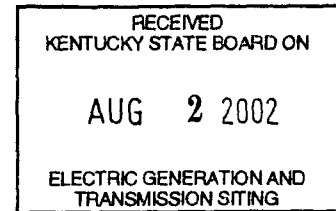


Kentucky Resources Council, Inc.

Post Office Box 1070
Frankfort, Kentucky 40602
(502) 875-2428 phone (502) 875-2845 fax
e-mail fitzKRC@aol.com

August 2, 2002



Ms. Stephanie Bell, Secretary
Kentucky State Board on Electric Generation
and Transmission Siting
P.O. Box 615
211 Sower Boulevard
Frankfort, Kentucky 40602-0615

Re: Case No. 2002-0149

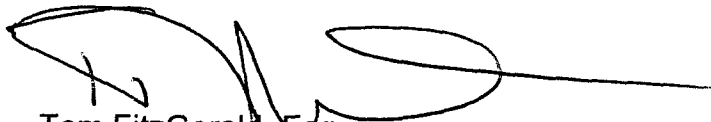
Dear Stephanie:

Enclosed for filing is the original and ten (10) copies of the Direct Testimony of Pauline Stacy, who was yesterday granted Intervenor status in the Kentucky Mountain Power, LLC case.

Because of the compressed timeframe in the procedural schedule, the direct testimony is not signed by Ms. Stacy, but has been sent to her for her signature. This copy has been served on all parties of record, and an attested copy will be filed and served as soon as possible.

Thanks for your assistance in filing these documents.

Cordially,



Tom FitzGerald, Esq.
Counsel for Applicant for Intervention
Pauline Stacy

BEFORE THE KENTUCKY STATE BOARD
ON ELECTRIC GENERATION AND TRANSMISSION SITING
211 SOWER BOULEVARD
FRANKFORT, KENTUCKY 40601

In the Matter of:

THE APPLICATION OF KENTUCKY)	
MOUNTAIN POWER, LLC /)	
ENVIROPOWER, LLC FOR A)	CASE NO.
MERCHANT POWER PLANT)	2002-00149
CONSTRUCTION CERTIFICATE IN)	
KNOTT COUNTY, KENTUCKY)	
NEAR TALCUM)	

DIRECT TESTIMONY OF INTERVENOR PAULINE STACY

1 **Please state your name and address.**

2 My name is Pauline Stacy. My mailing address is Post Office Box 386 in
3 Bulan, Kentucky 41722, and I live along Kentucky Route 1087 in Ary,
4 Kentucky.

5 **Please summarize your concerns about the proposed plant siting.**

6 I am concerned with several aspects of the siting of the proposed
7 Kentucky Mountain Power LLC power plant. The first relates to the
8 potential use of two coal haul roads that exit onto Kentucky Route 1087;
9 one that is currently used by the mining company to haul coal from the
10 mining complex adjacent to the proposed power plant site, and the other,
11 a haul road that exits onto Lick Branch Road and then onto Kentucky 1087
12 near Ary. The second concern relates to the safety of myself and my
13 neighbors relating to the siting of a water impoundment for water supply

1 for the proposed power plant. The third concern relates to the
2 construction of over twenty-five (25) miles of transmission lines in order to
3 serve the proposed merchant power plant, and the lack of assessment in
4 the siting application of the impacts of the routing of that line.

5 **As to your first concern, what specific problems would the use of**
6 **Kentucky Route 1087 pose?**

7 Route 1087 is a small narrow residential road, and the residents that live
8 along it like me already carry the burden of coal truck traffic. Dust, mud,
9 diesel fumes, safety risks from truck traffic, have all caused annoyance
10 and discomfort to myself, my husband, who suffers from lung problems,
11 and my neighbors. The addition of more heavy truck traffic for fuel
12 delivery, as well as construction equipment, facility components and other
13 heavy machinery, and additional truck traffic associated with the proposed
14 industrial park, is not compatible with the residential nature of the
15 community and will further impact our homes, their property value, and
16 our quality of life.

17 **Does the applicant propose to use Kentucky 1087 and either of the**
18 **two coal haul roads you mentioned for access, equipment**
19 **haulage, or fuel delivery to the proposed power plant?**

20 The application indicated that during the construction phase, "existing"
21 coal haul roads would be utilized. The preparer of the application may not
22 have been aware that there are three haul roads; one of which exits at
23 Talcum, and crosses KY 1087 to Route 80, which is the route that would

1 avoid impacts on Ary residents, and the other two haul roads that would
2 use KY 1087 and significantly affect my home and my neighbors. In
3 answer to my First Set of Data Requests, Kentucky Mountain Power LLC
4 indicated that it will use the route that exits at Talcum to Rte 80 until a new
5 bridge and road is constructed there.

6 **Do the responses given by Kentucky Mountain Power LLC address**
7 **your concerns?**

8 Not entirely.

9 **What assurances should be provided or actions should be taken to**
10 **mitigate the impacts of the traffic on the residents along KY 1087?**

11 The applicant has proposed to do several things – first, to request that
12 Starfire Mining refuse admission to all non-mining plant
13 construction/operation related vehicle traffic over its haul/access roads,
14 except in emergency situations. The company also proposes that it will
15 "instruct" all such power plant related construction to use the route that
16 exit directly to Rte 80 crossing KY 1087. The company proposes that all
17 fuel will be delivered through that same access road, or directly across the
18 minesite if the fuel is from the Starfire complex.

19 The applicant should agree to, or the Board should impose by order, a
20 binding condition in the event of site approval that would obligate the
21 applicant and any successor to: (a) include in any contract for delivery of
22 materials, fuel, construction or operational equipment, a contract provision
23 requiring use of the access road; (b) require that all personnel associated

1 with site construction or development or plant construction and operation,
2 to utilize the Route 80 access road at Talcum; (c) impose reporting
3 requirements to notify the Board whenever an "emergency" necessitates
4 use of any other route for site access or egress; and (d) include in any
5 lease, sale or donation of land for the industrial park, a condition requiring
6 any occupants of the park to similarly restrict access and egress to the
7 route exiting the site at Talcum to Rte 80.

8 **Would those conditions, as an enforceable condition of the site**
9 **approval, address your concerns regarding truck traffic?**

10 Yes.

11 **Regarding the location of the plant water supply, what is your**
12 **concern?**

13 There has been discussion of converting an impoundment used by Starfire
14 that drains into Lick Branch and which flows under KY 1087, to use as a
15 water supply impoundment for the power plant. As a resident
16 and homeowner of the community below the mine complex, I am
17 concerned with the possibility of any embankment impoundment that
18 would present a threat to life or property in the event of failure of the
19 impoundment.

20 **After reviewing the Kentucky Mountain Power response to your data**
21 **request, do you still have any concerns?**

22 My concern remains this – the company's dam breach analysis indicates
23 that in the event of dam failure, KY 1087 will be inundated with floodwater

1 from the structure. I believe that the company should be required to lower
2 the storage capacity of the impoundment to assure that **no** road or
3 property not under their ownership is at risk from impoundment failure.
4 The company could use an incised pond that is excavated into solid
5 material, rather than an embankment structure, and greatly reduce any
6 risk of catastrophic failure and of off-site impacts, and should be required
7 to do so.

8 **Please explain your third area of concern.**

9 As I understand the application, the company is proposing to build some
10 25.5 miles of new transmission lines to service this project and to connect
11 with the existing transmission system. Yet the application had no site
12 assessment information on those 25 miles of new construction. I am
13 concerned for residents along those lines that their property, visual and
14 other values might be harmed but those concerns don't seem to have
15 been considered in the application. Those lines, whether they might be
16 given to someone else in the future or not, and being built by the company
17 for the company's power plant, and should have been part of this
18 application.

19 **In response to your data request the applicant indicated that the**
20 **transmission routing of new exit circuits is crossing lands that have**
21 **been previously mined and are owned by large mineral or land**
22 **holding companies, and that option agreements have been executed**
23 **with all property owners for the rights-of-way. Does this satisfy your**

1 **concerns?**

2 Technically, the company should have included the transmission line site
3 assessment with the application, and the application should have been
4 deemed incomplete without it. Some future promise to transfer ownership
5 of the line doesn't make it currently exempt from review. However, for the
6 purposes of this case alone, if the company would agree to a condition
7 that it publish notice in those counties where the line is proposed,
8 provide a period for public review and comment of the proposed
9 corridors, and propose mitigation measures concerning the screening,
10 configuration and location within the proposed rights-of-way as are
11 possible to address the concerns of residents whose property adjoins the
12 corridors, the purpose of the site assessment would be satisfied without
13 having to remand the case for incompleteness.

14 **Do you have other concerns regarding the plant proposal?**

15 Yes, but they relate to emissions and disposal of wastes, and will be
16 addressed to the appropriate agencies reviewing the cumulative
17 environmental assessment.

18 **Does this complete your testimony?**

19. Yes.

AFFIDAVIT

Pauline Stacy

Subscribed and sworn to before me, a notary public in the Commonwealth of
Kentucky, by Pauline Stacy, this ____ day of August, 2002.

Notary Public

My commission expires _____

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Direct Testimony of Intervenor Pauline Stacy was served this 2nd day of August, 2002 by first-class mail to:

Mike Haydon
Office of the Governor
The Capitol, 700 Capitol Ave. Suite 100
Frankfort, Kentucky 40601
Hon. Denny Ray Noble, Judge/Executive
Perry County Courthouse
P.O. Box 210
Hazard, Kentucky 41701

Hon. Donnie Newsome, Judge/Executive
Knott County Courthouse
P.O. Box 505
Hindman, Kentucky 41822

Hon. Paul H. Thompson, Judge/Executive
Floyd County Courthouse Annex
149 S. Central Avenue
Prestonsburg, KY 41653

Hon. Robert Cornett, Judge/Executive
Breathitt County Courthouse
1137 Main Street
Jackson, Kentucky 41399

J. R. Wilhite, Commissioner
Economic Development Cabinet
2300 Capital Plaza Tower
Frankfort, Kentucky 40601

Hank List, Deputy Secretary
Natural Resources & Env. Prot. Cabinet
5th Floor, Capital Plaza Tower
Frankfort, Kentucky 40601

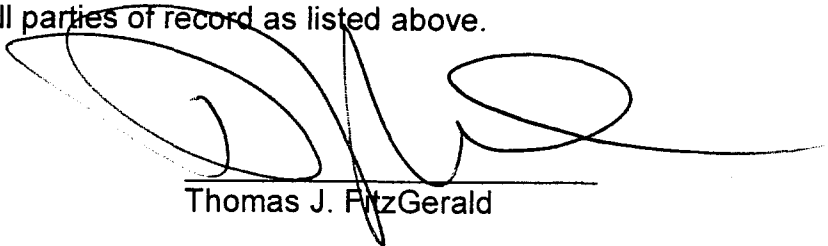
Frank Rotundi
Kentucky Mountain Power, LLC
250 Main Street
Lexington, Kentucky 40507

Peter Brown, Esq.

Kentucky Mountain Power, LLC
2810 Lexington Financial Center
Lexington, Kentucky 40507

Randy Bird, P.E.
EnviroPower LLC
117 Lincoln Street
Hazard, Kentucky 41701

and that the original was lodged by mail, this 2nd day of August, 2002, with the offices of the Board, 211 Sower Boulevard, Frankfort, Kentucky 40601. At the time that the affidavit is executed by Ms. Stacy, a copy of that executed affidavit will be similarly served on all parties of record as listed above.

A handwritten signature in black ink, appearing to read 'Thomas J. Fitzgerald', is written over a horizontal line. The signature is stylized and somewhat cursive.

Thomas J. Fitzgerald