

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

Case No. 2009-00064
East Kentucky Network, LLC d/b/a Appalachian Wireless, Petitioner
Dry Fork Cell Tower Property
Letcher County, Kentucky

RECEIVED
JUN 12 2009
PUBLIC SERVICE
COMMISSION

RESPONSE OF APPLICANT TO FILING OF
ALTERNATE TOWER LOCATIONS OF THE INTERVENER

* * * * *

Comes the Applicant, East Kentucky Network, LLC d/b/a Appalachian Wireless ("EKN"), by counsel, and herewith files with the Public Service Commission ("PSC"), its response to the Alternate Tower Locations proposed by the INTERVENER, Lee Etta Cummings.

Applicant attaches hereto and makes a part hereof, its maps and the comments of its employee, Mr. Marty Thacker and consulting engineer Mr. J.W. Caudill, based upon a site inspection of June 2, 2009, which maps and the comments contained thereon and therein are attached hereto and made a part hereof as Exhibits 1 through 5 (with each map exhibit referring to alternate sites #1, #2, #3, #4, #4, and #5, as proposed by the INTERVENER). (See Intervener's map of proposed alternate sites attached hereto and made a part hereof as Exhibit #6)

By way of further comment of objections to the alternate sites as proposed by the Intervener, the Applicant states as follows:

ALTERNATE SITE #1

This site is acceptable from a standpoint of cellular coverage of the targeted area. In fact, EKN looked first at this particular site. However, the proximity of the gas

lines as shown upon the map ruled out the site, as these are pre-existing permanent easements. The prospect of removal of these lines, even if the owner of the gas line easements consented to such removal, would be prohibitively expensive, if not impossible from a physical standpoint due to the nature of the terrain.

Further, the terrain as shown would be impracticable, unsafe, and prohibitively expensive for construction of a road to this site along this very narrow ridge.

ALTERNATE SITE #2

Elevation of this site (1220 feet per Intervener's map, Exhibit 6), makes it unacceptable from the standpoint of cellular coverage of the targeted area along Route 15. It is simply too low. Construction of a tower exceeding 700 feet in height for this site to work would cost approximately three times as much as the Applicant's proposed site, and require a totally different type of tower construction which would include guide wires to anchor the tower (which are not required for Applicant's proposed site). This would take up an additional 900 feet or more of land on each corner of the tower and encroach on adjoining property. It is located in a rather low, swampy area which adversely affects the stability of the tower. In short, this is a totally unfeasible and unacceptable site.

ALTERNATE SITE #3

This site is not acceptable by reason of its location to the south of Smoot Creek from the standpoint of the coverage that the Applicant's proposed site provides to the Smoot Creek area, and, as well, to the northern section of Route 15. The site is unavailable, as the property owner Raymond Brown has already leased the present site for Applicant's proposed tower that he is willing to dedicate for this use. Further, the

property of adjoining property owner, Don Tolliver is within a 500 foot radius of this site, and may be near enough as to encroach upon it or else is extremely close which limits the available construction area. In addition, some 1400 to 1500 feet of the currently unleased part of the Brown property would have to be excavated and upgraded to the alternate site for access purposes, and this additional area is unavailable.

Large groves of timber must be cut to accommodate construction of a power line, and the proximity of a former Settler's Cabin which is near and in plain sight of the area of the alternate tower site and may prevent Environmental Protection Agency approval of this site. The cabin is on the Register of Historic Places. We note also that the coordinates as shown on Intervener's Exhibit 6 are incorrect as to the proposed tower site, but we assume that is a mistake and our comments are addressed to the tower spot itself.

ALTERNATE SITE #4

Inadequate from a coverage standpoint by reason of the low elevation. (1530 feet per Intervener's map Exhibit 6). Also on or near a four inch gas line and on property near or on the boundary of three property owners, the Intervener, the Intervener and her sister, and James Brown, all of whom would be necessary for consent to the location and/or for further access. In short it is unavailable, has no access, and inadequate coverage. Also, the stability of this area is doubtful due to previous mining and presence of low swampy area which would require use of guide wires for sufficient elevation, and thus take up additional space and encroach upon other property owners.

ALTERNATE SITE #5

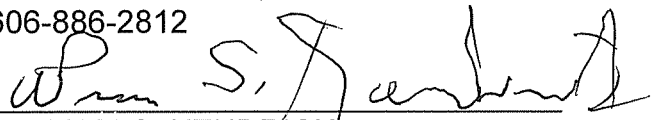
This site is unacceptable because of its low elevation (1530 feet), and lack of coverage to the targeted area. It is on the lower end of an old surface mining area, and thus sited on unstable ground to support a tower. Again, it would take a tower of 700 feet or more, supported by guide wires which would encroach upon adjoining property owners.

The undersigned further comments that according to mine maps from past mining, and the proposed permit map of Sapphire Coal Company, the Applicant's proposed site is not undermined by deep mining, is on a high and dry stable site for coverage and stability purposes, and does not require the use of guide wires. The tower construction proposed is of the Self-Supporting with Pad and Pier Base Design which provides for stability as to all three corners of the tower at once and even distribution should settlement occur. The actual tower site of Applicant is 1200' to 1300' feet from Sapphire's proposed permit limits and Applicant has previously stated herein that it is willing to waive blasting and equipment in the proposed permit area. None of the other sites compare with the suitability of Applicant's proposed site for which an application has been submitted.

This the 11th day of June, 2009.

Respectfully submitted,

FRANCIS, KENDRICK & FRANCIS
P.O. BOX 268
PRESTONSBURG, KY 41653
606-886-2812


WILLIAM S. KENDRICK

VERIFICATION

I, Gerald Robinette, hereby verify that I have reviewed the foregoing statements contained in the foregoing Response, and that all statements are true and correct to the best of my knowledge and belief.

East Kentucky Network, LLC d/b/a
Appalachian Wireless

By: Gerald F. Robinette
GERALD ROBINETTE
Title: Chief Executive Officer

STATE OF KENTUCKY)

COUNTY OF FLOYD)

SUBSCRIBED and SWORN to before me by Gerald Robinette, on this the 11th day of June, 2009.

Teresa M. Apel
NOTARY PUBLIC
My Commission Expires: June 22, 2009



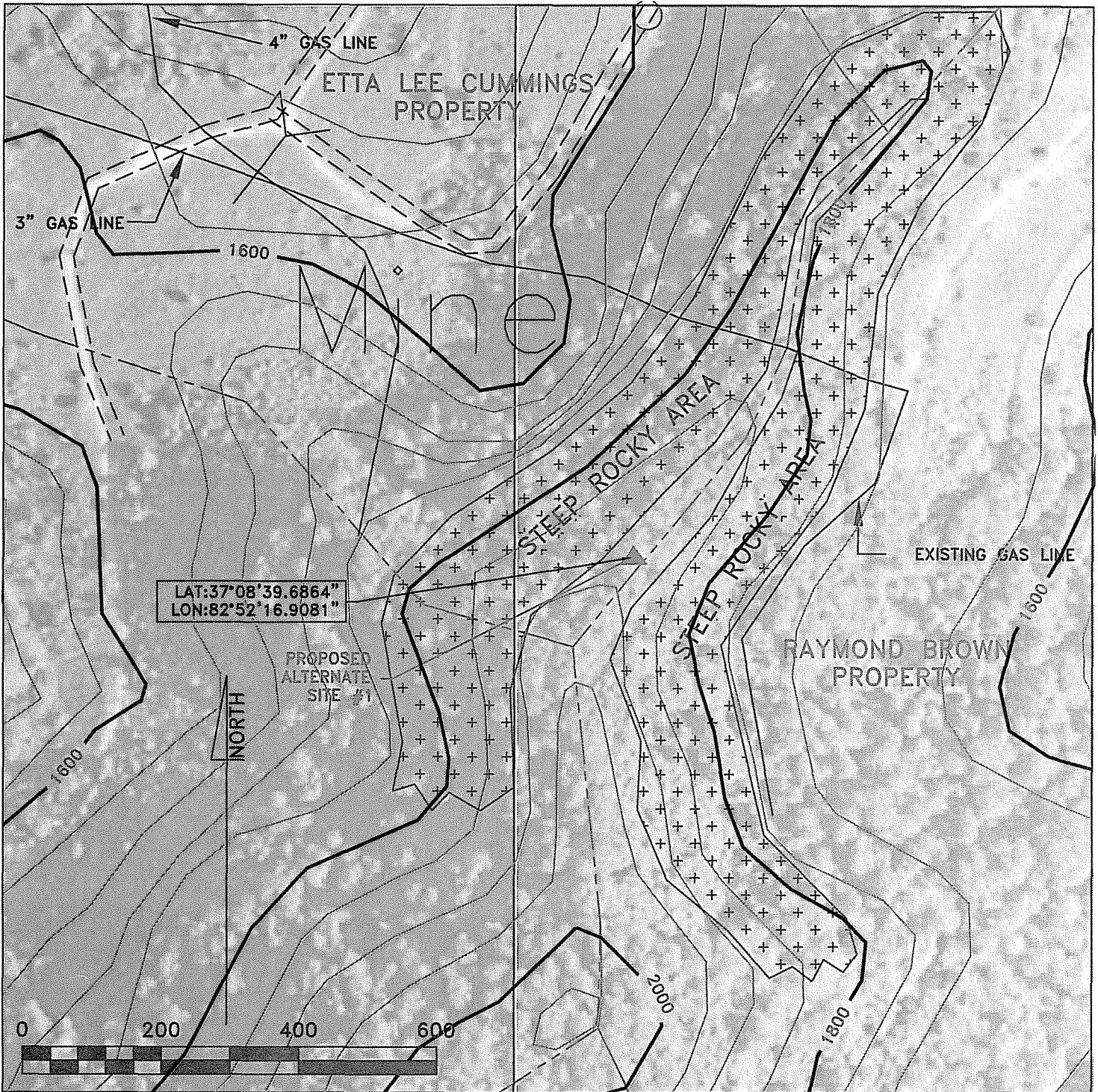
CERTIFICATE OF SERVICE

This is to certify that a true copy of the foregoing was this 11th day of ~~May~~ June, 2009, mailed to the following:

Ms. Nora Shepherd
P.O. Box 300
Richmond, KY 40476

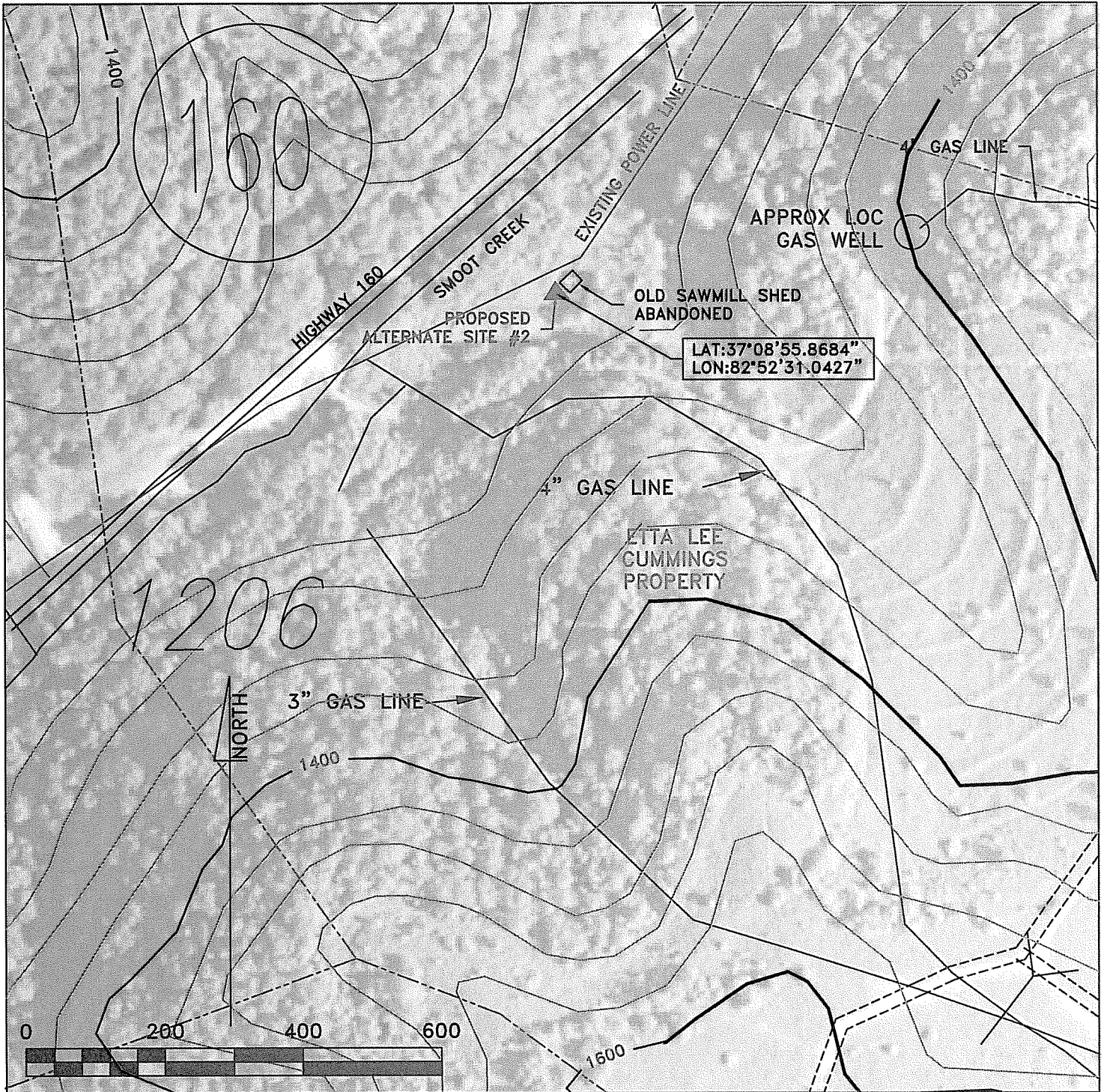
Ms. Allyson Honaker
211 Sower Blvd.
Frankfort, KY 40602

William S. Kendrick
WILLIAM S. KENDRICK



SITE INSPECTION
 06/02/09
 BY J.W. CAUDILL WITH MARTY THACKER PRESENT
 DGPS LOC NAD83 STATE PLANE KY SOUTH ZONE
 N-1948480', E-2479309, EL 1904' MSL
 SITUATED ON RIDGE BETWEEN SMOOT CRK & DRY FK
 ABOUT 700' NORTH OF HIGH KNOB ON NARROW
 ROCKY RIDGE OVER OLD DEEP/SURFACE MINE AREA
 CONCERNS-
 PROXIMITY TO GAS LINES, STEEP ROCKY SLOPES
 AROUND SITE REQUIRES HEAVY BLASTING FOR ROAD
 & SITE CONSTRUCTION. MULTIPLE PROPERTY OWNERS
 REQUIRED ON THIS SITE DUE TO NARROW RIDGE
 SUBSTANTIAL SURFACE DISTURBANCE WILL BE MADE.
 PREPARED BY _____
 FROM DOWNLOADED IMAGES AND CONTOURS FROM
 KYMARTIAN WEB SITE ALONG WITH INFORMATION FRM
 PVA MAPS AND PRELIMINARY DGPS SITE SURVEY.

APPALACHIAN WIRELESS		
101 TECHNOLOGY DRIVE IVEL, KY 41642		
DRAWN JWC	DATE 6/2/09	DRYFORK TOWER SITE ALTERNATE LOCATION #1 SITE INSPECTION CASE No 2009-00064
APPROVED	DATE	
SCALE 1" = 200'	SHEET 2 OF 6	PROJECT NO. BROWNALTSITES



SITE INSPECTION
 06/02/09
 BY J.W. CAUDILL WITH MARTY THACKER PRESENT
 DGPS LOC NAD83 STATE PLANE KY SOUTH ZONE
 N-1950081', E-2478115, EL 1222' MSL
 SITUATED ON SMOOT CRK SOUTH OF HIGHWAY 160
 NEAR THE INT OF HIGHWAYS 15 & 160 IN VALLEY
 NEAR OLD SAW MILL BUILDING

CONCERNS-
 PROXIMITY TO GAS & POWER LINES, LOW ELEV,
 AREA SWAMPY WITH CATTAILS INDICATE POSSIBLE
 FOUNDATION & CONSTRUCTION PROBLEMS,
 POSSIBLE FLOOD PLAIN ISSUES.

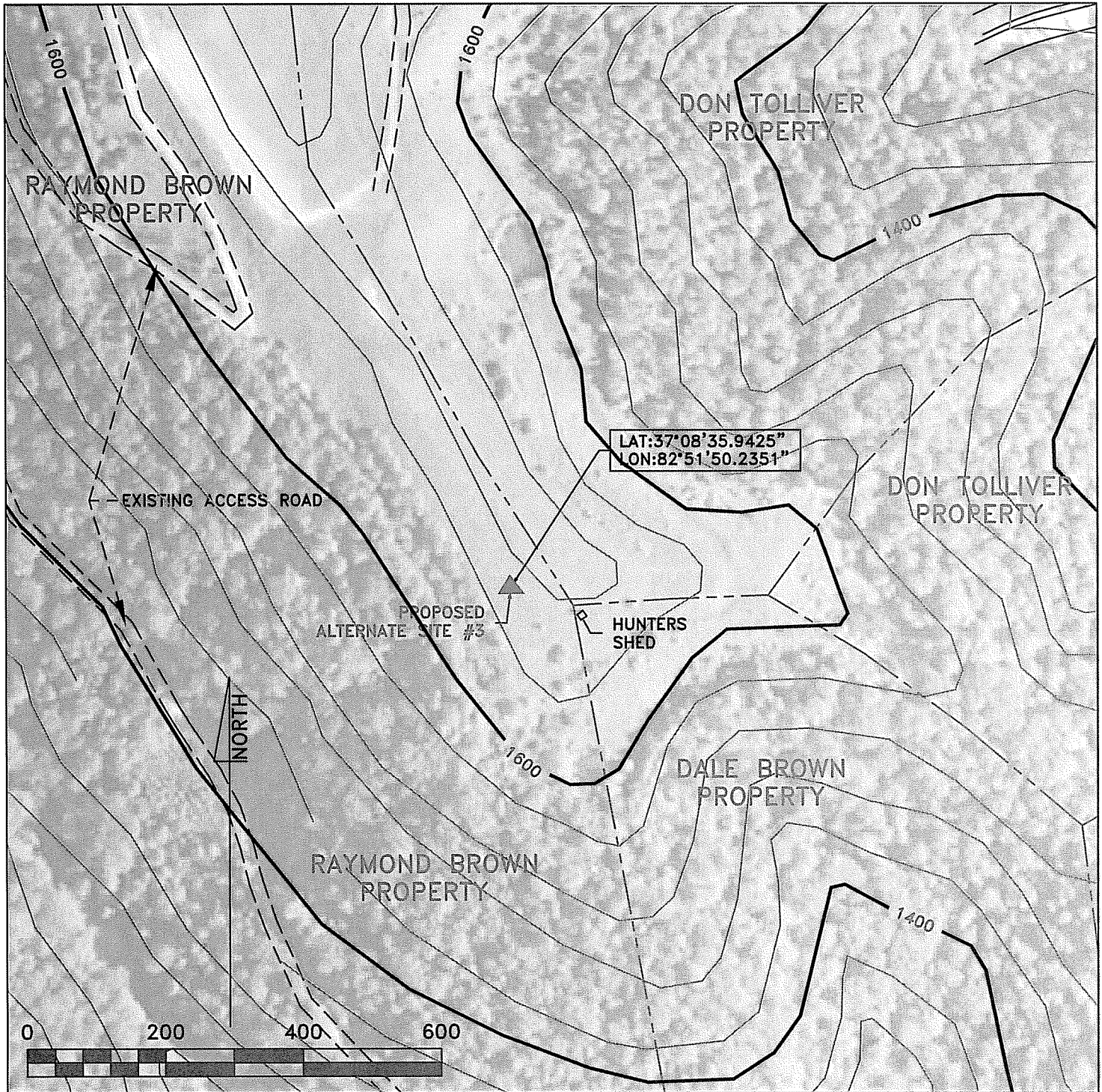
PREPARED BY _____
 FROM DOWNLOADED IMAGES AND CONTOURS FROM
 KYMARTIAN WEB SITE ALONG WITH INFORMATION FROM
 PVA MAPS AND PRELIMINARY DGPS SITE SURVEY.

APPALACHIAN WIRELESS

101 TECHNOLOGY DRIVE
 IVEL, KY 41642

DRAWN JWC	DATE 6/2/09	DRYFORK TOWER SITE ALTERNATE LOCATION #2 SITE INSPECTION
APPROVED	DATE	
SCALE 1" = 200'	SHEET 3 OF 6	CASE No 2009-00064
		PROJECT NO. BROWNALTSITES

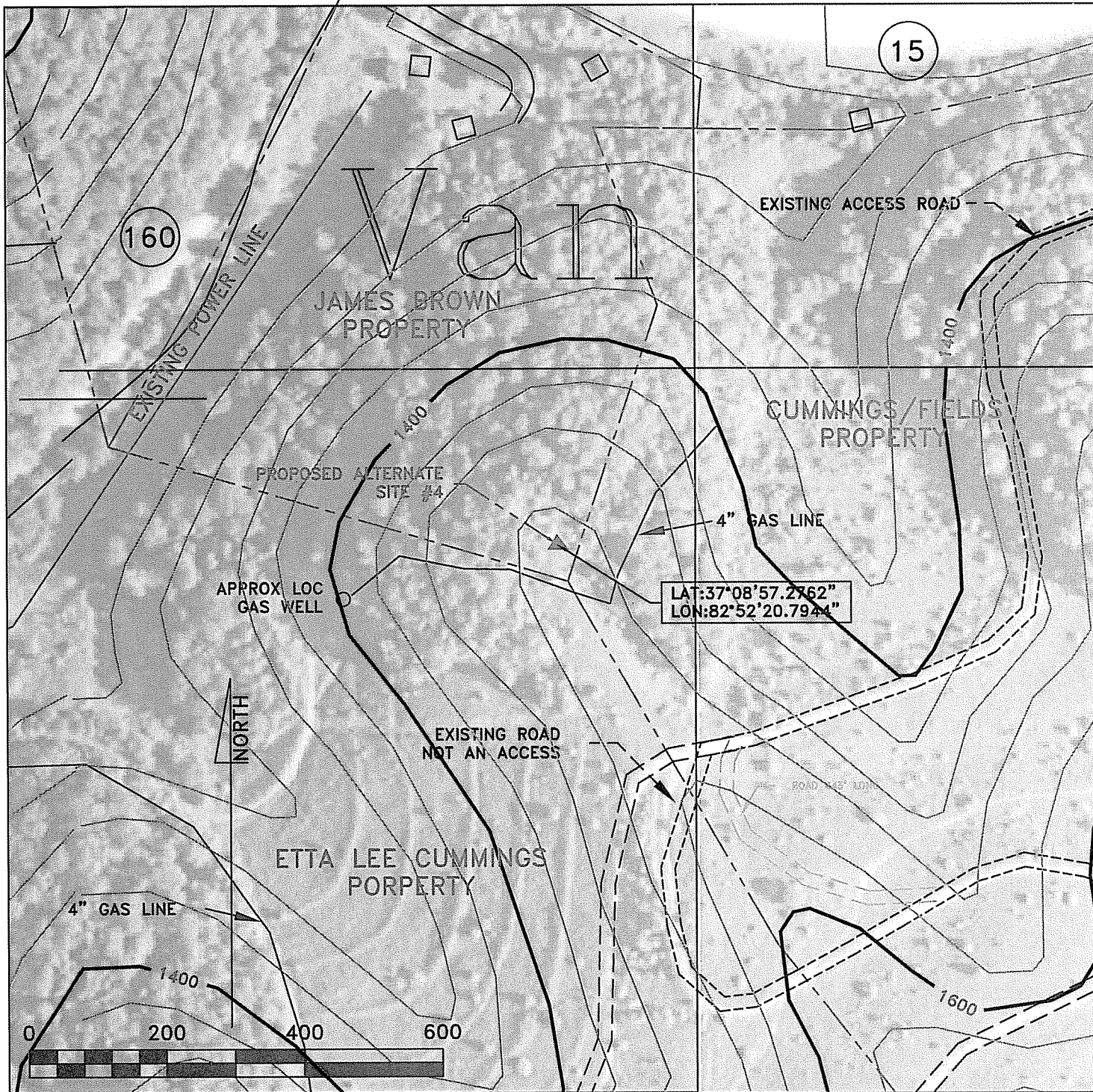
Exb 2



SITE INSPECTION
 06/02/09
 BY J.W. CAUDILL WITH MARTY THACKER PRESENT
 DGPS LOC NAD83 STATE PLANE KY SOUTH ZONE
 N-1948168', E-2481479, EL 1624' MSL
 SITUATED ON RIDGE NORTH OF DRY FORK MARKET
 & HIGHWAY 15 ON RECLAIMED SURFACE MINE AREA
 -
 -
 CONCERNS-
 LOCATED AWAY FROM SMOOT CREEK AREA AND THE
 NORTHERLY SECTION OF HIGHWAY 15.
 -
 -
 PREPARED BY _____
 FROM DOWNLOADED IMAGES AND CONTOURS FROM
 KYMARTIAN WEB SITE ALONG WITH INFORMATION FRM
 PVA MAPS AND PRELIMINARY DGPS SITE SURVEY.

APPALACHIAN WIRELESS 101 TECHNOLOGY DRIVE IVEL, KY 41642		
<i>DRAWN</i> JWC	<i>DATE</i> 6/2/09	DRYFORK TOWER SITE ALTERNATE LOCATION #3 SITE INSPECTION CASE No 2009-00064
<i>APPROVED</i>	<i>DATE</i>	
<i>SCALE</i> 1" = 200'	<i>SHEET</i> 4 OF 6	<i>PROJECT NO.</i> BROWNALTSITES

Exb 3



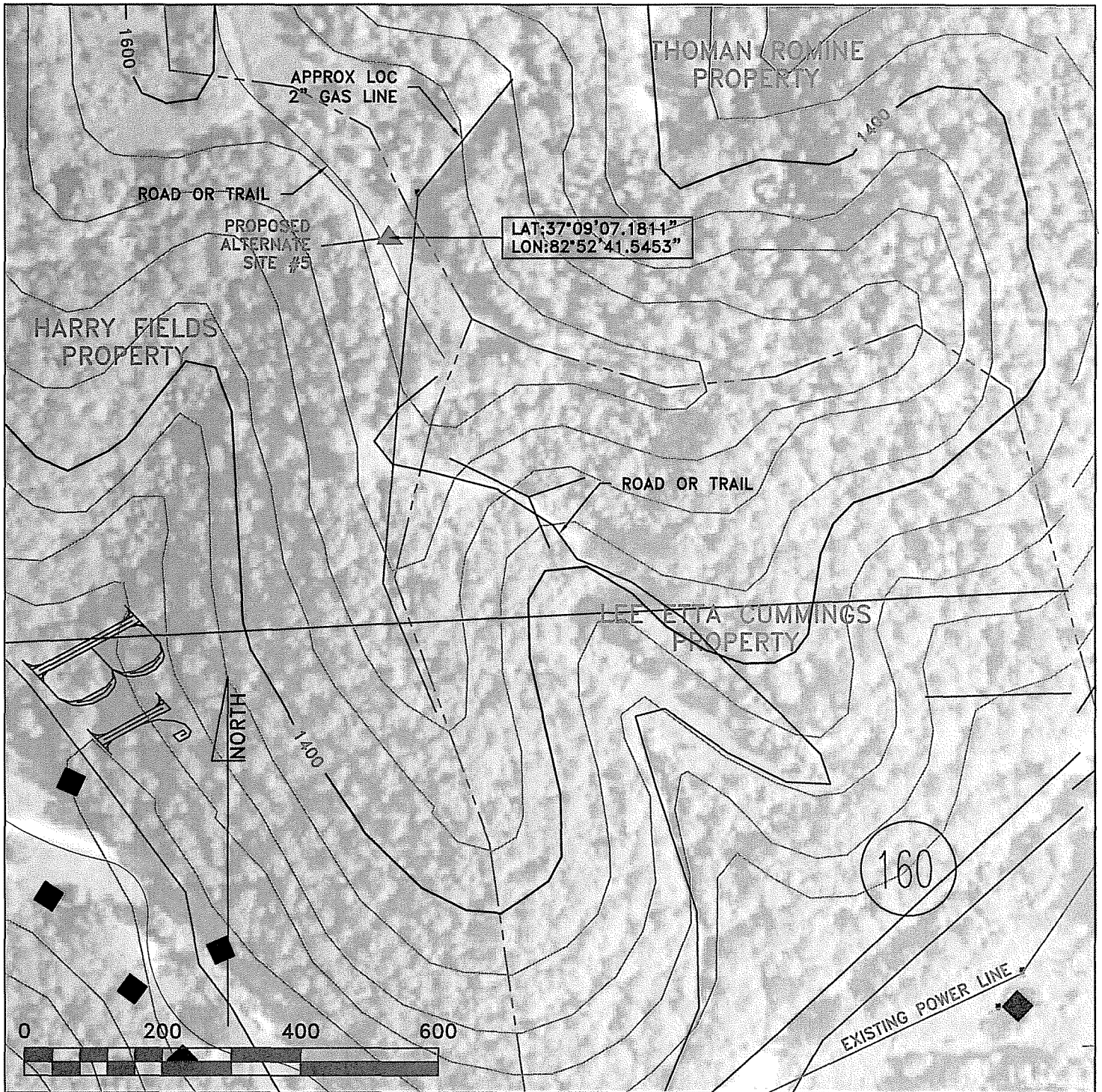
SITE INSPECTION
 06/02/09
 BY J.W. CAUDILL WITH MARTY THACKER PRESENT
 DGPS LOC NAD83 STATE PLANE KY SOUTH ZONE
 N-1950248', E-2478940, EL 1550' MSL
 SITUATED ON LOW POINT ON SMOOT CRK NEAR
 INT OF HIGHWAYS 15 & 160 AT LOWER EDGE OF
 OLD SURFACE MINING AREA NEAR ORIGINAL GROUND

CONCERNS-
 PROXIMITY TO 4" GAS LINE, LOW ELEV,
 MULTIPLE PROPERTY OWNERS FOR SITE
 CONSTRUCTION AND ACCESS,
 LOCATED AWAY FROM DRY FORK AREA.

PREPARED BY _____
 FROM DOWNLOADED IMAGES AND CONTOURS FROM
 KYMARTIAN WEB SITE ALONG WITH INFORMATION FRM
 PVA MAPS AND PRELIMINARY DGPS SITE SURVEY.

APPALACHIAN WIRELESS		
101 TECHNOLOGY DRIVE IVEL, KY 41642		
DRAWN JWC	DATE 6/2/09	DRYFORK TOWER SITE ALTERNATE LOCATION #4 SITE INSPECTION CASE No 2009-00064
APPROVED	DATE	
SCALE 1" = 200'	SHEET 5 OF 6	PROJECT NO. BROWNLTSITES

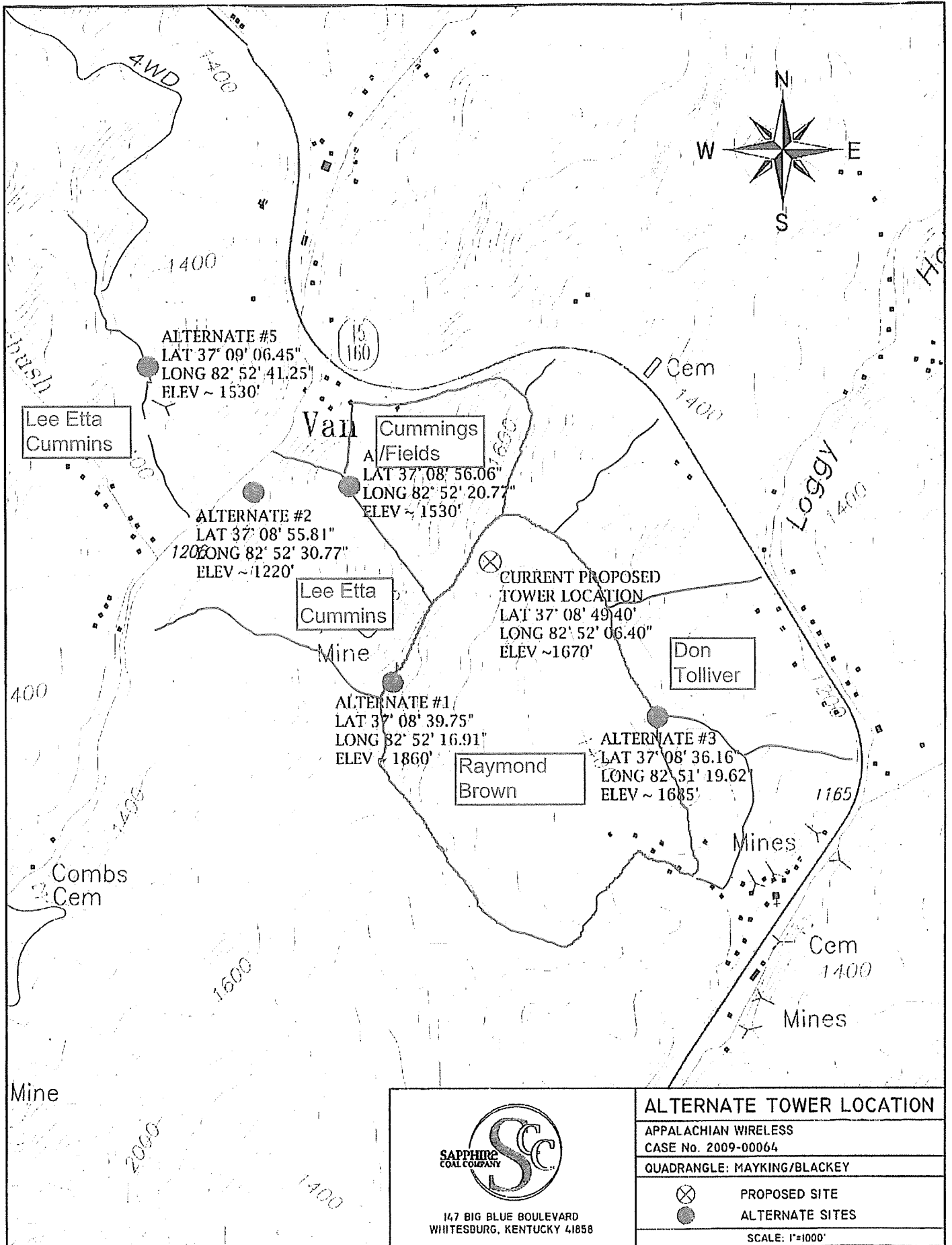
Exb 4



SITE INSPECTION
 06/02/09
 BY J.W. CAUDILL WITH MARTY THACKER PRESENT
 DGPS LOC NAD83 STATE PLANE KY SOUTH ZONE
 N-1951199', E-2477230, EL 1572' MSL
 SITUATED ON A POINT ON SMOOT CRK NORTHWEST
 INT OF HIGHWAYS 15 & 160 AT LOWER END OF
 OLD SURFACE MINING AREA.
CONCERNS-
 PROXIMITY TO 2" GAS LINE, LOW ELEV,
 MULTIPLE PROPERTY OWNERS FOR TOWER SITE
 AND ACCESS ROAD CONSTRUCTION,
 LOCATED AWAY FROM DRY FORK AREA, LOCATED
 WITHIN PROPOSED SURFACE MINING PERMIT AREA.
 PREPARED BY _____
 FROM DOWNLOADED IMAGES AND CONTOURS FROM
 KYMARTIAN WEB SITE ALONG WITH INFORMATION FRM
 PVA MAPS AND PRELIMINARY DGPS SITE SURVEY.

APPALACHIAN WIRELESS		
101 TECHNOLOGY DRIVE IVEL, KY 41642		
DRAWN JWC	DATE 6/2/09	DRYFORK TOWER SITE ALTERNATE LOCATION #5 SITE INSPECTION CASE No 2009-00064
APPROVED	DATE	
SCALE 1" = 200'	SHEET 6 OF 6	PROJECT NO. BROWNALTSITES

Exb 5



147 BIG BLUE BOULEVARD
WHITESBURG, KENTUCKY 41858

ALTERNATE TOWER LOCATION	
APPALACHIAN WIRELESS CASE No. 2009-00064	
QUADRANGLE: MAYKING/BLACKEY	
	PROPOSED SITE
	ALTERNATE SITES
SCALE: 1"=1000'	

Exb 6