

**JOINT**  
**PUBLIC NOTICE**

**CHARLESTON DISTRICT, CORPS OF ENGINEERS**  
**69A Hagood Avenue**  
**Charleston, South Carolina 29403-5107**  
**and**

**THE S. C. DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
**Office of Environmental Quality Control**  
**Water Quality Certification and Wetlands Programs Section**  
**2600 Bull Street**  
**Columbia, South Carolina 29201**

REGULATORY DIVISION  
Refer to: P/N # SAC-2007-01928

January 25, 2008

Pursuant to Sections 401 and 404 of the Clean Water Act (33 U.S.C. 1341), and the S.C. Construction in Navigable Waters Permit Program (R. 19-450, et. Seq., 1976 S.C. Code of Laws, as amended), an application has been submitted to the Department of the Army and the State of South Carolina by

**HACKER CREEK, LLC,**  
**C/O KELLY D. H. LOWRY**  
**220 NORTH CHURCH STREET, SUITE 4**  
**SPARTANBURG, SOUTH CAROLINA 29302**

for a permit to place fill material in wetlands and other waters of the United States in and adjacent to

**UNNAMED TRIBUTARY TO HACKER CREEK**

at a location north of South Carolina Highway 49 and east of Burnt Factory Road, near Cross Anchor, Spartanburg County, South Carolina (Latitude 34.658292°N, Longitude 81.841969°W).

In order to give all interested parties an opportunity to express their views

**NOTICE**

is hereby given that written statements regarding the proposed work will be received by both of the above mentioned offices until

**12 O'CLOCK NOON, MONDAY, FEBRUARY 25, 2008**

from those interested in the activity and whose interests may be affected by the proposed work.

The proposed work consists of placing fill material in 0.012 acres of waters of the United States or 170 linear feet of intermittent/perennial stream, and flooding 0.089 acres of waters of the United States or 1292 linear feet of intermittent/perennial stream. As stated by the applicant, the purpose of the work is to construct a recreational open water impoundment. The applicant has proposed to offset the permanent loss of waters of the United States through buffer enhancement around and above the impoundment, buffer enhancement on tributaries to Hacker Creek, and bank restoration/stabilization on Hacker Creek and its tributaries. At this time the applicant has not proposed a detailed compensatory mitigation plan.

**NOTE: Plans depicting the work described in this notice are available and will be provided, upon receipt of a written request, to anyone that is interested in obtaining a copy of the plans for the specific project. The request must identify the project of interest by public notice number and a self-addressed stamped envelope must also be provided for mailing the drawings to you. Your request for drawings should be addressed to the:**

**U.S. Army Corps of Engineers  
ATTN: REGULATORY DIVISION  
69A Hagood Avenue  
Charleston, South Carolina 29403-5107**

The District Engineer has concluded that the discharges associated with this project, both direct and indirect, should be reviewed by the South Carolina Department of Health and Environmental Control in accordance with provisions of Section 401 of the Clean Water Act. As such, this notice constitutes a request, on behalf of the applicant, for certification that this project will comply with applicable effluent limitations and water quality standards (Section 401 of the Clean Water Act). The District Engineer will not process this application to a conclusion until such certification is received. This activity may also require evaluation for compliance with the S. C. Construction in Navigable Waters Permit Program. State review, permitting and certification is conducted by the S. C. Department of Health and Environmental Control. The applicant is hereby advised that supplemental information may be required by the State to facilitate the review. Persons wishing to comment or object to State certification or the navigable waters permit must submit all comments in writing to the S. C. Department of Health and Environmental Control at the above address within thirty (30) days of the date of this notice.

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Implementation of the proposed project would impact 0.101 acre of wetlands and other waters of the United States inland of estuarine substrates and emergent wetlands utilized by various life stages of species comprising the red drum, shrimp, and snapper-grouper management complexes. Our initial determination is that the proposed action would not have a substantial individual or cumulative adverse impact on EFH or fisheries managed by the South Atlantic Fishery Management Council and the National Marine Fisheries Service (NMFS). Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the NMFS.

The District Engineer has consulted the most recently available information and has made no determination of effect on any Federally endangered, threatened, or proposed species. This public notice serves as a request to the U.S. Fish and Wildlife Service and the National Marine Fisheries Service for any additional information they may have on whether any Federally listed or proposed to be listed endangered or threatened species and/or designated or proposed critical habitat may be present in the area which would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act of 1973 (as amended).

Pursuant to Section 106 of the National Historic Preservation Act (NHPA), this public notice also constitutes a request to Indian Tribes to notify the District Engineer of any historic properties of religious and cultural significance to them that may be affected by the proposed undertaking.

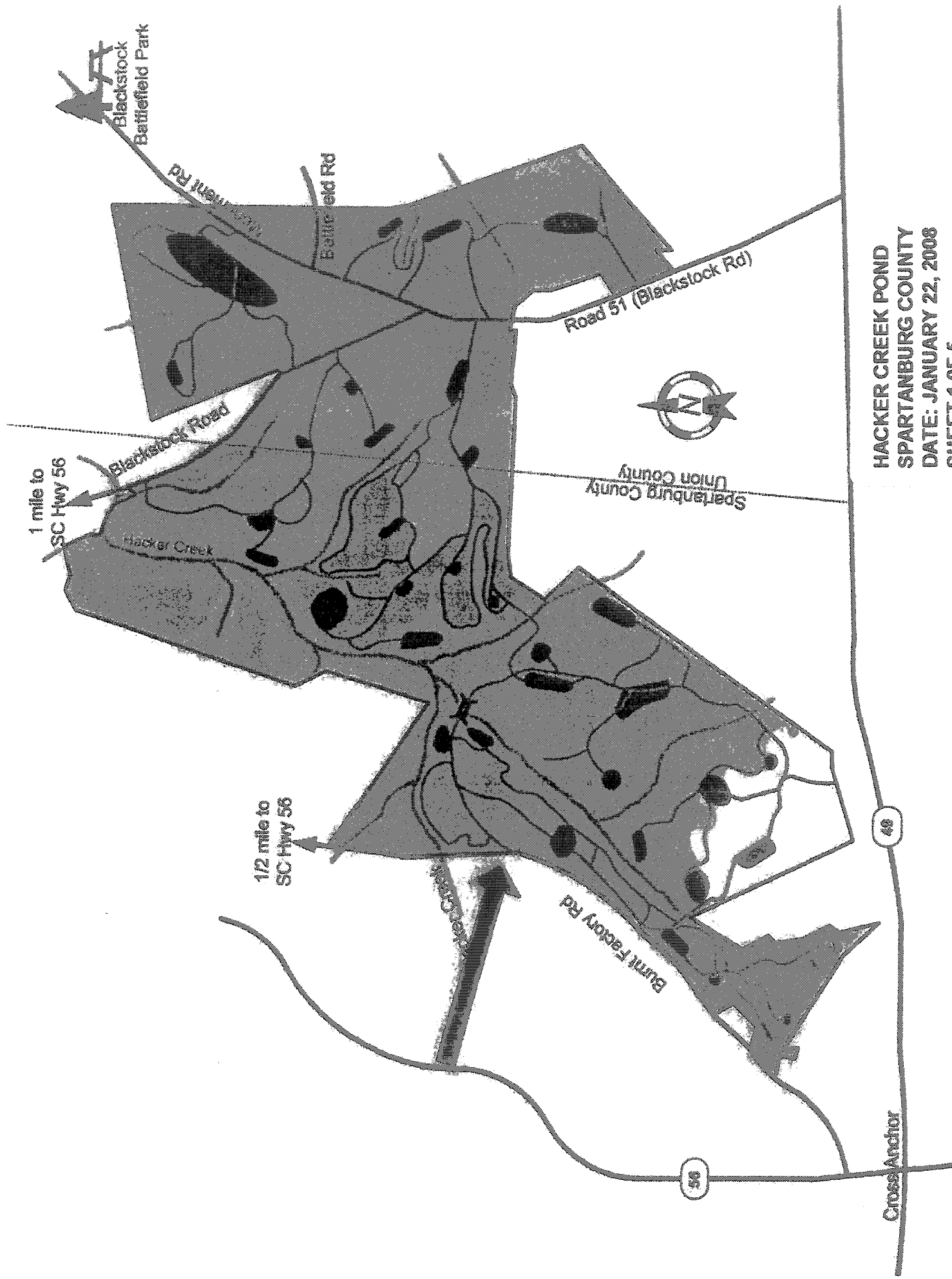
In accordance with the NHPA, the District Engineer has also consulted the latest published version of the National Register of Historic Places for the presence or absence of registered properties, or properties listed as being eligible for inclusion therein, and this worksite is not included as a registered property or property listed as being eligible for inclusion in the Register. To insure that other cultural resources that the District Engineer is not aware of are not overlooked, this public notice also serves as a request to the State Historic Preservation Office to provide any information it may have with regard to historic and cultural resources.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for a public hearing shall state, with particularity, the reasons for holding a public hearing.

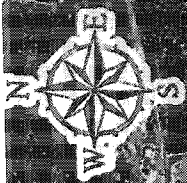
The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the activity on the public interest and will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency (EPA), under authority of Section 404(b) of the Clean Water Act and, as appropriate, the criteria established under authority of Section 102 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended. 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 project must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the project 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, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production and, in general, the needs and welfare of the people. A permit will be granted unless the District Engineer determines that it would be contrary to the public interest. In cases of conflicting property rights, the Corps of Engineers cannot undertake to adjudicate rival claims.

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 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 project. 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 activity.

If there are any questions concerning this public notice, please contact Leslie L. Parker at 803-253-3444.



HACKER CREEK POND  
 SPARTANBURG COUNTY  
 DATE: JANUARY 22, 2008  
 SHEET 1 OF 5



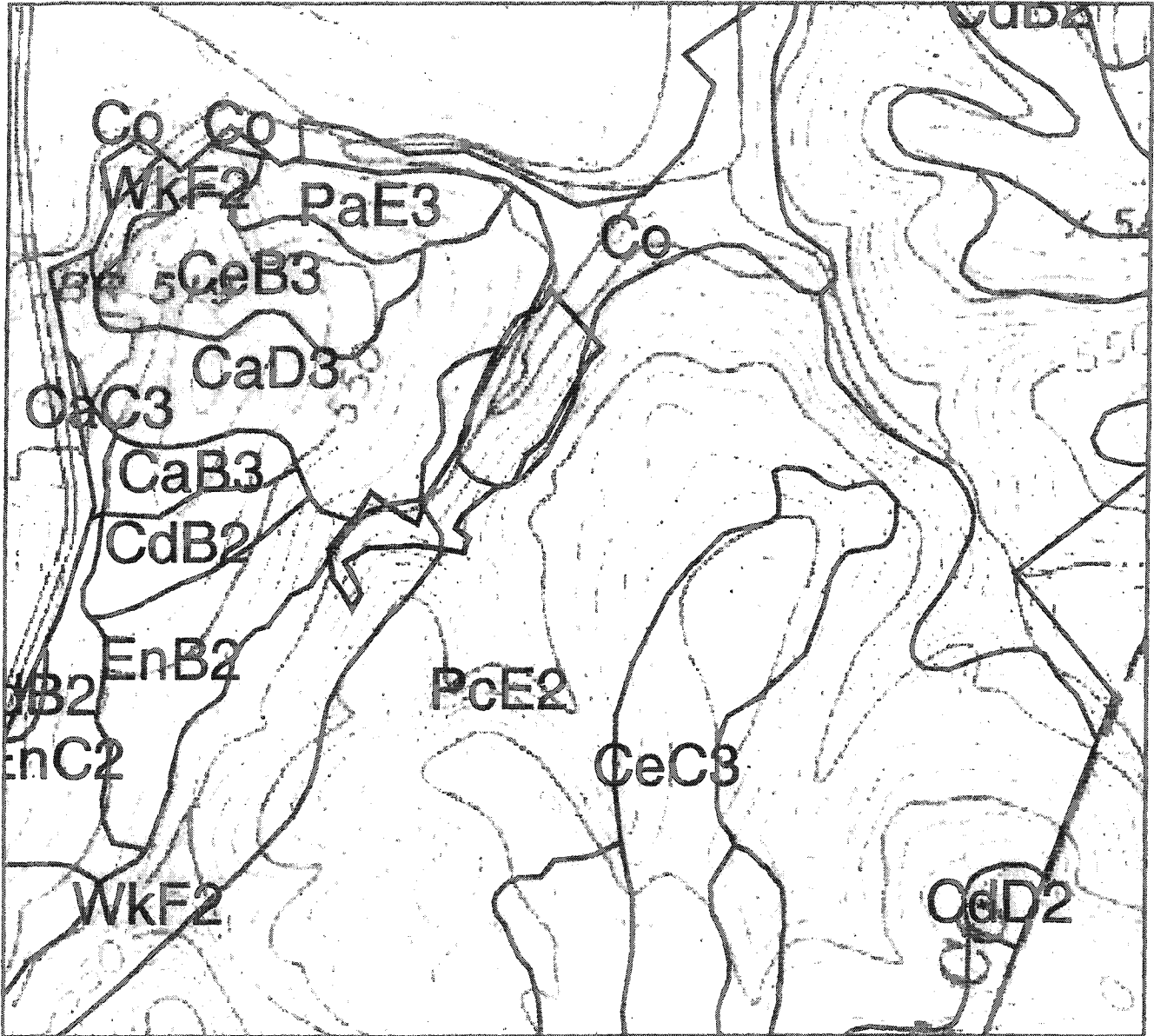
**HACKER CREEK POND  
SPARTANBURG COUNTY  
DATE: JANUARY 22, 2008  
SHEET 2 OF 5**

**1999 Aerial Photography  
Hacker Creek Tract  
Spartanburg County, SC**

0 1320  
Feet

Soils Map  
Proposed Impoundment

Customer(s): Hacker Creek Farms, LLC



HACKER CREEK POND  
SPARTANBURG COUNTY  
DATE: JANUARY 22, 2008  
SHEET 3 OF 5

Legend



Soils Map

□ 100 contour

Image: cross\_anchor.sid



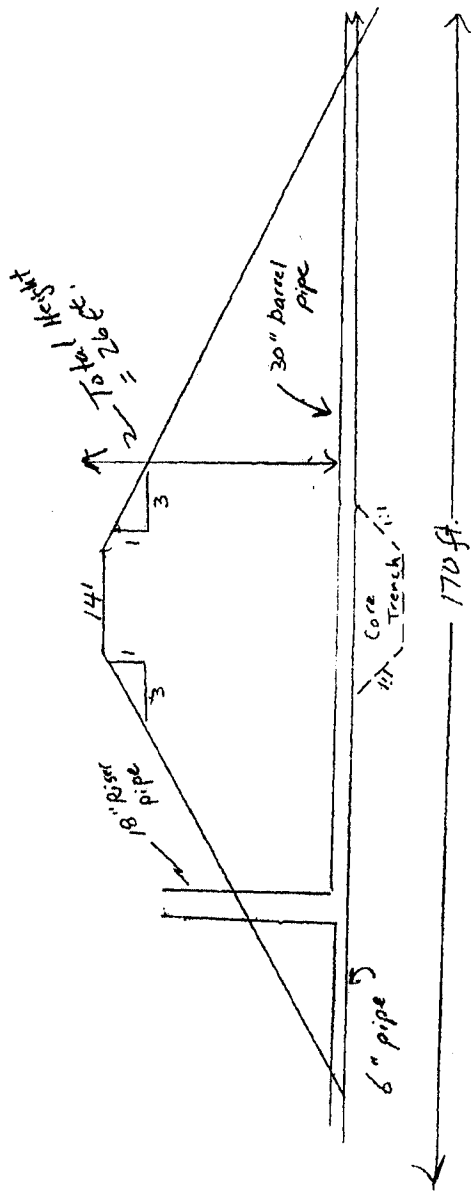
Date: 1-9-07  
 Drawn: CMR  
 Designed: CMR  
 Checked: /  
 Approved: /

Hackers Creek, LLC  
 Proposed dam, X-Section



File Name: Hackers Cr  
 Drawing Name: X-Section  
 Sheet: 2 of 2

9-225 (R03) (11/01) (1/08)



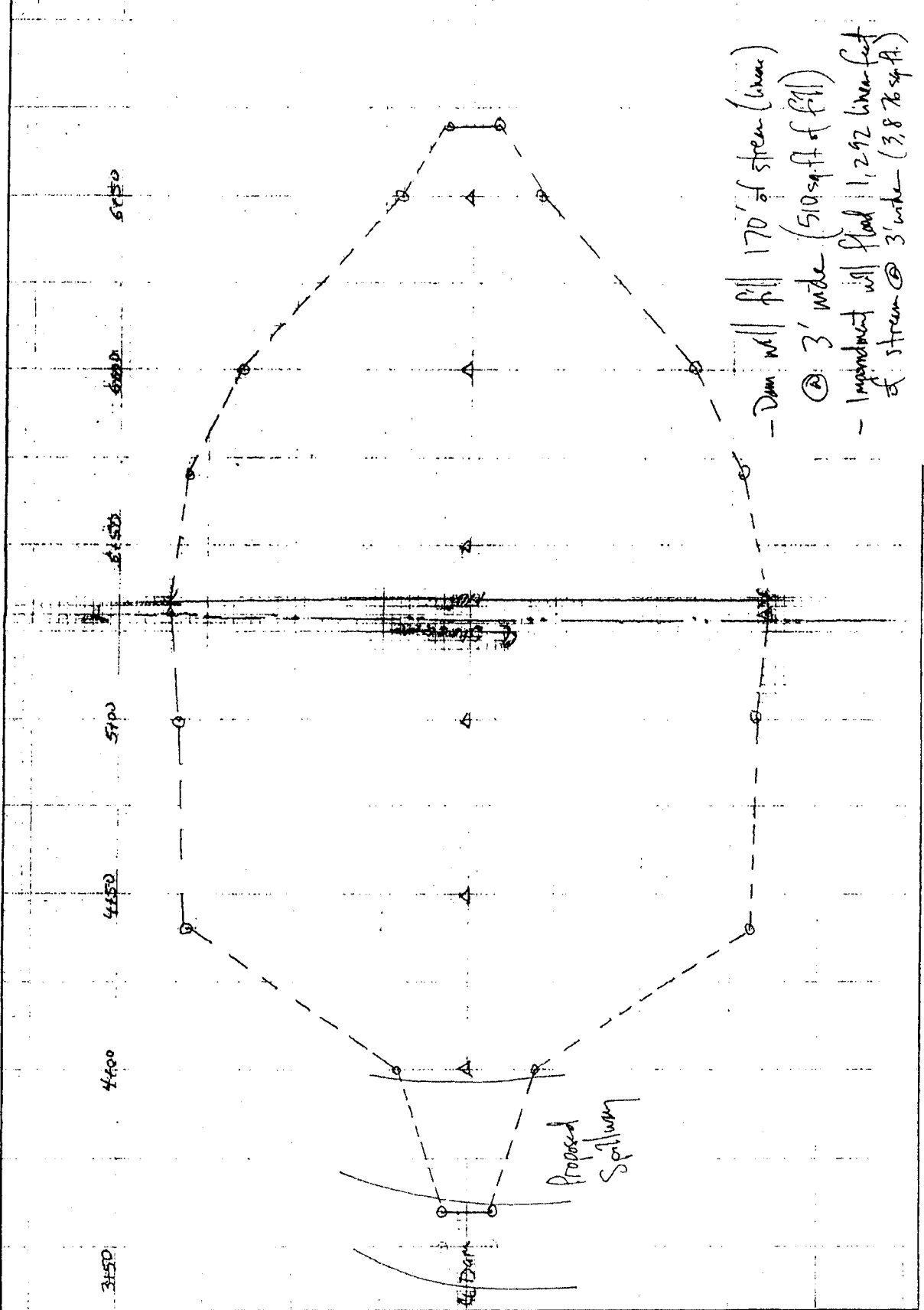
Not to scale

**HACKER CREEK POND**  
**SPARTANBURG COUNTY**  
**DATE: JANUARY 22, 2008**  
**SHEET 4 OF 5**

Date: 1-9-07  
 Designed: CMR/B  
 Drawn: CMR/B  
 Checked: /  
 Approved: /

Hackers Creek, LLC  
 Proposed Dam Aerial View

NRCS  
 National Resources Conservation Service  
 United States Department of Agriculture  
 File Name: Hackers.LL  
 Drawing Name: Aer.in.L  
 Sheet: 1 of 2



HACKER CREEK POND  
 SPARTANBURG COUNTY  
 DATE: JANUARY 22, 2008  
 SHEET 5 OF 5