THE OWENSBORO METROPOLITAN PLANNING COMMISSION

MET IN REGULAR SESSION AT 5:30 P.M. ON THURSDAY, MAY
10, 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
TIM ALLEN
IRVIN ROGERS
WALLY TAYLOR
JOHN KAZLAUSKAS
JASON STRODE
FRED REEVES

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CHAIRMAN: I WOULD LIKE TO WELCOME EVERYBODY
TO THE MAY 10TH MEETING OF THE OWENSBORO METROPOLITAN
PLANNING COMMISSION. PLEASE RISE WHILE MR. WARD
PEDLEY GIVES OUR INVOCATION AND THE PLEDGE.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: OUR FIRST ORDER OF BUSINESS WILL BE
TO CONSIDER THE MINUTES OF THE APRIL 12, 2012 MEETING.
ARE THERE ANY QUESTIONS, ADDITIONS OR CORRECTIONS?
(NO RESPONSE)

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

OHIO VALLEY REPORTING
(270) 683-7383
MR. PEDLEY: MOTION FOR APPROVAL.

CHAIRMAN: I'VE GOT A MOTION FOR APPROVAL BY

MR. PEDLEY.

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, MR. NOFFSINGER.

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ZONING CHANGES

ITEM 2

800 TRIPPLETT STREET, 0.119 ACRES

CONSIDER ZONING CHANGE: FROM B-4 GENERAL BUSINESS TO

R-4DT INNER-CITY RESIDENTIAL

APPLICANT: GREEN RIVER REGIONAL RAPE VICTIM SERVICES,

INC.

MR. SILVERT: WOULD YOU STATE YOUR NAME,

PLEASE?

MS. EVANS: MELISSA EVANS.

(MELISSA EVANS SWORN BY ATTORNEY.)

MS. EVANS: FIRST OF ALL, I WOULD LIKE TO SAY

THAT THE REZONINGS HEARD TONIGHT WILL BECOME FINAL 21

DAYS AFTER THE MEETING UNLESS AN APPEAL IS FILED. IF

AN APPEAL IS FILED, THE APPLICATION WILL BE FORWARDED

TO THE APPROPRIATE LEGISLATIVE BODY FOR FINAL ACTION.

THE APPEAL FORMS ARE LOCATED ON THE BACK TABLE, ON OUR
WEBSITE AND IN THE OFFICE.

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 SUBJECT PROPERTY IS LOCATED IN A BUSINESS PLAN AREA, WHERE URBAN LOW-DENSITY RESIDENTIAL USES ARE APPROPRIATE IN VERY-LIMITED LOCATIONS;

3. A CONNECTION TO THE SANITARY SEWER SYSTEM EXISTS ON THE PROPERTY; AND,

4. THE PROPOSED ZONING CHANGE IS A LOGICAL EXPANSION OF EXISTING R-4DT ZONING TO THE NORTH AND SOUTH.

MS. EVANS: WE WOULD LIKE TO ENTER THE STAFF REPORT INTO THE RECORD AS EXHIBIT A.

CHAIRMAN: DO WE HAVE ANYBODY HERE REPRESENTING THE APPLICANT?

(NO RESPONSE)

CHAIRMAN: DO WE HAVE ANY QUESTIONS?

(NO RESPONSE)

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

MR. APPLEBY: MOTION FOR APPROVAL BASED ON STAFF RECOMMENDATIONS AND FINDINGS OF FACT 1 THROUGH 4.

CHAIRMAN: MOTION FOR APPROVAL BY MR. APPLEBY.

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, PLEASE.

MR. NOFFSINGER: MR. CHAIRMAN, AT THIS TIME I WOULD LIKE TO ASK THAT EACH PLANNING COMMISSIONER, IF YOU WISH TO SPEAK, YOU NEED TO SET UP FORWARD OF THE MICROPHONE AND SPEAK INTO THE MICROPHONE ABOUT LIKE I'M SPEAKING, WITHIN SIX INCHES OF THE MICROPHONE. THEY'RE HAVING A TOUGH TIME GETTING WHAT YOU'RE SAYING OUT TO OUR TELEVISION AUDIENCE AND PEOPLE ARE HAVING A TOUGH TIME HEARING. IF YOU WISH TO SPEAK, PLEASE SPEAK WITHIN SIX INCHES OF THE MICROPHONE.

CHAIRMAN: WHAT WE'RE GOING TO DO IS WE WANTED EVERYBODY HERE BEFORE WE GET INTO THE NEXT ITEM TO BE AWARE. WE ARE GOING TO PASS OUT A SIGNUP SHEET FOR ANYBODY THAT WANTS TO SPEAK TONIGHT. BEFORE WE DID THAT, WE WANTED TO MAKE EVERYONE AWARE OF THE RULES
THAT WE'RE GOING TO ENFORCE TONIGHT.

ONE, IF YOU'VE SPOKEN BEFORE, YOUR TESTIMONY IS ALREADY GOING TO BE ENTERED INTO THE RECORD AND HAS ALREADY BEEN ACCEPTED IN THE RECORD AND HERE IS YOUR TESTIMONY. IF YOU HAVE ADDITIONAL EVIDENCE THAT YOU WOULD LIKE TO ENTER, PLEASE BE FREE TO SPEAK. BUT IF YOU DON'T HAVE ANY ADDITIONAL EVIDENCE, THEN PLEASE GIVE THE PEOPLE THAT HAVE NOT HAD THE OPPORTUNITY TO SPEAK THE OPPORTUNITY TO SPEAK AND PRESENT ADDITIONAL EVIDENCE THAT COULD HELP EITHER THE APPLICANT OR THE OPPOSITION IN THEIR CASE. WITH COURTESY TO THEM, THAT'S THE REASON WE WAITED ON THE HANDOUT SHEETS. SO EVERYBODY WOULD KNOW WHAT THE RULES ARE. EACH PERSON WILL HAVE THREE MINUTES TO SPEAK. EACH SIDE, THE APPLICANT AND THOSE REPRESENTED BY AN ATTORNEY WILL HAVE ONE HOUR TO PRESENT THEIR CASE, AND THE PEOPLE IN THE AUDIENCE WILL HAVE THREE MINUTES TO SPEAK.

WITHOUT ANYTHING FURTHER WE WILL GO ON TO OUR NEXT ITEM.

MR. NOFFSINGER: BEFORE WE DO THAT, WE WILL GO OVER THE RULES AGAIN, BUT I AM GOING TO ASK MS. STONE AND MR. HOWARD IF YOU WOULD PLEASE PASS AROUND THE SIGNUP SHEETS NOW FOR THOSE WISHING TO SPEAK. THAT WAY THEY'LL BE AVAILABLE BY THE TIME WE GET TO THAT PORTION OF THE HEARING.
ITEM 3

3940 US HIGHWAY 60 EAST, 1.22 ACRES

CONSIDER ZONING CHANGE: FROM B-4 GENERAL BUSINESS TO
I-1 LIGHT INDUSTRIAL.

APPLICANT: THOMAS S. HAYDEN, JR. & KATHERINE K.
HAYDEN; SAMUEL RICHARD BERRY, III, TRUSTEE; JANET RUTH
BERRY, TRUSTEE

PLANNING STAFF RECOMMENDATIONS

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

CONDITION:

ACCESS TO US HIGHWAY 60 EAST SHALL BE LIMITED
TO A SINGLE ACCESS POINT.

FINDINGS OF FACT:

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

2. THE SUBJECT PROPERTY IS LOCATED IN A
BUSINESS PLAN AREA WHERE LIGHT INDUSTRIAL USES ARE
APPROPRIATE IN LIMITED LOCATIONS;

3. THE PROPOSAL IS A LOGICAL EXPANSION OF
EXISTING I-1 LIGHT INDUSTRIAL ZONING TO THE SOUTH;

4. AT 1.22 ACRES, THE PROPOSAL DOES NOT
SIGNIFICANTLY INCREASE THE EXTENT OF INDUSTRIAL ZONING
IN THE VICINITY; AND,

5. WITH ACCESS LIMITED TO A SINGLE ACCESS
POINT, THE PROPOSAL SHOULD NOT OVERBURDEN THE CAPACITY
OF ROADWAYS AND OTHER NECESSARY URBAN SERVICES THAT
ARE AVAILABLE IN THE AFFECTED AREA.

MS. EVANS: WE WOULD LIKE TO ENTER THE STAFF REPORT INTO THE RECORD AS EXHIBIT B.

CHAIRMAN: DO WE HAVE SOMEBODY HERE REPRESENTING THE APPLICANT?

MS. HAYDEN: YES.

CHAIRMAN: YES, MA'AM.

MS. HAYDEN: I'M CATHY HAYDEN.

CHAIRMAN: ARE THERE ANY QUESTIONS OF THE APPLICANT?

(NO RESPONSE)

CHAIRMAN: DOES ANYBODY ON THE COMMISSION HAVE A QUESTION?

(NO RESPONSE)

CHAIRMAN: IF YOU DON'T HAVE ANY STATEMENTS.

MS. HAYDEN: I HAVE A STATEMENT.

CHAIRMAN: GO TO THE MIKE. WE NEED TO SWEAR YOU IN.

MS. HAYDEN: SIR, I HAVE A STATEMENT, BUT YOU WANT TO DISPENSE AND JUST GO WITH THE STAFF RECOMMENDATION THAT'S FINE WITH ME.

CHAIRMAN: IF YOU DON'T HAVE A STATEMENT WE'LL JUST MOVE FORWARD.

MS. HAYDEN: THAT'S FINE.
CHAIRMAN: CHAIR IS READY FOR A MOTION.

MR. KAZLAUSKAS: I MAKE A MOTION FOR APPROVAL BASED ON PLANNING STAFF RECOMMENDATIONS AND FINDINGS OF FACT 1 THROUGH 5.

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

MR. TAYLOR: SECOND.

CHAIRMAN: WE'VE GOT A SECOND BY MR. TAYLOR.

ALL IN FAVOR RAISE YOUR RIGHT HAND.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: MOTION CARRIES UNANIMOUSLY.

NEXT ITEM, PLEASE.

ITEM 4

3100, 3570, 3574, 3580 GIRL SCOUT ROAD; 2895, 3031, 3035, 3139, 3300, 3484, 3515 RUSSELL ROAD; 11300, 11440 US HIGHWAY 231, 692.303 ACRES

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

APPLICANT: WESTERN KENTUCKY MINERALS, INC.; RUBY JEAN HITCHCOCK TRUST; CLARA THOMPSON ESTATE C/O TILFORD THOMPSON, EXECUTOR; STEVE & KAREN DIANA THOMPSON; HORRELL C., JR. & MINGA TROGDLEN; TROY & MARCIE VANOVER; REGINA VANOVER; GLEN YEISER; SHIRLEY G. & CHRIS TAYLOR; WESTERN KENTUCKY LEASING; CHARLES & DONNA STEWART; LINDLEY K. TAYLOR; ANNA FAYE BELCHER; MILDREN TAYLOR JOHNSON; AND HORRELL C. SR. & DOROTHY TROGDLEN

PLANNING STAFF RECOMMENDATION AND THEN AT THAT TIME I THINK IT WOULD BE APPROPRIATE FOR YOU TO GO OVER THE RULES OF THE PROCEDURE.

CHAIRMAN: THANK YOU.

MR. HOWARD.

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

MR. HOWARD: BRIAN HOWARD.

(BRIAN HOWARD SWORN BY ATTORNEY.)

MR. HOWARD: AS MR. NOFFSINGER STATED, I HAVE A COMPLETE COPY OF THE TRANSCRIPT FROM THE PREVIOUS MEETING THAT I WILL ENTER INTO THE RECORD AT THIS MOMENT. THEN I'LL ENTER OUR STAFF REPORT IN ITS ENTIRETY INTO THE RECORD AS EXHIBIT C.

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;

4. THE PORTION WITHIN THE RURAL COMMUNITY
PLAN AREA IS A SMALL PORTION OF THE OVERALL REZONING
ACREAGE CONSISTING OF THREE TRACTS AND APPROXIMATELY
70 ACRES WHICH IS NOT CONSISTENT WITH THE SMALL LOT
SIZE FOUND TYPICALLY WITHIN A RURAL COMMUNITY PLAN
AREA;

5. THE APPLICANT'S PROPOSAL COMPLIES WITH A
GOAL IN THE COMPREHENSIVE PLAN THAT STATES LAND WITHIN
THE RURAL SERVICE AREA SHOULD BE RESERVED PRIMARILY
FOR AGRICULTURAL AND OTHER NATURAL RESOURCE USES;

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

7. WITHIN A ONE MILE RADIUS OF THE SUBJECT
PROPERTY, THERE IS OVER 300 ACRES OF LAND CURRENTLY
ZONED EX-1 COAL MINING;

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

9. THE APPLICANT'S PROPOSED STRIP MINING
TECHNIQUE AGREES WITH AN OBJECTIVE OF THE
COMPREHENSIVE PLAN THAT AGRICULTURAL AND OTHER NATURAL
RESOURCE USES SHOULD BE GIVEN WIDER REIGN TO APPLY
TRADITIONAL PRODUCTION TECHNIQUES; AND,

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

AGAIN, I WOULD LIKE TO ENTER THE STAFF REPORT
INTO THE RECORD AS EXHIBIT C.

CHAIRMAN: BEFORE WE GET STARTED, THE
APPLICANT WILL GO FIRST. WE WILL HAVE ONE HOUR
PRESENTED BY THE APPLICANT. WE WILL HAVE ONE HOUR
PRESENTED BY THE OPPOSITION THAT HAS AN ATTORNEY, AND
THOSE OF YOU THAT DO NOT HAVE AN ATTORNEY WILL BE
OFFERED THREE MINUTES APiece TO SPEAK. BECKY WILL BE
OUR TIME KEEPER.

WOULD YOU PLEASE, MS. STONE, HOLD UP OUR VERY
EXPENSIVE. WE DID BREAK THE BUDGET TO SPENT. SO WE
SPEND NO EXTRA MONEY ON YOUR ALL'S CASE THAN WE DID ON
ANYBODY ELSE'S.

MR. HAYNES, WOULD YOU LIKE TO STEP FORWARD,
PLEASE.

MR. HAYNES: I'M GOING TO GIVE UP THE PODIUM
TO BRANDON LANHAM TO START THIS.

CHAIRMAN: MR. HAYNES, WAIT JUST A MOMENT.
DO WE HAVE A QUESTION FROM MR. WILSON?

MR. WILSON: YES.

MR. CHAIRMAN, IS IT PROPER AT THIS TIME TO ASK
QUESTIONS CONCERNING THE STAFF REPORT OF MR. HOWARD?

CHAIRMAN: IF YOU WANT TO USE PART OF YOUR TIME INTO THAT. I WOULD REALLY, IF IT'S ALL RIGHT WITH YOU, MR. WILSON AND MR. HAYNES, I WOULD RATHER MR. HAYNES GO AHEAD WITH HIS PRESENTATION.

MR. WILSON: THAT'S FINE. AS LONG AS I HAVE THAT OPPORTUNITY LATER.

CHAIRMAN: YOU WILL.

MR. HAYNES, IF YOU DON'T OBJECT, IF MR. WILSON WANTS TO DO HIS PORTION NOW, WE'LL DO IT NOW. IF YOU OBJECTION, YOU CAN GO AHEAD WITH YOURS AND THEN WE'LL HAVE MR. WILSON FOLLOW UP.

MR. HAYNES: I HAVE NO PROBLEM WITH HIM GOING NOW. IT DOES COUNT TOWARD THE TIME?

CHAIRMAN: ABSOLUTELY.

MR. HAYNES: THAT'S FINE.

CHAIRMAN: MR. WILSON.

MR. WILSON: MR. CHAIRMAN, I WOULD JUST LIKE TO NOTE THE FINDINGS OF THE STAFF RECOMMENDATIONS ARE BASED ON THESE FINDINGS.

NUMBER 6 AND 7 WE CONSIDER TO BE CONSIDERABLY MISLEADING. TALKING ABOUT THE COAL MINING ACTIVITIES TOUCHING THE PROPERTY. OVER 300 ACRES ZONED WITHIN A MILE OF THE SUBJECT TRACTS. I BELIEVE THE RECORDS OF PLANNING COMMISSION WILL SHOW THAT THERE'S BEEN NO
REZONINGS OUT THERE WILL FOR ALMOST 40 YEARS. THE EARLY '70S. THAT WAS PART OF GREEN STUFF BACK THEN. WAY BEFORE THIS SAME ISSUE CAME BEFORE THIS COMMISSION IN 1986, AND OBVIOUS BEFORE IT CAME IN 1993.

SO TO SAY THAT THEIR RECOMMENDATION IS BASED ON OVER 300 ACRES OF SIMILARLY ZONED LAND WITHIN A MILE IS MISLEADING AT BEST. I WOULD JUST LIKE THE RECORD TO SHOW OUR OBJECTION TO THOSE FINDINGS.

CHAIRMAN: MR. HOWARD.

MR. HOWARD: THE FINDINGS SIMPLY STATES THAT WITHIN A MILE RADIUS THAT OVER 300 ACRES THEY ARE CURRENTLY ZONED EX-1.

THE BODY OF THE STAFF REPORT BASICALLY I EXPLAINED THAT BASED ON THE EXISTING ZONING WITHIN THE AREA AND THE OFFICIAL GIS ZONING MAPS THERE ARE OVER 300 ACRES OF LAND ZONED EX-1 COAL MINING WITHIN A ONE MILE RADIUS OF THE SUBJECT PROPERTY. HISTORICALLY COAL MINING ACTIVITY IS TAKING PLACE IN THE GENERAL VICINITY. THERE IS NO ATTEMPT TO MISLEAD IN REGARDS THAT THERE IS ACTIVE MINING OR ANYTHING LIKE THAT.

MR. WILSON IS CORRECT. THE ZONINGS THAT ARE IN PLACE IN THAT AREA WERE DONE PRIMARILY IN 1977 AND 1978 BY GREEN COAL COMPANY. I DON’T BELIEVE THE STATEMENT IS MISLEADING. IT IS JUST STATING A FACT THAT HISTORICALLY COAL MINING HAS BEEN PRESENT IN THIS
GENERAL VICINITY.

CHAIRMAN: THANK YOU, MR. HOWARD.

YES, SIR.

MR. HESTER: MY NAME IS SCOTT HESTER. I HAVE --

MR. SILVERT: I NEED TO SWEAR YOU IN IF YOU'VE GOT SOMETHING. REALLY --

MR. HESTER: I JUST WANT TO SEE IF YOU WANT ME TO TALK NOW. I HAVE SOME QUESTIONS I WANT TO ADDRESS DIRECTLY TO THE STAFF REPORT AND I WANT TO KNOW IF YOU WANT TO HEAR THEM NOW OR WAIT UNTIL THE PRESENTATION. I DON'T CARE WHICH WAY.

CHAIRMAN: MR. HAYNES ALLOWED MR. WILSON OUT OF RESPECT TO DO THAT. I WILL ASK MR. HAYNES. DO YOU HAVE ONE OR TWO OR SEVERAL QUESTIONS?

MR. HESTER: I HAVE SEVERAL.

CHAIRMAN: LET ME ASK MR. HAYNES.

MR. HAYNES, DO YOU HAVE A PROBLEM WITH HIM ASKING A QUESTION OF THE STAFF REPORT OR WOULD YOU RATHER GO ON WITH YOUR PRESENTATION?

MR. HAYNES: I ABSOLUTELY HAVE NO PROBLEM WITH ASKING HIS QUESTIONS, AS LONG AS THEY'RE NOT REPETITIVE AND THEY USE THEIR TIME.

CHAIRMAN: THANK YOU. I WILL TRY TO DO MY JOB.

OHIO VALLEY REPORTING
(270) 683-7383
MR. SILVERT: COULD YOU STATE YOUR NAME, PLEASE?

MR. HESTER: MY NAME IS SCOTT HESTER.

(SCOTT HESTER SWORN BY ATTORNEY.)

MR. HESTER: THE QUESTIONS I HAVE, AND I SPOKE AT PRIOR THE MEETING ON EMOTIONAL ISSUES AND THE VALUE ISSUES. THE ISSUES I HAVE TONIGHT ARE COMPLETELY DIFFERENT FROM THAT.

I HAVE OBJECTIONS OR QUESTIONS ABOUT THE STAFF REPORT, TAKING WORDING STRICTLY FROM THE STAFF REPORT AND FROM THE COMPREHENSIVE LAND USE PLAN.

BEGINNING WITH THE ISSUE OF WETLANDS. I'M GOING TO READ THIS SO THAT I GET IT RIGHT BECAUSE I'VE GOT QUOTES OUT OF THOSE REPORTS AND I WANT TO MAKE SURE I DON'T MISQUOTE IT, BUT IF I DO SOMEBODY PLEASE POINT IT OUT TO ME.

ON PAGE 1 OF THE REPORT UNDER THE SUBHEADING ENVIRONMENT IT STATES, "IT APPEARS THAT A PORTION OF THE SUBJECT PROPERTY MAY BE LOCATED IN A WETLAND AREA PER THE US DEPARTMENT OF AGRICULTURE SOIL CONVERSATION SERVICE DATED MARCH 6, 1990." THAT'S A QUOTE.

THE COMPREHENSIVE LAND USE PLAN IN SECTION 440, PARAGRAPH E-5 STATES, "IDENTIFY WETLANDS AND OTHER SPECIAL HABITATS FOR PLANTS AND ANIMALS SHOULD BE PROTECTED THROUGH THE ESTABLISHMENT OF NATURAL
RESERVES WHETHER IN RURAL AREA OR IN PORTIONS OF DEVELOP SITES."

THE REPORT DOES NOT IDENTIFY THE LOCATION OR SIZE OF THE REFERENCE WETLAND AREA. MY PERSONAL KNOWLEDGE OF THE AREA I BELIEVE IT'S LOCATED ON PARTS OF THE YEISER TRACT AND ADJACENT TO THE TAYLOR TRACT THAT CONTAINS APPROXIMATELY 50 ACRES. I'VE HUNTED THAT PROPERTY. I KNOW THAT WELL. IT'S NEAR THE CENTER OF THE PROPOSED MINE.

IN THE FINDING OF FACTS THERE IS ABSOLUTELY NO MENTION OF THIS WETLAND THAT IS SUPPOSED TO BE PROTECTED AND PRESERVED PER CLEARING WORDING OF THE COMPREHENSIVE LAND USE PLAN, STATE AND FEDERAL LAW.

CHAIRMAN: IF YOU WILL BE SEATED, WE'LL HAVE MR. HOWARD ADDRESS THOSE ITEMS.

MR. HESTER: I HAVE ADDITIONAL ITEMS.

CHAIRMAN: YOU HAVE ONE MORE?

MR. HESTER: I HAVE TWO MORE.

CHAIRMAN: OKAY. GO AHEAD.

MR. HESTER: ON FARM LAND, PAGE 1, PARAGRAPH A-3 OF THE REPORT STATES, AND I QUOTE, "AN INVESTIGATION SHOULD BE MADE TO DETERMINE THE AGRICULTURAL POTENTIAL OF THE LAND. PRIME AGRICULTURAL LAND AS DEFINED BY THE US SOIL CONSERVATION SERVICE MUST BE PROTECTED FROM NORMAL
MINING PROCEDURES AS REQUIRED BY STATE LAW."

FURTHER ON PAGE 2 AT THE SECOND BULLET POINT
THE REPORT STATES, "A PORTION OF THE PROPERTY IS
DESIGNATED AS PRIME AGRICULTURAL FARM LAND PER THE US
DEPARTMENT OF AGRICULTURE SOIL CONSERVATION MAP DATED
1980."

ON PAGE 3 UNDER THE HEADING SOIL GEOLOGY, THE
FIRST PARAGRAPH STATES, "A REVIEW OF SOIL INDICATES
THAT A MINIMUM AMOUNT OF GOOD FARMLAND MAY BE PRESENT
ON SITE. IT ALSO APPEARS THAT A MINIMAL AMOUNT OF THE
SUBJECT PROPERTY IS DESIGNATED AS PRIME AGRICULTURAL
LAND ACCORDING TO THE IMPORTANT FARMLAND'S MAP CREATED
BY THE US DEPARTMENT OF AGRICULTURAL SOIL CONSERVATION
SERVICE DATED 1980."

THE APPLICANT SHOULD BE AWARE THE STATE LAW
REQUIRES PROTECTION OF PRIME AGRICULTURE LAND ALONG --

CHAIRMAN: I'M SORRY, YOUR TIME HAS EXPIRED.

MR. HESTER: YOU KNOW, I DIDN'T AGREE TO ANY
THREE MINUTE THING. I DON'T SEE HOW THIS IS A
MEETING. I THINK I'M ENTITLED TO MY SAY. I'M
ADDRESSING ISSUES OF LAW AND I THINK THAT TRYING TO
RESTRICT THAT IS CONTRARY TO THE STATE LAW IN ITSELF.
I'M GOING TO GET THROUGH THIS AND I'LL GET THROUGH IT
AS QUICK AS I CAN, BUT --

CHAIRMAN: MR. SILVERT.
MR. HESTER: THESE ARE LEGAL ISSUES THAT --

CHAIRMAN: SIR, I'M SORRY. WE STATED IN
PUBLIC TO THE PUBLIC, EACH PERSON WILL HAVE THREE
MINUTES OF CHANCE.

MR. HESTER: YOU KNOW --

CHAIRMAN: YOU'RE NOT ALLOWING SOMEBODY ELSE
THEIR OPPORTUNITY.

MR. HESTER: THIS IS A PUBLIC MEETING
ADDRESSING A NEW ISSUE AND WHETHER THE FACT THAT THIS
WAS BROUGHT UP BEFORE, THESE ARE NEW ISSUES. THESE
ARE LEGAL ISSUES ABOUT THE REPORT, THE RECOMMENDATIONS
OF THESE FINE GENTLEMEN, AND I JUST CAN'T BELIEVE YOU
DON'T WANT TO HEAR THEM.

CHAIRMAN: SIR, I WOULD LIKE TO HEAR THEM, BUT
WE GAVE STIPULATIONS TO EVERYBODY. WE PUT IT IN THE
PRESS. EVERYBODY IS AWARE OF THEIR TIME. IT WOULD BE
UNFAIR TO OTHER PEOPLE, MR. WILSON, MR. HAYNES, TO GO
AHEAD. WE WILL ANSWER YOUR QUESTIONS. WE WILL ANSWER
THE QUESTIONS YOU HAVE.

MR. HESTER: HOW COULD YOU ANSWER THEM IF YOU
HAVEN'T HEARD THEM?

CHAIRMAN: WELL, SIR, I THINK YOU WENT OVER
YOUR QUESTIONS. YOU DID A LITTLE BIT MORE THAN
QUESTIONING. I THINK IF YOU --

MR. HESTER: I QUOTING FROM THE REPORT THAT

OHIO VALLEY REPORTING
(270) 683-7383
THE STAFF PREPARED FOR THIS BOARD AND THE
COMPREHENSIVE LAND USE PLAN AND TRYING TO POINT OUT TO
YOU THAT THERE IS AN ABSOLUTE CONFLICT BETWEEN THE
PLAN, STATE LAW. I THINK THESE ARE EXTREMELY RELEVANT
MATTERS. YOU'RE ASKING THESE FOLKS UP HERE TO BE ABLE
TO RULE ON SOMETHING THAT'S ILLEGAL IN MY OPINION.

CHAIRMAN: SIR, IF YOU WILL BE SEATED, WE'LL
HAVE MR. HOWARD COME TO THE PODIUM AND ANSWER THE
SPECIFIC QUESTIONS YOU HAD REGARDING THE WETLANDS,
REGARDING THE FARMLAND.

MR. HESTER: YOU DON'T WANT TO HEAR ABOUT THE
FACT THAT THE RURAL COMMUNITY AREA THAT'S SUPPOSED TO
BE PROTECTED FROM COAL MINING ABSOLUTELY IS ALSO NOT
ADDRESSED?

CHAIRMAN: WE DID. MR. HOWARD WILL ADDRESS
IT. THANK YOU.

MR. HESTER: I'M NOT AT ALL HAPPY ABOUT THAT.
I THINK I OUGHT TO BE ABLE TO QUOTE THE REST OF THIS
REPORT THAT IS DIRECT CONFLICT.

CHAIRMAN: ISN'T THE REPORT IN THE RECORD?
MR. HESTER: THE FINDINGS OF FACT DO NOT
ADDRESS THESE ISSUES THAT ARE IN FACT COMPLETELY
IGNORED.

CHAIRMAN: ISN'T THAT REPORT IN THE RECORD?
MR. HESTER: NO, SIR. HIS REPORT IS, BUT THIS
Isn't. This is the quotes that are in conflict with the comprehensive land use plan. How can you --

Chairman: Sir, in you will be seated, we will continue with --

Mr. Hester: I would have been done by now if you'd let me finish.

Chairman: Thank you.

Mr. Howard.

Mr. Howard: Yes, he is correct. A portion of the property based on a set of maps dated March 6, 1990, it appears that a portion of the property is located in wetlands area. There are at least eight rules that regulate both that and the prime agricultural farmland statement.

In the staff report and in the application that was submitted, there is a summary of the soil types that are classified on the property. There were a couple of soil types in the application that dictate there is good soil, but it's not by any means the majority of the property. I would say that typically when you see a coal mining application or almost any type of application that takes place on a descent amount of acreage out in a rural area that there is some prime agricultural farmland associated it. The comprehensive plan does anticipate that there could be
THE FINAL STATEMENT, AND THE APPLICANT COULD PROBABLY ADDRESS IT BETTER AS FAR AS WITH THE MINING REGULATIONS ARE AS FAR AS PRESERVATION OF THE PRIME AGRICULTURAL FARMLAND.

MY BELIEF IS THAT THERE ARE SPECIAL RECLAMATION AND TECHNIQUES THAT THEY HAD TO DO UP FRONT TO MAKE SURE THAT THEY PRESERVE THAT SOIL AND STORE IT AND RECLAIM IT IN A DIFFERENT MANNER.

LASTLY, I BELIEVE THE QUESTION WAS IN REGARD TO THE RURAL COMMUNITY PLAN AREA. THAT THERE IS APPROXIMATELY 70 ACRES THAT'S LOCATED WITHIN A RURAL COMMUNITY. THAT WAS ACTUALLY ADDRESSED A LITTLE BIT AT THE LAST MEETING. THERE IS SOME, ABOUT A TENTH OF THE PROPERTY IS IN A RURAL COMMUNITY PLAN AREA.

HOWEVER, AS I STATED LAST MONTH AND AS WE STATED IN THE STAFF REPORT THIS TIME, THAT 70 ACRES IS COMPRISED OF THREE TRACTS WHICH ARE, THREE LARGER TRACTS WHICH ARE NOT CONSISTENT WITH WHAT YOU FIND WITHIN A TYPICAL RURAL COMMUNITY WHICH ARE SMALLER LOT DEVELOPMENTS.

WE ALSO POINTED OUT THAT THE COAL HAUL ROAD THAT WOULD ACCESS HIGHWAY 231, IF THE REZONING WERE APPROVED, GOES THROUGH THAT AREA. SO IT IS VITAL TO HAVE, IF THE ZONING WERE TO BE APPROVED, A SAFE PLACE FOR COAL TRUCKS TO COME OUT. WHILE MENTIONING IN THE
PACKET THAT WE HAVE OF INFORMATION, WE HAVE HAD THE
SITE REVIEWED FOR, THE INTERSECTION WHERE THE COAL
HAUL ROAD WOULD ACCESS 231 REVIEWED BY THE STATE.
KEVIN MCCLAREN, THE CHIEF DISTRICT ENGINEER, REVIEWED
THAT AND SAID THAT BASED ON THEIR PLAN AREA REVIEW
VIEW, SITE DISTANCE IS ADEQUATE AT THAT LOCATION AND
IT SEEMS TO BE A GOOD LOCATION.
WE POINT ALL THAT OUT IN THE STAFF REPORT. I
GUESS THAT'S ALL I HAVE UNLESS YOU HAVE FURTHER
QUESTIONS OF ME.
CHAIRMAN: THANK YOU, MR. HOWARD.
MR. HAYNES.
MR. HESTER: MR. CHAIRMAN, CAN I JUST SAY ONE
THING? THERE'S 200 ACRES ACCRUE --
CHAIRMAN: NO, SIR, YOU HAVE EXCEEDED YOUR
THREE MINUTE TIME. PLEASE BE SEATED.
MR. HESTER: AND I'M BEING DENIED MY DUE
PROCESS TO SPEAK?
CHAIRMAN: PLEASE BE SEATED.
MR. HESTER: SO NO.
CHAIRMAN: MR. HAYNES, THANK YOU. THE CHAIR
APOLOGIZES FOR THE INTERRUPTION.
MR. HAYNES: I'LL JUST TAKE ONE MINUTE OF OUR
ALLOTTED TIME AND SAY, AS FAR AS THE WETLANDS ARE
CONCERNED, WE ARE GOVERNED BY THE U.S. CORP OF

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ENGINEERS. THEY REGULATE ALL WETLANDS, ALL NAVIGATABLE WATERWAYS, DOWN TO A STREAM THAT YOU COULD MAYBE FLOAT A ROW BOAT DOWN OR A CANOE TEN MINUTES OUT OF A WHOLE YEAR. ANY WETLAND THAT WE DISTURB, WHICH IS EXTREMELY LIMITED ON THIS AREA, JUST BECAUSE IT'S PERMITTED DOESN'T MEAN IT'S GOING TO BE DISTURBED. THEY HAVE SOME PRETTY STRINGENT REGULATIONS FOR THE RESTORATION OF THAT LAND. INCLUDING FOR EVERY ACRE WE DISTURB WE'RE TURNING THREE ADDITIONAL ACRES TO WETLAND WHICH IS VERY, VERY EXPENSIVE. THEY REGULATE IT. THEY MONITOR IT. THEY WATCH IT. THERE WILL BE NO LOSS OF WETLAND. IN FACT, THERE PROBABLY WILL BE A GAIN OF WETLANDS.

AS FAR AS THE PRIME FARMLAND, WE HAVE TO RESTORE IT. AS MR. HOWARD SAID, WE HAVE TO PROTECT THE SOIL AND RESTORE IT TO ITS FORMER PRODUCTIVITY. THAT IS TESTED. THAT IS LOOKED AT BY CROP PRODUCTION REPORTS IN FOLLOWING YEARS. THAT'S REGULATED BY BOTH THE STATE AS PART OF OUR MINING PERMIT, OUR RECLAMATION PLAN, AND BY THE FEDERAL GOVERNMENT. IF WE DISTURB ANY PRIME FARMLAND, IT GOES BACK TO THE SAME PRODUCTIVITY IT HAD PRIOR TO OUR DISTURBANCE OF IT. NO MORE. NO LESS. THERE IS VERY LITTLE PRIME FARMLAND IN THIS AREA. LIKE MR. HOWARD SAYS, IT'S IMPOSSIBLE TO GO ON ANY TRACT OF ANY SIZE AND NOT
ENCOUNTER A LITTLE BIT OF PRIME FARMLAND AND PERHAPS A
LITTLE BIT OF WETLAND. THANK YOU.

CHAIRMAN: MR. HAYNES, YOU CAN START YOUR
PRESENTATION. YOUR CLOCK HAS BEEN RUNNING.

MR. SILVERT: COULD YOU STATE YOUR NAME
PLEASE?

MR. LANHAM: BRANDON LANHAM.

(BRANDON LANHAM SWORN BY ATTORNEY.)

MR. LANHAM: IF IT'S OKAY AT THIS TIME, MR.
KIRKLAND, WE INITIATE A POWER POINT PRESENTATION; IS
THAT CORRECT?

CHAIRMAN: YES. ABSOLUTELY.

MR. LANHAM: THAT'S OUR HOME PAGE, WESTERN
KENTUCKY MINERAL, P RIDGE MINE, PROPOSAL FOR THAT
APPLICATION.

COMMUNITY CONCERNS. THIS KIND OF GOES OVER
WHAT WE'VE SEEN FROM THE LAST MEETING WITH A LOT OF
YOUR SIGNIFICANT CONCERNS AND QUESTIONS PERTAINING TO
THE P RIDGE MINE SUCH AS MINING ENVIRONMENT, YOUR
BLAST, YOUR EXPLOSIVES, TRANSPORTATION, AND MINING
PLAN.

SAFETY WE'RE GOING TO DISCUSS THESE TOPICS OF
DISCUSSION AND WE HAVE AN INDIVIDUAL THAT'S GOING TO
KIND OF TOUCH ON EACH ONE OF THESE TOPICS AND WHAT
THEY'RE RESPONSIBLE FOR AND WHERE THEY ARE VERY
KNOWLEDGEABLE FOR. SAFETY WILL BE INCORPORATED INTO EACH ONE OF THESE TOPICS OF DISCUSSION.

WHAT OUR NEIGHBORS WILL SEE. ONCE AGAIN, WESTERN KENTUCKY MINERALS, TO REALLY PAINT A MORE ACCURATE PICTURE OF WHAT IT WOULD BE LIKE, AND WHAT WE COMPARE IT TO WAS THE MINING OPERATION IN KNOTTSVILLE, KENTUCKY. IT IS ENTIRELY COMPARABLE IN THE SENSE OF YOUR RUSSELL ROAD, YOUR GIRL SCOUT ROAD, BUFFORD ROAD, IT'S SIMILAR TO YOUR MONARCH, SHORT STATION. I'M GOING TO SHOW YOU PICTURE ON THAT.

THIS PICTURE HERE WAS TAKEN FROM MONARCH ROAD IN KNOTTSVILLE, KENTUCKY. ONE OF THE MINES THAT'S BEING CONDUCTED IN THAT AREA.

YOU'LL SEE THE RECLAMATION AROUND. I SHOW THE ROAD AND YOU CAN SEE IT'S RIGHT OFF OF THE HIGHWAY. IT IS. THIS IS WHAT YOU WOULD SEE. IT'S KIND OF REDUCED AN ACCURATE PICTURE OF WHAT YOU WOULD SEE OF WHERE IT TAKES PLACE.

YOU'LL SEE IN THE HORIZON SOME OF THE RECLAMATION GROUND. IT CUTS, THE WAY THE WORKER WORKS, IT'S WORKING THEIR WAY AWAY FROM THE HIGHWAY. IF YOU LOOK INTO THE HORIZON AND SEE THE RECLAMATION, WE MOVE VERY RAPIDLY.

WE OPERATE ON WHAT WE CALL 180 DAY RECLAMATION. JUST FOR COST PURPOSES AS WELL, WE CAN'T
SIT ON RECLAMATION GROUND WITHOUT IT ADVANCING AT A
VERY RAPID RATE. YOU'LL SEE THE RECLAMATION. WE HAVE
SOME MORE PICTURES TO SHOW YOU AS WELL. IT IS
ADVANCING AT A VERY RAPID RATE HERE.

AGAIN, THE RECLAMATION HAS TO BE DONE WITHIN
180 DAYS OF CAUGHT UP. TO TOUCH ON THAT, 15 ACRES, 20
ACRES, 25 ACRES OF GROUND IS ALL THAT YOU WILL SEE
DISTURBED AT ONE PERIOD OF TIME. YOU WON'T SEE 100
ACRES DISTURBED WHERE IT'S GOING TO CREATE SOMEWHAT OF
A SORE EYE FOR THE COMMUNITY. THAT'S ONCE AGAIN JUST
TO PAINT A CLEAR PICTURE OF EXACTLY WHAT THAT CAN BE
LIKE AS FAR AS AN ACCURATE FORM.

YOU'LL SEE THE RECLAMATION. THIS IS THE EXACT
OPPOSITE. YOU'LL SEE THE RECLAMATION WORKING IT'S WAY
TOWARDS THE ROAD AND IN THE BACK IS WHERE THE COAL
EXTRACTION PROCESS WAS CONDUCTED. THEN AS WE WRAP THE
RECLAMATION UP IT'S RIGHT HERE ON THE HIGHWAY.

THIS PROCESS IS SO FAST. YOU'LL SEE IT
ADVANCE IN SUCH A RAPID RATE IN BOTH SITUATIONS.

THIS IS OUR PRIMARY OPERATION LOCATED ON SHORT
STATION ROAD. THIS OPERATION HERE HAS BEEN CONDUCTED
FOR MORE THAN SIX YEARS NOW. YOU'LL SEE, WITH THE
PICTURES YOU'LL SEE WHAT YOU WOULD YOU SEE. WHERE OUR
EQUIPMENT KIND OF CONGREGATES AT THE END OF THE SHIFT
AND IS PARKED PRIOR TO EITHER THE NIGHT SHIFT OR THE
EVENING SHIFT.

LOOK PAST THE KNOTTSVILLE'S GAZING COW THAT SEEMS TO HAVE WORKED ITS WAY INTO MY PICTURE THERE. YOU'LL SEE WHERE SOME OF THE VEHICLES ARE PARKED. LIKE I SAID, IT'S NOT MORE THAN 50 ACRES DUE TO THE 180 DAY RECLAMATION PROCESS.

CHAIRMAN: MR. LANHAM, IN THIS PICTURE HERE, HOW FAR BACK ARE YOU ACTUALLY MINING? HAVE YOU MINED AREA CLOSER TO THE ROAD OR IS WHERE WE SEE THE EQUIPMENT?

MR. LANHAM: NO, SIR. WHERE YOU SEE THE EQUIPMENT IS AS FAR AS WE CAME TO THE ROAD.

CHAIRMAN: DO YOU OWN THE PROPERTY UP TO THE ROAD?

MR. LANHAM: NO, SIR. THAT'S A SEPARATE LANDOWNER.

CHAIRMAN: WHERE IS THE PROPERTY LINE OF WHERE YOU'RE --

MR. LANHAM: THE PROPERTY LINE IS WHERE YOU WOULD SEE -- IT IS LEASED PROPERTY AND IT COMES RIGHT UP TO WHAT YOU WOULD SEE THE DITCH IS RIGHT NEXT TO THE ROAD. RIGHT WHERE YOU SEE THE DITCH, MR. KIRKLAND. THAT IS WHERE THE LEASED PROPERTY THAT WESTERN KENTUCKY MINERALS WILL BE MINING.

CHAIRMAN: DID YOU ALL MINE ALL OF WAY OVER TO
THE DITCH?

MR. LANHAM: NOT YET. THAT'S WHERE WE WILL BE MINING HERE IN THE NEAR FUTURE, SIR.

CHAIRMAN: THANK YOU.

MR. LANHAM: THAT'S WHERE CUTS ARE WORKING, IN THAT DIRECTION AND WILL BE CONCLUDING OPERATION IN THAT DIRECTION. JUST TO SHOW YOU WHAT YOU WOULD SEE FROM THE HIGHWAY. IT'S NOT SOMETHING THAT ABUTS RIGHT UP AGAINST THE ROAD. JUST KIND OF PAINTS A MORE CLEAR PICTURE.

WHAT YOU SEE IN THE HORIZON THERE IT'S BROWN IN WOOD ASSUMES RECLAMATION GROUND. THAT'S FARM GROUND. THAT'S THE ORIGINAL GROUND. THAT IS WHAT A FARMER IS PREPARING HIS GROUND FOR CORN, WHATEVER AT HIS DISCRETION AT THAT POINT. I BELIEVE IT WENT INTO CORN THIS YEAR. THE GREEN IS WHERE YOU SEE THE RECLAMATION GROUND. THAT'S WHERE IT WAS WRAPPED UP SOME TWO YEARS AGO. YOU'LL SEE AN ORGANIZED WATERWAY WHERE WE CONTROL THE WATER AND PUT ONE DITCH.

ON THAT NOTE I'D LIKE TO CLARIFY, WHERE THERE'S ONE DITCH, IT GOES BACK TO ONE DITCH. WE MAY REDUCE THE PERCENTAGE OF RATE THE WAY THE WATER FALLS TO PREVENT EROSION. THAT'S WHAT WE DID IN THIS SITUATION RIGHT HERE. BY SIMPLY USING THE RIFT-RAFT OR SLOWING DOWN THE RATE OF WATER USING DIVERSION
DITCHES. WHERE THERE'S ONE WATERWAY, YOU STILL HAVE ONE WATERWAY. THAT'S EXACTLY HOW WE CONDUCT OUR OPERATIONS AS FAR AS OUR RECLAMATION GOES IN CONTROLLING WATER FOR EROSION PURPOSES.

ONCE AGAIN THE GREEN, THAT'S RECLAMATION GROUND THAT'S CONCLUDED IN THAT AREA. WE'RE STILL OBSERVING IT AND TAKING CARE OF IT AND SO ON AND SO FROTH.

DUST CONTROL. I KNOW ONE OF YOUR HUGE CONCERNS IS DUST CONTROL. NOT ONLY WITH YOUR HOMES, WITH YOUR FAMILY, WITH YOUR CHILDREN, AROUND SCHOOLS. IT CAME AND IT IS. WESTERN KENTUCKY MINERAL WE UNDERSTAND THAT. WE HAVE THE SAME THING GOING ON IN KNOTTSVILLE.

THIS IS JUST TO SHOW YOU EXACTLY WHAT OUR PROCEDURES ARE FOR CONTROLLING DUST AND HOW THEY GO ABOUT CONDUCTING THAT BUSINESS.

WESTERN KENTUCKY MINERALS FUGITIVE DUST CONTROL PLAN IS PLAN AN ACTION TO ADDRESS FUGITIVE DUST EMITTED FROM COAL STOCKPILES, HAUL ROADS AND MINE ENTRANCES.

EACH ONE OF THOSE WE DO CONDUCT PROCEDURES SUCH AS A WATER TRUCK. SEVERAL HUNDRED GALLON OF WATER TRUCK THAT YOU WILL SEE IN A VIDEO HERE IN JUST A FEW MINUTES THAT'S GOING TO SHOW JUST HOW WE GO
ABOUT CONTROLLING THE DUST IN THE AREA.

I'LL ROLL THROUGH THIS SLIDE AS YOU'RE WATCHING THIS.

FUGITIVE DUST CONTROL PLANS ARE IN PLACE TO PROVIDE SAFETY FOR MINERS, PUBLIC PROTECTION, CONTROL COAL DUST, DUST CONTROL PLAN IS SITE-SPECIFIC.

IF YOU'RE BREATHING DUST, THEN WE'VE ALREADY BREATHED THE DUST. I KNOW THAT IS SELF-EXPLANATORY AND SOMewhat OF A BOLUS STATEMENT, BUT IT IS. IF YOU'RE BREATHING DUST, WE'VE ALREADY BREATHED IT. WE CONTROL THIS DUST BEFORE IT EVER GETS OUTSIDE OF OUR PARAMETER.

YOU'LL SEE EXACTLY. HERE IS A COAL TRUCK COMING OUT OF THE PIT. WATER TRUCK TRAILING CLOSE BY AND SIMPLY CASTING A THING LAYER OF WATER OVER THE ROAD JUST TO -- NOT TO CREATE ANY DANGER SITUATIONS. MERELY TO CONTROL THAT DUST. IT IS VERY EFFECTIVE.

ONCE AGAIN YOU HAVE DUST CONTROL PLAN. IT CAN BE SITE-SPECIFIC. IT CUTS WAY YOUR -- - CHAIRMAN: EXCUSE ME, LET ME ASK ANOTHER QUESTION.

MR. LANHAM: YES, SIR.

CHAIRMAN: WHAT YOU'RE DEPICTING THERE IS THE COAL TRUCK IS LEAVING AND THE WATER TRUCK IS RIGHT BEHIND IT. I'M NOT TO ASSUME THAT EVERY LOAD THAT
GOES OUT OF THERE A WATER TRUCK Follows IT?

MR. LANHAM: NO. JUST AS THE APPLICATION IT IS NECESSARY.

CHAIRMAN: WHAT WOULD BE AN AVERAGE TIME SPAN BETWEEN WATERINGS?

MR. LANHAM: DEPENDING ON IF YOU'RE IN A MODERATE DROUGHT CONDITION, MR. KIRKLAND, IT CAN BE EVERY 15 MINUTES, EVERY 10 MINUTES, BUT IT'S A CONTINUOUS PROCESS THAT WE CONDUCT THROUGHOUT THE DAY SIMPLY TO PROVIDE ENOUGH WATER COVERAGE ON THE HAUL ROAD.

CHAIRMAN: THANK YOU.

MR. LANHAM: IMPLEMENTING DUST CONTROL. THIS OPERATION HAS JUST PASSED AS FAR AS THE PLANNING ZONING JUST THE BEGINNING OF MAY. THIS JOB WAS OPENED UP AT THE BEGINNING OF MAY 2012. AS FAR AS IMPLEMENTING DUST CONTROL INITIALLY, ONCE WE OPEN A JOB WE GET OUR HAUL ROADS IN PLACE. WE ESTABLISH THE ROADWAYS AND THAT'S WHEN WE START TO CONTROL OUR DUST. IT'S AN INITIAL PROCESS JUST AS SOON AS WE STEP INTO A NEW OPERATION.

THAT'S WHERE THE HAUL ROAD COMES OFF OF 951. SIMILAR TO WHAT WE WOULD UTILIZE ON 231 WITH P RIDGE MINING.

LIKE I SAY, WE HAVE OUR SIGNS AND OUR NUMBERS
WHICH WE WOULD HAVE AT EVERY ENTRANCE. IT'S MANDATORY. IT'S OVERSEEN BY REGULATORY AGENCIES.
IMPLEMENTING DUST CONTROL. THE OPERATION IS A NON-MINING STATUS WHILE ESTABLISHING COAL HAULAGE ROUTES AND CONDUCTING DUST-CONTROL PROCEDURES.

THERE IS NO COAL EXTRACTION AT THIS POINT.

BEFORE COAL IS EXTRACTED OR HAULED FROM THESE ROADS, WE GET THE BASELINE. WE GET OUR ACCESS ROUTES AND THAT'S WHERE WE'LL START OUR DUST CONTROL PLAN.

WHEN WE OPEN THESE JOBS UP YOU WILL SEE YOUR COMMON DUST. YOUR NUISANCE DUST. YOU WILL SEE IT. IT EXIST. IT'S THERE. IT CAN BECOME A PROBLEM IF YOU DON'T CONTROL THAT.

HOWEVER, IN THIS SITUATION, MAY OF 2012, WE WERE IN A VERY MODERATE DROUGHT CONDITION. YOU WOULD SEE SOME SURFACE DUST. IN THE PROCESS OF CONTROLLING IT, WE WOULD STIR UP A LITTLE BIT OF DUST.

THIS PICTURE HERE WAS TAKEN ON HIGHWAY 60. IT'S NOT TO PASS ON RESPONSIBILITY OR TRY SPREAD ON THAT. WE TAKE ACCOUNTABILITY FOR OUR ACTIONS FOR SURE. THIS IS WHAT YOU SEE AT A CONSTRUCTION SITE. YOU'RE GOING TO HAVE SOME SURFACE DUST. NOTHING DIFFERENT FROM WHAT YOU WOULD MOW IN YOUR YARD. THAT'S NOT OUR TRUCK. THAT IS SIMPLY A SEPARATE CONSTRUCTION SITE ON HIGHWAY 60. AT THE SAME TIME WE
OPENED THIS SITE IN MAY 2012, THESE PICTURES WERE TAKEN A FEW DAYS AGO.

SAME THING. THIS PICTURE WAS TAKEN NOT MORE THAN TWO MILES, THREE MILES AWAY FROM OUR MINING SITE THERE IN KNOTTSVILLE, KENTUCKY. AT THE SAME TIME FRAME WE'LL BE OPENING OUR JOB AND STARTED IMPLEMENTING OUR DUST CONTROL PROCESS. THAT'S AGRICULTURAL. JUST SHOWING YOU IT IS SIMILAR. AS FAR AS THE DUST DOWN YOUR COAL PITS, ONCE WE HAVE A ROAD WAYS AND THESE WATER TRUCKS CAN ACCESS THOSE POINTS, IT ISN'T A PROBLEM. WE CONTROL THAT DUST. IT'S A CONTINUOUS PROCESS. INITIALLY GETTING THE JOB OPENED UP, YOU WILL SEE SOME SURFACE DUST. IT ISN'T ANYTHING DIFFERENT THAN WHAT YOU SEE IN AGRICULTURAL OPERATIONS AND IN MOWING YOUR YARD.

DUST MONITORING. AT THIS TIME, GENTLEMEN, IF YOU DON'T MIND, I WOULD LIKE TO OPEN THE FLOOR UP TO STEVE LITTLE. HE CONDUCTS A LOT OF OUR DUST MONITORING AND IS PREPARED TO ANSWER ANY QUESTIONS PERTAINING TO THAT, UNLESS, MR. KIRKLAND, YOU HAVE ANY QUESTIONS OF ME?

CHAIRMAN: NOT FROM ME.

DOES ANYBODY ELSE ON THE COMMISSION HAVE ANY QUESTIONS?

(NO RESPONSE)
CHAIRMAN: IF NOT, MR. LANHAM, CONTINUE WITH YOUR PROGRAM.

MR. LITTLE: MY NAME IS STEVE LITTLE WITH MIDWEST CONTROL HERE IN OWENSBORO.

CHAIRMAN: MR. LITTLE, HOLD ON JUST A SECOND.

(STEVE LITTLE SWORN BY ATTORNEY.)

MR. LITTLE: I HAVE JUST A FEW THINGS AND COMMENTS I WANT TO MAKE ABOUT DEALING BASICALLY WILL HEALTH HAZARDS WE DEAL WITH THE MINE LEVEL ALL THE TIME. I'VE BEEN CONDUCTING ENVIRONMENTAL MONITORING OUT THERE, DUST AND NOISE AT A MINE. I HAVE COPIES OF ALL THESE THINGS I'M GOING TO REVIEW HERE A LITTLE BIT, IF YOU WANT THEM.

THERE HAS BEEN FOUR INSPECTIONS BY THE DIVISION OF AIR QUALITY SINCE THE MINE HAS BEEN IN EXISTENCE OUT THERE WITH NO VIOLATION ON THE INVESTIGATION OF COMPLAINTS OF DUST PROBLEMS. YOU KNOW, MIGRATING FROM THE MINE. THEY SORT OF SPEAK FOR THEMSELVES.

CHAIRMAN: DO YOU WANT TO ENTER THIS REPORT INTO THE RECORD THAT I'VE RECEIVED?

MR. LITTLE: YES.

CHAIRMAN: WILL YOU STATE THAT, PLEASE?

MR. LITTLE: YES. AIR QUALITY DOCUMENT WHICH IS FOUR INSPECTIONS BECAUSE OF A RESIDENT COMPLAINT
OVER MIGRATING DUST.

CHAIRMAN: THAT WAS JUST PROCEDURAL?

MR. LITTLE: YES.

CHAIRMAN: GO AHEAD.

MR. LITTLE: THE OTHER DOCUMENT THAT I HAVE JUST DEMONSTRATES CONCERNING THE HEALTH HAZARD. I KNOW THE MIGRATING DUST, THE FUGITIVE DUST, THE NUISANCE DUST, WHATEVER YOU WANT TO CALL IT THAT LEAVES THE MINE PROPERTY AT TIMES, FROM A HEALTH HAZARD STANDPOINT IT'S VERY UNLIKELY THAT THE DUST LEAVING THE MINES, IT'S GOING TO DISSIPATE. IT'S GOING TO SETTLE DOWN. IT'S NOT GOING TO BE OF A MAGNITUDE TO WHERE IT'S GOING TO BE ABOVE THE PERMISSIBLE EXPOSURE LEVEL IN THE COMMUNITY.

I HAVE A DOCUMENT FROM MSHA THAT SHOWS ALL THE DUST SAMPLINGS DONE BY MSHA ON MINE SITES, WHICH WAS 55 TOTAL. I PERSONALLY CONDUCTED THE MAJORITY OF 14 COMPANY SAMPLES, WHICH YOU CALL OPERATOR SAMPLES. ALL OF THOSE ARE WELL BELOW THE ACCEPTABLE LEVELS FOR RESPIRABLE DUST IN A COAL MINE SITE.

IF WE CAN KEEP THE RESPIRABLE DUST LEVEL WELL BELOW THE PERMISSIBLE LEVEL AT THE MINE SITE WITH THE DUST CONTROL MEASURES AND WATERING AND WHATEVER, THEN OBVIOUSLY IT'S NOT GOING TO MIGRATE OUT AND IT'S GOING TO HAVE A MINIMAL IMPACT ON THE COMMUNITY SURROUNDING OHIO VALLEY REPORTING
(270) 683-7383
THE MINE.

CHAIRMAN: MR. LITTLE, IF YOU DON'T MIND, LET
ME STOP YOU RIGHT THERE. LET'S SEE IF WE HAVE ANY
QUESTIONS FROM THE COMMISSION OR ANYBODY FROM THE
AUDIENCE BECAUSE I'M SURE THE DUST IS GOING TO BE A
CONCERN TO MOST PEOPLE.

DOES ANYBODY IN THE AUDIENCE HAVE ANY
QUESTIONS THEY WOULD LIKE TO ASK?

YES, SIR.

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

MR. ISBILL: TONY ISBILL.

(TONY ISBILL SWORN BY ATTORNEY.)

MR. ISBILL: MY QUESTION IS THIS: I TALKED
WITH THE STATE MINING COMMISSION THIS AFTERNOON AND
THEY SPECIFICALLY TOLD ME THAT THE CONTROL LEVEL OF
AIR DUST IS THAT THERE CANNOT BE ANY VISIBLE PARTICLES
THAT LEAVES THE MINING SITE. I ASKED THEM IF THERE
WAS ANY EXCEPTION TO THAT. HIGH WINDS, ANYTHING LIKE
THAT. THEIR ANSWER WAS, ABSOLUTELY NOT. THE STANDARD
IS THAT THERE IS NO VISIBLE DUST. I WAS TOLD THAT
TODAY. THAT THERE CAN BE NO VISIBLE DUST THAT CAN
LEAVE THE MINE SITE. AGAIN, IT'S ONE OF THOSE THINGS
THAT'S OUT OF CONTROL. IF THE WINDS ARE UP, THEY'RE
BLAMING IT ON GOD.
MY QUESTION IS: IS THAT CORRECT? BECAUSE THAT'S WHAT THE COAL COMMISSION TOLD ME SPECIFICALLY.

CHAIRMAN: THANK YOU, MR. ISBILL.

MR. LITTLE.

MR. LITTLE: I'M NOT SURE IF YOU'RE TALKING ABOUT COAL DUST OR JUST DUST IN GENERAL.

CHAIRMAN: MR. ISBILL.

MR. ISBILL: DUST.

MR. LITTLE: I'M NOT AWARE THAT THE STATE OR THE FEDERAL REGULATORY AGENCY OF COAL MINING REGULATES IT TO THAT DEGREE. THERE IS TWO MILLIGRAM STANDARD OF PRIMARILY COAL AND ALSO THERE'S A STANDARD CONCERNING THE OTHER ROCK MATERIAL THAT CREATES DUST CONCERNING QUARTZ OR CRYSTALLINE SILVER. THERE'S BEEN NO CITATIONS ISSUED AT THAT MINE OVER QUARTZ OR SILVER CONTENT. ALL OF THESE SAMPLES WERE BASICALLY TO CAPTURE COAL DUST AS WELL AS OTHER DUST, RESPIRABLE DUST. THAT ENTERS YOUR LUNGS, DEEP INTO YOUR LUNGS. ALL OF THESE SAMPLES SHOW THAT THERE -- THE FIRST ONE I'M LOOKING AT IS 0.12. THERE'S A TWO MILLIGRAM STANDARD.

CHAIRMAN: LET ME MAKE THIS SIMPLE SO US THAT ARE NOT VERY TECHNICAL CAN UNDERSTAND.

LIKE SAY POSSIBLY IN MY YARD I'VE GOT SOME BARE SPOTS AND I'VE GOT DUST THAT CREATED AND BLOWS
OFF OF THAT. IS THAT THE TYPE OF DUST THAT YOU'RE SAYING IS NON-REGULATED?

MR. LITTLE: YES.

CHAIRMAN: I WAS TRYING TO DIFFERENTIATE BETWEEN CONTROLLABLE DUST.

MR. LITTLE: IT'S NOT REGULATED BY MSHA.

CHAIRMAN: NOW, YOU UNDERSTAND WHERE I'M AT. YOU ALL ALSO HAVE SURFACE DUST, WHICH UNFORTUNATELY I PROBABLY HAVE IN MY YARD. THAT IS SURFACE DUST AS OPPOSED TO CONTROLLABLE DUST, WHICH FOR LACK OF KNOWING THE TECHNICAL TERMS I REFER TO AS ROCK SHELL AND COAL.

MR. LITTLE: JUST A MIXTURE OF ROCK STRUCTURE.

CHAIRMAN: AM I SUMMING THAT UP CORRECTLY?

MR. LITTLE: YES. ALL DUST IS ACTUALLY REGULATED TO SOME DEGREE. WHAT THESE STATISTICS ARE, ARE BASED ON THE MSHA STANDARDS.

CHAIRMAN: WAIT A MINUTE. YOU CONFUSED ME. WHAT DUST IS OR IS NOT REGULATED? YOU SEE THE COAL TRUCKS GOING UP AND DOWN THAT ARE CONTROLLING THAT DUST. IS THERE OTHER DUST THAT CAN LEAVE YOUR SITE OR ARE YOU GOING TO BE SO FAR BACK THAT --

MR. LITTLE: WELL, THE DUST NORMALLY -- I'M GOING TO LAY THIS ASIDE FOR A MINUTE AND WE'LL TALK A LITTLE BIT ABOUT THIS. NUISANCE DUST WILL REFER TO
CHAIRMAN: WAIT JUST A MINUTE. FOR MY BENEFITS AND PROBABLY OTHERS IN HERE, I'M NOT REALLY GRASPING THE TYPES OF DUST WE'RE TALKING ABOUT. ARE YOU TALKING ABOUT FUGITIVE DUST?

MR. LITTLE: NO. THIS ONE THAT I FIRST MENTIONED IS MSHA REQUIRED, DUST SAMPLING CONDUCTED BY MSHA CONDUCTED BY THE OPERATOR. THIS IS REGULATED BY MSHA.

CHAIRMAN: OKAY.

MR. LITTLE: THE TWO MILLIGRAM STANDARD THAT YOU HAVE TO BE BELOW. IF THEY CONDUCT A SAMPLE AND THEY GET TWO MILLIGRAMS, THAT REQUIRES ACTION TO BE TAKEN TO DETERMINE WHAT HAPPENED, WHAT CAUSED IT TO EXIST, WHAT ARE YOU GOING TO DO TO GET IT BELOW THAT.

CHAIRMAN: LET ME MAKE SURE THAT I'M CLEAR.

THAT'S LEAVING YOUR SITE AT THE MINE, RIGHT? SO IF YOU HAVE A HUGE DUST SITUATION, A DUST STORM, AS MR. ISBILL SAID, AN ACT OF GOD. I MEAN WE HAVE A DUST STORM. WE'VE HAD THEM. ARE YOU RESPONSIBLE FOR THAT IF IT LEAVES YOUR AREA EVEN THOUGH THE FARM DOWN THE ROAD IS HAVING THE SAME ISSUE?

MR. LITTLE: FROM A FUGITIVE DUST STANDPOINT, BUT MSHA DOES NOT REGULATE ANYTHING OFF THAT PERMITTED SITE.
CHAIRMAN: MR. KAZLAUSKAS, I'M SURE YOU'RE GOING TO CLEAR THIS UP FOR ME.

MR. KAZLAUSKAS: I'M SOMEWHAT CONFUSED MYSELF.

CHAIRMAN: AFTER ALL THOSE QUESTIONS I ASKED?

MR. KAZLAUSKAS: LET ME JUST ASK A COUPLE OF SPECIFIC QUESTIONS HERE.

WILL THERE BE ANY COAL STOCK PILED ON THE SITE?

MR. LITTLE: YES.

MR. KAZLAUSKAS: THERE WILL BE COAL STOCK PILE. WHILE YOU'RE MINING THERE WILL BE DUST, DIRT MIXED WITH SHELL. IS THAT WHAT YOU'RE REFERRING TO AS FUGITIVE DUST RATHER THAN COAL DUST?

MR. LITTLE: FUGITIVE DUST BASICALLY LEAVES THE SITE.

MR. KAZLAUSKAS: LEAVES THE SITE. OKAY. SO THERE IS DUST THAT --

MR. LITTLE: THE DUST WITHIN THE SITE IS REGULATED BY MSHA.

MR. KAZLAUSKAS: LET ME ASK, PLEASE.

THERE IS DUST THAT OCCURS WHEN THE MINING OPERATION IS TAKING PLACE?

MR. LITTLE: YES.

MR. KAZLAUSKAS: THERE IS ALSO DUST THAT CAN BE BLOWN OFF OF THE COAL PILES. THAT IS COAL DUST,
CORRECT?

MR. LITTLE: THAT'S TRUE.

MR. KAZLAUSKAS: CAN ANYBODY WITH ANY CERTAINTY SAY THAT THAT COAL DUST CAN BE CONTAINED IN A HIGH WIND SITUATION OF 25 KNOTS, THAT THAT COAL WILL NOT TRAVEL MILES IN CERTAIN DIRECTIONS, BASED ON WHICH WAY THE WIND IS BLOWING? IS THERE ANY ASSURANCES THAT THAT CAN BE MADE?

MR. LITTLE: PART OF THEIR DUST CONTROL PLAN REQUIRES THAT IT BE CONTAINED.

MR. KAZLAUSKAS: BUT IS THERE 100 PERCENT ASSURANCE THAT IT CAN BE?

MR. KIRKLAND, DIDN'T WE HAVE SOMEONE FROM THE STATE HERE AT THE LAST MEETING?

CHAIRMAN: CORRECT.

MR. KAZLAUSKAS: IS THAT PERSON PRESENT TODAY? IT WOULD BE NICE TO HAVE HIM TODAY.

MR. HAYNES: CAN I SPEAK?

CHAIRMAN: YES.

MR. HOWARD: THERE'S ACTUALLY TWO GROUPS THAT MONITOR OUR DUST. MSHA, MINE SAFETY & HEALTH ADMINISTRATION, THEIR PRIMARY CONCERN IS TO LOOK OUT FOR THE EMPLOYEES. I THINK WHAT MR. LITTLE WAS TRYING TO SAY IS THAT THEY'VE SET SOME PRETTY STRINGENT STANDARDS BECAUSE THE EMPLOYEES IS CLOSE TO THE DUST,
WHETHER IT BE COAL DUST, DUST FROM QUARTZ, WHERE DIRT IS BEING MOVED. I THINK WHAT MR. LITTLE WAS SAYING IS THOSE STANDARDS ARE SO STRINGENT RIGHT THERE AT THE POINT OF EMISSION OF THE DUST, THAT ANYTHING THAT WOULD MIGRATE OFF THE SITE WOULD BE VERY MINIMAL.

THE SECOND GROUP THAT MONITORS US, AND I THAT'S WHERE THERE'S SOME CONFUSION. MR. ISBILL IS CORRECT, AND MR. LITTLE IS CORRECT, AND YOU'RE CORRECT.

WHEN YOU MOW YOUR GRASS, YOU'RE NOT REGULATED BY MSHA, BUT YOU WOULD FALL UNDER THE KENTUCKY DIVISION OF AIR QUALITY REGULATIONS. EVEN IN YOUR OWN BACKYARD IT WOULD BE A VIOLATION TO CREATE A BUNCH OF DUST. THEY MONITOR CONSTRUCTION SITES, YOU KNOW, ROADWAYS, THINGS LIKE THAT.

MR. ISBILL IS RIGHT. WE ARE REQUIRED TO CONTAIN NOT ONLY COAL DUST, BUT ALL DUST COMING FROM OUR SITE. ALL DUST WE CREATE. IF IT MIGRATES OFF IN CERTAIN QUANTITIES, WE HAVE A VIOLATION OF THE KENTUCKY AIR DIVISION QUALITY STANDARDS.

TO ANSWER MR. KAZLAUSKAS' QUESTION, YES, THERE ARE PROCEDURES IN PLACE IN THE EVENT OF A HIGH WIND. I'M NOT SAYING IT'S PERFECT BECAUSE IT'S NEVER GOING TO BE.

AUDIENCE MEMBER: WHAT ABOUT THE SMELL?
MR. HAYNES: THE COAL STOCKPILE ARE WET. THEY ARE WATERED JUST LIKE THE ROADS AS THINGS MAY NEED. THEY'RE WATERED MORE IN DRYER CONDITIONS. THEY'RE WATERED MORE IN MORE WINDY CONDITIONS.

CHAIRMAN: MR. HAYNES, LET ME ASK. IN REAL HIGH WIND CONDITIONS, DO YOU ALL THEN TAKE PRECAUTIONS EVEN PRECLUDING OR SHUTTING DOWN MINING BECAUSE OF EXCESSIVE WIND?

MR. HAYNES: YES. THAT WOULD COME FROM SEVERAL THINGS. THAT COMES FROM AIR QUALITY, BUT MOSTLY FROM MSHA, MINE AND SAFETY. WHEN WE HAVE A WEATHER CONDITION THAT IS NOT CONDUCIVE TO THE MAN WORKING IN THAT MINE, WE SHUTDOWN. THAT WOULD BE HIGH WINDS.

CHAIRMAN: LET ME ASK YOU SOMETHING. MR. KAZLAUSKAS' DUE TO HIS HOBBY OF SAILING IS A LOT MORE FAMILIAR WITH WINDS THAN I AM.

IS THERE A THRESHOLD WHERE YOU ALL DO OR DO NOT MINE AS FAR AS WIND? HERE THIS SPRING WE'VE HAD PROBABLY AS WINDY OF A SPRING AS I CAN REMEMBER IN OWENSBORO.

MR. HAYNES: OBVIOUSLY WE WOULD STOP WITH, YOU KNOW, A TORNADO WARNING OR A SIREN. NOW YOU'RE ASKING BETWEEN A REASONABLE LEVEL AND UP THERE. YES. WHEN A CONDITION BECOMES IN ANY WAY UNSAFE FOR THAT MAN,
WHETHER HE'S ON THE PIT OR IN THE ROAD WE STOP.

CHAIRMAN: IS THERE A THRESHOLD THOUGH ABOVE FIVE MILES PER HOUR OR TEN MILE PER HOUR?

MR. HAYNES: THERE'S NO SPECIFIC REGULATION, BUT IF THE DUST GETS OFF THE SITE IN ANY MEASURABLE QUANTITY, WHETHER IT COMES FROM A COAL STOCKPILE, FROM THE ROAD, FROM A TRUCK OPERATING, WE'RE IN VIOLATION, AND MR. ISBILL IS RIGHT. WE WERE NOT SUPPOSED TO BE LETTING DUST OFF THAT SITE AND WE DON'T.

CHAIRMAN: IS THIS CONTROLLED A GREAT DEAL BY -- YOU HAVE 600 ACRES NOW ON THIS APPLICATION. OBVIOUSLY IF YOU'RE IN THE MIDDLE OF 600 ACRES, YOU CREATE A WHOLE LOT OF DUST THAT'S PRETTY WELL CONTAINED WITHIN YOUR 600 ACRES, BUT YOU HAVE YOUR EMPLOYEES THERE ARE ALSO EXPOSED TO THIS DUST. SO THAT LEVEL HAS TO BE KEPT DOWN. IS THAT CORRECT?

MR. HAYNES: IT DOESN'T MAKE ANY DIFFERENCE BECAUSE WE'RE TRYING TO CONTROL THE HEALTH OF OUR EMPLOYEES. WHETHER WE'RE IN THE MIDDLE OF THAT PERMIT OR ON THE EDGE, WE ARE WATERING IT JUST AS MUCH. WE ARE TAKING WHATEVER PRECAUTIONS ARE NECESSARY. I'M TELLING YOU, MSHA IS STRICT. THEY DON'T ALLOW THOSE EMPLOYEES TO BE EXPOSED TO DUST.

CHAIRMAN: THANK YOU.

MR. LITTLE: THAT WAS PRIMARILY THE POINT THAT
I was trying to make by using that guide. Was the fact that if we can control it to that degree at the mine level for employees, what dust does leave the mining property, regardless of the issues, legal issue with it, it's very unlikely that there's going to be a health hazard to the surrounding neighbors.

Chairman: Let me stop you.

After that extensive dust lecture, does anybody else have any other thing they would like to ask?

Yes, sir.

Mr. Silvert: Could you state your name, please?

Mr. Mitchell: Bill Mitchell.

(Bill Mitchell sworn by attorney.)

Mr. Mitchell: How often do they monitor the air and when do they monitor it? Who is monitoring it?

Chairman: Wait just a moment. Questions to me.

Mr. Little: The law requires it to be monitored --

Chairman: Wait just a minute. Let me go ahead and restate that for the record.
HIS QUESTIONS WERE HOW OFTEN DO YOU MONITOR AND WHO MONITORS?

MR. LITTLE: MSHA MONITORS AT LEAST, THEY GENERALLY CONDUCT, DURING THEIR REGULAR INSPECTIONS THEY CONDUCT FIVE CONSECUTIVE OR NON-CONSECUTIVE SAMPLES FOR THEIR OWN BENEFIT. THEY DO THAT EVERY REGULAR INSPECTION SEVERAL TIMES THROUGHOUT THE YEAR. I'M MONITORING FOR THEM NOW EVERY OTHER MONTH.

CHAIRMAN: THANK YOU.

MR. MITCHELL: YES, SIR.

MR. LITTLE: THE FOUR DOCUMENTS THAT WERE SUBMITTED PREVIOUSLY WAS THE ONLY FOUR COMPLAINTS FROM THE COMMUNITY. AIR QUALITY CAME OUT AND MADE THE INSPECTION OF DUST COMING OFF MY PROPERTY.

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

MR. WRIGHT: TIMOTHY WRIGHT.

(TIM WRIGHT SWORN BY ATTORNEY.)

MR. WRIGHT: WE'RE GETTING A LOT OF CONFUSION THERE BETWEEN MSHA AND THE SAFETY STANDARDS FOR THE MINERS, THE MONITORS, AND OUR AIR QUALITY PERMIT. WHAT PEOPLE HAVEN'T MENTIONED AND WHAT TONY ISBILL IS TALKING ABOUT IS UNDER OUR AIR QUALITY PERMIT. WE ARE NOT ALLOWED UNDER OUR AIR QUALITY PERMITS TO ALLOW ANY VISIBLE DUST, COAL DUST, FUGITIVE
DUST FROM THE ROCK TO LEAVE OUR MINING SITE.

WHAT I TOLD THEM AT THE CHURCH IS YOU GET A
40, 50 MILE AN HOUR WIND, YOU'VE GOT A COAL STOCKPILE
THERE, IT'S GOING TO PICK UP THE COMMON DUST LIKE WE
SHOW WITH THESE TRACTORS, WITH THE CONSTRUCTION SITE.
WE CAN'T CONTROL THAT. THAT'S MOTHER NATURE. THAT'S
NOT THE HARMFUL DUST. THAT'S COMMON DUST WHAT YOU
STIR UP IN YOUR YARD.

CHAIRMAN: IT MAY EVEN BE WORSE IN MY YARD.

MR. WRIGHT: YES, IT COULD BE. BUT THAT'S THE
COMMON DUST THAT EVERYBODY SEES. OUR SUPERINTENDENT
WATCHES OUR ROAD. HE WATCHES OUR COAL STOCKPILE. HE
TAKES CARE OF THAT. OUR RESTRICTION --

MR. SILVERT: SIR, COULD YOU SPEAK UP A LITTLE
BIT. OUR COURT REPORTER IS HAVING DIFFICULTY HEARING
YOU.

MR. WRIGHT: OUR MONITORING IS 20 PERCENT
OPACITY WHICH IS A VISIBLE DUST. WE'RE NOT ALLOWED TO
LET THAT PHYSICAL DUST STIR UP IN THAT MINE SITE.
THAT IS FOR SAFETY OF THE GUYS ON THE TRUCK, THE
EQUIPMENT ON THE MINE SITE, FOR THE SAFETY OF THE
PEOPLE OUTSIDE OF IT. THAT'S YOUR FUGITIVE DUST.
THAT'S YOUR DUST THAT CAN BE HARMFUL.

YOUR COMMON DUST IS WHAT MR. ISBILL IS TRYING
TO CONFUSE WITH THAT. THAT'S TO GET THE PERMIT. TWO
DIFFERENCE CRITERIAS THAN WHAT MR. LITTLE IS TALKING
ABOUT IF HE MONITORING FOR MSHA WITH OUR EQUIPMENT,
INSIDE THE EQUIPMENT, AND MSHA HAS THOSE STANDARDS.
HE DOESN'T HAVE ANYTHING TO DO WITH AIR QUALITY
MONITORING. WE DO THAT OURSELVES ON THE MINE SITE.

CHAIRMAN: THANK YOU.

MR. KAZLAUSKAS: SINCE YOU'RE UP HERE. YOU'VE BEEN INVOLVED IN THE COAL INDUSTRY ALL YOUR LIFE. NOT THIS PARTICULAR COMPANY. BUT A COAL COMPANY THAT HAD A STOCKPILE OF COAL AND YOU HAD A 20, 25 MILE KNOT WIND BLOWING OVER THAT STOCKPILE OF COAL AND IT WASN'T MAINTAINED PROPERLY. HOW MANY MILES WOULD THAT 25 KNOT WIND CARRY THAT BLACK COAL DUST? DO YOU HAVE ANY IDEA AT ALL?

MR. WRIGHT: NO. WE'RE NOT ALLOWED TO LET THAT HAPPEN.

MR. KAZLAUSKAS: ARE YOU TALKING ABOUT A MILE, SEVERAL MILES?

MR. WRIGHT: NO. WE CAN'T LET THAT HAPPEN.

MR. KAZLAUSKAS: YOU'RE SAYING THAT THAT DOES NOT HAPPEN?

MR. WRIGHT: NO. NO. NOT WITH COAL DUST, NO. THAT'S SUPERINTENDENT IS OUT THERE. HE MONITORS THAT. IF WE GET VISIBLE DUST OFF OUR TRUCKS, OFF OUR WASH PLANT, OFF OUR COAL PILES, HE BRINGS IN THAT WATER
TRUCK THAT YOU SEE AND HAS GOT A SPRAY NOZZLE ON IT,
AND WE SPRAY DOWN THOSE COAL STOCKPILE TO PREVENT THAT
FROM HAPPENING.

MR. REEVES: MR. CHAIRMAN.

CHAIRMAN: MR. REEVES.

MR. REEVES: I NEED TO KNOW WHO MR. LITTLE
WORKS FOR. WHO SIGNS HIS PAYCHECKS.

CHAIRMAN: EXCUSE ME. STATE --

MR. LITTLE: I WORK FOR MIDWEST CONSULTING
HERE IN OWENSBORO.

MR. REEVES: AND YOU'RE CONTRACTED WITH WHOM?

MR. LITTLE: FOR THIS PARTICULAR WORK I'M
TALKING ABOUT IS TONY LANHAM, WESTERN KENTUCKY
MINERALS.

MR. WRIGHT: ANYBODY HAVE ANY FURTHER OTHER
QUESTIONS?

CHAIRMAN: WAIT JUST A MINUTE.

AT THIS POINT IN TIME, MR. HAYNES, WE WERE
GOING TO INTERRUPT YOU WITH OUR QUESTIONS. I THINK AT
THIS POINT IN TIME I THINK THE DUST WAS AN ISSUE AND I
THINK WE'VE PRETTY WELL WORN YOU ALL OUT ON THAT. I
THINK AT THIS POINT IN TIME I'LL LET YOU CONTINUE WITH
YOUR PRESENTATION. IF WE HAVE ANY OTHER QUESTIONS,
WE'LL PICK THOSE UP. WE'RE GOING TO LET THEM CONTINUE
WITH THEIRS AND IF THERE'S ANYTHING ELSE ALONG THE
WAY, I HOPE ALL OF YOU UNDERSTAND MORE ABOUT DUST THAN YOU'VE EVER UNDERSTOOD IN YOUR LIFE, BUT WE'LL CONTINUE. IF YOU WANT TO COME BACK TO DUST, WE WILL, BUT LET'S LET THEM GET ALL THEIR HIGHLIGHTS AND THEN WE'LL COME BACK. I'LL SUMMARIZE YOUR QUESTIONS THE WAY I HAVE DONE IN THE PAST.

MR. LANHAM.

MR. LANHAM: THANK YOU, MR. KIRKLAND.

TRANSPORTATION. ONCE AGAIN, LOTS OF QUESTIONS CAME FROM TRANSPORTATION.

AS FAR AS ASHBY TRUCKING COMPANY,

INCORPORATED, WE DIDN'T REALLY SPECIFY ALL THE FACTS. REALLY ANYTHING OUT ASHBY TRUCKING, THAT'S WHAT WE WERE TRYING TO DELIVER TONIGHT. JUST TO COVER SOME FACTS. A LITTLE BIT ABOUT THEM. WHAT THEY DO AND JUST HOW WELL THEY CONDUCT THEIR OPERATION WITH WESTERN KENTUCKY MINERALS.

ASHBY TRUCKING, INCORPORATED HAS BEEN IN BUSINESS FOR 49 YEARS AND INCORPORATED FOR 34 YEARS. IT'S HAULED COAL FOR WESTERN KENTUCKY MINERALS FOR OVER FOUR YEARS. AVERAGE DRIVER EXPERIENCE IS 24 YEARS. I SEE THESE GENTLEMEN EVERY DAY. THESE ARE SOME VERY EXPERIENCED GENTLEMEN AND WE TALK TO THEM ON A DAILY BASIS. THEY'RE VERY QUALIFIED. FOR 24 YEARS ON THEIR EXPERIENCE. LOW TURNOVER RATE. RANDOM DRUG
TESTING IS CONDUCTED WITHIN THIS COMPANY AND CARRY ALL
REQUIRED INSURANCE. EQUIPMENT IS WELL MAINTAINED.
LEAD MECHANIC HAS 27 YEARS EXPERIENCE IN TRUCK REPAIR.
WHICH WOULD I THINK SPEAK VOLUMES ABOUT AS FAR AS
SAFETY GOES ON THIS COMPANY.

ONE FACT I DID SHARE WITH YOU. THIS COMPANY
WAS APPROACHED HERE BY AN INDIVIDUAL THAT HELD A VERY
HIGH POSITION WITH THE DEPARTMENT OF TRANSPORTATION.
HE DOESN'T CALL TRUCKING COMPANIES AND COMMENTS. HE
DOESN'T GIVE COMPLIMENTS AS FAR AS THEIR DRIVING
RECORD. ASHBY TRUCKING WAS PERSONALLY CONTACTED AND
GIVEN -- I KNOW IT SEEMS LIKE I'M TRYING TO SUGAR COAT
THAT. THAT HAPPENED. I'M VERY AWARE OF THAT. I FEEL
LIKE THAT HAD SOME SIGNIFICANCE WITH THIS SUBJECT AND
SHOULD DEFINITELY BE SHARED.

KNOTTsville, KENTUCKY, THIS IS WHERE, ONCE
AGAIN, WE CONDUCT OUR MAIN OPERATION. THIS IS ST.
WILLIAM'S CHURCH. RIGHT THROUGH THE MIDDLE OF TOWN
THERE IN KNOTTsville. WE'VE GOT SCHOOL KIDS. I'M
SHOWING THE INTERACTION. A LOT OF QUESTIONS BETWEEN
YOUR KIDS, SCHOOLS, COAL TRUCKS PASSING SEVERAL
DIFFERENT SCHOOLS. I THINK THAT WAS ONE STATEMENT
MADE BY ONE OF THE GENTLEMAN AT THE LAST MEETING.

THESE COAL TRUCKS, EVER SINCE I WAS FIVE YEARS
OLD, GO THROUGH KNOTTsville WEDNESDAY MORNING. THE

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KIDS CROSS THE ROAD IN FRONT OF THE COAL TRUCKS. THEY
STOP. IT'S NORMAL SAFETY PROCEDURES THAT WE CONDUCT
FOR THIS TO EVEN BE POSSIBLE. THESE GUYS ARE VERY
COHERENT, AS FAR AS COMPLACENCY AND SAFETY. THEIR
LIFE BEING IN DANGER WHATSOEVER, IT JUST SIMPLY ISN'T
A FACT.

LIKE I SAID, THEY'VE BEEN CONDUCTING AND THIS
HAS BEEN GOING ON FOR YEARS AND THESE KIDS CROSS RIGHT
IN FRONT OF THE COAL TRUCKS AND YOU'LL SEE THEM HERE
IN THIS PICTURE.

THIS PICTURE I WANT TO POINT OUT ONE THING.
AS FAR AS THE SAFETY TRACKS, TRI-AXLE TRAILERS.
YOU'LL SEE THREE TRI-AXLE ON THIS TRAILER. ALL THREE
TRI-AXLES EQUIPPED WITH A BRAKING SYSTEM. I WANT TO
JUST KIND OF HELP YOU UNDERSTAND A LITTLE BIT ABOUT
THE SAFETY ON THAT. HERE IS ONE WITH A DOUBLE AXLE.

THESE TRUCKS IS EQUIPPED ESPECIALLY, AND
YOU'RE TALKING ABOUT TRAVELING UP AND DOWN 231 JUST
COMMUTING ON YOUR DAILY BASIS TO AND FROM WORK WHAT
YOU'RE GOING TO EXPERIENCE WITH THESE COAL TRUCKS.

I KNOW YOU THINK IF IT BRINGS A BURDEN TO YOUR
LIFE, IT MAY. DEPENDING ON WHAT YOU'RE DOING AND YOUR
JOB. THESE FOLKS HAVE TO DO THIS EVERY SINGLE DAY ON
144. YOU'LL PROBABLY HEAR SOME INDIVIDUALS FROM
KNOTTSVILLE TALK A LITTLE BIT ABOUT JUST WHAT THEY
EXPERIENCE.

CHAIRMAN: EXCUSE ME, MR. LANHAM. WHAT IS THE
GROSS WEIGHT OF A COAL TRUCK WITH A TRI-AXEL TRAILER?
MR. LANHAM: CAN I GET SOME HELP WITH THAT
QUESTION, MR. KIRKLAND?
CHAIRMAN: ABSOLUTELY.
MR. LANHAM: I WOULD HAVE MR. TRENT ASHBY COME
THE PODIUM AND HE CAN ANSWER THAT QUESTION.
MR. SILVERT: COULD YOU STATE YOUR NAME,
PLEASE?
MR. ASHBY: TRENT ASHBY.
(TRENT ASHBY SWORN BY ATTORNEY.)
CHAIRMAN: MR. ASHBY, JUST FOR THE RECORD I'LL
RESTATE IT.
MY QUESTION WAS: WHAT IS YOUR GROSS ALLOWABLE
WEIGHT WITH YOUR TRI-AXEL TRAILERS?
MR. ASHBY: THE SAME AS A TANDEM TRAILER.
120,000 POUNDS.
CHAIRMAN: SO A TANDEM TRAILER CAN ALSO CARRY
120,000?
MR. ASHBY: YES, SIR.
CHAIRMAN: ARE THESE OVER SPECIALLY SPECIFIED
STATE AND FEDERAL ROADS?
MR. ASHBY: I'M NOT SURE WHAT YOU MEAN.
CHAIRMAN: DO CERTAIN ROADS THAT YOU CAN
ACCESS WITH THESE TRUCKS CARRY 120,000 OR ALL ROADS

THAT YOU CAN CARRY 120?

MR. ASHBY: YES.

CHAIRMAN: YES, MEANING ALL ROADS?

MR. ASHBY: NOT ALL ROADS. STATE.

CHAIRMAN: CERTAINLY SPECIFIED ROADS BY THE STATE OF KENTUCKY?

MR. ASHBY: RIGHT.

CHAIRMAN: THANK YOU VERY MUCH. THAT'S MY QUESTION.

ANYBODY ELSE?

(NO RESPONSE)

MR. LANHAM: THE LAST THING. IN A FEW MINUTES I'LL TURN IT OVER TO Seth BURNS, ENGINEER FOR MEMSCO. HE'S GOING TO GO INTO SOME FINER DETAILS ON BLASTING. I KNOW THERE'S SOME SIGNIFICANT QUESTIONS THAT CAME FROM THAT.

THIS PROJECT WILL REQUIRE BLASTING. EVERY HOME WITHIN A HALF MILE. I KNOW WE COVERED THIS. IT'S GOING TO BE A LITTLE BIT REDUNDANT, BUT A FEW THINGS THAT I'LL POINT OUT JUST FOR YOUR BENEFIT.

THOSE OUTSIDE OF THE HALF MILE RADIUS CAN REQUEST PEBLAST SURVEYS. IF CIRCUMSTANCES WARRANT AN INSPECTION, IT WILL BE CONDUCTED. LIKE I SAID, YOU JUST APPROACH US. VERY EASY TO WORK WITH. THAT IS A
SIMPLE, SIMPLE PROCESS THAT WE CAN GO THROUGH TO GET YOU A PREBLAST SURVEY CONDUCTED. IT'S FOR YOUR PROTECTION AND THE COMPANY'S PROTECTION AND IT'S AS SIMPLE AS THAT. IT'S GREAT ALL THE WAY AROUND ACROSS THE BOARD. IT'S SOMETHING YOU CAN BENEFIT FROM.

THIS IS IT. THIS IS THE LAST ITEM BEFORE I TURN IT OVER TO SETH BURNS.

THIS IS SHOT FROM WESTERN KENTUCKY MINERALS PROPERTY. IT'S THE SAME. I'LL USE THE COW FOR A REFERENCE POINT WHERE YOU'VE SEEN THE COW IN THE EARLIER SLIDE. THE IS THE SAME LOCATION. THIS AREA WAS, BLAST WAS CONDUCTED NOT MORE THAN WHAT 10 OR 15 CARS ARE ON. YOU CAN'T HEAR THE RADIO. THERE'S A LOT OF DISCUSSION, COMMUNICATION ON THE RADIO DURING THE SHOT. THERE'S SO MANY STEPS. YOU WILL HEAR FROM SETH BURNS HERE IN JUST A MINUTE. I'LL PLAY IT AGAIN IN JUST A SECOND.

IT GOES OFF. THIS IS WHAT WE DO ON A DAILY BASIS. THIS IS ONE OF OUR SHOTS. AS FAR AS FLY ROCK AND SOME THINGS THAT CAN BE MIXED UP IN SOME CONFUSION. YOU'LL SEE IT SITS UP, IT SITS DOWN. YOU SEE SOME DUST GENERATED AND IT SIMPLY DISSIPATES BACK INTO THE PIT.

ARE THEY ALL SHOT THIS WAY? ABSOLUTELY, NO. I DON'T HAVE ANYTHING TO HIDE. YOU'LL SEE SOME DUST
SHIFT IN DIFFERENT DIRECTIONS. AS FAR AS FLY ROCK,
THAT CAN BE CONTROLLED WHEN YOU ARE KNOWLEDGEABLE IN
MATERIAL YOU'RE DEALING WITH AND ESPECIALLY ABIDING BY
THE DISTANCES THAT YOU HAVE TO STAY AWAY FROM THOSE
KNOWN AREAS.

CHAIRMAN: EXCUSE ME, MR. LANHAM. HOW MANY OF
THESE BLASTS WILL TAKE PLACE ON AN AVERAGE DAY, IF
THERE IS SUCH A THING ON AN AVERAGE DAY?

MR. LANHAM: ONE TO TWO, MR. KIRKLAND. YOU
CAN HAVE ONE JUST THROUGH THE DAY JUST DEPENDING ON --
CHAIRMAN: ARE THEY SPREAD OUT OR ARE THEY
JUST LIKE, BAM, BAM?

MR. LANHAM: NO, SIR. WE'LL BE WIRING THE
SHOT THROUGH THE MORNING HOURS AND THIS SHOT WILL BE
PUT OFF WITHIN A FIVE MINUTE PERIOD. TWICE A DAY,
SIR. ONE IS AT DINNER AND POSSIBLY ONE IS AT QUITTING
TIME, 4:00.

CHAIRMAN: SO THEY'RE EIGHT HOURS OR SO APART?

MR. LANHAM: IT COULD VARY FROM TIME TO TIME,
YES.

CHAIRMAN: THEN YOU JUST HAVE TWO. YOU DON'T
HAVE ANY --

MR. LANHAM: NOT AT NIGHT.

CHAIRMAN: YOU DON'T HAVE ANY DURING THE
NIGHT?

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MR. LANHAM: NO.

CHAIRMAN: HOW LONG ARE THE VIBRATIONS? HOW LONG DOES IT TAKE TO SETTLE DOWN OR WHATEVER IT'S CALLED?

MR. LANHAM: THIS IS WHERE I TURN IT OVER TO SETH BURNS. THIS IS HIS POINT TO COME IN. HE IS THE ENGINEER FROM MEMSCO. IF YOU DON'T MIND, MR. KIRKLAND, I'LL TURN THE FLOOR OVER TO HIM SO HE CAN ANSWER SOME OF THOSE QUESTIONS.

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

MR. BURNS: MY NAME IS SETH BURNS.

(SETH BURNS SWORN BY ATTORNEY.)

MR. BURNS: THANK YOU FOR YOUR TIME.

I'M GOING TO GO THROUGH THIS PRETTY QUICK, BUT IF ANYBODY HAS ANY QUESTIONS FEEL FREE TO ASK.

CHAIRMAN: WAIT JUST A MINUTE. I JUST HAVE A SPECIFIC QUESTION.

MR. BURNS: YES, SIR.

CHAIRMAN: MY SPECIFIC QUESTION WAS, YOU KNOW, WHEN YOU HAVE THE BLAST, HOW LONG DOES IT TAKE THE LAND TO SETTLE DOWN OR MAYBE THE SHOCK WAVE IS THE PROPER TERM. IF MY TERMS ARE INCORRECT, PLEASE CORRECT ME AND SET THE RECORD STRAIGHT.

MR. BURNS: YOU'RE CORRECT.
CHAIRMAN: IN OTHER WORDS, BOOM AT 12:00, AND THEN WE'VE THE SHOCK WAVES. HOW LONG BEFORE IT'S ZERO?

MR. BURNS: THE VIDEO OF THAT SHOT WAS A TYPICAL BLAST. IF WE GET CLOSER TO HOMES, BY LAW WE SHOOT LESS EXPLOSIVES. THE LESS EXPLOSIVES WE DO, DEPENDING ON THE DEPTH, IT CAN VARY AT THE TIME THAT OUR BLAST DURATION HOW LONG IT LAST. THAT CAN VARY SOMEWHAT.

A TYPICAL BLAST IS USUALLY DONE, I MEAN THAT SHOT THERE WENT OFF IN LESS THAN ONE SECOND. MOST OF THEM, PROBABLY 80, 90 PERCENT OF THEM GO OFF WITHIN ONE SECOND.

THE GREATEST DISTURBANCE IS OBVIOUSLY WHERE WE'RE BLASTING. THAT AREA RIGHT THERE. THAT ROCK MOVES. IT SITS UP AND IT SITS DOWN. THAT'S THE GOAL AND THAT'S HOW WE LIKE IT. THE GROUND AROUND IT AND THE HOMES AROUND IT, THAT MATERIAL IS IN PLACE. IT'S SOLID, IN SITE, IT'S MASSIVE ROCK. THE WAVES TRAVEL THROUGH THAT GROUND IN PROBABLY, DEPENDING ON THE MATERIAL, BUT SOMEWHERE BETWEEN 8, 9, 10,000 FEET PER MILLISECOND. I MEAN THEY'RE TRAVELING THROUGH THE GROUND VERY, VERY QUICKLY. THE GROUND VIBRATION OFF OF A BLAST AT HOME 1,000 FEET AWAY, IT'S GOING TO GET THERE VIRTUALLY INSTANTLY. AS LONG AS THE BLAST
LASTS, IT'S GOING TO LAST. THE GEOLOGY OVER TIME IT
SLOW THE WAVES DOWN. SO NEAR THE BLAST IT'S REAL
QUICK. AS IT GETS TO THE HOME, THEY SLOW DOWN AND
STRETCH OUT.

SO A TYPICAL RECORD, I WILL HAVE A PICTURE OF
A SEISMIC WAVE FORM FROM OUR INSTRUMENT THAT WE
MONITOR THE BLAST WITH THAT WE'RE REGULATED BY. IT
SHOWS A WAVE. YOU SEE THE WAVES GO UP AND DOWN. IF A
BLAST, YOU KNOW, OUT OF 1,000 FEET, A BLAST THAT LAST
LESS THAN A SECOND, IT MAY LAST TWO OR TWO AND A HALF
SECONDS ON THE WAVE FORM OF THE GROUND ACTUALLY
SHAKING.

THERE'S VARYING LEVELS. WHEN IT FIRST GETS
THERE, THE ACTUAL BLAST, YOU'RE GOING TO FEEL THAT
LITTLE MORE AND YOU'LL FEEL IT TAIL OFF. YOU KNOW,
TYPICALLY, DEPENDING ON YOUR DISTANCE AND HOW FAR
AWAY, JUST A COUPLE OF SECONDS.

CHAIRMAN: WHAT WOULD YOU FEEL AT SAY 1,000
FEET?

MR. BURNS: OBVIOUSLY YOU'LL FEEL THE GROUND
SHAKE. LOT OF TIMES THERE -- WHEN WE SHOOT
EXPLOSIVES, AND I'M GOING TO KIND OF GET THROUGH SOME
OF THIS IN MY PRESENTATION.

WHEN WE SHOOT EXPLOSIVES, WHEN WE PUT THAT IN
THE GROUND, THEY DRILL THE HOLE AND WE PUT IT IN THE

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GROUND, WHEN THAT EXPLOSIVES DETONATES, BASICALLY
THAT'S JUST A CHEMICAL REACTION. WHEN THAT EXPLOSIVE
DETONATES OR REACTS, IT CREATES A SHOCK WAVE. THAT
SHOCK WAVE IS FOLLOWED BY A HUGE AMOUNT OF PRESSURE
FROM THAT EXPLOSIVE REACTION. THAT PRESSURE IS WHAT
CREATES CRACKS IN THE ROCK AND THEN THAT GAS EXPANDS
INTO THE CRACKS. THAT'S WHAT BREAKS THE ROCK. THAT'S
WHAT ALLOWS US TO DIG THE ROCK TO GET TO THE COAL.

SO THAT ENERGY OFF OF THAT BLAST, IT ALSO,
SOME OF THAT ENERGY GOES INTO BREAKING ROCK. THE MORE
THAT GOES INTO BREAKING ROCK, THE LESS THAT GOES INTO
ACTUALLY SHAKING THE GROUND. SO THAT'S WHERE WE GET
IN, THAT'S WHAT I GET INTO AS FAR AS DESIGNING OUR
SHOTS, HOW WE DO THEM, HOW WE TIME THEM TO MINIMIZE
GROUND VIBRATION.

CHAIRMAN: JUST A SECOND.
MR. HAYNES, AS A COURTESY YOU'VE GOT 15
MINUTES.
MR. HAYNES: THANK YOU.
CHAIRMAN: THANK YOU.
MR. BURNS: I'M GOING TO MAKE THIS VERY BRIEF.
IF THERE ARE QUESTIONS REGARDING BLASTING, I CAN
ADDRESS THOSE.
I WANT TO GET PAST THIS AND KIND OF DISCUSS
WHY WE BLAST.
BLASTING IS THE LAWFUL USE OF REGULATED
EXPLOSIVES. PRETTY SIMPLE. IF WE DON'T DO IT
LAWFULLY, WE DON'T BLAST. AND IT'S REGULATED. THE
EXPLOSIVES, THEY'RE REGULATED. THERE ARE MANY
STANDARDS WE HAVE TO REACH.
I'M GOING TO GO PAST THIS. I'VE ALREADY
PRETTY MUCH DESCRIBED WHY WE BLAST. CRACK INTO ROCK
SO WE CAN MINE THE COAL.

THE ENVIRONMENTAL EFFECTS OF BLASTING.

CHAIRMAN: LET ME STOP YOU JUST A SECOND.

MR. HAYNES, WHAT I THINK I'M GOING TO DO,
RATHER THAN HIM GO THROUGH SOME TECHNICAL STUFF SOME
OF US MAY NOT UNDERSTAND, I'M GOING TO SORT OF HOLD
HIM RIGHT THERE AND ASK IF ANYBODY IN THE AUDIENCE HAS
ANY QUESTIONS OF HIM AND LET HIM ANSWER THEM DIRECTLY.

MR. HAYNES: THANK YOU.

CHAIRMAN: MR. LANHAM?

MR. LANHAM: YES, SIR.

CHAIRMAN: SIR, LET ME GET SOMEBODY ELSE IN
THE AUDIENCE. YOU'VE ALREADY ASKED SOME QUESTIONS.
LET ME RECOGNIZE SOMEBODY ELSE.

YES, SIR.

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

MR. KAELIN: GREG KAELIN.
MR. KAELIN: AT THE LAST MEETING THERE WAS A MAP THAT SHOWED THE HALF MILE RADIUS. SINCE THERE HAVE BEEN PROPERTIES ADDED, HOW COME THE MAP HASN'T BEEN SHOWN UP HERE THAT SHOWS THE NEW RADIUS?

MR. BURNS: I WAS JUST TOLD THAT THE MAP WITH THE NEW RADIUS AND THE CHANGES IS RIGHT HERE.

CHAIRMAN: THAT MAY BE MORE MY FAULT THAN THEIRS FOR INTERCEPTING THEIR STAGED PROGRAM WITH QUESTIONS AND THINGS THAT WERE OF INTEREST.

LET'S BRING THE MAP UP.

YES, SIR. GO AHEAD, SIR.

MR. KAELIN: ACTUALLY I LOST WHAT MY TRAIN OF THOUGHT WAS THERE.

CHAIRMAN: YOU WERE ASKING ABOUT THE RADIUS AND THE MILE AND WE DIDN'T HAVE THE MAP BEFORE. NOW WE'RE PRESENTING THE MAP. DOES THAT HELP YOU?

MR. KAELIN: I FORGOT WHAT MY SECOND PART WAS.

MR. BURNS: WHATEVER THE PERMIT BOUNDARY IS, FROM THAT BOUNDARY A HALF MILE OUT, ANYBODY WITHIN THAT HALF MILE WILL BE OFFERED A PREBLAST SURVEY.

CHAIRMAN: YES, SIR. WE HAVE A QUESTION BACK HERE.

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

(BRIAN SCHAEFFER SWORN BY ATTORNEY.)

MR. SCHAEFFER: THIS HALF MILE THAT GOES AROUND
THE BLASTING ZONE, JUST HOW FAR WILL THE SEISMIC SHOCK
WAVE ACTUALLY TRAVEL THROUGH THE GROUND?

Mr. Burns: THE ACTUAL GROUND VIBRATION IT
WILL TRAVEL HALF A MILE WHICH IS ROUGHLY 2600 FEET.
IT WILL GO THAT DISTANCE. IT MAY GO FURTHER THAN
THAT. A LOT OF IT DEPENDS ON JUST THE GEOLOGY, WHERE
THE HILLS ARE AT, WHERE THE LOW POINTS ARE AT, WHERE
THE LOCATION OF THE BLAST IS, THE SIZE OF THE BLAST.

Most blasts, I mean you're going to feel them
out with probably half a mile. Within a half mile
it's going to feel drastically different than what we
feel on the bench. You know, within 1,000 feet or 500
feet or wherever we detonate the blast from.

It also depends a lot on direction. Obviously
in a pit there is an open face in the front. There's
maybe shock material on the side, and then there's
nothing behind it. It's just solid rock. So the
energy of the blast we always move in towards the open
areas. So as it moves in this direction, the
vibration will go in the opposite direction. So
there's a lot we can do on how we time the blast.

It's the geography that determines which direction and

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HOW FAR IT'S GOING TO GO.

SO IT DOESN'T RADIATE FROM EVERY BLAST 360 DEGREES, A HALF MILE AND EVERYBODY IS DRastically DISTURBED. A LOT OF IT IS VERY DIRECTIONAL.

MR. SCHÄFFER: DO YOU MONITOR YOUR BLASTS FURTHER THAN A HALF MILE TO REGULATE AND KNOW JUST HOW FAR THAT SEISMIC IS GOING?

MR. BURNS: NO, NOT ON A REGULAR BASIS. WE DO NOT -- WE'RE NOT REALLY WORRIED OR -- WELL, I WOULDN'T SAY WORRIED, BUT WE'RE NOT REGULATED ABOUT THE DIRECTION OR THE EXTENT OF THE BLASTING. WE'RE REGULATED BY THE CLOSEST STRUCTURES.

OBVIOUSLY IF SOMEONE HAS CONCERN OR IS SAYING, HEY, THESE BLASTS ARE FEELING PRETTY ROUGH, THEN AS A GOOD NEIGHBOR MOST OF THE TIME WHAT WE DO IS TAKE AN EXTRA SEISMOGRAPH, WHICH IS THE INSTRUMENT THAT WE USE. WE PLACE A GEOPHONE IN THE GROUND. WE HAVE A MICROPHONE IN THE AIR TO MEASURE AIR AND GROUND VIBRATION. WE'D BE MORE THAN HAPPY TO SET THAT UP AT YOUR HOME AND JUST SEE WHAT WE'RE ACTUALLY GETTING.

CHAIRMAN: LET ME ASK YOU A QUESTION.

MAY I INTERRUPT?

MR. SCHÄFFER: ABSOLUTELY.

CHAIRMAN: JUST A POINT OF INTEREST. IF YOU'RE DOING THE BLAST WITH CERTAIN VOLUME OF
EXPLOSIVES, THE BLAST IS CAUSING SOME CONCERN, CAN
THAT SAME BLAST BE DONE TWICE WITH HALF AS MUCH OR IS
THAT NOT PHYSICALLY FEASIBLE WITH WHAT YOU'RE TRYING
TO DO?

MR. BURNS: I MEAN YOU CAN REDUCE THE SIZE OF
A BLAST.

CHAIRMAN: AND THEN JUST DO TWO OF THEM IN THE
SAME AREA OR IS THAT NOT -- I DON'T KNOW ANYTHING
ABOUT YOUR BUSINESS.

MR. BURNS: YES. THAT'S KIND OF A COMMON
PRACTICE WHEN WE GET CLOSER TO STRUCTURES. WE'LL
SHOOT SMALLER SHOTS. REDUCE THE AMOUNT OF POUNDS TO
THE BLAST. THERE'S ALSO POUNDAGE WAVER. WE CAN'T
SHOOT OVER SO MANY POUNDS DEPENDING ON THE DISTANCE,
THE STRUCTURE.

CHAIRMAN: IS THE BLAST, ARE THE SEISMOGRAPHIC
WAVES, WOULD IT BETTER TO HAVE ONE BIG ONE OR THREE
SMALL ONES OR DOES IT MATTER?

MR. BURNS: I'LL LEAVE THAT UP TO EVERYBODY
ELSE. I'D RATHER FEEL ONE BLAST THAN THREE IN A DAY.

CHAIRMAN: SAY ONE BIG BLAST RATHER THAN IN
THE SAME AREA HAVE THREE ONE-THIRD OF THE SIZE OF THAT
ONE?

MR. BURNS: YOU'D BE SURPRISED, BUT IF WE TOOK
A GIVEN VOLUME AND WE SHOT THAT SHOT, WE COULD JUST AS

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EASILY GET THE SAME READINGS, GROUND VIBRATION AND
MOVEMENT FROM THAT ONE BLAST AS IF WE SPLIT IT UP INTO
THREE INDIVIDUAL BLASTS. WE DON'T SHOOT A GIVEN AREA
AND A GIVEN POUNDAGE AND WE DON'T SHOOT IT ALL AT
ONCE. EACH HOLE GOES OFF IN A SUCCESSION AND EACH
HOLE CREATE A RELIEF FOR THE NEXT HOLE. THAT'S HOW
WE CONTROL OUR VIBRATION AND MINIMIZE WHAT YOU FEEL.

CHAIRMAN: I DIDN'T WANT TO TAKE YOUR
QUESTIONS AWAY FROM YOU, BUT I WAS SORT OF HEADING IN
A DIRECTION WITH A QUESTION.

MR. SCHAFFER: IS IT SAFE TO ASSUME THAT
ANYBODY OUTSIDE THIS HALF MILE RADIUS WILL FEEL
SEISMIC?

MR. BURNS: IS IT SAFE TO ASSUME THAT OUTSIDE
THAT RADIUS THEY WILL?

MR. SCHAFFER: YES.

MR. BURNS: I WOULD SAY, SURE.

MR. SCHAFFER: THE CLOSER YOU ARE TO THE BLAST
THE MORE INTENSE THE SEISMIC ACTIVITY IS?

MR. BURNS: SURE.

MR. SCHAFFER: SO THE PEOPLE THAT ARE INSIDE
THAT ZONE ARE EXPECTED TO HAVE DAMAGE?

MR. BURNS: NO. ABSOLUTELY NOT. THE LAWS WE
ARE REGULATED BY ARE -- THE REASON THEY'RE THERE IS TO
PROTECT STRUCTURES FROM DAMAGE. PEOPLE AND PROPERTY.
THE LAWS WE ARE REGULATED BY THEY SAY, AT THIS DISTANCE YOU ARE ALLOWED TO SHOOT THIS MANY POUNDS AND THAT'S IT. THOSE POUNDAGES BASED ON DISTANCES WERE DEVELOPED FROM STUDIES BY THE U.S. BUREAU OF MINES AFTER YEARS AND YEARS OF EXPERIENCE WHERE COAL MINES ACTUALLY PURCHASED HOMES. SET UP, YOU KNOW, CRACK MONITORS, INTENSION MONITORS ALL OVER HOMES, ON WALLS, DRY WALL, IN THE GROUND, CONCRETE, AND THEY HAVE BLASTED RIGHT UP TO THE STRUCTURES AND ACTUALLY THROUGH THE STRUCTURES. THEY DID IT ON GAS LINES. THEY DID IT ON OIL LINES. THEY DID IT ON HOMES AND EVERYTHING ELSE. THAT'S WHAT WE'RE REGULATED BY. IT'S ACTUAL DATA FROM BLASTING IN THIS AREA. THE REGULATIONS THAT WE HAVE TO ADHERE TO ARE ONLY IN PLACE TO PROTECT STRUCTURES.

CHAIRMAN: LET ME ASK YOU SOMETHING. IF YOU HAD TO DO IT --

MR. BURNS: DO?

CHAIRMAN: I'M FRAMING MY QUESTION SO THAT YOU HAVE TO ANSWER.

IF YOU HAD TO DO IT, HOW CLOSE COULD YOU COME TO YOUR MOTHER'S HOUSE AND BLAST WITHOUT A PROBLEM?

MR. BURNS: HOW CLOSE WOULD I WITH HER IN IT?

CHAIRMAN: YOU SEE WHAT I'M SAYING. HOW CLOSE COULD YOU COME IF YOU HAD TO DO IT TO THE HOUSE
WITHOUT DOING DAMAGE?

MR. BURNS: I WOULD BLAST MY SIDEWALK WITH MY MOM IN THE HOUSE. I WOULD USE A HOLE THIS BIG AND I WOULD PUT IN ABOUT THIS MUCH EXPLOSIVE.

CHAIRMAN: SO IT COULD BE DONE?

MR. BURNS: ABSOLUTELY. TAKE IN NEW YORK CITY THEY'RE BLASTING NEXT TO STRUCTURES, SKYSCRAPERS, FOUNDATIONS 30, 40, 50 FEET DEEP AND THEY BLAST NEXT TO THEM. THAT'S HOW THEY DEVELOP. THEY BLAST NEXT TO IT EVERY SINGLE DAY. IT CAN BE DONE.

I THINK MR. LUDWICZAK WITH THE OPPOSITION LAST TIME SAID, ANYTHING CAN BE DONE. HE WORKS HIGH RISK SITUATIONS CONSTANTLY. ANYTHING CAN BE DONE.

I WOULD ABSOLUTELY SHOOT NEXT TO MY HOME WITH MY MOM IN IT AND I CAN DO IT SAFELY. LIKE I SAY, I WOULD DRILL A HOLE THIS BIG AND I WOULD PUT THAT MUCH IN IT AND I'D SHOOT IT. IT CAN BE DONE.

CHAIRMAN: THANK YOU.

MR. KAZLAUSKAS.

MR. KAZLAUSKAS: I THINK IT'S FAIR TO SAY THAT OVER THE LAST 25, 30 YEARS BLASTING HAS COME A LONG WAY.

MR. BURNS: ABSOLUTELY.

MR. KAZLAUSKAS: LIKE YOU SAID, STUDIES HAVE BEEN DONE VERY PRECISE NOW.
MR. BURNS: YES, SIR.

MR. KAZLAUSKAS: BUT YOU STILL CAN'T SAY IT IS AN EXACT SCIENCE.

MR. BURNS: IT IS NOT AN EXACT SCIENCE.

MR. KAZLAUSKAS: BASED ON THE WAY THE SHOCK WAVES GO THROUGH THE DIFFERENT TYPES OF SOIL. SO YOU CANNOT BE EXACT. THIS HALF MILE RADIUS IS AN ESTIMATION FOR PRACTICAL PURPOSES. I MEAN THAT'S WHY COAL COMPANIES CARRY INSURANCE POLICIES.

MR. BURNS: CORRECT. ONE OF THE REASONS.

MR. KAZLAUSKAS: IT IS NOT AN EXACT SCIENCE. BASED ON THE SOIL MAKE UP, COMPOSITION OF THE SOIL, SPECIFIC SHOCK WAVES CAN TRAVEL LONGER, FASTER, HARDER AND ACTUALLY DO DAMAGE OUTSIDE OF THAT HALF MILE RADIUS, RIGHT?

MR. BURNS: IF YOU SHOOT A LARGE ENOUGH HOLE, IF I SHOOT NEXT TO MY MOM'S HOUSE, I SAID I WOULD SHOOT A HOLE THIS BIG. IF YOU SHOOT A HOLE THAT'S THIS BIG AROUND AND 200 FEET DEEP, I'M SURE YOU CAN DAMAGE WHATEVER YOU WANT TO DAMAGE.

MR. KAZLAUSKAS: THAT'S THE REASON INSURANCE COMPANIES GETS INVOLVED WITH BLASTING, RIGHT?

MR. BURNS: YES. THAT'S PART OF THE REASON.

MR. KAZLAUSKAS: THANK YOU.

CHAIRMAN: MR. REEVES.
MR. REEVES: I HAVE A QUESTION REAL QUICK.

IS THE BLASTING AT THE MINES CONDUCTED BY AN
EMPLOYEE OF THE MINES THAT HAS OTHER DUTIES? BY AN
EMPLOYEE THAT THAT'S THEIR SOLE DUTY OR BY AN EXPERT
COMPANY THAT'S CONTRACTED BY THE MINE?

MR. BURNS: THEY HAVE THAT OPTION. WESTERN
KENTUCKY MINERALS HAS HIRED US. WE'RE A CONTRACTOR.
WE'RE A BLASTING COMPANY. THAT'S WHAT WE DO. WE HAVE
OUR OWN BLASTERS. THEY'RE CERTIFIED BY THE STATE OF
KENTUCKY AND THERE'S A CRITERIA THEY HAVE TO MEET AS
WELL.

CHAIRMAN: THANK YOU.

MR. PEDLEY.

MR. PEDLEY: YES, I HAVE A QUESTION.

CHAIRMAN: LET MR. PEDLEY FINISH HIS QUESTION.

MR. PEDLEY: I'M GOING TO GIVE YOU SOME
EXAMPLES.

MOST PEOPLE KNOW I'M A FOUNDATION CONTRACTOR
AND HAS PUT IN LOT OF BASEMENTS. I'VE PUT IN A LOT OF
BASEMENTS IN THE RURAL AREAS. PROBABLY 80 PERCENT OF
THE TIME WHEN I PUT IN A BASEMENT, WHEN I ESTIMATE
THAT I GO DOWN SOLID ROCK. I PUT MY FOOTER IN AND PUT
MY WALLS IN.

MY QUESTION IS: IF YOU'RE 300 FEET AWAY, WILL
THAT SHOCK WAVE TRAVEL TO THAT BASEMENT FOUNDATION
SITTING ON SOLID ROCK? WILL IT CRACK THAT WALL?

MR. BURNS: AGAIN, IT GOES BACK TO IT'S GOING TO TRAVEL 300 FEET. IT'S GOING TO MAKE IT TO THE ROCK AND IF THE CONCRETE IS SITTING ON THE ROCK IT'S ABSOLUTELY GOING TO SHAKE THE CONCRETE. THAT'S WHY YOUR HOME SHAKES.

AGAIN, THERE'S BEEN REGULATIONS ESTABLISHED TO PROTECT CONCRETE, DRY WALLS, WINDOWS, AND ALL OF THAT FROM BEING DAMAGED. SO IT WILL.

WE'RE REGULATED BY GROUND VIBRATION IN INCHES PER SECOND. THAT'S A VELOCITY. ONE INCH PER SECOND DOESN'T MEAN THE GROUND ACTUALLY MOVES ONE INCH. IT'S ALSO A FUNCTION OF THE FREQUENCY OF THE WAVES AND HOW FAST THEY'RE MOVING THROUGH THE GROUND. WE CAN CONTROL THAT.

IT TAKES CONCRETE, FOR EXAMPLE, IT'S PROBABLY ONE OF THE HARDEST THINGS TO DAMAGE JUST BECAUSE OF THE DURABILITY AND EVERYTHING ELSE. IS IT GOING TO MOVE? YES, BUT IT'S GOING TO MOVE SO SMALL YOU CAN'T EVEN SEE IT. CAN IT BE DAMAGED? ABSOLUTELY. IF WE DRILL A HOLE THIS BIG AND WE GET SUPPER CLOSE TO IT, WE CAN ABSOLUTELY, WE CAN TEAR ANYTHING UP WE WANT TO TEAR UP IF WE DRILL A BIG ENOUGH HOLE AND DO IT, BUT WE WOULD BE BREAKING THE LAW IN ORDER TO DO IT.

MR. PEDLEY: IF YOU MOVE CONCRETE, IT WILL
MR. BURNS: IF YOU MOVE CONCRETE ENOUGH --
MR. PEDLEY: IT WILL CRACK.
MY QUESTION IS: IS 300 FEET A SAFE DISTANCE
FROM YOUR BLASTING NOT TO DAMAGE A BASEMENT SITTING ON
SOLID ROCK?
MR. BURNS: WE COULD BLAST 300 FEET TO
CONCRETE AND NOT DAMAGE CONCRETE.
MR. PEDLEY: ALWAYS?
MR. BURNS: IF WE DO IT RIGHT, YES.
MR. PEDLEY: THAT'S THE QUESTION. CAN YOU DO
IT RIGHT?
MR. BURNS: YES, SIR.
MR. PEDLEY: SHALLOW FOUNDATIONS. YOU'VE GOT
SOIL UNDER IT DOWN TO ROCK. IT'S GOT A CUSHION. VERY
RARELY IT WILL DO ANY DAMAGE. VERY RARELY BECAUSE
YOU'VE GOT TO HAVE EARTH TO CUSHION.
IN THE BOWLING GREEN AREA WHERE THEY HAVE A
LOT OF LIMESTONE, THEY DID A LOT THE BLASTING. MOST
OF THE TIME WE EXCAVATE IT DOWN AND THE FOUNDATION IS
ON THE FOOTER. THEY PUT A CUSHION UNDER THAT FOOTER
TO PREVENT DAMAGE TO THE FOUNDATION.
ONE OF MY CONCERNS IS 300 FEET IN MY OPINION
IS TOO CLOSE TO BE BLASTING WHEN YOU GOT THAT
CONDITION.
MR. BURNS: IF THERE WAS A SCENARIO WHERE WE WERE BLASTING 300 FEET INSTEAD OF -- ON EVERY BLAST WE DO, HOW WE LOAD THOSE HOLES CHANGES. IT ALWAYS CHANGES. IF WE'RE 1,000 FEET AWAY, WE'RE GOING TO LOAD IT ONE WAY. IF WE'RE 300 FEET AWAY, WE'RE GOING TO LOAD IT DRASTICALLY DIFFERENT IN ORDER TO PROTECT SPECIFICALLY THE CONCRETE.

MR. PEDLEY: WOULD 500 FEET AWAY BE BETTER?

MR. BURNS: ABSOLUTELY. AT 500 FEET I CAN LOAD IT IN ORDER TO PROTECT IT JUST THE WAY I WOULD AT 300. IF WE GET 100 FEET AWAY OR MY MOM'S SIDEWALK OUTSIDE HER HOUSE, I CAN LOAD IT TO PROTECT IT.

MR. PEDLEY: THANK YOU.

CHAIRMAN: MR. ALLEN.

MR. ALLEN: YOU OBVIOUSLY DO THESE PREBLAST SURVEYS IN CASE THERE IS DAMAGE. MY QUESTION IS: HOW FREQUENTLY IS THERE DAMAGE AND WHAT IS AN ACCEPTABLE FREQUENCY LEVEL FOR THAT DAMAGE TO OCCUR BEFORE YOU FIND IT'S OBJECTIONABLE?

MR. BURNS: I DON'T AND OUR COMPANY DO NOT DO THE PREBLAST SURVEY. A THIRD PARTY CONDUCTS THE SURVEYS. THEY'RE VERY THOROUGH WITH THAT.

TO MY KNOWLEDGE, WHICH I'M NOT EXPERT ON THE FREQUENCY OF DAMAGE OCCURRING ON A HOME, TO MY KNOWLEDGE THERE ARE VERY, VERY, VERY FEW INSTANCES
WHERE ACTUAL DAMAGE FROM BLASTING OCCURS. DUE TO WE
ARE REGULATED BY REGULATIONS THAT ARE TO PROTECT THE
STRUCTURE. IT'S THAT SIMPLE. IF WE EXCEED THOSE
REGULATIONS, THEN THAT'S WHY THEY'RE THERE. IT'S TO
PROTECT THE STRUCTURE. WE SHOOT TO REGULATIONS.

MR. ALLEN: BUT DO WE HAVE ANY STATISTICS ON
THAT SHOWING THE ACTUAL FREQUENCY OF DAMAGE?

MR. BURNS: FROM AN INSURANCE COMPANY OR THE
PEOPLE THAT ASSESS BLAST DAMAGE CLAIMS, THERE'S
PROBABLY A FREQUENCY. LIKE I SAID, I'M NOT THAT
EXPERT. I DON'T DO INVESTIGATIONS. FROM MY KNOWLEDGE
IT'S VERY, VERY, VERY LIMITED WHEN THAT HAPPENS.
SOMEBODY HERE MAY HAVE THAT. IF NOT, WE CAN GLADLY
ADDRESS THAT OR GET THAT INFORMATION.

MR. HAYNES: I APOLOGIZE. I CAN ADDRESS THAT
FROM A COMPANY STANDPOINT.

WE HAVE HAD VIRTUALLY NONE IN ALL THE
THOUSANDS AND THOUSANDS OF BLASTS THAT WE HAVE
UTILIZED IN THE KNOTTSVILLE AREA. WE DON'T HAVE ANY
REASON TO BELIEVE IT WOULD BE ANY DIFFERENT. WE
VIRTUALLY HAVE HAD NO PROBLEMS WITH BLASTING DAMAGE.
NO CLAIMS. I CAN ONLY SPEAK FROM OUR COMPANY. WE DO
IT RIGHT.

CHAIRMAN: AT THIS POINT IN TIME THE
COMMISSION HAS BEEN PART OF THE PROBLEM WITH US
RUNNING OVER.

WE'RE GOING TO ALLOW -- MR. HAYNES, WOULD YOU HAVE A VERY BRIEF SUMMARY OR DO YOU WANT A SUMMARY AFTER ALL YOUR PEOPLE?

MR. HAYNES: AFTER ALL OUR PEOPLE. I'D LIKE TO RESERVE JUST A COUPLE OF MINUTES FOR THE END IN CASE THERE IS SOMETHING REBUTTAL.

CHAIRMAN: YOU'RE FINISHED WITH YOUR PRESENTATION?

MR. LANHAM: ACTUALLY NO.

CHAIRMAN: YOUR TIME HAS EXPIRED. I WAS JUST GOING TO GIVE MR. HAYNES A SUMMARY PERIOD.

MR. LANHAM: JEFF ARNOLD WAS JUST GOING TO PROVIDE ONE SLIDE SHOW THAT WOULD SHOW A SERIES OF TEN YEARS WITH THE MINING PLACE.

CHAIRMAN: YOU'VE EXCEEDED YOUR TIME LIMIT.

WHAT IS YOUR TIME FRAME ON THIS, MR. HAYNES?

MR. HAYNES: IT'S NOT VERY LONG, MR. CHAIRMAN.

AT THE LAST MEETING THERE HAD BEEN SOME QUESTIONS ABOUT THE MINING PLAN AND COULD WE MAKE SOME ALTERATIONS TO IT THAT MIGHT --

CHAIRMAN: HOW LONG WILL THIS TAKE?

MR. ARNOLD: TWO MINUTES.

CHAIRMAN: MR. WILSON, WOULD YOU STEP TO THE PODIUM, PLEASE.
MR. WILSON, THIS IS EXCEEDING YOUR TIME LIMIT,

BUT OUT OF COURTESY TO YOU AND OUT OF YOUR COURTESY TO
ALLOW THIS, WE WILL ADD THE TIME TO YOU. DO YOU HAVE
ANY PROBLEM WITH THIS?

MR. WILSON: I HAVE NO PROBLEM WITH THAT.

CHAIRMAN: FOR THE RECORD MR. WILSON AGREES.

THANK YOU, MR. WILSON.

TWO MINUTES.

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

MR. ARNOLD: JEFF ARNOLD.

(JEFF ARNOLD SWORN BY ATTORNEY.)

MR. ARNOLD: MR. LANHAM HIRED OUR COMPANY TO
DEVELOP BUFFER DETAILS TO TRY AND BUFFER SOME OF THE
HOMES AROUND THE PROPERTIES IN THE ROADS AROUND THE
GIRL SCOUT ROAD AND THE GIRL SCOUT CAMP.

THE FIRST SHEET IS JUST A DEPICTION OF THAT.

OF COURSE IT DEPENDS ON HOW MUCH MONEY WE'RE LOOKING
AT SPENDING TO CREATE THE BUFFER. WE'RE CREATING AN 8
FOOT TALL BUFFER THAT WOULD BE PLANTED WITH A VARIETY
OF DIFFERENT TREES. THE TREES ARE REALLY JUST MORE
ESTHETIC. MY LANDSCAPE ARCHITECT IN MY OFFICE DID
THIS. TO GIVE IT MORE OF AN ESTHETIC FEEL AS YOU'RE
DRIVING DOWN THROUGH THERE INSTEAD OF JUST SEEING AN
EARTH BERM. YOU'RE SEEN AN EARTH BERM THAT'S GOT SOME

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CHARACTER TO IT. THAT'S WHAT THE FIRST SLIDE IS.

IN THE MINING PLAN THERE'S THREE THINGS CRITICAL IN DEVELOPING A MINE PLAN. YOU ONLY WANT TO HANDLE MATERIAL THE ONE TIME. YOU DON'T WANT TO HANDLE IT TWO OR THREE TIMES. THAT'S MONEY.

AS SOMEBODY ELSE SAID, YOU HAVE TO RECLAIM YOUR PIT WITHIN 180 DAYS. THEIR RECLAMATION IS BONDED. THEY PUT UP A LOT OF MONEY TO BOND THEIR PERMIT. BELIEVE ME, I'VE WORKED FOR A LOT OF MINING COMPANIES. THEY WANT THAT MONEY BACK AS QUICK AS THEY CAN GET IT BACK. SO THEY'RE ANXIOUS TO GET THEIR PROPERTIES RECLAIMED QUICKLY. THAT WILL GET INTO THE PLANNING PLAN.

THE MINING PLAN, THE GREEN AREA IS UNDEVELOPED AREA. THE BROWN AREA IS THE MINING, IT'S WHERE MINING IS BEGINNING.

YEAR ONE, WE'RE GOING TO BE STARTING DOWN IN THE SOUTH PART OF THE FIELD. YOUR TWO, WE MOVE TO THE NORTHEAST. WE ALSO IN YOUR TWO WILL BE RECLAIMING WHILE WE MINE YOUR ONE. IT TYPICALLY LAGS ABOUT SIX MONTHS. AS WE RUN THROUGH THIS, YOU'LL SEE THERE'S ONLY GOING TO BE THE MINING AREA AFFECTED DURING THAT YEAR AND PIECE OF WHAT WAS MINED THE PREVIOUS YEAR THAT WILL BE GROUND BECAUSE THEY'RE NIPPING ON THE HEEL, ON THE OPERATIONS HEEL TO KEEP RECLAMATION

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CURRENT.

YEAR TWO YOU'RE MOVING TO THE NORTHEAST.

YEAR THREE YOU'RE JUST UP AHEAD. YOU ALSO CONTINUE TO THE NORTHEAST OVER TOWARDS US 231.

YEAR FOUR YOU'RE MOVING TO THE NORTH TOWARDS GIRL SCOUT ROAD. TO BE NOTED IN YEAR FOUR IS WHEN WE'LL BE BUILDING THE 1500 FOOT BUFFER RIGHT ALONGSIDE GIRL SCOUT ROAD TO PROTECT, I GUESS, VEHICLES THERE, I GUESS TO PRESENT A BUFFER, A VEHICLE BUFFER TO THE MINING ACTIVITY FROM ANYONE THAT MIGHT BE IN THAT AREA.

YEAR FIVE WE'LL BE MINING ALONGSIDE GIRL SCOUT ROAD.

YEAR SIX WE BEGIN TO TURN AND HEAD BACK TOWARD THE SOUTHWEST AND CONTINUE ON DOWN.

YEAR SEVEN WE CONTINUE TO THE SOUTHWEST DOWN NEAR TO WHERE WE STARTED YEAR ONE.

YEAR EIGHT WE STARTED MOVING TO THE NORTHWEST. IN YEAR EIGHT WE'LL BUILD THE 500 FOOT BUFFER TO BUFFER THE PROPERTIES TO THE NORTH WHERE WE'RE GOING TO BE MINING IN YEAR NINE.

YEAR NINE WE CONTINUE TO THE NORTHWEST. YEAR NINE WE ALSO FINISH THE 1900 FOOT BUFFER TO THE NORTH WHERE WE'LL BE MINING YEAR 10.

IN YEAR 10, WE FINISH THE MINING IN THE AREA.

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THAT'S AS QUICK AS I COULD DO IT.

CHAIRMAN: THANK YOU. EXCELLENT JOB.

MS. STONE, WHAT DO WE HAVE?

MS. STONE: THEY HAVE GONE OVER EIGHT MINUTES AND SIX SECONDS TOTAL SO I'LL ADD THAT TO THE OPPOSITION TIME LEFT.

CHAIRMAN: MR. WILSON.

MR. SILVERT: MR. CHAIRMAN, I WOULD LIKE TO TAKE CARE OF A PROCEDURAL MATTER FOR A MINUTE.

CHAIRMAN: I'LL TAKE CARE OF THAT.

MR. HESTER, I NOTICED DURING YOUR PRESENTATION YOU HAD SOME PAPERWORK. I WANT TO ALLOW YOU THE SAME COURTESY AS WE DID OTHERS. DO YOU WANT TO HAND OUT, DO YOU HAVE A HANDOUT THAT YOU WANT TO GIVE OR DO YOU HAVE JUST ONE COPY?

MR. HESTER: I'VE GOT THE ONE COPY THAT I HANDED TO THE CLERK THAT I WANTED TO HAVE ENTERED INTO THE RECORD. IT INCLUDED ALL OF MY COMMENTS.

MR. SILVERT: MR. HESTER, JUST TO AUTHENTICATE THE DOCUMENT. IT WAS A DOCUMENT ENTITLED OBJECTIONS TO OMPC STAFF REPORT MAY 10, 2012?

MR. HESTER: THAT'S CORRECT.

MR. SILVERT: IS THIS THE ORIGINAL DOCUMENT THAT YOU PROVIDED? DO YOU WANT TO COME SEE IT TO MAKE SURE?
MR. HESTER: YES.

MR. SILVERT: HE AFFIRMED THAT IT WAS.

MR. HESTER, WAS THAT THE ORIGINAL DOCUMENT?

MR. HESTER: YES. THAT IS THE ORIGINAL DOCUMENT. I HAD SOME ADDITIONAL COMMENTS, BUT THAT WAS THE DOCUMENT I WANTED TO PLACE IN THE RECORD.

MR. SILVERT: IS THIS A SUMMARY OF YOUR TESTIMONY THAT YOU WERE GOING TO --

MR. HESTER: A SUMMARY OF A PART OF MY TESTIMONY, YES.

MR. SILVERT: I'M GOING TO PASS THIS AROUND TO THE COMMISSION TO MAKE SURE THAT EVERYBODY HAS AN OPPORTUNITY TO LOOK AT IT.

MR. HESTER: I'D VERY MUCH APPRECIATE THAT.

MR. SILVERT: YOU'RE WELCOME. THANK YOU.

CHAIRMAN: WE WILL AT THIS TIME TAKE A BRIEF RECESS.

MR. NOFFSINGER: BEFORE WE DO THAT, I NEED TO MAKE SURE WE HAVE THE APPLICANT'S EXHIBITS ENTERED INTO THE RECORD.

I DO HAVE WESTERN KENTUCKY MINERALS, INC., MSHA INSPECTOR DUST SAMPLE RESULTS. I HAVE NOISE EXPOSURE, ONE PAGE DOCUMENT. AND ENERGY ENVIRONMENTAL CABINET DEPARTMENT FOR ENVIRONMENTAL PROTECTION DIVISION FOR AIR QUALITY & AIR INSPECTION REPORT.
MR. HAYNES: YES.

MR. NOFFSINGER: YOU ALSO HAVE COPIES OF THE
POWER POINT PRESENTATION.

MR. HAYNES: POWER POINT PRESENTATION. IT'S
HERE ON DISK AND DOCUMENTS THAT WERE REFERRED TO AND
SHOWN, AND THEN MR. ARNOLD'S BUFFER DETAILS. I WOULD
LIKE TO INTRODUCE THOSE AT THIS TIME ALSO.

MR. NOFFSINGER: THANK YOU.

CHAIRMAN: MR. WILSON, DO YOU HAVE A COMMENT?

MR. WILSON: YES. MR. CHAIRMAN, THE LAST
WITNESS THAT WENT OVER THE MIMING PLAN ON THE VIDEO, I
HAD A COUPLE OF QUESTIONS THAT I WOULD LIKE FOR THE
CHAIR TO POSE TO HIM ON THAT PLAN THAT WE WAS JUST
SHOWN. JUST ASK HIM A COUPLE OF QUESTIONS ON IT.

CHAIRMAN: WOULD YOU LIKE TO POSE THOSE
QUESTIONS?

MR. WILSON: YES, I WOULD. I WOULD LIKE FOR
HIM TO EXPLAIN WHERE THE WASH PLANT AREA WILL BE AND
HAS THAT OR WILL THAT BE PERMITTED? I'D ALSO LIKE FOR
HIM TO EXPLAIN WHERE THE OFFICE AREA, STAGING AREA
WILL BE ON THIS PLAT THAT WAS JUST SHOWED.

MR. ARNOLD: I'M SORRY, I DIDN'T HEAR THAT.

CHAIRMAN: I CAN RESTATE IT.

HE WANTED TO KNOW WHERE THE STAGING AREA WOULD
BE OF THE COAL AND THE MINE OFFICE AND THE
ADMINISTRATIVE OFFICES WOULD BE.

MR. LITTLE: I DON'T KNOW IF THAT'S BEEN DETERMINED YET.

MR. WRIGHT: I'LL HAVE TO ADDRESS THAT.

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

MR. WRIGHT: TIMOTHY WRIGHT.

OUR PROCESSING AREA IS A WHOLE DIFFERENT PERMIT DOWN TO THE SOUTH. YOU CAN SEE THE EX-1. IT'S EX-1 THAT WAS BORDER. IT'S A WHOLE DIFFERENT PERMIT. IT IS THE PROPERTY THAT'S EX-1 DOWN TO THE SOUTH THAT'S ALREADY BEEN REZONED THAT THEY TALKED ABOUT EARLIER. THAT'S WHERE THE PROCESSING AREA WILL BE.

THEY REFER TO AN OFFICE. THERE'S A HOME UP ON GIRL SCOUT ROAD THAT WE PURCHASED THAT WE'RE GOING TO HAVE AN OFFICE SITE THERE. THE STAGING AREA WILL INITIALLY BE WHERE THE ROAD COMES INTO THE MINE SITE OFF OF 231. IT WILL PROGRESS BACK WITH US.

DOES THAT ANSWER HIS QUESTION?

MR. WILSON: WE'D LIKE TO SEE THE AREA WHERE THE WASH PLANT IS GOING TO BE?

CHAIRMAN: MR. WILSON, WOULD YOU Step TO THE MIKE.

MR. WRIGHT: IT'S ON THERE. I CAN SHOW HIM.

MR. WILSON: IS THAT AN EX-1 REZONING, HAS IT...
MR. WRIGHT: YES.

MR. WILSON: WHO ZONED IT? THIS COMMISSION?

MR. WRIGHT: IT'S BEEN ZONED BEFORE. THAT'S WHERE THE ROAD IS CROSSING OVER RUSSELL ROAD AND GOING DOWN TO OUR PROCESSING AREA HERE. THERE'S AN EXISTING FINAL PIT DOWN IN THERE THAT WE WILL USE AS THE FRESH WATER LIKE. THERE'S A LITTLE BIT THAT GOES INTO OHIO COUNTY, BUT THE EX-1 IS RIGHT HERE AGAINST THE DAVIESS COUNTY LINE AND UP TOWARD SHIRLEY TAYLOR'S PROPERTY LINE.

MR. WILSON: MR. CHAIRMAN, I'D ALSO LIKE THE CHAIR TO ASK MR. WRIGHT IF THAT SAME WASH FACILITY IS BEING USED FOR THEIR OHIO COUNTY COAL THAT THEY'RE MINING IN OHIO COUNTY?

MR. WRIGHT: NO. WE WON'T BE WASHING NO COAL FROM OHIO COUNTY.

MR. WILSON: IT'S A SEPARATE WASH FACILITY IN OHIO COUNTY?

MR. WRIGHT: NO. WE WILL NOT HAVE A WASHING FACILITY THERE.

CHAIRMAN: WE WILL HAVE A VERY, VERY SHORT INTERMISSION. I REALIZE IN RESPECT TO ALL YOU LADIES IN HERE, BUT IF WE COULD WE NEED TO GET THE COMMISSION MEMBERS IN AND OUT SO WE CAN GET BACK IN HERE AND...
START THE MEETING.

THE CHAIR WILL BE ADJOURNED FOR A FEW MINUTES.

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

CHAIRMAN: THANK YOU ALL. I HAVE A COUPLE OF THINGS THAT WE NEED TO ADDRESS.

THE TV STATION HAS ASKED US, YOU GENTLEMEN ON THE END, MR. ROGERS, MR. ALLEN, MR. REEVES, MR. STRODE TO PLEASE SPEAK INTO YOUR MICROPHONE. THEY'RE MISSING SOME OF IT. JUST BE AWARE OF THAT. I KNOW WE'VE ALL DRIFTED. THEY ASK THAT WE DO THAT.

JUST FOR THE RECORD THERE ARE NO FEMALES ON THE COMMISSION; HOWEVER, WHEN I MADE THE ANNOUNCEMENT ABOUT THE FEMALES AND THE BATHROOM, IF LYNNETTE WAS NOT BACK HERE WE COULDN'T START THE MEETING SO WE HAD TO GET HER BACK.

WITH THOSE CORRECTIONS MADE, MR. WILSON, TIME HAS BEEN ADDED.

MR. WILSON: WE WILL BE PRESENTING SEVERAL WITNESSES TONIGHT. SOME OF WHOM TESTIFIED BEFORE. ALL OF WHOM ARE HERE TO SUPPLEMENT, NOT DUPLICATE WHAT WE DID BACK IN FEBRUARY. PROBABLY BE SOME DUPLICATION, BUT HOPEFULLY THERE WILL BE NEW POINTS.

I'M GOING TO START OUT, IF I COULD, WITH MR. CARLIN GREGORY. CARLIN HAS SOME THINGS TO TELL THE COMMISSION. SOME OF WHICH AREN'T REAL PLEASANT AND

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WILL BE AN OFFERING SOME INTO EVIDENCE AND I WILL BE
ASSISTING WITH THAT.

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

MR. GREGORY: CARLIN GREGORY.

(CARLIN GREGORY SWORN BY ATTORNEY.)

MR. GREGORY: MY NAME IS CARLIN GREGORY. I
LIVE AT 2556 RUSSELL ROAD. I WOULD LIKE TO THANK YOU
FOR THE OPPORTUNITY TO SPEAK AGAIN TO YOU.

THE LAST WHEN I TALKED WITH YOU I TALKED ABOUT
THE SAFETY OF THE COMPANIES INVOLVED. NOW I WOULD
LIKE TO TALK TO YOU ALL ABOUT THE SAFETY OF THE
CITIZENS AND THE NEIGHBORHOODS IN DAVIESS COUNTY.

ABOUT A MONTH AGO I REPLIED BACK TO A LETTER
TO THE EDITOR IN THE MESSENGER-INQUIRER. TWO DAYS
LATER I RECEIVED A DEATH THREAT IN THE MAIL THAT
STATED THEY WERE GOING TO KILL MY DOG, MY MOTHER, ME,
AND BURN MY HOUSE DOWN. YOU CAN IMAGINE THAT WAS KIND
OF BOTHERSOME THAT SOMEONE TO SAY THINGS LIKE THAT
OVER A SILLY LETTER. FOR RIGHT NOW I WOULD LIKE TO
PRESENT THAT LETTER TO THE COMMISSION FOR OFFICIAL
EVIDENCE.

CHAIRMAN: MR. GREGORY, YOU GO AHEAD WHILE MR.
WILSON IS GOING TO PASS THEM OUT.

MR. GREGORY: MY DOG, BETTER KNOWN AS GOLDEN
RETRIEVER, THEY'VE NEVER MET A STRANGER. THEY COULD
WALK UP AND ANYBODY FEED HIM ANYTHING. HE WAS
POISONED ONCE FROM THESE PEOPLE.

MY MOM IS 87 YEARS OLD. SHE HAS HEART DISEASE
RIGHT NOW. TWO WEEKS AGO SHE CAME HOME FROM THE
HOSPITAL WITH COLON CANCER SURGERY.
I WOULD HAVE GONE PUBLIC WITH THIS WEEKS AGO
TO GATHER SUPPORT FOR MY CAUSE AND OUR CAUSE, BUT
OBVIOUSLY SHE WAS SCARED AND SHE DIDN'T WANT TO DO
THIS.

WHEN YOU ALL DECIDED TO ACCEPT YOUR
APPOINTMENTS TO MAKE DECISION TO SERVE THE PUBLIC IN
IT'S BEST INTEREST, INHERENT IN ANY PUBLIC OFFICE
WHETHER APPOINTED OR ELECTED IS THE DUTY TO PROTECT
THE SAFETY AND WELL-BEING OF THE PEOPLE THAT YOU SERVE
AND REPRESENT. INHERENT IN ALL GOVERNMENT DOCUMENTS.
FROM THE DECLARATION OF INDEPENDENCE ALL THE WAY DOWN
TO THE COMPREHENSIVE PLAN. IT'S ALSO THAT PREMISE
THAT YOU PROTECT THE CITIZEN'S SAFETY AND WELL-BEING.

THE CAUSE TO STOP THIS STRIP MINING HAS GONE
FROM JUST DISCUSSION NOW TO FELONIES BEING COMMITTED.
VANDALISM AND SCARE TACTICS TOO NUMEROUS TO MENTION.

IF YOU ALLOW THIS REZONING TO PASS, YOU'RE
GOING TO BE SAYING TO EVERY INDIVIDUAL AND COMPANY,
THAT YOU CAN DO ANYTHING OUTSIDE OF THE LAW IN OUR

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COUNTY SO LONG AS YOU FOLLOW THE REQUIREMENTS OF THAT
COMPREHENSIVE PLAN. YOU WILL ESSENTIALLY BE TELLING
THE RESIDENTS OF DAVIESS COUNTY THAT BUSINESS WILL BE
ALLOWED IN OUR COUNTY EVEN IF IT SACRIFICES THE SAFETY
OF THE CITIZENS OF DAVIESS COUNTY. YOU'RE GOING TO BE
ENDORsing ANY CRIME NO MATTER HOW HEINOUS JUST FOR THE
SAKE OF MONEY.

THE PEOPLE ALONG RUSSELL ROAD AND GIRL SCOUT
ROAD, THE GIRLS WHO PLAY AND ENJOY PENNYROYAL GIRL
SCOUT CAMP WILL FOREVER BE IN JEOPARDY BECAUSE WE WILL
ALL WONDER IF THE PEOPLE DRIVING UP AND DOWN THAT ROAD
IS A PERSON THAT SENT THAT LETTER AND HAS NO FEELINGS
FOR ANYBODY ELSE BUT THEMSELVES.

THE GIRLS ARE GOING TO BE AT RISK OF A
CRIMINAL THAT LOOKS OUT ONLY FOR THEIR OWN INTEREST.
ANYBODY THAT DRIVERS UP AND DOWN 231 IS NOT GOING TO
HAVE TO ASK THEMSELVES, WHAT IF THAT PERSON IS DRIVING
THAT VEHICLE NEXT TO ME AND I KIND OF MAKE HIM MAD.
LOOK WHAT HE DID WITH THE LETTER.

MYSELF PERSONALLY I'M NEVER GOING TO FEEL SAFE
IN THIS COUNTY EVER AGAIN BECAUSE OF THIS LETTER. I
AM, I'M EXPECTING FULL RETALIATION FOR THESE COMMENTS
THAT I'M MAKING TO YOU TONIGHT. THEY CAN KILL MY DOG,
BUT THEY BETTER HOPE THAT THEY DON'T TAKE IT A STEP
FURTHER.
THEY TOLD ME IN THE LETTER TO GROW ANOTHER SET
OF EYES. I'VE DONE THAT AND WE'RE ALL WATCHING.

IF THIS IS THE TYPE OF BEHAVIOR THAT YOU FEEL
IS GOOD ABOUT HAVING IN OUR COMMUNITY THAN CERTAINLY
PASS THE REZONING APPLICATION, YOU HAVE TO LIVE WITH
YOURSELF FOR THE HARM THAT HAS ALREADY COME TO OUR
COMMUNITY AND YOU SHOULD BE HELD ACCOUNTABLE FOR THE
HARM THAT WILL, NOT IF, COME. IT'S NOT ABOUT
BUSINESS. THIS IS ABOUT MORALS, SAFETY AND KEEPING
OUR COMMUNITY FREE FROM THE HATRED OF PEOPLE WHO
BYPASS THE LAW FOR THEIR OWN GOOD.

YOU HAVE THE OPPORTUNITY AND THE
RESPONSIBILITY TO SET AN EXAMPLE BY DENYING THIS
REZONING. YOU CAN TELL PAUL THAT WE WILL CERTAINLY
ACCEPT YOU INTO OUR COMMUNITY SO LONG AS YOU ABIDE BY
THE LAWS OF THE STATE AND COUNTRY. ANYTHING LESS IS
UNACCEPTABLE. IF YOU PASS IT YOU'RE GOING TO BE JUST
AS GUILTY AS THAT PERSON THAT SENT ME THE LETTER.

THANK YOU.

CHAIRMAN: MR. GREGORY, IN NO WAY, I MEAN I
SYMPATHIZE DRAMATICALLY WITH YOU AND YOUR FAMILY FOR
SOMETHING LIKE THIS WOULD HAPPEN. OBVIOUSLY, THIS
SITUATION IS FAR OUTSIDE THE CONFINES OF THIS
COMMISSION. THIS IS A LEGAL POLICE, SHERIFF
DEPARTMENT SITUATION. I SYMPATHIZE WITH YOU AND YOUR
FAMILY. I'M SORRY THAT ANYTHING LIKE THIS WOULD HAVE HAPPENED. THERE'S NO WAY THAT ANYBODY HERE CONDONES SUCH ACTIONS OR ALLOW THAT TO HAPPEN. THIS IS SOMETHING BEYOND OUR CONTROL. I'M SURE YOU'VE SOUGHT SITUATIONS THROUGH THE SHERIFF OR POLICE, WHICHEVER JURISDICTION.

MR. GREGORY: WE'VE HAD FEDERAL AGENCIES INVOLVES RIGHT NOW.

CHAIRMAN: SYMPATHY TO YOU AND YOUR FAMILY. SORRY THAT ANYTHING LIKE THAT WOULD HAPPEN.

MR. GREGORY: JUST REMEMBER THAT WHEN YOU MAKE YOUR VOTE, PLEASE.

CHAIRMAN: MY SYMPATHY TO YOU AND YOUR FAMILY FOR A BAD SITUATION.

MR. GREGORY: THANK YOU.

MR. CRAIG: ON BEHALF OF MR. GREGORY, HE RECEIVED THIS THING SEVERAL WEEKS AGO, AS YOU KNOW OVER A MONTH AGO. I'VE HAD IT ALL THAT TIME. WE'RE NOT SAYING THAT THAT MAKES THIS ZONING INITIAL APPLICATION ANY MORE FAVORABLE OR LESS FAVORABLE.

WHAT WE'RE HERE SAYING IS WE WERE HERE FEBRUARY 9TH AND BACK IN JANUARY WHEN IT WAS CALLED OFF TALKING ABOUT WHAT THIS WAS GOING TO DO TO THE QUALITY OF LIFE IN A BEAUTIFUL AREA NAMED PLEASANT RIDGE.
THINGS AREN'T VERY PLEASANT OUT IN PLEASANT RIDGE THESE DAYS AND THEY'RE GOING TO GET A WHOLE LOT LESS PLEASANT IF THIS ACTIVITY GOES ANOTHER STEP FORWARD. THAT'S THE SOLE REASON THAT THIS LETTER IS BEING SUBMITTED TONIGHT. TO SHOW THAT THE QUALITY OF LIFE OUT THERE HAS ALREADY SUFFERED A SERIOUS, SERIOUS BLOW WITH THIS DEATH THREAT WHICH KEITH CANE CAN TELL YOU WHERE THE INVESTIGATION IS, FBI, POSTAL INSPECTORS CAN TELL YOU WHERE IT IS. I DON'T KNOW WHO SENT THIS LETTER, BUT I DID A LOT OF CHECKING ON IT TO MAKE SURE IT WAS LEGITIMATE, BELIEVED TO BE LEGITIMATE BEFORE I MADE THE DECISION TO EVEN TRY TO INTRODUCE IT TO THIS BODY. I'M CONVINCED OF THAT AND I JUST KNOW THAT THE PLEASANT LIFESTYLE THAT THEY KNOW OUT THERE HAS ALREADY BEEN SHOOK, YOU KNOW, REALLY BEEN SHAKEN. THIS ACTIVITY IS JUST NOT THE TYPE PROPERTY AREA TYPE THAT DESERVES THIS TYPE OF ACTIVITY. HAS NOTHING TO DO WITH MR. LANHAM AND HIS COMPANY. THEY'RE A WONDERFUL COAL COMPANY I'M SURE. BUT THERE HASN'T BEEN ANYTHING OF THIS NATURE OUT IN THAT HEAR IN ABOUT 35, 40 YEARS. THERE'S BEEN NO REZONINGS OUT THERE. NONE SINCE THE GREEN DAYS.

BOB GREEN, SEVERAL OF US HERE ARE OLD ENOUGH TO REMEMBER MR. GREEN QUITE WELL. I THINK IF HE HAD ANYTHING ZONED HE WANTED ZONED. THERE WAS SOME STRIP
MINING DONE IN THE EARLY '70S, EVEN THE MID '70S.

COME 1986 THIS COMMISSION MADE THE DECISION IT WASN'T RIGHT FOR THAT AREA. THAT'S WHAT WE'RE HERE ABOUT TONIGHT.

I WOULD ASK THE NEXT WITNESS IS GOING TO BE CURTIS WHISTLE.

MR. SILVERT: STATE YOUR NAME, PLEASE.

MR. WHISTLE: CURTIS WHISTLE.

(CURTIS WHISTLE SWORN BY ATTORNEY.)

MR. WHISTLE: MR. CHAIRMAN, BACK IN FEBRUARY YOU ASKED MANY TIMES FOR SPECIFIC DATA THAT INDICATES NEGATIVE IMPACT ON PROPERTY VALUES DUE TO BEING NEAR ACTIVE COAL STRIP MINING. I'M GOING TO GIVE THAT TO YOU TONIGHT, BUT I'D LIKE TO START OUT WITH A QUICK ANALOGY.

MR. CHAIRMAN, LET'S SAY THAT BACK IN 2006 YOU AND I BOTH WIN THE LOTTERY. IT PUTS $1 MILLION IN MY POCKET AND $1 MILLION IN YOURS. WE GO TO TRUST AND FINANCIAL ADVISOR AND HE TELLS US TO INVEST IN A GROWTH MUTUAL FUND. YOU FOLLOW HIS ADVICE. I DO NOT. I PUT IT IN THE SOCK DRAWER.

FOUR YEARS LATER YOUR FUND DID GREAT. YOU GOT A TOTAL RETURN OF 20 PERCENT. SO WHEN WE COMPARE OUR MONEY IN 2010, I'VE $1 MILLION. YOU GOT $200,000 MORE.
SO MOST PEOPLE WOULD TELL ME THAT I LOST MONEY

BECAUSE I DID NOT TRUST IN THAT FINANCIAL ADVISOR'S

ADVICE.

SO NOW LET'S TALK ABOUT DAVIESS COUNTY

PROPERTY VALUES.

IN FEBRUARY MR. HAYNES ON BEHALF OF WKM STATED

THAT PROPERTIES AROUND THEIR CURRENT KNOTTSVILLE

MINING OPERATION, HE PULLED THE PVA ASSESSMENTS FOR

2006 AND 2010. HE STATED THERE'S A LOT OF PROPERTIES

THAT INCREASED, BUT MOST REMAINED THE SAME. ONE

PROPERTY DECREASED IN VALUE. SO FOR MOST OF THE THESE

PROPERTIES, THEIR 2010 ASSESSMENT DID NOT INCREASE IN

THE PRIOR FOUR YEARS. IF A SPECIFIC LOCATION OF

PROPERTY DOES NOT REALIZE PROPERTY VALUE GROWTH WHILE

PROPERTIES AROUND IT INCREASE IN VALUE, THEN I WOULD

SAY THEY LOST VALUE. THEY LOST MONEY.

ACCORDING TO CITYDATA.COM, IF YOU'RE NOT

FAMILIAR WITH THAT YOU CAN LOOK IT UP ON WIKIPEDIA.

WELL RESPECTED WEBSITE. SEVENTY-SECOND LARGEST

WEBSITE IN THE UNITED STATES. PROVIDES DATA FOR ALL

OF THE AREAS ABOUT RACE, INCOME, EDUCATION, CRIME, AND

PROPERTIES VALUES. IT'S A WEBSITE THAT'S USED LOT BY

TRANSPLANTS THAT GO INTO NEW AREAS.

IT DOESN'T ALLOW YOU TO SLICE AND DICE THE

DATA, IF YOU WILL. IT GIVES DIFFERENT TIME SPANS. I
CAN'T EXACTLY GIVE 2006 TO 2010 NUMBERS.

ACCORDING TO CITY DATA OWENSBORO CITY PROPERTIES VALUE INCREASED BY 36 PERCENT FROM 2000 TO 2009. DAVIESS COUNTY PROPERTIES INCREASED BY 38 PERCENT IN THAT TIME FRAME. THE CLOSEST I COULD GET TO THE PROPOSED MINING AREA ON CITY DATA IS MASONVILLE. THE MASONVILLE AREA PROPERTY INCREASED BY 20 PERCENT FROM 2000 TO 2009.

SO IT SEEMS THAT ALL AREA PROPERTY VALUES ARE INCREASING AT A SUBSTANTIAL RATE WHILE MOST PROPERTIES NEAR THE KNOTTSVILLE MINE REMAIN THE SAME.

SO NOW LET'S GET MORE SPECIFIC FOR COMPARISON TO WK'M'S DATA.

I WENT TO THE DAVIESS COUNTY PVA WEBSITE WHERE ANYONE CAN PAY A SMALL FEE AND VIEW THE TAX ASSESSMENT HISTORY FOR DAVIESS COUNTY PROPERTY.

I HAVE A COPY OF MY ACTIVITY LOG IF YOU'D LIKE TO SEE IT, BUT I PULLED 30 PROPERTIES. I USED ALL 30 PROPERTIES IN MY ANALYSIS.

I PULLED 23 RUSSELL AND GIRL SCOUT ROAD PROPERTIES. I WANTED JUST A RANDOM SAMPLING OF DAVIESS COUNTY PROPERTY. FOR LACK OF A BETTER WAY TO COMING UP WITH RANDOM, I PICKED SEVEN OF YOUR PROPERTIES. NOW, I WON'T GUARANTEE YOU THEY'RE YOURS.

ALL I CAN GUARANTEE YOU IS THAT ACCORDING TO THE PVA

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WEBSITE, PEOPLE ASSUME THE NAMES IS YOURS ON THESE SEVEN PROPERTIES.

MY POINT IS IN ALL OF THIS I DIDN'T CHERRY PICK. I USED ALL 30. I'M SURE THEY COULD VERIFY THAT AND I'D BE GLAD TO GIVE YOU MY ACCOUNT.

FROM 2005 TO 2009 TAX ASSESSMENT FOR SEVEN OF YOUR PROPERTIES, OR I'M ASSUMING IS YOUR PROPERTIES, HAD AN AVERAGE INCREASE OF 12 PERCENT IN VALUE.

CHAIRMAN: JUST A MINUTE. WHERE ARE YOU COMING UP WITH SEVEN PEOPLE FOR ME?

THE WITNESS: 12 OR 13 PEOPLE SITZING ON THE COMMISSION.

CHAIRMAN: I WAS TALKING ABOUT ME. I ONLY HAVE 4. I WAS MORE SPECIFIC INFORMATION. I'M SORRY.

MR. WHISTLE: I'M TALKING ABOUT THE 13 PEOPLE SITTING ON THE COMMISSION.

CHAIRMAN: OH, ON THE COMMISSION.

MR. WHISTLE: THESE ARE PROPERTY FROM OWENSBORO, MASONVILLE, WHITESVILLE AND OTHER PLACES.

THESE SEVEN PROPERTIES INCREASED BY 12 PERCENT. FOR THE ASSESSMENTS OF THE 23 RUSSELL AND GIRL SCOUT PROPERTIES, FROM 2005 TO 2009, ON AVERAGE THESE PROPERTIES INCREASED BY 14 PERCENT. AGAIN, WHILE MOST PROPERTIES AROUND KNOTTSVILLE MINING REMAINED THE SAME.

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IF YOU LOOK AT THESE SAME 23 PROPERTIES FOR AN EIGHT YEAR PERIOD, '05 TO '13, THEY INCREASED OVER 30 PERCENT WHICH IS VERY CONSISTENT WITH A 10 YEAR SPREAD OF CITYDATA.COM.

WITH THIS HISTORICAL DATA IN MIND, IF WE REFLECT BACK ON THE EXPERTS STATEMENTS MADE BY KURTZ AND CASTLEN IN 1986, WHICH MR. WILSON REFERRED TO BACK IN FEBRUARY, WHERE KURTZ AND CASTLEN IN SUMMARY SAID THAT THE IMPACT WOULD BE 25 TO 50 PERCENT DEPENDING ON THE PROPERTY TYPE NEAR STRIP MINING ACTIVITY.

IF YOU EXTRAPOLATE OUT THESE NUMBERS, THEN I WOULD SUGGEST THAT, YOU KNOW, THIS IS RIGHT IN LINE WITH OUR PREDICTION. I WOULD SUGGEST THAT THIS IS WHY THE DATA SHOW WHAT THESE GENTLEMEN ARE RESPECTED IN THEIR PROFESSION. THEY PREDICTED THE IMPACT AND NOW THE DATA SHOWS IT.

THESE NUMBERS ALSO CORRELATE WITH THE PROPERTY VALUE MINING IMPACT STUDY FROM A SEARCH GROUP, THE DEPARTMENT OF ECONOMICS OUT OF THE UNIVERSITY OF TENNESSEE THAT MR. ISBILL SUBMITTED BACK IN FEBRUARY.

THERE'S OVERWHELMING CONSISTENCY IN THE NUMBERS AND PROFESSIONAL AND RESEARCH OPINIONS.

SO IN CONCLUSION, FROM FOUR DIFFERENT SOURCES, CITY DATA, PVA ASSESSMENTS, LOCAL EXPERT OPINION, AND THE UNIVERSITY OF TENNESSEE, ALL THE DATA DEMONSTRATES
CONSISTENT EVIDENCE OF PROPERTY VALUE IMPACT WHEN NEAR
COAL STRIP MINING ACTIVITY.

SO TO RECAP. WHY WOULD KNOTTSVILLE MINE
MOSTLY REMAIN CONSTANT? CITY DATA SHOWS DAVIESS
COUNTY PROPERTIES INCREASING BY 38 PERCENT, MASONVILLE
BY 20 PERCENT, A SMALL SAMPLE OF RANDOM DAVIESS COUNTY
PROPERTIES BY MORE THAN 12 PERCENT, A REPRESENTATIVE
SAMPLE OF GIRL SCOUT AND RUSSELL ROAD PROPERTIES BY 14
PERCENT. IT ALL WAS PREDICTED BY THE UNIVERSITY OF
TENNESSEE RESEARCH AND LOCAL REAL ESTATE EXPERTS IN
1986.

BACK IN '94 WHEN WE INVESTED IN OUR RUSSELL
ROAD PROPERTY, WE WERE FOLLOWING THE ADVICE OF OUR
FINANCIAL ADVISER. IN THIS CASE OUR FINANCIAL ADVISER
WAS THE DECISIONS OF THIS COMMISSION AND THE FISCAL
COURT.

I KNOW THAT IF MY REAL ESTATE ADVISER GAVE ME
INVESTMENT ADVICE THAT CONSISTENTLY COST ME 20 PERCENT
OF MY INVESTMENT, I'D BE LOOKING FOR A NEW ADVISER.
WHAT WOULD YOU DO?

WE DID NOT BELIEVE WE WERE PUTTING OUR MONEY
IN THE SOCK DRAWER. THANK YOU.

CHAIRMAN: MR. HAYNES.

MR. HAYNES: CAN I DIRECT A COUPLE OF
QUESTIONS TO THE CHAIRMAN TO DIRECT TO MR. WHISTLE?
CHAIRMAN: YES, SIR. I BELIEVE WE DID THAT TO YOU MR. HAYNES.

MR. HAYNES: FIRST I'D LIKE TO KNOW, DOES THE CITY DATA VALUE FIGURES TAKE INTO ACCOUNT ALL NEW CONSTRUCTION AS WELL AS PROPERTIES THAT STAY THE SAME?

MR. WHISTLE: IT IS NOT SPECIFIC ON HOW IT'S ESTABLISHING THAT VALUE. IT HINTS THAT IT IS BASED ON SALES. THAT'S ALL I CAN SAY.

MR. HOWARD: ISN'T IT CORRECT EVERY TIME A NEW HOUSE IS BUILT SAY FOR $100,000, THAT INCREASES THAT DATA BASE 100,000; IS THAT CORRECT?

MR. WHISTLE: I HAVE NO IDEA.

MR. HAYNES: IT DOES. THE NUMBERS I USED FROM KNOTTsville I EXCLUDED ANY NEW CONSTRUCTION OR ANY FIGURES THAT HAD TO DO WITH ANY HOUSE THAT HAD BEEN TORN DOWN, ANY TRAILER BEEN REMOVED, AND I SPECIFICALLY LISTED OUT THOSE PROPERTIES; ISN'T THAT CORRECT?

MR. WHISTLE: WE NEVER SAW A LISTING.

BUT I ALSO EXCLUDED PROPERTIES THAT HAD DEEDED CHANGES OR NEW HOUSES AND THOSE SORTS OF THINGS IN MY ANALYSIS.

MR. HAYNES: MY ANALYSIS CONCERNED EVERY PROPERTY WITHIN A HALF MILE OF THAT MINE SITE, DIDN'T IT, MR. WHISTLE?
MR. WHISTLE: THAT'S WHAT YOU SAID, YES.

MR. HAYNES: I DIDN'T JUST PICK --

CHAIRMAN: MR. HAYNES, MR. WHISTLE, LET'S NOT GET INTO THIS CROSS SITUATION. I KNOW. I'M JUST CAUTIONING BOTH OF YOU. NOT YOU OR HIM, BUT BOTH.

MR. HAYNES: WHAT THE CITY DATA ACTUALLY SAYS IS THE VALUE OF REAL ESTATE IN OWENSBORO OR IN THE AREA REMAIN CONSTANT WHEN YOU DELETE THE NEW CONSTRUCTION; ISN'T THAT CORRECT?

CHAIRMAN: MR. WHISTLE, DO YOU UNDERSTAND HIS QUESTION?

MR. WHISTLE: I'M NOT AN EXPERT ON CITY DATA. I WAS GIVEN THAT AS A VALID REFERENCE FROM A REAL ESTATE PROFESSIONAL THAT USES AS A SOURCE OF DATA. I CAN'T EXPLAIN ALL THE NUMBERS. IT'S A REPUTABLE SITE. THAT'S ALL I CAN SAY.

CHAIRMAN: YES, MA'AM.

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

MS. EDGE: FOR THE RECORD I'M LYNN EDGE.

(LYNN EDGE SWORN BY ATTORNEY.)

MS. EDGE: I'M A KENTUCKY REAL ESTATE APPRAISER AND I HAVE A NEUTRAL OPINION ABOUT THIS. I DO RESEARCH ON CITY DATA AND I DO KNOW THAT THEY PULL REAL ESTATE FROM ALL THE REAL ESTATE JUST LIKE YOU

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PROBABLY SHOULD HAVE ON THE NEW CONSTRUCTION AS WELL
AS THE OLD CONSTRUCTION. IF YOU GO TO A BANK AND YOU
TRY TO GET MONEY, THEY'RE GOING TO BASE IT ON ALL THE
SALES, CORRECT, OR ARE THEY JUST GOING TO BASE IT OFF
OF A PARTICULAR TYPE OF SALE?

MR. HAYNES: APPLES TO APPLES IF YOU'RE ASKING ME.

MS. EDGE: FOR THE CITY DATA THOUGH I CAN VERIFY THAT IT IS A GREAT SITE THAT A LOT OF THE
KENTUCKY APPRAISERS USE ACTUALLY. ONE OF THE -- I THINK THE PRESIDENT KIND OF REFERRED TO IT AT ONE OF
THE NEWS PAT MEETING WHICH IS UNIFORM STANDARDS
APPRaisal SERVICES. I WAS JUST VERIFYING WHAT THE
CITY DATA WAS.

CHAIRMAN: THE CITY MEANING OWENSBORO?

MS. EDGE: CITYDATA.COM. IT GIVES YOU EVERY
CITY IN THE UNITED STATES. IT PROVIDED ANY TYPE OF
INFORMATION YOU CAN THINK OF. MALES, FEMALES, WHAT
TYPE OF PROPERTY THEY'RE BUYING. I ENCOURAGE YOU TO
REALLY TAKE A LOOK AT THIS REPORT BECAUSE IT ALSO
SHOWS HOW THE PROPERTY, IF YOU LOOK, NOT JUST IN THE
DAVIESS COUNTY AREA, BUT IN THE MCLEAN AND OHIO COUNTY
AREA AS WELL. WHERE THEY DO STRIP MINING HOW IT IS
FLUCTUATING ON THE LOSS PER ACRE OR JUST THE VALUES ON
THE HOME. IN MCLEAN COUNTY ALONE, I DON'T KNOW HOW
MANY ACTIVE MINES ARE THERE. I JUST WAS ASKED TO GIVE
A LITTLE BIT OF INFORMATION ON THIS TOPIC.

ANYWAY, I DO KNOW FROM A PROFESSIONAL
STANDPOINT THAT VALUES ARE DOWN THERE.

CHAIRMAN: NOW, ARE THEY DOWN -- BE SPECIFIC.

MS. EDGE: IN OHIO, MCLEAN. IF WE'RE TALKING
CENTERTOWN. WHEREVER THEY'RE MINING.

CHAIRMAN: ARE YOU STATING THAT THEY'RE DOWN
BECAUSE OF STRIP MINING?

MS. EDGE: YES. I MEAN OBVIOUSLY IF YOU'RE
GOING TO GO OUT AND SALE YOUR HOME IT'S BUYER'S
PERCEPTION.

CHAIRMAN: WAIT A MINUTE. LET'S GIVE THEM THE
SAME RESPECT THEY GAVE YOU ALL. JUST BE QUIET.

PROCEED, I'M SORRY.

MS. EDGE: YOU'RE FINE.

I'M JUST SAYING WHEN YOU GO OUT AND BUY
PROPERTY IT'S NOT BASED ON, YOU KNOW, IT IS BASED ON
WHAT YOUR NEIGHBOR IS DOING, BUT IT'S NOT BASED ON
WHAT YOUR NEIGHBOR IS DOING BECAUSE YOUR NEIGHBOR
DIDN'T BUILD THE HOUSE THAT YOU'RE TRYING TO SELL. IF
YOUR NEIGHBOR IS TRYING TO BLOW UP LAND NEXT TO YOU,
THEN OBVIOUSLY A BUYER IS GOING TO LOOK AT THAT. I
MEAN I'M UP TO BUY A HOUSE RIGHT NOW. I'LL BE REAL
HONEST. I'M NEUTRAL IN THE SITUATION. I HAVE AN
INTEREST IN A COAL MINE IN TODD COUNTY. SO WOULDN'T BE HAPPIER TO SELL IT, BUT ON THE FLIP SIDE OF IT TODD COUNTY PROPERTIES ARE NOT WHERE DAVIESS COUNTY PROPERTIES ARE. MCLEAN COUNTY PROPERTIES ARE NOT WHERE DAVIESS COUNTY PROPERTIES ARE. ALSO IN THE CITY DATA IT REFERS TO HOW PEOPLE FROM OHIO AND MCLEAN COUNTY ARE MOVING TO DAVIESS COUNTY AT A PERCENTAGE RATE.

IF OUR LANDS IS SO MUCH MORE AVAILABLE AND THEY'RE MOVING FROM THESE OTHER COUNTIES, WHY ARE WE GOING TO ALLOW -- YOU KNOW, LET THEM RECLAIM THE LAND. PUT A GOLF COURSE OUT THERE IF IT'S VALUED. I THINK PEOPLE WORRY ABOUT THEIR QUALITY OF LIFE.

CHAIRMAN: MA'AM, YOU SAY YOU DO NOT OWN A HOME IN DAVIESS COUNTY?

MS. EDGE: I DO OWN A HOME IN DAVIESS COUNTY.

CHAIRMAN: YOU DO OWN A HOME. WHERE DO YOU OWN A HOME IN DAVIESS COUNTY?

MS. EDGE: I OWN HOME IN THE MIDDLE OF THE CITY HERE. THEN I DO HAVE OTHER PROPERTIES IN BOWLING GREEN AS WELL.

CHAIRMAN: THE REASON I ASK YOU THAT QUESTION IS YOU SAID YOU WERE NEUTRAL I JUST WANT TO SPECIFY.

MS. EDGE: I'M NEUTRAL BECAUSE I HAVE AN INTEREST IN MINERAL RIGHTS IN TODD COUNTY AND

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CARBONDALE, ILLINOIS. I WOULD LOVE TO MAKE THIS MONEY
JUST LIKE THESE PEOPLE OVER HERE. YOU KNOW, MY HEART
AND MY GUT ARE JUST LIKE, YOU KNOW, THE POPULATION IS
NOT AS DENSE.

TODD COUNTY YOU'RE LOOKING AT LAKE MALONE. GO
ON LAKEHOMES.COM AND SEE HOW MANY HOMES ARE ON THE
MARKET. THEY'RE NOT MOVING. WHETHER IT BE FOR A COAL
MINE OR JUST BECAUSE BUYERS PERCEPTION, THAT'S ALL
THEY'LL TELL YOU. BUYER PERCEPTION. IF YOU'RE GOING
TO PUT A STICK OF DYNAMITE IN THE GROUND, SOMEBODY IS
GOING TO REMEMBER THAT.

CHAIRMAN: NOW, ARE YOU SAYING THE HOMES
AROUND LAKE MALONE ARE NOT MOVING ALSO?

MS. EDGE: THEY'RE NOT MOVING.

CHAIRMAN: THANK YOU.

MR. HAYNES, IN ALL FAIRNESS --

ARE YOU FINISHED WITH YOUR STATEMENT?

MS. EDGE: I AM COMPLETELY DONE.

CHAIRMAN: THANK YOU.

MR. REEVES: QUESTION FOR THIS LADY.

CHAIRMAN: YES, SIR, MR. REEVES.

MR. REEVES: WOULD PROPERTY VALUES BEING AN
ISSUE THAT HAS BEEN RAISED IN A PREVIOUS SESSION AND
HAS BEEN ALLUED TO THIS SESSION, WOULD IT BE FAIR TO
SAY THAT THE PROPERTY OWNERS WHO HAVE THE COAL UNDER
THE GROUND WOULD LOSE THE VALUE OF THEIR PROPERTY IF
IT WERE NOT ABLE TO BE EXTRACTED?

MS. EDGE: I WOULD SAY, SINCE I HAVEN'T DONE
ANY TYPE OF RESEARCHING ON THE AFTERMATH OF IT, THAT
I'M NOT AN EXPERT IN THAT AREA. BUT I CAN TELL YOU
THAT I HAVE DONE ENOUGH RESEARCH TO WHERE THE BUYING
POWERS OF THE COAL MINES, JUST TO SEE, FOR INSTANCE,
ALLIANCE COAL, ARMSTRONG COAL. I'VE REALLY BEEN
RESEARCHING THOSE JUST TO SEE HOW MUCH THEY'RE GIVEN
FOR PROPERTY ONLY BECAUSE I'M TRYING TO SELL MINE. I
REALLY AM NEUTRAL IN THE OPINION ON THAT.

AS FAR AS YOUR QUESTION ABOUT WOULD THEIR LAND
BE MORE VALUABLE? I MEAN I GUESS I'VE GOT THE LANHAM
BOYS OVER THERE.

MR. REEVES: ANY FUTURE PURCHASERS THAT MIGHT
WANT TO BUY THE LAND KNOWING THERE'S COAL THERE,
KNOWING IT'S NOT BEING EXTRACTED, WOULD --

MS. EDGE: IT WOULD GO BACK TO THE TITLE
ISSUES AND TO THE MINERALS ISSUES. YOU KNOW, WHO OWNS
THE MINERALS? OBVIOUSLY IN ANY REAL ESTATE
TRANSACTION YOU'RE GOING TO WANT TO KNOW IF YOU'RE
GOING TO OWN THE MINERALS OR NOT OR HAVE THESE
MINERALS BEEN STRIPPED. SO I WOULD SAY IT WOULD
DEFINITELY SWAY A BUYER'S POWER. NOW, IT COULD BE AN
INVESTOR TRYING TO BUY THE LAND AND SAY, HEY, I KNOW
THERE'S BEEN COAL HERE BEFORE AND THEY MAY COME BACK AND DO IT AGAIN. JUST DEPENDS ON WHAT YOU'RE BUYING IT FOR.

MR. REEVES: THANK YOU.

CHAIRMAN: MR. HAYNES, ARE YOU FINISHED WITH YOUR QUESTIONS?

MR. HAYNES: YES.

CHAIRMAN: YES, SIR.

MR. WHISTLE: I'D LIKE TO ENTER A COPY OF MY DATA ANALYSIS INTO THE RECORD.

CHAIRMAN: JUST STATE THAT YOU WANT TO.

MR. WHISTLE: I'D LIKE TO ENTER A COPY OF MY ANALYSIS INTO THE RECORD.

CHAIRMAN: THANK YOU.

MR. WILSON.

MR. HAYNES: MR. CHAIRMAN, LIKewise, COULD I ENTER MY DATA ALSO?

CHAIRMAN: ABSOLUTELY.

MR. WILSON: WHAT DATA IS THAT, MR. CHAIRMAN?

CHAIRMAN: MR. HAYNES.

MR. WILSON: HE SAID, WHAT WE TESTIFIED FROM THREE MONTHS AGO, OR IS IT SOMETHING DIFFERENT?

MR. HAYNES: IT'S A LIST OF EVERY PROPERTY WITHIN ONE-HALF MILE OF KNOTTsville MINE THAT HAS THE PVA ASSESSMENT ON IT IMMEDIATELY BEFORE THE MINE

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OPENED.

CHAIRMAN: MR. HAYNES, IS THIS THE SAME STUFF THAT'S ALREADY IN THE RECORD?

MR. HAYNES: IT IS NOT IN THE RECORD. THE DATA WAS NOT TESTIFIED TO. JUST TESTIFIED TO, BUT THIS IS THE LIST OF THE PROPERTIES WITH THE VALUES AND IT SHOWS THE PROPERTIES THAT HAD NEW CONSTRUCTION OR RESIDENTIAL. I DID IT BOTH WAYS. I WAS VERY FAIR ABOUT IT.

CHAIRMAN: MR. WILSON.

MR. WHISTLE: ME TOO.

MR. WILSON: I HAVE NO OBJECTION. JUST LET THE RECORD SHOW WE'VE NOT SEEN IT AND WE'RE NOT AGREEING TO ITS AUTHENTICITY. IT IS WHAT IT IS.

CHAIRMAN: WOULD YOU LIKE TO SEE A COPY OF IT, MR. WILSON?

MR. WILSON: NOT RIGHT NOW, NO, SIR.

CHAIRMAN: THANK YOU. IT IS HERE IF YOU'D LIKE TO.

MR. WILSON.

MR. WILSON: NEIL VANMILLIGAN WILL BE OUR NEXT WITNESS.

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

MR. VANMILLIGAN: MY NAME IS NEIL VANMILLIGAN.
MR. VANMILLIGAN: I'VE LIVED ON RUSSELL ROAD FOR 30 YEARS. I SPOKE AT THE LAST HEARING.

I WANTED TO ADD BESIDE WHAT I SAID EARLIER IN THAT IN 2004 THE FISCAL COURT OF DAVIESS COUNTY STATED ON THE RECORD THAT ALL CITIZENS OF THE COUNTY ARE ENTITLED TO THE USE, ENJOYMENT AND VALUE OF THEIR PROPERTY.

THAT IMPACTS THE FOLKS THAT LIVE AT THE PLEASANT RIDGE AREA, GIRL SCOUT CAMP, THE GIRL SCOUT CAMP ITSELF, GIRL SCOUT ROAD, RUSSELL ROAD, HIGHWAY 231. ALL THE AREAS IN THERE ARE GOING TO BE IMPACTED BY THE BLASTING THAT WE DISCUSSED EARLIER TWICE A DAY FOR 10 TO 20 YEARS. HARDLY AN ENVIRONMENT IN WHICH YOU'RE GOING TO EXERCISING YOUR RIGHT TO THE USE AND ENJOYMENT AND VALUE OF YOUR PROPERTY.

THE BLASTING THAT COULD BE DONE GENTLY AND WITH CONSIDERATION; FOR EXAMPLE, THE M80 YOU MIGHT PUT AT YOUR MOTHER'S DOORSTEP, IS NOT GOING TO BLAST COAL. WHAT'S GOING TO BLAST COAL IS WHAT'S GOING ON AT THE ARMSTRONG MINE NOW 15 MILES AWAY THAT WE HEAR IN THE FIELD EVERY DAY. NEARLY EVERY DAY WHEN THEY BLAST IT'S SOMETHING THAT HELPS US MARK THE TIME.

WHEN THAT MINE -- AND WE'RE TALKING ABOUT THE SAME BLASTING COMPANY. THE SAME COMPANY THAT'S GOING
TO BE CONSIDERATE AND BLAST WITHIN 300 FEET OF OUR HOMES NOW.

I'M NOT A BLASTING EXPERT BY ANY STRETCH OF THE IMAGINATION, BUT WHEN YOU BLOW SOMETHING UP, YOU BLOW IT UP AND EXPANDING THE AREA AND CAUSING STRESS. THE BLASTING EXPERT TELLS US THAT THAT IS STRESS IS MORE OR LESS THE SAME WHETHER YOU HAVE ONE SIGNIFICANT BLAST OR MULTIPLE SMALLER BLASTS. THEY FEEL LIKE ONE SIGNIFICANT BLAST WOULD BE LESS INTRUSIVE ON US, BUT THE DAMAGE THAT WE COULD EXPECT NOT ONLY TO OUR HOMES BUT TO OUR LIFESTYLE WOULD BE IMPACTED WHETHER WE HAVE ONE SIGNIFICANT BLAST, THREE OR FOUR SMALLER BLASTS, AN EPISODE TWICE A DAY FOR TEN YEARS.

MY PROPERTY, I HAVE 200 ACRES ABLAZE IN THE AREA ZONED YEAR NINE AND TEN. SO I SHOULD WAIT UNTIL YEAR 11 TO BUILD A HOUSE ON MY PROPERTY? I SHOULD WAIT 11 YEARS BEFORE I CAN BUILD THAT HOUSE? I BOUGHT THE PROPERTY WITH THE IDEA THAT THAT WAS GOING TO BE MY RETIREMENT. I'M ABOUT TO RETIRE. NOW I DON'T HAVE A PLACE TO BUILD THAT HOUSE TO DO IT.

WE DISCUSSED THE PRIME FARM GROUND ISSUE. THE MINING REPRESENTATIVE SAYS THAT IT'S DIFFICULT TO AVOID PRIME FARM GROUND WHEN YOU'RE MINING AND YOU'RE MINING SUCH A LARGE CONTIGUOUS AREA.

WHILE IT'S TRUE THEY MAKE IT DIFFICULT TO
AVOID IT. THE REQUIREMENT IS THAT IT BE PROTECTED.

NOT THAT IT BE PROTECTED IF IT'S EASY. IT'S NOT THAT
IT'S WETLAND TO BE PROTECTED IF IT'S CONVENIENT. IT'S
THAT THEY ARE TO BE PROTECTED.

RE-ESTABLISHING DISTURBED SOIL OF PRIME FARM
GROUND IS A WEAK INVITATION OF THE GROUND THAT IT WAS
BEFORE IT WAS MINED. IT WILL NOT HOLD WATER
PARTICULARLY IN ANY KIND OF A DROUGHT SITUATION. YOU
CAN GROW GRASS. YOU CAN'T GROW SUBSTANTIAL TREES.
THERE ARE TREES YOU CAN GROW. ANYBODY HERE WANT TO
HAVE A WHOLE FOREST OF LOCUST TREES IN LIEU OF THE
OAKS AND PINES AND MAPLES THAT THEY HAVE ON THEIR LAND
NOW? ONLY THE RABBITS WANT THAT. NONE OF US WANT IT.

THE REGULATIONS THAT IMPACT THE COAL COMPANY'S
ACTIVITY ARE MONITORED BY FEDERAL AND STATE
AUTHORITIES AND NO TELLING WHO ELSE, BUT THEY'RE
MONITORED PERIODICALLY. IN THE MEANTIME WE'RE
REQUIRED TO EXPECT THE COAL COMMITTEE TO MONITOR IT
THEMSELVES AND BE SELF-POLICING.

THERE ARE A NUMBER OF COAL COMPANIES THAT
DON'T EXIST IN THIS AREA THAT USED TO MINE OUT HERE.
SOME OF THEM DON'T EXIST BECAUSE OF ECONOMIC
CONDITIONS. PRODUCT FAILED AND THE MINE COULD NOT
SUCCEED.

SOME OF THEM DON'T EXIST BECAUSE, AT LEAST
THREE THAT I KNOW OF PERSONALLY, BECAUSE THE MINE
OWNERS WERE SENT TO THE PENITENTIARY BECAUSE THEY DID
NOT ADHERE TO SELF-REGULATING REGULATIONS. THOSE
COMPANIES CONDUCTED THEMSELVES IN A WAY WHICH WAS
AGAINST THE LAW OF THE LAND. THEY PAID THAT PENALTY.
I'M NOT SAYING THAT LANHAM COAL WOULD, BUT I CAN GIVE
YOU EXAMPLES.

WHEN MR. LUDWICZAK WAS STANDING HERE AND HE
ILLUSTRATED TO YOU THE DANGERS OF MINING BY BLASTING
IN THE LOW LAND AREA WHERE THERE TEND TO BE HYDRIC
SOIL AND WATER WOULD MULTIPLY THE IMPACT OF THE BLAST.
MR. LANHAM IN REBUTTAL CAME UP AND SAID, WE DON'T HAVE
SIGNIFICANT COAL IN LOW LANDS. OUR COAL IS ON THE
UPPER REGIONS OF THE ELEVATION OF THAT PROPERTY.

IF HE WERE TO DEMONSTRATE OR HE WERE TO
PROVIDE TO YOU HIS CORE SAMPLING MAP, YOU WOULD SEEN
PLAINLY THAT THE UPPER ELEVATION HAVE VIRTUALLY NO
COAL. VIRTUALLY ALL THE COAL WOULD BE MINED BY LANHAM
BY WESTERN KENTUCKY MINERALS THAT'S IN THE LOW AREAS.
IN THE AREAS THAT HOLD WATER, THAT RETAIN WATER OR
WOULD TEND TO BE WET DURING MUCH OF THE YEAR AND
SUFFER THE MOST DAMAGE FROM THE MINE.

THE SECOND ISSUE THAT CAME ABOUT IN OUR LAST
MEETING WAS WHEN WESTERN KENTUCKY MINERALS SAID THAT
THEY WERE REQUIRED BY THE EPA TO TAKE THE POLLUTANTS,
PARTICULARLY THE HEAVY METALS, LEADS, MERCURY AND CADMIUM THAT MIGHT BE EXTRACTED FROM THE COAL IN THEIR WASH PLANT, THEY'RE REQUIRED TO REINJECT THAT INTO THE PIT. THAT'S HARDLY THE CASE.

THE FEDERAL GOVERNMENT, PARTICULARLY THE EPA, ALSO THE STATE DEPARTMENT OF NATURAL RESOURCES, FORBIDS SUCH ACTION. TO CAVALIERLY STATE THAT YOU WOULD INJECT LEAD OR MERCURY INTO OUR AQUIFER, CLAIMING THAT IT'S REQUIRED IS EITHER A MISCALCULATION OF THE STATE LAW, MISUNDERSTANDING OF LAW OR JUST A BLATANT DISREGARD FOR THE FACTS.

THE REGULATIONS FOR PETITIONER TO APPLY FOR REZONING, THAT THE REZONING REQUEST IS SUBJECT TO ANY MALFEASANCES OR ANY MANIPULATIONS DURING THE REZONING PETITION PROCESS. THAT PERMIT SHOULD BE REJECTED OUT OF HAND REGARDLESS OF ITS OTHER MERITS.

I HAVE NOTHING AGAINST MR. LANHAM OR ANYBODY IN HIS COAL MINE, BUT WE CANNOT EXPECT THEM TO REPRESENT US FOR THE NEXT 20 YEARS OUT THERE MINING ON THOSE SITS IF WE CAN'T EXPECT THEM TO BELIEVE WHAT THEY SAY AND RELY ON IT HERE IN THIS ROOM WHERE WE ARE IN A PLEASANT ENVIRONMENT AND ALL OF US HAVE AN OPPORTUNITY TO GATHER OUR THOUGHTS AND SPEAK/plainly. NOT EXPLOSIONS GOING OFF IN THE AREA AROUND US.

ENTIRELY DIFFERENT SITUATION.
CHAIRMAN: AFTER THE STATEMENTS THAT HE MADE, I THINK WE SEVERAL QUESTIONS THAT I WOULD LIKE TO ASK YOUR SIDE, MR. HAYNES. THE FIRST QUESTION WOULD BE THE STATEMENT THAT HE MADE IN REGARDS TO YOUR ALL'S PREVIOUS STATEMENT ABOUT THE LOCATION OF THE COAL BEING IN EITHER A LOW AREA OR THE HIGH AREA. WHAT I GOT FROM WHAT HE SAID IS THE DEPTH OF THE COAL BEING NEAR THE SURFACE OR DOWN DEEP. IS THAT CORRECT? IS THAT A CORRECT ASSESSMENT OF THE STATEMENT YOU MADE? THE COAL BEING IN A LOW AREA OR BEING NEAR THE SURFACE OR DEEP AREAS?

MR. VANMILLIGAN: NO, SIR. IT HAD TO DO WITH CONTOUR OF THE SOIL, CONTOUR OF THE LAND. COAL THAT WAS MINED WHERE THE CONTOUR IS LOW WOULD TEND TO HOLD WATER. THE AREA THAT MIGHT BE MINED WHERE THE SOIL HAS REACHED A PEAK, A SMALL HILL WOULD TEND TO NOT HOLD WATER AND SO IT WOULD BE LESS DAMAGE EXPECTED IN THE AREA FROM THE BLAST.

CHAIRMAN: SO MY ASSESSMENT ABOUT THE DEPTH WAS INCORRECT. IT HAS TO DO WITH THE CONTOUR OF THE LAND?

MR. VANMILLIGAN: YES, SIR, THAT'S CORRECT.

CHAIRMAN: THANK YOU FOR YOUR CORRECTION.

OBVIOUSLY YOU UNDERSTOOD THE QUESTION BETTER THAN I.
MR. WRIGHT: HE'S INCORRECT. MOST OF OUR COAL DOES LAY UP IN THE HILLS. HE'S TALKING ABOUT THE LUVIENT DOWN IN SOME OF THE LOWER VALLEYS AND STUFF. WE DO HAVE SOME COAL IN THOSE AREAS. WHAT HE'S TALKING ABOUT IS THE MUD AND THE LUVIENT THAT GETS THICKER DOWN THERE. WE PULL ALL THAT OFF.

CHAIRMAN: FOR MY BENEFIT, IF YOU WERE TO SAY USE HIS STATEMENT ABOUT THE LOW AREA VERSUS THE HIGH AREA, WOULD YOU GIVE ME A REASONABLE ESTIMATE OF PERCENTAGE-WISE HOW MUCH COAL IS IN THE HIGH AREA AS HE WAS REFERRING TO THE CONTOUR OF THE LAND VERSUS THE LOW AREA WHICH HE WAS REFERRING TO AS THE LOW CONTOUR AREA OF THE LAND?

MR. WRIGHT: THERE'S ABOUT 70 PERCENT OF IT IN THE HIGHER ELEVATIONS, AND 30 PERCENT IN LOWER ELEVATIONS. VERY SMALL.

CHAIRMAN: THE OTHER QUESTION WAS OR COMMENTS THAT HE MADE WAS WITH REGARD TO YOUR PREVIOUS STATEMENTS ABOUT THE METALS. PRECISELY HE MENTIONED LEAD AND CADMIUM BEING PUT BACK IN. WOULD YOU ADDRESS THAT, PLEASE?

MR. WRIGHT: THAT'S WHAT THE DEPARTMENT OF SURFACE MINING REQUIRES. WE'RE NOT INJECTING INTO THE GROUND. WE'RE PUTTING IT BACK INTO THE PIT WHERE IT COME FROM. THERE'S NO INJECTION WHATSOEVER.
CHAIRMAN: I DID NOT UNDERSTAND THIS PROCESS.

WOULD YOU EXPLAIN TO ME WHEN IT IS EXTRACTED FROM THE COAL AND DO YOU HAVE ANY DUST OR DO YOU HAVE A SOLID OR WHAT FORM IS THE CADMIUM AND THE LEAD IN?

MR. WRIGHT: IT'S EMBEDDED IN THE COAL. IT DOESN'T COME OUT OF THE COAL. IT STAYS WITH IT. WE WASH OUT SOME SULFUR. YOU KNOW, THERE'S SOME OF THE TRACE METALS THAT WILL COME OUT WITH IT, BUT VERY LITTLE. MOST OF IT STAYS IN THERE. WE'VE GOT A COMPLETE ANALYSIS OF THE COAL THAT SHOWS ALL THAT IN BOTH OF THESE COAL SEAMS TO BE VERY LOW.

CHAIRMAN: SOME OF THIS BEING IN SLURRY FORM OR A LIQUID FORM?

MR. WRIGHT: IT WILL COME BACK IN A SLURRY FORM, YES.

CHAIRMAN: ACCORDING TO YOU, ACCORDING TO THE REGULATIONS OF THE STATE OF KENTUCKY, IS THAT FEDERAL OR STATE?

MR. WRIGHT: STATE LEVEL.

CHAIRMAN: THAT MATERIAL STAYS WITH THAT GROUND?

MR. WRIGHT: IT GOES RIGHT BACK INTO PLACE WHERE IT COME FROM, THAT'S CORRECT.

CHAIRMAN: SO IT'S NOT INJECTED OR ANYTHING.

MR. WRIGHT: NO.
CHAIRMAN: IF YOU WERE TO, EXCUSE MY EXAMPLE.

IF IT'S INCORRECT, PLEASE CORRECT ME.

IF YOU WERE TO DIG OUT A HOLE AND TAKE THE
COAL OUT, YOU'D WASH THIS COAL, CORRECT. THEN THE
METALS, THE HEAVY METALS THAT ARE TAKEN FROM THIS COAL
ARE PUT BACK INTO THAT HOLE; IS THAT CORRECT?

MR. WRIGHT: THE SLURRY IS PUT BACK IN THERE.

NOT NECESSARILY HEAVY METALS. THEY'RE NOT HEAVY
METALS ANYWAY. THEY'RE TRACE METALS.

CHAIRMAN: THEN THAT AREA IS COVERED UP AND
RECLAIMED. IS THAT A CORRECT ASSESSMENT?

MR. WRIGHT: RIGHT. THE REASON THEY WANT IT
THERE IS SO THE FIRE CLAY WHERE YOU'VE GOT THAT LINER
THAT MAKES IT IMPERMEABLE WHERE IT WON'T MIGRATE DOWN
THROUGH THERE AND THEN GET INTO THE LOWER AQUIFERS
BELOW THE COAL. THAT'S WHY THEY HAVE US MONITOR THE
GROUND WATER TO THE FIRST AQUIFER BELOW THAT. ABOVE
THE MINE SITE, BELOW THE MINE SITE.

CHAIRMAN: WOULD YOU REFRESH MY MEMORY ON THE
GENTLEMAN THAT YOU HAD HERE FROM THE STATE OF
KENTUCKY. DID YOU COVER THE TRACE METALS?

MR. WRIGHT: NO.

CHAIRMAN: WHAT YOU'RE STATING IS THAT IS THE
REGULATION THAT'S REQUIRED BY YOU ALL AS TO LEAVE
THOSE TRACE METALS IN THAT PRECISE LOCATION OR CAN ALL
OF THESE TRACE METALS THAT YOU HAVE BE PUT INTO ONE LOCATION OR DO THEY HAVE TO BE PUT IN THE EXACT AREA WHERE THEY'RE MINED?

MR. WRIGHT: YOUR TRACE METALS JUST DON'T COME OUT OF YOUR COAL. I MEAN IF YOU'VE GOT THE SLURRY THAT COMES OUT THERE'S USUALLY ASH AND STUFF LIKE THAT YOU HAVE AND SOME OF THE TRACE WILL COME WITH IT. SO A LOT OF THE METALS ARE EMBEDDED IN THE COAL.

CHAIRMAN: STAY WITH THE COAL?

MR. WRIGHT: YOU DO NOT GET THOSE OUT. A SMALL PART WILL COME OUT IN THE WASHING PROCESS WITH THE ASH AND STUFF LIKE THAT AND WITH THE SULFUR.

CHAIRMAN: BUT A LOT OF THOSE ARE EDUCATIONAL QUESTIONS FOR ME BECAUSE I DID NOT KNOW. THOSE WERE EDUCATIONAL QUESTIONS. SOME OF THESE PEOPLE KNOW AND SOME DIDN'T.

MR. WRIGHT: DOES THAT HELP ANSWER IT?

CHAIRMAN: THAT CLEARS IT UP FOR ME BECAUSE I WAS NOT CLEAR.

MR. WRIGHT: WE HAVE TO MONITOR THE SAME METALS. ONE ABOVE. ONE BELOW. IF THAT STUFF GETS THROUGH THE FIRE CLAY, GOES INTO THAT LOWER AQUIFER AND CATCHES DOWN HERE.

CHAIRMAN: IS THE CLAY PUT IN WHEN YOU FINISH MINING?
MR. WRIGHT: THE CLAY IS NATURAL.

CHAIRMAN: THE NATURAL CLAY IS BELOW THE COAL?

MR. WRIGHT: FIRE CLAY IS BELOW THE COAL, YES.

CHAIRMAN: HOW DEEP? WHAT SORT OF DEPTHS?

MR. WRIGHT: IT RUNS FROM A FOOT UP TO FIVE OR SIX FOOT.

CHAIRMAN: HOW PERMEABLE IS THIS?

MR. WRIGHT: QUITE PERMEABLE.

CHAIRMAN: THANK YOU. THAT CLEARS ME UP.

MR. VANMILLIGAN: MR. CHAIRMAN, IF YOU DON'T MIND.

CHAIRMAN: I WAS NOT TRYING TO RESTATE YOUR POSITION. I WAS TRYING TO MAKE YOUR POSITION CLEAR SO I UNDERSTOOD WHAT YOU WERE TALKING ABOUT.

MR. VANMILLIGAN: I WOULD FEEL VERY GOOD ABOUT THAT IF YOU COULD BELIEVE ANYTHING HE JUST SAID.

THE VIDEO THAT THEY SHOWED THE BLASTING, DID YOU PAY ATTENTION TO THAT VIDEO? DID YOU NOTICE THE WATER IN THAT VIDEO WHEN THEY SHOWED THE BLAST? "THIS IS AN EXAMPLE OF OUR BLASTING." DID YOU NOTICE THEY WERE BLASTING IN A WATER, IN A PIT FULL OF WATER? DO YOU THINK THAT WAS ON TOP OF A HILL? NO.

THAT'S THE SAME THING THAT'S GOING TO HAPPEN TO US. WHEN YOU BLAST IN AN ENVIRONMENT, AND I'M NOT
A BLASTING EXPERT. I'M TRYING TO RESTATE WHAT MR. LUDWICZAK SAID IN THE PREVIOUS PERIOD. THAT THE BLASTING DAMAGE, BOTH NOISE AND VIBRATION, IS SIGNIFICANTLY INCREASED BY THE ADDITIONAL WATER PRESSURE. WATER IS NOT COMPRESSED. BY THE WATER PRESSURE THAT'S GOING TO BE MOVED ALONG THAT SOIL STRATA AS A BLAST IN A LOWLAND AREA.

FOR MR. WRIGHT TO SAY THERE'S 70 PERCENT OF THE COAL IS IN THE UPPER AREA, I'D LIKE THEM TO BRING A DRILLING MAP OUT HERE. I'VE EXAMINED THE DRILLING MAP. THERE IS VIRTUALLY NO COAL IN THE UPPER AREA. IT'S ALL IN THE LOWER AREAS. FOR HIM TO SAY, STAND HERE AND TELL US THAT THERE IS AN IMPERMEABLE CLAY LAYER UNDERNEATH THAT COAL BED, HOW CAN THAT BE UNIVERSALLY TRUE? WHAT FEATURE IN NATURE FORCE COAL TO ONLY FORM IN A CLAY BED? I'M NOT FAMILIAR WITH THAT AS BEING A UNIVERSAL TRUTH.

THERE ONLY HAS TO BE A SINGLE PERMEABLE ZONE THROUGH THAT CLAY LAYER WHEN THEY POUR THAT COAL SLURRY INTO IT UNTIL IT IMPACTS OUR AQUIFER AND COMES UP WHERE. IN THE OHIO RIVER. YOU EAT THOSE FISH. THE GREEN RIVER. WHERE IS THAT GOING TO COME UP?

I DEFY THEM TO SHOW THE PROOF TO US THE REGULATION THAT STATES THAT THEY TAKE THOSE TRACE ELEMENTS TO REQUIRE THEM TO PUT THEM BACK IN THE HOLE.
THEY'RE ABSOLUTELY FORBIDDEN.

THE DRINKING WATER STANDARD FOR LED IN THE UNITED STATES IS ZERO. YOU CAN'T HAVE ANY. HOW CAN THEY POSSIBLY MEET THE DRINKING WATER STANDARD FOR CADMIUM, FOR LEAD, FOR MERCURY. YOU CAN'T HAVE ANY OF THAT. YOU CAN'T PUT IT IN THE GROUND.

IF YOU WALK DOWN THE STREET AND YOU FIND A CIGARETTE BUTT ON THE STREET AND YOU PICK IT UP, SOMEBODY ELSE LITTERED. IF YOU PUT IT BACK DOWN, YOU'RE LITTERING.

IF HE PUTS THAT JUNK BACK IN THAT HOLE, HE'S POLLUTING US. NATURE PUT IT THERE TO BEGIN WITH.

THEY ENCASED IT INTO COAL. YOU CRUSH THE COAL TO WASH IT. YOU REMOVE THE GRAVEL. YOU REMOVE THE DIRT. YOU REMOVE SOME DUST AND OTHER DEBRIS ASSOCIATED WITH IT. YOU ALSO REMOVE WHAT ELEMENTS ARE EXPOSED WHEN THAT COAL IS CRUSHED. SOME OF THOSE ELEMENTS ARE REGULATED. CLOSELY REGULATED BY THE STATE AND THE FEDERAL GOVERNMENT. THEIR INTENSIONS STATED MANY TIMES, POUR THAT BACK IN THE HOLE AND COVER IT UP. THAT'S NOT THE 21ST CENTURY. WE DON'T DO THAT.

CHAIRMAN: THANK YOU.

MR. WILSON: MAY WE APPROACH THE CHAIR?

CHAIRMAN: MR. HAYNES.

MR. HAYNES: I'D RATHER KEEP IT TRANSPARENT.
I DON'T KNOW WHY WE HAVE TO --

MR. WILSON: LET'S KEEP IT TRANSPARENT, MR. CHAIRMAN. WE'RE GETTING INTO SOMETHING HERE THAT I CERTAINLY DIDN'T --

CHAIRMAN: WAIT, MR. WILSON. YOU UNDERSTAND IF MR. HAYNES IS NOT AGREEING I HAVE TO HAVE YOU ALL DO IT THIS WAY.

MR. WILSON: THAT'S FINE IF THAT'S THE WAY YOU WANT TO DO. YOU'RE THE CHAIRMAN. YOU CAN SAY HOW WE DO IT.

THIS CONVERSATION HAS GOTTEN INTO SOMETHING BECAUSE THE CHAIR CALLED THEM TO THE STAND TO ASK QUESTIONS, WHICH THEY WERE NOT ASKING. SO THE CHAIR AND THE COMMISSION NOW HAS USED UP A LOT OF TIME ON THIS ISSUE THAT HAS NOTHING TO DO WITH OUR PRESENTATION OF THE CASE. IT'S CHAIR WANTING TO PRESENT OR TALK TO PEOPLE ON THAT SIDE OF THE AISLE. SO I WOULD JUST LIKE THE CHAIR TO ACKNOWLEDGE THAT THIS IS NOT EATING UP OUR TIME.

CHAIRMAN: MR. WILSON, ALSO I DID THE SAME THING TO THEM DURING THEIR TESTIMONY. I DID THE SAME THING TO THEM. WHEN YOU'RE WITNESS MADE SOME STATEMENTS, I FELT LIKE IT WAS ONLY FAIR THAT I GAVE THEM THE CHANCE TO RESPOND.

MR. WILSON: MR. CHAIRMAN, I FEEL IT'S MY JOB
AND MR. HAYNES JOB TO DO OUR JOBS. I APPRECIATE YOUR
ASSISTANT AND I'M SURE BRIAN DOES TOO. I THINK WE'RE
SUPPOSED TO DO OUR OWN JOB. SO WHEN THE CHAIR WANTS
TO TAKE UP OUR TIME, I'M JUST ASKING FOR MORE TIME.
THAT'S ALL I'M ASKING FOR.

CHAIRMAN: SEE, MR. WILSON, I GAVE THEM TIME
TO SUMMARIZE. I'LL GIVE YOU THE SAME COURTESY.

MR. WILSON: THIS LAST 20 MINUTES OR SO HAS
NOT GONE AGAINST MY HOUR.

MS. STONE: IT HAS.

CHAIRMAN: LET ME SEE, BUT YOUR WITNESS MADE
SOME STATEMENTS THAT I FELT LIKE HE DIDN'T MAKE
EVIDENCE STATEMENTS. HE MADE SOME ACCUSATIONS AGAINST
THEM WHICH I FELT LIKE THEY WERE DUE THE OPPORTUNITY
TO RESPOND.

MR. WILSON: AND I THINK IT'S UP TO THEM TO
RECLINATE TO DO THAT. WHAT I'M SAYING IS I THINK THEY
SHOULD PRACTICE THEIR CASE. WE SHOULD PRACTICE OUR
CASE. IF THE CHAIR IS WANTING TO PRACTICE EITHER OF
OUR CASES FOR EITHER SIDE, THEN THAT SIDE SHOULDN'T BE
PENALIZED WITH TIME OF THE CHAIR AND THE COMMISSION.
THAT'S ALL I'M SAYING.

CHAIRMAN: SO NOTED.

I'M GOING TO GIVE YOU ALL A CHANCE BECAUSE I
GAVE THEM THE SAME CHANCE.
MR. HAYNES, I BELIEVE YOUR ENGINEER IS GOING TO SPEAK QUICKLY.

MR. HAYNES: YES, MR. CHAIRMAN.

MR. ARNOLD: I'LL BE BRIEF AGAIN.

MY NAME IS JEFF ARNOLD, PROFESSIONAL ENGINEER. STARTED WORKING IN COAL MINING IN 1972. WORKED FOR AMEX COAL COMPANY, THE SECOND LARGEST COAL COMPANY IN THE UNITED STATES FOR ABOUT 15 YEARS. WORKED IN ILLINOIS, INDIANA AND KENTUCKY. EVERY PLACE WE EVER WORKED IN A SURFACE WE HAD FIRE CLAY. FIRE CLAY IS IMPERMEABLE. WATER DOES NOT SOAK THROUGH IT. ALL OF THOSE LOCATIONS, ALL OF THOSE STATES REQUIRE US TO TAKE THE TRACE METALS BACK TO THE PIT BECAUSE THAT'S WHERE THEY CAME FROM. I'M NOT SURE WHERE HE'S GETTING HIS INFORMATION, BUT THAT COULDN'T BE FURTHEREST FROM THE TRUTH IF YOU TRIED. THAT'S NOT TRUE.

CHAIRMAN: MR. ARNOLD, YOU ARE A PROFESSIONAL ENGINEER, CORRECT?

MR. ARNOLD: YES, SIR.

CHAIRMAN: AS A PE, YOU WOULD HAVE TO SIGN A STATEMENT TO THAT AFFECT AND YOUR LICENSE WOULD BE AFFECTED BY YOU CERTIFYING THAT STATEMENT; AM I CORRECT?

MR. ARNOLD: THAT STATEMENT WAS CORRECT WHEN I WORKED FOR THE COAL COMPANIES IN INDIANA, ILLINOIS AND
KENTUCKY, YES.

CHAIRMAN: DO YOU HAVE THE AUTHORITY OR DO YOU HAVE THE KNOWLEDGE TO SAY THAT THAT IS THE CORRECT METHOD TO DISPOSE OF THIS SLURRY OF TRACE METALS?

MR. ARNOLD: I CAN'T SAY THAT FOR TODAY'S REGULATION. I WOULD HAVE TO GO RESEARCH IT.

CHAIRMAN: JUST A MOMENT.

MR. ARNOLD: I WOULD SINCERELY DOUBT THAT IT HAS CHANGED IN THE LAST TEN YEARS.

CHAIRMAN: THANK YOU.

MR. VANMILLIGAN: MR. CHAIRMAN, WE HAVE A LETTER HERE. WE DON'T HAVE A WITNESS. WE HAVE A LETTER FROM LINDSAY IVY BURDEN WHO HAS A PHD IN GEOTECHNICAL ENGINEERING. SHE WAS A GIRL SCOUT AND A CAMP COUNSELOR AT THE GIRL SCOUT CAMP. SO SHE IS OBVIOUSLY SOMEWHAT PREJUDICE.

IN PART SHE SAYS, "AS A GEOTECHNICAL ENGINEER, I OPPOSE THE MINE BECAUSE OF THE RISK OF WATER AND SOIL CONTAMINATION IN THE ADJACENT PROPERTIES. TO PRODUCE 'CLEAN' COAL FOR BURNING, WKM PLANS TO WASH EXTRACTED COAL WITH WATER TO REMOVE THE UNWANTED CHEMICALS THAT END UP PRODUCING ACID RAIN WHEN BURNED. FOR THE PROPOSED MINE, THIS COAL SLURRY/WASH WILL BE STORED ON SITE. WASHING THE COAL TAKES PREVIOUSLY SOLID-STATE PARTICLES CONTAINING CHEMICALS TOO TOXIC
TO TAKE TO THE PLANT AND SUSPENDS THEM WITHIN A LIQUID; WHICH GIVES THEM THE ABILITY TO TRAVEL. COAL SLURRY THAT DOES NOT STAY CONTAINED WITHIN THE SITE WILL CAUSE SERIOUS ENVIRONMENTAL DAMAGES TO PEOPLE AND WILDLIFE AS EVIDENCED IN OTHER SITES WHERE COAL SLURRIES HAVE BEEN LEAKED OR SPILLED INTO THE ENVIRONMENT. IN OTHER CASES, UNCONTAINED COAL SLURRIES CONTAMINATED THE GROUNDWATER AND KILLED MULTIPLE SPECIES OF WILDLIFE. AT THE MEETING OF JANUARY 30TH, WKM INDICATED THAT NO LINER WOULD BE USED TO CONTAIN THE COAL SLURRY. THAT THE SURROUNDING ROCK CONSISTED OF SANDSTONE AND SHALE. SANDSTONE IS A PERMEABLE ROCK, WHICH MEANS THAT AS WATER TABLES RISE AND FALL, WATER (OR COAL SLURRY) COULD EASILY TRAVEL THROUGH THE SURROUNDING ROCK AND POSSIBLY CAUSE IRREVERSIBLE DAMAGE TO SURROUNDING AQUIFERS, HARMING BOTH CITIZENS AND THE ENVIRONMENT."

I WILL PROVIDE YOU A COPY OF THE LETTER, IF YOU'D LIKE.

CHAIRMAN: YOU WANT TO PUT THAT INTO RECORD.

MR. WILSON.

MR. WILSON: MR. CHAIRMAN, I MAY ONLY HAVE TWO MORE WITNESSES. I WOULD LIKE TO CLOSE WITH MY WITNESSES LIKE I DID BACK ON FEBRUARY 9TH. IF WE COULD OPEN THE FLOOR TO WHOEVER IS HERE WHO SIGNED UP
WANT TO SAY SOMETHING.

CHAIRMAN: YOU WANT TO GO AHEAD AND BRING TWO MORE WITNESSES?

MR. WILSON: I WOULD LIKE BRING THEM IN CLOSING AT THE END. CUT MY TIME OFF NOW AND WHOEVER IS HERE AND HAS WHATEVER TO SAY.

CHAIRMAN: GO AHEAD. WE LET THEM RUN OVER AND I'LL DO THE SAME COURTESY TO YOU.

MR. WILSON: NO. I'M THROUGH NOW EXCEPT FOR TWO MORE WITNESSES. I WOULD RATHER WAIT, RESERVE THOSE WITNESSES TO THE END JUST LIKE WE DID IN FEBRUARY.

CHAIRMAN: ALL RIGHT. MR. WILSON IS GOING TO RESERVE.

MR. HAYNES: MR. CHAIRMAN, WITH ALL DUE RESPECT TO MR. WILSON, WE UNDERSTOOD THE PROCEDURE TO BE WE'D PUT ON OUR CASE, THEY'D PUT ON THEIR CASE, AND WE WOULD HAVE A BRIEF PERIOD OF TIME TO SUM UP. NOT THAT HE WOULD PUT ON PART OF HIS CASE AND THEN HAVE THE PUBLIC GO, AND THEN PUT ON THE REST OF HIS CASE.

CHAIRMAN: WELL, MR. WILSON HAD THE RIGHT TO RESERVE HIS TIME AND USE IT HOW HE WANTED TO. THEN WHEN HE CLOSES, I SAID WE WOULD LET BOTH SIDES HAVE THE OPPORTUNITY.

MR. HAYNES: HOW MUCH TIME DOES REMAIN?
MS. STONE: HE HAS 15 MINUTES 28 SECONDS HE
HAS LEFT. I KNOW EXACTLY HOW MUCH TIME.

CHAIRMAN: MR. WILSON, YOU HAVE ADEQUATE TIME.

MS. STONE: ARE YOU GOING TO CONTINUE?

MR. WILSON: NO. I WOULD LIKE TO KNOW IF THAT
TIME, THE 45 MINUTES THAT I'VE BEEN CHARGED INCLUDED
ALL THAT BACK AND FORTH BETWEEN THE CHAIR AND THESE
PEOPLE?

MS. STONE: YES, I DID.

MR. WILSON: SO THAT'S ABOUT AT LEAST 20 OR 30
MINUTES OF THAT 45 MINUTES.

CHAIRMAN: MR. WILSON, WE WILL ALLOW YOU
ADEQUATE TIME. WE DID NOT CUT THEM OFF AND THEY ONLY
RAN OVER 8 MINUTES AND 8 SECONDS. KEEP THAT IN MIND.

AT THIS TIME WE'RE GOING OPEN IT UP FOR THE
REST OF YOU THAT SIGNED UP ON THE SIGNUP SHEET.

LET ME REMIND EVERYBODY WE HAVE A RECORD OF
EVERYBODY THAT HAS TESTIFIED. YOUR STATEMENT IS IN
THE RECORD. COURTESY TO OTHERS, PLEASE THOSE WHO HAVE
NOT TESTIFIED WE WOULD LIKE TO GIVE THEM OPPORTUNITY
TO SPEAK AND PRESENT THEIR EVIDENCE.

MR. NOFFSINGER: THE FIRST PERSON TO THE
PODIUM WILL BE SCOTT HESTER.

IF WE COULD, PLEASE MOVE THE SIGNUP SHEET TO
THE BACK TABLE.

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MR. HESTER: I WAS ON THE SIGNUP SHEET. I CAN CERTAINLY BE MORE THAN GLAD TO FINISH WHAT I HAD STARTED TO SAY BEFORE.

MR. NOFFSINGER: MR. HESTER, EACH OF THE PLANNING COMMISSIONERS HAD REVIEWED A COPY OF WHAT YOU WERE READING INTO THE RECORD. I WANT TO LET YOU KNOW THAT THEY ARE AWARE OF YOUR ISSUES.

BRIAN HOWARD ON THE PLANNING STAFF HAS ALSO REVIEWED A COPY OF WHAT YOU HAVE. WOULD YOU LIKE TO CONTINUE WITH HIM RESPONDING TO YOUR SHEET THAT'S BEEN ENTERED INTO THE RECORD?

MR. HESTER: THAT WOULD MAKE A GOOD START.

CHAIRMAN: JUST FOR MR. WILSON'S BENEFIT, MR. HESTER SPOKE AND IT WENT AGAINST MR. HAYNES'S TIME.

MR. HOWARD.

MR. HOWARD: I BELIEVE HE HAD THREE MAIN QUESTIONS. TRY TO ADDRESS THOSE BRIEFLY EARLIER.

AGAIN, THE ACTUAL MINING PERMITS MAY ADDRESS THESE A LITTLE MORE FULLY.

FIRST WAS THE QUESTION ON WETLANDS. BASICALLY FROM WHAT I READ THAT OUR STAFF REPORT DOES POINT OUT THAT A PORTION OF THE SUBJECT PROPERTY MAY BE LOCATED IN A WETLAND AREA. PER THE US DEPARTMENT OF AGRICULTURE SOIL CONSERVATION MAP DATED MAY 6, 1990. THAT IS CORRECT. WE HAVE A SET OF MAPS THAT WERE
CREATE BACK IN 1990 THAT INDICATED A PORTION OF THE PROPERTY MAY BE IN A WETLAND AREA. IT'S POSSIBLE THAT, YOU KNOW, THOSE CHANGES. WE DON'T HAVE MORE CURRENT INFORMATION THAN THAT. SO THAT IS A FACTUAL STATEMENT.

THE QUESTION OR WHAT MY UNDERSTANDING IS THAT EVEN THOUGH A PORTION OF THE PROPERTY MAY BE IN A WETLAND AREA, AND THEN THE B WAS THE FARMLAND. HIS STATEMENT STATE THAT WE DO POINT OUT IN OUR STAFF REPORT THAT A PORTION OF THE PROPERTY IS DESIGNATED AS PRIME AGRICULTURAL FARMLAND. HE SAYS THAT APPROXIMATELY 200 ACRES OF THE SUBJECT PROPERTY, THE CROP LAND SPREAD THROUGHOUT AREA WHICH IS NEARLY 30 PERCENT IN TOTAL.

THE TIMES THAT I'VE BEEN OUT THERE POSTING SIGNS I'VE NOT NOTICED ANY LARGE SCALE AGRICULTURAL PLANTING. YES, I'VE LOOKED AT OUR GIS MAPS. THERE MAY BE ONE FARM, ONE AREA THAT HAS SOME ROAD CROPPING. FROM MY EXPERIENCE DRIVING OUT THERE, IT APPEARS AS THOUGH THE LAND IS PRIMARILY HILLY AND WOODED AND OPEN PASTURE LAND IF ANYTHING. I HAVEN'T REALLY EXPERIENCED THAT.

I DO HAVE A MAP I'D LIKE TO SHOW HERE IN A MINUTE. I CAN PUT IT ON THE PROJECTOR OVER THERE THAT SHOWS THE PRIME AGRICULTURAL FARMLAND.
THERE IS SOME IN THE VICINITY THAT PRIMARILY
FOLLOWS THE CREEK BEDS. JUST BECAUSE LAND IS FARMED
doesn't necessarily mean that the soils are conducive
to be called prime agricultural farmland or that the
map is classified as prime agricultural farmland.

With all that have being said pertaining to
both the wetlands and the prime "the farmland," we
pointed out in the staff report. We tried to make,
we're not trying to hide anything. It's in there. We
do know that those do exist, but it's our
understanding the development, the process to permit
the mines and we also have a note on the staff report
referring to my copy with me back here. It says that
the developer is responsible for obtaining all
necessary permits from the Kentucky Division of Water,
the Army Corp of Engineers, FEMA or any other
regulator agencies that may be required.

So just because something may be designated as
prime agricultural "farmland," there may be wetlands
on the property, doesn't mean that there's not
potential for the site to be developed or mined or
anything. That's not uncommon.

The third statement was that the rural
community plan area. Again, we do point out that
there is a portion of the property, about 10 percent
OF THE PROPERTY, MAYBE 70 ACRES. IT IS COMPRISED OF
THREE TRACTS THAT'S LOCATED IN A RURAL COMMUNITY PLAN
AREA. THE COMPREHENSIVE PLAN DOES STATE THAT MINING
ACTIVITY SHOULD BE TYPICALLY LOCATED IN A RURAL
SERVICE AREA OUTSIDE OF THE RURAL COMMUNITY PLAN AREA.
HOWEVER, AS I POINTED OUT EARLIER, THE LAND
DEVELOPMENT PRACTICES ARE NOT TYPICAL WITH WHAT YOU
WOULD FIND IN A RURAL COMMUNITY WHICH ARE TYPICALLY
SMALLER LOTS. THESE ARE LARGER TRACTS. WE ADDRESS
IT. WE LOOKED AT IT. AGAIN, IT'S NOT THAT WE TRIED
TO IGNORE IT. THEY STILL HAVE TO COMPLY WITH WHATEVER
THE STATE LAWS ARE.

THE REZONING, POTENTIAL REZONING OF THE
PROPERTY DOESN'T REMOVE ANY REQUIREMENTS THAT ARE
ADOPTED BY STATE AGENCIES. IT DOESN'T MAKE, YOU KNOW,
IT ILLEGAL NECESSARY TO MINE THE PROPERTY OR DEVELOP
IT IF IT WERE DEVELOPED SOME OTHER WAY. IT JUST MEANS
THAT THERE MAY BE ADDITIONAL RULES AND REGULATIONS
 THAT HAVE TO BE FOLLOWED IN ORDER TO DO SO.

IF YOU WANT, I'LL WALK OVER IT REAL QUICK AND
PULL UP THAT IMAGE ON THE PROJECTOR JUST SO YOU CAN
KIND OF SEE WHERE THAT PRIME AGRICULTURAL LAND IS.

MR. NOFFSINGER: MR. CHAIRMAN, WHILE HE'S
DOING THAT, I WOULD LIKE TO STATE THAT HISTORICALLY
DAVIESS COUNTY HAS BEEN ABLE TO ZONE AND REGULATE COAL
MINING TO A DEGREE SINCE ABOUT 1977. THE GENERAL
ASSEMBLY PASSED LEGISLATION, AND IT'S KRS 350.020
THAT'S CALLED DECLARATION OF LEGISLATIVE POLICY AND
FINDING OF FACT. I'D LIKE TO ENTER A COPY OF THAT
INTO THE RECORD. I WILL NOT READ IT ALL. I DO NEED
TO READ THIS INFORMATION.

"THE GENERAL ASSEMBLY FURTHER FINDS THAT
GOVERNMENTAL RESPONSIBILITY FOR REGULATING SURFACE
COAL MINING OPERATIONS RESTS WITH STATE GOVERNMENT AND
HEREBY DIRECTS THE ENERGY AND ENVIRONMENTAL CABINET TO
TAKE ALL ACTIONS NECESSARY TO PRESERVE AND EXERCISE
THE COMMONWEALTH'S AUTHORITY, TO THE EXCLUSION OF ALL
OTHER GOVERNMENTAL ENTITIES EXCEPT THE COMMONWEALTH
AND AGENCIES THEREOF AND EXCEPT AS PROVIDED IN KRS
CHAPTER 100, AND ANY COUNTY SURFACE MINING REGULATION
CONTAINED WITHIN A ZONING ORDINANCE ADOPTED PRIOR TO
APRIL 1, 1988, IN REGULATING SURFACE COAL MINING
OPERATIONS."

SO WHEN ONE ASKS, WHY DOES THE PLANNING
COMMISSION NOT REQUIRE ENVIRONMENTAL IMPACT STATEMENT,
THE ANSWER TO THAT QUESTION IS SIMPLY, WE CAN'T. THE
STATE OF KENTUCKY MAY BE ABLE TO DO THAT, AS I'VE READ
HERE, BUT THE PLANNING COMMISSION CANNOT BECAUSE THAT
IS NOT SOMETHING THAT IS CONTAINED WITHIN THE ZONING
ORDINANCE ADOPTED BY DAVIESS COUNTY PRIOR TO THIS
DATE. THERE ARE ONLY TWO COMMUNITIES TO MY KNOWLEDGE IN KENTUCKY DOWN TO LOCAL LEVEL THAT HAVE THE AUTHORITY TO REGULATE COAL MINING. THAT'S HENDERSON COUNTY, AND THEY HAVE A VERY ELABORATE COMPLEX, IF YOU WILL, PROCESS OF REGULATING COAL MINING. MUCH MORE SO THAN DAVIESS COUNTY. BUT WE HAVE WHAT WE HAVE.

CONSISTENTLY WE MAKE REFERENCE TO PRIME AGRICULTURAL AND LAND AND WETLANDS TO PUT THE APPLICANT AND OTHERS ON NOTICE THAT, YES, WE MAY BE AFFECTING THOSE AREAS, BUT WE HAVE NO REGULATIONS PERTAINING TO HOW THEY'RE REGULATED. WE DO NOT HAVE THE EXPERTISE.

THE ORDINANCE DOES RELY, THE LOCAL ORDINANCE DOES RELY ON THE STATE AUTHORITIES THAT DO HAVE THAT ABILITY.

AGAIN, THE COMPREHENSIVE PLAN IS A GUIDE. IT IS NOT A REGULATION. IT'S NOT ILLEGAL TO SUBMIT A REZONING TO REZONE THIS PROPERTY, EVEN IF IT'S IN THE RURAL COMMUNITY. IT'S NOT ILLEGAL TO REZONE THE LAND IF IT HAS PRIME FARMLAND OR WETLAND, BUT THERE ARE OTHER AGENCIES OUT THERE THAT REGULATE IT IF THIS BODY DOES NOT REGULATE THE PARTICULARS REGARDING WETLANDS AND THE FLOOD PLAINS. SO I INTRODUCE THAT DOCUMENT INTO EVIDENCE.

CHAIRMAN: MR. HOWARD.
MR. HOWARD: REAL QUICK, IF I COULD.

THIS IS THE MAP, I'M TRYING TO POINT OUT HERE.

THIS IS 231. GIRL SCOUT ROAD IS HERE AND THEN THIS IS
RUSSELL ROAD. THE LIGHT BLUE SHADE IS WHAT'S
CLASSIFIED ON THIS MAP AS PRIME AGRICULTURAL FARMLAND.
SO THE ZONING APPLICATION IS BASICALLY FOR THIS AREA.
THERE IS CERTAINLY SOME PRIME AGRICULTURAL FARMLAND
BASED ON THIS MAP ON THE PROPERTY. HOWEVER, IT WAS
OUR DETERMINATION THAT'S IT'S PROBABLY NOT THE
MAJORITY OF THE PROPERTY, BASED ON THE SOIL
CLASSIFICATION SUBMITTED WITHIN THE ZONING
APPLICATION. AGAIN, IT DOESN'T APPEAR THAT THE
MAJORITY OF THE PROPERTY IS SUITABLE FOR HIGH
INTENSITY AGRICULTURAL PRODUCTIVITY.

LOOKING AT SOME OF THE GOOGLE EARTH OR THE GIS
THAT WE MAY HAVE, IT DOES APPEAR THAT THERE MAY BE
SOME ROW CROP IN THIS VICINITY AND ON THE SOUTH SIDE
OF RUSSELL ROAD WHICH IS WHERE PRIME AGRICULTURAL
FARMLAND IS SHOWN; HOWEVER, I DON'T THINK THE SOUTH OF
RUSSELL ROAD IS ACTUALLY LAND THAT THEY'RE PROPOSING
TO MINE AT THIS POINT. JUST FOR CLARIFICATION FOR
VISUAL PURPOSES I THOUGHT IT WOULD BE GOOD TO SHOW
THIS MAP.

CHAIRMAN: THANK YOU.

MR. HESTER: I ALSO HAVE A MAP. IT'S THE SAME
ONE THAT WAS HERE. I MAY BE MORE FAMILIAR WITH THIS
PROPERTY THAN MR. HOWARD IS.

ON HERE THE YELLOW/GREEN AREAS ARE ROW
CROPLAND. THIS AREA --

CHAIRMAN: YOU NEED TO STEP BEHIND OR TAKE THE
MIKE WITH YOU.

MR. HESTER: THIS AREA ON THE SOUTH SIDE OF
RUSSELL ROAD IS PRIME FARMLAND ON HIS MAP. THIS IS
FLAT CREEK BOTTOM LAND. SOME OF THE BEST FARMLAND
YOU'LL FIND AROUND AND THAT'S WHERE THE COAL WASHING
FACILITY IS GOING TO BE RUNNING IN AND OUT OF.

IF YOU LOOK AT THIS WHOLE FACILITY, HERE IS
YOUR COAL MINE PROPOSAL. YOU CAN LOOK AT HOW MUCH OF
THIS IS ROW CROP LAND. THIS AREA IS THE WETLAND I
BELIEVE IS WHERE IT'S LOCATED. THIS PART IS ROW CROP
LAND, PRIME AGRICULTURAL LAND ACCORDING TO THAT MAP
AND SO IS SOME OF THE REST OF IT.

THIS IS A HAY FIELD THAT'S BEEN PRODUCING HAY
FOR YEARS AND YEARS. THIS IS AGRICULTURAL LAND. THIS
HASH AREA IS THE 70 ACRES THAT'S SUPPOSED TO BE
PROTECTED, ACCORDING TO THE COMPREHENSIVE LAND USE
PLAN, FROM COAL MINING. IT'S RURAL COMMUNITY AREA.

AS YOU CAN SEE WHEN YOU LOOK AT THIS,
SCATTERED THROUGHOUT THIS YOU'VE GOT AREAS THAT ARE
SUPPOSED TO BE, ACCORDING TO THE COMPREHENSIVE LAND
USE PLAN AND ACCORDING TO STATE LAW, WE ARE SUPPOSED TO BE PRODUCED FROM COAL MINING, SURFACE MINING.

MR. NOFFSINGER: EXCUSE ME. AS STATED IN THE COMPREHENSIVE PLAN AND STATED BY THE ZONING REGULATIONS AND STATED BY THE DEPARTMENT OF MINES & MINERALS YOU ARE CORRECT. IT'S TO BE PROTECTED. IT DOESN'T SAY IT COULD NOT BE MINED. WHEN THEY SAY "PROTECTED," IN WETLANDS YOU MITIGATE.

IN PRIME FARMLAND, YOU PUSH THAT PRIME TOPSOIL OVER, YOU MINE, AND THEN YOU PUSH THAT PRIME TOPSOIL BACK.

WE LOSE PRIME AGRICULTURAL LAND IN NEW SUBDIVISIONS WITHIN THE COMMUNITY. IT'S NOT ILLEGAL AND IT'S NOT AGAINST THE COMPREHENSIVE PLAN TO REMOVE PRIME FARMLAND. THEY HAVE TO PROTECT IT, BUT WE REALIZE WITH URBANIZATION AND WITH SURFACE MINING ACTIVITY, THIS TYPE OF ACTIVITY IS GOING TO OCCUR AND IS REGULATED BY THE STATE OF KENTUCKY AND NOT BY LOCAL JURISDICTION.

MR. HESTER: THAT DOESN'T GIVE THIS COMMISSION TO REIN OR BREAK STATE LAW. YES, IT'S REGULATED, BUT IT MAY NOT BE REGULATED BY THIS COMMISSION. THE FACT THAT PRIME FARMLAND IS SUPPOSED TO BE PROTECTED FROM NORMAL MINING ACTIVITIES MAY NOT BE THIS COMMISSION'S ORDINANCE. IT'S STATE LAW.
NOW, YOU CAN'T TELL ME THAT YOU'RE GOING TO
TAKE THE TOP SOIL OFF AND UNDERMINE THIS PROPERLY AND
PUT THE SOIL BACK AND YOU'RE GOING TO GROW CORN CROP
ON IT.

I'M TELLING YOU, AND I THINK MR. TAYLOR AND
SEVERAL OTHER PEOPLE HERE THAT KNOW ANYTHING ABOUT
FARMING, A CORN BED IN LOOSE DRY GROUND, CORN BED GOES
SIX TO EIGHT FEET DEEP TO GET MOISTURE. THEY'RE GOING
TO BE GOING SIX TO EIGHT FEET DEEP INTO ACID AND
SULFUR IS WHAT THEY'RE GOING TO BE DOING.

I WOULD REALLY LIKE TO SEE A GOOD PRODUCTIVE
CORN CROP ON ANY LAND THAT'S BEEN STRIP MINED AND PUT
BACK IN THE LAST TEN YEARS. IT JUST DOESN'T HAPPEN.

THIS LAND IS GOING OUT PRODUCTION IF THIS MINE
IS IMPROVED. MY CONVENTION IS THAT THE STATE LAW
PROTECTS AT LEAST A PORTION OF THIS. I CAN'T SAY IT'S
ALL PRIME AGRICULTURAL LAND. I CAN SAY WITH CERTAINTY
THAT IT IS ROW CROP LAND. I CAN SAY THAT THIS HAS
BEEN A HAY FIELD AND HAS BEEN HAY EVERY YEAR SINCE, IN
THE 20 YEARS I'VE BEEN OUT THERE. I CAN SAY FOR
CERTAIN THAT'S WETLAND BECAUSE I'VE BEEN THROUGH IT
AND HUNTED IT.

CHAIRMAN: MR. HESTER, I THINK YOUR POINT IS
WELL TAKEN. THANK YOU.

NEXT.
MR. WRIGHT: CAN I HELP AND SAY A LITTLE BIT?

CHAIRMAN: VERY BRIEFLY.

MR. WRIGHT: JUST ON TOP OF WHAT GARY SAID.

IT IS REGULATED AND PROTECTED BY THE STATE LAW. THE
WETLAND IS PROTECTED BY THE US ARMY CORP OF ENGINEERS.
SO IT IS REGULATED BY THE FEDERAL LAW.

WE DO HAVE TO PROTECT IT. WE CAN TAKE IT UP,
BUT WE DO HAVE TO PUT IT BACK. AND AS BRIAN SAID
EARLIER, THE WETLAND HAS TO BE PUT BACK THREE TO ONE
IN A LOT OF CASES. IT IS PROTECTED IN THAT WAY. WE
CANNOT DESTROY IT AND NOT PUT IT BACK. WE HAVE TO
SHOW A PLAN WHERE WE CAN. IT WILL NOT GROW A GOOD
CROP THE FIRST YEAR. YOU HAVE TO BUILD IT BACK UP.

MR. NOFFSINGER: MR. CHAIRMAN, WE WILL NOT BE
APPROVING THE MINING PERMIT ON THIS PROPERTY. THE
ONLY THING WE'RE CONSIDERING IS THIS ZONING CHANGE TO
ALLOW THEM TO PROCEED WITH THE STATE OF KENTUCKY FOR A
MINING PERMIT. WE WILL NOT REVIEW THE PRIME FARMLAND.

THAT WILL BE DONE BY THE STATE OF KENTUCKY.

NEXT ON THE LIST IS DANIEL JARBOE.

MR. SILVERT: COULD YOU STATE YOUR NAME,

PLEASE?

MS. JARBOE: DANIEL JARBOE.

(DANIEL JARBOE SWORN BY ATTORNEY.)

MR. JARBOE: MR. KIRKLAND, YOU ASKED MR.
LANHAM AT THE LAST MEETING IF HE DREW A BIG CIRCLE AND
ASK IF HE COULD START ON THE OUTSIDE OF THE MINE AND
WORK YOUR WAY IN SO THERE WOULD BE LESS AFFECT ON THE
HOMEOWNERS?

CHAIRMAN: YES, SIR.

MR. JARBOE: YOU REMEMBER THAT. HE TOLD YOU
THAT'S NOW HOW THE MINING PLAN WORKS. YOU HAVE TO
MINE WHERE THE COAL WAS.

CHAIRMAN: THAT WAS JUST A QUESTION OF MINE.

MR. JARBOE: I'M JUST SAYING THAT WAS MY
INTERPRETATION OF MR. LANHAM'S ANSWER. HE PICKED UP
MR. YEISER'S PROPERTY AND MR. YEISER'S PROPERTY HE PUT
A STIPULATION THAT SAYS HE HAS TO MINE MR. YEISER'S
PROPERTY FIRST.

WHAT I'M UNDERSTANDING IS, IF IT'S BENEFICIAL
TO THE COAL MINE, HE CAN GET COAL OUT WHEREVER HE
WANTS, BUT IF IT'S BENEFICIAL TO THE HOMEOWNERS AND
THE LANDOWNERS AROUND, THAT'S NOT FEASIBLE.

CHAIRMAN: YOU HAVE TO UNDERSTAND THAT WAS MY
QUESTION.

MR. JARBOE: I UNDERSTAND WHAT HIS ANSWER WAS
TOO.

CHAIRMAN: WHERE MR. LANHAM STARTS HIS COAL
MINING OPERATION, UNLESS THERE ARE CONDITIONS PLACED
IN A MOTION BY SOMEBODY HERE, THEN THAT'S STRICTLY UP
TO HIM. THAT WAS MY QUESTION. THINKING, HEY, CAN YOU
JUST START HERE. I KNOW NOTHING ABOUT COAL MING.

MR. JARBOE: WELL, I DON'T EITHER. I KNOW
IT'S GOING TO BE ACROSS FROM MY HOUSE WHERE I CAN SEE
IT EVERY DAY.

CHAIRMAN: WHAT I WAS HOPING TO DO SORT OF,
YOU KNOW, START HERE AND GO IN SO YOU'RE MOVING AWAY
FROM THE PEOPLE.

MR. JARBOE: APPARENTLY IF YOU CAN GET MORE
COAL, THEN YOU CAN DO WHAT YOU WANT. IF THERE IS A
WAY TO TAKE CARE OF PEOPLE AND GET THE COAL, WE DON'T
NEED TO DISCUSS THAT. THAT'S MY POINT. IF YOU CAN DO
BOTH, BUT THAT'S NOT BEING BROUGHT UP HERE OR BY MR.
LANHAM.

CHAIRMAN: I'LL USE THAT AS YOUR QUESTION OR
MY QUESTION WHEN WE BRING HIM BACK. IS THAT FAIR
ENOUGH?

MR. JARBOE: THAT'S FAIR ENOUGH.

CHAIRMAN: WHAT'S YOUR NAME AGAIN, SIR?

MR. JARBOE: DANIEL JARBOE.

CHAIRMAN: I WILL RESTATE YOUR QUESTION FOR
THEM. IF I DO NOT DO IT CORRECTLY, YOU CORRECT ME.

MR. JARBOE: THAT'S FINE.

CHAIRMAN: VERY SIMPLE YOU WANT TO KNOW CAN
THEM MINE COAL AND PROTECT THE CITIZENS AND THE
MR. JARBOE: I DO. THAT'S WHAT I WANT TO KNOW. OUTSIDE IN OR A DIFFERENT WAY OTHER THAN THE WAY HE STATED, IN OUT, IN OUT.

THE OTHER QUESTION I HAVE IS THEY TALKED ABOUT AIR QUALITY AND ALL THEY CAN CONTROL IS THE AIR QUALITY IN THE MINE. THAT'S ALL THEY'RE CONCERNED ABOUT. THEY TALKED ABOUT MSHA AND THEIR EMPLOYEES. AS LONG AS THEIR EMPLOYEES ARE PROTECTED, THEN SURELY TO GOD EVERYBODY OUTSIDE OF THAT AREA IS PROTECTED. DO THEY NOT MONITOR ANY AIR QUALITY OR ANYTHING OUTSIDE OF THAT AREA? IS THAT NOT SOMETHING THEY COULD DO OR JUST SOMETHING THEY HAVE TO DO?

CHAIRMAN: THERE AGAIN, I CAN'T SPEAK ON THEIR BEHALF.

MR. JARBOE: I WANT TO ASK THESE QUESTIONS AND THEN YOU CAN ASK THEM.

CHAIRMAN: LET ME JUST SAY I UNDERSTOOD THAT. IF THE MINERS THAT ARE AT THE POINT WHERE THE BLASTING IS GOING ON --

MR. JARBOE: I'M TALKING ABOUT DUST. I'M TALKING ABOUT DUST.

CHAIRMAN: I THINK WHAT YOU'RE TALKING ABOUT IF THE DUST OR THE MINING OR THE COAL OR ANY OF THAT IS AT THE POINT OF WHERE IT IS, THEIR EMPLOYEES ARE AT
THE CLOSEST LEVEL TO THAT OPERATION.

MR. JARBOE: I AGREE WITH THAT, BUT IF IT'S BLOWING TOWARD MY HOUSE AND THE WIND BLOWING HERE AND THEY'RE MINING HERE, HOW DO I KNOW IT'S NOT AFFECTING ME MORE THAN IT IS THESE MINERS?

CHAIRMAN: LET ME ASK THE QUESTIONS.

MR. JARBOE: THE OTHER QUESTION I HAVE IS IF THEY'RE GOING TO STOP TRAFFIC ON 231 DURING BLASTING.

CHAIRMAN: I'LL WILL USE THOSE AS YOUR QUESTIONS, MR. JARBOE. IF I DON'T GET THEM RIGHT --

MR. JARBOE: I'M SURE YOU'LL GET THEM RIGHT.

CHAIRMAN: THANK YOU.

NEXT PLEASE.

MR. NOFFSINGER: SARAH KELTY.

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

MS. KELTY: SARAH KELTY.

(SARAH KELTY SWORN BY ATTORNEY.)

MS. KELTY: I CAME HERE FROM LOUISVILLE TODAY. I'M A GIRL SCOUT, FORMER CAMPER AND COUNSELOR AT PENNYRILE. I DID SPEAK LAST TIME. THERE WERE MANY GIRL SCOUTS WHO WANTED TO BE HERE TODAY WHO COULDN'T. IT'S A SCHOOL DAY AND IT'S AT THE END OF THE SEMESTER, BUT I DO HAVE A COUPLE OF COMMENTS FROM PEOPLE WHO COULDN'T MAKE IT IF I COULD
PASS THEM OUT TO THE COMMISSION WITH YOUR PERMISSION.

CHAIRMAN: YES, MA'AM. NOW, THIS WILL BE ADDITIONAL TO WHAT YOU SAID LAST TIME?

MS. KELTY: THIS IS SUPPLEMENTAL. IT'S NEW TESTIMONY.

CHAIRMAN: THANK YOU.

MR. WILSON CAN HAND THEM OUT FOR YOU AND YOU CAN CONTINUE SPEAKING.

MS. KELTY: THIS IS ALSO FOR THE CLERK. IT'S A NEW NUMBER FOR OUR PETITION THAT WE STARTED. IT'S AT 1,354 NOW. THAT'S IN ADDITIONAL TO THE HOMEOWNERS PETITION THAT HAS I THINK NEAR 1,000 NOW.

I WILL SPEAK QUICKLY. I KNOW I ONLY HAVE A COUPLE OF MINUTES.

SINCE THE LAST TIME I SPOKE, I DID LEARN AS MR. NOFFSINGER HAS ALREADY TOLD US, THE ENVIRONMENTAL IMPACT STATEMENT IS NOT REQUIRED FROM WESTERN KENTUCKY MINERALS. I FOUND THAT OUT ACTUALLY FROM THE OFFICE OF SURFACE MINING FROM KENTUCKY.

HOWEVER, IT IS PART OF THE COMPREHENSIVE PLAN THAT THE ENVIRONMENTAL IMPACT AT LEAST BE ASSESSED. I REALIZED THAT THEIR COMPANY HAS MADE SOME SORT OF ENVIRONMENTAL ASSESSMENT AS WE'VE SEEN, BUT IT SEEMS LIKE THERE IS SOME INFORMATION THAT'S LACKING. THIS INFORMATION SHOULD BE AVAILABLE TO THE COMMUNITY AND

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THE PUBLIC BEFORE ANY DECISION IS MADE. I KNOW THAT
THERE ARE OTHER STATES THAT REQUIRE THE ENVIRONMENTAL
IMPACT STATEMENT OR ENVIRONMENTAL ASSESSMENT BE MADE
PUBLIC SEVERAL WEEKS BEFORE A DECISION IS MADE.

I THINK THIS IS ESSENTIAL IN OUR CASE BECAUSE
AS CITIZENS WE MIGHT NOT BE EXPERTS IN THIS AREA. FOR
INFORMATION PRESENTED AHEAD OF TIME I CAN GO, I CAN
RESEARCH IT, I CAN VERIFY IT, BUT FOR IT TO BE PRESENT
ON THE SPOT, I'M NOT AN EXPERT AND I CAN'T VERIFY IT
OR DENY IT.

THE OTHER THING I WANT TO STATE TOO IS I WANT
TO REASSERT THAT THIS IS A HUMAN ISSUE. NOT JUST AN
ENVIRONMENTAL ISSUE.

I DID READ THE COMPREHENSIVE PLAN. UNLESS I
MISREAD IT, I THINK THAT IT WAS CREATED TO HELP THE
COMMUNITY DEVELOP ACCORDING ITS VISION OF PROGRESS.

JUDGING FROM THE ATTENDANCE AT THIS MEETING,
JUDGING FROM THE HUNDREDS OF GIRL SCOUTS, THOUSANDS OF
PEOPLE THAT HAVE SIGNED THE PETITION, IT DOESN'T SEEM
LIKE THIS IS THIS COMMUNITY'S VISION OF PROGRESS.
THIS IS NOT YOUR TYPICAL NOISE COMPLAINT. IT DOES NOT
SEEM APPROPRIATE FOR ME -- I'M SORRY. I TRY NOT TO
GET TOO EMOTIONAL. THIS IS SOMETHING I DO CARE A LOT
ABOUT HAVING GONE TO GIRL SCOUT CAMP FOR 12 YEARS AND
WANTING OUR GIRLS TO EXPERIENCE THE SAME AUTHENTIC

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CAMP EXPERIENCE I WAS ABLE TO EXPERIENCE AS A CHILD.
HAVING NOISE 22 HOURS PER DAY FOR 10 YEARS,
POSSIBLY LONGER, IS NOT YOUR TYPICAL NOISE COMPLAINT.
THIS DOES HAVE TO DO WITH THE REZONING REQUEST.
CHAIRMAN: DO YOU HAVE A SPECIFIC QUESTION
THAT YOU WOULD LIKE ANSWERED?
MS. KELTY: YES.
CHAIRMAN: THANK YOU.
MS. KELTY: I WOULD LIKE TO ASK THE COMMISSION
HOW MUCH IS THE ENVIRONMENTAL IMPACT FactORED INTO THE
DECISION THAT YOU'RE GOING TO MAKE FIRST OF ALL.
YOU'RE SAYING THAT IT'S NOT THE COMMISSION'S
RESPONSIBILITY TO REGULATE IT, BUT MY UNDERSTANDING IS
THAT PART OF THE COMPREHENSIVE PLAN IS TO ASSESS THE
ENVIRONMENTAL IMPACT. I FEEL THAT THE INFORMATION WE
PRESENTED ISN'T SUFFICIENT. I FEEL MORE COMFORTABLE
IF ALL OF THE ASSESSMENT THAT HAS BEEN MADE WOULD BE
MADE PUBLIC BEFORE THE NEXT MEETING. IS THAT
POSSIBLE?
CHAIRMAN: MR. NOFFSINGER.
MR. NOFFSINGER: THE ENVIRONMENTAL ASSESSMENT
IS BASED UPON TESTIMONY PRESENTED AT THIS HEARING.
EACH COMMISSIONER IS DOING THEIR ENVIRONMENTAL
ASSESSMENT, LISTENING TO THE TESTIMONY, AND THEN
RAISING THEIR HAND OR MAKING A MOTION UP OR DOWN IN
FAVOR OF IT.

THE BURDEN OF PRODUCING THE EVIDENCE IS UP TO THE APPLICANT AND THE OPPOSITION AND ANYONE FROM THE PUBLIC. THE BURDEN OF EVIDENCE IS NOT ON THIS COMMISSION. THEY'LL MAKE A DECISION BASED UPON WHAT THEY HEAR. IN TERMS OF A REQUIREMENT, AN ENVIRONMENTAL ASSESSMENT BE DONE BASED UPON THE ZONING REGULATIONS, IT'S NOT THERE. ENVIRONMENTAL IMPACT STATEMENT, NOR CAN IT BE REQUIRED BY THIS COMMISSION BASED UPON THE KRS 350 THAT EXCLUDED THIS COMMISSION'S ABILITY TO DO SUCH.

MS. KELTY: I UNDERSTAND THAT. THANK YOU.

I GUESS WHAT I'M GETTING AT TOO IS THAT AS A CITIZEN I CAN SCOUR, YES, THE GEOLOGICAL SURVEY'S WEBSITE. I CONTACT EXPERTS I KNOW. FROM WHAT I'VE HEARD, THERE IS CONCERN ABOUT WETLANDS. THERE IS CONCERN ABOUT THE SOIL CONTENT. THE BEDROCK TYPE, I MEAN THIS HAS TO DO WITH WHETHER PEOPLE WILL BE AFFECTED BECAUSE THERE IS AN AQUIFER IN THE AREA. DEPENDING ON THE TYPE OF BEDROCK THAT'S FRACTURED IN CERTAIN WAY, THAT CAN LEACH INTO THE GROUNDWATER. THERE ARE SEVERAL PEOPLE IN THE AREA WHO ARE STILL USING WELL WATER. OUR CAMP IS SPRING FED. THOUGH IT'S AT A HIGHER ELEVATION, IT IS STILL FED BY THE GROUNDWATER SUPPLY. THERE HAVE BEEN ENDANGERED
SPECIES FOUND ON SEVERAL HOMEOWNERS PROPERTIES.

I GUESS WHAT I'M ASKING IS: WHAT YOU'RE SAYING IS THAT THEIR INFORMATION, SUCH AS THE GEOMORPHOLOGY AND THE SOIL CONTENT, ALL OF THIS IS DATA THAT I CAN'T FIND AS A CITIZEN. I WOULD HAVE TO HIRE AN EXPERT, AND I DON'T HAVE THE RESOURCES TO DO THAT.

SO I DON'T KNOW IF THAT WOULD BE ABLE TO BE MADE PUBLIC AHEAD OF TIME SO THAT I COULD TRY TO VERIFY ANY OF THAT INFORMATION?

MR. HOWARD: I THINK I CAN HELP A LOT OF ON THAT.

MR. HAYNES: MR. CHAIRMAN, I THINK I CAN HELP A LOT ON THAT.

CHAIRMAN: EXCUSE ME.

HAVE YOU COMPLETED YOUR --

MS. KELTY: YES. JUST THAT A VOTE YES IS PERMANENT AND YOU CAN'T TAKE IT BACK. ALL I WANTED TO SAY. THANK YOU.

CHAIRMAN: THANK YOU.

MR. HAYES: THERE MAY BE A MISCONCEPTION THAT IF YOU ALL VOTE TO APPROVE THE ZONING, THAT THIS THING IS OVER. WE STILL GO THROUGH THE PERMITTING PROCESS. THERE'S STILL AN OPPORTUNITY AND A REQUIREMENT OF PUBLIC HEARING DURING THE PERMITTING PROCESS ON THESE
Very issues she's talking about. That proof and that evidence will be presented in front of people, you know, that are -- well, I'm not saying you're not highly qualified, but this is not --

Chairman: Mr. Haynes, please. I think you've said enough.

Mr. Haynes: They give a public hearing on the environmental.

Chairman: I think we've tried to address that over the span of the two meetings.

Next.

Ms. Kelty: I understand. Thank you for the response.

However the office of surface mining in Kentucky does not require an environmental impact statement. And from what I understand, the environmental impact is part of the comprehensive plan, as well as how it will affect the community, public support, that's why we're having this public comments session.

I'd also like to ask: as far as that public hearing goes, how can we find out that information as community members and when will that happen? Do you have any idea?

Chairman: Mr. Noffsinger. Let Mr. Noffsinger
HANDLE THAT.

MR. NOFFSINGER:  I DO NOT.

CHAIRMAN:  YES, SIR.

MR. WRIGHT:  ALL OF OUR PERMITS, ALL SIX AGENCIES WE REGULATE THROUGH, THEY ALL HAVE A 30 DAY COMMENT PERIOD. THEY WILL BE RUN IN THE LOCAL PAPER; OHIO COUNTY, DAVIESS COUNTY, AND THEY WILL BE POSTED WHERE THE PERMITS ARE. THE PUBLIC HAS 30 DAYS TO GO TO THEIR OFFICE TO REVIEW THE INFORMATION AND RESPOND. EVERY ONE OF THEM.

MS. KELTY:  MAY I ASK MR. LANHAM ONE MORE QUESTION, PLEASE?

CHAIRMAN:  YES, MA'AM. DIRECT IT TO ME.


CHAIRMAN:  THANK YOU. WE'LL DO THAT IN OUR
SUMMARY. THANK YOU.

MS. KELTY: THANK YOU.

CHAIRMAN: NEXT, MR. NOFFSINGER.

MR. NOFFSINGER: KENT OVERSTREET.

MR. OVERSTREET: I THINK I'M ONE OF THE TWO THAT GO LAST.

MR. WILSON: NO.

CHAIRMAN: DO YOU WANT TO YIELD AND GO LAST?

MR. OVERSTREET: YES, SIR.

CHAIRMAN: THANK YOU.

NEXT.

MR. NOFFSINGER: TRISHA AND ALEX COLLINS.

CHAIRMAN: YES, MA'AM.

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

MS. WILLIAMS: MY NAME IS CARLA WILLIAMS.

MR. SILVERT: ARE YOU REPRESENTING TRISHA AND ALEX COLLINGS?

MS. WILLIAMS: YES.

(MS. WILLIAMS SWORN BY ATTORNEY.)

MS. WILLIAMS: TRISHA COLLINS AND HER SON, ALEX COLLINS, COULD NOT BE PRESENT TONIGHT.

THEY ARE BOTH FRIENDS OF MINE. I'VE KNOWN ALEX, HE IS NINE YEARS OLD. HE HAS SOME SEVERE HEALTH PROBLEMS WITH ASTHMA. HE'S BEEN THROUGH A LOT IN THE
PAST SEVERAL MONTHS GETTING TREATMENTS TO CONTROL THE
ASTHMA.

HE LOVES TO PLAY BASEBALL. HE'S REALLY GOOD
AT IT, BUT HE NEEDS CLEAN AIR AND HE NEEDS A CLEAN
ENVIRONMENT TO DO THAT.

HE'S BEEN TOLD BY HIS DOCTORS THAT IF THIS
WERE TO GO THROUGH THAT THINGS LIKE PLAYING OUTSIDE IN
HIS YARD, ENJOYING HIS SWIMMING POOL, HE WOULDN'T BE
ABLE TO DO THOSE THINGS BECAUSE OF THE CONTAMINANTS IN
THE AIR.

BEFORE I SPOKE ABOUT MY ASTHMA AND THE AFFECT
OF MY COMMUNITY MEMBERS THAT WE WERE CONCERNED ABOUT
THAT, ESPECIALLY OUR CHILDREN BECAUSE THEY DO DESERVE
THE OPPORTUNITY TO GROW AND THRIVE IN AN ENVIRONMENT
THAT PROVIDES THEM WITH CLEAN AIR AND CLEAN WATER.

JUST TO CONCLUDE THIS. ALEX WOULD HAVE LOVED
TO HAVE STOOD UP HERE. HE'S A REAL OUTGOING LITTLE
BOY. HE WOULD HAVE LOVED TO BEEN ABLE TO TELL YOU ALL
THAT HE'D LIKE TO BE ABLE TO CONTINUE TO BE OUTSIDE
AND ENJOY HIS OUTDOOR PLAY. SINCE HE'S NOT HERE, I'M
TRYING TO SAY IT FOR HIM.

IN ADDITION TO THAT, HIS MOTHER AND I HAVE
DONE SOME RESEARCH. WE FOUND SUBSTANTIATION, LET'S
SAY INFORMATION WHERE THERE ARE BEING STUDIES
PERFORMED TO LEARN MORE ABOUT THE AFFECTS OF COAL ON
THE COMMUNITIES, COAL MINING ON THE COMMUNITIES.

I DO HAVE SOME INFORMATION, SOME PAPERS PRINTED OUT FROM THESE ARTICLES THAT HAVE BEEN PRINTED. ONE OF THESE WAS POSTED, THIS ARTICLE IN PARTICULAR THAT I'D LIKE TO SUBMIT WAS IN THE PITTSBURGH POST-GAZETTE. THE TITLE OF THE ARTICLE IS "WEST VIRGINIA STUDY UNEARTH'S HIGHER HEALTH RISKS IN COAL MINING COMMUNITIES." IT ALSO DOES MENTION THAT STRIP MINING HAS AN INCREASED AFFECT ON THE HEALTH OF THE COMMUNITY. SO I WOULD LIKE TO SUBMIT THAT INTO EVIDENCE FOR ALEX COLLINS.

CHAIRMAN: THANK YOU.

NEXT PLEASE.

MR. NOFFSINGER: STEVE SCOTT.

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

MR. SCOTT: STEVE SCOTT.

(STEVE SCOTT SWORN BY ATTORNEY.)

MR. SCOTT: I BELIEVE AWHILE AGO THEY WERE TALKING ABOUT SOME OF THE BLASTING AFFECTS AND HOW IT MOVES THROUGH THE GROUND. IT CAN TRAVEL QUITE A WAYS, BUT THEY'RE NOT EXACTLY SURE HOW FAR.

I HAVE A WELL THAT'S UNDERNEATH MY HOUSE. I'M A LITTLE CONCERNED. WHAT'S GOING TO HAPPEN WHEN THEY BLAST? WHAT'S GOING TO HAPPEN WITH THIS WELL? I'VE
GOT LAKES. WE'VE GOT BODIES OF WATER ON OUR PROPERTY.

WE'VE BEEN TOLD, AND I DON'T KNOW, THAT WHEN A BLAST HAPPEN YOU CAN HAVE FEATURES IN THE BOTTOM OF THE LAKE YOUR LAKE WILL DRAIN. THAT'S A QUESTION I WANTED TO PRESENT.

CHAIRMAN: MR. SCOTT, DO YOU GET WATER FROM THESE WELLS UNDER YOUR HOUSE OR IS IT JUST --

MR. SCOTT: NO, I DON'T DRINK THE WATER FROM THE WELL.

CHAIRMAN: WHERE DO YOU GET YOUR WATER FROM?

MR. SCOTT: FROM THE CITY OR OHIO COUNTY.

CHAIRMAN: THANK YOU.

MR. SCOTT: THE ISSUE IS NOT THE DRINKING. IT'S THE CAVITY THAT'S UNDER THE HOUSE.

WHENEVER WE BUILT THE HOUSE, PLANNING & ZONING CAME OUT THERE AND MADE A BIG ISSUE OUT OF IT. WHAT YOU HAVE TO DO TO BUILD OVER THE HOUSE. THE HOUSE HAD ALREADY BEEN BUILT THERE. IT JUST HAD SOME ISSUES WHERE IT WAS FALLING DOWN. SO THEY BASICALLY TORE EVERYTHING APART AND REBUILT IT. IT'S AN OLD FARMHOUSE AND IT HAD A WELL UNDER IT. THEY BUILT THE HOUSE BACK. THEY BUILT IT BACK IN THE SAME LOCATION WITH THE ASSURANCE THERE'S NOT GOING TO BE ANY PROBLEM WITH ENGINEERING CERTIFICATES.

NOW THAT THIS CAVITY IS UNDER THE HOUSE, WE
WEREN'T PLANNING ON HAVING ANY BLASTING GOING ON.

WHEN PLANNING & ZONING CAME OUT THERE AND TOLD WHAT TO DO WITH THIS WELL, I'M SURE THEY DIDN'T TAKE ALL THIS BLASTING INTO CONSIDERATION, WHAT'S GOING TO HAPPEN TO THE HOUSE. I KNOW THERE'S LOTS OF PLACES AROUND HERE THAT HAVE CAVITIES. WHAT'S GOING TO HAPPEN TO THAT?

ARE THEY GOING TO COLLAPSE FROM THIS BLASTING? THEY SAY OVER TIME, SOME OF THE MINERS HAVE TOLD ME THAT OVER TIME THAT YOU DON'T SEE THAT FOR THE FIRST FEW YEARS. THAT OVER TIME AS THE LAYERS START TO COLLAPSE ONE AT A TIME, THEN THE HOUSE EVENTUALLY, THE TOP COLLAPSES, BUT THEN YOU CAN'T REALLY PROVE WHAT WAS THE CAUSE BECAUSE THE COAL MINING HAS ALREADY CAME AND GONE. AM I CLEAR ABOUT WHAT MY CONCERN IS?

CHAIRMAN: MR. SCOTT, I'M GOING TO ASK MR. NOFFSINGER.

PLANNING & ZONING, HE WOULD HAD TO HAVE PROVIDED AN ENGINEER STATEMENT BEFORE WE WOULD HAVE ISSUED A BUILDING PERMIT?

MR. NOFFSINGER: THAT'S WHAT I BELIEVE. I DON'T THINK ANY OF OUR INSPECTORS WOULD TELL HIM WHAT TO DO. I THINK THEY WOULD MAKE AN INSPECTION TO DETERMINE IF IT MET CODE OR NOT.

MR. SCOTT: RIGHT. THEY WENT WITH AN ENGINEER AND I HAD TO PAY THE ENGINEER. THEY TOOK THE
ENGINEER'S, WHAT HE THOUGHT HAD TO BE DONE.

MR. NOFFSINGER: YES. SO IT'S NOT PLANNING & ZONING TELLING THIS GENTLEMAN WHAT HAD TO BE DONE. IT WAS HIS PRIVATE ENGINEER THAT HE PAID TO TELL US WHAT HAD TO BE DONE.

MR. SCOTT: NO. YOU'VE GOT IT WRONG.

MR. NOFFSINGER: WE DON'T TELL PEOPLE HOW TO DESIGN.

MR. SCOTT: YOU'RE TELLING ME WHAT THEY TOLD ME. YOU'RE TELLING ME. AND I'M TELL YOU, THE PEOPLE CAME OUT THERE. THIS IS SEVERAL YEARS AGO. THEY CAME OUT THERE AND THEY SAID, YOU CAN'T BUILD OVER TOP OF THIS WELL THE WAY IT IS. YOU'RE GOING TO HAVE TO GET IT FIXED. THEY DIDN'T TELL ME WHAT TO DO WITH IT. THEY TOLD ME TO GET AN ENGINEER AND HAVE THIS THING FIXED.

MR. NOFFSINGER: AND THAT'S EXACTLY MY STATEMENT.

MR. SCOTT: WHAT YOU WERE TRYING TO TELL ME THOUGH IS THAT THEY WOULDN'T COME OUT THERE AND TELL ME WHAT DO TO.

MR. NOFFSINGER: EXACTLY. THEY DON'T TELL YOU HOW TO FIX YOUR PROBLEM.

MR. SCOTT: YOU'RE RIGHT. YOU'RE RIGHT.

MR. NOFFSINGER: THAT'S WHAT YOUR ENGINEER OHIO VALLEY REPORTING (270) 683-7383
MR. SCOTT: NO, THEY DIDN'T TELL ME HOW TO FIX
THE WELL, BUT THEY TOLD ME I NEED TO GET IT FIXED.

MR. NOFFSINGER: YES.

MR. SCOTT: I MEAN THERE'S A LOT OF THINGS
THEY TOLD US. LIKE YOU CAN'T HAVE A WINDOW AT A
CERTAIN HEIGHT AND SO FORTH. I MEAN THEY SAID THEY
WAS VERY CONCERNED ABOUT OUR SAFETY, BUT WHAT ABOUT
THIS WITH THIS BLASTING?

CHAIRMAN: DID THEY ASK YOU NOT TO BUILD OVER
THE WELL?

MR. SCOTT: THE HOUSE WAS ALREADY OVER THE
WELL WHEN I BOUGHT IT. SO IT WAS CONSIDERED A
REMODEL, BUT THEY WOULDN'T LET IT CONTINUE UNTIL THE
WELL --

CHAIRMAN: OKAY. SO YOUR ENGINEER CERTIFIED
THAT YOU BUILT OVER IT AND THAT'S -- THAT WOULD BE
YOUR ENGINEER.

MR. SCOTT: RIGHT. IT'S NOT THE QUESTION OF
IS PLANNING & ZONING RIGHT OR WRONG ABOUT THE WELL.
MY QUESTION IS: WHAT'S GOING TO HAPPEN WITH THIS WELL
THAT'S UNDER THE PROPERTY ONCE THE BLASTING STARTS?
THAT'S THE QUESTION. I'M SURE THERE'S OTHER PEOPLE
THAT HAVE WELLS AND THINGS ON THEIR PROPERTY AROUND
THEIR HOUSE, UNDER THEIR HOUSE. HOW DO YOU KNOW WHERE
THE WELL ACTUALLY GOES? I KNEW WHERE MINE WAS BECAUSE IT WAS UNDER THE HOUSE, BUT A LOT OF PEOPLE DON'T EVEN REALLY KNOW WHERE THE CAVITY IS. THAT'S THE WELL THAT THEY HAVE. SO IF MINE COLLAPSES, THEN HOW DO YOU KNOW THAT OTHER PEOPLE'S WON'T COLLAPSE? THAT'S THE QUESTION. I'M NOT SAYING IT IS.

CHAIRMAN: I'VE GOT IT STATED. IF I DON'T SAY IT CORRECTLY, PLEASE CORRECT ME.

MR. SCOTT: THAT'S ALL I WANT TO KNOW.

CHAIRMAN: THANK YOU VERY MUCH.

NEXT, PLEASE.

MR. NOFFSINGER: JAMES E. GOODALL.

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

MR. GOODALL: JAMES E. GOODALL.

(JAMES E. GOODALL SWORN BY ATTORNEY.)

MR. GOODALL: SINCE THE LAST TIME WE HAD THIS MEETING A FEW THINGS HAVE HAPPENED OUT THERE ON RED HILL AND PLEASANT RIDGE AREA.

SOME HAVE VERY NEGATIVE AFFECT ON US OUT THERE. I'VE HAD PHONE CALLS PEOPLE WANTING TO BUILD A HOUSE OUT IN THAT PART OF THE COUNTRY AND WANT TO KNOW WHERE THE STRIP MINE MIGHT BE. I HAVE TO TELL THEM BECAUSE THEY DON'T WANT TO BE ANYWHERE NEAR IT. I GET SEVERAL CALLS, SEVERAL NEIGHBORS GOT CALLS LIKE THAT.
WE HAVE A COUPLE OF HOMES OUT THERE ON THE
MARKET. ON 140 ON RED HILL ROAD AND ON BUTLER ROAD.
TO MY KNOWLEDGE NO ONE IS LOOKING AT THEM BECAUSE THEY
KNOW THERE'S A POSSIBILITY THERE MIGHT BE A MINE OUT
THERE. SO THOSE PROPERTIES ARE NOT GOING TO SELL.
WE'RE JUST DEAD UNTIL THIS THING IS RESOLVED.

AS YOU'VE BEEN INFORMED ALREADY, WE'VE HAD
DEATH THREAT LETTERS OUT THERE. WE'VE HAD VANDALISM.
WE'VE HAD MAILBOXES BUSTED. ALL PERTAINING TO THIS
STRIP MINE.

OUT OF THE 30 OR SO PROPERTY OWNERS THAT LEASE
THEIR PROPERTY TO THE COAL MINE, GOOD THING THEY DON'T
LIVE ON THE PROPERTY AND SOMEPLACE ELSE. OF THOSE WHO
ARE LEFT, THE ODDS ARE SOME OF THEM ALREADY SAID
THEM'RE GOING TO MOVE ON ONCE THE MINE STARTS. GO
SOMEPLACE ELSE.

SO THAT LEAVES ABOUT 200 PEOPLE FROM THAT COAL
MINE THAT HAVE TO STAY THERE. THEY CAN'T GO. THEY
CAN'T LEAVE. THEY'VE GOT TO LIVE WITH IT. THE PEOPLE
THAT OWN THE PROPERTY, THEY'VE GOT THE OPTION TO GO
SOMEPLACE ELSE. COME BACK WHEN IT'S OVER WITH. WE
CAN'T DO THAT.

THIS MORNING ON HIGHWAY 231 MY FAMILY GOES TO
WORK, KIDS GO TO SCHOOL ON THE BUSES. YOU GOT ABOUT
FIVE SCHOOLS ON 231. YOU'VE GOT A LOT OF BUS STOPS.
YOU'VE GOT A LOT OF HILLS.

YOU'VE GOT 40 COAL TRUCKS A DAY ON THERE AND THEY WEIGH 20 TONS APiece. THEN THOSE SCHOOL BUSES. THAT'S A NO-BRAINER. THAT SHOULDN'T HAPPEN. IT'S JUST A RISK WE SHOULD NOT TAKE. ONE LUMP OF COAL IS NOT WORTH THE LIFE OF ONE KID OR ONE MEMBER OF MY FAMILY. THANK YOU.

CHAIRMAN: THANK YOU, MR. GOODALL.

NEXT PLEASE.

MR. NOFFSINGER: T.A. SCOTT.

MR. SILVERT: STATE YOUR NAME, PLEASE.

MR. T.A. SCOTT: T.A. SCOTT.

(MR. T.A. SCOTT SWORN BY ATTORNEY.)

MR. T.A. SCOTT: I HAVE A TOTAL OF 13 QUESTIONS FOR WESTERN KENTUCKY MINERALS FOR YOU ALL.

IF YOU WANT THEM IN THREE MINUTES I CAN DO IT, BUT YOU BETTER GET YOUR PEN READY.

CHAIRMAN: WE CAN SAVE YOU A LOT OF TIME.

HAVE YOU GOT THEM WRITTEN?

MR. T.A. SCOTT: YES.

CHAIRMAN: WHY DON'T YOU HAND THEM TO HER AND WE'LL HAVE THEM IN THE RECORD AND THEN GIVE THEM TO US AND --

MR. T.A. SCOTT: BECAUSE I'D RATHER READ THEM FROM HERE BECAUSE I'VE SURE THERE'S OTHER FOLKS HERE
THAT WOULD LIKE TO HEAR THEM ALSO. THANK YOU, SIR.

CHAIRMAN: I WAS GOING TO READ THEM OUT ANYWAY. GO AHEAD. THAT'S YOUR OPTION.

MR. T.A. SCOTT: WESTERN KENTUCKY MINERALS, WE'VE SEEN THE VIDEO TONIGHT. WE'VE SEEN THE WATER TRUCKS AND SO FORTH. WE SEEN THAT DUST COMPARED TO DUST FROM AGRICULTURAL.

I WOULD LIKE TO KNOW DO THEY OR ANYONE ELSE HAVE ANY STUDIES SHOWING THAT AGRICULTURAL DUST IS COMPARED NEGATIVELY TO MINING DUST AS IT RELATES TO THE AMOUNT OF TIME, CONCENTRATION OF CERTAIN MATERIAL OR THE AMOUNT OF DUST.

I DON'T KNOW ANY FARMERS THAT PLOW FIELDS 20 HOURS A DAY ALL YEAR LONG FOR TEN YEARS. I THINK THAT'S A VERY INVALID COMPARISON. I ALSO DON'T KNOW ANY FARMERS THAT PLOW DOWN TO THE DEPTH OF 10, 20, 30 FEET. SO I'D WOULD LIKE SOME INFORMATION ON THAT.

WE SAW THE WATER TRUCK. NOW, THE YOUNG MR. LANHAM MENTIONED MAYBE EVEN EVERY 10 TO 15 MINUTES THEY RUN A WATER TRUCK. I WOULD LOVE TO KNOW HOW MANY GALLONS OF WATER WOULD BE NECESSARY TO OPERATE THAT TRUCK AT THAT RATE FOR EVEN 10 OR 12 HOURS A DAY?

WHERE IS THAT WATER GOING TO COME FROM? ARE THEY GOING TO DRAW THAT FROM AQUIFERS THAT ARE ALREADY OUT THERE? DO THEY HAVE WELLS? ARE THEY GOING TO GET
THAT FROM OHIO COUNTY WATER SOURCES?

REFERENCE TO THE BLASTING. THIS IS STILL, I DON'T KNOW WHETHER WE TALKED SMALL BLAST OR A BIG BLAST AND IT'S STILL A HIGH ORDERED EXPLOSION I BELIEVE. IF I'M WRONG, PLEASE CORRECT ME ON THAT.

WHAT IS THE --

CHAIRMAN: EXCUSE ME. WHAT DID YOU REFER TO THERE?

MR. T.A. SCOTT: A HIGH ORDERED EXPLOSIVE.

CHAIRMAN: HIGH WHAT?

MR. T.A. SCOTT: HIGH ORDERED. I'M SURE HE IS FAMILIAR WITH THAT.

CHAIRMAN: OKAY. I'M JUST WRITING.

MR. T.A. SCOTT: I UNDERSTAND, SIR.

WHAT IS THE SPEED OF THAT EXPLOSIVE WAVE THERE AT THE POINT OF IGNITION; 500 FEET, 500 YARDS, 1,000 YARDS? WE KNOW IT SLOWS DOWN, BUT AT WHAT RATE.

WHAT IS GOING TO BE THEY CONSEQUENCE ANY TIME THERE IS ANY KIND OF GUIDELINE SET BY A STATE, FEDERAL OR GOVERNMENT AGENCY OF ANY TIME? IF THERE'S A TIME PERIOD, THERE'S A CONSEQUENCE.

IF THEY FAIL TO MEET THAT 180 DAY REQUIREMENT TO RECLAIM THAT LAND, WHAT IS THE CONSEQUENCE TO TRY TO MEET THAT? IS IT A MONETARY FINE? ARE THEY SHUTDOWN UNTIL THAT IS DONE OR WHAT IS THE SITUATION?
WHY IS THE COAL GOING TO BE MINED IN OHIO COUNTY NOT WASHED? IN THE PREVIOUS MEETINGS, MR. TIM WRIGHT STATED THAT THE COAL WAS WASHED IN ORDER TO REMOVE MATERIAL TO MEET POWER PLANT REQUIREMENTS. SOMEHOW THE COAL IN OHIO COUNTY MEETS THOSE REQUIREMENTS, BUT COAL IN DAVIESS COUNTY DOES NOT. I JUST WOULD LIKE THAT CLARIFIED.

ALSO WE TALKED ABOUT WHETHER THE GROUND, WHETHER THE FIRECLAY IS OR IS NOT IMPERMEABLE. IF IT IS IMPERMEABLE, CAN WATER STILL GO AROUND IT? I WOULD THINK THAT IT COULD.

FOR THE COMMISSION: HOW CAN THIS COMPREHENSIVE PLAN BE CHANGED? WE KEEP GOING BACK TO THIS COMPREHENSIVE PLAN. I'M NOT FAMILIAR WITH IT. I HAVEN'T SEEN IT. HAVEN'T READ IT. I SUSPECT MOST PEOPLE IN THIS ROOM HAVEN'T. I WOULD BE INTERESTED TO KNOW WHAT DOES IT SAY AND WHAT WE HAVE TO DO TO CHANGE IT SO WE DON'T HAVE TO DO THIS EVERY 5, 10, 15 YEARS. SO PEOPLE CAN BUILD A HOUSE AND BE HAPPY WITH IT AND KEEP IT WITHOUT ANY PROBLEMS.

ALSO FOR THE COMMISSION: WILL YOU EXTEND -- THE COAL MINE IS GOING TO BE ALLOWED TO RUN FROM 6 IN THE MORNING UNTIL 4 IN THE MORNING. I WANT TO KNOW IF THAT WOULD BE EXTENDED TO OTHER BUSINESSES OPERATING IN SIMILAR AREAS? WE'VE GOT THREE GENERATIONS OF MY N

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NEIGHBORS HERE. GOOD MEN. THEY ALL HAVE YOU CAN SAY
UNIQUE HOBBIES. SOME OF THEM VERY NOISY. IF THEY
WANT TO ENGAGE IN THOSE THINGS UNTIL THAT TIME IN THE
MORNING, THEY WON'T DO THAT OUT OF RESPECT FOR ME, BUT
IF THEY DID WANT TO DO THAT APPARENTLY THIS COMMISSION
OR NO ONE ELSE HAS ANY RIGHT TO TELL THEM THEY CAN'T
BECAUSE THAT'S WHAT WE'RE TELLING THIS COAL MINE.

WILL THERE BE A CALL VOTE TONIGHT BY
INDIVIDUAL NAME SO WE DON'T HAVE ANY CONFUSION AS TO
WHO DID AND DIDN'T VOTE FOR WHAT.

MR. KAZLAUSKAS, I APPRECIATE YOU MAKING THE
MOTION THE LAST TIME. I THOUGHT WE HAD IT VOTED FIVE
TO FOUR. SETTLED AND DONE. MOST OF US LEFT RIGHT
AFTER THAT AND FOUND OUT LATER WE WERE WRONG. I WOULD
RECOMMEND THAT THAT BE A CALL VOTE TONIGHT BY NAME.

BEFORE THIS COMMISSION: I'M SURE THERE'S
FOLKS HERE THAT HOPES THEIR SMARTER THAN ME. WHO DOES
THIS COMMISSION REPRESENT? DO YOU REPRESENT EACH AND
EVERY CITIZEN IN DAVIELSS COUNTY AND IN OWENSBORO? DO
YOU REPRESENT ONLY ENTITIES, BUSINESSES? WHO IS IT
YOU REPRESENT? WHAT REIMBURSEMENT DO YOU RECEIVE FOR
AND WHERE FROM FOR YOUR SERVICE ON THIS COMMISSION?
I'VE BEEN TO EVERY MEETING THAT I'M AWARE OF. I'VE
BEEN TO THE ONE AT THE OWENSBORO CHRISTIAN CHURCH AND
EVERY ONE THAT WE'VE HAD UP HERE. VERY OBVIOUS TO BE
10, 20, 30, 50 to 1 The citizens of this county do not want this zoning plan changed.

So I'm just curious. Do you represent those citizens or what is the purpose of this commission? Got all my questions, sir?

Chairman: Got them.

Mr. T.A. Scott: You want to answer now or are you going to wait?

Chairman: If you submit them --

Mr. T.A. Scott: If you tell me where there's a copy machine I will.

Chairman: You can give them to me and I'll give them back to you afterwards, if you want me to keep them. I don't care. It's up to you.

Mr. T.A. Scott: I'll hang on to the original. Thank you, sir.

Chairman: Very good. Thank you.

Next.

Mr. Noffsinger: Linda S. Ivy.

Mr. Silvert: State your name, please.

Ms. Ivy: Linda Ivy.

(Linda Ivy sworn by attorney.)

Ms. Ivy: I appreciate the support of the local Kentucky jobs and I appreciate the support of local small business owners and property owners. I
CERTAINLY APPRECIATE MY ELECTRICITY.

I WOULD LIKE FOR THE PLANNING BOARD TO

CONSIDER THE LOCAL GIRL SCOUT JOBS AND THE GIRL SCOUT

PROPERTY THAT'S ALREADY IN PLACE. CAMP PENNYROYAL

HAVE EMPLOYED HUNDREDS OF PEOPLE CONSISTENTLY IN THE

LAST 55 YEARS. AVERAGING TWO OR THREE DOZEN JOBS EACH

YEAR. THROUGHOUT THE YEAR CHURCH GROUPS AND OTHER

DAVISS COUNTY RESIDENTS USE THE TENNIS COURTS, HIKE

TRAIL AND RENT THE BUILDINGS FOR WEDDINGS AND OTHER

PARTIES. BUS LOADS OF CAMPERS FROM ALL OF WESTERN

KENTUCKY AND THE LOUISVILLE AREA COME TO OUR AREA EACH

SUMMER AND THE FAMILIES, CAMPERS AND STAFF BUY FOOD

AND SUPPLIES IN OUR AREA CONTRIBUTING TO OUR ECONOMY.

WHEN THESE BUSES PULL IN THE PARKING LOT CAMP THEY

WILL BE LOOKING DIRECTLY AT A STRIP MINE.

THE CAMP CO-EXIST WELL WITH A HIGH NUMBER OF

RURAL RESIDENTS IN THE AREA. THE CAMP WILL NOT

CO-EXISTING WELL WITH A STRIP MINING OPERATION.

CAMP PENNYROYAL IS 180 ACRE CAMP WITH AN 8

ACRES SPRING FED LAKE. THE DAM IS APPROXIMATELY 28

FEET DEEP AND 425 FEET LONG. UNDERGROUND AQUIFERS

WHICH CAN MOVE THE WATER IN DIFFERENT DIRECTIONS AND

ELEVATIONS PROVIDE SPRING WATER TO THE LAKE.

A COAL WASHING PLANT IN THIS AREA OF SHELL AND

SANDSTONE WHICH ARE COURSE ROCK WILL HAVE A HIGH
LIKELIHOOD AFFECTING THE GROUNDWATER, ENHANCE THE LAKE
AND THE VARIOUS WETLANDS AREAS IN THE CAMP.

IN 1993 I BROUGHT TWO FEMALE GIRL SCOUTS TO
SPEAK OUT AGAINST PROPOSING TO THE REZONING AT THAT
TIME. THE REZONING WAS DENIED THE SECOND TIME AT THAT
MEETING. THOSE SAME TWO GIRLS IN THE NEXT 15 YEARS AT
GIRL SCOUT WORKING THEIR DURING THEIR COLLEGE YEARS.
THESE SAME TWO GIRLS GREW UP TO BE A WATER BIOLOGIST
AND GEOTECHNICAL ENGINEER. I'M NEARLY POSITIVE THAT
THEIR YEARS AT CAMP ATTRIBUTED TO THEIR CAREER
SUCCESS.

THESE JOBS ARE IMPORTANT TO THEM, THEIR FAMILY
AND TO OUR FUTURE AND THESE JOBS ARE IMPORTANT TO
HUNDREDS OF YOUNG WOMEN EACH YEAR.

I HAVE MY THIRD GENERATION, MY SUPPORT TEAM,
AND SHE'S NEXT ON THE LIST. SHE HAS ONE SENTENCE.

CHAIRMAN: VERY GOOD. THANK YOU. ARE YOU
FINISHED?

MS. IVY: YES.

MR. NOFFSINGER: TENNYSON CHRISLER.

CHAIRMAN: COULD YOU STATE YOUR NAME, PLEASE.

MS. CHRISLER: TENNYSON.

(TENNYSON CHRISLER SWORN BY ATTORNEY.)

MISS CHRISLER: PLEASE DO NOT COAL MINE NEAR
GIRL SCOUT CAMP. ALL THE GIRL SCOUTS DO NOT WANT
DYNAMITE NEAR THE CAMP. WE DO NOT WANT THE COAL TRUCKS MAKING NOISE.

I WENT TO CAMP WITH NANA WHEN I WAS ONE MONTH OLD. I WANT TO GO TO TAKE MY CHILDREN TO THE SAME CAMP.

CHAIRMAN: THANK YOU.

NEXT.

MR. NOFFSINGER: RYAN POTTER.

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

MR. POTTER: RYAN POTTER.

(RYAN POTTER SWORN BY ATTORNEY.)

MR. POTTER: I WORK AT ELMER SMITH. I WORKED AT OUR OMU ELMER SMITH STATION COAL FIRE POWER PLANT.

WE'RE ALWAYS TALKING ABOUT KEEPING EVERYTHING IN THE COMMUNITY. WESTERN KENTUCKY MINERALS SUPPLIES COAL TO OMU. AS EVERYBODY NOTICED IN THE PAPER LAST WEEK I KNOW THERE'S BEEN KIND OF A CONTROVERSY ABOUT RATE INCREASES.

WE START OUTSOURCING, YOU KNOW, NOT BEING ABLE TO GET COAL FROM THE COMMUNITY. THAT’S ONLY GOING TO DRIVE THE PRICES UP THAT MUCH EVEN MORE THEN TALKING ABOUT THE WILDLIFE. EVERYBODY IS SCARED IT'S GOING TO DISRUPT. I'M AN AVID OUTDOORSMAN. I'VE BEEN FORTUNATE ENOUGH TO HUNT ON OHIO VALLEY REPORTING (270) 683-7383
RECLAMATION GROUND. I CAN ASSURE YOU THAT I'VE HAD SOME OF THE BEST HUNTS IN MY LIFE ON RECLAMATION GROUND, ESPECIALLY WATER FOUL IN THE WETLAND AREAS.

TALKING ABOUT THE DUST. I WAS DIAGNOSED WITH ASTHMA WHEN I WAS YOUNGER. I'VE HAD IT MY WHOLE LIFE. IN FACT, THAT'S THE ONLY THING THAT KEPT ME OUT OF THE MARINE CORP. NOW I WORK AT A COAL FIRE POWER PLANT.

EVERYBODY IS TALKING ABOUT RESIDUAL DUST AND WHAT NOT AND WHAT YOU'RE AFRAID YOU'RE GOING TO HAVE BLOW OFF THE MINE. YOU HAVE NOT SEEN COAL DUST. GO TO OMU AND WATCH THE COAL PILE. I CAN ASSURE YOU IT GETS SO BAD YOU CAN'T HARDLY SEE AT TIMES. LIKE I SAY, I'VE BEEN DIAGNOSED WITH ASTHMA A COUPLE OF TIME. DR. CARROLL HOWARD WAS THE FIRST ONE TO DO IT. AGAIN, I WORK EVERY DAY AND I HAVE NO PROBLEMS WITH IT.

MY LAST QUESTION --

CHAIRMAN: EXCUSE ME. DID YOU HAVE OTHER QUESTIONS? DID I GO TO SLEEP? I THOUGHT YOU MADE SOME STATEMENTS.

MR. POTTER: MY LAST STATEMENT, I'M SORRY. THIS IS THIS MY QUESTION.

IN APRIL THEY VOTED, YOU ALL VOTED TO REZONE SOME GROUND IN KNOTTSVILLE. THERE'S BIG FARMS IN KNOTTSVILLE. THERE'S NICE HOUSES IN KNOTTSVILLE. JUST AS NICE AS ANYTHING THERE IS IN PLEASANT RIDGE.
My question is: What made Knottsville so much different than Pleasant Ridge? I mean they've been out there for several years. There's no ill-affects from it. My question is: Is it logistics of the project or is it more of an underlying question about maybe people's mindset upon it? That's all I have.

Thank you.

Chairman: Let me make sure. Your question was why is Knottsville different than Pleasant Ridge?

Mr. Potter: Exactly.

Chairman: Thank you.

Mr. Potter: Thank you.

Chairman: Next.

Mr. Noffsinger: Derrick Crisp.

(Derrick Crisp sworn by attorney.)

Mr. Crisp: I've lived about half a mile from the mine for about six or seven years. About three years ago I started building a home. While building the home we had some solid bedrock I've got a basement on. We poured the footer. Poured the basement and went on and build the rest of the house. It's a 5,000 square foot home and there's a lot of area to look for cracks and stuff. I've never once found anything. The home itself is there. It's well. Blasting or not, there's no problems there.
ALSO I LIVE ON 144. WHEN THE COAL TRUCK TRAVEL, I'VE NEVER HAD ANY FEAR MYSELF, MY FAMILY OR ANYBODY.

ALSO I'VE BEEN ON THE KNOTTSVILLE VOLUNTEER FIRE DEPARTMENT FOR 12 YEARS. A LOT OF PEOPLE WORRY ABOUT THEIR SAFETY OF OTHER PEOPLE AND EVERYTHING AROUND. IN THE 12 YEARS I'VE BEEN ON THERE, I'VE NEVER SEEN ANYTHING HAPPEN TO THE PUBLIC THAT'S COME FROM THE MINE OR HURT ANYONE. THAT'S ALL I HAVE.

CHAIRMAN: THANK YOU. SO YOU HAVE NO QUESTION. YOU'VE JUST GOT SOME STATEMENTS.

MR. CRISP: NO QUESTIONS.

CHAIRMAN: THANK YOU.

MR. NOFFSINGER: JOEY GIBSON.

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

MR. GIBSON: JOEY GIBSON.

(JOEY GIBSON SWORN BY ATTORNEY.)

MR. GIBSON: MR. CHAIRMAN, COMMISSION, I'VE DEALT WITH THE INDUSTRY FOR ABOUT 20 YEARS AND THAT'S WHAT I'VE MADE MY LIVING WITH. I'VE BEEN EXPOSED TO SEVERAL DIFFERENT COAL MINES. THIS ONE, THE WESTERN KENTUCKY MINERALS, THEY SEEM TO BE A STEP ABOVE THE OTHERS. I KNOW THAT COULD BE TOOK OUT OF TEXT SAYING, WELL, THEY PAY YOU OR WHATEVER LIKE THAT, BUT I'VE
DEALT WITH ALLIANCE, ARMSTRONG, CHRISTIAN COAL, ROBERT
BROTHERS, MARK BOWLS OVER THE YEARS. THEY DO HAVE A
GOOD PROGRAM. I'M NOT AN EMPLOYEE. I GO IN AS A
VENDOR. I'M A CONTRACT REPAIRMAN. I GO IN AND REPAIR
HEAVY EQUIPMENT. I'LL BE 50 YEARS OLD BEFORE LONG. I
CAN PROBABLY DO A CARTWHEEL. WILL NOT TRY THAT
TONIGHT, BUT I CAN PROBABLY DO THAT FOR YOU.

IN ESSENCE, I'VE BEEN EXPOSED TO THE COAL
ENVIRONMENT. I DON'T FEEL LIKE IT HAS AN IMPACT ON MY
HEALTH. I GO IN EACH YEAR FOR A PHYSICAL AND I'M NO
DIFFERENT THAN ANYBODY ELSE.

SOMETHING WOULD LIKE TO BRING UP AS WELL ALSO
THAT'S BEEN OVERLOOKED, I THINK. ALL OF THESE ARE
NEEDFUL THINGS THAT NEED TO BE BROUGHT UP. THEY'RE
ALL LEGITIMATE. WHAT ABOUT THE QUALITY OF LIFE FOR
THE PEOPLE THAT DO WORK IN THE MINES? WHAT DO THEY
HAVE TO OFFER?

WELL, IT'S ONE OF THE BEST PAYING INDUSTRIES
THAT'S OUT THERE IN THIS AREA. WE DON'T HAVE VERY
MANY JOBS AS WHAT WE ONCE DID SEVERAL YEARS AGO.
WE'RE LOOKING AT MAYBE A 55 TO $70,000 A YEAR JOB WITH
A MAN THAT'S GOT AN INVESTMENT IN A PAIR OF WORK BOOTS
AND A DINNER BUCKET. YOU DO THE MATH RIGHT THERE.
THAT'S 1,100 TO $1,400 A WEEK INCOME. THAT'S GROSS,
BUT YOU FIGURE THAT. THAT DOESN'T INCLUDE YOUR HEALTH
INSURANCE THAT GOES ALONG WITH THAT. A BENEFIT PACKAGE. HOW MANY PEOPLE AT THIS TIME RESPECTFULLY SAYING THAT MAYBE THEY'RE HOLDING A MINIMUM WAGE JOB? WOULD THEY NOT GIVE THEIR NEEDLE TEETH TO HAVE A JOB LIKE THAT TO PROVIDE FOR THEIR FAMILY?

I'M NOT TAKING AWAY FROM ANY OF THESE REQUESTS THAT OTHER PEOPLE HAVE MADE, BUT THE IDEA IS I THINK WE SHOULDN'T CUT THIS OFF. I THINK WE CAN CO-EXIST TOGETHER. YOU LEARN TO WORK TOGETHER. YOU LEARN TO WORK THE DIFFERENCES OUT RIGHT THERE. I THINK IT OFFERS A GREAT INDUSTRY OF THE ECONOMY. THAT MONEY COMES BACK DOWN INTO OUR COUNTY, INTO THE OWENSBORO AREA. IT TRICKLES DOWN TO MOM AND POP STORES THAT WE SEE SO MUCH GO BY THE WAYSIDE. THERE'S SO MUCH SIGNIFICANT IMPACT IN A POSITIVE WAY. I KNOW THERE'S NEGATIVE THINGS, BUT THERE'S NEGATIVE THINGS IN ANYTHING WE DO IN LIFE. I THINK THIS HAS A LOT OF POSITIVE FLOW RIGHT THERE. THAT'S PRETTY MUCH ALL I'VE GOT TO SAY. THANK YOU.

CHAIRMAN: THANK YOU.

NEXT.

MR. NOFFSINGER: PATTY DUNCAN.

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

MS. DUNCAN: PATTY DUNCAN.
(PATTY DUNCAN SWORN BY ATTORNEY.)

MS. DUNCAN: I LIVE ON FREE SILVER ROAD. I'VE LIVED IN KNOTTSVILLE FOR 15 YEARS. I DRIVE UP AND DOWN MONARCH.

WHERE THEY JUST GOT DONE COAL MINING IT'S GORGEOUS. I MEAN THEY HAVE DONE A GOOD JOB RECLAIMING IT.

MY GRANDKIDS COME AND SEE ME. I HAVE A BERM IN MY BACKYARD NEXT TO MY SWIMMING POOL. I DON'T REALLY WORRY. I DON'T SMELL NO DUST OR ANYTHING GOING ON. THE NOISE IS NOT REALLY THAT BAD. WHEN YOU'RE IN THE HOUSE, YOU DON'T REALLY HEAR IT ANYWAY. WHEN YOU GO OUTSIDE, YOU MAY HEAR A LITTLE BIT OF IT, BUT IT'S NOT NOTHING THAT REALLY UPSETS YOU THAT MUCH.

ALL I CAN SAY IS TONY HAS MADE PROMISES. HE WAS GOING TO PUT THE BERM UP. YOU KNOW, MAKE SURE THINGS WERE SAFE FOR MY GRANDKIDS AND HE HAS. THANK YOU.

CHAIRMAN: LET ME ASK YOU A QUESTION. HOW NEAR TO THE COAL MINING BOUNDARY DO YOU LIVE?

MR. DUNCAN: I DON'T KNOW. IT'S RIGHT IN MY BACKYARD. FIFTY FEET.

AUDIENCE: YOU'RE MAKING MONEY OFF OF IT.

MS. DUNCAN: NO. I RENT.

CHAIRMAN: THANK YOU.
LET ME ASK EVERYBODY. GIVE EVERYBODY THE SAME
RESPECT THAT YOU WANTED WHEN YOU SPOKE, PLEASE.
THAT'S ONLY FAIR TO EVERYBODY. BOTH SIDES.
NEXT, PLEASE.
MR. NOFFSINGER: MIKE MCNAUGHT.
MR. SILVERT: WOULD YOU STATE YOUR NAME,
PLEASE.
MR. MCNAUGHT: MIKE MCNAUGHT.
(MIKE MCNAUGHT SWORN BY ATTORNEY.)
MR. MCNAUGHT: I LIVE ON 4730 FREE SILVER
ROAD. THEY GOT THE HAUL ROAD THAT THEY'RE MAKING.
THEY'RE COAL WHERE THEY'RE MINING IS RIGHT NEXT TO MY,
WELL, RIGHT OFF THE PROPERTY LINE JUST ABOUT.
MY WIFE HAS COPD. MY GRANDDAUGHTERS COME OUT
THERE ALL THE TIME HAVE ALLERGIES. THIS MINING HAS
NOT AFFECTED THEM IN ANY WAY AS FAR AS THEIR HEALTH
GOES.
THE FARMERS GETTING THE CROPS OUT HURTS US
MORE THAN THIS MINING HAS. BECAUSE EVERY SPRING AFTER
THEY COMBINE THEIR CORN AND THRASH THEIR BEANS BESIDE
MY HOUSE TURNS GREEN FROM ALL THE STUFF OUT OF THE
FIELDS THAT BLOWS OVER THERE. I HAVE TO POWER WASH IT
EVERY SPRING.
AS FAR AS NOISE, THESE CARS RUNNING UP AND
DOWN THE ROAD THAT SOUNDS LIKE LITTLE BUMBLE BEES AND
THEIR AMPLIFIERS BOOMING AND EVERYTHING THAT YOU HEAR
THREE QUARTERS OF A MILE AWAY BEFORE THEY GET THERE,
RATTLE YOUR WINDOWS AS THEY GO BY, THAT'S A LOT WORSE
THAN WHAT THAT MINING IS. I SEE NO REASON ANYBODY
SHOULD COMPLAIN ABOUT IT. THAT'S MY OPINION.

CHAIRMAN: HOW NEAR DO YOU LIVE TO WHERE THE
ACTUAL MINING IS GOING ON?

MR. MCNAUGHT: IT'S GOING ON BEHIND MY HOUSE
RIGHT NOW. THEY STARTED -- THERE'S BEEN TRUCKS GOING
IN AND OUT ALL DAY TODAY. I THINK THEY WERE GOING IN
AND OUT YESTERDAY. I'M NOT FOR SURE.

CHAIRMAN: IS THE COAL MINING ON YOUR PROPERTY
OR IS IT ON THE PROPERTY RIGHT NEXT TO WHERE YOUR
PROPERTY IS?

MR. MCNAUGHT: IT'S BEHIND WHERE I LIVE.

CHAIRMAN: SO IT'S NOT ON YOUR PROPERTY. IT'S
ON THE --

MR. MCNAUGHT: I RENT. IT'S RIGHT BACK -- I
CAN PROBABLY TAKE A ROCK AND THROW BACK THERE AND HIT
BACK IN THERE WHERE THEY'VE GOT THE LIGHTS AND THE
MINE STUFF AT. MAYBE NOT THAT FAR. YOU KNOW, IT'S
CLOSE ENOUGH.

CHAIRMAN: THANK YOU.

MR. NOFFSINGER: RANDALL WARD.

MR. SILVERT: STATE YOUR NAME, PLEASE.
MR. WARD: RANDALL WARD.

(RANDALL WARD SWORN BY ATTORNEY.)

MR. WARD: WESTERN KENTUCKY MINERALS STRIPPED

COAL ABOUT FOUR YEARS AGO. ABOUT FOUR YEARS AGO THEY

WERE STRIPPING COAL WITHIN PROBABLY FIVE TO 700 FEET

FROM MY HOME. I HAVE A FULL SIZE BASEMENT UNDER MY

HOUSE WHERE ME AND MY WIFE AND THREE BOYS SLEEP EVERY

NIGHT.

ANYHOW, THEY DIDN'T CRACK MY BASEMENT. THEY

DIDN'T HURT MY HOME IN ANY WAY. TWO OF MY BOYS HAVE

ASThma. THE DUST IS NO BIG DEAL. THE DUST NEVER

BOTHERED THEIR ASTHMA.

AS FAR AS THAT GOES, LIKE I SAID, POLLEN AND

STUFF LIKE THAT BOTHERS ASTHMA MORE. THE DUST IS NO

BIG DEAL.

THE NOISE, I'M NOT GOING TO TELL YOU THAT YOU

CAN'T HEAR BULLDOZERS AND BACK-UP ALARMS AND STUFF,

BUT AFTER A WHILE YOU JUST GET USED TO IT. THEN YOU

DON'T EVEN PAY NO ATTENTION TO IT.

AS FAR AS BEING IN THE HOUSE, YOU DON'T HEAR

IT AT ALL.

THE BLASTING, NOW THEY'RE PROBABLY A QUARTER

OF A MILE TO HALF A MILE AWAY FROM ME. NOW YOU DON'T

EVEN PAY NO ATTENTION TO THE BLASTING. YOU'RE BARELY

EVEN FEEL IT.
CHAIRMAN: HOW CLOSE DID THEY GET TO YOUR HOUSE, AT THE CLOSEST WOULD YOU SAY?

MR. WARD: FIVE HUNDRED FEET. I'M JUST GUESSING 5 TO 700 FEET. THEY DIDN'T HURT MY HOUSE IN ANY WAY.

CHAIRMAN: SO YOUR PROPERTY WAS NEXT TO THE PROPERTY THEY WERE MINING?

MR. WARD: THERE'S ONE LOT IN-BETWEEN ME AND THEM.

CHAIRMAN: BUT 500 FOOT?

MR. WARD: YES.

CHAIRMAN: THANK YOU.

NEXT.

MR. NOFFSINGER: JAMES LACY KAMUF.

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

MR. KAMUF: JAMES LACY KAMUF.

(JAMES LACY KAMUF SWORN BY ATTORNEY.)

MR. KAMUF: I'D LIKE TO SPEAK ON THE ENVIRONMENTAL ISSUE, BUT THAT'S NOT WHAT WE'RE HERE TONIGHT.

I HAVE TO DO SAY IT WAS MENTIONED THAT IT'S ENVIRONMENTALLY, ECONOMICALLY BENEFICIAL FOR US IN THIS COMMUNITY DO THIS.

BURNING NATURAL GAS WOULD BE CHEAPER NOW. OMU
AND GENERATE HALF THE POLLUTION, CO2 POLLUTION. I'VE
GOT TO THROW THAT IN BECAUSE I'M NOT SURE THIS COAL IS
REALLY GOING TO BE BURNED HERE AT OMU ANYWAY. IT'S
THREE TIMES MORE VALUABLE IN THE OPEN MARKET THAN IT
IS HERE.

THE QUESTION I HAVE, THE FIRST ONE, POINT OF
ORDER. THERE'S A NINE MEMBER VOTING TONIGHT. IS THAT
BASICALLY CORRECT? DID I MISCALCULATE THAT?
CHAIRMAN: YES, SIR, THAT'S EXACTLY RIGHT.
MR. KAMUF: COULD YOU STATE, DID THE FATHER, DID HE RESIGN FROM THE BOARD? CAN YOU MAKE ANY
COMMENT ON THAT?
CHAIRMAN: YES, SIR, DID HE.
MR. KAMUF: SO THEY'RE GOING TO VOTE TONIGHT WITH NINE?
CHAIRMAN: YES, SIR.
MR. KAMUF: HASN'T BEEN APPOINTED, NO ONE WAS APPOINTED? WHO WOULD THAT APPOINTMENT BE?
CHAIRMAN: IT WOULD BE A CITY APPOINTMENT.
MR. KAMUF: A CITY APPOINTMENT.
CHAIRMAN: CORRECT.
MR. KAMUF: THANK YOU.
CHAIRMAN: BUT THE DEAL OF HAVING NINE OR SEVEN OR HOWEVER, THAT VARIES FROM MEETING TO MEETING.
WE HAVE TO HAVE A QUORUM OF SIX TO BE ABLE TO CONDUCT
BUSINESS.

MR. KAMUF: NOT ANYTHING AGAINST YOU. I KNOW YOU HAVE NO REAL CONTROL ABOUT WHO IS APPOINTED.

CHAIRMAN: CORRECT.

MR. KAMUF: IT PROBABLY IS GOING TO AFFECT THE VOTE TONIGHT IF THE LAST VOTE WAS ANY INDICATION.

CHAIRMAN: FATHER LARRY -- I DON'T THINK YOU'RE MAKING ANY COMMENT.

MR. KAMUF: NO, NOT AT ALL.

CHAIRMAN: I WAS GOING TO SAY HE WITHDRAW BECAUSE OF HIS SCHEDULE AS A COLLEGE PRESIDENT. HE JUST HAD SO MANY MEETINGS. THIS MEETING HERE HE GOING TO BE OUT OF TOWN.

MR. KAMUF: RIGHT. I'M NOT GOING TO MAKE ANY REFERENCE AT ALL.

CHAIRMAN: JUST TO GO ONE STEP FURTHER. THERE'S A CITY REQUIREMENT ON THE NUMBER OF MEETINGS MISSED, AND THAT ALSO COMES INTO PLAY. I DON'T THINK YOU WERE, BUT I JUST WANTED TO CLARIFY.

MR. KAMUF: NO, NOT IN ANY WAY. NOT IN ANY WAY. I WAS JUST CURIOUS WHEN THE NEXT APPOINTMENT WAS.

I WILL ASK: DO YOU HAVE ANY IDEA WHEN THAT POSITION IS GOING TO BE FILLED?

MR. NOFFSINGER: BE JUNE 1.
MR. KAMUF: THANK YOU. THANK YOU.
I'M SURE THERE'S OTHER AREAS I'D LIKE TO GO
DOWN ON THAT COURSE, BUT I WON'T.
QUICKLY I'LL TRY TO ASK THESE QUESTIONS.
HAS ANYBODY ON THE COMMISSION REALLY KIND OF
DROVE OUT THERE? THEY PROBABLY HAVE. YOU GUYS
PROBABLY KNOW THAT AREA BETTER. I DROVE OUT THERE. I
WOULD LIKE TO ASK THE QUESTION: WASN'T THERE TREES --
YOU KEEP TALKING ABOUT RECLAMATION. BRINGING THIS
LAND BACK AS IT WAS. YOU DRIVE OUT THERE AND YOU LOOK
AT THE LAND. IT DON'T LOOK LIKE WE'RE IN DAVIESS
COUNTY IN ONE WAY TO ME. IT DOESN'T HAVE ANY TREES ON
THE LAND AND IT'S BEEN RECLAIMED. I WOULD LIKE A
DEFINITIVE ANSWER. CAN YOU GROW NORMAL TREES ON THIS
LAND AGAIN?
CHAIRMAN: WOULD YOU DEFINE "NORMAL"?
MR. KAMUF: WELL, I THINK IT WAS MENTIONED A
TYPE OF LOCUST, SMALL LOCUST COULD BE GROWN ON IT. TO
ME OLD DAVIESS COUNTY AND OHIO COUNTY IS A FOREST.
WE'RE COMMUNITY OF FOREST. THIS LAND JUST DOES NOT
LOOK LIKE PART OF DAVIESS COUNTY IN MY OPINION.
THAT'S SUBJECTIVE. I WOULD LIKE TO KNOW CAN NORMAL
TREES BE GROWN ON THIS LAND?
CHAIRMAN: LET ME MAKE SURE I UNDERSTAND WHAT
YOU'RE ASKING. ARE YOU SAYING IT DOES NOT LOOK LIKE
NORMAL DAVIESS COUNTY LAND NOW?

MR. KAMUF: IN MY OPINION. KNOTTsville
RECLAMATION, YOU DRIVE UP THERE YOU SEE. OF COURSE,
THAT'S AN ISSUE FOR OHIO COUNTY. DRIVING OUT THERE,
SOMEBODY SAID, YOU NEED TO REALLY DRIVE OUT THERE AND
LOOK AT IT, WHAT IT LOOKS LIKE. THAT'S MY QUESTION.
WHY NOT JUST PLANT TREES BACK? I'M BIG A TREE LOVER
MYSELF. I'D JUST LIKE TO KNOW THAT SOME DAY TREES CAN
GROW ON THIS LAND AGAIN. YOU KNOW, WHAT WE NORMALLY
CONSIDER A NORMAL FOREST HERE IN DAVIESS COUNTY. HAVE
FOREST STATION, AND I THINK THAT'S IMPORTANT.

IF YOU READ ON THE INTERNET A LOT OF PEOPLE --
ENVIRONMENTALIST ARE REALLY DOWN ON COAL MINING. IT
HAS A LOT OF PROBLEMS. ONE OF THEM THERE'S A LOT OF
PEOPLE, IF YOU READ ON THE INTERNET SAY THAT AQUIFERS
ARE DAMAGED FROM THIS PROCESS. I WOULD ENCOURAGE YOU
TO READ THAT. IT'S NOT GOING TO HAPPEN BEFORE THE
VOTE TONIGHT, BUT I WOULD LIKE TO SAY THIS: WE JUST
THINK THAT ALL OF THIS IS RECLAIMED AND EVERYBODY IS
-- WELL, I DON'T WANT TO MAKE A SPEECH. I'M TRYING TO
ASK A QUESTION.

THERE'S 400,000 ACRES IN THE LAST TEN YEARS,
AND ONLY 22 PERCENT OF THAT HAS BEEN RECLAIMED THROUGH
WHAT THEY CALL PHASE THREE IN THE UNITED STATES.

MY QUESTION IS, IT DOES LEAD TO A QUESTION:
MR. LANHAM, WITH ALL DO YOU RESPECT, I DON'T KNOW YOU
AND I DON'T HAVE ANYTHING PERSONALLY AGAINST YOU OR
ANYTHING, AND I KNOW WE LIVE IN A MODERN COMPLICATED
AREA, BUT WHEN YOU KEEP CHANGING THE NAME OF YOUR
BUSINESS, IT KIND OF SENDS UP AN ALARM SIGNAL TO ME.
BECAUSE IF YOU READ ABOUT THESE ISSUES, WHY THIS LAND
HASN'T BEEN RECLAIMED, ALL THIS LAND IS BECAUSE THEY
CREATE SHELL CORPORATIONS. THAT A SMALL ORGANIZATION
BUYS THE LAND, AND THEN BIGGER ORGANIZATION BUYS THAT
FROM THEM THAT ACTUALLY DO THE MINING. THEN THE SMALL
CORPORATION IS THE ONE THAT GOT THE PERMITS AND
EVERYTHING ELSE, BUT THEN THEY CAN'T AFFORD TO REALLY
DO THE RECLAMATION AND THEY GO OUT OF BUSINESS.
MY QUESTION IS: I WOULD LIKE A LITTLE
DISCUSSION OF WHY YOU OPERATE UNDER DIFFERENT NAMES.
YOU KNOW, YOUR ENTITY. TO ME IT'S A LIABILITY ISSUE.
YOU'RE TRYING -- THE ONLY REASON I WOULD THINK THAT,
YOU SPENT ALL THE MONEY. GOOD REPUTATION YOU HAVE
BUILDING AN COAL ORGANIZATION AND THEN YOU JUST CLOSE
THAT BUSINESS AND THE NAME RECOGNITION AND EVERYTHING
ELSE IS NO LONGER THERE. SO IF SOMEBODY COULD KIND OF
COMMENT ON WHY THEY DO THAT. I THINK IT'S IMPORTANT.
THE OTHER THING I HAVE IS, YOU KNOW, THERE'S
NO REAL LONG-TERM STUDIES BECAUSE COAL --

CHAIRMAN: MR. KAMUF --
MR. KAMUF: OKAY. I'LL GET TO IT.

CHAIRMAN: YOU'RE MAKING SOME QUESTIONS AND YOU'RE MAKING SOME ACCUSATIONS.

MR. KAMUF: I KNOW, BUT SO DID OTHER PEOPLE.

CHAIRMAN: LET'S GET TO THE QUESTIONS.

MR. KAMUF: WITH ALL DUE RESPECT, WE HAVE DOUBLE STANDARDS FOR DIFFERENT PEOPLE AND I'D LIKE ONE STANDARD.

ANYWAY, I DON'T MEAN TO BE RUDE ABOUT THAT, BUT I --

CHAIRMAN: I'M NOT FOLLOWING YOU. WHAT IS THE DOUBLE STANDARD? ARE YOU REFERRING TO CERTAIN --

MR. KAMUF: I MEAN SOME PEOPLE GET UP HERE AND TALK ABOUT HOW THEY HAVE A LONG HISTORY. THEY'RE NOT QUESTIONS. WE'VE HAD A LOT OF PEOPLE MAKE STATEMENTS TONIGHT THAT ARE NOT QUESTIONS. THAT'S ALL I'M SAYING.

MY LAST QUESTION TO YOU IS -- BECAUSE IT REALLY WAS SUPPOSED TO BE AN ISSUE ABOUT QUESTIONS TONIGHT. WE'VE HAD PEOPLE MAKE STATEMENTS, AND I'M ALL FOR THAT. I'M, MAN, IF YOU WANT TO SAY SOMETHING, GET UP HERE AND SAY IT.

MY FINAL QUESTION IS TO YOU: IS THERE ANY LONG-TERM STUDIES, AND I KNOW THE ANSWER TO THIS, BUT I WANT EVERYBODY TO THINK ABOUT THIS QUESTION. IS
THERE ANY LONG-TERM STUDIES REALLY OF WHAT THIS LAND,
BY COAL MINING THIS LAND, WHAT THE LONG-TERM AFFECTS
OF THAT IS GOING TO BE?

CHAIRMAN: OKAY.
MR. KAMUF: THAT'S WHAT I'M SAYING.
CHAIRMAN: DOES THAT CONCLUDE YOUR QUESTIONS?
THE WITNESS: YES, SIR. THANK YOU.
CHAIRMAN: THANK YOU.
NEXT, PLEASE.

MR. REEVES: MR. CHAIRMAN, WOULD A SHORT BREAK
BE IN ORDER?

MR. NOFFSINGER: THERE'S TWO NAMES LEFT ON THE
LIST.

MR. REEVES: I CAN HANDLE THAT.

MR. NOFFSINGER: CHRIS ALSIP.

MR. SILVERT: STATE YOUR NAME, PLEASE.

MR. ALSIP: CHRIS ALSIP.

(CHRIS ALSIP SWORN BY ATTORNEY.)

MR. ALSIP: I DIDN'T REALLY REALIZE THAT THIS
WAS JUST A QUESTION ONLY THING. I HAD NO IDEA. THIS
IS THE FIRST FORUM I'M ATTENDED. YOU KNOW, I
APOLOGIZE.

I JUST WANT TO STATE THAT I DO LIVE IN THE
DAVIESS COUNTY AREA WHERE THEY'RE GOING TO BE DOING
THE PROPOSED ZONING CHANGE. BEING FROM THAT AREA, A
LOT OF PEOPLE OLDER THAN MYSELF ARE PEOPLE THAT'S BEEN
AROUND IN THAT AREA KNOW THAT THAT AREA, A LITTLE
FURTHER NORTH I GUESS IN SOME OF THOSE OTHER AREAS
HAVE ALREADY BEEN MINED AND RECLAIMED. THEY CAN LOOK
AT AREAS THAT'S ALREADY BEEN RECLAIMED.

MY QUESTION, IF I HAVE JUMP TO IT, IS: WHAT
ARE THE PROPERTY VALUES? WE TALKED ABOUT THAT A
LITTLE BIT EARLIER, BUT WHAT ARE THE PROPERTY VALUES
IN THAT AREA GOING TO DO AND HOW IS THAT GOING TO
AFFECT THE INSURANCE FOR THE PEOPLE THAT LIVE, THE
HOUSE INSURANCE FOR THE PEOPLE THAT LIVE IN THAT AREA?

THE THIRD QUESTION I HAVE IS: THERE'S ALREADY
BEEN NOTICED SEISMIC ACTIVITY FOR THE FAULT THAT RUNS
THROUGH AN AREA JUST A LITTLE BIT SOUTH OF THAT. IF,
I'M NOT SAYING THAT THERE WILL BE ISSUES WITH THE
MINING OR DAMAGE OR ANYTHING, BUT IF THERE IS DAMAGE,
HOW IS THERE GOING TO BE A DIFFERENTIATION BETWEEN THE
CLAIM? IT COULD HAVE BEEN SEISMIC ACTIVITY OR IT WAS
ACTUALLY THE DAMAGE FROM THE BLASTING AT THE MINE.

CHAIRMAN: THANK YOU.

NEXT PLEASE.

MR. NOFFSINGER: THOMAS SMITH.

MR. SILVERT: STATE YOUR NAME, PLEASE.

MR. SMITH: THOMAS SMITH.

(THOMAS SMITH SWORN BY ATTORNEY.)
MR. SMITH: I DIDN'T REALIZE IT WAS QUESTION
ALSO JUST LIKE BEFORE.
CURRENTLY TO ANSWER THE QUESTION RIGHT OFF THE
BAT, I'VE LIVED WITHIN 300 FEET OF THE CURRENT
KNOTTSVILLE OPERATION. WE HAVE AN IN-GROUND HOUSE
WHICH IS WHAT MR. PEDLEY TALKED ABOUT EARLIER. SO WE
ARE A BASEMENT, THREE SIDES CONCRETE WALLS. WE HAVE
NOT NOTICED A PROBLEM THAT I KNOW OF WHERE THE
CONCRETE HAS CRACKED AND WATER IS COMING IN, ANYTHING
LIKE THAT.

DUST. THEY PUT IN A HAUL ROAD KIND OF CLOSE
TO US. THE HAUL ROAD THAT WAS CLOSE TO US, MY WIFE
AND I WERE TALKING ABOUT ONE MORNING AND THE NEXT
MORNING THEY WERE PUTTING WATER ON IT BECAUSE IT WAS
DRY THIS SPRING WHEN IT CAME THROUGH OR LAST SPRING,
I'M SORRY. I WAS GLAD THAT THEY TOOK CARE OF THAT.

THE DUSTING THAT PEOPLE TALK ABOUT. I DIDN'T
REALIZE IT WAS SUCH A BIG ISSUE. WHAT WE HAD ON OUR
GRASS, IT WAS REAL CLOSE. IT WAS ALL BROWN DUST JUST
LIKE AGRICULTURAL. I NEVER NOTICED A BLACK DUST OR A
GRAY DUST OR ANYTHING LIKE THAT.

THE HOUSE INSPECTION THAT WAS REFERRED TO
EARLIER THAT I'VE NOT HEARD MUCH OF. JUST KIND OF
ACCUSATIONS. THEY CAME THROUGH AND VIDEOED OUR WHOLE
HOUSE. ALL THE CORNERS OF THE WALLS. THEN I GUESS
That's what they use as a report at the end when they're done so that if we have a complaint they come back and confirm it.

Then on the reclaim I heard around here. As I watch them go through the neighbor's yard or big field, it's not very long before they're back right behind themselves reclaiming. Because like what they said earlier, I'm one of those nosy neighbors. I like to ask questions.

As they're going around, they were just moving it from here to there and just relocating it on the same property. So they're trying not to move it as much as they can. So they're just putting it right here where they just were. Right behind within the first half year, like they are saying, they already had stuff growing on stuff they had just done. The wheat and stuff was already growing.

Then somebody kind of referred to earlier is didn't know if they'd live through it. I lived through it. It didn't bother me much. It's just one of those things I just took as, well, we have to deal with in life.

Shock waves. You hear the sirens. You know it's coming. Just like the train with the horns and the whistles or the ambulance running down the road
THAT'S THREE QUARTERS OF A MILE AWAY. YOU KNOW THE AMBULANCE IS GOING BY. YOU KNOW THE FIRE TRUCKS ARE GOING BY. TO ME IT WASN'T NO BIG DIFFERENCE. I COULD FEEL THE SHOCK WAVE BEFORE I COULD HEAR IT. SO THE SIRES ARE GOOD TO HAVE. I LIKE THOSE.

WHERE THEY WERE CURRENTLY GOING ON, MY BUILDING WHERE I WORK IS ABOUT A HALF MILE FROM WHERE THEY'RE AT. IT'S JUST AN OLD POLE BARN. I BARELY EVEN HEAR IT INSIDE.

THE NEXT THING WAS ASHBY WAS TALKING EARLIER ABOUT TRUCKS OR PEOPLE REFERRING TO HIM. THE TRUCK DRIVERS WERE EXTREMELY POLITE. THEY'LL EVEN WAIT. IF THEY SEE ME COME AROUND THE CORNER WHERE I'M AT, THEY'VE WAITED AT THE HAUL ROAD ENTRANCE ONTO THE ROAD. WAITED FOR ME TO PASS BEFORE THEY PULLED OUT. IF I'M PULLING OUT ON MY ROAD ONTO 144, THEY'LL EVEN WAIT ON 144 FOR ME TO PULL OUT JUST SO THEY CAN MAKE THEIR TURN. SO THEY'VE VERY POLITE IN BEHAVIOR. I'LL LEAVE IT AT THAT.

CHAIRMAN: MR. SMITH, I WANT TO MAKE ONE THING CLEAR. WE'RE NOT LIMITED PEOPLE TO QUESTIONS ONLY, BUT WHEN PEOPLE GET INTO MAKING RANDOM AND START GETTING OFF THE POINT A LITTLE BIT, WE'RE TRYING TO BRING THEM BACK WITH THE QUESTION.

MR. SMITH: I DIDN'T HAVE A QUESTION. JUST
STATEMENT.

CHAIRMAN: YOU HAD NO QUESTION, BUT YOU MADE STATEMENTS. WE Didn'T WANT YOU TO FEEL LIKE YOU WERE LIMITED TO QUESTIONS ONLY.

MR. SMITH: WELL, I KIND OF FELT THAT WAY BECAUSE OF THE --

CHAIRMAN: YOU GOT TO SPEAK AND SAY EVERYTHING YOU WANTED TO SAY.

MR. SMITH: THAT'S ALL THE NOTES THAT I HAD AND THAT'S ALL I WANTED TO SAY.

CHAIRMAN: YOU DID IT. YOU DID IT IN YOUR TIME.

HAVE WE COMPLETED ALL OF THE PEOPLE THAT WERE ON THE SIGNED UP LIST?

MR. SILVERT: STATE YOUR NAME, PLEASE.

MS. SCOTT: JOANN SCOTT.

(JOANN SCOTT SWORN BY ATTORNEY.)

MS. SCOTT: I WANTED TO ADDRESS THE ISSUE OF PEOPLE CHOOSING TO COME TO DAVIESS COUNTY AND WHY THEY DO.

I'M NOT FROM KENTUCKY. I'M FROM SOUTHERN CALIFORNIA. I WAS LOOKING FOR A PLACE TO LIVE WHERE I COULD HAVE A BETTER QUALITY OF LIFE, A PEACEFUL AND BEAUTIFUL HOME. MY HUSBAND TOLD ME A STORIES ABOUT HOW HE COULD TAKE LAND AND MAKE IT BEAUTIFUL. HE'S
USED TO LIVING ON POSTAGE STAMP. I WANTED TO COME
LIVE SOMEWHERE BEAUTIFUL WHERE WE COULD CHANGE THE
LANDSCAPE. I JUST COULDN'T EVEN CONCEIVE. I DIDN'T
EVEN BELIEVE WHAT HE SAID YOU COULD DO WITH THE DOZER.
IT WAS COMPLETELY A NEW THING TO ME LIVING IN SOUTHERN
CALIFORNIA AND HAVING NO LAND, NO SPACE.

WE TRANSPORT OUR PIECE OF PROPERTY, 19 ACRES,
TO BEAUTIFUL LAND WITH A FOUR ACRE LAKE. WHEN I WAS
CHOOSING WHERE TO LIVE, I WAS ADVISED, DO NOT GO TO
OHIO COUNTY. DON'T INVEST THERE. THEY COULD HAVE A
CHICKEN FARM RIGHT NEXT TO YOU. DON'T TAKE AND INVEST
EVERYTHING YOU HAVE IN SOME PLACE WHERE YOU CANNOT
TRUST WHAT IS GOING TO HAPPEN. GO TO DAVIESS COUNTY.
THEY HAVE ZONING THERE. YOU CAN DEPEND ON THAT ZONE
AS A WAY TO KNOW THAT WHAT YOU INVEST IN WILL STAY
WHAT YOU INVEST IN.

WE TOOK EVERYTHING WE HAD AND NOW EVERYTHING
WE HAVE IS IN OUR HOME. WE DON'T WANT OUR LAKE
BREACHED. WE DON'T WANT OUR BASEMENT CRACKED.
THERE'S TESTIMONY THAT THERE WERE NO CLAIMS IN
KNOTTSVILLE. I HAVE A FRIEND NAMED SHELLY NEWCOM.
SHE COULDN'T COME TONIGHT. SHE'S WORKING. SHE TOLD
ME THAT SHE HAD A CLAIM TWO YEARS AGO FOR HER PATIO
CRACKING. SHE SAID SHE DIDN'T EXPECT TO EVER GET A
SETTLEMENT ON THAT. THAT SHE THINKS SHE NEVER WILL.
HER HUSBAND CAN'T SLEEP AT NIGHT. THEY LIVE TWO MILES FROM THE KNOTTSVILLE SITE. THEY HAVE TO HAVE THEIR WINDOWS SHUT. THEY CAN'T HAVE WINDOWS OPEN AND SAVE MONEY ON AIR-C O NDITIONING. THEY HAVE TO HAVE THEIR WINDOWS SHUT AT NIGHT TO SLEEP. THEY'RE TWO MILES AWAY.

CHAIRMAN: MA'AM, THIS IS NOT YOU. THIS IS SOMEBODY ELSE?

MS. SCOTT: MY FRIEND, SHELLY NEWCOM FROM KNOTTSVILLE.

CHAIRMAN: IS SHE HERE?

MS. SCOTT: SHE'S NOT HERE UNFORTUNATELY.

IT WOULD BE NICE IF THAT COULD BE INVESTIGATED, BUT I SUPPOSE WE VOTE TONIGHT SO THERE'S NO INVESTIGATION ON THAT.

I WANT TO READ A VERSE OUT OF JAMES, THE BIBLE JAMES 5:8. "LET YOUR YEA BE YEA; AND YOUR NAY BE NAY; LEST YE FALL INTO CONDEMNATION."

WHAT THAT'S TALKING ABOUT IS PEOPLE BEING ABLE TO DEPEND ON WHAT YOU SAY. I KNOW YOU HAVE THE RIGHT TO YOU CHANGE YOUR ZONING, BUT PEOPLE INVEST THEIR WHOLE LIVES IN TRUST IN A ZONE.

WHEN MY LAND, WHEN I LOOKED AT HOW IT WAS ZONED IT DIDN'T SAY, IT DIDN'T HAVE A SUBSCRIPT THAT SAID, WITH THE POTENTIAL FOR STRIP MINING. DIDN'T,
YOU KNOW, WPSM BY IT. YOU KNOW, I WAS TRUSTING.

SO LET US TRUST IN WHAT YOU SAID IN THE PAST
ABOUT HOW OUR LAND IS ZONED AND LET PEOPLE, THE FUTURE
PEOPLE THAT MAY WANT TO COME TO THIS BEAUTIFUL AREA BE
ABLE TO TRUST THAT WHAT THEY INVEST IN WILL STAY WHAT
THEY THINK IT WILL BE.

I KNOW SEVEN OTHER FAMILIES FROM SOUTHERN
CALIFORNIA THAT EXPENSE WAS TOO HIGH AND THEY WERE
LOOKING FOR A PLACES TO LIVE. THEY CAME AND INVESTED
THEIR LIVES IN SOUTHERN CALIFORNIA. I ADVISED MY
FAMILY, GET OUT. COME LIVE WHERE IT'S MORE AFFORDABLE
AND MORE BEAUTIFUL. I DON'T KNOW THAT I WANT TO GIVE
THAT ADVICE ANY MORE IF THIS GOES THROUGH. I NEVER
PLANNED TO LIVE BY A STRIP MINE.

I HOPE THAT, LIKE THE WORDS OF JESUS. "AND AS
YE WOULD THAT MEN SHOULD DO TO YOU, DO YE ALSO TO THEM
LIKELY." THAT'S LUKE 6:31. IT SUMMARIZES THE
GOLDEN RULE.

MR. ISBILL IN THE PAST MENTIONED IF ANY OF YOU
COMMISSIONERS ARE WILLING TO COME LIVE IN MY PROPERTY
RIGHT NEXT TO THE STRIP MINE, YOU CAN HAVE MY HOUSE.
HE SAID THAT AT THE LAST MEETING. I DON'T THINK YOU
ALL WANT A STRIP MINE NEXT TO YOU. I HOPE THAT YOU
WILL VOTE TO DENY THE ZONING CHANGE.

CHAIRMAN: THANK YOU.
NEXT, MR. NOFFSINGER.

MR. NOFFSINGER: I HAVE NO ONE LEFT ON THE LIST.

MS. ALSIP: I HAVE A QUICK QUESTION.

CHAIRMAN: YES, MA'AM.

MR. SILVERT: STATE YOUR NAME, PLEASE.

MS. ALSIP: MY NAME IS PATTY ALSIP.

(PATTY ALSIP SWORN BY ATTORNEY.)

MS. ALSIP: I'VE JUST BEEN LISTENING TO THE COMMENTS ALL NIGHT. I FEEL LIKE THAT I HAVE TO ASK THIS QUESTION BECAUSE SOME FOLKS HAVE STATED THEIR OPINIONS AND WHETHER THEY ARE PRO OR AGAINST THE STRIP MINING OPERATION.

I LIKE ONIONS. MY HUSBAND HATES THEM. WE'VE LIVED IN THE PLEASANT RIDGE AREA. I'VE LIVED IN THE PLEASANT RIDGE AREA, I LIVE LESS THAN A QUARTER OF A MILE FROM GIRL SCOUT ROAD. I'VE BEEN THERE ALMOST 35 YEARS. I WAS THERE WHEN THEY WERE FINISHING UP AND RECLAIMING THE LAND WITH BOB GREEN. IT'S RIGHT IN MY BACKYARD, AND I MEAN LITERALLY IN MY BACKYARD. SO I HAVE SOME EXPERIENCE WITH STRIP MINING.

I DON'T WANT STRIP MINING IN MY COMMUNITY. I DON'T WANT THE DEVASTATION. I DON'T WANT THE POSSIBILITY OF, WELL, IT'S NOT GOING TO HAPPEN, BUT WHAT IF IT DOES.
MY QUESTION IS THIS: THERE HAS BEEN STRIP MINING DONE BEHIND MY HOUSE. I'M TALKING WITHIN 50 YARDS OF MY HOUSE. I KNOW THE DEVASTATION. I KNOW WHAT HAPPENS. WE BUILT A NEW HOME. SO THE HOME THAT THERE PREVIOUSLY IT'S GONE. WE BUILT A NEW HOME.

BUT IN SAYING THAT, BECAUSE THOSE LANDS BEHIND MY PROPERTY HAS BEEN STRIP MIND, I DON'T HAVE ANY CLUE HOW MANY HUNDREDS OF ACRES MR. GREEN STRIP MINED BEHIND US, BUT I DO KNOW THERE WAS GREAT DEVASTATION TO THE LAND. THAT LAND DOES NOT LOOK THE SAME THAT IT DID 35 YEARS AGO WHEN I MOVED THERE.

MY QUESTION IS: WHEN ALL THAT LAND WAS STRIP MINED, ALL THE ROCK AND ALL THE SHELL WAS TAKEN OUT, WHEN THEY DO BLASTING AT GIRL SCOUT ROAD OR IN THAT AREA AND I'M LESS THAN A QUARTER OF A MILE FROM THAT AREA, THERE IS NOTHING, NO BARRIER THERE NO LONGER TO CUSHION THE SHOCK OF A BLAST. I KNOW WHAT THE BLAST FEELS LIKE. I'VE BEEN THERE. I DON'T WANT A STRIP MINE IN MY BACKYARD. I DON'T WANT IT NEAR MY HOME. I'VE LIVED THERE ALMOST 35 YEARS. I'VE RAISED MY CHILDREN THERE. AS FOR PEOPLE COMING TO DAVIESS COUNTY, I HAVE TWO CHILDREN BOTH WITH COLLEGE EDUCATIONS. MY OLDEST SON HAS A SEMESTER'S DEGREE. MY YOUNGEST SON HAS JUST GOTTEN HIS BACHELOR'S. THEY NEITHER ONE WANT TO WORK IN DAVIESS COUNTY BECAUSE
THEY FEEL LIKE THE BIAS FROM SOME OF THE DECISIONS THAT ARE MADE TO THE CITY AND THE COUNTY, THEY DON'T WANT TO LIVE IN THIS AREA ANY LONGER. IT SADDENS ME THAT PEOPLE'S OPINIONS AND PEOPLE'S RIGHTS DON'T SEEM TO TAKE PRECEDENCE OVER THE ALL MIGHTY DOLLAR OR WHAT SOMEBODY SAID WAS GOOD FOR THEM. WELL, IT MAY BE GOOD FOR THEM, BUT IT'S NOT GOOD FOR ME.

CHAIRMAN: LET ME ASK YOU SOMETHING. THE PROPERTY BEHIND YOU, IT'S ALREADY BEEN RECLAIMED AND IT'S NOT IN THIS CURRENT?

MS. ALSIP: NO. NO. I WAS THERE WHEN BOB GREEN MINED I'M GOING TO SAY AROUND '77, '78. I DON'T KNOW THE YEAR THAT HE ACTUALLY STARTED MINING THAT LAND, BUT IT WAS STRIP MINED. IT WAS RIGHT IN MY BACKYARD.

CHAIRMAN: SO THAT'S ALREADY BEEN DONE AND RECLAIMED?

MS. ALSIP: YES.

CHAIRMAN: THE CLOSEST THE MINE COMES TO YOU NOW WILL BE A QUARTER OF A MILE?

MS. ALSIP: ABOUT A QUARTER OF A MILE.

CHAIRMAN: AND YOUR QUESTION IS: WHAT WILL BE YOUR --

MS. ALSIP: BECAUSE THAT LAND DIRECTLY BEHIND MY PROPERTY HAS BEEN STRIPPED MINED, THEY HAVE ALREADY

OHIO VALLEY REPORTING
(270) 683-7383
TAKEN OUT ALL THE SHELL, ALL THE ROCK. THAT LAND HAS
BEEN DISTURBED. THEY WERE TALKING ABOUT AS THE BLAST
WENT THROUGH THE GROUND, THE SEISMIC WAVES OR WHATEVER
YOU CALL IT WILL BE SLOWED DOWN, WILL BE CUSHIONED BY
WHAT'S IN THE GROUND THERE. THERE'S NOTHING IN THE
GROUND BEHIND MY HOUSE BUT DIRT.

CHAIRMAN: I JUST WANT TO MAKE SURE I
UNDERSTOOD WHAT YOUR QUESTION WAS.

MS. ALSIP: THANK YOU.

CHAIRMAN: MR. NOFFSINGER.

MR. SILVERT: COULD YOU STATE YOUR NAME AGAIN
JUST FOR THE RECORD. YOU'RE ALREADY SWORN.

MR. WHISTLE: CURTIS WHISTLE.

JUST ONE QUICK QUESTION. WE TALK ABOUT A TEN
YEAR MINING PLAN. THE PLANNING STAFF REPORT REFERRED
TO IT AS A SEVEN TO TEN YEAR PROJECT, I THINK. IS
THERE ANY COMMITMENT OR ACCOUNTABILITY TO THAT TEN
YEAR SPAN? THAT'S ALL I HAVE.

CHAIRMAN: THANK YOU.

MR. WILSON, YOU HAVE ONE THAT YOU'RE GOING TO
USE IN YOUR CLOSING; IS THAT CORRECT?

MR. WILSON: I HAVE A COUPLE IN MY CLOSING.

CHAIRMAN: IF WE HAVE NOBODY ELSE FROM THE
AUDIENCE OF ANY MORE STATEMENTS.

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

MR. HAGAN: I'M IVAN HAGAN. (IVAN HAGAN SWORN BY ATTORNEY.)

MR. HAGAN: MY DAUGHTER LIVES RIGHT ACROSS FROM WHERE THEY'RE CRUSHING COAL. WE'VE GOT A SWIMMING POOL AND STUFF. EVERYBODY SAYS, YOU BETTER NOT BUILD A SWIMMING POOL BECAUSE THE DUST WILL GET IN IT. YOU'LL HAVE TO COVER IT UP. IT STAYS CLEAN AS A WHISTLE ALL THE TIME. WE DON'T EVER HAVE ANY PROBLEM WITH DUST OR NOTHING OVER THERE.

CHAIRMAN: HOW FAR.

MR. HAGAN: HOW FAR ARE WE?

CHAIRMAN: YES.

MR. HAGAN: WELL, PROBABLY 1,000 FEET FROM WHERE THEY'RE CRUSHING THE COAL, LOADING IT IN THE TRUCKS AND COMING OUT. THEY GO THE OTHER WAY WITH THE COAL, BUT YOU CAN SEE THEM. THEY'VE GOT CONVEYORS AND THEY'RE PILING IT UP.

CHAIRMAN: IS YOUR PROPERTY ADJOINING OR IS THERE PROPERTY --

MR. HAGAN: IT'S ADJOINING PROPERTY THEY HAVE STRIPPED.

TALKING ABOUT THE GUY WITH THE DOG THERE AWHILE AGO. THERE AIN'T NOBODY GOT AN UGLIER DOG THAN
BRANDON LANHAM AND HE JUST LOVES THAT THING. I SEEN
HIM ON THE GROUND FIGHTING AND KISSING THAT THING, YOU
KNOW. THERE AIN'T NOBODY GOT AN UGLIER DOG THAN
BRANDON. THEY LOVE ANIMALS. SO I KNOW THEY DIDN'T DO
THAT ABOUT WRITING THAT LETTER THAT POOR BOY WAS
TALKING ABOUT. I FEEL SORRY FOR HIM THOUGH WHOEVER
WROTE THAT LETTER.

CHAIRMAN: IF THERE ARE NO OTHER COMMENTS FROM
THE AUDIENCE?

MR. MITCHELL: CAN I MAKE JUST ONE QUICK
COMMENT?

CHAIRMAN: YES, SIR.

MR. SILVERT: STATE YOUR NAME AGAIN FOR THE
RECORD. I KNOW YOUR WERE PREVIOUSLY SWORN.

MR. MITCHELL: BILL MITCHELL.

I LIVE OVER 15 MILES FROM ARMSTRONG COAL
COMPANY IN OHIO COUNTY. OUR REGULAR BASIS FILL WITH
AIR BLAST. IT'S AIR BLAST. THAT'S 15 MILES. THEY'RE
TALKING ABOUT BUILDING A WASH PLANT IN DAVIESS COUNTY
AND BRINGING OHIO COUNTY COAL TO DAVIESS COUNTY TO
WASH THE COAL.

YOU WON'T BE DOING THAT? OKAY.

I WAS WORRYING ABOUT THE SLURRY, WHERE DOES IT
GO BACK TO. IT GOES BACK TO -- TRUCKS BACK TO OHIO
COUNTY OR WHERE THAT GOES TO?
CHAIRMAN: WHAT'S YOUR QUESTION?

MR. MITCHELL: IF WE'RE WASHING COAL IN DAVIESS COUNTY, OHIO COUNTY COAL, THEY'VE ALREADY BEEN, THE WAY I UNDERSTAND THEY ALREADY HAVE THE GROUND LEASED IN OHIO COUNTY.

ALSO, THE COMPANY DOING THE BLASTING FOR ARMSTRONG DOWN IN CENTERTOWN IS THE SAME BLASTING COMPANY I BELIEVE THAT WESTERN KENTUCKY MINERALS USES. WE'RE FEELING BLAST OVER 15 MILES AWAY, BUT IT'S NOT THE GROUND SHAKING. IT'S THE AIR BLAST THAT DOES THE DAMAGE.

CHAIRMAN: YOUR QUESTION IS ABOUT THE AIR BLASTING; IS THAT CORRECT?

MR. MITCHELL: YES, SIR.

CHAIRMAN: THANK YOU. IF THAT CONCLUDES EVERYBODY --

MR. ALLEN: MR. CHAIRMAN, THERE WAS ONE GENTLEMAN OVER HERE.

MR. SILVERT: STATE YOUR NAME, PLEASE.

MR. SANDS: MY NAME IS CHESTER SANDS.

(CHESTER SANDS SWORN BY ATTORNEY.)

MR. SANDS: I BROUGHT UP A QUESTION BEFORE AND I HAVEN'T GOT NO ANSWER TO IT YET.

YOU SAY YOU BLAST UP TO THE ROAD. OKAY. WE GOT PLASTIC LINES, WATER LINES UP AND DOWN THESE
ROADS. WHAT IS THE DEAL ON THAT?

CHAIRMAN: ALL RIGHT, SIR. THANK YOU.

MR. SANDS: NO ANSWER?

CHAIRMAN: NO, SIR. I'M GOING TO ANSWER ALL THE QUESTIONS AT ONE TIME. THAT'S THE WAY WE'RE DOING IT.

MR. WILSON.

MR. WILSON: IF THE CHAIR WANTS TO TAKE A BREAK. MR. OVERSTREET IS HERE TESTIFYING ON HIS OWN BEHALF AS A PROPERTY OWNER AND ON BEHALF OF ANOTHER PERSON WHO OWNS PROPERTY AS AN ATTORNEY AND A RESIDENT. HE'S NOT ONE OF MY CLIENTS AND HE'S NOT ONE OF MY PEOPLE.

CHAIRMAN: IF HE'S OUR LAST ONE --

MR. WILSON: I HAVE TWO OF MY CLIENTS.

CHAIRMAN: BUT YOU'RE GOING TO USE THEM IN WRAP UP.

MR. WILSON: I SAY IN MR. REEVES BENEFIT, I'M APPROXIMATELY HIS AGE, AND I WOULD BE GLAD TO TAKE A BREAK.

CHAIRMAN: I DID NOT BRING THAT UP, MR. WILSON.

LET'S TAKE A QUICK BREAK.

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

CHAIRMAN: WE ARE BACK ON THE RECORD.
MR. SILVERT: STATE JURY NAME PLEASE.

MR. OVERSTREET: KENT OVERSTREET.

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

MR. OVERSTREET: FIRST, I WOULD LIKE TO BEGIN BY ADDRESSING THE PROCEDURE THAT WE'VE BEEN FOLLOWING TONIGHT. IT HAS VARIED SOMEWHAT THROUGHOUT THE NIGHT. I HAVE PREPARED IN ADVANCE WHEN I HAD SEEN -- WHEN I SAW THE RELEASE IN THE NEWSPAPER THAT FOLKS WERE GOING TO BE LIMITED TO THREE MINUTES TO ADDRESS AN ISSUE AS IMPORTANT AS IMPACTING THE VALUE OF THEIR HOMES, IMPACTING THEIR HEALTH, IMPACTING THEIR LIVELIHOODS, THEIR CHILDREN, I FELT COMPELLED. SO FOR THE RECORD, AND I WOULD ASK THAT IT BE ENTERED, I PREPARED AN OBJECTION TO THE PLANNING COMMISSION'S LIMITATION TO ADDRESS THE NEW MINE APPLICATION WHICH IS THE SUBJECT MATTER OF THIS PUBLIC HEARING WHICH VIOLATES DUE PROCESS AND EQUAL PROTECTION CLAUSES OF THE UNITED STATES AND THE COMMONWEALTH OF KENTUCKY CONSTITUTIONS.

FIRST, DUE PROCESS UNDER THE UNITED STATES AND KENTUCKY CONSTITUTES REQUIRE THAT EVERY PERSON, PARTY OR ENTITY BE PROVIDED A "MEANINGFUL OPPORTUNITY TO BE HEARD."

MR. SILVERT: KENT, I'M GOING TO STOP YOU FOR
A MOMENT SINCE YOU'RE READING. YOU PUT THIS INTO THE RECORD AND IT'S DUALLY NOTED. AS YOU'VE NOTICED, WE HAVEN'T LIMITED TO PEOPLE TO THREE MINUTES TONIGHT. WE'VE HAVE BEEN KEEPING TRACK OF THAT PRETTY SERIOUSLY.

MR. OVERSTREET: JUST LET THE RECORD REFLECT THAT THERE WERE SOME INDIVIDUALS --

MR. SILVERT: THAT YOU WOULD HAVE HAD A PROBLEM WITH IF WE HAD LIMITED THEM.

MR. OVERSTREET: YES. TO THOSE INDIVIDUALS WERE LIMITED THE PROCESS HAS BEEN HAMPERED AND THEY OTHERWISE HAVE BEEN DENIED THAT MEANINGFUL OPPORTUNITY.

MR. SILVERT: WE'LL AGREE TO DISAGREE ON THAT, MR. OVERSTREET, BUT NO ONE WAS.

CHAIRMAN: EVERYONE WAS GIVEN THEIR EQUAL OPPORTUNITY TO SPEAK. MANY PEOPLE WENT OVER. SOME PEOPLE WERE SHORT. EVERYBODY WAS ASKED TO SUMMARIZE THEIR QUESTIONS. THEY DID. PEOPLE THAT FELT LIKE THEY DIDN'T GET ENOUGH, WE BROUGHT THEM BACK. WE LET THEM BRING THEIR EVIDENCE BACK. NOBODY WAS CUT SHORT.

MR. SILVERT: MY FEELING IS THERE WILL PROBABLY BE AMPLE TIME FOR LEGAL ARGUMENTS.

CHAIRMAN: THANK YOU.

MR. OVERSTREET: I AGREE WITH YOU 100 PERCENT.
I'VE PROVIDED EACH OF YOU WITH A COPY OF A WRITTEN ARGUMENT. I HAVE ALSO GIVEN TO THE COURT REPORTER ALL THE CASE LAW THAT SUPPORTS IT.

NEXT I WOULD LIKE TO BEGIN WITH A STATUTE THAT WAS PARTIALLY READ BY MR. NOFFSINGER. KRS 350.020, DECLARATION OF LEGISLATIVE POLICY AND FINDING OF FACT.

NOW, A PORTION OF THIS WAS READ. THE PORTION THAT WAS NOT READ STATES, "THE GENERAL ASSEMBLY FINDS THAT THE COMMONWEALTH IS THE LEADING PRODUCER OF COAL AND THAT PRODUCTION OF COAL IN KENTUCKY CONTRIBUTES SIGNIFICANTLY TO THE NATION'S ENERGY NEEDS. THE GENERAL ASSEMBLY FURTHER FINDS THAT UNREGULATED SURFACE COAL MINING OPERATIONS CAUSE SOIL EROSION, DAMAGE ROLLING STONE AND OVERBURDEN, LANDSLIDES, STREAM POLLUTION, THE ACCUMULATION OF STAGNANT WATER, AND THE SEEPAGE OF CONTAMINATED WATER, INCREASING THE LIKELIHOOD OF FLOODS, DESTROY THE VALUE OF LAND FOR AGRICULTURAL PURPOSES, DESTROY ITS ESTHETICS VALUES, COUNTERACT EFFORTS FOR THE CONVERSATION OF SOIL, WATER AND OTHER NATURAL RESOURCES, DESTROY OR IMPAIR THE PROPERTY RIGHTS OF CITIZENS AND CREATE FIRE HAZARDS, AND IN GENERAL CREATE HAZARDS DANGEROUS TO LIFE AND PROPERTY, SO AS TO CONSTITUTE AN IMMINENT AND INORDINATE PERIL TO THE WELFARE OF THE COMMONWEALTH."

OBVIOUSLY THE LEGISLATURE SEES THE PROBLEMS
WITH STRIP MINING. NOW, EVERYBODY KEEPS SAYING, WE
HAVE ALL THESE REGULATIONS. WE HAVE ALL THESE RULES.
WELL, THERE'S A REASON FOR THAT. IT'S AN
ULTRAHAZARDOUS ACTIVITY. YOU'RE USING EXPLOSIVES.

AS THE GENTLEMAN TESTIFIED EARLIER, AND I
THINK MR. VANMILLIGAN SAID, IF YOU USE AN M80 YOU'RE
NOT GOING TO DO A LOT OF DAMAGE. WE'RE DEPENDING ON
THE DISTANCE. TO SOME EXTENT YOU'RE DEPENDING ON
GEOLOGY. YOU'RE DEPENDING ON THE STRUCTURE OF A HOME.
IS IT A MODULAR HOME? IS IT A MOBILE HOME? DOES IT
HAVE A CINDER BLOCK FOUNDATION? IS IT A SLAB? SO WE
HAVE IMMINENT PERIL TO ALL OF THE HOMEOWNERS NO MATTER
WHAT TYPE OF RESIDENCE YOU'RE IN.

YOU HAVE THE BLASTING ROCK. THEY WANT TO ACT
AS IF THIS IS A CONTROLLED SITUATION. THE CONTROLLED
SITUATION IS A MASSIVE EXPLOSION THAT RESULTS IN THE
TOTAL DISRUPTION OF THE SURFACE AND DOWN AS FAR AS
THEY WANT TO GO.

THEY TALK ABOUT SOIL RECLAMATION AND THEY TALK
ABOUT ALL THE OBLIGATIONS UNDER FEDERAL LAW. IT JUST
SO HAPPENS, AND THE COMMISSION HAS ASKED ABOUT THIS AS
WELL. UNFORTUNATELY I ONLY HAVE ONE COPY.

IT JUST SO HAPPENS THAT KENTUCKY HAS THE
DUBIOUS DISTINCTION OF BEING THE SUBJECT OF A REPORT
TO THE CONGRESSIONAL REQUESTERS. CONGRESS ACTUALLY
REQUESTED A REPORT TO BE PREPARED ON STRIP MINING, THE
PRACTICES AND ACTUALLY HOW PEOPLE WERE DOING IN
CONFORMING WITH BOTH THE FEDERAL LAWS AND THEIR STATE
LAWS.

IT CAME DOWN TO KENTUCKY, TENNESSEE, WEST
VIRGINIA AND VIRGINIA. ON PAGE, ACTUALLY IT'S THE
INITIAL PAGE OF WHAT THE GAO FOUND.

THEIR CONCLUSIONS, AND THEY'RE REFERRING TO
MOUNTAIN TOP MINING AS WELL AS THE DESTRUCTION OF
OTHER HILLS AND FILLING IN VALLEYS AND NOT RESURFACING
IT ACCORDINGLY.

IT SAYS, "ACCORDING TO THE US GEOLOGICAL
SURVEY, THEY HAVE CONDUCTED OR FUNDED ANALYSES OF
CONDITIONS NEAR RECLAIMED MINE SITES WITH VALLEY FILL
THAT HAVE SHOWN ENVIRONMENTAL IMPACTS. SPECIFICALLY
ANALYSES HAVE SHOWN:

1) RESTORATION EFFORTS AT SOME RECLAIM
SURFACE COAL MINE SITES NEEDED IMPROVEMENT;

2) SURFACE COAL MINE SITES HAVE CONTAMINATED
STREAMS AND HARMed ORGANISM;

3) VALLEY FILLS MAY HAVE AFFECT WATER FLOW;

AND

4) MINE OPERATORS HAVE NOT ALWAYS RETURNED
MINE SITES TO THEIR APPROXIMATE ORIGINAL CONTOUR WHEN
REQUIRED TO DO SO UNDER SMCRA, WHICH IS THE MINE
RECLAMATION ACT.

THEY ALSO HAVE STATEMENTS FROM VARIOUS ORGANIZATIONS WHICH INCLUDE THE EPA THAT IS ATTACHED TO THAT REPORT.

I APOLOGIZE. I FORGOT MY GLASSES.

THE EPA IN A LETTER THAT IS ATTACHED IS DATED DECEMBER 24, 2009.

IT SAYS, "I WOULD LIKE TO TAKE THIS OPPORTUNITY TO RECOGNIZE ONE OF THE KEY PREMISES ON WHICH THIS REPORT IS BASED. THE IMPORTANCE OF BETTER UNDERSTANDING THE LONG-TERM IMPLICATIONS OF AUTHORIZED SURFACE MINING ACTIVITIES. AS THE DRAFT REPORT POINTS OUT, VALLEY FILLS HAVE DIRECTLY IMPACTED ALMOST 1,100 MILES OF STREAMS IN THE CENTRAL APPALACHIAN, STATE OF KENTUCKY, TENNESSEE, VIRGINIA AND WEST VIRGINIA FROM 1985 THROUGH 2005. FURTHERMORE, THE DRAFT REPORT REFERS TO A RECENT FINDING FROM THE FINAL REPORT GAO 1021 WHICH STATES THAT NEARLY 2000 VALLEY FILLS WERE APPROVED IN THE STATES OF KENTUCKY AND WEST VIRGINIA FROM 2000 TO 2008. THESE AND OTHER DATA PRESENTED IN BOTH GAO REPORTS PROVIDE HELPFUL CONTEXT FOR FEDERAL AND STATE AGENCIES AS WE CONTINUE TO WORK TOGETHER TO ADDRESS BOTH THE NEAR AND LONG-TERM CONSEQUENCES OF SURFACE COAL MINING ACTIVITIES ON THE ENVIRONMENT, WATER QUALITY AND APPALACHIAN COAL FILL COMMUNITIES."
I would ask that that also be placed in the record.

As far as the actual proposal of the strip mining, again, I prepared a written response. I will submit to the Court Reporter as well, these are the exhibits, statutes, regulations that go with those.

As far as the arguments for or against the strip mining, the law has a very stringent requirement.

The first argument as presented there goes through the modification of zoning regulations under a comprehensive plan requires that the rezoning be in agreement with the comprehensive plan where that there has been an unanticipated major change since the adoption of the comprehensive plan.

Now, I will add in a case that is attached, the Jefferson County Planning & Zoning Commission and D.R. Horton, Incorporated versus Schmidt, will tell you that prerequisite to even give those two is that you have had a due process hearing opportunity to be heard which includes consideration of a matter and a cause that you're there on.

As a brief summary, which has been adopted by the Kentucky Supreme Court, they stated, "Only after development of such a comprehensive plan may fiscal

"ONCE THESE ZONES ARE ESTABLISHED, DEVELOPMENT MUST PROCEED IN ACCORDANCE WITH THE REGULATIONS UNLESS THE REQUIREMENTS ARE MODIFIED. AND EVEN HERE THE LEGISLATURE HAS HEMMED IN FISCAL COURT'S ABILITY TO PERMIT DEPARTURES FROM THE ZONING REGULATIONS. THE ENABLING LEGISLATION RECOGNIZES TWO WAYS IN WHICH THE CONDITIONS MAY BE MODIFIED.

"ONE WAY TO AVOID AN EXISTING REGULATION IS TO REZONE THE PROPERTY. IF A LANDOWNER WISHES TO REZONE A PROPERTY, THE STATUTES SPECIFY IN DETAIL THE PROCEDURE THAT MUST BE FOLLOWED. AMONG OTHER THINGS THERE MUST BE PUBLIC HEARINGS, RECOMMENDATIONS BY THE PLANNING COMMISSION, AND FINAL ACTION BY FISCAL COURT. EVEN IF THIS PROCEDURE IS FOLLOWED, THE ZONING CHANGE IS ONLY PERMISSIBLE IF CERTAIN CRITERIA ARE MET."

AND IT REFERS TO KRS 100.213.

"THE REZONING MUST EITHER BE IN AGREEMENT WITH THE ORIGINAL COMPREHENSIVE PLAN OR THERE MUST HAVE
BEEN AN UNANTICIPATED MAJOR CHANGE IN CIRCUMSTANCES
SINCE THE ADOPTION OF THE PLAN. IN SHORT, REZONING
INvolves a major undertaking."
I WOULD SUBMIT TO THE COMMISSION THAT WESTERN
KENTUCKY MINERALS HAS NOT MET THAT BURDEN.
FIRST, THEY HAVE NOT SHOWN THAT THERE IS AN
UNANTICIPATED MAJOR CHANGE AS THE COAL -- THE COAL
HASN'T CHANGED. IT'S BEEN THERE. YOU ALL HAVE BEEN
ASKED ON MORE THAN ONE OCCASION TO ADDRESS THAT.
IT'S BEEN CORE DRILLED BY OTHER COMPANIES.
IT'S BEEN LEFT IN THE GROUND BY OTHER COMPANIES. SOME
OF IT HAS BEEN TAKEN BY SOME COMPANIES, BUT THERE'S
BEEN NO CHANGE. THE TREES ARE STILL GROWING. THE
GRASS IS STILL GREEN FOR NOW.
THE SAME FOLKS ARE LIVING THERE FOR THE MOST
PART. IT'S A RURAL RESIDENTIAL COMMUNITY.
NOW, I WOULD ALSO POINT OUT THAT THE COAL
SEAMS THAT WERE PRESENT IN '86 AND '93 WERE THERE
PRIOR TO THE ADOPTION OF THE COMPREHENSIVE PLAN. SO
THE ONLY CHANGE FROM '86, '93 OR 2007 WHEN THE
COMPREHENSIVE PLAN WAS ADOPTED IS THAT THERE ARE:
A) MORE FAMILIES;
B) MORE PRODUCTIVE FARMLAND BECAUSE WE HAVE
BETTER TECHNIQUES;
C) MORE OF A TAX BASE GIVEN THE ADDITIONAL
HOMES BUILT, AS WELL AS THE VALUE OF THOSE HOMES.

THERE ARE MORE "RURAL FARM RESIDENTIAL USE," AS
DEFINED IN THE COMPREHENSIVE PLAN AT PAGE 48. THERE'S
MORE CHILDREN WHOSE HEALTH, SAFETY AND WELFARE WILL BE
IMPACTED.

THE ONLY THING THERE'S NOT ANY MORE OF IS
COAL. THAT'S THE ONE CONSTANT.

IN REVIEWING THE IMPACTED PARCELS THAT WOULD
BE TOUCHED BY THE STRIP MINING, IT'S NOT JUST THOSE
THAT ARE IN THE PLAN. IT'S THOSE FOLKS THAT ARE
AROUND IT. I'M NOT IN THE ZONE, BUT I'M RIGHT NEXT TO
IT. I FEEL QUITE CERTAIN WHEN THOSE BLASTS GO OFF,
I'VE GOT A 100 POUND DOBERMAN I PROBABLY WON'T SEE
AGAIN.

IN LOOKING AT THE PLAN, THE COMPREHENSIVE PLAN
SAYS THAT, "RURAL FARM RESIDENTIAL USE IS DEFINED AS
'CONSISTING OF SINGLE-FAMILY DWELLINGS LOCATED ON
LARGE AGRICULTURAL TRACTS IN RURAL AREAS." THE
DEFINITION GOES ON TO INCLUDE THE SPECIFIC CRITERIA
THAT APPLY WHICH IS, "LARGE TRACTS WITH AGRICULTURAL
POTENTIAL." IT DOESN'T SAY THEY HAVE TO HAVE ROW
CROPS. IT DOESN'T SAY THEY HAVE TO HAVE ANYTHING. IT
JUST HAS TO HAVE THE POTENTIAL FOR FARM USE. CATTLE,
HORSES, HAY, SOY BEANS, CHRISTMAS TREES. ANYTHING
THAT CAN BE CONSIDERED AGRICULTURAL.

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THE COMPREHENSIVE PLAN ALSO IN ANOTHER SECTION REFERS TO FIVE ACRES AS BEING A LARGE RURAL LOT. THE ONLY OTHER REQUIREMENT IS ACCESS TO EXISTING PUBLIC ROADS VIA PRIVATE DRIVE.

NOW, THAT DEFINITION OF A LARGE RURAL RESIDENCE IS GOING TO INCLUDE A LOT OF THE HOMES THAT ARE IMPACTED HERE.

NOW, THERE'S BEEN A LOT OF DISCUSSION THAT PEOPLE ARE ON NOTICE THAT THERE'S MINING. IF YOU REVIEW THE PLAN, UNDER THE COMPREHENSIVE PLAN, A RURAL FARM RESIDENTIAL USE DOES NOT REQUIRE ACTUAL AGRICULTURAL ACTIVITIES, BUT IT'S THE POTENTIAL. I'M SORRY, I SKIPPED.

YOU DON'T HAVE THE WARNING OF THE STRIP MINING UNTIL YOU GET TO THE CLASSIFICATION BELOW LARGE RURAL AGRICULTURAL DWELLINGS. IT'S NOT UNTIL YOU GET TO THE AGRICULTURAL COMMUNITY TYPE SITUATION. IN THIS INSTANCE, THAT'S THE 70 ACRES THAT EVERYONE KEEPS REFERRING TO WHERE THE HOMES ARE CLUSTERED. AS FAR AS THE POTENTIAL FOR AGRICULTURAL USE, THE REQUIREMENTS THAT ARE SET FORTH IN THE COMPREHENSIVE PLAN ARE:

A) A SINGLE-FAMILY DWELLING;

B) A LARGE AGRICULTURAL TRACT;

C) IN A RURAL AREA;

D) AGRICULTURAL POTENTIAL; AND
E) ACCESS TO AN EXISTING PUBLIC ROAD VIA
PRIVATE DRIVE.

I THINK IT GOES WITHOUT SAYING THERE'S NOT A
STRIP MINE THAT WILL MEET ANY OF THOSE CRITERIAS.
IN FACT, IT'S GOING TO REMOVE THE NUMBER OF
PROPERTY OWNERS FROM THE RURAL FARM RESIDENTIAL USE
BECAUSE WHEN THEIR PROPERTY IS TAKEN, THEY'RE NO
LONGER GOING TO HAVE THAT ACREAGE. OBVIOUSLY, IT'S
GOING TO BE RECLAIMED AT SOME POINT, BUT QUITE FRANKLY
WE ALL KNOW IT'S NOT GOING TO SUBJECT TO AGRICULTURAL
POTENTIAL AT THAT POINT. IT WON'T EVEN GROW THE GRASS
THAT'S INDIGENOUS TO THIS AREA. IT LOOKS LIKE THE
SCREEN SAVER THAT WE HAD ON THE SCREEN EARLIER WHEN
THEY SHOWED THE LITTLE BACKGROUND THROUGH THE WINDOWS.
IT'S A FAKE SHADE OF GREEN THAT WE DON'T EVEN HAVE IN
THIS COUNTY.

NOW, THE KENTUCKY SUPREME COURT STATED IN THE
WARREN COUNTY CITIZENS FOR MANAGE GROWTH, INCORPORATED
VERSUS THE BOARD OF COMMISSIONERS OF THE CITY OF
BOWLING GREEN, "SINCE THE PURPOSE OF ZONING IS NOT TO
PROTECT THE VALUE OF THE PROPERTY OF PARTICULAR
INDIVIDUALS BUT RATHER TO PROMOTE THE WELFARE OF THE
COMMUNITY AS A WHOLE AND IF PROPER REZONING DAMAGES
THE ENTIRE COMMUNITY BECAUSE IT CAUSES INSECURITY OF
PROPERTY VALUE THROUGHOUT THE AFFECTED AREA."
I DON'T KNOW HOW MANY FOLKS HAVE SAID THAT
HERE TONIGHT. I DON'T KNOW WHAT MY HOUSE IS WORTH. I
DON'T KNOW WHAT IT'S GOING TO DO. WE'VE HAD TESTIMONY
ABOUT THE DIMINUTION IN VALUE. THE SUPREME COURT HAS
RECOGNIZED THAT THAT IS A VALID CONCERN.

THE STRIP MINING WILL CREATE INSECURITY OF THE
PROPERTY VALUES, BUT IT WILL ALSO ADVERSELY AFFECT THE
PROPERTY VALUES AS MANY PEOPLE HAVE TESTIFIED TO.

MR. WHISTLE PROVIDED AMPLE TESTIMONY ON THAT
ISSUE.

THE COURT HAS ALSO SAID, THE SUPREME COURT HAS
ALSO SAID IN FRITTS VERSUS THE CITY OF ASHLAND, "THE
OVERALL PURPOSE OF ZONING IS TO PROMOTE THE COMMON
GOOD AND GENERAL WELFARE OF THE COMMUNITY AS A WHOLE."

AT THIS POINT YOU'RE BEING ASKED TO
ACCOMMODATE A MINING OPERATION THAT I BELIEVE THEY
SAID THEY CAN OFFER ABOUT 20 OR 30 JOBS. THEY TALK
ABOUT WHAT GOOD PAYING JOBS THEY ARE. LET'S CONSIDER
THAT.

THE FOLKS THAT GENERALLY MAKE THE MOST MONEY
ARE EITHER: A) THE MOST EDUCATED; OR B) PERFORM THE
MOST DANGEROUS WORK. THEY ALL LOVE THE COAL MINE NOW,
BUT IN MY PRACTICE AS AN ATTORNEY I ALSO DO WORKERS' COMP. WHEN THEY COME IN AND THEY'RE HACKING UP BLACK
FLUID AND THEY WANT TO FILE A BLACK LUNG CLAIM, IT'S
NOT THE GREATEST PLACE TO WORK ANYMORE.

NOW WE'RE GOING TO EXPOSE THE CITIZENS AND THE
CHILDREN TO THAT AS WELL. WE'RE GOING TO KEEP THE
DUST IN A CONFINED SPACE. I'M NOT EVEN SURE HOW TO
ADDRESS THAT. IT'S IMPOSSIBLE. AND TO SAY THAT THE
DUST DOESN'T TRAVEL. I GREW UP ON A HORSE FARM. WE
HAD A RACETRACK WHERE WE TRAINED OUR HORSES THAT WAS
300 YARDS FROM MY PARENT'S HOME. WE HAD A SWIMMING
POOL AND WE HAD TO VACUUM IT EVERY OTHER DAY BECAUSE
WE WOULD TAKE THE HORSES AROUND THE TRACK AND THE DUST
FROM THAT TRACK, WHICH IS GOING TO BE NOTHING COMPARED
TO THIS, WAS IN THAT POOL EVERY DAY. YES, WE HAD TO
BREATHE IT. WHEN WE WERE ON THAT TRACK WE HAD TO WEAR
FACE MASKS.

THESE FOLKS BOUGHT A RURAL LIFESTYLE. THEY
BOUGHT INTO A RURAL LIFESTYLE. I LIKE THE FACT, AS
ONE LADY SAID, I CAN OPEN UP THE WINDOWS. I CAN SAVE
ON MY AIR-CONDITIONING, BUT MORE IMPORTANTLY TO ME I
CAN WAKE UP EVERY MORNING AND LISTEN TO THE BIRDS
CHIRPING OUTSIDE MY WINDOW. I CAN WAKE UP AND SEE
NOTHING BUT TREES; 60, 70 FOOT TREES. IT'S ONE REASON
I BROUGHT THE PROPERTY. IT'S ONE REASON I LOVE TO
LIVE WHERE I LIVE. I DON'T WANT TO BE IN TOWN.

CHAIRMAN: MR. OVERSTREET, AS YOU'RE GOING ON
WITH YOUR PRESENTATION, YOU MADE SEVERAL STATEMENTS.
ONE ABOUT PEOPLE COUGHING UP BLACK STUFF, BLACK LUNG.

MR. OVERSTREET: SURE. IT'S CALLED BLACK LUNG.

CHAIRMAN: HAVE YOU HAD ANY FORMER EMPLOYEES OF MR. LANHAM'S OPERATION COME IN?

MR. OVERSTREET: NOT THAT I RECALL, BUT --

CHAIRMAN: YOU MADE SOME STATEMENTS THERE ABOUT YOU LIVING ON THE RACETRACK AND EVERYTHING. WE HAD SOME PEOPLE ON THEIR SIDE THAT MADE SAME SWORN STATEMENTS THAT LIVE NEAR THESE OPERATIONS. THAT MADE SWORN STATEMENTS ABOUT THE SITUATIONS THAT THEY INCURRED AND WHAT THEY WENT THROUGH.

NOW, OBVIOUS ON YOUR SIDE YOU'RE MAKING STATEMENTS, BUT DO YOU HAVE ANY SWORN WITNESSES THAT I CAN ASK THE SAME QUESTIONS?

MR. OVERSTREET: NO, SIR, BUT I DO HAVE COMMON SENSE.

CHAIRMAN: WELL, I CAN'T CROSS EXAMINE THAT.

MR. OVERSTREET: I CAN TAKE A VACUUM BAG AND I CAN OPEN IT UP IN THE MIDDLE OF THIS ROOM RIGHT NOW AND IF I THROW IT DOWN IN THE FLOOR, THERE'S GOING TO BE DUST EVERYWHERE AND PEOPLE ARE GOING TO BE COUGHING.

CHAIRMAN: I UNDERSTAND THAT.

MR. OVERSTREET: YOU'RE NOT REQUIRED TO PUT
YOUR COMMON SENSE AT THE DOORSTEP WHEN YOU MAKE THIS
DECISION, SIR.

CHAIRMAN: I UNDERSTAND THAT, BUT WE HAVE
PEOPLE THERE THAT TESTIFIED UNDER OATH.

MR. OVERSTREET: AND THEY'RE ALL EMPLOYED.

CHAIRMAN: THEY DID THAT. YOU'VE MADE
STATEMENTS, BUT IF YOU HAVE PEOPLE I WISH YOU WOULD
BRING THEM FORWARD SO I CAN PUT THEM OR THIS
COMMISSION CAN ASK THEM QUESTIONS, WHICH I FEEL IS
ONLY FAIR.

MR. OVERSTREET: THE LAST GENTLEMAN THAT
STEPPED UP, WHAT WAS THE FIRST THING HE DID WHEN WE
STOOD UP? HE STARTED COUGHING.

CHAIRMAN: I HAVE NO MEDICAL TRAINING TO
DECIDE WHY HE COUGHED.

MR. OVERSTREET: WE CAN DISREGARD THAT. BUT I
THINK WE CAN ALL AGREE IF YOU'RE IN A ROOM WITH DUST
OR IF YOU'RE STANDING OUTSIDE AND THERE'S DUST, IT
GETS TO YOU. THIS ISN'T A SITUATION WHERE --

CHAIRMAN: MR. OVERSTREET, I RESPECT YOUR
OPINIONS, BUT I'M WANTING TO GET TO SOME SWORN
STATEMENT THAT WE CAN LISTEN TO OR PEOPLE THAT WE CAN
QUESTION BECAUSE JUST STATEMENTS, YOU KNOW, YOU'RE AN
ATTORNEY. WE'VE GOT TO HAVE SOME PEOPLE THAT HAVE
BEEN IN AREAS WHERE WE CAN --
MR. OVERSTREET: WELL, APPARENTLY WE HAD A
GENTLEMAN IN THE AUDIENCE WHO LIVES NEAR THE
KNOTTSVILLE SITE WHO MAY BE WILLING TO OFFER
TESTIMONY.

CHAIRMAN: I'M JUST SAYING, YOU KNOW, WE WANT
EVIDENCE. I'M NOT SAYING --

MR. OVERSTREET: YOU JUST ASKED FOR THAT. I
UNDERSTAND, SIR.

CHAIRMAN: OKAY.

MR. OVERSTREET: THERE IS NOTHING IN THE LAW
THAT SAYS THAT COMMON SENSE CAN'T BE UTILIZED. I
GUESS THAT'S WHERE WE DIFFER.

CHAIRMAN: I'M NOT DISAGREEING. I'M JUST
SAYING, I'M LOOKING FOR A SWORN STATEMENT OF SOMEBODY
THAT WE CAN QUESTION.

MR. OVERSTREET: WE'RE TALKING ABOUT
ULTRAHAZARDOUS ACTIVITIES. WE'RE TALKING ABOUT
BLASTING. WE'RE TALKING ABOUT FUEL STORAGE ON SITE.
WE'RE TALKING ABOUT GENERATORS TO RUN THE LIGHTS ALL
NIGHT. I WAS TRYING TO THINK WHILE I WAS STANDING
BACK THERE, YOU KNOW, WHAT WOULD IT BE SIMILAR TO? I
DON'T KNOW. MAYBE BEING AT THE DAVIESS COUNTY HIGH
SCHOOL FOOTBALL STADIUM WHENEVER THEY SET OFF
SOMETHING. YOU KNOW, YOU'VE GOT THE LIGHTS IN YOUR
BACKYARD. SURE, THEY'RE 300 FEET AWAY.
CHAIRMAN: I DO.

MR. OVERSTREET: BUT, YOU KNOW, I DIDN'T BUY 300 FEET AWAY. I BOUGHT 30 ACRES. I BOUGHT WHAT I THOUGHT WAS MY PEACE AND QUIET. I DON'T KNOW IF ANY OF YOU ALL HAVE EVER BEEN OUT THERE, BUT I WOULD INVITE YOU TO COME OUT TO MY PLACE. I'VE GOT A WALKING TRAIL THAT GOES AROUND 30 ACRES WORTH OF WOODS. YOU WALK THROUGH IT AND IT'S NICE AND PEACEFUL AND YOU CAN STEP ACROSS STREAMS THAT AREN'T CONTAMINATED WITH SULFUR OR LEAD OR ANYTHING ELSE. THEY'RE TALKING ABOUT SEISMIC WAVES AND WHAT WILL AND WON'T DO. NO ONE KNOWS. IT'S GOING TO DEPEND ON THE GROUND. IT'S GOING TO DEPEND ON THE STRUCTURE. IT'S GOING TO DEPEND ON WHAT ROCKS ARE IN-BETWEEN, WHAT TYPE OF SURFACES, BUT WHAT WE DO KNOW BASED UPON WHAT THEY SAID IS THAT WHAT THEY'RE DOING IS THIS PUTTING SILICA IN THE AIR. SAND. WE ALSO HAVE THE COAL DUST. PNEUMOCONIOSIS ULTIMATELY. SO WE HAVE WHAT THEY'RE PUTTING IN THERE.

ASIDE, BEFORE I WAS A LAWYER I WAS A MICROBIOLOGIST. I ACTUALLY WORKED ON TRYING TO TAKE THE SULFUR OUT OF KENTUCKY COAL USING BACTERIA BECAUSE THE MARKET WAS DYING, BECAUSE OF A HIGH SULFUR CONTENT AND THE ACID RAIN AND THE OTHER AFFECTS THAT IT HAS.

THE MARKET, EVERYONE SEEMS TO BE FOCUSED ON
WHAT A GREAT BENEFIT THIS IS GOING TO BE FOR THE COUNTY BECAUSE OF COAL SEVERANCE TAX. IT'S THE TEN YEARS. THE VALUE OF THOSE HOMES ARE DIMINISHED FOREVER.

YOU KNOW, THEY CAN SHOW YOU ALL THOSE PRETTY PICTURES OF THE ROLLING HILL, GRASS, BUT NOTHING, THEY CAN'T SHOW YOU ANY OF THEM THAT HAS A 60 FOOT TREE, UNLESS IT WAS LEFT THERE BY SOME FREAK OF NATURE, BECAUSE IT WASN'T BLOWN OUT OR TORN OUT BY A BULLDOZER.

I DON'T WANT A NICE LITTLE ROLLING HILL. I LIKE THE FACT THAT I CAN'T SEE MY NEIGHBORS. THEY LIKE THE FACT THEY CAN'T SEE ME. THAT'S WHAT PEOPLE BUY. THEY BUY WHAT THEY WANT.

AGAIN, NOBODY HERE IS GOING TO THE COAL COMPANY MOVING NEXT TO A MINE AND COMPLAIN. EVERYBODY IS WHERE THEY ARE. THEN THEY'RE NOW ASKING YOU TO LET THE NUISANCE COME TO THEM.

NOW, THEY SAID THEY'VE NEVER HAD A CLAIM. AT THE PREVIOUS HEARING THEY TESTIFIED THEY HAVE AND INSURANCE COMPANY. AS I RECALL, IT WAS A DATE OF ORIGINATION. SO AS LONG AS THEY HAD INSURANCE AT THE TIME, THEN IT WAS COVERED.

AGAIN, WHEN YOU'RE DEALING WITH AN INSURANCE COMPANY, WE DON'T HAVE TO CHECK OUR COMMON SENSE AT OHIO VALLEY REPORTING (270) 683-7383
THE DOOR. IF THEY DON'T WANT TO PAY THE CLAIM, QUITE
FRANKLY I DON'T KNOW IF A LOT OF THESE FOLKS HAVE GOT
20 OR $30,000 TO PAY A LAWYER TO GO AND FILE THAT
CLAIM.

CHAIRMAN: YOU'RE MAKING SOME ACCUSATIONS. DO
YOU HAVE ANY FACTS TO BASE THAT ON?

MR. OVERSTREET: I CAN TELL YOU FROM PERSONAL
EXPERIENCE. I'VE BEEN IN A LAWSUIT OVER MY OWN HOME
FOR FIVE YEARS AND I'VE SPENT WELL IN EXCESS OF THAT.

CHAIRMAN: WAS IT DUE TO BLASTING? WHAT WAS
THE ROOT OF THE PROBLEM?

MR. OVERSTREET: AT THE END OF THE DAY IT
WOULD HAVE BEEN BASICALLY THE SAME PROBLEMS. CRACKING
IN WALLS.

CHAIRMAN: BUT WHAT WAS IT CAUSE FROM? WHAT
WAS THE CAUSE?

MR. OVERSTREET: WELL, MY POSITION IS IT'S
POOR CONSTRUCTION.

CHAIRMAN: WHAT DOES THAT HAVE TO DO WITH
BLASTING?

MR. OVERSTREET: I'M JUST SAYING YOU'RE TAKING
-- IT'S JUST LIKE ANYTHING ELSE. IF YOU HAVE A WEAK
POINT IN ANYTHING AND IT'S EXPOSED TO AN ENERGY FORCE,
OVER A PERIOD OF TIME, AT SOME POINT IT'S GOING TO
GIVE WAY. IT'S SIMPLY PHYSICS. IT'S SIMPLE. IT'S
NOT DIFFICULT. IT'S GOING TO KEEP GETTING HIT AND
KEEP GETTING HIT.

CHAIRMAN: MR. OVERSTREET, I'M TRYING TO SORT
OF GET MY MIND BACK ON TRACK WITH WHERE YOU'RE GOING
WITH THIS BECAUSE WE NEED SOME EVIDENCE, AND I KNOW
WE'VE GOT MR. WILSON IN THE WINGS THAT'S GOT EVIDENCE.

MR. OVERSTREET: LET ME ASK THIS, MR.
CHAIRMAN. MAYBE THIS WILL MAKE IT EASIER. BECAUSE
OBVIOUSLY THEY CAN'T PRODUCED A BIT OF EVIDENCE TO
SUPPORT THOSE FACTS THAT SAYS THEY DON'T CAUSE THE
CRACKS. WE CAN'T PRODUCE IT TO SAY IT IS. SO EXACTLY
WHAT WOULD THIS COMMISSION LIKE TO HEAR?

CHAIRMAN: I WOULD LIKE TO HEAR EVIDENCE OF
THE STATEMENTS YOU'RE MAKING. THEY BROUGHT BEFORE
THAT MADE SWEAR STATEMENTS. YOU HAD PEOPLE THAT CAME
BEFORE US THAT LIVED OUT IN THAT AREA THAT MADE SWEAR
STATEMENTS ABOUT CERTAIN ISSUES. THAT'S WHAT WE'RE
LOOKING FOR. THAT'S WHERE I'M TRYING --

MR. OVERSTREET: AND I'M ALSO PRESENTING YOU
WITH LEGAL ARGUMENTS.

CHAIRMAN: I'M TRYING TO DO YOUR -- I'M JUST
TRYING TO GET YOU BACK INTO SOMETHING THAT I THINK
THIS COMMISSION WANTS TO HEAR. WE HAVE OTHER PEOPLE.

MR. OVERSTREET: WHAT I'M TELLING YOU IS THAT
THE COMPREHENSIVE PLAN, YOU HAVE THE ARGUMENT THERE.
WE CAN SKIP OVER ALL THE DANGERS TO THE HEALTH RISK
AND THAT SORT OF THING.

ONE THING THAT I WOULD NOTE: AS FAR AS
EXERCISING STRIP MINING RIGHTS, IF YOU LOOK AT
ARGUMENT 4. I DON'T THINK THIS COMMISSION HAS BEEN
PRESENTED WITH ANY EVIDENCE THAT THE MINERAL RIGHTS
THAT THEY HAVE PURCHASED SPECIFY STRIP MINING. THERE
WAS AN AMENDMENT TO THE KENTUCKY CONSTITUTION IN 1988
SECTION 19.2 AND IT SAYS, AND I'LL QUOTE, "IN ANY
INSTRUMENT HERETOFORE OR HEREAFTER EXECUTED, ACCORDING
TO SEVER THE SURFACE AND MINERAL ESTATES OR TO GRANT A
MINERAL ESTATE OR TO GRANT THE RIGHT TO EXTRACT
MINERALS WHICH FAILS TO STATE OR DESCRIBE AND EXPRESS
IN SPECIFIC TERMS THE METHOD OF COAL EXTRACTION TO BE
EMPLOYED OVER SAID THE INSTRUMENT CONTAINS LANGUAGE
SUPPORTING THE SURFACE ESTATE TO THE MINERAL ESTATE IT
SHALL BE HELD IN THE ABSENCE OF CLEAR CONVINCING
EVIDENCE TO THE CONTRARY THAT THE INTENTION OF THE
PARTIES TO THE INSTRUMENT WAS THAT COAL BE EXTRACTED
ONLY BY THE METHOD OR METHODS OF COMMERCIAL COAL
EXTRACTION COMMONLY KNOWN TO BE IN USE IN KENTUCKY IN
THE AREA AFFECTED AT THE TIME THE INSTRUMENT WAS
EXECUTED AND THAT THE MINERAL ESTATE BE DOMINANT TO
THE SURFACE ESTATE FOR THE PURPOSES OF COAL EXTRACTION
BY ONLY THE METHOD OR METHODS OF COMMERCIAL COAL
EXTRACTION COMMONLY KNOWN TO BE USED IN KENTUCKY IN
THE AREA AFFECTED AT THE TIME THE INSTRUMENT WAS
EXECUTED."

NOW, WHEN WE TALK ABOUT EVIDENCE, I DON'T
THINK WE'VE SEEN ANY OF THAT. I HAVEN'T SEEN A SINGLE
MINERAL LEASE THAT'S BEEN PRESENTED TO THIS
COMMISSION.

CHAIRMAN: JUST A MOMENT.

MR. NOFFSINGER, ARE THOSE PART OF THE THINGS
THAT WE NEED TO --

MR. NOFFSINGER: I'M UNAWARE THAT'S SOMETHING
WE'RE SUPPOSED TO BE TAKING A LOOK AT. IT MAY BE THE
DEPARTMENT OF MINES & MINERALS ON A MINING PERMIT, BUT
THAT'S NOT WHY WE'RE HERE. WE'RE HERE TO ADDRESS THE
ZONING.

MR. OVERSTREET: I GUESS IT DEPENDS IF WE WANT
TO PERFORM AN ILLEGAL TRANSACTION.

MR. NOFFSINGER: WE'RE HERE TO CONSIDER
WHETHER OR NOT THE PROPERTY SHOULD BE REZONED EX-1
COAL MINING. THEY SUBMITTED AN APPLICATION THAT'S
BEEN SIGNED BY THE LAND OWNERS AND BY THE APPLICANT.
WE BELIEVE THE APPLICATION IS IN ORDER. IT IS NOT A
REQUIREMENT, TO MY KNOWLEDGE, THAT THEY ADDRESS THIS
ARGUMENT. I'M NOT FAMILIAR WITH WHAT YOU'RE SPEAKING
OF.
MR. OVERSTREET: IT'S IN THE RECORD.


4.1.1, PROVIDES THAT THE COMMISSION WILL ALLOCATE WISELY THE USE OF LAND FOR VARIOUS ACTIVITIES BY ENCOURAGING SOUND LAND DEVELOPMENT POLICIES.

4.1.1.1, USE THE FIXED AMOUNT OF LAND IN DAVIESS COUNTY AS WISELY AND SPARINGLY AS POSSIBLE.

4.1.1.2, GROUP ACTIVITIES SO THAT USES OF GREATER INTENSITY, INDUSTRIAL OR COMMERCIAL, DO NOT HARM WEAKER TYPES, RESIDENTIAL AND AGRICULTURAL. THAT'S THE STATED GOAL.

IF YOU REFER TO SECTION 4.1.3 OF THE COMPREHENSIVE PLAN, IT PROVIDED THAT THE COMMISSION IS CHARGED WITH PROTECTING OUR RURAL AREAS FROM INTRUSION BY INCOMPATIBLE URBAN ACTIVITIES OR BY ENCOURAGING GROWTH IN THE URBAN SURFACE AREA IN RURAL COMMUNITIES. MINIMIZE THE IMPACT ON FRAGILE LANDS, PRIME AGRICULTURAL, FLOOD PLAINS, ETCETERA. ALLOW AGRICULTURAL AND OTHER NATURAL RESOURCES WIDE ARRANGE TO APPLY TRADITIONAL PRODUCTION TECHNIQUES.

I WOULD SUBMIT TO THE COMMISSION THAT STRIP
MINING IS FAIRLY RECENT. IT'S NOT TRADITIONAL.

UNDERGROUND MINING GOES BACK HUNDREDS AND HUNDREDS OF
YEARS. STRIP MINING IS NEW.

OBVIOUSLY YOU CAN'T HAVE ANY GREATER IMPACT ON
YOUR QUIET COUNTRY LIVING STYLE THAN TO HAVE
BULLDOZERS, TRUCKS, DIESEL TRUCKS, EXPLOSIONS, FUEL
TANKS, WATER TRUCKS. BUT THEN WHEN YOU READ THE
REGULATIONS, THE IMPACT CONTINUES WITH THE
INTRODUCTION OF BLASTING, NOISE OF MACHINERY AND
TRUCKS AND AIR BLASTS THAT THEY ARE REQUIRED TO SET
OFF AT 128 DECIBELS.

I ATTACHED WITH THE EXHIBITS A PRINTOUT
SHOWING 128 DECIBELS CAUSES PERMANENT HEARING LOSS.
THAT'S WHEN TINNITUS STARTS TO BEGIN.

I POINTED OUT IN THE ARGUMENT OF DICHOTOMY
BETWEEN THE AGRICULTURAL USE AND STRIP MINING HAS BEEN
NOTED BY THE COMMISSION SPECIFICALLY IN SECTION 440 OF
THE LAND USE PLAN IN EXHIBIT 446-TI. THE LAND USE
INTENSITIES AND LANDSCAPE BUFFERS CHART.

IT RANKS COAL MINING AS 16, WHICH IS THE
HIGHEST INTENSITY USE OF LAND WHILE RURAL FARM
RESIDENTIAL IS A ONE. IT'S THE SECOND LEAST INTENSE
USE. THE ONLY LESS INTENSE IS AGRICULTURAL OR
FORESTRY.

SO UTILIZING THE METHODOLOGY PROPOSED IN A
COMPREHENSIVE PLAN, you take 16 minus 1 and that gives you a difference of 15. That requires the highest level of buffering under the comprehensive plan which is large areas of open spaces.

Obviously unless the commission determines that the 300 foot barrier is a large open space, it can't work together. It violates the comprehensive plan. It violates everything that we've been talking about. We have the uses and at this point if we just get it down to nuts and bolts, we're talking about tax payers who won't be able to do anything versus a corporation that's going to be contributing to the city and county and that's basically what we're giving it up to.

I would submit that the application and the request for the change does not comply with the requirements of KRS Chapter 100. That the uses are incompatible. That you cannot fit it under the comprehensive plan enacted in 2007. That the impact to people, their property and their way of life is more valuable than the coal severance tax for a finite period of time when you're going to lose potentially residents, I guess if you an sell it. You're going to lose that tax base. Ultimately you may have the increased cost of the health care when people are
HAVING TO BREATHE ALL THESE CHEMICALS, GET THE THINGS IN THEIR WATER. WHEREVER IT SEEPS, WHEREVER IT LEAKS. YOU KNOW, WE HAVE IMPERMEABLE BARRIERS.

I DON'T THINK THE JAPANESE THOUGHT THAT THEIR NUCLEAR REACTOR WOULD FAIL IN THE TSUNAMI EITHER.

I WOULD SUBMIT THAT THE PLAN SHOULD NOT BE APPROVED AND ASK THAT YOU ALL REVIEW THE INFORMATION. I'VE PUT EVERY CASE, EVERY STATUTE, EVERY ADMINISTRATIVE REGULATION, EVERYTHING THAT'S REFERRED TO, AND ANY OF THOSE DOCUMENTS ARE IN THOSE TWO NOTEBOOKS. THANK YOU.

CHAIRMAN: THANK YOU.

MR. WILSON.

MR. WILSON: MR. CHAIRMAN, I'M GOING TO CALL TONY ISBILL TO THE STAND.

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

MR. ISBILL: TONY ISBILL.

(TONY ISBILL SWORN BY ATTORNEY.)

MR. ISBILL: MR. CHAIRMAN, I DO HAVE A NEIGHBOR THAT IS ADJACENT TO THE PROPOSED MINE. HE WAS NOT ABLE TO BE HERE TONIGHT. HE IS ELDERLY. HE DID SEND A LETTER THAT IS NOTARIZED, AND I WAS WONDERING IF IT WOULD BE APPROPRIATE FOR US PUT THIS IN THE RECORD?

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CHAIRMAN: YOU HAVE A COPY OF IT?

MR. ISBILL: I DO.

CHAIRMAN: WHY DON'T YOU JUST PASS IT AROUND.

WHEN YOU SAY "ELDERLY," HOW OLD IS ELDERLY?

MR. ISBILL: EIGHTY-FIVE.

MR. CHAIRMAN, I KNOW THAT IT'S GETTING LATE

AND EVERYONE WANTS TO GET THIS SETTLED AND MOVE ON. I

WILL KEEP MY COMMENTS BRIEF.

A LOT OF THEM HAVE BEEN ANSWERED. LIKE A LOT

OF THE TESTIMONY THAT'S BEEN GIVEN HERE TONIGHT, SOME

OF IT IS TECHNICAL. IN MY OPINION, I'VE GOT TECHNICAL

OVERLOAD. IT'S A LOT OF INFORMATION TO PROCESS.

I THINK SOMETIMES WE GET CAUGHT UP IN PROVING

THIS OR NOT PROVING THAT TO TRY TO HIDE BEHIND WHETHER

WE APPROVE THIS OR SOMEBODY DID IT BETTER. QUITE

HONESTLY IT'S A LITTLE BIT DISHEARTENING AND

DISGUSTING.

THERE'S NO QUESTION. COMMON SENSE JUST TELLS

US, IN FACT, I LIKE TO PUT COMMON SENSE IN THE RECORD

IF THAT COULD POSSIBLY BE DONE. THAT WE'VE HEARD

TESTIMONY HERE TONIGHT THAT THERE IS DUST. THE PEOPLE

THAT TESTIFIED FOR THEM, WESTERN KENTUCKY MINERALS,

SAID THAT THERE'S DUST.

WE KNOW THERE IS NOISE. WE WERE TOLD THAT WE

WOULD GET USED TO IT.
SO IT'S NOT A DEBATE. COMMON SENSE JUST TELLS
US THAT IT'S NOT A DEBATE WHETHER THERE'S DUST,
WHETHER THERE'S NOISE, WHETHER THERE IS SEISMIC
ACTIVITY. IT WAS REFERENCED ABOUT THE DUST. IN FACT,
BOB FRAZIER TOLD ME ON THE PHONE TODAY, HE SAYS, IT IS
IMPOSSIBLE NOT TO HAVE DUST COME OUT OF THAT MINE.
IT'S IMPOSSIBLE. THEY CAN'T CONTROL IT. EVEN IF THEY
TRY TO, THEY'RE NOT GOING TO BE ABLE TO CONTROL IT,
EVEN THOUGH THE PERMIT THAT THEY GET SAYS THAT THERE
CANNOT BE VISIBLE DUST PARTICLES WHEN THEY EXIT THE
MINING OPERATION. IT CAN'T ENCROACH INTO MY PROPERTY.
THAT VIOLATES THEIR PERMIT.
THE ONLY REASON WHY THAT THEY'VE NOT BEEN
ALLOWED, THAT THEY'VE NOT BEEN CAUGHT MORE ABOUT IT.
NOT JUST WESTERN KENTUCKY MINERALS BUT OTHERS IT'S
ONLY WHEN SOMEONE HAS THE INTESTINAL FORTITUDE TO
STAND UP AND SAY, I'M GOING TO FIGHT THIS, OR AN
INSPECTOR COMES ALONG AND DOES IT.
I ACTUALLY SUGGEST TO MR. FRAZIER THAT WE PUT
UP LONG RANGE INFRARED CAMERAS. PUT IT ON TWO 24-HOUR
A DAY INTERNET FEED. THAT WAY WE CAN KEEP EYES ON
THEM ALL THE TIME. HE WASN'T OPPOSED TO IT.
SO WE END UP IN THIS DO, DON'T, PROVE THIS,
DON'T PROVE THAT. IT STILL BOILS DOWN TO THERE WAS A
QUESTION MADE. I THINK IT WAS PROBABLY THE BEST
QUESTION THAT I'VE HEARD ALL NIGHT. WHAT IS THE
DIFFERENCE BETWEEN KNOTTSVILLE AND THE PLEASANT RIDGE
AREA? IT IS VERY CLEAR. IT'S CHOICE. THEY CHOOSE TO
LIVE WHERE THEY LIVE. THEY CHOOSE TO EMBRACE WESTERN
KENTUCKY MINERALS. THEY HAVE ASSOCIATIONS WITH THAT
FAMILY. THEY EMBRACE IT. WHEN THE PERMITS AND ALL
THE REZONING TOOK PLACE, THEY DIDN'T COME AND FLOOD
THIS ROOM. THEY SAID, WE WANT IT.

PLEASANT RIDGE DOESN'T WANT IT. THAT'S WHY WE
ARE HERE. IT'S NOT PROPER. IN FACT, IN MY OPINION,
IT IS YOUR JOB TO BE THAT BUFFER BECAUSE IF YOU TURN
STAFF loose, THEN IT WOULD CHAOS BECAUSE WE DON'T
ALWAYS GO BY WHAT THEY RECOMMEND. THAT IS YOUR JOB.

CHAIRMAN: MR. ISBILL, I WANT TO CORRECT
SOMETHING VERY QUICKLY.

WITHOUT THE STAFF, I PERSONALLY WOULD NOT
SERVE AS A COMMISSIONER. THE STAFF DOES AN EXCELLENT
JOB. WITHOUT THE STAFF THERE WOULD BE NO PLANNING &
ZONING. THEY DO ONE HECK OF A JOB. THEY TURN JOBS
OVER VERY QUICKLY. THEY ACCOMMODATE OUR CONTRACTORS
AND THEY DO AN EXCELLENT JOB. SO I WILL NOT TAKE ANY
CRITICISM.

MR. ISBILL: IT'S NOT CRITICISM ABOUT THE
STAFF. IT'S CRITICISM ABOUT WHEN WE HAD THE LAST
MEETING, SIR, THAT THERE WAS A QUESTION ASKED.
WHAT HAVE YOU HEARD -- IT WAS AFTER ALL THE VOTE AND ALL THE CHAOS. IT WAS, WHAT HAVE YOU HEARD TO MAKE YOU WANT TO CHANGE THE DECISION OF TWO FORMER BOARDS? THE SILENCE WAS DEAFENING.

FINALLY ONE INDIVIDUAL SAID, WELL, THE STAFF HAS RECOMMENDED IT THREE TIMES AND THAT'S WHY WE OUGHT TO DO IT. THAT'S THE REASON FOR MY COMMENTS. I'M NOT CRITICIZING THE STAFF. I'M SIMPLY SAYING THAT THEY GO BY THEIR COMPREHENSIVE PLAN.

YOU LISTEN TO TESTIMONY. THAT TESTIMONY ALLOWS YOU TO MAKE THE DISTINCTION BETWEEN WHAT'S RIGHT FOR THIS COMMUNITY AND WHAT'S RIGHT FOR THIS COMMUNITY.

THIS COMMUNITY, KNOTTsville, EMBRACES IT. JUST BECAUSE THEY EMBRACE IT AND THEY'RE WILLING TO GET USED TO THE NOISE AND THEY'RE WILLING TO GET USED TO DUST, DOES NOT MEAN THAT THAT CAN BE IMPOSED UPON A COMMUNITY THAT DOES NOT WANT IT. MY OPINION, THAT IS YOUR RESPONSIBILITY.

WE NEED YOU TO LISTEN TO OUR VOICE. NOT CRAM IT DOWN OUR THROATS. TO WHERE WE HAVE TO POLICE THEM. WE HAVE TO TRY TO GET USED TO THINGS. WE TRY TO -- WE HAVE TO ENDURE THE ONGOING PROBLEMS AND THE NOISE AND ALL OF THAT. WE DON'T WANT IT. IT'S A MATTER OF CHOICE. YOU CHOSE WHERE YOU LIVE. I CHOSE WHERE I
LIVE AND I'M HAPPY TO BE THERE. THAT'S WHY I'M HERE FIGHTING FOR THE WAY OF LIFE THAT I HAVE. IF THAT DOESN'T MEAN ANYTHING, WHY HAVE THESE MEETINGS? BECAUSE WE NEED YOU TO HEAR OUR HEART. NOT JUST FACTS.

THERE HAVE BEEN TWO PREVIOUS BOARDS AND THEY STOOD FOR QUALITY OF LIFE, FAMILY, THE CULTURE OF THIS COUNTY. THOSE COMMISSIONS, THOSE ZONING BOARDS PROBABLY MADE WHERE IT WAS THE CO-DECISION. LIKE YOU'RE FACING TONIGHT WAS PROBABLY THE DEFINING ISSUE WITH THOSE BOARDS. I DON'T KNOW OF ANYTHING ELSE THAT ECLIPSE THAT. SAME IS TRUE HERE. YOU PROBABLY IN THE LIFETIME THAT YOU SERVE ON THIS BOARD WILL NOT HAVE AN ISSUE THAT'S BEEN MORE CONTESTED AND PROBABLY MORE STRESSFUL ON THE DECISION.

TONIGHT YOU'RE GOING TO GET TO MAKE THAT DECISION. WILL YOU CHOOSE THE WISDOM OF THE PAST? THOSE PEOPLE CHOSE FAMILY. THEY CHOSE CULTURE. THEY CHOSE THE INTEGRITY OF THIS COUNTY. OR WILL YOU CHOOSE INDUSTRY, POLITICS, AND MONEY? WE'RE ASKING YOU TO LET THOSE COMMUNITIES THAT WANT THAT HAVE IT. WE'RE ASKING YOU TO MAKE THE DECISION AND PROTECT THOSE COMMUNITIES THAT DON'T. THANK YOU.

CHAIRMAN: MR. WILSON.

MR. WILSON: MR. CHAIRMAN, DR. DAVID EGGERS
WILL BE OUR NEXT WITNESS.

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

DR. EGGERS: DAVID MICHAEL EGGERS, M.D.

(DR. DAVID MICHAEL EGGERS, M.D. SWORN BY ATTORNEY.)

DR. EGGERS: WE STARTED THIS PROCEEDING EARLIER TONIGHT HEARING THE HEARTFELT TESTIMONY BY ONE OF MY NEIGHBORS THAT SUFFERED A DEATH THREAT AGAINST THEM. THIS HAS SKewed THE PUBLIC DISCUSSION. I FELT UNEASY ABOUT WRITING AN EDITORIAL IN THE NEWSPAPER. I THINK A LOT OF THE DISCUSSION ON OUR SIDE HAS BEEN BLUNTED BY FEAR. I THINK ALL OF THE COMMUNITY HAS BEEN FEARFUL. THERE IS NOW A NEIGHBORHOOD WATCH. SOME PEOPLE THINK THEY NEEDS GUNS TO PROTECT THEMSELVES. I THINK THIS IS THE DRASTIC CHANGE FOR THE PEACEFUL COMMUNITY THAT I'VE LIVED IN FOR THE LAST 20 YEARS. I THINK REALLY THE COMMUNITY HAS HAD ENOUGH AND I'M REALLY ASKING YOU TO DECLINE REZONING.

I HAVE NO PROBLEM WITH THE COAL INDUSTRY. I SALUTE THE HARD WORK AND THE SIGNIFICANT RISK ENDURED BY THE MINERS.

IF ONE LOOKS AT THE MAP OF THE KENTUCKY COAL FIELDS, THE PLEASANT RIDGE PROJECT IS A DOT. WE'RE NOT DEPENDENT ON THIS SMALL PARCEL BECOMING BURNED IN
AN ELECTRICAL COMPANY. THE LACK OF EXTRACTION WILL
NOT CAUSE PEOPLE TO SUFFER. THE PRICE OF COAL WILL
NOT GO UP. ELECTRICITY WILL NOT GO UP.

THE VAST MAJORITY OF THE MINES IN THE STATE
ARE IN UNPOPULATED AREAS WHICH IS WHY MOST OF THE TIME
THERE ISN'T THAT MUCH DESCENT ABOUT MINING, BUT HERE
YOU HAVE A HIGHLY POPULATED COMMUNITY AND YOU HAVE THE
CULTURAL ASSET OF THE GIRL SCOUT CAMP GOING ON NOW 60
YEARS. THAT CULTURAL WILL BE SERIOUSLY HARMED FOREVER
WITH THIS MINING PROJECT.

IN THE LAST 29 YEARS OF MY NEUROSURGICAL
PRACTICE IN OWENSBORO, I'VE GIVEN PROBABLY WELL MORE
THAN HALF A MILLION DOLLARS WORTH OF FREE CARE TO
INDIVIDUALS IN NEED. I NEVER TURN ANYONE AWAY.

NOW I'M HEARING THAT MONEY IS THE NEW KING.
FROM MONETARY INTEREST TO NOW SUPERSEDING THE HEALTH
INTEREST AND THE COMFORT AND LIFESTYLE OF RESIDENTS.
I HOPE NOT. I THINK YOUR VOTE WILL SHOW WHERE YOU
STAND ON THIS IMPORTANT QUESTION. IS MONEY ALL THAT
MATTERS NOW IN OWENSBORO?

I THANK YOU FOR YOUR CONSIDERATION.

CHAIRMAN: THANK YOU.

MR. WILSON.

MR. WILSON: MR. CHAIRMAN, THERE'S A GENTLEMAN
THAT'S ARRIVED THAT'S NOT ON THE LIST WHO WOULD LIKE
TO ADDRESS THE COMMISSION IF THE COMMISSION WILL
ENTERTAIN. HE'S NOT ONE OF MY WITNESSES.

CHAIRMAN: MR. WILSON, I BELIEVE YOU'VE
NOTICED THE COMMISSION HAS GIVEN EACH AND EVERY PERSON
THE OPPORTUNITY TO SPEAK.

YES, SIR. STEP FORWARD.

MR. SILVERT: STATE YOUR NAME, PLEASE.

MR. GILMORE: MIKE GILMORE.

(MIKE GILMORE SWORN BY ATTORNEY.)

MR. GILMORE: IF YOU'VE GOT ANY QUESTIONS, I
LIVE KNOTTSVILLE. BEEN SURRounded BY THE MINING
COMPANY SINCE 1996. I'VE HAD BLASTING DAMAGE. I'VE
BEEN TO COURT WITH THEM. FOUGHT THEM FOR FOUR YEARS
STRAIGHT. IF YOU HAVE ANY QUESTIONS, ASK ME. I'LL BE
TRUTHFUL WITH YOU.

CHAIRMAN: IN REGARDS TO THE PROBLEMS THAT YOU
HAD, AND I APPRECIATE YOU COMING DOWN HERE. IN
RELATIONSHIP TO THE PROBLEMS YOU HAD OR HAD OR HAVING.
WHICH IS IT?

MR. GILMORE: I'VE HAD AND HAVE.

CHAIRMAN: WHAT WERE THE PROBLEMS? WERE THEY
A) DUE TO BLASTING?

MR. GILMORE: YES.

CHAIRMAN: WHAT WERE THE REMEDIATING
CIRCUMSTANCES THAT YOU SOUGHT AND WHAT IS BECOMING OR
THE OUTCOME?

MR. GILMORE: WELL, IT STARTED IN '96. THEY WAS WITHIN 1600 YARDS FROM ME.

CHAIRMAN: WHICH IS APPROXIMATELY A MILE?

MR. GILMORE: YES. THEY WOULD BLAST. YOU HAD GROUND MOVEMENT. MOST OF MY DAMAGE WAS DONE FROM AIR BLASTING THAT RACKED MY HOUSE. YOU KNOW, CONTACT THE COAL COMPANY. THEY CONTACT THE BLASTING COMPANY. THE BLASTING COMPANY WOULD CONTACT CONSULT THE CONSULTING COMPANY. THEY WOULD COME IN. IT'S SEASONAL CHANGES. POOR DRAINAGE. AIRPLANES. EVERYTHING BUT THE BLASTING.

YOU HAD COAL DUST. HAD A WASH PLANT. WAS APPROXIMATELY 1600 YARDS FROM IT. YOU HAD COAL DUST. YOU HAD DUST FROM TRUCKS. IT'S A DIFFERENT TRUCKING COMPANY THEN. WHICH SPEED LIMIT DIDN'T MEAN NOTHING. YOU JUST HAD A LOT OF PROBLEMS.

I HAD SEVERAL NEIGHBORS THAT HAD PROBLEMS. WHICH WE COME DOWN HERE AND ARGUE WITH YOU AND TRY TO GET THINGS RESOLVED AND IT NEVER WORKED. WE TRIED TO NEGOTIATE WITH THEM FOR FOUR YEARS. COULDN'T GET NO RESULTS. FINALLY HIRED LEGAL COUNSEL. THEN THEY WANTED TO WORK WITH US. SO WE ENDED UP SETTLING OUT OF COURT.

I DO HAVE BLASTING DAMAGE NOW. THEY'RE WITHIN
HALF OF A MILE OF ME. I WAS DOWN HERE AT THE LAST MEETING. I ASKED THE BLASTING COMPANY WHO THEIR INSURANCE COMPANY WAS. GOT THE SAME SONG AND DANCE. CONTACT THE COAL COMPANY. THEY'LL CONTACT US. WE'LL CONTACT THE CONSULTING COMPANY. NO. I GO STRAIGHT WITH THE INSURANCE COMPANY. IF THEY DON'T GET RESULTS, WE'LL BE BACK IN COURT.

I KNOW WHAT THESE PEOPLE ARE GOING TO GO THROUGH.

TONY LANHAM IS A GOOD GUY. HE IS A GOOD GUY. WHEN IT COMES DOWN TO THE MIGHTY DOLLAR, PEOPLE CHANGE. ALL HIS KIDS ARE GREAT KIDS. I HAVE NO PROBLEM WITH TONY. YOU GO THROUGH A LOT OF HEADACHES.

CHAIRMAN: DID YOU GET YOUR ISSUE RESOLVED?

MR. GILMORE: YES. IT TOOK ME FOUR YEARS THE FIRST TIME. I CAN GO THROUGH THIS FOUR MORE YEARS.

LAST TIME WE GOT IT RESOLVED TONY SOLD OUT TO ANOTHER COMPANY. THERE WAS SITUATIONS THEY DIDN'T KNOW ABOUT. WASH PLANT HAD TO BE MOVED. THEN I HAD ISSUES WITH THEM, WHICH THEY WORKED WITH ME GREAT BECAUSE THEY KNEW THEY WAS GOING TO HAVE A PROBLEM.

CHAIRMAN: WHEN YOU SAY "THEY," DO YOU MEAN HIS COMPANY OR THE COMPANY --

MR. GILMORE: THEY SOLD OUT TO ANOTHER COMPANY.
CHAIRMAN: YOU UNDERSTAND WHERE MY NEXT QUESTION IS GOING TO COME FROM. WHO WAS THE ORIGINAL COMPANY THAT YOU HAD THE PROBLEM WITH?

MR. GILMORE: IT WAS LANHAM MINING COMPANY.

CHAIRMAN: LANHAM MINING COMPANY. AND THEN ANOTHER COMPANY CAME AND BOUGHT THEM OUT?

MR. GILMORE: UNITED MINERALS. RUST CAME IN AND BOUGHT UNITED MINERALS.

CHAIRMAN: WHO WAS THE ONE -- YOU SAID ONE OF THEM WORKED WELL WITH YOU.

MR. GILMORE: UNITED MINERALS.

CHAIRMAN: THEN THEY RESOLVED YOUR ISSUES?

MR. GILMORE: NO. LANHAM RESOLVED MY ISSUES AND THEN HE SOLD OUT. THEN UNITED MINERALS CAME IN AND THEY HAD TO REMOVE THE WASH PLANT, WHICH THEY DIDN'T KNOW THEY HAD TO DO THAT. THEY WOULDN'T GET ANY CLOSER TO ME. THEY HAD THE PROPERTY REZONED, THE STRIP BEHIND ME. WE WORKED OUT AN AGREEMENT WHERE THEY WOULD NOT STRIP THAT BECAUSE WE LET THEM SET THE WASH PLANT, LEAVE IT BACK THERE, BUT IT WASN'T RUNNING. THEY LEFT IT BACK THERE FOR THREE OR FOUR MONTHS BEFORE THEY MOVED IT.

CHAIRMAN: DOES ANYBODY ELSE HAVE ANY OTHER QUESTIONS?

(NO RESPONSE)
CHAIRMAN: THANK YOU.

MR. WILSON.

MR. WILSON: MR. CHAIRMAN, THAT’S OUR POSITION. WE HAVE NO MORE WITNESSES TO OFFER YOU.

CHAIRMAN: MR. HAYNES.

MR. HAYNES, WHAT I THINK I WILL DO AT THIS POINT IN TIME, I’VE GOT QUESTIONS. WHY DON’T YOU -- MOST OF YOUR PEOPLE ARE SWORN. WHY DON’T I JUST START WITH A LOT OF QUESTIONS AND WHOEVER IS ON DECK, STEP TO THE PODIUM AND TAKE THEM. IS THAT FAIR ENOUGH?

MR. HAYNES: GREAT IDEA.

CHAIRMAN: MR. WILSON?

MR. WILSON: YES.

CHAIRMAN: THANK YOU.

HE WAS REFERRING TO MY QUESTION THE LAST TIME WE HAD A MEETING ABOUT MINING AWAY FROM THE NEIGHBORS. FROM OUT TO IN AS OPPOSED TO YOU ALL GOING IN ONE, TWO, THREE FOUR SECTIONS AROUND.

I’M GOING TO GIVE YOU ABOUT FOUR OF THEM AT A TIME SO YOU ALL CAN SORT OF GET ON DECK WHO IS GOING TAKE THIS.

HE HAD SOME AIR QUALITY QUESTIONS WITH THE WIND DIRECTION. YOUR MEN MAY BE WORKING DOWN HERE AND THE WIND COULD BE BLOWING AWAY FROM THEM. WHERE YOUR MEN ARE NOT SUFFERING, BUT THE AIR QUALITY IN

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DIFFERENT AREAS COULD BE A PROBLEM WITH HIGH WINDS.

HIS OTHER QUESTION WAS THE TRAFFIC. WAS THERE
A TRAFFIC STUDY DONE ON THE TRAFFIC OF 231.

THE YOUNG LADY REPRESENTING OR WAS A GIRL
SCOUT WANTED YOU TO SHARE THE ENVIRONMENTAL DATA THAT
YOU WOULD HAVE. HAVE THE ENVIRONMENTAL STUDIES AND
EVERYTHING AVAILABLE EITHER ON THE WEBSITE OR SOME
RETRIEVABLE TYPE MECHANISM.

MR. SCOTT HAD SOME QUESTIONS ABOUT THE WELLS.
THERE WAS A WELL UNDERNEATH HIS HOUSE. HE HAD SOME
PROBLEMS. HAD AN ENGINEER COME IN. HE REBUILT HIS
HOUSE. WHAT STRUCTURAL PROBLEMS WILL HE FACE WITH THE
WELL UNDER HIS HOUSE.

THAT SHOULD BE ENOUGH TO TAKE AT ONE TIME.

MR. WRIGHT: CAN YOU DO ONE AT A TIME?

CHAIRMAN: MY SUGGESTION AT THE LAST MEETING
ABOUT COAL MINING, AND I'M NOT A COAL MINER. I JUST
MADE A SUGGESTION, IT SEEMS LIKE TO ME IF WE START
WHERE THE PEOPLE ARE AND THEN MOVE IN, THAT THEY WOULD
EXPERIENCE THE LEAST AMOUNT.

MR. WRIGHT: OUR MINE PLAN IS TO START ON THE
SOUTHERN BORDER LIKE JEFF HAD REVEALED. AS WE MOVE UP
RUSSELL ROAD AND UP 231, WE'LL BE GETTING CLOSER TO
SOME, AWAY FROM OTHERS, AND AS WE TURN BACK WE'LL BE
DOING THE SAME THING. SAME DIFFERENCE.
CHAIRMAN: THE AIR QUALITY WITH THE WIND DIRECTION. WHERE YOUR MEN MIGHT NOT BE SUBJECTED TO IT, BUT YET IT'S BLOWING DRAMATICALLY AWAY FROM THEM.

MR. WRIGHT: THEY KEEP TRYING TO CONFUSE COMMON DUST WITH FUGITIVE DUST. THE FUGITIVE DUST WILL BE WHERE THE MEN ARE WORKING. THAT'S YOUR COAL DUST, YOUR ROCK DUST, THINGS LIKE THAT. THAT'S WHERE IT'S GOING TO BE CONTROLLED. TRYING TO BRING THE COMMON DUST LIKE YOUR FARMER AND OTHER PEOPLE, YOU KNOW, AND THAT'S DIFFERENT. THAT'S A WHOLE DIFFERENT STORY.

MR. APPLEBY: I THINK THEY ASKED IF THERE WAS MONITORING OFF-SITE.

MR. WRIGHT: NO, NOT WITH AIR QUALITY. NOT REQUIRED.

MR. APPLEBY: NO AIR QUALITY MONITORING.

CHAIRMAN: THEN WAS THERE A TRAFFIC STUDY DONE ON 231.

MR. WRIGHT: WE HAVE APPROVAL FROM THE DEPARTMENT OF TRANSPORTATION, YES, FOR THE TRAVEL OF 231.

MR. APPLEBY: HE ASKED IF THE TRAFFIC WOULD BE STOPPED ON 231.

MR. WRIGHT: YES, IT WILL DURING BLASTING. WHEN WE'RE WITHIN 1,000 FEET.
MR. JARBOE: I HAVE A QUESTION OF THAT.

CHAIRMAN: YES, SIR.

MR. SILVERT: WOULD YOU STATE YOUR NAME AGAIN?

MR. JARBOE: DANIEL JARBOE, RUSSELL ROAD.

WHY WOULD THEY BE STOPPING TRAFFIC ON 231?

MR. WRIGHT: IT'S THE LAW. WE HAVE TO.

MR. JARBOE: WHEN IT'S BLASTING WITHIN, WHAT'S THE DISTANCE? 1,000 FEET?

MR. WRIGHT: YES, 1,000 FEET.

MR. JARBOE: THEN MY BUFFER IS 300 FOOT FROM MY --

MR. WRIGHT: WE CAN STILL BLAST WITHIN 300 FOOT OF 231. WE CAN GO RIGHT UP TO THE RIGHT-OF-WAY WITH APPROVAL.

MR. JARBOE: RIGHT, BUT WE'RE MORE CONCERNED WITH THE PASSERBY ON 231 THAN 1,000 FOOT THAN WE ARE HOMES WITH PERMITS.

MR. WRIGHT: NO. NOT AT ALL.

MR. JARBOE: IF MY HOUSE IS 300 FOOT FROM WHERE YOU'RE GOING TO BLAST, WHAT IS MY PROTOCOL FOR -- SAY MY CHILDREN ARE PLAYING IN MY YARD 200 FOOT OUT FROM MY HOUSE, WHAT ARE THEY SUPPOSED TO DO?

MR. WRIGHT: WE HAVE A PULL CREW THAT SITS AROUND THE BLAST SITE.

MR. JARBOE: IS THAT HOW THEY GET TO ENJOY MY
PROPERTY? THAT'S WHAT I'M ASKING. WHAT BOthers ME IS
I HAVE 1,000 FOOT TO WORRY ABOUT.

IF YOU'RE DRIVING DOWN 231, WE'RE GOING TO
STOP YOU, MR. KIRKLAND, FROM DRIVING DOWN 231 IF
THEY'RE BLASTING WITHIN 1,000 FOOT. BUT IF MY CHILD
IS PLAYING IN MY OWN YARD AND MY HOUSE IS 300 FOOT
FROM WHERE THEY'RE GETTING READY TO BLAST, AND SAY MY
YARD IS 150 FOOT IN FRONT OF THAT, I GET A HORN. I
GET AN AIR SIREN.

IS THAT HOW MY CHILD GETS TO ENJOY THEIR
PROPERTY? WHAT ARE WE SUPPOSED TO DO? RUN TO MY
HOUSE? ARE THEY SUPPOSED TO RUN INTO THE HOUSE? IS
THAT PROTOCOL?

MR. WRIGHT: THAT IS THEIR WARNING THAT THE
BLAST IS FIXING TO GO OFF. THEY DO NOT NEED TO BE
WITHIN 300 FOOT OF IT.

MR. JARBOE: RIGHT. THAT'S WHAT I'M SAYING.
I AM NOT GOING TO BE ABLE TO ENJOY MY PROPERTY OR MY
CHILDREN WILL NOT BE ABLE TO ENJOY THE PROPERTY. YOU
CANNOT GUARANTEE ME 300 FOOT FROM THERE, THERE WON'T
BE A FLY ROCK HIT MY CHILD IN THE HEAD, THEN THERE'S
NO WAY, THERE IS NO WAY I CAN STEP OUTSIDE FROM 12 OR
4 WHENEVER I HEAR THAT HORN. I'M SUPPOSED TO RUN IN
THE HOUSE. IF I'M HAVING A BARBECUE, THEY'RE SUPPOSE
TO HIT THE BRICKS AND THE SIRENS COME ON. IT SAYS I
GET TO USE MY PROPERTY, ENJOY THE RIGHT OF MY
PROPERTY, AND THAT'S NOT PROPERTY USE, BUT DEFINED BY
THAT COMPREHENSIVE PLAN.

CHAIRMAN: I'M A LITTLE CONFUSED TOO THERE ON
THE 300 FOOT AND 1,000 FOOT FROM THE HIGHWAY.

MR. WRIGHT: THE 1,000 FOOT BUFFER IS JUST
WHAT THE LAW STATES THAT WE HAVE TO STOP THE TRAFFIC.
HOLD IT BACK. MAKE SURE NOTHING HAPPENS. BUT 300
FOOT IS A -- I'LL LET SETH SPEAK ON THAT.

MR. BURNS: SETH BURNS.

THE 1,000 FOOT LAW IS SOMETHING WE GO BY.
WHEN WE BLAST CLOSER TO HOMES, TYPICALLY WHAT WE DO
WHEN WE'RE BLASTING CLOSE TO HOMES IS WE HAVE A CALL
LIST. WE WILL GET YOUR PHONE NUMBER AND CONTACT YOU.
YOU HAVE THE WARNINGS THAT GO OFF AS WELL. WE CAN'T
ASK YOU OR MAKE YOU LEAVE YOUR HOME, BUT WE WOULD ASK,
YOU KNOW, IF WE'RE BLASTING WITHIN 300 FOOT OF YOUR
HOUSE AND YOU'RE NOT COMFORTABLE THERE, WE WOULD SAY,
YOU KNOW, IN CASE OF FLY ROCK.

MR. JARBOE: IF YOU CAN'T GUARANTEE ME THAT
FLY ROCK WILL NOT HIT MY PROPERTY, I DON'T SEE HOW
THIS COMMISSION CAN TELL ME I HAVE THE RIGHT TO ENJOY
MY PROPERTY. HOW CAN YOU TELL ME IF I OWN THIS
PROPERTY AND THIS GUY OVER HERE -- IF I'M SHOOTING
CANON BALLS, I CANNOT SHOOT THEM OVER THERE ON HIS
PROPERTY. I CAN'T DO IT. I CAN'T DO IT. MY ASS
WOULD BE IN JAIL. THAT'S THE WAY IT WOULD BE. HE
CAN'T GUARANTEE ME THE SAME RIGHT THAT I HAVE RIGHT
NOW. MY KIDS CAN PLAY IN MY YARD RIGHT NOW, BUT WHEN
THEY COME IN HERE I WILL NOT HAVE THAT RIGHT.

CHAIRMAN: LET ME DELVE A MINUTE.

WHAT'S THE RATIONALE THERE?

MR. BURNS: THE RATIONALE?

CHAIRMAN: YES. IF HE'S GOING TO HAVE 300
FOOT FROM YOUR BLASTING AREA TO HIS HOUSE, AND THEN
1,000 FOOT FROM YOUR BLASTING AREA TO THE HIGHWAY,
WHAT'S -- I'M NOT UNDERSTANDING. I'M NOT TRYING TO
TAKE ONE SIDE OR THE OTHER, BUT I'M TRYING TO
UNDERSTAND.

MR. BURNS: I'M NOT FAMILIAR WITH THE
PERMITTING PROCESS. THEY'RE ALLOWED TO PERMIT WITHIN
300 FEET OR WHATEVER THEY APPROVE.

THERE'S A STATE LAW FOR A PUBLIC ROADWAY OR IF
YOU GET WITHIN A CERTAIN DISTANCE IN THE PERMIT, IT
SAYS WITHIN 1,000 FEET WE'LL BLOCK THIS ROADWAY TO
PROTECT ANY VEHICLES THAT ARE PASSING BY.

CHAIRMAN: OKAY.

MR. JARBOE, THAT'S AS --

MR. JARBOE: THAT'S WHAT I'M SAYING. I CAN'T
ENJOY MY PROPERTY. AM I SUPPOSED TO RUN INTO MY HOUSE

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BECAUSE MY CHILD OR WOULD YOU PUT YOUR CHILD IN
DANGER. THAT'S WHAT I'M ASKING YOU RIGHT NOW? YOU
KNOW YOU WOULDN'T DO IT. I'VE LIVED THERE BEFORE
THEY'RE COMING IN HERE AND THEY'RE CHANGING THE WAY I
HAVE TO LIVE AND THE WAY MY CHILDREN HAVE TO LIVE.

CHAIRMAN: I PHRASED THE QUESTION EVERY WHICH
WAY I COULD AND YOU HEARD THE SAME ANSWER I DID.

MR. JARBOE: I KNOW, BUT WHAT AM I SUPPOSED TO
DO? I'D LIKE TO HAVE ANSWERS. THEY NEED TO BE ABLE
to GUARANTEE ME THAT FLY ROCK WILL NOT HIT MY
PROPERTY. IF HE CAN'T GUARANTEE THAT, THEN HE NEEDS
to MOVE BACK FAR ENOUGH WHERE HE CAN GUARANTEE THAT.

MR. APPLEBY: I WOULD LIKE TO ASK YOU A
QUESTION.

IF YOU'RE MINING WITHIN 300 FEET OF THIS
HOUSE, HOW MANY TIMES WILL BE BLAST IN THAT AREA? HOW
MANY TIMES WILL YOU BE WITHIN 300 FEET OF HIS HOUSE?

MR. BURNS: THAT WOULD BE THE CLOSEST LIMIT
BASED ON THAT PERMIT LINE. IT WILL DEPEND ON HOW THEY
MINE THAT. THEY WILL ADVANCE TOWARDS IT OR BY IT AND
AROUND IT. TYPICALLY WHEN WE'RE BLASTING CLOSE TO
STRUCTURES LIKE THAT, WE'RE SHOOTING A LOT SMALLER
BLASTS. LIKE I SAID EARLIER, SMALLER HOLES, SMALLER
BLASTS. IF THEY'RE SMALLER BLAST, THEN THERE'S GOING
to BE MORE BLAST AROUND THAT BECAUSE WE'RE TAKING THE
SMALLER AREA AT ONE TIME TO PROTECT IT.

BY LAW, FLY ROCK IS ANYTHING THAT LEAVES THE PERMIT BOUNDARY. IF A ROCK WILL HAPPEN TO GO ONE FOOT ON THE OTHER SIDE OF THAT, THAT'S A VIOLATION. FLY ROCK IS TAKEN EXTREMELY SERIOUS IN THE STATE OF KENTUCKY TO THE POINT THEY WILL SHUT YOUR MINE DOWN.

CHAIRMAN: I UNDERSTAND MR. JARBOE'S QUESTION AND I TRIED TO RESTATE IT. I MEAN ANYBODY IN HERE, I DON'T CARE WHO IT IS, IF YOU HAD A CHILD OR HEAVEN FORBID ONE OF US, YOU KNOW, OUT THERE, YOU WOULDN'T WANT TO SUBJECT YOURSELF TO ANY KIND OF HARM OR DANGER. IF 1,000 FOOT IS THE RIGHT NUMBER, IS 1,000 FOOT SOMETHING YOU ALL COULD LIVE WITH? BECAUSE IT SEEMS LIKE, AND I GET MR. JARBOE'S POINT RIGHT AWAY. WHY WOULD I BE PROTECTED MORE DRIVING DOWN 231 IN A CAR THAN MR. JARBOE OR HIS CHILDREN OR ANYBODY OUT IN HIS BACKYARD?

MR. BURNS: I UNDERSTAND. THE FLY ROCK INCIDENTS FROM THE PAST BACK IN THE DAY BEFORE THERE WERE A LOT OF REGULATIONS AND YOU SEE THE SKY TURNING DARK AND THINGS LIKE THAT, IF WE LOAD A BIG ENOUGH HOLE AND WE DON'T PUT ANY STEMMING ON TOP OF THAT HOLE, WE CAN THROW ROCK FIVE MILES IF WE WANTED TO. THE WAY WE DO IT IS TO DO IT TO KEEP ROCK FROM FLYING, TO PROTECT PEOPLE, TO PROTECT VEHICLES AND EVERYTHING
ELSE. THERE'S 1,000 FOOT BOUNDARY. I DON'T KNOW HOW
THEM DETERMINE THAT OR WHY THEY SAY WE'RE GOING TO
BLOCK IT AT THIS RATE OR THIS DISTANCE FROM THE
BLASTING. WHY THEY DON'T STIPULATE MINIMUMS OR
SOMETHING ON STRUCTURES. NO MATTER WHERE WE'RE AT, WE
DON'T THROW ROCK.

CHAIRMAN: WOULD YOU SAY 1,000 FOOT WOULD BE
AN ADEQUATE BUFFER?

MR. WRIGHT: 1,000 FOOT IS NOT A BUFFER FOR
THE ROAD. THAT'S THE ONLY REQUIREMENT TO STOP THE
TRAFFIC WHEN WE'RE BLASTING WITHIN 1,000 FOOT. WE CAN
STILL GO TO THE RIGHT-OF-WAY AND WE WILL. WE HAVE TO
GET PERMISSION FROM THE DEPARTMENT OF TRANSPORTATION
AND FROM OTHER LOCAL AGENCIES. THAT'S NOT A BUFFER.
HERE IS THE BUFFER. WE CAN'T MINE WITHIN 300 FOOT OF
AN OCCUPIED DWELLING WITHOUT THEIR PERMISSION. THAT'S
SO THEY CAN'T LIMIT THE LANDOWNER THAT WE'RE DIGGING
FROM GETTING THEIR COAL.

MR. ALLEN: IF THAT'S NOT A BUFFER AND YOU
WERE MINING RIGHT UP TO THE RIGHT-OF-WAY, HOW FAR BACK
ON EITHER SIDE, DOWN THE ROAD, WOULD YOU ACTUALLY STOP
TRAFFIC?

MR. WRIGHT: THOUSAND FOOT. THAT'S WHEN WE
HAVE TO STOP THE TRAFFIC AND WARNING THEM.

MR. ALLEN: SO THE CLOSEST THE CAR WOULD BE
FROM THE BLASTING WOULD BE 1,000 FOOT?

MR. WRIGHT: WE HAVE TO STOP TRAFFIC WHEN WE
GET UP TO 1,000 FOOT OF THE HIGHWAY.

MR. ALLEN: I'M SAYING LET'S SAY YOU'RE RIGHT
ON THE HIGHWAY. AS YOU SAID, YOU WOULD BLAST RIGHT TO
THE RIGHT-OF-WAY. YOU'RE AT THE RIGHT-OF-WAY. HOW
FAR BACK DOWN THE ROAD ARE YOU STOPPING TRAFFIC?

MR. WRIGHT: WE TRY TO GO DOWN ABOUT A QUARTER
OF A MILE OR SO JUST TO MAKE SURE THEY'RE SAFE.
THAT'S THE SAME WARNING. I MEAN WE'RE STOPPING THE
TRAFFIC TO WARN THEM.

MR. KAZLAUSKAS: MR. CHAIRMAN --

MR. SCOTT: MR. KIRKLAND, I DON'T MEAN TO
INTERRUPT YOU, SIR. I WOULD LIKE YOU TO ASK THESE
GENTLEMAN -- I DON'T KNOW IF HIS COMPANY WAS INVOLVED.

CHAIRMAN: WAIT A MINUTE, MR. SCOTT. WE'VE
GOT A COMMISSION MEMBER AHEAD OF YOU.

MR. SCOTT: I UNDERSTAND THAT, BUT THIS DEALS
WITH THE BLASTING AND STOPPING TRAFFIC AND SOMETHING I
HAVE EXPERIENCE WITH.

CHAIRMAN: I THINK MR. KAZLAUSKAS --

MR. KAZLAUSKAS: GO AHEAD AND LET HIM ASK HIS
QUESTION.

CHAIRMAN: THANK YOU, MR. KAZLAUSKAS.

GO AHEAD.
MR. SCOTT: WHEN THEIR COMPANY, AND I'LL
DIRECT THIS TO YOU AND NOT TO THEM. WHEN THEIR
COMPANY DOES STOP THIS TRAFFIC ON THE HIGHWAY, WHAT
METHOD DO THEY EMPLOY TO STOP AND HOLD THAT TRAFFIC,
FOR HOW LONG, WHO PAYS THAT BILL, AND IF THE COMPANY
THAT -- I DON'T MEAN TO CALL YOU SETH. I JUST DON'T
KNOW YOUR LAST NAME.

MR. BURNS: SETH IS FINE.

MR. SCOTT: IF THE COMPANY HE WORKS FOR, I
WOULD LIKE TO KNOW IF THEIR COMPANY DID THE BLASTING
FOR THE STRIP MINING PROJECT THAT TOOK PLACE IN
HENDERSON COUNTY ADJACENT TO THE AUDUBON PARKWAY
APPROXIMATELY TWO YEARS AGO? IF HE IS THAT COMPANY,
IS HE AWARE OF AN INCIDENT IN WHICH ROCKS DID IN FACT
COME DOWN ON THE AUDUBON PARKWAY?

CHAIRMAN: FOR LACK OF RESTATING YOUR QUESTION
VERBATIM, I'M GOING TO JUST TURN AROUND AND DIRECT
YOUR QUESTION. IF I HAVE TO I WILL, BUT I'M GOING TO
DO IT WITH YOUR PERMISSION. IS THAT OKAY?

MR. SCOTT: GO AHEAD.

CHAIRMAN: I'M JUST GOING TO DIRECT IT RIGHT
TO YOU ALL RATHER THAN ME TRYING TO RESTATE. I THINK
HE -- SUMMARY OF METHOD OF STOPPING THE TRAFFIC. HOW
ARE YOU GOING TO STOP IT? WHO IS GOING TO PAY FOR IT?
AND WERE YOU INVOLVED IN THE HENDERSON COUNTY BLAST?
MR. SCOTT, IS THAT A PRETTY GOOD SUMMARY?

MR. SCOTT: I BELIEVE THAT'S RIGHT.

CHAIRMAN: THANK YOU.

MR. WRIGHT: OUR COMPANY WILL CONTROL THE TRAFFIC AT OUR EXPENSE.

WE'VE NEVER HAD A FLY ROCK LEAVE OUR PERMIT. NEVER, AS WESTERN KENTUCKY MINERALS.

CHAIRMAN: I THINK YOU SHOULD ANSWER THE QUESTION ABOUT THE HENDERSON COUNTY BLAST. ARE YOU FAMILIAR WITH WHAT HE'S TALKING ABOUT?

MR. SCOTT: YES, I AM. WE DID BLAST AT THAT MINE. IT WAS OUR COMPANY. WE DID HAVE A FLY ROCK INCIDENT THERE. THEY DID HAVE THE ROAD BLOCKED. I THINK THEY WERE USING THE HIGHWAY PATROL.

MR. SCOTT: STATE POLICE, SIR.

MR. BURNS: STATE POLICE.

THEY DID HAVE AN INCIDENT THAT DID THROW SOME ROCK ON THE ROAD AND GOT IT CLEANED UP. THEY HAD THE MINE SHUTDOWN FOR APPROXIMATELY A MONTH WHILE THEY INVESTIGATED EVERYTHING. THE BLASTER WAS PERSONALLY CITED. THERE WERE SOME PRETTY SEVERE REPERCUSSIONS FOR THAT.

CHAIRMAN: HOW CLOSE WAS THAT BLASTING TO THE HIGHWAY?

MR. BURNS: MARTY, DO YOU KNOW SPECIFIC
DISTANCES?

CHAIRMAN: YOU'LL HAVE TO COME TO THE PODIUM.

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

MR. VINCENT: MARTY VINCENT.

(MARTY VINCENT SWORN BY ATTORNEY.)

MR. VINCENT: I AM FAMILIAR WITH THAT BLAST.

OUR COMPANY WAS INVOLVED. BEFORE THE BLAST WAS EVER DETONATED WE KNEW, BECAUSE THERE WAS A MUD SEAM DETECTED AFTERWARDS THAT THERE COULD BE A POTENTIAL FOR FLY ROCK. IT WAS 300 FEET. THE SHOT WAS EXACTLY 310 FEET FROM THE STATE RIGHT-OF-WAY. ALL OF THE AUTHORITIES WERE CALLED. WE STOPPED THE TRAFFIC ON PURPOSE BECAUSE IT WAS A PLANNED STOPPED BECAUSE THEY DETECTED ANOTHER SEAM AFTER THE BLAST WAS LOADED.

THIS WAS NOT AN ACCIDENT. THE MINING COMPANY AND THE BLASTING COMPANY BOTH KNEW THAT THIS WAS A POTENTIAL ISSUE BEFORE THE BLAST WAS DETONATED. THAT IS WHY WE STOP THE TRAFFIC.

CHAIRMAN: THIS WAS 310 FEET?

& MINERALS, DEPARTMENT OF SURFACE MINING, THEY WERE
ALL INFORMED BEFORE THAT SHOT WAS DETONATED.

CHAIRMAN: THANK YOU.

MR. SCOTT: MR. KIRKLAND, THE STATE POLICE WAS
EMPLOYED FOR A LONG PERIOD OF TIME, SEVERAL MONTHS,
ONCE OR TWICE A DAY, TO BLOCK TRAFFIC ON THE AUDUBON
PARKWAY IN ORDER TO ALLOW THESE SHOTS TO BE PUT OFF.
I WAS NOT THERE THAT DAY. ONE OF THE MINERS FROM THE
COMPANY --

CHAIRMAN: JUST FOR THE RECORD I BELIEVE
YOU'RE GETTING -- YOU ARE A STATE --

MR. SCOTT: I AM A TROOPER, YES, SIR.

CHAIRMAN: THANK YOU.

MR. SCOTT: WHEN I CAME THROUGH, THAT HAPPENED
APPARENTLY ON ONE OF MY DAYS OFF OR A TIME THAT I WAS
NOT OUT THERE. WHEN I RETURNED OUT THERE, ONE OF THE
MINERS THAT I SAW THERE ON A REGULAR BASIS FOR THESE
times we had to be out there to stop traffic, he told
ME ABOUT THE ROCKS COMING DOWN ON THE HIGHWAY. HE
DIDN'T REFER TO IT AS MUD. HE REFERRED TO IT AS
ROCKS. SOME OF THEM LARGER THAN WHAT HE WANTED TO TRY
TO PUSH OFF THE HIGHWAY. IF THE MINE WAS SHUTDOWN FOR
A MONTH, I MUST HAVE MISSED THAT BECAUSE THE WAY HE
SPOKE TO ME IT HAPPENED THE WEEK BEFORE AND WE WERE
BACK OUT THERE FOR SHOTS AGAIN.
I DON'T MEAN TO DISPARAGE ANYBODY OF THEIR
ABILITIES, BUT OBVIOUSLY IT'S SHOWN IT CAN HAPPEN. IT
HAS HAPPENED. IT HAS HAPPENED HERE WITH THESE
COMPANIES THAT WE ARE FIXING TO GIVE A PERMIT TO OR AT
LEAST WE'RE FIXING TO GIVE A ZONING CHANGE TO GIVE
THEM AN OPPORTUNITY, AND IN THIS CASE HERE THEY KNEW
IT COULD HAPPEN, BUT THEY WENT AHEAD AND DID IT. I
DON'T UNDERSTAND THAT. MAYBE THERE'S SOMETHING I
DON'T KNOW. THAT FOR SOME REASON IT COULDN'T BE
UNDONE. BUT IT SEEMS TO ME YOU KNEW THERE WAS A
POTENTIAL FOR A PROBLEM. LET'S JUST NOTIFY EVERYBODY
AND GO AHEAD AND TAKE A CHANCE AT IT.

MR. VINCENT: YOU CANNOT LEAVE A LIVE HOLE
LOADED.

MR. SCOTT: I UNDERSTAND THAT.

CHAIRMAN: GENTLEMEN.

MR. VINCENT: YOU CAN'T LEAVE A LIVE HOLE
LOADED. IT HAS TO BE DETONATED. THERE WAS A PLAN PUT
TOGETHER. IT WAS EXECUTED. IT WAS MUD, SIR. I WAS
THERE. IT'S PUBLIC RECORD AND IT'S NOT HEARSAY.
SWORN TESTIMONY. I WAS THERE.

THE MINE WAS STOPPED. THE BLASTING IN THAT
AREA OF THE MINE WAS STOPPED FOR 17 DAYS SO THEY COULD
GO AND DO ADDITIONAL GEOLOGICAL STUDIES TO SEE WHERE,
IF ANY, THERE WERE MUD SEAMS AND HOW WE WOULD APPROACH
THAT, IF WE APPROACHED MORE MUD SEAMS. THAT WAS THE
REASON FOR THAT.

THE PUBLISHED LAW ON THE BOOKS, IF I MIGHT
SAY, FOR STOPPING TRAFFIC ON A PUBLIC ROAD IS 800
FEET. YOU SUBMIT A BLAST PLAN FOR THE STATE AND THEY
ASK YOU, THEY ASK YOU IF YOU ARE WILLING TO STOP THE
TRAFFIC AT 1,000 FEET. AND FOR MANY REASONS, AND MOST
OF IT, IS FOR CONCERN FOR THE PUBLIC AND THE
MOTORISTS. MOST MINING COMPANIES AGREE TO 1,000 FEET.
EIGHT HUNDRED FEET IS THE LAW AND YOU CAN ACTUALLY
MINE UP TO THE RIGHT-OF-WAY OF A PUBLIC ROAD.

THE SITUATION WHERE WE HAVE MINED CLOSE TO
PEOPLE'S HOMES, I DON'T KNOW OF ANY SITUATIONS WHERE
WE HAVE THROWN ROCK AND HIT HOMES. WE DO PUT PEOPLE
ON A CALL LIST WHEN WE APPROACH THEM. WE TAKE EXTRA
PRECAUTION. WE SHOOT SMALLER SHOTS. WE ACTUALLY -- I
PERSONALLY HAVE GONE TO PEOPLES HOMES AND HAVE TAKEN
THEM AND THEIR FAMILIES TO TOWN. BOUGHT THEIR KIDS A
MEAL, THE FAMILIES A MEAL. HAD GREAT RELATIONSHIPS
WITH THEM IN THOSE SITUATIONS BECAUSE WE WERE
CONCERNED. BECAUSE WE WANTED TO MAKE SURE THAT THEY
WERE SAFE AND NOT BECAUSE ANYBODY MADE US DO IT.

CHAIRMAN: LET ME JUST ASK YOU SOMETHING. HOW
FAR WOULD YOU HAVE TO BE FROM A HOUSE? I CAN
SYMPATHIZE WITH WHAT MR. JARBOE IS SAYING. HOW
MUCH -- I'M NOT GOING TO USE A WORD. I'M JUST GOING TO USE FOOTAGE.

HOW MANY FEET DO YOU NEED TO BE FROM A HOUSE WHERE PEOPLE CAN CONTINUE TO LIVE? THINGS CAN HAPPEN, AND I UNDERSTAND THAT. ANYBODY THAT OPENS UP AN ICE CREAM STAND UNDERSTANDS THAT.

THIS COMMISSION NEEDS TO TAKE THE RESPONSIBILITIES OF YOUR APPLICATION AND WE NEED TO TAKE THE RESPONSIBILITIES OF THE HOMEOWNERS AND BLEND IT INTO SOME SORT OF RECOMMENDATION. YOUR APPLICATION IS IN ORDER, BUT WE HAVE TO ASSURE THAT PEOPLE CAN GO OUT IN THEIR BACKYARDS AND BARBECUE, DO WHATEVER THEY WANT TO DO. I MEAN THAT'S UP TO THEM. THAT'S THEIR OWN.

HOW MUCH DISTANCE DO WE NEED TO BE WHERE SOMETHING LIKE THAT WOULD NOT HAPPEN?

THE STATE OF KENTUCKY SAID, NO, IT'S NOT, OR VICE
VERS. IT WAS AN AGREEMENT THAT WAS MADE BETWEEN
THEM. I WASN'T THERE WHEN THAT AGREEMENT WAS MADE,
BUT 800 FEET IS WHAT THEY DECIDED, BUT THE STATE OF
KENTUCKY FELT LIKE 300 FEET FROM A HOME IS A SAFE
AREA. MANY PLACES THROUGHOUT OUR COUNTRY, THERE'S
BLASTING DONE WITHIN 25 FEET OF BUILDINGS, HIGH RISE
BUILDINGS IN CITIES.

CHAIRMAN: THOSE ARE WILLING PARTICIPANTS.
WHAT WE'VE GOT HERE IS WE'VE GOT A SITUATION WHERE
WE'VE GOT HOMEOWNERS THAT WE NEED TO ACCOMMODATE.
MR. VINCENT: ABSOLUTELY.
CHAIRMAN: I'M NOT GOING TO CALL THEM
UNWILLING, BUT LET'S JUST CALL THEM HOMEOWNERS THAT
NEED ACCOMMODATION.
WE NEED TO HAVE ACCOMMODATIONS. YOU ALL AS
BUSINESS PEOPLE, YOU KNOW, WE UNDERSTAND YOUR SIDE OF
THE STORY TOO. WHAT THIS COMMISSION NEEDS TO PRESENT,
AND I'M SPEAKING ONLY FOR MYSELF. I'VE GOT ONE VOTE.
WHAT I SEE THAT WE NEED TO PRESENT IS WE NEED TO
PRESENT AN IRONCLAD CASE, AN IRONCLAD RECOMMENDATION
WHERE EVERYBODY IS PROTECTED. THE PROTECTION HAS TO
BEGIN, IT'S ONE THING TO -- WE'LL JUST USE MR. SCOTT
BECAUSE HE'S AT THE STAND.
IF YOU'RE LEASING 100 ACRES FROM MR. SCOTT AND
GOING RIGHT UP NEXT TO HIS HOUSE AND HE'S GETTING COAL
SEVERANCE, ETCETERA, ETCETERA, ETCETERA, THAT'S ONE
THING. THAT'S ONE SITUATION.

IN ANOTHER WHERE PEOPLE ARE NOT AND THEY VIEW
IT DIFFERENTLY, I CAN UNDERSTAND. I DON'T KNOW WHAT
YOUR SITUATION IS. YOU'LL JUST USE YOU AS AN EXAMPLE.

MR. SCOTT: I MUST HAVE UNDERSTOOD HIM A
MINUTE AGO. WHAT I UNDERSTOOD HIM TO SAY THE MINE WAS
SHUTDOWN FOR A MONTH. THEN IT WAS, WELL, THERE WAS NO
BLASTING IN THAT AREA FOR 17 DAYS. NOW, I MUST HAVE
MISUNDERSTOOD THAT BECAUSE THE MINE DID CONTINUE.

CHAIRMAN: THE POINT IS WELL TAKEN, BUT I
THINK THAT'S NOT IMPORTANT AT THIS TIME.

MR. SCOTT: I ALSO WANT TO ASK TWO THINGS
HERE.

THERE'S ONE GENTLEMAN BACK HERE THAT WASN'T
HERE EARLIER. I DON'T THINK GOT TO ASK ANY QUESTIONS.
HE WOULD LIKE TO BE HEARD TONIGHT. I'M ALL FOR THAT.
I HOPE YOU ALLOW THAT.

CHAIRMAN: EVERYBODY HAS HAD AN OPPORTUNITY.

MR. SCOTT: EVERYBODY HAS.

ALSO, DID THE MINING NEAR THE AUDUBON PARKWAY,
DID THAT ALSO CONTRIBUTE TO THE COLLAPSES THAT WE HAD
ON SECTIONS OF THE PARKWAY?

CHAIRMAN: LET ME FINISH WITH MY STATEMENT TO
HIM, IF I MAY.

MR. VINCENT: I CAN SHARE SOME TESTIMONY WITH YOU THAT OUR COMPANY IN CONJUNCTION AND WORKING FOR WESTERN KENTUCKY MINERALS SAFELY BLASTED WITHIN 60 FEET OF A HOMEOWNER IN THE KNOTTSVILLE AREA WITHIN THE LAST THREE YEARS.

CHAIRMAN: I APPRECIATE THAT. I MEAN EVEN TESTIMONY OF MR. LUDWICZAK WHEN HE WAS HERE TESTIFYING FOR MR. WILSON, YOU KNOW, WHEN I ASKED HIM HOW CLOSE. MR. LUDWICZAK SAID HE COULD GET VERY CLOSE TO A HOME AND NOT CAUSE ANY PROBLEMS PROBABLY.

YOU KNOW, WE'VE GOT TO COME UP WITH SOME TYPE OF SAFE SITUATION BECAUSE WE DON'T WANT FLY ROCK. WE DON'T WANT ANY DEBRIS OR ANYTHING, YOU KNOW, THAT COULD DAMAGE ANOTHER INDIVIDUAL. I MEAN WE COULD ARGUE ALL DAY ABOUT THE DUST AND WHATEVER. WHEN WE'RE TALKING ABOUT PROJECTILES, YOU KNOW, IT'S A WHOLE DIFFERENT SITUATION.

MR. VINCENT: WE DO UNDERSTAND THAT. WE TAKE SAFETY SERIOUSLY. THE STATE OF KENTUCKY HAS DEVELOPED THE DISTANCE OF 300 FEET AND WE BLAST CONSISTENTLY 300 FEET AND NOT HAD FLY ROCK INCIDENTS NOT HAVE THROWN ROCK OFF THE PERMIT ON OTHER PEOPLE'S PROPERTY. TODAY, THERE ARE LAWS ON THE BOOKS. IT'S BEEN PROVEN THAT IT'S A SAFE PRACTICE AT 300 FEET.
MR. SCOTT: ALL I'M GOING TO SAY IS IF WE CAN
NOT GUARANTEE ME THAT FLY ROCK WILL NOT COME ON MY
PROPERTY, THEN I AM NOT GOING TO BE ABLE TO ENJOY MY
PROPERTY AND MY CHILDREN'S SAFETY IS NOT THERE. IF
YOU VOTE FOR THAT, YOU'RE ENDORSING THE EXACT SAME
THING THAT YOUR COMPREHENSIVE PLAN IS TELLING ME THAT
I HAVE THE RIGHT TO ENJOY MY PROPERTY.
CHAIRMAN: I THINK I JUST MADE THAT STATEMENT.
MR. SCOTT: THANK YOU.
MR. BURNS: THERE WAS A QUESTION REGARDING HOW
MANY BLASTS WILL BE IN THAT AREA. WAS TALKING ABOUT
HOW ME MINE AROUND IT. DEPENDING ON IF IT'S 300 FEET,
IF WE SHOOT A SHOT HERE, WE MAY BE 300 FEET. THERE
MAY BE FOUR OR FIVE SHOTS IN THAT AREA WHERE WE'RE 300
FEET. THERE MIGHT BE ONE SHOT IN THE AREA THAT'S 300
FEET. BUT THEN YOU'RE GETTING AWAY FROM THAT AREA.
THERE'S A VERY SMALL WINDOW WHERE WE MIGHT BE CLOSER.
THERE'S A WINDOW WHERE WE MAY BE FURTHER AWAY.
CHAIRMAN: HAVE YOU NOT HAD THE OPPORTUNITY TO
SPEAK?
MR. MATTINGLY: NO. I HAVEN'T BEEN SWORN IN.
MR. SILVERT: WILL YOU STATE YOUR NAME,
PLEASE?
MR. MATTINGLY: JAMES MATTINGLY.
(JAMES MATTINGLY SWORN BY ATTORNEY.)
MR. MATTINGLY: WHAT I WANTED TO SPEAK ABOUT, 
AWHILE AGO THERE WAS A DISCUSSION ABOUT KNOTTSVILLE 
BEING HAPPY WITH COAL MINE. THAT'S PROBABLY TRUE. 
THERE ARE SOME THAT ARE AND THERE'S SOME THAT'S NOT. 
I'M ONE THAT'S NOT. 

I USED TO WORK AT OMU. I'VE WORKED AT THE 
POWER PLANT. I BREathed IN COAL DUST FOR 24 YEARS. I 
MOVED TO THE FAR EAST COUNTY. I THOUGHT THAT THE COAL 
MINES WERE DONE OUT THERE. YOU KNOW, THE OLD STRIPPER 
PITS, I THOUGHT THE MINING WAS PRETTY MUCH DONE. I 
MOVED OUT THERE IN '04. SINCE I'VE MOVED OUT THERE, I 
MEAN IT'S PICKED UP. THEY'VE COME WITHIN 1,000 FEET. 
I'M SORRY, ABOUT A MILE OF WHERE WE LIVE IN A MOBILE 
HOME. MY WIFE HAS 10 PERCENT HEART AND PNEUMONIA. 
JUST GOT OUT OF THE HOSPITAL FIVE DAYS AGO. GOT NO 
INSURANCE ON HER. 

ANYWAY, I GOT THIS LUNG RESTRICTION. I MOVED 
OUT THERE BECAUSE I DIDN'T WANT TO BREATHE ANY MORE 
DUST. YOU CAN'T TELL ME THAT THEY AIN'T MAKING SOME 
DUST ON THE ROAD BECAUSE I GO DOWN SHORT STATION ROAD. 
RIGHT THERE I THINK IT'S WHERE THE LANHAMS LIVE AND 
THERE'S DUST ON THE ROAD. WHERE TRUCKS GO OVER THERE 
AND PEOPLE DRIVE OVER. YOU ALL HAVE BIG DISCUSSION 
ABOUT NO DUST. THAT'S ALL I HAVE TO SAY. 

CHAIRMAN: THANK YOU, SIR.
WE'RE GOING TO GET INTO ANOTHER SET OF

QUESTION.

MR. SCOTT, YOU HAD QUITE A FEW QUESTIONS AND
I'LL TRY TO --

MS. KELTY: I DON'T THINK MINE GOT ANSWERED.

CHAIRMAN: YOURS WAS ABOUT THE SHARE OF THE
DATA ON THE ENVIRONMENTAL AND PUT IT ON THE WEBSITE
AND MAKE IT EASILY ACCESSIBLE. YES, MA'AM, I DID
BRING THAT QUESTION.

MS. KELTY: I DIDN'T HEAR THEIR ANSWER.

CHAIRMAN: I'M SORRY. THEY WERE IN A CAST OF
PEOPLE THAT -- THE QUESTION WAS ASKED, BUT IT HASN'T
GOTTEN ANSWERED YET. YOU'RE CORRECT.

WOULD SOMEBODY ADDRESSED THAT? HERE QUESTION
WAS ABOUT THE DATA, SHARING THE DATA ON THE
ENVIRONMENTAL AND ALL YOUR STUDIES. PUTTING IT ON THE
WEBSITE OR SOMEWHERE WHERE IT'S EASILY ACCESSIBLE.

MR. BURNS: TIM IS GOING TO ANSWER THAT
QUESTION. HE JUST MADE A GOOD ANALOGY AND HE ASKED ME
to share that briefly.

WHEN WE HAVE OUR BLAST WARNING SIGNALS FOR OUR
BLAST AREA, THAT BLAST AREA DEFINES BASICALLY WHAT
FLOW ROCK IS. SO EACH SHOT HAS A BLAST AREA. FLY
ROCK CANNOT LEAVE THAT. IT CAN'T GO HALF THE DISTANCE
OF THE STRUCTURE. ALL THOSE THINGS. WE GIVE OUR
BLAST WARNING SIGNALS, FIVE MINUTE WARNING, A ONE
MINUTE WARNING. THOSE ARE DEFINED. IT'S VERY
SIMILAR, AND HE BROUGHT THIS UP. IF YOU'RE DRIVING
DOWN THE ROAD AND YOU HEAR THE SIRENS FROM AN
EMERGENCY VEHICLE, THAT'S A WARNING. YOU NEED TO MOVE
OVER AND GET OUT OF THE WAY SO THEY CAN GET WHERE
THEY'RE GOING. THAT'S WHAT OUR BLAST WARNING SIGNALS.
THEY DO THE SAME THING. WE HAVE A FIVE MINUTE WARNING
AND A ONE MINUTE WARNING TO JUST WARN, HEY, THERE'S
ABOUT TO BE A BLAST THAT'S GOING OFF. THOSE ARE, LIKE
I SAID, WARNING SIGNALS. HE JUST ASK THAT -- IT WAS
KIND OF AN ANALOGY THAT MIGHT BRING SOME CLARITY TO
THAT.

CHAIRMAN: OUR GIRL SCOUT REPRESENTATIVE'S
QUESTION ABOUT THE EASE ACCESS TO YOUR ENVIRONMENTAL
INFORMATION.

MR. WRIGHT: ALL THAT SITE WILL BE ON OUR
PERMIT APPLICATION WHEN IT GOES ON PUBLIC VIEW.

CHAIRMAN: WHAT WEBSITE WILL THAT BE ON?

MR. WRIGHT: IT WON'T BE ON A WEBSITE. IT
WILL BE AT THE DEPARTMENT OF SURFACE MINING IN
MADISONVILLE.

CHAIRMAN: THEY WILL NOT HAVE THAT ON A
WEBSITE OR ANYTHING?

MR. WRIGHT: NO.
CHAIRMAN: DID YOU GET THAT? IT WILL BE AT
THE DEPARTMENT OF MINING, SURFACE MINING IN
MADISONVILLE. YOU MAY HAVE TO JUST CALL FOR THAT
INFORMATION.

MR. WRIGHT: NO, THEY WON'T GIVE IT TO YOU IF
YOU CALL. YOU HAVE TO GO DOWN THERE. YOU HAVE TO
SIGN IN AND VIEW IT THERE. THAT'S THE LAW.

CHAIRMAN: I'M SORRY, BUT THAT'S YOUR ANSWER.

MS. KELTY: THANK YOU.

CHAIRMAN: MR. STEVE SCOTT HAD A QUESTION
ABOUT HIS HOUSE WAS BUILT ON A WELL. WHAT SHOCKS
WOULD HE --

MR. WRIGHT: THE ONLY RECOMMENDATION I HAVE
THERE IS I'M A CERTIFIED WELDER. I CAN PLUG IT FOR
HIM. THAT WOULD BE MY ADVICE TO HIM. TO GET IT
PLUGGED. I WOULD HAVE PLUGGED IT BEFORE I BUILT MY
HOUSE, BUT IT DOES HAVE TO BE PLUGGED BY A CERTIFIED
WELDER.

CHAIRMAN: PLUGGING, FOR ME THAT DOESN'T MEAN
ANYTHING.

MR. WRIGHT: FILL IT UP.

CHAIRMAN: WITH WHAT? CONCRETE?

MR. WRIGHT: IT DEPENDS ON WHAT TYPE OF WELL
IT IS. IT WOULD HAVE TO BE EVALUATED.

CHAIRMAN: THAT TOOK CARE OF ALL OF OUR FIRST
GROUP OF QUESTIONS.

I'LL GET INTO MR. SCOTT'S QUESTIONS. HIS FIRST QUESTION WAS, I'LL GIVE ABOUT THREE AT A TIME SO YOU CAN SORT OF LINE UP WHO NEEDS TO ANSWER WHAT.

HIS FIRST QUESTION WAS BETWEEN THE AGRICULTURAL DUST VERSUS THE COAL DUST.

SECOND QUESTION WAS ABOUT THE WATER TRUCK. HOW MANY GALLONS THEY WERE GOING TO USE AND WHERE THE WATER WAS GOING TO COME FROM. THAT WAS LIKE ON A DAILY BASIS.

THE BLASTING, THE HIGH ORDER SPEED OF THE BLASTING 500 TO 1,000 FEET.

THEN ON THE RECLAMATION, HOW QUICKLY WAS THE RECLAMATION GOING TO BE DONE.

MR. SCOTT, IS THAT IT?

MR. SCOTT: WHAT IS THE CONSEQUENCE IF THEY DO NOT MEET THAT 180 DAY DEADLINE?

CHAIRMAN: THE CONSEQUENCES ON THE RECLAMATION. THERE IS ABOUT FOUR.

MR. WRIGHT: THE CONSEQUENCES IS THEY'LL SHUT US DOWN UNTIL WE GET OUR RECLAMATION CAUGHT UP.

CHAIRMAN: HOW ABOUT THE BLASTING?

MR. WRIGHT: WHAT WAS THE QUESTION ON THE BLASTING AGAIN?

CHAIRMAN: BLASTING WAS THE HIGH ORDER OF OHIO VALLEY REPORTING
(270) 683-7383
SPEED FROM 500 TO 1,000 FEET FOR YOUR BLASTING.

MR. BURNS: WE'VE ACTUALLY DONE SOME WORK WITH
THAT LATELY WITH SOME OTHER GROUPS AND THAT'S THEIR
SPECIALTY AND THEIR EXPERTISE.

BASICALLY WHEN YOU HAVE A SHOCK WAVE THAT GOES
OFF OF A SHOT OR OFF OF A SINGLE HOME OR ANYTHING LIKE
THAT, WHEN THAT WAVE GOES OUT, IT'S INTENSITY CLOSER
IN. YOU KNOW, IF LEAVES THAT -- WHEN IT DETONATES AND
GOES OUT THROUGH THE ROCK, IT GOES OUT AT A SPEED.
THAT SPEED MIGHT BE 3, 600 FEET PER SECOND FOR
SANDSTONE IN THIS AREA. AS IT GOES OUT, THE FREQUENCY
OF THAT WAVE CHANGES. THE SPEED THAT IT GOES OUT
DOESN'T REALLY SLOW DOWN, BUT IT DISSIPATES. SO
EVENTUALLY IT JUST GETS ABSORBED BY THE NATURAL
STRUCTURES IN THE GROUND.

CHAIRMAN: THIS 1,000 FOOT KEEPS POPPING UP.
IS THE 1,000 FOOT THE OPTIMUM?

MR. BURNS: THE 1,000 FOOT IS JUST A NUMBER HE
THREW OUT AS THE DISTANCE FROM 500 TO 1,000 TO 1,500.
CHAIRMAN: WELL, I JUST SORT OF GRABBED AHOILD
OF IT BECAUSE IT WENT BACK TO THE HIGHWAY STUFF.

MR. BURNS: 1,000 FEET, TO US OTHER THAN, YOU
KNOW, AT THIS LIMIT WE BLOCK A HIGHWAY. 1,000 FEET,
YOU KNOW, IT'S REALLY NO DIFFERENT THAN 1200 OR 800.
WE LOAD ACCORDING TO WHAT WE'RE ALLOWED TO LOAD. IT
DOESN'T MEAN WE MAXIMIZE EVERY SHOT, BUT THE DISTANCE
OF 1,000 FEET REALLY HAS NO BEARING ON WHAT WE DO.

CHAIRMAN: I'M GOING GO OVER ANOTHER SECTION
OF WHAT HE ASKED.

WHY IS THE COAL NOT WASHED IN OHIO COUNTY?

THE FIRE CLAY, YOU ALL EXPLAINED WHERE THE
FIRE CLAY IS LIKE A BASIN UNDERNEATH IT. HIS QUESTION
WAS, I GUESS, IF IT FILLS, HOW COME IT COULDN'T GO
OVER AND AROUND THE FIRE CLAY BASE?

MR. WRIGHT: THE COAL IN OHIO COUNTY -- WE
DON'T HAVE TO WASH IT. WE WILL HAVE A SMALL COAL RACK
OVER THERE. THE COAL WILL BE CRUSHED AND BROKE UP
THERE AND TAKEN DIRECTLY IN TO OMU OR TO YELLOW BANK
RIVER. SO THERE WILL BE NO COAL FROM OHIO COUNTY
GOING TO DAVIESS COUNTY TO BE WASHED.

CHAIRMAN: THE OTHER ONE WAS, ACTUALLY WAS FOR
MR. NOFFSINGER. THE COMPREHENSIVE PLAN.

MR. APPLEBY: WATER TRUCKS.

CHAIRMAN: I'M SORRY.

MR. WRIGHT: WHEN THE WATER TRUCKS COME FROM
ON SITE, WE HAVE SILT BASINS ON THERE THAT WE TAKE THE
WATER OUT OF. THAT'S A 4,000 GALLON WATER TRUCK.
LIKE HE SAID, ACCORDING TO THE DRYNESS OF THE WEATHER.
WE WILL NOT GET ANY FROM OHIO COUNTY. IT'S ALL TAKEN
FROM ON-SITE. WE HAVE SILT BASINS AND STUFF ON SITE
WE GET THE WATER OUT OF.

CHAIRMAN: HOW MUCH DO YOU USE?

MR. WRIGHT: IT'S A 4,000 GALLON TANK. THAT WOULD VARY A WHOLE LOT. DEPENDING ON THE DAY AND THE LENGTH OF ACCESS ROAD. A LOT OF THINGS GOING INTO THAT CALCULATION.

CHAIRMAN: SO YOU ALL REALLY GET YOUR OWN WATER ON SITE?

MR. WRIGHT: WE DO. WE HAVE TO USE IT ON-SITE.

MR. ALLEN: WHEN YOU SAY THE BASIN, IS THAT A NATURAL FILLED BASIN, WATER RAIN, OR ARE YOU TALKING ABOUT --

MR. WRIGHT: IT COLLECTS THE RAIN WATER OFF OF THE MINE SITE, YES. PART OF OUR DRAINAGE CONTROL.

CHAIRMAN: MR. NOFFSINGER, ONE OF HIS OTHER QUESTIONS THE COMPREHENSIVE PLAN. WHAT DO YOU DO TO GO ABOUT CHANGING THE COMPREHENSIVE PLAN IN REGARDS TO NOT HAVING COAL MINING IN THE AREA.

MR. NOFFSINGER: RIGHT NOW THE COMPREHENSIVE PLAN IS UNDER REVIEW. THERE HAVE BEEN A FEW ARTICLES IN THE MESSENGER-INQUIRER RELATED TO THE PROCESS. YOU'RE WELCOME TO CALL THE PLANNING OFFICE AT ANY TIME AND SPEAK TO BECKY STONE OR BRIAN HOWARD. THEY CAN GIVE YOU SPECIFICS AS WELL AS DATES FOR UPCOMING
PUBLIC COMMENT OPPORTUNITY. IF YOU'D LIKE TO READ THE
COMPREHENSIVE PLAN, IT IS AVAILABLE ON THE INTERNET AT
OUR WEBSITE. IT'S AT IOMPC.ORG, AND THAT FULL
DOCUMENT IS ON THE WEBSITE. YOU CAN TAKE A LOOK AT
IT. IF YOU DON'T HAVE THE INTERNET, YOU CAN CERTAINLY
GO TO THE PUBLIC LIBRARY. THEY DO HAVE AN INTERNET
AND YOU CAN DOWNLOAD IT OR TAKE A LOOK AT IT THERE OR
YOU CAN STOP BY THE OFFICE AND RECEIVE A COPY. THERE
IS A CHARGE. IT'S A MINIMAL CHARGE FOR PRINTING THE
COST. THOSE PUBLIC OPPORTUNITIES FOR COMMENT I THINK
ARE GOING TO COME UP IN THE MONTH OF JUNE, AND
POSSIBLY JULY. YOU CAN ALSO POST COMMENTS ON OUR
WEBSITE AT IOMPC.ORG. THE OPPORTUNITY TO POST
COMMENTS THERE AS WELL.

MR. SCOTT: MR. KIRKLAND, THE ONE QUESTION
THAT YOU ASKED ABOUT THE STUDIES.

CHAIRMAN: GO TO THE MIKE, PLEASE.

MR. SCOTT: ONE OF THE QUESTIONS YOU REPEATED
FOR THEM WAS DID THEY HAVE STUDIES COMPARING THE
AGRICULTURAL DUST TO THE COAL DUST TIMES THE AMOUNT OF
CONCENTRATIONS. I DIDN'T HEAR ANYTHING ON THAT.

CHAIRMAN: BUT I STATED IT CORRECTLY?

MR. SCOTT: I THINK SO, YES.

CHAIRMAN: THANK YOU.

HE RESTATE IT. YOU SLIPPED BY ONE OF THEM.
MR. WRIGHT: I HAVE NO STUDIES, NO.

CHAIRMAN: I'M SORRY?

MR. WRIGHT: I HAVE NO STUDIES, NO.

AGRICULTURAL DUST IS COMMON DUST. COAL DUST AND ROCK DUST IS KNOWN AS FUGITIVE DUST.

CHAIRMAN: I'M GIVE ANOTHER SECTION.

THE TIME OF OPERATION.

ONE OF THEM WAS THE PROCEDURE CALL.

ANOTHER ONE WAS ABOUT THE PLANNING COMMISSION.

THE OTHER ONE WAS ABOUT THE PLANNING COMMISSION. THE TIME OF OPERATION.

MR. SCOTT: THAT WAS DIRECTED TO YOU.

CHAIRMAN: THE TIME OF OPERATION.

MR. SCOTT: WILL YOU EXTEND? WILL THIS COMMISSION EXTEND TO OTHER BUSINESSES THE SAME HOURS OF OPERATION? I HAVE A FRIEND WHO HAS A CONSTRUCTION COMPANY. IF HE WANTS TO RUN HIS CONSTRUCTION COMPANY FROM 6 IN THE MORNING UNTIL 4 IN THE MORNING, WILL THIS COMMISSION ALLOW HIM TO DO THAT?

CHAIRMAN: LET ME GET THEIR HOURS OF OPERATION FIRST.

IS THAT WHAT YOU'RE OPERATION?

MR. WRIGHT: WE RUN IN TWO SHIFTS. THE DAY SHIFT RUNS FROM 5:30 TO 4, 5 TO 4 IN THE MORNING.

CHAIRMAN: MR. NOFFSINGER.
MR. NOFFSINGER: ZONING DOES NOT REGULATE THE HOURS OF CONDITION UNLESS A CONDITIONAL USE PERMIT APPROVED BY THE BOARD OF ADJUSTMENT TO SET SPECIFIC HOURS OF OPERATION, BUT THROUGH ZONING WE DO NOT REGULATE THE HOURS OF OPERATION.

MR. SCOTT: IS THERE A THAT DOES REGULATE THOSE HOURS IN THE COUNTY?

MR. NOFFSINGER: NOT TO MY KNOWLEDGE.

MR. SCOTT: IF I WANT TO COME AND JUST, FOR INSTANCE, IF I WANT TO COME AND MOW YOUR NEIGHBOR'S GRASS AND THEY CONTRACT WITH ME TO DO IT AND AGREE TO LET ME DO IT AT 3:00 IN THE MORNING, I CAN COME DO THAT?

MR. NOFFSINGER: THAT WOULD BE AN ISSUE, IF IT'S IN THE CITY OF OWENSBORO. YOU WOULD TALK TO THE CITY OF OWENSBORO AND FIND OUT WHAT TYPE OF NOISE ORDINANCE THEY HAVE, AS WELL AS IN DAVIESS COUNTY, BUT THAT'S NOT ANYTHING THIS THAT COMMISSION HAS ANY CONTROL OVER.

CHAIRMAN: THEY ASKED, WHO DO WE REPRESENT.

THERE'S FIVE OF US APPOINTED BY THE CITY.

FOUR OF US APPOINTED BY THE COUNTY. ONE OF US APPOINTED BY THE CITY OF WHITESVILLE.

THERE'S FIVE OF US APPOINTED BY THE CITY.

FOUR OF US APPOINTED BY THE COUNTY. ONE OF US
APPOINTED BY THE CITY OF WHITESVILLE.

WILL THERE BE A CALL VOTE? WE'VE NEVER DONE THAT IN ANY OTHER MEETING. WE WILL NOT DO THAT IN THIS MEETING. WE WILL RAISE OUR HANDS YOU WILL SEE HOW WE VOTE BY LOOKING AT US.

HOW ARE WE COMPENSATED?

VERY WELL. I HAD A SANDWICH AND POTATO CHIPS AND A WATER. THAT WAS PRETTY MUCH THE EXTENT.

MR. NOFFSINGER: AND A PICKLE.

CHAIRMAN: I DON'T EAT PICKLES. I GAVE MY PICKLE TO MR. ROGERS. WE RECEIVE NO PAY AT ALL.

WE'RE STRICTLY VOLUNTEERS AND ASKED BY THE COMMISSION TO SERVE.

I THINK I'VE PRETTY MUCH SUMMARIZED ALL. IF I LEFT ANY OUT, THAT'S BETTER THAN I DID IN SCHOOL.

MR. SCOTT: I BELIEVE YOU GOT THEM ALL. THANK YOU.

CHAIRMAN: THE NEXT ROUND OF QUESTIONS WAS WHY -- I THINK SOMEBODY TOUCHED ON THIS ONE. WHY IS KNOTTSVILLE DIFFERENT THAN PLEASANT RIDGE? RYAN PORTER ASKED THAT QUESTION.

MR. POTTER: NO. I WAS THE ONE THAT ASKED THAT. THAT WAS DIRECTED TOWARDS THE OPPOSITION.

CHAIRMAN: I'M SORRY. OKAY. MR. ISBILL ANSWERED THAT, I'M SORRY.
MR. KAMUF ASKED: ARE WE GOING TO BE ABLE TO
GROW FOREST TYPE OF TREES ON THIS PROPERTY? WHY DID
THE COMPANY CHANGE ITS NAME? WHAT IS THE LONG TERM
STUDY ON THE IMPACT COAL WILL HAVE IN THE AREA?

MR. WRIGHT: READ YOUR QUESTION AGAIN, PLEASE.

CHAIRMAN: MR. KAMUF WANTED TO KNOW, COULD WE
GROW FOREST TYPE TREES? THE OAKS, THE WALNUTS,
etcetera. HE DIDN'T SAY THAT. THAT WAS MY ADDITION.

MR. WRIGHT: YES, WE COULD IF THE LANDOWNER
WANTED IT. THEY HAVE THEIR CHOICES THE WAY THEIR LAND
IS RECLAMATED.

CHAIRMAN: WILL THESE TREES FLOURISH IN THE
FIRST COUPLE OF YEARS?

MR. WRIGHT: NO. THEY WOULD HAVE TO TAKE HOLD
AND GROW AS ANY TREE WOULD.

CHAIRMAN: I MEAN COULD YOU PLANT THEM THE
FIRST YEAR OR WOULD IT NOT EVEN BE ADVISABLE TO PLANT?

MR. WRIGHT: NO. WE COULD DO IT THE FIRST
YEAR. WE ARE REQUIRED TO DO IT AROUND THE STREAMS AND
RESTORATION WITH THE CORP OF ENGINEERS. THESE
LANDOWNERS CHOOSE THESE LAND USES THAT THEY WANT.
MOST OF THEM PASTURE LAND AND, OF COURSE, THE CROP
LAND HAS TO BE PUT BACK. WE HAVE NO CHOICE.

CHAIRMAN: WHY DID THE COMPANY CHANGE ITS
NAME?
MR. WRIGHT: THEY SOLD OUT. HE DIDN'T CHANGE HIS NAME. HE SOLD THOSE COMPANIES.

CHAIRMAN: LONG TERM STUDY ON COAL. YOU MAY HAVE TO CORRECT ME ON THIS.

MR. WRIGHT: I THINK HE TRIED TO SAY 200 YEARS WASN'T ENOUGH FOR A LONG TERM STUDY I THINK IS WHAT HE SAID.

MR. KAMUF: YES, BASICALLY. THAT COAL HAS BEEN IN THE GROUND FOR 300 MILLION YEARS AND WE'RE GOING TO MAKE A DECISION TONIGHT THAT'S REALLY GOING TO AFFECT PEOPLE FOR GENERATIONS AND GENERATIONS.

CHAIRMAN: SO WHAT WAS YOUR QUESTION?

MR. KAMUF: THE QUESTION IS: HOW DO YOU DO A LONG-TERM STUDY WHEN THIS IS SUCH A SHORT PERIOD OF TIME? IS THERE A LONG-TERM STUDY ON GEOLOGICAL TIME SCALE?

MR. WRIGHT: THERE'S BEEN A LOT OF STUDIES DONE BY THE STATE AND FEDERAL GOVERNMENT. THAT'S WHERE OUR REGULATIONS COME FROM AND THAT'S WHY THEY'RE CONSTANTLY CHANGING.

CHAIRMAN: NEXT QUESTIONS ARE MORE SINGLE TYPE QUESTIONS.

WHAT ARE THE PROPERTY VALUE AND INSURANCE INFLUENCE THAT IT WILL HAVE WHEN THE COAL MINING MOVES INTO THIS AREA? PROPERTY VALUE AND WHAT AFFECT WILL
THAT HAVE ON THE INSURANCE TO PEOPLES HOMES?

MR. WRIGHT: I'M NOT QUALIFIED TO ANSWER THAT, AND I DON'T KNOW THAT WE HAVE ANYBODY HERE THAT CAN.

CHAIRMAN: I THINK WE'VE HAD A PRETTY EXTENSIVE PROPERTY VALUE DISCUSSION. I THINK INSURANCE IS SOMETHING THAT --

MR. WRIGHT: I'VE NEVER HEARD OF MINING RAISING SOMEBODY'S INSURANCE, PROPERTY INSURANCE, HOUSING INSURANCE. I'VE NEVER HEARD OF THAT.

CHAIRMAN: MR. HAYNES IS CHOPPING AT THE --

MR. HAYNES: I CAN JUST SPEAK FROM PERSONAL EXPERIENCE. I'VE HAD TWO RESIDENCES THAT HAVE HAD MINES AROUND THEM. MY PROPERTY INSURANCE HAS NOT GONE UP ANY BECAUSE OF IT. THAT'S JUST PERSONAL EXPERIENCE.

MR. WRIGHT: IF THE BLAST DAMAGE IS CAUSED BY THE COMPANY, THEN OUR INSURANCE TAKES CARE OF IT.

CHAIRMAN: WE HAD ANOTHER RESIDENT THAT ASKED IF A QUARTER OF A MILE FROM THE BLAST, WHAT AFFECT THEY WOULD HAVE.

I THINK THAT WOULD BE YOUR LAST BLAST EXPERT.

MR. BURNS: WELL, AT A QUARTER OF A MILE, AGAIN, YOU'RE GOING TO FEEL SOMETHING, BUT THE REGULATIONS THAT WE HAVE TO GO BY ARE TO PROTECT STRUCTURES AT WHATEVER DISTANCE WE'RE BLASTING FROM.
SO AT A QUARTER OF A MILE, AS LONG AS WE'RE ADHERING TO THOSE REGULATIONS. AGAIN, IT'S NOT JUST -- THE SHOTS WE DO, THEY'RE ALL DESIGNED. WE TELL THEM EXACTLY WHERE TO DRILL THE HOLES. HOW FAR APART TO DRILL THEM. AND THE REGULATIONS TELL US HOW MANY POUNDS OF EXPLOSIVE WE HAVE TO PUT IN THERE AND DOWN TO THE MILLISECOND HOW FREQUENTLY WE CAN DETONATE THOSE CHARGES. SO IT'S VERY DETAILED. THAT'S ON EVERY SINGLE BLAST. SO EVERY TIME SOMETHING GOES BOOM, IT WAS DESIGNED. IT WAS WELL THOUGHT OUT. IT MEETS THE CRITERIA THAT WAS SET FORTH BY REGULATIONS. THEY'VE GOT SEISMOGRAPHS IN THE GROUND AT THE NEAREST STRUCTURES FOR PEOPLE THAT WANT ONE THERE. WE SET THAT UP. THAT IS A PHYSICAL READING OF THAT BLAST TELLING US HOW THE GROUND MOVED AND THE AIR BLAST LEVELS. I KNOW THAT WAS -- I THINK I'LL BE BACK UP HERE WITH SOME AIR BLAST QUESTIONS.

CHAIRMAN: WHY DON'T I JUST GET RIGHT INTO THEM. WHY DON'T YOU JUST KIND OF SUM THIS ONE UP.

THE NEXT QUESTION ACTUALLY IS ABOUT AIR BLASTING. ABOUT AIR BLASTING AND WHAT WILL THE AFFECT BE AND AT WHAT DISTANCES.

MR. BURNS: BASICALLY WHAT THE AIR BLAST IS, IT'S A DIFFERENCE IN THE AIR OVERPRESSURE. SO ANYTHING, WHETHER IT'S AUDIBLE OR NOT AUDIBLE, WHEN HE
SHOOT A SHOT, WHEN YOU SAW THE SHOT ON THE VIDEO AND
YOU SAW THE GROUND HUMP UP, WHEN THAT GROUND IS
DISPLACED AND THE MOVES UP, IT BASICALLY PUSHES THE
AIR. SO AS THAT WAVE GOES OUT, JUST IF YOU COULD SEE
IT, WHICH YOU CAN'T, IF THAT WAVE GOES OUT, WHEN IT
REACHES A STRUCTURE, IT ACTUALLY CAUSES A PRESSURE
DIFFERENCE. SO IT ACTUALLY, YOU KNOW, THE WALLS IS
UNIQUE AND THAT PRESSURE DIFFERENCE HITS. IT'S JUST
AS IF YOU GET HIGH WINDS OUTSIDE AND SOMETHING, YOUR
WINDOWS RATTLE OR SOMETHING. IT JUST CREATES A
PRESSURE DIFFERENCE.

SO THE AIR BLAST, A LOT OF IT HAS TO DO WITH
THINGS THAT WE CAN CONTROL AND THINGS WE CAN'T. THE
WIND DIRECTION, YOU KNOW, CAN SEND AIR BLAST IN A
DIRECTION. IF THERE'S A LOW CEILING OR A CLOUD COVER,
IT CAN COME UP AND HIT THAT CEILING AND YOU MIGHT HEAR
IT FURTHER AWAY. I THINK SOMEBODY SAID THEY WERE
FEELING THE BLAST OR HEARING THEM AT A DISTANCE.

CHAIRMAN: THERE AGAIN, IS THERE ANY DISTANCE
WHERE THIS DOES OR DOES NOT DISSIPATE OR IS IT ALL DUE
TO ATMOSPHERIC AND CLOUDY CONDITIONS?

MR. BURNS: NO. THERE'S NO SPECIFIC DISTANCE.
JUST RELATIVE TO THE CONDITIONS AT THE TIME, THE SIZE
OF THE BLAST, AND DIFFERENT THINGS LIKE THAT.

CHAIRMAN: LET ME SAY IT'S JUST A NORMAL
KENTUCKY SUMMER. ABOUT 90 PERCENT HUMIDITY, ABOUT 95
DEGREES OUTSIDE. NOT A CLOUD IN THE SKY. EVERYBODY
IS MISERABLE. ALL RIGHT. NOW, WHAT'S GOING TO HAPPEN
TO AIR BLAST AT THAT TIME?

MR. BURNS: WITH THE AIR BEING HEAVIER IT'S
GOING TO GO OUT. IF THERE'S CEILING, IT'S WARM AIR,
IT'S GOING TO DISSIPATE QUICKER. IT'S GOING IN A
VERTICAL DIRECTION THAT'S NOT GOING TO HIT AND BOUNCE
DOWN SOMEWHERE ELSE. DEPENDING ON, YOU KNOW, HOW MUCH
MOVEMENT THERE IS OF THE BLAST. YOU MIGHT HEAR IT,
SEE IT A MILE AWAY. YOU MIGHT HEAR IT OR SEE IT HALF
A MILE AWAY.

AGAIN, THE AIR BLAST LEVELS THAT WERE
REGULATED BY THE LIMIT IS 133. WE HEARD SOME NUMBERS
I THINK THROWN OUT AND STUFF. THAT IS --

CHAIRMAN: NOW, 133, IS THAT THE DB'S?

MR. BURNS: THAT IS MEASURED IN DECIBELS, YES.

ANYTHING OVER THAT IS CONSIDERED AN EXCEEDANCE.

CHAIRMAN: HOW FAR OUT DOES 133 DB'S GO?

MR. BURNS: THAT'S JUST -- WHEREVER -- WE'RE
REGULATED AT THE NEAREST STRUCTURE. SO IF WE EXCEEDED
AT THE MICROPHONE AT THE NEAREST STRUCTURE, THEN IT'S
A VIOLATION. THAT WOULD BE CLOSEST TO THE BLAST SO
THAT'S TYPICALLY WHERE YOU'RE GOING TO GET YOUR
HIGHEST AIR BLAST.

OHIO VALLEY REPORTING
(270) 683-7383
CHAIRMAN: MY STANDARD QUESTION: ON A GIVEN DAY, HOW FAR OUT IS THAT GOING TO BE?

MR. BURNS: TO GET A HIGHER AIR BLAST?

CHAIRMAN: TO GET TO 133 DB'S.

MR. BURNS: IF WE GET 133 DB'S WE'VE GOT A VIOLATION.

CHAIRMAN: SO YOU'RE NOT GOING TO HAVE A 133 DB'S?

MR. BURNS: THAT'S RIGHT.

CHAIRMAN: IF I DID NOT SUMMARIZE OR DID NOT GET SOMEBODY'S QUESTION, TO MY KNOWLEDGE I GOT ALL THE SUMMARIES OF ALL THE QUESTIONS.

MR. APPLEBY: A QUESTION WAS ASKED ABOUT WATER LINES.

CHAIRMAN: OH, I'M SORRY. I'M SORRY.

WE DID HAVE A GENTLEMAN THAT CAUGHT ME ON ONE OF THE BREAKS THAT'S FROM THE OHIO COUNTY WATER DEPARTMENT.

WOULD YOU MIND STEPPING TO THE PODIUM?

MR. LITTLE: CAN I SAY SOMETHING ABOUT THE --

CHAIRMAN: YES, SIR.

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

MR. LITTLE: STEVE LITTLE, MIDWEST CONSULTING.

ONE OF THE DOCUMENTS I GAVE YOU THAT WE PUT
INTO EVIDENCE IT DEALS WITH NOISE. THERE'S STUDIES IN
THERE THAT HAVE BEEN DONE THAT VERIFY THAT FOR EVERY
DOUBLING OF A DISTANCE FROM THE SOURCE, SIX DECIBEL
WILL DROP. THERE'S A LITTLE GRAPH IN THERE. I DIDN'T
GET ENOUGH TIME TO COVER THAT WITH YOU, BUT YOU'VE GOT
IT. SO THERE'S TWO LITTLE CHARTS IN THERE THAT SHOW
THAT.

CHAIRMAN: BASED ON YOUR GRAPH, THE TEN FEET,
IT'S 96 DB'S, WHICH IS JUST ABOVE HEARING
CONSERVATION.

MR. LITTLE: THAT'S JUST A REFERENCE TO THAT.

IF YOU FOLLOW THAT ON DOWN THE LINE, EVERY TIME THE
DISTANCE DOUBLES FROM THE SOURCE OF THE NOISE, THE DB
DISSIPATES. IT DROPS SIX.

CHAIRMAN: AT 96 DB'S YOU'RE REQUIRED TO
INSTRUCT YOUR EMPLOYEES TO WEAR HEARING PROTECTION,
BUT THEY DON'T. IF THEY DON'T WANT TO, THEY DON'T
HAVE TO DO IT.

MR. LITTLE: YES.

CHAIRMAN: THE WATER LINE. WE HAD A QUESTION
ABOUT THE WATER LINES RUNNING UP AND DOWN THE HIGHWAY.
DO YOU ALL WANT TO GO -- THIS GENTLEMAN HERE WORKED
FOR THE OHIO COUNTY WATER DISTRICT. DO YOU WANT TO
TAKE IT OR DO YOU WANT HIM OR BOTH OF YOU TAKE IT?

MR. WRIGHT: NO. HE CAN GO IF WANTS TO ANSWER
THE QUESTION.

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

MR. BEASLEY: MY NAME IS WALT BEASLEY, OHIO COUNTY WATER DISTRICT.

(WALT BEASLEY SWORN BY ATTORNEY.)

MR. BEASLEY: I THINK THE QUESTION WAS WHAT HAPPENS TO THE WATER LINES WHEN THEY GET CLOSE OR WHAT HAPPENS WHEN THEY START BLASTING CLOSE TO THE WATER LINES.

CHAIRMAN: YES, SIR.

MR. BEASLEY: WELL, FIRST THING THAT DID HAPPEN WAS WHEN WESTERN KENTUCKY GOT THIS PROGRAM TOGETHER, THEY NOTIFIED US. WE SENT THEM MAPS OF OUR LOCATION OF THE WATER LINES IN THE AREA THAT THEY WOULD BE MINING AND BLASTING AT, ALONG WITH A LETTER STATING THAT ANY DAMAGE DONE TO THESE WATER LINES THEY WOULD BE RESPONSIBLE FOR. I THINK THERE IS A LAW, TIM WOULD HAVE TO TELL US WHAT IT IS, AS FAR DISTANCE AWAY FROM THEM.

WE WERE EXPERIENCING IN THE COUNTY, IN OHIO COUNTY NOW, WITH SOME MINING THAT'S GOING ON THERE. WE'VE NOT EXPERIENCED ANY PROBLEMS. WE PERSONALLY, THE OHIO COUNTY WATER DISTRICT, DOES NOT HAVE ANY LINES REAL CLOSE TO THAT MINING OPERATION, BUT IT'S OHIO VALLEY REPORTING (270) 683-7383
POSSIBLE WE WILL HAVE. THERE AGAIN, THEY STILL SEND
US A SCHEDULED EVENT OF ALL THEIR BLASTING, EVEN
THOUGH THEY'RE NOT IN THE AREA AT THIS PRESENT TIME.
ANY WATER LINE THAT WOULD BE POTENTIALLY
DAMAGED OR WHATEVER, THE MINING, WESTERN KENTUCKY
MINERALS ARE MINING WILL BE RESPONSIBLE TO MOVE IT,
FIX IT, WHATEVER.
CHAIRMAN: ARE YOUR WATER LINES PREDOMINATELY
PVC?
MR. BEASLEY: THEY ARE IN THIS AREA, YES.
CHAIRMAN: SO THERE'S NO OF THE OLD GALVANIZED
STEEL?
MR. BEASLEY: WE HAVE NO STEEL. THERE IS SOME
OF WHAT THEY CALL AC PIPE. THAT'S CONCRETE, THE OLD
CONCRETE, I HATE TO SAY, ASBESTOS. IT'S CONCRETE
ASBESTOS PIPE. THERE IS STILL SOME IN OUR SYSTEM.
NOT RIGHT IN THIS AREA.
CHAIRMAN: THANK YOU.
MR. WRIGHT: WE'RE REQUIRED TO -- WE HAVE TO
CONTACT THEM, GET THEIR COMMENTS ON WHAT THEY THINK
ABOUT THE BLASTING, THE DISTANCE, THE VIBRATION, SO ON
AND SO FORTH. WE'RE NOT LIMITED BY THE DISTANCE. WE
ARE LIMITED BY THE VIBRATION. WE HAVE TO PUT THE
SEISMOGRAPH AT THESE UTILITIES AND MONITOR THAT ALSO.
CHAIRMAN: THANK YOU.
WE'VE REACHED POINT NOW WHERE I THINK IT'S TIME TO, MR. HAYNES, WE'LL LET YOU CONCLUDE AND THEN MR. WILSON.

MR. WHISTLE: I ASKED THE QUESTION ABOUT THE TEN YEAR PLAN.

CHAIRMAN: STEP TO THE PODIUM. THEN TEN YEAR PLAN. I'M SORRY, I FORGOT THAT.

MR. WHISTLE: THE TEN LENGTH OF THE OPERATION.

IS THERE A COMMITMENT?

CHAIRMAN: LET ME ASK IT.

MR. WHISTLE'S QUESTION WAS INVOLVED IN THE TEN YEAR PLAN. WHETHER IT IS TEN YEARS OR WILL THAT BE EXPANDED TO A LONGER PLAN OR IS TEN YEARS IT? IN OTHER WORDS, THE TEN YEAR PLAN, IS THAT START TO FINISH?

MR. WRIGHT: THAT'S AN ESTIMATE FOR THIS SITE, THE SITE THAT'S PROPOSED FOR REZONING. THEY ALL KNOW -- WE HOPE TO PUT TOGETHER IN THE FUTURE.

CHAIRMAN: BUT IN THIS AREA?

MR. WRIGHT: NO. IT WILL BE AWAY FROM THIS AREA, OF COURSE.

CHAIRMAN: THANK YOU.

I THINK I'VE SUMMARIZED AND GOTTEN EVERYBODY'S QUESTION.

MR. WILSON, DO YOU HAVE SUMMARY?
MR. WILSON: YES, SIR.

MR. CHAIRMAN, WE APPRECIATE THE PATIENCE OF
THE CHAIR AND EVERYBODY TONIGHT. IT'S BEEN ANOTHER
LONG NIGHT. I DIDN'T THINK IT WOULD BE THIS LONG
TONIGHT. THINGS HAVE GONE PRETTY ORDERLY.

WE'RE JUST HERE, AS WE WERE THREE MONTHS AGO,
ASKING THIS COMMISSION TO RESPECT THE LIFESTYLE,
QUALITY OF LIFE TO THE PEOPLE OF THE PLEASANT RIDGE
AREA. PARTICULARLY THE PEOPLE THAT I REPRESENT.
BASICALLY THE GIRL SCOUT, RUSSELL ROAD, RED HILL
MAXWELL. THEY SIMPLY DON'T WANT THEIR PROPERTY STRIP
MINED. BOTTOM LINE. THE REASON IS WE FEEL IT'S GOING
TO DISRUPT THE QUALITY OF LIFE THAT THEY'VE CHOSEN OUT
THERE. IN RELIANCE ON WHAT WE'VE TALKED ABOUT
REPEATEDLY THAT HAPPENED IN '86 AND AGAIN IN '93 WHERE
THIS COMMISSION HAD ESSENTIALLY THE IDENTICAL QUESTION
IN FRONT OF IT.

WHAT'S HAPPENED SINCE THEN TO MAKE IT MORE
APPROPRIATE OR LESS APPROPRIATE NOW THAN IT WAS THEN?
I KNOW OF NOTHING THAT'S HAPPENED TO MAKE IT MORE
APPROPRIATE, OTHER THAN POSSIBLY A COAL SEVERANCE TAX
THAT DIDN'T EXIST MAYBE YEARS AND YEARS AGO.

THE REASON THAT IS LESS APPROPRIATE IS DUE TO
THE DEVELOPMENT, THE PEOPLE. THE PEOPLE THAT HAVE
CHOSEN TO LIVE IN THIS BEAUTIFUL AREA. WHO HAVE
INVESTED CONSIDERABLE SUMS OF MONEY FOR A LIFESTYLE
THAT THEY WANTED. IT WILL CHANGE IMMEDIATELY. IT'S
ALREADY CHANGED. I DON'T WANT TO BELABOR HATEFUL ACTS
OR ANYTHING, BUT YOU'VE GOT A COPY OF THE LETTER THAT
WENT OUT TO CARLIN GREGORY. WROTE A LETTER TO THE
EDITOR. THERE'S BEEN A LOT OF LETTERS WRITTEN BY
OTHER PEOPLE, BUT THAT LETTER THAT HE GOT IN RESPONSE
HAD A SOBERING AFFECT ON A LOT OF THE PEOPLE THAT WE
HAVE TALKED TO THAT WERE WILLING TO SPEAK AND WERE
WILLING TO WRITE LETTERS. THERE HAVE NOT BEEN THAT
MANY LETTERS AS I THOUGHT THERE WOULD BE OR THERE WAS
THE LAST TIME. IT'S BECAUSE THERE'S A FEAR FACTOR OUT
THERE.

THIS AREA DOESN'T NEED THAT. IT DIDN'T NEED
THAT. MR. LANHAM HAS NOTHING TO DO WITH THAT I KNOW,
BUT THIS PROCESS HAS HAD SOMETHING TO DO WITH IT.
SENDING AN ACTIVITY INTO AN AREA THAT'S GOT A
LIFESTYLE OUT THERE THAT'S JUST NOT CONDUCIVE TO STRIP
MINING ACTIVITIES. THIS PROPERTY IS LAND IN THAT
AREA. IT'S JUST LAND. IT'S UNSUITABLE FOR THIS TYPE
OF ACTIVITY. WE INTEND TO APPROACH THE MEETINGS THIS
SUMMER AND TRY TO COME UP WITH SOME TYPE OF
DESIGNATION OF LAND MAYBE UNSUITABLE FOR MINING WHICH
WE FEEL THIS CERTAINLY IS A PRIME EXAMPLE, IF THERE
ARE ANY IN THIS COUNTY.
SO WE WOULD MERELY ASK THAT THIS COMMISSION
CONSIDER THE POSITION THAT WE HAVE PUT FORWARD, TRY TO
PUT FORWARD. PEOPLE THAT LIVE OUT THERE, THERE ARE
MANY, AND WITHOUT DOUBT ALL OF THEM EXCEPT THOSE WHO
WOULD LIKE THE MONEY FOR THE COAL UNDER THEIR LAND. I
CERTAINLY REALIZE THOSE PEOPLE'S ECONOMIC INTEREST,
AND I UNDERSTAND THEIR POSITION. IF I OWNED ONE OF
THOSE FARMS, I'D PROBABLY WANT TO STRIP IT TOO.
PARTICULARLY IF I DIDN'T LIVE THERE.

WE THINK THAT THIS COMMISSION WILL CONSIDER
WHAT IT'S HEARD IN THE LAST COUPLE OF MONTHS. WE'LL
VOTE TO TURN DOWN THE ZONING APPLICATION AND TRY TO
MAKE IT CLEAR IN THE RECORD THAT THIS JUST ISN'T GOING
TO HAPPEN IN THAT AREA OF DAVIESS COUNTY. THANK YOU,
MR. CHAIRMAN.

CHAIRMAN: THANK YOU, MR. WILSON.

MR. LANHAM. JUST RESTATE YOUR NAME, MR.
LANHAM.

MR. LANHAM: BRANDON LANHAM.

JUST FOR THE RECORD I KNOW WE'VE VEERED OFF IN
DIFFERENT DIRECTIONS. I JUST WANT TO REITERATE, POINT
JUST A FEW MORE THING BACK OUT HERE. JUST BEAR WITH
ME, IF YOU WOULD.

WHEN WE GET INTO BLASTING AND GET INTO THESE
TOPICS OF DISCUSSION, I REALLY HAVE NOTHING MORE TO
OFFER SIMPLY THAN A RECORD OF WESTERN KENTUCKY MINERAL
CONDUCTING THESE OBSERVATIONS EVERY SINGLE DAY. I
UNDERSTAND YOUR POINTS. TRUST ME, THEY ARE VERY GREAT
POINTS.

AS FAR AS JEOPARDIZING YOUR SAFETY, ONCE
AGAIN, WE CONDUCT THESE OPERATIONS EVERY SINGLE DAY
300 FEET FROM HOMES. SOME FURTHER. SOME CLOSER, IF
NEEDED TO BE, BUT WE UNDERSTAND. WE WORK, THERE IS A
COMPROMISE THAT CAN BE REACHED FROM THAT.

WHETHER IT'S POWER LINES OR HOME, I UNDERSTAND
THE IMPORTANCE, BUT WE CONDUCT THOSE OPERATIONS
SUCCESSFULLY AND IT IS POSSIBLE THAT THESE EXPLOSIVES
CAN BE PUT OFF FROM THESE DISTANCES WITHOUT
JEOPARDIZING A PERSON'S LIFE.

THE GENTLEMAN WITH HIS CHILDREN WANDERING
THROUGH THE YARD. WE SEE THOSE EXAMPLES EVERY SINGLE
DAY. WE, ONCE AGAIN, CONDUCTED THOSE OPERATIONS
SAFELY.

I'M NOT SURE HOW MUCH WEIGHT THAT CARRIES IN
THIS DECISION, BUT IT'S VERY IMPORTANT THAT I DO POINT
THAT OUT. LIKE I SAID, IT'S A RECORD.

AS FAR AS THE HIGHWAYS, WE BLOCK THOSE
HIGHWAYS NOT BECAUSE POTENTIAL ROCK COULD FLY INTO THE
ROAD IN WHICH YOU MAY BE DRIVING DOWN. WE STOP THE
CARS FROM TRAVELING DOWN THE HIGHWAY BECAUSE IT IS AN

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EXTRA SAFETY PRECAUTION THAT WE DECIDE TO TAKE. THAT
IS AS SIMPLE INVASIVE STATEMENT, BUT IT'S THE TRUTH.
IT'S HOW WE OPERATE AS A COMPANY.

I'LL CLOSE WITH THIS: GENTLEMAN, ON BEHALF OF
WESTERN KENTUCKY MINERALS, I WOULD LIKE TO THANK YOU
FOR YOUR COOPERATION AS WE PRESENTED FACTS AND
MATERIAL THAT CONSIST OF RULES, REGULATIONS AND
GUIDELINES THAT WE FOLLOW, AS WELL AS PROCEDURES THAT
WE CONDUCT DAILY TO KEEP THOSE DIRECTLY AND INDIRECTLY
INVOLVED SAFE. WE TAKE THESE STEPS TO MITIGATE THE
POTENTIAL RISK FROM BEING PRESENT DURING MINING
OPERATIONS.

I'D ALSO LIKE TO APOLOGIZE. AS A PART OF THE
MINING INDUSTRY, I APOLOGIZE FOR TARNISHED REPUTATIONS
SET BY PREVIOUS COMPANIES THAT REFLECT NEGATIVE CREDIT
ON THE INDUSTRY OF SURFACE MINING. I UNDERSTAND IT IS
NOT WESTERN KENTUCKY MINERALS THAT IS BEING OPPOSED.
IT'S THE THOUGHT OF BEING NEGATIVELY IMPACTED BY
SURFACE MINING; HOWEVER, WITH AN IN-DEPTH REGULATORY
OVERSIGHT THAT IS PRESENT AND BESTOWED UPON OUR
INDUSTRY COUPLED WITH THE GREAT REPUTATION OF WESTERN
KENTUCKY MINERALS THAT IT HAS DEMONSTRATED, NEGATIVE
IMPACT IS UNLIKELY.

IT'S THE SAME REPUTATION THAT WESTERN KENTUCKY
MINERALS OTHER MINING OPERATIONS AND MULTIPLE
REGULATORY AGENCIES AS A JOINT EFFORT ARE WORKING TIRELESSLY TO REDEEM. 

LET'S NOT ALLOW POOR QUALITY OPERATION PERFORMED BY A COMPANY THAT'S IN THE PAST HAVE AN IMPACT ON THE DECISION MAKING PROCESS OF THIS EVENING.

GENTLEMEN, I ASK THAT YOU GIVE WESTERN KENTUCKY MINERALS THE OPPORTUNITY TO MAKE A DIFFERENCE IN THE THOUGHTS AND OPINIONS OF THE INDIVIDUALS FROM P RIDGE, JUST AS WE HAVE IN THE COMMUNITY IN KNOTTSVILLE, KENTUCKY. THANK YOU VERY MUCH.

CHAIRMAN: DOES ANYBODY ON THE COMMISSION HAVE ANYTHING THEY WOULD LIKE TO SAY?

MR. ALLEN: I HAVE TWO QUICK QUESTIONS. I WANT TO COUCH THE FIRST ONE BECAUSE I DON'T ANYBODY TO MISCONSTRUE IT.

IT'S PRETTY OBVIOUS THE MOTIVATION OF THE PEOPLE THAT HAVE TESTIFIED AGAINST THIS. WE HAD FOUR OR FIVE PEOPLE THAT TESTIFIED FOR IT. A COUPLE OF RENTERS AND A HOMEOWNER OR TWO.

MY QUESTION TO THOSE PEOPLE IS: WHAT'S YOUR MOTIVATION? THEY WERE FROM KNOTTSVILLE. THEY WERE IN SOME WAY KIND OF ANCILLARY RELATED TO THIS. WHAT WAS YOUR MOTIVATION FOR COMING HERE?

MR. SILVERT: WILL YOU STATE YOUR NAME, AGAIN.

MR. POTTER: RYAN POTTER.
JUST LIKE THESE PEOPLE SAID. THEY BELIEVE IN
IT WHOLEHEARTEDLY AND THEY DO NOT WANT IT. I BELIEVE
IN IT WHOLEHEARTEDLY.

YOU KNOW, PEOPLE KEEP SAYING, COAL IS DEAD.
NATURAL GAS IS THE WAY IT'S GOING. IF PEOPLE START
LOOKING, THE EPA HAS ALREADY STARTED TO SHOW THAT
NATURAL GAS, THE WAY THEY'RE RETRACTING IT FROM THE
SHELL, IT HAS A WORSE IMPACT THAN BURNING COAL DOES.
SO I FEEL WHOLEHEARTEDLY ABOUT COAL BECAUSE IT
AFFECTS MY LIFE. LIKE THESE PEOPLE WHO WORK FOR THE
MINES, IT AFFECT THEIR FAMILY. IT AFFECTS MY FAMILY.
THAT'S HOW I PAY FOR MY HOUSE AND FOR MY BILLS AND
WHATNOT. IT'S WORKING AT A COAL FIRE POWER PLANT. A
LOCAL COAL FIRE POWER PLANT.

CHAIRMAN: THANK YOU.

MR. ALLEN.

MR. ALLEN: ARE ANY OF THOSE OTHER PEOPLE
STILL HERE?

MR. CRISP: DERRICK CRISP.

I ALSO WORK AT THE ELMER SMITH STATION OMU
POWER PLANT. WITHOUT COAL, YOU KNOW, THERE'S A LOT OF
THINGS THAT HAPPEN IN THIS TOWN THAT PEOPLE DON'T KNOW
THAT COAL HELPS OUT A LOT. WHETHER IT BE IN THE CITY
OR IN THE COUNTY. IT HELPS OUT A LOT OF THINGS THAT
JUST A LOT OF PEOPLE DON'T SEE THE HIDDEN STUFF.
MAYBE THEY'LL REALIZE IT ONE DAY. THANK YOU.

MR. ALLEN: ARE ANY OF THOSE OTHERS STILL HERE?

(NO RESPONSE)

MR. ALLEN: I GUESS NOT.

MY SECOND QUESTION WOULD BE: ARE ANY OF THE PROPERTY OWNERS WHOSE LAND WOULD BE MINED UNDER THIS, ARE THEY HERE? HAVE WE HEARD FROM YOU?

MR. TAYLOR: YOU DID AT THE LAST MEETING.

MR. ALLEN: YOU HAVE NOTHING NEW TO ADD?

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

MR. TAYLOR: SHIRLEY TAYLOR.

(SHIRLEY TAYLOR SWORN BY ATTORNEY.)

MR. TAYLOR: WELL, I STARTED OUT WITH THE FARM I OWN PROBABLY HAS MORE STRIP MINE TO BE STRIPPED THAN ANYBODY IS OUT THERE. IT'S BEEN IN MY FAMILY, BE IN THERE 100 YEARS IN 1919. I WAS BORN ON THAT OLD FARM AND MY DAD WAS AND MY BROTHER WAS. I FEEL LIKE THAT KENTUCKY MINES OUGHT TO HAVE THE RIGHT TO STRIP MY GROUND AND ME GET THE VALUE OF THE COAL THAT'S UNDER IT.

CHAIRMAN: THANK YOU.

DO YOU HAVE ANY OTHER QUESTIONS, MR. ALLEN?

MR. ALLEN: NO.
CHAIRMAN: DOES ANYBODY ELSE ON THE COMMISSION?

MR. PEDLEY: YES, MR. CHAIRMAN.

CHAIRMAN: MR. PEDLEY.

MR. PEDLEY: WE'VE HEARD ABOUT NOW ABOUT 12, 13 HOURS OF TESTIMONY, FEBRUARY AND TONIGHT. NOW IT'S TIME TO HEAR FROM THE PLANNING COMMISSION.

YOU KNOW, WE SERVE THIS COMMUNITY BECAUSE WE BELIEVE IN THIS COMMUNITY. WE GET NOT ONE NICKEL FOR OUR TIME. I HAVE SPENT MORE TIME AND MORE THOUGHTS ON THIS.

I'VE BEEN ON THE BOARD OF ADJUSTMENTS 19 YEARS. BEEN ON THIS COMMISSION FOUR YEARS NOW.

I'VE SPENT TREMENDOUS TIME. SUNDAY BEFORE LAST I WENT TO RUSSELL ROAD, BOLING ROAD, GIRL SCOUT ROAD AND DROVE RED HILL MAXWELL ROAD. I DROVE THROUGH THAT COMMUNITY SEVERAL TIMES. SPENT QUITE A BIT OF TIME BECAUSE I WANTED TO SEE WHAT'S THERE. I WANT TO SEE THE TERRAIN. I WANT TO SEE THE SO-CALLED FARMLAND. THEN I WANTED TO SEE HOW THE COAL TRUCKS WOULD ACCESS 231 ACCORDING TO THE PLAT. I WANTED TO SEE 231.

THEN LAST SUNDAY I WENT TO THE KNOTTsville AREA. I DROVE AULL ROAD, SHORT STATION ROAD, MONARCH ROAD, FREE SILVER ROAD. LOOKED AT ALL THE MINING AREA
THAT MR. LANNHAM AND HIS COMPANY HAS DONE. SPENT
PROBABLY THREE OR FOUR HOURS LOOKING.

WHY DO I DO ALL OF THIS? BECAUSE I WANT TO
MAKE A FAIR DECISION HERE. I WANT TO SERVE THIS
COMMUNITY. I WANT TO SERVE YOU PEOPLE.

TODAY IS MY BIRTHDAY. I'M 77 YEARS OLD. MY
WIFE WAS GOING TO TAKE ME OUT TO DINNER TONIGHT.

IF I DON'T GET THIS ISSUE BEHIND ME, I THINK
I'M GOING TO WIND UP A CORPSE. I'LL HAVE A BIGGER
PROBLEM THAN ANY OF YOU.

GETTING ON WITH MY FINDINGS. I'VE GOT FIVE
MAJOR AREAS THAT I WANT TO TALK ABOUT AND A STUDY THAT
I'VE DONE AND THE TIME I'VE PUT INTO THIS. WE'VE
ALREADY HEARD SOME OF IT.

IT'S CALL ECONOMIC IMPACT IT HAS ON THIS
COMMUNITY. IT IS TREMENDOUS. YOU'VE ALREADY HEARD
ABOUT THE COAL SEVERANCE TAX. JOBS ACCORDING TO THE
COMPREHENSIVE PLAN, I THINK IT'S ABOUT 500 ON THE
ANNUAL BASIS THAT PROVIDES JOBS.

THE REVENUE FROM OUR COAL, WHETHER IT GOES OUT
OF STATE OR ON THE BARGES OR WHEREVER, THE REVENUE IS
TREMENDOUS FOR THIS COMMUNITY. IT SUPPLY OUR POWER
PLANTS FOR AFFORDABLE ELECTRICITY. WE HAVE THE MOST
AFFORDABLE ELECTRICITY OF ANY AREA THAT I KNOW.
MOSTLY BECAUSE OF OUR COAL.
COAL MINING HAS BEEN GOING ON EVER SINCE THE EARLY 1800'S. I DROVE A COAL TRUCK WHEN I WAS 18, 19 YEARS OLD, WINTER MONTHS, FOR CURDS COAL COMPANY, WEST LOUISVILLE. MY COAL TRUCK WAS A TWO-AXEL. IT HELD 200 BUSHEL. MY JOB WAS TO PULL UNDER THE TEMPLE, FILL IT, COME INTO OWENSBORO. DRIVE IN THESE ALLEYS WITH A SCOOP SHOVEL. SHOVEL 200 BUSHEL OF COAL INTO THOSE COAL HOUSES BECAUSE ALMOST EVERY ONE OF THOSE HOMES WOULD BE HEATED WITH COAL.

ALSO, I DELIVERED COAL TO MCATEE LYDDANE & RAY. THAT ENTIRE DEPARTMENT STORE WAS HEATED WITH COAL. I DROVE IN THE ALLEY. SHOVELED 200 BUSHELS OF COAL INTO THAT BASEMENT.

COAL MINING FOR THE WEST LOUISVILLE AREA IS THEIR LIVELIHOOD. THAT'S HOW THEY ALL MAKE THEIR LIVING. VERY, VERY POOR. I'D COME IN AT NIGHT AND I WAS BLACK, MY FACE AND EYES. EVERYTHING WAS BLACK. IT DID NOT HURT ME. I GUARANTEE YOU THAT COAL DUST DIDN'T HURT ME.

THE NEXT ISSUE IS ENVIRONMENTAL. THE STATE REGULATES EXACTLY WHAT THEY CAN DO AND CAN'T DO. EROSION CONTROL, RETENTION PONDS AND THE WATER RUNOFF AND THE TESTING.

I'VE DEVELOPED FIVE MAJOR SUBDIVISIONS. I KNOW WHAT STATE REGULATIONS ARE, AND IT IS TREMENDOUS
WHAT WE HAVE TO DO.

I SERVE ON THE FEDERAL CLEAN WATER ACT AND
ALSO PUBLIC IMPROVEMENT SPECIFICATION BOARD, AND SO
DOES MR. APPLEBY. WE KNOW WHAT'S REQUIRED WITH THIS
MINING COMPANY, WITH OUR SUBDIVISION WORK, WITH ABOUT
ANYTHING WE DO. ONE THING WE'VE LEARNED, THINK ABOUT
THIS, THE NUMBER ONE CONTAMINATION FOR GROUND WATER IN
OUR STREAMS IS RESIDENTIAL SEPTIC TANKS. RESIDENTIAL
SEPTIC TANKS, AND ANIMAL WASTE IN OUR STREAMS. THE
FECES AND EVERYTHING IN OUR STREAMS MOSTLY COMING FROM
OUR SEPTIC TANKS, AND OUR ANIMAL WASTE IS TREMENDOUS.

COAL MINING DOES HAVE A NEGATIVE AFFECT TO A
CERTAIN AMOUNT.

I HEARD TONIGHT THEY WERE TALKING ABOUT A
WETLAND. A WETLAND I GUARANTEE YOU WILL BE CONTROLLED
BY THE CORP OF ENGINEERS, ARMY CORP OF ENGINEERS.
THEY TELL THEM EXACTLY WHAT THEY CAN DO AND NOT DO. I
HAVE A WETLAND IN LAKE FOREST SUBDIVISION. I'VE GOT
THREE. THEY WON'T LET ME TOUCH IT. THEY WON'T LET
THEM TOUCH THAT, UNLESS THEY CAN DO MITIGATION.
MITIGATION HAS TO BE THREE TO ONE. WHICH MEANS IT HAS
to BE IN THAT WATER SHED. IF THEY'VE GOT A STREAM
downstream, they can go downstream. IF THIS IS 10
ACRES, THEY GO DOWN AND DEVELOP 30 ACRES. SO THE
WETLAND ISSUE WILL BE CONTROLLED BY THE CORP OF

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ENGINEERS. THAT'S NOT AN ISSUE.
THE ROAD SAFETY. HIGHWAY 231 WAS A MAJOR
NORTH/SOUTH ROUTE FOR THE LAST 80 YEARS. UP UNTIL THE
NATCHER PARKWAY. EVERY SEMI FROM MICHIGAN DOWN INTO
GEORGIA RAN THAT ROAD. IT'S CAPABLE OF HANDLING BIG
SEMIS, BIG TRUCKS. IT IS NOT A SAFETY ISSUE, HIGHWAY
231, BEFORE COAL TRUCKS BECAUSE IT HANDLED EVERYTHING
GOING NORTH AND SOUTH FOR YEARS AND YEARS, AND IT WILL
HANDLE THOSE COAL TRUCKS.
THEIR HAUL ROAD DOES NOT RUN ON RUSSELL ROAD.
IT CROSSES RUSSELL ROAD. IT COMES OUT ON 231. IT
WILL NOT BE ON GIRL SCOUT ROAD. IT WILL NOT BE ON
140. THE COAL TRUCKS WILL NOT. I THINK THE MINING
PEOPLE ARE DOING AN EXCELLENT JOB ON PICKING THAT
SITE.
THEN COMES THE ADJOINING PROPERTY OWNERS. GO
TO THE COMPREHENSIVE PLAN. IT SAYS, "THE
COMPREHENSIVE PLAN POINTS OUT THAT POTENTIAL BUYERS
SHOULD BE AWARE THAT COAL EXTRACTION IS A GENERAL
RECOMMENDED USE IN RURAL AREAS."
MY NOTES ARE, WHEN YOU MOVE INTO THE RURAL
COMMUNITIES EXPECT FARM ACTIVITIES, CHICKEN HOUSES,
ANIMAL ODOR, FARM EQUIPMENT ON THE ROAD, BLOCK IN THE
ROAD AND COAL MINING. WHEN YOU MOVE INTO THOSE
COMMUNITIES, THAT'S WHAT YOU CAN EXPECT. THAT'S WHAT
YOU SHOULD EXPECT. SHOULD NOT GO OUT THERE AND TELL
THOSE FARMERS, YOU CAN'T BUILD A CHICKEN HOUSE. YOU
CAN'T TAKE YOUR TRACTOR UP AND DOWN THAT ROAD.
BECAUSE THEY'RE THERE FIRST. I ASSURE YOU.

THEN WE GET INTO THE LANDOWNERS WHOSE LAND IS
PROPOSED TO BE MINED AND THEIR PROPERTY RIGHTS. IT'S
ONE THING I HAVEN'T HEARD IN ALL OF THIS STUFF IN ALL
THE MEETING, THERE HAS NOT BEEN CONCERN FOR THOSE 14
PROPERTY OWNERS THAT'S BEEN OUT THERE FOR 80, 100
YEARS AND OWNED ALL THAT LAND. THEY DID NOT MOVE INTO
YOUR COMMUNITY. I CAN GUARANTEE YOU THOSE FARMS DID
NOT MOVE INTO YOUR COMMUNITY. YOU MOVED INTO THEIR
COMMUNITY. DON'T FORGET THAT.

NOW, YOU'RE TRYING WHAT YOU'RE WANTING TO DO
IS TO DENY THEM THE RIGHT TO MINE THEIR LAND AND FOR
THEIR FAMILIES TO HAVE THEIR REVENUE, AND IT IS
TREMENDOUS. IT CAN PROVIDE THEM WITH RETIREMENT,
HEALTH CARE, COLLEGE EDUCATION FOR KIDS, GRANDKIDS.
MANY, MANY THINGS THAT YOU'RE WANTING TO DENY THEM
THAT PRIVILEGE AND THEIR PROPERTY RIGHTS. I'VE HEARD
PROPERTY RIGHTS, PROPERTY RIGHTS, PROPERTY RIGHTS.
LET'S TALK ABOUT PROPERTY RIGHTS.
HOW ABOUT THESE 14 FAMILIES THAT WANTS TO MINE
THEIR LAND? HOW ABOUT THOSE PROPERTY RIGHTS? LET'S
DON'T FORGET THOSE PROPERTY RIGHTS.
IN THE KNOTTSVILLE AREA, I HAVE A BROTHER THAT HAS A FARM UP THERE. IT'S ON SHORT STATION ROAD. HE'S DECEASED NOW. HE DIED ABOUT THREE YEARS AGO. ABOUT EIGHT YEARS AGO THEY WANTED TO MINE SOME LAND AROUND HIM. WE HAD A HEAVY PROTEST, OPPOSITION. THEY DIDN'T WANT COAL TRUCKS ON SHORT STATION ROAD. HE DID NOT EITHER. HE DID NOT WANT THOSE COAL TRUCKS. HE WASN'T READY TO MINE HIS FARM. HE DID NOT WANT THOSE COAL TRUCKS ON SHORT STATION ROAD BECAUSE IT’S VERY HEAVILY POPULATED. IT'S VERY CROOKED HILLS WITH PRACTICALLY NO SHOULDER. IT WAS NOT GOOD. THEY HAD A HAUL ROAD OVER ON AULL ROAD. HE DID NOT WANT TO DENY THOSE PEOPLE THE RIGHT TO MINE THEIR LAND BECAUSE HE KNEW. HE KNEW WHAT IT MEANT TO A FAMILY. HE WASN’T READY TO MINE HIS LAND BECAUSE HE DIDN’T NEED THE INCOME. HE TOLD ME, HE SAID, ONE DAY I WILL. THAT WILL BE MY RETIREMENT. IT WILL BE OUR HEALTH CARE AND IT WILL BE MAJOR INCOME FOR MY KIDS. BUT HE DID NOT WANT TO DENY HIS NEIGHBORS THE RIGHT TO MINE THEIR LAND.

SO HE GOT WITH MR. LANHAM. HE GOT WITH JUDGE HAIRE, AND HE GOT WITH JIM, AND MADE A DEAL TO ALLOW THEM TO BUILD THE HAUL ROAD ACROSS THE BACK OF HIS FARM. HE GAVE US THE PASTURE LAND. MR. LANHAM COMPENSATED HIM SOME, BUT DID HE THAT BECAUSE HE
WANTED HIS NEIGHBORS TO BE ABLE TO MINE THEIR LAND.

HE FOUND LATER THAT HE HAD CONGESTIVE HEART FAILURE. HE KNEW HIS TIME WAS LIMITED. SO HE CONTRACTED WITH MR. LANHAM TO MINE HIS FARM, BUT HE DIED BEFORE THEY GOT THAT FIRST SHOVEL OFF. BUT NOW HIS KIDS ARE GETTING THAT INCOME, AND IT'S VERY, VERY IMPORTANT TO THEM.

ONE THING I DID NOT KNOW. I WENT AND TALKED TO PROBABLY 10 OR 15 PEOPLE IN THE KNOTTSVILLE AREA ABOUT MINING IN THAT AREA OVER THE LAST 20 YEARS AND ABOUT MR. LANHAM'S OPERATION. I DID NOT HEAR ANYTHING NEGATIVE.

THEN LAST MONTH WE HAD THREE APPLICATIONS IN THE KNOTTSVILLE AREA FOR STRIP MINING BEFORE THIS COMMISSION. WE DID NOT HAVE ONE OPPOSITION IN HERE BECAUSE THE KNOTTSVILLE AREA, EVERYONE I TALKED TO, AND I WILL NOT SAY NAMES. I SHOULD NOT DO THAT. THEY'RE VERY PLEASED.

PROPERTY DAMAGES, I COULDN'T FIND ANYONE THAT SAID THEY HAD PROPERTY DAMAGE.

GETTING BACK ON MY BROTHER'S FARM. HERE IS SOMETHING THAT I DID NOT KNOW. I WENT AND TALKED TO THE FAMILY TODAY. THAT IS A 75 ACRE FARM. THAT COAL INCOME TO THAT FAMILY WILL AMOUNT TO APPROXIMATELY $850,000 FOR THAT FAMILY. $850,000. IT MIGHT BE
LESS. IT MIGHT BE MORE.

BUT THERE'S ONE OTHER THING I DID NOT KNOW
UNTIL TODAY, AND THIS IS FROM THE KENTUCKY REVENUE
DEPARTMENT. IN BUYING COAL NOTICE OF TAX ASSESSMENT,
these people that has coal under their farm has to pay
mine coal taxes. I got the bill right here. It cost
my brother's family last year $8,250 they have to pay
of mine coal taxes until that coal is removed. I'm
sure the families out here that we're talking about
has to do the same thing. That's a lot of money.
When you start going back 15, 20, 30, my brother has
been out there 40 years, he's paid a lot of money on
unmined. There it is right there. State revenue
department.

Everything I have stated here is my findings
of fact. It is facts, and it's my findings of facts.

I made a statement at the February meeting
that some of my basements have been damaged by mining.
I'll clarify that. They were. One was in the Panther
area 40 years ago. Bob Green shook that community
plum down. There was no regulations on mining then.
He went in and did anything he wanted to do. That was
one.

Another one about 25, 28 years ago in Ohio
county on Highway 231. They damaged one of my
BASEMENTS PRETTY BADLY.

THE OTHER ONE WAS IN THE KNOTTSVILLE AREA SOME
35, 40 YEARS AGO. THAT WAS VERY MINOR. IT WAS NEARLY
NOTHING.

MY SON HAS HAD MY BASEMENT BUSINESS FOR THE
LAST 18 YEARS. I HAD A TALK WITH HIM TODAY. I SAID,
YOU'VE BUILT IN MUEHLENBERG COUNTY. YOU'VE BEEN OVER
TO CENTERTOWN. YOU'VE BEEN IN EVERY COUNTY AROUND FOR
THE LAST 18 YEARS PUTTING IN BASEMENTS AROUND MINING.
HAVE YOU HAD ANY DAMAGE? HE SAID, NO. I SAID, HAVE
YOU HAD A CALL OF DAMAGE ANYWHERE? NO. AND I HAVE
NOT HAD A CALL IN THE LAST 25, 30 YEARS. BASEMENTS
CAN BE DAMAGED BY BLASTING. IT CAN BE. THE MINING
COMPANIES ARE DOING A MUCH BETTER JOB, CONTROL JOB OF
THEIR BLASTING. QUITE FRANKLY, WE'RE DOING A BETTER
JOB PUTTING IN BASEMENTS.

JUST WANT TO ADDRESS ALL THE ISSUES AND MAKE
MY FINDINGS OF FACT. THE MOST COMPPELLING THING TO ME
IS THESE 14 FAMILIES THAT WANTS TO MINE THEIR LAND FOR
THEIR FAMILIES, THEIR KIDS, THEIR GRANDKIDS. CLARA
THOMPSON ESTATE, LUTHER BELCHER ESTATE, MILDREN TAYLOR
ESTATE, TILFORD THOMPSON ESTATE, ALL OF THESE PEOPLE.
THOSE FARMS HAVE BEEN IN THOSE FAMILIES FOR YEARS AND
YEARS AND YEARS.

GO BACK TO THE STATEMENT. THEY DID NOT MOVE
INTO YOUR COMMUNITY. YOU MOVED INTO THEIR COMMUNITY. THOSE FARMS DID NOT MOVE INTO YOUR COMMUNITY. TO ME THAT'S THE MOST COMPELLING THING FOR ME TO MAKE MY DECISION.

MR. CHAIRMAN, WHENEVER YOU'RE READY.

CHAIRMAN: MR. PEDLEY, I WILL FIRST CHECK. DOES ANYBODY ELSE HAVE ANY COMMENTS?

MR. KAZLAUSKAS.

MR. KAZLAUSKAS: I WILL MAKE SOME COMMENTS. I'M PROBABLY NOT GOING TO BE AS ELOQUENT AS MR. WARD. I APPRECIATE HIS IN-DEPTH AND DESCRIPTIVE DESCRIPTION OF HIS FINDINGS OF FACT.

MY WHOLE ADULT LIFE, ESPECIALLY WHEN I WAS A POLICE OFFICER, I WAS ALWAYS RUNNING TOWARDS CONFLICT. NOT AWAY FROM IT. I THINK EVERYONE ON THIS COMMISSION HAS SPENT A LOT OF TIME REVIEWING ALL OF THE EVIDENCE THAT'S BEEN PRESENTED THE LAST TWO MEETINGS.

WHILE I APPRECIATE AND UNDERSTAND WHERE MR. PEDLEY IS COMING FROM, I THINK IT'S VERY IMPORTANT THAT WE GO BACK TO WHAT PRIOR COMMISSIONS HAVE ACTUALLY DONE AND SET A PRECEDENT. AFTER THAT PRECEDENT WAS SET, PEOPLE MOVED BACK INTO THE PLEASANT RIDGE AREA THINKING THAT THIS BODY AT THAT TIME HAD MADE A DECISION WHERE COAL MINING WOULD NOT TAKE AFFECT IN THAT AREA. THAT HAPPENED TWICE AND IT WAS
UPHELD BY FISCAL COURT.

LISTENING TO EVERYTHING THAT WAS SAID AND
HAVING JUST A LITTLE KNOWLEDGE, NOT A WHOLE LOT, BUT A
LITTLE KNOWLEDGE OF COAL MINING, YOU KNOW, I BELIEVE
THAT ONCE THAT COAL MINING GOES IN AFTER THE PLEASANT
RIDGE AREA HAS BEEN, THE POPULATION HAS BEEN
INCREASED, THAT THE COAL MINING WILL HAVE A NEGATIVE
IMPACT AND IT WILL BE DETRIMENTAL TO THE QUALITY OF
LIFE IN THE PLEASANT RIDGE AREA.

I ALSO BELIEVE THAT NOISE POLLUTION WILL PLAY
A PART IN THAT ALSO. NOISE JUST DOESN'T TRAVEL
THROUGH THE AIR. THE ROVICATIONS FROM HEAVY EQUIPMENT
TRAVELS THROUGH THE GROUND AND IT TRAVELS LONG
DISTANCES. IT HAS AN IMPACT ON THE QUALITY OF LIFE OF
PEOPLE THAT LIVE IN THAT AREA.

I ALSO BELIEVE THAT THERE WILL BE A NEGATIVE
IMPACT FROM THE USE OF EXPLOSIVES. I HAVE QUESTIONS
ABOUT ANY MINING COMPANY'S ABILITY TO CONTROL COAL
DUST IN HIGH WIND SITUATIONS. I'M NOT SURE OF THE
HEALTH IMPACT OF COAL DUST. I'VE HEARD PEOPLE TESTIFY
BOTH WAYS. I DO KNOW THAT THE COAL DUST OFF OF
STOCKPILES, COAL PILES, CAN TRAVEL A LONG WAY WHEN THE
WIND GETS TO BLOWING. I'VE HAD EXPERIENCE WITH THAT.

THEN MY LAST CONCERN WOULD BE THE POTENTIAL
NEGATIVE AFFECT ON LAND VALUES IN THE PLEASANT RIDGE

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I believe that once that mine starts that the values will not continue to rise. I don't know if they will increase, but not continue to rise.

I've done a lot of soul searching on these items.

Mr. Chairman, I wanted to share that with everybody.

Chairman: Thank you.

Mr. Reeves, is this a comment or do you need to go to the bathroom again?

Mr. Reeves: No. I'm good for a few more minutes. I have a comment.

First of all, I want to thank you, Mr. Kazlauskas and Mr. Pedley both for expressing their point of view.

I think this commission needs to do that on an issue like this. Most of the time we come up here and we hear, nobody shows up, and so we raise our hands.

I think in an instance where so many people show up you have a right to know the basis on which we're making our vote.

This is a very, very difficult issue for me.

Coal mining put me through college. I was part of the coal mining industry when green was out around Ohio Valley Reporting
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PANTHER, AND IT WASN'T GOOD. THAT WAS WHERE I COULD
MAKE SOME MONEY AND GO TO COLLEGE. I'VE SEEN THE VERY
BAD OF COAL MINING. I ALSO SAW THE VERY GOOD WHERE WE
HAVE RECLAIMED LAND THAT THE BACK NINE OF PANTHER
CREEK GOLF COURSE WAS ON MY GRANDFATHER'S FARM WAS
RECLAIMED.

SO I DO KNOW THIS: THAT THERE'S PROBABLY NOT
A MORE HEAVY REGULATED INDUSTRY IN THE UNITED STATES
THAN COAL.

THE COAL INDUSTRY, THE GOOD OPERATORS, AND I
THINK WE'VE HEARD EVIDENCE THAT MR. LANHAM IS A GOOD
OPERATOR, HAVE MADE SIGNIFICANT STRIDES IN HOW THEY DO
THEIR BUSINESS.

AS MR. PEDLEY SAID, PROBABLY THE THING THAT
HAS WEIGHED ON ME THE MOST IS THERE MAY BE SOME
PROPERTY VALUES LOST IF COAL MINING IS PERMITTED THAT.
I WON'T DISPUTE THAT, THE SHORT-TERM/LONG-TERM FROM
IT. I DO KNOW THAT THESE FARMERS WHO HAVE THAT COAL
UNDER THOSE FARMS THAT THEY'VE HAD FOR DECADES WILL
REALIZE A SIGNIFICANT LOSS IF THEY'RE NOT ALLOWED TO
TAKE THAT COAL OUT. THEY PAY TAXES YEAR AFTER YEAR.
I THINK THAT, AS MR. PEDLEY SAID, I THINK IT WAS GREAT
WHEN HE SAID IT. YOU KIND OF MOVED INTO THEIR
NEIGHBORHOOD. THEY DIDN'T MOVE INTO YOURS. I THINK
THAT WE HAVE TO CONSIDER THE PROPERTY RIGHTS OF
EVERYBODY. I THINK IN THIS CASE, I DON'T KNOW IF ANY
ONE SIDE LOSES MORE THAN THE OTHER DOES. WE CAN'T
SIMPLY LOOK AT ONE SIDE AND SAY, YOU MIGHT LOSE, AND
NOT CONSIDERATE THE FACT THAT THE OTHER MIGHT LOSE.

THIS IS VERY, VERY DIFFICULT. I THINK
EVERYBODY ON THIS COMMISSION HAS PROBABLY WEIGHED IT
VERY SERIOUSLY. YOU MAY NOT LIKE THE WAY WE VOTE.
MAY GET MAD AT US. SO BE IT. THAT'S WHY WE
VOLUNTEERED TO DO THIS FOR NOTHING.

CHAIRMAN: MR. REEVES, THANK YOU.

AS CHAIRMAN I SPEND A LOT OF TIME, AS YOU
KNOW, QUESTIONING BOTH SIDES. NIGHTS LIKE THIS I
SOMETIMES WONDER WHY DO I SERVE. IT'S 12:30 AND I'M
GOING TO BE AT WORK AT 7 TOMORROW. BUT WHEN I GET AN
OPPORTUNITY TO SERVE WITH PEOPLE LIKE MR. WARD PEDLEY,
MR. KAZLAUSKAS, FRED REEVES WHO STICK UP AND MAKE
STATEMENTS LIKE THAT, AND ALL THE REST OF THESE
COMMISSIONERS, WHEN I GET THE OPPORTUNITY TO SERVE
WITH THESE FELLOWS, AND I'VE SERVED WITH A LOT OF
THOSE GUYS OVER A LOT OF YEARS, I REALIZE WHY I DO
THIS. OBVIOUSLY I AGREE WITH ONE OF THEM AND DISAGREE
WITH THE OTHER ONE BECAUSE YOU CAN SEE THE TWO WAYS
THAT THEY'RE LEANING, BUT THAT HAS NOTHING TO DO WITH
HOW WE'LL MOVE ON AND CONDUCT BUSINESS THE NEXT DAY.

MS. CAMPBELL DID A GREAT JOB OF COVERING THIS.
GIVING HER TIME IN HELPING US GET THE INFORMATION OUT TO THE PEOPLE. THE STAFF WAS OUTSTANDING. BOTH SIDES I WANT TO COMPLIMENT WITH THE WAY YOU CONDUCTED YOUR BUSINESS. YOU ALL IN THE AUDIENCE WERE RESPECTFUL. I KNOW, IT'S A DIFFICULT SITUATION, BUT I APPRECIATE YOUR ALL'S CONTROL, YOUR ALL'S RESPECT FOR EACH SIDE. THAT'S WHAT MAKES THIS PROCESS WORK. YOU'RE AMONGST A GROUP OF YOUR PEERS THAT ARE NOT PAID. THEY'RE APPOINTED.

WITH THAT I SAY THANK YOU AND THE CHAIR IS NOW READY FOR A MOTION.

MR. PEDLEY: MR. CHAIRMAN, I'M GOING TO MAKE A MOTION FOR APPROVAL BASED ON THE FINDINGS OF FACT THAT I STATED FOR AND THE STAFF'S FINDINGS OF FACT, AND I'LL READ THAT.

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;
4. THE PORTION WITHIN THE RURAL COMMUNITY
PLAN AREA IS A SMALL PORTION OF THE OVERALL REZONING
ACREAGE CONSISTING OF THREE TRACTS AND APPROXIMATELY
70 ACRES WHICH IS NOT CONSISTENT WITH THE SMALL LOT
SIZE FOUND TYPICALLY WITHIN A RURAL COMMUNITY PLAN
AREA;

5. THE APPLICANT'S PROPOSAL COMPLIES WITH A
GOAL IN THE COMPREHENSIVE PLAN THAT STATES LAND WITHIN
THE RURAL SERVICE AREA SHOULD BE RESERVED PRIMARILY
FOR AGRICULTURAL AND OTHER NATURAL RESOURCE USES;

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

7. WITHIN A ONE MILE RADIUS OF THE SUBJECT
PROPERTY, THERE IS OVER 300 ACRES OF LAND CURRENTLY
ZONED EX-1 COAL MINING;

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

9. THE APPLICANT'S PROPOSED STRIP MINING
TECHNIQUE AGREES WITH AN OBJECTIVE OF THE
COMPREHENSIVE PLAN THAT AGRICULTURAL AND OTHER NATURAL
RESOURCE USES SHOULD BE GIVEN WIDER REIGN TO APPLY
TRADITIONAL PRODUCTION TECHNIQUES; AND,

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

WITH THE CONDITIONS: THAT THE BUFFER AREA,
THE 300 FOOT BUFFER AREA WILL BE MOVED OUT TO 500 FEET
FROM BUILDINGS, UNLESS IT IS WAIVED BY THE PROPERTY
OWNER. THE PROPERTY OWNER MAY WAIVE THAT CONDITION,
BUT IT WILL BE 500 FEET FROM THE BUILDINGS.

PREBLASTING SURVEYS WITH ONE-HALF MILE OF THE
MINING SITE. OCCUPIED BUILDINGS BY A REPRESENTATIVE
OF THE MINING COMPANY AND A STRUCTURAL ENGINEER
REPRESENTING THE ADJOINING PROPERTY OWNERS PAID FOR BY
THE MINING COMPANY.

REASON I SAY THAT, I HAVE A CONCERN OF THE
PROPERTY OWNERS DAMAGE BEING PROPERTY TAKEN CARE OF.
IF YOU HAVE A STRUCTURAL ENGINEER, HE WOULD HAVE TO
INSPECT THAT PROPERTY, SURVEY IT BEFORE MINING,
POST-MINING. SO THAT STRUCTURAL ENGINEER WOULD BE
REPRESENTING THE ADJOINING PROPERTY OWNERS. IT WOULD
BE PAID FOR BY THE MINING COMPANY AND THE PROPERTY
OWNERS WHOSE LAND ARE BEING MINED. HOWEVER THE MINING
COMPANY WANTS TO WORK THAT OUT, BUT IT SHOULD NOT BE
PAID FOR BY THE PROPERTY OWNERS FOR PROTECTION TO MAKE
SURE THEIR PROPERTY IS PROPERLY CARED FOR. SO WITH
THAT THAT'S MY MOTION AND MY CONDITIONS.

CHAIRMAN: JUST A QUESTION.
MR. PEDLEY, IN YOUR MOTION, YOU INCLUDED THE FINDINGS OF FACTS OF THE STAFF, AND YOU WANTED TO ALSO INCLUDE YOUR OTHER FINDINGS?

MR. PEDLEY: YES.

MR. SILVERT: THAT WAS HIS FIRST FINDING OF FACT. THAT HIS MOTION WAS THE ADOPTION OF HIS PREVIOUSLY STATED FINDINGS.

MR. PEDLEY: I MADE THAT STATEMENT.

CHAIRMAN: ALL RIGHT. I JUST WANTED TO MAKE SURE.

WE HAVE A MOTION FOR APPROVAL BY MR. PEDLEY. DO WE HAVE A SECOND?

MR. APPLEBY: SECOND.

CHAIRMAN: WE HAVE A SECOND BY MR. APPLEBY. ALL IN FAVOR --

MR. NOFFSINGER: EXCUSE ME.

(MR. NOFFSINGER AND CHAIRMAN CONFER.)

CHAIRMAN: MR. HAYNES, WOULD YOU STEP TO THE PODIUM, PLEASE. SORRY, A SLIGHT OVERSIGHT ON MY PART. WE HAVE ADDED CONDITIONS TO YOUR APPLICATION. WILL YOU ON BEHALF OF THE APPLICANT BE ACCEPTABLE TO THE CONDITIONS THAT MR. PEDLEY HAS PUT UPON THE MINING COMPANY?

MR. HAYNES: IT'S 500 FEET ON THE ADJOINING PROPERTY OWNERS, I MEAN STRUCTURAL ENGINEER ON THE
ADJOINING PROPERTY OWNERS?

MR. PEDLEY: ADJOINING PROPERTY OWNER, YES, IS 500 FEET. THEY MAY WAIVE THAT IF THEY SO CONSENT.

MR. HAYNES: AND 500 FEET FROM ANY PERMANENT STRUCTURE?

MR. PEDLEY: YES. RIGHT NOW WHAT YOU'RE SHOWING ON YOUR PLAT IS 300 FEET.

MR. HAYNES: CORRECT.

MR. PEDLEY: SO I'M MOVING THAT OUT TO 500 FEET.

MR. HAYNES: THEN THE OTHER CONDITION WAS THE STRUCTURAL ENGINEER TO BE PAID FOR BY THE COMPANY FOR THE ADJOINING PROPERTY OWNERS OR FOR EVERYONE WITHIN THAT HALF MILE?

MR. PEDLEY: YOUR PREMINE SURVEY, IT WOULD BE A STRUCTURAL ENGINEER THAT REPRESENTS THE ADJOINING PROPERTY OWNERS TO MAKE SURE THAT THEY'RE TAKEN CARE OF IN CASE THEY HAVE DAMAGES TO THEIR HOME. ONLY WAY THAT THAT CAN BE CORRECTED, YOU WOULD HAVE TO SEE THE PREMINING AS WELL AS POST.

MR. NOFFSINGER: MR. CHAIRMAN, THE STAFF AND LEGAL COUNSEL, WE'RE NOT CLEAR ON THAT CONDITION.

MR. PEDLEY, ARE YOU SAYING A PREBLAST SURVEY FOR ADJOINING PROPERTY OWNERS ONLY TO HAVE THE STRUCTURAL ENGINEER PAID FOR BY THE APPLICANT OR ARE
YOU SAYING THE PEBLAST SURVEYS WITHIN A HALF MILE RADIUS?

MR. PEDLEY: WITHIN A HALF MILE RADIUS.

MR. NOFFSINGER: THANK YOU.

MR. HAYNES: SO THE STRUCTURAL ENGINEER WOULD BE REQUIRED FOR EVERYTHING WITHIN A HALF MILE RADIUS? I MEAN WE'RE DOING A PEBLAST SURVEYS FOR EVERYONE WITHIN A HALF MILE.

MR. PEDLEY: YES. ON THE ADJOINING PROPERTY OWNERS.

MR. HAYNES: THE ADJOINING FOR THE STRUCTURAL ENGINEER?

CHAIRMAN: EXCUSE ME, MR. PEDLEY. YOU MEAN WITHIN A HALF MILE RADIUS, CORRECT? NOT WITHIN JUST THE ADJOINING?

MR. PEDLEY: THAT'S ACCORDING TO THE ORDINANCE IN THE COMPREHENSIVE PLAN. THERE WILL BE PEBLAST SURVEYS WITHIN A HALF MILE RADIUS.

CHAIRMAN: AND ARE YOU TACKING ON THE STRUCTURAL ENGINEER TO THAT?

MR. APPLEBY: EVERYONE OR JUST THOSE ADJOINING PROPERTY OWNERS?

MR. PEDLEY: ADJOINING PROPERTY OWNERS. THE PROPERTY OWNERS WHOSE LAND WILL BE MINED DOESN'T APPLY. IT'S THE ADJOINING PROPERTY OWNER.

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CHAIRMAN: JUST THE ADJOINING?

MR. PEDLEY: RIGHT. THERE ARE PROPERTY OWNERS WHOSE LAND WILL BE MINED. THAT'S NOT A REQUIREMENT ON THEM. IT WOULD BE ON THE ADJOINING PROPERTY OWNERS. I JUST WANT TO CLARIFY THE HALF MILE RADIUS. THE REASON I SAID THAT, YOU KNOW, I DON'T KNOW WHERE IT IS, BUT I READ IT HERE JUST A FEW MINUTE AGO, THE COMPREHENSIVE PLAN, THE PREMINING SURVEY. ACTIVITY BUFFER.

CHAIRMAN: MR. PEDLEY, LET ME POSE THIS QUESTION. ARE YOU SAYING THAT YOU WANT A STRUCTURAL ENGINEER JUST FOR THE ADJOINING OR DO YOU WANT TO ALSO INCLUDE THE HALF MILE RADIUS?

MR. PEDLEY: I'M LOOKING FOR IT. IT SAYS, HALF MILE RADIUS OF ADJOINING OCCUPIED BUILDINGS. THAT'S THE ONLY REASON I SAID THE HALF MILE RADIUS.

CHAIRMAN: THE HALF MILE RADIUS WOULD BE GREATER THAN JUST THE ADJOINING PROPERTY OWNERS, CORRECT?

MR. NOFFSINGER: THAT'S CORRECT.

CHAIRMAN: MR. HAYNES, WE'VE GOT IT NOW. DO YOU ALL UNDERSTAND IT?

MR. HAYNES: OF COURSE, WE HAVE THE HALF MILE FOR THE PREBLAST SURVEY. THAT'S A GIVEN. THE ADDITION OF THE STRUCTURAL ENGINEER, I'M A LITTLE
CONFUSED. IF THAT GOES ALL THE WAY OUT TO THE HALF
MILE OR IF IT'S JUST THOSE PROPERTIES THAT ADJOIN THE
PERMIT?

CHAIRMAN: I THINK HE'S INCLUDING --

MR. PEDLEY: IT WOULD BE FOR THE ADJOINING
PROPERTY OWNERS. DOESN'T HAVE TO GO OUT THE HALF
MILE.

MR. HAYNES: THAT'S WHAT Ithought.

MR. PEDLEY: IF IT'S OUT HALF AND THEY DON'T
ADJOIN IT, NO. IT'S THE ADJOINING PROPERTY OWNERS.
YOU CAN LEAVE IT AT THAT.

MR. HAYNES: THOSE CONCERNS ARE ACCEPTABLE.

CHAIRMAN: ALL RIGHT. MR. PEDLEY'S MOTION FOR
APPROVAL.

MR. APPLEBY, DID WE HAVE A SECOND?

MR. APPLEBY: SECOND.

CHAIRMAN: JUST TO MAKE CLEAR. MR. HAYNES,
YOU AND YOUR CLIENT UNDERSTAND AND AGREE TO THE ADDED
CONDITIONS?

MR. HAYNES: CORRECT. WE AGREE TO THEM.

CHAIRMAN: ALL IN FAVOR OF MR. PEDLEY'S MOTION
RAISE YOUR RIGHT HAND.

(BOARD MEMBERS IRVIN ROGERS, DAVE APPLEBY,
DREW KIRKLAND, WARD PEDLEY AND FRED REEVES RESPONDED
AYE.)

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CHAIRMAN: ALL OPPOSED.

(BOARD MEMBERS TIM ALLEY, WALLY TAYLOR, JOHN KAIZLAUSKAS AND JASON STRODE RESPONDED NAY.)

CHAIRMAN: THAT WOULD BE FOUR. THE MOTION PASSES FIVE TO FOUR.

WE HAVE A COUPLE OF MORE ITEMS ON THE AGENDA.

MR. NOFFSINGER.

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MINOR SUBDIVISIONS

ITEM 5

5156, 5172 HIGHWAY 142, 5.629 ACRES
CONSIDER APPROVAL OF MINOR SUBDIVISION PLAT.
APPLICANT: RANDALL G. & ALESIA T. THAYER

MR. NOFFSINGER: MR. CHAIRMAN, THIS PLAT HAS BEEN REVIEWED BY THE PLANNING STAFF AND ENGINEERING STAFF. IT DOES COME TO YOU AS AN EXCEPTION TO THE SUBDIVISION REGULATIONS. BRIAN HOWARD IS HERE TO EXPLAIN THAT.

MR. HOWARD: IT COMES AS AN EXCEPTION DUE TO IT EXCEEDS THE THREE TO ONE DEPTH LENGTH TO WIDTH RATIO REQUIREMENT. IT IS ABOUT A FIVE AND A HALF ACRE TRACT. THERE IS AN EXISTING HOME ON THE PROPERTY. THEY WOULD LIKE TO BUILD ONE MORE HOME ON THE SITE. WE DID PUT A NOTE ON THE PLAT THAT STATES THE PROPERTY COULD NOT BE FURTHER SUBDIVIDED WITHOUT MEETING THE SUBDIVISION REGULATIONS. WITH THAT WE WOULD RECOMMEND
THAT YOU CONSIDER IT FOR APPROVAL.

CHAIRMAN: IS THERE ANYBODY HERE REPRESENTING THE APPLICANT?

(NO RESPONSE)

CHAIRMAN: DO WE HAVE ANY QUESTIONS?

(NO RESPONSE)

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

MR. APPLEBY: MOTION FOR APPROVAL.

CHAIRMAN: MOTION FOR APPROVAL BY MR. APPLEBY.

MR. ROGERS: SECOND.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: MOTION CARRIES UNANIMOUSLY.

NEXT ITEM.

NEW BUSINESS

ITEM 6

CONSIDER APPROVAL OF THE FY 2013 OMPC BUDGET AND SALARY CHART.

MR. NOFFSINGER: MR. CHAIRMAN, EACH MEMBER HAS BEEN MAILED A COPY OF THOSE DOCUMENTS. WE'RE READY FOR YOUR CONSIDERATION.

CHAIRMAN: EVERYBODY HAS A COPY OF THE BUDGET.
DOES ANYBODY HAVE ANY QUESTIONS?

(NO RESPONSE)

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

MR. PEDLEY: POTION FOR APPROVAL.

CHAIRMAN: MOTION FOR APPROVAL BY MR. PEDLEY.

MR. TAYLOR: SECOND.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: MOTION CARRIES UNANIMOUSLY.

THE CHAIR IS READY FOR ONE FINAL MOTION.

MR. STRODE: MOTION TO ADJOURN.

CHAIRMAN: MOTION TO ADJOURN BY MR. STRODE.

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.

(DEPOSITION ENDS AT 12:40 A.M.)

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STATE OF KENTUCKY )
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 315 TYPEWRITTEN PAGES; AND THAT NO SIGNATURE WAS REQUESTED TO THE FOREGOING TRANSCRIPT.

Witness my hand and notary seal on this the 1ST DAY OF JUNE, 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

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