# Public Notice

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

**In reply refer to Public Notice No.** 200501215

**Issue Date:** October 19, 2005

**Stream:** Ohio River mile 314.0 on the left descending bank

**Closing Date:** November 19, 2005

**Please address all comments and inquiries to:**
U.S. Army Corps of Engineers, Huntington District
ATTN: CELRH-OR-FS Public Notice No. 200501215
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.

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

**APPLICANT**: Kanawha River Terminals
P.O. Box 308
Ceredo, West Virginia 25507

**LOCATION**: The proposed project would be located at Ohio River Mile 314.0 (approximate) on the left descending bank, in the Town of Ceredo, Wayne County, West Virginia (latitude 38° 24' 00", longitude 82° 32' 24"). The location of the proposed project is indicated on attached Location Map (Drawing 1).

**DESCRIPTION OF THE PROPOSED WORK**: The applicant proposes to install four quad ties to accommodate two fixed floating barges. The fixed floating barges would support hydraulic clamshell excavators for off-loading coal from barges. The coal would be deposited in a feed hopper on each barge and transported by belt approximately 120 feet landward to receiving hoppers then transported approximately 1,000 feet by belt to a processing facility. To eliminate the discharge of off-loaded material

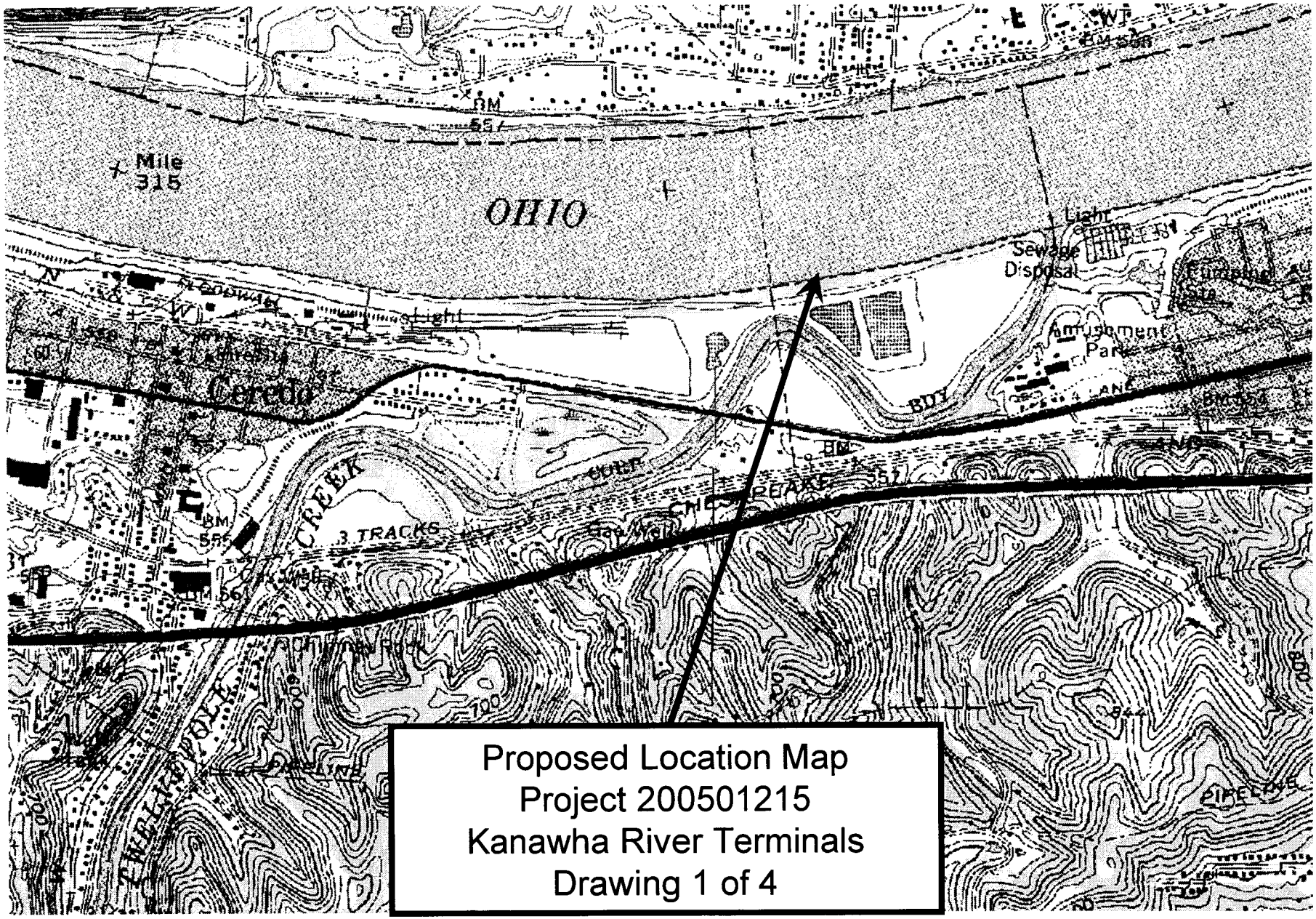
into waters of the U.S., belt covers, pans and scrapers would be used. Details are included in the attached Site Plan (Drawing 2). The applicant would relocate an existing deadman approximately 200 feet downstream and reduce the length of fleeted barges to accommodate the fixed floating barges. Construction would be accomplished using marine-based equipment. The proposed activity would remain within the limits of the existing fleeting area and extend no more than 210 feet riverward of waters edge. The applicant anticipates 24-hour operation of the proposed facility. The existing and proposed facilities are depicted in Drawings 3 and 4.

**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.

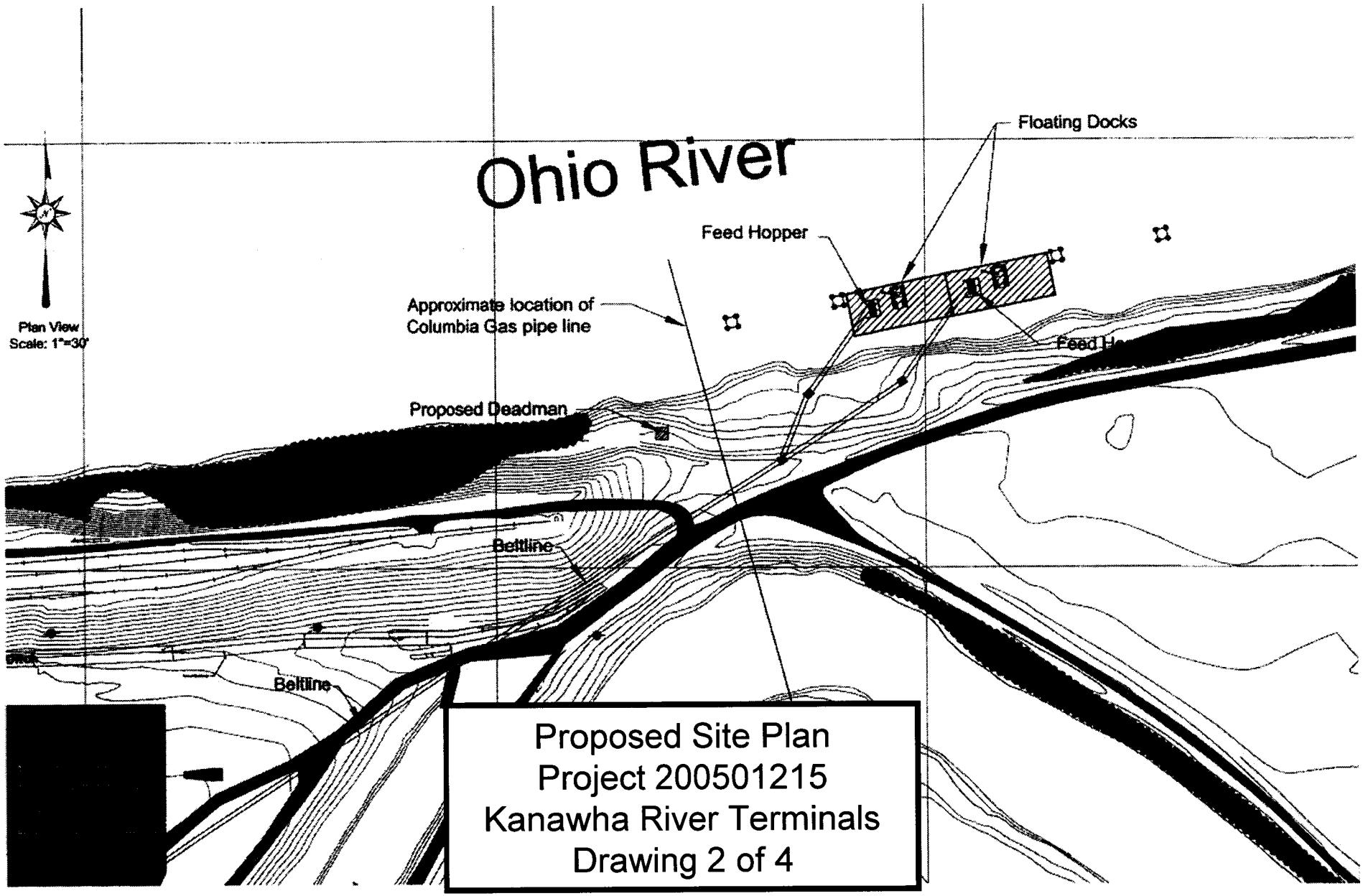
**ENDANGERED/THREATENED SPECIES REVIEW**: The Huntington District has consulted the most recently available information and determined the project could affect the continued existence of three federally listed endangered mussels: *Lampsilis orbiculata, Obovaria retusa and Cyprogenia stegaria;* or result in the destruction or adverse modification of habitat of such species, which has been determined to be critical. 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.

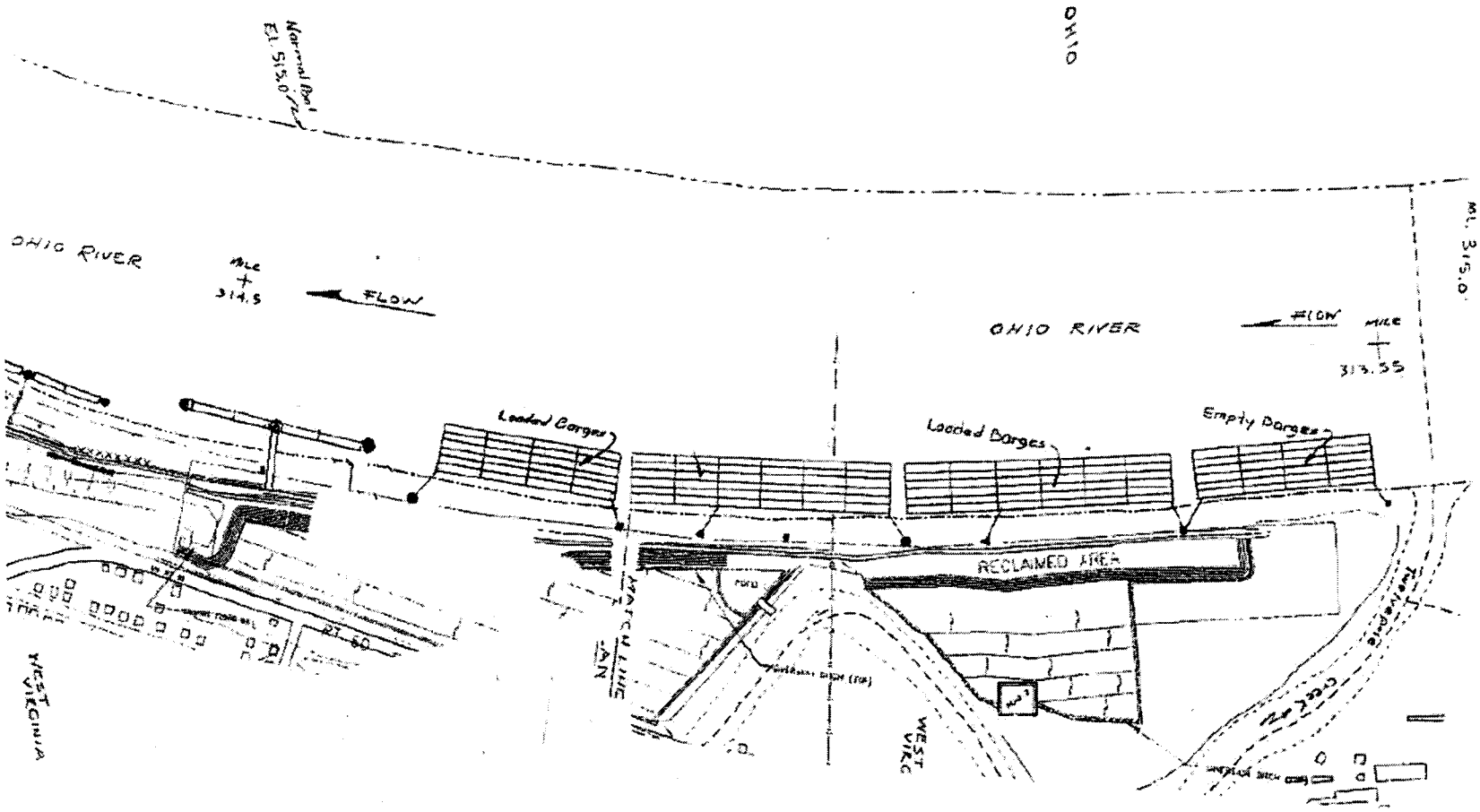
Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national 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.



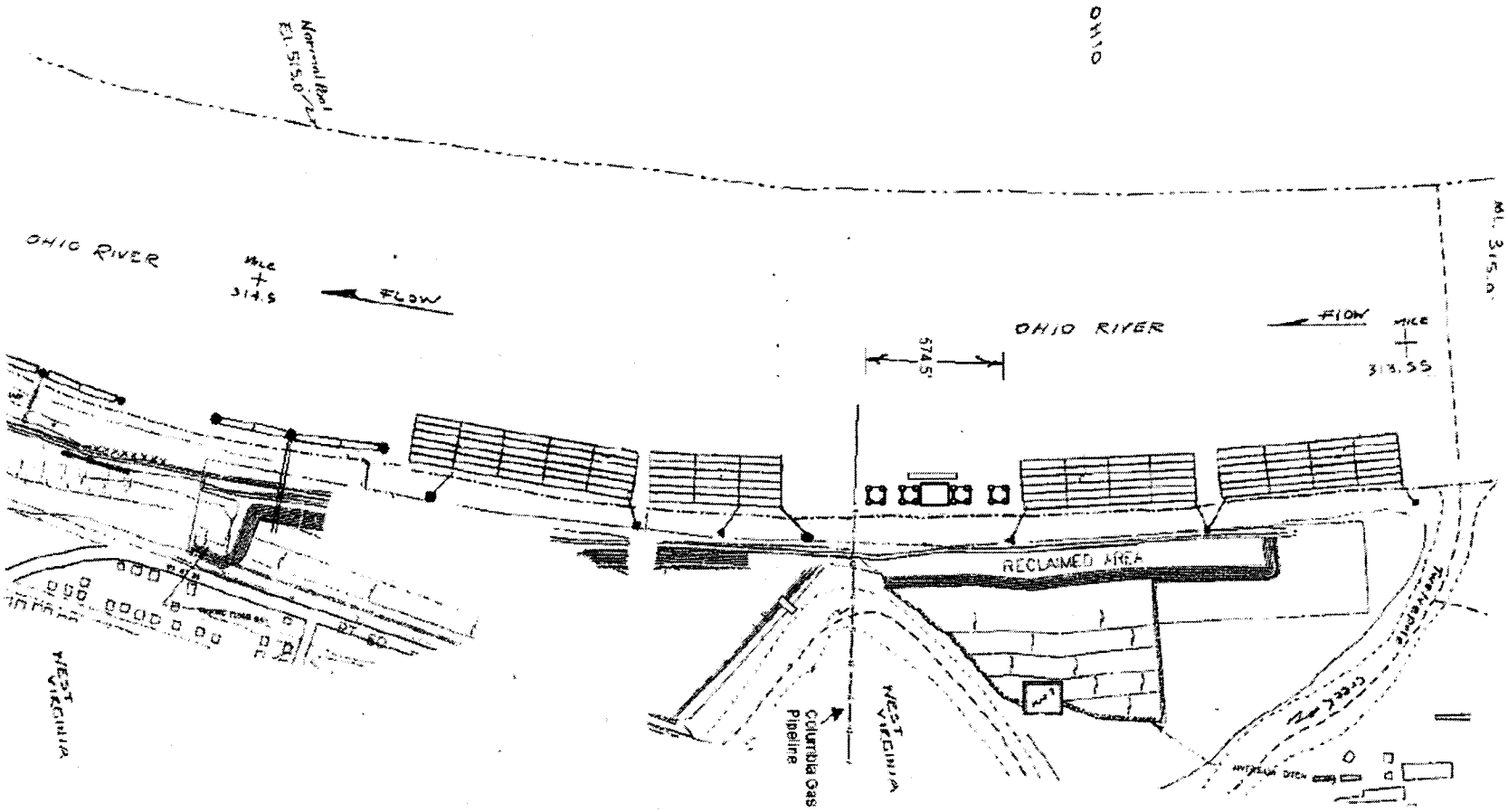

Proposed Location Map
Project 200501215
Kanawha River Terminals
Drawing 1 of 4




Proposed Site Plan
Project 200501215
Kanawha River Terminals
Drawing 2 of 4




Existing Facility Plan
Project 200501215
Kanawha River Terminals
Drawing 3 of 4




Proposed Facility Plan
Project 200501215
Kanawha River Terminals
Drawing 4 of 4

**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 200501215
502 Eighth Street
Huntington, West Virginia 25701-2070

Please note names and addresses of those who submit comments in response to this public notice may be made publicly available. Thank you for your interest in our nation's water resources. If you have any questions concerning this public notice, please contact Mr. Richard A. Hemann of the South Regulatory Section at 304-399-5710.

for Mark A. Taylor
Ginger Mullins, Chief
Regulatory Branch

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