

## McNeill, Catherine

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**From:** McNeill, Catherine  
**Sent:** Thursday, April 10, 2025 10:24 AM  
**To:** Mobile Coastal Mail  
**Subject:** FW: Status update request - Baker Hwy 180  
**Attachments:** Baker Hwy 180 Sections 2.28.25.pdf; Baker Hwy 180 Plan on aerial 2.28.25.pdf; Baker Hwy 180 Plan 2.28.25.pdf

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**From:** Lewis <[lewis@ecosolutionsinc.net](mailto:lewis@ecosolutionsinc.net)>  
**Sent:** Friday, February 28, 2025 4:33:40 PM  
**To:** Jacobs, M Derek CIV USARMY (USA) <[Michael.D.Jacobs@usace.army.mil](mailto:Michael.D.Jacobs@usace.army.mil)>; Kim Burmeister <[Kim@ecosolutionsinc.net](mailto:Kim@ecosolutionsinc.net)>  
**Cc:** [byron@bakerfarming.com](mailto:byron@bakerfarming.com) <[byron@bakerfarming.com](mailto:byron@bakerfarming.com)>; Nitz, Autumn <[autumn.nitz@adem.alabama.gov](mailto:autumn.nitz@adem.alabama.gov)>  
**Subject:** RE: Status update request - Baker Hwy 180

Derek and Autumn, I spoke to Mr. Baker and he agreed to use the retaining walls and that decreases the fill area down to 0.26 acres. Please review the attached drawings and let me know if you have any questions or need anything else to move forward with the permitting. Feel free to give me a call if you want to discuss.

Have a good day,  
Lewis Cassidey  
EcoSolutions Inc  
251-621-5006

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**From:** Jacobs, M Derek CIV USARMY (USA) <[Michael.D.Jacobs@usace.army.mil](mailto:Michael.D.Jacobs@usace.army.mil)>  
**Sent:** Wednesday, February 26, 2025 8:32 AM  
**To:** Kim Burmeister <[Kim@ecosolutionsinc.net](mailto:Kim@ecosolutionsinc.net)>  
**Cc:** Lewis <[lewis@ecosolutionsinc.net](mailto:lewis@ecosolutionsinc.net)>; [byron@bakerfarming.com](mailto:byron@bakerfarming.com); Nitz, Autumn <[autumn.nitz@adem.alabama.gov](mailto:autumn.nitz@adem.alabama.gov)>  
**Subject:** RE: Status update request - Baker Hwy 180

Ms. Burmeister,

I have not reactivated the permit request as I have requested evidence the state is satisfied with the avoidance and minimization efforts necessary for me to assume the project has Coastal Zone Management Act consistency for the state of Alabama under the Nationwide Permit 14 – an email is sufficient.

When we last met on-site, the details of the final road design seemed to be in question. If plans have changed, I will need updated drawings (plan-view and cross section) to reflect any new design.

I mentioned to Lewis and Mr. Baker I would continue working on the project despite the project not being re-activated. Coincidentally, I received an email from the archaeologist about this project yesterday – it should be good to go from a 106 viewpoint.

Please let me know if you have any questions, comments, or concerns – my phone number is below.

Very Respectfully,

M. Derek Jacobs M.S.  
South Alabama Branch

Mobile District, Regulatory Division  
U.S. Army Corps of Engineers  
Email: [michael.d.jacobs@usace.army.mil](mailto:michael.d.jacobs@usace.army.mil)  
Website: [www.sam.usace.army.mil](http://www.sam.usace.army.mil)  
(m) 251.979.3977

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**From:** Kim Burmeister <[Kim@ecosolutionsinc.net](mailto:Kim@ecosolutionsinc.net)>  
**Sent:** Tuesday, February 25, 2025 11:14 AM  
**To:** Jacobs, M Derek CIV USARMY (USA) <[Michael.D.Jacobs@usace.army.mil](mailto:Michael.D.Jacobs@usace.army.mil)>  
**Cc:** Lewis <[lewis@ecosolutionsinc.net](mailto:lewis@ecosolutionsinc.net)>  
**Subject:** [Non-DoD Source] Status update request - Baker Hwy 180

Good morning Mr. Jacobs,

Can you give me an update on the review status of this permit submittal?

Baker Hwy. 180, SAM-2024-00431 - wetland fill for road - Gulf Shores, Little Lagoon

Thanks,

Kim Burmeister

P O Box 361

Montrose, AL 36559

251-621-5006

Fax-621-5058

[kim@ecosolutionsinc.net](mailto:kim@ecosolutionsinc.net)

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Note: All dimensions shown are measured in feet.  
Drawings are for USACE, ADEM and AL State Lands  
permitting only and should not be used for  
construction.

A survey should be performed prior to placement of structures. Distances from existing structures were estimated based on aerial photos. Property boundaries are estimated based on available information.

## Baker Road Fill



P.O. BOX 361  
MONTROSE, AL 36559  
(251) 621-5006

PREPARED FOR  
Byron Baker  
Hwy 180  
Gulf Shores, Alabama

DRAWN BY  
L.Cassidey

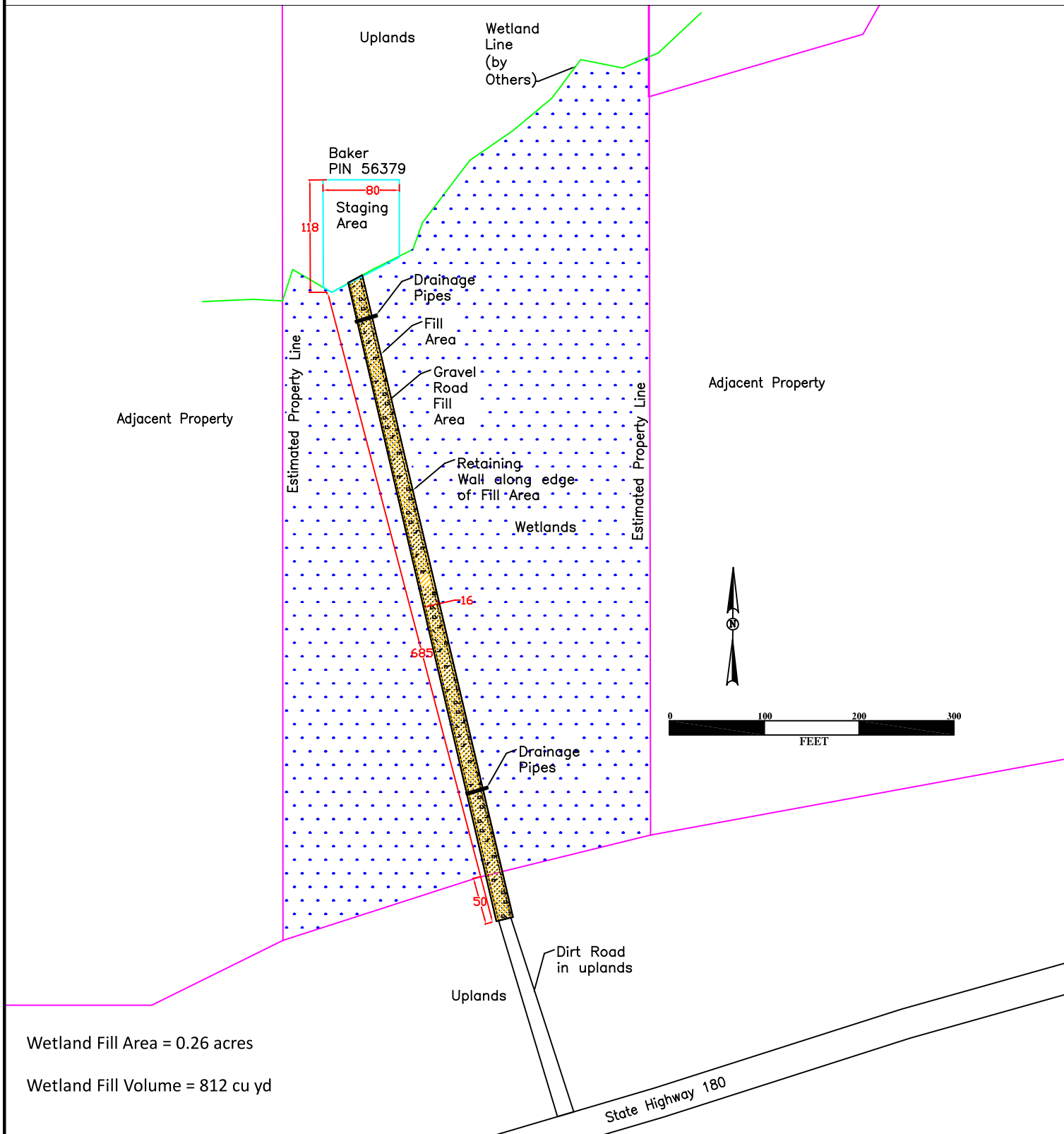
DATE OF LAST REVISION	2/28/25
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DWG
Baker road fill 4.2.24

SCALE AS STATED

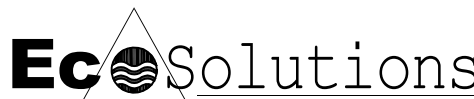
**SHEET 1**

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## Baker Road Fill



ENVIRONMENTAL MEDIATION, MANAGEMENT & PLANNING

P.O. BOX 361  
MONTROSE, AL 36559  
(251) 621-5006

PREPARED FOR  
Byron Baker  
Hwy 180  
Gulf Shores, Alabama

DRAWN BY  
L.Cassidy  
CHECKED BY  
L.Yokel

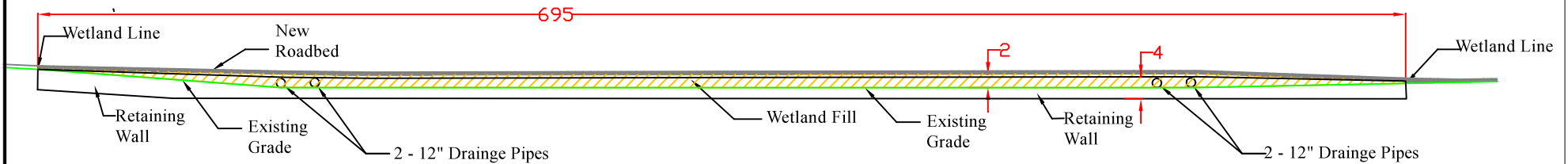
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2/28/25  
SCALE AS STATED

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Baker road fill 4.2.24

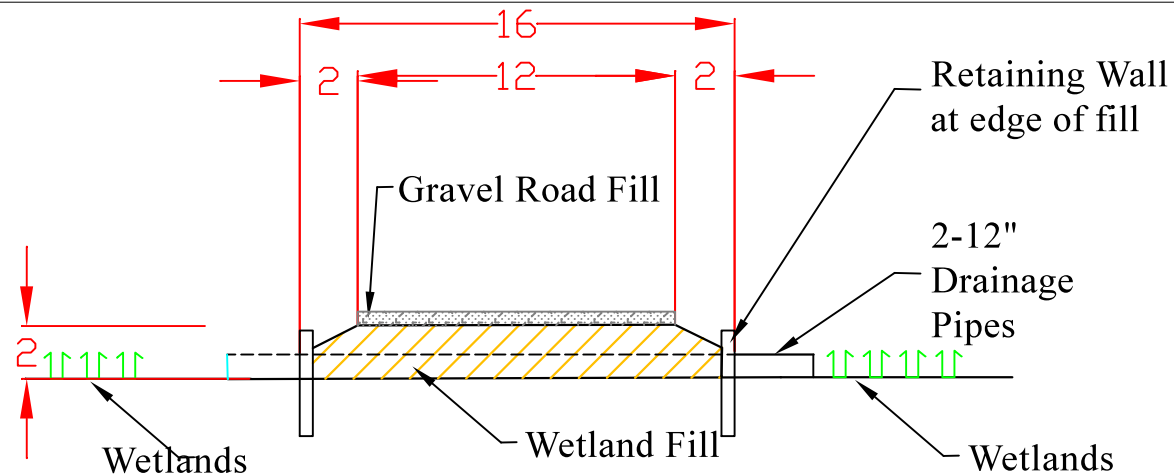
SHEET 1

# FOR PERMITTING ONLY, NOT TO BE RELIED ON FOR CONSTRUCTION

## Road Section



## Tranverse road section



Note: All dimensions shown are measured in feet. Drawings are for USACE, ADEM and AL State Lands permitting only and should not be used for construction.

A survey should be performed prior to placement of structures. Distances from existing structures were estimated based on aerial photos. Property boundaries are estimated based on available information.

Wetland Fill Area = 0.26 acres

Wetland Fill Volume = 812 cu yd

## Baker Road Sections

**EcoSolutions**  
ENVIRONMENTAL MEDIATION, MANAGEMENT & PLANNING

P.O. BOX 361  
MONTROSE, AL 36559  
(251) 621-5006

PREPARED FOR  
Byron Baker  
Hwy 180  
Gulf Shores, Alabama

DRAWN BY  
L.Cassidy  
CHECKED BY  
L.Yokel

DATE OF LAST REVISION  
2/28/25  
SCALE AS STATED

DWG  
Baker road fill 4.2.24

SHEET 3

## McNeill, Catherine

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**From:** Brown, Scott  
**Sent:** Friday, January 24, 2025 10:22 AM  
**To:** Nitz, Autumn  
**Cc:** Mobile Coastal Mail; City of Gulf Shores | Brandan Franklin; Jacobs, M Derek CIV USARMY (USA); Ashley Campbell; Lewis  
**Subject:** XXX 2024-188.1 003 01-24-2025 CZAPP CAM SAM-2024-00431 REQUEST FOR VARIANCE  
**Attachments:** Baker Hwy 180 ADEM variance request packet 1.23.25.pdf

Autumn,

This is assigned to you.

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**From:** Lewis <[lewis@ecosolutionsinc.net](mailto:lewis@ecosolutionsinc.net)>  
**Sent:** Thursday, January 23, 2025 4:02 PM  
**To:** Brown, Scott <[jsb@adem.alabama.gov](mailto:jsb@adem.alabama.gov)>  
**Cc:** Smith, Katie M <[katiem.smith@adem.alabama.gov](mailto:katiem.smith@adem.alabama.gov)>; Mobile Coastal Mail <[Coastal@adem.alabama.gov](mailto:Coastal@adem.alabama.gov)>; Ashley Campbell <[Ashley.Campbell@baldwincountyal.gov](mailto:Ashley.Campbell@baldwincountyal.gov)>; Jacobs, M Derek CIV USARMY (USA) <[Michael.D.Jacobs@usace.army.mil](mailto:Michael.D.Jacobs@usace.army.mil)>; CESAM-RD <[CESAM-RD@usace.army.mil](mailto:CESAM-RD@usace.army.mil)>; [byron@bakerfarming.com](mailto:byron@bakerfarming.com); Kim Burmeister <[Kim@ecosolutionsinc.net](mailto:Kim@ecosolutionsinc.net)>  
**Subject:** RE: XXX 2024-188 003 11-26-2024 CORS JSB REVISED FILL PLAN SAM-2024-00431 • (Byron Baker Lot on Hwy 180 Near Little Lagoon revised fill plan

This message has originated from an **External Source**. Please use proper judgment and caution when opening attachments, clicking links, or responding to this email.

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Mr. Brown, attached is the variance request packet for Baker, PIN# 56379, State Highway 180, Baldwin County, AL SAM-2024-00431. Please review these documents and let me know if you have any questions or need anything else to move forward with the permitting on this project. Feel free to give me a call if you want to discuss.

Have a good day,  
Lewis Cassidey  
EcoSolutions Inc  
251-621-5006

---

**From:** Brown, Scott <[jsb@adem.alabama.gov](mailto:jsb@adem.alabama.gov)>  
**Sent:** Tuesday, November 26, 2024 9:39 AM  
**To:** Lewis <[lewis@ecosolutionsinc.net](mailto:lewis@ecosolutionsinc.net)>  
**Cc:** Smith, Katie M <[katiem.smith@adem.alabama.gov](mailto:katiem.smith@adem.alabama.gov)>; Mobile Coastal Mail <[Coastal@adem.alabama.gov](mailto:Coastal@adem.alabama.gov)>; Ashley Campbell <[Ashley.Campbell@baldwincountyal.gov](mailto:Ashley.Campbell@baldwincountyal.gov)>; Jacobs, M Derek CIV USARMY (USA) <[Michael.D.Jacobs@usace.army.mil](mailto:Michael.D.Jacobs@usace.army.mil)>; City of Gulf Shores | Brandan Franklin <[bfranklin@gulfshoresal.gov](mailto:bfranklin@gulfshoresal.gov)>  
**Subject:** XXX 2024-188 003 11-26-2024 CORS JSB REVISED FILL PLAN SAM-2024-00431 • (Byron Baker Lot on Hwy 180 Near Little Lagoon revised fill plan

Good morning, Lewis:

At this point seems appropriate to bring Army Corps and County or City of Gulf Shores into the discussion (all three are copied).

In short, after consideration of various aspects of this proposal, the ADEM may consider issuance of a variance which, if issued, would allow direct access to uplands on the parcel through the wetlands fronting HWY 180. Mr. Baker will have to fulfill the application requirements of ADEM Admin. Code r. 335-8-1-.13.

Direct mitigation would be required for coastal wetlands fill impacts (ADEM Admin. Code r. 335-8-2-.03) whether credit purchase or creation. Surface hydraulic connection must be maintained on both sides of the causeway; Army Corps will have to weigh-in on whether the two planned culverts are sufficient. As for over and beyond, I'd suggest recording a deed restriction protecting the remaining wetlands on the parcel from future dredge/fill actions.

If fill is allowed, what engineering practices will be used to confine the fill to the 0.31-acre footprint? The Department will enforce compliance with the final fill design plan.

I do not recall if this is City or County. You will need to coordinate with the appropriate local government for permission to cross the ROW (turnout) and to determine which entity will be responsible for compliance with that section of the drive and also which entity is responsible for obtaining a permit for wetlands fill in the ROW. Is that fill included in your 0.31-acre calculation?

**J. Scott Brown, Chief**

The ADEM Coastal Office

1615 South Broad Street | Mobile, Alabama 36605

Telephones: 251.450.3400 Office | 334.850.4641 Cell

eMail: [jsb@adem.alabama.gov](mailto:jsb@adem.alabama.gov)

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**From:** Lewis <[lewis@ecosolutionsinc.net](mailto:lewis@ecosolutionsinc.net)>

**Sent:** Monday, November 25, 2024 5:18 PM

**To:** Smith, Katie M <[katiem.smith@adem.alabama.gov](mailto:katiem.smith@adem.alabama.gov)>

**Cc:** Brown, Scott <[jsb@adem.alabama.gov](mailto:jsb@adem.alabama.gov)>; Kim Burmeister <[Kim@ecosolutionsinc.net](mailto:Kim@ecosolutionsinc.net)>

**Subject:** Baker Hwy 180 road fill revised fill plan

Mr. Brown and Ms. Smith, I have been informed that Mr. Baker hired another consultant ( Steven Burns) to help with the wetland fill for access road permitting. Mr. Burns told me he had a productive conversation and email exchange with Chris Sasser at ADEM. Have you heard anything from ADEM Montgomery about the results of those conversations? I made a few minor revisions and was able to get the wetland fill area down to 0.31 acres. Mr. Baker is willing to discuss mitigation over and above the normal requirements and just wants to find a way to get this permitted. Please review the attached document and let me know what we can do to move forward with this permitting. Feel free to give me a call if you want to discuss.

Have a good day,  
Lewis Cassidey  
EcoSolutions Inc  
251-621-5006



January 13, 2025

Mr. Scott Brown  
ADEM Coastal Section  
1615 Broad Street  
Mobile, AL 36605

Reference: Variance Request; Baker, PIN# 56379, State Highway 180, Baldwin County, AL  
SAM-2024-00431

Mr. Brown:

I am writing on behalf of my client, Mr. Byron Baker, to request a variance under ADEM Administrative Code Section 335-8-1-.13 from ADEM Administrative Code 335-8-2-.02 for the purposes of building a driveway to access the upland area at the north end of the parcel. The south end of the parcel is jurisdictional wetlands. The client has requested wetland fill authorization under Nationwide Permit 14. Specifically, my client requests a variance to place 820 cubic yards of sandy material in 0.31 acres of non-tidal medium functional value, pine savannah wetlands. The parcels to the east and west of the site also contain wetlands and are undeveloped. The parcels to the northeast are part of the Peninsula subdivision. The parcel to the north is undeveloped. The south end of the parcel is adjacent to the right of way of Highway 180 and the proposed fill will allow driveway construction from the highway to the buildable upland area of the site. The current access to the site is a circuitous route over a rough and poorly maintained private gravel road (Newberry Road) and a dirt access road through the parcel north of the site that is currently owned by Mr. Baker. The condition of Newberry road makes travel difficult and unpleasant for two-wheel drive vehicles, and furthermore because Newberry road is privately owned there is nothing Mr. Baker can do to have it repaired or paved. Mr. Baker wants the ability to sell each of his parcels individually so each parcel needs independent access to an existing road. The proposed access road will allow reliable access for two wheel drive vehicles from Hwy 180 to the buildable uplands on the site.

Mr. Baker has designed the access driveway to minimize the wetland impacts. The originally proposed fill area was 0.42 acres and the current proposed fill area has been decreased to 0.31 acres. Additional wetland impacts will be prevented by the placement of a Class A silt fence around the fill area during construction. The applicant has applied for a wetland fill permit from US Army Corps of Engineers (USACE) but cannot move forward with that permitting without ADEM approval of this variance request. Mitigation for the wetland fill will be accomplished through the purchase of credits in a wetland mitigation bank approved for use in the area of the project. The legal argument supporting this request is attached.

I appreciate your assistance with this request. Please let me know if you need any additional information.

Sincerely,

Lewis Cassidey  
EcoSolutions Inc, 251-621-5006



January 21, 2025

Mr. J. Scott Brown, Chief  
Coastal Section  
Alabama Department of Environmental Management  
1615 Broad Street  
Mobile, Alabama 36605

**Re: Proposed Driveway at Mr. Byron Baker's Property**  
**PIN# 56379**  
**AL SAM-2024-00431**

Dear Mr. Brown:

This letter concerns a proposal to build a driveway to serve Mr. Byron Baker's lot on the north side of Highway 180 in Fort Morgan, Alabama. The driveway would run through wetlands and, as such, requires a Section 404 permit from the U.S. Army Corps of Engineers (USACE) as well as a determination by the Alabama Department of Environmental Management (ADEM) that the proposal is consistent with ADEM's coastal program. In support of Mr. Baker's proposal, I would offer the following for your consideration.

1. Impacts to wetlands are minimal. We recognize that ADEM is not governed by the requirements of the federal Section 404 program. That said, the project is within the parameters established by USACE's Nationwide Permit 14 for linear transportation projects. That means USACE, as an entity independent of Mr. Baker with appropriate expertise in aquatic resources, has determined for its purposes that this category of activity has no more than a minimal environmental impact both separately and cumulatively. 86 Fed. Reg. 73,522, 73,522-23 (Dec. 27, 2021).

2. Project impacts have been minimized. As a condition of issuing a wetland permit, federal regulations require "appropriate and practicable steps . . . which will minimize potential adverse impacts of the discharge on the aquatic ecosystem." 40 C.F.R. § 230.10(d). The original proposal called for a driveway 18 feet wide, but the current design reduces the width to 12 feet. This is the minimum width for reasonable residential use. Mr. Baker intends only to

access the lot for his own personal usage. In other words, he is not pursuing any commercial, industrial, or multifamily projects that could drive third-party traffic or lead to further proposals in the future that could impact wetlands. Again, we do not suggest that ADEM is bound by federal wetland regulations, but we offer this suggestion as an independent source of parameters that Mr. Baker has striven to acknowledge.

3. The proposal is permissible under ADEM's regulations. Based on a careful review of Division 335-8 of ADEM's regulations governing the state's coastal area management program, the proposed project does not include any features that require ADEM's disapproval. We are aware of no policy of ADEM that is incompatible with Mr. Baker's proposal.

4. An "alternative" route is not practicable. Again using EPA's regulations as a useful framework for analysis, a 404 permit is generally unavailable "if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem." 40 C.F.R. § 230.10(a). Practicability is evaluated "taking into consideration cost, existing technology, and logistics in light of overall project purposes." *Id.* § 230.10(a)(2). The question has arisen of whether Mr. Baker could use a route of access that would follow Newberry Road and Old Fort Morgan Trail to the northern end of a different lot he owns, which is adjacent and to the immediate north of the lot in question. The route would then continue through that second lot to reach the subject property. This route is not practicable, for several reasons:

a. Newberry Road is in poor condition. Mr. Baker reports that a neighbor's passenger vehicle lost a bumper due to uneven and poorly maintained conditions.

b. Newberry Road is privately owned, which means that Mr. Baker cannot improve it to a better condition or, even if it were repaired, maintain it in the future.

c. The route is unreasonably long and circuitous for a lot that has direct frontage on Highway 180.

d. To require use of a second lot poses a further risk to future access. I am not aware of any existing right or instrument that would ensure continued access in the event the second lot came under different ownership.

In closing, I would add that Mr. Baker remains open to any further suggestions or considerations the Department may wish to offer. In the meantime, thank you kindly for your consideration.

Sincerely,

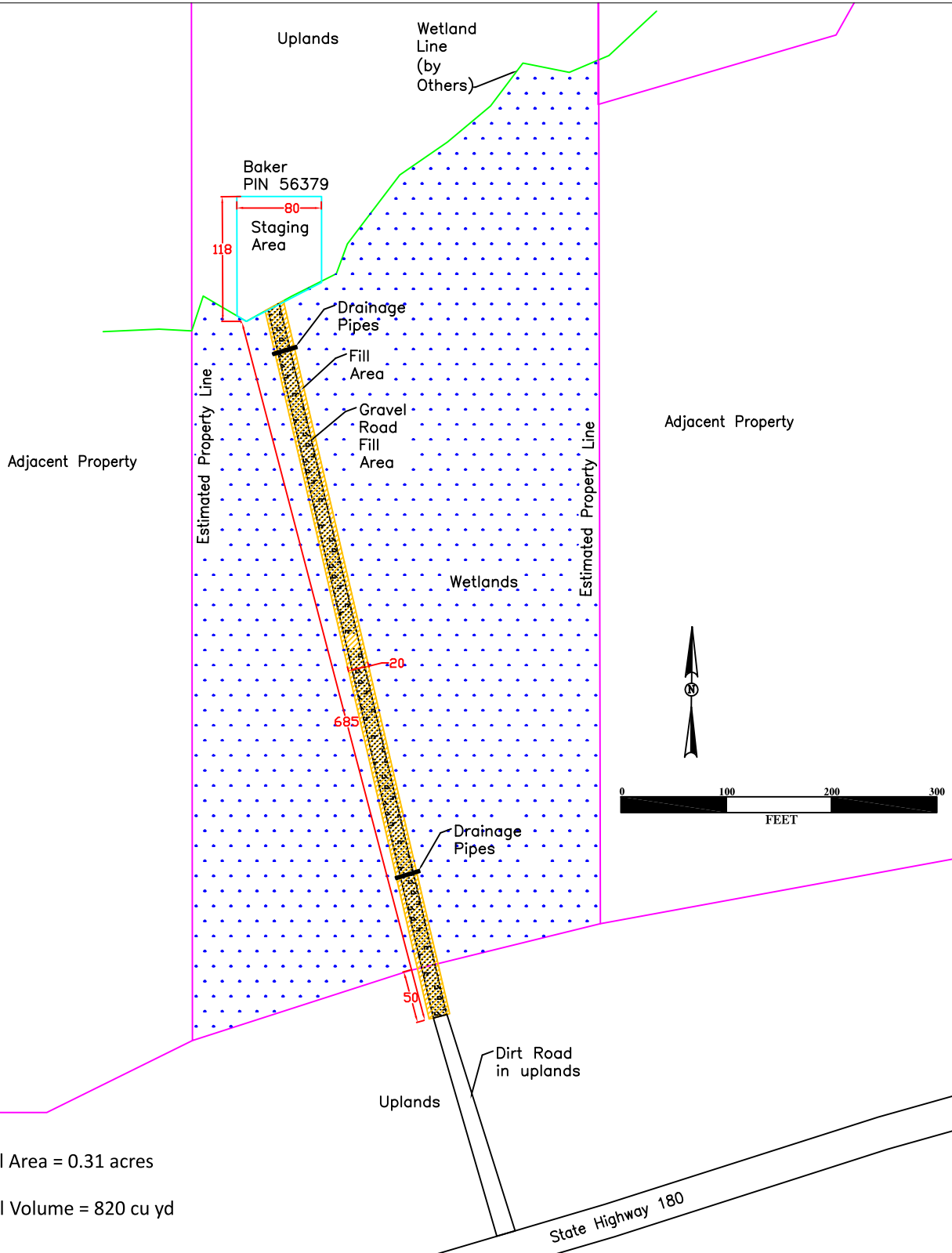


Steven A. Burns

Enclosure

cc: Mr. Byron Baker

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Note: All dimensions shown are measured in feet. Drawings are for USACE, ADEM and AL State Lands permitting only and should not be used for construction. A survey should be performed prior to placement of structures. Distances from existing structures were estimated based on aerial photos. Property boundaries are estimated based on available information.

## Baker Road Fill



P.O. BOX 361  
MONTROSE, AL 36559  
(251) 621-5006

PREPARED FOR  
Byron Baker  
Hwy 180  
Gulf Shores, Alabama

DRAWN BY  
L.Cassidy  
CHECKED BY  
L.Yokel

DATE OF LAST REVISION  
1/10/25

SCALE AS STATED

DWG  
Baker road fill 4.2.24

SHEET 1

FOR PERMITTING ONLY, NOT TO BE RELIED ON FOR CONSTRUCTION



Wetland Fill Area = 0.31 acres

Wetland Fill Volume = 820 cu yd

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Baker Road Fill



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PREPARED FOR  
Byron Baker  
Hwy 180  
Gulf Shores, Alabama

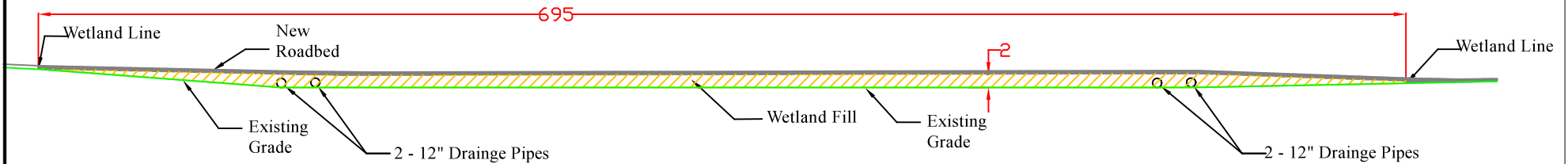
DRAWN BY  
L.Cassidy  
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L.Yokel

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1/10/25  
SCALE AS STATED

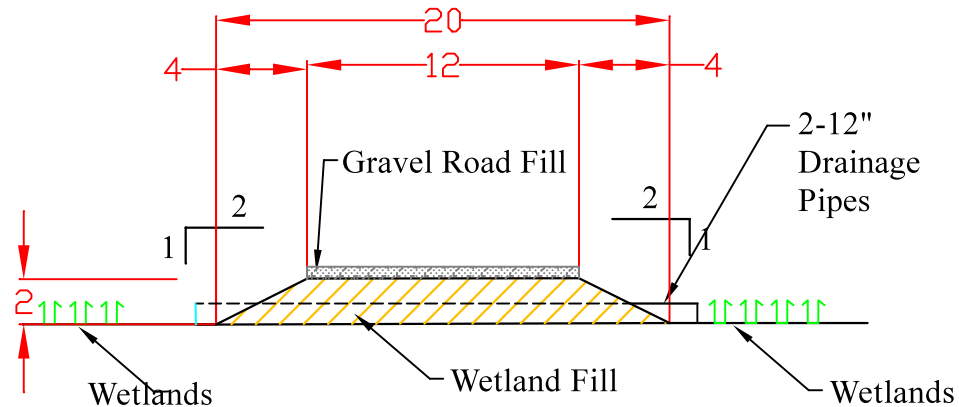
DWG  
Baker road fill 4.2.24  
SHEET 1

# FOR PERMITTING ONLY, NOT TO BE RELIED ON FOR CONSTRUCTION

## Road Section



## Tranverse road section



Note: All dimensions shown are measured in feet. Drawings are for USACE, ADEM and AL State Lands permitting only and should not be used for construction.

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## Baker Road Sections



P.O. BOX 361  
MONTROSE, AL 36559  
(251) 621-5006

PREPARED FOR  
Byron Baker  
Hwy 180  
Gulf Shores, Alabama

DRAWN BY  
L.Casiday  
CHECKED BY  
L.Yokel

DATE OF LAST REVISION  
1/10/25  
SCALE AS STATED

DWG  
Baker road fill 4.2.24

SHEET 3