

DEPARTMENT OF THE ARMY

NOTE.—It is to be understood that this instrument does not give any property rights either in real estate or material, or any exclusive privileges; and that it does not authorize any injury to private property or invasion of private rights, or any infringement of Federal, State, or local laws or regulations, nor does it obviate the necessity of obtaining State assent to the work authorized. IT MERELY EXPRESSES THE ASSENT OF THE FEDERAL GOVERNMENT SO FAR AS CONCERNS THE PUBLIC RIGHTS OF NAVIGATION. (See *Cummings v. Chicago*, 188 U. S., 410.) 16-18168-2

PERMIT

Nashville Tennessee District Corps of Engineers.

9 June, 1960

New York Mining & Manufacturing Company
P. O. Box 126
Calvert City, Kentucky

Gentlemen:

Referring to written request dated 16 May 1960 (Signed by Mr. H. Bryant Morgan, Project Engineer)

I have to inform you that, upon the recommendation of the Chief of Engineers, and under the provisions of Section 10 of the Act of Congress approved March 3, 1899, entitled "An act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes," you are hereby authorized by the Secretary of the Army.

to **Construct barge loading facilities**
(Here describe the proposed structure or work.)

in **Tennessee River, left bank.**
(Here to be named the river, harbor, or waterway concerned.)

at **A point about 1 mile upstream from the mouth of cypress creek, Marshall County,**
(Here to be named the nearest well-known locality—preferably a town or city—and the distance in miles and tenths from some definite point in the same, stating whether above or below or giving direction by points of compass.)
Kentucky, at Mile 11.0 above the mouth of the river.

in accordance with the plans shown on the drawing attached hereto **Marked**
(Or drawings; give file number or other definite identification marks.)

"PROPOSED BARGE MOORING CELLS * * * *", dated 12 April 1960,

subject to the following conditions:

(a) That the work shall be subject to the supervision and approval of the District Engineer, Corps of Engineers, in charge of the locality, who may temporarily suspend the work at any time, if in his judgment the interests of navigation so require.

(b) That any material dredged in the prosecution of the work herein authorized shall be removed evenly and no large refuse piles, ridges across the bed of the waterway, or deep holes that may have a tendency to cause injury to navigable channels or to the banks of the waterway shall be left. If any pipe, wire, or cable hereby authorized is laid in a trench, the formation of permanent ridges across the bed of the waterway shall be avoided and the back filling shall be so done as not to increase the cost of future dredging for navigation. Any material to be deposited or dumped under this authorization, either in the waterway or on shore above high-water mark, shall be deposited or dumped at the locality shown on the drawing hereto attached, and, if so prescribed thereon, within or behind a good and substantial bulkhead or bulkheads, such as will prevent escape of the material in the waterway. If the material is to be deposited in the harbor of New York, or in its adjacent or tributary waters, or in Long Island Sound, a permit therefor must be previously obtained from the Supervisor of New York Harbor, New York City.

(c) That there shall be no unreasonable interference with navigation by the work herein authorized.

(d) That if inspections or any other operations by the United States are necessary in the interest of navigation, all expenses connected therewith shall be borne by the permittee.

(e) That no attempt shall be made by the permittee or the owner to forbid the full and free use by the public of all navigable waters at or adjacent to the work or structure.

(f) That if future operations by the United States require an alteration in the position of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army, it shall cause unreasonable obstruction to the free navigation of said water, the owner will be required upon due notice from the Secretary of the Army, to remove or alter the structural work or obstructions caused thereby without expense to the United States, so as to render navigation reasonably free, easy, and unobstructed; and if, upon the expiration or revocation of this permit, the structure, fill, excavation, or other modification of the watercourse hereby authorized shall not be completed, the owners shall, without expense to the United States, and to such extent and in such time and manner as the Secretary of the Army may require, remove all or any portion of the uncompleted structure or fill and restore to its former condition the navigable capacity of the watercourse. No claim shall be made against the United States on account of any such removal or alteration.

(g) That the United States shall in no case be liable for any damage or injury to the structure or work herein authorized which may be caused by or result from future operations undertaken by the Government for the conservation or improvement of navigation, or for other purposes, and no claim or right to compensation shall accrue from any such damage.

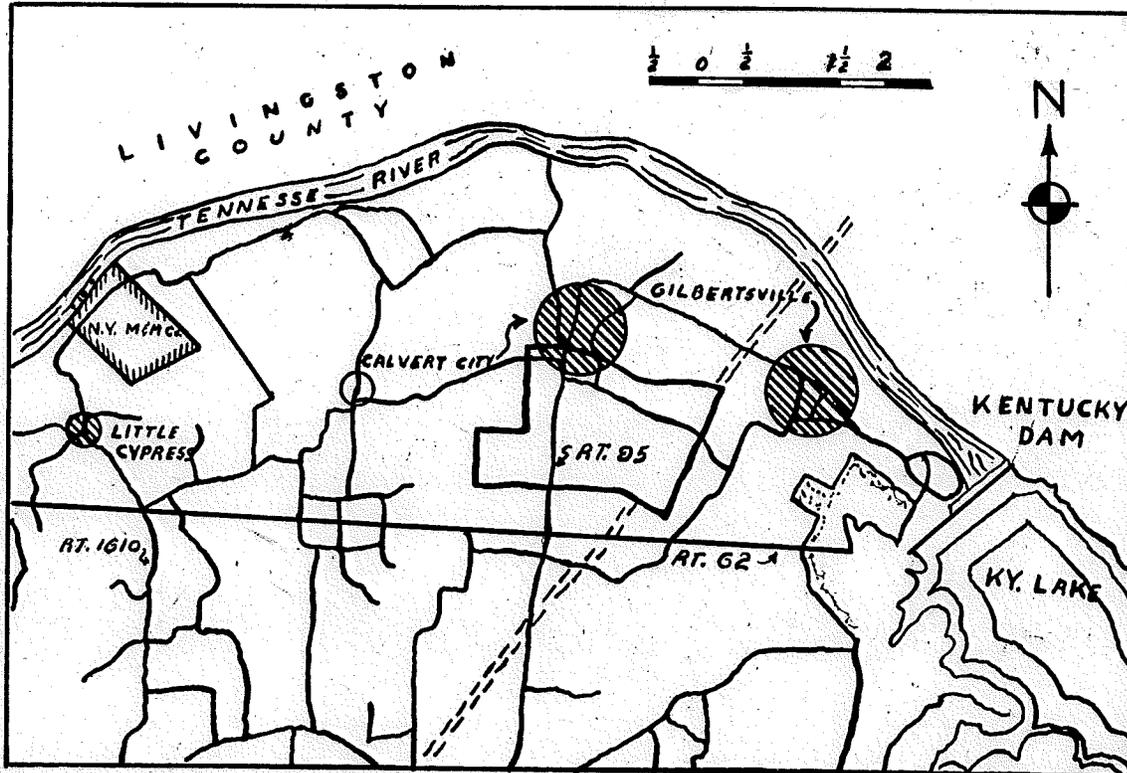
(h) That if the display of lights and signals on any work hereby authorized is not otherwise provided for by law, such lights and signals as may be prescribed by the U. S. Coast Guard, shall be installed and maintained by and at the expense of the owner.

(i) That the permittee shall notify the said district engineer at what time the work will be commenced, and as far in advance of the time of commencement as the said district engineer may specify, and shall also notify him promptly, in writing, of the commencement of work, suspension of work, if for a period of more than one week, resumption of work, and its completion.

(j) That if the structure or work herein authorized is not completed on or before ~~the thirty-first~~ day of ~~December~~, 19~~61~~, this permit, if not previously revoked or specifically extended, shall cease and be null and void.

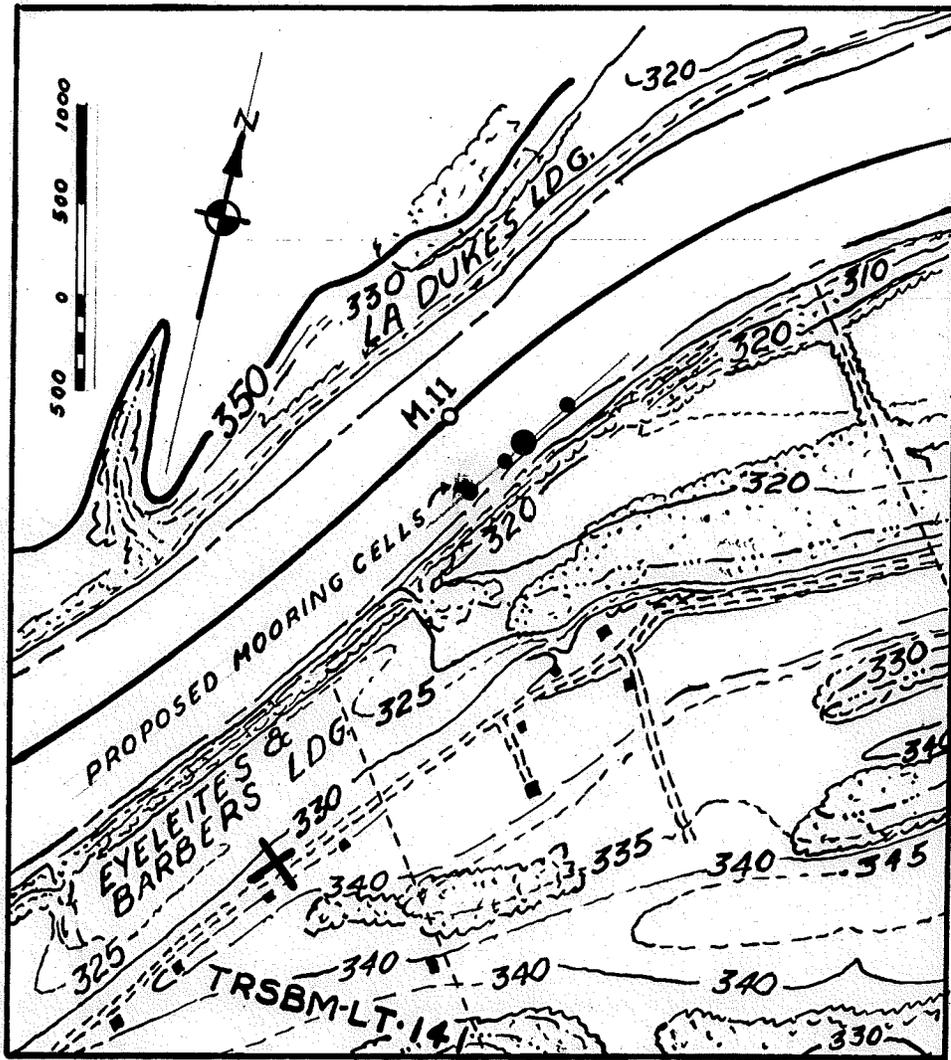
By authority of the Secretary of the Army:


VINCENT P. CARLSON
Colonel, Corps of Engineers
District Engineer



PROPERTY AS SHOWN 5.6 MILES FROM CALVERT CITY

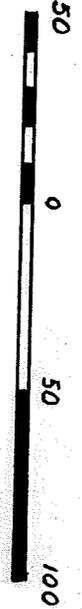
VICINITY MAP
 PROPOSED BARGE MOORING CELLS
 ON THE TENNESSEE RIVER NEAR
 CHANNEL MILE 11 IN MARSHALL
 COUNTY, KENTUCKY.
 APPLICATION BY NEW YORK MINING
 AND MANUFACTURING COMPANY OF
 DORCHESTER, VIRGINIA.
 APRIL 12, 1960.



From T. V.A. Commerce Dept.
 Chart No. 9-3-47 G RT 1 291D138-2

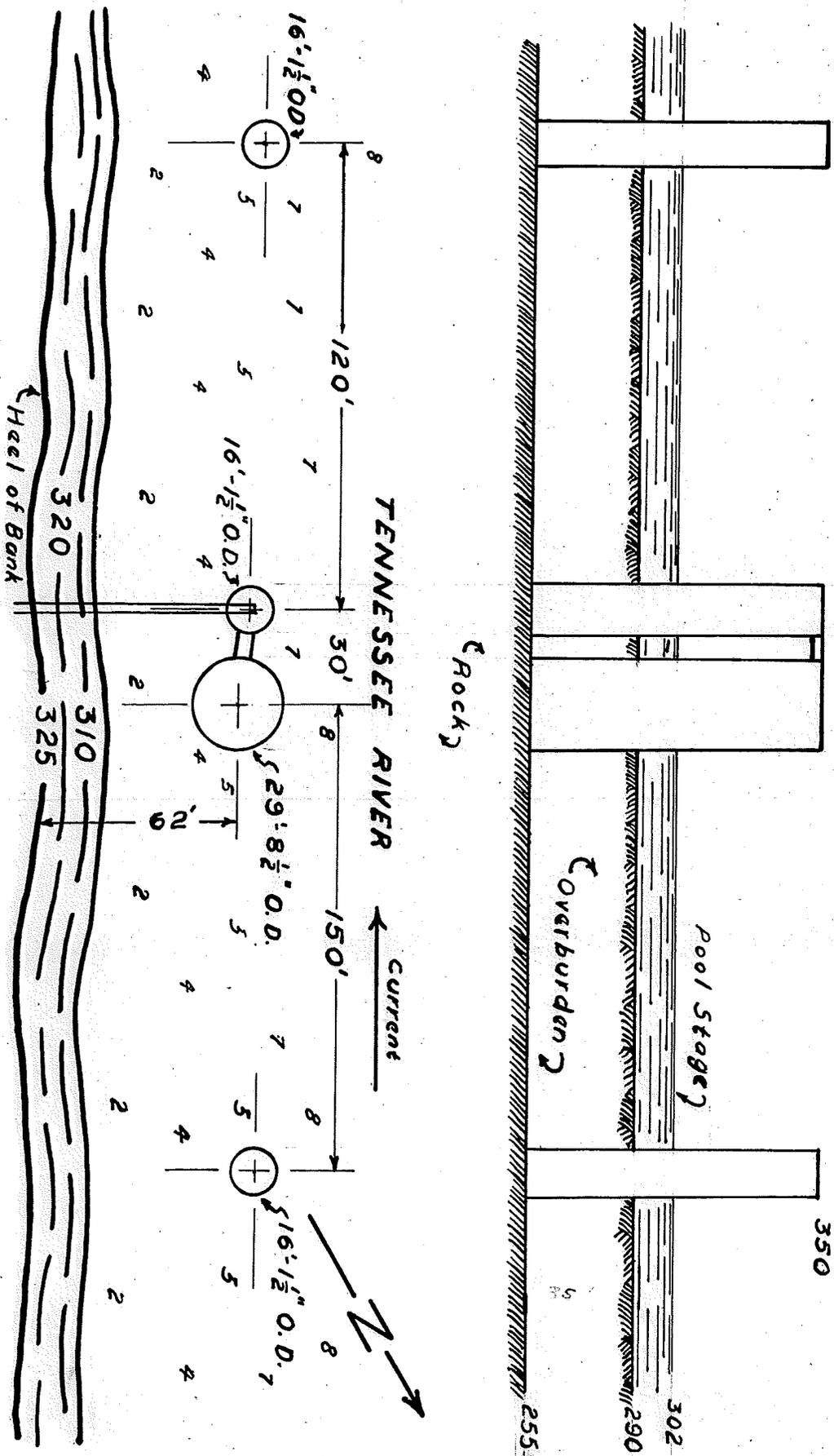
PROPOSED BARGE
 MOORING CELLS ON
 TENNESSEE RIVER NEAR
 CHANNEL MILE 11.0 IN
 MARSHALL COUNTY, KY.
 APPLICATION BY NEW
 YORK MINING AND MFG.
 CO. DORCHESTER, VIRGINIA
 APRIL 12, 1960

done



PROPOSED BARGE
MOORING CELLS
NEAR MILE POST 11
IN MARSHALL CO., KY.

APPLICATION BY:
NEW YORK MINING &
MANUFACTURING CO.
DORCHESTER, VA.
APRIL 12, 1960



500' x 40'

MODIFIED 12/18/2003 *jm*
MODIFIED 4/19/2004 *jm*

DEPARTMENT OF THE ARMY PERMIT

PERMITTEE: First Marine, LLC

PERMIT NUMBER: 406400

ISSUING OFFICE: Nashville District Corps of Engineers

NOTE: The term you and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

PROJECT DESCRIPTION: The proposed work consists of transferring the existing Department of the Army (DA) permit from BOC Group to the applicant, establish a river barge fleeting area, construct rail facilities for handling coal, stockpiling coal, and protecting approximately 2000 feet of shoreline with 1,900 cubic yards of stone riprap. The facility will handle approximately 5 million tons of coal a year utilizing 3,300 barges.

PROJECT LOCATION: Mile 11.0 L, Tennessee River in Marshall County, Kentucky, USGS Map: LITTLE CYPRESS-KY. LAT: 37-02-26.87 LONG: 88-26-26.89.

PERMIT CONDITIONS:

JUN 20 2002

GENERAL CONDITIONS:

1. The time limit for completing the work authorized ends on June 20, 2007. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you must make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity, or should you desire to abandon it without a good faith transfer, you may obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archaeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places. (33 CFR 325 (Appendix A))
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.
7. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to

remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

Special Conditions: (SEE CONTINUATION SHEET 1, SPECIAL CONDITIONS)

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:
 - (x) Section 10 of the Rivers and Harbors Act Of 1899 (33 U.S.C. 403).
 - (x) Section 404 of the Clean Water Act (33 U.S.C. 1344)
 - () Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413)
2. Limits of this authorization.
 - a. This permit does not obviate the need to obtain other Federal, state or local authorizations required by law.
 - b. This permit does not grant any property rights or exclusive privileges.
 - c. This permit does not authorize any injury to the property or rights of others.
 - d. This permit does not authorize interference with any existing or proposed Federal project.
3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:
 - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
 - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
 - d. Design or construction deficiencies associated with the permitted work.
 - e. Damage claims associated with any future modification, suspension, or revocation of this permit.
4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
 - a. You fail to comply with the terms and conditions of this permit.
 - b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as this specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

Fiest Marine Properties LLC. W.A. Holliman Mgr. June 17/2002
(PERMITTEE) (DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

Steven W. Gay, LTC Corps of Engineers
(DISTRICT COMMANDER)

By: H. Joe Cathey

H. Joe Cathey, C.F.P.
Project Manager

June 20, 2002
(DATE)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

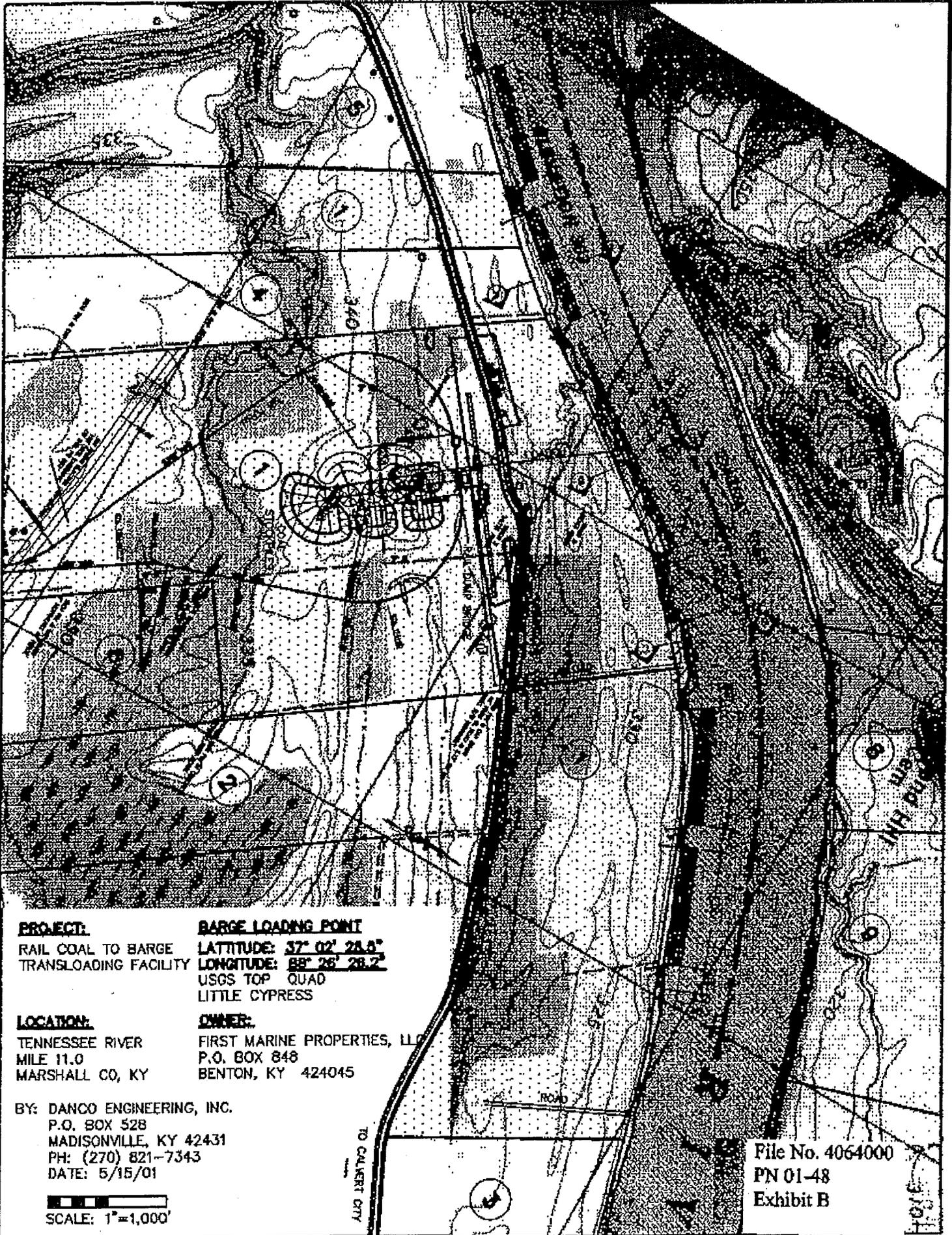
(TRANSFEREE)

(DATE)

**CONTINUATION SHEET 1
SPECIAL CONDITIONS**

Special Conditions:

- The work must be in accordance with any plans attached to this permit.
- A copy of this permit must be available on-site and you must ensure all contractors are aware of its conditions and abide by them.
- A strict erosion and sediment control program must be instituted and maintained for the life of the project and all disturbed areas must be properly seeded, mulched, and riprapped, or otherwise stabilized as soon as practicable to prevent erosion.
- The streambank must be armored with riprap for the entire length of the terminal (2,000 feet).
- Disturbance to riparian vegetation shall be kept to a minimum during construction.
- The mitigation plan attached to this permit must be implemented as presented. The Corps of Engineers must approve any deviations from the plan in writing.
- After a period of 2 years from the date the terminal is operational, the health of the mussel beds in the vicinity of the terminal shall be monitored. The August 14, 2001 survey shall be replicated and the results compared. Results of the monitoring report must be furnished to the Corps of Engineers, Tennessee Valley Authority, US Fish and Wildlife Service, and Kentucky Department of Fish and Wildlife Resources for review. Based on the review of this comparison, a decision would be made on any operational changes needed and the need for future monitoring.
- You hereby recognize the structures may be subject to damage by wave wash from passing vessels. The issuance of this permit does not relieve you from taking all proper steps to ensure the integrity of the structures and the safety of boats/barges moored thereto from damage by wave wash and you shall not hold the United States liable for any such damage.
- You must install and maintain, at your expense, any safety lights and signals prescribed by the United States Coast Guard (USCG), through regulations or otherwise, on your authorized facilities. The USCG may be reached at the following address and telephone number: Commander, Eighth Coast Guard District, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130-3396.
- Helper boats and winches shall be used to handle barges within the confines of the terminal; no large mainline tows shall be allowed in the terminal to handle barges.
- Barges can be no more than three abreast in the fleeting area and dock site.
- An on-site preconstruction meeting must be held among representatives of the Nashville District Corps of Engineers, permittee, and contractor(s) to discuss the conditions of this permit. The contractor must present their method of operation for the proposed work at this meeting. You should contact Mr. S. S. Hanke at (615) 369-7521 to schedule and arrange the required meeting.
- Before your contractor demobilizes, a joint on-site final inspection must be scheduled and conducted with representatives of this office to determine if all work related to this permit has been successfully completed.
- Certified as-built drawings shall be furnished this office within 60 days of completion of construction.
- Should you desire to handle commodities other than coal, you must notify and obtain any necessary approvals from the Corps of Engineers well in advance of accepting these commodities.



PROJECT:

RAIL COAL TO BARGE
TRANSLOADING FACILITY

BARGE LOADING POINT

LATITUDE: 37° 02' 28.0"
LONGITUDE: 88° 26' 28.2"
USGS TOP QUAD
LITTLE CYPRESS

LOCATION:

TENNESSEE RIVER
MILE 11.0
MARSHALL CO, KY

OWNER:

FIRST MARINE PROPERTIES, LLC
P.O. BOX 848
BENTON, KY 424045

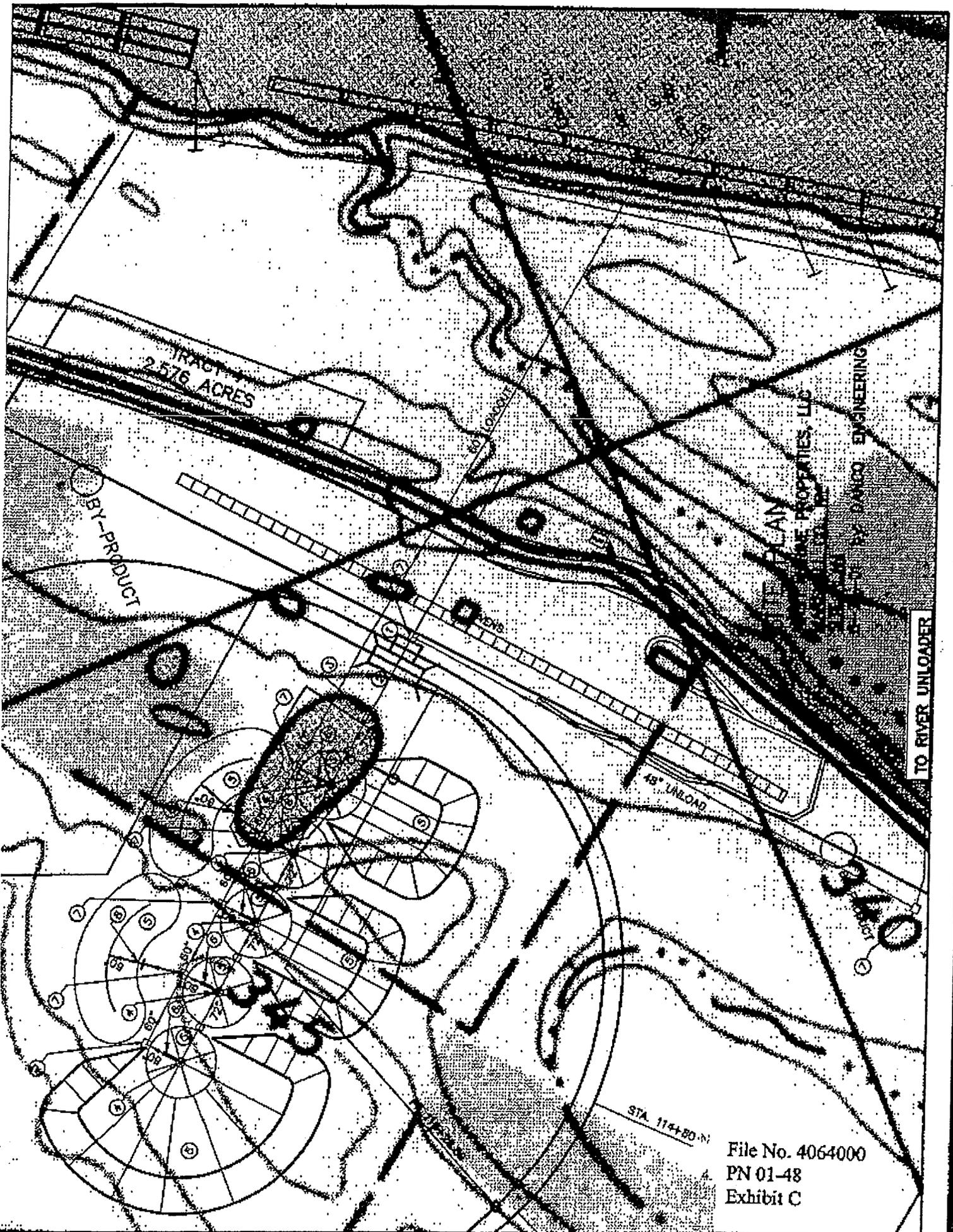
BY: DANCO ENGINEERING, INC.
P.O. BOX 528
MADISONVILLE, KY 42431
PH: (270) 821-7343
DATE: 5/15/01

SCALE: 1"=1,000'

File No. 4064000
PN 01-48
Exhibit B

TO CALVERT CITY

ROAD

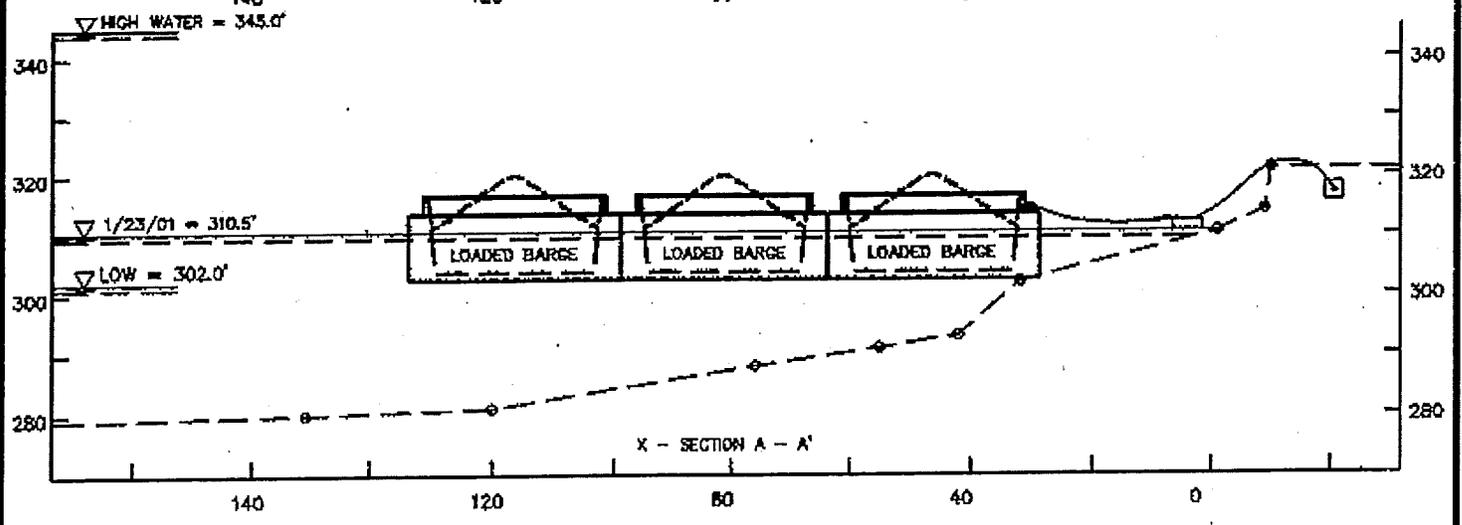
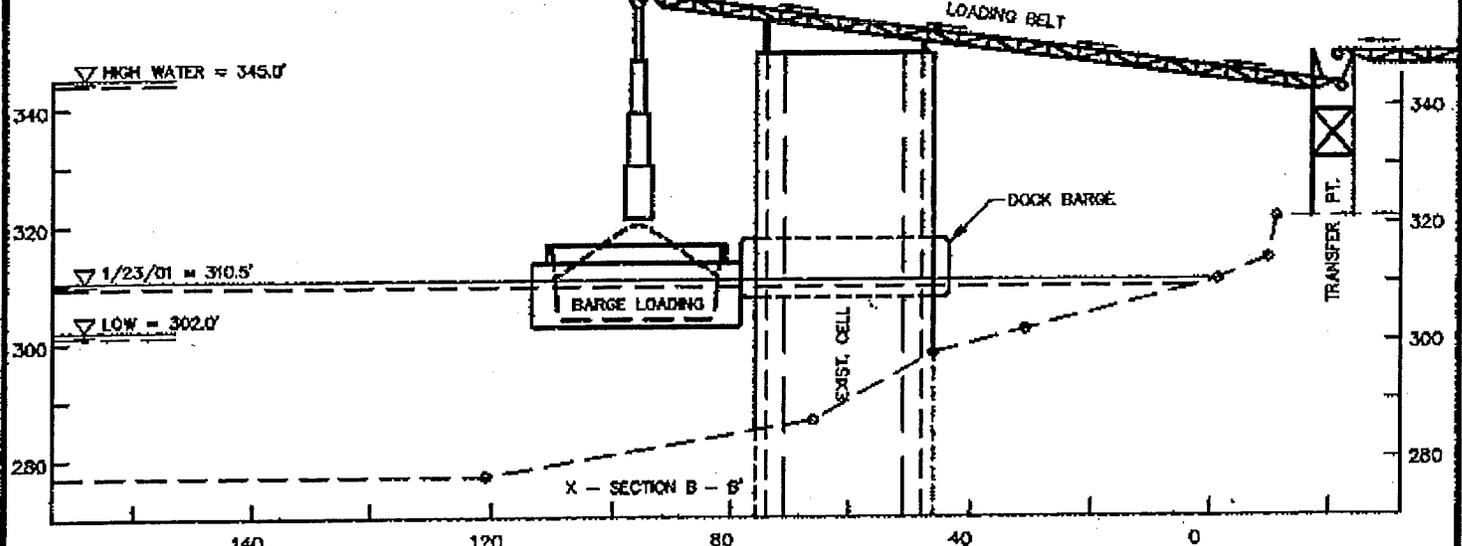
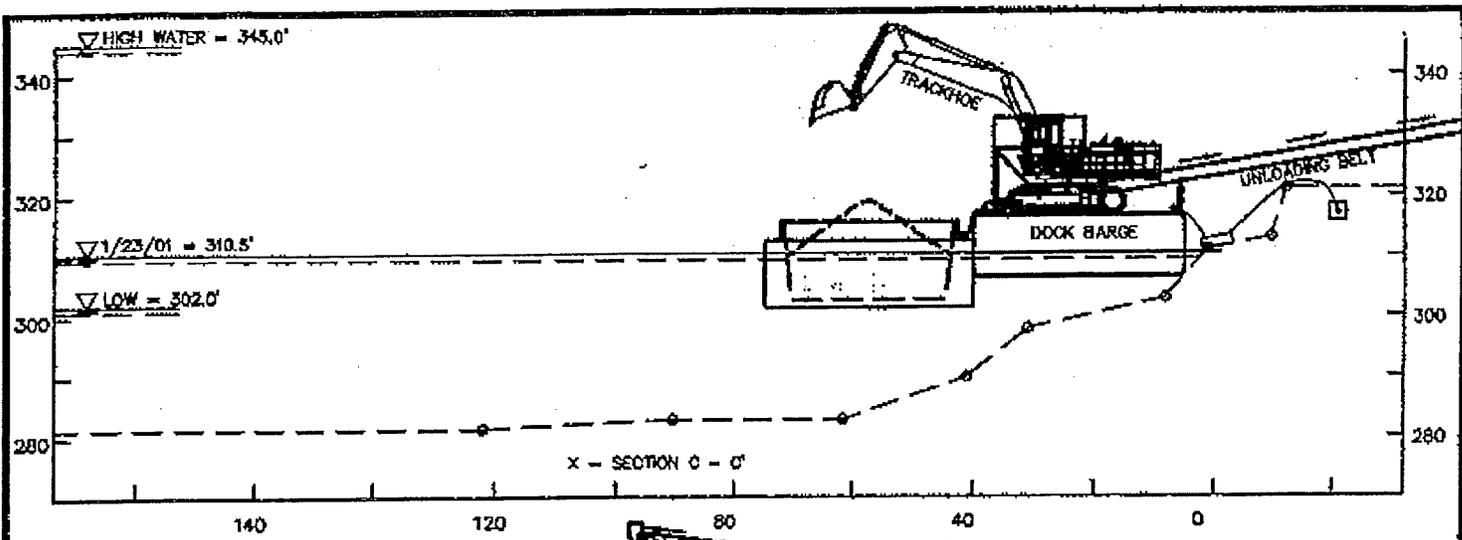


PLAN
SUNSHINE PROPERTIES, LLC
SUNSHINE ENGINEERING

TO RIVER UNLOADER

File No. 4064000
PN 01-48
Exhibit C

STA. 114+80-N



PROJECT:
 RAIL COAL TO BARGE
 TRANSLOADING FACILITY

BARGE LOADING POINT
 LATITUDE: 37° 02' 28.5"
 LONGITUDE: 88° 26' 26.2"
 USGS TOP QUAD
 LITTLE CYPRESS

BY: DANCO ENGINEERING, INC.
 P.O. BOX 528
 MADISONVILLE, KY 42431
 PH: (270) 821-7343
 DATE: 5/15/01

File No. 4064000
 PN 01-48
 Exhibit D

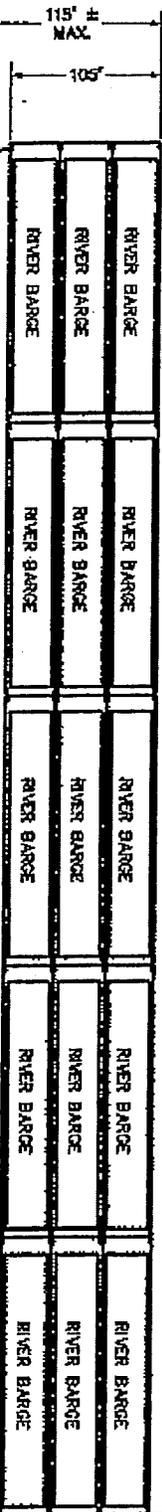
LOCATION:
 TENNESSEE RIVER
 MILE 11.0
 MARSHALL CO, KY

OWNER:
 FIRST MARINE PROPERTIES, LLC
 P.O. BOX 848
 BENTON, KY 42045

FIRST MARINE PROPERTIES, LLC

TENN. RIVER

975'



BARGE FLEETING DETAIL

SCALE: AS NOTED

PROJECT:
RAIL COAL TO BARGE
TRANSLOADING FACILITY

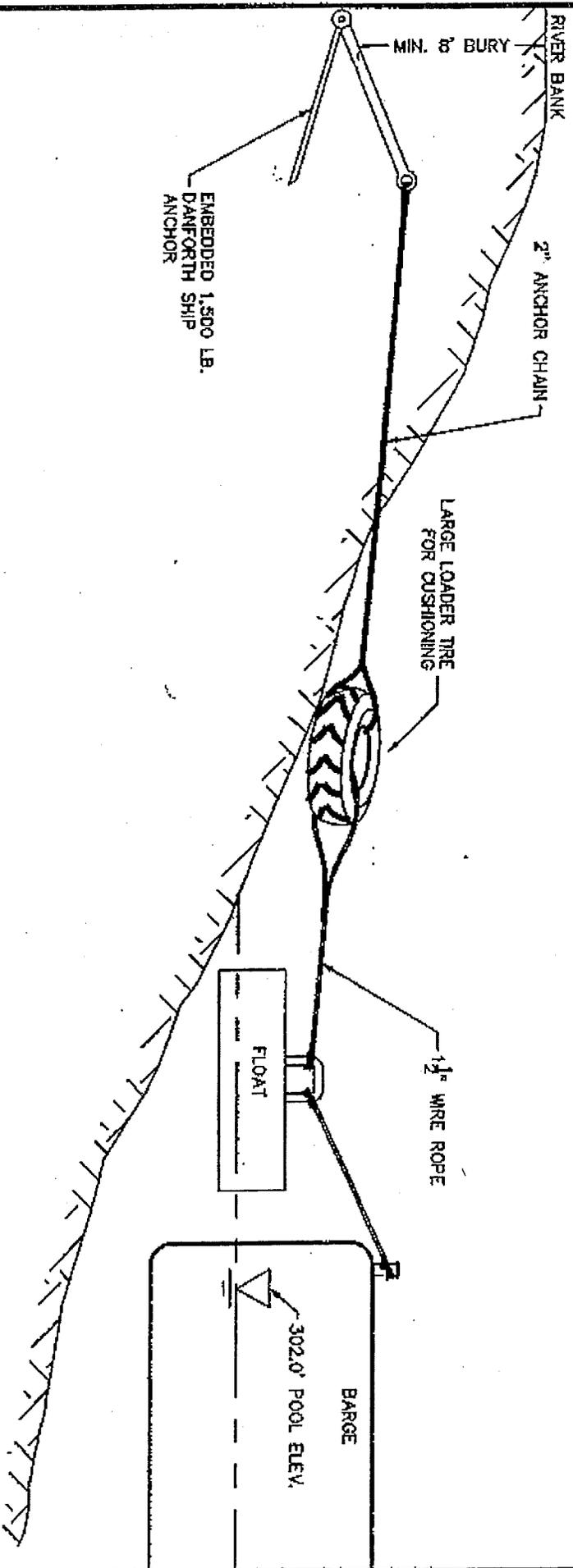
OWNER:
FIRST MARINE PROPERTIES, LLC
P.O. BOX 848
BENTON, KY 42045

BARGE LOADING POINT:
LATITUDE: 37° 02' 28.8"
LONGITUDE: 88° 28' 28.7"
USGS TOP QUAD
LITTLE CYPRESS
BY: DANCOS ENGINEERING, INC.
P.O. BOX 528
MADISONVILLE, KY 42431
PH: (270) 821-7343
DATE: 5/15/01

LOCATION:
TENNESSEE RIVER
MILE 11.0
MARSHALL CO, KY

FIRST MARINE PROPERTIES, LLC

File No. 4064000
PN 01-48
Exhibit E



BANK DEADMAN ANCHOR DETAILS

PROJECT:
RAIL COAL TO BARGE
TRANSLOADING FACILITY

OWNER:
FIRST MARINE PROPERTIES, LLC
P.O. BOX 848
BENTON, KY 42045

BARGE LOADING POINT
LATITUDE: 37° 02' 28.5"
LONGITUDE: 89° 26' 28.2"
USGS TOP QUAD
LITTLE CYPRESS
BY: DANCO ENGINEERING, INC.
P.O. BOX 528
MADISONVILLE, KY 42431
PH: (270) 821-7343
DATE: 5/15/01

LOCATION:
TENNESSEE RIVER
MILE 11.0
MARSHALL CO, KY

FIRST MARINE PROPERTIES, LLC

File No. 4064000
PN 01-48
Exhibit F



ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Ernie Fletcher
Governor

Division of Water
14 Reilly Road
Frankfort, Kentucky 40601-1190
www.kentucky.gov

LaJuana S. Wilcher
Secretary

February 8, 2006

Mr. William Hollinger
First Marine Transportation
P.O. Box 347
Calvert City, Kentucky 42029

13 FEB 2006

40640-00

Re: Water Quality Certification # 2006-0025-1
AI No.: 75620
Activity ID: APE20050002
Tennessee River
Marshall County, Kentucky
(37.042778, -88.439444)

Dear Mr. Hollinger:

Pursuant to Section 401 of the Clean Water Act (CWA), the Commonwealth of Kentucky certifies it has reasonable assurances that applicable water quality standards under Kentucky Administrative Regulations Title 401, Chapter 5, established pursuant to Sections 301, 302, 303, 304, 306, and 307 of the CWA, will not be violated by the above referenced project provided that the U.S. Army Corps of Engineers authorizes the activity under 33 CFR part 330, and the attached conditions are met.

The work approved by this certification shall be limited to:

- The fill of an area 250 ft long x 150 ft. wide resulting in impacts to the Tennessee River for the purpose of constructing a barge docking platform.
- All work performed under this certification shall adhere to the design and specifications set forth in the "Application for Permit to Construct Across or Along a Stream and/or Water Quality Certification" signed by applicant August 19, 2005.
- Applicant must submit the results of the USACE-required mussel survey to the Kentucky Division of Water for review.

Mr. Hollinger
Page Two

All future correspondence on this project must reference the AI No. shown at the top of this letter. **The attached document is your official Water Quality Certification, please read it carefully.** If you should have any questions concerning the conditions of this water quality certification, please contact Ms. Joyce Fry of my staff by calling (502) 564-3410.

Sincerely,



Jennifer Garland, Supervisor
Water Quality Certification Section
Division of Water

JG:JF:cw
Attachment

c: Lisa Morris, USACE: Nashville
Stephanie Fulton, USEPA: Atlanta
James Williamson, TVA: Knoxville
Rachel Terrell, TVA: Paris
Lee Andrews, USFWS: Frankfort
Mike Hardin, KDFWR: Frankfort
Bob Wise, Jackson Purchase RC&D Foundation
Mr. Joe Cathey (agent)

Water Quality Certification

First Marine Transportation

Facility Requirements

Permit Number:2006-0025-1

Activity ID No.: APE20050002

STRC1 (fill for docking facility) construction of an access road and enclosure of 250 x 150 area:

Page 1 of 1

Narrative Requirements:

Condition No.	Condition
T-1	<p>The work approved by this certification shall be limited to:</p> <ul style="list-style-type: none">- The fill of an area 250 ft long x 150 ft. wide resulting in impacts to the Tennessee River for the purpose of constructing a barge docking platform. [Clean Water Act]
T-2	<p>Applicant must submit the results of a USACE-required mussel survey to the Kentucky Division of Water for review. [Clean Water Act]</p>
T-3	<p>All work performed under this certification shall adhere to the design and specifications set forth in the "Application for Permit to Construct Across or Along a Stream and/or Water Quality Certification" signed by applicant August 19, 2005.</p> <p>Applicant must submit the results of a USACE-required mussel survey to the Kentucky Division of Water for review.</p> <p>[Clean Water Act]</p>
T-4	<p>The applicant is responsible for preventing degradation of waters of the Commonwealth from soil erosion. An erosion and sedimentation control plan must be designed, implemented, and maintained in effective operating condition at all times during construction. [Clean Water Act]</p>
T-5	<p>The Division of Water reserves the right to modify or revoke this certification should it be determined that the activity is in noncompliance with any condition set forth in this certification. [Clean Water Act]</p>
T-6	<p>If construction does not commence within one year of the date of this letter, this certification will become void. A letter requesting a renewal should be submitted.</p> <p>[Clean Water Act]</p>
T-7	<p>Other permits may be required from the Division of Water for this project. If this project takes place within the floodplain, a permit may be required from the Water Resources Branch. The contact person is Ali Daneshmand. If this project will disturb one acre or more of land, a KPDES general storm water permit will be required from the KPDES Branch. The contact person is Ronnie Thompson. Both can be reached at 502/564-3410. [Clean Water Act]</p>



ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Ernie Fletcher
Governor

Division of Water
14 Reilly Road
Frankfort, Kentucky 40601-1190
www.kentucky.gov

LaJuana S. Wilcher
Secretary

ATTENTION APPLICANT

If your project involves one or more of the following activities, you may need more than one permit from the Kentucky Division of Water.

***building in a floodplain *road culvert in a stream**

***streambank stabilization *stream cleanout**

***utility line crossing a stream**

***construction sites greater than 1 acre**

- **Construction sites greater than 1 acre will require the filing of a Notice of Intent to be covered under the KPDES General Stormwater Permit. This permit requires the creation of an erosion control plan.
Contact: Ronnie Thompson**
- **Projects that involve filling in the floodplain will require a floodplain construction permit from the Water Resources Branch.
Contact: Ali Daneshmand**
- **Projects that involve work IN a stream, such as bank stabilization, road culverts, utility line crossings, and stream alteration will require a floodplain permit and a Water Quality Certification from the Division of Water.
Contact: Jenni Garland**

All three contacts listed above can be reached at 502/564-3410. A complete listing of environmental programs administered by the Kentucky Department for Environmental Protection is available from Pete Goodmann by calling 502/564-3410.

JAMES E. BICKFORD
SECRETARY



PAUL E. PATTON
GOVERNOR

COMMONWEALTH OF KENTUCKY
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION
FRANKFORT OFFICE PARK
14 REILLY RD
FRANKFORT KY 40601

May 20, 2002

Mr. Bill Donan
Marshall Calvert Company
6220 Island Ford Road
Hanson, KY 42413

RE: Water Quality Certification # 2002-0061-2, Construction of a
Coal Handling Facility at Tennessee River Mile 11.0 L, Marshall
County (N37°02'28.5", W88°26'26.2")

Dear Mr. Donan:

Pursuant to Section 401 of the Clean Water Act (CWA), the Commonwealth of Kentucky certifies it has reasonable assurances that applicable water quality standards under Kentucky Administrative Regulations Title 401, Chapter 5, established pursuant to Sections 301, 302, 303, 304, 306, and 307 of the CWA, will not be violated by the above project, provided that the following conditions are met:

1. The work approved by this certification shall be limited to:
 - Filling of 7.93 acres of jurisdictional wetlands for construction of a coal handling facility at Tennessee River mile 11.0 L. As mitigation for wetland loss, 16 acres of on-site prior converted wetlands will be returned to jurisdictional status.
2. Marshall Calvert shall assure permanent protection of the wetland mitigation area. No impact may occur to this area without prior approval of the Division of Water. Any sale of the mitigation site property must carry with it the warning that the site is a regulated wetland mitigation site and subject to regulation by the Division of Water and the Corps of Engineers. If any future construction is proposed in the mitigation area, the 16 acres of wetland mitigation approved by this Water Quality Certification would have to be re-mitigated at a ratio of 2:1, resulting in a 32 acre wetland mitigation obligation.
3. First Marine Properties shall submit annual wetland progress/monitoring reports to the Water Quality Certification Section of the Division of Water by December 31, 2002, and shall continue these reports for 5 years after the wetland mitigation is completed. The wetland monitoring shall include wetland hydroperiod (frequency and duration), vegetation surveys, and characteristics of soil texture, color, composition, and hydric soil indicators. The annual reports shall also contain descriptive and photographic evidence of the status of the required wetland mitigation.

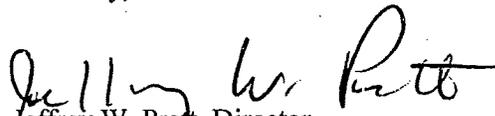


Mr. Bill Donan
Page Two
May 20, 2002

4. All work performed under this certification shall adhere to the design and specifications set forth in Public Notice #01-48, dated July 16, 2001, and wetland mitigation plan dated April 10, 2002.
5. The applicant is responsible for preventing degradation of waters of the Commonwealth from soil erosion. An erosion and sedimentation control plan must be designed, implemented, and maintained in effective operating condition at all times during construction.
6. The Division of Water reserves the right to modify or revoke this certification should it be determined that the activity is in noncompliance with any condition set forth in this certification.
7. If construction does not commence within one year of the date of this letter, this certification will become void. A letter requesting a renewal should be submitted.
8. Attached with this letter is a listing of General Conditions for Water Quality Certification that applies to this project.
9. Other permits may be required from the Division of Water for this project. If this project takes place within the floodplain, a permit may be required from the Water Resources Branch. The contact person is Ali Daneshmand. If this project will disturb 5 acres or more of land, a KPDES general storm water permit will be required from the KPDES Branch. The contact person is Doug Allgeier. Both can be reached at 502/564-3410.

If you should have any questions concerning the conditions of this water quality certification, please contact Brent Johnson of my staff by calling 502/564-3410.

Sincerely,


Jeffrey W. Pratt, Director
Division of Water

JWP:JLD:bj

Attachment

cc: Joe Cathey, COE: Nashville
Eric Somerville, EPA: Atlanta
Wayne Davis, KDFWR: Frankfort
Rachel Terrel, Tennessee Valley Authority
P.O. Box 280, Paris, TN 38242
David Cobb (agent), Danco Engineering, Inc.
P.O. Box 528, Madisonville, KY 42431

JAMES E. BICKFORD
SECRETARY



PAUL E. PATTON
GOVERNOR

COMMONWEALTH OF KENTUCKY
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION
FRANKFORT OFFICE PARK
14 REILLY RD
FRANKFORT KY 40601

ATTENTION APPLICANT

If your project involves one or more of the following activities, you may need more than one permit from the Kentucky Division of Water.

***building in a floodplain *road culvert in a stream**

***streambank stabilization *stream cleanout**

***utility line crossing a stream**

***construction sites greater than 5 acres**

- **Construction sites greater than 5 acres will require the filing of a Notice of Intent to be covered under the KPDES General Stormwater Permit. This permit requires the creation of an erosion control plan.
Contact Doug Allgeier.**
- **Projects that involve filling in the floodplain will require a floodplain construction permit from the Water Resources Branch.
Contact Ron Dutta.**
- **Projects that involve work IN a stream, such as bank stabilization, road culverts, utility line crossings, and stream alteration will require a floodplain permit and a Water Quality Certification from the Division of Water. Contact John Dovak.**

All three contacts listed above can be reached at 502/564-3410. A complete listing of environmental programs administered by the Kentucky Department for Environmental Protection is available from Margaret Shanks by calling 502/564-2150.



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GENERAL CONDITIONS FOR WATER QUALITY CERTIFICATION

1. Measures shall be taken to prevent or control spills of fuels, lubricants, or other toxic materials used in construction from entering the watercourse.
2. All dredged material shall be removed to an upland location and/or graded on adjacent areas (so long as such areas are not regulated wetlands), to obtain original streamside elevations, i.e. overbank flooding shall not be artificially obstructed.
3. In areas not riprapped or other wise stabilized, revegetation of stream banks and riparian zones shall occur concurrently with project progression. At a minimum, revegetation will approximate pre-disturbance conditions.
4. To the maximum extent practicable, all instream work under this certification shall be performed during low flow.
5. Heavy equipment, e.g. bulldozers, backhoes, draglines, etc., if required for this project, should not be used or operated within the stream channel. In those instances where such instream work is unavoidable, then it shall be performed in such a manner and duration as to minimize resuspension of sediments and disturbance to substrates and bank or riparian vegetation.
6. Any fill or riprap including refuse fill, shall be of such composition that it will not adversely affect the biological, chemical, or physical properties of the receiving waters and/or cause violations of water quality standards. If riprap is utilized, it is to be of such weight and size that bank stress or slump conditions will not be created because of its placement.
7. If there are water supply intakes located downstream that may be affected by increased turbidity and suspended solids, the permittee shall notify the operator when work will be done.
8. Removal of existing riparian vegetation should be restricted to the minimum necessary for project construction.
9. Should evidence of stream pollution or jurisdictional wetland impairment and/or violations of water quality standards occur as a result of this activity (either from a spill or other forms of water pollution), the Kentucky Division of Water shall be notified immediately by calling 800/564-2380.



TENNESSEE VALLEY AUTHORITY

Section 26a Permit Approval / Denial

Applicant Name <u>First Marine Properties, LLC</u>	RLR No. <u>115575</u>
Reservoir <u>Kentucky - Downstream</u>	Subdivision <u>N/A</u>
Tract No. <u>N/A</u> Map No. <u>5 SW</u>	Lot No(s). <u>N/A</u>
River/Stream Mile <u>TN River Mile 11.0 L</u>	Category <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input checked="" type="checkbox"/> 3

This application has been reviewed. The blocks checked below indicate the status of your request.

- The facilities and/or activities listed below are **APPROVED** subject to the general and special conditions attached.
1. Barge Fleeting Area and Terminal
 2. Onsite Rail Loop
 3. At Grade Rail Crossing at Cypress Creek
 4. Installation of Conveyor and Stockpile Facilities
 5. Approximately 400 Feet of Rip Rap
 6. Dock Platform
 7. Elevated Access Road
 8. Permission to handle dry bulk commodities (coal, steel, fertilizer, lime, grain, & road salt)

- The facilities and/or activities listed below are **DENIED**.
1. _____
 2. _____

- This permit **SUPERSEDES** the following previous TVA approval(s).
- | | |
|---------------------|-----------|
| _____ permit issued | _____ for |

TVA Representative *Rachael V. Jensen* Approval Date *2/16/06*

- Requires review by U.S. Army Corps of Engineers (USACE). Plans have been forwarded to the USACE. **No construction shall commence until you have written approval or verification that no permit is required.**
- ARAP (For Tennessee locations, a copy of the permit has been sent to the Tennessee Department of Environment and Conservation).

GENERAL AND STANDARD CONDITIONS

Section 26a and Land Use

General Conditions

1. You agree to make every reasonable effort to construct and operate the facility authorized herein in a manner so as to minimize any adverse impact on water quality, aquatic life, wildlife, vegetation, and natural environmental values.
2. This permit may be revoked by TVA by written notice if:
 - a) the structure is not completed in accordance with approved plans;
 - b) if in TVA's judgment the structure is not maintained as provided herein;
 - c) the structure is abandoned;
 - d) the structure or work must be altered to meet the requirements of future reservoir management operations of the United States or TVA, or;
 - e) TVA finds that the structure has an adverse effect upon navigation, flood control, or public lands or reservations.
3. If this permit for this structure is revoked, you agree to remove the structure, at your expense, upon written notice from TVA. In the event you do not remove the structure within 30 days of written notice to do so, TVA shall have the right to remove or cause to have removed, the structure or any part thereof. You agree to reimburse TVA for all costs incurred in connection with removal.
4. In issuing this Approval of Plans, TVA makes no representations that the structures or work authorized or property used temporarily or permanently in connection therewith will not be subject to damage due to future operations undertaken by the United States and/or TVA for the conservation or improvement of navigation, for the control of floods, or for other purposes, or due to fluctuations in elevations of the water surface of the river or reservoir, and no claim or right to compensation shall accrue from any such damage. By the acceptance of this approval, applicant covenants and agrees to make no claim against TVA or the United States by reason of any such damage, and to indemnify and save harmless TVA and the United States from any and all claims by other persons arising out of any such damage.
5. In issuing this Approval of Plans, TVA assumes no liability and undertakes no obligation or duty (in tort, contract, strict liability or otherwise) to the applicant or to any third party for any damages to property (real or personal) or personal injuries (including death) arising out of or in any way connected with applicant's construction, operation, or maintenance of the facility which is the subject of this Approval of Plans.
6. This approval shall not be construed to be a substitute for the requirements of any federal, state, or local statute, regulation, ordinance, or code, including, but not limited to, applicable electrical building codes, now in effect or hereafter enacted.
7. The facility will not be altered, or modified, unless TVA's written approval has been obtained prior to commencing work.
8. You agree to notify TVA of any transfer of ownership of the approved structure to a third party. Third party is required to make application to TVA for permitting of the structure in their name.
9. You agree to stabilize all disturbed areas within 30 days of completion of the work authorized. All land-disturbing activities shall be conducted in accordance with Best Management Practices as defined by Section 208 of the Clean Water Act to control erosion and sedimentation to prevent adverse water quality and related aquatic impacts. Such practices shall be consistent with sound engineering and construction principles; applicable federal, state, and local statutes, regulations, or ordinances; and proven techniques for controlling erosion and sedimentation, including any *required* conditions.
10. You agree not to use or permit the use of the premises, facilities, or structures for any purposes that will result in draining or dumping into the reservoir of any refuse, sewage, or other material in violation of applicable standards or requirements relating to pollution control of any kind now in effect or hereinafter established.
11. The facility will be maintained in a good state of repair and in good, safe, and substantial condition. If the facility is damaged, destroyed, or removed from the reservoir or stream for any reason, or deteriorates beyond safe and serviceable use, it cannot be repaired or replaced without the prior written approval of TVA.
12. You agree that if any historical or prehistoric archaeological material (such as arrowheads, broken pottery, bone or similar items) is encountered during construction of this facility you will immediately contact this office and temporarily suspend work at that location until authorized by this office to proceed.
13. The Native American Graves Protection and Repatriation Act and the Archaeological Resources Protection Act apply to archaeological resources located on the premises. If LESSEE (or licensee or grantee (for easement) or applicant (for 26a permit on federal land)) discovers human remains, funerary objects, sacred objects, objects of cultural patrimony, or any other archaeological resources on or under the premises, LESSEE (or licensee, grantee, or applicant) shall immediately stop activity in the area of the discovery, make a reasonable effort to protect the items, and notify TVA by telephone (phone 731-641-2000). Work may not be resumed in the area of the discovery until approved by TVA.

14. On TVA land, unless otherwise stated on this permit, vegetation removal is prohibited.
15. You agree to securely anchor all floating facilities to prevent them from floating free during major floods.
16. You are responsible for accurately locating your facility, and this authorization is valid and effective only if your facility is located as shown on your application or as otherwise approved by TVA in this permit. The facility must be located on land owned or leased by you, or on TVA land at a location approved by TVA.
17. It is understood that you own adequate property rights at this location. If at any time it is determined that you do not own sufficient property rights, or that you have only partial ownership rights in the land at this location, this permit may be revoked if TVA receives an objection to your water use facility from any owner or partial owner of the property rights at this location.

Standard Conditions: (Items that pertain to your request have been checked.)

1. Structures and Facilities

- a) TVA number _____ has been assigned to your facility. When construction is complete, this number shall be placed on a readily visible part of the outside of the facility in the numbers not less than three inches high.
- b) The 100-year flood elevation at this site is estimated to be _____-feet mean sea level. As a minimum, your fixed facility should be designed to prevent damage to stored boats by forcing them against roof during a 100-year flood event.
- c) You agree that the float will be temporarily connected (i.e., by slip pin/ropes) and not permanently attached to nonnavigable houseboat.
- d) You agree that this _____ shall have no side enclosures except wire mesh or similar screening.
- e) Buildings or other enclosed structures containing sleeping or living accommodations, including toilets and related facilities, or that have enclosed floor area in excess of 32 square feet, are prohibited.
- f) Ski jumps will not be left unattended for extended periods of time. All facilities will be tied to the shoreline or to a boathouse or pier fronting your property at the completion of each day's activities.
- g) For all electrical services permitted, a disconnect must be located at or above the _____-foot contour that is accessible during flooding.
- h) You should contact your local government official(s) to ensure that this facility complies with all applicable local floodplain regulations.
- i) The entire closed-loop coil heating and air conditioning system and its support apparatus must be either placed below elevation _____ (to provide a five-foot clearance for water craft at minimum pool elevations of _____) or located underneath a TVA approved water-use facility or other TVA approved structure. The supply and return lines must be buried as they cross the reservoir drawdown zone in areas of water depth less than five feet (minimum pool). The liquid contents of the closed-loop heating and air conditioning system must be propylene glycol or water, and the applicant or authorized agent must provide TVA with written verification of this fact.
- j) You agree that only those facilities which have been approved by TVA prior to construction will be placed within the harbor limits and that permanent mooring buoys, boat slips, or other harbor facilities will not be placed outside the harbor limits.
- k) You agree that all storage, piping, and dispensing of liquid fuel shall comply with applicable requirements of the "Flammable and Combustible Liquids" section of the National Fire Codes and any additional requirements of federal, state, and local laws and regulations.
- l) You agree that the _____ facility hereby approved will be used for _____ and for no other purpose unless approved in writing from TVA.
- m) You agree that if the construction project covered by this permit is not initiated within (18) months after the date of issuance, this permit will then automatically expire and you must submit a new 26a permit application for TVA approval with the applicable fee.

2. Ownership Rights

- a) No fill will be placed higher than elevation _____ maximum shoreline contour (msc), and every precaution will be taken not to disturb or alter the existing location of the _____-foot contour elevation through either excavation or placement of fill.
- b) You are advised that TVA retains the right to flood this area and that TVA will not be liable for damages resulting from flooding.
- c) You shall notify TVA of any sale or transfer of land, which would affect the landward limits of harbor area, as far in advance of such sale or transfer as possible.
- d) This approval of plans is only a determination that these harbor limits will not have any unacceptable effect on TVA programs or other interests for which TVA has responsibility. Such approval does not profess or intend to give the applicant exclusive control over the use of navigable waters involved.
- e) You recognize and understand that this authorization conveys no property rights, grants no exclusive license, and in no way restricts the general public's privilege of using shoreland owned by or subject to public access rights owned by TVA. It is also subject to any existing rights of third parties. Nothing contained in this approval shall be construed to detract or deviate from the rights of the United States and TVA held over this land under the Grant of Flowage Easement. This Approval of Plans does not give any property rights in real estate or material and does not authorize any injury to private property or invasion of private or public rights. It merely constitutes a finding that the facility, if constructed at the location specified in the plans submitted and in accordance with said plans, would not at this time constitute an obstruction unduly affecting navigation, flood control, or public lands or reservations.

3. Shoreline Modification and Stabilization

- a) For purposes of shoreline bank stabilization, all portions will be constructed or placed, on average, no more than two feet from the existing shoreline at normal summer pool elevation.
- b) You agree that spoil material will be disposed of and contained on land lying and being above the _____-foot contour. Every precaution will be made to prevent the reentry of the spoil material into the reservoir.
- c) Bank, shoreline, and floodplain stabilization will be permanently maintained in order to prevent erosion, protect water quality, and preserve aquatic habitat.
- d) You agree to reimburse TVA \$_____, which is the current value of the _____ acre feet of power storage volume displaced by fill into the reservoir.

4. Water Intake

- a) If the reservoir falls below the elevation of the intake, the applicant will be responsible for finding another source of raw water.
- b) You must install and maintain a standard regulatory hazard buoy at the end of the intake to warn boaters of the underwater obstruction. The word "intake" should be added to the buoy and be attached using a five-foot cable.
- c) The screen openings on the intake strainer must be 1/8-inch (maximum), to minimize the entrapment of small fish.
- d) This approval does not constitute approval of the adequacy or safety of applicant's water system. TVA does not warrant that the water withdrawn and used by applicant is safe for drinking or any other purpose, and applicant is solely responsible for ensuring that all water is properly treated before using.

5. Bridges and Culverts

- a) You agree to design/construct any instream piers in such a manner as to discourage river scouring or sediment deposition.
- b) Applicant agrees to construct culvert in phases, employing adequate streambank protection measures, such that the diverted streamflow is handled without creating streambank or streambed erosion/sedimentation and without preventing fish passage.
- c) Concrete box culverts and pipe culverts (and their extensions) must create/maintain velocities and flow patterns which offer refuge for fish and other aquatic life, and allow passage of indigenous fish species, under all flow conditions. Culvert floor slabs and pipe bottoms must be buried below streambed elevation, and filled with naturally occurring streambed materials. If geologic conditions do not allow burying the floor, it must be otherwise designed to allow passage of indigenous fish species under all flow conditions.

- d) All natural stream values (including equivalent energy dissipation, elevations, and velocities; riparian vegetation; riffle/pool sequencing; habitat suitable for fish and other aquatic life) must be provided at all stream modification sites. This must be accomplished using a combination of rock and bioengineering, and is not accomplished using solid, homogeneous riprap from bank to bank.
- e) You agree to remove demolition and construction by-products from the site--for recycling if practicable, or proper disposal--outside of the 100-year floodplain. Appropriate BMPs will be used during the removal of any abandoned roadway or structures.

6. Best Management Practices

- a) You agree that removal of vegetation will be minimized, particularly any woody vegetation providing shoreline/streambank stabilization.
- b) You agree to installation of cofferdams and/or silt control structures between construction areas and surface waters prior to any soil-disturbing construction activity, and clarification of all water that accumulates behind these devices to meet state water quality criteria at the stream mile where activity occurs before it is returned to the unaffected portion of the stream. Cofferdams must be used wherever construction activity is at or below water elevation.
- c) A floating silt screen extending from the surface to the bottom is to be in place during excavation or dredging to prevent sedimentation in surrounding areas. It is to be left in place until disturbed sediments are visibly settled.
- d) You agree to keep equipment out of the reservoir or stream and off reservoir or stream banks, to the extent practicable (i.e., performing work "in the dry").
- e) You agree to avoid contact of wet concrete with the stream or reservoir, and avoid disposing of concrete washings, or other substances or materials, in those waters.
- f) You agree to use erosion control structures around any material stockpile areas.
- g) You agree to apply clean/shaken riprap or shot rock (where needed at water/bank interface) over a water permeable/soil impermeable fabric or geotextile and in such a manner as to avoid stream sedimentation or disturbance, or that any rock used for cover and stabilization shall be large enough to prevent washout and provide good aquatic habitat.
- h) You agree to remove, redistribute, and stabilize (with vegetation) all sediment which accumulates behind cofferdams or silt control structures.
- i) You agree to use vegetation (versus riprap) wherever practicable and sustainable to stabilize streambanks, shorelines, and adjacent areas. These areas will be stabilized as soon as practicable, using either an appropriate seed mixture that includes an annual (quick cover) as well as one or two perennial legumes and one or two perennial grasses, or sod. In winter or summer, this will require initial planting of a quick cover annual only, to be followed by subsequent establishment of the perennials. Seed and soil will be protected as appropriate with erosion control netting and/or mulch and provided adequate moisture. Streambank and shoreline areas will also be permanently stabilized with native woody plants, to include trees wherever practicable and sustainable (this vegetative prescription may be altered if dictated by geologic conditions or landowner requirements). You also agree to install or perform additional erosion control structures/techniques deemed necessary by TVA.

Additional Conditions

See attached conditions.

Special Conditions for First Marine Properties, LLC Permit

1. The shoreline will be armored with approximately 400 feet of rip rap around the loading terminal to reduce turbidity and prevent the introduction of sediment into the water.
2. Stockpiled equipment must be located entirely within the elevated rail loop.
3. Settling ponds must also be located within the rail loop.
4. A wet suppression system must be in place to control dust.
5. The shoulders of the elevated roadway must be stabilized with vegetation during construction.
6. The applicant must obtain a Water Quality Certification and a Stream Construction permit from the Kentucky Division of Water prior to construction of the railroad crossing.
7. The applicant must file a Notice of Intent to be covered by the Kentucky Pollution Discharge Elimination System General Storm water Permit. This will require the creation of an erosion control plan.
8. First Marine will implement a monitoring survey to determine the status of native mussel resources in the fleeting, the loading areas, and at an upstream control site. This survey will use statistically valid sampling techniques and will be performed every other year for at least three cycles. The monitoring plan will be implemented after approval by the U. S. Fish and Wildlife Service, the U. S. Army Corps of Engineers, the Tennessee Valley Authority, and the Kentucky Department of Fish and Wildlife Resources. Results from each survey will be submitted to the Kentucky Department of Fish and Wildlife Resources, U. S. Fish and Wildlife Service, U.S. Army Corps of Engineers and the Tennessee Valley Authority within three months after the completion of the field work. If the survey results indicate no project-related adverse effects to native mussel resources, no further sampling would be required beyond the third cycle. If the survey results indicate statistically significant adverse project-related effects to native mussel stocks, the applicant and its agents will meet with the appropriate federal and state resource management agencies and will conduct or fund appropriate activities to mitigate the adverse effects.
9. Fleeted barges can not exceed three abreast.

10. If the proposed facility handles coal or other materials capable of generating fugitive dust, the terminal must use equipment designed to minimize such dust.
11. If coal is handled at the facility it must be stockpiled through 8-foot diameter by 60-foot high windowed stack tubes to minimize fugitive dust. Within the stockpile areas there should be covered conveyors with a "V"-shaped belt. A wet suppression system should also be in place during handling and loading operations.
12. The applicant must obtain an Air Quality permit from the Commonwealth of Kentucky.
13. The applicant must obtain floodplain construction permits from the Water Resources Branch of the Kentucky Division of Water.
14. The 100-year flood elevation at TRM 11.0 is 342.7 Feet (mean sea level). The elevation of the top of the railroad is 344.0. The elevated road to the docking facility would be equipped with two 4-foot diameter culverts at the lowest point to facilitate drainage.
15. As proposed by the applicant, the approximately 8 acres of jurisdictional wetlands that will be adversely affected by the project are to be compensated for by establishing 16 acres of prior converted wetlands to functioning wetlands and placing all of the acreage into a permanent conservation easement. The wetlands mitigation plan described in Appendix H of the USACE EA must be implemented.
16. The applicant will not be allowed to load whole logs or wood chips at the terminal.

bed providing sufficient care is taken to prevent bank erosion.” In addition, no federally listed species were found during this survey.

USGS 8 km W of Calvert City, Kentucky, United States 29 Mar 1993

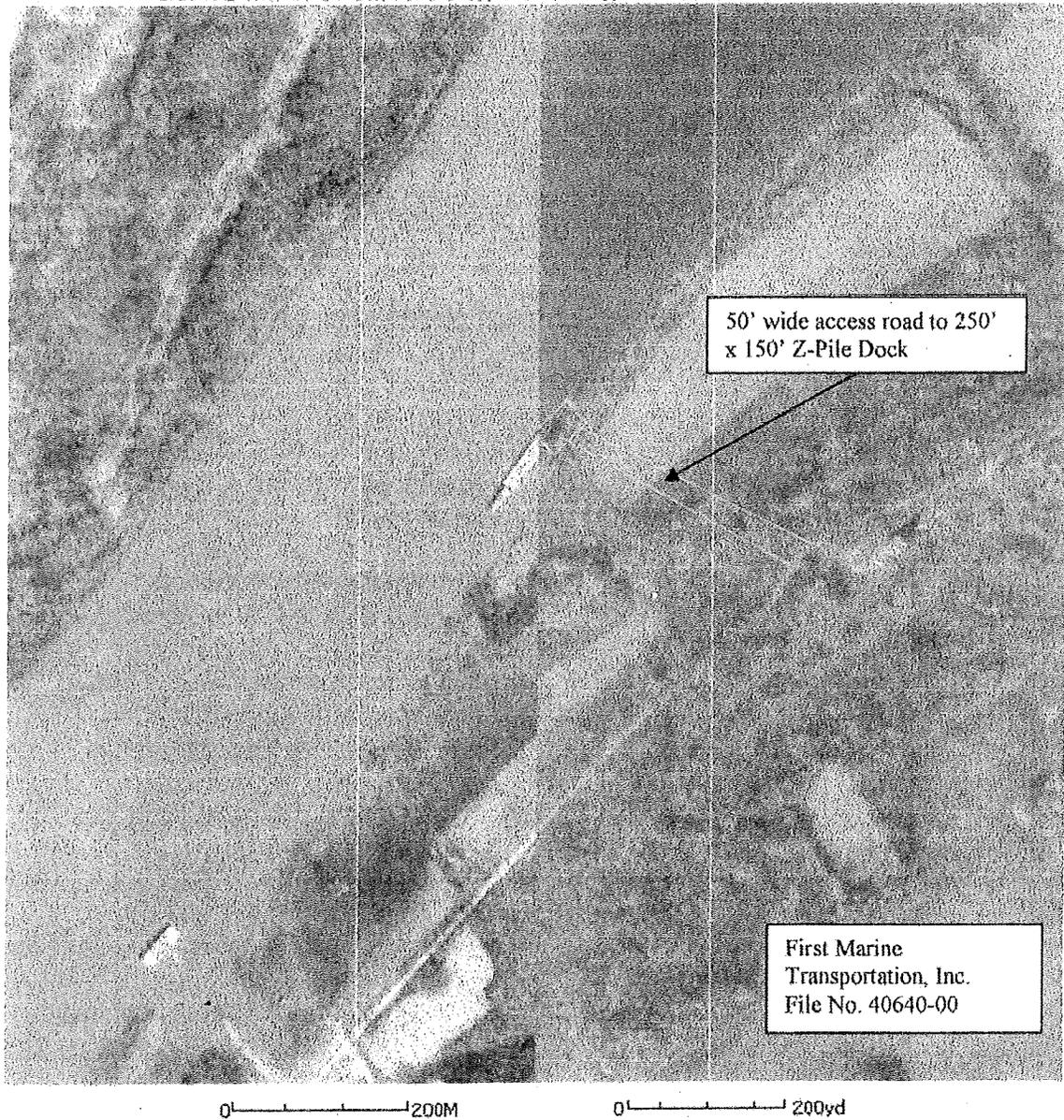
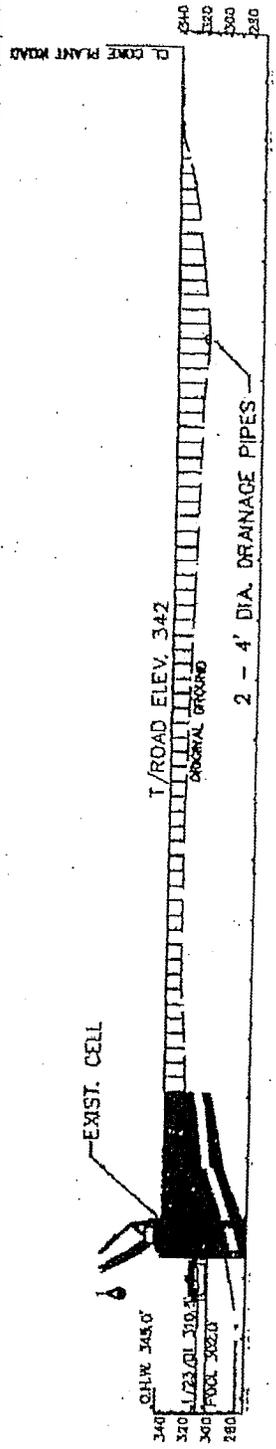
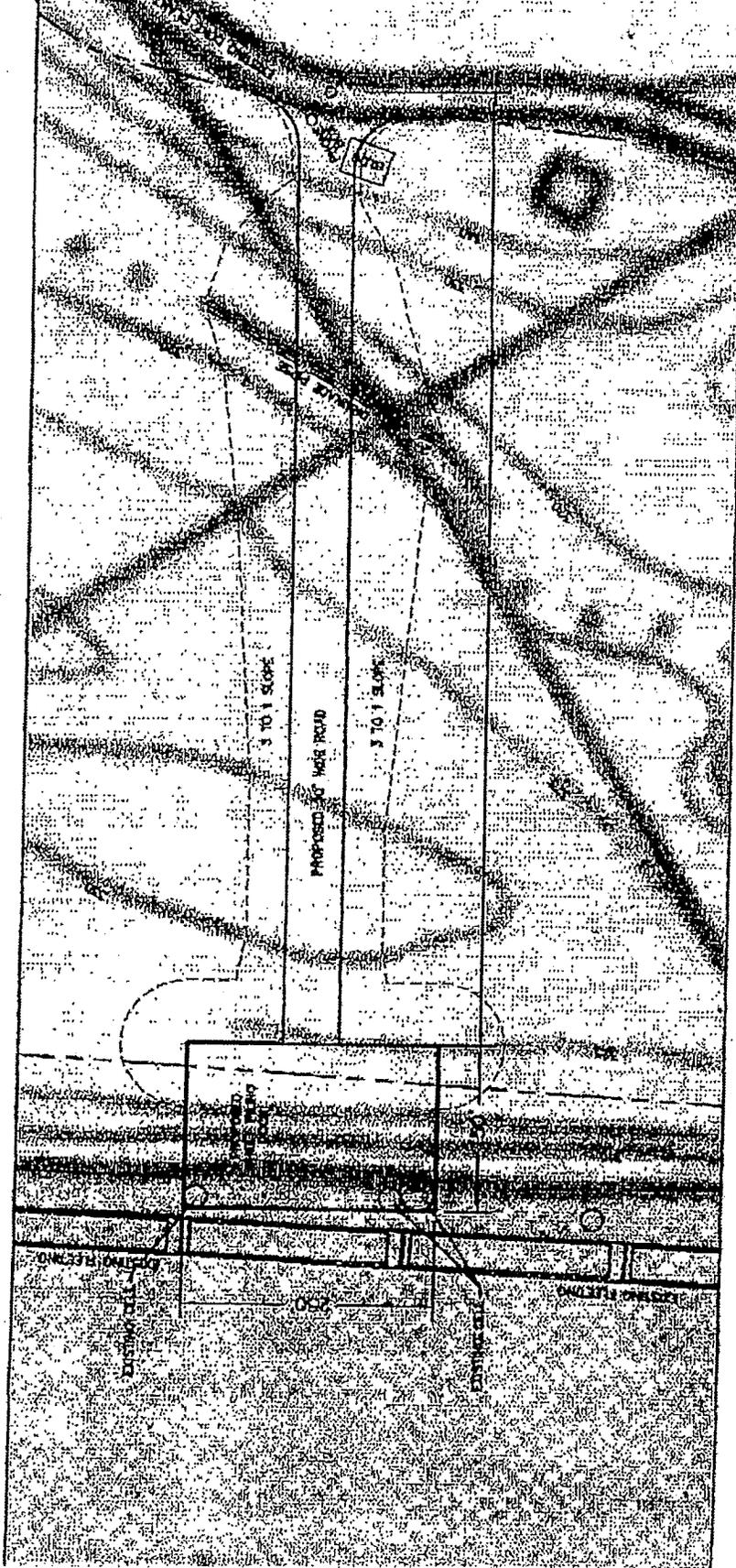
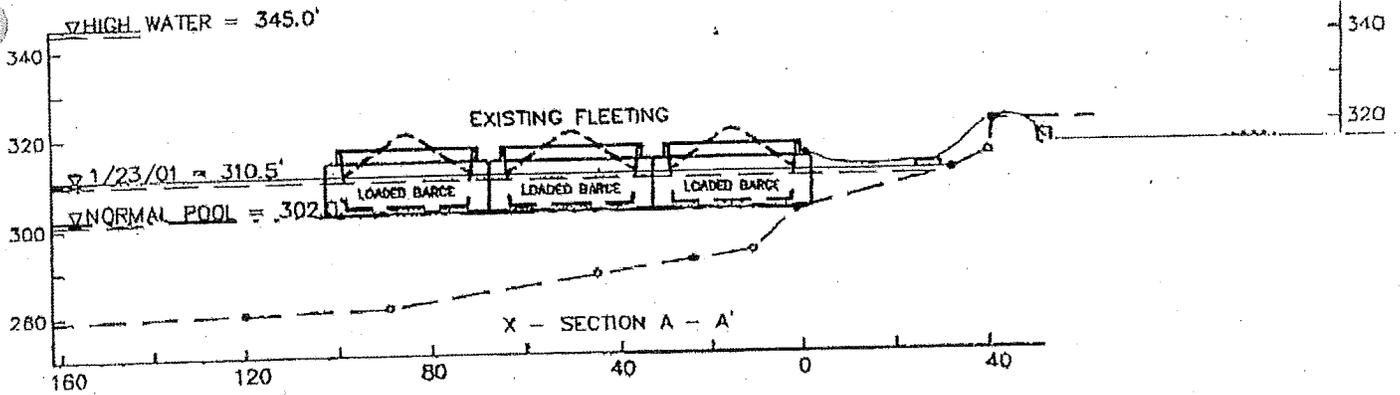
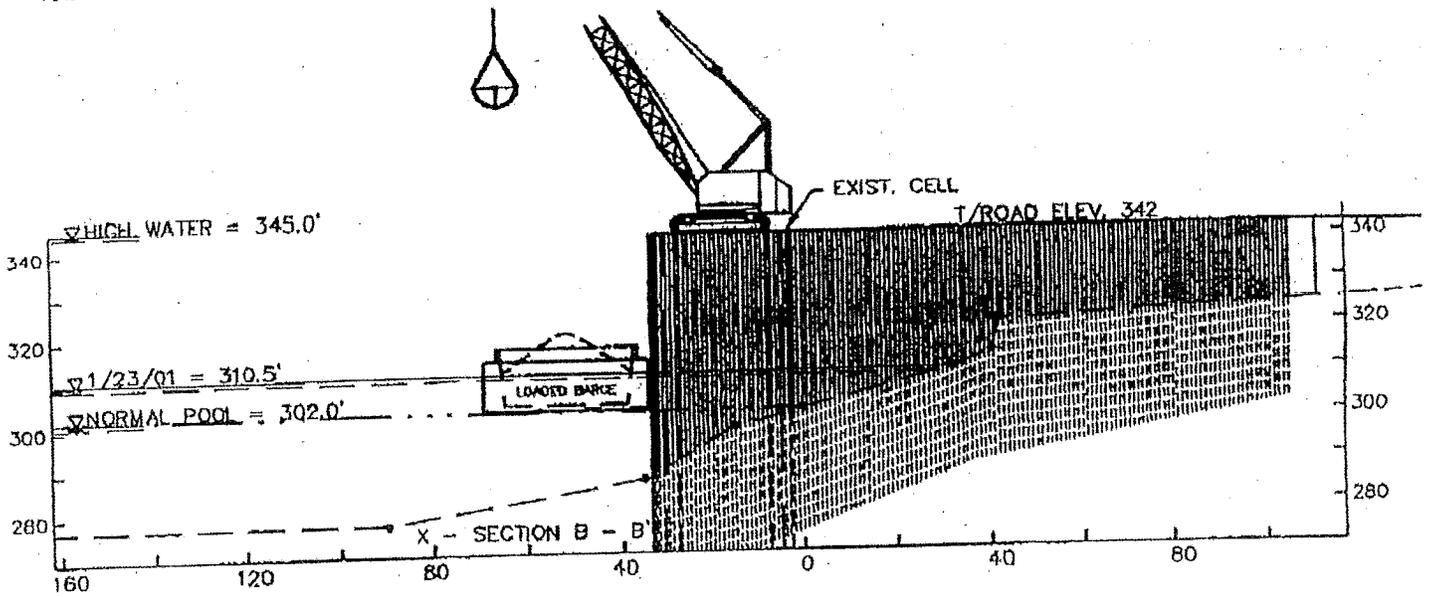
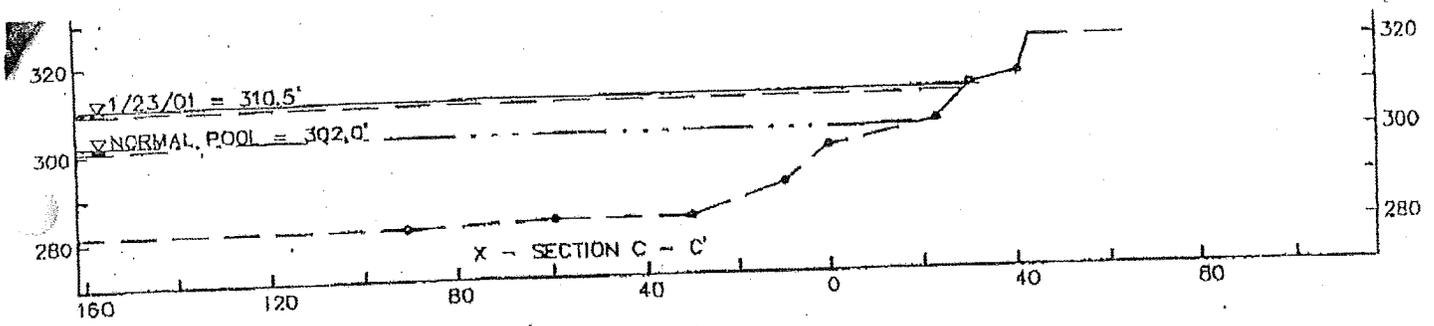


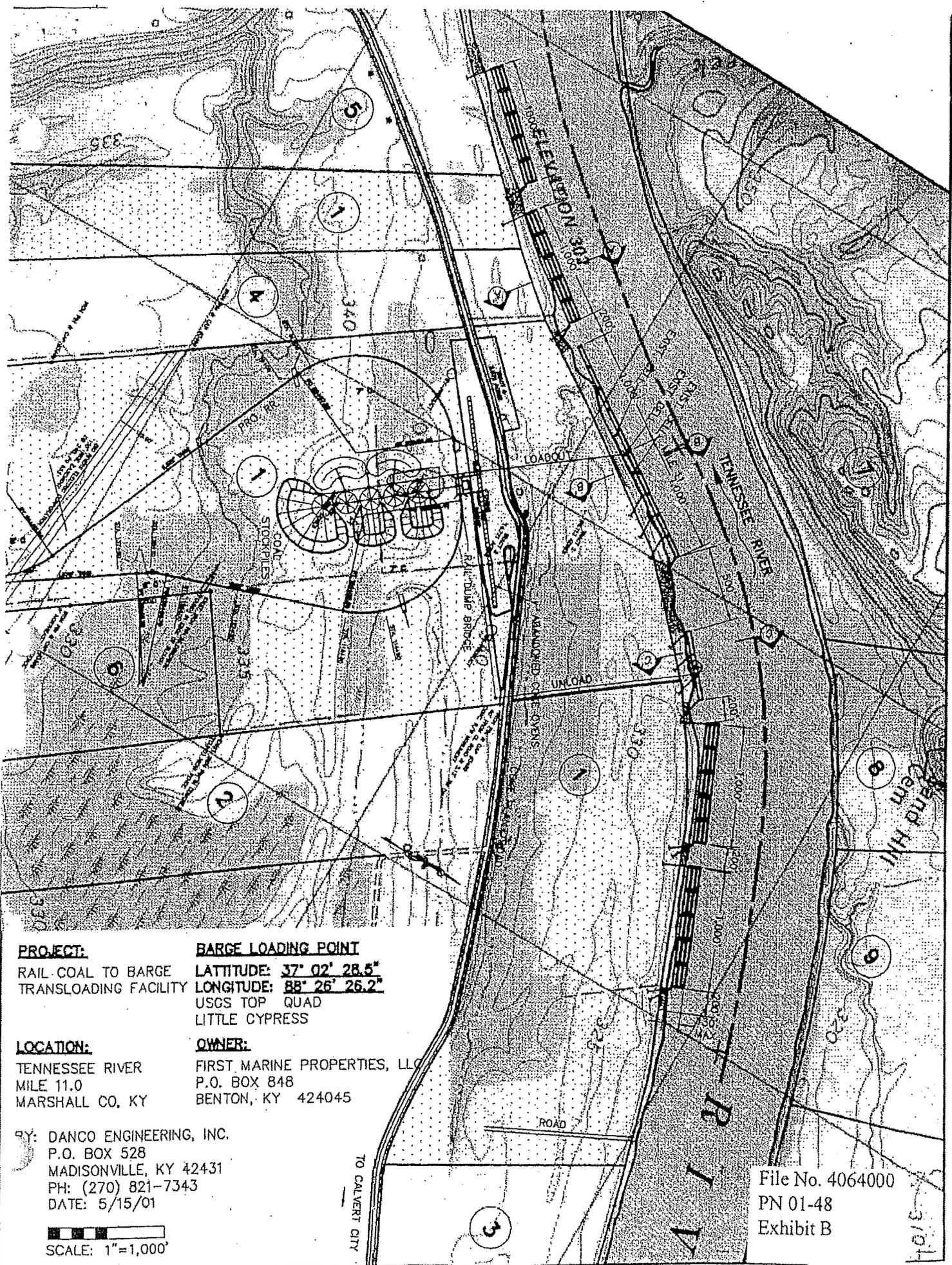
Image courtesy of the U.S. Geological Survey

Figure 1. USGS 29 March 1993 Aerial Photo with Tennessee River at Bankfull conditions.

By enclosing the mooring cells to construct the docking facility will not only make our operation more efficient, but also prevent streambank erosion. Considering the extent of these proposed alterations, we believe overall impacts of our requested permit







PROJECT:

RAIL COAL TO BARGE
TRANSLOADING FACILITY

BARGE LOADING POINT

LATITUDE: 37° 02' 28.5"
LONGITUDE: 88° 26' 26.2"
USCS TOP QUAD
LITTLE CYPRESS

LOCATION:

TENNESSEE RIVER
MILE 11.0
MARSHALL CO, KY

OWNER:

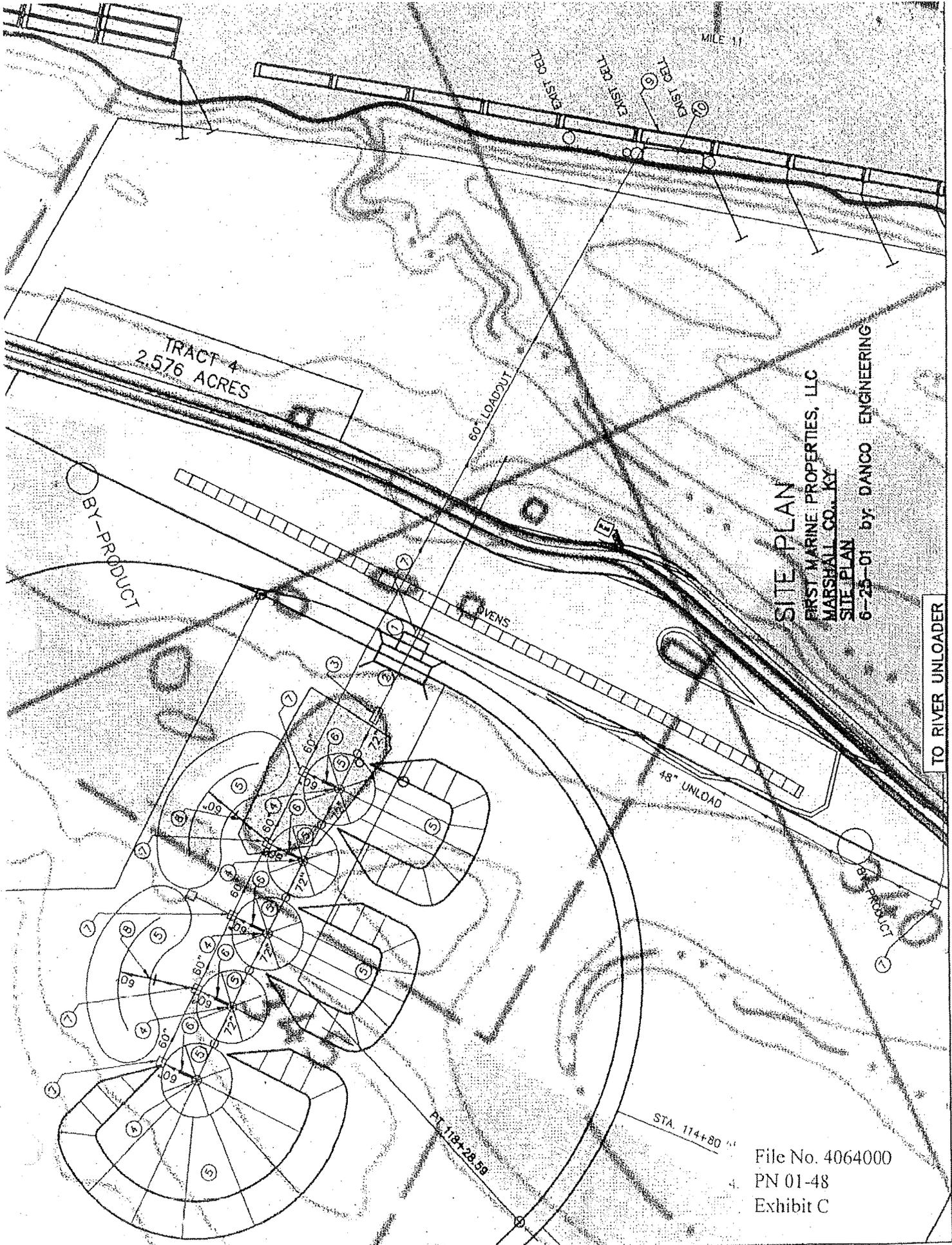
FIRST MARINE PROPERTIES, LLO
P.O. BOX 848
BENTON, KY 424045

BY: DANCO ENGINEERING, INC.
P.O. BOX 528
MADISONVILLE, KY 42431
PH: (270) 821-7343
DATE: 5/15/01

SCALE: 1"=1,000'

File No. 4064000
PN 01-48
Exhibit B

3/01



SITE PLAN
 FIRST MARINE PROPERTIES, LLC
 MARSHALL CO., KY
SITE PLAN
 6-23-01 by DANCO ENGINEERING

TO RIVER UNLOADER

File No. 4064000
 PN 01-48
 Exhibit C

MILE 11

TED L&K

TED L&K

TED L&K

TRACT 4
2,576 ACRES

BY-PRODUCT

80" LOADOUT

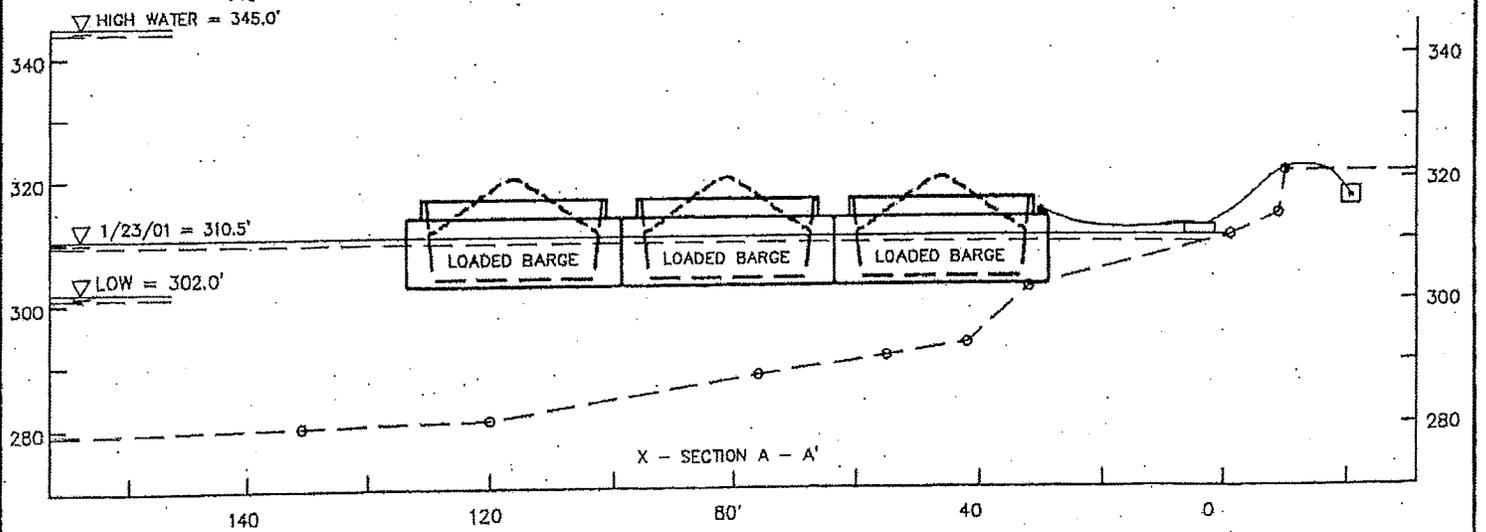
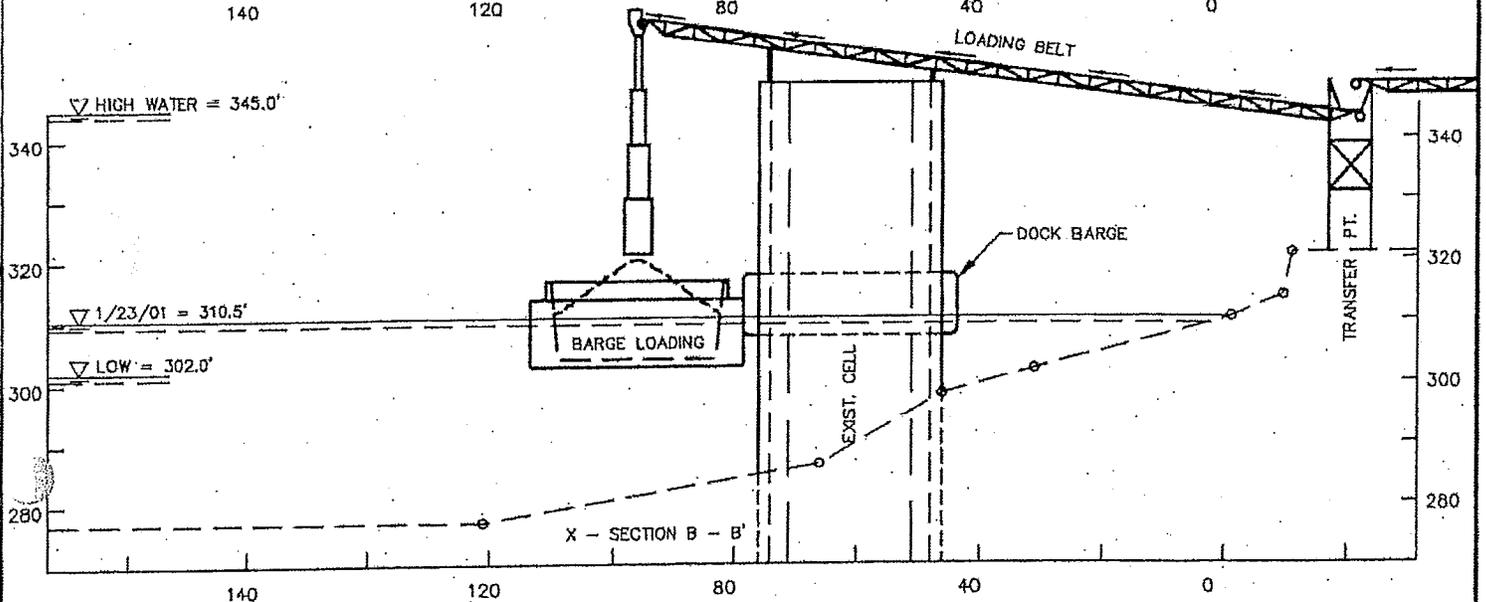
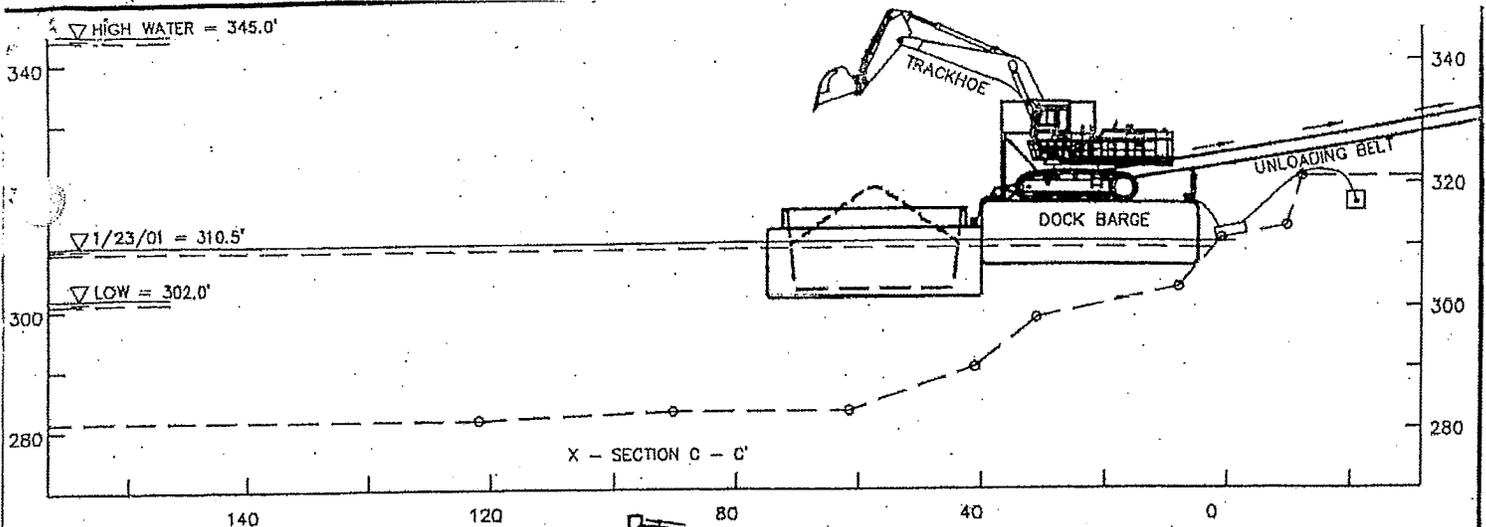
OVENS

48" UNLOAD

BY-PRODUCT

PI 118+28.59

STA. 114+80



PROJECT:
 RAIL COAL TO BARGE
 TRANSLOADING FACILITY

LOCATION:
 TENNESSEE RIVER
 MILE 11.0
 MARSHALL CO, KY

BARGE LOADING POINT
LATITUDE: 37° 02' 28.5"
LONGITUDE: 88° 26' 26.2"
 USGS TOP QUAD
 LITTLE CYPRESS

OWNER:
 FIRST MARINE PROPERTIES, LLC
 P.O. BOX 848
 BENTON, KY 42045

BY: DANCO ENGINEERING, INC.
 P.O. BOX 528
 MADISONVILLE, KY 42431
 PH: (270) 821-7343
 DATE: 5/15/01

File No. 4064000
 PN 01-48
 Exhibit D

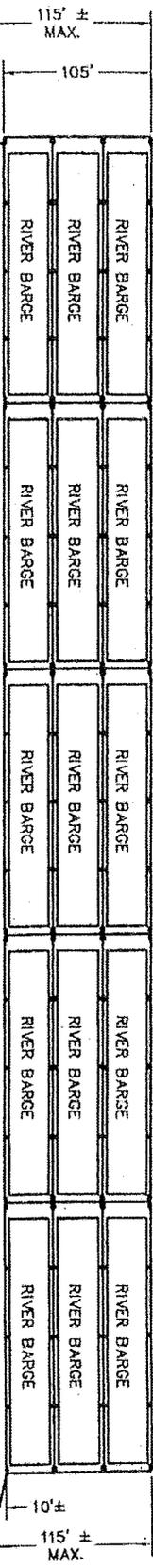
FIRST MARINE PROPERTIES, LLC



TENN. RIVER



975



BARGE FLEETING DETAIL

SCALE: AS NOTED

PROJECT:
RAIL COAL TO BARGE
TRANSLOADING FACILITY

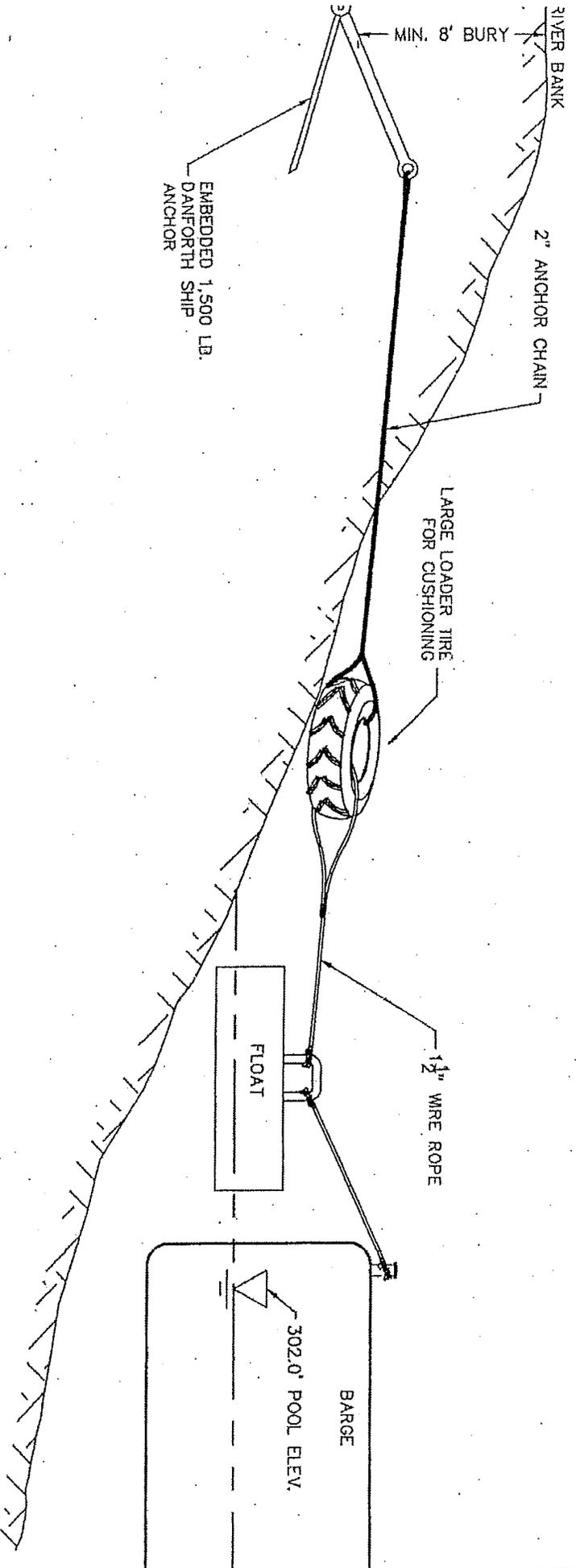
OWNER:
FIRST MARINE PROPERTIES, LLC
P.O. BOX 848
BENTON, KY 42045

BARGE LOADING POINT
LATITUDE: 37° 02' 28.5"
LONGITUDE: 88° 26' 26.2"
USGS TOP QUAD
LITTLE CYPRESS
BY: DANCO ENGINEERING, INC.
P.O. BOX 528
MADISONVILLE, KY 42431
PH: (270) 821-7343
DATE: 5/15/01

LOCATION:
TENNESSEE RIVER
MILE 11.0
MARSHALL KY

FIRST MARINE PROPERTIES, LLC

File No. 4064000
PN 01-48
Exhibit E



BANK DEADMAN ANCHOR DETAILS

PROJECT:
RAIL COAL TO BARGE
TRANSLOADING FACILITY

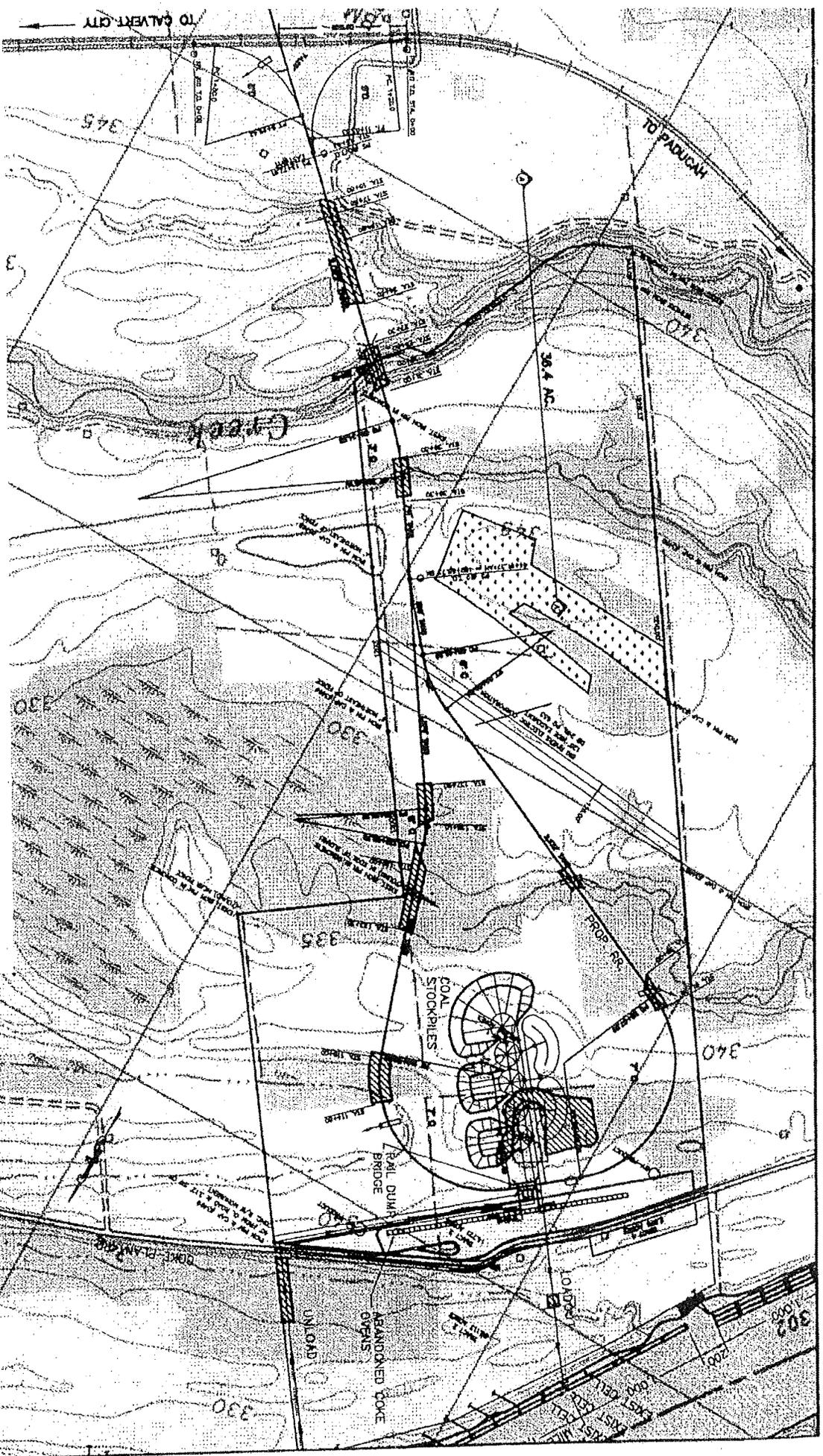
OWNER:
FIRST MARINE PROPERTIES, LLC
P.O. BOX 848
BENTON, KY 42045

BARGE LOADING POINT
LATITUDE: 37° 02' 28.5"
LONGITUDE: 88° 26' 28.2"
 USGS TOP QUAD
 LITTLE CYPRESS
 BY: DANCO ENGINEERING, INC.
 P.O. BOX 528
 MADISONVILLE, KY 42431
 PH: (270) 821-7343
 DATE: 5/15/01

LOCATION:
TENNESSEE RIVER
MILE 11.0
MARSHALL C KY

FIRST MARINE PROPERTIES, LLC

File No. 4064000
PN 01-48
Exhibit F



REGULATED WETLANDS = 8.75 AC.
 WETLAND MITIGATION AREA = 17.5 AC.

PROJECT:
 RAIL COAL TO BARGE
 TRANSLOADING FACILITY

BARGE LOADING POINT
 LATITUDE: 37° 02' 28.5"
 LONGITUDE: 88° 26' 26.2"
 USGS TOP QUAD
 LITTLE CYPRESS

LOCATION:
 TENNESSEE RIVER
 MILE 11.0
 MADISONVILLE, KY

OWNER:
 FIRST MARINE PROPERTIES, LLC
 P.O. BOX 848
 BENTON KY 42045

BY: DANCO ENGINEERING, INC.
 P.O. BOX 528
 MADISONVILLE, KY 42431
 PH: (270) 821-7343
 DATE: 5/15/01

SCALE: 1"=1,000'

FIRST MARINE PROPERTIES, LLC

File No. 4064000
 PN 01-48
 Exhibit G

APPLICATION FOR
 Department of the Army Permit and/or Tennessee Valley Authority section 26a Approval

The Department of the Army (DA) permit program is authorized by Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of The Clean Water Act (P.L. 95-217). These laws require permits authorizing structures and work in or affecting navigable waters of the United States and the discharge of dredged or fill material into waters of the United States. Section 26a of the Tennessee Valley Authority Act, as amended, prohibits the construction, operation, or maintenance of any structure affecting navigation, flood control, or public lands or reservations across, along, or in the Tennessee River or any of its tributaries until plans for such construction, operation, and maintenance have been submitted to and approved by the Tennessee Valley Authority (TVA).

Name and Address of Applicant
 First Marine Properties, LLC
 P.O. Box 848
 Benton, KY 42025

Name, Address, and Title of Authorized Agent
 Frank N. Daniel, V.P.
 DANCO Engineering, Inc.
 P.O. Box 528
 Madisonville, KY 42431

Telephone Number
 Home (270) 527-2065
 Office (270) 527-5168

Telephone Number
 Home (270) 821-2628
 Office (270) 821-7343

Location where activity exists or will occur (include Stream Name and Mile, if known)

Application submitted to
 DA Yes No TVA Yes No

Date activity is proposed to commence July 1, 2001

Date activity is proposed to be completed April 1, 2001

Describe in detail the proposed activity, its purpose and intended use (private, public, commercial, or other.) Describe structures to be erected including those placed on fills, piles, or floating platforms. Also describe the type, composition, and quantity of materials to be discharged or placed in the water; the means of conveyance; and the source of discharge or fill material. Please attach additional sheets if needed.

A railroad loop track is proposed to unload coal to blending stockpiles, coal will then be carried by 60 inch conveyor to river barges for commercial marketing. Three existing sheet piling cells served a former coal barge unloading facility. The center cell will support the proposed coal conveyor and barge loading chute. A captive dock barge breasted between the center and upstream spud barges will be utilized to brest barges. A towboat will switch a cut of 5 barges to be loaded in a downstream pass while retarded by the towboat and breasting cable winches. All barges will be floated to a permanent position anchor barge that is secured to the bank by 1,500 lb buried deadman anchors as detailed. An anticipated 5 million tons of coal will be loaded into river barges each year. A trackhoe will be positioned on the upstream spud barge to unload coal to the 42-inch barge unloading conveyor. The conveyor will carry coal to the stockpile/blending stockpile area. An anticipated 2 million tons of coal will be unloaded from river barges each year.

There will be no discharges or fill materials placed in the Tennessee River in the construction of this facility.

Application is hereby made for approval of the activities described herein. I certify that I am familiar with the information contained in this application, and that to the best of my knowledge and belief such information is true, complete, and accurate. I further certify that I possess the authority to undertake the proposed activities.

5/18/01
 Date

Taylor S. Hallenjar
 Signature of Applicant or Authorized Agent

The application must be signed by the applicant; however, it may be signed by a duly authorized agent if this form is accompanied by a statement by the applicant designating the agent and agreeing to furnish upon request, supplemental information in support of the application.

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of The United States knowingly and willfully falsifies, conceals, or covers up by any trick scheme or device a material fact or makes any false, fictitious, or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both. Do not send a permit processing fee with this application. The appropriate DA fee will be assessed when a permit is issued.

115595

PAID
 JUL 10 2001
 \$1,000

Name, addresses, and telephone numbers of adjoining property owners, lessees, etc., whose properties also join the waterway.

(See attached referenced list)

List of previous DA/TVA permits/approvals

DA 40,640 TVA _____
 Permit Number Date

Is any portion of the activity for which authorization is sought now complete? YES NO

If answer is "Yes" attach explanation. Month and year the activity was completed December 1963

Indicate the existing work on the drawings.

Three existing barge mooring cells will be utilized in our proposed facility.

List all approvals or certifications required by other federal, interstate, state, or local agencies for any structures, construction, discharges, deposits, or other activities described in this application.

<u>Issuing Agency</u>	<u>Type Approval</u>	<u>Identification No.</u>	<u>Date of Application</u>	<u>Date of Approval</u>
U.S. Army Corps of Engineers	-	-	5/17/01	-
KY. Fish & Wildlife	-	-	-	-
KY. Division of Water	-	-	-	-
KY Air Pollution	-	-	-	-

Has any agency denied approval for the activity described herein or for any activity directly related to the activity described herein?

Yes No (If "Yes" attach explanation)

Two sets of original drawings on 8" x 10½" tracing paper or good reproduction copies that show the location and character of the proposed activity must be attached to this application (see sample drawings) and be submitted to the appropriate U.S. Army Corps of Engineers and TVA offices at the addresses listed below. An application that is not complete will be returned for additional information. Information in the application is made a matter of public record through issuance of a public notice, if warranted. Disclosure of the information requested is voluntary; however, the data requested are necessary in order to communicate with the applicant and to evaluate the application. If necessary information is not provided, the application cannot be processed nor can a permit/approval be issued.

Department of the Army Offices

TVA Office Locations

TVA Mailing Addresses

Commander, Nashville District
 U.S. Army Corps of Engineers
 Post Office Box 1070
 Nashville, Tennessee 37202-1070
 Phone: 615-736-8181

Natural Resources Building
 Room 116
 Ridgeway Road
 Norris, Tennessee
 Phone: 615-632-1530

Manager, Land Resources
 Tennessee Valley Authority
 Norris, TN 37828

U.S. Army Corps of Engineers
 Eastern Regulatory Field Office
 Post Office Box 465
 Lenoir City, Tennessee 37771-0465
 Phone: 615-986-7296

202 West Blythe Street
 Paris, Tennessee
 Phone: 901-642-2041

Manager, Property Management
 Western Land Resources District
 Post Office Box 280
 Paris, TN 38242-0280

U.S. Army Corps of Engineers
 Western Regulatory Field Office
 Room 234, Federal Building
 400 Wells Street, NE.
 Decatur, Alabama 35601-9990
 Phone: 205-350-5620

170 Office Service Warehouse Annex
 Muscle Shoals, Alabama
 Phone: 205-386-2223

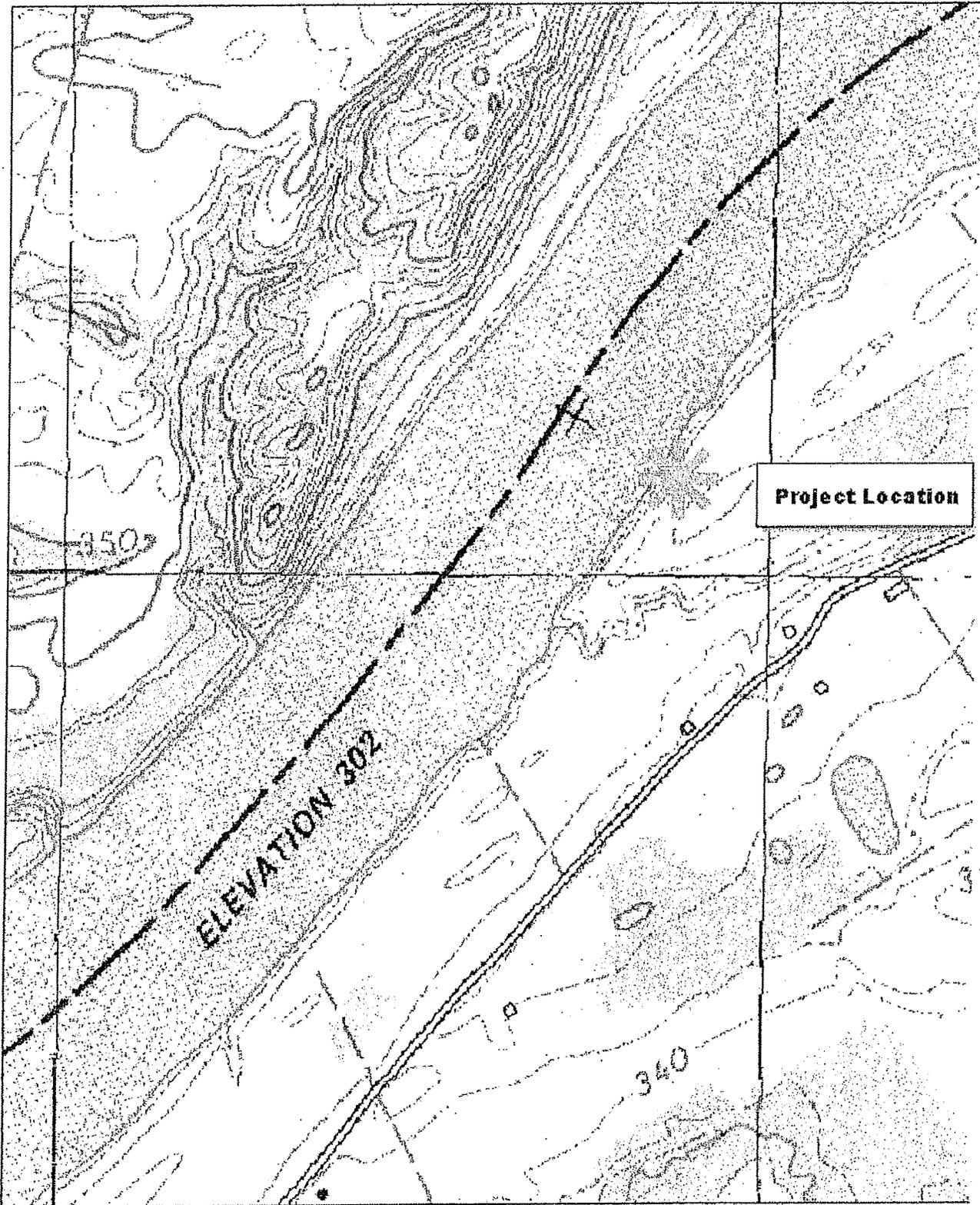
Manager, Property Management
 Southern Land Resources District
 170 Office Service Warehouse Annex
 Muscle Shoals, AL 35660

1101 Congress Parkway
 Athens, Tennessee
 Phone: 615-745-1783

Manager, Property Management
 Central Land Resources District
 Post Office Box 606
 Athens, TN 37303

2611 West Andrew Johnson Highway
 Morristown, Tennessee
 Phone: 615-587-5600

Manager, Property Management
 Eastern Land Resources District
 2611 West Andrew Johnson Highway
 Morristown, TN 37814



First Marine Properties
Barge Coal Handling Facility
TN River Mile 11 L
Quad Map 5 SW (Little Cypress)