

1 OWENSBORO METROPOLITAN PLANNING COMMISSION.

2 FEBRUARY 9, 2012

3 THE OWENSBORO METROPOLITAN PLANNING COMMISSION

4 MET IN REGULAR SESSION AT 5:30 P.M. ON THURSDAY,

5 FEBRUARY 9, 2012, AT CITY HALL, COMMISSION CHAMBERS,

6 OWENSBORO, KENTUCKY, AND THE PROCEEDINGS WERE AS

7 FOLLOWS:

8 MEMBERS PRESENT: DREW KIRKLAND, CHAIRMAN  
9 WARD PEDLEY, VICE CHAIRMAN  
10 DAVID APPLEBY, SECRETARY  
11 GARY NOFFSINGER, DIRECTOR  
12 MADISON SILVERT, ATTORNEY  
13 REV. LARRY HOSTETTER  
14 TIM ALLEN  
15 IRVIN ROGERS  
16 WALLY TAYLOR  
17 JOHN KAZLAUSKAS  
18 JASON STRODE  
19 FRED REEVES

20 \* \* \* \* \*

21

22 CHAIRMAN: PLEASE STAND FOR THE PLEDGE OF

23 ALLEGIANCE AND OUR INVOCATION.

24 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

25 CHAIRMAN: OUR FIRST ORDER OF BUSINESS WILL BE

TO CONSIDER THE MINUTES OF THE JANUARY 12, 2011

MEETING OF THE OWENSBORO METROPOLITAN PLANNING

COMMISSION. ARE THERE ANY CORRECTIONS, ADDITIONS?

(NO RESPONSE)

CHAIRMAN: ANY QUESTIONS FROM THE COMMISSION?

(NO RESPONSE)

1           CHAIRMAN: IF NOT THE CHAIR IS READY FOR A  
2 MOTION.  
3           MR. PEDLEY: MOTION FOR APPROVAL.  
4           CHAIRMAN: MOTION FOR APPROVAL BY MR. PEDLEY.  
5           MR. KAZLAUSKAS: SECOND.  
6           CHAIRMAN: SECOND BY MR. KAZLAUSKAS. ALL IN  
7 FAVOR RAISE YOUR RIGHT HAND.  
8           (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)  
9           CHAIRMAN: MOTION CARRIES UNANIMOUSLY.  
10          MR. NOFFSINGER.  
11          ITEM 2  
12          REVIEW AND UPDATE OF THE COMPREHENSIVE PLAN FOR  
13          OWENSBORO, WHITESVILLE AND DAVIESS COUNTY, KENTUCKY  
14          (FIVE YEAR MANDATORY REVIEW REQUIRED BY KRS SECTION  
15          100.197)  
16          MR. NOFFSINGER: MR. CHAIRMAN, BRIAN HOWARD,  
17          SENIOR PLANNER FOR THE OWENSBORO METROPOLITAN PLANNING  
18          COMMISSION, IS HERE TONIGHT TO GIVE AN OVERVIEW OF THE  
19          KICK OFF FOR THIS REVIEW.  
20          MR. SILVERT: STATE YOUR NAME, PLEASE.  
21          MR. HOWARD: BRIAN HOWARD.  
22          (BRIAN HOWARD SWORN BY ATTORNEY.)  
23          MR. HOWARD: AS MR. NOFFSINGER STATED, THIS IS  
24          A STATE REQUIRED UPDATE OF THE COMPREHENSIVE PLAN.  
25          THE STATE STATUTES REQUIRE THE COMPREHENSIVE PLAN BE  
26          UPDATED EVERY FIVE YEARS.

1           IT IS A DOCUMENT PREPARED BY THE PLANNING  
2       COMMISSION. IT'S BASICALLY A GUIDE FOR DECISIONS FOR  
3       THE COMMUNITY LOOKING AT LAND USE, TRANSPORTATION,  
4       OTHER THINGS LIKE THAT, AND ITS GOAL IS TO ASSURE THAT  
5       DEVELOPMENT HAPPENS IN AN ORDERLY MANNER AND THAT  
6       THERE WILL BE A DEVELOPMENT RELATIONSHIP THAT IS GOOD.

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

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

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

16          1991 THERE WAS A PLAN UPDATE. THE LAND USE  
17       PLAN WAS A KEY ROLE AND THEN WE LOOKED AT RURAL  
18       DEVELOPMENT POLICIES.

19          2001 PLAN UPDATE: CITIZEN INVOLVEMENT, GOALS  
20       AND OBJECTIVES, AND UPDATED RESEARCH.

21          THE LAST PLAN WAS THE 2007 PLAN, WHICH  
22       REVIEWED THE GOALS AND OBJECTIVES, UPDATED THE  
23       RESEARCH, AND UPDATE THE LAND USE PLAN ELEMENT.

24          AS FAR AS REQUIRED ELEMENTS GO, THE GOALS AND  
25       OBJECTIVES ARE THE KEY FUNCTION. THEY MUST BE ADOPTED

1 BY THE LEGISLATIVE BODIES. THESE GOALS AND OBJECTIVES  
2 SERVE AS A GUIDE FOR THE PHYSICAL DEVELOPMENT AND  
3 ECONOMIC SOCIAL WELLBEING OF THE COMMUNITY. THEY'RE  
4 THE FOUNDATION FOR THE REST OF THE DOCUMENT. SO ONCE  
5 THE GOALS AND OBJECTIVES ARE ADOPTED, THE REST OF THE  
6 PLAN CAN FALL IN PLACE.

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

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

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

25 THE LAST ELEMENTS OR THE OTHER ELEMENTS THAT

1 WE MAY INCORPORATE WOULD LOOK AT THINGS LIKE  
2 ENVIRONMENTAL AND HISTORICALLY THINGS LIKE FLOODPLAIN,  
3 HISTORICAL SITES, ARCHAEOLOGICAL SITES.

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

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

12 THE NEXT IS ANALYSIS OF NEEDS OF THE COMMUNITY  
13 FOR LAND USE, TRANSPORTATION AND COMMUNITY FACILITIES.

14 THEN OTHER BACKGROUND INFORMATION THAT MAY BE  
15 NECESSARY ARE INCLUDED AS FAR AS RESEARCH GOES.

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

24 DURING THAT TIME I'LL NOTE THAT THE CITY OF  
25 OWENSBORO GREW AT ABOUT 5.9 PERCENT, WHICH WAS MUCH

1 GREATER THAN THE PREVIOUS PERIOD WHERE THE GROWTH HAD  
2 ONLY OCCURRED AT ABOUT ONE PERCENT.

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

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

15 SO, AS YOU CAN SEE, WITHIN THE URBAN AREA  
16 CERTAINLY THE AMOUNT OF AGRICULTURAL ACREAGE IS LOWER  
17 AT 51.5 PERCENT. WE GO DOWN TO 24.7 FOR RESIDENTIAL,  
18 6.7 FOR BUSINESS, 4.6 FOR PROFESSIONAL/SERVICE, 11.8  
19 INDUSTRIAL AND 0.7 FOR COAL MINING.

20 LAND USE ISSUES: SOME KEY LAND USE ISSUES  
21 THAT WE LOOK AT IN THE COMPREHENSIVE PLAN IS URBAN  
22 SPRAWL. THAT'S THE CONCEPT WHERE AS PEOPLE BECOME  
23 MORE MOBILE THEY MOVE FURTHER AWAY FROM EMPLOYMENT  
24 CENTER. PEOPLE LIVE FURTHER OUT. URBAN SPRAWL  
25 CREATES A STRAIN ON TRANSPORTATION INFRASTRUCTURE,

1       STRAIN ON POLICE/FIRE PROTECTION, ROADWAYS AND THINGS  
2       LIKE THAT.

3               WE LOOK AT CONSERVATION OF AGRICULTURAL LAND.  
4       EXTENSIONS OF SANITARY SEWER SERVICE. WHERE WILL THAT  
5       BE TAKING PLACE. INCREASED COMMERCIAL DEVELOPMENT ON  
6       EXISTING ARTERIAL ROADWAYS, ENVIRONMENTAL IMPACTS OF  
7       DEVELOPMENT IN THE FLOODPLAIN AREA, WHICH WE HAVE  
8       QUITE A BIT OF IN DAVIESS COUNTY. THEN THE IMPACT OF  
9       REQUIRED STORM WATER REGULATIONS ON DEVELOPMENT.

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

12              THE PLANNING COMMISSION STAFF WILL, ALONG WITH  
13       PLANNING COMMISSION, HOLD A WORK SESSION WITH ELECTED  
14       OFFICIALS AND THE PLANNING COMMISSIONERS COMBINED OR  
15       POTENTIALLY SEPARATE AS WELL. THERE WILL BE PUBLIC  
16       MEETING OR MEETINGS TO RECEIVE INPUT FROM THE  
17       CITIZENS. INPUT FROM THE CITIZENS IS A KEY PART OF  
18       THE COMPREHENSIVE PLAN UPDATE. WITHOUT INPUT WE DON'T  
19       KNOW WHAT, NECESSARILY WHAT THE FEEL OF THE COMMUNITY  
20       IS IN REGARD TO SOME OF THESE ISSUES. YOU KNOW, LAST  
21       TIME WE HAD A SERIES OF PUBLIC MEETINGS AND WE WOULD  
22       RECOMMEND THAT IF YOU HAVE INTEREST CERTAINLY COME  
23       OUT. THE PUBLIC MEETINGS WILL BE ADVERTISED. THE  
24       INFORMATION IN THE PAPER ABOUT WHEN THOSE WILL BE  
25       HELD.

1           SO THAT'S MY BRIEF OVERVIEW. I'D BE GLAD TO  
2       TAKE ANY QUESTIONS FROM THE COMMISSION IF YOU HAVE  
3       THEM AT THIS TIME.

4           CHAIRMAN: THANK YOU, MR. HOWARD.

5           ARE THERE ANY QUESTIONS FROM THE COMMISSION?

6           (NO RESPONSE)

7           CHAIRMAN: ANYBODY FROM THE AUDIENCE?

8           (NO RESPONSE)

9           CHAIRMAN: THANK YOU, BRIAN.

10       -----

11                               ZONING CHANGES

12       ITEM 3

13       7235 HOBBS ROAD, 0.41 ACRES  
14       CONSIDER ZONING CHANGE: FROM A-R RURAL AGRICULTURE TO  
15       B-4 GENERAL BUSINESS  
16       APPLICANT: TONY'S CARTS AND PARTS, WILLIAM T. LYTLE

17           MR. SILVERT: STATE YOUR NAME, PLEASE.

18           MS. EVANS: MELISSA EVANS.

19           (MELISSA EVANS SWORN BY ATTORNEY.)

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



1 PLANNING STAFF RECOMMENDATIONS

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

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

7 FINDINGS OF FACT:

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

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

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

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

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

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

1 CHAIRMAN: IS ANYBODY HERE REPRESENTING THE  
2 APPLICANT?

3 APPLICANT REP: YES.

4 CHAIRMAN: DOES ANYBODY HAVE ANY QUESTIONS OF  
5 THE APPLICANT?

6 (NO RESPONSE)

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

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

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

14 MR. APPLEBY: SECOND.

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

17 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

18 CHAIRMAN: MOTION CARRIES UNANIMOUSLY.

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

22 MR. NOFFSINGER:

23 -----  
24 COMBINED DEVELOPMENT PLANS/MAJOR SUBDIVISIONS  
25 ITEM 5

1 3230-3290 BUCKLAND SQUARE - JAMESTOWN APARTMENTS,  
2 7.942 ACRES  
3 CONSIDER APPROVAL OF AMENDED FINAL DEVELOPMENT  
PLAN/MAJOR SUBDIVISION PRELIMINARY PLAT.  
4 APPLICANT: DAN & JUDY HAMILTON

5 MR. NOFFSINGER: MR. CHAIRMAN, THIS  
6 APPLICATION HAS BEEN REVIEWED BY THE PLANNING STAFF  
7 AND ENGINEERING STAFF AND IT IS FOUND TO BE IN ORDER.  
8 THE USE OF THE PROPERTY IS CONSISTENT WITH THE  
9 UNDERLYING ZONE AND IT'S READY FOR YOUR CONSIDERATION.

10 CHAIRMAN: DO WE HAVE SOMEONE HERE  
11 REPRESENTING THE APPLICANT?

12 APPLICANT REP: YES.

13 CHAIRMAN: DO WE HAVE ANY QUESTIONS OF THE  
14 APPLICANT?

15 (NO RESPONSE)

16 CHAIRMAN: ANYBODY IN THE AUDIENCE?

17 (NO RESPONSE)

18 CHAIRMAN: ANYBODY ON THE COMMISSION?

19 (NO RESPONSE)

20 CHAIRMAN: IF THERE ARE NO QUESTIONS, THE  
21 CHAIR IS READY FOR A MOTION.

22 MR. APPLEBY: MOTION FOR APPROVAL.

23 CHAIRMAN: MOTION FOR APPROVAL BY MR. APPLEBY.

24 MR. ALLEN: SECOND.

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

1 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

2 CHAIRMAN: MOTION CARRIES UNANIMOUSLY.

3 NEXT ITEM, PLEASE.

4 -----

5 MINOR SUBDIVISIONS

6 ITEM 6

7 760, 770 PLEASURE POINTE WEST, 1.23 ACRES  
8 CONSIDER APPROVAL OF MINOR SUBDIVISION PLAT.

8 APPLICANT: STEVE HAGAN

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

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

22 CHAIRMAN: DO WE HAVE SOMEONE HERE  
23 REPRESENTING THE APPLICANT?

24 (NO RESPONSE)

25 CHAIRMAN: ARE THERE ANY QUESTIONS?

1 (NO RESPONSE)

2 CHAIRMAN: ANY QUESTIONS FROM THE COMMISSION?

3 (NO RESPONSE)

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

6 MR. KAZLAUSKAS: SO MOVE.

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

9 MR. STRODE: SECOND.

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

12 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

13 CHAIRMAN: MOTION CARRIES UNANIMOUSLY.

14 NEXT ITEM.

15 -----

16 ZONING CHANGE

17 ITEM 4

18 3300 BLOCK, 3447, 3515 RUSSELL ROAD; 3570, 3574, 3580  
19 GIRL SCOUT ROAD; 11300, 11440 US HIGHWAY 231,  
385.45+/- ACRES (POSTPONED AT JANUARY 12, 2012  
MEETING)

20 CONSIDER ZONING CHANGE: FROM A-R RURAL AGRICULTURE  
21 AND A-U URBAN AGRICULTURE TO EX-1 COAL MINING  
22 APPLICANT: WESTERN KENTUCKY MINERALS, INC., SHIRLEY  
TAYLOR, GERTIE TAYLOR ESTATE, LINDLEY TAYLOR, MILDRED  
23 TAYLOR JOHNSON ESTATE, ANNA FAYE BELCHER, TILFORD  
THOMPSON ESTATE, STEPHEN THOMPSON, CLARA THOMPSON  
ESTATE

24 PROPOSED ZONE & LANE USE PLAN

25 THE APPLICANT IS SEEKING AN EX-1 COAL MINING

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

4       SPECIFIC LAND USE CRITERIA

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

7               1) LOCATIONAL GUIDELINES: COAL MINING  
8       ACTIVITIES SHOULD BE LOCATED IN THE RURAL SERVICE  
9       AREA, OUTSIDE OF RURAL COMMUNITY PLAN AREAS, IN RURAL  
10      PREFERENCE OR RURAL MAINTENANCE PLAN AREAS.

11              MINING ACTIVITIES SHOULD NOT OCCUR IN THE  
12      100-YEAR FLOODPLAIN. THE PARTICULAR LOCATION, SCOPE,  
13      AND CHARACTERISTICS OF THE MINING OPERATIONS SHOULD BE  
14      SUBJECT TO DISCRETIONARY LIMITS ON COAL MINING.

15              2) SITE, OPERATIONAL, RECLAMATION PLANS AND  
16      PROCEDURES: DUE TO THE POTENTIALLY ADVERSE  
17      ENVIRONMENTAL IMPACT OF COAL MINING, DETAILED  
18      SITE, OPERATION AND RECLAMATION PLAN INFORMATION  
19      IS REQUIRED BY THE STATE. STATE MANDATED PROCEDURES  
20      MUST BE FOLLOWED. NECESSARY PERMITS MUST BE OBTAINED  
21      FROM FEDERAL, STATE AND LOCAL AGENCIES HAVING  
22      JURISDICTION OVER ANY PHASE OF THE OPERATION PRIOR TO  
23      THE BEGINNING OF SAID OPERATION. THE PLANNING  
24      COMMISSION OR RESPECTIVE AUTHORITY MAY REQUIRE THE  
25      POSTING OF SUFFICIENT SURETY FOR MAINTENANCE AND

1 REPAIR OF THOSE PUBLIC FACILITIES WHICH ARE NOT  
2 OTHERWISE BONDED. THE PLANNING COMMISSION, AT ITS  
3 DISCRETION, MAY REQUIRE PRE-BLAST SURVEYS BE CONDUCTED  
4 FOR BUILDINGS ON NEIGHBORING PROPERTY, EVEN BEYOND THE  
5 REQUIREMENTS OF STATE LAW. THE PLANNING COMMISSION  
6 MAY SEEK ACTION TO HALT OPERATIONS OCCURRING IN  
7 VIOLATION OF STATE LAW OR IN VIOLATION OF IT'S  
8 DISCRETIONARY REQUIREMENTS OR LIMITS.

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

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

24 5) TRANSPORTATION PLAN AND ACCESS DESIGN: A  
25 TRANSPORTATION PLAN MUST BE PREPARED, AND MUST BE

1       APPROVED BY THE STATE HIGHWAY DEPARTMENT AND THE  
2       COUNTY ENGINEER, AS APPROPRIATE, SHOWING THE ROUTE TO  
3       BE FOLLOWED IN HAULING COAL FROM THE SITE TO ULTIMATE  
4       DESTINATION IN DAVIESS COUNTY. SURETY SHOULD BE  
5       PROVIDED TO ASSURE MAINTENANCE AND REPAIR OF PUBLIC  
6       ROADS AND BRIDGES. PARTICULAR ATTENTION SHOULD BE  
7       GIVEN TO PROPER AND SAFE DESIGN OF VEHICULAR ACCESS  
8       POINTS TO PUBLIC ROADS AND HIGHWAYS. ACCESS POINTS  
9       SHOULD BE LOCATED TO ASSURE ADEQUATE SIGHT DISTANCES  
10      ALONG THROUGH ROADWAYS AND AT STOP LIGHTS OF  
11      INTERSECTIONS. SUCH POINTS SHOULD BE ALTERED, IF  
12      NECESSARY, TO SATISFY PROPERTY AND SAFETY DESIGN.

13               (B) DISCRETIONARY LIMITS ON COAL MINING:  
14      GENERALLY, MINING SHOULD BE PERMITTED WHEREVER COAL  
15      EXISTS IN RURAL AREAS. HOWEVER, WHERE THE PLANNING  
16      COMMISSION FINDS ADVISABLE, LIMITS MAY BE SET ON THE  
17      MINING PROCESS WHERE DEEMED NECESSARY. THE  
18      ESTABLISHMENT OF LIMITS MAY ARISE FROM THE  
19      CONSIDERATION OF SUCH ISSUES AS THE PATTERN, DENSITY  
20      AND PREDOMINANCE OF NEARBY, ESTABLISHED DEVELOPMENT;  
21      THE ZONING OF ADJOINING PROPERTIES; THE IMPACT OF PAST  
22      OR EXISTING MINING IN THE VICINITY; AND PROXIMITY OF  
23      THE MINING AREA TO HIGHWAYS.  
24      PLANNING STAFF REVIEW  
25      GENERAL LAND USE CRITERIA



1 ENVIRONMENT

2 • IT APPEARS THAT THE SUBJECT PROPERTY IS NOT  
3 LOCATED IN A WETLAND AREA PER THE US DEPARTMENT OF  
4 AGRICULTURE SOIL CONSERVATION SERVICE MAPS DATED MARCH  
5 6, 1990.

6 \* THE SUBJECT PROPERTY IS NOT LOCATED IN A  
7 SPECIAL FLOOD HAZARD AREA PER FIRM MAPS 21059CO410 AND  
8 430 D.

9 • A PORTION OF THE PROPERTY IS DESIGNATED AS  
10 PRIME AGRICULTURAL FARMLAND PER THE US DEPARTMENT OF  
11 AGRICULTURE SOIL CONSERVATION SERVICE MAP DATED  
12 MARCH 1980.

13 • THE DEVELOPER IS RESPONSIBLE FOR OBTAINING  
14 PERMITS FROM THE DIVISION OF WATER, THE ARMY CORP OF  
15 ENGINEERS, FEMA OR OTHER STATE AND FEDERAL AGENCIES AS  
16 MAY BE APPLICABLE.

17 URBAN SERVICES

18 ELECTRICITY, WATER AND GAS ARE AVAILABLE TO  
19 THE SUBJECT PROPERTY.

20 DEVELOPMENT PATTERNS

21 THE SUBJECT PROPERTY IS LOCATED IN AN AREA OF  
22 LARGE-LOT RURAL RESIDENCES, WOODLANDS, PASTURE AND  
23 COAL MINING. THE LAND IS GENERALLY HILLY AND WOODED.  
24 THE ORIGINAL ZONING APPLICATION CONTAINED 685.65+/-  
25 ACRES OF LAND PROPOSED FOR MINING ACTIVITY. HOWEVER,

1 DUE TO AN ISSUE WITH OWNERSHIP OF ONE OF THE TRACTS,  
2 THE APPLICANT HAS REQUESTED THAT FOUR OF THE TRACTS BE  
3 WITHDRAWN FROM THE APPLICATION. IF MINING ACTIVITY IS  
4 PROPOSED ON THESE FOUR TRACTS AT SOME POINT IN THE  
5 FUTURE, A NEW APPLICATION AND PUBLIC HEARING WILL BE  
6 REQUIRED.

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

21 SPECIFIC LAND USE CRITERIA

22 GENERAL AND SPECIFIC LAND USE CRITERIA  
23 APPLICABLE TO COAL MINING PROPOSALS ARE: LOCATION,  
24 SITE AND MINING PROCEDURES; SOILS, GEOLOGY, AND  
25 FRAGILE AREAS; ACTIVITY BUFFERS; AND TRANSPORTATION

1 PLAN AND ACCESS DESIGN. THESE ITEMS ARE REVIEWED  
2 BELOW.

3 LOCATION

4 THE SUBJECT PROPERTY IS LOCATED IN THE  
5 3300-3500 BLOCKS OF RUSSELL ROAD, THE 3500 BLOCK OF  
6 GIRL SCOUT ROAD AND THE 11300-11400 BLOCKS OF US  
7 HIGHWAY 231. THE SUBJECT PROPERTY IS IN THE RURAL  
8 SERVICE AREA AND THE MAJORITY OF THE SUBJECT PROPERTY  
9 IS LOCATED WITHIN A RURAL MAINTENANCE PLAN AREA;  
10 HOWEVER, A PORTION IS LOCATED WITHIN A RURAL COMMUNITY  
11 PLAN AREA. THE SUBJECT PROPERTY ADJOINS EXISTING EX-1  
12 COAL MINING ZONING TO THE SOUTH AND THERE IS  
13 ADDITIONAL EX-1 ZONING IN THE VICINITY TO THE  
14 SOUTHWEST.

15 SITE & MINING PROCEDURES

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

22 THE APPLICANT PROPOSES TO EXTRACT COAL THROUGH  
23 SURFACE MINING TECHNIQUES. BLASTING IS LIMITED TO  
24 MONDAY THROUGH SATURDAY FROM SUNRISE TO SUNSET UNLESS  
25 A VARIANCE IS GRANTED FROM THE STATE. THE APPLICANT

1 INDICATES THEY HAVE NO INTENTION OF APPLYING FOR A  
2 VARIANCE. PRIOR TO INITIATION OF MINING ACTIVITY, A  
3 PRE-BLAST SURVEY IS OFFERED TO ALL OWNERS OF OCCUPIED  
4 DWELLINGS WITHIN ½ MILE OF THE MINING SITE. A TOTAL  
5 OF SEVEN APPROVALS/PERMITS ARE REQUIRED PRIOR TO  
6 MINING ACTIVITY TAKING PLACE. IT IS ANTICIPATED THAT  
7 THE PROPOSED PROJECT WILL BE A 6-10 YEAR PROJECT. THE  
8 MINING PERMIT FROM THE STATE IS FOR A FIVE YEAR  
9 PERIOD. IF MINING IS NOT COMPLETE, THE PERMIT MAY BE  
10 REISSUED AND THE MINING OPERATION IS SUBJECT TO ANY  
11 NEW REGULATIONS THAT MAY HAVE BEEN IMPLEMENTED DURING  
12 THE FIRST FIVE YEAR PERIOD.

13 SOILS, GEOLOGY & FRAGILE AREAS

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

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

1 UNNAMED COAL BEDS WITH AN AVERAGE COAL SEAM THICKNESS  
2 BETWEEN 12 AND 40 INCHES. COAL DEPTHS RANGE BETWEEN  
3 12 TO 95 FEET BELOW THE SURFACE.

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

10 ACTIVITY BUFFERS

11 MINING ACTIVITIES SHOULD MAINTAIN A MINIMUM OF  
12 100 FOOT BUFFER FROM ANY ROAD RIGHT-OF-WAY AND A 300  
13 FOOT BUFFER FROM ANY RESIDENTIAL OR NONRESIDENTIAL  
14 DEVELOPED PROPERTY.

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

19 TRANSPORTATION PLAN & ACCESS DESIGN

20 COAL MINED ON THE SUBJECT PROPERTY IS PROPOSED  
21 TO BE REMOVED FROM THE SITE VIA A COAL HAUL ROAD TO US  
22 HIGHWAY 231. THE APPLICANT HAS SUBMITTED A  
23 TRANSPORTATION PLAN THAT HAS BEEN REVIEWED BY THE  
24 KENTUCKY TRANSPORTATION CABINET AND THE DAVIESS COUNTY  
25 ENGINEER FOR ALL ROADS THAT WILL BE USED TO HAUL COAL

1 FROM THE SUBJECT PROPERTY TO THE YELLOW BANKS RIVER  
2 TERMINAL VIA US HIGHWAY 231 AND US HIGHWAY 60. COAL  
3 WILL NOT BE TRANSPORTED ON GIRL SCOUT ROAD OR RUSSELL  
4 ROAD. ONE AT-GRADE CROSSING IS PROPOSED ON RUSSELL  
5 ROAD. THE APPLICANT MAY BE REQUIRED BY THE COUNTY  
6 ENGINEER AND/OR STATE HIGHWAY OFFICIAL TO POST BOND OR  
7 ACQUIRE EXCESSIVE WEIGHT PERMITS FOR THE COAL  
8 TRANSPORTATION ACTIVITIES TO ENSURE THAT ROADS ARE  
9 PROPERLY MAINTAINED AND NOT DAMAGED DURING TRANSPORT.  
10 THE APPLICANT INDICATES THAT DURING PEAK MINING  
11 ACTIVITY, APPROXIMATELY 40 ROUND-TRIPS PER DAY ALONG  
12 THE COAL HAUL ROUTE TO YELLOW BANKS RIVER TERMINAL.  
13 EXTENDED WEIGHT LIMITS ALONG THE ROUTE WILL ALLOW FOR  
14 TRUCK WEIGHTS TO REACH 120,000 POUNDS.

15 PLANNING STAFF RECOMMENDATIONS

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

18 FINDINGS OF FACT:

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

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

25 3. THE MAJORITY OF THE SUBJECT PROPERTY IS

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

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

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

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

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

16 CHAIRMAN: THANK YOU, MR. HOWARD.

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

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

23 MR. FRAZIER: DIVISION OF MINE FROM FRANKFORT.

24 CHAIRMAN: THANK YOU. AND YOUR NAME, SIR?

25 MR. FRAZIER: ROBERT FRAZIER.

1           CHAIRMAN: DO WE HAVE ANYBODY REPRESENTING THE  
2   APPLICANT?

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

5           MR. HAYNES: BRIAN HAYNES.

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

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

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

24          MR. HAYNES: IT IS.

25          MR. WILSON: MAY I?



1           CHAIRMAN:  YES, SIR.

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

4           MR. WILSON:  MY NAME IS BILL WILSON.

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

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

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

19          CHAIRMAN:  MR. NOFFSINGER.

20          MR. NOFFSINGER:  MR. HOWARD.

21          MR. HOWARD:  THIS WAS A TRACT THAT WAS IN  
22          QUESTION AT THE MEETING LAST MONTH.  THE APPLICATION  
23          WAS NOT IN ORDER DUE TO THE LACK OF SIGNATURES OF THE  
24          CURRENT PROPERTY OWNERS.  MS. STEWART HAD NOT SIGNED.  
25          SINCE THAT TIME, THE APPLICANT DID PROVIDE THAT

1 INFORMATION; HOWEVER, THERE WAS NO INDICATION GIVEN TO  
2 STAFF THAT THERE WAS NO LONGER THE GERTIE TAYLOR  
3 ESTATE, THAT THE STEWARTS WERE NOT SIGNING FOR THEM.  
4 THEIR SIGNATURES ARE ON FILE IN THE APPLICATION AS THE  
5 PROPERTY OWNERS.

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

8 MR. HOWARD: YES.

9 MR. NOFFSINGER: WOULD THE APPLICANT CONCUR  
10 WITH THAT?

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

13 CHAIRMAN: MR. SILVERT.

14 MR. SILVERT: TO COUNSEL FOR THE APPLICANT.  
15 DOES THE GERTIE TAYLOR ESTATE STILL HAVE ANY TITLE OR  
16 INTEREST IN THIS PROPERTY?

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

25 MR. SILVERT: BUT IS IT YOUR LEGAL OPINION

1       TODAY THAT EVERYONE WHO HAS TITLE AND INTEREST IN THAT  
2       SPECIFIC TRACT HAS SINGED AN APPLICATION?

3               MR. HAYNES:   YES.

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

6               MR. SILVERT:   YES.

7               CHAIRMAN:   THANK YOU, MR. WILSON.

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

10              MR. WRIGHT:   TIMOTHY WRIGHT.

11              (TIMOTHY WRIGHT SWORN BY ATTORNEY.)

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

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

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

21              WESTERN KENTUCKY MINERALS, IT WAS FORMED IN  
22       2005 BY ANTHONY LANHAM, BETTER KNOWN AS TONY.   WE HAVE  
23       A CURRENT PARTNER, LLOYD COLE.   BOTH OF THEM DO RESIDE  
24       IN DAVIESS COUNTY.

25              WESTERN KENTUCKY MINERALS IS MADE UP OF 42

1 EMPLOYEES AT THE CURRENT TIME.

2 HERE IS OUR PROJECT, P RIDGE MINE.

3 AS WE FIRST SUBMITTED WE HAD 685 ACRES.

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

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

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

20 THE ORANGE AREA YOU SEE IS THE AREA AROUND THE  
21 COMMUNITY THAT'S ALREADY REZONED EX-1. NONE OF THEM  
22 HAVE BEEN MINED IN BACK IN THE '60S, '70S AND '80S.  
23 THE PINK BOUNDARY THAT GOES AROUND THE OUTSIDE OF IT,  
24 THAT'S A HALF MILE BOUNDARY. THAT'S IMPORTANT BECAUSE  
25 OF THE PREBLAST SURVEYS. THE KENTUCKY DEPARTMENT OF

1 ENFORCEMENT REQUIRES US TO DO A PREBLAST SURVEY ON  
2 EVERY HOME WITHIN A HALF MILE. EVERYBODY WITHIN THAT  
3 HALF MILE WILL BE RECEIVING A FORM IN THE MAIL.

4 YOU SEE THE LITTLE BLUE AREA DOWN HERE TO THE  
5 RIGHT-HAND SIDE? THAT'S ANOTHER PERMIT WE CURRENTLY  
6 ALREADY STARTED. IT'S IN OHIO COUNTY. WE'RE PLANNING  
7 ON HAULING COAL OUT OF IT IN OCTOBER AND NOVEMBER OF  
8 THIS YEAR. IT WILL ENTER 231 AT A POINT DOWN TO THE  
9 SOUTH AND IT WILL GO STRAIGHT UP 231 ALSO TO YELLOW  
10 BANKS RIVER TERMINAL, GO UP TO OMU. THE ONE THAT GOES  
11 TO YELLOW BANKS RIVER TERMINAL WILL BE GOING TO LG&E  
12 PLANTS ON THE RIVER.

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

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

23 YOU CAN ALSO SEE BACK IN HERE, I KNOW WE GOT A  
24 LOT OF PEOPLE HERE CONCERNED ABOUT THE GIRL SCOUT  
25 CAMP. MS. HITCHCOCK OWNS THIS PIECE OF PROPERTY HERE.

1 SHE DOES NOT WANT US TO DISTURB HER OIL FIELD. SHE  
2 WANTS IT TO REMAIN IN PLACE. IT IS STILL A PRODUCTIVE  
3 OIL FIELD FOR HER. SO OUR MINING BOUNDARY WILL BE A  
4 GOOD 1,000 FEET OFF THE GIRL SCOUT CAMP. WE WILL NOT  
5 BE AGAINST THEIR PROPERTY LINE IN ANY WAY.

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

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

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

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

25 THE DMRE, DIVISION OF MINE RECLAMATION AND

1 ENFORCEMENT. THEY COVER A WIDE VARIETY OF TOPICS FROM  
2 OUR GENERAL OPERATION, INFORMATION FROM BLASTING TO  
3 BONDING. THEY COVER OUR WAIVERS FOR HOUSES AND THE  
4 GENERAL INFORMATION FOR THE COMPANY. THEY GO INTO THE  
5 GEOLOGY OF THE GROUND. THEY GO INTO THE WATER  
6 MONITORING FOR THE GROUND WATER AND SURFACE WATER.  
7 GOES BACK INTO SILT CONTROL AND SO ON AND SO FORTH.

8 DIVISION OF WATER. PRETTY SELF-EXPLANATORY.  
9 THEY REGULATE OUR DISCHARGE FROM THE MINE SITE. WE  
10 EITHER HAVE TO HOLD A DS PERMIT OR MPDS PERMIT FROM  
11 THE KENTUCKY DIVISION OF WATER, DEPENDING ON WHAT THE  
12 SITE ACTIVITY IS AND THE EXTENT OF THE MINE.

13 DIVISION OF AIR QUALITY IS PRETTY  
14 SELF-EXPLANATORY.

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

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

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

24 HERE'S SOME SHOTS OF OUR CURRENT RECLAMATION.  
25 THIS IS HOW THE REGULATION HAS REALLY CHANGED AND WHAT

1 THE SITES LOOK LIKE NOW COMPARED TO PRELAW. THIS  
2 RECLAMATION HERE WAS SOLD IN THE FALL OF 2010. THESE  
3 PICTURES WERE TAKEN JUST THE OTHER DAY. WENT THROUGH  
4 ONE GROWING SEASON. HERE IS A LAKE THAT WAS LEFT ON  
5 ONE OF THE FARMS. THIS WAS LOOKING AT THE  
6 RECLAMATION. YOU CAN SEE THE ACTUAL PIT IN THE  
7 BACKGROUND WHERE WE'RE STILL MINING.

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

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

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

20 THIS IS SOME MORE OF THE SAME RECLAMATION.

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

24 THIS IS PRIME FARMLAND. WE HAD A CORN CROP ON  
25 IT THIS PAST SUMMER. IT'S STILL ANOTHER SHOT FROM IT.



1 WE DO THAT. RESTORE THE PRIME FARMLAND AND BRING IT  
2 BACK TO THE STANDARD. IT'S ANOTHER SHOT OF THE FIELD.

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

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

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

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

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

21 THIS IS JUST ABOVE THE LAKE IN A VALLEY.

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

25 THIS IS ANOTHER LAKE OF THE BARNETTS. THIS IS

1 A BIGGER LAKE YOU'RE LOOKING ACROSS.

2 HERE IS SOME MORE RECLAMATION UP ON THE MINE.

3 HERE'S A HILLSIDE THAT SHOWS THAT WE GOT THEM

4 STABLE AND THEY'RE HOLDING UP VERY WELL.

5 THESE ARE DRY SUMPS THAT WE LIKE TO PUT IN.

6 THESE HELPS WITH EROSION CONTROL. FARMERS USE THEM A

7 WHOLE LOT. WE'VE LEARNED TO ADOPT THEM INTO OUR

8 RECLAMATION.

9 THAT'S A DITCH WHERE IT'S GOING AROUND TO THE

10 DRY SUMP.

11 THERE'S ANOTHER DRY SUMP DOWN THERE THAT'S

12 BEEN PUT IN.

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

14 THIS IS PART OF THE RECLAMATION THAT WE WERE

15 SEEING BEHIND THEIR HOUSE. LIKE I SAID, IT'S BEEN IN

16 PLACE FOR ABOUT TWO YEARS. LOT OF LANDOWNERS THAT WE

17 HAVE, THAT WE HAVE AT P RIDGE MINE, THEY WANT LAKES

18 PUT ON THEIR SITE. AS YOU CAN SEE, REALLY NICE LAKES

19 LEFT. IT'S GOOD WILDLIFE HABITAT. CORPS OF ENGINEERS

20 REQUIRE US TO PUT SOME OF THE STREAMS BACK ONTO THESE

21 LAKES. YOU SEE ONE LAKE WHERE WE WAS DEVELOPING

22 WETLAND AREA ABOVE IT. ONCE IT GETS DEVELOPED, IT'S

23 VERY GOOD WILDLIFE HABITAT.

24 BLASTING. THIS PROJECT WILL REQUIRE BLASTING.

25 THIS FORM HERE THAT WE'RE SHOWING, HERE'S A

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

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

1       WORRIED ABOUT IT. SHE WANTED HER COAL.

2               AS YOU CAN SEE THIS HOUSE, EVEN BLASTING UP TO  
3       60 FEET IT DIDN'T HURT IT WHATSOEVER. YOU CAN SEE THE  
4       MORTAR JOINTS IN THE TIMBER FRAME PART. THIS IS THE  
5       CHIMNEY ON THE SIDE OF IT. DIDN'T HURT IT WHATSOEVER.  
6       NO DAMAGE AT ALL.

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

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

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

1 THE HARDWOOD WETLAND. THEY ALL HAVE TO BE DELINEATED  
2 AND PUT BACK.

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

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

19 COAL CHEMICAL ANALYSIS. THROUGH OUR CONTRACTS  
20 AND THROUGH DIFFERENT THINGS. I HAVE SEEN CONCERN  
21 WITH PAMPHLETS THAT HAVE BEEN PUT OUT. BOY COME IN AT  
22 THE LAST MEETING AND QUESTION OUR COAL. I DON'T MEAN  
23 TO MISLEAD ANYBODY BECAUSE COAL IS ACIDIC, BUT IT HAS  
24 HUMIC ACID AND ABIETIC ACID. NOT SULFURIC ACID, AS  
25 HIS TERMINOLOGY WAS USED.

1 I DID RESEARCH SOME STUFF TO SEE WHERE HE GOT  
2 SULFURIC ACID. THERE IS CASES IN STUDIES THAT SHOW  
3 THAT SOME BOULDERS THEY BURN BARK, TREE BARK WITH THE  
4 COAL. WITH THE ADMISSION FROM THAT IT MIXED WITH SOME  
5 OF THE VAPORS FROM THE WATER AND CREATED SULFURIC  
6 ACID. ARSENIC, MERCURY, LEAD, SELENIUM, SOME OF THE  
7 THINGS WAS ASKED ABOUT. WE HAVE A FULL COMPLETE  
8 ANALYSIS OF OUR COAL FROM BOTH SEAMS. THESE ARE JUST  
9 A FEW THINGS WE'VE TESTED FOR. IT'S NOT GOING TO BE  
10 EASY FOR SOME TO UNDERSTAND.

11 LIKE THIS IS A RAW COAL SAMPLE AND OUR MERCURY  
12 TESTED AND .14 PARTS PER TRILLION. THAT'S WELL BELOW  
13 THE DRINKING WATER STANDARDS. WHEN I SAY "DRINKING  
14 WATER STANDARDS," THE EPA I'VE GOT A COPY OF THE  
15 PUBLICATION HERE. THEY SET A LIMIT ON WHAT THEY SAY  
16 WE CAN ABSORB AND WHAT WE CAN TAKE INTO OUR SYSTEM  
17 WITHOUT HARMING US. THESE RAW COAL SAMPLES ARE  
18 TESTING LESS THAN WHAT THAT STANDARD THAT THEY SET IS.  
19 YOU'RE ACTUALLY DRINKING MORE MERCURY OUT OF YOUR  
20 WATER COMING OUT OF YOUR FAUCET THAN WHAT THESE COAL  
21 ANALYSIS IS TESTING.

22 SELENIUM IS ONE OF THEM THAT WAS BROUGHT UP  
23 THE OTHER NIGHT. THIS COAL IS TESTING, FOUR PARTS PER  
24 TRILLION. WHATEVER THE DRINKING WATER STANDARD.

25 ARSENIC, WE THOUGHT WE HAD A LITTLE BIT OF AN

1        ARSENIC PROBLEM, BUT AFTER I GOT TO REVIEWING ALL OUR  
2        ANALYSIS, I DIDN'T REALIZE THAT ALL OF THEM HAD BEEN  
3        TESTED IN NANOGRAMS, WHICH IS PARTS PER TRILLION.  
4        WE'RE FINDING OUT THOUGH THAT IN OUR COAL CONTRACTS  
5        THEY'RE CALLING FOR 15 PARTS PER MILLION. WHEN YOU  
6        CONVERT TO 33 PARTS PER TRILLION UP, IT'S ONLY .3  
7        PARTS PER MILLION. SO WE'RE ACTUALLY WELL BELOW OUR  
8        STANDARD THERE ALSO. WE'RE NOT GOING TO HAVE THE  
9        ARSENIC PROBLEM THAT WE HAD EXPECTED. THAT WAS THE  
10       WORST ONE THAT WAS THE TOP SAMPLE. THE OTHER SAMPLE,  
11       THE ARSENIC, IS LIKE 7, WHICH WOULD BE .007 PART PER  
12       TRILLION.

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

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

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

25           MR. WRIGHT: NO. NOT QUITE. I WANT TO

1       EXPLAIN THE PREBLAST SURVEY.

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

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

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

24              WE HAD OFF OF BONDS AREA DISTURBANCES.  
25      MISCOMMUNICATION ON MY PART FOR NOT HAVING IT FLAGGED.



1 THEN THERE'S SOME OTHER PERMIT CONDITIONS THAT WE HAD  
2 TO CORRECT AS FAR AS OUR MINING PLAN AND SUPPLEMENTAL  
3 INSURANCE. WE HAD FIVE VIOLATIONS THERE.

4 BENEFITS FOR THE COMMUNITY. INCREASED  
5 REVENUE. COAL SEVERANCE TAX. WESTERN KENTUCKY  
6 MINERALS PAID 1.1 MILLION IN COAL SEVERANCE TAX IN  
7 2011. THE STATE RECEIVED 270 MILLION IN SEVERANCE  
8 TAX. IN 2009-2010 FISCAL YEAR. SEVERANCE TAX IS BIG  
9 FOR THE COUNTY AND FOR THE STATE. WESTERN KENTUCKY  
10 MINERALS IS THE ONLY ONE MINING IN DAVIESS COUNTY. IF  
11 YOU'VE GOT ACTIVE MINING IN YOUR COUNTY, YOU'RE  
12 ELIGIBLE FOR A 50 PERCENT OF THAT COMES BACK TO THOSE  
13 COUNTIES; OTHERWISE, YOU JUST PUT YOUR PROJECTS IN AND  
14 GET WHAT THEY GIVE YOU.

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

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

1 RESERVE AND OUR OWN POWER PLANT.

2 JOB CREATION. WESTERN KENTUCKY MINERALS IS

3 GOING TO CREATE NEW JOBS FOR US. GOOD PAYING JOB.

4 GOOD BENEFITS. FULLY PAID INSURANCE. HEALTH PLAN AND

5 DENTAL, 401(K).

6 HERE ARE SOME LOCAL VENDORS WE DO WORK WITH.

7 THERE'S SEVERAL DIFFERENT ONES UP THERE. MODERN

8 SUPPLY TO GORDON'S TRUE VALUE AS ONE OF THE LOCAL

9 VENDORS THAT WE DEAL WITH THAT BENEFIT FROM OUR

10 PROJECTS.

11 SOCIOECONOMIC BENEFITS. 2010 DAVIESS COUNTY

12 HAD A UNEMPLOYMENT OF 10.5 PERCENT.

13 PLEASANT RIDGE MINE WILL ADD JOBS IN THE

14 BEGINNING SOMEWHERE BETWEEN 20 TO 25 JOBS DIRECTLY AT

15 THE MINE. PROBABLY MORE, DEPENDING ON THE COAL

16 INDUSTRY.

17 OTHER ONES THAT IT AFFECTS IS TRANSPORTATION,

18 RIVER TRANSPORTATION, SUPPLIERS, BARGE AND EQUIPMENT,

19 BLASTING, ELECTRICAL COMPANY.

20 THAT WILL DO IT.

21 CHAIRMAN: THANK YOU.

22 DOES ANYBODY HAVE ANY QUESTIONS OF THE

23 APPLICANT?

24 SOME OF THE AUDIENCE WOULD LIKE TO.

25 MR. NOFFSINGER: FIRST ON THE LIST WILL BE

1 BILL WILSON.

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

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

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

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

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

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

23 CHAIRMAN: THANK YOU, MR. WILSON.

24 MR. LANHAM, WILL IT BE THE SAME  
25 REPRESENTATIVE?

1 MR. LANHAM: YES, SIR.

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

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

16 CHAIRMAN: THANK YOU.

17 MR. WILSON.

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

19 CHAIRMAN: MR. NOFFSINGER.

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

22 MR. WILSON: NOT AT THIS POINT.

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

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

1       BEFORE WE PUT ON OURS.  WE HAVE A LIST OF WITNESSES.

2               MR. NOFFSINGER:  I THOUGHT YOU WERE PUTTING ON  
3       YOUR CASE NOW.  THE APPLICANT HAS PUT ON HIS CASE.  
4       NOW IT'S YOUR TURN.

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

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

14              CHAIRMAN:  VERY THOUGHTFUL OF YOU, MR. WILSON.

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

23              CHAIRMAN:  THANK YOU.

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

1 MS. KELTY: SARAH KELTY.

2 (SARAH KELTY SWORN BY ATTORNEY.)

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

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

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

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

14 MS. KELTY: THANK YOU.

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

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

24 CAMP PENNYROYAL IS GIRL SCOUTS OF KENTUCKY AND  
25 IS MOST CENTRALLY LOCATED CAMP. IT OFFERS GIRLS FROM

1       ACROSS THE STATE A UNIQUE OPPORTUNITY TO CONNECT WITH  
2       THE OUTDOORS AND LEARN ESSENTIAL CONSERVATION  
3       CONCEPTS.

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

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

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

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

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

1 A THREE DAY CAMPOREE.

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

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

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

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

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

24 EVEN UP TO A MILE AWAY THIS WOULD AFFECT CAMP  
25 PENNYROYAL'S WILDLIFE PROGRAMS, INCLUDING THE RECENTLY



1 IMPLEMENTED BIRD WATCHING PROGRAM.

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

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

9 THANK YOU.

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

12 MS. MAUSER: RACHEL MAUSER.

13 (RACHEL MAUSER SWORN BY ATTORNEY.)

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

19 SURFACE MINING IS A PROCESS OF COAL  
20 OBSTRUCTION THAT IS INCREDIBLY DETRIMENTAL TO THE  
21 ENVIRONMENT AND TO THE SURROUNDING COMMUNITIES. WE  
22 WANT OUR CAMP TO REMAIN THE PEACEFUL CLEAN AND  
23 BEAUTIFUL PLACE IT HAS ALWAYS BEEN. A PLACE THAT  
24 PROVIDES GIRL WITH THE UNIQUE EXPERIENCE THAT THEY MAY  
25 NOT GET ANYWHERE ELSE.

1           THE DEVELOPMENT OF SURFACE MINES THIS CLOSE TO  
2   OUR CAMP WILL NEGATIVELY IMPACT THE EXPERIENCE OF EACH  
3   GIRL. SURFACE MINING CAUSES AIR, WATER AND NOISE  
4   POLLUTION, WILDLIFE, HABITAT DESTRUCTION AND  
5   STRUCTURAL DAMAGE, ALL OF WHICH WILL AFFECT  
6   GENERATIONS OF GIRL SCOUTS WHO DEPEND ON CAMP  
7   PENNYROYAL FOR A FUN, PEACEFUL, PRISTINE EXPERIENCE IN  
8   NATURE.

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

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

18          HAVING BEEN A COUNSELOR FOR MANY YEARS, THIS  
19  OBVIOUSLY CONCERNS ME. CAMP PENNYROYAL IS NOT ONLY  
20  MANY GIRLS FIRST CAMP EXPERIENCE, BUT IS OFTEN THEIR  
21  FIRST EXPERIENCE SPENDING THE NIGHT AWAY FROM HOME.  
22  WE CAN EXPECT OUR GIRLS TO SLEEP SOUNDLY TO THE SOUND  
23  OF CRICKETS CHIRPING AND FROGS CROAKING, BUT I DO NOT  
24  THINK WE CAN EXPECT OUR GIRLS TO SLEEP SOUNDLY WITH  
25  FREQUENT ALARMS INTERRUPTING THEIR NIGHT SLEEP.

1           PHASE ONE OF THE SURFACE MINING IS PROJECTED  
2           TO LAST SIX TO TEN YEARS; HOWEVER, WHEN WE WERE AT THE  
3           QUESTIONS SESSION WITH WESTERN KENTUCKY MINERALS LAST  
4           WEEK WE ASKED THEM WAS THERE GOING TO BE A PHASE TWO  
5           AND THEY SAID THAT THEY WERE PLANNING ON MINING THE  
6           AREA UNTIL ALL THE COAL WAS EXTRACTED, AND WE DON'T  
7           KNOW HOW LONG THIS WILL BE. THEY WERE UNABLE TO  
8           COMMENT ON THAT. SO MAYBE 20 YEARS. MAYBE 30 YEARS.  
9           I DON'T KNOW. BUT THIS MEANS THE FIRST SIX TO TEN  
10          YEARS AT THE VERY LEAST THE GIRLS OF CAMP PENNYROYAL  
11          WILL HAVE TO ENDURE NOISE POLLUTION, POSSIBLY BREATH  
12          IN COAL DUST, WORRY ABOUT POTENTIAL WATER  
13          CONTAMINATION AND WATCH THE HABITAT THAT SURROUNDS  
14          THEIR CAMP DESTROYED.

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

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

25                 THANK YOU FOR YOUR TIME.

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

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

9           MS. CROWE: BRANDI CROWE.

10          (BRANDI CROWE SWORN BY ATTORNEY.)

11          MS. CROWE: THANK YOU, SARAH AND RACHEL.

12          GOOD EVENING. THANK YOU ALL FOR THE OPEN  
13          FORUM OPPORTUNITY. I AM BRANDI CROWE AND I AM HERE  
14          WITH SUSAN MONTALVO-GESSER. WE CO-LEAD KENTUCKIANA  
15          JUNIOR AND CADET TROOP 615. ALSO HAVE REPRESENTATIVES  
16          FROM TROOP 56 HERE AS WELL.

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

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

25          TROOP 615 HAS BEEN VERY ACTIVE SINCE OUR

1       ORIGIN IN 2005 WHEN OUR OLDEST GIRLS WERE IN  
2       KINDERGARTEN. WITH THE ENERGETIC AND ASPIRING  
3       LEADERSHIP WITH SUSAN AND THE CREATIVE TALENTS OF OUR  
4       WONDERFUL TROOP PARENTS, WE DO ALL THE THINGS THAT I  
5       DREAMED OF DOING AS A GIRL.

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

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

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

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

21             YOU MAY CONTINUE.

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

1       OUR GIRLS.

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

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

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

14              AS A TROOP WE DO HAVE MANY WONDERFUL MEMORIES  
15       OF CAMP PENNYROYAL AND WE HOPE TO MAKE MANY MORE.  
16       THESE GIRLS DESERVE MORE THAN JUST MEMORIES. THEY  
17       DESERVE THE CHANCE TO PASS THE PENNYROYAL EXPERIENCE  
18       ON TO THEIR OWN DAUGHTERS AND BEYOND. THIS IS WHY WE  
19       MUST PRESERVE THE ESTHETIC BEAUTY, PHYSICAL INTEGRITY  
20       AND ENVIRONMENTAL HEALTH OF CAMP PENNYROYAL AND THE  
21       SURROUNDING LAND.

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

25              MR. SILVERT: COULD YOU STATE YOUR NAME,

1 PLEASE?

2 MISS WELLS: PANDORA WELLS.

3 (PANDORA WELLS SWORN BY ATTORNEY.)

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

7 THIS STRIP MINING WILL BE RIGHT NEXT TO OUR  
8 ONLY LOCAL CAMP. THIS CAMP IS THE ONLY PLACE WHERE  
9 MULTIPLE TROOPS FROM OWENSBORO AND DAVIESS COUNTY AND  
10 GATHER. IF THIS MINE IS CREATED, IT WILL BE AT WORK  
11 20 HOURS A DAY, 6 DAYS A WEEK.

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

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

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

25 IN OUR CAMP WE HAVE A SMALL HUT FOR BIRD

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

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

13 MISS GESSER: JUSTINE GESSER.

14 (JUSTINE GESSER SWORN BY ATTORNEY.)

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

22 I HAVE STUDIED BIRDS AND THE BIRD FLYING AND  
23 TESTED THE WATER IN THE LAKE. THIS IS OUR ONLY CAMP.  
24 THE NEAREST CAMP AND LIKE IT IS CALLED BEAR CREEK AND  
25 IT'S ALL THE WAY DOWN BY PADUCAH. WE HAVE SCOUTS WHO



1 USE CAMP WHO HAVE ASTHMA. IF PEOPLE CAN BLAST THE  
2 EARTH CLOSE TO CAMP IT WILL LEAVE STUFF IN THE AIR  
3 THAT WILL AFFECT THOSE SCOUTS. WE ARE TAUGHT TO LEAVE  
4 NO TRACE AT CAMP, BUT IF PEOPLE BLAST FOR COAL NEAR  
5 CAMP, MORE THAN A TRACE WILL AFFECT THE BIRDS,  
6 ANIMALS, TRAILS. WE HAVE A BIG LAKE OUT THERE WHERE  
7 WE SWIM AND FISH.

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

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

21 A PLEASE LET ME ENJOY CAMP WHILE I AM A  
22 SCOUT.

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

25 MISS GESSER: JACQUELINE GESSER.

1 (JACQUELINE GESSER SWORN BY ATTORNEY.)

2 MS. GIFFORD: MY NAME IS JACQUELINE GESSER.

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

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

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

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

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

22 I'VE BEEN TO SUMMER CAMP ONLY ONCE, BUT IT'S A  
23 GREAT EXPERIENCE. A LOT OF PEOPLE JUST COME FOR ONE  
24 WEEK. WE HAD PEOPLE, I HAD ONE TROOP FROM LOUISVILLE  
25 THAT CAME THERE WE MET AND HAD THE GREATEST TIME. FOR

1 PEOPLE TO COME FROM EVERYWHERE JUST TO HEAR THE  
2 EXPLOSIONS AND BREATHE BAD AIR, THAT WOULD NOT GIVE US  
3 A GOOD REPUTATION AND BE ANY MORE FUN.

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

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

21 I REALLY, REALLY HOPE THAT YOU ALL DECIDE NOT  
22 TO LET THEM DIG FOR COAL NEAR OUR CAMP BECAUSE I'M NOT  
23 JUST AFRAID FOR CAMP PENNYROYAL, BUT FOR THE HOUSES  
24 AROUND IT BECAUSE THE HOUSE FOUNDATIONS WILL JUST  
25 ALMOST BE DESTROYED BY THE SHAKING. I KNOW THAT SOME

1 OF THE ADULTS, THE GIRL SCOUT ADULTS, SOME HAVE HAD  
2 COAL DUG AROUND THEM TOO AND THEY EVEN TOLD US THAT  
3 IT'S NOT THAT THEIR HOUSE FOUNDATIONS HAVE LIKE  
4 CRACKED IN CERTAIN PLACES AND THEY HAVE TO GET IT  
5 REFIXED. I DON'T THINK THAT WOULD BE VERY FAIR FOR  
6 THEM TO DO THAT. LIKE THE HOUSES WILL GO DOWN IN  
7 THEIR WORTH OF MONEY AND THEY WON'T HAVE AS MUCH MONEY  
8 AS THEY WANTED TO HAVE.

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

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

13 MISS HOBBS: GRACIE HOBBS.

14 (GRACIE HOBBS SWORN BY ATTORNEY.)

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

17 BLASTING CAUSES CONFUSION, ANXIETY AND FEAR  
18 INTO THE LIVES OF ANIMALS CAUSING MANY TO RUN AWAY  
19 FROM THEIR HOMES IN AN EFFORT TO ESCAPE THE  
20 FRIGHTENING DETONATION. BLASTING IS NOT ANIMAL  
21 FRIENDLY. LOCAL SHELTERS AND OTHER ANIMAL  
22 ORGANIZATIONS ARE OVERWHELMED BY THE FALLOUT WHICH  
23 MANIFEST IN THE INCREASE NUMBER OF STRAY ANIMALS AND  
24 REPORTS OF INJURIES AND TRAUMA TO ANIMALS. THOSE  
25 ANIMALS WHO ARE REUNITED WITH THEIR FAMILIES MUST

1        CONSIDER THEMSELVES FORTUNATE.  MANY INJURED OR  
2        TERRORIZED ANIMALS RUN AWAY FROM THEIR HOME TO ESCAPE  
3        THE TRAUMATIZING DETONATION.  SOME ARE HIT BY CARS AND  
4        INJURED OR KILLED.  SOME ARE MAIMED FOR LIFE WHILE  
5        OTHERS ARE NEVER RECOVERED ALIVE.  EXPLOSION CAN  
6        PRODUCE A BLIND PANIC IN ANIMALS THAT CAN LEAD TO  
7        SERIOUS INJURY, DEEP ROOTED DEBILITATING FEARS OR EVEN  
8        DEATH.  THIS IS IN PART BECAUSE THE EVENTS DO NOT LAST  
9        LONG ENOUGH FOR ANIMALS TO BECOME ACCUSTOM TO THE  
10       EXPLOSIONS.  MORE OVER THE EARS OF MOST ANIMALS ARE  
11       CONSIDERABLY MORE SENSITIVE THAN THE HUMAN EAR WHERE  
12       DAMAGE TO THE EAR BEGINS.  NOT ONLY IS PROPORTIONATELY  
13       MORE DISTURB TO AN ANIMAL, IT CAN ALSO AFFECT ANIMAL'S  
14       ACUTE SENSE OF HEARING.  EXPLOSIONS BLASTING GENERATE  
15       A NOISE LEVEL HIGHER THAN THE NOISE FROM GUNSHOT, 140  
16       DECIBELS, AND LOW FLYING JETS WHICH IS 100 DECIBELS.

17                IRREVERSIBLE DAMAGE SUCH AS TINNITUS AND LOSS  
18       OF HEARING IN HUMANS START AT THE 80 DECIBEL RANGE.  
19       STARTLING EXTREMELY LOUD SOUNDS MUST HAVE A  
20       DETRIMENTAL AFFECT ON WILDLIFE AS WELL.

21                IN 1996 RESEARCH DEMONSTRATED THAT HATCHLING  
22       AND JUVENILE BLACK DOVES AT A SITE OF OVERFLIGHT IN  
23       PINEY ISLAND, NORTH CAROLINA GREW SLOWER AND HAVE LESS  
24       BODY WEIGHT THAN BLACK DOVES LIVING IN LOW NOISE  
25       AREAS.

1           A STUDY TO EXAMINE THE IMPACT OF SOUND FROM  
2       LOUD GUNSHOTS ON SNOW GEESE FOUND THAT THE BIRDS  
3       REDUCE THEIR FEEDING TIME. THE ENERGY LOSS CREATED  
4       COULD BE ONLY PARTIALLY COMPENSATED FOR BY FEEDING AT  
5       NIGHT, RESULTING IN LESS TIME RESTING AND SLEEPING.  
6       OVER TIME THESE SORTS OF BEHAVIORS NO DOUBT REDUCE  
7       SURVIVAL RATES.

8           DR. DAVID NOWIKS, A ZOOLOGIST AT THE  
9       UNIVERSITY OF GULF ONTARIO POINTS OUT THAT THE  
10      COMBINED RESPONSES TO BLASTING OF PANIC AND  
11      DISORIENTATION CAN RESULT IN BIRDS FLYING INTO A  
12      BUILDING OR TOO FAR OUT TO SEA. AFTER A LOUD BANG  
13      MOST BIRDS FLY AWAY IN FLIGHT AND THE NESTING MOTHERS  
14      OF THE FLOCK SOMETIMES CANNOT FIND THEIR OWN NEST UPON  
15      RETURN AND ENDANGERING THE WELLBEING OF NESTLINGS.

16           BLASTING PRODUCES NOISE AND AIR POLLUTION.  
17      THE EXPLOSIONS ALSO RELEASES POISONOUS CHEMICALS  
18      CONTAMINATING OUR NATURAL ENVIRONMENT. AS A  
19      CONSEQUENCE, BLASTING POSE A HAZARD TO WILDLIFE LIVING  
20      IN OR NEAR THE AREAS AS WELL AS WILDLIFE DOWN WIND.  
21      THESE CHEMICALS ARE ALSO HAZARDOUS TO COMPANION  
22      ANIMALS LIVING IN THE AREA WHERE THEY ARE DETONATED.

23           WE CANNOT FORGET HUMANS WITH ASTHMA AND OTHER  
24      HEALTH PROBLEMS.

25           BLASTING CAN AFFECT FARM ANIMALS TOO. DR.

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

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

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

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

20 A BULL TRYING TO ESCAPE HIS PEN IN RESPONSE TO  
21 A BLASTING DIED AFTER BECOMING IMPALED. GUIDE DOGS  
22 ARE SOMETIMES LEFT SO TERRORIZED BY THE EXPLOSION THAT  
23 THEY SUFFER SEVERE EMOTIONAL DISTRESS AND ARE UNABLE  
24 TO ASSIST THEIR COMPANION. CONSEQUENTLY, IT IS NOT  
25 SURPRISING THAT BLASTING EVENTS GENERATE AN INCREASE

1       IN THE NUMBER OF STRAY ANIMALS AS WELL AS AN INCREASE  
2       IN REPORTS OF INJURIES AND TRAUMA TO ANIMALS.

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

5               MS. HOBBS:   SHARON HOBBS.

6               (SHARON HOBBS SWORN BY ATTORNEY.)

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

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

12              I DON'T RECALL WHAT THE DECIBEL WAS.

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

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

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

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

24              TINNITUS IS A NONREVERSIBLE HEARING LOSS.  
25       EXPOSURE TO LOUD NOISE CAN CAUSE ACOUSTIC TRAUMA WHICH



1 MIGHT LEAD TO TINNITUS. THERE ARE TINY HAIR CELLS  
2 FOUND IN THE INNER-EAR ARE RESPONSIBLE FOR CONVERTING  
3 THE SOUND TO ENERGY INTO IMPULSES WHICH THEN TRAVELS  
4 TO THE BRAIN AND GET PROCESSED THERE. WHEN THERE IS  
5 AN ACOUSTIC TRAUMA, THESE HAIRS GETS DESTROYED.  
6 RESEARCHING IS BEING DONE. THERE'S NO WAY TO FIX THIS  
7 PROBLEM YET. IT LEADS TO DEAFNESS AT SOME SOUND  
8 FREQUENCIES. THE DAMAGED HAIR CELLS RELAY RANDOM  
9 SIGNAL TO THE BRAIN, WHICH THE BRAIN INTERPRETS THE  
10 SOUND.

11 IN CASE OF NOISE INDUCED TINNITUS, THE FIRST  
12 PRIORITY OF THE PERSON SUFFERING FROM IT SHOULD BE TO  
13 PREVENT ANY FURTHER DAMAGE TO THE HEARING SYSTEM. FOR  
14 THIS IT IS ESSENTIAL THAT LOUD NOISE SHOULD BE  
15 AVOIDED. IN CASE OF LOUD NOISE INDUCED TINNITUS, IT  
16 IS ALSO SUGGESTED THAT YOU SHOULD AVOID LISTENING TO  
17 ANY LOUD NOISE UNTIL A FEW DAYS AFTER THE ACOUSTIC  
18 TRAUMA.

19 WHAT I WAS ABLE TO GET OFF THE INTERNET WERE  
20 ADVICE, IF THIS PROJECT WAS TO GO THROUGH, IS FOR  
21 ANYONE THAT'S IN THE AREA THAT WILL BE AFFECTED BY THE  
22 BLASTING ON A DAILY BASIS OR FOR A RELATIVELY LONG  
23 WEEK OR TWO PERIOD OF TIME WOULD BE TO GET THEIR EARS  
24 TESTED BEFORE THE BLASTING BEGINS FOR ALL YOUR FAMILY  
25 MEMBERS OR ANYONE THAT'S INVOLVED. THAT'S TO ANY LOSS

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

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

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

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

24             A NOISE CODE IS ONLY AS GOOD AS THE  
25      WILLINGNESS AND ABILITY TO ENFORCE IT. CIVIL

1       AUTHORITY CAN IMPOSE ALL KINDS OF ACOUSTICAL  
2       RESTRICTIONS AND A DEVELOPER CAN AGREE TO EVERY ONE OF  
3       THEM UNTIL THE SOUND SOURCE IS IN OPERATION.

4               WHAT CITIZENS GROUPS NEED TO ASK IS THIS:  
5       WILL THOSE REGULATIONS BE ENFORCEABLE ONCE THE  
6       FACILITY IS IN PLACE?  FOR EXAMPLE, WHO WILL BE  
7       WILLING OR ABLE TO SHUTDOWN A MINE?  IF ITS DECIBEL  
8       LEVELS EXCEED THE DNL PROMISED BY THE DEVELOPER OR  
9       REQUIRED BY THE LICENSING AUTHORITY?  THE OBVIOUS  
10      ANSWER IS NO ONE.  ONCE THE SOURCE IS IN OPERATION, IS  
11      IT EVEN POSSIBLE TO DETERMINE WHETHER THE SOUND LEVELS  
12      MEET THE RESTRICTIONS.  IS THE PROPER EQUIPMENT  
13      AVAILABLE?  THERE'S ALSO A SEISMOTOLOGY EQUIPMENT THAT  
14      IS NEEDED TO EVEN BE ABLE TO REGISTER HOW MUCH THE  
15      GROUND IS SHAKING AS TO HOW MUCH DAMAGE IS GOING TO BE  
16      DONE TO YOUR HOUSE.  ALSO, IT IS RELATIVELY  
17      INEXPENSIVE AND IT IS AVAILABLE ONLINE.  THAT'S ALL  
18      FOR ME.

19              CHAIRMAN:  THANK YOU ALL VERY MUCH.

20              LET ME ASK IF YOU CAN BRING -- HAVE YOU ALL  
21      CONCLUDED?

22              MS. GESSER:  JUST A CONCLUDING REMARK.

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

25              MS. GESSER:  SUSAN MONTALVO-GESSER.

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

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

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

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

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

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

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

1 MINERALS.

2 MR. FRAZIER, WOULD YOU STEP FORWARD TO THE

3 MIKE AND ANSWER SOME QUESTIONS FOR ME, PLEASE.

4 MR. FRAZIER: SURE.

5 MR. SILVERT: WOULD YOU STATE YOUR NAME,

6 PLEASE?

7 MR. FRAZIER: ROBERT FRAZIER.

8 (ROBERT FRAZIER SWORN BY ATTORNEY.)

9 CHAIRMAN: OUR GIRL SCOUT TROOP THAT ALSO

10 CAMPS AT THE GIRL SCOUT CAMP BROUGHT UP SOME VERY

11 INTERESTING QUESTIONS AND MADE SOME VERY GOOD

12 OBSERVATIONS.

13 I'LL SORT OF SUMMARIZE THESE AND I'LL BE VERY

14 BRIEF IN MY QUESTIONS. YOU CAN SORT OF HIT THE HIGH

15 POINTS OF THESE QUESTIONS, IF YOU WOULD.

16 MR. FRAZIER: OKAY.

17 CHAIRMAN: THEY HAD A VERY GOOD QUESTION ABOUT

18 THE LOCATION OF THE GIRL SCOUT CAMP IN RELATIONSHIP TO

19 THEIR LAKE IN RELATION TO THE BLASTING, THE MINING,

20 THE OVERFLOW OF THE STORM WATER RUNOFF AND SILT, AND

21 EVERYTHING THAT WILL MOVE FROM THE BLASTING SITE, THE

22 MINING SITE TO THEIR AREA. WOULD YOU ADDRESS THAT,

23 PLEASE?

24 MR. FRAZIER: FROM A BLASTING STANDPOINT?

25 CHAIRMAN: FROM THE BLASTING, MINING AND

1        OPERATION STANDPOINT.

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

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

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

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

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

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

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

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

22 IF SOMEONE WOULD STEP FORWARD.

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

1        THAT WELL WATER OR WAS THAT CITY WATER?

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

4                CHAIRMAN:  THANK YOU.

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

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

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

22               AS THEY ALLUDED TO EARLIER, WE THEN REQUIRE  
23       THEM TO ESTABLISH GROUNDWATER MONITORING POINTS AROUND  
24       THE PERMIT AREA, AS WELL AS SURFACE WATER MONITORING  
25       POINTS.  THEY HAVE TO GIVE US BASELINE DATA, SIX



1 MONTHS BASELINE DATA, SEASONAL VARIATION, PRIOR TO ANY  
2 MINING GOING ON IN THAT AREA. THEN ONCE, IF WE  
3 DETERMINE AND WE ISSUE THE PERMIT, THEN THEY WOULD DO  
4 QUARTERLY MONITORING OF THAT WELL TO DETECT IF THERE'S  
5 BEEN ANY INFLUENCE FROM THE MINING OPERATION.

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

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

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

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

1 CORRECT ASSUMPTION?

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

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

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

22 CHAIRMAN: WHAT RISK WOULD YOU ASSESS THAT  
23 WOULD BE TO WILDLIFE, BIRDS, ANIMALS, IN THE GIRL  
24 SCOUT AREA, IN THE SURROUNDING AREA? LET ME JUST MAKE  
25 IT SIMPLE FOR YOU. THE SURROUNDING AREA.

1           MR. FRAZIER: WELL, IN THE SURROUNDING AREA,  
2           YOU KNOW, NOT TO MUCH. IN THE PERMIT AREA, OBVIOUSLY  
3           THERE'S GOING TO BE A DISTURBANCE WHILE THEY ARE  
4           MINING. THERE'S NO WAY AROUND THAT. OUTSIDE OF THAT,  
5           YOU KNOW, I'VE BEEN ON A LOT OF MINES IN WESTERN AND  
6           EASTERN KENTUCKY AND THERE'S FLOURISHING WILDLIFE ALL  
7           AROUND THESE MINES OUTSIDE OF THEM. I'VE EVEN SEEN  
8           THEM IN THE MIDDLE OF THE MINES.

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

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

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

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

1 MINING AND WITHOUT -- AM I SAYING THAT CORRECTLY?

2 1,000 FEET OUTSIDE OF THE BLASTING AREA. WOULD THAT  
3 BE A CORRECT STATEMENT?

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

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

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

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

25 MR. FRAZIER: THERE'S A SET LIMIT. I DON'T

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

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

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

23 CHAIRMAN: THE FINAL, MY BRIEF QUESTIONS FOR  
24 YOU, WAS THEY ASKED ABOUT THE ENFORCEMENT AND WHO  
25 ACTUALLY HAS THE AUTHORITY, IF THERE IS AN AUTHORITY

1       EXIST, IF THERE WERE MAJOR PROBLEMS TO CLOSE THE  
2       OPERATION, SUSPEND OPERATIONS AT ANY POINT IN TIME.

3               MR. FRAZIER:  WHAT WOULD BE THE PROCESS?

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

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

8               CHAIRMAN:  AND THEY DO HAVE THE AUTHORITY?

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

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

12              MS. GESSER:  YES.

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

15              MS. HOBBS:  SURE THING.  SHARON HOBBS.

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

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

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

23              CHAIRMAN:  NO, MA'AM.

24              MS. HOBBS:  THAT PEOPLE WORKING FOR THE MINE  
25       HAS THE AUTHORITY?

1           CHAIRMAN: NO, MA'AM.

2           MS. HOBBS: OKAY. WHO HAS THE AUTHORITY?

3           CHAIRMAN: I'LL HAVE HIM REPEAT THAT.

4           MR. FRAZIER: DIVISION OF MINE RECLAMATION

5           ENFORCEMENT.

6           MS. HOBBS: AND WHERE ARE THEY?

7           MR. FRAZIER: THEY'RE THERE. THEY HAVE

8           INSPECTORS THAT ARE OUT THERE. THEY HAVE TO MEET

9           FREQUENCY ON INSPECTIONS. SO THEY'RE OUT THERE,

10          WHATEVER THAT FREQUENCY IS THEY HAVE TO MEET. WEEKLY,

11          BIWEEKLY. THEY HANDLE COMPLAINTS AND PHONE CALLS ON A

12          DAILY BASIS.

13          MS. HOBBS: AND WHO ARE THEY PAID BY?

14          CHAIRMAN: MA'AM, EXCUSE ME. DIRECT IT TO THE

15          CHAIR SO WE CAN DIRECT IT BACK HERE SO WE DON'T HAVE

16          IT GOING ACROSS.

17          MS. HOBBS: WHO ARE THESE PEOPLE PAID BY?

18          MR. FRAZIER: THE TAX PAYERS. THEY'RE

19          EMPLOYEES OF THE STATE OF KENTUCKY.

20          MS. HOBBS: SO THAT INFORMATION NEEDS TO BE

21          MADE READILY FOR THE HOMEOWNERS AND FOR THE CAMP AND

22          EVERYBODY SO THAT THEY CAN REPORT IT?

23          CHAIRMAN: I'LL HAVE TO REFER TO HIM.

24          MR. FRAZIER: YES. YES. IN THE APPLICATION

25          THERE IS, YOU KNOW, HERE LOCALLY THE MADISONVILLE

1 REGIONAL OFFICE IS WHO HANDLES ANY COMPLAINTS IN  
2 MINING THAT GOES ON HERE IN THE WESTERN COAL FIELD.

3 MS. HOBBS: THAT WAS IT.

4 CHAIRMAN: THANK YOU.

5 MR. FRAZIER, DON'T LEAVE. SIT DOWN CLOSE.  
6 THANK YOU.

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

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

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

13 CHAIRMAN: I THINK THE GIRL SCOUTS ARE.

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

16 HERE IS AN EXCERPT FROM THE MINUTES OF THE  
17 1986 MEETING OF THIS. A CERTIFIED COPY OF THE SAME  
18 THING THAT WAS INTRODUCED IN '93. SAME ONE THAT WAS  
19 PUT IN IN '93 AND I HAVE UPDATED THE CERTIFICATION.

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

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

25 I WOULD ALSO LIKE TO ENTER OUR PROPOSED



1 FINDINGS FOR THE COMMISSION AT THE CONCLUSION OF THIS.

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

4 MR. WILSON: NO, I HAVE NOT.

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

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

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

11 MR. SILVERT: MR. HAYNES, TO SUMMARIZE IT, IF  
12 THE COURT REPORTER COULDN'T HEAR, AND YOU CAN OBJECT  
13 TO THE SUMMARY IF YOU'D LIKE OR WE CAN HAVE HIM SAY IT  
14 AGAIN. ESSENTIALLY HE HAS A COPY OF THE -- IS THAT  
15 1984, MR. WILSON?

16 MR. WILSON: '86.

17 MR. SILVERT: 1986 HEARING REGARDING --

18 MR. WILSON: THE SAME PROPERTY.

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

22 DID I SUMMARIZE THAT CORRECT?

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

25 MR. SILVERT: MR. HAYNES, ARE YOU OKAY WITH

1        THAT, THAT SUMMARY OF WHAT HE WAS SAYING ON THE  
2        RECORD?

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

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

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

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

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

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

20               MR. WILSON:    YES, I AM.

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

1 CAN LEAVE IT TO THE END?

2 CHAIRMAN: MR. SILVERT.

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

5 MR. WILSON: NO, I WILL NOT.

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

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

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

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

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

25 MR. SILVERT: MR. WILSON, BEFORE YOU PROCEED

1 ANY FURTHER, WOULD YOU MIND STATING FOR THE RECORD THE  
2 NAMES OF THE PERSONS THAT YOU DO REPRESENT SO THAT THE  
3 APPLICANT KNOWS WHO THEY ARE UP AGAINST IN THIS  
4 HEARING?

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

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

24 IT'S A BEAUTIFUL AREA. I DON'T KNOW IF ANY OR  
25 ALL OF YOU HAVE BEEN OUT THERE AND DRIVEN AROUND, BUT

1 IT'S A VERY SCENIC UNLIKE FEW RURAL AREAS IN DAVIESS  
2 COUNTY.

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

12 THE PROBLEM THAT WE ARE HAVING WITH, ONE OF  
13 THE MAIN PROBLEMS THAT WE'RE HAVING WITH IT IS WE'VE  
14 BEEN THROUGH THE FILE AND THE RECORD, AS YOU ALL HAVE  
15 PROBABLY. WHAT HAPPENED BACK IN 1985 AND 1986 WHERE  
16 ALMOST IDENTICAL TRACTS OF LAND AS TO WHAT WE'VE GOT  
17 TONIGHT WERE BEFORE THIS COMMISSION. THE COMMISSION  
18 VOTED DOWN THE REZONING IN FISCAL COURT BACK WHAT THE  
19 COMMISSION DID. IT LAID DORMANT FOR A FEW YEARS.  
20 CAME BACK UP IN ABOUT SEVEN YEARS. THEN THE ACREAGE  
21 WAS TWO OR THREE THE SIZE AND INCLUDED ALL OF THIS  
22 PROPERTY AND SOME MORE. SOME 904 ACRES IN '93. IN  
23 '93 THE SAME THING HAPPENED. LENGTHY HEARING. A LOT  
24 OF PEOPLE I'M SURE LIKE THIS. SOME OF THE SAME  
25 HOMEOWNERS WERE HERE ARE HERE WITH ME TONIGHT, THAT I

1 REPRESENT WERE HERE IN OPPOSITION AT THAT TIME. THE  
2 SAME THING HAPPENED. PLANNING STAFF RECOMMENDED  
3 APPROVAL TO THE COMMISSION. THE COMMISSION VOTED DOWN  
4 AND FISCAL COURT SIDED WITH THE COMMISSION.

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

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

16 THEY ALL KNEW THERE HAD BEEN THESE THINGS IN  
17 THE PAST, BUT THOUGHT IT WAS OVER. DONE AND OVER IN  
18 '93, BUT IT'S NOT. WE'RE BACK AGAIN 19 YEARS LATER.

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

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

1 HE'S HERE TONIGHT. HE'S NOT TESTIFYING. HE'S NOT FOR  
2 OR AGAINST THIS REZONING. HE'S HERE TO EXPLAIN WHAT  
3 BLASTING DOES. I'D SAY HE KNOWS IT PROBABLY AS GOOD  
4 AS ANYONE IN THIS ROOM. PROBABLY A LOT BETTER THAN  
5 ANYONE IN THIS ROOM. HE KNOWS THIS AREA PROBABLY A  
6 LOT BETTER THAN ANYONE IN THIS ROOM. HE WILL TELL  
7 THIS COMMISSION THAT HE WORKED FOR GREEN COAL COMPANY  
8 WHO DID MINE SOME PROPERTY JUST NORTH OF THIS BACK IN  
9 THE '80S WHEN HE WAS WITH THEM, BEFORE '86. LATE  
10 '70S, EARLY '80S. HE'LL ALSO TELL THIS COMMISSION HOW  
11 THEY JUST QUIT MINING THERE AND LEFT, AND THE REASONS  
12 WHY THEY QUIT MINING AND LEFT. THAT WILL BE MUCH OF  
13 HIS TESTIMONY, WHICH WE'LL TRY TO FINISH UP WITH  
14 TONIGHT HOPEFULLY.

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

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

1 COMPUTERS, MORE COMPUTERIZED SERVICES.

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

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

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

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

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



1 WITH MY WITNESSES, MY LAST THREE WITNESSES.

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

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

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

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

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

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

19 CHAIRMAN: THAT WILL BE FINE.

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

23 CHAIRMAN: SO YOU WANT TO SUMMARIZE WITH YOUR  
24 WITNESS.

25 MR. WILSON: WITH THREE OF THEM. NOT WITH

1 ALL. I'VE GOT A LADY WITH A VIDEO AND I'VE GOT SOME  
2 PICTURES. TWO OR THREE WITNESSES THAT I WOULD LIKE TO  
3 GET MY SIDE OF THE CASE STARTED. THEN I HAVE NO IDEA.  
4 IF NO ONE ELSE HERE WANTS TO TESTIFY, I'M READY TO PUT  
5 ALL EIGHT OF THEM ON IN A ROW.

6 CHAIRMAN: LET'S START FORWARD WITH YOUR CASE.

7 MR. WILSON: THE FIRST ONE I WOULD LIKE TO  
8 SPEAK IS CARLA WILLIAMS.

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

11 MS. WILLIAMS: CARLA WILLIAMS.

12 (CARLA WILLIAMS SWORN BY ATTORNEY.)

13 MS. WILLIAMS: THERE IS A VIDEO THAT WE  
14 BROUGHT TO PLAY. I BELIEVE THEY'RE STARTING IT NOW.

15 WHAT WE WANTED TO SHOW IS THE BEAUTY OF OUR  
16 AREA. ALL THE HOMES IN OUR AREA. WE ACTUALLY  
17 COULDN'T GET THEM ALL ON A 10 TO 12 MINUTE EDIT. WE  
18 TRIED TO GET AS MANY AS WE COULD SO YOU COULD SEE WHAT  
19 IT'S LIKE IN OUR AREA, HOW MANY BEAUTIFUL HOMES ARE  
20 THERE NOW.

21 I JUST WANTED TO THANK YOU FOR ALLOWING US  
22 THIS TIME TO VOICE OUR CONCERNS AND OUR POSITION  
23 AGAINST HAVING A TRIP MINE IN OUR NEIGHBORHOOD. I  
24 HAVE LIVED IN THE SAME LOCATION SINCE 1981. WE BUILT  
25 OUR HOUSE IN 1998 FEELING SURE THERE WAS WOULD NOT BE

1 A CONCERN ABOUT A MINING OPERATION, CONSIDERING THE  
2 TWO PREVIOUS ACCOUNTS WERE TURNED DOWN.

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

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

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

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

24 I TRULY APPRECIATE YOUR CONSIDERATION OF OUR  
25 POSITION AGAINST HAVING A STRIP MINE IN OUR

1 NEIGHBORHOOD. I HAVE ONE REQUEST OF THE BOARD.  
2 WOULD YOU PLEASE ASK FOR A SHOW OF HANDS OF  
3 THOSE HERE AGAINST THE STRIP MINE?  
4 (AUDIENCE COMPLIES WITH REQUEST.)  
5 MS. WILLIAMS: THANK YOU.  
6 I ALSO HAVE A COUPLE OF SUBMISSIONS. I WOULD  
7 LIKE TO SUBMIT FOR YOUR RECORDS OUR PETITION  
8 CONSISTING OF OVER 700 CONCERNED NEIGHBORS AND  
9 CITIZENS WHO DO NOT WANT A STRIP MINE IN OUR  
10 COMMUNITY. ALSO I HAVE LETTERS WRITTEN BY INDIVIDUALS  
11 AGAINST THE MINING. AGAIN, I THANK YOU FOR YOUR TIME.  
12 CHAIRMAN: THANK YOU FOR YOUR PRECISE  
13 PRESENTATION.  
14 MR. WILSON, YOU WANT TO CALL YOUR OTHER  
15 WITNESS?  
16 MR. WILSON: YES. MR. CHAIRMAN, I'M GOING TO  
17 CALL SHERRY SPRINGER, PLEASE.  
18 MR. SILVERT: MR. HAYNES, IF YOU NEED TO SEE  
19 ANY OF HIS EXHIBITS AT ALL, FEEL FREE COME UP AND  
20 LOOK.  
21 WOULD YOU STATE YOUR NAME, PLEASE?  
22 MS. SPRINGER: SHERRY SPRINGER.  
23 (SHERRY SPRINGER SWORN BY ATTORNEY.)  
24 MS. SPRINGER: THANK YOU GENTLEMEN FOR GIVING  
25 US THE OPPORTUNITY TO VOICE OUR CONCERNS ABOUT

1 REZONING OUR COMMUNITY TO STRIP MINING.

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

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

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

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

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

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

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

12 CHAIRMAN: OKAY.

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

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

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

18 MR. WHISTLE: CURTIS WHISTLE.

19 (CURTIS WHISTLE SWORN BY ATTORNEY.)

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

24 GOOD EVENING, GENTLEMEN.

25 I'D LIKE TO EXPRESS SOME POINTS FOR YOUR

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

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

14             SO THIS ZONING REQUEST DOES NOT MEET THAT  
15      CRITERIA.

16             ALSO, TO FURTHER SUBSTANTIATE THIS POINT, IN  
17      THE COMPREHENSIVE PLAN'S GOALS AND OBJECTIVES FOR  
18      RURAL SERVICE AREAS, GOAL NUMBER 2 STATES,  
19      "RESIDENTIAL GROWTH SHOULD OCCUR AROUND A RURAL  
20      COMMUNITY." ALL OF THE REQUESTED REZONED PROPERTY IS  
21      WITHIN APPROXIMATELY ONE MILE OF AND INCLUDES A RURAL  
22      COMMUNITY. THEREFORE, THE NEARBY AND ADJACENT  
23      PROPERTY OWNERS BY DEFINITION ARE AROUND A RURAL  
24      COMMUNITY AND SHOULD NOT BE PENALIZED FOR BEING WITHIN  
25      ONE OF THE GROWTH PLANS OBJECTIVES.

1           SO WHY IS THIS CRITICAL? WHY WOULD THE  
2           COMPREHENSIVE PLAN HAVE THESE EXPECTATIONS?

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

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

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

17          MY SECOND POINT FOR YOUR CONSIDERATION: IN  
18          REGARD TO THE COMPREHENSIVE PLAN'S LAND DEVELOPMENT  
19          POLICY STATEMENT, THE COMMISSION REJECTS A NO-GROWTH  
20          POLICY. I TOTALLY AGREE WITH THAT OBJECTIVE.  
21          THEREFORE, I SUGGEST THAT A REVERSAL OF THE '93  
22          DECISION OF DENYING A COAL REZONING REQUEST IN THIS  
23          SAME AREA, WOULD CREATE A NEGATIVE IMPACT ON GROWTH.  
24          POTENTIAL PROPERTY OWNERS HAVE A CHOICE TO LOCATE IN  
25          NEARBY OHIO COUNTY. MANY HAVE CHOSEN DAVIESS COUNTY



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

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

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

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

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

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

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

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

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

10 SINCE 1991 PROSPECTIVE OWNERS SHOULD BE  
11 ADVISED OF THE POTENTIAL FOR COAL MINING ACTIVITY.  
12 THE PLAN DOES NOT STATE THAT THE POTENTIAL BUYERS WILL  
13 BE ADVISED OF THE POTENTIAL FOR MINING WHEN AND IF  
14 THEY ASK. NO STIPULATION IS IMPLIED. IT SIMPLY  
15 STATES THEY SHOULD BE ADVISED.

16 WHEN WE PURCHASED OUR RUSSELL ROAD PROPERTY IN  
17 1994, WE WERE NOT ADVISED BY THE COUNTY OR ZONING  
18 OFFICIALS OF THE POTENTIAL FOR MINING ACTIVITY. WE  
19 DID INQUIRE WITH NEIGHBORS AND WE LEARNED OF THE '93  
20 DENIAL. THEREFORE, WE CONCLUDED THERE WAS NO COAL  
21 ACTIVITY POTENTIAL, AND AGAIN, NO OFFICIAL INFORMATION  
22 WAS PROVIDED. THEREFORE, WE INVESTED OUR LIVES AND  
23 OUR FINANCIAL RESOURCES IN A NEW HOME ON RUSSELL ROAD  
24 AND HAVE MADE MULTIPLE IMPROVEMENTS SINCE. SO, YES,  
25 WE CHOSE TO MOVE TO RUSSELL ROAD, BUT WE THOUGHT WE

1 DID SO WITH THE PROTECTION OF THE ZONING RULING IN  
2 1993.

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

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

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

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

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

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

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

6                   CHAIRMAN:   WILL THIS BE THE CONCLUSION OF YOUR  
7           FIRST?

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

9                   CHAIRMAN:   THANK YOU.

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

12                  CHAIRMAN:   IS YOUR AGE SHOWING, MR. WILSON?

13                  MR. WILSON:   YES, SIR.

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

16                  MR. GREGORY:   CARLIN GREGORY.

17                  (CARLIN GREGORY SWORN BY ATTORNEY.)

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

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

24                  MY FAMILY HAS OWNED OUR PROPERTY SINCE THE  
25           EARLY '70S AND WE BUILT THERE IN 1978.   SO I'VE LIVED

1       THROUGH THE PREVIOUS STRIP MINING, THROUGH ALL OF THE  
2       RIGAMAROLE THAT WE'VE BEEN THROUGH OVER THE LAST 30  
3       YEARS, AND I'VE SEEN OUR GOVERNMENT STOP THIS REQUEST  
4       FOR REZONING TWICE.

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

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

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

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

25             YOU HEARD A LOT OF COMMENTS, AND I'M SURE

1 YOU'RE GOING TO HEAR MANY MORE COMMENTS TONIGHT FROM  
2 BOTH SIDES OF THE ISSUES. I JUST WANT YOU TO BE AWARE  
3 OF WHAT OUR COMMUNITY WILL BE SUBJECTED TO IF YOU  
4 ALLOW THE REZONING OF THIS LAND.

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

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

24 AMONG THESE, AND KEEP IN MIND THIS IS THE  
25 PEOPLE THAT ARE GOING TO BE BLASTING OUT THERE. THEY

1 HAVE 14 VIOLATIONS FOR NOT MAINTAINING THEIR EQUIPMENT  
2 AND THEY DIDN'T TAKE THEM OUT OF SERVICE. THEY'VE HAD  
3 8 VIOLATIONS FOR NOT PROVIDING AUDIBLE WARNINGS. THEY  
4 HAVE 8 VIOLATIONS OF NOT HAVING COMPETENT PEOPLE  
5 INSPECT THEIR EQUIPMENT. THEY HAVE 6 VIOLATIONS FOR  
6 IMPROPER STORAGE OF BLASTING MATERIAL, 5 VIOLATIONS  
7 FOR IMPROPER STORAGE OF COMBUSTIBLE MATERIALS, 5  
8 VIOLATIONS OF NOT MAINTAINING FIRE FIGHTING EQUIPMENT,  
9 AND 3 VIOLATIONS OF NOT GUARDING CHARGED HOLES.

10 SO YOU CAN IMAGINE WHAT'S GOING TO HAPPEN IF  
11 SOME OF THESE GIRL SCOUTS DO GET OFF THE ROAD AND  
12 THEY'RE NOT WARNED THAT THEY'RE IN A BLASTING ZONE.

13 FINALLY, THE COMPANY WHO WILL TRANSPORT THE  
14 COAL FROM OMU OR TO THE RIVER, ASHBY TRUCKING, THEY  
15 HAVE BEEN CITED ONCE FOR IMPROPER MAINTENANCE OF  
16 AUDIBLE WARNINGS AND THEY'VE BEEN CITED -- THEY  
17 CURRENTLY HAVE ONE PENDING FOR NOT HAVING ALARMS THAT  
18 ARE ABOVE THE SURROUNDING CONDITIONS.

19 I WOULD LIKE FOR YOU TO KEEP ALL OF THESE IN  
20 MIND WHEN YOU MAKE YOUR DECISION. THE PLEASANT RIDGE  
21 NEIGHBORHOOD, HIGHWAY 231, RUSSELL ROAD, GIRL SCOUT  
22 ROAD, THE PENNYROYAL GIRL SCOUT CAMP, AND ALL OF THE  
23 CITIZENS WHO TRAVEL UP AND DOWN OUR LOCAL HIGHWAYS ARE  
24 GOING TO BE SUBJECTED TO THESE COMPANIES WITH THE  
25 HISTORY OF NOT FOLLOWING FEDERAL REGULATIONS.

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

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

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

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

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

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



1 FRAZIER DID A VERY NICE JOB OF SAYING WHERE THE STATE  
2 STOOD ON REGULATIONS AND WHATEVER. I THINK IT WOULD  
3 BE APPROPRIATE AT THIS TIME IS YOU WOULD PRESENT THE  
4 POSITION OF YOUR CLIENT ON THESE POINTS OF CONCERN.  
5 OBVIOUSLY, HOME DAMAGE, PROPERTY VALUATIONS, GENERAL  
6 HEALTH, AND THE SAFETY OF THE SURROUNDING AREA, MR.  
7 HAYNES.

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

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

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

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

1 PLAN.

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

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

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

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

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

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

24 MR. HAYNES: THE QUESTIONS IN REGARD TO  
25 BLASTING I THINK WOULD BE BETTER HANDLED BY A

1 REPRESENTATIVE OF THE BLASTING COMPANY. I WOULD JUST  
2 HAVE HIM TAKE THE PODIUM.

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

5 MR. VINCENT: MARTY VINCENT.

6 (MARTY VINCENT SWORN BY ATTORNEY.)

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

11 MR. VINCENT: YES.

12 CHAIRMAN: THANK YOU.

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

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

19 MSHA IS A VERY, IT'S A FEDERAL AGENCY,  
20 REGULATORY AGENCY. THEY DO A VERY GOOD JOB AT WHAT  
21 THEIR GOALS ARE AND THAT'S REGULATING MINE SAFETY AND  
22 HEALTH. THOSE FOLKS COME TO THE MINE SITES ON A VERY  
23 REGULAR BASIS AND THEY DO VERY THOROUGH AUDITS. MANY  
24 OF THESE CITATIONS MAY BE FOR SOMETHING SUCH AS A  
25 METAL TAG LOOSE ON A FIRE EXTINGUISHER AND NOT SO MUCH

1 THE FIRE EXTINGUISHER NOT WORKING OR NOT BEING  
2 OPERATIONAL. THERE MAY BE A LOOSE WIRE ON A TAIL  
3 LIGHT ON A TRUCK. ALL OF THESE THINGS MUST BE  
4 CORRECTED BEFORE THEY LEAVE THE SITE IN ORDER FOR YOU  
5 TO CONTINUE ON WITH THE PROCESS.

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

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

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

23 OUR INDUSTRY ON THE MINE SITE ONLY IS  
24 REGULATED BY FIVE AGENCIES WHICH ARE THREE FEDERAL AND  
25 TWO STATE, AND ARE AUDITED ON A VERY ROUTINE AND OFTEN

1 BASIS.

2 I WOULD HOPE THAT THAT WOULD ANSWER SOME OF  
3 THE QUESTIONS RELATED TO THERE. I WOULD CERTAINLY  
4 LIKE TO ANSWER WHATEVER ELSE.

5 CHAIRMAN: WAIT A MINUTE NOW. FOR MY BENEFIT  
6 I DON'T THINK YOU STILL GOT TO. WE'RE CONCERNED ABOUT  
7 THIS INDIVIDUAL AREA, THESE INDIVIDUALS' HOMES,  
8 PROPERTY VALUES. SITE SPECIFIC. YOUR BLASTING AT  
9 POINT A, AFFECT IT WILL HAVE ON, I'LL JUST PICK THEM  
10 OUT, THE EGGERS HOUSE. I BELIEVE THAT'S WHAT I'M  
11 TRYING TO ASK AS A QUESTION.

12 MR. VINCENT: OUR PROCEDURE IS A REGULATED  
13 PROCEDURE, IS THAT WE FIRST OF ALL MONITOR WITH  
14 SEISMOGRAPHIC EQUIPMENT AT THE NEAREST UNCONTROLLED  
15 STRUCTURE, WHETHER THAT BE A HOME, BUSINESS, UTILITY.  
16 WE ALSO MONITOR WITH SEISMOGRAPHIC EQUIPMENT IN OTHER  
17 PLACES, OTHER CONTROL POINTS THAT WE DEEM NECESSARY OR  
18 WHERE PROBABLE CAUSE FOR CONCERN MAY BE. WE ALSO  
19 MONITOR AREAS THAT WE HAVE HOMEOWNERS OR RESIDENTS  
20 THAT COMPLAIN ABOUT BLASTING VIBRATION OR NOISE. WE  
21 SET SEISMOGRAPHS ON THEIR PROPERTY WITH THEIR  
22 PERMISSION AND MONITOR AND SHARE THIS INFORMATION WITH  
23 THE HOMEOWNERS AND THE NEIGHBORS. WE TRY TO HAVE AN  
24 OUTREACH PROGRAM WHERE WE MAKE OURSELVES KNOWN TO THE  
25 COMMUNITY. THE PEOPLE IN OUR COMPANY, CONTACT

1 NUMBERS, NAMES.

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

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

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

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

24 I THINK MOST EVERYBODY HEARD MR. WRIGHT'S  
25 TESTIMONY EARLIER, WHERE OUR COMPANY AND CERTAINLY

1       OTHERS HAVE BLASTED WITHIN 60, 70 FEET OR CLOSER TO  
2       HOMES AND STRUCTURES.  THERE'S, AGAIN, SEISMOGRAPHIC  
3       MONITORING IS USED.  THERE ARE SCALED DISTANCE  
4       EQUATIONS THAT ARE USED TO HELP REGULATE AND DESIGN  
5       BLASTS FOR THE BLASTING OF THE OVERBURDEN.  THE  
6       SEISMOGRAPHS MONITOR GROUND VIBRATION IN THREE PLANES,  
7       THREE DIRECTIONS, IF YOU WILL, AND FOR AIR NOISE OR  
8       AIR OVERPRESSURE.

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

12              MR. VINCENT:  IT DOES.

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

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

18              CHAIRMAN:  WHICH MEANS THAT THE BLAST TRAVELS  
19       FURTHER?

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

1           CHAIRMAN:   THANK YOU.

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

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

5           CHAIRMAN:   THANK YOU.

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

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

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

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



1 OTHER SIDE OF 231 AND IN THE PLEASANT RIDGE RURAL  
2 COMMUNITY AREA.

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

11 CHAIRMAN: THANK YOU.

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

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

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

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

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

23 MR. BICKWERMERT: MY NAME IS MARVIN  
24 BICKWERMERT.

25 (MARVIN BICKWERMERT SWORN BY ATTORNEY.)

1           MR. BICKWERMERT:   HOW YOU GOING TO GO AND MAKE  
2   A ROAD BETWEEN RUSSELL ROAD AND BOLING ROAD?  THERE'S  
3   TREES BACK THERE.  RIGHT BESIDE MY LINE.  I'M ON THE  
4   DAVIESS COUNTY AND OHIO COUNTY LINE.  I DON'T  
5   UNDERSTAND WHY YOU ALL WANT TO COME IN.  I WORKED FOR  
6   MINES BEFORE.  SURFACE MINE.  YOU'VE GOT A WINDING  
7   ROAD.

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

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

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

24          CHAIRMAN:  I'LL GET YOUR QUESTION ANSWERED.  
25  UNFORTUNATELY, MR. HOWARD CAN'T ANSWER THAT.

1           MR. HOWARD, ISN'T THAT A LITTLE BIT OUTSIDE OF  
2   YOUR --

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

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

11          MR. NOFFSINGER.

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

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

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

1 AS IT APPLIES TO WHERE YOU'RE GOING TO LOCATE.

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

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

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

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

24 CHAIRMAN: THANK YOU.

25 MR. SILVERT: IF YOU'D JUST STATE YOUR NAME

1 AGAIN, PLEASE?

2 MR. BICKWERMERT: MARVIN BICKWERMERT.

3 THE ROAD WILL BE IN DAVIESS COUNTY. THE  
4 GARAGE AND THERE'S A LITTLE HOUSE SITTING BACK THERE.  
5 WE HAVE BEEN INFORMED YOU ALL ARE GOING TO MAKE A ROAD  
6 THERE TO COME OUT ON 231. THAT IS SITTING BETWEEN  
7 RUSSELL ROAD. THE ROAD WILL RUN RIGHT DOWN BEHIND  
8 RUSSELL ROAD. YOU'D HAVE TO BE DRILLING ON SOMEBODY'S  
9 PROPERTY. I DON'T UNDERSTAND WHY WE HAVEN'T BEEN  
10 NOTIFIED ABOUT THAT.

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

13 IS THAT OKAY?

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

18 MR. BICKWERMERT: THERE'S A HOUSE BACK THERE.  
19 WE HAVE BEEN TOLD THAT YOU ALL ARE GOING TO MAKE A  
20 ROAD BACK THROUGH THERE TO GO BACK TO YOUR MINE.  
21 THAT'S PASSED MY PROPERTY.

22 MR. WRIGHT: NO. OURS WILL COME IN HERE JUST  
23 NORTH OF WHERE YOU'RE TALKING ABOUT. COMES ACROSS THE  
24 BELCHER PROPERTY AND BACK INTO THE TAYLOR PROPERTY.  
25 WHERE IS YOUR PROPERTY LOCATED BACK THERE? I'M NOT

1       AWARE OF YOUR PROPERTY?

2               MR. BICKWERMERT:   DOWN HERE ON BOLING ROAD.

3       YOU'VE GOT RUSSELL ROAD, BOLING ROAD AND THEN GREEN

4       BRIAR, ALL THREE OF THEM.   IT'S RIGHT OVER HERE.

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

6               MR. BICKWERMERT:   I LIVE ON BOLING ROAD.

7               MR. WRIGHT:   YOU LIVE OUT ON BOLING ROAD.   WE

8       WILL NOT BE CONSTRUCTING A ROAD IN THAT AREA.

9               MR. BICKWERMERT:   BUT YOU'LL HAVE DUST AND

10       STUFF WILL BLOW OVER IN THAT AREA.

11              CHAIRMAN:   SIR, SPEAK INTO THE MIKE.

12              MR. BICKWERMERT:   YOU UNDERSTAND WHAT I'M

13       SAYING?   I KNOW HOW THAT WORKS.   I WORKED FOR A MINE

14       BEFORE.

15              CHAIRMAN:   THANK YOU.

16              LET'S LET EACH OF THE TWO PROFESSIONALLY

17       REPRESENTED PROPOSAL AND MR. --

18              OUR COURT REPORTER JUST SAID, WE'RE GOING TO

19       TAKE A BREAK.   LET'S TAKE A REAL SHORT BREAK.

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

21              CHAIRMAN:   WE'RE BACK ON RECORD.

22              MR. NOFFSINGER:   THE NEXT PERSON TO THE STAND

23       WILL BE JAMES P. GOODALL.

24              MR. WILSON:   JAMES P. GOODALL.

25              MR. SILVERT:   WOULD YOU STATE YOUR NAME,

1 PLEASE?

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

4 (JAMES GOODALL SWORN BY ATTORNEY.)

5 MR. GOODALL: I'VE LIVED OUT IN THE AREA SINCE  
6 1960. WHEN I COME HOME FROM THE AIR FORCE, WENT IN  
7 THE ARMY RESERVES AND I HAVE RETIRED FROM THE ARMY  
8 RESERVES, FORT KNOX IN '99. I WAS OPERATION SERGEANT.  
9 MY JOB FOR THE NUMBER OCCASION TO COORDINATE THE  
10 TRAINING. I GOT TO FILE ALL OVER THE COAL FIELDS OF  
11 WESTERN KENTUCKY.

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

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

24 I TOOK THE LIBERTY TO DO WHAT YOU DO RECON. I  
25 WALKED AROUND THE AREA. YOU COUNT ALL THE HOUSES

1        THAT'S GOING TO BE ON THE VERY EDGE OF THIS STRIP  
2        MINE, THERE'S ABOUT 97 HOMES ON THE INSIDE PERIMETER.  
3        ON THE OUTSIDE ABOUT HALF A MILE, COUNT WAY OVER 200  
4        HOMES THAT AFFECT BY THIS COAL MINE.

5                IN ALL MY LIFETIME OF COAL MINES AND STRIP  
6        MINES, I HAVE NEVER SEEN A STRIP MINE OR A COAL MINE  
7        IN A POPULATED AREA LIKE THIS AREA. NEVER HAVE BEEN  
8        DONE. I KNOW SOME OF THE GRAPHICS THAT THE COAL MINE  
9        SHOW. THEY DIDN'T SHOW ANY HOUSES ON THE PERIMETER OF  
10       THE STRIP MINE. THIS IS SOMETHING NEW FOR THEM.  
11       HAVEN'T HAD THIS MANY HOUSES TO DEAL WITH. IT JUST  
12       HASN'T BEEN DONE BEFORE. TWO TIMES THIS HAS BEEN  
13       BEFORE THE BOARD AND IT'S BEEN SHOT DOWN. EACH TIME  
14       THERE'S MORE HOUSES OUT THERE AND MORE PEOPLE OUT  
15       THERE. WE'RE ALL OVER THE COMMUNITY OUT THERE. IT'S  
16       WHERE WE LIVE. IT'S OUR PEACEFUL AMERICA. WE DON'T  
17       WANT OUR KIDS AND SCHOOL BUSES ON ROADS WITH COAL  
18       TRUCKS. I'VE GOT FOUR GRANDKIDS AND ABOUT THREE  
19       GREAT-GRANDKIDS ON THE WAY TO GO TO SCHOOL. COAL  
20       TRUCKS ARE A DANGER. MOST OF THE TIME THEY'RE ON  
21       NARROW ROADS. IF YOU LOOK AT THEM, THEY DRIVE WITH  
22       ONE WHEEL ON THE YELLOW LINE. THAT'S JUST A GIVEN OUT  
23       IN THE COUNTRY THAT LIVES OUT THERE. THE COAL TRUCK  
24       IS GOING TO WIN. I DON'T CARE WHAT VEHICLE YOU'RE IN.  
25       IT DOESN'T NEED TO BE DONE.



1 I ASK YOU GENTLEMEN, I KNOWN SOME OF YOU  
2 PERSONALLY, YOU DON'T LIVE OUT THERE. WE DO. THIS  
3 GOAL MINE WILL NOT BE IN YOUR BACKYARD. IT'S IN MY  
4 BACK YARD. BE MY GRANDKIDS ON THE SCHOOL BUS WHERE  
5 THESE COAL TRUCKS ARE. MY GREAT-GRANDKIDS. THERE  
6 WILL BE DAMAGE TO OUR PROPERTY.

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

22 MR. NOFFSINGER: JAMES KAMUF.

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

25 MR. KAMUF: JAMES KAMUF.

1 (JAMES KAMUF SWORN BY ATTORNEY.)

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

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

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

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

25 THERE'S POWDER RIVER BASIN WHERE MOST OF OUR

1 COAL COMES FROM OUT IN WYOMING. IT IS TRUE,  
2 KENTUCKY'S COAL PRODUCTION IS PROJECTED TO BE CUT IN  
3 HALF IN THE NEXT THREE YEARS.

4 WE STUMBLED ACROSS THIS COAL AND WE JUST KEEP  
5 ON DOING THE SAME THING. DIGGING IT UP AND BURNING  
6 IT. WE DIDN'T KNOW BETTER. WE KNOW NOW THAT THERE  
7 MIGHT REALLY BE CONSEQUENCES OF PULLING THIS COAL OUT  
8 OF THE GROUNDS FOR THOUSANDS OF GENERATIONS. THESE  
9 LITTLE GIRLS, THESE LITTLE GIRL SCOUTS REALLY DO NEED  
10 TO BE CONCERNED. IT'S GENERATION, AFTER GENERATION,  
11 AFTER GENERATION OF GIRL SCOUTS THAT ARE GOING TO HAVE  
12 TO LIVE WITH THIS POLLUTION.

13 IT CONCERNS ME TOO ABOUT THE AGRICULTURAL  
14 VALUE OF THIS LAND. IT REALLY IS, WE SHOULD BE  
15 GROWING CROPS ON THIS GROUND IF AT ALL POSSIBLE.

16 THE FINAL THING IS, NATURAL GAS IS REALLY  
17 GETTING CHEAP TOO. IT'S HARD FOR ME TO REALLY BELIEVE  
18 THAT THIS UTILITY IS GOING TO BURN THIS COAL.  
19 THROUGHOUT THE REST OF THE WORLD THIS COAL SELLS THREE  
20 TIMES MORE THAN WHAT IT'S VALUED HERE. I WOULD ADVISE  
21 PEOPLE JUST TO SIT ON THIS COAL BECAUSE IT'S ALREADY  
22 TRADED FOR \$120 PER TON AROUND THE WORLD. SO REALLY  
23 YOU'RE SELLING YOURSELF OUT CHEAP. I REALLY DO THINK  
24 THAT SOME DAYS THIS PLANNING COMMISSION MANY YEARS IN  
25 THE FUTURE MIGHT HAVE TO DO THIS JUST TO KEEP THE

1       LIGHTS ON, THE ELECTRICITY. THAT WOULD BE NECESSARY,  
2       BUT TODAY IT'S NOT NECESSARY. I ASK YOU TO REALLY  
3       LOOK AND THINK ABOUT THE REAL LONG CONSEQUENCES OF  
4       MAKING THIS DECISION. THANK YOU.

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

12             MR. SILVERT: STATE YOUR NAME, PLEASE.

13             MS. SHULTZ: I AM JENNIFER SCHULTZ.

14             MR. NOFFSINGER: IT'S BRENDA LOVE.

15             MS. SHULTZ: I NEEDED TO GO BECAUSE OF MY  
16      CHILDREN. I NEED TO GO GET MY CHILDREN.

17             MR. SILVERT: IS THAT OKAY, MS. LOVE?

18             MS. LOVE: SURE.

19             (JENNIFER SHULTZ SWORN BY ATTORNEY.)

20             MS. SHULTZ: I AM JENNIFER SCHULTZ, A WIFE AND  
21      MOTHER AND TEACHER AT OWENSBORO CATHOLIC MIDDLE  
22      SCHOOL. I HAVE BEEN MARRIED FOR 21 YEARS TO A  
23      WONDERFUL MAN WHO IS AN ELECTRICAL ENGINEER AND ALSO A  
24      TEACHER.

25             PEOPLE MEET AND KNOW MY HUSBAND THEY SAY

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

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

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

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

1 THE LIGHTING IN OUR BARN IS 100 PERCENT SOLAR  
2 ELECTRIC.

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

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

14 MY POINT IN TELLING YOU ALL OF THIS IS TO  
15 EXPLAIN THE INCREDIBLE AMOUNT OF WORK, NOT TO MENTION  
16 MONEY, WE HAVE PUT INTO THIS PROPERTY. WE ABSOLUTELY  
17 LOVE LIVING HERE AND HOPE TO PASS THIS LAND ONTO OUR  
18 CHILDREN IN BETTER CONDITION THAN WHEN WE FOUND IT.  
19 WHEN WE WERE LOOKING FOR LAND TO BUY, WE ACTUALLY  
20 LOOKED AT A PIECE NEAR A STRIP MINE OFF HIGHWAY 81.  
21 IT DIDN'T TAKE 30 SECONDS TO SAY, I DON'T THINK SO.  
22 WE ALSO COULD HAVE BOUGHT CHEAPER LAND IN OHIO COUNTY,  
23 BUT WITH ITS HISTORY OF HEAVY MINING WE THOUGHT THAT  
24 MIGHT BE RISKY. NOW OUR PROPERTY IS THREATEN. NO  
25 LOGICAL PERSON COULD ARGUE A STRIP MINE NEARBY DOESN'T

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

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

13              IN CLOSING I HAVE THESE QUESTIONS:

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

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

23              WILL THE MINING AFFECT THE HEALTH OF OUR  
24      FOREST FROM DUST OR DISTURBANCE IN THE SURFACE OR  
25      GROUND WATER?

1 HAS THOUGHT BEEN GIVEN TO WHERE WATER RUNNING  
2 OFF MINE LAND WILL GO?

3 I UNDERSTAND THIS PROJECT WILL TAKE YEARS AND  
4 WILL RUN 22 HOURS PER DAY, SIX DAYS PER WEEK. WHAT  
5 LEVEL OF NOISE AND DUST FROM THE MINING CRUSHING AND  
6 SUBSEQUENT HEAVY TRUCK TRAFFIC, WILL WE HAVE TO ENDURE  
7 FOR THIS LENGTHY PERIOD?

8 WHAT WILL THE AREA LOOK LIKE DURING AND AFTER  
9 THIS MINING? I THINK I KNOW THE ANSWER TO THAT ONE.

10 HOW WILL THE MINING AFFECT THE FUTURE VALUE OF  
11 OUR PROPERTY? THANK YOU.

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

22 NEXT, MR. NOFFSINGER.

23 MR. NOFFSINGER: BRENDA LOVE.

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



1 MS. LOVE: BRENDA LOVE.

2 (BRENDA LOVE SWORN BY ATTORNEY.)

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

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

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

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

21 YOU KNOW, I DON'T WANT TO GIVE MY HOME UP. IF  
22 YOU ALL LET THEM MINE, I WILL HAVE TO. YES, I HAVE  
23 DONE HAD SOMEONE COME OUT AND APPRAISE IT. I KNOW  
24 WHAT IT APPRAISES FOR RIGHT TODAY. I KNOW WHAT IT  
25 WILL APPRAISE FOR IF THEY DIG FOR COAL. I THINK THAT

1       IS UNFAIR TO ALL OF US.   OUR HEALTH IS NOT GREAT.   A  
2       LOT OF PEOPLE'S HEALTH IS NOT GREAT.   I UNDERSTAND  
3       THAT, BUT YOU KNOW WHAT?   THE BIBLE SAYS, LOVE OF  
4       MONEY IS THE ROOT OF ALL EVIL.   AND I'M GOING TO TELL,  
5       THAT'S WHAT WE'RE SEEING TONIGHT.

6               MR. NOFFSINGER:   SCOTT HESTER.

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

9               MR. HESTER:   SCOTT HESTER.

10              (SCOTT HESTER SWORN BY ATTORNEY.)

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

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

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

19              CHAIRMAN:   THANK YOU.

20              MR. HESTER:   MOST OF THE MAIN POINTS HAVE BEEN  
21       MADE IN REGARD TO THE AFFECTS OF THE ZONING HERE.   I  
22       WANT TO POINT OUT A COUPLE OF THINGS.

23              I THINK THAT NOBODY DISPUTES THE FACT THAT  
24       STRIP MINING IN OUR COMMUNITY WILL HAVE A NEGATIVE  
25       AFFECT ON PROPERTY VALUE DURING THE TIME THE STRIP

1 MINING FOR SOME PERIOD OF TIME AFTER THAT.

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

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

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

19 MS. LOVE: YES, I AM.

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

22 WHETHER IT'S JOB RELOCATION, MARRIAGE,  
23 DIVORCE, DEATH, ILLNESS, WHATEVER, PEOPLE HAVE TO SELL  
24 THEIR HOMES SOMETIMES. WELL, IF THIS STRIP MINE IS  
25 PUT IN PLACE HERE, THERE'S GOING TO BE AT LEAST 140

1 FOLKS IN THE BLAST ZONE WHO CANNOT SELL THEIR HOMES.  
2 IF THEY CAN FIND SOME SUCKER THAT WILL TAKE IT, IT'S  
3 GOING TO BE AT HALF OF WHAT THE MARKET VALUE IS TODAY.  
4 PART OF WHAT ZONING CAME TO BE ABOUT FROM DAY  
5 ONE IS PEOPLE GOT IN DISPUTES, NEIGHBORS, ADJOINING  
6 PROPERTY OWNERS ABOUT HOW THEY USED THEIR LAND. PART  
7 OF WHAT ZONING IS ABOUT IS CONTROLLING OR LIMITING THE  
8 WAY FOLKS USE THEIR LAND IF IT HAS A SERIOUS NEGATIVE  
9 IMPACT ON THEIR NEIGHBORS. WELL, THIS HAS A SERIOUS  
10 NEGATIVE IMPACT ON THE NEIGHBORS.  
11 TWICE THIS HAS COME UP. TWICE IT'S BEEN VOTED  
12 DOWN. WE THINK THAT THE FOLKS IN THE PLEASANT RIDGE  
13 COMMUNITY, WHICH INCLUDES ALL OF US, OUGHT TO BE ABLE  
14 TO RELY ON THE PRIOR ACTIONS AND THE CONDUCT OF THE  
15 OFFICIALS THAT ARE IN CHARGE OF THIS IN HOW WE USE OUR  
16 PROPERTY. IT'S COME UP TWICE BEFORE. IT'S BEEN  
17 DEFEATED TWICE BEFORE AND WE THINK IT NEEDS TO BE  
18 AGAIN.  
19 THE FOLKS THAT IS COME IN HERE AND HAVE TO  
20 SELL, THOSE ARE GOING TO BE THE BIGGEST LOSERS IN THIS  
21 WHOLE THING. IF I HAVE A HEALTH PROBLEM AND I NEED TO  
22 SELL MY HOME AND I'M ADJOINING THIS PROPERTY, IF I CAN  
23 GET 50 CENTS ON THE DOLLAR, I'D BE REALLY LUCKY.  
24 WELL, A THAT'S HUGE ECONOMIC EFFECT FOR THOSE OF US IN  
25 THAT COMMUNITY. I THINK WE'VE GOT A RIGHT TO RELY ON

1 THE PRECEDENCE SET BY THIS BOARD. YOU ALL ON THIS  
2 BOARD, YOUR ALL PREDECESSORS ON THIS BOARD IN  
3 DEVELOPING OUR PROPERTIES, IN BUILDING OUR HOMES, AND  
4 LIVING IN THIS COMMUNITY THAT THIS ISN'T GOING TO  
5 HAPPEN TO US.

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

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

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

25 FOR NOW, RIGHT NOW, TODAY, WE NEED EACH OF YOU

1 TO PROTECT US. PROTECT OUR LAND. PROTECT OUR LIVES.  
2 PROTECT OUR STYLE OF LIFE. THANK YOU VERY MUCH.

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

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

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

17 CHAIRMAN: RIGHT.

18 MR. WILSON: NO, I CAN'T PROVE WHAT IT IS.  
19 THAT'S WHY I INTRODUCED THE 47 PAGES FROM EXCERPTS OF  
20 THE MINUTES OF PREVIOUS MINUTES OF THIS COMMISSION.  
21 WHERE EXPERT TESTIMONY TESTIFIED ANYWHERE FROM 20 TO  
22 30 TO 40 PERCENT DECREASE. THAT WAS MR. BILL KURTZ  
23 AND MR. STEVE CASTLEN. I WILL BE REFERRING TO THEIR  
24 TESTIMONY HERE IN A MINUTE.

25 NOW, ASSUMING WE --

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

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

10          CHAIRMAN: I FELT LIKE I SHOULD ASK.

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

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

23          - - (INTERRUPTION BY AUDIENCE) - -

24          CHAIRMAN: PLEASE. PLEASE. GIVE HIM THE SAME  
25 RESPECT THEY GAVE YOU ALL.

1           MR. HAYNES: CAN ACTUALLY INCREASE AS THE  
2 MINERALS, AND PEOPLE REALIZE THE MINERAL BENEFIT OF  
3 THEIR PROPERTIES. THAT OTHER MINERAL PRODUCING  
4 PROPERTIES ACTUALLY INCREASE IN VALUE.

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

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

18          I WENT AND PULLED EVERY PVA CARD, COVERED  
19 EVERY PROPERTY ON THIS MAP. THESE ASSESSMENTS WERE  
20 MADE IN 2006 AND 2010. THIS IS OUR MINE IN 2010.  
21 THERE IS NO CHANGE. THERE'S A LOT OF PROPERTIES THAT  
22 HAVE INCREASED IN VALUE. MOST PROPERTIES HAVE  
23 MAINTAINED THEIR VALUE. I FOUND ONE PROPERTY THAT THE  
24 2006 ASSESSMENT WAS HIGHER THAN THE 2010 ASSESSMENT,  
25 OUT OF APPROXIMATELY 120 PROPERTIES.



1           AT LEAST AS IT PERTAINS TO KNOTTSVILLE, AND  
2       THIS IS PROOF IN THE PUDDING BECAUSE THAT'S OUR PIT,  
3       THAT'S WHERE WE ARE MINING, IT HASN'T EFFECTED  
4       PROPERTY AT ALL OTHER THAN SOME PROPERTIES HAVE  
5       INCREASED.

6           CHAIRMAN:   THANK YOU.

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

8           MR. SILVERT:   STATE YOUR NAME, PLEASE.

9           MR. LANHAM:   TONY LANHAM.

10          (TONY LANHAM SWORN BY ATTORNEY.)

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

15          MR. LANHAM:   RIGHT.

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

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

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

7 CHAIRMAN: I THOUGHT IT WAS A GOOD ONE.

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

23 MR. LANHAM: IT DID. WHAT WE HAVE TO DO IS  
24 STUDY THE MINING PLAN. YOU CAN'T JUST GO OUT THERE  
25 AND SAY, WELL, MINE RIGHT HERE. THAT'S THE WAY I WANT

1       YOU TO START. I'D HAVE TO GO OUT THERE AND STUDY THE  
2       AREA, STUDY HOW THE COAL LAYS. THE BIG THING IS WHERE  
3       THE RECLAMATION CAN COME OUT. YOU'VE GOT TWO BIG  
4       COSTS. YOU'VE GOT OPENING COST AND CLOSING COST.  
5       YOU'LL HAVE TO STUDY IT TO WHERE THAT WILL COME OUT.  
6       SOME PEOPLE WANT LAKES. SOME DON'T. SO YOU HAVE TO  
7       START IT AND STOP IT ACCORDINGLY. YOU KNOW, START  
8       WITH HOW THE COAL LAYS. THEN AFTER THAT YOU HAVE TO  
9       PUT THE BIG PLAN TOGETHER SO THAT AT THE END IT WILL  
10      COME OUT. IF IT DON'T WORK THAT WAY, IT'S POSSIBLE  
11      THAT WHATEVER YOU CAN MAKE YOU CAN WIND UP IN YOUR  
12      CLOSING COST OF THE OPERATION.

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

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

25               MR. LANHAM: SOME OF THAT COULD POSSIBLY BE

1       DONE, BUT AGAIN, I WOULD HAVE TO LOOK AT IT AND STUDY  
2       IT.

3               IF OUR PLAN COULD BE PUT TOGETHER WHERE IT  
4       POSSIBLY INCONVENIENT, YOU KNOW, A CERTAIN AMOUNT OF  
5       PEOPLE IN A CERTAIN WAY. UP THERE AT KNOTTSVILLE  
6       WHERE WE'RE MINING, YOU KNOW, WE'RE MINING AROUND  
7       HOUSES, PIPE LINES, POWER LINES, HIGHWAYS. THAT'S THE  
8       COAL THAT'S LEFT. WE DO TRY TO WORK OUT TO WHERE IT  
9       WILL WORK IN AN ADVANTAGE OF EVERYBODY IF POSSIBLE.

10              CHAIRMAN: YOU HAVE PROPERTY OWNERS THAT OWN  
11       THE PROPERTY THAT ARE GOING TO GET THE BENEFIT FROM  
12       THE COAL AND I UNDERSTAND THAT ALSO. WE HAVE TO  
13       BALANCE BOTH SIDES OF THIS EQUATION.

14              I THINK THE RECLAMATION AND THE LEAST  
15       INCONVENIENCE TO THE FOLKS THAT ARE NEAREST TO THE  
16       PROBLEM WOULD REALLY MAKE A GREAT PLAN AND WITH YOU,  
17       YOU KNOW, YOU'RE THE ONE THAT COULD MAKE THAT HAPPEN,  
18       IF IT IS ECONOMICAL AND GEOLOGY ARE THE SAME.

19              MR. LANHAM: IF THAT'S THE WAY, WE COULD  
20       POSSIBLY WORK OUT THE BEST PLAN TO MAKE THAT WORK.  
21       WE'RE CONSTANTLY MINING AROUND HOUSES. THIS NEW JOB,  
22       ANOTHER JOB WE'RE GETTING READY TO START I HAVE 160  
23       SURVEYS IN THIS ONE. SO GIVE YOU AN IDEA.

24              CHAIRMAN: IF HEAVEN FOR BID IF SAY YOU ALL  
25       ARE DOING SOMETHING AND SOMETHING JUST WENT COMPLETELY

1 HAYWIRE. I MEAN ACCIDENTS DO HAPPEN. THEY HAPPEN IN  
2 ALL OF OUR BUSINESSES UNFORTUNATELY. UNCONTROLLABLE  
3 THINGS THAT HAPPEN. UNFORESEEN ACTS. AND SOMEBODY'S  
4 HOUSE WAS DAMAGED, DESTROYED, IT CAUGHT, YOU KNOW, THE  
5 BLAST WENT THROUGH. WHAT'S THE PROCESS THERE? WHAT  
6 HAPPENS TO THAT HOMEOWNER?

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

18 CHAIRMAN: AND THERE IS RESTITUTION OF THE  
19 HOMEOWNER?

20 MR. LANHAM: RIGHT.

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

24 MR. LANHAM: RIGHT. THEY WILL. THEY WILL BE  
25 PUT BACK, RESTORED BACK LIKE IT WAS.

1           THE PREBLAST SURVEYS IS GOING TO SHOW. THAT'S  
2       WHAT THEY'RE FOR. TO GO IN. THEY'LL GET A COPY OF  
3       THAT. IF THERE'S DAMAGE, THEN IT CAN BE COMPARED TO.  
4       THEY'LL COME IN. SEE IT. THEY'LL FIX IT. IT'S  
5       ALMOST IMPOSSIBLE TO BUILD A HOUSE THAT HASN'T GOT  
6       SOME KIND OF CRACK OR POURED CONCRETE. THAT'S THE  
7       REASON THEY TAKE THE PICTURES. TO FIND OUT WHAT THEY  
8       DO HAVE BEFORE IT'S STARTED.

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

21           MR. LANHAM: WILL DO.

22           CHAIRMAN: THANK YOU, MR. LANHAM.

23           MR. NOFFSINGER.

24           MR. NOFFSINGER: C. VANMILLIGAN.

25           MR. SILVERT: WOULD YOU STATE YOUR NAME,

1 PLEASE.

2 MR. VANMILLIGAN: MY NAME NEIL VANMILLIGAN.

3 (NEIL VANMILLIGAN SWORN BY ATTORNEY.)

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

7 CHAIRMAN: MR. WILSON.

8 MR. WILSON: GO AHEAD AND MAKE YOUR STATEMENT.

9 MR. VANMILLIGAN: THANK YOU, SIR. '

10 MY NAME IS NEIL VANMILLIGAN. I LIVE ON  
11 RUSSELL ROAD. I'VE LIVED THERE FOR ABOUT 30 YEARS. I  
12 HAVE SEVERAL POINTS. I DON'T HAVE MUCH OF A TALK TO  
13 MAKE.

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

1 THE ROAD WILL BE SHUTOFF DURING THAT PERIOD OF TIME.  
2 THE STUDENTS WILL WAIT ON THE BUS UNTIL THE EXPLOSION  
3 IS OVER AND THEN BE ALLOWED TO PROCEED.

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

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

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

25 AS MS. STRINGER POINTED OUT, THE GIRL SCOUTS



1 CAN WONDER OFF THAT PROPERTY. I OWN 196 PROPERTY THAT  
2 ADJOINS THE GIRL SCOUT CAMP. IT'S VERY COMMON FOR ME  
3 TO FIND GIRL SCOUT LEADERS, GIRL SCOUTS OR VISITORS ON  
4 MY LAND THINKING THAT THEY'RE ON THE GIRL SCOUT  
5 PROPERTY. I'M WEST. IF THEY WENT EAST, THEY'D END UP  
6 WALKING IN ON A COAL MINE.

7 THE ISSUE THAT WAS ADDRESSED EARLIER ABOUT THE  
8 CONTAMINATION FOR THE COAL WASHING FACILITY, THE  
9 ARSENIC, LEAD, MERCURY, WOULD BE WASHED OUT OF THE  
10 COAL. AT THE PUBLIC HEARING THAT YOU FOLKS ASKED THE  
11 COAL COMPANY TO CONDUCT, WHICH WE APPRECIATED, THE  
12 PLAN WAS EXPLAINED TO US THAT THIS MATERIAL, ONCE THE  
13 COAL IS CRUSHED AND THIS MATERIAL IS WASHED FROM THE  
14 COAL, IT WILL BE PUT IN A LIQUID FORM BACK IN THE PIT.  
15 THE COAL COMPANY TELLS US THAT THEY WILL RETURN THIS  
16 MATERIAL BELOW THE DRINKING WATER STANDARD. THE  
17 DRINKING WATER, FEDERAL DRINKING WATER STANDARD FOR  
18 LEAD IS ZERO. THEY CAN'T PUT ANY LEAD BACK IN THE  
19 GROUND. THEY CAN'T PUT LIQUID ARSENIC BACK IN THE  
20 GROUND WHEN THEY TOOK IT OUT ENCAPSULATED IN COAL AND  
21 CRUSHED THE COAL, WASH IT, RELEASE THE ARSENIC, AND  
22 PUT IT BACK IN THE GROUND. HOW IS THAT NOT GOING TO  
23 AFFECT OUR GROUNDWATER? NOT ALL OF US HAVE WELLS. I  
24 HAVE TWO, BUT THE GIRL SCOUTS AT LEAST HAVE A SPRING  
25 FED LAKE. THERE ARE MANY OTHER PONDS AND LAKES AS YOU

1 CAN SEE ON THE MAP IN THE AREA.

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

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

8 ONE WOULD BE THE AGREEMENT WITH THE GIRL  
9 SCOUTS. IF IT WAS FAVORABLE, YOU ALL WOULD BE WILLING  
10 TO SIGN A WRITTEN AGREEMENT WITH THE GIRL SCOUTS OR  
11 WHATEVER AGREED YOU HAD MADE?

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

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

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

1           CHAIRMAN:  WOULD YOU EXPLAIN A LITTLE BIT,  
2           BECAUSE PROBABLY MOST OF THESE PEOPLE ARE NOT AWARE OF  
3           THE HEAVY METALS AND THE STUFF AND THE LEVEL OF LED  
4           AND ARSENIC AND THINGS THAT DO EXIST NATURALLY IN  
5           WATER.  I DON'T WANT A DEGREE.  JUST THE HIGH POINTS  
6           QUICKLY.

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

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

18          CHAIRMAN:  WOULDN'T YOUR MONITORING WELLS  
19          CATCH THIS?

20          MR. WRIGHT:  SEDIMENT POND?

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

23          MR. WRIGHT:  YES.  A LOT OF PEOPLE DON'T  
24          UNDERSTAND.  THEY TALK ABOUT THEIR AQUIFERS.  THEY'VE  
25          GOT ENOUGH AQUIFER OUT THERE THAT'S THE BROWN

1 SANDSTONE. IT'S CONTAMINATED BY SEPTIC SYSTEM. IT'S  
2 WORTHLESS.

3 YOU'VE GOT THE COAL ZONE THAT RUNS DOWN TO  
4 ABOUT 80, 90 TO 100 FEET. THERE'S A LITTLE BIT OF  
5 SANDSTONE INSIDE THERE THAT YOU CONSIDER AQUIFER.  
6 COAL ZONE CAN ACTUALLY BE CONSIDERED AN AQUIFER  
7 BECAUSE IT TRANSMITS WATER, BUT IT'S NOT GOOD WATER.

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

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

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

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

25 MR. WRIGHT: THIS STUDY HAS BEEN DONE OVER 50,

1 30 YEARS TO FIGURE OUT WHAT'S BEST. SOMEBODY TOLD ME  
2 THE OTHER DAY IT'S BEST TO PUT IT UP THERE BESIDE THE  
3 SOIL. NO, IT'S NOT BECAUSE YOU'RE ACTUALLY CREATING A  
4 LAKE UNDERGROUND. IF YOU PUT THIS STUFF WAY UP HERE  
5 AND THAT WATER GETS THERE, THEN IT'S GOING TO GO OVER  
6 HERE TO A HILLSIDE AND START SEEPING SLUDGE OUT,  
7 CONTAMINATED SLUDGE. SO THAT'S NOT THE BEST THING TO  
8 DO.

9 CHAIRMAN: SO YOU PUT IT DOWN.

10 MR. WRIGHT: PUT IT IN THE VERY BOTTOM.  
11 EVERYTHING ABOVE THAT IN THIS AREA IS NEUTRAL.  
12 NEUTRALIZATION POTENTIAL. THAT WAY WHEN THIS WATER  
13 COMES THROUGH THERE IT COMES UP IN THE NEUTRAL SPOIL  
14 AND IT ALL NEUTRALIZES AND IT WILL SETTLE OUT AND STAY  
15 IN THERE. WE HAVE TO PROVE IN OUR PERMIT THAT THAT  
16 WILL HAPPEN.

17 CHAIRMAN: THANK YOU.

18 NEXT.

19 MR. NOFFSINGER: CURTIS WHISTLE HAS ALREADY  
20 BEEN TO THE PODIUM.

21 JAMES MATTINGLY.

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

24 MR. MATTINGLY: JAMES MATTINGLY.

25 (JAMES MATTINGLY SWORN BY ATTORNEY.)

1           MR. MATTINGLY: WE MOVED TO EAST OF THE  
2           KNOTTSVILLE AREA AROUND 2004.

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

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

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

19          ALSO, THERE'S A FERRY THERE TO GO BY. I'M  
20          USUALLY GOING TO TOWN IN THE EVENING, BUT THERE'S A  
21          PLACE THERE, AULL ROAD AND 144. A LOT OF PEOPLE HAVE  
22          COMPLAINED TO ME WHEN THE COAL TRUCKS PULL OUT OF  
23          THERE AND THEY HAVE TO PULL A BIG HILL, YOU KNOW, THE  
24          SPEED LIMIT IS 55 AND THEY HAVE TO SLOW DOWN. THEY'RE  
25          TRYING TO GET UP THAT HILL. YOU ALMOST HAVE TO GO TO

1 5 OR 10 MILES AN HOUR BY THE TIME THEY GET TO THE TOP  
2 OF THAT HILL.

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

7 YOU KNOW, AT NIGHT I COULD HEAR DOZER TREADS.  
8 I LIVE ABOUT A MILE EAST OF THE MINES. THE TRUCKS  
9 DON'T GO BY MY HOUSE. THE COAL TRUCKS THAT IS.  
10 THERE'S SOME NOISE DISTRACTION AND LIGHTING AND STUFF  
11 WHEN I DO TRAVEL AT NIGHT.

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

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

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

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

1 HAVE TO SAY.

2 CHAIRMAN: WE ARE GETTING A LOT OF REDUNDANCY.  
3 WE WANT EVERYBODY TO HAVE THE OPPORTUNITY, BUT IF YOU  
4 WOULD JUST NARROW YOUR COMMENTS TO SOMETHING. WE WANT  
5 TO HEAR WHAT YOU HAVE TO SAY, BUT THERE'S SEVERAL  
6 THINGS THAT ARE BEING REPETITIVE. WE WOULD LIKE TO  
7 GET ON.

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

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

16 MIKE GILMORE.

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

19 MR. GILMORE: MIKE GILMORE.

20 (MIKE GILMORE SWORN BY ATTORNEY.)

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

23 CHAIRMAN: THANK YOU.

24 MR. GILMORE: MINE EQUIPMENT & MILL SUPPLY, I  
25 NEED TO KNOW THE NAME OF THEIR INSURANCE COMPANY. THE



1 INSURANCE COMPANY, THE AGENT, I WANT THE ADDRESS AND  
2 PHONE NUMBER.

3 CHAIRMAN: THANK YOU.

4 MR. SILVERT: STATE YOUR NAME AGAIN, PLEASE.

5 MR. VINCENT: MARTY VINCENT.

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

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

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

19 MR. VINCENT: I'D BE GLAD TO.

20 CHAIRMAN: THANK YOU.

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

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

24 CHAIRMAN: WAS YOUR QUESTION ABOUT WHO THEIR  
25 INSURANCE COMPANY WAS?

1           MR. GILMORE:  YES.  I'M GOING TO DEAL STRAIGHT  
2 WITH THE INSURANCE COMPANY.

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

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

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

13          CHAIRMAN:  THANK YOU.

14          MR. GILMORE:  THANK YOU.

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

19          CHAIRMAN:  THANK YOU.

20          MR. NOFFSINGER:  CARLIN GREGORY.

21          CHAIRMAN:  HE'S ALREADY SPOKEN.

22          MR. NOFFSINGER:  JOEY GIBSON.

23          AUDIENCE:  HE LEFT THE BUILDING.

24          CHAIRMAN:  OKAY.

25          MR. NOFFSINGER:  NICK HURTER.

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

3 MR. HURTER: NICK HURTER.

4 (NICK HURTER SWORN BY ATTORNEY.)

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

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

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

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

22 CHAIRMAN: IN THIS CLAY AND COVERED UP?

23 MR. WRIGHT: YES. AND ARSENIC DOES NOT WASH  
24 OUT. IT'S INNER-BEDDED IN THE COAL. YOU COULD GET  
25 SOME OF YOUR MERCURY OUT, A LITTLE BIT OF LED, BUT

1       THESE CONCENTRATIONS ARE SO LOW IN THE COAL THAT IT'S  
2       NOT GOING TO MAKE ANY DIFFERENCE.

3               CHAIRMAN:   THANK YOU.

4               MR. HURTER:   AS A RESPIRATORY THERAPIST HERE  
5       IN DAVIESS COUNTY SINCE 1994, I WANT TO SPEAK TO THE  
6       FACT ABOUT THE FUGITIVE DUST AND EVERYTHING THAT'S  
7       GOING TO BE IMPACTING THIS AREA AND A LARGER CIRCLE  
8       JUST BEYOND WHAT THEY'VE DRAWN ON A MAP.

9               THESE SMALLER DUST PARTICLES DO NOT FALL OUT  
10       OF THE AIR.   THE 20 PERCENT OPACITY THAT THEY TALK  
11       ABOUT THAT THEY HAVE TO STAY, THEY HAVE TO WATER THE  
12       ROADS DOWN AND EVERYTHING ELSE, THOSE BIG PARTICLES,  
13       THEY'RE BAD.   THEY DO CONTAIN ALL THESE DIFFERENT  
14       HEAVY METALS AND STUFF TO SOME DEGREE, BUT THEY FALL  
15       OUT FAIRLY QUICKLY.   IT'S THE SMALL PARTICLES THAT YOU  
16       CAN'T SEE THAT TRAVEL FOR MILES.

17               OVER ON HIGHWAY 142, WE HAVE A CHILD THAT HAS  
18       CYSTIC FIBROSIS.   THAT LEAVES HIS LUNGS UNABLE TO  
19       CLEAR ANYTHING THAT HE BREATHES IN.

20               FRED LOVE LIVES OVER ON RUSSELL ROAD.  
21       SIGNIFICANT RESPIRATORY PROBLEMS.

22               CARLA OVER ON REDHILL-MAXWELL ROAD HAS ASTHMA.  
23       THESE PEOPLE CANNOT DEAL WITH THESE SMALL PARTICLES.

24               THREE TO FIVE MICRON PARTICLE SIZE, WHICH IS  
25       RELEASED IN THESE MINING PROCESSES, WILL GET DOWN DEEP

1 INTO THE LUNGS.

2 YOU SEE PEOPLE THAT TAKE BREATHING TREATMENTS  
3 AND STUFF LIKE THAT. THAT MEDICATION MIST THAT YOU  
4 SEE, THE MIST THAT YOU CAN SEE WITH YOUR EYES DOESN'T  
5 DO THE PATIENT ANY GOOD. IT'S THE INVISIBLE FLEX OF  
6 MEDICINE THAT ARE DOWN IN THAT AEROSOL THAT GET DOWN  
7 INTO THE BOTTOM OF THE LUNGS.

8 CHAIRMAN: WILL THESE PARTICLES TRAVEL FROM  
9 THIS MINE?

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

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

24 WHEN THEY'RE TALKING ABOUT PUTTING THIS SLURRY  
25 THAT IS GOING TO BE HIGHER THAN THE DRINKING WATER

1 STANDARDS FOR MOST OF THESE CHEMICALS THAT THEY'RE  
2 TALKING ABOUT, THEY'RE LOWER WHEN THEY'RE IN THE COAL  
3 SEAM. AFTER THE WASHING CONCENTRATES THEM, THEY'RE  
4 GOING TO HIGHER. NOBODY WANTS TO TAKE A GLASS OF THAT  
5 AND DRINK IT.

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

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

16 CHAIRMAN: THANK YOU.

17 MR. NOFFSINGER: T. A. SCOTT.

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

20 MR. SCOTT: T. A. SCOTT.

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

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

25 CHAIRMAN: THANK YOU.

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

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

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

21          MR. SCOTT: FINE.

22          ANOTHER QUESTION I HAVE, DUE TO MY EMPLOYMENT  
23          I KNOW FOR A FACT THAT THE RANGE THAT THE OWENSBORO  
24          POLICE DEPARTMENT RUNS OFF HIGHWAY 298, THERE CANNOT  
25          BE FIRING AFTER 8:00 IN THE EVENING. THE MINE TELLS

1 US THAT THERE'S GOING TO BE A SECOND SHIFT THAT'S  
2 GOING TO RUN FROM FIVE IN THE EVENING UNTIL FOUR IN  
3 THE MORNING. NOW, THERE'S NOT GOING TO BE BLASTING  
4 GOING ON. ALL THEY'RE GOING TO BE DOING IS RUNNING  
5 TRACTORS. NOW, THAT'S ABOUT HALF A MILE FROM MY  
6 HOUSE. RIGHT NOW I'M OUTSIDE MY HOUSE IN THE EVENINGS  
7 AND MIDDLE OF THE MORNING, I MEAN 1, 2, 3:00 IN THE  
8 MORNING. I HEAR COYOTES, BIRDS, CROWS. I DON'T HEAR  
9 CAT TRACTORS. I DON'T WANT TO HEAR CAT TRACTORS.

10 I SEE NO REASON WHY ME AND MY NEIGHBORS SHOULD  
11 HAVE TO PUT UP WITH CAT TRACTORS PAST 8:00 IN THE  
12 EVENING WHEN FOLKS WHO LIVE ADJACENT TO THE OPD RANGE,  
13 AND THERE'S A WHOLE LOT LESS OF THEM, HAVE BEEN ABLE  
14 TO HAVE THAT RANGE SHUTDOWN. SO WHEN WE GO THERE TO  
15 DO NIGHT FIRING WE HAVE TO BE DONE BY 8:00. OPD HAS  
16 THE SAME THING. BRUCE BURNS IS OUT THERE IN THE  
17 LOBBY. WE CAN ASK HIM ABOUT THAT. I KNOW THAT TO BE  
18 A FACT.

19 WE ASKED IF THEY WOULD TELL US WHERE PHASE TWO  
20 WOULD GO. THEY SAID THEY KNEW, BUT THEY WOULDN'T.  
21 I'D STILL LOVE TO KNOW WHERE PHASE 2 GOES.

22 I WOULD LIKE TO KNOW WHEN WAS THE LAST SERIES  
23 OF CORE DRILLING DONE AND WHEN WAS THAT TEST FOR  
24 MERCURY, ARSENIC, SO ON AND SO FORTH, DOES THAT GO  
25 BACK TO '86 AND '93 YEARS OR IS THAT SOMETHING THAT'S



1       BEEN MORE RESENT?

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

5               PROPERTY VALUES ARE GOING TO DROP. I KNOW WE  
6       HAVE SOME DISAGREEMENT WITH THAT. WHAT I WANT TO KNOW  
7       IS, MY HOUSE WAS BUILT IN '98. WE PURCHASED IT IN  
8       2001 SO WE'VE LIVED THERE A LITTLE OVER TEN YEARS. I  
9       PAY MY PROPERTY TAXES EVERY YEAR. WHEN THE VALUE OF  
10      MY PROPERTY GOES DOWN, IS THE PVA PREPARED TO REDUCE  
11      MY TAXES, AND HOW IS THE COUNTY GOING TO MAKE UP THE  
12      DIFFERENCE IN THE 100 OR HOWEVER MANY PROPERTIES ARE  
13      THERE AND THE VALUE OF EACH ONE OF THEM GOING DOWN?  
14      AS THE VALUE OF MY PROPERTY GOES DOWN, THERE'S NO  
15      REASON FOR ME TO CONTINUE TO PAY THE HIGHER TAXES.

16              WE SAW SLIDES FROM A YEAR AND TWO YEARS AGO OF  
17      RECLAIMED GROUND. I WOULD LIKE TO SEE SOME SLIDES OF  
18      PROPERTY THAT HAVE BEEN RECLAIMED BY THIS COAL MINE  
19      PROPERTY FROM 10 YEARS AGO TO 20 YEARS AGO. I WOULD  
20      LIKE TO SEE SOME OF THE TREES. I'D LIKE TO KNOW WHAT  
21      THEIR YIELD WAS ON THEIR CORN CROP THAT THEY HAD LAST  
22      YEAR. WE'VE SEEN SOME PICTURES OF LAKES. I'D LIKE TO  
23      KNOW HOW DEEP THEY ARE, WHAT THE PH LEVEL IS. ANOTHER  
24      FELLOW BROUGHT UP THE QUESTION TO ME OUT THERE WHO IS  
25      IN THE BUSINESS OF BUILDING. HE'S A COMMERCIAL

1 BUILDER. HE POINTED OUT IF THAT GROUND IS NOT  
2 COMPACTED YOU WOULD NOT WANT TO BUILD PROPERTY ON IT  
3 AFTERWARDS. YOU WOULD NOT WANT TO BUILD A HOUSE. YOU  
4 WOULD NOT WANT TO BUILD A HOUSE WITH A BASEMENT. I  
5 WOULD BE INTERESTED TO KNOW IF THEY HAVE ANYTHING TO  
6 SAY ABOUT THAT.

7 OBVIOUSLY, I THINK IT'S A FOREGONE CONCLUSION.  
8 EVEN THOUGH THEY'RE NOT GOING TO ASK FOR ALL THE  
9 PROPERTY THEY WANTED REZONE TO BE REZONED TONIGHT,  
10 THEY'LL BE COMING IN THE FUTURE.

11 WE TALKED ABOUT PROPERTY TAXES GOING UP. ONE  
12 OF THE ARGUMENTS MADE FROM THE MINE COMPANY IS THERE'S  
13 GOING TO BE THIS TAX ON EQUIPMENT AND THEREFOR THAT  
14 EQUIPMENT IS BRINGING IN MORE MONEY TO THE COUNTY.  
15 I'D LIKE TO KNOW HOW MUCH OF THAT EQUIPMENT THAT THEY  
16 ALREADY OWN AND IS ALREADY IN OPERATION IN  
17 KNOTTSVILLE. IS THERE ACTUALLY GOING TO BE MORE TAXES  
18 ON MORE EQUIPMENT OR ARE YOU JUST RECEIVING TAXES ON  
19 EQUIPMENT THAT ALREADY EXIST?

20 THEY TALKED ABOUT JOBS BEING ADDED. HOW MANY  
21 OF THOSE JOBS ARE ALREADY GOING TO BE FILLED BY PEOPLE  
22 WHO ARE CURRENTLY EMPLOYED BY THEIR COMPANY? ARE WE  
23 TALKING NEW JOBS OR ARE WE JUST TALKING DIFFERENT  
24 JOBS?

25 I'D LIKE TO KNOW THE PROPERTY THAT THEY'RE

1 GOING TO MINE, IS IT GOING TO BE LOGGED PRIOR TO  
2 MINING?

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

7 MR. NOFFSINGER: YES, SIR.

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

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

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

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

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

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

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

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

1 THIS TIME.

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

4 MR. SCOTT: YES, SIR, AND I'LL BE HERE FOR IT.  
5 THANK YOU VERY MUCH.

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

9 WHY THE 2000 FOOT BUFFER AT GIRL SCOUT CAMP.

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

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

18 CHAIRMAN: YOUR TRUCKS ARE GOING TO OPERATE ON  
19 INTO THE NIGHT WHEN THE OPD'S RANGE QUITS AT 8:00.  
20 THE NOISE FACTOR, HOW MUCH OF A NOISE FACTOR WOULD  
21 THAT BE WITH THE TRUCKS?

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

24 CHAIRMAN: THERE IS NO REGULATION ON THAT?

25 MR. WRIGHT: NO, NOT THAT I'M AWARE OF.

1           CHAIRMAN:  WHAT ABOUT PHASE 2, DO YOU ALL KNOW  
2   WHAT PHASE 2 IS?

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

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

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

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

19           THERE'S A LOT OF IFS, ANDS, AND BUTS ABOUT IT.  
20  COAL PRICES HAVE TO BE THERE.  THE MARKET HAS TO BE  
21  THERE.  YOU KNOW, WE CAN'T PREDICT IN FIVE YEARS WHAT  
22  THAT'S GOING TO TAKE FROM OUR COMPANY.  SOME OF THE  
23  RATIOS IN THE COAL THAT WE DRILL IS HIGH.  IT'S GOING  
24  TO HAVE TO BE A HIGHER PRICE TO BE ABLE TO AFFORD TO  
25  MINE IT.

1           CHAIRMAN:   WHAT ABOUT THE CORE DRILLINGS, WHO  
2   ACTUALLY DOES THE CORE DRILLINGS?

3           MR. WRIGHT:   WE'VE BEEN DRILLING OUT THERE FOR  
4   FIVE YEARS, BUT THE SAMPLES THAT I QUOTE, WE TOOK SOME  
5   GEOLOGIC SAMPLING, THEY WERE TAKEN IN AUGUST 4TH OF  
6   2011.   THESE WERE ACTUALLY TAKEN FOR OUR PERMIT  
7   ITSELF.

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

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

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

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

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

22          MR. WRIGHT:   YES, THERE HAS TO BE BECAUSE WE  
23   HAVE TO HAVE SOME PEOPLE WITH EXPERIENCE WITH THE  
24   MINING THAT WE'LL BRING DOWN HERE.   WE'LL CUT  
25   PRODUCTION UP THERE DOWN A LITTLE BIT AND START

1 PRODUCTION DOWN HERE. SO SOME OF THEM WILL COME DOWN  
2 HERE. PROBABLY 20, 25 NEW JOBS AT THIS PROJECT WHEN  
3 WE GET IT FULL OPERATIONAL WITH THE PREP PLANTS AND  
4 EVERYTHING. THAT'S JUST AN ESTIMATE. SHOULD BE MORE.

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

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

12 CHAIRMAN: THANK YOU.

13 NEXT PERSON, EMPLOYEES.

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

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



1 WE COVERED THE BUFFER ZONE.

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

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

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

18 TONY MADE A STATEMENT THE OTHER NIGHT ABOUT  
19 SPRINGS, UNDERGROUND SPRINGS. YOU HAVE THESE SEEPING  
20 OUT AROUND THE SANDSTONE AND STUFF LIKE THAT. WHAT HE  
21 WAS TALKING ABOUT, WHEN YOU GAIN TWO OF THEM, WHEN  
22 THIS STUFF FILLS UP WITH WATER AND YOUR GROUND WATER  
23 TABLE IN THIS SPOIL COMES UP, A LOT OF TIMES YOU'LL  
24 GAIN THOSE. THAT'S A PLUS FOR OUR STREAMS THAT WE  
25 RESTORE FOR THE CORP OF ENGINEERS. IT'S A WATER PIT

1 FOR THEM. THAT'S ONE OF OUR BIGGEST PROBLEMS WITH THE  
2 STREAMS WE'RE TRYING TO RESTORE. JUST KEEPING THE  
3 WATER IN THEM AND KEEPING THEM FROM DRYING OUT WITH  
4 THE SPOIL. SO THAT'S A DEFINITE PLUS FOR STREAMS TO  
5 COME BACK INTO THESE AREAS.

6 AIR QUALITY. THERE IS NO AIR QUALITY  
7 MONITORING AT OUR SITE. THE ONLY THING THAT APPLIES  
8 TO 20 PERCENT OPACITY IS THAT COAL CRUSHER. TWENTY  
9 PERCENT OPACITY IS BASICALLY INVISIBLE COAL DUST.  
10 WE'RE NOT ALLOWED TO HAVE ANYTHING ABOVE THAT THAT'S  
11 VISIBLE.

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

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

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

22 MR. WRIGHT: FOR NOISE AND AIR?

23 CHAIRMAN: FOR ANY VIOLATIONS.

24 MR. SCOTT: NO. I JUST ASKED ABOUT FOR NOISE  
25 VIOLATIONS.

1           MR. WRIGHT: NO, I'M NOT AWARE OF ANY IN OUR  
2 AREA AND WE NEVER HAVE BEEN, NO.

3           CHAIRMAN: THANK YOU.

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

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

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

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

18          MR. SCOTT: DIRECTED TO THE ZONING & PLANNING  
19 COMMISSION. IF THERE'S NO REQUIREMENTS, REGULATIONS  
20 ABOUT NOISE, THEN EVERY TIME THROUGHOUT MY 19 YEARS  
21 THAT I'VE BEEN SITTING THROUGH THAT LOUD MUSIC  
22 COMPLAINT OR SOME OTHER KIND OF NOISE COMPLAINT AFTER  
23 10:00 AT NIGHT, THOSE PEOPLE SHOULD HAVE BEEN ALLOWED  
24 TO BE AS LOUD AS THEY WANTED TO ALL NIGHT?

25          CHAIRMAN: YOU'LL HAVE TO TAKE THAT UP WITH

1       SOMEBODY ELSE.   THAT'S NOT US.

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

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

7               MR. SCOTT:   THANK YOU, GENTLEMEN.

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

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

12              MS. WILLIAMS, SHE'S ON REDHILL-MAXWELL ROAD.  
13       SHE'S OVER A MILE AWAY.

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

18              CHAIRMAN:   THANK YOU.

19              NEXT.

20              MR. NOFFSINGER:   JOANNE SCOTT.

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

23              MS. SCOTT:   JOANNE SCOTT.

24              (JOANNE SCOTT SWORN BY ATTORNEY.)

25              MS. SCOTT:   ONE THING I WOULD LIKE TO MENTION,

1 I DON'T KNOW IF YOU ALL ARE AWARE, BUT WE HAVE BALD  
2 EAGLES IN OUR AREA. MY HUSBAND, DAUGHTER AND SON  
3 SPOTTED SOME A COUPLE OF YEARS AGO NEAR THE CORNER OF  
4 231 AND REDHILL. ABOUT MAYBE 3 TO 500 FEET OFF THAT  
5 CORNER ON REDHILL. JUST TO ADD THAT TO THE BEAUTY AND  
6 SERENITY OF THE AREA THAT WE'RE DESTROYING. I THINK  
7 WE SHOULD THINK ABOUT THAT TOO.

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

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

18 JUST THE OTHER DAY I WENT OUTSIDE AND TOOK MY  
19 VACUUM FILTER, WHICH IS PLASTIC, AND I WANTED TO CLEAN  
20 IT. I BANGED IT ON MY PLASTIC TRASH CAN. WHERE IT  
21 WAS, IT WASN'T THAT LOUD, BUT IT BEGAN TO REVERBERATE  
22 AROUND THE VALLEY. IT BECAME LOUDER, MUCH LOUDER. IT  
23 SOUNDED LIKE GUNSHOT. I DON'T WANT FOR 20 YEARS TO BE  
24 SUBJECTED TO THAT ALL NIGHT LONG. MY HUSBAND HAS  
25 SLEEP APNEA, INSOMNIA, SLEEP DISORDER, ASTHMA. I

1       DON'T THINK IT'S FAIR THAT WE HAVE TO BE DISTURBED  
2       THROUGH THE NIGHT.

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

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

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

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

18              MRS. SCOTT: YES.

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

20              MR. LANHAM: YOU TALKING ON BLASTING DAMAGE?

21              MRS. SCOTT: YES.

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

25              CHAIRMAN: ABOUT HOW MUCH WOULD WE BE TALKING

1 BEING, MR. LANHAM?

2 MR. VINCENT: ABOUT APPROXIMATELY \$5 MILLION

3 DOLLAR.

4 MR. LANHAM: WE HAVE THAT TOGETHER.

5 MRS. SCOTT: WELL, I MAY BE NAIVE AND NOT

6 UNDERSTAND INSURANCE. I'M NOT SURE THAT I DO. I

7 THINK THAT IF HE WERE TO GO OUT OF BUSINESS OR STOP

8 MINING, STOP CARRYING INSURANCE, THAT IT WOULD NOT

9 COVER OUR CLAIMS.

10 CHAIRMAN: I DON'T THINK HE WOULD BE ABLE TO

11 OPERATE HIS BUSINESS IN THAT AREA IF HE DIDN'T HAVE

12 INSURANCE.

13 MRS. SCOTT: IF HE WENT OUT OF BUSINESS AND

14 THEN LATER ON WE SUBSTANTIATED THAT WE HAVE DAMAGE.

15 WE'VE DETERMINED THAT --

16 MR. HAYNES: IT'S CLAIMS INCURRED INSURANCE IT

17 COVERS. EVEN THOUGH THE MINING PROJECT MAY BE DONE,

18 IT INSURES THE CLAIM. IT'S NOT TIME SPECIFIC.

19 CHAIRMAN: JUST AN EXAMPLE TO MAKE IT SIMPLE.

20 MR. LANHAM OPERATES FOR ONE MONTH. GOES OUT

21 OF BUSINESS THE 30TH. YOU HAVE A CLAIM THAT

22 TRANSPIRED ON THE 20TH.

23 MR. HAYNES: IT'S CLAIMS INCURRED. IT WILL

24 COVER THAT, YES.

25 CHAIRMAN: THANK YOU.

1           MRS. SCOTT:  ALSO, I WONDER WHY IF HE'S BEEN  
2           IN BUSINESS MINING ALL THIS TIME, I DON'T KNOW WHY HE  
3           SOLD HIS PRIOR COMPANY IN THE PAST.  APPROXIMATELY  
4           MAYBE SEVEN YEARS AGO.  I WOULD LIKE HIM TO ADDRESS  
5           THAT.

6           CHAIRMAN:  MA'AM, I DON'T THINK WE REALLY HAVE  
7           THE RIGHT TO ASK THAT QUESTION.

8           MRS. SCOTT:  OKAY.

9           CHAIRMAN:  NEXT.

10          MR. NOFFSINGER:  SARA KELTY.

11          MS. KELTY:  I'VE ALREADY SPOKEN.

12          CHAIRMAN:  THANK YOU.

13          MR. NOFFSINGER:  RACHEL MAUER.

14          MS. MAUER:  I ALSO HAVE ALREADY SPOKEN.

15          MR. NOFFSINGER:  TONY ISBILL.

16          MR. WILSON:  HE'LL COME LATER.

17          MR. NOFFSINGER:  JOSEPH ELLIOTT.

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

20          MR. ELLIOTT:  JOE ELLIOTT.

21          MR. ELLIOTT:  I'VE HEARD A LOT OF TESTIMONY  
22          TONIGHT ON BOTH SIDES.  I FEEL FOR WHAT BOTH IS, BUT  
23          UP ON THE EAST SIDE OF OWENSBORO THEY'RE PUTTING A  
24          ROAD AROUND THE TOWN.  THEY SAY 50,000 CARS A DAY GOES  
25          THERE.  ITS' REALLY DISCOMFORT A LOT OF OUR AREA.  THE



1 FARMERS HAVE TO SPLIT THE FIELDS AND ALL OF THAT.  
2 EVERYBODY COME HERE TONIGHT COME DOWN A ROAD. THEY  
3 SAID THERE'S SOME LADIES HERE FROM LOUISVILLE. THANK  
4 GOD THAT SOMEBODY GIVE UP THE RIGHT-OF-WAY FOR THEM TO  
5 GET DOWN HERE.

6 I'VE BEEN ON THE WATER DISTRICT HERE IN THE  
7 SOUTHEAST WATER FOR SEVERAL YEARS. WE RUN A LOT OF  
8 WATER LINES THROUGH THE COMMUNITY. WE HAD A LOT OF  
9 PROBLEMS WITH RIGHT-OF-WAYS AND EVERYBODY HOPES THAT  
10 GET UP OUT OF BED IN THE MORNING MOSTLY WITHIN FIVE  
11 MINUTES THEY'RE USING WATER. SO IT'S INCONVENIENCE.

12 IN 1964 THERE WASN'T ANY WATER DISTRICT IN  
13 DAVIESS COUNTY. NOW THERE'S SEVERAL THOUSAND  
14 CUSTOMERS IN THE COUNTY. OMU HAS COME OUT AND PUT  
15 WATER SUPPLY TO THE COUNTY.

16 THE SUBSTANCE TAX, THE COAL SUBSTANCE TAX, I  
17 THINK THE BLUEGRASS MUSEUM IS BEGGING FOR IT AND  
18 PROBABLY GOT A GOOD CHANCE OF GETTING SOME OF THAT  
19 MONEY.

20 THE WATER DISTRICT IN THE AREA HAS USED THAT  
21 MONEY. THE RWRA, HAS THE SEWERS IN OWENSBORO, HAS  
22 USED THAT MONEY.

23 I KNOW IT'S INCONVENIENCE. WE HAVE TO GET UP  
24 AND DOWN THE ROAD WITH FARM EQUIPMENT. IT'S  
25 INCONVENIENCE, BUT WE ARE FEEDING PEOPLE OR TRYING TO

1       FEED PEOPLE. IT AIN'T ALL PROFIT. I REALLY WOULD  
2       LIKE TO SAY THAT MR. LANHAM HAS DONE A GREAT JOB IN  
3       OUR COMMUNITY. HIS DADDY DONE A GREAT JOB IN THE  
4       COMMUNITY. THEY SHARE THEIR MONEY THAT HELP OUR  
5       COMMUNITY OUT UP THERE AN KNOTTSVILLE. I REALLY THINK  
6       THAT YOU ALL ARE ABLE TO MAKE A GOOD DECISION. I KNOW  
7       THAT IT'S AN INCONVENIENCE FOR THE PEOPLE THAT LIVE IN  
8       THE COMMUNITY TO GIVE UP SOME THINGS, BUT LIKE I SAY,  
9       SOMEBODY ALL OVER THE STATE HAS GIVEN UP SOME OF THEIR  
10      COMMUNITY STUFF FOR ROADS AND DIFFERENT LIGHT LINES,  
11      POWER LINES.

12                I 'VE GOT A MARATHON OIL LINE THAT RUNS ACROSS  
13      MY FARM THAT INCONVENIENCE ME EVERY TIME ON MY  
14      PROPERTY, BUT THE OIL AND FUEL GOES TO ASHLAND,  
15      KENTUCKY, AND EVERYBODY PUMPS GAS OUT OF THE GAS  
16      PUMPS. THEY DELIVER IT, GET TO GO TO WORK AND GO TO  
17      SCHOOL AND THE SCHOOL BUSES RUNS. I'D REALLY LIKE TO  
18      SAY THANK YOU, AND YOU ALL HAVE TO MAKE THE DECISION.

19               CHAIRMAN: THANK YOU, SIR.

20               MR. NOFFSINGER: SETH BURNS.

21               MR. SILVERT: STATE YOUR NAME, PLEASE.

22               MR. BURNS: SETH BURNS.

23               (SETH BURNS SWORN BY ATTORNEY.)

24               MR. BURNS: I JUST PRETTY MUCH HAD MY NAME ON  
25      THERE. I'M A REPRESENTATIVE OF MEMSCO. WAS JUST HERE

1 TO ANSWER ANY OTHER ADDITIONAL QUESTIONS REGARDING  
2 BLASTING.

3 I JUST WANTED TO SAY, THERE WAS A GENTLEMAN  
4 EARLIER THAT ALLUDED TO KIND OF OUR VIOLATION RECORD  
5 AND 60 SOME VIOLATIONS. I JUST WANTED TO EXPRESS ON  
6 BEHALF OF OUR COMPANY, YOU KNOW, WE SHOOT I THINK --  
7 WE'RE AN EXPLOSIVE COMPANY. WE DO BLASTING AND WE  
8 SELL EXPLOSIVES. I THINK ALMOST ALL, IF NOT ALL OF  
9 THE SURFACE COAL MINES IN KENTUCKY WHERE BLASTING IS  
10 DONE WE PROVIDE THAT SERVICE. WE SHOOT A LOT OF ROCK  
11 QUARRIES IN SOUTHERN ILLINOIS AND SOUTHERN INDIANA. A  
12 LOT OF DIFFERENT PLACES. WE'RE DOWN IN TENNESSEE.  
13 WE'RE A LARGE COMPANY. THOSE VIOLATIONS WEREN'T AT  
14 ONE SPECIFIC MINE. THEY WEREN'T ALL AT WESTERN  
15 KENTUCKY MINERALS. THOSE VIOLATIONS, THAT WAS FROM  
16 MAYBE ONE AGENCY. TIM ALLUDED TO EARLIER, YOU KNOW,  
17 THERE'S SIX DIFFERENT AGENCIES THAT REGULATE US. I  
18 GOT INTO THIS ABOUT 15 YEARS AGO. I'M JUST A YOUNG  
19 GUY. FIFTEEN YEARS AGO IT WAS A WHOLE DIFFERENT WORLD  
20 IN MINING AND BLASTING. IN THOSE 15 YEARS, I CAN'T  
21 TELL YOU HOW MANY MORE REGULATIONS HAVE COME ABOUT AND  
22 HOW MUCH MORE THE ENFORCEMENT HAS INCREASED. ALL THE  
23 REGULATIONS THAT WE HAVE TO MEET ON GROUND VIBRATION  
24 AND AIR BLAST, THOSE THINGS, THOSE LIMITATIONS ARE  
25 THERE WITH LEVELS OF SAFETY BUILT INTO THEM TO PROTECT

1       STRUCTURES, TO PROTECT THE ENVIRONMENT, AND THINGS  
2       LIKE THAT.

3               THEY CAME FROM STUDIES THAT WERE DONE FROM  
4       U.S. BUREAU OF MINES WHICH NO LONGER EXIST. THEY  
5       ACTUALLY PURCHASED HOMES, SET UP INSTRUMENTS INSIDE  
6       HOMES AND WALLS AND CAMERAS AND EVALUATED ALL THESE  
7       STRUCTURES AND ACTUALLY MINED AND BLASTED RIGHT UP TO  
8       THEM AND THROUGH THEM. EVEN GAS LINES. THAT'S WHERE  
9       TIS CRITERIA CAME FROM WAS ACTUAL BLASTING AND ACTUAL  
10       STRUCTURES. THOSE CRITERIA WERE DEVELOPED AND LAID  
11       OUT. THEN THEY SAID, OKAY, IT MAY BE SIX INCHES PER  
12       SECOND THAT YOU'RE ALLOWED, YOU KNOW, BEFORE IT BREAKS  
13       SOMETHING. WE'RE REGULATED TO ONE INCH PER SECOND.

14              LIKE EVERYTHING, THERE'S FLOOD ZONES AND IT'S  
15       FOR 100 YEAR AND 500 YEAR OR WHATEVER. THERE'S  
16       FACTORS OF SAFETY PUT INTO EVERYTHING AND THERE'S  
17       FACTORS OF SAFETY PUT IN ON OUR REGULATIONS AS WELL.

18              IF WE HAVE A VIOLATION, THEN THERE'S A PENALTY  
19       FOR THAT VIOLATION. AS MARTY ALLUDED TO EARLIER, IF  
20       THERE'S SOMETHING WITH EQUIPMENT OR SAFETY, THAT HAS  
21       TO BE CORRECTED RIGHT THEN AND THERE BEFORE YOU CAN GO  
22       ON. WE'RE HERE TOO.

23              I LOVE SEEING YOU GUYS REPRESENTING YOUR SIDE  
24       AND THE GIRL SCOUTS HERE. I WAS A BOY SCOUT. I WAS  
25       EAGLE SCOUT. I'VE GOT A SEVEN YEAR OLD SON NOW AND

1 I'M HIS DEN LEADER. WE PRACTICE LEAVE NO TRACE. WE  
2 ALSO, YOU KNOW, WE TEACH THOSE LITTLE KIDS, DO YOUR  
3 BEST.

4 THIS IS MY JOB. THIS IS MY LIVELIHOOD. I  
5 WENT TO SCHOOL TO BE A MINING ENGINEER. THIS IS WHAT  
6 I DO. I DON'T GO OUT AND SHAKE PEOPLE'S HOUSES AND  
7 DISTURB PEOPLE. I GO OUT THERE TO TRY AND MAKE OUR  
8 JOB BETTER. TO DO A BETTER JOB. THERE'S SYSTEMS THAT  
9 WE DO.

10 I'M GOING TONIGHT TO CAVE CITY, KENTUCKY TO DO  
11 AN EIGHT HOUR TRAINING WITH OUR BLASTERS TOMORROW. WE  
12 HAVE SYSTEM THAT WE USE NOW THAT COST MORE MONEY,  
13 DETONATORS, THAT ARE ELECTRONIC DETONATORS. THEY'RE  
14 PROGRAMABLE. THEY'RE VERY, VERY ACCURATE. WHAT THEY  
15 DO IS THEY CONTROL THINGS BETTER. JUST AS EVERYTHING  
16 ELSE, YOUR PHONE GETS MORE ADVANCED, YOU KNOW, MONTH  
17 BY MONTH, YEAR BY YEAR. OUR PRODUCTS ARE A LITTLE  
18 SLOWER. IT'S A SMALLER MARKET, BUT WE HAVE EQUIPMENT  
19 NOW THAT WE CAN TAP INTO LIKE A TOOL BOX THAT JUST  
20 GIVES US BETTER CONTROL AND ALLOWS US TO DO THINGS IN  
21 A BETTER WAY.

22 WE'RE TRYING TO DO THAT ALL THE TIME. WE'RE  
23 TRYING TO DO OUR BEST OUT THERE. LIKE I SAY, WHEN WE  
24 BLAST, YOU'RE GOING TO FEEL IT. THERE'S A LOT OF  
25 DIFFERENT LEVELS IN PLACE TO PROTECT YOU ALL TO

1 PROTECT YOUR HOUSES. I FEEL FOR WHAT YOU'RE SAYING  
2 ABOUT YOUR STRUCTURES AND YOUR VALUES AND YOUR CONCERN  
3 THERE. I WOULD BE TOO.

4 I JUST WANT YOU TO KNOW FROM OUR SIDE WE DO DO  
5 OUR BEST. WE'RE LIKE YOU. WE GO TO OUR JOBS EVERY  
6 DAY. THERE'S A LOT OF LEVELS OF REGULATION IN PLACE  
7 THAT PROTECT YOU ALL, THE ENVIRONMENT, AND EVERYTHING  
8 ELSE. THAT'S ALL I HAVE.

9 MR. NOFFSINGER: SHIRLEY TAYLOR. I LIVE AT  
10 3300 RUSSELL ROAD.

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

13 MS. TAYLOR: SHIRLEY TAYLOR.

14 (SHIRLEY TAYLOR SWORN BY ATTORNEY.)

15 MS. TAYLOR: I'M HERE TONIGHT TO ASK WHAT IS  
16 THE DIFFERENCE BETWEEN THE LAND IN SOUTH DAVIESS  
17 COUNTY AND LAND IN EASTERN DAVIESS COUNTY. THE ZONING  
18 BOARD HAS APPROVED HUNDREDS OF ACRES IN EASTERN  
19 DAVIESS COUNTY WHERE MINING IS GOING ON.

20 NOW, THE LAST REZONING THE BOARD APPROVED HAD  
21 160 HOUSES WITHIN HALF A MILE RADIUS. THIS REZONING  
22 WE ARE ASKING THE BOARD TO APPROVE HAS ONLY 60 HOUSES  
23 IN HALF A MILE RADIUS. THIS MINE COMPANY IS GOING TO  
24 BE OPERATING THE SAME WAY THEY ARE OPERATING IN  
25 KNOTTSVILLE. THIS COMPANY IS GOING TO HAVE THE MINE

1 OPERATING JUST ACROSS THE OHIO COUNTY LINE BEGINNING  
2 OCTOBER OF THIS YEAR. THAT'S ALL I HAVE TO SAY.

3 CHAIRMAN: THANK YOU.

4 MR. NOFFSINGER: CHESTER SANDS.

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

7 MR. SANDS: I'M CHESTER SANDS. I'M RETIRED  
8 FROM ASHLAND OIL PIPELINE.

9 (CHESTER SANDS SWORN BY ATTORNEY.)

10 MR. SANDS: I'M RETIRED FROM ASHLAND OIL  
11 PIPELINE. I'VE GOT ONE QUESTION I WANT TO ASK.

12 UP AND DOWN GIRL SCOUT ROAD, UP AND DOWN 140,  
13 231 AND RUSSELL ROAD, THEY ALL GOT PLASTIC WATER  
14 LINES. WHAT IS THIS SHOOTING GOING TO DO TO THAT  
15 PLASTIC LINE? THEY WON'T TAKE IT.

16 CHAIRMAN: THANK YOU.

17 MR. VINCENT: MARTY VINCENT.

18 THERE ARE STATE REGULATIONS ON GROUND  
19 VIBRATION AT ALL STRUCTURES, UTILITIES, WATER LINES,  
20 GAS LINES, POWER LINES. THESE REGULATIONS AND LIMITS  
21 ARE BASED ON MANY STUDIES OF WHAT KIND OF DAMAGE THAT  
22 VIBRATION WILL DO TO THESE TYPE OF UTILITIES. THE  
23 BLASTING IS REGULATED BY THESE LEVELS AND SEISMOGRAPHS  
24 ARE SET ON THESE LINES OR NEAR THESE LINES. BLASTING  
25 LEVELS, VIBRATION LEVELS ARE KEPT BELOW THOSE

1 THRESHOLD FOR DAMAGE.

2 CHAIRMAN: THANK YOU.

3 MR. NOFFSINGER: GREG KAE LIN.

4 MR. SILVERT: STATE YOUR NAME, PLEASE.

5 MR. KAE LIN: GREG KAE LIN.

6 (GREG KAE LIN SWORN BY ATTORNEY.)

7 MR. KAE LIN: I JUST HAD A COUPLE OF QUESTIONS.

8 NOT GOING TO GO OVER THINGS THAT WERE ALREADY COVERED.

9 THERE WAS A QUESTION EARLIER ARE NUMBERS  
10 BROUGHT UP ABOUT 1,000 FEET. I DON'T KNOW WHERE THAT  
11 NUMBER CAME FROM. THERE'S ALSO A NUMBER BROUGHT UP  
12 ABOUT 2,000 FEET WITH THE GIRL SCOUT CAMP, BUT THAT'S  
13 ONLY AGREEMENT, LOOSE AGREEMENT WITH THE GIRL SCOUT  
14 CAMP. I THINK THE NUMBERS ARE MORE ALONG THE LINES OF  
15 100 FEET, ISN'T IT, THAT YOU HAVE TO STAY BACK? NOT  
16 1,000 FEET.

17 CHAIRMAN: WE'LL GET ANSWERED.

18 MR. WRIGHT: THE KENTUCKY STATE LAW SAYS THAT  
19 WE HAVE TO STAY BACK 300 FOOT ON ANY OCCUPIED DWELLING  
20 OR STRUCTURE THAT'S OCCUPIED BY BUSINESSES AND SO  
21 FORTH.

22 THE 1,000 COMES FROM, AGAIN, MS. HITCHCOCK'S  
23 OIL FIELD. WE WILL NOT BE ABLE TO GET WITHIN 1,000  
24 FOOT OF GIRL SCOUT CAMP BECAUSE SHE DOES NOT WANT IT  
25 DISTURBED. TWO THOUSAND FOOT WAS THE ORIGINAL



1       AGREEMENT THAT WE WAS TRYING TO COME TO WITH THE GIRL  
2       SCOUT CAMP, AND IT WAS OFF THEIR MAIN STRUCTURE BACK  
3       THERE.

4               MR. KAE LIN:   THEN AND HOW MUCH ON THE ROADWAY?

5               MR. WRIGHT:   WE CAN DISTURB UP TO THE  
6       RIGHT-OF-WAY OF THE ROADWAY.

7               MR. NOFFSINGER:  EXCUSE ME.  ACCORDING TO THE  
8       LOCAL ORDINANCE, 100 FOOT BUFFER FROM THE ROAD  
9       RIGHT-OF-WAY UNLESS A VARIANCE IS APPROVED BY THE  
10      OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT.

11              MR. WRIGHT:   RIGHT.  WE CAN GET PERMISSION TO  
12      DISTURB TO THE RIGHT-OF-WAY THEN.

13              CHAIRMAN:   THROUGH THE BOARD OF ADJUSTMENT.  
14      NOT HERE.

15              THANK YOU.  NEXT.

16              MR. NOFFSINGER:  MIKE SALMON.

17              MR. SILVERT:   STATE YOUR NAME, PLEASE.

18              MR. SALMON:   MIKE SALMON.

19              (MIKE SALMON SWORN BY ATTORNEY.)

20              MR. SALMON:   I'M MIKE SALMON.  RESIDENT OF  
21      DAVIESS COUNTY FOR 60 SOME YEARS.  I'VE BEEN IN AND  
22      AROUND THE MINING INDUSTRY FOR ABOUT 35 YEARS.  I HAVE  
23      SEEN THE GOOD, THE BAD, AND THE UGLY.

24              I WOULD LIKE TO LET YOU ALL KNOW THAT TONY  
25      LANHAM IS OF THE GOOD.  I'VE KNOWN HIM SINCE THE DAY

1 HE STARTED MINING. HE'S BEEN A CUSTOMER AND A FRIEND.  
2 HE'S A MAN OF HIS WORD. HE'S A MAN OF INTEGRITY.  
3 HE'S A MAN OF THE LAND. HE GREW UP IN KNOTTSVILLE.  
4 HE FARMED. THEY LIVE OF THE LAND. HE RESPECTS THE  
5 LAND. HE WILL TAKE CARE OF THE PROPERTY THAT HE  
6 MINES. HE HAS WON AWARDS FOR RECLAMATION AND HE'S A  
7 DARN GOOD MINER. THAT'S ALL I HAVE.

8 MR. NOFFSINGER: BEN TAYLOR.

9 MR. PEARCE: BEN TAYLOR HAD TO LEAVE. HAD AN  
10 EMERGENCY. HE'S A REPRESENTATIVE OF THE SIERRA CLUB.  
11 HE ASKED ME IF I COULD SPEAK FOR HIM. IS THAT OKAY?  
12 I'M ON THE LIST TOO. YOU CAN TAKE ME OFF THE LIST.

13 MR. NOFFSINGER: WHAT'S YOUR NAME, PLEASE?

14 MR. PEARCE: THOMAS PEARCE. IS THAT ALL  
15 RIGHT?

16 CHAIRMAN: SURE. GO AHEAD.

17 (THOMAS PEARCE SWORN BY ATTORNEY.)

18 MR. PEARCE: MY NAME IS THOMAS PEARCE. I'M A  
19 REPRESENTATIVE OF THE SIERRA CLUB. BEN IS A  
20 REPRESENTATIVE OF THE PENNYRILE. HE'S THE CHAIR OF  
21 THE PENNYRILE GROUP OF THE SIERRA CLUB.

22 I GUESS THE FIRST THING I WANT TO SAY IS WE  
23 HEAR EVERYTHING ACCORDING TO REGULATIONS. THE STATE  
24 HAS REGULATIONS. THE FEDERAL GOVERNMENT HAS  
25 REGULATIONS.

1           I DON'T KNOW IF YOU ALL ARE AWARE OF THE FACT  
2       THAT, YOU KNOW, FOR INSTANCE, LAST YEAR KENTUCKY IS  
3       FOR THE COMMONWEALTH. KENTUCKY WATERWAY, SIERRA CLUB  
4       TOO. MANY OF THE MINING COMPANIES IN THE STATE OF  
5       KENTUCKY AND WE'RE GOING TO TAKE THE DIVISION OF WATER  
6       TO COURT BECAUSE ACROSS THE STATE MANY MINE COMPANIES  
7       WERE JUST FILLING OUT THEIR FORMS IN A, JUST COPYING  
8       FORMS OF TESTING SITES THAT THEY HAD DONE TWO, THREE,  
9       FOUR YEARS AHEAD OF TIME. JUST KEPT SUBMITTING THE  
10      SAME TEST OVER AND OVER AGAIN. WE STUMBLED ACROSS  
11      THAT AND WE WERE GOING TO FILE SUIT. KENTUCKY  
12      ENVIRONMENTAL DIVISION GOT IN AND STOPPED AND SAID,  
13      NEGOTIATED A SETTLEMENT TO KEEP THAT FROM GOING TO  
14      COURT.

15           I GUESS THE POINT I'M TRYING TO MAKE IS, I  
16      HOPE YOU WOULD LOOK THAT UP AFTER THE HEARING. THAT  
17      OFTEN TIMES -- THEIR AGENCIES. THEY'RE SUPPOSED TO  
18      REGULATE THINGS, BUT THE FACT OF THE MATTER IS THAT  
19      OVER AND OVER AGAIN THEY DON'T GET REGULATED.

20           AS MR. LANHAM SAID THE OTHER DAY AT THE  
21      HEARING WE HAD RECENTLY, FOR INSTANCE, FOLKS SAID,  
22      TELL US ABOUT ARSENIC AND TELL US ABOUT SELENIUM. HE  
23      SAID, WELL, HAD AN ARSENIC PROBLEM, AND WE'RE GOING TO  
24      DEAL WITH THAT. WE HAD A SELENIUM PROBLEM AND WE'RE  
25      GOING TO DEAL WITH THAT.

1           WHY DO YOU HAVE AN ARSENIC AND SELENIUM  
2       PROBLEM? WELL, THEY JUST STARTED BEING ASKED TO TEST  
3       FOR THESE THINGS JUST RECENTLY. ARCH MINERALS IN WEST  
4       VIRGINIA HAS JUST AGREED TO \$50 MILLION CLEANUP FEE  
5       FOR SELENIUM IN THEIR MINE PROPERTIES OUT THERE.

6           WITH A COUNTY AS BEAUTIFUL AS DAVIESS COUNTY,  
7       DO THE RESIDENTS OF THIS COUNTY WANT TO HAVE A FUTURE  
8       IN SELENIUM RUNOFF? DO YOU WANT TO HAVE A FUTURE  
9       OF --

10           CHAIRMAN: LET'S SEE IF WE CAN GET THAT  
11       QUESTION ANSWERED BY AN EXPERT.

12           MR. PEARCE: CAN WE GO BACK AND FORTH ON THIS?

13           CHAIRMAN: NO. NO. WE'RE NOT GOING TO HAVE  
14       IT BACK AND FORTH. WE'VE GOT OTHERS. LET ME GET THAT  
15       ANSWERED. LET'S DO THAT.

16           MR. PEARCE: ALL RIGHT.

17           CHAIRMAN: SELENIUM.

18           MR. WRIGHT: WHAT I MEANT WHEN I TOLD HIM THE  
19       OTHER NIGHT THAT IT WAS JUST BECOMING A PROBLEM FOR  
20       HERE, BECOMING A PROBLEM FOR THE POWER PLANT. THEY'RE  
21       STARTING TO LOOK AT THEIR DISCHARGE OF AIR QUALITY AND  
22       THEIR WATER DISCHARGE FOR SELENIUM. SO WE'RE STARTING  
23       TO TEST OUR COAL FOR SELENIUM TO MAKE SURE THAT WE CAN  
24       KEEP THEM UNDER THE REGULATIONS.

25           CHAIRMAN: IS THERE A SET REGULATION ON

1 SELENIUM NOW?

2 MR. WRIGHT: THE POWER PLANTS WOULD HAVE ONE  
3 WHEN THEY HAVE THEIR KPS PERMITS RENEWED, BUT WE DO  
4 NOT HAVE A SELENIUM TEST THAT WE HAVE TO DO ON OURS.  
5 WE DO IT ON THE COAL FOR THE POWER PLANT. AGAIN,  
6 THESE ARE SELENIUM TESTS ON THESE ANALYSIS HERE IS  
7 LOW, WAY LOW. WE WILL NOT HAVE A PROBLEM WITH  
8 SELENIUM.

9 CHAIRMAN: THANK YOU.

10 MR. PEARCE: WELL, THAT'S WHAT HE SAYS. I  
11 DISAGREE.

12 CHAIRMAN: DO YOU HAVE ANY FACTS? WE'LL LATER  
13 ENTERTAIN FACTS TO THAT MATTER IF YOU'VE GOT SOMETHING  
14 TO SHARE WITH US.

15 MR. PEARCE: WOULD YOU DISAGREE MINING  
16 COMPANIES ARE CURRENTLY HAVING SELENIUM CLEANUP?

17 CHAIRMAN: SIR, EXCUSE ME.

18 MR. PEARCE: ARCH MINERALS \$50 MILLION  
19 CLEANUP. SELENIUM AND ARSENIC COME FROM COAL MINING.  
20 THERE'S RUNOFF. IT'S THERE. ASK THEM IF THERE'S  
21 GOING TO BE ARSENIC IN THE CONTAINMENT POND?

22 CHAIRMAN: I THINK HE'S ALREADY ANSWERED THAT  
23 QUESTION.

24 MR. PEARCE: RIGHT. THERE IS. THERE'S GOING  
25 TO BE ARSENIC.

1           THE QUESTION BECOMES: DO YOU WANT DAVIESS  
2 COUNTY'S FUTURE TO BE TIED TO AN INDUSTRY INTO THE  
3 HEALTH OF THE RESIDENTS OF THIS COUNTY TIED TO AN  
4 INDUSTRY, WHERE THE WALL STREET JOURNAL TWO WEEKS AGO  
5 SAID IT'S ON ITS WAY OUT. THE FACT OF THE MATTER IS,  
6 DAVIESS COUNTY COULD HAVE AN ECONOMIC FUTURE IF PEOPLE  
7 WOULD WANT TO COME AND VISIT AND SEE THE BEAUTIFUL  
8 GIRL SCOUT CAMP AND THE BEAUTIFUL PLACES HERE OR THEY  
9 CAN BE ASKED TO COME AND TAKE A TOUR OF THE STRIP  
10 MINE.

11           I DON'T KNOW ABOUT YOU, BUT DO YOU THINK  
12 PEOPLE ARE GOING TO COME AND VISIT A STRIP MINE? I  
13 DON'T THINK SO. I DON'T THINK THAT PEOPLE ARE GOING  
14 TO BE AS LIKELY TO SEND THEIR GIRLS TO GIRL SCOUT CAMP  
15 THAT'S NEXT TO A STRIP MINE. THAT'S JUST MY OPINION.

16           THE BOTTOM LINE IS THAT ONE CONTAMINATION NEXT  
17 TO A MINING SITE IS LEGENDARY. IF YOU DON'T KNOW IT,  
18 LOOK IT UP. IT'S \$50 MILLION CLEANUP. ARCH MINERALS.

19           CHAIRMAN: SIR, I UNDERSTAND WHERE YOU'RE  
20 GOING WITH THIS. WE HAVE TO JUDGE THIS COMPANY FOR  
21 THIS INCIDENT AND THINGS THAT THEY'RE DOING.

22           MR. PEARCE: THAT'S TRUE.

23           CHAIRMAN: WE HAVE TO BE FAIR BOTH WAYS.

24           MR. PEARCE: WHAT THE OTHER GENTLEMAN SAID  
25 EARLIER THAT THERE'S A COMPANY THAT HAS 50 VIOLATIONS

1       IN HOW MANY YEARS?

2               WHEN YOU'RE TALKING ABOUT A STRIP MINE NEXT TO  
3       A COMMUNITY, ONE VIOLATION CAN MEAN A MAJOR DAMAGE TO  
4       SOMEBODY'S HEALTH AND PROPERTY. I'VE SEEN IN EASTERN  
5       KENTUCKY, WE'VE SEEN WHERE BLASTS HAS KNOCKED THE ROCK  
6       THAT HAS LANDED SQUARE IN SOMEBODY'S CARPORT. WE'VE  
7       SEE FOUNDATION BREAKAGE NEXT TO ALMOST EVERY STRIP  
8       MINE WHERE BLASTING IS CLOSE TO HOMES. THERE'S  
9       FOUNDATION CRACKING.

10              NOW, YES, THEY'LL HAVE INSURANCE AND THEY'LL  
11       GO OUT AND THEY'LL MAKE THAT RIGHT, BUT A LOT OF FOLKS  
12       PROBABLY WOULD LIKE THE RIGHT TO NOT EVER HAVE THEIR  
13       HOMES DISTURBED IN THAT MANNER. I DON'T KNOW.

14              IT DEPENDS ON DO YOU WANT THE FUTURE OF THE  
15       ECONOMY TIED TO AN INDUSTRY THAT THE WALL STREET  
16       JOURNAL, WHICH IS A PRETTY CONSERVATIVE OUTFIT, HAS  
17       SAID COAL IS ON ITS WAY OUT. IT'S ON ITS WAY OUT.  
18       YOU ALL HAVE A NICE EVENING.

19              CHAIRMAN: THANK YOU.

20              NEXT.

21              MR. NOFFSINGER: CLAY STRINGER.

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

24              MR. STRINGER: CLAY STRINGER.

25              (CLAY STRINGER SWORN BY ATTORNEY.)

1           MR. STRINGER: I WAS GOING TO SPEAK ON BEHALF  
2           OF KIMBERLY, IF SHE IS STILL HERE.

3           MR. NOFFSINGER: KIMBERLY COBB?

4           MS. COBB: KIMBERLY COBB.

5           (KIMBERLY COBB SWORN BY ATTORNEY.)

6           MS. COBB: MY HUSBAND AND I LIVE ON THE EAST  
7           END OF GREENBRIAR ROAD. WE'VE LIVED OUT THERE FOR 15  
8           YEARS. I GREW UP AT REDHILL. HE GREW UP IN DOWNTOWN  
9           UTICA. IT'S OUR HOME. WE LIKE THE WAY IT IS.

10          MOST OF MY POINTS HAVE ALREADY BEEN COVERED  
11          TONIGHT. WE WON'T GO BACK OVER THEM.

12          I DO HAVE TWO QUESTIONS. THE LANDOWNERS THAT  
13          ARE GOING TO BE IN WITH THE MINE COMPANY. I WANT TO  
14          KNOW HOW MANY OF THEM ARE ACTUALLY GOING TO BE LIVING  
15          OUT THERE AND GOING THROUGH ALL OF THIS INCONVENIENCE  
16          AND DISTURBANCE WITH THE REST OF US?

17          ANOTHER POINT, THIS GIRL SCOUTS AND A LOT OF  
18          OTHERS THINK ABOUT THEIR WELL WATER. IN THE EVENT IT  
19          DOES BECOMES CONTAMINATED, WHAT STEPS ARE GOING TO BE  
20          MADE TO CLEAN THAT UP AND TO PROVIDE CLEAN DRINKING  
21          WATER FOR THOSE PEOPLE UNTIL IT IS CLEAN?

22          CHAIRMAN: I THINK THE FIRST PART OF YOUR  
23          QUESTION, I DON'T THINK WE CAN ANSWER OR ANYBODY  
24          EXCEPT THOSE INDIVIDUAL PEOPLE COULD ANSWER.

25          THE PART ABOUT THE WELL WATER I THINK WE COULD



1 GET AN ANSWER ON.

2 WHO IS UP OVER THERE?

3 MR. WRIGHT: ACTUALLY ALL OF OUR LANDOWNERS  
4 LIVE IN THE AREA EXCEPT FOR ONE. MS. HITCHCOCK LIVES  
5 IN EVANSVILLE, BUT EVERYBODY ELSE LIVES ON THE SITE.  
6 I THINK THEY'LL BE PUTTING UP WITH THE SAME THING THAT  
7 EVERYBODY ELSE WILL BE.

8 WELL WATER, WHAT HAPPENS IF IT BECOMES  
9 CONTAMINATED? WE HAVE TO DO A PERMIT THROUGH THE  
10 DIVISION OF WATER AND PROVE TO THEM THAT WE CAN SET UP  
11 A FILTER SYSTEM THAT WILL COAT THE WATER AND PUTTING  
12 SYSTEMS IN UNTIL WE CAN CLEAN IT UP AND GET IT FREE  
13 AND CLEAR OF WHATEVER CONSTITUENT WE ADDED TO IT.  
14 THAT'S WHY THE MONITOR IS THERE. THEY'RE SET IN, THE  
15 FIRST AQUIFER.

16 CHAIRMAN: LET ME ASK YOU ALL TO SHOW THEM  
17 RESPECT. THEY HAVE THEIR OPPORTUNITY TO RESPOND.

18 MR. WRIGHT: THAT'S WHY THE MONITORING OF THE  
19 BED THEY PUT IN ABOVE THE PERMIT, DOWNGRADING OF THE  
20 PERMIT FOR MINES AND WATER COMING INTO THE PERMIT TO  
21 SEE WHAT IT IS AND MONITOR THE WATER BELOW THE PERMIT  
22 TO SEE HOW IT COMES OUT DOWN THERE. THAT'S THE PROOF.

23 CHAIRMAN: THANK YOU.

24 NEXT.

25 LADY IN AUDIENCE: SORRY. I KNOW I GAVE UP MY

1 RIGHT TO SPEAK, BUT MAY I ASK A REALLY QUICK QUESTION?

2 CHAIRMAN: MA'AM, AT THE END OF THE DAY  
3 POSSIBLY, BUT WE'VE GOT OTHERS THAT ARE AHEAD OF YOU.  
4 YOU'VE HAD YOUR OPPORTUNITY. THANK YOU.

5 GO AHEAD.

6 MS. COBB: ANOTHER PART OF MY WATER QUESTION  
7 WAS IN THE EVENT IT DOES BECOME CONTAMINATED, WHILE  
8 THE STEPS ARE BEING MADE TO CORRECT THAT, WHAT ARE  
9 THESE PEOPLE, HOW ARE THESE PEOPLE GOING TO BE  
10 PROVIDED FOR FOR DRINKING WATER?

11 MR. WRIGHT: WE WOULD EITHER HAVE TO PROVIDE  
12 THEM WITH ANOTHER WELL THAT WOULD BE IN A LOWER  
13 TRANSMITTING ZONE OR HOOK THEM UP ON THE MUNICIPAL  
14 WATER SYSTEM. WE WOULD HAVE TO PROVIDE THEM WITH  
15 WATER.

16 MS. COBB: AND THAT WOULD BE AT YOUR COST?

17 MR. WRIGHT: YES.

18 MS. COBB: THANK YOU.

19 CHAIRMAN: NEXT.

20 MR. NOFFSINGER: BILL LAWS.

21 MR. SILVERT: STATE YOUR NAME, PLEASE.

22 MR. LAWS: MY NAME IS BILL LAWS.

23 (BILL LAWS SWORN BY ATTORNEY.)

24 MR. LAWS: I LIVE ON RUSSELL ROAD. NOBODY  
25 ELSE HAS TALKED ABOUT -- I WORK NIGHTS AND I SLEEP

1 DURING THE DAY EVERY DAY. I'M THE ONLY PROVIDER FOR  
2 MY FAMILY. YOU ALL ARE GOING TO BE DYNAMITING DURING  
3 THE DAY WHILE I'M TRYING TO SLEEP.

4 ALSO --

5 CHAIRMAN: EXCUSE ME. HOW FAR FROM THE  
6 BLASTING SITE WOULD YOU LIVE?

7 MR. LAWS: 3646. THE FURTHER PROPERTY IS  
8 PROBABLY ABOUT A CITY BLOCK IS PROBABLY THE CLOSEST  
9 PROPERTY. ABOUT A CITY BLOCK FROM ME.

10 CHAIRMAN: I HAVE NO IDEA WHAT YOUR  
11 APPROXIMATE WAYS AND HOW FAR ACTUALLY FROM THE  
12 BLASTING YOU'D BE. WE'LL SEE IF WE CAN FIND OUT SOME  
13 KIND OF ANSWER FOR YOU.

14 MR. LAWS: YES.

15 CHAIRMAN: HOW MUCH WOULD BE THE BLASTING  
16 DISTURB THIS GENTLEMAN?

17 MR. WRIGHT: I CANNOT ANSWER THAT.

18 ONE OF THE QUESTIONS YOU WERE ANSWERING  
19 EARLIER TRYING TO GET US TO ANSWER EARLIER I THINK.  
20 AS I STATED IN OUR PROJECTED MINING PLAN, THE MINING  
21 WILL START IN KIND OF THE SOUTHWESTERN PORTION OF THE  
22 PERMIT. IT WILL RUN UP RUSSELL ROAD. AS WE'RE  
23 RUNNING UP, LIKE I SAID, OUR RECLAMATION IS GOING TO  
24 FILL UP BEHIND US AND WE'RE GOING TO GET AWAY FROM  
25 SOME OF THESE PEOPLE, BUT WE'RE GOING TO BECOMING

1 CLOSER TO THE OTHERS, AND THEN WE'LL TURN AND COME  
2 BACK. WE'RE NOT GOING TO BE IN THESE PEOPLE'S HAIR  
3 THE WHOLE TIME IN THEIR DEFINITE AREAS. THIS IS GOING  
4 TO TAKE PLACE IN NINE YEARS. WE MAY BE A PROBLEM FOR  
5 SIX MONTHS TO A YEAR.

6 WHERE HE'S LOCATED, I DON'T KNOW. I'D HAVE TO  
7 SEE WHERE HIS HOUSE IS AT AND STUFF AND HOW CLOSE HE  
8 WAS. I COULD SLEEP THROUGH IT. I'VE BEEN AROUND THE  
9 BLAST. I WOULDN'T BE CONCERNED.

10 CHAIRMAN: THE INSIDE OUT THEORY.

11 MR. WRIGHT: WELL, RATHER THAN GO INSIDE OUT,  
12 WE CAN'T MINE ALL THE WAY AROUND THAT AREA BECAUSE OF  
13 A CERTAIN EVENT, YOU KNOW. THAT WOULDN'T MAKE IT  
14 FEASIBLE, BUT WE DO GO UP, COME BACK, UP AND BACK.  
15 THAT DOES TAKE US AWAY FROM CERTAIN PEOPLE AND THEN  
16 COME CLOSER TO THE OTHERS AND THEN WE CAN TURN BACK.  
17 THEY WILL BE RECLAIMING BEHIND US. SO WE WON'T BE IN  
18 EVERYBODY'S DOOR FOR THE WHOLE TIME.

19 CHAIRMAN: DID THAT ANSWER IT? I MEAN THAT'S  
20 THE BEST WE CAN DO.

21 MR. LAWS: ANOTHER THING I'VE GOT. MY KIDS  
22 GET OFF THE SCHOOL BUS RIGHT DOWN THE ROAD AND THE  
23 SCHOOL BUS TURNS AROUND, I THINK, CLOSE TO WHERE  
24 YOU'RE GOING TO BE CROSSING RUSSELL ROAD TO WASH IT  
25 THERE. ARE YOU ALL CROSSING DOWN ON THE SOUTH END?

1           MR. WRIGHT: WE WILL BE CROSSING, COMES OVER  
2           ON SHIRLEY TAYLOR'S PROPERTY.

3           MR. LAWS: YES. THAT'S WHERE THE SCHOOL BUS.

4           MR. WRIGHT: I DON'T KNOW OF ANY PLACE THAT  
5           THE SCHOOL BUS COLD TURN AROUND. WE'LL MAKE A GOOD  
6           PLACE FOR THEM.

7           MR. LAWS: THAT'S WHERE IT TURNS AROUND AT  
8           NOW. YOU THINK THAT'S A VERY SAFE PLACE FOR A SCHOOL  
9           BUS TO BE TURNING AROUND?

10          MR. WRIGHT: THEY'RE SAYING IT TURNS AROUND  
11          BEFORE IT GETS TO THE HAUL ROAD. DON AND SHIRLEY LIVE  
12          RIGHT THERE.

13          I THINK IT TURNS AROUND IN YOUR DRIVEWAY,  
14          DON'T IT?

15          MR. TAYLOR: THAT'S RIGHT.

16          MR. WRIGHT: SHIRLEY HAS A DRIVEWAY THAT TURNS  
17          OFF TO THE ROAD THERE TO THE RIGHT. I GUESS THAT'S  
18          WHERE THE SCHOOL BUSES TURNS AROUND. OUR HAUL ROAD IS  
19          ON DOWN FROM THAT. WE WILL NOT AFFECT THAT AREA.

20          CHAIRMAN: THANK YOU.

21          MR. LAWS: SO YOU THINK THAT'S SAFE FOR KIDS  
22          TO BE THAT CLOSE ON A SCHOOL BUS TO IT?

23          MR. WRIGHT: YES. IT WON'T BE A PROBLEM.

24          CHAIRMAN: NEXT.

25          MR. NOFFSINGER: SCOTT BLANDFORD.

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

3           MR. BLANDFORD:  SCOTT BLANDFORD.

4           (SCOTT BLANDFORD SWORN BY ATTORNEY.)

5           MR. BLANDFORD:  I'M CURIOUS ABOUT THE PREBLAST  
6   SURVEYS.  THOSE OF US THAT HAVE FINISHED BASEMENTS,  
7   ARE THEY GOING TO GO IN AND TEAR ALL THE DRYWALL OUT  
8   AND MAKE SURE THERE'S NO CRACKS IN OUR BASEMENTS NOW?

9           CHAIRMAN:  WHAT'S YOUR NEXT QUESTION?  WE'LL  
10  GET THEM ALL IN AND THEN THE ANSWER.

11          MR. BLANDFORD:  SEEM LIKE ON THE WAY TO  
12  HENDERSON WHEN THEY WERE GOING THEIR MINING THERE, YOU  
13  WEREN'T ALLOWED TO USE YOUR CELL PHONES.  WILL WE BE  
14  ABLE TO USE OUR CELL PHONES?

15          CHAIRMAN:  ARE THOSE YOUR QUESTIONS?

16          MR. BLANDFORD:  YES.

17          MR. VINCENT:  MARTY VINCENT.

18          FROM THE PREBLAST PERSPECTIVE, THIS IS  
19  DOCUMENTED ON PAPER AND VIDEO.  ANYTHING THAT'S  
20  EXPOSED OR CAN BE EXPOSED WITH A REASONABLE, WITHIN A  
21  REASONABLE PROCESS, IT WILL BE LOOKED AT AND  
22  DOCUMENTED FOR ALL HOMEOWNERS WITHIN THAT GIVEN  
23  DISTANCE.

24          CHAIRMAN:  SO THE HOMEOWNER ACTUALLY -- LIKE  
25  THIS GENTLEMAN HERE HAS, I ASSUME YOU HAVE A FINISHED

1 BASEMENT?

2 MR. BLANDFORD: YES.

3 CHAIRMAN: DO YOU HAVE ANYONE INTERIOR EXPOSED  
4 CONCRETE WALLS; IN OTHER WORDS, YOUR ENTIRE BASEMENT  
5 IS STUDDED AND DRY WALLED?

6 MR. BLANDFORD: IS STUDDED AND DRY WALLED.

7 CHAIRMAN: IT'S INSULATED TOO I ASSUME?

8 MR. BLANDFORD: YES.

9 MR. VINCENT: TYPICALLY IF THERE'S MOVEMENT OR  
10 SHIFT BEHIND IN A FOUNDATION WALL, IT'S GOING TO GIVE  
11 SOME TYPE OF AN INDICATION IN THE DRYWALL BECAUSE  
12 DRYWALL IS ONE OF THE FIRST TYPES OF MATERIAL THAT  
13 WILL SHOW STRESS OR DAMAGE, IF YOU WILL, FROM MOVEMENT  
14 OR SHIFT.

15 I WOULD THINK THAT IF IT'S DRYWALL THAT IT  
16 WOULD SHOW CONCERNS BEFORE OTHER AREAS OF THE  
17 STRUCTURE.

18 AS FAR AS THE CELL PHONES, UNLESS YOU'RE ON  
19 THE BLAST PATTERN, THERE ARE NO RESTRICTIONS FOR USE  
20 OF CELL PHONES. BECAUSE THE TYPE OF DETONATORS ARE  
21 DIFFERENT THAN WHAT THEY USED TO BE AND THEY'RE MUCH  
22 MORE SAFE THAN WHAT THEY USED TO BE. THE ELECTRONIC  
23 DETONATORS ARE JUST, THEY'RE COMPLETELY DIFFERENT THAN  
24 THE DETONATORS THAT WERE USED MANY YEARS AGO.

25 CHAIRMAN: THANK YOU.

1 DOES THAT TAKE CARE YOUR QUESTIONS?

2 MR. BLANDFORD: I WANTED MR. PEDLEY'S ANSWER  
3 TO THE CONCRETE CRACKING. ISN'T THAT WHAT YOU DO FOR  
4 A LIVING, POUR CONCRETE?

5 MR. PEDLEY: TYPICALLY IF YOU HAVE A MEASURE  
6 CRACK IN A CONCRETE BASEMENT WALL, YOU MOST LIKELY SEE  
7 IT OUTSIDE QUICKER THAN YOU WILL IN DRYWALL. DRYWALL  
8 IS VERY FLEXIBLE. YOU CAN GET A LOT OF MOVEMENT  
9 WITHOUT SHOWING CRACKS. YOU CAN HAVE A HAIRLINE CRACK  
10 IN A BASEMENT WALL. IT'S FAIRLY NORMAL. BUT IF IT'S  
11 MEASURED OR IF THERE'S MOVEMENT OR IF THERE'S ANY  
12 SETTLEMENT, THEN OUTSIDE ON YOUR BRICK OR OUTSIDE ON  
13 YOUR HOUSE, THAT'S WHERE YOU'LL NOTICE IT FIRST. IT  
14 HAS TO BE A LOT OF MOVEMENT IN A STRUCTURAL WALL TO  
15 SHOW UP THROUGH DRY WALL. DRY WALL IS PRETTY GIVING.

16 MR. BLANDFORD: THE CONCRETE COULD CRACK AND  
17 NOT SHOW THROUGH THE DRYWALL?

18 MR. PEDLEY: RIGHT. IT'S FAIRLY ACCURATE IT  
19 WILL SHOW UP OUTSIDE.

20 MR. BLANDFORD: YOU CAN'T SEE THE FACE OF THE  
21 WALL FROM OUTSIDE.

22 CHAIRMAN: WOULD IT SHOW UP ON THE BRICK, MR.  
23 PEDLEY?

24 MR. PEDLEY: IT WILL SHOW UP. YOU CAN HAVE A  
25 HAIRLINE CRACK IN A BASEMENT WALL, IT WILL NOT CRACK



1       YOUR BRICK OUTSIDE. ONLY IF YOU HAVE SETTLEMENT OR  
2       SEPARATION IN THE CRACK IN THE WALL WILL YOU CRACK THE  
3       BRICK OUTSIDE. SAME THING WITH IF IT'S COVERED  
4       DRYWALL INSIDE. IT HAS TO BE CONSIDERABLE MOVEMENT  
5       FOR IT TO SHOW UP IN DRYWALL. YOU CAN HAVE A CRACK IN  
6       A BASEMENT WALL AND NOT SEE IT.

7               MR. BLANDFORD: THANK YOU.

8               SO MY QUESTION IS: HOW ARE WE GOING TO KNOW?

9               MR. PEDLEY: YOU WON'T KNOW. IF IT'S A MAJOR  
10       CRACK, IF IT'S A STRUCTURAL PROBLEM, YOU WILL KNOW.

11              MR. BLANDFORD: I DON'T HAVE A PROBLEM NOW.  
12       YOU KNOW, NO LEAKING. THEN THEY COME AND DO THEIR  
13       PREBLAST SURVEY, ARE THEY GOING TO TEAR ALL -- I MEAN  
14       HOW ARE THEY GOING TO KNOW?

15              MR. PEDLEY: IF YOU DON'T HAVE A NOTICEABLE  
16       PROBLEM WHEN THEY DO YOUR INSPECTION, THEN UP LATER  
17       AFTER THE BLASTING AND YOU HAVE ONE SHOW UP, THEN YOU  
18       KNOW THE BLASTING DID IT.

19              MR. BLANDFORD: ARE THEY COMFORTABLE WITH THAT  
20       ANSWER? WILL YOUR INSURANCE COMPANY BE COMFORTABLE  
21       WITH THAT ANSWER?

22              MR. PEDLEY: I'LL GO AND SAY THIS: I'VE BEEN  
23       A FOUNDATION CONTRACTOR FOR 54 YEARS.

24              MR. BLANDFORD: YOU POURED MY BASEMENT.

25              MR. PEDLEY: AND I'VE PUT IN PROBABLY 1400,

1       1500 BASEMENTS.

2               MR. BLANDFORD:   MINE BEING ONE.

3               MR. PEDLEY:   PANTHER, KNOTTSVILLE, FORDSVILLE,

4       PLEASANT RIDGE, ANYWHERE YOU WANT TO GO I'VE GOT

5       BASEMENTS.   I'VE HAD SOME DAMAGE FROM MINING.

6               MR. BLANDFORD:   THANK YOU.

7               CHAIRMAN:   NEXT.

8               MR. NOFFSINGER:   RYAN HIDALGO.

9               AUDIENCE:   HE'S GONE.

10              CHAIRMAN:   NEXT.

11              MR. NOFFSINGER:   I CAN'T READ THE WRITING.

12              BRANDON LANHAM.

13              MR. SILVERT:   STATE YOUR NAME, PLEASE.

14              MR. LANHAM:   BRANDON LANHAM.

15              (BRANDON LANHAM SWORN BY ATTORNEY.)

16              MR. LANHAM:   I APPROACH THE PODIUM ON BEHALF

17       OF ALL THE EMPLOYEES OF WESTERN KENTUCKY MINERALS.   WE

18       DON'T TOLERATE ANY INDIVIDUALS THAT WILL STEP FORWARD

19       ON AN INDIVIDUAL'S PROPERTY WITH THE INTENT TO DAMAGE

20       OR DESTROY OR MAKE YOUR PERSONAL WELLBEING, WE'RE NOT

21       GOING TO PUT ANY DETRIMENTAL AFFECT ON THAT.   I WANT

22       TO DEFINITELY POINT THAT FACT OUT.

23              ANOTHER THING IS WE WON'T SPEND ANY TIME THIS

24       EVENING CONVINCING ANY INDIVIDUAL THAT THEY'RE GOING

25       TO TRUST US.   THEY DON'T KNOW WHO WE ARE.   THEY'RE NOT

1 SURE WHAT WE DO EVERY DAY. I'M VERY SURE THAT IF THEY  
2 DID KNOW WHO WE WERE, THEY KNEW EXACTLY WHAT WE STAND  
3 BEHIND AND WHAT KIND OF JOB WE DO.

4 THEY FIND THAT IT'S NECESSARY TO MAKE OBVIOUS  
5 TO YOU THAT YOU HAVE A DECISION TO MAKE HERE TONIGHT.  
6 WHEN IN THE PAST THESE TWO EVENTS WERE OVERTURN, WAS  
7 THE COMPANY, DID THEY OPERATE UNDER THE RULES AND THE  
8 REGULATIONS THAT WE DO? I DOUBT IT. THIS HAS BEEN  
9 SEVERAL YEARS AGO. THERE'S RULES AND REGULATIONS THAT  
10 ARE PUT INTO PLACE AND WE SEE FOURTH TO MAKE SURE THAT  
11 THOSE ARE MET. IT'S VERY IMPORTANT THAT THEY  
12 UNDERSTAND THAT GOING INTO THE DECISION. I THINK IT'S  
13 IMPORTANT TO MAKE THAT OBVIOUS TO YOU, BUT THAT'S  
14 SOMETHING THAT I THINK THEY NEED TO UNDERSTAND. WE GO  
15 OUT THERE EVERY DAY AND DO A JOB THAT WE'RE ENFORCED  
16 TO APPLY THOSE RULES AND REGULATIONS. THOSE  
17 INDIVIDUALS PROBABLY DIDN'T APPLY THAT MATERIAL NOR  
18 MAKE NOTE THAT THAT'S SOMETHING THAT WAS IMPORTANT TO  
19 THEM.

20 AGAIN, YOU'RE NOT GOING TO TRUST US. YOU'RE  
21 NOT SURE WHO WE ARE, BUT I PROMISE YOU THAT WE'RE A  
22 MAN OF OUR WORD AND IT'S EXACTLY WHAT WE REPRESENT.  
23 GOING INTO THAT I JUST WANT TO MAKE THAT KNOWN. I  
24 APPRECIATE YOUR TIME.

25 CHAIRMAN: THANK YOU.

1 MR. NOFFSINGER: NAOMI SUTTON.  
2 MR. SILVERT: STATE YOUR NAME, PLEASE.  
3 MS. SUTTON: NAOMI SUTTON.  
4 (NAOMI SUTTON SWORN BY ATTORNEY.)  
5 MS. SUTTON: I HAVE A COUPLE OF QUESTIONS. IF  
6 THEY'RE REPEATS, I APOLOGIZES.  
7 CAN SOMEBODY ANSWER TO ME WHAT BLASTING  
8 AFFECTS HAVE TO DO WITH THE NEW MADRID FAULT. HOW  
9 WILL THAT AFFECT MY HOMEOWNER'S INSURANCE? I CHECKED,  
10 IT GOES UP.  
11 THIRD THING I WANTED TO FIND OUT IS ANY  
12 ANIMAL, WILDLIFE ENDANGERED SPECIES BEEN INVESTIGATED?  
13 IT WAS MENTIONED ONCE BEFORE, INDIANA BAT IS  
14 ENDANGERED. IS IN THE AREA. SOMEBODY ELSE REFERENCED  
15 THE BALD EAGLE. I KNOW THEY WERE AT ONE TIME, BUT  
16 THEY'RE NO LONGER ENDANGERED.  
17 THE LAST I WANT TO ASK IS I BOUGHT HOME LIKE  
18 EVERYONE ELSE. I SIT OUT IN MY BACKYARD AND I ENJOY  
19 QUIET TIME. AT 7:15 I'VE GOT A POUND, POUND, POUND,  
20 TURN DOWN THE RADIO TWO AND A HALF MILES FROM MY DOOR  
21 BECAUSE THEY TOLD ME. THEY COMPLAINED. TWO AND A  
22 HALF MILES, AND THAT WAS AT 7:15 AT NIGHT ON A FRIDAY  
23 NIGHT. SO AS FAR AS WHETHER OR NOT YOU CAN CONTROL  
24 IT, NO, YOU CAN'T. BUT OPERATING 22 HOURS A DAY CAN  
25 BE CONTROLLED. THANK YOU.

1           CHAIRMAN: DID YOU UNDERSTAND HER QUESTIONS  
2           SO I DON'T HAVE TO REPEAT THEM?

3           MR. WRIGHT: THE ENDANGERED SPECIES THING IS  
4           COVERED IN OUR PERMITTING PROCESS. WE HAVE TO HAVE  
5           BIOLOGISTS COME IN.

6           WE'RE IN THE FRINGE AREAS OF THE INDIANA BAT.  
7           THE CLOSEST IS KNOWN INDIANA BAT HABITAT WAS IN  
8           HENDERSON ALONG THE GREEN RIVER, AND IT WAS JUST A  
9           SITE. IT WAS NOT A HABITATIONAL AREA FOR THEM. NO  
10          CAVE. NO NOTHING LIKE THAT. THEY HAVE BEEN KNOWN TO  
11          ROOST IN UNDERGROUND PRELAW MINE WORK IF THEY'RE OPEN.  
12          THEY DO A VERY THOROUGH STUDY THROUGHOUT THE GROUND  
13          CHECKING THE TREES. THEY DO A VERY THOROUGH STUDY FOR  
14          THAT. THE BALD EAGLE, THEY WOULD INVESTIGATE THAT  
15          ALSO. MY UNDERSTANDING THE BALD EAGLE IS STILL ON THE  
16          ENDANGERED LIST ALSO. THE ONLY OTHER ENDANGERED  
17          SPECIES THAT'S ANYWHERE CLOSE IS THE COPPER BELLY  
18          WATER SNAKE. WOULDN'T BE WORRIED ABOUT HIM. WE'RE  
19          RIGHT OUT OF THE FRINGE AREA OF THAT. THEY DO MAKE  
20          OUR BIOLOGISTS CHECK AND MAKE NOTE THAT THERE WAS NO  
21          COPPER BELLY WATER SNAKE HABITAT ON OUR MINE SITE. IF  
22          THERE IS BAT HABITAT, BAT ROOSTING AREAS, THEN THEY  
23          MAKE US PUT BACK TREE TYPES THAT ARE FAVORABLE TO THE  
24          BATS IN THE RECLAMATION SITES.

25          THE NEW MADRID FAULT THING, BLASTING, I DIDN'T

1 GET THAT PART. YOU WANT TO EXPLAIN.

2 CHAIRMAN: WHAT AFFECT WOULD THE BLASTING HAVE

3 ON THE NEW MADRID FAULT?

4 MR. WRIGHT: NOTHING.

5 MS. SUTTON: DID YOU SAY NOTHING?

6 MR. WRIGHT: YES. THE NEW MADRID FAULT ZONE

7 RUNS UP THROUGH PADUCAH AND ON UP INTO SOUTHERN

8 ILLINOIS AND WAY ABOVE EVANSVILLE AND ON UP THROUGH

9 THAT WAY. OUR BLASTING WON'T HAVE NO AFFECT THERE.

10 MS. SUTTON: AND YOU WOULD SWEAR TO THAT?

11 MR. WRIGHT: YES.

12 MS. SUTTON: ANYBODY ELSE IN YOUR GROUP HAVE

13 PROOF TO THAT?

14 MR. WRIGHT: SHOW OF HANDS.

15 MS. SUTTON: I'M SERIOUS. I'D LIKE IT FOR MY

16 INSURANCE COMPANY BECAUSE I KNOW MANY OF THEM IN MY

17 AREA HAVE TO HAVE IT. SO IF YOU'RE SAYING IT'S NOT,

18 THEN I'M MORE THAN HAPPY TO GET THAT PIECE OF PAPER.

19 MR. WRIGHT: I'M NOT SURE WHAT YOU'RE SAYING.

20 MS. SUTTON: WE HAVE TO HAVE EARTHQUAKE

21 INSURANCE IN OUR AREA.

22 MR. WRIGHT: WELL, IF THEY CAN TALK YOU INTO

23 IT, YES.

24 MS. SUTTON: NO.

25 MR. WRIGHT: HOW MANY TIMES HAVE WE BEEN

1 PREDICTED THAT AN EARTHQUAKE IS GOING TO HAPPEN?

2 MS. SUTTON: WE HAD ONE FOUR YEARS AGO. WOULD  
3 YOU LIKE ME TO GET IT? I HAVE THE PAPERWORK. I'M  
4 JUST ASKING.

5 CHAIRMAN: HE'S JUST REFERRING TO WHERE THE  
6 NEW MADRID RUNS.

7 MR. WRIGHT: OUR BLASTING WILL NOT HAVE AN  
8 AFFECT ON IT.

9 MR. VINCENT: JUST A COUPLE OF COMMENTS I  
10 WOULD LIKE TO MAKE IN RELATION TO THE BLASTING OR THE  
11 BLASTING IN RELATIONSHIP TO THE NEW MADRID FAULT.

12 FIRST OF ALL, THE BLASTING THAT WILL BE DONE  
13 IN THIS AREA WILL DEFINITELY, AND I FEEL VERY  
14 CONFIDENT, WILL BE FAR ENOUGH AWAY THAT IT WILL NOT  
15 AFFECT THE NEW MADRID FAULT. HOWEVER, THERE IS A  
16 LIMESTONE QUARRY IN EXTREME WESTERN KENTUCKY, IT'S A  
17 LARGE LIMESTONE QUARRY AND HAS BEEN THERE FOR MANY  
18 YEARS AND A PORTION OF THE NEW MADRID FAULT CROSSES  
19 THAT QUARRY AND THEY BLAST DAILY AT THAT QUARRY.  
20 THERE ARE SEISMOGRAPHS THERE. IN ADDITION TO THAT,  
21 THE GOVERNMENT AGENCIES MONITOR THIS NEW MADRID FAULT  
22 ON A CONTINUOUS BASIS BECAUSE THEY'RE VERY CONCERNED  
23 OF WHAT MAY HAPPEN. SO I FEEL VERY CONFIDENT THAT THE  
24 BLASTING IN THIS AREA WILL NOT AFFECT THE NEW MADRID  
25 FAULT.

1 MS. SUTTON: I'M SORRY, A SIZE?  
2 MR. VINCENT: SEISMOGRAPH.  
3 MS. SUTTON: BUT THE ORGANIZATION THAT DOES  
4 THAT, HAVE THEY HAD INPUT ON THIS AS WELL BECAUSE OF  
5 THE PROXIMITY?  
6 MR. VINCENT: ON THIS PARTICULAR PERMIT?  
7 MS. SUTTON: YES.  
8 MR. VINCENT: NOT THAT I'M AWARE OF. I COULD  
9 TALK TO THAT. I DON'T KNOW.  
10 CHAIRMAN: THANK YOU.  
11 MR. NOFFSINGER: GARY DUVALL.  
12 MR. SILVERT: COULD YOU STATE YOUR NAME,  
13 PLEASE?  
14 MR. DUVALL: GARY DUVALL.  
15 (GARY DUVALL SWORN BY ATTORNEY.)  
16 MR. DUVALL: WE PURCHASED THE 98 ACRES PORTION  
17 OF THE HINES ESTATE THAT IS PRIMARILY THE HORSE  
18 PROPERTY AT THE AUCTION A WHILE BACK.  
19 THE QUESTION WAS ASKED I THINK BY SOMEONE,  
20 WOULD ANYBODY HAVE MADE DIFFERENT DECISIONS IF THEY  
21 HAD KNOWN ABOUT THE STRIP MINE?  
22 MY ANSWER IS, YES. WE WOULD NOT HAVE BID AND  
23 PURCHASED THE PROPERTY IF WE HAD KNOWN THAT A STRIP  
24 MINE WAS GOING IN THE IMMEDIATE AREA. I THINK IT WILL  
25 HAVE AN IMPACT NOT ONLY OUR PROPERTY, BUT SOME OF THE



1       OTHERS THAT HAVE TALKED HERE TONIGHT.  THE GIRL SCOUT  
2       AND SOME DEGREE THE COMMUNITY IN GENERAL.  THANK YOU.  
3               MR. NOFFSINGER:  DAVID COOPER.  
4               AUDIENCE:  I BELIEVE HE LEFT.  
5               MR. NOFFSINGER:  STEVE SCOTT.  
6               THAT'S ALL I HAVE ON THE LIST.  
7               CHAIRMAN:  MR. WILSON, HAVE YOU GOT YOUR  
8       ORGANIZATION READY?  
9               MR. WILSON:  YES, I BELIEVE SO.  
10              MR. SILVERT:  WILL YOU STATE YOUR NAME,  
11       PLEASE?  
12              MR. SCOTT:  STEVE SCOTT.  
13              (STEVE SCOTT SWORN BY ATTORNEY.)  
14              MR. SCOTT:  I HAVE A QUESTION DIRECTLY TOWARDS  
15       MR. HAYNES.  HE SAID HE GOT THESE APPRAISALS?  HE SAID  
16       HE GOT ALL THESE APPRAISAL VALUES ON OUR HOMES IN  
17       KNOTTSVILLE.  I'D LIKE TO KNOW WHERE HE GOT THOSE  
18       APPRAISAL VALUES.  
19              CHAIRMAN:  DO YOU HAVE ANY OTHER QUESTIONS OR  
20       IS THAT ALL THAT YOU HAVE?  
21              MR. SCOTT:  I HAD A FEW OTHER COMMENTS I  
22       WANTED TO MAKE, DEPENDING ON WHAT HE SAID.  
23              CHAIRMAN:  MR. HAYNES, WILL YOU ANSWER THAT.  
24              MR. HAYNES:  LET ME EXPLAIN ONE MORE TIME.  WE  
25       STARTED MINING IN 2006.  THE ASSESSMENTS OUT THERE IN

1       KNOTTSVILLE WERE DONE SHORTLY AFTER WE STARTED MINING,  
2       THE 2006 ASSESSMENTS. I MEAN SHORTLY BEFORE WE  
3       STARTED MINING.

4               CHAIRMAN: IS THIS THE PVA?

5               MR. HAYNES: PVA.

6               THE NEXT ASSESSMENT WAS DONE IN 2010. THEY  
7       REASSESSED THAT WHOLE, IT'S CALLED MAP NUMBER 120.  
8       IT'S THE KNOTTSVILLE AREA. THAT WAS A PICTURE OF WHAT  
9       THE MINE LOOKED LIKE. THE PVA TOOK THAT AERIAL PHOTO.  
10      THEY DIDN'T TAKE IT, BUT THEY COMMISSIONED IT. SO IT  
11      WAS DONE ABOUT THE SAME TIME AS THE NEW ASSESSMENTS IN  
12      2010.

13              SO I TOOK THAT MAP AND I COMPARED, I WENT TO  
14      THE PVA OFFICE. I TOOK EVERY PVA ASSESSMENT FOR 2006,  
15      WHEN THEY WERE DONE BEFORE THE MINE WAS THERE. I  
16      COMPARED THEM TO EVERY ASSESSMENT IN 2010 THAT WAS  
17      DONE SIMULTANEOUSLY WITH THE PIT BEING WHERE IT IS. I  
18      TOOK EVERY PROPERTY THAT WAS IN THAT MAP 120. I'VE  
19      GOT THEM HERE. OUT OF THOSE 120, NO ASSESSMENT HAD  
20      DECREASED BETWEEN 2006 AND 2010. SO NO ASSESSMENT  
21      HAD -- I'M SORRY, ONE. IT HAD HAD A HOUSE ON IT. IT  
22      WAS TORN DOWN. SO IT WENT DOWN. NONE OF THE  
23      ASSESSMENTS HAD DECREASED FROM BEFORE THE MINING TO  
24      WHEN THE MINING WAS IN FULL SWING THERE. MOST OR A  
25      LOT OF THEM HAD GONE UP. SOME OF THEM WERE DUE TO NEW

1 CONSTRUCTION. OF COURSE, YOU KNOW, STRUCTURE BEING  
2 BUILT. GENERALLY THE PROPERTY JUST INCREASED. I KNOW  
3 THAT ONLY PERTAINS TO KNOTTSVILLE, BUT I DON'T KNOW  
4 WHY KNOTTSVILLE WOULD BE THAT MUCH DIFFERENT.

5 CHAIRMAN: I THINK YOU SUBSTANTIATED YOUR  
6 CLAIM.

7 MR. HAYNES: IT CAME FROM THE PVA OFFICE.

8 CHAIRMAN: YOU HAVE SOME COMMENTS OR CLOSING  
9 REMARKS?

10 MR. SCOTT: FROM MY EXPERIENCE WITH THAT IS  
11 THAT PVA COMES OUT AND THEY RAISE TAXES JUST  
12 PERIODICALLY. WHAT IF A HOUSE VALUE REALLY DID GO UP  
13 IN THE AREA, THEY'LL FIND A HOUSE IN THE GENERAL AREA  
14 AND THEY WILL SAY, WELL, THE HOUSE SOLD OVER THERE SO  
15 YOUR PROPERTY MUCH BE WORTH SO MUCH. IF YOU GO TO A  
16 REAL ESTATE AGENT, YOU'LL HEAR A WHOLE DIFFERENT  
17 STORY. REALLY DEPEND UPON WHAT SOMEONE WILL PAY IS  
18 WHAT YOUR PROPERTY IS WORTH.

19 ALREADY WE'VE ALREADY HEARD REPERCUSSIONS OF  
20 PEOPLE WHO THOUGHT ABOUT MOVING INTO THE AREA. SAY,  
21 THERE'S ABSOLUTELY NO WAY. JUST THE FACT THAT YOU  
22 GUYS HAVE GOT THIS PROPOSAL GOING ON, WHETHER YOU  
23 APPROVE IT OR NOT, IT'S ALREADY CAUSING AN AFFECT ON  
24 OUR PROPERTY ALREADY.

25 SOMEBODY MENTIONED AWHILE THERE WEREN'T ANY

1       COPPER BELLY WATER MOCCASINS IN THE AREA.  THAT'S NOT  
2       TRUE.  WE'VE GOT THEM ON OUR FARM.  WE CAN SHOW THEM  
3       TO YOU.  THEY'RE NOT THE POISONOUS SNAKE.  WE'VE HAD  
4       WILDLIFE PEOPLE COME OUT THERE AND IDENTIFY THE SNAKES  
5       SO IT'S NOT MY OPINION.  IT'S THEIR OPINION.  EITHER  
6       THEY DON'T KNOW WHAT THEY'RE TALKING ABOUT OR WHO  
7       KNOWS.

8               ONE CLARIFICATION IS I -- THEY SAY THERE'S  
9       ONLY FIVE SCHOOLS.  THAT'S ACTUALLY SEVEN SCHOOLS THAT  
10      THEY'RE GOING TO BE PASSING WHEN THEY GO THROUGH  
11      THERE.  I THINK THEY FORGOT ABOUT ONE.  THE TECH  
12      SCHOOL BEHIND THE DAVIESS COUNTY SCHOOL.  THERE'S A  
13      LOT OF TRAFFIC RIGHT THERE IN THE MORNING TRYING TO  
14      GET IN AND OUT OF THAT SOUTH PARK AREA RIGHT GOING BY  
15      THE DAVIESS COUNTY BOARD OF EDUCATION AND SO FORTH.

16             ONE OF THE THINGS THAT CONCERNS ME IS THAT, AM  
17      I GOING TO COME HOME EVERY DAY AND CHECK MY HOUSE TO  
18      SEE IF THERE'S DAMAGE?  I MEAN IS THIS SOMETHING  
19      THAT'S GOING TO BE IMPOSED UPON US?  HOW DO YOU KNOW  
20      THAT THERE'S A PROBLEM?  WELL, YOU'RE GOING TO HAVE TO  
21      CHECK YOUR HOUSE EVERY DAY TO FIND OUT, RIGHT?  
22      THEY'RE NOT GOING TO COME OUT AND LOOK AT OUR HOUSE TO  
23      KEEP AN EYE ON IT, RIGHT?  I MEAN AM I RIGHT?  I'M  
24      ASKING A QUESTION.

25             CHAIRMAN:  THAT'S SOMETHING YOU'LL HAVE TO

1 DECIDE.

2 MR. SCOTT: THAT'S TOTALLY UP TO US TO KEEP  
3 TRACK OF WHAT THEY'RE DOING TO OUR PROPERTY, RIGHT?

4 CHAIRMAN: I WOULD SAY THAT'S A DECISION YOU  
5 WOULD HAVE TO MAKE.

6 MR. SCOTT: WELL, THAT'S THE TRUTH. THAT'S  
7 NOT ANY DECISION. ONE THING IS THAT AL MATTINGLY CAME  
8 OUT TO OUR PLACE AND HE MADE COMMENTS ABOUT THE LAKE.  
9 HE SAID, IF THE LAKE BROKE IT COULD KILL PEOPLE. SAME  
10 THING OVER ON MAPLE LEAF ROAD. THIS IS HIS COMMENTS.

11 NOW, THAT'S ENDANGERING THE LIVES OF THE  
12 PEOPLE BENEATH THE LAKE LEVEL. IT WASN'T A PROBLEM  
13 BEFORE, BUT NOW WITH COAL MINING COMES IN HERE  
14 SUDDENLY IT'S A PROBLEM.

15 ONE LAST THING. I DON'T THINK ANYBODY HAS  
16 REALLY BEEN TALKING ABOUT THIS ISSUE. IS THAT OUT IN  
17 SOUTH DAVIESS COUNTY THERE'S A LOT OF SMALL BUSINESSES  
18 THAT HAVE STARTED UP. SMALL BUSINESSES GROW BIG  
19 BUSINESSES. YOU KNOW THAT. WHAT'S GOING TO HAPPEN TO  
20 THESE SMALL BUSINESSES? I MEAN THEY'RE NOT GOING TO  
21 BE ABLE TO FLOURISH AND KEEP GOING. THEY'RE GOING TO  
22 MOVE OUT. THERE'S ALREADY BEEN PEOPLE SAYING IF THEY  
23 MOVE IN, THEY'RE GOING TO DO THEIR BEST TO GET OUT OF  
24 THERE BECAUSE THEY CAN'T TOLERATE THAT.

25 I MEAN IT'S EASY FOR SOMEONE ELSE TO COME INTO

1 THE AREA AND SAY, IT'S NOT A PROBLEM. I CAN SLEEP  
2 THROUGH BOMBS AND BLASTING AND TRACKS THAT SOUND LIKE  
3 TANKS GOING BY ALL NIGHT LONG. I MEAN BASICALLY LIKE  
4 A WAR ZONE IN YOUR BACKYARD. IT'S EASY FOR THEM TO  
5 COMMENT AND SAY, YOU KNOW, HEY, IT'S NOT A PROBLEM,  
6 BUT IF YOU DON'T LIVE THERE IT'S NOT A PROBLEM FOR  
7 YOU.

8 I GUESS MY LAST THING I WANT TO SAY IS THAT IT  
9 SEEMS TO ME THAT WHAT WE'RE DOING IS IT'S LIKE THE  
10 INTEREST OF THE PEOPLE VERSUS THOSE WHO WANT TO MAKE  
11 MONEY, BUT THEY WANT TO MAKE MONEY IN THE BACKYARD OF  
12 PEOPLE WHO LIVE THERE.

13 CHAIRMAN: THANK YOU.

14 MR. WILSON.

15 MR. WILSON: WE'RE READY TO GO FORWARD WITH  
16 SEVERAL WITNESSES. MAYBE A COUPLE OF MORE THAN I  
17 FIRST THOUGHT, IF THAT'S ALL RIGHT.

18 I'M GOING TO ASK MR. BRIAN REYNOLDS WHO IS A  
19 CERTIFIED APPRAISER. COME IN TO JUST TALK GENERALLY  
20 ABOUT STRIP MINING AFFECTS ON PROPERTIES IN THE AREA.

21 I'M GOING TO PUT IN THE RECORD HIS CV.

22 MR. SILVERT: COULD YOU STATE YOUR NAME,  
23 EMPLOYEES?

24 MR. REYNOLDS: BRIAN REYNOLDS.

25 (BRIAN REYNOLDS SWORN BY ATTORNEY.)

1           MR. REYNOLDS: FIRST OF ALL, I'M A KENTUCKY  
2           CERTIFIED GENERAL REAL PROPERTY APPRAISER. I HOLD AN  
3           EQUIVALENT CERTIFICATION IN THE STATE OF TENNESSEE.  
4           I'M AN INSTRUCTOR THROUGHOUT THE COUNTRY, A GUEST  
5           SPEAKER.

6           LET ME CLARIFY SOMETHING REAL EARLY ON. I  
7           HAVE NOT STUDIED THIS PROPOSAL. I'M NOT REAL FAMILIAR  
8           WITH THIS SPECIFIC OPERATION OR THE PROPOSAL AT HAND.

9           WHAT I AM VERY FAMILIAR WITH IS VALUE. WHAT  
10          CREATES VALUE AND WHAT IMPACTS VALUE.

11          THE ATTORNEY, MR. HAYNES, HAS INDICATED HE HAS  
12          PULLED SOME RECORDS. THIS IS THE FIRST I'VE HEARD. I  
13          WAS A LATE ARRIVAL. AS I WALKED IN HE WAS TALKING  
14          ABOUT ASSESSMENTS.

15          I ASK IF HE IS AWARE OR DOES HE KNOW WHAT THE  
16          DEFINITION OF MARKET VALUE THE DEPARTMENT OF REVENUE  
17          USES FOR THEIR ASSESSMENTS?

18          MR. HAYNES: YES, I DO.

19          MR. REYNOLDS: ARE THERE ANY CERTIFIED  
20          APPRAISERS IN THE DAVIESS COUNTY PVA OFFICE?

21          CHAIRMAN: IF YOU'RE GOING TO MAKE A LIST OF  
22          QUESTIONS, MAKE THEM TO THE CHAIR AND THEN WE'LL  
23          SUMMARIZE.

24          WHY DON'T YOU MAKE YOUR PRESENTATION, GIVE  
25          YOUR QUESTIONS, AND THEN WE'LL GIVE THEM A CHANCE TO

1 ANSWER.

2 MR. REYNOLDS: WHEN WE LOOK AT VALUE, WE LOOK  
3 AT WHAT ARE THE ECONOMIC INFLUENCES THAT CREATE VALUE.  
4 SCARCITY, UTILITY, DESIRE AND TRANSFERABILITY OR I  
5 CALL PURCHASING POWER.

6 THERE'S NO QUESTION WHATSOEVER THAT AN  
7 OPERATION THAT COMES IN, WE CALL AN EXTERNALITY, IS  
8 GOING TO HAVE A NEGATIVE IMPACT ON PROPERTY VALUE.  
9 THERE IS NO QUESTION.

10 WHAT IMPACTS VALUE OR WHAT HAS AN AFFECT ON  
11 VALUE IS PHYSICAL, ECONOMIC, GOVERNMENTAL AND SOCIAL.  
12 AGAIN, I HAVEN'T STUDIED THIS. I HAVEN'T DONE AN  
13 APPRAISAL. I HAVEN'T CONDUCTED SURVEYS. I CAN'T  
14 SPEAK INTELLIGENTLY ON THIS PARTICULAR PROPOSAL, BUT  
15 WHEN YOU TAKE AN OPERATION OF ANY SORT THAT ABUTS UP  
16 THAT'S GOING TO HAVE NOISE INFLUENCE OR WHATEVER ALL  
17 THESE HAZARDS ARE, THERE'S GOING TO BE SOME IMPACT ON  
18 PROPERTY VALUE. IT'S JUST THAT SIMPLE.

19 THE QUESTION IS: TO WHAT DEGREE? I CAN'T  
20 ANSWER THAT QUESTION UNLESS I DO CONDUCT A STUDY OR  
21 SURVEY OR DO AN APPRAISAL.

22 CHAIRMAN: MR. HAYNES, DO YOU WANT TO RESPOND?

23 MR. HAYNES: YES.

24 FIRST, I'M NOT TRYING TO ARGUE THAT THE PVA  
25 ASSESSMENTS ARE CORRECT. I'M ARGUING CORRELATION.



1        THAT IF THE PVA ASSESSMENT ARE LOW, THEN THEY'LL BE  
2        LOW IN 2006, THEY'LL BE LOW IN 2010. I'M NOT ARGUING  
3        THAT THEY'RE ACCURATE PREDICTORS OF WHAT A PROPERTY  
4        WILL ACTUALLY SELL FOR, BUT THEY REMAIN CONSISTENT.

5                IF YOU SAW PVA VALUES DROP FROM 2006 TO 2010,  
6        YOU MIGHT BE ABLE TO SAY, THE MINE HAD AN IMPACT ON  
7        THAT. WHEN YOU SEE THEM HOLDING STEADY AND GOING UP,  
8        THEY'RE USING THE SAME BASIS IN 2006 AS THEY'RE USING  
9        IN 2010. AGAIN, I'M NOT SAYING THAT THAT'S WHAT A  
10       PIECE OF PROPERTY WOULD SELL FOR, BUT THERE'S NO  
11       DIFFERENCE IN THEIR METHODOLOGY BETWEEN 2006 AND 2010.

12               YOU ASKED ME A SPECIFIC QUESTION WHETHER  
13       ANYBODY IN THE PVA OFFICE IS CERTIFIED. YES, THEY'RE  
14       CERTIFIED. THEY HAVE TO TAKE -- CERTAIN ONES OF THEM  
15       TAKE EXAMS. THEY MAY NOT HAVE THE SAME INITIALS  
16       BEHIND THEIR NAME AS YOU DO, BUT THEY'RE QUALIFIED.  
17       THEY'VE BEEN TRAINED. THEY'VE BEEN CERTIFIED.  
18       THEY'VE TAKEN EXAMS.

19               YOU SAY YOU'RE NOT FAMILIAR WITH ANY OF THE  
20       SPECIFICS. ARE YOU AWARE OF ANY HOUSES IN THE  
21       KNOTTSVILLE AREA WITHIN A HALF MILE OF THE MINE THAT  
22       HAVE DECREASED IN VALUE?

23               CHAIRMAN: I SEE WHERE YOU'RE GOING WITH YOUR  
24       QUESTION. YOU WANT ME TO TAKE A FEW QUESTIONS HERE  
25       AND GET HIS RESPONSE?

1 MR. HAYNES: I THINK I'M FINISHED REALLY.

2 CHAIRMAN: MR. REYNOLDS, YOU SEE WHERE HE WAS  
3 GOING WITH THAT.

4 MR. REYNOLDS: SURE.

5 CHAIRMAN: IN OTHER WORDS, HAVE YOU EVER  
6 APPRAISED A HOUSE IN THE KNOTTSVILLE AREA?

7 MR. REYNOLDS: I'VE APPRAISED PROPERTY ALL  
8 THROUGHOUT THE COMMONWEALTH OF KENTUCKY, TENNESSEE AND  
9 ILLINOIS.

10 CHAIRMAN: LET'S JUST CENTER ON KNOTTSVILLE.

11 MR. REYNOLDS: I HAVE MANY TIMES.

12 CHAIRMAN: HAS THE PROPERTY VALUE AROUND MR.  
13 LANHAM'S COAL AREA GONE DOWN, GONE UP?

14 MR. REYNOLDS: I HAVEN'T STUDIED THAT. I  
15 CAN'T ANSWER THAT QUESTION.

16 CHAIRMAN: THANK YOU. THE AREA THAT IS IN  
17 QUESTION, PARTICULARLY REPRESENTED BY MR. WILSON'S  
18 CLIENTS, HAVE YOU APPRAISED ANY OF THOSE HOUSES?

19 MR. REYNOLDS: OVER THE YEARS I'M SURE I HAVE.  
20 I DON'T RECALL WHICH ONES OR WHEN, BUT I'VE DONE A LOT  
21 OF PROPERTY THROUGHOUT DAVIESS COUNTY. I KNOW I HAVE  
22 ON RUSSELL ROAD. WHAT PROPERTY, I COULDN'T ANSWER  
23 THAT. I DON'T KNOW.

24 CHAIRMAN: IN YOUR OPINION, THESE PEOPLE ARE  
25 VERY CONCERNED ABOUT THEIR PROPERTY. NOT MINE. NOT

1 MR. WILSON'S, BUT THEIRS. HOW WOULD YOU, IN YOUR  
2 EXPERT OPINION, SAY THAT THE IMPACT WOULD HAVE ON  
3 THEIR PARTICULAR PROPERTIES OVER THE NEXT FOUR TO FIVE  
4 YEARS?

5 MR. REYNOLDS: WELL, AS I SAID, WE WOULD HAVE  
6 TO CONDUCT A STUDY, WHICH I HAVEN'T DONE. HOWEVER,  
7 THERE WOULD BE A STIGMA OF SOME SORT I'M SURE.

8 CHAIRMAN: LET'S GET MORE SPECIFIC. ARE WE  
9 TALKING FIVE PERCENT, TEN PERCENT?

10 MR. REYNOLDS: I'M NOT PREPARED TO ANSWER THAT  
11 QUESTION. I HAVEN'T CONDUCTED AN APPRAISAL. I'M  
12 BOUND BY A STANDARD IN ETHICS THAT PREVENT ME FROM  
13 ANSWERING THAT QUESTION OFF THE CUFF. I'M NOT  
14 PREPARED TO MAKE THAT STATEMENT. I WOULD LIKE TO MAKE  
15 A STATEMENT WITH REFERENCE TO THE ASSESSMENTS, HIS  
16 REBUTTAL, IF I MAY.

17 CHAIRMAN: ABSOLUTELY.

18 MR. REYNOLDS: WHEN HE SAID THERE WAS NO  
19 CHANGE. WELL, I UNDERSTAND, BUT WHEN I WALKED IN THE  
20 DOOR HE WAS SAYING THAT SOME HAD INCREASED. HE MADE A  
21 COMMENT THAT SOME OF THOSE ASSESSMENTS HAS INCREASED.

22 I MEAN HISTORICALLY SPEAKING PROPERTY VALUES  
23 HAVE BEEN INCREASING SINCE THE GREAT DEPRESSION FOR  
24 CRYING OUT LOUD. WHAT DATA OR SUPPORT DO YOU HAVE  
25 THAT SUGGEST THAT THEY INCREASED OR HAVEN'T DECREASED?

1       YOU'RE BASING THAT ON AN ASSESSMENT. NOT ON A STUDY.  
2       NOT ON AN APPRAISAL BY A CERTIFIED APPRAISER. YOU'RE  
3       BASING IT ON AN ASSESSMENT WHERE THEY MAY HAVE JUST  
4       NOT LOOKED AT THAT AREA AGAIN. MAYBE THAT'S WHY THEY  
5       DIDN'T GO DOWN.

6               CHAIRMAN: WE ARE FACED WITH THESE NEIGHBORS,  
7       THESE PEOPLE HERE. YOU MADE A GENERAL STATEMENT THAT  
8       THEIR PROPERTIES WOULD BE IMPACTED. THEIR PARTICULAR  
9       PROPERTIES ARE GOING TO BE IMPACTED.

10              MR. REYNOLDS: THAT'S CORRECT.

11              CHAIRMAN: BUT YET YOU'VE NOT STUDIED THE  
12       AREA. YOU CAN'T MAKE A PRECISE --

13              MR. REYNOLDS: THAT'S CORRECT.

14              CHAIRMAN: YOU CAN'T MAKE A PRECISE STATEMENT  
15       TO THAT AFFECT. WE HAVE TO HAVE SOMETHING TO BASE  
16       SOMETHING ON. WE HAVE TO HAVE TESTIMONY THAT STATES  
17       THEIR PROPERTY IS GOING TO GO DOWN. IF YOU'RE GOING  
18       TO MAKE A STATEMENT THAT I THINK, AND THIS BOARD IS  
19       GOING TO HAVE TO ACCEPT THAT FACT, YOU'RE GOING TO  
20       HAVE TO HAVE SOME BASIS TO MAKE GENERAL COMMENTS OR  
21       SOMETHING THAT IS VERY DIFFICULT FOR TO US --

22              MR. REYNOLDS: I CAN APPRECIATE THAT. WHAT  
23       I'M TALKING ABOUT IS THE PRINCIPALS OF VALUE. REAL  
24       PROPERTY APPRAISAL, TECHNIQUES, RECOGNIZE IN APPRAISAL  
25       LITERATURE THROUGHOUT THE WORLD. WHAT ESTABLISHES

1 VALUE AND WHAT HAS AN AFFECT ON VALUE.

2 I'M INDICATING THAT YOU PUT A CENTER BLASTING  
3 WITHIN A NEAR PROXIMITY OF A PROPERTY, I BELIEVE THE  
4 GENTLEMAN I STEPPED OUT AND CAME BACK IN, A GENTLEMAN,  
5 MARKET PARTICIPANT PER SE, WHICH IS HOW YOU DEVELOP  
6 OPINIONS OF VALUE. YOU GAUGE WHAT THE PERCEPTION OF  
7 MARKET PARTICIPANTS ARE. HE SAID, I WOULDN'T HAVE  
8 CONSIDERED THAT PROPERTY. NOW, THAT'S ONE, AND I  
9 UNDERSTAND THAT.

10 LOOK AT IT YOURSELF. A PRINCIPAL OF  
11 SUBSTITUTION. IF YOU HAVE A PROPERTY HERE THAT YOU  
12 WERE CONSIDERING BUYING, SCARCITY, UTILITIES, DESIRE  
13 OF PURCHASING POWER, AND YET YOU HAVE ANOTHER SIMILAR  
14 PROPERTY OVER HERE THAT DIDN'T BACKUP TO A BLASTING  
15 CENTER, WHICH ONE WOULD YOU BUY?

16 CHAIRMAN: WHAT WE NEED, WE NEED SPECIFICS.

17 MR. REYNOLDS: I'D BE HAPPY TO PREPARE A  
18 STUDY.

19 CHAIRMAN: WHAT HAPPENS IF THE OWENSBORO AREA  
20 BECOMES THE MECCA OF DEVELOPMENT OF THE WORLD AND ALL  
21 OF A SUDDEN ALL THE VALUES IN OWENSBORO KENTUCKY RISE  
22 50 PERCENT NEXT YEAR.

23 MR. REYNOLDS: YOU'LL HAVE TO REPEAT THAT  
24 QUESTION.

25 CHAIRMAN: IF YOU'RE TALKING GENERALITIES,

1       WHAT IF OWENSBORO BECOMES A DEVELOPMENT MECCA OF THE  
2       WORLD AND EVERYBODY WANTS TO MOVE TO OWENSBORO AND THE  
3       PROPERTY VALUES IN OWENSBORO RISE 50 PERCENT. ARE YOU  
4       SAYING IN GENERALITIES THAT ALL PROPERTIES ARE GOING  
5       TO RISE 50 PERCENT? JUST THESE PROPERTIES ARE GOING  
6       TO RISE 50 PERCENT? WHAT I'M SAYING IS, YOU'RE  
7       TALKING IN GENERALITIES THAT MAKES IT VERY DIFFICULT  
8       FOR US TO GRASP.

9               MR. REYNOLDS: AND I CAN COMPLETELY APPRECIATE  
10       THAT. AS I SAID, I HAVEN'T DONE A STUDY.  
11       ECONOMICALLY SPEAKING, AS THE ARMY BASE IN CLARKSVILLE  
12       CLOSED DOWN, WHAT IMPACT WOULD IT HAVE ON THE HOUSING  
13       STOCK THERE? IT MOST CERTAINLY WOULD HAVE AN IMPACT,  
14       WOULDN'T IT?

15              CHAIRMAN: UP OR DOWN?

16              MR. REYNOLDS: WHAT DO YOU THINK?

17              CHAIRMAN: THAT'S WHY I ASKED YOU.

18              MR. REYNOLDS: PROBABLY 40 PERCENT OR MORE GO  
19       ON THE MARKET TOMORROW. THAT NUMBER IS PROBABLY  
20       RELATIVELY LOW, BUT IT WOULD HAVE A TREMENDOUS IMPACT.  
21       YOU HAVE AN OVERSUPPLY OF PRODUCT.

22              CHAIRMAN: BUT YOU SEE WHERE I'M COMING FROM?

23              MR. REYNOLDS: I CERTAINLY DO.

24              CHAIRMAN: I'M TRYING FOR THIS BOARD TO TRY TO  
25       ASCERTAIN, HAVE YOUR EXPERT TESTIMONY TO SAY WHAT IS

1 THE IMPACT THAT WE'RE GOING TO HAVE.

2 MR. REYNOLDS: I CAN APPRECIATE THAT, BUT I  
3 HAVEN'T BEEN ASKED TO DO THAT. I'D BE HAPPY TO DO IT.

4 CHAIRMAN: THANK YOU.

5 MR. WILSON: MAY I HIM A QUESTION?

6 CHAIRMAN: PLEASE, MR. WILSON.

7 MR. WILSON: BRIAN, I'M GOING TO ASK YOU,  
8 YOU'VE BEEN ASKED TO GIVE A GENERAL OPINION OF WHETHER  
9 OR NOT THIS MINING ACTIVITY IN THE GIRL SCOUT  
10 CAMP/RUSSELL ROAD AREA WOULD HAVE A POSITIVE OR A  
11 NEGATIVE IMPACT ON PROPERTY VALUES, IF IT WENT.  
12 THAT'S ALL I ASKED YOU TO DO AT THIS POINT BECAUSE YOU  
13 HAVE NOT PERSONALLY GONE INTO THE HOMES OF THE AREA;  
14 IS THAT CORRECT?

15 MR. REYNOLDS: THAT'S CORRECT.

16 MR. WILSON: YOU'VE DRIVEN THERE AND TAKEN A  
17 LOOK AT THE TYPE OF AREA WE'RE TALKING ABOUT, TYPE OF  
18 RESIDENTS WE'RE TALKING ABOUT?

19 MR. REYNOLDS: I HAVE.

20 MR. WILSON: IN YOUR OPINION, WILL THE  
21 BEGINNING OF STRIP MINING IN THAT AREA HAVE A POSITIVE  
22 OR A NEGATIVE IMPACT ON PROPERTY VALUES OF THOSE IN  
23 CLOSE PROXIMITY?

24 MR. REYNOLDS: IT WILL HAVE A NEGATIVE IMPACT.

25 MR. WILSON: AND THAT'S ALL YOU'RE PREPARED TO

1 SAY. NOT THE PERCENTAGE OF NEGATIVE IMPACT?

2 MR. REYNOLDS: THAT'S CORRECT.

3 MR. WILSON: IS IT FAIR TO SAY IT'S YOUR  
4 OPINION THAT THE CLOSER IN PROXIMITY TO THE MINING  
5 ACTIVITY BE GREATER NEGATIVE IMPACT PERCENTAGE-WISE  
6 THE HOUSE WOULD PROBABLY SUFFER?

7 MR. REYNOLDS: IT WOULD STAND TO REASON THAT  
8 IT'S HIGHLY PROBABLE THAT THAT WOULD BE THE CASE, YES.

9 MR. WILSON: THANKS.

10 CHAIRMAN: MR. HAYNES, DID YOU WANT TO?

11 MR. HAYNES: CAN I ASK QUESTIONS TO HIM?

12 CHAIRMAN: SURE.

13 MR. HAYNES: MR. REYNOLDS, YOU MENTIONED  
14 SCARCITY HAVING THE INFLUENCE ON --

15 CHAIRMAN: MR. HAYNES, THEY WERE SORT OF ON  
16 THE SAME TEAM.

17 MR. HAYNES: SCARCITY HAVING AN INFLUENCE ON  
18 REAL ESTATE VALUES. WHAT FACTORS CAN CAUSE SCARCITY?

19 CHAIRMAN: MR. REYNOLDS.

20 MR. REYNOLDS: WELL, DIAMOND RINGS ARE PRETTY  
21 DESIRABLE, AREN'T THEY? THAT'S BECAUSE THERE'S A  
22 SCARCITY OF THEM.

23 MR. HAYNES: WOULD JOBS TEND TO CREATE  
24 SCARCITY?

25 MR. REYNOLDS: I WOULD SAY THAT WOULD BE MORE



1 OF AN ECONOMIC ISSUE.

2 MR. HAYNES: WELL, MORE PEOPLE THAT A  
3 COMMUNITY HAS THE MORE PROPERTY THEY NEED; IS THAT  
4 CORRECT?

5 MR. REYNOLDS: I ASSUME SO, YES.

6 MR. HAYNES: SO MORE JOBS, MORE PEOPLE LOOKING  
7 FOR HOUSES?

8 MR. REYNOLDS: OKAY.

9 MR. HAYNES: THE CONVERSE OF YOUR EXAMPLE  
10 ABOUT THE ARMY BASE, IF IT SHUTDOWN PROPERTY VALUES  
11 WOULD DROP BECAUSE THERE WOULD BE A GLUT ON THE  
12 MARKET. IF A 1,000 PEOPLE MOVED INTO THE COMMUNITY,  
13 CONVERSE IT WOULD DRIVE THE PRICE UP; IS THAT CORRECT?

14 CHAIRMAN: MR. HAYNES, PLEASE.

15 MR. REYNOLDS: AGAIN, I WOULD HAVE TO DO A  
16 STUDY. I WAS ASKED WHAT MY PROFESSIONAL OPINION WAS  
17 REGARDING PROPERTY. WE'RE TALKING A LOT OF  
18 HYPOTHETICALS HERE THAT I WOULD NOT HAVE AN ANSWER FOR  
19 TODAY.

20 I WAS ASKED IF MINING PROXIMATE TO THE  
21 PROPERTIES ALONG THESE AREAS OR IN GENERAL COULD HAVE  
22 A POSITIVE OR NEGATIVE IMPACT, AND I PROVIDED MY  
23 INDEPENDENT UNBIASED PROFESSIONAL OPINION THAT IT  
24 WOULD.

25 MR. HAYNES: AND YOU MENTIONED UTILITY RATES

1 OR UTILITY COSTS INFLUENCE PEOPLE WHERE THEY LIVE.

2 MR. REYNOLDS: NOW, WHEN I SAY UTILITY, I  
3 DON'T MEAN THE COST OF YOUR ELECTRIC BILL. IF YOU  
4 UNDERSTAND VALUE, YOU WOULD UNDERSTAND THAT MEANS  
5 DON'T SHOW ME A FOUR BEDROOM HOUSE IF I'M LOOKING FOR  
6 A FIVE BEDROOM HOUSE. DON'T SHOW ME A ONE BEDROOM  
7 HOUSE IF MY UTILITY REQUIREMENT IS A THREE BEDROOM  
8 HOUSE. HAS NOTHING TO DO WITH YOUR WATER BILL.

9 MR. HAYNES: WELL, IT HAS TO DO WITH  
10 INDUSTRIES LOCATING HERE AND PEOPLE --

11 CHAIRMAN: WAIT. I SEE WHERE YOU'RE HEADED.  
12 DO YOU HAVE A CLOSING COMMENT?

13 MR. REYNOLDS: THE ECONOMIC FACTORS OF VALUE  
14 IS WHAT I WAS DISCUSSING. THE ECONOMIC INFLUENCES  
15 THAT CREATE VALUE ARE SCARCITY, UTILITY, DESIRE AND  
16 PURCHASING POWER. SOME PEOPLE LIVE IN HOUSES BECAUSE  
17 THEY WANT TO. SOME PEOPLE LIVE IN HOUSES BECAUSE THEY  
18 HAVE TO. THAT'S A FAIR STATEMENT. SOME PEOPLE HAVE  
19 THE PURCHASING POWER TO BUY THE BIG MILLION DOLLAR  
20 HOUSE. SOME DON'T. UTILITY IS AN ISSUE THAT IT MEETS  
21 YOUR UTILITY. YOU HAVE A LARGE FAMILY, YOU NEED THREE  
22 BEDROOMS, TWO BATHS, WHAT HAVE YOU. THAT'S UTILITY.

23 CHAIRMAN: THANK YOU.

24 MR. REYNOLDS: THANK YOU.

25 CHAIRMAN: MR. WILSON.

1           MR. WILSON: MR. CHAIRMAN, I'M GOING TO CALL,  
2 LORI THOMAS WOULD LIKE TO MAKE A FEW STATEMENTS TO THE  
3 COMMISSION.

4           MR. SILVERT: STATE YOUR NAME, PLEASE.

5           MS. THOMAS: FOR THE RECORD LORI THOMAS.

6           (LORI THOMAS SWORN BY ATTORNEY.)

7           MS. THOMAS: FOR THE RECORD TONIGHT I THINK  
8 WHAT WE HAVE ESTABLISHED IS THAT WESTERN KENTUCKY  
9 MINERALS HAS NO CONTROL OVER NOISE, AIR QUALITY AND  
10 NOW HOME VALUATIONS, CORRECT?

11           I ALSO WANT TO STATE THAT NOW I THINK THERE'S  
12 SOME QUESTION WITH REGARD TO WHETHER THEY'RE GOING TO  
13 STAY 2000 FEET OFF OF GIRL SCOUT CAMP.

14           CHAIRMAN: I'M SORRY, I DIDN'T HEAR THAT.

15           MS. THOMAS: AT THIS TIME I THINK THERE'S SOME  
16 QUESTION, I THINK THE ORIGINAL AGREEMENT WITH GIRL  
17 SCOUT IS THAT THEY WERE GOING TO STAY 2000 FEET OFF  
18 THEIR PROPERTY, BUT AT THIS TIME IT SOUNDS -- IS THAT  
19 QUESTIONABLE AT THIS POINT?

20           CHAIRMAN: NO. I BROUGHT MR. LANHAM UP THERE  
21 AND THEY STATED THAT THEY ARE, THE GENTLEMAN, STATED  
22 THAT THEY WOULD HONOR THAT AGREEMENT. HE SAID IT IN  
23 FRONT OF THE COMMISSION.

24           MS. THOMAS: OKAY. SO IF YOU FORWARD, YOU'LL  
25 STAY THAT DISTANCE OFF THEIR PROPERTY; IS THAT

1       CORRECT?

2               CHAIRMAN:  MA'AM, DIRECT IT TO THE CHAIR.

3               MS. THOMAS:  I'M SORRY.

4               THE GIRL SCOUTS HAVE A QUESTION WITH REGARD TO

5       THAT.

6               MR. WRIGHT:  YES, WE HAD AN AGREEMENT THAT HAD

7       THAT FIGURE IN THERE.  YES, WE WOULD BE MORE THAN

8       WILLING TO HONOR THAT.  IT'S NOT OFF THE PROPERTY.

9       IT'S OFF THE MAIN STRUCTURE BACK BY THE LAKE, THE

10      LODGE.

11              CHAIRMAN:  DID WE DISCUSS THAT EARLIER?

12              MR. WRIGHT:  WE DID.  ABOUT FIVE TIME.

13              CHAIRMAN:  ALL RIGHT.

14              MS. THOMAS:  THANK YOU FOR APPEASING ME THEN.

15              CHAIRMAN:  YES, MA'AM.

16              MS. THOMAS:  I ALSO HAVE SOMETHING THAT I

17      WOULD LIKE JENNIFER, ONE OF THE GIRL SCOUTS, TO READ

18      WITH REGARD TO MINERALS AND THE LAND.  IT'S TWO

19      PARAGRAPHS.

20              CHAIRMAN:  THAT'S FINE.

21              MR. SILVERT:  WOULD YOU STATE YOUR NAME,

22      PLEASE.

23              MISS OTTERSOCK:  JENNIFER OTTERSOCK.

24              (JENNIFER OTTERSOCK SWORN BY ATTORNEY.)

25              MISS OTTERSOCK:  COAL MINING CAUSES A NUMBER

1 OF HARMFUL AFFECTS. WHEN COAL SURFACES ARE EXPOSED,  
2 IRON SULFITE KNOWN AS FOOLS GOLD COMES IN CONTACT WITH  
3 WATER AND AIR AND FORMS SULFURIC ACID.

4 AS WATER DRAINS FROM THE MINE THE ACID MOVES  
5 INTO THE WATERWAYS. AS LONG AS RAIN FALLS ON THE MINE  
6 HEALING, THE SULFURIC ACID PRODUCTION CONTINUES  
7 WHETHER THE MINE IS STILL OPERATING OR NOT.

8 THE PROCESS IS KNOWN AS ACID ROCK DRAINAGE OR  
9 ACID MINE DRAINAGE. IF THE COAL MINE IS STRIP MINED,  
10 THE ENTIRE EXPOSED SEAM LEACHES SULFURIC ACID. THIS  
11 LEAVES THE SUBSOIL INFERTILE ON THE SURFACE AND BEGINS  
12 TO POLLUTE STREAMS BY CITIFYING AND KILLING FISH,  
13 PLANTS AND AQUATIC ANIMALS WHICH ARE SENSITIVE.

14 COAL MINING PRODUCES METHANE, A POTENT  
15 GREENHOUSE GAS. METHANE IS THE NATURAL RECURRING  
16 PRODUCT OF THE DECAY OF ORGANIC MATTER AS COAL  
17 DEPOSITS ARE FORMED INCREASING DEPTHS OF BURIAL.

18 A PORTION OF THE METHANE PRODUCED IS ABSORBED  
19 BY THE COAL AND LATER RELEASED FROM THE COAL SEAM AND  
20 SURROUNDING DISTURBED STRATA CONCERNING MINING  
21 PROCESS. METHANE ACCOUNTS FOR 10.5 PERCENT OF  
22 GREENHOUSE GAS THAT IS CREATED THROUGH HUMAN ACTIVITY.

23 CHAIRMAN: THANK YOU.

24 ARE YOU FINISHED, MA'AM?

25 MS. THOMAS: NO. I HAVE ONE MORE QUESTION.

1           WHO WILL BE RESPONSIBLE IF THERE'S AN ACCIDENT  
2       OUT ON 231 WHEN ONE OF THE COAL TRUCKS HITS A CAR OR  
3       HITS A SCHOOL BUS? I BELIEVE THAT QUESTION WAS POSED  
4       TO WESTERN KENTUCKY MINERALS AND I BELIEVE THAT THEY  
5       WOULD NOT BE RESPONSIBLE. SO WHO IS RESPONSIBLE FOR  
6       THAT, PLEASE?

7           CHAIRMAN: MR. HAYNES.

8           MR. HAYNES: IT WOULD BE THE SAME AS IF ANY  
9       TRUCK HIT A CAR. IF ANY CAR HIT A CAR, IF ANY CAR HIT  
10      A CHILD, THE DRIVER OR THE VEHICLE IS RESPONSIBLE.  
11      THEY CARRY INSURANCE OR THEY'RE SUPPOSED TO. OUR  
12      DRIVERS DO. WE HAVE BIG POLICIES. YOU KNOW, I CAN'T  
13      SPEAK TO -- IT'S JUST THE SAME AS ANYTHING ELSE. WE  
14      WOULD HOPE IT WOULD BE HANDLED THE SAME. SOMEBODY  
15      WOULD CALL AN AMBULANCE. THE PERSON WOULD GET  
16      TREATMENT. THE POLICE WOULD COME AND INVESTIGATE.  
17      THE INSURANCE COMPANIES WOULD SETTLE UP THE DAMAGES  
18      JUST LIKE ANY VEHICLE THAT HITS A CHILD OR HITS A CAR  
19      OR HITS A TRUCK. NO DIFFERENCE.

20          CHAIRMAN: THANK YOU.

21          MS. THOMAS: ARE THE TRUCKS BEING USED  
22      CONTRACTED BY WESTERN KENTUCKY MINERALS? IS THERE  
23      ANOTHER TRUCKING COMPANY? DO THEY OWN THE COMPANY?

24          CHAIRMAN: JUST RESPOND FOR THE RECORD,  
25      PLEASE.

1           MR. WRIGHT: WE DO NOT OWN ANY COAL TRUCKS,  
2 NO. THEY'RE OWNED BY ASHY TRUCKING FROM BEAVER DAM.

3           MS. THOMAS: THANK YOU.

4           CHAIRMAN: THANK YOU.

5           MR. WILSON.

6           MR. WILSON: MR. CHAIRMAN, NEXT WITNESS WILL  
7 BE KENT OVERSTREET WHO IS A RESIDENT OF THE AREA.

8           MR. SILVERT: STATE YOUR NAME, PLEASE.

9           MR. OVERSTREET: KENT OVERSTREET.

10           (KENT OVERSTREET SWORN BY ATTORNEY.)

11           MR. OVERSTREET: I WOULD JUST LIKE TO POINT  
12 OUT, I DON'T ENVY ANY OF YOU ALL. THERE'S A NUMBER OF  
13 FACTORS THAT YOU'RE CONSIDERING. QUITE FRANKLY IT  
14 COMES DOWN TO NOTHING BUT ECONOMICS ON THEIR SIDE, BUT  
15 FOR THE RESIDENTS AND THE OTHER RESIDENTS OF DAVIESS  
16 COUNTY, PEOPLE THAT ARE AFFECTED, THE HOMEOWNERS,  
17 THERE ARE MANY CONSIDERATIONS.

18           THERE'S THE ECONOMIC CONSIDERATIONS. YOU'VE  
19 HEARD THOSE CONCERNS. THERE IS A HEALTH  
20 CONSIDERATION. THERE'S THE IMPACT ON THE ENVIRONMENT.  
21 QUITE FRANKLY NOBODY MOVED TO PLEASANT RIDGE OR TO  
22 GIRL SCOUT ROAD TO LIVE NEXT TO RECLAIMED LAND.

23           I UNDERSTAND THE OVERALL POLICY. THAT WE'RE  
24 THERE FOR AGRICULTURE. WE'RE THERE FOR OTHER  
25 MINERALS, BUT WHEN THEY TALK ABOUT RETURNING IT TO THE

1        CONTOUR OF THE LAND, I THINK WE CAN ALL AGREE, I'VE  
2        NEVER SEEN RECLAIMED LAND, IF ANYBODY CAN POINT IT OUT  
3        TO ME, THAT HAS THE SAME HILLS, THE SAME TREES, THE  
4        SAME CONTOUR AS WHEN THEY STARTED. IT'S IMPOSSIBLE.  
5        THE GROUND WON'T GROW A TREE. THAT'S WHY YOU DON'T  
6        SEE ANY IN THEIR PHOTOS. IT'S TOO COMPACT. THEY  
7        RELEASE CHEMICALS INTO THE SOIL. YOU'VE GOT DIESEL  
8        FUEL THAT'S BEING SPILLED. YOU'VE GOT HYDRAULIC LINES  
9        THAT ARE BLOWING ON EQUIPMENT. YOU'VE GOT  
10       CONTAMINATION OF THE SOIL FROM WHAT'S BEING RELEASED  
11       BY VIRTUE OF REMOVING THE MINERALS. YOU'VE GOT THE  
12       CONTAMINATION OF THE AIR. YOU'VE GOT THE  
13       CONTAMINATION OF THE WATER.

14                NOW, THEY CAN TELL YOU ABOUT ALL THE  
15       REQUIREMENTS AND ALL THE REGULATIONS THEY HAVE, BUT IT  
16       GOES WITHOUT SAYING EVERY LAW IS WRITTEN TO ENSURE THE  
17       MINIMUM. NO LAW IS WRITTEN TO ENSURE THE MAXIMUM  
18       COMPLIANCE. QUITE FRANKLY, ANY ENFORCEMENT AGENCY IS  
19       STRETCHED TO ITS GILLS AT THIS POINT IN TIME DUE TO  
20       MINIMUM MANPOWER AND MINIMUM FUNDING. SO TO SAY THAT  
21       WE HAVE ALL THIS OVERSIGHT IS A FARCE.

22                THEY HAVE PEOPLE THAT HAVE EMPLOYMENT  
23       POSITIONS AS INSPECTORS, WHAT HAVE YOU. THEY MONITOR  
24       THIS FOR FIVE YEARS. QUITE FRANKLY, I WASN'T PLANNING  
25       ON MOVING IN FIVE YEARS.



1           I MOVED MY FAMILY THERE, LIKE I'M SURE MOST OF  
2       THESE FOLKS DID AND ALL THESE FOLKS, THEY WENT THERE  
3       TO STAY. THEY CHOSE THAT AREA FOR A REASON. SOME  
4       PEOPLE LIKE THE CITY. SOME PEOPLE LIKE THE COUNTRY.  
5       I HAPPEN TO LIKE THE COUNTRY. I HAPPEN TO LIKE IT THE  
6       WAY IT IS. THE WAY GOD INTENDED IT WITH BIRDS, TREES,  
7       SHRUBS, SNAKES. WHATEVER HE PUT OUT THERE.

8           THAT RECLAIMED GROUND WILL NEVER BE THAT WAY  
9       AGAIN. IT WILL NEVER RETURN. IT WILL NEVER COME BACK  
10      TO ANYTHING TO RESEMBLE WHAT THEY TAKE.

11          NOW, YOU'VE HEARD THE ORGANIZATION THAT WANT  
12      THE COAL SEVERANCE TAX. QUITE FRANKLY, WHENEVER YOU  
13      HAVE TAXES LIKE THAT THAT FUND A MULTITUDE OF  
14      ORGANIZATIONS, THAT'S GENERALLY BECAUSE THEY'RE DOING  
15      SOMETHING VERY DESTRUCTIVE. THEY CHARGE A PREMIUM FOR  
16      THAT.

17          SO COAL SEVERANCE TAX IS JUST THAT. IT'S A  
18      PREMIUM THAT YOU GET FOR DESTROYING THE ENVIRONMENT  
19      AND DESTROYING PEOPLE.

20          NOW, IT GOES TO FUND OTHER PROJECTS. IT GOES  
21      TO FUND OTHER ORGANIZATIONS AND, YES, THEY WANT IT.  
22      YES, THE COUNTY WANTS IT. BUT BECAUSE OF THAT INCOME  
23      CONSIDER THE REST OF THE IMPACT.

24          YOU'VE HEARD ABOUT THE ROADS. YOU'VE HEARD  
25      ABOUT THE ACCIDENTS. YOU'VE HEARD ABOUT THE PROPERTY

1 VALUES. THE COAL SEVERANCE TAX IS THERE FOR 5, 10, 20  
2 YEARS, DEPENDING ON WHICH ESTIMATE YOU WANT TO GO WITH  
3 AND WHETHER PHASE TWO IS APPROVED OR PHASE THREE IS  
4 APPROVED. THE ALLEGED DIMINUTION OF PROPERTY VALUE IS  
5 PERMANENT.

6 YOU DIDN'T HEAR THAT PROPERTY VALUES ARE GOING  
7 TO GO RIGHT BACK UP ONCE THAT GROUND IS RECLAIMED. SO  
8 FOR THE SHORT TERM YOU GET GREATER TAX VALUE FROM THE  
9 COAL SEVERANCE, AND IN THE LONG TERM YOU POTENTIALLY  
10 LOSE RESIDENTS. YOU HAVE DESTROYED HOMES OR DAMAGED  
11 HOMES. YOU HAVE PEOPLE THAT ARE UNWILLING TO MOVE TO  
12 THE AREA AND YOU'RE LEFT WITH JUST A NICE LITTLE GREEN  
13 FIELD THAT HAS TREES ON THE FAR OUTSIDE EDGE SO WE  
14 KNOW EXACTLY WHERE THE MINING STOPPED.

15 YES, YOU'LL SEE A FEW BIRDS AND A FEW ANIMALS  
16 RUNNING ACROSS THAT FIELD TRYING TO GET TO A TREE, BUT  
17 THEY'RE NOT GOING TO BE ABLE TO STOP ANYWHERE  
18 IN-BETWEEN.

19 YOU'RE GOING TO HAVE CONTAMINATED WATER,  
20 CONTAMINATED STREAMS. YOU'RE GOING TO HAVE THINGS  
21 THAT ONLY NATURE CAN POTENTIALLY CORRECT, BUT YET  
22 WE'RE TRYING TO PUT FILTERS AND UNDERGROUND AQUIFERS.  
23 WE'RE TAKING AND SAYING WELL, WE'VE RUINED THE WELL  
24 WATER AT THIS LEVEL, BUT WE'VE GOT A SECOND OPTION.  
25 WE'LL JUST DRILL DEEPER. IT DOESN'T MATTER WHAT

1 INCONVENIENCE IT IS TO THE PEOPLE WHO OWN THOSE HOMES.  
2 IT DOESN'T MATTER WHAT AFFECT IT TRUTHFULLY HAS  
3 BECAUSE THE ONLY REASON WE'RE DOING IT IS BECAUSE WE  
4 HAVE A FEW STATUTES AND A FEW REGULATIONS THAT SAY, WE  
5 HAVE TO DO THESE THINGS. WE HAVE TO PROTECT THESE  
6 THINGS TO THIS EXTENT.

7 QUITE FRANKLY, I DON'T THINK ANYBODY IN HERE  
8 WANTS THEIR CHILDREN OR THEIR HEALTH OR THEIR WELFARE  
9 PROTECTED TO THIS EXTENT. THEY WANT IT LEFT ALONE.  
10 THEY WANT TO TAKE THEIR CHANCES WITH WHATEVER MAY BE  
11 IN THEIR WELLS, WHETHER IT'S FEWER PARTS PER MILLION  
12 OF LEAD OR FEWER PARTS PER TRILLION.

13 WE'RE NOT CONCERNED ABOUT WHAT MEASUREMENTS  
14 THEY WANT TO APPLY TO IT. THE FACT IS IS THAT IF IT  
15 WASN'T THERE, AND I REALLY DON'T CARE IF IT'S ONE PART  
16 PER TRILLION OR ONE PART PER GAZILLION, IT WASN'T  
17 THERE IN THE BEGINNING. I WASN'T EXPOSED TO IT. I  
18 WASN'T INGESTING IT. I WASN'T BREATHING IT. IT  
19 WASN'T CAUSING ME HEALTH PROBLEMS. IT WASN'T CAUSING  
20 MY KIDS HEALTH PROBLEMS, AND IT'S NOT POTENTIALLY  
21 AFFECTING EVERYBODY WITHIN A 10 OR 15 MILE RADIUS.

22 QUITE FRANKLY, THE ONLY THING THAT DESTROYS  
23 LANDSCAPE LIKE THIS ARE BOMBS. YOU CAN'T SAY ANYTHING  
24 ELSE OTHER THAN MAYBE THE CONSTRUCTION OF INTERSTATES  
25 WHERE THESE COMPLETELY GUT THE LAND, TAKE LAND MOVERS,

1       FLAT IT OUT, TAKEN OUT HILLS. WE'VE ALL DRIVEN.  
2       SOMEBODY USED THE EXAMPLE OF 231. YES, BE THANKFUL  
3       THAT SOMEBODY GAVE UP THEIR PROPERTY. DO YOU THINK  
4       THEY GAVE IT UP WILLINGLY? NO. THE STATE TOOK IT.  
5       THE FEDERAL GOVERNMENT TOOK IT.

6               RIGHT NOW ALL OF THESE FOLKS HAVE RIGHTS ON  
7       THEIR PROPERTIES. THE MINERAL RIGHTS HAVE BEEN SOLD  
8       FROM THE MAJORITY OF THEM, BUT THEY STILL HAVE THE  
9       SURFACE RIGHT. THEY HAVE THE RIGHT TO THE QUIET  
10      ENJOYMENT OF THEIR PROPERTY. THE LAW GRANTS THEM  
11      THAT. THEY'RE ENTITLED TO THAT. WE'RE ALL ENTITLED  
12      TO THAT. I KNOW YOU ALL SAID IT'S NOT YOUR OBLIGATION  
13      OR JOB TO SAY -- TALKING ABOUT THE SHOOTING RANGE,  
14      THAT WE CAN'T HAVE THIS.

15             WE ALL KNOW THAT THERE'S CERTAIN THINGS THAT  
16      NONE OF US WANT TO HEAR. PEOPLE DON'T WANT TO BE  
17      BOTHERED AT CERTAIN HOURS. AN 11 HOUR SHIFT, 22 HOURS  
18      A DAY, 6 DAYS A WEEK, WHILE YOU'RE TRYING TO HAVE YOUR  
19      SON OR DAUGHTER'S BIRTHDAY PARTY OR TRYING TO HAVE  
20      YOUR PARENTS 50TH WEDDING ANNIVERSARY, JUST CONSIDER  
21      THAT IT'S NOT JUST ABOUT ECONOMICS. A LOT OF PEOPLE  
22      FOCUS ON THE ECONOMIC ASPECT, BUT AT THE END OF THE  
23      DAY WHEN THOSE STATUTES HAVE BEEN MET, AND KEEP IN  
24      MIND THAT EVERY SINGLE PERMIT IS BASED ON A  
25      HYPOTHETICAL. EVERYTHING THEY PUT IN IT IS WHAT THEY

1 "PROMISED TO DO." IT'S WHAT THEY HAVE TO DO BY LAW.  
2 THEY PUT IN THERE WHAT THEY HAVE TO DO.  
3 THEN WE'RE LEFT WITH NO ENFORCEMENT. YOU'VE  
4 ALREADY HEARD. THEY DON'T MONITOR THE WATER. THEY  
5 DON'T MONITOR THE AIR. SO BASICALLY I GUESS WE JUST  
6 WAIT UNTIL SOMEBODY SHOWS UP AT MERCY AND HAS SOME  
7 WEIRD CONDITION AND THEN ALL OF A SUDDEN THEY'RE  
8 RUNNING BLOOD TESTS AND THEN SOMETHING DEVELOPS AND WE  
9 GO, OH, WAIT A MINUTE, IT'S RELATED TO THE MINE. YOU  
10 HEARD THEM SAY THEIR INSURANCE POLICY IS AN OCCURRENCE  
11 POLICY. WELL, THE PROBLEM WITH THAT, AND WITH ALL  
12 INSURANCE, IS WHENEVER YOU HAVE AN OCCURRENCE POLICY,  
13 THE PROBLEM IS WHEN DO YOU GET THE INSURANCE COMPANY  
14 TO AGREE WHEN YOUR OCCURRENCE OCCURRED. IF THEY'RE  
15 SETTING OFF 50 BLASTS, WHICH ONE OF THEM CAUSED IT?  
16 DID THE POLICY LAPSE? WERE THERE BLASTS AFTER THE  
17 POLICY OR WAS IT BEFORE THE POLICY.  
18 LETS NOT FORGET THAT THE BLASTING MATERIALS  
19 THAT THEY'RE USING ARE QUITE SIMILAR TO THE ONES THAT  
20 TIMOTHY MCVEIGH USED. SO TO SAY THAT WE'VE GOT IT  
21 UNDER CONTROL, IT'S UNDER CONTROL TO THE EXTENT THAT  
22 SOMEBODY IS PAYING ATTENTION. I'M NOT SAYING THAT  
23 THEY'RE GOING TO DO IT INTENTIONALLY, BUT OBVIOUSLY AS  
24 SEVERAL OF YOU POINTED OUT, MISTAKES HAPPEN. PROBLEMS  
25 OCCUR. MISHAPS HAPPEN. THINGS GET EXPOSED AND

1 DIFFERENT PROBLEMS COME AROUND.

2 THE PROBLEM IS THE FOLKS ON THE OUTSIDE OF  
3 THAT MINE AREN'T WEARING RESPIRATORS. THEY'RE NOT  
4 WEARING HARD HATS. THEY DON'T KNOW WHEN THE BLAST IS  
5 GOING OFF UNTIL THEY HEAR A BOOM. THEY DON'T KNOW  
6 THAT THEIR PIPES HAVE BURSTS UNTIL THEIR WALLS ARE  
7 FLOODED OR THEIR BASEMENTS ARE LEAKING. SO WE'RE JUST  
8 KIND OF LEFT WITH THE AFTERMATH. AS SOMEBODY SAID,  
9 THE WHAT IF'S. DO YOU KNOW WHEN IT HAPPENS, WHERE IT  
10 HAPPENS, WHAT HAPPENED.

11 SO I WOULD JUST SIMPLY ASK THAT YOU CONSIDER  
12 IT'S NOT ONE OF THOSE SITUATIONS WHERE YOU THROW IT  
13 BACK AND SAY, WOULD YOU WANT IT IN YOUR BACKYARD? OF  
14 COURSE YOU WOULDN'T. NOBODY WOULD. NOBODY WANTS  
15 THIS KIND OF OPERATION. THAT'S WHY YOU'VE GOT SO MANY  
16 PEOPLE HERE. THAT'S WHY IT'S SUCH FERMENT ISSUE.  
17 THAT'S WHY PEOPLE ARE SO UPSET. PEOPLE HAVE GOT THEIR  
18 LIFE SAVINGS, THEIR MEMORIES WRAPPED UP IN THESE HOMES  
19 AND IN THESE PROPERTIES. THEY'VE GOT THEM THERE FOR A  
20 REASON. THEY WANT THE TREES. THEY WANT THE WILDLIFE.  
21 QUITE FRANKLY, I ENJOY WALKING OUT IN THE MORNING AND  
22 BEING ABLE TO HEAR NOTHING MORE THAN A BIRDS AND MAYBE  
23 SOME CRICKETS. I DON'T HEAR, AS TREVOR SCOTT SAID  
24 EARLIER, I DON'T HEAR CAT DOZER TRACKS. I DON'T HEAR  
25 ANY OF THAT. I DON'T EVEN HEAR THE TRAFFIC WHERE I AM

1 AT ON 231 BECAUSE RIGHT NOW I HAVE ENOUGH TREES TO  
2 BLOCK IT. BUT WHEN THEY CLEAR CUT THAT LAND AND THEY  
3 TAKE ALL THAT TIMBER DOWN -- I CAN'T SEE A NEIGHBOR  
4 FROM WHERE I LIVE RIGHT NOW EXCEPT A PORCH LIGHT IN  
5 THE WINTER. IN THE SPRING I WON'T BE ABLE TO SEE  
6 ANYONE. YOU'RE GOING TO TAKE THAT LANDSCAPE AND  
7 YOU'RE GOING TO MAKE IT AS FLAT AS THAT DESK. YOU'RE  
8 GOING TO CLEAR IT OFF AND YOU'RE GOING TO CHANGE THE  
9 TOTAL CHARACTER OF NOT ONLY THEIR PROPERTIES, BUT OF  
10 THAT PART OF THE COUNTY. IT'S ALL ABOUT MONEY FOR A  
11 FINITE PERIOD OF TIME.

12 I WOULD JUST SUGGEST THAT PROPERTY TAXES ON  
13 THE INCREASE VALUES OF A HOUSE ARE FOREVER. THE  
14 PROPERTY TAXES ON THEIR MACHINERY WILL GO DOWN EACH  
15 YEAR AS THEIR ASSESSED VALUE GOES DOWN. QUITE  
16 FRANKLY, I FIND IT HARD TO BELIEVE THAT THEY'RE GOING  
17 TO BUY ENOUGH MACHINERY TO REPLACE THE VALUE OF ALL  
18 THESE HOMES THAT ARE BEING AFFECTED. THE HUNDRED PLUS  
19 HOMES.

20 IF THEY WANT TO COMPARE ECONOMICS, I FIND IT  
21 HARD TO BELIEVE THAT IT'S EVEN CLOSE, BY THE TIME YOU  
22 COUNT THE ROAD REPAIR, YOU COUNT ALL OF THIS  
23 ADDITIONAL MONITORING, AND YOU COUNT THE NUISANCE THAT  
24 IT'S GOING TO.

25 IT WOULD BE DIFFERENT IF THE MINE WAS THERE

1       AND ALL THESE FOLKS WERE COMING IN AND HAD MOVED NEXT  
2       TO THE MINE AND THEN WANTED TO COMPLAIN.  THE LAW HAD  
3       A TERM FOR THAT.  COMING TO THE NUISANCE.  IN THIS  
4       CASE, IT'S UP TO YOU ALL WHETHER YOU BRING THE  
5       NUISANCE TO US.  THANK YOU.

6               CHAIRMAN:  MR. WILSON.

7               MR. WILSON:  TONY ISBILL WILL BE NEXT.  HE'S A  
8       RESIDENT ON GIRL SCOUT ROAD.

9               MR. SILVERT:  STATE YOUR NAME, PLEASE.

10              MR. ISBILL:  TONY ISBILL.

11              (TONY ISBILL SWORN BY ATTORNEY.)

12              MR. ISBILL:  I WOULD LIKE TO ASK A QUESTION.  
13       I DON'T KNOW IF IT'S REALLY IMPORTANT OR NOT.  COULD  
14       WE SEE THAT MAP ONE MORE TIME WHERE THE BLASTING AREA  
15       IS?  IS THAT APPROPRIATE TO ASK THAT?

16              CHAIRMAN:  ABSOLUTELY.  WHILE THEY'RE GETTING  
17       THAT GO ON WITH WHATEVER ELSE YOU'RE GOING TO SAY.

18              MR. ISBILL:  ONE OF THE QUESTIONS -- I'M GOING  
19       TO ADDRESS A COUPLE OF THINGS THAT I WASN'T PREPARED  
20       TO SIMPLY BECAUSE THEY'VE COME UP.  IT WAS ABOUT  
21       RESIDENTS, THE PEOPLE THAT ARE GOING TO BE IN THE  
22       MINING AREA THAT HAVE LEASED.  WILL THEY BE THERE?  IT  
23       WAS SAID THAT THEY WILL.  I DO NOT UNDERSTAND HOW  
24       SOMEONE CAN LIVE IN A HOUSE THAT THE MINE IS GOING TO  
25       DESTROY.



1           IF YOU LOOK ON THE MAP, ALMOST EVERY ONE OF  
2       THOSE PEOPLE THAT ARE GOING TO BE MINED, THOSE HOME  
3       ARE GOING TO BE DESTROYED BY THE MINE. SO THEY WILL  
4       NOT BE THERE IN ORDER TO ENDURE THE THINGS THAT WE  
5       ARE.

6           CAN I APPROACH THAT MAP AND SHOW YOU  
7       SOMETHING?

8           CHAIRMAN: GO AHEAD. TAKE THE MIKE TOO.

9           MR. SILVERT: PLEASE DO.

10          CHAIRMAN: YOU CAN TALK AS YOU WALK.

11          MR. ISBILL: I JUST WANTED TO KNOW ABOUT THE  
12       AREA OF THE BLASTING, THE HALF A MILE RADIUS. I DON'T  
13       SEE THAT ON HERE.

14          MR. WRIGHT: THE PURPLE LINE.

15          MR. ISBILL: THE PURPLE LINE. MY QUESTION IS,  
16       AND THIS MAY NOT BE SIGNIFICANT. I JUST NEED TO KNOW.  
17       IS THIS A HALF MILE FROM THE CENTER OF THIS MINE?

18          MR. WRIGHT: NO. OUTSIDE PERIMETER.

19          MR. ISBILL: TOTALLY. NO MATTER WHERE YOU  
20       BLAST. THAT'S ALL THAT I WANTED TO KNOW. I WANTED TO  
21       MAKE SURE THAT THAT WAS CORRECT.

22          MR. WRIGHT: YES.

23          CHAIRMAN: DOES THAT TAKE CARE OF YOU?

24          MR. ISBILL: IT DOES.

25          CHAIRMAN: THANK YOU.

1           NEXT, MR. WILSON.

2           MR. ISBILL: NO, I'M NOT FINISHED. I JUST  
3           THOUGHT YOU MEANT THAT ONE QUESTION.

4           THE OTHER THING ABOUT CONCRETE. IF IT'S  
5           COVERED BY CARPET, THE CRACKS WILL NOT SHOW READILY.

6           I WANTED TO FIRST TELL YOU ABOUT THE REASON  
7           WHY WE CHOSE THE AREA TO LIVE IN.

8           WE CHOSE THIS LOCATION, ONE, BECAUSE IT WAS  
9           NEAR THE GIRL SCOUT CAMP. WE WERE LOOKING FOR AN AREA  
10          THAT WAS REMOTELY AND STILL CLOSE TO TOWN. THE  
11          NEIGHBORING PROPERTIES, I HAD TO HAVE MATURE WOODS AND  
12          THIS AREA HAS THAT.

13          ALSO, WE KNEW ABOUT THE PREVIOUS MINING  
14          DECISIONS AND WE THOUGHT THAT THE ISSUES WERE SETTLED  
15          FOREVER. WE JUST COULD NOT COMPREHEND THAT A DECISION  
16          LIKE THIS WOULD HAVE BEEN OVERTURNED, AND I PROMISE  
17          YOU WE WOULD NOT HAVE PURCHASED OUR PROPERTY IF THAT  
18          HAD TAKEN PLACE.

19          WE HAVE INVESTED SEVERAL HUNDRED THOUSANDS OF  
20          DOLLARS IN OUR HOME AND IN OUR PROPERTY. WE USE THIS  
21          HOME NOT JUST AS OUR RESIDENCE. I WANTED TO MAKE THIS  
22          CLEAR TO THIS COMMISSION. IN ADDITION TO OUR PERSONAL  
23          PROPERTY, OUR CHURCH FAMILY COMES TO OUR PROPERTY ON  
24          SPECIAL OCCASIONS.

25          WE ALSO OFFER OUR DOWNSTAIRS, WHEN WE DESIGNED

1       OUR HOME, SO THAT PASTORS THAT NEED SABBATICAL THAT  
2       CAN'T AFFORD TO GO OTHER PLACES THEY CAN COME AND  
3       ENJOY OUR HOME. THEY CAN VIEW OUR LAKE, AND THEY CAN  
4       HAVE THE SERENITY.

5               ALSO SOMETHING THAT TAKES PLACE ON OUR  
6       PROPERTY THAT NO ONE KNOWS ABOUT IS THAT STUDENT  
7       OUTDOOR EXPERIENCE. JOHN STANFORD IS THE FOUNDER AND  
8       HE'S THE PRESIDENT OF STUDENT OUTDOOR EXPERIENCE. IT  
9       IS A NATIONAL ORGANIZATION THAT TEACHES LEADERSHIP  
10      SKILLS TO STUDENTS BASED ON CHRISTIAN VALUES IN AN  
11      OUTDOOR VENUE.

12             ALL OF HIS TRAINING MATERIALS TAKE PLACE ON  
13      OUR PROPERTY. THIS ORGANIZATION IS SPONSORED BY BASS  
14      PRO SHOP. IT IS SPONSORED BY REAL TREE OUTDOORS,  
15      CHIK-FIL-A, EASTON ARROWS. NATIONAL COMPANIES. ALL  
16      OF HIS TRAINING VIDEOS AND INSTRUCTIONAL VIDEOS TAKE  
17      PLACE ON OUR PROPERTY.

18             THAT WILL BE DESTROYED IF THIS REZONING TAKES  
19      PLACE.

20             WE HAVE PUT IN VIEWING STATIONS, WILDLIFE  
21      THEATERS THAT BRING IN TURKEY, DEER, DUCKS, GEESE, AND  
22      ALSO FOOD PLOTS. HERE IS WHY THAT I SHARE WITH YOU  
23      WHY THAT WILL BE DESTROYED.

24             IN NO WAY AM I HERE TODAY TO, AND IT SHOULDN'T  
25      BE, WHETHER THIS COMPANY IS A GOOD COMPANY OR NOT.

1        THAT REALLY DOESN'T HAVE ANYTHING TO DO WITH THIS  
2        DECISION.  IT'S NOT WHETHER THESE PEOPLE ARE GOOD  
3        PEOPLE OR NOT.  I'M SURE THAT THEY ARE.  BUT THEY'RE A  
4        PART OF AN INDUSTRY THAT IS OUT OF CONTROL.

5                WHEN WE ARE AT THE TOWN HALL MEETING I HEARD  
6        REPEATEDLY AND REPEATEDLY, WE CAN'T CONTROL THAT.  WE  
7        CAN'T CONTROL THAT.  IF THEY SAID IT ONCE, THEY SAID  
8        IT 30 TIMES.  THAT IS WHAT SCARES US.  IS WHAT THEY  
9        CANNOT CONTROL.

10               THE COAL INDUSTRY, FIRST OF ALL, THEY'RE  
11        TALKING ABOUT COMING IN AND DOING ASSESSMENTS,  
12        PREBLAST ASSESSMENTS OF OUR HOME.  WE VIEW THAT AS  
13        INVASION OF OUR PRIVACY.  I DO NOT HAVE ANYONE NOW  
14        THAT COMES INTO MY HOME THAT I DON'T INVITE.

15               CHAIRMAN:  YOU DO NOT HAVE TO HAVE THAT.

16               MR. ISBILL:  ABSOLUTELY.  BUT THEY ASSUME THAT  
17        I'M GOING TO HAVE IT JUST BECAUSE THEY'RE THERE.  I  
18        DON'T HAVE TO HAVE THAT NOW.  SO IT IS AN INVASION.

19               ALSO, I DO NOT HAVE A SEISMOGRAPH IN MY YARD.  
20        IT'S BECAUSE I DON'T NEED ONE.  MY PROPERTY NOW IS  
21        SAFE.  IT IS SECURE.

22               THEY TALK ABOUT DEVALUATION.  APPARENTLY THERE  
23        HASN'T BEEN A STUDY, AND I WOULD LIKE TO GIVE THIS TO  
24        YOU.  IT WAS DONE -- IT'S THE IMPACT OF SURFACE COAL  
25        MINING ON RESIDENTIAL PROPERTY VALUES.  IT WAS DONE BY

1 THE DEPARTMENT OF ECONOMICS, UNIVERSITY OF TENNESSEE,  
2 KNOXVILLE.

3 THIS STUDY WAS DONE NATIONWIDE AND IT MIRRORS  
4 OUR COUNTY. IT SAYS THAT THE DEVALUATION OF PROPERTY  
5 CAN GO ANYWHERE FROM \$8 MILLION TO \$40 MILLION. IT  
6 DOESN'T JUST IMPACT THE PEOPLE THAT ARE CLOSEST TO IT  
7 TO THE MINE. IT IMPACTS THE ENTIRE COUNTY. I WOULD  
8 LIKE TO BE ABLE TO GIVE THIS TO YOU. I DID NOT MAKE  
9 COPIES, AND I APOLOGIZE FOR THAT, BECAUSE I DID NOT  
10 KNOW THAT I WOULD NEED IT TONIGHT.

11 CHAIRMAN: THANK YOU.

12 MR. SILVERT: YOU NEED TO MAKE THAT A PART OF  
13 THE RECORD.

14 MR. ISBILL: ALSO, ABOUT THE DEVALUATION.  
15 THEY SAID, WELL, WE CAN'T CONTROL THAT. THAT'S JUST  
16 ANOTHER THING THAT IS BEYOND THEIR CONTROL. THEY TALK  
17 ABOUT WATER. THEY TALK ABOUT MONITORING IT, BUT WHAT  
18 HAPPENS IF IT DOES GET TAINTED. WHAT HAPPENS IF IT  
19 DOES GET POLLUTED. IT DOES HAPPEN, BUT THAT IS  
20 SOMETHING IS BEYOND THEIR CONTROL.

21 THE NOISE SITUATION. THEY TALKED ABOUT IT,  
22 AND IT'S LIKE WE'RE SUPPOSED TO ACCEPT IT, BUT IT IS  
23 BEYOND THEIR CONTROL.

24 THE WILDLIFE. WE'VE HEARD AT THE TOWN HALL  
25 MEETING THAT THE GIRLS WOULD PROBABLY GET MORE BIRDS

1 BECAUSE THEY WOULD RUN THE BIRDS TO THE CAMP WHICH WAS  
2 -- I DON'T KNOW HOW THEY GET WILD ANIMALS TO HONOR  
3 BOUNDARY LINES. OUT OF THEIR CONTROL.

4 THE BLASTING. THERE IS FLY ROCK. FLY ROCK IS  
5 A DEFINITION BECAUSE IT EXIST. IT IS A TERM FOR A  
6 ROCK THAT LEAVES THE SECURITY OF THE PIT. IN MY  
7 STUDIES THERE WAS ONE INSTANCE WHERE THAT FLY ROCK  
8 WENT THROUGH A HOUSE WALL, THROUGH A THREE YEAR'S OLD  
9 BEDROOM, WENT THROUGH THE NEXT WALL AND LANDED AT THE  
10 FOOT OF AN 8 YEAR'S OLD BED. THE 8 YEAR OLD WAS FINE.  
11 THE 3 YEAR OLD WAS CRUSHED WHEN THAT FLY ROCK WENT  
12 THROUGH HIS HOUSE.

13 I WOULD SAY THAT IF YOU THOUGHT FOR ONE MOMENT  
14 THAT FLY ROCK WOULD COME INTO MY HOME, YOU WOULD BE  
15 ENRAGED AND YOU WOULD TURN THIS DECISION DOWN TONIGHT.

16 ONE OF THE THINGS THAT DOES HAPPEN IS THAT THE  
17 AIRBORNE PARTICLES WILL PENETRATE MY HOUSE. IT WON'T  
18 KILL ME AS FAST AS A ROCK WILL, BUT IT WILL INFECT MY  
19 LIFE AND MY FAMILY. MY WIFE HAS ASTHMA. IT WILL JUST  
20 BE A SLOW DETERIORATION OF HER HEALTH AND COULD  
21 EVENTUALLY KILL SOME OF THE PEOPLE IN HERE.  
22 ESPECIALLY THE ELDERLY. THEY'RE OUT OF CONTROL.

23 AIR QUALITY. THEY SAID THAT THEIR AIR QUALITY  
24 HAD TO BE WHERE IT WAS INVISIBLE TO THE EYE. THEY  
25 ARGUED BACK AND FORTH IN THE TOWN HALL MEETING SAYING,

1 WELL, YOU CAN'T PROVE IT. WELL, THAT'S RIDICULOUS.  
2 HOW DO THEY KNOW IF THERE'S OXYGEN IN THE AIR. IT'S  
3 JUST A GIVEN THAT IT IS. I CAN'T SEE IT. HOW WILL  
4 THEY KNOW THAT THERE'S NATURAL GAS, METHANE GAS, ANY  
5 KIND OF GAS IN THE AIR? THERE ARE DEVICES THAT LET US  
6 KNOW THAT IT EXIST. THEY SAID, WE CAN'T CONTROL IT IF  
7 THE WIND IS HIGH ENOUGH. SO I ASKED THEM AT WHAT  
8 POINT MILES PER HOUR ARE YOU UNDER CONTROL? SO THEY  
9 GUESSED, BECAUSE THEY DIDN'T HAVE THE ANSWER, AND THEY  
10 SAID, 10 MILES AN HOUR.

11 SO THE NEXT DAY I PULLED UP THE WIND VELOCITY  
12 REPORT AT THE DAVIESS COUNTY AIRPORT. I'LL BE GLAD TO  
13 SUBMIT THIS AS WELL. IT'S READILY AVAILABLE ONLINE.

14 AT 10 MILES AN HOUR THIS COMPANY WILL BE 45  
15 PERCENT OUT OF CONTROL, IF YOU TAKE THE WIND  
16 VELOCITIES FOR 2011. I BELIEVE THAT THE WIND VELOCITY  
17 IS PROBABLY MORE LIKE 5 MILES AN HOUR BECAUSE 5 MILES  
18 AN HOUR WILL CARRY THESE PARTICLES FOR MILES. AT 5  
19 MILES AN HOUR THEY ARE 80 PERCENT OUT OF CONTROL.

20 NOW, THEY SAID THAT THEY WILL WATER THE ROADS,  
21 BUT THE ROADS, THEY CAN'T WATER THE ENTIRE MINE PIT.  
22 SO AT THEIR OWN ADMISSION THEY SAID THAT THOSE  
23 PARTICLES BE WILL PICKED UP OFF THAT MINE AND THAT  
24 THEY WOULD DRIFT FOR MILES AROUND US AND IT WILL.  
25 THEY ARE OUT OF CONTROL.

1           THAT IS WHAT SCARES US. THE PART THAT THEY'RE  
2 OUT OF CONTROL.

3           THIS DECISION TONIGHT COULD ACTUALLY TAKE OUR  
4 CONTROL AWAY FROM THE WAY WE LIVE. BUT YOU HAVE TO  
5 CONTROL AND WE ARE DEPENDING ON IT. WE ARE DEPENDING  
6 ON YOU TO PROTECT US FROM THE THINGS THAT ARE OUT OF  
7 THEIR CONTROL.

8           I'M GOING TO CLOSE WITH THIS. JUST GIVE YOU A  
9 SCENARIO.

10           IF THIS HAPPENS, I WILL RENT YOU MY HOUSE,  
11 WELL, I GIVE YOU MY HOUSE TO LIVE IN FOR AS LONG AS  
12 THEY MINE. THE ONLY STIPULATION IS YOU HAVE TO LIVE  
13 THERE DURING THE ENTIRE PROCESS. YOU, YOUR WIFE, YOUR  
14 FAMILY, YOUR CHILDREN, YOUR GRANDCHILDREN, THE PEOPLE  
15 THAT VISIT YOU. YOU CAN HAVE MY HOUSE RENT FREE FOR  
16 AS LONG AS THEY MINE. HERE IS WHAT I KNOW JUST  
17 HAPPENED TO YOU. YOU SAID NO WAY. AS YOUR NEIGHBORS  
18 AND AS THE PEOPLE THAT WE ARE DEPENDING ON TO PROTECT  
19 US, WE'RE ASKING YOU TO GIVE US THE SAME DECISION THAT  
20 WE WOULD GIVE YOU AND WE ASK YOU TO SAY, NO TO THIS  
21 REZONING.

22           CHAIRMAN: THANK YOU.

23           MR. WILSON, YOU'VE GOT ANOTHER.

24           MR. WILSON: YES, SIR, MR. CHAIRMAN. MR. JIM  
25 LUDWICZAK.



1 CHAIRMAN: IS THIS YOUR CLEAN UP MAN?

2 MR. WILSON: NO, IT IS NOT.

3 MR. SILVERT: COULD YOU STATE YOUR NAME,  
4 PLEASE.

5 MR. LUDWICZAK: JAMES LUDWICZAK.

6 (JAMES LUDWICZAK SWORN BY ATTORNEY.)

7 MR. LUDWICZAK: I'VE BEEN INVOLVED IN THIS  
8 AREA FOR OVER 30 YEARS. I'VE MINED IT WHEN I WAS A  
9 COAL MINER. I'VE ALSO BEEN INVOLVED IN THE FIRST  
10 ZONING MEETING THAT YOU HAD.

11 I'M GOING TO BE AS BRIEF AS I CAN. I KNOW  
12 WE'VE HERE LONG ENOUGH. I WAS A YOUNG MAN WHEN THIS  
13 MEETING STARTED, BUT I'VE AGED A LITTLE BIT SINCE  
14 THEN.

15 WHAT I WANTED TO DO WAS GIVE YOU A LITTLE  
16 BACKGROUND ON BLASTING. WHAT IT IS. WHAT IT CONSIST  
17 OF. IT'S MY PROFESSION. I DO IT.

18 I TRAVEL ACROSS THE COUNTRY. MY WORK MAINLY  
19 IS DEALING WITH COMPLICATED BLASTING PROBLEMS. HIGH  
20 RISK BLASTING YOU MAY CALL IT. EVERYTHING FROM A  
21 TUNNEL, A SUBWAY TUNNEL I'M WORKING ON FOR NEW YORK TO  
22 BLASTING IN A QUARRY OUT IN CALIFORNIA.

23 IT'S AN ULTRAHAZARDOUS BUSINESS. IT INVOLVES  
24 EXPLOSIVES THAT CAN DISINTEGRATE YOU WHEN YOU'RE  
25 WORKING WITH IT. IT'S A HAZARDOUS BUSINESS FOR THE

1 PEOPLE THAT ARE HANDLING IT. IT IS. IT'S BAD FOR US,  
2 BUT WE HAVE TO DO IT.

3 THE OTHER THING IT'S BAD FOR PEOPLE THAT WORK  
4 AROUND IT. IT'S ALSO HAZARDOUS FOR PEOPLE THAT LIVE  
5 NEAR IT. BLASTING IS NOT AN EXACT SCIENCE. IF IT WAS  
6 AN EXACT SCIENCE I WOULDN'T HAVE A JOB. WE WOULDN'T  
7 NEED SEISMOGRAPHS. WE WOULDN'T NEED PREBLAST SURVEYS.  
8 IT IS RISKY. THERE IS A RISK INVOLVED IN THIS.

9 YEARS AGO WHEN I TESTIFIED AT THE FIRST ZONING  
10 MEETING WITH THIS I FELT IT WAS A HIGH RISK AREA. ONE  
11 OF THE THINGS I DO WITH MY CLIENTS IS LOOK AT THE AREA  
12 THEY WANT TO GO INTO. WHAT IS THE RISK? MEASURE  
13 THAT. NOT THE RISK FOR THE PEOPLE IN THE PIT. WE  
14 ABSORB THAT. WE'RE GOING TO DEAL WITH THAT. BUT WHAT  
15 IS IT GOING TO AFFECT US FOR THE PEOPLE THAT LIVE  
16 AROUND IT? WHAT KIND OF PROBLEMS IS IT GOING TO CAUSE  
17 FOR US OUT THERE?

18 SOME AREAS WE JUST ABANDON. WE'RE NOT GOING  
19 TO DO IT. IT'S TOO RISKY. THERE'S TOO MANY PROBLEMS  
20 EITHER ENVIRONMENTALLY OR WITH HUMAN BEINGS LIVING  
21 AROUND IT, AND WE'LL JUST ABANDON IT. GO SOMEPLACE  
22 ELSE AND DO THAT.

23 THE AREA THAT I WORK OUT HERE, AND I WORKED  
24 FOR GREEN YEARS AGO, IT'S THE SAME AREA. WE MINED A  
25 LITTLE NORTH OF THIS, EAST OF THIS, AND SOUTH OF THIS.

1 WE HAD A LOT OF PROBLEMS MINING THE AREA. WE HAD FLY  
2 ROCK. WE BLEW FLY ROCK ON PEOPLE. WE HAD WATER  
3 PROBLEMS. THE PIT WAS FULL OF WATER CONSTANTLY. IN  
4 SOME AREAS THERE WAS SO MUCH WATER THAT WE COULDN'T  
5 TAKE THE SECOND SEAM OF COAL OUT. IT GOT TO THE POINT  
6 WHERE WE JUST ABANDONED IT. WENT FURTHER DOWN INTO  
7 THE GREENBRIAR AREA TO GET AWAY FROM THIS AREA.

8 BLASTING DOES HAVE ADVERSE AFFECTS. THE FIRST  
9 ADVERSE AFFECT WE DEAL WITH NORMALLY IS VIBRATION.  
10 WHEN THE BLAST GOES OFF, IT SHAKES THE GROUND. IF  
11 THAT BLAST IS EXCESSIVE, DEPENDING UPON THE HOUSE AND  
12 THE CHARGES, IT CAN CAUSE DAMAGE. THAT'S WHY WE HAVE  
13 THE REGULATIONS.

14 THE THING TO REMEMBER ABOUT THE REGULATIONS  
15 AGAIN IT'S NOT EXACT SCIENCE, THE REGULATION OR THE  
16 GUIDELINES. IT DOESN'T MEAN THAT IF YOU FOLLOW THE  
17 REGULATIONS THAT YOU'RE NOT GOING TO CAUSE DAMAGE.  
18 I'VE SEEN IT. IT'S HAPPENED IN THE PAST AND I'M SURE  
19 IT'S GOING TO HAPPEN IN THE FUTURE.

20 GROUND VIBRATION IS SOMETHING THAT IS ALWAYS  
21 GOING TO BE PRESENT WHEN WE BLAST. WE TRY OUR  
22 DARNEDEST TO KEEP IT AS LOW AS WE CAN, BUT WE HAVE TO  
23 DEAL WITH THE ENVIRONMENT. NAMELY THE GEOLOGY. THE  
24 GEOLOGY AFFECTS HOW THAT BLAST IS GOING TO PERFORM AND  
25 WHAT TYPE OF AFFECT IT'S GOING TO SET OUT.

1           THE NEXT AREA WE DEAL WITH ADVERSE AFFECTS IS  
2       AIR BLAST OR NOISE.   NORMALLY THAT IS NOT DAMAGING.  
3       THE QUESTION WAS ASKED EARLIER ABOUT THE PROBLEM WITH  
4       HEARING.   WE HAVE A STANDARD IN THE STATE THAT IS I  
5       BELIEVE IT'S 130 DECIBELS.   NOW, THAT STUDY TO  
6       DETERMINE THAT WAS DONE FOR DAMAGE.   IT HAD NOTHING TO  
7       DO WITH HUMAN HEARING.   IT WAS SIMPLY A FACT THAT IF  
8       YOU GET IT ABOVE 130 DB'S YOU HAVE A GOOD CHANCE OF  
9       BREAKING WINDOWS.   NORMALLY THE AIR BLAST IS MORE  
10      IRRITATING THAN IT IS ANYTHING ELSE.

11           THE NEXT AREA WE HAVE OF ADVERSE AFFECTS IS  
12      THE WORSE THAT WE CAN POSSIBLY HAVE IS FLY ROCK.   I'VE  
13      WORKED, IN MY 40 YEARS IN THIS BUSINESS I'VE WORKED ON  
14      HUNDREDS AND HUNDREDS OF FLY ROCK CASES.   IF YOU'RE  
15      LUCKY AND YOU HAVE FLY ROCK ALL IT HAS DONE IS CAUSED  
16      DAMAGE.   IF NOT, YOU CAN KILL PEOPLE.   I'VE  
17      INVESTIGATED MANY ACCIDENTS NORMALLY ON THE MINE SITE  
18      ITSELF WHERE FLY ROCK IS A KILLER.   IT CAN MANE YOU.  
19      I'VE GOT KIT BY FLY ROCK.   IT KNOCKED ME OFF MY FEET.  
20      IT WAS MY OWN BLAST DESIGN.   I DID THE BEST I COULD,  
21      BUT IT STILL OCCURRED.   FLY ROCK IS DEADLY, AND NOT  
22      ALWAYS PREDICTABLE.   YOU CAN HAVE SOMETHING IN THE  
23      GEOLOGY.   THE WET CONDITIONS OR SOMETHING ELSE THAT  
24      MAKES IT A PROBLEM THAT IS GOING TO PUT OUT WHAT WE  
25      CALL UNEXPECTED FLY ROCK.

1                   CHAIRMAN: MR. LUDWICZAK, I KNOW OF YOUR  
2 BACKGROUND. I KNOW WHAT YOU'VE DONE AND CASES THAT  
3 YOU'VE DONE. YOUR KNOWLEDGE IS TOO GOOD TO LET  
4 CERTAIN QUESTIONS NOT BE ANSWERED BY YOU.  
5                   FLY ROCK, IS THERE FLY ROCK ON THIS SITE?  
6 WILL THERE BE FLY ROCK ON THIS SITE?  
7                   MR. LUDWICZAK: WILL THERE BE?  
8                   CHAIRMAN: YES, SIR.  
9                   MR. LUDWICZAK: IT'S ONE OF THE ADVERSE  
10 AFFECTS THAT WE HAVE. SO YOU CAN EXPECT IT. IT ALL  
11 DEPENDS ON HOW FAR IT'S GOING TO GO. IS IT GOING TO  
12 BE CONTAINED IN THE PIT OR IS IT GOING TO LEAVE THE  
13 PERMITTED AREA?  
14                   CHAIRMAN: ARE YOU FAMILIAR WITH THE SITE?  
15                   MR. LUDWICZAK: I BLASTED THAT SITE. I  
16 BLASTED ALL AROUND IT.  
17                   CHAIRMAN: SO YOU'RE FAMILIAR WITH THE SITE?  
18                   MR. LUDWICZAK: YES. WE HAD FLY ROCK  
19 PROBLEMS.  
20                   CHAIRMAN: IN YOUR PROFESSIONAL OPINION, IN  
21 ALL THE YEARS YOU'VE DONE AND DANGEROUS THINGS THAT  
22 YOU'VE DONE, IS THIS SITE SOMETHING THAT YOU COULD  
23 BLAST SAFELY?  
24                   MR. LUDWICZAK: IT WOULD BE HIGH MAINTENANCE.  
25 IT WOULD BE HIGH MAINTENANCE. I ALWAYS GO IN THINKING

1 I CAN GO IN THERE AND BLAST IT SAFELY, BUT THE PROBLEM  
2 IS ONCE YOU DRILL THAT HOLE IN YOU DON'T KNOW WHAT'S  
3 IN THERE. IF YOU PUT JUST THE SAME AMOUNT OF  
4 EXPLOSIVES THAT YOU DID ON ONE SHOT, NO PROBLEM. THE  
5 NEXT SHOT YOU COULD ORDER IT IDENTICALLY AND YOU WOULD  
6 FLY ROCK IT. YOU CAN'T PREDICT IT, UNLESS SOMEONE  
7 OBVIOUSLY DOES IT ON PURPOSE. YOU HAVE CHANGING  
8 CONDITIONS IN THE GEOLOGY. IF YOU HAVE WATER IN THE  
9 HOLE, THAT'S GOING TO EXASPERATE YOUR BLASTING  
10 PROBLEMS.

11 IT WOULD SURPRISE ME ON THIS SITE IF THEY  
12 DIDN'T HAVE A FLY ROCK PROBLEM, TO ANSWER YOUR  
13 QUESTIONS AS BEST I COULD. LIKE THEM, I'M SURE  
14 THEY'RE GOING TO WORK LIKE THE DEVIL NOT TO DO THAT.

15 CHAIRMAN: WHAT ABOUT THE WATER SITUATION?  
16 WATER COMPOUNDS THE PROBLEM.

17 MR. LUDWICZAK: IT COMPOUNDS A PROBLEM NOT  
18 ONLY IN BLASTING.

19 CHAIRMAN: I DIDN'T MEAN THAT TO BE A LEADING  
20 QUESTION.

21 MR. LUDWICZAK: THAT'S ALL RIGHT. LEAD ME AS  
22 ALL YOU WANT.

23 WATER COMPOUNDS THE PROBLEM AND MAKES IT  
24 DIFFICULT MINING AND IT MAKES IT DIFFICULT FOR  
25 BLASTING.

1           CHAIRMAN:  IS THERE AN EXTENSIVE WATER PROBLEM  
2   IN THIS AREA?

3           MR. LUDWICZAK:  THERE WAS WHEN WE MINED IT.  
4   AS A MATTER OF FACT, WE GAVE UP IN SOME AREAS MINING  
5   THE SECOND SEAM OF COAL BECAUSE THE PIT FILLED UP WITH  
6   WATER.  AGAIN, THAT WATER HAD TO COME FROM SOMEWHERE.

7           CHAIRMAN:  ARE THERE ANY MORE PRECISE THINGS  
8   THAT THIS COMMISSION COULD UNDERSTAND THAT YOU NEED TO  
9   BRING TO OUR ATTENTION THAT WOULD NOT BE TECHNICAL?  I  
10  MEAN YOU CAN SAY CERTAIN THINGS AND WE WON'T BE ABLE  
11  TO GRASP IT.

12          MR. LUDWICZAK:  I TALKED ABOUT THE FACT  
13  THERE'S ANOTHER ADVERSE AFFECT WITH BLASTING THAT  
14  PEOPLE DON'T TALK ABOUT MUCH ARE FUMES.  WHEN WE HAVE  
15  A BLAST GOES OFF, IT PRODUCE SMOKE AND IT PRODUCES  
16  FUMES.  IF YOU HAVE A SITUATION WHERE THE HOLE IS WET,  
17  THE BLAST HOLE IS WET AND THE EXPLOSIVES, THE AMMONIA  
18  NITRATE DOES NOT DETONATE PROPERLY, IT'S GOING TO  
19  PRODUCE NITRIC OXIDE.  NITRIC OXIDE IS A YELLOW OR  
20  ORANGE, DEPENDING HOW SEVERE IT IS, AND IT'S A VERY  
21  NOXIOUS AND TOXIC GAS.  IT ALSO PRODUCES CARBON  
22  MONOXIDE.

23          NORMALLY THIS BLOWS OFF INTO THE ATMOSPHERE,  
24  BUT WHERE IS IT GOING TO BLOW.

25          WHEN I TRAIN BLASTERS, THE FIRST THING I TELL

1       THEM, IF YOU SEE ORANGE SMOKE FROM THE SHOCK STAY AWAY  
2       FROM IT.  DON'T BREATHE IT.  GET AWAY.  LET IT BLOW  
3       OUT OF THE WAY.  THAT WOULD BE THE LAST AREA.

4               CHAIRMAN:  HOW CLOSE WOULD YOUR BLASTERS BE TO  
5       A SAID BLAST?

6               MR. LUDWICZAK:  TO A WHAT?

7               CHAIRMAN:  HOW CLOSE, YOU SAY WHEN YOU  
8       INSTRUCT YOUR BLASTERS WHEN THERE IS A BLAST, IF YOU  
9       SEE ORANGE SMOKE STAY AWAY FROM IT.  HOW CLOSE ARE  
10      THEY TO THE PROXIMITY OF THE ACTUAL CHARGE?

11              MR. LUDWICZAK:  THEY CAN BE ANYWHERE FROM 100  
12      FEET TO 1,000 FEET DEPENDING UPON HOW THE BLAST IS  
13      DESIGNED.  SOME BLASTS WE DESIGN TO BLOW ROCK AND  
14      YOU'RE GOING TO BE PROBABLY 1,000 AWAY OR 500 FEET  
15      AWAY.  THE BLAST TERMS THE BLAST AREA.  A BLAST AREA  
16      IS WHERE THE BLASTER EXPECTS FLY ROCK TO TRAVEL.  
17      THAT'S WHERE WE GET THEM OUT OF THERE OR WE PUT THEM  
18      IN A PROTECTED COVER SO THEY WON'T GET HURT.

19              CHAIRMAN:  THANK YOU.  DID YOU PRETTY WELL GET  
20      TO THE POINTS THAT YOU WANTED TO GET TO?

21              MR. LUDWICZAK:  YES.  THE ONLY THING I SHOULD  
22      HAVE SAID, THE CONDITIONS FOR MINING OUT THERE,  
23      ANOTHER THING WE FOUND OUT WAS THE COAL WAS NOT WHAT  
24      WE EXPECTED IT TO BE.  COAL IN THIS AREA HAS A LOT OF  
25      SULPHUR IN IT.  IT'S ILLINOIS BASIN COAL.  USUALLY



1 RUNS OVER TWO PERCENT. WE FOUND IN WORKING THAT AREA  
2 THAT WHEN WE TEST DRILLED IT, IT DIDN'T SHOW THAT MUCH  
3 SULFUR, BUT WHEN WE STARTED MINING IT, THE SULFUR WAS  
4 IN BALLS. BASICALLY IN LITTLE AREAS WHERE IT WAS HIGH  
5 SULPHUR AND THEN OTHER AREAS YOU HAVE NONE. AGAIN, IT  
6 MADE IT COMPLICATED AND MADE THE COAL MORE WASHABLE,  
7 YET CLEANER, BUT ESSENTIALLY THAT HE WAS IT.

8 I CONSIDERED THE AREA 30 YEARS AGO A RISKY  
9 AREA AND I CONSIDER IT EVEN A MORE OF A HIGH RISK AREA  
10 SIMPLY BECAUSE OF ALL THE STRUCTURES BEING AROUND IT.

11 CHAIRMAN: HOLD ON JUST A MOMENT.

12 WOULD YOU LIKE TO ASK A QUESTION?

13 MR. HAYNES: YES. DO I DIRECT THE QUESTIONS  
14 TO YOU?

15 CHAIRMAN: YES, PLEASE.

16 MR. HAYNES: MR. LUDWICZAK, ARE YOU FAMILIAR  
17 WITH A PAPER TITLED BLASTING PUBLIC RELATIONS'S EASES  
18 THEIR FEARS?

19 MR. LUDWICZAK: YES. I WROTE IT.

20 MR. HAYNES: YOU WROTE IT. WHAT WAS THAT  
21 ABOUT?

22 MR. LUDWICZAK: IT WAS BASICALLY GETTING WITH  
23 THE PEOPLE THAT ARE GOING TO LIVE AROUND IT. TALK TO  
24 THEM. EXPLAIN TO THEM. SHOW THEM WHAT'S GOING TO GO  
25 ON AND GIVE THEM SOME IDEA OF WHAT'S GOING TO HAPPEN

1       WHEN THE BLAST GOES OFF.

2               MR. HAYNES:   AND EASE THEIR FEAR --

3               CHAIRMAN:   MR. HAYNES, I DON'T WANT YOU AND

4       MR. LUDWICZAK TO --

5               MR. HAYNES:   AND LET THEM KNOW THAT IT'S SAFE.

6               MR. LUDWICZAK:   WHAT DID YOU SAY?

7               MR. HAYNES:   AND TO LET THE PEOPLE KNOW IT'S

8       SAFE.   WASN'T THAT PART OF THAT PAPER?

9               MR. LUDWICZAK:   AS SAFE AS WE COULD MAKE IT,

10       YES.

11              MR. HAYNES:   THAT IT WOULD BE SAFE FOR THEM?

12              MR. LUDWICZAK:   YES.

13              MR. HAYNES:   ISN'T THAT WHAT THAT PAPER SAID?

14              MR. LUDWICZAK:   YES.

15              MR. HAYNES:   ARE YOU FAMILIAR WITH AN ARTICLE

16       CALLED PROTECTING AND DEFENDING YOUR BLASTING

17       OPERATION?

18              MR. LUDWICZAK:   YES.

19              MR. HAYNES:   HOW ARE YOU FAMILIAR WITH THAT?

20              MR. LUDWICZAK:   I WROTE IT.

21              MR. HAYNES:   WHAT'S THAT PAPER ABOUT?

22              MR. LUDWICZAK:   IT'S BASICALLY DEALING WITH

23       PROTECTING AND DEFENDING YOUR BLASTING OPERATION.   HOW

24       TO CONDUCT THE BLASTING OPERATION SO IT'S TO BE GOOD,

25       SAFE AND DEFENDABLE.

1           MR. HAYNES:   HOW TO HAVE A SAFE BLASTING  
2           OPERATION?

3           MR. LUDWICZAK:  YES.  I DON'T KNOW WHAT YOUR  
4           POINT IS.  THAT'S WHAT I DO FOR A LIVING.

5           MR. HAYNES:  DID YOU WORK ON DEVELOPING THESE  
6           BLASTING LAWS IN KENTUCKY?

7           MR. LUDWICZAK:  YES, SIR.  I WAS THE DIRECTOR  
8           OF THE DIVISION.

9           MR. HAYNES:  YOU WERE DIRECTOR.  YOU'RE THE  
10          ONE THAT DEVELOPED THESE LAWS, REGULATIONS?

11          MR. LUDWICZAK:  NO.  THEY WERE DEVELOPED BY  
12          THE LEGISLATURE.

13          MR. HAYNES:  YOU TAKE CREDIT FOR THEM IN YOUR  
14          RESUME.

15          MR. LUDWICZAK:  WELL, I DID AFTER I WAS HIRED  
16          AS A FIRST INSPECTOR.

17          MR. HAYNES:  YOU SAID THAT YOU DEVELOPED THE  
18          REGULATIONS IN KENTUCKY TO GOVERN SAFE BLASTING.

19          MR. LUDWICZAK:  I DID.  WE CHANGE THOSE  
20          REGULATIONS EVERY YEAR.

21          MR. HAYNES:  DID YOU IN 2003 ESTABLISH A  
22          BLASTER BLASTING TESTING PROGRAM WHERE YOU DID THE  
23          PREBLAST SURVEY AND ESTABLISHMENT OF A SAFE GROUND  
24          VIBRATOR LIMIT TO BLASTING CLOSE TO MONITORING WELLS?

25          MR. LUDWICZAK:  I DON'T UNDERSTAND.  DID I

1       WANT?

2               MR. HAYNES:  IT'S IN YOUR RESUME.

3               MR. LUDWICZAK:  I KNOW.  REPEAT IT.  I'VE GOT

4       A RESUME THAT'S 16 PAGES LONG.

5               MR. HAYNES:  THAT'S RIGHT.  IT'S THE ONLY ONE

6       I'VE EVER SEEN THAT HAS SO --

7               MR. LUDWICZAK:  IT'S SMALL PRINT TOO.

8               MR. HAYNES:  DID YOU DEVELOP A PREBLAST SURVEY

9       AND ESTABLISH A SAFE GROUND VIBRATION LIMIT FOR

10       BLASTING CLOSE TO MONITORING WELLS?

11              MR. LUDWICZAK:  YES.

12              MR. HAYNES:  AND TO HISTORIC COAL FIRED

13       ELECTRIC GENERATING PLANT?

14              MR. LUDWICZAK:  YES.

15              MR. HAYNES:  "IN SEPTEMBER 2000, I PREBLAST

16       SURVEYED, INSPECTED, AND ESTABLISHED" -- I'M GOING TO

17       HAVE TO GET MY GLASSES BECAUSE IT IS SMALL.

18              -- "SAFE GROUND VIBRATION LIMITS, AND

19       ESTABLISHED THE BLASTING PROGRAM FOR BLASTING CLOSE TO

20       FOUR HISTORIC STRUCTURES."

21              MR. LUDWICZAK:  I DO IT ALL THE TIME.

22              MR. HAYNES:  THAT'S RIGHT.

23              CHAIRMAN:  WHAT WERE THE HISTORIC STRUCTURES

24       BY THE WAY?

25              MR. LUDWICZAK:  HISTORIC STRUCTURE IS

1       ESSENTIALLY A HOUSE THAT IS OVER 60 YEARS OLD AND IS  
2       ELIGIBLE TO BE NOMINATED ON THE REGISTER OF HISTORIC  
3       PLACES.   BASICALLY AN OLD PLASTER AND LAT BUILDING OR  
4       AN OLD BUILDING.   WE GET BUILDINGS THAT ARE 60 TO A  
5       COUPLE OF HUNDRED YEARS OLD.

6               THE BLASTING STANDARDS, THE PURPOSE OF THAT,  
7       WHICH HE DOESN'T UNDERSTAND, IS THE STANDARDS THAT WE  
8       HAVE NOW DO NOT APPLY TO OLDER HISTORIC STRUCTURES.  
9       THE STUDIES THAT WERE DONE WERE DONE TO PROTECT MODERN  
10      HOUSES OF MODERN STRUCTURAL SITE THAT WERE LATER BUILT  
11      --

12              CHAIRMAN:   YOU SAY THE OLDER HOUSES ARE MORE  
13      SUSCEPTIBLE TO MORE VIBRATION?

14              MR. LUDWICZAK:   CORRECT.   BASICALLY WHAT  
15      YOU'VE GOT TO DO WITH HISTORIC HOUSES, YOU'VE GOT THE  
16      PREBLAST SURVEY AND THEM AND SELECT THE LEVEL THAT IS  
17      SAFE FOR THAT PARTICULAR STRUCTURE.

18              MR. HAYNES:   SO YOU'RE NOT SAYING THAT  
19      BLASTING CAN'T BE DONE SAFELY?

20              MR. LUDWICZAK:   I'VE NEVER SAID THAT.

21              MR. HAYNES:   ARE YOU SAYING IT CAN BE DONE  
22      SAFELY AT THIS PROPERTY?

23              MR. LUDWICZAK:   NO, I'M NOT.

24              MR. HAYNES:   YOU TALKED ABOUT A WATER PROBLEM.  
25      WAS THAT DOWN IN THE BOTTOMS?

1           MR. LUDWICZAK:  OBVIOUSLY.

2           MR. HAYNES:  DO YOU KNOW IF WE'RE GOING TO

3           MINE THE BOTTOM?

4           MR. LUDWICZAK:  I DON'T KNOW.  I ASSUME YOU'RE

5           TAKING OUT THE SECOND SEAM.

6           MR. HAYNES:  BUT DO YOU KNOW IF WE'RE GOING TO

7           MINE THE BOTTOM?

8           MR. LUDWICZAK:  WHAT DO YOU MEAN BY THE

9           BOTTOM?

10          MR. HAYNES:  WHERE YOU HAD THE WATER PROBLEM.

11          MR. LUDWICZAK:  YOU SAID THE BOTTOM.  I DON'T

12          KNOW WHAT YOU'RE TALKING ABOUT, "THE BOTTOM."  WHERE

13          IS THIS BOTTOM?

14          MR. HAYNES:  I ASKED YOU IF THE WATER PROBLEM

15          HAD DEVELOPED IN THE BOTTOM AND YOU SAID, YES.

16          CHAIRMAN:  LET ME HELP YOU HERE.  I THINK YOUR

17          QUESTION HAS TO DO WITH DO YOU KNOW OR DO YOU THINK

18          THAT THEIR COMPANY IS GOING TO BLAST DOWN IN THE

19          BOTTOMS.  IS THAT CORRECT?

20          MR. HAYNES:  YES.

21          MR. LUDWICZAK:  I UNDERSTAND THEY'RE TAKING

22          OUT TWO SEAMS OF COAL.  TO ME THE BOTTOM IS THE SECOND

23          SEAM OF COAL.

24          MR. HAYNES:  THAT WATER DEVELOP WITH THE

25          SECOND SEAM OF COAL?

1           CHAIRMAN: I DON'T UNDERSTAND WHERE THE  
2 BOTTOMS ARE.

3           MR. HAYNES: I DON'T EITHER.

4           CHAIRMAN: THIS IS THE BIG QUESTION.

5           MR. LANHAM.

6           MR. LANHAM: I'M VERY FAMILIAR WITH THAT AREA  
7 OUT THERE. I'VE MINED OUT THERE. I HAD THE LUXURY OF  
8 FINISHING A JOB THAT A COMPANY STARTED. I ALSO WENT  
9 OUT THERE AND OPENED UP A JOB IN THAT AREA.

10          CHAIRMAN: YOU'RE TALKING ABOUT THIS CURRENT?

11          MR. LANHAM: THIS SAME AREA.

12          CHAIRMAN: OKAY. THANK YOU.

13          MR. LANHAM: THE SAME AREA. WE HAD NO WATER  
14 PROBLEMS AT ALL. MOST OF THE TIME IF YOU'VE GOT A  
15 WATER PROBLEM, YOU AIN'T GOT ENOUGH WATER PUMPS.  
16 WE'VE GOT PLENTY OF THEM. THE WATER GIVE US ANY  
17 PROBLEM. I HAVE BEEN OUT IN THAT AREA.

18          WHAT YOU'RE TALKING ABOUT, NORMALLY SPEAKING  
19 THE DEEPER YOU GO YOU DO HAVE MORE WATER PROBLEMS.

20          MR. LUDWICZAK: THANK YOU.

21          CHAIRMAN: ARE YOU ALL GOING TO BE MINING OR  
22 BLASTING IN THE BOTTOMS OR THE LOWER AREA?

23          MR. LANHAM: WE'LL BE BLASTING NOT IN THE  
24 BOTTOM. THE COAL DON'T RUN -- I THINK WHAT THEY'RE  
25 TALKING BOTTOM IS THE BOTTOM OF THE BERM. MOST OF

1       THIS COAL LAYS IN THE UPPER LEVELS OF THE HILLS.

2               CHAIRMAN:  SO, IN OTHER WORDS, YOU'RE SAYING  
3       WATER IS GOING TO GO DOWN?

4               MR. LANHAM:  RIGHT.  WE'LL BE MINING SOME OF  
5       THE VALLEYS.  WHAT THEY'RE TALKING ABOUT IS THE WATER.  
6       JIM IS TALKING ABOUT THE WATER BEING DOWN LOWER, AND  
7       THAT IS TRUE.  THE LOWER YOU GO THE MORE WATER YOU  
8       GET.  I'M FAMILIAR WITH THE AREA.  I DON'T THINK WE'LL  
9       HAVE THAT PROBLEM OUT THERE.

10              MR. LUDWICZAK:  I'M SAYING WE HAD IT.  WHEN I  
11       MINED OUT THERE WE DID.  TONY MAY BE CORRECT.  THAT'S  
12       FINE.  YOU MAY NOT FIND ANY WATER OUT THERE, BUT I  
13       WOULD EXPECT WATER TO BE FOUND OUT THERE.

14              CHAIRMAN:  ARE YOU SAYING, MR. LUDWICZAK, THAT  
15       BLASTING UNDER THE PROPER CIRCUMSTANCES COULD HAPPEN  
16       OUT THERE CORRECTLY AND THERE WOULD NOT BE IT, IT  
17       COULD BE SAFELY DONE?

18              MR. LUDWICZAK:  YES, IT WOULD BE HIGH  
19       MAINTENANCE.  ON THE CONVERSE, IT WOULDN'T ME IF THERE  
20       WERE PROBLEM WITH IT.  IF THERE WERE PROBLEMS.

21              CHAIRMAN:  WOULD THAT BE TRUE OF ANY SITE?

22              MR. LUDWICZAK:  YES.

23              CHAIRMAN:  SO, IN OTHER WORDS, ANY SITE, IF WE  
24       WOULD GO OUT IN THE MIDDLE OF MARS AND BLAST, THAT  
25       THERE COULD BE BLASTING PROBLEMS?



1           MR. LUDWICZAK:  IF I WERE ON MARS, I'D BLOW IT  
2   UP AND BLOW HALF OF MARS APART.

3           THE POINT I'M MAKE IS WE HAVE A LOT OF HOUSES  
4   AROUND IT.  THOSE ARE THE THINGS THAT CONCERN ME.  
5   THAT'S WHY I'M SAYING THAT.

6           IF YOU'RE OUT IN THE MIDDLE OF NOWHERE, YOU  
7   CAN DO WHATEVER YOU WANT.  YOU DON'T HAVE THAT LUXURY  
8   WHEN YOU HAVE A COUPLE OF HUNDRED HOMES SITTING AROUND  
9   IT.

10          CHAIRMAN:  HIS QUESTION, AND I THINK THE  
11   QUESTION IS, COULD IT BE DONE SAFELY?

12          MR. LUDWICZAK:  YES.  I BLAST WITHIN A COUPLE  
13   OF HUNDRED FEET OF HOUSES AND 10 OR 15 FEET OF  
14   PIPELINE.  YOU'VE GOT TO BE VERY, VERY, VERY CAREFUL.  
15   THE THING IS A LOT OF THOSE JOBS, WHICH WAS MENTIONED  
16   EARLIER LIKE CONSTRUCTION, THEY'RE SHORT.  THEY'RE NOT  
17   THERE FOR 10 YEARS.  THEY'RE NOT THERE FOR 15 YEARS.  
18   THEY'RE THERE FOR A COUPLE OF MONTHS OR SO AND THEY'RE  
19   GONE.  YOU CAN CONTROL THOSE A LOT BETTER.

20          WHAT I'M SAYING IS DIFFICULT IS THE RISK IS  
21   ALL HOUSES AROUND.

22          MR. LANHAM:  WE'VE BLASTED OUT THERE AS WELL,  
23   IN THE SAME AREA, AND WE DIDN'T HAVE ANY PROBLEM.  WE  
24   BLAST AROUND HOUSES I'LL SAY VINSKO.  YOU COME UP  
25   THERE WHERE WE'RE MINING AND WE'RE BLASTING AROUND

1 HOMES EVERY DAY. THIS IS NOTHING NEW TO US.

2 CHAIRMAN: THANK YOU MR. LANHAM.

3 MR. LUDWICZAK, WE'LL LET YOU CONTINUE.

4 MR. LUDWICZAK: THAT'S IT. I'M DON'T.

5 CHAIRMAN: I HAD SOME QUESTIONS ABOUT YOUR

6 EXPERTISE.

7 MR. LUDWICZAK: I'M DONE. THAT'S IT. ANY

8 OTHER QUESTIONS?

9 MR. HAYNES: NO.

10 CHAIRMAN: THANK YOU, MR. LUDWICZAK.

11 MR. WILSON.

12 MR. WILSON: I'M GOING TO CALL DR. DAVID

13 EGGERS TO THE STAND, PLEASE. HE'S A RESIDENT ALSO OF

14 GIRL SCOUT ROAD.

15 MR. SILVERT: STATE YOUR NAME, PLEASE.

16 DR. EGGERS: DAVID MICHAEL EGGERS, M.D.

17 (DR. DAVID EGGERS SWORN BY ATTORNEY.)

18 DR. EGGERS: FOR YOUR BENEFIT I'M GOING TO

19 REDUCE MY STATEMENTS TO A BARE MINIMUM NOW. REALLY

20 MUCH OF IT HAS BEEN SAID THAT I HAD INTENDED TO BRING

21 TO YOUR ATTENTION.

22 I CAME OUT TO PLEASANT RIDGE 22 YEARS AGO.

23 FELL IN LOVE WITH THAT AREA. WE BOUGHT LAND THERE.

24 MY WIFE REBECCA AND I HAVE RAISED FOUR CHILDREN THERE.

25 FRANKLY, MY LOVE FOR THIS LAND IS PROBABLY ONE OF THE

1       MAIN REASONS THAT WE STAYED IN OWENSBORO, AND I CARRY  
2       OUT MY NEUROSURGICAL PRACTICE HERE.

3               AS YOU MIGHT EXPECT NEUROSURGERY INVOLVES A  
4       GREAT DEAL OF STRESS. WHEN I GET HOME I CAN UNWIND TO  
5       PEACE AND QUIET. COLLECT MY NERVES AND THEN GET BACK  
6       INTO ACTION AT MY BEST POTENTIAL.

7               ONE OF MY CONCERNS IS DISRUPTION WITH 24/7  
8       NOISE, CATS, BEEPING, BLASTING AND LARGE TRUCK  
9       MOVEMENTS. I'M CERTAIN MY SLEEP IS GOING TO BE  
10      DISRUPTED. I'M QUITE CERTAIN THIS IS GOING TO HAVE AN  
11      IMPACT ON MY CAREER.

12              NO ONE IS GOING TO BUY MY LAND WITH A COAL  
13      MINE NEXT TO IT. NOT THAT TYPE OF LAND. NOT MY KIND  
14      OF HOUSE. SO EITHER I VACATE OR CHANGE CAREERS.

15              IN '93 PYRAMID MINING APPLIED TO REZONE IN  
16      THIS AREA AND PLANNED TO MINE THE SAME AREA AS WESTERN  
17      KENTUCKY MINING HAS SUBMITTED. I WAS INVOLVED WITH  
18      THE RESISTANCE THEN. PYRAMID WAS A FIRST RATE OUTFIT  
19      JUST LIKE WESTERN KENTUCKY MINE IS. THEIR LEADERSHIP  
20      WAS ALSO VERY COMPETENT INTELLIGENT AND RESPECTED AS  
21      MR. LANHAM IS, BUT THE ULTIMATE DECISION AT THAT TIME  
22      WAS NOT ABOUT WHETHER WE WERE DEALING WITH A GREAT  
23      COMPANY OR HOW ADVANCE MINING TECHNOLOGY HAS BECOME,  
24      BUT WHETHER IT WAS APPROPRIATE TO BE MINING IN THAT  
25      AREA. IN SUCH A POPULUS AREA WITH AN EXTRAORDINARY

1 GIRL SCOUT CAMP.

2 THERE WERE SAFETY CONCERNS FOR THE 4,000 PLUS  
3 GIRLS AND MANY OTHERS THAT TRAVEL THROUGH THE CAMP,  
4 NOT TO MENTION ALL THE RESIDENTS AROUND THE AREA. NO  
5 ONE ON THE ZONING BOARD WANTED THAT RESPONSIBILITY  
6 OVER THEIR HEADS.

7 I WOULD LIKE TO READ JUST THE FINAL STATEMENT  
8 FROM THAT ZONING BOARD HEARING IN '93. I WILL BE  
9 QUOTING MS. MURRAY ADDRESSING THE CHAIRMAN.

10 "I'M GOING TO MAKE A MOTION AND IT IS GOING TO  
11 BE TO DENY THIS PROPOSAL BECAUSE OF SEVERAL FINDINGS  
12 OF FACT THAT HAVE COME OUT HERE IN OUR DISCUSSION.

13 "THE FIRST ONE BEING THAT THE COMPREHENSIVE  
14 PLAN IS IN ERROR IN THIS AREA BECAUSE IT DOES NOT  
15 PROVIDE ADEQUATE PROTECTION TO THE PROPERTY OWNERS OUT  
16 THERE.

17 "SECONDLY, BECAUSE OF THE LARGE NUMBER OF  
18 HOMES IN THE AREA AND THE DENSITY POPULATION.

19 "THIRDLY, BECAUSE POTENTIAL DAMAGE TO THE  
20 LARGE NUMBER OF CHILDREN WHO WERE IN THE AREA DUE TO  
21 THE EXISTENCE OF THE GIRL SCOUT CAMP.

22 "FINALLY, DUE TO THE POTENTIAL DAMAGE TO  
23 WELLS, LAKES AND AQUIFERS IN THE AREA."

24 AT THAT POINT THERE WAS A UNANIMOUS VOTE BY  
25 YOUR PREDECESSORS TO DENY THE MINING FOR THESE

1 REASONS.

2 THE PEOPLE OF PLEASANT RIDGE TOOK THIS TO  
3 HEART AND TRUSTED THIS COUNSEL'S RECOMMENDATION. WE  
4 ALL ACTED UPON IT. PEOPLE MOVED OUT. BOUGHT HOMES.  
5 DEVELOPED THEIR HOMESTEADS. GREW FAMILIES.

6 I ENCOURAGE MY FRIEND, DR. HUXLE, TO MOVE TWO  
7 DOORS DOWN FROM ME. START HIS HORSE FARM. I SAID,  
8 THE ZONING BOARD SAID IT'S OKAY. IT WILL BE SAFE.  
9 YOUR FARM WILL BE SECURE.

10 THE ONLY THING DIFFERENT NOW IS THAT THERE'S A  
11 LOT MORE RESIDENTS. THE GIRL SCOUT CAMP IS A LOT MORE  
12 DEVELOPED THAN IT WAS IN '93.

13 I NOW HUMBLY SUBMIT TO THE BOARD THAT IN 2012  
14 THE MEMBERS WILL UPHOLD THE CONVICTIONS OF YOUR  
15 PREDECESSORS. THANK YOU FOR YOUR ATTENTION. I'D LIKE  
16 TO INTRODUCE MY WIFE, REBECCA. COULD SHE SPEAK?

17 CHAIRMAN: YES.

18 MR. SILVERT: STATE YOUR NAME, PLEASE.

19 MRS. EGGERS: REBECCA EGGERS.

20 (REBECCA EGGERS SWORN BY ATTORNEY.)

21 MRS. EGGERS: I THINK THE BEST THINGS WE'VE  
22 HEARD TONIGHT WAS FROM THE YOUNG GIRLS THAT ARE  
23 HOPEFULLY IN BED SNOOZING AWAY. THEY WERE FABULOUS.  
24 THEY WERE REALLY GREAT.

25 THE ONLY THING I WANT TO SAY IS THESE YOUNG

1 WOMEN, AND THEY ARE WOMEN, THAT TRAVELED FROM  
2 LOUISVILLE AND LEXINGTON THAT ARE FORMER GIRL SCOUTS  
3 AND WORK FOR GIRL SCOUTS OF AMERICA, WE DIDN'T SOLICIT  
4 THEM. THEY CAME ON THEIR OWN. THEY FOUND THIS OUT  
5 THROUGH A WEBSITE ABOUT WHAT WAS BEING PROPOSED.

6 I THINK THEIR ELOQUENT STATEMENTS FROM THE  
7 VERY FIRST TIME OF WHAT THEY SAID, AND I WAS PERUSING  
8 THIS PETITION WHICH AS OF 3:30 TODAY HAD 784  
9 SIGNATURES ON IT FROM EVERY CONTINENT EXCEPT, GUESS  
10 WHICH ONE, ANTARCTICA OPPOSING STRIP MINING NEAR THE  
11 PENNYRILE GIRL SCOUT CAMP. THANK YOU.

12 CHAIRMAN: MR. WILSON, IS THAT?

13 MR. WILSON: MR. CHAIRMAN, THAT WILL BE THE  
14 LAST WITNESS I HAVE TO CALL. I WOULD LIKE TO READ  
15 SOMETHING INTO THE RECORD, IF I COULD.

16 FROM THE TRANSCRIPT THAT IS IN THE RECORD NOW  
17 THAT I PRESENTED FROM '86. I'M NOT GOING TO READ 47  
18 PAGES OF WHAT I SUBMITTED, BUT I WOULD TO LIKE A  
19 COUPLE OF PERTINENT THINGS OUT OF THOSE PAGE, IF  
20 THAT'S OKAY.

21 CHAIRMAN: ABSOLUTELY.

22 MR. WILSON: IN '86 THE QUESTION WAS POSED TO  
23 MR. BILL KURTZ WHO WAS TESTIFYING AT THAT TIME. THE  
24 QUESTION WAS, AND I QUOTE, "WHAT WILL BE THE AFFECT  
25 UPON THESE PROPERTY VALUES IF MINING IS PERMITTED IN

1 THE IMMEDIATE AREA AS HAS BEEN TESTIFIED HERE TODAY?"

2 MR. KURTZ'S ANSWER WAS, "WELL, IF THE MINING,

3 I THINK IT'S THE IMAGINE OF THE PROPERTY AND THE STYLE

4 OF LIFE AND THE QUALITIES OF LIVING THERE WILL BE

5 CHANGED BECAUSE OF MINING. I THINK THAT WHENEVER YOU

6 START TO DESCRIBE THE PROPERTY, SAY YOU WANTED TO PUT

7 IT ON THE MARKET AND SAY IT'S OUT ON GIRL SCOUT ROAD

8 ACROSS FROM THE MINING THAT'S GOING ON OUT THERE, I

9 THINK THAT IT COULD BE QUITE DETRIMENTAL TO THE VALUE

10 OF THE PROPERTY OR TO THE SELL OF THE PROPERTY OR THE

11 VALUE OF THE PROPERTY."

12 QUESTION TO KURTZ, "WILL PROPERTY VALUES IN

13 YOUR OPINION OF THOSE HOMES, ESPECIALLY ON GIRL SCOUT

14 ROAD, WILL THOSE FALL SHARPLY?"

15 MR. KURTZ'S ANSWER IS, "I WOULD SAY THAT THEY

16 WOULD."

17 HE WENT ON TO TALK ABOUT OTHER SPECIFIC

18 MATTERS.

19 THEN ON PAGE 10,032 MR. STEVE CASTLEN WAS

20 ASKED A QUESTION, "WHAT WILL BE THE AFFECT ON PROPERTY

21 VALUES IN THE AREA NEAR THE REZONE PROPERTY OF ANY

22 COAL MINING OPERATION SHOULD THEY BE PERMITTED BY THIS

23 COMMISSION HERE TODAY?"

24 MR. CASTLEN ANSWERED, "WELL, YOU'RE TALKING

25 ABOUT THESE PARTICULAR THREE HOMES." HE WAS REFERRING

1 TO THE HOMES ON GIRL SCOUT ROAD. "IT ALSO AFFECTS THE  
2 OTHER HOMES THAT WE'VE GOT OUTLINED IN THAT AREA, BUT  
3 WE ARE TALKING MAINLY ABOUT THE THREE HOMES THAT ARE  
4 IN THE IMMEDIATE AREA. THE PURCHASER FOR THIS TYPE OF  
5 PROPERTY, THEY'RE LOOKING FOR JUST ANY TYPE OF  
6 IMPERFECTION AT ALL IN ORDER FOR THEM NOT TO BUY THE  
7 PROPERTY. SO WHEN THEY'RE LOOKING, THEY'RE LOOKING  
8 FOR A PACKAGE DEAL. SO WITH THE BLASTING OR WITH JUST  
9 THE FACT THAT THE COAL MINE COULD BE COMING INTO THE  
10 AREA, EVEN BEFORE ANYTHING COULD HAPPEN SUCH AS ROCKS  
11 OR BLASTING OR TRAFFIC, THEY WOULD NOT BUY THIS TYPE  
12 OF PROPERTY. YOU WOULD HAVE ANOTHER TYPE BUYER FOR  
13 THIS TYPE OF PROPERTY, BUT IT WOULD BE AT A FAR LESS  
14 FIGURE."

15 NEXT QUESTION TO MR. CASTLEN, "APPROXIMATELY  
16 HOW MUCH WILL PROPERTY VALUES FALL?"

17 MR. CASTLEN ANSWERED, "I HAVE DONE A LITTLE  
18 BIT OF THINKING ON THIS ONE AND I WOULD SAY IT WOULD  
19 BE ANYWHERE FROM 30 TO 50 PERCENT ON THIS TYPE OF A  
20 HOME. A HOME OF A LITTLE BIT LESSER PRICE MIGHT NOT  
21 BE AFFECTED AS MUCH. MAYBE 25 TO 30 PERCENT."

22 THAT CONCLUDES THE CASE FOR THE OPPONENTS, MR.  
23 CHAIRMAN. I WOULD ASSUME YOU HAVE CLOSING.

24 CHAIRMAN: THANK YOU.

25 MR. HAYNES: WHAT HE WAS READING FROM WAS 25



1 YEARS AGO. I THINK IF MR. KURTZ AND MR. CASTLEN HELD  
2 A SIMILAR VIEW NOW, HE WOULD HAVE BROUGHT THEM IN  
3 HERE.

4 CHAIRMAN: EVERYBODY HAS HAD A CHANCE TO  
5 SPEAK. I APPRECIATE IT.

6 MR. WILSON: MAY I RESPOND?

7 CHAIRMAN: YES, SIR.

8 MR. WILSON: I WAS READING FROM THE '86  
9 TESTIMONY WHICH WAS READ TO THIS COMMISSION AT THE '93  
10 HEARING. THOSE IDENTICAL QUESTIONS AND ANSWERS WERE  
11 READ INTO THE RECORD IN '93. THEY APPEARED IN '86.  
12 ASSUMING THINGS WERE DONE THEIR TESTIMONY HAS BEEN  
13 READ AT THE LAST TWO HEARING NOW.

14 CHAIRMAN: THANK YOU.

15 I WANT TO THANK EVERYBODY FOR YOUR PATIENCE.  
16 THANK YOU FOR YOUR ATTENTION AND FOR YOUR RESPECT  
17 REGARDING EACH SIDE WHEN THEY PRESENT THEIR CASE AND  
18 HEARING THEM OUT. I REALLY APPRECIATE THAT. IT LET  
19 THE MEETING GO VERY SMOOTHLY FOR US.

20 WITH THAT BEING SAID I THINK THE CHAIR IS  
21 READY FOR A MOTION.

22 IS THERE ANY FURTHER DISCUSSION AMONGST THE  
23 COMMISSION?

24 MR. KAZLAUSKAS: MR. CHAIRMAN, CAN I ASK A  
25 LEGAL QUESTION?

1           CHAIRMAN: I WOULD THINK YOU WOULD ASK THAT OF  
2 MADISON, YES.

3           MR. KAZLAUSKAS: DOES THIS HAVE TO BE VOTED ON  
4 OR CAN THIS DIE FOR LACK OF A MOTION OR IS THIS  
5 REQUIRED TO BE VOTED UP OR DOWN?

6           CHAIRMAN: MR. SILVERT.

7           MR. SILVERT: WE HAVE TO PASS A RECOMMENDATION  
8 THAT EITHER BECOMES -- WE WOULD NEED TO PROVIDE  
9 SOMETHING THAT'S A DUAL AND DYING FOR A LACK OF A  
10 MOTION. IN MY OPINION, PROBABLY NOT SOMETHING THAT  
11 THIS BOARD NEEDS TO CONSIDER BECAUSE USING OUR  
12 ALTERNATIVE ZONING REGULATION THAT WE HAVE AT THIS  
13 POINT, THERE'S NOTHING TO BECOME FINAL OR TO APPEAL  
14 OTHERWISE TO THE FISCAL COURT.

15           MR. HAYNES MAY HAVE ANOTHER OPINION TO THAT.

16           MR. HAYNES: I JUST ASK, CAN THE MOTION COME  
17 FROM THE FLOOR?

18           MR. SILVERT: NO. MOTIONS ARE MADE BY US.

19           MR. HAYNES: IF COULD I WOULD MAKE A MOTION  
20 FOR APPROVAL.

21           MR. SILVERT: I WOULD GUESS MR. WILSON WOULD  
22 MAKE THE OPPOSITE MOTION IN THAT CASE.

23           IT MAKES IT DIFFICULT GIVEN OUR ALTERNATIVE  
24 ZONING AMENDMENT, HOW WE WOULD HANDLE AN APPEAL TO A  
25 LEGISLATIVE BODY IN THAT SITUATION.

1           MR. KAZLAUSKAS: SO TO MORE FORWARD WE WOULD  
2       NEED A MOTION EITHER TO VOTE IT UP OR VOTE IT DOWN.

3           MR. SILVERT: THAT IS CORRECT.

4           MR. KAZLAUSKAS: I DON'T HAVE A NEW LISTING OF  
5       FINDINGS OF FACT, BUT I'LL MAKE A MOTION THAT THE  
6       APPLICATION BE DENIED.

7           MR. SILVERT: WE DO NEED TO HAVE FINDINGS OF  
8       FACT SO THAT AN APPEALING BODY CAN DETERMINE THE  
9       FINDINGS THAT YOU MADE TO SUPPORT YOUR MOTION.

10          MR. KAZLAUSKAS: BASED ON THE TESTIMONY THAT  
11       I'VE HEARD TONIGHT THAT HAD TO DO WITH QUALITY OF LIFE  
12       ISSUES. THAT HAD TO DO WITH BLASTING, NUMBER ONE.  
13       THAT HAD TO DO WITH THE COAL DUST IN THE AIR THAT I  
14       SPECIFICALLY HAVE QUESTIONS ABOUT. THE QUESTIONS OF  
15       NOISE THAT CAN TRAVEL GREAT DISTANCES. THAT'S ONE  
16       FINDING OF FACT THAT I HAVE.

17          THE SECOND THING IS THE TRAFFIC PROBLEM. I'M  
18       REALLY NOT CONCERNED ABOUT -- I REALLY AM CONCERNED  
19       ABOUT THE NUMBER OF COAL TRUCKS IN THAT AREA TRAVELING  
20       UP AND DOWN 231.

21          TO BE QUITE HONEST WITH YOU, I'M NOT SURE  
22       ABOUT THE COMPREHENSIVE PLAN, BUT THAT MIGHT COME INTO  
23       QUESTION ALSO.

24          CHAIRMAN: MR. KAZLAUSKAS, YOU NEED TO EITHER  
25       LIST THE COMPREHENSIVE PLAN OR NOT LIST IT, AS FAR AS

1 YOUR FINDINGS OF FACT.

2 MR. KAZLAUSKAS: I'M NOT GOING TO LIST IT THEN  
3 BECAUSE I HAVE A QUESTION.

4 CHAIRMAN: WOULD YOU SORT OF 1, 2, 3 SO WE CAN  
5 HAVE THEM.

6 MR. SILVERT, ARE YOU OKAY WITH THE 1, 2, 3  
7 FINDING?

8 MR. SILVERT: YES.

9 CHAIRMAN: WE'VE GOT A MOTION BY MR.  
10 KAZLAUSKAS, AS FAR AS A MOTION FOR DENIAL. DID WE  
11 HAVE A SECOND AT THE OTHER END?

12 MR. STRODE: SECOND.

13 CHAIRMAN: MR. STRODE HAD A SECOND. ALL IN  
14 FAVOR OF DENIAL RAISE YOUR RIGHT HAND.

15 (BOARD MEMBERS TIM ALLEN, WARD PEDLEY, JOHN  
16 KAZLAUSKAS, JASON STRODE AND FATHER LARRY HOSTETTER  
17 RESPONDED AYE.)

18 CHAIRMAN: ALL AGAINST IT.

19 (BOARD MEMBERS IRVIN ROGERS, DAVE APPLEBY,  
20 DREW KIRKLAND, WALLY TAYLOR AND FRED REEVES RESPONDED  
21 NAY.)

22 CHAIRMAN: THE MOTION IS DENIED FIVE TO FOUR.

23 WE HAVE ONE FINAL MOTION THE CHAIR WILL  
24 ENTERTAIN.

25 MR. TAYLOR: MOTION TO ADJOURN.

1           CHAIRMAN: A MOTION FOR ADJOURNMENT. DO WE  
2 HAVE A SECOND.  
3           MR. REEVES: SECOND.  
4           CHAIRMAN: SECOND BY MR. REEVES. ALL IN FAVOR  
5 RAISE YOUR RIGHT HAND.  
6           (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)  
7           CHAIRMAN: WE ARE ADJOURNED.  
8           - - - - (OFF THE RECORD) - - - -  
9           CHAIRMAN: PLEASE BE SEATED.  
10          MR. SILVERT: AT THIS POINT IT WAS DISPUTED AS  
11 TO WHETHER OR NOT THE COUNT WAS FIVE TO FOUR OR FIVE  
12 TO FIVE. AT THIS POINT IF THE CHAIR VOTED, BY COUNT  
13 IT WAS FIVE TO FIVE. THE MOTION DOES NOT PASS, MR.  
14 CHAIR. IT IS TIED. SO IT WOULD REQUIRE ANOTHER  
15 MOTION TO BE MADE AND A VOTE BE MADE ON THAT MOTION.  
16 IT CAN BE TO PASS OR AGAINST. THIS NEXT MOTION CAN,  
17 BUT THE CHAIR WOULD NEED TO HEAR ANOTHER MOTION  
18 BECAUSE NO ACTION HAS BEEN TAKEN.  
19          CHAIRMAN: THE ONLY THING WE CAN DO AT THIS  
20 POINT DO YOU WANT TO RESTATE YOUR MOTION.  
21          MR. KAZLAUSKAS: NO. IT WAS A TIE. IT CAN'T  
22 GO FORWARD. ISN'T THAT WHAT YOU SAID?  
23          MR. SILVERT: NO. THE MOTION FAILS.  
24          MR. KAZLAUSKAS: THE MOTION FAILS.  
25          YOU WANT ME TO REPEAT THE MOTION AGAIN?

1           MR. SILVERT: IT'S THE CHAIR'S DISCRETION IF  
2 HE WANTS TO TAKE A REVOTE ON THE MOTION.

3           CHAIRMAN: LET'S TAKE A REVOTE SO WE'LL HAVE  
4 IT OF RECORD. WHEN I GLANCED DOWN I DID NOT -- OKAY.  
5 DOES HE NEED TO RESTATE HIS MOTION?

6           MR. SILVERT: IS EVERYONE FAMILIAR WITH THE  
7 MOTION AS STATED?

8           (NO RESPONSE)

9           MR. SILVERT: IS THERE A SECOND TO THAT  
10 MOTION, MR. CHAIR? IF YOU WANT TO ASK FOR ANOTHER  
11 SECOND.

12          CHAIRMAN: MR. STRODE HAS A SECOND.

13          MR. SILVERT: MR. WILSON, DO YOU HAVE A  
14 PROCEDURAL QUESTION? I CAN TELL. I WANT TO GET THAT  
15 ON THE RECORD.

16          MR. WILSON: YES, I DO. I DON'T UNDERSTAND  
17 WHAT WE VOTED ON. WE JUST VOTED.

18          MR. SILVERT: AND IT WAS A FIVE TO FIVE VOTE  
19 SO THE MOTION FAILED.

20          MR. WILSON: THE APPLICATION FAILED.

21          MR. SILVERT: IT WAS A TIE VOTE. IT WAS A  
22 MOTION TO DENY. THERE HASN'T BEEN A MOTION FOR.  
23 THERE'S BEEN NO ACTION.

24          MR. WILSON: WHAT HAPPENS TO THE APPLICATION  
25 AT THIS POINT?

1           MR. SILVERT: IT WOULD NOT MOVE FORWARD. THE  
2 CHAIR MISCALLED THE VOTE SO IT'S THE CHAIR'S  
3 DISCRETION TO ASK FOR ANOTHER VOTE.

4           MR. WILSON: IT IS. THE FIVE TO FIVE IS NOT A  
5 VALID VOTE?

6           MR. SILVERT: THERE'S NO ACTION AT THAT POINT.

7           CHAIRMAN: MR. SILVERT, DO YOU --

8           MR. WILSON: SO WHERE ARE WE, MR. CHAIRMAN?  
9 YOU HAVE TO LISTEN TO YOUR COUNSEL.

10          MR. SILVERT: MR. WILSON, DO YOU BELIEVE THAT  
11 ROBERT'S RULES OF ORDER ARE DIFFERENT IN THAT CASE?

12          MR. WILSON: I AM NOT QUOTING. I DON'T WANT  
13 TO COMMENT ON THAT.

14          CHAIRMAN: MR. SILVERT --

15          MR. SILVERT: I WOULD LIKE TO TAKE A MOMENT TO  
16 RESEARCH THE ISSUE TO BE QUITE HONEST, MR. CHAIR.  
17 THIS IS THE FIRST FOR THIS BODY, FROM WHAT I'VE SEEN.

18          CHAIRMAN: SHOULD WE JUST REVOTE?

19          MR. NOFFSINGER: LET'S LOOK AT THE STATUTE.

20          MR. SILVERT: COULD WE RECESS FOR JUST A  
21 MOMENT, MR. CHAIR?

22          CHAIRMAN: LET RECESS SHORTLY.

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

24          MR. SILVERT: IT WAS DISCUSSED UP HERE WITH  
25 COUNSEL HAYNES AND COUNSEL WILSON. THERE IS A STATUTE

1 UNDER CHAPTER 100. THE FIRST THING THEY TEACH YOU IN  
2 LAW SCHOOL IS IF YOU DON'T KNOW THE ANSWER, READ THE  
3 STATUTE. SO HERE WE ARE.

4 IT STATES, "A TIE VOTE SHALL BE SUBJECT FOR  
5 FURTHER CONSIDER BY THE PLANNING COMMISSION FOR A  
6 PERIOD NOT TO EXCEED 30 DAYS. AT THE END OF WHICH IF  
7 THE TIE HAS NOT BEEN BROKEN, THE APPLICATION SHALL BE  
8 FORWARDED TO THE FISCAL COURT OR LEGISLATIVE BODY  
9 WITHOUT A RECOMMENDATION OF APPROVAL OR DISAPPROVAL."

10 IN THIS SITUATION, WE HAD A FIVE TO FIVE VOTE.  
11 OUR NEXT REGULARLY SCHEDULED MEETING IS IN 28 DAYS.  
12 SO IT WOULD BE THE CHAIR'S DISCRETION AS TO WHETHER OR  
13 NOT WE WANTED TO CONSIDER THAT TONIGHT, CONSIDER IT AT  
14 THE NEXT MEETING. WE HAVE TIME. WE COULD MAKE THAT  
15 30 DAYS.

16 MR. NOFFSINGER: THAT WOULD BE MARCH 8TH.

17 MR. SILVERT: BUT AT THAT POINT IT IS FURTHER  
18 CONSIDERATION BY THE PLANNING COMMISSION AND LIKELY  
19 WOULD NOT ELICIT TO NEW TESTIMONY FOR THAT.

20 CHAIRMAN: IF WE DO IT TONIGHT, WE WOULD JUST  
21 REVOTE AGAIN TONIGHT?

22 MR. SILVERT: YES.

23 CHAIRMAN: IF IT COMES BACK A FIVE TO FIVE TIE  
24 THEN WOULD WE --

25 MR. SILVERT: YOU COULD VOTE AGAIN IN 28 DAYS



1       AND YOU COULD VOTE AGAIN IN 28 MINUTES.

2               CHAIRMAN:   REVOTE?   WHAT'S YOUR OPINION, MR.  
3       SILVERT?

4               MR. SILVERT:   MY OPINION IS YOU HAVE 30 DAYS  
5       IN WHICH TO EITHER BREAK THE TIE OR IT GOES ON TO THE  
6       LEGISLATIVE BODY WITHOUT APPROVAL OR DISAPPROVAL FROM  
7       THIS BODY.

8               CHAIRMAN:   DISCUSSION AMONGST THE COMMISSION.

9               MR. KAZLAUSKAS:   WE CAN HAVE ANOTHER VOTE TO  
10       SEE IF ANYONE WANTS TO CHANGE THEIR MIND ONE WAY OR  
11       THE OTHER.   THAT WAY WE KNOW AND WE CAN LOOK AT THE  
12       FUTURE.

13              CHAIRMAN:   DO I NEED TO RESTATE MR.  
14       KAZLAUSKAS'S MOTION AND SECOND OR IS EVERYBODY PRETTY  
15       CLEAR WITH THAT?

16              COMMISSION:   WE'RE CLEAR.

17              CHAIRMAN:   MR. KAZLAUSKAS'S PROPOSAL WAS FOR  
18       DENIAL.   ALL IN FAVOR RAISE YOUR RIGHT HAND.

19              (BOARD MEMBERS TIM ALLEN, WARD PEDLEY, JOHN  
20       KAZLAUSKAS, JASON STRODE AND FATHER LARRY HOSTETTER  
21       RESPONDED AYE.)

22              CHAIRMAN:   ALL OPPOSED RAISE YOUR RIGHT HAND.

23              (BOARD MEMBERS ROGER IRVIN, DAVE APPLEBY, DREW  
24       KIRKLAND, WALLY TAYLOR, AND FRED REEVES RESPONDED  
25       NAY.)

1           CHAIRMAN: IT'S A TIE.

2           I'D SAY WE RECONSIDER IT IN 30 DAYS, UNLESS  
3   YOU WANT TO -- OUR OTHER OPTION WOULD BE TO SEND IT ON  
4   TO THE LEGISLATIVE.

5           MR. SILVERT: YOU HAVE 30 DAYS WITH WHICH TO  
6   EITHER BREAK THE TIE OR IT DOES GO ON.

7           CHAIRMAN: WE CAN'T SEND IT ON AS IT IS NOW?

8           MR. SILVERT: IF YOU DON'T HEAR THE MOTION  
9   AGAIN AND VOTE ON THE MOTION AGAIN, THEN THAT'S WHAT  
10  WOULD HAPPEN.

11          FATHER HOSTETTER: I HAVE A QUESTION. IF WE  
12  VOTE AGAIN ON ANOTHER DAY, DOES THE COMMISSION HAVE TO  
13  BE COMPOSED OF EXACTLY THESE PEOPLE? AS WE ALL KNOW,  
14  SOMETIMES PEOPLE DON'T MAKE IT TO MEETINGS.

15          CHAIRMAN: I THINK FOR THE FAIRNESS OF ALL THE  
16  PEOPLE INVOLVED, IF SOMEONE WERE TO BE SICK OR SOMEONE  
17  COULDN'T BE THERE REGARDLESS OF WHICH SIDE OF THE  
18  ISSUE IT WAS ON, I THINK IT COULD BE UNFAIR TO EITHER  
19  PARTY. MY OPINION WOULD BE WE'VE GOT A TIE VOTE. I  
20  THINK IT'S TIME FOR YOU ALL AND THE HOMEOWNERS TO MOVE  
21  WITH THE LEGISLATIVE BODY. BECAUSE AT THIS POINT IN  
22  TIME IF WE HELD IT OVER FOR 30 DAYS, WE WOULD NOT HEAR  
23  ANY FURTHER TESTIMONY AND THE FATE OF WHO ALL SHOWS UP  
24  COULD CHANGE THE BALANCE ONE WAY OR THE OTHER.

25          MR. KAZLAUSKAS: MR. CHAIRMAN, COULD WE ASK

1 COUNSEL WHAT VEHICLE DO WE HAVE WITHIN THIS  
2 ORGANIZATION TO TALK WITH EACH OTHER TO MAKE A PERSON  
3 MIGHT CHANGE THEIR VOTE OR IS THAT EVEN LEGAL OR CAN  
4 YOU DO THAT?

5 MR. APPLEBY: YOU CAN'T HAVE A QUORUM.

6 MR. SILVERT: YOU CERTAINLY CAN'T HAVE A  
7 QUORUM.

8 MR. KAZLAUSKAS: THERE ISN'T ONE, IS THERE?

9 MR. SILVERT: THIS MUCH I CAN TELL YOU. YOU  
10 CANNOT KICK IT UP TO THE LEGISLATIVE BODY TONIGHT.  
11 THE STATUTE REQUIRES THAT YOU HAVE 30 DAYS. AT THE  
12 END OF THOSE 30 DAYS IT GOES TO THE LEGISLATIVE BODY.  
13 SO REGARDLESS OF WHAT HAPPENS TONIGHT THERE IS NO  
14 FURTHER VOTE TONIGHT. WE WILL NOT KNOW UNLESS WE GET  
15 THROUGH THE MEETING ON THE 8TH AND NO ONE BRINGS IT UP  
16 AND THERE'S NO VOTE AT THAT TIME, THEN TWO DAYS LATER  
17 IT WILL KICK UP TO LEGISLATIVE BODY, BUT WE CANNOT SAY  
18 THAT TONIGHT IT IS GOING TO GO TO THE LEGISLATIVE  
19 BODY.

20 FATHER HOSTETTER: SO ARE YOU SAYING THAT ON  
21 THE 8TH SOMEONE COULD ASK FOR THIS TO BE RECONSIDERED  
22 AT THAT MEETING EVEN THOUGH WE MAY NOT HAVE THE SAME  
23 PEOPLE AT THAT MEETING AS IS HERE TONIGHT?

24 MR. SILVERT: YES. THAT ABSOLUTELY COULD  
25 HAPPEN.

1           MR. ROGERS: BUT IF IT DIDN'T A GET MOTION,  
2           THAT WOULD KILL IT, WOULDN'T IT?

3           MR. SILVERT: IF NO ONE MADE A MOTION TO HAVE  
4           ANOTHER VOTE, THEN IT WOULD FAIL TWO DAYS LATER  
5           ACCORDING TO THIS STATUTE.

6           MR. NOFFSINGER: IT WOULD BE SENT TO THE  
7           LEGISLATIVE BODY WITH NO RECOMMENDATION. THE RECORD  
8           WOULD GO TO THEM AND THE LEGISLATIVE BODY WOULD HAVE  
9           TO TAKE ACTION ON IT. EITHER UP OR DOWN.

10          MR. ROGERS: WHICH IS WHERE IT'S GOING  
11          REGARDLESS?

12          MR. ALLEN: WE CAN STILL TALK ABOUT IT AND  
13          VOTE AGAIN.

14          MR. REEVES: MR. CHAIRMAN, CAN I ASK A  
15          QUESTION. I'VE UNDERSTOOD TWO DIFFERENT ANSWERS. I  
16          WANT TO MAKE SURE I'M CORRECT AND I WANT TO MAKE SURE  
17          THE RECORD IS FAIR WITH EVERYBODY.

18          WHEN FATHER LARRY FIRST POSED THE QUESTION,  
19          DID ALL TEN PEOPLE HAVE TO BE HERE, I THOUGHT WE KIND  
20          OF GOT A HEAD NOD, YES, THEY DID HAVE TO BE HERE.  
21          WHEN WE POSED IT THE SECOND TIME, I THOUGHT I HEARD  
22          MR. SILVERT SAY, IF THERE WERE ONLY SEVEN HERE, THEN  
23          SOMEBODY COULD BRING IT UP SO IT'S A THREE TO FOUR  
24          VOTE.

25          MR. SILVERT: THERE'S A QUESTION OF WHETHER OR

1 NOT THAT'S LEGALLY APPROPRIATE AND THEN A QUESTION OF  
2 WHETHER OR NOT THIS BOARD AMONGST ITSELF BELIEVES THAT  
3 THAT'S THE WAY THEY SHOULD OPERATE. I THINK THEY'RE  
4 TWO DIFFERENT QUESTIONS.

5 MR. REEVES: I DON'T WANT THIS TO BE DECIDED  
6 ON THE BASIS OF A LACK OF FAIRNESS. EVERYBODY HAS  
7 HEARD THE EVIDENCE TONIGHT. THE SAME VOTE, DIDN'T ACT  
8 ON THE SAME EVIDENCE, SOMEBODY, YOU KNOW, GOT IN A CAR  
9 WRECK ON THE WAY DOWN HERE, THAT WOULD BE BEYOND THE  
10 SCOPE OF WHAT WE HEARD TONIGHT. WHAT WOULD BE  
11 INFLUENCED BY THAT. THAT'S A CONCERN I HAVE.

12 CHAIRMAN: MR. SILVERT, IF WE DIDN'T BRING IT  
13 UP, THEN THE ACTION STOOD.

14 MR. SILVERT: CORRECT.

15 CHAIRMAN: THEN IT WOULD BE A FIVE/FIVE AND  
16 MOVE ON.

17 MR. SILVERT: CORRECT.

18 CHAIRMAN: SO IF IT'S NOT BROUGHT UP, THEN  
19 THIS ACTION STANDS AS A TIE, CORRECT?

20 MR. SILVERT: IF IT'S ME, NOT SPEAKING  
21 LEGALLY, SPEAKING OUT OF INTEGRITY, IF I WANT TO HAVE  
22 ANOTHER VOTE ON THIS IN 28 DAYS, IT WOULD BE INCUMBENT  
23 UPON ME TO BE THERE.

24 MR. TAYLOR: MADISON, DOES SOMEBODY FROM UP  
25 HERE HAVE TO BRING THAT UP? CAN IT BE COMING UP FROM

1 THE FLOOR?

2 MR. SILVERT: WE'VE ALWAYS SOLICITED MOTION  
3 ONLY FROM THE COMMISSION.

4 MR. REEVES: DOES IT HAVE TO BE THE AGENDA?

5 MR. SILVERT: THE COMMISSION COULD --

6 MR. REEVES: I'M THE NEW GUY BY THE WAY. IT'S  
7 MY SECOND MEETING.

8 MR. SILVERT: MR. REEVES, THIS IS A NEW ISSUE  
9 FOR EVERYONE AT THIS TABLE, AND I WOULD VENTURE TO  
10 GUESS EVERYONE IN THIS ROOM.

11 I THINK WE SHOULD PUT IT ON THE AGENDA AS A  
12 POTENTIAL ITEM. IT MAY FAIL FOR LACK OF A VOTE. IT  
13 MAY FAIL FOR ANOTHER TIE VOTE. IT PROBABLY NEEDS TO  
14 BE ON THE AGENDA FOR 28 DAYS FROM NOW. JUST SO THAT  
15 IF YOU DO HAVE ACTION THERE IS NOTICE THAT ACTION MAY  
16 BE TAKEN ON THIS ITEM. I THINK EVERYONE HERE KNOWS  
17 THAT THERE MAY BE ACTION TAKEN ON THIS ITEM. THAT'S  
18 WHAT THE STATUTE SAYS. YOU HAVE 30 DAYS TO EITHER  
19 BREAK THE TIE VOTE OR IT GOES ON. THAT'S WHERE WE  
20 STAND.

21 MR. ALLEN: BUT WE CAN ALSO CONTINUE TO  
22 DISCUSS IT, MAKE ANOTHER MOTION AND VOTE.

23 MR. SILVERT: THAT'S CORRECT.

24 CHAIRMAN: BUT IT WOULD ONLY BE DISCUSSION  
25 AMONGST THE COMMISSION. THERE WOULD BE NO MORE

1 TESTIMONY.

2 MR. ALLEN: I HAVE A QUESTION FOR THE  
3 COMMISSIONERS THAT VOTED AGAINST THIS. THIS HAS BEEN  
4 VOTED DOWN TWICE PREVIOUSLY. NOW THERE ARE MORE  
5 HOMEOWNERS AND ARGUABLY BETTER TECHNOLOGY. WHAT IS IT  
6 THAT YOU THINK HAS CHANGED IT FOR YOU SO THAT YOU NOW  
7 THINK IT'S APPROPRIATE TO ALLOW IT?

8 MR. APPLEBY: I'M SPEAKING FOR MYSELF. WE  
9 RELY ON OUR STAFF EXTENSIVELY. THE STAFF HAS  
10 RECOMMENDED THIS THREE TIMES FOR APPROVAL. I FEEL THE  
11 STAFF HAS MADE THE RIGHT RECOMMENDATION.

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

13 MR. WILSON: NOT ON WHAT MR. ALLEN SAID. I  
14 WAS JUST GOING TO ASK FOR SOME CLARIFICATION.

15 IF WE COME BACK ON WHATEVER DATE IT IS IN  
16 MARCH, I WOULD JUST LIKE TO KNOW FROM THE CHAIR, FOR  
17 THE DIRECTOR, COUNSEL NOW, IS THERE NOT GOING TO BE  
18 ANY PRESENTATION OF ANYTHING? NO STATEMENTS, NO  
19 NOTHING EXCEPT -- WE NEED TO KNOW HOW TO PREPARE.  
20 WE'VE HAD A DIFFICULTY PREPARING FOR THIS HEARING. WE  
21 HAD CHANGES YESTERDAY. WE'VE HAD NEW APPLICATIONS,  
22 NEW PEOPLE, PROPER PARTIES. WE'VE HAD ALL KINDS OF  
23 EVER THINGS. I WOULD LIKE TO GO ON THE RECORD AND  
24 KNOW WHAT THE GROUND RULES ARE GOING TO BE NEXT MONTH,  
25 IF WE DO COME BACK.

1           CHAIRMAN:   MR. SILVERT.

2           MR. WILSON:   IF THERE'S ANY REASON FOR THESE  
3   FOLKS TO EVEN COME.   IF ALL YOU'RE GOING TO DO IS  
4   VOTE.

5           MR. SILVERT:   I WOULD RECOMMEND THAT THERE NOT  
6   BE NEW TESTIMONY, BUT THAT IS NOT MY DECISION.

7           FATHER HOSTETTER:   MR. CHAIRMAN, IS THERE  
8   ANYONE THAT ISN'T HERE TONIGHT THAT MIGHT BE HERE?

9           CHAIRMAN:   WE'VE GOT ALL TEN HERE.   EVERYBODY  
10   IS HERE.   IT'S A FULL HOUSE.

11          FATHER HOSTETTER:   I'M CONCERNED ABOUT THIS  
12   BECAUSE I'VE GOT A COMMITMENT ON MARCH 8TH.   I'M OUT  
13   OF TOWN.   I WILL FLY BACK TO CAST A VOTE, BUT I HATE  
14   TO FLY BACK AND THEN THERE ISN'T A VOTE.   BECAUSE I'M  
15   GOING TO BE FLYING RIGHT BACK TO WHERE I'M GOING  
16   BECAUSE IT'S NOT SOMETHING THAT I CAN BE AWAY FROM.  
17   THAT'S WHY I'M ASKING THESE QUESTIONS.   YOU KNOW, I  
18   THINK THE FIVE/FIVE VOTE, THAT'S KIND OF CRITICAL.

19          CHAIRMAN:   I WOULD SAY WITH THE ITEM BEING ON  
20   THE AGENDA, BUT I WOULD SAY THAT THE ITEM BEING THE  
21   FIVE/FIVE TIE, AND I WILL NOT SHOW HANDS, BUT I DON'T  
22   THINK ONE SIDE OR THE OTHER WOULD TRY TO GAIN AN  
23   ADVANTAGE OR DISADVANTAGE WITH YOU NOT BEING HERE.

24          FATHER HOSTETTER:   I DON'T THINK IT'S A MATTER  
25   OF GAINING AN ADVANTAGE.   IT'S THE MATTER OF HAVING AN



1       ADVANTAGE.

2               CHAIRMAN:  ABSOLUTELY.

3               FATHER HOSTETTER:  IF THE VOTE WERE CALLED.

4               CHAIRMAN:  CORRECT.

5               MR. SILVERT.

6               MR. SILVERT:  WHAT IS YOUR QUESTION.

7               CHAIRMAN:  IF FATHER LARRY HAS A COMMITMENT

8       AND IS UNABLE, I MEAN HE SAID HE WOULD BE BACK FOR A

9       VOTE.  IF WE DO NOT BRING A MOTION FORWARD, THEN

10       THERE'S NO VOTE AND THERE'S NO ACTION AND THEN IT WILL

11       MOVE ON.

12              MR. SILVERT:  THAT'S CORRECT.

13              MR. NOFFSINGER:  IT WILL BE ON THE AGENDA.

14       SOMEONE COULD MAKE A MOTION.

15              MR. APPLEBY:  THEY COULD ASK TO ACT ON THE

16       EXISTING MOTION.  I DON'T THINK A NEW MOTION --

17              MR. NOFFSINGER:  IF YOU ACTED ON THE EXISTING

18       MOTION, THERE WOULD BE NINE INSTEAD OF TEN HERE.  IT

19       WOULD BE A DIFFERENT VOTE.  THE ONLY WAY TO AVOID NOT

20       VOTING IS NOT TO HAVE A MOTION.

21              CHAIRMAN:  I THINK WE'RE AT A POINT NOW WHERE

22       THE ONLY THING WE'VE GOT LEFT TO DO IS ADJOURN.  WE

23       HAVE NOTHING ELSE TO DISCUSS UNLESS SOMEBODY ELSE ON

24       COMMISSION HAS AN IDEA.

25              HERE WILL BE THE FORMAT FOR THE NEXT MEETING:

1 THE ITEM WILL BE ON THE AGENDA. THERE WILL BE  
2 NO FURTHER TESTIMONY. IF SOMEONE FROM THE COMMISSION  
3 DOES NOT BRING UP THE VOTE, THEN THERE WILL BE NO VOTE  
4 TAKEN. IF NO VOTE IS TAKEN, IT WILL BE PASSED ON TO  
5 THE LEGISLATIVE BODY AS A TIE.

6 YES, MA'AM.

7 AUDIENCE MEMBER: WHO IS THE LEGISLATIVE BODY?

8 MR. NOFFSINGER: DAVIESS COUNTY FISCAL COURT.

9 MR. WILSON: MR. CHAIRMAN, MAY I ASK A  
10 QUESTION?

11 CHAIRMAN: YES, SIR.

12 MR. WILSON: I UNDERSTAND WE HAD ONE VOTE THAT  
13 MAY NOT EVEN BE HERE NEXT MONTH. IT'S ALREADY NOTED.  
14 WE ALREADY KNOW THAT. I DON'T KNOW WHO VOTED FOR  
15 WHAT. I KNOW HOW HAD YOU VOTED BECAUSE YOU WERE THE  
16 LAST ONE, BUT I DON'T KNOW WHO VOTED FOR WHAT. THAT'S  
17 NOT IMPORTANT, BUT SOMEBODY IS GOING TO DISADVANTAGED  
18 IF HE'S NOT HERE. WELL, WHOEVER. SEEMS TO ME LIKE, I  
19 WOULD LIKE TO MAKE A MOTION, IF I COULD MAKE A MOTION  
20 OF SOME SORT.

21 CHAIRMAN: YOU CAN MAKE A SUGGESTION.

22 MR. WILSON: A SUGGESTION THAT IT BE VOTED ON  
23 ONLY IF ALL TEN OF YOU ARE HERE AT THAT MEETING.

24 CHAIRMAN: MR. SILVERT.

25 MR. SILVERT: YOU ALL CERTAINLY COULD MAKE

1        THAT MOTION AND MAKE THAT DETERMINATION RIGHT NOW AND  
2        IT BIND THIS COMMISSION AS TO THAT.

3                MR. REEVES:    I'LL MAKE THAT MOTION, MR.  
4        CHAIRMAN.

5                MR. KAZLAUSKAS:    I'LL SECOND.

6                CHAIRMAN:    MR. REEVES MADE A MOTION THAT  
7        UNLESS ALL TEN COMMISSIONERS ARE HERE THAT NO VOTE  
8        WILL BE TAKEN, AND WE'VE GOT A SECOND BY MR.  
9        KAUZLAUSKAS.

10               MR. SILVERT:    AND THE FIVE TO FIVE TIE WILL  
11        STAND.

12               CHAIRMAN:    ALL IN FAVOR OF THAT MOTION RAISE  
13        YOUR RIGHT HAND.

14               (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

15               CHAIRMAN:    THAT MOTION CARRIES UNANIMOUSLY.

16               MR. WILSON:    MR. CHAIRMAN, JUST FOR  
17        CLARIFICATION.    I KNOW THERE WILL BE NO MORE TESTIMONY  
18        NEXT MONTH.    WILL THERE BE STATEMENTS MADE BY BRIAN OR  
19        ME OR ANYBODY, OTHER THAT YOU KNOW ALL?

20               CHAIRMAN:    THERE WILL BE NO CONVERSATION OR  
21        TESTIMONY OR ANY COMMENTS MADE TO THAT ISSUE, OTHER  
22        THAN SOMEBODY ON THE COMMISSION.    THE ONLY WAY THAT  
23        CAN BE BROUGHT UP IF ALL TEN OF US ARE HERE.    IF ALL  
24        TEN OF US ARE HERE, IT WILL NOT BE BROUGHT UP AND IT  
25        WILL BE PASSED ON.

1           MR. CASTLEN: MR. CHAIRMAN, MY NAME IS BRIAN  
2 CASTLEN, CITY OF OWENSBORO. FOR POINT OF INFORMATION  
3 FOR EVERYBODY HERE.

4           MR. SILVERT: LET ME SWEAR YOU IN. I HAVEN'T  
5 DONE THAT FOR YOU.

6           (BRIAN CASTLEN SWORN BY ATTORNEY.)

7           MR. CASTLEN: JUST FOR POINT OF INFORMATION.  
8 WE HAVE ONE TELEPHONE HYBRID SO IF ONE CHAIRMAN,  
9 CHAIRMAN PERSON WAS NOT HERE, THEY COULD CALL IN, HEAR  
10 BOTH SIDES OF THE CONVERSATION AND PARTICIPATE IN THE  
11 MEETING, BUT I ONLY HAVE THAT CAPABILITY FOR ONE  
12 PERSON.

13          MR. HAYNES: ROBERT'S RULES DOES NOT ALLOW  
14 VOTING WITHOUT THE PERSON PRESENT.

15          MR. SILVERT: THAT IS CORRECT.

16          CHAIRMAN: THANK YOU. I APPRECIATE YOUR  
17 INPUT. WE WELCOME IT.

18          MR. SILVERT, UNLESS YOU HAVE ANY FURTHER  
19 COMMENTS, BOTH OF OUR COUNSELS SEEM TO BE REASONABLY  
20 HAPPY.

21          THE CHAIR WILL NOW ENTERTAIN A MOTION FOR  
22 ADJOURNMENT AGAIN.

23          MR. ALLEN: MOVE TO ADJOURN.

24          CHAIRMAN: MOTION TO ADJOURN BY MR. ALLEN.

25          MR. ROGERS: SECOND.

1                   CHAIRMAN:   SECOND BY MR. ROGERS.   ALL IN FAVOR  
2       RAISE YOUR RIGHT HAND.

3                   (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

4                   CHAIRMAN:   WE ARE ADJOURNED.

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1       STATE OF KENTUCKY )  
                                  )SS: REPORTER'S CERTIFICATE  
2       COUNTY OF DAVIESS )

3               I, LYNNETTE KOLLER FUCHS, NOTARY PUBLIC IN AND  
4       FOR THE STATE OF KENTUCKY AT LARGE, DO HEREBY CERTIFY  
5       THAT THE FOREGOING OWENSBORO METROPOLITAN PLANNING  
6       COMMISSION MEETING WAS HELD AT THE TIME AND PLACE AS  
7       STATED IN THE CAPTION TO THE FOREGOING PROCEEDINGS;  
8       THAT EACH PERSON COMMENTING ON ISSUES UNDER DISCUSSION  
9       WERE DULY SWORN BEFORE TESTIFYING; THAT THE BOARD  
10      MEMBERS PRESENT WERE AS STATED IN THE CAPTION; THAT  
11      SAID PROCEEDINGS WERE TAKEN BY ME IN STENOGRAPHY AND  
12      ELECTRONICALLY RECORDED AND WAS THEREAFTER, BY ME,  
13      ACCURATELY AND CORRECTLY TRANSCRIBED INTO THE  
14      FOREGOING 293 TYPEWRITTEN PAGES; AND THAT NO SIGNATURE  
15      WAS REQUESTED TO THE FOREGOING TRANSCRIPT.

16             WITNESS MY HAND AND NOTARY SEAL ON THIS THE  
17      1ST DAY OF MARCH, 2012.

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20                                       \_\_\_\_\_  
                                  LYNNETTE KOLLER FUCHS  
21                                   NOTARY ID 433397  
                                  OHIO VALLEY REPORTING SERVICES  
22                                   202 WEST THIRD STREET, SUITE 12  
                                  OWENSBORO, KENTUCKY 42303

23      COMMISSION EXPIRES:   DECEMBER 16, 2014

24      COUNTY OF RESIDENCE:   DAVIESS COUNTY, KENTUCKY

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