FEBRUARY 9, 2012

THE OWENSBORO METROPOLITAN PLANNING COMMISSION

MET IN REGULAR SESSION AT 5:30 P.M. ON THURSDAY, FEBRUARY 9, 2012, AT CITY HALL, COMMISSION CHAMBERS, OWENSBORO, KENTUCKY, AND THE PROCEEDINGS WERE AS FOLLOWS:

MEMBERS PRESENT:  DREW KIRKLAND, CHAIRMAN
WARD PEDLEY, VICE CHAIRMAN
DAVID APPLEBY, SECRETARY
GARY NOFFSINGER, DIRECTOR
MADISON SILVERT, ATTORNEY
REV. LARRY HOSTETTER
TIM ALLEN
IRVIN ROGERS
WALLY TAYLOR
JOHN KAZLAUSKAS
JASON STRODE
FRED REEVES

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CHAIRMAN: PLEASE STAND FOR THE PLEDGE OF ALLEGIANCE AND OUR INVOCATION.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: OUR FIRST ORDER OF BUSINESS WILL BE TO CONSIDER THE MINUTES OF THE JANUARY 12, 2011 MEETING OF THE OWENSBORO METROPOLITAN PLANNING COMMISSION. ARE THERE ANY CORRECTIONS, ADDITIONS?

(NO RESPONSE)

CHAIRMAN: ANY QUESTIONS FROM THE COMMISSION?

(NO RESPONSE)

OHIO VALLEY REPORTING
(270) 683-7383
CHAIRMAN: IF NOT THE CHAIR IS READY FOR A
MOTION.

MR. PEDLEY: MOTION FOR APPROVAL.

CHAIRMAN: MOTION FOR APPROVAL BY MR. PEDLEY.

MR. KAZLAUSKAS: SECOND.

CHAIRMAN: SECOND BY MR. KAZLAUSKAS. ALL IN
FAVOR RAISE YOUR RIGHT HAND.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: MOTION CARRIES UNANIMOUSLY.

MR. NOFFSINGER.

ITEM 2

REVIEW AND UPDATE OF THE COMPREHENSIVE PLAN FOR
OWENSBORO, WHITESVILLE AND DAVIESS COUNTY, KENTUCKY
(FIVE YEAR MANDATORY REVIEW REQUIRED BY KRS SECTION
100.197)

MR. NOFFSINGER: MR. CHAIRMAN, BRIAN HOWARD,
SENIOR PLANNER FOR THE OWENSBORO METROPOLITAN PLANNING
COMMISSION, IS HERE TONIGHT TO GIVE AN OVERVIEW OF THE
KICK OFF FOR THIS REVIEW.

MR. SILVERT: STATE YOUR NAME, PLEASE.

MR. HOWARD: BRIAN HOWARD.

(BRIAN HOWARD SWORN BY ATTORNEY.)

MR. HOWARD: AS MR. NOFFSINGER STATED, THIS IS
A STATE REQUIRED UPDATE OF THE COMPREHENSIVE PLAN.
THE STATE STATUTES REQUIRE THE COMPREHENSIVE PLAN BE
UPDATED EVERY FIVE YEARS.
IT IS A DOCUMENT PREPARED BY THE PLANNING COMMISSION. IT'S BASICALLY A GUIDE FOR DECISIONS FOR THE COMMUNITY LOOKING AT LAND USE, TRANSPORTATION, OTHER THINGS LIKE THAT, AND ITS GOAL IS TO ASSURE THAT DEVELOPMENT HAPPENS IN AN ORDERLY MANNER AND THAT THERE WILL BE A DEVELOPMENT RELATIONSHIP THAT IS GOOD.

WHAT WE DO IS, AS FAR AS COMP PLAN GOES, WE LOOK AT DATA, WE COLLECT DATA, AND WE PROJECT OUT 20 YEARS.

AS I SAID, MUST TO BE REVIEWED EVERY FIVE YEARS.

PLAN HISTORY: FIRST PLAN IN 1979 WAS CALLED COMMUNITY DIRECTIONS. IT BASICALLY LOOKED AT URBAN SERVICE AREAS AND RURAL SERVICE AREA AND RURAL COMMUNITIES.

1991 THERE WAS A PLAN UPDATE. THE LAND USE PLAN WAS A KEY ROLE AND THEN WE LOOKED AT RURAL DEVELOPMENT POLICIES.

2001 PLAN UPDATE: CITIZEN INVOLVEMENT, GOALS AND OBJECTIVES, AND UPDATED RESEARCH.


AS FAR AS REQUIRED ELEMENTS GO, THE GOALS AND OBJECTIVES ARE THE KEY FUNCTION. THEY MUST BE ADOPTED
BY THE LEGISLATIVE BODIES. THESE GOALS AND OBJECTIVES
SERVE AS A GUIDE FOR THE PHYSICAL DEVELOPMENT AND
ECONOMIC SOCIAL WELLBEING OF THE COMMUNITY. THEY'RE
THE FOUNDATION FOR THE REST OF THE DOCUMENT. SO ONCE
THE GOALS AND OBJECTIVES ARE ADOPTED, THE REST OF THE
PLAN CAN FALL IN PLACE.

THE SECOND COMPONENT IS THE LANE USE PLAN.
THE LAND USE PLAN IS AN ATTEMPT TO SHOW WHAT MAY BE
APPROPRIATE AS FAR AS ECONOMIC AND DESIRABLE AND
FEASIBLE PATTERNS FOR PROPERTY DEVELOPMENT AND
LOCATIONS OF FUTURE DEVELOPMENT. IT INCLUDES
PROVISIONS FOR RESIDENTIAL, COMMERCIAL, INDUSTRIAL,
AGRICULTURE AND RECREATIONAL USES.

THE THIRD COMPONENT IS THE TRANSPORTATION
PLAN. IT INCORPORATES THE KNOWN TRANSPORTATION
PROJECTS IN A STATED SIX YEAR PLAN, THE UNFUNDED NEEDS
LIST AND THINGS LIKE THAT. THEY'RE ALL COMPILED INTO
ONE LIST.

THEN THE COMMUNITY FACILITIES PLAN. THAT
LOOKS AT EXISTING FACILITIES AND PROPOSALS FOR
DESIRABLE APPROPRIATE ECONOMIC FUTURE PATTERN FOR
UTILITIES, PARKS, SCHOOLS, CULTURAL FACILITIES,
LIBRARIES, HOSPITALS, MEDICAL FACILITIES, FIRE
STATIONS, SO ON AND SO FORTH.

THE LAST ELEMENTS OR THE OTHER ELEMENTS THAT
WE MAY INCORPORATE WOULD LOOK AT THINGS LIKE
ENVIRONMENTAL AND HISTORICALLY THINGS LIKE FLOODPLAIN,
HISTORICAL SITES, ARCHAEOLOGICAL SITES.

RESEARCH REQUIREMENTS: ANALYSIS OF THE
GENERAL DISTRIBUTION CHARACTER OF THE POPULATION SO WE
LOOK AT PAST, PRESENT, AND THEN WE MAKE ASSUMPTIONS ON
FUTURE GROWTH.

ECONOMIC SURVEY AND FORECAST LOOK AT THE MAJOR
EXISTING AND PRIVATE BUSINESS ACTIVITY. THEN FUTURE
FORECAST FOR WHAT ECONOMIC LEVELS MAY BE IN THE
COMMUNITY BASED ON PAST TRENDS.

THE NEXT IS ANALYSIS OF NEEDS OF THE COMMUNITY
FOR LAND USE, TRANSPORTATION AND COMMUNITY FACILITIES.
THEN OTHER BACKGROUND INFORMATION THAT MAY BE
NECESSARY ARE INCLUDED AS FAR AS RESEARCH GOES.

POPULATION: THE NEXT SLIDE JUST SHOWS THE
POPULATION BASED ON THE 2010 CENSUS. DAVIESS COUNTY
IS 96,656, THE CITY OF OWENSBORO 57,265, AND THE CITY
OF WHITESVILLE 552. THAT WAS A 5.6 PERCENT INCREASE
OVER THE LAST TIME. THAT'S BEEN CONSISTENT WITH WHAT
THE GROWTH PATTERNS HAVE BEEN. IT WAS A LITTLE BIT
HIGHER FROM 1990 TO 2000. THE GROWTH WAS ABOUT FIVE
PERCENT.

DURING THAT TIME I'LL NOTE THAT THE CITY OF
OWENSBORO GREW AT ABOUT 5.9 PERCENT, WHICH WAS MUCH
GREATER THAN THE PREVIOUS PERIOD WHERE THE GROWTH HAD
ONLY OCCURRED AT ABOUT ONE PERCENT.

LAND USE DATA: IN DAVIESS COUNTY, ABOUT 85
PERCENT OF THE LAND IS ZONED AGRICULTURAL, 5.5 PERCENT
RESIDENTIAL, 1.1 BUSINESS, 2.7 INDUSTRIAL, 0.7
PROFESSIONAL/SERVICE, AND 5.1 COAL MINING.

LAND USE DATA: WITHIN THE URBAN SERVICE AREA
THIS IS AN AREA THAT IS DESIGNATED ON THE LAND USE MAP
THAT INCLUDES BASICALLY AN AREA AROUND THE CITY, IT'S
CERTAINLY NOT ALL ENCOMPASSED WITHIN THE CITY, WHERE
IT'S PROJECTED THAT DEVELOPMENT OF AN URBAN LIKE
PATTERN MAY OCCUR WITHIN THE FORESEEABLE FUTURE WHERE
URBAN SERVICES LIKE WATER AND SEWER AND THINGS LIKE
THAT WILL BE READILY AVAILABLE.

SO, AS YOU CAN SEE, WITHIN THE URBAN AREA
CERTAINLY THE AMOUNT OF AGRICULTURAL ACREAGE IS LOWER
AT 51.5 PERCENT. WE GO DOWN TO 24.7 FOR RESIDENTIAL,
6.7 FOR BUSINESS, 4.6 FOR PROFESSIONAL/SERVICE, 11.8
INDUSTRIAL AND 0.7 FOR COAL MINING.

LAND USE ISSUES: SOME KEY LAND USE ISSUES
THAT WE LOOK AT IN THE COMPREHENSIVE PLAN IS URBAN
SPRAWL. THAT'S THE CONCEPT WHERE AS PEOPLE BECOME
MORE MOBILE THEY MOVE FURTHER AWAY FROM EMPLOYMENT
CENTER. PEOPLE LIVE FURTHER OUT. URBAN SPRAWL
CREATES A STRAIN ON TRANSPORTATION INFRASTRUCTURE,
STRAIN ON POLICE/FIRE PROTECTION, ROADWAYS AND THINGS LIKE THAT.

WE LOOK AT CONSERVATION OF AGRICULTURAL LAND.

EXTENSIONS OF SANITARY SEWER SERVICE. WHERE WILL THAT BE TAKING PLACE. INCREASED COMMERCIAL DEVELOPMENT ON EXISTING ARTERIAL ROADWAYS, ENVIRONMENTAL IMPACTS OF DEVELOPMENT IN THE FLOODPLAIN AREA, WHICH WE HAVE QUITE A BIT OF IN DAVIESS COUNTY. THEN THE IMPACT OF REQUIRED STORM WATER REGULATIONS ON DEVELOPMENT.

COMMUNITY INPUT: SO THE LAST SLIDE HERE IS WHERE I'LL DISCUSS BRIEFLY THE COMMUNITY INPUT.

THE PLANNING COMMISSION STAFF WILL, ALONG WITH PLANNING COMMISSION, HOLD A WORK SESSION WITH ELECTED OFFICIALS AND THE PLANNING COMMISSIONERS COMBINED OR POTENTIALLY SEPARATE AS WELL. THERE WILL BE PUBLIC MEETING OR MEETINGS TO RECEIVE INPUT FROM THE CITIZENS. INPUT FROM THE CITIZENS IS A KEY PART OF THE COMPREHENSIVE PLAN UPDATE. WITHOUT INPUT WE DON'T KNOW WHAT, NECESSARILY WHAT THE FEEL OF THE COMMUNITY IS IN REGARD TO SOME OF THESE ISSUES. YOU KNOW, LAST TIME WE HAD A SERIES OF PUBLIC MEETINGS AND WE WOULD RECOMMEND THAT IF YOU HAVE INTEREST CERTAINLY COME OUT. THE PUBLIC MEETINGS WILL BE ADVERTISED. THE INFORMATION IN THE PAPER ABOUT WHEN THOSE WILL BE HELD.
SO THAT'S MY BRIEF OVERVIEW. I'D BE GLAD TO TAKE ANY QUESTIONS FROM THE COMMISSION IF YOU HAVE THEM AT THIS TIME.

CHAIRMAN: THANK YOU, MR. HOWARD.

ARE THERE ANY QUESTIONS FROM THE COMMISSION?

(NO RESPONSE)

CHAIRMAN: ANYBODY FROM THE AUDIENCE?

(NO RESPONSE)

CHAIRMAN: THANK YOU, BRIAN.

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ZONING CHANGES

ITEM 3

7235 HOBBS ROAD, 0.41 ACRES

CONSIDER ZONING CHANGE: FROM A-R RURAL AGRICULTURE TO B-4 GENERAL BUSINESS

APPLICANT: TONY'S CARTS AND PARTS, WILLIAM T. LYTLE

MR. SILVERT: STATE YOUR NAME, PLEASE.

MS. EVANS: MELISSA EVANS.

(MELISSA EVANS SWORN BY ATTORNEY.)

MS. EVANS: FIRST OF ALL, ALL ZONINGS HEARD TONIGHT WILL BECOME FINAL 21 DAYS FROM THE MEETING DATE UNLESS AN APPEAL IS FILED. IF AN APPEAL IS FILED, WE WILL FORWARD ALL INFORMATION TO THE APPROPRIATE LEGISLATIVE BODY FOR THEIR ACTION. THE APPEAL FORMS ARE AVAILABLE ON THE BACK TABLE BACK HERE, IN OUR OFFICE AND ON THE WEB SITE.
PLANNING STAFF RECOMMENDATIONS

PLANNING STAFF RECOMMENDS APPROVAL SUBJECT TO THE CONDITIONS AND FINDINGS OF FACT THAT WILL FOLLOW.

CONDITIONS:

COMPLY WITH ZONING ORDINANCE IN REGARDS TO THE CITED DEVELOPMENT REQUIREMENT.

FINDINGS OF FACT:

1. STAFF RECOMMENDS APPROVAL BECAUSE THE PROPOSAL IS SUBSTANTIALLY IN COMPLIANCE WITH COMMUNITY COMPREHENSIVE PLAN.

2. SUBJECT PROPERTY IS PARTIALLY LOCATED IN A RURAL COMMUNITY PLAN AREA WHERE GENERAL BUSINESS USES ARE APPROPRIATE IN LIMITED LOCATION AND PARTIALLY LOCATED IN A RURAL MAINTENANCE PLAN AREA WHERE GENERAL BUSINESS USES ARE GENERALLY NOT RECOMMENDED.

3. PROPOSAL IS AN EXPANSION OF EXISTING NONRESIDENTIAL USE ASSOCIATED WITH DIAMOND LAKES PROPERTY TO THE SOUTH AND EAST.

4. THE SALES AND REPAIR OF GOLF CARTS IS CONSISTENT WITH USES FOUND AT DIAMOND LAKES.

5. WITH SCREENING AS REQUIRED BY THE ZONING ORDINANCE THE SUBJECT PROPERTY SHOULD BE ABLE TO INTEGRATE PROPERLY WITHIN THE SURROUNDING AREA.

MS. EVANS: WE WOULD LIKE TO ENTER THE STAFF REPORT INTO THE RECORD AS EXHIBIT A.
CHAIRMAN: IS ANYBODY HERE REPRESENTING THE APPLICANT?

APPLICANT REP: YES.

CHAIRMAN: DOES ANYBODY HAVE ANY QUESTIONS OF THE APPLICANT?

(NO RESPONSE)

CHAIRMAN: IF NOT THE CHAIR IS READY FOR A MOTION.

MR. ROGERS: MOTION FOR APPROVAL BASED ON PLANNING STAFF RECOMMENDATIONS WITH THE ONE CONDITION AND THE FINDING OF FACTS 1 THROUGH 5.

CHAIRMAN: WE'VE GOT A MOTION FOR APPROVAL BY MR. ROGERS.

MR. APPLEBY: SECOND.

CHAIRMAN: SECOND BY MR. APPLEBY. ALL IN FAVOR RAISE YOUR RIGHT HAND.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: MOTION CARRIES UNANIMOUSLY.

WHAT WE'RE GOING TO DO AT THIS POINT IN TIME WE'RE GOING TO SKIP ONE ITEM AND GO TO THE FIFTH AND SIXTH ITEMS.

MR. NOFFSINGER:

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COMBINED DEVELOPMENT PLANS/MAJOR SUBDIVISIONS

ITEM 5
3230-3290 BUCKLAND SQUARE - JAMESTOWN APARTMENTS,
7.942 ACRES

CONSIDER APPROVAL OF AMENDED FINAL DEVELOPMENT
PLAN/MAJOR SUBDIVISION PRELIMINARY PLAT.

APPLICANT: DAN & JUDY HAMILTON

MR. NOFFSINGER: MR. CHAIRMAN, THIS

APPLICATION HAS BEEN REVIEWED BY THE PLANNING STAFF

AND ENGINEERING STAFF AND IT IS FOUND TO BE IN ORDER.

THE USE OF THE PROPERTY IS CONSISTENT WITH THE

UNDERLYING ZONE AND IT'S READY FOR YOUR CONSIDERATION.

CHAIRMAN: DO WE HAVE SOMEONE HERE

REPRESENTING THE APPLICANT?

APPLICANT REP: YES.

CHAIRMAN: DO WE HAVE ANY QUESTIONS OF THE

APPLICANT?

(NO RESPONSE)

CHAIRMAN: ANYBODY IN THE AUDIENCE?

(NO RESPONSE)

CHAIRMAN: ANYBODY ON THE COMMISSION?

(NO RESPONSE)

CHAIRMAN: IF THERE ARE NO QUESTIONS, THE

CHAIR IS READY FOR A MOTION.

MR. APPLEBY: MOTION FOR APPROVAL.

CHAIRMAN: MOTION FOR APPROVAL BY MR. APPLEBY.

MR. ALLEN: SECOND.

CHAIRMAN: SECOND BY MR. ALLEN. ALL IN FAVOR

RAISE YOUR RIGHT HAND.
(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: MOTION CARRIES UNANIMOUSLY.

NEXT ITEM, PLEASE.

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MINOR SUBDIVISIONS

ITEM 6

760, 770 PLEASURE POINTE WEST, 1.23 ACRES
CONSIDER APPROVAL OF MINOR SUBDIVISION PLAT.
APPLICANT: STEVE HAGAN

MR. NOFFSINGER: MR. CHAIRMAN, MR. BRIAN HOWARD OF THE PLANNING STAFF IS HERE TO ADDRESS THIS APPLICATION.

MR. HOWARD: THIS PLAN COME BEFORE YOU FOR EXCEPTIONS. IT IS LOCATED ON A ROAD THAT IS NARROWER THAN TYPICAL. THEN THE SECOND LOT ACTUALLY HAS NO ROAD FRONTAGE; HOWEVER, THERE ARE TWO EXISTING LOTS. THE PROPERTY LINE CURRENTLY GOES THROUGH THE MIDDLE OF A RESIDENCE. SO THIS WILL ALLOW THE MOVEMENT OF THE PROPERTY LINE SO THAT EACH PARCEL WILL HAVE A RESIDENCE ON IT AND NO BUILDINGS WILL BE CROSSED BY A PROPERTY LINE. SO WITH THAT WE WOULD RECOMMEND THAT YOU CONSIDER IT FOR APPROVAL.

CHAIRMAN: DO WE HAVE SOMEONE HERE REPRESENTING THE APPLICANT?

(NO RESPONSE)

CHAIRMAN: ARE THERE ANY QUESTIONS?
(NO RESPONSE)

CHAIRMAN: ANY QUESTIONS FROM THE COMMISSION?

(NO RESPONSE)

CHAIRMAN: IF NOT THE CHAIR IS READY FOR A MOTION.

MR. KAZLAUSKAS: SO MOVE.

CHAIRMAN: WE HAVE A MOTION FOR APPROVAL BY MR. KAZLAUSKAS.

MR. STRODE: SECOND.

CHAIRMAN: SECOND BY MR. STRODE. ALL IN FAVOR RAISE YOUR RIGHT HAND.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: MOTION CARRIES UNANIMOUSLY.

NEXT ITEM.

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ZONING CHANGE

ITEM 4

3300 BLOCK, 3447, 3515 RUSSELL ROAD; 3570, 3574, 3580 GIRL SCOUT ROAD; 11300, 11440 US HIGHWAY 231, 385.45+/- ACRES (POSTPONED AT JANUARY 12, 2012 MEETING)

CONSIDER ZONING CHANGE: FROM A-R RURAL AGRICULTURE AND A-U URBAN AGRICULTURE TO EX-1 COAL MINING

APPLICANT: WESTERN KENTUCKY MINERALS, INC., SHIRLEY TAYLOR, GERTIE TAYLOR ESTATE, LINDLEY TAYLOR, MILDRED TAYLOR JOHNSON ESTATE, ANNA FAYE BELCHER, TILFORD THOMPSON ESTATE, STEPHEN THOMPSON, CLARA THOMPSON ESTATE

PROPOSED ZONE & LANE USE PLAN

THE APPLICANT IS SEEKING AN EX-1 COAL MINING
ZONE. THE MAJORITY OF THE SUBJECT PROPERTY IS LOCATED IN A RURAL MAINTENANCE PLAN AREA WHERE COAL MINING USES ARE APPROPRIATE IN GENERAL LOCATIONS.

SPECIFIC LAND USE CRITERIA

(A) COAL MINING STANDARDS - COAL MINING SHOULD CONFORM WITH THE FOLLOWING STANDARDS:

1) LOCATIONAL GUIDELINES: COAL MINING ACTIVITIES SHOULD BE LOCATED IN THE RURAL SERVICE AREA, OUTSIDE OF RURAL COMMUNITY PLAN AREAS, IN RURAL PREFERENCE OR RURAL MAINTENANCE PLAN AREAS. MINING ACTIVITIES SHOULD NOT OCCUR IN THE 100-YEAR FLOODPLAIN. THE PARTICULAR LOCATION, SCOPE, AND CHARACTERISTICS OF THE MINING OPERATIONS SHOULD BE SUBJECT TO DISCRETIONARY LIMITS ON COAL MINING.

2) SITE, OPERATIONAL, RECLAMATION PLANS AND PROCEDURES: DUE TO THE POTENTIALLY ADVERSE ENVIRONMENTAL IMPACT OF COAL MINING, DETAILED SITE, OPERATION AND RECLAMATION PLAN INFORMATION IS REQUIRED BY THE STATE. STATE MANDATED PROCEDURES MUST BE FOLLOWED. NECESSARY PERMITS MUST BE OBTAINED FROM FEDERAL, STATE AND LOCAL AGENCIES HAVING JURISDICTION OVER ANY PHASE OF THE OPERATION PRIOR TO THE BEGINNING OF SAID OPERATION. THE PLANNING COMMISSION OR RESPECTIVE AUTHORITY MAY REQUIRE THE POSTING OF SUFFICIENT SURETY FOR MAINTENANCE AND
REPAIR OF THOSE PUBLIC FACILITIES WHICH ARE NOT OTHERWISE BONDED. THE PLANNING COMMISSION, AT ITS DISCRETION, MAY REQUIRE PRE-BLAST SURVEYS BE CONDUCTED FOR BUILDINGS ON NEIGHBORING PROPERTY, EVEN BEYOND THE REQUIREMENTS OF STATE LAW. THE PLANNING COMMISSION MAY SEEK ACTION TO HALT OPERATIONS OCCURRING IN VIOLATION OF STATE LAW OR IN VIOLATION OF IT'S DISCRETIONARY REQUIREMENTS OR LIMITS.

3) SOIL AND GEOLOGY: EVIDENCE OF THE PRESENCE OF COAL SHOULD BE SUPPORTED BY USGS MAPS, CORE DRILLS, ETC. AN INVESTIGATION SHOULD BE MADE TO DETERMINE THE AGRICULTURAL POTENTIAL OF THE LAND. PRIME AGRICULTURAL LAND, AS DEFINED BY THE U.S. SOIL CONSERVATION SERVICE, MUST BE PROTECTED FROM NORMAL MINING PROCEDURES, AS REQUIRED BY STATE LAW.

4) ACTIVITY BUFFERS: COAL MINING SHOULD NOT BE PERMITTED WITHIN A MINIMUM OF 100 FEET OF A PUBLIC RIGHT-OF-WAY NOR WITHIN A MINIMUM OF 300 FEET OF NEIGHBORING RESIDENTIAL OR NONRESIDENTIAL DEVELOPED PROPERTY, UNLESS APPROPRIATE WAIVERS ARE GRANTED. THESE MINIMUMS MAY NOT BE ADEQUATE IN ALL CASES AND MAY BE RE-ESTABLISHED DEPENDENT ON CIRCUMSTANCES OF INDIVIDUAL CASES.

5) TRANSPORTATION PLAN AND ACCESS DESIGN: A TRANSPORTATION PLAN MUST BE PREPARED, AND MUST BE
APPROVED BY THE STATE HIGHWAY DEPARTMENT AND THE
COUNTY ENGINEER, AS APPROPRIATE, SHOWING THE ROUTE TO
BE FOLLOWED IN HAULING COAL FROM THE SITE TO ULTIMATE
DESTINATION IN DAVIESS COUNTY. SURETY SHOULD BE
PROVIDED TO ASSURE MAINTENANCE AND REPAIR OF PUBLIC
ROADS AND BRIDGES. PARTICULAR ATTENTION SHOULD BE
GIVEN TO PROPER AND SAFE DESIGN OF VEHICULAR ACCESS
POINTS TO PUBLIC ROADS AND HIGHWAYS. ACCESS POINTS
SHOULD BE LOCATED TO ASSURE ADEQUATE SIGHT DISTANCES
ALONG THROUGH ROADWAYS AND AT STOP LIGHTS OF
INTERSECTIONS. SUCH POINTS SHOULD BE ALTERED, IF
NECESSARY, TO SATISFY PROPERTY AND SAFETY DESIGN.

(B) DISCRETIONARY LIMITS ON COAL MINING:
GENERALLY, MINING SHOULD BE PERMITTED WHEREVER COAL
EXISTS IN RURAL AREAS. HOWEVER, WHERE THE PLANNING
COMMISSION FINDS ADVISABLE, LIMITS MAY BE SET ON THE
MINING PROCESS WHERE DEEMED NECESSARY. THE
ESTABLISHMENT OF LIMITS MAY ARISE FROM THE
CONSIDERATION OF SUCH ISSUES AS THE PATTERN, DENSITY
AND PREDOMINANCE OF NEARBY, ESTABLISHED DEVELOPMENT;
THE ZONING OF ADJOINING PROPERTIES; THE IMPACT OF PAST
OR EXISTING MINING IN THE VICINITY; AND PROXIMITY OF
THE MINING AREA TO HIGHWAYS.

PLANNING STAFF REVIEW

GENERAL LAND USE CRITERIA

OHIO VALLEY REPORTING
(270) 683-7383
ENVIRONMENT

• It appears that the subject property is not located in a wetland area per the US Department of Agriculture Soil Conservation Service maps dated March 6, 1990.

• The subject property is not located in a special flood hazard area per FIRMs Maps 21059CO410 and 430 D.

• A portion of the property is designated as prime agricultural farmland per the US Department of Agriculture Soil Conservation Service map dated March 1980.

• The developer is responsible for obtaining permits from the Division of Water, the Army Corp of Engineers, FEMA or other state and federal agencies as may be applicable.

URBAN SERVICES

Electricity, water and gas are available to the subject property.

DEVELOPMENT PATTERNS

The subject property is located in an area of large-lot rural residences, woodlands, pasture and coal mining. The land is generally hilly and wooded.

The original zoning application contained 685.65 +/- acres of land proposed for mining activity. However,
DUE TO AN ISSUE WITH OWNERSHIP OF ONE OF THE TRACTS, 
THE APPLICANT HAS REQUESTED THAT FOUR OF THE TRACTS BE 
WITHDRAWN FROM THE APPLICATION. IF MINING ACTIVITY IS 
PROPOSED ON THESE FOUR TRACTS AT SOME POINT IN THE 
FUTURE, A NEW APPLICATION AND PUBLIC HEARING WILL BE 
REQUIRED.

MINING HAS BEEN PROPOSED FOR PORTIONS OF THE 
SUBJECT PROPERTY IN THE PAST. IN 1986, AN APPLICATION 
WAS SUBMITTED TO THE PLANNING COMMISSION TO REZONE 
APPROXIMATELY 370 ACRES FOR MINING PURPOSES. PLANNING 
STAFF RECOMMENDED APPROVAL OF THE APPLICATION BUT THE 
PLANNING COMMISSION RECOMMENDED DENIAL OF THE 
APPLICATION AND DAVIESS COUNTY FISCAL COURT UPHELD THE 
RECOMMENDATION FOR DENIAL. IN 1993, AN APPLICATION 
WAS SUBMITTED TO THE PLANNING COMMISSION TO CONSIDER A 
ZONING CHANGE FOR 904 ACRES TO EX-1 COAL MINING. AT 
THAT TIME, PLANNING STAFF RECOMMENDED APPROVAL OF THE 
REZONING REQUEST BUT THE PLANNING COMMISSION VOTED 6-1 
TO DENY THE REZONING AND FISCAL COURT ONCE AGAIN 
UPHELD THE RECOMMENDATION FOR DENIAL.

SPECIFIC LAND USE CRITERIA

GENERAL AND SPECIFIC LAND USE CRITERIA

APPLICABLE TO COAL MINING PROPOSALS ARE: LOCATION, 
SITE AND MINING PROCEDURES; SOILS, GEOLOGY, AND 
FRAGILE AREAS; ACTIVITY BUFFERS; AND TRANSPORTATION
PLAN AND ACCESS DESIGN. THESE ITEMS ARE REVIEWED
BELLOW.

LOCATION

THE SUBJECT PROPERTY IS LOCATED IN THE
3300-3500 BLOCKS OF RUSSELL ROAD, THE 3500 BLOCK OF
GIRL SCOUT ROAD AND THE 11300-11400 BLOCKS OF US
HIGHWAY 231. THE SUBJECT PROPERTY IS IN THE RURAL
SERVICE AREA AND THE MAJORITY OF THE SUBJECT PROPERTY
IS LOCATED WITHIN A RURAL MAINTENANCE PLAN AREA;
HOWEVER, A PORTION IS LOCATED WITHIN A RURAL COMMUNITY
PLAN AREA. THE SUBJECT PROPERTY ADJOINS EXISTING EX-1
COAL MINING ZONING TO THE SOUTH AND THERE IS
ADDITIONAL EX-1 ZONING IN THE VICINITY TO THE
SOUTHWEST.

SITE & MINING PROCEDURES

THE SUBJECT PROPERTIES ARE A HILLY AND
PARTIALLY WOODED AND TOTAL 385.45+/- ACRES. LAND USES
IN THE AREA ARE GENERALLY LARGE LOT RURAL RESIDENCES,
WOODED, OR PASTURE LAND. IT DOES NOT APPEAR AS THOUGH
THE LAND IS CONDUCIVE TO INTENSIVE AGRICULTURE DUE TO
THE LACK OF LARGE-SCALE AGRICULTURAL USE IN THE AREA.

THE APPLICANT PROPOSES TO EXTRACT COAL THROUGH
SURFACE MINING TECHNIQUES. BLASTING IS LIMITED TO
MONDAY THROUGH SATURDAY FROM SUNRISE TO SUNSET UNLESS
A VARIANCE IS GRANTED FROM THE STATE. THE APPLICANT
INDICATES THEY HAVE NO INTENTION OF APPLYING FOR A VARIANCE. PRIOR TO INITIATION OF MINING ACTIVITY, A PRE-BLAST SURVEY IS OFFERED TO ALL OWNERS OF OCCUPIED DWELLINGS WITHIN ½ MILE OF THE MINING SITE. A TOTAL OF SEVEN APPROVALS/PERMITS ARE REQUIRED PRIOR TO MINING ACTIVITY TAKING PLACE. IT IS ANTICIPATED THAT THE PROPOSED PROJECT WILL BE A 6-10 YEAR PROJECT. THE MINING PERMIT FROM THE STATE IS FOR A FIVE YEAR PERIOD. IF MINING IS NOT COMPLETE, THE PERMIT MAY BE REISSUED AND THE MINING OPERATION IS SUBJECT TO ANY NEW REGULATIONS THAT MAY HAVE BEEN IMPLEMENTED DURING THE FIRST FIVE YEAR PERIOD.

SOILS, GEOLOGY & FRAGILE AREAS

A REVIEW OF SOILS INDICATES THAT A MINIMAL AMOUNT OF GOOD FARMLAND MAY BE PRESENT ON SITE. ALSO, IT APPEARS THAT A MINIMAL AMOUNT OF THE SUBJECT PROPERTY IS DESIGNATED AS PRIME AGRICULTURAL LAND ACCORDING TO THE "IMPORTANT FARMLANDS" MAP CREATED BY THE US DEPARTMENT OF AGRICULTURE SOIL CONSERVATION SERVICE DATED MARCH 1980. THE APPLICANT SHOULD BE AWARE THAT STATE LAW REQUIRES PROTECTION OF PRIME AGRICULTURAL LANDS FROM NORMAL MINING PRACTICES.

THE UTICA AND PLEASANT RIDGE QUADRANGLE MAPS OF THE U.S. GEOLOGICAL SURVEY INDICATE THE PRESENCE OF COAL DEPOSITS ON THE SITE. COAL TO BE MINED IS FROM

OHIO VALLEY REPORTING
(270) 683-7383
UNNAMED COAL BEDS WITH AN AVERAGE COAL SEAM THICKNESS BETWEEN 12 AND 40 INCHES. COAL DEPTHS RANGE BETWEEN 12 TO 95 FEET BELOW THE SURFACE.

THE SUBJECT PROPERTY DOES NOT CONTAIN ANY KNOWN HISTORICAL OR ARCHAEOLOGICAL SITES. ACCORDING TO THE APPLICANT AND INFORMATION CONTAINED WITHIN THE ADOPTED COMPREHENSIVE PLAN, THE SUBJECT PROPERTY DOES NOT CONTAIN AREAS OF STEEP SLOPES GREATER THAN 16 PERCENT GRADE.

ACTIVITY BUFFERS

MINING ACTIVITIES SHOULD MAINTAIN A MINIMUM OF 100 FOOT BUFFER FROM ANY ROAD RIGHT-OF-WAY AND A 300 FOOT BUFFER FROM ANY RESIDENTIAL OR NONRESIDENTIAL DEVELOPED PROPERTY.

SHOULD ANY MINING ACTIVITY BE REQUIRED WITHIN THESE BUFFER AREAS, A WAIVER FROM THE STATE AND/OR PROPERTY OWNER AND A VARIANCE FROM THE OWENSBORO METROPOLITAN BOARD OF ADJUSTMENTS WOULD BE REQUIRED.

TRANSPORTATION PLAN & ACCESS DESIGN

COAL MINED ON THE SUBJECT PROPERTY IS PROPOSED TO BE REMOVED FROM THE SITE VIA A COAL HAUL ROAD TO US HIGHWAY 231. THE APPLICANT HAS SUBMITTED A TRANSPORTATION PLAN THAT HAS BEEN REVIEWED BY THE KENTUCKY TRANSPORTATION CABINET AND THE DAVIESS COUNTY ENGINEER FOR ALL ROADS THAT WILL BE USED TO HAUL COAL
FROM THE SUBJECT PROPERTY TO THE YELLOW BANKS RIVER TERMINAL VIA US HIGHWAY 231 AND US HIGHWAY 60. COAL WILL NOT BE TRANSPORTED ON GIRL SCOUT ROAD OR RUSSELL ROAD. ONE AT-GRADE CROSSING IS PROPOSED ON RUSSELL ROAD. THE APPLICANT MAY BE REQUIRED BY THE COUNTY ENGINEER AND/OR STATE HIGHWAY OFFICIAL TO POST BOND OR ACQUIRE EXCESSIVE WEIGHT PERMITS FOR THE COAL TRANSPORTATION ACTIVITIES TO ENSURE THAT ROADS ARE PROPERLY MAINTAINED AND NOT DAMAGED DURING TRANSPORT. THE APPLICANT INDICATES THAT DURING PEAK MINING ACTIVITY, APPROXIMATELY 40 ROUND-TRIPS PER DAY ALONG THE COAL HAUL ROUTE TO YELLOW BANKS RIVER TERMINAL. EXTENDED WEIGHT LIMITS ALONG THE ROUTE WILL ALLOW FOR TRUCK WEIGHS TO REACH 120,000 POUNDS.

PLANNING STAFF RECOMMENDATIONS

THE PLANNING STAFF RECOMMENDS APPROVAL SUBJECT TO THE FINDINGS OF FACT THAT FOLLOW:

FINDINGS OF FACT:

1. STAFF RECOMMENDS APPROVAL BECAUSE THE PROPOSAL IS IN COMPLIANCE WITH THE COMMUNITY’S ADOPTED COMPREHENSIVE PLAN;

2. THE MAJORITY OF THE SUBJECT PROPERTY IS LOCATED IN A RURAL MAINTENANCE PLAN AREA WHERE COAL MINING USES ARE APPROPRIATE IN GENERAL LOCATIONS;

3. THE MAJORITY OF THE SUBJECT PROPERTY IS
LOCATED IN THE RURAL SERVICE AREA OUTSIDE OF A RURAL COMMUNITY PLAN AREA WHILE THE PORTION WITHIN THE RURAL COMMUNITY PLAN AREA IS SMALL PORTION OF THE OVERALL REZONING LOCATED IN THE NORTHEAST SECTION OF THE SUBJECT PROPERTY;

4. THE SUBJECT PROPERTY ADJOINS EXISTING AREAS OF EX-1 COAL MINING ZONING AND ACTIVITY;

5. THE PLEASANT RIDGE AND UTICA QUADRANGLE MAPS INDICATE THE PRESENCE OF COAL DEPOSITS ON THE SITE; AND,

6. STATE AND COUNTY ROADS PROPOSED TO BE USED FOR THE TRANSPORTATION OF COAL HAVE BEEN REVIEWED BY THE APPROPRIATE OFFICIALS.

MR. HOWARD: WE WOULD LIKE TO ENTER THE STAFF REPORT INTO THE RECORD AS EXHIBIT B.

CHAIRMAN: THANK YOU, MR. HOWARD.

BEFORE WE GET STARTED, WE HAVE A SIGN-UP SHEET BACK OVER HERE IN THE CORNER FOR ANYBODY WHO WOULD LIKE TO SPEAK. WE'RE GOING TO TRY TO TAKE IT IN THE ORDER IN WHICH THEY SIGNED UP.

DO WE HAVE A REPRESENTATIVE HERE FROM THE KENTUCKY DEPARTMENT OF MINES & MINERALS?

MR. FRAZIER: DIVISION OF MINE FROM FRANKFORT.

CHAIRMAN: THANK YOU. AND YOUR NAME, SIR?

MR. FRAZIER: ROBERT FRAZIER.
CHAIRMAN: DO WE HAVE ANYBODY REPRESENTING THE APPLICANT?

MR. SILVERT: WOULD YOU STATE YOUR NAME,
PLEASE?

MR. HAYNES: BRIAN HAYNES.

MR. SILVERT: YOU'RE SWORN AS AN ATTORNEY.

MR. HAYNES: I'M LEGAL COUNSEL FOR WESTERN KENTUCKY MINERALS. WE WOULD LIKE TO SHOW A SHORT PRESENTATION. IT'D BE A SHORT PRESENTATION ABOUT OUR PROJECT. THEN WE HAVE SEVERAL PEOPLE HERE THAT COULD ANSWER QUESTIONS. WE HAVE, OF COURSE, MR. LANHAM, ONE OF THE OWNERS OF THE COMPANY. WE HAVE MARTY VINCENT AND SETH BURNS THAT ARE FROM MEMSCO, WHICH IS OUR BLASTING CONTRACTOR. STEVE LITTLE FROM MIDWEST VALLEY THAT CAN ADDRESS THE DUST ISSUES. OF COURSE, TIM WRIGHT, ENGINEER FOR THE COMPANY THAT CAN ADDRESS THE VARIETY OF ISSUES. GREG WETTSAIN FROM THE COMPANY ALSO. THE PEOPLE FROM FRANKFORT OR THE REGIONAL OFFICE I'M SURE CAN ANSWER SOME OF YOUR QUESTIONS. I JUST ASK THAT MR. WRIGHT TO DO HIS PRESENTATION.

CHAIRMAN: MR. HAYNES, IS THE VIDEO OR WHATEVER YOU HAVE GOING TO BE SHOWN CONCURRENTLY WITH HIS PRESENTATION?

MR. HAYNES: IT IS.

MR. WILSON: MAY I?
CHAIRMAN:  YES, SIR.

MR. SILVERT:  WOULD YOU STATE YOUR NAME, PLEASE?

MR. WILSON:  MY NAME IS BILL WILSON.

MR. SILVERT:  YOU'RE SWORN AS AN ATTORNEY.

MR. WILSON:  I'D JUST LIKE TO POINT OUT A THING OR TWO ON THE STAFF REPORT AND ON THE APPLICATION BEFORE WE GET STARTED.

THE CO-APPLICANTS ON THE AMENDED STAFF REPORT LIST THE GERTIE TAYLOR ESTATE AS ONE OF THE APPLICANTS. I JUST THE RECORD TO BE CORRECT IN THIS MATTER. THAT IS NO LONGER AN APPLICANT. HER NAME OF THAT ESTATE WAS TAKEN OFF. THE NEW APPLICATION WAS FILED ON THE 19TH OF JANUARY SHOWING ANTHONY LANHAM, DONNA STEWART AND CHARLES STEWART AS THE APPLICANT, NEW APPLICANT AND OWNER OF THAT TRACT. I DON'T KNOW HOW THAT NEEDS TO BE CORRECTED, BUT IT DOES NEED TO BE CORRECTED. THE GERTIE TAYLOR ESTATE HAS NO INTEREST.

CHAIRMAN:  MR. NOFFSINGER.

MR. NOFFSINGER:  MR. HOWARD.

MR. HOWARD:  THIS WAS A TRACT THAT WAS IN QUESTION AT THE MEETING LAST MONTH. THE APPLICATION WAS NOT IN ORDER DUE TO THE LACK OF SIGNATURES OF THE CURRENT PROPERTY OWNERS. MS. STEWART HAD NOT SIGNED. SINCE THAT TIME, THE APPLICANT DID PROVIDE THAT
INFORMATION; HOWEVER, THERE WAS NO INDICATION GIVEN TO
STAFF THAT THERE WAS NO LONGER THE GERTIE TAYLOR
ESTATE, THAT THE STEWARTS WERE NOT SIGNING FOR THEM.
THEIR SIGNATURES ARE ON FILE IN THE APPLICATION AS THE
PROPERTY OWNERS.

MR. NOFFSINGER: SO ARE THEY A PART OF THE
APPLICATION HERE TONIGHT?

MR. HOWARD: YES.

MR. NOFFSINGER: WOULD THE APPLICANT CONCUR
WITH THAT?

MR. WRIGHT: YES, THEY ARE A PART OF THE
APPLICATION.

CHAIRMAN: MR. SILVERT.

MR. SILVERT: TO COUNSEL FOR THE APPLICANT.

DOES THE GERTIE TAYLOR ESTATE STILL HAVE ANY TITLE OR
INTEREST IN THIS PROPERTY?

MR. HAYNES: NO, MR. SILVERT. MR. LANHAM, THE
COMPANY, AND DONNA STEWART AND HER HUSBAND, WELL, JUST
DONNA STEWART -- MR. LANHAM ACQUIRED PART OF THE
INTEREST IN THE ESTATE AND MS. STEWART ALREADY OWNED
THE OTHER INTEREST IN THE ESTATE. THEY HAVE BOTH
SIGNED THE APPLICATIONS. JUST USED TO BE CALLED THE
GERTIE TAYLOR PROPERTY, GERTIE TAYLOR ESTATE, BUT THEY
HAVE BOTH EXECUTED THE APPLICATION.

MR. SILVERT: BUT IS IT YOUR LEGAL OPINION
TODAY THAT EVERYONE WHO HAS TITLE AND INTEREST IN THAT SPECIFIC TRACT HAS SIGNED AN APPLICATION?

MR. HAYNES: YES.

CHAIRMAN: MR. SILVERT, ARE WE CLEAR TO GO FORWARD?

MR. SILVERT: YES.

CHAIRMAN: THANK YOU, MR. WILSON.

MR. SILVERT: WOULD YOU STATE YOUR NAME, PLEASE?

MR. WRIGHT: TIMOTHY WRIGHT.

(TIMOTHY WRIGHT SWORN BY ATTORNEY.)

MR. WRIGHT: GOOD EVENING, MR. CHAIRMAN, BOARD MEMBERS. I HAVE A MAP I'D LIKE TO PRESENT TO YOU FOR THE FIRST THING.

CHAIRMAN: IF YOU HAND IT TO MR. REEVES THERE ON THE END AND YOU CAN CONTINUE WITH YOUR PRESENTATION.

MR. WRIGHT: OUR FIRST FRAME IS JUST A COPY OF OUR HOME PAGE. YOU CAN LEARN A LOT ABOUT US HERE WITH WESTERN KENTUCKY MINERALS AT WKM.COM.

WESTERN KENTUCKY MINERALS, IT WAS FORMED IN 2005 BY ANTHONY LANHAM, BETTER KNOWN AS TONY. WE HAVE A CURRENT PARTNER, LLOYD COLE. BOTH OF THEM DO RESIDE IN DAVIESS COUNTY.

WESTERN KENTUCKY MINERALS IS MADE UP OF 42
EMPLOYEES AT THE CURRENT TIME.

HERE IS OUR PROJECT, P RIDGE MINE.

AS WE FIRST SUBMITTED WE HAD 685 ACRES.

PORTION OVER TO THE LEFT-HAND SIDE OF THE MAP IS THE
AREA WE TOOK OFF OF THE ZONING ITSELF. TOOK IT DOWN
TO 385 ACRES. IT IS A CURRENT LEASE AREA AND WE DO
PLAN ON REZONING THAT AT A LATER DATE.

THE RED BOUNDARY THAT GOES AROUND THAT IS OUR
CURRENT ZONING BOUNDARY FOR 385 ACRES. THE BLACK ROAD
YOU CAN SEE GOING THROUGH THERE IS SPLIT. ONE COMES
ACROSS RUSSELL ROAD. THE OTHER GOES UP AND GOES OUT
TO 231. THAT WILL BE OUR ENTRANCE FROM THE MINE SITE,
TO HIGHWAY 231.

THERE'S ALSO A SECTION THAT CROSSES OVER
RUSSELL ROAD AND GOES DOWN TO ONE OF THE ORANGE AREA.
THAT IS THE PROCESSING AREA. THE PROCESSING AREA OF
COAL WILL GO OUT OF THERE AND GO BACK TO 231. THERE
WILL BE NO COAL TRUCKS ENTERING RUSSELL ROAD OR GIRL
SCOUT ROAD EITHER ONE.

THE ORANGE AREA YOU SEE IS THE AREA AROUND THE
COMMUNITY THAT'S ALREADY REZONED EX-1. NONE OF THEM
HAVE BEEN MINED IN BACK IN THE '60S, '70S AND '80S.
THE PINK BOUNDARY THAT GOES AROUND THE OUTSIDE OF IT,
THAT'S A HALF MILE BOUNDARY. THAT'S IMPORTANT BECAUSE
OF THE PREBLAST SURVEYS. THE KENTUCKY DEPARTMENT OF
ENFORCEMENT REQUIRES US TO DO A PREBLAST SURVEY ON EVERY HOME WITHIN A HALF MILE. EVERYBODY WITHIN THAT HALF MILE WILL BE RECEIVING A FORM IN THE MAIL. YOU SEE THE LITTLE BLUE AREA DOWN HERE TO THE RIGHT-HAND SIDE? THAT'S ANOTHER PERMIT WE CURRENTLY ALREADY STARTED. IT'S IN OHIO COUNTY. WE'RE PLANNING ON HAULING COAL OUT OF IT IN OCTOBER AND NOVEMBER OF THIS YEAR. IT WILL ENTER 231 AT A POINT DOWN TO THE SOUTH AND IT WILL GO STRAIGHT UP 231 ALSO TO YELLOW BANKS RIVER TERMINAL, GO UP TO OMU. THE ONE THAT GOES TO YELLOW BANKS RIVER TERMINAL WILL BE GOING TO LG&E PLANTS ON THE RIVER.

THIS IS A PROJECTION MAP THAT WE MADE UP SHOWING THE PROJECTED COAL AND WHAT WE HAVE. I DIDN'T CHANGE THIS. I WANTED TO LEAVE IT THE SAME TO PROJECT THE WHOLE 685 ACRES. IT'S 2.1 MILLION TONS OF COAL IN THIS PROJECT.

AS YOU CAN SEE TO THE SOUTHERN PORTION OF THE LITTLE RED AREA, THAT'S OUR PROJECTED STARTING POINT IN 2013, LATE 2013. THEN THE MINING AREA WILL GO UP ALONG RUSSELL ROAD, HIT 231, TURN, AND COME BACK DOWN, AND THEN FINISH UP BACK IN THIS AREA.

YOU CAN ALSO SEE BACK IN HERE, I KNOW WE GOT A LOT OF PEOPLE HERE CONCERNED ABOUT THE GIRL SCOUT CAMP. MS. HITCHCOCK OWNS THIS PIECE OF PROPERTY HERE.
SHE DOES NOT WANT US TO DISTURB HER OIL FIELD. SHE
WANTS IT TO REMAIN IN PLACE. IT IS STILL A PRODUCTIVE
OIL FIELD FOR HER. SO OUR MINING BOUNDARY WILL BE A
GOOD 1,000 FEET OFF THE GIRL SCOUT CAMP. WE WILL NOT
BE AGAINST THEIR PROPERTY LINE IN ANY WAY.

PRELAW SURFACE MINING. THIS IS WHAT MOST
PEOPLE REMEMBER. WHAT MOST PEOPLE SEE. THIS IS THE
UGLINESS OF IT PRIOR TO SURFACE MINING. THIS IS 1977.
UNITED STATES ACCEPTED AND PUT IN FORCE THE SMCRA
PERMIT, WHICH IS THE SURFACE MINING AND CONTROL ACT
THAT STARTED THE REGULATIONS FOR THE COAL INDUSTRY.
THIS FORCED EACH STATE TO COME UP WITH THEIR OWN
REGULATORY BRANCHES OR ABIDE BY SMCRA ITSELF.

MODERN SURFACE MINING, WHAT IS IT? HOW HAS IT
CHANGED?

IT'S CHANGED A LOT WITH THE REGULATIONS. THEY
REQUIRE THE WATER MONITORING (SURFACE WATER AND GROUND
WATER), AIR QUALITY REGULATION, BLASTING,
ENVIRONMENTAL STUDIES THAT WE HAVE TO DO PRIOR TO
PERMITTING. COAL ANALYSIS, HAVE AN UNDERSTANDING OF
WHAT IS IN THE COAL. SAFETY. MONITORING EQUIPMENT
SUCH AS SEISMOGRAPHS, SO ON AND SO FORTH.

REGULATORY AGENCIES. THESE ARE THE SIX
REGULATORY AGENCIES THAT WE'RE GOVERNED BY.

THE DMRE, DIVISION OF MINE RECLAMATION AND
ENFORCEMENT. THEY COVER A WIDE VARIETY OF TOPICS FROM OUR GENERAL OPERATION, INFORMATION FROM BLASTING TO BONDING. THEY COVER OUR WAIVERS FOR HOUSES AND THE GENERAL INFORMATION FOR THE COMPANY. THEY GO INTO THE GEOLOGY OF THE GROUND. THEY GO INTO THE WATER MONITORING FOR THE GROUND WATER AND SURFACE WATER. GOES BACK INTO SILT CONTROL AND SO ON AND SO FORTH. DIVISION OF WATER. PRETTY SELF-EXPLANATORY. THEY REGULATE OUR DISCHARGE FROM THE MINE SITE. WE EITHER HAVE TO HOLD A DS PERMIT OR MPDS PERMIT FROM THE KENTUCKY DIVISION OF WATER, DEPENDING ON WHAT THE SITE ACTIVITY IS AND THE EXTENT OF THE MINE. DIVISION OF AIR QUALITY IS PRETTY SELF-EXPLANATORY.

KENTUCKY OFFICE OF MINE SAFETY AND LICENSING. THEY'RE MAINLY FOR A MINE LICENSE. THEY DO COME OUT AT A STATE LEVEL OF SAFETY INSPECTION.

MSHA - MINE SAFETY & HEALTH ADMINISTRATION. THEY OVERSEE THE SAFETY ASPECTS OF OUR MINING.

U.S. CORPS OF ENGINEERS. THEY REGULATE JURISDICTIONAL WATER WAYS. WE HAVE TO OBTAIN A PERMIT FROM THEM FOR ANY STREAMS THAT WE DISTURB, ANY WETLANDS. WE HAVE TO ADMIT IT BACK TO THEIR CRITERIA.

HERE'S SOME SHOTS OF OUR CURRENT RECLAMATION.

THIS IS HOW THE REGULATION HAS REALLY CHANGED AND WHAT
THE SITES LOOK LIKE NOW COMPARED TO PRELAW. THIS
RECLAMATION HERE WAS SOLD IN THE FALL OF 2010. THESE
PICTURES WERE TAKEN JUST THE OTHER DAY. WENT THROUGH
ONE GROWING SEASON. HERE IS A LAKE THAT WAS LEFT ON
ONE OF THE FARMS. THIS WAS LOOKING AT THE
RECLAMATION. YOU CAN SEE THE ACTUAL PIT IN THE
BACKGROUND WHERE WE'RE STILL MINING.

HERE IS SOME EROSION CONTROL THAT THAT WE HAVE
DONE. WE HAVE TO KEEP IT UP FOR FIVE YEARS AND GET IT
ALL STABLE. IT SHOW WHEAT GROWN ON RECLAMATION. THIS
IS THE FIRST YEAR OF IT.

THIS IS A RECLAMATION THAT'S BEEN IN PLACE FOR
LIKE TWO YEARS. WE'VE ALREADY GOT IT WITH SOME
PERMANENT GRASSES. IT'S STARTING TO COME ON PRETTY
GOOD.

THIS IS THE DIFFERENCE. YOU CAN SEE THE
RECLAMATION AND OUR ACTIVE MINING STILL. WE'RE
ABUTTED UP TO IT. THEY REQUIRE US TO KEEP OUR
RECLAMATION UP TO A CERTAIN DISTANCE AWAY FROM IT.

THIS IS SOME MORE OF THE SAME RECLAMATION.

HERE IS SOME NEW RECLAMATION WHERE WE GREW IN
WHEAT. THIS IS THE GROUND COVERING. YOU SEE SOME
PERMANENT GRASSES COMING IN.

THIS IS PRIME FARMLAND. WE HAD A CORN CROP ON
IT THIS PAST SUMMER. IT'S STILL ANOTHER SHOT FROM IT.
WE DO THAT. RESTORE THE PRIME FARMLAND AND BRING IT BACK TO THE STANDARD. IT'S ANOTHER SHOT OF THE FIELD.

THIS IS A HOUSE THAT WAS BUILT IN THE MIDDLE OF THE RECLAMATION. WE LEFT ONE ACRE TRACT FOR THESE PEOPLE, THE BARNETTS, TO BUILD THEIR HOUSE. THIS IS LOOKING BEHIND THEIR HOUSE. THERE'S A LAKE THAT YOU CAN SEE IN THE BACKGROUND.

THIS HERE IS ANOTHER CROP FIELD. RESTORE PRIME FARMLAND HERE. THEY'RE TOBACCO FARMERS. THEY WANT TO RAISE TOBACCO THERE.

GET A BETTER SHOT OF THEIR LAKE HERE IN A MINUTE.

THIS IS A HILLSIDE ABOVE THEIR LAKE. AGAIN, IT'S RECLAMATION. MOST OF IT HAS BEEN IN THERE FOR TWO YEARS, TWO GROWING SEASONS. YOU CAN SEE A LOT OF PERMANENT GRASSES. WE GOT A SHOT HERE IN A MINUTE. THERE'S ANOTHER ONE OF THEIR LAKES.

WE'RE ACTUALLY RESTORING A WETLAND AREA BACK IN BEHIND THIS LAKE BACK HERE. THIS IS THE VERY BEGINNING STAGES OF IT.

THIS IS JUST ABOVE THE LAKE IN A VALLEY.

HERE IS THE CLOVER AS IT'S STARTING TO COME OUT FOR THE SPRINGTIME. IT'S ALREADY STARTED. JUST WAITING FOR THE WARM WEATHER.

THIS IS ANOTHER LAKE OF THE BARNETTS. THIS IS
A BIGGER LAKE YOU'RE LOOKING ACROSS.

HERE IS SOME MORE RECLAMATION UP ON THE MINE.

HERE'S A HILLSIDE THAT SHOWS THAT WE GOT THEM STABLE AND THEY'RE HOLDING UP VERY WELL.

THESE ARE DRY SUMPS THAT WE LIKE TO PUT IN.

THESE HELPS WITH EROSION CONTROL. FARMERS USE THEM A WHOLE LOT. WE'VE LEARNTED TO ADOPT THEM INTO OUR RECLAMATION.

THAT'S A DITCH WHERE IT'S GOING AROUND TO THE DRY SUMP.

THERE'S ANOTHER DRY SUMP DOWN THERE THAT'S BEEN PUT IN.

THERE'S A LAKE. THAT'S THE BARNETTS' LAKE.

THIS IS PART OF THE RECLAMATION THAT WE WERE SEEING BEHIND THEIR HOUSE. LIKE I SAID, IT'S BEEN IN PLACE FOR ABOUT TWO YEARS. LOT OF LANDOWNERS THAT WE HAVE, THAT WE HAVE AT P RIDGE MINE, THEY WANT LAKES PUT ON THEIR SITE. AS YOU CAN SEE, REALLY NICE LAKES LEFT. IT'S GOOD WILDLIFE HABITAT. CORPS OF ENGINEERS REQUIRE US TO PUT SOME OF THE STREAMS BACK ONTO THESE LAKES. YOU SEE ONE LAKE WHERE WE WAS DEVELOPING WETLAND AREA ABOVE IT. ONCE IT GETS DEVELOPED, IT'S VERY GOOD WILDLIFE HABITAT.

BLASTING. THIS PROJECT WILL REQUIRE BLASTING.

THIS FORM HERE THAT WE'RE SHOWING, HERE'S A
PREBLAST SURVEY REQUEST FORM. THIS WILL BE THE ONE
THAT WILL BE SENT OUT TO EVERYBODY WITHIN HALF A MILE
OF RADIUS. EVERYBODY WILL RECEIVE IT BY CERTIFIED
MAIL. HAVE THE INSTRUCTIONS ON IT TO CONTACT
VIBRONICS, INCORPORATED. THEY'RE THE THIRD PARTY
INTEREST IN EVANSVILLE, INDIANA THAT DOES THE
SURVEYING FOR US. THIS IS 100 PERCENT PAID BY THE
COMPANY. YOU CONTACT THEM AND GET EVERYTHING
SCHEDULED AND THEY'LL DO THE SURVEY ON YOUR HOUSE.

THIS IS A HOUSE THAT WE BLASTED WITHIN 60 FEET
OF. THIS IS MS. DAWSON'S HOUSE. MS. DAWSON WANTED US
TO GO WITHIN 25 FEET. SHE ACTUALLY ENDED UP GETTING
UPSET WITH US BECAUSE WE COULDN'T. YOU CAN SEE THE
HOUSE IS MADE OF DOUBLE CHIMNEYS. IT'S GOT SOME
TIMBER ON THE SIDE OF IT WITH SOME MORTAR JOINTS. WE
BLAST WITHIN 60 FEET AND THAT'S AS CLOSE AS WE GET AND
STAY WITHIN THE LIMITATIONS OF THE BLASTING FOR THE
DMRE. DONE A GREAT JOB. WE TRIED TO GET CLOSER AND
JUST COULDN'T DO IT. WE EXCEEDED OUR VIBRATION LIMIT.
I'LL EXPLAIN SOME OF OUR VIOLATIONS HERE IN A MINUTE.
THIS IS WHERE THE THREE OF THEM HAPPENED TRYING TO
APPEASE MS. DAWSON. SHE WAS PRETTY UPSET WHEN WE
COULDN'T GO GET THE REST OF HER COAL, BUT THE LAW IS
THE LAW. SHE EVEN SIGNED A LETTER FOR US WAIVING HER
RIGHTS FOR THE VIBRATION LIMITS BECAUSE SHE WASN'T
WORRIED ABOUT IT. SHE WANTED HER COAL.

AS YOU CAN SEE THIS HOUSE, EVEN BLASTING UP TO 60 FEET IT DIDN'T HURT IT WHATSOEVER. YOU CAN SEE THE MORTAR JOINTS IN THE TIMBER FRAME PART. THIS IS THE CHIMNEY ON THE SIDE OF IT. DIDN'T HURT IT WHATSOEVER.

NO DAMAGE AT ALL.

DUST CONTROL. FUGITIVE DUST CONTROL PLAN THAT WE HAVE TO IMPLEMENT. IT COVERS OUR DUST CONTROL OUT AT THE MINE SITE. WE HAVE TO HAVE IT ON SITE. AIR QUALITY WANTS TO COME OUT AND LOOK AT IT. MUST BE THERE. IT COVERS TOPICS FROM WATERING THE HAUL ROADS, COAL STOCK PILES, COAL YARDS. JUST KEEP THE DUST DOWN IN THOSE AREAS.

WILDLIFE. HERE'S A PICTURE OF FISH AND MACROINVERTEBRATES STUDY. THEY HAVE TO BE DONE PRIOR TO THE MINING WITH THE MINING APPLICATION. THEN WE HAVE TO DO THEM AFTER WHEN WE'RE RECEIVING STREAMS BECAUSE THE STATE AGENCY IF THE MINE HAD ANY IMPACT ON THESE STREAMS. WE COUNT THE VERTBRATES AND THE FISH.

WETLAND DELINEATION. WE HAVE TO DO THOSE FOR THE CORPS OF ENGINEERS. WE HAVE TO HAVE BIOLOGISTS COME OUT AND DELINEATE ALL OF OUR WETLANDS. ANY WETLANDS THAT ARE THERE WE HAVE TO MITIGATE IT BACK TO EQUAL SIZE AND EQUAL VEGETATION. THEY HAVE DIFFERENT STAGES WITH REGARDS TO GRASS LAND, AND THEN THEY HAVE
THE HARDWOOD WETLAND. THEY ALL HAVE TO BE DELINEATED AND PUT BACK.

STREAM RESTORATION. ANY OF THE STREAMS THAT ARE ON THE SITE THAT QUALIFIES AS RESTRICTIONAL WATERWAYS, ACCORDING TO THEIR TERMS. WE HAVE TO RESTORE. RESTORE THEM WITH RIPARIAN ZONES. PUT BACK ON THE SIDE OF THEM WITH VEGETATION TYPE THAT SERVE THE WILDLIFE. THEY WANT TREES. THEY WANT SHRUBS AND THEY WANT UNDERBRUSH.

GROUNDWATER MONITORING. THIS IS ONE OF THE GROUNDWATER MONITORING WELLS THAT IS OUT THERE IN WHAT WE CALL THE P RIDGE SOUTH PERMIT. IT'S THE ONE IN OHIO COUNTY. WE PUT THESE WELLS IN ABOVE THE MINE, BELOW THE MINE. WE HAVE TO MONITOR THE WATER SIX MONTHS PRIOR TO PERMITTING. WE HAVE TO MONITOR THE WATER CONTINUOUSLY DURING THE MINING AND FOR FIVE YEARS AFTER MINING TO ENSURE WE DIDN'T CONTAMINATE BELOW OUR COAL SEAM.

COAL CHEMICAL ANALYSIS. THROUGH OUR CONTRACTS AND THROUGH DIFFERENT THINGS. I HAVE SEEN CONCERN WITH PAMPHLETS THAT HAVE BEEN PUT OUT. BOY COME IN AT THE LAST MEETING AND QUESTION OUR COAL. I DON'T MEAN TO MISLEAD ANYBODY BECAUSE COAL IS ACIDIC, BUT IT HAS HUMIC ACID AND ABIETIC ACID. NOT SULFURIC ACID, AS HIS TERMINOLOGY WAS USED.
I did research some stuff to see where he got sulfuric acid. There is cases in studies that show that some boulders they burn bark, tree bark with the coal. With the admission from that it mixed with some of the vapors from the water and created sulfuric acid. Arsenic, mercury, lead, selenium, some of the things was asked about. We have a full complete analysis of our coal from both seams. These are just a few things we've tested for. It's not going to be easy for some to understand.

Like this is a raw coal sample and our mercury tested and .14 parts per trillion. That's well below the drinking water standards. When I say "drinking water standards," the EPA I've got a copy of the publication here. They set a limit on what they say we can absorb and what we can take into our system without harming us. These raw coal samples are testing less than what that standard that they set is. You're actually drinking more mercury out of your water coming out of your faucet than what these coal analysis is testing.

Selenium is one of them that was brought up the other night. This coal is testing, four parts per trillion. Whatever the drinking water standard. Arsenic, we thought we had a little bit of an
ARSENIC PROBLEM, BUT AFTER I GOT TO REVIEWING ALL OUR
ANALYSIS, I DIDN'T REALIZE THAT ALL OF THEM HAD BEEN
TESTED IN NANOGRAMS, WHICH IS PARTS PER TRILLION.
WE'RE FINDING OUT THOUGH THAT IN OUR COAL CONTRACTS
THEY'RE CALLING FOR 15 PARTS PER MILLION. WHEN YOU
CONVERT TO 33 PARTS PER TRILLION UP, IT'S ONLY .3
PARTS PER MILLION. SO WE'RE ACTUALLY WELL BELOW OUR
STANDARD THERE ALSO. WE'RE NOT GOING TO HAVE THE
ARSENIC PROBLEM THAT WE HAD EXPECTED. THAT WAS THE
WORST ONE THAT WAS THE TOP SAMPLE. THE OTHER SAMPLE,
THE ARSENIC, IS LIKE 7, WHICH WOULD BE .007 PART PER
TRILLION.

CHAIRMAN: EXCUSE ME. ARE YOU REACHING SORT
OF A COMPLETION POINT BECAUSE WE HAVE MANY OTHERS THAT
WILL HAVE QUESTIONS AND THINGS. YOU'VE DONE A GOOD
JOB OF COVERING YOUR TOPIC, BUT WE'LL HAVE ONES THAT
WILL HAVE QUESTIONS THAT WE'VE GOT TO ALSO GIVE THEM
THEIR OPPORTUNITY.

MR. WRIGHT: WE ARE GETTING THERE. THESE ARE
SOME QUESTIONS THAT CAME UP IN OUR PUBLIC MEETING THAT
WE HAD THAT I'M HOPING TO COVER AND ANSWER FOR PEOPLE
AND HOPE WILL SAVE SOME TIME LATER. IS THAT OKAY?

CHAIRMAN: FINE. THANK YOU. SO YOU'VE COMPLETED?

MR. WRIGHT: NO. NOT QUITE. I WANT TO
EXPLAIN THE PREBLAST SURVEY.

THIS IS A PREBLAST SURVEY COME FROM VIBRONICS DONE ON ONE OF THE HOMES THAT WE'RE AROUND. THIS IS WHAT THEY'LL COME OUT AND THEY'LL DO A COMPLETE INSPECTION OF YOUR HOME AND THEY'LL DOCUMENT IT. YOU'LL GET A COPY OF IT. WE'LL GET A COPY OF IT. THE STATE GETS A COPY OF IT. SO EVERYBODY WITHIN HALF A MILE, AND WE DO RECOMMEND THAT YOU DO THESE. WE DO RECOMMEND THEM. IT COVERS THE COMPANY IT THE HOMEOWNERS. PLEASE, IF YOU SEE THE LETTER, PLEASE DO IT.

THIS IS OUR VIOLATION HISTORY. I DID WANT TO GO OVER IT. WE'RE NOT PERFECT. WE DON'T CLAIM TO BE. WE'VE HAD SOME VIOLATIONS IN THE LAST FIVE YEARS.

CONTEMPORANEOUS RECLAMATION. THAT HAD TO DO WITH SUPPLEMENTAL INSURANCE. WE HAD SOME EXPLOSIVE, USE OF THE EXPLOSIVES THAT CAME ALONG WITH MS. DAWSON'S HOUSE IN TRYING TO BLAST CLOSE TO IT. WE'VE GOT SOME WATER QUALITY, SEDIMENT CONTROL VIOLATIONS ON OUR RECORD. THEY WERE DUE TO SOME COAL WASHING. SOME OF THE COAL WASHING OFF OUR YARD GETTING INTO BASIN WITHOUT REALIZING IT. AFTER THE INSPECTORS FOUND IT, WE CORRECTED THAT.

WE HAD OFF OF BONDS AREA DISTURBANCES.

MISCOMMUNICATION ON MY PART FOR NOT HAVING IT FLAGGED.
THEN THERE'S SOME OTHER PERMIT CONDITIONS THAT WE HAD TO CORRECT AS FAR AS OUR MINING PLAN AND SUPPLEMENTAL INSURANCE. WE HAD FIVE VIOLATIONS THERE.

BENEFITS FOR THE COMMUNITY. INCREASED REVENUE. COAL SEVERANCE TAX. WESTERN KENTUCKY MINERALS PAID 1.1 MILLION IN COAL SEVERANCE TAX IN 2011. THE STATE RECEIVED 270 MILLION IN SEVERANCE TAX. IN 2009-2010 FISCAL YEAR. SEVERANCE TAX IS BIG FOR THE COUNTY AND FOR THE STATE. WESTERN KENTUCKY MINERALS IS THE ONLY ONE MINING IN DAVIESS COUNTY. IF YOU'VE GOT ACTIVE MINING IN YOUR COUNTY, YOU'RE ELIGIBLE FOR A 50 PERCENT OF THAT COMES BACK TO THOSE COUNTIES; OTHERWISE, YOU JUST PUT YOUR PROJECTS IN AND GET WHAT THEY GIVE YOU.

OTHER BENEFITS: LOCAL INCOME TAX, PROPERTY TAX, NEW INSURANCE TAX. RECLAMATION TAXES ARE PAID INTO AML TO HELP RECLAIM SOME OF THE OLD MINE SITES THAT WAS LEFT THAT WE SEE IN THE VERY BEGINNING.

ONE BENEFITS OF HAVING OUR OWN COAL IS, HERE IN THIS MAP IT SHOWS THAT KENTUCKY HAS SOME OF THE LOWEST ELECTRIC RATES IN THE UNITED STATES. HALF OF WHAT CALIFORNIA. YOU CAN SEE CALIFORNIA THERE IS 15 CENTS PER KILOWATT HOUR. KENTUCKY IS LIKE 7.1. I LOOKED ON MY KENERGY BILL AND IT WAS 7.6. SO THAT'S ONE OF THE GAINS THAT WE HAVE FROM HAVING OUR COAL
RESERVE AND OUR OWN POWER PLANT.

JOB CREATION. WESTERN KENTUCKY MINERALS IS GOING TO CREATE NEW JOBS FOR US. GOOD PAYING JOB. GOOD BENEFITS. FULLY PAID INSURANCE. HEALTH PLAN AND DENTAL, 401(K).

HERE ARE SOME LOCAL VENDORS WE DO WORK WITH.

THERE'S SEVERAL DIFFERENT ONES UP THERE. MODERN SUPPLY TO GORDON'S TRUE VALUE AS ONE OF THE LOCAL VENDORS THAT WE DEAL WITH THAT BENEFIT FROM OUR PROJECTS.

SOCIOECONOMIC BENEFITS. 2010 DAVIESS COUNTY HAD A UNEMPLOYMENT OF 10.5 PERCENT.

PLEASANT RIDGE MINE WILL ADD JOBS IN THE BEGINNING SOMEWHERE BETWEEN 20 TO 25 JOBS DIRECTLY AT THE MINE. PROBABLY MORE, DEPENDING ON THE COAL INDUSTRY.

OTHER ONES THAT IT AFFECTS IS TRANSPORTATION, RIVER TRANSPORTATION, SUPPLIERS, BARGE AND EQUIPMENT, BLASTING, ELECTRICAL COMPANY.

THAT WILL DO IT.

CHAIRMAN: THANK YOU.

DOES ANYBODY HAVE ANY QUESTIONS OF THE APPLICANT?

SOME OF THE AUDIENCE WOULD LIKE TO.

MR. NOFFSINGER: FIRST ON THE LIST WILL BE
BILL WILSON.

MR. WILSON: MR. CHAIRMAN, IS THAT THE CASE FOR THE APPLICANT?

CHAIRMAN: MR. WILSON, AS YOU KNOW IN THE PAST, HE'LL HAVE A CHANCE TO COME BACK IF YOU HAVE QUESTIONS OR WHATEVER, BUT IT COMPLETES --

MR. WILSON: I JUST HAVE A COUPLE OF QUESTIONS OF HIM. I DIDN'T KNOW IF HE HAD ANY MORE TO PUT ON.

ONE THING, HIS LIST OF ECONOMIC BENEFITS TO THE AREA, THE SEVERANCE TAX, THE INCREASE IN PROPERTY TAXES. I WOULD LIKE TO ADDRESS HIM AND HAVE HIM EXPLAIN HOW THIS IS GOING TO BE INCREASE IN PROPERTY TAXES.

CHAIRMAN: MR. WILSON, WHY DON'T YOU GO THROUGH YOUR QUESTIONS AND I'LL TRY TO EXPEDITE IT. WHY DON'T YOU GIVE ME A LIST OF YOUR QUESTIONS.

MR. WILSON: HE HAS ALSO SAID THERE WILL BE NO COAL TRUCKS ENTERING RUSSELL OR GIRL SCOUT ROAD. WHAT ABOUT THE EMPLOYEES AND SERVICE PEOPLE AND OTHER PEOPLE THAT VISIT THE MINE? I WOULD LIKE TO HAVE AN ANSWER TO THOSE TWO QUESTIONS RIGHT OFF, PLEASE. THAT'S ALL AT THIS POINT.

CHAIRMAN: THANK YOU, MR. WILSON.

MR. LANHAM, WILL IT BE THE SAME REPRESENTATIVE?
MR. LANHAM: YES, SIR.

MR. WRIGHT: THE PROPERTY TAX WILL BE INCREASED BY THE COMPANY'S PAYMENT OF PROPERTY TAX ON THE EQUIPMENT. SEVERAL MILLION DOLLARS WORTH OF EQUIPMENT IT TAKES TO THE RUN MINES. THAT PROPERTY TAX ALONE WILL INCREASE THE COUNTY'S REVENUE.

AS FAR AS EMPLOYEES ON RUSSELL ROAD, GIRL SCOUT ROAD. RUSSELL ROAD, YES. WE WILL HAVE AN ENTRANCE DOWN THERE WHERE THEY CROSS OVER IT. EMPLOYEES WILL HAVE A TENDENCY TO GO DOWN THERE AND COME INTO THE MINE BEGINNING OF THE PROJECT. BE LOCATED IN THAT AREA. AS WE MOVE FORWARD AND GET MOVE TOWARD 231, THEY WON'T BE USING IT AS MUCH, BUT THERE WILL BE NO COAL HAULING TRUCK ON THE ROAD. ONLY PERSONAL VEHICLES.

CHAIRMAN: THANK YOU.

MR. WILSON.

MR. WILSON: THAT'S FINE, MR. CHAIRMAN.

CHAIRMAN: MR. NOFFSINGER.

MR. SILVERT: MR. WILSON, DO YOU HAVE ANYTHING FURTHER?

MR. WILSON: NOT AT THIS POINT.

MR. NOFFSINGER: YOU DON'T HAVE ANY WITNESSES?

MR. WILSON: YES, WE'RE GOING TO HAVE A LOT OF WITNESSES. I THOUGHT THEIR WITNESSES WOULD BE PUT ON
BEFORE WE PUT ON OURS. WE HAVE A LIST OF WITNESSES.

MR. NOFFSINGER: I THOUGHT YOU WERE PUTTING ON YOUR CASE NOW. THE APPLICANT HAS PUT ON HIS CASE.

NOW IT'S YOUR TURN.

MR. WILSON: FINE. WE'LL BE GLAD TO DO THAT.

WE HAVE A LOT OF YOUNG LADIES HERE THAT PROBABLY DON'T NEED TO BE HERE LATE IN THE EVENING. THE REST OF US ARE GOING TO BE. WE HAVE SOME THAT HAVE COME DOWN FROM LOUISVILLE. I WOULD ASK, WHILE THEY'RE NOT ON MY LIST OF WITNESSES, THEY ARE HERE TO TESTIFY I'M SURE TO SAY SOMETHING. I WOULD LIKE FOR THEM TO GET TO SAY WHAT THEY NEED TO SAY IN CASE THEY NEED TO GO HOME AND GO TO BED.

CHAIRMAN: VERY THOUGHTFUL OF YOU, MR. WILSON.

MR. WILSON: THERE ARE SOME YOUNG LADIES OVER HERE FROM GIRLS SCOUTS UP IN LOUISVILLE THAT DROVE DOWN FOR THIS HEARING. I WOULD SPECIFICALLY, THEY HAVE SIGNED THE LIST BACK THERE. THERE ARE TWO OR THREE OF THEM OVER HERE THAT CAME WANTING TO SPEAK. I WOULD ASK THAT THEY BE ALLOWED TO SAY WHATEVER IT IS THEY HAVE TO SAY SO THEY CAN LEAVE IF THEY CARE TO DO SO.

CHAIRMAN: THANK YOU.

MR. SILVERT: COULD YOU STATE YOUR NAME, PLEASE?
MS. KELTY: SARAH KELTY.

(SARAH KELTY SWORN BY ATTORNEY.)

MS. KELTY: HI, I'M SARAH KELTY. I'M A KENTUCKY RESIDENT, A FORMER CAMPER AND COUNSELOR AND A LIFETIME MEMBER OF GIRL SCOUTS.

WE BRING WITH US TODAY A PETITION SIGNED BY OVER 700 CONCERNED GIRL SCOUTS AND THEIR FRIENDS AND FAMILY AND A LIST OF 125 COMMENTS FROM PEOPLE WHO COULDN'T BE HERE TODAY.

SHOULD WE GO AHEAD AND GIVE YOU THE COMMENTS NOW OR LATER?

MR. SILVERT: THAT'S FINE, IF YOU WANT TO DELIVER IT TO THE COURT REPORTER.

MS. KELTY: THANK YOU.

THIS PETITION WAS STARTED LESS THAN FIVE DAYS AGO AND HAS ALREADY GENERATED A RESPONSE FROM GIRL SCOUTS ACROSS KENTUCKY AND THE UNITED STATES, AS WELL AS AROUND THE WORLD AS FAR AS BRAZIL, LEBANON AND AUSTRALIA.

COMBINED WITH A SAVE OUR HOME PETITION AND THE ONLINE SIERRA CLUB PETITION, THERE ARE ALREADY 1500 SIGNATURES OF CITIZENS AGAINST THIS REZONING APPLICATION.

CAMP PENNYROYAL IS GIRL SCOUTS OF KENTUCKY AND IS MOST CENTRALLY LOCATED CAMP. IT OFFERS GIRLS FROM
ACROSS THE STATE A UNIQUE OPPORTUNITY TO CONNECT WITH
THE OUTDOORS AND LEARN ESSENTIAL CONSERVATION
CONCEPTS.

LOCATING A SURFACE MINE NEXT-DOOR ENDANGERS
THE AUTHENTIC NATURE OF THE CAMP EXPERIENCE DUE TO
INDUSTRIAL NOISE AND AESTHETIC DISTURBANCE, AS WELL AS
CONTAMINATION OF AIR, WATER AND SOIL.

NOW, RECENT STUDIES HAVE LINKED COAL DUST TO
EXASPERATING RESPIRATORY PROBLEMS LIKE ASTHMA AND
BLACK LUNG DISEASE. ADDITIONALLY A RECENT STUDY
CONNECTED THE PRESENCE OF ARSENIC, WHICH WESTERN
KENTUCKY MINERALS HAS ALREADY ACKNOWLEDGED WILL BE
PRESENT, TO HIGH CANCER RATES IN COAL MINING
COMMUNITIES.

ADDITIONALLY, THE PROPERTY IS ON A HIGHER
ELEVATION THAN THE PROPOSED MINE SITE. THE COAL SEAM
SITS ABOVE AN AQUIFER WHICH WOULD CERTAINLY AFFECT THE
GROUNDWATER SUPPLY IN OUR LAKE WHICH IS SPRING FED.

SOME OF THESE AFFECTS MAY NOT BE KNOWN OR
APPARENT UNTIL AFTER THE FIVE YEARS PERIOD. SO THIS
IS A CONCERN TO US AND THE OTHER PETITION SIGNERS.

ALSO, THE WESTERN KENTUCKY MINERALS HAS
PROMISED GIRL SCOUTS KENTUCKIANA NOT TO MINE DURING
SPECIAL EVENTS WHICH IS A FAIRLY BROAD TERM THAT CAN
RANGE FROM THREE MONTHS OF SUMMERS OF RESIDENT CAMP TO
A THREE DAY CAMPOREE.

CAMP PENNYROYAL HOST PROGRAMS THROUGHOUT THE YEAR. IN FACT, MY CURRENT PROJECT AS AN INTERN AT GIRL SCOUTS IS TO DEVELOP PROGRAMS TO GET MORE GIRL SCOUTS AND SCHOOL CHILDREN OUT TO OUR CAMPS THROUGHOUT THE YEAR, AND TO INCREASE THE USAGE OF OUR CAMP FACILITIES DURING THE OFF SEASON.

A SURFACE MINE LESS THAN A MILE AWAY COULD POSE YET ANOTHER CHALLENGE TO GETTING KIDS OUTDOORS.

THOUGH IN THE FEW YEARS IT HAS EXISTED WESTERN KENTUCKY MINERALS HAS REPORTEDLY GOOD REPUTATION OF FOLLOWING GOVERNMENT'S REGULATIONS. ACCORDING TO ITS WEBSITE IT STRIVES TO REPLACE THE PROPERTY IN THE SAME SHAPE WE FIND IT IF NOT BETTER. IT IS VERY DIFFICULT IF NOT IMPOSSIBLE TO RESTORE A LAND TO ITS ORIGINAL STATE AFTER SURFACE MINING.

THE RECLAMATION PROCESS TENDS TO COMPACT THE SOIL MAKING IT DIFFICULT FOR DEEP ROOT AND VEGETATION LIKE TREES TO GROW, WHICH IS CONFIRMED BY THE PHOTOS WE SAW.

TO THE UNTRAINED EYE NON-NATIVE AND BASIC GRASS SPECIES LOOK ESTHETICALLY PLEASING, BUT THE VEGETATION GENERALLY DECLINES.

EVEN UP TO A MILE AWAY THIS WOULD AFFECT CAMP PENNYROYAL'S WILDLIFE PROGRAMS, INCLUDING THE RECENTLY
IMPLEMENTED BIRD WATCHING PROGRAM.

AT THE END OF EVERY SESSION CAMPERS AND COUNSELORS GATHER IN A CLOSING CAMPFIRE AND SHOUT, GOOD NIGHT PENNYROYAL SPIRIT TO THE LAKE AND TO THE WOODS, AND WE LISTEN FOR AN ECHO AND RESPONSE.

WITH THE STRIP MINE IN PROGRESS THE ONLY SOUND THAT WILL ECHO BACK WILL BE THE SOUND OF DIGGING MACHINERY AND COAL TRUCKS.

THANK YOU.

MR. SILVERT: WOULD YOU STATE YOUR NAME, PLEASE?

MS. MAUSER: RACHEL MAUSER.

(RACHEL MAUSER SWORN BY ATTORNEY.)

MS. MAUSER: I'M A LIFETIME MEMBER OF GIRL SCOUTS AND A PAST CAMPER AND COUNSELOR OF CAMP PENNYROYAL. I URGE YOU TO DENY THE REZONING OF THE AREA AROUND CAMP PENNYROYAL FOR THE CONSTRUCTION OF SURFACE MINES.

SURFACE MINING IS A PROCESS OF COAL OBSTRUCTION THAT IS INCREDIBLY DETRIMENTAL TO THE ENVIRONMENT AND TO THE SURROUNDING COMMUNITIES. WE WANT OUR CAMP TO REMAIN THE PEACEFUL CLEAN AND BEAUTIFUL PLACE IT HAS ALWAYS BEEN. A PLACE THAT PROVIDES GIRL WITH THE UNIQUE EXPERIENCE THAT THEY MAY NOT GET ANYWHERE ELSE.
THE DEVELOPMENT OF SURFACE MINES THIS CLOSE TO OUR CAMP WILL NECESSARILY IMPACT THE EXPERIENCE OF EACH GIRL. SURFACE MINING CAUSES AIR, WATER AND NOISE POLLUTION, WILDLIFE, HABITAT DESTRUCTION AND STRUCTURAL DAMAGE, ALL OF WHICH WILL AFFECT GENERATIONS OF GIRL SCOUTS WHO DEPEND ON CAMP PENNYROYAL FOR A FUN, PEACEFUL, PRISTINE EXPERIENCE IN NATURE.

WESTERN KENTUCKY MINERALS HAS STATED THAT THE MINE CAN POTENTIALLY BE OPEN TO 22 HOURS EACH DAY. THIS MEANS THAT ALTHOUGH BLASTING MAY NOT OCCUR DURING THE EVENING HOURS, THE MINE SITE WILL LIKELY BE ACTIVE ALL BUT TWO HOURS EACH DAY.

WESTERN KENTUCKY MINERALS IS REQUIRED TO EQUIP EACH TRUCK WITH A BACK-UP ALARM. THEREFORE, IT IS LIKELY THESE ALARMS WILL BE HEARD THROUGHOUT THE NIGHT.

HAVING BEEN A COUNSELOR FOR MANY YEARS, THIS OBVIOUSLY CONCERNS ME. CAMP PENNYROYAL IS NOT ONLY MANY GIRLS FIRST CAMP EXPERIENCE, BUT IS OFTEN THEIR FIRST EXPERIENCE SPENDING THE NIGHT AWAY FROM HOME. WE CAN EXPECT OUR GIRLS TO SLEEP SOUNDLY TO THE SOUND OF CRICKETS CHIRPING AND FROGS CROAKING, BUT I DO NOT THINK WE CAN EXPECT OUR GIRLS TO SLEEP SOUNDLY WITH FREQUENT ALARMS INTERRUPTING THEIR NIGHT SLEEP.
PHASE ONE OF THE SURFACE MINING IS PROJECTED TO LAST SIX TO TEN YEARS; HOWEVER, WHEN WE WERE AT THE QUESTIONS SESSION WITH WESTERN KENTUCKY MINERALS LAST WEEK WE ASKED THEM WAS THERE GOING TO BE A PHASE TWO AND THEY SAID THAT THEY WERE PLANNING ON MINING THE AREA UNTIL ALL THE COAL WAS EXTRACTED, AND WE DON'T KNOW HOW LONG THIS WILL BE. THEY WERE UNABLE TO COMMENT ON THAT. SO MAYBE 20 YEARS. MAYBE 30 YEARS. I DON'T KNOW. BUT THIS MEANS THE FIRST SIX TO TEN YEARS AT THE VERY LEAST THE GIRLS OF CAMP PENNYROYAL WILL HAVE TO ENDURE NOISE POLLUTION, POSSIBLY BREATH IN COAL DUST, WORRY ABOUT POTENTIAL WATER CONTAMINATION AND WATCH THE HABITAT THAT SURROUNDS THEIR CAMP DESTROYED.

IN THE GIRL SCOUT LAW AND PROMISE, GIRLS VOW TO USE RESOURCES WISELY AND MAKE THE WORLD A BETTER PLACE. STAND UP AGAINST THE STRIP MINING PROPOSAL IS LEAVING OUT THE GIRL SCOUT COMMITMENT TO ENVIRONMENTAL STEWARDSHIP.

THERE ARE 10 MILLION GIRL SCOUTS AND GIRL GUIDES IN 145 COUNTRIES. IF THIS APPLICATION IS APPROVED, I CAN GUARANTEE YOU THAT OUR SISTERS AROUND THE WORLD WILL CONTINUE SENDING YOU LETTERS IN PROTEST.

THANK YOU FOR YOUR TIME.
CHAIRMAN: I WANT TO THANK OUR TWO GIRL SCOUTS FOR PARTICIPATING IN THIS SYSTEM. TO COME AND SPEAK IN FRONT OF THE CROWD AND PREPARE YOURSELF VERY ADMIRABLE AND I OBVIOUSLY SCOUTING HAS DONE A GOOD JOB WITH YOU ALL. THANK YOU VERY MUCH FOR PARTICIPATING AND THANKS TO YOUR PARENTS.

MR. SILVERT: COULD YOU STATE YOUR NAME, PLEASE?

MS. CROWE: BRANDI CROWE.

(BRANDI CROWE SWORN BY ATTORNEY.)

MS. CROWE: THANK YOU, SARAH AND RACHEL. GOOD EVENING. THANK YOU ALL FOR THE OPEN FORUM OPPORTUNITY. I AM BRANDI CROWE AND I AM HERE WITH SUSAN MONTALVO-GESSER. WE CO-LEAD KENTUCKIANA JUNIOR AND CADET TROOP 615. ALSO HAVE REPRESENTATIVES FROM TROOP 56 HERE AS WELL.

OUR GIRLS ARE FROM NEWTON PARRISH ELEMENTARY, OWENSBORO CATHOLIC, K THROUGH 3 AND 4 THROUGH 6 CAMPUSSES IN OWENSBORO MIDDLE SCHOOL. WE HAVE A PHOTO SLIDE SHOW TO SHOW WHILE WE SPEAK.

THESE PICTURES CAPTURE THE MOMENTS DURING WHICH OUR GIRL BUILD THEIR CONFIDENCE, DISCOVER THEIR COURAGE AND DEVELOP THEIR CHARACTER AT CAMP PENNYROYAL.

TROOP 615 HAS BEEN VERY ACTIVE SINCE OUR
ORIGIN IN 2005 WHEN OUR OLDEST GIRLS WERE IN KINDERGARTEN. WITH THE ENERGETIC AND ASPIRING LEADERSHIP WITH SUSAN AND THE CREATIVE TALENTS OF OUR WONDERFUL TROOP PARENTS, WE DO ALL THE THINGS THAT I DREAMED OF DOING AS A GIRL.

WE EXPLORE SCIENTIFIC PRINCIPLES, CREATE BEAUTIFUL ART, STUDY OTHER CULTURES, SERVE THE COMMUNITY AND, OF COURSE, WE SELL COOKIES TO FUND OUR ADVENTURES AT CAMP PENNYROYAL WHICH IS THE FOCUS OF OUR CONCERN BEING A MERE 1,000 FEET FROM THE PROPOSED MINING ZONE.

A FEW THINGS YOU SHOULD KNOW ABOUT CAMP PENNYROYAL, SOME OF THESE ARE REPEATS OF WHAT WE JUST HEARD.

IT'S A 55 YEAR OLD CAMP OVER 180 ACRES. FEATURES AN EIGHT ACRE LAKE FOR SWIMMING, FISHING, CANOE, KAYAK.

CHAIRMAN: EXCUSE ME. WILL YOU PAUSE JUST A MOMENT. WE HAVE SOMEBODY THAT HAD TO LEAVE. JUST A SLIGHT TIME OUT.

YOU MAY CONTINUE.

MS. CROWE: THE PARK HAS WALKING TRAILS, PLAT FOR ZONES, CABINS AND LODGES FOR ALL-WEATHER CAMPING. A BIRD LINE FOR WILDLIFE OBSERVATION. A HIGH ROAD COURSE AND SCORES OF OTHERS UNIQUE OPPORTUNITIES FOR
OUR GIRLS.

IF YOU'VE BEEN WATCHING OUR PHOTOGRAPHS,
YOU'LL NOTICE PICTURES OF OURS GIRLS IN SHORTS AND
SWIMSUITS, HALLOWEEN COSTUMES AND WINTER COATS. I
WANT TO STRESS THAT GIRL SCOUTS DO ENJOY THIS CAMP
YEAR AROUND.

ENVIRONMENT SURROUNDING OUR CAMP WERE SOMEHOW
COMPROMISED, LOCAL GIRLS WOULD HAVE TO TRAVEL WELL
OVER 100 MILES IN SEARCH OF SIMILAR CAMP EXPERIENCES.

AS GIRL SCOUTS, WE LEARN THE VALUE OF MAKING
AND KEEPING PROMISES. WE PROMISE TO LEAVE NO TRACE, A
PRINCIPLE THAT MEANS WHEN IN NATURE WE LEAVE ONLY
FOOTPRINTS AND TAKE ONLY MEMORIES AND PHOTOGRAPHS.

AS A TROOP WE DO HAVE MANY WONDERFUL MEMORIES
OF CAMP PENNYROYAL AND WE HOPE TO MAKE MANY MORE.

THESE GIRLS DESERVE MORE THAN JUST MEMORIES. THEY
DESERVE THE CHANCE TO PASS THE PENNYROYAL EXPERIENCE
ON TO THEIR OWN DAUGHTERS AND BEYOND. THIS IS WHY WE
MUST PRESERVE THE ESTHETIC BEAUTY, PHYSICAL INTEGRITY
AND ENVIRONMENTAL HEALTH OF CAMP PENNYROYAL AND THE
SURROUNDING LAND.

SOME OF THE YOUNG WOMEN OF TROOP 615 AND 56
WOULD LIKE TO SHARE THEIR CONCERNS SO I WILL PASS
MICROPHONE TO THEM. THANK YOU.

MR. SILVERT: COULD YOU STATE YOUR NAME,
PLEASE?

MISS WELLS: PANDORA WELLS.

(PANDORA WELLS SWORN BY ATTORNEY.)

MISS WELLS: I UNDERSTAND WHY A STRIP MINE SEEMS LIKE A GOOD IDEA. IT WOULD PUT A LOT OF MONEY IN A LOT OF WALLETS, BUT THINK ABOUT THE GIRL SCOUTS.

THIS STRIP MINING WILL BE RIGHT NEXT TO OUR ONLY LOCAL CAMP. THIS CAMP IS THE ONLY PLACE WHERE MULTIPLE TROOPS FROM OWENSBORO AND DAVIESS COUNTY AND GATHER. IF THIS MINE IS CREATED, IT WILL BE AT WORK 20 HOURS A DAY, 6 DAYS A WEEK.

I HAVE BEEN INFORMED THAT A STRIP MINE USES DYNAMITE TO BRING MINERALS TO THE SURFACE. THINK ABOUT THIS. DO WE REALLY WANT OUR KINDERGARTEN AGE DAISIES SLEEPING AND PLAYING A LITTLE BIT AWAY FROM EXPLODING DYNAMITE? WHEN I HEARD ABOUT THIS, I WAS OUTRAGED AND YOU SHOULD BE TOO.

STRIP MINING SENDS DUST AND PARTICLES INTO THE AIR AND THAT AFFECTS OUR CLEAN AIR, ESPECIALLY FOR GIRL SCOUTS WITH ASTHMA OR OTHER BREATHING PROBLEMS.

ANOTHER AREA TO LOOK AT WITH THIS SITUATION IS THAT TRUCKS WILL BE RUNNING PAST FIVE DIFFERENT SCHOOLS. THIS PROBLEM WOULD AFFECT MORE THAN THE GIRL SCOUT CAMP.

IN OUR CAMP WE HAVE A SMALL HUT FOR BIRD
WATCHING BUILD YEARS AGO BY A GIRL SCOUT OF HER GOLD AWARD PROJECT. WHAT KIND OF BIRDS AND OTHER ANIMALS ARE GOING TO STAY AROUND WHEN THEY'RE HEARING DYNAMITE EVERY DAY. THE KENTUCKY MINERAL PEOPLE ARE TRYING TO BARGAIN WITH THE PEOPLE AT CAMP PENNYROYAL WHEN THEY INTEND TO BLOW UP TREES AND GREEN PLANTS AND BASICALLY DESTROY THE ENVIRONMENT. CAN YOU BELIEVE THAT? THEY'RE TRYING TO MAKE MONEY FROM ENDANGERING OUR CAMP, RUINING OUR SUMMERS, AND HURTING ANIMAL HABITATS.

MR. SILVERT: COULD YOU STATE YOUR NAME, PLEASE?

MISS GESSER: JUSTINE GESSER.

(JUSTINE GESSER SWORN BY ATTORNEY.)

MS. GESSER: I AM A BROWNIE GIRL SCOUT IN TROOP 56. IT'S THE GIRL SCOUT WAY TO CARE ABOUT THE WORLD AROUND US AND I CARE ABOUT OUR CAMP. I HAVE BEEN TO CAMP EVERY YEAR SINCE I WAS A BABY. EVEN BEFORE I WAS A GIRL SCOUT I WENT TO CAMP PENNYROYAL WITH MY MOM, SISTER AND DAD. I HAVE GONE WITH MY TROOP AND STAYED THE NIGHT AT THE LODGE.

I HAVE STUDIED BIRDS AND THE BIRD FLYING AND TESTED THE WATER IN THE LAKE. THIS IS OUR ONLY CAMP. THE NEAREST CAMP AND LIKE IT IS CALLED BEAR CREEK AND IT'S ALL THE WAY DOWN BY PADUCAH. WE HAVE SCOUTS WHO
USE CAMP WHO HAVE ASTHMA. IF PEOPLE CAN BLAST THE
EARTH CLOSE TO CAMP IT WILL LEAVE STUFF IN THE AIR
THAT WILL AFFECT THOSE SCOUTS. WE ARE TAUGHT TO LEAVE
NO TRACE AT CAMP, BUT IF PEOPLE BLAST FOR COAL NEAR
CAMP, MORE THAN A TRACE WILL AFFECT THE BIRDS,
ANIMALS, TRAILS. WE HAVE A BIG LAKE OUT THERE WHERE
WE SWIM AND FISH.

BLASTING IS GOING TO HAVE A BAD AFFECT ON MY
CAMP. FOR GIRLS LIKE ME WHO LIVE IN TOWN IT'S WHERE
WE EXPERIENCE NATURE, LEARN TO MAKE SMORES, CARVE
PUMPKINS AND LISTEN FOR NATURE.

PLEASE KEEP MY CAMP UNPOLLUTED BY DUST AND
NOISE. I AM HAVE VERY SENSITIVE EARS. WHEN MY FAMILY
WENT TO DISNEY WORLD, I HAD TO COVER MY EARS AND GO
INSIDE WHEN THE FIREWORKS WENT OFF. I HAVE HAD
SURGERY ON MY EARS TOO. IF BLASTING OCCURS NEAR THE
CAMP, I KNOW THAT A BIG WARNING SOUND IS REQUIRED FOR
SAFETY AND BIG TRUCKS HAVE TO BE LOUD WHEN THEY BACK
UP. THIS NOISE WOULD NOT JUST HURT THE BIRDS, IT
WOULD MAKE THE OUTDOORS AT CAMP HURT MY EARS.

PLEASE LET ME ENJOY CAMP WHILE I AM A
SCOUT.

MR. SILVERT: COULD YOU STATE YOUR NAME,
PLEASE?

MISS GESSER: JACQUELINE GESSER.
(JACQUELINE GESSER SWORN BY ATTORNEY.)

MS. GIFFORD: MY NAME IS JACQUELINE GESSER.

I'M A CADET IN TROOP 615. THIS IS MY SEVENTH YEAR AT GIRL SCOUTS.

I GO TO CAMP ABOUT TWO TIMES EVERY YEAR AND IT'S PERFECT. IT'S THE BEST EXPERIENCE EVER. FOR THE SOUNDS TO GO OFF WHILE WE SLEEP, EVEN THOUGH I'M REALL TALKATIVE AT NIGHT, BUT EVEN THE FEW HOURS I DO GET TO SLEEP IT WOULD NOT EVEN BE SLEEP.

WE HAVE A REPUTATION AT CAMP PENNYROYAL FOR OUR BEAUTY. IT'S ABSOLUTELY BEAUTIFUL. PEOPLE FROM LOUISVILLE AND PADUCAH AND BOWLING GREEN, ANYWHERE YOU CAN NAME, PEOPLE COME TO JUST HAVE LIKE A WEEKEND OR WEEK AT AN OUR CAMP.

OUR WILD ANIMALS, BIRD-LIFE, HORSES AND OUR LAKE WILL BE AFFECTED BY THE BLASTING OF THE COAL AND THE AIR FROM THE COAL.

A LOT OUR GIRLS HAVE ASTHMA AND THE COAL WILL GIVE OFF BAD AIR. THE GROUND WILL RATTLE WITH THE DYNAMITE AND LIKE SOME OF OUR TENTS OR ANYTHING COULD PROBABLY BE DESTROYED FROM THE RATTLING OF THE GROUND.

I'VE BEEN TO SUMMER CAMP ONLY ONCE, BUT IT'S A GREAT EXPERIENCE. A LOT OF PEOPLE JUST COME FOR ONE WEEK. WE HAD PEOPLE, I HAD ONE TROOP FROM LOUISVILLE THAT CAME THERE WE MET AND HAD THE GREATEST TIME. FOR OHIO VALLEY REPORTING (270) 683-7383
PEOPLE TO COME FROM EVERYWHERE JUST TO HEAR THE
EXPLOSIONS AND BREATHE BAD AIR, THAT WOULD NOT GIVE US
A GOOD REPUTATION AND BE ANY MORE FUN.

I UNDERSTAND THAT IT WILL A LOT OF YEARS OF
CONTINUOUS LIKE DYNAMITE EXPLOSIONS. BY THE TIME THAT
THEY'RE PROBABLY DONE I WILL BE AND ADULT I'LL NEVER
BE ABLE TO EXPERIENCE CAMP THE WAY THAT I USED TO WHEN
I WAS YOUNGER. CAMP PENNYROYAL SERVES HUNDREDS OF
GIRLS. I KNOW FROM EXPERIENCE EVERY TIME THAT I SEE A
GIRL LEAVE CAMP THEY ALWAYS HAVE A SMILE ON THEIR FACE
EVEN THOUGH SOME GIRLS COME AND THEY'RE JUST LIKE, I
DON'T KNOW HOW IT'S GOING TO BE. I'M SO NERVOUS.
THIS IS MY FIRST TIME AWAY, BUT THEY ALWAYS END UP
WITH A SMILE BECAUSE CAMP PENNYROYAL IS AWESOME.

OUR LAKE, AS THEY SAID, 80 ACRES IT'S A GREAT
LAKE. IT'S SO MUCH FUN. WE HAVE FRESH WATER
JELLYFISH IN THERE AND THEY'RE LIKE SO CUTE AND SO
SMALL. THE AIR WOULD KIND OF MESS UP LIKE THE WATER
AND WE WOULDN'T BE ABLE TO TEST OUR WATER LIKE WE DO
EVERY YEAR. IT'S A COOL EXPERIENCE TO TEST WATER.

I REALLY, REALLY HOPE THAT YOU ALL DECIDE NOT
TO LET THEM DIG FOR COAL NEAR OUR CAMP BECAUSE I'M NOT
JUST AFRAID FOR CAMP PENNYROYAL, BUT FOR THE HOUSES
AROUND IT BECAUSE THE HOUSE FOUNDATIONS WILL JUST
ALMOST BE DESTROYED BY THE SHAKING. I KNOW THAT SOME
OF THE ADULTS, THE GIRL SCOUT ADULTS, SOME HAVE HAD
COAL DUG AROUND THEM TOO AND THEY EVEN TOLD US THAT
IT'S NOT THAT THEIR HOUSE FOUNDATIONS HAVE LIKE
CRACKED IN CERTAIN PLACES AND THEY HAVE TO GET IT
REFIXED. I DON'T THINK THAT WOULD BE VERY FAIR FOR
THEM TO DO THAT. LIKE THE HOUSES WILL GO DOWN IN
THEIR WORTH OF MONEY AND THEY WON'T HAVE AS MUCH MONEY
AS THEY WANTED TO HAVE.

THANK YOU SO MUCH FOR LETTING EVERYONE TALK
AND PLEASE, PLEASE, PLEASE KEEP MY CAMP CLEAN.

MR. SILVERT: WOULD YOU STATE YOUR NAME,

PLEASE?

MISS HOBBS: GRACIE HOBBS.

(GRACIE HOBBS SWORN BY ATTORNEY.)

MISS HOBBS: SO I WON'T BE REPEATING MY FOCUS
WILL BE ON THE AFFECTS BY BLASTING ON THE WILDLIFE.

BLASTING CAUSES CONFUSION, ANXIETY AND FEAR
INTO THE LIVES OF ANIMALS CAUSING MANY TO RUN AWAY
FROM THEIR HOMES IN AN EFFORT TO ESCAPE THE
FRIGHTENING DETONATION. BLASTING IS NOT ANIMAL
FRIENDLY. LOCAL SHELTERS AND OTHER ANIMAL
ORGANIZATIONS ARE OVERWHELMED BY THE FALLOUT WHICH
MANIFEST IN THE INCREASE NUMBER OF STRAY ANIMALS AND
REPORTS OF INJURIES AND TRAUMA TO ANIMALS. THOSE
ANIMALS WHO ARE REUNITED WITH THEIR FAMILIES MUST
CONSIDER THEMSELVES FORTUNATE. MANY INJURED OR TERRORIZED ANIMALS RUN AWAY FROM THEIR HOME TO ESCAPE THE TRAUMATIZING DETONATION. SOME ARE HIT BY CARS AND INJURED OR KILLED. SOME ARE MAIMED FOR LIFE WHILE OTHERS ARE NEVER RECOVERED ALIVE. EXPLOSION CAN PRODUCE A BLIND PANIC IN ANIMALS THAT CAN LEAD TO SERIOUS INJURY, DEEP ROOTED DEBILITATING FEARS OR EVEN DEATH. THIS IS IN PART BECAUSE THE EVENTS DO NOT LAST LONG ENOUGH FOR ANIMALS TO BECOME ACCUSTOM TO THE EXPLOSIONS. MORE OVER THE EARS OF MOST ANIMALS ARE CONSIDERABLY MORE SENSITIVE THAN THE HUMAN EAR WHERE DAMAGE TO THE EAR BEGINS. NOT ONLY IS PROPORTIONATELY MORE DISTURB TO AN ANIMAL, IT CAN ALSO AFFECT ANIMAL'S ACUTE SENSE OF HEARING. EXPLOSIONS BLASTING GENERATE A NOISE LEVEL HIGHER THAN THE NOISE FROM GUNSHOT, 140 DECIBELS, AND LOW FLYING JETS WHICH IS 100 DECIBELS. IRREVERSIBLE DAMAGE SUCH AS TINNITUS AND LOSS OF HEARING IN HUMANS START AT THE 80 DECIBEL RANGE. STARTLING EXTREMELY LOUD SOUNDS MUST HAVE A DETRIMENTAL AFFECT ON WILDLIFE AS WELL. IN 1996 RESEARCH DEMONSTRATED THAT HATCHLING AND JUVENILE BLACK DOVES AT A SITE OF OVERFLIGHT IN PINEY ISLAND, NORTH CAROLINA GREW SLOWER AND HAVE LESS BODY WEIGHT THAN BLACK DOVES LIVING IN LOW NOISE AREAS.
A study to examine the impact of sound from loud gunshots on snow geese found that the birds reduce their feeding time. The energy loss created could be only partially compensated for by feeding at night, resulting in less time resting and sleeping. Over time these sorts of behaviors no doubt reduce survival rates.

Dr. David Nowiks, a zoologist at the University of Gulf Ontario points out that the combined responses to blasting of panic and disorientation can result in birds flying into a building or too far out to sea. After a loud bang most birds fly away in flight and the nesting mothers of the flock sometimes cannot find their own nest upon return and endangering the well-being of nestlings.

Blasting produces noise and air pollution. The explosions also releases poisonous chemicals contaminating our natural environment. As a consequence, blasting pose a hazard to wildlife living in or near the areas as well as wildlife down wind. These chemicals are also hazardous to companion animals living in the area where they are detonated.

We cannot forget humans with asthma and other health problems.

Blasting can affect farm animals too. Dr.
LANE DUNCAN, A UNIVERSITY OF GULF ETHOLOGIST, HAS
DEMONSTRATED THAT LAYING HENS SHOW EXTREMELY LOW EGG
PRODUCTION AND THE EGGS ARE OFTEN MALFORMED AS WELL.
DOGS, CATS AND OTHER COMPANION ANIMALS DON'T
UNDERSTAND THE TERRIFYING LOUD BANGS. ONE CAN ONLY
IMAGINE WHAT THEY THINK. GIVEN HOW MUCH MORE
SENSITIVE THEIR HEARING IS THAN OURS.

BLASTING NOISE CAN FRIGHTEN AND INTIMIDATE
PEOPLE, PARTICULARLY THE YOUNG AND ELDERLY. ANIMALS
HAVE BEEN SCARED TO DEATH LITERALLY BY LOUD NOISE.

THE NEED TO PROTECT BOTH COMPANION ANIMALS AND
NON-DOMESTICATED ANIMALS FROM BLASTING HARM IS
EXEMPLIFIED IN THE NUMEROUS STORIES OF ANIMALS
SUFFERING THAT WE ARE LEFT WITH AFTER THE SMOKE HAS
CLEARED.

FOR EXAMPLE, DOGS HAVE RESPONDED TO EXPLOSION
BY BREAKING THROUGH WINDOWS AND TREES. OFTEN FUNNING
MILES AWAY FROM THEIR HOMES ONLY TO END UP EXHAUSTED,
BLOODY AND CONFUSED OR DEAD ON THE ROAD.

A BULL TRYING TO ESCAPE HIS PEN IN RESPONSE TO
A BLASTING DIED AFTER BECOMING IMPALED. GUIDE DOGS
ARE SOMETIMES LEFT SO TERRORIZED BY THE EXPLOSION THAT
THEY SUFFER SEvere EMOTIONAL DISTRESS AND ARE UNABLE
TO ASSIST THEIR COMPANION. CONSEQUENTLY, IT IS NOT
SURPRISING THAT BLASTING EVENTS GENERATE AN INCREASE
IN THE NUMBER OF STRAY ANIMALS AS WELL AS AN INCREASE
IN REPORTS OF INJURIES AND TRAUMA TO ANIMALS.

MR. SILVERT: WOULD YOU STATE YOUR NAME,
PLEASE?

MS. HOBBS: SHARON HOBBS.

(SHARON HOBBS SWORN BY ATTORNEY.)

MS. HOBBS: I'M A GIRL SCOUT MOM. THAT WAS MY
DAUGHTER.

I'M JUST TRYING TO COVER DIFFERENT AREAS THAN
WHAT THE OTHER PEOPLE HAVE COVERED. ONE OF THEM IS,
THE TOPIC IS HOW LOUD IS TOO LOUD.

I DON'T RECALL WHAT THE DECIBEL WAS.

CHAIRMAN: 140 AND 80 WERE THE 2 DECIBEL
POINTS THAT SHE USED IN HER REPORT. 80 IS THE
BASELINE. 140 CAUSES THE DAMAGE.

MS. HOBBS: YES, BUT WHAT BLASTING, WHAT IS
THE BLASTING?

CHAIRMAN: WE'LL HAVE TO GET THAT FROM OUR
BLASTING EXPERT PEOPLE.

MS. HOBBS: RUSH HOUR TRAFFIC REACHES 70
DECIBELS. POWER SAWS 110 DECIBELS. FIREWORKS 150
DECIBELS. LIKE YOU SAID, 80 TO 90 DECIBELS IT STARTS
HURTING YOUR EARS, CAUSING DAMAGE TO YOUR EARS.

TINNITUS IS A NONREVERSIBLE HEARING LOSS.

EXPOSURE TO LOUD NOISE CAN CAUSE ACOUSTIC TRAUMA WHICH
MIGHT LEAD TO TINNITUS. THERE ARE TINY HAIR CELLS
FOUND IN THE INNER-EAR ARE RESPONSIBLE FOR CONVERTING
THE SOUND TO ENERGY INTO IMPULSES WHICH THEN TRAVELS
to the brain and get processed there. When there is
an acoustic trauma, these hairs gets destroyed.

Researching is being done. There's no way to fix this
problem yet. It leads to deafness at some sound
frequencies. The damaged hair cells relay random
signal to the brain, which the brain interprets the
sound.

In case of noise induced tinnitus, the first
priority of the person suffering from it should be to
prevent any further damage to the hearing system. For
this it is essential that loud noise should be
avoided. In case of loud noise induced tinnitus, it
is also suggested that you should avoid listening to
any loud noise until a few days after the acoustic
trauma.

What I was able to get off the internet were
advice, if this project was to go through, is for
anyone that's in the area that will be affected by the
blasting on a daily basis or for a relatively long
week or two period of time would be to get their ears
tested before the blasting begins for all your family
members or anyone that's involved. That's to any loss

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OF HEARING LATER. YOU CAN PURCHASE DECIBEL METERS
ONLINE FOR INDIVIDUALS TO PUT AT THEIR OWN HOMES SO
THAT YOU CAN MEASURE IT YOURSELF TO SEE EXACTLY WHAT
YOUR MEASUREMENTS ARE AND IF YOU'RE AT RISK OF LOSING
YOUR HEARING.

STRESS FROM THE ANTICIPATION OF THE BANG, EVEN
THOUGH I KNOW -- AN EXAMPLE WOULD BE EVEN THOUGH KNOW
THAT ON THE FOURTH OF JULY WHEN I GOT TO THE
RIVERFRONT I KNOW THAT THERE'S GOING TO BE LOUD
NOISES. I KNOW THAT THERE'S GOING TO BE FIREWORKS.
HOWEVER, I STILL JUMP AND I'M STILL STARTLED. SO YOU
KNOW THE BANG IS COMING TWICE A DAY AT WHATEVER TIME
OF DAY ITS SUPPOSED TO COME, BUT IT STILL DOESN'T GET
RID OF THE STRESS INVOLVED WHEN IT HAPPENS. THERE'S
NO WAY TO PREPARE YOUR BODY FOR IT. THAT'S ALL I
HAVE.

CHAIRMAN: MA'AM, ARE YOU ALL ABOUT TO REACH
YOUR CONCLUSION? YOU ALL BROUGHT SOME VERY GOOD
QUESTIONS. WE WANT TO GET THE OTHER SIDE OF THE
ANSWER. WE'VE GOT SOME OTHER PEOPLE THAT ARE GOING TO
MAKE VERY SHORT PRESENTATIONS.

MS. HOBBS: I JUST HAVE ONE MORE THING TO SAY
HERE.

A NOISE CODE IS ONLY AS GOOD AS THE
WILLINGNESS AND ABILITY TO ENFORCE IT. CIVIL
AUTHORITY CAN IMPOSE ALL KINDS OF ACOUSTICAL
RESTRICTIONS AND A DEVELOPER CAN AGREE TO EVERY ONE OF
THEM UNTIL THE SOUND SOURCE IS IN OPERATION.
WHAT CITIZENS GROUPS NEED TO ASK IS THIS:
WILL THOSE REGULATIONS BE ENFORCEABLE ONCE THE
FACILITY IS IN PLACE? FOR EXAMPLE, WHO WILL BE
WILLING OR ABLE TO SHUTDOWN A MINE? IF ITS DECIBEL
LEVELS EXCEED THE DNL PROMISED BY THE DEVELOPER OR
REQUIRED BY THE LICENSING AUTHORITY? THE OBVIOUS
ANSWER IS NO ONE. ONCE THE SOURCE IS IN OPERATION, IS
IT EVEN POSSIBLE TO DETERMINE WHETHER THE SOUND LEVELS
MEET THE RESTRICTIONS. IS THE PROPER EQUIPMENT
AVAILABLE? THERE'S ALSO A SEISMOLOGY EQUIPMENT THAT
IS NEEDED TO EVEN BE ABLE TO REGISTER HOW MUCH THE
GROUND IS SHAKING AS TO HOW MUCH DAMAGE IS GOING TO BE
DONE TO YOUR HOUSE. ALSO, IT IS RELATIVELY
INEXPENSIVE AND IT IS AVAILABLE ONLINE. THAT'S ALL
FOR ME.
CHAIRMAN: THANK YOU ALL VERY MUCH.
LET ME ASK IF YOU CAN BRING -- HAVE YOU ALL
CONCLUDED?
MS. GESSER: JUST A CONCLUDING REMARK.
MR. SILVERT: COULD YOU STATE YOUR NAME,
PLEASE?
MS. GESSER: SUSAN MONTALVO-GESSERT.
MR. SILVERT: YOU'RE SWORN AS AN ATTORNEY.

MS. GESSER: YOU HEARD FROM THE GIRLS IN MY TROOPS, BOTH MY TWO TROOPS, TROOP 56 AND 615, WHO HAS DONE THE RESEARCH, AS YOU CAN TELL, ON MINING AND ITS IMPACT ON THE ENVIRONMENT AND PARTICULARLY CAMP PENNYROYAL.

MY FIRST TRIP TO CAMP PENNYROYAL WAS IN 1984 AS A BROWNIE LIKE THESE KIDS. WE TEACH THEM TO LEAVE NO TRACE. WHEN WE GO THERE, WE TELL THEM THEY'RE NOT ALLOWED TO PICK UP A PINE CONE FROM THE HIKING TRAILS OR THE PINE NEEDLES. THAT THEY HAVE TO LEAVE THEM THERE.

WE WOULD BE REMISE IF WE TAUGHT THEM THESE THINGS AND THEN DIDN'T STAND UP WITH THEM TO STAND UP FOR THEIR CAMP SO THAT THEY CAN DO THE SAME THING WITH THEIR DAUGHTERS LATER ON. THOSE ARE OUR CONCLUDING REMARKS. THANK YOU.

CHAIRMAN: THANK YOU. YOU ALL DID A GREAT JOB AS A GROUP.

WE'RE GOING TO ASK, I MADE SOME NOTES OF YOUR QUESTIONS AND POINTS THEY BROUGHT UP. WE'LL TRY TO GET THE ANSWERS TO THOSE QUESTIONS IF THEY WANT TO STAY AND HEAR THE RESPOND.

AS CHAIRMAN AT THIS POINT IN TIME I'M GOING TO ASK MR. FRAZIER FROM THE KENTUCKY DEPARTMENT OF MINE &

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MINERALS.

MR. FRAZIER, WOULD YOU STEP FORWARD TO THE MIKE AND ANSWER SOME QUESTIONS FOR ME, PLEASE.

MR. FRAZIER: SURE.

MR. SILVERT: WOULD YOU STATE YOUR NAME, PLEASE?

MR. FRAZIER: ROBERT FRAZIER.

(ROBERT FRAZIER SWORN BY ATTORNEY.)

CHAIRMAN: OUR GIRL SCOUT TROOP THAT ALSO CAMPS AT THE GIRL SCOUT CAMP BROUGHT UP SOME VERY INTERESTING QUESTIONS AND MADE SOME VERY GOOD OBSERVATIONS.

I'LL SORT OF SUMMARIZE THESE AND I'LL BE VERY BRIEF IN MY QUESTIONS. YOU CAN SORT OF HIT THE HIGH POINTS OF THESE QUESTIONS, IF YOU WOULD.

MR. FRAZIER: OKAY.

CHAIRMAN: THEY HAD A VERY GOOD QUESTION ABOUT THE LOCATION OF THE GIRL SCOUT CAMP IN RELATIONSHIP TO THEIR LAKE IN RELATION TO THE BLASTING, THE MINING, THE OVERFLOW OF THE STORM WATER RUNOFF AND SILT, AND EVERYTHING THAT WILL MOVE FROM THE BLASTING SITE, THE MINING SITE TO THEIR AREA. WOULD YOU ADDRESS THAT, PLEASE?

MR. FRAZIER: FROM A BLASTING STANDPOINT?

CHAIRMAN: FROM THE BLASTING, MINING AND
OPERATION STANDPOINT.

MR. FRAZIER: FROM A BLASTING STANDPOINT, OF COURSE, WHEN WE REVIEW THE PERMIT, WE REVIEW IT FROM THE STANDPOINT OF MEETING EVERYONE THAT IS WITHIN, WE IDENTIFY EVERYONE WITHIN A HALF MILE RADIUS. WE LOOK AT THE FACSIMILES FROM THE PREBLAST SURVEYS THE COMPANIES HAVE TO SEND OUT. WE LOOK AT HOW THEY'RE GOING TO MONITOR. WHETHER THEY'RE GOING TO USE SCALE DISTANCE EQUATIONS OR SET UP SEISMOGRAPHS TO CONTROL THE GROUND VIBRATIONS.

OF COURSE, AS FAR AS AIR POLLUTION AND STUFF GOES, WE'VE GOT A PART OF THE APPLICATION THAT ADDRESSES THE FUGITIVE DUST CONTROL, WHICH THAT'S ACTUALLY HANDLED MORE THROUGH AIR QUALITY. WE DO REQUIRE AIR AND DUST CONTROL IN THE APPLICATION WITH, YOU KNOW, WATERING OF ROADS AND THINGS LIKE THAT TO SORT OF CONTROL THE DUST WHEN THEY LEAVE THE PERMIT AREA.

CHAIRMAN: THEY HAD A CONCERN ABOUT THE POSSIBLE ALLERGY SITUATION WITH GIRLS THAT WOULD BE AT THE CAMP, I.E. ALLERGY, HAYFEVER, EXCESSIVE ALLERGIES TO OTHER FOREIGN PRODUCTS IN THE AIR.

MR. FRAZIER: AS FAR AS US AS A PERMITTING FOR MINING PERMITS, LIKE I SAID, OUR REGULATORY REQUIREMENTS JUST REQUIRE US TO LOOK AT THE FUGITIVE

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DUST CONTROL. AS FAR AS ACTUAL CHEMICAL AGENTS FROM
BLASTING, THAT IS HANDLED MORE THROUGH AIR QUALITY.

CHAIRMAN: IN OTHER WORDS, THE QUALITY OF THE
-- JUST DRAW A BOUNDARY AROUND THE GIRL SCOUT CAMP, IF
WE COULD. WOULD THEIR AIR QUALITY BE A DETRIMENT TO
THIS MINING OPERATION IN ANY SHAPE, FORM OR FASHION OR
WOULD THE REGULATIONS AND CONTROLS THAT YOU ALL HAVE
MAKE WHERE THE CAMP WOULD BE IN NO WORSE A SITUATION
 THAN IT IS TODAY?

MR. FRAZIER: YES. I MEAN THAT'S SOMETHING
THAT WE WOULD FACTOR. WE HAVE TO LOOK AT SITE
CONDITIONS AS WE'RE REVIEWING THE PERMIT TO MAKE THAT
DETERMINATION. WE WOULD REQUIRE, YOU KNOW, ASKING
THINGS FROM THE APPLICANT TO MAKE THE DETERMINATION
THAT THERE WOULD BE NO AFFECT OUTSIDE OF THE PERMIT
AREA TO THIS AREA IN QUESTION.

CHAIRMAN: WHAT ABOUT WATER QUALITY AND THE
WELL QUALITY AND THE UNDERGROUND WATER? YOU KNOW, IN
THE PICTURES AND PRESENTATION THEY DID YOU SAW, I
DON'T KNOW WHETHER THAT WAS WELL WATER OR CITY WATER
THAT WAS COMING UP.

IF SOMEONE WOULD STEP FORWARD.

THE QUESTION THAT I STATED WAS IN REGARDS TO
THE WELL, THE WATER THAT WAS COMING THROUGH THE GROUND
TO THAT SPICKET THAT WE SAW ON THE PRESENTATION. WAS

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THAT WELL WATER OR WAS THAT CITY WATER?

MS. GESSER: IT'S WELL WATER. PENNYROYAL SUPPLIES IT'S OWN WATER.

CHAIRMAN: THANK YOU.

THE CONCERN ABOUT THE WATER, THAT WOULD BE THE UNDERGROUND WATER. HOW WOULD THAT BE AFFECTED AND WHO WOULD HAVE -- LET ME GIVE YOU ABOUT A THREE PHRASE QUESTION AND TURN YOU LOSE.

HOW WOULD THAT BE AFFECTED? WHO WOULD HAVE CONTROL OVER THAT, AND WHAT AUTHORITY WOULD THEY HAVE IF THERE WAS PROBLEM?

MR. FRAZIER: WELL, WHAT WE REQUIRE THE APPLICANT TO DO IS TO LOOK WITHIN THE PERMIT AREA AND THE AREA OF INFLUENCE. THAT CAN VARY BASED ON SIZE, TOPOGRAPHY, WHAT WE SEE IN THE GQ'S. WE REQUIRE THEM TO IDENTIFY ALL GROUNDWATER AS WELL AS SURFACE WATER USERS WITHIN THE AREA OF INFLUENCE OF THE PERMIT AREA, THE PROPOSED PERMIT AREA. THEY ACTUALLY CAN GO OUT, IF THERE'S A GROUNDWATER WELL THERE, THEY HAVE TO IDENTIFY THE DEPTH OF THE WELL, YOU KNOW, EXISTING WATER QUALITY AND THINGS LIKE THAT.

AS THEY ALLUDED TO EARLIER, WE THEN REQUIRE THEM TO ESTABLISH GROUNDWATER MONITORING POINTS AROUND THE PERMIT AREA, AS WELL AS SURFACE WATER MONITORING POINTS. THEY HAVE TO GIVE US BASELINE DATA, SIX
MONTHS BASELINE DATA, SEASONAL VARIATION, PRIOR TO ANY
MINING GOING ON IN THAT AREA. THEN ONCE, IF WE
DETERMINE AND WE ISSUE THE PERMIT, THEN THEY WOULD DO
QUARTERLY MONITORING OF THAT WELL TO DETECT IF THERE'S
BEEN ANY INFLUENCE FROM THE MINING OPERATION.

CHAIRMAN: AM I TO TAKE THE ASSUMPTION THAT
THERE IS SOMEWHAT OF A PROTECTIVE NET AROUND ALL OF
THE AREAS SURROUNDING THE COAL MINE WITH THESE
MONITORING WELLS?

MR. FRAZIER: YES. THAT IS THERE FOR
DETECTION. WE USE GEOLOGY INFORMATION THEY GIVE US AS
WELL AS STATE GQ'S TO LOOK AT GEOLOGY, THE LAY OF THE
 GEOLOGY, WHICH WAY GROUNDWATER MAY MOVE AND TRY TO
MAKE A DETERMINATION IF THERE COULD BE AN IMPACT OR
NOT.

CHAIRMAN: I'M JUST GOING TO DRAW ONE ELEMENT
OUT.

IF THE CONTENT, I'LL JUST USE A COPPER CONTENT
IN THE WATER, IS THREE PARTS PER BILLION BEFORE MINING
AND THEN DURING MINING OBVIOUSLY IT'S NOT GOING TO GO
TO ONE, BUT IF IT STAYS IN THE RANGE OF THREE TO FOUR
TO FIVE, YOU KNOW, A NORMAL FLUCTUATION OF COPPER
CONTENT IN THE REPORT, THEN THAT WOULD SHOW THAT
THERE'S NO DISPLACEMENT OF THE CURRENT QUALITY OF
WATER AND OTHER ELEMENTS IN THAT AREA. AM I MAKING A
CORRECT ASSUMPTION?

MR. FRAZIER: THAT COULD BE A CORRECT ASSUMPTION, YES. WE HAVE THE ENFORCEMENTS. ONCE WE'VE PERMITTED IT, THAT'S WHEN ENFORCEMENT COMES IN AND THEY TAKE A LOOK. THEY ACTUALLY LOOK AT THE DATA. THE DATA IS SUBMITTED TO THEM DURING THE MINING. THEY'RE THERE LOOKING AT THAT DATA TO SEE, TO DETECT ANY CHANGES OR TO HANDLE COMPLAINTS THAT MAY COME IN, AND THEN INVESTIGATE FROM THERE.

CHAIRMAN: THERE WAS A QUESTION THEY ALSO RAISED ABOUT PROPERTY BEING RESTORED TO THE ORIGINAL. I THINK MR. LANHAM AND HIS GROUP DID A NICE PRESENTATION OF AN AFTER RESTORATION, BUT WOULD THAT TYPE OF RESTORATION I ASSUME WOULD BE REQUIRED WITH TODAY'S REGULATION ARE EVEN MORE SO THAN WHAT HE SHOWED?

MR. FRAZIER: YES. EVERY APPLICATION WE REVIEW WE REQUIRE THEM TO RECLAIM TO AOC, WHICH IS APPROXIMATE ORIGINAL CONTOUR. THEY HAVE TO RE-ESTABLISH ALL NATURAL DRAINAGE PATTERNS AND EVERYTHING TO PREMINING CONDITIONS.

CHAIRMAN: WHAT RISK WOULD YOU ASSESS THAT WOULD BE TO WILDLIFE, BIRDS, ANIMALS, IN THE GIRL SCOUT AREA, IN THE SURROUNDING AREA? LET ME JUST MAKE IT SIMPLE FOR YOU. THE SURROUNDING AREA.
MR. FRAZIER:  WELL, IN THE SURROUNDING AREA,
YOU KNOW, NOT TO MUCH. IN THE PERMIT AREA, OBVIOUSLY
THERE'S GOING TO BE A DISTURBANCE WHILE THEY ARE
MINING. THERE'S NO WAY AROUND THAT. OUTSIDE OF THAT,
YOU KNOW, I'VE BEEN ON A LOT OF MINES IN WESTERN AND
EASTERN KENTUCKY AND THERE'S FLOURISHING WILDLIFE ALL
AROUND THESE MINES OUTSIDE OF THEM. I'VE EVEN SEEN
THEM IN THE MIDDLE OF THE MINES.

CHAIRMAN:  WHAT ABOUT THE AIR QUALITY, HOW
WOULD YOU RATE THE AIR QUALITY IN THE SURROUNDING
AREAS OUTSIDE OF THE MINING AND OPERATION?

MR. FRAZIER:  LIKE I SAID, WE REQUIRE THEM TO
HAVE A FUGITIVE DUST CONTROL PLAN. THEY HAVE TO WATER
ROADS. THEY HAVE TO MAINTAIN COAL STOCK PILES TO
PREVENT DUST FROM LEAVING THE PERMIT AREA.

OUR REGULATIONS ON THAT ARE REAL BRIEF. THAT
IS HANDLED A LOT MORE THROUGH AIR QUALITY. FROM MY
PERSONAL EXPERIENCE FROM JUST BEING OUT ON THESE MINE
SITES, YOU KNOW, IT IS CONTAINED TO THE MINING AREA.

CHAIRMAN:  THEY BROUGHT UP ABOUT THE DB'S, YOU
KNOW, THE 80 DECIBEL IS HEARING CONSERVATION, ABOVE 80
DECIBEL YOU GET INTO MANDATORY HEARING RESTRAIN, AND
THEN YOU GET UP TO 140 DB'S YOU GET INTO A PROBLEM OF
HEARING LOSS, HEARING DAMAGE, ETCETERA. WHAT IS YOUR
EXPERIENCE WITH THE HEARING SITUATION ON SITE WITH THE

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MINING AND WITHOUT -- AM I SAYING THAT CORRECTLY?

1,000 FEET OUTSIDE OF THE BLASTING AREA. WOULD THAT BE A CORRECT STATEMENT?

MR. FRAZIER: ONE THOUSAND FEET, YES. WE LOOK AT CONTROLLING GROUND VIBRATION LIMITS AND AIR BLAST LIMITS. AS LONG AS THEY ARE EITHER SHOOTING A CERTAIN POUND PER DELAY TO MEET THOSE GROUND VIBRATION LIMITS AND AIR BLAST LIMITS, THEY'RE WITHIN OUR REGULATORY GUIDELINES. SAME THING WITH A SEISMOGRAPH. YOU KNOW, THERE'S TWO WAYS TO DETERMINE IF THEY'RE IN COMPLIANCE OR NOT.

CHAIRMAN: WHAT IS YOUR EXPERIENCE WITHIN THE DB OUTSIDE OF THE 1,000 FEET?

MR. FRAZIER: I PERSONALLY DON'T HAVE AN EXPERIENCE WITH THAT. I LOOK AT THE PERMIT. WE TRY TO GET IT IN COMPLIANCE WITH THE REGULATIONS. THAT'S MORE OF AN ENFORCEMENT ISSUE. THEY LOOK AT THE BLASTING RECORDS AND THINGS OF THAT NATURE. WE'RE THERE TO GET A PERMIT COMPLIED TO ENSURE THAT THEY ARE GOING TO BE DOING THINGS THAT WILL HOPEFULLY ENSURE THAT THOSE LIMITS AREN'T EXCEEDED.

CHAIRMAN: WITHIN THE PERMIT SIDE OF IT, WITHIN THE PERMIT SIDE OUTSIDE OF THE 1,000 FEET, WHAT WOULD BE THE SOUND?

MR. FRAZIER: THERE'S A SET LIMIT. I DON'T
KNOW IT OFF THE TOP OF MY HEAD WHAT THE AIR BLAST
FREQUENCIES. IT'S SET UP ON A FREQUENCY THAT THEY
HAVE TO MEET. OBVIOUSLY AS IT GOES OUT, THE 1,000
FOOT LIMIT WAS SET AS KIND OF A CURSORY. AS YOU MOVE
OUTSIDE OF THAT, YOUR IMPACT IS PRETTY MUCH MINIMIZED.
I MEAN THESE BLASTS THEY'LL LAST, YOU KNOW, A MATTER
OF SECONDS. I'VE BEEN UP ON ACTUAL MINES A MILE AWAY,
NOT EVEN A MILE AWAY BUT MAYBE JUST ANOTHER RIDGE
OVER, THE BLAST GOES OFF AND THERE'S A BRIEF RUMBLE,
BUT I COULDN'T EVEN FEEL IT AND I WAS UP TOP OF THE
AREA WHERE THE BLAST ACTUALLY WAS OCCURRING.

CHAIRMAN: THE AIR POLLUTION, WHAT FALL OUT OF
AIR POLLUTION IS THERE FROM THE BLASTING AND THE OTHER
THINGS THAT OCCUR WITHIN THIS ZONE? IS THAT ALSO
CONTAINED WITHIN THE PERMIT?

MR. FRAZIER: THE MAJORITY OF IT IS, YES.
BEFORE IT LEAVES THE PERMIT AREA, IF THERE'S ANY LEAVE
IN THE PERMIT AREA, YOU KNOW, EITHER IT'S HANDLED
THROUGH A COMPLAINT, YOU KNOW, SOMEONE HAS OBSERVED IT
LEAVING AND IF THE COMPLAINT COMES IN THE ENFORCEMENT
SIDE GOES OUT AND INVESTIGATES TO SEE IF THERE'S BEEN
AN IMPACT OUTSIDE OF THE AREA.

CHAIRMAN: THE FINAL, MY BRIEF QUESTIONS FOR
YOU, WAS THEY ASKED ABOUT THE ENFORCEMENT AND WHO
ACTUALLY HAS THE AUTHORITY, IF THERE IS AN AUTHORITY
EXIST, IF THERE WERE MAJOR PROBLEMS TO CLOSE THE
OPERATION, SUSPEND OPERATIONS AT ANY POINT IN TIME.

MR. FRAZIER: WHAT WOULD BE THE PROCESS?

CHAIRMAN: WHO WOULD HAVE THE AUTHORITY AND
WHAT WOULD BE THE PROCESS?

MR. FRAZIER: THAT WOULD BE THE ENFORCEMENT
SIDE. DIVISION OF MINE RECLAMATION ENFORCEMENT.

CHAIRMAN: AND THEY DO HAVE THE AUTHORITY?

MR. FRAZIER: THEY DO HAVE THE AUTHORITY, YES.

CHAIRMAN: THANK YOU. DID I DO A FAIRLY
DESCENT JOB OF SUMMARIZING YOUR QUESTIONS?

MS. GESSER: YES.

MR. SILVERT: COULD YOU STATE YOUR NAME AGAIN
PLEASE FOR THE RECORD?

MS. HOBBS: SURE THING. SHARON HOBBS.

YOU ASKED WHO WOULD BE AUTHORIZED TO STOP IF
SOME THINGS DIDN'T GO THE WAY THAT THEY WERE ON THE
PLANNING; IS THAT RIGHT?

CHAIRMAN: THAT WAS ONE OF YOUR QUESTIONS THAT
YOU ALL BROUGHT UP. I JUST SUMMARIZED AND MADE
QUESTIONS OUT OF THEM.

MS. HOBBS: HE SAID THAT HE HAS THE AUTHORITY?

CHAIRMAN: NO, MA'AM.

MS. HOBBS: THAT PEOPLE WORKING FOR THE MINE
HAS THE AUTHORITY?
CHAIRMAN: NO, MA'AM.

MS. HOBBS: OKAY. WHO HAS THE AUTHORITY?

CHAIRMAN: I'LL HAVE HIM REPEAT THAT.

MR. FRAZIER: DIVISION OF MINE RECLAMATION ENFORCEMENT.

MS. HOBBS: AND WHERE ARE THEY?

MR. FRAZIER: THEY'RE THERE. THEY HAVE INSPECTORS THAT ARE OUT THERE. THEY HAVE TO MEET FREQUENCY ON INSPECTIONS. SO THEY'RE OUT THERE, WHATEVER THAT FREQUENCY IS THEY HAVE TO MEET. WEEKLY, BIWEEKLY. THEY HANDLE COMPLAINTS AND PHONE CALLS ON A DAILY BASIS.

MS. HOBBS: AND WHO ARE THEY PAID BY?

CHAIRMAN: MA'AM, EXCUSE ME. DIRECT IT TO THE CHAIR SO WE CAN DIRECT IT BACK HERE SO WE DON'T HAVE IT GOING ACROSS.

MS. HOBBS: WHO ARE THESE PEOPLE PAID BY?

MR. FRAZIER: THE TAX Payers. THEY'RE EMPLOYEES OF THE STATE OF KENTUCKY.

MS. HOBBS: SO THAT INFORMATION NEEDS TO BE MADE READILY FOR THE HOMEOWNERS AND FOR THE CAMP AND EVERYBODY SO THAT THEY CAN REPORT IT?

CHAIRMAN: I'LL HAVE TO REFER TO HIM.

MR. FRAZIER: YES. YES. IN THE APPLICATION THERE IS, YOU KNOW, HERE LOCALLY THE MADISONVILLE OHIO VALLEY REPORTING (270) 683-7383
REGIONAL OFFICE IS WHO HANDLES ANY COMPLAINTS IN MINING THAT GOES ON HERE IN THE WESTERN COAL FIELD.

MS. HOBBS: THAT WAS IT.

CHAIRMAN: THANK YOU.

MR. FRAZIER, DON'T LEAVE. SIT DOWN CLOSE.

THANK YOU.

THANK YOU ALL FOR YOUR PRESENTATION. WE'VE GOT OTHER PEOPLE THAT WOULD LIKE TO SPEAK.

MR. WILSON, DID YOU DEFER TO THEM. WOULD YOU LIKE TO RETURN?

MR. WILSON: YES, IF THE GIRL SCOUTS ARE THROUGH.

CHAIRMAN: I THINK THE GIRL SCOUTS ARE.

MR. WILSON: I'D LIKE TO PUT A COUPLE OF THINGS IN THE RECORD, MR. CHAIRMAN, IF I COULD.

HERE IS AN EXCERPT FROM THE MINUTES OF THE 1986 MEETING OF THIS. A CERTIFIED COPY OF THE SAME THING THAT WAS INTRODUCED IN '93. SAME ONE THAT WAS PUT IN IN '93 AND I HAVE UPDATED THE CERTIFICATION.

MR. SILVERT: MR. WILSON, WHO CERTIFIED THAT COPY?

MR. WILSON: MY SECRETARY CERTIFIED THIS ONE TODAY. THE OTHER ONE WAS CERTIFIED IN '93, A COPY OF THE '86 MINUTES. A PORTION OF THE MINUTES.

I WOULD ALSO LIKE TO ENTER OUR PROPOSED OHIO VALLEY REPORTING (270) 683-7383
FINDINGS FOR THE COMMISSION AT THE CONCLUSION OF THIS.

MR. SILVERT: HAVE YOU SHOWN THE APPLICANT'S ATTORNEY?

MR. WILSON: NO, I HAVE NOT.

MR. HAYNES: WE CAN'T EVEN HEAR WHAT HE'S SAYING.

MR. WILSON: I WOULD LIKE TO HAVE A SMALL RECESS AND HAVE --

MR. HAYNES: HE SHOULDN'T BE TESTIFYING WITHOUT BEING ON THE RECORD.

MR. SILVERT: MR. HAYNES, TO SUMMARIZE IT, IF THE COURT REPORTER COULDN'T HEAR, AND YOU CAN OBJECT TO THE SUMMARY IF YOU'D LIKE OR WE CAN HAVE HIM SAY IT AGAIN. ESSENTIALLY HE HAS A COPY OF THE -- IS THAT 1984, MR. WILSON?

MR. WILSON: '86.

MR. SILVERT: 1986 HEARING REGARDING --

MR. WILSON: THE SAME PROPERTY.

MR. SILVERT: SAME OR SIMILAR PROPERTY. HE HAS HAD HIS SECRETARY NOTARIZE THIS COPY THAT WAS PREVIOUSLY CERTIFIED.

DID I SUMMARIZE THAT CORRECT?

MR. WILSON: THE SAME THING WAS INTRODUCED IN THE 1993 HEARING WHICH PERTAINED TO THE SAME PROPERTY.

MR. SILVERT: MR. HAYNES, ARE YOU OKAY WITH
THAT, THAT SUMMARY OF WHAT HE WAS SAYING ON THE
RECORD?

CHAIRMAN: MR. HAYNES, WOULD YOU RETURN TO THE
MIKE, PLEASE.

MR. SILVERT: MR. HAYNES, THE SUMMARY OF WHAT
I WAS JUST SAYING WHAT MR. WILSON HAD SAID WHILE HE
WASN'T IN FRONT OF THE MICROPHONE, ARE YOU OKAY WITH
MY SUMMARY OF THAT?

MR. HAYNES: I AM. WE HAVE NO PROBLEM WITH
THIS COMING IN, EVEN THOUGH IT IS NOT CERTIFIED PER
PROCEDURE, BUT WE DON'T HAVE A PROBLEM WITH IT.

MR. WILSON: I ALSO WANTED TO GIVE TO THE
REPORTER AND INTRODUCE THE PROPOSED FINDINGS OF FACT
BE CONSIDERED AT THE END OF THIS.

CHAIRMAN: MR. WILSON, WILL YOU STAND AT THE
MIKE.

MR. SILVERT: MR. WILSON, I TAKE IT THAT
YOU'RE GOING TO MAKE REFERENCE TO THESE PREVIOUS
MINUTES?

MR. WILSON: YES, I AM.

I ALSO WOULD LIKE TO INTRODUCE FOR THE RECORDS
THE OPPONENTS PROPOSED FINDINGS OF FACT THAT WE WILL
INTRODUCED TO BE CONSIDERED BY THE MEMBERS AT THE
CONCLUSION OF THIS HEARING. IF THAT NEED TO BE
INTRODUCED NOW AND I CAN FURNISH EVERYONE A COPY OR WE
CAN LEAVE IT TO THE END?

CHAIRMAN: MR. SILVERT.

MR. SILVERT: WILL YOU BE READING FROM THOSE FINDINGS?

MR. WILSON: NO, I WILL NOT.

MR. SILVERT: IF YOU COULD DISTRIBUTE THEM I WOULD APPRECIATE THAT.

CHAIRMAN: MR. WILSON, IF YOU WANT TO, YOU CAN HAND THEM TO MR. ALLEN AND HE'D BE HAPPY TO TAKE CARE OF IT FOR YOU.

MR. WILSON: MR. CHAIRMAN, WE ARE PREPARED TO GO FORWARD WITH OUR CASE HERE TONIGHT.

I'M REPRESENTING A COMMITTEE OF FIVE INDIVIDUALS WHO ARE ALL OPPONENTS AND OPPOSITION TO THIS REZONING REQUEST. ALL WHOM LIVE IN THE IMMEDIATE AREA. I THINK RUSSELL ROAD, RED-HILL MAXWELL ROAD OR GIRL SCOUT ROAD. THERE ARE A WHOLE LOT OF OTHER PEOPLE HERE, AS YOU KNOW, AND I DO NOT REPRESENT ALL OF THESE FOLKS. THEY MAY BE OF SIMILAR INTEREST OF MY CLIENTS.

I'M GOING TO PRESENT SOME EIGHT WITNESSES IN THIS PROCEEDING. THERE MAY BE WHO KNOWS HOW MANY OTHERS HERE THAT WANT TO SPEAK, OF COURSE, HAVE THE RIGHT TO SPEAK. I ASSUME THEY SIGNED IN.

MR. SILVERT: MR. WILSON, BEFORE YOU PROCEED
ANY FURTHER, WOULD YOU MIND STATING FOR THE RECORD THE 
NAMES OF THE PERSONS THAT YOU DO REPRESENT SO THAT THE 
APPLICANT KNOWS WHO THEY ARE UP AGAINST IN THIS 
HEARING?

MR. WILSON: I AM REPRESENTING DR. DAVID 
EGGERS, MR. TONY ISBILL, CARL WILLIAMS, SHERRY 
STRINGER, AND NEIL VANMILLIGAN. THOSE ARE THE FIVE 
INDIVIDUALS THAT I HAVE BEEN METING WITH THAT HAVE 
ENGAGED ME. I HAVE SEVERAL OTHERS THAT WILL BE -- I 
HAVE A COUPLE OF PROFESSIONAL WITNESSES. I HAVE A 
CERTIFIED BLASTING ENGINEER AND GEOLOGIST, JIM 
LUDWICZAK, WHO WILL TESTIFY. I ALSO WILL HAVE A 
LICENSED REAL ESTATE APPRAISER, BRIAN REYNOLDS, WHO I 
ANTICIPATE CALLING LATER IN THE PROCEEDING, AND 
SEVERAL OTHER INDIVIDUALS I'LL BE CALLING.

OBVIOUSLY THE FOLKS THAT I REPRESENT ARE IN 
OPPOSITION TO THIS APPLICATION FOR A NUMBER OF 
REASONS, BUT PRIMARILY BECAUSE THE RIGHT THAT THEY 
HAVE OUT IN THAT AREA WHERE THEY LIVE, AND THE HOME 
SITES THAT THEY HAVE, AND THE INVESTMENT THEY'VE MADE 
IN THEIR PROPERTY, AND THE QUIETUDE. THEY LOVE THEIR 
HOME SITES LIKE THESE KIDS LOVE GIRL SCOUT CAMP, I 
GUESS.

IT'S A BEAUTIFUL AREA. I DON'T KNOW IF ANY OR 
ALL OF YOU HAVE BEEN OUT THERE AND DRIVEN AROUND, BUT
IT'S A VERY SCENIC UNLIKE FEW RURAL AREAS IN DAVIESS COUNTY.

IT'S OUR POSITION AND WILL BE OUR POSITION THAT STRIP MINING IN THIS IMMEDIATE AREA IS JUST NOT PROPER. IT'S NOT JUST PROPER. THERE ARE SOME DOLLARS, MORE THAN A FEW, A LOT OF DOLLARS INVOLVED. I UNDERSTAND THAT. I CERTAINLY UNDERSTAND THE PEOPLE WHO LEASED TO THE COAL COMPANY THAT WANT THEIR ROYALTIES FOR THEIR COAL. I KNOW IT'S A MEASURING EQUITIES AND THE REALTIES OF THE SITUATION, AND THIS COMMISSION HAS A TOUGHL JOB.

THE PROBLEM THAT WE ARE HAVING WITH, ONE OF THE MAIN PROBLEMS THAT WE'RE HAVING WITH IT IS WE'VE BEEN THROUGH THE FILE AND THE RECORD, AS YOU ALL HAVE PROBABLY. WHAT HAPPENED BACK IN 1985 AND 1986 WHERE ALMOST IDENTICAL TRACTS OF LAND AS TO WHAT WE'VE GOT TONIGHT WERE BEFORE THIS COMMISSION. THE COMMISSION VOTED DOWN THE REZONING IN FISCAL COURT BACK WHAT THE COMMISSION DID. IT LAID DORMANT FOR A FEW YEARS. CAME BACK UP IN ABOUT SEVEN YEARS. THEN THE ACREAGE WAS TWO OR THREE THE SIZE AND INCLUDED ALL OF THIS PROPERTY AND SOME MORE. SOME 904 ACRES IN '93. IN '93 THE SAME THING HAPPENED. LENGTHY HEARING. A LOT OF PEOPLE I'M SURE LIKE THIS. SOME OF THE SAME HOMEOWNERS WERE HERE ARE HERE WITH ME TONIGHT, THAT I
REPRESENT WERE HERE IN OPPOSITION AT THAT TIME. THE
SAME THING HAPPENED. PLANNING STAFF RECOMMENDED
APPROVAL TO THE COMMISSION. THE COMMISSION VOTED DOWN
AND FISCAL COURT SIDED WITH THE COMMISSION.

SOME OF THE PEOPLE THAT I REPRESENT HAVE
PURCHASED PROPERTY AND BUILT SUBSTANTIAL HOMES SINCE
THAT '93 DECISION. THEIR QUESTION TO ME, AND I'M
UNABLE TO ANSWER IT, IS WHAT TIME CAN WE RELY ON WHAT
THE BOARD LIKE THIS SAYS? IN A COURT OF LAW IT WOULD
BE A FOREGONE CONCLUSION, BUT WE'RE NOT IN A COURT OF
LAW, AND I UNDERSTAND THAT. I'VE TRIED TO EXPLAIN IT
TO THEM.

YOU WILL HEAR TESTIMONY FROM PARTICULARLY TONY
ISBILL WHO HAS BUILT A SUBSTANTIAL HOME OUT THERE ON
GIRL SCOUT ROAD IN THE LAST THREE YEARS OR SO.

THEY ALL KNEW THERE HAD BEEN THESE THINGS IN
THE PAST, BUT THOUGHT IT WAS OVER. DONE AND OVER IN
'93, BUT IT'S NOT. WE'RE BACK AGAIN 19 YEARS LATER.

YOU WILL HEAR TESTIMONY HERE TONIGHT FROM JIM
LUDWICZAK WHO SITS HERE WITH ME WHO IS A BLASTING,
CERTIFIED BLASTING ENGINEER. HE'S GOT CREDENTIALS ALL
OVER THE COUNTRY, AND HE'S ALSO A GEOLOGIST.

HE TESTIFIED IN 1986, IN THE MINUTES I THINK
THAT I JUST INTRODUCED AS A MATTER OF FACT. HE
TESTIFIED AGAINST THE REZONING APPLICATION IN 1986.

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HE'S HERE TONIGHT. HE'S NOT TESTIFYING. HE'S NOT FOR
OR AGAINST THIS REZONING. HE'S HERE TO EXPLAIN WHAT
BLASTING DOES. I'D SAY HE KNOWS IT PROBABLY AS GOOD
AS ANYONE IN THIS ROOM. PROBABLY A LOT BETTER THAN
ANYONE IN THIS ROOM. HE KNOWS THIS AREA PROBABLY A
LOT BETTER THAN ANYONE IN THIS ROOM. HE WILL TELL
THIS COMMISSION THAT HE WORKED FOR GREEN COAL COMPANY
WHO DID MINE SOME PROPERTY JUST NORTH OF THIS BACK IN
THE '80S WHEN HE WAS WITH THEM, BEFORE '86. LATE
'70S, EARLY '80S. HE'LL ALSO TELL THIS COMMISSION HOW
THEY JUST QUIT MINING THERE AND LEFT, AND THE REASONS
WHY THEY QUIT MINING AND LEFT. THAT WILL BE MUCH OF
HIS TESTIMONY, WHICH WE'LL TRY TO FINISH UP WITH
TONIGHT HOPEFULLY.

THE FOLKS THAT I'M GOING TO PRESENT TO YOU ARE
GOING TO DESCRIBE THEIR HOMES, THE AREA THEY LIVE IN,
WHY THEY WANT IT TO REMAIN LIKE IT IS NOW, AND WHY
THEY THINK IT SHOULD REMAIN THE WAY IT IS NOW. THAT'S
BECAUSE WHAT'S BEEN BEFORE THIS COMMISSION ALMOST
IDENTICAL THREE TIMES. '85, '86 WAS TWO TIMES, BUT
REALLY ONE. IT WENT TO COURT AND BACK. THEN IN '93
THE SAME ISSUES.

YOU'RE GOING TO HEAR TESTIMONY WHERE THERE'S
NO IMPROVEMENTS IN THE METHOD OF BLASTING. THERE'S NO
CHANGES OF A POSITIVE AFFECT OF COMPUTERS, MORE
COMPUTERS, MORE COMPUTERIZED SERVICES.

WHAT YOU'RE GOING TO HEAR IS THAT IT'S WORSE THAN IT WAS IN '86 AND '93 BECAUSE WE'VE NOW GOT A LOT MORE PEOPLE AND A LOT MORE IMPROVEMENTS IN THE IMMEDIATE AREA THAT CAN SUFFER WITH THIS THING. THE GIRL SCOUTS THEY HAD A PROBLEM IT THEN. OF COURSE, THESE KIDS HAVE GOT A PROBLEM WITH IT NOW. THAT'S PRETTY MUCH THE SAME.

THERE ARE MORE PEOPLE AND THERE'S MORE DEVELOPMENT OUT THERE THAN THERE WAS IN '86 AND A LOT MORE THAN THERE WAS IN '93.

WITH THAT, IF I COULD, I WOULD LIKE TO PRESENT SEVERAL OF MY WITNESSES. THEN, MR. CHAIRMAN, IF IT'S ALRIGHT OPEN THE FLOOR FOR FOLKS THAT ARE HERE THAT WANT TO TALK. I HAVE NO IDEA WHO THEY ARE AND I DON'T SPEAK FOR THEM. I WOULD LIKE TO CLOSE MY CASE WITH MR. ISBILL, MR. LUDWICZAK AND MR. DAVID EGGERS, IF THAT'S ALL RIGHT WITH THE CHAIR.

CHAIRMAN: THANK YOU FOR YOUR SUGGESTION, MR. WILSON. I ASSUME THAT WHAT YOU WANT TO DO IS BRING ALL WITH YOUR WITNESSES AT ONE TIME AND THEN YOU MAKE YOUR PERSONAL SUMMARY FOR YOUR CLIENTS?

MR. WILSON: NO, SIR. I WOULD LIKE TO PRESENT FOUR OR FIVE OF MY WITNESSES AND THEN THROW IT OPEN FOR ANYONE ELSE THAT WANTS TO TESTIFY, AND THEN CLOSE
WITH MY WITNESSES, MY LAST THREE WITNESSES.

CHAIRMAN: SO YOU'RE GOING TO HAVE, HOW MANY WITNESSES ARE YOU GOING TO BRING FORTH?

MR. WILSON: I'M GOING TO BRING EIGHT WITNESSES.

CHAIRMAN: AND YOU'RE GOING TO BRING FIVE NOW?

MR. WILSON: I WILL OR IF THE CHAIR PREFERS THROW IT OVER FOR ANYONE ELSE THAT IS NOT ON OUR WITNESS LIST.

CHAIRMAN: I WOULD PERSONALLY PREFER, IF IT DOESN'T BOTHER YOUR CASE, I'D PREFER TO HEAR ALL OF YOUR WITNESSES AT ONE TIME. THEN THAT WAY WE CAN, IF THERE ARE ANY QUESTIONS FROM THE OTHER SIDE WE CAN GO THROUGH EACH ONE OF YOUR WITNESSES ALSO, AND THE OPPOSITION WOULD HAVE A CHANCE AT THAT POINT IN TIME, IF THAT'S OKAY WITH YOU.

MR. WILSON: BUT THEN AFTER THAT WE MIGHT HAVE ANOTHER 50 PEOPLE HERE THAT WANT TO TESTIFY.

CHAIRMAN: THAT WILL BE FINE.

MR. WILSON: I'M REQUESTING TO THE CHAIR THAT WE LET THOSE FOLKS SAY WHAT THEY WANT TO SAY AND THEN I CAN HOPEFULLY BRING SOME ORDER TO THE END.

CHAIRMAN: SO YOU WANT TO SUMMARIZE WITH YOUR WITNESS.

MR. WILSON: WITH THREE OF THEM. NOT WITH
ALL. I'VE GOT A LADY WITH A VIDEO AND I'VE GOT SOME
PICTURES. TWO OR THREE WITNESSES THAT I WOULD LIKE TO
GET MY SIDE OF THE CASE STARTED. THEN I HAVE NO IDEA.
IF NO ONE ELSE HERE WANTS TO TESTIFY, I'M READY TO PUT
ALL EIGHT OF THEM ON IN A ROW.

CHAIRMAN: LET'S START FORWARD WITH YOUR CASE.
MR. WILSON: THE FIRST ONE I WOULD LIKE TO
SPEAK IS CARLA WILLIAMS.
MR. SILVERT: COULD YOU STATE YOUR NAME,
PLEASE?
MS. WILLIAMS: CARLA WILLIAMS.
(CARLA WILLIAMS SWORN BY ATTORNEY.)
MS. WILLIAMS: THERE IS A VIDEO THAT WE
BROUGHT TO PLAY. I BELIEVE THEY'RE STARTING IT NOW.
WHAT WE WANTED TO SHOW IS THE BEAUTY OF OUR
AREA. ALL THE HOMES IN OUR AREA. WE ACTUALLY
COULDN'T GET THEM ALL ON A 10 TO 12 MINUTE EDIT. WE
TRIED TO GET AS MANY AS WE COULD SO YOU COULD SEE WHAT
IT'S LIKE IN OUR AREA, HOW MANY BEAUTIFUL HOMES ARE
THERE NOW.
I JUST WANTED TO THANK YOU FOR ALLOWING US
THIS TIME TO VOICE OUR CONCERNS AND OUR POSITION
AGAINST HAVING A TRIP MINE IN OUR NEIGHBORHOOD. I
HAVE LIVED IN THE SAME LOCATION SINCE 1981. WE BUILT
OUR HOUSE IN 1998 FEELING SURE THERE WAS WOULD NOT BE
A CONCERN ABOUT A MINING OPERATION, CONSIDERING THE TWO PREVIOUS ACCOUNTS WERE TURNED DOWN.

LIKE OUR NEIGHBORS, MY HUSBAND AND I HAVE WORKED REALLY HARD FOR MANY YEARS AND WE HAVE INVESTED MOST EVERYTHING WE HAVE INTO OUR HOME. HOW CAN IT BE JUSTIFIED TO SO MANY PROPERTY OWNERS WHO WILL LOSE VALUE AND THEIR LARGEST ASSET IF A COAL MINE IS ALLOWED? PROPERTY DEVALUATION IS PROVEN IN COUNTIES WITH STRIP MINING.

AS A PERSON WITH ASTHMA, I AM CONCERNED THAT I WILL BECOME SICK FROM THE AIRBORNE DUST AND TOXINS CREATED BY A STRIP MINE. IT HAS BEEN PROVEN THAT CASES OF ASTHMA INCREASE IN AREAS WHERE THERE IS STRIP MINING.

HOW WILL I AND MY NEIGHBORS WITH BREATHING DISORDERS CONTINUE TO BE PRODUCTIVE MEMBERS OF SOCIETY IF WE BECOME TOO SICK TO WORK BECAUSE OF THE STRIP MINING?

IN ADDITION TO MY FEARS THAT I AND MY NEIGHBORS WILL SUFFER DAMAGES TO OUR HOMES AND LAKES, I'M ALSO CONCERNED ABOUT THE DESTRUCTION OF OUR PEACE AND QUIET NATURAL BEAUTY OF OUR COUNTRYSIDE VIEWS AND TO OUR ENTIRE WAY OF LIFE.

I TRULY APPRECIATE YOUR CONSIDERATION OF OUR POSITION AGAINST HAVING A STRIP MINE IN OUR OHIO VALLEY REPORTING (270) 683-7383
NEIGHBORHOOD. I HAVE ONE REQUEST OF THE BOARD.

WOULD YOU PLEASE ASK FOR A SHOW OF HANDS OF THOSE HERE AGAINST THE STRIP MINE?

(AUDIENCE COMPLIES WITH REQUEST.)

MS. WILLIAMS: THANK YOU.

I ALSO HAVE A COUPLE OF SUBMISSIONS. I WOULD LIKE TO SUBMIT FOR YOUR RECORDS OUR PETITION CONSISTING OF OVER 700 CONCERNED NEIGHBORS AND CITIZENS WHO DO NOT WANT A STRIP MINE IN OUR COMMUNITY. ALSO I HAVE LETTERS WRITTEN BY INDIVIDUALS AGAINST THE MINING. AGAIN, I THANK YOU FOR YOUR TIME.

CHAIRMAN: THANK YOU FOR YOUR PRECISE PRESENTATION.

MR. WILSON, YOU WANT TO CALL YOUR OTHER WITNESS?

MR. WILSON: YES. MR. CHAIRMAN, I'M GOING TO CALL SHERRY SPRINGER, PLEASE.

MR. SILVERT: MR. HAYNES, IF YOU NEED TO SEE ANY OF HIS EXHIBITS AT ALL, FEEL FREE COME UP AND LOOK.

WOULD YOU STATE YOUR NAME, PLEASE?

MS. SPRINGER: SHERRY SPRINGER.

(SHERRY SPRINGER SWORN BY ATTORNEY.)

MS. SPRINGER: THANK YOU GENTLEMEN FOR GIVING US THE OPPORTUNITY TO VOICE OUR CONCERNS ABOUT
REZONING OUR COMMUNITY TO STRIP MINING.

MY HOME WAS BUILT IN 1984. I'VE LIVED ON RUSSELL ROAD LONGER THAN ANYWHERE ELSE IN MY LIFETIME. I CHOOSE TO LIVE THERE BECAUSE OF THE PEACE AND TRANQUILITY. NOT TO MENTION THE BEAUTY OF NATURE. I DRIVE 30 MILES EVERY DAY BY CHOICE, PAY HIGHER GAS PRICES, AND ACCEPT THE FACT THAT THE ROADS WILL BE ROUGH IN THE WINTER MONTHS. I DO THIS BECAUSE I HAVE A CHOICE.

TONIGHT IS YOUR RESPONSIBILITY TO MAKE THE RIGHT DECISION FOR ALL OF THOSE INVOLVED. WHAT A DIFFICULT JOB YOU HAVE. I GUESS YOU CAN TELL BY THE CROWD THAT WE OPPOSE THE MINING IN OUR COMMUNITY. OUR FATE IS IN YOUR HANDS.

IN 1993 WE HAD A MUCH LOWER RESIDENTIAL POPULATION AND THE REZONING WAS VOTED DOWN BECAUSE OF THE 105 RESIDENTS WHO WOULD BE DIRECTLY AFFECTED. TODAY OVER 360 RESIDENTS WILL BE DIRECTLY AFFECTED. HOW CAN THIS EVEN BE CONSIDERED DUE TO THE POPULATION DENSITY?

AMONG OTHER THINGS, CAN YOU TELL ME HOW I'M NOT TO BE CONCERNED ABOUT FLYING ROCK, AIR QUALITY AND DECREASE PROPERTY VALUES?

I ENJOY HAVING THE GIRL SCOUT CAMP AS A NEIGHBORHOOD. FROM TIME TO TIME SOME OF THE GIRLS

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WILL SHOW UP AT MY BACK DOOR HAVING GOTTEN LOST ON ONE
OF THEIR HIKES. WOULDN'T IT BE A DISASTER IF THEY
SHOULD WANDER INTO A COAL MINE INSTEAD OF MY BACK
YARD? THANK YOU.

MR. WILSON: MR. CHAIRMAN, SHE HAS SOME ITEMS,
THE RESIDENTS THAT ARE AFFECTED BY THIS, WITHIN A
THREE-QUARTER OF A MILE RANGE THAT WE WOULD LIKE TO
PUT INTO THE RECORD, THE ADDRESSES OF THOSE. SHE'S
ALSO GOT A THING HERE WITH SOME PICTURES ON IT WE'D
LIKE TO DISTRIBUTE TO THE BOARD MEMBERS TO TAKE A LOOK
AT THEM. ONE OF THEM IN THE RECORD, IF WE COULD.

CHAIRMAN: OKAY.

YOU HAVE YOUR NEXT WITNESS ON DECK, MR.
WILSON?

MR. WILSON: I'M GOING TO CALL CURTIS WHISTLE.

MR. SILVERT: COULD YOU STATE YOUR NAME,
PLEASE?

MR. WHISTLE: CURTIS WHISTLE.

(CURTIS WHISTLE SWORN BY ATTORNEY.)

MR. WHISTLE: HERE ARE SOME HANDOUTS OF WHAT
I'M GOING TO SAY. IT'S RATHER THICK, AND I'M NOT
GOING TO READ ALL OF THAT BY ANY MEANS. THERE'S SOME
SLIDES IN THERE THAT YOU MIGHT WANT TO REFER TO.

GOOD EVENING, GENTLEMEN.

I'D LIKE TO EXPRESS SOME POINTS FOR YOUR
CONSIDERATION THIS EVENING. I UNDERSTAND THAT IT IS
YOUR MISSION TO LOOK AT THE TOTALITY OF THE
COMPREHENSIVE PLAN. WHAT I WOULD LIKE TO DO IS OFFER
SOME OF MY CONCLUSIONS AS I HAVE STUDIED THAT PLAN,
THIS ZONING REQUEST AND THE STAFF'S FINDINGS OF FACT.

IN REGARD TO THE PLANNING STAFF
RECOMMENDATIONS, FINDINGS OF FACT NUMBER 3: TRUE THE
MAJORITY OF THE SUBJECT PROPERTY IS LOCATED IN A RURAL
MAINTENANCE PLAN AREA, BUT THE SPECIFIC LAND USE
CRITERIA SECTION OF THE STAFF REPORT STATES THAT COAL
MINING ACTIVITY SHOULD BE LOCATED OUTSIDE OF A RURAL
COMMUNITY PLAN AREA. IT DOES NOT STATE THAT IT SHOULD
BE MOSTLY OUTSIDE OF A RURAL COMMUNITY.

SO THIS ZONING REQUEST DOES NOT MEET THAT
CRITERIA.

ALSO, TO FURTHER SUBSTANTIATE THIS POINT, IN
THE COMPREHENSIVE PLAN'S GOALS AND OBJECTIVES FOR
RURAL SERVICE AREAS, GOAL NUMBER 2 STATES,
"RESIDENTIAL GROWTH SHOULD OCCUR AROUND A RURAL
COMMUNITY." ALL OF THE REQUESTED REZONED PROPERTY IS
WITHIN APPROXIMATELY ONE MILE OF AND INCLUDES A RURAL
COMMUNITY. THEREFORE, THE NEARBY AND ADJACENT
PROPERTY OWNERS BY DEFINITION ARE AROUND A RURAL
COMMUNITY AND SHOULD NOT BE PENALIZED FOR BEING WITHIN
ONE OF THE GROWTH PLANS OBJECTIVES.
SO WHY IS THIS CRITICAL? WHY WOULD THE
COMPREHENSIVE PLAN HAVE THESE EXPECTATIONS?

THERE ARE MANY REASONS, BUT ONE OF THOSE IS
THAT BY DEFINITION A RURAL COMMUNITY AND ITS
SURROUNDING AREA, THIS IS AN INDICATION OF SIGNIFICANT
POPULATION AND DEVELOPMENT STRUCTURES. FOR US THIS IS
OUR HOMES AND OUR CHILDREN.

SO WHAT COULD GO WRONG? YOU'LL SEE IN YOUR
HANDBOOK, THIS IS A PAGE FROM THE 2008 KENTUCKY ANNUAL
REPORT FROM THE OFFICE OF SURFACE MINING RECLAMATION
AND ENFORCEMENT.

ON JULY 16, 2007 IN KENTUCKY, AS A RESULT OF A
SURFACE MINE BLAST, FLY ROCK BLEW 1700 FEET. A
COMPANY MECHANIC WAS STRUCK AND KILLED. A HUMAN BEING
WAS LOST THAT DAY. SO THAT IS THE RESULT, ONE RESULT
OF ALLOWING THESE ACTIVITIES IN A POPULATED AREA.

MY SECOND POINT FOR YOUR CONSIDERATION: IN
REGARD TO THE COMPREHENSIVE PLAN'S LAND DEVELOPMENT
POLICY STATEMENT, THE COMMISSION REJECTS A NO-GROWTH
POLICY. I TOTALLY AGREE WITH THAT OBJECTIVE.

THEREFORE, I SUGGEST THAT A REVERSAL OF THE '93
DECISION OF DENYING A COAL REZONING REQUEST IN THIS
SAME AREA, WOULD CREATE A NEGATIVE IMPACT ON GROWTH.
POTENTIAL PROPERTY OWNERS HAVE A CHOICE TO LOCATE IN
NEARBY OHIO COUNTY. MANY HAVE CHosen DAVIESS COUNTY

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BECAUSE OF THE COUNTY'S ZONING REGULATIONS AND
CONTROLS. IF THESE POTENTIAL BUYERS CANNOT TRUST IN
PREVIOUS ZONING COMMISSION DECISIONS, THEN IT WILL
MAKE DAVIESS COUNTY MUCH LESS ATTRACTIVE TO POTENTIAL
BUYERS AND THEREFORE PROMOTE A NO-GROWTH POLICY.

THERE ARE OTHER THINGS THAT I WOULD SAY THAT
WOULD HAVE AN IMPACT ON THE OWENSBORO-DAVIESS COUNTY'S
GROWTH, BUT I'LL LEAVE THOSE FOR ANOTHER DAY.

MY THIRD POINT, AND THERE'S ONLY FOUR SO I'M
GETTING THERE.

THE STAFF RECOMMENDATION FINDING OF FACT
NUMBER 4 STATES THAT THIS REQUESTED PROPERTY ADJOINS
COAL MINING ZONES AND ACTIVITY.

THE MAPS HAVE CHANGED HERE OVER THE LAST
COUPLE OF WEEKS, BUT THE LAST MAP THAT I SAW THE
CLOSEST ZONED PROPERTY IS ON THE COUNTY BORDER AND
MOSTLY IN OHIO COUNTY AND IS NOT ADJACENT. THERE ARE
NO ADJACENT COAL ZONED PROPERTIES.

I AM NOT AWARE OF ANY MINING ACTIVITY IN THE
COMMUNITY. WE HEAR THERE ARE ATTEMPTS TO PERMIT IN
OHIO COUNTY, BUT BASED ON WHAT I HEARD LAST MONDAY
NIGHT, THERE ARE NO SECURED PERMITS FOR THAT PIECE OF
PROPERTY AT THIS POINT.

BUT EITHER WAY, SINCE BOTH OF THESE ARE
REFERRED TO OHIO COUNTY PROPERTIES, I SUGGEST THAT OUR

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LOCAL ZONING COMMISSION SHOULD CONSIDER NOT TAKING
THESE INTO CONSIDERATION WHEN EVALUATING DAVIESS
COUNTY'S ZONING REQUEST.

MY LAST POINT. IN REFERENCE TO THE
COMPREHENSIVE PLAN LAND DEVELOPMENT POLICY, PAGE 438,
AND PER THE LAND USE PLAN, PAGE 449: RURAL
RESIDENTIAL POLICY, RURAL LARGE LOT AND SMALL LOT
RESIDENTIAL USE ALL ARE CONSISTENT IN THEIR
EXPECTATION.

SINCE 1991 PROSPECTIVE OWNERS SHOULD BE
ADVISED OF THE POTENTIAL FOR COAL MINING ACTIVITY.
The plan does not state that the potential buyers will
be advised of the potential for mining when and if
they ask. No stipulation is implied. It simply
states they should be advised.

WHEN WE PURCHASED OUR RUSSELL ROAD PROPERTY IN
1994, WE WERE NOT ADVISED BY THE COUNTY OR ZONING
OFFICIALS OF THE POTENTIAL FOR MINING ACTIVITY. WE
DID INQUIRE WITH NEIGHBORS AND WE LEARNED OF THE '93
DENIAL. THEREFORE, WE CONCLUDED THERE WAS NO COAL
ACTIVITY POTENTIAL, AND AGAIN, NO OFFICIAL INFORMATION
WAS PROVIDED. THEREFORE, WE INVESTED OUR LIVES AND
OUR FINANCIAL RESOURCES IN A NEW HOME ON RUSSELL ROAD
AND HAVE MADE MULTIPLE IMPROVEMENTS SINCE. SO, YES,
WE CHOSE TO MOVE TO RUSSELL ROAD, BUT WE THOUGHT WE

IF THIS COAL ACTIVITY BECOMES A REALTY, IT WILL HAVE A PERSONAL IMPACT ON OUR PROPERTY VALUE OF A MINIMUM OF $50,000 AND AS MUCH AS $150,000. DEPENDS ON WHOSE ANALYSIS IS ACCURATE AND HOW MUCH OF THE 20 YEAR PLAN OF WKM COME TO REALTY.

SOME SAY NEARBY PROPERTY OWNERS WILL BE INCONVENIENCED BY MINING ACTIVITY. NOT SURE ABOUT YOU, BUT THAT'S A SIGNIFICANT AMOUNT OF MONEY IN THE WHISTLE HOUSE AND MORE THAN AN INCONVENIENCE. WE ARE ONE OF MANY FACING THIS SITUATION.

ALSO DURING 2011 I ATTENDED A NEARBY HINES ESTATE AUCTION. PARTS OF THE HINES ESTATE I WOULD THINK IS LESS THAN ABOUT A MILE FROM THE PROPOSED REZONED PROPERTY AND SIGNIFICANTLY CLOSER OF THE 20 YEAR PLAN IS ALLOWED.

DURING THAT AUCTION EVENT AT NO TIME WAS AN ANNOUNCEMENT MADE BY THE AUCTIONEERS OR FROM ANY COUNTY OFFICIALS FOR THE POTENTIAL FOR COAL MINING ACTIVITY. APPROXIMATELY $2 MILLION OF PROPERTY SOLD THAT DAY. WOULDN'T IT BE INTERESTING TO KNOW WHAT THAT WOULD HAVE BEEN IF THE BUYERS HAD BEEN ADVISED.

IT'S OBVIOUS NOW THAT WKM WAS VERY ACTIVE IN THE AREA AT THAT TIME.

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SO IN CONCLUSION, I ASK THAT YOU STAND TRUE TO
THE 1993 DECISION. THANK YOU FOR YOUR TIME THIS
EVENING.

MR. WILSON: MR. CHAIRMAN, I'M GOING TO ASK
CARLIN GREGORY TO GIVE A STATEMENT NOW IF HE WOULD BE.

CHAIRMAN: WILL THIS BE THE CONCLUSION OF YOUR
FIRST?

MR. WILSON: THE FIRST ROUND, YES, SIR.

CHAIRMAN: THANK YOU.

MR. WILSON: I WOULD ASK THAT WE HAVE A SMALL
RECESS, PLEASE?

CHAIRMAN: IS YOUR AGE SHOWING, MR. WILSON?

MR. WILSON: YES, SIR.

MR. SILVERT: WOULD YOU STATE YOUR NAME,
PLEASE?

MR. GREGORY: CARLIN GREGORY.

(CARLIN GREGORY SWORN BY ATTORNEY.)

MR. GREGORY: FIRST I WOULD LIKE TO THANK YOU
FOR THE OPPORTUNITY TO SPEAK WITH YOU TODAY.

MY NAME IS CARLIN GREGORY. I AT 2556 RUSSELL
ROAD. I'M ON THE OTHER END OF RUSSELL ROAD THAT'S OUT
OF THE AFFECTED AREA OF THE PROPOSED REZONING BY
WESTERN KENTUCKY MINERALS.

MY FAMILY HAS OWNED OUR PROPERTY SINCE THE
EARLY '70S AND WE BUILT THERE IN 1978. SO I'VE LIVED
THROUGH THE PREVIOUS STRIP MINING, THROUGH ALL OF THE
RIGAMAROLE THAT WE'VE BEEN THROUGH OVER THE LAST 30
YEARS, AND I'VE SEEN OUR GOVERNMENT STOP THIS REQUEST
FOR REZONING TWICE.

I UNDERSTAND RIGHT NOW, AND YOU CAN SEE IT,
THAT THERE'S A HUGE PUSH TO REZONE THIS LAND IN HOPES
THAT LANDOWNERS WHO LEASE THEIR LAND, AS WELL AS WKM,
COULD MAKE MONEY. I CAN'T BLAME EITHER ONE OF THEM
FOR THEIR EFFORTS, BUT IN THE SAME CONTEXT THEE ARES
OF FAMILIES, ORGANIZATIONS, PROPERTY OWNERS WHO STAND
TO LOSE THEIR CURRENT WAY OF LIFE.

I MYSELF PERSONALLY STAND TO LOSE AN
INVESTMENT THAT I HAVE COUNTED ON FOR MY RETIREMENT.

I WOULD JUST LIKE TO GIVE YOU ALL A FEW LITTLE
FACTS AND KIND OF GIVE YOU AN IDEA OF WHY I DON'T
THINK THAT WE SHOULD BE MINING IN THIS AREA.

WKM DOESN'T SEEM LIKE A COMPANY THAT'S INTENT
ON TRYING TO SOLVE THE PLEASANT RIDGE COMMUNITY. AS I
SAID, I CAN UNDERSTAND THEIR DESIRE TO PROFIT FROM
MOTHER NATURE'S NATURAL ABUNDANCE, BUT THOSE OF US WHO
HAVE LIVED OUT THERE FOR MANY YEARS HAVE THE SAME
DESIRE. WE WANT TO PROFIT FROM MOTHER NATURE WHETHER
IT'S MONETARILY OR WHETHER IT'S JUST IN THE SHEER
PLEASURE OF SEEING NATURE AT ITS FINEST.

YOU HEARD A LOT OF COMMENTS, AND I'M SURE
YOU'RE GOING TO HEAR MANY MORE COMMENTS TONIGHT FROM BOTH SIDES OF THE ISSUES. I JUST WANT YOU TO BE AWARE OF WHAT OUR COMMUNITY WILL BE SUBJECTED TO IF YOU ALLOW THE REZONING OF THIS LAND.

SAFETY IN THE AREA WILL BE COMPROMISED AT BEST. FROM RECORDS THAT I HAVE OBTAINED FROM THE MINING SAFETY AND HEALTH ADMINISTRATION, MSHA, WKM HAS BEEN CITED IN FOUR SEPARATE AUDITS SINCE THE COMPANY HAS BEEN IN BUSINESS. THEY'VE HAD 50 CITATIONS FOR VIOLATIONS OF MSHA, WITH ONE CURRENTLY PENDING. AMONG THESE ARE EIGHT VIOLATIONS FOR NOT KEEPING THEIR EQUIPMENT IN SAFE OPERATING CONDITION AND THEY DIDN'T TAKE THEM OUT OF SERVICE WHEN THEY WERE REQUIRED TO. THEY HAD THREE VIOLATIONS FOR NOT KEEPING THEIR WARNING DEVICES IN WORKABLE CONDITIONS. THEY'VE HAD SIX VIOLATIONS FOR NOT PROPERLY STORING COMBUSTIBLE MATERIAL, AND TWO VIOLATIONS FOR NONCOMPLIANCE OF DUST CONTROL.

THEIR SUBCONTRACTOR, MINING EQUIPMENT & MILL SUPPLY, WHO DOES THEIR BLASTING, HAS VIOLATED PART 33 CODE OF FEDERAL REGULATIONS, WHICH IS THE SAME REGULATION THAT WKM FALLS UNDER. SIXTY-SIX (66) TIMES THEY'VE HAD CITATIONS.

AMONG THESE, AND KEEP IN MIND THIS IS THE PEOPLE THAT ARE GOING TO BE BLASTING OUT THERE. THEY
HAVE 14 VIOLATIONS FOR NOT MAINTAINING THEIR EQUIPMENT
AND THEY DIDN'T TAKE THEM OUT OF SERVICE. THEY'VE HAD
8 VIOLATIONS FOR NOT PROVIDING AUDIBLE WARNINGS. THEY
HAVE 8 VIOLATIONS OF NOT HAVING COMPETENT PEOPLE
INSPECT THEIR EQUIPMENT. THEY HAVE 6 VIOLATIONS FOR
IMPROPER STORAGE OF BLASTING MATERIAL, 5 VIOLATIONS
FOR IMPROPER STORAGE OF COMBUSTIBLE MATERIALS, 5
VIOLATIONS OF NOT MAINTAINING FIRE FIGHTING EQUIPMENT,
AND 3 VIOLATIONS OF NOT GUARDING CHARGED HOLES.
SO YOU CAN IMAGINE WHAT'S GOING TO HAPPEN IF
SOME OF THESE GIRL SCOUTS DO GET OFF THE ROAD AND
THEY'RE NOT WARNED THAT THEY'RE IN A BLASTING ZONE.
FINALLY, THE COMPANY WHO WILL TRANSPORT THE
COAL FROM OMU OR TO THE RIVER, ASHBY TRUCKING, THEY
HAVE BEEN CITED ONCE FOR IMPROPER MAINTENANCE OF
AUDIBLE WARNINGS AND THEY'VE BEEN CITED -- THEY
CURRENTLY HAVE ONE PENDING FOR NOT HAVING ALARMS THAT
ARE ABOVE THE SURROUNDING CONDITIONS.
I WOULD LIKE FOR YOU TO KEEP ALL OF THESE IN
MIND WHEN YOU MAKE YOUR DECISION. THE PLEASANT RIDGE
NEIGHBORHOOD, HIGHWAY 231, RUSSELL ROAD, GIRL SCOUT
ROAD, THE PENNYROYAL GIRL SCOUT CAMP, AND ALL OF THE
CITIZENS WHO TRAVEL UP AND DOWN OUR LOCAL HIGHWAYS ARE
GOING TO BE SUBJECTED TO THESE COMPANIES WITH THE
HISTORY OF NOT FOLLOWING FEDERAL REGULATIONS.

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I'M SURE I SPEAK FOR MOST PEOPLE IN MY
COMMUNITY, NOT ONLY IN MY NEIGHBORHOOD BUT THOSE WHO
ARE GOING TO TRAVEL, VISIT AND LIVE IN THE VICINITY OF
THE MINING ACTIVITY. WE PLACE OUR TRUST, OUR LIVES,
OUR LIVELIHOOD IN OUR GOVERNMENT OFFICIALS TO PROTECT
US FROM ISSUES. WE CERTAINLY HOPE THAT YOU'RE GOING
TO KEEP OUR HEALTH, THE SAFETY AND WELLBEING IN MIND
WHEN THE TIMES COMES FOR YOUR DECISION. THANKS.

MR. WILSON: MR. CHAIRMAN, IF I COULD, I WOULD
LIKE TO WAIVE THE PODIUM FOR OTHER FOLKS HERE THAT
HAVE SOMETHING THAT THEY WANT TO SAY. I HAVE NO IDEA
IF THERE'S NO ONE OR 100. WHATEVER THE CHAIR SAYS ON
THAT. I WOULD LIKE TO RESERVE THE RIGHT TO CALL MY
FINAL FOUR WITNESSES FOLLOWING THEIR PRESENTATION.

CHAIRMAN: MR. WILSON, I APPRECIATE YOUR
CONCISE AND ORGANIZED PRESENTATION. THE CHAIR
APPRECIATES THAT VERY MUCH.

AT THIS POINT IN TIME I THINK IT WOULD ONLY
FAIR, MR. HAYNES, WOULD YOU POSSIBLY LIKE TO SAY
SOMETHING?

BEFORE YOU BEGIN, MR. HAYNES, LET ME JUST
SUMMARIZE AND YOU CAN HANDLE ANY AND ALL THE QUESTIONS
THAT I PUT OUT IN ANY ORDER WHICH YOU'D LIKE.

THERE WERE QUITE A FEW QUESTIONS RAISED BY THE
RESIDENTS, NEIGHBORS, AND THE GIRL SCOUTS. MR.

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FRAZIER DID A VERY NICE JOB OF SAYING WHERE THE STATE STOOD ON REGULATIONS AND WHATEVER. I THINK IT WOULD BE APPROPRIATE AT THIS TIME IS YOU WOULD PRESENT THE POSITION OF YOUR CLIENT ON THESE POINTS OF CONCERN.

OBVIOUSLY, HOME DAMAGE, PROPERTY VALUATIONS, GENERAL HEALTH, AND THE SAFETY OF THE SURROUNDING AREA, MR. HAYNES.

MR. HAYNES: BEFORE I DO THAT, I DON'T KNOW IF YOU HAVE ANY SPECIFIC QUESTIONS. BEFORE YOU HAD DEVELOPED SOME QUESTIONS AND COME BACK WITH THEM, DID YOU HAVE SOME SPECIFIC QUESTIONS OR DID YOU JUST WANT US TO RESPOND?

CHAIRMAN: USUALLY MY QUESTIONS COME FROM WHAT THE AUDIENCE BRINGS UP AS QUESTIONS. I TRY TO SUMMARIZE AND THEN GET YOU TO RESPOND AT THAT TIME.

MR. HAYNES: I GUESS FIRST I NEED TO RESPOND TO THE GENTLEMAN'S CONTENTION THAT THE COMPREHENSIVE PLAN KIND OF PREFERENCES RESIDENTIAL OUT THERE. THIS IS A RURAL MAINTENANCE AREA, AND AS SUCH COAL MINING IS ALLOWED IN GENERAL LOCATIONS. MEANING IT TAKES PREFERENCE TO AGRICULTURAL COAL MINING.

IT'S FUNNY THAT IN THIS ZONE OR THIS AREA AGRICULTURAL RESIDENTIAL PROPERTY SAYS COAL MINING, AGRICULTURAL RESIDENTIAL PROPERTY AND AGRICULTURE. THOSE ARE THE THINGS THAT ARE IN COMPLIANCE WITH THE
PLAN.

THE RESIDENTIAL THAT'S UNRELATED TO FARMING DROPS DOWN INTO THE SECOND CATEGORY OF SOMETHING THAT IS NOT PREFERRED OR RECOMMENDED.

WE ARE IN THE RIGHT ZONE. WE ARE IN COMPLIANCE. THE PLANNING AND ZONING IN THE LAND USE PLAN SAYS WE SHOULDN'T HAVE RESIDENTIAL IN THAT AREA WITHOUT IT BEING ATTACHED TO AN AGRICULTURAL OR FARM.

CHAIRMAN: I THINK YOU'RE IN THE WRONG DIRECTION. I THINK WHAT YOU NEED TO DO IS ADDRESS THE ZONING QUESTIONS. PROBABLY I SHOULD HAVE DONE THAT FOR YOU.

WHERE YOU NEED TO HEAD WITH, MAYBE I DIDN'T MAKE MYSELF CLEAR, IS THE CONCERNS OF THE NEIGHBORS, SAFETY, THE PROPERTY VALUATION, AND THOSE THINGS THAT I SORT OF OUTLINED WERE THE QUESTIONS THAT I GOT FROM MR. WILSON'S GROUP AND THAT RESIDENTS THAT SPOKE.

MR. HAYNES: I'M SORRY, I MISUNDERSTOOD WHAT YOU WERE ASKING.

CHAIRMAN: I'M SORRY. I WILL GET MR. HOWARD TO ADDRESS THE ADJOINING ZONING AND THE CONTIGUOUS COAL MINING. I'LL GET HIM TO ADDRESS THAT BECAUSE THAT WOULD BE UNFAIR FOR YOU TO TRY TO ADDRESS THAT.

MR. HAYNES: THE QUESTIONS IN REGARD TO BLASTING I THINK WOULD BE BETTER HANDLED BY A
MR. SILVERT: WOULD YOU STATE YOUR NAME, PLEASE.

MR. VINCENT: MARTY VINCENT.

(MARTY VINCENT SWORN BY ATTORNEY.)

CHAIRMAN: MR. VINCENT, NOT TO EXTEND THIS ANY LONGER THAN WE NEED TO, BUT DO YOU HAVE THE GIST OF MY QUESTION, SAFETY CONCERNS, BLASTING PROBLEMS, HOME DAMAGE?

MR. VINCENT: YES.

CHAIRMAN: THANK YOU.

MR. VINCENT: FIRST OF ALL, I THINK I WOULD LIKE TO ADDRESS THE GENTLEMAN'S STATEMENTS ABOUT THE CITATIONS OR VIOLATIONS.

I REALLY WOULD LIKE FOR EVERYONE TO HAVE A BETTER UNDERSTANDING OF HOW THOSE CITATIONS ARE WRITTEN.

MSHA IS A VERY, IT'S A FEDERAL AGENCY, REGULATORY AGENCY. THEY DO A VERY GOOD JOB AT WHAT THEIR GOALS ARE AND THAT'S REGULATING MINE SAFETY AND HEALTH. THOSE FOLKS COME TO THE MINE SITES ON A VERY REGULAR BASIS AND THEY DO VERY THOROUGH AUDITS. MANY OF THESE CITATIONS MAY BE FOR SOMETHING SUCH AS A METAL TAG LOOSE ON A FIRE EXTINGUISHER AND NOT SO MUCH
THE FIRE EXTINGUISHER NOT WORKING OR NOT BEING
OPERATIONAL. THERE MAY BE A LOOSE WIRE ON A TAIL
LIGHT ON A TRUCK. ALL OF THESE THINGS MUST BE
CORRECTED BEFORE THEY LEAVE THE SITE IN ORDER FOR YOU
TO CONTINUE ON WITH THE PROCESS.

SO I WOULD ONLY ASK THAT FOLKS TAKE A REAL
HARD LOOK AT THESE CITATION AND HOW THEY'RE WRITTEN
AND WHAT THEY'RE WRITTEN FOR BECAUSE IT REALLY SOUNDS
LIKE THAT'S A LOT, THAT THERE ARE A LOT OF CITATIONS
BEING WRITTEN TO OUR INDUSTRY.

OUR INDUSTRY IS A VERY SAFE INDUSTRY. THERE
ARE A LOT OF EXPLOSIVES USED IN OUR NATION AND
THROUGHOUT THE WORLD IN ORDER TO PRODUCE THE PRODUCTS
THAT WE ALL USE IN OUR HOMES, ON OUR ROADS, IN OUR
HOUSES, OUR FOUNDATIONS, DRIVeways, OUR HIGHWAYS.
IT'S A VERY IMPORTANT PROCESS TO WHAT WE DO IN ALL
AREAS AND NOT JUST MINING OF COAL.

OUR COMPANY HAS ACHIEVED MANY SAFETY AWARDS BY
FEDERAL AND STATE REGULATORY AGENCIES AND OTHERS. WE
HAVE LICENSED CERTIFIED BLASTERS THAT ARE LICENSED BY
THE STATE, CERTIFIED BY A FEDERAL AGENCY, AND THAT IS
ADMINISTERED BY THE STATE AGENCIES.

OUR INDUSTRY ON THE MINE SITE ONLY IS
REGULATED BY FIVE AGENCIES WHICH ARE THREE FEDERAL AND
TWO STATE, AND ARE AUDITED ON A VERY ROUTINE AND OFTEN
I would hope that that would answer some of the questions related to there. I would certainly like to answer whatever else.

Chairman: Wait a minute now. For my benefit I don't think you still got to. We're concerned about this individual area, these individuals' homes, property values. Site specific. Your blasting at Point A, affect it will have on, I'll just pick them out, the Eggers house. I believe that's what I'm trying to ask as a question.

Mr. Vincent: Our procedure is a regulated procedure, is that we first of all monitor with seismographic equipment at the nearest uncontrolled structure, whether that be a home, business, utility. We also monitor with seismographic equipment in other places, other control points that we deem necessary or where probable cause for concern may be. We also monitor areas that we have homeowners or residents that complain about blasting vibration or noise. We set seismographs on their property with their permission and monitor and share this information with the homeowners and the neighbors. We try to have an outreach program where we make ourselves known to the community. The people in our company, contact
NUMBERS, NAMES.

WE DO BLAST ON A CONTINUED DAILY BASIS AS NEEDED AT THE MINE SITES. OUR EXPLOSIVES ARE STORED IN COMPLIANCE WITH REGULATORY AGENCIES AND THEY ARE HANDLED AND USED ACCORDINGLY.

CHAIRMAN: WHAT WOULD BE THE RISK AND WHAT WOULD BE THE DAMAGE FACTOR TO THE HOMEOWNER? OBVIOUSLY THERE'S A PRE-SITE INSPECTION DONE. THE DAMAGE IN SOMETHING THAT COULD HAPPEN TO THE INDIVIDUAL HOMEOWNER DURING THIS. I MEAN WE'RE TALKING ABOUT 1,000 FEET. IS THAT GOING TO BE ENOUGH TO PROTECT THE HOMEOWNER? ARE THERE GOING TO BE PROBLEMS? WHAT IS THE FOLLOW UP TO POTENTIAL PROBLEMS?

MR. VINCENT: BLASTING IS DONE ON A DAILY BASIS AT VARIOUS DISTANCES FROM HOMES AND BUSINESSES. IF I CAN, AS A COMPARISON, THERE'S A LOT OF BLASTING DONE IN LARGE CITIES AROUND BUILDINGS. THERE'S BLASTING DONE FOR NEW CONSTRUCTION. THERE'S BLASTING DONE FOR VARIOUS REASONS.

IN THE MINING INDUSTRY, THERE ARE PERMITTED DISTANCES THAT YOU ARE TO STAY AWAY FROM HOMES. THAT PERMITTED DISTANCE IS 300 FEET.

I THINK MOST EVERYBODY HEARD MR. WRIGHT'S TESTIMONY EARLIER, WHERE OUR COMPANY AND CERTAINLY
OTHERS HAVE BLASTED WITHIN 60, 70 FEET OR CLOSER TO HOMES AND STRUCTURES. THERE'S, AGAIN, SEISMOGRAPHIC MONITORING IS USED. THERE ARE SCALED DISTANCE EQUATIONS THAT ARE USED TO HELP REGULATE AND DESIGN BLASTS FOR THE BLASTING OF THE OVERBURDEN. THE SEISMOGRAPHS MONITOR GROUND VIBRATION IN THREE PLANES, THREE DIRECTIONS, IF YOU WILL, AND FOR AIR NOISE OR AIR OVERPRESSURE.

CHAIRMAN: DOESN'T THE TYPE OF SOIL ALSO HAVE A BEARING ON HOW FAR THE BLAST WILL TRAVEL AND HOW FAR THE DAMAGE?

MR. VINCENT: IT DOES.

CHAIRMAN: WHAT KIND OF SOIL DO WE HAVE OUT THERE IN THIS AREA WHERE WE'RE GOING TO BE BLASTING?

MR. VINCENT: I'M SURE THAT THERE IS SOME UNCONSOLIDATED SURFACE MATERIAL. THAT'S NOT UNUSUAL FOR THIS AREA OF WESTERN KENTUCKY.

CHAIRMAN: WHICH MEANS THAT THE BLAST TRAVELS FURTHER?

MR. VINCENT: NOT SO MUCH FURTHER. IT'S AT A DIFFERENT FREQUENCY OR DIFFERENT SPEED. THE BLASTS ARE DESIGNED BASED ON THAT. THE CRITERIA FOR BLASTING, THE REGULATIONS IN THE STATE OF KENTUCKY ARE DESIGNED TO PRODUCE A VERY LOW BLAST VIBRATION IN RELATION TO STRUCTURAL DAMAGE.
CHAIRMAN: THANK YOU.

MR. WILSON, DID I SUM UP SOME OF YOUR HOMEOWNERS QUESTIONS?

MR. WILSON: YES, SIR, I BELIEVE YOU DID.

CHAIRMAN: THANK YOU.

AT THIS POINT IN TIME, MR. HOWARD, WOULD YOU ADDRESS THE ADJACENT PROPERTY AND THE COAL MINING ISSUE AND CONTIGUOUS PROPERTIES, PLEASE.

MR. HOWARD: I'LL ADDRESS THE ZONING ISSUE FIRST.

THE SOUTHERNMOST PROPERTY IN DAVIESS COUNTY DOES ADJOIN THIS PROPERTY AND IT IS CURRENTLY ZONED EX-1. MY UNDERSTANDING IT THAT IT WAS USED FOR COAL MINING BACK IN '80. THIS PROPERTY DOES ADJOIN COAL MINING PROPERTY TO THE SOUTH.

IN REGARDS TO THE COMPREHENSIVE PLAN QUESTION, THE NORTHEAST CORNER OF THE PROPERTY IS IN A RURAL COMMUNITY PLAN AREA; HOWEVER, WHEN STAFF REVIEWED IT, I DON'T HAVE THE NUMBERS IN FRONT OF ME, BUT I THINK IT'S AROUND 65 ACRES, 60, 65 ACRES OF LAND WHICH WAS MAYBE A TENTH OF THE ORIGINAL ZONING AREA, IS COMPRISED OF THREE TRACTS. SO THESE ARE LARGE LOT RURAL TRACTS THAT ARE IN THIS AREA. IT'S NOT CONSISTENT WITH THE SMALL LOT RURAL RESIDENTIAL THAT YOU WOULD FIND TYPICALLY IN A RURAL COMMUNITY, ON THE
OTHER SIDE OF 231 AND IN THE PLEASANT RIDGE RURAL COMMUNITY AREA.

SO WHEN STAFF REVIEWED IT, THE PORTION, A SMALL PORTION IS IN THE RURAL COMMUNITY PLAN AREA, BUT IT'S JUST NOT CONSISTENT WITH WHAT YOU WOULD FIND TYPICALLY IN A RURAL COMMUNITY. WITH THE COAL HAUL ROUTE NEEDING TO GO THIS PROPERTY TO ACCESS 231 INSTEAD OF TRYING TO UTILIZE RUSSELL ROAD OR GIRL SCOUT ROAD TO TRANSPORT COAL, WE FELT THIS WAS A Viable ALTERNATIVE.

CHAIRMAN: THANK YOU.

MR. WILSON, DOES ANYBODY FROM YOUR GROUP HAVE A QUESTION OF MR. HOWARD, OR ANYBODY IN THE AUDIENCE OR WE'LL TURN MR. HOWARD LOSE?

MR. WILSON: NO, I HAVE NO QUESTION OF MR. HOWARD.

CHAIRMAN: DOES ANYBODY IN THE AUDIENCE HAVE ANY QUESTIONS OF MR. HOWARD?

GENTLEMAN IN AUDIENCE: HE'S NOT CARING ABOUT A PIECE OF GROUND WITH ONE ACRE IS WHAT HE'S SAYING?

MR. SILVERT: COULD YOU STATE YOUR NAME, PLEASE?

MR. BICKWERMERT: MY NAME IS MARVIN BICKWERMERT.

(MARVIN BICKWERMERT SWORN BY ATTORNEY.)
MR. BICKWERMERT: HOW YOU GOING TO GO AND MAKE A ROAD BETWEEN RUSSELL ROAD AND BOLING ROAD? THERE'S TREES BACK THERE. RIGHT BESIDE MY LINE. I'M ON THE Daviess County AND Ohio County line. I DON'T UNDERSTAND WHY YOU ALL WANT TO COME IN. I WORKED FOR MINES BEFORE. SURFACE MINE. YOU'VE GOT A WINDING ROAD.

ONLY THING I CAN TELL YOU IS WHAT SURFACE MINES DOES FOR YOU. IT TAKES THE ANIMALS AWAY. IT ALSO BRINGS OUT THE SNAKES BECAUSE THEY'VE GOT TO HAVE A LAKE THERE, FRESH WATER IN. THEY GOING TO WASH TO KEEP THEIR EQUIPMENT UP. IT WILL BRING OUT SNAKES. WE'VE GOT A LOT OF LITTLE CHILDREN. WE'VE GOT THE GIRL SCOUT CAMP OUT THERE. TRY TO GET SOME CONTROL. ANIMALS DO NOT LIKE BLASTING. THAT WILL BE JUST LIKE SOMEONE COME DOWN TO YOUR NEIGHBORHOOD, DRILL A HOLE OUT THERE IN THE MIDDLE OF THE STREET AND DIDN'T ASK YOU ALL OR ASK ANYBODY. JUST BLASTING. THAT'S WHAT THESE ARE DOING.

CHAIRMAN: YOUR QUESTION WASN'T EXACTLY FOR MR. HOWARD.

MR. BICKWERMERT: I DON'T KNOW HOW THEY'RE GOING TO MAKE A ROAD.

CHAIRMAN: I'LL GET YOUR QUESTION ANSWERED.

UNFORTUNATELY, MR. HOWARD CAN'T ANSWER THAT.
MR. HOWARD, ISN'T THAT A LITTLE BIT OUTSIDE OF YOUR --

MR. HOWARD: YES. WE'RE NOT PROPOSING ANY COAL HAUL ROADS INVOLVED IN THE LOCATION OF THEM AROUND THE PROPERTY THERE. IT'D PROBABLY BE BETTER FOR THE COAL COMPANY TO ADDRESS THAT QUESTION.

CHAIRMAN: I'M SORRY, WE'LL GET YOUR QUESTION ANSWERED, BUT YOURS IS A LITTLE BIT OUT OF ORDER FOR WHAT WE'RE TRYING TO DO IN THE ORDER, BUT WE'LL GET YOUR QUESTION ANSWERED SINCE YOU CAME FORWARD.

MR. NOFFSINGER.

MR. NOFFSINGER: I DO MAKE A COMMENT REGARDING, I'M KIND OF PIGGY-BACKING ON WHAT MR. HAYNES WAS SAYING AS WELL AS BRIAN HOWARD.

THIS INFORMATION WAS SUBMITTED BY MR. WHISTLE JUST SHORTLY. HE WAS REFERRING TO THE RURAL COMMUNITY OF PLEASANT RIDGE. THE FOLKS SHOULD BE ADVISED AND THEY WEREN'T ADVISED.

THE LANGUAGE IN THE COMPREHENSIVE PLAN STATES THAT WHEN YOU'RE READING THIS YOU SHOULD BE ADVISED OF THE POTENTIAL OF COAL MINING IN THESE AREAS. IT DOESN'T MEAN THE COUNTY OR LOCAL GOVERNMENTS HAVE ANY OBLIGATION TO ADVISE YOU. IT'S YOUR OBLIGATION AS THE CITIZENS OF THE COMMUNITY TO BE INFORMED ABOUT THE COMPREHENSIVE PLAN AND TO READ THAT COMPREHENSIVE PLAN.
AS IT APPLIES TO WHERE YOU'RE GOING TO LOCATE.

THIS PROPERTY, ALL OF THIS PROPERTY IS LOCATED
IN THE RURAL SERVICE AREA. THE GOAL FOR THE RURAL
SERVICE AREA, AS SUBMITTED BY MR. WHISTLE, IS THIS:
RESERVE THE LAND IN THE RURAL SERVICE AREA PRIMARILY
FOR AGRICULTURAL USES, OTHER NATURAL RESOURCE
ACTIVITIES, AND SUPPORT USES THAT NEED TO BE NEAR SUCH
ACTIVITIES.

THE COMPREHENSIVE PLAN ADOPTED FOR THIS
COMMUNITY IS PRECEDENCE TO THESE TYPES OF ACTIVITIES
OVER RURAL RESIDENTIAL. AS AN OBJECTIVE IT STATES
UNDER THAT, ONE OBJECTIVE IS TO ACCOMMODATE RURAL
RESIDENTIAL USES THROUGHOUT THE RURAL SERVICE AREA FOR
PEOPLE WHO WISH TO LIVE IN A RURAL SETTING, BUT ONLY
TO THE EXTENT THAT RURAL RESIDENTIAL USES DO NOT
SIGNIFICANTLY IMPINGE ON THE PRIMARY USES OF THE RURAL
SERVICE AREA NOTED ABOVE.

CHAIRMAN: WOULD YOU ALL HAVE SOMEBODY ADDRESS
THIS GENTLEMAN'S QUESTION ABOUT THE ROAD?

MR. WRIGHT: THERE'S NO ROAD PROPOSED TO GO
BACK THROUGH TO BOLING ROAD. I'M NOT SURE WHERE HE'S
TALKING ABOUT. WE COULD BRING THE MAP BACK UP OR I
COULD BRING THIS OTHER MAP BACK OUT.

CHAIRMAN: THANK YOU.

MR. SILVERT: IF YOU'D JUST STATE YOUR NAME
AGAIN, PLEASE?

MR. BICKWERMERT: MARVIN BICKWERMERT.

THE ROAD WILL BE IN DAVIESS COUNTY. THE GARAGE AND THERE'S A LITTLE HOUSE SITTING BACK THERE.

WE HAVE BEEN INFORMED YOU ALL ARE GOING TO MAKE A ROAD THERE TO COME OUT ON 231. THAT IS SITTING BETWEEN RUSSELL ROAD. THE ROAD WILL RUN RIGHT DOWN BEHIND RUSSELL ROAD. YOU'D HAVE TO BE DRILLING ON SOMEBODY'S PROPERTY. I DON'T UNDERSTAND WHY WE HAVEN'T BEEN NOTIFIED ABOUT THAT.

MR. WRIGHT: CAN YOU COME UP AND SHOW ME ON THE MAP WHERE YOU'RE TALKING ABOUT?

IS THAT OKAY?

MR. SILVERT: EXCUSE ME. THAT MICROPHONE IS A PORTABLE MICROPHONE. COULD YOU BRING IT BY YOU SO WE CAN HEAR WHAT YOU'RE SAYING AND THE COURT REPORTER CAN GET IT DOWN?

MR. BICKWERMERT: THERE'S A HOUSE BACK THERE.

WE HAVE BEEN TOLD THAT YOU ALL ARE GOING TO MAKE A ROAD BACK THROUGH THERE TO GO BACK TO YOUR MINE.

THAT'S PASSED MY PROPERTY.

MR. WRIGHT: NO. OURS WILL COME IN HERE JUST NORTH OF WHERE YOU'RE TALKING ABOUT. COMES ACROSS THE BELCHER PROPERTY AND BACK INTO THE TAYLOR PROPERTY.

WHERE IS YOUR PROPERTY LOCATED BACK THERE? I'M NOT
AWARE OF YOUR PROPERTY?

MR. BICKWERMERT: DOWN HERE ON BOLING ROAD.

YOU'VE GOT RUSSELL ROAD, BOLING ROAD AND THEN GREEN BRIAR, ALL THREE OF THEM. IT'S RIGHT OVER HERE.

MR. WRIGHT: YOU'RE DOWN BY BOLING ROAD?

MR. BICKWERMERT: I LIVE ON BOLING ROAD.

MR. WRIGHT: YOU LIVE OUT ON BOLING ROAD. WE WILL NOT BE CONSTRUCTING A ROAD IN THAT AREA.

MR. BICKWERMERT: BUT YOU'LL HAVE DUST AND STUFF WILL BLOW OVER IN THAT AREA.

CHAIRMAN: SIR, SPEAK INTO THE MIKE.

MR. BICKWERMERT: YOU UNDERSTAND WHAT I'M SAYING? I KNOW HOW THAT WORKS. I WORKED FOR A MINE BEFORE.

CHAIRMAN: THANK YOU.

LET'S LET EACH OF THE TWO PROFESSIONALLY REPRESENTED PROPOSAL AND MR. --

OUR COURT REPORTER JUST SAID, WE'RE GOING TO TAKE A BREAK. LET'S TAKE A REAL SHORT BREAK.

- - - - (OFF THE RECORD) - - - -

CHAIRMAN: WE'RE BACK ON RECORD.

MR. NOFSSINGER: THE NEXT PERSON TO THE STAND WILL BE JAMES P. GOODALL.

MR. WILSON: JAMES P. GOODALL.

MR. SILVERT: WOULD YOU STATE YOUR NAME,
PLEASE?

MR. GOODALL: MY NAME IS JAMES P. GOODALL, SR.
I LIVE AT 10310 PARKS ROAD, UTICA, KENTUCKY.

(JAMES GOODALL SWORN BY ATTORNEY.)

MR. GOODALL: I'VE LIVED OUT IN THE AREA SINCE 1960. WHEN I COME HOME FROM THE AIR FORCE, WENT IN THE ARMY RESERVES AND I HAVE RETIRED FROM THE ARMY RESERVES, FORT KNOX IN '99. I WAS OPERATION SERGEANT. MY JOB FOR THE NUMBER OCCASION TO COORDINATE THE TRAINING. I GOT TO FILE ALL OVER THE COAL FIELDS OF WESTERN KENTUCKY.

WHEN I GOT OUT OF THE ARMY AND I WORKED FOR TEXAS GAS, I WORKED THE RIGHT-OF-WAY GROUP IN TEXAS GAS. FLEW ALL OVER WESTERN KENTUCKY. FLEW ALL OVER KENTUCKY. FLEW OVER GOAL MINES IN INDIANA, VIRGINIA, ALL THE WAY DOWN TO THE GULF COAST. I SEEN A LOT OF COAL MINES AND A LOT OF STRIP MINES. ALL OF THAT FLYING I NEVER DID SEE A WHOLE LOT OF HOUSES AROUND STRIP MINE.

NOW, THESE PEOPLE HERE ARE MY NEIGHBORS. SOME OF THEM ARE MY FRIENDS. SOME OF THEM I DON'T KNOW. THEY LIVE AROUND THIS AREA. GIRL SCOUT ROAD, RUSSELL ROAD AND REDHILL MAXWELL ROAD.

I TOOK THE LIBERTY TO DO WHAT YOU DO RECON. I WALKED AROUND THE AREA. YOU COUNT ALL THE HOUSES
THAT'S GOING TO BE ON THE VERY EDGE OF THIS STRIP MINE, THERE'S ABOUT 97 HOMES ON THE INSIDE PERIMETER. ON THE OUTSIDE ABOUT HALF A MILE, COUNT WAY OVER 200 HOMES THAT AFFECT BY THIS COAL MINE.

IN ALL MY LIFETIME OF COAL MINES AND STRIP MINES, I HAVE NEVER SEEN A STRIP MINE OR A COAL MINE IN A POPULATED AREA LIKE THIS AREA. NEVER HAVE BEEN DONE. I KNOW SOME OF THE GRAPHICS THAT THE COAL MINE SHOW. THEY DIDN'T SHOW ANY HOUSES ON THE PERIMETER OF THE STRIP MINE. THIS IS SOMETHING NEW FOR THEM.

HAVEN'T HAD THIS MANY HOUSES TO DEAL WITH. IT JUST HASN'T BEEN DONE BEFORE. TWO TIMES THIS HAS BEEN BEFORE THE BOARD AND IT'S BEEN SHOT DOWN. EACH TIME THERE'S MORE HOUSES OUT THERE AND MORE PEOPLE OUT THERE. WE'RE ALL OVER THE COMMUNITY OUT THERE. IT'S WHERE WE LIVE. IT'S OUR PEACEFUL AMERICA. WE DON'T WANT OUR KIDS AND SCHOOL BUSES ON ROADS WITH COAL TRUCKS. I'VE GOT FOUR GRANDKIDS AND ABOUT THREE GREAT-GRANDKIDS ON THE WAY TO GO TO SCHOOL. COAL TRUCKS ARE A DANGER. MOST OF THE TIME THEY'RE ON NARROW ROADS. IF YOU LOOK AT THEM, THEY DRIVE WITH ONE WHEEL ON THE YELLOW LINE. THAT'S JUST A GIVEN OUT IN THE COUNTRY THAT LIVES OUT THERE. THE COAL TRUCK IS GOING TO WIN. I DON'T CARE WHAT VEHICLE YOU'RE IN. IT DOESN'T NEED TO BE DONE.
I ASK YOU GENTLEMEN, I KNOWN SOME OF YOU PERSONALLY, YOU DON'T LIVE OUT THERE. WE DO. THIS GOAL MINE WILL NOT BE IN YOUR BACKYARD. IT'S IN MY BACK YARD. BE MY GRANDKIDS ON THE SCHOOL BUS WHERE THESE COAL TRUCKS ARE. MY GREAT-GRANDKIDS. THERE WILL BE DAMAGE TO OUR PROPERTY.

WE HAD A COAL MINE OUT THERE ABOUT 15, 20 YEARS AGO OVER A MILE AWAY. WHEN THEY BLASTED MY HOUSE SHOOK LIKE JELLY. SINCE THEN ABOUT 60 HOUSES HAVE BEEN BUILT, BRAND NEW. BUILT OUT OF BRICK, STONE. THEY'RE ON SLAB ON THE VERY EDGE OF THE STRIP MINE. THEY'RE GOING TO GET DAMAGED. NO WAY ABOUT IT. WE DON'T NEED TO DO THIS. WE DON'T NEED TO LIVE IN THIS SITUATION WHERE OUR PROPERTY VALUE. IT'S ALREADY GONE DOWN JUST TALK OF THE STRIP MINE OUT THERE. IT'S SHOT IT DOWN ALREADY. WE DON'T NEED THIS. NOT A HEAVILY POPULATED AREA LIKE WE GOT. RURAL PEOPLE, RURAL COMMUNITY. WE DON'T WANT THIS IN OUR BACKYARD. I BELIEVE THE COAL COMPANY HAVE GOT A PLACE WHERE PEOPLE, SOMEBEHOW WHERE IT'S NOT DESTROYING PEOPLE'S LIVES. THAT'S IT.

MR. NOFFSINGER: JAMES KAMUF.

MR. SILVERT: WOULD YOU STATE YOUR NAME, PLEASE?

MR. KAMUF: JAMES KAMUF.
MR. KAMUF: I'LL TRY TO BE QUICK. I'D LIKE TO TALK MORE, BUT IT'S BEEN A LONG NIGHT.

IT'S HARD FOR ME TO BELIEVE THAT I'M SAYING THIS, BUT I ASK FOR YOUR CONSERVATISM TONIGHT. THIS BOARD TWICE HAS REJECTED THIS IDEA. I ASK FOR YOU TO BE CONSERVATIVE ONCE AGAINST.

THIS COAL HAS SAT -- WE'RE ALL TIRED TONIGHT AND WE WANT TO GO HOME ALREADY, BUT THIS COAL HAS BEEN IN THE GROUND FOR 300 MILLION YEARS AND IT'S NATURE FORM OF SEQUESTRATION. I REALLY WANT YOU TO THINK ABOUT THAT. THIS DECISION -- THAT CARBON RELEASE IS GOING TO BE IN THE ENVIRONMENT FOR 300 MILLION YEARS. I MEAN THAT'S TRUE. THAT'S THE GEOLOGICAL TIME SCALE WE'RE TALKING ABOUT HERE. I KNOW IT'S GONE ON FOR 20 YEARS, 30 YEARS. IT'S ABOUT TIME WE SET THIS ONE WAY OR THE OTHER, BUT I JUST ASK FOR YOUR CONSERVATISM ONCE AGAIN.

I UNDERSTAND WHY THE RESIDENTS ARE UPSET HERE. I REALLY DO. I MEAN SOME PEOPLE ARE GOING TO MAKE MILLIONS OFF THIS DEAL AND OTHER PEOPLE'S PROPERTY VALUES ARE GOING TO GO DOWN. THE WAY I UNDERSTAND IT THERE'S NO COMPENSATION FOR THEM. I UNDERSTAND WHERE PEOPLE ARE UPSET ABOUT THIS.

THERE'S POWDER RIVER BASIN WHERE MOST OF OUR
COAL COMES FROM OUT IN WYOMING. IT IS TRUE,
KENTUCKY'S COAL PRODUCTION IS PROJECTED TO BE CUT IN
HALF IN THE NEXT THREE YEARS.
WE STUMBLED ACROSS THIS COAL AND WE JUST KEEP
ON DOING THE SAME THING. DIGGING IT UP AND BURNING
IT. WE DIDN'T KNOW BETTER. WE KNOW NOW THAT THERE
MIGHT REALLY BE CONSEQUENCES OF PULLING THIS COAL OUT
OF THE GROUNDS FOR THOUSANDS OF GENERATIONS. THESE
LITTLE GIRLS, THESE LITTLE GIRL SCOUTS REALLY DO NEED
TO BE CONCERNED. IT'S GENERATION, AFTER GENERATION,
AFTER GENERATION OF GIRL SCOUTS THAT ARE GOING TO HAVE
TO LIVE WITH THIS POLLUTION.
IT CONCERNS ME TOO ABOUT THE AGRICULTURAL
VALUE OF THIS LAND. IT REALLY IS, WE SHOULD BE
GROWING CROPS ON THIS GROUND IF AT ALL POSSIBLE.
THE FINAL THING IS, NATURAL GAS IS REALLY
GETTING CHEAP TOO. IT'S HARD FOR ME TO REALLY BELIEVE
THAT THIS UTILITY IS GOING TO BURN THIS COAL.
THROUGHOUT THE REST OF THE WORLD THIS COAL SELLS THREE
times more than what it's valued here. I would advise
people just to sit on this coal because it's already
traded for $120 per ton around the world. So really
you're selling yourself out cheap. I really do think
that some days this planning commission many years in
the future might have to do this just to keep the
LIGHTS ON, THE ELECTRICITY. THAT WOULD BE NECESSARY,
BUT TODAY IT'S NOT NECESSARY. I ASK YOU TO REALLY
LOOK AND THINK ABOUT THE REAL LONG CONSEQUENCES OF
MAKING THIS DECISION. THANK YOU.

CHAIRMAN: LET ME ASK THAT IN CONSIDERATION OF
THE NEXT SPEAKER JUST HOLD YOUR APPLAUSE. WE CAN GET
MORE PEOPLE SPEAKING IF WE DO THAT. I THINK IF YOU
WILL BE RESPECTFUL WE'LL GET MORE PEOPLE SPEAKING, IF
YOU WOULD. I UNDERSTAND YOUR APPRECIATION, BUT LET'S
GET MORE SPEAKERS UP HERE IF WE COULD. COULD YOU ALL
AGREE WITH THAT AND RESPECT THAT REQUEST.

MR. SILVERT: STATE YOUR NAME, PLEASE.
Ms. Shultz: I AM JENNIFER SCHULTZ.
Mr. Noffsinger: IT'S BRENDA LOVE.
Ms. Shultz: I NEEDED TO GO BECAUSE OF MY
CHILDREN. I NEED TO GO GET MY CHILDREN.

Mr. Silvert: IS THAT OKAY, MS. LOVE?
Ms. Love: SURE.

(JENNIFER SHULTZ SWORN BY ATTORNEY.)
Ms. Shultz: I AM JENNIFER SCHULTZ, A WIFE AND
MOTHER AND TEACHER AT OWENSBORO CATHOLIC MIDDLE
SCHOOL. I HAVE BEEN MARRIED FOR 21 YEARS TO A
WONDERFUL MAN WHO IS AN ELECTRICAL ENGINEER AND ALSO A
TEACHER.

PEOPLE MEET AND KNOW MY HUSBAND THEY SAY

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THERE'S NOTHING THAT HE CANNOT BUILD WITH HIS TWO HAND. MY OLDEST DAUGHTER IS A GRADUATE OF OWENSBORO CATHOLIC HIGH SCHOOL AND NOW IS ATTENDING CENTRE COLLEGE IN DANVILLE, KENTUCKY. MY TWIN GIRLS ARE EIGHT AND ATTEND THE OWENSBORO CATHOLIC SCHOOLS AS WELL. WE LIVE IN THE DAVIESS COUNTY AREA SINCE MOVING HERE IN 1993.

IN THE WINTER OF 2003, MY HUSBAND AND I BOUGHT THE 70 ACRES ON WHICH WE NOW LIVE. THE PROPERTY ON HIGHWAY 140 PARTIALLY BORDERS THE GIRL SCOUT CAMP AND IS 95 PERCENT WOODED.

MY HUSBAND BUILT OUR TIMBER FRAME HOME MOSTLY BY HIMSELF. HE USED SOME OF THE TREES FROM THE FOREST IN HIS DESIGN. WE HAD A WELL DUG. ALL THE PIPING AND PUMP WERE INSTALLED BY HIM. HE EVEN DESIGNED AND BUILT A CONTROL SYSTEM OF THE PUMPS AND TANK FROM SCRATCH. THIS SYSTEM HAS WORKED PERFECTLY SINCE 2004 AND SUPPLIES US, OUR TWO HORSES, THREE CATS, FOUR GOATS, AND TEN CHICKENS WITH CLEAR FRESH WATER.

WE HEAT OUR HOUSE EXCLUSIVELY WITH WOODS FROM OUR FOREST. MOST OF IT COMES FROM DEAD OR DOWN TREES. THE FOREST WAS LOST SEVERELY BEFORE WE BOUGHT THE LAND, BUT OUR EFFORTS ARE HELPING TO BRING IT BACK TO HEALTH. MY HUSBAND ALSO HAS ADDED SOLAR ELECTRIC PANELS WHICH CAN SUPPLY ABOUT 10 PERCENT OF OUR POWER.
THE LIGHTING IN OUR BARN IS 100 PERCENT SOLAR ELECTRIC.

ON OUR PROPERTY WE ROUTINELY SEE DEER, TURKEY, RACCOONS, HAWKS AND EVEN ONCE A BOBCAT. WHEN THE COYOTES AREN'T HOWLING, IT'S A VERY QUIET AND PEACEFUL PLACE TO LIVE AND WE HAVE GREAT NEIGHBORS. WITHOUT THE GLARE OF THE CITY LIGHTS AND THE STARS ARE NUMEROUS AND BRILLIANT ON A CLEAR NIGHT.

WE HAVE FOUR SMALL PONDS DUG ON OUR PROPERTY AS PART OF THE STATE WILDLIFE HABITAT IMPROVEMENT PROGRAM AND HAVE CONSULTED THE FORESTRY DEPARTMENT ON HOW TO IMPROVE OUR WOODS. ALSO, THE PONDS WERE PUT IN BY THE STATE TO HELP SUPPORT THE ENDANGER INDIANA BAT.

MY POINT IN TELLING YOU ALL OF THIS IS TO EXPLAIN THE INCREDIBLE AMOUNT OF WORK, NOT TO MENTION MONEY, WE HAVE PUT INTO THIS PROPERTY. WE ABSOLUTELY LOVE LIVING HERE AND HOPE TO PASS THIS LAND ONTO OUR CHILDREN IN BETTER CONDITION THAN WHEN WE FOUND IT.

WHEN WE WERE LOOKING FOR LAND TO BUY, WE ACTUALLY LOOKED AT A PIECE NEAR A STRIP MINE OFF HIGHWAY 81. IT DIDN'T TAKE 30 SECONDS TO SAY, I DON'T THINK SO.

WE ALSO COULD HAVE BOUGHT CHEAPER LAND IN OHIO COUNTY, BUT WITH ITS HISTORY OF HEAVY MINING WE THOUGHT THAT MIGHT BE RISKY. NOW OUR PROPERTY IS THREATEN. NO LOGICAL PERSON COULD ARGUE A STRIP MINE NEARBY DOESN'T

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DECREASE PROPERTY VALUE, NOT TO MENTION RUINING THE
PEACE AND QUIET BEAUTY AND NATURAL HOUSE OF OUR
NEIGHBORHOOD.

INDIVIDUAL LAND OWNERS AND THE COAL COMPANIES
HAVE PUT A DOLLAR PRICE OR PUT A DOLLAR VALUE ON THE
PROJECT, BUT WHAT IS THE VALUE OF CLEAN AIR? WHAT IS
THE VALUE OF CLEAN WATER? WHAT IS THE VALUE OF AN
ENVIRONMENT WHERE I DON’T HAVE TO WORRY ABOUT HEALTH
AFFECTS FROM MINING THAT MAY BE YEARS OR DECADES AWAY?
THERE ARE MINUSES IN THIS EQUATION AND WE WON’T BE
PAID BY THE COAL COMPANY. THEY’LL BE PAID BY EVERYONE
LIVING IN THE AREA.

IN CLOSING I HAVE THESE QUESTIONS:

WILL OUR WELL WATER BE CONTAIN OR LOSE
CAPACITY NOW AND IN THE FUTURE? YES, WE CAN HOOK UP
TO COUNTY WATER, BUT ISN’T THAT LIKE TELLING PEOPLE
WITH BAD CITY WATER THAT BOTTLE WATER IS AVAILABLE.

WILL THE DIGGING AND CRUSHING OF COAL AND ROCK
ADJACENT TO OUR PROPERTY SPREAD DUST POSSIBLY
CONTAINING HEAVY METALS INTO THE AIR SURFACE WATER AND
GROUND WATER, WILL THIS AFFECT THE HEALTH OF MY
CHILDREN AND ANIMALS NOW AND IN THE FUTURE?

WILL THE MINING AFFECT THE HEALTH OF OUR
FOREST FROM DUST OR DISTURBANCE IN THE SURFACE OR
GROUND WATER?
HAS THOUGHT BEEN GIVEN TO WHERE WATER RUNNING
OFF MINE LAND WILL GO?
I UNDERSTAND THIS PROJECT WILL TAKE YEARS AND
WILL RUN 22 HOURS PER DAY, SIX DAYS PER WEEK. WHAT
LEVEL OF NOISE AND DUST FROM THE MINING CRUSHING AND
SUBSEQUENT HEAVY TRUCK TRAFFIC, WILL WE HAVE TO ENDURE
FOR THIS LENGTHY PERIOD?
WHAT WILL THE AREA LOOK LIKE DURING AND AFTER
THIS MINING? I THINK I KNOW THE ANSWER TO THAT ONE.
HOW WILL THE MINING AFFECT THE FUTURE VALUE OF
OUR PROPERTY? THANK YOU.

CHAIRMAN: MA'AM, MANY OF YOUR QUESTIONS THE
GIRL SCOUTS AND OTHER GROUPS HAVE BROUGHT UP AND THEY
HAVE ADDRESSED. SO RATHER THAN GO BACK AND BE
REDUNDANT WITH THEIR ANSWERS, I THINK THE WELL WATER
AND THOSE OTHER ITEMS WERE ADDRESSED. I THINK MR.
FRAZIER FROM THE KENTUCKY STATE MINING HAD ADDRESSED
THOSE AREAS ABOUT MONITORING THE WELLS AND OTHER
THINGS AND ABOUT THE TESTING THAT THE STATE WOULD BE
DOING. THOSE HAVE BEEN ANSWERED. THANK YOU FOR YOUR
POINT.

NEXT, MR. NOFFSINGER.

MR. NOFFSINGER: BRENDA LOVE.

MR. SILVERT: STATE YOUR NAME FOR THE RECORD
PLEASE?

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MS. LOVE: BRENDA LOVE.

(BRENDA LOVE SWORN BY ATTORNEY.)

MS. LOVE: I AM ORIGINALLY FROM CALHOUN, KENTUCKY. I HAD FAMILY THAT LIVED IN DAVIESS COUNTY. I KNOW WHAT MY GRANDPARENTS, ALTHOUGH I DO NOT REMEMBER GRANDMA, MY AUNTS AND UNCLE.

I KNOW WHAT GREEN COAL COMPANY DONE. I KNOW WHAT PEABODY COAL COMPANY DONE. MY HUSBAND AND I MOVED BACK FROM INDIANA BACK DOWN HERE HOPE TO HAVE A PEACEFUL PLACE.

WE MOVED ON RUSSELL ROAD, WHICH WILL BE TEN YEARS IN NOVEMBER. YOU KNOW, WE BOUGHT THAT PLACE ESPECIALLY TO HAVE FOR OUR CHILDREN, OUR GRANDCHILDREN AND OUR GREAT-GRANDCHILDREN.

THIS COAL COMPANY, IF IT COMES IN, LIKE I SAY, I KNOW WHAT GREEN AND PEABODY DONE. NONE OF THEM HAS BEEN TRUTHFUL ABOUT IT BECAUSE THEY DO NOT PUT THINGS BACK LIKE THEY SAY. IT DOES NOT GROW TREES AND GRASS AND STUFF LIKE THEY SAY. ALL YOU GOT TO DO IS GO TO PANTHER AND YOU'LL SEE A WHOLE LOT OF IT.

YOU KNOW, I DON'T WANT TO GIVE MY HOME UP. IF YOU ALL LET THEM MINE, I WILL HAVE TO. YES, I HAVE DONE HAD SOMEONE COME OUT AND APPRAISE IT. I KNOW WHAT IT APPRAISES FOR RIGHT TODAY. I KNOW WHAT IT WILL APPRAISE FOR IF THEY DIG FOR COAL. I THINK THAT
IS UNFAIR TO ALL OF US. OUR HEALTH IS NOT GREAT. A LOT OF PEOPLE'S HEALTH IS NOT GREAT. I UNDERSTAND THAT, BUT YOU KNOW WHAT? THE BIBLE SAYS, LOVE OF MONEY IS THE ROOT OF ALL EVIL. AND I'M GOING TO TELL, THAT'S WHAT WE'RE SEEING TONIGHT.

MR. NOFSINGER: SCOTT HESTER.

MR. SILVERT: WOULD YOU STATE YOUR NAME, PLEASE?

MR. HESTER: SCOTT HESTER.

(SCOTT HESTER SWORN BY ATTORNEY.)

MR. HESTER: I WOULD LIKE TO HAND OUT A COPY OF MY REMARKS AND SOME THINGS THAT I PROBABLY WON'T SAY HERE.

CHAIRMAN: MR. HESTER, WE DO HAVE A PRETTY LENGTHY AGENDA WITH OTHER FOLKS. IF YOU WOULD SUMMARIZE AND NOT BE REDUNDANT, WE WOULD GREATLY APPRECIATE IT.

MR. HESTER: I WILL DO THAT AS MUCH AS I CAN.

CHAIRMAN: THANK YOU.

MR. HESTER: MOST OF THE MAIN POINTS HAVE BEEN MADE IN REGARD TO THE AFFECTS OF THE ZONING HERE. I WANT TO POINT OUT A COUPLE OF THINGS. I THINK THAT NOBODY DISPUTES THE FACT THAT STRIP MINING IN OUR COMMUNITY WILL HAVE A NEGATIVE AFFECT ON PROPERTY VALUE DURING THE TIME THE STRIP
MINING FOR SOME PERIOD OF TIME AFTER THAT.

ACCORDING TO THE TO COUNTY REALTORS
ASSOCIATION, 942 OF THE 38,000 RESIDENTS IN DAVIESS
COUNTY WERE SOLD IN 2011. THAT'S TWO AND HALF PERCENT
A YEAR IN ONE YEAR. THAT DOESN'T INCLUDE PRIVATE
SALES. THAT'S THE ONES THAT WERE HANDLED BY REALTORS.

SO IN THE TEN YEARS MINIMUM THAT THIS MINING
ACTIVITY WILL BE TAKING PLACE, 25 PERCENT OF THE HOMES
IN THE IMMEDIATE AREA WOULD COME ON THE MARKET. THERE
ARE 140 RESIDENTS IN WHAT'S SHOWN AS THE BLAST ZONE ON
THE MAP THAT THEY'VE GIVEN. THAT'S THE PEOPLE WHO ARE
WITHIN HALF A MILE OF THE CENTER OF THE MINING
OPERATION. THERE ARE HUNDREDS MORE OUTSIDE OF THAT
THAT WOULD BE IMPACTED BY THIS. THERE'S 140 OF US,
INCLUDING MYSELF, WHO ARE IN THIS BLAST ZONE.

THERE ARE LOTS OF REASONS THAT COME UP THAT
PEOPLE HAVE TO SELL. MS. LOVE AND, LORD HELP, SHE'S
GOING TO BE COMPLETELY SURROUNDED BY THIS MINING.

MS. LOVE: YES, I AM.

MR. HESTER: I SYMPATHIZE WITH HER MORE THAN
ANYBODY.

WHETHER IT'S JOB RELOCATION, MARRIAGE,
DIVORCE, DEATH, ILLNESS, WHATEVER, PEOPLE HAVE TO SELL
THEIR HOMES SOMETIMES. WELL, IF THIS STRIP MINE IS
PUT IN PLACE HERE, THERE'S GOING TO BE AT LEAST 140
FOLKS IN THE BLAST ZONE WHO CANNOT SELL THEIR HOMES. IF THEY CAN FIND SOME SUCKER THAT WILL TAKE IT, IT'S GOING TO BE AT HALF OF WHAT THE MARKET VALUE IS TODAY.

PART OF WHAT ZONING CAME TO BE ABOUT FROM DAY ONE IS PEOPLE GOT IN DISPUTES, NEIGHBORS, ADJOINING PROPERTY OWNERS ABOUT HOW THEY USED THEIR LAND. PART OF WHAT ZONING IS ABOUT IS CONTROLLING OR LIMITING THE WAY FOLKS USE THEIR LAND IF IT HAS A SERIOUS NEGATIVE IMPACT ON THEIR NEIGHBORS. WELL, THIS HAS A SERIOUS NEGATIVE IMPACT ON THE NEIGHBORS.

TWICE THIS HAS COME UP. TWICE IT'S BEEN VOTED DOWN. WE THINK THAT THE FOLKS IN THE PLEASANT RIDGE COMMUNITY, WHICH INCLUDES ALL OF US, OUGHT TO BE ABLE TO RELY ON THE PRIOR ACTIONS AND THE CONDUCT OF THE OFFICIALS THAT ARE IN CHARGE OF THIS IN HOW WE USE OUR PROPERTY. IT'S COME UP TWICE BEFORE. IT'S BEEN DEFEATED TWICE BEFORE AND WE THINK IT NEEDS TO BE AGAIN.

THE FOLKS THAT IS COME IN HERE AND HAVE TO SELL, THOSE ARE GOING TO BE THE BIGGEST LOSERS IN THIS WHOLE THING. IF I HAVE A HEALTH PROBLEM AND I NEED TO SELL MY HOME AND I'M ADJOINING THIS PROPERTY, IF I CAN GET 50 CENTS ON THE DOLLAR, I'D BE REALLY LUCKY.

WELL, A THAT'S HUGE ECONOMIC EFFECT FOR THOSE OF US IN THAT COMMUNITY. I THINK WE'VE GOT A RIGHT TO RELY ON
THE PRECEDENCE SET BY THIS BOARD. YOU ALL ON THIS
BOARD, YOUR ALL PREDECESSORS ON THIS BOARD IN
DEVELOPING OUR PROPERTIES, IN BUILDING OUR HOMES, AND
LIVING IN THIS COMMUNITY THAT THIS ISN'T GOING TO
HAPPEN TO US.

YOU FOLKS HAVE THE RESPONSIBILITY TO PROTECT
US. IT IS UP TO YOU TO MAKE SURE THAT OUR NEIGHBORS,
ADJOINING PROPERTY OWNERS, DON'T TAKE AWAY THE VALUE
OF OUR PROPERTY. LOTS OF FOLKS ARE ADDRESSING THE
OTHER ISSUES. I'M LOOKING AT THE VALUE OF IT.

I WOULD ASK YOU ON THE HAND OUT THAT I GAVE
YOU BEFORE YOU VOTE READ THE LAST PARAGRAPH IN RED.
I'M HERE TO ASK YOU AND LOTS OF THESE FOLKS ARE HERE
TO ASK YOU TO LOOK OUT FOR US. WE DON'T TAKE THE LAW
IN OUR OWN HANDS. THE ZONING ORDINANCES ARE IN PLACE
TO PROTECT FOLKS LIKE US FROM HAVING OUR PROPERTY
VALUE DESTROYED AND OUR WAY OF LIFE DESTROYED OUT OF
THE BLUE.

NOW, I UNDERSTAND THERE'S A DIVISION OF THE
COMPREHENSIVE LAND USE PLAN GOING TO BE COMING UP, AND
YOU CAN EXPECT TO HEAR FROM ME ON THAT BECAUSE I'M
GOING TO DO EVERYTHING I CAN TO TRY TO GET THIS
CHANGED SO IT DOESN'T KEEP COMING BACK UP TO BITE US
IN THE FUTURE.

FOR NOW, RIGHT NOW, TODAY, WE NEED EACH OF YOU
TO PROTECT US. PROTECT OUR LAND. PROTECT OUR LIVES.

PROTECT OUR STYLE OF LIFE. THANK YOU VERY MUCH.

CHAIRMAN: I'M GOING TO INTERRUPT THE ORDER JUST A MINUTE.

MR. WILSON, WILL YOU STEP TO THE PODIUM, PLEASE. I'M GOING TO ASK YOU BECAUSE YOU DO REPRESENT OTHERS AND YOU ARE LEGAL COUNSEL. DO YOU HAVE ANY STUDY, I MEAN IT'S BECOME A LITTLE REPETITIVE, THAT EVERYBODY CITES THESE HORRIBLE FIGURES ABOUT A DEPRECIATION IN THEIR PROPERTY. IS THERE ANY STUDY OR ANYTHING THAT YOU CAN POINT TO THAT SHOWS -- YOU KNOW, HE WAS TALKING ABOUT 50 CENTS ON THE DOLLAR. IS THERE ANYTHING THAT YOU CAN STATE TO GIVE THIS COMMISSION THAT PROVES THAT?

MR. WILSON: THE PERCENT DECREASE IN VALUE DUE TO STRIP MINING?

CHAIRMAN: RIGHT.

MR. WILSON: NO, I CAN'T PROVE WHAT IT IS. THAT'S WHY I INTRODUCED THE 47 PAGES FROM EXCERPTS OF THE MINUTES OF PREVIOUS MINUTES OF THIS COMMISSION. WHERE EXPERT TESTIMONY TESTIFIED ANYWHERE FROM 20 TO 30 TO 40 PERCENT DECREASE. THAT WAS MR. BILL KURTZ AND MR. STEVE CASTLEN. I WILL BE REFERRING TO THEIR TESTIMONY HERE IN A MINUTE.

NOW, ASSUMING WE --
CHAIRMAN: IF YOU WERE GOING TO USE THAT IN
THE FUTURE, THEN I WILL STOP MY QUESTIONING AND LET
YOU -- I DON'T MEAN TO JUMP YOU.

MR. WILSON: IN ANSWER TO YOUR BASIC QUESTION,
IF SOMEONE WILL UNLOCK THE DOOR DOWNSTAIRS I HAVE AN
APPRAISER THAT'S ON HIS WAY DOWN HERE. HE WILL
ADDRESS THAT AND HE WILL TELL THIS COMMISSION, I FEEL
CONFIDENT, THAT HE CAN'T PUT A PERCENTAGE ON THE
AMOUNT OF IT. IT DEPENDS ON THE HOUSE AND HOW CLOSE.

CHAIRMAN: I FELT LIKE I SHOULD ASK.

MR. HAYNES, IT WILL BE UNFAIR IF I DIDN'T LET
YOU ALL AT LEAST RESPOND TO SOME OF THESE COMMENTS.
THE QUESTION WOULD BE, TO KEEP IT FROM BEING
REDUNDANT, IS ABOUT EVERYBODY'S CONCERN ABOUT THE LOSS
IN PROPERTY VALUE, WHICH ANY HOMEOWNER WOULD BE.
WOULD YOU ADDRESS THAT, PLEASE?

MR. HAYNES: THERE ARE NUMEROUS STUDIES ON
THAT. THE AFFECTS OF MINING IN AREAS AND PROPERTY
VALUES. I'VE GOT FIVE OR SIX IN THERE. THESE STUDIES
EITHER DON'T SHOW ANY CORRELATION OR THEY SHOW THAT
THE PROPERTY VALUES IN THE AREA CAN ACTUALLY INCREASE
AS PEOPLE --

-- (INTERRUPTION BY AUDIENCE) --

CHAIRMAN: PLEASE. PLEASE. GIVE HIM THE SAME
RESPECT THEY GAVE YOU ALL.
MR. HAYNES: CAN ACTUALLY INCREASE AS THE MINERALS, AND PEOPLE REALIZE THE MINERAL BENEFIT OF THEIR PROPERTIES. THAT OTHER MINERAL PRODUCING PROPERTIES ACTUALLY INCREASE IN VALUE.

I KNOW THIS IS DIFFICULT TO SEE. I WOULD RATHER WAIT FOR THEIR APPRAISER. I DO HAVE SOME QUESTIONS FOR HIM.

RIGHT DOWN HERE, RIGHT IN THE CENTER, THAT'S WHERE THE -- THIS IS AN AERIAL PHOTO MADE FROM THE PVA OFFICE IN MARCH 2010. THAT'S WHEN THEY DID THEIR LAST REASSESSMENT OF THE KNOTTSVILLE AREA. WE'RE VERY ACTIVE MINING IN KNOTTSVILLE. THAT'S WHERE OUR PIT WAS. ALL OF THESE PROPERTIES AROUND HERE, THIS IS A HALF MILE ZONE. YOU GET OUT HERE TO THE ZONE THEY'RE TALKING ABOUT, THERE'S A MUCH GREATER DENSITY OF PEOPLE. MUCH GREATER THAN WE'RE TALKING HERE. YOU CAN SEE THERE'S A LOT OF SMALL TRACTS.

I WENT AND PULLED EVERY PVA CARD, COVERED EVERY PROPERTY ON THIS MAP. THESE ASSESSMENTS WERE MADE IN 2006 AND 2010. THIS IS OUR MINE IN 2010. THERE IS NO CHANGE. THERE'S A LOT OF PROPERTIES THAT HAVE INCREASED IN VALUE. MOST PROPERTIES HAVE MAINTAINED THEIR VALUE. I FOUND ONE PROPERTY THAT THE 2006 ASSESSMENT WAS HIGHER THAN THE 2010 ASSESSMENT, OUT OF APPROXIMATELY 120 PROPERTIES.
AT LEAST AS IT PERTAINS TO KNOTTSVILLE, AND
THIS IS PROOF IN THE PUDDING BECAUSE THAT'S OUR PIT,
THAT'S WHERE WE ARE MINING, IT HASN'T EFFECTED
PROPERTY AT ALL OTHER THAN SOME PROPERTIES HAVE
INCREASED.

CHAIRMAN: THANK YOU.

MR. LANHAM, WOULD YOU TAKE THE PODIUM, PLEASE.

MR. SILVERT: STATE YOUR NAME, PLEASE.

MR. LANHAM: TONY LANHAM.

(TONY LANHAM SWORN BY ATTORNEY.)

CHAIRMAN: MR. LANHAM, I DIDN'T MEAN TO PULL
YOU UP OUT OF THE CHAIR, BUT OBVIOUSLY YOU'RE THE ONE
THAT'S GOING TO CARRY THE BALL IN THE END AND WRITE
THE CHECK.

MR. LANHAM: RIGHT.

CHAIRMAN: IN DEVELOPING THESE PROPERTIES,
THIS MINE, IT APPEARS TO ME, I KNOW NOTHING ABOUT COAL
MINE, IT APPEARS TO ME IN HEARING THE HOMEOWNERS IF
THIS MINE WOULD GO FROM THE OUTSIDE IN WHERE AS THE
NEAREST PEOPLE WOULD SUFFER THE MOST AMOUNT OF
DISCOMFORT EARLY AND THESE AREAS ARE FILLED IN AND
RECLAMATION HAPPENS AS WE GO IN TO FILL IN THE AREAS,
IT SEEMS TO ME, AND I DON'T KNOW WHAT I'M TALKING
ABOUT, IT SEEMS TO ME THAT IT WOULD REALLY SOFTEN THE
BLOW TO THESE PEOPLE WHERE MAYBE A MONTH OR SIX MONTHS

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OR SOMETHING THERE COULD BE SOME INCONVENIENCE. AS YOU MOVE IN, YOU WOULD MOVE AWAY FROM THE PEOPLE AND RECLAIMANT THESE AREAS AROUND THE FRINGE. IS THAT A POTENTIAL OR A POSSIBILITY OR AM I --

MR. LANHAM: I'M NOT REALLY UNDERSTANDING YOUR QUESTION.

CHAIRMAN: I THOUGHT IT WAS A GOOD ONE.

AS WE GO AROUND THE OUTSIDE BOUNDARIES OF YOUR PROPERTIES, IF WHATEVER COAL EXTRACTION WAS GOING TO BE MADE IN THESE OUTLYING AREAS, IF YOU WOULD DO ALL OF THOSE OUTSIDE LYING AREAS FIRST, WHATEVER INCONVENIENCE THERE WOULD BE, IT WOULD GO QUICKLY TO THOSE PEOPLE. THEN THEY WOULD SEE THE GREATEST AMOUNT OF RECLAMATION AS YOU WOULD FILL IN THOSE AREAS AND MOVE INWARD. WOULD THERE BE A POTENTIAL WHERE THAT COULD BE DONE? WHERE THE MINING IS DONE ON THE OUTSIDE FIRST AND THEN MOVED TO THE INSIDE WHEREAS THESE PEOPLE WOULD BE THE MOST INCONVENIENCED EARLY, BUT VERY QUICKLY THEY WOULD SEE THE EFFECTS OF THE RECLAMATION AND THE SITES THAT YOU SEWED, THE BETTER PROPERTY. DID MY QUESTION MAKE SENSE THEN? DID I GET IT?

MR. LANHAM: IT DID. WHAT WE HAVE TO DO IS STUDY THE MINING PLAN. YOU CAN'T JUST GO OUT THERE AND SAY, WELL, MINE RIGHT HERE. THAT'S THE WAY I WANT
YOU TO START. I'D HAVE TO GO OUT THERE AND STUDY THE
AREA, STUDY HOW THE COAL LAYS. THE BIG THING IS WHERE
THE RECLAMATION CAN COME OUT. YOU'VE GOT TWO BIG
COSTS. YOU'VE GOT OPENING COST AND CLOSING COST.
YOU'LL HAVE TO STUDY IT TO WHERE THAT WILL COME OUT.
SOME PEOPLE WANT LAKES. SOME DON'T. SO YOU HAVE TO
START IT AND STOP IT ACCORDINGLY. YOU KNOW, START
WITH HOW THE COAL LAYS. THEN AFTER THAT YOU HAVE TO
PUT THE BIG PLAN TOGETHER SO THAT AT THE END IT WILL
COME OUT. IF IT DON'T WORK THAT WAY, IT'S POSSIBLE
THAT WHATEVER YOU CAN MAKE YOU CAN WIND UP IN YOUR
CLOSING COST OF THE OPERATION.

CHAIRMAN: WHAT I'M SAYING IS, I UNDERSTAND
THAT WHAT YOU WANT TO DO IS THE LEAST AMOUNT OF COST
TO DO THE MOST AMOUNT OF RECLAMATION. I'VE GOT THAT.
I UNDERSTAND THAT.

IS THERE A CHANCE WHERE THE AREA, IN LOOKING
AT THE MAP, WHERE THE AREA MOST AREA CONCENTRATED OF
RESIDENTS AREA COULD BE DONE FIRST AND THEN RECLAIMED;
WHEREAS THESE PEOPLE WOULD NOT ONLY SEE, THEY WOULD BE
INCONVENIENCED SOMEWHAT IN THE BEGINNING, BUT YET THEY
WOULD SEE IT GOING AWAY QUICKLY? YOU KNOW, SEEING
LAKES AND SEEING THIS OPEN PASTURE AND SEEING THIS
LAND COME DOWN AS YOU MOVED AWAY FROM THAT.

MR. LANHAM: SOME OF THAT COULD POSSIBLY BE
DONE, but again, I would have to look at it and study it.

If our plan could be put together where it possibly inconvenient, you know, a certain amount of people in a certain way. Up there at Knottsville where we're mining, you know, we're mining around houses, pipe lines, power lines, highways. That's the coal that's left. We do try to work out to where it will work in an advantage of everybody if possible.

Chairman: You have property owners that own the property that are going to get the benefit from the coal and I understand that also. We have to balance both sides of this equation.

I think the reclamation and the least inconvenience to the folks that are nearest to the problem would really make a great plan and with you, you know, you're the one that could make that happen, if it is economical and geology are the same.

Mr. Lanham: If that's the way, we could possibly work out the best plan to make that work. We're constantly mining around houses. This new job, another job we're getting ready to start I have 160 surveys in this one. So give you an idea.

Chairman: If heaven for bid if say you all are doing something and something just went completely
HAYWIRE. I MEAN ACCIDENTS DO HAPPEN. THEY HAPPEN IN ALL OF OUR BUSINESSES UNFORTUNATELY. UNCONTROLLABLE THINGS THAT HAPPEN. UNFORESEEN ACTS. AND SOMEBODY’S HOUSE WAS DAMAGED, DESTROYED, IT CAUGHT, YOU KNOW, THE BLAST WENT THROUGH. WHAT’S THE PROCESS THERE? WHAT HAPPENS TO THAT HOMEOWNER?

MR. LANHAM: IF SOMETHING LIKE THAT HAPPENS, THERE’S A DISINTEREST THIRD PARTY CALLED IN. WE DON’T GET TO MAKE THOSE DECISIONS. THE STATE GETS NOTIFIED THEY’VE GOT A PROBLEM. THEY’LL NOTIFY US. THEN MARTY VINCENT WITH MEMSCO, HE’LL BE IN CONTACT WITH DISINTERESTED THIRD PARTY, COMPLETELY OUTSIDE OF THE COMPANY, AND EVALUATE THE SITUATION. THEY’LL BE GETTING WITH THE HOMEOWNERS. IT WILL COME DOWN THE PIPE AS IT PROGRESSES AND THEY BE FIGURE OUT WHAT HIS DAMAGE, WHAT CAUSED IT, IF THERE IS, AND PURSUE IT. WELL, THE INSURANCE WILL STEP IN.

CHAIRMAN: AND THERE IS RESTITUTION OF THE HOMEOWNER?

MR. LANHAM: RIGHT.

CHAIRMAN: HOUSE IS BUILT IN 1980 AND WE’VE GOT A DEPRECIATION. WE PUT THEM BACK WHOLE TO WHERE THEY ARE IN 2012?

MR. LANHAM: RIGHT. THEY WILL. THEY WILL BE PUT BACK, RESTORED BACK LIKE IT WAS.
THE PREBLAST SURVEYS IS GOING TO SHOW. THAT'S WHAT THEY'RE FOR. TO GO IN. THEY'LL GET A COPY OF THAT. IF THERE'S DAMAGE, THEN IT CAN BE COMPARED TO. THEY'LL COME IN. SEE IT. THEY'LL FIX IT. IT'S ALMOST IMPOSSIBLE TO BUILD A HOUSE THAT HASN'T GOT SOME KIND OF CRACK OR POURED CONCRETE. THAT'S THE REASON THEY TAKE THE PICTURES. TO FIND OUT WHAT THEY DO HAVE BEFORE IT'S STARTED.

CHAIRMAN: I FEEL LIKE WE'VE ALLOWED THEM TO PRESENT A PRETTY GOOD CASE AND ALL THE SPEAKERS. UNFORTUNATELY, THEY'RE ON THE OTHER SIDE. I FELT LIKE WE DESERVED TO GIVE YOU ALL SOME TIME TO ADDRESS THINGS. I WANTED TO BRING YOU TO THE PODIUM TO ACTUALLY FACE WHAT COULD, WOULD AND WHAT YOU WOULD DO. WHY DON'T YOU HUDDLE WITH YOUR FOLKS AND SEE IF POSSIBLY WHEN WE TAKE SOME MORE OF THESE OTHERS AND SEE IF MY QUESTION IS COMPLETELY OUT OF LINE OR IS SOMETHING THAT COULD BE DONE POSSIBLY. I THINK THAT WOULD BE SOMETHING THAT WOULD ADDRESS SOME OF THE CONCERNS.

MR. LANHAM: WILL DO.

CHAIRMAN: THANK YOU, MR. LANHAM.

MR. NOFFSINGER.

MR. NOFFSINGER: C. VANMILLIGAN.

MR. SILVERT: WOULD YOU STATE YOUR NAME,
MR. VANMILLIGAN: MY NAME NEIL VANMILLIGAN.

(NEIL VANMILLIGAN SWORN BY ATTORNEY.)

MR. VANMILLIGAN: MR. WILSON ARRANGED WITH THE SCHEDULED FOR HIS CLIENTS AND I DIDN'T WANT TO
INTERFERE WITH HIS SCHEDULE.

CHAIRMAN: MR. WILSON.

MR. WILSON: GO AHEAD AND MAKE YOUR STATEMENT.

MR. VANMILLIGAN: THANK YOU, SIR. ' MY NAME IS NEIL VANMILLIGAN. I LIVE ON RUSSELL ROAD. I'VE LIVED THERE FOR ABOUT 30 YEARS. I HAVE SEVERAL POINTS. I DON'T HAVE MUCH OF A TALK TO MAKE.

ONE OF THE ISSUES THAT WE FACE WITH COAL MINING IS GOING TO BE THE TRUCKS AS WE MENTIONED HERE BEFORE. THERE ARE ABOUT 40, 50 SCHOOL BUSES THAT RUN UP AND DOWN HIGHWAY 231 CARRYING STUDENTS TO THE MIDDLE SCHOOL AND HIGH SCHOOL, ELEMENTARY SCHOOL. THEY'LL NOW BE SHARING THE ROAD, 231, WITH A NUMBER OF COAL TRUCKS. THESE BUSES MAKE FOUR PASSES A DAY. ONCE IN AND OUT IN THE MORNING, AND ONCE IN AND OUT IN THE AFTERNOON. THE BUSES THAT ACTUALLY TRAVEL DOWN RUSSELL ROAD, WHEN THEY GO TO DROP OFF STUDENTS IN THE AFTERNOON, INCIDENTALLY WILL BE THERE ABOUT THE TIME THE AFTERNOON BLASTING IS SCHEDULED. SO PRESUMABLY
THE ROAD WILL BE SHUTOFF DURING THAT PERIOD OF TIME.

THE STUDENTS WILL WAIT ON THE BUS UNTIL THE EXPLOSION
IS OVER AND THEN BE ALLOWED TO PROCEED.

THERE IS A PLAN TO CROSS RUSSELL ROAD WITH THE
COAL TRUCKS TO REACH A WASH PLANT. THAT MEANS THAT
THE ROAD WILL BE COMPLETELY COVERED BY THE MUD AND
DEBRIS, ROCK, THAT THE COAL TRUCK TRAFFIC ACROSS THAT
ROAD, UNLESS THERE'S AN EXTRAORDINARILY METICULOUS
PLANT TO CLEAN THE TRUCKS BEFORE THEY REACH EACH SIDE
OF THE ROAD OR CLEAN THE ROAD CONTINUOUSLY. I DOUBT
THAT THERE IS. BASICALLY THE ROAD IS GOING TO BE
INTERRUPTED AT THAT POINT. TRAFFIC WILL NO LONGER BE
ABLE TO USE IT.

THE AGREEMENT THAT'S BEEN DISCUSSED WITH THE
GIRL SCOUT CAMP ABOUT HOW THE GIRL SCOUT CAMP WILL
HAVE AN EXTENSIVE BUFFER. THAT'S NOT A SIGNED
AGREEMENT. IF YOU FOLKS RULE TONIGHT IN FAVOR OF
ZONING, THE GIRL SCOUT CAMP HAS NO NEGOTIATING
POSITION WITH THE COAL COMPANY ANY MORE. WHY WOULD
THE COAL COMPANY THEN NEGOTIATE A BUFFER IF THEY HAVE
NO NEED TO BECAUSE THE REZONING HAS BEEN APPROVED.

SO THE GIRL SCOUTS HAVE NOT BEEN A VERY
AFFECTED NEGOTIATED PROTECTION OF THEIR OWN PROPERTY
AND THE WEALTH OF THE GIRLS.

AS MS. STRINGER POINTED OUT, THE GIRL SCOUTS
CAN WONDER OFF THAT PROPERTY. I OWN PROPERTY THAT ADJOINS THE GIRL SCOUT CAMP. IT’S VERY COMMON FOR ME TO FIND GIRL SCOUT LEADERS, GIRL SCOUTS OR VISITORS ON MY LAND THINKING THAT THEY'RE ON THE GIRL SCOUT PROPERTY. I'M WEST. IF THEY WENT EAST, THEY'D END UP WALKING IN ON A COAL MINE.

CAN SEE ON THE MAP IN THE AREA.

PUTTING CONCENTRATED HEAVY METALS BACK INTO
THE SOIL IS A TRAVESTY, AND THAT IS WHAT THEIR PLAN IS
ACCORDING TO WHAT THEY EXPLAINED TO US. THANK YOU.

CHAIRMAN: LET ME HAVE ONE OF YOU ALL WHO CAN
ADDRESS SOME OF THOSE QUESTIONS THAT WERE BROUGHT UP
VERY QUICKLY.

ONE WOULD BE THE AGREEMENT WITH THE GIRL
SCOUTS. IF IT WAS FAVORABLE, YOU ALL WOULD BE WILLING
to sign a written agreement with the girl scouts or
whatever agreed you had made?

MR. WRIGHT: THERE'S A NATURAL BUFFER THAT
WILL BE AROUND THE GIRL SCOUT CAMP DUE TO THE OIL
FIELD THAT'S OWNED BY MS. HITCHCOCK. WE WILL NOT GO
CLOSER THAN THAT.

CHAIRMAN: SO YOU ALL WOULD BE WILLING TO SIGN
OFF ON THAT?

MR. WRIGHT: MS. HITCHCOCK DOES NOT WANT HER
OIL FIELD DISTURBED. THERE WILL BE A NATURAL BUFFER
THERE. WE HAVE TALKED TO THE GIRL SCOUTS IN THE LAST
FIVE YEARS, THE CAMP OWNERS, MR. JOHNSON AND THEM.
WE'RE READY TO SIGN TONIGHT IF THEY WANT TO GO AHEAD
AND FINISH THE AGREEMENT UP. THERE'S SOME
COMPLICATIONS WITH THE AGREEMENT WITH SOME OTHER
PEOPLE OR SOMETHING.

MR. WRIGHT: THE ARSENIC, MERCURY, LEAD, YOU KNOW, DEPENDING ON, HE SAID DRINKING WATER STANDARD WAS ZERO. THAT DEPENDS ON WHAT LEVEL OF DETECTION YOU USE. YOU GO TO THE PARTS PER TRILLION LIKE WHERE ALL COAL SAMPLES ARE TESTED, YOU'RE GOING TO FIND SOME LIMITS OF IT IN EVERYTHING. EVEN TOP SOIL. ALL THE ROCK AND STUFF THAT'S OUT THERE. SOME OF IT IS GOING TO BE DETECTABLE. IT'S JUST NATURAL IN OUR ENVIRONMENT.

THESE LEVELS IN OUR RAW COAL SAMPLE IS VERY LOW DETECTION. THERE'S VERY LITTLE OF IT IN THERE.

CHAIRMAN: WOULDN'T YOUR MONITORING WELLS CATCH THIS?

MR. WRIGHT: SEDIMENT POND?

CHAIRMAN: WOULDN'T YOUR MONITORING WELLS THAT ARE AROUND THESE OUTLYING PROPERTIES.

MR. WRIGHT: YES. A LOT OF PEOPLE DON'T UNDERSTAND. THEY TALK ABOUT THEIR AQUIFERS. THEY'VE GOT ENOUGH AQUIFER OUT THERE THAT'S THE BROWN
SANDSTONE. IT'S CONTAMINATED BY SEPTIC SYSTEM. IT'S WORTHLESS.

YOU'VE GOT THE COAL ZONE THAT RUNS DOWN TO ABOUT 80, 90 TO 100 FEET. THERE'S A LITTLE BIT OF SANDSTONE INSIDE THERE THAT YOU CONSIDER AQUIFER.

COAL ZONE CAN ACTUALLY BE CONSIDERED AN AQUIFER BECAUSE IT TRANSMITS WATER, BUT IT'S NOT GOOD WATER.

THE PROTECTION THAT YOU SEE IN OUR STATE NOW, WHAT THEY'RE WANTING TO PROTECT IS THE ZONE BETWEEN THE COAL LAYERS AND THE SAVING WATER. THERE'S A ZONE IN THERE THAT'S PROBABLY ABOUT 200 FOOT THICK THAT HAS SOME LIGHT GRAY SANDSTONE THAT CARRIES ENOUGH WATER TO SUPPORT HOUSEHOLDS THAT IS GOOD WATER. THAT'S WHAT THEY'RE PROTECTING. THE REASON THEY WANT TO PUT THE SLURRY STUFF BACK IN THE BOTTOM OF THE PIT, EVERY COAL SEAM HAS A FIRE CLAY LAYER BELOW IT. THIS FIRE CLAY IS IMPERMEABLE. THAT WILL NOT SEEP DOWN BELOW THAT.

CHAIRMAN: NOW, IS THIS STATE REGULATION THAT'S REQUIRING YOU?

MR. WRIGHT: WE HAVE TO PUT THAT IN, THAT PERMIT.

CHAIRMAN: AND THEY'RE REQUIRING YOU TO PUT THESE CONTAMINATES BACK INTO THIS PIT BECAUSE IT'S GOT THAT CLAY?

MR. WRIGHT: THIS STUDY HAS BEEN DONE OVER 50,
30 YEARS TO FIGURE OUT WHAT'S BEST. SOMEBODY TOLD ME
THE OTHER DAY IT'S BEST TO PUT IT UP THERE BESIDE THE
SOIL. NO, IT'S NOT BECAUSE YOU'RE ACTUALLY CREATING A
LAKE UNDERGROUND. IF YOU PUT THIS STUFF WAY UP HERE
AND THAT WATER GETS THERE, THEN IT'S GOING TO GO OVER
HERE TO A HILLSIDE AND START SEEPING SLUDGE OUT,
CONTAMINATED SLUDGE. SO THAT'S NOT THE BEST THING TO
DO.

CHAIRMAN: SO YOU PUT IT DOWN.
MR. WRIGHT: PUT IT IN THE VERY BOTTOM.
EVERYTHING ABOVE THAT IN THIS AREA IS NEUTRAL.
NEUTRALIZATION POTENTIAL. THAT WAY WHEN THIS WATER
COMES THROUGH THERE IT COMES UP IN THE NEUTRAL SPOIL
AND IT ALL NEUTRALIZES AND IT WILL SETTLE OUT AND STAY
IN THERE. WE HAVE TO PROVE IN OUR PERMIT THAT THAT
WILL HAPPEN.

CHAIRMAN: THANK YOU.
NEXT.
MR. NOFFSINGER: CURTIS WHISTLE HAS ALREADY
BEEN TO THE PODIUM.

JAMES MATTINGLY.

MR. SILVERT: STATE YOUR NAME FOR THE RECORD,
PLEASE.

MR. MATTINGLY: JAMES MATTINGLY.

(OHIO VALLEY REPORTING
(270) 683-7383)

FIRST, I WANT TO SPEAK ABOUT THE DAMAGE OF THE TRUCK THAT'S CARRY THE COAL EAST OF WHERE I LIVE. I LIVE ON HIGHWAY 144. THESE TRUCKS ARE ABOUT 60 TONS GROSS. THEY'RE DOING A LOT OF DAMAGE TO THE HIGHWAY. THEY'RE DOING A LOT OF DAMAGE TO HIGHWAY 144 I FEEL LIKE. ESPECIALLY IN THE CURVES AND PARTICULAR PLACES LIKE THAT.

IF THEY ONLY USE LIKE -- SOMEBODY TOLD ME ONE TIME THAT IT MAKES SENSE THAT IF THEY JUST USE LIGHT TRUCKS AND CAR AND SELDOM AN 18-WHEELER YOU WOULD NEVER HAVE TO EVEN REBUILD A ROAD. THAT'S SOMETHING SOMEBODY TOLD ME.

I DRIVE THE HIGHWAY ALMOST EVERY DAY. I DO KNOW IT TAKES A BEATING. THE ROAD IS REALLY WINDING AND IT'S HILLY. THE ROAD, IT SEEMS DANGEROUS AND INCONVENIENT FOR PEOPLE THAT HAVE TO SHARE THE ROAD.

ALSO, THERE'S A FERRY THERE TO GO BY. I'M USUALLY GOING TO TOWN IN THE EVENING, BUT THERE'S A PLACE THERE, AULL ROAD AND 144. A LOT OF PEOPLE HAVE COMPLAINED TO ME WHEN THE COAL TRUCKS PULL OUT OF THERE AND THEY HAVE TO PULL A BIG HILL, YOU KNOW, THE SPEED LIMIT IS 55 AND THEY HAVE TO SLOW DOWN. THEY'RE TRYING TO GET UP THAT HILL. YOU ALMOST HAVE TO GO TO
5 OR 10 MILES AN HOUR BY THE TIME THEY GET TO THE TOP
OF THAT HILL.

ALSO, THERE WAS AN INCIDENT THERE A FEW YEARS
AGO ABOUT A BIG PIECE OF MINING EQUIPMENT WAS TRYING
TO TURN INTO AULL ROAD AND BLOCKED THE ROAD FOR ALL
DAY. THERE WAS A STORY IN THE NEWSPAPER ABOUT IT.

YOU KNOW, AT NIGHT I COULD HEAR DOZER TREADS.

I LIVE ABOUT A MILE EAST OF THE MINES. THE TRUCKS
DON'T GO BY MY HOUSE. THE COAL TRUCKS THAT IS.

THERE'S SOME NOISE DISTRACTION AND LIGHTING AND STUFF
WHEN I DO TRAVEL AT NIGHT.

ALSO, MY WIFE AND I BOTH FEEL THAT THIS HOME
WHERE WE LIVE NOW IS A LOT MORE DUSTY. WE'VE LIVED IN
TWO OR THREE OTHER PLACES IN DAVIESS COUNTY AND THIS
IS JUST A DUSTY PLACE THAT WE HAVE.

I TIE MY MOBILE HOME DOWN WITH -- IT COMES
FACTORY EQUIPPED WITH TWO STRAPS. YOU'RE SUPPOSED TO
BE ABLE TO JUST SIT YOUR BLOCKING ON THE GROUND, BUT
I'VE HAD TO DIG FOOTERS THERE TO KEEP IT BECAUSE I'M
ON A HILLSIDE SO I'M WORRIED ABOUT VIBRATION.

I DID HAVE A QUESTION WITH THE MINE AND THEY
ANSWERED THIS. THEY SAID THEY'RE NOT COMING ANY
CLOSER TO MY AREA SO I'M GLAD OF THAT.

LIKE I SAID, WE LIVE ABOUT A MILE FROM THE
MINES AND IT'S BETWEEN US AND OWENSBORO. THAT'S ALL I

OHIO VALLEY REPORTING
(270) 683-7383
CHAIRMAN: WE ARE GETTING A LOT OF REDUNDANCY. WE WANT EVERYBODY TO HAVE THE OPPORTUNITY, BUT IF YOU WOULD JUST NARROW YOUR COMMENTS TO SOMETHING. WE WANT TO HEAR WHAT YOU HAVE TO SAY, BUT THERE'S SEVERAL THINGS THAT ARE BEING REPETITIVE. WE WOULD LIKE TO GET ON.

I KNOW MR. WILSON HAS SOME EXPERT WITNESSES THAT HE'S GOING TO BE BRING ON, ON YOUR ALL'S BEHALF, AND WE WOULD LIKE TO GET TO THOSE AS QUICKLY AS WE COULD, AND THEY MAY COVER SOME THINGS THAT MAYBE YOU ALL HAVE NOT OR WOULDN'T WANT TO COVER. WITH THAT BEING SAID WE WILL CONTINUE.

MR. NOFFSINGER: THEY HAVE 30 INDIVIDUALS ON THIS LIST LEFT TO SPEAK.

MIKE GILMORE.

MR. SILVERT: STATE YOUR NAME FOR THE RECORD, PLEASE.

MR. GILMORE: MIKE GILMORE.

(MIKE GILMORE SWORN BY ATTORNEY.)

MR. GILMORE: I'M GOING TO MAKE IT EASY ON YOU. I NEED ONE QUESTION ANSWERED.

CHAIRMAN: THANK YOU.

MR. GILMORE: MINE EQUIPMENT & MILL SUPPLY, I NEED TO KNOW THE NAME OF THEIR INSURANCE COMPANY. THE
INSURANCE COMPANY, THE AGENT, I WANT THE ADDRESS AND PHONE NUMBER.

CHAIRMAN: THANK YOU.

MR. SILVERT: STATE YOUR NAME AGAIN, PLEASE.

MR. VINCENT: MARTY VINCENT.

OUR INSURANCE COMPANY IS LANCER INSURANCE COMPANY IN DALLAS, TEXAS. I AM THE FIRST CONTACT FOR THOSE FOLKS. THEN I HAVE REPRESENTATIVES IN DALLAS THAT I CONTACT AND SHARE THE INFORMATION, WHETHER IT BE A CLAIM OR A COMPLAINT. WE DOCUMENT ALL COMPLAINTS. I PERSONALLY FOLLOW UP ON ALL COMPLAINTS AND CLAIMS, WHETHER BY PHONE CALLS OR BY VISITS.

AS I STATED EARLIER, WE HAVE AN OUTREACH PROGRAM WHERE I'M WILLING TO VISIT, TALK WITH, TRY TO HELP ANSWER QUESTIONS WITH ALL RESIDENTS, HOMEOWNERS OR INTERESTED PARTIES.

CHAIRMAN: YOU MIGHT AFTERWARDS MEET WITH SOME OF THE PEOPLE AND GIVE OUT SOME CARDS.

MR. VINCENT: I'D BE GLAD TO.

CHAIRMAN: THANK YOU.

MR. GILMORE: HE DIDN'T ANSWER MY QUESTION.

MR. KIRKLAND, I'VE BEEN DOWN HERE BEFORE. WE DID THAT SONG AND DANCE AND THE WHOLE BIT.

CHAIRMAN: WAS YOUR QUESTION ABOUT WHO THEIR INSURANCE COMPANY WAS?
MR. GILMORE: YES. I'M GOING TO DEAL STRAIGHT WITH THE INSURANCE COMPANY.

MR. VINCENT: I'M NOT SURE THAT OUR INSURANCE COMPANY OR ANYBODY ELSE'S, I'M NOT SAYING THEY WON'T, BUT PROCEDURE IS FOR THEM NOT TO ORDINARILY TAKE CALLS, BUT THEY WOULD AND I WILL SHARE WITH YOU ALL AFTER THIS.

CHAIRMAN: WHY DON'T YOU FOR THE RECORD JUST GIVE ME THE NAME OF YOUR INSURANCE COMPANY AND THEIR LOCATION.

MR. VINCENT: LANCER INSURANCE COMPANY IN DALLAS, TEXAS.

CHAIRMAN: THANK YOU.

MR. GILMORE: THANK YOU.

MR. VINCENT: AND I'LL BE GLAD TO GIVE ANYBODY MY NUMBER, MY CONTACT INFORMATION, E-MAIL, WHATEVER THEY WANT. LIKE I SAY, I'M MORE THAN GLAD TO TALK WITH FOLKS.

CHAIRMAN: THANK YOU.

MR. NOFFSINGER: CARLIN GREGORY.

CHAIRMAN: HE'S ALREADY SPoken.

MR. NOFFSINGER: JOEY GIBSON.

AUDIENCE: HE LEFT THE BUILDING.

CHAIRMAN: OKAY.

MR. NOFFSINGER: NICK HURTER.
MR. SILVERT: WOULD YOU STATE YOUR NAME FOR THE RECORD, PLEASE?

MR. HURTER: NICK HURTER.

(NICK HURTER SWORN BY ATTORNEY.)

MR. HURTER: I JUST HAVE A FEW POINTS. A LOT OF WHAT I HAD TO SAY HAS BEEN ADDRESSED ALREADY.

THEY WERE TALKING ABOUT THE CONCENTRATIONS OF LEAD, MERCURY AND ARSENIC AND EVERYTHING ELSE THAT'S BELOW DRINKING WATER STANDARDS.

DO THEY KNOW WHAT THE CONCENTRATION IS OF THESE METALS THAT ARE GOING TO BE IN THE SLURRY WHEN THEY REDEPOSIT IT INTO THE LOWEST POINT IN THE STRIP PIT ABOVE THE FIRE CLAY. OBVIOUSLY IF IT'S BEEN THROUGH THE WASHING PROCESS IT'S CONCENTRATED. IT'S GOING TO BE HIGHER. DO THEY KNOW WHAT THOSE LEVELS ARE GOING TO BE AND IS THERE A STATE GUIDELINE ON WHAT THEY CAN'T GO OVER OR RULE OR REGULATION ON THAT?

MR. WRIGHT: THERE IS NO REGULATION THAT REQUIRES US TO RETEST THE SLURRY MATERIAL BEFORE WE PUT IT BACK. IT'S THE SAME PRODUCT THAT COME OUT OF THE PIT. WE PUT IT RIGHT BACK IN ITS PLACE.

CHAIRMAN: IN THIS CLAY AND COVERED UP?

MR. WRIGHT: YES. AND ARSENIC DOES NOT WASH OUT. IT'S INNER-BEDDED IN THE COAL. YOU COULD GET SOME OF YOUR MERCURY OUT, A LITTLE BIT OF LED, BUT
These concentrations are so low in the coal that it's not going to make any difference.

Chairman: Thank you.

Mr. Hurter: As a respiratory therapist here in Daviess County since 1994, I want to speak to the fact about the fugitive dust and everything that's going to be impacting this area and a larger circle just beyond what they've drawn on a map.

These smaller dust particles do not fall out of the air. The 20 percent opacity that they talk about that they have to stay, they have to water the roads down and everything else, those big particles, they're bad. They do contain all these different heavy metals and stuff to some degree, but they fall out fairly quickly. It's the small particles that you can't see that travel for miles.

Over on Highway 142, we have a child that has cystic fibrosis. That leaves his lungs unable to clear anything that he breathes in.

Fred Love lives over on Russell Road. Significant respiratory problems.

Carla over on Redhill-Maxwell Road has asthma. These people cannot deal with these small particles.

Three to five micron particle size, which is released in these mining processes, will get down deep.
YOU SEE PEOPLE THAT TAKE BREATHING TREATMENTS AND STUFF LIKE THAT. THAT MEDICATION MIST THAT YOU SEE, THE MIST THAT YOU CAN SEE WITH YOUR EYES DOESN'T DO THE PATIENT ANY GOOD. IT'S THE INVISIBLE FLEX OF MEDICINE THAT ARE DOWN IN THAT AEROSOL THAT GET DOWN INTO THE BOTTOM OF THE LUNGS.

CHAIRMAN: WILL THESE PARTICLES TRAVEL FROM THIS MINE?

MR. HURTER: MILES. THEY WILL TRAVEL FOR MILES. THESE SMALL PARTICULATES DO NOT FALL OUT OF THE AIR. THERE'S BEEN STUDIES THAT THEY TRAVEL FOR 10 TO 15 MILES OUT OF THEIR DESIGNATED AREAS.

THOSE COAL TRUCKS GOING UP AND DOWN THE ROAD PAST THESE SCHOOL, NO MATTER HOW MUCH THEY TRY TO WASH THEM. IF YOU'VE DRIVEN THROUGH CENTRAL CITY, MUHLENBERG COUNTY AND DIFFERENT PLACES AND THOSE ROADS WHERE THEY'RE HAULING LOOK LIKE A GRAY SLIME WHEN IT RAINS. ALL THIS DUST AND STUFF IS GOING TO BE EXPOSED TO OUR CHILDREN AT BEACON, DAVIESS COUNTY HIGH SCHOOL, DEER PARK AND COLLEGE VIEW, AND THE THEN TWO COLLEGES THERE. THIS IS SOMETHING THAT THESE CHILDREN DO NOT NEED.

WHEN THEY'RE TALKING ABOUT PUTTING THIS SLURRY THAT IS GOING TO BE HIGHER THAN THE DRINKING WATER
STANDARDS FOR MOST OF THESE CHEMICALS THAT THEY'RE TALKING ABOUT, THEY'RE LOWER WHEN THEY'RE IN THE COAL SEAM. AFTER THE WASHING CONCENTRATES THEM, THEY'RE GOING TO HIGHER. NOBODY WANTS TO TAKE A GLASS OF THAT AND DRINK IT.

IF THAT FIRE CLAY IS NOT CONTIGUOUS, IF THERE'S AN EARTHQUAKE THAT DISRUPTS IT IN ANY WAY, SHAPE OR FORM, IT'S GOING TO POLLUTE THE WATER IN THIS AREA.

MARTIN COUNTY, KENTUCKY IN LOUISA IN EASTERN KENTUCKY, THEY HAD A MASSIVE SLURRY SPILL FROM A COAL WASHING STATION THAT POLLUTED THE TUG RIVER IN A LARGE AREA. THAT HAPPENED BACK IN 2008, AFTER THESE 1977 RULES THAT THEY'RE TALKING ABOUT. CLEANUP IS STILL HAPPENING TODAY. THAT'S ALL I HAVE TO SAY.

CHAIRMAN: THANK YOU.

MR. NOFFSINGER: T. A. SCOTT.

MR. SILVERT: WOULD YOU STATE YOUR NAME, PLEASE?

MR. SCOTT: T. A. SCOTT.

(T. A. SCOTT SWORN BY ATTORNEY.)

MR. SCOTT: I DON'T A WHOLE LOT OF STATEMENTS TO MAKE, BUT I DO HAVE SEVERAL QUESTIONS. LUCKILY I'VE BEEN ABLE TO NARROW SOME OF THEM DOWN.

CHAIRMAN: THANK YOU.
MR. SCOTT: I WAS AT THE MEETING AT OWENSBORO CHRISTIAN CHURCH THE OTHER NIGHT. I WOULD ASK THE FOLKS, I KNOW SOME OF YOU ALL WERE THERE TOO FOR THAT MEETING. SOME OF WHAT I SAY TONIGHT GOES BACK TO THAT MEETING OF THINGS WE'VE HEARD DIFFERENT TONIGHT. IF YOU HEAR WHAT I SAY BE CORRECT, IF YOU WOULD JUST SHOW ME YOUR HANDS, JUST RAISE YOUR HAND FOR ME, PLEASE.

AT THAT MEETING ONE OF THE QUESTIONS THAT WAS ASKED WAS WHY THE MINE WAS GOING TO STAY 2000 FEET FROM THE LODGE AT GIRL SCOUT CAMP. AT THAT MEETING WE WERE TOLD IT WAS BECAUSE OF THE LARGE CONCRETE BUILDING, SO ON AND SO FORTH. NOW WE'RE BEING TOLD IT'S BECAUSE OF THE OIL WELL AND SOMEBODY'S OIL LEASE. I DON'T KNOW IF THAT'S SOMETHING THAT'S CHANGED OR SOMETHING THAT WASN'T EXPRESSED CORRECTLY AT THAT TIME.

CHAIRMAN: IF YOU WOULD, MR. SCOTT, WHY DON'T YOU JUST GO DOWN AND GIVE ME 1, 2, 3, 4 OF YOUR QUESTIONS AND WE'LL JUST GO TO THEM AT ONE TIME AND SEE IF WE CAN GET FIND AN ANSWER.

MR. SCOTT: FINE.

ANOTHER QUESTION I HAVE, DUE TO MY EMPLOYMENT I KNOW FOR A FACT THAT THE RANGE THAT THE OWENSBORO POLICE DEPARTMENT RUNS OFF HIGHWAY 298, THERE CANNOT BE FIRING AFTER 8:00 IN THE EVENING. THE MINE TELLS
US THAT THERE'S GOING TO BE A SECOND SHIFT THAT'S
GOING TO RUN FROM FIVE IN THE EVENING UNTIL FOUR IN
THE MORNING. NOW, THERE'S NOT GOING TO BE BLASTING
GOING ON. ALL THEY'RE GOING TO BE DOING IS RUNNING
TRACTORS. NOW, THAT'S ABOUT HALF A MILE FROM MY
HOUSE. RIGHT NOW I'M OUTSIDE MY HOUSE IN THE EVENINGS
AND MIDDLE OF THE MORNING, I MEAN 1, 2, 3:00 IN THE
MORNING. I HEAR COYOTES, BIRDS, CROWS. I DON'T HEAR
CAT TRACTORS. I DON'T WANT TO HEAR CAT TRACTORS.
I SEE NO REASON WHY ME AND MY NEIGHBORS SHOULD
HAVE TO PUT UP WITH CAT TRACTORS PAST 8:00 IN THE
EVENING WHEN FOLKS WHO LIVE ADJACENT TO THE OPD RANGE,
AND THERE'S A WHOLE LOT LESS OF THEM, HAVE BEEN ABLE
TO HAVE THAT RANGE SHUTDOWN. SO WHEN WE GO THERE TO
DO NIGHT FIRING WE HAVE TO BE DONE BY 8:00. OPD HAS
THE SAME THING. BRUCE BURNS IS OUT THERE IN THE
LOBBY. WE CAN ASK HIM ABOUT THAT. I KNOW THAT TO BE
A FACT.

WE ASKED IF THEY WOULD TELL US WHERE PHASE TWO
WOULD GO. THEY SAID THEY KNEW, BUT THEY WOULDN'T.
I'D STILL LOVE TO KNOW WHERE PHASE 2 GOES.
I WOULD LIKE TO KNOW WHEN WAS THE LAST SERIES
OF CORE DRILLING DONE AND WHEN WAS THAT TEST FOR
MERCURY, ARSENIC, SO ON AND SO FORTH, DOES THAT GO
BACK TO '86 AND '93 YEARS OR IS THAT SOMETHING THAT'S
BEEN MORE RESENT?

NOW, WE ALL AGREE WE'RE GOING TO HAVE AN
EXPERT WITNESS HERE IN A LITTLE BIT SO I'M NOT GOING
TO MAKE ANY NUMBERS ON THIS.

PROPERTY VALUES ARE GOING TO DROP. I KNOW WE
HAVE SOME DISAGREEMENT WITH THAT. WHAT I WANT TO KNOW
IS, MY HOUSE WAS BUILT IN '98. WE PURCHASED IT IN
2001 SO WE'VE LIVED THERE A LITTLE OVER TEN YEARS. I
PAY MY PROPERTY TAXES EVERY YEAR. WHEN THE VALUE OF
MY PROPERTY GOES DOWN, IS THE PVA PREPARED TO REDUCE
MY TAXES, AND HOW IS THE COUNTY GOING TO MAKE UP THE
DIFFERENCE IN THE 100 OR HOWEVER MANY PROPERTIES ARE
THERE AND THE VALUE OF EACH ONE OF THEM GOING DOWN?
AS THE VALUE OF MY PROPERTY GOES DOWN, THERE'S NO
REASON FOR ME TO CONTINUE TO PAY THE HIGHER TAXES.

WE SAW SLIDES FROM A YEAR AND TWO YEARS AGO OF
RECLAIMED GROUND. I WOULD LIKE TO SEE SOME SLIDES OF
PROPERTY THAT HAVE BEEN RECLAIMED BY THIS COAL MINE
PROPERTY FROM 10 YEARS AGO TO 20 YEARS AGO. I WOULD
LIKE TO SEE SOME OF THE TREES. I'D LIKE TO KNOW WHAT
THEIR YIELD WAS ON THEIR CORN CROP THAT THEY HAD LAST
YEAR. WE'VE SEEN SOME PICTURES OF LAKES. I'D LIKE TO
KNOW HOW DEEP THEY ARE, WHAT THE PH LEVEL IS. ANOTHER
FELLOW BROUGHT UP THE QUESTION TO ME OUT THERE WHO IS
IN THE BUSINESS OF BUILDING. HE'S A COMMERCIAL
BUILDER. He pointed out if that ground is not compacted you would not want to build property on it afterwards. You would not want to build a house. You would not want to build a house with a basement. I would be interested to know if they have anything to say about that.

Obviously, I think it's a foregone conclusion. Even though they're not going to ask for all the property they wanted rezoned to be rezoned tonight, they'll be coming in the future.

We talked about property taxes going up. One of the arguments made from the mine company is there's going to be this tax on equipment and therefore that equipment is bringing in more money to the county. I'd like to know how much of that equipment that they already own and is already in operation in Knottsville. Is there actually going to be more taxes on more equipment or are you just receiving taxes on equipment that already exist?

They talked about jobs being added. How many of those jobs are already going to be filled by people who are currently employed by their company? Are we talking new jobs or are we just talking different jobs?

I'd like to know the property that they're
GOING TO MINE, IS IT GOING TO BE LOGGED PRIOR TO
MINING?

I DID HAVE ONE YOUNG MAN IN THE BACK. HE
WASN'T HERE. CAN WE GET HIS NAME ON THE LIST? I KNOW
YOU'VE GOT 30 PEOPLE ALREADY. CAN HIS NAME BE ADDED
TO THAT LIST?

MR. NOFFSINGER: YES, SIR.

CHAIRMAN: THERE'S A LIST BACK HERE IN THE
BACK STILL ON THE TABLE IF YOU'D LIKE TO SIGN IT.

MR. SCOTT: NEW TERM I LEARNED TONIGHT,
APPROXIMATE ORIGINAL CONTOUR. SO THE MINE IS GOING TO
RETURN PROPERTY TO THE APPROXIMATELY THE ORIGINAL
CONTOUR THAT THEY HAD.

AT THE MEETING AT THE CHURCH THE OTHER NIGHT
THEY TALKED ABOUT IF YOU HAVE ONE WATERWAY ON YOUR
PROPERTY YOU MAY END UP WITH TWO WATERWAYS ON YOUR
PROPERTY. THIS IS A BETTER THING. BUT TONIGHT WE
HEARD THEM SAY, NO. WE PUT THE CONTOUR BACK. WE PUT
THE WATERWAY BACK WHERE IT WAS. I GOT SOME CONFUSION
THERE. MAYBE SOMEBODY CAN CLEAR THAT UP FOR ME.

I WOULD LIKE TO KNOW WHO MONITORS AIR QUALITY
OUTSIDE OF THAT MINE. AT THE MEETING AT THE CHURCH
THE OTHER NIGHT I BELIEVE THE ANSWER WAS NO ONE. IF
THERE IS AN AGENCY, AN ORGANIZATION TO MONITOR AIR
QUALITY, I'D LIKE TO KNOW WHO THAT IS.

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WE WERE TOLD TONIGHT THE DIVISION OF MINE 
RECLAMATION HAS THE AUTHORITY TO SHUTDOWN THE MINE IF 
THEY EXCEED ANY OF THESE REGULATIONS. HAVE THEY EVER 
SHUTDOWN A MINE DUE TO AIR QUALITY OR NOISE CONCERNS? 
I'D BE INTERESTED TO KNOW THAT.

NONE OF THIS WAS ANYTHING I HAD PREPARED 
BEFORE I GOT HERE TONIGHT. THIS IS SIMPLY THE RESOLVE 
OF ME LISTING TO ANSWERS THAT I DON'T BELIEVE HAVE 
BEEN GIVEN OR ANSWERS THAT HAVE BEEN GIVEN THAT CAUSED 
ME TO HAVE OTHER QUESTIONS.

MY LAST QUESTION. AT THE CHURCH MEETING THE 
QUESTION WAS: YOU DIDN'T DO THIS IN '86. YOU DIDN'T 
APPROVE IT IN '93. WHY WOULD IT BE APPROVED NOW? THE 
ANSWER GIVEN BY MR. HAYNES, THEIR ATTORNEY, THE ANSWER 
GIVEN WAS, WELL, WE'RE A BETTER COMPANY.

NOW, ME PERSONALLY, THAT STRUCK ME AS PRETTY 
SMUG AND JUST DOWN RIGHT INCONSIDERATE OF EVERYBODY'S 
TIME WHO HAD COME THERE. IT DOES NOT MATTER HOW GOOD 
of A COMPANY THEY ARE. DOESN'T MATTER HOW GOOD OF A 
JOB THEY DO. WHAT MATTERS IS THERE WAS A REASON FOR 
THIS NOT TO BE APPROVED BY YOUR PREDECESSORS THAT'S 
GOING TO IMPACT LESS PEOPLE. OBVIOUSLY THERE'S A 
WHOLE LOT MORE FOLKS GOING TO BE IMPACTED BY IT NOW. 
I SURE WOULD BE INTERESTED TO KNOW WHY ANY ONE OF YOU 
WOULD THINK IT WOULD BE A GOOD IDEA TO APPROVE IT AT

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THIS TIME.

CHAIRMAN:  YOU'LL GET THAT ANSWER AT THE END
OF THE NIGHT.

MR. SCOTT:  YES, SIR, AND I'LL BE HERE FOR IT.

THANK YOU VERY MUCH.

CHAIRMAN:  MR. HAYNES, WHY DON'T WE RUN OVER
THIS PRETTY QUICKLY.  I'LL TRY TO MAKE IT AS QUICK AS
POSSIBLE.

WHY THE 2000 FOOT BUFFER AT GIRL SCOUT CAMP.

MR. WRIGHT:  2000 FEET IS WHAT WE REALLY
DISCUSSED WITH GIRL SCOUT CAMP, BUT THAT'S KIND OF
GONE OUT OF THE DOOR FOR TODAY.

WE DID TELL THEM AT THE MEETING THAT THERE WAS
A, AND WE TOLD GIRL SCOUTS DURING THE MEETING, TALKED
WITH THEM THAT MS. HITCHCOCK DID NOT WANT HER OIL
FIELD DISTURBED.  SO THAT 2000 FOOT BUFFER WOULD NOT
BE A PROBLEM.

CHAIRMAN:  YOUR TRUCKS ARE GOING TO OPERATE ON
INTO THE NIGHT WHEN THE OPD'S RANGE QUITS AT 8:00.

THE NOISE FACTOR, HOW MUCH OF A NOISE FACTOR WOULD
THAT BE WITH THE TRUCKS?

MR. WRIGHT:  I DON'T KNOW THAT WE WOULD BE
REGULATED UNDER THAT.

CHAIRMAN:  THERE IS NO REGULATION ON THAT?

MR. WRIGHT:  NO, NOT THAT I'M AWARE OF.
CHAIRMAN: WHAT ABOUT PHASE 2, DO YOU ALL KNOW WHAT PHASE 2 IS?

MR. WRIGHT: WE HAVE A PHASE 2, YES. WE HAVE TO GET THROUGH PHASE 1 FIRST.

CHAIRMAN: DO YOU HAVE ANY IDEA WHAT PHASE 2 WOULD BE?

MR. WRIGHT: AT THE MEETING THE POTENTIAL TO EXPAND IN ANY AREA, IN ANY DIRECTION OF THAT AREA AS POTENTIAL FOR COAL. THERE'S A POTENTIAL WE COULD BE THERE FOR 20 YEARS. I DO WANT TO CLARIFY ON THAT, THAT WHEN I SAY 20 YEARS IT'S NOT 20 YEARS AROUND THE GIRL SCOUT CAMP. IT'S 20 YEARS WITHIN A TEN MILE RADIUS OF THAT PLEASANT RIDGE AREA.

WE DO NOT KNOW EXACTLY WHERE -- THIS IS ACTUALLY PHASE 2. PHASE 1 IS ACTUALLY THE PERMIT IN OHIO COUNTY THAT WE'RE CURRENTLY WORKING ON THAT WE'LL BE MINING IN NOVEMBER. THIS IS PHASE 2. IT WILL COME IN THE FUTURE.

THERE'S A LOT OF IFS, ANDS, AND BUTS ABOUT IT. COAL PRICES HAVE TO BE THERE. THE MARKET HAS TO BE THERE. YOU KNOW, WE CAN'T PREDICT IN FIVE YEARS WHAT THAT'S GOING TO TAKE FROM OUR COMPANY. SOME OF THE RATIOS IN THE COAL THAT WE DRILL IS HIGH. IT'S GOING TO HAVE TO BE A HIGHER PRICE TO BE ABLE TO AFFORD TO MINE IT.
CHAIRMAN: WHAT ABOUT THE CORE DRILLINGS, WHO ACTUALLY DOES THE CORE DRILLINGS?

MR. WRIGHT: WE'VE BEEN DRILLING OUT THERE FOR FIVE YEARS, BUT THE SAMPLES THAT I QUOTE, WE TOOK SOME GEOLOGIC SAMPLING, THEY WERE TAKEN IN AUGUST 4TH OF 2011. THESE WERE ACTUALLY TAKEN FOR OUR PERMIT ITSELF.

CHAIRMAN: I THINK WE'VE SORT OF DISCUSSED THE PROPERTY VALUE AND THOSE THINGS.

MR. WRIGHT: I FEEL LIKE BRIAN HAS THE BEST ISSUE THERE. I MEAN OUR MINING UP IN KNOTTSVILLE, HE'S GOT PROPERTY RIGHT THERE BY IT, ACTIVE MINING GOING ON. YOU SEE THE TRUE MARKET VALUE HAS NOT CHANGED.

CHAIRMAN: WHAT ABOUT THE PURCHASE OF NEW EQUIPMENT, IS HE GOING BE PURCHASING NEW?

MR. WRIGHT: THERE WILL BE NEW EQUIPMENT OUT THERE. THERE WILL BE NEW JOBS OUT THERE.

CHAIRMAN: THE ADDITION OF NEW JOBS IS NOT NECESSARILY MOVING YOUR PEOPLE FROM KNOTTSVILLE TO THIS AREA? I'M SURE THERE WILL BE SOME OF THAT.

MR. WRIGHT: YES, THERE HAS TO BE BECAUSE WE HAVE TO HAVE SOME PEOPLE WITH EXPERIENCE WITH THE MINING THAT WE'LL BRING DOWN HERE. WE'LL CUT PRODUCTION UP THERE DOWN A LITTLE BIT AND START
PRODUCTION DOWN HERE. SO SOME OF THEM WILL COME DOWN HERE. PROBABLY 20, 25 NEW JOBS AT THIS PROJECT WHEN WE GET IT FULL OPERATIONAL WITH THE PREP PLANTS AND EVERYTHING. THAT'S JUST AN ESTIMATE. SHOULD BE MORE.

CHAIRMAN: HE HAD A QUESTION THAT I'M SURE YOU CAN'T ANSWER ABOUT THE PROPERTY VALUATION LOWER. IF THEIR PROPERTY IS DEVALUED IN PRICE, WHAT HAPPENS TO THE PROPERTY VALUATION? DO THEY GET A LOWER TAX RATE?

MR. WRIGHT: THAT WOULD HAVE TO GO DOWN THERE TO THE ASSESSMENT OFFICE. I CAN'T ASSESS THEIR PROPERTY, NO.

CHAIRMAN: THANK YOU.

NEXT PERSON, EMPLOYEES.

MR. WRIGHT: THERE WAS A COUPLE OF THINGS THERE TOO THAT HE WANTED TO ANSWER. WE GOT THE BUFFER.

THE LAKES THAT WE LEAVE. YOU KNOW, MOST OF THE LAND OWNERS THAT WE LEAVE THEY WANT A LAKE LEFT ON THEM. WE GUARANTEE THEM THAT WE'LL LEAVE A LAKE. NOT A POND. IT WILL BE AT LEAST ONE ACRE IN SIZE. A LOT OF TIMES WE CAN LEAVE THEM TWO TO THREE ACRES. THEY CAN RANGE FROM 10 FOOT TO 30 FOOT DEEP. ONE OF THE LAKES YOU SEEN ON THE PROGRAM TONIGHT WAS A FINAL PIT IMPOUNDMENT. IT WAS 30, 35 FOOT DEEP. THEY'RE VERY NICE LAKES. THEY'RE NOT JUST LITTLE FROG HOLES.
WE COVERED THE BUFFER ZONE.

AS FAR AS BUILDING A HOUSE ON RECLAMATION, TIM WRIGHT DOESN'T RECOMMEND IT. YOU COULD GO BACK AND FIND STATISTICS THAT WILL TELL YOU THAT AN ENGINEER, AN ARCHITECT CAN DESIGN YOU A FOUNDATION AND YOUR HOME WILL BE OKAY ON RECLAMATION. I GUESS THAT'S A MATTER OF HOW MUCH MONEY YOU WANT TO SPEND TO BUILD THAT HOUSE. IT CAN BE DONE ACCORDING TO THE EXPERTS.

THE LAND WILL BE LOGGED. WILL BE TOTALLY STRIPPED. IT WILL BE CLEAR CUT BEFORE THE MINING TAKES PLACE, YES.

PRICE FOR ORIGINAL CONTOUR. YOU DO HAVE TO PUT BACK TO APPROXIMATE ORIGINAL CONTOUR. OUR PERMIT REQUIRES IT. THAT'S TEN PERCENT OF THE ELEVATION THAT'S THERE. IF WE DO GET A SWELL THAT ONLY MEANS WE PICK UP THE HILLS, FILL IN THE VALLEYS AND STUFF LIKE THAT.

TONY MADE A STATEMENT THE OTHER NIGHT ABOUT SPRINGS, UNDERGROUND SPRINGS. YOU HAVE THESE SEEPING OUT AROUND THE SANDSTONE AND STUFF LIKE THAT. WHAT HE WAS TALKING ABOUT, WHEN YOU GAIN TWO OF THEM, WHEN THIS STUFF FILLS UP WITH WATER AND YOUR GROUND WATER TABLE IN THIS SPOIL COMES UP, A LOT OF TIMES YOU'LL GAIN THOSE. THAT'S A PLUS FOR OUR STREAMS THAT WE RESTORE FOR THE CORP OF ENGINEERS. IT'S A WATER PIT
FOR THEM. THAT'S ONE OF OUR BIGGEST PROBLEMS WITH THE
STREAMS WE'RE TRYING TO RESTORE. JUST KEEPING THE
WATER IN THEM AND KEEPING THEM FROM DRYING OUT WITH
THE SPOIL. SO THAT'S A DEFINITE PLUS FOR STREAMS TO
COME BACK INTO THESE AREAS.

AIR QUALITY. THERE IS NO AIR QUALITY
MONITORING AT OUR SITE. THE ONLY THING THAT APPLIES
to 20 percent opacity is that coal crusher. Twenty
percent opacity is basically invisible coal dust.
we're not allowed to have anything above that that's visible.

AS FAR AS OUTSIDE THE AREA, THERE'S NO AIR
QUALITY MONITORS HOOKED UP OUT THERE. THEY'VE GOT
THEM AROUND DIFFERENT AREAS IN THE COUNTY. YOU COULD
tALK TO AIR QUALITY ABOUT MAYBE SETTING ONE UP. I
DON'T KNOW ABOUT THAT PART.

REST OF IT WAS NOISE AND AIR. I THINK WE
ANSWERED THAT. AS FAR AS I KNOW, WE DON'T HAVE ANY
NOISE RESTRICTIONS.

MR. APPLEBY: HE ASKED IF YOU WERE AWARE OF
ANY MINES THAT HAD EVER BEEN SHUTDOWN FOR VIOLATIONS?

MR. WRIGHT: FOR NOISE AND AIR?

CHAIRMAN: FOR ANY VIOLATIONS.

MR. SCOTT: NO. I JUST ASKED ABOUT FOR NOISE
VIOLATIONS.
MR. WRIGHT: NO, I'M NOT AWARE OF ANY IN OUR
AREA AND WE NEVER HAVE BEEN, NO.

CHAIRMAN: THANK YOU.

MR. SCOTT: ANY SLIDES WHERE IT'S BEEN
RECLAIMED 10, 20 YEARS AGO? ANY SLIDES OF TREES?

MR. WRIGHT: I DON'T HAVE ANY TONIGHT, NO.
WE'VE ONLY BEEN MINING FOR FIVE YEARS, GOING ON SIX
YEARS. WE DON'T HAVE ANY RECLAMATION OF THAT AGE.

MR. SCOTT: NOW, MR. LANHAM HAS BEEN IN THE
MINING BUSINESS SINCE '74. HE WAS AT THE MEETING THE
OTHER NIGHT. I THINK HE'S RECLAIMED SOME GROUND THAT
WOULD HAVE PRODUCED SOME TREES BY NOW. WOULD THAT BE
CORRECT?

MR. WRIGHT: AT THE TIME WHEN TONY WAS IN THE
BUSINESS BEFORE, THEY DIDN'T REQUIRE TO PUT THE
BEARINGS ON THE STREAMS, STUFF LIKE THEY DO NOW. WILL
BE NO TREES, NO.

MR. SCOTT: DIRECTED TO THE ZONING & PLANNING
COMMISSION. IF THERE'S NO REQUIREMENTS, REGULATIONS
ABOUT NOISE, THEN EVERY TIME THROUGHOUT MY 19 YEARS
THAT I'VE BEEN SITTING THROUGH THAT LOUD MUSIC
COMplaint OR SOME OTHER KIND OF NOISE COMplAINT AFTER
10:00 AT NIGHT, THOSE PEOPLE SHOULD HAVE BEEN ALLOWED
TO BE AS LOUD AS THEY WANTED TO ALL NIGHT?

CHAIRMAN: YOU'LL HAVE TO TAKE THAT UP WITH
SOMEONE ELSE. THAT'S NOT US.

MR. SCOTT: WHO WOULD THAT WE THAT WE WOULD TAKE THAT UP WITH?

CHAIRMAN: I'M SORRY, IT DOESN'T COME UNDER OUR JURISDICTION. I'M SORRY, I CAN'T ANSWER THAT QUESTION.

MR. SCOTT: THANK YOU, GENTLEMEN.

MR. WRIGHT: I'D ALSO LIKE TO COMMENT ABOUT MR. GREGORY, WHERE HE COME UP AND MADE HIS COMMENT.

HIS HOUSE IS 5,000 FEET AWAY FROM THIS MINE SITE. HE'S WAY DOWN ON THE END OF THE OTHER ROAD.

MS. WILLIAMS, SHE'S ON REDHILL-MAXWELL ROAD.

SHE'S OVER A MILE AWAY.

OVER ON 140, THE PEOPLE OVER THERE, THEY'RE GETTING TWO MILES AWAY FROM OUR MINE SITE. THESE PEOPLE ARE GOING TO HAVE TO COME AND VISIT US EVEN OVER THERE. THESE PEOPLE ARE LONG DISTANCE OUT.

CHAIRMAN: THANK YOU.

NEXT.

MR. NOFFSINGER: JOANNE SCOTT.

MR. SILVERT: COULD YOU STATE YOUR NAME FOR THE RECORD, PLEASE?

MS. SCOTT: JOANNE SCOTT.

(JOANNE SCOTT SWORN BY ATTORNEY.)

MS. SCOTT: ONE THING I WOULD LIKE TO MENTION,
I DON'T KNOW IF YOU ALL ARE AWARE, BUT WE HAVE BALD EAGLES IN OUR AREA. MY HUSBAND, DAUGHTER AND SON SPOTTED SOME A COUPLE OF YEARS AGO NEAR THE CORNER OF 231 AND REDHILL. ABOUT MAYBE 3 TO 500 FEET OFF THAT CORNER ON REDHILL. JUST TO ADD THAT TO THE BEAUTY AND SERENITY OF THE AREA THAT WE'RE DESTROYING. I THINK WE SHOULD THINK ABOUT THAT TOO.

I WANT TO TALK ABOUT THE NOISE ISSUE. AT THE MEETING, THE TOWN HALL MEETING THERE WAS A GENTLEMAN WHO SPOKE WHO SAID HE LIVED A MILE AND A HALF AWAY FROM THE KNOTTSVILLE SITE. HE SAID THAT THROUGH THE NIGHT HE COULD HEAR NOISE AND SEE FLASHING LIGHTS.

I WANTED TO BRING UP THE POINT OF HOW IT'S NOT JUST THE AMOUNT, THE DECIBELS. IT'S THE STRUCTURE OF THE WAY THE LANDS LAYS THAT ACTUALLY AMPLIFIES THE SOUND. THAT WOULD MAKE SENSE WHY IT WOULD TRAVEL FOR A MILE AND A HALF.

JUST THE OTHER DAY I WENT OUTSIDE AND TOOK MY VACUUM FILTER, WHICH IS PLASTIC, AND I WANTED TO CLEAN IT. I BANGED IT ON MY PLASTIC TRASH CAN. WHERE IT WAS, IT WASN'T THAT LOUD, BUT IT BEGAN TO REVERBERATE AROUND THE VALLEY. IT BECAME LOUDER, MUCH LOUDER. IT SOUNDED LIKE GUNSHOT. I DON'T WANT FOR 20 YEARS TO BE SUBJECT TO THAT ALL NIGHT LONG. MY HUSBAND HAS SLEEP APNEA, INSOMNIA, SLEEP DISORDER, ASTHMA. I
DON'T THINK IT'S FAIR THAT WE HAVE TO BE DISTURBED THROUGH THE NIGHT.

ANOTHER ISSUE IS THAT I'VE HEARD SO MANY TIMES THAT MINERS TEND TO COME IN AND CREATE DAMAGE AND THEN BAIL OUT ON PAYING THE DAMAGE. MY HUSBAND IS AN ELECTRICIAN. HE'S REQUIRED TO HAVE A BOND TO PAY FOR DAMAGES. I DON'T KNOW WHY MR. LANHAM COULDN'T HAVE A BOND TO PAY FOR DAMAGES AFTER A PERIOD OF TIME.

CHAIRMAN: I WILL SEE IF WE ANSWER A FEW OF THOSE QUESTIONS, AND WE'LL SEE ABOUT A BOND. I'M SURE THERE'S SOMETHING, AND TRY TO GET SOME OF THESE QUESTIONS.

MRS. SCOTT: THE ONLY BOND THEY'RE REQUIRED TO HAVE IS SOMETHING THAT COVERS THE LAND THAT THEY'RE ACTUALLY MINING.

CHAIRMAN: LET'S GET HIM TO ANSWER THAT, IF WE COULD. OKAY?

MRS. SCOTT: YES.

CHAIRMAN: MR. LANHAM, IN REGARD TO A BOND.

MR. LANHAM: YOU TALKING ON BLASTING DAMAGE?

MRS. SCOTT: YES.

MR. LANHAM: WE DON'T HAVE A BOND PUT UP PER SE ON BLASTING DAMAGE. WE'RE INSURED. WE CARRY A HEAVY LOAD OF LIABILITY INSURANCE TO COVER FOR THAT.

CHAIRMAN: ABOUT HOW MUCH WOULD WE BE TALKING
BEING, MR. LANHAM?

MR. VINCENT: ABOUT APPROXIMATELY $5 MILLION DOLLAR.

MR. LANHAM: WE HAVE THAT TOGETHER.

MRS. SCOTT: WELL, I MAY BE NAIVE AND NOT UNDERSTAND INSURANCE. I'M NOT SURE THAT I DO. I THINK THAT IF HE WERE TO GO OUT OF BUSINESS OR STOP MINING, STOP CARRYING INSURANCE, THAT IT WOULD NOT COVER OUR CLAIMS.

CHAIRMAN: I DON'T THINK HE WOULD BE ABLE TO OPERATE IS BUSINESS IN THAT AREA IF HE DIDN'T HAVE INSURANCE.

MRS. SCOTT: IF HE WENT OUT OF BUSINESS AND THEN LATER ON WE SUBSTANTIATED THAT WE HAVE DAMAGE. WE'VE DETERMINED THAT --

MR. HAYNES: IT'S CLAIMS INCURRED INSURANCE IT COVERS. EVEN THOUGH THE MINING PROJECT MAY BE DONE, IT INSURES THE CLAIM. IT'S NOT TIME SPECIFIC.

CHAIRMAN: JUST AN EXAMPLE TO MAKE IT SIMPLE.

MR. LANHAM OPERATES FOR ONE MONTH. GOES OUT OF BUSINESS THE 30TH. YOU HAVE A CLAIM THAT TRANSPRIED ON THE 20TH.

MR. HAYNES: IT'S CLAIMS INCURRED. IT WILL COVER THAT, YES.

CHAIRMAN: THANK YOU.
MRS. SCOTT: ALSO, I WONDER WHY IF HE'S BEEN IN BUSINESS MINING ALL THIS TIME, I DON'T KNOW WHY HE SOLD HIS PRIOR COMPANY IN THE PAST. APPROXIMATELY MAYBE SEVEN YEARS AGO. I WOULD LIKE HIM TO ADDRESS THAT.

CHAIRMAN: MA'AM, I DON'T THINK WE REALLY HAVE THE RIGHT TO ASK THAT QUESTION.

MRS. SCOTT: OKAY.

CHAIRMAN: NEXT.

MR. NOFFSINGER: SARA KELTY.

MS. KELTY: I'VE ALREADY SPoken.

CHAIRMAN: THANK YOU.

MR. NOFFSINGER: RACHEL MAUER.

MS. MAUER: I ALSO HAVE ALREADY SPoken.

MR. NOFFSINGER: TONY ISBILL.

MR. WILSON: HE'LL COME LATER.

MR. NOFFSINGER: JOSEPH ELLIOTT.

MR. SILVERT: WOULD YOU STATE YOUR NAME, PLEASE.

MR. ELLIOTT: JOE ELLIOTT.

MR. ELLIOTT: I'VE HEARD A LOT OF TESTIMONY TONIGHT ON BOTH SIDES. I FEEL FOR WHAT BOTH IS, BUT UP ON THE EAST SIDE OF OWENSBORO THEY'RE PUTTING A ROAD AROUND THE TOWN. THEY SAY 50,000 CARS A DAY GOES THERE. IT'S REALLY DISCOMFORT A LOT OF OUR AREA. THE

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Farmers have to split the fields and all of that. Everybody come here tonight come down a road. They said there's some ladies here from Louisville. Thank God that somebody give up the right-of-way for them to get down here.

I've been on the water district here in the Southeast Water for several years. We run a lot of water lines through the community. We had a lot of problems with right-of-ways and everybody hopes that get up out of bed in the morning mostly within five minutes they're using water. So it's inconvenience.

In 1964 there wasn't any water district in Daviess County. Now there's several thousand customers in the county. OMU has come out and put water supply to the county.

The substance tax, the coal substance tax, I think the Bluegrass Museum is begging for it and probably got a good chance of getting some of that money.

The water district in the area has used that money. The RWRA, has the sewers in Owensboro, has used that money.

I know it's inconvenience. We have to get up and down the road with farm equipment. It's inconvenience, but we are feeding people or trying to
FEED PEOPLE. IT AIN'T ALL PROFIT. I REALLY WOULD
LIKE TO SAY THAT MR. LANHAM HAS DONE A GREAT JOB IN
OUR COMMUNITY. HIS DADDY DONE A GREAT JOB IN THE
COMMUNITY. THEY SHARE THEIR MONEY THAT HELP OUR
COMMUNITY OUT UP THERE AN KNOTTSVILLE. I REALLY THINK
THAT YOU ALL ARE ABLE TO MAKE A GOOD DECISION. I KNOW
THAT IT'S AN INCONVENIENCE FOR THE PEOPLE THAT LIVE IN
THE COMMUNITY TO GIVE UP SOME THINGS, BUT LIKE I SAY,
SOMEBODY ALL OVER THE STATE HAS GIVEN UP SOME OF THEIR
COMMUNITY STUFF FOR ROADS AND DIFFERENT LIGHT LINES,
POWER LINES.

I'VE GOT A MARATHON OIL LINE THAT RUNS ACROSS
MY FARM THAT INCONVENIENCE ME EVERY TIME ON MY
PROPERTY, BUT THE OIL AND FUEL GOES TO ASHLAND,
KENTUCKY, AND EVERYBODY PUMPS GAS OUT OF THE GAS
PUMPS. THEY DELIVER IT, GET TO GO TO WORK AND GO TO
SCHOOL AND THE SCHOOL BUSES RUNS. I'D REALLY LIKE TO
SAY THANK YOU, AND YOU ALL HAVE TO MAKE THE DECISION.

CHAIRMAN: THANK YOU, SIR.
MR. NOFFSINGER: SETH BURNS.
MR. SILVERT: STATE YOUR NAME, PLEASE.
MR. BURNS: SETH BURNS.
(SETH BURNS SWORN BY ATTORNEY.)
MR. BURNS: I JUST PRETTY MUCH HAD MY NAME ON
THERE. I'M A REPRESENTATIVE OF MEMSCO. WAS JUST HERE
TO ANSWER ANY OTHER ADDITIONAL QUESTIONS REGARDING BLASTING.

I JUST WANTED TO SAY, THERE WAS A GENTLEMAN EARLIER THAT ALLUDED TO KIND OF OUR VIOLATION RECORD AND 60 SOME VIOLATIONS. I JUST WANTED TO EXPRESS ON BEHALF OF OUR COMPANY, YOU KNOW, WE SHOOT I THINK -- WE'RE AN EXPLOSIVE COMPANY. WE DO BLASTING AND WE SELL EXPLOSIVES. I THINK ALMOST ALL, IF NOT ALL OF THE SURFACE COAL MINES IN KENTUCKY WHERE BLASTING IS DONE WE PROVIDE THAT SERVICE. WE SHOOT A LOT OF ROCK QUARRIES IN SOUTHERN ILLINOIS AND SOUTHERN INDIANA. A LOT OF DIFFERENT PLACES. WE'RE DOWN IN TENNESSEE. WE'RE A LARGE COMPANY. THOSE VIOLATIONS WEREN'T AT ONE SPECIFIC MINE. THEY WEREN'T ALL AT WESTERN KENTUCKY MINERALS. THOSE VIOLATIONS, THAT WAS FROM MAYBE ONE AGENCY. TIM ALLUDED TO EARLIER, YOU KNOW, THERE'S SIX DIFFERENT AGENCIES THAT REGULATE US. I GOT INTO THIS ABOUT 15 YEARS AGO. I'M JUST A YOUNG GUY. FIFTEEN YEARS AGO IT WAS A WHOLE DIFFERENT WORLD IN MINING AND BLASTING. IN THOSE 15 YEARS, I CAN'T TELL YOU HOW MANY MORE REGULATIONS HAVE COME ABOUT AND HOW MUCH MORE THE ENFORCEMENT HAS INCREASED. ALL THE REGULATIONS THAT WE HAVE TO MEET ON GROUND VIBRATION AND AIR BLAST, THOSE THINGS, THOSE LIMITATIONS ARE THERE WITH LEVELS OF SAFETY BUILT INTO THEM TO PROTECT
STRUCTURES, TO PROTECT THE ENVIRONMENT, AND THINGS LIKE THAT.

THEY CAME FROM STUDIES THAT WERE DONE FROM U.S. BUREAU OF MINES WHICH NO LONGER EXIST. THEY ACTUALLY PURCHASED HOMES, SET UP INSTRUMENTS INSIDE HOMES AND WALLS AND CAMERAS AND EVALUATED ALL THESE STRUCTURES AND ACTUALLY MINED AND BLASTED RIGHT UP TO THEM AND THROUGH THEM. EVEN GAS LINES. THAT'S WHERE TIS CRITERIA CAME FROM WAS ACTUAL BLASTING AND ACTUAL STRUCTURES. THOSE CRITERIA WERE DEVELOPED AND LAID OUT. THEN THEY SAID, OKAY, IT MAY BE SIX INCHES PER SECOND THAT YOU'RE ALLOWED, YOU KNOW, BEFORE IT BREAKS SOMETHING. WE'RE REGULATED TO ONE INCH PER SECOND.

LIKE EVERYTHING, THERE'S FLOOD ZONES AND IT'S FOR 100 YEAR AND 500 YEAR OR WHATEVER. THERE'S FACTORS OF SAFETY PUT INTO EVERYTHING AND THERE'S FACTORS OF SAFETY PUT IN ON OUR REGULATIONS AS WELL.

IF WE HAVE A VIOLATION, THEN THERE'S A PENALTY FOR THAT VIOLATION. AS MARTY ALLUDED TO EARLIER, IF THERE'S SOMETHING WITH EQUIPMENT OR SAFETY, THAT HAS TO BE CORRECTED RIGHT THEN AND THERE BEFORE YOU CAN GO ON. WE'RE HERE TOO.

I LOVE SEEING YOU GUYS REPRESENTING YOUR SIDE AND THE GIRL SCOUTS HERE. I WAS A BOY SCOUT. I WAS EAGLE SCOUT. I'VE GOT A SEVEN YEAR OLD SON NOW AND
I'M HIS DEN LEADER. WE PRACTICE LEAVE NO TRACE. WE
ALSO, YOU KNOW, WE TEACH THOSE LITTLE KIDS, DO YOUR
BEST.

THIS IS MY JOB. THIS IS MY LIVELIHOOD. I
WENT TO SCHOOL TO BE A MINING ENGINEER. THIS IS WHAT
I DO. I DON'T GO OUT AND SHAKE PEOPLE'S HOUSES AND
DISTURB PEOPLE. I GO OUT THERE TO TRY AND MAKE OUR
JOB BETTER. TO DO A BETTER JOB. THERE'S SYSTEMS THAT
WE DO.

I'M GOING TONIGHT TO CAVE CITY, KENTUCKY TO DO
AN EIGHT HOUR TRAINING WITH OUR BLASTERS TOMORROW. WE
HAVE SYSTEM THAT WE USE NOW THAT COST MORE MONEY,
DETONATORS, THAT ARE ELECTRONIC DETONATORS. THEY'RE
PROGRAMABLE. THEY'RE VERY, VERY ACCURATE. WHAT THEY
DO IS THEY CONTROL THINGS BETTER. JUST AS EVERYTHING
ELSE, YOUR PHONE GETS MORE ADVANCED, YOU KNOW, MONTH
BY MONTH, YEAR BY YEAR. OUR PRODUCTS ARE A LITTLE
SLOWER. IT'S A SMALLER MARKET, BUT WE HAVE EQUIPMENT
NOW THAT WE CAN TAP INTO LIKE A TOOL BOX THAT JUST
GIVES US BETTER CONTROL AND ALLOWS US TO DO THINGS IN
A BETTER WAY.

WE'RE TRYING TO DO THAT ALL THE TIME. WE'RE
TRYING TO DO OUR BEST OUT THERE. LIKE I SAY, WHEN WE
BLAST, YOU'RE GOING TO FEEL IT. THERE'S A LOT OF
DIFFERENT LEVELS IN PLACE TO PROTECT YOU ALL TO

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PROTECT YOUR HOUSES. I FEEL FOR WHAT YOU'RE SAYING ABOUT YOUR STRUCTURES AND YOUR VALUES AND YOUR CONCERN THERE. I WOULD BE TOO.

I JUST WANT YOU TO KNOW FROM OUR SIDE WE DO DO OUR BEST. WE'RE LIKE YOU. WE GO TO OUR JOBS EVERY DAY. THERE'S A LOT OF LEVELS OF REGULATION IN PLACE THAT PROTECT YOU ALL, THE ENVIRONMENT, AND EVERYTHING ELSE. THAT'S ALL I HAVE.

MR. NOFFSINGER: SHIRLEY TAYLOR. I LIVE AT 3300 RUSSELL ROAD.

MR. SILVERT: WOULD YOU STATE YOUR NAME, PLEASE?

MS. TAYLOR: SHIRLEY TAYLOR.

(SHIRLEY TAYLOR SWORN BY ATTORNEY.)

MS. TAYLOR: I'M HERE TONIGHT TO ASK WHAT IS THE DIFFERENCE BETWEEN THE LAND IN SOUTH DAVIESS COUNTY AND LAND IN EASTERN DAVIESS COUNTY. THE ZONING BOARD HAS APPROVED HUNDREDS OF ACRES IN EASTERN DAVIESS COUNTY WHERE MINING IS GOING ON.

NOW, THE LAST REZONING THE BOARD APPROVED HAD 160 HOUSES WITHIN HALF A MILE RADIUS. THIS REZONING WE ARE ASKING THE BOARD TO APPROVE HAS ONLY 60 HOUSES IN HALF A MILE RADIUS. THIS MINE COMPANY IS GOING TO BE OPERATING THE SAME WAY THEY ARE OPERATING IN KNOTTsville. THIS COMPANY IS GOING TO HAVE THE MINE
OPERATING JUST ACROSS THE OHIO COUNTY LINE BEGINNING
OCTOBER OF THIS YEAR. THAT'S ALL I HAVE TO SAY.

CHAIRMAN: THANK YOU.

MR. NOFFSINGER: CHESTER SANDS.

MR. SILVERT: WOULD YOU STATE YOUR NAME,
PLEASE?

MR. SANDS: I'M CHESTER SANDS. I'M RETIRED
FROM ASHLAND OIL PIPELINE.

(CHESTER SANDS SWORN BY ATTORNEY.)

MR. SANDS: I'M RETIRED FROM ASHLAND OIL
PIPELINE. I'VE GOT ONE QUESTION I WANT TO ASK.

UP AND DOWN GIRL SCOUT ROAD, UP AND DOWN 140,
231 AND RUSSELL ROAD, THEY ALL GOT PLASTIC WATER
LINES. WHAT IS THIS SHOOTING GOING TO DO TO THAT
PLASTIC LINE? THEY WON'T TAKE IT.

CHAIRMAN: THANK YOU.

MR. VINCENT: MARTY VINCENT.

THERE ARE STATE REGULATIONS ON GROUND
VIBRATION AT ALL STRUCTURES, UTILITIES, WATER LINES,
GAS LINES, POWER LINES. THESE REGULATIONS AND LIMITS
ARE BASED ON MANY STUDIES OF WHAT KIND OF DAMAGE THAT
VIBRATION WILL DO TO THESE TYPE OF UTILITIES. THE
BLASTING IS REGULATED BY THESE LEVELS AND SEISMOGRAFPHS
ARE SET ON THESE LINES OR NEAR THESE LINES. BLASTING
LEVELS, VIBRATION LEVELS ARE KEPT BELOW THOSE
THRESHOLD FOR DAMAGE.

CHAIRMAN: THANK YOU.

MR. NOFFSINGER: GREG KAELIN.

MR. SILVERT: STATE YOUR NAME, PLEASE.

MR. KAELIN: GREG KAELIN.

(GREG KAELIN SWORN BY ATTORNEY.)

MR. KAELIN: I JUST HAD A COUPLE OF QUESTIONS.

NOT GOING TO GO OVER THINGS THAT WERE ALREADY COVERED.

THERE WAS A QUESTION EARLIER ARE NUMBERS

BROUGHT UP ABOUT 1,000 FEET. I DON'T KNOW WHERE THAT

NUMBER CAME FROM. THERE'S ALSO A NUMBER BROUGHT UP

ABOUT 2,000 FEET WITH THE GIRL SCOUT CAMP, BUT THAT'S

ONLY AGREEMENT, LOOSE AGREEMENT WITH THE GIRL SCOUT

CAMP. I THINK THE NUMBERS ARE MORE ALONG THE LINES OF

100 FEET, ISN'T IT, THAT YOU HAVE TO STAY BACK? NOT

1,000 FEET.

CHAIRMAN: WE'LL GET ANSWERED.

MR. WRIGHT: THE KENTUCKY STATE LAW SAYS THAT

WE HAVE TO STAY BACK 300 FOOT ON ANY OCCUPIED DWELLING

OR STRUCTURE THAT'S OCCUPIED BY BUSINESSES AND SO

FORTH.

THE 1,000 COMES FROM, AGAIN, MS. HITCHCOCK'S

OIL FIELD. WE WILL NOT BE ABLE TO GET WITHIN 1,000

FOOT OF GIRL SCOUT CAMP BECAUSE SHE DOES NOT WANT IT

DISTURBED. TWO THOUSAND FOOT WAS THE ORIGINAL

OHIO VALLEY REPORTING
(270) 683-7383
AGREEMENT THAT WE WAS TRYING TO COME TO WITH THE GIRL
SCOUT CAMP, AND IT WAS OFF THEIR MAIN STRUCTURE BACK
THERE.

MR. KAELIN: THEN AND HOW MUCH ON THE ROADWAY?
MR. WRIGHT: WE CAN DISTURB UP TO THE
RIGHT-OF-WAY OF THE ROADWAY.
MR. NOFFSINGER: EXCUSE ME. ACCORDING TO THE
LOCAL ORDINANCE, 100 FOOT BUFFER FROM THE ROAD
RIGHT-OF-WAY UNLESS A VARIANCE IS APPROVED BY THE
OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT.
MR. WRIGHT: RIGHT. WE CAN GET PERMISSION TO
DISTURB TO THE RIGHT-OF-WAY THEN.
CHAIRMAN: THROUGH THE BOARD OF ADJUSTMENT.
NOT HERE.
THANK YOU. NEXT.
MR. NOFFSINGER: MIKE SALMON.
MR. SILVERT: STATE YOUR NAME, PLEASE.
MR. SALMON: MIKE SALMON.
(MIKE SALMON SWORN BY ATTORNEY.)
MR. SALMON: I'M MIKE SALMON. RESIDENT OF
DAVIESS COUNTY FOR 60 SOME YEARS. I'VE BEEN IN AND
AROUND THE MINING INDUSTRY FOR ABOUT 35 YEARS. I HAVE
SEEN THE GOOD, THE BAD, AND THE UGLY.
I WOULD LIKE TO LET YOU ALL KNOW THAT TONY
LANHAM IS OF THE GOOD. I'VE KNOWN HIM SINCE THE DAY
HE STARTED MINING. HE'S BEEN A CUSTOMER AND A FRIEND.
HE'S A MAN OF HIS WORD. HE'S A MAN OF INTEGRITY.
HE'S A MAN OF THE LAND. HE GREW UP IN KNOTTSVILLE.
HE FARMED. THEY LIVE OF THE LAND. HE RESPECTS THE
LAND. HE WILL TAKE CARE OF THE PROPERTY THAT HE
MINES. HE HAS WON AWARDS FOR RECLAMATION AND HE'S A
DARN GOOD MINER. THAT'S ALL I HAVE.

MR. NOFFSINGER: BEN TAYLOR.

MR. PEARCE: BEN TAYLOR HAD TO LEAVE. HAD AN
EMERGENCY. HE'S A REPRESENTATIVE OF THE SIERRA CLUB.
HE ASKED ME IF I COULD SPEAK FOR HIM. IS THAT OKAY?
I'M ON THE LIST TOO. YOU CAN TAKE ME OFF THE LIST.
MR. NOFFSINGER: WHAT'S YOUR NAME, PLEASE?
MR. PEARCE: THOMAS PEARCE. IS THAT ALL RIGHT?

CHAIRMAN: SURE. GO AHEAD.

(THOMAS PEARCE SWORN BY ATTORNEY.)

MR. PEARCE: MY NAME IS THOMAS PEARCE. I'M A
REPRESENTATIVE OF THE SIERRA CLUB. BEN IS A
REPRESENTATIVE OF THE PENNYRILE. HE'S THE CHAIR OF
THE PENNYRILE GROUP OF THE SIERRA CLUB.
I GUESS THE FIRST THING I WANT TO SAY IS WE
HEAR EVERYTHING ACCORDING TO REGULATIONS. THE STATE
HAS REGULATIONS. THE FEDERAL GOVERNMENT HAS

OHIO VALLEY REPORTING
(270) 683-7383
I DON'T KNOW IF YOU ALL ARE AWARE OF THE FACT THAT, YOU KNOW, FOR INSTANCE, LAST YEAR KENTUCKY IS FOR THE COMMONWEALTH. KENTUCKY WATERWAY, SIERRA CLUB TOO. MANY OF THE MINING COMPANIES IN THE STATE OF KENTUCKY AND WE'RE GOING TO TAKE THE DIVISION OF WATER TO COURT BECAUSE ACROSS THE STATE MANY MINE COMPANIES WERE JUST FILLING OUT THEIR FORMS IN A, JUST COPYING FORMS OF TESTING SITES THAT THEY HAD DONE TWO, THREE, FOUR YEARS AHEAD OF TIME. JUST KEPT SUBMITTING THE SAME TEST OVER AND OVER AGAIN. WE STUMBLED ACROSS THAT AND WE WERE GOING TO FILE SUIT. KENTUCKY ENVIRONMENTAL DIVISION GOT IN AND STOPPED AND SAID, NEGOTIATED A SETTLEMENT TO KEEP THAT FROM GOING TO COURT.

I GUESS THE POINT I'M TRYING TO MAKE IS, I HOPE YOU WOULD LOOK THAT UP AFTER THE HEARING. THAT OFTEN TIMES -- THEIR AGENCIES. THEY'RE SUPPOSED TO REGULATE THINGS, BUT THE FACT OF THE MATTER IS THAT OVER AND OVER AGAIN THEY DON'T GET REGULATED.

AS MR. LANHAM SAID THE OTHER DAY AT THE HEARING WE HAD RECENTLY, FOR INSTANCE, FOLKS SAID, TELL US ABOUT ARSENIC AND TELL US ABOUT SELENIUM. HE SAID, WELL, HAD AN ARSENIC PROBLEM, AND WE'RE GOING TO DEAL WITH THAT. WE HAD A SELENIUM PROBLEM AND WE'RE GOING TO DEAL WITH THAT.
WHY DO YOU HAVE AN ARSENIC AND SELENIUM PROBLEM? WELL, THEY JUST STARTED BEING ASKED TO TEST FOR THESE THINGS JUST RECENTLY. ARCH MINERALS IN WEST VIRGINIA HAS JUST AGREED TO $50 MILLION CLEANUP FEE FOR SELENIUM IN THEIR MINE PROPERTIES OUT THERE.

WITH A COUNTY AS BEAUTIFUL AS DAVIESS COUNTY, DO THE RESIDENTS OF THIS COUNTY WANT TO HAVE A FUTURE IN SELENIUM RUNOFF? DO YOU WANT TO HAVE A FUTURE OF --

CHAIRMAN: LET'S SEE IF WE CAN GET THAT QUESTION ANSWERED BY AN EXPERT.

MR. PEARCE: CAN WE GO BACK AND FORTH ON THIS?

CHAIRMAN: NO. NO. WE'RE NOT GOING TO HAVE IT BACK AND FORTH. WE'VE GOT OTHERS. LET ME GET THAT ANSWERED. LET'S DO THAT.

MR. PEARCE: ALL RIGHT.

CHAIRMAN: SELENIUM.

MR. WRIGHT: WHAT I MEANT WHEN I TOLD HIM THE OTHER NIGHT THAT IT WAS JUST BECOMING A PROBLEM FOR HERE, BECOMING A PROBLEM FOR THE POWER PLANT. THEY'RE STARTING TO LOOK AT THEIR DISCHARGE OF AIR QUALITY AND THEIR WATER DISCHARGE FOR SELENIUM. SO WE'RE STARTING TO TEST OUR COAL FOR SELENIUM TO MAKE SURE THAT WE CAN KEEP THEM UNDER THE REGULATIONS.

CHAIRMAN: IS THERE A SET REGULATION ON
SELENIUM NOW?

MR. WRIGHT: THE POWER PLANTS WOULD HAVE ONE WHEN THEY HAVE THEIR KPS PERMITS RENEWED, BUT WE DO NOT HAVE A SELENIUM TEST THAT WE HAVE TO DO ON OURS. WE DO IT ON THE COAL FOR THE POWER PLANT. AGAIN, THESE ARE SELENIUM TESTS ON THESE ANALYSIS HERE IS LOW, WAY LOW. WE WILL NOT HAVE A PROBLEM WITH SELENIUM.

CHAIRMAN: THANK YOU.

MR. PEARCE: WELL, THAT'S WHAT HE SAYS. I DISAGREE.

CHAIRMAN: DO YOU HAVE ANY FACTS? WE'LL LATER ENTERTAIN FACTS TO THAT MATTER IF YOU'VE GOT SOMETHING TO SHARE WITH US.

MR. PEARCE: WOULD YOU DISAGREE MINING COMPANIES ARE CURRENTLY HAVING SELENIUM CLEANUP?

CHAIRMAN: SIR, EXCUSE ME.

MR. PEARCE: ARCH MINERALS $50 MILLION CLEANUP. SELENIUM AND ARSENIC COME FROM COAL MINING. THERE'S RUNOFF. IT'S THERE. ASK THEM IF THERE'S GOING TO BE ARSENIC IN THE CONTAINMENT POND?

CHAIRMAN: I THINK HE'S ALREADY ANSWERED THAT QUESTION.

MR. PEARCE: RIGHT. THERE IS. THERE'S GOING TO BE ARSENIC.
THE QUESTION BECOMES: DO YOU WANT DAVIESS
COUNTY'S FUTURE TO BE TIED TO AN INDUSTRY INTO THE
HEALTH OF THE RESIDENTS OF THIS COUNTY TIED TO AN
INDUSTRY, WHERE THE WALL STREET JOURNAL TWO WEEKS AGO
SAID IT'S ON ITS WAY OUT. THE FACT OF THE MATTER IS,
DAVIESS COUNTY COULD HAVE AN ECONOMIC FUTURE IF PEOPLE
WOULD WANT TO COME AND VISIT AND SEE THE BEAUTIFUL
GIRL SCOUT CAMP AND THE BEAUTIFUL PLACES HERE OR THEY
CAN BE ASKED TO COME AND TAKE A TOUR OF THE STRIP
MINE.

I DON'T KNOW ABOUT YOU, BUT DO YOU THINK
PEOPLE ARE GOING TO COME AND VISIT A STRIP MINE? I
DON'T THINK SO. I DON'T THINK THAT PEOPLE ARE GOING
TO BE AS LIKELY TO SEND THEIR GIRLS TO GIRL SCOUT CAMP
THAT'S NEXT TO A STRIP MINE. THAT'S JUST MY OPINION.

THE BOTTOM LINE IS THAT ONE CONTAMINATION NEXT
TO A MINING SITE IS LEGENDARY. IF YOU DON'T KNOW IT,
LOOK IT UP. IT'S $50 MILLION CLEANUP. ARCH MINERALS.

CHAIRMAN: SIR, I UNDERSTAND WHERE YOU'RE
GOING WITH THIS. WE HAVE TO JUDGE THIS COMPANY FOR
THIS INCIDENT AND THINGS THAT THEY'RE DOING.

MR. PEARCE: THAT'S TRUE.

CHAIRMAN: WE HAVE TO BE FAIR BOTH WAYS.

MR. PEARCE: WHAT THE OTHER GENTLEMAN SAID
EARLIER THAT THERE'S A COMPANY THAT HAS 50 VIOLATIONS
IN HOW MANY YEARS?

WHEN YOU'RE TALKING ABOUT A STRIP MINE NEXT TO A COMMUNITY, ONE VIOLATION CAN MEAN A MAJOR DAMAGE TO SOMEBODY'S HEALTH AND PROPERTY. I'VE SEEN IN EASTERN KENTUCKY, WE'VE SEEN WHERE BLASTS HAS KNOCKED THE ROCK THAT HAS LANDED SQUARE IN SOMEBODY'S CARPORT. WE'VE SEE FOUNDATION BREAKAGE NEXT TO ALMOST EVERY STRIP MINE WHERE BLASTING IS CLOSE TO HOMES. THERE'S FOUNDATION CRACKING.

NOW, YES, THEY'LL HAVE INSURANCE AND THEY'LL GO OUT AND THEY'LL MAKE THAT RIGHT, BUT A LOT OF FOLKS PROBABLY WOULD LIKE THE RIGHT TO NOT EVER HAVE THEIR HOMES DISTURBED IN THAT MANNER. I DON'T KNOW.

IT DEPENDS ON DO YOU WANT THE FUTURE OF THE ECONOMY TIED TO AN INDUSTRY THAT THE WALL STREET JOURNAL, WHICH IS A PRETTY CONSERVATIVE OUTFIT, HAS SAID COAL IS ON ITS WAY OUT. IT'S ON ITS WAY OUT. YOU ALL HAVE A NICE EVENING.

CHAIRMAN: THANK YOU.

NEXT.

MR. NOFFSINGER: CLAY STRINGER.

MR. SILVERT: COULD YOU STATE YOUR NAME, PLEASE?

MR. STRINGER: CLAY STRINGER.

(CLAY STRINGER SWORN BY ATTORNEY.)
MR. STRINGER: I WAS GOING TO SPEAK ON BEHALF OF KIMBERLY, IF SHE IS STILL HERE.

MR. NOFFSINGER: KIMBERLY COBB?

MS. COBB: KIMBERLY COBB.

(KIMBERLY COBB SWORN BY ATTORNEY.)

Ms. Cobb: My husband and I live on the east end of Greenbriar Road. We've lived out there for 15 years. I grew up at Redhill. He grew up in downtown Utica. It's our home. We like the way it is.

Most of my points have already been covered tonight. We won't go back over them.

I do have two questions. The landowners that are going to be in with the mine company. I want to know how many of them are actually going to be living out there and going through all of this inconvenience and disturbance with the rest of us?

Another point, this Girl Scouts and a lot of others think about their well water. In the event it does becomes contaminated, what steps are going to be made to clean that up and to provide clean drinking water for those people until it is clean?

Chairman: I think the first part of your question, I don't think we can answer or anybody except those individual people could answer.

The part about the well water I think we could
GET AN ANSWER ON.

WHO IS UP OVER THERE?

MR. WRIGHT: ACTUALLY ALL OF OUR LANDOWNERS LIVE IN THE AREA EXCEPT FOR ONE. MS. HITCHCOCK LIVES IN EVANSVILLE, BUT EVERYBODY ELSE LIVES ON THE SITE. I THINK THEY'LL BE PUTTING UP WITH THE SAME THING THAT EVERYBODY ELSE WILL BE.

WELL WATER, WHAT HAPPENS IF IT BECOMES CONTAMINATED? WE HAVE TO DO A PERMIT THROUGH THE DIVISION OF WATER AND PROVE TO THEM THAT WE CAN SET UP A FILTER SYSTEM THAT WILL COAT THE WATER AND PUTTING SYSTEMS IN UNTIL WE CAN CLEAN IT UP AND GET IT FREE AND CLEAR OF WHATEVER CONSTITUENT WE ADDED TO IT. THAT'S WHY THE MONITOR IS THERE. THEY'RE SET IN, THE FIRST AQUIFER.

CHAIRMAN: LET ME ASK YOU ALL TO SHOW THEM RESPECT. THEY HAVE THEIR OPPORTUNITY TO RESPOND.

MR. WRIGHT: THAT'S WHY THE MONITORING OF THE BED THEY PUT IN ABOVE THE PERMIT, DOWNGRADING OF THE PERMIT FOR MINES AND WATER COMING INTO THE PERMIT TO SEE WHAT IT IS AND MONITOR THE WATER BELOW THE PERMIT TO SEE HOW IT COMES OUT DOWN THERE. THAT'S THE PROOF.

CHAIRMAN: THANK YOU.

NEXT.

LADY IN AUDIENCE: SORRY. I KNOW I GAVE UP MY
RIGHT TO SPEAK, BUT MAY I ASK A REALLY QUICK QUESTION?

CHAIRMAN: MA'AM, AT THE END OF THE DAY POSSIBLY, BUT WE'VE GOT OTHERS THAT ARE AHEAD OF YOU. YOU'VE HAD YOUR OPPORTUNITY. THANK YOU.

GO AHEAD.

MS. COBB: ANOTHER PART OF MY WATER QUESTION WAS IN THE EVENT IT DOES BECOME CONTAMINATED, WHILE THE STEPS ARE BEING MADE TO CORRECT THAT, WHAT ARE THESE PEOPLE, HOW ARE THESE PEOPLE GOING TO BE PROVIDED FOR FOR DRINKING WATER?

MR. WRIGHT: WE WOULD EITHER HAVE TO PROVIDE THEM WITH ANOTHER WELL THAT WOULD BE IN A LOWER TRANSMITTING ZONE OR HOOK THEM UP ON THE MUNICIPAL WATER SYSTEM. WE WOULD HAVE TO PROVIDE THEM WITH WATER.

MS. COBB: AND THAT WOULD BE AT YOUR COST?

MR. WRIGHT: YES.

MS. COBB: THANK YOU.

CHAIRMAN: NEXT.

MR. NOFFSINGER: BILL LAWS.

MR. SILVERT: STATE YOUR NAME, PLEASE.

MR. LAWS: MY NAME IS BILL LAWS.

(BILL LAWS SWORN BY ATTORNEY.)

MR. LAWS: I LIVE ON RUSSELL ROAD. NOBODY ELSE HAS TALKED ABOUT -- I WORK NIGHTS AND I SLEEP
DURING THE DAY EVERY DAY. I'M THE ONLY PROVIDER FOR
MY FAMILY. YOU ALL ARE GOING TO BE DYNAMITING DURING
THE DAY WHILE I'M TRYING TO SLEEP.

ALSO --

CHAIRMAN: EXCUSE ME. HOW FAR FROM THE
BLASTING SITE WOULD YOU LIVE?

MR. LAWS: 3646. THE FURTHER PROPERTY IS
PROBABLY ABOUT A CITY BLOCK IS PROBABLY THE CLOSEST
PROPERTY. ABOUT A CITY BLOCK FROM ME.

CHAIRMAN: I HAVE NO IDEA WHAT YOUR
APPROXIMATE WAYS AND HOW FAR ACTUALLY FROM THE
BLASTING YOU'D BE. WE'LL SEE IF WE CAN FIND OUT SOME
KIND OF ANSWER FOR YOU.

MR. LAWS: YES.

CHAIRMAN: HOW MUCH WOULD BE THE BLASTING
DISTURB THIS GENTLEMAN?

MR. WRIGHT: I CANNOT ANSWER THAT.

ONE OF THE QUESTIONS YOU WERE ANSWERING
EARLIER TRYING TO GET US TO ANSWER EARLIER I THINK.
AS I STATED IN OUR PROJECTED MINING PLAN, THE MINING
WILL START IN KIND OF THE SOUTHWESTERN PORTION OF THE
PERMIT. IT WILL RUN UP RUSSELL ROAD. AS WE'RE
RUNNING UP, LIKE I SAID, OUR RECLAMATION IS GOING TO
FILL UP BEHIND US AND WE'RE GOING TO GET AWAY FROM
SOME OF THESE PEOPLE, BUT WE'RE GOING TO BECOMING
CLOSER TO THE OTHERS, AND THEN WE'LL TURN AND COME BACK. WE'RE NOT GOING TO BE IN THESE PEOPLE'S HAIR THE WHOLE TIME IN THEIR DEFINITE AREAS. THIS IS GOING TO TAKE PLACE IN NINE YEARS. WE MAY BE A PROBLEM FOR SIX MONTHS TO A YEAR.

WHERE HE'S LOCATED, I DON'T KNOW. I'D HAVE TO SEE WHERE HIS HOUSE IS AT AND STUFF AND HOW CLOSE HE WAS. I COULD SLEEP THROUGH IT. I'VE BEEN AROUND THE BLAST. I WOULDN'T BE CONCERNED.

CHAIRMAN: THE INSIDE OUT THEORY.

MR. WRIGHT: WELL, RATHER THAN GO INSIDE OUT, WE CAN'T MINE ALL THE WAY AROUND THAT AREA BECAUSE OF A CERTAIN EVENT, YOU KNOW. THAT WOULDN'T MAKE IT FEASIBLE, BUT WE DO GO UP, COME BACK, UP AND BACK. THAT DOES TAKE US AWAY FROM CERTAIN PEOPLE AND THEN COME CLOSER TO THE OTHERS AND THEN WE CAN TURN BACK. THEY WILL BE RECLAIMING BEHIND US. SO WE WON'T BE IN EVERYBODY'S DOOR FOR THE WHOLE TIME.

CHAIRMAN: DID THAT ANSWER IT? I MEAN THAT'S THE BEST WE CAN DO.

MR. LAWS: ANOTHER THING I'VE GOT. MY KIDS GET OFF THE SCHOOL BUS RIGHT DOWN THE ROAD AND THE SCHOOL BUS TURNS AROUND, I THINK, CLOSE TO WHERE YOU'RE GOING TO BE CROSSING RUSSELL ROAD TO WASH IT THERE. ARE YOU ALL CROSSING DOWN ON THE SOUTH END?
MR. WRIGHT: WE WILL BE CROSSING, COMES OVER ON SHIRLEY TAYLOR'S PROPERTY.

MR. LAWS: YES. THAT'S WHERE THE SCHOOL BUS.

MR. WRIGHT: I DON'T KNOW OF ANY PLACE THAT THE SCHOOL BUS COLD TURN AROUND. WE'LL MAKE A GOOD PLACE FOR THEM.

MR. LAWS: THAT'S WHERE IT TURNS AROUND AT NOW. YOU THINK THAT'S A VERY SAFE PLACE FOR A SCHOOL BUS TO BE TURNING AROUND?

MR. WRIGHT: THEY'RE SAYING IT TURNS AROUND BEFORE IT GETS TO THE HAUL ROAD. DON AND SHIRLEY LIVE RIGHT THERE.

I THINK IT TURNS AROUND IN YOUR DRIVEWAY, DON'T IT?

MR. TAYLOR: THAT'S RIGHT.

MR. WRIGHT: SHIRLEY HAS A DRIVEWAY THAT TURNS OFF TO THE ROAD THERE TO THE RIGHT. I GUESS THAT'S WHERE THE SCHOOL BUSES TURNS AROUND. OUR HAUL ROAD IS ON DOWN FROM THAT. WE WILL NOT AFFECT THAT AREA.

CHAIRMAN: THANK YOU.

MR. LAWS: SO YOU THINK THAT'S SAFE FOR KIDS TO BE THAT CLOSE ON A SCHOOL BUS TO IT?

MR. WRIGHT: YES. IT WON'T BE A PROBLEM.

CHAIRMAN: NEXT.

MR. NOFFSINGER: SCOTT BLANDFORD.
MR. SILVERT: WOULD YOU STATE YOUR NAME, PLEASE?

MR. BLANDFORD: SCOTT BLANDFORD.

(SCOTT BLANDFORD SWORN BY ATTORNEY.)

MR. BLANDFORD: I'M CURIOUS ABOUT THE PREBLAST SURVEYS. THOSE OF US THAT HAVE FINISHED BASEMENTS, ARE THEY GOING TO GO IN AND TEAR ALL THE DRYWALL OUT AND MAKE SURE THERE'S NO CRACKS IN OUR BASEMENTS NOW?

CHAIRMAN: WHAT'S YOUR NEXT QUESTION? WE'LL GET THEM ALL IN AND THEN THE ANSWER.

MR. BLANDFORD: SEEM LIKE ON THE WAY TO HENDERSON WHEN THEY WERE GOING THEIR MINING THERE, YOU WEREN'T ALLOWED TO USE YOUR CELL PHONES. WILL WE BE ABLE TO USE OUR CELL PHONES?

CHAIRMAN: ARE THOSE YOUR QUESTIONS?

MR. BLANDFORD: YES.

MR. VINCENT: MARTY VINCENT.

FROM THE PREBLAST PERSPECTIVE, THIS IS DOCUMENTED ON PAPER AND VIDEO. ANYTHING THAT'S EXPOSED OR CAN BE EXPOSED WITH A REASONABLE, WITHIN A REASONABLE PROCESS, IT WILL BE LOOKED AT AND DOCUMENTED FOR ALL HOMEOWNERS WITHIN THAT GIVEN DISTANCE.

CHAIRMAN: SO THE HOMEOWNER ACTUALLY -- LIKE THIS GENTLEMAN HERE HAS, I ASSUME YOU HAVE A FINISHED
BASEMENT?

MR. BLANDFORD: YES.

CHAIRMAN: DO YOU HAVE ANYONE INTERIOR EXPOSED CONCRETE WALLS; IN OTHER WORDS, YOUR ENTIRE BASEMENT IS STUDDED AND DRY WALLED?

MR. BLANDFORD: IS STUDDED AND DRY WALLED.

CHAIRMAN: IT'S INSULATED TOO I ASSUME?

MR. BLANDFORD: YES.

MR. VINCENT: TYPICALLY IF THERE'S MOVEMENT OR SHIFT BEHIND IN A FOUNDATION WALL, IT'S GOING TO GIVE SOME TYPE OF AN INDICATION IN THE DRYWALL BECAUSE DRYWALL IS ONE OF THE FIRST TYPES OF MATERIAL THAT WILL SHOW STRESS OR DAMAGE, IF YOU WILL, FROM MOVEMENT OR SHIFT.

I WOULD THINK THAT IF IT'S DRYWALL THAT IT WOULD SHOW CONCERNS BEFORE OTHER AREAS OF THE STRUCTURE.

AS FAR AS THE CELL PHONES, UNLESS YOU'RE ON THE BLAST PATTERN, THERE ARE NO RESTRICTIONS FOR USE OF CELL PHONES. BECAUSE THE TYPE OF DETONATORS ARE DIFFERENT THAN WHAT THEY USED TO BE AND THEY'RE MUCH MORE SAFE THAN WHAT THEY USED TO BE. THE ELECTRONIC DETONATORS ARE JUST, THEY'RE COMPLETELY DIFFERENT THAN THE DETONATORS THAT WERE USED MANY YEARS AGO.

CHAIRMAN: THANK YOU.
DOES THAT TAKE CARE YOUR QUESTIONS?

MR. BLANDFORD: I WANTED MR. PEDLEY'S ANSWER TO THE CONCRETE CRACKING. ISN'T THAT WHAT YOU DO FOR A LIVING, POUR CONCRETE?

MR. PEDLEY: TYPICALLY IF YOU HAVE A MEASURE CRACK IN A CONCRETE BASEMENT WALL, YOU MOST LIKELY SEE IT OUTSIDE QUICKER THAN YOU WILL IN DRYWALL. DRYWALL IS VERY FLEXIBLE. YOU CAN GET A LOT OF MOVEMENT WITHOUT SHOWING CRACKS. YOU CAN HAVE A HAIRLINE CRACK IN A BASEMENT WALL. IT'S FAIRLY NORMAL. BUT IF IT'S MEASURED OR IF THERE'S MOVEMENT OR IF THERE'S ANY SETTLEMENT, THEN OUTSIDE ON YOUR BRICK OR OUTSIDE ON YOUR HOUSE, THAT'S WHERE YOU'LL NOTICE IT FIRST. IT HAS TO BE A LOT OF MOVEMENT IN A STRUCTURAL WALL TO SHOW UP THROUGH DRY WALL. DRY WALL IS PRETTY GIVING.

MR. BLANDFORD: THE CONCRETE COULD CRACK AND NOT SHOW THROUGH THE DRYWALL?

MR. PEDLEY: RIGHT. IT'S FAIRLY ACCURATE IT WILL SHOW UP OUTSIDE.

MR. BLANDFORD: YOU CAN'T SEE THE FACE OF THE WALL FROM OUTSIDE.

CHAIRMAN: WOULD IT SHOW UP ON THE BRICK, MR. PEDLEY?

MR. PEDLEY: IT WILL SHOW UP. YOU CAN HAVE A HAIRLINE CRACK IN A BASEMENT WALL, IT WILL NOT CRACK
YOUR BRICK OUTSIDE. ONLY IF YOU HAVE SETTLEMENT OR
SEPARATION IN THE CRACK IN THE WALL WILL YOU CRACK THE
BRICK OUTSIDE. SAME THING WITH IF IT'S COVERED
DRYWALL INSIDE. IT HAS TO BE CONSIDERABLE MOVEMENT
FOR IT TO SHOW UP IN DRYWALL. YOU CAN HAVE A CRACK IN
A BASEMENT WALL AND NOT SEE IT.

MR. BLANDFORD: THANK YOU.

SO MY QUESTION IS: HOW ARE WE GOING TO KNOW?

MR. PEDLEY: YOU WON'T KNOW. IF IT'S A MAJOR
CRACK, IF IT'S A STRUCTURAL PROBLEM, YOU WILL KNOW.

MR. BLANDFORD: I DON'T HAVE A PROBLEM NOW.

YOU KNOW, NO LEAKING. THEN THEY COME AND DO THEIR
PREBLAST SURVEY, ARE THEY GOING TO TEAR ALL -- I MEAN
HOW ARE THEY GOING TO KNOW?

MR. PEDLEY: IF YOU DON'T HAVE A NOTICEABLE
PROBLEM WHEN THEY DO YOUR INSPECTION, THEN UP LATER
AFTER THE BLASTING AND YOU HAVE ONE SHOW UP, THEN YOU
KNOW THE BLASTING DID IT.

MR. BLANDFORD: ARE THEY COMFORTABLE WITH THAT
ANSWER? WILL YOUR INSURANCE COMPANY BE COMFORTABLE
WITH THAT ANSWER?

MR. PEDLEY: I'LL GO AND SAY THIS: I'VE BEEN
A FOUNDATION CONTRACTOR FOR 54 YEARS.

MR. BLANDFORD: YOU POURED MY BASEMENT.

MR. PEDLEY: AND I'VE PUT IN PROBABLY 1400,
1500 BASEMENTS.

MR. BLANDFORD:  MINE BEING ONE.

MR. PEDLEY:  PANTHER, KNOTTsville, Fordsville, PLEASANT RIDGE, ANYWHERE YOU WANT TO GO I'VE GOT BASEMENTS. I'VE HAD SOME DAMAGE FROM MINING.

MR. BLANDFORD:  THANK YOU.

CHAIRMAN:  NEXT.

MR. NOFFSINGER:  RYAN HIDALGO.

AUDIENCE:  HE'S GONE.

CHAIRMAN:  NEXT.

MR. NOFFSINGER:  I CAN'T READ THE WRITING.

BRANDON LANHAM.

MR. SILVERT:  STATE YOUR NAME, PLEASE.

MR. LANHAM:  BRANDON LANHAM.

(BRANDON LANHAM SWORN BY ATTORNEY.)

MR. LANHAM:  I APPROACH THE PODIUM ON BEHALF OF ALL THE EMPLOYEES OF WESTERN KENTUCKY MINERALS. WE DON'T TOLERATE ANY INDIVIDUALS THAT WILL STEP FORWARD ON AN INDIVIDUAL'S PROPERTY WITH THE INTENT TO DAMAGE OR DESTROY OR MAKE YOUR PERSONAL WELLBEING, WE'RE NOT GOING TO PUT ANY DETRIMENTAL AFFECT ON THAT. I WANT TO DEFINITELY POINT THAT FACT OUT.

ANOTHER THING IS WE WON'T SPEND ANY TIME THIS EVENING CONVINCING ANY INDIVIDUAL THAT THEY'RE GOING TO TRUST US. THEY DON'T KNOW WHO WE ARE. THEY'RE NOT
SURE WHAT WE DO EVERY DAY. I'M VERY SURE THAT IF THEY
DID KNOW WHO WE WERE, THEY KNEW EXACTLY WHAT WE STAND
BEHIND AND WHAT KIND OF JOB WE DO.

THEY FIND THAT IT'S NECESSARY TO MAKE OBVIOUS
TO YOU THAT YOU HAVE A DECISION TO MAKE HERE TONIGHT.
WHEN IN THE PAST THESE TWO EVENTS WERE OVERTURN, WAS
THE COMPANY, DID THEY OPERATE UNDER THE RULES AND THE
REGULATIONS THAT WE DO? I DOUBT IT. THIS HAS BEEN
SEVERAL YEARS AGO. THERE'S RULES AND REGULATIONS THAT
ARE PUT INTO PLACE AND WE SEE FOURTH TO MAKE SURE THAT
THOSE ARE MET. IT'S VERY IMPORTANT THAT THEY
UNDERSTAND THAT GOING INTO THE DECISION. I THINK IT'S
IMPORTANT TO MAKE THAT OBVIOUS TO YOU, BUT THAT'S
SOMETHING THAT I THINK THEY NEED TO UNDERSTAND. WE GO
OUT THERE EVERY DAY AND DO A JOB THAT WE'RE ENFORCED
TO APPLY THOSE RULES AND REGULATIONS. THOSE
INDIVIDUALS PROBABLY DIDN'T APPLY THAT MATERIAL NOR
MAKE NOTE THAT THAT'S SOMETHING THAT WAS IMPORTANT TO
THEM.

AGAIN, YOU'RE NOT GOING TO TRUST US. YOU'RE
NOT SURE WHO WE ARE, BUT I PROMISE YOU THAT WE'RE A
MAN OF OUR WORD AND IT'S EXACTLY WHAT WE REPRESENT.
GOING INTO THAT I JUST WANT TO MAKE THAT KNOWN. I
APPRECIATE YOUR TIME.

CHAIRMAN: THANK YOU.
MR. NOFFSINGER: NAOMI SUTTON.

MR. SILVERT: STATE YOUR NAME, PLEASE.

MS. SUTTON: NAOMI SUTTON.

(NAOMI SUTTON SWORN BY ATTORNEY.)

MS. SUTTON: I HAVE A COUPLE OF QUESTIONS. IF THEY'RE REPEATS, I APOLOGIZE.

CAN SOMEBODY ANSWER TO ME WHAT BLASTING AFFECTS HAVE TO DO WITH THE NEW MADRID FAULT. HOW WILL THAT AFFECT MY HOMEOWNER'S INSURANCE? I CHECKED, IT GOES UP.

THIRD THING I WANTED TO FIND OUT IS ANY ANIMAL, WILDLIFE ENDANGERED SPECIES BEEN INVESTIGATED? IT WAS MENTIONED ONCE BEFORE, INDIANA BAT IS ENDANGERED. IS IN THE AREA. SOMEBODY ELSE REFERENCED THE BALD EAGLE. I KNOW THEY WERE AT ONE TIME, BUT THEY'RE NO LONGER ENDANGERED.

THE LAST I WANT TO ASK IS I BOUGHT HOME LIKE EVERYONE ELSE. I SIT OUT IN MY BACKYARD AND I ENJOY QUIET TIME. AT 7:15 I'VE GOT A POUND, POUND, POUND, TURN DOWN THE RADIO TWO AND A HALF MILES FROM MY DOOR BECAUSE THEY TOLD ME. THEY COMPLAINED. TWO AND A HALF MILES, AND THAT WAS AT 7:15 AT NIGHT ON A FRIDAY NIGHT. SO AS FAR AS WHETHER OR NOT YOU CAN CONTROL IT, NO, YOU CAN'T. BUT OPERATING 22 HOURS A DAY CAN BE CONTROLLED. THANK YOU.
CHAIRMAN: DID YOU UNDERSTAND HER QUESTIONS
SO I DON'T HAVE TO REPEAT THEM?
MR. WRIGHT: THE ENDANGERED SPECIES THING IS
COVERED IN OUR PERMITTING PROCESS. WE HAVE TO HAVE
BIOLOGISTS COME IN.
WE'RE IN THE FRINGE AREAS OF THE INDIANA BAT.
THE CLOSEST IS KNOWN INDIANA BAT HABITAT WAS IN
HENDERSON ALONG THE GREEN RIVER, AND IT WAS JUST A
SITE. IT WAS NOT A HABITATIONAL AREA FOR THEM. NO
CAVE. NO NOTHING LIKE THAT. THEY HAVE BEEN KNOWN TO
ROOST IN UNDERGROUND PRELAW MINE WORK IF THEY'RE OPEN.
THEY DO A VERY THOROUGH STUDY THROUGHOUT THE GROUND
CHECKING THE TREES. THEY DO A VERY THOROUGH STUDY FOR
THAT. THE BALD EAGLE, THEY WOULD INVESTIGATE THAT
ALSO. MY UNDERSTANDING THE BALD EAGLE IS STILL ON THE
ENDANGERED LIST ALSO. THE ONLY OTHER ENDANGERED
SPECIES THAT'S ANYWHERE CLOSE IS THE COPPER BELLY
WATER SNAKE. WOULDN'T BE WORRIED ABOUT HIM. WE'RE
RIGHT OUT OF THE FRINGE AREA OF THAT. THEY DO MAKE
OUR BIOLOGISTS CHECK AND MAKE NOTE THAT THERE WAS NO
COPPER BELLY WATER SNAKE HABITAT ON OUR MINE SITE. IF
THERE IS BAT HABITAT, BAT ROOSTING AREAS, THEN THEY
MAKE US PUT BACK TREE TYPES THAT ARE FAVORABLE TO THE
BATS IN THE RECLAMATION SITES.
THE NEW MADRID FAULT THING, BLASTING, I DIDN'T
GET THAT PART. YOU WANT TO EXPLAIN.

CHAIRMAN: WHAT AFFECT WOULD THE BLASTING HAVE ON THE NEW MADRID FAULT?

MR. WRIGHT: NOTHING.

MS. SUTTON: DID YOU SAY NOTHING?

MR. WRIGHT: YES. THE NEW MADRID FAULT ZONE RUNS UP THROUGH PADUCAH AND ON UP INTO SOUTHERN ILLINOIS AND WAY ABOVE EVANSVILLE AND ON UP THROUGH THAT WAY. OUR BLASTING WON'T HAVE NO AFFECT THERE.

MS. SUTTON: AND YOU WOULD SWEAR TO THAT?

MR. WRIGHT: YES.

MS. SUTTON: ANYBODY ELSE IN YOUR GROUP HAVE PROOF TO THAT?

MR. WRIGHT: SHOW OF HANDS.

MS. SUTTON: I'M SERIOUS. I'D LIKE IT FOR MY INSURANCE COMPANY BECAUSE I KNOW MANY OF THEM IN MY AREA HAVE TO HAVE IT. SO IF YOU'RE SAYING IT'S NOT, THEN I'M MORE THAN HAPPY TO GET THAT PIECE OF PAPER.

MR. WRIGHT: I'M NOT SURE WHAT YOU'RE SAYING.

MS. SUTTON: WE HAVE TO HAVE EARTHQUAKE INSURANCE IN OUR AREA.

MR. WRIGHT: WELL, IF THEY CAN TALK YOU INTO IT, YES.

MS. SUTTON: NO.

MR. WRIGHT: HOW MANY TIMES HAVE WE BEEN
PREDICTED THAT AN EARTHQUAKE IS GOING TO HAPPEN?

MS. SUTTON: WE HAD ONE FOUR YEARS AGO. WOULD YOU LIKE ME TO GET IT? I HAVE THE PAPERWORK. I'M JUST ASKING.

CHAIRMAN: HE'S JUST REFERRING TO WHERE THE NEW MADRID RUNS.

MR. WRIGHT: OUR BLASTING WILL NOT HAVE AN AFFECT ON IT.

MR. VINCENT: JUST A COUPLE OF COMMENTS I WOULD LIKE TO MAKE IN RELATION TO THE BLASTING OR THE BLASTING IN RELATIONSHIP TO THE NEW MADRID FAULT.

FIRST OF ALL, THE BLASTING THAT WILL BE DONE IN THIS AREA WILL DEFINITELY, AND I FEEL VERY CONFIDENT, WILL BE FAR ENOUGH AWAY THAT IT WILL NOT AFFECT THE NEW MADRID FAULT. HOWEVER, THERE IS A LIMESTONE QUARRY IN EXTREME WESTERN KENTUCKY, IT'S A LARGE LIMESTONE QUARRY AND HAS BEEN THERE FOR MANY YEARS AND A PORTION OF THE NEW MADRID FAULT CROSSES THAT QUARRY AND THEY BLAST DAILY AT THAT QUARRY. THERE ARE SEISMOGRAPHS THERE. IN ADDITION TO THAT, THE GOVERNMENT AGENCIES MONITOR THIS NEW MADRID FAULT ON A CONTINUOUS BASIS BECAUSE THEY'RE VERY CONCERNED OF WHAT MAY HAPPEN. SO I FEEL VERY CONFIDENT THAT THE BLASTING IN THIS AREA WILL NOT AFFECT THE NEW MADRID FAULT.
MS. SUTTON: I'M SORRY, A SIZE?

MR. VINCENT: SEISMOGRAPH.

MS. SUTTON: BUT THE ORGANIZATION THAT DOES THAT, HAVE THEY HAD INPUT ON THIS AS WELL BECAUSE OF THE PROXIMITY?

MR. VINCENT: ON THIS PARTICULAR PERMIT?

MS. SUTTON: YES.

MR. VINCENT: NOT THAT I'M AWARE OF. I COULD TALK TO THAT. I DON'T KNOW.

CHAIRMAN: THANK YOU.

MR. NOFFSINGER: GARY DUVALL.

MR. SILVERT: COULD YOU STATE YOUR NAME, PLEASE?

MR. DUVALL: GARY DUVALL.

(GARY DUVALL SWORN BY ATTORNEY.)

MR. DUVALL: WE PURCHASED THE 98 ACRES PORTION OF THE HINES ESTATE THAT IS PRIMARILY THE HORSE PROPERTY AT THE AUCTION A WHILE BACK.

THE QUESTION WAS ASKED I THINK BY SOMEONE, WOULD ANYBODY HAVE MADE DIFFERENT DECISIONS IF THEY HAD KNOWN ABOUT THE STRIP MINE?

MY ANSWER IS, YES. WE WOULD NOT HAVE BID AND PURCHASED THE PROPERTY IF WE HAD KNOWN THAT A STRIP MINE WAS GOING IN THE IMMEDIATE AREA. I THINK IT WILL HAVE AN IMPACT NOT ONLY OUR PROPERTY, BUT SOME OF THE
OTHERS THAT HAVE TALKED HERE TONIGHT. THE GIRL SCOUT AND SOME DEGREE THE COMMUNITY IN GENERAL. THANK YOU.

MR. NOFFSINGER: DAVID COOPER.

AUDIENCE: I BELIEVE HE LEFT.

MR. NOFFSINGER: STEVE SCOTT.

THAT'S ALL I HAVE ON THE LIST.

CHAIRMAN: MR. WILSON, HAVE YOU GOT YOUR ORGANIZATION READY?

MR. WILSON: YES, I BELIEVE SO.

MR. SILVERT: WILL YOU STATE YOUR NAME, PLEASE?

MR. SCOTT: STEVE SCOTT.

(STEVE SCOTT SWORN BY ATTORNEY.)

MR. SCOTT: I HAVE A QUESTION DIRECTLY TOWARDS MR. HAYNES. HE SAID HE GOT THESE APPRAISALS? HE SAID HE GOT ALL THESE APPRAISAL VALUES ON OUR HOMES IN KNOTTSVILLE. I'D LIKE TO KNOW WHERE HE GOT THOSE APPRAISAL VALUES.

CHAIRMAN: DO YOU HAVE ANY OTHER QUESTIONS OR IS THAT ALL THAT YOU HAVE?

MR. SCOTT: I HAD A FEW OTHER COMMENTS I WANTED TO MAKE, DEPENDING ON WHAT HE SAID.

CHAIRMAN: MR. HAYNES, WILL YOU ANSWER THAT.

MR. HAYNES: LET ME EXPLAIN ONE MORE TIME. WE STARTED MINING IN 2006. THE ASSESSMENTS OUT THERE IN
KNOTTsville were done shortly after we started mining, the 2006 assessments. I mean shortly before we started mining.

Chairman: Is this the PVA?

Mr. Haynes: PVA.

The next assessment was done in 2010. They reassessed that whole, it's called map number 120. It's the KNOTTsville area. That was a picture of what the mine looked like. The PVA took that aerial photo. They didn't take it, but they commissioned it. So it was done about the same time as the new assessments in 2010.

So I took that map and I compared, I went to the PVA office. I took every PVA assessment for 2006, when they were done before the mine was there. I compared them to every assessment in 2010 that was done simultaneously with the pit being where it is. I took every property that was in that map 120. I've got them here. Out of those 120, no assessment had decreased between 2006 and 2010. So no assessment had -- I'm sorry, one. It had had a house on it. It was torn down. So it went down. None of the assessments had decreased from before the mining to when the mining was in full swing there. Most or a lot of them had gone up. Some of them were due to new
CONSTRUCTION. OF COURSE, YOU KNOW, STRUCTURE BEING BUILT. GENERALLY THE PROPERTY JUST INCREASED. I KNOW THAT ONLY PERTAINS TO KNOTTSVILLE, BUT I DON'T KNOW WHY KNOTTSVILLE WOULD BE THAT MUCH DIFFERENT.

CHAIRMAN: I THINK YOU SUBSTANTIATED YOUR CLAIM.

MR. HAYNES: IT CAME FROM THE PVA OFFICE.

CHAIRMAN: YOU HAVE SOME COMMENTS OR CLOSING REMARKS?

MR. SCOTT: FROM MY EXPERIENCE WITH THAT IS THAT PVA COMES OUT AND THEY RAISE TAXES JUST PERIODICALLY. WHAT IF A HOUSE VALUE REALLY DID GO UP IN THE AREA, THEY'LL FIND A HOUSE IN THE GENERAL AREA AND THEY WILL SAY, WELL, THE HOUSE SOLD OVER THERE SO YOUR PROPERTY MUCH BE WORTH SO MUCH. IF YOU GO TO A REAL ESTATE AGENT, YOU'LL HEAR A WHOLE DIFFERENT STORY. REALLY DEPEND UPON WHAT SOMEONE WILL PAY IS WHAT YOUR PROPERTY IS WORTH.

ALREADY WE'VE ALREADY HEARD REPERCUSSIONS OF PEOPLE WHO THOUGHT ABOUT MOVING INTO THE AREA. SAY, THERE'S ABSOLUTELY NO WAY. JUST THE FACT THAT YOU GUYS HAVE GOT THIS PROPOSAL GOING ON, WHETHER YOU APPROVE IT OR NOT, IT'S ALREADY CAUSING AN AFFECT ON OUR PROPERTY ALREADY.

SOMEbody mentioned awhile there weren't any
COPPER BELLY WATER MOCCASINS IN THE AREA. THAT'S NOT TRUE. WE'VE GOT THEM ON OUR FARM. WE CAN SHOW THEM TO YOU. THEY'RE NOT THE POISONOUS SNAKE. WE'VE HAD WILDLIFE PEOPLE COME OUT THERE AND IDENTIFY THE SNAKES SO IT'S NOT MY OPINION. IT'S THEIR OPINION. EITHER THEY DON'T KNOW WHAT THEY'RE TALKING ABOUT OR WHO KNOWS.

ONE CLARIFICATION IS I -- THEY SAY THERE'S ONLY FIVE SCHOOLS. THAT'S ACTUALLY SEVEN SCHOOLS THAT THEY'RE GOING TO BE PASSING WHEN THEY GO THROUGH THERE. I THINK THEY FORGOT ABOUT ONE. THE TECH SCHOOL BEHIND THE DAVIESS COUNTY SCHOOL. THERE'S A LOT OF TRAFFIC RIGHT THERE IN THE MORNING TRYING TO GET IN AND OUT OF THAT SOUTH PARK AREA RIGHT GOING BY THE DAVIESS COUNTY BOARD OF EDUCATION AND SO FORTH.

ONE OF THE THINGS THAT CONCERNS ME IS THAT, AM I GOING TO COME HOME EVERY DAY AND CHECK MY HOUSE TO SEE IF THERE'S DAMAGE? I MEAN IS THIS SOMETHING THAT'S GOING TO BE IMPOSED UPON US? HOW DO YOU KNOW THAT THERE'S A PROBLEM? WELL, YOU'RE GOING TO HAVE TO CHECK YOUR HOUSE EVERY DAY TO FIND OUT, RIGHT? THEY'RE NOT GOING TO COME OUT AND LOOK AT OUR HOUSE TO KEEP AN EYE ON IT, RIGHT? I MEAN AM I RIGHT? I'M ASKING A QUESTION.

CHAIRMAN: THAT'S SOMETHING YOU'LL HAVE TO
MR. SCOTT: THAT'S TOTALLY UP TO US TO KEEP TRACK OF WHAT THEY'RE DOING TO OUR PROPERTY, RIGHT?
CHAIRMAN: I WOULD SAY THAT'S A DECISION YOU WOULD HAVE TO MAKE.
MR. SCOTT: WELL, THAT'S THE TRUTH. THAT'S NOT ANY DECISION. ONE THING IS THAT AL MATTINGLY CAME OUT TO OUR PLACE AND HE MADE COMMENTS ABOUT THE LAKE. HE SAID, IF THE LAKE BROKE IT COULD KILL PEOPLE. SAME THING OVER ON MAPLE LEAF ROAD. THIS IS HIS COMMENTS.
NOW, THAT'S ENDANGERING THE LIVES OF THE PEOPLE BENEATH THE LAKE LEVEL. IT WASN'T A PROBLEM BEFORE, BUT NOW WITH COAL MINING COMES IN HERE SUDDENLY IT'S A PROBLEM.
ONE LAST THING. I DON'T THINK ANYBODY HAS REALLY BEEN TALKING ABOUT THIS ISSUE. IS THAT OUT IN SOUTH DAVIESS COUNTY THERE'S A LOT OF SMALL BUSINESSES THAT HAVE STARTED UP. SMALL BUSINESSES GROW BIG BUSINESSES. YOU KNOW THAT. WHAT'S GOING TO HAPPEN TO THESE SMALL BUSINESSES? I MEAN THEY'RE NOT GOING TO BE ABLE TO FLOURISH AND KEEP GOING. THEY'RE GOING TO MOVE OUT. THERE'S ALREADY BEEN PEOPLE SAYING IF THEY MOVE IN, THEY'RE GOING TO DO THEIR BEST TO GET OUT OF THERE BECAUSE THEY CAN'T TOLERATE THAT.
I MEAN IT'S EASY FOR SOMEONE ELSE TO COME INTO
THE AREA AND SAY, IT'S NOT A PROBLEM. I CAN SLEEP
THROUGH BOMBS AND BLASTING AND TRACKS THAT SOUND LIKE
TANKS GOING BY ALL NIGHT LONG. I MEAN BASICALLY LIKE
A WAR ZONE IN YOUR BACKYARD. IT'S EASY FOR THEM TO
COMMENT AND SAY, YOU KNOW, HEY, IT'S NOT A PROBLEM,
BUT IF YOU DON'T LIVE THERE IT'S NOT A PROBLEM FOR
YOU.

I GUESS MY LAST THING I WANT TO SAY IS THAT IT
SEEMS TO ME THAT WHAT WE'RE DOING IS IT'S LIKE THE
INTEREST OF THE PEOPLE VERSUS THOSE WHO WANT TO MAKE
MONEY, BUT THEY WANT TO MAKE MONEY IN THE BACKYARD OF
PEOPLE WHO LIVE THERE.

CHAIRMAN: THANK YOU.

MR. WILSON.

MR. WILSON: WE'RE READY TO GO FORWARD WITH
SEVERAL WITNESSES. MAYBE A COUPLE OF MORE THAN I
FIRST THOUGHT, IF THAT'S ALL RIGHT.

I'M GOING TO ASK MR. BRIAN REYNOLDS WHO IS A
CERTIFIED APPRAISER. COME IN TO JUST TALK GENERALLY
ABOUT STRIP MINING AFFECTS ON PROPERTIES IN THE AREA.

I'M GOING TO PUT IN THE RECORD HIS CV.

MR. SILVERT: COULD YOU STATE YOUR NAME,
EMPLOYEES?

MR. REYNOLDS: BRIAN REYNOLDS.

(BRIAN REYNOLDS SWORN BY ATTORNEY.)
MR. REYNOLDS: FIRST OF ALL, I'M A KENTUCKY CERTIFIED GENERAL REAL PROPERTY APPRAISER. I HOLD AN EQUIVALENT CERTIFICATION IN THE STATE OF TENNESSEE. I'M AN INSTRUCTOR THROUGHOUT THE COUNTRY, A GUEST SPEAKER.

LET ME CLARIFY SOMETHING REAL EARLY ON. I HAVE NOT STUDIED THIS PROPOSAL. I'M NOT REAL FAMILIAR WITH THIS SPECIFIC OPERATION OR THE PROPOSAL AT HAND. WHAT I AM VERY FAMILIAR WITH IS VALUE. WHAT CREATES VALUE AND WHAT IMPACTS VALUE.

THE ATTORNEY, MR. HAYNES, HAS INDICATED HE HAS PULLED SOME RECORDS. THIS IS THE FIRST I'VE HEARD. I WAS A LATE ARRIVAL. AS I WALKED IN HE WAS TALKING ABOUT ASSESSMENTS.

I ASK IF HE IS AWARE OR DOES HE KNOW WHAT THE DEFINITION OF MARKET VALUE THE DEPARTMENT OF REVENUE USES FOR THEIR ASSESSMENTS?

MR. HAYNES: YES, I DO.

MR. REYNOLDS: ARE THERE ANY CERTIFIED APPRAISERS IN THE DAVIESS COUNTY PVA OFFICE?

CHAIRMAN: IF YOU'RE GOING TO MAKE A LIST OF QUESTIONS, MAKE THEM TO THE CHAIR AND THEN WE'LL SUMMARIZE.

WHY DON'T YOU MAKE YOUR PRESENTATION, GIVE YOUR QUESTIONS, AND THEN WE'LL GIVE THEM A CHANCE TO
MR. REYNOLDS: WHEN WE LOOK AT VALUE, WE LOOK
AT WHAT ARE THE ECONOMIC INFLUENCES THAT CREATE VALUE.
SCARCITY, UTILITY, DESIRE AND TRANSFERABILITY OR I
CALL PURCHASING POWER.

THERE'S NO QUESTION WHATSOEVER THAT AN
OPERATION THAT COMES IN, WE CALL AN EXTERNALITY, IS
GOING TO HAVE A NEGATIVE IMPACT ON PROPERTY VALUE.
THERE IS NO QUESTION.

WHAT IMPACTS VALUE OR WHAT HAS AN AFFECT ON
VALUE IS PHYSICAL, ECONOMIC, GOVERNMENTAL AND SOCIAL.
AGAIN, I HAVEN'T STUDIED THIS. I HAVEN'T DONE AN
APPRAISAL. I HAVEN'T CONDUCTED SURVEYS. I CAN'T
SPEAK INTELLIGENTLY ON THIS PARTICULAR PROPOSAL, BUT
WHEN YOU TAKE AN OPERATION OF ANY SORT THAT ABUTS UP
THAT'S GOING TO HAVE NOISE INFLUENCE OR WHATEVER ALL
THOSE HAZARDS ARE, THERE'S GOING TO BE SOME IMPACT ON
PROPERTY VALUE. IT'S JUST THAT SIMPLE.

THE QUESTION IS: TO WHAT DEGREE? I CAN'T
ANSWER THAT QUESTION UNLESS I DO CONDUCT A STUDY OR
SURVEY OR DO AN APPRAISAL.

CHAIRMAN: MR. HAYNES, DO YOU WANT TO RESPOND?

MR. HAYNES: YES.

FIRST, I'M NOT TRYING TO ARGUE THAT THE PVA
ASSESSMENTS ARE CORRECT. I'M ARGUING CORRELATION.
THAT IF THE PVA ASSESSMENT ARE LOW, THEN THEY'LL BE
LOW IN 2006, THEY'LL BE LOW IN 2010. I'M NOT ARGUING
THAT THEY'RE ACCURATE PREDICTORS OF WHAT A PROPERTY
WILL ACTUALLY SELL FOR, BUT THEY REMAIN CONSISTENT.

IF YOU SAW PVA VALUES DROP FROM 2006 TO 2010,
YOU MIGHT BE ABLE TO SAY, THE MINE HAD AN IMPACT ON
THAT. WHEN YOU SEE THEM HOLDING STEADY AND GOING UP,
THEY'RE USING THE SAME BASIS IN 2006 AS THEY'RE USING
IN 2010. AGAIN, I'M NOT SAYING THAT THAT'S WHAT A
PIECE OF PROPERTY WOULD SELL FOR, BUT THERE'S NO

YOU ASKED ME A SPECIFIC QUESTION WHETHER
ANYBODY IN THE PVA OFFICE IS CERTIFIED. YES, THEY'RE
CERTIFIED. THEY HAVE TO TAKE -- CERTAIN ONES OF THEM
TAKE EXAMS. THEY MAY NOT HAVE THE SAME INITIALS
BEHIND THEIR NAME AS YOU DO, BUT THEY'RE QUALIFIED.
THEY'VE BEEN TRAINED. THEY'VE BEEN CERTIFIED.
THEY'VE TAKEN EXAMS.

YOU SAY YOU'RE NOT FAMILIAR WITH ANY OF THE
SPECIFICS. ARE YOU AWARE OF ANY HOUSES IN THE
KNOTTSVILLE AREA WITHIN A HALF MILE OF THE MINE THAT
HAVE DECREASED IN VALUE?

CHAIRMAN: I SEE WHERE YOU'RE GOING WITH YOUR
QUESTION. YOU WANT ME TO TAKE A FEW QUESTIONS HERE
AND GET HIS RESPONSE?
MR. HAYNES: I THINK I'M FINISHED REALLY.

CHAIRMAN: MR. REYNOLDS, YOU SEE WHERE HE WAS GOING WITH THAT.

MR. REYNOLDS: SURE.

CHAIRMAN: IN OTHER WORDS, HAVE YOU EVER APPRAISED A HOUSE IN THE KNOTTSVILLE AREA?

MR. REYNOLDS: I'VE APPRAISED PROPERTY ALL THROUGHOUT THE COMMONWEALTH OF KENTUCKY, TENNESSEE AND ILLINOIS.

CHAIRMAN: LET'S JUST CENTER ON KNOTTSVILLE.

MR. REYNOLDS: I HAVE MANY TIMES.

CHAIRMAN: HAS THE PROPERTY VALUE AROUND MR. LANHAM'S COAL AREA GONE DOWN, GONE UP?

MR. REYNOLDS: I HAVEN'T STUDIED THAT. I CAN'T ANSWER THAT QUESTION.

CHAIRMAN: THANK YOU. THE AREA THAT IS IN QUESTION, PARTICULARLY REPRESENTED BY MR. WILSON'S CLIENTS, HAVE YOU APPRAISED ANY OF THOSE HOUSES?

MR. REYNOLDS: OVER THE YEARS I'M SURE I HAVE. I DON'T RECALL WHICH ONES OR WHEN, BUT I'VE DONE A LOT OF PROPERTY THROUGHOUT DAVIESS COUNTY. I KNOW I HAVE ON RUSSELL ROAD. WHAT PROPERTY, I COULDN'T ANSWER THAT. I DON'T KNOW.

CHAIRMAN: IN YOUR OPINION, THESE PEOPLE ARE VERY CONCERNED ABOUT THEIR PROPERTY. NOT MINE. NOT
MR. WILSON'S, BUT THEIRS. HOW WOULD YOU, IN YOUR EXPERT OPINION, SAY THAT THE IMPACT WOULD HAVE ON THEIR PARTICULAR PROPERTIES OVER THE NEXT FOUR TO FIVE YEARS?

MR. REYNOLDS: WELL, AS I SAID, WE WOULD HAVE TO CONDUCT A STUDY, WHICH I HAVEN'T DONE. HOWEVER, THERE WOULD BE A STIGMA OF SOME SORT I'M SURE.

CHAIRMAN: LET'S GET MORE SPECIFIC. ARE WE TALKING FIVE PERCENT, TEN PERCENT?

MR. REYNOLDS: I'M NOT PREPARED TO ANSWER THAT QUESTION. I HAVEN'T CONDUCTED AN APPRAISAL. I'M BOUND BY A STANDARD IN ETHICS THAT PREVENT ME FROM ANSWERING THAT QUESTION OFF THE CUFF. I'M NOT PREPARED TO MAKE THAT STATEMENT. I WOULD LIKE TO MAKE A STATEMENT WITH REFERENCE TO THE ASSESSMENTS, HIS REBUTTAL, IF I MAY.

CHAIRMAN: ABSOLUTELY.

MR. REYNOLDS: WHEN HE SAID THERE WAS NO CHANGE. WELL, I UNDERSTAND, BUT WHEN I WALKED IN THE DOOR HE WAS SAYING THAT SOME HAD INCREASED. HE MADE A COMMENT THAT SOME OF THOSE ASSESSMENTS HAS INCREASED. I MEAN HISTORICALLY SPEAKING PROPERTY VALUES HAVE BEEN INCREASING SINCE THE GREAT DEPRESSION FOR CRYING OUT LOUD. WHAT DATA OR SUPPORT DO YOU HAVE THAT SUGGEST THAT THEY INCREASED OR HAVEN'T DECREASED?
YOU'RE BASING THAT ON AN ASSESSMENT. NOT ON A STUDY.
NOT ON AN APPRAISAL BY A CERTIFIED APPRAISER. YOU'RE
BASING IT ON AN ASSESSMENT WHERE THEY MAY HAVE JUST
NOT LOOKED AT THAT AREA AGAIN. MAYBE THAT'S WHY THEY
DIDN'T GO DOWN.

CHAIRMAN: WE ARE FACED WITH THESE NEIGHBORS,
THESE PEOPLE HERE. YOU MADE A GENERAL STATEMENT THAT
THEIR PROPERTIES WOULD BE IMPACTED. THEIR PARTICULAR
PROPERTIES ARE GOING TO BE IMPACTED.

MR. REYNOLDS: THAT'S CORRECT.

CHAIRMAN: BUT YET YOU'VE NOT STUDIED THE
AREA. YOU CAN'T MAKE A PRECISE --

MR. REYNOLDS: THAT'S CORRECT.

CHAIRMAN: YOU CAN'T MAKE A PRECISE STATEMENT
TO THAT AFFECT. WE HAVE TO HAVE SOMETHING TO BASE
SOMETHING ON. WE HAVE TO HAVE TESTIMONY THAT STATES
THEIR PROPERTY IS GOING TO GO DOWN. IF YOU'RE GOING
TO MAKE A STATEMENT THAT I THINK, AND THIS BOARD IS
GOING TO HAVE TO ACCEPT THAT FACT, YOU'RE GOING TO
HAVE TO HAVE SOME BASIS TO MAKE GENERAL COMMENTS OR
SOMETHING THAT IS VERY DIFFICULT FOR TO US --

MR. REYNOLDS: I CAN APPRECIATE THAT. WHAT
I'M TALKING ABOUT IS THE PRINCIPALS OF VALUE. REAL
PROPERTY APPRAISAL, TECHNIQUES, RECOGNIZE IN APPRAISAL
LITERATURE THROUGHOUT THE WORLD. WHAT ESTABLISHES
VALUE AND WHAT HAS AN AFFECT ON VALUE.

I'M INDICATING THAT YOU PUT A CENTER BLASTING
WITHIN A NEAR PROXIMITY OF A PROPERTY, I BELIEVE THE
GENTLEMAN I STEPPED OUT AND CAME BACK IN, A GENTLEMAN,
MARKET PARTICIPANT PER SE, WHICH IS HOW YOU DEVELOP
OPINIONS OF VALUE. YOU GAUGE WHAT THE PERCEPTION OF
MARKET PARTICIPANTS ARE. HE SAID, I WOULDN'T HAVE
CONSIDERED THAT PROPERTY. NOW, THAT'S ONE, AND I
UNDERSTAND THAT.

LOOK AT IT YOURSELF. A PRINCIPAL OF
SUBSTITUTION. IF YOU HAVE A PROPERTY HERE THAT YOU
WERE CONSIDERING BUYING, SCARCITY, UTILITIES, DESIRE
OF PURCHASING POWER, AND YET YOU HAVE ANOTHER SIMILAR
PROPERTY OVER HERE THAT DIDN'T BACKUP TO A BLASTING
CENTER, WHICH ONE WOULD YOU BUY?

CHAIRMAN: WHAT WE NEED, WE NEED SPECIFICS.

MR. REYNOLDS: I'D BE HAPPY TO PREPARE A
STUDY.

CHAIRMAN: WHAT HAPPENS IF THE OWENSBORO AREA
BECOMES THE MECCA OF DEVELOPMENT OF THE WORLD AND ALL
OF A SUDDEN ALL THE VALUES IN OWENSBORO KENTUCKY RISE
50 PERCENT NEXT YEAR.

MR. REYNOLDS: YOU'LL HAVE TO REPEAT THAT
QUESTION.

CHAIRMAN: IF YOU'RE TALKING GENERALITIES,
WHAT IF OWENSBORO BECOMES A DEVELOPMENT MECCA OF THE
WORLD AND EVERYBODY WANTS TO MOVE TO OWENSBORO AND THE
PROPERTY VALUES IN OWENSBORO RISE 50 PERCENT. ARE YOU
SAYING IN GENERALITIES THAT ALL PROPERTIES ARE GOING
TO RISE 50 PERCENT? JUST THESE PROPERTIES ARE GOING
TO RISE 50 PERCENT? WHAT I'M SAYING IS, YOU'RE
TALKING IN GENERALITIES THAT MAKES IT VERY DIFFICULT
FOR US TO GRASP.

MR. REYNOLDS: AND I CAN COMPLETELY APPRECIATE
THAT. AS I SAID, I HAVEN'T DONE A STUDY.
ECONOMICALLY SPEAKING, AS THE ARMY BASE IN CLARKSVILLE
CLOSED DOWN, WHAT IMPACT WOULD IT HAVE ON THE HOUSING
STOCK THERE? IT MOST CERTAINLY WOULD HAVE AN IMPACT,
WOULDN'T IT?

CHAIRMAN: UP OR DOWN?

MR. REYNOLDS: WHAT DO YOU THINK?

CHAIRMAN: THAT'S WHY I ASKED YOU.

MR. REYNOLDS: PROBABLY 40 PERCENT OR MORE GO
ON THE MARKET TOMORROW. THAT NUMBER IS PROBABLY
RELATIVELY LOW, BUT IT WOULD HAVE A TREMENDOUS IMPACT.
YOU HAVE AN OVERSUPPLY OF PRODUCT.

CHAIRMAN: BUT YOU SEE WHERE I'M COMING FROM?

MR. REYNOLDS: I CERTAINLY DO.

CHAIRMAN: I'M TRYING FOR THIS BOARD TO TRY TO
ASCERTAIN, HAVE YOUR EXPERT TESTIMONY TO SAY WHAT IS
THE IMPACT THAT WE'RE GOING TO HAVE.

MR. REYNOLDS: I CAN APPRECIATE THAT, BUT I HAVEN'T BEEN ASKED TO DO THAT. I'D BE HAPPY TO DO IT.

CHAIRMANN: THANK YOU.

MR. WILSON: MAY I HIM A QUESTION?

CHAIRMANN: PLEASE, MR. WILSON.

MR. WILSON: BRIAN, I'M GOING TO ASK YOU, YOU'VE BEEN ASKED TO GIVE A GENERAL OPINION OF WHETHER OR NOT THIS MINING ACTIVITY IN THE GIRL SCOUT CAMP/RUSSELL ROAD AREA WOULD HAVE A POSITIVE OR A NEGATIVE IMPACT ON PROPERTY VALUES, IF IT WENT. THAT'S ALL I ASKED YOU TO DO AT THIS POINT BECAUSE YOU HAVE NOT PERSONALLY GONE INTO THE HOMES OF THE AREA; IS THAT CORRECT?

MR. REYNOLDS: THAT'S CORRECT.

MR. WILSON: YOU'VE DRIVEN THERE AND TAKEN A LOOK AT THE TYPE OF AREA WE'RE TALKING ABOUT, TYPE OF RESIDENTS WE'RE TALKING ABOUT?

MR. REYNOLDS: I HAVE.

MR. WILSON: IN YOUR OPINION, WILL THE BEGINNING OF STRIP MINING IN THAT AREA HAVE A POSITIVE OR A NEGATIVE IMPACT ON PROPERTY VALUES OF THOSE IN CLOSE PROXIMITY?

MR. REYNOLDS: IT WILL HAVE A NEGATIVE IMPACT.

MR. WILSON: AND THAT'S ALL YOU'RE PREPARED TO
SAY. NOT THE PERCENTAGE OF NEGATIVE IMPACT?
MR. REYNOLDS: THAT'S CORRECT.
MR. WILSON: IS IT FAIR TO SAY IT'S YOUR
OPINION THAT THE CLOSER IN PROXIMITY TO THE MINING
ACTIVITY BE GREATER NEGATIVE IMPACT PERCENTAGE-WISE
THE HOUSE WOULD PROBABLY SUFFER?
MR. REYNOLDS: IT WOULD STAND TO REASON THAT
IT'S HIGHLY PROBABLE THAT THAT WOULD BE THE CASE, YES.
MR. WILSON: THANKS.
CHAIRMAN: MR. HAYNES, DID YOU WANT TO?
MR. HAYNES: CAN I ASK QUESTIONS TO HIM?
CHAIRMAN: SURE.
MR. HAYNES: MR. REYNOLDS, YOU MENTIONED
SCARCITY HAVING THE INFLUENCE ON --
CHAIRMAN: MR. HAYNES, THEY WERE SORT OF ON
THE SAME TEAM.
MR. HAYNES: SCARCITY HAVING AN INFLUENCE ON
REAL ESTATE VALUES. WHAT FACTORS CAN CAUSE SCARCITY?
CHAIRMAN: MR. REYNOLDS.
MR. REYNOLDS: WELL, DIAMOND RINGS ARE PRETTY
DESIRABLE, AREN'T THEY? THAT'S BECAUSE THERE'S A
SCARCITY OF THEM.
MR. HAYNES: WOULD JOBS TEND TO CREATE
SCARCITY?
MR. REYNOLDS: I WOULD SAY THAT WOULD BE MORE
OF AN ECONOMIC ISSUE.

MR. HAYNES: WELL, MORE PEOPLE THAT A
COMMUNITY HAS THE MORE PROPERTY THEY NEED; IS THAT
CORRECT?

MR. REYNOLDS: I ASSUME SO, YES.

MR. HAYNES: SO MORE JOBS, MORE PEOPLE LOOKING
FOR HOUSES?

MR. REYNOLDS: OKAY.

MR. HAYNES: THE CONVERSE OF YOUR EXAMPLE
ABOUT THE ARMY BASE, IF IT SHUTDOWN PROPERTY VALUES
WOULD DROP BECAUSE THERE WOULD BE A GLUT ON THE
MARKET. IF A 1,000 PEOPLE MOVED INTO THE COMMUNITY,
CONVERSE IT WOULD DRIVE THE PRICE UP; IS THAT CORRECT?

CHAIRMAN: MR. HAYNES, PLEASE.

MR. REYNOLDS: AGAIN, I WOULD HAVE TO DO A
STUDY. I WAS ASKED WHAT MY PROFESSIONAL OPINION WAS
REGARDING PROPERTY. WE'RE TALKING A LOT OF
HYPOTHETICALS HERE THAT I WOULD NOT HAVE AN ANSWER FOR
TODAY.

I WAS ASKED IF MINING PROXIMATE TO THE
PROPERTIES ALONG THESE AREAS OR IN GENERAL COULD HAVE
A POSITIVE OR NEGATIVE IMPACT, AND I PROVIDED MY
INDEPENDENT UNBIASED PROFESSIONAL OPINION THAT IT
WOULD.

MR. HAYNES: AND YOU MENTIONED UTILITY RATES
OR UTILITY COSTS INFLUENCE PEOPLE WHERE THEY LIVE.

MR. REYNOLDS: NOW, WHEN I SAY UTILITY, I DON'T MEAN THE COST OF YOUR ELECTRIC BILL. IF YOU UNDERSTAND VALUE, YOU WOULD UNDERSTAND THAT MEANS DON'T SHOW ME A FOUR BEDROOM HOUSE IF I'M LOOKING FOR A FIVE BEDROOM HOUSE. DON'T SHOW ME A ONE BEDROOM HOUSE. HAS NOTHING TO DO WITH YOUR WATER BILL.

MR. HAYNES: WELL, IT HAS TO DO WITH INDUSTRIES LOCATING HERE AND PEOPLE --

CHAIRMAN: WAIT. I SEE WHERE YOU'RE HEADED. DO YOU HAVE A CLOSING COMMENT?

MR. REYNOLDS: THE ECONOMIC FACTORS OF VALUE IS WHAT I WAS DISCUSSING. THE ECONOMIC INFLUENCES THAT CREATE VALUE ARE SCARCITY, UTILITY, DESIRE AND PURCHASING POWER. SOME PEOPLE LIVE IN HOUSES BECAUSE THEY WANT TO. SOME PEOPLE LIVE IN HOUSES BECAUSE THEY HAVE TO. THAT'S A FAIR STATEMENT. SOME PEOPLE HAVE THE PURCHASING POWER TO BUY THE BIG MILLION DOLLAR HOUSE. SOME DON'T. UTILITY IS AN ISSUE THAT IT MEETS YOUR UTILITY. YOU HAVE A LARGE FAMILY, YOU NEED THREE BEDROOMS, TWO BATHS, WHAT HAVE YOU. THAT'S UTILITY.

CHAIRMAN: THANK YOU.

MR. REYNOLDS: THANK YOU.

CHAIRMAN: MR. WILSON.
MR. WILSON: MR. CHAIRMAN, I'M GOING TO CALL, 
LORI THOMAS WOULD LIKE TO MAKE A FEW STATEMENTS TO THE 
COMMISSION.

MR. SILVERT: STATE YOUR NAME, PLEASE.

MS. THOMAS: FOR THE RECORD LORI THOMAS.

(LORI THOMAS SWORN BY ATTORNEY.)

MS. THOMAS: FOR THE RECORD TONIGHT I THINK 
WHAT WE HAVE ESTABLISHED IS THAT WESTERN KENTUCKY 
MINERALS HAS NO CONTROL OVER NOISE, AIR QUALITY AND 
NOW HOME VALUATIONS, CORRECT?

I ALSO WANT TO STATE THAT NOW I THINK THERE'S 
SOME QUESTION WITH REGARD TO WHETHER THEY'RE GOING TO 
STAY 2000 FEET OFF OF GIRL SCOUT CAMP.

CHAIRMAN: I'M SORRY, I DIDN'T HEAR THAT.

MS. THOMAS: AT THIS TIME I THINK THERE'S SOME 
QUESTION, I THINK THE ORIGINAL AGREEMENT WITH GIRL 
SCOUT IS THAT THEY WERE GOING TO STAY 2000 FEET OFF 
THEIR PROPERTY, BUT AT THIS TIME IT SOUNDS -- IS THAT 
QUESTIONABLE AT THIS POINT?

CHAIRMAN: NO. I BROUGHT MR. LANHAM UP THERE 
AND THEY STATED THAT THEY ARE, THE GENTLEMAN, STATED 
THAT THEY WOULD HONOR THAT AGREEMENT. HE SAID IT IN 
FRONT OF THE COMMISSION.

MS. THOMAS: OKAY. SO IF YOU FORWARD, YOU'LL 
STAY THAT DISTANCE OFF THEIR PROPERTY; IS THAT
CORRECT?

CHAIRMAN: MA'AM, DIRECT IT TO THE CHAIR.

MS. THOMAS: I'M SORRY.

THE GIRL SCOUTS HAVE A QUESTION WITH REGARD TO THAT.

MR. WRIGHT: YES, WE HAD AN AGREEMENT THAT HAD THAT FIGURE IN THERE. YES, WE WOULD BE MORE THAN WILLING TO HONOR THAT. IT'S NOT OFF THE PROPERTY. IT'S OFF THE MAIN STRUCTURE BACK BY THE LAKE, THE LODGE.

CHAIRMAN: DID WE DISCUSS THAT EARLIER?

MR. WRIGHT: WE DID. ABOUT FIVE TIME.

CHAIRMAN: ALL RIGHT.

MS. THOMAS: THANK YOU FOR APPEASING ME THEN.

CHAIRMAN: YES, MA'AM.

MS. THOMAS: I ALSO HAVE SOMETHING THAT I WOULD LIKE JENNIFER, ONE OF THE GIRL SCOUTS, TO READ WITH REGARD TO MINERALS AND THE LAND. IT'S TWO PARAGRAPHS.

CHAIRMAN: THAT'S FINE.

MR. SILVERT: WOULD YOU STATE YOUR NAME, PLEASE.

MISS OTTERSOCK: JENNIFER OTTERSOCK.

(JENNIFER OTTERSOCK SWORN BY ATTORNEY.)

MISS OTTERSOCK: COAL MINING CAUSES A NUMBER
OF HARMFUL AFFECTS. WHEN COAL SURFACES ARE EXPOSED, IRON SULFITE KNOWN AS FOOLS GOLD COMES IN CONTACT WITH WATER AND AIR AND FORMS SULFURIC ACID.

AS WATER DRAINS FROM THE MINE THE ACID MOVES INTO THE WATERWAYS. AS LONG AS RAIN FALLS ON THE MINE HEALING, THE SULFURIC ACID PRODUCTION CONTINUES WHETHER THE MINE IS STILL OPERATING OR NOT.

THE PROCESS IS KNOWN AS ACID ROCK DRAINAGE OR ACID MINE DRAINAGE. IF THE COAL MINE IS STRIP MINED, THE ENTIRE EXPOSED SEAM LEACHES SULFURIC ACID. THIS LEAVES THE SUBSOIL INFERTILE ON THE SURFACE AND BEGINS TO POLLUTE STREAMS BY CITIFYING AND KILLING FISH, PLANTS AND AQUATIC ANIMALS WHICH ARE SENSITIVE.

COAL MINING PRODUCES METHANE, A POTENT GREENHOUSE GAS. METHANE IS THE NATURAL RECURRING PRODUCT OF THE DECAY OF ORGANIC MATTER AS COAL DEPOSITS ARE FORMED INCREASING DEPTHS OF BURIAL.

A PORTION OF THE METHANE PRODUCED IS ABSORBED BY THE COAL AND LATER RELEASED FROM THE COAL SEAM AND SURROUNDING DISTURBED STRATA CONCERNING MINING PROCESS. METHANE ACCOUNTS FOR 10.5 PERCENT OF GREENHOUSE GAS THAT IS CREATED THROUGH HUMAN ACTIVITY.

CHAIRMAN: THANK YOU.

ARE YOU FINISHED, MA'AM?

MS. THOMAS: NO. I HAVE ONE MORE QUESTION.

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WHO WILL BE RESPONSIBLE IF THERE'S AN ACCIDENT OUT ON 231 WHEN ONE OF THE COAL TRUCKS HITS A CAR OR HITS A SCHOOL BUS? I BELIEVE THAT QUESTION WAS POSED TO WESTERN KENTUCKY MINERALS AND I BELIEVE THAT THEY WOULD NOT BE RESPONSIBLE. SO WHO IS RESPONSIBLE FOR THAT, PLEASE?

CHAIRMAN: MR. HAYNES.

MR. HAYNES: IT WOULD BE THE SAME AS IF ANY TRUCK HIT A CAR. IF ANY CAR HIT A CAR, IF ANY CAR HIT A CHILD, THE DRIVER OR THE VEHICLE IS RESPONSIBLE. THEY CARRY INSURANCE OR THEY'RE SUPPOSED TO. OUR DRIVERS DO. WE HAVE BIG POLICIES. YOU KNOW, I CAN'T SPEAK TO -- IT'S JUST THE SAME AS ANYTHING ELSE. WE WOULD HOPE IT WOULD BE HANDLED THE SAME. SOMEBODY WOULD CALL AN AMBULANCE. THE PERSON WOULD GET TREATMENT. THE POLICE WOULD COME AND INVESTIGATE. THE INSURANCE COMPANIES WOULD SETTLE UP THE DAMAGES JUST LIKE ANY VEHICLE THAT HITS A CHILD OR HITS A CAR OR HITS A TRUCK. NO DIFFERENCE.

CHAIRMAN: THANK YOU.

MS. THOMAS: ARE THE TRUCKS BEING USED CONTRACTED BY WESTERN KENTUCKY MINERALS? IS THERE ANOTHER TRUCKING COMPANY? DO THEY OWN THE COMPANY?

CHAIRMAN: JUST RESPOND FOR THE RECORD, PLEASE.
MR. WRIGHT: WE DO NOT OWN ANY COAL TRUCKS,
NO. THEY'RE OWNED BY ASHY TRUCKING FROM BEAVER DAM.

MS. THOMAS: THANK YOU.
CHAIRMAN: THANK YOU.

MR. WILSON.

MR. WILSON: MR. CHAIRMAN, NEXT WITNESS WILL
BE KENT OVERSTREET WHO IS A RESIDENT OF THE AREA.

MR. SILVERT: STATE YOUR NAME, PLEASE.

MR. OVERSTREET: KENT OVERSTREET.
(KENT OVERSTREET SWORN BY ATTORNEY.)

MR. OVERSTREET: I WOULD JUST LIKE TO POINT
OUT, I DON'T ENvy ANY OF YOU ALL. THERE'S A NUMBER OF
FACTORS THAT YOU'RE CONSIDERING. QUITE FRANKLY IT
COMES DOWN TO NOTHING BUT ECONOMICS ON THEIR SIDE, BUT
FOR THE RESIDENTS AND THE OTHER RESIDENTS OF DAVIESS
COUNTY, PEOPLE THAT ARE AFFECTED, THE HOMEOWNERS,
THERE ARE MANY CONSIDERATIONS.

THERE'S THE ECONOMIC CONSIDERATIONS. YOU'VE
HEARD THOSE CONCERNS. THERE IS A HEALTH
CONSIDERATION. THERE'S THE IMPACT ON THE ENVIRONMENT.
QUITE FRANKLY NOBODY MOVED TO PLEASANT RIDGE OR TO
GIRL SCOUT ROAD TO LIVE NEXT TO RECLAIMED LAND.

I UNDERSTAND THE OVERALL POLICY. THAT WE'RE
THERE FOR AGRICULTURE. WE'RE THERE FOR OTHER
MINERALS, BUT WHEN THEY TALK ABOUT RETURNING IT TO THE
CONTOUR OF THE LAND, I THINK WE CAN ALL AGREE, I'VE NEVER SEEN RECLAIMED LAND, IF ANYBODY CAN POINT IT OUT TO ME, THAT HAS THE SAME HILLS, THE SAME TREES, THE SAME CONTOUR AS WHEN THEY STARTED. IT'S IMPOSSIBLE. THE GROUND WON'T GROW A TREE. THAT'S WHY YOU DON'T SEE ANY IN THEIR PHOTOS. IT'S TOO COMPACT. THEY RELEASE CHEMICALS INTO THE SOIL. YOU'VE GOT DIESEL FUEL THAT'S BEING SPILLED. YOU'VE GOT HYDRAULIC LINES THAT ARE BLOWING ON EQUIPMENT. YOU'VE GOT CONTAMINATION OF THE SOIL FROM WHAT'S BEING RELEASED BY VIRTUE OF REMOVING THE MINERALS. YOU'VE GOT THE CONTAMINATION OF THE AIR. YOU'VE GOT THE CONTAMINATION OF THE WATER.

NOW, THEY CAN TELL YOU ABOUT ALL THE REQUIREMENTS AND ALL THE REGULATIONS THEY HAVE, BUT IT GOES WITHOUT SAYING EVERY LAW IS WRITTEN TO ENSURE THE MINIMUM. NO LAW IS WRITTEN TO ENSURE THE MAXIMUM COMPLIANCE. QUITE FRANKLY, ANY ENFORCEMENT AGENCY IS STRETCHED TO ITS GILLS AT THIS POINT IN TIME DUE TO MINIMUM MANPOWER AND MINIMUM FUNDING. SO TO SAY THAT WE HAVE ALL THIS OVERSIGHT IS A FARCE.

THEY HAVE PEOPLE THAT HAVE EMPLOYMENT POSITIONS AS INSPECTORS, WHAT HAVE YOU. THEY MONITOR THIS FOR FIVE YEARS. QUITE FRANKLY, I WASN'T PLANNING ON MOVING IN FIVE YEARS.
I moved my family there, like I'm sure most of these folks did and all these folks, they went there to stay. They chose that area for a reason. Some people like the city. Some people like the country. I happen to like the country. I happen to like it the way it is. The way God intended it with birds, trees, shrubs, snakes. Whatever he put out there.

That reclaimed ground will never be that way again. It will never return. It will never come back to anything to resemble what they take.

Now, you've heard the organization that want the coal severance tax. Quite frankly, whenever you have taxes like that that fund a multitude of organizations, that's generally because they're doing something very destructive. They charge a premium for that.

So coal severance tax is just that. It's a premium that you get for destroying the environment and destroying people.

Now, it goes to fund other projects. It goes to fund other organizations and, yes, they want it. Yes, the county wants it. But because of that income consider the rest of the impact.

You've heard about the roads. You've heard about the accidents. You've heard about the property...
VALUES. THE COAL SEVERANCE TAX IS THERE FOR 5, 10, 20 YEARS, DEPENDING ON WHICH ESTIMATE YOU WANT TO GO WITH AND WHETHER PHASE TWO IS APPROVED OR PHASE THREE IS APPROVED. THE ALLEGED DIMINUTION OF PROPERTY VALUE IS PERMANENT.

YOU DIDN'T HEAR THAT PROPERTY VALUES ARE GOING TO GO RIGHT BACK UP ONCE THAT GROUND IS RECLAIMED. SO FOR THE SHORT TERM YOU GET GREATER TAX VALUE FROM THE COAL SEVERANCE, AND IN THE LONG TERM YOU POTENTIALLY LOSE RESIDENTS. YOU HAVE DESTROYED HOMES OR DAMAGED HOMES. YOU HAVE PEOPLE THAT ARE UNWILLING TO MOVE TO THE AREA AND YOU'RE LEFT WITH JUST A NICE LITTLE GREEN FIELD THAT HAS TREES ON THE FAR OUTSIDE EDGE SO WE KNOW EXACTLY WHERE THE MINING STOPPED.

YES, YOU'LL SEE A FEW BIRDS AND A FEW ANIMALS RUNNING ACROSS THAT FIELD TRYING TO GET TO A TREE, BUT THEY'RE NOT GOING TO BE ABLE TO STOP ANYWHERE IN-BETWEEN.

YOU'RE GOING TO HAVE CONTAMINATED WATER, CONTAMINATED STREAMS. YOU'RE GOING TO HAVE THINGS THAT ONLY NATURE CAN POTENTIALLY CORRECT, BUT YET WE'RE TRYING TO PUT FILTERS AND UNDERGROUND AQUIFERS. WE'RE TAKING AND SAYING WELL, WE'VE RUINED THE WELL WATER AT THIS LEVEL, BUT WE'VE GOT A SECOND OPTION. WE'LL JUST DRILL DEEPER. IT DOESN'T MATTER WHAT
INCONVENIENCE IT IS TO THE PEOPLE WHO OWN THOSE HOMES. IT DOESN'T MATTER WHAT AFFECT IT TRUTHFULLY HAS BECAUSE THE ONLY REASON WE'RE DOING IT IS BECAUSE WE HAVE A FEW STATUTES AND A FEW REGULATIONS THAT SAY, WE HAVE TO DO THESE THINGS. WE HAVE TO PROTECT THESE THINGS TO THIS EXTENT.

QUITE FRANKLY, I DON'T THINK ANYBODY IN HERE WANTS THEIR CHILDREN OR THEIR HEALTH OR THEIR WELFARE PROTECTED TO THIS EXTENT. THEY WANT IT LEFT ALONE. THEY WANT TO TAKE THEIR CHANCES WITH WHATEVER MAY BE IN THEIR WELLS, WHETHER IT'S FEWER PARTS PER MILLION OF LEAD OR FEWER PARTS PER TRILLION.

WE'RE NOT CONCERNED ABOUT WHAT MEASUREMENTS THEY WANT TO APPLY TO IT. THE FACT IS IS THAT IF IT WASN'T THERE, AND I REALLY DON'T CARE IF IT'S ONE PART PER TRILLION OR ONE PART PER GAZILLION, IT WASN'T THERE IN THE BEGINNING. I WASN'T EXPOSED TO IT. I WASN'T INGESTING IT. I WASN'T BREATHING IT. IT WASN'T CAUSING ME HEALTH PROBLEMS. IT WASN'T CAUSING MY KIDS HEALTH PROBLEMS, AND IT'S NOT POTENTIALLY AFFECTING EVERYBODY WITHIN A 10 OR 15 MILE RADIUS.

QUITE FRANKLY, THE ONLY THING THAT DESTROYS LANDSCAPE LIKE THIS ARE BOMBS. YOU CAN'T SAY ANYTHING ELSE OTHER THAN MAYBE THE CONSTRUCTION OF INTERSTATES WHERE THESE COMPLETELY GUT THE LAND, TAKE LAND MOVERS,
FLAT IT OUT, TAKEN OUT HILLS. WE'VE ALL DRIVEN.

SOMEbody USED THE EXAMPLE OF 231. YES, BE THANKFUL
THAT SOMEBODY GAVE UP THEIR PROPERTY. DO YOU THINK
THEY GAVE IT UP WILLINGLY? NO. THE STATE TOOK IT.
THE FEDERAL GOVERNMENT TOOK IT.

RIGHT NOW ALL OF THESE FOLKS HAVE RIGHTS ON
THEIR PROPERTIES. THE MINERAL RIGHTS HAVE BEEN SOLD
FROM THE MAJORITY OF THEM, BUT THEY STILL HAVE THE
SURFACE RIGHT. THEY HAVE THE RIGHT TO THE QUIET
ENJOYMENT OF THEIR PROPERTY. THE LAW GRANTS THEM
THAT. THEY'RE ENTITLED TO THAT. WE'RE ALL ENTITLED
TO THAT. I KNOW YOU ALL SAID IT'S NOT YOUR OBLIGATION
OR JOB TO SAY -- TALKING ABOUT THE SHOOTING RANGE,
THAT WE CAN'T HAVE THIS.

WE ALL KNOW THAT THERE'S CERTAIN THINGS THAT
NONE OF US WANT TO HEAR. PEOPLE DON'T WANT TO BE
BOtherED AT CERTAIN HOURS. AN 11 HOUR SHIFT, 22 HOURS
A DAY, 6 DAYS A WEEK, WHILE YOU'RE TRYING TO HAVE YOUR
SON OR DAUGHTER'S BIRTHDAY PARTY OR TRYING TO HAVE
YOUR PARENTS 50TH WEDDING ANNIVERSARY, JUST CONSIDER
THAT IT'S NOT JUST ABOUT ECONOMICS. A LOT OF PEOPLE
FOCUS ON THE ECONOMIC ASPECT, BUT AT THE END OF THE
DAY WHEN THOSE STATUTES HAVE BEEN MET, AND KEEP IN
MIND THAT EVERY SINGLE PERMIT IS BASED ON A
HYPOTHETICAL. EVERYTHING THEY PUT IN IT IS WHAT THEY
"PROMISED TO DO." IT'S WHAT THEY HAVE TO DO BY LAW.

THEY PUT IN THERE WHAT THEY HAVE TO DO.

THEN WE'RE LEFT WITH NO ENFORCEMENT. YOU'VE ALREADY HEARD. THEY DON'T MONITOR THE WATER. THEY DON'T MONITOR THE AIR. SO BASICALLY I GUESS WE JUST WAIT UNTIL SOMEBODY SHOWS UP AT MERCY AND HAS SOME WEIRD CONDITION AND THEN ALL OF A SUDDEN THEY'RE RUNNING BLOOD TESTS AND THEN SOMETHING DEVELOPS AND WE GO, OH, WAIT A MINUTE, IT'S RELATED TO THE MINE. YOU HEARD THEM SAY THEIR INSURANCE POLICY IS AN OCCURRENCE POLICY. WELL, THE PROBLEM WITH THAT, AND WITH ALL INSURANCE, IS WHENEVER YOU HAVE AN OCCURRENCE POLICY, THE PROBLEM IS WHEN DO YOU GET THE INSURANCE COMPANY TO AGREE WHEN YOUR OCCURRENCE OCCURRED. IF THEY'RE SETTING OFF 50 BLASTS, WHICH ONE OF THEM CAUSED IT? DID THE POLICY LAPSE? WERE THERE BLASTS AFTER THE POLICY OR WAS IT BEFORE THE POLICY.

LETS NOT FORGET THAT THE BLASTING MATERIALS THAT THEY'RE USING ARE QUITE SIMILAR TO THE ONES THAT TIMOTHY MCVEIGH USED. SO TO SAY THAT WE'VE GOT IT UNDER CONTROL, IT'S UNDER CONTROL TO THE EXTENT THAT SOMEBODY IS PAYING ATTENTION. I'M NOT SAYING THAT THEY'RE GOING TO DO IT INTENTIONALLY, BUT OBVIOUSLY AS SEVERAL OF YOU POINTED OUT, MISTAKES HAPPEN. PROBLEMS OCCUR. MISHAPS HAPPEN. THINGS GET EXPOSED AND
DIFFERENT PROBLEMS COME AROUND.

THE PROBLEM IS THE FOLKS ON THE OUTSIDE OF THAT MINE AREN'T WEARING RESPIRATORS. THEY'RE NOT WEARING HARD HATS. THEY DON'T KNOW WHEN THE BLAST IS GOING OFF UNTIL THEY HEAR A BOOM. THEY DON'T KNOW THAT THEIR PIPES HAVE BURSTS UNTIL THEIR WALLS ARE FLOODED OR THEIR BASEMENTS ARE LEAKING. SO WE'RE JUST KIND OF LEFT WITH THE AFTERMATH. AS SOMEBODY SAID, THE WHAT IFs. DO YOU KNOW WHEN IT HAPPENS, WHERE IT HAPPENS, WHAT HAPPENED.

SO I WOULD JUST SIMPLY ASK THAT YOU CONSIDER IT'S NOT ONE OF THOSE SITUATIONS WHERE YOU THROW IT BACK AND SAY, WOULD YOU WANT IT IN YOUR BACKYARD? OF COURSE YOUR WOULDN'T. NOBODY WOULD. NOBODY WANTS THIS KIND OF OPERATION. THAT'S WHY YOU'VE GOT SO MANY PEOPLE HERE. THAT'S WHY IT'S SUCH FERMENT ISSUE. THAT'S WHY PEOPLE ARE SO UPSET. PEOPLE HAVE GOT THEIR LIFE SAVINGS, THEIR MEMORIES WRAPPED UP IN THESE HOMES AND IN THESE PROPERTIES. THEY'VE GOT THEM THERE FOR A REASON. THEY WANT THE TREES. THEY WANT THE WILDLIFE. QUITE FRANKLY, I ENJOY WALKING OUT IN THE MORNING AND BEING ABLE TO HEAR NOTHING MORE THAN A BIRDS AND MAYBE SOME CRICKETS. I DON'T HEAR, AS TREVOR SCOTT SAID EARLIER, I DON'T HEAR CAT DOZER TRACKS. I DON'T HEAR ANY OF THAT. I DON'T EVEN HEAR THE TRAFFIC WHERE I AM.
AT ON 231 BECAUSE RIGHT NOW I HAVE ENOUGH TREES TO
BLOCK IT. BUT WHEN THEY CLEAR CUT THAT LAND AND THEY
TAKE ALL THAT TIMBER DOWN -- I CAN'T SEE A NEIGHBOR
FROM WHERE I LIVE RIGHT NOW EXCEPT A PORCH LIGHT IN
THE WINTER. IN THE SPRING I WON'T BE ABLE TO SEE
ANYONE. YOU'RE GOING TO TAKE THAT LANDSCAPE AND
YOU'RE GOING TO MAKE IT AS FLAT AS THAT DESK. YOU'RE
GOING TO CLEAR IT OFF AND YOU'RE GOING TO CHANGE THE
TOTAL CHARACTER OF NOT ONLY THEIR PROPERTIES, BUT OF
THAT PART OF THE COUNTY. IT'S ALL ABOUT MONEY FOR A
FINITE PERIOD OF TIME.

I WOULD JUST SUGGEST THAT PROPERTY TAXES ON
THE INCREASE VALUES OF A HOUSE ARE FOREVER. THE
PROPERTY TAXES ON THEIR MACHINERY WILL GO DOWN EACH
YEAR AS THEIR ASSESSED VALUE GOES DOWN. QUITE
FRANKLY, I FIND IT HARD TO BELIEVE THAT THEY'RE GOING
to buy enough machinery to replace the value of all
these homes that are being affected. THE HUNDRED PLUS
HOMES.

IF THEY WANT TO COMPARE ECONOMICS, I FIND IT
HARD TO BELIEVE THAT IT'S EVEN CLOSE, BY THE TIME YOU
COUNT THE ROAD REPAIR, YOU COUNT ALL OF THIS
ADDITIONAL MONITORING, AND YOU COUNT THE NUISANCE THAT
IT'S GOING TO.

IT WOULD BE DIFFERENT IF THE MINE WAS THERE

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AND ALL THESE FOLKS WERE COMING IN AND HAD MOVED NEXT
TO THE MINE AND THEN WANTED TO COMPLAIN. THE LAW HAD
A TERM FOR THAT. COMING TO THE NUISANCE. IN THIS
CASE, IT'S UP TO YOU ALL WHETHER YOU BRING THE
NIUSANCE TO US. THANK YOU.

CHAIRMAN: MR. WILSON.

MR. WILSON: TONY ISBILL WILL BE NEXT. HE'S A
RESIDENT ON GIRL SCOUT ROAD.

MR. SILVERT: STATE YOUR NAME, PLEASE.

MR. ISBILL: TONY ISBILL.

(TONY ISBILL SWORN BY ATTORNEY.)

MR. ISBILL: I WOULD LIKE TO ASK A QUESTION.

I DON'T KNOW IF IT'S REALLY IMPORTANT OR NOT. COULD
WE SEE THAT MAP ONE MORE TIME WHERE THE BLASTING AREA
IS? IS THAT APPROPRIATE TO ASK THAT?

CHAIRMAN: ABSOLUTELY. WHILE THEY'RE GETTING
THAT GO ON WITH WHATEVER ELSE YOU'RE GOING TO SAY.

MR. ISBILL: ONE OF THE QUESTIONS -- I'M GOING
TO ADDRESS A COUPLE OF THINGS THAT I WASN'T PREPARED
TO SIMPLY BECAUSE THEY'VE COME UP. IT WAS ABOUT
RESIDENTS, THE PEOPLE THAT ARE GOING TO BE IN THE
MINING AREA THAT HAVE LEASED. WILL THEY BE THERE? IT
WAS SAID THAT THEY WILL. I DO NOT UNDERSTAND HOW
SOMEONE CAN LIVE IN A HOUSE THAT THE MINE IS GOING TO
DESTROY.
IF YOU LOOK ON THE MAP, ALMOST EVERY ONE OF
THOSE PEOPLE THAT ARE GOING TO BE MINED, THOSE HOME
ARE GOING TO BE DESTROYED BY THE MINE. SO THEY WILL
NOT BE THERE IN ORDER TO ENDURE THE THINGS THAT WE
ARE.

CAN I APPROACH THAT MAP AND SHOW YOU
SOMETHING?

CHAIRMAN: GO AHEAD. TAKE THE MIKE Too.

MR. SILVERT: PLEASE DO.

CHAIRMAN: YOU CAN TALK AS YOU WALK.

MR. ISBILL: I JUST WANTED TO KNOW ABOUT THE
AREA OF THE BLASTING, THE HALF A MILE RADIUS. I DON'T
SEE THAT ON HERE.

MR. WRIGHT: THE PURPLE LINE.

MR. ISBILL: THE PURPLE LINE. MY QUESTION IS,
AND THIS MAY NOT BE SIGNIFICANT. I JUST NEED TO KNOW.
IS THIS A HALF MILE FROM THE CENTER OF THIS MINE?

MR. WRIGHT: NO. OUTSIDE PERIMETER.

MR. ISBILL: TOTALLY. NO MATTER WHERE YOU
BLAST. THAT'S ALL THAT I WANTED TO KNOW. I WANTED TO
MAKE SURE THAT THAT WAS CORRECT.

MR. WRIGHT: YES.

CHAIRMAN: DOES THAT TAKE CARE OF YOU?

MR. ISBILL: IT DOES.

CHAIRMAN: THANK YOU.
NEXT, MR. WILSON.

MR. ISBILL: NO, I'M NOT FINISHED. I JUST THOUGHT YOU MEANT THAT ONE QUESTION.

THE OTHER THING ABOUT CONCRETE. IF IT'S COVERED BY CARPET, THE CRACKS WILL NOT SHOW READILY.

I WANTED TO FIRST TELL YOU ABOUT THE REASON WHY WE CHOSE THE AREA TO LIVE IN.

WE CHOSE THIS LOCATION, ONE, BECAUSE IT WAS NEAR THE GIRL SCOUT CAMP. WE WERE LOOKING FOR AN AREA THAT WAS REMOTELY AND STILL CLOSE TO TOWN. THE NEIGHBORING PROPERTIES, I HAD TO HAVE MATURE WOODS AND THIS AREA HAS THAT.

ALSO, WE KNEW ABOUT THE PREVIOUS MINING DECISIONS AND WE THOUGHT THAT THE ISSUES WERE SETTLED FOREVER. WE JUST COULD NOT COMPREHEND THAT A DECISION LIKE THIS WOULD HAVE BEEN OVERTURNED, AND I PROMISE YOU WE WOULD NOT HAVE PURCHASED OUR PROPERTY IF THAT HAD TAKEN PLACE.

WE HAVE INVESTED SEVERAL HUNDRED THOUSANDS OF DOLLARS IN OUR HOME AND IN OUR PROPERTY. WE USE THIS HOME NOT JUST AS OUR RESIDENCE. I WANTED TO MAKE THIS CLEAR TO THIS COMMISSION. IN ADDITION TO OUR PERSONAL PROPERTY, OUR CHURCH FAMILY COMES TO OUR PROPERTY ON SPECIAL OCCASIONS.

WE ALSO OFFER OUR DOWNSTAIRS, WHEN WE DESIGNED
OUR HOME, SO THAT PASTORS THAT NEED SABBATICAL THAT
CANT AFFORD TO GO OTHER PLACES THEY CAN COME AND
ENJOY OUR HOME. THEY CAN VIEW OUR LAKE, AND THEY CAN
HAVE THE SERENITY.

ALSO SOMETHING THAT TAKES PLACE ON OUR
PROPERTY THAT NO ONE KNOWS ABOUT IS THAT STUDENT
OUTDOOR EXPERIENCE. JOHN STANFORD IS THE FOUNDER AND
HE'S THE PRESIDENT OF STUDENT OUTDOOR EXPERIENCE. IT
IS A NATIONAL ORGANIZATION THAT TEACHES LEADERSHIP
SKILLS TO STUDENTS BASED ON CHRISTIAN VALUES IN AN
OUTDOOR VENUE.

ALL OF HIS TRAINING MATERIALS TAKE PLACE ON
OUR PROPERTY. THIS ORGANIZATION IS SPONSORED BY BASS
PRO SHOP. IT IS SPONSORED BY REAL TREE OUTDOORS,
CHIK-FIL-A, EASTON ARROWS. NATIONAL COMPANIES. ALL
OF HIS TRAINING VIDEOS AND INSTRUCTIONAL VIDEOS TAKE
PLACE ON OUR PROPERTY.

THAT WILL BE DESTROYED IF THIS REZONING TAKES
PLACE.

WE HAVE PUT IN VIEWING STATIONS, WILDLIFE
THEATERS THAT BRING IN TURKEY, DEER, DUCKS, GEESE, AND
ALSO FOOD PLOTS. HERE IS WHY THAT I SHARE WITH YOU
WHY THAT WILL BE DESTROYED.

IN NO WAY AM I HERE TODAY TO, AND IT SHOULDN'T
BE, WHETHER THIS COMPANY IS A GOOD COMPANY OR NOT.
THAT REALLY DOESN'T HAVE ANYTHING TO DO WITH THIS DECISION. IT'S NOT WHETHER THESE PEOPLE ARE GOOD PEOPLE OR NOT. I'M SURE THAT THEY ARE. BUT THEY'RE A PART OF AN INDUSTRY THAT IS OUT OF CONTROL.

WHEN WE ARE AT THE TOWN HALL MEETING I HEARD REPEATEDLY AND REPEATEDLY, WE CAN'T CONTROL THAT. WE CAN'T CONTROL THAT. IF THEY SAID IT ONCE, THEY SAID IT 30 TIMES. THAT IS WHAT SCARES US. IS WHAT THEY CANNOT CONTROL.

THE COAL INDUSTRY, FIRST OF ALL, THEY'RE TALKING ABOUT COMING IN AND DOING ASSESSMENTS, PREBLAST ASSESSMENTS OF OUR HOME. WE VIEW THAT AS INVASION OF OUR PRIVACY. I DO NOT HAVE ANYONE NOW THAT COMES INTO MY HOME THAT I DON'T INVITE.

CHAIRMAN: YOU DO NOT HAVE TO HAVE THAT.

MR. ISBILL: ABSOLUTELY. BUT THEY_ASSUME THAT I'M GOING TO HAVE IT JUST BECAUSE THEY'RE THERE. I DON'T HAVE TO HAVE THAT NOW. SO IT IS AN INVASION.

ALSO, I DO NOT HAVE A SEISMOGRAPH IN MY YARD. IT'S BECAUSE I DON'T NEED ONE. MY PROPERTY NOW IS SAFE. IT IS SECURE.

THEY TALK ABOUT DEVALUATION. APPARENTLY THERE HASN'T BEEN A STUDY, AND I WOULD LIKE TO GIVE THIS TO YOU. IT WAS DONE -- IT'S THE IMPACT OF SURFACE COAL MINING ON RESIDENTIAL PROPERTY VALUES. IT WAS DONE BY

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THE DEPARTMENT OF ECONOMICS, UNIVERSITY OF TENNESSEE, KNOXVILLE.

THIS STUDY WAS DONE NATIONWIDE AND IT MIRRORS OUR COUNTY. IT SAYS THAT THE DEVALUATION OF PROPERTY CAN GO ANYWHERE FROM $8 MILLION TO $40 MILLION. IT DOESN'T JUST IMPACT THE PEOPLE THAT ARE CLOSEST TO IT TO THE MINE. IT IMPACTS THE ENTIRE COUNTY. I WOULD LIKE TO BE ABLE TO GIVE THIS TO YOU. I DID NOT MAKE COPIES, AND I APOLOGIZE FOR THAT, BECAUSE I DID NOT KNOW THAT I WOULD NEED IT TONIGHT.

CHAIRMAN: THANK YOU.

MR. SILVERT: YOU NEED TO MAKE THAT A PART OF THE RECORD.

MR. ISBILL: ALSO, ABOUT THE DEVALUATION. THEY SAID, WELL, WE CAN'T CONTROL THAT. THAT'S JUST ANOTHER THING THAT IS BEYOND THEIR CONTROL. THEY TALK ABOUT WATER. THEY TALK ABOUT MONITORING IT, BUT WHAT HAPPENS IF IT DOES GET TAINTED. WHAT HAPPENS IF IT DOES GET POLLUTED. IT DOES HAPPEN, BUT THAT IS SOMETHING IS BEYOND THEIR CONTROL.

THE NOISE SITUATION. THEY TALKED ABOUT IT, AND IT'S LIKE WE'RE SUPPOSED TO ACCEPT IT, BUT IT IS BEYOND THEIR CONTROL.

THE WILDLIFE. WE'VE HEARD AT THE TOWN HALL MEETING THAT THE GIRLS WOULD PROBABLY GET MORE BIRDS
BECAUSE THEY WOULD RUN THE BIRDS TO THE CAMP WHICH WAS
-- I DON'T KNOW HOW THEY GET WILD ANIMALS TO HONOR
BOUNDARY LINES. OUT OF THEIR CONTROL.

THE BLASTING. THERE IS FLY ROCK. FLY ROCK IS
A DEFINITION BECAUSE IT EXIST. IT IS A TERM FOR A
ROCK THAT LEAVES THE SECURITY OF THE PIT. IN MY
STUDIES THERE WAS ONE INSTANCE WHERE THAT FLY ROCK
WENT THROUGH A HOUSE WALL, THROUGH A THREE YEAR’S OLD
BEDROOM, WENT THROUGH THE NEXT WALL AND LANDED AT THE
FOOT OF AN 8 YEAR’S OLD BED. THE 8 YEAR OLD WAS FINE.
THE 3 YEAR OLD WAS CRUSHED WHEN THAT FLY ROCK WENT
THROUGH HIS HOUSE.

I WOULD SAY THAT IF YOU THOUGHT FOR ONE MOMENT
THAT FLY ROCK WOULD COME INTO MY HOME, YOU WOULD BE
ENRAGED AND YOU WOULD TURN THIS DECISION DOWN TONIGHT.

ONE OF THE THINGS THAT DOES HAPPEN IS THAT THE
AIRBORNE PARTICLES WILL PENETRATE MY HOUSE. IT WON’T
KILL ME AS FAST AS A ROCK WILL, BUT IT WILL INFECT MY
LIFE AND MY FAMILY. MY WIFE HAS ASTHMA. IT WILL JUST
BE A SLOW DETERIORATION OF HER HEALTH AND COULD
EVENTUALLY KILL SOME OF THE PEOPLE IN HERE.

ESPECIALLY THE ELDERLY. THEY'RE OUT OF CONTROL.

AIR QUALITY. THEY SAID THAT THEIR AIR QUALITY
HAD TO BE WHERE IT WAS INVISIBLE TO THE EYE. THEY
ARGUED BACK AND FORTH IN THE TOWN HALL MEETING SAYING,
WELL, YOU CAN'T PROVE IT. WELL, THAT'S RIDICULOUS.

HOW DO THEY KNOW IF THERE'S OXYGEN IN THE AIR. IT'S JUST A GIVEN THAT IT IS. I CAN'T SEE IT. HOW WILL THEY KNOW THAT THERE'S NATURAL GAS, METHANE GAS, ANY KIND OF GAS IN THE AIR? THERE ARE DEVICES THAT LET US KNOW THAT IT EXIST. THEY SAID, WE CAN'T CONTROL IT IF THE WIND IS HIGH ENOUGH. SO I ASKED THEM AT WHAT POINT MILES PER HOUR ARE YOU UNDER CONTROL? SO THEY GUESSED, BECAUSE THEY DIDN'T HAVE THE ANSWER, AND THEY SAID, 10 MILES AN HOUR.

SO THE NEXT DAY I PULLED UP THE WIND VELOCITY REPORT AT THE DAVIESS COUNTY AIRPORT. I'LL BE GLAD TO SUBMIT THIS AS WELL. IT'S READILY AVAILABLE ONLINE.

AT 10 MILES AN HOUR THIS COMPANY WILL BE 45 PERCENT OUT OF CONTROL, IF YOU TAKE THE WIND VELOCITIES FOR 2011. I BELIEVE THAT THE WIND VELOCITY IS PROBABLY MORE LIKE 5 MILES AN HOUR BECAUSE 5 MILES AN HOUR WILL CARRY THESE PARTICLES FOR MILES. AT 5 MILES AN HOUR THEY ARE 80 PERCENT OUT OF CONTROL.

NOW, THEY SAID THAT THEY WILL WATER THE ROADS, BUT THE ROADS, THEY CAN'T WATER THE ENTIRE MINE PIT. SO AT THEIR OWN ADMISSION THEY SAID THAT THOSE PARTICLES BE WILL PICKED UP OFF THAT MINE AND THAT THEY WOULD DRIFT FOR MILES AROUND US AND IT WILL.

THEY ARE OUT OF CONTROL.
THAT IS WHAT SCARES US. THE PART THAT THEY'RE
OUT OF CONTROL.

THIS DECISION TONIGHT COULD ACTUALLY TAKE OUR
CONTROL AWAY FROM THE WAY WE LIVE. BUT YOU HAVE TO
CONTROL AND WE ARE DEPENDING ON IT. WE ARE DEPENDING
ON YOU TO PROTECT US FROM THE THINGS THAT ARE OUT OF
THEIR CONTROL.

I'M GOING TO CLOSE WITH THIS. JUST GIVE YOU A
SCENARIO.

IF THIS HAPPENS, I WILL RENT YOU MY HOUSE,
WELL, I GIVE YOU MY HOUSE TO LIVE IN FOR AS LONG AS
THEY MINE. THE ONLY STIPULATION IS YOU HAVE TO LIVE
THERE DURING THE ENTIRE PROCESS. YOU, YOUR WIFE, YOUR
FAMILY, YOUR CHILDREN, YOUR GRANDCHILDREN, THE PEOPLE
THAT VISIT YOU. YOU CAN HAVE MY HOUSE RENT FREE FOR
AS LONG AS THEY MINE. HERE IS WHAT I KNOW JUST
HAPPENED TO YOU. YOU SAID NO WAY. AS YOUR NEIGHBORS
AND AS THE PEOPLE THAT WE ARE DEPENDING ON TO PROTECT
US, WE'RE ASKING YOU TO GIVE US THE SAME DECISION THAT
WE WOULD GIVE YOU AND WE ASK YOU TO SAY, NO TO THIS
REZONING.

CHAIRMAN: THANK YOU.

MR. WILSON, YOU'VE GOT ANOTHER.

MR. WILSON: YES, SIR, MR. CHAIRMAN. MR. JIM
LUDWICZAK.
CHAIRMAN: IS THIS YOUR CLEAN UP MAN?

MR. WILSON: NO, IT IS NOT.

MR. SILVERT: COULD YOU STATE YOUR NAME, PLEASE.

MR. LUDWICZAK: JAMES LUDWICZAK.

(JAMES LUDWICZAK SWORN BY ATTORNEY.)

MR. LUDWICZAK: I'VE BEEN INVOLVED IN THIS AREA FOR OVER 30 YEARS. I'VE MINED IT WHEN I WAS A COAL MINER. I'VE ALSO BEEN INVOLVED IN THE FIRST ZONING MEETING THAT YOU HAD.

I'M GOING TO BE AS BRIEF AS I CAN. I KNOW WE'VE HERE LONG ENOUGH. I WAS A YOUNG MAN WHEN THIS MEETING STARTED, BUT I'VE AGED A LITTLE BIT SINCE THEN.

WHAT I WANTED TO DO WAS GIVE YOU A LITTLE BACKGROUND ON BLASTING. WHAT IT IS. WHAT IT CONSIST OF. IT'S MY PROFESSION. I DO IT.

I TRAVEL ACROSS THE COUNTRY. MY WORK MAINLY IS DEALING WITH COMPLICATED BLASTING PROBLEMS. HIGH RISK BLASTING YOU MAY CALL IT. EVERYTHING FROM A TUNNEL, A SUBWAY TUNNEL I'M WORKING ON FOR NEW YORK TO BLASTING IN A QUARRY OUT IN CALIFORNIA.

IT'S AN ULTRAHAZARDOUS BUSINESS. IT INVOLVES EXPLOSIVES THAT CAN DISINTEGRATE YOU WHEN YOU'RE WORKING WITH IT. IT'S A HAZARDOUS BUSINESS FOR THE
PEOPLE THAT ARE HANDLING IT. IT IS. IT'S BAD FOR US, 
BUT WE HAVE TO DO IT.

THE OTHER THING IT'S BAD FOR PEOPLE THAT WORK
AROUND IT. IT'S ALSO HAZARDOUS FOR PEOPLE THAT LIVE
NEAR IT. BLASTING IS NOT AN EXACT SCIENCE. IF IT WAS
AN EXACT SCIENCE I WOULDN'T HAVE A JOB. WE WOULDN'T
NEED SEISMOGRAPHS. WE WOULDN'T NEED PREBLAST SURVEYS.
IT IS RISKY. THERE IS A RISK INVOLVED IN THIS.

YEARS AGO WHEN I TESTIFIED AT THE FIRST ZONING
MEETING WITH THIS I FELT IT WAS A HIGH RISK AREA. ONE
OF THE THINGS I DO WITH MY CLIENTS IS LOOK AT THE AREA
THEY WANT TO GO INTO. WHAT IS THE RISK? MEASURE
THAT. NOT THE RISK FOR THE PEOPLE IN THE PIT. WE
ABSORB THAT. WE'RE GOING TO DEAL WITH THAT. BUT WHAT
IS IT GOING TO AFFECT US FOR THE PEOPLE THAT LIVE
AROUND IT? WHAT KIND OF PROBLEMS IS IT GOING TO CAUSE
FOR US OUT THERE?

SOME AREAS WE JUST ABANDON. WE'RE NOT GOING
TO DO IT. IT'S TOO RISKY. THERE'S TOO MANY PROBLEMS
EITHER ENVIRONMENTALLY OR WITH HUMAN BEINGS LIVING
AROUND IT, AND WE'LL JUST ABANDON IT. GO SOMEPLACE
ELSE AND DO THAT.

THE AREA THAT I WORK OUT HERE, AND I WORKED
FOR GREEN YEARS AGO, IT'S THE SAME AREA. WE MINED A
LITTLE NORTH OF THIS, EAST OF THIS, AND SOUTH OF THIS.

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WE HAD A LOT OF PROBLEMS MINING THE AREA. WE HAD FLY ROCK. WE BLEW FLY ROCK ON PEOPLE. WE HAD WATER PROBLEMS. THE PIT WAS FULL OF WATER CONSTANTLY. IN SOME AREAS THERE WAS SO MUCH WATER THAT WE COULDN'T TAKE THE SECOND SEAM OF COAL OUT. IT GOT TO THE POINT WHERE WE JUST ABANDONED IT. WENT FURTHER DOWN INTO THE GREENBRIAR AREA TO GET AWAY FROM THIS AREA.

BLASTING DOES HAVE ADVERSE AFFECTS. THE FIRST ADVERSE AFFECT WE DEAL WITH NORMALLY IS VIBRATION. WHEN THE BLAST GOES OFF, IT SHAKES THE GROUND. IF THAT BLAST IS EXCESSIVE, DEPENDING UPON THE HOUSE AND THE CHARGES, IT CAN CAUSE DAMAGE. THAT'S WHY WE HAVE THE REGULATIONS.

THE THING TO REMEMBER ABOUT THE REGULATIONS AGAIN IT'S NOT EXACT SCIENCE, THE REGULATION OR THE GUIDELINES. IT DOESN'T MEAN THAT IF YOU FOLLOW THE REGULATIONS THAT YOU'RE NOT GOING TO CAUSE DAMAGE. I'VE SEEN IT. IT'S HAPPENED IN THE PAST AND I'M SURE IT'S GOING TO HAPPEN IN THE FUTURE.

GROUND VIBRATION IS SOMETHING THAT IS ALWAYS GOING TO BE PRESENT WHEN WE BLAST. WE TRY OUR DARNEDEST TO KEEP IT AS LOW AS WE CAN, BUT WE HAVE TO DEAL WITH THE ENVIRONMENT. NAMELY THE GEOLOGY. THE GEOLOGY AFFECTS HOW THAT BLAST IS GOING TO PERFORM AND WHAT TYPE OF AFFECT IT'S GOING TO SET OUT.
THE NEXT AREA WE DEAL WITH ADVERSE AFFECTS IS AIR BLAST OR NOISE. NORMALLY THAT IS NOT DAMAGING. THE QUESTION WAS ASKED EARLIER ABOUT THE PROBLEM WITH HEARING. WE HAVE A STANDARD IN THE STATE THAT IS I BELIEVE IT'S 130 DECIBELS. NOW, THAT STUDY TO DETERMINE THAT WAS DONE FOR DAMAGE. IT HAD NOTHING TO DO WITH HUMAN HEARING. IT WAS SIMPLY A FACT THAT IF YOU GET IT ABOVE 130 DB'S YOU HAVE A GOOD CHANCE OF BREAKING WINDOWS. NORMALLY THE AIR BLAST IS MORE IRRITATING THAN IT IS ANYTHING ELSE.

THE NEXT AREA WE HAVE OF ADVERSE AFFECTS IS THE WORSE THAT WE CAN POSSIBLY HAVE IS FLY ROCK. I'VE WORKED, IN MY 40 YEARS IN THIS BUSINESS I'VE WORKED ON HUNDREDS AND HUNDREDS OF FLY ROCK CASES. IF YOU'RE LUCKY AND YOU HAVE FLY ROCK ALL IT HAS DONE IS CAUSED DAMAGE. IF NOT, YOU CAN KILL PEOPLE. I'VE INVESTIGATED MANY ACCIDENTS NORMALLY ON THE MINE SITE ITSELF WHERE FLY ROCK IS A KILLER. IT CAN MANE YOU. I'VE GOT KIT BY FLY ROCK. IT KNOCKED ME OFF MY FEET. IT WAS MY OWN BLAST DESIGN. I DID THE BEST I COULD, BUT IT STILL OCCURRED. FLY ROCK IS DEADLY, AND NOT ALWAYS PREDICTABLE. YOU CAN HAVE SOMETHING IN THE GEOLOGY. THE WET CONDITIONS OR SOMETHING ELSE THAT MAKES IT A PROBLEM THAT IS GOING TO PUT OUT WHAT WE CALL UNEXPECTED FLY ROCK.
CHAIRMAN: MR. LUDWICZAK, I KNOW OF YOUR
BACKGROUND. I KNOW WHAT YOU'VE DONE AND CASES THAT
YOU'VE DONE. YOUR KNOWLEDGE IS TOO GOOD TO LET
CERTAIN QUESTIONS NOT BE ANSWERED BY YOU.

FLY ROCK, IS THERE FLY ROCK ON THIS SITE?

WILL THERE BE FLY ROCK ON THIS SITE?

MR. LUDWICZAK: WILL THERE BE?

CHAIRMAN: YES, SIR.

MR. LUDWICZAK: IT'S ONE OF THE ADVERSE
AFFECTS THAT WE HAVE. SO YOU CAN EXPECT IT. IT ALL
DEPENDS ON HOW FAR IT'S GOING TO GO. IS IT GOING TO
BE CONTAINED IN THE PIT OR IS IT GOING TO LEAVE THE
PERMITTED AREA?

CHAIRMAN: ARE YOU FAMILIAR WITH THE SITE?

MR. LUDWICZAK: I BLASTED THAT SITE. I
BLASTED ALL AROUND IT.

CHAIRMAN: SO YOU'RE FAMILIAR WITH THE SITE?

MR. LUDWICZAK: YES. WE HAD FLY ROCK
PROBLEMS.

CHAIRMAN: IN YOUR PROFESSIONAL OPINION, IN
ALL THE YEARS YOU'VE DONE AND DANGEROUS THINGS THAT
YOU'VE DONE, IS THIS SITE SOMETHING THAT YOU COULD
BLAST SAFELY?

MR. LUDWICZAK: IT WOULD BE HIGH MAINTENANCE.

IT WOULD BE HIGH MAINTENANCE. I ALWAYS GO IN THINKING
I CAN GO IN THERE AND BLAST IT SAFELY, BUT THE PROBLEM
IS ONCE YOU DRILL THAT HOLE IN YOU DON'T KNOW WHAT'S
IN THERE. IF YOU PUT JUST THE SAME AMOUNT OF
EXPLOSIVES THAT YOU DID ON ONE SHOT, NO PROBLEM. THE
NEXT SHOT YOU COULD ORDER IT IDENTICALLY AND YOU WOULD
FLY ROCK IT. YOU CAN'T PREDICT IT, UNLESS SOMEONE
OBVIOUSLY DOES IT ON PURPOSE. YOU HAVE CHANGING
CONDITIONS IN THE GEOLOGY. IF YOU HAVE WATER IN THE
HOLE, THAT'S GOING TO EXASPERATE YOUR BLASTING
PROBLEMS.

IT WOULD SURPRISE ME ON THIS SITE IF THEY
DIDN'T HAVE A FLY ROCK PROBLEM, TO ANSWER YOUR
QUESTIONS AS BEST I COULD. LIKE THEM, I'M SURE
THEY'RE GOING TO WORK LIKE THE DEVIL NOT TO DO THAT.

CHAIRMAN: WHAT ABOUT THE WATER SITUATION?
WATER COMPOUNDS THE PROBLEM.

MR. LUDWICZAK: IT COMPOUNDS A PROBLEM NOT
ONLY IN BLASTING.

CHAIRMAN: I DIDN'T MEAN THAT TO BE A LEADING
QUESTION.

MR. LUDWICZAK: THAT'S ALL RIGHT. LEAD ME AS
ALL YOU WANT.

WATER COMPOUNDS THE PROBLEM AND MAKES IT
DIFFICULT MINING AND IT MAKES IT DIFFICULT FOR
BLASTING.
CHAIRMAN: IS THERE AN EXTENSIVE WATER PROBLEM IN THIS AREA?

MR. LUDWICZAK: THERE WAS WHEN WE MINED IT. AS A MATTER OF FACT, WE GAVE UP IN SOME AREAS MINING THE SECOND SEAM OF COAL BECAUSE THE PIT FILLED UP WITH WATER. AGAIN, THAT WATER HAD TO COME FROM SOMEWHERE.

CHAIRMAN: ARE THERE ANY MORE PRECISE THINGS THAT THIS COMMISSION COULD UNDERSTAND THAT YOU NEED TO BRING TO OUR ATTENTION THAT WOULD NOT BE TECHNICAL? I MEAN YOU CAN SAY CERTAIN THINGS AND WE WON'T BE ABLE TO GRASP IT.

MR. LUDWICZAK: I TALKED ABOUT THE FACT THERE'S ANOTHER ADVERSE AFFECT WITH BLASTING THAT PEOPLE DON'T TALK ABOUT MUCH ARE FUMES. WHEN WE HAVE A BLAST GOES OFF, IT PRODUCE SMOKE AND IT PRODUCES FUMES. IF YOU HAVE A SITUATION WHERE THE HOLE IS WET, THE BLAST HOLE IS WET AND THE EXPLOSIVES, THE AMMONIA NITRATE DOES NOT DETONATE PROPERLY, IT'S GOING TO PRODUCE NITRIC OXIDE. NITRIC OXIDE IS A YELLOW OR ORANGE, DEPENDING HOW SEVERE IT IS, AND IT'S A VERY NOXIOUS AND TOXIC GAS. IT ALSO PRODUCES CARBON MONOXIDE.

NORMALLY THIS BLOWS OFF INTO THE ATMOSPHERE, BUT WHERE IS IT GOING TO BLOW.

WHEN I TRAIN BLASTERS, THE FIRST THING I TELL
ELE, IF YOU SEE ORANGE SMOKE FROM THE SHOCK STAY AWAY FROM IT. DON'T BREATHE IT. GET AWAY. LET IT BLOW OUT OF THE WAY. THAT WOULD BE THE LAST AREA.

CHAIRMAN: HOW CLOSE WOULD YOUR BLASTERS BE TO A SAID BLAST?

MR. LUDWICZAK: TO A WHAT?

CHAIRMAN: HOW CLOSE, YOU SAY WHEN YOU INSTRUCT YOUR BLASTERS WHEN THERE IS A BLAST, IF YOU SEE ORANGE SMOKE STAY AWAY FROM IT. HOW CLOSE ARE THEY TO THE PROXIMITY OF THE ACTUAL CHARGE?

MR. LUDWICZAK: THEY CAN BE ANYWHERE FROM 100 FEET TO 1,000 FEET DEPENDING UPON HOW THE BLAST IS DESIGNED. SOME BLASTS WE DESIGN TO BLOW ROCK AND YOU'RE GOING TO BE PROBABLY 1,000 AWAY OR 500 FEET AWAY. THE BLAST TERMS THE BLAST AREA. A BLAST AREA IS WHERE THE BLASTER EXPECTS FLY ROCK TO TRAVEL. THAT'S WHERE WE GET THEM OUT OF THERE OR WE PUT THEM IN A PROTECTED COVER SO THEY WON'T GET HURT.

CHAIRMAN: THANK YOU. DID YOU PRETTY WELL GET TO THE POINTS THAT YOU WANTED TO GET TO?

MR. LUDWICZAK: YES. THE ONLY THING I SHOULD HAVE SAID, THE CONDITIONS FOR MINING OUT THERE, ANOTHER THING WE FOUND OUT WAS THE COAL WAS NOT WHAT WE EXPECTED IT TO BE. COAL IN THIS AREA HAS A LOT OF SULPHUR IN IT. IT'S ILLINOIS BASIN COAL. USUALLY

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RUNS OVER TWO PERCENT. WE FOUND IN WORKING THAT AREA

THAT WHEN WE TEST DRILLED IT, IT DIDN'T SHOW THAT MUCH

SULFUR, BUT WHEN WE STARTED MINING IT, THE SULFUR WAS

IN BALLS. BASICALLY IN LITTLE AREAS WHERE IT WAS HIGH

SULPHUR AND THEN OTHER AREAS YOU HAVE NONE. AGAIN, IT

MADE IT COMPLICATED AND MADE THE COAL MORE WASHABLE,

YET CLEANER, BUT ESSENTIALLY THAT HE WAS IT.

I CONSIDERED THE AREA 30 YEARS AGO A RISKY

AREA AND I CONSIDER IT EVEN A MORE OF A HIGH RISK AREA

SIMPLY BECAUSE OF ALL THE STRUCTURES BEING AROUND IT.

CHAIRMAN: HOLD ON JUST A MOMENT.

WOULD YOU LIKE TO ASK A QUESTION?

MR. HAYNES: YES. DO I DIRECT THE QUESTIONS

to you?

CHAIRMAN: YES, PLEASE.

MR. HAYNES: MR. LUDWICZAK, ARE YOU FAMILIAR

WITH A PAPER TITLED BLASTING PUBLIC RELATIONS'S EASES

THEIR FEARS?

MR. LUDWICZAK: YES. I WROTE IT.

MR. HAYNES: YOU WROTE IT. WHAT WAS THAT

ABOUT?

MR. LUDWICZAK: IT WAS BASICALLY GETTING WITH

THE PEOPLE THAT ARE GOING TO LIVE AROUND IT. TALK TO

THEM. EXPLAIN TO THEM. SHOW THEM WHAT'S GOING TO GO

ON AND GIVE THEM SOME IDEA OF WHAT'S GOING TO HAPPEN
WHEN THE BLAST GOES OFF.

MR. HAYNES: AND EASE THEIR FEAR --

CHAIRMAN: MR. HAYNES, I DON'T WANT YOU AND

MR. LUDWICZAK TO --

MR. HAYNES: AND LET THEM KNOW THAT IT'S SAFE.

MR. LUDWICZAK: WHAT DID YOU SAY?

MR. HAYNES: AND TO LET THE PEOPLE KNOW IT'S

SAFE. WASN'T THAT PART OF THAT PAPER?

MR. LUDWICZAK: AS SAFE AS WE COULD MAKE IT,

YES.

MR. HAYNES: THAT IT WOULD BE SAFE FOR THEM?

MR. LUDWICZAK: YES.

MR. HAYNES: ISN'T THAT WHAT THAT PAPER SAID?

MR. LUDWICZAK: YES.

MR. HAYNES: ARE YOU FAMILIAR WITH AN ARTICLE

CALLED PROTECTING AND DEFENDING YOUR BLASTING

OPERATION?

MR. LUDWICZAK: YES.

MR. HAYNES: HOW ARE YOU FAMILIAR WITH THAT?

MR. LUDWICZAK: I WROTE IT.

MR. HAYNES: WHAT'S THAT PAPER ABOUT?

MR. LUDWICZAK: IT'S BASICALLY DEALING WITH

PROTECTING AND DEFENDING YOUR BLASTING OPERATION. HOW

to conduct the blasting operation so it's to be good,

SAFE AND DEFENDABLE.
MR. HAYNES: HOW TO HAVE A SAFE BLASTING OPERATION?

MR. LUDWICZAK: YES. I DON'T KNOW WHAT YOUR POINT IS. THAT'S WHAT I DO FOR A LIVING.

MR. HAYNES: DID YOU WORK ON DEVELOPING THESE BLASTING LAWS IN KENTUCKY?

MR. LUDWICZAK: YES, SIR. I WAS THE DIRECTOR OF THE DIVISION.

MR. HAYNES: YOU WERE DIRECTOR. YOU'RE THE ONE THAT DEVELOPED THESE LAWS, REGULATIONS?

MR. LUDWICZAK: NO. THEY WERE DEVELOPED BY THE LEGISLATURE.

MR. HAYNES: YOU TAKE CREDIT FOR THEM IN YOUR RESUME.

MR. LUDWICZAK: WELL, I DID AFTER I WAS HIRED AS A FIRST INSPECTOR.

MR. HAYNES: YOU SAID THAT YOU DEVELOPED THE REGULATIONS IN KENTUCKY TO GOVERN SAFE BLASTING.

MR. LUDWICZAK: I DID. WE CHANGE THOSE REGULATIONS EVERY YEAR.

MR. HAYNES: DID YOU IN 2003 ESTABLISH A BLASTER BLASTING TESTING PROGRAM WHERE YOU DID THE PREBLAST SURVEY AND ESTABLISHMENT OF A SAFE GROUND VIBRATOR LIMIT TO BLASTING CLOSE TO MONITORING WELLS?

MR. LUDWICZAK: I DON'T UNDERSTAND. DID I
MR. HAYNES: IT'S IN YOUR RESUME.

MR. LUDWICZAK: I KNOW. REPEAT IT. I'VE GOT A RESUME THAT'S 16 PAGES LONG.

MR. HAYNES: THAT'S RIGHT. IT'S THE ONLY ONE I'VE EVER SEEN THAT HAS SO --

MR. LUDWICZAK: IT'S SMALL PRINT TOO.

MR. HAYNES: DID YOU DEVELOP A PREBLAST SURVEY AND ESTABLISH A SAFE GROUND VIBRATION LIMIT FOR BLASTING CLOSE TO MONITORING WELLS?

MR. LUDWICZAK: YES.

MR. HAYNES: AND TO HISTORIC COAL FIRED ELECTRIC GENERATING PLANT?

MR. LUDWICZAK: YES.

MR. HAYNES: "IN SEPTEMBER 2000, I PREBLAST SURVEYED, INSPECTED, AND ESTABLISHED" -- I'M GOING TO HAVE TO GET MY GLASSES BECAUSE IT IS SMALL. -- "SAFE GROUND VIBRATION LIMITS, AND ESTABLISHED THE BLASTING PROGRAM FOR BLASTING CLOSE TO FOUR HISTORIC STRUCTURES."

MR. LUDWICZAK: I DO IT ALL THE TIME.

MR. HAYNES: THAT'S RIGHT.

CHAIRMAN: WHAT WERE THE HISTORIC STRUCTURES BY THE WAY?

MR. LUDWICZAK: HISTORIC STRUCTURE IS
ESSENTIALLY A HOUSE THAT IS OVER 60 YEARS OLD AND IS ELIGIBLE TO BE NOMINATED ON THE REGISTER OF HISTORIC PLACES. BASICALLY AN OLD PLASTER AND LAT BUILDING OR AN OLD BUILDING. WE GET BUILDINGS THAT ARE 60 TO A COUPLE OF HUNDRED YEARS OLD.

THE BLASTING STANDARDS, THE PURPOSE OF THAT, WHICH HE DOESN'T UNDERSTAND, IS THE STANDARDS THAT WE HAVE NOW DO NOT APPLY TO OLDER HISTORIC STRUCTURES. THE STUDIES THAT WERE DONE WERE DONE TO PROTECT MODERN HOUSES OF MODERN STRUCTURAL SITE THAT WERE LATER BUILT --

CHAIRMAN: YOU SAY THE OLDER HOUSES ARE MORE SUSCEPTIBLE TO MORE VIBRATION?

MR. LUDWICZAK: CORRECT. BASICALLY WHAT YOU'VE GOT TO DO WITH HISTORIC HOUSES, YOU'VE GOT THE PREBLAST SURVEY AND THEM AND SELECT THE LEVEL THAT IS SAFE FOR THAT PARTICULAR STRUCTURE.

MR. HAYNES: SO YOU'RE NOT SAYING THAT BLASTING CAN'T BE DONE SAFELY?

MR. LUDWICZAK: I'VE NEVER SAID THAT.

MR. HAYNES: ARE YOU SAYING IT CAN BE DONE SAFELY AT THIS PROPERTY?

MR. LUDWICZAK: NO, I'M NOT.

MR. HAYNES: YOU TALKED ABOUT A WATER PROBLEM. WAS THAT DOWN IN THE BOTTOMS?
MR. LUDWICZAK: OBVIOUSLY.

MR. HAYNES: DO YOU KNOW IF WE'RE GOING TO MINE THE BOTTOM?

MR. LUDWICZAK: I DON'T KNOW. I ASSUME YOU'RE TAKING OUT THE SECOND SEAM.

MR. HAYNES: BUT DO YOU KNOW IF WE'RE GOING TO MINE THE BOTTOM?

MR. LUDWICZAK: WHAT DO YOU MEAN BY THE BOTTOM?

MR. HAYNES: WHERE YOU HAD THE WATER PROBLEM.

MR. LUDWICZAK: YOU SAID THE BOTTOM. I DON'T KNOW WHAT YOU'RE TALKING ABOUT, "THE BOTTOM." WHERE IS THIS BOTTOM?

MR. HAYNES: I ASKED YOU IF THE WATER PROBLEM HAD DEVELOPED IN THE BOTTOM AND YOU SAID, YES.

CHAIRMAN: LET ME HELP YOU HERE. I THINK YOUR QUESTION HAS TO DO WITH DO YOU KNOW OR DO YOU THINK THAT THEIR COMPANY IS GOING TO BLAST DOWN IN THE BOTTOMS. IS THAT CORRECT?

MR. HAYNES: YES.

MR. LUDWICZAK: I UNDERSTAND THEY'RE TAKING OUT TWO SEAMS OF COAL. TO ME THE BOTTOM IS THE SECOND SEAM OF COAL.

MR. HAYNES: THAT WATER DEVELOP WITH THE SECOND SEAM OF COAL?
CHAIRMAN: I DON'T UNDERSTAND WHERE THE BOTTOMS ARE.

MR. HAYNES: I DON'T EITHER.

CHAIRMAN: THIS IS THE BIG QUESTION.

MR. LANHAM.

MR. LANHAM: I'M VERY FAMILIAR WITH THAT AREA OUT THERE. I'VE MINED OUT THERE. I HAD THE LUXURY OF FINISHING A JOB THAT A COMPANY STARTED. I ALSO WENT OUT THERE AND OPENED UP A JOB IN THAT AREA.

CHAIRMAN: YOU'RE TALKING ABOUT THIS CURRENT?

MR. LANHAM: THIS SAME AREA.

CHAIRMAN: OKAY. THANK YOU.

MR. LANHAM: THE SAME AREA. WE HAD NO WATER PROBLEMS AT ALL. MOST OF THE TIME IF YOU'VE GOT A WATER PROBLEM, YOU AIN'T GOT ENOUGH WATER PUMPS. WE'VE GOT PLENTY OF THEM. THE WATER GIVE US ANY PROBLEM. I HAVE BEEN OUT IN THAT AREA.

WHAT YOU'RE TALKING ABOUT, NORMALLY SPEAKING THE DEEPER YOU GO YOU DO HAVE MORE WATER PROBLEMS.

MR. LUDWICZAK: THANK YOU.

CHAIRMAN: ARE YOU ALL GOING TO BE MINING OR BLASTING IN THE BOTTOMS OR THE LOWER AREA?

MR. LANHAM: WE'LL BE BLASTING NOT IN THE BOTTOM. THE COAL DON'T RUN -- I THINK WHAT THEY'RE TALKING BOTTOM IS THE BOTTOM OF THE BERM. MOST OF
THIS COAL LAYS IN THE UPPER LEVELS OF THE HILLS.

CHAIRMAN: SO, IN OTHER WORDS, YOU'RE SAYING WATER IS GOING TO GO DOWN?

MR. LANHAM: RIGHT. WE'LL BE MINING SOME OF THE VALLEYS. WHAT THEY'RE TALKING ABOUT IS THE WATER. JIM IS TALKING ABOUT THE WATER BEING DOWN LOWER, AND THAT IS TRUE. THE LOWER YOU GO THE MORE WATER YOU GET. I'M FAMILIAR WITH THE AREA. I DON'T THINK WE'LL HAVE THAT PROBLEM OUT THERE.

MR. LUDWICZAK: I'M SAYING WE HAD IT. WHEN I MINED OUT THERE WE DID. TONY MAY BE CORRECT. THAT'S FINE. YOU MAY NOT FIND ANY WATER OUT THERE, BUT I WOULD EXPECT WATER TO BE FOUND OUT THERE.

CHAIRMAN: ARE YOU SAYING, MR. LUDWICZAK, THAT BLASTING UNDER THE PROPER CIRCUMSTANCES COULD HAPPEN OUT THERE CORRECTLY AND THERE WOULD NOT BE IT, IT COULD BE SAFELY DONE?

MR. LUDWICZAK: YES, IT WOULD BE HIGH MAINTENANCE. ON THE CONVERSE, IT WOULDN'T ME IF THERE WERE PROBLEM WITH IT. IF THERE WERE PROBLEMS.

CHAIRMAN: WOULD THAT BE TRUE OF ANY SITE?

MR. LUDWICZAK: YES.

CHAIRMAN: SO, IN OTHER WORDS, ANY SITE, IF WE WOULD GO OUT IN THE MIDDLE OF MARS AND BLAST, THAT THERE COULD BE BLASTING PROBLEMS?
MR. LUDWICZAK: IF I WERE ON MARS, I'D BLOW IT UP AND BLOW HALF OF MARS APART.

THE POINT I'M MAKE IS WE HAVE A LOT OF HOUSES AROUND IT. THOSE ARE THE THINGS THAT CONCERN ME. THAT'S WHY I'M SAYING THAT.

IF YOU'RE OUT IN THE MIDDLE OF NOWHERE, YOU CAN DO WHATEVER YOU WANT. YOU DON'T HAVE THAT LUXURY WHEN YOU HAVE A COUPLE OF HUNDRED HOMES SITTING AROUND IT.

CHAIRMAN: HIS QUESTION, AND I THINK THE QUESTION IS, COULD IT BE DONE SAFELY?

MR. LUDWICZAK: YES. I BLAST WITHIN A COUPLE OF HUNDRED FEET OF HOUSES AND 10 OR 15 FEET OF PIPELINE. YOU'VE GOT TO BE VERY, VERY, VERY CAREFUL.

THE THING IS A LOT OF THOSE JOBS, WHICH WAS MENTIONED EARLIER LIKE CONSTRUCTION, THEY'RE SHORT. THEY'RE NOT THERE FOR 10 YEARS. THEY'RE NOT THERE FOR 15 YEARS. THEY'RE THERE FOR A COUPLE OF MONTHS OR SO AND THEY'RE GONE. YOU CAN CONTROL THOSE A LOT BETTER.

WHAT I'M SAYING IS DIFFICULT IS THE RISK IS ALL HOUSES AROUND.

MR. LANHAM: WE'VE BLASTED OUT THERE AS WELL, IN THE SAME AREA, AND WE DIDN'T HAVE ANY PROBLEM. WE BLAST AROUND HOUSES I'LL SAY VINSCO. YOU COME UP THERE WHERE WE'RE MINING AND WE'RE BLASTING AROUND
HOMES EVERY DAY. THIS IS NOTHING NEW TO US.

CHAIRMAN: THANK YOU MR. LANHAM.

MR. LUDWICZAK, WE'LL LET YOU CONTINUE.

MR. LUDWICZAK: THAT'S IT. I'M DONE.

CHAIRMAN: I HAD SOME QUESTIONS ABOUT YOUR EXPERTISE.

MR. LUDWICZAK: I'M DONE. THAT'S IT. ANY OTHER QUESTIONS?

MR. HAYNES: NO.

CHAIRMAN: THANK YOU, MR. LUDWICZAK.

MR. WILSON.

MR. WILSON: I'M GOING TO CALL DR. DAVID EGGERS TO THE STAND, PLEASE. HE'S A RESIDENT ALSO OF GIRL SCOUT ROAD.

MR. SILVERT: STATE YOUR NAME, PLEASE.

DR. EGGERS: DAVID MICHAEL EGGERS, M.D.

(DR. DAVID EGGERS SWORN BY ATTORNEY.)

DR. EGGERS: FOR YOUR BENEFIT I'M GOING TO REDUCE MY STATEMENTS TO A BARE MINIMUM NOW. REALLY MUCH OF IT HAS BEEN SAID THAT I HAD INTENDED TO BRING TO YOUR ATTENTION.

I CAME OUT TO PLEASANT RIDGE 22 YEARS AGO. FELL IN LOVE WITH THAT AREA. WE BOUGHT LAND THERE. MY WIFE REBECCA AND I HAVE RAISED FOUR CHILDREN THERE. FRANKLY, MY LOVE FOR THIS LAND IS PROBABLY ONE OF THE
MAIN REASONS THAT WE STAYED IN OWENSBORO, AND I CARRY
OUT MY NEUROSURGICAL PRACTICE HERE.

AS YOU MIGHT EXPECT NEUROSURGERY INVOLVES A
GREAT DEAL OF STRESS. WHEN I GET HOME I CAN UNWIND TO
PEACE AND QUIET. COLLECT MY NERVES AND THEN GET BACK
INTO ACTION AT MY BEST POTENTIAL.

ONE OF MY CONCERNS IS DISRUPTION WITH 24/7
NOISE, CATS, BEEPING, BLASTING AND LARGE TRUCK
MOVEMENTS. I'M CERTAIN MY SLEEP IS GOING TO BE
DISRUPTED. I'M QUITE CERTAIN THIS IS GOING TO HAVE AN
IMPACT ON MY CAREER.

NO ONE IS GOING TO BUY MY LAND WITH A COAL
MINE NEXT TO IT. NOT THAT TYPE OF LAND. NOT MY KIND
OF HOUSE. SO EITHER I VACATE OR CHANGE CAREERS.

IN '93 PYRAMID MINING APPLIED TO REZONE IN
THIS AREA AND PLANNED TO MINE THE SAME AREA AS WESTERN
KENTUCKY MINING HAS SUBMITTED. I WAS INVOLVED WITH
THE RESISTANCE THEN. PYRAMID WAS A FIRST RATE OUTFIT
JUST LIKE WESTERN KENTUCKY MINE IS. THEIR LEADERSHIP
WAS ALSO VERY COMPETENT INTELLIGENT AND RESPECTED AS
MR. LANHAM IS, BUT THE ULTIMATE DECISION AT THAT TIME
WAS NOT ABOUT WHETHER WE WERE DEALING WITH A GREAT
COMPANY OR HOW ADVANCE MINING TECHNOLOGY HAS BECOME,
BUT WHETHER IT WAS APPROPRIATE TO BE MINING IN THAT
AREA. IN SUCH A POPULUS AREA WITH AN EXTRAORDINARY
GIRL SCOUT CAMP.

THERE WERE SAFETY CONCERNS FOR THE 4,000 PLUS GIRLS AND MANY OTHERS THAT TRAVEL THROUGH THE CAMP, NOT TO MENTION ALL THE RESIDENTS AROUND THE AREA. NO ONE ON THE ZONING BOARD WANTED THAT RESPONSIBILITY OVER THEIR HEADS.

I WOULD LIKE TO READ JUST THE FINAL STATEMENT FROM THAT ZONING BOARD HEARING IN '93. I WILL BE QUOTING MS. MURRAY ADDRESSING THE CHAIRMAN.

"I'M GOING TO MAKE A MOTION AND IT IS GOING TO BE TO DENY THIS PROPOSAL BECAUSE OF SEVERAL FINDINGS OF FACT THAT HAVE COME OUT HERE IN OUR DISCUSSION.

"THE FIRST ONE BEING THAT THE COMPREHENSIVE PLAN IS IN ERROR IN THIS AREA BECAUSE IT DOES NOT PROVIDE ADEQUATE PROTECTION TO THE PROPERTY OWNERS OUT THERE.

"SECONDLY, BECAUSE OF THE LARGE NUMBER OF HOMES IN THE AREA AND THE DENSITY POPULATION.

"THIRDLY, BECAUSE POTENTIAL DAMAGE TO THE LARGE NUMBER OF CHILDREN WHO WERE IN THE AREA DUE TO THE EXISTENCE OF THE GIRL SCOUT CAMP.

"FINALLY, DUE TO THE POTENTIAL DAMAGE TO WELLS, LAKES AND AQUIFERS IN THE AREA."

AT THAT POINT THERE WAS A UNANIMOUS VOTE BY YOUR PREDECESSORS TO DENY THE MINING FOR THESE

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REASONS.

THE PEOPLE OF PLEASANT RIDGE TOOK THIS TO HEART AND TRUSTED THIS COUNSEL'S RECOMMENDATION. WE ALL ACTED UPON IT. PEOPLE MOVED OUT. BOUGHT HOMES. DEVELOPED THEIR HOMESTEADS. GREW FAMILIES.

I ENCOURAGE MY FRIEND, DR. HUXLE, TO MOVE TWO DOORS DOWN FROM ME. START HIS HORSE FARM. I SAID, THE ZONING BOARD SAID IT'S OKAY. IT WILL BE SAFE. YOUR FARM WILL BE SECURE.

THE ONLY THING DIFFERENT NOW IS THAT THERE'S A LOT MORE RESIDENTS. THE GIRL SCOUT CAMP IS A LOT MORE DEVELOPED THAN IT WAS IN '93.

I NOW HUMBLY SUBMIT TO THE BOARD THAT IN 2012 THE MEMBERS WILL UPHOLD THE CONVICTIONS OF YOUR PREDECESSORS. THANK YOU FOR YOUR ATTENTION. I'D LIKE TO INTRODUCE MY WIFE, REBECCA. COULD SHE SPEAK?

CHAIRMAN: YES.

MR. SILVERT: STATE YOUR NAME, PLEASE.

MRS. EGGERS: REBECCA EGGERS.

(REBECCA EGGERS SWORN BY ATTORNEY.)

MRS. EGGERS: I THINK THE BEST THINGS WE'VE HEARD TONIGHT WAS FROM THE YOUNG GIRLS THAT ARE HOPEFULLY IN BED SNOOZING AWAY. THEY WERE FABULOUS. THEY WERE REALLY GREAT.

THE ONLY THING I WANT TO SAY IS THESE YOUNG
WOMEN, AND THEY ARE WOMEN, THAT TRAVELED FROM
LOUISVILLE AND LEXINGTON THAT ARE FORMER GIRL SCOUTS
AND WORK FOR GIRL SCOUTS OF AMERICA, WE DIDN'T SOLICIT
THEM. THEY CAME ON THEIR OWN. THEY FOUND THIS OUT
THROUGH A WEBSITE ABOUT WHAT WAS BEING PROPOSED.

I THINK THEIR ELOQUENT STATEMENTS FROM THE
VERY FIRST TIME OF WHAT THEY SAID, AND I WAS PERUSING
THIS PETITION WHICH AS OF 3:30 TODAY HAD 784
SIGNATURES ON IT FROM EVERY CONTINENT EXCEPT, GUESS
WHICH ONE, ANTARCTICA OPPOSING STRIP MINING NEAR THE
PENNYRILE GIRL SCOUT CAMP. THANK YOU.

CHAIRMAN: MR. WILSON, IS THAT?
MR. WILSON: MR. CHAIRMAN, THAT WILL BE THE
LAST WITNESS I HAVE TO CALL. I WOULD LIKE TO READ
SOMETHING INTO THE RECORD, IF I COULD.

FROM THE TRANSCRIPT THAT IS IN THE RECORD NOW
THAT I PRESENTED FROM '86. I'M NOT GOING TO READ 47
PAGES OF WHAT I SUBMITTED, BUT I WOULD TO LIKE A
COUPLE OF PERTINENT THINGS OUT OF THOSE PAGE, IF
THAT'S OKAY.

CHAIRMAN: ABSOLUTELY.
MR. WILSON: IN '86 THE QUESTION WAS POSED TO
MR. BILL KURTZ WHO WAS TESTIFYING AT THAT TIME. THE
QUESTION WAS, AND I QUOTE, "WHAT WILL BE THE AFFECT
UPON THESE PROPERTY VALUES IF MINING IS PERMITTED IN

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THE IMMEDIATE AREA AS HAS BEEN TESTIFIED HERE TODAY?"

MR. KURTZ'S ANSWER WAS, "WELL, IF THE MINING, I THINK IT'S THE IMAGINE OF THE PROPERTY AND THE STYLE OF LIFE AND THE QUALITIES OF LIVING THERE WILL BE CHANGED BECAUSE OF MINING. I THINK THAT WHENEVER YOU START TO DESCRIBE THE PROPERTY, SAY YOU WANTED TO PUT IT ON THE MARKET AND SAY IT'S OUT ON GIRL SCOUT ROAD ACROSS FROM THE MINING THAT'S GOING ON OUT THERE, I THINK THAT IT COULD BE QUITE DETERIMENTAL TO THE VALUE OF THE PROPERTY OR TO THE SELL OF THE PROPERTY OR THE VALUE OF THE PROPERTY."

QUESTION TO KURTZ, "WILL PROPERTY VALUES IN YOUR OPINION OF THOSE HOMES, ESPECIALLY ON GIRL SCOUT ROAD, WILL THOSE FALL SHARPLY?"

MR. KURTZ'S ANSWER IS, "I WOULD SAY THAT THEY WOULD."

HE WENT ON TO TALK ABOUT OTHER SPECIFIC MATTERS.

THEN ON PAGE 10,032 MR. STEVE CASTLEN WAS ASKED A QUESTION, "WHAT WILL BE THE AFFECT ON PROPERTY VALUES IN THE AREA NEAR THE REZONE PROPERTY OF ANY COAL MINING OPERATION SHOULD THEY BE PERMITTED BY THIS COMMISSION HERE TODAY?"

MR. CASTLEN ANSWERED, "WELL, YOU'RE TALKING ABOUT THESE PARTICULAR THREE HOMES." HE WAS REFERRING
TO THE HOMES ON GIRL SCOUT ROAD. "IT ALSO AFFECTS THE 
OTHER HOMES THAT WE'VE GOT OUTLINED IN THAT AREA, BUT 
WE ARE TALKING MAINLY ABOUT THE THREE HOMES THAT ARE 
IN THE IMMEDIATE AREA. THE PURCHASER FOR THIS TYPE OF 
PROPERTY, THEY'RE LOOKING FOR JUST ANY TYPE OF 
IMPERFECTION AT ALL IN ORDER FOR THEM NOT TO BUY THE 
PROPERTY. SO WHEN THEY'RE LOOKING, THEY'RE LOOKING 
FOR A PACKAGE DEAL. SO WITH THE BLASTING OR WITH JUST 
THE FACT THAT THE COAL MINE COULD BE COMING INTO THE 
AREA, EVEN BEFORE ANYTHING COULD HAPPEN SUCH AS ROCKS 
OR BLASTING OR TRAFFIC, THEY WOULD NOT BUY THIS TYPE 
OF PROPERTY. YOU WOULD HAVE ANOTHER TYPE BUYER FOR 
THIS TYPE OF PROPERTY, BUT IT WOULD BE AT A FAR LESS 
FIGURE."

NEXT QUESTION TO MR. CASTLEN, "APPROXIMATELY 
HOW MUCH WILL PROPERTY VALUES FALL?"

MR. CASTLEN ANSWERED, "I HAVE DONE A LITTLE 
BIT OF THINKING ON THIS ONE AND I WOULD SAY IT WOULD 
BE ANYWHERE FROM 30 TO 50 PERCENT ON THIS TYPE OF A 
HOME. A HOME OF A LITTLE BIT LESSER PRICE MIGHT NOT 
BE AFFECTED AS MUCH. MAYBE 25 TO 30 PERCENT."

THAT CONCLUDES THE CASE FOR THE OPPONENTS, MR. 
CHAIRMAN. I WOULD ASSUME YOU HAVE CLOSING.

CHAIRMAN: THANK YOU.

MR. HAYNES: WHAT HE WAS READING FROM WAS 25
YEARS AGO. I THINK IF MR. KURTZ AND MR. CASTLEN HELD
A SIMILAR VIEW NOW, HE WOULD HAVE BROUGHT THEM IN
HERE.

CHAIRMAN: EVERYBODY HAS HAD A CHANCE TO
SPEAK. I APPRECIATE IT.

MR. WILSON: MAY I RESPOND?

CHAIRMAN: YES, SIR.

MR. WILSON: I WAS READING FROM THE '86
TESTIMONY WHICH WAS READ TO THIS COMMISSION AT THE '93
HEARING. THOSE IDENTICAL QUESTIONS AND ANSWERS WERE
READ INTO THE RECORD IN '93. THEY APPEARED IN '86.
ASSUMING THINGS WERE DONE THEIR TESTIMONY HAS BEEN
READ AT THE LAST TWO HEARING NOW.

CHAIRMAN: THANK YOU.

I WANT TO THANK EVERYBODY FOR YOUR PATIENCE.
THANK YOU FOR YOUR ATTENTION AND FOR YOUR RESPECT
REGARDING EACH SIDE WHEN THEY PRESENT THEIR CASE AND
HEARING THEM OUT. I REALLY APPRECIATE THAT. IT LET
THE MEETING GO VERY SMOOTHLY FOR US.

WITH THAT BEING SAID I THINK THE CHAIR IS
READY FOR A MOTION.

IS THERE ANY FURTHER DISCUSSION AMONGST THE
COMMISSION?

MR. KAZLAUSKAS: MR. CHAIRMAN, CAN I ASK A
LEGAL QUESTION?
CHAIRMAN: I WOULD THINK YOU WOULD ASK THAT OF MADISON, YES.

MR. KAZLAUSKAS: DOES THIS HAVE TO BE VOTED ON OR CAN THIS DIE FOR LACK OF A MOTION OR IS THIS REQUIRED TO BE VOTED UP OR DOWN?

CHAIRMAN: MR. SILVERT.

MR. SILVERT: WE HAVE TO PASS A RECOMMENDATION THAT EITHER BECOMES -- WE WOULD NEED TO PROVIDE SOMETHING THAT'S A DUAL AND DYING FOR A LACK OF A MOTION. IN MY OPINION, PROBABLY NOT SOMETHING THAT THIS BOARD NEEDS TO CONSIDER BECAUSE USING OUR ALTERNATIVE ZONING REGULATION THAT WE HAVE AT THIS POINT, THERE'S NOTHING TO BECOME FINAL OR TO APPEAL OTHERWISE TO THE FISCAL COURT.

MR. HAYNES MAY HAVE ANOTHER OPINION TO THAT.

MR. HAYNES: I JUST ASK, CAN THE MOTION COME FROM THE FLOOR?

MR. SILVERT: NO. MOTIONS ARE MADE BY US.

MR. HAYNES: IF COULD I WOULD MAKE A MOTION FOR APPROVAL.

MR. SILVERT: I WOULD GUESS MR. WILSON WOULD MAKE THE OPPOSITE MOTION IN THAT CASE.

IT MAKES IT DIFFICULT GIVEN OUR ALTERNATIVE ZONING AMENDMENT, HOW WE WOULD HANDLE AN APPEAL TO A LEGISLATIVE BODY IN THAT SITUATION.
MR. KAZLAUSKAS: SO TO MORE FORWARD WE WOULD NEED A MOTION EITHER TO VOTE IT UP OR VOTE IT DOWN.

MR. SILVERT: THAT IS CORRECT.

MR. KAZLAUSKAS: I DON'T HAVE A NEW LISTING OF FINDINGS OF FACT, BUT I'LL MAKE A MOTION THAT THE APPLICATION BE DENIED.

MR. SILVERT: WE DO NEED TO HAVE FINDINGS OF FACT SO THAT AN APPEALING BODY CAN DETERMINE THE FINDINGS THAT YOU MADE TO SUPPORT YOUR MOTION.

MR. KAZLAUSKAS: BASED ON THE TESTIMONY THAT I'VE HEARD TONIGHT THAT HAD TO DO WITH QUALITY OF LIFE ISSUES. THAT HAD TO DO WITH BLASTING, NUMBER ONE. THAT HAD TO DO WITH THE COAL DUST IN THE AIR THAT I SPECIFICALLY HAVE QUESTIONS ABOUT. THE QUESTIONS OF NOISE THAT CAN TRAVEL GREAT DISTANCES. THAT'S ONE FINDING OF FACT THAT I HAVE.

THE SECOND THING IS THE TRAFFIC PROBLEM. I'M REALLY NOT CONCERNED ABOUT -- I REALLY AM CONCERNED ABOUT THE NUMBER OF COAL TRUCKS IN THAT AREA TRAVELING UP AND DOWN 231.

TO BE QUITE HONEST WITH YOU, I'M NOT SURE ABOUT THE COMPREHENSIVE PLAN, BUT THAT MIGHT COME INTO QUESTION ALSO.

CHAIRMAN: MR. KAZLAUSKAS, YOU NEED TO EITHER LIST THE COMPREHENSIVE PLAN OR NOT LIST IT, AS FAR AS
YOUR FINDINGS OF FACT.

MR. KAZLAUSKAS: I'M NOT GOING TO LIST IT THEN BECAUSE I HAVE A QUESTION.

CHAIRMAN: WOULD YOU SORT OF 1, 2, 3 SO WE CAN HAVE THEM.

MR. SILVERT, ARE YOU OKAY WITH THE 1, 2, 3 FINDING?

MR. SILVERT: YES.

CHAIRMAN: WE'VE GOT A MOTION BY MR. KAZLAUSKAS, AS FAR AS A MOTION FOR DENIAL. DID WE HAVE A SECOND AT THE OTHER END?

MR. STRODE: SECOND.

CHAIRMAN: MR. STRODE HAD A SECOND. ALL IN FAVOR OF DENIAL RAISE YOUR RIGHT HAND.

(BOARD MEMBERS TIM ALLEN, WARD PEDLEY, JOHN KAZLAUSKAS, JASON STRODE AND FATHER LARRY HOSTETTER RESPONDED AYE.)

CHAIRMAN: ALL AGAINST IT.

(BOARD MEMBERS IRVIN ROGERS, DAVE APPLEBY, DREW KIRKLAND, WALLY TAYLOR AND FRED REEVES RESPONDED NAY.)

CHAIRMAN: THE MOTION IS DENIED FIVE TO FOUR.

WE HAVE ONE FINAL MOTION THE CHAIR WILL ENTERTAIN.

MR. TAYLOR: MOTION TO ADJOURN.
CHAIRMAN: A MOTION FOR ADJOURNMENT. DO WE HAVE A SECOND.

MR. REEVES: SECOND.

CHAIRMAN: SECOND BY MR. REEVES. ALL IN FAVOR RAISE YOUR RIGHT HAND.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: WE ARE ADJOURNED.

- - - (OFF THE RECORD) - - -

CHAIRMAN: PLEASE BE SEATED.

MR. SILVERT: AT THIS POINT IT WAS DISPUTED AS TO WHETHER OR NOT THE COUNT WAS FIVE TO FOUR OR FIVE TO FIVE. AT THIS POINT IF THE CHAIR VOTED, BY COUNT IT WAS FIVE TO FIVE. THE MOTION DOES NOT PASS, MR. CHAIR. IT IS TIED. SO IT WOULD REQUIRE ANOTHER MOTION TO BE MADE AND A VOTE BE MADE ON THAT MOTION. IT CAN BE TO PASS OR AGAINST. THIS NEXT MOTION CAN, BUT THE CHAIR WOULD NEED TO HEAR ANOTHER MOTION BECAUSE NO ACTION HAS BEEN TAKEN.

CHAIRMAN: THE ONLY THING WE CAN DO AT THIS POINT DO YOU WANT TO RESTATE YOUR MOTION.

MR. KAZLAUSKAS: NO. IT WAS A TIE. IT CAN'T GO FORWARD. ISN'T THAT WHAT YOU SAID?

MR. SILVERT: NO. THE MOTION FAILS.

MR. KAZLAUSKAS: THE MOTION FAILS.

YOU WANT ME TO REPEAT THE MOTION AGAIN?
MR. SILVERT: IT'S THE CHAIR'S DISCRETION IF
HE WANTS TO TAKE A REVOTE ON THE MOTION.

CHAIRMAN: LET'S TAKE A REVOTE SO WE'LL HAVE
IT OF RECORD. WHEN I GLANCED DOWN I DID NOT -- OKAY.

DOES HE NEED TO RESTATE HIS MOTION?

MR. SILVERT: IS EVERYONE FAMILIAR WITH THE
MOTION AS STATED?

(NO RESPONSE)

MR. SILVERT: IS THERE A SECOND TO THAT
MOTION, MR. CHAIR? IF YOU WANT TO ASK FOR ANOTHER
SECOND.

CHAIRMAN: MR. STRODE HAS A SECOND.

MR. SILVERT: MR. WILSON, DO YOU HAVE A
PROCEDURAL QUESTION? I CAN TELL. I WANT TO GET THAT
ON THE RECORD.

MR. WILSON: YES, I DO. I DON'T UNDERSTAND
WHAT WE VOTED ON. WE JUST VOTED.

MR. SILVERT: AND IT WAS A FIVE TO FIVE VOTE
SO THE MOTION FAILED.

MR. WILSON: THE APPLICATION FAILED.

MR. SILVERT: IT WAS A TIE VOTE. IT WAS A
MOTION TO DENY. THERE HASN'T BEEN A MOTION FOR.

THERE'S BEEN NO ACTION.

MR. WILSON: WHAT HAPPENS TO THE APPLICATION
AT THIS POINT?
MR. SILVERT: IT WOULD NOT MOVE FORWARD. THE CHAIR MISCALLED THE VOTE SO IT'S THE CHAIR'S DISCRETION TO ASK FOR ANOTHER VOTE.

MR. WILSON: IT IS. THE FIVE TO FIVE IS NOT A VALID VOTE?

MR. SILVERT: THERE'S NO ACTION AT THAT POINT.

CHAIRMAN: MR. SILVERT, DO YOU --

MR. WILSON: SO WHERE ARE WE, MR. CHAIRMAN? YOU HAVE TO LISTEN TO YOUR COUNSEL.

MR. SILVERT: MR. WILSON, DO YOU BELIEVE THAT ROBERT'S RULES OF ORDER ARE DIFFERENT IN THAT CASE?

MR. WILSON: I AM NOT QUOTING. I DON'T WANT TO COMMENT ON THAT.

CHAIRMAN: MR. SILVERT --

MR. SILVERT: I WOULD LIKE TO TAKE A MOMENT TO RESEARCH THE ISSUE TO BE QUITE HONEST, MR. CHAIR. THIS IS THE FIRST FOR THIS BODY, FROM WHAT I'VE SEEN.

CHAIRMAN: SHOULD WE JUST REVOTE?

MR. NOFFSINGER: LET'S LOOK AT THE STATUTE.

MR. SILVERT: COULD WE RECESS FOR JUST A MOMENT, MR. CHAIR?

CHAIRMAN: LET RECESS SHORTLY.

-- -- -- (OFF THE RECORD) -- -- --

MR. SILVERT: IT WAS DISCUSSED UP HERE WITH COUNSEL HAYNES AND COUNSEL WILSON. THERE IS A STATUTE
UNDER CHAPTER 100. THE FIRST THING THEY TEACH YOU IN LAW SCHOOL IS IF YOU DON'T KNOW THE ANSWER, READ THE STATUTE. SO HERE WE ARE.

IT STATES, "A TIE VOTE SHALL BE SUBJECT FOR FURTHER CONSIDER BY THE PLANNING COMMISSION FOR A PERIOD NOT TO EXCEED 30 DAYS. AT THE END OF WHICH IF THE TIE HAS NOT BEEN BROKEN, THE APPLICATION SHALL BE FORWARD TO THE FISCAL COURT OR LEGISLATIVE BODY WITHOUT A RECOMMENDATION OF APPROVAL OR DISAPPROVAL."

IN THIS SITUATION, WE HAD A FIVE TO FIVE VOTE. OUR NEXT REGULARLY SCHEDULED MEETING IS IN 28 DAYS. SO IT WOULD BE THE CHAIR'S DISCRETION AS TO WHETHER OR NOT WE WANTED TO CONSIDER THAT TONIGHT, CONSIDER IT AT THE NEXT MEETING. WE HAVE TIME. WE COULD MAKE THAT 30 DAYS.

MR. NOFFSINGER: THAT WOULD BE MARCH 8TH.

MR. SILVERT: BUT AT THAT POINT IT IS FURTHER CONSIDERATION BY THE PLANNING COMMISSION AND LIKELY WOULD NOT ELICIT TO NEW TESTIMONY FOR THAT.

CHAIRMAN: IF WE DO IT TONIGHT, WE WOULD JUST REVOTE AGAIN TONIGHT?

MR. SILVERT: YES.

CHAIRMAN: IF IT COMES BACK A FIVE TO FIVE TIE THEN WOULD WE --

MR. SILVERT: YOU COULD VOTE AGAIN IN 28 DAYS
AND YOU COULD VOTE AGAIN IN 28 MINUTES.

CHAIRMAN: REVOTE? WHAT'S YOUR OPINION, MR. SILVERT?

MR. SILVERT: MY OPINION IS YOU HAVE 30 DAYS IN WHICH TO EITHER BREAK THE TIE OR IT GOES ON TO THE LEGISLATIVE BODY WITHOUT APPROVAL OR DISAPPROVAL FROM THIS BODY.

CHAIRMAN: DISCUSSION AMONGST THE COMMISSION.

MR. KAZLAUSKAS: WE CAN HAVE ANOTHER VOTE TO SEE IF ANYONE WANTS TO CHANGE THEIR MIND ONE WAY OR THE OTHER. THAT WAY WE KNOW AND WE CAN LOOK AT THE FUTURE.

CHAIRMAN: DO I NEED TO RESTATE MR. KAZLAUSKAS'S MOTION AND SECOND OR IS EVERYBODY PRETTY CLEAR WITH THAT?

COMMISSION: WE'RE CLEAR.

CHAIRMAN: MR. KAZLAUSKAS'S PROPOSAL WAS FOR DENIAL. ALL IN FAVOR RAISE YOUR RIGHT HAND.

(BOARD MEMBERS TIM ALLEN, WARD PEDLEY, JOHN KAZLAUSKAS, JASON STRODE AND FATHER LARRY HOSTETTER RESPONDED AYE.)

CHAIRMAN: ALL OPPOSED RAISE YOUR RIGHT HAND.

(BOARD MEMBERS ROGER IRVIN, DAVE APPLEBY, DREW KIRKLAND, WALLY TAYLOR, AND FRED REEVES RESPONDED NAY.)
CHAIRMAN: IT'S A TIE.

I'D SAY WE RECONSIDER IT IN 30 DAYS, UNLESS
YOU WANT TO -- OUR OTHER OPTION WOULD BE TO SEND IT ON
TO THE LEGISLATIVE.

MR. SILVERT: YOU HAVE 30 DAYS WITH WHICH TO
EITHER BREAK THE TIE OR IT DOES GO ON.

CHAIRMAN: WE CAN'T SEND IT ON AS IT IS NOW?

MR. SILVERT: IF YOU DON'T HEAR THE MOTION
AGAIN AND VOTE ON THE MOTION AGAIN, THEN THAT'S WHAT
WOULD HAPPEN.

FATHER HOSTETTER: I HAVE A QUESTION. IF WE
VOTE AGAIN ON ANOTHER DAY, DOES THE COMMISSION HAVE TO
BE COMPOSED OF EXACTLY THESE PEOPLE? AS WE ALL KNOW,
SOMETIMES PEOPLE DON'T MAKE IT TO MEETINGS.

CHAIRMAN: I THINK FOR THE FAIRNESS OF ALL THE
PEOPLE INVOLVED, IF SOMEONE WERE TO BE SICK OR SOMEONE
COULDN'T BE THERE REGARDLESS OF WHICH SIDE OF THE
ISSUE IT WAS ON, I THINK IT COULD BE UNFAIR TO EITHER
PARTY. MY OPINION WOULD BE WE'VE GOT A TIE VOTE. I
THINK IT'S TIME FOR YOU ALL AND THE HOMEOWNERS TO MOVE
WITH THE LEGISLATIVE BODY. BECAUSE AT THIS POINT IN
TIME IF WE HELD IT OVER FOR 30 DAYS, WE WOULD NOT HEAR
ANY FURTHER TESTIMONY AND THE FATE OF WHO ALL SHOWS UP
COULD CHANGE THE BALANCE ONE WAY OR THE OTHER.

MR. KAZLAUSKAS: MR. CHAIRMAN, COULD WE ASK
COUNSEL WHAT VEHICLE DO WE HAVE WITHIN THIS
ORGANIZATION TO TALK WITH EACH OTHER TO MAKE A PERSON
MIGHT CHANGE THEIR VOTE OR IS THAT EVEN LEGAL OR CAN
YOU DO THAT?

MR. APPLEBY: YOU CAN'T HAVE A QUORUM.

MR. SILVERT: YOU CERTAINLY CAN'T HAVE A
QUORUM.

MR. KAZLAUSKAS: THERE ISN'T ONE, IS THERE?

MR. SILVERT: THIS MUCH I CAN TELL YOU. YOU
CANNOT KICK IT UP TO THE LEGISLATIVE BODY TONIGHT.
THE STATUTE REQUIRES THAT YOU HAVE 30 DAYS. AT THE
END OF THOSE 30 DAYS IT GOES TO THE LEGISLATIVE BODY.
SO REGARDLESS OF WHAT HAPPENS TONIGHT THERE IS NO
FURTHER VOTE TONIGHT. WE WILL NOT KNOW UNLESS WE GET
THROUGH THE MEETING ON THE 8TH AND NO ONE BRINGS IT UP
AND THERE'S NO VOTE AT THAT TIME, THEN TWO DAYS LATER
IT WILL KICK UP TO LEGISLATIVE BODY, BUT WE CANNOT SAY
THAT TONIGHT IT IS GOING TO GO TO THE LEGISLATIVE
BODY.

FATHER HOSTETTER: SO ARE YOU SAYING THAT ON
THE 8TH SOMEONE COULD ASK FOR THIS TO BE RECONSIDERED
AT THAT MEETING EVEN THOUGH WE MAY NOT HAVE THE SAME
PEOPLE AT THAT MEETING AS IS HERE TONIGHT?

MR. SILVERT: YES. THAT ABSOLUTELY COULD
HAPPEN.
MR. ROGERS: BUT IF IT DIDN'T A GET MOTION, THAT WOULD KILL IT, WOULDN'T IT?

MR. SILVERT: IF NO ONE MADE A MOTION TO HAVE ANOTHER VOTE, THEN IT WOULD FAIL TWO DAYS LATER ACCORDING TO THIS STATUTE.

MR. NOFFSINGER: IT WOULD BE SENT TO THE LEGISLATIVE BODY WITH NO RECOMMENDATION. THE RECORD WOULD GO TO THEM AND THE LEGISLATIVE BODY WOULD HAVE TO TAKE ACTION ON IT. EITHER UP OR DOWN.

MR. ROGERS: WHICH IS WHERE IT'S GOING REGARDLESS?

MR. ALLEN: WE CAN STILL TALK ABOUT IT AND VOTE AGAIN.

MR. REEVES: MR. CHAIRMAN, CAN I ASK A QUESTION. I'VE UNDERSTOOD TWO DIFFERENT ANSWERS. I WANT TO MAKE SURE I'M CORRECT AND I WANT TO MAKE SURE THE RECORD IS FAIR WITH EVERYBODY.

WHEN FATHER LARRY FIRST POSED THE QUESTION, DID ALL TEN PEOPLE HAVE TO BE HERE, I THOUGHT WE KIND OF GOT A HEAD NOD, YES, THEY DID HAVE TO BE HERE. WHEN WE POSED IT THE SECOND TIME, I THOUGHT I HEARD MR. SILVERT SAY, IF THERE WERE ONLY SEVEN HERE, THEN SOMEBODY COULD BRING IT UP SO IT'S A THREE TO FOUR VOTE.

MR. SILVERT: THERE'S A QUESTION OF WHETHER OR
NOT THAT'S LEGALLY APPROPRIATE AND THEN A QUESTION OF
WHETHER OR NOT THIS BOARD AMONGST ITSELF BELIEVES THAT
THAT'S THE WAY THEY SHOULD OPERATE. I THINK THEY'RE
TWO DIFFERENT QUESTIONS.

MR. REEVES: I DON'T WANT THIS TO BE DECIDED
ON THE BASIS OF A LACK OF FAIRNESS. EVERYBODY HAS
HEARD THE EVIDENCE TONIGHT. THE SAME VOTE, DIDN'T ACT
ON THE SAME EVIDENCE, SOMEBODY, YOU KNOW, GOT IN A CAR
WRECK ON THE WAY DOWN HERE, THAT WOULD BE BEYOND THE
SCOPE OF WHAT WE HEARD TONIGHT. WHAT WOULD BE
INFLUENCED BY THAT. THAT'S A CONCERN I HAVE.

CHAIRMAN: MR. SILVERT, IF WE DIDN'T BRING IT
UP, THEN THE ACTION STOOD.

MR. SILVERT: CORRECT.

CHAIRMAN: THEN IT WOULD BE A FIVE/FIVE AND
MOVE ON.

MR. SILVERT: CORRECT.

CHAIRMAN: SO IF IT'S NOT BROUGHT UP, THEN
THIS ACTION STANDS AS A TIE, CORRECT?

MR. SILVERT: IF IT'S ME, NOT SPEAKING
LEGALLY, SPEAKING OUT OF INTEGRITY, IF I WANT TO HAVE
ANOTHER VOTE ON THIS IN 28 DAYS, IT WOULD BE INCUMBENT
UPON ME TO BE THERE.

MR. TAYLOR: MADISON, DOES SOMEBODY FROM UP
HERE HAVE TO BRING THAT UP? CAN IT BE COMING UP FROM

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THE FLOOR?

MR. SILVERT: WE'VE ALWAYS SOLICITED MOTION ONLY FROM THE COMMISSION.

MR. REEVES: DOES IT HAVE TO BE THE AGENDA?

MR. SILVERT: THE COMMISSION COULD --

MR. REEVES: I'M THE NEW GUY BY THE WAY. IT'S MY SECOND MEETING.

MR. SILVERT: MR. REEVES, THIS IS A NEW ISSUE FOR EVERYONE AT THIS TABLE, AND I WOULD VENTURE TO GUESS EVERYONE IN THIS ROOM.

I THINK WE SHOULD PUT IT ON THE AGENDA AS A POTENTIAL ITEM. IT MAY FAIL FOR LACK OF A VOTE. IT MAY FAIL FOR ANOTHER TIE VOTE. IT PROBABLY NEEDS TO BE ON THE AGENDA FOR 28 DAYS FROM NOW. JUST SO THAT IF YOU DO HAVE ACTION THERE IS NOTICE THAT ACTION MAY BE TAKEN ON THIS ITEM. I THINK EVERYONE HERE KNOWS THAT THERE MAY BE ACTION TAKEN ON THIS ITEM. THAT'S WHAT THE STATUTE SAYS. YOU HAVE 30 DAYS TO EITHER BREAK THE TIE VOTE OR IT GOES ON. THAT'S WHERE WE STAND.

MR. ALLEN: BUT WE CAN ALSO CONTINUE TO DISCUSS IT, MAKE ANOTHER MOTION AND VOTE.

MR. SILVERT: THAT'S CORRECT.

CHAIRMAN: BUT IT WOULD ONLY BE DISCUSSION AMONGST THE COMMISSION. THERE WOULD BE NO MORE
MR. ALLEN: I HAVE A QUESTION FOR THE COMMISSIONERS THAT VOTED AGAINST THIS. THIS HAS BEEN VOTED DOWN TWICE PREVIOUSLY. NOW THERE ARE MORE HOMEOWNERS AND ARGUABLY BETTER TECHNOLOGY. WHAT IS IT THAT YOU THINK HAS CHANGED IT FOR YOU SO THAT YOU NOW THINK IT'S APPROPRIATE TO ALLOW IT?

MR. APPLEBY: I'M SPEAKING FOR MYSELF. WE RELY ON OUR STAFF EXTENSIVELY. THE STAFF HAS RECOMMENDED THIS THREE TIMES FOR APPROVAL. I FEEL THE STAFF HAS MADE THE RIGHT RECOMMENDATION.

CHAIRMAN: MR. WILSON, DO YOU HAVE A COMMENT?

MR. WILSON: NOT ON WHAT MR. ALLEN SAID. I WAS JUST GOING TO ASK FOR SOME CLARIFICATION.

IF WE COME BACK ON WHATEVER DATE IT IS IN MARCH, I WOULD JUST LIKE TO KNOW FROM THE CHAIR, FOR THE DIRECTOR, COUNSEL NOW, IS THERE NOT GOING TO BE ANY PRESENTATION OF ANYTHING? NO STATEMENTS, NO NOTHING EXCEPT -- WE NEED TO KNOW HOW TO PREPARE. WE'VE HAD A DIFFICULTY PREPARING FOR THIS HEARING. WE HAD CHANGES YESTERDAY. WE'VE HAD NEW APPLICATIONS, NEW PEOPLE, PROPER PARTIES. WE'VE HAD ALL KINDS OF EVER THINGS. I WOULD LIKE TO GO ON THE RECORD AND KNOW WHAT THE GROUND RULES ARE GOING TO BE NEXT MONTH, IF WE DO COME BACK.
CHAIRMAN: MR. SILVERT.

MR. WILSON: IF THERE'S ANY REASON FOR THESE FOLKS TO EVEN COME. IF ALL YOU'RE GOING TO DO IS VOTE.

MR. SILVERT: I WOULD RECOMMEND THAT THERE NOT BE NEW TESTIMONY, BUT THAT IS NOT MY DECISION.

FATHER HOSTETTER: MR. CHAIRMAN, IS THERE ANYONE THAT ISN'T HERE TONIGHT THAT MIGHT BE HERE?

CHAIRMAN: WE'VE GOT ALL TEN HERE. EVERYBODY IS HERE. IT'S A FULL HOUSE.

FATHER HOSTETTER: I'M CONCERNED ABOUT THIS BECAUSE I'VE GOT A COMMITMENT ON MARCH 8TH. I'M OUT OF TOWN. I WILL FLY BACK TO CAST A VOTE, BUT I HATE TO FLY BACK AND THEN THERE ISN'T A VOTE. BECAUSE I'M GOING TO BE FLYING RIGHT BACK TO WHERE I'M GOING BECAUSE IT'S NOT SOMETHING THAT I CAN BE AWAY FROM. THAT'S WHY I'M ASKING THESE QUESTIONS. YOU KNOW, I THINK THE FIVE/FIVE VOTE, THAT'S KIND OF CRITICAL.

CHAIRMAN: I WOULD SAY WITH THE ITEM BEING ON THE AGENDA, BUT I WOULD SAY THAT THE ITEM BEING THE FIVE/FIVE TIE, AND I WILL NOT SHOW HANDS, BUT I DON'T THINK ONE SIDE OR THE OTHER WOULD TRY TO GAIN AN ADVANTAGE OR DISADVANTAGE WITH YOU NOT BEING HERE.

FATHER HOSTETTER: I DON'T THINK IT'S A MATTER OF GAINING AN ADVANTAGE. IT'S THE MATTER OF HAVING AN
ADVANTAGE.

CHAIRMAN: ABSOLUTELY.

FATHER HOSTETTER: IF THE VOTE WERE CALLED.

CHAIRMAN: CORRECT.

MR. SILVERT.

MR. SILVERT: WHAT IS YOUR QUESTION.

CHAIRMAN: IF FATHER LARRY HAS A COMMITMENT AND IS UNABLE, I MEAN HE SAID HE WOULD BE BACK FOR A VOTE. IF WE DO NOT BRING A MOTION FORWARD, THEN THERE'S NO VOTE AND THERE'S NO ACTION AND THEN IT WILL MOVE ON.

MR. SILVERT: THAT'S CORRECT.

MR. NOFFSINGER: IT WILL BE ON THE AGENDA.

SOMEONE COULD MAKE A MOTION.

MR. APPLEBY: THEY COULD ASK TO ACT ON THE EXISTING MOTION. I DON'T THINK A NEW MOTION --

MR. NOFFSINGER: IF YOU ACTED ON THE EXISTING MOTION, THERE WOULD BE NINE INSTEAD OF TEN HERE. IT WOULD BE A DIFFERENT VOTE. THE ONLY WAY TO AVOID NOT VOTING IS NOT TO HAVE A MOTION.

CHAIRMAN: I THINK WE'RE AT A POINT NOW WHERE THE ONLY THING WE'VE GOT LEFT TO DO IS ADJOURN. WE HAVE NOTHING ELSE TO DISCUSS UNLESS SOMEBODY ELSE ON COMMISSION HAS AN IDEA.

HERE WILL BE THE FORMAT FOR THE NEXT MEETING:

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THE ITEM WILL BE ON THE AGENDA. THERE WILL BE NO FURTHER TESTIMONY. IF SOMEONE FROM THE COMMISSION DOES NOT BRING UP THE VOTE, THEN THERE WILL BE NO VOTE TAKEN. IF NO VOTE IS TAKEN, IT WILL BE PASSED ON TO THE LEGISLATIVE BODY AS A TIE.

YES, MA'AM.

AUDIENCE MEMBER: WHO IS THE LEGISLATIVE BODY?

MR. NOFFSINGER: DAVIESS COUNTY FISCAL COURT.

MR. WILSON: MR. CHAIRMAN, MAY I ASK A QUESTION?

CHAIRMAN: YES, SIR.

MR. WILSON: I UNDERSTAND WE HAD ONE VOTE THAT MAY NOT EVEN BE HERE NEXT MONTH. IT'S ALREADY NOTED. WE ALREADY KNOW THAT. I DON'T KNOW WHO VOTED FOR WHAT. I KNOW HOW HAD YOU VOTED BECAUSE YOU WERE THE LAST ONE, BUT I DON'T KNOW WHO VOTED FOR WHAT. THAT'S NOT IMPORTANT, BUT SOMEBODY IS GOING TO DISADVANTAGED IF HE'S NOT HERE. WELL, WHOEVER. SEEMS TO ME LIKE, I WOULD LIKE TO MAKE A MOTION, IF I COULD MAKE A MOTION OF SOME SORT.

CHAIRMAN: YOU CAN MAKE A SUGGESTION.

MR. WILSON: A SUGGESTION THAT IT BE VOTED ON ONLY IF ALL TEN OF YOU ARE HERE AT THAT MEETING.

CHAIRMAN: MR. SILVERT.

MR. SILVERT: YOU ALL CERTAINLY COULD MAKE
THAT MOTION AND MAKE THAT DETERMINATION RIGHT NOW AND
IT BIND THIS COMMISSION AS TO THAT.

MR. REEVES: I'LL MAKE THAT MOTION, MR.
CHAIRMAN.

MR. KAZLAUSKAS: I'LL SECOND.

CHAIRMAN: MR. REEVES MADE A MOTION THAT
UNLESS ALL TEN COMMISSIONERS ARE HERE THAT NO VOTE
WILL BE TAKEN, AND WE'VE GOT A SECOND BY MR.
KAUZLAUSKAS.

MR. SILVERT: AND THE FIVE TO FIVE TIE WILL
STAND.

CHAIRMAN: ALL IN FAVOR OF THAT MOTION RAISE
YOUR RIGHT HAND.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: THAT MOTION CARRIES UNANIMOUSLY.

MR. WILSON: MR. CHAIRMAN, JUST FOR
CLARIFICATION. I KNOW THERE WILL BE NO MORE TESTIMONY
NEXT MONTH. WILL THERE BE STATEMENTS MADE BY BRIAN OR
ME OR ANYBODY, OTHER THAN YOU KNOW ALL?

CHAIRMAN: THERE WILL BE NO CONVERSATION OR
TESTIMONY OR ANY COMMENTS MADE TO THAT ISSUE, OTHER
THAN SOMEBODY ON THE COMMISSION. THE ONLY WAY THAT
CAN BE BROUGHT UP IF ALL TEN OF US ARE HERE. IF ALL
TEN OF US ARE HERE, IT WILL NOT BE BROUGHT UP AND IT
WILL BE PASSED ON.
MR. CASTLEN: MR. CHAIRMAN, MY NAME IS BRIAN CASTLEN, CITY OF OWENSBORO. FOR POINT OF INFORMATION FOR EVERYBODY HERE.

MR. SILVERT: LET ME SWEAR YOU IN. I HAVEN'T DONE THAT FOR YOU.

(BRIAN CASTLEN SWORN BY ATTORNEY.)

MR. CASTLEN: JUST FOR POINT OF INFORMATION. WE HAVE ONE TELEPHONE HYBRID SO IF ONE CHAIRMAN, CHAIRMAN PERSON WAS NOT HERE, THEY COULD CALL IN, HEAR BOTH SIDES OF THE CONVERSATION AND PARTICIPATE IN THE MEETING, BUT I ONLY HAVE THAT CAPABILITY FOR ONE PERSON.

MR. HAYNES: ROBERT'S RULES DOES NOT ALLOW VOTING WITHOUT THE PERSON PRESENT.

MR. SILVERT: THAT IS CORRECT.

CHAIRMAN: THANK YOU. I APPRECIATE YOUR INPUT. WE WELCOME IT.

MR. SILVERT, UNLESS YOU HAVE ANY FURTHER COMMENTS, BOTH OF OUR COUNSEL SEEM TO BE REASONABLY HAPPY.

THE CHAIR WILL NOW ENTERTAIN A MOTION FOR ADJOURNMENT AGAIN.

MR. ALLEN: MOVE TO ADJOURN.

CHAIRMAN: MOTION TO ADJOURN BY MR. ALLEN.

MR. ROGERS: SECOND.
CHAIRMAN: SECOND BY MR. ROGERS. ALL IN FAVOR
RAISE YOUR RIGHT HAND.
(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
CHAIRMAN: WE ARE ADJOURNED.

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STATE OF KENTUCKY )
 )SS: REPORTER'S CERTIFICATE
COUNTY OF DAVIESS )

I, LYNNETTE KOLLER FUCHS, NOTARY PUBLIC IN AND
FOR THE STATE OF KENTUCKY AT LARGE, DO HEREBY CERTIFY
THAT THE FOREGOING OWENSBORO METROPOLITAN PLANNING
COMMISSION MEETING WAS HELD AT THE TIME AND PLACE AS
STATED IN THE CAPTION TO THE FOREGOING PROCEEDINGS;
THAT EACH PERSON COMMENTING ON ISSUES UNDER DISCUSSION
WERE DULY SWORN BEFORE TESTIFYING; THAT THE BOARD
MEMBERS PRESENT WERE AS STATED IN THE CAPTION; THAT
SAID PROCEEDINGS WERE TAKEN BY ME IN STENOTYPE AND
ELECTRONICALLY RECORDED AND WAS THEREAFTER, BY ME,
ACCURATELY AND CORRECTLY TRANSCRIBED INTO THE
FOREGOING 293 TYPEWRITTEN PAGES; AND THAT NO SIGNATURE
WAS REQUESTED TO THE FOREGOING TRANSCRIPT.

WITNESS MY HAND AND NOTARY SEAL ON THIS THE
1ST DAY OF MARCH, 2012.

LYNNETTE KOLLER FUCHS
NOTARY ID 433397
OHIO VALLEY REPORTING SERVICES
202 WEST THIRD STREET, SUITE 12
OWENSBORO, KENTUCKY 42303

COMMISSION EXPIRES: DECEMBER 16, 2014
COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY

OHIO VALLEY REPORTING
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