

US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: May 02, 2006
Comment Deadline: May 31, 2006
Corps Action ID #: 200520189

The Wilmington District, Corps of Engineers (Corps) has received an application from Towi-a-wi Plantation, LLC seeking Department of the Army authorization to impact approximately 1287 linear feet of stream channel (212 linear feet of stream channel fill for a dam construction and 1075 linear feet of stream channel inundation associated from the resulting pond) and 0.180 acre of wetlands (pond inundation) of the jurisdictional waters of Mulberry Creek associated with the construction of an aesthetic and passive recreational pond included in the development of the Towi-a-wi Plantation residential community.

Specific plans and location information are described below and shown on the attached plans. This Public Notice and all attached plans are also available on the Wilmington District Web Site at www.saw.usace.army.mil/wetlands

Applicant: Towi-a-wi Plantation, LLC
Attn: Mr. Chris Easterling
9995 Gate Parkway, Suite 400
Jacksonville, FL 32246

Agent: Wetland and Natural Resource Consultants
Attn: Mr. Chris Huysman
115 Atwood Street, Suite 407
Sparta, NC 28675

Authority

The Corps will evaluate this application and decide whether to issue, conditionally issue, or deny the proposed work pursuant to applicable procedures of Section 404 of the Clean Water Act.

Location

The project, a proposed 3.96 acre pond, is located within the Towi-a-wi Plantation, an approximately 700 acre property located east of NC 18 and west of Cane Creek Church Road and Dehart Road, one mile east of Halls Mills in Wilkes County, North Carolina.

Coordinates (in decimal degrees) for the site are 36.2915 North, 81.1787 West. The site is adjacent to an unnamed tributary of Mulberry Creek in the Yadkin River Basin (8-Digit Cataloging Unit 03040101).

Existing Site Conditions

The land use in the area surrounding the project consists of mainly large forested tracts and some agricultural tracts. The area is not currently subject to much residential pressure.

The land use on the project site is primarily forested. The remaining acreage is made up of open fields. The site contains several perennial and intermittent streams that are tributaries of Mulberry Creek. The property is oddly shaped with streams and wetlands spread across the site. The unnamed tributaries drain to Mulberry Creek located approximately 1.5 miles downstream of the proposed dam site. The site also contains approximately 1.5 acres of wetlands that are adjacent to these referenced jurisdictional stream channels of Mulberry Creek.

Applicant's Stated Purpose

As stated by the applicant, the purpose of the project is to provide an aesthetic and passive recreational pond for the Towi-a-wi Plantation residential development.

Project Description

The project consists of a horse pasture pond to serve as an aesthetics pond for a +/- 700 acre equestrian residential development.

Development of the site will require clearing the proposed pond bed, grading the proposed dam site, filling necessary to impound the stream channel, and piping of the stream channel to construct the proposed dam including a roadway on top of this referenced dam. Heavy equipment, including graders, pan scrapers, excavators, bull dozers, etc., will be used for the construction of the project. Completion of the proposed project would require the construction of the proposed dam including the roadway on the top of the referenced dam. The top width of the dam, which includes the right-of-way for the road, is proposed to be 30 feet, with the side slopes for the proposed dam to be 3:1. The proposed permanent impacts to jurisdictional stream channels resulting from the placement of fill material associated with the dam and road totals 212 linear feet of stream channel. The proposed impacts resulting from stream channel inundation would total 1075 linear feet. The resulting pond would also inundate 0.180 acre of wetlands adjacent to the referenced jurisdictional stream channels. Plans included with this notice show the overall proposed site layout as well as details for the proposed dam.

The applicant proposes to mitigate for impacts to stream channels through onsite restoration of approximately 700 linear feet of stream channel and preservation of all remaining stream channels on the property.

Other Required Authorizations

This notice and all applicable application materials are being forwarded to the appropriate State agencies for review. The Corps will generally not make a final permit decision until the North Carolina Division of Water Quality (NCDWQ) issues, denies, or waives State certification required by Section 401 of the Clean Water Act (PL 92-500). The receipt of the application and this public notice in the NCDWQ Central Office in Raleigh serves as application to the NCDWQ for certification. A waiver will be deemed to occur if the NCDWQ fails to act on this request for certification within sixty days of the date of the receipt of this notice in the NCDWQ Central Office. Additional information regarding the Clean Water Act certification may be reviewed at the NCDWQ Central Office, 401 Oversight and Express Permits Unit, 2321 Crabtree Boulevard, Raleigh, North Carolina 27604-2260. All persons desiring to make comments regarding the application for certification under Section 401 of the Clean Water Act should do so in writing delivered to the North Carolina Division of Water Quality (NCDWQ), 1650 Mail Service Center, Raleigh, North Carolina 27699-1650 Attention: Ms Cyndi Karoly by May 24, 2006.

Essential Fish Habitat

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The Corps' initial determination is that the proposed project will not adversely impact EFH or associated fisheries managed by the South Atlantic or Mid Atlantic Fishery Management Councils or the National Marine Fisheries Service.

Cultural Resources

The Corps has consulted the latest published version of the National Register of Historic Places and is not aware that any registered properties, or properties listed as being eligible for inclusion therein are located within the project area or will be affected by the proposed work. Presently, unknown archeological, scientific, prehistoric, or historical data may be located within the project area and/or could be affected by the proposed work.

Endangered Species

The Corps has reviewed the project area, examined all information provided by the applicant and consulted the latest North Carolina Natural Heritage Database. Based on available information, the Corps is not aware of the presence of species listed as threatened or endangered or their critical habitat formally designated pursuant to the Endangered Species Act of 1973 (ESA) within the project area. A final determination on the effects of the proposed project will be made upon additional review of the project and completion of any necessary biological assessment and/or consultation with the U.S. Fish and Wildlife Service."

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 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; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values (in accordance with Executive Order 11988), 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. For activities involving the discharge of dredged or fill materials in waters of the United States, the evaluation of the impact of the activity on the public interest will include application of the Environmental Protection Agency's 404(b)(1) guidelines.

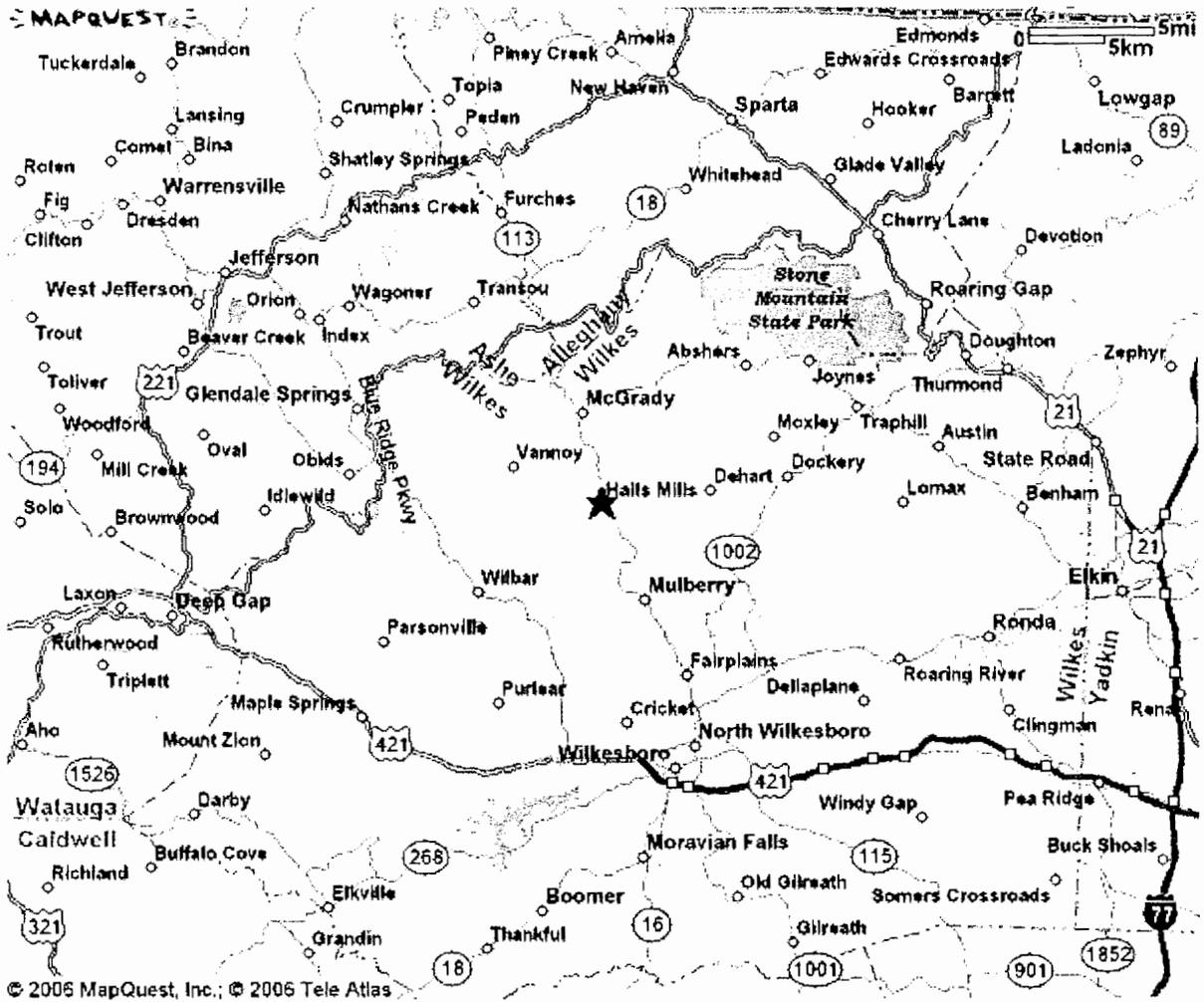
Commenting Information

The Corps of Engineers is soliciting comments from the public; Federal, State and local agencies and officials, including any consolidate State Viewpoint or written position of the Governor; 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.

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 shall 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.

Written comments pertinent to the proposed work, as outlined above, will be received by the Corps of Engineers, Wilmington District, until 5pm, May 31, 2006. Comments should be submitted to John Thomas, Raleigh Regulatory Field Office, 6508 Falls of the Neuse Road, Suite 120, Raleigh, NC 27615.

Towi-a-wi Plantation Site Location Map





36.2750000° N 36.2833333° N 36.2916666° N 36.3000000° N 36.3083333° N

81.2000000° W 81.1833333° W 81.1666666° W 81.1500000° W

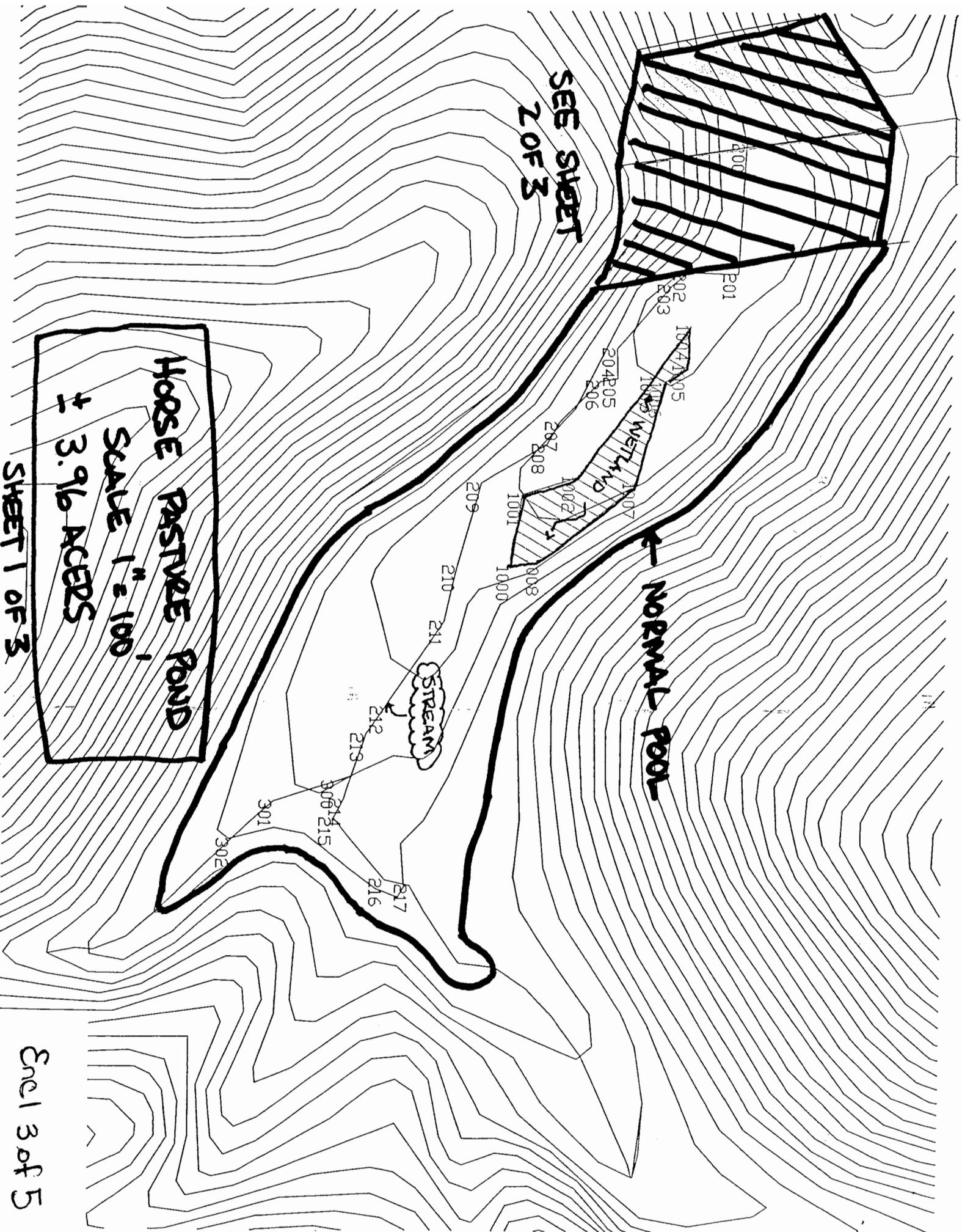
36.2750000° N 36.2833333° N 36.2916666° N 36.3000000° N 36.3083333° N

81.2000000° W 81.1833333° W 81.1666666° W 81.1500000° W

Name: MC GRADY
 Date: 4/4/2006
 Scale: 1 inch equals 2000 feet

Location: 036.2915067° N 081.1787363° W
 Caption: Tow-a-wi Plantation
 Horse Pasture Pond

Encl 2 of 5



SEE SHEET
2 OF 3

NORMAL POOL

HOOSE PASTURE POND

SCALE 1" = 100'

± 3.96 ACERS

SHEET 1 OF 3

Encl 3 of 5

THE HORSE PASTURE POND DAM
Scale 1" = 40'
SHEET 2 OF 3

PLUNGE POOL ENERGY DISSIPATER

3H:1V

30'

TOP OF DAM

3H:1V

6' x 8'

PRECAST SPILLWAY RISER

48-INCH DIA

PCP SPILLWAY PIPE

1630

1620

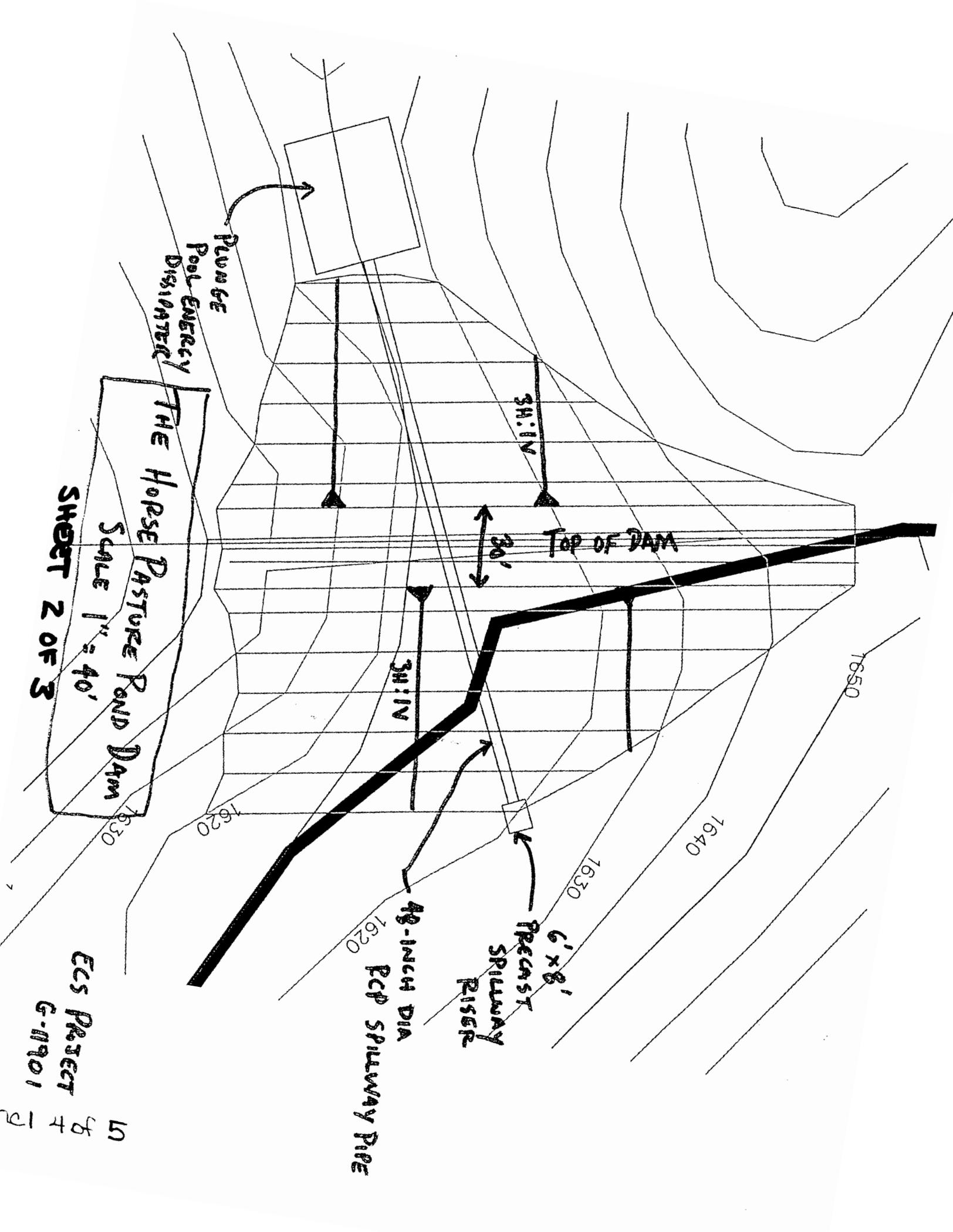
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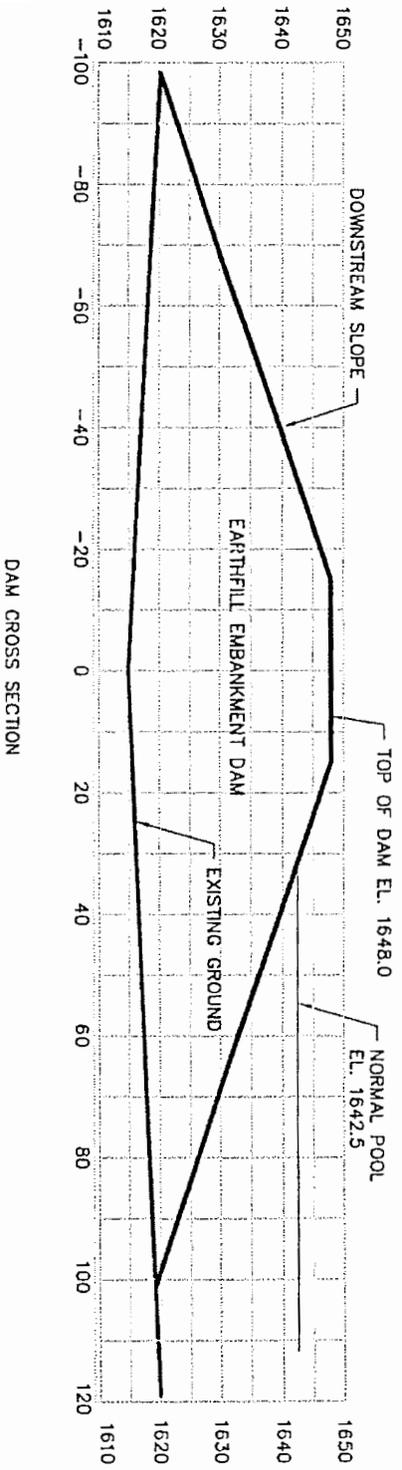
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1650

ECS PROJECT
6-11901

L1
54712





The Horse Pasture Pond Dam

Scale 1" = 30'

SHEET 3 OF 3

ECS PROJECT
6-11901
Encl 5 of 5