

COMMONWEALTH OF KENTUCKY  
BEFORE THE KENTUCKY STATE BOARD ON  
ELECTRIC GENERATION AND TRANSMISSION SITING

In the Matter of:

APPLICATION OF SOUTHERN INDIANA )  
GAS & ELECTRIC CO., D/B/A VECTREN )  
ENERGY DELIVERY OF INDIANA, INC. )  
FOR A CONSTRUCTION CERTIFICATE TO )  
CONSTRUCT AN ELECTRIC TRANSMISSION )  
LINE FROM ITS A.B. BROWN PLANT TO THE )  
BIG RIVERS EHV STATION )

CASE NO.  
2010-00223

RECEIVED KENTUCKY STATE BOARD ON  SEP 13 2010  ELECTRIC GENERATION AND TRANSMISSION SITING
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**HENDERSON MUNICIPAL POWER & LIGHT RESPONSE  
TO SITING BOARD STAFF'S FIRST INFORMATION REQUEST**

Comes Henderson Municipal Power & Light (hereinafter referred to as "HMP&L"), by counsel, and for its Response to Siting Board Staff's Data Request states as follows:

1.(a) Explain in detail HMP&L's assertion that the proposed route for the transmission line proposed in Vectren's July 15, 2010 application in this case, "will directly and adversely [affect] HMP&L substation property and transmission lines."

**Person Responsible:** Gary Quick

**Response:** Applicant is proposing a 150 foot wide transmission route that would sever HMP&L's Substation 4 property in half from the northwest property corner to the southeast property corner. Applicant is actually proposing to take an easement inside the existing Substation 4 security fence and in direct proximity to the substation and transmission equipment serving the citizens of Henderson, Kentucky. The proposed route will prevent HMP&L from expanding the existing substation to serve existing and future

customers. In the event the proposed 345kV transmission line would fail due to a weather related event or other reason and fall into the substation, the result would be a catastrophic failure of the substation and the citizens of Henderson would experience a long-term power outage. Substation 4 is the primary substation for HMP&L and HMP&L's Station Two Power Plant provides all service to Substation 4. (See Applicant's aerial photograph document marked "Draft 8-24-10 – attached hereto as Exhibit 1). HMP&L's existing 161kV and 69kV transmission lines are shown on an aerial photograph given to one of the property owners (not HMP&L) during the July 6, 2010 Public Meeting held in Henderson. During the Public Meeting a representative of HMP&L requested a copy of the aerial photograph for the Substation 4 property and the Applicant's representative refused to provide the information. The aerial photograph provided to HMP&L by the adjoining property owners clearly shows the proposed 345kV line encroaching upon HMP&L's existing transmission line right-of-way. The area of encroachment is shown on the aerial photograph where the Applicant proposes to begin paralleling HMP&L's existing transmission lines. HMP&L is aware of this right-of-way encroachment and, therefore, has reason to believe there may be other right-of-way encroachments on the proposed thirteen (13) mile 345kV transmission line route to the Reid Substation. HMP&L believes any encroachments will adversely affect HMP&L's prior easement rights and subject HMP&L's existing transmission facilities to a higher risk of failure. HMP&L has requested copies of the proposed final plan and profile drawings for the proposed 345kV transmission line and Applicant has rejected those requests. HMP&L will need to review the final plan and profile drawings before fully

responding to the question related to the adverse affects on HMP&L's transmission facilities.

1.(b) Provide any data, reports, analyses, or any other information in HMP&L's possession which support HMP&L's assertions regarding adverse effects on HMP&L's substation property and transmission lines from Vectren's proposed transmission line.

**Person Responsible:** Gary Quick

**Response:** HMP&L has not retained outside consultants to conduct studies concerning the placement of the proposed 345kV transmission line on the Substation 4 property or the relationship of the proposed 345kV transmission line to HMP&L's existing transmission lines. HMP&L's position concerning both issues is based upon internal staff review of the limited information provided by Applicant and prudent utility practices.

2.(a) Explain in detail HMP&L's assertion that the proposed route for the transmission line proposed in Vectren's July 15, 2010, application in this case "will be detrimental to the future operations of the lines and compromise existing system reliability."

**Person Responsible:** Gary Quick

**Response:** The existing HMP&L 161kV transmission line is the primary source of service from HMP&L's Station Two Power Plant. An outage on this transmission line will result in a major service outage for the citizens of Henderson. Applicant's proposed placement of the 345kV transmission line in an adjoining right-of-way, parallel to HMP&L's existing right-of-way, increases the risk of an outage on the HMP&L 161kV transmission line in the event the 345kV transmission line fails due to a weather event or other reason and falls into HMP&L's facilities. Furthermore, based upon documents

Applicant gave to certain property owners (not HMP&L) during the July 6, 2010 Public Meeting in Henderson, it appears Applicant is not merely proposing to parallel HMP&L's existing right-of-way, but also is proposing to encroach upon HMP&L's existing right-of-way. The proposed encroachment places the conductors on the 345kV transmission line in close proximity to the conductors on HMP&L's existing 161kV transmission line. It appears Applicant is proposing to use sections of HMP&L's existing right-of-way in order to assert a 150 foot right-of-way. (See Applicant's aerial photograph given to property owner Margaret Sellars et al. during the July 6 Public Meeting – copy attached hereto as Exhibit 2.) The future operations of the HMP&L 161kV transmission line could be negatively affected by the location and operation of the proposed 345kV transmission line. HMP&L, at this time, is waiting on answers from Applicant concerning the design, operational, and electrical parameters and characteristics of the proposed 345kV transmission line.

2.(b) Provide any data, reports, analyses, or any other information in HMP&L's possession which support HMP&L's assertions regarding adverse impacts on the future operations of HMP&L's power lines and HMP&L's existing system reliability from Vectren's proposed transmission line.

**Person Responsible:** Gary Quick

**Response:** HMP&L is waiting on information from Applicant and will need time to review that information before responding fully to this question.

3.(a) Explain in detail HMP&L's assertion that the transmission line proposed in Vectren's July 15, 2010, application in this case "will adversely affect HMP&L's existing

substation property, transmission lines, and ability to provide reliable electric service for its existing and future customer base.”

**Person Responsible:** Gary Quick

**Response:** Applicant’s proposed route across the Substation 4 property would sever the property in half. The proposed route would actually result in Applicant taking a right-of-way inside the existing substation security fence. The proposed route prevents HMP&L from expanding the substation and prevents HMP&L from using the remaining property. HMP&L would never agree to convey easement rights or property rights to other parties on the Substation 4 property since this is the primary substation for HMP&L’s electric system. See responses in question 2 above with respect to the existing 161kV transmission line.

3.(b) Provide any data, reports, analyses, or any other information in HMP&L’s possession which support HMP&L’s assertions regarding adverse impacts on the existing substation property, its transmission lines, or its current or future system reliability from Vectren’s proposed transmission lines.

**Person Responsible:** Gary Quick

**Response:** HMP&L has not retained outside consultants to conduct studies concerning the placement of the proposed 345kV transmission line on the Substation 4 property or the relationship of the proposed 345kV transmission line to HMP&L’s existing transmission lines. HMP&L’s position concerning both issues is based upon internal staff review of the limited information provided by Applicant and prudent utility practices.

4.(a) Explain in detail HMP&L's assertion that the proposed route for the transmission line proposed in Vectren's July 15, 2010 application in this case "will significantly degrade scenic assets of the Commonwealth."

**Person Responsible:** Gary Quick

**Response:** The proposed placement of a 300 foot tower on Henderson Island will certainly degrade the scenic assets of the City of Henderson. The proposed tower will be clearly visible from the City's proposed multi-million dollar River Front Development Project area. The proposed towers on each side of the Ohio River also degrade the scenic assets of the City of Henderson since both towers will be visible from the riverfront area and many other areas in Henderson. Because of the height of the proposed transmission line structures and size of the proposed conductor, there will be a degradation of scenic assets for the entire length of the proposed transmission line from the crossing of the Ohio River to the point of termination at the Reid Substation.

4.(b) Provide any data, reports, analyses, or any other information in HMP&L's possession which support HMP&L's assertions regarding adverse impacts on the scenic assets of the Commonwealth from Vectren's proposed transmission lines.

**Person Responsible:** Gary Quick

**Response:** Because of time constraints and the lack of information from Applicant, HMP&L has not retained outside consultants to conduct studies. The proposed placement of the 345kV transmission line within an urban area was not well thought out. There are other route options for Applicant south of the City and those options provide fewer objections to the degradation of the Commonwealth's scenic assets.

4.(c) Explain in detail HMP&L's assertion that the proposed route for the transmission line proposed in Vectren's July 15, 2010 application in this case "will be in violation of applicable law."

**Person Responsible:** George Seay

**Response:** This request calls for a legal opinion and therefore is objected to as outside the scope of an "information request." However, in an attempt to cooperate, the Intervenor states that the application proposes to cross public property owned by the City of Henderson and public utilities serving the citizens of the City of Henderson and Henderson County. As such the Applicant has no right to obtain rights of way across the property of the City without the consent of the City pursuant to Section 163 of the Kentucky Constitution and applicable case law. In particular, Section 163 states in pertinent part:

No ...electric light company, within a city or town, shall be permitted to erect its poles, posts or other apparatus along, over, under or across the streets, alleys, or public grounds of a city or town without consent of the legislative bodies...being first obtained...

No such approval has been granted, and the City legislative body has directed that no such approval will be granted as this application currently exists.

Further, the Applicant has no right to exercise the power of eminent domain over the property owned by Henderson Municipal Power & Light, the Henderson Water Utility or the City of Henderson. The Board has an obligation to insure that a complete application includes a prima facie showing of the potential for the applicant to acquire the proposed route in the location detailed in the application. The lack of any legal authority to obtain access to the proposed route is prima facie evidence of an incomplete application. Therefore, the Application in this matter is deficient upon its face and must

be denied. The Intervenor will file formal motions with the supporting authority at the appropriate time.

4.(d) Provide any data, reports, analyses, or any other information in HMP&L's possession which support HMP&L's assertions regarding the legality of Vectren's proposed transmission line.

**Person Responsible:** George Seay

**Response:** See response to 4(c).

5.(a) Explain in detail HMP&L's assertion that the July 15, 2010 application filed by Vectren in this matter is incomplete.

**Person Responsible:** George Seay

**Response:** See response to 4(c).

5.(b) Provide a list of all elements of Vectren's July 15, 2010 application that HMP&L believes are deficient or otherwise not in compliance with any applicable statutory or regulatory requirement.

**Person Responsible:** George Seay

**Response:** (1) The route; (2) the diagrams and maps are deficient and are not the property of the Applicant; (3) the description of structures; (4) the locations of structures and supporting facilities; (5) the property owners; (6) the notifications to property owners; (7) the Applicant's identity; (8) Big Rivers Electric Corporation appears to be providing all the data maps, designs and therefore is the proper applicant; (9) if Big Rivers Electric Corporation is the applicant, is it qualified to apply?

5.(c) Provide a list of all property owners HMP&L believes were not notified by Vectren regarding its July 15, 2010 application in this matter.



**Person Responsible:** Gary Quick

**Response:** The City of Henderson, the Henderson Water Utility and Henderson Municipal Power & Light.

HMP&L is the property owner of the 16.68 acres at Substation 4. The property was purchased in December 1981 and has been owned by HMP&L since that time. As a property owner, HMP&L has never been notified by Applicant concerning the proposed 345kV transmission line. Applicant has not notified the City of Henderson or the Henderson Water Utility and both entities are property owners impacted by Applicant's proposed route. During a meeting on August 4, 2010 Applicant was informed that HMP&L was the owner of the Substation 4 property and HMP&L is not aware of any steps Applicant has taken to correct the documents filed with the Siting Board.

6. Explain in detail whether HMP&L has proposed any alternative route for the transmission line to Vectren.

**Person Responsible:** Gary Quick

**Response:** HMP&L has informed Applicant of its concerns and objections to the placement of the proposed 345kV transmission line on the Substation 4 property. HMP&L has suggested that the right-of-way for the line could be obtained north or south of the Substation property. HMP&L has also expressed its concerns about any potential encroachments on its existing 161kv transmission line easements from Substation 4 to the point of termination at the Reid Substation. Based upon one of Applicant's aerial photographs, HMP&L has reason to believe there are one or more encroachments on the 161kV transmission line easements. (See Applicant's aerial photograph given to property

owner Margaret Sellars et al. during the July 6 Public Meeting – copy attached hereto as Exhibit 2).


7. Provide, in both electronic (.pdf) format and paper format, a copy of any maps in HMP&L's possession of any alternative transmission line routes that HMP&L has proposed to Vectren for its transmission line.

**Person Responsible:** Gary Quick

**Response:** HMP&L is not responsible for the design and route selection for the proposed 345kV transmission line. As noted in the response to Staff's First Information Request item 6 above, HMP&L has suggested to Applicant that other route options exist north and south of the Substation 4 property. HMP&L has marked aerial photographs showing the other options, but those other options were not to scale and were merely a representation of how Applicant could construct the proposed line and not cross the Substation 4 property. HMP&L does not have any Applicant's photographs or maps in electronic format. (A copy of one of HMP&L's suggested option routes was given to the Siting Board during the meeting in Henderson on September 2 and Applicant also received a copy. An additional copy of the option route is attached hereto as Exhibit 3).

**CERTIFICATE**

I certify that the responses set out above are true and accurate to the best of my knowledge, information and belief, formed after reasonable inquiry.

  
\_\_\_\_\_  
Gary Quick, General Manager  
Henderson Municipal Power & Light

Respectfully Submitted,

By: 

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*Counsel for Henderson Municipal Power &  
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**CERTIFICATE OF SERVICE**

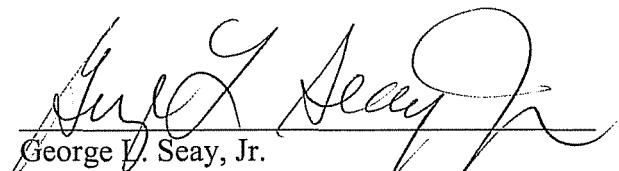
This is to certify that the original and ten true and correct copies of the foregoing has been served upon the following, by hand delivery, at the filing office of the Kentucky Public Service Commission, on this the 13<sup>th</sup> day of September, 2010:

Hon. Richard W. Bertelson, III  
Counsel  
Public Service Commission  
211 Sower Blvd  
P.O. Box 615  
Frankfort, KY 40602-0615

Mr. Jeff Derouen  
Executive Director  
Public Service Commission  
P.O. Box 615  
Frankfort, KY 40602

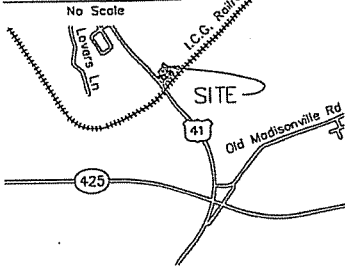
and via U.S. Mail, postage prepaid to:

Jason R. Bentley, Esq  
McBRAYER, McGINNIS, LESLIE & KIRKLAND, PLLC  
201 East Main Street, Suite 1000  
Lexington, KY 40507

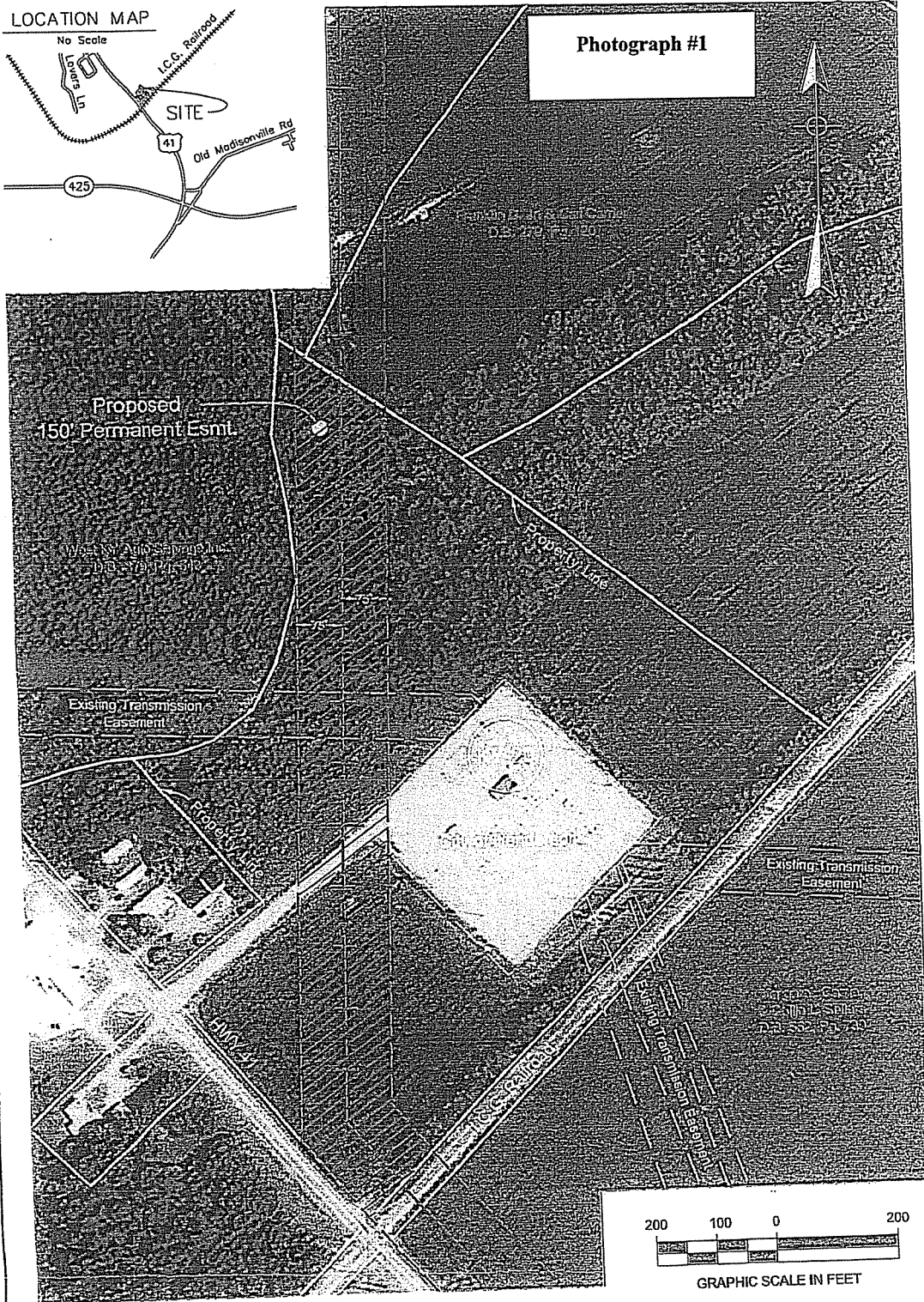
  
George V. Seay, Jr.  
Counsel for Henderson Municipal Power &  
Light

Received by HMP  
On 3/25/2010 3:37PM

LOCATION MAP



Photograph #1



NOTES

This plot does not represent a boundary survey & the corners shown hereon are not verified. No survey was performed in the preparation of this exhibit.

LEGEND



Parcel Number



Proposed Easement

DRAFT  
8-24-10

TRANSMISSION EASEMENT



BROWN-REID  
345KV TRANSMISSION LINE  
TAX MAP # 46-125  
DEED BOOK 529, PAGE 688

HENDERSON COUNTY, KENTUCKY

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SCALE 1"=200'

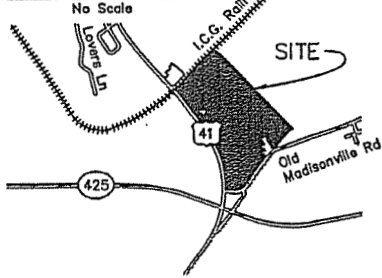
PROJ. # 08700 DATE: JUNE 2010 KY-20

EXHIBIT

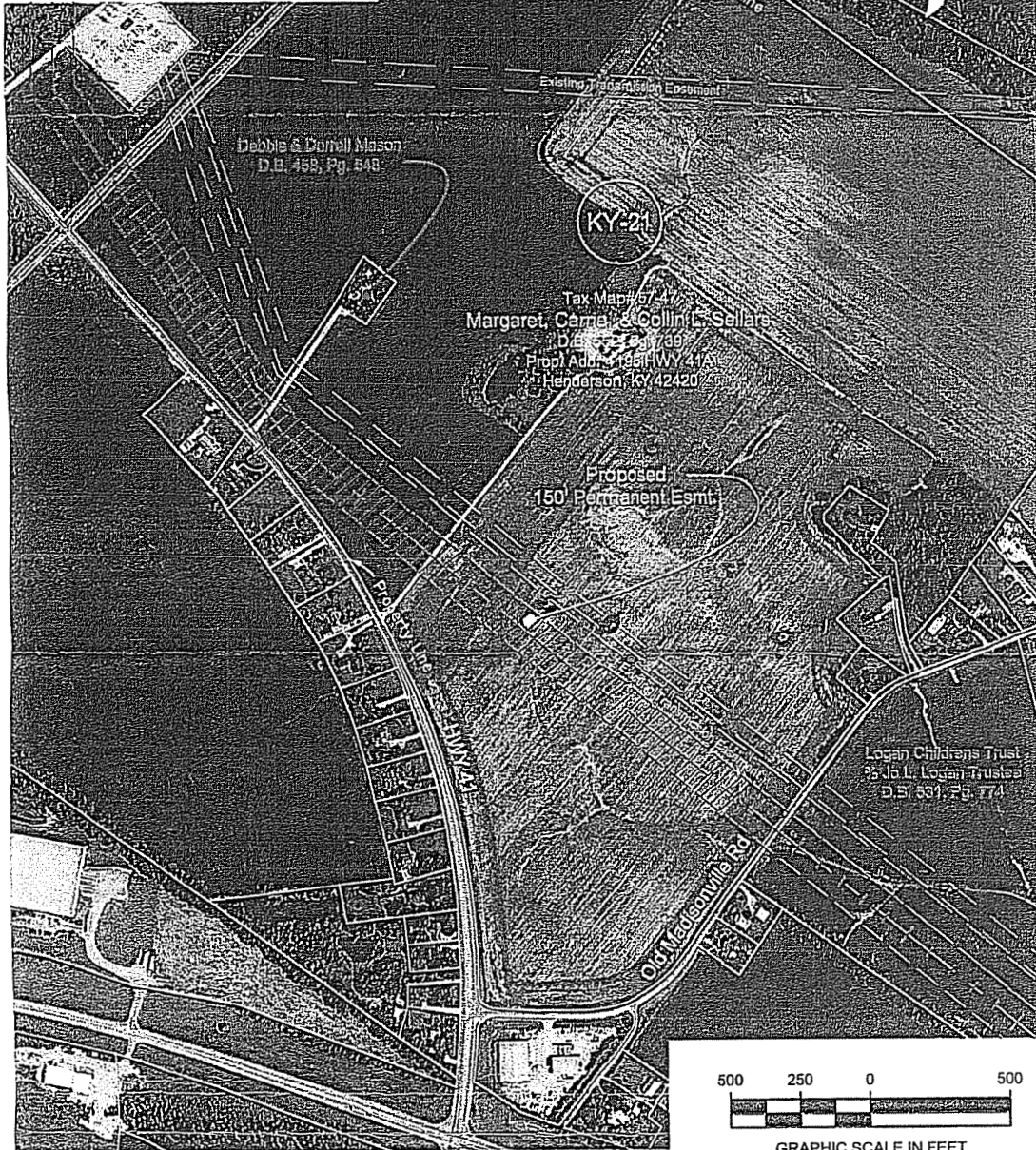
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1

LOCATION MAP





Photograph #3



NOTES

This plot does not represent a boundary survey & the corners shown hereon are not verified. No survey was performed in the preparation of this exhibit.

LEGEND

-  Parcel Number
-  Proposed Easement

TRANSMISSION EASEMENT



BROWN-REID  
345KV TRANSMISSION LINE  
TAX MAP # 57-47  
DEED BOOK 552, PAGE 739  
MAILING ADD: 3896 OLD MADISONVILLE  
HENDERSON, KENTUCKY 42420



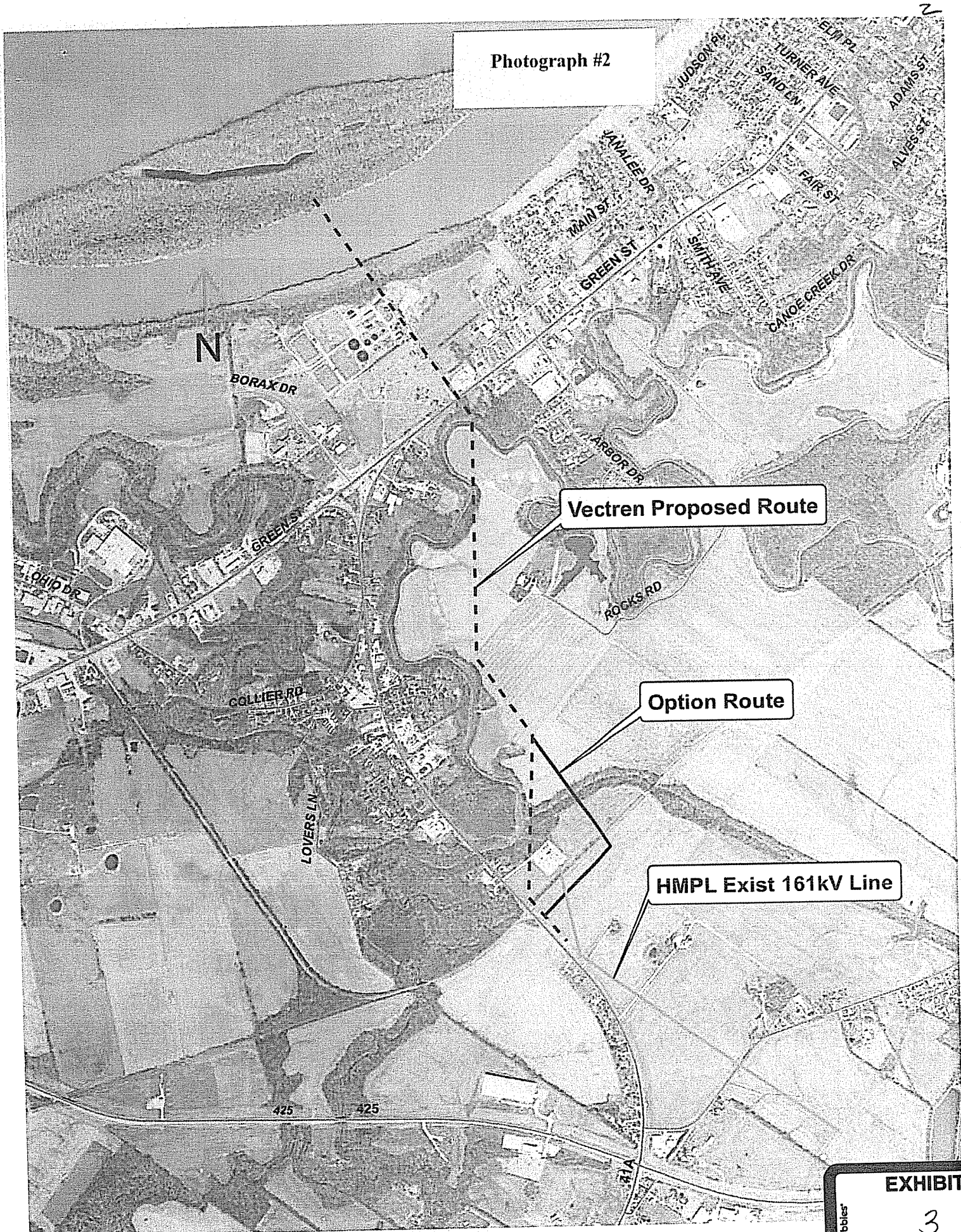
Architecture • Engineering • Planning

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Phone: 502-835-2222 Fax: 502-835-2222

EXHIBIT

2

Photograph #2



Vectren Proposed Route

Option Route

HMPL Exist 161kV Line