



Public Notice

**U S Army Corps
of Engineers**
Huntington District

In reply refer to Public Notice No.

LRH-2007-028-GAU-2

Issuance Date:

October 10, 2007

Stream:

Callahan Branch

Closing Date:

November 9, 2007

Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Huntington District

ATTN: CELRH-OR-F Public Notice No. (*reference above*)

502 Eighth Street

Huntington, West Virginia 25701-2070

Phone: (304) 399-5710

PUBLIC NOTICE: The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

REGULATORY PROGRAM: Since its early history, the United States Army Corps of Engineers (Corps) has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the Corps Regulatory Program.

SECTION 10: The Corps is directed by Congress under 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 Corps is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the discharge of dredged and fill material into all waters of the United States, including wetlands. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

TO WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army Permit under the provisions of Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. This notice serves as the Corps of Engineers' request to the West Virginia Department of Environmental Protection to act on Section 401 Water Quality Certification for the following application.

APPLICANT: Mr. Rick Lazes
19401 Old Jetton Road, Suite 101
Cornelius, North Carolina 28031

LOCATION: The project site is located near the town of Dawson, in Greenbrier County, West Virginia. **Drawing No. 1** depicts the location of the proposed activities.

DESCRIPTION OF THE PROPOSED WORK: The project would involve the discharge of dredged and fill material into waters of the U.S. in conjunction with the construction of an approximately 800-acre residential subdivision, designed to target buyers in the second home and vacation home market. The subdivision would consist of approximately 100 parcels ranging in size from 8 to 10 acres. The applicant believes the success of this subdivision is largely dependent on the construction of an approximately 30-acre lake. This lake would provide subdivision residents with potable water as well as aquatic-based recreational opportunities, such as boating, fishing, and swimming. In addition to the lake, the subdivision would incorporate other amenities, including hiking trails and picnic areas for residents.

A total of approximately 4,027 linear feet (or 0.22-acre) of streams and 13.15 acres of wetlands would be impacted in conjunction with construction of this project. Adverse impacts to waters of the U.S. would include 1,414 linear feet or 0.076-acre of perennial stream, 2,513 linear feet or 0.14-acre of intermittent stream, 100 linear feet or 0.006-acre of ephemeral stream, 2.43 acres of forested wetlands and 10.72 acres of emergent wetlands. Construction of the lake embankment would impact 184 linear feet or 0.01-acre of perennial stream and 0.7-acre of forested wetlands. Lake inundation would result in the loss of an additional 1,180 linear feet or 0.06-acre of perennial stream, 2,463 linear feet or 0.14-acre of intermittent stream, 1.73 acres of forested wetlands and 10.72 acres of emergent wetlands. In addition, four permanent access road crossings would result in impacts to 50 linear feet or 0.006-acre of perennial stream, 50 linear feet or 0.003 of intermittent stream and 100 linear feet or 0.003-acre of ephemeral stream. The proposed construction of the lake would involve the placement of an earthen embankment structure, which would be approximately 35 feet in height and 433 feet in length. The applicant has submitted an application to the West Virginia Department of Environmental Protection in order to obtain a state permit for the proposed embankment structure and lake. It is anticipated the lake would have an average width of approximately 457 feet.

ALTERNATIVE ANALYSIS: The project is not water dependent and does not require access to or siting within waters of the United States to fulfill its basic purpose. Practicable alternatives that do not involve waters of the United States are presumed to be available unless clearly demonstrated otherwise. The applicant is required to provide an alternative analysis that must overcome that presumption prior to receiving authorization for the placement of fill material. The applicant has submitted the required alternative analysis and it is currently being reviewed.

MITIGATION PLAN: The applicant has provided a conceptual compensatory mitigation plan (CMP) to offset the impacts to jurisdictional waters of the United States, which are regulated by the Department of the Army, Corps of Engineers. A final CMP will be required and coordinated with the state and federal resource agencies.

WATER QUALITY CERTIFICATION: Pursuant to Section 401 of the Clean Water Act, a Water Quality Certification is required for this project. It is the applicant's responsibility to obtain certification from the West Virginia Department of Environmental Protection.

HISTORIC AND CULTURAL RESOURCES: The National Register of Historic Places (NRHP) has been consulted and no properties are currently listed on the register in the area affected by the project. The applicant has submitted a Phase I Archaeological Survey to this office as well as the West Virginia Division of Culture and History (WVDCH). This survey is currently under review [FR#: 07-54-GB]. This public notice serves as coordination with the State Historic Preservation Officer regarding historic properties. If the WVDCH believe any potential effects to historic properties may result from the proposed permitting action, we request they provide information to this office pursuant to Section 106 of the National Historic Preservation Act. Comments concerning archaeological sensitivity of a project area should be based upon collected data.

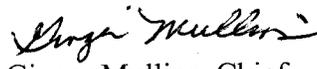
ENDANGERED/THREATENED SPECIES REVIEW: This public notice also serves as coordination with the United States Fish and Wildlife Service (USFWS) regarding threatened or endangered species. The proposed project lies within the distribution range of the Indiana Bat (*Myotis sodalis*), and Eastern Cougar (*Felis concolor cougar*), as indicated on the West Virginia listed species roster provided by the USFWS (revised February 2007). The applicant has coordinated with the USFWS, as evidenced through the USFWS November 15, 2006 correspondence provided by the applicant. If the Service believes any potential effects to federally listed species would be attributable to the Huntington District's proposed permitting action, we request the Service provide information pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended).

PUBLIC INTEREST REVIEW AND COMMENT: Any person who has an interest that may be adversely affected by the issuance of a permit may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest which may be adversely affected and the manner in which the interest may be adversely affected by the activity. Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered including the cumulative effects thereof; of those are 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 ownership and, in general, the needs and welfare of the people. Any person may submit cumulative impact information, which is substantive and specifically associated with the proposed action. In addition, the evaluation of the impact of the activity on the public interest

will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under the authority of Section 404(b) of the Clean Water Act. Written statements on these factors received in this office on or before the expiration date of this public notice will become a part of the record and will be considered in the final determination. A permit will be granted unless its issuance is found to be contrary to the public interest.

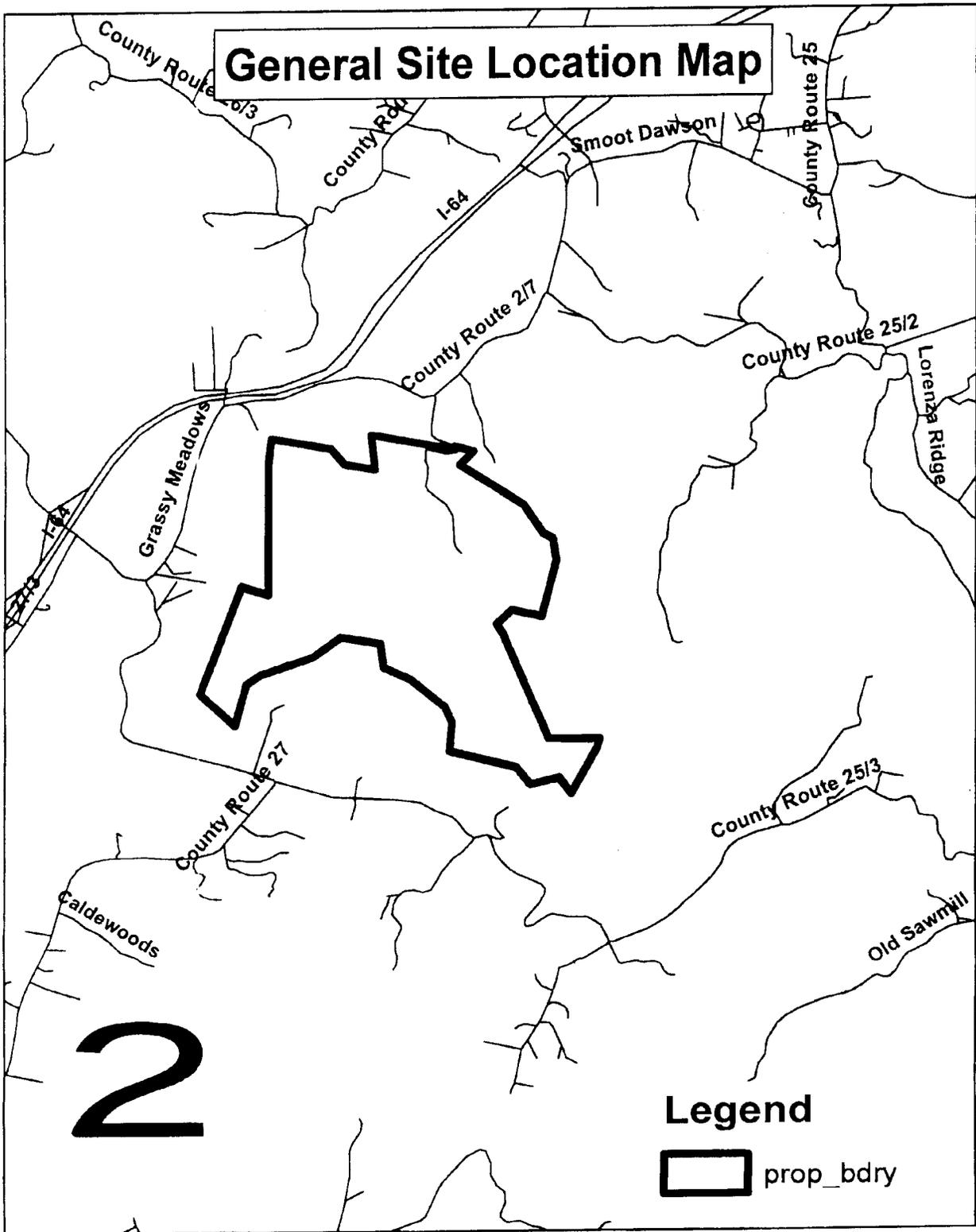
SOLICITATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. For accuracy and completeness of the administrative record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition. 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 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.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to Mr. Michael Hatten, Project Manager, South Regulatory Section, CELRH-OR-FS, United States Army Corps of Engineers Huntington District, 502 Eighth Street, Huntington, West Virginia 25701-2070. Please note names and addresses of those who submit comments in response to this public notice may be made publicly available. Thank you for your interest in our nation's water resources. If you have any questions concerning this public notice, please call Mr. Michael Hatten at (304) 399-5710.


Ginger Mullins, Chief
Regulatory Branch

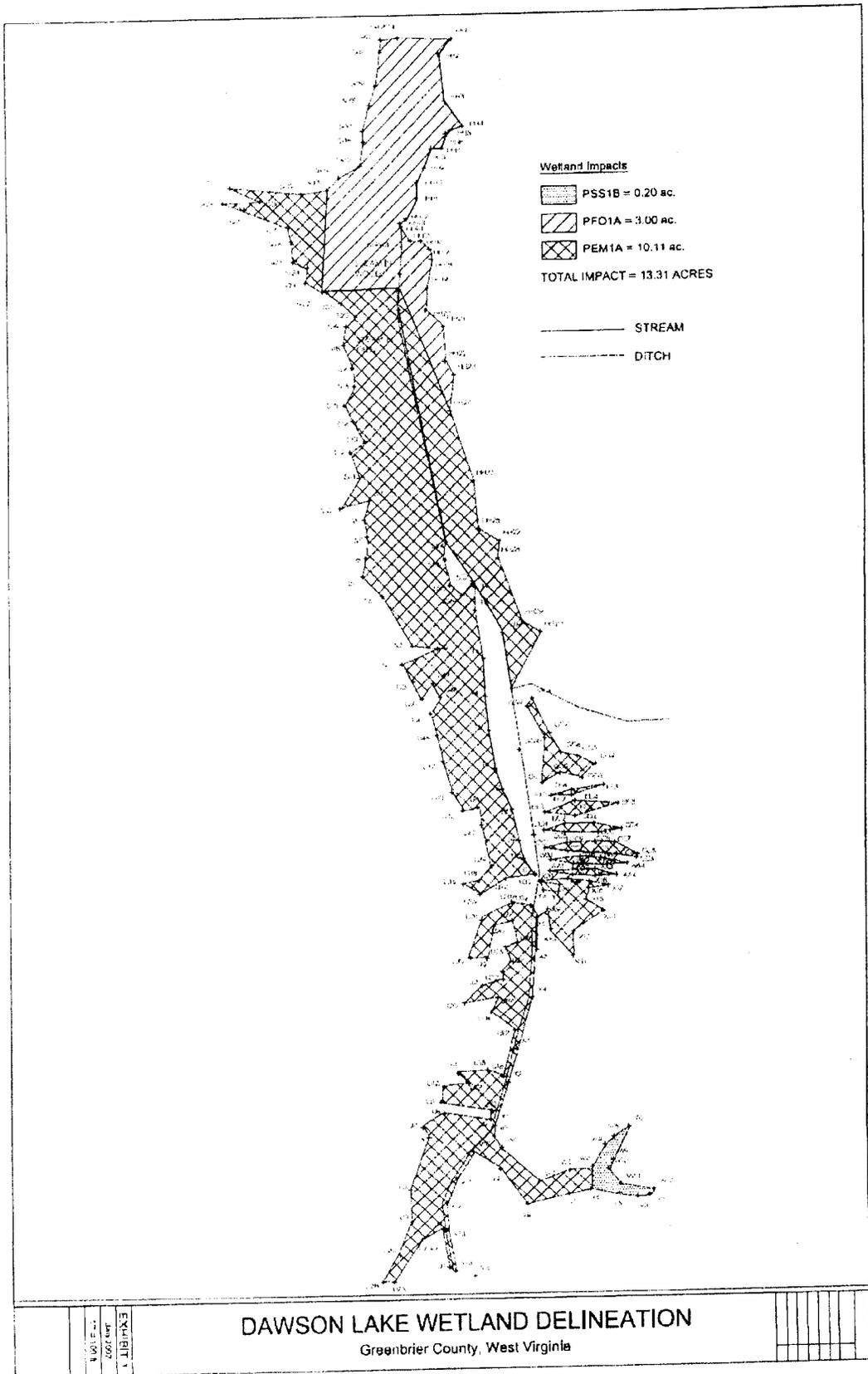
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General Site Location Map

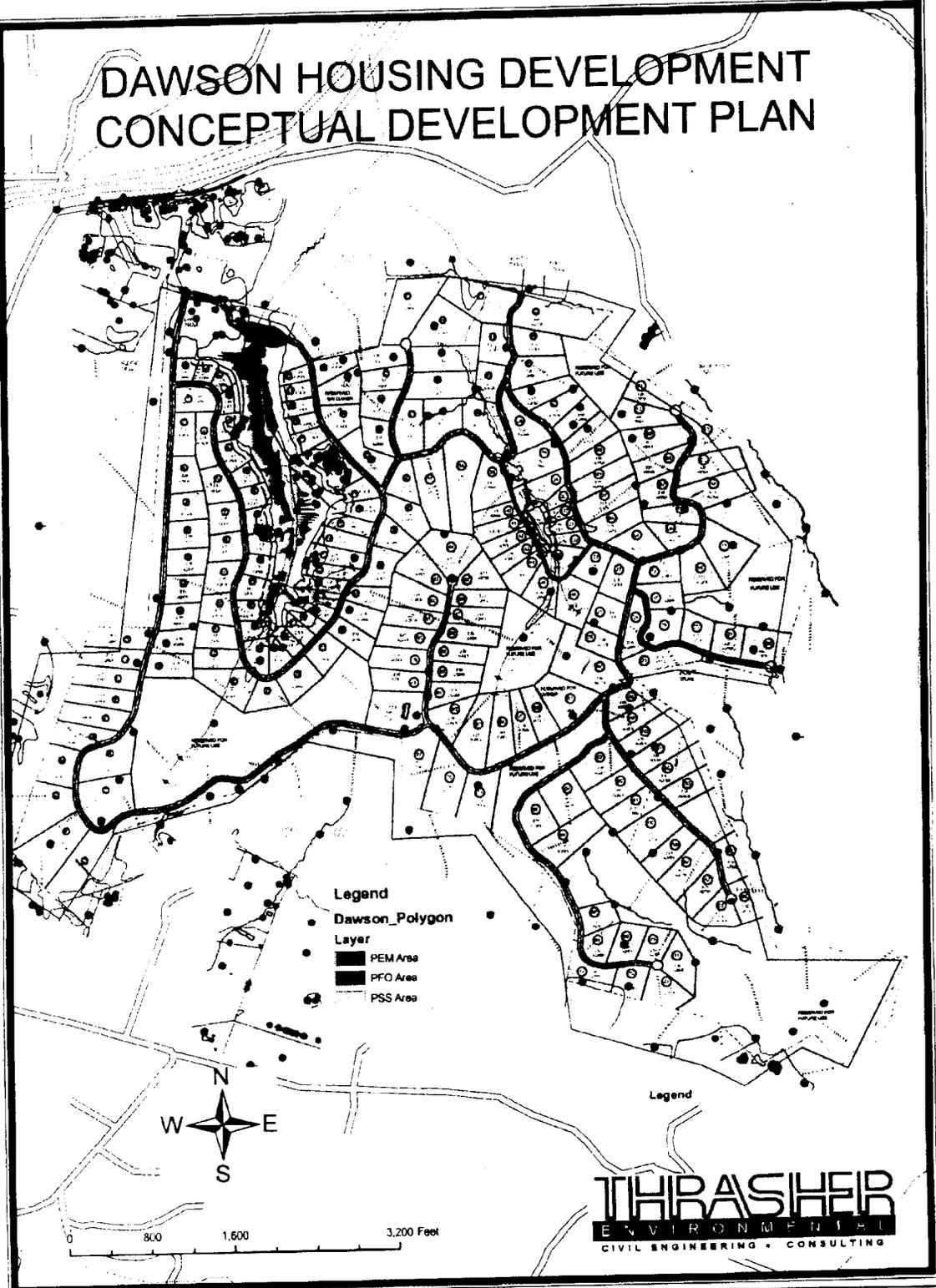


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DAWSON HOUSING DEVELOPMENT CONCEPTUAL DEVELOPMENT PLAN



LRH-2007-028-GAU
Callahan Branch-Dawson Lake Project
Greenbrier County, WV
Drawing 4 of 4