



City of Grand Island

Tuesday, January 23, 2007

Council Session

Item E2

Public Hearing on Request from Energy Grains Development Group LLC for a Conditional Use Permit for Construction of an Ethanol Production Facility Located at 1730 and 1898 Wildwood Drive

Staff Contact: Craig Lewis

Council Agenda Memo

From: Craig Lewis, Building Department Director

Meeting: January 23, 2007

Subject: Request of Energy Grains Development Group, LLC on Proposed Site for a Conditional Use Permit to Operate an Ethanol Plant at 1730 Wildwood Drive, Grand Island, NE

Item #'s: E-2 & H-2

Presenter(s): Craig Lewis, Building Department Director

Background

This request is for approval of a conditional use permit to allow for the operation of an ethanol plant at the site that is currently zoned AG-2, Secondary Agricultural. That zoning classification allows for the operation of an ethanol plant only if approved by the City Council in the form of a conditional use permit. The property has recently experienced a rezoning classification to M-2 or Heavy Manufacturing that zoning classification also requires a conditional use approved by the Council, but the ordinance is not yet in affect at the time of this hearing.

Discussion

The Conditional use process allows for a review by the governing body to determine if the proposal is in the best interest of the city, meets requirements previously established and allows conditions to be established in the operation and use of the facility. This proposal presents several unknowns in the proposed operation;

1). The amount and source of water proposed to be utilized in the manufacturing process, has not been identified. City municipal water source or private wells are two possibilities which could be implemented to facilitate all or part of the water demands. It is my understanding that this proposed process is a fairly large consumptive user and could have a high demand for water. If that high water demand is to be met by on-site wells, neighboring lakes, sandpits, and the Stuhr Museum water feature could be impacted.

2). Ethanol production appears to create odor in its process, as the proposal does not appear to give any assurances that the odor produced will not adversely affect the

neighboring properties nor the City at large, conditions to mitigate any potential problems appear reasonable. Best available control technology (BACT) appears to be one avenue to pursue continued modification to the system to control any adverse odors produced. It would appear to be in the best interest of the City to require as a condition of approval that the facility be kept current with BACT within a two year time frame and that within each two years, documentation be provided that BACT has been implemented to address advances in the industry.

3). Air Quality appears to be an area of concern for the proposed process. The following comment is taken from a report by the Nebraska Department of Environmental Quality on Air Quality and Ethanol Production dated February 2006. Sources in Nebraska have been typically installing scrubber systems on the fermentation units, a thermal oxidizer on the dryer systems, cyclones for the DDGS cooling systems, a flare for the loadout, and low NOx burners on the boilers to reduce there emissions to below major source levels. However, recent testing indicates the fermentation scrubbers may not be adequately reducing the VOC and HAP emissions to required levels. The industry and NDEQ are currently researching more viable options to reduce emissions from the fermentation process. (DDGS – Dried Distillers Grain Solids, NOx – Nitrogen Oxides, VOC – Volatile Organic Compounds, HAP – Hazardous Air Pollutant). The implementation of BACT regarding the air quality of the production may again be in the best interest of the City on a two year rotational review.

4). Sewer and process discharges are currently an unknown, whether the total waste is treated by an onsite system or discharged to a City Sanitary sewer system is unknown at this point in time. Determination as to the possible effects cannot be addressed.

5). Landscape buffering has been presented in this plan only along the north boundary, it would appear prudent to include a provision that an approved landscape plan for the entire tract be presented and approved as part of the conditional use. Landscaping adjacent to any street is required as a zoning provision and must be maintained in the manor presented for the life of the facility.

6). The location of this proposal appears to meet the basic requirements of the zoning regulations, however the conditional use process gives the Council the ability to evaluate the location for the proposed use. As the City currently has operations which may produce objectionable odor in three of the directions from the City it would appear reasonable to evaluate this potential odor from the southern direction, as a southern breeze in the summer months when the population is outside enjoying the central Nebraska Good life may be less than desirable.

7). The proposal is for construction in the near future and as this process requires a public hearing to allow for the use, it appears appropriate to establish a time frame for construction to begin. A condition that if construction does not begin within the next two years and or if construction or the operation ceases for any continuous two year period the conditional use permit will become null and void and require subsequent approvals by the City Council appears reasonable.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Approve the request.
2. Disapprove or /Deny the request.
3. Modify the request to meet the wishes of the Council
4. Table the issue

Recommendation

Approve the request with the identified conditions, finding that the proposed use and application promotes the health, safety, and general welfare of the community, protects property against blight and depreciation, and is generally harmonious with the surrounding neighborhood.

OR:

Table the request to a time certain to allow the Applicant and staff to address and identify the areas currently unknown and develop conditions for the operation of the facility.

Sample Motion

Motion to approve the request for a conditional use permit to allow for the operation of an ethanol production facility with the listed conditions as stated in the staff memorandum.

JACOBSEN,
ORR, NELSON,
WRIGHT & LINDSTROM, P.C.
ATTORNEYS AT LAW

A LIMITED LIABILITY
ORGANIZATION

DANIEL L. LINDSTROM
dlindstrom@jonlaw.com



December 28, 2006

Mr. Craig Lewis
Building Director
City of Grand Island
P. O. Box 1968
Grand Island, NE 68802-1968

Re: Conditional Use Permit Application

Dear Mr. Lewis:

Please find enclosed the Application of Energy Grains Development Group, LLC for a conditional use permit for the construction of an ethanol plant, to be located on the north side of Wildwood Drive, immediately north of the City's electrical generating facility. This application is intended to encompass all phases of the plant construction and operation, including rail and boiler infrastructure.

Energy Grains Development Group, LLC has signed on behalf of the owners of the subject property, after consultation with Chad Nabity, since the subject property is under option from the present owners and will be purchased in the event a conditional use permit is granted and the project moves forward.

I hope that the materials attached are self-explanatory. As always, should you or any other city officials have any questions concerning this application, please feel free to contact me directly.

Thanks for your assistance.

Very truly yours,

JACOBSEN, ORR, NELSON,
WRIGHT & LINDSTROM, P.C.
Attorneys at Law

Daniel L. Lindstrom

DLL:rkr

Enc.



Non-Refundable Fee: \$155.00
Return by: _____
Council Action on: _____

Conditional Use Permit Application

pc: Building, Legal, Utilities
Planning, Public Works

1. The specific use/construction requested is: Construction of an ethanol production facility.
2. The owner(s) of the described property is/are: Thomas L. Hartman and Carlotta Y. Hartman, with option to Energy Grains Development Group, LLC.
3. The legal description of the property is: See Exhibit A attached.
4. The address of the property is: 1730 and 1898 Wildwood Drive, Grand Island, NE
5. The zoning classification of the property is: AG2, a change to M2 is pending at the January 9, 2007 city council meeting.
6. Existing improvements on the property is: A farmstead with home and out buildings, to be removed.
7. The duration of the proposed use is: 20 to 30 years.
8. Plans for construction of permanent facility is: Not applicable. This will be a permanent facility.
9. The character of the immediate neighborhood is: Industrial and suburban agricultural.
10. There is hereby **attached** a list of the names and addresses of all property owners within 200' of the property upon which the Conditional Use Permit is requested. See Exhibit B.
11. Explanation of request: See Exhibit C.

I/We do hereby certify that the above statements are true and correct and this application is signed as an acknowledgement of that fact.

ENERGY GRAINS DEVELOPMENT GROUP, LLC

December 27, 2006

Date

By

Paul Kenney
Its President Owners(s)

(308) 234-5579

Phone Number

Aaron Gillespe: 308-293-5366

Paul Kenney: 308-627-7878

P. O. Box 1060

Address

Kearney, NE 68848-1060

City

State

Zip

Please Note: Delays May Occur if Application is Incomplete or Inaccurate.

Conditional Use Permit Application

Exhibit A

Legal Description of Subject Property

A tract of land located in the Southwest Quarter (SW1/4) in Section Four (4), Township Ten (10) North, Range Nine (9) West of the 6th P.M., Hall County, Nebraska, and more particularly described as follows:

Commencing at the Southwest corner of Sec. 4-T10N-R9W, said point also being the point of beginning; thence on an assumed bearing of N01°48'44"W upon and along the West line of said SW ¼ of Sec. 4 a distance of 2592.64 feet to the West ¼ corner; thence N89°25'04"E upon and along the North line of said SW ¼ a distance of 2672.92 feet to the center of said Sec. 4; thence S01°17'35"E upon and along the East line of said SW ¼ a distance of 2615.01 feet to the South ¼ corner of said Sec. 4; thence S89°54'36"W upon and along the South line of said SW ¼ a distance of 2649.81 feet to the point of beginning. Said tract containing 159.046 acres, more or less, of which 7.915 acres is county road right of way.

Exhibit C

EXPLANATION OF REQUEST FOR CONDITIONAL USE PERMIT APPLICATION

Energy Grains Development Group, LLC is a company consisting of five individuals who have prior experience in the development and operation of an ethanol production facility. The company was formed for the purpose of developing an ethanol plant at the proposed site near Grand Island, with the prospect of development of other sites in the future.

The Conditional Use Permit Application is being made with the understanding that both the present zoning, and the anticipated change in zoning, would both permit the construction of an ethanol plant within the zoning classification with a conditional use permit. It is our understanding that the AG2 zone is subject to a pending change in zoning to M2 and that the final hearing on the zoning change is scheduled for January 9, 2007 before the Grand Island City Council.

The property that is the subject of this application ("subject property") is roughly a quarter section of land presently owned by Thomas and Carlotta Hartman, who have granted an option for purchase of the property to Energy Grains Development Group, LLC. It is the intention for Energy Grains Development Group, LLC, or its assignee, to purchase the subject property after issuance of the conditional use permit and successful completion of other steps toward completion of the project. The applicant has formed a separate ownership entity for the ownership of the ethanol production facility and this will give local individuals the opportunity to invest in ownership of the ethanol facility.

The applicant views the subject property as an excellent site for the construction of an ethanol facility, given its proximity to the City of Grand Island and the City of Grand Island electrical generation facility, the availability of coal, rail service, and good road access. The applicant is sensitive to the concerns of neighboring land owners and the members of the public in general concerning the potential impacts of such an ethanol production facility, and believes that the design and location, along with buffering, will resolve and mitigate those concerns, as addressed below.

Attached, please find copies of the following drawings:

- A. Aerial photograph showing the corners of the subject property;

- B. An ethanol facility site plan layout prepared by the contractor; and
- C. Eleven (11) different views of the completed facility from various locations surrounding the subject property. Please note that these drawings are preliminary and may be subject to change.

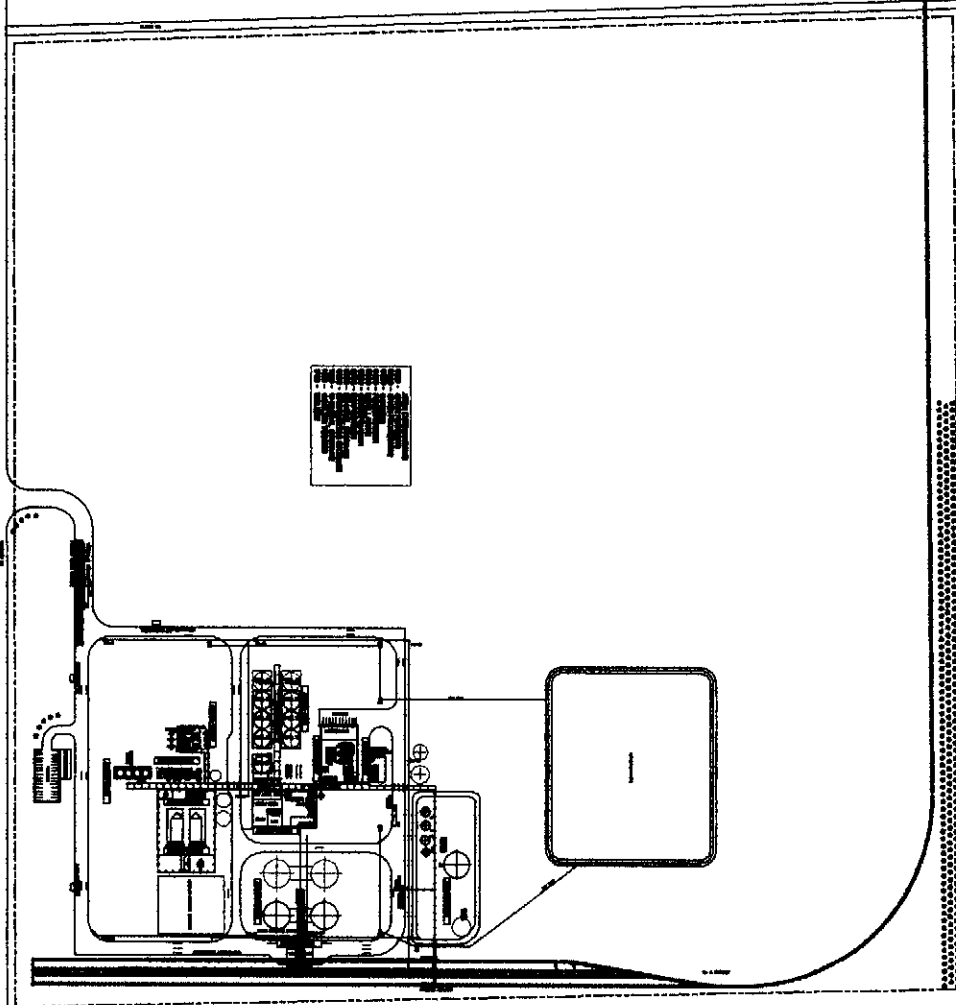
As indicated on these drawings, the proposed ethanol plant site is located immediately north of the electrical generation facility and immediately east of the industrial development park and land proposed for expansion of the industrial development area. Rail infrastructure already exists in the area, and the applicant is currently negotiating with the City of Grand Island concerning the use of existing and proposed coal handling facilities to provide for the energy needs of the ethanol production facility. The City of Grand Island has existing water and other infrastructure in close proximity to the area and the future land use map would indicate that the City has planned for such industrial development to incur in this area. In addition to the fact that this type of development would appear to be appropriate for this area from a planning standpoint, the applicant would also note that it has considered the following factors in siting and design of the plant:

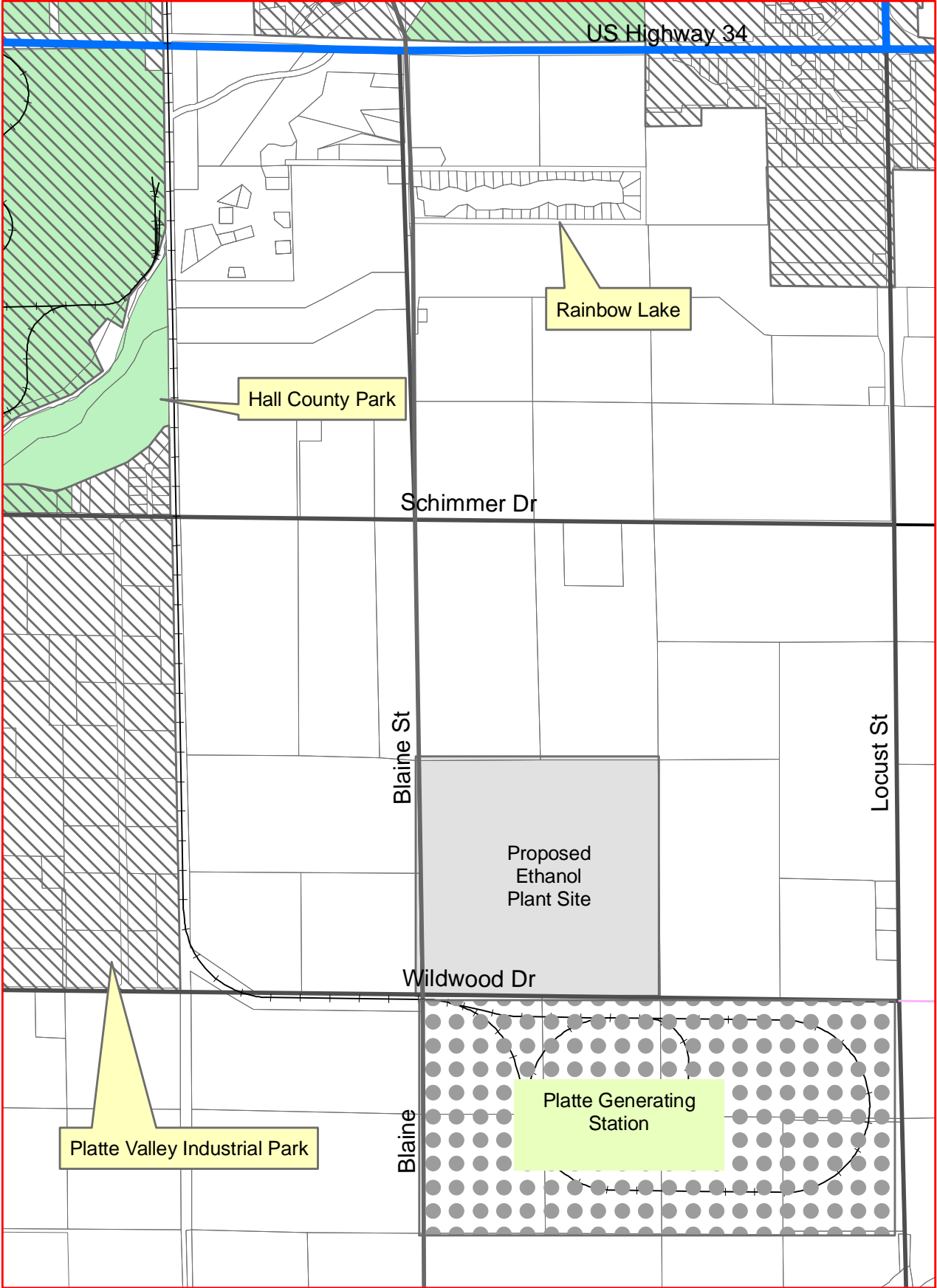
1. Visual Impact: Concentrations of residential development are located north and northwest of the proposed site, varying in distance from approximately one-half mile to one mile from the proposed site. The site is located as far south as possible and it will visually blend in with the electrical general facility. In addition, the applicant proposes that trees be planted along the north border of the subject property as a visual buffer as shown on drawing nos. 1, 2, 6, 9 and 11.
2. Odor and Noise: The proposed ethanol production facility is to be a Katzen process design. The Katzen design utilizes technology that differs from existing ethanol plants in the south central Nebraska region in that it employs two thermal oxidizers. The oxidizers are devices that remove byproducts from the fermentation and processing of alcohol that could otherwise result in odors associated with some ethanol plant designs. Generally, the odors generated from most ethanol plants are not offensive and are minimal in nature, in any event. Similarly, ethanol production facilities generally do not produce much additional noise. The fermentation and distillation process is nearly silent, with the only noise generated resulting from the handling of grain, ethanol and other co-products by truck and rail transport. The applicant does not anticipate noise being an issue.

3. Traffic: The subject property is a large enough site that it permits the applicant to construct extensions of the existing rail spur onto the property with minimal impact upon surrounding properties. It is anticipated that much of the corn used by the processing facility will be delivered by truck and that some of the distillers grain co-product will be removed from the area by truck, resulting in some increase in truck traffic on Wildwood Drive. However, the applicant has designed the site in such a manner so as to move truck traffic off of Wildwood Drive and on to the site with minimal stacking or turning issues and is willing to work with city and county officials to ensure that the design is appropriate. Given the proximity of the site to South Locust Street, the applicant believes that most truck traffic will access the site from the east on Wildwood Drive.

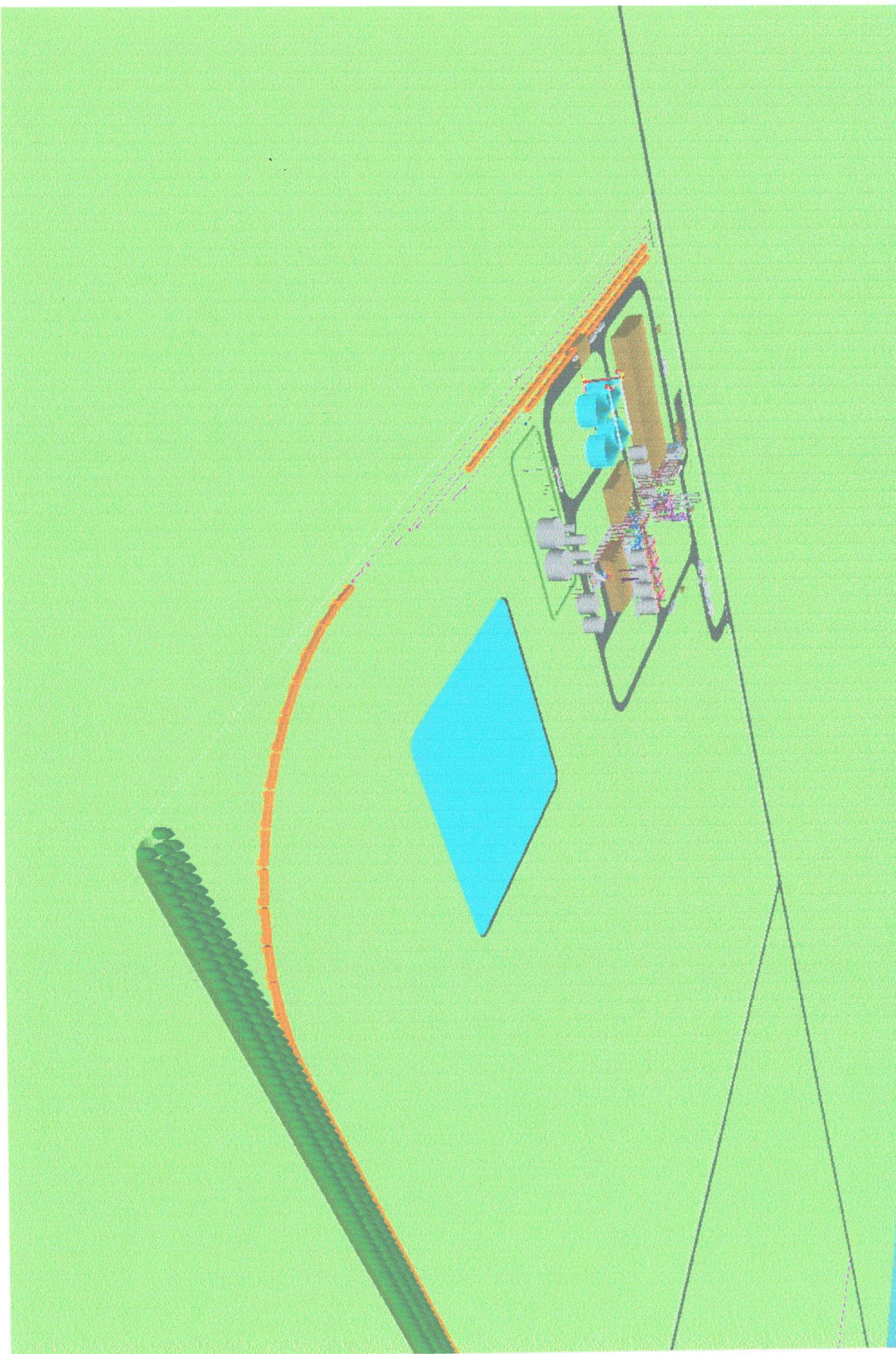
Generally, the applicant is open to discussion about reasonable conditions or issuance of the proposed conditional use permit, including landscaping and other site improvement.

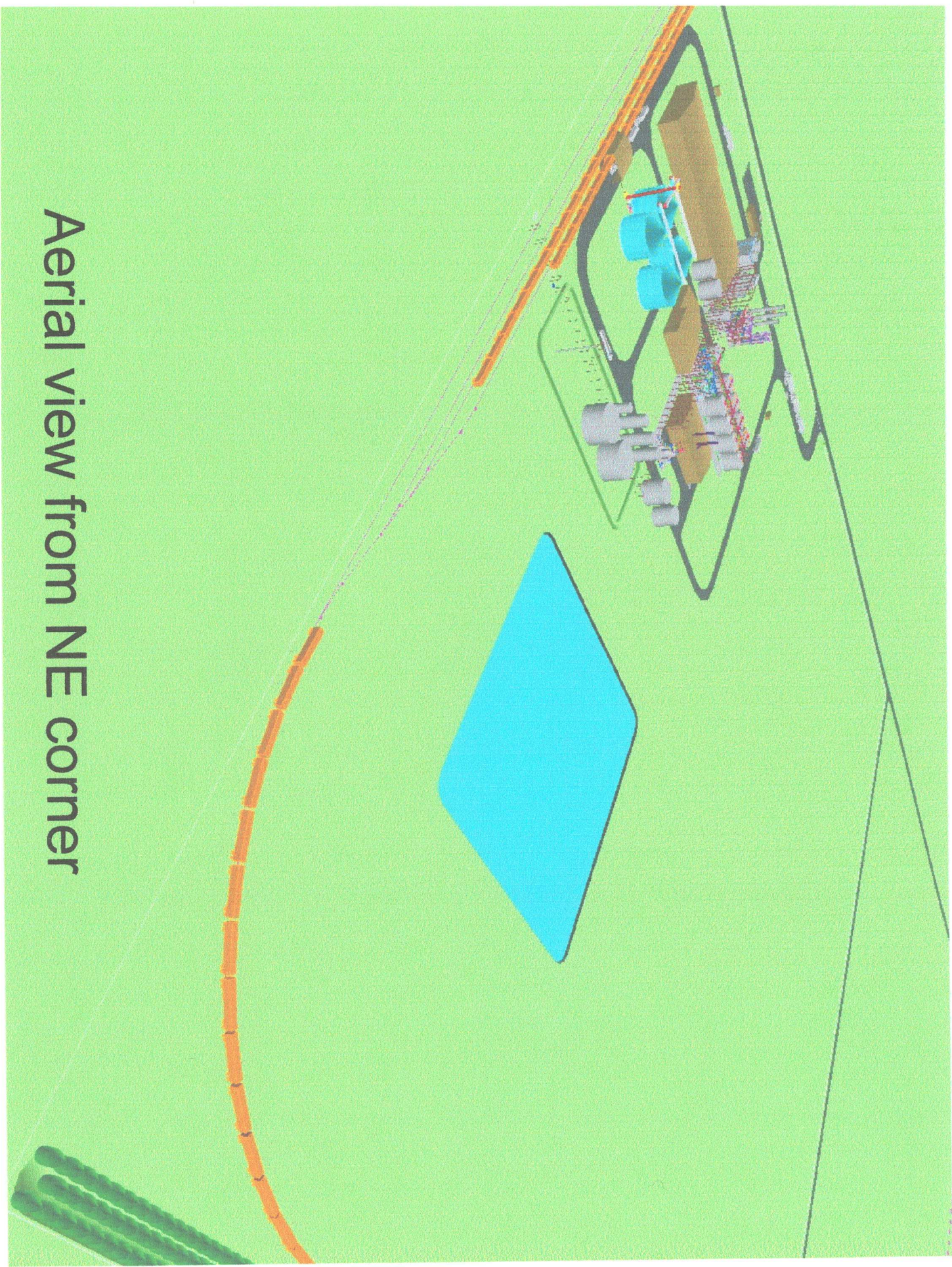
SITE PLAN LAYOUT





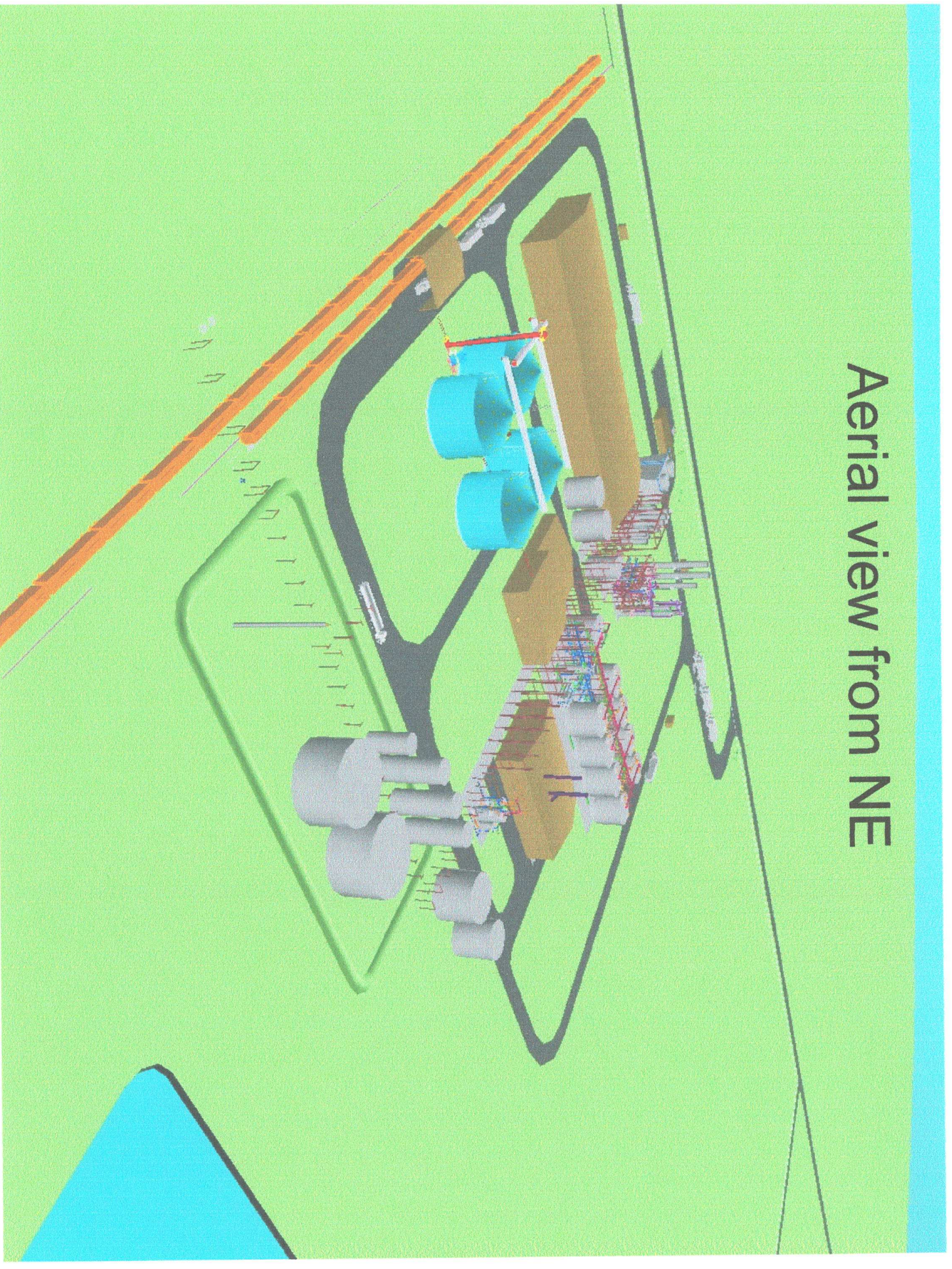
Aerial view from NE corner



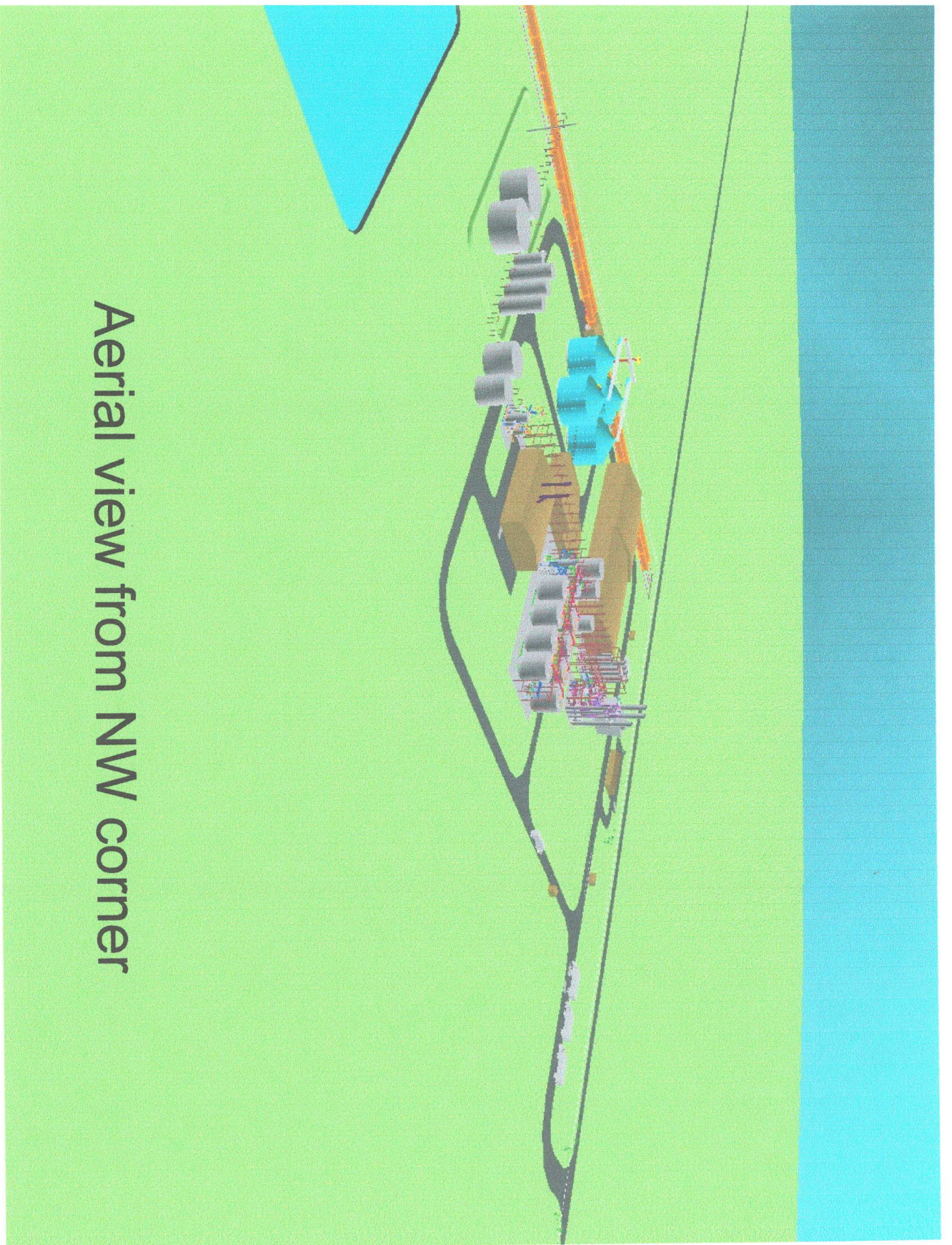


Aerial view from NE corner

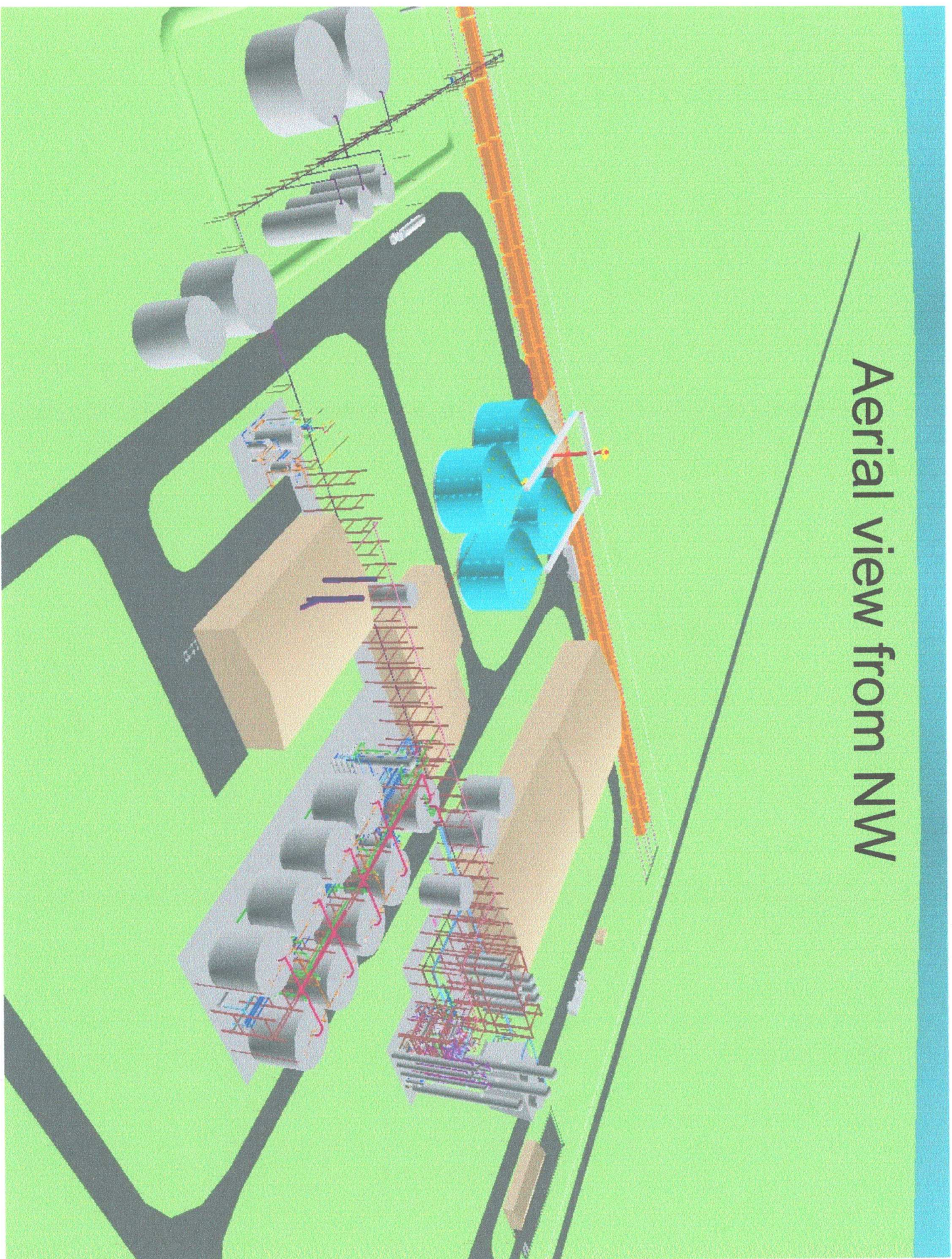
Aerial view from NE

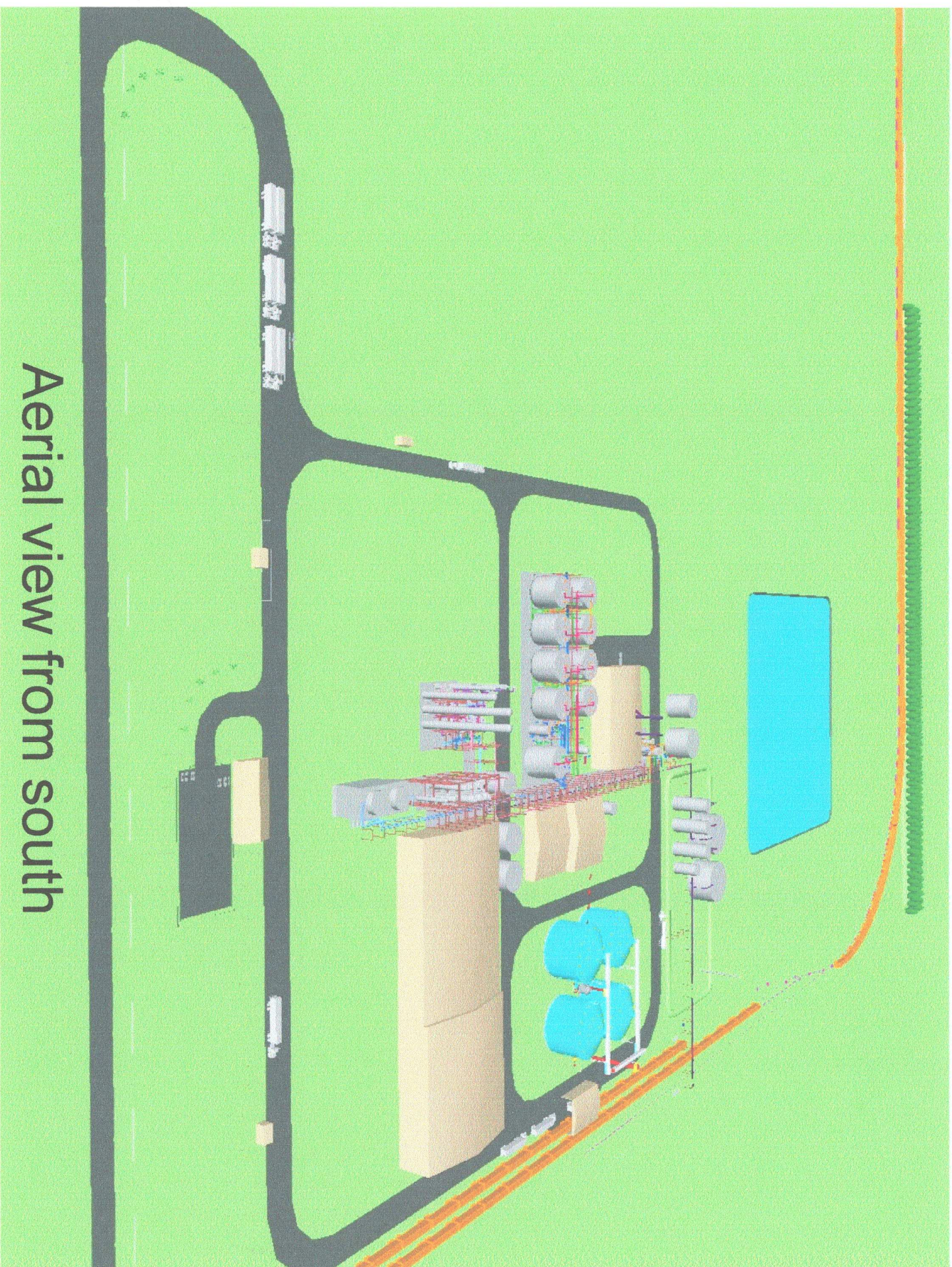


Aerial view from NW corner

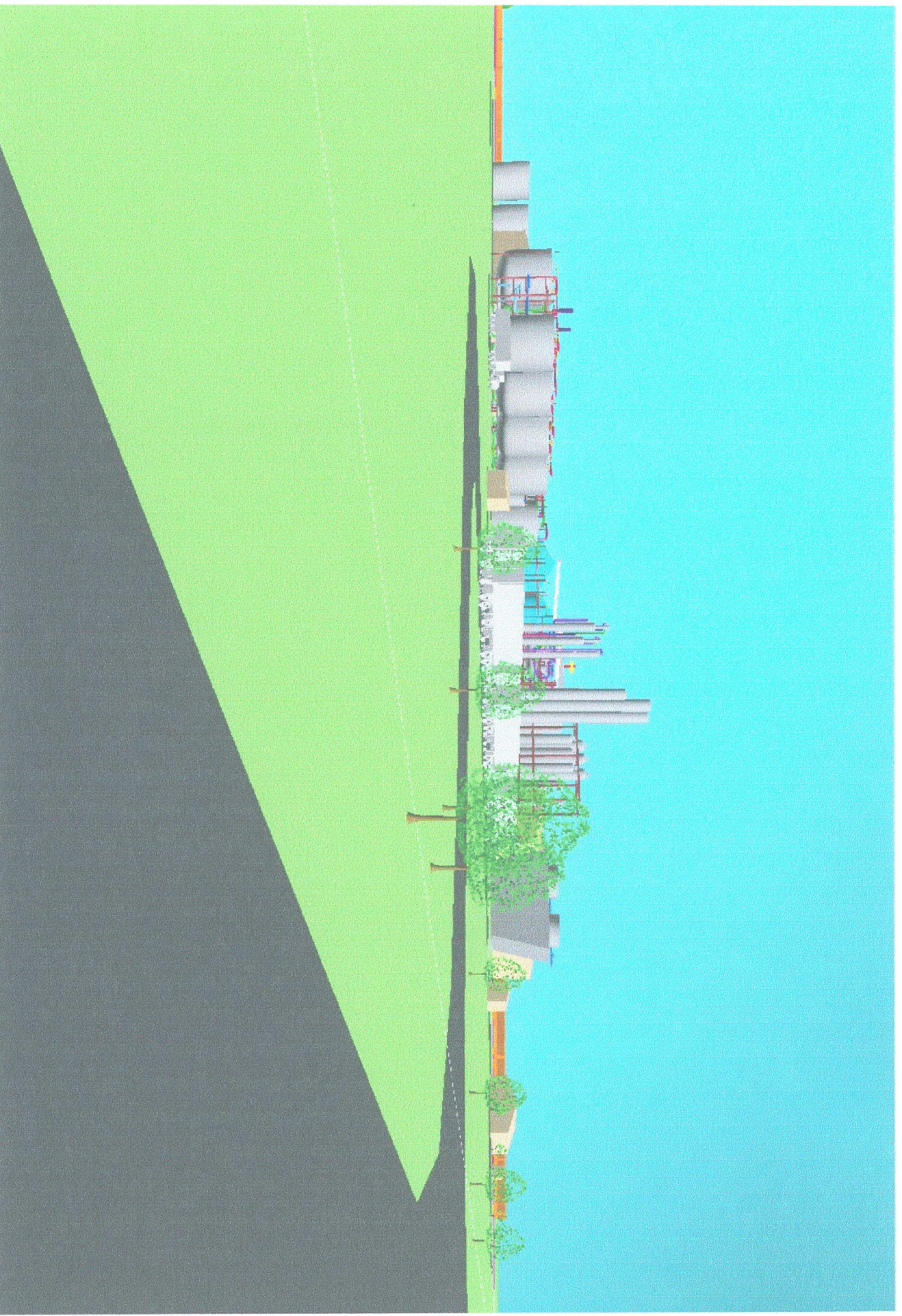


Aerial view from NW

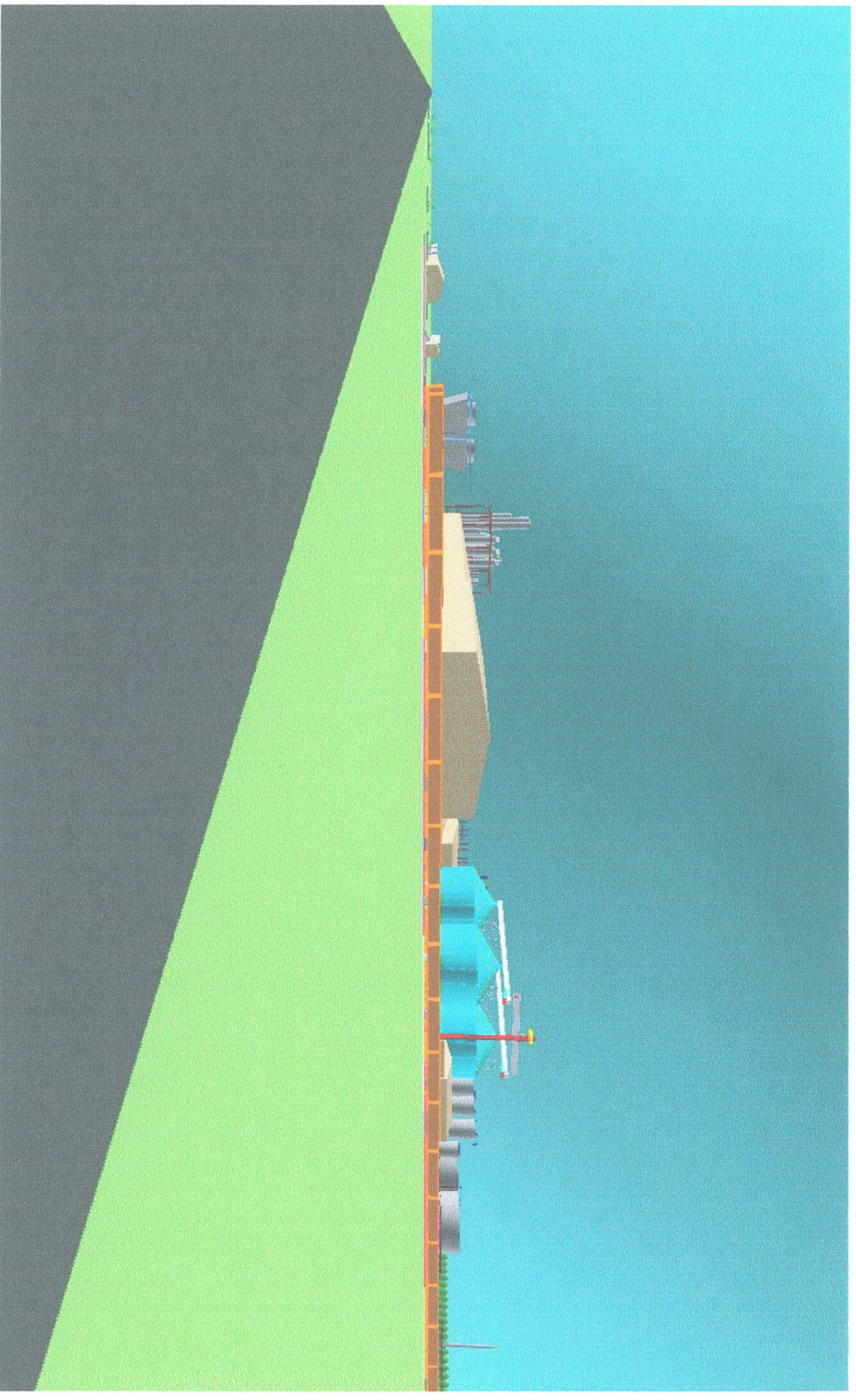




Aerial view from south



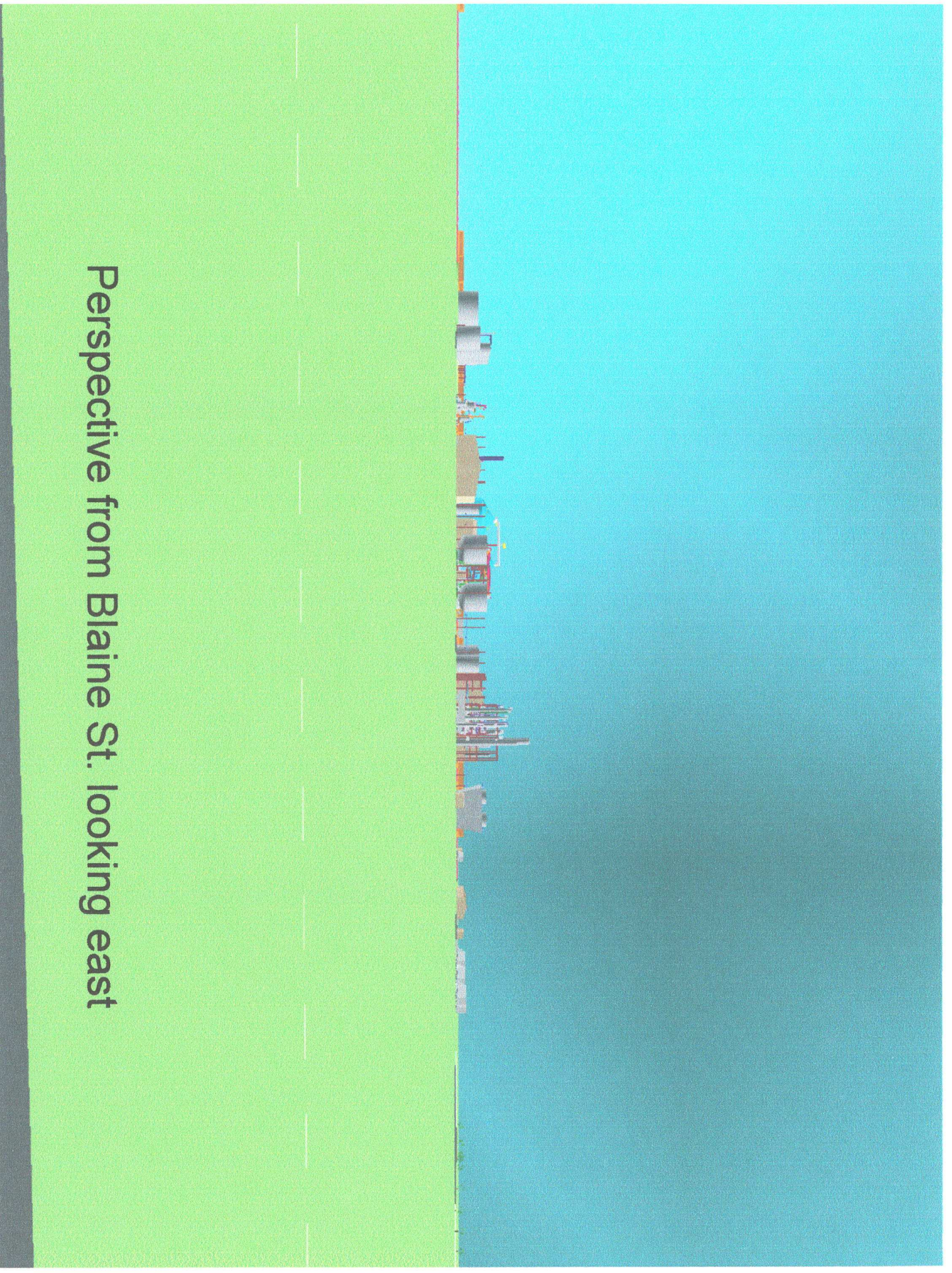
Perspective from Wildwood Dr looking NE



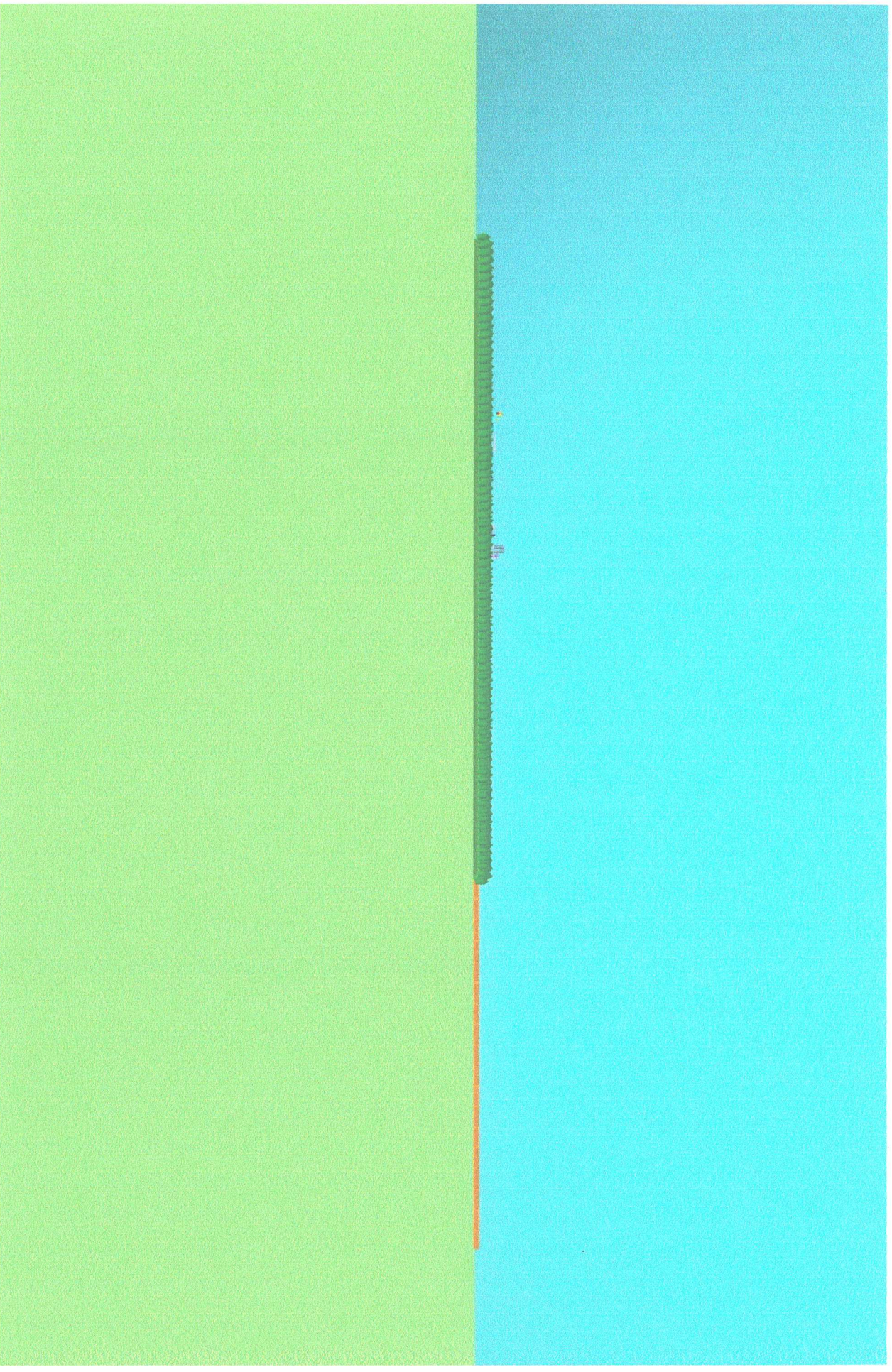
Perspective from Wildwood Dr looking NW



Perspective standing at north end of
property looking south



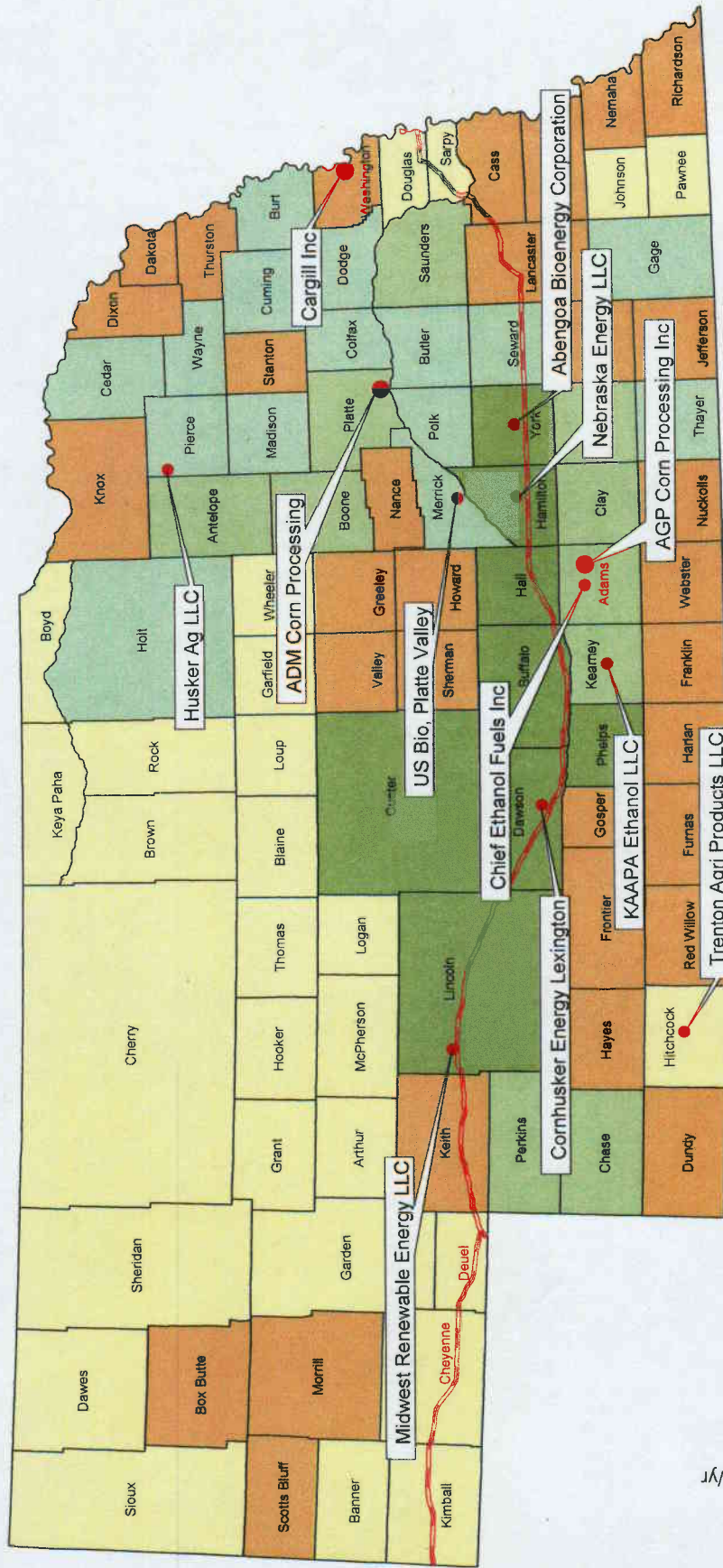
Perspective from Blaine St. looking east



Perspective from Schimmer Dr. looking south

Existing/Operating Ethanol Plants in Nebraska

As of November 2006



● <100 Mgal/yr
● 100-199 Mgal/yr
● >199 Mgal/yr

Existing/Operating Ethanol Plants



Interstate

Nebraska Corn Production
(per thousand bushels)



Source: Nebraska Agricultural Statistics Service,
Nebraska Agricultural Statistics 2001-2002,
Updated August 2002

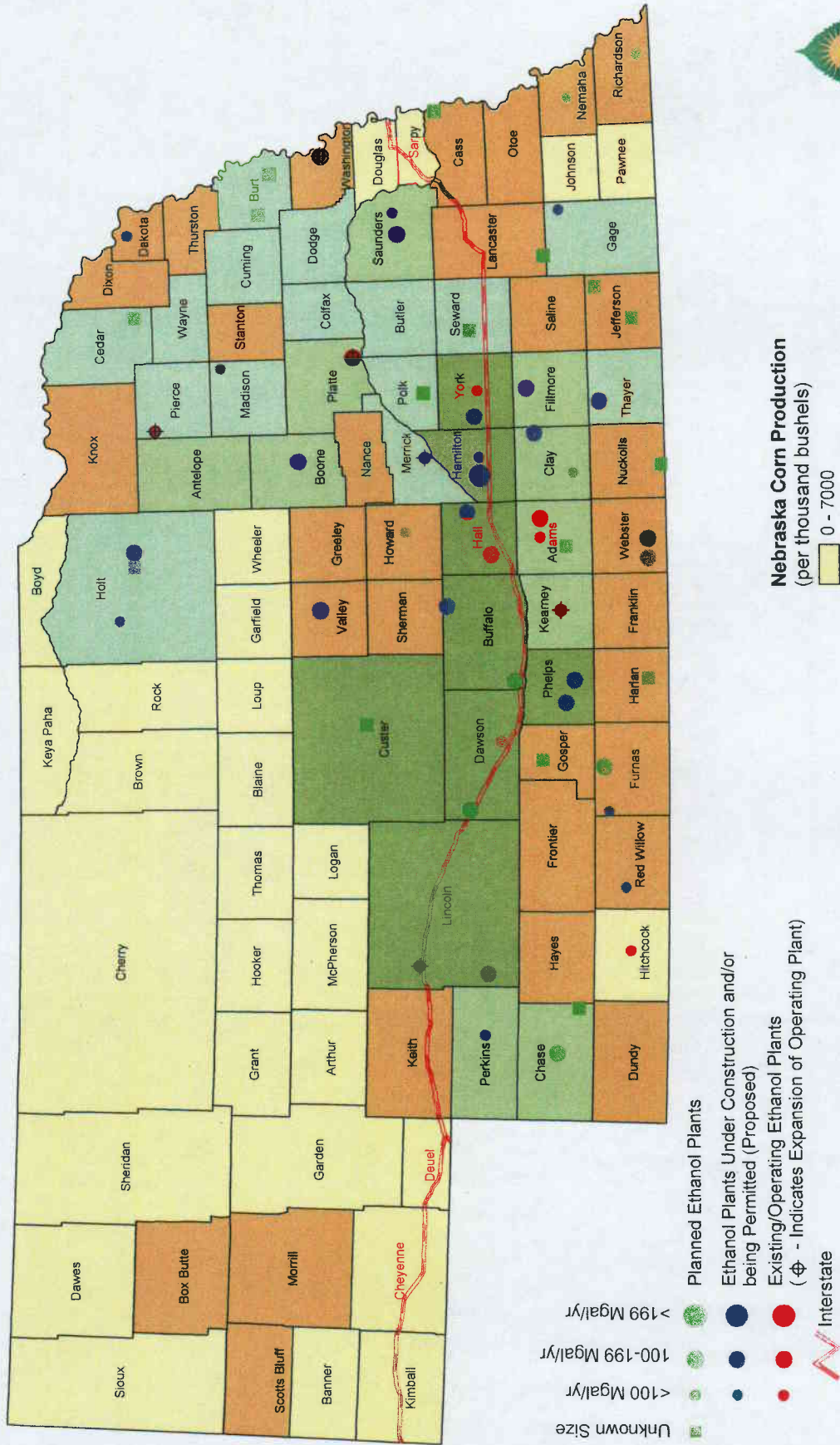


The map is intended for informational purposes only.
The NDEQ does not guarantee its accuracy or completeness.

November 2006

Planned, Proposed, and Operating Ethanol Plants in Nebraska

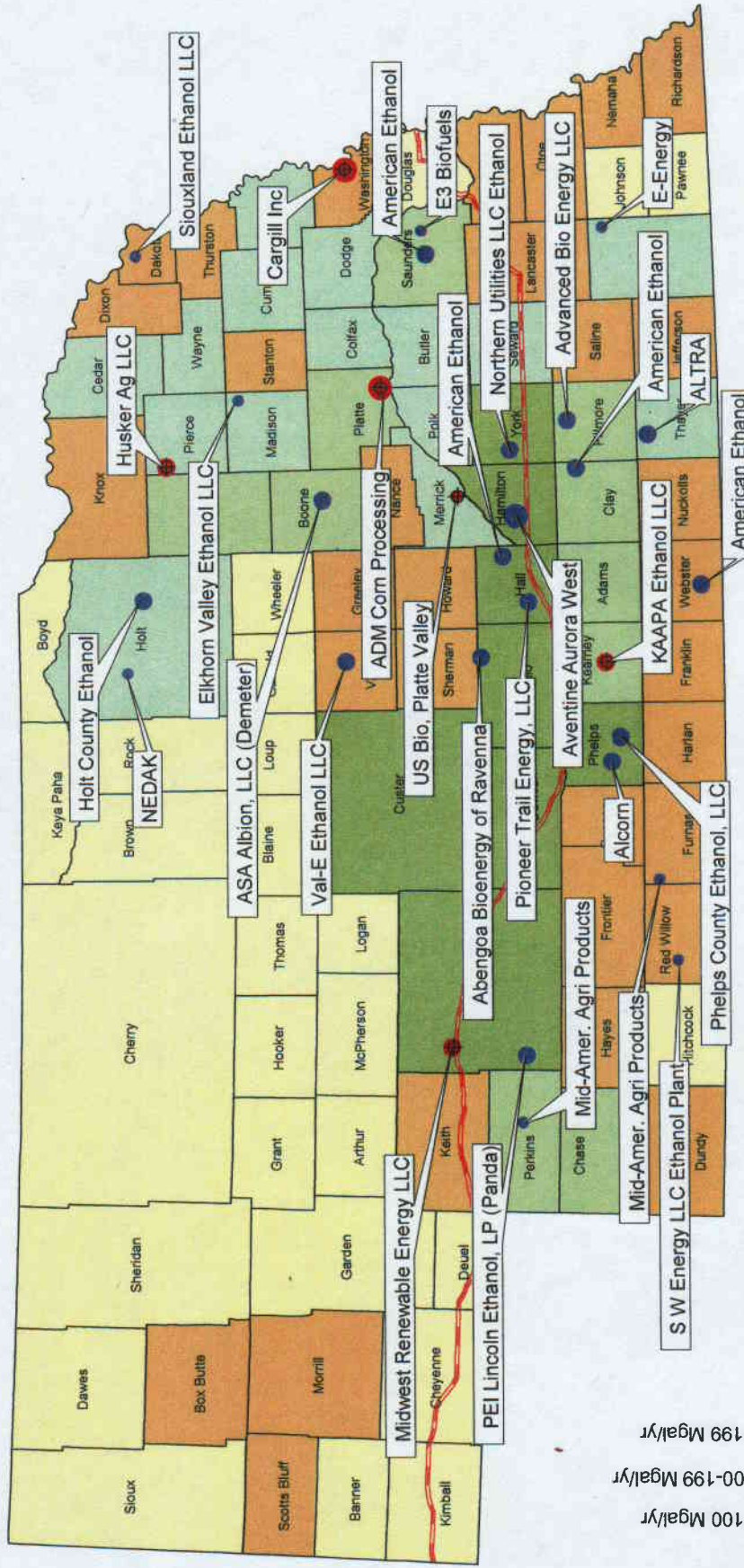
As of November 2006



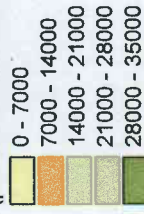
Source: Nebraska Agricultural Statistics Service, Nebraska Agricultural Statistics 2001-2002, Updated August 2002

Ethanol Plants Under Construction or being Permitted in Nebraska

As of November 2006



Nebraska Corn Production
(per thousand bushels)



Source: Nebraska Agricultural Statistics Service,
Nebraska Agricultural Statistics 2001-2002.
Updated August 2002

- Ethanol Plants Under Construction and/or being Permitted (Proposed)
- Existing/Operating Ethanol Plants
- (♦) - Indicates Expansion of Operating Plant
- Interstate

Receipt of an application or issuance of a permit for a "Proposed" ethanol plant does not necessarily mean an ethanol plant will actually be built at the site.

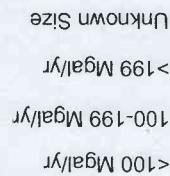
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November 2006

As of November 2006



Interstate

0 - 7000
7000 - 14000
14000 - 21000
21000 - 28000
28000 - 35000

 28000 - 35000
Source: Nebraska Agricultural Statistics Service,
Nebraska Agricultural Statistics 2001-2002.
Updated August 2002

Information regarding "Planned" ethanol plants is obtained by the NDEQ through discussions with prospective sources and media accounts.

The map is intended for informational purposes only.

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