

SPECIAL USE PERMIT APPLICATION

for the

**Aquila Peculiar 345 kV Substation Project
Cass County, Missouri**

January 2006

**Submitted by
Aquila, Inc.**



Aquila

Providing Energy For Better Living.™

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Missouri Public
Service Commission

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**Aquila Peculiar 345 kV Substation Project
Cass County, Missouri**

January 2006

Submitted by:

Aquila, Inc.
20 W. 9th Street
Kansas City, Missouri 65206

Exhibit No. 127
Case No(s) EA-2006-0309
Date 5-3-06 Rptr JPT



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- US Army Corps of Engineers Correspondence
- US Fish & Wildlife Correspondence
- Missouri Department of Conservation Correspondence
- State Historic Preservation Office Correspondence
- Structure Height Notification Memo
- FEMA FIRM No. 290783 0025C
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- Road & Bridge Driveway Permit

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SECTION 1.0 SPECIAL USE PERMIT APPLICATION



1.0 SPECIAL USE PERMIT APPLICATION

1.1 REQUEST FOR SPECIAL USE PERMIT

Aquila, Inc. (Aquila) has prepared a Special Use Permit (SUP) application and is submitting it on behalf of itself, as lessee and operator, and the City of Peculiar, Missouri (City) as owner.

Aquila, on behalf of the City, requests a SUP for an electric service facility pursuant to Article 8 – Special Use Permits, Cass County, Missouri Zoning Order Subdivision Regulations dated February 1, 2005, Appendix A, Group 49, SIC No. 491, Electric Services and Power Generation – including wind systems. This Zoning Order was adopted under the authority granted by R.S.Mo. 64.211 (and 64-905) et. seq. as amended. According to the Zoning Order, Appendix A, Electric Services & Power Generation (Group No. 49, SIC Code 491) is a permitted use on property zoned as an Agricultural District (A), as long as a SUP is obtained. The subject property is currently zoned as “A”. The SUP is being requested for the 345 and 161 kilovolt (kV) substation known as the Aquila Peculiar 345kV Substation (Facility). The Facility is located approximately one-half mile west of 71 Highway and one-half mile south of the intersection of 203rd Street and Knight Road in Cass County (Figure 1-1). A detailed project description is located in Section 2.0 of this application.

While City is the owner of the Facility as of the date of this application, it is possible ownership may change during Cass County review of this application due to action by the Missouri courts concerning a Chapter 100 bond transaction. If the courts ultimately find the Chapter 100 bond transaction to be invalid, ownership of the Facility will revert from City to Aquila.

The portion of property for which the SUP is being requested is approximately 7.5 acres and is generally located in the northwest corner of the northwest quarter of Section 5, Township 45 North, Range 32 West (Survey Drawing - Appendix A). The legal description for this 7.5 acre parcel is located on the Survey Drawing in Appendix A. This 7.5-acre property is located within the southern portion of a larger parcel currently owned by the City of Peculiar (Appendix A), which is approximately 55.05 acres. The remainder of the property is not subject to this SUP request as it is anticipated to remain undeveloped, with the exception of the existing transmission lines and gravel access road.

Aquila is also requesting a variance in the height restrictions for the two lightning masts (lightning rods) which are 101 feet tall.



Aquila

SPECIAL USE PERMIT APPLICATION



Figure 1-1
Project Location Map



1.2 PURPOSE AND NEED

An electric substation is the electric equivalent of a highway interchange or road intersection with traffic signals – it interconnects transmission and/or distribution lines of equal or varying voltages, thereby tying the grid's transmission line segments together, and allow reliable operation of the transmission network as power moves from generating plants to its ultimate destination (the customer). Transformers are used to connect power lines of different voltages, so that power may flow from one voltage to another. If there is too much traffic (e.g., power flow), switches and circuit breakers are used to isolate the lines and interrupt the flow of power (analogous to use of traffic signals to control traffic at congested intersections or control access to highways). Without substations to protect the grid, a transmission line overload could not be prevented or isolated, the grid could not operate reliably, and reliable electric service to customers would greatly suffer.

The Peculiar 345/161 kV Substation interconnects the existing Aquila 345 kV transmission grid to the existing Aquila 69 kV and upgraded 161 kV transmission grid in northern Cass County. This allows Aquila to construct the 161 kV transmission grid required in this area to support existing load and load growth in the Raymore/Peculiar area for both Aquila's load and the rural electric cooperative load. This also provides additional required support for the existing Aquila 161 kV transmission grid in the Belton/Martin City area. Load growth in northern Cass County has been substantial as new homes and subdivisions have been platted and built, necessitating construction of electric infrastructure to support that growth. This substation is a major part of that infrastructure, and is designated critical infrastructure in accordance with various Homeland Security requirements (see Section 2.4).

Grid system stability is necessary to provide continuous electric service to customers of Aquila, such as Whiteman Air Force Base that is located in Missouri. Whiteman Air Force Base is an essential component of our national security and is imperative they have an un-interrupted supply of electricity.



1.3 COMPLETED APPLICATION FORM

A completed and signed Application Form has been included within this application package and is located after page 1-4 of Section 1.0. The required filing fee is also provided.

1.4 LAND USE COMPATIBILITY

The Facility appears to be consistent with current site and neighboring land uses. The subject property and neighboring properties contain a high-voltage electric transmission line and water supply pipeline. As noted above in Section 1.1, an electric service facility is an acceptable use on agricultural zoned lands, which the subject site is currently zoned, subject to obtaining a special use permit.

The Cass County, Missouri Comprehensive Plan Update 2005 (Plan - dated February 1, 2005) designates the property as a Multi-Use Tier. Multi-Use Tier is described by the Plan (p. 28) as follows:

"The Multi-Use Tier is representative of development areas within Cass County that exhibit the following characteristics:

- *Positioned as transition areas from urban to rural densities*
- *Located along rural highways, major arterials and intersections, or close enough to such major roads to provide access for more intense levels of non-agricultural traffic, and*
- *Predominantly developed for a mix of land uses: residential, industrial and commercial purposes."*

The northern portion of the property that is not subject to the SUP request currently consists of open agricultural lands and some forested areas associated with two intermittent streams that traverse the property. Surrounding areas are also designated as Multi-Use Tiers by the Plan, although the Grand Oaks Farms residential development immediately north of 203rd Street may be designated as an Urban Service Tier. The remaining portion of the property that is not subject to this SUP application is anticipated to remain as its' current use, agriculture.



Adjacent properties within 100 feet of the Facility property are zoned as agricultural and residential.

It is believed that construction and operation of the Facility does not adversely impact local infrastructure (roads, schools, etc.) as the majority of the workers are from the region and commute to the Facility from their existing homes.

1.5 CERTIFIED LIST OF PROPERTY OWNERS WITHIN 1,000 FEET

A certified list of property owners within 1,000 feet of the entire 55.05-acre parcel is provided as Figure 1-2.

1.6 TITLE REPORT

Provided in Appendix B.

CASS COUNTY
SPECIAL USE PERMIT APPLICATION

Return Form to:
Office of Zoning Administration
Cass County Courthouse
102 East Wall Street
Harrisonville, MO 64701
(816) 380-8131
[(816) 380-8130 Fax]

For Office Use Only
Case ID.: _____
Public Hearing Date: _____
Date Advertised: _____
Date Notices Sent: _____

APPLICANT INFORMATION:

Applicant: Aquila, Inc. Phone: 816/467-3143
Address: 20 W. 9th St, Kansas City, MO Zip: 64105
Owner: City of Peculiar, Missouri Phone: 816/779-5212
Address: 600 Schug Ave, Peculiar, MO Zip: 64078

PROPERTY INFORMATION:

Location of Property: 8901 East 203rd Street Peculiar, MO
Legal Description: see Appendix A Drawing 7.50 Acre Legal Description

Present Zoning Classification: Agricultural Acreage: 7.50
Present Use of Property: Electric Services

Proposed Land Use Activity: Electric Services

Article, Section and sub-section (if applicable) allowing for said Special Use to be applied for: _____
Appendix A, Group 49, SIC Case Code 491

Article 11 - Special Uses

ADJACENT ZONING AND LAND USE:

	<u>Land Use</u>	<u>Zoning</u>
North	<u>Residential</u>	<u>RESIDENTIAL</u>
South	<u>Agricultural</u>	<u>AGRICULTURE</u>
East	<u>Agricultural</u>	<u>AGRICULTURE</u>
West	<u>Agricultural</u>	<u>AGRICULTURE</u>

Should this Special Use be valid only for a specific time period? Yes _____ No X

If Yes, what length of time? _____

DOES THE PROPOSED SPECIAL USE MEET THE FOLLOWING STANDARDS? IF YES, ATTACH A SEPARATE SHEET EXPLAINING WHY.	Yes	No
Does the proposed Special Use complies with all applicable provisions of the regulations, including intensity of use regulations, yard regulations and use limitations?	X	
Does the proposed Special Use at the specified location will not adversely affect the welfare or convenience of the public?	X	
Does the proposed Special Use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located?	X	
Does the location and size of the Special Use, the nature and intensity of the operation involved or conducted in connection with it, and the location of the site with respect to streets giving access to it have been planned so that the Special Use will not dominate the immediate neighborhood so as to hinder development and use of neighboring property in accordance with the applicable zoning district regulations?	X	
Off-street parking and loading areas will be provided in accordance with the standards set forth in the zoning regulations, and such areas will be screened from adjoining residential uses and located so as to protect such residential uses from any injurious effect?	X	
Adequate utility, drainage, and other such necessary facilities will be provided?	X	
Adequate access roads or entrance and exit drives will be provided and designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys?	X	
Adjoining properties and the general public will be adequately protected from any hazardous or toxic materials, hazardous manufacturing processes, obnoxious odors or unnecessarily intrusive noises?	X	

ATTACHMENTS REQUIRED:

1. A site plan as specified in Section of the Zoning Regulations as well as any other information which would be helpful to the Planning Board in consideration of the application.
 2. List of property owners located within 1,000 feet of the property.
-
1. Site Plan is provided in Appendix C
 2. List of property owners follows in Section 1.0


Applicant's Signature

1.18.06
Date

20 West 9th St, KC, MO 64105
Address

816/467-3143
Area Code Telephone Number

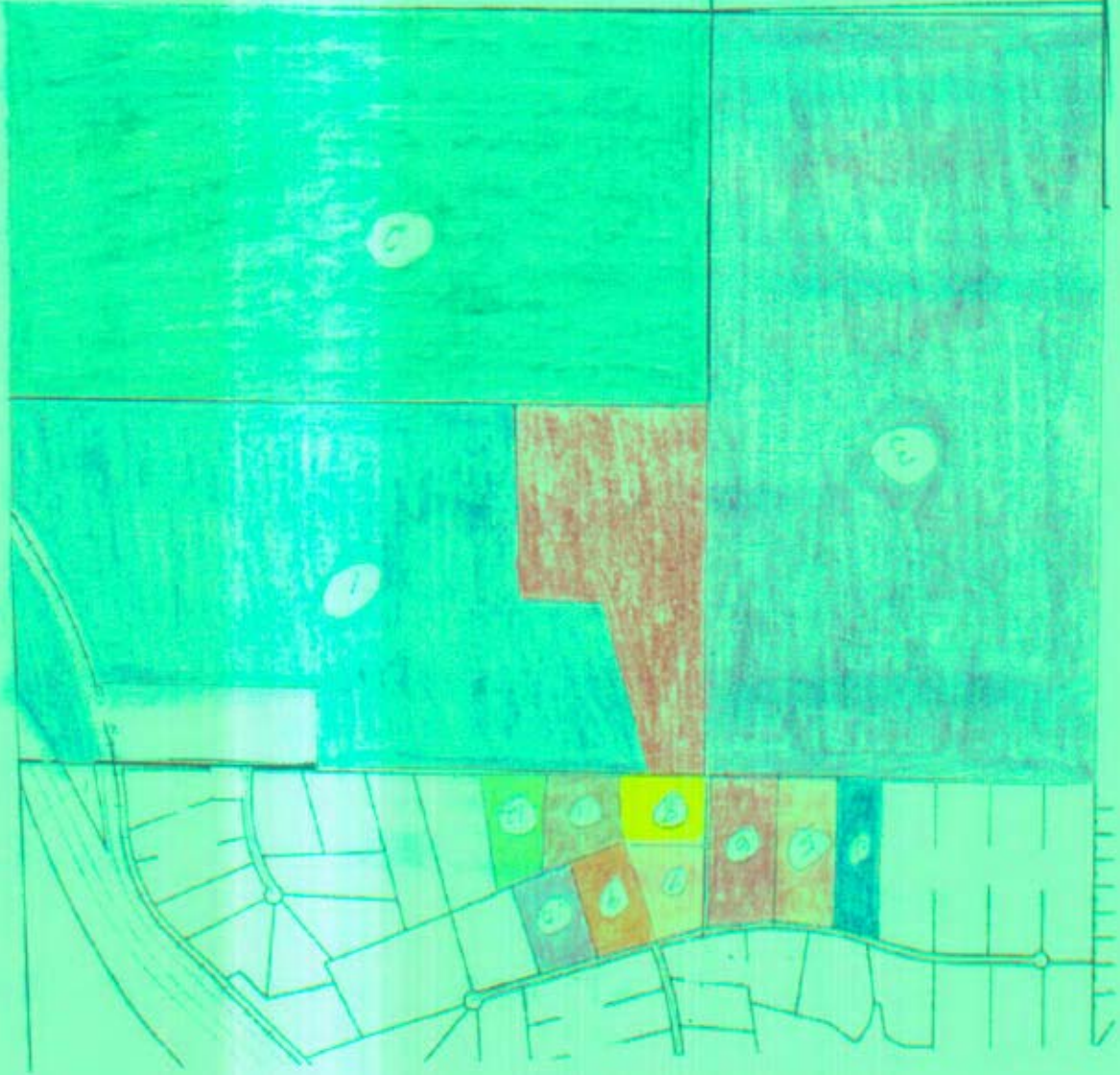
ATTACHMENT

Part of a tract of land described in Book 689, Page 71 in the Office of the Recorder of Deeds in Cass County, Missouri, being part of the Northwest Quarter of Section 5, Township 45, Range 32, Cass County, Missouri, described as beginning at the Northwest Corner of the Northwest Quarter of Section 5, aforesaid, run thence South $89^{\circ}35'49''$ East along the North line thereof, 400.00 feet; thence South $17^{\circ}21'24''$ East, 1189.30 feet; thence North $89^{\circ}43'10''$ East, 570.00 feet; thence South $0^{\circ}14'25''$ East, parallel with the West line of the Northwest Quarter of said Section 5, 1320.00 feet to a point in an existing fence line as now located; thence South $89^{\circ}43'10''$ West along said existing fence line, 1320.00 feet to a point in the West line of the Northwest Quarter of said Section 5; thence North $0^{\circ}14'25''$ West along said West line, 2641.64 feet to the Point of Beginning. Subject to the right-of-way of 203rd Street and South Knight Road, and subject to any existing easements.

RED - CITY OF PECULIAR

1. Effertz Bros. Inc.
16401 Holmes Rd., Belton, MO 64012
2. L.F. Britton
20814 S. Harper Rd., Peculiar, MO 64078
3. Allen D. and Shirley J. Bockelman, Trustees
8407 E. 207th St., Peculiar, MO 64078
4. Jim B. and Kenitha L. Aikman
14632 W. 141st Dr., Olathe, KS 66062
5. Gale and Shirley Harder
323 Maple Heights Rd., Marshall, WI 53559
6. Wayne C. and Phyllis M. Buck
P.O.Box 1746, Gillette, WY 82717
7. Arturo and Rosy M. Borja
16105 Lawrence Ave., Belton, MO 64012
8. Gregory A. and Rhonda J. Seiner
209 Arrowhead Dr., Lake Winnebago, MO 64034
9. James A. and Pamela A. Yates
522 Regina Ct., Raymore, MO 64083
10. Lance P. and Lori D. Paradis
9101 E. 201st St., Belton, MO 64012
11. Richard B. and Donna K. Brewer
507 N. Franklin, Raymore, MO 64083
12. Chris M. and Marilyn K. Myers
900 Trailway, Raymore, MO 64083

The Cass County Zoning Ordinance requires that you notify any municipality within one and one half (1-1/2) miles of the property and also any political subdivision in which the property is located, which would include but not be limited to the school district, water district, fire district, ambulance district, sewer district and road districts.



HIGHT & ASSOCIATES, LAND TITLES, INC.

WEST SIDE OF SQUARE - P.O. BOX 130

HARRISONVILLE, MISSOURI 64701

PHONE 816-380-4512 BELTON ESCROW OFFICE 322-6070

January 6, 2006

TO WHOM IT MAY CONCERN

**Re: City of Peculiar Rezoning Certificate dated September 1, 2005 for
tract of land in Section 5, Township 45, Range 32**

**1. The above referenced certificate is hereby extended to the above
date with no changes being necessary.**

HIGHT & ASSOCIATES, LAND TITLES, INC.

By



Donald L. Dryden, Exec. Vice President

HIGHT & ASSOCIATES, LAND TITLES, INC.

WEST SIDE OF SQUARE - P.O. BOX 130
HARRISONVILLE, MISSOURI 64701

PHONE 816-380-4612 BELTON ESCROW OFFICE 322-6070

September 1, 2005

STATE OF MISSOURI,)
 -88
County of Cass.)

HIGHT & ASSOCIATES, LAND TITLES, INC., does hereby certify that
the tract shown in RED on the attached plat is owned by the following:

City of Peculiar

that the legal description of the tract is as follows:

SEE ATTACHMENT

and that the property owners within 1000 feet of the tract to be re-
zoned are as indicated on the attached plat and listing.

For your convenience, if the current addresses of those
persons on the attached list are not known, we have furnished the addresses
as they appear on the County Tax Rolls.

HIGHT & ASSOCIATES, LAND TITLES, INC.

By Donald L. Dryden
DONALD L. DRYDEN, EXEC. VICE PRESIDENT

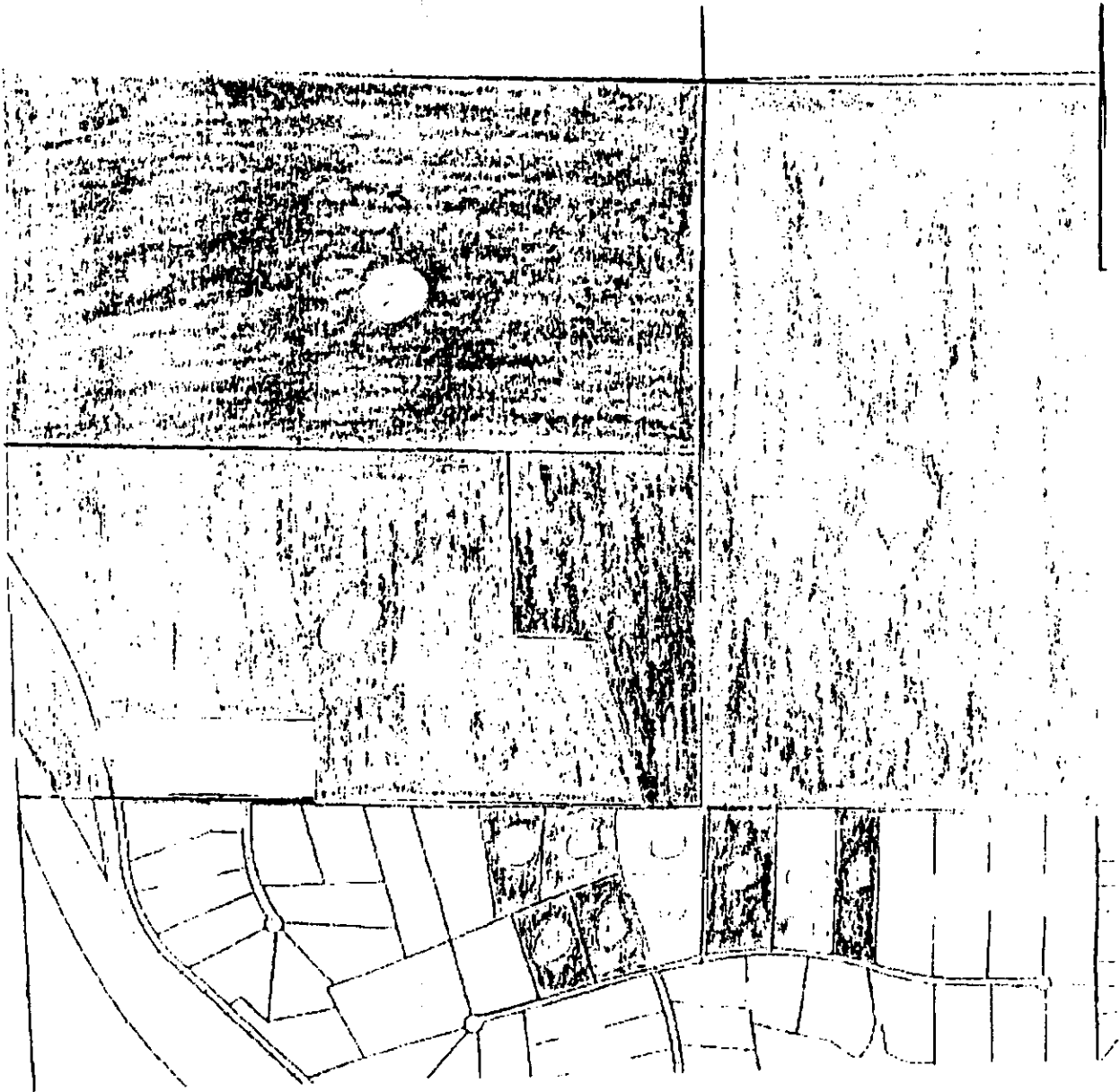
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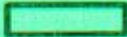
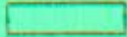





Cass County, MO

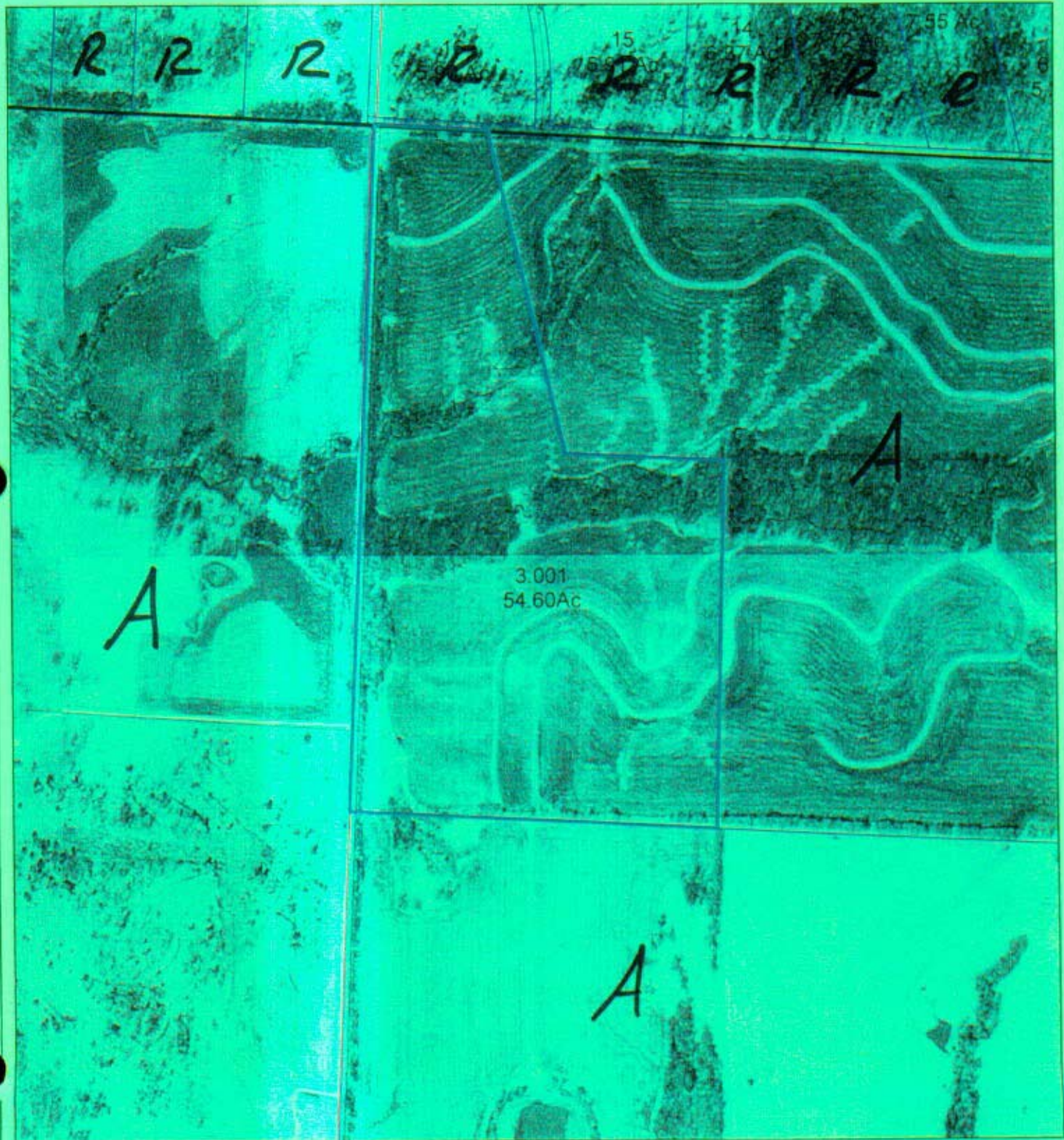
203rd & Knight

Map features are representations of original data sources and do not replace or modify land surveys, deeds, or other legal instruments defining land ownership or use.

Prepared by Cass County Assessor
Curtis L. Koons

-  Townships
-  Sections
-  Roads
-  Parcels
-  Corporate Limits

1 inch equals 500 feet



SECTION 2.0 DEVELOPMENT/SITE PLAN



2.0 DEVELOPMENT/SITE PLAN

2.1 PROJECT DESCRIPTION

The approximately 7.5-acre portion of the property as discussed in Section 1.1 contains the 345 kV substation and system protection enclosure. A confidential site layout drawing is provided in Appendix C. The drawing is confidential as the Facility is subject to several Homeland Security laws and regulations. Because of this, certain components of the substation are not for public viewing.

The Facility (Appendix C) is a 345/161 kV substation and allows for the transfer of energy from 345 kV to 161 kV and vice-versa. Two (2) 345 kV transmission lines enter the substation, while two (2) 161 kV transmission lines exit the substation. One of the 161 kV lines connects to the Belton South 161/69 kV substation, while the other connects to the South Harper Peaking Facility substation.

The system protection enclosure at the Facility is approximately 16 feet by 50 feet. A Cass County building Permit was obtained for this enclosure.

A gravel access/entrance road was also constructed for this project. A Roadway and Bridge Driveway Permit was obtained from the County, since it connects to 203rd Street. The location of the system protection enclosure is depicted on the drawing in Appendix C.

Temporary on-site gravel parking was provided during construction. A gravel parking lot was constructed and is associated with the system protection enclosure; it allows for 10-12 vehicles.

2.2 LANDSCAPE/VISUAL SCREENING PLAN

A landscape/visual screening plan was not developed for the project, as stands of native mature trees shield a large portion of the Facility area from nearby residences and roadways as depicted in Photo Nos. 1 through 3 that were taken August 27, 2005.



Photo No. 1 – View from the site boundary (property line) looking south from the corner of 203rd St. and the substation access road.



Photo No. 2 – View looking southwest from 203rd Street property line.



Photo No. 3 – View from the site boundary (property line) looking south from within the existing transmission line easement from 203rd St.

2.3 FACILITY LIGHTING PLAN

A lighting plan for the substation was prepared, installed, and implemented. A combination of street-light type lighting and directional (shoe-box) lighting is currently being used at the Facility. Night-time photographs of the Facility were taken on August 31, 2005 (Photos Nos. 4 through 6) to demonstrate current lighting conditions at the substation.



Photo No. 4 – View looking southwest toward the Facility from 203rd Street (just west of water tower and residence on south side of 203rd Street).

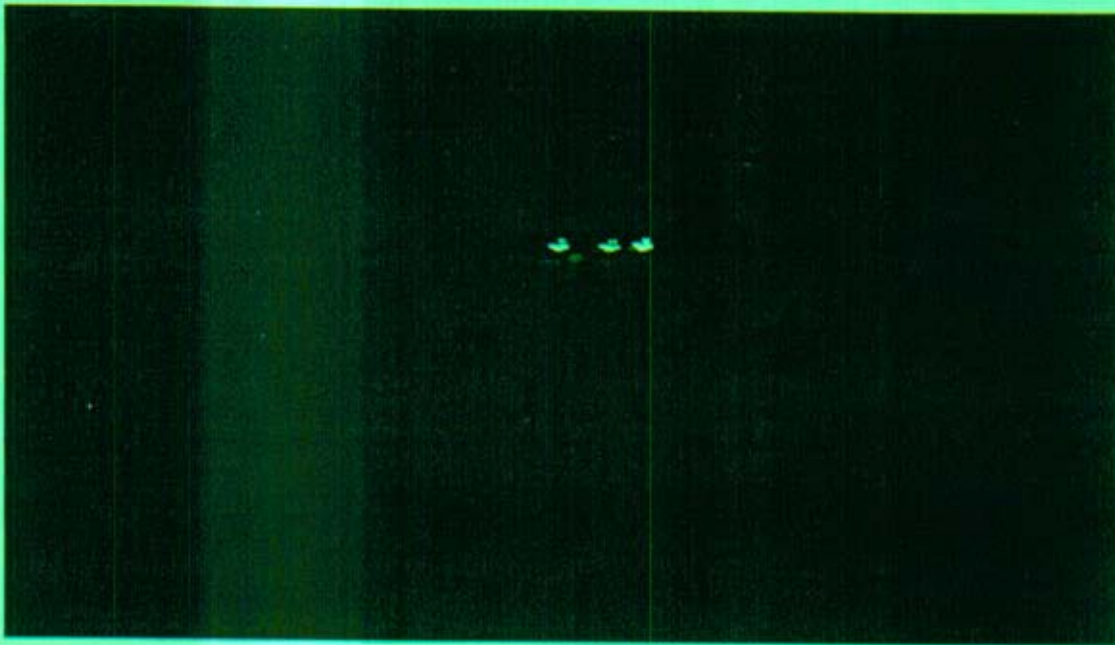


Photo No. 5 – View from the site boundary looking south from 203rd Street, near entrance of substation (just east of S. Knight Road).

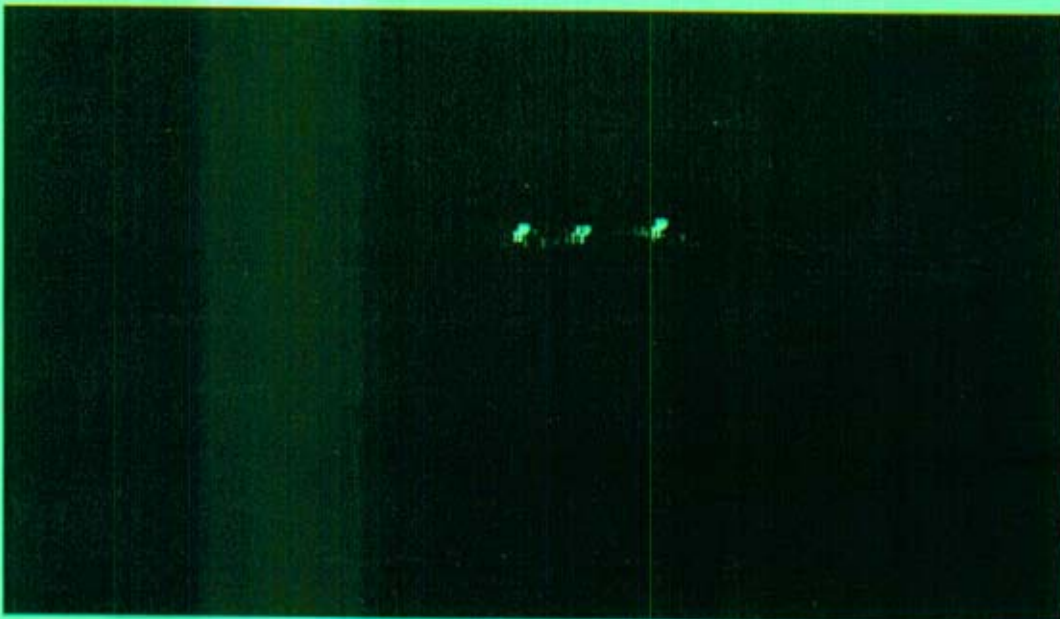


Photo No. 6 – View looking south to southeast from the entrance driveway, between the steel gate and substation security fence line.



2.4 FACILITY SECURITY PLAN

In addition to the lighting plan as described above, the Facility security features are listed below. The Facility is considered a constituent of several Homeland Security legal and regulatory requirements. Presidential decision directives, laws, regulations and other documents that provide requirements and guidance for the security plan are listed in Appendix D. Aquila proposes and will implement the following security measures:

2.4.1 Approach

Vehicular access to the Facility is gained from 203rd Street.

- A 90-degree rule is in use: requiring vehicles to slow in order to complete the "right-angle" turn onto the Facility entrance driveway.
- The entrance driveway off of 203rd Street also contains a locked security gate, which will be converted to pass-code type gate once the security system is fully operational. Security Officer staffing is currently protecting the substation, but will be replaced upon activation of the security system in early 2006.

2.4.2 Fencing

A security fence, including barbed wire, surrounds the Facility and associated equipment. The security fencing will be six (6) feet in height and contain an 18-inch outrigger consisting of three (3) strands of barbed wired extending at 45-degree angle from the top of the fence. The fence will be chain-link design constructed of nine (9) gage steel and will be supported by a top and bottom support bar for stability. Manual swing gates are secured with Pioneer Latch equipment.

As mentioned above, the security gate will be equipped with a pass-code once security system construction is complete. The perimeter security fence will remain intact. Procedures for trespassing, unlawful entry, etc. have been developed for construction and will be revised accordingly once full operation of the substation begins.

A steel bar type gate has also been installed along the entrance driveway, approximately half way between 203rd Street and the perimeter security fence line. This gate remains locked unless access is necessary for appropriate Facility personnel.



2.4.3 Surveillance Cameras

Surveillance cameras will be installed at the Facility. Locations and design of the cameras must remain confidential.

2.4.4 Required Clear Zone

In addition to the approach, fencing, and current lighting, the existing clear zone (no substantial vegetation, except grasses) will be maintained along the perimeter fence. The clear zone allows for increased visibility near the fence and reduces the potential for undetected intrusion into the Facility.

2.4.5 Security Signage

Signage stating, "Danger High-Voltage" will be placed every 50 feet along the perimeter fence. "No Trespassing" and "Private Property" signs were posted near the entrance of the Facility.

2.5 FACILITY SIGNAGE

Besides the signage used for security purposes Aquila may install an identification sign near the front entrance the Facility. Aquila believes its signs are in compliance with Article 10 -- Sign Regulations of the Zoning Order, and will comply with any positional signage requirements.

2.6 TRAFFIC PLAN

Since the Facility has limited access, construction and operation traffic require the use of 203rd Street which can be accessed by Old U.S. Highway 71 from either the Cities of Peculiar or Raymore. Aquila does not believe that construction has significantly impacted the normal flow of traffic in the area of the Facility. Since only a few employees will occasionally visit the Facility during operation (estimated to be one or two times per month), the normal flow of traffic in the area should not be impacted.

All deliveries were and will be planned and managed in compliance with applicable MoDOT and County requirements. Any superloads (over-sized and/or heavy hauls) will require a MoDOT permit which requires a comprehensive structural analysis and road feasibility study of the proposed route. Any negative impact on local roads resulting from delivery of equipment will be addressed and repaired by Aquila in compliance with applicable MoDOT and Cass County



requirements. Road improvements, such as paving and patchwork have already been completed on 203rd Street.

Dust control is not anticipated to be required since the Facility will not be visited on a frequent basis.

2.7 ROAD MAINTENANCE/REPAIR PLAN

Prior to starting construction the proposed traffic route conditions were reviewed, photographed and documented. Any damage caused by Aquila deliveries during construction was promptly addressed.

- Aquila has already completed road improvements (repaving/patchwork) on 203rd Street.
- Pending discussions with the Public Works Department of Cass County, the completed road maintenance should be adequate.
- Permanent repairs were completed in compliance with Cass County Ordinance 02-01.

Because there will be only occasional traffic for operation of the substation, which constitutes one or two visits per month, no additional repairs are anticipated. Aquila will contact the Public Works Department if large deliveries and/or heavy haul traffic will be required in the future.

SECTION 3.0 PERMITTING



3.0 PERMITTING

All permits, clearances and regulatory approvals, obtained by Aquila for the Facility, are listed in Table 3-1 at the end of this Section 3.0.

3.1 PHASE I ENVIRONMENTAL SITE ASSESSMENT

Prior to acquiring the property, Aquila contracted Aquaterra Environmental Solutions, Inc. (Aquaterra) to conduct a Phase I Environmental Site Assessment (ESA) of the 55.05-acre property. The assessment indicated that there was no evidence of site contamination.

3.2 NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) LAND DISTURBANCE PERMIT

As part of Section 402 of the Federal Clean Water Act (CWA), the State of Missouri is delegated by the United States Environmental Protection Agency (EPA) to administer the NPDES General Permit for construction activities that will disturb one (1) or more acres of land within the state. A Missouri State Operating Permit (General Permit No. MO-R101000) for storm water discharges is required in accordance with Missouri regulation 10 CSR 20-6.200. To comply with the Missouri Clean Water Law, Aquila submitted the appropriate application to MDNR and received a General Permit (No. MO-R106858, dated October 15, 2004 – see Appendix E) prior to initiating any earthmoving activities at the site.

The Permit requires a Storm Water Pollution Prevention Plan (SWPPP) be prepared prior to construction to ensure that appropriate best management practices (BMP's) will be implemented during construction to reduce water quality impacts caused by stormwater runoff from construction sites. The SWPPP also requires monitoring of the BMP's to ensure they are functioning properly. The SWPPP was prepared and retained on-site during construction. The proposed BMP's were implemented and monitored.

3.3 WETLAND DETERMINATION

To determine if any wetlands were on-site and would be impacted by the project Aquila hired Burns & McDonnell to conduct a wetland delineation of the entire property. The delineation identified three (3) wetlands and seven (7) streams, two (2) of which are intermittent. A Nationwide Permit 12 (NWP 12 – see Appendix E) was obtained from the U.S. Army Corps of Engineers (USACE), Regulatory Branch, since 0.11 acres of wetlands are being impacted by the



project. Mitigation is also being completed along the streams being impacted and will include planting of native grasses and forbs. The NWP 12 is certified by the Missouri Department of Natural Resources (MDNR), which concludes that the NWP will not violate existing water quality standards provided Aquila complies with the conditions included with the NWP 12. Upon project completion, Aquila must sign, date, and send a "Compliance Certification" to the USACE. This is planned to be done in early 2006.

3.4 THREATENED AND ENDANGERED SPECIES REVIEW

To determine if the project would impact any federal or state listed threatened or endangered (T&E) species or their respective habitat, Aquila contracted Aquaterra to consult with the Missouri Department of Conservation (MDC) and the US Fish and Wildlife Service (USFWS). The USFWS responded with a "no objection" (dated October 7, 2004 – see Appendix E), while the MDC concluded that no T&E species or respective habitat appears to exist for the site (dated October 14, 2004 – see Appendix E).

3.5 CULTURAL RESOURCES CLEARANCE

To determine if the project would impact any cultural resources, Aquila contracted Aquaterra to conduct a cultural resources background investigation. The results were submitted to the Missouri State Historic Preservation Office (SHPO) for review. Upon review, SHPO provided a Cultural resource Assessment (dated October 5, 2004 – see Appendix E) stating that adequate documentation was provided and that they determined there will be "no historic properties affected" by the current project.

3.6 STRUCTURE HEIGHT NOTIFICATION

Projects with relatively tall structures often require a Federal Aviation Administration (FAA) notification; Form 7460-1. Structures requiring notification are described in 14 Code of Federal Regulations (CFR), Part 77.13 Construction or alteration requiring notice. None of the structures at this Facility meet criteria/definition for requiring notice (memo dated August 31, 2005 – Appendix E); hence, Aquila did not prepare and submit a notification. The tallest structures are 101 feet above grade and the closest FAA regulated airport is the Hillside Airport (63K), approximately 7.5 miles to the northwest of the Facility; therefore structures of 101 feet do not



require notice to the FAA. This determination considered approximate elevations at the Facility (976 to 977 feet) and the airport (1,025 feet).

3.7 FLOOD PLAIN DETERMINATION

Prior to developing the Facility, a Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) for the site was reviewed to determine if the site or any part thereof was located in a flood plain. According to FEMA FIRM Map No. 290783 0025C (dated May 4, 1992 – see Appendix E) for Cass County, Missouri the entire site is located in an area designated as Zone X, which is classified as being outside the 500-year flood plain.

3.8 BUILDING PERMITS

A building permit (No. 25021 – Appendix E) was obtained from the County for the system protection enclosure located at the Facility. It was concluded through verbal correspondence with the County that a Grading Permit is not required.

3.9 ROAD AND BRIDGE DRIVEWAY PERMIT

A road and bridge driveway permit was applied for through Cass County and was received on December 10, 2004 (see Appendix E). This allowed for construction of the Facility entrance driveway connecting to 203rd Street.

Permit No.	Application No.	Application Date	Issuing Agency	Applicant / Firm	Description	Status	
			Missouri Dept of Natural Resource, State Historic Preservation Office	Aquila, Inc.	Cultural Resource Assessment	Clearance provided 10/5/04	
		9/29/2004	U.S. Fish and Wildlife Service	Aquaterra on behalf of Aquila, Inc.	Threatened and Endangered Species Review	"No objection" issued 10/07/04	
		10/4/2004	Missouri Department of Conservation	Aquaterra on behalf of Aquila, Inc.	Threatened and Endangered Species Review	"No records found" issued 10/14/04	
MO-R106858			Missouri Dept of Natural Resources	Aquila Networks, A division of Aquila, Inc.	National Pollutant Discharge Elimination System (NPDES) Land Disturbance Permit	Issued 10/14/04	
		12/10/04	Cass County Road & Bridge	Aquila, Inc.	Road & Bridge Driveway Permit	Issued 12/10/04	
	25021	241220	12/17/04	Cass County Building Codes Department	Aquila Inc.	Peculiar 345-kV Substation Control Enclosure	Issued 02/01/05.
File Number 200500519			U.S. Army Corps of Engineers	Burns & McDonnell on behalf of Aquila, Inc.	Nationwide 12 Permit (Wetlands Determination)	Issued 1/11/05	
			Not applicable	Burns & McDonnell	FAA Structure Height Notification Memo dated 8/11/05	FAA Notice of Proposed Construction or Alteration is not required	



Aquila

Table 3-1
Acquired Permits, Clearances and
Regulatory Approvals

SECTION 4.0 SOUND EMISSIONS



4.0 SOUND EMISSIONS

4.1 NOISE STUDY

The Facility is equipped with a low noise 345 - 161 kV transformer to minimize noise emissions from the Facility. To ensure compliance with the Cass County, Missouri Ordinance No. 02-20 -- Noise Disturbance, Aquila contracted Burns & McDonnell Engineering Company, Inc. (Burns & McDonnell) to conduct a noise study. The county noise regulation (Ordinance 02-20) provides a residential limit of 60 dBA during daytime operation (7:00 AM to 10:00 PM), and 55 dBA during nighttime operation (10:00 PM to 7:00 AM).

To determine actual sound levels during Facility operation, sound measurements were recorded at various locations at the Facility, which included both the security fence line and at the property boundary. All five (5) sound measurements at the property boundary were less than 55 dBA: ranging from 43.7 dBA to 52.0 dBA.

The results of the study indicate that the Facility is currently meeting daytime (60 dBA) and nighttime (55 dBA) noise regulations for residential property at all measurement points along the Facility property boundary. For further details refer to the Noise Study that has been included in Appendix F.

Aquila complies with Ordinance No. 02-20.

SECTION 5.0 COUNTY REGULATION COMPLIANCE



5.0 COUNTY REGULATION COMPLIANCE

5.1 PERMITS

Aquila has obtained all applicable required County Permits, with the exception of the SUP. A Permit summary is located in Section 3.0, while copies of applicable Permits are provided in Appendix E.

5.2 NOISE

As per the noise study that was conducted by Burns & McDonnell, the Facility is currently complying with the most stringent noise levels stated in the Cass County, Missouri Ordinance No. 02-20 Noise Disturbance, which are 60 dBA daytime (7:00 AM to 10:00 PM) and 55 dBA nighttime (10:00 PM to 7:00 AM). These levels are for Residential zoned areas. Aquila complies with these noise disturbance levels.

5.3 LAND USE

The subject property and neighboring properties contain a high-voltage electrical line transmission line and water supply pipeline. As noted above in Section 1.1, an electric service facility is an acceptable use on agricultural zoned land, which the subject site is currently zoned, once a SUP is obtained.

As noted in the Zoning Order, Appendix A, an electric power substation is an acceptable use on agricultural zoned land once a SUP is obtained. In addition, according to the Cass County Comprehensive Plan Update 2005, the property appears to be designated as a Multi-Use Tier. The Facility appears to be an approved Multi-Use Tier activity.

SECTION 6.0 PUBLIC SUPPORT



6.0 PUBLIC SUPPORT

From the beginning, this project has received substantial support from neighboring property owners. Many of these supporters have signed letters of support, before the start of construction, which are included in Appendix G.

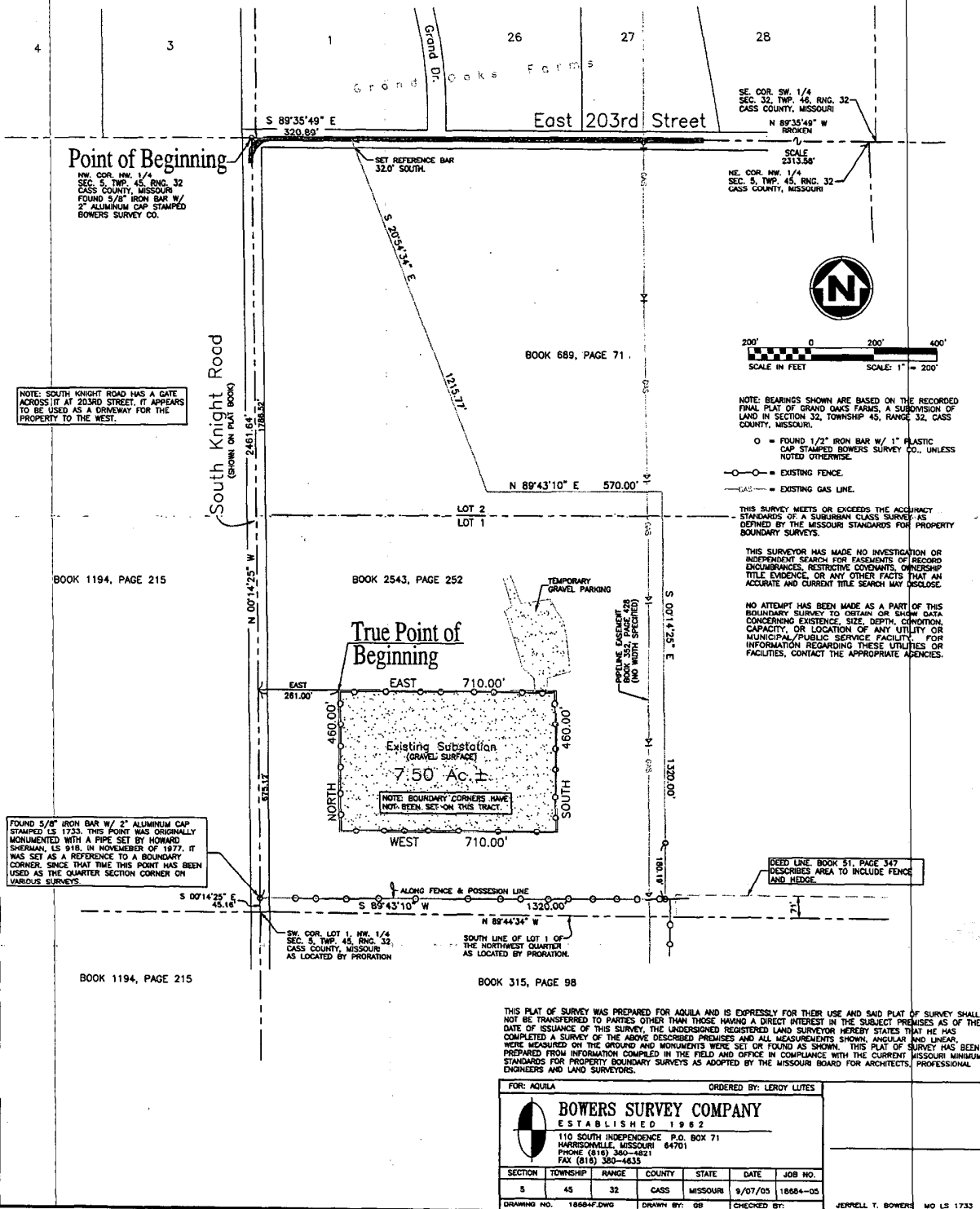
APPENDICES

APPENDIX A
Property Survey

PLAT OF SURVEY

Description:

PART OF LOT 1 OF THE NORTHWEST QUARTER OF SECTION 5, TOWNSHIP 45, RANGE 32, CASS COUNTY, MISSOURI, DESCRIBED AS FOLLOWS: FROM THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 5, AFORESAID, RUN THENCE SOUTH 0°14'25" EAST ALONG THE WEST LINE THEREOF, 1786.52 FEET; THENCE EAST, 261.00 FEET TO THE TRUE POINT OF BEGINNING OF THE TRACT TO BE DESCRIBED; CONTINUING THENCE EAST, 710.00 FEET; THENCE SOUTH, 460.00 FEET; THENCE WEST, 710.00 FEET; THENCE NORTH, 460.00 FEET TO THE TRUE POINT OF BEGINNING. CONTAINS 7.50 ACRES, MORE OR LESS, SUBJECT TO ANY EXISTING EASEMENTS.



NOTE: SOUTH KNIGHT ROAD HAS A GATE ACROSS IT AT 203RD STREET. IT APPEARS TO BE USED AS A DRIVEWAY FOR THE PROPERTY TO THE WEST.

FOUND 5/8" IRON BAR W/ 2" ALUMINUM CAP STAMPED LS 1733. THIS POINT WAS ORIGINALLY MONUMENTED WITH A PIPE SET BY HOWARD SHERMAN, LS 918, IN NOVEMBER OF 1977. IT WAS SET AS A REFERENCE TO A BOUNDARY CORNER, SINCE THAT TIME THIS POINT HAS BEEN USED AS THE QUARTER SECTION CORNER ON VARIOUS SURVEYS.

SW COR. LOT 1, NW 1/4 SEC. 5, TWP. 45, RNC. 32, CASS COUNTY, MISSOURI AS LOCATED BY PROPRATION

SOUTH LINE OF LOT 1 OF THE NORTHWEST QUARTER AS LOCATED BY PROPRATION

DEED LINE, BOOK 51, PAGE 547 DESCRIBES AREA TO INCLUDE FENCE AND HEDGE.

NOTE: BEARINGS SHOWN ARE BASED ON THE RECORDED FINAL PLAT OF GRAND OAKS FARMS, A SUBDIVISION OF LAND IN SECTION 32, TOWNSHIP 45, RANGE 32, CASS COUNTY, MISSOURI.

○ = FOUND 1/2" IRON BAR W/ 1" PLASTIC CAP STAMPED BOWERS SURVEY CO., UNLESS NOTED OTHERWISE.
 ○—○ = EXISTING FENCE.
 —GAS— = EXISTING GAS LINE.

THIS SURVEY MEETS OR EXCEEDS THE ACCURACY STANDARDS OF A SUBURBAN CLASS SURVEY AS DEFINED BY THE MISSOURI STANDARDS FOR PROPERTY BOUNDARY SURVEYS.

THIS SURVEYOR HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCH FOR EASEMENTS OF RECORD ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP TITLE EVIDENCE, OR ANY OTHER FACTS THAT AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE.

NO ATTEMPT HAS BEEN MADE AS A PART OF THIS BOUNDARY SURVEY TO OBTAIN OR SHOW DATA CONCERNING EXISTENCE, SIZE, DEPTH, CONDITION, CAPACITY, OR LOCATION OF ANY UTILITY OR MUNICIPAL/PUBLIC SERVICE FACILITIES. FOR INFORMATION REGARDING THESE UTILITIES OR FACILITIES, CONTACT THE APPROPRIATE AGENCIES.

THIS PLAT OF SURVEY WAS PREPARED FOR AQUILA AND IS EXPRESSLY FOR THEIR USE AND SAID PLAT OF SURVEY SHALL NOT BE TRANSFERRED TO PARTIES OTHER THAN THOSE HAVING A DIRECT INTEREST IN THE SUBJECT PREMISES AS OF THE DATE OF ISSUANCE OF THIS SURVEY. THE UNDERSIGNED REGISTERED LAND SURVEYOR HEREBY STATES THAT HE HAS COMPLETED A SURVEY OF THE ABOVE DESCRIBED PREMISES AND ALL MEASUREMENTS SHOWN, ANGULAR AND LINEAR, WERE MEASURED ON THE GROUND AND MONUMENTS WERE SET OR FOUND AS SHOWN. THIS PLAT OF SURVEY HAS BEEN PREPARED FROM INFORMATION COMPILED IN THE FIELD AND OFFICE IN COMPLIANCE WITH THE CURRENT MISSOURI MINIMUM STANDARDS FOR PROPERTY BOUNDARY SURVEYS AS ADOPTED BY THE MISSOURI BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS AND LAND SURVEYORS.

FOR: AQUILA ORDERED BY: LEROY LUTES

BOWERS SURVEY COMPANY
 ESTABLISHED 1982
 110 SOUTH INDEPENDENCE P.O. BOX 71
 HARRISONVILLE, MISSOURI 64701
 PHONE (816) 380-4821
 FAX (816) 380-4435

SECTION	TOWNSHIP	RANGE	COUNTY	STATE	DATE	JOB NO.
5	45	32	CASS	MISSOURI	9/07/05	18884-05

DRAWING NO. 18884P.DWG DRAWN BY: GB CHECKED BY: JERRELL T. BOWERS MO LS 1733

APPENDIX B

Title Report

Peculiar
345 Sub



First American

Title Transmittal

Dated: January 10, 2005

Attention:
Aquila, Inc
10700 E. 350 Hwy.

Kansas City , MO , 64138

Loan #

RE: 434974
Aquila, Inc
16401 Holmes Road
Belton MO 64012

Please find enclosed

Stacey Brodersen
Title Officer

791 Northeast Rice Road Lee's Summit, Missouri 64086
TEL: (816) 246-4010 FAX: (816) 246-6624

**First American Title Kansas Agency Inc dba Security Land Title
Company**

**791 Northeast Rice Road
Lee's Summit, MO 64086**

January 06, 2005

Aquila, Inc.
10700 E. 350 Hwy.
Kansas City, MO 64138

Order Number: 434974

Escrow Officer: Stacey Brodersen
Phone: (816) 246-4010

Property: 16401 Holmes Road
Belton, Missouri 64012

Attached please find the following item(s):

A Policy of Title

Thank You for your confidence and support.

Customer First!

Policy of Title Insurance

ISSUED BY

First American Title Insurance Company

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS AND STIPULATIONS, FIRST AMERICAN TITLE INSURANCE COMPANY, a California corporation, herein called the Company, insures, as of Date of Policy shown in Schedule A, against loss or damage, not exceeding the Amount of Insurance stated in Schedule A, sustained or incurred by the insured by reason of:

1. Title to the estate or interest described in Schedule A being vested other than as stated therein;
2. Any defect in or lien or encumbrance on the title;
3. Unmarketability of the title;
4. Lack of a right of access to and from the land.

The Company will also pay the costs, attorneys' fees and expenses incurred in defense of the title, as insured, but only to the extent provided in the Conditions and Stipulations

First American Title Insurance Company

BY *Gary L. Kerueth* PRESIDENT

ATTEST *Mark R. Arsen* SECRETARY



SCHEDULE A

Total Charges: \$1,646.00
Risk Rate: \$562.00

Amount of Insurance: \$1,000,000.00

Policy Number: OP434974

Date of Policy: November 24, 2004 at 3:29.42 P.M.

1. Name of insured:

Aquila, Inc., a Delaware Corporation

2. The estate or interest in the land which is covered by this policy is:

Fee simple

3. Title to the estate or interest in the land is vested in:

Aquila, Inc., a Delaware Corporation

4. The land referred to in this policy is described as follows:

BEGINNING AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION FIVE (5), TOWNSHIP FORTY-FIVE NORTH (45N), RANGE THIRTY-TWO WEST (32W), CASS COUNTY, MISSOURI, THENCE SOUTH ALONG THE WEST LINE OF SAID NW 1/4 A DISTANCE OF 2,508.18 FEET MORE OR LESS TO THE SOUTH LINE OF SAID NW 1/4; THENCE EAST ALONG SAID SOUTH LINE A DISTANCE OF 1320 FEET; THENCE NORTH PARALLEL WITH SAID WEST LINE A DISTANCE OF 1320 FEET; THENCE WEST PARALLEL WITH SAID SOUTH LINE A DISTANCE OF 570 FEET; THENCE NORTHWESTERLY 1240 FEET MORE OR LESS TO A POINT ON THE NORTH LINE THAT IS 400 FEET EAST OF SAID NORTHWEST CORNER; THENCE WEST ALONG SAID NORTH LINE A DISTANCE OF 400 FEET TO THE POINT OF BEGINNING.

SCHEDULE B
EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

PART ONE

SECTION ONE

1. Encroachments, overlaps, boundary line disputes, shortages in area or other matters which would be disclosed by an accurate survey or inspection of the premises.
2. Easements, or claims of easements, not shown by the public records.
3. Taxes or special assessments which are not shown as existing liens by the public records.

SECTION TWO

4. All assessments and taxes due in 2004, none now due and payable.
5. An easement for oil or gas pipe line in the document recorded in Book 255 at Page 218 of Official Records.
6. An easement for underground communications system in the document recorded June 3, 1964 in Book 473 at Page 530 of Official Records.
7. An easement for communications equipment station in the document recorded June 3, 1964 in Book 473 at Page 532 of Official Records.
8. An easement for electric line in the document recorded June 16, 1966 in Book 506 at Page 37 of Official Records.
9. Tenancy rights, either as month to month, or by virtue of written leases of persons in possession of any part of the subject property.

We Are Committed to Safeguarding Customer Information

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information – particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. Therefore, together with our parent company, The First American Corporation, we have adopted this Privacy Policy to govern the use and handling of your personal information.

Applicability

This Privacy Policy governs our use of the information which you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from a public record or from another person or entity. First American has also adopted broader guidelines that govern our use of personal information regardless of its source. First American calls these guidelines its *Fair Information Values*, a copy of which can be found on our website at www.firstam.com.

Types of Information

Depending upon which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

- Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, by telephone or any other means;
- Information about your transactions with us, our affiliated companies, or others; and
- Information we receive from a consumer reporting agency.

Use of Information

We request information from you for our own legitimate business purposes and not for the benefit of any nonaffiliated party. Therefore, we will not release your information to nonaffiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purpose, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic personal information listed above to one or more of our affiliated companies. Such affiliated companies include financial service providers, such as title insurers, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies, and escrow companies. Furthermore, we may also provide all the information we collect, as described above, to companies that perform marketing services on our behalf, on behalf of our affiliated companies, or to other financial institutions with whom we or our affiliated companies have joint marketing agreements.

Former Customers

Even if you are no longer our customer, our Privacy Policy will continue to apply to you.

Confidentiality and Security

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products or services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy and First American's *Fair Information Values*. We currently maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to
 - (i) the occupancy, use, or enjoyment of the land;
 - (ii) the character, dimensions or location of any improvement now or hereafter erected on the land;
 - (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or
 - (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge
3. Defects, liens, encumbrances, adverse claims, or other matters:
 - (a) created, suffered, assumed or agreed to by the insured claimant;
 - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
 - (c) resulting in no loss or damage to the insured claimant;
 - (d) attaching or created subsequent to Date of Policy; or
 - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy
4. Any claim, which arises out of the transaction vesting in the Insured the estate or interest insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
 - (a) the transaction creating the estate or interest insured by this policy being deemed a fraudulent conveyance or fraudulent transfer; or
 - (b) the transaction creating the estate or interest insured by this policy being deemed a preferential transfer except where the preferential transfer results from the failure:
 - (i) to timely record the instrument of transfer; or
 - (ii) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor

CONDITIONS AND STIPULATIONS

1. DEFINITION OF TERMS.

The following terms when used in this policy mean:

- (a) "insured": the insured named in Schedule A, and, subject to any rights or defenses the Company would have had against the named insured, those who succeed to the interest of the named insured by operation of law as distinguished from purchase including, but not limited to, heirs, distributees, devisees, survivors, personal representatives, next of kin, or corporate or fiduciary successors
- (b) "insured claimant": an insured claiming loss or damage
- (c) "knowledge" or "known": actual knowledge, not constructive knowledge or notice which may be imputed to an insured by reason of the public records as defined in this policy or any other records which impart constructive notice of matters affecting the land
- (d) "land": the land described or referred to in Schedule A, and improvements affixed thereto which by law constitute real property. The term "land" does not include any property beyond the lines of the area described or referred to in Schedule A, nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways, but nothing herein shall modify or limit the extent to which a right of access to and from the land is insured by this policy.
- (e) "mortgage": mortgage, deed of trust, trust deed, or other security instrument
- (f) "public records": records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge. With respect to Section 1(a)(iv) of the Exclusions from Coverage, "public records" shall also include environmental protection liens filed in the records of the clerk of the United States district court for the district in which the land is located
- (g) "unmarketability of the title": an alleged or apparent matter affecting the title to the land, not excluded or excepted from coverage, which would entitle a purchaser of the estate or interest described in Schedule A to be released from the obligation to purchase by virtue of a contractual condition requiring the delivery of marketable title.

2. CONTINUATION OF INSURANCE AFTER CONVEYANCE OF TITLE.

The coverage of this policy shall continue in force as of Date of Policy in favor of an insured only so long as the insured retains an estate or interest in the land, or holds an indebtedness secured by a purchase money mortgage given by a purchaser from the insured, or only so long as the insured shall have liability by reason of covenants of warranty made by the insured in any transfer or conveyance of the estate or interest. This policy shall not continue in force in favor of any purchaser from the insured of either

- (i) an estate or interest in the land, or
- (ii) an indebtedness secured by a purchase money mortgage given to an insured

3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT.

The insured shall notify the Company promptly in writing

- (i) in case of any litigation as set forth in Section 4(a) below,
- (ii) in case knowledge shall come to an insured hereunder of any claim of title or interest which is adverse to the title to the estate or interest, as insured, and which might cause loss or damage for which the Company may be liable by virtue of this policy, or
- (iii) if title to the estate or interest, an insured, is rejected as unmarketable. If prompt notice shall not be given to the Company, then as to the insured all liability of the Company shall terminate with regard to the matter or matters for which prompt notice is required; provided, however, that failure to notify the Company shall in no case prejudice the rights of any insured under this policy unless the Company shall be prejudiced by the failure and then only to the extent of the prejudice.

4. DEFENSE AND PROSECUTION OF ACTIONS; DUTY OF INSURED CLAIMANT TO COOPERATE.

(a) Upon written request by the insured and subject to the options contained in Section 6 of these Conditions and Stipulations, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an insured in litigation in which any third party asserts a claim adverse to the title or interest as insured, but only as to those stated causes of action alleging a defect, lien or encumbrance or other matter insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the insured to object for reasonable cause) to represent the insured as to those stated causes of action and shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs or expenses incurred by the insured in the defense of those causes of action which allege matters not insured against by this policy.

(b) The Company shall have the right, at its own cost, to institute and prosecute any action or proceeding or to do any other act which in its opinion may be necessary or desirable to establish the title to the estate or interest, as insured, or to prevent or reduce loss or damage to an insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable hereunder, and shall not thereby concede liability or waive any provision of this policy. If the Company shall exercise its rights under this paragraph, it shall do so diligently.

(c) Whenever the Company shall have brought an action or interposed a defense as required or permitted by the provisions of this policy, the Company may pursue any litigation to final determination by a court of competent jurisdiction and expressly reserves the right, in its sole discretion, to appeal from any adverse judgment or order.

(d) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding, the insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, and all appeals therein, and permit the Company to use, at its option, the name of the insured for this purpose. Whenever requested by the Company, the insured, at the Company's expense, shall give the Company all reasonable aid.

(i) in any action or proceeding, securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and

(ii) in any other lawful act which in the opinion of the Company may be necessary or desirable to establish the title to the estate or interest as insured. If the Company is prejudiced by the failure of the insured to furnish the required cooperation, the Company's obligations to the insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

5. PROOF OF LOSS OR DAMAGE.

In addition to and after the notices required under Section 3 of these Conditions and Stipulations have been provided the Company, a proof of loss or damage signed and sworn to by the insured claimant shall be furnished to the Company within 90 days after the insured claimant shall ascertain the facts giving rise to the loss or damage. The proof of loss or damage shall describe the defect in, or lien or encumbrance on the title, or other matter insured against by this policy which constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage. If the Company is prejudiced by the failure of the insured claimant to provide the required proof of loss or damage, the Company's obligations to the insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such proof of loss or damage.

In addition, the insured claimant may reasonably be required to submit to examination under oath by any authorized representative of the Company and shall produce for examination, inspection and copying, at such reasonable times and places as may be designated by any authorized representative of the Company, all records, books, ledgers, checks, correspondence and memoranda, whether bearing a date before or after Date of Policy, which reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the insured claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect and copy all records, books, ledgers, checks, correspondence and memoranda in the custody or control of a third party, which reasonably pertain to the loss or damage. All information designated as confidential by the insured claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the insured claimant to submit for examination under oath, produce other reasonably requested information or grant permission to secure reasonably necessary information from third parties as required in this paragraph, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that claim.

6. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY.

In case of a claim under this policy, the Company shall have the following additional options:

(a) To Pay or Tender Payment of the Amount of Insurance

To pay or tender payment of the amount of insurance under this policy together with any costs, attorneys' fees and expenses incurred by the insured claimant, which were authorized by the Company, up to the time of payment or tender of payment and which the Company is obligated to pay. Upon the exercise by the Company of this option, all liability and obligations to the insured under this policy, other than to make the payment required, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, and the policy shall be surrendered to the Company for cancellation.

(b) To Pay or Otherwise Settle With Parties Other than the Insured or With the Insured Claimant

(i) to pay or otherwise settle with other parties for or in the name of an insured claimant any claim insured against under this policy, together with any costs, attorneys' fees and expenses incurred by the insured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay; or

(ii) to pay or otherwise settle with the insured claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees and expenses incurred by the insured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in paragraphs (b)(i) or (ii), the Company's obligations to the insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute or continue any litigation.

7. DETERMINATION, EXTENT OF LIABILITY AND COINSURANCE.

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the insured claimant who has suffered loss or damage by reason of matters insured against by this policy and only to the extent herein described.

(a) The liability of the Company under this policy shall not exceed the least of:

(i) the Amount of Insurance stated in Schedule A; or,

(ii) the difference between the value of the insured estate or interest as insured and the value of the insured estate or interest subject to the defect, lien or encumbrance insured against by this policy.

(b) In the event the Amount of Insurance stated in Schedule A at the Date of Policy is less than 80 percent of the value of the insured estate or interest or the full consideration paid for the land, whichever is less, or if subsequent to the Date of Policy an improvement is erected on the land which increases the value of the insured estate or interest by at least 20 percent over the Amount of Insurance stated in Schedule A, then this Policy is subject to the following:

(i) where no subsequent improvement has been made, as to any partial loss, the Company shall only pay the loss pro rata in the proportion that the amount of insurance at Date of Policy bears to the total value of the insured estate or interest at Date of Policy; or

(ii) where a subsequent improvement has been made, as to any partial loss, the Company shall only pay the loss pro rata in the proportion that 120 percent of the Amount of Insurance stated in Schedule A bears to the sum of the Amount of Insurance stated in Schedule A and the amount expended for the improvement.

The provisions of this paragraph shall not apply to costs, attorneys' fees and expenses for which the Company is liable under this policy, and shall only apply to that portion of any loss which exceeds, in the aggregate, 10 percent of the Amount of Insurance stated in Schedule A.

(b) The Company will pay only those costs, attorneys' fees and expenses incurred in accordance with Section 4 of these Conditions and Stipulations.

8. APPORTIONMENT.

If the land described in Schedule A consists of two or more parcels which are not used as a single site, and a loss is established affecting one or more of the parcels but not all, the loss shall be computed and settled on a pro rata basis as if the amount of insurance under this policy was divided pro rata as to the value on Date of Policy of each separate parcel to the whole, exclusive to any improvements made subsequent to Date of Policy, unless a liability or value has otherwise been agreed upon as to each parcel by the Company and the insured at the time of the issuance of this policy and shown by an express statement or by an endorsement attached to this policy.

9. LIMITATION OF LIABILITY.

(a) If the Company established the title, or removes the alleged defect, lien or encumbrance, or cures the lack of a right of access to or from the land, or cures the claim of unmarketability of title, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals therefrom, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused thereby.

(b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals therefrom, adverse to the title as insured.

(c) The Company shall not be liable for loss or damage to any insured for liability voluntarily assumed by the insured in settling any claim or suit without the prior written consent of the Company.

10. REDUCTION OF INSURANCE, REDUCTION OR TERMINATION OF LIABILITY.

All payments under this policy, except payments made for costs, attorneys' fees and expenses, shall reduce the amount of the insurance pro tanto.

11. LIABILITY NONCUMULATIVE.

It is expressly understood that the amount of insurance under this policy shall be reduced by any amount the Company may pay under any policy insuring a mortgage to which exception is taken in Schedule B or to which the insured has agreed, assumed, or taken subject, or which is hereafter executed by an insured and which is a charge or lien on the estate or interest described or referred to in Schedule A, and the amount so paid shall be deemed a payment under this policy to the insured owner.

12. PAYMENT OF LOSS.

(a) No payment shall be made without producing this policy for endorsement of the payment unless the policy has been lost or destroyed, in which case proof of loss or destruction shall be furnished to the satisfaction of the Company.

(b) When liability and the extent of loss or damage has been definitely fixed in accordance with these Conditions and Stipulations, the loss or damage shall be payable within 30 days thereafter.

13. SUBROGATION UPON PAYMENT OR SETTLEMENT.

(a) The Company's Right of Subrogation.

Whenever the Company shall have settled and paid a claim under this policy, all right of subrogation shall vest in the Company unaffected by any act of the insured claimant.

The Company shall be subrogated to and be entitled to all rights and remedies which the insured claimant would have had against any person or property in respect to the claim had this policy not been issued. If requested by the Company, the insured claimant shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect this right of subrogation. The insured claimant shall permit the Company to sue, compromise or settle in the name of the insured claimant and to use the name of the insured claimant in any transaction or litigation involving these rights or remedies.

If a payment on account of a claim does not fully cover the loss of the insured claimant, the Company shall be subrogated to these rights and remedies in the proportion which the Company's payment bears to the whole amount of the loss.

If loss should result from any act of the insured claimant, as stated above, that act shall not void this policy, but the Company, in that event, shall be required to pay only that part of any losses insured against by this policy which shall exceed the amount, if any, lost to the Company by reason of the impairment by the insured claimant of the Company's right of subrogation.

(b) The Company's Rights Against Non-insured Obligors.

The Company's right of subrogation against non-insured obligors shall exist and shall include, without limitation, the rights of the insured to indemnities, guaranties, other policies of insurance or bonds, notwithstanding any terms or conditions contained in those instruments which provide for subrogation rights by reason of this policy.

14. ARBITRATION. (DOES NOT APPLY IN STATE OF MISSOURI)

Unless prohibited by applicable law, either the Company or the insured may demand arbitration pursuant to the Title Insurance Arbitration Rules of the American Arbitration Association. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the insured arising out of or relating to this policy, any service of the Company in connection with its issuance or the breach of a policy provision or other obligation. All arbitrable matters when the Amount of Insurance is \$1,000,000 or less shall be arbitrated at the option of either the Company or the insured. All arbitrable matters when the Amount of Insurance is in excess of \$1,000,000 shall be arbitrated only when agreed to by both the Company and the insured. Arbitration pursuant to this policy and under the Rules in effect on the date the demand for arbitration is made or, at the option of the insured, the Rules in effect at Date of Policy shall be binding upon the parties. The award may include attorneys' fees only if the laws of the state in which the land is located permit a court to award attorneys' fees to a prevailing party. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

The law of the situs of the land shall apply to an arbitration under the Title Insurance Arbitration Rules.

A copy of the Rules may be obtained from the Company upon request.

15. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT.

(a) This policy together with all endorsements, if any, attached hereto by the Company is the entire policy and contract between the insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.

(b) Any claim of loss or damage, whether or not based on negligence, and which arises out of the status of the title to the estate or interest covered hereby or by any action asserting such claim, shall be restricted to this policy.

(c) No amendment of or endorsement to this policy can be made except by a writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, an Assistant Secretary, or validating officer or authorized signatory of the Company.

16. SEVERABILITY.

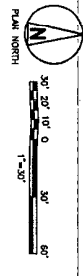
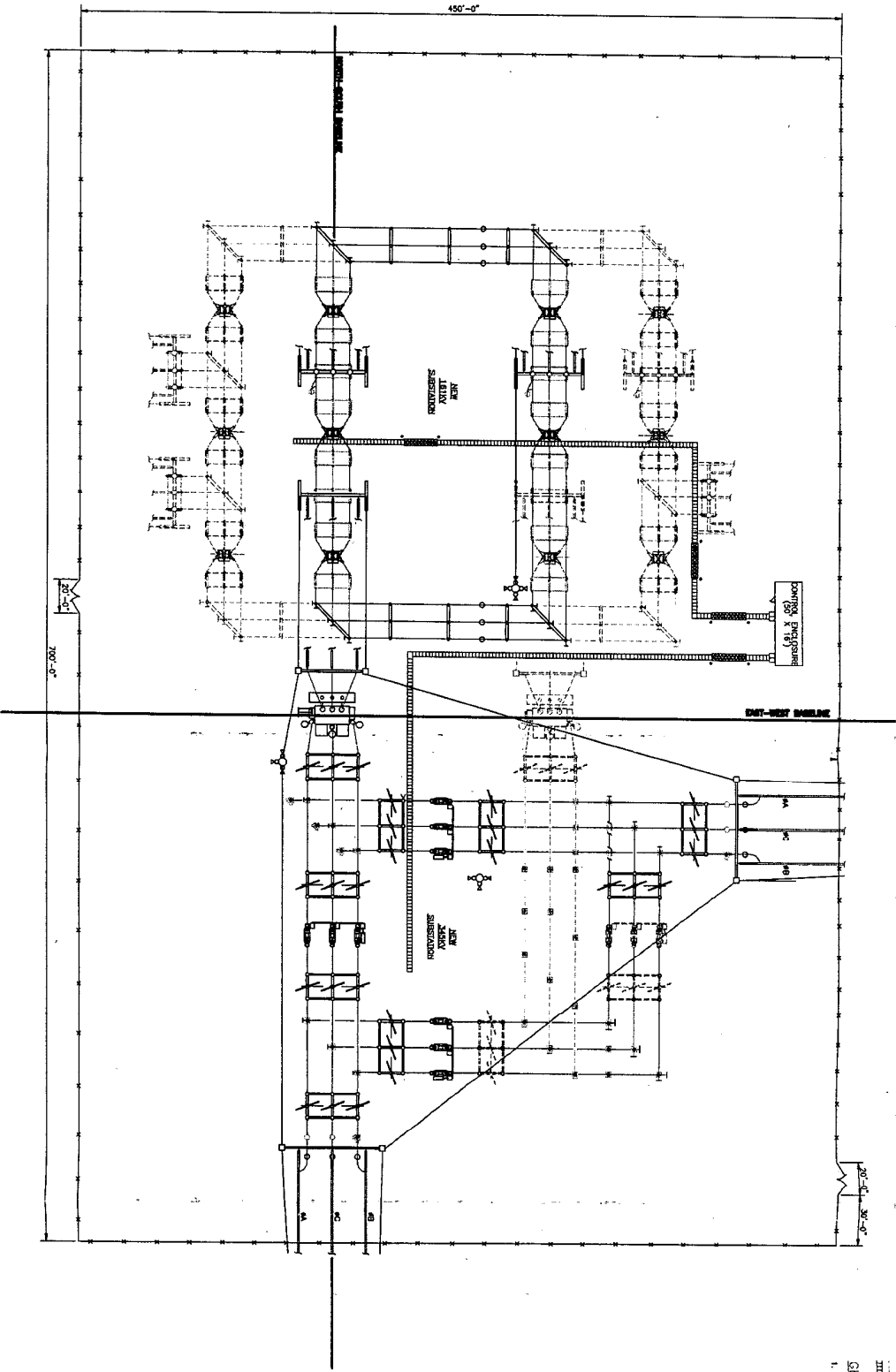
In the event any provision of this policy is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision and all other provisions shall remain in full force and effect.

17. NOTICES, WHERE SENT.

All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this policy and shall be addressed to the Company at 1 First American Way, Santa Ana, California, 92702. (714) 800-3000

APPENDIX C

Site Plan



NO.	DATE	BY	REVISIONS

LEGEND
 - - - - - LIGHT FUTURE EQUIPMENT 30'-0"
 - - - - - FUTURE BARS AND EQUIPMENT
 - - - - - IMMEDIATE
 - - - - - PRECAST CONCRETE CABLE TRENCH

GENERAL NOTES

1. DESCRIPTION OF LIGHT FIXTURES & AC FIXTURES TO BE INSTALLED AT THE SUBSTATION SHALL BE AS SHOWN ON PILES SHEET BULLDOZER TRENCH, UNDER 120V PRIMARY POWER INPUT, METAL HAZARD SAFETY ON PILES SHEET BULLDOZER TRENCH DIMENSIONS SHOWN BY DIMENSIONS PER M122 LAMP.

CONFIDENTIAL

MISSOURI PUBLIC SERVICE
 Peculiar 345/161KV Substation
 SITE SECURITY PLAN

DATE: 10/1/2011
 TIME: 10:00 AM
 PROJECT NO.: 11122
 SHEET NO.: 0

APPENDIX D
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 E

Permits

NPDES Land Disturbance Permit

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

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

February 7, 2007
Expiration Date
MO 780-1.131 (7-9-4)

James B. Maty, Director, Kansas City Regional Office

US Army Corps of Engineers Correspondence



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):

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 OPPORTUNITIES FOR PROFFERED AND REQUESTED PERMITS

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/cecwo/reg> or Corps regulations at 33 CFR Part 33.

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 notice.

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:
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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***](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 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;

(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 ½-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 NWPs 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 NWPs 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 NWPs 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 NWPs 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 NWPs 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 NWPs 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. NWPs do not obviate the need to obtain other Federal, state, or local permits, approvals, or authorizations required by law.
3. NWPs do not grant any property rights or exclusive privileges.
4. NWPs do not authorize any injury to the property or rights of others.
5. NWPs 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. Grc undwater 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.

US Fish & Wildlife Correspondence

AQUATERRA
ENVIRONMENTAL SOLUTIONS, INC.

September 29, 2004

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

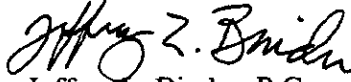
REC'D SEP 30 2004

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

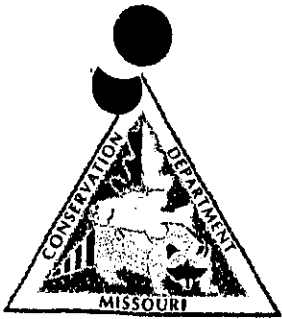
Enclosure

"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 the Rick L. Hansen
Field Supervisor

7 October 2004
Date

Missouri Department of Conservation Correspondence



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

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

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

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.

State Historic Preservation Office Correspondence

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

COUNTY:

FERC

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.

V: 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

Structure Height Notification Memo



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/locairmm.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;

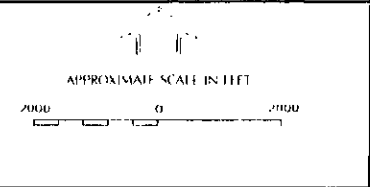
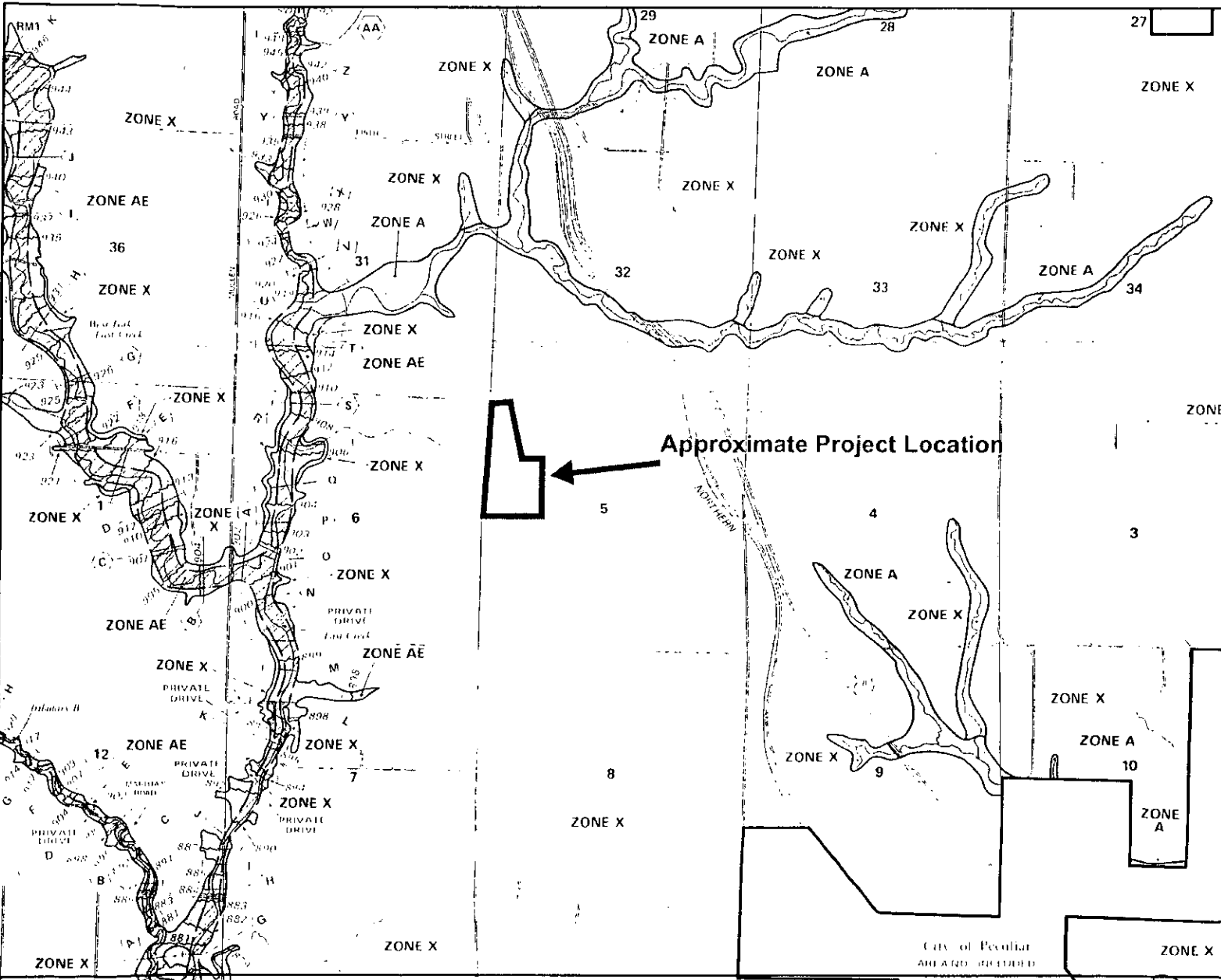
MEMORANDUM

- (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

FEMA FIRM No. 290783 0025C



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
ALL ARE INCLUDED

This is an official copy of a portion of the above referenced flood map. It was printed using FIRM On Line. The 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.nac.fema.gov.

County Building/Grading Permits



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 Project Control No: Date Permit Issued:
 for inspections call 380-8134 (KC line) Application Date:

JOB ADDRESS: **Post Office:**

 S / T / R QTR-QTR SEC PARCEL NO LOT BLOCK SUB DIVISION

Project Name:
 Use Of Building: Use Code:
 Applicant ID:
 Applicant Person or Firm Applicant Code:

 APPLICANT NAME ADDRESS CITY STATE ZIP CODE
 Phone: Fax: Mobile: 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: Plumbing: Mechanical: Electrical Service: Gas Piping: Other:
 Type of Building: Class of Work Occupancy Group: Type of Construction:
 Zoning District: Zoning File No: Flood Plain Map Panel: Flood Plain Development Permit:
 Gross Building Area: Stories or Bldg Height: No of Dwelling Units:
 Receipt No. Fee Amount Permit Status Valuation of Work:
 Date Fee Paid: Fee Code Control No:

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 judgement 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,
 ,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

 APPLICANT SIGNATURE DATE FOR THE CHIEF BUILDING OFFICIAL 2/1/05
 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 Hubenbold
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: 5901 E 203rd ST

TYPE OF INSPECTIONS: FOOTING

INSPECTION COMMENTS: _____

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

TIME

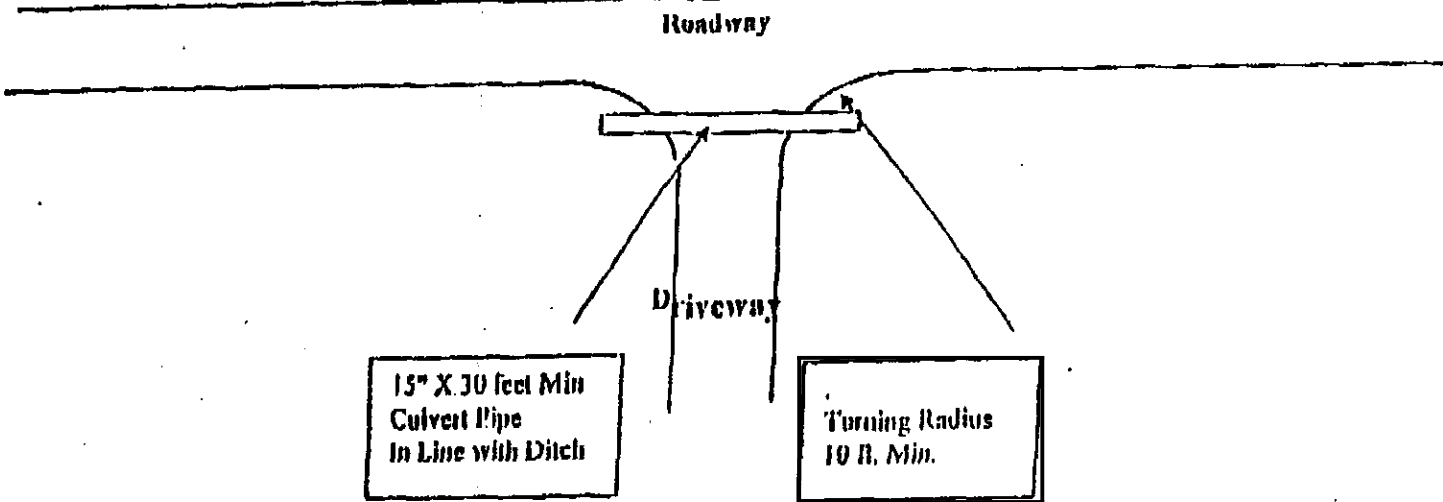
IN: 7:05

OUT: _____ MILEAGE: 5.00

INSPECTOR: [Signature]

DATE: 2/20/19

Road & Bridge Driveway Permit



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 Inherill

Safety Issues/ Site Distance _____

Approval _____

Date Installed _____

Permit Fee \$25.00 Cash

File in R & B

APPENDIX F
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.

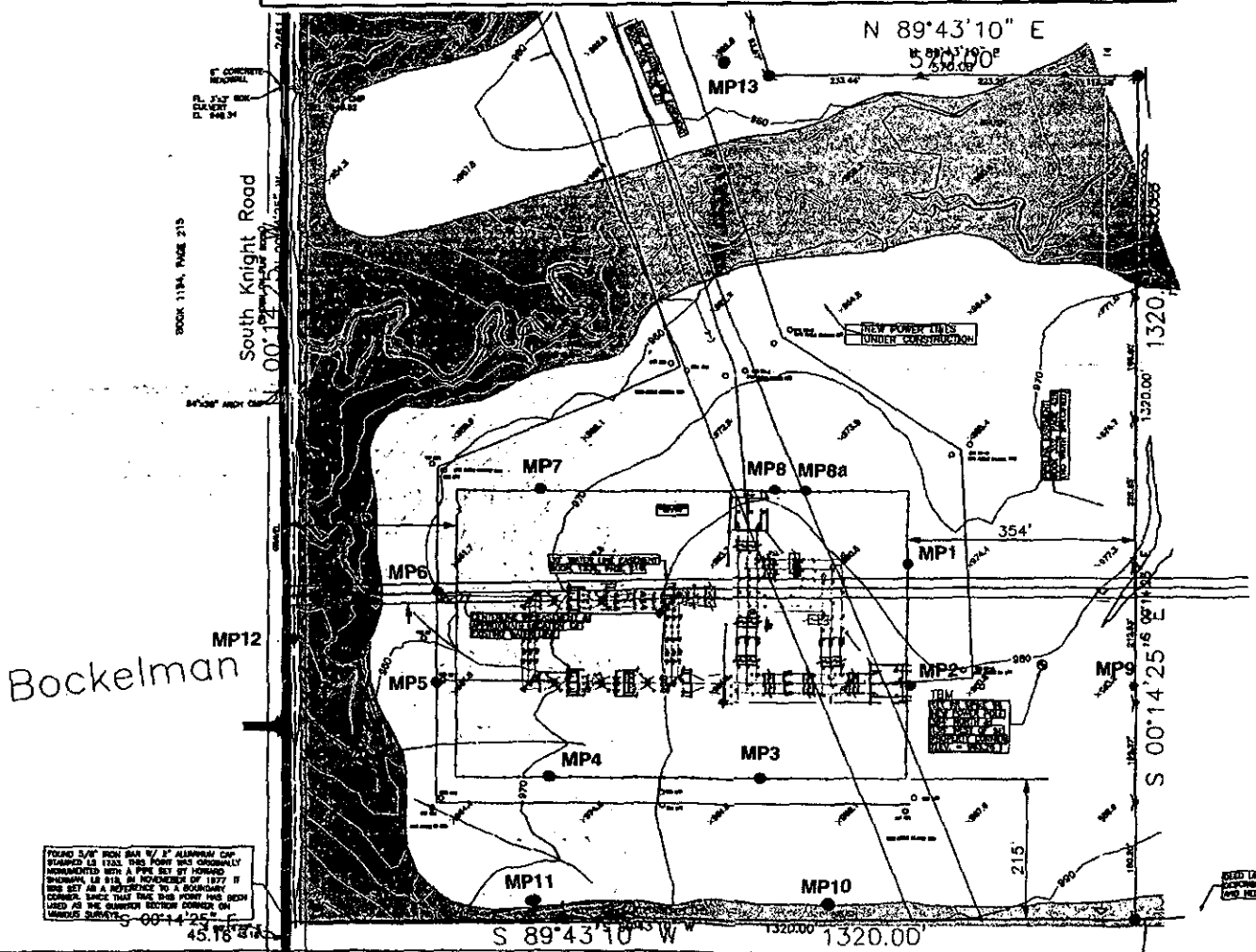
4.0 Results

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**



Bockelman

Effertz Brot

FOUND 5/8" IRON BAR W/ 2" ALUMINUM CAP
 BEARING LB 1133. THIS POINT WAS ORIGINALLY
 MONUMENTED WITH A PIPE SET BY HOWARD
 SHEDDEN, LB 818, IN NOVEMBER OF 1877 IF
 THIS SET HAS A REFERENCE TO A BOUNDARY
 CORNER, SINCE THAT TIME THIS POINT HAS BEEN
 USED AS THE QUARTER SECTION CORNER ON
 LANDS SURVEYED 00°14'25" E

READ LINE BOOK BY THIS SET
 RECORDED AREA TO INCLUDE FENCE
 AND RIDGE

BOOK 1184, PAGE 218

2ND COR. LOT 1, W/4
 SEC. 8, T4N, 46. R10W, 3E
 CLAY COUNTY, MISSOURI
 AS LOCATED BY PROVISION

BOOK 315, PAGE 66

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

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 G
Public Support

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,

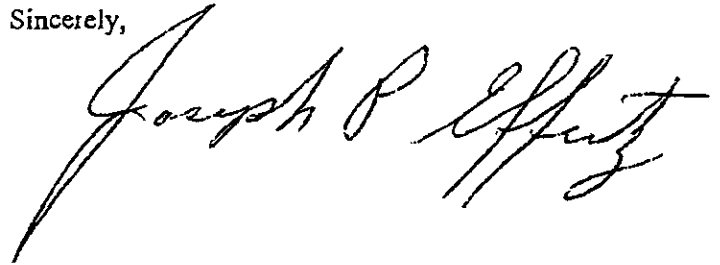
Ruth Britton
L F Britton

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,

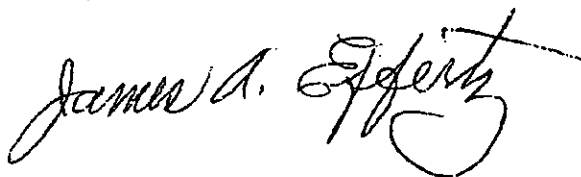
A handwritten signature in cursive script, reading "Joseph P. Effert". The signature is written in dark ink and is positioned to the right of the word "Sincerely,".

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 that reads "James A. Egerly". 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. Efferly

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,

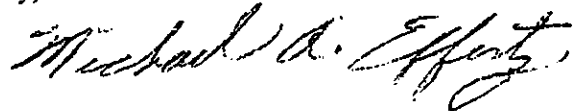
*D'Ann Drieling
Cass County resident*

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. Effertz". 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 black ink, appearing to read "Thomas R. Elliott". The signature is written in a cursive style with a large, stylized initial "T".

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.

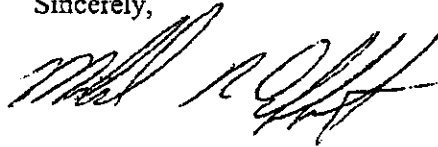
Sincerely, 

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 read "Mark R. Holt", written in a cursive style.