



# **City of Grand Island**

**Tuesday, February 13, 2007**

**Council Session**

## **Item H1**

**Consideration of 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 A. Lewis, Building Department Director

**Meeting:** February 13, 2007

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

**Item #'s:** H-1

**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 facility at 1730 Wildwood Drive. The property is by zoning regulations required to obtain the approval of the City Council in the form of a conditional use permit. The request was brought before the City Council on January 23, 2007 and again at the February 6, 2007 Study Session for further discussion and consideration.

## **Discussion**

The conditional use process allows for a review by the governing authority to determine if the proposal is in the best interest of the City, meets the requirements previously established and allows conditions to be placed on the operation and use of the facility.

The following conditions have been proposed by staff and identified at the City Council study session:

1). On site wells regulated by the Central Platte Natural Resources District shall also be registered with the City as to location, size, and proposed volume of water to be pumped. A copy of the permit issued shall also be filed with the City Of Grand Island.

2). Odor generated at the plant is proposed to be mitigated with thermal oxidizers, these devices shall be operated continually as the plant is in production. Any repair or maintenance of these devices shall occur only when production is halted for such repair and maintenance. As technology advances the Best Available Control Technology (BACT) shall be implemented to control any odors associated with the facility. Documentation of the BACT shall be submitted on a two year cycle to ascertain compliance with these conditions.

3). Air quality and emissions are regulated by the State of Nebraska Department of Environmental Quality. Additionally, in regard to air quality, BACT shall be provided and justified to the City Of Grand Island on a two year rotational period. A copy of the permit issued by the State shall be filed with the City.

4). Waste discharges from the production are regulated by the State Department of Environmental Quality , additionally the City Of Grand Island Public works Department shall approve of the method and destination of the waste. A copy of any permits issued by the State for discharges shall be filed with the City.

5). Landscaping on the site is proposed in a tree line adjacent to the north boundary line. A landscape plan identifying this proposed planting and additional plantings that comply with the provisions in the zoning regulations shall be presented to and approved by the City Of Grand Island prior to issuance of any construction permits.

6). Exterior lighting for the facility shall be predominately down lighting.

7). Construction of the proposed facility shall commence within two years of approval of the conditional use permit. If for any reason, production ceases for any continuous two year period the conditional use permit shall become null and void and require subsequent approvals from the City Of Grand Island.

8). A development agreement that identifies the expectations and responsibilities shall be negotiated and implemented between the Developer and the City Of Grand Island .

## **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**

City Administration recommends that the Council approve the request with the identified Conditions, if it finds that the application and use promote the health, safety, and general welfare of the community, protects property against blight and depreciation, and is generally harmonious with the surrounding neighborhood.

## **Sample Motion**

Motion to approve the request of for a conditional use permit to allow for the construction and operation of an “ethanol production facility” with the listed conditions stated in the staff memo and (any other conditions determined by the City Council). The City Council makes the following findings in approving this request:

- 1.)
- 2.)
- 3.)



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 6<sup>th</sup> 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.

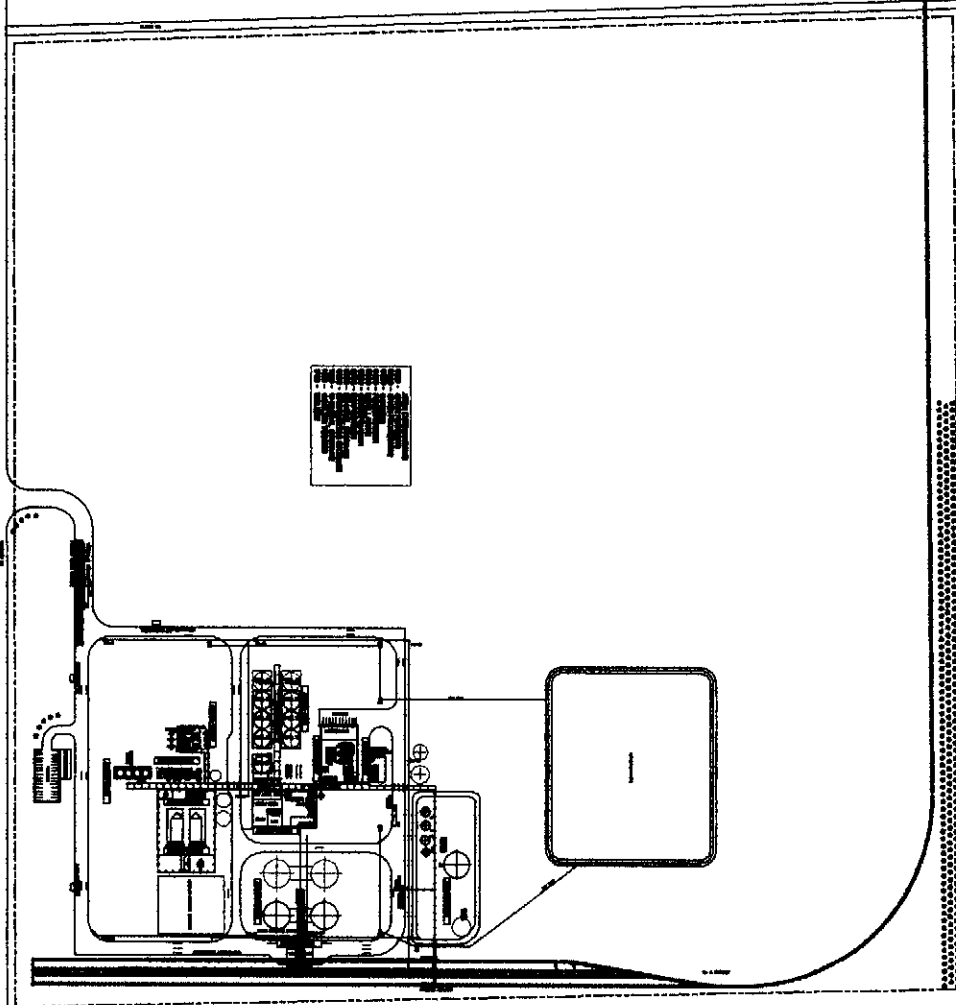
As indicated on these drawings, the proposed ethanol plant site is located immediately north of the electrical generation facility and immediately east of the industrial development park and land proposed for expansion of the industrial development area. Rail infrastructure already exists in the area, 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



C-1

DESIGNED BY: JAC  
CHECKED BY: JAC  
DATE: 11-01-08  
CDS: JAC

NEW ETHANOL FACILITY  
SITE PLAN LAYOUT

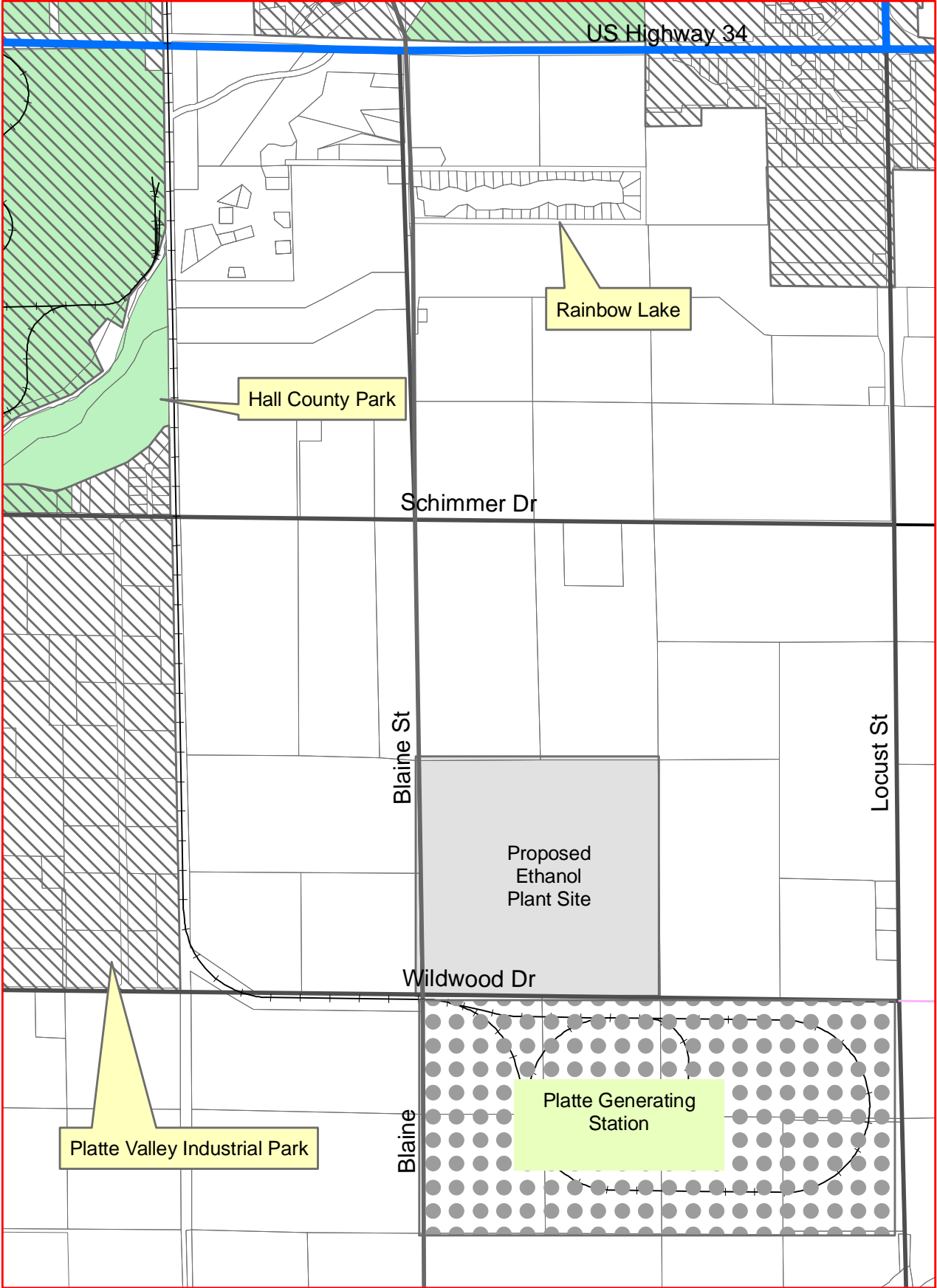
PROJECT:

GRAND ISLAND, NE

CONTRACTOR:

**Dilling**  
INDUSTRIAL, COMMERCIAL & INSTITUTIONAL

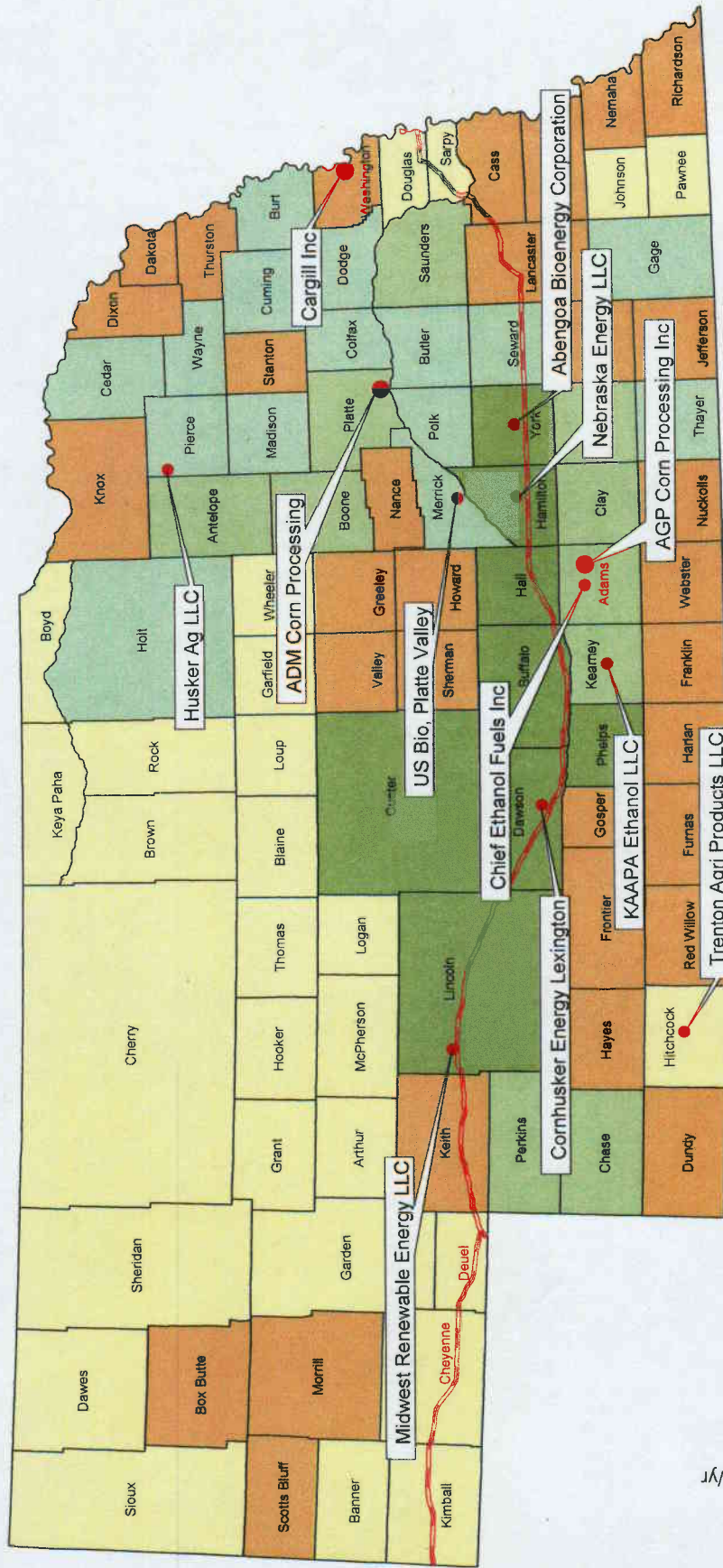
2011 Project No.  
2011-001-001  
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2011-001-001





# 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

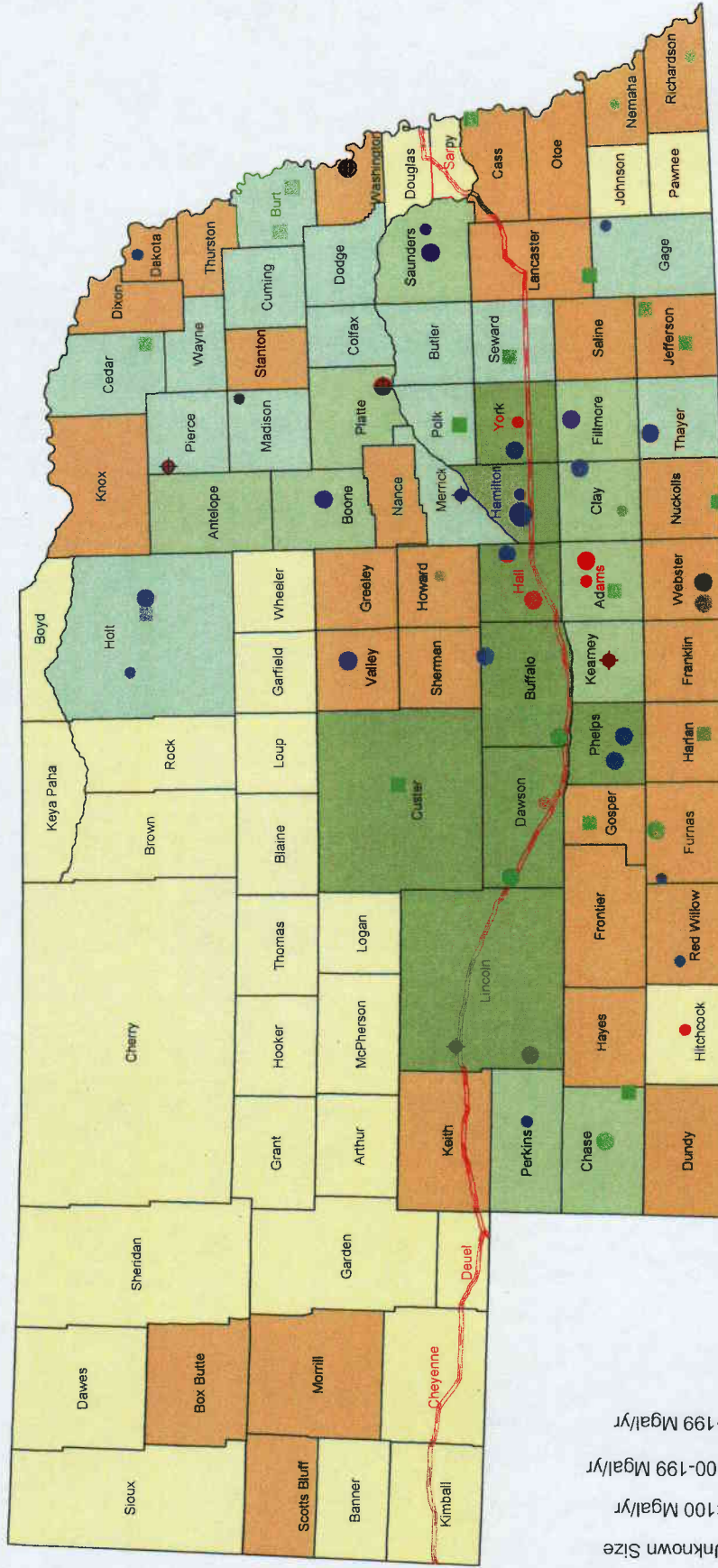


The map is intended for informational purposes only.  
The NDEQ does not guarantee its accuracy or completeness.

November 2006

# Planned, Proposed, and Operating Ethanol Plants in Nebraska

As of November 2006



Unknown Size  
<100 Mgal/yr  
100-199 Mgal/yr  
>199 Mgal/yr

Planned Ethanol Plants

Ethanol Plants Under Construction and/or being Permitted (Proposed)

Existing/Operating Ethanol Plants

(♦ - Indicates Expansion of Operating Plant)

Interstate

Nebraska Corn Production  
(per thousand bushels)

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

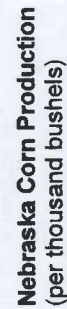
Source: Nebraska Agricultural Statistics Service,  
Nebraska Agricultural Statistics 2001-2002.  
Updated August 2002

Information regarding "Planned" ethanol plants is obtained by the NDEQ through discussions with prospective sources and media accounts. 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. The map is intended for informational purposes only. The NDEQ does not guarantee its accuracy or completeness.





**As of November 2006**



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


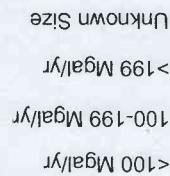
Source: Nebraska Agricultural Statistics Service,  
Nebraska Agricultural Statistics 2001-2002,  
Updated August 2002

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**As of November 2006**



Planned Ethanol Plants

## Interstate

**Nebraska Corn Production**  
(per thousand bushels)



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.

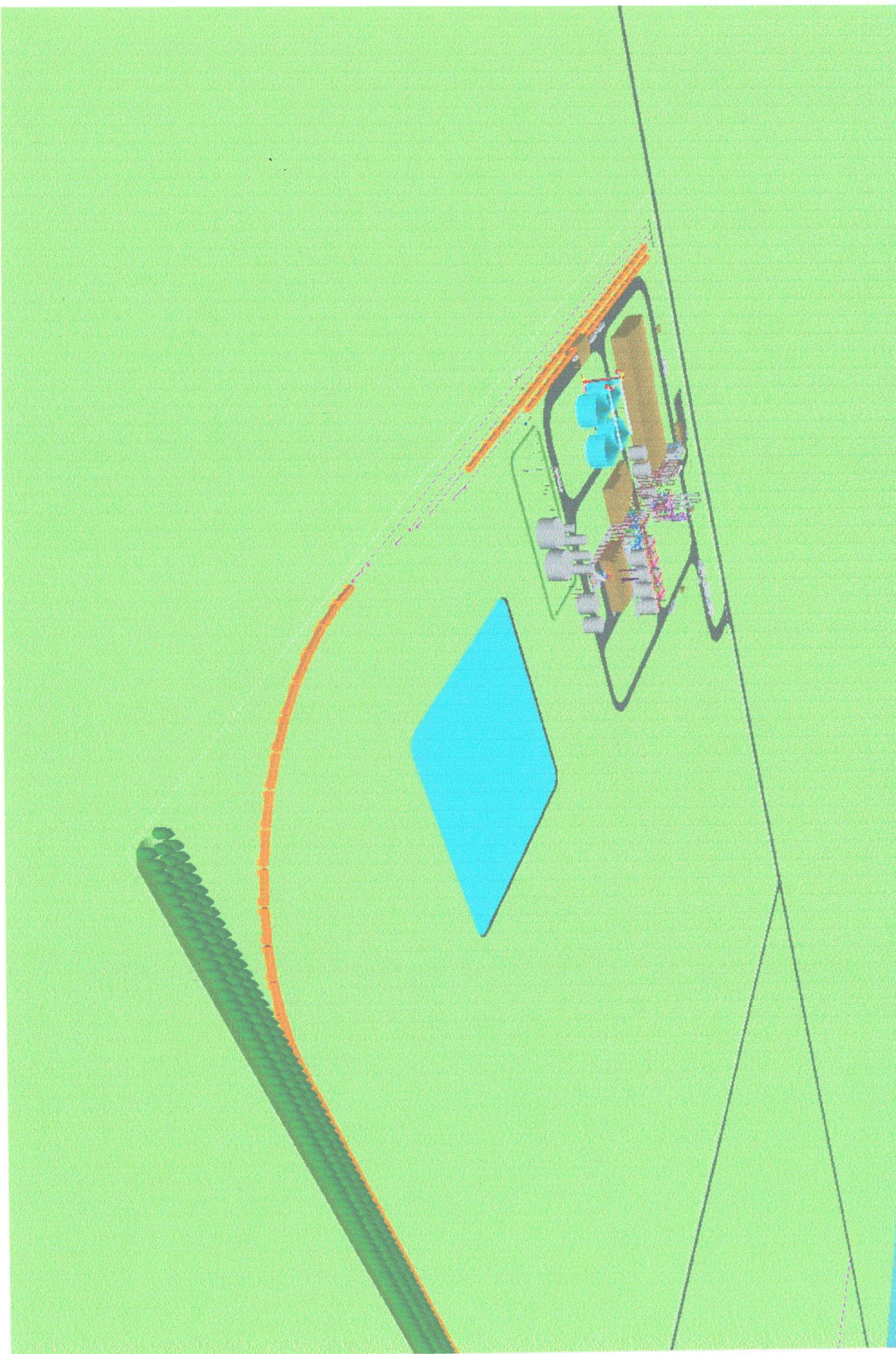
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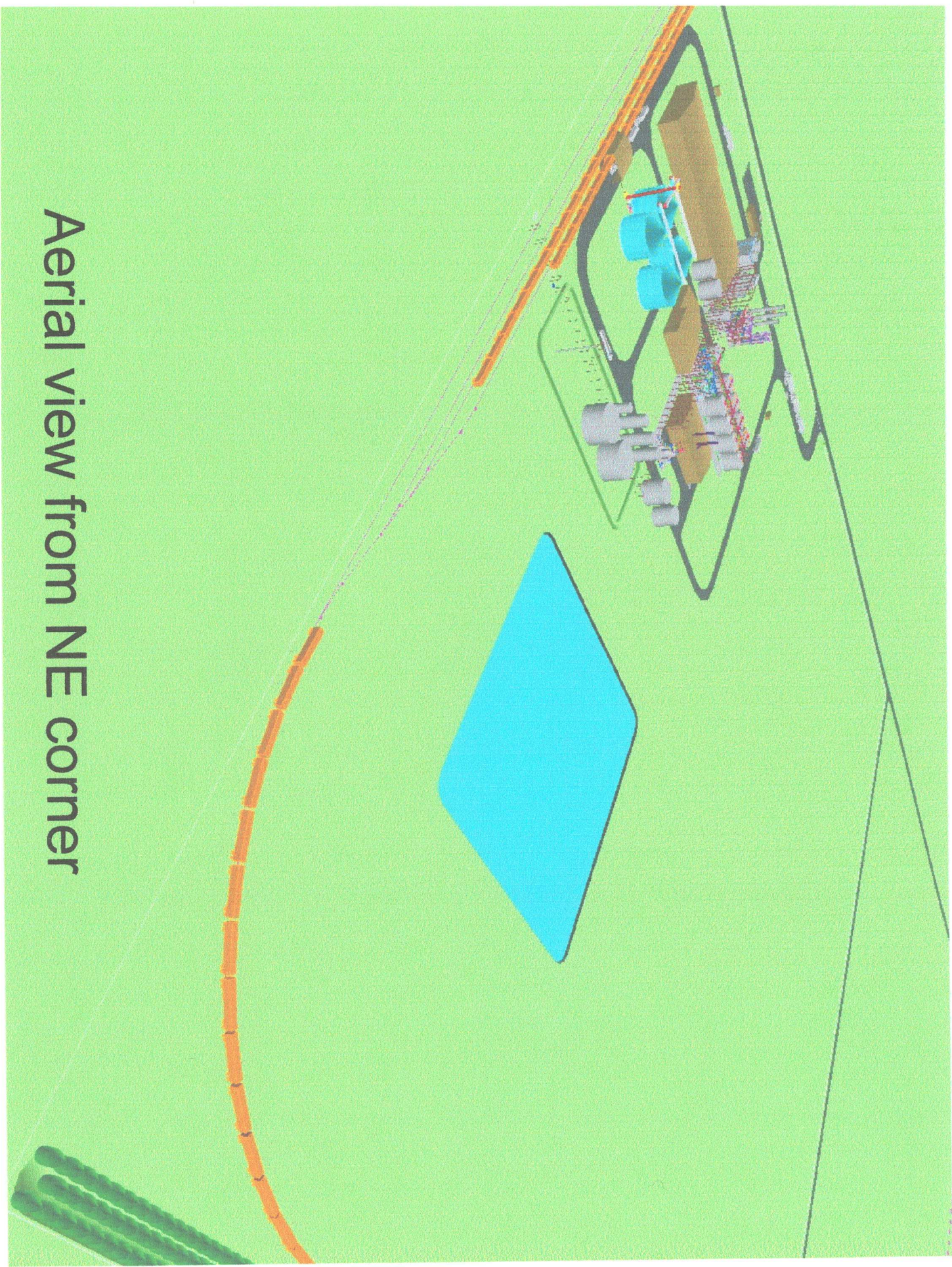




# Aerial view from NE corner



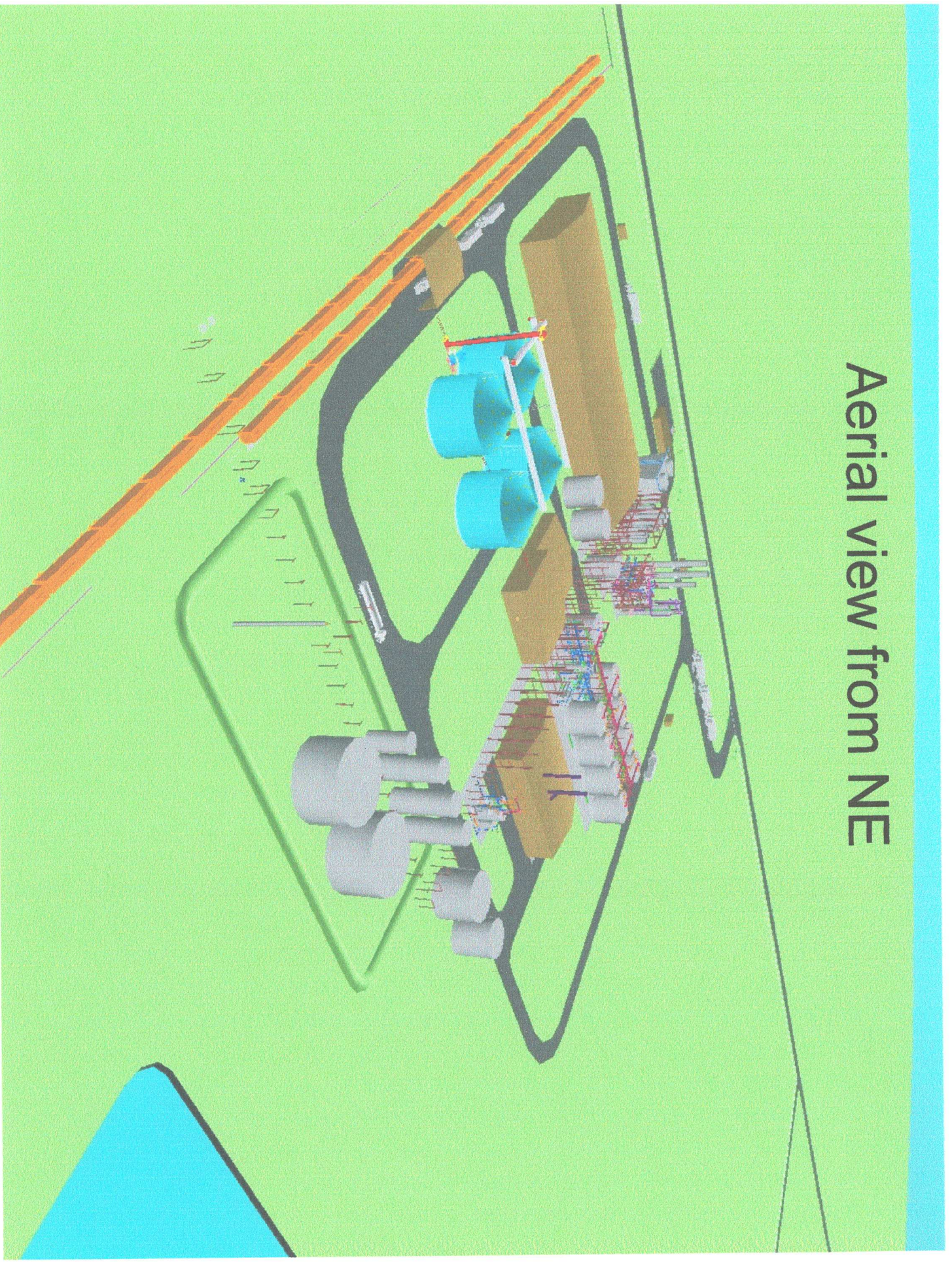




Aerial view from NE corner

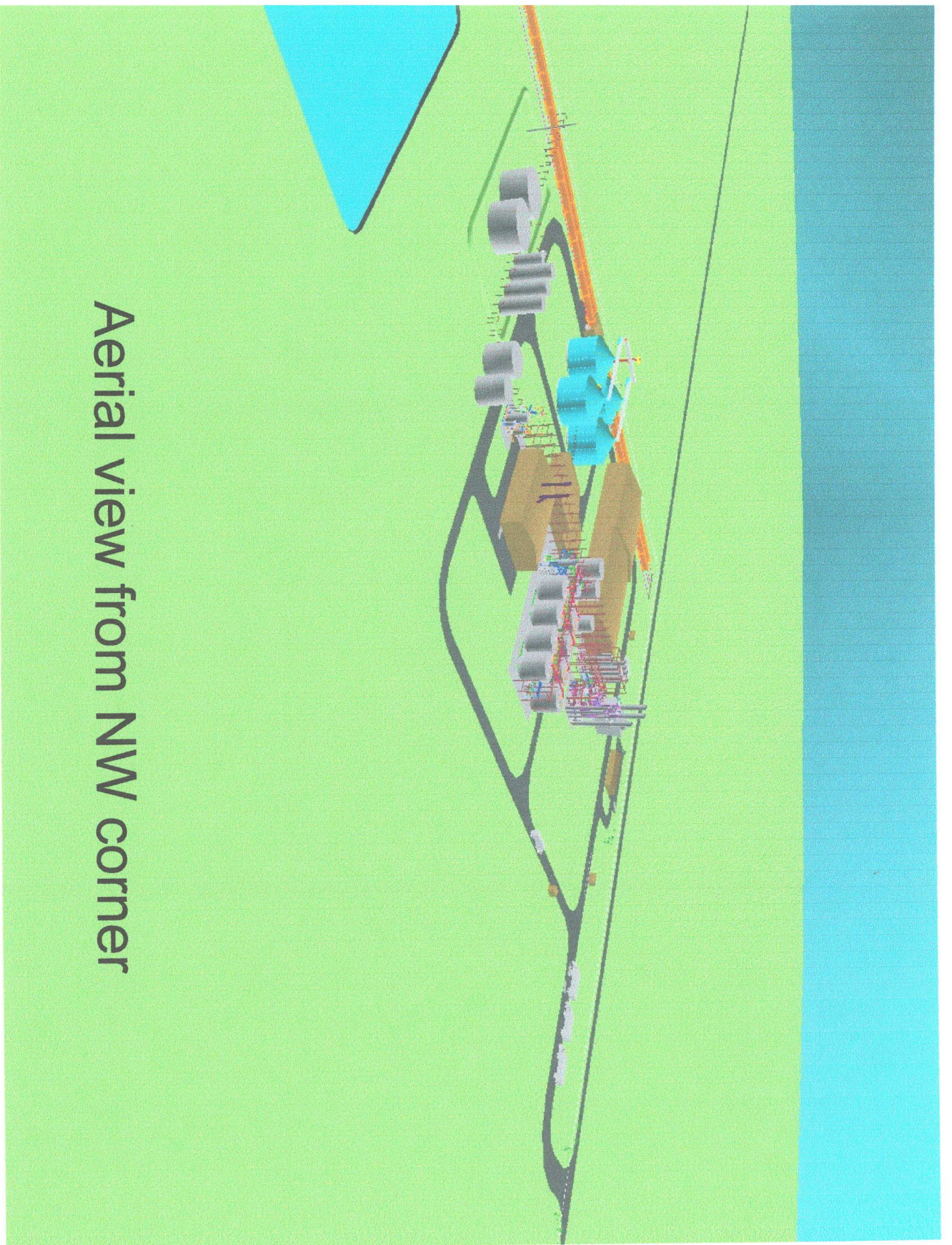


## Aerial view from NE



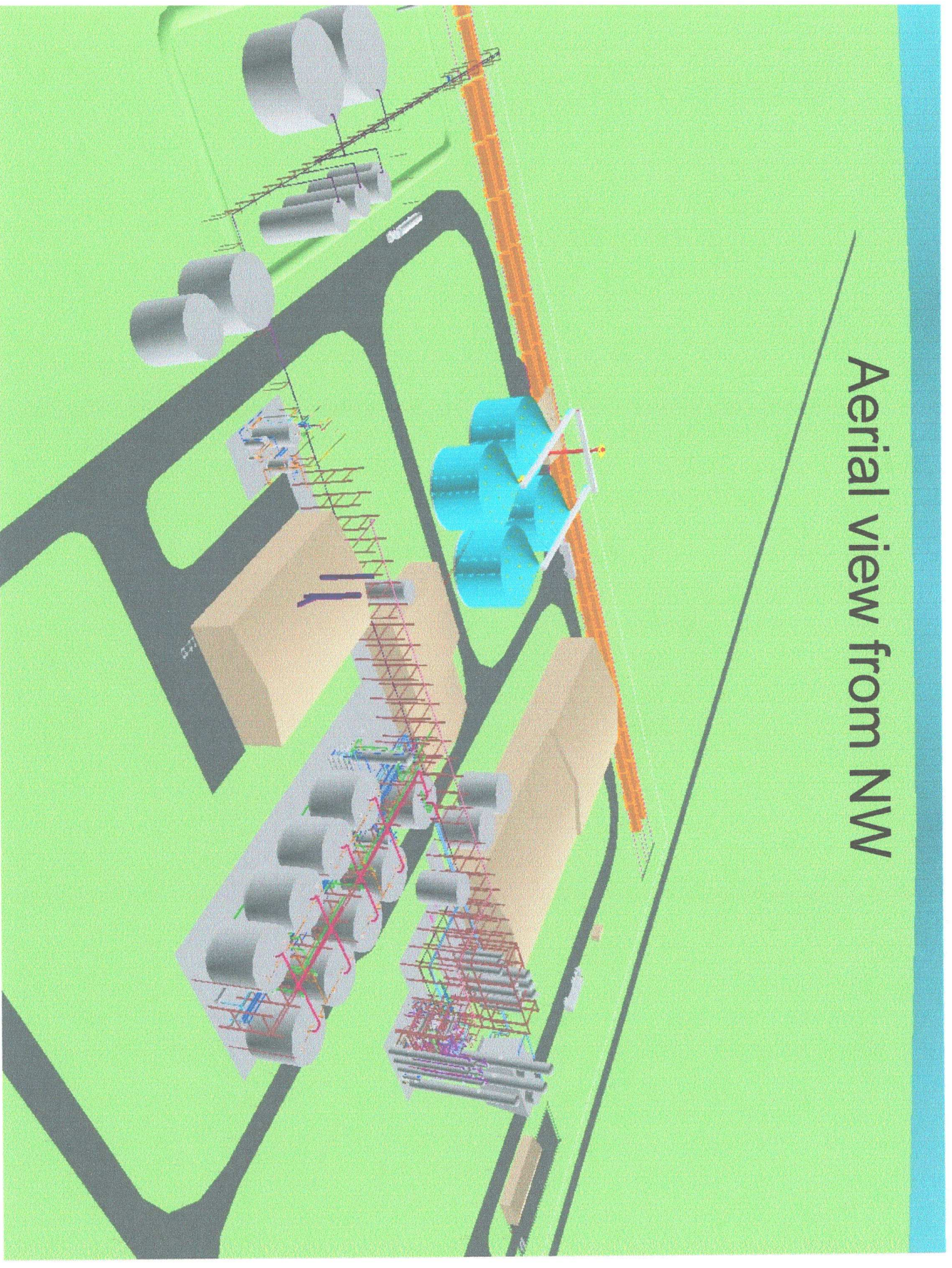


Aerial view from NW corner

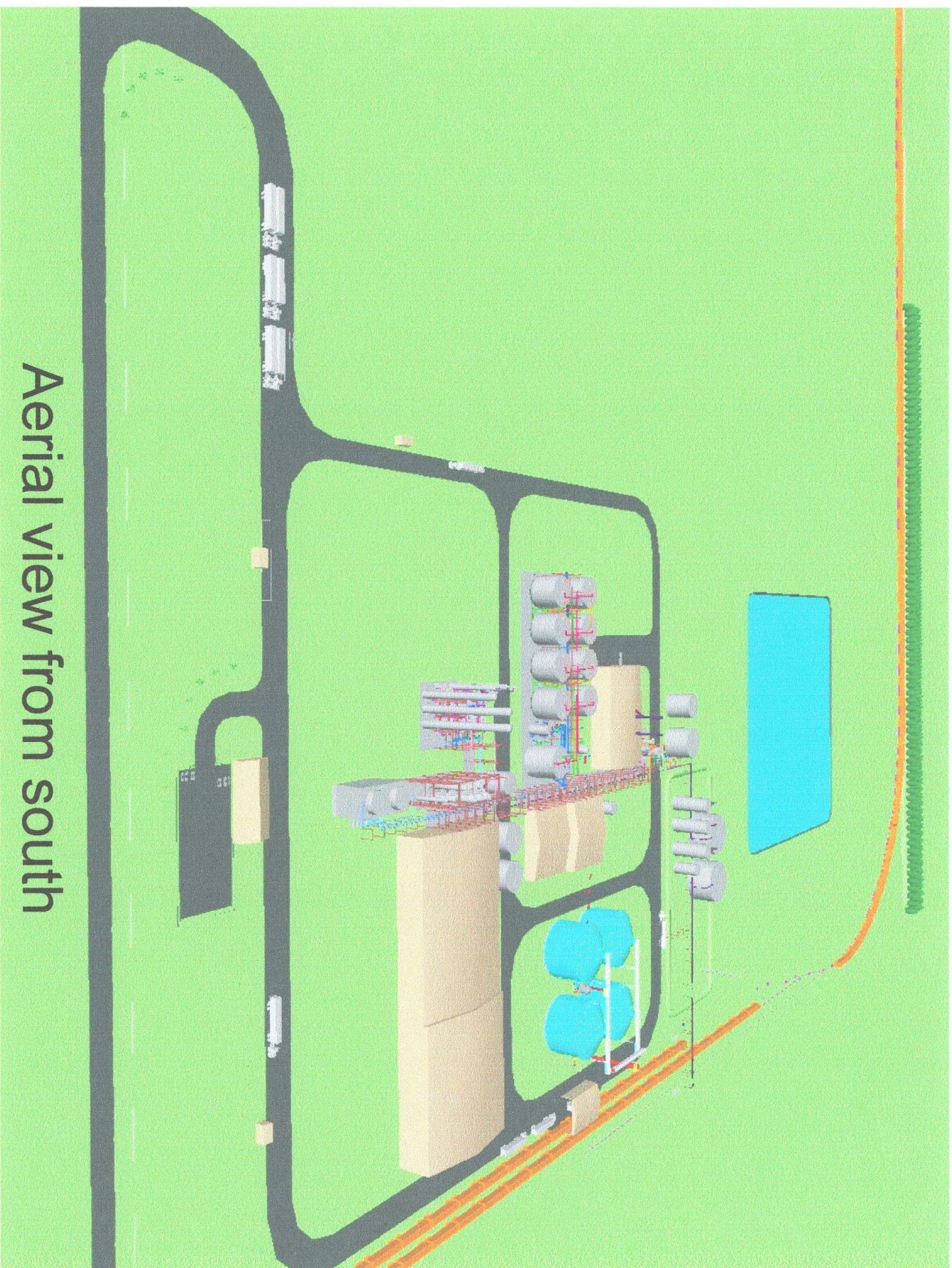




# Aerial view from NW

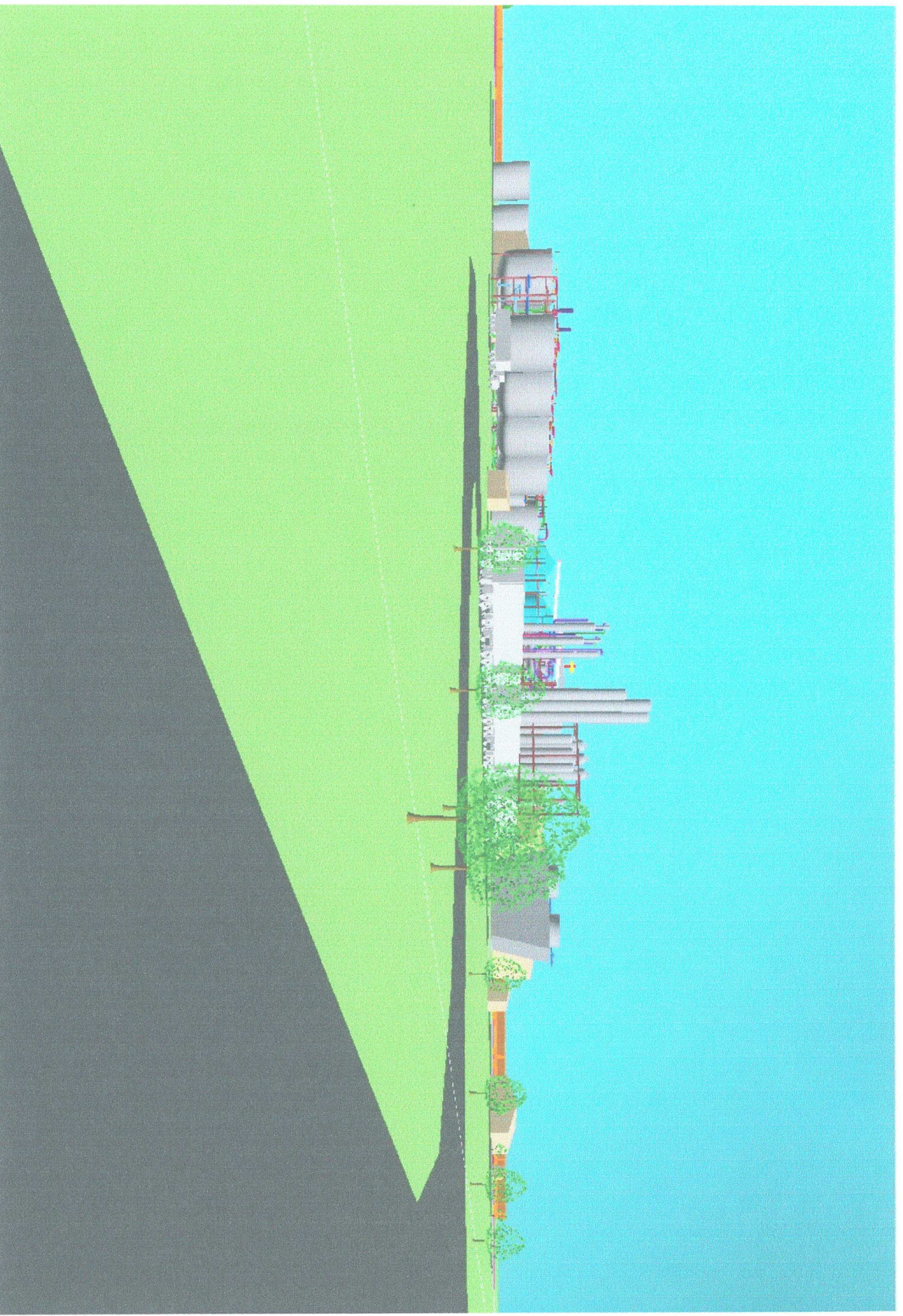






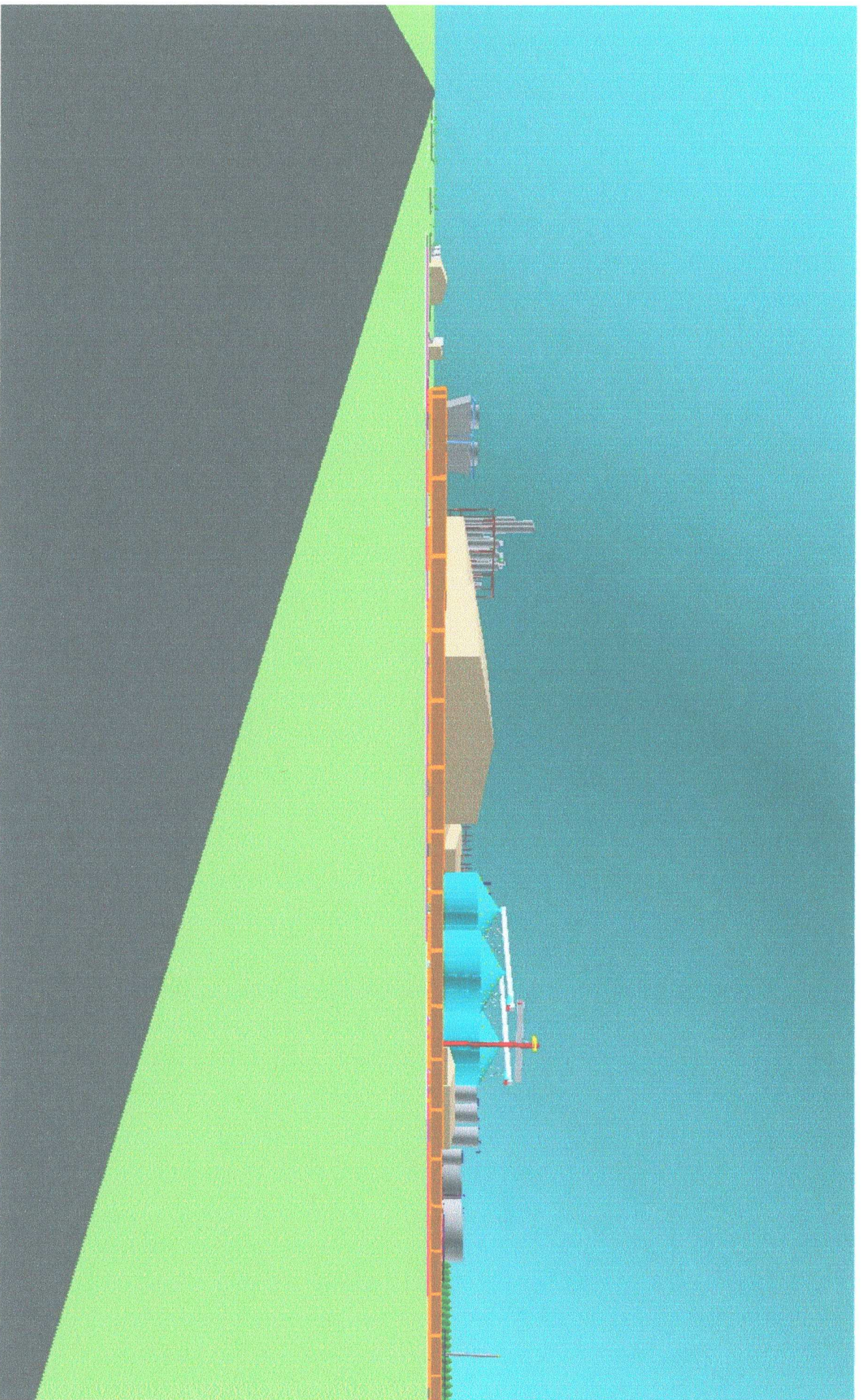
Aerial view from south





Perspective from Wildwood Dr looking NE





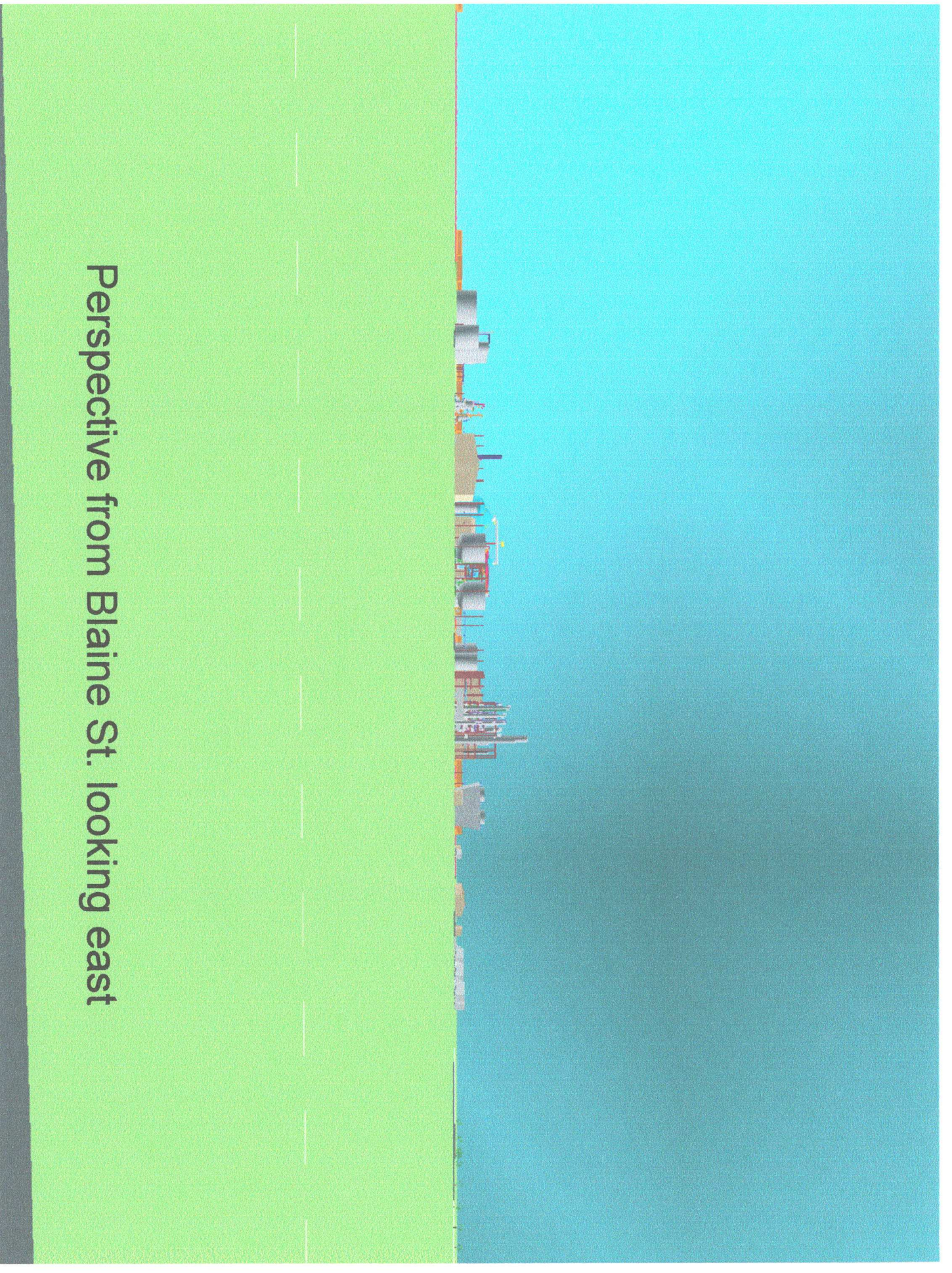
Perspective from Wildwood Dr looking NW





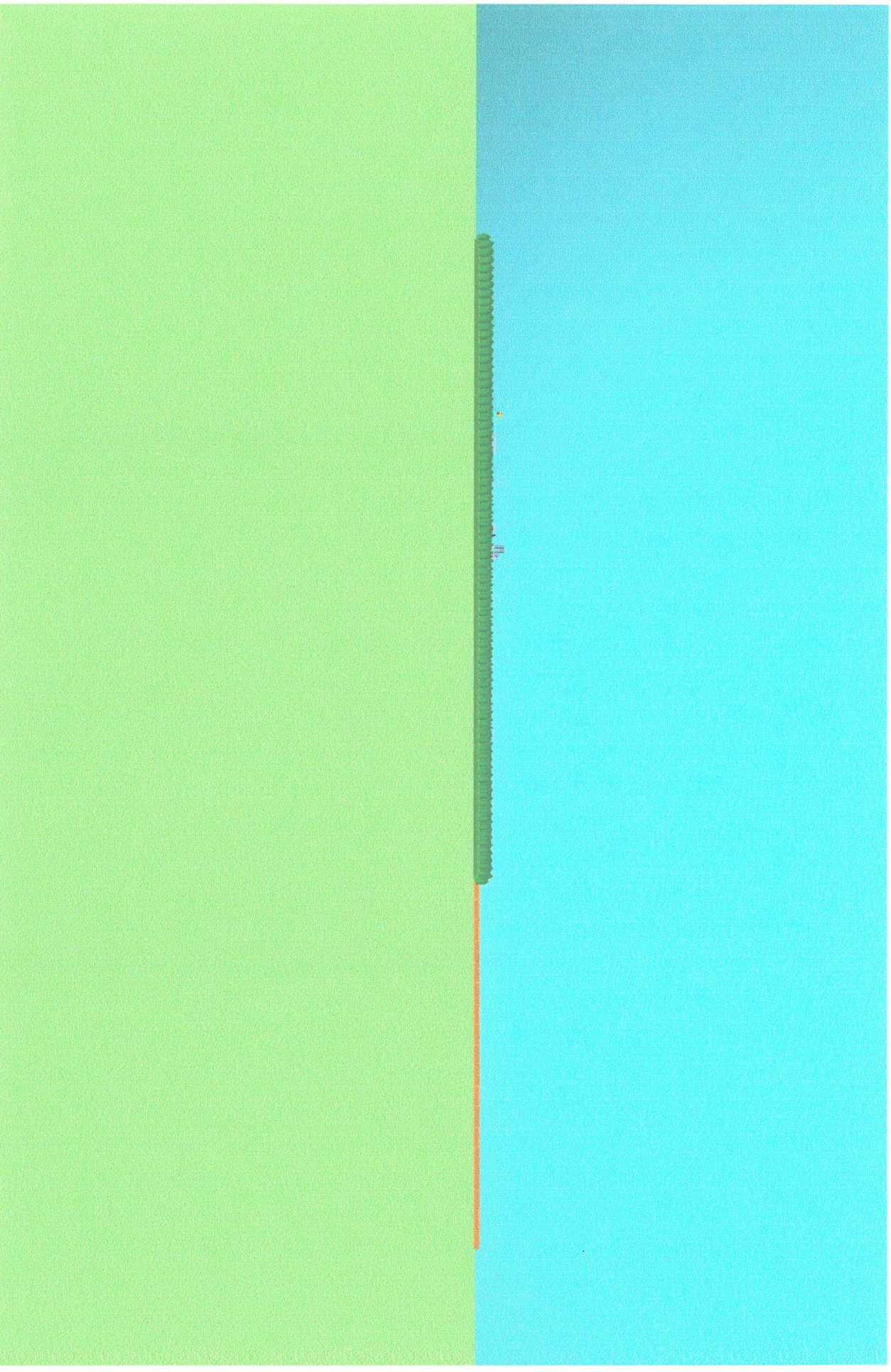
Perspective standing at north end of  
property looking south





Perspective from Blaine St. looking east





Perspective from Schimmer Dr. looking south