

1 OWENSBORO METROPOLITAN PLANNING COMMISSION

2 MAY 10, 2012

3 THE OWENSBORO METROPOLITAN PLANNING COMMISSION

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

5 10, 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 TIM ALLEN
14 IRVIN ROGERS
15 WALLY TAYLOR
16 JOHN KAZLAUSKAS
17 JASON STRODE
18 FRED REEVES

14 * * * * *

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

19 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

20 CHAIRMAN: OUR FIRST ORDER OF BUSINESS WILL BE
21 TO CONSIDER THE MINUTES OF THE APRIL 12, 2012 MEETING.
22 ARE THERE ANY QUESTIONS, ADDITIONS OR CORRECTIONS?

23 (NO RESPONSE)

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

1 MR. PEDLEY: MOTION FOR APPROVAL.

2 CHAIRMAN: I'VE GOT A MOTION FOR APPROVAL BY
3 MR. PEDLEY.

4 MR. ALLEN: SECOND.

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

7 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

8 CHAIRMAN: MOTION CARRIES UNANIMOUSLY.

9 NEXT ITEM, MR. NOFFSINGER.

10 -----

11 ZONING CHANGES

12 ITEM 2

13 800 TRIPLET STREET, 0.119 ACRES
14 CONSIDER ZONING CHANGE: FROM B-4 GENERAL BUSINESS TO
15 R-4DT INNER-CITY RESIDENTIAL
16 APPLICANT: GREEN RIVER REGIONAL RAPE VICTIM SERVICES,
17 INC.

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

20 MS. EVANS: MELISSA EVANS.

21 (MELISSA EVANS SWORN BY ATTORNEY.)

22 MS. EVANS: FIRST OF ALL, I WOULD LIKE TO SAY
23 THAT THE REZONINGS HEARD TONIGHT WILL BECOME FINAL 21
24 DAYS AFTER THE MEETING UNLESS AN APPEAL IS FILED. IF
25 AN APPEAL IS FILED, THE APPLICATION WILL BE FORWARDED
TO THE APPROPRIATE LEGISLATIVE BODY FOR FINAL ACTION.
THE APPEAL FORMS ARE LOCATED ON THE BACK TABLE, ON OUR

1 WEBSITE AND IN THE OFFICE.

2 PLANNING STAFF RECOMMENDATIONS

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

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

9 2. THE SUBJECT PROPERTY IS LOCATED IN A
10 BUSINESS PLAN AREA, WHERE URBAN LOW-DENSITY
11 RESIDENTIAL USES ARE APPROPRIATE IN VERY-LIMITED
12 LOCATIONS;

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

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

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

20 CHAIRMAN: DO WE HAVE ANYBODY HERE
21 REPRESENTING THE APPLICANT?

22 (NO RESPONSE)

23 CHAIRMAN: DO WE HAVE ANY QUESTIONS?

24 (NO RESPONSE)

25 CHAIRMAN: IF NOT THE CHAIR IS READY FOR A

1 MOTION.

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

5 CHAIRMAN: MOTION FOR APPROVAL BY MR. APPLEBY.

6 MR. STRODE: SECOND.

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

9 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

10 CHAIRMAN: MOTION CARRIES UNANIMOUSLY.

11 NEXT ITEM, PLEASE.

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

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

1 THAT WE'RE GOING TO ENFORCE TONIGHT.

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

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

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

1 ITEM 3

2 3940 US HIGHWAY 60 EAST, 1.22 ACRES
3 CONSIDER ZONING CHANGE: FROM B-4 GENERAL BUSINESS TO
4 I-1 LIGHT INDUSTRIAL.
5 APPLICANT: THOMAS S. HAYDEN, JR. & KATHERINE K.
6 HAYDEN; SAMUEL RICHARD BERRY, III, TRUSTEE; JANET RUTH
7 BERRY, TRUSTEE

8 PLANNING STAFF RECOMMENDATIONS

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

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

14 FINDINGS OF FACT:

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

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

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

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

26 5. WITH ACCESS LIMITED TO A SINGLE ACCESS
27 POINT, THE PROPOSAL SHOULD NOT OVERBURDEN THE CAPACITY

1 OF ROADWAYS AND OTHER NECESSARY URBAN SERVICES THAT
2 ARE AVAILABLE IN THE AFFECTED AREA.

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

5 CHAIRMAN: DO WE HAVE SOMEBODY HERE
6 REPRESENTING THE APPLICANT?

7 MS. HAYDEN: YES.

8 CHAIRMAN: YES, MA'AM.

9 MS. HAYDEN: I'M CATHY HAYDEN.

10 CHAIRMAN: ARE THERE ANY QUESTIONS OF THE
11 APPLICANT?

12 (NO RESPONSE)

13 CHAIRMAN: DOES ANYBODY ON THE COMMISSION HAVE
14 A QUESTION?

15 (NO RESPONSE)

16 CHAIRMAN: IF YOU DON'T HAVE ANY STATEMENTS.

17 MS. HAYDEN: I HAVE A STATEMENT.

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

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

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

25 MS. HAYDEN: THAT'S FINE.

1 CHAIRMAN: CHAIR IS READY FOR A MOTION.

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

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

7 MR. TAYLOR: SECOND.

8 CHAIRMAN: WE'VE GOT A SECOND BY MR. TAYLOR.
9 ALL IN FAVOR RAISE YOUR RIGHT HAND.

10 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

11 CHAIRMAN: MOTION CARRIES UNANIMOUSLY.

12 NEXT ITEM, PLEASE.

13 ITEM 4

14 3100, 3570, 3574, 3580 GIRL SCOUT ROAD; 2895, 3031,
15 3035, 3139, 3300, 3484, 3515 RUSSELL ROAD; 11300,
16 11440 US HIGHWAY 231, 692.303 ACRES
17 CONSIDER ZONING CHANGE: FROM A-R RURAL AGRICULTURE
18 AND A-U URBAN AGRICULTURE TO EX-1 COAL MINING
19 APPLICANT: WESTERN KENTUCKY MINERALS, INC.; RUBY JEAN
20 HITCHCOCK TRUST; CLARA THOMPSON ESTATE C/O TILFORD
21 THOMPSON, EXECUTOR; STEVE & KAREN DIANA THOMPSON;
22 HORRELL C., JR. & MINGA TROGDLEN; TROY & MARCIE
23 VANOVER; REGINA VANOVER; GLEN YEISER; SHIRLEY G. &
24 CHRIS TAYLOR; WESTERN KENTUCKY LEASING; CHARLES &
25 DONNA STEWART; LINDLEY K. TAYLOR; ANNA FAYE BELCHER;
MILDREN TAYLOR JOHNSON; AND HORRELL C. SR. & DOROTHY
TROGDLEN

22 MR. NOFFSINGER: MR. CHAIRMAN, I THINK AT THIS
23 TIME PLANNING STAFF WILL ENTER THE TRANSCRIPT OF THE
24 PREVIOUS MEETING INTO THE RECORD AND THEY WILL ALSO
25 INTRODUCE THE STAFF REPORT AS WELL AS READ THE

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

4 CHAIRMAN: THANK YOU.

5 MR. HOWARD.

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

8 MR. HOWARD: BRIAN HOWARD.

9 (BRIAN HOWARD SWORN BY ATTORNEY.)

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

3 4. THE PORTION WITHIN THE RURAL COMMUNITY
4 PLAN AREA IS A SMALL PORTION OF THE OVERALL REZONING
5 ACREAGE CONSISTING OF THREE TRACTS AND APPROXIMATELY
6 70 ACRES WHICH IS NOT CONSISTENT WITH THE SMALL LOT
7 SIZE FOUND TYPICALLY WITHIN A RURAL COMMUNITY PLAN
8 AREA;

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

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

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

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

22 9. THE APPLICANT'S PROPOSED STRIP MINING
23 TECHNIQUE AGREES WITH AN OBJECTIVE OF THE
24 COMPREHENSIVE PLAN THAT AGRICULTURAL AND OTHER NATURAL
25 RESOURCE USES SHOULD BE GIVEN WIDER REIGN TO APPLY

1 TRADITIONAL PRODUCTION TECHNIQUES; AND,

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

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

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

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

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

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

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

24 MR. WILSON: YES.

25 MR. CHAIRMAN, IS IT PROPER AT THIS TIME TO ASK

1 QUESTIONS CONCERNING THE STAFF REPORT OF MR. HOWARD?

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

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

8 CHAIRMAN: YOU WILL.

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

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

15 CHAIRMAN: ABSOLUTELY.

16 MR. HAYNES: THAT'S FINE.

17 CHAIRMAN: MR. WILSON.

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

21 NUMBER 6 AND 7 WE CONSIDER TO BE CONSIDERABLY
22 MISLEADING. TALKING ABOUT THE COAL MINING ACTIVITIES
23 TOUCHING THE PROPERTY. OVER 300 ACRES ZONED WITHIN A
24 MILE OF THE SUBJECT TRACTS. I BELIEVE THE RECORDS OF
25 PLANNING COMMISSION WILL SHOW THAT THERE'S BEEN NO

1 REZONINGS OUT THERE WILL FOR ALMOST 40 YEARS. THE
2 EARLY '70S. THAT WAS PART OF GREEN STUFF BACK THEN.
3 WAY BEFORE THIS SAME ISSUE CAME BEFORE THIS COMMISSION
4 IN 1986, AND OBVIOUS BEFORE IT CAME IN 1993.

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

9 CHAIRMAN: MR. HOWARD.

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

13 THE BODY OF THE STAFF REPORT BASICALLY I
14 EXPLAINED THAT BASED ON THE EXISTING ZONING WITHIN THE
15 AREA AND THE OFFICIAL GIS ZONING MAPS THERE ARE OVER
16 300 ACRES OF LAND ZONED EX-1 COAL MINING WITHIN A ONE
17 MILE RADIUS OF THE SUBJECT PROPERTY. HISTORICALLY
18 COAL MINING ACTIVITY IS TAKING PLACE IN THE GENERAL
19 VICINITY. THERE IS NO ATTEMPT TO MISLEAD IN REGARDS
20 THAT THERE IS ACTIVE MINING OR ANYTHING LIKE THAT.

21 MR. WILSON IS CORRECT. THE ZONINGS THAT ARE
22 IN PLACE IN THAT AREA WERE DONE PRIMARILY IN 1977 AND
23 1978 BY GREEN COAL COMPANY. I DON'T BELIEVE THE
24 STATEMENT IS MISLEADING. IT IS JUST STATING A FACT
25 THAT HISTORICALLY COAL MINING HAS BEEN PRESENT IN THIS

1 GENERAL VICINITY.

2 CHAIRMAN: THANK YOU, MR. HOWARD.

3 YES, SIR.

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

5 --

6 MR. SILVERT: I NEED TO SWEAR YOU IN IF YOU'VE

7 GOT SOMETHING. REALLY --

8 MR. HESTER: I JUST WANT TO SEE IF YOU WANT ME

9 TO TALK NOW. I HAVE SOME QUESTIONS I WANT TO ADDRESS

10 DIRECTLY TO THE STAFF REPORT AND I WANT TO KNOW IF YOU

11 WANT TO HEAR THEM NOW OR WAIT UNTIL THE PRESENTATION.

12 I DON'T CARE WHICH WAY.

13 CHAIRMAN: MR. HAYNES ALLOWED MR. WILSON OUT

14 OF RESPECT TO DO THAT. I WILL ASK MR. HAYNES. DO YOU

15 HAVE ONE OR TWO OR SEVERAL QUESTIONS?

16 MR. HESTER: I HAVE SEVERAL.

17 CHAIRMAN: LET ME ASK MR. HAYNES.

18 MR. HAYNES, DO YOU HAVE A PROBLEM WITH HIM

19 ASKING A QUESTION OF THE STAFF REPORT OR WOULD YOU

20 RATHER GO ON WITH YOUR PRESENTATION?

21 MR. HAYNES: I ABSOLUTELY HAVE NO PROBLEM WITH

22 ASKING HIS QUESTIONS, AS LONG AS THEY'RE NOT

23 REPETITIVE AND THEY USE THEIR TIME.

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

25 JOB.

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

3 MR. HESTER: MY NAME IS SCOTT HESTER.

4 (SCOTT HESTER SWORN BY ATTORNEY.)

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

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

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

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

22 THE COMPREHENSIVE LAND USE PLAN IN SECTION
23 440, PARAGRAPH E-5 STATES, "IDENTIFY WETLANDS AND
24 OTHER SPECIAL HABITATS FOR PLANTS AND ANIMALS SHOULD
25 BE PROTECTED THROUGH THE ESTABLISHMENT OF NATURAL

1 RESERVES WHETHER IN RURAL AREA OR IN PORTIONS OF
2 DEVELOP SITES."

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

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

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

16 MR. HESTER: I HAVE ADDITIONAL ITEMS.

17 CHAIRMAN: YOU HAVE ONE MORE?

18 MR. HESTER: I HAVE TWO MORE.

19 CHAIRMAN: OKAY. GO AHEAD.

20 MR. HESTER: ON FARM LAND, PAGE 1, PARAGRAPH
21 A-3 OF THE REPORT STATES, AND I QUOTE, "AN
22 INVESTIGATION SHOULD BE MADE TO DETERMINE THE
23 AGRICULTURAL POTENTIAL OF THE LAND. PRIME
24 AGRICULTURAL LAND AS DEFINED BY THE US SOIL
25 CONSERVATION SERVICE MUST BE PROTECTED FROM NORMAL

1 MINING PROCEDURES AS REQUIRED BY STATE LAW."

2 FURTHER ON PAGE 2 AT THE SECOND BULLET POINT
3 THE REPORT STATES, "A PORTION OF THE PROPERTY IS
4 DESIGNATED AS PRIME AGRICULTURAL FARM LAND PER THE US
5 DEPARTMENT OF AGRICULTURE SOIL CONSERVATION MAP DATED
6 1980."

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

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

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

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

25 CHAIRMAN: MR. SILVERT.

1 MR. HESTER: THESE ARE LEGAL ISSUES THAT --

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

5 MR. HESTER: YOU KNOW --

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

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

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

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

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

25 MR. HESTER: I QUOTING FROM THE REPORT THAT

1 THE STAFF PREPARED FOR THIS BOARD AND THE
2 COMPREHENSIVE LAND USE PLAN AND TRYING TO POINT OUT TO
3 YOU THAT THERE IS AN ABSOLUTE CONFLICT BETWEEN THE
4 PLAN, STATE LAW. I THINK THESE ARE EXTREMELY RELEVANT
5 MATTERS. YOU'RE ASKING THESE FOLKS UP HERE TO BE ABLE
6 TO RULE ON SOMETHING THAT'S ILLEGAL IN MY OPINION.

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

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

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

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

20 CHAIRMAN: ISN'T THE REPORT IN THE RECORD?

21 MR. HESTER: THE FINDINGS OF FACT DO NOT
22 ADDRESS THESE ISSUES THAT ARE IN FACT COMPLETELY
23 IGNORED.

24 CHAIRMAN: ISN'T THAT REPORT IN THE RECORD?

25 MR. HESTER: NO, SIR. HIS REPORT IS, BUT THIS

1 ISN'T. THIS IS THE QUOTES THAT ARE IN CONFLICT WITH
2 THE COMPREHENSIVE LAND USE PLAN. HOW CAN YOU --

3 CHAIRMAN: SIR, IN YOU WILL BE SEATED, WE WILL
4 CONTINUE WITH --

5 MR. HESTER: I WOULD HAVE BEEN DONE BY NOW IF
6 YOU'D LET ME FINISH.

7 CHAIRMAN: THANK YOU.

8 MR. HOWARD.

9 MR. HOWARD: YES, HE IS CORRECT. A PORTION OF
10 THE PROPERTY BASED ON A SET OF MAPS DATED MARCH 6,
11 1990, IT APPEARS THAT A PORTION OF THE PROPERTY IS
12 LOCATED IN WETLANDS AREA. THERE ARE AT LEAST EIGHT
13 RULES THAT REGULATE BOTH THAT AND THE PRIME
14 AGRICULTURAL FARMLAND STATEMENT.

15 IN THE STAFF REPORT AND IN THE APPLICATION
16 THAT WAS SUBMITTED, THERE IS A SUMMARY OF THE SOIL
17 TYPES THAT ARE CLASSIFIED ON THE PROPERTY. THERE WERE
18 A COUPLE OF SOIL TYPES IN THE APPLICATION THAT DICTATE
19 THERE IS GOOD SOIL, BUT IT'S NOT BY ANY MEANS THE
20 MAJORITY OF THE PROPERTY. I WOULD SAY THAT TYPICALLY
21 WHEN YOU SEE A COAL MINING APPLICATION OR ALMOST ANY
22 TYPE OF APPLICATION THAT TAKES PLACE ON A DESCENT
23 AMOUNT OF ACREAGE OUT IN A RURAL AREA THAT THERE IS
24 SOME PRIME AGRICULTURAL FARMLAND ASSOCIATED IT. THE
25 COMPREHENSIVE PLAN DOES ANTICIPATE THAT THERE COULD BE

1 SOME OF THAT THERE.

2 THE FINAL STATEMENT, AND THE APPLICANT COULD
3 PROBABLY ADDRESS IT BETTER AS FAR AS WITH THE MINING
4 REGULATIONS ARE AS FAR AS PRESERVATION OF THE PRIME
5 AGRICULTURAL FARMLAND.

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

10 LASTLY, I BELIEVE THE QUESTION WAS IN REGARD
11 TO THE RURAL COMMUNITY PLAN AREA. THAT THERE IS
12 APPROXIMATELY 70 ACRES THAT'S LOCATED WITHIN A RURAL
13 COMMUNITY. THAT WAS ACTUALLY ADDRESSED A LITTLE BIT
14 AT THE LAST MEETING. THERE IS SOME, ABOUT A TENTH OF
15 THE PROPERTY IS IN A RURAL COMMUNITY PLAN AREA.
16 HOWEVER, AS I STATED LAST MONTH AND AS WE STATED IN
17 THE STAFF REPORT THIS TIME, THAT 70 ACRES IS COMPRISED
18 OF THREE TRACTS WHICH ARE, THREE LARGER TRACTS WHICH
19 ARE NOT CONSISTENT WITH WHAT YOU FIND WITHIN A TYPICAL
20 RURAL COMMUNITY WHICH ARE SMALLER LOT DEVELOPMENTS.

21 WE ALSO POINTED OUT THAT THE COAL HAUL ROAD
22 THAT WOULD ACCESS HIGHWAY 231, IF THE REZONING WERE
23 APPROVED, GOES THROUGH THAT AREA. SO IT IS VITAL TO
24 HAVE, IF THE ZONING WERE TO BE APPROVED, A SAFE PLACE
25 FOR COAL TRUCKS TO COME OUT. WHILE MENTIONING IN THE

1 PACKET THAT WE HAVE OF INFORMATION, WE HAVE HAD THE
2 SITE REVIEWED FOR, THE INTERSECTION WHERE THE COAL
3 HAUL ROAD WOULD ACCESS 231 REVIEWED BY THE STATE.
4 KEVIN MCCLAREN, THE CHIEF DISTRICT ENGINEER, REVIEWED
5 THAT AND SAID THAT BASED ON THEIR PLAN AREA REVIEW
6 VIEW, SITE DISTANCE IS ADEQUATE AT THAT LOCATION AND
7 IT SEEMS TO BE A GOOD LOCATION.

8 WE POINT ALL THAT OUT IN THE STAFF REPORT. I
9 GUESS THAT'S ALL I HAVE UNLESS YOU HAVE FURTHER
10 QUESTIONS OF ME.

11 CHAIRMAN: THANK YOU, MR. HOWARD.

12 MR. HAYNES.

13 MR. HESTER: MR. CHAIRMAN, CAN I JUST SAY ONE
14 THING? THERE'S 200 ACRES ACCRUE --

15 CHAIRMAN: NO, SIR, YOU HAVE EXCEEDED YOUR
16 THREE MINUTE TIME. PLEASE BE SEATED.

17 MR. HESTER: AND I'M BEING DENIED MY DUE
18 PROCESS TO SPEAK?

19 CHAIRMAN: PLEASE BE SEATED.

20 MR. HESTER: SO NO.

21 CHAIRMAN: MR. HAYNES, THANK YOU. THE CHAIR
22 APOLOGIZES FOR THE INTERRUPTION.

23 MR. HAYNES: I'LL JUST TAKE ONE MINUTE OF OUR
24 ALLOTTED TIME AND SAY, AS FAR AS THE WETLANDS ARE
25 CONCERNED, WE ARE GOVERNED BY THE U.S. CORP OF

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

14 AS FAR AS THE PRIME FARMLAND, WE HAVE TO
15 RESTORE IT. AS MR. HOWARD SAID, WE HAVE TO PROTECT
16 THE SOIL AND RESTORE IT TO ITS FORMER PRODUCTIVITY.
17 THAT IS TESTED. THAT IS LOOKED AT BY CROP PRODUCTION
18 REPORTS IN FOLLOWING YEARS. THAT'S REGULATED BY BOTH
19 THE STATE AS PART OF OUR MINING PERMIT, OUR
20 RECLAMATION PLAN, AND BY THE FEDERAL GOVERNMENT. IF
21 WE DISTURB ANY PRIME FARMLAND, IT GOES BACK TO THE
22 SAME PRODUCTIVITY IT HAD PRIOR TO OUR DISTURBANCE OF
23 IT. NO MORE. NO LESS. THERE IS VERY LITTLE PRIME
24 FARMLAND IN THIS AREA. LIKE MR. HOWARD SAYS, IT'S
25 IMPOSSIBLE TO GO ON ANY TRACT OF ANY SIZE AND NOT

1 ENCOUNTER A LITTLE BIT OF PRIME FARMLAND AND PERHAPS A
2 LITTLE BIT OF WETLAND. THANK YOU.

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

5 MR. SILVERT: COULD YOU STATE YOUR NAME
6 PLEASE?

7 MR. LANHAM: BRANDON LANHAM.

8 (BRANDON LANHAM SWORN BY ATTORNEY.)

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

12 CHAIRMAN: YES. ABSOLUTELY.

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

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

22 SAFETY WE'RE GOING TO DISCUSS THESE TOPICS OF
23 DISCUSSION AND WE HAVE AN INDIVIDUAL THAT'S GOING TO
24 KIND OF TOUCH ON EACH ONE OF THESE TOPICS AND WHAT
25 THEY'RE RESPONSIBLE FOR AND WHERE THEY ARE VERY

1 KNOWLEDGEABLE FOR. SAFETY WILL BE INCORPORATED INTO
2 EACH ONE OF THESE TOPICS OF DISCUSSION.

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

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

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

19 YOU'LL SEE IN THE HORIZON SOME OF THE
20 RECLAMATION GROUND. IT CUTS, THE WAY THE WORKER
21 WORKS, IT'S WORKING THEIR WAY AWAY FROM THE HIGHWAY.

22 IF YOU LOOK INTO THE HORIZON AND SEE THE
23 RECLAMATION, WE MOVE VERY RAPIDLY.

24 WE OPERATE ON WHAT WE CALL 180 DAY
25 RECLAMATION. JUST FOR COST PURPOSES AS WELL, WE CAN'T

1 SIT ON RECLAMATION GROUND WITHOUT IT ADVANCING AT A
2 VERY RAPID RATE. YOU'LL SEE THE RECLAMATION. WE HAVE
3 SOME MORE PICTURES TO SHOW YOU AS WELL. IT IS
4 ADVANCING AT A VERY RAPID RATE HERE.

5 AGAIN, THE RECLAMATION HAS TO BE DONE WITHIN
6 180 DAYS OF CAUGHT UP. TO TOUCH ON THAT, 15 ACRES, 20
7 ACRES, 25 ACRES OF GROUND IS ALL THAT YOU WILL SEE
8 DISTURBED AT ONE PERIOD OF TIME. YOU WON'T SEE 100
9 ACRES DISTURBED WHERE IT'S GOING TO CREATE SOMEWHAT OF
10 A SORE EYE FOR THE COMMUNITY. THAT'S ONCE AGAIN JUST
11 TO PAINT A CLEAR PICTURE OF EXACTLY WHAT THAT CAN BE
12 LIKE AS FAR AS AN ACCURATE FORM.

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

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

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

1 EVENING SHIFT.

2 LOOK PAST THE KNOTTSVILLE'S GAZING COW THAT
3 SEEMS TO HAVE WORKED ITS WAY INTO MY PICTURE THERE.
4 YOU'LL SEE WHERE SOME OF THE VEHICLES ARE PARKED.
5 LIKE I SAID, IT'S NOT MORE THAN 50 ACRES DUE TO THE
6 180 DAY RECLAMATION PROCESS.

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

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

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

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

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

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

25 CHAIRMAN: DID YOU ALL MINE ALL OF WAY OVER TO

1 THE DITCH?

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

4 CHAIRMAN: THANK YOU.

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

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

20 ON THAT NOTE I'D LIKE TO CLARIFY, WHERE
21 THERE'S ONE DITCH, IT GOES BACK TO ONE DITCH. WE MAY
22 REDUCE THE PERCENTAGE OF RATE THE WAY THE WATER FALLS
23 TO PREVENT EROSION. THAT'S WHAT WE DID IN THIS
24 SITUATION RIGHT HERE. BY SIMPLY USING THE RIFT-RAFT
25 OR SLOWING DOWN THE RATE OF WATER USING DIVERSION

1 DITCHES. WHERE THERE'S ONE WATERWAY, YOU STILL HAVE
2 ONE WATERWAY. THAT'S EXACTLY HOW WE CONDUCT OUR
3 OPERATIONS AS FAR AS OUR RECLAMATION GOES IN
4 CONTROLLING WATER FOR EROSION PURPOSES.

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

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

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

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

22 EACH ONE OF THOSE WE DO CONDUCT PROCEDURES
23 SUCH AS A WATER TRUCK. SEVERAL HUNDRED GALLON OF
24 WATER TRUCK THAT YOU WILL SEE IN A VIDEO HERE IN JUST
25 A FEW MINUTES THAT'S GOING TO SHOW JUST HOW WE GO

1 ABOUT CONTROLLING THE DUST IN THE AREA.

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

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

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

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

18 ONCE AGAIN YOU HAVE DUST CONTROL PLAN. IT CAN
19 BE SITE-SPECIFIC. IT CUTS WAY YOUR -- -

20 CHAIRMAN: EXCUSE ME, LET ME ASK ANOTHER
21 QUESTION.

22 MR. LANHAM: YES, SIR.

23 CHAIRMAN: WHAT YOU'RE DEPICTING THERE IS THE
24 COAL TRUCK IS LEAVING AND THE WATER TRUCK IS RIGHT
25 BEHIND IT. I'M NOT TO ASSUME THAT EVERY LOAD THAT

1 GOES OUT OF THERE A WATER TRUCK FOLLOWS IT?

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

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

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

12 CHAIRMAN: THANK YOU.

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

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

25 LIKE I SAY, WE HAVE OUR SIGNS AND OUR NUMBERS

1 WHICH WE WOULD HAVE AT EVERY ENTRANCE. IT'S
2 MANDATORY. IT'S OVERSEEN BY REGULATORY AGENCIES.
3 IMPLEMENTING DUST CONTROL. THE OPERATION IS A
4 NON-MINING STATUS WHILE ESTABLISHING COAL HAULAGE
5 ROUTES AND CONDUCTING DUST-CONTROL PROCEDURES.

6 THERE IS NO COAL EXTRACTION AT THIS POINT.
7 BEFORE COAL IS EXTRACTED OR HAULED FROM THESE ROADS,
8 WE GET THE BASELINE. WE GET OUR ACCESS ROUTES AND
9 THAT'S WHERE WE'LL START OUR DUST CONTROL PLAN.

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

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

18 THIS PICTURE HERE WAS TAKEN ON HIGHWAY 60.
19 IT'S NOT TO PASS ON RESPONSIBILITY OR TRY SPREAD ON
20 THAT. WE TAKE ACCOUNTABILITY FOR OUR ACTIONS FOR
21 SURE. THIS IS WHAT YOU SEE AT A CONSTRUCTION SITE.
22 YOU'RE GOING TO HAVE SOME SURFACE DUST. NOTHING
23 DIFFERENT FROM WHAT YOU WOULD MOW IN YOUR YARD.
24 THAT'S NOT OUR TRUCK. THAT IS SIMPLY A SEPARATE
25 CONSTRUCTION SITE ON HIGHWAY 60. AT THE SAME TIME WE

1 OPENED THIS SITE IN MAY 2012, THESE PICTURES WERE
2 TAKEN A FEW DAYS AGO.

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

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

22 CHAIRMAN: NOT FROM ME.

23 DOES ANYBODY ELSE ON THE COMMISSION HAVE ANY
24 QUESTIONS?

25 (NO RESPONSE)

1 CHAIRMAN: IF NOT, MR. LANHAM, CONTINUE WITH
2 YOUR PROGRAM.

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

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

6 (STEVE LITTLE SWORN BY ATTORNEY.)

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

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

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

22 MR. LITTLE: YES.

23 CHAIRMAN: WILL YOU STATE THAT, PLEASE?

24 MR. LITTLE: YES. AIR QUALITY DOCUMENT WHICH
25 IS FOUR INSPECTIONS BECAUSE OF A RESIDENT COMPLAINT

1 OVER MIGRATING DUST.

2 CHAIRMAN: THAT WAS JUST PROCEDURAL?

3 MR. LITTLE: YES.

4 CHAIRMAN: GO AHEAD.

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

15 I HAVE A DOCUMENT FROM MSHA THAT SHOWS ALL THE
16 DUST SAMPLINGS DONE BY MSHA ON MINE SITES, WHICH WAS
17 55 TOTAL. I PERSONALLY CONDUCTED THE MAJORITY OF 14
18 COMPANY SAMPLES, WHICH YOU CALL OPERATOR SAMPLES. ALL
19 OF THOSE ARE WELL BELOW THE ACCEPTABLE LEVELS FOR
20 RESPIRABLE DUST IN A COAL MINE SITE.

21 IF WE CAN KEEP THE RESPIRABLE DUST LEVEL WELL
22 BELOW THE PERMISSIBLE LEVEL AT THE MINE SITE WITH THE
23 DUST CONTROL MEASURES AND WATERING AND WHATEVER, THEN
24 OBVIOUSLY IT'S NOT GOING TO MIGRATE OUT AND IT'S GOING
25 TO HAVE A MINIMAL IMPACT ON THE COMMUNITY SURROUNDING

1 THE MINE.

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

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

9 YES, SIR.

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

12 MR. ISBILL: TONY ISBILL.

13 (TONY ISBILL SWORN BY ATTORNEY.)

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

1 MY QUESTION IS: IS THAT CORRECT? BECAUSE
2 THAT'S WHAT THE COAL COMMISSION TOLD ME SPECIFICALLY.

3 CHAIRMAN: THANK YOU, MR. ISBILL.

4 MR. LITTLE.

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

7 CHAIRMAN: MR. ISBILL.

8 MR. ISBILL: DUST.

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

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

24 LIKE SAY POSSIBLY IN MY YARD I'VE GOT SOME
25 BARE SPOTS AND I'VE GOT DUST THAT CREATED AND BLOWS

1 OFF OF THAT. IS THAT THE TYPE OF DUST THAT YOU'RE
2 SAYING IS NON-REGULATED?

3 MR. LITTLE: YES.

4 CHAIRMAN: I WAS TRYING TO DIFFERENTIATE
5 BETWEEN CONTROLLABLE DUST.

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

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

13 MR. LITTLE: JUST A MIXTURE OF ROCK STRUCTURE.

14 CHAIRMAN: AM I SUMMING THAT UP CORRECTLY?

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

18 CHAIRMAN: WAIT A MINUTE. YOU CONFUSED ME.

19 WHAT DUST IS OR IS NOT REGULATED? YOU SEE THE
20 COAL TRUCKS GOING UP AND DOWN THAT ARE CONTROLLING
21 THAT DUST. IS THERE OTHER DUST THAT CAN LEAVE YOUR
22 SITE OR ARE YOU GOING TO BE SO FAR BACK THAT --

23 MR. LITTLE: WELL, THE DUST NORMALLY -- I'M
24 GOING TO LAY THIS ASIDE FOR A MINUTE AND WE'LL TALK A
25 LITTLE BIT ABOUT THIS. NUISANCE DUST WILL REFER TO

1 THIS. THIS --

2 CHAIRMAN: WAIT JUST A MINUTE. FOR MY
3 BENEFITS AND PROBABLY OTHERS IN HERE, I'M NOT REALLY
4 GRASPING THE TYPES OF DUST WE'RE TALKING ABOUT. ARE
5 YOU TALKING ABOUT FUGITIVE DUST?

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

10 CHAIRMAN: OKAY.

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

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

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

23 MR. LITTLE: FROM A FUGITIVE DUST STANDPOINT,
24 BUT MSHA DOES NOT REGULATE ANYTHING OFF THAT PERMITTED
25 SITE.

1 CHAIRMAN: MR. KAZLAUSKAS, I'M SURE YOU'RE
2 GOING TO CLEAR THIS UP FOR ME.

3 MR. KAZLAUSKAS: I'M SOMEWHAT CONFUSED MYSELF.

4 CHAIRMAN: AFTER ALL THOSE QUESTIONS I ASKED?

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

7 WILL THERE BE ANY COAL STOCK PILED ON THE
8 SITE?

9 MR. LITTLE: YES.

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

14 MR. LITTLE: FUGITIVE DUST BASICALLY LEAVES
15 THE SITE.

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

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

20 MR. KAZLAUSKAS: LET ME ASK, PLEASE.

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

23 MR. LITTLE: YES.

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

1 CORRECT?

2 MR. LITTLE: THAT'S TRUE.

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

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

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

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

15 CHAIRMAN: CORRECT.

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

18 MR. HAYNES: CAN I SPEAK?

19 CHAIRMAN: YES.

20 MR. HOWARD: THERE'S ACTUALLY TWO GROUPS THAT
21 MONITOR OUR DUST. MSHA, MINE SAFETY & HEALTH
22 ADMINISTRATION, THEIR PRIMARY CONCERN IS TO LOOK OUT
23 FOR THE EMPLOYEES. I THINK WHAT MR. LITTLE WAS TRYING
24 TO SAY IS THAT THEY'VE SET SOME PRETTY STRINGENT
25 STANDARDS BECAUSE THE EMPLOYEES IS CLOSE TO THE DUST,

1 WHETHER IT BE COAL DUST, DUST FROM QUARTZ, WHERE DIRT
2 IS BEING MOVED. I THINK WHAT MR. LITTLE WAS SAYING IS
3 THOSE STANDARDS ARE SO STRINGENT RIGHT THERE AT THE
4 POINT OF EMISSION OF THE DUST, THAT ANYTHING THAT
5 WOULD MIGRATE OFF THE SITE WOULD BE VERY MINIMAL.

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

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

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

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

25 AUDIENCE MEMBER: WHAT ABOUT THE SMELL?

1 MR. HAYNES: THE COAL STOCKPILE ARE WET. THEY
2 ARE WATERED JUST LIKE THE ROADS AS THINGS MAY NEED.
3 THEY'RE WATERED MORE IN DRYER CONDITIONS. THEY'RE
4 WATERED MORE IN MORE WINDY CONDITIONS.

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

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

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

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

22 MR. HAYNES: OBVIOUSLY WE WOULD STOP WITH, YOU
23 KNOW, A TORNADO WARNING OR A SIREN. NOW YOU'RE ASKING
24 BETWEEN A REASONABLE LEVEL AND UP THERE. YES. WHEN A
25 CONDITION BECOMES IN ANY WAY UNSAFE FOR THAT MAN,

1 WHETHER HE'S ON THE PIT OR IN THE ROAD WE STOP.

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

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

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

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

24 CHAIRMAN: THANK YOU.

25 MR. LITTLE: THAT WAS PRIMARILY THE POINT THAT

1 I WAS TRYING TO MAKE BY USING THAT GUIDE.

2 WAS THE FACT THAT IF WE CAN CONTROL IT TO THAT
3 DEGREE AT THE MINE LEVEL FOR EMPLOYEES, WHAT DUST DOES
4 LEAVE THE MINING PROPERTY, REGARDLESS OF THE ISSUES,
5 LEGAL ISSUE WITH IT, IT'S VERY UNLIKELY THAT THERE'S
6 GOING TO BE A HEALTH HAZARD TO THE SURROUNDING
7 NEIGHBORS.

8 CHAIRMAN: LET ME STOP YOU.

9 AFTER THAT EXTENSIVE DUST LECTURE, DOES
10 ANYBODY ELSE HAVE ANY OTHER THING THEY WOULD LIKE TO
11 ASK?

12 YES, SIR.

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

15 MR. MITCHELL: BILL MITCHELL.

16 (BILL MITCHELL SWORN BY ATTORNEY.)

17 MR. MITCHELL: HOW OFTEN DO THEY MONITOR THE
18 AIR AND WHEN DO THEY MONITOR IT? WHO IS MONITORING
19 IT?

20 CHAIRMAN: WAIT JUST A MOMENT. QUESTIONS TO
21 ME.

22 MR. LITTLE: THE LAW REQUIRES IT TO BE
23 MONITORED --

24 CHAIRMAN: WAIT JUST A MINUTE. LET ME GO
25 AHEAD AND RESTATE THAT FOR THE RECORD.

1 HIS QUESTIONS WERE HOW OFTEN DO YOU MONITOR
2 AND WHO MONITORS?

3 MR. LITTLE: MSHA MONITORS AT LEAST, THEY
4 GENERALLY CONDUCT, DURING THEIR REGULAR INSPECTIONS
5 THEY CONDUCT FIVE CONSECUTIVE OR NON-CONSECUTIVE
6 SAMPLES FOR THEIR OWN BENEFIT. THEY DO THAT EVERY
7 REGULAR INSPECTION SEVERAL TIMES THROUGHOUT THE YEAR.

8 I'M MONITORING FOR THEM NOW EVERY OTHER MONTH.

9 CHAIRMAN: THANK YOU.

10 MR. MITCHELL: YES, SIR.

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

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

17 MR. WRIGHT: TIMOTHY WRIGHT.

18 (TIM WRIGHT SWORN BY ATTORNEY.)

19 MR. WRIGHT: WE'RE GETTING A LOT OF CONFUSION
20 THERE BETWEEN MSHA AND THE SAFETY STANDARDS FOR THE
21 MINERS, THE MONITORS, AND OUR AIR QUALITY PERMIT.

22 WHAT PEOPLE HAVEN'T MENTIONED AND WHAT TONY
23 ISBILL IS TALKING ABOUT IS UNDER OUR AIR QUALITY
24 PERMIT. WE ARE NOT ALLOWED UNDER OUR AIR QUALITY
25 PERMITS TO ALLOW ANY VISIBLE DUST, COAL DUST, FUGITIVE

1 DUST FROM THE ROCK TO LEAVE OUR MINING SITE.

2 WHAT I TOLD THEM AT THE CHURCH IS YOU GET A
3 40, 50 MILE AN HOUR WIND, YOU'VE GOT A COAL STOCKPILE
4 THERE, IT'S GOING TO PICK UP THE COMMON DUST LIKE WE
5 SHOW WITH THESE TRACTORS, WITH THE CONSTRUCTION SITE.
6 WE CAN'T CONTROL THAT. THAT'S MOTHER NATURE. THAT'S
7 NOT THE HARMFUL DUST. THAT'S COMMON DUST WHAT YOU
8 STIR UP IN YOUR YARD.

9 CHAIRMAN: IT MAY EVEN BE WORSE IN MY YARD.

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

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

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

24 YOUR COMMON DUST IS WHAT MR. ISBILL IS TRYING
25 TO CONFUSE WITH THAT. THAT'S TO GET THE PERMIT. TWO

1 DIFFERENCE CRITERIAS THAN WHAT MR. LITTLE IS TALKING
2 ABOUT IF HE MONITORING FOR MSHA WITH OUR EQUIPMENT,
3 INSIDE THE EQUIPMENT, AND MSHA HAS THOSE STANDARDS.
4 HE DOESN'T HAVE ANYTHING TO DO WITH AIR QUALITY
5 MONITORING. WE DO THAT OURSELVES ON THE MINE SITE.

6 CHAIRMAN: THANK YOU.

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

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

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

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

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

22 MR. WRIGHT: NO. NO. NOT WITH COAL DUST, NO.
23 THAT'S SUPERINTENDENT IS OUT THERE. HE MONITORS THAT.
24 IF WE GET VISIBLE DUST OFF OUR TRUCKS, OFF OUR WASH
25 PLANT, OFF OUR COAL PILES, HE BRINGS IN THAT WATER

1 TRUCK THAT YOU SEE AND HAS GOT A SPRAY NOZZLE ON IT,
2 AND WE SPRAY DOWN THOSE COAL STOCKPILE TO PREVENT THAT
3 FROM HAPPENING.

4 MR. REEVES: MR. CHAIRMAN.

5 CHAIRMAN: MR. REEVES.

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

8 CHAIRMAN: EXCUSE ME. STATE --

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

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

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

15 MR. WRIGHT: ANYBODY HAVE ANY FURTHER OTHER
16 QUESTIONS?

17 CHAIRMAN: WAIT JUST A MINUTE.

18 AT THIS POINT IN TIME, MR. HAYNES, WE WERE
19 GOING TO INTERRUPT YOU WITH OUR QUESTIONS. I THINK AT
20 THIS POINT IN TIME I THINK THE DUST WAS AN ISSUE AND I
21 THINK WE'VE PRETTY WELL WORN YOU ALL OUT ON THAT. I
22 THINK AT THIS POINT IN TIME I'LL LET YOU CONTINUE WITH
23 YOUR PRESENTATION. IF WE HAVE ANY OTHER QUESTIONS,
24 WE'LL PICK THOSE UP. WE'RE GOING TO LET THEM CONTINUE
25 WITH THEIRS AND IF THERE'S ANYTHING ELSE ALONG THE

1 WAY, I HOPE ALL OF YOU UNDERSTAND MORE ABOUT DUST THAN
2 YOU'VE EVER UNDERSTOOD IN YOUR LIFE, BUT WE'LL
3 CONTINUE. IF YOU WANT TO COME BACK TO DUST, WE WILL,
4 BUT LET'S LET THEM GET ALL THEIR HIGHLIGHTS AND THEN
5 WE'LL COME BACK. I'LL SUMMARIZE YOUR QUESTIONS THE
6 WAY I HAVE DONE IN THE PAST.

7 MR. LANHAM.

8 MR. LANHAM: THANK YOU, MR. KIRKLAND.

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

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

18 ASHBY TRUCKING, INCORPORATED HAS BEEN IN
19 BUSINESS FOR 49 YEARS AND INCORPORATED FOR 34 YEARS.
20 IT'S HAULED COAL FOR WESTERN KENTUCKY MINERALS FOR
21 OVER FOUR YEARS. AVERAGE DRIVER EXPERIENCE IS 24
22 YEARS. I SEE THESE GENTLEMEN EVERY DAY. THESE ARE
23 SOME VERY EXPERIENCED GENTLEMEN AND WE TALK TO THEM ON
24 A DAILY BASIS. THEY'RE VERY QUALIFIED. FOR 24 YEARS
25 ON THEIR EXPERIENCE. LOW TURNOVER RATE. RANDOM DRUG

1 TESTING IS CONDUCTED WITHIN THIS COMPANY AND CARRY ALL
2 REQUIRED INSURANCE. EQUIPMENT IS WELL MAINTAINED.
3 LEAD MECHANIC HAS 27 YEARS EXPERIENCE IN TRUCK REPAIR.
4 WHICH WOULD I THINK SPEAK VOLUMES ABOUT AS FAR AS
5 SAFETY GOES ON THIS COMPANY.

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

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

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

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

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

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

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

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

1 EXPERIENCE.

2 CHAIRMAN: EXCUSE ME, MR. LANHAM. WHAT IS THE
3 GROSS WEIGHT OF A COAL TRUCK WITH A TRI-AXEL TRAILER?

4 MR. LANHAM: CAN I GET SOME HELP WITH THAT
5 QUESTION, MR. KIRKLAND?

6 CHAIRMAN: ABSOLUTELY.

7 MR. LANHAM: I WOULD HAVE MR. TRENT ASHBY COME
8 THE PODIUM AND HE CAN ANSWER THAT QUESTION.

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

11 MR. ASHBY: TRENT ASHBY.

12 (TRENT ASHBY SWORN BY ATTORNEY.)

13 CHAIRMAN: MR. ASHBY, JUST FOR THE RECORD I'LL
14 RESTATE IT.

15 MY QUESTION WAS: WHAT IS YOUR GROSS ALLOWABLE
16 WEIGHT WITH YOUR TRI-AXEL TRAILERS?

17 MR. ASHBY: THE SAME AS A TANDEM TRAILER.
18 120,000 POUNDS.

19 CHAIRMAN: SO A TANDEM TRAILER CAN ALSO CARRY
20 120,000?

21 MR. ASHBY: YES, SIR.

22 CHAIRMAN: ARE THESE OVER SPECIALLY SPECIFIED
23 STATE AND FEDERAL ROADS?

24 MR. ASHBY: I'M NOT SURE WHAT YOU MEAN.

25 CHAIRMAN: DO CERTAIN ROADS THAT YOU CAN

1 ACCESS WITH THESE TRUCKS CARRY 120,000 OR ALL ROADS
2 THAT YOU CAN CARRY 120?

3 MR. ASHBY: YES.

4 CHAIRMAN: YES, MEANING ALL ROADS?

5 MR. ASHBY: NOT ALL ROADS. STATE.

6 CHAIRMAN: CERTAINLY SPECIFIED ROADS BY THE
7 STATE OF KENTUCKY?

8 MR. ASHBY: RIGHT.

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

11 ANYBODY ELSE?

12 (NO RESPONSE)

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

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

22 THOSE OUTSIDE OF THE HALF MILE RADIUS CAN
23 REQUEST PREBLAST SURVEYS. IF CIRCUMSTANCES WARRANT AN
24 INSPECTION, IT WILL BE CONDUCTED. LIKE I SAID, YOU
25 JUST APPROACH US. VERY EASY TO WORK WITH. THAT IS A

1 SIMPLE, SIMPLE PROCESS THAT WE CAN GO THROUGH TO GET
2 YOU A PREBLAST SURVEY CONDUCTED. IT'S FOR YOUR
3 PROTECTION AND THE COMPANY'S PROTECTION AND IT'S AS
4 SIMPLE AS THAT. IT'S GREAT ALL THE WAY AROUND ACROSS
5 THE BOARD. IT'S SOMETHING YOU CAN BENEFIT FROM.

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

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

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

24 ARE THEY ALL SHOT THIS WAY? ABSOLUTELY, NO.
25 I DON'T HAVE ANYTHING TO HIDE. YOU'LL SEE SOME DUST

1 SHIFT IN DIFFERENT DIRECTIONS. AS FAR AS FLY ROCK,
2 THAT CAN BE CONTROLLED WHEN YOU ARE KNOWLEDGEABLE IN
3 MATERIAL YOU'RE DEALING WITH AND ESPECIALLY ABIDING BY
4 THE DISTANCES THAT YOU HAVE TO STAY AWAY FROM THOSE
5 KNOWN AREAS.

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

9 MR. LANHAM: ONE TO TWO, MR. KIRKLAND. YOU
10 CAN HAVE ONE JUST THROUGH THE DAY JUST DEPENDING ON --

11 CHAIRMAN: ARE THEY SPREAD OUT OR ARE THEY
12 JUST LIKE, BAM, BAM?

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

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

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

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

23 MR. LANHAM: NOT AT NIGHT.

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

1 MR. LANHAM: NO.

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

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

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

12 MR. BURNS: MY NAME IS SETH BURNS.

13 (SETH BURNS SWORN BY ATTORNEY.)

14 MR. BURNS: THANK YOU FOR YOUR TIME.

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

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

19 MR. BURNS: YES, SIR.

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

25 MR. BURNS: YOU'RE CORRECT.

1 CHAIRMAN: IN OTHER WORDS, BOOM AT 12:00, AND
2 THEN WE'VE THE SHOCK WAVES. HOW LONG BEFORE IT'S
3 ZERO?

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

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

14 THE GREATEST DISTURBANCE IS OBVIOUSLY WHERE
15 WE'RE BLASTING. THAT AREA RIGHT THERE. THAT ROCK
16 MOVES. IT SITS UP AND IT SITS DOWN. THAT'S THE GOAL
17 AND THAT'S HOW WE LIKE IT. THE GROUND AROUND IT AND
18 THE HOMES AROUND IT, THAT MATERIAL IS IN PLACE. IT'S
19 SOLID, IN SITE, IT'S MASSIVE ROCK. THE WAVES TRAVEL
20 THROUGH THAT GROUND IN PROBABLY, DEPENDING ON THE
21 MATERIAL, BUT SOMEWHERE BETWEEN 8, 9, 10,000 FEET PER
22 MILLISECOND. I MEAN THEY'RE TRAVELING THROUGH THE
23 GROUND VERY, VERY QUICKLY. THE GROUND VIBRATION OFF
24 OF A BLAST AT HOME 1,000 FEET AWAY, IT'S GOING TO GET
25 THERE VIRTUALLY INSTANTLY. AS LONG AS THE BLAST

1 LASTS, IT'S GOING TO LAST. THE GEOLOGY OVER TIME IT
2 SLOW THE WAVES DOWN. SO NEAR THE BLAST IT'S REAL
3 QUICK. AS IT GETS TO THE HOME, THEY SLOW DOWN AND
4 STRETCH OUT.

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

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

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

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

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

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

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

16 CHAIRMAN: JUST A SECOND.

17 MR. HAYNES, AS A COURTESY YOU'VE GOT 15
18 MINUTES.

19 MR. HAYNES: THANK YOU.

20 CHAIRMAN: THANK YOU.

21 MR. BURNS: I'M GOING TO MAKE THIS VERY BRIEF.
22 IF THERE ARE QUESTIONS REGARDING BLASTING, I CAN
23 ADDRESS THOSE.

24 I WANT TO GET PAST THIS AND KIND OF DISCUSS
25 WHY WE BLAST.

1 BLASTING IS THE LAWFUL USE OF REGULATED
2 EXPLOSIVES. PRETTY SIMPLE. IF WE DON'T DO IT
3 LAWFULLY, WE DON'T BLAST. AND IT'S REGULATED. THE
4 EXPLOSIVES, THEY'RE REGULATED. THERE ARE MANY
5 STANDARDS WE HAVE TO REACH.

6 I'M GOING TO GO PAST THIS. I'VE ALREADY
7 PRETTY MUCH DESCRIBED WHY WE BLAST. CRACK INTO ROCK
8 SO WE CAN MINE THE COAL.

9 THE ENVIRONMENTAL EFFECTS OF BLASTING.

10 CHAIRMAN: LET ME STOP YOU JUST A SECOND.

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

16 MR. HAYNES: THANK YOU.

17 CHAIRMAN: MR. LANHAM?

18 MR. LANHAM: YES, SIR.

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

22 YES, SIR.

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

25 MR. KAELIN: GREG KAELIN.

1 (GREG KAE LIN SWORN BY ATTORNEY.)

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

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

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

11 LET'S BRING THE MAP UP.

12 YES, SIR. GO AHEAD, SIR.

13 MR. KAE LIN: ACTUALLY I LOST WHAT MY TRAIN OF
14 THOUGHT WAS THERE.

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

18 MR. KAE LIN: I FORGOT WHAT MY SECOND PART WAS.

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

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

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

1 MR. SCHAFFER: BRIAN SCHAFFER.

2 (BRIAN SCHAFFER SWORN BY ATTORNEY.)

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

6 MR. BURNS: THE ACTUAL GROUND VIBRATION IT
7 WILL TRAVEL HALF A MILE WHICH IS ROUGHLY 2600 FEET.
8 IT WILL GO THAT DISTANCE. IT MAY GO FURTHER THAN
9 THAT. A LOT OF IT DEPENDS ON JUST THE GEOLOGY, WHERE
10 THE HILLS ARE AT, WHERE THE LOW POINTS ARE AT, WHERE
11 THE LOCATION OF THE BLAST IS, THE SIZE OF THE BLAST.

12 MOST BLASTS, I MEAN YOU'RE GOING TO FEEL THEM
13 OUT WITH PROBABLY HALF A MILE. WITHIN A HALF MILE
14 IT'S GOING TO FEEL DRASTICALLY DIFFERENT THAN WHAT WE
15 FEEL ON THE BENCH. YOU KNOW, WITHIN 1,000 FEET OR 500
16 FEET OR WHEREVER WE DETONATE THE BLAST FROM.

17 IT ALSO DEPENDS A LOT ON DIRECTION. OBVIOUSLY
18 IN A PIT THERE IS AN OPEN FACE IN THE FRONT. THERE'S
19 MAYBE SHOCK MATERIAL ON THE SIDE, AND THEN THERE'S
20 NOTHING BEHIND IT. IT'S JUST SOLID ROCK. SO THE
21 ENERGY OF THE BLAST WE ALWAYS MOVE IN TOWARDS THE OPEN
22 AREAS. SO AS IT MOVES IN THIS DIRECTION, THE
23 VIBRATION WILL GO IN THE OPPOSITE DIRECTION. SO
24 THERE'S A LOT WE CAN DO ON HOW WE TIME THE BLAST.
25 IT'S THE GEOGRAPHY THAT DETERMINES WHICH DIRECTION AND

1 HOW FAR IT'S GOING TO GO.

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

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

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

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

21 CHAIRMAN: LET ME ASK YOU A QUESTION.

22 MAY I INTERRUPT?

23 MR. SCHAFFER: ABSOLUTELY.

24 CHAIRMAN: JUST A POINT OF INTEREST. IF
25 YOU'RE DOING THE BLAST WITH CERTAIN VOLUME OF

1 EXPLOSIVES, THE BLAST IS CAUSING SOME CONCERN, CAN
2 THAT SAME BLAST BE DONE TWICE WITH HALF AS MUCH OR IS
3 THAT NOT PHYSICALLY FEASIBLE WITH WHAT YOU'RE TRYING
4 TO DO?

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

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

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

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

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

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

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

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

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

11 MR. SCHAFER: IS IT SAFE TO ASSUME THAT
12 ANYBODY OUTSIDE THIS HALF MILE RADIUS WILL FEEL
13 SEISMIC?

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

16 MR. SCHAFER: YES.

17 MR. BURNS: I WOULD SAY, SURE.

18 MR. SCHAFER: THE CLOSER YOU ARE TO THE BLAST
19 THE MORE INTENSE THE SEISMIC ACTIVITY IS?

20 MR. BURNS: SURE.

21 MR. SCHAFER: SO THE PEOPLE THAT ARE INSIDE
22 THAT ZONE ARE EXPECTED TO HAVE DAMAGE?

23 MR. BURNS: NO. ABSOLUTELY NOT. THE LAWS WE
24 ARE REGULATED BY ARE -- THE REASON THEY'RE THERE IS TO
25 PROTECT STRUCTURES FROM DAMAGE. PEOPLE AND PROPERTY.

1 THE LAWS WE ARE REGULATED BY THEY SAY, AT THIS
2 DISTANCE YOU ARE ALLOWED TO SHOOT THIS MANY POUNDS AND
3 THAT'S IT. THOSE POUNDAGES BASED ON DISTANCES WERE
4 DEVELOPED FROM STUDIES BY THE U.S. BUREAU OF MINES
5 AFTER YEARS AND YEARS OF EXPERIENCE WHERE COAL MINES
6 ACTUALLY PURCHASED HOMES. SET UP, YOU KNOW, CRACK
7 MONITORS, INTENSION MONITORS ALL OVER HOMES, ON WALLS,
8 DRY WALL, IN THE GROUND, CONCRETE, AND THEY HAVE
9 BLASTED RIGHT UP TO THE STRUCTURES AND ACTUALLY
10 THROUGH THE STRUCTURES. THEY DID IT ON GAS LINES.
11 THEY DID IT ON OIL LINES. THEY DID IT ON HOMES AND
12 EVERYTHING ELSE. THAT'S WHAT WE'RE REGULATED BY.
13 IT'S ACTUAL DATA FROM BLASTING IN THIS AREA. THE
14 REGULATIONS THAT WE HAVE TO ADHERE TO ARE ONLY IN
15 PLACE TO PROTECT STRUCTURES.

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

18 MR. BURNS: DO?

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

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

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

24 CHAIRMAN: YOU SEE WHAT I'M SAYING. HOW CLOSE
25 COULD YOU COME IF YOU HAD TO DO IT TO THE HOUSE

1 WITHOUT DOING DAMAGE?

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

5 CHAIRMAN: SO IT COULD BE DONE?

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

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

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

18 CHAIRMAN: THANK YOU.

19 MR. KAZLAUSKAS.

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

23 MR. BURNS: ABSOLUTELY.

24 MR. KAZLAUSKAS: LIKE YOU SAID, STUDIES HAVE
25 BEEN DONE VERY PRECISE NOW.

1 MR. BURNS: YES, SIR.

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

4 MR. BURNS: IT IS NOT AN EXACT SCIENCE.

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

10 MR. BURNS: CORRECT. ONE OF THE REASONS.

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

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

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

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

24 MR. KAZLAUSKAS: THANK YOU.

25 CHAIRMAN: MR. REEVES.

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

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

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

12 CHAIRMAN: THANK YOU.

13 MR. PEDLEY.

14 MR. PEDLEY: YES, I HAVE A QUESTION.

15 CHAIRMAN: LET MR. PEDLEY FINISH HIS QUESTION.

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

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

24 MY QUESTION IS: IF YOU'RE 300 FEET AWAY, WILL
25 THAT SHOCK WAVE TRAVEL TO THAT BASEMENT FOUNDATION

1 SITTING ON SOLID ROCK? WILL IT CRACK THAT WALL?

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

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

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

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

25 MR. PEDLEY: IF YOU MOVE CONCRETE, IT WILL

1 CRACK.

2 MR. BURNS: IF YOU MOVE CONCRETE ENOUGH --

3 MR. PEDLEY: IT WILL CRACK.

4 MY QUESTION IS: IS 300 FEET A SAFE DISTANCE
5 FROM YOUR BLASTING NOT TO DAMAGE A BASEMENT SITTING ON
6 SOLID ROCK?

7 MR. BURNS: WE COULD BLAST 300 FEET TO
8 CONCRETE AND NOT DAMAGE CONCRETE.

9 MR. PEDLEY: ALWAYS?

10 MR. BURNS: IF WE DO IT RIGHT, YES.

11 MR. PEDLEY: THAT'S THE QUESTION. CAN YOU DO
12 IT RIGHT?

13 MR. BURNS: YES, SIR.

14 MR. PEDLEY: SHALLOW FOUNDATIONS. YOU'VE GOT
15 SOIL UNDER IT DOWN TO ROCK. IT'S GOT A CUSHION. VERY
16 RARELY IT WILL DO ANY DAMAGE. VERY RARELY BECAUSE
17 YOU'VE GOT TO HAVE EARTH TO CUSHION.

18 IN THE BOWLING GREEN AREA WHERE THEY HAVE A
19 LOT OF LIMESTONE, THEY DID A LOT THE BLASTING. MOST
20 OF THE TIME WE EXCAVATE IT DOWN AND THE FOUNDATION IS
21 ON THE FOOTER. THEY PUT A CUSHION UNDER THAT FOOTER
22 TO PREVENT DAMAGE TO THE FOUNDATION.

23 ONE OF MY CONCERNS IS 300 FEET IN MY OPINION
24 IS TOO CLOSE TO BE BLASTING WHEN YOU GOT THAT
25 CONDITION.

1 MR. BURNS: IF THERE WAS A SCENARIO WHERE WE
2 WERE BLASTING 300 FEET INSTEAD OF -- ON EVERY BLAST WE
3 DO, HOW WE LOAD THOSE HOLES CHANGES. IT ALWAYS
4 CHANGES. IF WE'RE 1,000 FEET AWAY, WE'RE GOING TO
5 LOAD IT ONE WAY. IF WE'RE 300 FEET AWAY, WE'RE GOING
6 TO LOAD IT DRASTICALLY DIFFERENT IN ORDER TO PROTECT
7 SPECIFICALLY THE CONCRETE.

8 MR. PEDLEY: WOULD 500 FEET AWAY BE BETTER?

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

13 MR. PEDLEY: THANK YOU.

14 CHAIRMAN: MR. ALLEN.

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

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

23 TO MY KNOWLEDGE, WHICH I'M NOT EXPERT ON THE
24 FREQUENCY OF DAMAGE OCCURRING ON A HOME, TO MY
25 KNOWLEDGE THERE ARE VERY, VERY, VERY FEW INSTANCES

1 WHERE ACTUAL DAMAGE FROM BLASTING OCCURS. DUE TO WE
2 ARE REGULATED BY REGULATIONS THAT ARE TO PROTECT THE
3 STRUCTURE. IT'S THAT SIMPLE. IF WE EXCEED THOSE
4 REGULATIONS, THEN THAT'S WHY THEY'RE THERE. IT'S TO
5 PROTECT THE STRUCTURE. WE SHOOT TO REGULATIONS.

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

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

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

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

24 CHAIRMAN: AT THIS POINT IN TIME THE
25 COMMISSION HAS BEEN PART OF THE PROBLEM WITH US

1 RUNNING OVER.

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

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

8 CHAIRMAN: YOU'RE FINISHED WITH YOUR
9 PRESENTATION?

10 MR. LANHAM: ACTUALLY NO.

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

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

16 CHAIRMAN: YOU'VE EXCEEDED YOUR TIME LIMIT.

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

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

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

22 CHAIRMAN: HOW LONG WILL THIS TAKE?

23 MR. ARNOLD: TWO MINUTES.

24 CHAIRMAN: MR. WILSON, WOULD YOU STEP TO THE
25 PODIUM, PLEASE.

1 MR. WILSON, THIS IS EXCEEDING YOUR TIME LIMIT,
2 BUT OUT OF COURTESY TO YOU AND OUT OF YOUR COURTESY TO
3 ALLOW THIS, WE WILL ADD THE TIME TO YOU. DO YOU HAVE
4 ANY PROBLEM WITH THIS?

5 MR. WILSON: I HAVE NO PROBLEM WITH THAT.

6 CHAIRMAN: FOR THE RECORD MR. WILSON AGREES.

7 THANK YOU, MR. WILSON.

8 TWO MINUTES.

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

11 MR. ARNOLD: JEFF ARNOLD.

12 (JEFF ARNOLD SWORN BY ATTORNEY.)

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

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

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

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

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

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

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

1 CURRENT.

2 YEAR TWO YOU'RE MOVING TO THE NORTHEAST.

3 YEAR THREE YOU'RE JUST UP AHEAD. YOU ALSO

4 CONTINUE TO THE NORTHEAST OVER TOWARDS US 231.

5 YEAR FOUR YOU'RE MOVING TO THE NORTH TOWARDS

6 GIRL SCOUT ROAD. TO BE NOTED IN YEAR FOUR IS WHEN

7 WE'LL BE BUILDING THE 1500 FOOT BUFFER RIGHT ALONGSIDE

8 GIRL SCOUT ROAD TO PROTECT, I GUESS, VEHICLES THERE, I

9 GUESS TO PRESENT A BUFFER, A VEHICLE BUFFER TO THE

10 MINING ACTIVITY FROM ANYONE THAT MIGHT BE IN THAT

11 AREA.

12 YEAR FIVE WE'LL BE MINING ALONGSIDE GIRL SCOUT

13 ROAD.

14 YEAR SIX WE BEGIN TO TURN AND HEAD BACK TOWARD

15 THE SOUTHWEST AND CONTINUE ON DOWN.

16 YEAR SEVEN WE CONTINUE TO THE SOUTHWEST DOWN

17 NEAR TO WHERE WE STARTED YEAR ONE.

18 YEAR EIGHT WE STARTED MOVING TO THE NORTHWEST.

19 IN YEAR EIGHT WE'LL BUILD THE 500 FOOT BUFFER TO

20 BUFFER THE PROPERTIES TO THE NORTH WHERE WE'RE GOING

21 TO BE MINING IN YEAR NINE.

22 YEAR NINE WE CONTINUE TO THE NORTHWEST. YEAR

23 NINE WE ALSO FINISH THE 1900 FOOT BUFFER TO THE NORTH

24 WHERE WE'LL BE MINING YEAR 10.

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

1 THAT'S AS QUICK AS I COULD DO IT.

2 CHAIRMAN: THANK YOU. EXCELLENT JOB.

3 MS. STONE, WHAT DO WE HAVE?

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

7 CHAIRMAN: MR. WILSON.

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

10 CHAIRMAN: I'LL TAKE CARE OF THAT.

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

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

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

22 MR. HESTER: THAT'S CORRECT.

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

1 MR. HESTER: YES.

2 MR. SILVERT: HE AFFIRMED THAT IT WAS.

3 MR. HESTER, WAS THAT THE ORIGINAL DOCUMENT?

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

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

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

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

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

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

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

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

21 I DO HAVE WESTERN KENTUCKY MINERALS, INC.,
22 MSHA INSPECTOR DUST SAMPLE RESULTS. I HAVE NOISE
23 EXPOSURE, ONE PAGE DOCUMENT. AND ENERGY ENVIRONMENTAL
24 CABINET DEPARTMENT FOR ENVIRONMENTAL PROTECTION
25 DIVISION FOR AIR QUALITY & AIR INSPECTION REPORT.

1 MR. HAYNES: YES.

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

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

8 MR. NOFFSINGER: THANK YOU.

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

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

15 CHAIRMAN: WOULD YOU LIKE TO POSE THOSE
16 QUESTIONS?

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

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

23 CHAIRMAN: I CAN RESTATE IT.

24 HE WANTED TO KNOW WHERE THE STAGING AREA WOULD
25 BE OF THE COAL AND THE MINE OFFICE AND THE

1 ADMINISTRATIVE OFFICES WOULD BE.

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

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

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

7 MR. WRIGHT: TIMOTHY WRIGHT.

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

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

19 DOES THAT ANSWER HIS QUESTION?

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

22 CHAIRMAN: MR. WILSON, WOULD YOU STEP TO THE
23 MIKE.

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

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

1 ZONED THAT WAY?

2 MR. WRIGHT: YES.

3 MR. WILSON: WHO ZONED IT? THIS COMMISSION?

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

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

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

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

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

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

1 START THE METING.

2 THE CHAIR WILL BE ADJOURNED FOR A FEW MINUTES.

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

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

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

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

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

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

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

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

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

5 MR. GREGORY: CARLIN GREGORY.

6 (CARLIN GREGORY SWORN BY ATTORNEY.)

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

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

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

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

25 MR. GREGORY: MY DOG, BETTER KNOWN AS GOLDEN

1 RETRIEVER, THEY'VE NEVER MET A STRANGER. THEY COULD
2 WALK UP AND ANYBODY FEED HIM ANYTHING. HE WAS
3 POISONED ONCE FROM THESE PEOPLE.

4 MY MOM IS 87 YEARS OLD. SHE HAS HEART DISEASE
5 RIGHT NOW. TWO WEEKS AGO SHE CAME HOME FROM THE
6 HOSPITAL WITH COLON CANCER SURGERY.

7 I WOULD HAVE GONE PUBLIC WITH THIS WEEKS AGO
8 TO GATHER SUPPORT FOR MY CAUSE AND OUR CAUSE, BUT
9 OBVIOUSLY SHE WAS SCARED AND SHE DIDN'T WANT TO DO
10 THIS.

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

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

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

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

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

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

20 MYSELF PERSONALLY I'M NEVER GOING TO FEEL SAFE
21 IN THIS COUNTY EVER AGAIN BECAUSE OF THIS LETTER. I
22 AM, I'M EXPECTING FULL RETALIATION FOR THESE COMMENTS
23 THAT I'M MAKING TO YOU TONIGHT. THEY CAN KILL MY DOG,
24 BUT THEY BETTER HOPE THAT THEY DON'T TAKE IT A STEP
25 FURTHER.

1 THEY TOLD ME IN THE LETTER TO GROW ANOTHER SET
2 OF EYES. I'VE DONE THAT AND WE'RE ALL WATCHING.

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

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

20 CHAIRMAN: MR. GREGORY, IN NO WAY, I MEAN I
21 SYMPATHIZE DRAMATICALLY WITH YOU AND YOUR FAMILY FOR
22 SOMETHING LIKE THIS WOULD HAPPEN. OBVIOUSLY, THIS
23 SITUATION IS FAR OUTSIDE THE CONFINES OF THIS
24 COMMISSION. THIS IS A LEGAL POLICE, SHERIFF
25 DEPARTMENT SITUATION. I SYMPATHIZE WITH YOU AND YOUR

1 FAMILY. I'M SORRY THAT ANYTHING LIKE THIS WOULD HAVE
2 HAPPENED. THERE'S NO WAY THAT ANYBODY HERE CONDONE
3 SUCH ACTIONS OR ALLOW THAT TO HAPPEN. THIS IS
4 SOMETHING BEYOND OUR CONTROL. I'M SURE YOU'VE SOUGHT
5 SITUATIONS THROUGH THE SHERIFF OR POLICE, WHICHEVER
6 JURISDICTION.

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

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

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

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

15 MR. GREGORY: THANK YOU.

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

21 WHAT WE'RE HERE SAYING IS WE WERE HERE
22 FEBRUARY 9TH AND BACK IN JANUARY WHEN IT WAS CALLED
23 OFF TALKING ABOUT WHAT THIS WAS GOING TO DO TO THE
24 QUALITY OF LIFE IN A BEAUTIFUL AREA NAMED PLEASANT
25 RIDGE.

1 THINGS AREN'T VERY PLEASANT OUT IN PLEASANT
2 RIDGE THESE DAYS AND THEY'RE GOING TO GET A WHOLE LOT
3 LESS PLEASANT IF THIS ACTIVITY GOES ANOTHER STEP
4 FORWARD. THAT'S THE SOLE REASON THAT THIS LETTER IS
5 BEING SUBMITTED TONIGHT. TO SHOW THAT THE QUALITY OF
6 LIFE OUT THERE HAS ALREADY SUFFERED A SERIOUS, SERIOUS
7 BLOW WITH THIS DEATH THREAT WHICH KEITH CANE CAN TELL
8 YOU WHERE THE INVESTIGATION IS, FBI, POSTAL INSPECTORS
9 CAN TELL YOU WHERE IT IS. I DON'T KNOW WHO SENT THIS
10 LETTER, BUT I DID A LOT OF CHECKING ON IT TO MAKE SURE
11 IT WAS LEGITIMATE, BELIEVED TO BE LEGITIMATE BEFORE I
12 MADE THE DECISION TO EVEN TRY TO INTRODUCE IT TO THIS
13 BODY. I'M CONVINCED OF THAT AND I JUST KNOW THAT THE
14 PLEASANT LIFESTYLE THAT THEY KNOW OUT THERE HAS
15 ALREADY BEEN SHOOK, YOU KNOW, REALLY BEEN SHAKEN.
16 THIS ACTIVITY IS JUST NOT THE TYPE PROPERTY AREA TYPE
17 THAT DESERVES THIS TYPE OF ACTIVITY. HAS NOTHING TO
18 DO WITH MR. LANHAM AND HIS COMPANY. THEY'RE A
19 WONDERFUL COAL COMPANY I'M SURE. BUT THERE HASN'T
20 BEEN ANYTHING OF THIS NATURE OUT IN THAT HEAR IN ABOUT
21 35, 40 YEARS. THERE'S BEEN NO REZONINGS OUT THERE.
22 NONE SINCE THE GREEN DAYS.

23 BOB GREEN, SEVERAL OF US HERE ARE OLD ENOUGH
24 TO REMEMBER MR. GREEN QUITE WELL. I THINK IF HE HAD
25 ANYTHING ZONED HE WANTED ZONED. THERE WAS SOME STRIP

1 MINING DONE IN THE EARLY '70S, EVEN THE MID '70S.

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

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

7 MR. SILVERT: STATE YOUR NAME, PLEASE.

8 MR. WHISTLE: CURTIS WHISTLE.

9 (CURTIS WHISTLE SWORN BY ATTORNEY.)

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

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

22 FOUR YEARS LATER YOUR FUND DID GREAT. YOU GOT
23 A TOTAL RETURN OF 20 PERCENT. SO WHEN WE COMPARE OUR
24 MONEY IN 2010, I'VE \$1 MILLION. YOU GOT \$200,000
25 MORE.

1 SO MOST PEOPLE WOULD TELL ME THAT I LOST MONEY
2 BECAUSE I DID NOT TRUST IN THAT FINANCIAL ADVISOR'S
3 ADVICE.

4 SO NOW LET'S TALK ABOUT DAVIESS COUNTY
5 PROPERTY VALUES.

6 IN FEBRUARY MR. HAYNES ON BEHALF OF WKM STATED
7 THAT PROPERTIES AROUND THEIR CURRENT KNOTTSVILLE
8 MINING OPERATION, HE PULLED THE PVA ASSESSMENTS FOR
9 2006 AND 2010. HE STATED THERE'S A LOT OF PROPERTIES
10 THAT INCREASED, BUT MOST REMAINED THE SAME. ONE
11 PROPERTY DECREASED IN VALUE. SO FOR MOST OF THE THESE
12 PROPERTIES, THEIR 2010 ASSESSMENT DID NOT INCREASE IN
13 THE PRIOR FOUR YEARS. IF A SPECIFIC LOCATION OF
14 PROPERTY DOES NOT REALIZE PROPERTY VALUE GROWTH WHILE
15 PROPERTIES AROUND IT INCREASE IN VALUE, THEN I WOULD
16 SAY THEY LOST VALUE. THEY LOST MONEY.

17 ACCORDING TO CITYDATA.COM, IF YOU'RE NOT
18 FAMILIAR WITH THAT YOU CAN LOOK IT UP ON WIKIPEDIA.
19 WELL RESPECTED WEBSITE. SEVENTY-SECOND LARGEST
20 WEBSITE IN THE UNITED STATES. PROVIDES DATA FOR ALL
21 OF THE AREAS ABOUT RACE, INCOME, EDUCATION, CRIME, AND
22 PROPERTIES VALUES. IT'S A WEBSITE THAT'S USED LOT BY
23 TRANSPLANTS THAT GO INTO NEW AREAS.

24 IT DOESN'T ALLOW YOU TO SLICE AND DICE THE
25 DATA, IF YOU WILL. IT GIVES DIFFERENT TIME SPANS. I

1 CAN'T EXACTLY GIVE 2006 TO 2010 NUMBERS.

2 ACCORDING TO CITY DATA OWENSBORO CITY
3 PROPERTIES VALUE INCREASED BY 36 PERCENT FROM 2000 TO
4 2009. DAVIESS COUNTY PROPERTIES INCREASED BY 38
5 PERCENT IN THAT TIME FRAME. THE CLOSEST I COULD GET
6 TO THE PROPOSED MINING AREA ON CITY DATA IS
7 MASONVILLE. THE MASONVILLE AREA PROPERTY INCREASED BY
8 20 PERCENT FROM 2000 TO 2009.

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

12 SO NOW LET'S GET MORE SPECIFIC FOR COMPARISON
13 TO WKM'S DATA.

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

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

20 I PULLED 23 RUSSELL AND GIRL SCOUT ROAD
21 PROPERTIES. I WANTED JUST A RANDOM SAMPLING OF
22 DAVIESS COUNTY PROPERTY. FOR LACK OF A BETTER WAY TO
23 COMING UP WITH RANDOM, I PICKED SEVEN OF YOUR
24 PROPERTIES. NOW, I WON'T GUARANTEE YOU THEY'RE YOURS.
25 ALL I CAN GUARANTEE YOU IS THAT ACCORDING TO THE PVA

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

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

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

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

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

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

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

17 CHAIRMAN: OH, ON THE COMMISSION.

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

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

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

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

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

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

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

23 SO IN CONCLUSION, FROM FOUR DIFFERENT SOURCES,
24 CITY DATA, PVA ASSESSMENTS, LOCAL EXPERT OPINION, AND
25 THE UNIVERSITY OF TENNESSEE, ALL THE DATA DEMONSTRATES

1 CONSISTENT EVIDENCE OF PROPERTY VALUE IMPACT WHEN NEAR
2 COAL STRIP MINING ACTIVITY.

3 SO TO RECAP. WHY WOULD KNOTTSVILLE MINE
4 MOSTLY REMAIN CONSTANT? CITY DATA SHOWS DAVIESS
5 COUNTY PROPERTIES INCREASING BY 38 PERCENT, MASONVILLE
6 BY 20 PERCENT, A SMALL SAMPLE OF RANDOM DAVIESS COUNTY
7 PROPERTIES BY MORE THAN 12 PERCENT, A REPRESENTATIVE
8 SAMPLE OF GIRL SCOUT AND RUSSELL ROAD PROPERTIES BY 14
9 PERCENT. IT ALL WAS PREDICTED BY THE UNIVERSITY OF
10 TENNESSEE RESEARCH AND LOCAL REAL ESTATE EXPERTS IN
11 1986.

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

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

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

23 CHAIRMAN: MR. HAYNES.

24 MR. HAYNES: CAN I DIRECT A COUPLE OF
25 QUESTIONS TO THE CHAIRMAN TO DIRECT TO MR. WHISTLE?

1 CHAIRMAN: YES, SIR. I BELIEVE WE DID THAT TO
2 YOU MR. HAYNES.

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

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

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

12 MR. WHISTLE: I HAVE NO IDEA.

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

19 MR. WHISTLE: WE NEVER SAW A LISTING.

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

23 MR. HAYNES: MY ANALYSIS CONCERNED EVERY
24 PROPERTY WITHIN A HALF MILE OF THAT MINE SITE, DIDN'T
25 IT, MR. WHISTLE?

1 MR. WHISTLE: THAT'S WHAT YOU SAID, YES.

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

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

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

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

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

17 CHAIRMAN: YES, MA'AM.

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

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

21 (LYNN EDGE SWORN BY ATTORNEY.)

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

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

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

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

15 CHAIRMAN: THE CITY MEANING OWENSBORO?

16 MS. EDGE: CITYDATA.COM. IT GIVES YOU EVERY
17 CITY IN THE UNITED STATES. IT PROVIDED ANY TYPE OF
18 INFORMATION YOU CAN THINK OF. MALES, FEMALES, WHAT
19 TYPE OF PROPERTY THEY'RE BUYING. I ENCOURAGE YOU TO
20 REALLY TAKE A LOOK AT THIS REPORT BECAUSE IT ALSO
21 SHOWS HOW THE PROPERTY, IF YOU LOOK, NOT JUST IN THE
22 DAVIESS COUNTY AREA, BUT IN THE MCLEAN AND OHIO COUNTY
23 AREA AS WELL. WHERE THEY DO STRIP MINING HOW IT IS
24 FLUCTUATING ON THE LOSS PER ACRE OR JUST THE VALUES ON
25 THE HOME. IN MCLEAN COUNTY ALONE, I DON'T KNOW HOW

1 MANY ACTIVE MINES ARE THERE. I JUST WAS ASKED TO GIVE
2 A LITTLE BIT OF INFORMATION ON THIS TOPIC.

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

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

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

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

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

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

15 PROCEED, I'M SORRY.

16 MS. EDGE: YOU'RE FINE.

17 I'M JUST SAYING WHEN YOU GO OUT AND BUY
18 PROPERTY IT'S NOT BASED ON, YOU KNOW, IT IS BASED ON
19 WHAT YOUR NEIGHBOR IS DOING, BUT IT'S NOT BASED ON
20 WHAT YOUR NEIGHBOR IS DOING BECAUSE YOUR NEIGHBOR
21 DIDN'T BUILD THE HOUSE THAT YOU'RE TRYING TO SELL. IF
22 YOUR NEIGHBOR IS TRYING TO BLOW UP LAND NEXT TO YOU,
23 THEN OBVIOUSLY A BUYER IS GOING TO LOOK AT THAT. I
24 MEAN I'M UP TO BUY A HOUSE RIGHT NOW. I'LL BE REAL
25 HONEST. I'M NEUTRAL IN THE SITUATION. I HAVE AN

1 INTEREST IN A COAL MINE IN TODD COUNTY. SO WOULDN'T
2 BE HAPPIER TO SELL IT, BUT ON THE FLIP SIDE OF IT TODD
3 COUNTY PROPERTIES ARE NOT WHERE DAVIESS COUNTY
4 PROPERTIES ARE. MCLEAN COUNTY PROPERTIES ARE NOT
5 WHERE DAVIESS COUNTY PROPERTIES ARE. ALSO IN THE CITY
6 DATA IT REFERS TO HOW PEOPLE FROM OHIO AND MCLEAN
7 COUNTY ARE MOVING TO DAVIESS COUNTY AT A PERCENTAGE
8 RATE.

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

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

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

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

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

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

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

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

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

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

14 MS. EDGE: THEY'RE NOT MOVING.

15 CHAIRMAN: THANK YOU.

16 MR. HAYNES, IN ALL FAIRNESS --

17 ARE YOU FINISHED WITH YOUR STATEMENT?

18 MS. EDGE: I AM COMPLETELY DONE.

19 CHAIRMAN: THANK YOU.

20 MR. REEVES: QUESTION FOR THIS LADY.

21 CHAIRMAN: YES, SIR, MR. REEVES.

22 MR. REEVES: WOULD PROPERTY VALUES BEING AN
23 ISSUE THAT HAS BEEN RAISED IN A PREVIOUS SESSION AND
24 HAS BEEN ALLUDED TO THIS SESSION, WOULD IT BE FAIR TO
25 SAY THAT THE PROPERTY OWNERS WHO HAVE THE COAL UNDER

1 THE GROUND WOULD LOSE THE VALUE OF THEIR PROPERTY IF
2 IT WERE NOT ABLE TO BE EXTRACTED?

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

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

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

18 MS. EDGE: IT WOULD GO BACK TO THE TITLE
19 ISSUES AND TO THE MINERALS ISSUES. YOU KNOW, WHO OWNS
20 THE MINERALS? OBVIOUSLY IN ANY REAL ESTATE
21 TRANSACTION YOU'RE GOING TO WANT TO KNOW IF YOU'RE
22 GOING TO OWN THE MINERALS OR NOT OR HAVE THESE
23 MINERALS BEEN STRIPPED. SO I WOULD SAY IT WOULD
24 DEFINITELY SWAY A BUYER'S POWER. NOW, IT COULD BE AN
25 INVESTOR TRYING TO BUY THE LAND AND SAY, HEY, I KNOW

1 THERE'S BEEN COAL HERE BEFORE AND THEY MAY COME BACK
2 AND DO IT AGAIN. JUST DEPENDS ON WHAT YOU'RE BUYING
3 IT FOR.

4 MR. REEVES: THANK YOU.

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

7 MR. HAYNES: YES.

8 CHAIRMAN: YES, SIR.

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

11 CHAIRMAN: JUST STATE THAT YOU WANT TO.

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

14 CHAIRMAN: THANK YOU.

15 MR. WILSON.

16 MR. HAYNES: MR. CHAIRMAN, LIKEWISE, COULD I
17 ENTER MY DATA ALSO?

18 CHAIRMAN: ABSOLUTELY.

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

20 CHAIRMAN: MR. HAYNES.

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

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

1 OPENED.

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

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

10 CHAIRMAN: MR. WILSON.

11 MR. WHISTLE: ME TOO.

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

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

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

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

20 MR. WILSON.

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

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

25 MR. VANMILLIGAN: MY NAME IS NEIL VANMILLIGAN.

1 (NEIL VANMILLIGAN SWORN BY ATTORNEY.)

2 MR. VANMILLIGAN: I'VE LIVED ON RUSSELL ROAD
3 FOR 30 YEARS. I SPOKE AT THE LAST HEARING.

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

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

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

24 WHEN THAT MINE -- AND WE'RE TALKING ABOUT THE
25 SAME BLASTING COMPANY. THE SAME COMPANY THAT'S GOING

1 TO BE CONSIDERATE AND BLAST WITHIN 300 FEET OF OUR
2 HOMES NOW.

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

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

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

25 WHILE IT'S TRUE THEY MAKE IT DIFFICULT TO

1 AVOID IT. THE REQUIREMENT IS THAT IT BE PROTECTED.
2 NOT THAT IT BE PROTECTED IF IT'S EASY. IT'S NOT THAT
3 IT'S WETLAND TO BE PROTECTED IF IT'S CONVENIENT. IT'S
4 THAT THEY ARE TO BE PROTECTED.

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

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

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

25 SOME OF THEM DON'T EXIST BECAUSE, AT LEAST

1 THREE THAT I KNOW OF PERSONALLY, BECAUSE THE MINE
2 OWNERS WERE SENT TO THE PENITENTIARY BECAUSE THEY DID
3 NOT ADHERE TO SELF-REGULATING REGULATIONS. THOSE
4 COMPANIES CONDUCTED THEMSELVES IN A WAY WHICH WAS
5 AGAINST THE LAW OF THE LAND. THEY PAID THAT PENALTY.
6 I'M NOT SAYING THAT LANHAM COAL WOULD, BUT I CAN GIVE
7 YOU EXAMPLES.

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

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

23 THE SECOND ISSUE THAT CAME ABOUT IN OUR LAST
24 MEETING WAS WHEN WESTERN KENTUCKY MINERALS SAID THAT
25 THEY WERE REQUIRED BY THE EPA TO TAKE THE POLLUTANTS,

1 PARTICULARLY THE HEAVY METALS, LEADS, MERCURY AND
2 CADMIUM THAT MIGHT BE EXTRACTED FROM THE COAL IN THEIR
3 WASH PLANT, THEY'RE REQUIRED TO REINJECT THAT INTO THE
4 PIT. THAT'S HARDLY THE CASE.

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

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

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

1 CHAIRMAN: AFTER THE STATEMENTS THAT HE MADE,
2 I THINK WE SEVERAL QUESTIONS THAT I WOULD LIKE TO ASK
3 YOUR SIDE, MR. HAYNES.

4 THE FIRST QUESTION WOULD BE THE STATEMENT THAT
5 HE MADE IN REGARDS TO YOUR ALL'S PREVIOUS STATEMENT
6 ABOUT THE LOCATION OF THE COAL BEING IN EITHER A LOW
7 AREA OR THE HIGH AREA. WHAT I GOT FROM WHAT HE SAID
8 IS THE DEPTH OF THE COAL BEING NEAR THE SURFACE OR
9 DOWN DEEP.

10 IS THAT CORRECT? IS THAT A CORRECT ASSESSMENT
11 OF THE STATEMENT YOU MADE? THE COAL BEING IN A LOW
12 AREA OR BEING NEAR THE SURFACE OR DEEP AREAS?

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

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

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

24 CHAIRMAN: THANK YOU FOR YOUR CORRECTION.
25 OBVIOUSLY YOU UNDERSTOOD THE QUESTION BETTER THAN I.

1 MR. WRIGHT: HE'S INCORRECT. MOST OF OUR COAL
2 DOES LAY UP IN THE HILLS. HE'S TALKING ABOUT THE
3 LUVIENT DOWN IN SOME OF THE LOWER VALLEYS AND STUFF.
4 WE DO HAVE SOME COAL IN THOSE AREAS. WHAT HE'S
5 TALKING ABOUT IS THE MUD AND THE LUVIENT THAT GETS
6 THICKER DOWN THERE. WE PULL ALL THAT OFF.

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

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

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

22 MR. WRIGHT: THAT'S WHAT THE DEPARTMENT OF
23 SURFACE MINING REQUIRES. WE'RE NOT INJECTING INTO THE
24 GROUND. WE'RE PUTTING IT BACK INTO THE PIT WHERE IT
25 COME FROM. THERE'S NO INJECTION WHATSOEVER.

1 CHAIRMAN: I DID NOT UNDERSTAND THIS PROCESS.
2 WOULD YOU EXPLAIN TO ME WHEN IT IS EXTRACTED FROM THE
3 COAL AND DO YOU HAVE ANY DUST OR DO YOU HAVE A SOLID
4 OR WHAT FORM IS THE CADMIUM AND THE LEAD IN?

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

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

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

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

19 MR. WRIGHT: STATE LEVEL.

20 CHAIRMAN: THAT MATERIAL STAYS WITH THAT
21 GROUND?

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

24 CHAIRMAN: SO IT'S NOT INJECTED OR ANYTHING.

25 MR. WRIGHT: NO.

1 CHAIRMAN: IF YOU WERE TO, EXCUSE MY EXAMPLE.
2 IF IT'S INCORRECT, PLEASE CORRECT ME.

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

7 MR. WRIGHT: THE SLURRY IS PUT BACK IN THERE.
8 NOT NECESSARILY HEAVY METALS. THEY'RE NOT HEAVY
9 METALS ANYWAY. THEY'RE TRACE METALS.

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

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

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

22 MR. WRIGHT: NO.

23 CHAIRMAN: WHAT YOU'RE STATING IS THAT IS THE
24 REGULATION THAT'S REQUIRED BY YOU ALL AS TO LEAVE
25 THOSE TRACE METALS IN THAT PRECISE LOCATION OR CAN ALL

1 OF THESE TRACE METALS THAT YOU HAVE BE PUT INTO ONE
2 LOCATION OR DO THEY HAVE TO BE PUT IN THE EXACT AREA
3 WHERE THEY'RE MINED?

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

9 CHAIRMAN: STAY WITH THE COAL?

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

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

17 MR. WRIGHT: DOES THAT HELP ANSWER IT?

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

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

24 CHAIRMAN: IS THE CLAY PUT IN WHEN YOU FINISH
25 MINING?

1 MR. WRIGHT: THE CLAY IS NATURAL.

2 CHAIRMAN: THE NATURAL CLAY IS BELOW THE COAL?

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

4 CHAIRMAN: HOW DEEP? WHAT SORT OF DEPTHS?

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

7 CHAIRMAN: HOW PERMEABLE IS THIS?

8 MR. WRIGHT: QUITE PERMEABLE.

9 CHAIRMAN: THANK YOU. THAT CLEARS ME UP.

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

12 CHAIRMAN: I WAS NOT TRYING TO RESTATE YOUR
13 POSITION. I WAS TRYING TO MAKE YOUR POSITION CLEAR SO
14 I WOULD UNDERSTAND WHAT THEY WERE DOING SO I
15 UNDERSTOOD WHAT YOU WERE TALKING ABOUT.

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

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

24 THAT'S THE SAME THING THAT'S GOING TO HAPPEN
25 TO US. WHEN YOU BLAST IN AN ENVIRONMENT, AND I'M NOT

1 A BLASTING EXPERT. I'M TRYING TO RESTATE WHAT MR.
2 LUDWICZAK SAID IN THE PREVIOUS PERIOD. THAT THE
3 BLASTING DAMAGE, BOTH NOISE AND VIBRATION, IS
4 SIGNIFICANTLY INCREASED BY THE ADDITIONAL WATER
5 PRESSURE. WATER IS NOT COMPRESSED. BY THE WATER
6 PRESSURE THAT'S GOING TO BE MOVED ALONG THAT SOIL
7 STRATA AS A BLAST IN A LOWLAND AREA.

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

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

23 I DEFY THEM TO SHOW THE PROOF TO US THE
24 REGULATION THAT STATES THAT THEY TAKE THOSE TRACE
25 ELEMENTS TO REQUIRE THEM TO PUT THEM BACK IN THE HOLE.

1 THEY'RE ABSOLUTELY FORBIDDEN.

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

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

11 IF HE PUTS THAT JUNK BACK IN THAT HOLE, HE'S
12 POLLUTING US. NATURE PUT IT THERE TO BEGIN WITH.
13 THEY ENCASED IT INTO COAL. YOU CRUSH THE COAL TO WASH
14 IT. YOU REMOVE THE GRAVEL. YOU REMOVE THE DIRT. YOU
15 REMOVE SOME DUST AND OTHER DEBRIS ASSOCIATED WITH IT.
16 YOU ALSO REMOVE WHAT ELEMENTS ARE EXPOSED WHEN THAT
17 COAL IS CRUSHED. SOME OF THOSE ELEMENTS ARE
18 REGULATED. CLOSELY REGULATED BY THE STATE AND THE
19 FEDERAL GOVERNMENT. THEIR INTENSIONS STATED MANY
20 TIMES, POUR THAT BACK IN THE HOLE AND COVER IT UP.
21 THAT'S NOT THE 21ST CENTURY. WE DON'T DO THAT.

22 CHAIRMAN: THANK YOU.

23 MR. WILSON: MAY WE APPROACH THE CHAIR?

24 CHAIRMAN: MR. HAYNES.

25 MR. HAYNES: I'D RATHER KEEP IT TRANSPARENT.

1 I DON'T KNOW WHY WE HAVE TO --

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

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

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

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

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

25 MR. WILSON: MR. CHAIRMAN, I FEEL IT'S MY JOB

1 AND MR. HAYNES JOB TO DO OUR JOBS. I APPRECIATE YOUR
2 ASSISTANT AND I'M SURE BRIAN DOES TOO. I THINK WE'RE
3 SUPPOSED TO DO OUR OWN JOB. SO WHEN THE CHAIR WANTS
4 TO TAKE UP OUR TIME, I'M JUST ASKING FOR MORE TIME.
5 THAT'S ALL I'M ASKING FOR.

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

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

10 MS. STONE: IT HAS.

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

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

23 CHAIRMAN: SO NOTED.

24 I'M GOING TO GIVE YOU ALL A CHANCE BECAUSE I
25 GAVE THEM THE SAME CHANCE.

1 MR. HAYNES, I BELIEVE YOUR ENGINEER IS GOING
2 TO SPEAK QUICKLY.

3 MR. HAYNES: YES, MR. CHAIRMAN.

4 MR. ARNOLD: I'LL BE BRIEF AGAIN.

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

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

19 MR. ARNOLD: YES, SIR.

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

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

1 KENTUCKY, YES.

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

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

7 CHAIRMAN: JUST A MOMENT.

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

10 CHAIRMAN: THANK YOU.

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

17 IN PART SHE SAYS, "AS A GEOTECHNICAL ENGINEER,
18 I OPPOSE THE MINE BECAUSE OF THE RISK OF WATER AND
19 SOIL CONTAMINATION IN THE ADJACENT PROPERTIES. TO
20 PRODUCE 'CLEAN' COAL FOR BURNING, WKM PLANS TO WASH
21 EXTRACTED COAL WITH WATER TO REMOVE THE UNWANTED
22 CHEMICALS THAT END UP PRODUCING ACID RAIN WHEN BURNED.
23 FOR THE PROPOSED MINE, THIS COAL SLURRY/WASH WILL BE
24 STORED ON SITE. WASHING THE COAL TAKES PREVIOUSLY
25 SOLID-STATE PARTICLES CONTAINING CHEMICALS TOO TOXIC

1 TO TAKE TO THE PLANT AND SUSPENDS THEM WITHIN A
2 LIQUID; WHICH GIVES THEM THE ABILITY TO TRAVEL. COAL
3 SLURRY THAT DOES NOT STAY CONTAINED WITHIN THE SITE
4 WILL CAUSE SERIOUS ENVIRONMENTAL DAMAGES TO PEOPLE AND
5 WILDLIFE AS EVIDENCED IN OTHER SITES WHERE COAL
6 SLURRIES HAVE BEEN LEAKED OR SPILLED INTO THE
7 ENVIRONMENT. IN OTHER CASES, UNCONTAINED COAL
8 SLURRIES CONTAMINATED THE GROUNDWATER AND KILLED
9 MULTIPLE SPECIES OF WILDLIFE. AT THE MEETING OF
10 JANUARY 30TH, WKM INDICATED THAT NO LINER WOULD BE
11 USED TO CONTAIN THE COAL SLURRY. THAT THE SURROUNDING
12 ROCK CONSISTED OF SANDSTONE AND SHALE. SANDSTONE IS A
13 PERMEABLE ROCK, WHICH MEANS THAT AS WATER TABLES RISE
14 AND FALL, WATER (OR COAL SLURRY) COULD EASILY TRAVEL
15 THROUGH THE SURROUNDING ROCK AND POSSIBLY CAUSE
16 IRREVERSIBLE DAMAGE TO SURROUNDING AQUIFERS, HARMING
17 BOTH CITIZENS AND THE ENVIRONMENT."

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

20 CHAIRMAN: YOU WANT TO PUT THAT INTO RECORD.

21 MR. WILSON.

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

1 WANT TO SAY SOMETHING.

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

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

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

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

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

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

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

25 MR. HAYNES: HOW MUCH TIME DOES REMAIN?

1 MS. STONE: HE HAS 15 MINUTES 28 SECONDS HE
2 HAS LEFT. I KNOW EXACTLY HOW MUCH TIME.

3 CHAIRMAN: MR. WILSON, YOU HAVE ADEQUATE TIME.

4 MS. STONE: ARE YOU GOING TO CONTINUE?

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

9 MS. STONE: YES, I DID.

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

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

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

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

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

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

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

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

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

12 MR. HESTER: THAT WOULD MAKE A GOOD START.

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

15 MR. HOWARD.

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

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

20 FIRST WAS THE QUESTION ON WETLANDS. BASICALLY
21 FROM WHAT I READ THAT OUR STAFF REPORT DOES POINT OUT
22 THAT A PORTION OF THE SUBJECT PROPERTY MAY BE LOCATED
23 IN A WETLAND AREA. PER THE US DEPARTMENT OF
24 AGRICULTURE SOIL CONSERVATION MAP DATED MAY 6, 1990.
25 THAT IS CORRECT. WE HAVE A SET OF MAPS THAT WERE

1 CREATED BACK IN 1990 THAT INDICATED A PORTION OF THE
2 PROPERTY MAY BE IN A WETLAND AREA. IT'S POSSIBLE
3 THAT, YOU KNOW, THOSE CHANGES. WE DON'T HAVE MORE
4 CURRENT INFORMATION THAN THAT. SO THAT IS A FACTUAL
5 STATEMENT.

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

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

23 I DO HAVE A MAP I'D LIKE TO SHOW HERE IN A
24 MINUTE. I CAN PUT IT ON THE PROJECTOR OVER THERE THAT
25 SHOWS THE PRIME AGRICULTURAL FARMLAND.

1 THERE IS SOME IN THE VICINITY THAT PRIMARILY
2 FOLLOWS THE CREEK BEDS. JUST BECAUSE LAND IS FARMED
3 DOESN'T NECESSARILY MEAN THAT THE SOILS ARE CONDUCTIVE
4 TO BE CALLED PRIME AGRICULTURAL FARMLAND OR THAT THE
5 MAP IS CLASSIFIED AS PRIME AGRICULTURAL FARMLAND.

6 WITH ALL THAT HAVE BEING SAID PERTAINING TO
7 BOTH THE WETLANDS AND THE PRIME "THE FARMLAND," WE
8 POINTED OUT IN THE STAFF REPORT. WE TRIED TO MAKE,
9 WE'RE NOT TRYING TO HID ANYTHING. IT'S IN THERE. WE
10 DO KNOW THAT THOSE DO EXIST, BUT IT'S OUR
11 UNDERSTANDING THE DEVELOPMENT, THE PROCESS TO PERMIT
12 THE MINES AND WE ALSO HAVE A NOTE ON THE STAFF REPORT
13 REFERRING TO MY COPY WITH ME BACK HERE. IT SAYS THAT
14 THE DEVELOPER IS RESPONSIBLE FOR OBTAINING ALL
15 NECESSARY PERMITS FROM THE KENTUCKY DIVISION OF WATER,
16 THE ARMY CORP OF ENGINEERS, FEMA OR ANY OTHER
17 REGULATOR AGENCIES THAT MAY BE REQUIRED.

18 SO JUST BECAUSE SOMETHING MAY BE DESIGNATED AS
19 PRIME AGRICULTURAL "FARMLAND," THERE MAY BE WETLANDS
20 ON THE PROPERTY, DOESN'T MEAN THAT THERE'S NOT
21 POTENTIAL FOR THE SITE TO BE DEVELOPED OR MINED OR
22 ANYTHING. THAT'S NOT UNCOMMON.

23 THE THIRD STATEMENT WAS THAT THE RURAL
24 COMMUNITY PLAN AREA. AGAIN, WE DO POINT OUT THAT
25 THERE IS A PORTION OF THE PROPERTY, ABOUT 10 PERCENT

1 OF THE PROPERTY, MAYBE 70 ACRES. IT IS COMPRISED OF
2 THREE TRACTS THAT'S LOCATED IN A RURAL COMMUNITY PLAN
3 AREA. THE COMPREHENSIVE PLAN DOES STATE THAT MINING
4 ACTIVITY SHOULD BE TYPICALLY LOCATED IN A RURAL
5 SERVICE AREA OUTSIDE OF THE RURAL COMMUNITY PLAN AREA.
6 HOWEVER, AS I POINTED OUT EARLIER, THE LAND
7 DEVELOPMENT PRACTICES ARE NOT TYPICAL WITH WHAT YOU
8 WOULD FIND IN A RURAL COMMUNITY WHICH ARE TYPICALLY
9 SMALLER LOTS. THESE ARE LARGER TRACTS. WE ADDRESS
10 IT. WE LOOKED AT IT. AGAIN, IT'S NOT THAT WE TRIED
11 TO IGNORE IT. THEY STILL HAVE TO COMPLY WITH WHATEVER
12 THE STATE LAWS ARE.

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

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

23 MR. NOFFSINGER: MR. CHAIRMAN, WHILE HE'S
24 DOING THAT, I WOULD LIKE TO STATE THAT HISTORICALLY
25 DAVIESS COUNTY HAS BEEN ABLE TO ZONE AND REGULATE COAL

1 MINING TO A DEGREE SINCE ABOUT 1977. THE GENERAL
2 ASSEMBLY PASSED LEGISLATION, AND IT'S KRS 350.020
3 THAT'S CALLED DECLARATION OF LEGISLATIVE POLICY AND
4 FINDING OF FACT. I'D LIKE TO ENTER A COPY OF THAT
5 INTO THE RECORD. I WILL NOT READ IT ALL. I DO NEED
6 TO READ THIS INFORMATION.

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

19 SO WHEN ONE ASKS, WHY DOES THE PLANNING
20 COMMISSION NOT REQUIRE ENVIRONMENTAL IMPACT STATEMENT,
21 THE ANSWER TO THAT QUESTION IS SIMPLY, WE CAN'T. THE
22 STATE OF KENTUCKY MAY BE ABLE TO DO THAT, AS I'VE READ
23 HERE, BUT THE PLANNING COMMISSION CANNOT BECAUSE THAT
24 IS NOT SOMETHING THAT IS CONTAINED WITHIN THE ZONING
25 ORDINANCE ADOPTED BY DAVIESS COUNTY PRIOR TO THIS

1 DATE. THERE ARE ONLY TWO COMMUNITIES TO MY KNOWLEDGE
2 IN KENTUCKY DOWN TO LOCAL LEVEL THAT HAVE THE
3 AUTHORITY TO REGULATE COAL MINING. THAT'S HENDERSON
4 COUNTY, AND THEY HAVE A VERY ELABORATE COMPLEX, IF YOU
5 WILL, PROCESS OF REGULATING COAL MINING. MUCH MORE SO
6 THAN DAVIESS COUNTY. BUT WE HAVE WHAT WE HAVE.

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

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

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

25 CHAIRMAN: MR. HOWARD.

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

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

3 THIS IS 231. GIRL SCOUT ROAD IS HERE AND THEN THIS IS

4 RUSSELL ROAD. THE LIGHT BLUE SHADE IS WHAT'S

5 CLASSIFIED ON THIS MAP AS PRIME AGRICULTURAL FARMLAND.

6 SO THE ZONING APPLICATION IS BASICALLY FOR THIS AREA.

7 THERE IS CERTAINLY SOME PRIME AGRICULTURAL FARMLAND

8 BASED ON THIS MAP ON THE PROPERTY. HOWEVER, IT WAS

9 OUR DETERMINATION THAT'S IT'S PROBABLY NOT THE

10 MAJORITY OF THE PROPERTY, BASED ON THE SOIL

11 CLASSIFICATION SUBMITTED WITHIN THE ZONING

12 APPLICATION. AGAIN, IT DOESN'T APPEAR THAT THE

13 MAJORITY OF THE PROPERTY IS SUITABLE FOR HIGH

14 INTENSITY AGRICULTURAL PRODUCTIVITY.

15 LOOKING AT SOME OF THE GOOGLE EARTH OR THE GIS

16 THAT WE MAY HAVE, IT DOES APPEAR THAT THERE MAY BE

17 SOME ROW CROP IN THIS VICINITY AND ON THE SOUTH SIDE

18 OF RUSSELL ROAD WHICH IS WHERE PRIME AGRICULTURAL

19 FARMLAND IS SHOWN; HOWEVER, I DON'T THINK THE SOUTH OF

20 RUSSELL ROAD IS ACTUALLY LAND THAT THEY'RE PROPOSING

21 TO MINE AT THIS POINT. JUST FOR CLARIFICATION FOR

22 VISUAL PURPOSES I THOUGHT IT WOULD BE GOOD TO SHOW

23 THIS MAP.

24 CHAIRMAN: THANK YOU.

25 MR. HESTER: I ALSO HAVE A MAP. IT'S THE SAME

1 ONE THAT WAS HERE. I MAY BE MORE FAMILIAR WITH THIS
2 PROPERTY THAN MR. HOWARD IS.

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

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

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

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

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

23 AS YOU CAN SEE WHEN YOU LOOK AT THIS,
24 SCATTERED THROUGHOUT THIS YOU'VE GOT AREAS THAT ARE
25 SUPPOSED TO BE, ACCORDING TO THE COMPREHENSIVE LAND

1 USE PLAN AND ACCORDING TO STATE LAW, WE ARE SUPPOSED
2 TO BE PRODUCED FROM COAL MINING, SURFACE MINING.

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

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

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

20 MR. HESTER: THAT DOESN'T GIVE THIS COMMISSION
21 TO REIN OR BREAK STATE LAW. YES, IT'S REGULATED, BUT
22 IT MAY NOT BE REGULATED BY THIS COMMISSION. THE FACT
23 THAT PRIME FARMLAND IS SUPPOSED TO BE PROTECTED FROM
24 NORMAL MINING ACTIVITIES MAY NOT BE THIS COMMISSION'S
25 ORDINANCE. IT'S STATE LAW.

1 NOW, YOU CAN'T TELL ME THAT YOU'RE GOING TO
2 TAKE THE TOP SOIL OFF AND UNDERMINE THIS PROPERLY AND
3 PUT THE SOIL BACK AND YOU'RE GOING TO GROW CORN CROP
4 ON IT.

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

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

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

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

25 NEXT.

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

2 CHAIRMAN: VERY BRIEFLY.

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

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

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

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

20 NEXT ON THE LIST IS DANIEL JARBOE.

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

23 MS. JARBOE: DANIEL JARBOE.

24 (DANIEL JARBOE SWORN BY ATTORNEY.)

25 MR. JARBOE: MR. KIRKLAND, YOU ASKED MR.

1 LANHAM AT THE LAST MEETING IF HE DREW A BIG CIRCLE AND
2 ASK IF HE COULD START ON THE OUTSIDE OF THE MINE AND
3 WORK YOUR WAY IN SO THERE WOULD BE LESS AFFECT ON THE
4 HOMEOWNERS?

5 CHAIRMAN: YES, SIR.

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

9 CHAIRMAN: THAT WAS JUST A QUESTION OF MINE.

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

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

19 CHAIRMAN: YOU HAVE TO UNDERSTAND THAT WAS MY
20 QUESTION.

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

23 CHAIRMAN: WHERE MR. LANHAM STARTS HIS COAL
24 MINING OPERATION, UNLESS THERE ARE CONDITIONS PLACED
25 IN A MOTION BY SOMEBODY HERE, THEN THAT'S STRICTLY UP

1 TO HIM. THAT WAS MY QUESTION. THINKING, HEY, CAN YOU
2 JUST START HERE. I KNOW NOTHING ABOUT COAL MING.

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

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

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

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

18 MR. JARBOE: THAT'S FAIR ENOUGH.

19 CHAIRMAN: WHAT'S YOUR NAME AGAIN, SIR?

20 MR. JARBOE: DANIEL JARBOE.

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

23 MR. JARBOE: THAT'S FINE.

24 CHAIRMAN: VERY SIMPLE YOU WANT TO KNOW CAN
25 THEY MINE COAL AND PROTECT THE CITIZENS AND THE

1 NEIGHBORS?

2 MR. JARBOE: I DO. THAT'S WHAT I WANT TO
3 KNOW. OUTSIDE IN OR A DIFFERENT WAY OTHER THAN THE
4 WAY HE STATED, IN OUT, IN OUT.

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

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

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

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

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

23 CHAIRMAN: I THINK WHAT YOU'RE TALKING ABOUT
24 IF THE DUST OR THE MINING OR THE COAL OR ANY OF THAT
25 IS AT THE POINT OF WHERE IT IS, THEIR EMPLOYEES ARE AT

1 THE CLOSEST LEVEL TO THAT OPERATION.

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

6 CHAIRMAN: LET ME ASK THE QUESTIONS.

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

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

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

12 CHAIRMAN: THANK YOU.

13 NEXT PLEASE.

14 MR. NOFFSINGER: SARAH KELTY.

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

17 MS. KELTY: SARAH KELTY.

18 (SARAH KELTY SWORN BY ATTORNEY.)

19 MS. KELTY: I CAME HERE FROM LOUISVILLE TODAY.

20 I'M A GIRL SCOUT, FORMER CAMPER AND COUNSELOR
21 AT PENNYRILE. I DID SPEAK LAST TIME.

22 THERE WERE MANY GIRL SCOUTS WHO WANTED TO BE
23 HERE TODAY WHO COULDN'T. IT'S A SCHOOL DAY AND IT'S
24 AT THE END OF THE SEMESTER, BUT I DO HAVE A COUPLE OF
25 COMMENTS FROM PEOPLE WHO COULDN'T MAKE IT IF I COULD

1 PASS THEM OUT TO THE COMMISSION WITH YOUR PERMISSION.

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

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

6 CHAIRMAN: THANK YOU.

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

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

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

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

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

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

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

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

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

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

1 CAMP EXPERIENCE I WAS ABLE TO EXPERIENCE AS A CHILD.

2 HAVING NOISE 22 HOURS PER DAY FOR 10 YEARS,
3 POSSIBLY LONGER, IS NOT YOUR TYPICAL NOISE COMPLAINT.
4 THIS DOES HAVE TO DO WITH THE REZONING REQUEST.

5 CHAIRMAN: DO YOU HAVE A SPECIFIC QUESTION
6 THAT YOU WOULD LIKE ANSWERED?

7 MS. KELTY: YES.

8 CHAIRMAN: THANK YOU.

9 MS. KELTY: I WOULD LIKE TO ASK THE COMMISSION
10 HOW MUCH IS THE ENVIRONMENTAL IMPACT FACTORED INTO THE
11 DECISION THAT YOU'RE GOING TO MAKE FIRST OF ALL.
12 YOU'RE SAYING THAT IT'S NOT THE COMMISSION'S
13 RESPONSIBILITY TO REGULATE IT, BUT MY UNDERSTANDING IS
14 THAT PART OF THE COMPREHENSIVE PLAN IS TO ASSESS THE
15 ENVIRONMENTAL IMPACT. I FEEL THAT THE INFORMATION WE
16 PRESENTED ISN'T SUFFICIENT. I FEEL MORE COMFORTABLE
17 IF ALL OF THE ASSESSMENT THAT HAS BEEN MADE WOULD BE
18 MADE PUBLIC BEFORE THE NEXT MEETING. IS THAT
19 POSSIBLE?

20 CHAIRMAN: MR. NOFFSINGER.

21 MR. NOFFSINGER: THE ENVIRONMENTAL ASSESSMENT
22 IS BASED UPON TESTIMONY PRESENTED AT THIS HEARING.
23 EACH COMMISSIONER IS DOING THEIR ENVIRONMENTAL
24 ASSESSMENT, LISTENING TO THE TESTIMONY, AND THEN
25 RAISING THEIR HAND OR MAKING A MOTION UP OR DOWN IN

1 FAVOR OF IT.

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

12 MS. KELTY: I UNDERSTAND THAT. THANK YOU.

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

1 SPECIES FOUND ON SEVERAL HOMEOWNERS PROPERTIES.

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

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

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

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

15 CHAIRMAN: EXCUSE ME.

16 HAVE YOU COMPLETED YOUR --

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

20 CHAIRMAN: THANK YOU.

21 MR. HAYES: THERE MAY BE A MISCONCEPTION THAT
22 IF YOU ALL VOTE TO APPROVE THE ZONING, THAT THIS THING
23 IS OVER. WE STILL GO THROUGH THE PERMITTING PROCESS.
24 THERE'S STILL AN OPPORTUNITY AND A REQUIREMENT OF
25 PUBLIC HEARING DURING THE PERMITTING PROCESS ON THESE

1 VERY ISSUES SHE'S TALKING ABOUT. THAT PROOF AND THAT
2 EVIDENCE WILL BE PRESENTED IN FRONT OF PEOPLE, YOU
3 KNOW, THAT ARE -- WELL, I'M NOT SAYING YOU'RE NOT
4 HIGHLY QUALIFIED, BUT THIS IS NOT --

5 CHAIRMAN: MR. HAYNES, PLEASE. I THINK YOU'VE
6 SAID ENOUGH.

7 MR. HAYNES: THEY GIVE A PUBLIC HEARING ON THE
8 ENVIRONMENTAL.

9 CHAIRMAN: I THINK WE'VE TRIED TO ADDRESS THAT
10 OVER THE SPAN OF THE TWO MEETINGS.

11 NEXT.

12 MS. KELTY: I UNDERSTAND. THANK YOU FOR THE
13 RESPONSE.

14 HOWEVER THE OFFICE OF SURFACE MINING IN
15 KENTUCKY DOES NOT REQUIRE AN ENVIRONMENTAL IMPACT
16 STATEMENT. AND FROM WHAT I UNDERSTAND, THE
17 ENVIRONMENTAL IMPACT IS PART OF THE COMPREHENSIVE
18 PLAN, AS WELL AS HOW IT WILL AFFECT THE COMMUNITY,
19 PUBLIC SUPPORT, THAT'S WHY WE'RE HAVING THIS PUBLIC
20 COMMENTS SESSION.

21 I'D ALSO LIKE TO ASK: AS FAR AS THAT PUBLIC
22 HEARING GOES, HOW CAN WE FIND OUT THAT INFORMATION AS
23 COMMUNITY MEMBERS AND WHEN WILL THAT HAPPEN? DO YOU
24 HAVE ANY IDEA?

25 CHAIRMAN: MR. NOFFSINGER. LET MR. NOFFSINGER

1 HANDLE THAT.

2 MR. NOFFSINGER: I DO NOT.

3 CHAIRMAN: YES, SIR.

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

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

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

14 MS. KELTY: WOULD YOU PLEASE ASK MR. LANHAM IF
15 THEIR COMPANY WOULD BE WILLING TO SHARE THEIR DATA,
16 WHAT THEY FOUND ABOUT THE LAND INCLUDING THE
17 GEOMORPHOLOGY, THE SOIL CONTENT, THE BEDROCK, THE
18 TOPOGRAPHY, THE DANGEROUS SPECIES, IF THERE'S ANY
19 HISTORICAL OR ARCHEOLOGICAL SIGNIFICANCE IN THE AREA,
20 AND ALSO A TRANSPORTATION STUDY TO MEASURE THE DAMAGE
21 OF THE ROADS AND THE FREQUENCY, INCREASE TRAFFIC,
22 BEFOREHAND, EITHER ON YOUR WEBSITE OR ON YOUR LOCAL
23 EPA WEBSITE SO THAT AS CITIZENS WE MAY REVIEW IT AND
24 THEN BRING UP ANY CONCERNS AT THIS NEXT MEETING?

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

1 SUMMARY. THANK YOU.

2 MS. KELTY: THANK YOU.

3 CHAIRMAN: NEXT, MR. NOFFSINGER.

4 MR. NOFFSINGER: KENT OVERSTREET.

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

7 MR. WILSON: NO.

8 CHAIRMAN: DO YOU WANT TO YIELD AND GO LAST?

9 MR. OVERSTREET: YES, SIR.

10 CHAIRMAN: THANK YOU.

11 NEXT.

12 MR. NOFFSINGER: TRISHA AND ALEX COLLINS.

13 CHAIRMAN: YES, MA'AM.

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

16 MS. WILLIAMS: MY NAME IS CARLA WILLIAMS.

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

19 MS. WILLIAMS: YES.

20 (MS. WILLIAMS SWORN BY ATTORNEY.)

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

23 THEY ARE BOTH FRIENDS OF MINE. I'VE KNOWN
24 ALEX, HE IS NINE YEARS OLD. HE HAS SOME SEVERE HEALTH
25 PROBLEMS WITH ASTHMA. HE'S BEEN THROUGH A LOT IN THE

1 PAST SEVERAL MONTHS GETTING TREATMENTS TO CONTROL THE
2 ASTHMA.

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

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

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

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

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

1 THE COMMUNITIES, COAL MINING ON THE COMMUNITIES.

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

12 CHAIRMAN: THANK YOU.

13 NEXT PLEASE.

14 MR. NOFFSINGER: STEVE SCOTT.

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

17 MR. SCOTT: STEVE SCOTT.

18 (STEVE SCOTT SWORN BY ATTORNEY.)

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

23 I HAVE A WELL THAT'S UNDERNEATH MY HOUSE. I'M
24 A LITTLE CONCERNED. WHAT'S GOING TO HAPPEN WHEN THEY
25 BLAST? WHAT'S GOING TO HAPPEN WITH THIS WELL? I'VE

1 GOT LAKES. WE'VE GOT BODIES OF WATER ON OUR PROPERTY.
2 WE'VE BEEN TOLD, AND I DON'T KNOW, THAT WHEN A BLAST
3 HAPPEN YOU CAN HAVE FEATURES IN THE BOTTOM OF THE LAKE
4 YOUR LAKE WILL DRAIN. THAT'S A QUESTION I WANTED TO
5 PRESENT.

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

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

10 CHAIRMAN: WHERE DO YOU GET YOUR WATER FROM?

11 MR. SCOTT: FROM THE CITY OR OHIO COUNTY.

12 CHAIRMAN: THANK YOU.

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

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

25 NOW THAT THIS CAVITY IS UNDER THE HOUSE, WE

1 WEREN'T PLANNING ON HAVING ANY BLASTING GOING ON.
2 WHEN PLANNING & ZONING CAME OUT THERE AND TOLD WHAT TO
3 DO WITH THIS WELL, I'M SURE THEY DIDN'T TAKE ALL THIS
4 BLASTING INTO CONSIDERATION, WHAT'S GOING TO HAPPEN TO
5 THE HOUSE. I KNOW THERE'S LOTS OF PLACES AROUND HERE
6 THAT HAVE CAVITIES. WHAT'S GOING TO HAPPEN TO THAT?
7 ARE THEY GOING TO COLLAPSE FROM THIS BLASTING? THEY
8 SAY OVER TIME, SOME OF THE MINERS HAVE TOLD ME THAT
9 OVER TIME THAT YOU DON'T SEE THAT FOR THE FIRST FEW
10 YEARS. THAT OVER TIME AS THE LAYERS START TO COLLAPSE
11 ONE AT A TIME, THEN THE HOUSE EVENTUALLY, THE TOP
12 COLLAPSES, BUT THEN YOU CAN'T REALLY PROVE WHAT WAS
13 THE CAUSE BECAUSE THE COAL MINING HAS ALREADY CAME AND
14 GONE. AM I CLEAR ABOUT WHAT MY CONCERN IS?

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

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

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

24 MR. SCOTT: RIGHT. THEY WENT WITH AN ENGINEER
25 AND I HAD TO PAY THE ENGINEER. THEY TOOK THE

1 ENGINEER'S, WHAT HE THOUGHT HAD TO BE DONE.

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

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

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

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

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

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

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

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

25 MR. NOFFSINGER: THAT'S WHAT YOUR ENGINEER

1 DOES.

2 MR. SCOTT: NO, THEY DIDN'T TELL ME HOW TO FIX
3 THE WELL, BUT THEY TOLD ME I NEED TO GET IT FIXED.

4 MR. NOFFSINGER: YES.

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

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

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

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

19 MR. SCOTT: RIGHT. IT'S NOT THE QUESTION OF
20 IS PLANNING & ZONING RIGHT OR WRONG ABOUT THE WELL.
21 MY QUESTION IS: WHAT'S GOING TO HAPPEN WITH THIS WELL
22 THAT'S UNDER THE PROPERTY ONCE THE BLASTING STARTS?
23 THAT'S THE QUESTION. I'M SURE THERE'S OTHER PEOPLE
24 THAT HAVE WELLS AND THINGS ON THEIR PROPERTY AROUND
25 THEIR HOUSE, UNDER THEIR HOUSE. HOW DO YOU KNOW WHERE

1 THE WELL ACTUALLY GOES? I KNEW WHERE MINE WAS BECAUSE
2 IT WAS UNDER THE HOUSE, BUT A LOT OF PEOPLE DON'T EVEN
3 REALLY KNOW WHERE THE CAVITY IS. THAT'S THE WELL THAT
4 THEY HAVE. SO IF MINE COLLAPSES, THEN HOW DO YOU KNOW
5 THAT OTHER PEOPLE'S WON'T COLLAPSE? THAT'S THE
6 QUESTION. I'M NOT SAYING IT IS.

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

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

10 CHAIRMAN: THANK YOU VERY MUCH.

11 NEXT, PLEASE.

12 MR. NOFFSINGER: JAMES E. GOODALL.

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

15 MR. GOODALL: JAMES E. GOODALL.

16 (JAMES E. GOODALL SWORN BY ATTORNEY.)

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

20 SOME HAVE VERY NEGATIVE AFFECT ON US OUT
21 THERE. I'VE HAD PHONE CALLS PEOPLE WANTING TO BUILD A
22 HOUSE OUT IN THAT PART OF THE COUNTRY AND WANT TO KNOW
23 WHERE THE STRIP MINE MIGHT BE. I HAVE TO TELL THEM
24 BECAUSE THEY DON'T WANT TO BE ANYWHERE NEAR IT. I GET
25 SEVERAL CALLS, SEVERAL NEIGHBORS GOT CALLS LIKE THAT.

1 WE HAVE A COUPLE OF HOMES OUT THERE ON THE
2 MARKET. ON 140 ON RED HILL ROAD AND ON BUTLER ROAD.
3 TO MY KNOWLEDGE NO ONE IS LOOKING AT THEM BECAUSE THEY
4 KNOW THERE'S A POSSIBILITY THERE MIGHT BE A MINE OUT
5 THERE. SO THOSE PROPERTIES ARE NOT GOING TO SELL.
6 WE'RE JUST DEAD UNTIL THIS THING IS RESOLVED.

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

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

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

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

1 YOU'VE GOT A LOT OF HILLS.

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

8 CHAIRMAN: THANK YOU, MR. GOODALL.

9 NEXT PLEASE.

10 MR. NOFFSINGER: T.A. SCOTT.

11 MR. SILVERT: STATE YOUR NAME, PLEASE.

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

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

14 MR. T.A. SCOTT: I HAVE A TOTAL OF 13
15 QUESTIONS FOR WESTERN KENTUCKY MINERALS FOR YOU ALL.
16 IF YOU WANT THEM IN THREE MINUTES I CAN DO IT, BUT YOU
17 BETTER GET YOUR PEN READY.

18 CHAIRMAN: WE CAN SAVE YOU A LOT OF TIME.
19 HAVE YOU GOT THEM WRITTEN?

20 MR. T.A. SCOTT: YES.

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

24 MR. T.A. SCOTT: BECAUSE I'D RATHER READ THEM
25 FROM HERE BECAUSE I'M SURE THERE'S OTHER FOLKS HERE

1 THAT WOULD LIKE TO HEAR THEM ALSO. THANK YOU, SIR.

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

4 MR. T.A. SCOTT: WESTERN KENTUCKY MINERALS,
5 WE'VE SEEN THE VIDEO TONIGHT. WE'VE SEEN THE WATER
6 TRUCKS AND SO FORTH. WE SEEN THAT DUST COMPARED TO
7 DUST FROM AGRICULTURAL.

8 I WOULD LIKE TO KNOW DO THEY OR ANYONE ELSE
9 HAVE ANY STUDIES SHOWING THAT AGRICULTURAL DUST IS
10 COMPARED NEGATIVELY TO MINING DUST AS IT RELATES TO
11 THE AMOUNT OF TIME, CONCENTRATION OF CERTAIN MATERIAL
12 OR THE AMOUNT OF DUST.

13 I DON'T KNOW ANY FARMERS THAT PLOW FIELDS 20
14 HOURS A DAY ALL YEAR LONG FOR TEN YEARS. I THINK
15 THAT'S A VERY INVALID COMPARISON. I ALSO DON'T KNOW
16 ANY FARMERS THAT PLOW DOWN TO THE DEPTH OF 10, 20, 30
17 FEET. SO I'D WOULD LIKE SOME INFORMATION ON THAT.

18 WE SAW THE WATER TRUCK. NOW, THE YOUNG MR.
19 LANHAM MENTIONED MAYBE EVEN EVERY 10 TO 15 MINUTES
20 THEY RUN A WATER TRUCK. I WOULD LOVE TO KNOW HOW MANY
21 GALLONS OF WATER WOULD BE NECESSARY TO OPERATE THAT
22 TRUCK AT THAT RATE FOR EVEN 10 OR 12 HOURS A DAY?
23 WHERE IS THAT WATER GOING TO COME FROM? ARE THEY
24 GOING TO DRAW THAT FROM AQUIFERS THAT ARE ALREADY OUT
25 THERE? DO THEY HAVE WELLS? ARE THEY GOING TO GET

1 THAT FROM OHIO COUNTY WATER SOURCES?

2 REFERENCE TO THE BLASTING. THIS IS STILL, I
3 DON'T KNOW WHETHER WE TALKED SMALL BLAST OR A BIG
4 BLAST AND IT'S STILL A HIGH ORDERED EXPLOSION I
5 BELIEVE. IF I'M WRONG, PLEASE CORRECT ME ON THAT.
6 WHAT IS THE --

7 CHAIRMAN: EXCUSE ME. WHAT DID YOU REFER TO
8 THERE?

9 MR. T.A. SCOTT: A HIGH ORDERED EXPLOSIVE.

10 CHAIRMAN: HIGH WHAT?

11 MR. T.A. SCOTT: HIGH ORDERED. I'M SURE HE IS
12 FAMILIAR WITH THAT.

13 CHAIRMAN: OKAY. I'M JUST WRITING.

14 MR. T.A. SCOTT: I UNDERSTAND, SIR.

15 WHAT IS THE SPEED OF THAT EXPLOSIVE WAVE THERE
16 AT THE POINT OF IGNITION; 500 FEET, 500 YARDS, 1,000
17 YARDS? WE KNOW IT SLOWS DOWN, BUT AT WHAT RATE.

18 WHAT IS GOING TO BE THE CONSEQUENCE ANY TIME
19 THERE IS ANY KIND OF GUIDELINE SET BY A STATE, FEDERAL
20 OR GOVERNMENT AGENCY OF ANY TIME? IF THERE'S A TIME
21 PERIOD, THERE'S A CONSEQUENCE.

22 IF THEY FAIL TO MEET THAT 180 DAY REQUIREMENT
23 TO RECLAIM THAT LAND, WHAT IS THE CONSEQUENCE TO TRY
24 TO MEET THAT? IS IT A MONETARY FINE? ARE THEY
25 SHUTDOWN UNTIL THAT IS DONE OR WHAT IS THE SITUATION?

1 WHY IS THE COAL GOING TO BE MINED IN OHIO
2 COUNTY NOT WASHED? IN THE PREVIOUS MEETINGS, MR. TIM
3 WRIGHT STATED THAT THE COAL WAS WASHED IN ORDER TO
4 REMOVE MATERIAL TO MEET POWER PLANT REQUIREMENTS.
5 SOMEHOW THE COAL IN OHIO COUNTY MEETS THOSE
6 REQUIREMENTS, BUT COAL IN DAVIESS COUNTY DOES NOT. I
7 JUST WOULD LIKE THAT CLARIFIED.

8 ALSO WE TALKED ABOUT WHETHER THE GROUND,
9 WHETHER THE FIRECLAY IS OR IS NOT IMPERMEABLE. IF IT
10 IS IMPERMEABLE, CAN WATER STILL GO AROUND IT? I WOULD
11 THINK THAT IT COULD.

12 FOR THE COMMISSION: HOW CAN THIS
13 COMPREHENSIVE PLAN BE CHANGED? WE KEEP GOING BACK TO
14 THIS COMPREHENSIVE PLAN. I'M NOT FAMILIAR WITH IT. I
15 HAVEN'T SEEN IT. HAVEN'T READ IT. I SUSPECT MOST
16 PEOPLE IN THIS ROOM HAVEN'T. I WOULD BE INTERESTED TO
17 KNOW WHAT DOES IT SAY AND WHAT WE HAVE TO DO TO CHANGE
18 IT SO WE DON'T HAVE TO DO THIS EVERY 5, 10, 15 YEARS.
19 SO PEOPLE CAN BUILD A HOUSE AND BE HAPPY WITH IT AND
20 KEEP IT WITHOUT ANY PROBLEMS.

21 ALSO FOR THE COMMISSION: WILL YOU EXTEND --
22 THE COAL MINE IS GOING TO BE ALLOWED TO RUN FROM 6 IN
23 THE MORNING UNTIL 4 IN THE MORNING. I WANT TO KNOW IF
24 THAT WOULD BE EXTENDED TO OTHER BUSINESSES OPERATING
25 IN SIMILAR AREAS? WE'VE GOT THREE GENERATIONS OF MY N

1 NEIGHBORS HERE. GOOD MEN. THEY ALL HAVE YOU CAN SAY
2 UNIQUE HOBBIES. SOME OF THEM VERY NOISY. IF THEY
3 WANT TO ENGAGE IN THOSE THINGS UNTIL THAT TIME IN THE
4 MORNING, THEY WON'T DO THAT OUT OF RESPECT FOR ME, BUT
5 IF THEY DID WANT TO DO THAT APPARENTLY THIS COMMISSION
6 OR NO ONE ELSE HAS ANY RIGHT TO TELL THEM THEY CAN'T
7 BECAUSE THAT'S WHAT WE'RE TELLING THIS COAL MINE.

8 WILL THERE BE A CALL VOTE TONIGHT BY
9 INDIVIDUAL NAME SO WE DON'T HAVE ANY CONFUSION AS TO
10 WHO DID AND DIDN'T VOTE FOR WHAT.

11 MR. KAZLAUSKAS, I APPRECIATE YOU MAKING THE
12 MOTION THE LAST TIME. I THOUGHT WE HAD IT VOTED FIVE
13 TO FOUR. SETTLED AND DONE. MOST OF US LEFT RIGHT
14 AFTER THAT AND FOUND OUT LATER WE WERE WRONG. I WOULD
15 RECOMMEND THAT THAT BE A CALL VOTE TONIGHT BY NAME.

16 BEFORE THIS COMMISSION: I'M SURE THERE'S
17 FOLKS HERE THAT HOPES THEIR SMARTER THAN ME. WHO DOES
18 THIS COMMISSION REPRESENT? DO YOU REPRESENT EACH AND
19 EVERY CITIZEN IN DAVIESS COUNTY AND IN OWENSBORO? DO
20 YOU REPRESENT ONLY ENTITIES, BUSINESSES? WHO IS IT
21 YOU REPRESENT? WHAT REIMBURSEMENT DO YOU RECEIVE FOR
22 AND WHERE FROM FOR YOUR SERVICE ON THIS COMMISSION?
23 I'VE BEEN TO EVERY MEETING THAT I'M AWARE OF. I'VE
24 BEEN TO THE ONE AT THE OWENSBORO CHRISTIAN CHURCH AND
25 EVERY ONE THAT WE'VE HAD UP HERE. VERY OBVIOUS TO BE

1 10, 20, 30, 50 TO 1 THE CITIZENS OF THIS COUNTY DO NOT
2 WANT THIS ZONING PLAN CHANGED.

3 SO I'M JUST CURIOUS. DO YOU REPRESENT THOSE
4 CITIZENS OR WHAT IS THE PURPOSE OF THIS COMMISSION?

5 GOT ALL MY QUESTIONS, SIR?

6 CHAIRMAN: GOT THEM.

7 MR. T.A. SCOTT: YOU WANT TO ANSWER NOW OR ARE
8 YOU GOING TO WAIT?

9 CHAIRMAN: IF YOU SUBMIT THEM --

10 MR. T.A. SCOTT: IF YOU TELL ME WHERE THERE'S
11 A COPY MACHINE I WILL.

12 CHAIRMAN: YOU CAN GIVE THEM TO ME AND I'LL
13 GIVE THEM BACK TO YOU AFTERWARDS, IF YOU WANT ME TO
14 KEEP THEM. I DON'T CARE. IT'S UP TO YOU.

15 MR. T.A. SCOTT: I'LL HANG ON TO THE ORIGINAL.
16 THANK YOU, SIR.

17 CHAIRMAN: VERY GOOD. THANK YOU.

18 NEXT.

19 MR. NOFFSINGER: LINDA S. IVY.

20 MR. SILVERT: STATE YOUR NAME, PLEASE.

21 MS. IVY: LINDA IVY.

22 (LINDA IVY SWORN BY ATTORNEY.)

23 MS. IVY: I APPRECIATE THE SUPPORT OF THE
24 LOCAL KENTUCKY JOBS AND I APPRECIATE THE SUPPORT OF
25 LOCAL SMALL BUSINESS OWNERS AND PROPERTY OWNERS. I

1 CERTAINLY APPRECIATE MY ELECTRICITY.

2 I WOULD LIKE FOR THE PLANNING BOARD TO
3 CONSIDER THE LOCAL GIRL SCOUT JOBS AND THE GIRL SCOUT
4 PROPERTY THAT'S ALREADY IN PLACE. CAMP PENNYROYAL
5 HAVE EMPLOYED HUNDREDS OF PEOPLE CONSISTENTLY IN THE
6 LAST 55 YEARS. AVERAGING TWO OR THREE DOZEN JOBS EACH
7 YEAR. THROUGHOUT THE YEAR CHURCH GROUPS AND OTHER
8 DAVIESS COUNTY RESIDENTS USE THE TENNIS COURTS, HIKE
9 TRAIL AND RENT THE BUILDS FOR WEDDINGS AND OTHER
10 PARTIES. BUS LOADS OF CAMPERS FROM ALL OF WESTERN
11 KENTUCKY AND THE LOUISVILLE AREA COME TO OUR AREA EACH
12 SUMMER AND THE FAMILIES, CAMPERS AND STAFF BUY FOOD
13 AND SUPPLIES IN OUR AREA CONTRIBUTING TO OUR ECONOMY.
14 WHEN THESE BUSES PULL IN THE PARKING LOT CAMP THEY
15 WILL BE LOOKING DIRECTLY AT A STRIP MINE.

16 THE CAMP CO-EXIST WELL WITH A HIGH NUMBER OF
17 RURAL RESIDENTS IN THE AREA. THE CAMP WILL NOT
18 CO-EXISTING WELL WITH A STRIP MINING OPERATION.

19 CAMP PENNYROYAL IS 180 ACRE CAMP WITH AN 8
20 ACRES SPRING FED LAKE. THE DAM IS APPROXIMATELY 28
21 FEET DEEP AND 425 FEET LONG. UNDERGROUND AQUIFERS
22 WHICH CAN MOVE THE WATER IN DIFFERENT DIRECTIONS AND
23 ELEVATIONS PROVIDE SPRING WATER TO THE LAKE.

24 A COAL WASHING PLANT IN THIS AREA OF SHELL AND
25 SANDSTONE WHICH ARE COURSE ROCK WILL HAVE A HIGH

1 LIKELIHOOD AFFECTING THE GROUNDWATER, ENHANCE THE LAKE
2 AND THE VARIOUS WETLANDS AREAS IN THE CAMP.

3 IN 1993 I BROUGHT TWO FEMALE GIRL SCOUTS TO
4 SPEAK OUT AGAINST PROPOSING TO THE REZONING AT THAT
5 TIME. THE REZONING WAS DENIED THE SECOND TIME AT THAT
6 MEETING. THOSE SAME TWO GIRLS IN THE NEXT 15 YEARS AT
7 GIRL SCOUT WORKING THEIR DURING THEIR COLLEGE YEARS.
8 THESE SAME TWO GIRLS GREW UP TO BE A WATER BIOLOGIST
9 AND GEOTECHNICAL ENGINEER. I'M NEARLY POSITIVE THAT
10 THEIR YEARS AT CAMP ATTRIBUTED TO THEIR CAREER
11 SUCCESS.

12 THESE JOBS ARE IMPORTANT TO THEM, THEIR FAMILY
13 AND TO OUR FUTURE AND THESE JOBS ARE IMPORTANT TO
14 HUNDREDS OF YOUNG WOMEN EACH YEAR.

15 I HAVE MY THIRD GENERATION, MY SUPPORT TEAM,
16 AND SHE'S NEXT ON THE LIST. SHE HAS ONE SENTENCE.

17 CHAIRMAN: VERY GOOD. THANK YOU. ARE YOU
18 FINISHED?

19 MS. IVY: YES.

20 MR. NOFFSINGER: TENNYSON CHRISLER.

21 CHAIRMAN: COULD YOU STATE YOUR NAME, PLEASE.

22 MS. CHRISLER: TENNYSON.

23 (TENNYSON CHRISLER SWORN BY ATTORNEY.)

24 MISS CHRISLER: PLEASE DO NOT COAL MINE NEAR
25 GIRL SCOUT CAMP. ALL THE GIRL SCOUTS DO NOT WANT

1 DYNAMITE NEAR THE CAMP. WE DO NOT WANT THE COAL
2 TRUCKS MAKING NOISE.

3 I WENT TO CAMP WITH NANA WHEN I WAS ONE MONTH
4 OLD. I WANT TO GO TO TAKE MY CHILDREN TO THE SAME
5 CAMP.

6 CHAIRMAN: THANK YOU.

7 NEXT.

8 MR. NOFFSINGER: RYAN POTTER.

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

11 MR. POTTER: RYAN POTTER.

12 (RYAN POTTER SWORN BY ATTORNEY.)

13 MR. POTTER: I WORK AT ELMER SMITH. I WORKED
14 AT OUR OMU ELMER SMITH STATION COAL FIRE POWER PLANT.

15 WE'RE ALWAYS TALKING ABOUT KEEPING EVERYTHING
16 IN THE COMMUNITY. WESTERN KENTUCKY MINERALS SUPPLIES
17 COAL TO OMU. AS EVERYBODY NOTICED IN THE PAPER LAST
18 WEEK I KNOW THERE'S BEEN KIND OF A CONTROVERSY ABOUT
19 RATE INCREASES.

20 WE START OUTSOURCING, YOU KNOW, NOT BEING ABLE
21 TO GET COAL FROM THE COMMUNITY. THAT'S ONLY GOING TO
22 DRIVE THE PRICES UP THAT MUCH EVEN MORE

23 THEN TALKING ABOUT THE WILDLIFE. EVERYBODY IS
24 SCARED IT'S GOING TO DISRUPT. I'M AN AVID
25 OUTDOORSMAN. I'VE BEEN FORTUNATE ENOUGH TO HUNT ON

1 RECLAMATION GROUND. I CAN ASSURE YOU THAT I'VE HAD
2 SOME OF THE BEST HUNTS IN MY LIFE ON RECLAMATION
3 GROUND UP, ESPECIALLY WATER FOUL IN THE WETLAND AREAS.

4 TALKING ABOUT THE DUST. I WAS DIAGNOSED WITH
5 ASTHMA WHEN I WAS YOUNGER. I'VE HAD IT MY WHOLE LIFE.
6 IN FACT, THAT'S THE ONLY THING THAT KEPT ME OUT OF THE
7 MARINE CORP. NOW I WORK AT A COAL FIRE POWER PLANT.

8 EVERYBODY IS TALKING ABOUT RESIDUAL DUST AND
9 WHATNOT AND WHAT YOU'RE AFRAID YOU'RE GOING TO HAVE
10 BLOW OFF THE MINE. YOU HAVE NOT SEEN COAL DUST. GO
11 TO OMU AND WATCH THE COAL PILE. I CAN ASSURE YOU IT
12 GETS SO BAD YOU CAN'T HARDLY SEE AT TIMES. LIKE I
13 SAY, I'VE BEEN DIAGNOSED WITH ASTHMA A COUPLE OF TIME.
14 DR. CARROLL HOWARD WAS THE FIRST ONE TO DO IT. AGAIN,
15 I WORK EVERY DAY AND I HAVE NO PROBLEMS WITH IT.

16 MY LAST QUESTION --

17 CHAIRMAN: EXCUSE ME. DID YOU HAVE OTHER
18 QUESTIONS? DID I GO TO SLEEP? I THOUGHT YOU MADE
19 SOME STATEMENTS.

20 MR. POTTER: MY LAST STATEMENT, I'M SORRY.
21 THIS IS THIS MY QUESTION.

22 IN APRIL THEY VOTED, YOU ALL VOTED TO REZONE
23 SOME GROUND IN KNOTTSVILLE. THERE'S BIG FARMS IN
24 KNOTTSVILLE. THERE'S NICE HOUSES IN KNOTTSVILLE.
25 JUST AS NICE AS ANYTHING THERE IS IN PLEASANT RIDGE.

1 MY QUESTION IS: WHAT MADE KNOTTSVILLE SO MUCH
2 DIFFERENT THAN PLEASANT RIDGE? I MEAN THEY'VE BEEN
3 OUT THERE FOR SEVERAL YEARS. THERE'S NO ILL-AFFECTS
4 FROM IT. MY QUESTION IS: IS IT LOGISTICS OF THE
5 PROJECT OR IS IT MORE OF AN UNDERLYING QUESTION ABOUT
6 MAYBE PEOPLE'S MINDSET UPON IT? THAT'S ALL I HAVE.
7 THANK YOU.

8 CHAIRMAN: LET ME MAKE SURE. YOUR QUESTION
9 WAS WHY IS KNOTTSVILLE DIFFERENT THAN PLEASANT RIDGE?

10 MR. POTTER: EXACTLY.

11 CHAIRMAN: THANK YOU.

12 MR. POTTER: THANK YOU.

13 CHAIRMAN: NEXT.

14 MR. NOFFSINGER: DERRICK CRISP.

15 (DERRICK CRISP SWORN BY ATTORNEY.)

16 MR. CRISP: I'VE LIVED ABOUT HALF A MILE FROM
17 THE MINE FOR ABOUT SIX OR SEVEN YEARS. ABOUT THREE
18 YEARS AGO I STARTED BUILDING A HOME. WHILE BUILDING
19 THE HOME WE HAD SOME SOLID BEDROCK I'VE GOT A BASEMENT
20 ON. WE POURED THE FOOTER. POURED THE BASEMENT AND
21 WENT ON AND BUILD THE REST OF THE HOUSE. IT'S A 5,000
22 SQUARE FOOT HOME AND THERE'S A LOT OF AREA TO LOOK FOR
23 CRACKS AND STUFF. I'VE NEVER ONCE FOUND ANYTHING.
24 THE HOME ITSELF IS THERE. IT'S WELL. BLASTING OR
25 NOT, THERE'S NO PROBLEMS THERE.

1 ALSO I LIVE ON 144. WHEN THE COAL TRUCK
2 TRAVEL, I'VE NEVER HAD ANY FEAR MYSELF, MY FAMILY OR
3 ANYBODY.

4 ALSO I'VE BEEN ON THE KNOTTSVILLE VOLUNTEER
5 FIRE DEPARTMENT FOR 12 YEARS. A LOT OF PEOPLE WORRY
6 ABOUT THEIR SAFETY OF OTHER PEOPLE AND EVERYTHING
7 AROUND. IN THE 12 YEARS I'VE BEEN ON THERE, I'VE
8 NEVER SEEN ANYTHING HAPPEN TO THE PUBLIC THAT'S COME
9 FROM THE MINE OR HURT ANYONE. THAT'S ALL I HAVE.

10 CHAIRMAN: THANK YOU. SO YOU HAVE NO
11 QUESTION. YOU'VE JUST GOT SOME STATEMENTS.

12 MR. CRISP: NO QUESTIONS.

13 CHAIRMAN: THANK YOU.

14 MR. NOFFSINGER: JOEY GIBSON.

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

17 MR. GIBSON: JOEY GIBSON.

18 (JOEY GIBSON SWORN BY ATTORNEY.)

19 MR. GIBSON: MR. CHAIRMAN, COMMISSION, I'VE
20 DEALT WITH THE INDUSTRY FOR ABOUT 20 YEARS AND THAT'S
21 WHAT I'VE MADE MY LIVING WITH. I'VE BEEN EXPOSED TO
22 SEVERAL DIFFERENT COAL MINES. THIS ONE, THE WESTERN
23 KENTUCKY MINERALS, THEY SEEM TO BE A STEP ABOVE THE
24 OTHERS. I KNOW THAT COULD BE TOOK OUT OF TEXT SAYING,
25 WELL, THEY PAY YOU OR WHATEVER LIKE THAT, BUT I'VE

1 DEALT WITH ALLIANCE, ARMSTRONG, CHRISTIAN COAL, ROBERT
2 BROTHERS, MARK BOWLS OVER THE YEARS. THEY DO HAVE A
3 GOOD PROGRAM. I'M NOT AN EMPLOYEE. I GO IN AS A
4 VENDOR. I'M A CONTRACT REPAIRMAN. I GO IN AND REPAIR
5 HEAVY EQUIPMENT. I'LL BE 50 YEARS OLD BEFORE LONG. I
6 CAN PROBABLY DO A CARTWHEEL. WILL NOT TRY THAT
7 TONIGHT, BUT I CAN PROBABLY DO THAT FOR YOU.

8 IN ESSENCE, I'VE BEEN EXPOSED TO THE COAL
9 ENVIRONMENT. I DON'T FEEL LIKE IT HAS AN IMPACT ON MY
10 HEALTH. I GO IN EACH YEAR FOR A PHYSICAL AND I'M NO
11 DIFFERENT THAN ANYBODY ELSE.

12 SOMETHING WOULD LIKE TO BRING UP AS WELL ALSO
13 THAT'S BEEN OVERLOOKED, I THINK. ALL OF THESE ARE
14 NEEDFUL THINGS THAT NEED TO BE BROUGHT UP. THEY'RE
15 ALL LEGITIMATE. WHAT ABOUT THE QUALITY OF LIFE FOR
16 THE PEOPLE THAT DO WORK IN THE MINES? WHAT DO THEY
17 HAVE TO OFFER?

18 WELL, IT'S ONE OF THE BEST PAYING INDUSTRIES
19 THAT'S OUT THERE IN THIS AREA. WE DON'T HAVE VERY
20 MANY JOBS AS WHAT WE ONCE DID SEVERAL YEARS AGO.
21 WE'RE LOOKING AT MAYBE A 55 TO \$70,000 A YEAR JOB WITH
22 A MAN THAT'S GOT AN INVESTMENT IN A PAIR OF WORK BOOTS
23 AND A DINNER BUCKET. YOU DO THE MATH RIGHT THERE.
24 THAT'S 1,100 TO \$1,400 A WEEK INCOME. THAT'S GROSS,
25 BUT YOU FIGURE THAT. THAT DOESN'T INCLUDE YOUR HEALTH

1 INSURANCE THAT GOES ALONG WITH THAT. A BENEFIT
2 PACKAGE. HOW MANY PEOPLE AT THIS TIME RESPECTFULLY
3 SAYING THAT MAYBE THEY'RE HOLDING A MINIMUM WAGE JOB?
4 WOULD THEY NOT GIVE THEIR NEEDLE TEETH TO HAVE A JOB
5 LIKE THAT TO PROVIDE FOR THEIR FAMILY?

6 I'M NOT TAKING AWAY FROM ANY OF THESE REQUESTS
7 THAT OTHER PEOPLE HAVE MADE, BUT THE IDEA IS I THINK
8 WE SHOULDN'T CUT THIS OFF. I THINK WE CAN CO-EXIST
9 TOGETHER. YOU LEARN TO WORK TOGETHER. YOU LEARN TO
10 WORK THE DIFFERENCES OUT RIGHT THERE. I THINK IT
11 OFFERS A GREAT INDUSTRY OF THE ECONOMY. THAT MONEY
12 COMES BACK DOWN INTO OUR COUNTY, INTO THE OWENSBORO
13 AREA. IT TRICKLES DOWN TO MOM AND POP STORES THAT WE
14 SEE SO MUCH GO BY THE WAYSIDE. THERE'S SO MUCH
15 SIGNIFICANT IMPACT IN A POSITIVE WAY. I KNOW THERE'S
16 NEGATIVE THINGS, BUT THERE'S NEGATIVE THINGS IN
17 ANYTHING WE DO IN LIFE. I THINK THIS HAS A LOT OF
18 POSITIVE FLOW RIGHT THERE. THAT'S PRETTY MUCH ALL
19 I'VE GOT TO SAY. THANK YOU.

20 CHAIRMAN: THANK YOU.

21 NEXT.

22 MR. NOFFSINGER: PATTY DUNCAN.

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

25 MS. DUNCAN: PATTY DUNCAN.

1 (PATTY DUNCAN SWORN BY ATTORNEY.)

2 MS. DUNCAN: I LIVE ON FREE SILVER ROAD. I'VE
3 LIVED IN KNOTTSVILLE FOR 15 YEARS. I DRIVE UP AND
4 DOWN MONARCH.

5 WHERE THEY JUST GOT DONE COAL MINING IT'S
6 GORGEOUS. I MEAN THEY HAVE DONE A GOOD JOB RECLAIMING
7 IT.

8 MY GRANDKIDS COME AND SEE ME. I HAVE A BERM
9 IN MY BACKYARD NEXT TO MY SWIMMING POOL. I DON'T
10 REALLY WORRY. I DON'T SMELL NO DUST OR ANYTHING GOING
11 ON. THE NOISE IS NOT REALLY THAT BAD. WHEN YOU'RE IN
12 THE HOUSE, YOU DON'T REALLY HEAR IT ANYWAY. WHEN YOU
13 GO OUTSIDE, YOU MAY HEAR A LITTLE BIT OF IT, BUT IT'S
14 NOT NOTHING THAT REALLY UPSETS YOU THAT MUCH.

15 ALL I CAN SAY IS TONY HAS MADE PROMISES. HE
16 WAS GOING TO PUT THE BERM UP. YOU KNOW, MAKE SURE
17 THINGS WERE SAFE FOR MY GRANDKIDS AND HE HAS. THANK
18 YOU.

19 CHAIRMAN: LET ME ASK YOU A QUESTION. HOW
20 NEAR TO THE COAL MINING BOUNDARY DO YOU LIVE?

21 MR. DUNCAN: I DON'T KNOW. IT'S RIGHT IN MY
22 BACKYARD. FIFTY FEET.

23 AUDIENCE: YOU'RE MAKING MONEY OFF OF IT.

24 MS. DUNCAN: NO. I RENT.

25 CHAIRMAN: THANK YOU.

1 LET ME ASK EVERYBODY. GIVE EVERYBODY THE SAME
2 RESPECT THAT YOU WANTED WHEN YOU SPOKE, PLEASE.
3 THAT'S ONLY FAIR TO EVERYBODY. BOTH SIDES.

4 NEXT, PLEASE.

5 MR. NOFFSINGER: MIKE MCNAUGHT.

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

8 MR. MCNAUGHT: MIKE MCNAUGHT.

9 (MIKE MCNAUGHT SWORN BY ATTORNEY.)

10 MR. MCNAUGHT: I LIVE ON 4730 FREE SILVER
11 ROAD. THEY GOT THE HAUL ROAD THAT THEY'RE MAKING.
12 THEY'RE COAL WHERE THEY'RE MINING IS RIGHT NEXT TO MY,
13 WELL, RIGHT OFF THE PROPERTY LINE JUST ABOUT.

14 MY WIFE HAS COPD. MY GRANDDAUGHTERS COME OUT
15 THERE ALL THE TIME HAVE ALLERGIES. THIS MINING HAS
16 NOT AFFECTED THEM IN ANY WAY AS FAR AS THEIR HEALTH
17 GOES.

18 THE FARMERS GETTING THE CROPS OUT HURTS US
19 MORE THAN THIS MINING HAS. BECAUSE EVERY SPRING AFTER
20 THEY COMBINE THEIR CORN AND THRASH THEIR BEANS BESIDE
21 MY HOUSE TURNS GREEN FROM ALL THE STUFF OUT OF THE
22 FIELDS THAT BLOWS OVER THERE. I HAVE TO POWER WASH IT
23 EVERY SPRING.

24 AS FAR AS NOISE, THESE CARS RUNNING UP AND
25 DOWN THE ROAD THAT SOUNDS LIKE LITTLE BUMBLE BEES AND

1 THEIR AMPLIFIERS BOOMING AND EVERYTHING THAT YOU HEAR
2 THREE QUARTERS OF A MILE AWAY BEFORE THEY GET THERE,
3 RATTLE YOUR WINDOWS AS THEY GO BY, THAT'S A LOT WORSE
4 THAN WHAT THAT MINING IS. I SEE NO REASON ANYBODY
5 SHOULD COMPLAIN ABOUT IT. THAT'S MY OPINION.

6 CHAIRMAN: HOW NEAR DO YOU LIVE TO WHERE THE
7 ACTUAL MINING IS GOING ON?

8 MR. MCNAUGHT: IT'S GOING ON BEHIND MY HOUSE
9 RIGHT NOW. THEY STARTED -- THERE'S BEEN TRUCKS GOING
10 IN AND OUT ALL DAY TODAY. I THINK THEY WERE GOING IN
11 AND OUT YESTERDAY. I'M NOT FOR SURE.

12 CHAIRMAN: IS THE COAL MINING ON YOUR PROPERTY
13 OR IS IT ON THE PROPERTY RIGHT NEXT TO WHERE YOUR
14 PROPERTY IS?

15 MR. MCNAUGHT: IT'S BEHIND WHERE I LIVE.

16 CHAIRMAN: SO IT'S NOT ON YOUR PROPERTY. IT'S
17 ON THE --

18 MR. MCNAUGHT: I RENT. IT'S RIGHT BACK -- I
19 CAN PROBABLY TAKE A ROCK AND THROW BACK THERE AND HIT
20 BACK IN THERE WHERE THEY'VE GOT THE LIGHTS AND THE
21 MINE STUFF AT. MAYBE NOT THAT FAR. YOU KNOW, IT'S
22 CLOSE ENOUGH.

23 CHAIRMAN: THANK YOU.

24 MR. NOFFSINGER: RANDALL WARD.

25 MR. SILVERT: STATE YOUR NAME, PLEASE.

1 MR. WARD: RANDALL WARD.

2 (RANDALL WARD SWORN BY ATTORNEY.)

3 MR. WARD: WESTERN KENTUCKY MINERALS STRIPPED
4 COAL ABOUT FOUR YEARS AGO. ABOUT FOUR YEARS AGO THEY
5 WERE STRIPPING COAL WITHIN PROBABLY FIVE TO 700 FEET
6 FROM MY HOME. I HAVE A FULL SIZE BASEMENT UNDER MY
7 HOUSE WHERE ME AND MY WIFE AND THREE BOYS SLEEP EVERY
8 NIGHT.

9 ANYHOW, THEY DIDN'T CRACK MY BASEMENT. THEY
10 DIDN'T HURT MY HOME IN ANY WAY. TWO OF MY BOYS HAVE
11 ASTHMA. THE DUST IS NO BIG DEAL. THE DUST NEVER
12 BOTHERED THEIR ASTHMA.

13 AS FAR AS THAT GOES, LIKE I SAID, POLLEN AND
14 STUFF LIKE THAT BOTHERS ASTHMA MORE. THE DUST IS NO
15 BIG DEAL.

16 THE NOISE, I'M NOT GOING TO TELL YOU THAT YOU
17 CAN'T HEAR BULLDOZERS AND BACK-UP ALARMS AND STUFF,
18 BUT AFTER A WHILE YOU JUST GET USED TO IT. THEN YOU
19 DON'T EVEN PAY NO ATTENTION TO IT.

20 AS FAR AS BEING IN THE HOUSE, YOU DON'T HEAR
21 IT AT ALL.

22 THE BLASTING, NOW THEY'RE PROBABLY A QUARTER
23 OF A MILE TO HALF A MILE AWAY FROM ME. NOW YOU DON'T
24 EVEN PAY NO ATTENTION TO THE BLASTING. YOU'RE BARELY
25 EVEN FEEL IT.

1 CHAIRMAN: HOW CLOSE DID THEY GET TO YOUR
2 HOUSE, AT THE CLOSEST WOULD YOU SAY?

3 MR. WARD: FIVE HUNDRED FEET. I'M JUST
4 GUESSING 5 TO 700 FEET. THEY DIDN'T HURT MY HOUSE IN
5 ANY WAY.

6 CHAIRMAN: SO YOUR PROPERTY WAS NEXT TO THE
7 PROPERTY THEY WERE MINING?

8 MR. WARD: THERE'S ONE LOT IN-BETWEEN ME AND
9 THEM.

10 CHAIRMAN: BUT 500 FOOT?

11 MR. WARD: YES.

12 CHAIRMAN: THANK YOU.

13 NEXT.

14 MR. NOFFSINGER: JAMES LACY KAMUF.

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

17 MR. KAMUF: JAMES LACY KAMUF.

18 (JAMES LACY KAMUF SWORN BY ATTORNEY.)

19 MR. KAMUF: I'D LIKE TO SPEAK ON THE
20 ENVIRONMENTAL ISSUE, BUT THAT'S NOT WHAT WE'RE HERE
21 TONIGHT.

22 I HAVE TO DO SAY IT WAS MENTIONED THAT IT'S
23 ENVIRONMENTALLY, ECONOMICALLY BENEFICIAL FOR US IN
24 THIS COMMUNITY DO THIS.

25 BURNING NATURAL GAS WOULD BE CHEAPER NOW. OMU

1 AND GENERATE HALF THE POLLUTION, CO2 POLLUTION. I'VE
2 GOT TO THROW THAT IN BECAUSE I'M NOT SURE THIS COAL IS
3 REALLY GOING TO BE BURNED HERE AT OMU ANYWAY. IT'S
4 THREE TIMES MORE VALUABLE IN THE OPEN MARKET THAN IT
5 IS HERE.

6 THE QUESTION I HAVE, THE FIRST ONE, POINT OF
7 ORDER. THERE'S A NINE MEMBER VOTING TONIGHT. IS THAT
8 BASICALLY CORRECT? DID I MISCALCULATE THAT?

9 CHAIRMAN: YES, SIR, THAT'S EXACTLY RIGHT.

10 MR. KAMUF: COULD YOU STATE, DID THE FATHER,
11 DID HE RESIGN FROM THE BOARD? CAN YOU MAKE ANY
12 COMMENT ON THAT?

13 CHAIRMAN: YES, SIR, DID HE.

14 MR. KAMUF: SO THEY'RE GOING TO VOTE TONIGHT
15 WITH NINE?

16 CHAIRMAN: YES, SIR.

17 MR. KAMUF: HASN'T BEEN APPOINTED, NO ONE WAS
18 APPOINTED? WHO WOULD THAT APPOINTMENT BE?

19 CHAIRMAN: IT WOULD BE A CITY APPOINTMENT.

20 MR. KAMUF: A CITY APPOINTMENT.

21 CHAIRMAN: CORRECT.

22 MR. KAMUF: THANK YOU.

23 CHAIRMAN: BUT THE DEAL OF HAVING NINE OR
24 SEVEN OR HOWEVER, THAT VARIES FROM MEETING TO MEETING.
25 WE HAVE TO HAVE A QUORUM OF SIX TO BE ABLE TO CONDUCT

1 BUSINESS.

2 MR. KAMUF: NOT ANYTHING AGAINST YOU. I KNOW
3 YOU HAVE NO REAL CONTROL ABOUT WHO IS APPOINTED.

4 CHAIRMAN: CORRECT.

5 MR. KAMUF: IT PROBABLY IS GOING TO AFFECT THE
6 VOTE TONIGHT IF THE LAST VOTE WAS ANY INDICATION.

7 CHAIRMAN: FATHER LARRY -- I DON'T THINK
8 YOU'RE MAKING ANY COMMENT.

9 MR. KAMUF: NO, NOT AT ALL.

10 CHAIRMAN: I WAS GOING TO SAY HE WITHDRAW
11 BECAUSE OF HIS SCHEDULE AS A COLLEGE PRESIDENT. HE
12 JUST HAD SO MANY MEETINGS. THIS MEETING HERE HE GOING
13 TO BE OUT OF TOWN.

14 MR. KAMUF: RIGHT. I'M NOT GOING TO MAKE ANY
15 REFERENCE AT ALL.

16 CHAIRMAN: JUST TO GO ONE STEP FURTHER.
17 THERE'S A CITY REQUIREMENT ON THE NUMBER OF MEETINGS
18 MISSED, AND THAT ALSO COMES INTO PLAY. I DON'T THINK
19 YOU WERE, BUT I JUST WANTED TO CLARIFY.

20 MR. KAMUF: NO, NOT IN ANY WAY. NOT IN ANY
21 WAY. I WAS JUST CURIOUS WHEN THE NEXT APPOINTMENT
22 WAS.

23 I WILL ASK: DO YOU HAVE ANY IDEA WHEN THAT
24 POSITION IS GOING TO BE FILLED?

25 MR. NOFFSINGER: BE JUNE 1.

1 MR. KAMUF: THANK YOU. THANK YOU.

2 I'M SURE THERE'S OTHER AREAS I'D LIKE TO GO
3 DOWN ON THAT COURSE, BUT I WON'T.

4 QUICKLY I'LL TRY TO ASK THESE QUESTIONS.

5 HAS ANYBODY ON THE COMMISSION REALLY KIND OF
6 DROVE OUT THERE? THEY PROBABLY HAVE. YOU GUYS
7 PROBABLY KNOW THAT AREA BETTER. I DROVE OUT THERE. I
8 WOULD LIKE TO ASK THE QUESTION: WASN'T THERE TREES --
9 YOU KEEP TALKING ABOUT RECLAMATION. BRINGING THIS
10 LAND BACK AS IT WAS. YOU DRIVE OUT THERE AND YOU LOOK
11 AT THE LAND. IT DON'T LOOK LIKE WE'RE IN DAVIESS
12 COUNTY IN ONE WAY TO ME. IT DOESN'T HAVE ANY TREES ON
13 THE LAND AND IT'S BEEN RECLAIMED. I WOULD LIKE A
14 DEFINITIVE ANSWER. CAN YOU GROW NORMAL TREES ON THIS
15 LAND AGAIN?

16 CHAIRMAN: WOULD YOU DEFINE "NORMAL"?

17 MR. KAMUF: WELL, I THINK IT WAS MENTIONED A
18 TYPE OF LOCUST, SMALL LOCUST COULD BE GROWN ON IT. TO
19 ME OLD DAVIESS COUNTY AND OHIO COUNTY IS A FOREST.
20 WE'RE COMMUNITY OF FOREST. THIS LAND JUST DOES NOT
21 LOOK LIKE PART OF DAVIESS COUNTY IN MY OPINION.
22 THAT'S SUBJECTIVE. I WOULD LIKE TO KNOW CAN NORMAL
23 TREES BE GROWN ON THIS LAND?

24 CHAIRMAN: LET ME MAKE SURE I UNDERSTAND WHAT
25 YOU'RE ASKING. ARE YOU SAYING IT DOES NOT LOOK LIKE

1 NORMAL DAVIESS COUNTY LAND NOW?

2 MR. KAMUF: IN MY OPINION. KNOTTSVILLE
3 RECLAMATION, YOU DRIVE UP THERE YOU SEE. OF COURSE,
4 THAT'S AN ISSUE FOR OHIO COUNTY. DRIVING OUT THERE,
5 SOMEBODY SAID, YOU NEED TO REALLY DRIVE OUT THERE AND
6 LOOK AT IT, WHAT IT LOOKS LIKE. THAT'S MY QUESTION.
7 WHY NOT JUST PLANT TREES BACK? I'M BIG A TREE LOVER
8 MYSELF. I'D JUST LIKE TO KNOW THAT SOME DAY TREES CAN
9 GROW ON THIS LAND AGAIN. YOU KNOW, WHAT WE NORMALLY
10 CONSIDER A NORMAL FOREST HERE IN DAVIESS COUNTY. HAVE
11 FOREST STATION, AND I THINK THAT'S IMPORTANT.

12 IF YOU READ ON THE INTERNET A LOT OF PEOPLE --
13 ENVIRONMENTALIST ARE REALLY DOWN ON COAL MINING. IT
14 HAS A LOT OF PROBLEMS. ONE OF THEM THERE'S A LOT OF
15 PEOPLE, IF YOU READ ON THE INTERNET SAY THAT AQUIFERS
16 ARE DAMAGED FROM THIS PROCESS. I WOULD ENCOURAGE YOU
17 TO READ THAT. IT'S NOT GOING TO HAPPEN BEFORE THE
18 VOTE TONIGHT, BUT I WOULD LIKE TO SAY THIS: WE JUST
19 THINK THAT ALL OF THIS IS RECLAIMED AND EVERYBODY IS
20 -- WELL, I DON'T WANT TO MAKE A SPEECH. I'M TRYING TO
21 ASK A QUESTION.

22 THERE'S 400,000 ACRES IN THE LAST TEN YEARS,
23 AND ONLY 22 PERCENT OF THAT HAS BEEN RECLAIMED THROUGH
24 WHAT THEY CALL PHASE THREE IN THE UNITED STATES.

25 MY QUESTION IS, IT DOES LEAD TO A QUESTION:

1 MR. LANHAM, WITH ALL DO YOU RESPECT, I DON'T KNOW YOU
2 AND I DON'T HAVE ANYTHING PERSONALLY AGAINST YOU OR
3 ANYTHING, AND I KNOW WE LIVE IN A MODERN COMPLICATED
4 AREA, BUT WHEN YOU KEEP CHANGING THE NAME OF YOUR
5 BUSINESS, IT KIND OF SENDS UP AN ALARM SIGNAL TO ME.
6 BECAUSE IF YOU READ ABOUT THESE ISSUES, WHY THIS LAND
7 HASN'T BEEN RECLAIMED, ALL THIS LAND IS BECAUSE THEY
8 CREATE SHELL CORPORATIONS. THAT A SMALL ORGANIZATION
9 BUYS THE LAND, AND THEN BIGGER ORGANIZATION BUYS THAT
10 FROM THEM THAT ACTUALLY DO THE MINING. THEN THE SMALL
11 CORPORATION IS THE ONE THAT GOT THE PERMITS AND
12 EVERYTHING ELSE, BUT THEN THEY CAN'T AFFORD TO REALLY
13 DO THE RECLAMATION AND THEY GO OUT OF BUSINESS.

14 MY QUESTION IS: I WOULD LIKE A LITTLE
15 DISCUSSION OF WHY YOU OPERATE UNDER DIFFERENT NAMES.
16 YOU KNOW, YOUR ENTITY. TO ME IT'S A LIABILITY ISSUE.
17 YOU'RE TRYING -- THE ONLY REASON I WOULD THINK THAT,
18 YOU SPENT ALL THE MONEY. GOOD REPUTATION YOU HAVE
19 BUILDING AN COAL ORGANIZATION AND THEN YOU JUST CLOSE
20 THAT BUSINESS AND THE NAME RECOGNITION AND EVERYTHING
21 ELSE IS NO LONGER THERE. SO IF SOMEBODY COULD KIND OF
22 COMMENT ON WHY THEY DO THAT. I THINK IT'S IMPORTANT.

23 THE OTHER THING I HAVE IS, YOU KNOW, THERE'S
24 NO REAL LONG-TERM STUDIES BECAUSE COAL --

25 CHAIRMAN: MR. KAMUF --

1 MR. KAMUF: OKAY. I'LL GET TO IT.

2 CHAIRMAN: YOU'RE MAKING SOME QUESTIONS AND
3 YOU'RE MAKING SOME ACCUSATIONS.

4 MR. KAMUF: I KNOW, BUT SO DID OTHER PEOPLE.

5 CHAIRMAN: LET'S GET TO THE QUESTIONS.

6 MR. KAMUF: WITH ALL DUE RESPECT, WE HAVE
7 DOUBLE STANDARDS FOR DIFFERENT PEOPLE AND I'D LIKE ONE
8 STANDARD.

9 ANYWAY, I DON'T MEAN TO BE RUDE ABOUT THAT,
10 BUT I --

11 CHAIRMAN: I'M NOT FOLLOWING YOU. WHAT IS THE
12 DOUBLE STANDARD? ARE YOU REFERRING TO CERTAIN --

13 MR. KAMUF: I MEAN SOME PEOPLE GET UP HERE AND
14 TALK ABOUT HOW THEY HAVE A LONG HISTORY. THEY'RE NOT
15 QUESTIONS. WE'VE HAD A LOT OF PEOPLE MAKE STATEMENTS
16 TONIGHT THAT ARE NOT QUESTIONS. THAT'S ALL I'M
17 SAYING.

18 MY LAST QUESTION TO YOU IS -- BECAUSE IT
19 REALLY WAS SUPPOSED TO BE AN ISSUE ABOUT QUESTIONS
20 TONIGHT. WE'VE HAD PEOPLE MAKE STATEMENTS, AND I'M
21 ALL FOR THAT. I'M, MAN, IF YOU WANT TO SAY SOMETHING,
22 GET UP HERE AND SAY IT.

23 MY FINAL QUESTION IS TO YOU: IS THERE ANY
24 LONG-TERM STUDIES, AND I KNOW THE ANSWER TO THIS, BUT
25 I WANT EVERYBODY TO THINK ABOUT THIS QUESTION. IS

1 THERE ANY LONG-TERM STUDIES REALLY OF WHAT THIS LAND,
2 BY COAL MINING THIS LAND, WHAT THE LONG-TERM AFFECTS
3 OF THAT IS GOING TO BE?

4 CHAIRMAN: OKAY.

5 MR. KAMUF: THAT'S WHAT I'M SAYING.

6 CHAIRMAN: DOES THAT CONCLUDE YOUR QUESTIONS?

7 THE WITNESS: YES, SIR. THANK YOU.

8 CHAIRMAN: THANK YOU.

9 NEXT, PLEASE.

10 MR. REEVES: MR. CHAIRMAN, WOULD A SHORT BREAK
11 BE IN ORDER?

12 MR. NOFFSINGER: THERE'S TWO NAMES LEFT ON THE
13 LIST.

14 MR. REEVES: I CAN HANDLE THAT.

15 MR. NOFFSINGER: CHRIS ALSIP.

16 MR. SILVERT: STATE YOUR NAME, PLEASE.

17 MR. ALSIP: CHRIS ALSIP.

18 (CHRIS ALSIP SWORN BY ATTORNEY.)

19 MR. ALSIP: I DIDN'T REALLY REALIZE THAT THIS
20 WAS JUST A QUESTION ONLY THING. I HAD NO IDEA. THIS
21 IS THE FIRST FORUM I'M ATTENDED. YOU KNOW, I
22 APOLOGIZE.

23 I JUST WANT TO STATE THAT I DO LIVE IN THE
24 DAVIESS COUNTY AREA WHERE THEY'RE GOING TO BE DOING
25 THE PROPOSED ZONING CHANGE. BEING FROM THAT AREA, A

1 LOT OF PEOPLE OLDER THAN MYSELF ARE PEOPLE THAT'S BEEN
2 AROUND IN THAT AREA KNOW THAT THAT AREA, A LITTLE
3 FURTHER NORTH I GUESS IN SOME OF THOSE OTHER AREAS
4 HAVE ALREADY BEEN MINED AND RECLAIMED. THEY CAN LOOK
5 AT AREAS THAT'S ALREADY BEEN RECLAIMED.

6 MY QUESTION, IF I HAVE JUMP TO IT, IS: WHAT
7 ARE THE PROPERTY VALUES? WE TALKED ABOUT THAT A
8 LITTLE BIT EARLIER, BUT WHAT ARE THE PROPERTY VALUES
9 IN THAT AREA GOING TO DO AND HOW IS THAT GOING TO
10 AFFECT THE INSURANCE FOR THE PEOPLE THAT LIVE, THE
11 HOUSE INSURANCE FOR THE PEOPLE THAT LIVE IN THAT AREA?

12 THE THIRD QUESTION I HAVE IS: THERE'S ALREADY
13 BEEN NOTICED SEISMIC ACTIVITY FOR THE FAULT THAT RUNS
14 THROUGH AN AREA JUST A LITTLE BIT SOUTH OF THAT. IF,
15 I'M NOT SAYING THAT THERE WILL BE ISSUES WITH THE
16 MINING OR DAMAGE OR ANYTHING, BUT IF THERE IS DAMAGE,
17 HOW IS THERE GOING TO BE A DIFFERENTIATION BETWEEN THE
18 CLAIM? IT COULD HAVE BEEN SEISMIC ACTIVITY OR IT WAS
19 ACTUALLY THE DAMAGE FROM THE BLASTING AT THE MINE.

20 CHAIRMAN: THANK YOU.

21 NEXT PLEASE.

22 MR. NOFFSINGER: THOMAS SMITH.

23 MR. SILVERT: STATE YOUR NAME, PLEASE.

24 MR. SMITH: THOMAS SMITH.

25 (THOMAS SMITH SWORN BY ATTORNEY.)

1 MR. SMITH: I DIDN'T REALIZE IT WAS QUESTION
2 ALSO JUST LIKE BEFORE.

3 CURRENTLY TO ANSWER THE QUESTION RIGHT OFF THE
4 BAT, I'VE LIVED WITHIN 300 FEET OF THE CURRENT
5 KNOTTSVILLE OPERATION. WE HAVE AN IN-GROUND HOUSE
6 WHICH IS WHAT MR. PEDLEY TALKED ABOUT EARLIER. SO WE
7 ARE A BASEMENT, THREE SIDES CONCRETE WALLS. WE HAVE
8 NOT NOTICED A PROBLEM THAT I KNOW OF WHERE THE
9 CONCRETE HAS CRACKED AND WATER IS COMING IN, ANYTHING
10 LIKE THAT.

11 DUST. THEY PUT IN A HAUL ROAD KIND OF CLOSE
12 TO US. THE HAUL ROAD THAT WAS CLOSE TO US, MY WIFE
13 AND I WERE TALKING ABOUT ONE MORNING AND THE NEXT
14 MORNING THEY WERE PUTTING WATER ON IT BECAUSE IT WAS
15 DRY THIS SPRING WHEN IT CAME THROUGH OR LAST SPRING,
16 I'M SORRY. I WAS GLAD THAT THEY TOOK CARE OF THAT.

17 THE DUSTING THAT PEOPLE TALK ABOUT. I DIDN'T
18 REALIZE IT WAS SUCH A BIG ISSUE. WHAT WE HAD ON OUR
19 GRASS, IT WAS REAL CLOSE. IT WAS ALL BROWN DUST JUST
20 LIKE AGRICULTURAL. I NEVER NOTICED A BLACK DUST OR A
21 GRAY DUST OR ANYTHING LIKE THAT.

22 THE HOUSE INSPECTION THAT WAS REFERRED TO
23 EARLIER THAT I'VE NOT HEARD MUCH OF. JUST KIND OF
24 ACCUSATIONS. THEY CAME THROUGH AND VIDEOED OUR WHOLE
25 HOUSE. ALL THE CORNERS OF THE WALLS. THEN I GUESS

1 THAT'S WHAT THEY USE AS A REPORT AT THE END WHEN
2 THEY'RE DONE SO THAT IF WE HAVE A COMPLAINT THEY COME
3 BACK AND CONFIRM IT.

4 THEN ON THE RECLAIM I HEARD AROUND HERE. AS I
5 WATCH THEM GO THROUGH THE NEIGHBOR'S YARD OR BIG
6 FIELD, IT'S NOT VERY LONG BEFORE THEY'RE BACK RIGHT
7 BEHIND THEMSELVES RECLAIMING. BECAUSE LIKE WHAT THEY
8 SAID EARLIER, I'M ONE OF THOSE NOSY NEIGHBORS. I LIKE
9 TO ASK QUESTIONS.

10 AS THEY'RE GOING AROUND, THEY WERE JUST MOVING
11 IT FROM HERE TO THERE AND JUST RELOCATING IT ON THE
12 SAME PROPERTY. SO THEY'RE TRYING NOT TO MOVE IT AS
13 MUCH AS THEY CAN. SO THEY'RE JUST PUTTING IT RIGHT
14 HERE WHERE THEY JUST WERE. RIGHT BEHIND WITHIN THE
15 FIRST HALF YEAR, LIKE THEY ARE SAYING, THEY ALREADY
16 HAD STUFF GROWING ON STUFF THEY HAD JUST DONE. THE
17 WHEAT AND STUFF WAS ALREADY GROWING.

18 THEN SOMEBODY KIND OF REFERRED TO EARLIER IS
19 DIDN'T KNOW IF THEY'D LIVE THROUGH IT. I LIVED
20 THROUGH IT. IT DIDN'T BOTHER ME MUCH. IT'S JUST ONE
21 OF THOSE THINGS I JUST TOOK AS, WELL, WE HAVE TO DEAL
22 WITH IN LIFE.

23 SHOCK WAVES. YOU HEAR THE SIRENS. YOU KNOW
24 IT'S COMING. JUST LIKE THE TRAIN WITH THE HORNS AND
25 THE WHISTLES OR THE AMBULANCE RUNNING DOWN THE ROAD

1 THAT'S THREE QUARTERS OF A MILE AWAY. YOU KNOW THE
2 AMBULANCE IS GOING BY. YOU KNOW THE FIRE TRUCKS ARE
3 GOING BY. TO ME IT WASN'T NO BIG DIFFERENCE. I COULD
4 FEEL THE SHOCK WAVE BEFORE I COULD HEAR IT. SO THE
5 SIREN ARE GOOD TO HAVE. I LIKE THOSE.

6 WHERE THEY WERE CURRENTLY GOING ON, MY
7 BUILDING WHERE I WORK IS ABOUT A HALF MILE FROM WHERE
8 THEY'RE AT. IT'S JUST AN OLD POLE BARN. I BARELY
9 EVEN HEAR IT INSIDE.

10 THE NEXT THING WAS ASHBY WAS TALKING EARLIER
11 ABOUT TRUCKS OR PEOPLE REFERRING TO HIM. THE TRUCK
12 DRIVERS WERE EXTREMELY POLITE. THEY'LL EVEN WAIT. IF
13 THEY SEE ME COME AROUND THE CORNER WHERE I'M AT,
14 THEY'VE WAITED AT THE HAUL ROAD ENTRANCE ONTO THE
15 ROAD. WAITED FOR ME TO PASS BEFORE THEY PULLED OUT.
16 IF I'M PULLING OUT ON MY ROAD ONTO 144, THEY'LL EVEN
17 WAIT ON 144 FOR ME TO PULL OUT JUST SO THEY CAN MAKE
18 THEIR TURN. SO THEY'VE VERY POLITE IN BEHAVIOR. I'LL
19 LEAVE IT AT THAT.

20 CHAIRMAN: MR. SMITH, I WANT TO MAKE ONE THING
21 CLEAR. WE'RE NOT LIMITED PEOPLE TO QUESTIONS ONLY,
22 BUT WHEN PEOPLE GET INTO MAKING RANDOM AND START
23 GETTING OFF THE POINT A LITTLE BIT, WE'RE TRYING TO
24 BRING THEM BACK WITH THE QUESTION.

25 MR. SMITH: I DIDN'T HAVE A QUESTION. JUST

1 STATEMENT.

2 CHAIRMAN: YOU HAD NO QUESTION, BUT YOU MADE
3 STATEMENTS. WE DIDN'T WANT YOU TO FEEL LIKE YOU WERE
4 LIMITED TO QUESTIONS ONLY.

5 MR. SMITH: WELL, I KIND OF FELT THAT WAY
6 BECAUSE OF THE --

7 CHAIRMAN: YOU GOT TO SPEAK AND SAY EVERYTHING
8 YOU WANTED TO SAY.

9 MR. SMITH: THAT'S ALL THE NOTES THAT I HAD
10 AND THAT'S ALL I WANTED TO SAY.

11 CHAIRMAN: YOU DID IT. YOU DID IT IN YOUR
12 TIME.

13 HAVE WE COMPLETED ALL OF THE PEOPLE THAT WERE
14 ON THE SIGNED UP LIST?

15 MR. SILVERT: STATE YOUR NAME, PLEASE.

16 MS. SCOTT: JOANN SCOTT.

17 (JOANN SCOTT SWORN BY ATTORNEY.)

18 MS. SCOTT: I WANTED TO ADDRESS THE ISSUE OF
19 PEOPLE CHOOSING TO COME TO DAVIESS COUNTY AND WHY THEY
20 DO.

21 I'M NOT FROM KENTUCKY. I'M FROM SOUTHERN
22 CALIFORNIA. I WAS LOOKING FOR A PLACE TO LIVE WHERE I
23 COULD HAVE A BETTER QUALITY OF LIFE, A PEACEFUL AND
24 BEAUTIFUL HOME. MY HUSBAND TOLD ME A STORIES ABOUT
25 HOW HE COULD TAKE LAND AND MAKE IT BEAUTIFUL. HE'S

1 USED TO LIVING ON POSTAGE STAMP. I WANTED TO COME
2 LIVE SOMEWHERE BEAUTIFUL WHERE WE COULD CHANGE THE
3 LANDSCAPE. I JUST COULDN'T EVEN CONCEIVE. I DIDN'T
4 EVEN BELIEVE WHAT HE SAID YOU COULD DO WITH THE DOZER.
5 IT WAS COMPLETELY A NEW THING TO ME LIVING IN SOUTHERN
6 CALIFORNIA AND HAVING NO LAND, NO SPACE.

7 WE TRANSPORT OUR PIECE OF PROPERTY, 19 ACRES,
8 TO BEAUTIFUL LAND WITH A FOUR ACRE LAKE. WHEN I WAS
9 CHOOSING WHERE TO LIVE, I WAS ADVISED, DO NOT GO TO
10 OHIO COUNTY. DON'T INVEST THERE. THEY COULD HAVE A
11 CHICKEN FARM RIGHT NEXT TO YOU. DON'T TAKE AND INVEST
12 EVERYTHING YOU HAVE IN SOME PLACE WHERE YOU CANNOT
13 TRUST WHAT IS GOING TO HAPPEN. GO TO DAVIESS COUNTY.
14 THEY HAVE ZONING THERE. YOU CAN DEPEND ON THAT ZONE
15 AS A WAY TO KNOW THAT WHAT YOU INVEST IN WILL STAY
16 WHAT YOU INVEST IN.

17 WE TOOK EVERYTHING WE HAD AND NOW EVERYTHING
18 WE HAVE IS IN OUR HOME. WE DON'T WANT OUR LAKE
19 BREACHED. WE DON'T WANT OUR BASEMENT CRACKED.
20 THERE'S TESTIMONY THAT THERE WERE NO CLAIMS IN
21 KNOTTSVILLE. I HAVE A FRIEND NAMED SHELLY NEWCOM.
22 SHE COULDN'T COME TONIGHT. SHE'S WORKING. SHE TOLD
23 ME THAT SHE HAD A CLAIM TWO YEARS AGO FOR HER PATIO
24 CRACKING. SHE SAID SHE DIDN'T EXPECT TO EVER GET A
25 SETTLEMENT ON THAT. THAT SHE THINKS SHE NEVER WILL.

1 HER HUSBAND CAN'T SLEEP AT NIGHT. THEY LIVE TWO MILES
2 FROM THE KNOTTSVILLE SITE. THEY HAVE TO HAVE THEIR
3 WINDOWS SHUT. THEY CAN'T HAVE WINDOWS OPEN AND SAVE
4 MONEY ON AIR-CONDITIONING. THEY HAVE TO HAVE THEIR
5 WINDOWS SHUT AT NIGHT TO SLEEP. THEY'RE TWO MILES
6 AWAY.

7 CHAIRMAN: MA'AM, THIS IS NOT YOU. THIS IS
8 SOMEBODY ELSE?

9 MS. SCOTT: MY FRIEND, SHELLY NEWCOM FROM
10 KNOTTSVILLE.

11 CHAIRMAN: IS SHE HERE?

12 MS. SCOTT: SHE'S NOT HERE UNFORTUNATELY.

13 IT WOULD BE NICE IF THAT COULD BE
14 INVESTIGATED, BUT I SUPPOSE WE VOTE TONIGHT SO THERE'S
15 NO INVESTIGATION ON THAT.

16 I WANT TO READ A VERSE OUT OF JAMES, THE BIBLE
17 JAMES 5:8. "LET YOUR YEA BE YEA; AND YOUR NAY BE NAY;
18 LEST YE FALL INTO CONDEMNATION."

19 WHAT THAT'S TALKING ABOUT IS PEOPLE BEING ABLE
20 TO DEPEND ON WHAT YOU SAY. I KNOW YOU HAVE THE RIGHT
21 TO YOU CHANGE YOUR ZONING, BUT PEOPLE INVEST THEIR
22 WHOLE LIVES IN TRUST IN A ZONE.

23 WHEN MY LAND, WHEN I LOOKED AT HOW IT WAS
24 ZONED IT DIDN'T SAY, IT DIDN'T HAVE A SUBSCRIPT THAT
25 SAID, WITH THE POTENTIAL FOR STRIP MINING. DIDN'T,

1 YOU KNOW, WPSM BY IT. YOU KNOW, I WAS TRUSTING.

2 SO LET US TRUST IN WHAT YOU SAID IN THE PAST
3 ABOUT HOW OUR LAND IS ZONED AND LET PEOPLE, THE FUTURE
4 PEOPLE THAT MAY WANT TO COME TO THIS BEAUTIFUL AREA BE
5 ABLE TO TRUST THAT WHAT THEY INVEST IN WILL STAY WHAT
6 THEY THINK IT WILL BE.

7 I KNOW SEVEN OTHER FAMILIES FROM SOUTHERN
8 CALIFORNIA THAT EXPENSE WAS TOO HIGH AND THEY WERE
9 LOOKING FOR A PLACES TO LIVE. THEY CAME AND INVESTED
10 THEIR LIVES IN SOUTHERN CALIFORNIA. I ADVISED MY
11 FAMILY, GET OUT. COME LIVE WHERE IT'S MORE AFFORDABLE
12 AND MORE BEAUTIFUL. I DON'T KNOW THAT I WANT TO GIVE
13 THAT ADVICE ANY MORE IF THIS GOES THROUGH. I NEVER
14 PLANNED TO LIVE BY A STRIP MINE.

15 I HOPE THAT, LIKE THE WORDS OF JESUS. "AND AS
16 YE WOULD THAT MEN SHOULD DO TO YOU, DO YE ALSO TO THEM
17 LIKEWISE." THAT'S LUKE 6:31. IT SUMMARIZES THE
18 GOLDEN RULE.

19 MR. ISBILL IN THE PAST MENTIONED IF ANY OF YOU
20 COMMISSIONERS ARE WILLING TO COME LIVE IN MY PROPERTY
21 RIGHT NEXT TO THE STRIP MINE, YOU CAN HAVE MY HOUSE.
22 HE SAID THAT AT THE LAST MEETING. I DON'T THINK YOU
23 ALL WANT A STRIP MINE NEXT TO YOU. I HOPE THAT YOU
24 WILL VOTE TO DENY THE ZONING CHANGE.

25 CHAIRMAN: THANK YOU.

1 NEXT, MR. NOFFSINGER.

2 MR. NOFFSINGER: I HAVE NO ONE LEFT ON THE
3 LIST.

4 MS. ALSIP: I HAVE A QUICK QUESTION.

5 CHAIRMAN: YES, MA'AM.

6 MR. SILVERT: STATE YOUR NAME, PLEASE.

7 MS. ALSIP: MY NAME IS PATTY ALSIP.

8 (PATTY ALSIP SWORN BY ATTORNEY.)

9 MS. ALSIP: I'VE JUST BEEN LISTENING TO THE
10 COMMENTS ALL NIGHT. I FEEL LIKE THAT I HAVE TO ASK
11 THIS QUESTION BECAUSE SOME FOLKS HAVE STATED THEIR
12 OPINIONS AND WHETHER THEY ARE PRO OR AGAINST THE STRIP
13 MINING OPERATION.

14 I LIKE ONIONS. MY HUSBAND HATES THEM. WE'VE
15 LIVED IN THE PLEASANT RIDGE AREA. I'VE LIVED IN THE
16 PLEASANT RIDGE AREA, I LIVE LESS THAN A QUARTER OF A
17 MILE FROM GIRL SCOUT ROAD. I'VE BEEN THERE ALMOST 35
18 YEARS. I WAS THERE WHEN THEY WERE FINISHING UP AND
19 RECLAIMING THE LAND WITH BOB GREEN. IT'S RIGHT IN MY
20 BACKYARD, AND I MEAN LITERALLY IN MY BACKYARD. SO I
21 HAVE SOME EXPERIENCE WITH STRIP MINING.

22 I DON'T WANT STRIP MINING IN MY COMMUNITY. I
23 DON'T WANT THE DEVASTATION. I DON'T WANT THE
24 POSSIBILITY OF, WELL, IT'S NOT GOING TO HAPPEN, BUT
25 WHAT IF IT DOES.

1 MY QUESTION IS THIS: THERE HAS BEEN STRIP
2 MINING DONE BEHIND MY HOUSE. I'M TALKING WITHIN 50
3 YARDS OF MY HOUSE. I KNOW THE DEVASTATION. I KNOW
4 WHAT HAPPENS. WE BUILT A NEW HOME. SO THE HOME THAT
5 THERE PREVIOUSLY IT'S GONE. WE BUILT A NEW HOME.

6 BUT IN SAYING THAT, BECAUSE THOSE LANDS BEHIND
7 MY PROPERTY HAS BEEN STRIP MINED, I DON'T HAVE ANY CLUE
8 HOW MANY HUNDREDS OF ACRES MR. GREEN STRIP MINED
9 BEHIND US, BUT I DO KNOW THERE WAS GREAT DEVASTATION
10 TO THE LAND. THAT LAND DOES NOT LOOK THE SAME THAT IT
11 DID 35 YEARS AGO WHEN I MOVED THERE.

12 MY QUESTION IS: WHEN ALL THAT LAND WAS STRIP
13 MINED, ALL THE ROCK AND ALL THE SHELL WAS TAKEN OUT,
14 WHEN THEY DO BLASTING AT GIRL SCOUT ROAD OR IN THAT
15 AREA AND I'M LESS THAN A QUARTER OF A MILE FROM THAT
16 AREA, THERE IS NOTHING, NO BARRIER THERE NO LONGER TO
17 CUSHION THE SHOCK OF A BLAST. I KNOW WHAT THE BLAST
18 FEELS LIKE. I'VE BEEN THERE. I DON'T WANT A STRIP
19 MINE IN MY BACKYARD. I DON'T WANT IT NEAR MY HOME.
20 I'VE LIVED THERE ALMOST 35 YEARS. I'VE RAISED MY
21 CHILDREN THERE. AS FOR PEOPLE COMING TO DAVIESS
22 COUNTY, I HAVE TWO CHILDREN BOTH WITH COLLEGE
23 EDUCATIONS. MY OLDEST SON HAS A SEMESTER'S DEGREE.
24 MY YOUNGEST SON HAS JUST GOTTEN HIS BACHELOR'S. THEY
25 NEITHER ONE WANT TO WORK IN DAVIESS COUNTY BECAUSE

1 THEY FEEL LIKE THE BIAS FROM SOME OF THE DECISIONS
2 THAT ARE MADE TO THE CITY AND THE COUNTY, THEY DON'T
3 WANT TO LIVE IN THIS AREA ANY LONGER. IT SADDENS ME
4 THAT PEOPLE'S OPINIONS AND PEOPLE'S RIGHTS DON'T SEEM
5 TO TAKE PRECEDENCE OVER THE ALL MIGHTY DOLLAR OR WHAT
6 SOMEBODY SAID WAS GOOD FOR THEM. WELL, IT MAY BE GOOD
7 FOR THEM, BUT IT'S NOT GOOD FOR ME.

8 CHAIRMAN: LET ME ASK YOU SOMETHING. THE
9 PROPERTY BEHIND YOU, IT'S ALREADY BEEN RECLAIMED AND
10 IT'S NOT IN THIS CURRENT?

11 MS. ALSIP: NO. NO. I WAS THERE WHEN BOB
12 GREEN MINED I'M GOING TO SAY AROUND '77, '78. I DON'T
13 KNOW THE YEAR THAT HE ACTUALLY STARTED MINING THAT
14 LAND, BUT IT WAS STRIP MINED. IT WAS RIGHT IN MY
15 BACKYARD.

16 CHAIRMAN: SO THAT'S ALREADY BEEN DONE AND
17 RECLAIMED?

18 MS. ALSIP: YES.

19 CHAIRMAN: THE CLOSEST THE MINE COMES TO YOU
20 NOW WILL BE A QUARTER OF A MILE?

21 MS. ALSIP: ABOUT A QUARTER OF A MILE.

22 CHAIRMAN: AND YOUR QUESTION IS: WHAT WILL BE
23 YOUR --

24 MS. ALSIP: BECAUSE THAT LAND DIRECTLY BEHIND
25 MY PROPERTY HAS BEEN STRIPPED MINED, THEY HAVE ALREADY

1 TAKEN OUT ALL THE SHELL, ALL THE ROCK. THAT LAND HAS
2 BEEN DISTURBED. THEY WERE TALKING ABOUT AS THE BLAST
3 WENT THROUGH THE GROUND, THE SEISMIC WAVES OR WHATEVER
4 YOU CALL IT WILL BE SLOWED DOWN, WILL BE CUSHIONED BY
5 WHAT'S IN THE GROUND THERE. THERE'S NOTHING IN THE
6 GROUND BEHIND MY HOUSE BUT DIRT.

7 CHAIRMAN: I JUST WANT TO MAKE SURE I
8 UNDERSTOOD WHAT YOUR QUESTION WAS.

9 MS. ALSIP: THANK YOU.

10 CHAIRMAN: MR. NOFFSINGER.

11 MR. SILVERT: COULD YOU STATE YOUR NAME AGAIN
12 JUST FOR THE RECORD. YOU'RE ALREADY SWORN.

13 MR. WHISTLE: CURTIS WHISTLE.

14 JUST ONE QUICK QUESTION. WE TALK ABOUT A TEN
15 YEAR MINING PLAN. THE PLANNING STAFF REPORT REFERRED
16 TO IT AS A SEVEN TO TEN YEAR PROJECT, I THINK. IS
17 THERE ANY COMMITMENT OR ACCOUNTABILITY TO THAT TEN
18 YEAR SPAN? THAT'S ALL I HAVE.

19 CHAIRMAN: THANK YOU.

20 MR. WILSON, YOU HAVE ONE THAT YOU'RE GOING TO
21 USE IN YOUR CLOSING; IS THAT CORRECT?

22 MR. WILSON: I HAVE A COUPLE IN MY CLOSING.

23 CHAIRMAN: IF WE HAVE NOBODY ELSE FROM THE
24 AUDIENCE OF ANY MORE STATEMENTS.

25 YES, SIR.

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

3 MR. HAGAN: I'M IVAN HAGAN.

4 (IVAN HAGAN SWORN BY ATTORNEY.)

5 MR. HAGAN: MY DAUGHTER LIVES RIGHT ACROSS
6 FROM WHERE THEY'RE CRUSHING COAL. WE'VE GOT A
7 SWIMMING POOL AND STUFF. EVERYBODY SAYS, YOU BETTER
8 NOT BUILD A SWIMMING POOL BECAUSE THE DUST WILL GET IN
9 IT. YOU'LL HAVE TO COVER IT UP. IT STAYS CLEAN AS A
10 WHISTLE ALL THE TIME. WE DON'T EVER HAVE ANY PROBLEM
11 WITH DUST OR NOTHING OVER THERE.

12 CHAIRMAN: HOW FAR.

13 MR. HAGAN: HOW FAR ARE WE?

14 CHAIRMAN: YES.

15 MR. HAGAN: WELL, PROBABLY 1,000 FEET FROM
16 WHERE THEY'RE CRUSHING THE COAL, LOADING IT IN THE
17 TRUCKS AND COMING OUT. THEY GO THE OTHER WAY WITH THE
18 COAL, BUT YOU CAN SEE THEM. THEY'VE GOT CONVEYORS AND
19 THEY'RE PILING IT UP.

20 CHAIRMAN: IS YOUR PROPERTY ADJOINING OR IS
21 THERE PROPERTY --

22 MR. HAGAN: IT'S ADJOINING PROPERTY THEY HAVE
23 STRIPPED.

24 TALKING ABOUT THE GUY WITH THE DOG THERE
25 AWHILE AGO. THERE AIN'T NOBODY GOT AN UGLIER DOG THAN

1 BRANDON LANHAM AND HE JUST LOVES THAT THING. I SEEN
2 HIM ON THE GROUND FIGHTING AND KISSING THAT THING, YOU
3 KNOW. THERE AIN'T NOBODY GOT AN UGLIER DOG THAN
4 BRANDON. THEY LOVE ANIMALS. SO I KNOW THEY DIDN'T DO
5 THAT ABOUT WRITING THAT LETTER THAT POOR BOY WAS
6 TALKING ABOUT. I FEEL SORRY FOR HIM THOUGH WHOEVER
7 WROTE THAT LETTER.

8 CHAIRMAN: IF THERE ARE NO OTHER COMMENTS FROM
9 THE AUDIENCE?

10 MR. MITCHELL: CAN I MAKE JUST ONE QUICK
11 COMMENT?

12 CHAIRMAN: YES, SIR.

13 MR. SILVERT: STATE YOUR NAME AGAIN FOR THE
14 RECORD. I KNOW YOUR WERE PREVIOUSLY SWORN.

15 MR. MITCHELL: BILL MITCHELL.

16 I LIVE OVER 15 MILES FROM ARMSTRONG COAL
17 COMPANY IN OHIO COUNTY. OUR REGULAR BASIS FILL WITH
18 AIR BLAST. IT'S AIR BLAST. THAT'S 15 MILES. THEY'RE
19 TALKING ABOUT BUILDING A WASH PLANT IN DAVIESS COUNTY
20 AND BRINGING OHIO COUNTY COAL TO DAVIESS COUNTY TO
21 WASH THE COAL.

22 YOU WON'T BE DOING THAT? OKAY.

23 I WAS WORRYING ABOUT THE SLURRY, WHERE DOES IT
24 GO BACK TO. IT GOES BACK TO -- TRUCKS BACK TO OHIO
25 COUNTY OR WHERE THAT GOES TO?

1 CHAIRMAN: WHAT'S YOUR QUESTION?

2 MR. MITCHELL: IF WE'RE WASHING COAL IN
3 DAVIESS COUNTY, OHIO COUNTY COAL, THEY'VE ALREADY
4 BEEN, THE WAY I UNDERSTAND THEY ALREADY HAVE THE
5 GROUND LEASED IN OHIO COUNTY.

6 ALSO, THE COMPANY DOING THE BLASTING FOR
7 ARMSTRONG DOWN IN CENTERTOWN IS THE SAME BLASTING
8 COMPANY I BELIEVE THAT WESTERN KENTUCKY MINERALS USES.
9 WE'RE FEELING BLAST OVER 15 MILES AWAY, BUT IT'S NOT
10 THE GROUND SHAKING. IT'S THE AIR BLAST THAT DOES THE
11 DAMAGE.

12 CHAIRMAN: YOUR QUESTION IS ABOUT THE AIR
13 BLASTING; IS THAT CORRECT?

14 MR. MITCHELL: YES, SIR.

15 CHAIRMAN: THANK YOU. IF THAT CONCLUDES
16 EVERYBODY --

17 MR. ALLEN: MR. CHAIRMAN, THERE WAS ONE
18 GENTLEMAN OVER HERE.

19 MR. SILVERT: STATE YOUR NAME, PLEASE.

20 MR. SANDS: MY NAME IS CHESTER SANDS.

21 (CHESTER SANDS SWORN BY ATTORNEY.)

22 MR. SANDS: I BROUGHT UP A QUESTION BEFORE AND
23 I HAVEN'T GOT NO ANSWER TO IT YET.

24 YOU SAY YOU BLAST UP TO THE ROAD. OKAY. WE
25 GOT PLASTIC LINES, WATER LINES UP AND DOWN THESE

1 ROADS. WHAT IS THE DEAL ON THAT?

2 CHAIRMAN: ALL RIGHT, SIR. THANK YOU.

3 MR. SANDS: NO ANSWER?

4 CHAIRMAN: NO, SIR. I'M GOING TO ANSWER ALL
5 THE QUESTIONS AT ONE TIME. THAT'S THE WAY WE'RE DOING
6 IT.

7 MR. WILSON.

8 MR. WILSON: IF THE CHAIR WANTS TO TAKE A
9 BREAK. MR. OVERSTREET IS HERE TESTIFYING ON HIS OWN
10 BEHALF AS A PROPERTY OWNER AND ON BEHALF OF ANOTHER
11 PERSON WHO OWNS PROPERTY AS AN ATTORNEY AND A
12 RESIDENT. HE'S NOT ONE OF MY CLIENTS AND HE'S NOT ONE
13 OF MY PEOPLE.

14 CHAIRMAN: IF HE'S OUR LAST ONE --

15 MR. WILSON: I HAVE TWO OF MY CLIENTS.

16 CHAIRMAN: BUT YOU'RE GOING TO USE THEM IN
17 WRAP UP.

18 MR. WILSON: I SAY IN MR. REEVES BENEFIT, I'M
19 APPROXIMATELY HIS AGE, AND I WOULD BE GLAD TO TAKE A
20 BREAK.

21 CHAIRMAN: I DID NOT BRING THAT UP, MR.
22 WILSON.

23 LET'S TAKE A QUICK BREAK.

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

25 CHAIRMAN: WE ARE BACK ON THE RECORD.

1 MR. SILVERT: STATE JURY NAME PLEASE.

2 MR. OVERSTREET: KENT OVERSTREET.

3 MR. SILVERT: YOU'RE PREVIOUSLY SWORN AS AN
4 ATTORNEY.

5 MR. OVERSTREET: FIRST, I WOULD LIKE TO BEGIN
6 BY ADDRESSING THE PROCEDURE THAT WE'VE BEEN FOLLOWING
7 TONIGHT. IT HAS VARIED SOMEWHAT THROUGHOUT THE NIGHT.

8 I HAVE PREPARED IN ADVANCE WHEN I HAD SEEN --
9 WHEN I SAW THE RELEASE IN THE NEWSPAPER THAT FOLKS
10 WERE GOING TO BE LIMITED TO THREE MINUTES TO ADDRESS
11 AN ISSUE AS IMPORTANT AS IMPACTING THE VALUE OF THEIR
12 HOMES, IMPACTING THEIR HEALTH, IMPACTING THEIR
13 LIVELIHOODS, THEIR CHILDREN, I FELT COMPELLED. SO FOR
14 THE RECORD, AND I WOULD ASK THAT IT BE ENTERED, I
15 PREPARED AN OBJECTION TO THE PLANNING COMMISSION'S
16 LIMITATION TO ADDRESS THE NEW MINE APPLICATION WHICH
17 IS THE SUBJECT MATTER OF THIS PUBLIC HEARING WHICH
18 VIOLATES DUE PROCESS AND EQUAL PROTECTION CLAUSES OF
19 THE UNITED STATES AND THE COMMONWEALTH OF KENTUCKY
20 CONSTITUTIONS.

21 FIRST, DUE PROCESS UNDER THE UNITED STATES AND
22 KENTUCKY CONSTITUTES REQUIRE THAT EVERY PERSON, PARTY
23 OR ENTITY BE PROVIDED A "MEANINGFUL OPPORTUNITY TO BE
24 HEARD."

25 MR. SILVERT: KENT, I'M GOING TO STOP YOU FOR

1 A MOMENT SINCE YOU'RE READING. YOU PUT THIS INTO THE
2 RECORD AND IT'S DULY NOTED. AS YOU'VE NOTICED, WE
3 HAVEN'T LIMITED TO PEOPLE TO THREE MINUTES TONIGHT.
4 WE'VE HAVE BEEN KEEPING TRACK OF THAT PRETTY
5 SERIOUSLY.

6 MR. OVERSTREET: JUST LET THE RECORD REFLECT
7 THAT THERE WERE SOME INDIVIDUALS --

8 MR. SILVERT: THAT YOU WOULD HAVE HAD A
9 PROBLEM WITH IF WE HAD LIMITED THEM.

10 MR. OVERSTREET: YES. TO THOSE INDIVIDUALS
11 WERE LIMITED THE PROCESS HAS BEEN HAMPERED AND THEY
12 OTHERWISE HAVE BEEN DENIED THAT MEANINGFUL
13 OPPORTUNITY.

14 MR. SILVERT: WE'LL AGREE TO DISAGREE ON THAT,
15 MR. OVERSTREET, BUT NO ONE WAS.

16 CHAIRMAN: EVERYONE WAS GIVEN THEIR EQUAL
17 OPPORTUNITY TO SPEAK. MANY PEOPLE WENT OVER. SOME
18 PEOPLE WERE SHORT. EVERYBODY WAS ASKED TO SUMMARIZE
19 THEIR QUESTIONS. THEY DID. PEOPLE THAT FELT LIKE
20 THEY DIDN'T GET ENOUGH, WE BROUGHT THEM BACK. WE LET
21 THEM BRING THEIR EVIDENCE BACK. NOBODY WAS CUT SHORT.

22 MR. SILVERT: MY FEELING IS THERE WILL
23 PROBABLY BE AMPLE TIME FOR LEGAL ARGUMENTS.

24 CHAIRMAN: THANK YOU.

25 MR. OVERSTREET: I AGREE WITH YOU 100 PERCENT.

1 I'VE PROVIDED EACH OF YOU WITH A COPY OF A
2 WRITTEN ARGUMENT. I HAVE ALSO GIVEN TO THE COURT
3 REPORTER ALL THE CASE LAW THAT SUPPORTS IT.

4 NEXT I WOULD LIKE TO BEGIN WITH A STATUTE THAT
5 WAS PARTIALLY READ BY MR. NOFFSINGER. KRS 350.020,
6 DECLARATION OF LEGISLATIVE POLICY AND FINDING OF FACT.

7 NOW, A PORTION OF THIS WAS READ. THE PORTION
8 THAT WAS NOT READ STATES, "THE GENERAL ASSEMBLY FINDS
9 THAT THE COMMONWEALTH IS THE LEADING PRODUCER OF COAL
10 AND THAT PRODUCTION OF COAL IN KENTUCKY CONTRIBUTES
11 SIGNIFICANTLY TO THE NATION'S ENERGY NEEDS. THE
12 GENERAL ASSEMBLY FURTHER FINDS THAT UNREGULATED
13 SURFACE COAL MINING OPERATIONS CAUSE SOIL EROSION,
14 DAMAGE ROLLING STONE AND OVERBURDEN, LANDSLIDES,
15 STREAM POLLUTION, THE ACCUMULATION OF STAGNANT WATER,
16 AND THE SEEPAGE OF CONTAMINATED WATER, INCREASING THE
17 LIKELIHOOD OF FLOODS, DESTROY THE VALUE OF LAND FOR
18 AGRICULTURAL PURPOSES, DESTROY ITS ESTHETICS VALUES,
19 COUNTERACT EFFORTS FOR THE CONSERVATION OF SOIL, WATER
20 AND OTHER NATURAL RESOURCES, DESTROY OR IMPAIR THE
21 PROPERTY RIGHTS OF CITIZENS AND CREATE FIRE HAZARDS,
22 AND IN GENERAL CREATE HAZARDS DANGEROUS TO LIFE AND
23 PROPERTY, SO AS TO CONSTITUTE AN IMMINENT AND
24 INORDINATE PERIL TO THE WELFARE OF THE COMMONWEALTH."
25 OBVIOUSLY THE LEGISLATURE SEES THE PROBLEMS

1 WITH STRIP MINING. NOW, EVERYBODY KEEPS SAYING, WE
2 HAVE ALL THESE REGULATIONS. WE HAVE ALL THESE RULES.
3 WELL, THERE'S A REASON FOR THAT. IT'S AN
4 ULTRAHAZARDOUS ACTIVITY. YOU'RE USING EXPLOSIVES.

5 AS THE GENTLEMAN TESTIFIED EARLIER, AND I
6 THINK MR. VANMILLIGAN SAID, IF YOU USE AN M80 YOU'RE
7 NOT GOING TO DO A LOT OF DAMAGE. WE'RE DEPENDING ON
8 THE DISTANCE. TO SOME EXTENT YOU'RE DEPENDING ON
9 GEOLOGY. YOU'RE DEPENDING ON THE STRUCTURE OF A HOME.
10 IS IT A MODULAR HOME? IS IT A MOBILE HOME? DOES IT
11 HAVE A CINDER BLOCK FOUNDATION? IS IT A SLAB? SO WE
12 HAVE IMMINENT PERIL TO ALL OF THE HOMEOWNERS NO MATTER
13 WHAT TYPE OF RESIDENCE YOU'RE IN.

14 YOU HAVE THE BLASTING ROCK. THEY WANT TO ACT
15 AS IF THIS IS A CONTROLLED SITUATION. THE CONTROLLED
16 SITUATION IS A MASSIVE EXPLOSION THAT RESULTS IN THE
17 TOTAL DISRUPTION OF THE SURFACE AND DOWN AS FAR AS
18 THEY WANT TO GO.

19 THEY TALK ABOUT SOIL RECLAMATION AND THEY TALK
20 ABOUT ALL THE OBLIGATIONS UNDER FEDERAL LAW. IT JUST
21 SO HAPPENS, AND THE COMMISSION HAS ASKED ABOUT THIS AS
22 WELL. UNFORTUNATELY I ONLY HAVE ONE COPY.

23 IT JUST SO HAPPENS THAT KENTUCKY HAS THE
24 DUBIOUS DISTINCTION OF BEING THE SUBJECT OF A REPORT
25 TO THE CONGRESSIONAL REQUESTERS. CONGRESS ACTUALLY

1 REQUESTED A REPORT TO BE PREPARED ON STRIP MINING, THE
2 PRACTICES AND ACTUALLY HOW PEOPLE WERE DOING IN
3 CONFORMING WITH BOTH THE FEDERAL LAWS AND THEIR STATE
4 LAWS.

5 IT CAME DOWN TO KENTUCKY, TENNESSEE, WEST
6 VIRGINIA AND VIRGINIA. ON PAGE, ACTUALLY IT'S THE
7 INITIAL PAGE OF WHAT THE GAO FOUND.

8 THEIR CONCLUSIONS, AND THEY'RE REFERRING TO
9 MOUNTAIN TOP MINING AS WELL AS THE DESTRUCTION OF
10 OTHER HILLS AND FILLING IN VALLEYS AND NOT RESURFACING
11 IT ACCORDINGLY.

12 IT SAYS, "ACCORDING TO THE US GEOLOGICAL
13 SURVEY, THEY HAVE CONDUCTED OR FUNDED ANALYSES OF
14 CONDITIONS NEAR RECLAIMED MINE SITES WITH VALLEY FILL
15 THAT HAVE SHOWN ENVIRONMENTAL IMPACTS. SPECIFICALLY
16 ANALYSES HAVE SHOWN:

- 17 1) RESTORATION EFFORTS AT SOME RECLAIM
18 SURFACE COAL MINE SITES NEEDED IMPROVEMENT;
19 2) SURFACE COAL MINE SITES HAVE CONTAMINATED
20 STREAMS AND HARMED ORGANISM;
21 3) VALLEY FILLS MAY HAVE AFFECT WATER FLOW;
22 AND
23 4) MINE OPERATORS HAVE NOT ALWAYS RETURNED
24 MINE SITES TO THEIR APPROXIMATE ORIGINAL CONTOUR WHEN
25 REQUIRED TO DO SO UNDER SMCRA, WHICH IS THE MINE

1 RECLAMATION ACT.

2 THEY ALSO HAVE STATEMENTS FROM VARIOUS
3 ORGANIZATIONS WHICH INCLUDE THE EPA THAT IS ATTACHED
4 TO THAT REPORT.

5 I APOLOGIZE. I FORGOT MY GLASSES.

6 THE EPA IN A LETTER THAT IS ATTACHED IS DATED
7 DECEMBER 24, 2009.

8 IT SAYS, "I WOULD LIKE TO TAKE THIS
9 OPPORTUNITY TO RECOGNIZE ONE OF THE KEY PREMISES ON
10 WHICH THIS REPORT IS BASED. THE IMPORTANCE OF BETTER
11 UNDERSTANDING THE LONG-TERM IMPLICATIONS OF AUTHORIZED
12 SURFACE MINING ACTIVITIES. AS THE DRAFT REPORT POINTS
13 OUT, VALLEY FILLS HAVE DIRECTLY IMPACTED ALMOST 1,100
14 MILES OF STREAMS IN THE CENTRAL APPALACHIAN, STATE OF
15 KENTUCKY, TENNESSEE, VIRGINIA AND WEST VIRGINIA FROM
16 1985 THROUGH 2005. FURTHERMORE, THE DRAFT REPORT
17 REFERS TO A RECENT FINDING FROM THE FINAL REPORT GAO
18 1021 WHICH STATES THAT NEARLY 2000 VALLEY FILLS WERE
19 APPROVED IN THE STATES OF KENTUCKY AND WEST VIRGINIA
20 FROM 2000 TO 2008. THESE AND OTHER DATA PRESENTED IN
21 BOTH GAO REPORTS PROVIDE HELPFUL CONTEXT FOR FEDERAL
22 AND STATE AGENCIES AS WE CONTINUE TO WORK TOGETHER TO
23 ADDRESS BOTH THE NEAR AND LONG-TERM CONSEQUENCES OF
24 SURFACE COAL MINING ACTIVITIES ON THE ENVIRONMENT,
25 WATER QUALITY AND APPALACHIAN COAL FILL COMMUNITIES."

1 I WOULD ASK THAT THAT ALSO BE PLACED IN THE
2 RECORD.

3 AS FAR AS THE ACTUAL PROPOSAL OF THE STRIP
4 MINING, AGAIN, I PREPARED A WRITTEN RESPONSE. I WILL
5 SUBMIT TO THE COURT REPORTER AS WELL, THESE ARE THE
6 EXHIBITS, STATUTES, REGULATIONS THAT GO WITH THOSE.

7 AS FAR AS THE ARGUMENTS FOR OR AGAINST THE
8 STRIP MINING, THE LAW HAS A VERY STRINGENT
9 REQUIREMENT.

10 THE FIRST ARGUMENT AS PRESENTED THERE GOES
11 THROUGH THE MODIFICATION OF ZONING REGULATIONS UNDER A
12 COMPREHENSIVE PLAN REQUIRES THAT THE REZONING BE IN
13 AGREEMENT WITH THE COMPREHENSIVE PLAN WHERE THAT THERE
14 HAS BEEN AN UNANTICIPATED MAJOR CHANGE SINCE THE
15 ADOPTION OF THE COMPREHENSIVE PLAN.

16 NOW, I WILL ADD IN A CASE THAT IS ATTACHED,
17 THE JEFFERSON COUNTY PLANNING & ZONING COMMISSION AND
18 D.R. HORTON, INCORPORATED VERSUS SCHMIDT, WILL TELL
19 YOU THAT PREREQUISITE TO EVEN GIVE THOSE TWO IS THAT
20 YOU HAVE HAD A DUE PROCESS HEARING OPPORTUNITY TO BE
21 HEARD WHICH INCLUDES CONSIDERATION OF A MATTER AND A
22 CAUSE THAT YOU'RE THERE ON.

23 AS A BRIEF SUMMARY, WHICH HAS BEEN ADOPTED BY
24 THE KENTUCKY SUPREME COURT, THEY STATED, "ONLY AFTER
25 DEVELOPMENT OF SUCH A COMPREHENSIVE PLAN MAY FISCAL

1 COURT TAKE ACTION, AND AGAIN ONLY IN A CERTAIN MANNER.
2 THE ZONING REGULATION MUST SPECIFY ZONES AND THE
3 CONDITIONS MUST BE UNIFORM THROUGHOUT A ZONE. AS TO
4 EACH ZONE THE REGULATIONS MAY SPECIFY THE ACTIVITY
5 THAT MAY BE CARRIED ON IN THE ZONE, THE SIZE, WIDTH,
6 HEIGHT, BULK, AND LOCATION OF STRUCTURES IN THE ZONE,
7 AND THE POPULATION DENSITY OF THAT ZONE.

8 "ONCE THESE ZONES ARE ESTABLISHED, DEVELOPMENT
9 MUST PROCEED IN ACCORDANCE WITH THE REGULATIONS UNLESS
10 THE REQUIREMENTS ARE MODIFIED. AND EVEN HERE THE
11 LEGISLATURE HAS HEMMED IN FISCAL COURT'S ABILITY TO
12 PERMIT DEPARTURES FROM THE ZONING REGULATIONS. THE
13 ENABLING LEGISLATION RECOGNIZES TWO WAYS IN WHICH THE
14 CONDITIONS MAY BE MODIFIED.

15 "ONE WAY TO AVOID AN EXISTING REGULATION IS TO
16 REZONE THE PROPERTY. IF A LANDOWNER WISHES TO REZONE
17 A PROPERTY, THE STATUTES SPECIFY IN DETAIL THE
18 PROCEDURE THAT MUST BE FOLLOWED. AMONG OTHER THINGS
19 THERE MUST BE PUBLIC HEARINGS, RECOMMENDATIONS BY THE
20 PLANNING COMMISSION, AND FINAL ACTION BY FISCAL COURT.
21 EVEN IF THIS PROCEDURE IS FOLLOWED, THE ZONING CHANGE
22 IS ONLY PERMISSIBLE IF CERTAIN CRITERIA ARE MET."

23 AND IT REFERS TO KRS 100.213.

24 "THE REZONING MUST EITHER BE IN AGREEMENT WITH
25 THE ORIGINAL COMPREHENSIVE PLAN OR THERE MUST HAVE

1 BEEN AN UNANTICIPATED MAJOR CHANGE IN CIRCUMSTANCES
2 SINCE THE ADOPTION OF THE PLAN. IN SHORT, REZONING
3 INVOLVES A MAJOR UNDERTAKING."

4 I WOULD SUBMIT TO THE COMMISSION THAT WESTERN
5 KENTUCKY MINERALS HAS NOT MET THAT BURDEN.

6 FIRST, THEY HAVE NOT SHOWN THAT THERE IS AN
7 UNANTICIPATED MAJOR CHANGE AS THE COAL -- THE COAL
8 HASN'T CHANGED. IT'S BEEN THERE. YOU ALL HAVE BEEN
9 ASKED ON MORE THAN ONE OCCASION TO ADDRESS THAT.

10 IT'S BEEN CORE DRILLED BY OTHER COMPANIES.
11 IT'S BEEN LEFT IN THE GROUND BY OTHER COMPANIES. SOME
12 OF IT HAS BEEN TAKEN BY SOME COMPANIES, BUT THERE'S
13 BEEN NO CHANGE. THE TREES ARE STILL GROWING. THE
14 GRASS IS STILL GREEN FOR NOW.

15 THE SAME FOLKS ARE LIVING THERE FOR THE MOST
16 PART. IT'S A RURAL RESIDENTIAL COMMUNITY.

17 NOW, I WOULD ALSO POINT OUT THAT THE COAL
18 SEAMS THAT WERE PRESENT IN '86 AND '93 WERE THERE
19 PRIOR TO THE ADOPTION OF THE COMPREHENSIVE PLAN. SO
20 THE ONLY CHANGE FROM '86, '93 OR 2007 WHEN THE
21 COMPREHENSIVE PLAN WAS ADOPTED IS THAT THERE ARE:

22 A) MORE FAMILIES;

23 B) MORE PRODUCTIVE FARMLAND BECAUSE WE HAVE
24 BETTER TECHNIQUES;

25 C) MORE OF A TAX BASE GIVEN THE ADDITIONAL

1 HOMES BUILT, AS WELL AS THE VALUE OF THOSE HOMES.
2 THERE ARE MORE "RURAL FARM RESIDENTIAL USE," AS
3 DEFINED IN THE COMPREHENSIVE PLAN AT PAGE 48. THERE'S
4 MORE CHILDREN WHOSE HEALTH, SAFETY AND WELFARE WILL BE
5 IMPACTED.

6 THE ONLY THING THERE'S NOT ANY MORE OF IS
7 COAL. THAT'S THE ONE CONSTANT.

8 IN REVIEWING THE IMPACTED PARCELS THAT WOULD
9 BE TOUCHED BY THE STRIP MINING, IT'S NOT JUST THOSE
10 THAT ARE IN THE PLAN. IT'S THOSE FOLKS THAT ARE
11 AROUND IT. I'M NOT IN THE ZONE, BUT I'M RIGHT NEXT TO
12 IT. I FEEL QUITE CERTAIN WHEN THOSE BLASTS GO OFF,
13 I'VE GOT A 100 POUND DOBERMAN I PROBABLY WON'T SEE
14 AGAIN.

15 IN LOOKING AT THE PLAN, THE COMPREHENSIVE PLAN
16 SAYS THAT, "RURAL FARM RESIDENTIAL USE IS DEFINED AS
17 'CONSISTING OF SINGLE-FAMILY DWELLINGS LOCATED ON
18 LARGE AGRICULTURAL TRACTS IN RURAL AREAS." THE
19 DEFINITION GOES ON TO INCLUDE THE SPECIFIC CRITERIA
20 THAT APPLY WHICH IS, "LARGE TRACTS WITH AGRICULTURAL
21 POTENTIAL." IT DOESN'T SAY THEY HAVE TO HAVE ROW
22 CROPS. IT DOESN'T SAY THEY HAVE TO HAVE ANYTHING. IT
23 JUST HAS TO HAVE THE POTENTIAL FOR FARM USE. CATTLE,
24 HORSES, HAY, SOY BEANS, CHRISTMAS TREES. ANYTHING
25 THAT CAN BE CONSIDERED AGRICULTURAL.

1 THE COMPREHENSIVE PLAN ALSO IN ANOTHER SECTION
2 REFERS TO FIVE ACRES AS BEING A LARGE RURAL LOT. THE
3 ONLY OTHER REQUIREMENT IS ACCESS TO EXISTING PUBLIC
4 ROADS VIA PRIVATE DRIVE.

5 NOW, THAT DEFINITION OF A LARGE RURAL
6 RESIDENCE IS GOING TO INCLUDE A LOT OF THE HOMES THAT
7 ARE IMPACTED HERE.

8 NOW, THERE'S BEEN A LOT OF DISCUSSION THAT
9 PEOPLE ARE ON NOTICE THAT THERE'S MINING. IF YOU
10 REVIEW THE PLAN, UNDER THE COMPREHENSIVE PLAN, A RURAL
11 FARM RESIDENTIAL USE DOES NOT REQUIRE ACTUAL
12 AGRICULTURAL ACTIVITIES, BUT IT'S THE POTENTIAL. I'M
13 SORRY, I SKIPPED.

14 YOU DON'T HAVE THE WARNING OF THE STRIP MINING
15 UNTIL YOU GET TO THE CLASSIFICATION BELOW LARGE RURAL
16 AGRICULTURAL DWELLINGS. IT'S NOT UNTIL YOU GET TO THE
17 AGRICULTURAL COMMUNITY TYPE SITUATION. IN THIS
18 INSTANCE, THAT'S THE 70 ACRES THAT EVERYONE KEEPS
19 REFERRING TO WHERE THE HOMES ARE CLUSTERED. AS FAR AS
20 THE POTENTIAL FOR AGRICULTURAL USE, THE REQUIREMENTS
21 THAT ARE SET FORTH IN THE COMPREHENSIVE PLAN ARE:

- 22 A) A SINGLE-FAMILY DWELLING;
- 23 B) A LARGE AGRICULTURAL TRACT;
- 24 C) IN A RURAL AREA;
- 25 D) AGRICULTURAL POTENTIAL; AND

1 E) ACCESS TO AN EXISTING PUBLIC ROAD VIA
2 PRIVATE DRIVE.

3 I THINK IT GOES WITHOUT SAYING THERE'S NOT A
4 STRIP MINE THAT WILL MEET ANY OF THOSE CRITERIAS.

5 IN FACT, IT'S GOING TO REMOVE THE NUMBER OF
6 PROPERTY OWNERS FROM THE RURAL FARM RESIDENTIAL USE
7 BECAUSE WHEN THEIR PROPERTY IS TAKEN, THEY'RE NO
8 LONGER GOING TO HAVE THAT ACREAGE. OBVIOUSLY, IT'S
9 GOING TO BE RECLAIMED AT SOME POINT, BUT QUITE FRANKLY
10 WE ALL KNOW IT'S NOT GOING TO SUBJECT TO AGRICULTURAL
11 POTENTIAL AT THAT POINT. IT WON'T EVEN GROW THE GRASS
12 THAT'S INDIGENOUS TO THIS AREA. IT LOOKS LIKE THE
13 SCREEN SAVER THAT WE HAD ON THE SCREEN EARLIER WHEN
14 THEY SHOWED THE LITTLE BACKGROUND THROUGH THE WINDOWS.
15 IT'S A FAKE SHADE OF GREEN THAT WE DON'T EVEN HAVE IN
16 THIS COUNTY.

17 NOW, THE KENTUCKY SUPREME COURT STATED IN THE
18 WARREN COUNTY CITIZENS FOR MANAGE GROWTH, INCORPORATED
19 VERSUS THE BOARD OF COMMISSIONERS OF THE CITY OF
20 BOWLING GREEN, "SINCE THE PURPOSE OF ZONING IS NOT TO
21 PROTECT THE VALUE OF THE PROPERTY OF PARTICULAR
22 INDIVIDUALS BUT RATHER TO PROMOTE THE WELFARE OF THE
23 COMMUNITY AS A WHOLE AND IF PROPER REZONING DAMAGES
24 THE ENTIRE COMMUNITY BECAUSE IT CAUSES INSECURITY OF
25 PROPERTY VALUE THROUGHOUT THE AFFECTED AREA."

1 I DON'T KNOW HOW MANY FOLKS HAVE SAID THAT
2 HERE TONIGHT. I DON'T KNOW WHAT MY HOUSE IS WORTH. I
3 DON'T KNOW WHAT IT'S GOING TO DO. WE'VE HAD TESTIMONY
4 ABOUT THE DIMINUTION IN VALUE. THE SUPREME COURT HAS
5 RECOGNIZED THAT THAT IS A VALID CONCERN.

6 THE STRIP MINING WILL CREATE INSECURITY OF THE
7 PROPERTY VALUES, BUT IT WILL ALSO ADVERSELY AFFECT THE
8 PROPERTY VALUES AS MANY PEOPLE HAVE TESTIFIED TO.

9 MR. WHISTLE PROVIDED AMPLE TESTIMONY ON THAT
10 ISSUE.

11 THE COURT HAS ALSO SAID, THE SUPREME COURT HAS
12 ALSO SAID IN FRITTS VERSUS THE CITY OF ASHLAND, "THE
13 OVERALL PURPOSE OF ZONING IS TO PROMOTE THE COMMON
14 GOOD AND GENERAL WELFARE OF THE COMMUNITY AS A WHOLE."

15 AT THIS POINT YOU'RE BEING ASKED TO
16 ACCOMMODATE A MINING OPERATION THAT I BELIEVE THEY
17 SAID THEY CAN OFFER ABOUT 20 OR 30 JOBS. THEY TALK
18 ABOUT WHAT GOOD PAYING JOBS THEY ARE. LET'S CONSIDER
19 THAT.

20 THE FOLKS THAT GENERALLY MAKE THE MOST MONEY
21 ARE EITHER: A) THE MOST EDUCATED; OR B) PERFORM THE
22 MOST DANGEROUS WORK. THEY ALL LOVE THE COAL MINE NOW,
23 BUT IN MY PRACTICE AS AN ATTORNEY I ALSO DO WORKERS'
24 COMP. WHEN THEY COME IN AND THEY'RE HACKING UP BLACK
25 FLUID AND THEY WANT TO FILE A BLACK LUNG CLAIM, IT'S

1 NOT THE GREATEST PLACE TO WORK ANYMORE.

2 NOW WE'RE GOING TO EXPOSE THE CITIZENS AND THE
3 CHILDREN TO THAT AS WELL. WE'RE GOING TO KEEP THE
4 DUST IN A CONFINED SPACE. I'M NOT EVEN SURE HOW TO
5 ADDRESS THAT. IT'S IMPOSSIBLE. AND TO SAY THAT THE
6 DUST DOESN'T TRAVEL. I GREW UP ON A HORSE FARM. WE
7 HAD A RACETRACK WHERE WE TRAINED OUR HORSES THAT WAS
8 300 YARDS FROM MY PARENT'S HOME. WE HAD A SWIMMING
9 POOL AND WE HAD TO VACUUM IT EVERY OTHER DAY BECAUSE
10 WE WOULD TAKE THE HORSES AROUND THE TRACK AND THE DUST
11 FROM THAT TRACK, WHICH IS GOING TO BE NOTHING COMPARED
12 TO THIS, WAS IN THAT POOL EVERY DAY. YES, WE HAD TO
13 BREATHE IT. WHEN WE WERE ON THAT TRACK WE HAD TO WEAR
14 FACE MASKS.

15 THESE FOLKS BOUGHT A RURAL LIFESTYLE. THEY
16 BOUGHT INTO A RURAL LIFESTYLE. I LIKE THE FACT, AS
17 ONE LADY SAID, I CAN OPEN UP THE WINDOWS. I CAN SAVE
18 ON MY AIR-CONDITIONING, BUT MORE IMPORTANTLY TO ME I
19 CAN WAKE UP EVERY MORNING AND LISTEN TO THE BIRDS
20 CHIRPING OUTSIDE MY WINDOW. I CAN WAKE UP AND SEE
21 NOTHING BUT TREES; 60, 70 FOOT TREES. IT'S ONE REASON
22 I BROUGHT THE PROPERTY. IT'S ONE REASON I LOVE TO
23 LIVE WHERE I LIVE. I DON'T WANT TO BE IN TOWN.

24 CHAIRMAN: MR. OVERSTREET, AS YOU'RE GOING ON
25 WITH YOUR PRESENTATION, YOU MADE SEVERAL STATEMENTS.

1 ONE ABOUT PEOPLE COUGHING UP BLACK STUFF, BLACK LUNG.

2 MR. OVERSTREET: SURE. IT'S CALLED BLACK
3 LUNG.

4 CHAIRMAN: HAVE YOU HAD ANY FORMER EMPLOYEES
5 OF MR. LANHAM'S OPERATION COME IN?

6 MR. OVERSTREET: NOT THAT I RECALL, BUT --

7 CHAIRMAN: YOU MADE SOME STATEMENTS THERE
8 ABOUT YOU LIVING ON THE RACETRACK AND EVERYTHING. WE
9 HAD SOME PEOPLE ON THEIR SIDE THAT MADE SAME SWORN
10 STATEMENTS THAT LIVE NEAR THESE OPERATIONS. THAT MADE
11 SWORN STATEMENTS ABOUT THE SITUATIONS THAT THEY
12 INCURRED AND WHAT THEY WENT THROUGH.

13 NOW, OBVIOUS ON YOUR SIDE YOU'RE MAKING
14 STATEMENTS, BUT DO YOU HAVE ANY SWORN WITNESSES THAT I
15 CAN ASK THE SAME QUESTIONS?

16 MR. OVERSTREET: NO, SIR, BUT I DO HAVE COMMON
17 SENSE.

18 CHAIRMAN: WELL, I CAN'T CROSS EXAMINE THAT.

19 MR. OVERSTREET: I CAN TAKE A VACUUM BAG AND I
20 CAN OPEN IT UP IN THE MIDDLE OF THIS ROOM RIGHT NOW
21 AND IF I THROW IT DOWN IN THE FLOOR, THERE'S GOING TO
22 BE DUST EVERYWHERE AND PEOPLE ARE GOING TO BE
23 COUGHING.

24 CHAIRMAN: I UNDERSTAND THAT.

25 MR. OVERSTREET: YOU'RE NOT REQUIRED TO PUT

1 YOUR COMMON SENSE AT THE DOORSTEP WHEN YOU MAKE THIS
2 DECISION, SIR.

3 CHAIRMAN: I UNDERSTAND THAT, BUT WE HAVE
4 PEOPLE THERE THAT TESTIFIED UNDER OATH.

5 MR. OVERSTREET: AND THEY'RE ALL EMPLOYED.

6 CHAIRMAN: THEY DID THAT. YOU'VE MADE
7 STATEMENTS, BUT IF YOU HAVE PEOPLE I WISH YOU WOULD
8 BRING THEM FORWARD SO I CAN PUT THEM OR THIS
9 COMMISSION CAN ASK THEM QUESTIONS, WHICH I FEEL IS
10 ONLY FAIR.

11 MR. OVERSTREET: THE LAST GENTLEMAN THAT
12 STEPPED UP, WHAT WAS THE FIRST THING HE DID WHEN WE
13 STOOD UP? HE STARTED COUGHING.

14 CHAIRMAN: I HAVE NO MEDICAL TRAINING TO
15 DECIDE WHY HE COUGHED.

16 MR. OVERSTREET: WE CAN DISREGARD THAT. BUT I
17 THINK WE CAN ALL AGREE IF YOU'RE IN A ROOM WITH DUST
18 OR IF YOU'RE STANDING OUTSIDE AND THERE'S DUST, IT
19 GETS TO YOU. THIS ISN'T A SITUATION WHERE --

20 CHAIRMAN: MR. OVERSTREET, I RESPECT YOUR
21 OPINIONS, BUT I'M WANTING TO GET TO SOME SWORN
22 STATEMENT THAT WE CAN LISTEN TO OR PEOPLE THAT WE CAN
23 QUESTION BECAUSE JUST STATEMENTS, YOU KNOW, YOU'RE AN
24 ATTORNEY. WE'VE GOT TO HAVE SOME PEOPLE THAT HAVE
25 BEEN IN AREAS WHERE WE CAN --

1 MR. OVERSTREET: WELL, APPARENTLY WE HAD A
2 GENTLEMAN IN THE AUDIENCE WHO LIVES NEAR THE
3 KNOTTSVILLE SITE WHO MAY BE WILLING TO OFFER
4 TESTIMONY.

5 CHAIRMAN: I'M JUST SAYING, YOU KNOW, WE WANT
6 EVIDENCE. I'M NOT SAYING --

7 MR. OVERSTREET: YOU JUST ASKED FOR THAT. I
8 UNDERSTAND, SIR.

9 CHAIRMAN: OKAY.

10 MR. OVERSTREET: THERE IS NOTHING IN THE LAW
11 THAT SAYS THAT COMMON SENSE CAN'T BE UTILIZED. I
12 GUESS THAT'S WHERE WE DIFFER.

13 CHAIRMAN: I'M NOT DISAGREEING. I'M JUST
14 SAYING, I'M LOOKING FOR A SWORN STATEMENT OF SOMEBODY
15 THAT WE CAN QUESTION.

16 MR. OVERSTREET: WE'RE TALKING ABOUT
17 ULTRAHAZARDOUS ACTIVITIES. WE'RE TALKING ABOUT
18 BLASTING. WE'RE TALKING ABOUT FUEL STORAGE ON SITE.
19 WE'RE TALKING ABOUT GENERATORS TO RUN THE LIGHTS ALL
20 NIGHT. I WAS TRYING TO THINK WHILE I WAS STANDING
21 BACK THERE, YOU KNOW, WHAT WOULD IT BE SIMILAR TO? I
22 DON'T KNOW. MAYBE BEING AT THE DAVIESS COUNTY HIGH
23 SCHOOL FOOTBALL STADIUM WHENEVER THEY SET OFF
24 SOMETHING. YOU KNOW, YOU'VE GOT THE LIGHTS IN YOUR
25 BACKYARD. SURE, THEY'RE 300 FEET AWAY.

1 CHAIRMAN: I DO.

2 MR. OVERSTREET: BUT, YOU KNOW, I DIDN'T BUY
3 300 FEET AWAY. I BOUGHT 30 ACRES. I BOUGHT WHAT I
4 THOUGHT WAS MY PEACE AND QUIET. I DON'T KNOW IF ANY
5 OF YOU ALL HAVE EVER BEEN OUT THERE, BUT I WOULD
6 INVITE YOU TO COME OUT TO MY PLACE. I'VE GOT A
7 WALKING TRAIL THAT GOES AROUND 30 ACRES WORTH OF
8 WOODS. YOU WALK THROUGH IT AND IT'S NICE AND PEACEFUL
9 AND YOU CAN STEP ACROSS STREAMS THAT AREN'T
10 CONTAMINATED WITH SULFUR OR LEAD OR ANYTHING ELSE.

11 THEY'RE TALKING ABOUT SEISMIC WAVES AND WHAT
12 WILL AND WON'T DO. NO ONE KNOWS. IT'S GOING TO
13 DEPEND ON THE GROUND. IT'S GOING TO DEPEND ON THE
14 STRUCTURE. IT'S GOING TO DEPEND ON WHAT ROCKS ARE
15 IN-BETWEEN, WHAT TYPE OF SURFACES, BUT WHAT WE DO KNOW
16 BASED UPON WHAT THEY SAID IS THAT WHAT THEY'RE DOING
17 IS THIS PUTTING SILICA IN THE AIR. SAND.

18 WE ALSO HAVE THE COAL DUST. PNEUMOCONIOSIS
19 ULTIMATELY. SO WE HAVE WHAT THEY'RE PUTTING IN THERE.

20 ASIDE, BEFORE I WAS A LAWYER I WAS A
21 MICROBIOLOGIST. I ACTUALLY WORKED ON TRYING TO TAKE
22 THE SULFUR OUT OF KENTUCKY COAL USING BACTERIA BECAUSE
23 THE MARKET WAS DYING, BECAUSE OF A HIGH SULFUR CONTENT
24 AND THE ACID RAIN AND THE OTHER AFFECTS THAT IT HAS.

25 THE MARKET, EVERYONE SEEMS TO BE FOCUSED ON

1 WHAT A GREAT BENEFIT THIS IS GOING TO BE FOR THE
2 COUNTY BECAUSE OF COAL SEVERANCE TAX. IT'S THE TEN
3 YEARS. THE VALUE OF THOSE HOMES ARE DIMINISHED
4 FOREVER.

5 YOU KNOW, THEY CAN SHOW YOU ALL THOSE PRETTY
6 PICTURES OF THE ROLLING HILL, GRASS, BUT NOTHING, THEY
7 CAN'T SHOW YOU ANY OF THEM THAT HAS A 60 FOOT TREE,
8 UNLESS IT WAS LEFT THERE BY SOME FREAK OF NATURE,
9 BECAUSE IT WASN'T BLOWN OUT OR TORN OUT BY A
10 BULLDOZER.

11 I DON'T WANT A NICE LITTLE ROLLING HILL. I
12 LIKE THE FACT THAT I CAN'T SEE MY NEIGHBORS. THEY
13 LIKE THE FACT THEY CAN'T SEE ME. THAT'S WHAT PEOPLE
14 BUY. THEY BUY WHAT THEY WANT.

15 AGAIN, NOBODY HERE IS GOING TO THE COAL
16 COMPANY MOVING NEXT TO A MINE AND COMPLAIN. EVERYBODY
17 IS WHERE THEY ARE. THEN THEY'RE NOW ASKING YOU TO LET
18 THE NUISANCE COME TO THEM.

19 NOW, THEY SAID THEY'VE NEVER HAD A CLAIM. AT
20 THE PREVIOUS HEARING THEY TESTIFIED THEY HAVE AND
21 INSURANCE COMPANY. AS I RECALL, IT WAS A DATE OF
22 ORIGINATION. SO AS LONG AS THEY HAD INSURANCE AT THE
23 TIME, THEN IT WAS COVERED.

24 AGAIN, WHEN YOU'RE DEALING WITH AN INSURANCE
25 COMPANY, WE DON'T HAVE TO CHECK OUR COMMON SENSE AT

1 THE DOOR. IF THEY DON'T WANT TO PAY THE CLAIM, QUITE
2 FRANKLY I DON'T KNOW IF A LOT OF THESE FOLKS HAVE GOT
3 20 OR \$30,000 TO PAY A LAWYER TO GO AND FILE THAT
4 CLAIM.

5 CHAIRMAN: YOU'RE MAKING SOME ACCUSATIONS. DO
6 YOU HAVE ANY FACTS TO BASE THAT ON?

7 MR. OVERSTREET: I CAN TELL YOU FROM PERSONAL
8 EXPERIENCE. I'VE BEEN IN A LAWSUIT OVER MY OWN HOME
9 FOR FIVE YEARS AND I'VE SPENT WELL IN EXCESS OF THAT.

10 CHAIRMAN: WAS IT DUE TO BLASTING? WHAT WAS
11 THE ROOT OF THE PROBLEM?

12 MR. OVERSTREET: AT THE END OF THE DAY IT
13 WOULD HAVE BEEN BASICALLY THE SAME PROBLEMS. CRACKING
14 IN WALLS.

15 CHAIRMAN: BUT WHAT WAS IT CAUSE FROM? WHAT
16 WAS THE CAUSE?

17 MR. OVERSTREET: WELL, MY POSITION IS IT'S
18 POOR CONSTRUCTION.

19 CHAIRMAN: WHAT DOES THAT HAVE TO DO WITH
20 BLASTING?

21 MR. OVERSTREET: I'M JUST SAYING YOU'RE TAKING
22 -- IT'S JUST LIKE ANYTHING ELSE. IF YOU HAVE A WEAK
23 POINT IN ANYTHING AND IT'S EXPOSED TO AN ENERGY FORCE,
24 OVER A PERIOD OF TIME, AT SOME POINT IT'S GOING TO
25 GIVE WAY. IT'S SIMPLY PHYSICS. IT'S SIMPLE. IT'S

1 NOT DIFFICULT. IT'S GOING TO KEEP GETTING HIT AND
2 KEEP GETTING HIT.

3 CHAIRMAN: MR. OVERSTREET, I'M TRYING TO SORT
4 OF GET MY MIND BACK ON TRACK WITH WHERE YOU'RE GOING
5 WITH THIS BECAUSE WE NEED SOME EVIDENCE, AND I KNOW
6 WE'VE GOT MR. WILSON IN THE WINGS THAT'S GOT EVIDENCE.

7 MR. OVERSTREET: LET ME ASK THIS, MR.
8 CHAIRMAN. MAYBE THIS WILL MAKE IT EASIER. BECAUSE
9 OBVIOUSLY THEY CAN'T PRODUCED A BIT OF EVIDENCE TO
10 SUPPORT THOSE FACTS THAT SAYS THEY DON'T CAUSE THE
11 CRACKS. WE CAN'T PRODUCE IT TO SAY IT IS. SO EXACTLY
12 WHAT WOULD THIS COMMISSION LIKE TO HEAR?

13 CHAIRMAN: I WOULD LIKE TO HEAR EVIDENCE OF
14 THE STATEMENTS YOU'RE MAKING. THEY BROUGHT BEFORE
15 THAT MADE SWORN STATEMENTS. YOU HAD PEOPLE THAT CAME
16 BEFORE US THAT LIVED OUT IN THAT AREA THAT MADE SWORN
17 STATEMENTS ABOUT CERTAIN ISSUES. THAT'S WHAT WE'RE
18 LOOKING FOR. THAT'S WHERE I'M TRYING --

19 MR. OVERSTREET: AND I'M ALSO PRESENTING YOU
20 WITH LEGAL ARGUMENTS.

21 CHAIRMAN: I'M TRYING TO DO YOUR -- I'M JUST
22 TRYING TO GET YOU BACK INTO SOMETHING THAT I THINK
23 THIS COMMISSION WANTS TO HEAR. WE HAVE OTHER PEOPLE.

24 MR. OVERSTREET: WHAT I'M TELLING YOU IS THAT
25 THE COMPREHENSIVE PLAN, YOU HAVE THE ARGUMENT THERE.

1 WE CAN SKIP OVER ALL THE DANGERS TO THE HEALTH RISK
2 AND THAT SORT OF THING.

3 ONE THING THAT I WOULD NOTE: AS FAR AS
4 EXERCISING STRIP MINING RIGHTS, IF YOU LOOK AT
5 ARGUMENT 4. I DON'T THINK THIS COMMISSION HAS BEEN
6 PRESENTED WITH ANY EVIDENCE THAT THE MINERAL RIGHTS
7 THAT THEY HAVE PURCHASED SPECIFY STRIP MINING. THERE
8 WAS AN AMENDMENT TO THE KENTUCKY CONSTITUTION IN 1988
9 SECTION 19.2 AND IT SAYS, AND I'LL QUOTE, "IN ANY
10 INSTRUMENT HERETOFORE OR HEREAFTER EXECUTED, ACCORDING
11 TO SEVER THE SURFACE AND MINERAL ESTATES OR TO GRANT A
12 MINERAL ESTATE OR TO GRANT THE RIGHT TO EXTRACT
13 MINERALS WHICH FAILS TO STATE OR DESCRIBE AND EXPRESS
14 IN SPECIFIC TERMS THE METHOD OF COAL EXTRACTION TO BE
15 EMPLOYED OVER SAID THE INSTRUMENT CONTAINS LANGUAGE
16 SUPPORTING THE SURFACE ESTATE TO THE MINERAL ESTATE IT
17 SHALL BE HELD IN THE ABSENCE OF CLEAR CONVINCING
18 EVIDENCE TO THE CONTRARY THAT THE INTENTION OF THE
19 PARTIES TO THE INSTRUMENT WAS THAT COAL BE EXTRACTED
20 ONLY BY THE METHOD OR METHODS OF COMMERCIAL COAL
21 EXTRACTION COMMONLY KNOWN TO BE IN USE IN KENTUCKY IN
22 THE AREA AFFECTED AT THE TIME THE INSTRUMENT WAS
23 EXECUTED AND THAT THE MINERAL ESTATE BE DOMINANT TO
24 THE SURFACE ESTATE FOR THE PURPOSES OF COAL EXTRACTION
25 BY ONLY THE METHOD OR METHODS OF COMMERCIAL COAL

1 EXTRACTION COMMONLY KNOWN TO BE USED IN KENTUCKY IN
2 THE AREA AFFECTED AT THE TIME THE INSTRUMENT WAS
3 EXECUTED."

4 NOW, WHEN WE TALK ABOUT EVIDENCE, I DON'T
5 THINK WE'VE SEEN ANY OF THAT. I HAVEN'T SEEN A SINGLE
6 MINERAL LEASE THAT'S BEEN PRESENTED TO THIS
7 COMMISSION.

8 CHAIRMAN: JUST A MOMENT.

9 MR. NOFFSINGER, ARE THOSE PART OF THE THINGS
10 THAT WE NEED TO --

11 MR. NOFFSINGER: I'M UNAWARE THAT'S SOMETHING
12 WE'RE SUPPOSED TO BE TAKING A LOOK AT. IT MAY BE THE
13 DEPARTMENT OF MINES & MINERALS ON A MINING PERMIT, BUT
14 THAT'S NOT WHY WE'RE HERE. WE'RE HERE TO ADDRESS THE
15 ZONING.

16 MR. OVERSTREET: I GUESS IT DEPENDS IF WE WANT
17 TO PERFORM AN ILLEGAL TRANSACTION.

18 MR. NOFFSINGER: WE'RE HERE TO CONSIDER
19 WHETHER OR NOT THE PROPERTY SHOULD BE REZONED EX-1
20 COAL MINING. THEY SUBMITTED AN APPLICATION THAT'S
21 BEEN SIGNED BY THE LAND OWNERS AND BY THE APPLICANT.
22 WE BELIEVE THE APPLICATION IS IN ORDER. IT IS NOT A
23 REQUIREMENT, TO MY KNOWLEDGE, THAT THEY ADDRESS THIS
24 ARGUMENT. I'M NOT FAMILIAR WITH WHAT YOU'RE SPEAKING
25 OF.

1 MR. OVERSTREET: IT'S IN THE RECORD.

2 ALSO I PUT THE ARGUMENT, THE REQUESTED ZONING
3 CHANGE VIOLATE THE COMMISSION'S STATEMENT OF GOALS AND
4 OBJECTIVE, SECTION 110 OF COMPREHENSIVE PLAN. I REFER
5 TO SECTION IV OF THE COMPREHENSIVE PLAN, LAND USE,
6 SECTION 400.

7 4.1.1, PROVIDES THAT THE COMMISSION WILL
8 ALLOCATE WISELY THE USE OF LAND FOR VARIOUS ACTIVITIES
9 BY ENCOURAGING SOUND LAND DEVELOPMENT POLICIES.

10 4.1.1.1, USE THE FIXED AMOUNT OF LAND IN
11 DAVIESS COUNTY AS WISELY AND SPARINGLY AS POSSIBLE.

12 4.1.1.2, GROUP ACTIVITIES SO THAT USES OF
13 GREATER INTENSITY, INDUSTRIAL OR COMMERCIAL, DO NOT
14 HARM WEAKER TYPES, RESIDENTIAL AND AGRICULTURAL.

15 THAT'S THE STATED GOAL.

16 IF YOU REFER TO SECTION 4.1.3 OF THE
17 COMPREHENSIVE PLAN, IT PROVIDED THAT THE COMMISSION IS
18 CHARGED WITH PROTECTING OUR RURAL AREAS FROM INTRUSION
19 BY INCOMPATIBLE URBAN ACTIVITIES OR BY ENCOURAGING
20 GROWTH IN THE URBAN SURFACE AREA IN RURAL COMMUNITIES.
21 MINIMIZE THE IMPACT ON FRAGILE LANDS, PRIME
22 AGRICULTURAL, FLOOD PLAINS, ETCETERA. ALLOW
23 AGRICULTURAL AND OTHER NATURAL RESOURCES WIDE ARRANGE
24 TO APPLY TRADITIONAL PRODUCTION TECHNIQUES.

25 I WOULD SUBMIT TO THE COMMISSION THAT STRIP

1 MINING IS FAIRLY RECENT. IT'S NOT TRADITIONAL.
2 UNDERGROUND MINING GOES BACK HUNDREDS AND HUNDREDS OF
3 YEARS. STRIP MINING IS NEW.

4 OBVIOUSLY YOU CAN'T HAVE ANY GREATER IMPACT ON
5 YOUR QUIET COUNTRY LIVING STYLE THAN TO HAVE
6 BULLDOZERS, TRUCKS, DIESEL TRUCKS, EXPLOSIONS, FUEL
7 TANKS, WATER TRUCKS. BUT THEN WHEN YOU READ THE
8 REGULATIONS, THE IMPACT CONTINUES WITH THE
9 INTRODUCTION OF BLASTING, NOISE OF MACHINERY AND
10 TRUCKS AND AIR BLASTS THAT THEY ARE REQUIRED TO SET
11 OFF AT 128 DECIBELS.

12 I ATTACHED WITH THE EXHIBITS A PRINTOUT
13 SHOWING 128 DECIBELS CAUSES PERMANENT HEARING LOSS.
14 THAT'S WHEN TINNITUS STARTS TO BEGIN.

15 I POINTED OUT IN THE ARGUMENT OF DICHOTOMY
16 BETWEEN THE AGRICULTURAL USE AND STRIP MINING HAS BEEN
17 NOTED BY THE COMMISSION SPECIFICALLY IN SECTION 440 OF
18 THE LAND USE PLAN IN EXHIBIT 446-TI. THE LAND USE
19 INTENSITIES AND LANDSCAPE BUFFERS CHART.

20 IT RANKS COAL MINING AS 16, WHICH IS THE
21 HIGHEST INTENSITY USE OF LAND WHILE RURAL FARM
22 RESIDENTIAL IS A ONE. IT'S THE SECOND LEAST INTENSE
23 USE. THE ONLY LESS INTENSE IS AGRICULTURAL OR
24 FORESTRY.

25 SO UTILIZING THE METHODOLOGY PROPOSED IN A

1 COMPREHENSIVE PLAN, YOU TAKE 16 MINUS 1 AND THAT GIVES
2 YOU A DIFFERENCE OF 15. THAT REQUIRES THE HIGHEST
3 LEVEL OF BUFFERING UNDER THE COMPREHENSIVE PLAN WHICH
4 IS LARGE AREAS OF OPEN SPACES.

5 OBVIOUSLY UNLESS THE COMMISSION DETERMINES
6 THAT THE 300 FOOT BARRIER IS A LARGE OPEN SPACE, IT
7 CAN'T WORK TOGETHER. IT VIOLATES THE COMPREHENSIVE
8 PLAN. IT VIOLATES EVERYTHING THAT WE'VE BEEN TALKING
9 ABOUT. WE HAVE THE USES AND AT THIS POINT IF WE JUST
10 GET IT DOWN TO NUTS AND BOLTS, WE'RE TALKING ABOUT TAX
11 PAYERS WHO WON'T BE ABLE TO DO ANYTHING VERSUS A
12 CORPORATION THAT'S GOING TO BE CONTRIBUTING TO THE
13 CITY AND COUNTY AND THAT'S BASICALLY WHAT WE'RE GIVING
14 IT UP TO.

15 I WOULD SUBMIT THAT THE APPLICATION AND THE
16 REQUEST FOR THE CHANGE DOES NOT COMPLY WITH THE
17 REQUIREMENTS OF KRS CHAPTER 100. THAT THE USES ARE
18 INCOMPATIBLE. THAT YOU CANNOT FIT IT UNDER THE
19 COMPREHENSIVE PLAN ENACTED IN 2007. THAT THE IMPACT
20 TO PEOPLE, THEIR PROPERTY AND THEIR WAY OF LIFE IS
21 MORE VALUABLE THAN THE COAL SEVERANCE TAX FOR A FINITE
22 PERIOD OF TIME WHEN YOU'RE GOING TO LOSE POTENTIALLY
23 RESIDENTS, I GUESS IF YOU AN SELL IT. YOU'RE GOING TO
24 LOSE THAT TAX BASE. ULTIMATELY YOU MAY HAVE THE
25 INCREASED COST OF THE HEALTH CARE WHEN PEOPLE ARE

1 HAVING TO BREATHE ALL THESE CHEMICALS, GET THE THINGS
2 IN THEIR WATER. WHEREVER IT SEEPS, WHEREVER IT LEAKS.
3 YOU KNOW, WE HAVE IMPERMEABLE BARRIERS.

4 I DON'T THINK THE JAPANESE THOUGHT THAT THEIR
5 NUCLEAR REACTOR WOULD FAIL IN THE TSUNAMI EITHER.

6 I WOULD SUBMIT THAT THE PLAN SHOULD NOT BE
7 APPROVED AND ASK THAT YOU ALL REVIEW THE INFORMATION.
8 I'VE PUT EVERY CASE, EVERY STATUTE, EVERY
9 ADMINISTRATIVE REGULATION, EVERYTHING THAT'S REFERRED
10 TO, AND ANY OF THOSE DOCUMENTS ARE IN THOSE TWO
11 NOTEBOOKS. THANK YOU.

12 CHAIRMAN: THANK YOU.

13 MR. WILSON.

14 MR. WILSON: MR. CHAIRMAN, I'M GOING TO CALL
15 TONY ISBILL TO THE STAND.

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

18 MR. ISBILL: TONY ISBILL.

19 (TONY ISBILL SWORN BY ATTORNEY.)

20 MR. ISBILL: MR. CHAIRMAN, I DO HAVE A
21 NEIGHBOR THAT IS ADJACENT TO THE PROPOSED MINE. HE
22 WAS NOT ABLE TO BE HERE TONIGHT. HE IS ELDERLY. HE
23 DID SEND A LETTER THAT IS NOTARIZED, AND I WAS
24 WONDERING IF IT WOULD BE APPROPRIATE FOR TO US PUT
25 THIS IN THE RECORD?

1 CHAIRMAN: YOU HAVE A COPY OF IT?

2 MR. ISBILL: I DO.

3 CHAIRMAN: WHY DON'T YOU JUST PASS IT AROUND.
4 WHEN YOU SAY "ELDERLY," HOW OLD IS ELDERLY?

5 MR. ISBILL: EIGHTY-FIVE.

6 MR. CHAIRMAN, I KNOW THAT IT'S GETTING LATE
7 AND EVERYONE WANTS TO GET THIS SETTLED AND MOVE ON. I
8 WILL KEEP MY COMMENTS BRIEF.

9 A LOT OF THEM HAVE BEEN ANSWERED. LIKE A LOT
10 OF THE TESTIMONY THAT'S BEEN GIVEN HERE TONIGHT, SOME
11 OF IT IS TECHNICAL. IN MY OPINION, I'VE GOT TECHNICAL
12 OVERLOAD. IT'S A LOT OF INFORMATION TO PROCESS.

13 I THINK SOMETIMES WE GET CAUGHT UP IN PROVING
14 THIS OR NOT PROVING THAT TO TRY TO HIDE BEHIND WHETHER
15 WE APPROVE THIS OR SOMEBODY DID IT BETTER. QUITE
16 HONESTLY IT'S A LITTLE BIT DISHEARTENING AND
17 DISGUSTING.

18 THERE'S NO QUESTION. COMMON SENSE JUST TELLS
19 US, IN FACT, I LIKE TO PUT COMMON SENSE IN THE RECORD
20 IF THAT COULD POSSIBLY BE DONE. THAT WE'VE HEARD
21 TESTIMONY HERE TONIGHT THAT THERE IS DUST. THE PEOPLE
22 THAT TESTIFIED FOR THEM, WESTERN KENTUCKY MINERALS,
23 SAID THAT THERE'S DUST.

24 WE KNOW THERE IS NOISE. WE WERE TOLD THAT WE
25 WOULD GET USED TO IT.

1 SO IT'S NOT A DEBATE. COMMON SENSE JUST TELLS
2 US THAT IT'S NOT A DEBATE WHETHER THERE'S DUST,
3 WHETHER THERE'S NOISE, WHETHER THERE IS SEISMIC
4 ACTIVITY. IT WAS REFERENCED ABOUT THE DUST. IN FACT,
5 BOB FRAZIER TOLD ME ON THE PHONE TODAY, HE SAYS, IT IS
6 IMPOSSIBLE NOT TO HAVE DUST COME OUT OF THAT MINE.
7 IT'S IMPOSSIBLE. THEY CAN'T CONTROL IT. EVEN IF THEY
8 TRY TO, THEY'RE NOT GOING TO BE ABLE TO CONTROL IT,
9 EVEN THOUGH THE PERMIT THAT THEY GET SAYS THAT THERE
10 CANNOT BE VISIBLE DUST PARTICLES WHEN THEY EXIT THE
11 MINING OPERATION. IT CAN'T ENCROACH INTO MY PROPERTY.
12 THAT VIOLATES THEIR PERMIT.

13 THE ONLY REASON WHY THAT THEY'VE NOT BEEN
14 ALLOWED, THAT THEY'VE NOT BEEN CAUGHT MORE ABOUT IT.
15 NOT JUST WESTERN KENTUCKY MINERALS BUT OTHERS IT'S
16 ONLY WHEN SOMEONE HAS THE INTESTINAL FORTITUDE TO
17 STAND UP AND SAY, I'M GOING TO FIGHT THIS, OR AN
18 INSPECTOR COMES ALONG AND DOES IT.

19 I ACTUALLY SUGGEST TO MR. FRAZIER THAT WE PUT
20 UP LONG RANGE INFRARED CAMERAS. PUT IT ON TWO 24-HOUR
21 A DAY INTERNET FEED. THAT WAY WE CAN KEEP EYES ON
22 THEM ALL THE TIME. HE WASN'T OPPOSED TO IT.

23 SO WE END UP IN THIS DO, DON'T, PROVE THIS,
24 DON'T PROVE THAT. IT STILL BOILS DOWN TO THERE WAS A
25 QUESTION MADE. I THINK IT WAS PROBABLY THE BEST

1 QUESTION THAT I'VE HEARD ALL NIGHT. WHAT IS THE
2 DIFFERENCE BETWEEN KNOTTSVILLE AND THE PLEASANT RIDGE
3 AREA? IT IS VERY CLEAR. IT'S CHOICE. THEY CHOOSE TO
4 LIVE WHERE THEY LIVE. THEY CHOOSE TO EMBRACE WESTERN
5 KENTUCKY MINERALS. THEY HAVE ASSOCIATIONS WITH THAT
6 FAMILY. THEY EMBRACE IT. WHEN THE PERMITS AND ALL
7 THE REZONING TOOK PLACE, THEY DIDN'T COME AND FLOOD
8 THIS ROOM. THEY SAID, WE WANT IT.

9 PLEASANT RIDGE DOESN'T WANT IT. THAT'S WHY WE
10 ARE HERE. IT'S NOT PROPER. IN FACT, IN MY OPINION,
11 IT IS YOUR JOB TO BE THAT BUFFER BECAUSE IF YOU TURN
12 STAFF LOSE, THEN IT WOULD CHAOS BECAUSE WE DON'T
13 ALWAYS GO BY WHAT THEY RECOMMEND. THAT IS YOUR JOB.

14 CHAIRMAN: MR. ISBILL, I WANT TO CORRECT
15 SOMETHING VERY QUICKLY.

16 WITHOUT THE STAFF, I PERSONALLY WOULD NOT
17 SERVE AS A COMMISSIONER. THE STAFF DOES AN EXCELLENT
18 JOB. WITHOUT THE STAFF THERE WOULD BE NO PLANNING &
19 ZONING. THEY DO ONE HECK OF A JOB. THEY TURN JOBS
20 OVER VERY QUICKLY. THEY ACCOMMODATE OUR CONTRACTORS
21 AND THEY DO AN EXCELLENT JOB. SO I WILL NOT TAKE ANY
22 CRITICISM.

23 MR. ISBILL: IT'S NOT CRITICISM ABOUT THE
24 STAFF. IT'S CRITICISM ABOUT WHEN WE HAD THE LAST
25 MEETING, SIR, THAT THERE WAS A QUESTION ASKED.

1 WHAT HAVE YOU HEARD -- IT WAS AFTER ALL THE
2 VOTE AND ALL THE CHAOS. IT WAS, WHAT HAVE YOU HEARD
3 TO MAKE YOU WANT TO CHANGE THE DECISION OF TWO FORMER
4 BOARDS? THE SILENCE WAS DEAFENING.

5 FINALLY ONE INDIVIDUAL SAID, WELL, THE STAFF
6 HAS RECOMMENDED IT THREE TIMES AND THAT'S WHY WE OUGHT
7 TO DO IT. THAT'S THE REASON FOR MY COMMENTS. I'M NOT
8 CRITICIZING THE STAFF. I'M SIMPLY SAYING THAT THEY GO
9 BY THEIR COMPREHENSIVE PLAN.

10 YOU LISTEN TO TESTIMONY. THAT TESTIMONY
11 ALLOWS YOU TO MAKE THE DISTINCTION BETWEEN WHAT'S
12 RIGHT FOR THIS COMMUNITY AND WHAT'S RIGHT FOR THIS
13 COMMUNITY.

14 THIS COMMUNITY, KNOTTSVILLE, EMBRACES IT.
15 JUST BECAUSE THEY EMBRACE IT AND THEY'RE WILLING TO
16 GET USED TO THE NOISE AND THEY'RE WILLING TO GET USED
17 TO DUST, DOES NOT MEAN THAT THAT CAN BE IMPOSED UPON A
18 COMMUNITY THAT DOES NOT WANT IT. MY OPINION, THAT IS
19 YOUR RESPONSIBILITY.

20 WE NEED YOU TO LISTEN TO OUR VOICE. NOT CRAM
21 IT DOWN OUR THROATS. TO WHERE WE HAVE TO POLICE THEM.
22 WE HAVE TO TRY TO GET USED TO THINGS. WE TRY TO -- WE
23 HAVE TO ENDURE THE ONGOING PROBLEMS AND THE NOISE AND
24 ALL OF THAT. WE DON'T WANT IT. IT'S A MATTER OF
25 CHOICE. YOU CHOSE WHERE YOU LIVE. I CHOSE WHERE I

1 LIVE AND I'M HAPPY TO BE THERE. THAT'S WHY I'M HERE
2 FIGHTING FOR THE WAY OF LIFE THAT I HAVE. IF THAT
3 DOESN'T MEAN ANYTHING, WHY HAVE THESE MEETINGS?
4 BECAUSE WE NEED YOU TO HEAR OUR HEART. NOT JUST
5 FACTS.

6 THERE HAVE BEEN TWO PREVIOUS BOARDS AND THEY
7 STOOD FOR QUALITY OF LIFE, FAMILY, THE CULTURE OF THIS
8 COUNTY. THOSE COMMISSIONS, THOSE ZONING BOARDS
9 PROBABLY MADE WHERE IT WAS THE CO-DECISION. LIKE
10 YOU'RE FACING TONIGHT WAS PROBABLY THE DEFINING ISSUE
11 WITH THOSE BOARDS. I DON'T KNOW OF ANYTHING ELSE THAT
12 ECLIPSE THAT. SAME IS TRUE HERE. YOU PROBABLY IN THE
13 LIFETIME THAT YOU SERVE ON THIS BOARD WILL NOT HAVE AN
14 ISSUE THAT'S BEEN MORE CONTESTED AND PROBABLY MORE
15 STRESSFUL ON THE DECISION.

16 TONIGHT YOU'RE GOING TO GET TO MAKE THAT
17 DECISION. WILL YOU CHOOSE THE WISDOM OF THE PAST?
18 THOSE PEOPLE CHOSE FAMILY. THEY CHOSE CULTURE. THEY
19 CHOSE THE INTEGRITY OF THIS COUNTY. OR WILL YOU
20 CHOOSE INDUSTRY, POLITICS, AND MONEY? WE'RE ASKING
21 YOU TO LET THOSE COMMUNITIES THAT WANT THAT HAVE IT.
22 WE'RE ASKING YOU TO MAKE THE DECISION AND PROTECT
23 THOSE COMMUNITIES THAT DON'T. THANK YOU.

24 CHAIRMAN: MR. WILSON.

25 MR. WILSON: MR. CHAIRMAN, DR. DAVID EGGERS

1 WILL BE OUR NEXT WITNESS.

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

4 DR. EGGERS: DAVID MICHAEL EGGERS, M.D.
5 (DR. DAVID MICHAEL EGGERS, M.D. SWORN BY
6 ATTORNEY.)

7 DR. EGGERS: WE STARTED THIS PROCEEDING
8 EARLIER TONIGHT HEARING THE HEARTFELT TESTIMONY BY ONE
9 OF MY NEIGHBORS THAT SUFFERED A DEATH THREAT AGAINST
10 THEM. THIS HAS SKEWED THE PUBLIC DISCUSSION. I FELT
11 UNEASY ABOUT WRITING AN EDITORIAL IN THE NEWSPAPER. I
12 THINK A LOT OF THE DISCUSSION ON OUR SIDE HAS BEEN
13 BLUNTED BY FEAR. I THINK ALL OF THE COMMUNITY HAS
14 BEEN FEARFUL. THERE IS NOW A NEIGHBORHOOD WATCH.
15 SOME PEOPLE THINK THEY NEEDS GUNS TO PROTECT
16 THEMSELVES. I THINK THIS IS THE DRASTIC CHANGE FOR
17 THE PEACEFUL COMMUNITY THAT I'VE LIVED IN FOR THE LAST
18 20 YEARS. I THINK REALLY THE COMMUNITY HAS HAD ENOUGH
19 AND I'M REALLY ASKING YOU TO DECLINE REZONING.

20 I HAVE NO PROBLEM WITH THE COAL INDUSTRY. I
21 SALUTE THE HARD WORK AND THE SIGNIFICANT RISK ENDURED
22 BY THE MINERS.

23 IF ONE LOOKS AT THE MAP OF THE KENTUCKY COAL
24 FIELDS, THE PLEASANT RIDGE PROJECT IS A DOT. WE'RE
25 NOT DEPENDENT ON THIS SMALL PARCEL BECOMING BURNED IN

1 AN ELECTRICAL COMPANY. THE LACK OF EXTRACTION WILL
2 NOT CAUSE PEOPLE TO SUFFER. THE PRICE OF COAL WILL
3 NOT GO UP. ELECTRICITY WILL NOT GO UP.

4 THE VAST MAJORITY OF THE MINES IN THE STATE
5 ARE IN UNPOPULATED AREAS WHICH IS WHY MOST OF THE TIME
6 THERE ISN'T THAT MUCH DESCENT ABOUT MINING, BUT HERE
7 YOU HAVE A HIGHLY POPULATED COMMUNITY AND YOU HAVE THE
8 CULTURAL ASSET OF THE GIRL SCOUT CAMP GOING ON NOW 60
9 YEARS. THAT CULTURAL WILL BE SERIOUSLY HARMED FOREVER
10 WITH THIS MINING PROJECT.

11 IN THE LAST 29 YEARS OF MY NEUROSURGICAL
12 PRACTICE IN OWENSBORO, I'VE GIVEN PROBABLY WELL MORE
13 THAN HALF A MILLION DOLLARS WORTH OF FREE CARE TO
14 INDIVIDUALS IN NEED. I NEVER TURN ANYONE AWAY.

15 NOW I'M HEARING THAT MONEY IS THE NEW KING.
16 FROM MONETARY INTEREST TO NOW SUPERSEDING THE HEALTH
17 INTEREST AND THE COMFORT AND LIFESTYLE OF RESIDENTS.
18 I HOPE NOT. I THINK YOUR VOTE WILL SHOW WHERE YOU
19 STAND ON THIS IMPORTANT QUESTION. IS MONEY ALL THAT
20 MATTERS NOW IN OWENSBORO?

21 I THANK YOU FOR YOUR CONSIDERATION.

22 CHAIRMAN: THANK YOU.

23 MR. WILSON.

24 MR. WILSON: MR. CHAIRMAN, THERE'S A GENTLEMAN
25 THAT'S ARRIVED THAT'S NOT ON THE LIST WHO WOULD LIKE

1 TO ADDRESS THE COMMISSION IF THE COMMISSION WILL
2 ENTERTAIN. HE'S NOT ONE OF MY WITNESSES.

3 CHAIRMAN: MR. WILSON, I BELIEVE YOU'VE
4 NOTICED THE COMMISSION HAS GIVEN EACH AND EVERY PERSON
5 THE OPPORTUNITY TO SPEAK.

6 YES, SIR. STEP FORWARD.

7 MR. SILVERT: STATE YOUR NAME, PLEASE.

8 MR. GILMORE: MIKE GILMORE.

9 (MIKE GILMORE SWORN BY ATTORNEY.)

10 MR. GILMORE: IF YOU'VE GOT ANY QUESTIONS, I
11 LIVE KNOTTSVILLE. BEEN SURROUNDED BY THE MINING
12 COMPANY SINCE 1996. I'VE HAD BLASTING DAMAGE. I'VE
13 BEEN TO COURT WITH THEM. FOUGHT THEM FOR FOUR YEARS
14 STRAIGHT. IF YOU HAVE ANY QUESTIONS, ASK ME. I'LL BE
15 TRUTHFUL WITH YOU.

16 CHAIRMAN: IN REGARDS TO THE PROBLEMS THAT YOU
17 HAD, AND I APPRECIATE YOU COMING DOWN HERE. IN
18 RELATIONSHIP TO THE PROBLEMS YOU HAD OR HAD OR HAVING.
19 WHICH IS IT?

20 MR. GILMORE: I'VE HAD AND HAVE.

21 CHAIRMAN: WHAT WERE THE PROBLEMS? WERE THEY
22 A) DUE TO BLASTING?

23 MR. GILMORE: YES.

24 CHAIRMAN: WHAT WERE THE REMEDIATING
25 CIRCUMSTANCES THAT YOU SOUGHT AND WHAT IS BECOMING OR

1 THE OUTCOME?

2 MR. GILMORE: WELL, IT STARTED IN '96. THEY
3 WAS WITHIN 1600 YARDS FROM ME.

4 CHAIRMAN: WHICH IS APPROXIMATELY A MILE?

5 MR. GILMORE: YES. THEY WOULD BLAST. YOU HAD
6 GROUND MOVEMENT. MOST OF MY DAMAGE WAS DONE FROM AIR
7 BLASTING THAT RACKED MY HOUSE. YOU KNOW, CONTACT THE
8 COAL COMPANY. THEY CONTACT THE BLASTING COMPANY. THE
9 BLASTING COMPANY WOULD CONTACT CONSULT THE CONSULTING
10 COMPANY. THEY WOULD COME IN. IT'S SEASONAL CHANGES.
11 POOR DRAINAGE. AIRPLANES. EVERYTHING BUT THE
12 BLASTING.

13 YOU HAD COAL DUST. HAD A WASH PLANT. WAS
14 APPROXIMATELY 1600 YARDS FROM IT. YOU HAD COAL DUST.
15 YOU HAD DUST FROM TRUCKS. IT'S A DIFFERENT TRUCKING
16 COMPANY THEN. WHICH SPEED LIMIT DIDN'T MEAN NOTHING.
17 YOU JUST HAD A LOT OF PROBLEMS.

18 I HAD SEVERAL NEIGHBORS THAT HAD PROBLEMS.
19 WHICH WE COME DOWN HERE AND ARGUE WITH YOU AND TRY TO
20 GET THINGS RESOLVED AND IT NEVER WORKED. WE TRIED TO
21 NEGOTIATE WITH THEM FOR FOUR YEARS. COULDN'T GET NO
22 RESULTS. FINALLY HIRED LEGAL COUNSEL. THEN THEY
23 WANTED TO WORK WITH US. SO WE ENDED UP SETTling OUT
24 OF COURT.

25 I DO HAVE BLASTING DAMAGE NOW. THEY'RE WITHIN

1 HALF OF A MILE OF ME. I WAS DOWN HERE AT THE LAST
2 MEETING. I ASKED THE BLASTING COMPANY WHO THEIR
3 INSURANCE COMPANY WAS. GOT THE SAME SONG AND DANCE.
4 CONTACT THE COAL COMPANY. THEY'LL CONTACT US. WE'LL
5 CONTACT THE CONSULTING COMPANY. NO. I GO STRAIGHT
6 WITH THE INSURANCE COMPANY. IF THEY DON'T GET
7 RESULTS, WE'LL BE BACK IN COURT.

8 I KNOW WHAT THESE PEOPLE ARE GOING TO GO
9 THROUGH.

10 TONY LANHAM IS A GOOD GUY. HE IS A GOOD GUY.
11 WHEN IT COMES DOWN TO THE MIGHTY DOLLAR, PEOPLE
12 CHANGE. ALL HIS KIDS ARE GREAT KIDS. I HAVE NO
13 PROBLEM WITH TONY. YOU GO THROUGH A LOT OF HEADACHES.

14 CHAIRMAN: DID YOU GET YOUR ISSUE RESOLVED?

15 MR. GILMORE: YES. IT TOOK ME FOUR YEARS THE
16 FIRST TIME. I CAN GO THROUGH THIS FOUR MORE YEARS.
17 LAST TIME WE GOT IT RESOLVED TONY SOLD OUT TO ANOTHER
18 COMPANY. THERE WAS SITUATIONS THEY DIDN'T KNOW ABOUT.
19 WASH PLANT HAD TO BE MOVED. THEN I HAD ISSUES WITH
20 THEM, WHICH THEY WORKED WITH ME GREAT BECAUSE THEY
21 KNEW THEY WAS GOING TO HAVE A PROBLEM.

22 CHAIRMAN: WHEN YOU SAY "THEY," DO YOU MEAN
23 HIS COMPANY OR THE COMPANY --

24 MR. GILMORE: THEY SOLD OUT TO ANOTHER
25 COMPANY.

1 CHAIRMAN: YOU UNDERSTAND WHERE MY NEXT
2 QUESTION IS GOING TO COME FROM. WHO WAS THE ORIGINAL
3 COMPANY THAT YOU HAD THE PROBLEM WITH?

4 MR. GILMORE: IT WAS LANHAM MINING COMPANY.

5 CHAIRMAN: LANHAM MINING COMPANY. AND THEN
6 ANOTHER COMPANY CAME AND BOUGHT THEM OUT?

7 MR. GILMORE: UNITED MINERALS. RUST CAME IN
8 AND BOUGHT UNITED MINERALS.

9 CHAIRMAN: WHO WAS THE ONE -- YOU SAID ONE OF
10 THEM WORKED WELL WITH YOU.

11 MR. GILMORE: UNITED MINERALS.

12 CHAIRMAN: THEN THEY RESOLVED YOUR ISSUES?

13 MR. GILMORE: NO. LANHAM RESOLVED MY ISSUES
14 AND THEN HE SOLD OUT. THEN UNITED MINERALS CAME IN
15 AND THEY HAD TO REMOVE THE WASH PLANT, WHICH THEY
16 DIDN'T KNOW THEY HAD TO DO THAT. THEY WOULDN'T GET
17 ANY CLOSER TO ME. THEY HAD THE PROPERTY REZONED, THE
18 STRIP BEHIND ME. WE WORKED OUT AN AGREEMENT WHERE
19 THEY WOULD NOT STRIP THAT BECAUSE WE LET THEM SET THE
20 WASH PLANT, LEAVE IT BACK THERE, BUT IT WASN'T
21 RUNNING. THEY LEFT IT BACK THERE FOR THREE OR FOUR
22 MONTHS BEFORE THEY MOVED IT.

23 CHAIRMAN: DOES ANYBODY ELSE HAVE ANY OTHER
24 QUESTIONS?

25 (NO RESPONSE)

1 CHAIRMAN: THANK YOU.

2 MR. WILSON.

3 MR. WILSON: MR. CHAIRMAN, THAT'S OUR
4 POSITION. WE HAVE NO MORE WITNESSES TO OFFER YOU.

5 CHAIRMAN: MR. HAYNES.

6 MR. HAYNES, WHAT I THINK I WILL DO AT THIS
7 POINT IN TIME, I'VE GOT QUESTIONS. WHY DON'T YOU --
8 MOST OF YOUR PEOPLE ARE SWORN. WHY DON'T I JUST START
9 WITH A LOT OF QUESTIONS AND WHOEVER IS ON DECK, STEP
10 TO THE PODIUM AND TAKE THEM. IS THAT FAIR ENOUGH?

11 MR. HAYNES: GREAT IDEA.

12 CHAIRMAN: MR. WILSON?

13 MR. WILSON: YES.

14 CHAIRMAN: THANK YOU.

15 HE WAS REFERRING TO MY QUESTION THE LAST TIME
16 WE HAD A MEETING ABOUT MINING AWAY FROM THE NEIGHBORS.
17 FROM OUT TO IN AS OPPOSED TO YOU ALL GOING IN ONE,
18 TWO, THREE FOUR SECTIONS AROUND.

19 I'M GOING TO GIVE YOU ABOUT FOUR OF THEM AT A
20 TIME SO YOU ALL CAN SORT OF GET ON DECK WHO IS GOING
21 TAKE THIS.

22 HE HAD SOME AIR QUALITY QUESTIONS WITH THE
23 WIND DIRECTION. YOUR MEN MAY BE WORKING DOWN HERE AND
24 THE WIND COULD BE BLOWING AWAY FROM THEM. WHERE YOUR
25 MEN ARE NOT SUFFERING, BUT THE AIR QUALITY IN

1 DIFFERENT AREAS COULD BE A PROBLEM WITH HIGH WINDS.

2 HIS OTHER QUESTION WAS THE TRAFFIC. WAS THERE
3 A TRAFFIC STUDY DONE ON THE TRAFFIC OF 231.

4 THE YOUNG LADY REPRESENTING OR WAS A GIRL
5 SCOUT WANTED YOU TO SHARE THE ENVIRONMENTAL DATA THAT
6 YOU WOULD HAVE. HAVE THE ENVIRONMENTAL STUDIES AND
7 EVERYTHING AVAILABLE EITHER ON THE WEBSITE OR SOME
8 RETRIEVABLE TYPE MECHANISM.

9 MR. SCOTT HAD SOME QUESTIONS ABOUT THE WELLS.
10 THERE WAS A WELL UNDERNEATH HIS HOUSE. HE HAD SOME
11 PROBLEMS. HAD AN ENGINEER COME IN. HE REBUILT HIS
12 HOUSE. WHAT STRUCTURAL PROBLEMS WILL HE FACE WITH THE
13 WELL UNDER HIS HOUSE.

14 THAT SHOULD BE ENOUGH TO TAKE AT ONE TIME.

15 MR. WRIGHT: CAN YOU DO ONE AT A TIME?

16 CHAIRMAN: MY SUGGESTION AT THE LAST MEETING
17 ABOUT COAL MINING, AND I'M NOT A COAL MINER. I JUST
18 MADE A SUGGESTION, IT SEEMS LIKE TO ME IF WE START
19 WHERE THE PEOPLE ARE AND THEN MOVE IN, THAT THEY WOULD
20 EXPERIENCE THE LEAST AMOUNT.

21 MR. WRIGHT: OUR MINE PLAN IS TO START ON THE
22 SOUTHERN BORDER LIKE JEFF HAD REVEALED. AS WE MOVE UP
23 RUSSELL ROAD AND UP 231, WE'LL BE GETTING CLOSER TO
24 SOME, AWAY FROM OTHERS, AND AS WE TURN BACK WE'LL BE
25 DOING THE SAME THING. SAME DIFFERENCE.

1 CHAIRMAN: THE AIR QUALITY WITH THE WIND
2 DIRECTION. WHERE YOUR MEN MIGHT NOT BE SUBJECTED TO
3 IT, BUT YET IT'S BLOWING DRAMATICALLY AWAY FROM THEM.

4 MR. WRIGHT: THEY KEEP TRYING TO CONFUSE
5 COMMON DUST WITH FUGITIVE DUST. THE FUGITIVE DUST
6 WILL BE WHERE THE MEN ARE WORKING. THAT'S YOUR COAL
7 DUST, YOUR ROCK DUST, THINGS LIKE THAT. THAT'S WHERE
8 IT'S GOING TO BE CONTROLLED. TRYING TO BRING THE
9 COMMON DUST LIKE YOUR FARMER AND OTHER PEOPLE, YOU
10 KNOW, AND THAT'S DIFFERENT. THAT'S A WHOLE DIFFERENT
11 STORY.

12 MR. APPLEBY: I THINK THEY ASKED IF THERE WAS
13 MONITORING OFF-SITE.

14 MR. WRIGHT: NO, NOT WITH AIR QUALITY. NOT
15 REQUIRED.

16 MR. APPLEBY: NO AIR QUALITY MONITORING.

17 CHAIRMAN: THEN WAS THERE A TRAFFIC STUDY DONE
18 ON 231.

19 MR. WRIGHT: WE HAVE APPROVAL FROM THE
20 DEPARTMENT OF TRANSPORTATION, YES, FOR THE TRAVEL OF
21 231.

22 MR. APPLEBY: HE ASKED IF THE TRAFFIC WOULD BE
23 STOPPED ON 231.

24 MR. WRIGHT: YES, IT WILL DURING BLASTING.
25 WHEN WE'RE WITHIN 1,000 FEET.

1 MR. JARBOE: I HAVE A QUESTION OF THAT.

2 CHAIRMAN: YES, SIR.

3 MR. SILVERT: WOULD YOU STATE YOUR NAME AGAIN?

4 MR. JARBOE: DANIEL JARBOE, RUSSELL ROAD.

5 WHY WOULD THEY BE STOPPING TRAFFIC ON 231?

6 MR. WRIGHT: IT'S THE LAW. WE HAVE TO.

7 MR. JARBOE: WHEN IT'S BLASTING WITHIN, WHAT'S
8 THE DISTANCE? 1,000 FEET?

9 MR. WRIGHT: YES, 1,000 FEET.

10 MR. JARBOE: THEN MY BUFFER IS 300 FOOT FROM
11 MY --

12 MR. WRIGHT: WE CAN STILL BLAST WITHIN 300
13 FOOT OF 231. WE CAN GO RIGHT UP TO THE RIGHT-OF-WAY
14 WITH APPROVAL.

15 MR. JARBOE: RIGHT, BUT WE'RE MORE CONCERNED
16 WITH THE PASSERBY ON 231 THAN 1,000 FOOT THAN WE ARE
17 HOMES WITH PERMITS.

18 MR. WRIGHT: NO. NOT AT ALL.

19 MR. JARBOE: IF MY HOUSE IS 300 FOOT FROM
20 WHERE YOU'RE GOING TO BLAST, WHAT IS MY PROTOCOL FOR
21 -- SAY MY CHILDREN ARE PLAYING IN MY YARD 200 FOOT OUT
22 FROM MY HOUSE, WHAT ARE THEY SUPPOSED TO DO?

23 MR. WRIGHT: WE HAVE A PULL CREW THAT SITS
24 AROUND THE BLAST SITE.

25 MR. JARBOE: IS THAT HOW THEY GET TO ENJOY MY

1 PROPERTY? THAT'S WHAT I'M ASKING. WHAT BOTHERS ME IS
2 I HAVE 1,000 FOOT TO WORRY ABOUT.

3 IF YOU'RE DRIVING DOWN 231, WE'RE GOING TO
4 STOP YOU, MR. KIRKLAND, FROM DRIVING DOWN 231 IF
5 THEY'RE BLASTING WITHIN 1,000 FOOT. BUT IF MY CHILD
6 IS PLAYING IN MY OWN YARD AND MY HOUSE IS 300 FOOT
7 FROM WHERE THEY'RE GETTING READY TO BLAST, AND SAY MY
8 YARD IS 150 FOOT IN FRONT OF THAT, I GET A HORN. I
9 GET AN AIR SIREN.

10 IS THAT HOW MY CHILD GETS TO ENJOY THEIR
11 PROPERTY? WHAT ARE WE SUPPOSED TO DO? RUN TO MY
12 HOUSE? ARE THEY SUPPOSED TO RUN INTO THE HOUSE? IS
13 THAT PROTOCOL?

14 MR. WRIGHT: THAT IS THEIR WARNING THAT THE
15 BLAST IS FIXING TO GO OFF. THEY DO NOT NEED TO BE
16 WITHIN 300 FOOT OF IT.

17 MR. JARBOE: RIGHT. THAT'S WHAT I'M SAYING.
18 I AM NOT GOING TO BE ABLE TO ENJOY MY PROPERTY OR MY
19 CHILDREN WILL NOT BE ABLE TO ENJOY THE PROPERTY. YOU
20 CANNOT GUARANTEE ME 300 FOOT FROM THERE, THERE WON'T
21 BE A FLY ROCK HIT MY CHILD IN THE HEAD, THEN THERE'S
22 NO WAY, THERE IS NO WAY I CAN STEP OUTSIDE FROM 12 OR
23 4 WHENEVER I HEAR THAT HORN. I'M SUPPOSED TO RUN IN
24 THE HOUSE. IF I'M HAVING A BARBECUE, THEY'RE SUPPOSE
25 TO HIT THE BRICKS AND THE SIRENS COME ON. IT SAYS I

1 GET TO USE MY PROPERTY, ENJOY THE RIGHT OF MY
2 PROPERTY, AND THAT'S NOT PROPERTY USE, BUT DEFINED BY
3 THAT COMPREHENSIVE PLAN.

4 CHAIRMAN: I'M A LITTLE CONFUSED TOO THERE ON
5 THE 300 FOOT AND 1,000 FOOT FROM THE HIGHWAY.

6 MR. WRIGHT: THE 1,000 FOOT BUFFER IS JUST
7 WHAT THE LAW STATES THAT WE HAVE TO STOP THE TRAFFIC.
8 HOLD IT BACK. MAKE SURE NOTHING HAPPENS. BUT 300
9 FOOT IS A -- I'LL LET SETH SPEAK ON THAT.

10 MR. BURNS: SETH BURNS.

11 THE 1,000 FOOT LAW IS SOMETHING WE GO BY.
12 WHEN WE BLAST CLOSER TO HOMES, TYPICALLY WHAT WE DO
13 WHEN WE'RE BLASTING CLOSE TO HOMES IS WE HAVE A CALL
14 LIST. WE WILL GET YOUR PHONE NUMBER AND CONTACT YOU.
15 YOU HAVE THE WARNINGS THAT GO OFF AS WELL. WE CAN'T
16 ASK YOU OR MAKE YOU LEAVE YOUR HOME, BUT WE WOULD ASK,
17 YOU KNOW, IF WE'RE BLASTING WITHIN 300 FOOT OF YOUR
18 HOUSE AND YOU'RE NOT COMFORTABLE THERE, WE WOULD SAY,
19 YOU KNOW, IN CASE OF FLY ROCK.

20 MR. JARBOE: IF YOU CAN'T GUARANTEE ME THAT
21 FLY ROCK WILL NOT HIT MY PROPERTY, I DON'T SEE HOW
22 THIS COMMISSION CAN TELL ME I HAVE THE RIGHT TO ENJOY
23 MY PROPERTY. HOW CAN YOU TELL ME IF I OWN THIS
24 PROPERTY AND THIS GUY OVER HERE -- IF I'M SHOOTING
25 CANON BALLS, I CANNOT SHOOT THEM OVER THERE ON HIS

1 PROPERTY. I CAN'T DO IT. I CAN'T DO IT. MY ASS
2 WOULD BE IN JAIL. THAT'S THE WAY IT WOULD BE. HE
3 CAN'T GUARANTEE ME THE SAME RIGHT THAT I HAVE RIGHT
4 NOW. MY KIDS CAN PLAY IN MY YARD RIGHT NOW, BUT WHEN
5 THEY COME IN HERE I WILL NOT HAVE THAT RIGHT.

6 CHAIRMAN: LET ME DELVE A MINUTE.

7 WHAT'S THE RATIONALE THERE?

8 MR. BURNS: THE RATIONALE?

9 CHAIRMAN: YES. IF HE'S GOING TO HAVE 300
10 FOOT FROM YOUR BLASTING AREA TO HIS HOUSE, AND THEN
11 1,000 FOOT FROM YOUR BLASTING AREA TO THE HIGHWAY,
12 WHAT'S -- I'M NOT UNDERSTANDING. I'M NOT TRYING TO
13 TAKE ONE SIDE OR THE OTHER, BUT I'M TRYING TO
14 UNDERSTAND.

15 MR. BURNS: I'M NOT FAMILIAR WITH THE
16 PERMITTING PROCESS. THEY'RE ALLOWED TO PERMIT WITHIN
17 300 FEET OR WHATEVER THEY APPROVE.

18 THERE'S A STATE LAW FOR A PUBLIC ROADWAY OR IF
19 YOU GET WITHIN A CERTAIN DISTANCE IN THE PERMIT, IT
20 SAYS WITHIN 1,000 FEET WE'LL BLOCK THIS ROADWAY TO
21 PROTECT ANY VEHICLES THAT ARE PASSING BY.

22 CHAIRMAN: OKAY.

23 MR. JARBOE, THAT'S AS --

24 MR. JARBOE: THAT'S WHAT I'M SAYING. I CAN'T
25 ENJOY MY PROPERTY. AM I SUPPOSED TO RUN INTO MY HOUSE

1 BECAUSE MY CHILD OR WOULD YOU PUT YOUR CHILD IN
2 DANGER. THAT'S WHAT I'M ASKING YOU RIGHT NOW? YOU
3 KNOW YOU WOULDN'T DO IT. I'VE LIVED THERE BEFORE
4 THEY'RE COMING IN HERE AND THEY'RE CHANGING THE WAY I
5 HAVE TO LIVE AND THE WAY MY CHILDREN HAVE TO LIVE.

6 CHAIRMAN: I PHRASED THE QUESTION EVERY WHICH
7 WAY I COULD AND YOU HEARD THE SAME ANSWER I DID.

8 MR. JARBOE: I KNOW, BUT WHAT AM I SUPPOSED TO
9 DO? I'D LIKE TO HAVE ANSWERS. THEY NEED TO BE ABLE
10 TO GUARANTEE ME THAT FLY ROCK WILL NOT HIT MY
11 PROPERTY. IF HE CAN'T GUARANTEE THAT, THEN HE NEEDS
12 TO MOVE BACK FAR ENOUGH WHERE HE CAN GUARANTEE THAT.

13 MR. APPLEBY: I WOULD LIKE TO ASK YOU A
14 QUESTION.

15 IF YOU'RE MINING WITHIN 300 FEET OF THIS
16 HOUSE, HOW MANY TIMES WILL BE BLAST IN THAT AREA? HOW
17 MANY TIMES WILL YOU BE WITHIN 300 FEET OF HIS HOUSE?

18 MR. BURNS: THAT WOULD BE THE CLOSEST LIMIT
19 BASED ON THAT PERMIT LINE. IT WILL DEPEND ON HOW THEY
20 MINE THAT. THEY WILL ADVANCE TOWARDS IT OR BY IT AND
21 AROUND IT. TYPICALLY WHEN WE'RE BLASTING CLOSE TO
22 STRUCTURES LIKE THAT, WE'RE SHOOTING A LOT SMALLER
23 BLASTS. LIKE I SAID EARLIER, SMALLER HOLES, SMALLER
24 BLASTS. IF THEY'RE SMALLER BLAST, THEN THERE'S GOING
25 TO BE MORE BLAST AROUND THAT BECAUSE WE'RE TAKING THE

1 SMALLER AREA AT ONE TIME TO PROTECT IT.

2 BY LAW, FLY ROCK IS ANYTHING THAT LEAVES THE
3 PERMIT BOUNDARY. IF A ROCK WILL HAPPEN TO GO ONE FOOT
4 ON THE OTHER SIDE OF THAT, THAT'S A VIOLATION. FLY
5 ROCK IS TAKEN EXTREMELY SERIOUS IN THE STATE OF
6 KENTUCKY TO THE POINT THEY WILL SHUT YOUR MINE DOWN.

7 CHAIRMAN: I UNDERSTAND MR. JARBOE'S QUESTION
8 AND I TRIED TO RESTATE IT. I MEAN ANYBODY IN HERE, I
9 DON'T CARE WHO IT IS, IF YOU HAD A CHILD OR HEAVEN
10 FORBID ONE OF US, YOU KNOW, OUT THERE, YOU WOULDN'T
11 WANT TO SUBJECT YOURSELF TO ANY KIND OF HARM OR
12 DANGER. IF 1,000 FOOT IS THE RIGHT NUMBER, IS 1,000
13 FOOT SOMETHING YOU ALL COULD LIVE WITH? BECAUSE IT
14 SEEMS LIKE, AND I GET MR. JARBOE'S POINT RIGHT AWAY.
15 WHY WOULD I BE PROTECTED MORE DRIVING DOWN 231 IN A
16 CAR THAN MR. JARBOE OR HIS CHILDREN OR ANYBODY OUT IN
17 HIS BACKYARD?

18 MR. BURNS: I UNDERSTAND. THE FLY ROCK
19 INCIDENTS FROM THE PAST BACK IN THE DAY BEFORE THERE
20 WERE A LOT OF REGULATIONS AND YOU SEE THE SKY TURNING
21 DARK AND THINGS LIKE THAT, IF WE LOAD A BIG ENOUGH
22 HOLE AND WE DON'T PUT ANY STEMMING ON TOP OF THAT
23 HOLE, WE CAN THROW ROCK FIVE MILES IF WE WANTED TO.
24 THE WAY WE DO IT IS TO DO IT TO KEEP ROCK FROM FLYING,
25 TO PROTECT PEOPLE, TO PROTECT VEHICLES AND EVERYTHING

1 ELSE. THERE'S 1,000 FOOT BOUNDARY. I DON'T KNOW HOW
2 THEY DETERMINE THAT OR WHY THEY SAY WE'RE GOING TO
3 BLOCK IT AT THIS RATE OR THIS DISTANCE FROM THE
4 BLASTING. WHY THEY DON'T STIPULATE MINIMUMS OR
5 SOMETHING ON STRUCTURES. NO MATTER WHERE WE'RE AT, WE
6 DON'T THROW ROCK.

7 CHAIRMAN: WOULD YOU SAY 1,000 FOOT WOULD BE
8 AN ADEQUATE BUFFER?

9 MR. WRIGHT: 1,000 FOOT IS NOT A BUFFER FOR
10 THE ROAD. THAT'S THE ONLY REQUIREMENT TO STOP THE
11 TRAFFIC WHEN WE'RE BLASTING WITHIN 1,000 FOOT. WE CAN
12 STILL GO TO THE RIGHT-OF-WAY AND WE WILL. WE HAVE TO
13 GET PERMISSION FROM THE DEPARTMENT OF TRANSPORTATION
14 AND FROM OTHER LOCAL AGENCIES. THAT'S NOT A BUFFER.
15 HERE IS THE BUFFER. WE CAN'T MINE WITHIN 300 FOOT OF
16 AN OCCUPIED DWELLING WITHOUT THEIR PERMISSION. THAT'S
17 SO THEY CAN'T LIMIT THE LANDOWNER THAT WE'RE DIGGING
18 FROM FROM GETTING THEIR COAL.

19 MR. ALLEN: IF THAT'S NOT A BUFFER AND YOU
20 WERE MINING RIGHT UP TO THE RIGHT-OF-WAY, HOW FAR BACK
21 ON EITHER SIDE, DOWN THE ROAD, WOULD YOU ACTUALLY STOP
22 TRAFFIC?

23 MR. WRIGHT: THOUSAND FOOT. THAT'S WHEN WE
24 HAVE TO STOP THE TRAFFIC AND WARNING THEM.

25 MR. ALLEN: SO THE CLOSEST THE CAR WOULD BE

1 FROM THE BLASTING WOULD BE 1,000 FOOT?

2 MR. WRIGHT: WE HAVE TO STOP TRAFFIC WHEN WE
3 GET UP TO 1,000 FOOT OF THE HIGHWAY.

4 MR. ALLEN: I'M SAYING LET'S SAY YOU'RE RIGHT
5 ON THE HIGHWAY. AS YOU SAID, YOU WOULD BLAST RIGHT TO
6 THE RIGHT-OF-WAY. YOU'RE AT THE RIGHT-OF-WAY. HOW
7 FAR BACK DOWN THE ROAD ARE YOU STOPPING TRAFFIC?

8 MR. WRIGHT: WE TRY TO GO DOWN ABOUT A QUARTER
9 OF A MILE OR SO JUST TO MAKE SURE THEY'RE SAFE.
10 THAT'S THE SAME WARNING. I MEAN WE'RE STOPPING THE
11 TRAFFIC TO WARN THEM.

12 MR. KAZLAUSKAS: MR. CHAIRMAN --

13 MR. SCOTT: MR. KIRKLAND, I DON'T MEAN TO
14 INTERRUPT YOU, SIR. I WOULD LIKE YOU TO ASK THESE
15 GENTLEMAN -- I DON'T KNOW IF HIS COMPANY WAS INVOLVED.

16 CHAIRMAN: WAIT A MINUTE, MR. SCOTT. WE'VE
17 GOT A COMMISSION MEMBER AHEAD OF YOU.

18 MR. SCOTT: I UNDERSTAND THAT, BUT THIS DEALS
19 WITH THE BLASTING AND STOPPING TRAFFIC AND SOMETHING I
20 HAVE EXPERIENCE WITH.

21 CHAIRMAN: I THINK MR. KAZLAUSKAS --

22 MR. KAZLAUSKAS: GO AHEAD AND LET HIM ASK HIS
23 QUESTION.

24 CHAIRMAN: THANK YOU, MR. KAZLAUSKAS.
25 GO AHEAD.

1 MR. SCOTT: WHEN THEIR COMPANY, AND I'LL
2 DIRECT THIS TO YOU AND NOT TO THEM. WHEN THEIR
3 COMPANY DOES STOP THIS TRAFFIC ON THE HIGHWAY, WHAT
4 METHOD DO THEY EMPLOY TO STOP AND HOLD THAT TRAFFIC,
5 FOR HOW LONG, WHO PAYS THAT BILL, AND IF THE COMPANY
6 THAT -- I DON'T MEAN TO CALL YOU SETH. I JUST DON'T
7 KNOW YOUR LAST NAME.

8 MR. BURNS: SETH IS FINE.

9 MR. SCOTT: IF THE COMPANY HE WORKS FOR, I
10 WOULD LIKE TO KNOW IF THEIR COMPANY DID THE BLASTING
11 FOR THE STRIP MINING PROJECT THAT TOOK PLACE IN
12 HENDERSON COUNTY ADJACENT TO THE AUDUBON PARKWAY
13 APPROXIMATELY TWO YEARS AGO? IF HE IS THAT COMPANY,
14 IS HE AWARE OF AN INCIDENT IN WHICH ROCKS DID IN FACT
15 COME DOWN ON THE AUDUBON PARKWAY?

16 CHAIRMAN: FOR LACK OF RESTATING YOUR QUESTION
17 VERBATIM, I'M GOING TO JUST TURN AROUND AND DIRECT
18 YOUR QUESTION. IF I HAVE TO I WILL, BUT I'M GOING TO
19 DO IT WITH YOUR PERMISSION. IS THAT OKAY?

20 MR. SCOTT: GO AHEAD.

21 CHAIRMAN: I'M JUST GOING TO DIRECT IT RIGHT
22 TO YOU ALL RATHER THAN ME TRYING TO RESTATE. I THINK
23 HE -- SUMMARY OF METHOD OF STOPPING THE TRAFFIC. HOW
24 ARE YOU GOING TO STOP IT? WHO IS GOING TO PAY FOR IT?
25 AND WERE YOU INVOLVED IN THE HENDERSON COUNTY BLAST?

1 MR. SCOTT, IS THAT A PRETTY GOOD SUMMARY?

2 MR. SCOTT: I BELIEVE THAT'S RIGHT.

3 CHAIRMAN: THANK YOU.

4 MR. WRIGHT: OUR COMPANY WILL CONTROL THE
5 TRAFFIC AT OUR EXPENSE.

6 WE'VE NEVER HAD A FLY ROCK LEAVE OUR PERMIT.
7 NEVER, AS WESTERN KENTUCKY MINERALS.

8 CHAIRMAN: I THINK YOU SHOULD ANSWER THE
9 QUESTION ABOUT THE HENDERSON COUNTY BLAST. ARE YOU
10 FAMILIAR WITH WHAT HE'S TALKING ABOUT?

11 MR. SCOTT: YES, I AM. WE DID BLAST AT THAT
12 MINE. IT WAS OUR COMPANY. WE DID HAVE A FLY ROCK
13 INCIDENT THERE. THEY DID HAVE THE ROAD BLOCKED. I
14 THINK THEY WERE USING THE HIGHWAY PATROL.

15 MR. SCOTT: STATE POLICE, SIR.

16 MR. BURNS: STATE POLICE.

17 THEY DID HAVE AN INCIDENT THAT DID THROW SOME
18 ROCK ON THE ROAD AND GOT IT CLEANED UP. THEY HAD THE
19 MINE SHUTDOWN FOR APPROXIMATELY A MONTH WHILE THEY
20 INVESTIGATED EVERYTHING. THE BLASTER WAS PERSONALLY
21 CITED. THERE WERE SOME PRETTY SEVERE REPERCUSSIONS
22 FOR THAT.

23 CHAIRMAN: HOW CLOSE WAS THAT BLASTING TO THE
24 HIGHWAY?

25 MR. BURNS: MARTY, DO YOU KNOW SPECIFIC

1 DISTANCES?

2 CHAIRMAN: YOU'LL HAVE TO COME TO THE PODIUM.

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

5 MR. VINCENT: MARTY VINCENT.

6 (MARTY VINCENT SWORN BY ATTORNEY.)

7 MR. VINCENT: I AM FAMILIAR WITH THAT BLAST.
8 OUR COMPANY WAS INVOLVED. BEFORE THE BLAST WAS EVER
9 DETONATED WE KNEW, BECAUSE THERE WAS A MUD SEAM
10 DETECTED AFTERWARDS THAT THERE COULD BE A POTENTIAL
11 FOR FLY ROCK. IT WAS 300 FEET. THE SHOT WAS EXACTLY
12 310 FEET FROM THE STATE RIGHT-OF-WAY. ALL OF THE
13 AUTHORITIES WERE CALLED. WE STOPPED THE TRAFFIC ON
14 PURPOSE BECAUSE IT WAS A PLANNED STOPPED BECAUSE THEY
15 DETECTED ANOTHER SEAM AFTER THE BLAST WAS LOADED.
16 THIS WAS NOT AN ACCIDENT. THE MINING COMPANY AND THE
17 BLASTING COMPANY BOTH KNEW THAT THIS WAS A POTENTIAL
18 ISSUE BEFORE THE BLAST WAS DETONATED. THAT IS WHY WE
19 STOP THE TRAFFIC.

20 CHAIRMAN: THIS WAS 310 FEET?

21 MR. VINCENT: 310 FEET FROM THE ACTUAL, FROM
22 THE ROAD. NOT FROM THE RIGHT-OF-WAY. FROM THE ROAD.
23 IT WAS MUD THAT WAS THROWN OUT THERE. THERE WERE MANY
24 PEOPLE. THE STATE WAS INFORMED. THE STATE POLICE WAS
25 INFORMED. THE MINING COMPANY, THE DEPARTMENT OF MINES

1 & MINERALS, DEPARTMENT OF SURFACE MINING, THEY WERE
2 ALL INFORMED BEFORE THAT SHOT WAS DETONATED.

3 CHAIRMAN: THANK YOU.

4 MR. SCOTT: MR. KIRKLAND, THE STATE POLICE WAS
5 EMPLOYED FOR A LONG PERIOD OF TIME, SEVERAL MONTHS,
6 ONCE OR TWICE A DAY, TO BLOCK TRAFFIC ON THE AUDUBON
7 PARKWAY IN ORDER TO ALLOW THESE SHOTS TO BE PUT OFF.
8 I WAS NOT THERE THAT DAY. ONE OF THE MINERS FROM THE
9 COMPANY --

10 CHAIRMAN: JUST FOR THE RECORD I BELIEVE
11 YOU'RE GETTING -- YOU ARE A STATE --

12 MR. SCOTT: I AM A TROOPER, YES, SIR.

13 CHAIRMAN: THANK YOU.

14 MR. SCOTT: WHEN I CAME THROUGH, THAT HAPPENED
15 APPARENTLY ON ONE OF MY DAYS OFF OR A TIME THAT I WAS
16 NOT OUT THERE. WHEN I RETURNED OUT THERE, ONE OF THE
17 MINERS THAT I SAW THERE ON A REGULAR BASIS FOR THESE
18 TIMES WE HAD TO BE OUT THERE TO STOP TRAFFIC, HE TOLD
19 ME ABOUT THE ROCKS COMING DOWN ON THE HIGHWAY. HE
20 DIDN'T REFER TO IT AS MUD. HE REFERRED TO IT AS
21 ROCKS. SOME OF THEM LARGER THAN WHAT HE WANTED TO TRY
22 TO PUSH OFF THE HIGHWAY. IF THE MINE WAS SHUTDOWN FOR
23 A MONTH, I MUST HAVE MISSED THAT BECAUSE THE WAY HE
24 SPOKE TO ME IT HAPPENED THE WEEK BEFORE AND WE WERE
25 BACK OUT THERE FOR SHOTS AGAIN.

1 I DON'T MEAN TO DISPARAGE ANYBODY OF THEIR
2 ABILITIES, BUT OBVIOUSLY IT'S SHOWN IT CAN HAPPEN. IT
3 HAS HAPPENED. IT HAS HAPPENED HERE WITH THESE
4 COMPANIES THAT WE ARE FIXING TO GIVE A PERMIT TO OR AT
5 LEAST WE'RE FIXING TO GIVE A ZONING CHANGE TO GIVE
6 THEM AN OPPORTUNITY, AND IN THIS CASE HERE THEY KNEW
7 IT COULD HAPPEN, BUT THEY WENT AHEAD AND DID IT. I
8 DON'T UNDERSTAND THAT. MAYBE THERE'S SOMETHING I
9 DON'T KNOW. THAT FOR SOME REASON IT COULDN'T BE
10 UNDONE. BUT IT SEEMS TO ME YOU KNEW THERE WAS A
11 POTENTIAL FOR A PROBLEM. LET'S JUST NOTIFY EVERYBODY
12 AND GO AHEAD AND TAKE A CHANCE AT IT.

13 MR. VINCENT: YOU CANNOT LEAVE A LIVE HOLE
14 LOADED.

15 MR. SCOTT: I UNDERSTAND THAT.

16 CHAIRMAN: GENTLEMEN.

17 MR. VINCENT: YOU CAN'T LEAVE A LIVE HOLE
18 LOADED. IT HAS TO BE DETONATED. THERE WAS A PLAN PUT
19 TOGETHER. IT WAS EXECUTED. IT WAS MUD, SIR. I WAS
20 THERE. IT'S PUBLIC RECORD AND IT'S NOT HEARSAY.
21 SWORN TESTIMONY. I WAS THERE.

22 THE MINE WAS STOPPED. THE BLASTING IN THAT
23 AREA OF THE MINE WAS STOPPED FOR 17 DAYS SO THEY COULD
24 GO AND DO ADDITIONAL GEOLOGICAL STUDIES TO SEE WHERE,
25 IF ANY, THERE WERE MUD SEAMS AND HOW WE WOULD APPROACH

1 THAT, IF WE APPROACHED MORE MUD SEAMS. THAT WAS THE
2 REASON FOR THAT.

3 THE PUBLISHED LAW ON THE BOOKS, IF I MIGHT
4 SAY, FOR STOPPING TRAFFIC ON A PUBLIC ROAD IS 800
5 FEET. YOU SUBMIT A BLAST PLAN FOR THE STATE AND THEY
6 ASK YOU, THEY ASK YOU IF YOU ARE WILLING TO STOP THE
7 TRAFFIC AT 1,000 FEET. AND FOR MANY REASONS, AND MOST
8 OF IT, IS FOR CONCERN FOR THE PUBLIC AND THE
9 MOTORISTS. MOST MINING COMPANIES AGREE TO 1,000 FEET.
10 EIGHT HUNDRED FEET IS THE LAW AND YOU CAN ACTUALLY
11 MINE UP TO THE RIGHT-OF-WAY OF A PUBLIC ROAD.

12 THE SITUATION WHERE WE HAVE MINED CLOSE TO
13 PEOPLE'S HOMES, I DON'T KNOW OF ANY SITUATIONS WHERE
14 WE HAVE THROWN ROCK AND HIT HOMES. WE DO PUT PEOPLE
15 ON A CALL LIST WHEN WE APPROACH THEM. WE TAKE EXTRA
16 PRECAUTION. WE SHOOT SMALLER SHOTS. WE ACTUALLY -- I
17 PERSONALLY HAVE GONE TO PEOPLES HOMES AND HAVE TAKEN
18 THEM AND THEIR FAMILIES TO TOWN. BOUGHT THEIR KIDS A
19 MEAL, THE FAMILIES A MEAL. HAD GREAT RELATIONSHIPS
20 WITH THEM IN THOSE SITUATIONS BECAUSE WE WERE
21 CONCERNED. BECAUSE WE WANTED TO MAKE SURE THAT THEY
22 WERE SAFE AND NOT BECAUSE ANYBODY MADE US DO IT.

23 CHAIRMAN: LET ME JUST ASK YOU SOMETHING. HOW
24 FAR WOULD YOU HAVE TO BE FROM A HOUSE? I CAN
25 SYMPATHIZE WITH WHAT MR. JARBOE IS SAYING. HOW

1 MUCH -- I'M NOT GOING TO USE A WORD. I'M JUST GOING
2 TO USE FOOTAGE.

3 HOW MANY FEET DO YOU NEED TO BE FROM A HOUSE
4 WHERE PEOPLE CAN CONTINUE TO LIVE? THINGS CAN HAPPEN,
5 AND I UNDERSTAND THAT. ANYBODY THAT OPENS UP AN ICE
6 CREAM STAND UNDERSTANDS THAT.

7 THIS COMMISSION NEEDS TO TAKE THE
8 RESPONSIBILITIES OF YOUR APPLICATION AND WE NEED TO
9 TAKE THE RESPONSIBILITIES OF THE HOMEOWNERS AND BLEND
10 IT INTO SOME SORT OF RECOMMENDATION. YOUR APPLICATION
11 IS IN ORDER, BUT WE HAVE TO ASSURE THAT PEOPLE CAN GO
12 OUT IN THEIR BACKYARDS AND BARBECUE, DO WHATEVER THEY
13 WANT TO DO. I MEAN THAT'S UP TO THEM. THAT'S THEIR
14 OWN.

15 HOW MUCH DISTANCE DO WE NEED TO BE WHERE
16 SOMETHING LIKE THAT WOULD NOT HAPPEN?

17 MR. VINCENT: THE STATE OF KENTUCKY DEVELOPED
18 THIS DISTANCE OF 300 FEET AS BEING A SAFE DISTANCE.
19 THE DISTANCE OF 800 FEET WAS PUBLISHED LAW. AGAIN,
20 IT'S ON THE BOOKS. YOU CAN SEE IT FOR YOURSELF.
21 ANYBODY HERE. WAS AN AGREEMENT BETWEEN THE STATE OF
22 KENTUCKY, THE DEPARTMENT OF MINES & MINERALS, AND THE
23 TRANSPORTATION CABINET, AND IT WAS AN AGREEMENT THAT
24 THEY CAME BETWEEN THEM. IT WASN'T SOMETHING THAT THE
25 TRANSPORTATION CABINET SAYS, WELL, 300 FEET IS SAFE.

1 THE STATE OF KENTUCKY SAID, NO, IT'S NOT, OR VICE
2 VERSA. IT WAS AN AGREEMENT THAT WAS MADE BETWEEN
3 THEM. I WASN'T THERE WHEN THAT AGREEMENT WAS MADE,
4 BUT 800 FEET IS WHAT THEY DECIDED, BUT THE STATE OF
5 KENTUCKY FELT LIKE 300 FEET FROM A HOME IS A SAFE
6 AREA. MANY PLACES THROUGHOUT OUR COUNTRY, THERE'S
7 BLASTING DONE WITHIN 25 FEET OF BUILDINGS, HIGH RISE
8 BUILDINGS IN CITIES.

9 CHAIRMAN: THOSE ARE WILLING PARTICIPANTS.
10 WHAT WE'VE GOT HERE IS WE'VE GOT A SITUATION WHERE
11 WE'VE GOT HOMEOWNERS THAT WE NEED TO ACCOMMODATE.

12 MR. VINCENT: ABSOLUTELY.

13 CHAIRMAN: I'M NOT GOING TO CALL THEM
14 UNWILLING, BUT LET'S JUST CALL THEM HOMEOWNERS THAT
15 NEED ACCOMMODATION.

16 WE NEED TO HAVE ACCOMMODATIONS. YOU ALL AS
17 BUSINESS PEOPLE, YOU KNOW, WE UNDERSTAND YOUR SIDE OF
18 THE STORY TOO. WHAT THIS COMMISSION NEEDS TO PRESENT,
19 AND I'M SPEAKING ONLY FOR MYSELF. I'VE GOT ONE VOTE.
20 WHAT I SEE THAT WE NEED TO PRESENT IS WE NEED TO
21 PRESENT AN IRONCLAD CASE, AN IRONCLAD RECOMMENDATION
22 WHERE EVERYBODY IS PROTECTED. THE PROTECTION HAS TO
23 BEGIN, IT'S ONE THING TO -- WE'LL JUST USE MR. SCOTT
24 BECAUSE HE'S AT THE STAND.

25 IF YOU'RE LEASING 100 ACRES FROM MR. SCOTT AND

1 GOING RIGHT UP NEXT TO HIS HOUSE AND HE'S GETTING COAL
2 SEVERANCE, ETCETERA, ETCETERA, ETCETERA, THAT'S ONE
3 THING. THAT'S ONE SITUATION.

4 IN ANOTHER WHERE PEOPLE ARE NOT AND THEY VIEW
5 IT DIFFERENTLY, I CAN UNDERSTAND. I DON'T KNOW WHAT
6 YOUR SITUATION IS. YOU'LL JUST USE YOU AS AN EXAMPLE.

7 MR. SCOTT: I MUST HAVE UNDERSTOOD HIM A
8 MINUTE AGO. WHAT I UNDERSTOOD HIM TO SAY THE MINE WAS
9 SHUTDOWN FOR A MONTH. THEN IT WAS, WELL, THERE WAS NO
10 BLASTING IN THAT AREA FOR 17 DAYS. NOW, I MUST HAVE
11 MISUNDERSTOOD THAT BECAUSE THE MINE DID CONTINUE.

12 CHAIRMAN: THE POINT IS WELL TAKEN, BUT I
13 THINK THAT'S NOT IMPORTANT AT THIS TIME.

14 MR. SCOTT: I ALSO WANT TO ASK TWO THINGS
15 HERE.

16 THERE'S ONE GENTLEMAN BACK HERE THAT WASN'T
17 HERE EARLIER. I DON'T THINK GOT TO ASK ANY QUESTIONS.
18 HE WOULD LIKE TO BE HEARD TONIGHT. I'M ALL FOR THAT.
19 I HOPE YOU ALLOW THAT.

20 CHAIRMAN: EVERYBODY HAS HAD AN OPPORTUNITY.

21 MR. SCOTT: EVERYBODY HAS.

22 ALSO, DID THE MINING NEAR THE AUDUBON PARKWAY,
23 DID THAT ALSO CONTRIBUTE TO THE COLLAPSES THAT WE HAD
24 ON SECTIONS OF THE PARKWAY?

25 CHAIRMAN: LET ME FINISH WITH MY STATEMENT TO

1 HIM, IF I MAY.

2 MR. VINCENT: I CAN SHARE SOME TESTIMONY WITH
3 YOU THAT OUR COMPANY IN CONJUNCTION AND WORKING FOR
4 WESTERN KENTUCKY MINERALS SAFELY BLASTED WITHIN 60
5 FEET OF A HOMEOWNER IN THE KNOTTSVILLE AREA WITHIN THE
6 LAST THREE YEARS.

7 CHAIRMAN: I APPRECIATE THAT. I MEAN EVEN
8 TESTIMONY OF MR. LUDWICZAK WHEN HE WAS HERE TESTIFYING
9 FOR MR. WILSON, YOU KNOW, WHEN I ASKED HIM HOW CLOSE.
10 MR. LUDWICZAK SAID HE COULD GET VERY CLOSE TO A HOME
11 AND NOT CAUSE ANY PROBLEMS PROBABLY.

12 YOU KNOW, WE'VE GOT TO COME UP WITH SOME TYPE
13 OF SAFE SITUATION BECAUSE WE DON'T WANT FLY ROCK. WE
14 DON'T WANT ANY DEBRIS OR ANYTHING, YOU KNOW, THAT
15 COULD DAMAGE ANOTHER INDIVIDUAL. I MEAN WE COULD
16 ARGUE ALL DAY ABOUT THE DUST AND WHATEVER. WHEN WE'RE
17 TALKING ABOUT PROJECTILES, YOU KNOW, IT'S A WHOLE
18 DIFFERENT SITUATION.

19 MR. VINCENT: WE DO UNDERSTAND THAT. WE TAKE
20 SAFETY SERIOUSLY. THE STATE OF KENTUCKY HAS DEVELOPED
21 THE DISTANCE OF 300 FEET AND WE BLAST CONSISTENTLY 300
22 FEET AND NOT HAD FLY ROCK INCIDENTS NOT HAVE THROWN
23 ROCK OFF THE PERMIT ON OTHER PEOPLE'S PROPERTY.
24 TODAY, THERE ARE LAWS ON THE BOOKS. IT'S BEEN PROVEN
25 THAT IT'S A SAFE PRACTICE AT 300 FEET.

1 MR. SCOTT: ALL I'M GOING TO SAY IS IF WE CAN
2 NOT GUARANTEE ME THAT FLY ROCK WILL NOT COME ON MY
3 PROPERTY, THEN I AM NOT GOING TO BE ABLE TO ENJOY MY
4 PROPERTY AND MY CHILDREN'S SAFETY IS NOT THERE. IF
5 YOU VOTE FOR THAT, YOU'RE ENDORSING THE EXACT SAME
6 THING THAT YOUR COMPREHENSIVE PLAN IS TELLING ME THAT
7 I HAVE THE RIGHT TO ENJOY MY PROPERTY.

8 CHAIRMAN: I THINK I JUST MADE THAT STATEMENT.

9 MR. SCOTT: THANK YOU.

10 MR. BURNS: THERE WAS A QUESTION REGARDING HOW
11 MANY BLASTS WILL BE IN THAT AREA. WAS TALKING ABOUT
12 HOW ME MINE AROUND IT. DEPENDING ON IF IT'S 300 FEET,
13 IF WE SHOOT A SHOT HERE, WE MAY BE 300 FEET. THERE
14 MAY BE FOUR OR FIVE SHOTS IN THAT AREA WHERE WE'RE 300
15 FEET. THERE MIGHT BE ONE SHOT IN THE AREA THAT'S 300
16 FEET. BUT THEN YOU'RE GETTING AWAY FROM THAT AREA.
17 THERE'S A VERY SMALL WINDOW WHERE WE MIGHT BE CLOSER.
18 THERE'S A WINDOW WHERE WE MAY BE FURTHER AWAY.

19 CHAIRMAN: HAVE YOU NOT HAD THE OPPORTUNITY TO
20 SPEAK?

21 MR. MATTINGLY: NO. I HAVEN'T BEEN SWORN IN.

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

24 MR. MATTINGLY: JAMES MATTINGLY.

25 (JAMES MATTINGLY SWORN BY ATTORNEY.)

1 MR. MATTINGLY: WHAT I WANTED TO SPEAK ABOUT,
2 AWHILE AGO THERE WAS A DISCUSSION ABOUT KNOTTSVILLE
3 BEING HAPPY WITH COAL MINE. THAT'S PROBABLY TRUE.
4 THERE ARE SOME THAT ARE AND THERE'S SOME THAT'S NOT.
5 I'M ONE THAT'S NOT.

6 I USED TO WORK AT OMU. I'VE WORKED AT THE
7 POWER PLANT. I BREATHED IN COAL DUST FOR 24 YEARS. I
8 MOVED TO THE FAR EAST COUNTY. I THOUGHT THAT THE COAL
9 MINES WERE DONE OUT THERE. YOU KNOW, THE OLD STRIPPER
10 PITS, I THOUGHT THE MINING WAS PRETTY MUCH DONE. I
11 MOVED OUT THERE IN '04. SINCE I'VE MOVED OUT THERE, I
12 MEAN IT'S PICKED UP. THEY'VE COME WITHIN 1,000 FEET.
13 I'M SORRY, ABOUT A MILE OF WHERE WE LIVE IN A MOBILE
14 HOME. MY WIFE HAS 10 PERCENT HEART AND PNEUMONIA.
15 JUST GOT OUT OF THE HOSPITAL FIVE DAYS AGO. GOT NO
16 INSURANCE ON HER.

17 ANYWAY, I GOT THIS LUNG RESTRICTION. I MOVED
18 OUT THERE BECAUSE I DIDN'T WANT TO BREATHE ANY MORE
19 DUST. YOU CAN'T TELL ME THAT THEY AIN'T MAKING SOME
20 DUST ON THE ROAD BECAUSE I GO DOWN SHORT STATION ROAD.
21 RIGHT THERE I THINK IT'S WHERE THE LANHAMS LIVE AND
22 THERE'S DUST ON THE ROAD. WHERE TRUCKS GO OVER THERE
23 AND PEOPLE DRIVE OVER. YOU ALL HAVE BIG DISCUSSION
24 ABOUT NO DUST. THAT'S ALL I HAVE TO SAY.

25 CHAIRMAN: THANK YOU, SIR.

1 WE'RE GOING TO GET INTO ANOTHER SET OF
2 QUESTION.

3 MR. SCOTT, YOU HAD QUITE A FEW QUESTIONS AND
4 I'LL TRY TO --

5 MS. KELTY: I DON'T THINK MINE GOT ANSWERED.

6 CHAIRMAN: YOURS WAS ABOUT THE SHARE OF THE
7 DATA ON THE ENVIRONMENTAL AND PUT IT ON THE WEBSITE
8 AND MAKE IT EASILY ACCESSIBLE. YES, MA'AM, I DID
9 BRING THAT QUESTION.

10 MS. KELTY: I DIDN'T HEAR THEIR ANSWER.

11 CHAIRMAN: I'M SORRY. THEY WERE IN A CAST OF
12 PEOPLE THAT -- THE QUESTION WAS ASKED, BUT IT HASN'T
13 GOTTEN ANSWERED YET. YOU'RE CORRECT.

14 WOULD SOMEBODY ADDRESSED THAT? HERE QUESTION
15 WAS ABOUT THE DATA, SHARING THE DATA ON THE
16 ENVIRONMENTAL AND ALL YOUR STUDIES. PUTTING IT ON THE
17 WEBSITE OR SOMEWHERE WHERE IT'S EASILY ACCESSIBLE.

18 MR. BURNS: TIM IS GOING TO ANSWER THAT
19 QUESTION. HE JUST MADE A GOOD ANALOGY AND HE ASKED ME
20 TO SHARE THAT BRIEFLY.

21 WHEN WE HAVE OUR BLAST WARNING SIGNALS FOR OUR
22 BLAST AREA, THAT BLAST AREA DEFINES BASICALLY WHAT
23 FLOW ROCK IS. SO EACH SHOT HAS A BLAST AREA. FLY
24 ROCK CANNOT LEAVE THAT. IT CAN'T GO HALF THE DISTANCE
25 OF THE STRUCTURE. ALL THOSE THINGS. WE GIVE OUR

1 BLAST WARNING SIGNALS, FIVE MINUTE WARNING, A ONE
2 MINUTE WARNING. THOSE ARE DEFINED. IT'S VERY
3 SIMILAR, AND HE BROUGHT THIS UP. IF YOU'RE DRIVING
4 DOWN THE ROAD AND YOU HEAR THE SIRENS FROM AN
5 EMERGENCY VEHICLE, THAT'S A WARNING. YOU NEED TO MOVE
6 OVER AND GET OUT OF THE WAY SO THEY CAN GET WHERE
7 THEY'RE GOING. THAT'S WHAT OUR BLAST WARNING SIGNALS.
8 THEY DO THE SAME THING. WE HAVE A FIVE MINUTE WARNING
9 AND A ONE MINUTE WARNING TO JUST WARN, HEY, THERE'S
10 ABOUT TO BE A BLAST THAT'S GOING OFF. THOSE ARE, LIKE
11 I SAID, WARNING SIGNALS. HE JUST ASK THAT -- IT WAS
12 KIND OF AN ANALOGY THAT MIGHT BRING SOME CLARITY TO
13 THAT.

14 CHAIRMAN: OUR GIRL SCOUT REPRESENTATIVE'S
15 QUESTION ABOUT THE EASE ACCESS TO YOUR ENVIRONMENTAL
16 INFORMATION.

17 MR. WRIGHT: ALL THAT SITE WILL BE ON OUR
18 PERMIT APPLICATION WHEN IT GOES ON PUBLIC VIEW.

19 CHAIRMAN: WHAT WEBSITE WILL THAT BE ON?

20 MR. WRIGHT: IT WON'T BE ON A WEBSITE. IT
21 WILL BE AT THE DEPARTMENT OF SURFACE MINING IN
22 MADISONVILLE.

23 CHAIRMAN: THEY WILL NOT HAVE THAT ON A
24 WEBSITE OR ANYTHING?

25 MR. WRIGHT: NO.

1 CHAIRMAN: DID YOU GET THAT? IT WILL BE AT
2 THE DEPARTMENT OF MINING, SURFACE MINING IN
3 MADISONVILLE. YOU MAY HAVE TO JUST CALL FOR THAT
4 INFORMATION.

5 MR. WRIGHT: NO, THEY WON'T GIVE IT TO YOU IF
6 YOU CALL. YOU HAVE TO GO DOWN THERE. YOU HAVE TO
7 SIGN IN AND VIEW IT THERE. THAT'S THE LAW.

8 CHAIRMAN: I'M SORRY, BUT THAT'S YOUR ANSWER.

9 MS. KELTY: THANK YOU.

10 CHAIRMAN: MR. STEVE SCOTT HAD A QUESTION
11 ABOUT HIS HOUSE WAS BUILT ON A WELL. WHAT SHOCKS
12 WOULD HE --

13 MR. WRIGHT: THE ONLY RECOMMENDATION I HAVE
14 THERE IS I'M A CERTIFIED WELDER. I CAN PLUG IT FOR
15 HIM. THAT WOULD BE MY ADVICE TO HIM. TO GET IT
16 PLUGGED. I WOULD HAVE PLUGGED IT BEFORE I BUILT MY
17 HOUSE, BUT IT DOES HAVE TO BE PLUGGED BY A CERTIFIED
18 WELDER.

19 CHAIRMAN: PLUGGING, FOR ME THAT DOESN'T MEAN
20 ANYTHING.

21 MR. WRIGHT: FILL IT UP.

22 CHAIRMAN: WITH WHAT? CONCRETE?

23 MR. WRIGHT: IT DEPENDS ON WHAT TYPE OF WELL
24 IT IS. IT WOULD HAVE TO BE EVALUATED.

25 CHAIRMAN: THAT TOOK CARE OF ALL OF OUR FIRST

1 GROUP OF QUESTIONS.

2 I'LL GET INTO MR. SCOTT'S QUESTIONS. HIS
3 FIRST QUESTION WAS, I'LL GIVE ABOUT THREE AT A TIME SO
4 YOU CAN SORT OF LINE UP WHO NEEDS TO ANSWER WHAT.

5 HIS FIRST QUESTION WAS BETWEEN THE
6 AGRICULTURAL DUST VERSUS THE COAL DUST.

7 SECOND QUESTION WAS ABOUT THE WATER TRUCK.
8 HOW MANY GALLONS THEY WERE GOING TO USE AND WHERE THE
9 WATER WAS GOING TO COME FROM. THAT WAS LIKE ON A
10 DAILY BASIS.

11 THE BLASTING, THE HIGH ORDER SPEED OF THE
12 BLASTING 500 TO 1,000 FEET.

13 THEN ON THE RECLAMATION, HOW QUICKLY WAS THE
14 RECLAMATION GOING TO BE DONE.

15 MR. SCOTT, IS THAT IT?

16 MR. SCOTT: WHAT IS THE CONSEQUENCE IF THEY DO
17 NOT MEET THAT 180 DAY DEADLINE?

18 CHAIRMAN: THE CONSEQUENCES ON THE
19 RECLAMATION. THERE IS ABOUT FOUR.

20 MR. WRIGHT: THE CONSEQUENCES IS THEY'LL SHUT
21 US DOWN UNTIL WE GET OUR RECLAMATION CAUGHT UP.

22 CHAIRMAN: HOW ABOUT THE BLASTING?

23 MR. WRIGHT: WHAT WAS THE QUESTION ON THE
24 BLASTING AGAIN?

25 CHAIRMAN: BLASTING WAS THE HIGH ORDER OF

1 SPEED FROM 500 TO 1,000 FEET FOR YOUR BLASTING.

2 MR. BURNS: WE'VE ACTUALLY DONE SOME WORK WITH
3 THAT LATELY WITH SOME OTHER GROUPS AND THAT'S THEIR
4 SPECIALTY AND THEIR EXPERTISE.

5 BASICALLY WHEN YOU HAVE A SHOCK WAVE THAT GOES
6 OFF OF A SHOT OR OFF OF A SINGLE HOME OR ANYTHING LIKE
7 THAT, WHEN THAT WAVE GOES OUT, IT'S INTENSITY CLOSER
8 IN. YOU KNOW, IF LEAVES THAT -- WHEN IT DETONATES AND
9 GOES OUT THROUGH THE ROCK, IT GOES OUT AT A SPEED.
10 THAT SPEED MIGHT BE 3, 600 FEET PER SECOND FOR
11 SANDSTONE IN THIS AREA. AS IT GOES OUT, THE FREQUENCY
12 OF THAT WAVE CHANGES. THE SPEED THAT IT GOES OUT
13 DOESN'T REALLY SLOW DOWN, BUT IT DISSIPATES. SO
14 EVENTUALLY IT JUST GETS ABSORBED BY THE NATURAL
15 STRUCTURES IN THE GROUND.

16 CHAIRMAN: THIS 1,000 FOOT KEEPS POPPING UP.
17 IS THE 1,000 FOOT THE OPTIMUM?

18 MR. BURNS: THE 1,000 FOOT IS JUST A NUMBER HE
19 THREW OUT AS THE DISTANCE FROM 500 TO 1,000 TO 1,500.

20 CHAIRMAN: WELL, I JUST SORT OF GRABBED AHOLD
21 OF IT BECAUSE IT WENT BACK TO THE HIGHWAY STUFF.

22 MR. BURNS: 1,000 FEET, TO US OTHER THAN, YOU
23 KNOW, AT THIS LIMIT WE BLOCK A HIGHWAY. 1,000 FEET,
24 YOU KNOW, IT'S REALLY NO DIFFERENT THAN 1200 OR 800.
25 WE LOAD ACCORDING TO WHAT WE'RE ALLOWED TO LOAD. IT

1 DOESN'T MEAN WE MAXIMIZE EVERY SHOT, BUT THE DISTANCE
2 OF 1,000 FEET REALLY HAS NO BEARING ON WHAT WE DO.

3 CHAIRMAN: I'M GOING GO OVER ANOTHER SECTION
4 OF WHAT HE ASKED.

5 WHY IS THE COAL NOT WASHED IN OHIO COUNTY?

6 THE FIRE CLAY, YOU ALL EXPLAINED WHERE THE
7 FIRE CLAY IS LIKE A BASIN UNDERNEATH IT. HIS QUESTION
8 WAS, I GUESS, IF IT FILLS, HOW COME IT COULDN'T GO
9 OVER AND AROUND THE FIRE CLAY BASE?

10 MR. WRIGHT: THE COAL IN OHIO COUNTY -- WE
11 DON'T HAVE TO WASH IT. WE WILL HAVE A SMALL COAL RACK
12 OVER THERE. THE COAL WILL BE CRUSHED AND BROKE UP
13 THERE AND TAKEN DIRECTLY IN TO OMU OR TO YELLOW BANK
14 RIVER. SO THERE WILL BE NO COAL FROM OHIO COUNTY
15 GOING TO DAVIESS COUNTY TO BE WASHED.

16 CHAIRMAN: THE OTHER ONE WAS, ACTUALLY WAS FOR
17 MR. NOFFSINGER. THE COMPREHENSIVE PLAN.

18 MR. APPLEBY: WATER TRUCKS.

19 CHAIRMAN: I'M SORRY.

20 MR. WRIGHT: WHEN THE WATER TRUCKS COME FROM
21 ON SITE, WE HAVE SILT BASINS ON THERE THAT WE TAKE THE
22 WATER OUT OF. THAT'S A 4,000 GALLON WATER TRUCK.
23 LIKE HE SAID, ACCORDING TO THE DRYNESS OF THE WEATHER.
24 WE WILL NOT GET ANY FROM OHIO COUNTY. IT'S ALL TAKEN
25 FROM ON-SITE. WE HAVE SILT BASINS AND STUFF ON SITE

1 WE GET THE WATER OUT OF.

2 CHAIRMAN: HOW MUCH DO YOU USE?

3 MR. WRIGHT: IT'S A 4,000 GALLON TANK. THAT
4 WOULD VARY A WHOLE LOT. DEPENDING ON THE DAY AND THE
5 LENGTH OF ACCESS ROAD. A LOT OF THINGS GOING INTO
6 THAT CALCULATION.

7 CHAIRMAN: SO YOU ALL REALLY GET YOUR OWN
8 WATER ON SITE?

9 MR. WRIGHT: WE DO. WE HAVE TO USE IT
10 ON-SITE.

11 MR. ALLEN: WHEN YOU SAY THE BASIN, IS THAT A
12 NATURAL FILLED BASIN, WATER RAIN, OR ARE YOU TALKING
13 ABOUT --

14 MR. WRIGHT: IT COLLECTS THE RAIN WATER OFF OF
15 THE MINE SITE, YES. PART OF OUR DRAINAGE CONTROL.

16 CHAIRMAN: MR. NOFFSINGER, ONE OF HIS OTHER
17 QUESTIONS THE COMPREHENSIVE PLAN. WHAT DO YOU DO TO
18 GO ABOUT CHANGING THE COMPREHENSIVE PLAN IN REGARDS TO
19 NOT HAVING COAL MINING IN THE AREA.

20 MR. NOFFSINGER: RIGHT NOW THE COMPREHENSIVE
21 PLAN IS UNDER REVIEW. THERE HAVE BEEN A FEW ARTICLES
22 IN THE MESSENGER-INQUIRER RELATED TO THE PROCESS.
23 YOU'RE WELCOME TO CALL THE PLANNING OFFICE AT ANY TIME
24 AND SPEAK TO BECKY STONE OR BRIAN HOWARD. THEY CAN
25 GIVE YOU SPECIFICS AS WELL AS DATES FOR UPCOMING

1 PUBLIC COMMENT OPPORTUNITY. IF YOU'D LIKE TO READ THE
2 COMPREHENSIVE PLAN, IT IS AVAILABLE ON THE INTERNET AT
3 OUR WEBSITE. IT'S AT IOMPC.ORG, AND THAT FULL
4 DOCUMENT IS ON THE WEBSITE. YOU CAN TAKE A LOOK AT
5 IT. IF YOU DON'T HAVE THE INTERNET, YOU CAN CERTAINLY
6 GO TO THE PUBLIC LIBRARY. THEY DO HAVE AN INTERNET
7 AND YOU CAN DOWNLOAD IT OR TAKE A LOOK AT IT THERE OR
8 YOU CAN STOP BY THE OFFICE AND RECEIVE A COPY. THERE
9 IS A CHARGE. IT'S A MINIMAL CHARGE FOR PRINTING THE
10 COST. THOSE PUBLIC OPPORTUNITIES FOR COMMENT I THINK
11 ARE GOING TO COME UP IN THE MONTH OF JUNE, AND
12 POSSIBLY JULY. YOU CAN ALSO POST COMMENTS ON OUR
13 WEBSITE AT IOMPC.ORG. THE OPPORTUNITY TO POST
14 COMMENTS THERE AS WELL.

15 MR. SCOTT: MR. KIRKLAND, THE ONE QUESTION
16 THAT YOU ASKED ABOUT THE STUDIES.

17 CHAIRMAN: GO TO THE MIKE, PLEASE.

18 MR. SCOTT: ONE OF THE QUESTIONS YOU REPEATED
19 FOR THEM WAS DID THEY HAVE STUDIES COMPARING THE
20 AGRICULTURAL DUST TO THE COAL DUST TIMES THE AMOUNT OF
21 CONCENTRATIONS. I DIDN'T HEAR ANYTHING ON THAT.

22 CHAIRMAN: BUT I STATED IT CORRECTLY?

23 MR. SCOTT: I THINK SO, YES.

24 CHAIRMAN: THANK YOU.

25 HE RESTATE IT. YOU SLIPPED BY ONE OF THEM.

1 MR. WRIGHT: I HAVE NO STUDIES, NO.

2 CHAIRMAN: I'M SORRY?

3 MR. WRIGHT: I HAVE NO STUDIES, NO.

4 AGRICULTURAL DUST IS COMMON DUST. COAL DUST AND ROCK
5 DUST IS KNOWN AS FUGITIVE DUST.

6 CHAIRMAN: I'M GIVE ANOTHER SECTION.

7 THE TIME OF OPERATION.

8 ONE OF THEM WAS THE PROCEDURE CALL.

9 ANOTHER ONE WAS ABOUT THE PLANNING COMMISSION.

10 THE OTHER ONE WAS ABOUT THE PLANNING

11 COMMISSION. THE TIME OF OPERATION.

12 MR. SCOTT: THAT WAS DIRECTED TO YOU.

13 CHAIRMAN: THE TIME OF OPERATION.

14 MR. SCOTT: WILL YOU EXTEND? WILL THIS

15 COMMISSION EXTEND TO OTHER BUSINESSES THE SAME HOURS

16 OF OPERATION? I HAVE A FRIEND WHO HAS A CONSTRUCTION

17 COMPANY. IF HE WANTS TO RUN HIS CONSTRUCTION COMPANY

18 FROM 6 IN THE MORNING UNTIL 4 IN THE MORNING, WILL

19 THIS COMMISSION ALLOW HIM TO DO THAT?

20 CHAIRMAN: LET ME GET THEIR HOURS OF OPERATION

21 FIRST.

22 IS THAT WHAT YOU'RE OPERATION?

23 MR. WRIGHT: WE RUN IN TWO SHIFTS. THE DAY

24 SHIFT RUNS FROM 5:30 TO 4, 5 TO 4 IN THE MORNING.

25 CHAIRMAN: MR. NOFFSINGER.

1 MR. NOFFSINGER: ZONING DOES NOT REGULATE THE
2 HOURS OF CONDITION UNLESS A CONDITIONAL USE PERMIT
3 APPROVED BY THE BOARD OF ADJUSTMENT TO SET SPECIFIC
4 HOURS OF OPERATION, BUT THROUGH ZONING WE DO NOT
5 REGULATE THE HOURS OF OPERATION.

6 MR. SCOTT: IS THERE A THAT DOES REGULATE
7 THOSE HOURS IN THE COUNTY?

8 MR. NOFFSINGER: NOT TO MY KNOWLEDGE.

9 MR. SCOTT: IF I WANT TO COME AND JUST, FOR
10 INSTANCE, IF I WANT TO COME AND MOW YOUR NEIGHBOR'S
11 GRASS AND THEY CONTRACT WITH ME TO DO IT AND AGREE TO
12 LET ME DO IT AT 3:00 IN THE MORNING, I CAN COME DO
13 THAT?

14 MR. NOFFSINGER: THAT WOULD BE AN ISSUE, IF
15 IT'S IN THE CITY OF OWENSBORO. YOU WOULD TALK TO THE
16 CITY OF OWENSBORO AND FIND OUT WHAT TYPE OF NOISE
17 ORDINANCE THEY HAVE, AS WELL AS IN DAVIESS COUNTY, BUT
18 THAT'S NOT ANYTHING THIS THAT COMMISSION HAS ANY
19 CONTROL OVER.

20 CHAIRMAN: THEY ASKED, WHO DO WE REPRESENT.

21 THERE'S FIVE OF US APPOINTED BY THE CITY.
22 FOUR OF US APPOINTED BY THE COUNTY. ONE OF US
23 APPOINTED BY THE CITY OF WHITESVILLE.

24 THERE'S FIVE OF US APPOINTED BY THE CITY.
25 FOUR OF US APPOINTED BY THE COUNTY. ONE OF US

1 APPOINTED BY THE CITY OF WHITESVILLE.

2 WILL THERE BE A CALL VOTE? WE'VE NEVER DONE
3 THAT IN ANY OTHER MEETING. WE WILL NOT DO THAT IN
4 THIS MEETING. WE WILL RAISE OUR HANDS YOU WILL SEE
5 HOW WE VOTE BY LOOKING AT US.

6 HOW ARE WE COMPENSATED?

7 VERY WELL. I HAD A SANDWICH AND POTATO CHIPS
8 AND A WATER. THAT WAS PRETTY MUCH THE EXTENT.

9 MR. NOFFSINGER: AND A PICKLE.

10 CHAIRMAN: I DON'T EAT PICKLES. I GAVE MY
11 PICKLE TO MR. ROGERS. WE RECEIVE NO PAY AT ALL.
12 WE'RE STRICTLY VOLUNTEERS AND ASKED BY THE COMMISSION
13 TO SERVE.

14 I THINK I'VE PRETTY MUCH SUMMARIZED ALL. IF I
15 LEFT ANY OUT, THAT'S BETTER THAN I DID IN SCHOOL.

16 MR. SCOTT: I BELIEVE YOU GOT THEM ALL. THANK
17 YOU.

18 CHAIRMAN: THE NEXT ROUND OF QUESTIONS WAS
19 WHY -- I THINK SOMEBODY TOUCHED ON THIS ONE. WHY IS
20 KNOTTSVILLE DIFFERENT THAN PLEASANT RIDGE? RYAN
21 PORTER ASKED THAT QUESTION.

22 MR. POTTER: NO. I WAS THE ONE THAT ASKED
23 THAT. THAT WAS DIRECTED TOWARDS THE OPPOSITION.

24 CHAIRMAN: I'M SORRY. OKAY. MR. ISBILL
25 ANSWERED THAT, I'M SORRY.

1 MR. KAMUF ASKED: ARE WE GOING TO BE ABLE TO
2 GROW FOREST TYPE OF TREES ON THIS PROPERTY? WHY DID
3 THE COMPANY CHANGE ITS NAME? WHAT IS THE LONG TERM
4 STUDY ON THE IMPACT COAL WILL HAVE IN THE AREA?

5 MR. WRIGHT: READ YOUR QUESTION AGAIN, PLEASE.

6 CHAIRMAN: MR. KAMUF WANTED TO KNOW, COULD WE
7 GROW FOREST TYPE TREES? THE OAKS, THE WALNUTS,
8 ETCETERA. HE DIDN'T SAY THAT. THAT WAS MY ADDITION.

9 MR. WRIGHT: YES, WE COULD IF THE LANDOWNER
10 WANTED IT. THEY HAVE THEIR CHOICES THE WAY THEIR LAND
11 IS RECLAMATED.

12 CHAIRMAN: WILL THESE TREES FLOURISH IN THE
13 FIRST COUPLE OF YEARS?

14 MR. WRIGHT: NO. THEY WOULD HAVE TO TAKE HOLD
15 AND GROW AS ANY TREE WOULD.

16 CHAIRMAN: I MEAN COULD YOU PLANT THEM THE
17 FIRST YEAR OR WOULD IT NOT EVEN BE ADVISABLE TO PLANT?

18 MR. WRIGHT: NO. WE COULD DO IT THE FIRST
19 YEAR. WE ARE REQUIRED TO DO IT AROUND THE STREAMS AND
20 RESTORATION WITH THE CORP OF ENGINEERS. THESE
21 LANDOWNERS CHOOSE THESE LAND USES THAT THEY WANT.
22 MOST OF THEM PASTURE LAND AND, OF COURSE, THE CROP
23 LAND HAS TO BE PUT BACK. WE HAVE NO CHOICE.

24 CHAIRMAN: WHY DID THE COMPANY CHANGE ITS
25 NAME?

1 MR. WRIGHT: THEY SOLD OUT. HE DIDN'T CHANGE
2 HIS NAME. HE SOLD THOSE COMPANIES.

3 CHAIRMAN: LONG TERM STUDY ON COAL. YOU MAY
4 HAVE TO CORRECT ME ON THIS.

5 MR. WRIGHT: I THINK HE TRIED TO SAY 200 YEARS
6 WASN'T ENOUGH FOR A LONG TERM STUDY I THINK IS WHAT HE
7 SAID.

8 MR. KAMUF: YES, BASICALLY. THAT COAL HAS
9 BEEN IN THE GROUND FOR 300 MILLION YEARS AND WE'RE
10 GOING TO MAKE A DECISION TONIGHT THAT'S REALLY GOING
11 TO AFFECT PEOPLE FOR GENERATIONS AND GENERATIONS.

12 CHAIRMAN: SO WHAT WAS YOUR QUESTION?

13 MR. KAMUF: THE QUESTION IS: HOW DO YOU DO A
14 LONG-TERM STUDY WHEN THIS IS SUCH A SHORT PERIOD OF
15 TIME? IS THERE A LONG-TERM STUDY ON GEOLOGICAL TIME
16 SCALE?

17 MR. WRIGHT: THERE'S BEEN A LOT OF STUDIES
18 DONE BY THE STATE AND FEDERAL GOVERNMENT. THAT'S
19 WHERE OUR REGULATIONS COME FROM AND THAT'S WHY THEY'RE
20 CONSTANTLY CHANGING.

21 CHAIRMAN: NEXT QUESTIONS ARE MORE SINGLE TYPE
22 QUESTIONS.

23 WHAT ARE THE PROPERTY VALUE AND INSURANCE
24 INFLUENCE THAT IT WILL HAVE WHEN THE COAL MINING MOVES
25 INTO THIS AREA? PROPERTY VALUE AND WHAT AFFECT WILL

1 THAT HAVE ON THE INSURANCE TO PEOPLES HOMES?

2 MR. WRIGHT: I'M NOT QUALIFIED TO ANSWER THAT,
3 AND I DON'T KNOW THAT WE HAVE ANYBODY HERE THAT CAN.

4 CHAIRMAN: I THINK WE'VE HAD A PRETTY
5 EXTENSIVE PROPERTY VALUE DISCUSSION. I THINK
6 INSURANCE IS SOMETHING THAT --

7 MR. WRIGHT: I'VE NEVER HEARD OF MINING
8 RAISING SOMEBODY'S INSURANCE, PROPERTY INSURANCE,
9 HOUSING INSURANCE. I'VE NEVER HEARD OF THAT.

10 CHAIRMAN: MR. HAYNES IS CHOPPING AT THE --

11 MR. HAYNES: I CAN JUST SPEAK FROM PERSONAL
12 EXPERIENCE. I'VE HAD TWO RESIDENCES THAT HAVE HAD
13 MINES AROUND THEM. MY PROPERTY INSURANCE HAS NOT GONE
14 UP ANY BECAUSE OF IT. THAT'S JUST PERSONAL
15 EXPERIENCE.

16 MR. WRIGHT: IF THE BLAST DAMAGE IS CAUSED BY
17 THE COMPANY, THEN OUR INSURANCE TAKES CARE OF IT.

18 CHAIRMAN: WE HAD ANOTHER RESIDENT THAT ASKED
19 IF A QUARTER OF A MILE FROM THE BLAST, WHAT AFFECT
20 THEY WOULD HAVE.

21 I THINK THAT WOULD BE YOUR LAST BLAST EXPERT.

22 MR. BURNS: WELL, AT A QUARTER OF A MILE,
23 AGAIN, YOU'RE GOING TO FEEL SOMETHING, BUT THE
24 REGULATIONS THAT WE HAVE TO GO BY ARE TO PROTECT
25 STRUCTURES AT WHATEVER DISTANCE WE'RE BLASTING FROM.

1 SO AT A QUARTER OF A MILE, AS LONG AS WE'RE ADHERING
2 TO THOSE REGULATIONS. AGAIN, IT'S NOT JUST -- THE
3 SHOTS WE DO, THEY'RE ALL DESIGNED. WE TELL THEM
4 EXACTLY WHERE TO DRILL THE HOLES. HOW FAR APART TO
5 DRILL THEM. AND THE REGULATIONS TELL US HOW MANY
6 POUNDS OF EXPLOSIVE WE HAVE TO PUT IN THERE AND DOWN
7 TO THE MILLISECOND HOW FREQUENTLY WE CAN DETONATE
8 THOSE CHARGES. SO IT'S VERY DETAILED. THAT'S ON
9 EVERY SINGLE BLAST. SO EVERY TIME SOMETHING GOES
10 BOOM, IT WAS DESIGNED. IT WAS WELL THOUGHT OUT. IT
11 MEETS THE CRITERIA THAT WAS SET FORTH BY REGULATIONS.
12 THEY'VE GOT SEISMOGRAPHS IN THE GROUND AT THE NEAREST
13 STRUCTURES FOR PEOPLE THAT WANT ONE THERE. WE SET
14 THAT UP. THAT IS A PHYSICAL READING OF THAT BLAST
15 TELLING US HOW THE GROUND MOVED AND THE AIR BLAST
16 LEVELS. I KNOW THAT WAS -- I THINK I'LL BE BACK UP
17 HERE WITH SOME AIR BLAST QUESTIONS.

18 CHAIRMAN: WHY DON'T I JUST GET RIGHT INTO
19 THEM. WHY DON'T YOU JUST KIND OF SUM THIS ONE UP.

20 THE NEXT QUESTION ACTUALLY IS ABOUT AIR
21 BLASTING. ABOUT AIR BLASTING AND WHAT WILL THE AFFECT
22 BE AND AT WHAT DISTANCES.

23 MR. BURNS: BASICALLY WHAT THE AIR BLAST IS,
24 IT'S A DIFFERENCE IN THE AIR OVERPRESSURE. SO
25 ANYTHING, WHETHER IT'S AUDIBLE OR NOT AUDIBLE, WHEN HE

1 SHOOT A SHOT, WHEN YOU SAW THE SHOT ON THE VIDEO AND
2 YOU SAW THE GROUND HUMP UP, WHEN THAT GROUND IS
3 DISPLACED AND THE MOVES UP, IT BASICALLY PUSHES THE
4 AIR. SO AS THAT WAVE GOES OUT, JUST IF YOU COULD SEE
5 IT, WHICH YOU CAN'T, IF THAT WAVE GOES OUT, WHEN IT
6 REACHES A STRUCTURE, IT ACTUALLY CAUSES A PRESSURE
7 DIFFERENCE. SO IT ACTUALLY, YOU KNOW, THE WALLS IS
8 UNIQUE AND THAT PRESSURE DIFFERENCE HITS. IT'S JUST
9 AS IF YOU GET HIGH WINDS OUTSIDE AND SOMETHING, YOUR
10 WINDOWS RATTLE OR SOMETHING. IT JUST CREATES A
11 PRESSURE DIFFERENCE.

12 SO THE AIR BLAST, A LOT OF IT HAS TO DO WITH
13 THINGS THAT WE CAN CONTROL AND THINGS WE CAN'T. THE
14 WIND DIRECTION, YOU KNOW, CAN SEND AIR BLAST IN A
15 DIRECTION. IF THERE'S A LOW CEILING OR A CLOUD COVER,
16 IT CAN COME UP AND HIT THAT CEILING AND YOU MIGHT HEAR
17 IT FURTHER AWAY. I THINK SOMEBODY SAID THEY WERE
18 FEELING THE BLAST OR HEARING THEM AT A DISTANCE.

19 CHAIRMAN: THERE AGAIN, IS THERE ANY DISTANCE
20 WHERE THIS DOES OR DOES NOT DISSIPATE OR IS IT ALL DUE
21 TO ATMOSPHERIC AND CLOUDY CONDITIONS?

22 MR. BURNS: NO. THERE'S NO SPECIFIC DISTANCE.
23 JUST RELATIVE TO THE CONDITIONS AT THE TIME, THE SIZE
24 OF THE BLAST, AND DIFFERENT THINGS LIKE THAT.

25 CHAIRMAN: LET ME SAY IT'S JUST A NORMAL

1 KENTUCKY SUMMER. ABOUT 90 PERCENT HUMIDITY, ABOUT 95
2 DEGREES OUTSIDE. NOT A CLOUD IN THE SKY. EVERYBODY
3 IS MISERABLE. ALL RIGHT. NOW, WHAT'S GOING TO HAPPEN
4 TO AIR BLAST AT THAT TIME?

5 MR. BURNS: WITH THE AIR BEING HEAVIER IT'S
6 GOING TO GO OUT. IF THERE'S CEILING, IT'S WARM AIR,
7 IT'S GOING TO DISSIPATE QUICKER. IT'S GOING IN A
8 VERTICAL DIRECTION THAT'S NOT GOING TO HIT AND BOUNCE
9 DOWN SOMEWHERE ELSE. DEPENDING ON, YOU KNOW, HOW MUCH
10 MOVEMENT THERE IS OF THE BLAST. YOU MIGHT HEAR IT,
11 SEE IT A MILE AWAY. YOU MIGHT HEAR IT OR SEE IT HALF
12 A MILE AWAY.

13 AGAIN, THE AIR BLAST LEVELS THAT WERE
14 REGULATED BY THE LIMIT IS 133. WE HEARD SOME NUMBERS
15 I THINK THROWN OUT AND STUFF. THAT IS --

16 CHAIRMAN: NOW, 133, IS THAT THE DB'S?

17 MR. BURNS: THAT IS MEASURED IN DECIBELS, YES.
18 ANYTHING OVER THAT IS CONSIDERED AN EXCEEDANCE.

19 CHAIRMAN: HOW FAR OUT DOES 133 DB'S GO?

20 MR. BURNS: THAT'S JUST -- WHEREVER -- WE'RE
21 REGULATED AT THE NEAREST STRUCTURE. SO IF WE EXCEEDED
22 AT THE MICROPHONE AT THE NEAREST STRUCTURE, THEN IT'S
23 A VIOLATION. THAT WOULD BE CLOSEST TO THE BLAST SO
24 THAT'S TYPICALLY WHERE YOU'RE GOING TO GET YOUR
25 HIGHEST AIR BLAST.

1 CHAIRMAN: MY STANDARD QUESTION: ON A GIVEN
2 DAY, HOW FAR OUT IS THAT GOING TO BE?

3 MR. BURNS: TO GET A HIGHER AIR BLAST?

4 CHAIRMAN: TO GET TO 133 DB'S.

5 MR. BURNS: IF WE GET 133 DB'S WE'VE GOT A
6 VIOLATION.

7 CHAIRMAN: SO YOU'RE NOT GOING TO HAVE A 133
8 DB'S?

9 MR. BURNS: THAT'S RIGHT.

10 CHAIRMAN: IF I DID NOT SUMMARIZE OR DID NOT
11 GET SOMEBODY'S QUESTION, TO MY KNOWLEDGE I GOT ALL THE
12 SUMMARIES OF ALL THE QUESTIONS.

13 MR. APPLEBY: A QUESTION WAS ASKED ABOUT WATER
14 LINES.

15 CHAIRMAN: OH, I'M SORRY. I'M SORRY.

16 WE DID HAVE A GENTLEMAN THAT CAUGHT ME ON ONE
17 OF THE BREAKS THAT'S FROM THE OHIO COUNTY WATER
18 DEPARTMENT.

19 WOULD YOU MIND STEPPING TO THE PODIUM?

20 MR. LITTLE: CAN I SAY SOMETHING ABOUT THE --

21 CHAIRMAN: YES, SIR.

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

24 MR. LITTLE: STEVE LITTLE, MIDWEST CONSULTING.

25 ONE OF THE DOCUMENTS I GAVE YOU THAT WE PUT

1 INTO EVIDENCE IT DEALS WITH NOISE. THERE'S STUDIES IN
2 THERE THAT HAVE BEEN DONE THAT VERIFY THAT FOR EVERY
3 DOUBLING OF A DISTANCE FROM THE SOURCE, SIX DECIBEL
4 WILL DROP. THERE'S A LITTLE GRAPH IN THERE. I DIDN'T
5 GET ENOUGH TIME TO COVER THAT WITH YOU, BUT YOU'VE GOT
6 IT. SO THERE'S TWO LITTLE CHARTS IN THERE THAT SHOW
7 THAT.

8 CHAIRMAN: BASED ON YOUR GRAPH, THE TEN FEET,
9 IT'S 96 DB'S, WHICH IS JUST ABOVE HEARING
10 CONSERVATION.

11 MR. LITTLE: THAT'S JUST A REFERENCE TO THAT.
12 IF YOU FOLLOW THAT ON DOWN THE LINE, EVERY TIME THE
13 DISTANCE DOUBLES FROM THE SOURCE OF THE NOISE, THE DB
14 DISSIPATES. IT DROPS SIX.

15 CHAIRMAN: AT 96 DB'S YOU'RE REQUIRED TO
16 INSTRUCT YOUR EMPLOYEES TO WEAR HEARING PROTECTION,
17 BUT THEY DON'T. IF THEY DON'T WANT TO, THEY DON'T
18 HAVE TO DO IT.

19 MR. LITTLE: YES.

20 CHAIRMAN: THE WATER LINE. WE HAD A QUESTION
21 ABOUT THE WATER LINES RUNNING UP AND DOWN THE HIGHWAY.
22 DO YOU ALL WANT TO GO -- THIS GENTLEMAN HERE WORKED
23 FOR THE OHIO COUNTY WATER DISTRICT. DO YOU WANT TO
24 TAKE IT OR DO YOU WANT HIM OR BOTH OF YOU TAKE IT?

25 MR. WRIGHT: NO. HE CAN GO IF WANTS TO ANSWER

1 THE QUESTION.

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

4 MR. BEASLEY: MY NAME IS WALT BEASLEY, OHIO
5 COUNTY WATER DISTRICT.

6 (WALT BEASLEY SWORN BY ATTORNEY.)

7 MR. BEASLEY: I THINK THE QUESTION WAS WHAT
8 HAPPENS TO THE WATER LINES WHEN THEY GET CLOSE OR WHAT
9 HAPPENS WHEN THEY START BLASTING CLOSE TO THE WATER
10 LINES.

11 CHAIRMAN: YES, SIR.

12 MR. BEASLEY: WELL, FIRST THING THAT DID
13 HAPPEN WAS WHEN WESTERN KENTUCKY GOT THIS PROGRAM
14 TOGETHER, THEY NOTIFIED US. WE SENT THEM MAPS OF OUR
15 LOCATION OF THE WATER LINES IN THE AREA THAT THEY
16 WOULD BE MINING AND BLASTING AT, ALONG WITH A LETTER
17 STATING THAT ANY DAMAGE DONE TO THESE WATER LINES THEY
18 WOULD BE RESPONSIBLE FOR. I THINK THERE IS A LAW, TIM
19 WOULD HAVE TO TELL US WHAT IT IS, AS FAR DISTANCE AWAY
20 FROM THEM.

21 WE WERE EXPERIENCING IN THE COUNTY, IN OHIO
22 COUNTY NOW, WITH SOME MINING THAT'S GOING ON THERE.
23 WE'VE NOT EXPERIENCED ANY PROBLEMS. WE PERSONALLY,
24 THE OHIO COUNTY WATER DISTRICT, DOES NOT HAVE ANY
25 LINES REAL CLOSE TO THAT MINING OPERATION, BUT IT'S

1 POSSIBLE WE WILL HAVE. THERE AGAIN, THEY STILL SEND
2 US A SCHEDULED EVENT OF ALL THEIR BLASTING, EVEN
3 THOUGH THEY'RE NOT IN THE AREA AT THIS PRESENT TIME.

4 ANY WATER LINE THAT WOULD BE POTENTIALLY
5 DAMAGED OR WHATEVER, THE MINING, WESTERN KENTUCKY
6 MINERALS ARE MINING WILL BE RESPONSIBLE TO MOVE IT,
7 FIX IT, WHATEVER.

8 CHAIRMAN: ARE YOUR WATER LINES PREDOMINATELY
9 PVC?

10 MR. BEASLEY: THEY ARE IN THIS AREA, YES.

11 CHAIRMAN: SO THERE'S NO OF THE OLD GALVANIZED
12 STEEL?

13 MR. BEASLEY: WE HAVE NO STEEL. THERE IS SOME
14 OF WHAT THEY CALL AC PIPE. THAT'S CONCRETE, THE OLD
15 CONCRETE, I HATE TO SAY, ASBESTOS. IT'S CONCRETE
16 ASBESTOS PIPE. THERE IS STILL SOME IN OUR SYSTEM.
17 NOT RIGHT IN THIS AREA.

18 CHAIRMAN: THANK YOU.

19 MR. WRIGHT: WE'RE REQUIRED TO -- WE HAVE TO
20 CONTACT THEM, GET THEIR COMMENTS ON WHAT THEY THINK
21 ABOUT THE BLASTING, THE DISTANCE, THE VIBRATION, SO ON
22 AND SO FORTH. WE'RE NOT LIMITED BY THE DISTANCE. WE
23 ARE LIMITED BY THE VIBRATION. WE HAVE TO PUT THE
24 SEISMOGRAPH AT THESE UTILITIES AND MONITOR THAT ALSO.

25 CHAIRMAN: THANK YOU.

1 WE'VE REACHED POINT NOW WHERE I THINK IT'S
2 TIME TO, MR. HAYNES, WE'LL LET YOU CONCLUDE AND THEN
3 MR. WILSON.

4 MR. WHISTLE: I ASKED THE QUESTION ABOUT THE
5 TEN YEAR PLAN.

6 CHAIRMAN: STEP TO THE PODIUM. THEN TEN YEAR
7 PLAN. I'M SORRY, I FORGOT THAT.

8 MR. WHISTLE: THE TEN LENGTH OF THE OPERATION.
9 IS THERE A COMMITMENT?

10 CHAIRMAN: LET ME ASK IT.

11 MR. WHISTLE'S QUESTION WAS INVOLVED IN THE TEN
12 YEAR PLAN. WHETHER IT IS TEN YEARS OR WILL THAT BE
13 EXPANDED TO A LONGER PLAN OR IS TEN YEARS IT? IN
14 OTHER WORDS, THE TEN YEAR PLAN, IS THAT START TO
15 FINISH?

16 MR. WRIGHT: THAT'S AN ESTIMATE FOR THIS SITE,
17 THE SITE THAT'S PROPOSED FOR REZONING. THEY ALL
18 KNOW -- WE HOPE TO PUT TOGETHER IN THE FUTURE.

19 CHAIRMAN: BUT IN THIS AREA?

20 MR. WRIGHT: NO. IT WILL BE AWAY FROM THIS
21 AREA, OF COURSE.

22 CHAIRMAN: THANK YOU.

23 I THINK I'VE SUMMARIZED AND GOTTEN EVERYBODY'S
24 QUESTION.

25 MR. WILSON, DO YOU HAVE SUMMARY?

1 MR. WILSON: YES, SIR.

2 MR. CHAIRMAN, WE APPRECIATE THE PATIENCE OF
3 THE CHAIR AND EVERYBODY TONIGHT. IT'S BEEN ANOTHER
4 LONG NIGHT. I DIDN'T THINK IT WOULD BE THIS LONG
5 TONIGHT. THINGS HAVE GONE PRETTY ORDERLY.

6 WE'RE JUST HERE, AS WE WERE THREE MONTHS AGO,
7 ASKING THIS COMMISSION TO RESPECT THE LIFESTYLE,
8 QUALITY OF LIFE TO THE PEOPLE OF THE PLEASANT RIDGE
9 AREA. PARTICULARLY THE PEOPLE THAT I REPRESENT.
10 BASICALLY THE GIRL SCOUT, RUSSELL ROAD, RED HILL
11 MAXWELL. THEY SIMPLY DON'T WANT THEIR PROPERTY STRIP
12 MINED. BOTTOM LINE. THE REASON IS WE FEEL IT'S GOING
13 TO DISRUPT THE QUALITY OF LIFE THAT THEY'VE CHOSEN OUT
14 THERE. IN RELIANCE ON WHAT WE'VE TALKED ABOUT
15 REPEATEDLY THAT HAPPENED IN '86 AND AGAIN IN '93 WHERE
16 THIS COMMISSION HAD ESSENTIALLY THE IDENTICAL QUESTION
17 IN FRONT OF IT.

18 WHAT'S HAPPENED SINCE THEN TO MAKE IT MORE
19 APPROPRIATE OR LESS APPROPRIATE NOW THAN IT WAS THEN?
20 I KNOW OF NOTHING THAT'S HAPPENED TO MAKE IT MORE
21 APPROPRIATE, OTHER THAN POSSIBLY A COAL SEVERANCE TAX
22 THAT DIDN'T EXIST MAYBE YEARS AND YEARS AGO.

23 THE REASON THAT IS LESS APPROPRIATE IS DUE TO
24 THE DEVELOPMENT, THE PEOPLE. THE PEOPLE THAT HAVE
25 CHOSEN TO LIVE IN THIS BEAUTIFUL AREA. WHO HAVE

1 INVESTED CONSIDERABLE SUMS OF MONEY FOR A LIFESTYLE
2 THAT THEY WANTED. IT WILL CHANGE IMMEDIATELY. IT'S
3 ALREADY CHANGED. I DON'T WANT TO BELABOR HATEFUL ACTS
4 OR ANYTHING, BUT YOU'VE GOT A COPY OF THE LETTER THAT
5 WENT OUT TO CARLIN GREGORY. WROTE A LETTER TO THE
6 EDITOR. THERE'S BEEN A LOT OF LETTERS WRITTEN BY
7 OTHER PEOPLE, BUT THAT LETTER THAT HE GOT IN RESPONSE
8 HAD A SOBERING AFFECT ON A LOT OF THE PEOPLE THAT WE
9 HAVE TALKED TO THAT WERE WILLING TO SPEAK AND WERE
10 WILLING TO WRITE LETTERS. THERE HAVE NOT BEEN THAT
11 MANY LETTERS AS I THOUGHT THERE WOULD BE OR THERE WAS
12 THE LAST TIME. IT'S BECAUSE THERE'S A FEAR FACTOR OUT
13 THERE.

14 THIS AREA DOESN'T NEED THAT. IT DIDN'T NEED
15 THAT. MR. LANHAM HAS NOTHING TO DO WITH THAT I KNOW,
16 BUT THIS PROCESS HAS HAD SOMETHING TO DO WITH IT.
17 SENDING AN ACTIVITY INTO AN AREA THAT'S GOT A
18 LIFESTYLE OUT THERE THAT'S JUST NOT CONDUCIVE TO STRIP
19 MINING ACTIVITIES. THIS PROPERTY IS LAND IN THAT
20 AREA. IT'S JUST LAND. IT'S UNSUITABLE FOR THIS TYPE
21 OF ACTIVITY. WE INTEND TO APPROACH THE MEETINGS THIS
22 SUMMER AND TRY TO COME UP WITH SOME TYPE OF
23 DESIGNATION OF LAND MAYBE UNSUITABLE FOR MINING WHICH
24 WE FEEL THIS CERTAINLY IS A PRIME EXAMPLE, IF THERE
25 ARE ANY IN THIS COUNTY.

1 SO WE WOULD MERELY ASK THAT THIS COMMISSION
2 CONSIDER THE POSITION THAT WE HAVE PUT FORWARD, TRY TO
3 PUT FORWARD. PEOPLE THAT LIVE OUT THERE, THERE ARE
4 MANY, AND WITHOUT DOUBT ALL OF THEM EXCEPT THOSE WHO
5 WOULD LIKE THE MONEY FOR THE COAL UNDER THEIR LAND. I
6 CERTAINLY REALIZE THOSE PEOPLE'S ECONOMIC INTEREST,
7 AND I UNDERSTAND THEIR POSITION. IF I OWNED ONE OF
8 THOSE FARMS, I'D PROBABLY WANT TO STRIP IT TOO.
9 PARTICULARLY IF I DIDN'T LIVE THERE.

10 WE THINK THAT THIS COMMISSION WILL CONSIDER
11 WHAT IT'S HEARD IN THE LAST COUPLE OF MONTHS. WE'LL
12 VOTE TO TURN DOWN THE ZONING APPLICATION AND TRY TO
13 MAKE IT CLEAR IN THE RECORD THAT THIS JUST ISN'T GOING
14 TO HAPPEN IN THAT AREA OF DAVIESS COUNTY. THANK YOU,
15 MR. CHAIRMAN.

16 CHAIRMAN: THANK YOU, MR. WILSON.

17 MR. LANHAM. JUST RESTATE YOUR NAME, MR.
18 LANHAM.

19 MR. LANHAM: BRANDON LANHAM.

20 JUST FOR THE RECORD I KNOW WE'VE VEERED OFF IN
21 DIFFERENT DIRECTIONS. I JUST WANT TO REITERATE, POINT
22 JUST A FEW MORE THING BACK OUT HERE. JUST BEAR WITH
23 ME, IF YOU WOULD.

24 WHEN WE GET INTO BLASTING AND GET INTO THESE
25 TOPICS OF DISCUSSION, I REALLY HAVE NOTHING MORE TO

1 OFFER SIMPLY THAN A RECORD OF WESTERN KENTUCKY MINERAL
2 CONDUCTING THESE OBSERVATIONS EVERY SINGLE DAY. I
3 UNDERSTAND YOUR POINTS. TRUST ME, THEY ARE VERY GREAT
4 POINTS.

5 AS FAR AS JEOPARDIZING YOUR SAFETY, ONCE
6 AGAIN, WE CONDUCT THESE OPERATIONS EVERY SINGLE DAY
7 300 FEET FROM HOMES. SOME FURTHER. SOME CLOSER, IF
8 NEEDED TO BE, BUT WE UNDERSTAND. WE WORK, THERE IS A
9 COMPROMISE THAT CAN BE REACHED FROM THAT.

10 WHETHER IT'S POWER LINES OR HOME, I UNDERSTAND
11 THE IMPORTANCE, BUT WE CONDUCT THOSE OPERATIONS
12 SUCCESSFULLY AND IT IS POSSIBLE THAT THESE EXPLOSIVES
13 CAN BE PUT OFF FROM THESE DISTANCES WITHOUT
14 JEOPARDIZING A PERSON'S LIFE.

15 THE GENTLEMAN WITH HIS CHILDREN WANDERING
16 THROUGH THE YARD. WE SEE THOSE EXAMPLES EVERY SINGLE
17 DAY. WE, ONCE AGAIN, CONDUCTED THOSE OPERATIONS
18 SAFELY.

19 I'M NOT SURE HOW MUCH WEIGHT THAT CARRIES IN
20 THIS DECISION, BUT IT'S VERY IMPORTANT THAT I DO POINT
21 THAT OUT. LIKE I SAID, IT'S A RECORD.

22 AS FAR AS THE HIGHWAYS, WE BLOCK THOSE
23 HIGHWAYS NOT BECAUSE POTENTIAL ROCK COULD FLY INTO THE
24 ROAD IN WHICH YOU MAY BE DRIVING DOWN. WE STOP THE
25 CARS FROM TRAVELING DOWN THE HIGHWAY BECAUSE IT IS AN

1 EXTRA SAFETY PRECAUTION THAT WE DECIDE TO TAKE. THAT
2 IS AS SIMPLE INVASIVE STATEMENT, BUT IT'S THE TRUTH.
3 IT'S HOW WE OPERATE AS A COMPANY.

4 I'LL CLOSE WITH THIS: GENTLEMAN, ON BEHALF OF
5 WESTERN KENTUCKY MINERALS, I WOULD LIKE TO THANK YOU
6 FOR YOUR COOPERATION AS WE PRESENTED FACTS AND
7 MATERIAL THAT CONSIST OF RULES, REGULATIONS AND
8 GUIDELINES THAT WE FOLLOW, AS WELL AS PROCEDURES THAT
9 WE CONDUCT DAILY TO KEEP THOSE DIRECTLY AND INDIRECTLY
10 INVOLVED SAFE. WE TAKE THESE STEPS TO MITIGATE THE
11 POTENTIAL RISK FROM BEING PRESENT DURING MINING
12 OPERATIONS.

13 I'D ALSO LIKE TO APOLOGIZE. AS A PART OF THE
14 MINING INDUSTRY, I APOLOGIZE FOR TARNISHED REPUTATIONS
15 SET BY PREVIOUS COMPANIES THAT REFLECT NEGATIVE CREDIT
16 ON THE INDUSTRY OF SURFACE MINING. I UNDERSTAND IT IS
17 NOT WESTERN KENTUCKY MINERALS THAT IS BEING OPPOSED.
18 IT'S THE THOUGHT OF BEING NEGATIVELY IMPACTED BY
19 SURFACE MINING; HOWEVER, WITH AN IN-DEPTH REGULATORY
20 OVERSIGHT THAT IS PRESENT AND BESTOWED UPON OUR
21 INDUSTRY COUPLED WITH THE GREAT REPUTATION OF WESTERN
22 KENTUCKY MINERALS THAT IT HAS DEMONSTRATED, NEGATIVE
23 IMPACT IS UNLIKELY.

24 IT'S THE SAME REPUTATION THAT WESTERN KENTUCKY
25 MINERALS OTHER MINING OPERATIONS AND MULTIPLE

1 REGULATORY AGENCIES AS A JOINT EFFORT ARE WORKING
2 TIRELESSLY TO REDEEM.

3 LET'S NOT ALLOW POOR QUALITY OPERATION
4 PERFORMED BY A COMPANY THAT'S IN THE PAST HAVE AN
5 IMPACT ON THE DECISION MAKING PROCESS OF THIS EVENING.

6 GENTLEMEN, I ASK THAT YOU GIVE WESTERN
7 KENTUCKY MINERALS THE OPPORTUNITY TO MAKE A DIFFERENCE
8 IN THE THOUGHTS AND OPINIONS OF THE INDIVIDUALS FROM P
9 RIDGE, JUST AS WE HAVE IN THE COMMUNITY IN
10 KNOTTSVILLE, KENTUCKY. THANK YOU VERY MUCH.

11 CHAIRMAN: DOES ANYBODY ON THE COMMISSION HAVE
12 ANYTHING THEY WOULD LIKE TO SAY?

13 MR. ALLEN: I HAVE TWO QUICK QUESTIONS.

14 I WANT TO COUCH THE FIRST ONE BECAUSE I DON'T
15 ANYBODY TO MISCONSTRUE IT.

16 IT'S PRETTY OBVIOUS THE MOTIVATION OF THE
17 PEOPLE THAT HAVE TESTIFIED AGAINST THIS. WE HAD FOUR
18 OR FIVE PEOPLE THAT TESTIFIED FOR IT. A COUPLE OF
19 RENTERS AND A HOMEOWNER OR TWO.

20 MY QUESTION TO THOSE PEOPLE IS: WHAT'S YOUR
21 MOTIVATION? THEY WERE FROM KNOTTSVILLE. THEY WERE IN
22 SOME WAY KIND OF ANCILLARY RELATED TO THIS. WHAT WAS
23 YOUR MOTIVATION FOR COMING HERE?

24 MR. SILVERT: WILL YOU STATE YOUR NAME, AGAIN.

25 MR. POTTER: RYAN POTTER.

1 JUST LIKE THESE PEOPLE SAID. THEY BELIEVE IN
2 IT WHOLEHEARTEDLY AND THEY DO NOT WANT IT. I BELIEVE
3 IN IT WHOLEHEARTEDLY.

4 YOU KNOW, PEOPLE KEEP SAYING, COAL IS DEAD.
5 NATURAL GAS IS THE WAY IT'S GOING. IF PEOPLE START
6 LOOKING, THE EPA HAS ALREADY STARTED TO SHOW THAT
7 NATURAL GAS, THE WAY THEY'RE RETRACTING IT FROM THE
8 SHELL, IT HAS A WORSE IMPACT THAN BURNING COAL DOES.

9 SO I FEEL WHOLEHEARTEDLY ABOUT COAL BECAUSE IT
10 AFFECTS MY LIFE. LIKE THESE PEOPLE WHO WORK FOR THE
11 MINES, IT AFFECT THEIR FAMILY. IT AFFECTS MY FAMILY.
12 THAT'S HOW I PAY FOR MY HOUSE AND FOR MY BILLS AND
13 WHATNOT. IT'S WORKING AT A COAL FIRE POWER PLANT. A
14 LOCAL COAL FIRE POWER PLANT.

15 CHAIRMAN: THANK YOU.

16 MR. ALLEN.

17 MR. ALLEN: ARE ANY OF THOSE OTHER PEOPLE
18 STILL HERE?

19 MR. CRISP: DERRICK CRISP.

20 I ALSO WORK AT THE ELMER SMITH STATION OMU
21 POWER PLANT. WITHOUT COAL, YOU KNOW, THERE'S A LOT OF
22 THINGS THAT HAPPEN IN THIS TOWN THAT PEOPLE DON'T KNOW
23 THAT COAL HELPS OUT A LOT. WHETHER IT BE IN THE CITY
24 OR IN THE COUNTY. IT HELPS OUT A LOT OF THINGS THAT
25 JUST A LOT OF PEOPLE DON'T SEE THE HIDDEN STUFF.

1 MAYBE THEY'LL REALIZE IT ONE DAY. THANK YOU.

2 MR. ALLEN: ARE ANY OF THOSE OTHERS STILL
3 HERE?

4 (NO RESPONSE)

5 MR. ALLEN: I GUESS NOT.

6 MY SECOND QUESTION WOULD BE: ARE ANY OF THE
7 PROPERTY OWNERS WHOSE LAND WOULD BE MINED UNDER THIS,
8 ARE THEY HERE? HAVE WE HEARD FROM YOU?

9 MR. TAYLOR: YOU DID AT THE LAST MEETING.

10 MR. ALLEN: YOU HAVE NOTHING NEW TO ADD?

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

13 MR. TAYLOR: SHIRLEY TAYLOR.

14 (SHIRLEY TAYLOR SWORN BY ATTORNEY.)

15 MR. TAYLOR: WELL, I STARTED OUT WITH THE FARM
16 I OWN PROBABLY HAS MORE STRIP MINE TO BE STRIPPED THAN
17 ANYBODY IS OUT THERE. IT'S BEEN IN MY FAMILY, BE IN
18 THERE 100 YEARS IN 1919. I WAS BORN ON THAT OLD FARM
19 AND MY DAD WAS AND MY BROTHER WAS. I FEEL LIKE THAT
20 KENTUCKY MINES OUGHT TO HAVE THE RIGHT TO STRIP MY
21 GROUND AND ME GET THE VALUE OF THE COAL THAT'S UNDER
22 IT.

23 CHAIRMAN: THANK YOU.

24 DO YOU HAVE ANY OTHER QUESTIONS, MR. ALLEN?

25 MR. ALLEN: NO.

1 CHAIRMAN: DOES ANYBODY ELSE ON THE
2 COMMISSION?

3 MR. PEDLEY: YES, MR. CHAIRMAN.

4 CHAIRMAN: MR. PEDLEY.

5 MR. PEDLEY: WE'VE HEARD ABOUT NOW ABOUT 12,
6 13 HOURS OF TESTIMONY, FEBRUARY AND TONIGHT. NOW IT'S
7 TIME TO HEAR FROM THE PLANNING COMMISSION.

8 YOU KNOW, WE SERVE THIS COMMUNITY BECAUSE WE
9 BELIEVE IN THIS COMMUNITY. WE GET NOT ONE NICKEL FOR
10 OUR TIME. I HAVE SPENT MORE TIME AND MORE THOUGHTS ON
11 THIS.

12 I'VE BEEN ON THE BOARD OF ADJUSTMENTS 19
13 YEARS. BEEN ON THIS COMMISSION FOUR YEARS NOW.

14 I'VE SPENT TREMENDOUS TIME. SUNDAY BEFORE
15 LAST I WENT TO RUSSELL ROAD, BOLING ROAD, GIRL SCOUT
16 ROAD AND DROVE RED HILL MAXWELL ROAD. I DROVE THROUGH
17 THAT COMMUNITY SEVERAL TIMES. SPENT QUITE A BIT OF
18 TIME BECAUSE I WANTED TO SEE WHAT'S THERE. I WANT TO
19 SEE THE TERRAIN. I WANT TO SEE THE SO-CALLED
20 FARMLAND. THEN I WANTED TO SEE HOW THE COAL TRUCKS
21 WOULD ACCESS 231 ACCORDING TO THE PLAT. I WANTED TO
22 SEE 231.

23 THEN LAST SUNDAY I WENT TO THE KNOTTSVILLE
24 AREA. I DROVE AULL ROAD, SHORT STATION ROAD, MONARCH
25 ROAD, FREE SILVER ROAD. LOOKED AT ALL THE MINING AREA

1 THAT MR. LANHAM AND HIS COMPANY HAS DONE. SPENT
2 PROBABLY THREE OR FOUR HOURS LOOKING.

3 WHY DO I DO ALL OF THIS? BECAUSE I WANT TO
4 MAKE A FAIR DECISION HERE. I WANT TO SERVE THIS
5 COMMUNITY. I WANT TO SERVE YOU PEOPLE.

6 TODAY IS MY BIRTHDAY. I'M 77 YEARS OLD. MY
7 WIFE WAS GOING TO TAKE ME OUT TO DINNER TONIGHT.

8 IF I DON'T GET THIS ISSUE BEHIND ME, I THINK
9 I'M GOING TO WIND UP A CORPSE. I'LL HAVE A BIGGER
10 PROBLEM THAN ANY OF YOU.

11 GETTING ON WITH MY FINDINGS. I'VE GOT FIVE
12 MAJOR AREAS THAT I WANT TO TALK ABOUT AND A STUDY THAT
13 I'VE DONE AND THE TIME I'VE PUT INTO THIS. WE'VE
14 ALREADY HEARD SOME OF IT.

15 IT'S CALL ECONOMIC IMPACT IT HAS ON THIS
16 COMMUNITY. IT IS TREMENDOUS. YOU'VE ALREADY HEARD
17 ABOUT THE COAL SEVERANCE TAX. JOBS ACCORDING TO THE
18 COMPREHENSIVE PLAN, I THINK IT'S ABOUT 500 ON THE
19 ANNUAL BASIS THAT PROVIDES JOBS.

20 THE REVENUE FROM OUR COAL, WHETHER IT GOES OUT
21 OF STATE OR ON THE BARGES OR WHEREVER, THE REVENUE IS
22 TREMENDOUS FOR THIS COMMUNITY. IT SUPPLY OUR POWER
23 PLANTS FOR AFFORDABLE ELECTRICITY. WE HAVE THE MOST
24 AFFORDABLE ELECTRICITY OF ANY AREA THAT I KNOW.
25 MOSTLY BECAUSE OF OUR COAL.

1 COAL MINING HAS BEEN GOING ON EVER SINCE THE
2 EARLY 1800'S. I DROVE A COAL TRUCK WHEN I WAS 18, 19
3 YEARS OLD, WINTER MONTHS, FOR CURDS COAL COMPANY, WEST
4 LOUISVILLE. MY COAL TRUCK WAS A TWO-AXEL. IT HELD
5 200 BUSHEL. MY JOB WAS TO PULL UNDER THE TEMPLE, FILL
6 IT, COME INTO OWENSBORO. DRIVE IN THESE ALLEYS WITH A
7 SCOOP SHOVEL. SHOVEL 200 BUSHEL OF COAL INTO THOSE
8 COAL HOUSES BECAUSE ALMOST EVERY ONE OF THOSE HOMES
9 WOULD BE HEATED WITH COAL.

10 ALSO, I DELIVERED COAL TO MCATEE LYDDANE &
11 RAY. THAT ENTIRE DEPARTMENT STORE WAS HEATED WITH
12 COAL. I DROVE IN THE ALLEY. SHOVELED 200 BUSHEL OF
13 COAL INTO THAT BASEMENT.

14 COAL MINING FOR THE WEST LOUISVILLE AREA IS
15 THEIR LIVELIHOOD. THAT'S HOW THEY ALL MAKE THEIR
16 LIVING. VERY, VERY POOR. I'D COME IN AT NIGHT AND I
17 WAS BLACK, MY FACE AND EYES. EVERYTHING WAS BLACK.
18 IT DID NOT HURT ME. I GUARANTEE YOU THAT COAL DUST
19 DIDN'T HURT ME.

20 THE NEXT ISSUE IS ENVIRONMENTAL. THE STATE
21 REGULATES EXACTLY WHAT THEY CAN DO AND CAN'T DO.
22 EROSION CONTROL, RETENTION PONDS AND THE WATER RUNOFF
23 AND THE TESTING.

24 I'VE DEVELOPED FIVE MAJOR SUBDIVISIONS. I
25 KNOW WHAT STATE REGULATIONS ARE, AND IT IS TREMENDOUS

1 WHAT WE HAVE TO DO.

2 I SERVE ON THE FEDERAL CLEAN WATER ACT AND
3 ALSO PUBLIC IMPROVEMENT SPECIFICATION BOARD, AND SO
4 DOES MR. APPLEBY. WE KNOW WHAT'S REQUIRED WITH THIS
5 MINING COMPANY, WITH OUR SUBDIVISION WORK, WITH ABOUT
6 ANYTHING WE DO. ONE THING WE'VE LEARNED, THINK ABOUT
7 THIS, THE NUMBER ONE CONTAMINATION FOR GROUND WATER IN
8 OUR STREAMS IS RESIDENTIAL SEPTIC TANKS. RESIDENTIAL
9 SEPTIC TANKS, AND ANIMAL WASTE IN OUR STREAMS. THE
10 FECES AND EVERYTHING IN OUR STREAMS MOSTLY COMING FROM
11 OUR SEPTIC TANKS, AND OUR ANIMAL WASTE IS TREMENDOUS.

12 COAL MINING DOES HAVE A NEGATIVE AFFECT TO A
13 CERTAIN AMOUNT.

14 I HEARD TONIGHT THEY WERE TALKING ABOUT A
15 WETLAND. A WETLAND I GUARANTEE YOU WILL BE CONTROLLED
16 BY THE CORP OF ENGINEERS, ARMY CORP OF ENGINEERS.
17 THEY TELL THEM EXACTLY WHAT THEY CAN DO AND NOT DO. I
18 HAVE A WETLAND IN LAKE FOREST SUBDIVISION. I'VE GOT
19 THREE. THEY WON'T LET ME TOUCH IT. THEY WON'T LET
20 THEM TOUCH THAT, UNLESS THEY CAN DO MITIGATION.
21 MITIGATION HAS TO BE THREE TO ONE. WHICH MEANS IT HAS
22 TO BE IN THAT WATER SHED. IF THEY'VE GOT A STREAM
23 DOWNSTREAM, THEY CAN GO DOWNSTREAM. IF THIS IS 10
24 ACRES, THEY GO DOWN AND DEVELOP 30 ACRES. SO THE
25 WETLAND ISSUE WILL BE CONTROLLED BY THE CORP OF

1 ENGINEERS. THAT'S NOT AN ISSUE.

2 THE ROAD SAFETY. HIGHWAY 231 WAS A MAJOR
3 NORTH/SOUTH ROUTE FOR THE LAST 80 YEARS. UP UNTIL THE
4 NATCHER PARKWAY. EVERY SEMI FROM MICHIGAN DOWN INTO
5 GEORGIA RAN THAT ROAD. IT'S CAPABLE OF HANDLING BIG
6 SEMIS, BIG TRUCKS. IT IS NOT A SAFETY ISSUE, HIGHWAY
7 231, BEFORE COAL TRUCKS BECAUSE IT HANDLED EVERYTHING
8 GOING NORTH AND SOUTH FOR YEARS AND YEARS, AND IT WILL
9 HANDLE THOSE COAL TRUCKS.

10 THEIR HAUL ROAD DOES NOT RUN ON RUSSELL ROAD.
11 IT CROSSES RUSSELL ROAD. IT COMES OUT ON 231. IT
12 WILL NOT BE ON GIRL SCOUT ROAD. IT WILL NOT BE ON
13 140. THE COAL TRUCKS WILL NOT. I THINK THE MINING
14 PEOPLE ARE DOING AN EXCELLENT JOB ON PICKING THAT
15 SITE.

16 THEN COMES THE ADJOINING PROPERTY OWNERS. GO
17 TO THE COMPREHENSIVE PLAN. IT SAYS, "THE
18 COMPREHENSIVE PLAN POINTS OUT THAT POTENTIAL BUYERS
19 SHOULD BE AWARE THAT COAL EXTRACTION IS A GENERAL
20 RECOMMENDED USE IN RURAL AREAS."

21 MY NOTES ARE, WHEN YOU MOVE INTO THE RURAL
22 COMMUNITIES EXPECT FARM ACTIVITIES, CHICKEN HOUSES,
23 ANIMAL ODOR, FARM EQUIPMENT ON THE ROAD, BLOCK IN THE
24 ROAD AND COAL MINING. WHEN YOU MOVE INTO THOSE
25 COMMUNITIES, THAT'S WHAT YOU CAN EXPECT. THAT'S WHAT

1 YOU SHOULD EXPECT. SHOULD NOT GO OUT THERE AND TELL
2 THOSE FARMERS, YOU CAN'T BUILD A CHICKEN HOUSE. YOU
3 CAN'T TAKE YOUR TRACTOR UP AND DOWN THAT ROAD.
4 BECAUSE THEY'RE THERE FIRST. I ASSURE YOU.

5 THEN WE GET INTO THE LANDOWNERS WHOSE LAND IS
6 PROPOSED TO BE MINED AND THEIR PROPERTY RIGHTS. IT'S
7 ONE THING I HAVEN'T HEARD IN ALL OF THIS STUFF IN ALL
8 THE MEETING, THERE HAS NOT BEEN CONCERN FOR THOSE 14
9 PROPERTY OWNERS THAT'S BEEN OUT THERE FOR 80, 100
10 YEARS AND OWNED ALL THAT LAND. THEY DID NOT MOVE INTO
11 YOUR COMMUNITY. I CAN GUARANTEE YOU THOSE FARMS DID
12 NOT MOVE INTO YOUR COMMUNITY. YOU MOVED INTO THEIR
13 COMMUNITY. DON'T FORGET THAT.

14 NOW, YOU'RE TRYING WHAT YOU'RE WANTING TO DO
15 IS TO DENY THEM THE RIGHT TO MINE THEIR LAND AND FOR
16 THEIR FAMILIES TO HAVE THEIR REVENUE, AND IT IS
17 TREMENDOUS. IT CAN PROVIDE THEM WITH RETIREMENT,
18 HEALTH CARE, COLLEGE EDUCATION FOR KIDS, GRANDKIDS.
19 MANY, MANY THINGS THAT YOU'RE WANTING TO DENY THEM
20 THAT PRIVILEGE AND THEIR PROPERTY RIGHTS. I'VE HEARD
21 PROPERTY RIGHTS, PROPERTY RIGHTS, PROPERTY RIGHTS.
22 LET'S TALK ABOUT PROPERTY RIGHTS.

23 HOW ABOUT THESE 14 FAMILIES THAT WANTS TO MINE
24 THEIR LAND? HOW ABOUT THOSE PROPERTY RIGHTS? LET'S
25 DON'T FORGET THOSE PROPERTY RIGHTS.

1 IN THE KNOTTSVILLE AREA, I HAVE A BROTHER THAT
2 HAS A FARM UP THERE. IT'S ON SHORT STATION ROAD.
3 HE'S DECEASED NOW. HE DIED ABOUT THREE YEARS AGO.

4 ABOUT EIGHT YEARS AGO THEY WANTED TO MINE SOME
5 LAND AROUND HIM. WE HAD A HEAVY PROTEST, OPPOSITION.
6 THEY DIDN'T WANT COAL TRUCKS ON SHORT STATION ROAD.
7 HE DID NOT EITHER. HE DID NOT WANT THOSE COAL TRUCKS.
8 HE WASN'T READY TO MINE HIS FARM. HE DID NOT WANT
9 THOSE COAL TRUCKS ON SHORT STATION ROAD BECAUSE IT'S
10 VERY HEAVILY POPULATED. IT'S VERY CROOKED HILLS WITH
11 PRACTICALLY NO SHOULDER. IT WAS NOT GOOD. THEY HAD A
12 HAUL ROAD OVER ON AULL ROAD. HE DID NOT WANT TO DENY
13 THOSE PEOPLE THE RIGHT TO MINE THEIR LAND BECAUSE HE
14 KNEW. HE KNEW WHAT IT MEANT TO A FAMILY. HE WASN'T
15 READY TO MINE HIS LAND BECAUSE HE DIDN'T NEED THE
16 INCOME. HE TOLD ME, HE SAID, ONE DAY I WILL. THAT
17 WILL BE MY RETIREMENT. IT WILL BE OUR HEALTH CARE AND
18 IT WILL BE MAJOR INCOME FOR MY KIDS. BUT HE DID NOT
19 WANT TO DENY HIS NEIGHBORS THE RIGHT TO MINE THEIR
20 LAND.

21 SO HE GOT WITH MR. LANHAM. HE GOT WITH JUDGE
22 HAIRE, AND HE GOT WITH JIM, AND MADE A DEAL TO ALLOW
23 THEM TO BUILD THE HAUL ROAD ACROSS THE BACK OF HIS
24 FARM. HE GAVE US THE PASTURE LAND. MR. LANHAM
25 COMPENSATED HIM SOME, BUT DID HE THAT BECAUSE HE

1 WANTED HIS NEIGHBORS TO BE ABLE TO MINE THEIR LAND.

2 HE FOUND LATER THAT HE HAD CONGESTIVE HEART
3 FAILURE. HE KNEW HIS TIME WAS LIMITED. SO HE
4 CONTRACTED WITH MR. LANHAM TO MINE HIS FARM, BUT HE
5 DIED BEFORE THEY GOT THAT FIRST SHOVEL OFF. BUT NOW
6 HIS KIDS ARE GETTING THAT INCOME, AND IT'S VERY, VERY
7 IMPORTANT TO THEM.

8 ONE THING I DID NOT KNOW. I WENT AND TALKED
9 TO PROBABLY 10 OR 15 PEOPLE IN THE KNOTTSVILLE AREA
10 ABOUT MINING IN THAT AREA OVER THE LAST 20 YEARS AND
11 ABOUT MR. LANHAM'S OPERATION. I DID NOT HEAR ANYTHING
12 NEGATIVE.

13 THEN LAST MONTH WE HAD THREE APPLICATIONS IN
14 THE KNOTTSVILLE AREA FOR STRIP MINING BEFORE THIS
15 COMMISSION. WE DID NOT HAVE ONE OPPOSITION IN HERE
16 BECAUSE THE KNOTTSVILLE AREA, EVERYONE I TALKED TO,
17 AND I WILL NOT SAY NAMES. I SHOULD NOT DO THAT.
18 THEY'RE VERY PLEASED.

19 PROPERTY DAMAGES, I COULDN'T FIND ANYONE THAT
20 SAID THEY HAD PROPERTY DAMAGE.

21 GETTING BACK ON MY BROTHER'S FARM. HERE IS
22 SOMETHING THAT I DID NOT KNOW. I WENT AND TALKED TO
23 THE FAMILY TODAY. THAT IS A 75 ACRE FARM. THAT COAL
24 INCOME TO THAT FAMILY WILL AMOUNT TO APPROXIMATELY
25 \$850,000 FOR THAT FAMILY. \$850,000. IT MIGHT BE

1 LESS. IT MIGHT BE MORE.

2 BUT THERE'S ONE OTHER THING I DID NOT KNOW
3 UNTIL TODAY, AND THIS IS FROM THE KENTUCKY REVENUE
4 DEPARTMENT. IN BUYING COAL NOTICE OF TAX ASSESSMENT,
5 THESE PEOPLE THAT HAS COAL UNDER THEIR FARM HAS TO PAY
6 MINE COAL TAXES. I GOT THE BILL RIGHT HERE. IT COST
7 MY BROTHER'S FAMILY LAST YEAR \$8,250 THEY HAVE TO PAY
8 OF MINE COAL TAXES UNTIL THAT COAL IS REMOVED. I'M
9 SURE THE FAMILIES OUT HERE THAT WE'RE TALKING ABOUT
10 HAS TO DO THE SAME THING. THAT'S A LOT OF MONEY.
11 WHEN YOU START GOING BACK 15, 20, 30, MY BROTHER HAS
12 BEEN OUT THERE 40 YEARS, HE'S PAID A LOT OF MONEY ON
13 UNMINED. THERE IT IS RIGHT THERE. STATE REVENUE
14 DEPARTMENT.

15 EVERYTHING I HAVE STATED HERE IS MY FINDINGS
16 OF FACT. IT IS FACTS, AND IT'S MY FINDINGS OF FACTS.

17 I MADE A STATEMENT AT THE FEBRUARY MEETING
18 THAT SOME OF MY BASEMENTS HAVE BEEN DAMAGED BY MINING.
19 I'LL CLARIFY THAT. THEY WERE. ONE WAS IN THE PANTHER
20 AREA 40 YEARS AGO. BOB GREEN SHOOK THAT COMMUNITY
21 PLUM DOWN. THERE WAS NO REGULATIONS ON MINING THEN.
22 HE WENT IN AND DID ANYTHING HE WANTED TO DO. THAT WAS
23 ONE.

24 ANOTHER ONE ABOUT 25, 28 YEARS AGO IN OHIO
25 COUNTY ON HIGHWAY 231. THEY DAMAGED ONE OF MY

1 BASEMENTS PRETTY BADLY.

2 THE OTHER ONE WAS IN THE KNOTTSVILLE AREA SOME
3 35, 40 YEARS AGO. THAT WAS VERY MINOR. IT WAS NEARLY
4 NOTHING.

5 MY SON HAS HAD MY BASEMENT BUSINESS FOR THE
6 LAST 18 YEARS. I HAD A TALK WITH HIM TODAY. I SAID,
7 YOU'VE BUILT IN MUHLENBERG COUNTY. YOU'VE BEEN OVER
8 TO CENTERTOWN. YOU'VE BEEN IN EVERY COUNTY AROUND FOR
9 THE LAST 18 YEARS PUTTING IN BASEMENTS AROUND MINING.
10 HAVE YOU HAD ANY DAMAGE? HE SAID, NO. I SAID, HAVE
11 YOU HAD A CALL OF DAMAGE ANYWHERE? NO. AND I HAVE
12 NOT HAD A CALL IN THE LAST 25, 30 YEARS. BASEMENTS
13 CAN BE DAMAGED BY BLASTING. IT CAN BE. THE MINING
14 COMPANIES ARE DOING A MUCH BETTER JOB, CONTROL JOB OF
15 THEIR BLASTING. QUITE FRANKLY, WE'RE DOING A BETTER
16 JOB PUTTING IN BASEMENTS.

17 JUST WANT TO ADDRESS ALL THE ISSUES AND MAKE
18 MY FINDINGS OF FACT. THE MOST COMPELLING THING TO ME
19 IS THESE 14 FAMILIES THAT WANTS TO MINE THEIR LAND FOR
20 THEIR FAMILIES, THEIR KIDS, THEIR GRANDKIDS. CLARA
21 THOMPSON ESTATE, LUTHER BELCHER ESTATE, MILDREN TAYLOR
22 ESTATE, TILFORD THOMPSON ESTATE, ALL OF THESE PEOPLE.
23 THOSE FARMS HAVE BEEN IN THOSE FAMILIES FOR YEARS AND
24 YEARS AND YEARS.

25 GO BACK TO THE STATEMENT. THEY DID NOT MOVE

1 INTO YOUR COMMUNITY. YOU MOVED INTO THEIR COMMUNITY.
2 THOSE FARMS DID NOT MOVE INTO YOUR COMMUNITY. TO ME
3 THAT'S THE MOST COMPELLING THING FOR ME TO MAKE MY
4 DECISION.

5 MR. CHAIRMAN, WHENEVER YOU'RE READY.

6 CHAIRMAN: MR. PEDLEY, I WILL FIRST CHECK.

7 DOES ANYBODY ELSE HAVE ANY COMMENTS?

8 MR. KAZLAUSKAS.

9 MR. KAZLAUSKAS: I WILL MAKE SOME COMMENTS.
10 I'M PROBABLY NOT GOING TO BE AS ELOQUENT AS MR. WARD.
11 I APPRECIATE HIS IN-DEPTH AND DESCRIPTIVE DESCRIPTION
12 OF HIS FINDINGS OF FACT.

13 MY WHOLE ADULT LIFE, ESPECIALLY WHEN I WAS A
14 POLICE OFFICER, I WAS ALWAYS RUNNING TOWARDS CONFLICT.
15 NOT AWAY FROM IT. I THINK EVERYONE ON THIS COMMISSION
16 HAS SPENT A LOT OF TIME REVIEWING ALL OF THE EVIDENCE
17 THAT'S BEEN PRESENTED THE LAST TWO MEETINGS.

18 WHILE I APPRECIATE AND UNDERSTAND WHERE MR.
19 PEDLEY IS COMING FROM, I THINK IT'S VERY IMPORTANT
20 THAT WE GO BACK TO WHAT PRIOR COMMISSIONS HAVE
21 ACTUALLY DONE AND SET A PRECEDENT. AFTER THAT
22 PRECEDENT WAS SET, PEOPLE MOVED BACK INTO THE PLEASANT
23 RIDGE AREA THINKING THAT THIS BODY AT THAT TIME HAD
24 MADE A DECISION WHERE COAL MINING WOULD NOT TAKE
25 AFFECT IN THAT AREA. THAT HAPPENED TWICE AND IT WAS

1 UPHELD BY FISCAL COURT.

2 LISTENING TO EVERYTHING THAT WAS SAID AND
3 HAVING JUST A LITTLE KNOWLEDGE, NOT A WHOLE LOT, BUT A
4 LITTLE KNOWLEDGE OF COAL MINING, YOU KNOW, I BELIEVE
5 THAT ONCE THAT COAL MINING GOES IN AFTER THE PLEASANT
6 RIDGE AREA HAS BEEN, THE POPULATION HAS BEEN
7 INCREASED, THAT THE COAL MINING WILL HAVE A NEGATIVE
8 IMPACT AND IT WILL BE DETRIMENTAL TO THE QUALITY OF
9 LIFE IN THE PLEASANT RIDGE AREA.

10 I ALSO BELIEVE THAT NOISE POLLUTION WILL PLAY
11 A PART IN THAT ALSO. NOISE JUST DOESN'T TRAVEL
12 THROUGH THE AIR. THE VIBRATIONS FROM HEAVY EQUIPMENT
13 TRAVELS THROUGH THE GROUND AND IT TRAVELS LONG
14 DISTANCES. IT HAS AN IMPACT ON THE QUALITY OF LIFE OF
15 PEOPLE THAT LIVE IN THAT AREA.

16 I ALSO BELIEVE THAT THERE WILL BE A NEGATIVE
17 IMPACT FROM THE USE OF EXPLOSIVES. I HAVE QUESTIONS
18 ABOUT ANY MINING COMPANY'S ABILITY TO CONTROL COAL
19 DUST IN HIGH WIND SITUATIONS. I'M NOT SURE OF THE
20 HEALTH IMPACT OF COAL DUST. I'VE HEARD PEOPLE TESTIFY
21 BOTH WAYS. I DO KNOW THAT THE COAL DUST OFF OF
22 STOCKPILES, COAL PILES, CAN TRAVEL A LONG WAY WHEN THE
23 WIND GETS TO BLOWING. I'VE HAD EXPERIENCE WITH THAT.

24 THEN MY LAST CONCERN WOULD BE THE POTENTIAL
25 NEGATIVE AFFECT ON LAND VALUES IN THE PLEASANT RIDGE

1 AREA.

2 I BELIEVE THAT ONCE THAT MINE STARTS THAT THE
3 VALUES WILL NOT CONTINUE TO RISE. I DON'T KNOW IF
4 THEY WILL INCREASE, BUT NOT CONTINUE TO RISE.

5 I'VE DONE A LOT OF SOUL SEARCHING ON THESE
6 ITEMS.

7 MR. CHAIRMAN, I WANTED TO SHARE THAT WITH
8 EVERYBODY.

9 CHAIRMAN: THANK YOU.

10 MR. REEVES, IS THIS A COMMENT OR DO YOU NEED
11 TO GO TO THE BATHROOM AGAIN?

12 MR. REEVES: NO. I'M GOOD FOR A FEW MORE
13 MINUTES. I HAVE A COMMENT.

14 FIRST OF ALL, I WANT TO THANK YOU, MR.
15 KAZLAUSKAS AND MR. PEDLEY BOTH FOR EXPRESSING THEIR
16 POINT OF VIEW.

17 I THINK THIS COMMISSION NEEDS TO DO THAT ON AN
18 ISSUE LIKE THIS. MOST OF THE TIME WE COME UP HERE AND
19 WE HEAR, NOBODY SHOWS UP, AND SO WE RAISE OUR HANDS.

20 I THINK IN AN INSTANCE WHERE SO MANY PEOPLE
21 SHOW UP YOU HAVE A RIGHT TO KNOW THE BASIS ON WHICH
22 WE'RE MAKING OUR VOTE.

23 THIS IS A VERY, VERY DIFFICULT ISSUE FOR ME.
24 COAL MINING PUT ME THROUGH COLLEGE. I WAS PART OF THE
25 COAL MINING INDUSTRY WHEN GREEN WAS OUT AROUND

1 PANTHER, AND IT WASN'T GOOD. THAT WAS WHERE I COULD
2 MAKE SOME MONEY AND GO TO COLLEGE. I'VE SEEN THE VERY
3 BAD OF COAL MINING. I ALSO SAW THE VERY GOOD WHERE WE
4 HAVE RECLAIMED LAND THAT THE BACK NINE OF PANTHER
5 CREEK GOLF COURSE WAS ON MY GRANDFATHER'S FARM WAS
6 RECLAIMED.

7 SO I DO KNOW THIS: THAT THERE'S PROBABLY NOT
8 A MORE HEAVY REGULATED INDUSTRY IN THE UNITED STATES
9 THAN COAL.

10 THE COAL INDUSTRY, THE GOOD OPERATORS, AND I
11 THINK WE'VE HEARD EVIDENCE THAT MR. LANHAM IS A GOOD
12 OPERATOR, HAVE MADE SIGNIFICANT STRIDES IN HOW THEY DO
13 THEIR BUSINESS.

14 AS MR. PEDLEY SAID, PROBABLY THE THING THAT
15 HAS WEIGHED ON ME THE MOST IS THERE MAY BE SOME
16 PROPERTY VALUES LOST IF COAL MINING IS PERMITTED THAT.
17 I WON'T DISPUTE THAT, THE SHORT-TERM/LONG-TERM FROM
18 IT. I DO KNOW THAT THESE FARMERS WHO HAVE THAT COAL
19 UNDER THOSE FARMS THAT THEY'VE HAD FOR DECADES WILL
20 REALIZE A SIGNIFICANT LOSS IF THEY'RE NOT ALLOWED TO
21 TAKE THAT COAL OUT. THEY PAY TAXES YEAR AFTER YEAR.
22 I THINK THAT, AS MR. PEDLEY SAID, I THINK IT WAS GREAT
23 WHEN HE SAID IT. YOU KIND OF MOVED INTO THEIR
24 NEIGHBORHOOD. THEY DIDN'T MOVE INTO YOURS. I THINK
25 THAT WE HAVE TO CONSIDER THE PROPERTY RIGHTS OF

1 EVERYBODY. I THINK IN THIS CASE, I DON'T KNOW IF ANY
2 ONE SIDE LOSES MORE THAN THE OTHER DOES. WE CAN'T
3 SIMPLY LOOK AT ONE SIDE AND SAY, YOU MIGHT LOSE, AND
4 NOT CONSIDERATE THE FACT THAT THE OTHER MIGHT LOSE.

5 THIS IS VERY, VERY DIFFICULT. I THINK
6 EVERYBODY ON THIS COMMISSION HAS PROBABLY WEIGHED IT
7 VERY SERIOUSLY. YOU MAY NOT LIKE THE WAY WE VOTE.
8 MAY GET MAD AT US. SO BE IT. THAT'S WHY WE
9 VOLUNTEERED TO DO THIS FOR NOTHING.

10 CHAIRMAN: MR. REEVES, THANK YOU.

11 AS CHAIRMAN I SPEND A LOT OF TIME, AS YOU
12 KNOW, QUESTIONING BOTH SIDES. NIGHTS LIKE THIS I
13 SOMETIMES WONDER WHY DO I SERVE. IT'S 12:30 AND I'M
14 GOING TO BE AT WORK AT 7 TOMORROW. BUT WHEN I GET AN
15 OPPORTUNITY TO SERVE WITH PEOPLE LIKE MR. WARD PEDLEY,
16 MR. KAZLAUSKAS, FRED REEVES WHO STICK UP AND MAKE
17 STATEMENTS LIKE THAT, AND ALL THE REST OF THESE
18 COMMISSIONERS, WHEN I GET THE OPPORTUNITY TO SERVE
19 WITH THESE FELLOWS, AND I'VE SERVED WITH A LOT OF
20 THESE GUYS OVER A LOT OF YEARS, I REALIZE WHY I DO
21 THIS. OBVIOUSLY I AGREE WITH ONE OF THEM AND DISAGREE
22 WITH THE OTHER ONE BECAUSE YOU CAN SEE THE TWO WAYS
23 THAT THEY'RE LEANING, BUT THAT HAS NOTHING TO DO WITH
24 HOW WE'LL MOVE ON AND CONDUCT BUSINESS THE NEXT DAY.

25 MS. CAMPBELL DID A GREAT JOB OF COVERING THIS.

1 GIVING HER TIME IN HELPING US GET THE INFORMATION OUT
2 TO THE PEOPLE. THE STAFF WAS OUTSTANDING. BOTH SIDES
3 I WANT TO COMPLIMENT WITH THE WAY YOU CONDUCTED YOUR
4 BUSINESS. YOU ALL IN THE AUDIENCE WERE RESPECTFUL. I
5 KNOW, IT'S A DIFFICULT SITUATION, BUT I APPRECIATE
6 YOUR ALL'S CONTROL, YOUR ALL'S RESPECT FOR EACH SIDE.
7 THAT'S WHAT MAKES THIS PROCESS WORK. YOU'RE AMONGST A
8 GROUP OF YOUR PEERS THAT ARE NOT PAID. THEY'RE
9 APPOINTED.

10 WITH THAT I SAY THANK YOU AND THE CHAIR IS NOW
11 READY FOR A MOTION.

12 MR. PEDLEY: MR. CHAIRMAN, I'M GOING TO MAKE A
13 MOTION FOR APPROVAL BASED ON THE FINDINGS OF FACT THAT
14 I STATED FOR AND THE STAFF'S FINDINGS OF FACT, AND
15 I'LL READ THAT.
16 FINDINGS OF FACT:

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

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

23 3. THE MAJORITY OF THE SUBJECT PROPERTY IS
24 LOCATED IN THE RURAL SERVICE AREA OUTSIDE OF A RURAL
25 COMMUNITY PLAN AREA;

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

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

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

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

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

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

25 10. STATE AND COUNTY ROADS PROPOSED TO BE

1 USED FOR THE TRANSPORTATION OF COAL HAVE BEEN REVIEWED
2 AND APPROVED BY THE APPROPRIATE OFFICIALS.

3 WITH THE CONDITIONS: THAT THE BUFFER AREA,
4 THE 300 FOOT BUFFER AREA WILL BE MOVED OUT TO 500 FEET
5 FROM BUILDINGS, UNLESS IT IS WAIVED BY THE PROPERTY
6 OWNER. THE PROPERTY OWNER MAY WAIVE THAT CONDITION,
7 BUT IT WILL BE 500 FEET FROM THE BUILDINGS.

8 PREBLASTING SURVEYS WITH ONE-HALF MILE OF THE
9 MINING SITE. OCCUPIED BUILDINGS BY A REPRESENTATIVE
10 OF THE MINING COMPANY AND A STRUCTURAL ENGINEER
11 REPRESENTING THE ADJOINING PROPERTY OWNERS PAID FOR BY
12 THE MINING COMPANY.

13 REASON I SAY THAT, I HAVE A CONCERN OF THE
14 PROPERTY OWNERS DAMAGE BEING PROPERTY TAKEN CARE OF.
15 IF YOU HAVE A STRUCTURAL ENGINEER, HE WOULD HAVE TO
16 INSPECT THAT PROPERTY, SURVEY IT BEFORE MINING,
17 POST-MINING. SO THAT STRUCTURAL ENGINEER WOULD BE
18 REPRESENTING THE ADJOINING PROPERTY OWNERS. IT WOULD
19 BE PAID FOR BY THE MINING COMPANY AND THE PROPERTY
20 OWNERS WHOSE LAND ARE BEING MINED. HOWEVER THE MINING
21 COMPANY WANTS TO WORK THAT OUT, BUT IT SHOULD NOT BE
22 PAID FOR BY THE PROPERTY OWNERS FOR PROTECTION TO MAKE
23 SURE THEIR PROPERTY IS PROPERLY CARED FOR. SO WITH
24 THAT THAT'S MY MOTION AND MY CONDITIONS.

25 CHAIRMAN: JUST A QUESTION.

1 MR. PEDLEY, IN YOUR MOTION, YOU INCLUDED THE
2 FINDINGS OF FACTS OF THE STAFF, AND YOU WANTED TO ALSO
3 INCLUDE YOUR OTHER FINDINGS?

4 MR. PEDLEY: YES.

5 MR. SILVERT: THAT WAS HIS FIRST FINDING OF
6 FACT. THAT HIS MOTION WAS THE ADOPTION OF HIS
7 PREVIOUSLY STATED FINDINGS.

8 MR. PEDLEY: I MADE THAT STATEMENT.

9 CHAIRMAN: ALL RIGHT. I JUST WANTED TO MAKE
10 SURE.

11 WE HAVE A MOTION FOR APPROVAL BY MR. PEDLEY.
12 DO WE HAVE A SECOND?

13 MR. APPLEBY: SECOND.

14 CHAIRMAN: WE HAVE A SECOND BY MR. APPLEBY.

15 ALL IN FAVOR --

16 MR. NOFFSINGER: EXCUSE ME.

17 (MR. NOFFSINGER AND CHAIRMAN CONFER.)

18 CHAIRMAN: MR. HAYNES, WOULD YOU STEP TO THE
19 PODIUM, PLEASE. SORRY, A SLIGHT OVERSIGHT ON MY PART.

20 WE HAVE ADDED CONDITIONS TO YOUR APPLICATION.
21 WILL YOU ON BEHALF OF THE APPLICANT BE ACCEPTABLE TO
22 THE CONDITIONS THAT MR. PEDLEY HAS PUT UPON THE MINING
23 COMPANY?

24 MR. HAYNES: IT'S 500 FEET ON THE ADJOINING
25 PROPERTY OWNERS, I MEAN STRUCTURAL ENGINEER ON THE

1 ADJOINING PROPERTY OWNERS?

2 MR. PEDLEY: ADJOINING PROPERTY OWNER, YES, IS
3 500 FEET. THEY MAY WAIVE THAT IF THEY SO CONSENT.

4 MR. HAYNES: AND 500 FEET FROM ANY PERMANENT
5 STRUCTURE?

6 MR. PEDLEY: YES. RIGHT NOW WHAT YOU'RE
7 SHOWING ON YOUR PLAT IS 300 FEET.

8 MR. HAYNES: CORRECT.

9 MR. PEDLEY: SO I'M MOVING THAT OUT TO 500
10 FEET.

11 MR. HAYNES: THEN THE OTHER CONDITION WAS THE
12 STRUCTURAL ENGINEER TO BE PAID FOR BY THE COMPANY FOR
13 THE ADJOINING PROPERTY OWNERS OR FOR EVERYONE WITHIN
14 THAT HALF MILE?

15 MR. PEDLEY: YOUR PREMINE SURVEY, IT WOULD BE
16 A STRUCTURAL ENGINEER THAT REPRESENTS THE ADJOINING
17 PROPERTY OWNERS TO MAKE SURE THAT THEY'RE TAKEN CARE
18 OF IN CASE THEY HAVE DAMAGES TO THEIR HOME. ONLY WAY
19 THAT THAT CAN BE CORRECTED, YOU WOULD HAVE TO SEE THE
20 PREMINING AS WELL AS POST.

21 MR. NOFFSINGER: MR. CHAIRMAN, THE STAFF AND
22 LEGAL COUNSEL, WE'RE NOT CLEAR ON THAT CONDITION.

23 MR. PEDLEY, ARE YOU SAYING A PREBLAST SURVEY
24 FOR ADJOINING PROPERTY OWNERS ONLY TO HAVE THE
25 STRUCTURAL ENGINEER PAID FOR BY THE APPLICANT OR ARE

1 YOU SAYING THE PREBLAST SURVEYS WITHIN A HALF MILE
2 RADIUS?

3 MR. PEDLEY: WITHIN A HALF MILE RADIUS.

4 MR. NOFFSINGER: THANK YOU.

5 MR. HAYNES: SO THE STRUCTURAL ENGINEER WOULD
6 BE REQUIRED FOR EVERYTHING WITHIN A HALF MILE RADIUS?
7 I MEAN WE'RE DOING A PREBLAST SURVEYS FOR EVERYONE
8 WITHIN A HALF MILE.

9 MR. PEDLEY: YES. ON THE ADJOINING PROPERTY
10 OWNERS.

11 MR. HAYNES: THE ADJOINING FOR THE STRUCTURAL
12 ENGINEER?

13 CHAIRMAN: EXCUSE ME, MR. PEDLEY. YOU MEAN
14 WITHIN A HALF MILE RADIUS, CORRECT? NOT WITHIN JUST
15 THE ADJOINING?

16 MR. PEDLEY: THAT'S ACCORDING TO THE ORDINANCE
17 IN THE COMPREHENSIVE PLAN. THERE WILL BE PREMINE
18 SURVEYS WITHIN A HALF MILE RADIUS.

19 CHAIRMAN: AND ARE YOU TACKING ON THE
20 STRUCTURAL ENGINEER TO THAT?

21 MR. APPLEBY: EVERYONE OR JUST THOSE ADJOINING
22 PROPERTY OWNERS?

23 MR. PEDLEY: ADJOINING PROPERTY OWNERS. THE
24 PROPERTY OWNERS WHOSE LAND WILL BE MINED DOESN'T
25 APPLY. IT'S THE ADJOINING PROPERTY OWNER.

1 CHAIRMAN: JUST THE ADJOINING?

2 MR. PEDLEY: RIGHT. THERE ARE PROPERTY OWNERS
3 WHOSE LAND WILL BE MINED. THAT'S NOT A REQUIREMENT ON
4 THEM. IT WOULD BE ON THE ADJOINING PROPERTY OWNERS.
5 I JUST WANT TO CLARIFY THE HALF MILE RADIUS. THE
6 REASON I SAID THAT, YOU KNOW, I DON'T KNOW WHERE IT
7 IS, BUT I READ IT HERE JUST A FEW MINUTE AGO, THE
8 COMPREHENSIVE PLAN, THE PREMINING SURVEY. ACTIVITY
9 BUFFER.

10 CHAIRMAN: MR. PEDLEY, LET ME POSE THIS
11 QUESTION. ARE YOU SAYING THAT YOU WANT A STRUCTURAL
12 ENGINEER JUST FOR THE ADJOINING OR DO YOU WANT TO ALSO
13 INCLUDE THE HALF MILE RADIUS?

14 MR. PEDLEY: I'M LOOKING FOR IT. IT SAYS,
15 HALF MILE RADIUS OF ADJOINING OCCUPIED BUILDINGS.
16 THAT'S THE ONLY REASON I SAID THE HALF MILE RADIUS.

17 CHAIRMAN: THE HALF MILE RADIUS WOULD BE
18 GREATER THAN JUST THE ADJOINING PROPERTY OWNERS,
19 CORRECT?

20 MR. NOFFSINGER: THAT'S CORRECT.

21 CHAIRMAN: MR. HAYNES, WE'VE GOT IT NOW. DO
22 YOU ALL UNDERSTAND IT?

23 MR. HAYNES: OF COURSE, WE HAVE THE HALF MILE
24 FOR THE PREBLAST SURVEY. THAT'S A GIVEN. THE
25 ADDITION OF THE STRUCTURAL ENGINEER, I'M A LITTLE

1 CONFUSED. IF THAT GOES ALL THE WAY OUT TO THE HALF
2 MILE OR IF IT'S JUST THOSE PROPERTIES THAT ADJOIN THE
3 PERMIT?

4 CHAIRMAN: I THINK HE'S INCLUDING --

5 MR. PEDLEY: IT WOULD BE FOR THE ADJOINING
6 PROPERTY OWNERS. DOESN'T HAVE TO GO OUT THE HALF
7 MILE.

8 MR. HAYNES: THAT'S WHAT I THOUGHT.

9 MR. PEDLEY: IF IT'S OUT HALF AND THEY DON'T
10 ADJOIN IT, NO. IT'S THE ADJOINING PROPERTY OWNERS.
11 YOU CAN LEAVE IT AT THAT.

12 MR. HAYNES: THOSE CONCERNS ARE ACCEPTABLE.

13 CHAIRMAN: ALL RIGHT. MR. PEDLEY'S MOTION FOR
14 APPROVAL.

15 MR. APPLEBY, DID WE HAVE A SECOND?

16 MR. APPLEBY: SECOND.

17 CHAIRMAN: JUST TO MAKE CLEAR. MR. HAYNES,
18 YOU AND YOUR CLIENT UNDERSTAND AND AGREE TO THE ADDED
19 CONDITIONS?

20 MR. HAYNES: CORRECT. WE AGREE TO THEM.

21 CHAIRMAN: ALL IN FAVOR OF MR. PEDLEY'S MOTION
22 RAISE YOUR RIGHT HAND.

23 (BOARD MEMBERS IRVIN ROGERS, DAVE APPLEBY,
24 DREW KIRKLAND, WARD PEDLEY AND FRED REEVES RESPONDED
25 AYE.)

1 CHAIRMAN: ALL OPPOSED.

2 (BOARD MEMBERS TIM ALLEY, WALLY TAYLOR, JOHN
3 KAZLAUSKAS AND JASON STRODE RESPONDED NAY.)

4 CHAIRMAN: THAT WOULD BE FOUR. THE MOTION
5 PASSES FIVE TO FOUR.

6 WE HAVE A COUPLE OF MORE ITEMS ON THE AGENDA.

7 MR. NOFFSINGER.

8 -----

9 MINOR SUBDIVISIONS

10 ITEM 5

11 5156, 5172 HIGHWAY 142, 5.629 ACRES
12 CONSIDER APPROVAL OF MINOR SUBDIVISION PLAT.
13 APPLICANT: RANDALL G. & ALESIA T. THAYER

14 MR. NOFFSINGER: MR. CHAIRMAN, THIS PLAT HAS
15 BEEN REVIEWED BY THE PLANNING STAFF AND ENGINEERING
16 STAFF. IT DOES COME TO YOU AS AN EXCEPTION TO THE
17 SUBDIVISION REGULATIONS. BRIAN HOWARD IS HERE TO
18 EXPLAIN THAT.

19 MR. HOWARD: IT COMES AS AN EXCEPTION DUE TO
20 IT EXCEEDS THE THREE TO ONE DEPTH LENGTH TO WIDTH
21 RATIO REQUIREMENT. IT IS ABOUT A FIVE AND A HALF ACRE
22 TRACT. THERE IS AN EXISTING HOME ON THE PROPERTY.
23 THEY WOULD LIKE TO BUILD ONE MORE HOME ON THE SITE.
24 WE DID PUT A NOTE ON THE PLAT THAT STATES THE PROPERTY
25 COULD NOT BE FURTHER SUBDIVIDED WITHOUT MEETING THE
SUBDIVISION REGULATIONS. WITH THAT WE WOULD RECOMMEND

1 THAT YOU CONSIDER IT FOR APPROVAL.

2 CHAIRMAN: IS THERE ANYBODY HERE REPRESENTING
3 THE APPLICANT?

4 (NO RESPONSE)

5 CHAIRMAN: DO WE HAVE ANY QUESTIONS?

6 (NO RESPONSE)

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

9 MR. APPLEBY: MOTION FOR APPROVAL.

10 CHAIRMAN: MOTION FOR APPROVAL BY MR. APPLEBY.

11 MR. ROGERS: SECOND.

12 CHAIRMAN: SECOND BY MR. ROGERS. ALL IN FAVOR
13 RAISE YOUR RIGHT HAND.

14 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

15 CHAIRMAN: MOTION CARRIES UNANIMOUSLY.

16 NEXT ITEM.

17 -----

18 NEW BUSINESS

19 ITEM 6

20 CONSIDER APPROVAL OF THE FY 2013 OMPC BUDGET AND
21 SALARY CHART.

22 MR. NOFFSINGER: MR. CHAIRMAN, EACH MEMBER HAS
23 BEEN MAILED A COPY OF THOSE DOCUMENTS. WE'RE READY
24 FOR YOUR CONSIDERATION.

25 CHAIRMAN: EVERYBODY HAS A COPY OF THE BUDGET.

1 DOES ANYBODY HAVE ANY QUESTIONS?

2 (NO RESPONSE)

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

5 MR. PEDLEY: MOTION FOR APPROVAL.

6 CHAIRMAN: MOTION FOR APPROVAL BY MR. PEDLEY.

7 MR. TAYLOR: SECOND.

8 CHAIRMAN: SECOND BY MR. TAYLOR. ALL IN FAVOR
9 RAISE YOUR RIGHT HAND.

10 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

11 CHAIRMAN: MOTION CARRIES UNANIMOUSLY.

12 THE CHAIR IS READY FOR ONE FINAL MOTION.

13 MR. STRODE: MOTION TO ADJOURN.

14 CHAIRMAN: MOTION TO ADJOURN BY MR. STRODE.

15 MR. REEVES: SECOND.

16 CHAIRMAN: SECOND BY MR. REEVES. ALL IN FAVOR
17 RAISE YOUR RIGHT HAND.

18 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

19 CHAIRMAN: WE ARE ADJOURNED.

20 (DEPOSITION ENDS AT 12:40 A.M.)

21 -----

22

23

24

25

