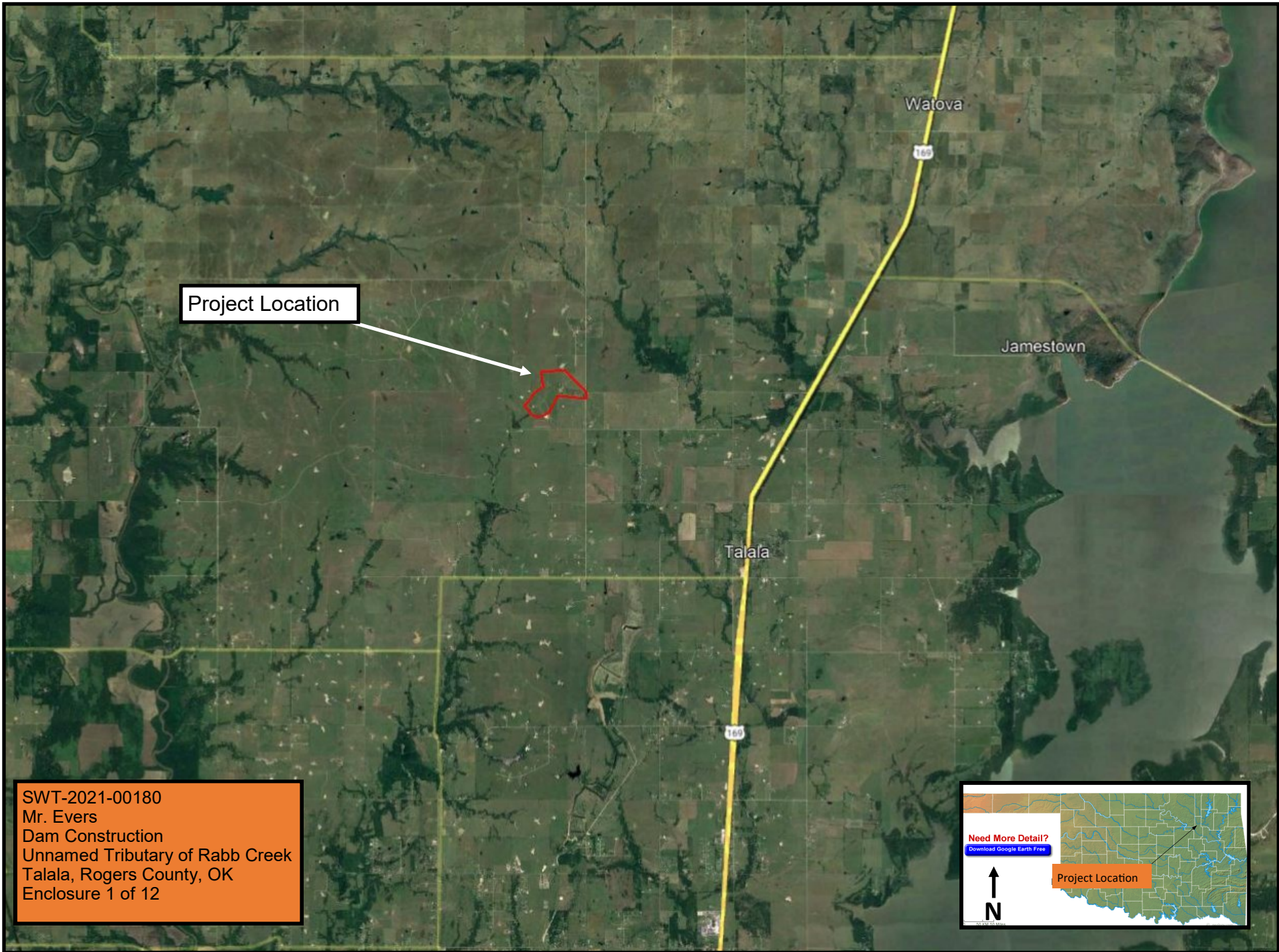
Comments: The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine 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 comments on this proposal must be submitted to be received by the Corps by the expiration date of this public notice comment period. Comments received after this date will not be considered in our decision. 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-2021-00180 in the subject line of your email 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



Project Location

Watova

169

Jamestown

Talala

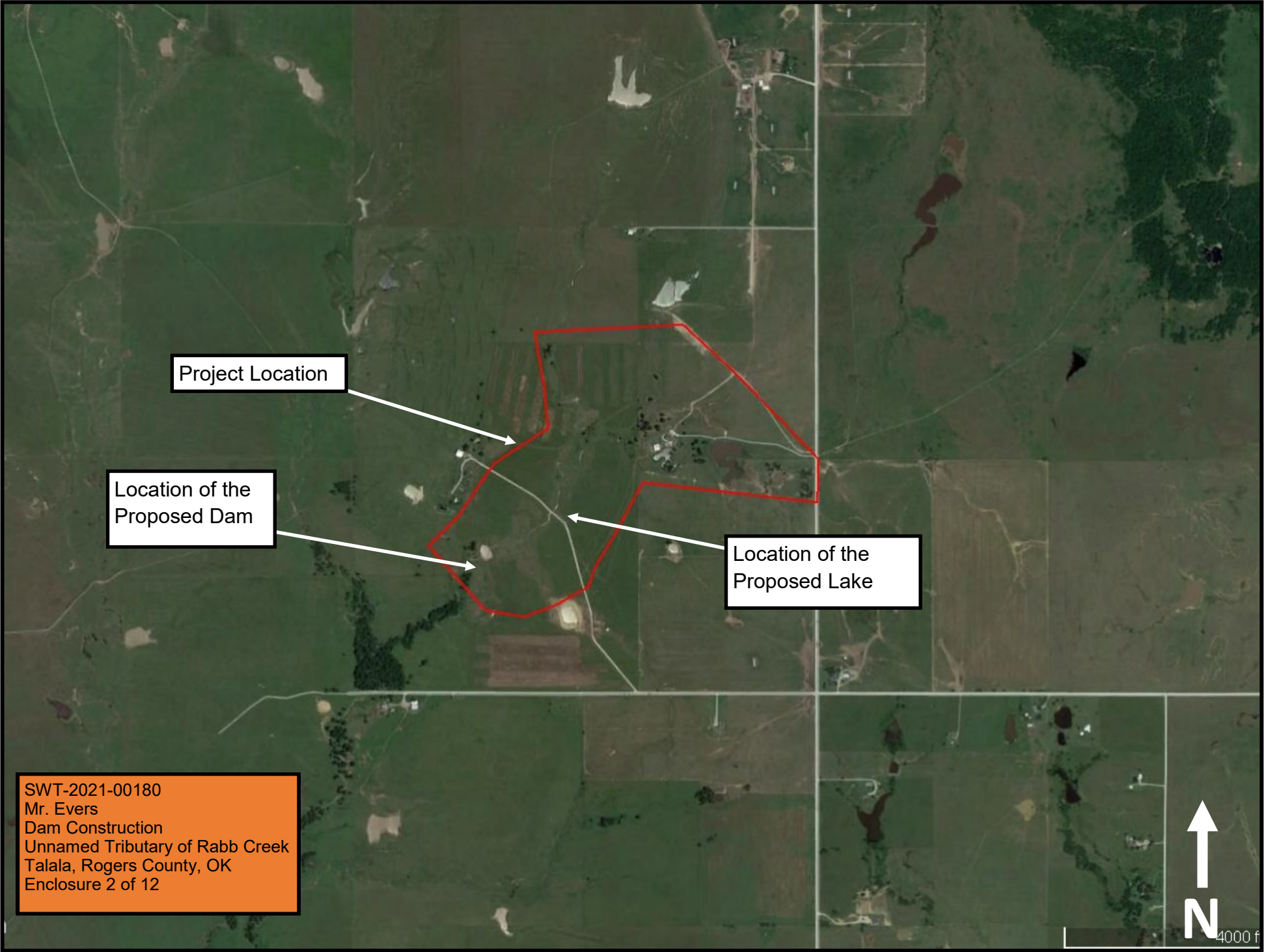
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SWT-2021-00180
Mr. Evers
Dam Construction
Unnamed Tributary of Rabb Creek
Talala, Rogers County, OK
Enclosure 1 of 12

Need More Detail?
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Project Location

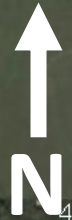


Project Location

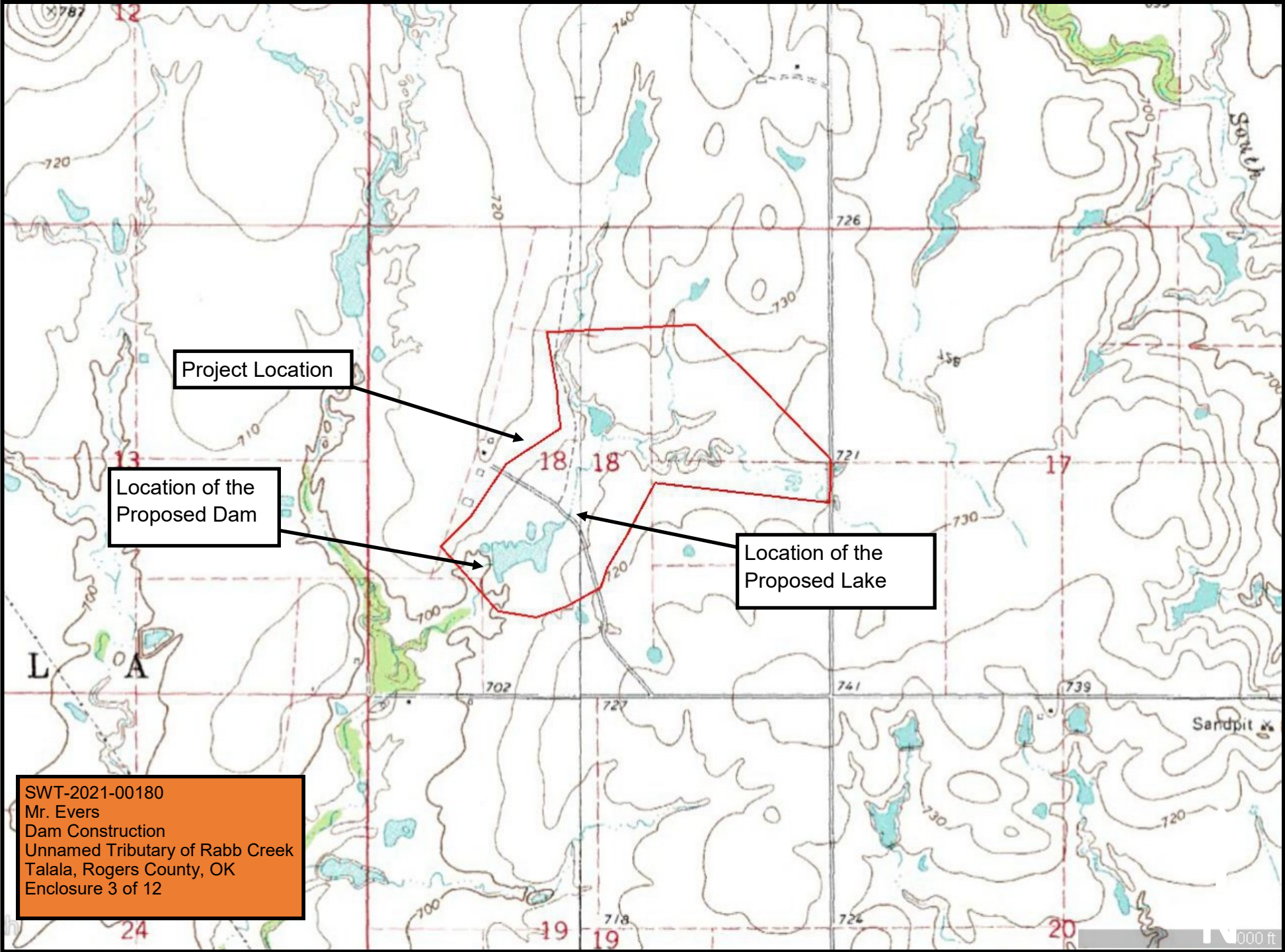
Location of the Proposed Dam

Location of the Proposed Lake

SWT-2021-00180
Mr. Evers
Dam Construction
Unnamed Tributary of Rabb Creek
Talala, Rogers County, OK
Enclosure 2 of 12



4000 f



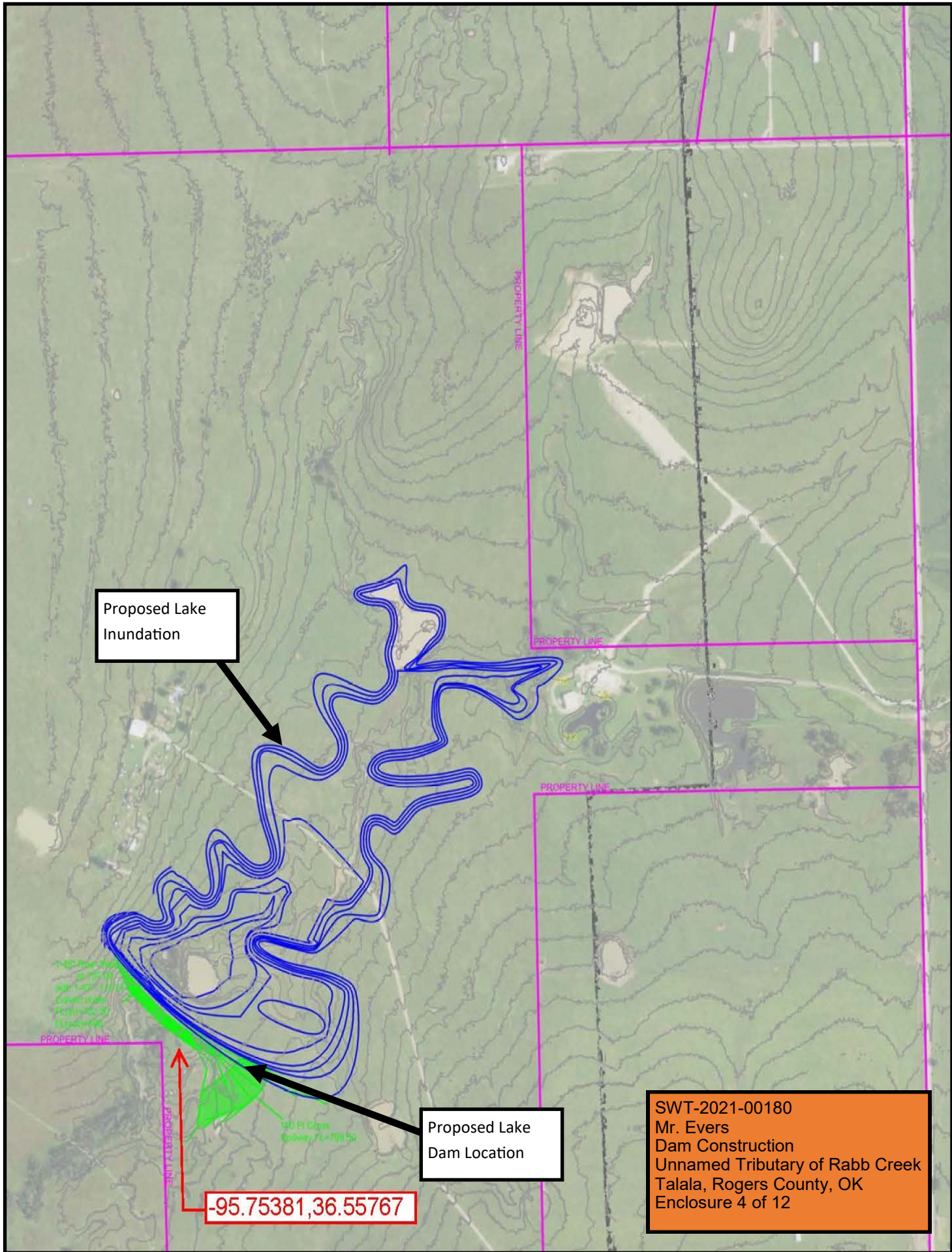
Project Location

Location of the Proposed Dam

Location of the Proposed Lake

SWT-2021-00180
Mr. Evers
Dam Construction
Unnamed Tributary of Rabb Creek
Talala, Rogers County, OK
Enclosure 3 of 12

1000 ft



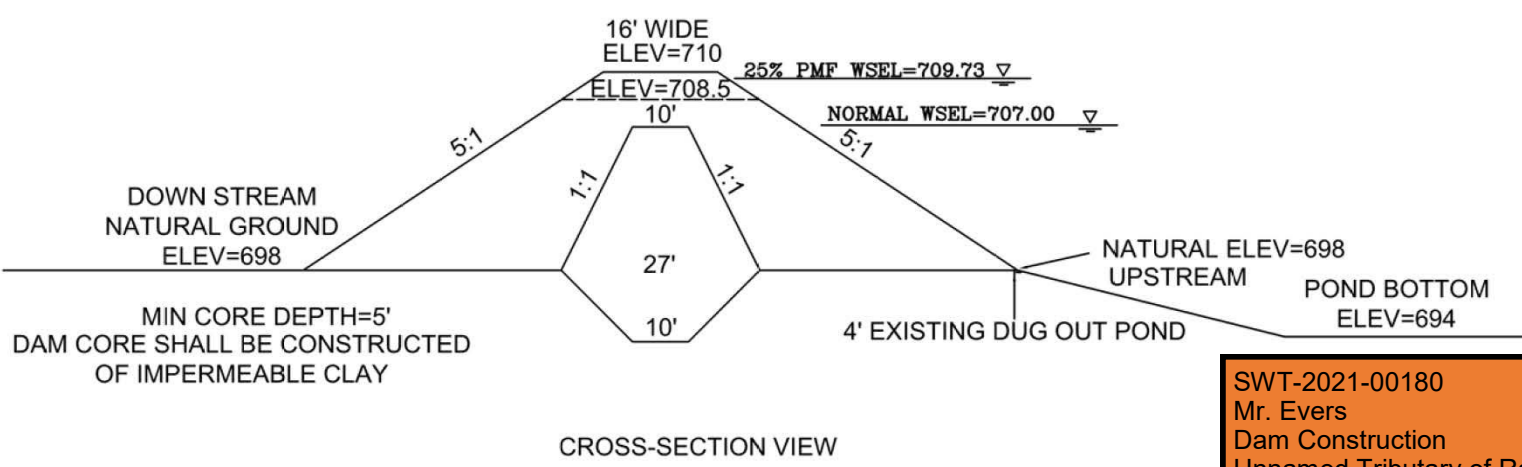
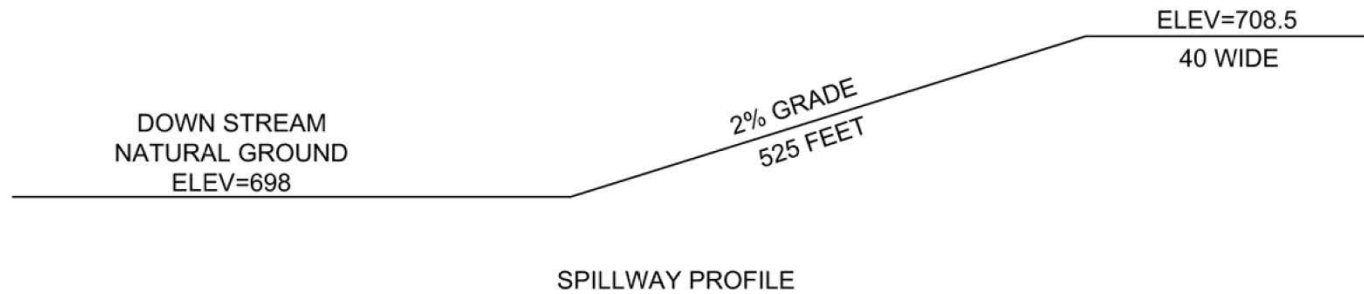
Proposed Lake Inundation

Proposed Lake Dam Location

-95.75381, 36.55767

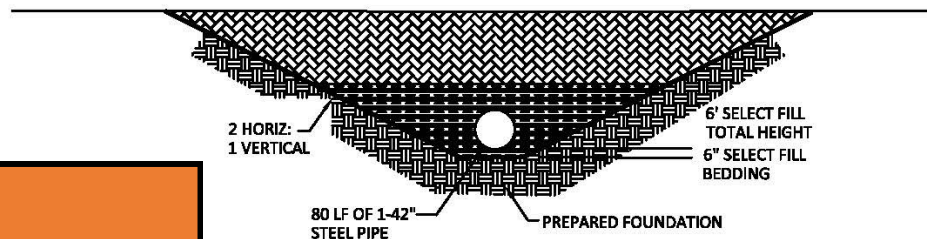
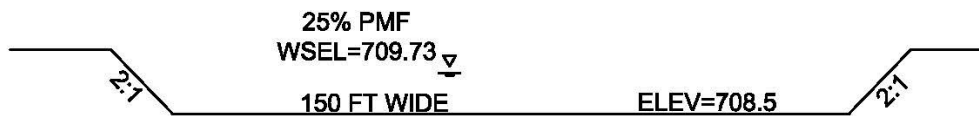
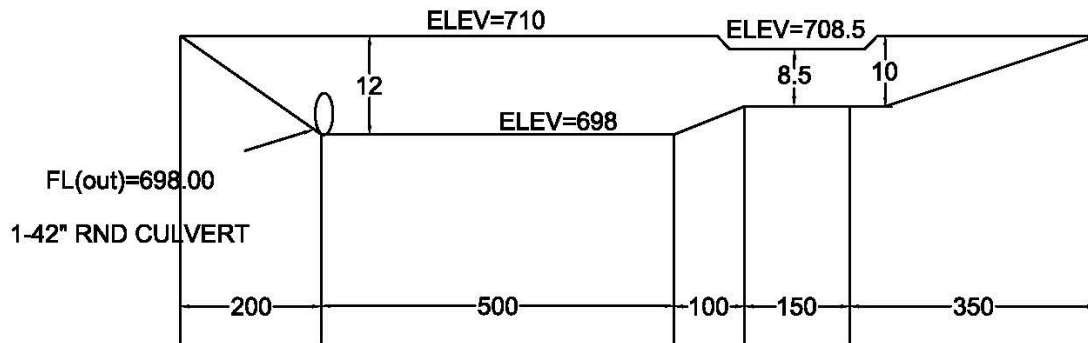
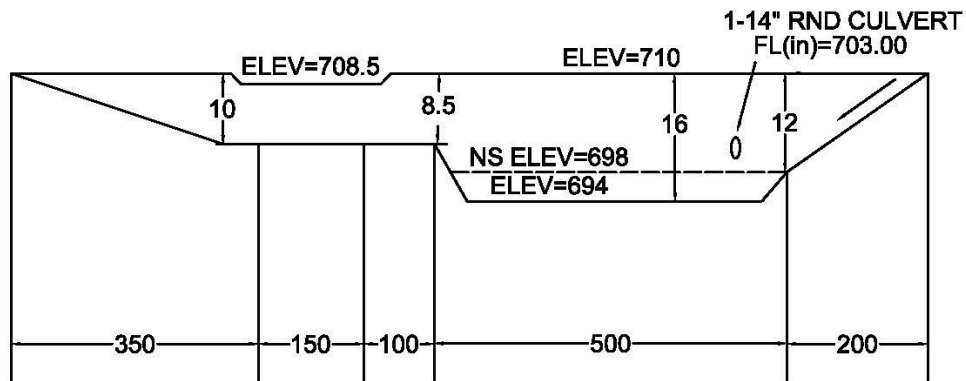
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Talala, Rogers County, OK
Enclosure 4 of 12

EVERS ADDITIONAL DETAILS



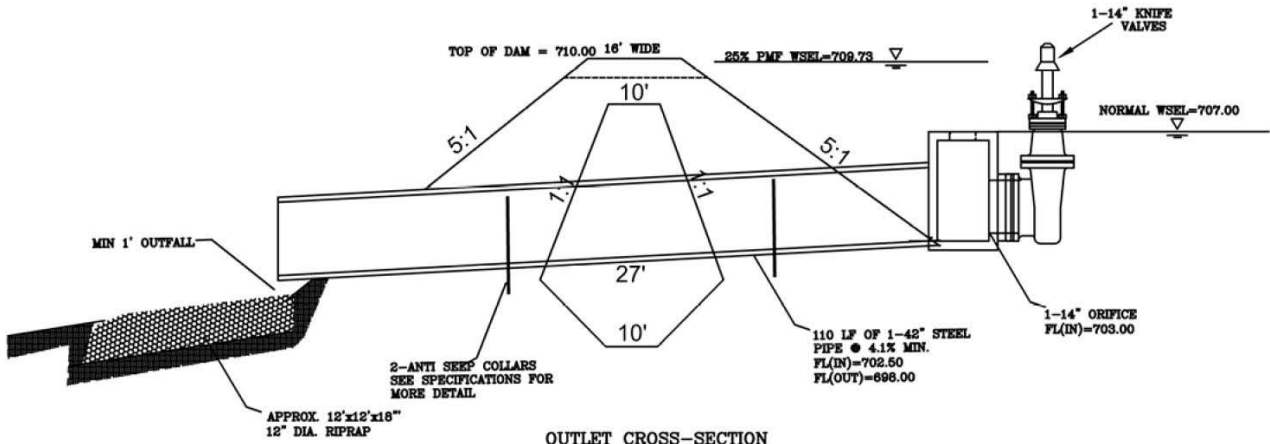
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Talala, Rogers County, OK
Enclosure 5 of 12

EVERS DAM SECTIONS

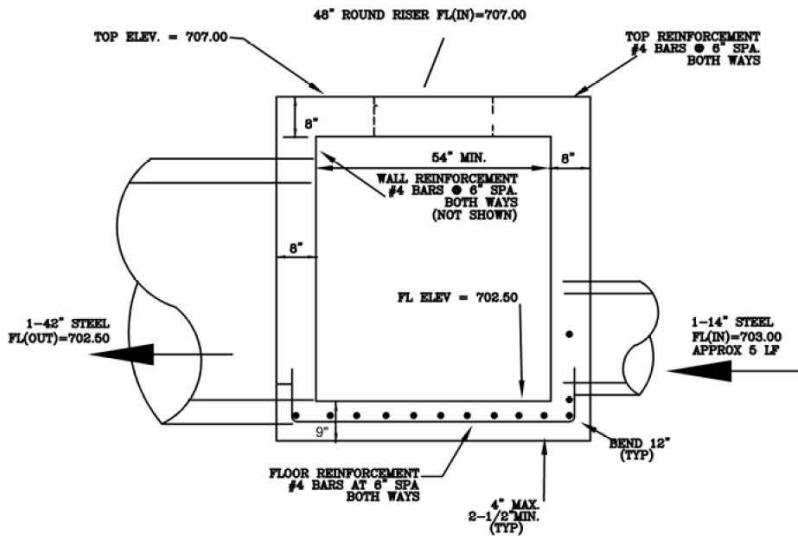


SWT-2021-00180
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Dam Construction
Unnamed Tributary of Rabb Creek
Talala, Rogers County, OK
Enclosure 6 of 12

EVERS OUTLET STRUCTURE

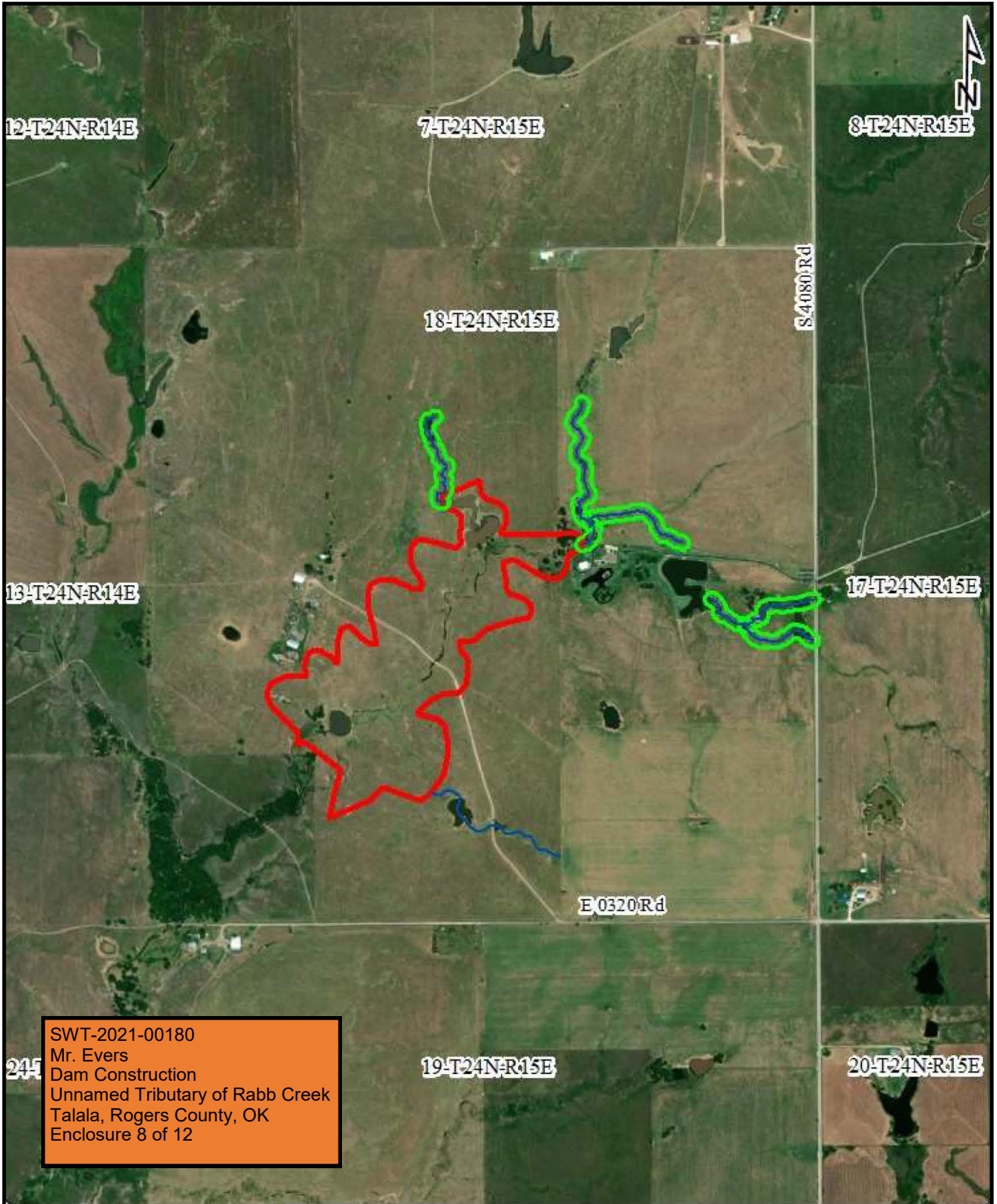


OUTLET CROSS-SECTION

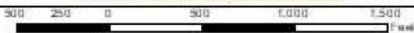


65"X65"X60" HIGH
OUTLET STRUCTURE

SWT-2021-00180
 Mr. Evers
 Dam Construction
 Unnamed Tributary of Rabb Creek
 Talala, Rogers County, OK
 Enclosure 7 of 12



SWT-2021-00180
 Mr. Evers
 Dam Construction
 Unnamed Tributary of Rabb Creek
 Talala, Rogers County, OK
 Enclosure 8 of 12



- Legend**
- ▭ Lake Area
 - ▭ Planting Buffer Area
 - Stream Channel



Figure 2
 Proposed Waterway Mitigation Corridors
 Evers Lake Project
 Talala, Rogers County, OK

Sec 18-T24N-R15E

17

Mitigation Planting Area #5

Mitigation Planting Area #4

Mitigation Planting Area #3

Mitigation Planting Area #2

Mitigation Planting Area #1

SWT-2021-00180
Mr. Evers
Dam Construction
Unnamed Tributary of Rabb Creek
Talala, Rogers County, OK
Enclosure 9 of 12

Tree Species Legend

- American Elm
- Hackberry
- Persimmon



250 125 0 250 500 Feet

Legend

- Lake Area
- Planting Buffer Area
- Stream Channel

Project Vicinity Map



Figure 3
Proposed Waterway Mitigation
Planting Scheme

Evers Lake Project
Talala, Rogers County, OK



Mitigation Planting Area #2


Mitigation Planting Area #1

18-T24N-R15E

SWT-2021-00180
Mr. Evers
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Unnamed Tributary of Rabb Creek
Talala, Rogers County, OK
Enclosure 10 of 12

Tree Species Legend

- American Elm
- Hackberry
- Persimmon



100 50 0 50 100 200

Legend

- Lake Area
- Planting Buffer Area

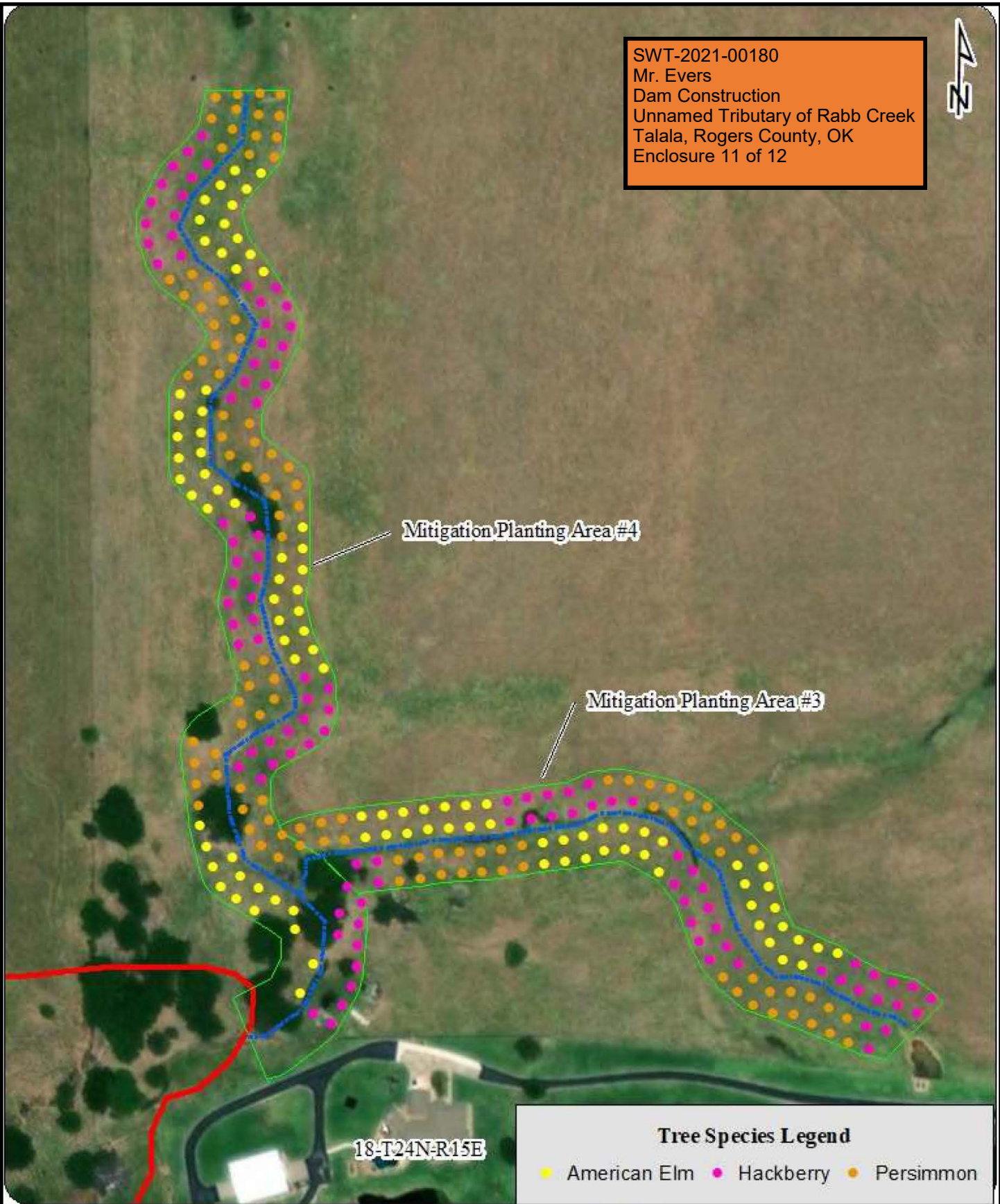
Project Vicinity Map



Figure 3
Proposed Waterway Mitigation
Planting Scheme

Evers Lake Project
Talala, Rogers County, OK

SWT-2021-00180
Mr. Evers
Dam Construction
Unnamed Tributary of Rabb Creek
Talala, Rogers County, OK
Enclosure 11 of 12



Tree Species Legend

- American Elm
- Hackberry
- Persimmon

0 50 100 150 200 Feet

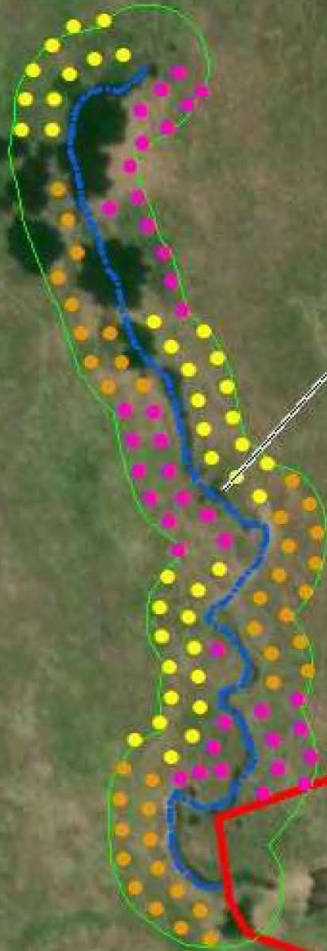
Legend

- Lake Area
- Planting Buffer Area
- Stream Channel

Project Vicinity Map

Figure 3
Proposed Waterway Mitigation Planting Scheme

Evers Lake Project
Talala, Rogers County, OK



Mitigation Planting Area #5

SWT-2021-00180
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Dam Construction
Unnamed Tributary of Rabb Creek
Talala, Rogers County, OK
Enclosure 12 of 12

Tree Species Legend

- American Elm
- Hackberry
- Persimmon



Scale bar showing 0, 100, and 200 feet.

Legend

- Lake Area
- Planting Buffer Area
- Stream Channel

Project Vicinity Map



Figure 3
Proposed Waterway Mitigation
Planting Scheme

Evers Lake Project
Talala, Rogers County, OK