



Public Notice

U S Army Corps
of Engineers
Huntington District

In reply refer to Public Notice No. 2008-00318; 2008-00319; 200800329 – KAN
Issuance Date: JUN 11 2008

Stream: Kanawha River

Closing Date: JUL 11 2008

Please address all comments and inquiries to:

U.S. Army USACE of Engineers, Huntington District

ATTN: CELRH-OR-F Public Notice No. (*reference above*)

502 Eighth Street

Huntington, West Virginia 25701-2070

Phone: (304) 399-5710

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

REGULATORY PROGRAM: Since its early history, the US Army Corps of Engineers (USACE) 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 USACE Regulatory Program.

SECTION 10: The USACE 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 course, condition or capacity of navigable waters of the United States. The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

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

TO WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899. This notice serves as the USACE request to the West Virginia Department of Environmental Protection (WVDEP) to act on Section 401 Water Quality Certification for the following application.

APPLICANT: May Associated Companies LLC
824 Riverview Drive
Belle, WV 25015

LOCATION: The proposed project is located at three separate locations on the Kanawha River. Site #1 is located between **milepoints 43.15 and 45.25** near St. Albans, Putman and Kanawha Counties, West Virginia. Site #2 is located between **milepoints 68.4 and 69.3** near Marmet, Kanawha County, West Virginia. Site #3 is located between **milepoints 71.86 and 74.42** near Diamond, Kanawha County, West Virginia.

DESCRIPTION OF THE PROPOSED WORK: The applicant proposes to renew their authorization to dredge coal from the Kanawha River at three distinct locations. The original permits for each location were issued in 2001 and expired on December 31, 2006. The applicant is now requesting authorization to re-initiate the dredging activities at these locations.

Site #1: The proposed dredging activities at this location would occur at five separate sites between milepoints 45.25 and 43.15. All work would occur on barges located within the Kanawha River. Material removed from the riverbed would be processed on-board the dredge and work barges. The dredging configuration would include the dredge barge, the hopper barge, and one additional work barge (used on an as-needed basis). The dredge barge would be attached to a towboat with crew during operational hours. To remove the coal from the riverbed, the applicant would use a 36" cutter head suction dredge mounted on a jumbo barge measuring 35' x 195'. Each dredge cut would measure approximately 270' x 3' x 20'. The excavated material would be transferred to a hopper barge (35' x 195') where it would be processed. A double deck vibrating screen would be used to separate the coal and other useable material from the un-useable material. The un-useable material (i.e. sand, wood, rock, etc.) and associated process water would be immediately re-deposited into the river, via three flume pipes, into the dredge cut. Approximately 90% of the dredged material would be returned to the river. The remaining 10% of the material (coal) would be conveyed to a dryer and then placed into a waiting barge and ultimately sold to commercial users. According to the applicant approximately 1,300 cubic yards of material would be excavated and processed daily with approximately 1,209,000 cubic yards removed during the life of the permit. Of that amount, approximately 1,088,000 cubic yards of the material would be returned to the river. The dredge would operate up to 16 hours a day and six days a week. During off-hours, the dredge and associated barges would be moored at the Kanawha Stone Company dock along the right descending bank of the Kanawha River at milepoint 40.8. The dredging facility at this location would measure 334' long x 105' wide and would extend approximately 130' from the normal pool shoreline.

Site #2: The proposed dredging activities at this location would occur at four separate sites between milepoints 68.4 and 69.3. Approximately 1,300 cubic yards of material would be excavated and processed daily with approximately 558,000 cubic yards removed during the life of the permit. Of that amount, approximately 503,000 of cubic yards of the material would be returned to the river. During off-hours, the dredge and associated barges would be moored along the right descending bank of the Kanawha River near Witcher's Creek along the Kanawha River at milepoint 71.1. The dredging facility at this location would measure 334' long x 105' wide and would extend approximately 130' from the normal pool shoreline. The operation of the dredge would operate as described above.

Site #3: The proposed dredging activities at this location would occur at twelve separate sites between milepoints 71.86 to 74.42. Approximately 1,300 cubic yards of material would be excavated and processed daily with approximately 1,499,000 cubic yards of removed during the life of the permit. Of that amount, approximately 1,349,000 cubic yards of the material would be returned to the river. During off-hours, the dredge and associated barges would be moored along the right descending bank of the Kanawha River near Witcher's Creek along the Kanawha River at milepoint 71.1. The dredging facility at

this location would measure 334' long x 105' wide and would extend approximately 130' from the normal pool shoreline. The operation of the dredge would operate as described above.

The purpose of the proposal is to allow the removal of coal that is located on the riverbed at the locations described above. The coal removed from the riverbed would be processed and sold on the commercial market. Plans for the proposed facility are attached to this public notice.

MITIGATION PLAN: The applicant has not submitted a Compensatory Mitigation Plan for this project.

WATER QUALITY CERTIFICATION: A Section 401 Water Quality Certification is required for this project. It is the applicant's responsibility to obtain certification from the WVDEP.

HISTORIC AND CULTURAL RESOURCES: The proposed mining plans was reviewed by the West Virginia Division of Culture and History (WVDCH) to determine if the proposal would result in impacts to properties listed or eligible for the National Register of Historic Places. WVDCH indicated that based on the information provided in the Phase I Archeological Survey conducted by the applicant no known archeological sites listed on or eligible for the Register would be affected by the proposed undertaking. A copy of this public notice will be sent to the WVDCH for their review. Additional comments concerning archeological sensitivity of a project area should be based upon collected data.

ENDANGERED/THREATENED SPECIES REVIEW: The project is located within the known or historic range of the following endangered species: Fanshell mussel (*Cyprogenia stegaria*). The Huntington District has consulted the most recently available information and has determined that the project is not likely to affect the continued existence of these species as habitat conducive for this species. The applicant contacted the WVDEP regarding this species. WVDEP indicated due to lack of quality substrate for fish spawning and mussel habitat within the proposed dredge areas and due to the occurrence of dredging at these locations in the past, the proposal will have no effect on the fanshell mussel. WVDEP also waived the warm-water spawning condition provided the applicant utilize a cutter head dredge to remove material from the riverbed. This public notice serves as a request to the USFWS and WVDEP 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 ESA 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 USACE, and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the United States 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,

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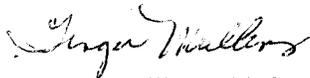
ENDANGERED/THREATENED SPECIES REVIEW: Two federally listed endangered species, the Fanshell mussel (*Cyprogenia stegaria*). The applicant contacted the WVDEP regarding this species. WVDEP indicated due to lack of quality substrate for fish spawning and mussel habitat within the proposed dredge areas and due to the occurrence of dredging at these locations in the past, the proposal will have no effect on the fanshell mussel. WVDEP also waived the warm-water spawning condition provided the applicant utilize a cutter head dredge to remove material from the riverbed. This public notice serves as a request to the USFWS and WVDEP 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 ESA Species Act of 1972 (as amended).

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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.

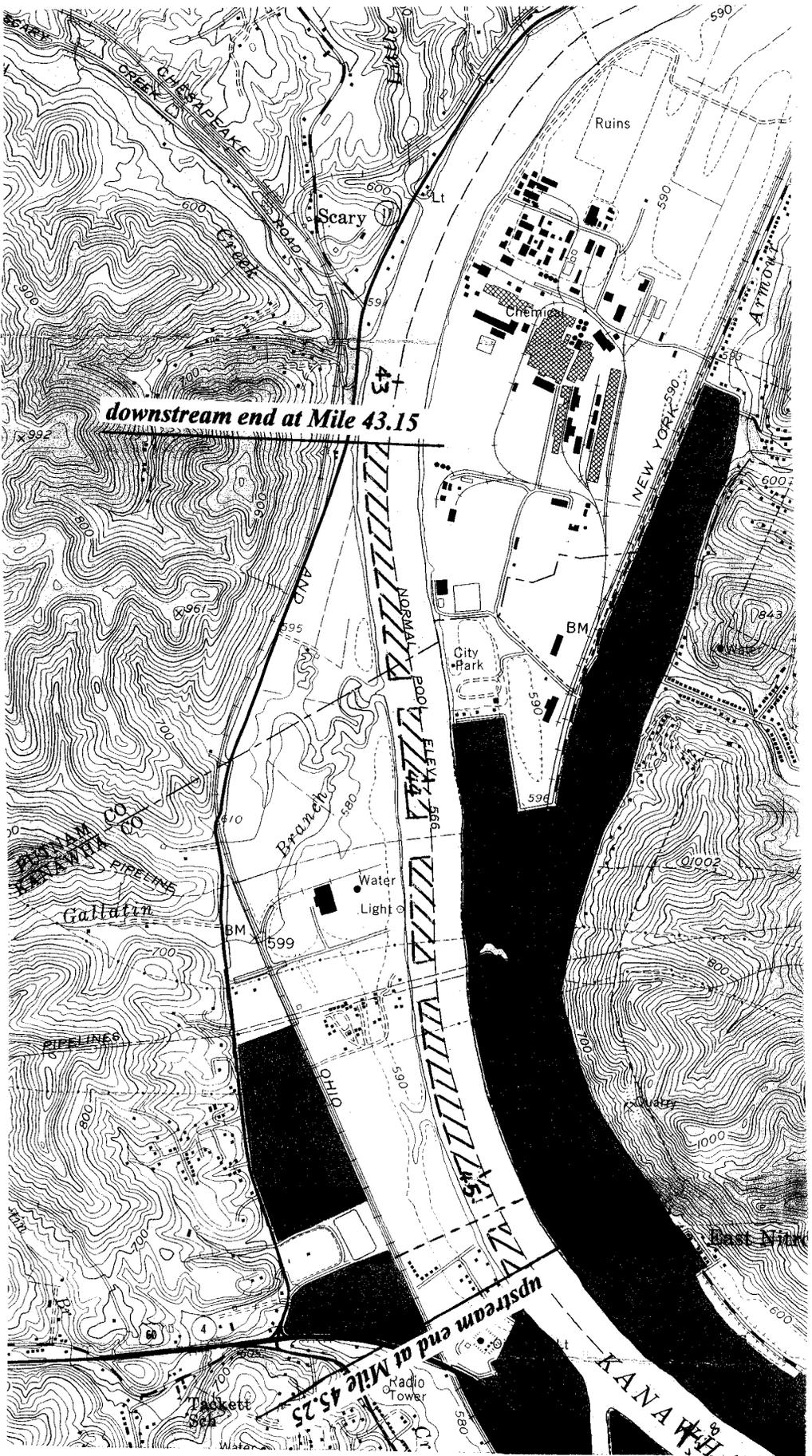
SOLICITATION OF COMMENTS: The USACE is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. For accuracy and completeness of the administrative record, 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 USACE 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 Kimberly Courts-Brown, Project Manager, South Regulatory Section, CELRH-OR-FS, USACE Huntington District, 502 Eighth Street, Huntington, West Virginia 25701-2070. Please note names and addresses of those who submit comments in response to this public notice 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 the above, please contact Kimberly Courts-Brown of the Energy Resource Section at (304) 399-5610.



Ginger Mullins, Chief
Regulatory Branch

(W)



Note:

A search of Corps of Engineers permit records on March 17, 2008 determined that submarine crossings are located at Mile points 44.07, 44.4, 44.45, 4.46 and 45.1.

SITE PLAN
1" = 2000'

Site #7

BOWER'S PERMIT CONSULTING
Permit Consultant and Coordinator
227 Indiana Street, Huntington, WV 25704
TEL: 304.429.4145 FAX: 304.429.2308
E-Mail: jbbjbower@peoplepc.com

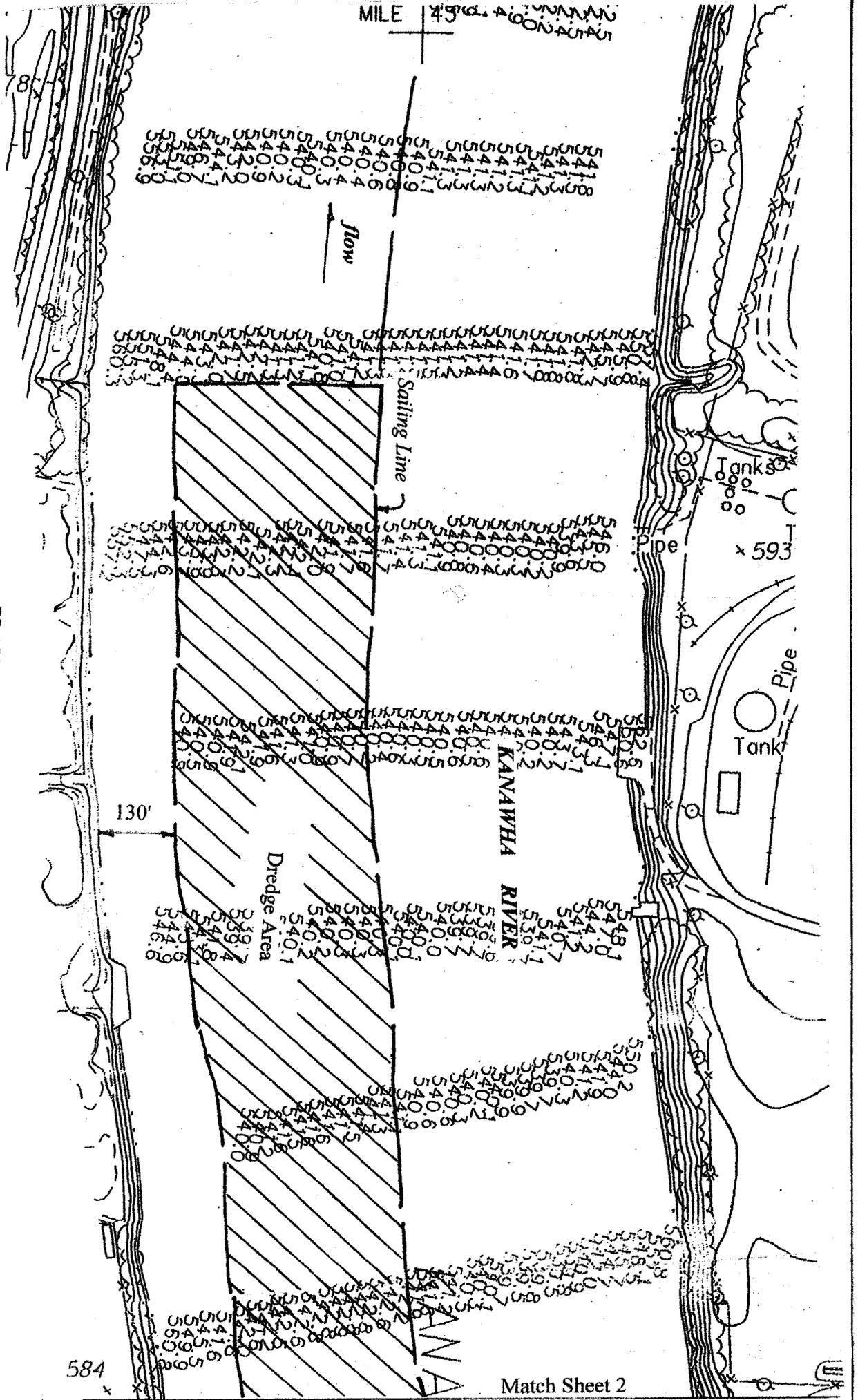
May Associated Companies, LLC
Coal Dredging in Kanawha River
River Mile - 43.15 -45.25
Date: March 17, 2008 —Scale: As Shown
St. Albans, Kanawha County, WV
Sheet 1 of 8

Measurements and dimensions shown on Drawings 1 of 7 through 7 of 7 are accurate to the best of my knowledge and ability and are to be used to obtain a Department of the Army Permit.

Note:

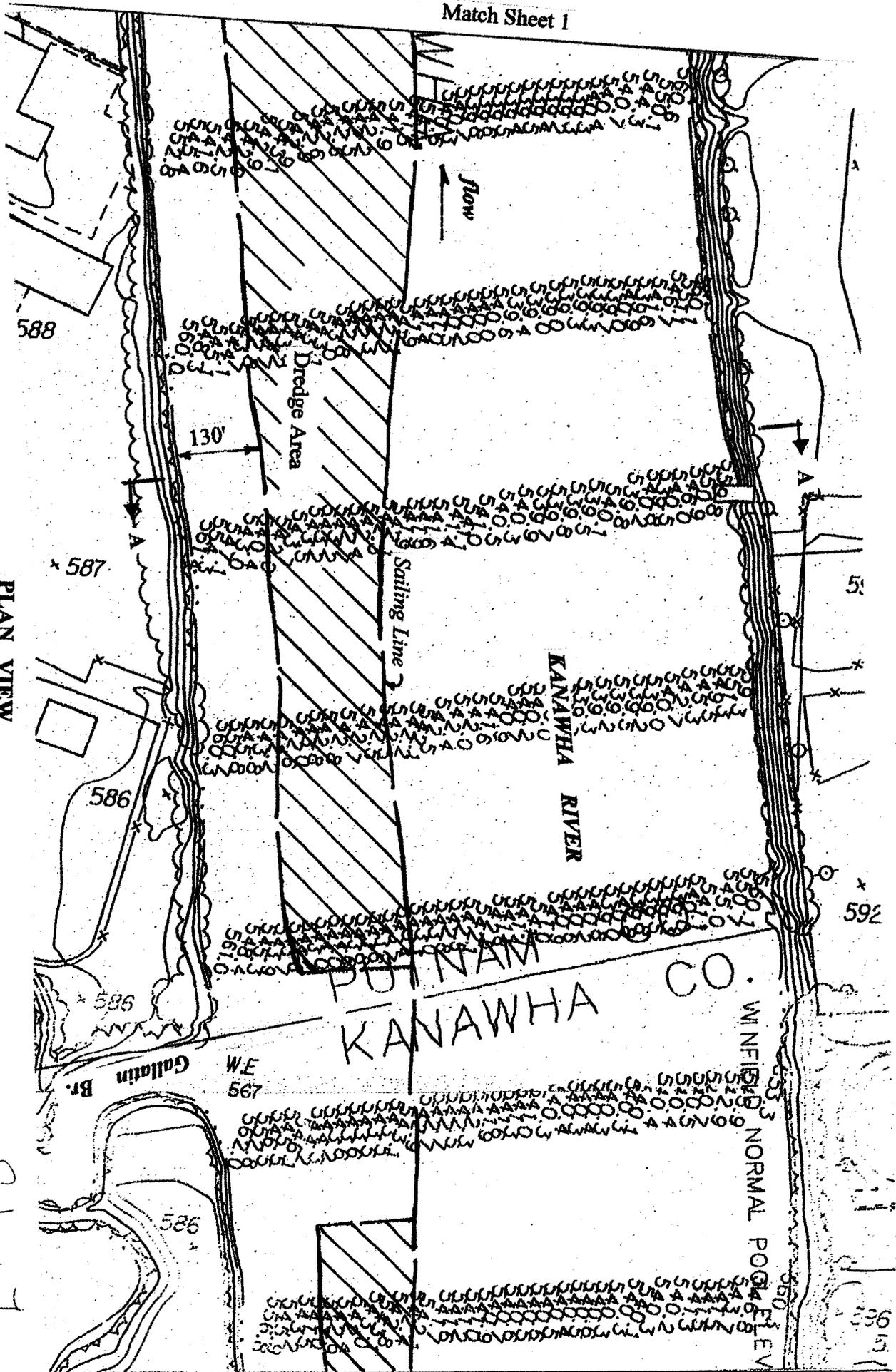
PLAN VIEW
1" = 200'

Site # 1



BOWER'S PERMIT CONSULTING
 Permit Consultant and Coordinator
 227 Indiana Street, Huntington, WV 25704
 TEL: 304.429.4145 FAX: 304.429.2308
 E-Mail: info@bowerspermitconsulting.com

May Associated Companies, LLC
 Coal Dredging in Kanawha River
 River Mile - 43.15 - 45.25
 Date: Mar 7, 2008 ----- Scale: As Shown
 St. Albans, Putnam & Kanawha Co., WV
 Sheet 2 of 8



PLAN VIEW
1" = 200'

SITE # 1

BOWER'S PERMIT CONSULTING

Permit Consultant and Coordinator

227 Indiana Street, Huntington, WV 25704

TEL: 304.429.4145 FAX: 304.429.2308

E-Mail: jb@bowers.com

May Associated Companies, LLC

Coal Dredging in Kanawha River

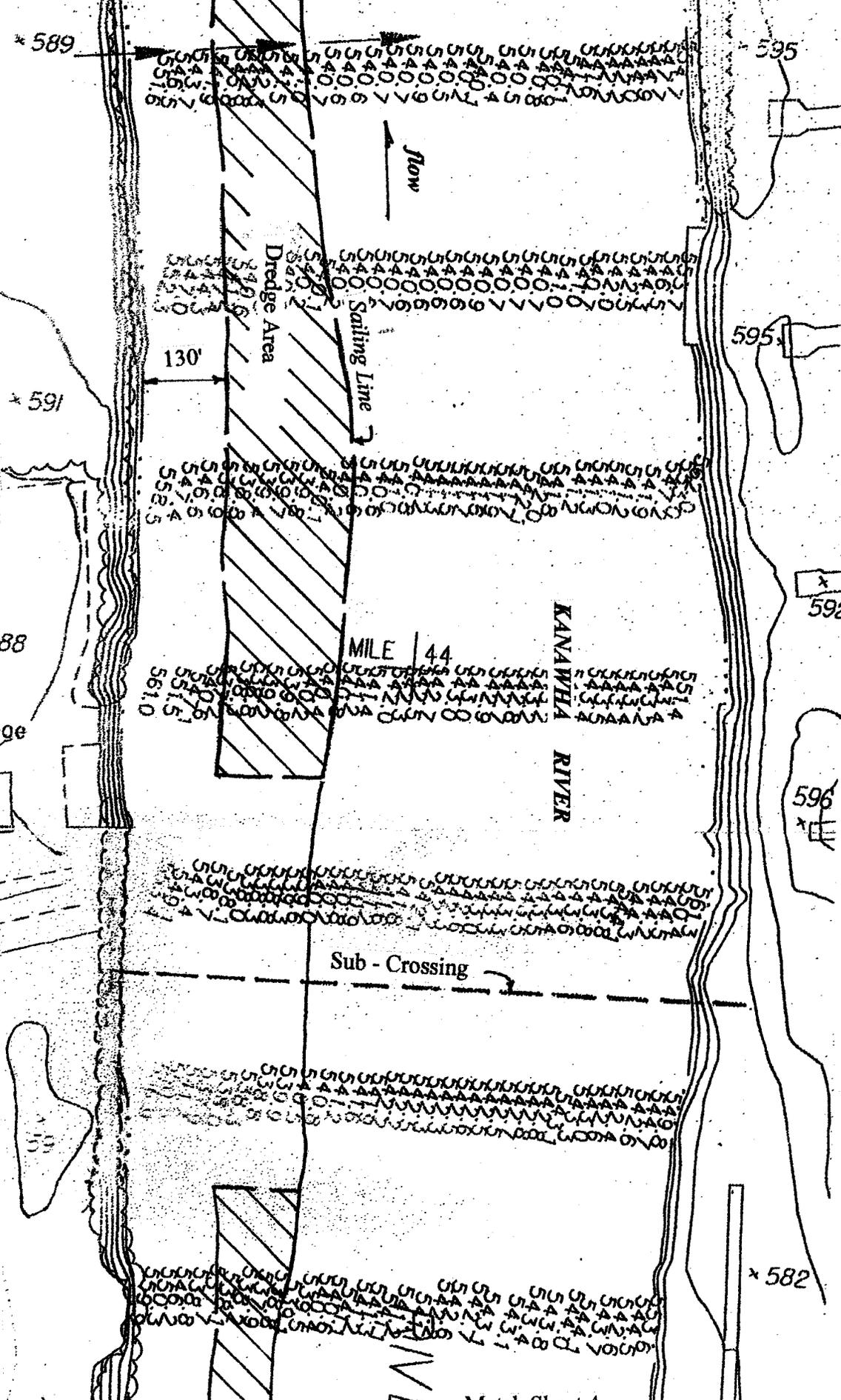
River Mile - 43.15 - 45.25

Date: Mar 7, 2008 Scale: As Shown

St. Albans, Putnam & Kanawha Co., WV

Match Sheet 2

566



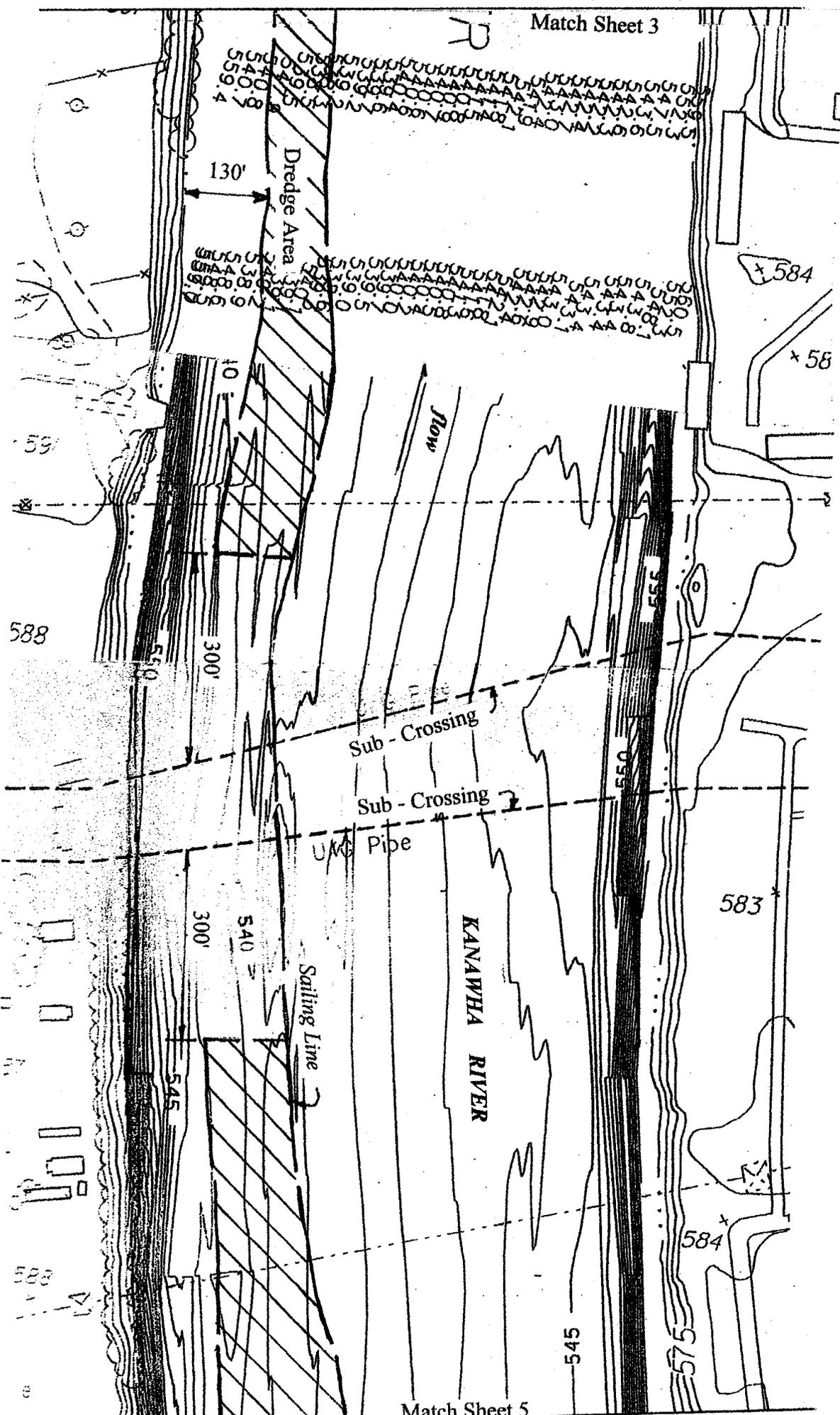
Note:
 A search of Corps of Engineers permit record on March 17, 2008 determined one submarine crossing is noted on this drawing. It is located about Mile 44.07.

PLAN VIEW
 1" = 200'

SHEET

BOWER'S PERMIT CONSULTING
 Permit Consultant and Coordinator
 227 Indiana Street, Huntington, WV 25704
 TEL: 304.429.4145 FAX: 304.429.2308
 E-Mail: jb@bowerspeoplepc.com

May Associated Companies, LLC
 Coal Dredging in Kanawha River
 River Mile - 43.15 - 45.25
 Date: Mar 7, 2008 Scale: As Shown
 St. Albans, Putnam & Kanawha Co., WV
 Sheet 4 of 8



Note:

A search of Corps of Engineers permit records on March 17, 2008 determined that three submarine crossings are noted on this drawing. They are located about Mile 44.4, 44.45 and 44.46.

PLAN VIEW
1" = 200'

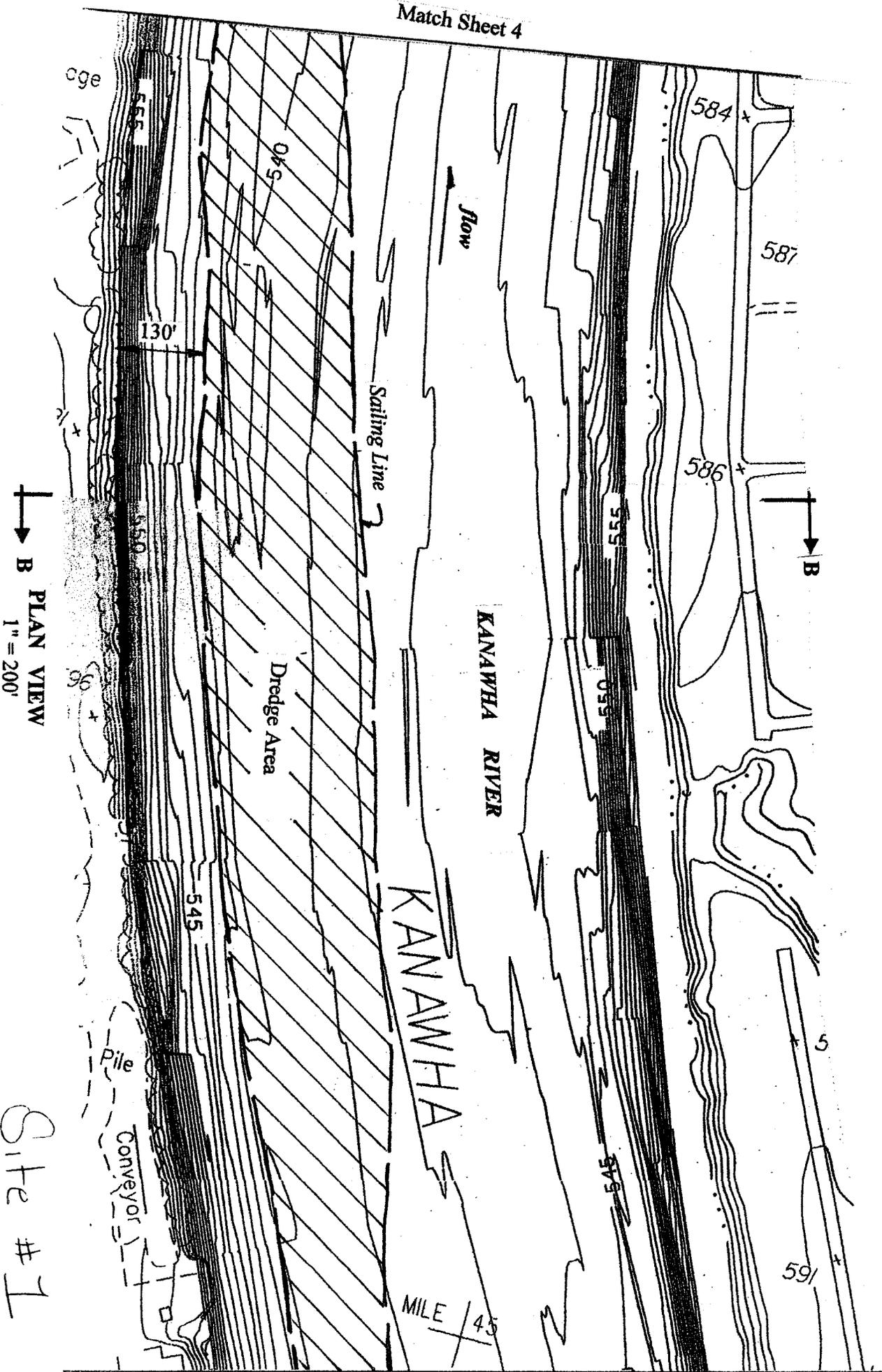
BOWER'S PERMIT CONSULTING
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227 Indiana Street, Huntington, WV 25704
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May Associated Companies, LLC
Coal Dredging in Kanawha River

River Mile - 43.15 - 45.25
Date: Mar 7, 2008 ----- Scale: As Shown
St. Albans, Putnam & Kanawha Co., WV

Site # 1



PLAN VIEW
1" = 200'

Site #1

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May Associated Companies, LLC
 Coal Dredging in Kanawha River
 River Mile - 43.15 - 45.25
 Date: Mar 7, 2008 ----- Scale: As Shown
 St. Albans, Putnam & Kanawha Co., WV
 Sheet 6 of 8

Match Sheet 5



Note:

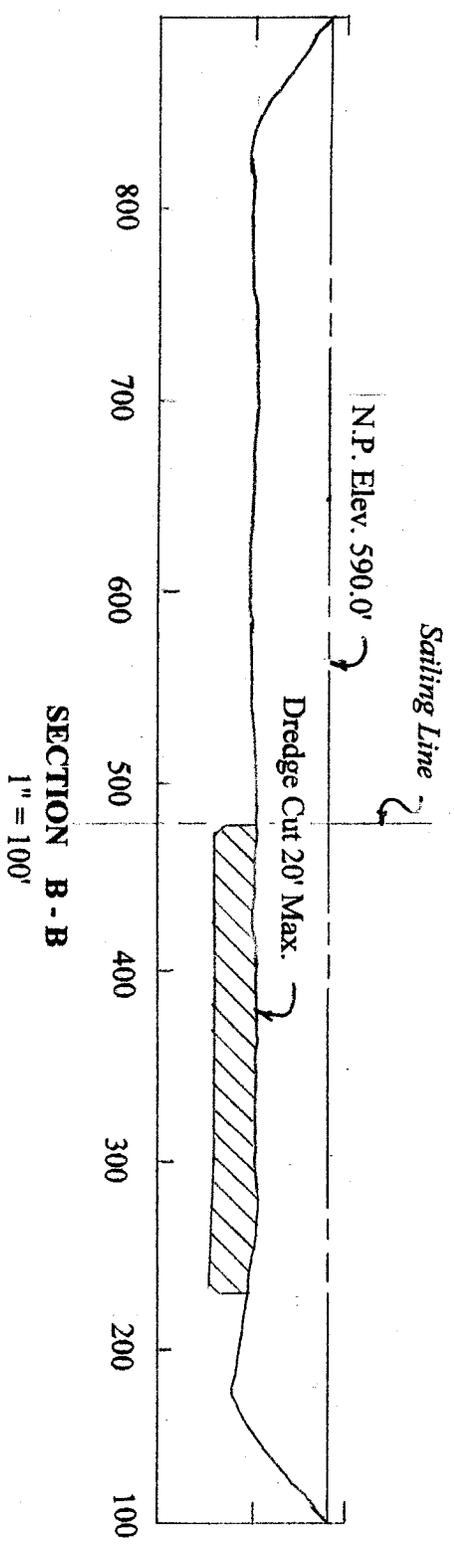
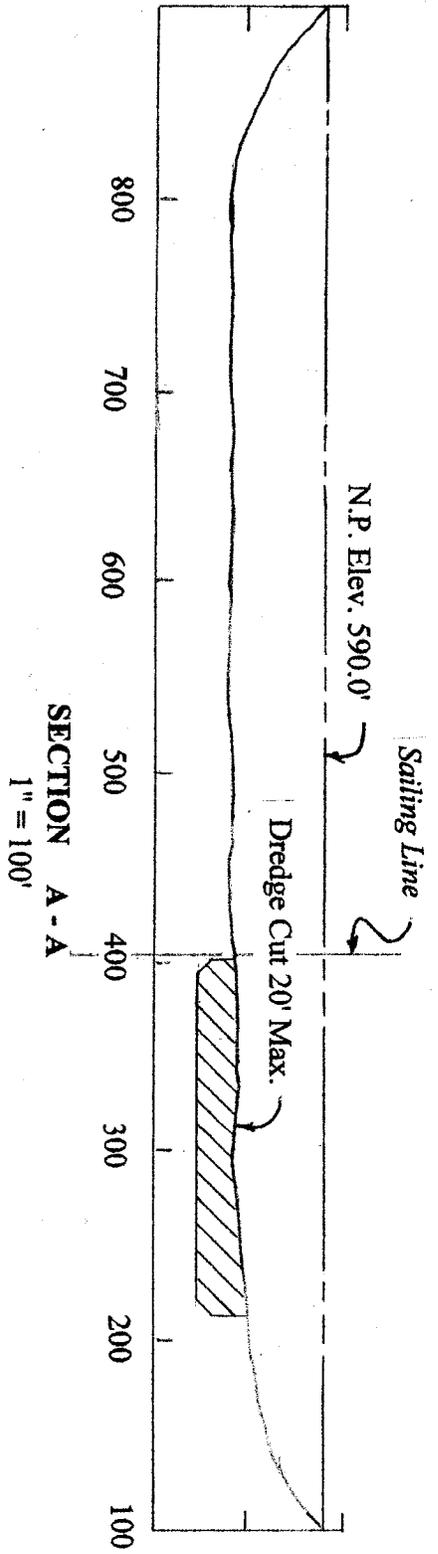
A search of Corps of Engineers permit records on March 17, 2008 determined that one submarine crossings is noted on this drawing. It is located about Mile 45.1.

PLAN VIEW
1" = 200'

81#1

POWER'S PERMIT CONSULTING
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 E-Mail: jbblbower@peoplepc.com

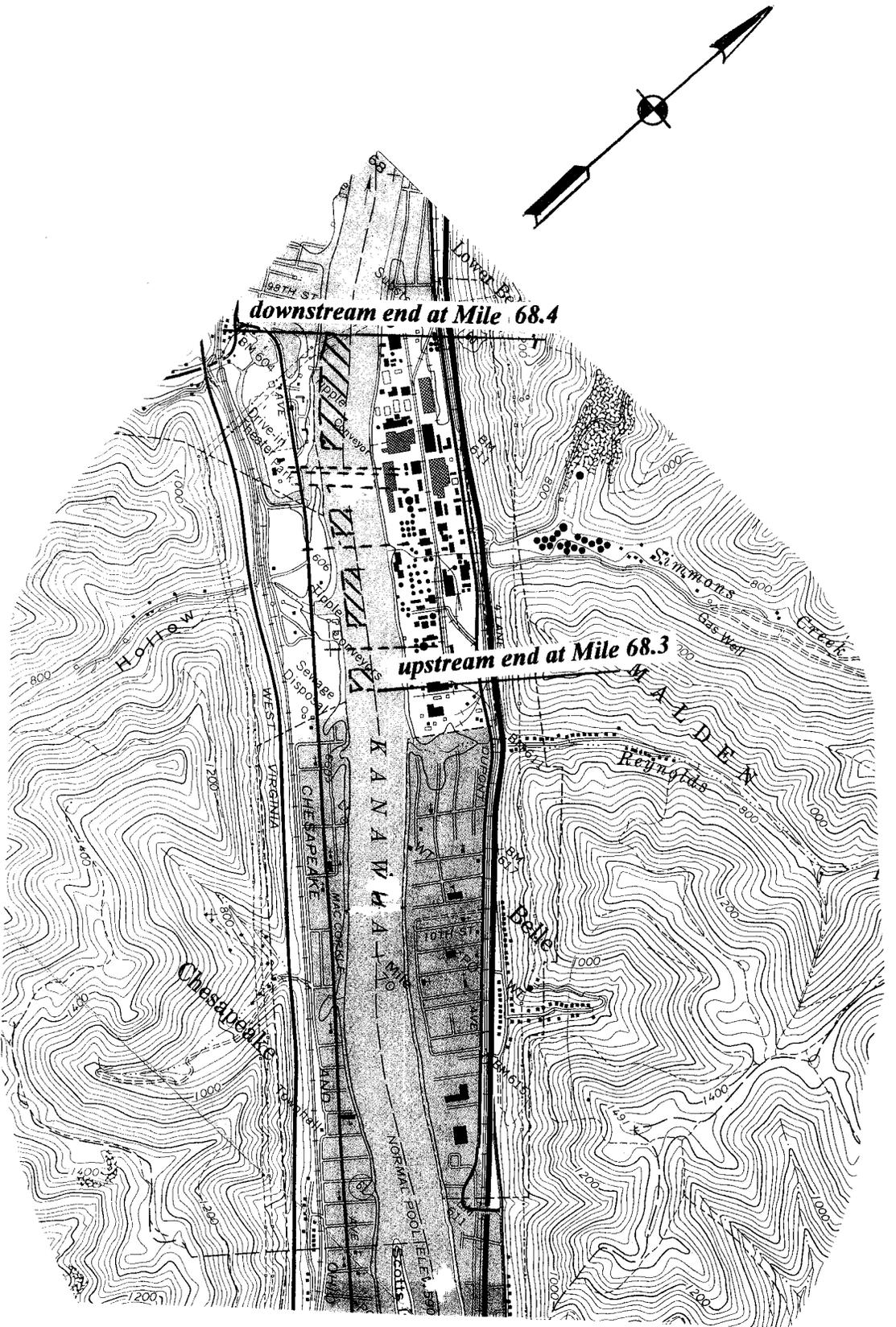
May Associated Companies, LLC
 Coal Dredging in Kanawha River
 River Mile - 43.15 - 45.25
 Date: Mar 7, 2008 Scale: As Shown
 St. Albans, Putnam & Kanawha Co., WV



Site # 1

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May Associated Companies, LLC
 Coal Dredging in Kanawha River
 River Mile - 43.15-45.25
 Date: March 17, 2008 — Scale: As Shown
 Diamond, Kanawha County, WV
 Sheet 8 of 8



Note:

A search of Corps of Engineers Permit records on March 17, 2008 determined that submarine crossings are located on this drawing at Mile points 68.54, 68.76 (2), 68.80, 68.94 and 69.2.

SITE PLAN

1" = 2000'

Site # 2

BOWER'S PERMIT CONSULTING

Permit Consultant and Coordinator

227 Indiana Street, Huntington, WV 25704

TEL: 304.429.4145 FAX: 304.429.4145

E-Mail: jbjbowser@peoplepc.com

May Associated Companies, LLC

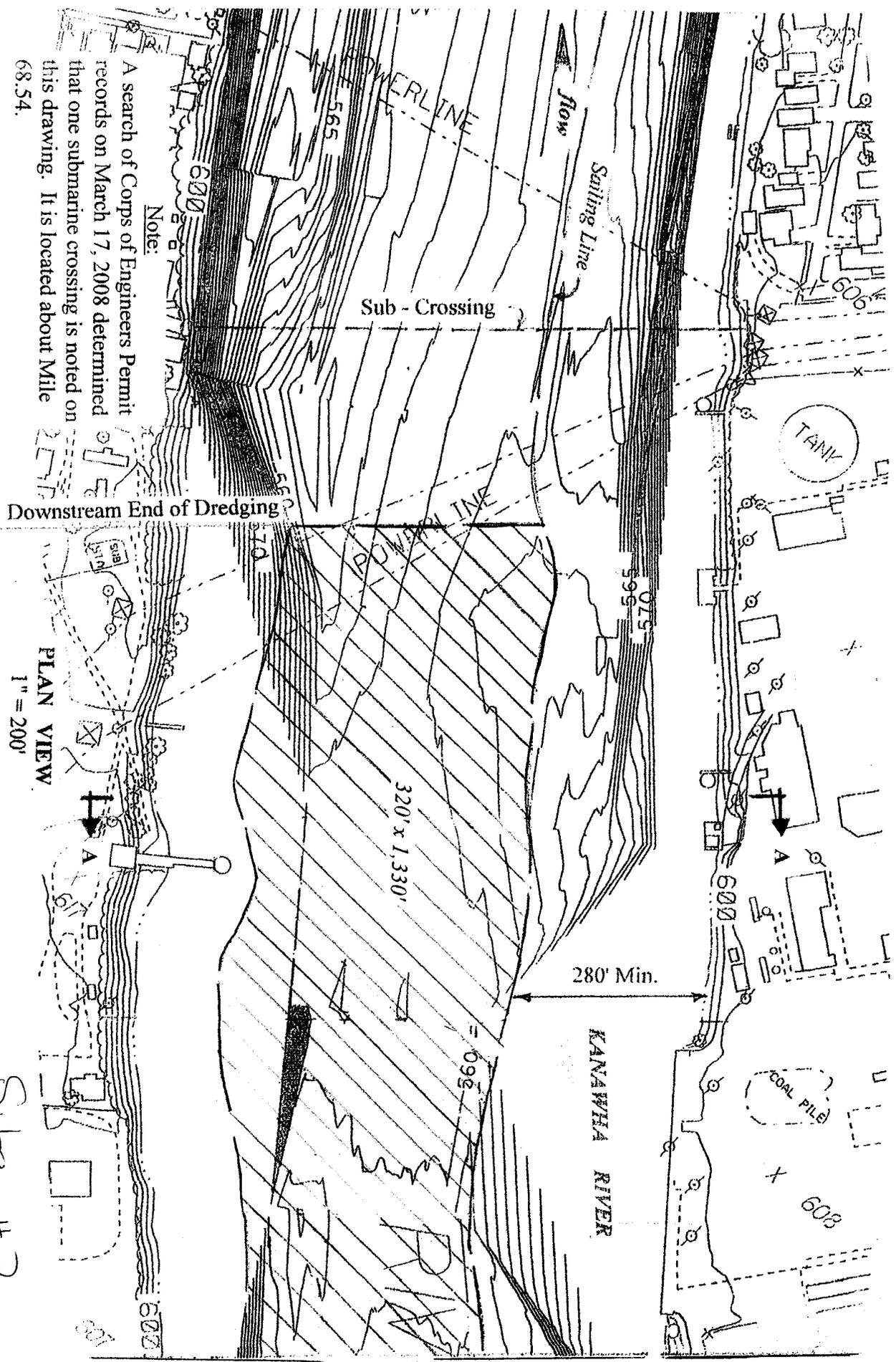
Coal Dredging in Kanawha River

River Mile 68.4 - 69.3

Date: March 17, 2008—Scale: As Shown

Marmet, Kanawha County, WV

Sheet 1 of 5



Note:
A search of Corps of Engineers Permit records on March 17, 2008 determined that one submarine crossing is noted on this drawing. It is located about Mile 68.54.

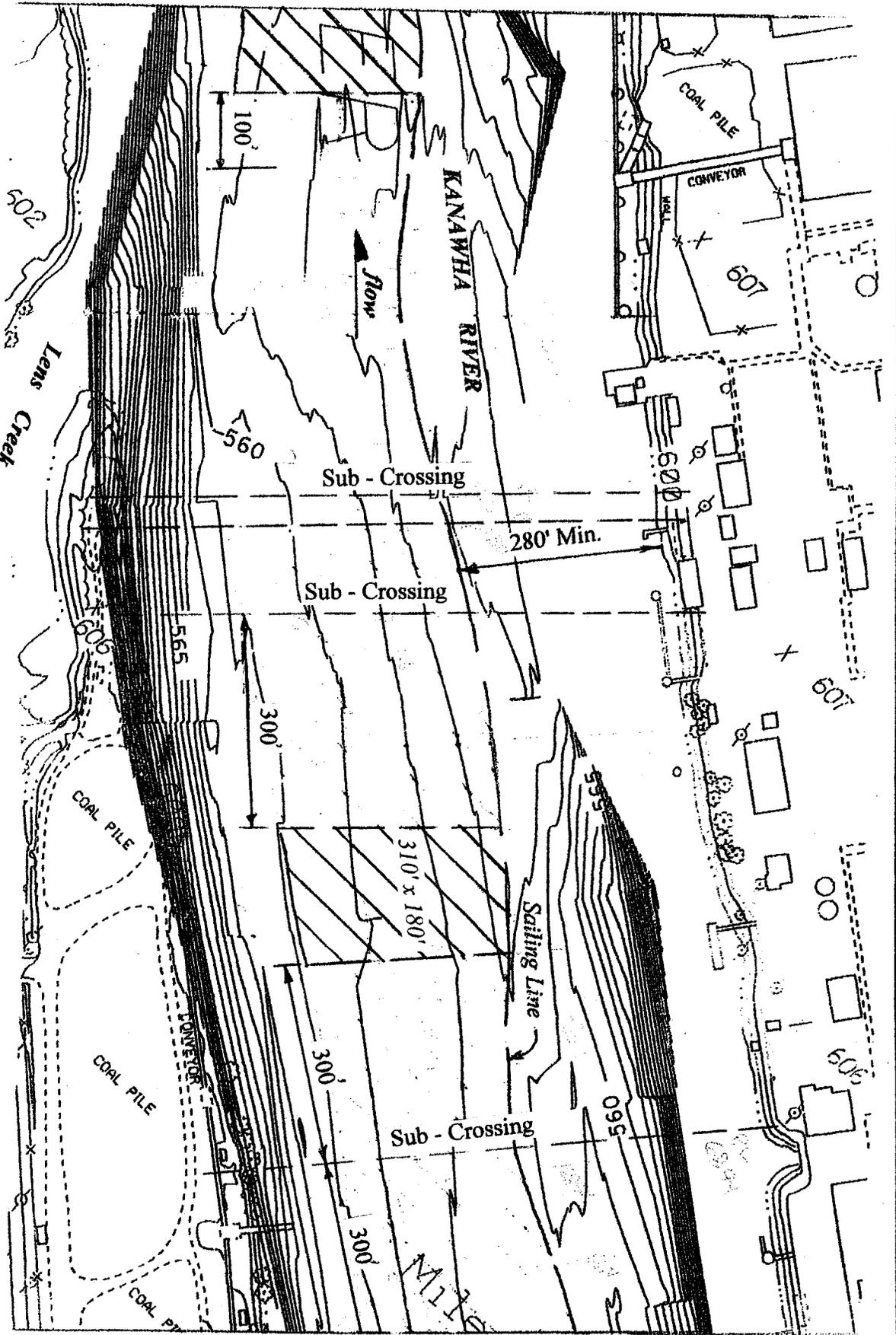
Note:

Measurements and dimensions shown on Drawings 1 of 4 through 4 of 4 are accurate to the best of my knowledge and ability and are to be used to obtain a Department of the Army Permit.

BOWER'S PERMIT CONSULTING
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May Associated Companies, LLC
 Coal Dredging in Kanawha River
 River Mile - 68.4 to 69.3
 Date: Mar 1 2008 Scale: As Shown
 Marnet, Kanawha Co., West Virginia
 Sheet 2 of 8

Site #2



Note:

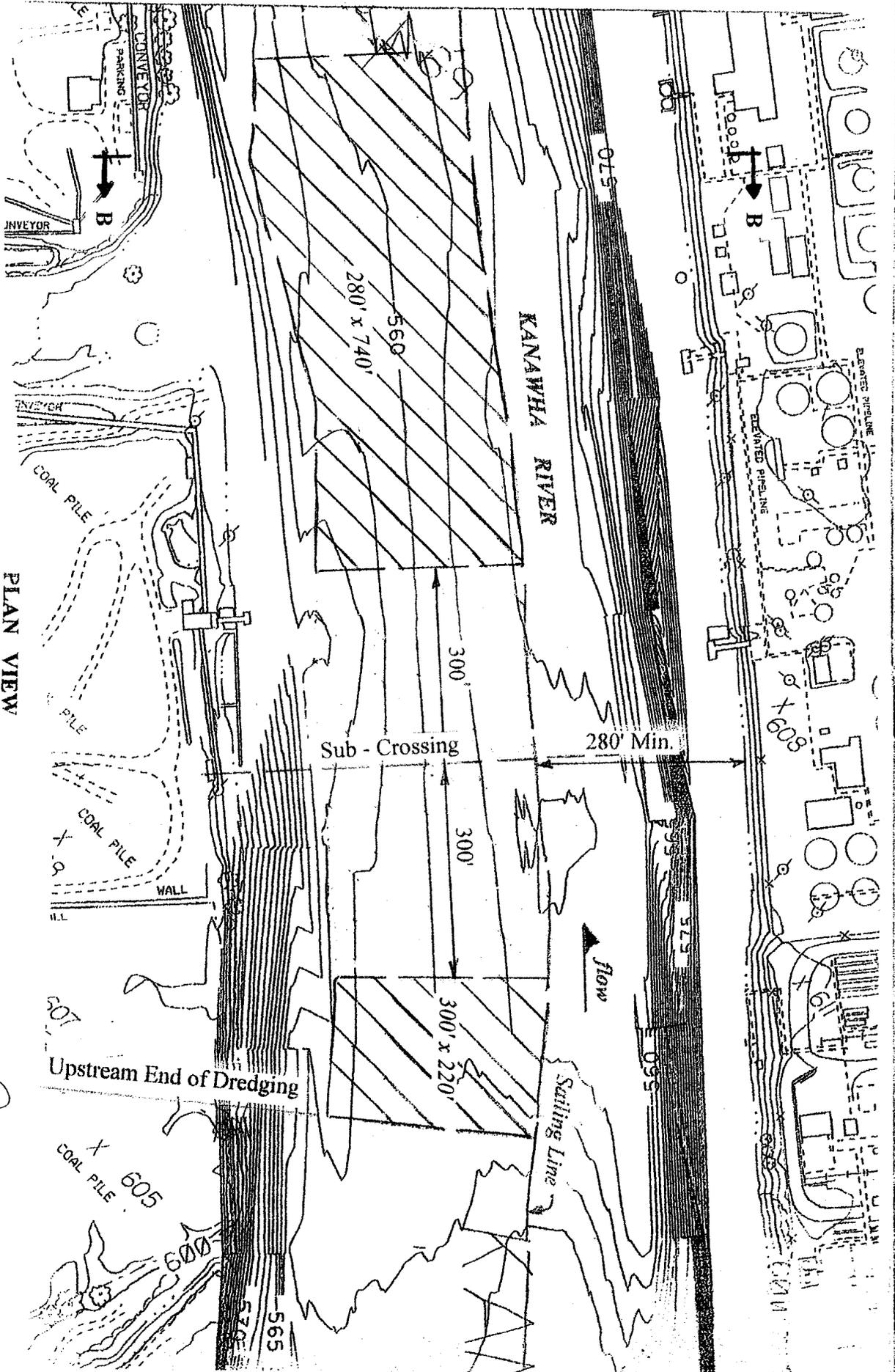
A search of Corps of Engineers Permit records on March 17, 2008 determined that four submarine crossings are noted on this drawing. They are located about Mile 68.76 (2) near the mouth of Lens Creek, Mile 68.80 and Mile 68.94.

PLAN VIEW
1" = 200'

Site #2

POWER'S PERMIT CONSULTING
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TEL: 304.429.4145 FAX: 304.429.2308
E-Mail: info@powerspeople.com

May Associated Companies, LLC
Coal Dredging in Kanawha River
River Mile - 68.4 to 69.3
Date: Mar 1, 2008 Scale: As Shown
Marnet, Kanawha Co., West Virginia
Sheet 3 of 5



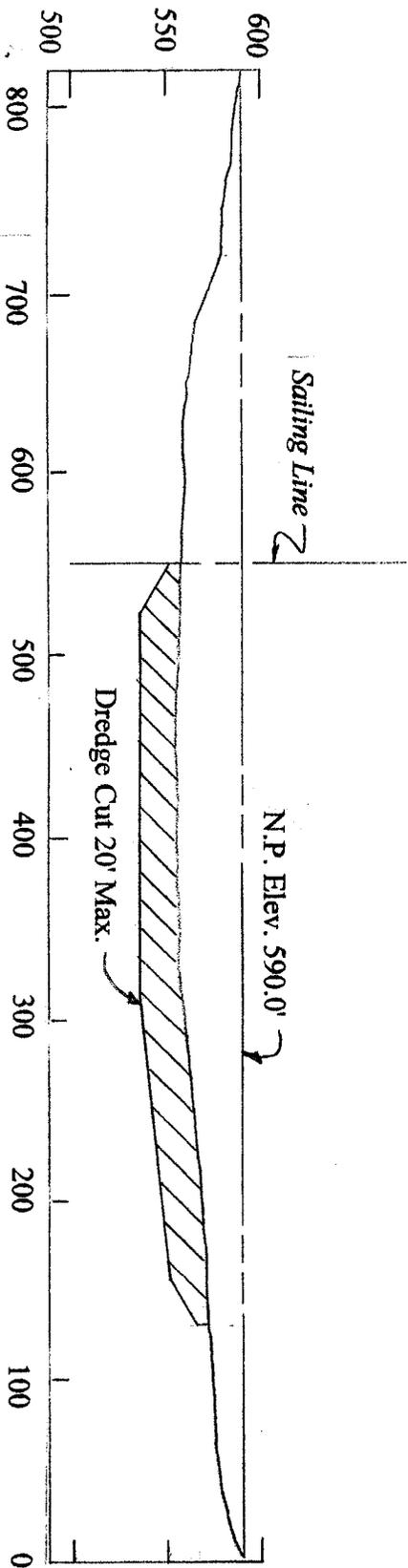
PLAN VIEW
1" = 200'

Site #2

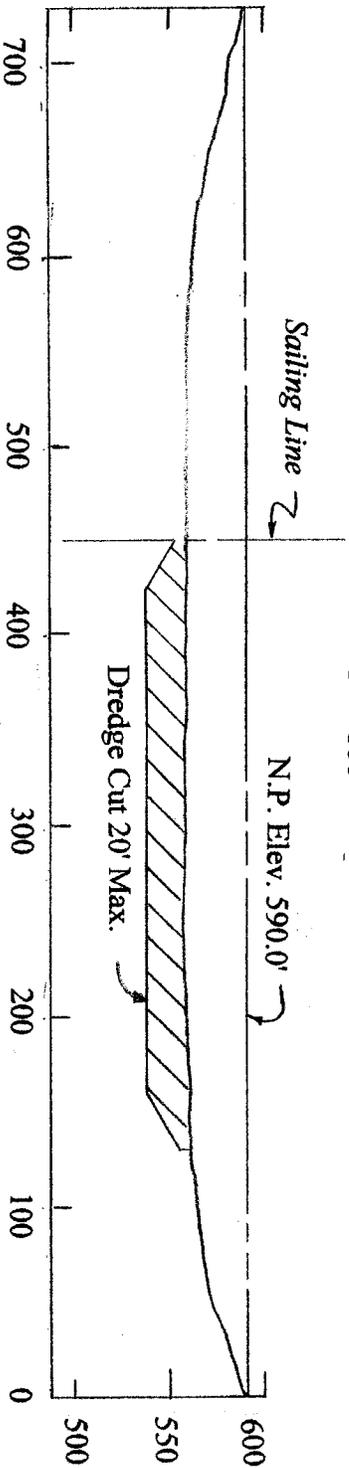
Note:
A search of Corps of Engineers Permit records on March 17, 2008 determined that one submarine crossing is noted on this drawing. It is about Mile 69.2

POWER'S PERMIT CONSULTING
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May Associated Companies, LLC
Coal Dredging in Kanawha River
River Mile - 68.4 to 69.3
Date: Mar 1, 2008 Scale: As Shown
Marmet, Kanawha Co., West Virginia



SECTION A - A
1" = 100'



SECTION B - B
1" = 100'

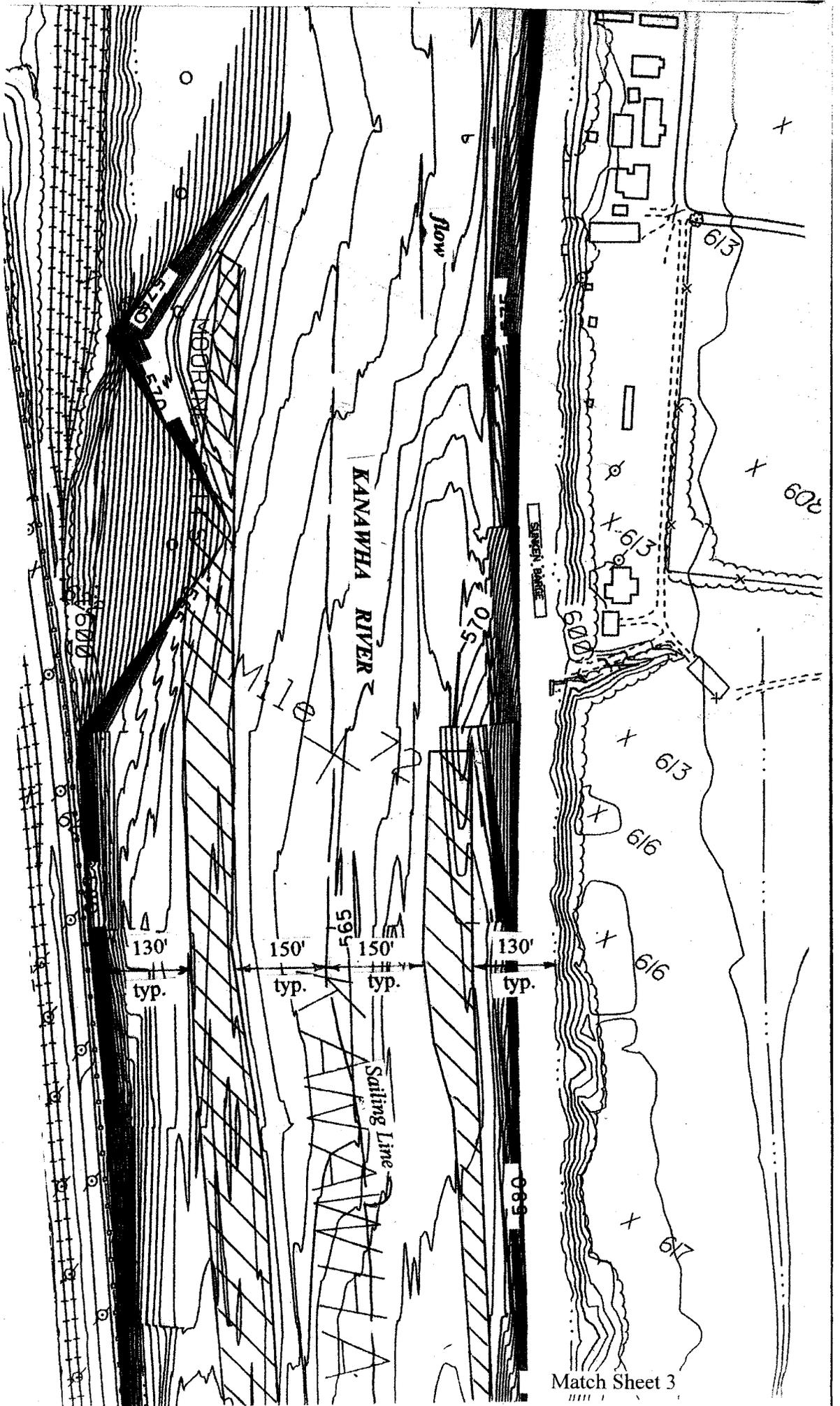


Dredge Cut

SITE 42

POWER'S PERMIT CONSULTING
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 E-Mail: jbibower@peoplepc.com

May Associated Companies, LLC
 Coal Dredging in Kanawha River
 River Mile - 68.4 to 69.3
 Date: Mar 1, 2008 ----- Scale: As Shown
 Marmet, West Virginia - Kanawha Co.
 Sheet 5 of 5



PLAN VIEW
1" = 200'

Site # 3

Note:
Measurements and dimensions shown on Drawings 1 of 9 through 9 of 9 are accurate to the best of my knowledge and ability and are to be used to obtain a Department of the Army Permit.

BOWER'S PERMIT CONSULTING
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 E-Mail: jbibower@peoplepc.com

May Associated Companies, LLC
 Coal Dredging in Kanawha River
 River Mile - 71.86 - 74.42
 Date: Mar 17, 2008 ----- Scale: As Shown
 Diamond, Kanawha County, WV
 Sheet 2 of 10

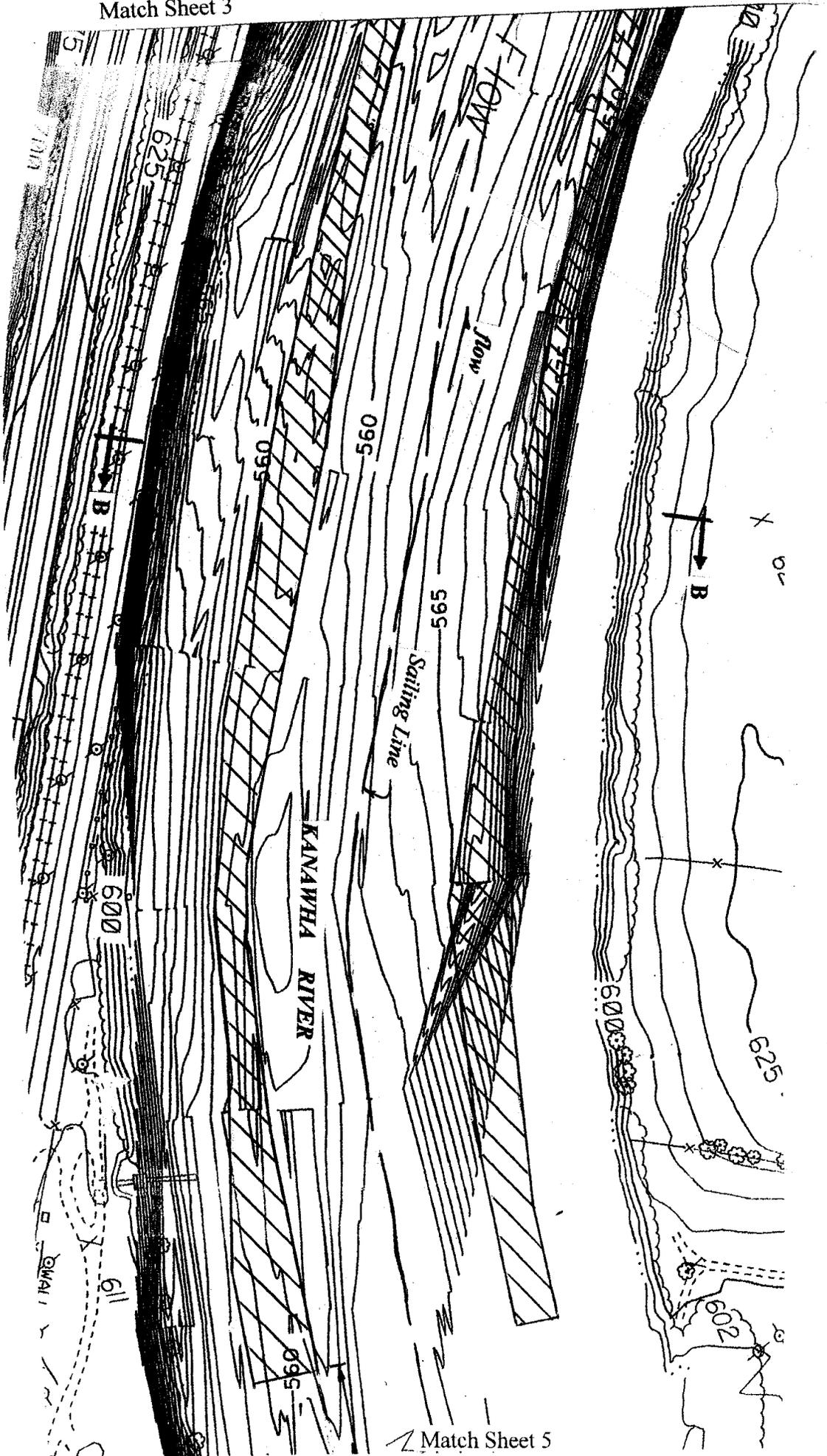


PLAN VIEW
1" = 200'

B1E #3

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 E-Mail: jb@bower@peoplepc.com

May Associated Companies, LLC
 Coal Dredging in Kanawha River
 River Mile 71.86 - 74.42
 Date: March 17, 2008—Scale: As Shown
 Diamond, Kanawha County, WV
 Sheet 3 of 10



PLAN VIEW
1" = 200'

Site #3

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May Associated Companies, LLC
 Coal Dredging in Kanawha River
 River Mile - 71.86 - 74.42
 Date: March 17, 2008 — Scale: As Shown
 Diamond, Kanawha County, WV



Note:

A search of Corps of Engineers permit records on March 17, 2008 determined two submarine crossings are noted on this drawing. They are located about at Mile 73.4 and 73.7.

PLAN VIEW

1" = 200'

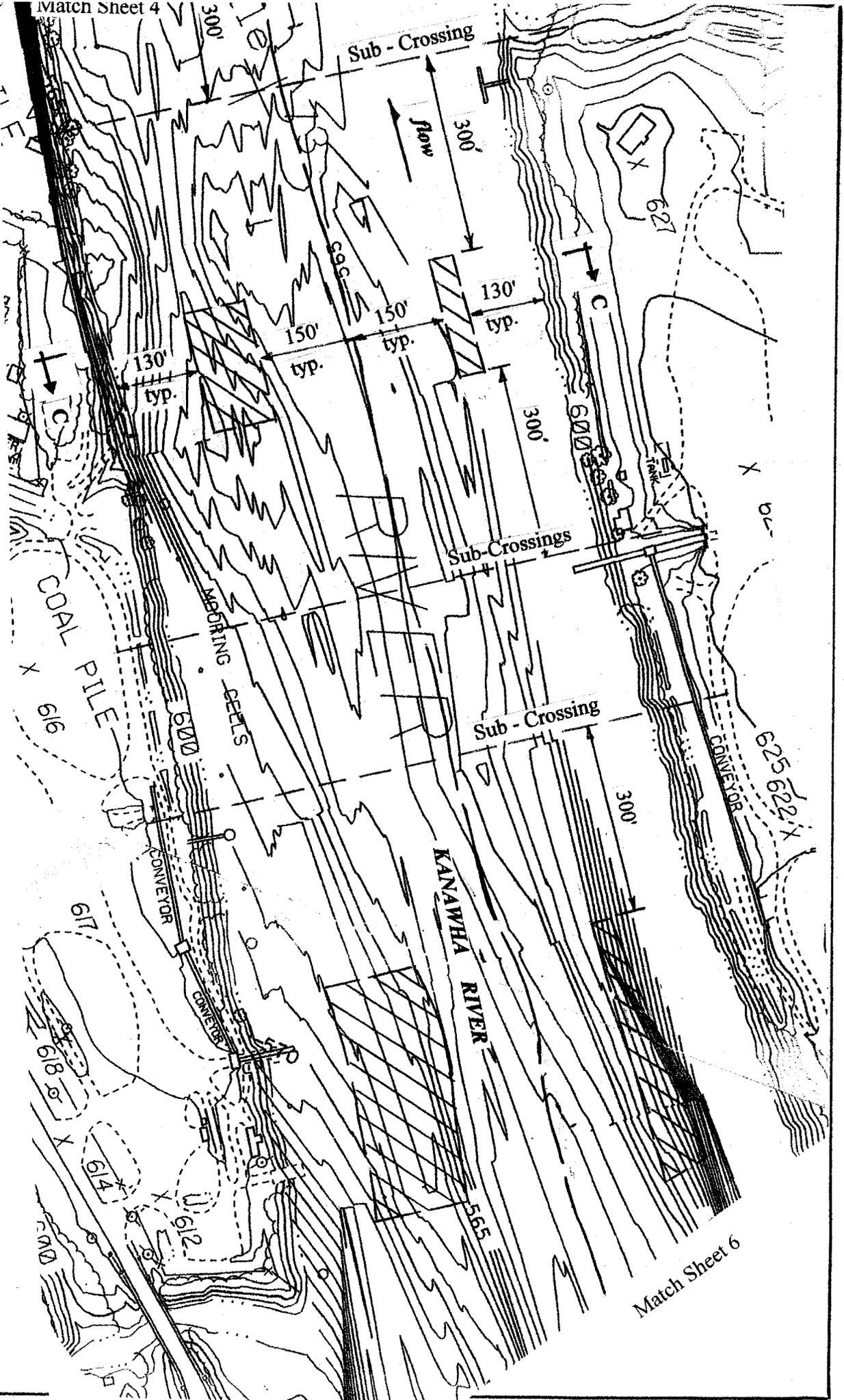
SITE #3

POWER'S PERMIT CONSULTING
Permit Consultant and Coordinator

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TEL: 304.429.4145 FAX: 304.429.4145
E-Mail: jbbjpower@peoplepc.com

May Associated Companies, LLC
Coal Dredging in Kanawha River

River Mile 71.86 - 74.42
Date: March 17, 2008—Scale: As Shown
Diamond, Kanawha County, WV



PLAN VIEW
1" = 200'

Site #3

Note:
A search of Corps of Engineers permit records on March 17, 2008 determined three submarine crossings are noted on this drawing. They are located about Mile 73.0, 73.15 and 73.2.

POWER'S PERMIT CONSULTING

Permit Consultant and Coordinator

227 Indiana Street, Huntington, WV 25704

TEL: 304.429.4145 FAX: 304.429.2308

E-Mail: jbjpower@peoplepc.com

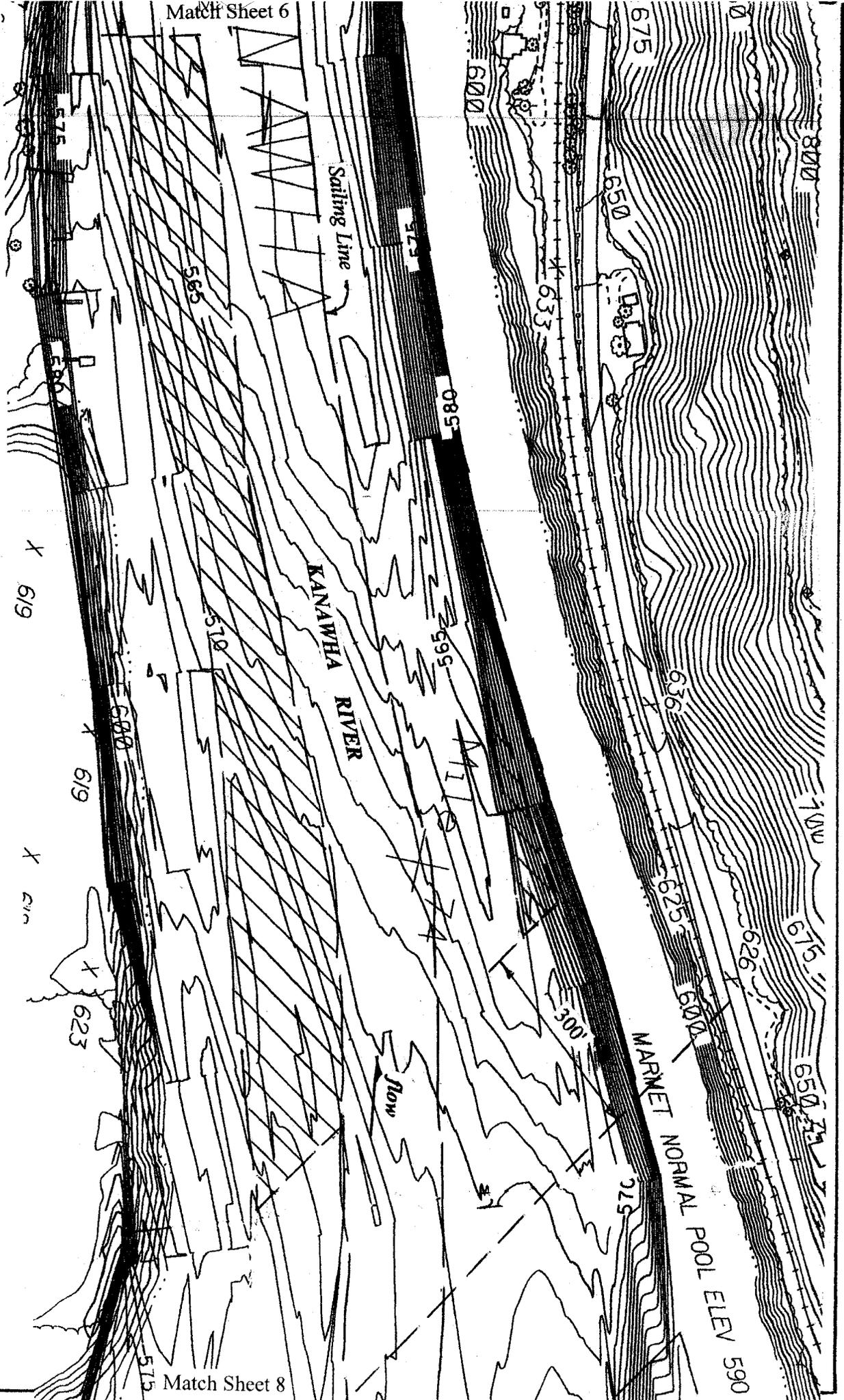
May Associated Companies, LLC

Coal Dredging in Kanawha River

River Mile - 71.86 - 74.42

Date: Mar 17, 2008 Scale: As Shown

Diamond, Kanawha County, WV

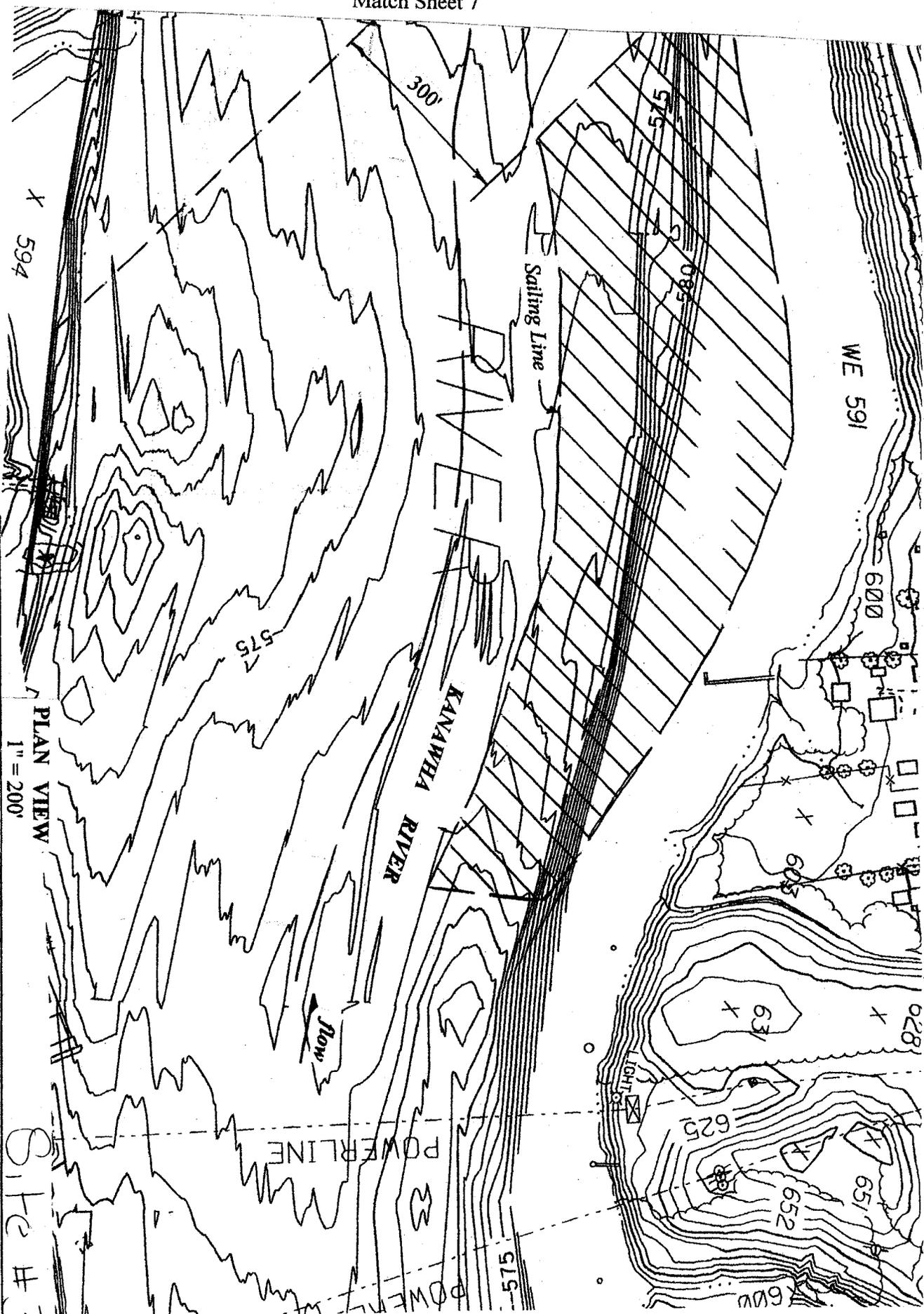


PLAN VIEW
1" = 200'

Site # 3

Note:
A search of Corps of Engineers permit record on March 17, 2008 determined one submarine crossing is noted on this drawing. It is about Mile 74.1.

<p>BOWER'S PERMIT CONSULTING Permit Consultant and Coordinator 2227 Indiana Street, Huntington, WV 25704 TEL: 304.429.4145 FAX: 304.429.2308 E-Mail: jbhbowen@peoplepc.com</p>	<p>May Associated Companies, LLC Coal Dredging in Kanawha River River Mile - 71.86 - 74.42 Date: March 17, 2008 — Scale: As Shown Diamond, Kanawha County, WV Sheet 7 of 10</p>
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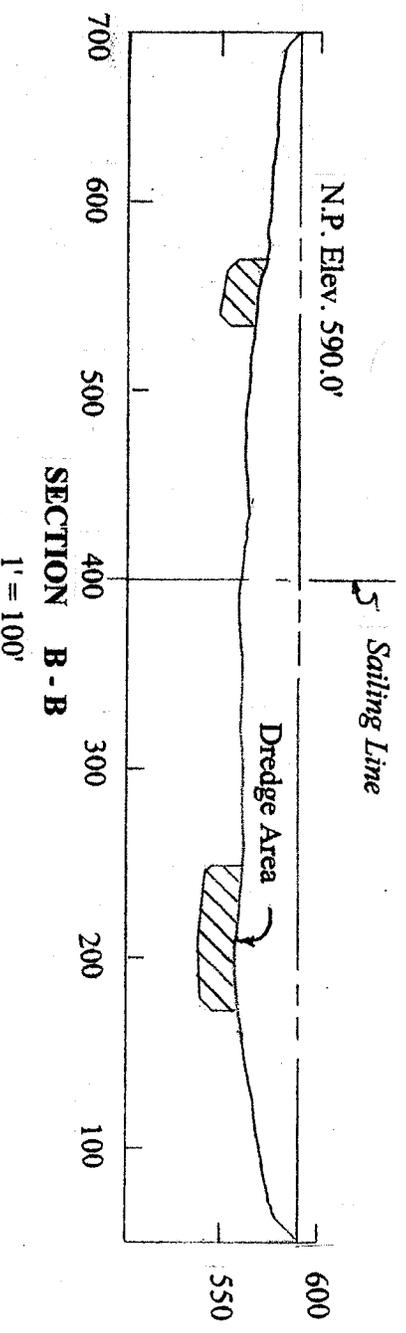
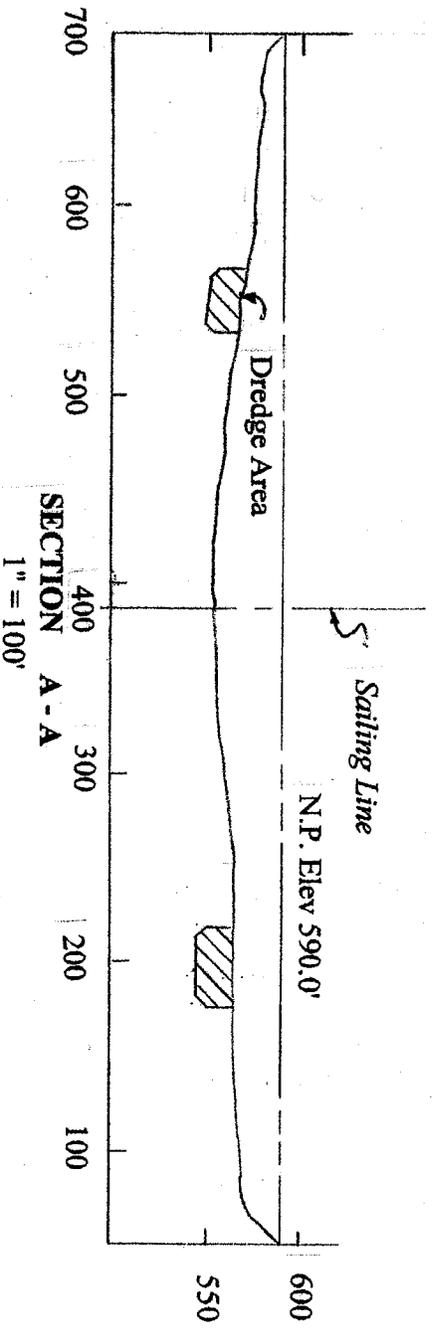


PLAN VIEW
1" = 200'

POWERLINE

POWERLINE
BOVER'S PERMIT CONSULTING
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May Associated Companies, LLC
 Coal Dredging in Kanawha River
 River Mile - 71.86 - 74.42
 Date: Mar 17, 2008 ----- Scale: As Shown
 Diamond, Kanawha County, WV
 Sheet 8 of 10



Site #3

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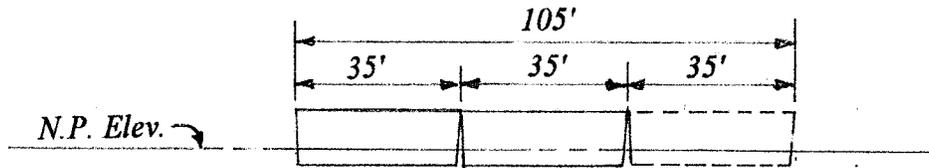
May Associated Companies, LLC

Coal Dredging in Kanawha River

River Mile - 71.86 - 74.42

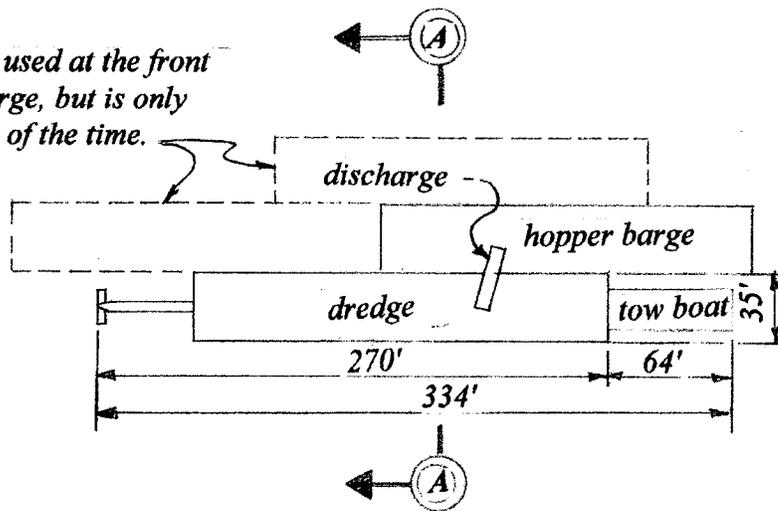
Date: Mar 17, 2008 Scale: As Shown

Diamond, Kanawha County, WV



SECTION A - A
 Scale: 1" = 40'

The work barge may be used at the front or beside the hopper barge, but is only used about 10% to 20% of the time.



PLAN
 Scale: 1" = 50'

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May Associated Companies, LLC
 Dredging Operation Set-Up
 Kanawha River Dredging Sites
 Date: May 21, 2008 - Scale: As Shown
 Putnam/Kanawha Counties, West Virginia

Site # 1, # 2, # 3