

JOINT PUBLIC NOTICE

US Army Corps of Engineers®

Tulsa District Application No. SWT-2022-563 Published: March 20, 2025 Expires: April 18, 2025

TO WHOM IT MAY CONCERN: The U.S. Army Corps of Engineers and Oklahoma Department of Environmental Quality (ODEQ) jointly announce that the District Engineer 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. The ODEQ hereby incorporates this public notice and procedure as its own public notice and procedure by reference thereto. 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. The purpose of this public notice is to solicit comments from the public regarding the work described below:

APPLICANT: Honorable Loran Mayes City of Wilburton 1110 W Stovall Road Wilburton, OK 74578

AGENT: Melissa Jones USDA-NRCS 100 USDA Drive, Suite 206 Stillwater, OK 74074

WATERWAY AND LOCATION: The project would affect waters of the United States associated with an unnamed tributary of Fourche Maline. The project/review area is located on the south side of SE Cravens Road, 3.7 miles southwest of Wilburton, in Section 30, Township 5 North, Range 19 East; at Latitude 34.882310 and Longitude -95.336177; Latimer County, Oklahoma.

EXISTING CONDITIONS: Fourche Maline Creek Watershed Multi-Purpose Structure (MPS) No. 7M, also known as Lloyd Church Lake, was built in 1964 by the City of Wilburton, the Latimer County Conservation District, and the Fourche Maline Creek Conservancy District No. 10 with the assistance of the Oklahoma Conservation Commission and the USDA Natural Resources Conservation Service (NRCS) Watershed Protection and Flood Prevention Program. The primary purpose of the MPS is flood control, but it also provides a source of municipal water for the City of Wilburton and surrounding rural water districts. The project area is located in the Fouche Mountains of the Ouachita Eco-region of Oklahoma Hydrologic 8 Unit (11110105), in the Fourche Maline Creek Watershed. The region features sandstone ridges with narrow valleys that commonly orient in an east-west direction. The dominant vegetation is pine-oak forest and woodlands.

PROJECT PURPOSE:

Basic: The basic project purpose is MPS rehabilitation.

Overall: The overall purpose of this project is to bring Fourche Maline Creek Watershed MPS No. 7M into compliance with current NRCS and Oklahoma safety performance standards for a high hazard dam and extend the service life to 100 years, reducing the risk of catastrophic dam failure and loss of life.

PROPOSED WORK: The applicant requests authorization to complete rehabilitation of Fourche Maline Creek Watershed, MPS No. 7M including the following: The existing concrete principal spillway tower on the front slope of the embankment would be excavated, cut off below the existing conservation pool elevation, conduit filled with a concrete gout mixture, and then back filled to final grade. The riprap lined plunge pool on the back side of the dam would have all riprap removed and be backfilled to proper grade in support of the new roller compacted concrete (RCC) spillway structure. The downstream channel would be excavated to ensure proper flow exiting the new RCC. This excavated material would be redistributed as fill within the rehabilitated dam along with a small amount of on-site borrow, upstream of the embankment, that lies within the conservation pool. The channel immediately downstream of the RCC spillway would be lined with riprap for erosion control along with the front slope of the embankment for erosion control from wave action. The rehabilitation would also include a concrete labyrinth weir crest structure located within the new RCC spillway structure. The RCC stepped spillway with stilling basin would dissipate the energy flowing through the principal spillway port and auxiliary spillway flow. The elevation of the principal spillway crest would be raised 9.5 ft to elevation 764.5, resulting in a change of 53 acres in the surface area of the conservation pool. This change in water level would impact 2,362 lf of intermittent and perennial streams and 3.48 acres of freshwater forested/shrub wetlands. The top of dam would be raised approximately 6 ft to elevation 775.5 and the dam height would be 73.5 ft. The auxiliary spillway crest elevation would be raised 7.3 ft to elevation 770.3. The agricultural water supply inlet and conduit would be replaced or modified to account for the changes in pool elevations.

Original Proposal							
Number or Location	Impact Activity	Type of Water	Type of Fill Material	Qty of Material cy below OHWM	Footprint (ac or lf)		
Principal Spillway Tower	Removal	Conservation Pool	Existing Cast Concrete	20 cy	80 sqft		
Principal Spillway Tower	Redistribution	Conservation Pool	On-site soil/loam/silt/clay	160 cy	0.02 ac		
Existing Plunge Pool	Removal	Conservation Pool	Riprap	775 cy	0.16 ac		

New RCC Auxiliary Spillway	Excavation/ redistribution	Stream	On-site soil/loam/silt/clay	12,294 cy	1.14 ac
New RCC Auxiliary Spillway	Fill	Downstream Channel	Riprap	2,622 cy	0.29 ac
Wave Protection Area upstream side of dam	Riprap	Conservation Pool	Riprap	2,612 cy	0.65 ac
Borrow Area	Redistribution	Conservation Pool	On-site soil/loam/silt/clay	580 cy	.12 ac
Fourche Maline Tributaries	Raising of OHWM	Stream	No fill	n/a	2,362 lf
Freshwater Forested/Shrub Wetlands	Raising of OHWM	Wetlands	No fill	n/a	3.48 ac
Cubic yards (cy), ordinary high-water mark (OHWM), acre (ac), linear feet (If)					

AVOIDANCE AND MINIMIZATION: The applicant has provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: The contractor would be required to develop a Storm Water Pollution Prevention Plan for construction activities in order to minimize runoff into the tributary system during construction (erosion control and sediment control). The contractor would be responsible for addressing maintenance and inspection, waste materials, and hazardous materials, as well as control to reduce pollutants such as silt barriers and containment methods. The plan would address the management and care of water, emergency action procedure, and protection of the work throughout the project.

COMPENSATORY MITIGATION: The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: The proposed project would raise the principal spillway elevation, increasing the size of the permanent/conservation pool, and inundating intermittent streams. Compensation for impacts to waters of the United States related to stream inundation would be accomplished through on-site in-kind mitigation. Fourche Maline Creek Watershed MPS No. 7M is outside of the service area of any mitigation bank or In-lieu fee program. The proposed mitigation would occur along three intermittent streams that feed into Lloyd Church Lake. These segments of stream are located on City of Wilburton property and can be easily accessed by service road. These sites were selected because of their proximity, common ownership, and high potential for functional improvements in habitat and water quality for Lloyd Church Lake and the tributary system. Mitigation would involve the removal of eastern red cedar along each of these streams. The applicant would be responsible for the protection and maintenance of the riparian buffers.

CULTURAL RESOURCES:

The Corps is evaluating the undertaking for effects to historic properties as required under Section 106 of the National Historic Preservation Act. This public notice serves to inform the public of the proposed undertaking and invites comments including those from local, State, and Federal government Agencies with respect to historic resources. Our final determination relative to historic resource impacts may be subject to additional coordination with the State Historic Preservation Officer, federally recognized tribes and other interested parties.

The District Engineer's final eligibility and effect determination will be based upon coordination with the SHPO and/or THPO, as appropriate and required, and with full consideration given to the proposed undertaking's potential direct and indirect effects on historic properties within the Corps-identified permit area.

ENDANGERED SPECIES: The Corps has performed an initial review of the application utilizing the U.S. Fish and Wildlife Service Information for Planning and Consultation (IPaC) to determine if any threatened, endangered, proposed, or candidate species, as well as the proposed and final designated critical habitat may occur in the vicinity of the proposed project. The IPaC consultation number is 2023-0058952. Based on this initial review, the Corps has made a preliminary determination that the proposed project may affect species and critical habitat listed in Table 2. No other ESA-listed species or critical habitat will be affected by the proposed action.

Species Common Name and/or Critical Habitat		
Name	Scientific Name	Federal Status
Tricolored Bat	Perimyotis subflavus	Proposed Endangered
Piping Plover	Charadrius melodus	Threatened
Rufa Red Knot	Calidris canutus rufa	Threatened
Alligator Snapping Turtle	Macrochelys temminckii	Proposed Threatened
American Burying Beetle	Nicrophorus americanus	Threatened
Monarch Butterfly	Danaus plexippus	Proposed Threatened

Table 2: ESA-listed species and/or critical habitat potentially present in the action area.

Pursuant to Section 7 ESA, any required consultation with the Service(s) will be conducted in accordance with 50 CFR part 402. The NRCS is the lead Federal agency for ESA consultation for the proposed action. Any required consultation will be completed by NRCS.

This notice serves as request to the U.S. Fish and Wildlife Service for any additional information on whether any listed or proposed to be listed endangered or threatened

species or critical habitat may be present in the area which would be affected by the proposed activity.

NAVIGATION: The proposed structure or activity is not located in the vicinity of a federal navigation channel.

SECTION 408: The applicant will not require permission under Section 14 of the Rivers and Harbors Act (33 USC 408) because the activity, in whole or in part, would not alter, occupy, or use a Corps Civil Works project.

WATER QUALITY CERTIFICATION: Water Quality Certification will be required from ODEQ. 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.

NOTE: This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the Regulatory Program. The geographic extent of aquatic resources within the proposed project area that either are, or are presumed to be, within the Corps jurisdiction has not been verified by Corps personnel.

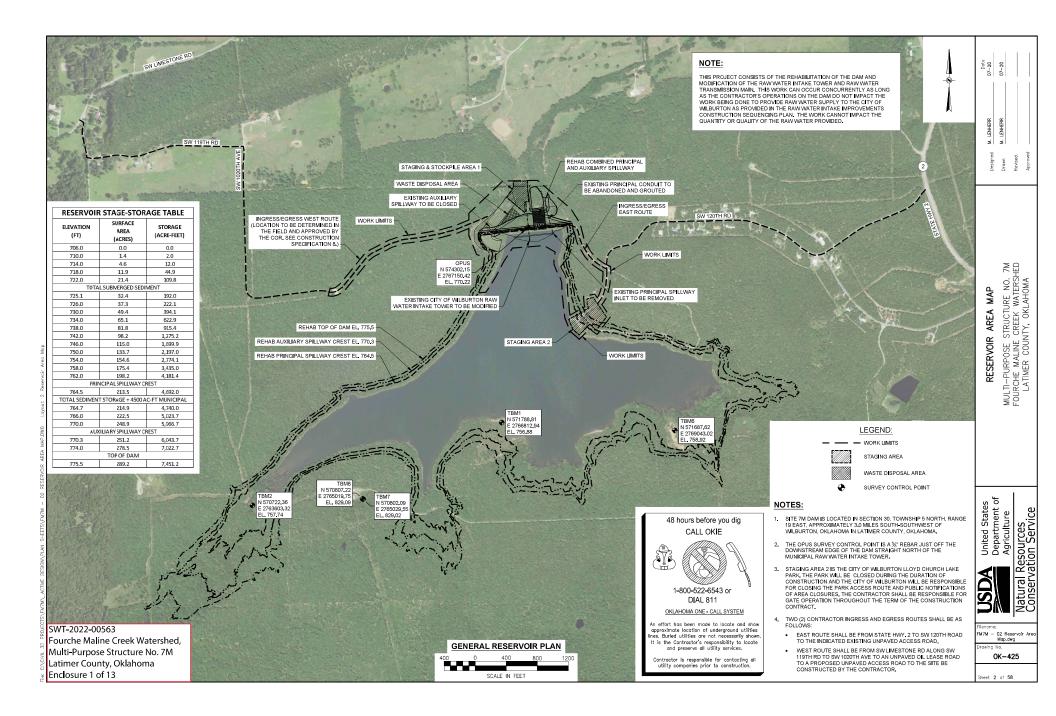
EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts of the proposed activity and its intended use on the public interest. That decision will reflect the national concern for both protection and utilization of important 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 District Engineer determines that it would be contrary to the public interest.

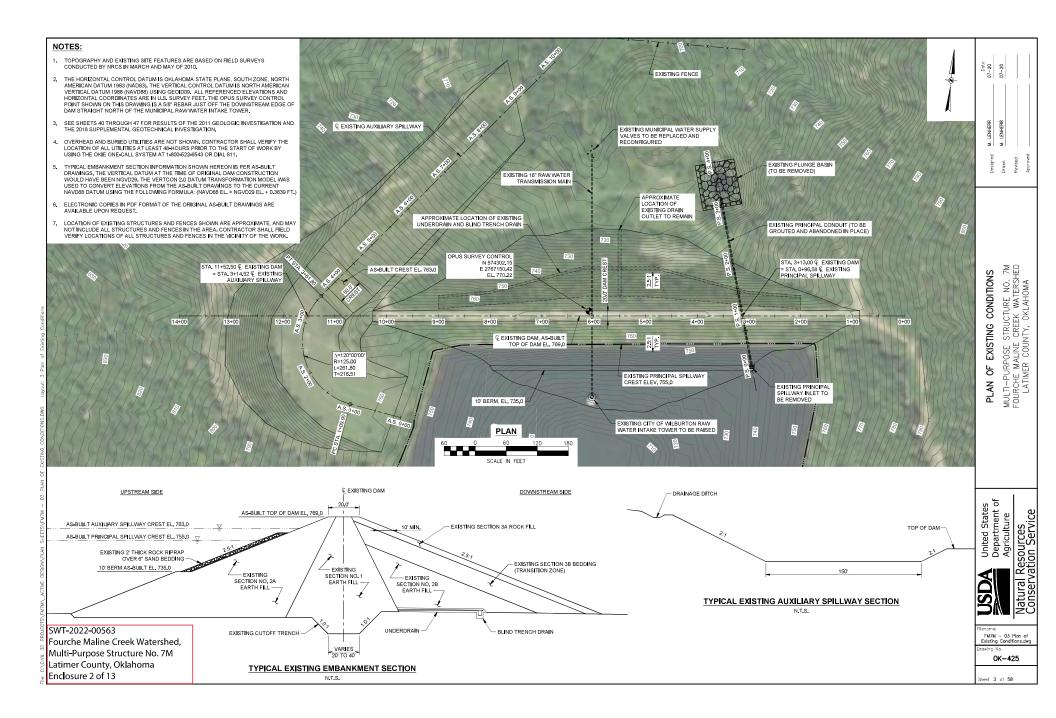
COMMENTS: The Corps is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this determination, comments are used to assess impacts to endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the

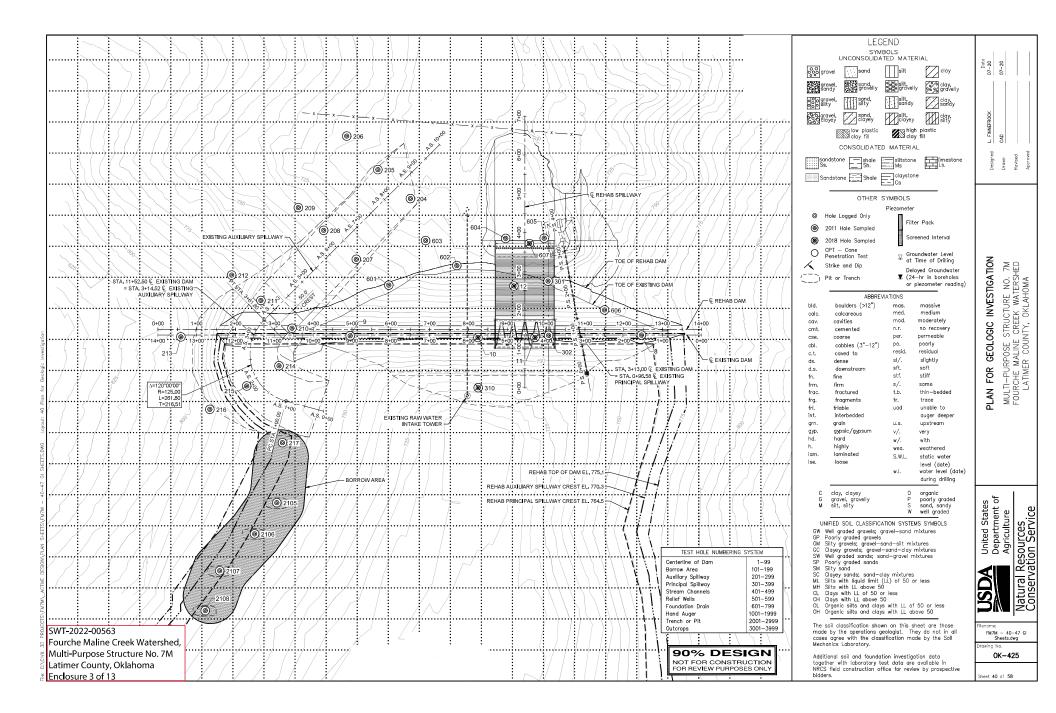
preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

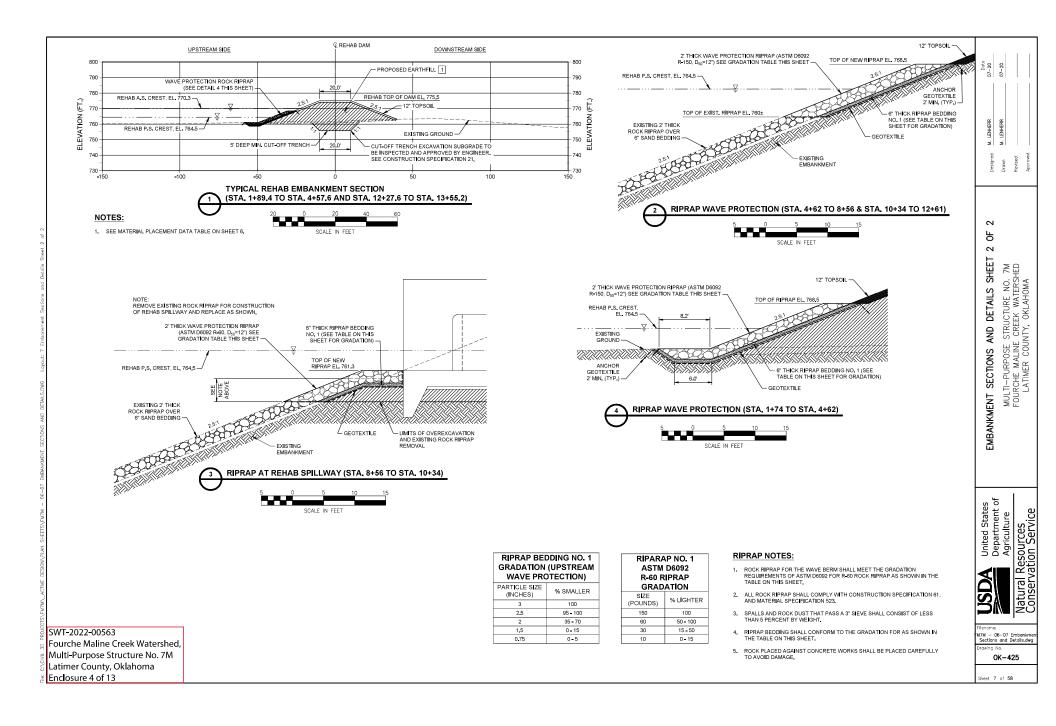
The Tulsa District will receive written comments on the proposed work, as outlined above, until April 18, 2025. Comments should be submitted electronically via the Regulatory Request System (RRS) at <u>https://rrs.usace.army.mil/rrs</u> or to David Carraway at CESWT-RO@usace.army.mil. Alternatively, you may submit comments to mailing address Tulsa District Corps of Engineers, ATTN: Regulatory Office, 2488 East 81st Street, Tulsa, OK 74137. Please refer to the permit application number in your comments.

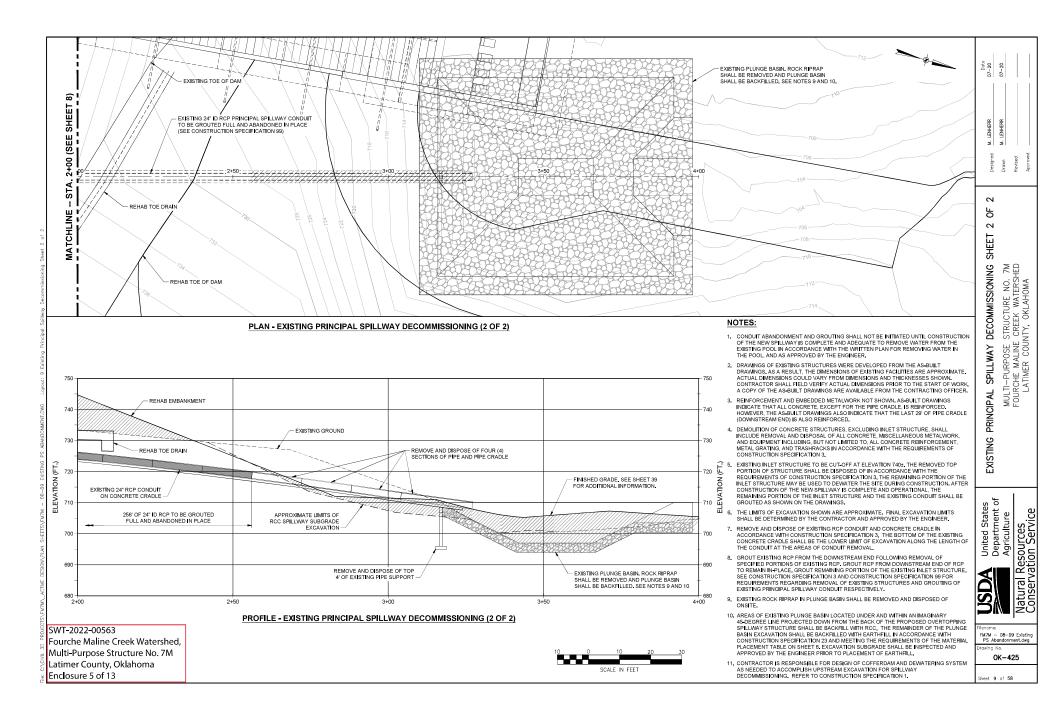
Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing will be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.

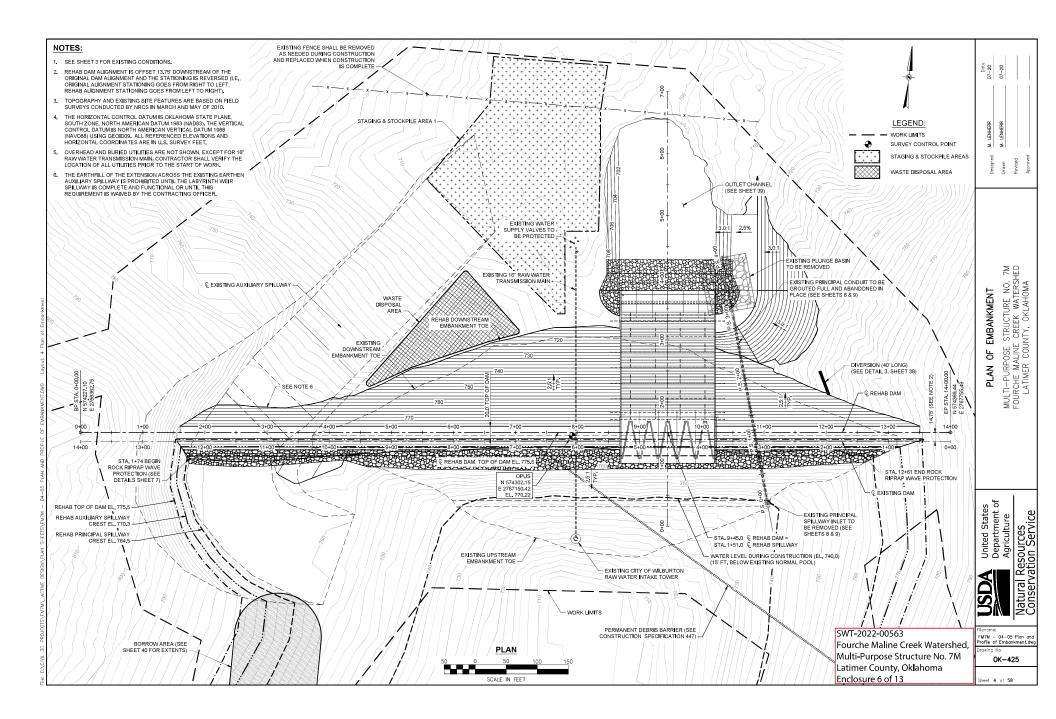












Fourche Maline Intermittent 1

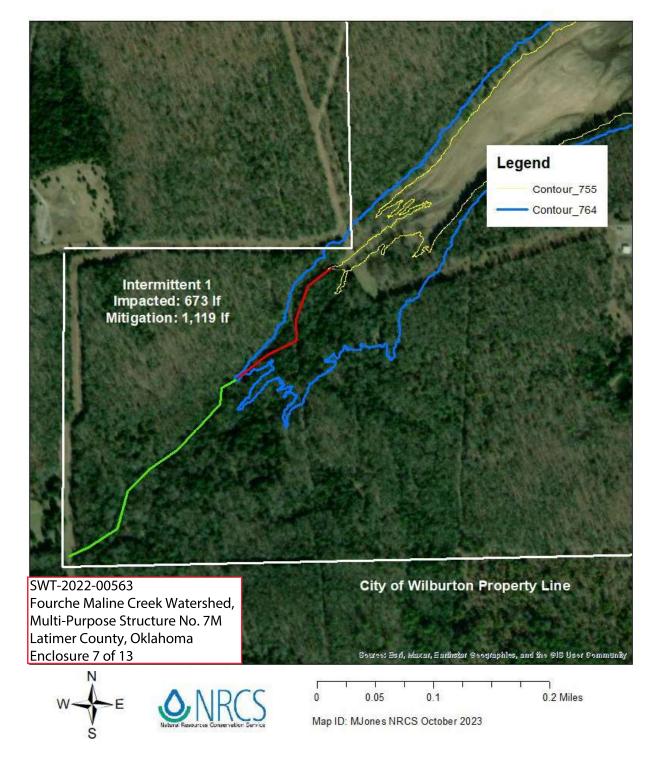


Figure 2: Stream length (Intermittent Stream 1) impacted by the proposed rehabilitation project. Impacted length was measured from existing pool elevation (contour 755) to proposed elevation (contour 764). Red is the impacted segment of stream and green is the mitigation segment of stream.

Fourche Maline Intermittent 2

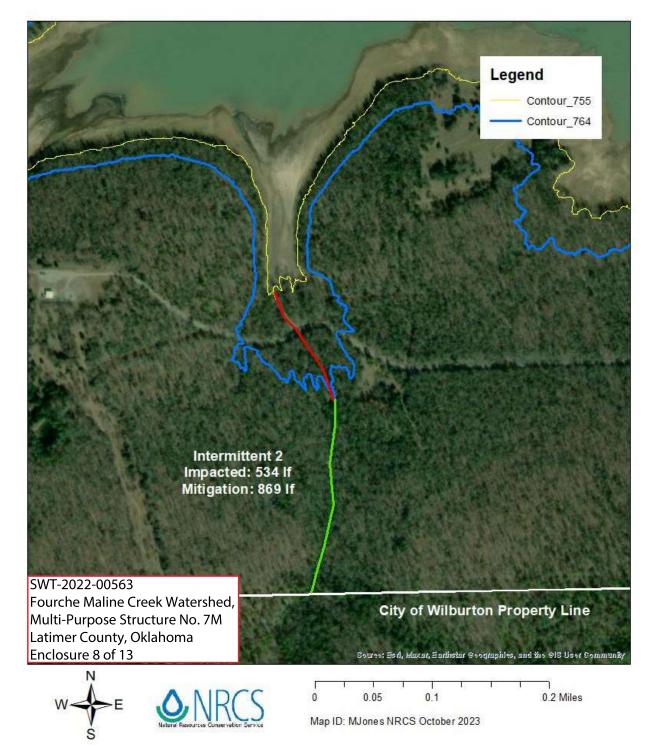


Figure 3: Stream length Intermittent 2. Impacted length was measured from existing pool elevation (contour 755) to proposed elevation (contour 764). Red is the impacted segment of stream and green is the mitigation segment of stream.

Legend Contour_755 Contour_764 **Intermittent 3** Impacted: 639 If Mitigation: 374 If **City of Wilburton Property Line** SWT-2022-00563 Fourche Maline Creek Watershed, Multi-Purpose Structure No. 7M Latimer County, Oklahoma Enclosure 9 of 13 Source: Esd, waxar, Sarinstar Seographics, and the SIS User Community N 0.05 0.1 0 0.2 Miles Map ID: MJones NRCS October 2023

Fourche Maline Intermittent 3

Figure 4: Intermittent stream 3. Impacted stream length was measured from existing pool elevation (contour 755) to proposed elevation (contour 764). Red is the impacted segment of stream and green is the mitigation segment of stream.

Fourche Maline 7M, Latimer County, OK

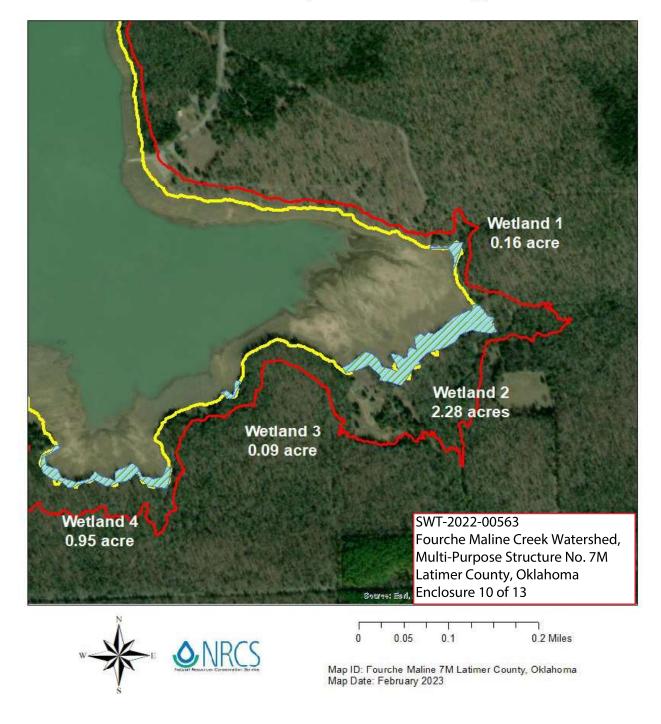


Figure 5: Four wetlands were identified and measured. A total of 3.48 acres of wetlands will be impacted by the raise in conservation pool elevation. Yellow line is the current HWM and Red line is the proposed HWM.

MPS Fourche Maline 7M 300 ft Riparian Buffer for Mitigation

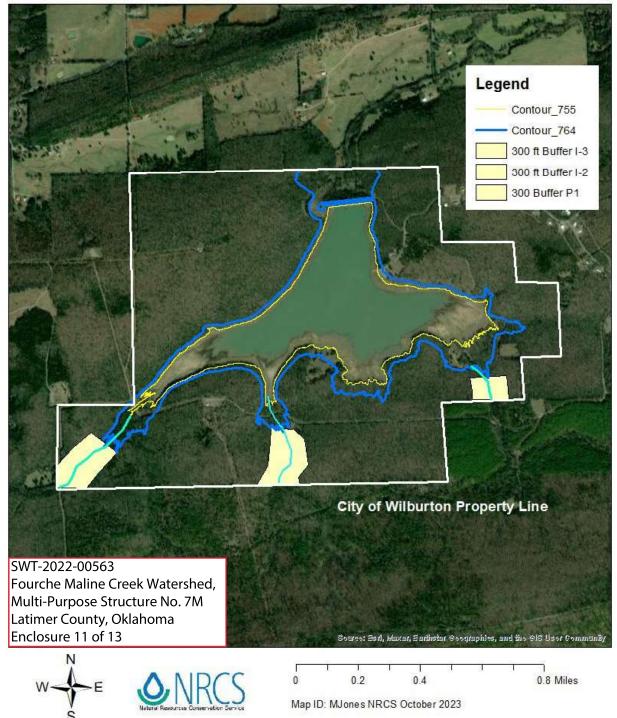
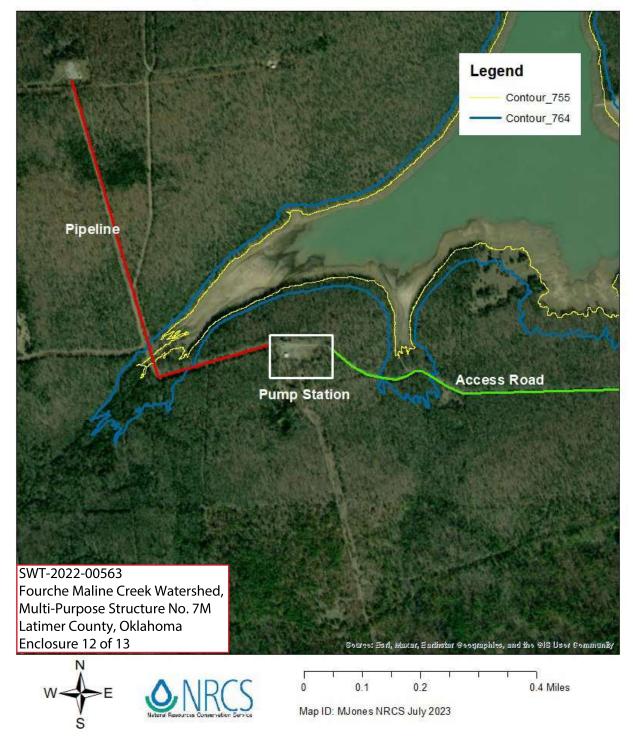


Figure 6: Approximate 300 ft Riparian Buffer areas for each impacted stream. Yellow contour line identifies the current conservation pool high water mark (HWM). Blue contour identifies proposed HWM. White border is the property line for the City of Wilburton.



Merit Energy Pipeline and Access Road

Figure 7: Location of Merit Energy pipeline and current access road location. Blue line represents proposed HWM of dam rehabilitation project.

Merit Energy Road Crossing Fourche Maline 7M

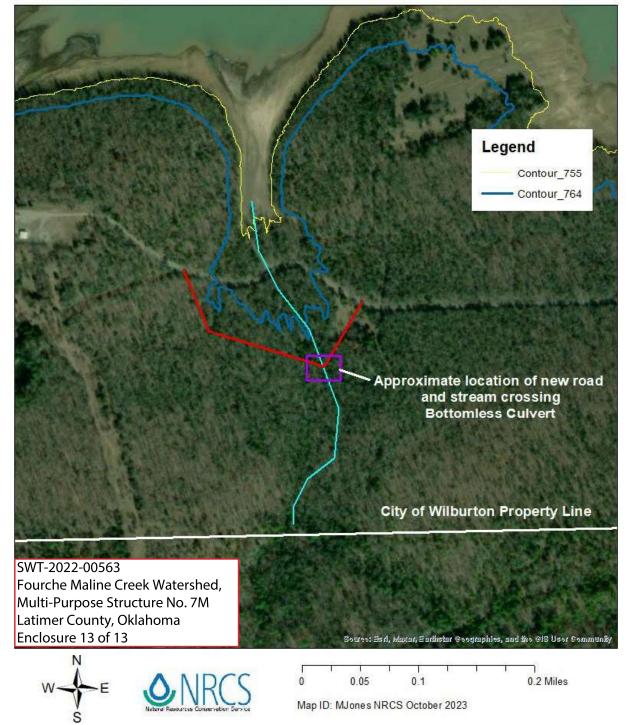


Figure 8: Potential location for moved section of road for Merit Energy access. This crossing will be designed with bottomless culverts and will reduce erosion and sedimentation to Intermittent Stream 2.