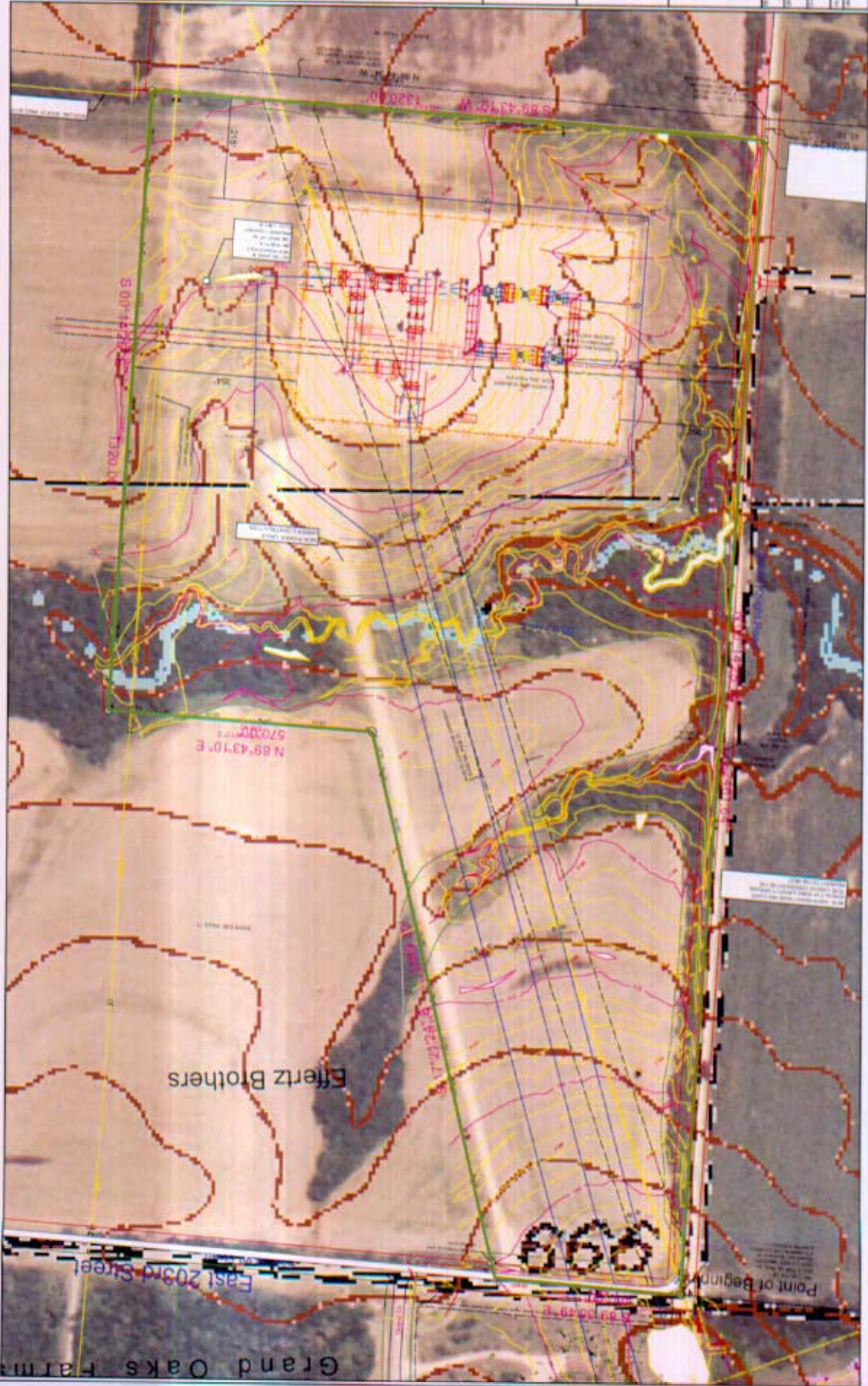


APPENDIX C

Site Plan



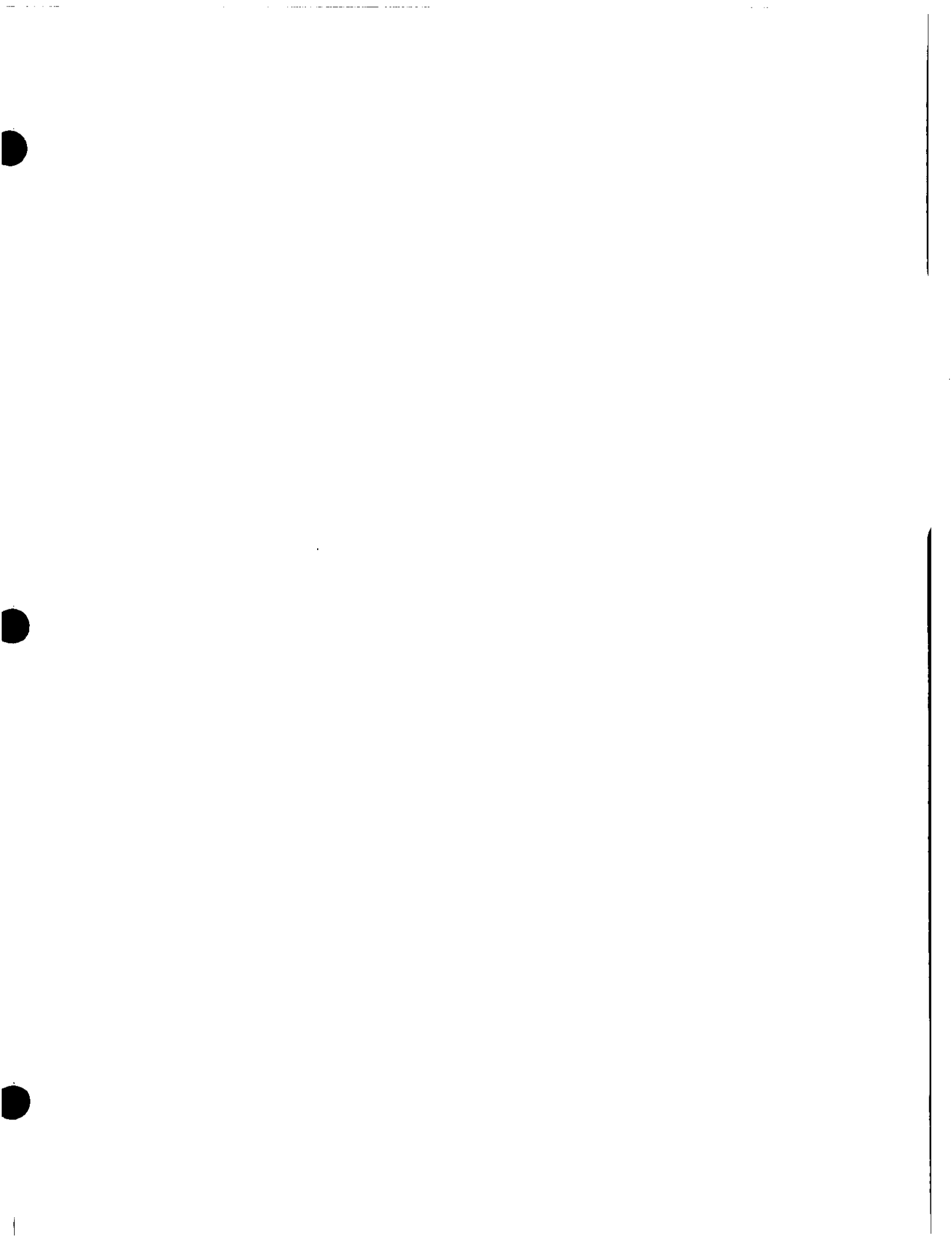
Legend
 — Boundary
 - - - Fence

Sega
 Engineers - Architects - Technicians
 Design - Construction - Field Service
 8004 S. Parker
 P.O. Box 1000
 Overland, MO 64078-1000
 Phone: 816.875.0000

KCP&L

**Peculiar 345 kV Substation
 7.5 Minute
 Topographic Quad**

PROJECT NO.	4-10-00000
DATE	11-11-00
PROJECT NAME	Peculiar 345 kV Substation
PROJECT LOCATION	Overland, MO
PROJECT SCALE	AS SHOWN
PROJECT STATUS	AS SHOWN
PROJECT DRAWN BY	AS SHOWN
PROJECT CHECKED BY	AS SHOWN
PROJECT APPROVED BY	AS SHOWN



APPENDIX D

Economic Development Agreement

ECONOMIC DEVELOPMENT AGREEMENT

THIS ECONOMIC DEVELOPMENT AGREEMENT (this "Agreement") is made as of this 30th day of December, 2004 (the "Effective Date") by and between the CITY OF PECULIAR, MISSOURI, a city of the fourth class and political subdivision of the State of Missouri for governmental, political and public purposes located in Cass County, Missouri (the "City"), and Aquila, Inc., a Delaware corporation having a principal office in Kansas City, Missouri ("Aquila").

WHEREAS, the City is a political subdivision organized and existing under the Constitution and laws of the State of Missouri; and

WHEREAS, the City is authorized under Article VI, Section 27(b) of the Constitution of the State and Sections 100.010 through 100.200 of the Revised Statutes of Missouri, as amended (the "Acts") to issue and sell revenue bonds for the purpose of paying all or part of the cost of purchasing, constructing or improving any project to be leased to a private person or corporation for commercial and industrial development purposes; and

WHEREAS, Aquila is currently investigating the viability of and intends to build or cause to be built, in one or more phases, additional electric power generating and transmission facilities on certain real property located in Cass County, Missouri; and

WHEREAS, Aquila desires that the City issue revenue bonds to finance the Project (as defined below) and, while such bonds are outstanding, to have legal title to the Project and lease the Project to Aquila or an Affiliate, or another permitted entity which would in turn lease the Project to Aquila; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

For purposes of this Agreement, in addition to the terms defined in the foregoing recitals and elsewhere in this Agreement, the following terms shall have the meanings set forth below:

"Acts" means collectively Article VI, section 27(b) of the Missouri constitution and sections 100.010 through 100.200 of the Revised Statutes of Missouri, as from time to time amended.

"Affiliate" means any person or entity directly or indirectly controlling, controlled by or under common control with Aquila.

"Approved Purchaser" means Aquila, an Affiliate or any other purchaser or purchasers acceptable to Aquila and the City that acquires the Bonds and provides Lender Financing.

"Aquila Approvals" has the meaning set forth in Section 4.01 of this Agreement.

"Bonds" means any revenue bonds or other obligations issued by or on behalf of the City financing the Project in accordance with this Agreement and the Acts.

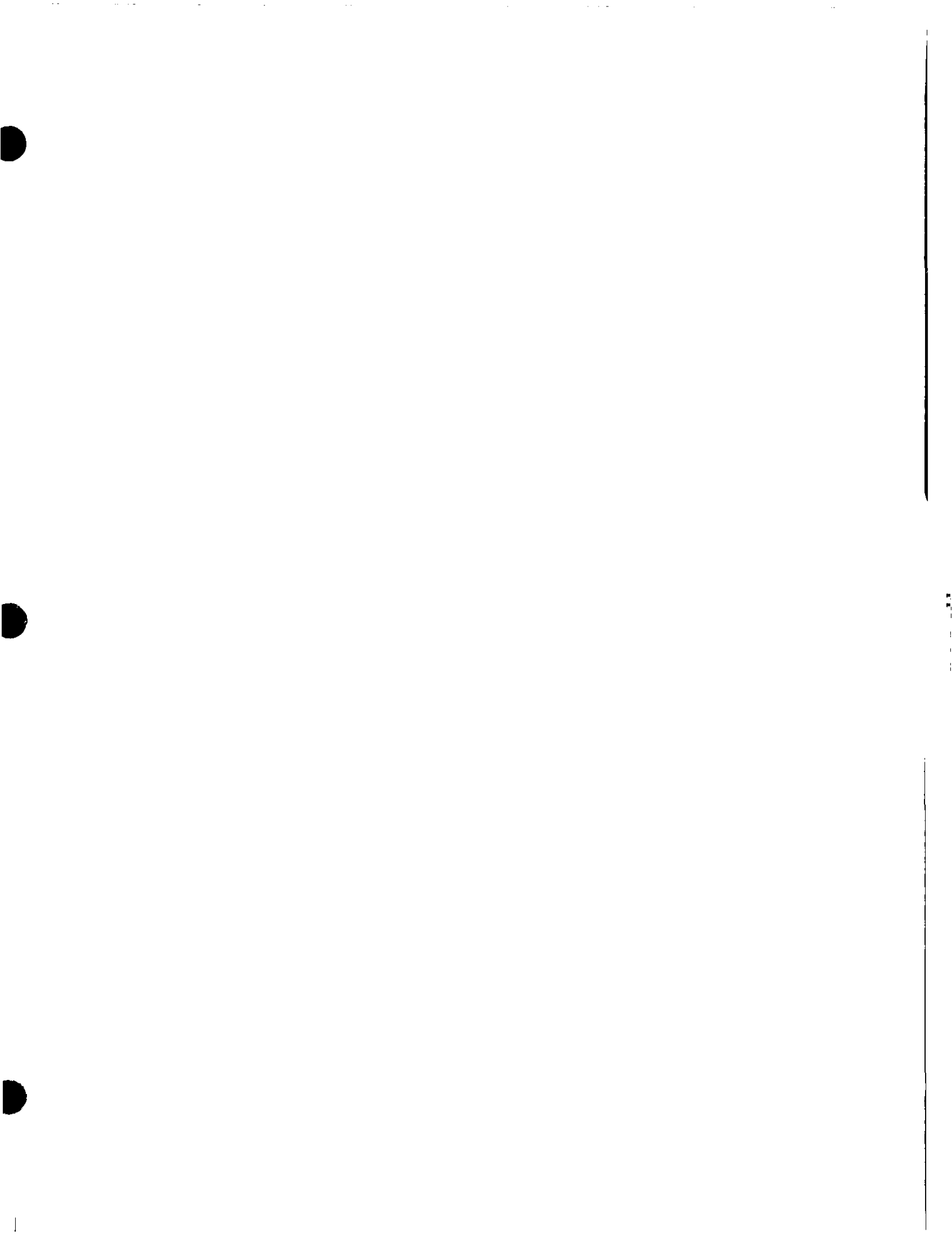
EXHIBIT C
GRANT SCHEDULE

Payment Date	Grant
May 1, 2005	\$ 214,455*
September 1, 2005	\$ 241,832
December 31, 2006	\$ 241,832
December 31, 2007	\$ 241,832
December 31, 2008	\$ 241,832
December 31, 2009	\$ 241,832
December 31, 2010	\$ 241,832
December 31, 2011	\$ 241,832
December 31, 2012	\$ 241,832
December 31, 2013	\$ 241,832
December 31, 2014	\$ 241,832
December 31, 2015	\$ 241,832
December 31, 2016	\$ 241,832
December 31, 2017	\$ 241,832
December 31, 2018	\$ 241,832
December 31, 2019	\$ 241,832
December 31, 2020	\$ 241,832
December 31, 2021	\$ 241,832
December 31, 2022	\$ 241,832
December 31, 2023	\$ 241,832
December 31, 2024	\$ 241,832
December 31, 2025	\$ 241,832
December 31, 2026	\$ 241,832
December 31, 2027	\$ 241,832
December 31, 2028	\$ 241,832
December 31, 2029	\$ 241,832
December 31, 2030	\$ 241,832
December 31, 2031	\$ 241,832
December 31, 2032	\$ 228,143
December 31, 2033	\$ 182,515
December 31, 2034	\$ 91,257
June 1, 2035	\$ 54,166

* This Grant will be payable only if the City has been conveyed the Project on or before January 1, 2005.

Grants will be reduced on a "rolling," dollar-for-dollar basis by amounts paid by Aquila to the City (or its designees) concerning litigation to which the City is party and which relates to the Bonds or any other aspect of the Chapter 100 financing contemplated by the Agreement. For purposes of illustration only, if (a) the City has been conveyed the Project on or before January 1, 2005 and (b) on March 31, 2005, Aquila reimburses the City for \$300,000 of legal fees incurred in connection with litigation over the City's right to issue Bonds without a vote of its residents, then Aquila would be credited for having paid

to the City (x) \$214,455 on May 1, 2005 and (y) \$85,545 ($\$300,000 - \$214,455 = \$85,545$) on September 1, 2005, which would result in Aquila owing only \$156,285 to the City on September 1, 2005. This process will continue until all applicable Aquila credits have been used up or, if sooner, the date on which the Bonds are redeemed by Aquila.



APPENDIX E

Security Guidance Documents

**Drivers for Aquila's Homeland Security Infrastructure Protection
(HSIP) project**

1. ***Presidential Decision Directives 62, and 63, Executive Order 13010 and Homeland Security Presidential Directive 7:***
Established the designation and government intent to protect the nation's critical infrastructure. It further identified energy companies (gas and electric) as being subject to that designation.
2. ***US Patriot Act, Section 1016 (short titled the Critical Infrastructure Protection Act of 2001):***
Demonstrated Congress' intent to protect the critical infrastructure.
3. ***Federal Energy Regulatory Commission (FERC):***
First established their intent to secure the electricity sector in their failed notice of proposed rulemaking (NOPR) relating to the Standard Electricity Market Design.
4. ***106 FERC 61,220, 18 CFR Part 35 (March 5, 2004), Section 2.3 and Commission Conclusion:***
Stated FERC's expectation that Transmission Providers, Market Participants and Interconnection Customers will comply with the recommendations of the National Infrastructure Protection Center, as well as any best practice recommendations or requirements that may be issued by North American Electric Reliability Council (NERC) or any other electric reliability authority.
5. ***FERC Docket No. PL04-5-001 (February 5, 2005):***
Confirmed FERC's requirements that "Good Utility Practice" includes compliance with the new reliability standards adopted by the NERC, and calling for Congressional legislation providing federally enforceable regime of mandatory reliability.
6. ***National Association of Regulatory Utility Commissioners (NARUC), February 2005:***
Adopted a resolution recommending to state commissioners that they make NERC reliability standards mandatory, including all relevant standards relating to cyber security and physical security.
7. ***NERC's Emergency Action Standard:***
Requires companies to certify that certain, specific cyber and physical security measures have been taken to protect critical infrastructure.
8. ***NERC Security Guidelines for the Electricity Sector, June 2002:***
Provides guidance and best practices for physical and cyber security.
9. ***NERC CIP – 004-01 (1303 Standard):***
NERC CIP – 003-01: extends the protection of cyber security assets to generation

plant control rooms, black start generators and substations associated with transmission lines (based upon company's critical assets list).

10. ***49 CFR Part 172 Hazardous Material Security:***

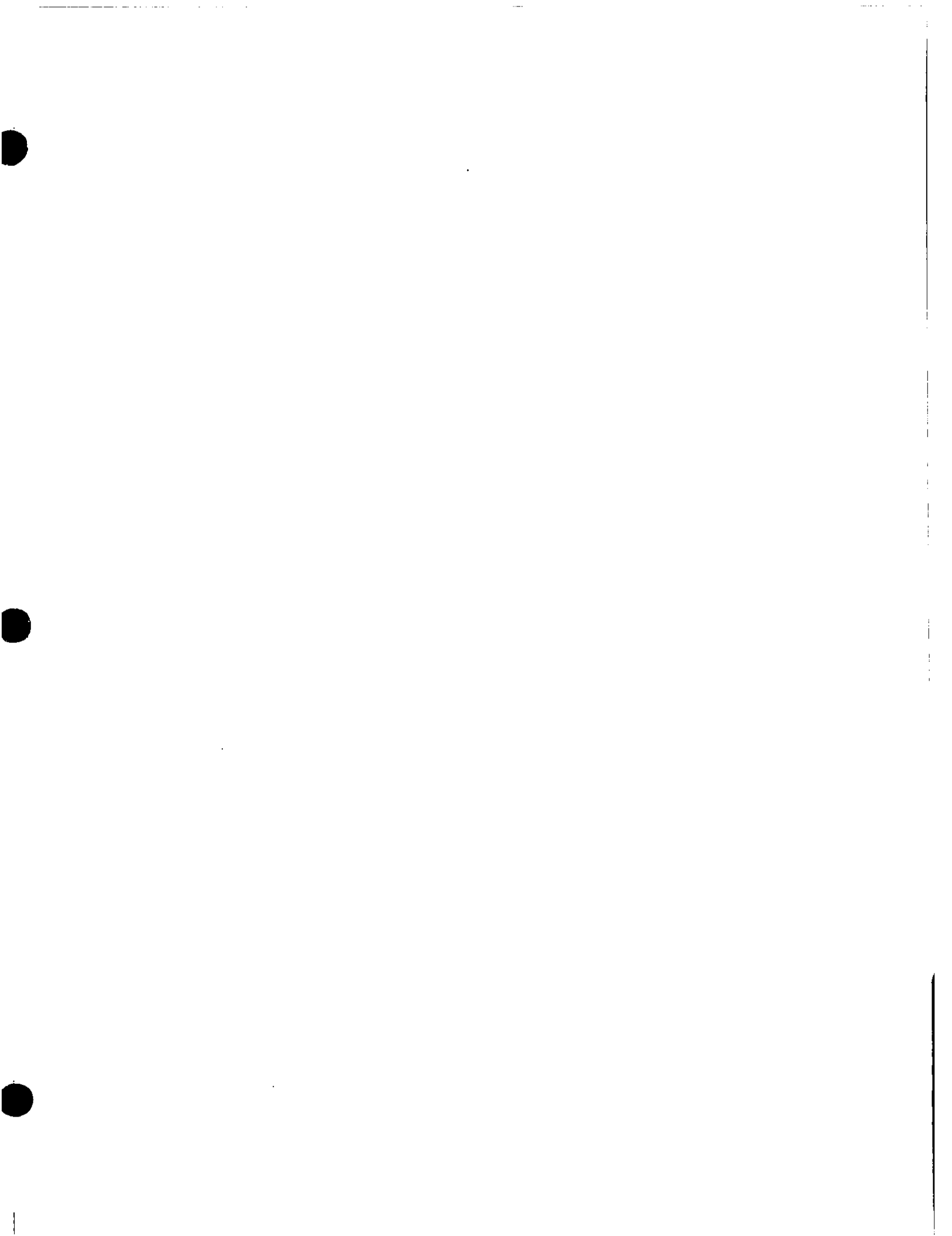
Defines the identification of hazardous materials within the stated standards, special security planning and training for the protection of those chemicals and personnel screening of affected persons.

11. ***DOT-OPS Pipeline Security Information Circular, dated September 5, 2002:***

Requires identification of critical facilities; development and implementation of a security plan and annual review of the plans and compliance reflecting changing conditions.

12. ***Aquila's State leaders Designation of Critical Facilities and Operations, December 2004:***

Established the functional locations/departments designated as critical or key sites. The site designation criteria and final list was developed in conjunction with an operations group chaired by two State Operating Vice Presidents. This plan was subsequently endorsed by Aquila's Chief Operating Officer, Chief Executive Officer and addressed in a letter for the Board of Directors discussing Aquila's fiduciary compliance to security protection and anti-terrorism.



APPENDIX F

Permits

STATE OF MISSOURI
DEPARTMENT OF NATURAL RESOURCES
MISSOURI CLEAN WATER COMMISSION



MISSOURI STATE OPERATING PERMIT
GENERAL PERMIT

In compliance with the Missouri Clean Water Law, (Chapter 644 R.S. Mo. as amended, hereinafter, the Law), and the Federal Water Pollution Control Act (Public Law 92-500, 92nd Congress) as amended,

Permit No. MO-R106858

Owner: Aquila Networks, A Division of Aquila, Inc
Address: 10700 E 350 Hwy., Kansas City, MO 64138

Continuing Authority: Same as above
Address: Same as above

Facility Name: Peculiar 345/161kv Substation
Address: 1/4 Mile W of Hwy. 71 & 1/4 Mile S of 203rd & Knight Rd., Peculiar

Legal Description: SW 1/4, NW 1/4, Sec. 5, T45N, R32W, Cass County

Receiving Stream: East Creek (C)
First Classified Stream and ID: East Creek (C) (01265)
USGS Basin & Sub-watershed No: 10290108-020002

is authorized to discharge from the facility described herein, in accordance with the effluent limitations and monitoring requirements as set forth herein:

FACILITY DESCRIPTION

All Outfalls

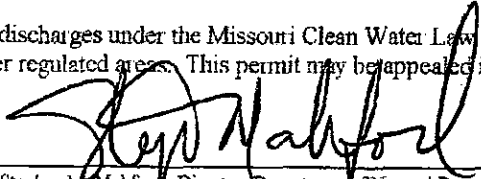
Construction or land disturbance activity (e.g., clearing, grubbing, excavating, grading, and other activity that results in the destruction of the root zone).

This permit authorizes only wastewater, including storm waters, discharges under the Missouri Clean Water Law and the National Pollutant Discharge Elimination System; it does not apply to other regulated areas. This permit may be appealed in accordance with Section 644.051.6 of the Law

February 8, 2002
Effective Date

October 15, 2004
Issued Date

February 7, 2007
Expiration Date
MO 780-1.981 (7-9-4)


Stephen M. Mahford, Director, Department of Natural Resources
Executive Secretary, Clean Water Commission


James B. Maey, Director, Kansas City Regional Office



DEPARTMENT OF THE ARMY
KANSAS CITY DISTRICT, CORPS OF ENGINEERS
700 FEDERAL BUILDING
KANSAS CITY, MISSOURI 64106-2896

REPLY TO
ATTENTION OF:

January 11, 2005

Regulatory Branch
(200500519)
(Cass, MO, NW 12)

Mr. Darin L. Banks
Environmental Scientist
Burns and McDonnell
9400 Ward Parkway
Kansas City, Missouri 64114

Dear Mr. Banks:

This is in response to the application you submitted on behalf of Aquila, Inc., on November 30, 2004, for a Department of the Army (DA) permit concerning construction of three proposed access roads in tributaries to East Creek. The crossings are associated with a new substation site and are located in Section 5, Township 45 north, Range 32 west, Cass County, Missouri.

The Corps of Engineers has jurisdiction over all waters of the United States. Discharges of dredged or fill material in waters of the United States, including wetlands, require prior authorization from the Corps under Section 404 of the Clean Water Act (33 USC 1344). The implementing regulation for this Act is found at 33 CFR 320-330.

The enclosed Jurisdictional Determination (JD) form describes the extent of waters of the United States on the project site. Also, the enclosed Notification of Administrative Appeal Options and Process and Request for Appeal form (FORM) describes your options in Section D of the FORM. If you choose to appeal, and you have new information concerning the elevation of the OHWM, you should complete Section II of the FORM and return the FORM to this office. If you choose to appeal, but have no new information, please submit the completed FORM directly to U.S. Army Corps of Engineers, Commander, Northwestern Division (ATTN: CENWD-CM-OR), 12565 West Center Road, Omaha, NE 68144-3869.

We have reviewed the information furnished and have determined that the three crossings are authorized by nationwide permit (NWP) 12, provided you ensure that the conditions listed in the enclosed copy of excerpts from the January 15, 2002 Federal Register, Issuance of Nationwide Permits; Notice (67 FR 2020), and the February 13, 2002 Correction (67 FR 6692) are met. You

must also comply with the Kansas City District Regional NWP Conditions posted at <http://www.nwk.usace.army.mil/regulatory/regulatory.htm>. **General condition 14** requires you to sign and submit the enclosed "Compliance Certification" upon completion of the authorized work and required mitigation. Please include photos of the mitigation plantings with your compliance certification submittal.

This NWP verification is valid for two years from the date of this letter. Should your project plans change or if your activity is not complete within the specified verification term, you must contact this office for another permit determination.

Although an individual DA permit is not required, other Federal, state and/or local permits may be required. You should verify this yourself.

The Missouri Department of Natural Resources has certified that this NWP will not violate existing state water quality standards provided you comply with the conditions included in their attached certification document. All conditions included in the water quality certification become conditions of the NWP authorization. Please review all conditions associated with this NWP. If you have any questions concerning state water quality standards or compliance issues with the associated certification conditions, please contact the Chief of the Planning Section, Water Pollution Control Program, MDNR, Post Office Box 176, Jefferson City, Missouri 65102-0176. You may call 573-751-1404 for information.

We are interested in your thoughts and opinions concerning your experience with the Kansas City District, Corps of Engineers Regulatory Program. We have placed an automated version of our Customer Service Survey form on our website at: <http://per2.nwp.usace.army.mil/survey.html>. At your request, we will mail you a paper copy that you may complete and return to us by mail or fax.

Mr. Joshua A. Marx, Regulatory Specialist, reviewed the information furnished and made this determination. If you have any questions concerning this matter, please feel free to contact Mr. Marx at 816-983-3658 (FAX 816-426-2321). Please reference Permit No. 200500519 in all comments and/or inquiries relating to this project.

Enclosures

Copies Furnished:

Missouri Department of Natural Resources
wo/enclosures
Missouri Department of Conservation wo/enclosures

Aquila, Inc.
1100 Walnut Street
Kansas City, MO 64106

JURISDICTIONAL DETERMINATION
U.S. Army Corps of Engineers

Revised 8/13/04

DISTRICT OFFICE: Kansas City District (CENWK)
FILE NUMBER: 200500519

PROJECT LOCATION INFORMATION: This project location includes three small adjacent wetlands and five tributaries to East Creek.

State: Missouri
County: Cass
Center coordinates of site (latitude/longitude): lat: 38-44-55.4280 long: 94-29-48.0840
Approximate size of area (parcel) reviewed, including uplands: 53 acres.
Name of nearest waterway: Tributary to East Creek
Name of watershed: South Grand

JURISDICTIONAL DETERMINATION

Completed: Desktop determination Date: January 10, 2005
Site visit(s) Date(s):

Jurisdictional Determination (JD):

Preliminary JD - Based on available information, there appear to be (or) there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331).
Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: N/A.

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.
 Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

BASIS OF JURISDICTIONAL DETERMINATION:

A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":

The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

(1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.

(2) The presence of interstate waters including interstate wetlands¹.

(3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):

(i) which are or could be used by interstate or foreign travelers for recreational or other purposes.

(ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

(iii) which are or could be used for industrial purposes by industries in interstate commerce.

(4) Impoundments of waters otherwise defined as waters of the US.

(5) The presence of a tributary to a water identified in (1) - (4) above.

(6) The presence of territorial seas.

(7) The presence of wetlands adjacent² to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:* The wetlands are within the floodplain of the jurisdictional tributaries that flow to the East Creek. There is a hydraulic connection between East Creek and the Missouri River. The Missouri River is an interstate water of the United States.

Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)

- Ordinary High Water Mark indicated by:
- clear, natural line impressed on the bank
 - the presence of litter and debris
 - changes in the character of soil
 - destruction of terrestrial vegetation
 - shelving
 - other:
- High Tide Line indicated by:
- oil or scum line along shore objects
 - fine shell or debris deposits (foreshore)
 - physical markings/characteristics
 - tidal gages
 - other:
- Mean High Water Mark indicated by:
- survey to available datum; physical markings; vegetation lines/changes in vegetation types.
- Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by: Burns and McDonnell.

Basis For Not Asserting Jurisdiction:

- The reviewed area consists entirely of uplands.
- Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
- Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
- The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:
- Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
 - Artificially irrigated areas, which would revert to upland if the irrigation ceased.
 - Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
 - Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
 - Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
 - Isolated, intrastate wetland with no nexus to interstate commerce.
 - Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
 - Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
 - Other (explain):

DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):

- Maps, plans, plots or plat submitted by or on behalf of the applicant.
- Data sheets prepared/submitted by or on behalf of the applicant.
- This office concurs with the delineation report, dated November 23, 2004, prepared by (company): Burns and McDonnell
- This office does not concur with the delineation report, dated _____, prepared by (company): _____
- Data sheets prepared by the Corps.
- Corps' navigable waters' studies:
- U.S. Geological Survey Hydrologic Atlas:
 - U.S. Geological Survey 7.5 Minute Topographic maps:
 - U.S. Geological Survey 7.5 Minute Historic quadrangles:
 - U.S. Geological Survey 15 Minute Historic quadrangles:
 - USDA Natural Resources Conservation Service Soil Survey:
 - National wetlands inventory maps:
 - State/Local wetland inventory maps:
 - FEMA/FIRM maps (Map Name & Date):
 - 100-year Floodplain Elevation is: _____ (NGVD)
 - Aerial Photographs (Name & Date):
 - Other photographs (Date):
 - Advanced Identification Wetland maps:
 - Site visit/determination conducted on:
 - Applicable/supporting case law:
 - Other information (please specify):

¹Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

²The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

COMPLIANCE CERTIFICATION

General condition 14 of this Nationwide Permit requires that you submit a signed certification regarding the completed work and any required mitigation. This certification page satisfies this condition if it is provided to the Kansas City District at the address shown at the bottom of this page upon completion of the project.

APPLICATION NUMBER: 200500519

APPLICANT: Aquila, Inc.
1100 Walnut Street
Kansas City, MO 64106

PROJECT LOCATION: In tributaries to East Creek in Section 5, Township 45 north, Range 32 west, Cass County, Missouri.

- a. I certify that the authorized work was done in accordance with the Corps authorization, including any general or specific conditions.
- b. I certify that any required mitigation was completed in accordance with the permit conditions.
- c. Your signature below, as permittee, indicates that you have completed the authorized project as certified in paragraphs a and b above.

(PERMITTEE)

(DATE)

Return this certification to:

U.S. Army Corps of Engineers
ATTN: CENWK-OD-R (200500519)
601 East 12th Street Room 706
Kansas City, MO 64106-2896

**NOTIFICATION OF ADMINISTRATIVE APPEAL DECISIONS, CASE PROGRESS, AND
REQUEST FOR WITHDRAWAL**

Applicant: Aquila, Inc.	File Number: 200500519	Date: 11 Jan 05
Attached is:		See Section below
	A. INITIAL PROFFERED PERMIT (Standard Permit or Letter of Permission)	A
	B. PROFFERED PERMIT (Standard Permit or Letter of Permission)	B
	C. PERMIT DENIAL	C
XX	D. APPROVED JURISDICTIONAL DETERMINATION	D
	E. PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding a modification, reconsideration, or administrative appeal of the above decision. Additional information may be found at <http://www.usace.army.mil/inet/functions/cw/ccwo/reg-of-Corps-regulations-at-33-CFR-Part-331/>.

A: INITIAL PROFFERED PERMIT: You may accept or request modification of the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the District Engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **REQUEST MODIFICATION:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the District Engineer. Your objections must be received by the District Engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the District Engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the District Engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the District Engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the Division Engineer (address on page 2). This form must be received by the Division Engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the Division Engineer (address on page 2). This form must be received by the Division Engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept the approved JD, appeal the approved JD, or submit new information and request reconsideration of the approved JD.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the Division Engineer (address on page 2). This form must be received by the Division Engineer within 60 days of the date of this notice.
- **RECONSIDERATION BASED ON NEW INFORMATION:** You may submit new information to the District Engineer for reconsideration of an approved JD. You must submit the information within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - Fill out this section and return this form to the appropriate office only if submitting a request for modification or reconsideration to the District Engineer, or if submitting a request for Administrative Appeal to the Division Engineer. All such submittals must be made within 60 days of the date of this form.

Submit the following requests to the District Engineer:

- A. Modification of an INITIAL PROFFERED PERMIT (Item A)
- D. Reconsideration of an APPROVED JURISDICTIONAL DETERMINATION based on NEW INFORMATION (Item D RECONSIDERATION)

Submit the following requests to the Division Engineer:

- B. Administrative Appeal of a PROFFERED PERMIT (Item B)
- C. Administrative Appeal of a PERMIT DENIAL (Item C)
- D. Administrative Appeal of an APPROVED JURISDICTIONAL DETERMINATION (Item D APPEAL) (for reasons other than reconsideration of an approved JD based on new information)

(Note: Preliminary Jurisdictional Determinations (Item E) are not appealable. If you have concerns regarding a preliminary Jurisdictional Determination, you can request an approved Jurisdictional Determination.)

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

SUBMITTAL OF NEW OR ADDITIONAL INFORMATION: The District Engineer may accept and consider new information if you request a modification to an initial proffered permit (Part A), or a reconsideration of an approved JD (Part D). An administrative appeal to the Division Engineer is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the administrative record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:
DISTRICT ENGINEER
Attn: Joseph S. Hughes
Chief, Regulatory Branch
U.S. Army Engineer District, Kansas City
601 East 12th Street, Room 706
Kansas City, MO 64106-2896
Telephone: 816-983-3990
(Use this address for submittals to the District Engineer)

If you wish to submit an appeal or have questions regarding the appeal process you may contact:
DIVISION ENGINEER
Attn: Mores V. Bergman
Appeal Review Officer
U.S. Army Engineer Division, Northwestern Division
12565 West Center Road
Omaha, NE 68144-3869
Telephone: 402-697-2533

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number:

EXCERPTS FROM JANUARY 15, 2002 FEDERAL REGISTER
(INCLUDING CORRECTIONS PUBLISHED 13 FEBRUARY 2002)

C. Nationwide Permit General Conditions

The following General Conditions must be followed in order for any authorization by an NWP to be valid:

1. **Navigation.** No activity may cause more than a minimal adverse effect on navigation.
2. **Proper Maintenance.** Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.
3. **Soil Erosion and Sediment Controls.** Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.
4. **Aquatic Life Movements.** No activity may substantially disrupt the necessary life-cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions.
5. **Equipment.** Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance.
6. **Regional and Case-By-Case Conditions.** The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with the case specific conditions added by the Corps or by the state or tribe in its Section 401 Water Quality Certification and Coastal Zone Management Act consistency determination.
7. **Wild and Scenic Rivers.** No activity may occur in a component of the National Wild and Scenic River System; or in a river officially designated by Congress as a "study river" for possible inclusion in the system, while the river is in an official study status; unless the appropriate Federal agency, with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation, or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).
8. **Tribal Rights.** No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
9. **Water Quality.**
 - (a) In certain states and tribal lands an individual 401 Water Quality Certification must be obtained or waived (See 33 CFR 330.4(c)).
 - (b) For NWPs 12, 14, 17, 18, 32, 39, 40, 42, 43, and 44, where the state or tribal 401 certification (either generically or individually) does not require or approve water quality management measures, the permittee must provide water quality management measures that will ensure that the authorized work does not result in more than minimal degradation of water quality (or the Corps determines that compliance with state or local standards, where applicable, will ensure no more than minimal adverse effect on water quality). An important component of water quality management includes stormwater management that minimizes degradation of the downstream aquatic system, including water quality (refer to General Condition 21 for stormwater management requirements). Another important component of water quality management is the

establishment and maintenance of vegetated buffers next to open waters, including streams (refer to General Condition 19 for vegetated buffer requirements for the NWP's). This condition is only applicable to projects that have the potential to affect water quality. While appropriate measures must be taken, in most cases it is not necessary to conduct detailed studies to identify such measures or to require monitoring.

10. Coastal Zone Management. In certain states, an individual state coastal zone management consistency concurrence must be obtained or waived (see 33 CFR 330.4(d)).

11. Endangered Species.

(a) No activity is authorized under any NWP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will destroy or adversely modify the critical habitat of such species. Non-federal permittees shall notify the District Engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or is located in the designated critical habitat and shall not begin work on the activity until notified by the District Engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that may affect Federally-listed endangered or threatened species or designated critical habitat, the notification must include the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. As a result of formal or informal consultation with the FWS or NMFS the District Engineer may add species-specific regional endangered species conditions to the NWP's.

(b) Authorization of an activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the USFWS or the NMFS, both lethal and non-lethal "takes" of protected species are in violation of the ESA. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the USFWS and NMFS or their world wide web pages at <http://www.fws.gov/r9endspp/endspp.html> and http://www.nfms.gov/prot_res/esahome.html respectively.

12. Historic Properties. No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the District Engineer has complied with the provisions of 33 CFR part 325, Appendix C. The prospective permittee must notify the District Engineer if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places (see 33 CFR 330.4(g)). For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, the notification must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property.

13. Notification.

(a) Timing; where required by the terms of the NWP, the prospective permittee must notify the District Engineer with a preconstruction notification (PCN) as early as possible. The District Engineer must determine if the notification is complete within 30 days of the date of receipt and can request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the District Engineer will notify the prospective permittee that the notification is still incomplete and the PCN review process will not commence until all of the requested information has been received by the District Engineer. The prospective permittee shall not begin the activity:

(1) Until notified in writing by the District Engineer that the activity may proceed under the NWP with any special conditions imposed by the District or Division Engineer; or

(2) If notified in writing by the District or Division Engineer that an Individual Permit is required;
or

(3) Unless 45 days have passed from the District Engineer's receipt of the complete notification and the prospective permittee has not received written notice from the District or Division Engineer. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) Contents of Notification: The notification must be in writing and include the following information:

(1) Name, address and telephone numbers of the prospective permittee;

(2) Location of the proposed project;

(3) Brief description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), Regional General Permit(s), or Individual Permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP (Sketches usually clarify the project and when provided result in a quicker decision.);

(4) For NWPs 7, 12, 14, 18, 21, 34, 38, 39, 40, 41, 42, and 43, the PCN must also include a delineation of affected special aquatic sites, including wetlands, vegetated shallows (e.g., submerged aquatic vegetation, seagrass beds), and riffle and pool complexes (see paragraph 13(f));

(5) For NWP 7 (Outfall Structures and Maintenance), the PCN must include information regarding the original design capacities and configurations of those areas of the facility where maintenance dredging or excavation is proposed;

(6) For NWP 14 (Linear Transportation Projects), the PCN must include a compensatory mitigation proposal to offset permanent losses of waters of the US and a statement describing how temporary losses of waters of the US will be minimized to the maximum extent practicable;

(7) For NWP 21 (Surface Coal Mining Activities), the PCN must include an Office of Surface Mining (OSM) or state-approved mitigation plan, if applicable. To be authorized by this NWP, the District Engineer must determine that the activity complies with the terms and conditions of the NWP and that the adverse environmental effects are minimal both individually and cumulatively and must notify the project sponsor of this determination in writing;

(8) For NWP 27 (Stream and Wetland Restoration Activities), the PCN must include documentation of the prior condition of the site that will be reverted by the permittee;

(9) For NWP 29 (Single-Family Housing), the PCN must also include:

(i) Any past use of this NWP by the Individual Permittee and/or the permittee's spouse;

(ii) A statement that the single-family housing activity is for a personal residence of the permittee;

(iii) A description of the entire parcel, including its size, and a delineation of wetlands. For the purpose of this NWP, parcels of land measuring ¼-acre or less will not require a formal on-site delineation. However, the applicant shall provide an indication of where the wetlands are and the amount of wetlands that exists on the property. For parcels greater than ¼-acre in size, formal wetland delineation must be prepared in accordance with the current method required by the Corps. (See paragraph 13(f));

(iv) A written description of all land (including, if available, legal descriptions) owned by the prospective permittee and/or the prospective permittee's spouse, within a one mile radius of the parcel, in any form of ownership (including any land owned as a partner, corporation, joint tenant, co-tenant, or as a tenant-by-the-entirety) and any land on which a purchase and sale agreement or other contract for sale or purchase has been executed;

(10) For NWP 31 (Maintenance of Existing Flood Control Facilities), the prospective permittee must either notify the District Engineer with a PCN prior to each maintenance activity or submit a five year (or less) maintenance plan. In addition, the PCN must include all of the following:

(i) Sufficient baseline information identifying the approved channel depths and configurations and existing facilities. Minor deviations are authorized, provided the approved flood control protection or drainage is not increased;

(ii) A delineation of any affected special aquatic sites, including wetlands; and,

(iii) Location of the dredged material disposal site;

(11) For NWP 33 (Temporary Construction, Access, and Dewatering), the PCN must also include a restoration plan of reasonable measures to avoid and minimize adverse effects to aquatic resources;

(12) For NWPs 39, 43 and 44, the PCN must also include a written statement to the District Engineer explaining how avoidance and minimization for losses of waters of the US were achieved on the project site;

(13) For NWP 39 and NWP 42, the PCN must include a compensatory mitigation proposal to offset losses of waters of the US or justification explaining why compensatory mitigation should not be required. For discharges that cause the loss of greater than 300 linear feet of an intermittent stream bed, to be authorized, the District Engineer must determine that the activity complies with the other terms and conditions of the NWP, determine adverse environmental effects are minimal both individually and cumulatively, and waive the limitation on stream impacts in writing before the permittee may proceed;

(14) For NWP 40 (Agricultural Activities), the PCN must include a compensatory mitigation proposal to offset losses of waters of the US. This NWP does not authorize the relocation of greater than 300 linear-feet of existing serviceable drainage ditches constructed in non-tidal streams unless, for drainage ditches constructed in intermittent non-tidal streams, the District Engineer waives this criterion in writing, and the District Engineer has determined that the project complies with all terms and conditions of this NWP, and that any adverse impacts of the project on the aquatic environment are minimal, both individually and cumulatively;

(15) For NWP 43 (Stormwater Management Facilities), the PCN must include, for the construction of new stormwater management facilities, a maintenance plan (in accordance with state and local requirements, if applicable) and a compensatory mitigation proposal to offset losses of waters of the US. For discharges that cause the loss of greater than 300 linear feet of an intermittent stream bed, to be authorized, the District Engineer must determine that the activity complies with all terms and conditions of the NWP, determine adverse environmental effects are minimal both individually and cumulatively, and waive the limitation on stream impacts in writing before the permittee may proceed;

(16) For NWP 44 (Mining Activities), the PCN must include a description of all waters of the US adversely affected by the project, a description of measures taken to minimize adverse effects to waters of the US, a description of measures taken to comply with the criteria of the NWP, and a reclamation plan (for all aggregate mining activities in isolated waters and non-tidal wetlands adjacent to headwaters and any hard rock/mineral mining activities);

(17) For activities that may adversely affect Federally-listed endangered or threatened species, the PCN must include the name(s) of those endangered or threatened species that may be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work; and

(18) For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property.

(c) Form of Notification: The standard Individual Permit application form (Form ENG 4345) may be used as the notification but must clearly indicate that it is a PCN and must include all of the information required in (b) (1)-(18) of General Condition 13. A letter containing the requisite information may also be used.

(d) District Engineer's Decision: In reviewing the PCN for the proposed activity, the District Engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. The prospective permittee may submit a proposed mitigation plan with the PCN to expedite the process. The District Engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed work are minimal. If the District Engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the District Engineer will notify the permittee and include any conditions the District Engineer deems necessary.

The District Engineer must approve any compensatory mitigation proposal before the permittee commences work. If the prospective permittee is required to submit a compensatory mitigation proposal with the PCN, the proposal may be either conceptual or detailed. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the District Engineer will expeditiously review the proposed compensatory mitigation plan. The District Engineer must review the plan within 45 days of receiving a complete PCN and determine whether the conceptual or specific proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the District Engineer to be minimal, the District Engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP. If the District Engineer determines that the adverse effects of the proposed work are more than minimal, then the District Engineer will notify the applicant either:

(1) That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an Individual Permit;

(2) that the project is authorized under the NWP subject to the applicant's submission of a mitigation proposal that would reduce the adverse effects on the aquatic environment to the minimal level; or

(3) that the project is authorized under the NWP with specific modifications or conditions. Where the District Engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period. The authorization will include the necessary conceptual or specific mitigation or a requirement that the applicant submit a mitigation proposal that would reduce the adverse effects on the aquatic environment to the minimal level. When conceptual mitigation is included, or a mitigation plan is required under item (2) above, no work in waters of the US will occur until the District Engineer has approved a specific mitigation plan. (e) Agency Coordination: The District Engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the project's adverse environmental effects to a minimal level. For activities requiring notification to the District Engineer that result in the loss of greater than 1/2-acre of waters of the

US, the District Engineer will provide immediately (e.g., via facsimile transmission, overnight mail, or other expeditious manner) a copy to the appropriate Federal or state offices (USFWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will then have 10 calendar days from the date the material is transmitted to telephone or fax the District Engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the District Engineer will wait an additional 15 calendar days before making a decision on the notification. The District Engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency, except as provided below. The District Engineer will indicate in the administrative record associated with each notification that the resource agencies' concerns were considered. As required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act, the District Engineer will provide a response to NMFS within 30 days of receipt of any Essential Fish Habitat conservation recommendations. Applicants are encouraged to provide the Corps multiple copies of notifications to expedite agency notification.

(f) **Wetland Delineations:** Wetland delineations must be prepared in accordance with the current method required by the Corps (For NWP 29 see paragraph (b)(9)(iii) for parcels less than 1/4-acre in size). The permittee may ask the Corps to delineate the special aquatic site. There may be some delay if the Corps does the delineation. Furthermore, the 45-day period will not start until the wetland delineation has been completed and submitted to the Corps, where appropriate.

14. Compliance Certification. Every permittee who has received NWP verification from the Corps will submit a signed certification regarding the completed work and any required mitigation. The certification will be forwarded by the Corps with the authorization letter and will include:

- (a) A statement that the authorized work was done in accordance with the Corps authorization, including any general or specific conditions;
- (b) A statement that any required mitigation was completed in accordance with the permit conditions; and
- (c) The signature of the permittee certifying the completion of the work and mitigation.

15. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the US authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit (e.g. if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the US for the total project cannot exceed 1/3-acre).

16. Water Supply Intakes. No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may occur in the proximity of a public water supply intake except where the activity is for repair of the public water supply intake structures or adjacent bank stabilization.

17. Shellfish Beds. No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4.

18. Suitable Material. No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.) and material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the CWA).

19. Mitigation. The District Engineer will consider the factors discussed below when determining the acceptability of appropriate and practicable mitigation necessary to offset adverse effects on the aquatic environment that are more than minimal.

(a) The project must be designed and constructed to avoid and minimize adverse effects to waters of the US to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing or compensating) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland impacts requiring a PCN, unless the District Engineer determines in writing that some other form of mitigation would be more environmentally appropriate and provides a project-specific waiver of this requirement. Consistent with National policy, the District Engineer will establish a preference for restoration of wetlands as compensatory mitigation, with preservation used only in exceptional circumstances.

(d) Compensatory mitigation (i.e., replacement or substitution of aquatic resources for those impacted) will not be used to increase the acreage losses allowed by the acreage limits of some of the NWP's. For example, ¼-acre of wetlands cannot be created to change a ¼-acre loss of wetlands to a ½-acre loss associated with NWP 39 verification. However, ½-acre of created wetlands can be used to reduce the impacts of a ¼-acre loss of wetlands to the minimum impact level in order to meet the minimal impact requirement associated with NWP's.

(e) To be practicable, the mitigation must be available and capable of being done considering costs, existing technology, and logistics in light of the overall project purposes. Examples of mitigation that may be appropriate and practicable include, but are not limited to: reducing the size of the project; establishing and maintaining wetland or upland vegetated buffers to protect open waters such as streams; and replacing losses of aquatic resource functions and values by creating, restoring, enhancing, or preserving similar functions and values, preferably in the same watershed.

(f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the establishment, maintenance, and legal protection (e.g., easements, deed restrictions) of vegetated buffers to open waters. In many cases, vegetated buffers will be the only compensatory mitigation required. Vegetated buffers should consist of native species. The width of the vegetated buffers required will address documented water quality or aquatic habitat loss concerns. Normally, the vegetated buffer will be 25 to 50 feet wide on each side of the stream, but the District Engineers may require slightly wider vegetated buffers to address documented water quality or habitat loss concerns. Where both wetlands and open waters exist on the project site, the Corps will determine the appropriate compensatory mitigation (e.g., stream buffers or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where vegetated buffers are determined to be the most appropriate form of compensatory mitigation, the District Engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland impacts.

(g) Compensatory mitigation proposals submitted with the "notification" may be either conceptual or detailed. If conceptual plans are approved under the verification, then the Corps will condition the verification to require detailed plans be submitted and approved by the Corps prior to construction of the authorized activity in waters of the US.

(h) Permittees may propose the use of mitigation banks, in-lieu fee arrangements or separate activity-specific compensatory mitigation. In all cases that require compensatory mitigation, the mitigation provisions will specify the party responsible for accomplishing and/or complying with the mitigation plan.

20. Spawning Areas. Activities, including structures and work in navigable waters of the US or discharges of dredged or fill material, in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., excavate, fill, or smother downstream by substantial turbidity) of a important spawning area are not authorized.

21. Management of Water Flows. To the maximum extent practicable, the activity must be designed to maintain preconstruction downstream flow conditions (e.g., location, capacity, and flow rates). Furthermore, the activity must not permanently restrict or impede the passage of normal or expected high flows (unless the primary purpose of the

fill is to impound waters) and the structure or discharge of dredged or fill material must withstand expected high flows. The activity must, to the maximum extent practicable, provide for retaining excess flows from the site, provide for maintaining surface flow rates from the site similar to preconstruction conditions, and provide for not increasing water flows from the project site, relocating water, or redirecting water flow beyond preconstruction conditions. Stream channelizing will be reduced to the minimal amount necessary, and the activity must, to the maximum extent practicable, reduce adverse effects such as flooding or erosion downstream and upstream of the project site, unless the activity is part of a larger system designed to manage water flows. In most cases, it will not be a requirement to conduct detailed studies and monitoring of water flow. This condition is only applicable to projects that have the potential to affect waterflows. While appropriate measures must be taken, it is not necessary to conduct detailed studies to identify such measures or require monitoring to ensure their effectiveness. Normally, the Corps will defer to state and local authorities regarding management of water flow.

22. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to the acceleration of the passage of water, and/or the restricting its flow shall be minimized to the maximum extent practicable. This includes structures and work in navigable waters of the US, or discharges of dredged or fill material.

23. Waterfowl Breeding Areas. Activities, including structures and work in navigable waters of the US or discharges of dredged or fill material, into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

24. Removal of Temporary Fills. Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation.

25. Designated Critical Resource Waters. Critical resource waters include, NOAA-designated marine sanctuaries, National Estuarine Research Reserves, National Wild and Scenic Rivers, critical habitat for Federally listed threatened and endangered species, coral reefs, state natural heritage sites, and outstanding national resource waters or other waters officially designated by a state as having particular environmental or ecological significance and identified by the District Engineer after notice and opportunity for public comment. The District Engineer may also designate additional critical resource waters after notice and opportunity for comment.

(a) Except as noted below, discharges of dredged or fill material into waters of the US are not authorized by NWP's 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, and 44 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters. Discharges of dredged or fill materials into waters of the US may be authorized by the above NWP's in National Wild and Scenic Rivers if the activity complies with General Condition 7. Further, such discharges may be authorized in designated critical habitat for Federally listed threatened or endangered species if the activity complies with General Condition 11 and the USFWS or the NMFS has concurred in a determination of compliance with this condition.

(b) For NWP's 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with General Condition 13, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The District Engineer may authorize activities under these NWP's only after it is determined that the impacts to the critical resource waters will be no more than minimal.

26. Fills Within 100-Year Floodplains. For purposes of this General Condition, 100-year floodplains will be identified through the existing Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or FEMA-approved local floodplain maps.

(a) Discharges in Floodplain; Below Headwaters. Discharges of dredged or fill material into waters of the US within the mapped 100-year floodplain, below headwaters (i.e. five cfs), resulting in permanent above-grade fills, are not authorized by NWP's 39, 40, 42, 43, and 44.

(b) Discharges in Floodway; Above Headwaters. Discharges of dredged or fill material into waters of the US within the FEMA or locally mapped floodway, resulting in permanent above-grade fills, are not authorized by NWP's 39, 40, 42, and 44.

(c) The permittee must comply with any applicable FEMA-approved state or local floodplain management requirements.

27. Construction Period. For activities that have not been verified by the Corps and the project was commenced or under contract to commence by the expiration date of the NWP (or modification or revocation date), the work must be completed within 12-months after such date (including any modification that affects the project). For activities that have been verified and the project was commenced or under contract to commence within the verification period, the work must be completed by the date determined by the Corps. For projects that have been verified by the Corps, an extension of a Corps approved completion date maybe requested. This request must be submitted at least one month before the previously approved completion date.

D. Further Information

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.
2. NWP's do not obviate the need to obtain other Federal, state, or local permits, approvals, or authorizations required by law.
3. NWP's do not grant any property rights or exclusive privileges.
4. NWP's do not authorize any injury to the property or rights of others.
5. NWP's do not authorize interference with any existing or proposed Federal project.

E. Definitions

Best Management Practices (BMPs): BMPs are policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural. A BMP policy may affect the limits on a development.

Compensatory Mitigation: For purposes of Section 10/404, compensatory mitigation is the restoration, creation, enhancement, or in exceptional circumstances, preservation of wetlands and/or other aquatic resources for the purpose of compensating for unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

Creation: The establishment of a wetland or other aquatic resource where one did not formerly exist.

Enhancement: Activities conducted in existing wetlands or other aquatic resources that increase one or more aquatic functions.

Ephemeral Stream: An ephemeral stream has flowing water only during and for a short duration after, precipitation events in a typical year. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.

Farm Tract: A unit of contiguous land under one ownership that is operated as a farm or part of a farm.

Flood Fringe: That portion of the 100-year floodplain outside of the floodway (often referred to as "floodway fringe").

Floodway: The area regulated by Federal, state, or local requirements to provide for the discharge of the base flood so the cumulative increase in water surface elevation is no more than a designated amount (not to exceed one foot as set by the National Flood Insurance Program) within the 100-year floodplain.

Independent Utility: A test to determine what constitutes a single and complete project in the Corps regulatory program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

Intermittent Stream: An intermittent stream has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.

Loss of Waters of the US: Waters of the US that include the filled area and other waters that are permanently adversely affected by flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent above-grade, at-grade, or below-grade fills that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the US is the threshold measurement of the impact to existing waters for determining whether a project may qualify for an NWP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and values. The loss of stream bed includes the linear feet of stream bed that is filled or excavated. Impacts to ephemeral streams are not included in the linear foot measurement of loss of stream bed for the purpose of determining compliance with the linear foot limits of NWPs 39, 40, 42, and 43. Waters of the US temporarily filled, flooded, excavated, or drained, but restored to preconstruction contours and elevations after construction, are not included in the measurement of loss of waters of the US.

Non-tidal Wetland: A non-tidal wetland is a wetland (i.e., a water of the US) that is not subject to the ebb and flow of tidal waters. The definition of a wetland can be found at 33 CFR 328.3(b). Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line).

Open Water: An area that, during a year with normal patterns of precipitation, has standing or flowing water for sufficient duration to establish an ordinary high water mark. Aquatic vegetation within the area of standing or flowing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. The term "open water" includes rivers, streams, lakes, and ponds. For the purposes of the NWPs, this term does not include ephemeral waters.

Perennial Stream: A perennial stream has flowing water year-round during a typical year. The water table is located above the stream bed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow.

Permanent Above-grade Fill: A discharge of dredged or fill material into waters of the US, including wetlands, that results in a substantial increase in ground elevation and permanently converts part or all of the waterbody to dry land. Structural fills authorized by NWPs 3, 25, 36, etc. are not included.

Preservation: The protection of ecologically important wetlands or other aquatic resources in perpetuity through the implementation of appropriate legal and physical mechanisms. Preservation may include protection of upland areas adjacent to wetlands as necessary to ensure protection and/or enhancement of the overall aquatic ecosystem.

Restoration: Re-establishment of wetland and/or other aquatic resource characteristics and function(s) at a site where they have ceased to exist, or exist in a substantially degraded state.

Riffle and Pool Complex: Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a coarse substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.

Single and Complete Project: The term "single and complete project" is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers (see definition of independent utility). For linear projects, the "single and complete project" (i.e., a single and complete crossing) will apply to each crossing of a separate water of the US (i.e., a single waterbody) at that location. An exception is for linear projects crossing a single waterbody several times at separate and distant locations: each crossing is considered a single and complete project. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies.

Stormwater Management: Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.

Stormwater Management Facilities: Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and BMPs, which retain water for a period of time to control runoff and/or improve the quality (i.e., by reducing the concentration of nutrients, sediments, hazardous substances and other pollutants) of stormwater runoff.

Stream Bed: The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed.

Stream Channelization: The manipulation of a stream channel to increase the rate of water flow through the stream channel. Manipulation may include deepening, widening, straightening, armoring, or other activities that change the stream cross-section or other aspects of stream channel geometry to increase the rate of water flow through the stream channel. A channelized stream remains a water of the US, despite the modifications to increase the rate of water flow.

Tidal Wetland: A tidal wetland is a wetland (i.e., water of the US) that is inundated by tidal waters. The definitions of a wetland and tidal waters can be found at 33 CFR 328.3(b) and 33 CFR 328.3(f), respectively. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line (i.e., spring high tide line) and are inundated by tidal waters two times per lunar month, during spring high tides.

Vegetated Buffer: A vegetated upland or wetland area next to rivers, streams, lakes, or other open waters which separates the open water from developed areas, including agricultural land. Vegetated buffers provide a variety of aquatic habitat functions and values (e.g., aquatic habitat for fish and other aquatic organisms, moderation of water temperature changes, and detritus for aquatic food webs) and help improve or maintain local water quality. A vegetated buffer can be established by maintaining an existing vegetated area or planting native trees, shrubs, and herbaceous plants on land next to open-waters. Mowed lawns are not considered vegetated buffers because they provide little or no aquatic habitat functions and values. The establishment and maintenance of vegetated buffers is a method of compensatory mitigation that can be used in conjunction with the restoration, creation, enhancement, or preservation of aquatic habitats to ensure that activities authorized by NWP's result in minimal adverse effects to the aquatic environment. (See General Condition 19.)

Vegetated Shallows: Vegetated shallows are special aquatic sites under the 404(b)(1) Guidelines. They are areas that are permanently inundated and under normal circumstances have rooted aquatic vegetation, such as seagrasses in marine and estuarine systems and a variety of vascular rooted plants in freshwater systems.

Waterbody: A waterbody is any area that in a normal year has water flowing or standing above ground to the extent that evidence of an ordinary high water mark is established. Wetlands contiguous to the waterbody are considered part of the waterbody.

WATER POLLUTION CONTROL PROGRAM
Missouri General Water Quality Certification Conditions for NWP 12
(Utility Line Activities)

Pursuant to Section 401 of the Clean Water Act of 1972, the following best management practices are included as conditions in the Section 404 U.S. Army Corps of Engineers' Nationwide Permit (NWP). These conditions ensure that over and through channel utility crossing and restoration activities do not violate the Water Quality Standards of the State of Missouri resulting in permanent damage to habitat, increased turbidity, reduced bank and channel stability, and impacts to the biological and chemical integrity of the waterbody. Jurisdictional definitions for this activity are explained in the NWP.

Any land disturbance activities disturbing one or more acres of total area for the entire project requires a storm water permit from the Water Pollution Control Program for land disturbance activities. Note that this is one acre of area disturbed for the total project, not one acre of waters of the United States. For questions, please contact the Water Pollution Control Program's Permit Section at (573) 751-6825.

Petroleum products spilled into any waterbody or on the banks where the material may enter waters of the state shall be immediately cleaned up and disposed of properly. Any such spills of petroleum shall be reported as soon as possible to the Missouri Department of Natural Resources' 24-hour Environmental Emergency Response number at (573) 634-2436.

Pursuant to Chapter 644.038, RSMo, the department certifies this nationwide permit without conditions for the construction of highways and bridges approved by the Missouri Highway and Transportation Commission, as it applies to impacts in all waters of the state.

1. This certification does not allow the filling of a jurisdictional spring or a spring with connectivity to a jurisdictional stream.
2. Material resulting from trench excavation may not be temporarily sidecast into a water of the state for more than one month.
3. Directional boring under the streambed to avoid impacts to waters of the state is recommended. For utility crossings that must disturb the streambed, work shall be conducted in such a manner as to seal off the work area from flow.
4. Utility line crossings shall be placed as close to perpendicular as possible, and be limited to a maximum crossing length of no more than one and one-half times the width of the stream.
5. Care shall be taken to keep machinery out of the waterway as much as possible. Fuel, oil and other petroleum products, equipment and any solid waste shall not be stored below the ordinary high water mark (OHWM) at any time or in the adjacent floodway beyond normal working hours. All precautions shall be taken to avoid the release of wastes or fuel to streams and other adjacent waterbodies as a result of this operation.
6. Clearing of vegetation/trees shall be the minimum necessary to accomplish the activity.

NWP 12 (Utility Line Activities)

7. The riparian area, banks, etc., shall be restored to a stable condition to protect water quality as soon as possible. Seeding/planting of native vegetation, mulching and needed fertilization shall be within three days of final contouring, or as soon as possible as seasonal timing permits. On-site inspections of these areas shall be conducted by the permittee as necessary to ensure successful revegetation and stabilization, and to ensure that erosion and deposition of soil in waters of the state is not occurring from this project.
8. Only clean, nonpolluting fill shall be used.
9. Work shall be conducted during low flow whenever possible.
10. The following materials are not suitable for bank stabilization and should not be used due to their potential to cause violations of the General Criteria of the Water Quality Standards, 10 CSR 20-7.031 (3) (A) – (H):
 - a. Earthen fill, gravel, broken concrete where the majority of material is less than 12 inches in diameter, and fragmented asphalt, since these materials are usually not substantial enough to withstand erosive flows;
 - b. Concrete with exposed rebar;
 - c. Tires, vehicles or vehicle bodies, construction or demolition debris are solid waste and are excluded from placement in the waters of the state; and
 - d. Liquid concrete, including grouted riprap, if not placed as part of an engineered structure.

Recycled concrete may be used provided that it is clean material broken into appropriately sized pieces (greater than 12 inches) of riprap with no protruding rebar.
11. The streambed gradient shall not be permanently altered during project construction.
12. This Water Quality Certification is not valid for any Section 404 permit issued on a water that:
 - a. Is listed as impaired pursuant to Section 303(d) of the Clean Water Act, or
 - b. If the activities are located in or occur within two miles upstream of a designated outstanding state or national resource area (10 CSR 20-7.031).

Waters listed on the 303(d) list or Outstanding National/State Resource Waters (10 CSR 20-7, Tables D, E) can be found at http://www.dnr.state.mo.us/wpscd/wpcp/tmdl/tmdl_list.pdf, and page 28 at <http://www.sos.state.mo.us/adrules/csr/current/10csr/10c20-7b.pdf>, respectively, or by calling the Water Pollution Control Program at (573) 751-7428. If more detail than what is provided at these web sites is needed to precisely pinpoint your location please call (573) 522-2552.

Nationwide Permit No. 12
Utility Line Activities

Activities required for the construction, maintenance, and repair of utility lines and associated facilities in waters of the United States as follows:

(i) **Utility lines:** The construction, maintenance, or repair of utility lines, including outfall and intake structures and the associated excavation, backfill, or bedding for the utility lines, in all waters of the United States, provided there is no change in preconstruction contours. A "utility line" is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquefiable, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages, and radio and television communication (see Note 1, below). Material resulting from trench excavation may be temporarily sidecast (up to three months) into waters of the United States, provided the material is not placed in such a manner that it is dispersed by currents or other forces. The District Engineer may extend the period of temporary side casting not to exceed a total of 180 days, where appropriate. In wetlands, the top 6" to 12" of the trench should normally be backfilled with topsoil from the trench. Furthermore, the trench cannot be constructed in such a manner as to drain waters of the United States (e.g., backfilling with extensive gravel layers, creating a french drain effect). For example, utility line trenches can be backfilled with clay blocks to ensure that the trench does not drain the waters of the United States through which the utility line is installed. Any exposed slopes and stream banks must be stabilized immediately upon completion of the utility line crossing of each waterbody.

(ii) **Utility line substations:** The construction, maintenance, or expansion of a substation facility associated with a power line or utility line in non-tidal waters of the United States, excluding non-tidal wetlands adjacent to tidal waters, provided the activity does not result in the loss of greater than 1/2 acre of non-tidal waters of the United States.

(iii) **Foundations for overhead utility line towers, poles, and anchors:** The construction or maintenance of foundations for overhead utility line towers, poles, and anchors in all waters of the United States, provided the foundations are the minimum size necessary and separate footings for each tower leg (rather than a larger single pad) are used where feasible.

(iv) **Access roads:** The construction of access roads for the construction and maintenance of utility lines, including overhead power lines and utility line substations, in non-tidal waters of the United States, excluding non-tidal wetlands adjacent to tidal waters, provided the discharge does not cause the loss of greater than 1/2 acre of non-tidal waters of the United States. Access roads shall be the minimum width necessary (see Note 2, below). Access roads must be constructed so that the length of the road minimizes the adverse effects on waters of the United States and as near as possible to preconstruction contours and elevations (e.g., at grade corduroy roads or geotextile/gravel roads). Access roads constructed above preconstruction contours and elevations in waters of the United States must be properly bridged or culverted to maintain surface flows.

Nationwide Permit No. 12
Utility Line Activities (cont'd)

The term "utility line" does not include activities which drain a water of the United States, such as drainage tile or french drains; however, it does apply to pipes conveying drainage from another area. For the purposes of this NWP, the loss of waters of the United States includes the filled area plus waters of the United States that are adversely affected by flooding, excavation, or drainage as a result of the project. Activities authorized by paragraphs (i) through (iv) may not exceed a total of 1/2 acre loss of waters of the United States. Waters of the United States temporarily affected by filling, flooding, excavation, or drainage, where the project area is restored to preconstruction contours and elevations, are not included in the calculation of permanent loss of waters of the United States. This includes temporary construction mats (e.g., timber, steel, geotextile) used during construction and removed upon completion of the work. Where certain functions and values of waters of the United States are permanently adversely affected, such as the conversion of a forested wetland to a herbaceous wetland in the permanently maintained utility line right-of-way, mitigation will be required to reduce the adverse effects of the project to the minimal level.

Mechanized landclearing necessary for the construction, maintenance, or repair of utility lines and the construction, maintenance, and expansion of utility line substations, foundations for overhead utility lines, and access roads is authorized, provided the cleared area is kept to the minimum necessary and preconstruction contours are maintained as near as possible. The area of waters of the United States that is filled, excavated, or flooded must be limited to the minimum necessary to construct the utility line, substations, foundations, and access roads. Excess material must be removed to upland areas immediately upon completion of construction. This NWP may authorize utility lines in or affecting navigable waters of the United States, even if there is no associated discharge of dredged or fill material (See 33 CFR Part 322).

Notification: The permittee must notify the District Engineer in accordance with General Condition 13, if any of the following criteria are met:

- (a) Mechanized land clearing in a forested wetland for the utility line right-of-way;
- (b) A Section 10 permit is required;
- (c) The utility line in waters of the United States, excluding overhead lines, exceeds 500 feet;
- (d) The utility line is placed within a jurisdictional area (i.e., a water of the United States), and it runs parallel to a stream bed that is within that jurisdictional area;
- (e) Discharges associated with the construction of utility line substations that result in the loss of greater than 1/10 acre of waters of the United States;

**Nationwide Permit No. 12
Utility Line Activities (cont'd)**

(f) Permanent access roads constructed above grade in waters of the United States for a distance of more than 500 feet; or

(g) Permanent access roads constructed in waters of the United States with impervious materials.
(Sections 10 and 404)

Note 1: Overhead utility lines constructed over Section 10 waters and utility lines that are routed in or under Section 10 waters without a discharge of dredged or fill material require a Section 10 permit; except for pipes or pipelines used to transport gaseous, liquid, liquefiable, or slurry substances over navigable waters of the United States, which are considered to be bridges, not utility lines, and may require a permit from the U.S. Coast Guard pursuant to Section 9 of the Rivers and Harbors Act of 1899. However, any discharges of dredged or fill material associated with such pipelines will require a Corps permit under Section 404.

Note 2: Access roads used for both construction and maintenance may be authorized, provided they meet the terms and conditions of this NWP. Access roads used solely for construction of the utility line must be removed upon completion of the work and the area restored to preconstruction contours, elevations, and wetland conditions.

Temporary access roads for construction may be authorized by NWP 33.

Note 3: Where the proposed utility line is constructed or installed in navigable waters of the United States (i.e., Section 10 waters), copies of the PCN and NWP verification will be sent by the Corps to the National Oceanic and Atmospheric Administration, National Ocean Service, for charting the utility line to protect navigation.

AQUATERRA
ENVIRONMENTAL SOLUTIONS, INC.

September 29, 2004

Mr. Rick Hansen
U.S. Fish & Wildlife Service
101 Park DeVille Drive, Ste. A
Columbia, Missouri 65203

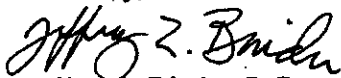
RECD SEP 30 2004

Re: Federal Threatened and Endangered Species for an Environmental Review

The purpose of this letter is to request an evaluation of Federal Threatened and Endangered Species (T&E) for an Environmental Review of a property located in the NW1/4 of Section 5, Township 45N, Range 32W in Cass County, Missouri. I have enclosed a copy a topographic map showing the site location.

If you should have any questions please contact Joe Nelson or myself at (913) 681-0030.

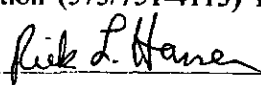
Sincerely,


Jeffrey L. Binder, P.G.
Senior Hydrogeologist

Enclosure

"The U.S. Fish and Wildlife Service has reviewed the subject project proposal and determined that no federally listed species or designated critical habitat occurs within the project area; consequently this concludes section 7 consultation. Please contact the Missouri Department of Conservation (573/751-4115) for state listed species of concern."

for to


Field Supervisor

7 October 2004
Date



Heritag R view Report

Missouri Department of Conservation
Attn: Shannon Cave
Public Involvement Coordinator
P. O. Box 180
Jefferson City, MO 65102
Shannon.Cave@mdc.mo.gov
573-522-4115 Ext. 3250

Mr. Jeffrey L. Binder, P.G.
Aquaterra Environmental Solutions, Inc.
6980 W. 153rd Street
Overland Park, Kansas 66223

Project type: Site evaluation
Location: NW¼, Sec. 5, Twp. 45N, Rg. 32W
County: Cass County
Described in query as: Evaluation of T & E species for an Env. Review
Date query received: October 4, 2004

This is not a site clearance letter, but a report of Missouri Department of Conservation records concerning public lands and sensitive resources known to be near and possibly affected by the proposed project.

Species/habitats with Federal restrictions: No Records Found

Species/habitats with State restrictions: No Records Found

Concerns & management recommendations¹ based on site or project details, not related to specific heritage records:

The project area occurs in a region of karst geology, characterized by subterranean water movement. Features like caves, springs, and sinkholes are common. Cave fauna are influenced by water pollution and other changes to water quality. Every effort should be made to protect groundwater in the project area. See <http://www.mdc.mo.gov/documents/nathis/endangered/karst.pdf> for best management information.

Habitat loss can impact populations of grassland birds native to the area, including barn owls (state endangered), northern harriers (state endangered), Henslow's sparrow (imperiled in the state), and greater prairie-chickens (state endangered). Revegetation with native grasses and other flowering plants will minimize the impact of habitat disturbance. Best management practices may be found on-line at <http://www.mdc.mo.gov/nathis/endangered/bmp.htm>.

Prepared by

Date 10-14-2004

¹ If you would like a printed copy of referenced best management practice sheets, please contact us.

COPY

**CULTURAL RESOURCE ASSESSMENT
Section 106 Review**

CONTACT PERSON/ADDRESS

C:

Brian Henk
Aquila, Inc.
Lee's Summit System Operations Center
750 NW Missouri Road
Lee's Summit, Missouri 64086

Laura Boros, FERC

PROJECT:

Development Project No. 2, Knight Road & 203rd Street, Peculiar

FEDERAL AGENCY

FERC

COUNTY:

CASS

The State Historic Preservation Office has reviewed the information submitted on the above referenced project. Based on this review, we have made the following determination:

After review of initial submission, the project area has a low potential for the occurrence of cultural resources. A cultural resource survey, therefore, is not warranted.

Adequate documentation has been provided (36 CFR Section 800.11). There will be "no historic properties affected" by the current project.

An adequate cultural resource survey of the project area has been previously conducted. It has been determined that for the proposed undertaking there will be "no historic properties affected".

For the above checked reason, the State Historic Preservation Office has no objection to the initiation of project activities. PLEASE BE ADVISED THAT, IF THE CURRENT PROJECT AREA OR SCOPE OF WORK ARE CHANGED, A BORROW AREA IS INCLUDED IN THE PROJECT, OR CULTURAL MATERIALS ARE ENCOUNTERED DURING CONSTRUCTION, APPROPRIATE INFORMATION MUST BE PROVIDED TO THIS OFFICE FOR FURTHER REVIEW AND COMMENT. Please retain this documentation as evidence of compliance with Section 106 of the National Historic Preservation Act, as amended.

Mark A. Miles
Mark A. Miles, Deputy State Historic Preservation Officer

October 5, 2004
Date

MISSOURI DEPARTMENT OF NATURAL RESOURCES
STATE HISTORIC PRESERVATION OFFICE
P.O. Box 176, Jefferson City, Missouri 65102

For additional information, please contact Judith Deel, (573) 751-7862. Please be sure to refer to the project number: 002-CS-05



ENVIRONMENTAL
STUDIES AND
PERMITTING

MEMORANDUM

Date: August 31, 2005

To: Max Sherman, Aquila, Inc.

From: Robert Everard, Burns & McDonnell

Regarding: FAA Notification Requirements

Project No.: 37273

A review of public airports within 10 nautical miles (nm) of the City of Peculiar, Missouri was conducted by using the Federal Aviation Administration (FAA) website: <http://www.aviationdirectory.com/locairnm.asp>. Ten (10) nm is equivalent to about 11.55 miles. The airport search included the following types of aircraft related facilities:

- Airports
- Heliports
- Gliderports
- Seaplane ports
- STOLports
- Ultralight Airparks
- Balloonports

According to the FAA, the only public airports within 10 nm of Peculiar are the Lawrence Smith Memorial Airport (LRY) and Hillside Airport (63K). Both airports are approximately nine (9) nm (10.35 miles) from the City of Peculiar. The Lawrence Smith Memorial Airport is located about three (3) nm (3.45 miles) south of Harrisonville, Missouri at an elevation of 915 feet (ft). It has an asphalt runway that is 4000 feet long by 75 ft wide. The Hillside Airport is approximately four (4) nm (4.6 miles) northeast of Still, Kansas at an elevation of 1,025 feet. It has a gravel/turf runway that is 2,000 long and 56 feet wide.

The Aquila Peculiar Substation (Facility) is located in the southwest $\frac{1}{4}$ northwest $\frac{1}{4}$ of Section 5, Township 45 North, Range 32 West, approximately 7.5 miles southeast of the Hillside Airport and 12.72 miles northwest of the Lawrence Smith Memorial Airport. Distance was determined from Delorme Street Atlas 8.0. It is our understanding that the tallest structures at the Facility will be the lightning masts of 101 ft. It is also our understanding that the Facility will be at an elevation of approximately 976 ft. to 977 ft. above mean sea level (AMSL).

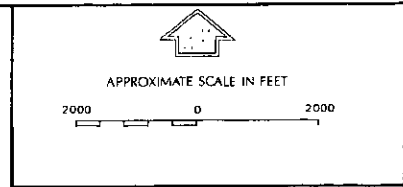
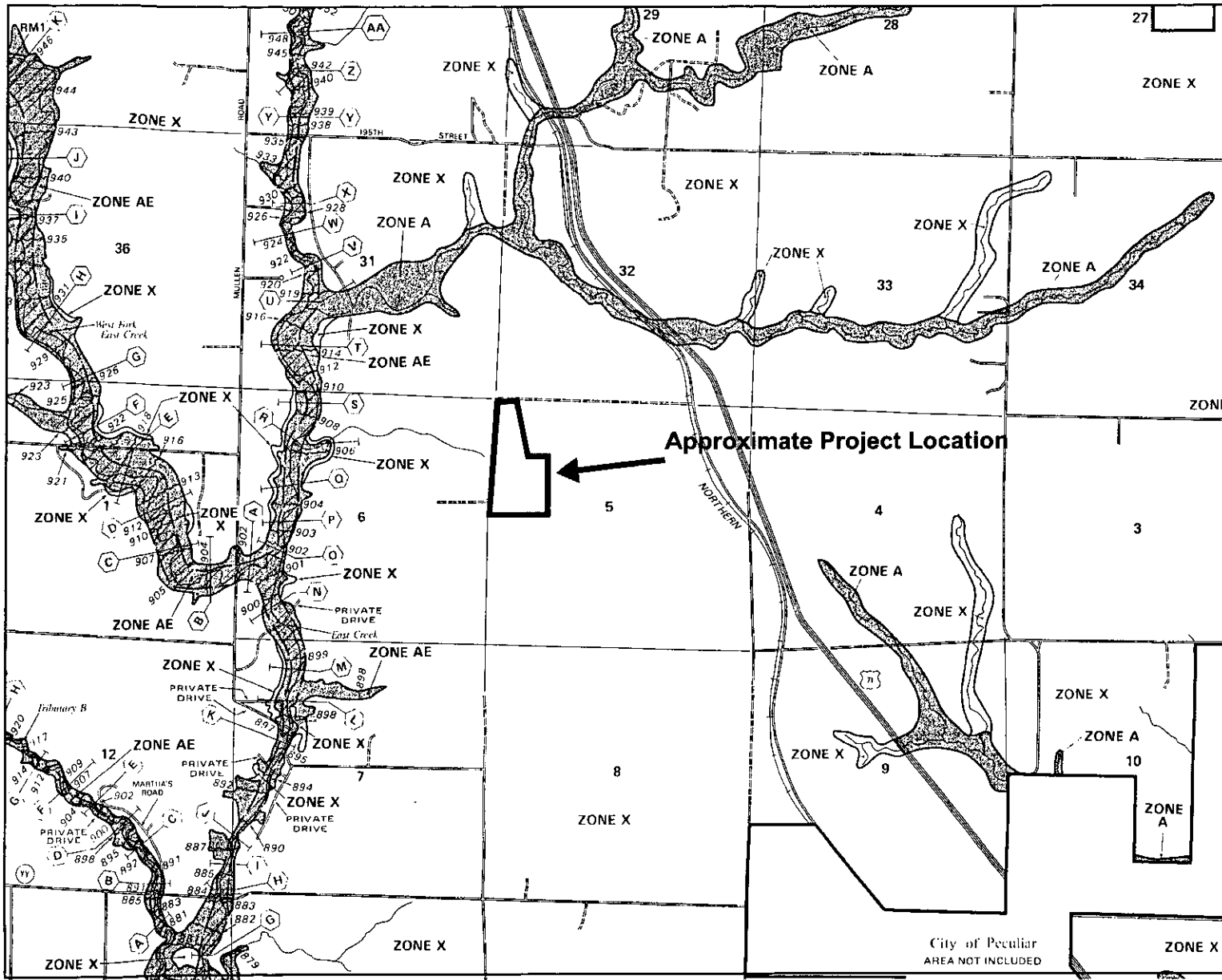
Under Part 77.13, the FAA requires notifications (Form 7460-1) to be submitted for any construction or alteration of (1) more than 200 ft in height above ground level or (2) greater height than an imaginary surface extending outward and upward at the following slope;

MEMORANDUM

- (i) 100 to 1 for a horizontal distance of 20,000 ft from the nearest point of the nearest runway of each qualifying airport with at least one runway more than 3,200 ft in length, excluding heliports.
- (ii) 50 to 1 for a horizontal distance of 10,000 ft from the nearest point of the nearest runway of each qualifying airport with at least one runway no more than 3,200 ft in length, excluding heliports.
- (iii) 25 to 1 for a horizontal distance of 5,000 ft from the nearest point of the nearest landing and takeoff area of each qualifying heliport.

Since the Facility is not anticipating any structures over 200 ft tall (1) and all structures at the Facility do not meet the requirements of item (2), parts (i), (ii), and (iii) when considering elevation, height, and distance, a FAA Notice of Proposed Construction or Alteration should not be required.

Cc: Leroy Lutes, Aquila
John Stower, Burns & McDonnell



NATIONAL FLOOD INSURANCE PROGRAM


FIRM
FLOOD INSURANCE RATE MAP

CASS COUNTY, MISSOURI
(UNINCORPORATED AREAS)

PANEL 25 OF 225

COMMUNITY-PANEL NUMBER:
290783 0025 C

MAP REVISED:
MAY 4, 1992



Federal Emergency Management Agency

City of Peculiar
AREA NOT INCLUDED

This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT On-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at www.msc.fema.gov



COUNTY OF CASS COUNTY, MISSOURI
BUILDING CODES DEPARTMENT
 102 East Wall Street Harrisonville, MO 64701
 Phone: (816) 380-8134 Fax: (816) 380-8130

CONSTRUCTION PERMIT

PERMIT NO. 25021
 for inspections call 380-8134 (K.C. line)

Project Control No: 241220
 Application Date: 12/17/04

Date Permit Issued: 2/1/05

JOB ADDRESS: 8901 E 203rd St Post Office: Peculiar
 05/45/32 S / T / R QTR-QTR SEC PARCEL NO LOT BLOCK SUB DIVISION

Project Name: _____
 Use Of Building: Equipment Building Use Code: 473

Applicant ID: _____
 Applicant Person or Firm: Aquila, Inc. Applicant Code: 02
 Doug Lukenbill 10700 East 350 Highway Kansas City MO 64138
 APPLICANT NAME ADDRESS CITY STATE ZIP CODE
 Phone: 816-737-7547 Fax: _____ Mobile: 816-806-1230 Alternate Phone: _____
 OWNER ADDRESS CITY STATE ZIP PHONE

DESCRIPTION OF WORK TO BE PERFORMED:
 To install a control enclosure structure at Peculiar Substation as per engineered plans and all applicable building codes and county ordinances.

WORK INCLUDED IN SCOPE OF WORK COVERED BY PERMIT
 Electrical: -1 Plumbing: _____ Mechanical: -1 Electrical Service: -1 Gas Piping: _____ Other: _____
 Type of Building: Industrial Class of Work: New Occupancy Group: U1 Type of Construction: VN
 Zoning District: _____ Zoning File No: _____ Flood Plain Map Panel: _____ Flood Plain Development Permit: _____
 Gross Building Area: 0 Stories or Bldg Height: 0 No of Dwelling Units: 0
 Receipt No. 25021 Fee Amount: \$1,151.00 Permit Status: Active Valuation of Work: \$136,655.00
 Date Fee Paid: 2/1/05 Fee Code: PRMT Control No: 241220

SPECIAL CONDITIONS:
 This permit is being issued despite the fact this site has not been zoned in a manner consistent with the activities anticipated for the site. The County does not by issuing this permit, waive its right to enforce its requirement that building permits cannot be issued in the absence of proper zoning. However, in light of this Court's judgement and the suspension of that judgment pending appeal in the case styled Cass County, Missouri, Plaintiff v. Aquila, Inc., Defendant, Case No. CV104-1443CC, this building permit is being issued despite the absence of proper zoning.

I, Doug Lukenbill, hereby certify that I am Builder, and affirm the above statements as true and correct.

NOTICE: This permit becomes null and void if work or construction is not commenced within 180 days or if work is suspended or abandoned for a period of 180 days at any time after work is commenced. All work or construction allowed by this permit shall be completed within two (2) years or this permit shall be expired by limitation and a new permit for any additional work shall be obtained prior to work or construction being resumed.

The Applicant hereby agrees to abide by and comply with the provisions of all Building Codes, Health Laws, and the Zoning Order of Cass County, Missouri and any other law or ordinance governing this type of work whether specified herein or not. Granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or the performance of construction. Contact Cass County Road and Bridge at 830-8360 about driveway approach requirements

FOR INSPECTIONS CALL 380-8134

PERMISSION FOR ABOVE DESCRIBED WORK IS HEREBY GRANTED

Doug Lukenbill 2/1/05
 APPLICANT SIGNATURE DATE

Michelle Burmawski 2/1/05
 FOR THE CHIEF BUILDING OFFICIAL DATE



CASS COUNTY, MISSOURI
BUILDING CODES DEPARTMENT
102 East Wall Street Harrisonville, MO 64701
Phone: (816) 380-8134 Fax: (816) 380-8130

Log No. 241220
Project Address 8901 E 203rd ST
City, State, Zip Peculiar, Mo 64078
Plan Reviewer Steve
Plan Review Date 01/24/2005

The following comments are based upon requirements of the 2000 edition of the International Building Code and the Cass County Building Code.

Plan Review Comments:

1. 911 Address shall be posted using minimum 4inch numerals and shall be legible from the road. If address is not posted at time of inspection, inspection will not be performed.
2. Your fire protection district, water provider, Missouri Department of Transportation or others may require permits.
3. Provide foundation drawings for enclosure at substation on 203rd st in Peculiar. Pier foundation drawings submitted are for enclosure on South Harper.
4. Provide riser diagram for enclosure service.
5. The required inspections are as follows. There will be a foundation inspection. A setup inspection verifying that the building is anchored as per submitted plans. Electrical service inspection. A Final inspection. Please provide approvals from engineer of record stating that the foundation and concrete, anchor bolts is installed as per submitted plans. This includes all third party inspections on the testing of the concrete. The electrical engineer will also need to provide the approval of the electrical systems for this enclosure building this will need to be provided at the final.

Douglas Hubert
Permit Holder Signature:

2/1/05
Date



Cass County, Missouri
Building Codes Department

102 East Wall Street Harrisonville, MO 64701
Office (816) 380-8134 Fax (816) 380-8130

PERMIT NUMBER: 25021

ADDRESS: 8901 E 203rd ST

TYPE OF INSPECTIONS: FOOTING

INSPECTION COMMENTS: _____

8-30" DIAMETER PIGS APPROX 10' IN
DEPTH APPEAR TO BE PER PLAN

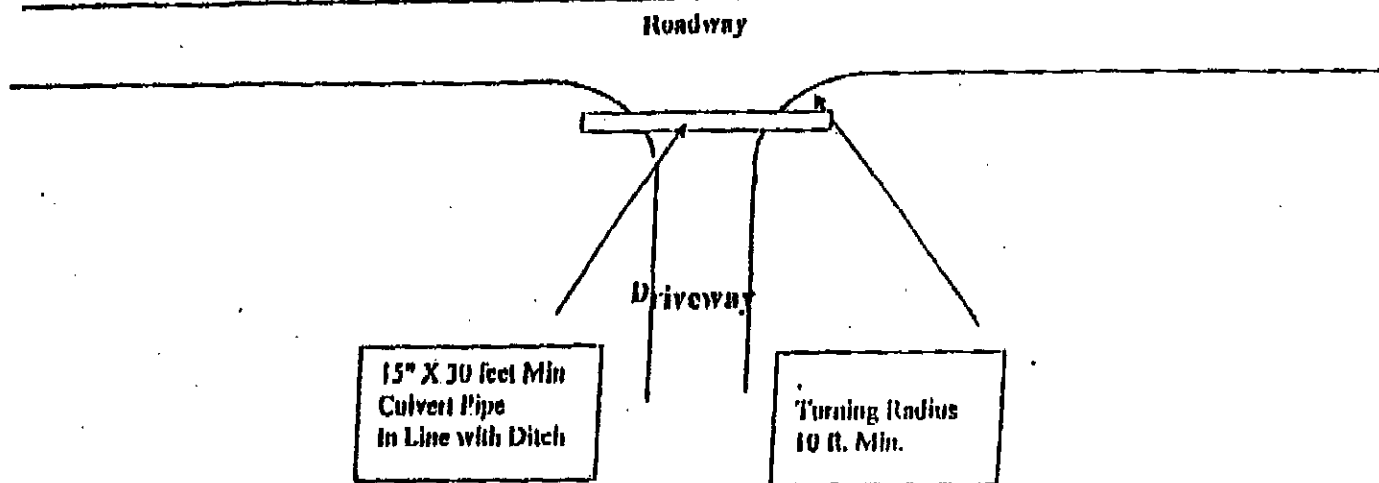
TIME

IN: 7:05

OUT: _____ MILEAGE: 80071

INSPECTOR: [Signature]

DATE: 2/25/05



ROAD & BRIDGE DRIVEWAY PERMIT

Name AQUILA

Address 203 ST WEST OF KNIGHT

City PECKIAR

Phone 816 737 7547

Date requested 12-10-04

Owner Signature Doug Inheritt

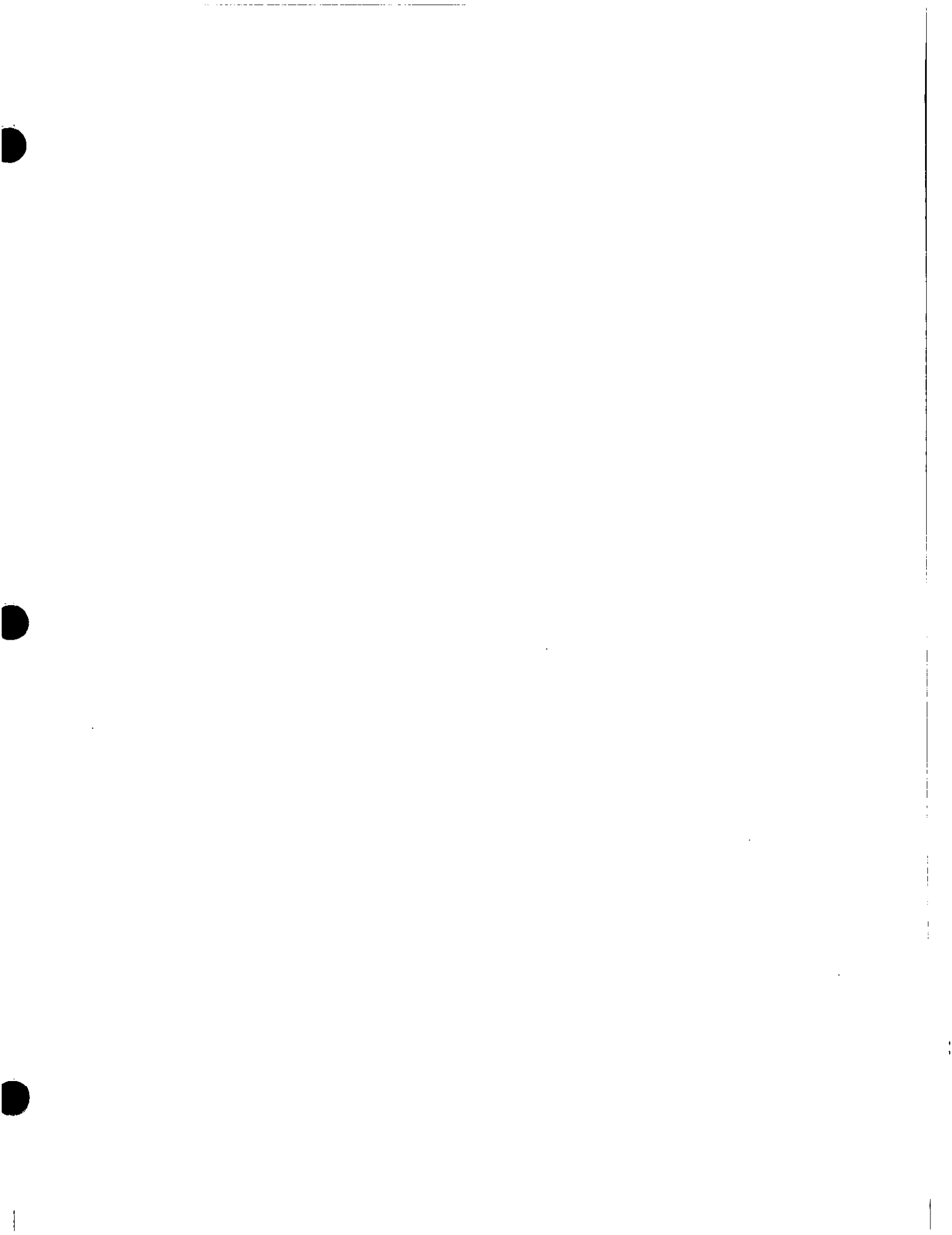
Safety Issues/ Site Distance _____

Approval _____

Date Installed _____

Permit Fee \$25.00 Cash

File in R & B

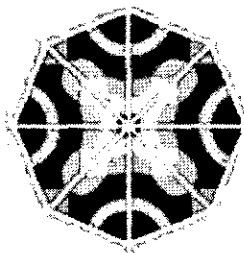


APPENDIX G

Noise Study

Noise Compliance Test

**Aquila
Peculiar Substation
Cass County, Missouri**



Aquila

August 2005



**Noise Compliance Test
Aquila
Peculiar Substation
Cass County, Missouri**

Prepared for:

**Aquila
20 West 9th Street
Kansas City, Missouri 65206**

August 2005

**BURNS & McDONNELL ENGINEERING COMPANY, INC.
ENGINEERS-ARCHITECTS-CONSULTANTS
Kansas City, Missouri**

Project No. 40304

EXECUTIVE SUMMARY

Fenceline and property boundary noise measurements were taken at the Aquila Peculiar Substation to determine compliance with the Cass County Noise Disturbance Ordinance (No. 02-20). The substation runs continuously, as such, only operational noise measurements were collected. The Cass County noise ordinance applies at the property boundary, and all of the property boundary noise measurements were below 55 dBA. Therefore, the Peculiar Substation is in compliance with the noise ordinance.

1.0 Introduction

Burns & McDonnell collected operational noise measurements at the Aquila Peculiar Substation Facility in Cass County on August 18th, 2005 to determine compliance with the Cass County Noise Ordinance. The noise measurements were taken at points along both the substation security fenceline and the property boundaries. Only operational noise measurements were obtained, as the substation runs continuously.

2.0 Noise Ordinance

Cass County developed a noise ordinance in 2002. This ordinance (Ordinance No. 02-20, Noise Disturbance) states that anywhere off the property of the sound source, the noise levels in a residential area may not exceed 60 dBA from 7 AM to 10 PM, nor may it exceed 55 dBA from 10 PM to 7 AM.

3.0 Noise Testing Methodology

For the substation operational noise testing, Burns & McDonnell collected noise measurements at key positions along the fenceline around the substation. Measurements were also collected along the property boundary.

During the readings, atmospheric conditions were measured and recorded at each measurement point. Temperature and relative humidity during the ambient measurements were between 90 and 95 degrees Fahrenheit and 55 to 60 percent. Winds, measured by an anemometer, were between 3 and 8 miles per hour (mph) with some gusts up to 12 mph, both near the fenceline and along the property boundary.

A Larson Davis Model 824 Type 1 sound level meter was used to record all noise measurements. The sound level meter was calibrated before each set of measurements. None of the calibration level changes exceeded 0.5 dBA. Windscreens were used at all times on the meter. The meter was mounted on a tripod 5 feet above ground and the microphone was directed toward noise creating units.

All substation measurement locations were selected based on proximity to noise creating units around the substation (see Appendix A for substation noise measurement locations). The closest property boundary to the substation security fenceline is on the south side (215 feet), with the

linear distances to the east and west being 354 feet and 266 feet, respectively. The north property boundary varies in distance from the facility, with the closest point being over 600 feet from the security fenceline. The "slow" meter characteristic was used with the sound level meter. The meter measured A-weighted L_{eq} sound levels along with un-weighted octave band frequency sound levels for the operational noise level measurements.

Operational noise measurements were taken at each point during normal substation operation. Appendix B shows the operational noise measurements, along with the extraneous noises observed during each measurement, if applicable.

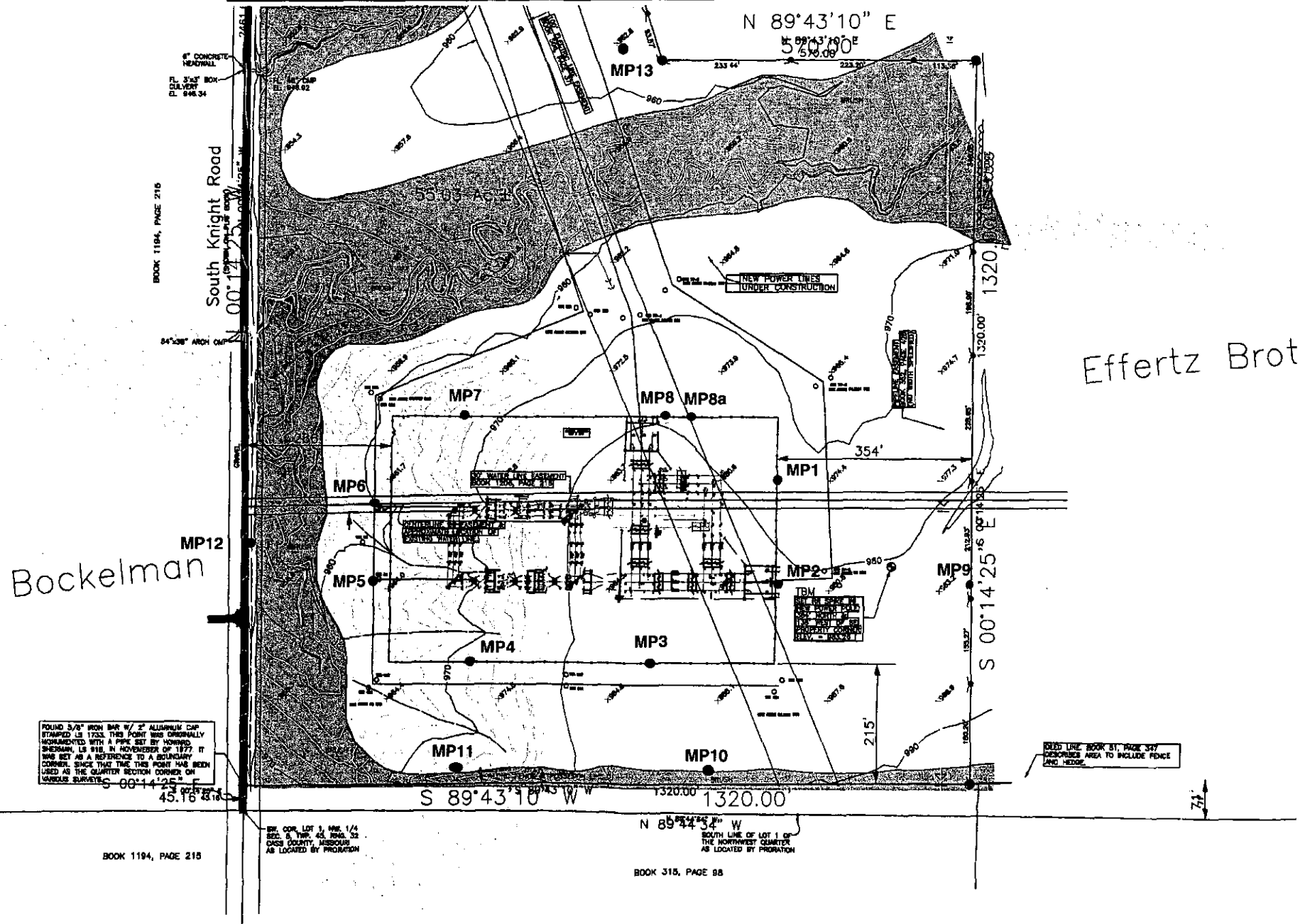
4.0 Results

All results at each noise measurement point are displayed in Appendix B. The highest noise level recorded was on the security fenceline of the substation at Measurement Point 8 (MP8). The sound pressure level measured at MP8 was 60.0 dBA, which was in-line with substation equipment and next to a metal building. It was considered that the noise was amplified by the metal building and another reading, MP8a, was taken 20 feet east of MP8 to verify if the metal building affected the measurement. A reading of 56.1 dBA was achieved at this measurement point. One other measurement exceeded 55 dBA, MP3 (57.7 dBA). Excluding MP8, the two measurements that exceeded 55 dBA were within 3 dB of 55 dBA.

The Cass County noise ordinance applies to the property boundary only. All property boundary measurements were under 55 dBA (Cass County night-time noise ordinance), even though extraneous bird and insect noises were present during the measurements. Therefore, the Peculiar Substation is in compliance with the Cass County noise ordinance.

APPENDIX A
NOISE MEASUREMENT POINT LOCATION

Figure A Measurement Point Locations



BOOK 1194, PAGE 215

South Knight Road

Bockelman

Effertz Brot

FOUND 5/8" IRON BAR W/ 2" ALUMINUM CAP
STAMPED LS 1733. THIS POINT WAS ORIGINALLY
MONUMENTED WITH A PIPE SET BY HOWARD
BROCKMAN, LS #118, IN NOVEMBER OF 1877. IT
WAS SET AS A REFERENCE TO A BOUNDARY
CORNER. SINCE THAT TIME THIS POINT HAS BEEN
USED AS THE QUARTER SECTION CORNER OF
VARIOUS SURVEYS S 00°14'25" E

DEED LINE BOOK 51, PAGE 347
DESCRIBES AREA TO INCLUDE FENCE
AND HEDGE

BOOK 1194, PAGE 215

SEC. 6, TWP. 43, RANG. 52
CHAS. COUNTY, MISSOURI
AS LOCATED BY PROPORTION

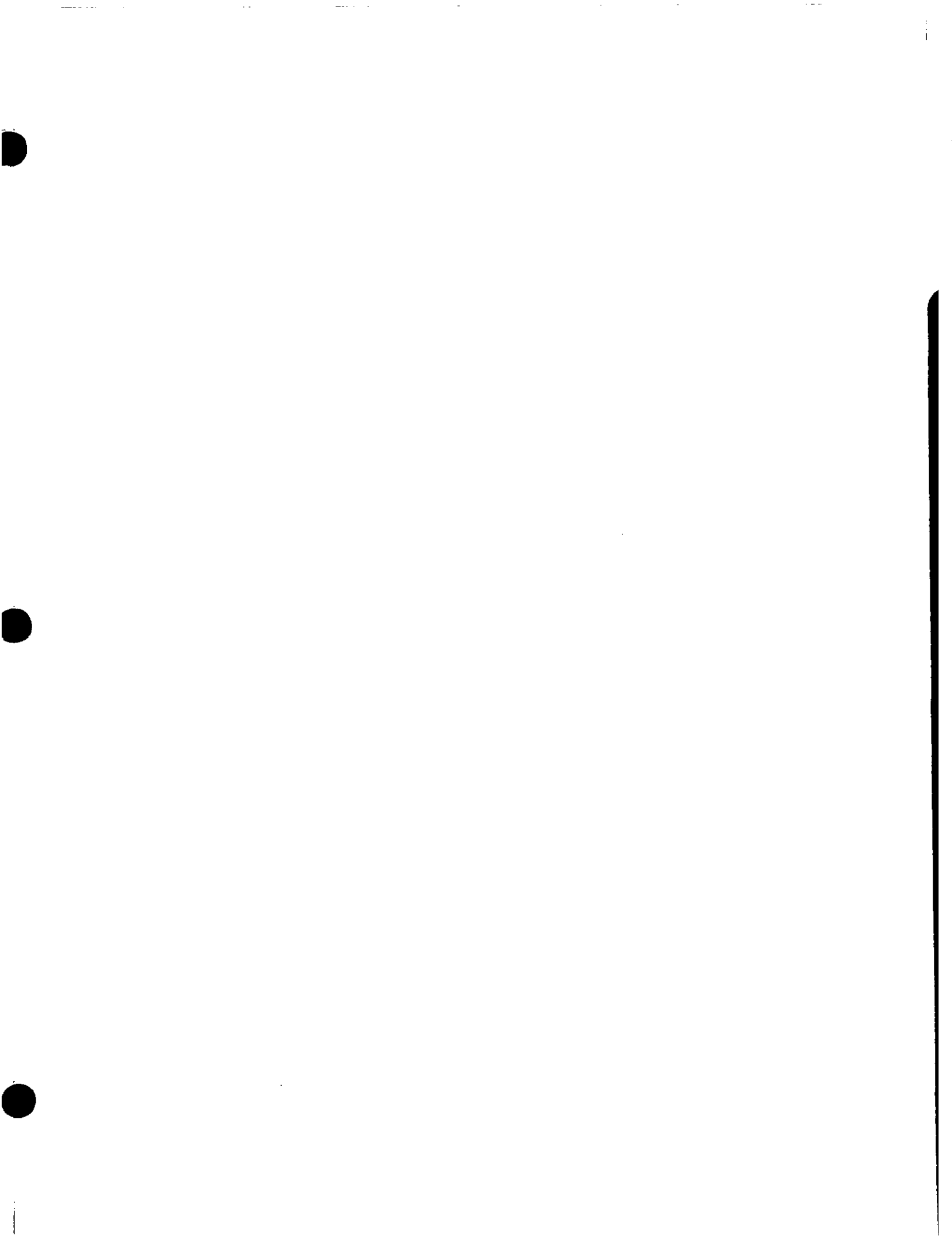
N 89°43'10" W
SOUTH LINE OF LOT 1 OF
THE NORTHWEST QUARTER
AS LOCATED BY PROPORTION

BOOK 315, PAGE 98

APPENDIX B
NOISE MEASUREMENTS

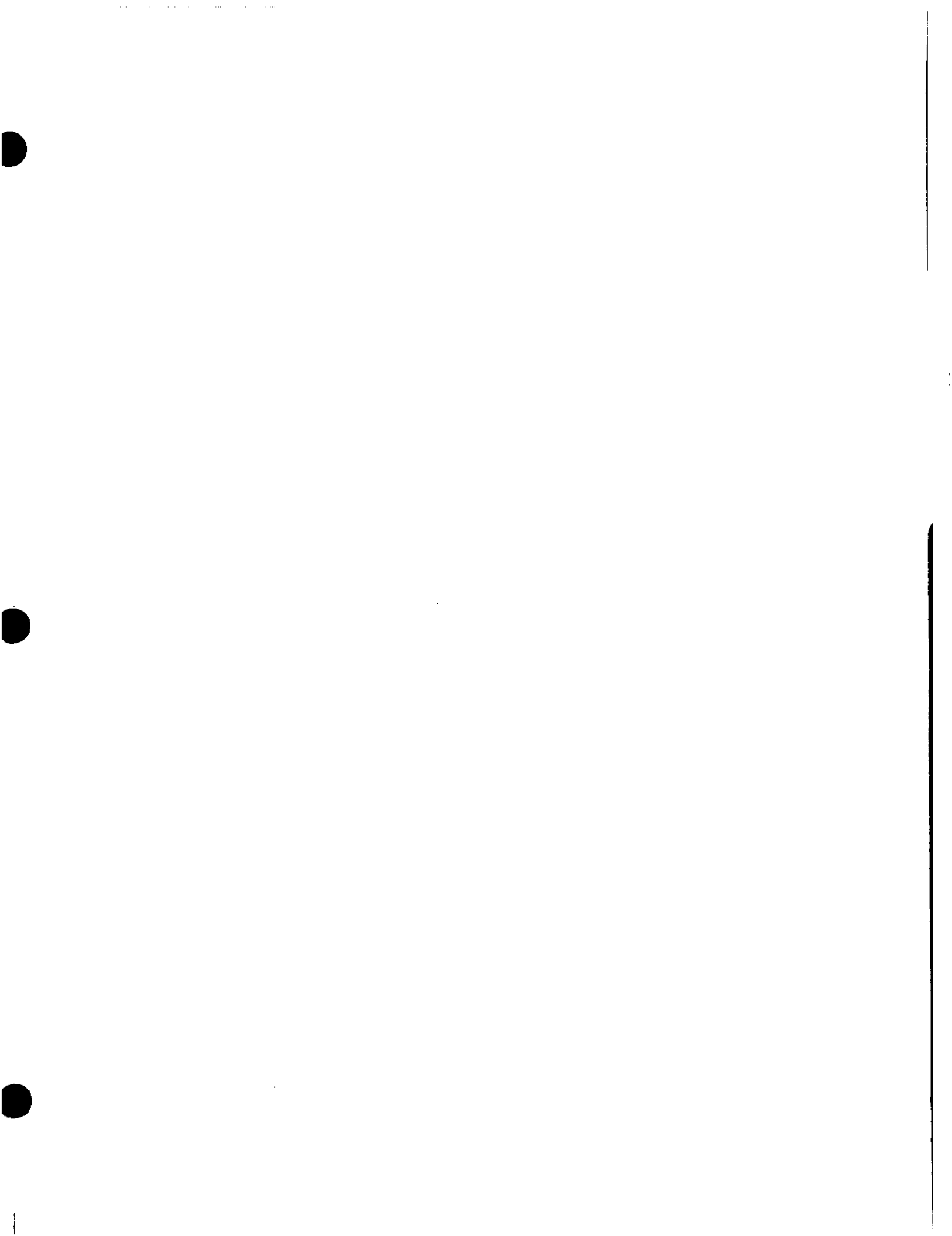
**Table B-1
Measurement Point Locations and Measured Operational Sound Pressure Levels**

Measurement Point	Location Description	Sound Pressure Level L_{eq} (dBA)	Notes
MP1	East Fenceline	50.7	In-line with structure on-site
MP2	East Fenceline	50.7	Emergency vehicle siren in background, In-line with structure on-site
MP3	South Fenceline	57.7	No cooling fans on, transformer operational
MP4	South Fenceline	51.7	
MP5	West Fenceline	45.5	In-line with structure on-site
MP6	West Fenceline	50.4	In-line with structure on-site
MP7	North Fenceline	52.3	
MP8	North Fenceline	60.0	Very close to building near fenceline
MP8a	North Fenceline	56.1	20-25 ft east of MP8, clear of building
MP9	East Property boundary	43.7	Even elevation with substation, Insect noise
MP10	South Property boundary	52.0	5 ft lower than berm, 5 ft above substation, Airplane noise, Insect noise
MP11	South Property boundary	45.1	10ft lower than berm, even with facility
MP12	West Property boundary	50.9	10 ft lower than substation, Insect and bird noise
MP13	North Property Boundary	44.0	Edge of crops in road near flagstick, Insect noise



APPENDIX H

Storm Water Management Plan



APPENDIX I

Public Support Documents

October 25, 2004

To whom it may concern:

By my signature below, I wish to state my support for Aquila's proposed electrical substation to be located near my property in Cass County on that 55-acre parcel of property generally located south of East 203rd Street and east of South Knight Road, northwest of Peculiar, Missouri.

Sincerely,

Ruth Bullon
L F Bullon

October 25, 2004

To whom it may concern:

By my signature below, I wish to state that I will not oppose Aquila's proposed electrical substation to be located near my property in Cass County on that 55-acre parcel of property generally located south of East 203rd Street and east of South Knight Road, northwest of Peculiar, Missouri.

Sincerely,

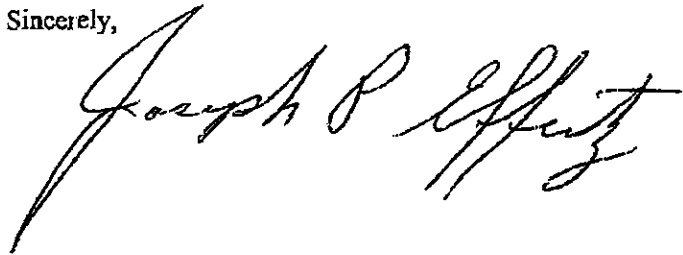
Ruth Britton
L F Britton

October 25, 2004

To whom it may concern:

By my signature below, I wish to state my support for Aquila's proposed electrical substation to be located near my property in Cass County on that 55-acre parcel of property generally located south of East 203rd Street and east of South Knight Road, northwest of Peculiar, Missouri.

Sincerely,

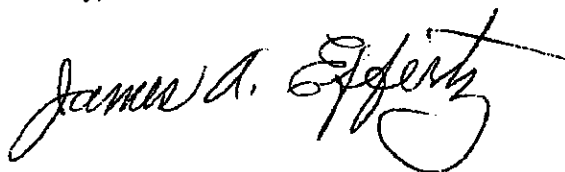
A handwritten signature in cursive script, reading "Joseph P. Effert". The signature is written in dark ink and is positioned to the right of the word "Sincerely,".

October 25, 2004

To whom it may concern:

By my signature below, I wish to state my support for Aquila's proposed electrical substation to be located near my property in Cass County on that 55-acre parcel of property generally located south of East 203rd Street and east of South Knight Road, northwest of Peculiar, Missouri.

Sincerely,

A handwritten signature in cursive script, appearing to read "James A. Egerich". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

October 25, 2004

To whom it may concern:

By my signature below, I wish to state my support for Aquila's proposed electrical substation to be located near my property in Cass County on that 55-acre parcel of property generally located south of East 203rd Street and east of South Knight Road, northwest of Peculiar, Missouri.

Sincerely,

Cheri M. Eppert

October 25, 2004

To whom it may concern:

By my signature below, I wish to state my support for Aquila's proposed electrical substation to be located near my property in Cass County on that 55-acre parcel of property generally located south of East 203rd Street and east of South Knight Road, northwest of Peculiar, Missouri.

Sincerely,

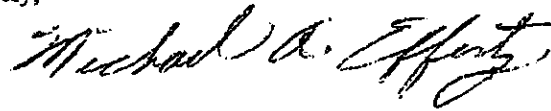
D'Ann Drieling
Cass County resident

October 25, 2004

To whom it may concern:

By my signature below, I wish to state my support for Aquila's proposed electrical substation to be located near my property in Cass County on that 55-acre parcel of property generally located south of East 203rd Street and east of South Knight Road, northwest of Peculiar, Missouri.

Sincerely,

A handwritten signature in cursive script, appearing to read "Michael A. Ebert". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

October 25, 2004

To whom it may concern:

By my signature below, I wish to state my support for Aquila's proposed electrical substation to be located near my property in Cass County on that 55-acre parcel of property generally located south of East 203rd Street and east of South Knight Road, northwest of Peculiar, Missouri.

Sincerely,

A handwritten signature in cursive script, appearing to read "Thomas R. Effect". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

October 25, 2004

To whom it may concern:

By my signature below, I wish to state my support for Aquila's proposed electrical substation to be located near my property in Cass County on that 55-acre parcel of property generally located south of East 203rd Street and east of South Knight Road, northwest of Peculiar, Missouri.

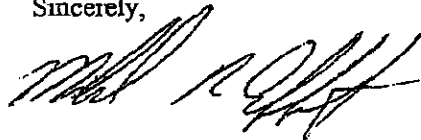
Sincerely, *Judy Myers*

October 25, 2004

To whom it may concern:

By my signature below, I wish to state my support for Aquila's proposed electrical substation to be located near my property in Cass County on that 55-acre parcel of property generally located south of East 203rd Street and east of South Knight Road, northwest of Peculiar, Missouri.

Sincerely,

A handwritten signature in black ink, appearing to be "M. R. Hoff", written in a cursive style.



Public Outreach Initiative

South Harper Peaking Facility and 345 kV Substation

July 22, 2008

South Harper Community Outreach

Introduction

In 2005, Aquila completed construction and began operation of the South Harper peaking facility near Peculiar, MO, and an associated transmission substation a few miles north of the peaking facility. Aquila has been aware that its construction and operation of these facilities have created contention and strained relationships with neighbors, the Cass County Commission and others in the area. In evaluating its methods and activities in the building of the peaking facility and substation, Aquila determined that it could have more effectively reached out to the community to communicate the need for additional power generation and why the South Harper site was chosen, or solicited their input during the site selection and construction processes.

With an agreement with Cass County that allows Aquila to seek special use permits for the plant and substation, and legislation that allows Aquila to seek retroactive approval of the peaking facility from the Missouri Public Service Commission, Aquila believed it was important to improve those relationships. Aquila leadership invested resources in that effort by appointing a team to study the issue and plan and implement a course of action.

Creation of Team

Aquila assembled a team of employees and outside consultants to develop and execute strategic initiatives to reach out to Cass County residents to communicate and give context to the events that had transpired, relay information about the current status of the plant, outline future developments and improve relationships with county residents.

The team included seven employees from Aquila's business planning, communications and operations divisions, three employees from Aquila's regional office in Cass County, three marketing and public relations consultants from Callis & Associates, outside legal counsel and the plant manager of the South Harper peaking facility. The majority of the team had also worked on communication and outreach efforts in Sedalia, MO, when Aquila purchased an option on city-owned property for future development of a peaking facility.

Team Objectives

Through Aquila leadership and team discussion, the group determined its objectives to be:

- Achieve success in obtaining special use permits for the South Harper peaking plant and 345 kV substation
- Inform the Cass County public about Aquila's efforts to keep the plant and substation
- Give the community Aquila's perspective on why the plant was built near Peculiar
- Provide a clear, concise timeline of events and how they influenced Aquila's previous actions, and accept responsibility for the results of those actions in this development.
- Communicate the increase in customers' energy consumption and the growing need for power generation

The team began meeting May 9 to outline its plans for achieving those goals and continued to meet weekly for nine weeks.

Plan of Action

In discussing the best approach for providing Cass Countians with complete and current information about the South Harper peaking plant and the substation, the team decided the information should go to residents directly without media filter and in a format that allowed them to ask questions and express concerns.

The team hosted a series of community meetings held in Cass County's six most populous towns. All meetings were held in well-known, easy to find locations and during the evening to allow attendance by people who work during daytime hours. The meeting schedule and locations were as follows.

<u>City</u>	<u>Location</u>	<u>Date</u>
Garden City	Community Building	June 26, 7 p.m.
Belton	Carnegie Village	June 26, 7 p.m.
Harrisonville	Community Center	June 30, 7 p.m.
Pleasant Hill	Memorial Building	June 30, 7 p.m.
Raymore	Community Bank	July 1, 6 p.m.
Peculiar	Lion's Club	July 1, 7 p.m.

Format of the community meetings included a PowerPoint presentation (Attachment A) with talking points, followed by a question and answer session. It was determined that the presenters should be Aquila leadership who were most familiar with South Harper's development, including recent efforts to retain and improve the plant. Ivan Vancas, vice president of Aquila's Missouri Electric Operations, and Scott Heidtbrink, vice president of Generation and Energy Resources, were primary presenters.

The team believed that for Aquila to move beyond the controversy that has surrounded the peaking facility, it must genuinely apologize for the turmoil that had been created and acknowledge that it should have done a better job communicating to neighbors and the surrounding communities. Each community meeting was to begin with that apology and then transition to the PowerPoint presentation. Content of the presentation included:

- role a peaking facility plays in power generation
- steps in the legal process questioning the plant's legality
- extensive steps Aquila had taken to address neighbors' concerns and improve sight and sound barriers around the plant
- recent developments, including legislation allowing retroactive approval of the plant and substation
- agreement with Cass County and the applications to obtain special use permits
- population boom in Cass County and the growing demand for power generation

The team also developed a list of potential questions that may be asked, along with answers for each. Comments cards (Attachment B) were developed and distributed at the meetings to solicit feedback from attendees. Aquila shared energy efficiency information with attendees and gave each a compact fluorescent lightbulb. The meetings also included light refreshments.

Communication Efforts

To promote the six community meetings and to drive attendance, the team developed and placed full-color, two-thirds page print ads in the Cass County media. (Attachment C)

The publication schedule for the advertisements in area weekly newspapers was:

<u>Newspaper</u>	<u>Pub. Dates</u>	<u>Mtg. Date</u>
Cass County Democrat-Missourian	June 20 and 27	June 30
Belton Journal	June 19 and 26	June 26
Belton Star-Herald	June 19 and 26	June 26
Raymore Journal	June 19 and 26	July 1
Pleasant Hill Times	June 18 and 25	June 30

The team did not buy radio advertisements, because Cass County has no local radio stations. The county is covered by the KC metro area radio, so any radio advertisements would have been transmitted across the entire metro area where there would have been little interest.

Invitation letters (Attachment D) were mailed to 118 Cass County community leaders and influencers, including elected federal, state, county and city officials, candidates for elected office, government administrative personnel, and Chamber of Commerce and economic development leaders. The team believed it was important for these people to attend the meetings, as well as encourage others to attend.

Two team members also took advantage of an impromptu opportunity to make a presentation about the peaking facility and upcoming community meetings to the executive board of the Harrisonville Chamber of Commerce on June 12.

A media advisory (Attachment E) encouraging media coverage of the community meetings was sent to all KC metro media with special emphasis given to Cass County media (Media List: Attachment F).

Via an independent petition effort, Aquila obtained a list of 900 Cass County residents who supported keeping the South Harper Peaking Facility. A full-color postcard (Attachment G) with information about the community meetings was sent to this group to invite them to attend.

Coordination with Legal Group

At the time the outreach team was meeting to plan and execute the community meetings, another group of Aquila leadership and legal consultants worked on resolution and settlement of pending lawsuits, including those filed by StopAquila. The legal group also worked out details of an offer to reward neighbors within a one-mile radius of the plant, who were not members of StopAquila and who had not filed a lawsuit regarding the plant. The two groups occasionally coordinated efforts to allow the public outreach team to assist with communication functions.

Work the public outreach team did for the legal group included:

- Planned and executed two meetings with the one-mile neighbor group. These meetings were held June 14 (16 people attended) and June 17 (26 neighbors attended) at the South Harper plant. Total attendance represented 26 families who live within a mile of the peaking facility.
- Evaluated and provided input with the structure of payments under consideration
- Reviewed the letter inviting these neighbors to the meetings
- Prepared a Powerpoint presentation and talking points for the meetings, including a list of questions that might be asked and drafted answers for those questions
- Attended the two meetings to assist with coordination, monitor reaction of attendees to the presentation and record questions asked

The team believed that monitoring the neighbors' reaction to the presentation and their questions would provide insight into how the community as a whole might react to Aquila's presentations.

Results of the Outreach Effort

Despite Aquila's concerted effort to encourage residents to attend these community meetings, attendance was low. Our feedback tells us that most people were aware of the meetings, but did not attend. There could be many reasons for that: busy summer schedules, away for vacation, not really interested, don't have any problems with the peaking plant. Typically, the public is more apt to attend a public meeting of this type when they are opposed to whatever is being discussed.

Following is the breakdown of public attendance for each meeting.

<u>City</u>	<u>Attendance</u>
Garden City	0
Belton	2
Harrisonville	0
Pleasant Hill	5
Raymore	2
Peculiar	10

As expected, attendance was highest at the meeting in Peculiar near the plant location. Ten people attended that meeting for the presentation by Scott Heidtbrink. The tone of the meeting and the question and answer session that followed was very positive.

Eight comment cards were received from the series of six community meetings. All respondents answered yes to the questions:

- Do you support the continued operation of the South Harper Peaking Facility?
- Did the information provided at this meeting aid in your understanding of the South Harper Peaking Facility.

Comments added to the cards also were positive. Both comments below were from the meeting in Peculiar:

- We are glad this issue was resolved. We need Aquila's assistance to help us with our balanced growth plan.
- Great power plant. Keep up the good work.

Local print journalists attended the meetings in Belton and Pleasant Hill. Newspaper articles appeared in the *Belton Star-Herald* and *Cass County Democrat-Missourian*, and in the *Pleasant Hill Times*. (Attachments H and I, respectively).

Conclusion

Although Aquila had hoped for greater attendance at the community meetings, we still consider this effort to have been a success. We gave the community an opportunity to have an open forum with us, allowed them to ask questions or make any comments they wished, apologized for having allowed this situation to cause turmoil, and were able to explain why the South Harper Peaking Facility and the substation are so desperately needed for power generation and transmission. Through media coverage of the community meetings, residents were made aware of some of the information we shared.

Powering Your Future

Scott Heidtbrink,
Vice President
Generation and
Energy Resources



Agenda

- Background on South Harper Peaking Facility
- How we got here
- Why South Harper is needed



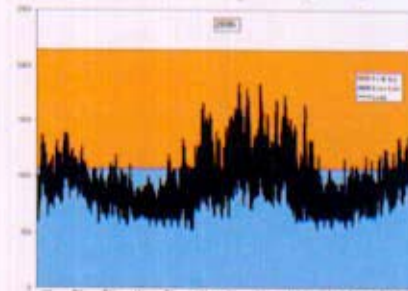
South Harper Peaking Facility

- Runs when demand is high
- Powers up quickly
- Has run 90-100 days annually for past 3 years



South Harper Peaking Facility

Aquila Hourly Loads and Capacity



Why we chose this location

- Near electric transmission lines
- Near natural gas lines
- Load center



Lower cost to consumers

The 345 kV Substation

The
Regional
Hub for
Electricity

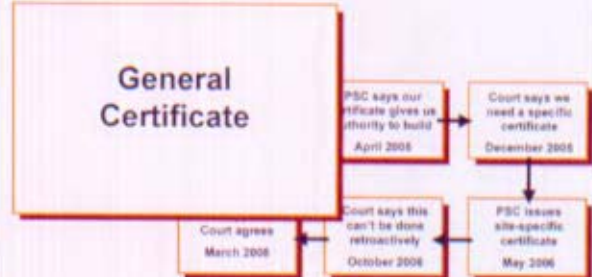


How did we get to this point?

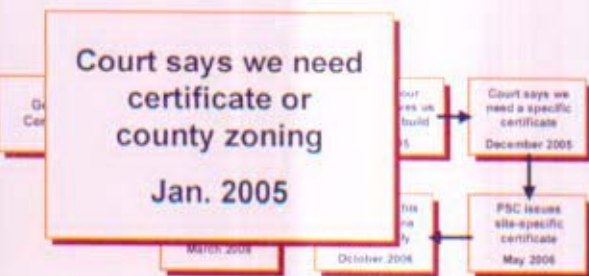
25 years of established regulatory practice



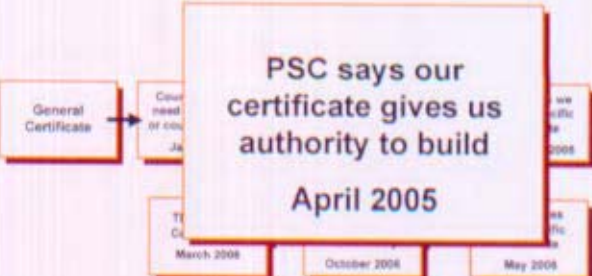
How did we get to this point?



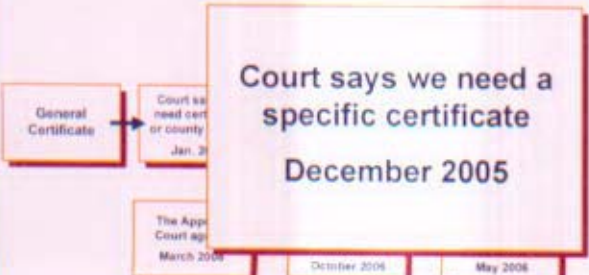
How did we get to this point?



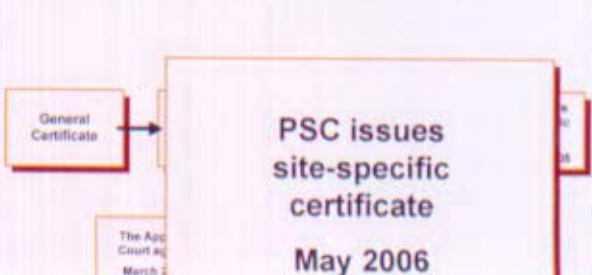
How did we get to this point?



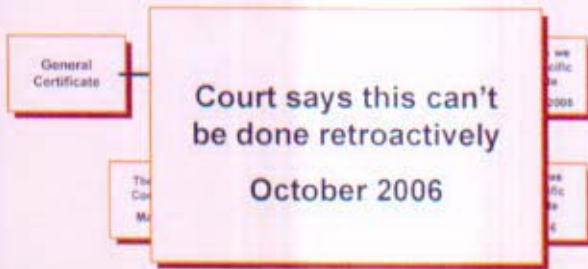
How did we get to this point?



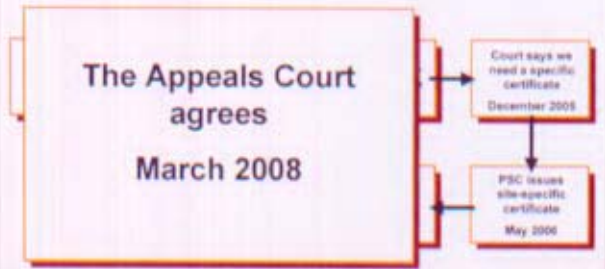
How did we get to this point?



How did we get to this point?



How did we get to this point?



We improved the site

- Visual screening
- Noise abatement
- Environmental tests



We responded to the community

- Tomado sirens
- Paved roads
- Fire hydrants
- Tree planting
- Weatherization of homes
- Lighting for Raisbeck Park ball field



Recent Activities

- Legislation
- County Agreement
- SUPs
- StopAquila and close neighbors
- Community meetings



Legislation

- SB 720 passed by MO General Assembly
- Grants PSC authority to grant certificate retroactively
- Signed June 16 by Lt. Gov. Kinder
- Effective August 28



Reaching an agreement with the County

- Paid \$1.8 million
- Meet additional county restrictions
- Reach out to neighbors
- Seek special use permits



Special use permits

- Filed applications May 5
 - Peaking facility
 - Substation
- Planning board hearing held June 24
- BZA hearing scheduled for July 3
- If SUPs approved, require annual renewal



Outreach Activities

- StopAquila agreement
- Community meetings

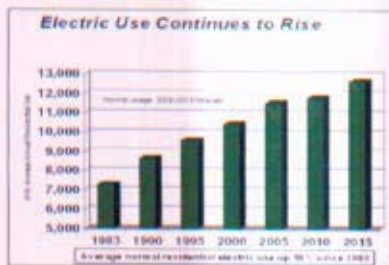
Community Meetings	Thursday, June 26	Garden City Belton
	Monday, June 30	Harrisonville Pleasant Hill
	Tuesday, July 1	Peculiar Raymore

Why South Harper is needed

- Population growth
- New homes
- Increased use of electronics



Our Power-Hungry Homes



Electric use per family has increased 58% in the last 25 years.

Conclusion

- Aquila wants to be a good neighbor
- We're taking steps to keep South Harper & the substation operating



Tours
Call 1-888-521-4059



Thank you for coming today.

We'd Like Your Comments

Do you support the continued operation of the South Harper Peaking Facility?

Yes No Undecided

Did the information provided at this meeting aid in your understanding of the South Harper Peaking Facility?

Yes No Undecided

Do you have any additional feedback you'd like to share with Aquila?

Please check if you would like someone to call you to discuss the facility.

The following is optional:

Name _____

Address _____

City _____ State _____ Zip _____

Daytime Phone _____

Please drop your completed card in the box after the meeting.

Thank you for your comments.

www.aquila.com/south_harper/



Aquila

Providing Energy
For Better Living.

Want to Know More?

Attend one of six informational meetings on Aquila's South Harper peaking facility.

Aquila invites you to hear firsthand about our South Harper peaking facility in Cass County. We are hosting a series of public meetings in six Cass County communities to provide information on the South Harper plant, the electric substation north of the plant, and the growing demand for power in the area.

We are seeking special use permits to continue to operate the plant and substation. While you may have read or heard about the facilities, we think it's important for you to fully understand what's at stake and be able to ask questions and provide input on what the future holds for the plant and substation.

We hope you will attend one of the community meetings listed below. Refreshments will be provided.

Community Meetings	Thursday, June 26	7:00 p.m.	Community Center, 201 Willow Lane, Garden City
		7:00 p.m.	Carnegie Village, 107 Bernard Dr., (East of 163rd and Hwy. 58), Belton
	Monday, June 30	7:00 p.m.	Community Center, Cass Room, 2400 Jefferson Pkwy., Harrisonville
		7:00 p.m.	Memorial Building, 212 N. Cedar, Pleasant Hill
	Tuesday, July 1	7:00 p.m.	Lion's Club, 500 Schug Ave., Peculiar
		6:00 p.m.	Community Bank of Raymore, 801 W. Foxwood Dr., Raymore

More information on Aquila's South Harper Peaking Facility is available at www.aquila.com/south_harper/.

We hope to see you at one of the meetings.

www.aquila.com/south_harper/



Aquila
Providing Energy
For Better Living™

**Powering
Your Future**

**Invitation letter for public outreach meetings
Sent to Cass County officials and influencers**

Dear :

Aquila wants you to be aware of and invites you to attend any of a series of six community meetings scheduled in Cass County. At these meetings, we will provide information about the company's South Harper Peaking Facility, located near Peculiar, and an electric substation north of the plant. We will also update you on the current status and invite comments.

The schedule is as follows:

Thursday, June 26

Garden City

7:00 p.m.

Community Center
201 Willow Lane

Monday, June 30

Harrisonville

7:00 p.m.

Community Center – Cass
Room
2400 Jefferson Pkwy

Tuesday, July 1

Peculiar

7:00 p.m.

Lion's Club
500 Schug Ave.

Thursday, June 26

Belton

7:00 p.m.

Carnegie Village
107 Bernard Dr. (East of
163rd & Hwy 58)

Monday, June 30

Pleasant Hill

7:00 p.m.

Memorial Building
212 N. Cedar

Tuesday, July 1

Raymore

6:00 p.m.

Community Bank of
Raymore
801 W. Foxwood Dr.

We hope you can join us. If you have questions, you can contact us at 1-888-521-4059.

Sincerely,



Aquila

Providing Energy
For Better Living.

Media Advisory

Media Contacts:

Al Butkus (816) 467-3616 (cell: 816 896-8804)

Media Relations (816) 467-3000

AQUILA TO HOLD SIX COMMUNITY INFORMATIONAL MEETINGS ON ITS SOUTH HARPER SPECIAL USE PERMIT

WHAT: Aquila will conduct six separate community informational meetings to talk about its application for a special use permit for its South Harper peaking facility in Peculiar.

WHEN & WHERE:

Thursday, June 26

7 p.m. Community Center, 201 Willow Lane, Garden City, MO.

7 p.m. Carnegie Village, 107 Bernard Dr., Belton

(East of 163rd and Hwy. 58)

Monday, June 30

7 p.m. Community Center, Cass Room,
2400 Jefferson Pkwy, Harrisonville

7 p.m. Memorial Building, 212 N. Cedar, Pleasant Hill

Tuesday, July 1

6 p.m. Community Bank of Raymore,
801 W. Foxwood Dr., Raymore

7 p.m. Lion's Club, 500 Schug Ave., Peculiar

WHY: Aquila is holding these meetings to explain the need for this generating facility and to answer community members' questions.

###

Publication	Contact/Editor	Phone #	E-Mail	News Deadline	Notes
Raymore Journal	Megan/Corrie McCorn	816-322-6002	thejournal@scgop.net	Mondays by Noon	Same as Belton Journal
Belton Journal	Megan/Corrie McCorn	816-322-6002	thejournal@scgop.net	Mondays by 4:00PM	Same coverage as Raymore Journal
Belton Star Herald	Linda Thompson	816-331-5353	editor@beltonstarhd.com	Last week of month	Act's contact Aaron Edwards
MO Conservative (Class Co.)	Kathie or Mark Wilson	816-360-8000	editor@moconservative.com	Mondays by 5:00PM	Linda in Belton M.T. Hernandez W.R.F
(Harrisonville) Class Co. Democrat Missouri	Linda Thompson	816-360-3228	lthompson@demo-mo.com	Fridays by 5:00PM	
Presscott Hill Times	Kirk & Jan Powell	816-540-3500	ipowell@comcast.net		
Kennett City Star	Susan Eversly	816-234-4455			edit page Miriam Poyser
Kennett City Business Journal	Gon Bradley	816-234-7810			
St. Joseph News-Press	Susan Stegmeyer	816-271-6660	sastenn@stjps.com		
Warrensburg Star Journal	Jack Miles	860-747-8123	dmiles@stjps.com		
Radio	News Contact			Talk Shows	
KBBQ/FM	Heidi	816-753-4000	heidi@kbbq.com		
KCKQ/FM	Nat Price	816-753-4000	nat@kckq.com		
KFNF/FM	Lebbe Erickson	816-753-4000	lebbe@kfnf.com		
KMLX/FM	Teresa	816-753-4000	teresa@kmlx.com		
KCQR/AM	Kevin Patrick	913-514-3000	kevin@kcqr.com		When called they said to send news info to kevin@kcqr.com but included more contact info found
KCFZ/FM	Shirley	913-514-3000	shirley@kcfz.com		
KCJZ/FM	Rick Tavelyn	913-514-3000			
KCJN/FM	Kathleen Ault	913-514-3000			
KMKJ/FM	Kevin Patrick	913-514-3000	kevin@mkj.com		
KCSP/AM	Nichole Teich	913-744-3600	nichole@kcsp.com		
KRBC/FM	Nichole Teich	913-744-3600	nichole@krbc.com		
KRQQ/FM	Nichole Teich	913-744-3600	nichole@krqq.com		
KMZZ/AM	Dennis Rooney	913-344-1800	dennis@kmmz.com		
KCTE/AM	Frank Morris	816-236-2867	frank@kcte.com		
KCUR/AM	Paul Vansickle	816-313-0049	pvansic@kcstar.com		
KCWJ/AM	Chad Blesner	913-344-1500	cblesner@kcstar.com		
KCFM/AM	Donna	816-331-3122	donna@kcfm.com		She will forward on to appropriate group.
Television					
KCDT-TV	Nick Harper	816-756-3580	nick.harper@cdt.com		
KCTV/ABC-TV	Tracy Miller	913-677-5665	tracy@kctv.com		KCME and KMBC emails the same for PR
KCWV-TV	Karen King	816-221-5900	news@kwcw.com		
KMBC-TV	Gerry Roberts	816-221-9999	news@kmbc.com		
KMCI-TV	Rick Iler	816-753-4141	rick@kcmi.com		
KSHB-TV	Rick Iler	816-753-4141	rick@kshb.com		
WDAF-TV	Bryan McQuade	816-753-4967	bryan.mcquade@waf.com		

Attachment G

Media Clip, Pleasant Hill Times

By F. KIRK POWELL
Editor & Publisher

The Cass County Administrative Commission last week sent Aquila's application for a special use permit for its South Harper power plant near Peculiar back to the County Planning Board on a technicality. A question arose at the July 3 meeting of the County Commission whether Aquila had properly requested a special use permit for the power plant and the utility agreed that it would be best to send the application back to the County Planning Board for another review. Presiding County Commissioner Gary Mallory said he believed that the commissioners had already given Aquila permission to seek a special use permit for the power plant in an agreement reached between the county and utility earlier this spring, but agreed it would probably be best to make sure the process is proper.

Mallory made a motion to send the application back to the Planning Board and it passed by a unanimous 2-0 vote. Mallory and District 1 Commissioner Jon Seabaugh voted for the motion and District 2 Commissioner Jim Meara was absent.

Since it appears as if Aquila's electric substation at 203rd Street and Knight Road is in the City of Peculiar and not under the county's jurisdiction, a special use permit for that facility was not considered.

In another procedural question, an attorney who represents property owners in the neighborhood told the commissioners that he believes since the South Harper and substation sites are technically owned by the City of Peculiar, that's who should be making the application. An attorney representing Aquila said that the utility would list the City of Peculiar as the owner on the application for a special use permit if that is necessary.

Finally, a neighbor pointed out that heavy truck traffic to and from the electric substation has damaged 203rd Street and said the road needs to be replaced.

Aquila's application for a special use permit is expected to be heard by the County Planning Board on Tuesday, July 22.

In the meantime, Aquila has held a series of public meetings around the county to outline the need for additional electric power and demonstrate the utility's willingness to be a good neighbor. One of those meetings was held at the Memorial Building in downtown Pleasant Hill on Monday, June 30. At this meeting, Aquila vice president of power generation and energy resources Scott Heidtbrink admitted that the South Harper power plant had been controversial because the utility hadn't done a very good job of getting its message out.

He told the handful of people attending the information meeting that much of the controversy arose over whether Cass County or the Missouri Public Service Commission (PSC) had the authority to approve the power plant site.

The power plant has been clouded by controversy ever since Aquila built the \$140 million "peaking facility" in 2005 without first getting zoning approval from Cass County.

The Missouri Public Service Commission later approved the power plant after it had already been built, but both trial and appeals courts ruled that the PSC permission came too late and ordered the plant torn down.

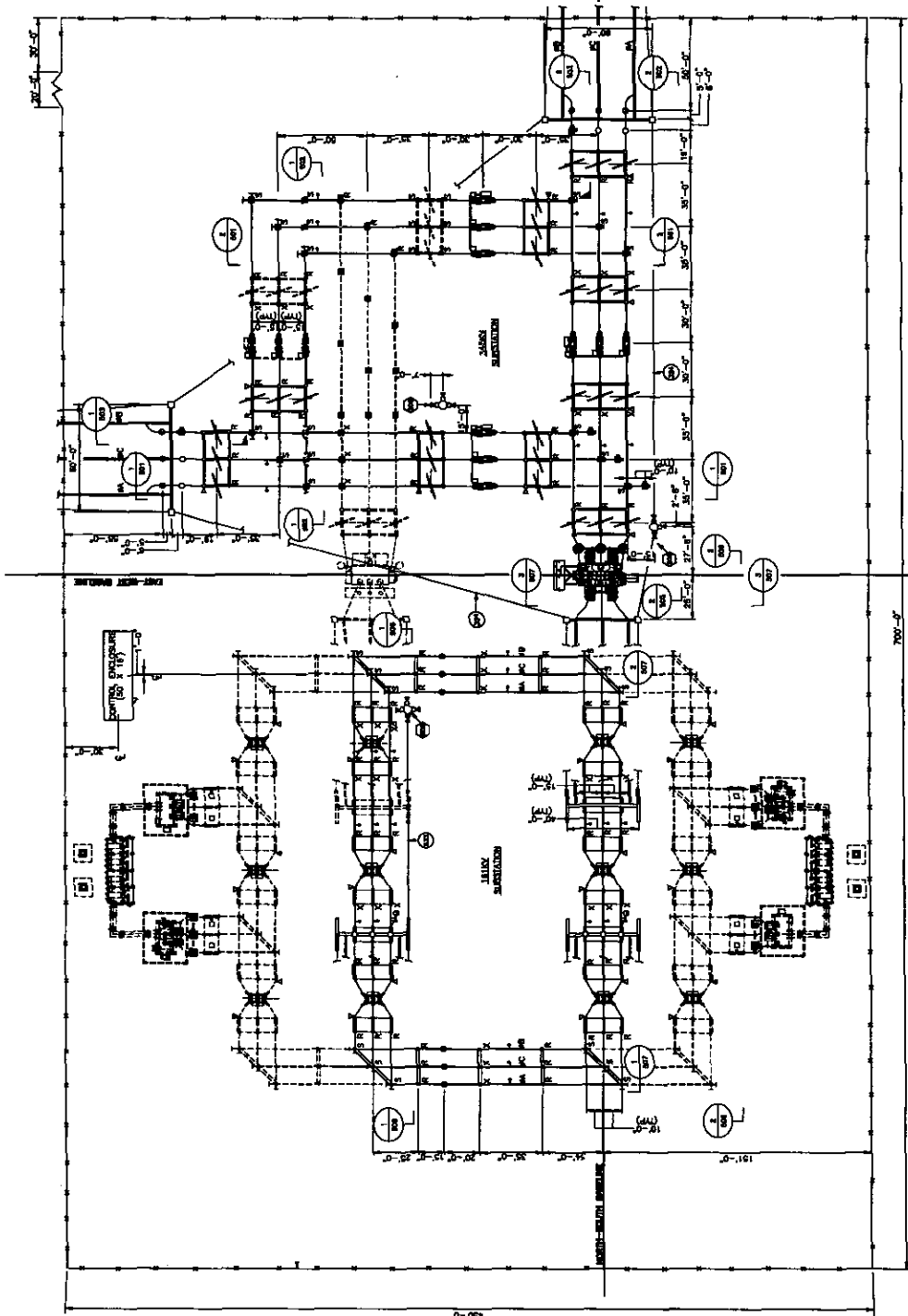
In Heidtbrink's presentation in Pleasant Hill, he said that electric use has increased 58 percent in the past 25 years and Cass County customer growth has jumped 26 percent since 2001.

He said the peaking facility is needed to meet periods of high demand for electricity or when power is needed on short notice. Heidtbrink said Aquila is trying to be a good neighbor.

"We have installed five tornado sirens, added 23 fire hydrants, installed ball park lighting, paved 2-3/4 miles of rural road and built berms and planted trees around in the neighborhood," he said.

"We have settled a lawsuit with the "StopAquila" organization and are working to resolve six other private lawsuits."

The utility has held similar informational meetings in Peculiar, Raymore, Harrisonville and Garden City to provide information about the South Harper plant and the growing demand for power. The meetings attracted only a handful of people and in a couple of the communities, no one showed up at all.



GENERAL NOTES

- 01. MOUNTING AND PHASE SPACING SHALL BE 10'-0" UNLESS OTHERWISE NOTED ON THE DRAWING.
- 02. 161KV PHASE TO PHASE SPACING SHALL BE 10'-0" UNLESS OTHERWISE NOTED ON THE DRAWING.

LEGEND

- CIRCULAR FITTING
- PIVOT FITTING
- 3/4" PIVOT FITTING
- 1" PIVOT FITTING
- GROUND STUD LOCATION
- FUTURE BUS AND EQUIPMENT

REFERENCE DRAWINGS

- 837-2500, 2511
- 837-2500, 2502
- 837-2500, 2503
- 837-2500, 2504
- 837-2500, 2505

- FOUNDATION PLAN
- ANCHORAGE PLAN
- EQUIPMENT PLAN
- DETAILS OF ANCHORS



30' 15' 0" 30' 15" 30' 15" 1"=30'

NO.	DATE	BY	FOR	REVISION
1	1/15/78	J/A/S	ASST. ENGINEER	DESIGN
2	2/7/78	J/A/S	ASST. ENGINEER	REVISED
3	3/1/78	J/A/S	ASST. ENGINEER	REVISED

AQUILA, INC.

**PECUAR 345/161KV SUBSTATION
BUS AND EQUIPMENT
ULTIMATE ARRANGEMENT PLAN**

PROJECT NO.	837-2500
DRAWING NO.	2
DATE	1/15/78
SCALE	1"=30'