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MR. KISSEL: None.

HEARING OFFICER HALLORAN: Ms. Williams?

MS. WILLIAMS: (Counsel shakes head.)

HEARING OFFICER HALLORAN: You may step down, Mr. Flippin. Thank you very much.

MR. KISSEL: That's all we have on rebuttal.

HEARING OFFICER HALLORAN: Okay. I do want to, before you rest on rebuttal, I just want to address the question regarding the introduction of -- I believe it was comparable municipalities, and you stated you may be open to extended discovery?

MR. KISSEL: No, that's -- we're fine. We don't have to deal with that.

HEARING OFFICER HALLORAN: Okay. Thank you very much. So, you rest.

Any members of the public would like to give public comment or statement?

You indicated earlier you just wanted to do public comment.

MR. HERMANN: Yeah. Yeah.

HEARING OFFICER HALLORAN: Just state your name for the court reporter, please.

MR. HERMANN: Yes. My name is Doug Hermann. I'm a principal at and vice president at STS Consultants,

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Pollution Control Board

AS 02-05  
PC#1

1 and I have sat through most of the testimony for this  
2 hearing and the permit appeal hearing starting back on  
3 Tuesday earlier this week.

4 My participation has been at the request of my  
5 client, Illinois River Holdings, whose president is Kenin  
6 Edwards. He owns 118 acres of property about 400 to maybe  
7 500 feet -- or that's my best estimate, at least -- which  
8 is downstream of the combined Noveon and City of Henry  
9 outfall or, as I understand it, the single-port diffuser.

10 The Illinois River Holdings property also  
11 includes part of the river bottom, I think, to  
12 approximately the center of the river or the channel. The  
13 underwater river bottom area is about 10 acres in size  
14 overall, as we can estimate anyway; of course, that varies  
15 with river stage and other things as well.

16 Illinois River Holdings and its development  
17 team, of which I am a part, are planning an off-channel  
18 port development with barge fleetings with the guidance of  
19 the local and recently formed Port Authority on the river,  
20 and also the U.S. Corps of Engineers. We've had them out  
21 there to look at our development and actually have made  
22 plans around that development. This port will initially  
23 serve the shipping needs of the excavation of the port  
24 which will be off channel and the materials associated

1 with that, and also a proposed nearby mine which will be  
2 operated as a permitted sand and gravel mine. Both sites  
3 will actually mine gravel, but we'll be actually making a  
4 port by the mining activity at the location nearest the  
5 river.

6 When the port is excavated, it will also  
7 support shipping other commodities, we believe, as well as  
8 for local industry that would be local to the area and  
9 Marshall County.

10 I have with me today, because we are in the  
11 process of a zoning and permitting process for this  
12 project, what has been part of exhibits for presentations  
13 in a -- the zoning effort for a special use permit as is  
14 required to conduct and complete this project. This  
15 effort began back in October 2003, and I think the first  
16 hearing on this matter was in November. I wasn't a part  
17 of that at that time, but later became so and shortly  
18 after that time became so.

19 I might mention that several million dollars  
20 have already been invested in this economic development  
21 plan for Marshall County, and it's, as I mentioned, in the  
22 process of zoning and permitting.

23 In listening to the testimony of Mr. Corn as  
24 I've sat here the last few days, and later talking to him

1 after he gave his first testimony, I learned that he was  
2 unaware of our planned port development. And although  
3 many of the Noveon and, I know, PolyOne staff people are  
4 aware of our local zoning efforts, he apparently had not  
5 been brought up to speed. Of course, that became of some  
6 concern because this plume has the potential to reach the,  
7 the property location of Illinois River Holdings, as I  
8 understand it from the testimony that's been given.

9 As I understand Mr. Corn's testimony, it  
10 appears that the existing single-port diffuser is  
11 performing in a manner causing about a 20:1 ratio in that  
12 100-foot downstream location, maybe a 100:1 ratio of  
13 dilution up to maybe 850 feet downstream. Of course, the  
14 850 feet would probably begin to encroach for sure on our  
15 property and where there would be a mouth to this port or  
16 a port opening to the river.

17 With the Illinois River Holdings property  
18 located only about 500 feet downstream from the existing  
19 Noveon diffuser, the Illinois River Holdings wants to be  
20 sure -- for sure that there will be no aquatic toxicity  
21 problems in the Illinois River Holdings' property and, for  
22 that matter, in the port development.

23 Based on Mr. Corn's testimony, it sounds like  
24 a multiport diffuser will perform better and maybe even a



1 high-pressure diffuser would perform better yet to  
2 accomplish that objective. There's obviously some  
3 controversy about this, and I'm not here to sort out the  
4 controversy for the Board, but we certainly want to be  
5 sure that that port is protected by, by what might happen  
6 with water quality.

7           After learning that Mr. Corn was unaware of  
8 our port development, we encouraged the Board to determine  
9 whether or not the port development will impact any of his  
10 findings and conclusions. After the close of the  
11 proceedings on Tuesday, Wednesday, I approached the Noveon  
12 One -- the Noveon and PolyOne staff just to help  
13 coordinate the dissemination of information from us to  
14 them to the extent that that's important related to this.  
15 And if he needs anything from us in terms of the way of  
16 information or data or anything, we certainly want to  
17 supply that information as well.

18           I believe that neither Illinois River Holdings  
19 nor Noveon desire to have any problems with aquatic  
20 toxicity in this area; that's obviously the case through  
21 listening to the hearing. But we certainly don't want it  
22 to happen in our off-channel port as well. We're  
23 concerned about that.

24           I should also mention that the off-channel

1 ports are being planned by Illinois River Holdings and  
2 also Ozinga Brothers in the Lacon area further downstream.  
3 As we understand it, this is quite far downstream and  
4 probably not a cause for concern. I thought I heard that  
5 full mixing was accomplished about -- up to about a  
6 10-mile distance downstream. These other two ports are  
7 actually on the other side of the river, so maybe that's  
8 irrelevant to this situation.

9           On the issue of whether more treatment for  
10 ammonia removal is needed to protect the Illinois River  
11 quality, we encourage the Board to consider the technical  
12 science presented here by Noveon and the IEPA, as well as  
13 the economic costs to protect the river quality consistent  
14 with IPCB case law and things that they have done over the  
15 years. We understand that these are hard decisions, and  
16 we encourage them to consider all the facts of this case  
17 in making its decision. We have personally observed the  
18 Pollution Control Board do this many times in the past, so  
19 our confidence is certainly with them.

20           In considering the treatment alternatives  
21 investigated by Noveon, the Board should be aware that  
22 off-gas treatment which is -- was for -- was happening or  
23 not happening with some of the selected alternatives -- I  
24 know they talked about dealing with the off-gas in some

1 and not in others. We think it's important for the Board  
2 to know that the local aquifer is widely contaminated with  
3 nitrate; and for that reason, you know, anything that  
4 would maybe further contribute to that should be  
5 considered. So, off-gas treatment would appear to be very  
6 important here to protect the local aquifer. And we would  
7 encourage them to -- in our own studies, we've learned  
8 about this contamination, and I think it's also widely  
9 known in the area, region.

10 I will close my comments and summarize.  
11 Illinois River Holdings has an interest to cooperate and  
12 assist where needed with our own development plan, which  
13 is a railroad and marine port in Marshall County. Based  
14 on the testimony in this hearing, it sounds like the  
15 multiport and particularly the high-pressure diffuser and  
16 maybe even the single-port diffuser are all workable  
17 solutions potentially for what's been presented. And  
18 certainly if that is not the case, we ask that the Noveon  
19 experts devise a combined strategy of treatment and  
20 diffusers that will work because we obviously are  
21 concerned about that.

22 For the regional conditions which exist on the  
23 river, we trust that the Board will weigh the technical  
24 and economic evidence in this case as it relates to

1 protecting water quality, the local businesses, and  
2 certainly the local jobs which are all so important to  
3 downstate Illinois and the Marshall County economy. This  
4 probably means understanding what the EPA waste load  
5 allocation may be and what the financial and economic  
6 resources may be available from Noveon. We understand all  
7 these things, but again, we trust that the Board will be  
8 able to help deal with that.

9 I might mention just in closing, that although  
10 we were given the written testimony yesterday as it was  
11 handed out and presented, no exhibits were attached. We  
12 do intend to get those from the Pollution Control Board  
13 office in Chicago as we are directed to. We may have some  
14 written comment to follow up after that, but at this  
15 point, until I really see that, I think I have a pretty  
16 good understanding of what that situation is, so those are  
17 my comments.

18 I do have with me actually a packet of  
19 information that I will give to the --

20 HEARING OFFICER HALLORAN: Hearing officer.

21 MR. HERMANN: -- hearing officer here which I  
22 might mention that page eight of that probably gives the  
23 best kind of layout and depiction of the port location as  
24 it is.

1 I might mention that the opening to the river  
2 has been discussed. With respect to some wetlands issues  
3 and other issues that do exist on the river, that we're  
4 trying to compromise this port opening to the river, so --

5 HEARING OFFICER HALLORAN: What is your name  
6 again, sir?

7 MR. HERMANN: My name is Doug Hermann.

8 HEARING OFFICER HALLORAN: I will take it with  
9 the case as Public Comment Number 1, and it will be read  
10 in conjunction with your public comment made here today.

11 MR. HERMANN: Okay.

12 HEARING OFFICER HALLORAN: Okay. Anybody else  
13 like to give a comment or statement?

14 All right. Before we go off the record and  
15 talk about a briefing schedule, I'm still waiting for an  
16 answer regarding Petitioner's Exhibit Number 11.

17 We have admitted that, and I think we were  
18 going to hold off until now regarding the data to support  
19 table 1 and how long it will take Petitioner to file that  
20 with the Board, is what I recall.

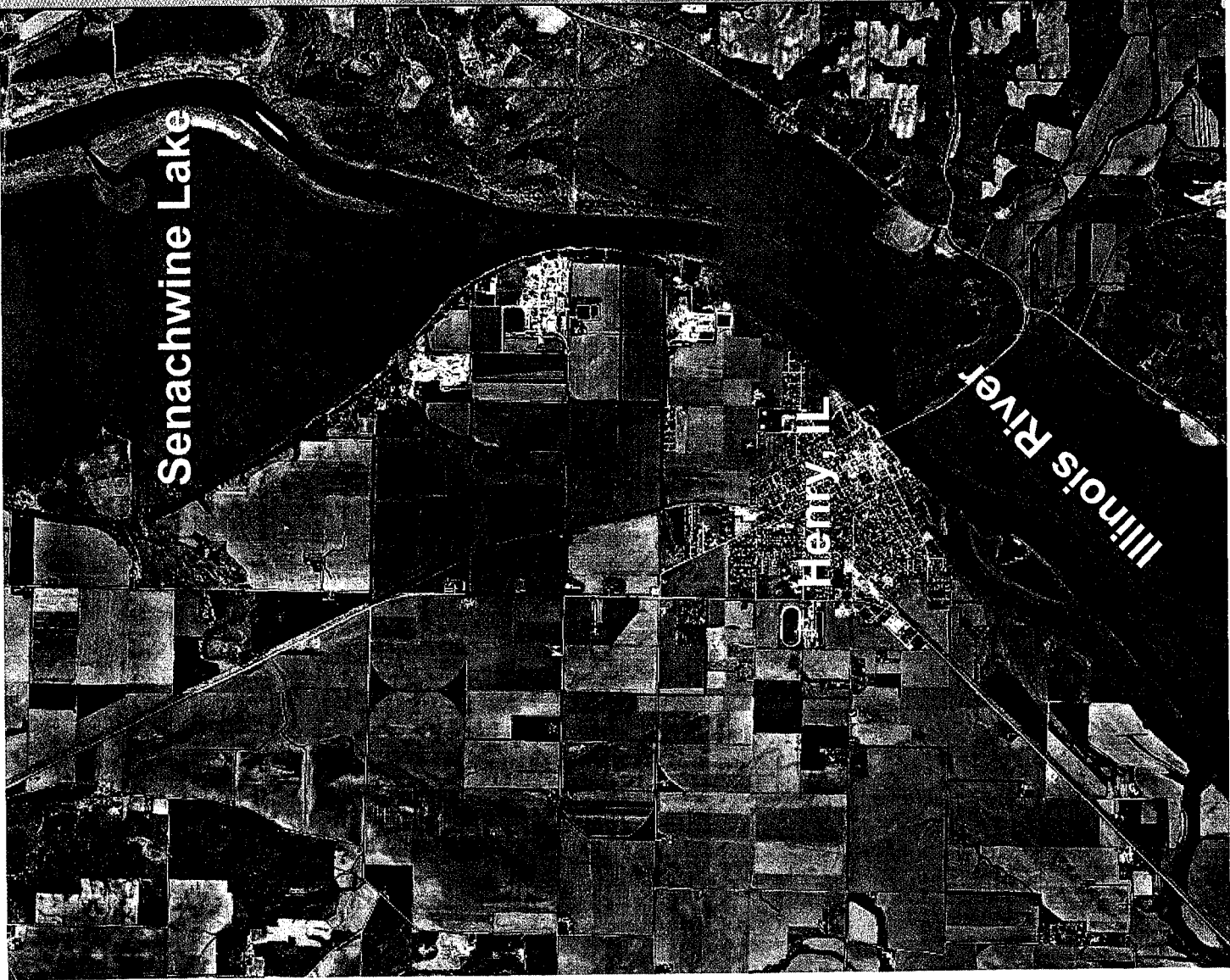
21 MS. DEELY: I don't think we've addressed  
22 that.

23 HEARING OFFICER HALLORAN: No, we haven't. It  
24 keeps getting put off.

Port is best depicted on Page 8

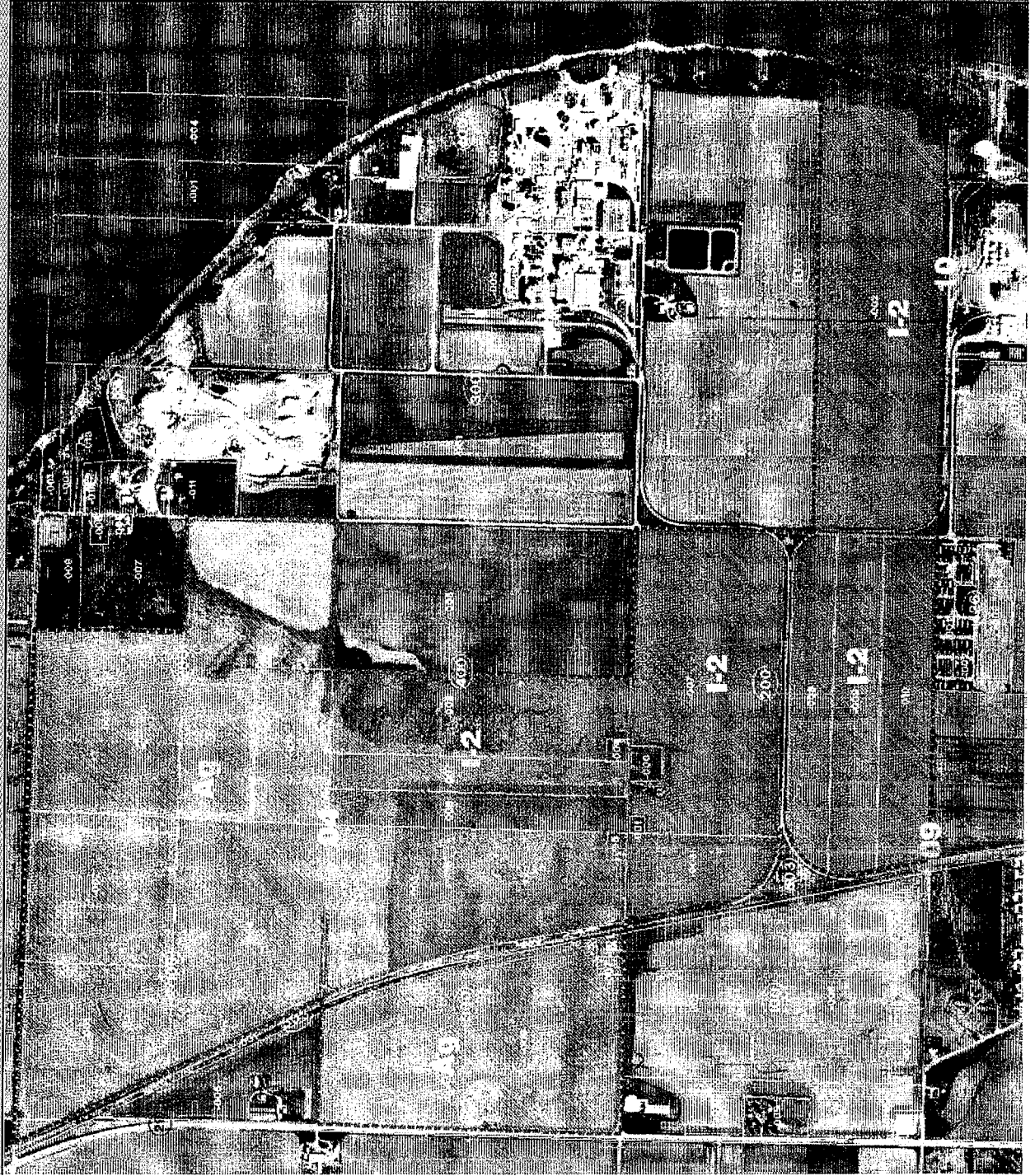
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**Area Map**





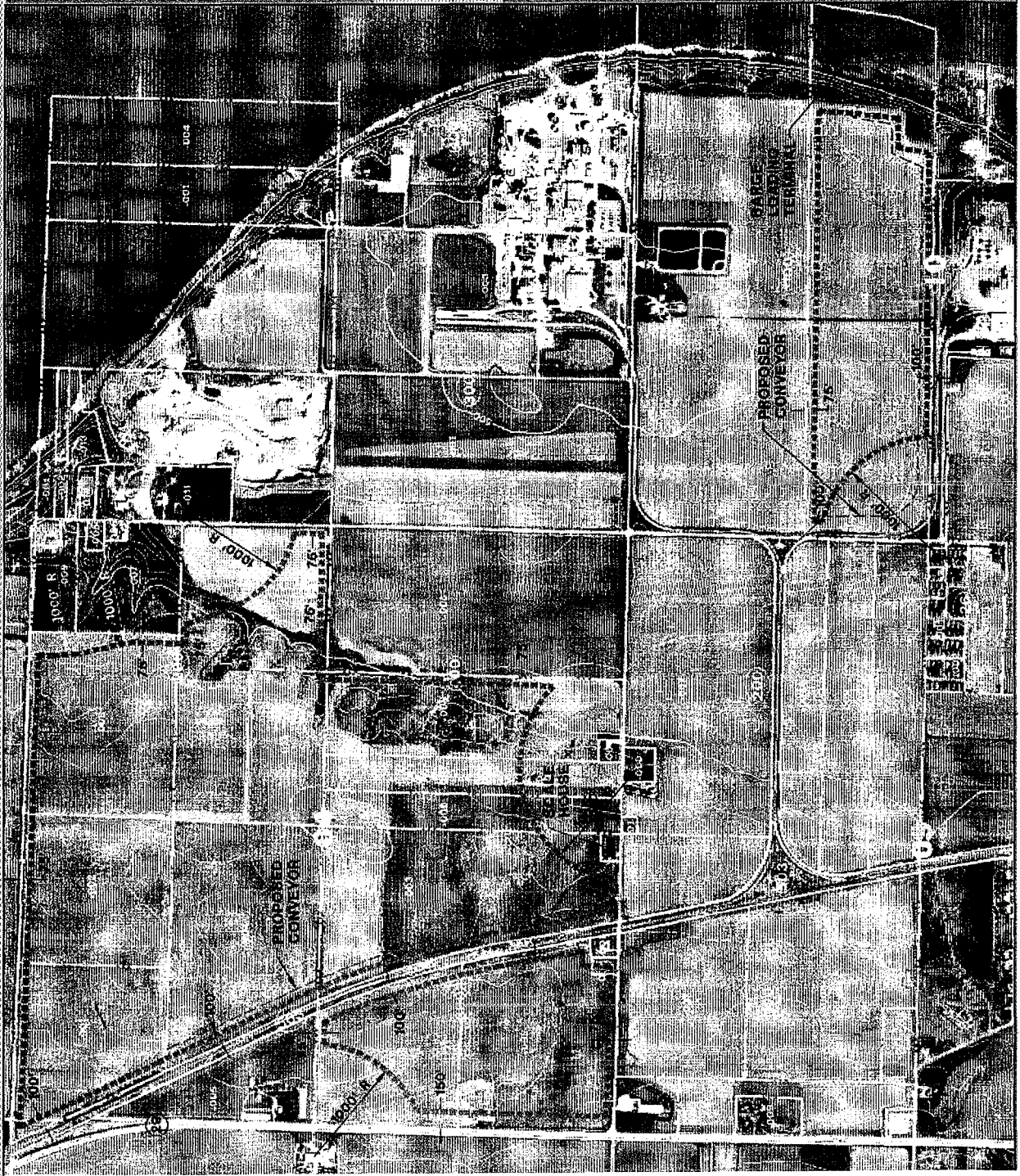
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Zoning Map



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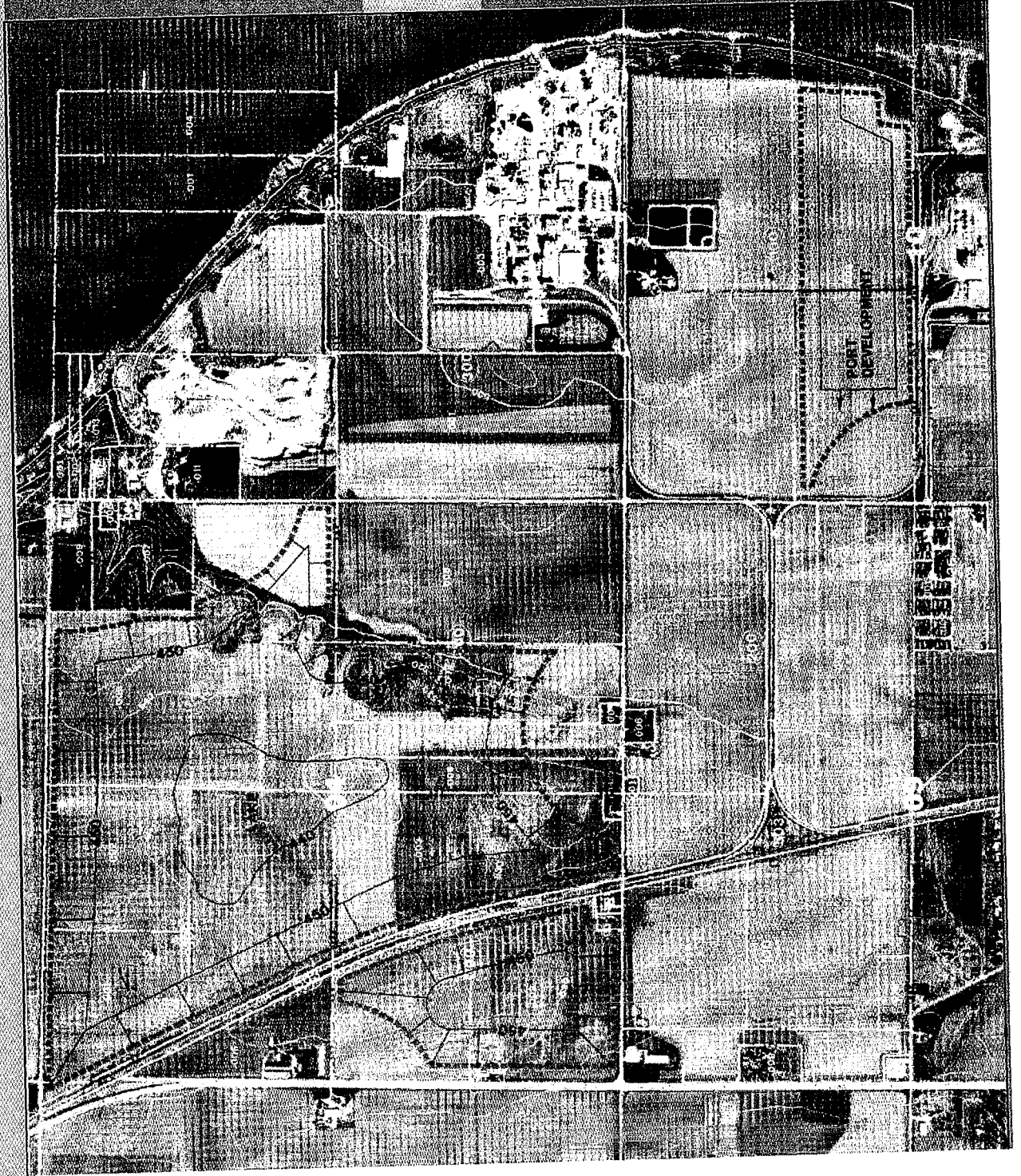


## Setbacks & Mining Limits





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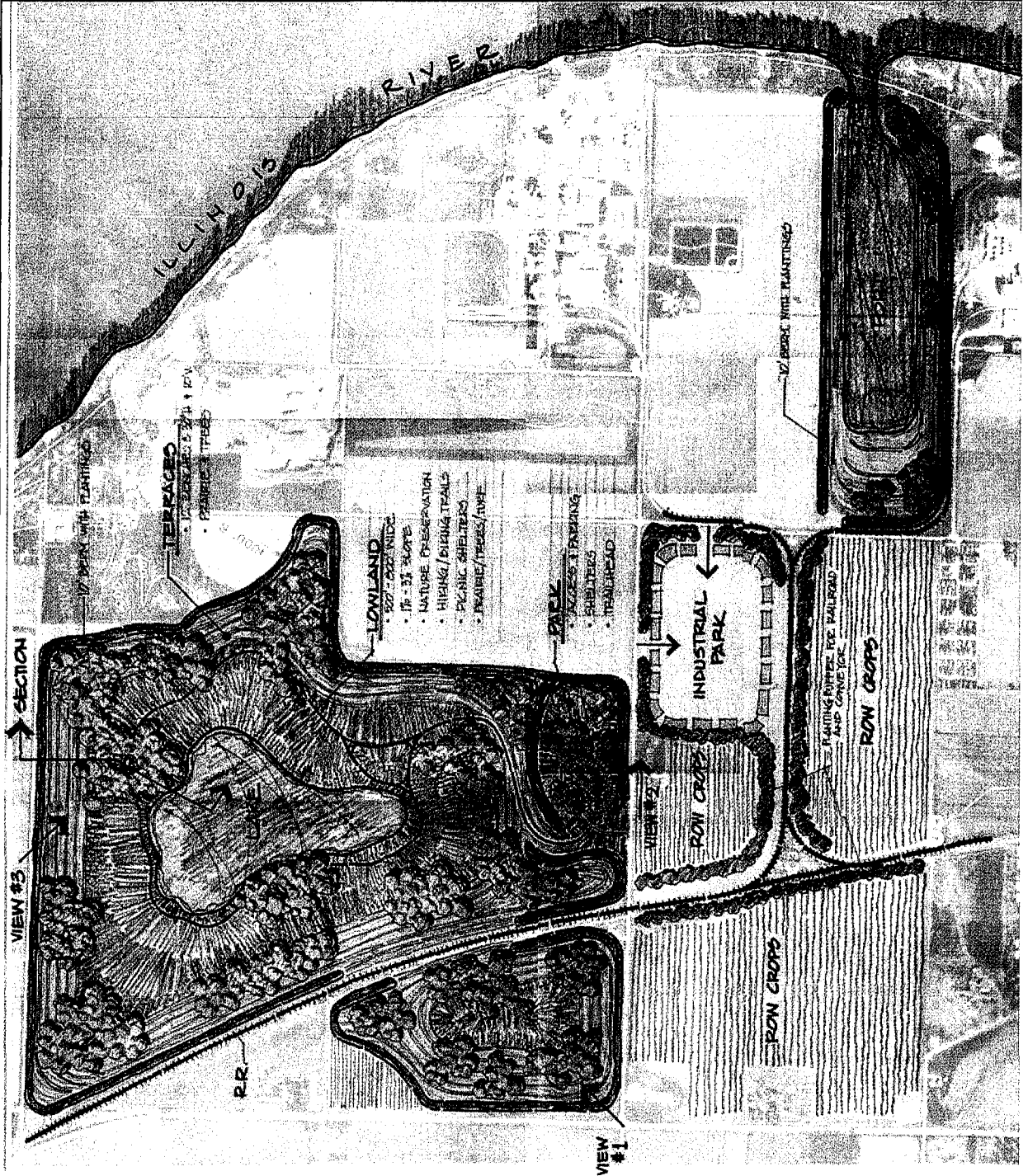


Reclamation  
Limits



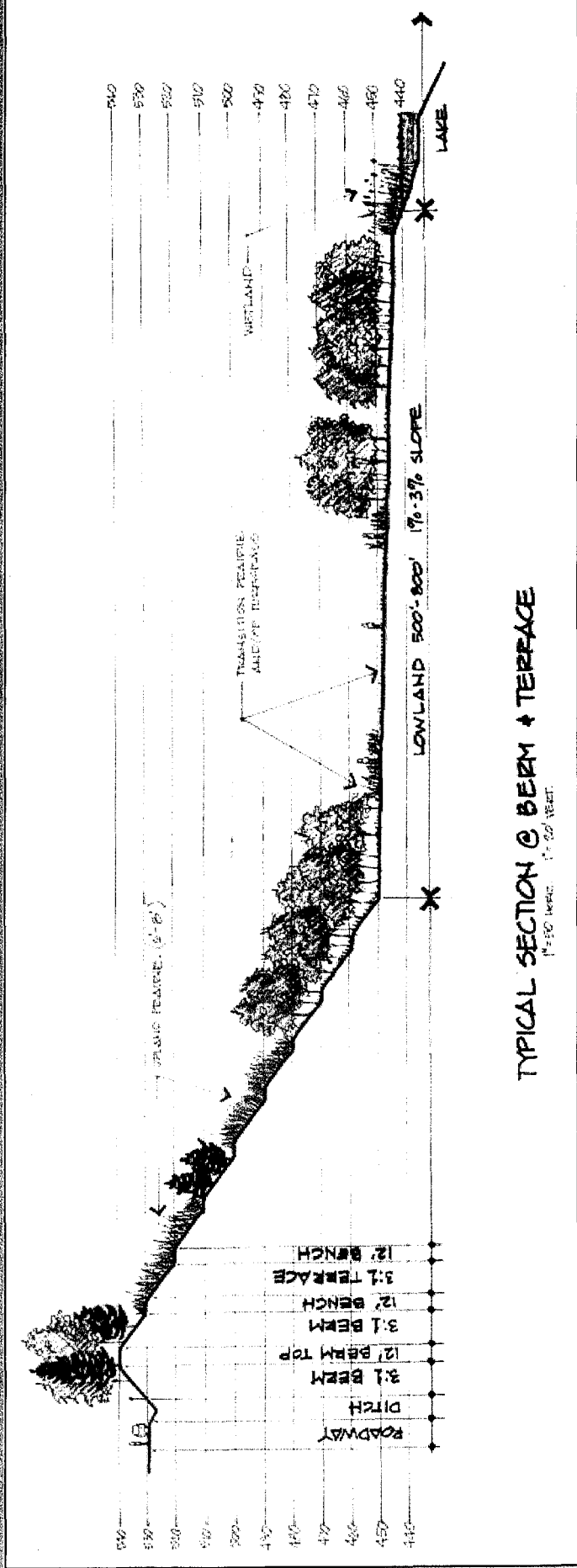
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## Reclamation and Development Plan



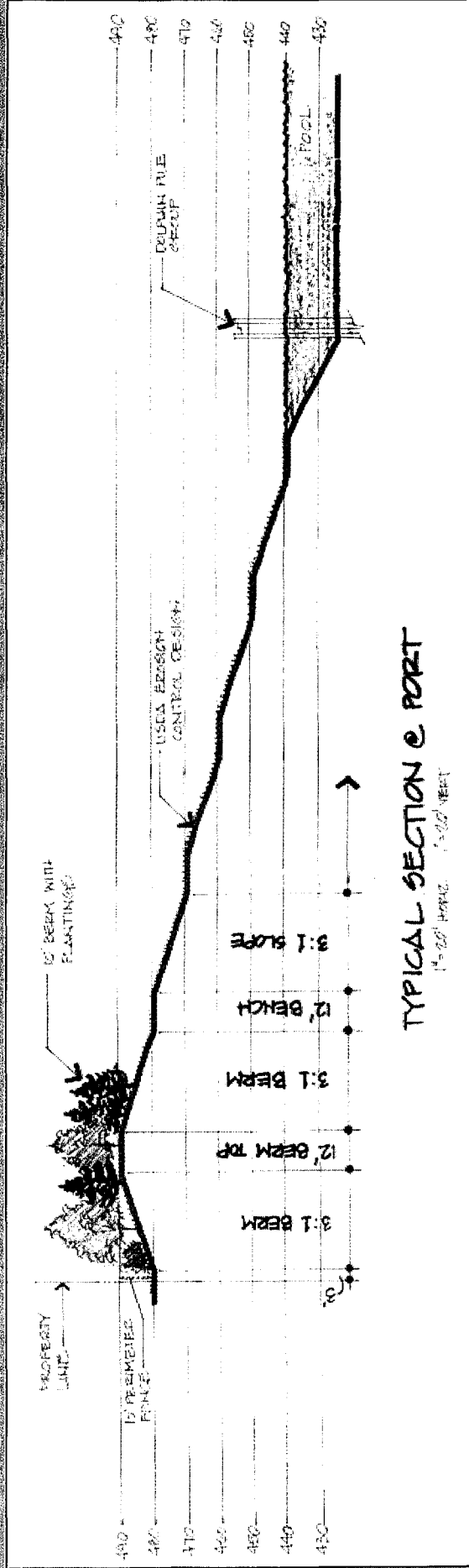


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TYPICAL SECTION C BERM + TERRACE

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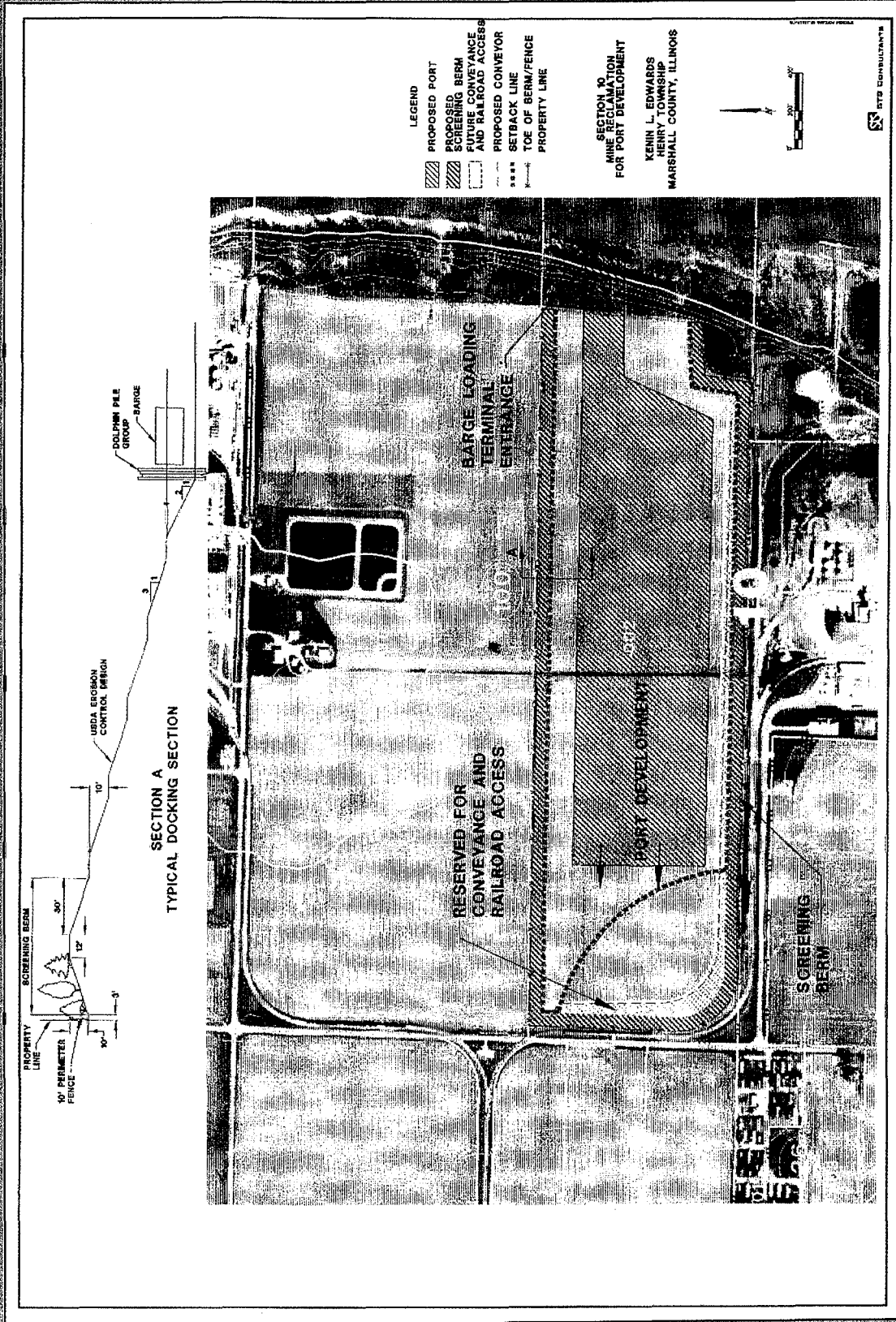


TYPICAL SECTION @ PORT

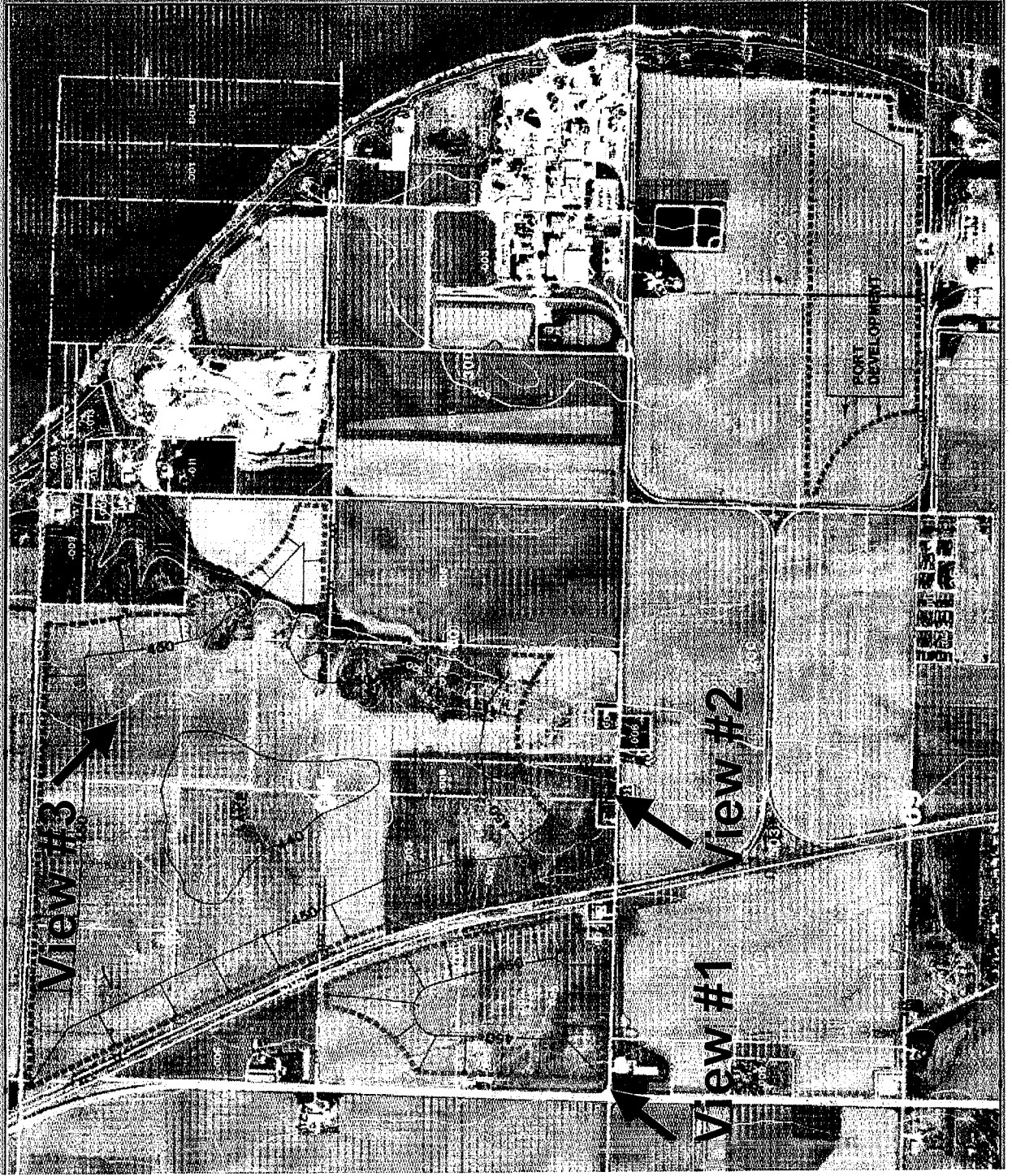
1" = 20' HORIZ. 1" = 2' VERT.



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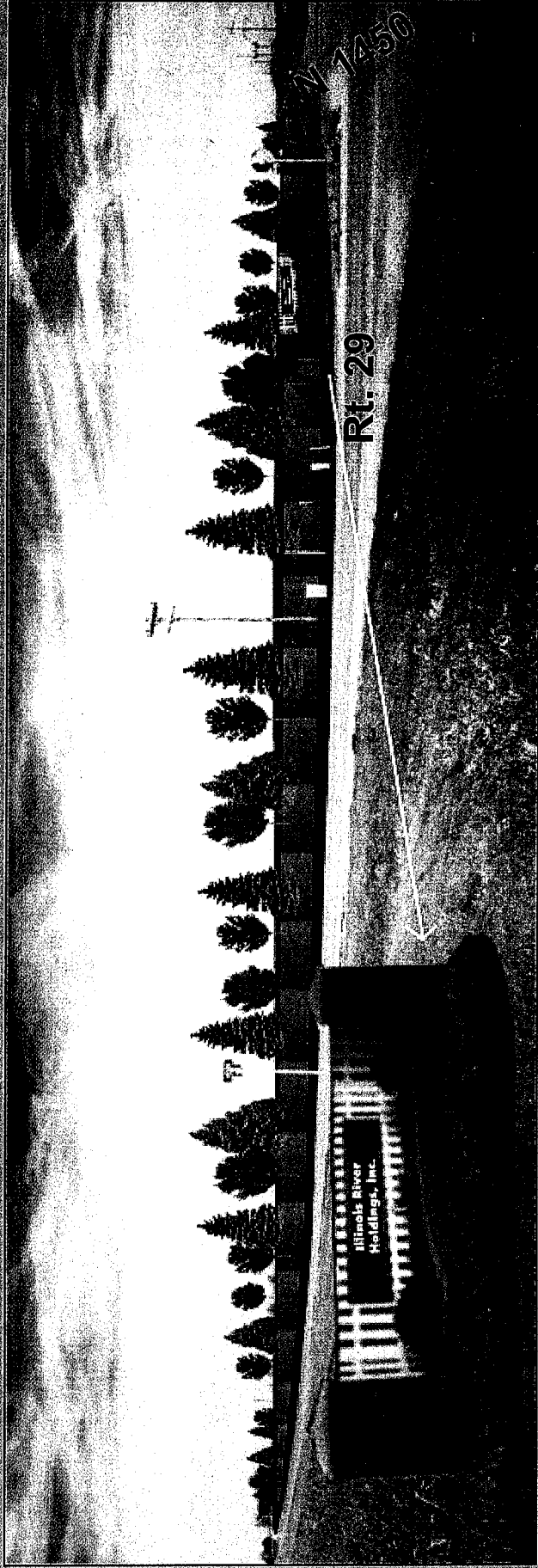
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**Screening  
View**



**Kenin L. Edwards / Henry Township, Marshall County, IL  
Special Use Permit Application**



**State Route 29 North - Looking Northeastly  
10' high screening berm, 5' perimeter security fence, & plantings.  
Southwest corner of Section 4**

**VIEW 1**

**Kenin L. Edwards / Henry Township, Marshall County, IL  
Special Use Permit Application**



**County Rd 1450 North - Looking Northeasterly  
10' high screening berm, 5' perimeter security fence, & plantings.  
South line of Section 4**

**VIEW 2**



**Kenin L. Edwards / Henry Township, Marshall County, IL  
Special Use Permit Application**



**County Line Rd - Looking Southeasterly  
10' high screening berm, 5' perimeter security fence, & plantings.  
North line of Section 4**

**VIEW 3**