

Public Notice

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

In reply refer to Public Notice No.
2004-840

Issue Date: MAY 21 2008

Stream: Big Sandy River mile 6.2
right descending bank

Closing Date: JUN 20 2008

Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Huntington District
ATTN: CELRH-OR-FS Public Notice No. 2004-840
502 Eighth Street
Huntington, West Virginia 25701-2070 Phone: (304) 399-5710

PUBLIC NOTICE: The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

REGULATORY PROGRAM: Since its early history, the U.S. Army Corps of Engineers (Corps) has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the Corps Regulatory Program.

SECTION 10: The Corps is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate all work or structures in or affecting the watercourse, condition or capacity of navigable waters of the United States (U.S.). The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

SECTION 404: The Corps is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the discharge of dredged and fill material into all waters of the United States (U.S.), including wetlands. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

TO WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army (DA) Permit under the provisions of Section 10 of the Rivers and Harbors Act 1899 and Section 404 of the Clean Water Act.

APPLICANT: Aquila Dock, Inc.
P.O. Box 250
Ceredo, West Virginia 25507

LOCATION: The proposed project would be located near Big Sandy River mile 6.2, on the right descending bank, approximately 100 feet upstream of Docks Creek, 1.4 miles south of Neal, in Wayne County, West Virginia (latitude 38° 20' 13" and longitude -82° 35' 04"), as depicted in Drawing 1.

PROJECT HISTORY: On December 10, 2005, Aquila Dock, Inc. was authorized under DA Permit #200400840 to operate loading/unloading dock facilities and mooring structures along the Big Sandy River, on the right descending bank, from river mile 5.8 to river mile 7.4.

DESCRIPTION OF THE PROPOSED WORK: The applicant proposes to construct and operate a coal off-loading facility downstream of an existing loading facility as indicated in Drawing 2. The offloading facility would be constructed using steel sheet piling installed along 120 linear feet of stream parallel to shoreline no more than 40 feet riverward of normal pool shore line (NPSL). The sheet piling would be installed using a barge-mounted crane and the enclosure would be backfilled with approximately 970 cubic yards of material below the ordinary high-water mark of 519.0 feet. Construction details are provided in Drawing 2. An existing tri-tie mooring structure would be removed and single quad-tie mooring structures would be installed upstream and downstream of the offloading facility. Quad-tie details are provided in Drawing 3. The applicant would moor and unload one 35' wide x 205' long jumbo barge at a time. The maximum riverward extent would be 80 feet from normal pool shoreline.

The applicant also proposes to perform routine maintenance dredging at two areas for a period of ten years with on-site disposal of dredged material. An overview of the proposed dredge and disposal areas are provided in Drawing 4. During initial dredging, the applicant proposes to remove approximately 178 cubic yards of material from Dredge Site A, in an area approximately 160 feet in length parallel to NPSL and no more than 15 feet riverward of NPSL, to a depth of two feet below current stream bottom elevation as indicated in Drawing 5. In addition, the applicant proposes initial dredging to remove approximately 702 cubic yards of material from Dredge Site B, in an area approximately 632 feet in length parallel to NPSL and no more than 15 feet riverward of NPSL, to a depth of two feet below current stream bottom elevation, as indicated in Drawing 6. After initial dredging, the applicant proposes to maintain a bottom elevation at both dredge sites not lower than 505.0 feet, 10 feet below the normal pool elevation of 515.0 feet. Dredged material would be removed using a barge-mounted crane with a clamshell bucket and disposed in a 1/8-acre on-site, upland disposal area at an elevation greater than 550 feet as indicated in Drawing 7. The purpose of this dredging component of the work is to increase water depth along the length of the facility and provide sufficient depth for fleeting of empty and loaded barges. The permittee is responsible for submitting a Facility Operating Plan (FOP) in accordance with Corps guidance. A notice to navigation would be issued a minimum of 14 days prior to the proposed construction and dredging activities.

HISTORIC AND CULTURAL RESOURCES: The National Register of Historic Places has been consulted and it was determined there are no properties currently listed on the register that are in the area affected by the project. A copy of this public notice will be sent to the State Historic Preservation Office for their review. Comments concerning archeological sensitivity of a project area should be based upon collected data.

ENDANGERED/THREATENED SPECIES REVIEW: This public notice serves as a request to the U.S. Fish and Wildlife Service for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area which would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended).

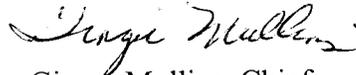
PUBLIC INTEREST REVIEW AND COMMENT: Any person who has an interest that may be adversely affected by the issuance of a permit may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest which may be adversely affected and the manner in which the interest may be adversely affected by the activity. This application will be reviewed in accordance with 33 CFR 320-331, the Regulatory Program of the U. S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U. S. Environmental Protection Agency pursuant to Section 404(b) (1) of the CWA. Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered including the cumulative effects thereof; of those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. Written statements on these factors received in this office on or before the expiration date of this public notice will become a part of the record and will be considered in the final determination. A permit will be granted unless its issuance is found to be contrary to the public interest.

SOLICITATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. For accuracy and completeness of the administrative record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to:

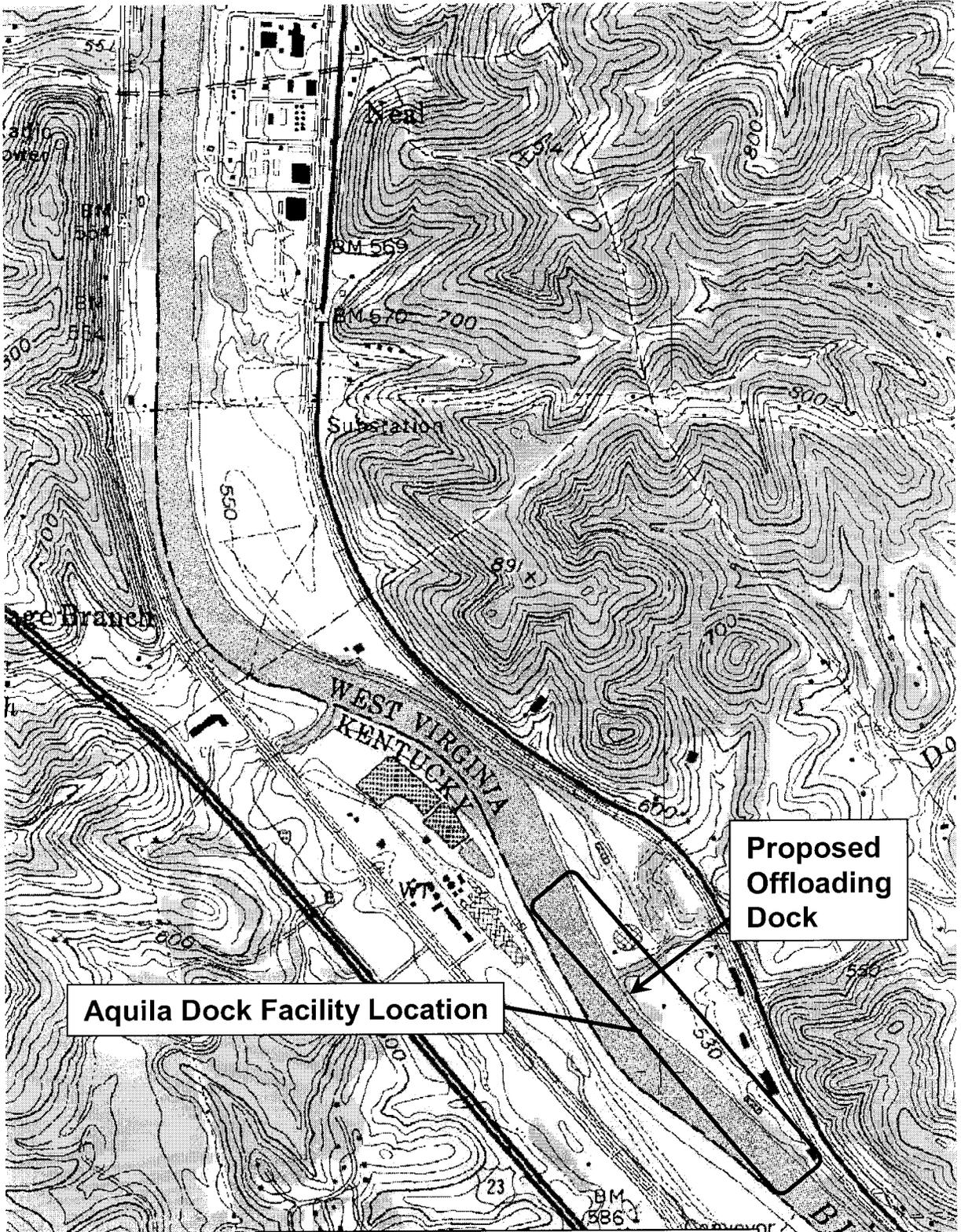
U.S. Army Corps of Engineers, Huntington District
Attn. CELRH-OR-FS, Public Notice 2004-840
502 Eighth Street
Huntington, West Virginia 25701-2070

Please note names and addresses of those who submit comments in response to this public notice become part of our administrative record and, as such, are available to the public under provisions of the Freedom of Information Act. Thank you for your interest in our nation's water resources. If you have any questions concerning this public notice, please contact Mr. Richard Hemann of the South Regulatory Section at 304-399-5710.



Ginger Mullins, Chief
Regulatory Branch

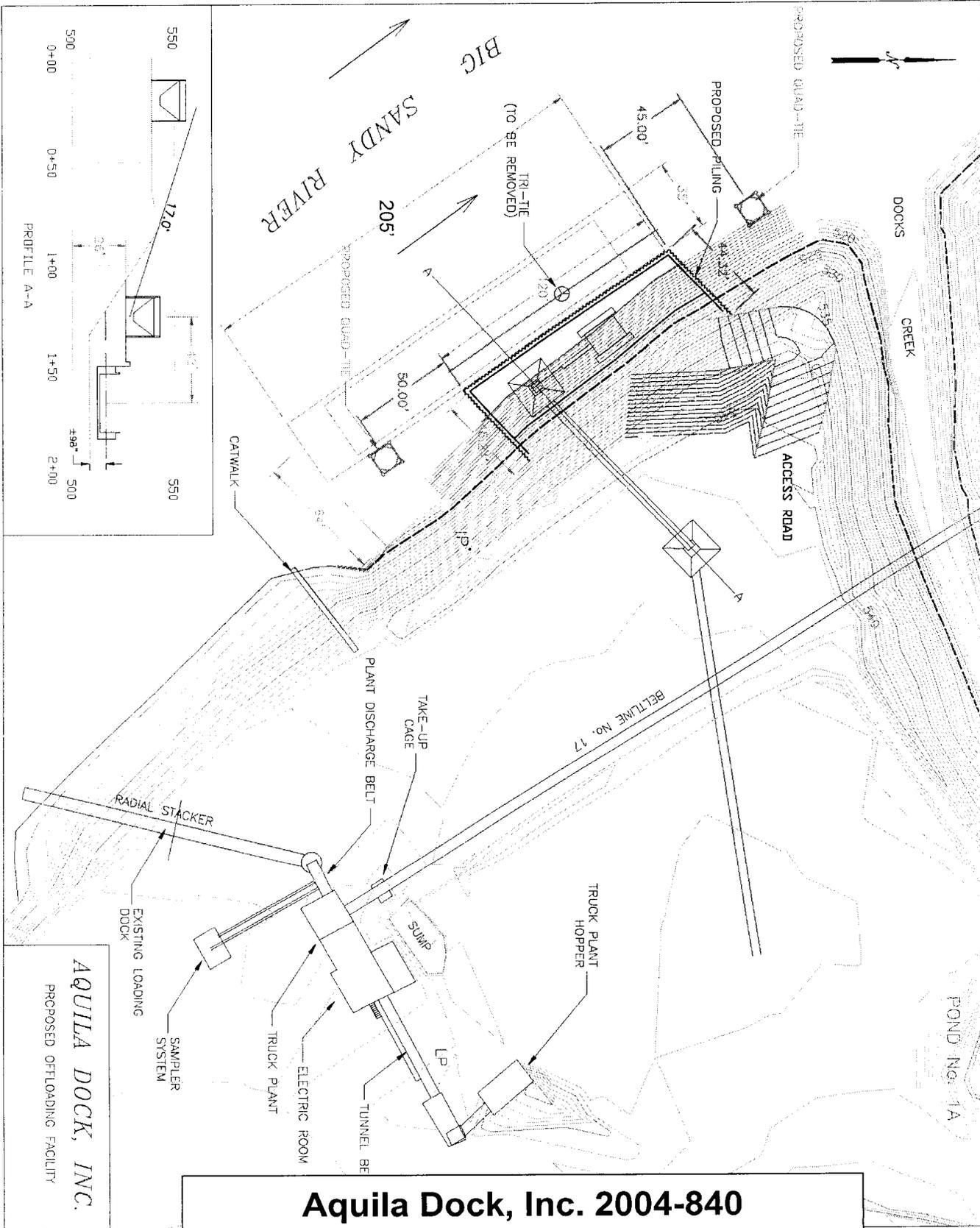
(WV, K)



Aquila Dock Facility Location

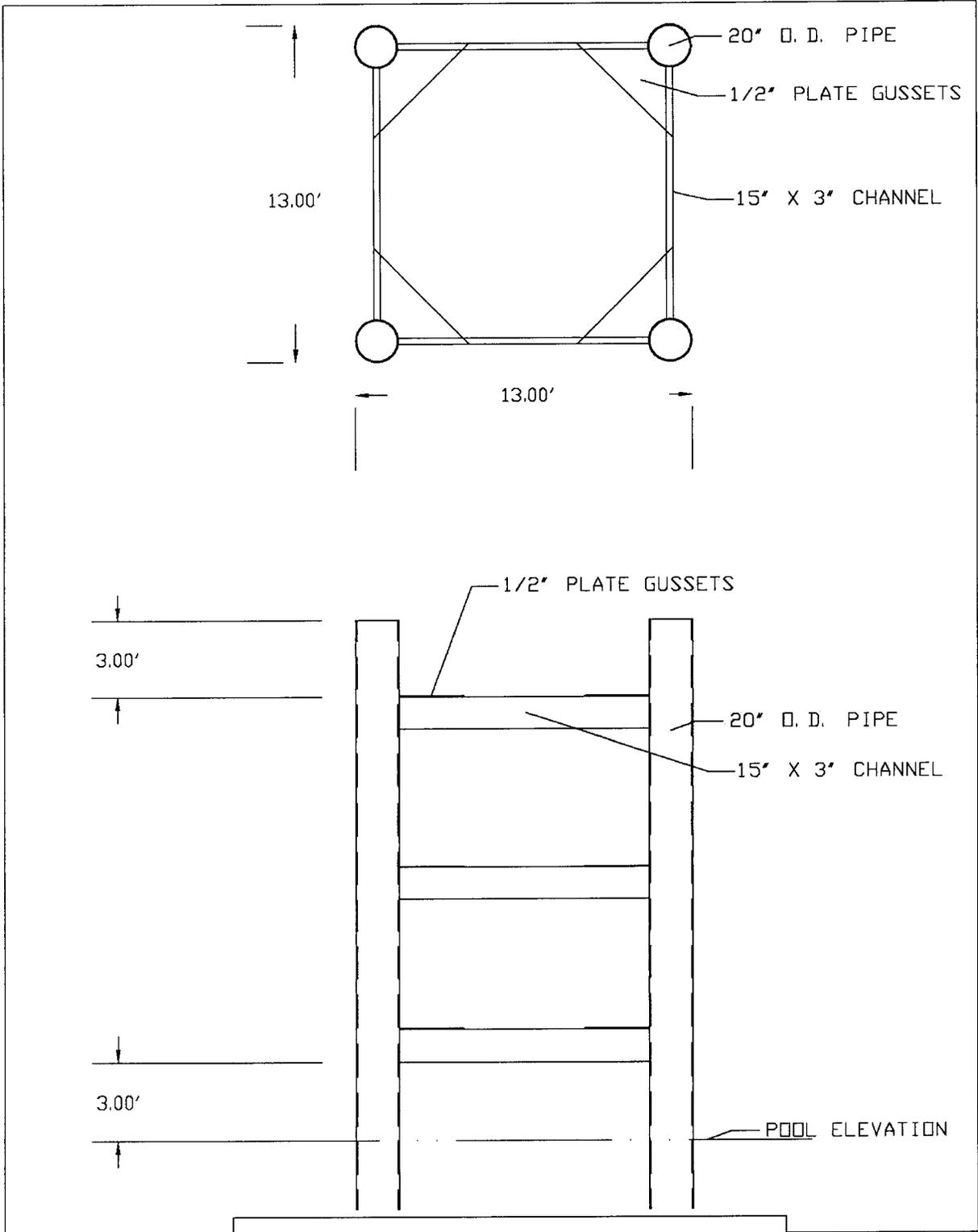
Proposed Offloading Dock

**Aquila Dock, Inc. 2004-840
Drawing 1 - Location Map**

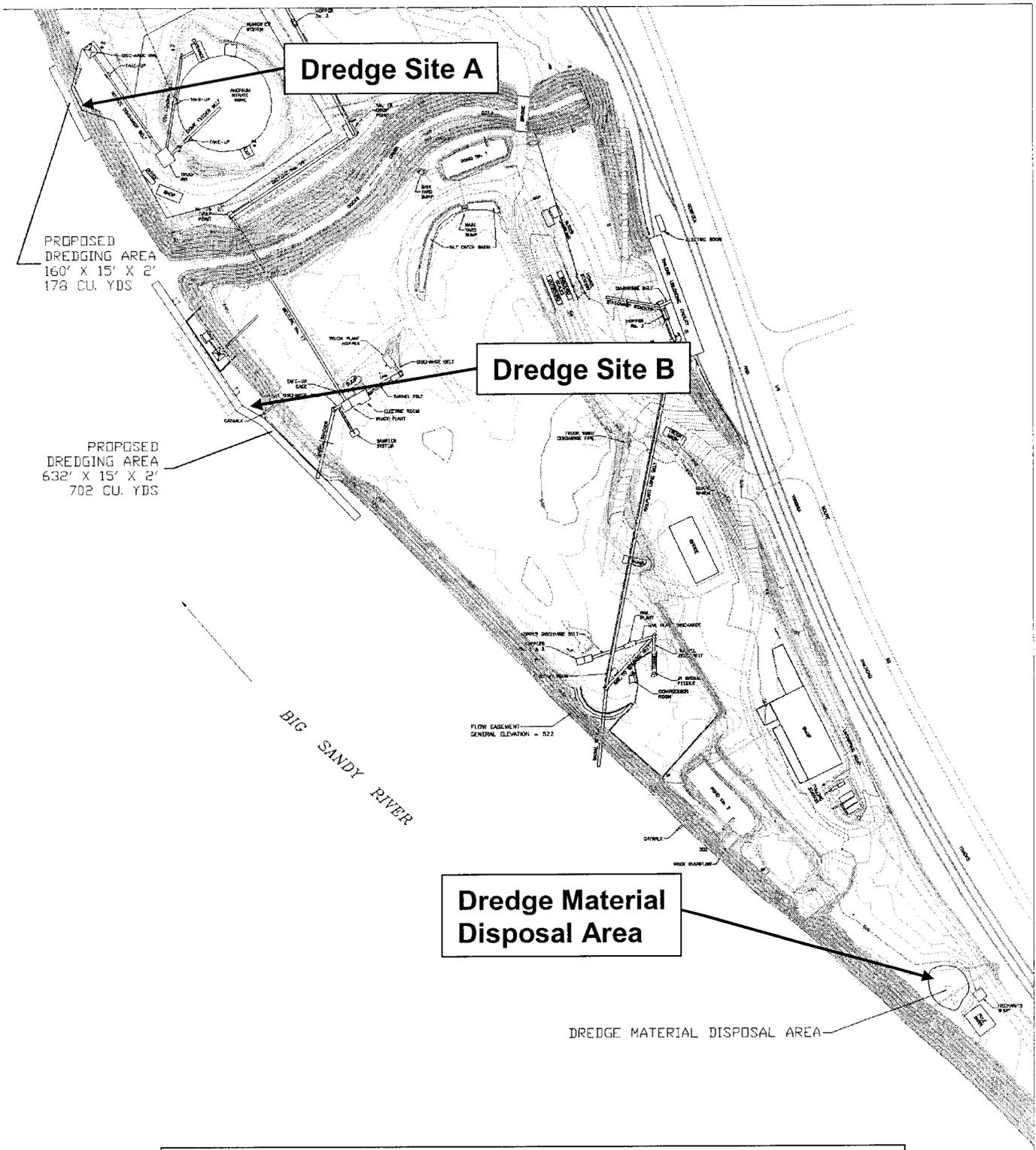


Aquila Dock, Inc. 2004-840
Drawing 2 – Proposed Offloading Dock

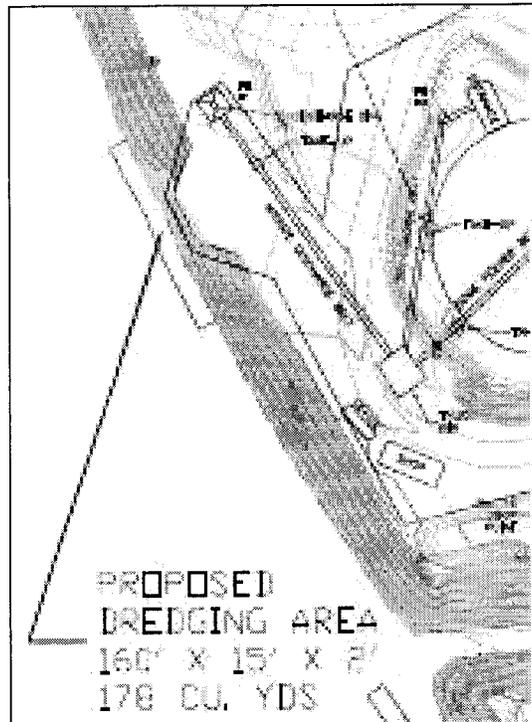
AQUILA DOCK, INC.
 PROPOSED OFFLOADING FACILITY



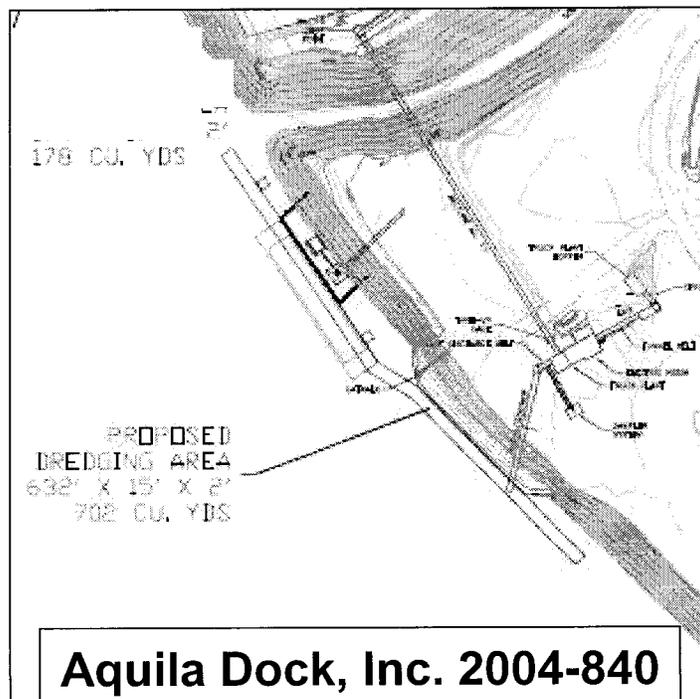
**Aquila Dock, Inc. 2004-840
Drawing 3 – Quad-tie Details**



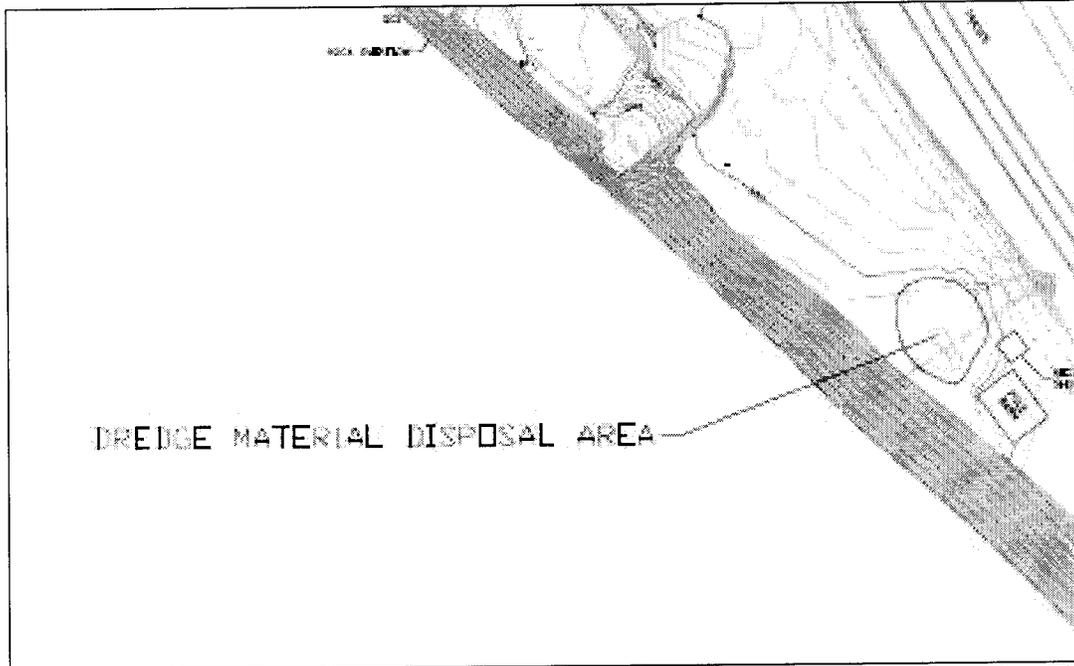
**Aquila Dock, Inc. 2004-840
Drawing 4 – Dredging and Disposal Areas**



**Aquila Dock, Inc. 2004-840
Drawing 5 – Dredge Site A**



**Aquila Dock, Inc. 2004-840
Drawing 6 – Dredge Site B**



Aquila Dock, Inc. 2004-840
Drawing 7 – Dredged Material Disposal Area