



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

Public Notice

In reply refer to Public Notice No. <u>200500856</u>	Issuance Date: <u>September 20, 2005</u>
Stream: UN Trib to Little Schenk Creek	Closing Date: <u>October 20, 2005</u>

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 U.S. 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 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 404 of the Clean Water Act. This notice serves as the Corps of Engineers' request to the Ohio Environmental Protection Agency (OEPA) to act on Section 401 Water Quality Certification for the following application:

APPLICANT: Mr. Thomas Steel
13694 Shipley Rd
Fredericktown, OH 43019

LOCATION: The proposed project is located approximately 1.5 miles south of North Liberty and 6 miles northeast of Fredericktown off of Keck Road in Knox County, Ohio.

DESCRIPTION OF THE PROPOSED WORK: The majority of the applicant's project impacting waters of the United States was completed without the required authorization from this

office. The applicant has placed fill material into approximately 157 linear feet of an unnamed tributary of Little Schenk Creek for the construction of two impoundment structures. The upstream impoundment structure has impounded an approximately 1.5 acre pond, indirectly impacting approximately 499 linear feet of stream. Based on an examination of the soils within the project area, available aerial photographs, and other sources of information, our office has determined approximately 0.55 acres of wetland has been impacted from site grading and construction of the impoundments. On August 26, 2005, a cease and desist order was issued to the applicant, prohibiting further work in waters of the United States within the project site.

As required by the rules and regulations governing the Department of the Army permit program, our office has determined, since the complete work does not present an immediate threat to life or property, an after-the-fact application would be accepted and processed. All investigations and legal proceedings regarding this unauthorized activity will be suspended pending the outcome of the permit review process. This application will be evaluated on its own merits and no consideration will be given to the applicant's unauthorized work activities or prior expenditures.

The overall proposal includes the construction of two impoundments. The applicant is further requesting authorization for the placement of additional fill material into waters of the United States necessary to construct the second impoundment. This second impoundment would be located downstream of the completed impoundment. This downstream impoundment structure would impound an approximate 4-acre pond. This additional impoundment would inundate approximately 388 lf of stream.

In total, approximately 994 linear feet of intermittent stream and 0.55 acre of wetland would be permanently impacted by the proposed project.

ALTERNATIVE ANALYSIS: This project is not considered to be water dependent; therefore, the applicant will be required to show that other less damaging practicable alternatives are not available that would achieve the applicant's goal. No permit will be issued until our review of the alternative analysis clearly shows that upland alternatives are not available to achieve the applicant's goal. The applicant has indicated purposes for the project include providing water for the local fire department, using the ponds and surrounding area as a learning environment for Boy Scouts and other youth groups, using the uplands surrounding the pond to plant vegetation supporting wild game, and building waterfowl nest structures.

MITIGATION PLAN: The applicant has indicated the proposed ponds would create additional wetland areas (up to approximately 1 acre) and this may be used as compensatory mitigation for permanent impacts to waters of the United States regulated by the United States Army Corps of Engineers.

Plans of the proposed work are attached to this notice.

A Section 401 Water Quality Certification is required for this project. It is the applicant's responsibility to obtain the certification from the OEPA.

HISTORIC AND CULTURAL RESOURCES: The National Register of Historic Places has been consulted and it has been determined that there no listed properties in the area affected by the project. The applicant has provided information that a homestead and barn constructed in the early 1900's was torn down in anticipation of the project; however, this office has determined the applicant did not remove the structures to purposely avoid compliance with Section 106 of the Historic Preservation Act. This office has preliminarily determined this structure was likely not eligible for inclusion on the National Register and further preliminarily concluded the proposed project would have no effect on any properties eligible for inclusion on the National Register. A copy of this public notice will be furnished to the Ohio State Historic Preservation Office for their review. Comments concerning archeological sensitivity of the project area should be based upon collected data.

ENDANGERED/THREATENED SPECIES REVIEW: The project is located within the known or historic range of the following threatened, endangered or candidate species:

Indiana Bat
Bald Eagle

The Huntington District has consulted the most recently available information and based on this information, the proposed project may affect the Indiana bat or its habitat and is not likely to adversely affect the bald eagle. This public notice serves as a request to the U.S. Fish and Wildlife Service for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area which would be affected by the activity, 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. This application will be reviewed in accordance with 33 CFR 320-331, the Regulatory Program of the U. S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U. S. Environmental Protection Agency pursuant to Section 404(b) (1) of the CWA. 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. 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. Jim Spence
North Regulatory Section, CELRH-OR-FN
U. S. 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 contact Mr. Jim Spence of the North Regulatory Section at 304-399-5210.


Ginger Mullins, Chief
Regulatory Branch

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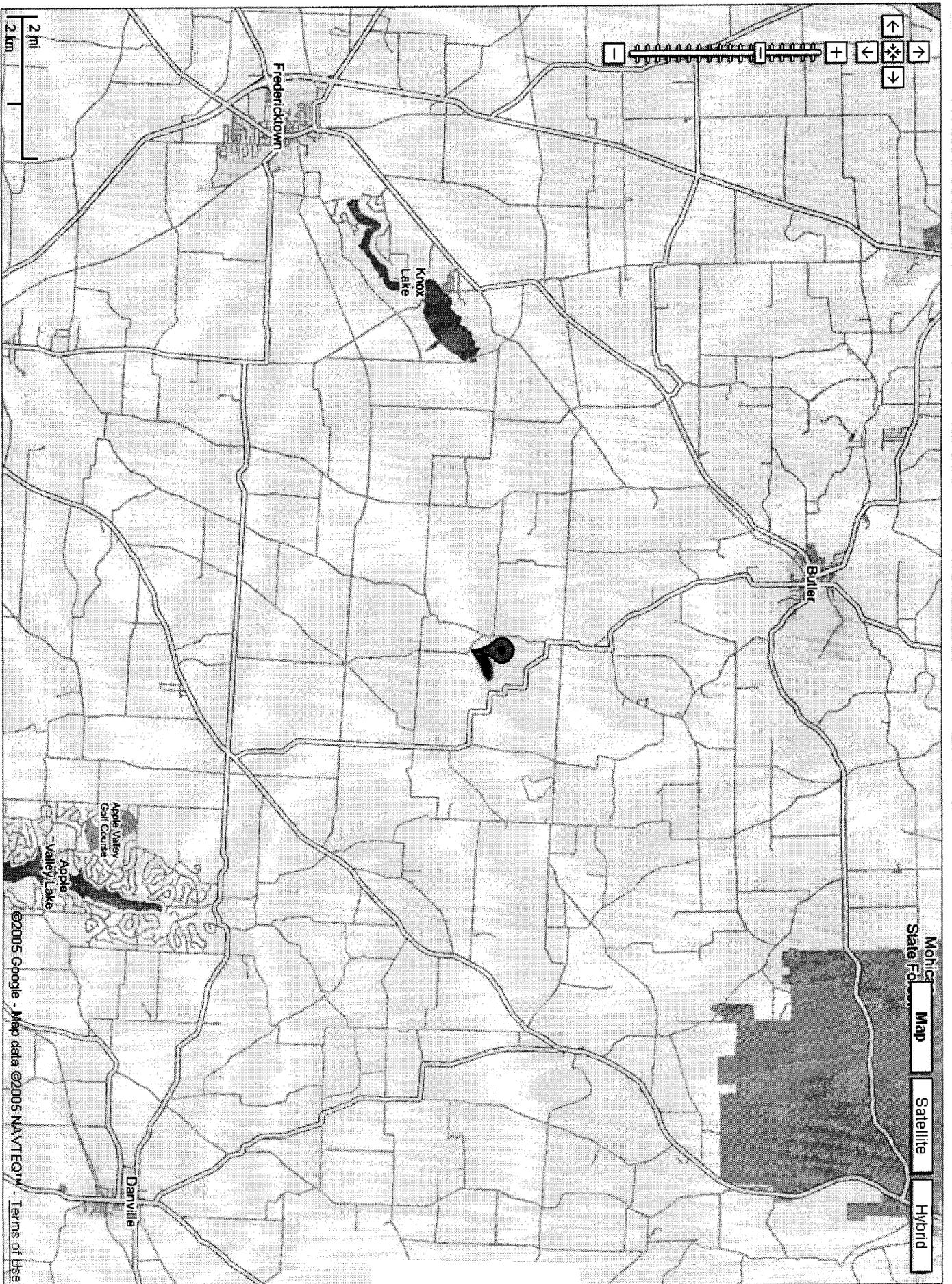


Figure 1 of 7

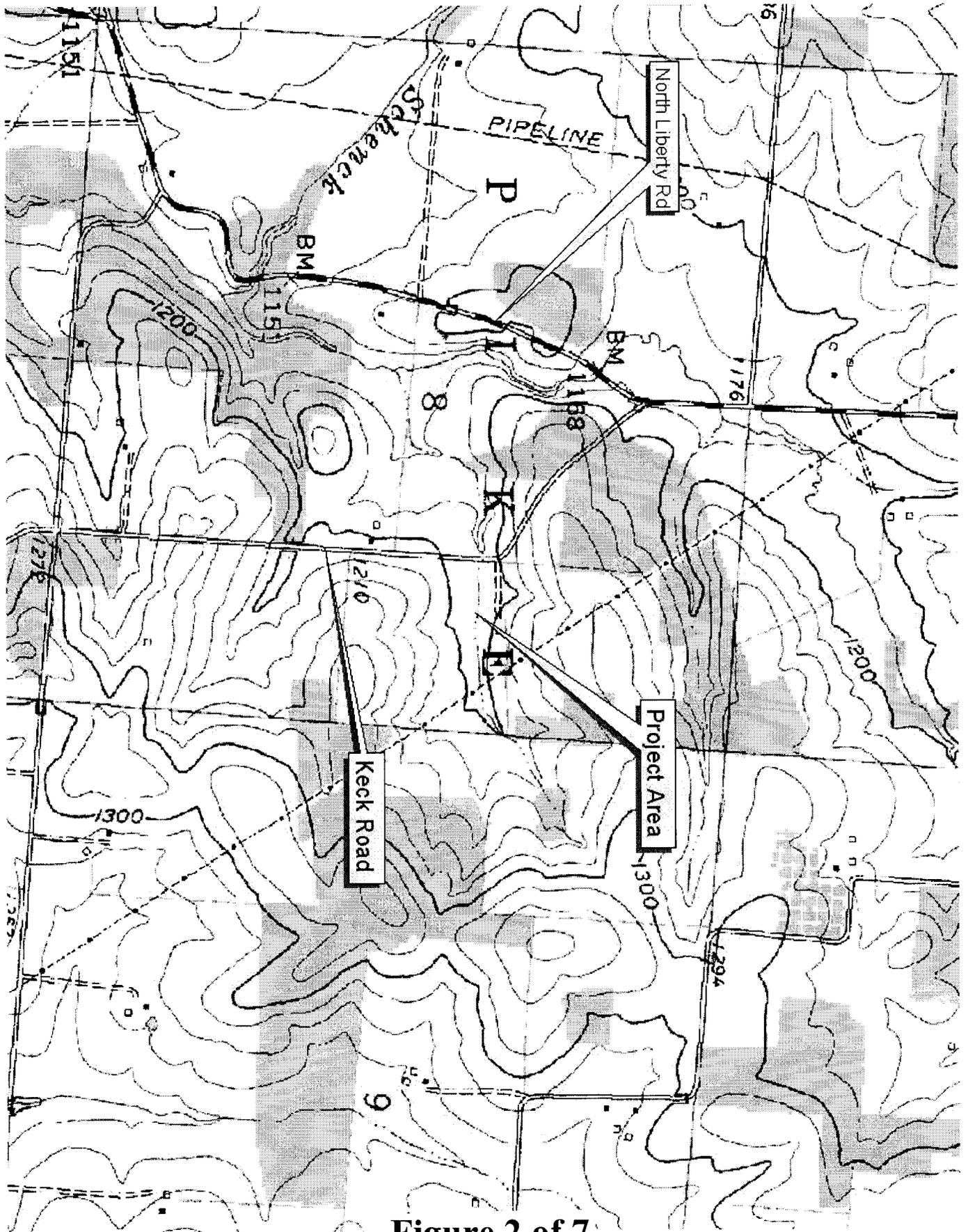


Figure 2 of 7



Figure 3 of 7

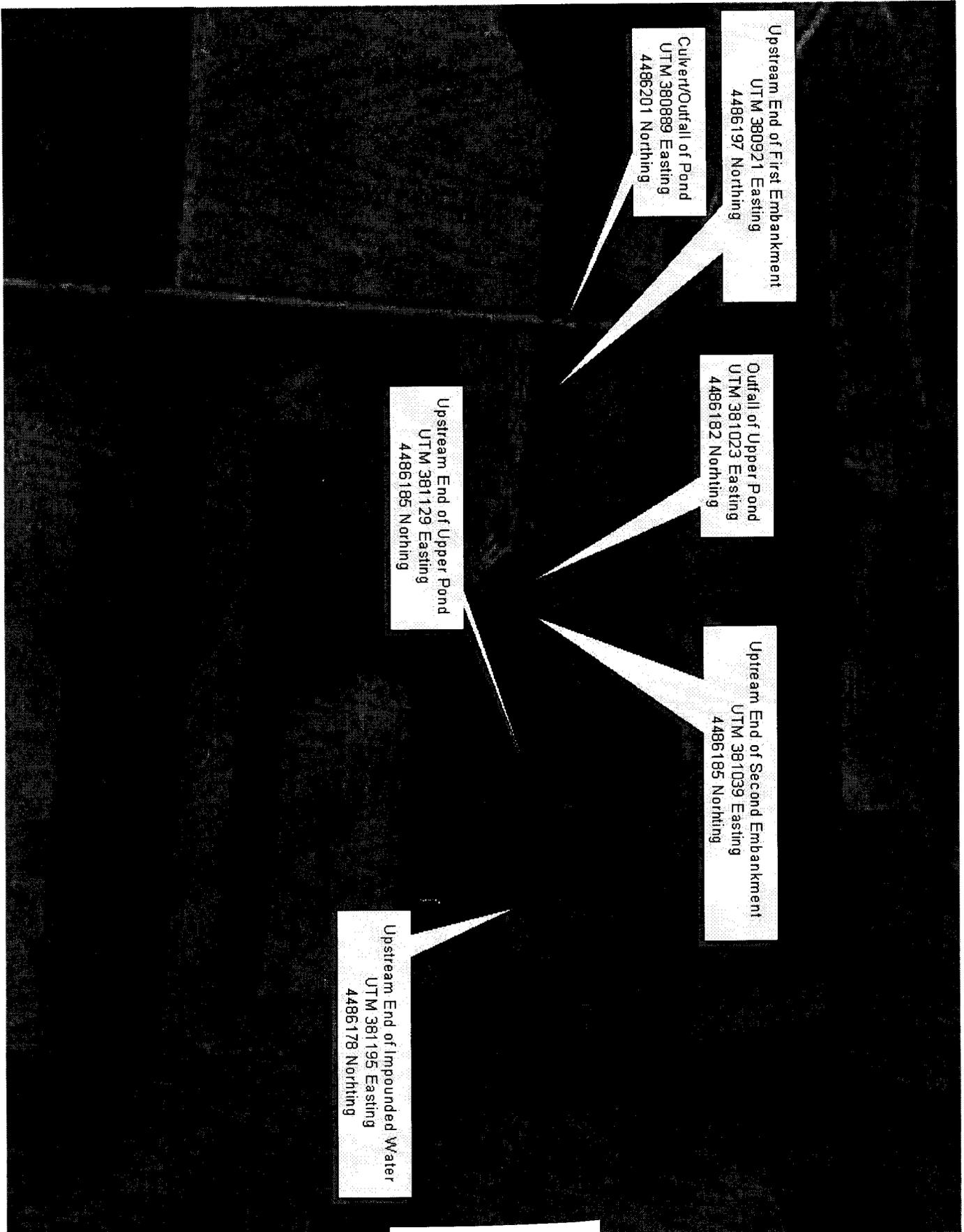


Figure 4 of 7

2.06 Acre

Top of Dam:
2.5' above water level

outlet of Pipe
12' Below water level

Trees = ⊕

Catch Basin
to RD 85'

Catch Basin
to Bottom
of DAM
65'

Wet
Area

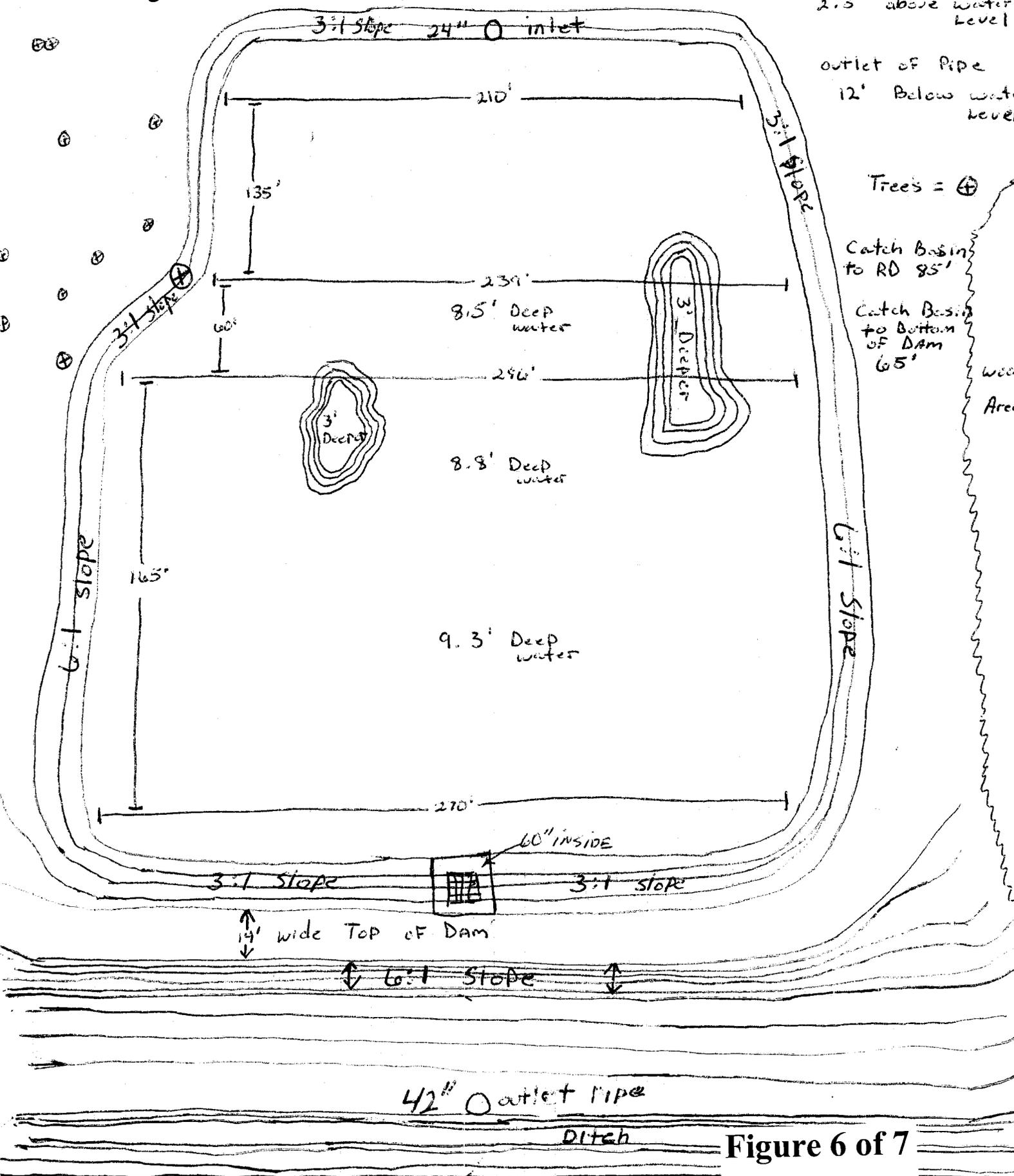


Figure 6 of 7

Keck RD

Landscape Design

As

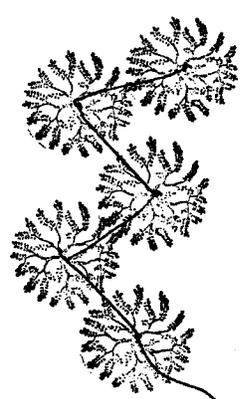
For Berry Stock

Wild Life Area

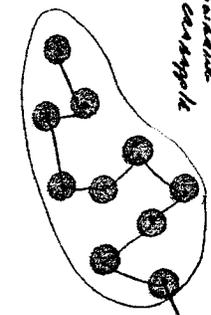
No Salt

Desired by:

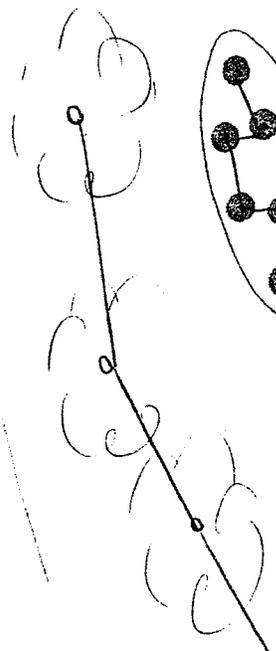
For areas
with / some muskrats
No fish, etc



Sumac
Flowering
cannula



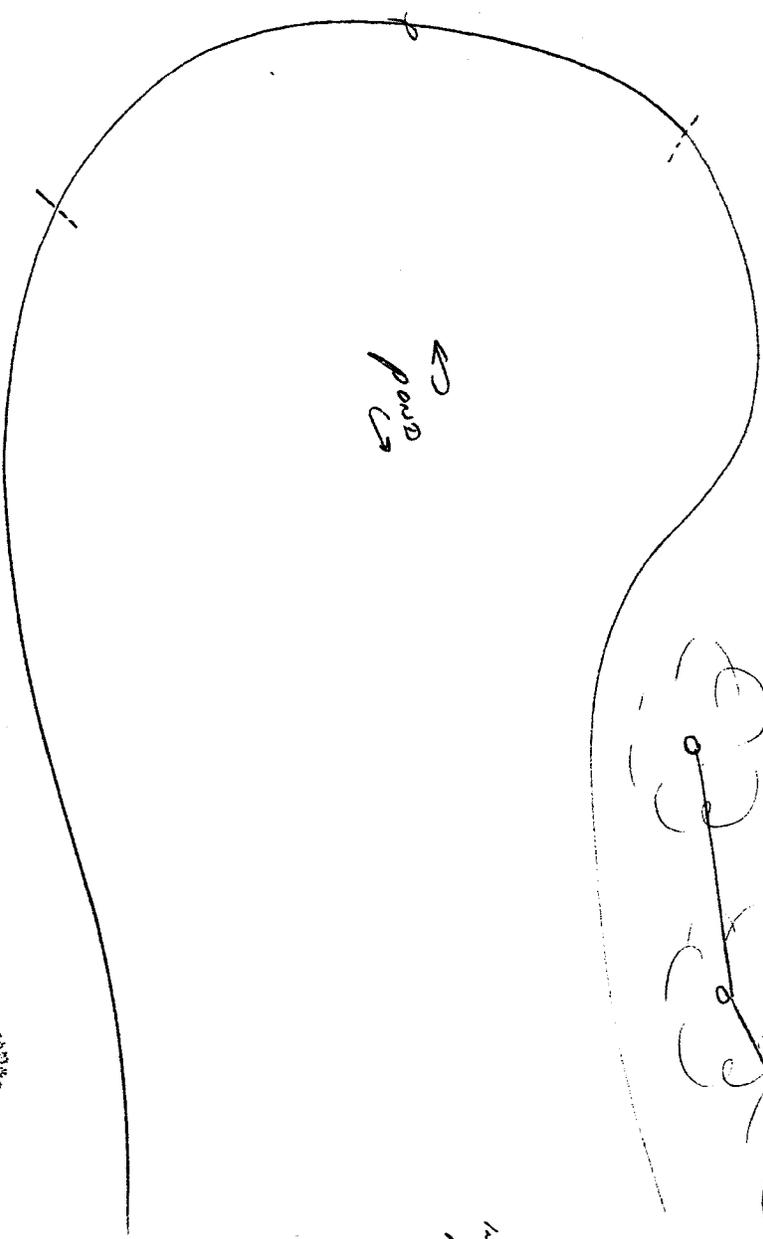
Banana
Thicket X 3



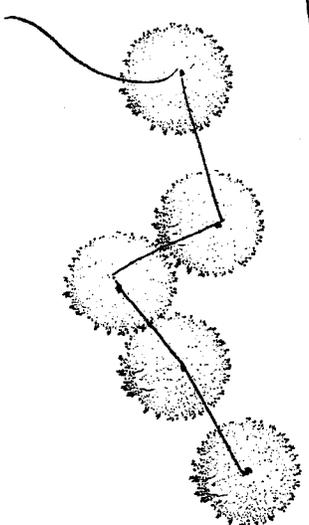
EXISTING
TREES

POUD

DAM
SIDE



Waterline
Planting



In upper area of
pond add water lilies 10-15
in shallow areas

Figure 7 of 7