

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BEN HODGES)	
_____)	
ALLEGED VIOLATION OF UNDERGROUND)	CASE NO.
FACILITY DAMAGE PREVENTION ACT)	2021-00069
)	
)	

NOTICE OF FILING

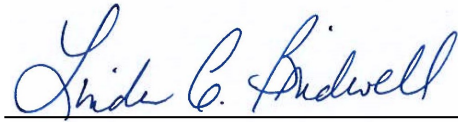
Notice is given to all parties that the following materials have been filed into the record of this proceeding:

- The digital video recording of the evidentiary hearing conducted on April 23, 2021 in this proceeding;
- Certification of the accuracy and correctness of the digital video recording;
- All exhibits introduced at the evidentiary hearing conducted on April 23, 2021 in this proceeding;
- A written log listing, inter alia, the date and time of where each witness' testimony begins and ends on the digital video recording of the evidentiary hearing conducted on April 23, 2021.

A copy of this Notice, the certification of the digital video record, and hearing log have been served upon all persons listed at the end of this Notice. Parties desiring to view the digital video recording of the hearing may do so at <https://youtu.be/Pg4CSqbu52A>.

Parties wishing an annotated digital video recording may submit a written request by electronic mail to pscfilings@ky.gov. A minimal fee will be assessed for a copy of this recording.

Done at Frankfort, Kentucky, this 6th day of May 2021.

A handwritten signature in blue ink that reads "Linda C. Bridwell". The signature is written in a cursive style with a horizontal line underneath it.

Linda C. Bridwell
Executive Director
Public Service Commission of Kentucky

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

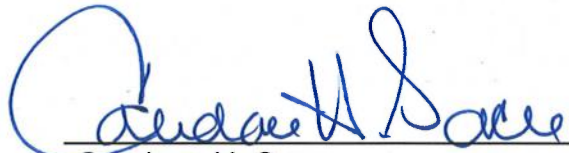
BEN HODGES –)	CASE NO.
ALLEGED VIOLATION OF UNDERGROUND)	2021-00069
FACILITY DAMAGE PREVENTION ACT)	

CERTIFICATION

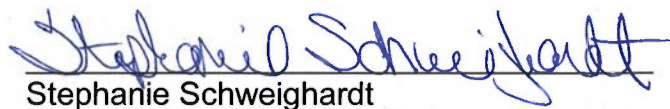
I, Candace H. Sacre, hereby certify that:

1. The attached flash drive contains a digital recording of the Formal Hearing conducted in the above-styled proceeding on April 23, 2021. The Formal Hearing Log, Exhibit List, and Exhibits are included with the recording on April 23, 2021;
2. I am responsible for the preparation of the digital recording;
3. The digital recording accurately and correctly depicts the Formal Hearing of April 23, 2021; and
4. The Formal Hearing Log attached to this Certificate accurately and correctly states the events that occurred at the Formal Hearing of April 23, 2021, and the time at which each occurred.

Signed this 25th day of April, 2021.



Candace H. Sacre
Administrative Specialist III



Stephanie Schweighardt
Notary Public State at Large
Commission Expires: January 14, 2023
ID#: 614400



Session Report - Detail

2021-00069 23Apr2021

Ben Hodges

Date:	Type:	Location:	Department:
4/23/2021	Public Hearing\Public Comments	Hearing Room 1	Hearing Room 1 (HR 1)

Witness: John Gowins; Ben Hodges
 Judge: Kent Chandler; Talina Mathews; Michael Schmitt
 Clerk: Candace Sacre

Event Time	Log Event
10:03:50 AM	Session Started
10:03:53 AM	Chairman Schmitt Note: Sacre, Candace
10:04:35 AM	Chairman Schmitt Note: Sacre, Candace
10:05:57 AM	Chairman Schmitt Note: Sacre, Candace
10:06:07 AM	Chairman Schmitt Note: Sacre, Candace
10:06:24 AM	Chairman Schmitt Note: Sacre, Candace
10:06:37 AM	Staff Atty Frederick PSC Note: Sacre, Candace
10:06:47 AM	Chairman Schmitt Note: Sacre, Candace
10:06:58 AM	Staff Atty Frederick PSC - witness Gowins Note: Sacre, Candace
10:07:04 AM	Staff Atty Frederick PSC - witness Gowins Note: Sacre, Candace
10:07:09 AM	Staff Atty Frederick PSC - witness Gowins Note: Sacre, Candace
10:07:25 AM	Staff Atty Frederick PSC - witness Gowins Note: Sacre, Candace
10:07:39 AM	Staff Atty Frederick PSC - witness Gowins Note: Sacre, Candace
10:07:43 AM	Staff Atty Frederick PSC - witness Gowins Note: Sacre, Candace
10:07:57 AM	Chairman Schmitt Note: Sacre, Candace
10:08:25 AM	Staff Atty Frederick PSC - witness Gowins Note: Sacre, Candace
10:08:36 AM	Staff Atty Frederick PSC - witness Gowins Note: Sacre, Candace
10:09:41 AM	Staff Atty Frederick PSC Note: Sacre, Candace
10:09:45 AM	Chairman Schmitt Note: Sacre, Candace

10:09:46 AM DIVISION OF INSPECTION EXHIBIT 1
Note: Sacre, Candace STAFF ATTY FREDERICK PSC - WITNESS GOWINS
Note: Sacre, Candace INVESTIGATION REPORT 42952

10:09:49 AM Staff Atty Frederick PSC - witness Gowins
Note: Sacre, Candace Describe investigation?

10:11:58 AM Staff Atty Frederick PSC - witness Gowins
Note: Sacre, Candace Reduced penalty, training, PSC makes available?

10:12:07 AM Staff Atty Frederick PSC - witness Gowins
Note: Sacre, Candace Indicate facility contained natural gas?

10:12:17 AM Staff Atty Frederick PSC - witness Gowins
Note: Sacre, Candace Pg 5, Investigation Report, tell us what document is?

10:13:14 AM Staff Atty Frederick PSC - witness Gowins
Note: Sacre, Candace Pg 9, Investigation Report, tell us what document is?

10:13:39 AM Staff Atty Frederick PSC - witness Gowins
Note: Sacre, Candace What date ticket submitted to 811?

10:13:42 AM Camera Lock Video Conference Activated

10:13:44 AM Staff Atty Frederick PSC - witness Gowins
Note: Sacre, Candace By whom?

10:13:59 AM Staff Atty Frederick PSC - witness Gowins
Note: Sacre, Candace How many days expired at time of damage?

10:14:13 AM Staff Atty Frederick PSC
Note: Sacre, Candace Demand letter to Hodges?

10:14:17 AM Staff Atty Frederick PSC - witness Gowins
Note: Sacre, Candace Result?

10:14:22 AM Staff Atty Frederick PSC
Note: Sacre, Candace No further.

10:14:29 AM Camera Lock Deactivated

10:14:31 AM Chairman Schmitt
Note: Sacre, Candace Questions? Explanation of procedures. (Click on link for further comments.)

10:15:06 AM Chairman Schmitt - witness Gowins
Note: Sacre, Candace Examination. What is Warren Rural Electric?

10:15:36 AM Chairman Schmitt - witness Gowins
Note: Sacre, Candace Two dig tickets or just one?

10:16:00 AM Chairman Schmitt
Note: Sacre, Candace Anything further?

10:16:03 AM Staff Atty Frederick PSC
Note: Sacre, Candace Nothing further.

10:16:05 AM Chairman Schmitt
Note: Sacre, Candace Witness excused.

10:16:12 AM Chairman Schmitt
Note: Sacre, Candace Other witnesses?

10:16:16 AM Staff Atty Frederick PSC
Note: Sacre, Candace No other.

10:16:18 AM Chairman Schmitt
Note: Sacre, Candace Witness is sworn.

10:16:31 AM Camera Lock Video Conference Activated

10:16:32 AM Chairman Schmitt
Note: Sacre, Candace Opportunity to tell what happened and then questions, explanation of procedures.

10:16:33 AM Camera Lock Deactivated

10:17:06 AM Chairman Schmitt - witness Hodges
Note: Sacre, Candace Examination. What happened here?

10:18:17 AM	Chairman Schmitt Note: Sacre, Candace	Explanation of damage prevention. (Click on link for further comments.)
10:19:15 AM	Chairman Schmitt Note: Sacre, Candace	Allow Ms. Frederick ask questions.
10:19:26 AM	Staff Atty Frederick PSC - witness Hodges Note: Sacre, Candace	Cross Examination. Paid Leitchfield Gas for damage?
10:20:01 AM	Staff Atty Frederick PSC - witness Hodges Note: Sacre, Candace	Bill to expect just for gas or to repair damage?
10:20:47 AM	Staff Atty Frederick PSC - witness Hodges Note: Sacre, Candace	Before on backhoe, call Kentucky 811?
10:21:20 AM	Staff Atty Frederick PSC Note: Sacre, Candace	No further.
10:21:24 AM	Chairman Schmitt Note: Sacre, Candace	Questions?
10:21:30 AM	Chairman Schmitt - witness Hodges Note: Sacre, Candace	Examination. Offered pay \$250 find and attend training class by video that PSC offers on first offense?
10:22:15 AM	Chairman Schmitt - witness Hodges Note: Sacre, Candace	Explanation of reduced fine and remediation class, offered opportunity. (Click on link for further comments.)
10:25:02 AM	Chairman Schmitt - witness Hodges Note: Sacre, Candace	Enter order, next training May 3 and then June 7, start at 9 am Eastern, 8 am Central, your choice, best we can do, which one rather attend?
10:26:20 AM	Chairman Schmitt - witness Hodges Note: Sacre, Candace	Attend June 7, will be in Order. (Click on link for further comments.)
10:27:14 AM	Chairman Schmitt Note: Sacre, Candace	Thank you, Mr. Hodges. (Click on link for further comments.)
10:27:43 AM	Chairman Schmitt Note: Sacre, Candace	When get order, send in check and will tell about video. (Click on link for further comments.)
10:28:39 AM	Chairman Schmitt Note: Sacre, Candace	Hearing adjourned.
10:28:51 AM	Session Ended	



Exhibit List Report

2021-00069 23Apr2021

Ben Hodges

Name:

Description:

Division of Inspections Exhibit 1 Investigative Report 42952

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) John E. Gowins	Incident ID 42952
Incident Date 8/28/2020 9:30:00 AM	Report Submitted 8/28/2020 12:46:17 PM

OPERATOR INFORMATION

Operator Leitchfield Gas Company Phone (270) 589-1668 Incident Location 387 Oakwood Lane 387 Oak Wood Ln Leitchfield, KY 42754 Grayson	Reported By Jimmy Wells Email jwwells@windstream.net Locate Ticket Number Couldn't find
--	---

EXCAVATOR INFORMATION

Name of Excavator Hodges, Ben Phone 270-230-6734 Excavator Address 387 Oak Wood Ln Leitchfield, KY 42754	Organization ID Email Locate Ticket Number
--	--

INCIDENT

Locate Ticket Summary						
Ticket #	Valid	Initial Date	Expiration Date (21 calendar days from Initial date)	Incident Date	# of Days Expired	Within Scope of Excavation
None	N/A	N/A	N/A	8/28/20	N/A	N/A

Excavation Summary			
Excavation Within Tolerance Zone	Type Of Equipment Used	Cost of Damage (Per Operator)	Amount Billed (Excavator)
N/A	Mechanized	\$161.00	\$161.00

The operator reports that the homeowner hit the service line to his house with a mini trackhoe. The line had been marked but homeowner forgot it being there. Operator reports could not find a dig ticket.

INVESTIGATION

This would be Mr. Hodges first violation.

A dig ticket was issued in order for Windstream to replace a pole, but Mr. Hodge was not the person who requested it. This would explain why there were marks on the ground.

September 3, 2020

- Called 270.230.6734, left a v.m.
- Mr. Hodges returned my call and left a v.m.

September 4, 2020

- Called 270.230.6734, left a v.m., included my email address.
- Mr. Hodges called back, he is certain he had a dig ticket although 811 has no record of it. He will look for the dig ticket number, I will contact Leitchfield.

September 8, 2020

- Sent Mr. Hodges an email based on his email to me from 9/4/2020 indicating this was still a violation and provided the options for resolution, and requested his preference.
- Reviewed an email Mr. Hodge sent on Saturday, 9/5/2020 that showed a dig ticket, however it was requested on June 3, expired on June 24, and the damage occurred on August 28, 65 days after expiration. I sent Mr. Hodge an email with this information.

September 15, 2020

- Sent Mr. Hodges an email about resolution.
- Received an email back requesting a telephone call.

September 16, 2020

- Called Mr. Hodges back at 270.230.6734, long discussions, I believe Mr. Hodges wants the demand letter with the reduced penalty and remedial. This is what I will send.

VIOLATION

KRS 367.4911 (1) (a) Each excavator, or person responsible for an excavation, planning excavation or demolition work shall, not less than two (2) full working days nor more than ten (10) full working days prior to commencing work, notify each affected operator of the excavator's intended work and work schedule. Contacting the applicable protection notification centers shall satisfy this requirement.

KRS 367.4911 (10) When excavation or demolition is necessary within the approximate location of the underground facility, the excavator shall hand-dig or use nonintrusive means to avoid damage to the underground facility.

Gas Excavation Damage Report

Leitchfield Gas Company

Submitted 8/28/2020 Incident ID: 42952

[Set back to Edit](#) | [Staff Edit](#)

[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=42952\)](#)

Reported By:

Name: Jimmy Wells
Phone: (270) 589-1668
Email: jwwells@windstream.net

Gas Line Incident Occured:

Date: 8/28/2020
Time: 9:30 AM

Details:

Reported Date: 8/28/2020 12:32 PM

Incident Location Address:

Location: 387 Oakwood Lane
Address: 387 Oak Wood Ln
City: Leitchfield
State: KY
County: Grayson
Zip: 42754
Confirm Code: Y

Number of Customers out: 1

Was gas or hazardous liquids contained in the underground facility?

Was gas or hazardous liquids released into the atmosphere? 3/2020

Locate Request Ticket No.: Couldn't find

Excavator: Home Owner

Excavator Address:

First Name: Ben
Last Name: Hodge
Phone: 270-230-6734
Email:
Address: 387 Oak Wood Ln
City: Leitchfield

State: KY
Zip: 42754
Confirm Code: Y
Excavation Damage: Failure to use hand tools where required

Description of Incident Hit 3/4 inch service line to his house, line had been marked prior but he said he had forgot it being there.

Summary Information

8/28/2020

Full details such as the cause Hit with mini trackhoe
Extent of the damage tore 3/4 inch service line into
Cost of the damage \$161.00
Steps taken to prevent re-occurance Explain to customer that he would have to pay for damages and that he could be fined, someone with the public service commission would be contacting him.
Amount billed to excavator \$161.00

Gowins, John E (PSC)

From: Carly Dunsmore <cdunsmore@usa811.org>
Sent: Thursday, September 3, 2020 9:33 AM
To: Gowins, John E (PSC)
Cc: PSCrequest@Kentucky811.org
Subject: Re: Incident # 42952
Attachments: 2006261333.pdf

****CAUTION** PDF attachments may contain links to malicious sites. Please contact the COT Service Desk ServiceCorrespondence@ky.gov for any assistance.**

Good morning John,

We searched between 7/1/20 and 9/3/20. The only ticket I could find for that address is ticket 2006261333, which was created at the end of June and retransmitted on 7/6/20 to add Windstream. We are not showing any tickets being created for that address since then.

Please let me know if you have any questions.

Thank you,

Carly Dunsmore
Member Services
P: 833-538-0923
F: 317-386-7820



On Thu, Sep 3, 2020 at 8:42 AM Gowins, John E (PSC) <john.gowins@ky.gov> wrote:

Another not-straightforward request:

Can you see if there is a dig ticket issued for 387 Oak Wood Ln, Leitchfield, KY, or to Ben Hodge?

The timeframe is around 8/28/20.

Thank you.

John E. Gowins

Consumer Complaints Investigator II

Division of Inspections

Kentucky Public Service Commission

502.782.2656

Gowins, John E (PSC)

From: Gowins, John E (PSC)
Sent: Tuesday, September 8, 2020 7:10 AM
To: Ben Hodges
Subject: RE: Incident # 42952
Attachments: 2006261333.pdf

The information I have is that Warren Rural Electric requested a dig ticket for 387 Oak Wood Ln in Elizabethtown on July 6, 2020, in order to replace a pole. This would explain marks on the ground, but doesn't necessarily include the scope of where you were digging. As you can see, the identification of the dig tickets are 10-digit numbers, in this case 2006261333, not letters.

So the documentation I have indicates that this is a violation of the statutes, KRS 367.4911 (1) (a) for not having a dig ticket, and KRS 367.4911 (10) for digging with mechanized equipment within 18-inches of locate marks.

There are three possible ways to resolve this violation.

1. Since it is your first violation, and you were the homeowner, if you will agree to participate in a damage prevention training that the PSC puts on, we will reduce the initial \$500 civil penalty to \$100. Currently we do not know when we may be able to conduct the training due to the coronavirus pandemic, however we are exploring the ability to conduct the training online, which would save you a trip to Frankfort;
2. No participation in the training would be required, but the full \$500 civil penalty would be due; and
3. You have the right to request a hearing before the Public Service Commissioners.

Please let me know which option you would prefer.

From: Ben Hodges <ben_bensfurniture@yahoo.com>
Sent: Friday, September 4, 2020 3:10 PM
To: Gowins, John E (PSC) <john.gowins@ky.gov>
Subject: Re: Ben Hodges

Okay. Not sure what else you need . Let me know Just let me know when you find out more

Sent from my iPhone

On Sep 4, 2020, at 12:29 PM, Gowins, John E (PSC) <john.gowins@ky.gov> wrote:

Okay, this validates your email so that you can use the online 811 system.

What is needed is the actual dig ticket that specifies the location of the work, the date it was requested, and who was requesting it.

From: Ben Hodges <ben_bensfurniture@yahoo.com>
Sent: Friday, September 4, 2020 1:26 PM
To: Gowins, John E (PSC) <john.gowins@ky.gov>
Subject: Ben Hodges

<image001.png>

<image002.png>

Sent from my iPhone

RETRANSMIT SEE REMARKS

Ticket : 2006261333 Date: 07/06/2020 Time: 17:24 Oper: SWOODFORD Chan:000
Old Tkt: 2006261333 Date: 06/26/2020 Time: 14:49 Oper: JOEY.DUDGEON.KY Rev: 00A

State: KY Cnty: GRAYSON City: LEITCHFIELD
Subdivision:

Address : 387
Street : OAK WOOD LN
Cross 1 : ELIZABETHTOWN RD
Location: LOCATE THE POLE TO THE LEFT OF THE GARAGE WITH THE TRANSFORMER ON IT
25 FEET AROUND POLE

:
Boundary: n 37.486107 s 37.484923 w -86.253636 e -86.251957

Work type : POLE REPLACEMENT
Done for : WARREN RURAL ELEC
Start date: 06/30/2020 Time: 15:15 Hours notice: 0/0 Priority: NORM
Ug/Oh/Both: U Blasting: NO Emergency: N
Duration : N/A Depth: 8 FEET

Company : WARREN RURAL ELECTRIC Type: CONT
Co addr : 951 FAIRVIEW AVE
City : BOWLING GREEN State: KY Zip: 42101
Caller : JOEY DUDGEON Phone: (270)842-6541
Contact : JOEY DUDGEON - CELL Phone:
Mobile : (270)259-7518
Fax : (270)781-3299
Email : JDUDGEON@WRECC.COM

Remarks : THIS TICKET IS BEING RETRANSMITTED TO ADD WINDSTREAM KENTUCKY TO THE
LOCATE TICKET PER JOEY DUDGEON.

* WINKY WAS MANUALLY ADDED TO THIS TICKET, PLEASE CHECK YOUR DATABASE
* WINKY WAS NOT ON THE ORIGINAL VERSION OF THIS TICKET

:

Submitted date: 07/06/2020 Time: 17:24
Members: 0031 0423 0667 WINKY

Gowins, John E (PSC)

From: Ben Hodges <ben_bensfurniture@yahoo.com>
Sent: Tuesday, September 15, 2020 6:02 PM
To: Gowins, John E (PSC)
Subject: Re: Incident # 42952

Mr Gowins.
If you don't mind please call me. I prefer to talk instead of email
Thanks
Ben
Sent from my iPhone

On Sep 15, 2020, at 11:31 AM, Gowins, John E (PSC) <john.gowins@ky.gov> wrote:

Mr. Hodges,
I have not received a response from you regarding my email of one week ago.
If I have not received a response by tomorrow, I will develop a demand letter in
accordance with option number 2 below.

From: Gowins, John E (PSC)
Sent: Tuesday, September 8, 2020 7:10 AM
To: Ben Hodges <ben_bensfurniture@yahoo.com>
Subject: RE: Incident # 42952

The information I have is that Warren Rural Electric requested a dig ticket for 387 Oak Wood Ln in Elizabethtown on July 6, 2020, in order to replace a pole. This would explain marks on the ground, but doesn't necessarily include the scope of where you were digging. As you can see, the identification of the dig tickets are 10-digit numbers, in this case 2006261333, not letters.

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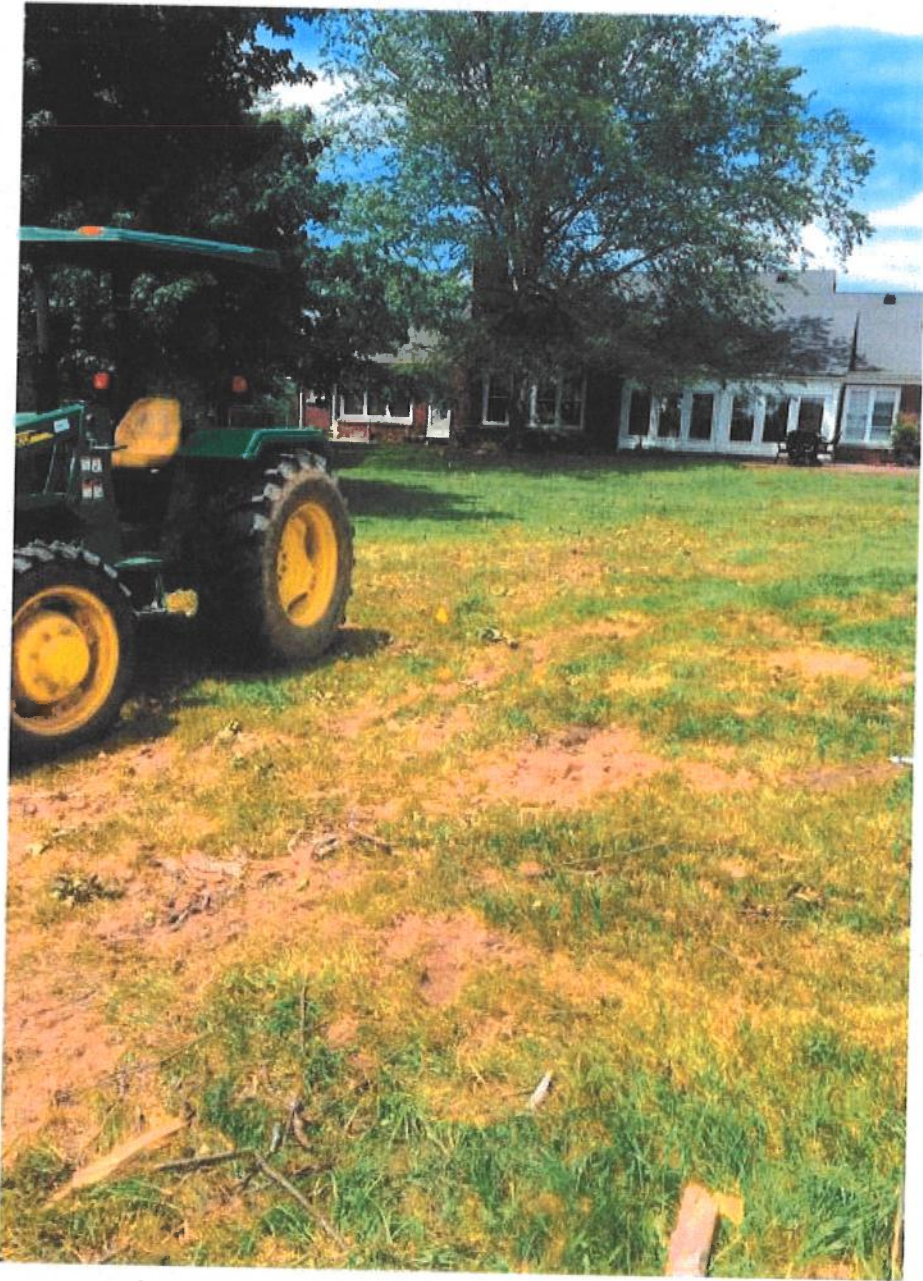
<image002.png>

Sent from my iPhone

<2006261333.pdf>







*Ben Hodges
387 Oakwood Ln
Leitchfield, KENTUCKY 42754