

DEPARTMENT OF THE ARMY
Wilmington District, Corps of Engineers
Asheville Regulatory Field Office
151 Patton Avenue Room 208
Asheville, North Carolina 28801-5006
(<http://www.saw.usace.army.mil/wetlands/notices.html>)

Action ID No. 200530483

December 13, 2004

PUBLIC NOTICE

MR. JEFFERY BAKER, 33 TREETOP DRIVE, ARDEN, NORTH CAROLINA 28704, has applied for a Department of the Army (DA) permit TO DISCHARGE FILL MATERIAL INTO 122 LINEAR FEET OF STREAM CHANNEL, TO CONSTRUCT A DAM, AND TO FLOOD 3,092 LINEAR FEET OF STREAM CHANNEL ON AN UNNAMED TRIBUTARY TO THE NORTH FORK, NEW RIVER, IN ASSOCIATION WITH THE CONSTRUCTION OF A 15 ACRE LAKE, IN CRUMPLER, ASHE COUNTY, NORTH CAROLINA.

The following description of the work is taken from data provided by the applicant and from observations made during an onsite visit by a representative of the Corps of Engineers. Plans submitted with the application show the construction of a 15-acre recreational and aesthetic lake on an unnamed tributary to the North Fork, New River in association with the construction of a residential subdivision. The project area is currently wooded and in agricultural land. The wooded portion of the area is dominated with mature hardwoods and softwoods. The construction of the dam will require deposition of 27 cubic yards of roller compacted concrete fill for the dam impacting 122 linear feet of perennial stream channel. The project will result in the flooding of 3,092 linear feet of perennial stream channel. The applicant has provided data that the predominant impacts from the pond construction are to good quality Class C Streams (NC Division of Water Quality). As part of the dam construction, the applicant proposes to maintain cold water base flow to downstream waters.

The perennial stream channel in the project area drains an approximately 1,000-acre watershed that is predominantly in agricultural use. The existing stream channel is moderately entrenched in areas to about 4 feet and exhibits some bank failures. Channel substrate ranges from silt to large boulders with some reaches on bedrock. The 8 to 10 foot wide perennial channel exhibits good indicators of stream function and quality.

The applicant is currently proposing to mitigate for stream losses by: (1) performing restoration on 1,025 linear feet of stream channel downstream of the proposed dam. Restoration will be done utilizing J-Hooks, cross vanes, fisheries habitat structures, and other techniques to reduce erosive energy along steep banks and will include a 50-foot forested buffer on each side of the channel; (2) creating 0.3 acre of littoral wetlands at the head of the lake; (3) providing a 30 foot wide vegetated riparian buffer around the lake (approximately one-half will be forested and one-

half will be planted with shrubs and grasses) and 50 foot wide forested buffers along the restored channel (1,025 linear feet); and (4) installing fisheries habitat structures in the lake. The applicant's stated purpose of the proposed lake is to provide recreational and aesthetic value to residents within the proposed residential development. The applicant has additionally proposed to stock the pond with game fish and provide habitat for waterfowl. Plans showing the work are included with this public notice.

The State of North Carolina will review this public notice to determine the need for the applicant to obtain any required State authorization. No Department of the Army (DA) permit will be issued until the coordinated State viewpoint on the proposal has been received and reviewed by this agency, nor will a DA permit be issued until the North Carolina Division of Water Quality (NCDWQ) has determined the applicability of a Water Quality Certificate as required by PL 92-500.

This application is being considered pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344). Any person may request, in writing within the comment period specified in the notice, that a public hearing be held to consider this application. Requests for public hearing shall state, with particularity, the reasons for holding a public hearing.

The District Engineer has consulted the latest published version of the National Register of Historic Places for the presence or absence of registered properties, or properties listed as being eligible for inclusion therein, and this worksite is not registered property or property listed as being eligible for inclusion in the Register. Consultation of the National Register constitutes the extent of cultural resource investigations by the District Engineer, and he is otherwise unaware of the presence of such resources. Presently, unknown archeological, scientific, prehistorical, or historical data may be lost or destroyed by work under the requested permit.

The District Engineer, based on available information, is not aware that the proposed activity will affect species, or their critical habitat, designated as endangered or threatened pursuant to the Endangered Species Act of 1973.

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. Evaluation of the probable impacts which the proposed activity may have on the public interest requires a careful weighing of all those factors which become relevant in each particular case. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision should reflect the national concern for both protection and utilization of important resources. All factors which may be relevant to the proposal must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards and flood plain values (in accordance with Executive Order 11988), land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For

activities involving the placement of dredged or fill materials in waters of the United States, a permit will be denied if the discharge that would be authorized by such permit would not comply with the Environmental Protection Agencies' 404(b)(1) guidelines. Subject to the preceding sentence 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.

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 of Engineers 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 (EA) and/or an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

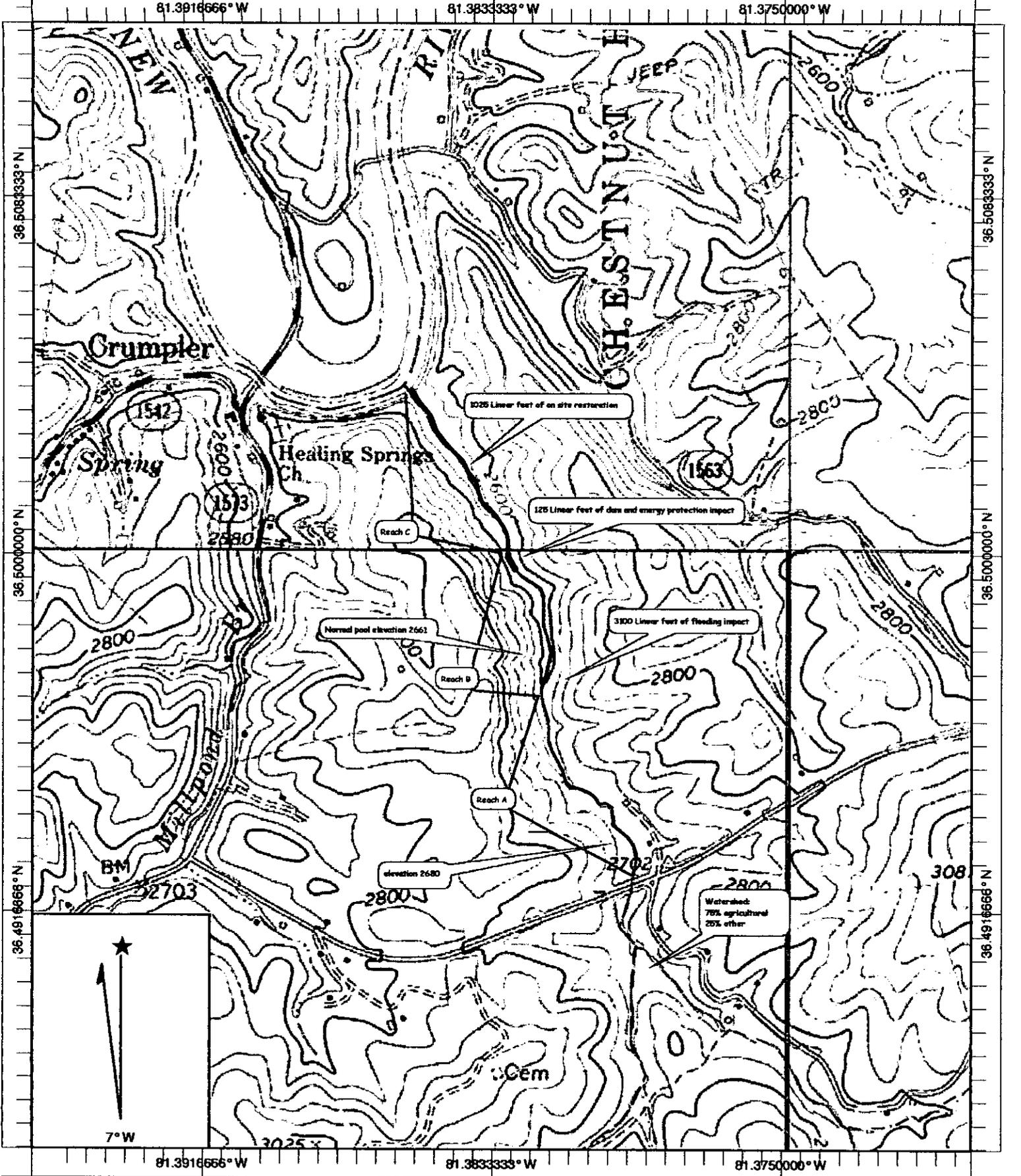
Generally, the decision whether to issue this Department of the Army (DA) permit will not be made until the North Carolina Division of Water Quality (NCDWQ) issues, denies, or waives State certification required by Section 401 of the Clean Water Act. The NCDWQ considers whether or not the proposed activity will comply with Sections 301, 302, 306, and 307 of the Clean Water Act. The application and this public notice for the Department of the Army (DA) permit serves as application to the NCDWQ for certification.

Additional information regarding the Clean Water Act certification may be reviewed at the offices of the Wetlands/401 Unit, North Carolina Division of Water Quality (NCDWQ), 2321 Crabtree Blvd, Suite 250, Raleigh, North Carolina 27604. Copies of such materials will be furnished to any person requesting copies upon payment of reproduction costs.

The North Carolina Division of Water Quality (NCDWQ) plans to take final action in the issuance of the Clean Water Act certification on or after January 5, 2005.

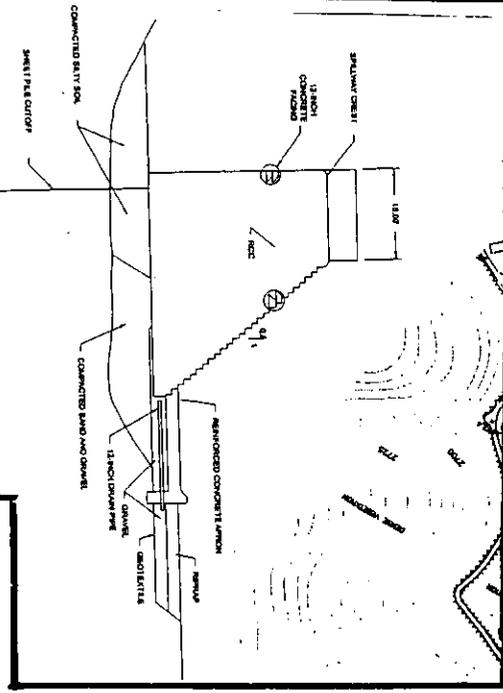
All persons desiring to make comments regarding the application for Clean Water Act certification should do so in writing delivered to the North Carolina Division of Water Quality (NCDWQ), 1650 Mail Service Center, Raleigh, North Carolina 27699-1650, on or before January 5, 2005, Attention: Ms. Cyndi Karoly.

Written comments pertinent to the proposed work, as outlined above, will be received in this office, Attention: Mr. Steve Chapin, until 4:15 p.m., January 12, 2005, or telephone (828) 271-7980, Extension 224.



<p>Name: JEFFERSON Date: 11/19/2004 Scale: 1 inch equals 1000 feet</p>	<p>Location: 036.4992565° N 081.3830651° W Caption: Baker Property Lake Ashe County, NC</p>	<p>ACTION ID. 200S30483 SHEET 1 OF 4</p>
--	---	---

**TYPICAL SECTION
RCC DAM**

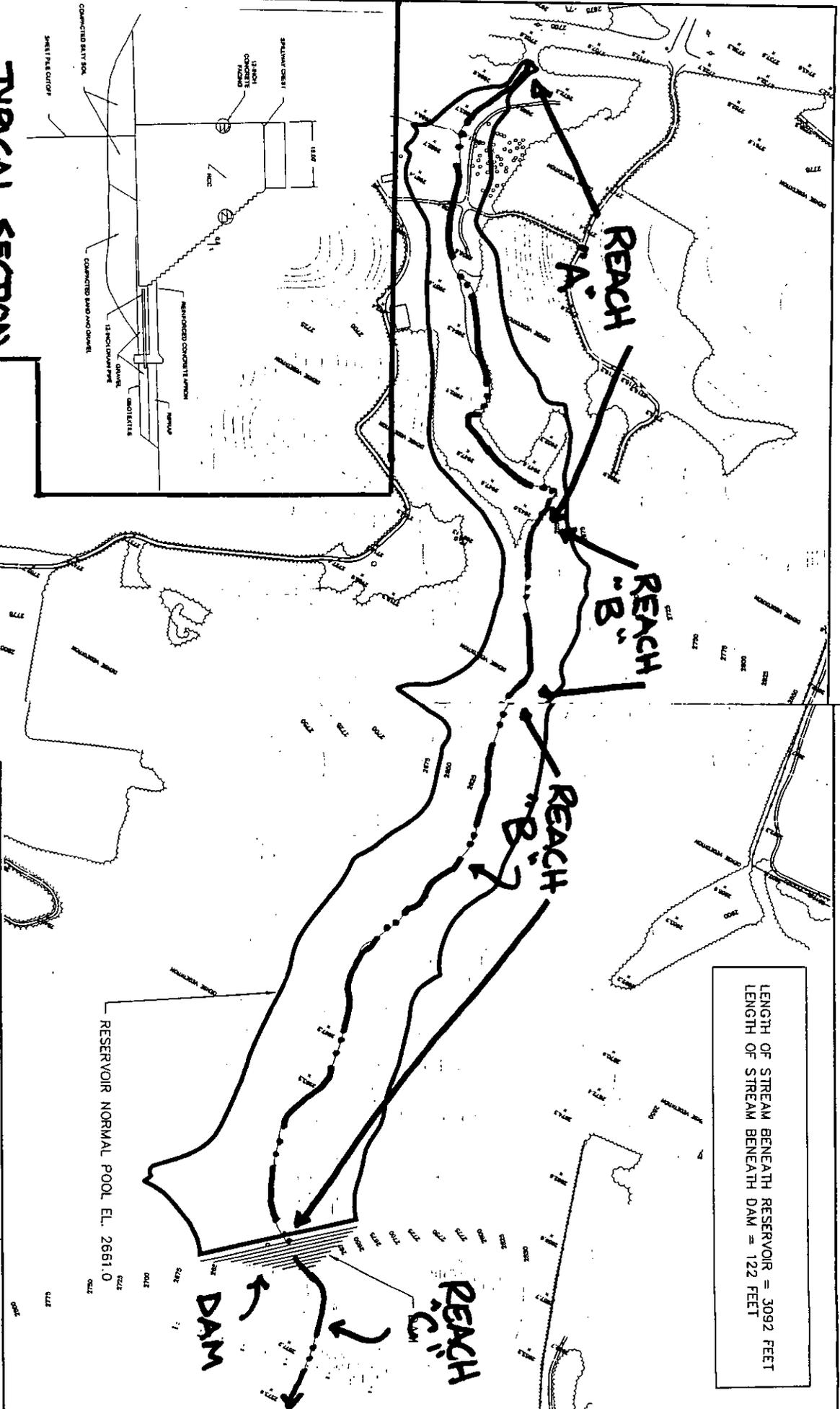


MAP "A"

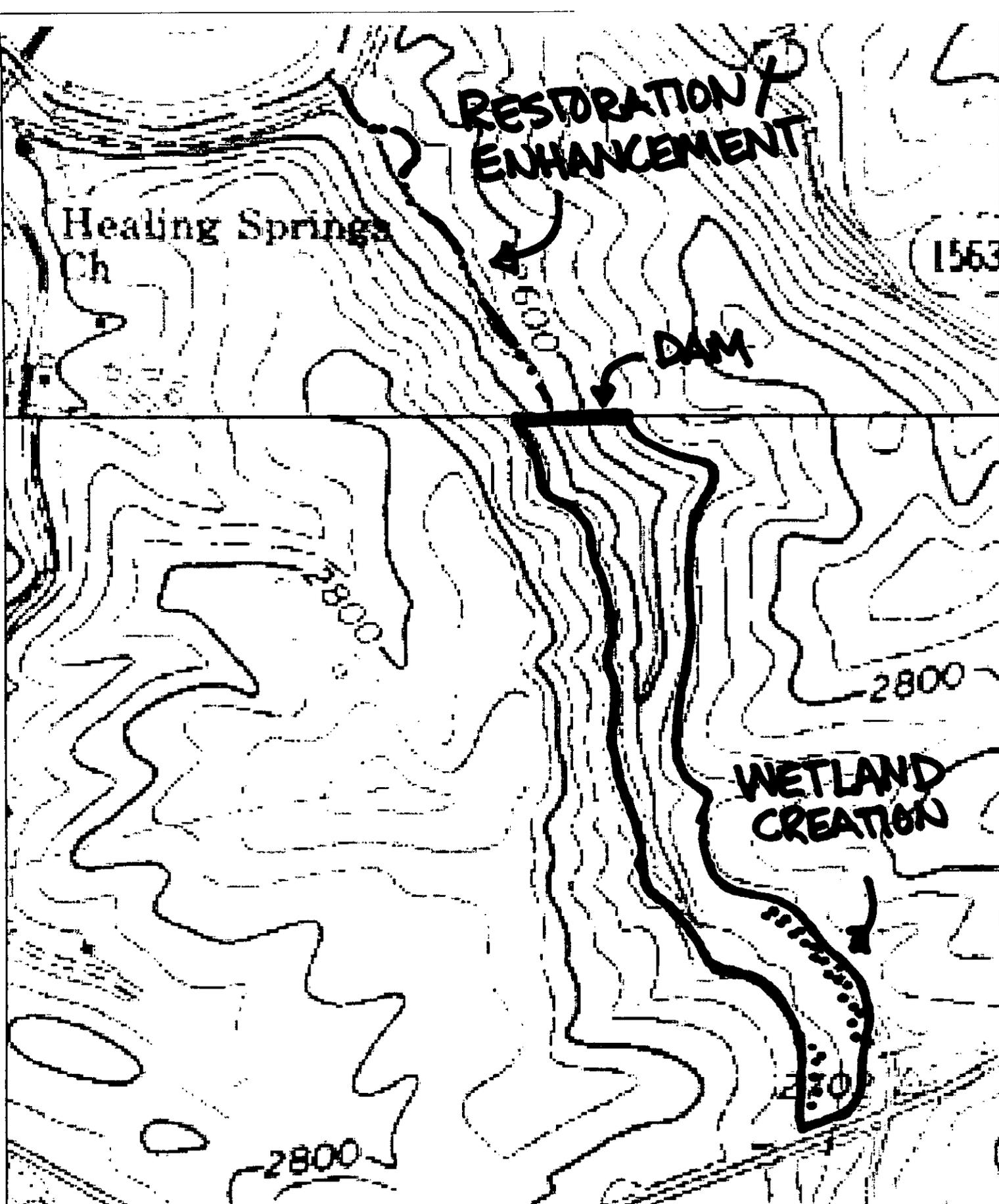
Schnabel
Schnabel Engineering

JEFF BAKER
BAKER DAM
ASHE COUNTY, NORTH CAROLINA
ACTON ID. 200530483
SHEET 82 OF 84

15 ACRE
LAKE ALTERNATIVE
MAP "B"



LENGTH OF STREAM BENEATH RESERVOIR = 3092 FEET
LENGTH OF STREAM BENEATH DAM = 122 FEET



Name: JEFFERSON
Date: 11/19/2004
Scale: 1 inch equals 500 feet

Location: 036.4981344° N 081.3835238° W
Caption: Baker Property Lake
Ashe County, NC
Mitigation Schematic

ACTION ID. 200530483
SHEET 43 OF 84



ACTION ID. 200530483
SHEET 4 OF 4

Ashe Co.
Soil
Survey

