

1 EXAMINATION UNDER OATH

2 OF

3 JAMES W. CAUDILL

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7 Stenographic report of examination under oath of  
8 JAMES W. CAUDILL taken at the East Kentucky Network d/b/a  
9 Appalachian Wireless facility, located on U.S. 23, Ivel,  
10 Kentucky, on Tuesday, September 15, 2009, at the  
11 approximate hour of 9:45 a.m. Said testimony taken in  
12 conjunction with a case before the Commonwealth of  
13 Kentucky, Public Service Commission, Case No. 2009-00064,  
14 East Kentucky Network, LLC, d/b/a Appalachian Wireless,  
15 Petitioner, Dry Fork Cell Tower Property, Letcher County,  
16 Kentucky.

17  
18  
19 PRESENT: Hon. William S. Kendrick  
20 ATTORNEY AT LAW  
311 North Arnold Avenue  
21 Prestonsburg, Kentucky 41653  
ATTORNEY FOR EAST KENTUCKY NETWORK

22  
23 Mr. Dennis Shepherd

24 Mr. Mike Johnson

25 Mr. Marty Thacker

INDEX

	<u>Witness, JAMES W. CAUDILL</u>	<u>Page</u>
4	EXAMINATION by Mr. Kendrick . . . . .	3 - 71
5	EXHIBIT NO. 1A - location map - referenced . . .	13
6	EXHIBIT NO. 1B - tower profile - referenced . . .	17
7	EXHIBIT NO. 1C - site survey - referenced . . . .	17
8	EXHIBIT NO. 2A - location map - referenced . . .	18
9	EXHIBIT NO. 2B - tower profile - referenced . . .	18
10	EXHIBIT NO. 2C - site survey - referenced . . . .	18
11	EXHIBIT NO. 3A - property description - referenced	21
12	EXHIBIT NO. 3B - plat - referenced . . . . .	22
13	EXHIBIT NO. 4A - cover map - referenced . . . . .	23
14	EXHIBIT NO. 4B - Alt. Site 1 - referenced . . . .	24
15	EXHIBIT NO. 4C - Alt. Site 2 - referenced . . . .	25
16	EXHIBIT NO. 4D - Alt. Site 3 - referenced . . . .	26
17	EXHIBIT NO. 4E - Alt. Site 4 - referenced . . . .	31
18	EXHIBIT NO. 4F - Alt. Site 5 - referenced . . . .	38
19	EXHIBIT NO. 5A - PVA map - referenced/filed . . .	45
20	EXHIBIT NO. 5B - contour map - referenced . . . .	47
21	EXHIBIT NO. 6 - blown-up aerial map - referenced .	47
22	EXHIBIT NO. 7 - map - referenced . . . . .	71
23	EXHIBIT NO. 8 - map - referenced . . . . .	71
24	EXHIBIT NO. 9 - Sapphire map - referenced . . . .	67
25	REPORTER'S CERTIFICATION . . . . .	72



1 Fork tower, cellular tower, site for Eastern Kentucky  
2 Network doing business as Appalachian Wireless that you  
3 obtained at the request of their regular engineer, Randall  
4 Coleman; is that correct?

5 A. That is correct.

6 Q. Now how long have you been a professional engineer?

7 A. Since -- I think it was 1980. About 28, 29 years.

8 Q. Do you have a license or certificate number that is  
9 registered with the state of Kentucky Professional  
10 Engineering Board?

11 A. Right. I got actually two licenses. One of them is  
12 professional engineer; that number is 12305.

13 Q. Yes, sir.

14 A. Professional land surveyor, or licensed land  
15 surveyor -- they keep changing it -- is 2259.

16 Q. And you have been a professional engineer since  
17 1980; is that correct?

18 A. 1980, 1981. I don't remember exactly. I done both  
19 the surveyor and engineer about the same time. I think the  
20 surveyor was '80 and the engineer was '81.

21 Q. So you're talking here -- we're going right on 30  
22 years work experience with the professional certificate --

23 A. Correct.

24 Q. (Continuing) -- for each?

25 A. Right.

1 Q. Engineering and surveying; is that correct?

2 A. Correct.

3 Q. Do you have some area of concentration or specialty,  
4 or what type of professional engineer are you certified as?

5 A. I'm certified as a mining engineer, and I do --  
6 almost all my work in the past has been in coal mining  
7 engineering in this area.

8 Q. Does that include planning and assisting coal  
9 operators and coal companies in acquiring mining permits  
10 here in the state of Kentucky?

11 A. That's been the main part of the business is mining  
12 permits.

13 Q. Does that include surface mining, deep mining and  
14 other activities related to the acquisition of surface and  
15 deep mining permits?

16 A. Yes, it is.

17 Q. Does that include as well the pertinent or related  
18 areas in permit acquisition of road construction, pond  
19 construction? Just what all does it include?

20 A. Any and everything that would be required to go out  
21 and do mining under the regulations that we have in place.

22 Q. And as far as property boundaries that relate to the  
23 mining or property boundaries period, does it include the  
24 location and setting of property boundaries and monuments?

25 A. Yes, it does. And only a licensed land surveyor can

1 work on property lines and set monuments.

2 Q. Now when did you commence work on what we're calling  
3 here the Dry Fork tower site, and how did that come about?

4 A. Let's see.

5 Q. Approximately, if you remember.

6 A. Well, it was probably the summer of 2008. I started  
7 working on it under -- Dennis asked me to evaluate a couple  
8 of sites on the property then.

9 Q. Are these sites in Letcher County?

10 A. Yeah, on the Dry Fork area.

11 Q. And by Dennis, do you mean Dennis Shepherd?

12 A. Dennis Shepherd.

13 Q. And is he the land man and land acquisition  
14 department that's connected with the tower site owner here,  
15 East Kentucky Network?

16 A. Yes, he is. And he's the one I normally work with  
17 on stuff like that.

18 Q. Does he work for Thacker Grigsby Telephone Company  
19 in Knott County?

20 A. Yes, I think so.

21 Q. And what sites did you investigate at that time  
22 around the summer of 2008 in connection with the Dry Fork  
23 cell tower project?

24 A. I evaluated the site where that we eventually  
25 decided to build a tower and a site immediately adjacent to

1 that on an old mine bench up on the hill above it and a  
2 site on around the ridge on top of the main ridge, which  
3 coincidentally, I guess, would be Alternate Site Number 1  
4 on these alternate site maps.

5 Q. So you looked at three sites in the area; is that  
6 correct?

7 A. Correct.

8 Q. Let me ask you this: Are you able to tell us if  
9 there were any other tower sites in that immediate vicinity  
10 serving the area that the proposed site was to serve?

11 A. It'd be a lot of other possible sites, but we were  
12 looking to cover a particular area and -- and the sites  
13 that we were looking at would have covered that area.

14 Q. Were there existing tower facilities that covered  
15 that area, the targeted area --

16 A. No.

17 Q. (Continuing) -- that you all were targeting?

18 A. No. It's -- it's a bad area for cell reception.

19 Q. And so as far as other towers owned by other  
20 companies to co-locate, I think it's called, or to tie onto  
21 or to lease from, was there any potential for that type of  
22 service by this company in that area to your knowledge?

23 A. None that I know of.

24 Q. Now you mentioned that coincidentally Alternative  
25 Site Number 1, proposed by the intervener Lee Etta

1 Cummings, was looked at preliminarily as a possible site;  
2 is that correct?

3 A. Yes, it is.

4 Q. Did you make an evaluation, an investigation of that  
5 proposed alternative -- what's now a proposed alternative  
6 site -- at that time in connection with the original  
7 attempt to select a site?

8 A. Yes. In looking at the site, it was -- it's a steep  
9 rocky ridge to get up on top of the mountain from the mine  
10 area where the existing mining bench that we decided to  
11 build the tower on, and it would've been hard to get a road  
12 up. Plus there was a gas line that we crossed the area  
13 that we would've probably had to cross twice to get to it,  
14 and it's real hard to cross a gas line in a steep rocky  
15 place like that. And it would've been a difficult site to  
16 build and to get to, access.

17 Q. When you say it was steep and rocky, is it at a  
18 higher elevation? You have to go uphill to it? It's at a  
19 higher elevation?

20 A. Yeah. Yeah, it's probably a couple hundred foot  
21 higher than the mine bench we used.

22 Q. About how far, as the crow flies, from the present  
23 site is it from the site you did end up selecting?

24 A. Just guessing at it from looking at the map,  
25 probably about 1500 feet.

1 Q. And so for the reasons you just stated, that site  
2 was eliminated from consideration before any question was  
3 raised as to possible alternative sites; is that correct?

4 A. The site that we chose to put it on was a better  
5 site than that site.

6 Q. And why was it a better site?

7 A. Because it eliminated the having to build a tower  
8 site on a rough, rocky ridge and moving the gas line, and  
9 it was just a good site to work with.

10 Q. What about access?

11 A. Yes, sir.

12 Q. What about access to the other site that you did not  
13 select? What would you have had to have done for access to  
14 it?

15 A. Oh, we would've had to use a hammer to chisel out  
16 rock to build a road. We would've had to hammer the road  
17 in all the way, from the thousand, 1500 foot from the  
18 existing, form the site we chose. And the site itself when  
19 we got there to the site we would've had to have done the  
20 same thing on the ridge.

21 Q. So if I understand it, access conditions and  
22 construction conditions as to the other site you looked  
23 at --

24 A. And the gas line.

25 Q. (Continuing) -- that happens to be Alternative Site

1 1 as proposed by Ms. Cummings --

2 A. And the gas line.

3 Q. (Continuing) -- and the gas line made it a less

4 desirable site; is that correct?

5 A. Correct.

6 Q. So that you rejected it at the time?

7 A. Right.

8 Q. And was that your evaluation of it, too? That's not

9 just what the company decided on, but was that your

10 evaluation as a professional engineer and someone

11 experienced in road construction and how you go about that?

12 A. Yes.

13 Q. Was that your own recommendation?

14 A. That was my recommendation, correct.

15 Q. Was there any other site or sites that you

16 investigated in the local area there going into this

17 project?

18 A. There was a site about 200 foot from where we

19 finally chose the tower site up on the side of the hill,

20 and we had to eliminate it because part of it was

21 overburden and part of it was solid rock. And we couldn't

22 -- we either had to be completely on solid or completely in

23 overburden. So we had to eliminate it. But that was only

24 about 200 foot from where the bench was at.

25 Q. Whose land was that on?

1 A. That was still on Brown's property, Raymond Brown's  
2 property.

3 Q. Just explain to the commission what you just said  
4 about why you eliminated that site as to the  
5 rock/overburden makeup.

6 A. It was a small bench around the side of the  
7 mountain, but it was determined that it was a reclaimed  
8 high wall. It was right at the edge of a reclaimed high  
9 wall, and we couldn't get enough area on the bench to set a  
10 tower on the solid. And it left part of it out in the  
11 overburden, and we couldn't -- that would've made an  
12 unstable site; so we couldn't use it.

13 Q. Did you investigate any other sites at the time?

14 A. No, no. That was it.

15 Q. So if I understand it, co-location was not an  
16 alternative in this area, and the other two sites that you  
17 looked at were not desirable for the reasons that you've  
18 just stated?

19 A. Correct.

20 Q. So what about the site that you selected where the  
21 application is made for for the Dry Fork cell tower? What  
22 was advantageous about that site over any other site that  
23 you investigated?

24 A. Easy access to the property, existing road right to  
25 it, the area didn't need any regrade work. It was a

1 backfill mine bench. All we had to do was modify our  
2 foundation for mine spoil and go to work. That's all we  
3 needed.

4 Q. Let me translate a little bit what you're saying  
5 there. This area had been previously surface mined; is  
6 that correct?

7 A. Correct.

8 Q. And there was already an access road to it; is that  
9 correct?

10 A. Correct.

11 Q. And the area where the site was planned required  
12 little preparation, not near as much preparation or didn't  
13 require a lot of preparation for the tower; is that  
14 correct?

15 A. That'd be correct.

16 Q. Now let me ask you. You've got certain maps and  
17 exhibits there in front of you. Let me ask you to just go  
18 through these exhibits, which have been pre-numbered, and  
19 you tell us what they are. First of all, let me just ask  
20 you, did you prepare the application that was submitted by  
21 EKN for this project?

22 A. I don't prepare the application. Marty does the  
23 actual application itself.

24 Q. Marty Thacker?

25 A. Marty Thacker.

1 I do part of the exhibits. I do the surveying and  
2 the map work on them.

3 Q. And do you have the maps that you prepared and the  
4 exhibits that you prepared that are with the application?

5 A. Yes. Yes, I do.

6 Q. Just start with Exhibit 1 and tell us what that is.

7 A. You got three separate drawings for Exhibit 1.

8 Q. Look at Exhibit 1A, please, and identify it.

9 A. 1A is a map on a 500-foot scale showing the  
10 topography of the area, and it was made to show the  
11 existing structures and landowners within 500 foot of a  
12 proposed tower and 200 foot of the road.

13 Q. Could that be called generally the site map or  
14 location map?

15 A. Yeah. General location map.

16 Q. And what's the date that you prepared that?

17 A. 9/19/08.

18 Q. And is that Exhibit 1A then --

19 A. It is.

20 Q. (Continuing) -- that we submitted with the  
21 application?

22 A. Yeah.

23 Q. Is that right?

24 A. It shows the tower site, access roads and the  
25 property owners around the tower site.

1 Q. What generally is the lay of the land up there as  
2 far as the topography?

3 A. Well, originally it was, you know, just a regular  
4 top of a mountain, but it's been mined and a big level area  
5 has been created on the mine site, or generally rolling  
6 area.

7 Q. What about the surrounding property?

8 A. It's quite --

9 Q. Is it mountainous, is it flat or what is it?

10 A. Quite a bit of the area has been mined, and it's in  
11 a flat area now. Where the tower is sitting is right where  
12 it changes from flat area back into their original  
13 mountain.

14 Q. What is the approximate elevation of the area where  
15 the tower is located?

16 A. About 1600 and -- hold on. 1660 feet above sea  
17 level.

18 Q. You said there was a road to the site. Is that  
19 shown on your map?

20 A. Yes, it is.

21 Q. And what watershed does that road follow from the  
22 county road or state road to the tower?

23 A. Okay. It's actually on the original map that was  
24 prepared; there's two roads shown on it. One road is on  
25 the south side of the property, and it's on Dry Fork

1 stream. And it goes from Highway 15 northwest along  
2 existing road to the tower site. And the second road:  
3 It's on Smoot Creek side of the mountain, which is the  
4 northwest side of the mountain, and it goes from Highway 15  
5 the southeast direction to the tower site.

6 Q. Which of those roads that you've described was the  
7 original access road that was selected to the property?

8 A. Both of those roads were submitted as original  
9 access roads.

10 Q. Was one later eliminated?

11 A. Yes. The one on the north, northwest side. The one  
12 on Smoot Creek was eliminated.

13 Q. Was that the one that crossed land that was  
14 subsequently determined that the intervener, Ms. Cummings,  
15 had an interest in?

16 A. Yes, it is.

17 Q. And who owned the other interest in it?

18 A. Linda Fields. She used to be Fields.

19 Q. Now in your original application what other maps or  
20 exhibits were included?

21 A. Got an exhibit map showing a profile of the actual  
22 tower itself with a general layout of the structure mainly  
23 to show the elevations of the panel antennaes (sic) and the  
24 dish, the microwave dish, on the tower.

25 Q. Are there dimensions or sizes of those?

1 A. Yes.

2 Q. What can you tell us about the tower from looking at  
3 that map as far as its elevation or height or --

4 A. Okay. It shows a 300-foot tower.

5 Q. Three hundred foot high; is that correct?

6 A. Three hundred foot high, yeah. That's from the  
7 foundation. And the first satellite dish would be set 240  
8 foot from the foundation, and the panel antennae would be  
9 set every 15 foot after that, depending on how many they  
10 needed.

11 Q. Let me ask you: Is the entire tower facility and  
12 the buildings, the satellite dishes and so forth you  
13 referred to there, located within the property of  
14 Mr. Raymond Brown?

15 A. Yes, it is.

16 Q. And is that within the lease line limits and  
17 boundary that Mr. Brown executed a lease for for tower site  
18 purposes to Appalachian Wireless, or EKN?

19 A. Yes.

20 Q. Tell me about the foundation of this tower. You  
21 mentioned a name of it. Repeat that again and just tell  
22 the commission again briefly what that is as you understand  
23 it.

24 A. It's just a concrete base designed to hold the tower  
25 up that's set on the ground that the tower actually bolts

1 to.

2 Q. Does this tower require the use of adjacent guide  
3 wires to support it?

4 A. No, no. The concrete base is designed to support  
5 the tower by itself.

6 Q. Including the entire cellular tower facility and the  
7 adjacent buildings to it, what size area is involved here?

8 A. Normally in working with this to get enough area to  
9 not have any problems, we try to get a half an acre of  
10 property, and that's what we got a lease on from Brown,  
11 Raymond Brown: Was half an acre. The actual tower site  
12 itself doesn't take near that much property.

13 Q. Are there any other maps there?

14 A. Yeah.

15 Q. You've identified 1A. And what is the area tower  
16 profile?

17 A. That's 1B.

18 Q. All right. And do you have 1C?

19 A. 1C is a -- it shows the site survey of the lot and  
20 the actual structural location within the site survey. And  
21 it's a generalized plan of how they're going to set the  
22 tower and the buildings associated with it.

23 Q. Did you prepare all of those maps?

24 A. Yes, I did.

25 Q. Is there any encroachment of any portion of the

1 lease area that's not on Raymond Brown? Of the tower site  
2 itself?

3 A. No.

4 Q. Did you subsequently have occasion to prepare  
5 exhibits for the purpose of amending the application of the  
6 cell tower facility in some manner?

7 A. Yes, I did.

8 Q. And do you have those maps?

9 A. Yeah. They're listed as Exhibits 2A, B and C.

10 Q. Just tell us what exhibit 2A is.

11 A. Exhibits 2 are identical to Exhibit 1 other than the  
12 northwest road has been deleted as part of the permit  
13 application.

14 Q. And why was that?

15 A. Because it was found that Lee Etta Cummings had an  
16 interest in it and did not want us to use the property.

17 Q. And is that the Smoot Creek --

18 A. Yeah.

19 Q. (Continuing) -- access site?

20 A. Smoot Creek access site.

21 Q. Were both access sites already existing as far as a  
22 construction of a road that led from each of them from  
23 Highway 15 to the tower site?

24 A. Yes. You could drive all the way through.

25 Q. Was that from the previous mining?

1 A. Yeah. Yeah, the previous mining. The Smoot Creek  
2 side was the main haul road for the previous mining.

3 Q. Was that road preferable in some manner as far as  
4 its location?

5 A. Yeah. It was designed and built to handle heavy  
6 traffic.

7 Q. What about the distance that one had to travel?  
8 Which one was preferable?

9 A. The Smoot Creek road was a lot easier to get to the  
10 site, a lot quicker off the main road.

11 Q. And if I may paraphrase, are you saying that it was  
12 an existing road and it was just better conditions from  
13 that site?

14 A. Yes. It was better conditions. It was shorter  
15 road, better conditions and -- and it was easier access  
16 from the area that we worked around, which is north of the  
17 site.

18 Q. Was there any portion of that road that it was  
19 necessary to reconstruct or relocate? I'm talking about  
20 this Smoot Creek side that was eventually eliminated.

21 A. The way the road was laid out in the existing state  
22 there, part of it was on the property, crossed over into  
23 the property of Lee Etta Cummings, or where we knew Lee  
24 Etta Cummings owned property. And when they were getting  
25 ready to use the road, they reconstructed a section to cut

1 off an encroachment onto the Lee Etta Cummings property  
2 that we knew about.

3 Q. Was that encroachment of the road on property that  
4 she owned individually?

5 A. Individually, right. Separate property.

6 Q. So the reconstruction that occurred was to take it  
7 off her property that she owned herself outright?

8 A. Right.

9 Q. Is that correct?

10 A. Right.

11 Q. And was that done?

12 A. Yes, it was.

13 Q. Whose property did the road remain on until it  
14 reached the boundary site then?

15 A. It was --

16 Q. The tower site.

17 A. Property originally owned by Harry Fields, Harry and  
18 Linda Fields, and that they had a partnership with Lee Etta  
19 Cummings's father. And at some point along the line they  
20 had deeded her a half interest in that property, but that  
21 was something that I missed in the original research on  
22 this.

23 Q. Is the entire road that you all eliminated that runs  
24 from 15 to the tower site on the Smoot Creek property as it  
25 was finally established entirely on property owned by Lee

1 Etta Cummings and a co-owner?

2 A. Yes.

3 Q. And Appalachian Cellular had permission through  
4 Raymond Brown of the co-owner, but it did not have Lee Etta  
5 Cummings's permission; is that correct?

6 A. That's correct.

7 Q. Was Ms. Cummings's interest known to you at that  
8 time?

9 A. No. No, I didn't -- I didn't know it at all.

10 Q. So the road was eliminated on the Smoot Creek side.  
11 What do you have there for Exhibits 2B and 2C?

12 A. Exhibit 2B and 2C remain identical other than the  
13 date has been changed to match the change on the top sheet  
14 or the location sheet.

15 Q. And what was the date of the exhibit that you  
16 prepared that you described to us there today made by you?

17 A. 04/15/09.

18 Q. And who did you submit them to?

19 A. Marty Thacker.

20 Q. To make the amended application?

21 A. Right.

22 Q. Now what about Exhibit 3? Would you identify that?

23 A. Exhibit 3 is the survey I done in preparation of the  
24 leasing the lot to build a tower on. Exhibit 3A is the  
25 description of the property that we leased, made from the

1 plat, which is Exhibit 3B, showing my survey and the roads  
2 and the other necessary information for the plat to be  
3 recorded in the courthouse.

4 Q. And the entire area taken up by the cell facility  
5 site is one half acre?

6 A. One half acre.

7 Q. .5 acres that you described there in Exhibit 2C; is  
8 that correct?

9 A. Right. And that was all dated 9/16/08.

10 Q. And that's on your survey map as Exhibit 3B; is that  
11 correct?

12 A. Correct.

13 Q. Now let me ask you this. During the process of this  
14 and the progress of prosecution of this matter and the PSC,  
15 did you examine a submission by Ms. Cummings and her land  
16 engineer, or land surveyor, that by which she proposed some  
17 alternate sites to the tower location that EKN was  
18 planning?

19 A. Yes, I did.

20 Q. And did you investigate those proposed alternative  
21 sites?

22 A. Yes. I looked at each of those alternative sites  
23 with Marty Thacker. We went together on that.

24 Q. Tell us who Marty Thacker is, by the way. What's  
25 his role in this?

1 A. Marty Thacker works for Thacker Grigsby Telephone  
2 Company, but he works generally with Appalachian Wireless,  
3 or East Kentucky Networks, to put up all their towers.  
4 He's the guy in charge of getting everything together and  
5 getting the towers put up.

6 Q. Is it your understanding that -- and I'm not getting  
7 into a business matter here, but briefly do you have a  
8 common understanding of Thacker Grigsby and its  
9 relationship to EKN?

10 A. Yes, I do.

11 Q. What is it?

12 A. Thacker Grigsby is one of the telephone companies  
13 that went together to form East Kentucky Network.

14 Q. One of five?

15 A. Yeah.

16 Q. All right. I want you to just look at the exhibit  
17 that you have there and tell the PSC what those maps are  
18 that you've got in front of you.

19 A. Okay. It's Exhibit 4. And it's exhibit -- it's got  
20 six separate maps on it. Exhibit 4A is a cover map showing  
21 the five alternate locations.

22 Q. Let me interrupt you. Is there a map that you're  
23 looking at of your evaluation and investigation of each of  
24 the alternative five sites that were planned?

25 A. Right. Exhibit 4A is a cover sheet showing the

1 location of all the sites plus the site that we chose to  
2 build the tower. So it's got six sites on it. And then  
3 after that it's five attachments showing each tower.

4 Q. Showing the proposed alternative sites?

5 A. Yes, sir.

6 Q. Is that correct?

7 A. Correct.

8 Q. Let me ask you about Alternative Site 1 and ask you  
9 to identify what map number depicts it.

10 A. Okay. Alternative Site 1 is on Exhibit 4B.

11 Q. And you explained a little bit earlier about  
12 Alternative Site 1, the reason that -- that is the site  
13 that you looked at --

14 A. Prior to.

15 Q. (Continuing) -- upon your initial investigation of  
16 appropriate sites; is that correct?

17 A. Yes, it is.

18 (WHEREUPON, AN OFF-THE-RECORD DISCUSSION  
19 WAS HELD, AFTER WHICH THE FOLLOWING PROCEEDINGS OCCURRED.)

20 A. We were looking at Alternate Site Number 1.

21 CONTINUED QUESTIONS BY MR. KENDRICK:

22 Q. That's the one you explained earlier to us; is that  
23 correct?

24 A. Yes, it is.

25 Q. And you've told us the problems with that site; is

1 that correct?

2 A. Right.

3 Q. Is there anything you want to add to that or change  
4 about it?

5 A. No, no. Everything remains the same.

6 Q. What about Alternative Site 2? What was your  
7 evaluation of it?

8 A. That'd be Exhibit 4C, and it's located in the valley  
9 below the mountain, down in the valley. There's no way  
10 that it would work in that area. It would have such a  
11 small coverage area, it wouldn't be worth building.

12 Q. Would that be an area that had it been proposed in  
13 the first place, that you would reject --

14 A. Yes, it would have.

15 Q. (Continuing) -- out of hand?

16 A. Yeah. Just because of the elevation.

17 Q. And what else did you find about that site as far as  
18 what kind of tower would be needed to provide coverage, if  
19 you made any such finding?

20 A. Nothing. No tower that we normally work with would  
21 be tall enough to reach up to a point where we would get a  
22 signal out from there.

23 Q. Do you have comments or concerns posted to the maps  
24 that you prepared that you're looking at?

25 A. Yes, I do.

1           On Site Number 2 I have listed as proximity of the  
2 gas and power lines, low elevations and swampy area. There  
3 was cattails, which would indicate a poor foundation  
4 material.

5           Q.       Are there any other comments you want to add here as  
6 we sit today concerning the problem or concerns with that  
7 site other than what you've told us about earlier of the  
8 coverage and tower size?

9           A.       No. It's just -- that should cover it.

10          Q.       Would a tower that size require guidelines, if you  
11 know?

12          A.       I don't think I've ever seen a tower that tall, that  
13 you could build tall enough to get out of there.

14          Q.       Have you been involved with EKN in the selection and  
15 application for other tower sites besides this one in  
16 eastern Kentucky?

17          A.       Yes. The same general information and maps that  
18 I've done for this one, I've done for several.

19          Q.       Then what is your next map? And what of the  
20 proposed alternative tower sites, which of them does it  
21 relate to, please?

22          A.       It's Alternative Location Number 3, and it's Exhibit  
23 4D. And it's basically very similar to the area that we  
24 did select. The only difference is the location. It's  
25 located quite some distance, probably 1800, 2,000 foot from

1 the actual location that we did choose. And the reason  
2 that we wouldn't choose it is because it's too far to one  
3 side. It's mostly looking down Dry Fork, and it has poor  
4 coverage of the area back towards Smoot Creek.

5 Q. And what about the area along the targeted area  
6 along --

7 A. Yeah.

8 Q. (Continuing) -- Route 15?

9 A. It would be a poor location to pick up both Smoot  
10 Creek and Dry Fork.

11 Q. Were there any other problems with that site?

12 A. No. No special site beyond what we're doing with  
13 the site that we chose. It's basically the same thing,  
14 construction wise.

15 Q. And it just did not provide a desirable site as the  
16 site that was chosen?

17 A. Right. It wasn't in the area --

18 Q. To provide coverage? Well, go ahead and say it.

19 A. It wasn't in the immediate area that we were looking  
20 at to provide coverage for the area that we wanted.

21 Q. The targeted area?

22 A. Right.

23 Q. Along Route 15?

24 A. 15 and Smoot Creek.

25 Q. I take it Route 15 is one of the -- tell us how it

1 ranks, if you want to, as one of the arteries in and out of  
2 Letcher County and points north and south?

3 A. From Whitesburg it's the main road to the east.  
4 Everything that -- everything towards Hazard is the main  
5 road. All the other roads are secondary in that direction.

6 Q. Whose property is that side on?

7 A. It's on Raymond Brown's property.

8 Q. So that's on the property owner at which a better  
9 site was chosen; is that correct?

10 A. Correct, yes.

11 Q. Is there an adjoining property owner named Don  
12 Tolliver?

13 A. Yes, there is.

14 Q. Let me ask you this. Would this site have required  
15 more site preparation on the Brown property than for the  
16 site that was selected?

17 A. Yes, it would've required it. It would've been -- a  
18 little more sloping would've had to have been graded,  
19 leveled off.

20 Q. Approximately how much would you say?

21 A. Probably a couple of days with a bull dozer, small  
22 dozer.

23 Q. Whereas the site that was selected was pretty much  
24 ready to go?

25 A. Pretty much ready to go.

1 Q. Did any further construction, regrading or removal  
2 of overburden have to be done on the site that was  
3 selected?

4 A. There was some work done on it. It was mostly -- it  
5 was just getting everything ready to dig the hole that the  
6 foundation went in.

7 Q. No real overburden had to be removed?

8 A. No.

9 Q. Other than what's normal for any kind of structural  
10 foundation?

11 A. Mostly just grading out, grading off the grass and  
12 vegetation and --

13 Q. Whether you'd been building a commercial building or  
14 some other large structure, nothing more than what's usual;  
15 is that correct?

16 A. Right.

17 Q. If that much?

18 A. If that much.

19 Q. All right. Now is that all you want to say about  
20 Alternative Site 3 as proposed from an engineering  
21 standpoint?

22 A. Just --

23 (WHEREUPON, AN OFF-THE-RECORD DISCUSSION  
24 WAS HELD, AFTER WHICH THE FOLLOWING PROCEEDINGS OCCURRED.)

25 CONTINUED QUESTIONS BY MR. KENDRICK:

1 Q. To follow up my last question regarding the  
2 construction that would have to be done as to Alternative  
3 Site Number 3, you've told us about additional soil and  
4 overburden removal to make it, what, a flat desirable site,  
5 or what?

6 A. Right, to make it flat.

7 Q. Would any more grading or preparation have to be  
8 done in connection with a road to Alternative Site 3 from  
9 the Brown property?

10 A. Yes, it would. You'd have to reconstruct the road.  
11 The way the road runs now out to it is along the ridge,  
12 which is right along the property lines. It'd be right on  
13 the property lines from the adjacent owners. So you'd have  
14 to construct it on one side to stay on the ground  
15 properties. So you'd have to redo the road from there  
16 about 1500, 2,000 feet.

17 Q. Well, what type of work would you have to do to do  
18 that?

19 A. You've got a five percent grade on that backfill,  
20 and you'd just have to cut a road on a five percent grade.  
21 It would be work. And you'd have to surface the road.

22 Q. Wait a minute. Okay.

23 I'm a layman, but are you saying basically there's  
24 14 to 1500 feet between the alternative site and the  
25 proposed site for which a totally new road or additional

1 road and additional road link would have to be constructed;  
2 is that correct?

3 A. That's correct.

4 Q. Are you familiar with any other problems at that  
5 site --

6 A. No.

7 Q. (Continuing) -- as far as engineering or  
8 construction?

9 A. No, no more. Nothing comes to mind on it anyway.

10 Q. So with the additional 1400 to 1500 feet of road  
11 site to be constructed, just tell the commission is there  
12 additional environmental impact to the ground around there  
13 and the watershed from that additional construction alone?

14 A. That reconstruction of the road would be on the  
15 mine spoil area, and no additional trees would have to be  
16 cut. It would just be reconfiguring the road in the mine  
17 spoil.

18 Q. That was 4? Site Number 4?

19 A. Yes, it was. No. That was three. Site 4 is the  
20 next one.

21 Q. All right. Now what is your map number exhibit for  
22 4, Alternative 4?

23 A. 4E.

24 Q. And what did your investigation show with respect to  
25 this proposed alternative site as a desirable or

1       undesirable site for a cell tower location?

2       A.       The main problem with it is it's adjacent to a  
3       four-inch gas line, which the gas line would probably have  
4       to be moved to construct the tower at that location. The  
5       second main problem is the elevation. It is probably 200  
6       foot lower on the mountain than the site we used, and it'd  
7       be -- and the coverage area would be very limited from  
8       that. And where it's -- where the tower was proposed,  
9       there's an intersection of three property lines. So we'd  
10      probably wind up working with three different property  
11      owners to get that in.

12      Q.       Who are these additional property owners that you  
13      would be required to, that you say, work with?

14      A.       Well, one of them would be James Brown property; the  
15      other one would be Cummings and Fields, which we've talked  
16      about -- it's a jointly-owned property -- and the other one  
17      would be Lee Etta Cummings herself.

18      Q.       And the company had no agreement or consent from any  
19      of these people for the construction of a tower site or the  
20      construction of access to a tower site over their property?

21      A.       None that I know of.

22      Q.       No agreement you were supplied with; is that  
23      correct?

24      A.       Other than the agreement that they had with Raymond  
25      Brown, and it's an agreement on the road.

1 Q. So the company would've had to access this property  
2 from Raymond Brown's property; is that correct?

3 A. Well, actually you couldn't get to it from Raymond  
4 Brown's property. They would have to access it through the  
5 Cummings-Fields property most likely, the road that we  
6 eliminated before.

7 Q. Would this site have required further road  
8 development and access development from the Cummings-Fields  
9 property?

10 A. Yes, it would. Probably -- I don't know -- not a  
11 lot. Two or 300 foot of road would have to be constructed  
12 to get to it.

13 Q. And whose property would that be over?

14 A. That would be over Cummings-Fields or Lee Etta  
15 Cummings's property, depending on which side of the  
16 property line we worked on.

17 Q. And there was no easement that EKN had here  
18 regarding from the Fields side of it except for the  
19 existing road. So that would've been a new easement --

20 A. Right.

21 Q. (Continuing) -- that would've have to have been  
22 required?

23 A. Right.

24 Q. And whose property did you say this was on?

25 A. James Brown.

1 Q. So you had no agreements with any of the people who  
2 would be affected for the use of that site for these  
3 purposes?

4 A. None at all.

5 Q. I need you to tell the board what specifically are  
6 the problems with the gas line there and as far as how the  
7 four-inch gas line and how it impacts what would be  
8 necessary for the construction of a tower site and/or its  
9 access?

10 A. Well, it's right in the site that we would need to  
11 reconstruct the site for the tower itself, and it would  
12 probably have to be moved. It's laying on top of the  
13 ground; it's an exposed gas line. It's not something we  
14 could drive over. It would have to be altered.

15 Q. It's on top of the ground. So how far would it have  
16 to be moved, if you're able to say?

17 A. Well, probably -- probably need to move, change  
18 about three, 400 foot of line to get it out of the way, and  
19 you'd have to have a new easement or location to put that  
20 in.

21 Q. In other words, it could not be done within the  
22 existing site owner, James Brown property?

23 A. No, I don't think so.

24 Q. Additionally whose property would it have to cross?

25 A. Lee Etta Cummings.

1 Q. That is if the line were moved, or if you can tell  
2 from that?

3 A. Lee Etta Cummings property and/or Cummings-Fields  
4 property and probably both of them to get it moved  
5 adequately out of the way.

6 Q. Would that be a temporary or permanent removal?

7 A. It could be either one. Well, as long as the tower  
8 was there. You know, the tower would be there. That'd be  
9 forever. It would have to stay moved as long as the tower  
10 was there.

11 Q. Would the access road or an access road that would  
12 have to be built have to be taken into consideration, too,  
13 as to the location of that line?

14 A. Right. If you were moving the line, it would move  
15 it away from the access road, too, just because that'd be  
16 the practical thing to do if you were having to move it.

17 MR. KENDRICK: Off the record.

18 CONTINUED QUESTIONS BY MR. KENDRICK:

19 Q. The four-inch gas line: Whose property does that  
20 cross?

21 A. Right now it crosses Cummings-Fields property and  
22 Lee Etta Cummings' property, and it's awful close to the  
23 James Brown property, but the property line has not been  
24 surveyed in. It'd be hard to say whether or not it is or  
25 not.

1 Q. So if it were to be relocated, it would be relocated  
2 on the Lee Etta Cummings or the Cummings-Fields; is that  
3 right?

4 A. Yeah.

5 Q. It wouldn't be --

6 A. Part of it would probably be on James Brown tract,  
7 also.

8 Q. And there's no permission from the gas company to  
9 locate it any other place other than where it's located; is  
10 that correct?

11 A. That's right.

12 Q. When you look at a gas line that's there, what is  
13 your understanding of or how do you look at that as far as  
14 the right of the gas line to be located where it is when  
15 you evaluate a site for cell tower development?

16 A. In general when you see, find a gas line in place,  
17 they have got a right to put it where it is, but they may  
18 also have a right to put it in other places. We wouldn't  
19 know. A lot of property owners have the right to tell them  
20 that they can put it in a particular place or not, and we  
21 don't know what the circumstances is in that.

22 Q. Do you tend to view it as a permanent easement or --

23 A. The gas company will always have the right to run  
24 the gas line where it is, but they may have the right to  
25 put it in other places, also.

1 Q. But they may not; is that correct?

2 A. Right.

3 Q. Why was this a problem then from your standpoint as  
4 you look at it?

5 A. It's just --

6 Q. (Continuing) -- in connection with that four-inch  
7 gas line?

8 A. It's just located right in the area where we would  
9 want to put the tower site, and it would need to be moved  
10 because it'd be too dangerous to work around with the  
11 equipment.

12 Q. Have you been supplied with any instrument that  
13 grants a consent of the gas company to move or interfere  
14 with that line in any way?

15 A. No, I haven't.

16 Q. Do you know whose gas line that is?

17 A. No, I don't.

18 Q. Let me ask you one more question about that. What  
19 about the coverage for that area? Is it nearer or further  
20 away from some area that would be --

21 A. It would be --

22 Q. (Continuing) -- to be targeted?

23 A. It would be a poor location to cover the area that  
24 we were targeting. It would be impossible to get a signal  
25 to Dry Fork from there.

1 Q. What about Alternative Site 5? Do you have a map  
2 for it, and how is it identified?

3 A. Alternative Site 5 is on Exhibit 4F. And just a  
4 second.

5 And that'd be located across the valley from the  
6 tower site that we're using. It's located on an old strip  
7 bench on the other side of Smoot Creek, and it's just a  
8 long way from where we were originally targeting our tower  
9 site.

10 Q. I'm not sure I understood your first statement.  
11 What about the location? Where is it located from the  
12 tower site that was chosen? Did you say it's across --

13 A. Yeah. It's all the way across Smoot Creek on the  
14 other side and the mountain on the other side of the creek,  
15 probably 3,000, 3500 foot away from the chosen site. And  
16 it's an old strip mine bench.

17 Q. And what was the elevation of this site?

18 A. 1572 feet is the elevation on that.

19 Q. Are there surrounding mountains that would affect  
20 the targeted area?

21 A. Yeah. The mountain that we were planning on setting  
22 the tower on, the one that the tower site that we proposed,  
23 the whole mountain would be in between that tower site and  
24 the targeted location.

25 Q. So instead of being able to use the mountain where

1 you did locate --

2 A. It would be an obstacle.

3 Q. (Continuing) -- to the advantage of yourself and the  
4 public that you're trying to serve, if this site was  
5 selected, that very mountain would defeat that purpose?

6 A. Right. It would be in the way, yes.

7 Q. Is there anything else about that site that you  
8 would care to comment on?

9 A. There's a small gas line located near the site.

10 Q. What size is it?

11 A. Small, two-inch gas line. That would need to be  
12 worked with in some way. We would --

13 Q. Let me see if I understand now. You're saying at  
14 this site there would be a mountain that would be located  
15 in front of it that would affect coverage, right?

16 A. Right.

17 Q. And what would you have to do at this site or what  
18 kind of tower would have to be constructed in order to  
19 reach the targeted area?

20 A. I don't know of any tower structure that would be  
21 tall enough to reach to do that. I don't. And I don't  
22 understand exactly how the signal propagates and all that  
23 either.

24 Q. But just on the face of it and from what you do  
25 know, is this right or wrong: You don't want anything in

1 front of your tower that's going to interfere with the --

2 A. Right. You don't want a mountain in front of it.

3 Q. Would it take a tower that was -- it would take a  
4 tower tall enough that you -- have you ever seen a tower  
5 that tall?

6 A. Not in this -- not in this part of the country.

7 Q. Would the tower that tall for sure have to be  
8 supported by guide wires?

9 A. I would think so. I can't see any other way.

10 Q. That may take it beyond the boundary used for more  
11 than half an acre as the present site?

12 A. Almost certainly beyond a half acre.

13 Q. Could it take it to the boundary that would be  
14 required onto other adjoining property owners?

15 A. Yes, it would. It almost certainly would have to  
16 cross the adjoining owners to do that.

17 Q. And does East Kentucky, to your knowledge, now have  
18 any kind of consent or agreement with those adjoining  
19 owners?

20 A. No, it doesn't, and it doesn't have any consent  
21 agreement with anybody else on that site either.

22 Q. So of all these sites, taking the present site  
23 that's chosen to be the site of the tower construction  
24 facility, where the construction of the tower facility  
25 here, which is the most desirable?

1 A. Our original site that we've chosen and submitted  
2 plans for.

3 Q. After reviewing these proposed alternative sites --  
4 and you actually reviewed them; is that correct?

5 A. Yes.

6 Q. You were there?

7 A. On the ground and looked at all of them.

8 Q. Had this been available to you when East Kentucky  
9 commenced this project, which of these sites would you have  
10 recommended to Appalachian Wireless?

11 A. Our original site location.

12 Q. The one that you've submitted application for; is  
13 that correct?

14 A. That's correct.

15 Q. Now there's been some talk here or concern as to Lee  
16 Etta Cummings's property interest, that she was not made  
17 aware of the construction of the tower facility by the  
18 access road. Let me ask you this: When you go to  
19 investigate what property owners or what property, any kind  
20 of access road to a tower facility is going to affect,  
21 where do you go for that information?

22 A. In Kentucky, the first place I go to is the property  
23 valuation administrator's office. They have maps of all  
24 property in the county, and each county has an office in  
25 the county seat.

1 Q. Are those aerial maps?

2 A. They're aerial maps and they draw property lines on  
3 them, not exact but close enough to give you an idea of  
4 where the property is located and who owns it.

5 Q. Did you do that in this case? Did you go to the  
6 Letcher County Property Valuation Administrator --

7 A. Yeah.

8 Q. (Continuing) -- to see who the adjoining property  
9 owners were in the looks of this area from the air?

10 A. Yes, I did. I went to Whitesburg PVA office, got a  
11 copy of their map, looked up their records in the  
12 courthouse. They always like for you to look them up  
13 yourself. They don't like to get involved in it too much.

14 Q. That is the applicants who don't like to?

15 A. The PVA.

16 Q. Oh, I'm sorry. The PVA doesn't --

17 A. They don't -- they make all the records available to  
18 the public. They'll help you if they have to, but in  
19 general they expect you to go through the records yourself.

20 Q. And you're not a title examiner, are you?

21 A. No, I'm not.

22 Q. You didn't perform a full-blown title examination on  
23 the tower site facility or the areas of the property owners  
24 where the proposed roads were crossing; is that correct?

25 A. No.

1 Q. And that wouldn't be something you would normally do  
2 in preparing the tower application?

3 A. No, not in preparing the tower application.

4 Q. Well, do you have the PVA map that you copied at the  
5 time you commenced your investigation of this site?

6 A. I've got a copy of a section of it. It's Exhibit  
7 5A, and it's map 47 in the PVA office.

8 Q. Tell us what is track number 47 of that map?

9 A. Map 47. Tract Number 71 is the tract that shows  
10 adjacent property. Tract Number 38 is the Raymond Brown  
11 property. Seventy-one shows to be Harry Fields's property,  
12 Harry and Linda Fields. And it made no mention of Lee Etta  
13 Cummings being a part-owner in that property, but Lee Etta  
14 Cummings was shown as the property owner on Tract Lot 76,  
15 which is adjoining.

16 Q. Is the access road that is on the Smoot Creek side  
17 and you told us about earlier shown or outlined on that  
18 map?

19 A. It's -- it's faintly -- you can faintly pick it out  
20 in the map. It is found to be on Lot 71.

21 Q. And who is shown as the property owner on Lot 71?

22 A. Harry and Linda Fields.

23 Q. And is Linda Fields the party from which Raymond  
24 Brown had his right-of-way easement that East Kentucky  
25 relied upon?

1 A. Yes, it is.

2 Q. For the use of that road; is that correct?

3 A. Yes, it is. That's the reason the road was included  
4 in the original application for permit.

5 Q. So the basic document that you relied upon to, as  
6 far as a map as to the parties who owned that road, is that  
7 the PVA map you have in front of you?

8 A. Yeah. You use the PVA map, plus you do an  
9 inspection site and talk to the people. And I done both of  
10 those. I talked to the people at the site. No one at the  
11 site mentioned that Lee Etta Cummings was a part owner in  
12 that property.

13 Q. Did you make contact with Linda Fields?

14 A. No, I didn't, no.

15 Q. Who did you talk to specifically?

16 A. Talked to Raymond Brown and then a couple of his  
17 other neighbors when I was going around spotting property  
18 lines.

19 Q. And the complainant, Lee Etta Cummings, is not  
20 listed on that map? That is an official map?

21 A. She's listed on the tract that she owns  
22 individually, but she's not --

23 Q. And that's Tract 71; is that correct? What is that  
24 tract?

25 A. Seventy-six.

1 Q. But this tract that the road crosses is Tract 71; is  
2 that correct?

3 A. That's correct.

4 Q. And she's not mentioned on it?

5 A. No.

6 Q. Is the exhibit -- and identify it, again, please  
7 that you've got in front of you. What's the exhibit number  
8 on it?

9 A. Exhibit 5A.

10 Q. Is that a true and correct copy of the PVA map that  
11 exists in the office of the Letcher County Clerk?

12 A. Yes, it is. I made the copy myself.

13 MR. KENDRICK: We'll enter that as an  
14 exhibit here, too.

15 (EXHIBIT NO. 5A FILED HEREWITH.)

16 CONTINUED QUESTIONS BY MR. KENDRICK:

17 Q. Let me ask you this: Was that PVA map part of your  
18 application here?

19 A. No, it's not, but I used it to determine the lines.

20 Q. The alternative sites that were proposed: That was  
21 not part of the application or anything? The ones that she  
22 proposed either --

23 A. No.

24 Q. (Continuing) -- is that correct?

25 A. No.

1 Q. Did you prepare the alternative site maps that you  
2 testified about here earlier, the individual ones for each  
3 site, yourself?

4 A. Yes, I did.

5 Q. And you have true and correct copies of these maps  
6 with you; is that correct?

7 A. Yes, they are.

8 Q. What does that show? What do all those maps  
9 collectively show about the area? Is it on a topographic  
10 map, or is it on an aerial photo or what it is?

11 A. I used a topographic map in general, to lay  
12 everything out. If we're trying to pick up some specific  
13 detail, aerial map is shown underlying the contours from  
14 the topographic map.

15 Q. And does that map you've got in front of you,  
16 alternative site map, aerial photos of the actual entire  
17 area in question?

18 A. Yes, it is.

19 Q. Now do you have any other maps or exhibits? You've  
20 told us about Exhibit 5, I think is the PVA map. What  
21 about Exhibit 6? Does that relate to this?

22 A. Well, we have Exhibit 5B in relation to the PVA map  
23 that shows the PVA lines overlying a contour map to aid in  
24 placement of the lines.

25 Q. And that's part of your Exhibit 5, as well?

1 A. That's part of Exhibit 5, right.

2 Q. Is that 5A, from the PVA office?

3 A. 5A is from the PVA office, and 5B I made myself.

4 Q. And 5 is a copy you made? Are you saying it's a  
5 copy you made yourself? I want to understand.

6 A. It's a -- it's a contour map with the PVA lines from  
7 the PVA map drawn over it, traced onto.

8 Q. Oh, you're saying you drew those lines --

9 A. Yes, I did.

10 Q. (Continuing) -- from the PVA map?

11 A. Yeah.

12 Q. And does it show the area except it's on a  
13 topographic map --

14 A. Right.

15 Q. (Continuing) -- that's shown on the PVA map; is that  
16 correct?

17 A. Yes, it is. To make it easier to see how everything  
18 fits together on a topographic map.

19 Q. Now what about Exhibit 6 you've got identified  
20 there? Would you tell us what that is, please?

21 A. It's -- Exhibit 6 is just a blowup of an aerial  
22 photo of the site so that you can see the roads that we're  
23 discussing and the tower site itself. I got the tower site  
24 located on it, the proposed site. And it's on a  
25 200-foot-to-an-inch scale. And you can see the main

1 highway and other existing roads into the site and the  
2 mining. You can see where all the grassland and the  
3 mountains are.

4 Q. Do you know when that photo was made or how recent  
5 it is? It's post-mining obviously; is that correct?

6 A. Yeah, it's post-mining. And it's probably -- I'd  
7 hate to say for sure, but no more than three years old, I  
8 would think.

9 Q. As you look at that map, let me ask you this. Is  
10 there anything that changes about your opinion as to the  
11 selection of this original site and its desirability over  
12 the alternative sites that Ms. Cummings proposed? Does  
13 anything change about that?

14 A. No, no. The site as shown on this map has a better  
15 view of Smoot Creek, Highway 15, and Dry Fork than any of  
16 the other sites that we've looked at.

17 Q. Is that then just a map of the entire area on what  
18 kind of scale?

19 A. One inch equals 200 feet.

20 Q. Was that submitted with the application, or do you  
21 know?

22 A. No. I made this as an exhibit for Marty that he was  
23 using for a hearing thing.

24 MR. KENDRICK: Off the record.

25 CONTINUED QUESTIONS BY MR. KENDRICK:

1 Q. Now a question has been raised by the intervener  
2 here about the location of the site that you've chosen in  
3 relation to mining, either past or past mining and/or  
4 future mining on her adjacent property. You've told us  
5 earlier this area has been surface mined; is that correct?

6 A. Yes, it is.

7 Q. And what seam or seams of coal were mined at the  
8 tower site and the adjacent property in connection with  
9 that surface mining?

10 A. The Hazard Number 4 seam was almost completely  
11 removed in surface mine, and parts of the Whitesburg seam  
12 and outcropping were removed.

13 Q. And is that all the surface mining that's been done  
14 in connection with this area?

15 A. Yes, it is. Yes, it is, in the immediate area.

16 Q. Do you know about approximately when that was done  
17 and under what type of mine permit or anything?

18 A. I've got a -- let's see. I've got map, Manning Coal  
19 Corporation. Permit number was 8670335, and their mining  
20 was done in the 1990's. I was trying to find an exact date  
21 on this map, but I don't see it right off. This map was  
22 signed in 2000. And this was probably a final map or awful  
23 close to a final map; so almost all the mining was  
24 completed by 2000.

25 Q. Now so when you're talking about the surface mining,

1 the only surface mining that you're aware of was done by  
2 Manning Coal Company, and it was all completed by or before  
3 the year 2000; is that correct?

4 A. Around that date, yeah.

5 Q. And what about deep mining on this property? Has  
6 there been any deep mining in this area? And tell us about  
7 that.

8 A. The Whitesburg seam, which is about a hundred foot  
9 under the proposed tower location, has been deep mined, a  
10 couple of deep mines. One was W & P Coal Company Mine  
11 Number 3, and one was directly underlying the tower site is  
12 MC & N Coal Company Mine Number 2.

13 Q. How are you aware of this mining, this past mining?

14 A. I've got copies of the mine maps that were  
15 downloaded from the state site that all mine maps are  
16 stored under.

17 Q. When you say the state site, what department of the  
18 state is that?

19 A. It's Department of Mines & Minerals.

20 Q. And that's in Frankfort?

21 A. In Frankfort, yeah.

22 Q. Just tell the commission what's shown on this map in  
23 relation to past or previous mining in the area.

24 A. It shows that the Whitesburg seam near the proposed  
25 tower site has been mined by underground mine method and

1 the pillars, the mine pillars, are still in place  
2 supporting the main roof.

3 Q. And what else is on that map that identifies or  
4 helps to explain where that map came from and about when it  
5 was done?

6 A. I've got a legend on it. It's called a final map  
7 for W & P Coal Company Mine Number 3, and I'm trying to  
8 read the name. James Harry Fields was the engineer at the  
9 mine site that was responsible for this map, and it was  
10 signed 2/27/90.

11 Q. So right at 20 years ago?

12 A. Yeah.

13 Q. James Fields then was the engineer who signed off on  
14 that as a final map. Tell the commission the significance  
15 of that with respect to the mine and the Whitesburg seam.

16 A. Final map means that they were -- whoever was  
17 responsible for the mining had pulled out of the mine, and  
18 this was a map showing everything that they had done while  
19 they were there.

20 Q. And what does it show in relation to the tower site  
21 itself, where the tower site that's planned sits or is  
22 going to sit?

23 A. Tower site sets over top of the mined area and the  
24 significant pillar between the mine area and the outcrops  
25 right adjacent to the tower, but the area under the tower

1 has been mined and the pillars are still in place, all the  
2 mine pillars.

3 Q. And is the size, dimension and the --

4 A. The pillars --

5 Q. (Continuing) -- entries and so forth that was  
6 actually mined shown there?

7 A. Right. It shows the entry widths and the pillar  
8 sizes, which is fairly standard for supporting --

9 Q. That's the standard room-and-pillar method, right?

10 A. Standard room-and-pillar method.

11 Q. So the tower site itself was undermined in what  
12 seam?

13 A. The Whitesburg seam.

14 Q. Is what I just said a fact, or does the mining  
15 extend under the tower site, the proposed tower site?

16 A. Yes, it does.

17 Q. Now you said there are pillars left. What else is  
18 left between the surface and the former mine and the  
19 pillars that were mined?

20 A. Well, the Whitesburg coal seam is approximately a  
21 hundred foot, or in the neighborhood of a hundred foot,  
22 below the elevation that we're going to set the tower on  
23 now, but the Hazard Number 4 seam is about 40, 50 foot  
24 above the Whitesburg seam. And that's what was surface  
25 mined. So you've got about 40 or 50 foot overlying the

1 Whitesburg seam, and on top of that you've got 60, 70 to 80  
2 foot of overburden from the mining, the surface mining of  
3 the Hazard Number 4 seam.

4 Q. When you say overburden, what does that include in  
5 that 60 to 70 foot?

6 A. Well, actually I probably shouldn't say overburden.  
7 Backfill. You've 60 to 70 foot of backfill material, which  
8 was blasted rock that was moved around to mine Number 4  
9 seam.

10 Q. And what underlies that overburden, that soil that  
11 was placed there?

12 A. About 40 to 50 foot of the original rock between the  
13 overburden and the Whitesburg seam.

14 (WHEREUPON, AN OFF-THE-RECORD DISCUSSION  
15 WAS HELD; AFTER WHICH THE FOLLOWING PROCEEDINGS OCCURRED.)  
16 CONTINUED QUESTIONS BY MR. KENDRICK:

17 Q. So between the pillars from the Whitesburg seam and  
18 the surface, there's 60 to 70 feet of overburden. And  
19 about what portion of that would be rock --

20 A. About 60.

21 Q. (Continuing) -- above the old mine?

22 A. There's about 40 to 50 foot of rock overlying the  
23 Whitesburg seam, plus 50 to 70 foot of overburden on top of  
24 that.

25 Q. Oh, I understand that.

1 A. So that's around a hundred, 110 foot from the  
2 Whitesburg seam to the tower site in elevation.

3 Q. In your opinion and based on your experience, your  
4 training as a professional engineer, is the amount of cover  
5 that's left there and the fact that -- there are pillars  
6 under this site; is that correct?

7 A. That's correct.

8 Q. As a result of that, should that be sufficient cover  
9 to afford adequate stability to the tower once it's built?

10 A. That is sufficient support to hold up the rock and  
11 the overburden. The coal and the mine will not crush out  
12 and the whole thing won't fall down. That's not to say  
13 that in some of the entries, the 20-foot-wide entries that  
14 there won't be some falls in those entries, but you've got  
15 40 foot of rock over top of them. It would be hard for  
16 the fall to penetrate that full 40 foot. And if it did,  
17 you'd have 70 foot of overburden placed over top of that,  
18 and that would cushion and dampen the effects on the  
19 surface.

20 Q. Let me ask you: Are you aware of other tower site  
21 facilities in eastern Kentucky that have basically the same  
22 substructure, that is previous mining, rock, overburden and  
23 soil?

24 A. Well, about -- there's coal mines all over eastern  
25 Kentucky. It's hard to find a mountain that don't have

1 coal mining in it. Almost anyplace that you build a tower  
2 is over top -- well, you're trying to get on top of a  
3 mountain, you know, to get an advantage point. It's over  
4 top of a coal mine somewhere along the line. A lot of it  
5 is surface mined any more. It's hard to find a location on  
6 top of the mountain that's not had some surface mine. So  
7 it's common to build a tower in a place like this.

8 Q. You're aware of other towers?

9 A. Yes.

10 Q. Now you said there are coal pillars. What's left  
11 in the coal mine that helps support the tower, if  
12 you -- you mentioned pillars. Is there anything further  
13 you can comment about specifically from that map with this  
14 site?

15 A. Well, this is standard room-and-pillar mining.  
16 Entries are about -- entry crosscuts are about 20-foot  
17 wide. Pillars left in place are about 40-foot square,  
18 which is more than adequate to hold up what's over top of  
19 it. There would be no general, general falls from that  
20 configuration.

21 Q. And does that include once the tower itself is  
22 built?

23 A. The tower would be insignificant weight on that.

24 MR. KENDRICK: Off the record.

25 (WHEREUPON, AN OFF-THE-RECORD DISCUSSION

1 WAS HELD, AFTER WHICH THE FOLLOWING PROCEEDINGS OCCURRED.)

2 CONTINUED QUESTIONS BY MR. KENDRICK:

3 Q. Now let me ask you this. When you've got this map  
4 here, Exhibit --

5 A. Seven?

6 Q. (Continuing) -- Number 7, that is the official map  
7 that's filed as the final map with Mines & Minerals, if I  
8 understand; is that correct?

9 A. That's correct.

10 Q. Now have you done any work yourself or made any kind  
11 of changes on the copy that we're looking at today?

12 A. The only thing I've done to it, is I've located the  
13 tower on the map.

14 Q. Is that identified in some way that it's readily  
15 observable by the commission? How is that shown on the  
16 map?

17 A. It shows a triangle to represent the tower location  
18 with a circle around it.

19 Q. How large is that circle?

20 A. That's about 500 foot, two-and-a-half-inch diameter.

21 Q. The so-called 500-foot radius?

22 A. Right.

23 Q. And you added that --

24 A. Right.

25 Q. (Continuing) -- to an official copy of this map that

1 you've downloaded from Mines & Minerals; is that correct?

2 A. Right. And what I added is in red. It's red on the  
3 map.

4 Q. Now I take it that further mining in that Whitesburg  
5 seam in that area is, and especially the area under the  
6 tower, is not likely; is that correct?

7 A. No. It would be completely uneconomical to even,  
8 even think about it. You've got 70, 80 foot of overburden  
9 on top of it, and it'd cost too much to move it to get to  
10 it.

11 Q. So there'll be no more mining in that seam in the  
12 vicinity of the tower; is that correct?

13 A. In the actual location of the tower? I can't  
14 foresee any mining in the Whitesburg or the Number 4 seam.

15 Q. Based on what we talked about so far, do you see any  
16 impact to Ms. Cummings's property, property that she owns  
17 herself, the Lee Etta Cummings property, from the location  
18 of the tower or the configuration of the substrata under  
19 it?

20 A. I don't see how it could possibly have any effect on  
21 her property.

22 Q. Let's move on from this exhibit, and let me ask you  
23 are you aware of further mine plans or proposed mining  
24 which is in this vicinity of the tower site?

25 A. Yes, I am. That's a mine map from Sapphire Coal

1 Company that was presented to me from Fred Wells. It's not  
2 an official map, but it is a map showing their current  
3 state of planning.

4 Q. And is that the type of information that you rely on  
5 in your work as a mining engineer that you get from other  
6 mining engineers?

7 A. Yes, it is.

8 Q. Is Mr. Webb an engineer?

9 A. Yes, he is. He's an engineer for Sapphire Coal.

10 Q. And does it appear that that map -- just tell us  
11 what that map is, what it purports to show or what the  
12 legend shows or whatever.

13 A. Well, it shows what's been mined in the past in the  
14 area and it, as far as --

15 Q. Does that show the Whitesburg seam you talked about  
16 earlier?

17 A. The Whitesburg and the Hazard Number 4 seams are  
18 both represented in this.

19 Q. The strip mine seam, also?

20 A. Yeah.

21 Q. Is that correct?

22 A. Right.

23 It shows the mine works that were done before and  
24 shows their plan, their mine plan for the future on this.  
25 And it doesn't show anything within the area right where

1 we're mining now.

2 Q. Would you identify --

3 A. I have put the --

4 Q. Let me try to clarify, if I understand. Does it  
5 show any further mining plan planned in the immediate  
6 future that undercuts or goes under this tower site?

7 A. No, it doesn't. It doesn't show anything at the  
8 tower site. No. It's just --

9 Q. No further mining is planned on the basis of this  
10 map by Sapphire Mining under the tower site; is that  
11 correct?

12 A. Right. In those two seems there: Hazard 4 --

13 Q. What seams are affected here or shown on this map?  
14 Or seam or seams?

15 A. It shows Hazard Number 4 seam plan and the  
16 Whitesburg seam plan.

17 Q. And those have already been mined. So there's no  
18 concern, as you told us earlier, about mining in those  
19 seams under the area; is that correct?

20 A. Right.

21 Q. I don't understand then. What is it showing is  
22 planned for this area?

23 A. It shows what Sapphire is planning to do in an  
24 adjacent area around the tower site.

25 Q. What seam or seams?

1 A. Same seams as the Hazard Number 4 and Whitesburg.  
2 And it shows what's possibly left that they could mine.

3 Q. So that shows a previous mining and the planned  
4 mining in the same seams; is that correct?

5 A. Right, uh-huh.

6 Q. And does it or does it not involve the tower site  
7 area?

8 A. It does not involve the tower site area. It is the  
9 area around it, say, within a half a mile.

10 MR. KENDRICK: Off the record.

11 (WHEREUPON, AN OFF-THE-RECORD DISCUSSION  
12 WAS HELD, AFTER WHICH THE FOLLOWING PROCEEDINGS OCCURRED.)

13 CONTINUED QUESTIONS BY MR. KENDRICK:

14 Q. What does that show with respect to the company's  
15 plans?

16 A. It shows what they've got planned and actually  
17 working on permitting at this time. And that area is  
18 probably close to half a mile from the tower site. Now --  
19 but it does show that there's some.

20 Q. How is that shown on the map?

21 A. Oh, it's listed in the legend. It's a lot of  
22 different colors and different symbols. It's fairly  
23 complicated, but they all overlie each other. So you have  
24 to set and look at it a long time to figure it out.

25 Q. Well, the Public Service Commission of Kentucky, I'm

1 going to tell you, can figure it out.

2 A. Well, it's on there. It can be figured out, but you  
3 have to study it.

4 Q. Well, you study it for the commission and for this  
5 poor attorney who's not a mining expert. Show us first the  
6 tower site on this map.

7 A. (WITNESS SO DID.)

8 Q. And does that have the 500-foot radius, and how is  
9 the tower site shown?

10 A. That's just a circle, a small circle, and the  
11 500-foot radius around it.

12 MR. KENDRICK: Go off the record.

13 (WHEREUPON, AN OFF-THE-RECORD DISCUSSION  
14 WAS HELD, AFTER WHICH THE FOLLOWING PROCEEDINGS OCCURRED.)

15 CONTINUED QUESTIONS BY MR. KENDRICK:

16 Q. What does that show about the tower site?

17 A. It shows that it's overlying previous mine works in  
18 the Whitesburg seam.

19 Q. That you told us about earlier; is that correct?

20 A. Right, right. That there's been previous mining on  
21 the contour of the Whitesburg seam and that there's  
22 adjacent mines in the Whitesburg and the Number 4 seam as  
23 shown on it. And if you move farther to the southwest, you  
24 get to the area that they're planning on mining now.

25 Q. As you go southwest on this map; is that correct?

1 A. Correct.

2 Q. All the mining that is shown from the tower site to  
3 the southwest that's on this has already been done; is that  
4 correct?

5 A. It's already been done, right.

6 Q. Now show us as to the proposed or planned or likely  
7 mining that Sapphire has shown.

8 A. Whitesburg Mining is this area shaded in the orange  
9 dashes, dashed dots, and that's proposed mining right  
10 there.

11 Q. Would you write that in your handwriting on that  
12 map?

13 A. Okay. And that's listed in the legend, also, as  
14 proposed mining. You also have purple as proposed mining.  
15 This does. That also is proposed new mining.

16 Q. And that is what seam, sir?

17 A. Whitesburg. It's just a different type of mining.  
18 It's contour mining. The other was full service mining.

19 Q. So that's contour mining?

20 A. Uh-huh.

21 Q. Not underground, correct?

22 A. Correct. Of course, you got this over here.

23 Q. Well, let's stick to the southwest.

24 A. Okay. That's extent of the proposed mining.

25 Q. And how far away for the proposed mining -- what do

1 you need?

2 A. A ruler. I can get it.

3 Probably about 3500, 4,000 feet.

4 Q. The proposed mining is surface mining; is that

5 correct --

6 A. Correct.

7 Q. (Continuing) -- to the southwest?

8 A. Uh-huh.

9 Q. And it's 3500 --

10 A. Thirty-five hundred to 4,000 feet away from the

11 proposed tower site.

12 Q. Should mining in that area in any way affect the

13 tower?

14 A. Normally you don't start restricting your blasting

15 until you get within a half of mile of it.

16 Q. So the answer is, no, it shouldn't affect it at all?

17 A. It shouldn't affect it.

18 Q. Should the presence of the tower affect the proposed

19 mining to the southwest?

20 A. None.

21 Q. All right. Now again directing your attention to

22 the tower site, does this map show proposed mining in

23 closer proximity to the tower and, if so, tell us about

24 that and how it's located and shown?

25 A. The map itself doesn't show any proposed mining

1 closer than that, but in conversation with Fred, he pointed  
2 out the areas between the outcrop and the mine, these areas  
3 here, as being possible to mine later on.

4 Q. Would that be surface mining?

5 A. Surface mining, yes.

6 Q. You said a phone conversation with him. About how  
7 many areas are you talking about there and --

8 A. That's about --

9 Q. (Continuing) -- tell us how far it is from the  
10 tower?

11 A. About three areas. One area will be just beyond the  
12 500-foot limit from the tower, and it's questionable  
13 whether it'd be mined but it's possible. And then you get  
14 on out to about 1500, 2,000 foot from the tower, and  
15 there's some room for some contour mining and stripping on  
16 it, surface mining.

17 Q. But, again, I take it that since those areas that  
18 you've just testified about are not shown in any particular  
19 color on the map, that that's questionable as to whether  
20 those areas will be mined or whether the --

21 A. Yes, it is.

22 Q. (Continuing) -- reserves are recoverable there?

23 A. Right.

24 Q. Making it feasible to mine; is that correct?

25 A. I think so.

1 Q. And is that probably why they're not shown on that  
2 map?

3 A. That would be the assumption you would make on that.

4 Q. And if those are mined, should those areas affect  
5 the tower or the tower affect the recovery of coal in those  
6 areas?

7 A. The blasting would have to be restricted any time  
8 they get within a half a mile of the tower. The amount of  
9 explosives that they're allowed to use is dependent on the  
10 distance from the nearest structure to the shot that  
11 they're putting off. So they may have to restrict the  
12 amount of powder that they use in a blast.

13 Q. That's the coal company; is that correct?

14 A. That's correct.

15 Q. Is that a blasting regulation?

16 A. Yes, it is.

17 Q. And that's under the Mines & Minerals regulations?

18 A. Mines & Minerals and the permits and the federal,  
19 MSHA.

20 Q. So basically I heard you say the blasting and the  
21 amount of powder or other substances that permit the  
22 blasting would have to be reduced. The law is it has to be  
23 reduced within that area; is that correct?

24 A. Correct. It's a formula that you work through for  
25 the distance of a structure.

1 Q. And that applies to anything a half a mile of a cell  
2 tower; is that correct?

3 A. Right.

4 Q. Now as you look at the proposed mining that's shown,  
5 and what I'll call the "iffy" mining that might be mined  
6 later according to Mr. Webb, if it every is mined, that  
7 lies to the southwest, is there any of that coal that you  
8 see in those areas or should that -- should the amount of  
9 coal recoverable be affected by the blasting regulation  
10 you've told us about by reason of the presence of the  
11 tower?

12 A. I don't -- I don't see any reason. It may be  
13 slightly more expensive to reduce the size of the shots,  
14 the blast area.

15 Q. You have to do more blasting; is that correct?

16 A. Right. But I don't see anything that would prevent  
17 them from continuing to mine.

18 Q. Well, let me ask you this. Is this a common fact  
19 and a common occurrence in a coal mining operation around  
20 here?

21 A. Always, every day. All -- all around us. They're  
22 mining within a half a mile of something. A half a mile is  
23 a pretty good area. And any time you're mining, you're  
24 within a half a mile of something. So almost all shots are  
25 weighted according to the structures.

1 Q. So this is not something that should affect the  
2 recovery or the amount of the recovery of coal and  
3 generally does not, but would not in this case. Is that  
4 what you're saying?

5 A. That's right.

6 Q. Now is there any other mining? Is that all the  
7 mining to the southwest that's either shown on this map or  
8 that you can reasonably project?

9 A. Yes.

10 Q. Now what about in the 500-foot radius itself of the  
11 tower? Is there any other mining shown?

12 A. Not in the Whitesburg and the Hazard Number 4 seams,  
13 but there's a Elkhorn seam located quite a bit of distance  
14 underground: Three or 400 feet.

15 Q. How is it shown?

16 A. It's not shown on the permit map at all, but it is  
17 shown on a separate map of -- mined underground work map.

18 Q. Did Mr. Webb supply you this information?

19 A. No, he didn't. I picked this up off the state site,  
20 also. All underground mine maps are picked up off the  
21 state site.

22 Q. Let me ask you. Mr. Webb is an engineer with  
23 Sapphire, and what you've shown on Exhibit Number --

24 A. Nine?

25 Q. (Continuing) -- nine, came from him as to mining

1 this?

2 A. It's an unofficial representation of their plan at  
3 the time he sent it to me.

4 Q. All right. Now what's the difference between that  
5 map and the map that you've just pulled out here, which  
6 I'll refer to as -- is it pre-marked a Exhibit 10?

7 A. Exhibit 8.

8 Q. Exhibit 8. Well, tell me about that.

9 A. Well, that shows the Elkhorn seam underlying the  
10 proposed tower site and the mines in it. That's been mined  
11 extensively over the years by Golden Oak Mining Company,  
12 Cook & Sons and now Sapphire Mining. There's a lot of old  
13 mine works located in the Elkhorn seam.

14 Q. Where is the tower site shown on this map?

15 A. Here. It's located in red, also. About the center  
16 of the map.

17 Q. Did you mark that?

18 A. I marked that.

19 Q. And put the 500-foot radius? Just like some of  
20 these other maps?

21 A. It doesn't have the 500-foot radius on it, but it  
22 does have latitude and longitude.

23 Q. And what previous mining does it show in the Elkhorn  
24 seam there --

25 A. It shows --

1 Q. (Continuing) -- with respect to the tower site?

2 A. It shows four or five different mines that they've  
3 approached this area from different directions, and none of  
4 them have made it to the area where the tower is at. And  
5 it shows their proposed mine plans that they've got for  
6 their active mines now, and they cut off before they get  
7 within the tower site location. So they're not showing  
8 anything proposed to be mined exactly where the tower is  
9 at.

10 Q. So in the proposed plans there is no disturbance  
11 planned or proposed with respect to the tower site; is that  
12 correct?

13 A. That's correct.

14 Q. As far as coal mining the Elkhorn seam?

15 A. Right.

16 Q. All right. What about the past mining?

17 A. The past mining doesn't reach to the tower either.  
18 It shows it probably being at least 2,000 foot away all the  
19 way around the tower site.

20 Q. So in the Elkhorn seam, there's been no undermining  
21 of the tower and no undermining in the Elkhorn seam planned  
22 of the tower site; is that correct?

23 A. By Sapphire Mining.

24 (WHEREUPON, AN OFF-THE-RECORD DISCUSSION  
25 WAS HELD, AFTER WHICH THE FOLLOWING PROCEEDINGS OCCURRED.)

1 CONTINUED QUESTIONS BY MR. KENDRICK:

2 Q. You're aware of no plans by any other company in the  
3 immediate future then other than Sapphire regarding the  
4 Elkhorn seam or mining under it, is that correct, or mining  
5 under the tower; is that correct?

6 A. There was nothing posted on the Internet at the time  
7 I done this.

8 Q. That's good.

9 Do you consent for these nine exhibits that you've  
10 testified here about today to be filed with the Public  
11 Service Commission? I know some of them already are,  
12 but --

13 A. The exhibits that I've signed are prepared by me,  
14 and I could stand behind all those. These other exhibits  
15 are things that I picked up from different sources, and I  
16 can't take responsibility --

17 Q. Let's identify those then. As you go back through  
18 those exhibits, just tell us which exhibit numbers were  
19 picked up from different sources.

20 A. One through five I done. It's all mine.

21 Q. And that's already turned in, to your knowledge?

22 A. Well, no.

23 Q. Exhibit 1 through 3 were turned in, is that correct,  
24 as part of your application?

25 A. Yeah, right.

1 Q. Then Exhibits 4 and 5 are the PVA exhibits; is that  
2 correct?

3 A. Right. Four is the alternate sites.

4 Q. Okay. And 4 is the alternate sites.

5 Then what about the PVA exhibit? What number?

6 A. That's five. And the property survey is 3.

7 Q. What about the other exhibits?

8 A. These are all maps prepared by other people, and I'm  
9 just looking at them. I just put --

10 Q. What exhibit numbers?

11 A. I tried to approximate the site on each one of these  
12 maps so you could see what it looked like. That's it.

13 Q. So those are exhibit numbers what?

14 A. Six, seven, eight and nine.

15 Q. Those were prepared by others and not submitted in  
16 connection with your application?

17 A. That's right.

18 Q. That is EKN?

19 A. That's right.

20 Q. Are all those maps, Exhibits 6 through 9, maps that  
21 are normal for you to rely on in your everyday activities?

22 A. Evaluation of the site, yes, it is.

23 MR. KENDRICK: That's all.

24 (TESTIMONY CONCLUDED.)

25

CERTIFICATION OF REPORTER

STATE OF KENTUCKY)

)

COUNTY OF MARTIN )

I, DENISE M. GAUZE, the undersigned Notary Public in and for the State of Kentucky at Large, certify that the facts stated in the caption hereto are true; that at the time and place stated in said caption, the witness named in the caption hereto personally appeared before me and that after being by me duly sworn, was questioned by Counsel for East Kentucky Network d/b/a Appalachian Wireless; that said testimony was taken down in stenotype by me and later reduced to a computer-aided transcription under my supervision; and that the foregoing is a true and complete record of the testimony given by said witness.

My commission expires: November 17, 2010.

IN TESTIMONY WHEREOF, I have hereunto set my hand on the 16<sup>th</sup> day of September, 2009.

  
\_\_\_\_\_  
DENISE M. GAUZE  
NOTARY PUBLIC

1 EXAMINATION UNDER OATH  
 2 OF  
 3 JAMES W. CAUDILL

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 6  
 7 Stenographic report of examination under oath of  
 8 JAMES W. CAUDILL taken at the East Kentucky Network d/b/a  
 9 Appalachian Wireless facility, located on U.S. 23, Ivel,  
 10 Kentucky, on Tuesday, September 15, 2009, at the  
 11 approximate hour of 9:45 a.m. Said testimony taken in  
 12 conjunction with a case before the Commonwealth of  
 13 Kentucky, Public Service Commission, Case No. 2009-00064,  
 14 East Kentucky Network, LLC, d/b/a Appalachian Wireless,  
 15 Petitioner, Dry Fork Cell Tower Property, Letcher County,  
 16 Kentucky.

17  
 18  
 19 PRESENT: Hon. William S. Kendrick  
 20 ATTORNEY AT LAW  
 21 311 North Arnold Avenue  
 22 Prestonsburg, Kentucky 41653  
 23 ATTORNEY FOR EAST KENTUCKY NETWORK  
 24 Mr. Dennis Shepherd  
 25 Mr. Mike Johnson  
 Mr. Marty Thacker

1 The witness, JAMES W. CAUDILL, having first been  
 2 duly sworn by the Court Reporter/Notary Public, was  
 3 questioned and answered as follows:  
 4 EXAMINATION  
 5 QUESTIONS BY MR. KENDRICK:  
 6 Q. Would you state your name for the record, please?  
 7 A. **James W. Caudill.**  
 8 Q. And where do you live, sir?  
 9 A. **Amburgety, Kentucky, in Knott County.**  
 10 Q. And by whom are you employed?  
 11 A. **I'm a private contractor. I've got my own office,**  
 12 **and I work for different people. And on this project here**  
 13 **I worked for Randy Coleman, who is the engineer for**  
 14 **Appalachian Wireless, and directly for Appalachian**  
 15 **Wireless, also.**  
 16 Q. What is the name of your personal business then?  
 17 What name do you do it under?  
 18 A. **I call it J.W. Caudill Engineering.**  
 19 Q. What name do you business under, is what I mean to  
 20 say.  
 21 A. **J.W. Caudill Engineering, and that's located at**  
 22 **Isom, Kentucky.**  
 23 Q. What's your mailing address there?  
 24 A. **It's 9283 Highway 15, Suite C.**  
 25 Q. So this was a contract job on what we call the Dry

1 INDEX

2		
3	<u>Witness, JAMES W. CAUDILL</u>	<u>Page</u>
4	EXAMINATION by Mr. Kendrick . . . . .	3 - 71
5	EXHIBIT NO. 1A - location map - referenced . . .	13
6	EXHIBIT NO. 1B - tower profile - referenced . . .	17
7	EXHIBIT NO. 1C - site survey - referenced . . . .	17
8	EXHIBIT NO. 2A - location map - referenced . . .	18
9	EXHIBIT NO. 2B - tower profile - referenced . . .	18
10	EXHIBIT NO. 2C - site survey - referenced . . . .	18
11	EXHIBIT NO. 3A - property description - referenced	21
12	EXHIBIT NO. 3B - plat - referenced . . . . .	22
13	EXHIBIT NO. 4A - cover map - referenced . . . . .	23
14	EXHIBIT NO. 4B - Alt. Site 1 - referenced . . . .	24
15	EXHIBIT NO. 4C - Alt. Site 2 - referenced . . . .	25
16	EXHIBIT NO. 4D - Alt. Site 3 - referenced . . . .	26
17	EXHIBIT NO. 4E - Alt. Site 4 - referenced . . . .	31
18	EXHIBIT NO. 4F - Alt. Site 5 - referenced . . . .	38
19	EXHIBIT NO. 5A - PVA map - referenced/filed . . .	45
20	EXHIBIT NO. 5B - contour map - referenced . . . .	47
21	EXHIBIT NO. 6 - blown-up aerial map - referenced .	47
22	EXHIBIT NO. 7 - map - referenced . . . . .	71
23	EXHIBIT NO. 8 - map - referenced . . . . .	71
24	EXHIBIT NO. 9 - Sapphire map - referenced . . . .	67
25	REPORTER'S CERTIFICATION . . . . .	72

1 Fork tower, cellular tower, site for Eastern Kentucky  
 2 Network doing business as Appalachian Wireless that you  
 3 obtained at the request of their regular engineer, Randall  
 4 Coleman; is that correct?  
 5 A. **That is correct.**  
 6 Q. Now how long have you been a professional engineer?  
 7 A. **Since -- I think it was 1980. About 28, 29 years.**  
 8 Q. Do you have a license or certificate number that is  
 9 registered with the state of Kentucky Professional  
 10 Engineering Board?  
 11 A. **Right. I got actually two licenses. One of them is**  
 12 **professional engineer; that number is 12305.**  
 13 Q. Yes, sir.  
 14 A. **Professional land surveyor, or licensed land**  
 15 **surveyor -- they keep changing it -- is 2259.**  
 16 Q. And you have been a professional engineer since  
 17 1980; is that correct?  
 18 A. **1980, 1981. I don't remember exactly. I done both**  
 19 **the surveyor and engineer about the same time. I think the**  
 20 **surveyor was '80 and the engineer was '81.**  
 21 Q. So you're talking here -- we're going right on 30  
 22 years work experience with the professional certificate --  
 23 A. **Correct.**  
 24 Q. (Continuing) -- for each?  
 25 A. **Right.**

1 Q. Engineering and surveying; is that correct?  
2 A. **Correct.**  
3 Q. Do you have some area of concentration or specialty,  
4 or what type of professional engineer are you certified as?  
5 A. **I'm certified as a mining engineer, and I do --**  
6 **almost all my work in the past has been in coal mining**  
7 **engineering in this area.**  
8 Q. Does that include planning and assisting coal  
9 operators and coal companies in acquiring mining permits  
10 here in the state of Kentucky?  
11 A. **That's been the main part of the business is mining**  
12 **permits.**  
13 Q. Does that include surface mining, deep mining and  
14 other activities related to the acquisition of surface and  
15 deep mining permits?  
16 A. **Yes, it is.**  
17 Q. Does that include as well the pertinent or related  
18 areas in permit acquisition of road construction, pond  
19 construction? Just what all does it include?  
20 A. **Any and everything that would be required to go out**  
21 **and do mining under the regulations that we have in place.**  
22 Q. And as far as property boundaries that relate to the  
23 mining or property boundaries period, does it include the  
24 location and setting of property boundaries and monuments?  
25 A. **Yes, it does. And only a licensed land surveyor can**

5

1 **work on property lines and set monuments.**  
2 Q. Now when did you commence work on what we're calling  
3 here the Dry Fork tower site, and how did that come about?  
4 A. **Let's see.**  
5 Q. Approximately, if you remember.  
6 A. **Well, it was probably the summer of 2008. I started**  
7 **working on it under -- Dennis asked me to evaluate a couple**  
8 **of sites on the property then.**  
9 Q. Are these sites in Letcher County?  
10 A. **Yeah, on the Dry Fork area.**  
11 Q. And by Dennis, do you mean Dennis Shepherd?  
12 A. **Dennis Shepherd.**  
13 Q. And is he the land man and land acquisition  
14 department that's connected with the tower site owner here,  
15 East Kentucky Network?  
16 A. **Yes, he is. And he's the one I normally work with**  
17 **on stuff like that.**  
18 Q. Does he work for Thacker Grigsby Telephone Company  
19 in Knott County?  
20 A. **Yes, I think so.**  
21 Q. And what sites did you investigate at that time  
22 around the summer of 2008 in connection with the Dry Fork  
23 cell tower project?  
24 A. **I evaluated the site where that we eventually**  
25 **decided to build a tower and a site immediately adjacent to**

6

1 **that on an old mine bench up on the hill above it and a**  
2 **site on around the ridge on top of the main ridge, which**  
3 **coincidentally, I guess, would be Alternate Site Number 1**  
4 **on these alternate site maps.**  
5 Q. So you looked at three sites in the area; is that  
6 correct?  
7 A. **Correct.**  
8 Q. Let me ask you this: Are you able to tell us if  
9 there were any other tower sites in that immediate vicinity  
10 serving the area that the proposed site was to serve?  
11 A. **It'd be a lot of other possible sites, but we were**  
12 **looking to cover a particular area and -- and the sites**  
13 **that we were looking at would have covered that area.**  
14 Q. Were there existing tower facilities that covered  
15 that area, the targeted area --  
16 A. **No.**  
17 Q. (Continuing) -- that you all were targeting?  
18 A. **No. It's -- it's a bad area for cell reception.**  
19 Q. And so as far as other towers owned by other  
20 companies to co-locate, I think it's called, or to tie onto  
21 or to lease from, was there any potential for that type of  
22 service by this company in that area to your knowledge?  
23 A. **None that I know of.**  
24 Q. Now you mentioned that coincidentally Alternative  
25 Site Number 1, proposed by the intervener Lee Etta

7

1 Cummings, was looked at preliminarily as a possible site;  
2 is that correct?  
3 A. **Yes, it is.**  
4 Q. Did you make an evaluation, an investigation of that  
5 proposed alternative -- what's now a proposed alternative  
6 site -- at that time in connection with the original  
7 attempt to select a site?  
8 A. **Yes. In looking at the site, it was -- it's a steep**  
9 **rocky ridge to get up on top of the mountain from the mine**  
10 **area where the existing mining bench that we decided to**  
11 **build the tower on, and it would've been hard to get a road**  
12 **up. Plus there was a gas line that we crossed the area**  
13 **that we would've probably had to cross twice to get to it,**  
14 **and it's real hard to cross a gas line in a steep rocky**  
15 **place like that. And it would've been a difficult site to**  
16 **build and to get to, access.**  
17 Q. When you say it was steep and rocky, is it at a  
18 higher elevation? You have to go uphill to it? It's at a  
19 higher elevation?  
20 A. **Yeah. Yeah, it's probably a couple hundred foot**  
21 **higher than the mine bench we used.**  
22 Q. About how far, as the crow flies, from the present  
23 site is it from the site you did end up selecting?  
24 A. **Just guessing at it from looking at the map,**  
25 **probably about 1500 feet.**

8

1 Q. And so for the reasons you just stated, that site  
 2 was eliminated from consideration before any question was  
 3 raised as to possible alternative sites; is that correct?  
 4 A. **The site that we chose to put it on was a better  
 5 site than that site.**  
 6 Q. And why was it a better site?  
 7 A. **Because it eliminated the having to build a tower  
 8 site on a rough, rocky ridge and moving the gas line, and  
 9 it was just a good site to work with.**  
 10 Q. What about access?  
 11 A. **Yes, sir.**  
 12 Q. What about access to the other site that you did not  
 13 select? What would you have had to have done for access to  
 14 it?  
 15 A. **Oh, we would've had to use a hammer to chisel out  
 16 rock to build a road. We would've had to hammer the road  
 17 in all the way, from the thousand, 1500 foot from the  
 18 existing, form the site we chose. And the site itself when  
 19 we got there to the site we would've had to have done the  
 20 same thing on the ridge.**  
 21 Q. So if I understand it, access conditions and  
 22 construction conditions as to the other site you looked  
 23 at --  
 24 A. **And the gas line.**  
 25 Q. (Continuing) -- that happens to be Alternative Site

1 1 as proposed by Ms. Cummings --  
 2 A. **And the gas line.**  
 3 Q. (Continuing) -- and the gas line made it a less  
 4 desirable site; is that correct?  
 5 A. **Correct.**  
 6 Q. So that you rejected it at the time?  
 7 A. **Right.**  
 8 Q. And was that your evaluation of it, too? That's not  
 9 just what the company decided on, but was that your  
 10 evaluation as a professional engineer and someone  
 11 experienced in road construction and how you go about that?  
 12 A. **Yes.**  
 13 Q. Was that your own recommendation?  
 14 A. **That was my recommendation, correct.**  
 15 Q. Was there any other site or sites that you  
 16 investigated in the local area there going into this  
 17 project?  
 18 A. **There was a site about 200 foot from where we  
 19 finally chose the tower site up on the side of the hill,  
 20 and we had to eliminate it because part of it was  
 21 overburden and part of it was solid rock. And we couldn't  
 22 -- we either had to be completely on solid or completely in  
 23 overburden. So we had to eliminate it. But that was only  
 24 about 200 foot from where the bench was at.**  
 25 Q. Whose land was that on?

1 A. **That was still on Brown's property, Raymond Brown's  
 2 property.**  
 3 Q. Just explain to the commission what you just said  
 4 about why you eliminated that site as to the  
 5 rock/overburden makeup.  
 6 A. **It was a small bench around the side of the  
 7 mountain, but it was determined that it was a reclaimed  
 8 high wall. It was right at the edge of a reclaimed high  
 9 wall, and we couldn't get enough area on the bench to set a  
 10 tower on the solid. And it left part of it out in the  
 11 overburden, and we couldn't -- that would've made an  
 12 unstable site; so we couldn't use it.**  
 13 Q. Did you investigate any other sites at the time?  
 14 A. **No, no. That was it.**  
 15 Q. So if I understand it, co-location was not an  
 16 alternative in this area, and the other two sites that you  
 17 looked at were not desirable for the reasons that you've  
 18 just stated?  
 19 A. **Correct.**  
 20 Q. So what about the site that you selected where the  
 21 application is made for for the Dry Fork cell tower? What  
 22 was advantageous about that site over any other site that  
 23 you investigated?  
 24 A. **Easy access to the property, existing road right to  
 25 it, the area didn't need any regrade work. It was a**

1 **backfill mine bench. All we had to do was modify our  
 2 foundation for mine spoil and go to work. That's all we  
 3 needed.**  
 4 Q. Let me translate a little bit what you're saying  
 5 there. This area had been previously surface mined; is  
 6 that correct?  
 7 A. **Correct.**  
 8 Q. And there was already an access road to it; is that  
 9 correct?  
 10 A. **Correct.**  
 11 Q. And the area where the site was planned required  
 12 little preparation, not near as much preparation or didn't  
 13 require a lot of preparation for the tower; is that  
 14 correct?  
 15 A. **That'd be correct.**  
 16 Q. Now let me ask you. You've got certain maps and  
 17 exhibits there in front of you. Let me ask you to just go  
 18 through these exhibits, which have been pre-numbered, and  
 19 you tell us what they are. First of all, let me just ask  
 20 you, did you prepare the application that was submitted by  
 21 EKN for this project?  
 22 A. **I don't prepare the application. Marty does the  
 23 actual application itself.**  
 24 Q. Marty Thacker?  
 25 A. **Marty Thacker.**

1 **I do part of the exhibits. I do the surveying and**  
2 **the map work on them.**  
3 Q. And do you have the maps that you prepared and the  
4 exhibits that you prepared that are with the application?  
5 A. **Yes. Yes, I do.**  
6 Q. Just start with Exhibit 1 and tell us what that is.  
7 A. **You got three separate drawings for Exhibit 1.**  
8 Q. Look at Exhibit 1A, please, and identify it.  
9 A. **1A is a map on a 500-foot scale showing the**  
10 **topography of the area, and it was made to show the**  
11 **existing structures and landowners within 500 foot of a**  
12 **proposed tower and 200 foot of the road.**  
13 Q. Could that be called generally the site map or  
14 location map?  
15 A. **Yeah. General location map.**  
16 Q. And what's the date that you prepared that?  
17 A. **9/19/08.**  
18 Q. And is that Exhibit 1A then --  
19 A. **It is.**  
20 Q. (Continuing) -- that we submitted with the  
21 application?  
22 A. **Yeah.**  
23 Q. Is that right?  
24 A. **It shows the tower site, access roads and the**  
25 **property owners around the tower site.**

13

1 Q. What generally is the lay of the land up there as  
2 far as the topography?  
3 A. **Well, originally it was, you know, just a regular**  
4 **top of a mountain, but it's been mined and a big level area**  
5 **has been created on the mine site, or generally rolling**  
6 **area.**  
7 Q. What about the surrounding property?  
8 A. **It's quite --**  
9 Q. Is it mountainous, is it flat or what is it?  
10 A. **Quite a bit of the area has been mined, and it's in**  
11 **a flat area now. Where the tower is sitting is right where**  
12 **it changes from flat area back into their original**  
13 **mountain.**  
14 Q. What is the approximate elevation of the area where  
15 the tower is located?  
16 A. **About 1600 and -- hold on. 1660 feet above sea**  
17 **level.**  
18 Q. You said there was a road to the site. Is that  
19 shown on your map?  
20 A. **Yes, it is.**  
21 Q. And what watershed does that road follow from the  
22 county road or state road to the tower?  
23 A. **Okay. It's actually on the original map that was**  
24 **prepared; there's two roads shown on it. One road is on**  
25 **the south side of the property, and it's on Dry Fork**

14

1 **stream. And it goes from Highway 15 northwest along**  
2 **existing road to the tower site. And the second road:**  
3 **It's on Smoot Creek side of the mountain, which is the**  
4 **northwest side of the mountain, and it goes from Highway 15**  
5 **the southeast direction to the tower site.**  
6 Q. Which of those roads that you've described was the  
7 original access road that was selected to the property?  
8 A. **Both of those roads were submitted as original**  
9 **access roads.**  
10 Q. Was one later eliminated?  
11 A. **Yes. The one on the north, northwest side. The one**  
12 **on Smoot Creek was eliminated.**  
13 Q. Was that the one that crossed land that was  
14 subsequently determined that the Intervener, Ms. Cummings,  
15 had an interest in?  
16 A. **Yes, it is.**  
17 Q. And who owned the other interest in it?  
18 A. **Linda Fields. She used to be Fields.**  
19 Q. Now in your original application what other maps or  
20 exhibits were included?  
21 A. **Got an exhibit map showing a profile of the actual**  
22 **tower itself with a general layout of the structure mainly**  
23 **to show the elevations of the panel antennae (sic) and the**  
24 **dish, the microwave dish, on the tower.**  
25 Q. Are there dimensions or sizes of those?

15

1 A. **Yes.**  
2 Q. What can you tell us about the tower from looking at  
3 that map as far as its elevation or height or --  
4 A. **Okay. It shows a 300-foot tower.**  
5 Q. Three hundred foot high; is that correct?  
6 A. **Three hundred foot high, yeah. That's from the**  
7 **foundation. And the first satellite dish would be set 240**  
8 **foot from the foundation, and the panel antennae would be**  
9 **set every 15 foot after that, depending on how many they**  
10 **needed.**  
11 Q. Let me ask you: Is the entire tower facility and  
12 the buildings, the satellite dishes and so forth you  
13 referred to there, located within the property of  
14 Mr. Raymond Brown?  
15 A. **Yes, it is.**  
16 Q. And is that within the lease line limits and  
17 boundary that Mr. Brown executed a lease for for tower site  
18 purposes to Appalachian Wireless, or EKN?  
19 A. **Yes.**  
20 Q. Tell me about the foundation of this tower. You  
21 mentioned a name of it. Repeat that again and just tell  
22 the commission again briefly what that is as you understand  
23 it.  
24 A. **It's just a concrete base designed to hold the tower**  
25 **up that's set on the ground that the tower actually bolts**

16

1 to.

2 Q. Does this tower require the use of adjacent guide

3 wires to support it?

4 A. **No, no. The concrete base is designed to support**

5 **the tower by itself.**

6 Q. Including the entire cellular tower facility and the

7 adjacent buildings to it, what size area is involved here?

8 A. **Normally in working with this to get enough area to**

9 **not have any problems, we try to get a half an acre of**

10 **property, and that's what we got a lease on from Brown,**

11 **Raymond Brown: Was half an acre. The actual tower site**

12 **itself doesn't take near that much property.**

13 Q. Are there any other maps there?

14 A. **Yeah.**

15 Q. You've identified 1A. And what is the area tower

16 profile?

17 A. **That's 1B.**

18 Q. All right. And do you have 1C?

19 A. **1C is a -- it shows the site survey of the lot and**

20 **the actual structural location within the site survey. And**

21 **it's a generalized plan of how they're going to set the**

22 **tower and the buildings associated with it.**

23 Q. Did you prepare all of those maps?

24 A. **Yes, I did.**

25 Q. Is there any encroachment of any portion of the

17

1 lease area that's not on Raymond Brown? Of the tower site

2 itself?

3 A. **No.**

4 Q. Did you subsequently have occasion to prepare

5 exhibits for the purpose of amending the application of the

6 cell tower facility in some manner?

7 A. **Yes, I did.**

8 Q. And do you have those maps?

9 A. **Yeah. They're listed as Exhibits 2A, B and C.**

10 Q. Just tell us what exhibit 2A is.

11 A. **Exhibits 2 are identical to Exhibit 1 other than the**

12 **northwest road has been deleted as part of the permit**

13 **application.**

14 Q. And why was that?

15 A. **Because it was found that Lee Etta Cummings had an**

16 **interest in it and did not want us to use the property.**

17 Q. And is that the Smoot Creek --

18 A. **Yeah.**

19 Q. (Continuing) -- access site?

20 A. **Smoot Creek access site.**

21 Q. Were both access sites already existing as far as a

22 construction of a road that led from each of them from

23 Highway 15 to the tower site?

24 A. **Yes. You could drive all the way through.**

25 Q. Was that from the previous mining?

18

1 A. **Yeah. Yeah, the previous mining. The Smoot Creek**

2 **side was the main haul road for the previous mining.**

3 Q. Was that road preferable in some manner as far as

4 its location?

5 A. **Yeah. It was designed and built to handle heavy**

6 **traffic.**

7 Q. What about the distance that one had to travel?

8 Which one was preferable?

9 A. **The Smoot Creek road was a lot easier to get to the**

10 **site, a lot quicker off the main road.**

11 Q. And if I may paraphrase, are you saying that it was

12 an existing road and it was just better conditions from

13 that site?

14 A. **Yes. It was better conditions. It was shorter**

15 **road, better conditions and -- and it was easier access**

16 **from the area that we worked around, which is north of the**

17 **site.**

18 Q. Was there any portion of that road that it was

19 necessary to reconstruct or relocate? I'm talking about

20 this Smoot Creek side that was eventually eliminated.

21 A. **The way the road was laid out in the existing state**

22 **there, part of it was on the property, crossed over into**

23 **the property of Lee Etta Cummings, or where we knew Lee**

24 **Etta Cummings owned property. And when they were getting**

25 **ready to use the road, they reconstructed a section to cut**

19

1 **off an encroachment onto the Lee Etta Cummings property**

2 **that we knew about.**

3 Q. Was that encroachment of the road on property that

4 she owned individually?

5 A. **Individually, right. Separate property.**

6 Q. So the reconstruction that occurred was to take it

7 off her property that she owned herself outright?

8 A. **Right.**

9 Q. Is that correct?

10 A. **Right.**

11 Q. And was that done?

12 A. **Yes, it was.**

13 Q. Whose property did the road remain on until it

14 reached the boundary site then?

15 A. **It was --**

16 Q. The tower site.

17 A. **Property originally owned by Harry Fields, Harry and**

18 **Linda Fields, and that they had a partnership with Lee Etta**

19 **Cummings's father. And at some point along the line they**

20 **had deeded her a half interest in that property, but that**

21 **was something that I missed in the original research on**

22 **this.**

23 Q. Is the entire road that you all eliminated that runs

24 from 15 to the tower site on the Smoot Creek property as it

25 was finally established entirely on property owned by Lee

20

1 Etta Cummings and a co-owner?  
2 A. **Yes.**  
3 Q. And Appalachian Cellular had permission through  
4 Raymond Brown of the co-owner, but it did not have Lee Etta  
5 Cummings's permission; is that correct?  
6 A. **That's correct.**  
7 Q. Was Ms. Cummings's interest known to you at that  
8 time?  
9 A. **No. No, I didn't -- I didn't know it at all.**  
10 Q. So the road was eliminated on the Smoot Creek side.  
11 What do you have there for Exhibits 2B and 2C?  
12 A. **Exhibit 2B and 2C remain identical other than the**  
13 **date has been changed to match the change on the top sheet**  
14 **or the location sheet.**  
15 Q. And what was the date of the exhibit that you  
16 prepared that you described to us there today made by you?  
17 A. **04/15/09.**  
18 Q. And who did you submit them to?  
19 A. **Marty Thacker.**  
20 Q. To make the amended application?  
21 A. **Right.**  
22 Q. Now what about Exhibit 3? Would you identify that?  
23 A. **Exhibit 3 is the survey I done in preparation of the**  
24 **leasing the lot to build a tower on. Exhibit 3A is the**  
25 **description of the property that we leased, made from the**

21

1 **plat, which is Exhibit 3B, showing my survey and the roads**  
2 **and the other necessary information for the plat to be**  
3 **recorded in the courthouse.**  
4 Q. And the entire area taken up by the cell facility  
5 site is one half acre?  
6 A. **One half acre.**  
7 Q. .5 acres that you described there in Exhibit 2C; is  
8 that correct?  
9 A. **Right. And that was all dated 9/16/08.**  
10 Q. And that's on your survey map as Exhibit 3B; is that  
11 correct?  
12 A. **Correct.**  
13 Q. Now let me ask you this. During the process of this  
14 and the progress of prosecution of this matter and the PSC,  
15 did you examine a submission by Ms. Cummings and her land  
16 engineer, or land surveyor, that by which she proposed some  
17 alternate sites to the tower location that EKN was  
18 planning?  
19 A. **Yes, I did.**  
20 Q. And did you investigate those proposed alternative  
21 sites?  
22 A. **Yes. I looked at each of those alternative sites**  
23 **with Marty Thacker. We went together on that.**  
24 Q. Tell us who Marty Thacker is, by the way. What's  
25 his role in this?

22

1 A. **Marty Thacker works for Thacker Grigsby Telephone**  
2 **Company, but he works generally with Appalachian Wireless,**  
3 **or East Kentucky Networks, to put up all their towers.**  
4 **He's the guy in charge of getting everything together and**  
5 **getting the towers put up.**  
6 Q. Is it your understanding that -- and I'm not getting  
7 into a business matter here, but briefly do you have a  
8 common understanding of Thacker Grigsby and its  
9 relationship to EKN?  
10 A. **Yes, I do.**  
11 Q. What is it?  
12 A. **Thacker Grigsby is one of the telephone companies**  
13 **that went together to form East Kentucky Network.**  
14 Q. One of five?  
15 A. **Yeah.**  
16 Q. All right. I want you to just look at the exhibit  
17 that you have there and tell the PSC what those maps are  
18 that you've got in front of you.  
19 A. **Okay. It's Exhibit 4. And it's exhibit -- it's got**  
20 **six separate maps on it. Exhibit 4A is a cover map showing**  
21 **the five alternate locations.**  
22 Q. Let me interrupt you. Is there a map that you're  
23 looking at of your evaluation and investigation of each of  
24 the alternative five sites that were planned?  
25 A. **Right. Exhibit 4A is a cover sheet showing the**

23

1 **location of all the sites plus the site that we chose to**  
2 **build the tower. So it's got six sites on it. And then**  
3 **after that it's five attachments showing each tower.**  
4 Q. Showing the proposed alternative sites?  
5 A. **Yes, sir.**  
6 Q. Is that correct?  
7 A. **Correct.**  
8 Q. Let me ask you about Alternative Site 1 and ask you  
9 to identify what map number depicts it.  
10 A. **Okay. Alternative Site 1 is on Exhibit 4B.**  
11 Q. And you explained a little bit earlier about  
12 Alternative Site 1, the reason that -- that is the site  
13 that you looked at --  
14 A. **Prior to.**  
15 Q. (Continuing) -- upon your initial investigation of  
16 appropriate sites; is that correct?  
17 A. **Yes, it is.**  
18 (WHEREUPON, AN OFF-THE-RECORD DISCUSSION  
19 WAS HELD, AFTER WHICH THE FOLLOWING PROCEEDINGS OCCURRED.)  
20 A. **We were looking at Alternate Site Number 1.**  
21 **CONTINUED QUESTIONS BY MR. KENDRICK:**  
22 Q. That's the one you explained earlier to us; is that  
23 correct?  
24 A. **Yes, it is.**  
25 Q. And you've told us the problems with that site; is

24

1 that correct?

2 A. **Right.**

3 Q. Is there anything you want to add to that or change

4 about it?

5 A. **No, no. Everything remains the same.**

6 Q. What about Alternative Site 2? What was your

7 evaluation of it?

8 A. **That'd be Exhibit 4C, and it's located in the valley**

9 **below the mountain, down in the valley. There's no way**

10 **that it would work in that area. It would have such a**

11 **small coverage area, it wouldn't be worth building.**

12 Q. Would that be an area that had it been proposed in

13 the first place, that you would reject --

14 A. **Yes, it would have.**

15 Q. (Continuing) -- out of hand?

16 A. **Yeah. Just because of the elevation.**

17 Q. And what else did you find about that site as far as

18 what kind of tower would be needed to provide coverage, if

19 you made any such finding?

20 A. **Nothing. No tower that we normally work with would**

21 **be tall enough to reach up to a point where we would get a**

22 **signal out from there.**

23 Q. Do you have comments or concerns posted to the maps

24 that you prepared that you're looking at?

25 A. **Yes, I do.**

25

1 **On Site Number 2 I have listed as proximity of the**

2 **gas and power lines, low elevations and swampy area. There**

3 **was cattails, which would indicate a poor foundation**

4 **material.**

5 Q. Are there any other comments you want to add here as

6 we sit today concerning the problem or concerns with that

7 site other than what you've told us about earlier of the

8 coverage and tower size?

9 A. **No. It's just -- that should cover it.**

10 Q. Would a tower that size require guidelines, if you

11 know?

12 A. **I don't think I've ever seen a tower that tall, that**

13 **you could build tall enough to get out of there.**

14 Q. Have you been involved with EKN in the selection and

15 application for other tower sites besides this one in

16 eastern Kentucky?

17 A. **Yes. The same general information and maps that**

18 **I've done for this one, I've done for several.**

19 Q. Then what is your next map? And what of the

20 proposed alternative tower sites, which of them does it

21 relate to, please?

22 A. **It's Alternative Location Number 3, and it's Exhibit**

23 **4D. And it's basically very similar to the area that we**

24 **did select. The only difference is the location. It's**

25 **located quite some distance, probably 1800, 2,000 foot from**

26

1 **the actual location that we did choose. And the reason**

2 **that we wouldn't choose it is because it's too far to one**

3 **side. It's mostly looking down Dry Fork, and it has poor**

4 **coverage of the area back towards Smoot Creek.**

5 Q. And what about the area along the targeted area

6 along --

7 A. **Yeah.**

8 Q. (Continuing) -- Route 15?

9 A. **It would be a poor location to pick up both Smoot**

10 **Creek and Dry Fork.**

11 Q. Were there any other problems with that site?

12 A. **No. No special site beyond what we're doing with**

13 **the site that we chose. It's basically the same thing,**

14 **construction wise.**

15 Q. And it just did not provide a desirable site as the

16 site that was chosen?

17 A. **Right. It wasn't in the area --**

18 Q. To provide coverage? Well, go ahead and say it.

19 A. **It wasn't in the immediate area that we were looking**

20 **at to provide coverage for the area that we wanted.**

21 Q. The targeted area?

22 A. **Right.**

23 Q. Along Route 15?

24 A. **15 and Smoot Creek.**

25 Q. I take it Route 15 is one of the -- tell us how it

27

1 ranks, if you want to, as one of the arteries in and out of

2 Letcher County and points north and south?

3 A. **From Whitesburg it's the main road to the east.**

4 **Everything that -- everything towards Hazard is the main**

5 **road. All the other roads are secondary in that direction.**

6 Q. Whose property is that side on?

7 A. **It's on Raymond Brown's property.**

8 Q. So that's on the property owner at which a better

9 site was chosen; is that correct?

10 A. **Correct, yes.**

11 Q. Is there an adjoining property owner named Don

12 Tolliver?

13 A. **Yes, there is.**

14 Q. Let me ask you this. Would this site have required

15 more site preparation on the Brown property than for the

16 site that was selected?

17 A. **Yes, it would've required it. It would've been -- a**

18 **little more sloping would've had to have been graded,**

19 **leveled off.**

20 Q. Approximately how much would you say?

21 A. **Probably a couple of days with a bull dozer, small**

22 **dozer.**

23 Q. Whereas the site that was selected was pretty much

24 ready to go?

25 A. **Pretty much ready to go.**

28

1 Q. Did any further construction, regrading or removal  
 2 of overburden have to be done on the site that was  
 3 selected?  
 4 A. **There was some work done on it. It was mostly -- it  
 5 was just getting everything ready to dig the hole that the  
 6 foundation went in.**  
 7 Q. No real overburden had to be removed?  
 8 A. **No.**  
 9 Q. Other than what's normal for any kind of structural  
 10 foundation?  
 11 A. **Mostly just grading out, grading off the grass and  
 12 vegetation and --**  
 13 Q. Whether you'd been building a commercial building or  
 14 some other large structure, nothing more than what's usual;  
 15 is that correct?  
 16 A. **Right.**  
 17 Q. If that much?  
 18 A. **If that much.**  
 19 Q. All right. Now is that all you want to say about  
 20 Alternative Site 3 as proposed from an engineering  
 21 standpoint?  
 22 A. **Just --**  
 23 (WHEREUPON, AN OFF-THE-RECORD DISCUSSION  
 24 WAS HELD, AFTER WHICH THE FOLLOWING PROCEEDINGS OCCURRED.)  
 25 CONTINUED QUESTIONS BY MR. KENDRICK:

29

1 Q. To follow up my last question regarding the  
 2 construction that would have to be done as to Alternative  
 3 Site Number 3, you've told us about additional soil and  
 4 overburden removal to make it, what, a flat desirable site,  
 5 or what?  
 6 A. **Right, to make it flat.**  
 7 Q. Would any more grading or preparation have to be  
 8 done in connection with a road to Alternative Site 3 from  
 9 the Brown property?  
 10 A. **Yes, it would. You'd have to reconstruct the road.  
 11 The way the road runs now out to it is along the ridge,  
 12 which is right along the property lines. It'd be right on  
 13 the property lines from the adjacent owners. So you'd have  
 14 to construct it on one side to stay on the ground  
 15 properties. So you'd have to redo the road from there  
 16 about 1500, 2,000 feet.**  
 17 Q. Well, what type of work would you have to do to do  
 18 that?  
 19 A. **You've got a five percent grade on that backfill,  
 20 and you'd just have to cut a road on a five percent grade.  
 21 It would be work. And you'd have to surface the road.**  
 22 Q. Wait a minute. Okay.  
 23 I'm a layman, but are you saying basically there's  
 24 14 to 1500 feet between the alternative site and the  
 25 proposed site for which a totally new road or additional

30

1 road and additional road link would have to be constructed;  
 2 is that correct?  
 3 A. **That's correct.**  
 4 Q. Are you familiar with any other problems at that  
 5 site --  
 6 A. **No.**  
 7 Q. (Continuing) -- as far as engineering or  
 8 construction?  
 9 A. **No, no more. Nothing comes to mind on it anyway.**  
 10 Q. So with the additional 1400 to 1500 feet of road  
 11 site to be constructed, just tell the commission is there  
 12 additional environmental impact to the ground around there  
 13 and the watershed from that additional construction alone?  
 14 A. **That reconstruction of the road would be on the  
 15 mine spoil area, and no additional trees would have to be  
 16 cut. It would just be reconfiguring the road in the mine  
 17 spoil.**  
 18 Q. That was 4? Site Number 4?  
 19 A. **Yes, it was. No. That was three. Site 4 is the  
 20 next one.**  
 21 Q. All right. Now what is your map number exhibit for  
 22 4, Alternative 4?  
 23 A. **4E.**  
 24 Q. And what did your investigation show with respect to  
 25 this proposed alternative site as a desirable or

31

1 undesirable site for a cell tower location?  
 2 A. **The main problem with it is it's adjacent to a  
 3 four-inch gas line, which the gas line would probably have  
 4 to be moved to construct the tower at that location. The  
 5 second main problem is the elevation. It is probably 200  
 6 foot lower on the mountain than the site we used, and it'd  
 7 be -- and the coverage area would be very limited from  
 8 that. And where it's -- where the tower was proposed,  
 9 there's an intersection of three property lines. So we'd  
 10 probably wind up working with three different property  
 11 owners to get that in.**  
 12 Q. Who are these additional property owners that you  
 13 would be required to, that you say, work with?  
 14 A. **Well, one of them would be James Brown property; the  
 15 other one would be Cummings and Fields, which we've talked  
 16 about -- it's a jointly-owned property -- and the other one  
 17 would be Lee Etta Cummings herself.**  
 18 Q. And the company had no agreement or consent from any  
 19 of these people for the construction of a tower site or the  
 20 construction of access to a tower site over their property?  
 21 A. **None that I know of.**  
 22 Q. No agreement you were supplied with; is that  
 23 correct?  
 24 A. **Other than the agreement that they had with Raymond  
 25 Brown, and it's an agreement on the road.**

32

1 Q. So the company would've had to access this property  
2 from Raymond Brown's property; is that correct?  
3 A. **Well, actually you couldn't get to it from Raymond**  
4 **Brown's property. They would have to access it through the**  
5 **Cummings-Fields property most likely, the road that we**  
6 **eliminated before.**  
7 Q. Would this site have required further road  
8 development and access development from the Cummings-Fields  
9 property?  
10 A. **Yes, it would. Probably -- I don't know -- not a**  
11 **lot. Two or 300 foot of road would have to be constructed**  
12 **to get to it.**  
13 Q. And whose property would that be over?  
14 A. **That would be over Cummings-Fields or Lee Etta**  
15 **Cummings's property, depending on which side of the**  
16 **property line we worked on.**  
17 Q. And there was no easement that EKN had here  
18 regarding from the Fields side of it except for the  
19 existing road. So that would've been a new easement --  
20 A. **Right.**  
21 Q. (Continuing) -- that would've have to have been  
22 required?  
23 A. **Right.**  
24 Q. And whose property did you say this was on?  
25 A. **James Brown.**

33

1 Q. So you had no agreements with any of the people who  
2 would be affected for the use of that site for these  
3 purposes?  
4 A. **None at all.**  
5 Q. I need you to tell the board what specifically are  
6 the problems with the gas line there and as far as how the  
7 four-inch gas line and how it impacts what would be  
8 necessary for the construction of a tower site and/or its  
9 access?  
10 A. **Well, it's right in the site that we would need to**  
11 **reconstruct the site for the tower itself, and it would**  
12 **probably have to be moved. It's laying on top of the**  
13 **ground; it's an exposed gas line. It's not something we**  
14 **could drive over. It would have to be altered.**  
15 Q. It's on top of the ground. So how far would it have  
16 to be moved, if you're able to say?  
17 A. **Well, probably -- probably need to move, change**  
18 **about three, 400 foot of line to get it out of the way, and**  
19 **you'd have to have a new easement or location to put that**  
20 **in.**  
21 Q. In other words, it could not be done within the  
22 existing site owner, James Brown property?  
23 A. **No, I don't think so.**  
24 Q. Additionally whose property would it have to cross?  
25 A. **Lee Etta Cummings.**

34

1 Q. That is if the line were moved, or if you can tell  
2 from that?  
3 A. **Lee Etta Cummings property and/or Cummings-Fields**  
4 **property and probably both of them to get it moved**  
5 **adequately out of the way.**  
6 Q. Would that be a temporary or permanent removal?  
7 A. **It could be either one. Well, as long as the tower**  
8 **was there. You know, the tower would be there. That'd be**  
9 **forever. It would have to stay moved as long as the tower**  
10 **was there.**  
11 Q. Would the access road or an access road that would  
12 have to be built have to be taken into consideration, too,  
13 as to the location of that line?  
14 A. **Right. If you were moving the line, it would move**  
15 **it away from the access road, too, just because that'd be**  
16 **the practical thing to do if you were having to move it.**  
17 MR. KENDRICK: Off the record.  
18 CONTINUED QUESTIONS BY MR. KENDRICK:  
19 Q. The four-inch gas line: Whose property does that  
20 cross?  
21 A. **Right now it crosses Cummings-Fields property and**  
22 **Lee Etta Cummings' property, and it's awful close to the**  
23 **James Brown property, but the property line has not been**  
24 **surveyed in. It'd be hard to say whether or not it is or**  
25 **not.**

35

1 Q. So if it were to be relocated, it would be relocated  
2 on the Lee Etta Cummings or the Cummings-Fields; is that  
3 right?  
4 A. **Yeah.**  
5 Q. It wouldn't be --  
6 A. **Part of it would probably be on James Brown tract,**  
7 **also.**  
8 Q. And there's no permission from the gas company to  
9 locate it any other place other than where it's located; is  
10 that correct?  
11 A. **That's right.**  
12 Q. When you look at a gas line that's there, what is  
13 your understanding of or how do you look at that as far as  
14 the right of the gas line to be located where it is when  
15 you evaluate a site for cell tower development?  
16 A. **In general when you see, find a gas line in place,**  
17 **they have got a right to put it where it is, but they may**  
18 **also have a right to put it in other places. We wouldn't**  
19 **know. A lot of property owners have the right to tell them**  
20 **that they can put it in a particular place or not, and we**  
21 **don't know what the circumstances is in that.**  
22 Q. Do you tend to view it as a permanent easement or --  
23 A. **The gas company will always have the right to run**  
24 **the gas line where it is, but they may have the right to**  
25 **put it in other places, also.**

36

1 Q. But they may not; is that correct?

2 A. **Right.**

3 Q. Why was this a problem then from your standpoint as

4 you look at it?

5 A. **It's just --**

6 Q. (Continuing) -- in connection with that four-inch

7 gas line?

8 A. **It's just located right in the area where we would**

9 **want to put the tower site, and it would need to be moved**

10 **because it'd be too dangerous to work around with the**

11 **equipment.**

12 Q. Have you been supplied with any instrument that

13 grants a consent of the gas company to move or interfere

14 with that line in any way?

15 A. **No, I haven't.**

16 Q. Do you know whose gas line that is?

17 A. **No, I don't.**

18 Q. Let me ask you one more question about that. What

19 about the coverage for that area? Is it nearer or further

20 away from some area that would be --

21 A. **It would be --**

22 Q. (Continuing) -- to be targeted?

23 A. **It would be a poor location to cover the area that**

24 **we were targeting. It would be impossible to get a signal**

25 **to Dry Fork from there.**

37

1 Q. What about Alternative Site 5? Do you have a map

2 for it, and how is it identified?

3 A. **Alternative Site 5 is on Exhibit 4F. And just a**

4 **second.**

5 **And that'd be located across the valley from the**

6 **tower site that we're using. It's located on an old strip**

7 **bench on the other side of Smoot Creek, and it's just a**

8 **long way from where we were originally targeting our tower**

9 **site.**

10 Q. I'm not sure I understood your first statement.

11 What about the location? Where is it located from the

12 tower site that was chosen? Did you say it's across --

13 A. **Yeah. It's all the way across Smoot Creek on the**

14 **other side and the mountain on the other side of the creek,**

15 **probably 3,000, 3500 foot away from the chosen site. And**

16 **it's an old strip mine bench.**

17 Q. And what was the elevation of this site?

18 A. **1572 feet is the elevation on that.**

19 Q. Are there surrounding mountains that would affect

20 the targeted area?

21 A. **Yeah. The mountain that we were planning on setting**

22 **the tower on, the one that the tower site that we proposed,**

23 **the whole mountain would be in between that tower site and**

24 **the targeted location.**

25 Q. So instead of being able to use the mountain where

38

1 you did locate --

2 A. **It would be an obstacle.**

3 Q. (Continuing) -- to the advantage of yourself and the

4 public that you're trying to serve, if this site was

5 selected, that very mountain would defeat that purpose?

6 A. **Right. It would be in the way, yes.**

7 Q. Is there anything else about that site that you

8 would care to comment on?

9 A. **There's a small gas line located near the site.**

10 Q. What size is it?

11 A. **Small, two-inch gas line. That would need to be**

12 **worked with in some way. We would --**

13 Q. Let me see if I understand now. You're saying at

14 this site there would be a mountain that would be located

15 in front of it that would affect coverage, right?

16 A. **Right.**

17 Q. And what would you have to do at this site or what

18 kind of tower would have to be constructed in order to

19 reach the targeted area?

20 A. **I don't know of any tower structure that would be**

21 **tall enough to reach to do that. I don't. And I don't**

22 **understand exactly how the signal propagates and all that**

23 **either.**

24 Q. But just on the face of it and from what you do

25 know, is this right or wrong: You don't want anything in

39

1 front of your tower that's going to interfere with the --

2 A. **Right. You don't want a mountain in front of it.**

3 Q. Would it take a tower that was -- it would take a

4 tower tall enough that you -- have you ever seen a tower

5 that tall?

6 A. **Not in this -- not in this part of the country.**

7 Q. Would the tower that tall for sure have to be

8 supported by guide wires?

9 A. **I would think so. I can't see any other way.**

10 Q. That may take it beyond the boundary used for more

11 than half an acre as the present site?

12 A. **Almost certainly beyond a half acre.**

13 Q. Could it take it to the boundary that would be

14 required onto other adjoining property owners?

15 A. **Yes, it would. It almost certainly would have to**

16 **cross the adjoining owners to do that.**

17 Q. And does East Kentucky, to your knowledge, now have

18 any kind of consent or agreement with those adjoining

19 owners?

20 A. **No, it doesn't, and it doesn't have any consent**

21 **agreement with anybody else on that site either.**

22 Q. So of all these sites, taking the present site

23 that's chosen to be the site of the tower construction

24 facility, where the construction of the tower facility

25 here, which is the most desirable?

40

1 A. **Our original site that we've chosen and submitted**  
 2 **plans for.**  
 3 Q. After reviewing these proposed alternative sites --  
 4 and you actually reviewed them; is that correct?  
 5 A. **Yes.**  
 6 Q. You were there?  
 7 A. **On the ground and looked at all of them.**  
 8 Q. Had this been available to you when East Kentucky  
 9 commenced this project, which of these sites would you have  
 10 recommended to Appalachian Wireless?  
 11 A. **Our original site location.**  
 12 Q. The one that you've submitted application for; is  
 13 that correct?  
 14 A. **That's correct.**  
 15 Q. Now there's been some talk here or concern as to Lee  
 16 Etta Cummings's property interest, that she was not made  
 17 aware of the construction of the tower facility by the  
 18 access road. Let me ask you this: When you go to  
 19 investigate what property owners or what property, any kind  
 20 of access road to a tower facility is going to affect,  
 21 where do you go for that information?  
 22 A. **In Kentucky, the first place I go to is the property**  
 23 **valuation administrator's office. They have maps of all**  
 24 **property in the county, and each county has an office in**  
 25 **the county seat.**

41

1 Q. Are those aerial maps?  
 2 A. **They're aerial maps and they draw property lines on**  
 3 **them, not exact but close enough to give you an idea of**  
 4 **where the property is located and who owns it.**  
 5 Q. Did you do that in this case? Did you go to the  
 6 Letcher County Property Valuation Administrator --  
 7 A. **Yeah.**  
 8 Q. (Continuing) -- to see who the adjoining property  
 9 owners were in the looks of this area from the air?  
 10 A. **Yes, I did. I went to Whitesburg PVA office, got a**  
 11 **copy of their map, looked up their records in the**  
 12 **courthouse. They always like for you to look them up**  
 13 **yourself. They don't like to get involved in it too much.**  
 14 Q. That is the applicants who don't like to?  
 15 A. **The PVA.**  
 16 Q. Oh, I'm sorry. The PVA doesn't --  
 17 A. **They don't -- they make all the records available to**  
 18 **the public. They'll help you if they have to, but in**  
 19 **general they expect you to go through the records yourself.**  
 20 Q. And you're not a title examiner, are you?  
 21 A. **No, I'm not.**  
 22 Q. You didn't perform a full-blown title examination on  
 23 the tower site facility or the areas of the property owners  
 24 where the proposed roads were crossing; is that correct?  
 25 A. **No.**

42

1 Q. And that wouldn't be something you would normally do  
 2 in preparing the tower application?  
 3 A. **No, not in preparing the tower application.**  
 4 Q. Well, do you have the PVA map that you copied at the  
 5 time you commenced your investigation of this site?  
 6 A. **I've got a copy of a section of it. It's Exhibit**  
 7 **5A, and it's map 47 in the PVA office.**  
 8 Q. Tell us what is track number 47 of that map?  
 9 A. **Map 47. Tract Number 71 is the tract that shows**  
 10 **adjacent property. Tract Number 38 is the Raymond Brown**  
 11 **property. Seventy-one shows to be Harry Fields's property,**  
 12 **Harry and Linda Fields. And it made no mention of Lee Etta**  
 13 **Cummings being a part-owner in that property, but Lee Etta**  
 14 **Cummings was shown as the property owner on Tract Lot 76,**  
 15 **which is adjoining.**  
 16 Q. Is the access road that is on the Smoot Creek side  
 17 and you told us about earlier shown or outlined on that  
 18 map?  
 19 A. **It's -- it's faintly -- you can faintly pick it out**  
 20 **in the map. It is found to be on Lot 71.**  
 21 Q. And who is shown as the property owner on Lot 71?  
 22 A. **Harry and Linda Fields.**  
 23 Q. And is Linda Fields the party from which Raymond  
 24 Brown had his right-of-way easement that East Kentucky  
 25 relied upon?

43

1 A. **Yes, it is.**  
 2 Q. For the use of that road; is that correct?  
 3 A. **Yes, it is. That's the reason the road was included**  
 4 **in the original application for permit.**  
 5 Q. So the basic document that you relied upon to, as  
 6 far as a map as to the parties who owned that road, is that  
 7 the PVA map you have in front of you?  
 8 A. **Yeah. You use the PVA map, plus you do an**  
 9 **inspection site and talk to the people. And I done both of**  
 10 **those. I talked to the people at the site. No one at the**  
 11 **site mentioned that Lee Etta Cummings was a part owner in**  
 12 **that property.**  
 13 Q. Did you make contact with Linda Fields?  
 14 A. **No, I didn't, no.**  
 15 Q. Who did you talk to specifically?  
 16 A. **Talked to Raymond Brown and then a couple of his**  
 17 **other neighbors when I was going around spotting property**  
 18 **lines.**  
 19 Q. And the complainant, Lee Etta Cummings, is not  
 20 listed on that map? That is an official map?  
 21 A. **She's listed on the tract that she owns**  
 22 **individually, but she's not --**  
 23 Q. And that's Tract 71; is that correct? What is that  
 24 tract?  
 25 A. **Seventy-six.**

44

1 Q. But this tract that the road crosses is Tract 71; is  
2 that correct?  
3 A. **That's correct.**  
4 Q. And she's not mentioned on it?  
5 A. **No.**  
6 Q. Is the exhibit -- and identify it, again, please  
7 that you've got in front of you. What's the exhibit number  
8 on it?  
9 A. **Exhibit 5A.**  
10 Q. Is that a true and correct copy of the PVA map that  
11 exists in the office of the Letcher County Clerk?  
12 A. **Yes, it is. I made the copy myself.**  
13 MR. KENDRICK: We'll enter that as an  
14 exhibit here, too.  
15 (EXHIBIT NO. 5A FILED HERewith.)  
16 CONTINUED QUESTIONS BY MR. KENDRICK:  
17 Q. Let me ask you this: Was that PVA map part of your  
18 application here?  
19 A. **No, it's not, but I used it to determine the lines.**  
20 Q. The alternative sites that were proposed: That was  
21 not part of the application or anything? The ones that she  
22 proposed either --  
23 A. **No.**  
24 Q. (Continuing) -- is that correct?  
25 A. **No.**

1 Q. Did you prepare the alternative site maps that you  
2 testified about here earlier, the individual ones for each  
3 site, yourself?  
4 A. **Yes, I did.**  
5 Q. And you have true and correct copies of these maps  
6 with you; is that correct?  
7 A. **Yes, they are.**  
8 Q. What does that show? What do all those maps  
9 collectively show about the area? Is it on a topographic  
10 map, or is it on an aerial photo or what it is?  
11 A. **I used a topographic map in general, to lay  
12 everything out. If we're trying to pick up some specific  
13 detail, aerial map is shown underlying the contours from  
14 the topographic map.**  
15 Q. And does that map you've got in front of you,  
16 alternative site map, aerial photos of the actual entire  
17 area in question?  
18 A. **Yes, it is.**  
19 Q. Now do you have any other maps or exhibits? You've  
20 told us about Exhibit 5, I think is the PVA map. What  
21 about Exhibit 6? Does that relate to this?  
22 A. **Well, we have Exhibit 5B in relation to the PVA map  
23 that shows the PVA lines overlying a contour map to aid in  
24 placement of the lines.**  
25 Q. And that's part of your Exhibit 5, as well?

1 A. **That's part of Exhibit 5, right.**  
2 Q. Is that 5A, from the PVA office?  
3 A. **5A is from the PVA office, and 5B I made myself.**  
4 Q. And 5 is a copy you made? Are you saying it's a  
5 copy you made yourself? I want to understand.  
6 A. **It's a -- it's a contour map with the PVA lines from  
7 the PVA map drawn over it, traced onto.**  
8 Q. Oh, you're saying you drew those lines --  
9 A. **Yes, I did.**  
10 Q. (Continuing) -- from the PVA map?  
11 A. **Yeah.**  
12 Q. And does it show the area except it's on a  
13 topographic map --  
14 A. **Right.**  
15 Q. (Continuing) -- that's shown on the PVA map; is that  
16 correct?  
17 A. **Yes, it is. To make it easier to see how everything  
18 fits together on a topographic map.**  
19 Q. Now what about Exhibit 6 you've got identified  
20 there? Would you tell us what that is, please?  
21 A. **It's -- Exhibit 6 is just a blowup of an aerial  
22 photo of the site so that you can see the roads that we're  
23 discussing and the tower site itself. I got the tower site  
24 located on it, the proposed site. And it's on a  
25 200-foot-to-an-inch scale. And you can see the main**

1 **highway and other existing roads into the site and the  
2 mining. You can see where all the grassland and the  
3 mountains are.**  
4 Q. Do you know when that photo was made or how recent  
5 it is? It's post-mining obviously; is that correct?  
6 A. **Yeah, it's post-mining. And it's probably -- I'd  
7 hate to say for sure, but no more than three years old, I  
8 would think.**  
9 Q. As you look at that map, let me ask you this. Is  
10 there anything that changes about your opinion as to the  
11 selection of this original site and its desirability over  
12 the alternative sites that Ms. Cummings proposed? Does  
13 anything change about that?  
14 A. **No, no. The site as shown on this map has a better  
15 view of Smoot Creek, Highway 15, and Dry Fork than any of  
16 the other sites that we've looked at.**  
17 Q. Is that then just a map of the entire area on what  
18 kind of scale?  
19 A. **One inch equals 200 feet.**  
20 Q. Was that submitted with the application, or do you  
21 know?  
22 A. **No. I made this as an exhibit for Marty that he was  
23 using for a hearing thing.**  
24 MR. KENDRICK: Off the record.  
25 CONTINUED QUESTIONS BY MR. KENDRICK:

1 Q. Now a question has been raised by the intervener  
 2 here about the location of the site that you've chosen in  
 3 relation to mining, either past or past mining and/or  
 4 future mining on her adjacent property. You've told us  
 5 earlier this area has been surface mined; is that correct?  
 6 A. **Yes, it is.**  
 7 Q. And what seam or seams of coal were mined at the  
 8 tower site and the adjacent property in connection with  
 9 that surface mining?  
 10 A. **The Hazard Number 4 seam was almost completely**  
 11 **removed in surface mine, and parts of the Whitesburg seam**  
 12 **and outcropping were removed.**  
 13 Q. And is that all the surface mining that's been done  
 14 in connection with this area?  
 15 A. **Yes, it is. Yes, it is, in the immediate area.**  
 16 Q. Do you know about approximately when that was done  
 17 and under what type of mine permit or anything?  
 18 A. **I've got a -- let's see. I've got map, Manning Coal**  
 19 **Corporation. Permit number was 8670335, and their mining**  
 20 **was done in the 1990's. I was trying to find an exact date**  
 21 **on this map, but I don't see it right off. This map was**  
 22 **signed in 2000. And this was probably a final map or awful**  
 23 **close to a final map; so almost all the mining was**  
 24 **completed by 2000.**  
 25 Q. Now so when you're talking about the surface mining,

49

1 the only surface mining that you're aware of was done by  
 2 Manning Coal Company, and it was all completed by or before  
 3 the year 2000; is that correct?  
 4 A. **Around that date, yeah.**  
 5 Q. And what about deep mining on this property? Has  
 6 there been any deep mining in this area? And tell us about  
 7 that.  
 8 A. **The Whitesburg seam, which is about a hundred foot**  
 9 **under the proposed tower location, has been deep mined, a**  
 10 **couple of deep mines. One was W & P Coal Company Mine**  
 11 **Number 3, and one was directly underlying the tower site is**  
 12 **MC & N Coal Company Mine Number 2.**  
 13 Q. How are you aware of this mining, this past mining?  
 14 A. **I've got copies of the mine maps that were**  
 15 **downloaded from the state site that all mine maps are**  
 16 **stored under.**  
 17 Q. When you say the state site, what department of the  
 18 state is that?  
 19 A. **It's Department of Mines & Minerals.**  
 20 Q. And that's in Frankfort?  
 21 A. **In Frankfort, yeah.**  
 22 Q. Just tell the commission what's shown on this map in  
 23 relation to past or previous mining in the area.  
 24 A. **It shows that the Whitesburg seam near the proposed**  
 25 **tower site has been mined by underground mine method and**

50

1 **the pillars, the mine pillars, are still in place**  
 2 **supporting the main roof.**  
 3 Q. And what else is on that map that identifies or  
 4 helps to explain where that map came from and about when it  
 5 was done?  
 6 A. **I've got a legend on it. It's called a final map**  
 7 **for W & P Coal Company Mine Number 3, and I'm trying to**  
 8 **read the name. James Harry Fields was the engineer at the**  
 9 **mine site that was responsible for this map, and it was**  
 10 **signed 2/27/90.**  
 11 Q. So right at 20 years ago?  
 12 A. **Yeah.**  
 13 Q. James Fields then was the engineer who signed off on  
 14 that as a final map. Tell the commission the significance  
 15 of that with respect to the mine and the Whitesburg seam.  
 16 A. **Final map means that they were -- whoever was**  
 17 **responsible for the mining had pulled out of the mine, and**  
 18 **this was a map showing everything that they had done while**  
 19 **they were there.**  
 20 Q. And what does it show in relation to the tower site  
 21 itself, where the tower site that's planned sits or is  
 22 going to sit?  
 23 A. **Tower site sets over top of the mined area and the**  
 24 **significant pillar between the mine area and the outcrops**  
 25 **right adjacent to the tower, but the area under the tower**

51

1 **has been mined and the pillars are still in place, all the**  
 2 **mine pillars.**  
 3 Q. And is the size, dimension and the --  
 4 A. **The pillars --**  
 5 Q. (Continuing) -- entries and so forth that was  
 6 actually mined shown there?  
 7 A. **Right. It shows the entry widths and the pillar**  
 8 **sizes, which is fairly standard for supporting --**  
 9 Q. That's the standard room-and-pillar method, right?  
 10 A. **Standard room-and-pillar method.**  
 11 Q. So the tower site itself was undermined in what  
 12 seam?  
 13 A. **The Whitesburg seam.**  
 14 Q. Is what I just said a fact, or does the mining  
 15 extend under the tower site, the proposed tower site?  
 16 A. **Yes, it does.**  
 17 Q. Now you said there are pillars left. What else is  
 18 left between the surface and the former mine and the  
 19 pillars that were mined?  
 20 A. **Well, the Whitesburg coal seam is approximately a**  
 21 **hundred foot, or in the neighborhood of a hundred foot,**  
 22 **below the elevation that we're going to set the tower on**  
 23 **now, but the Hazard Number 4 seam is about 40, 50 foot**  
 24 **above the Whitesburg seam. And that's what was surface**  
 25 **mined. So you've got about 40 or 50 foot overlying the**

52

1 **Whitesburg seam, and on top of that you've got 60, 70 to 80**  
 2 **foot of overburden from the mining, the surface mining of**  
 3 **the Hazard Number 4 seam.**  
 4 Q. When you say overburden, what does that include in  
 5 that 60 to 70 foot?  
 6 A. **Well, actually I probably shouldn't say overburden.**  
 7 **Backfill. You've 60 to 70 foot of backfill material, which**  
 8 **was blasted rock that was moved around to mine Number 4**  
 9 **seam.**  
 10 Q. And what underlies that overburden, that soil that  
 11 was placed there?  
 12 A. **About 40 to 50 foot of the original rock between the**  
 13 **overburden and the Whitesburg seam.**  
 14 (WHEREUPON, AN OFF-THE-RECORD DISCUSSION  
 15 WAS HELD; AFTER WHICH THE FOLLOWING PROCEEDINGS OCCURRED.)  
 16 CONTINUED QUESTIONS BY MR. KENDRICK:  
 17 Q. So between the pillars from the Whitesburg seam and  
 18 the surface, there's 60 to 70 feet of overburden. And  
 19 about what portion of that would be rock --  
 20 A. **About 60.**  
 21 Q. (Continuing) -- above the old mine?  
 22 A. **There's about 40 to 50 foot of rock overlying the**  
 23 **Whitesburg seam, plus 50 to 70 foot of overburden on top of**  
 24 **that.**  
 25 Q. Oh, I understand that.

53

1 A. **So that's around a hundred, 110 foot from the**  
 2 **Whitesburg seam to the tower site in elevation.**  
 3 Q. In your opinion and based on your experience, your  
 4 training as a professional engineer, is the amount of cover  
 5 that's left there and the fact that -- there are pillars  
 6 under this site; is that correct?  
 7 A. **That's correct.**  
 8 Q. As a result of that, should that be sufficient cover  
 9 to afford adequate stability to the tower once it's built?  
 10 A. **That is sufficient support to hold up the rock and**  
 11 **the overburden. The coal and the mine will not crush out**  
 12 **and the whole thing won't fall down. That's not to say**  
 13 **that in some of the entries, the 20-foot-wide entries that**  
 14 **there won't be some falls in those entries, but you've got**  
 15 **40 foot of rock over top of them. It would be hard for**  
 16 **the fall to penetrate that full 40 foot. And if it did,**  
 17 **you'd have 70 foot of overburden placed over top of that,**  
 18 **and that would cushion and dampen the effects on the**  
 19 **surface.**  
 20 Q. Let me ask you: Are you aware of other tower site  
 21 facilities in eastern Kentucky that have basically the same  
 22 substructure, that is previous mining, rock, overburden and  
 23 soil?  
 24 A. **Well, about -- there's coal mines all over eastern**  
 25 **Kentucky. It's hard to find a mountain that don't have**

54

1 **coal mining in it. Almost anyplace that you build a tower**  
 2 **is over top -- well, you're trying to get on top of a**  
 3 **mountain, you know, to get an advantage point. It's over**  
 4 **top of a coal mine somewhere along the line. A lot of it**  
 5 **is surface mined any more. It's hard to find a location on**  
 6 **top of the mountain that's not had some surface mine. So**  
 7 **it's common to build a tower in a place like this.**  
 8 Q. You're aware of other towers?  
 9 A. **Yes.**  
 10 Q. Now you said there are coal pillars. What's left  
 11 in the coal mine that helps support the tower, if  
 12 you -- you mentioned pillars. Is there anything further  
 13 you can comment about specifically from that map with this  
 14 site?  
 15 A. **Well, this is standard room-and-pillar mining.**  
 16 **Entries are about -- entry crosscuts are about 20-foot**  
 17 **wide. Pillars left in place are about 40-foot square,**  
 18 **which is more than adequate to hold up what's over top of**  
 19 **it. There would be no general, general falls from that**  
 20 **configuration.**  
 21 Q. And does that include once the tower itself is  
 22 built?  
 23 A. **The tower would be insignificant weight on that.**  
 24 MR. KENDRICK: Off the record.  
 25 (WHEREUPON, AN OFF-THE-RECORD DISCUSSION

55

1 WAS HELD, AFTER WHICH THE FOLLOWING PROCEEDINGS OCCURRED.)  
 2 CONTINUED QUESTIONS BY MR. KENDRICK:  
 3 Q. Now let me ask you this. When you've got this map  
 4 here, Exhibit --  
 5 A. **Seven?**  
 6 Q. (Continuing) -- Number 7, that is the official map  
 7 that's filed as the final map with Mines & Minerals, if I  
 8 understand; is that correct?  
 9 A. **That's correct.**  
 10 Q. Now have you done any work yourself or made any kind  
 11 of changes on the copy that we're looking at today?  
 12 A. **The only thing I've done to it, is I've located the**  
 13 **tower on the map.**  
 14 Q. Is that identified in some way that it's readily  
 15 observable by the commission? How is that shown on the  
 16 map?  
 17 A. **It shows a triangle to represent the tower location**  
 18 **with a circle around it.**  
 19 Q. How large is that circle?  
 20 A. **That's about 500 foot, two-and-a-half-inch diameter.**  
 21 Q. The so-called 500-foot radius?  
 22 A. **Right.**  
 23 Q. And you added that --  
 24 A. **Right.**  
 25 Q. (Continuing) -- to an official copy of this map that

56

1 you've downloaded from Mines & Minerals; is that correct?  
 2 A. **Right. And what I added is in red. It's red on the**  
 3 **map.**  
 4 Q. Now I take it that further mining in that Whitesburg  
 5 seam in that area is, and especially the area under the  
 6 tower, is not likely; is that correct?  
 7 A. **No. It would be completely uneconomical to even,**  
 8 **even think about it. You've got 70, 80 foot of overburden**  
 9 **on top of it, and it'd cost too much to move it to get to**  
 10 **it.**  
 11 Q. So there'll be no more mining in that seam in the  
 12 vicinity of the tower; is that correct?  
 13 A. **In the actual location of the tower? I can't**  
 14 **foresee any mining in the Whitesburg or the Number 4 seam.**  
 15 Q. Based on what we talked about so far, do you see any  
 16 impact to Ms. Cummings's property, property that she owns  
 17 herself, the Lee Etta Cummings property, from the location  
 18 of the tower or the configuration of the substrata under  
 19 it?  
 20 A. **I don't see how it could possibly have any effect on**  
 21 **her property.**  
 22 Q. Let's move on from this exhibit, and let me ask you  
 23 are you aware of further mine plans or proposed mining  
 24 which is in this vicinity of the tower site?  
 25 A. **Yes, I am. That's a mine map from Sapphire Coal**

57

1 **Company that was presented to me from Fred Wells. It's not**  
 2 **an official map, but it is a map showing their current**  
 3 **state of planning.**  
 4 Q. And is that the type of information that you rely on  
 5 in your work as a mining engineer that you get from other  
 6 mining engineers?  
 7 A. **Yes, it is.**  
 8 Q. Is Mr. Webb an engineer?  
 9 A. **Yes, he is. He's an engineer for Sapphire Coal.**  
 10 Q. And does it appear that that map -- just tell us  
 11 what that map is, what it purports to show or what the  
 12 legend shows or whatever.  
 13 A. **Well, it shows what's been mined in the past in the**  
 14 **area and it, as far as --**  
 15 Q. Does that show the Whitesburg seam you talked about  
 16 earlier?  
 17 A. **The Whitesburg and the Hazard Number 4 seams are**  
 18 **both represented in this.**  
 19 Q. The strip mine seam, also?  
 20 A. **Yeah.**  
 21 Q. Is that correct?  
 22 A. **Right.**  
 23 **It shows the mine works that were done before and**  
 24 **shows their plan, their mine plan for the future on this.**  
 25 **And it doesn't show anything within the area right where**

58

1 **we're mining now.**  
 2 Q. Would you identify --  
 3 A. **I have put the --**  
 4 Q. Let me try to clarify, if I understand. Does it  
 5 show any further mining plan planned in the immediate  
 6 future that undercuts or goes under this tower site?  
 7 A. **No, it doesn't. It doesn't show anything at the**  
 8 **tower site. No. It's just --**  
 9 Q. No further mining is planned on the basis of this  
 10 map by Sapphire Mining under the tower site; is that  
 11 correct?  
 12 A. **Right. In those two seams there: Hazard 4 --**  
 13 Q. What seams are affected here or shown on this map?  
 14 Or seam or seams?  
 15 A. **It shows Hazard Number 4 seam plan and the**  
 16 **Whitesburg seam plan.**  
 17 Q. And those have already been mined. So there's no  
 18 concern, as you told us earlier, about mining in those  
 19 seams under the area; is that correct?  
 20 A. **Right.**  
 21 Q. I don't understand then. What is it showing is  
 22 planned for this area?  
 23 A. **It shows what Sapphire is planning to do in an**  
 24 **adjacent area around the tower site.**  
 25 Q. What seam or seams?

59

1 A. **Same seams as the Hazard Number 4 and Whitesburg.**  
 2 **And it shows what's possibly left that they could mine.**  
 3 Q. So that shows a previous mining and the planned  
 4 mining in the same seams; is that correct?  
 5 A. **Right, uh-huh.**  
 6 Q. And does it or does it not involve the tower site  
 7 area?  
 8 A. **It does not involve the tower site area. It is the**  
 9 **area around it, say, within a half a mile.**  
 10 MR. KENDRICK: Off the record.  
 11 (WHEREUPON, AN OFF-THE-RECORD DISCUSSION  
 12 WAS HELD, AFTER WHICH THE FOLLOWING PROCEEDINGS OCCURRED.)  
 13 CONTINUED QUESTIONS BY MR. KENDRICK:  
 14 Q. What does that show with respect to the company's  
 15 plans?  
 16 A. **It shows what they've got planned and actually**  
 17 **working on permitting at this time. And that area is**  
 18 **probably close to half a mile from the tower site. Now --**  
 19 **but it does show that there's some.**  
 20 Q. How is that shown on the map?  
 21 A. **Oh, it's listed in the legend. It's a lot of**  
 22 **different colors and different symbols. It's fairly**  
 23 **complicated, but they all overlie each other. So you have**  
 24 **to set and look at it a long time to figure it out.**  
 25 Q. Well, the Public Service Commission of Kentucky, I'm

60

1 going to tell you, can figure it out.

2 A. **Well, it's on there. It can be figured out, but you**

3 **have to study it.**

4 Q. Well, you study it for the commission and for this

5 poor attorney who's not a mining expert. Show us first the

6 tower site on this map.

7 A. **(WITNESS SO DID.)**

8 Q. And does that have the 500-foot radius, and how is

9 the tower site shown?

10 A. **That's just a circle, a small circle, and the**

11 **500-foot radius around it.**

12 MR. KENDRICK: Go off the record.

13 (WHEREUPON, AN OFF-THE-RECORD DISCUSSION

14 WAS HELD, AFTER WHICH THE FOLLOWING PROCEEDINGS OCCURRED.)

15 CONTINUED QUESTIONS BY MR. KENDRICK:

16 Q. What does that show about the tower site?

17 A. **It shows that it's overlying previous mine works in**

18 **the Whitesburg seam.**

19 Q. That you told us about earlier; is that correct?

20 A. **Right, right. That there's been previous mining on**

21 **the contour of the Whitesburg seam and that there's**

22 **adjacent mines in the Whitesburg and the Number 4 seam as**

23 **shown on it. And if you move farther to the southwest, you**

24 **get to the area that they're planning on mining now.**

25 Q. As you go southwest on this map; is that correct?

61

1 A. **Correct.**

2 Q. All the mining that is shown from the tower site to

3 the southwest that's on this has already been done; is that

4 correct?

5 A. **It's already been done, right.**

6 Q. Now show us as to the proposed or planned or likely

7 mining that Sapphire has shown.

8 A. **Whitesburg Mining is this area shaded in the orange**

9 **dashes, dashed dots, and that's proposed mining right**

10 **there.**

11 Q. Would you write that in your handwriting on that

12 map?

13 A. **Okay. And that's listed in the legend, also, as**

14 **proposed mining. You also have purple as proposed mining.**

15 **This does. That also is proposed new mining.**

16 Q. And that is what seam, sir?

17 A. **Whitesburg. It's just a different type of mining.**

18 **It's contour mining. The other was full service mining.**

19 Q. So that's contour mining?

20 A. **Uh-huh.**

21 Q. Not underground, correct?

22 A. **Correct. Of course, you got this over here.**

23 Q. Well, let's stick to the southwest.

24 A. **Okay. That's extent of the proposed mining.**

25 Q. And how far away for the proposed mining -- what do

62

1 you need?

2 A. **A ruler. I can get it.**

3 **Probably about 3500, 4,000 feet.**

4 Q. The proposed mining is surface mining; is that

5 correct --

6 A. **Correct.**

7 Q. (Continuing) -- to the southwest?

8 A. **Uh-huh.**

9 Q. And it's 3500 --

10 A. **Thirty-five hundred to 4,000 feet away from the**

11 **proposed tower site.**

12 Q. Should mining in that area in any way affect the

13 tower?

14 A. **Normally you don't start restricting your blasting**

15 **until you get within a half of mile of it.**

16 Q. So the answer is, no, it shouldn't affect it at all?

17 A. **It shouldn't affect it.**

18 Q. Should the presence of the tower affect the proposed

19 mining to the southwest?

20 A. **None.**

21 Q. All right. Now again directing your attention to

22 the tower site, does this map show proposed mining in

23 closer proximity to the tower and, if so, tell us about

24 that and how it's located and shown?

25 A. **The map itself doesn't show any proposed mining**

63

1 **closer than that, but in conversation with Fred, he pointed**

2 **out the areas between the outcrop and the mine, these areas**

3 **here, as being possible to mine later on.**

4 Q. Would that be surface mining?

5 A. **Surface mining, yes.**

6 Q. You said a phone conversation with him. About how

7 many areas are you talking about there and --

8 A. **That's about --**

9 Q. (Continuing) -- tell us how far it is from the

10 tower?

11 A. **About three areas. One area will be just beyond the**

12 **500-foot limit from the tower, and it's questionable**

13 **whether it'd be mined but it's possible. And then you get**

14 **on out to about 1500, 2,000 foot from the tower, and**

15 **there's some room for some contour mining and stripping on**

16 **it, surface mining.**

17 Q. But, again, I take it that since those areas that

18 you've just testified about are not shown in any particular

19 color on the map, that that's questionable as to whether

20 those areas will be mined or whether the --

21 A. **Yes, it is.**

22 Q. (Continuing) -- reserves are recoverable there?

23 A. **Right.**

24 Q. Making it feasible to mine; is that correct?

25 A. **I think so.**

64

1 Q. And is that probably why they're not shown on that  
2 map?  
3 A. **That would be the assumption you would make on that.**  
4 Q. And if those are mined, should those areas affect  
5 the tower or the tower affect the recovery of coal in those  
6 areas?  
7 A. **The blasting would have to be restricted any time  
8 they get within a half a mile of the tower. The amount of  
9 explosives that they're allowed to use is dependent on the  
10 distance from the nearest structure to the shot that  
11 they're putting off. So they may have to restrict the  
12 amount of powder that they use in a blast.**  
13 Q. That's the coal company; is that correct?  
14 A. **That's correct.**  
15 Q. Is that a blasting regulation?  
16 A. **Yes, it is.**  
17 Q. And that's under the Mines & Minerals regulations?  
18 A. **Mines & Minerals and the permits and the federal,  
19 MSHA.**  
20 Q. So basically I heard you say the blasting and the  
21 amount of powder or other substances that permit the  
22 blasting would have to be reduced. The law is it has to be  
23 reduced within that area; is that correct?  
24 A. **Correct. It's a formula that you work through for  
25 the distance of a structure.**

65

1 Q. And that applies to anything a half a mile of a cell  
2 tower; is that correct?  
3 A. **Right.**  
4 Q. Now as you look at the proposed mining that's shown,  
5 and what I'll call the "iffy" mining that might be mined  
6 later according to Mr. Webb, if it every is mined, that  
7 lies to the southwest, is there any of that coal that you  
8 see in those areas or should that -- should the amount of  
9 coal recoverable be affected by the blasting regulation  
10 you've told us about by reason of the presence of the  
11 tower?  
12 A. **I don't -- I don't see any reason. It may be  
13 slightly more expensive to reduce the size of the shots,  
14 the blast area.**  
15 Q. You have to do more blasting; is that correct?  
16 A. **Right. But I don't see anything that would prevent  
17 them from continuing to mine.**  
18 Q. Well, let me ask you this. Is this a common fact  
19 and a common occurrence in a coal mining operation around  
20 here?  
21 A. **Always, every day. All -- all around us. They're  
22 mining within a half a mile of something. A half a mile is  
23 a pretty good area. And any time you're mining, you're  
24 within a half a mile of something. So almost all shots are  
25 weighted according to the structures.**

66

1 Q. So this is not something that should affect the  
2 recovery or the amount of the recovery of coal and  
3 generally does not, but would not in this case. Is that  
4 what you're saying?  
5 A. **That's right.**  
6 Q. Now is there any other mining? Is that all the  
7 mining to the southwest that's either shown on this map or  
8 that you can reasonably project?  
9 A. **Yes.**  
10 Q. Now what about in the 500-foot radius itself of the  
11 tower? Is there any other mining shown?  
12 A. **Not in the Whitesburg and the Hazard Number 4 seams,  
13 but there's a Elkhorn seam located quite a bit of distance  
14 underground: Three or 400 feet.**  
15 Q. How is it shown?  
16 A. **It's not shown on the permit map at all, but it is  
17 shown on a separate map of -- mined underground work map.**  
18 Q. Did Mr. Webb supply you this information?  
19 A. **No, he didn't. I picked this up off the state site,  
20 also. All underground mine maps are picked up off the  
21 state site.**  
22 Q. Let me ask you. Mr. Webb is an engineer with  
23 Sapphire, and what you've shown on Exhibit Number --  
24 A. **Nine?**  
25 Q. (Continuing) -- nine, came from him as to mining

67

1 this?  
2 A. **It's an unofficial representation of their plan at  
3 the time he sent it to me.**  
4 Q. All right. Now what's the difference between that  
5 map and the map that you've just pulled out here, which  
6 I'll refer to as -- is it pre-marked a Exhibit 10?  
7 A. **Exhibit 8.**  
8 Q. Exhibit 8. Well, tell me about that.  
9 A. **Well, that shows the Elkhorn seam underlying the  
10 proposed tower site and the mines in it. That's been mined  
11 extensively over the years by Golden Oak Mining Company,  
12 Cook & Sons and now Sapphire Mining. There's a lot of old  
13 mine works located in the Elkhorn seam.**  
14 Q. Where is the tower site shown on this map?  
15 A. **Here. It's located in red, also. About the center  
16 of the map.**  
17 Q. Did you mark that?  
18 A. **I marked that.**  
19 Q. And put the 500-foot radius? Just like some of  
20 these other maps?  
21 A. **It doesn't have the 500-foot radius on it, but it  
22 does have latitude and longitude.**  
23 Q. And what previous mining does it show in the Elkhorn  
24 seam there --  
25 A. **It shows --**

68

1 Q. (Continuing) -- with respect to the tower site?  
 2 A. **It shows four or five different mines that they've**  
 3 **approached this area from different directions, and none of**  
 4 **them have made it to the area where the tower is at. And**  
 5 **it shows their proposed mine plans that they've got for**  
 6 **their active mines now, and they cut off before they get**  
 7 **within the tower site location. So they're not showing**  
 8 **anything proposed to be mined exactly where the tower is**  
 9 **at.**  
 10 Q. So in the proposed plans there is no disturbance  
 11 planned or proposed with respect to the tower site; is that  
 12 correct?  
 13 A. **That's correct.**  
 14 Q. As far as coal mining the Elkhorn seam?  
 15 A. **Right.**  
 16 Q. All right. What about the past mining?  
 17 A. **The past mining doesn't reach to the tower either.**  
 18 **It shows it probably being at least 2,000 foot away all the**  
 19 **way around the tower site.**  
 20 Q. So in the Elkhorn seam, there's been no undermining  
 21 of the tower and no undermining in the Elkhorn seam planned  
 22 of the tower site; is that correct?  
 23 A. **By Sapphire Mining.**  
 24 (WHEREUPON, AN OFF-THE-RECORD DISCUSSION  
 25 WAS HELD, AFTER WHICH THE FOLLOWING PROCEEDINGS OCCURRED.)

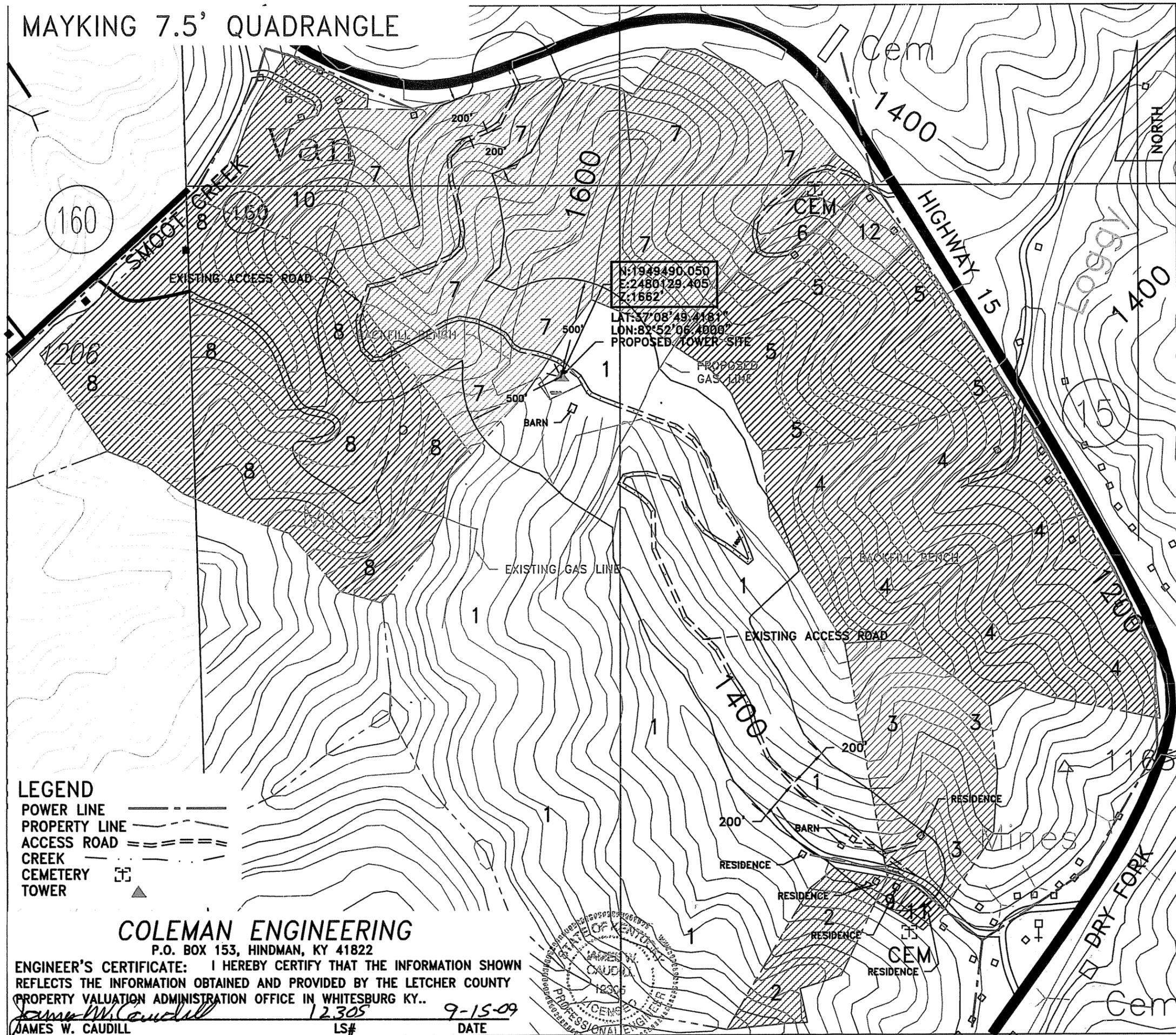
1 CONTINUED QUESTIONS BY MR. KENDRICK:  
 2 Q. You're aware of no plans by any other company in the  
 3 immediate future then other than Sapphire regarding the  
 4 Elkhorn seam or mining under it, is that correct, or mining  
 5 under the tower; is that correct?  
 6 A. **There was nothing posted on the Internet at the time**  
 7 **I done this.**  
 8 Q. That's good.  
 9 Do you consent for these nine exhibits that you've  
 10 testified here about today to be filed with the Public  
 11 Service Commission? I know some of them already are,  
 12 but --  
 13 A. **The exhibits that I've signed are prepared by me,**  
 14 **and I could stand behind all those. These other exhibits**  
 15 **are things that I picked up from different sources, and I**  
 16 **can't take responsibility --**  
 17 Q. Let's identify those then. As you go back through  
 18 those exhibits, just tell us which exhibit numbers were  
 19 picked up from different sources.  
 20 A. **One through five I done. It's all mine.**  
 21 Q. And that's already turned in, to your knowledge?  
 22 A. **Well, no.**  
 23 Q. Exhibit 1 through 3 were turned in, is that correct,  
 24 as part of your application?  
 25 A. **Yeah, right.**

1 Q. Then Exhibits 4 and 5 are the PVA exhibits; is that  
 2 correct?  
 3 A. **Right. Four is the alternate sites.**  
 4 Q. Okay. And 4 is the alternate sites.  
 5 Then what about the PVA exhibit? What number?  
 6 A. **That's five. And the property survey is 3.**  
 7 Q. What about the other exhibits?  
 8 A. **These are all maps prepared by other people, and I'm**  
 9 **just looking at them. I just put --**  
 10 Q. What exhibit numbers?  
 11 A. **I tried to approximate the site on each one of these**  
 12 **maps so you could see what it looked like. That's it.**  
 13 Q. So those are exhibit numbers what?  
 14 A. **Six, seven, eight and nine.**  
 15 Q. Those were prepared by others and not submitted in  
 16 connection with your application?  
 17 A. **That's right.**  
 18 Q. That is EKN?  
 19 A. **That's right.**  
 20 Q. Are all those maps, Exhibits 6 through 9, maps that  
 21 are normal for you to rely on in your everyday activities?  
 22 A. **Evaluation of the site, yes, it is.**  
 23 MR. KENDRICK: That's all.  
 24 (TESTIMONY CONCLUDED.)  
 25

1 CERTIFICATION OF REPORTER  
 2  
 3  
 4 STATE OF KENTUCKY)  
 5 )  
 6 COUNTY OF MARTIN )  
 7  
 8 I, DENISE M. GAUZE, the undersigned Notary  
 9 Public in and for the State of Kentucky at Large, certify  
 10 that the facts stated in the caption hereto are true; that  
 11 at the time and place stated in said caption, the witness  
 12 named in the caption hereto personally appeared before me  
 13 and that after being by me duly sworn, was questioned by  
 14 Counsel for East Kentucky Network d/b/a Appalachian  
 15 Wireless; that said testimony was taken down in stenotype  
 16 by me and later reduced to a computer-aided transcription  
 17 under my supervision; and that the foregoing is a true and  
 18 complete record of the testimony given by said witness.  
 19 My commission expires: November 17, 2010.  
 20 IN TESTIMONY WHEREOF, I have hereunto set my hand on  
 21 the \_\_\_\_ day of \_\_\_\_\_, 2009.  
 22  
 23 \_\_\_\_\_  
 24 DENISE M. GAUZE  
 25 NOTARY PUBLIC

MAYKING 7.5' QUADRANGLE

**APPALACHIAN WIRELESS**  
 101 TECHNOLOGY TRAIL  
 IVEL, KY. 41642  
 PROPOSED TOWER SITE  
 RAYMOND BROWN TRACT  
 DRY FORK IN LETCHER CO, KY

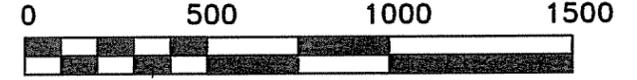


**LAND OWNERS:**

- |     |  |      |  |
|-----|--|------|--|
| ○ 1 | RAYMOND & BERYL BROWN<br>309 RAYMOND'S BR ROAD<br>WHITESBURG, KY 41858     | ● 7  | JAMES HARRY FIELDS<br>C/O LINDA FIELDS<br>P.O. BOX 339<br>ISOM, KY 41824 |
| ● 2 | CHARLES & CONNIE STURGILL<br>237 RAYMOND'S BR ROAD<br>WHITESBURG, KY 41858 | ● 8  | LEE ETTA GAY CUMMINGS<br>BOX 176<br>VICCO, KY 41773                      |
| ● 3 | DALE BROWN<br>168 RAYMOND'S BR ROAD<br>WHITESBURG, KY 41858                | ● 9  | DANIEL SANDLIN<br>208 RAYMOND'S BR ROAD<br>WHITESBURG, KY 41824          |
| ● 4 | DON & COLLETT TOLLIVER<br>HC84 BOX 265B<br>WHITESBURG, KY 41858            | ● 10 | JAMES & BETTY BROWN<br>BOX 100 HOLLYBUSH BR<br>WHITESBURG, KY 41824      |
| ● 5 | DENNIS & BETTY COMBS<br>1324 JENKINS RD<br>WHITESBURG, KY 41858            | ● 11 | VIRGINIA A BROCK<br>11 COMET DRIVE<br>WHITESBURG, KY 41824               |
| ● 6 | VICKIE ADAMS<br>180 CHADS ROAD<br>WHITESBURG, KY 41858                     | ● 12 | WILLIAM DOYLE WRIGHT<br>P.O. BOX 501<br>ISOM, KY 41824                   |

09/19/08

SCALE 1" = 500'

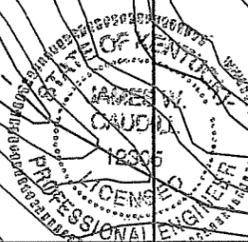


- LEGEND**
- POWER LINE ————
  - PROPERTY LINE - - - - -
  - ACCESS ROAD = = = = =
  - CREEK - - - - -
  - CEMETERY [Symbol]
  - TOWER ▲

MAP SHOWING STRUCTURES & LAND OWNERS  
 WITHIN 500 FT OF THE PROPOSED TOWER

**COLEMAN ENGINEERING**  
 P.O. BOX 153, HINDMAN, KY 41822

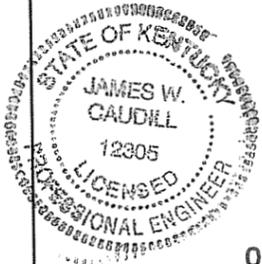
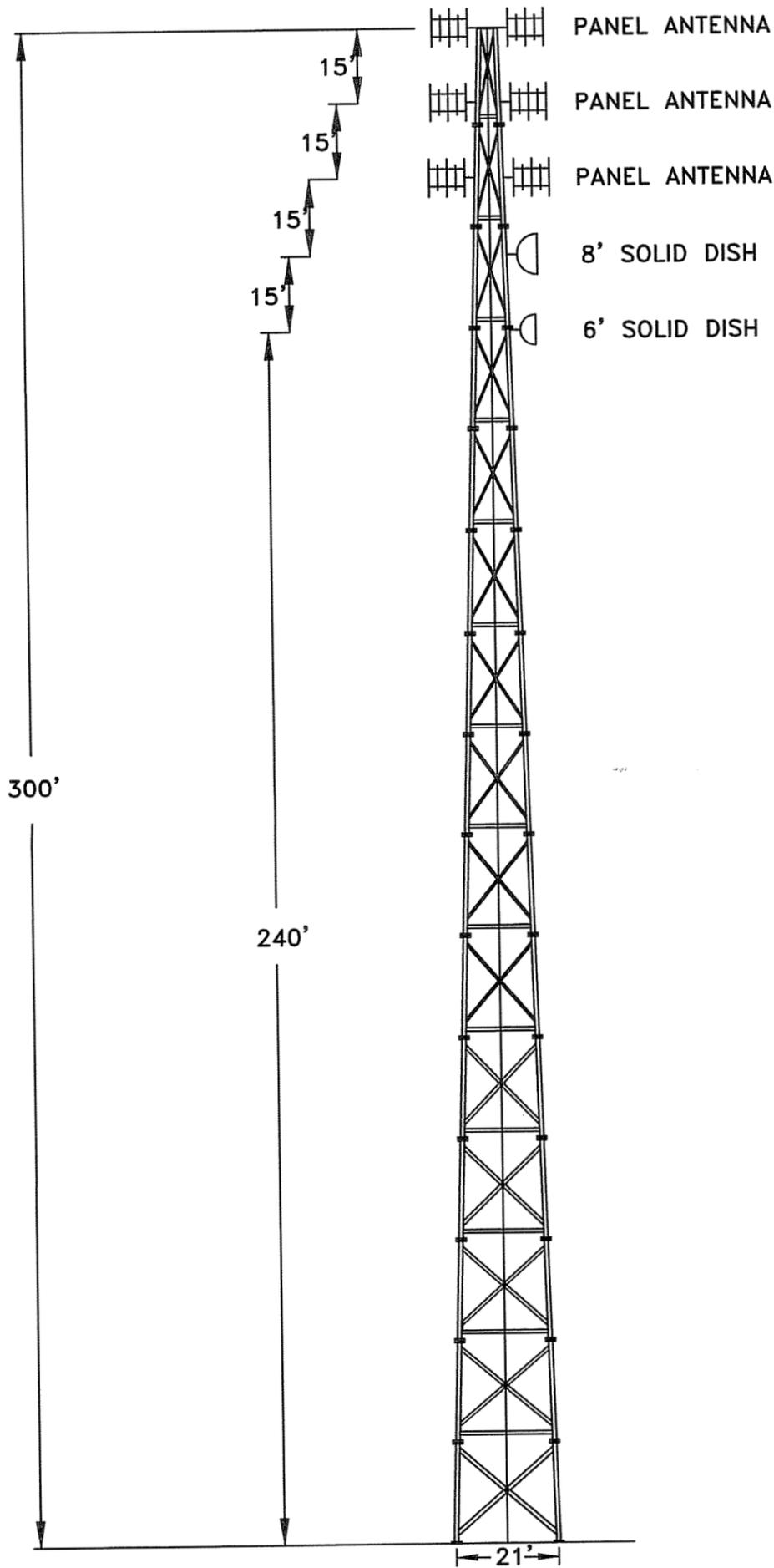
ENGINEER'S CERTIFICATE: I HEREBY CERTIFY THAT THE INFORMATION SHOWN  
 REFLECTS THE INFORMATION OBTAINED AND PROVIDED BY THE LETCHER COUNTY  
 PROPERTY VALUATION ADMINISTRATION OFFICE IN WHITESBURG KY..  
*James W. Caudill* 12.305 9-15-09  
 JAMES W. CAUDILL LS# DATE



**COLEMAN ENGINEERING**  
 P.O. BOX 153, HINDMAN, KY 41822

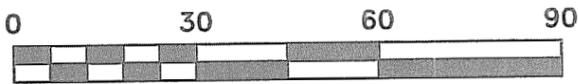
EXHIBIT  
 1a

APPALACHIAN WIRELESS  
 101 TECHNOLOGY TRAIL  
 IVEL, KY. 41642  
 PROPOSED TOWER SITE  
 RAYMOND BROWN TRACT  
 NEAR VAN IN LETCHER COUTNTY



09/19/08

GRAPHIC SCALE



THIS IS A VERTICAL PROFILE SKETCH OF THE TOWER INDICATING THE PROPOSED ANTENNA AND DISH ELEVATIONS. NO DESIGN CRITERIA WAS CONSIDERED IN THE PREPARATION OF THIS DRAWING.

*James W. Caudill* 12305 9-15-09  
 JAMES W. CAUDILL P.E. DATE

VERTICAL PROFILE SKETCH

EXHIBIT 76

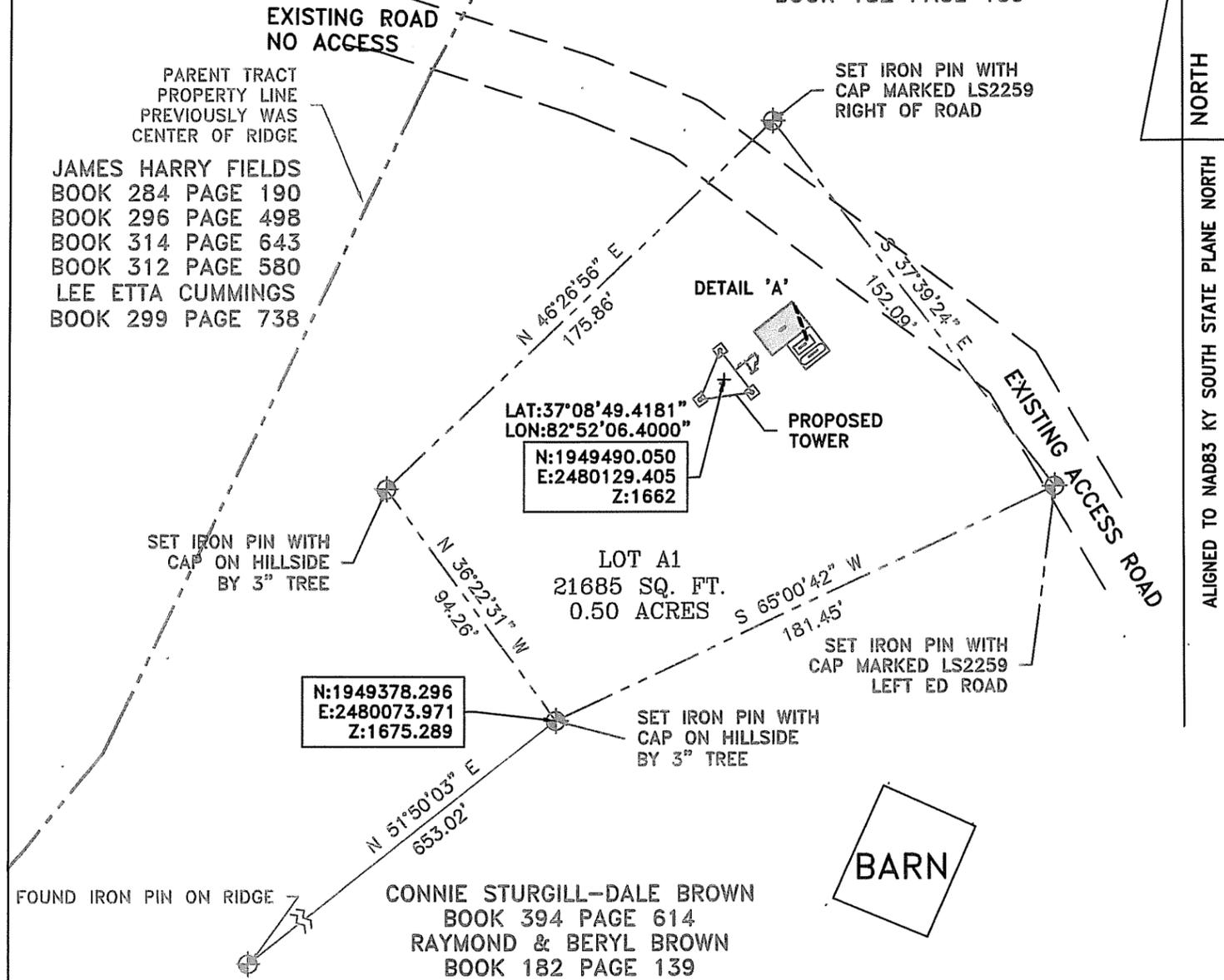
**COLEMAN**  
 ENGINEERING

P.O. BOX 153, HINDMAN, KY 41822

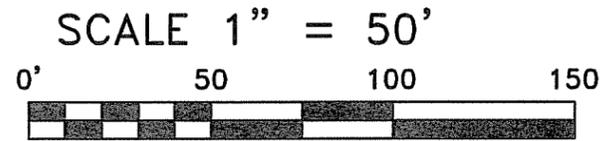
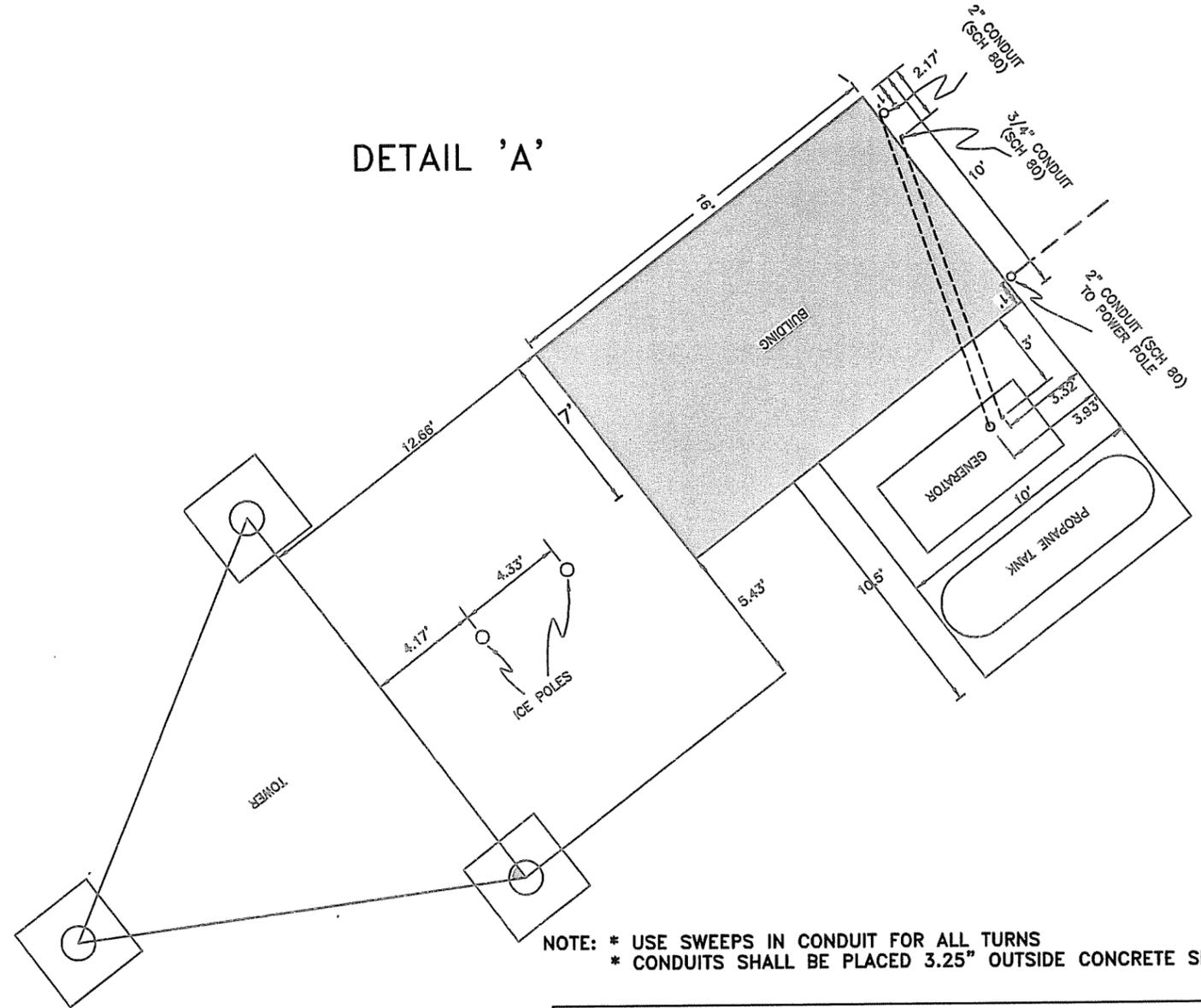
**SITE SURVEY  
STRUCTURE LOCATION  
RAYMOND BROWN TR  
NR VAN IN LETCHER CO**

CONNIE STURGILL-DALE BROWN  
BOOK 394 PAGE 614  
RAYMOND & BERYL BROWN  
BOOK 182 PAGE 139

**APPALACHIAN WIRELESS**  
101 TECHNOLOGY TRAIL  
IVEL, KY. 41642  
PROPOSED TOWER SITE  
RAYMOND BROWN TR  
NEAR VAN IN LETCHER CO



DETAIL 'A'

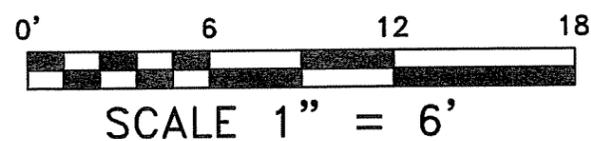
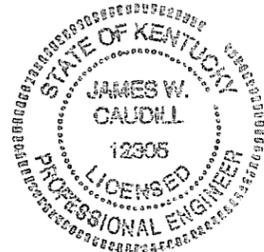


**LEGEND**

SURVEY STA	FOUND	SET
IRON PIN WITH CAP (1/8" X .5" REBAR PLASTIC CAP MARKED LS2259)		
BOUNDARY LINE		
ACCESS ROAD		
PARENT TRACT LINE		

-THE PROPOSED TOWER HAS BEEN LOCATED USING DUAL FREQUENCY GPS UNIT PROCESSED BY "OPUS"  
-STATE PLANE COORDINATES NAD 83 KY SOUTH ZONE N 1949490.05, E 2480129.41, EL 1662 FT MSL  
-PRECISION: HORIZONTAL=0.30' VERTICAL=0.50'  
-PROPERTY LINE INFORMATION TAKEN FROM DEEDS AND VERIFIED IN THE FIELD.

*James W. Caudill* 12305 9-15-09  
JAMES W. CAUDILL P.E. DATE



**SITE SURVEY/STR LOCATION**

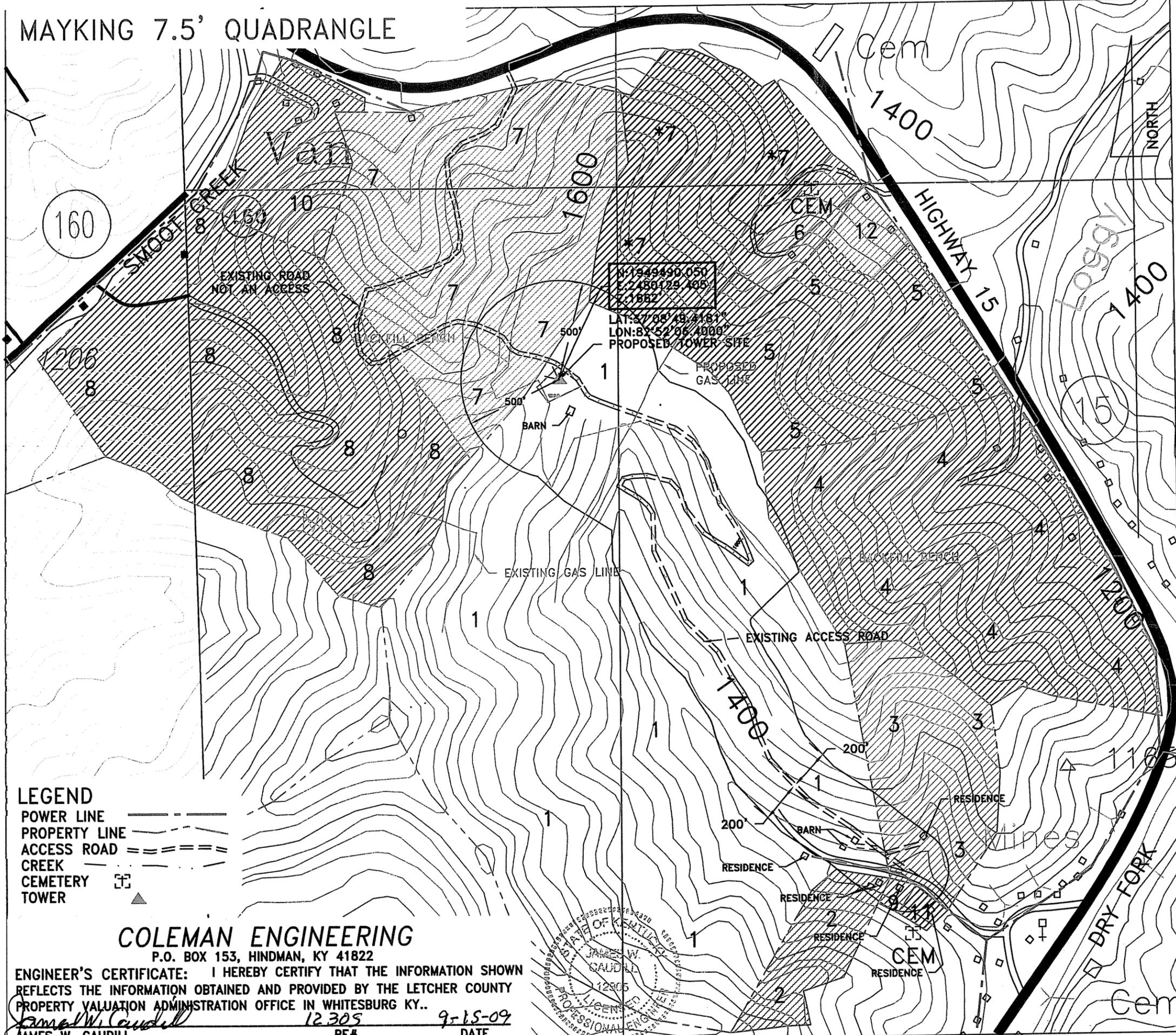
**COLEMAN ENGINEERING**

P.O. BOX 153, HINDMAN, KY 41822

EXHIBIT  
*Lc*

MAYKING 7.5' QUADRANGLE

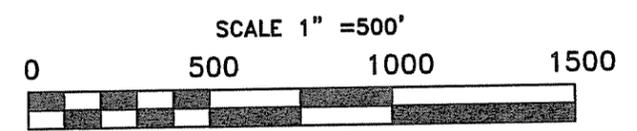
APPALACHIAN WIRELESS  
 101 TECHNOLOGY TRAIL  
 IVEL, KY. 41642  
 PROPOSED TOWER SITE  
 RAYMOND BROWN TRACT  
 DRY FORK IN LETCHER CO, KY



LAND OWNERS:

- |     |  |      |  |
|-----|--|------|--|
| ○ 1 | RAYMOND & BERYL BROWN<br>309 RAYMOND'S BR ROAD<br>WHITESBURG, KY 41858   | ● 8  | LEE ETTA GAY CUMMINGS<br>BOX 176<br>VICCO, KY 41773                      |
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04/15/09



- LEGEND**
- POWER LINE ————
  - PROPERTY LINE ————
  - ACCESS ROAD ————
  - CREEK ————
  - CEMETERY [Symbol]
  - TOWER [Symbol]

MAP SHOWING STRUCTURES & LAND OWNERS  
 WITHIN 500 FT OF THE PROPOSED TOWER

**COLEMAN ENGINEERING**  
 P.O. BOX 153, HINDMAN, KY 41822

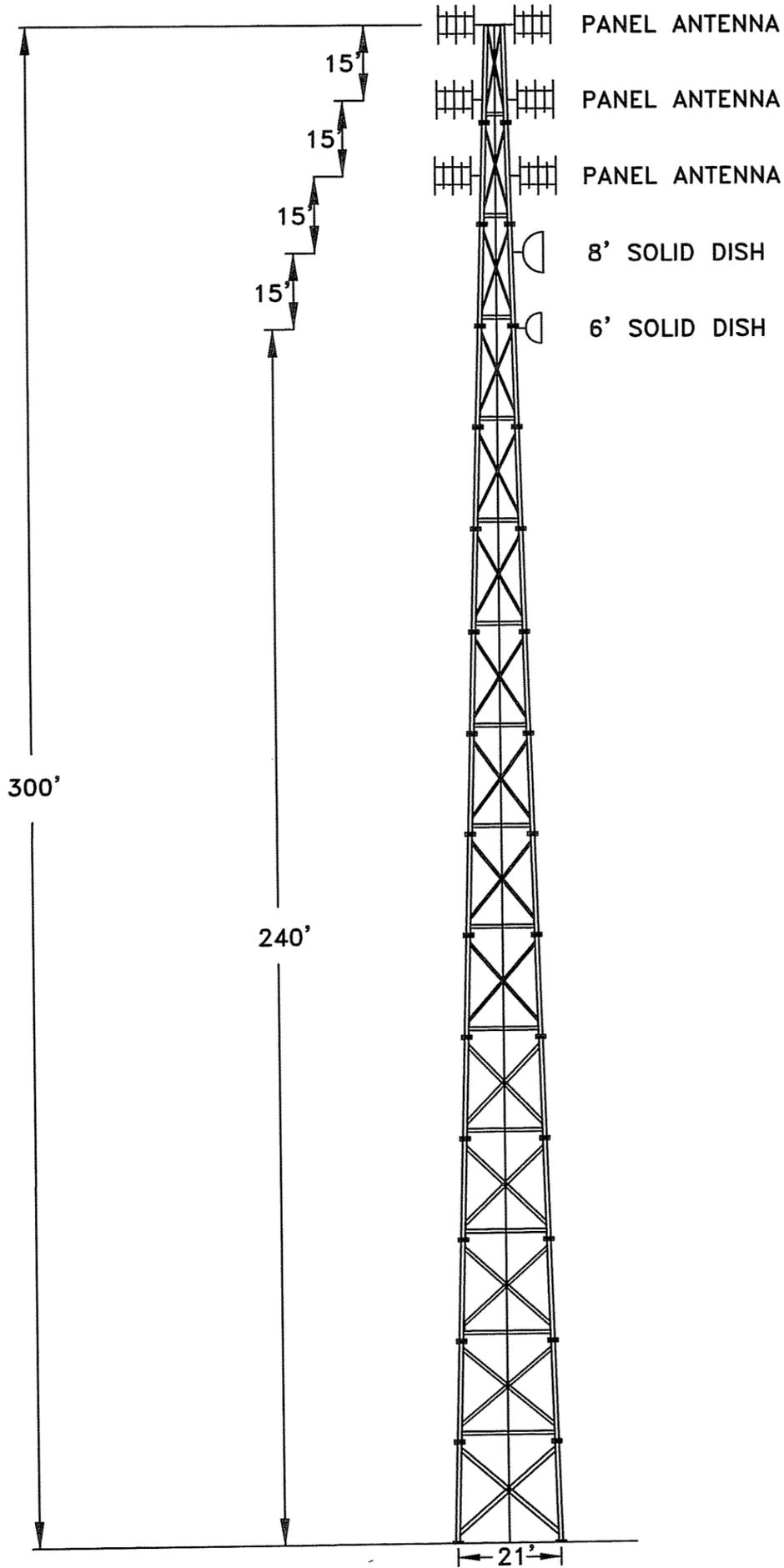
ENGINEER'S CERTIFICATE: I HEREBY CERTIFY THAT THE INFORMATION SHOWN  
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 PROPERTY VALUATION ADMINISTRATION OFFICE IN WHITESBURG KY..

JAMES W. CAUDILL 12305 9-15-09  
 PE# DATE

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 P.O. BOX 153, HINDMAN, KY 41822

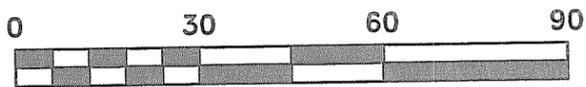
EXHIBIT  
 2a

APPALACHIAN WIRELESS  
 101 TECHNOLOGY TRAIL  
 IVEL, KY. 41642  
 PROPOSED TOWER SITE  
 RAYMOND BROWN TRACT  
 NEAR VAN IN LETCHER COUNTY

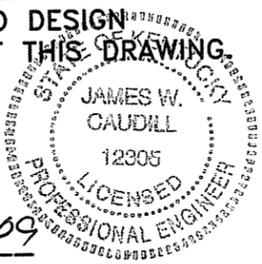


04/15/09

GRAPHIC SCALE



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*James W. Caudill* 12305 9-15-09  
 JAMES W. CAUDILL P.E. DATE

VERTICAL PROFILE SKETCH

**COLEMAN**  
 ENGINEERING  
 P.O. BOX 153, HINDMAN, KY 41822

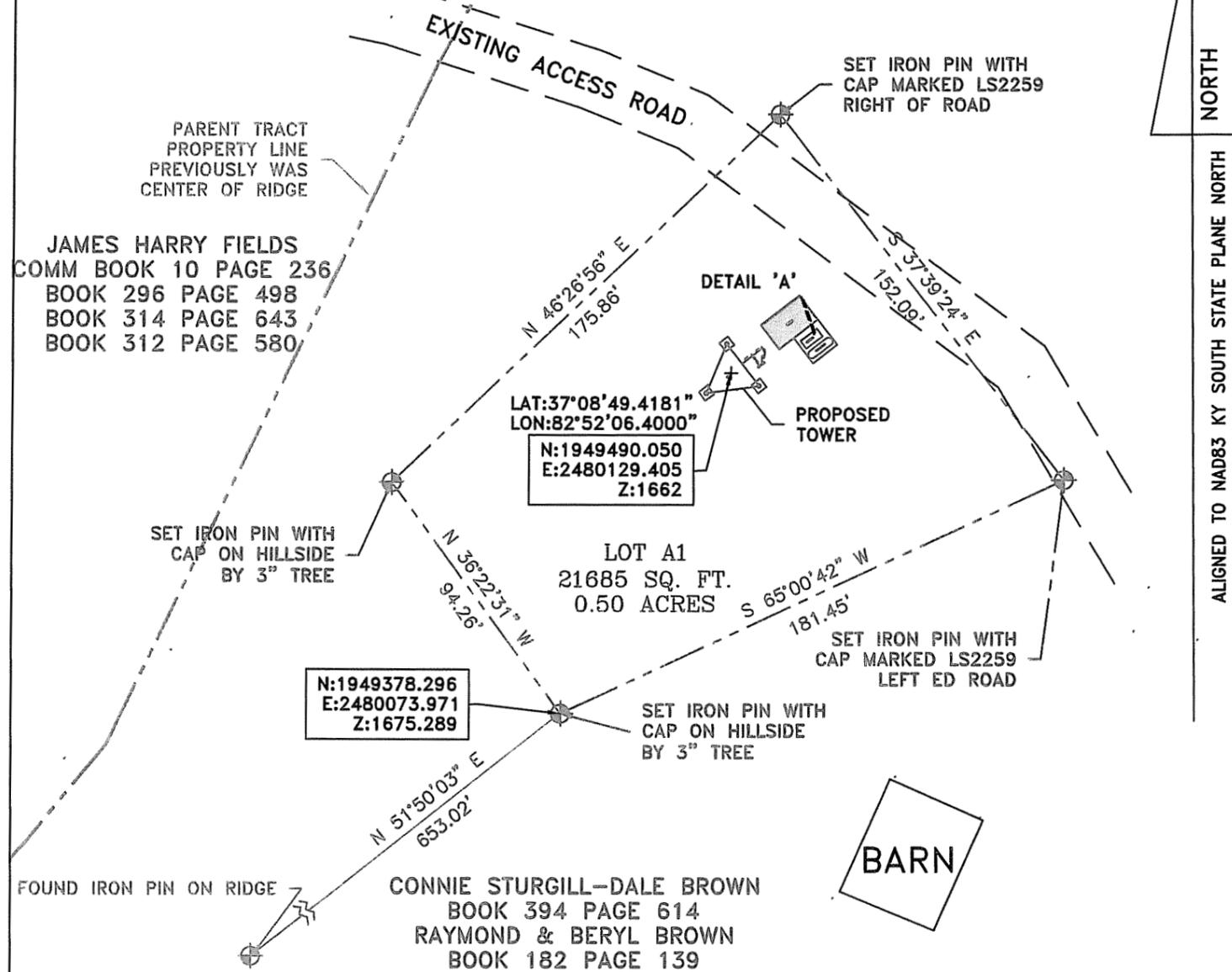
EXHIBIT  
 26

**SITE SURVEY  
STRUCTURE LOCATION  
RAYMOND BROWN TR  
NR VAN IN LETCHER CO**

CONNIE STURGILL-DALE BROWN  
BOOK 394 PAGE 614  
RAYMOND & BERYL BROWN  
BOOK 182 PAGE 139

PARENT TRACT  
PROPERTY LINE  
PREVIOUSLY WAS  
CENTER OF RIDGE

JAMES HARRY FIELDS  
COMM BOOK 10 PAGE 236  
BOOK 296 PAGE 498  
BOOK 314 PAGE 643  
BOOK 312 PAGE 580



NORTH

ALIGNED TO NAD83 KY SOUTH STATE PLANE NORTH

SCALE 1" = 50'



**LEGEND**

- SURVEY STA FOUND SET
- IRON PIN WITH CAP (1/8" x .5" REBAR PLASTIC CAP MARKED LS2259)
- BOUNDARY LINE
- ACCESS ROAD
- PARENT TRACT LINE

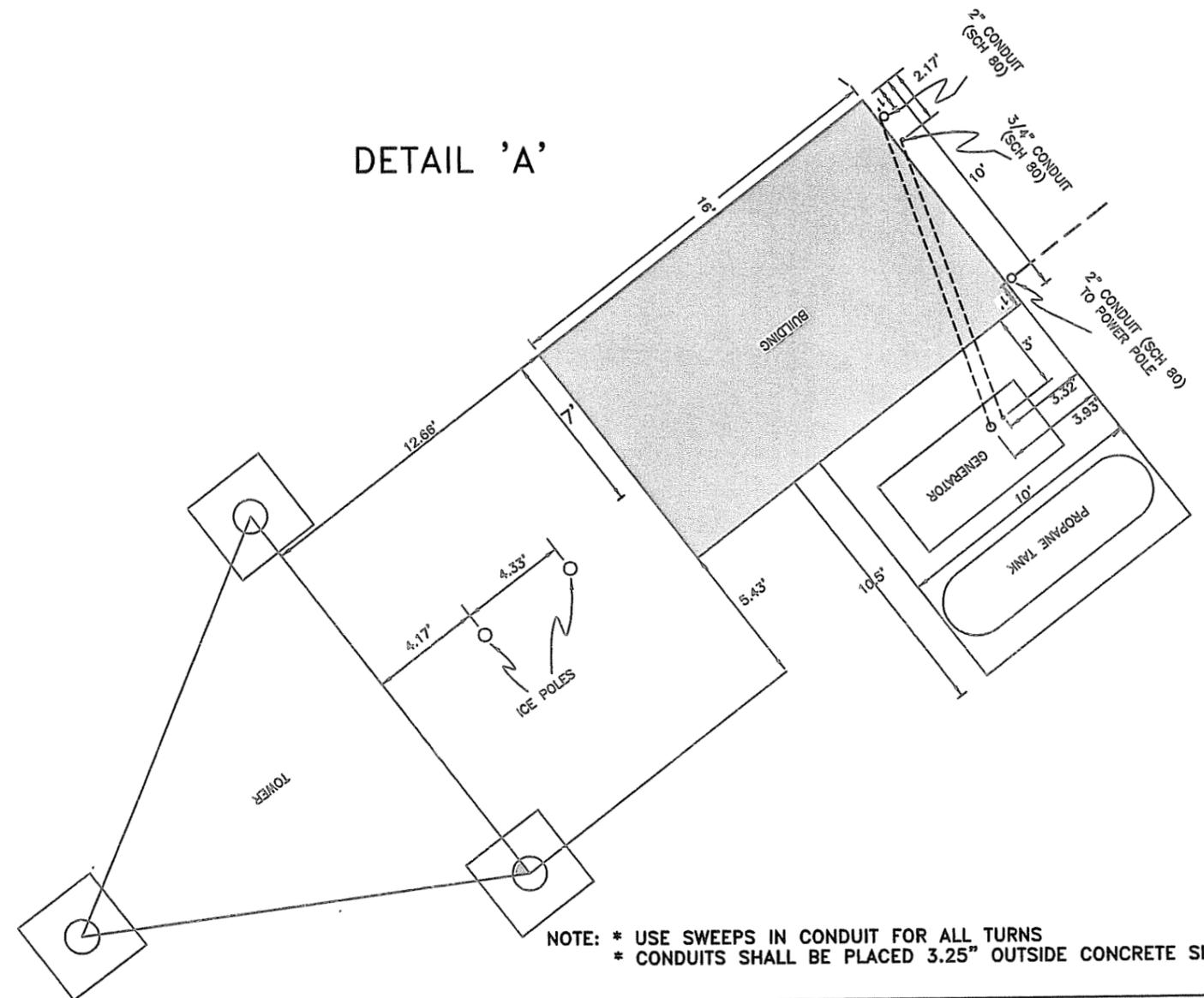
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-STATE PLANE COORDINATES NAD 83 KY SOUTH ZONE N 1949490.05, E 2480129.41, EL 1662 FT MSL  
-PRECISION: HORIZONTAL=0.30' VERTICAL=0.50'  
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*James W. Caudill* 12305 9-15-09  
JAMES W. CAUDILL P.E. DATE

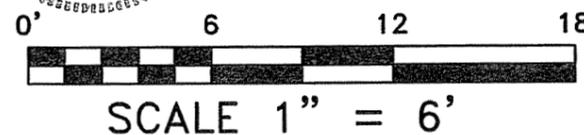
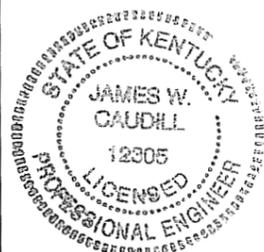
09/19/08

**APPALACHIAN WIRELESS**  
101 TECHNOLOGY TRAIL  
IVEL, KY. 41642  
PROPOSED TOWER SITE  
RAYMOND BROWN TR  
NEAR VAN IN LETCHER CO

**DETAIL 'A'**



NOTE: \* USE SWEEPS IN CONDUIT FOR ALL TURNS  
\* CONDUITS SHALL BE PLACED 3.25" OUTSIDE CONCRETE SLAB



**SITE SURVEY/STR LOCATION**

**COLEMAN**  
ENGINEERING

P.O. BOX 153, HINDMAN, KY 41822

EXHIBIT  
2c

**LEASE LOT DESCRIPTION**

Property of  
Connie Sturgill, Dale Ray Brown, Raymond & Beryl Brown  
309 Raymond's Branch Road  
Whitesburg, Ky 41824  
Near Van in Letcher County  
September 16, 2008

A portion of the property lying within the tract of land located on Dry Fork in Letcher County Kentucky, near the community of Van. Being a part of the same land conveyed by deed from Billy Royce Brown and Thelma Brown to Raymond & Beryl Brown, and recorded in Deed Book 182 Page 139 of the Letcher County Court House. Also being a part of the same land conveyed by deed from Raymond and Beryl Brown to Connie Sturgill and Dale Ray Brown and recorded in Deed Book 394 Page 614 of the Letcher County Court House.

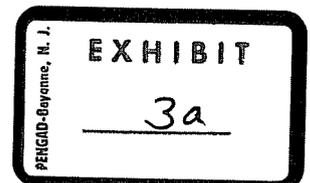
Unless stated otherwise, any monument referred to herein as "set iron pin with cap" is a set 1/2" diameter rebar, at least eighteen (18") in length, with a plastic cap stamped "LS-2259". All bearings stated herein are referred to the NAD83 KY South State Plane Coordinate System. This survey preformed by James W. Caudill, LS2259, on September 16, 2008.

**Lease Lot A1**

Beginning on a set iron pin with cap marked LS2259 at NAD 83 coordinates North-1949378.29ft and East-2480073.97ft and located North 51 deg 50 min 03 sec East. 653.02 feet from a found iron pin on top of the ridge; thence severing the land of Raymond & Beryl Brown (Book 182 page 139) and the property of Connie Sturgill and Dale Brown (Book 394 Page 614) North 36 deg 22 min 31 sec West, 94.26 feet to a set iron pin with cap marked ls2259 on hillside by 3" tree, North 46 deg 26 min 56 sec East, 175.86 feet to a set iron pin with cap marked ls2259 near the road, South 37 deg 39 min 24 sec East, 152.09 feet to a set iron pin with cap marked ls2259 near the edge of road, South 65 deg 00min 42 sec West, 181.45 feet to the beginning. Containing a calculated area of 21685 sq ft or 0.50 acres.

This survey was performed on September 16, 2008 by James W. Caudill, a Kentucky Licensed Professional Land Surveyor No. 2259.

*James W. Caudill*  
James W. Caudill, PLS #2259



JAMES HARRY FIELDS  
 COMM BOOK 10 PAGE 236  
 BOOK 296 PAGE 498  
 BOOK 314 PAGE 643  
 BOOK 312 PAGE 580

EXISTING ACCESS ROAD

PARENT TRACT  
 PROPERTY LINE  
 PREVIOUSLY WAS  
 CENTER OF RIDGE

JAMES HARRY FIELDS  
 COMM BOOK 10 PAGE 236  
 BOOK 296 PAGE 498  
 BOOK 314 PAGE 643  
 BOOK 312 PAGE 580

SET IRON PIN WITH  
 CAP ON HILLSIDE  
 BY 3" TREE

N:1949378.296  
 E:2480073.971  
 Z:1675.289

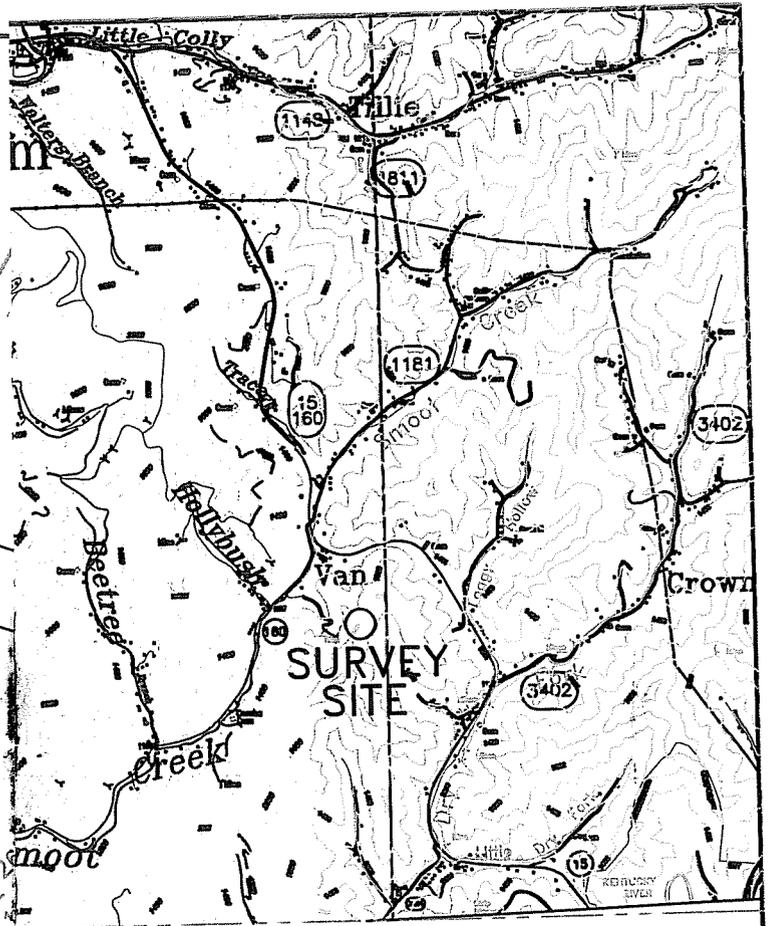
N 51°50'03" E  
 653.02'

FOUND IRON PIN ON RIDGE

CONNIE STURGIL  
 BOOK 394  
 RAYMOND & I  
 BOOK 182

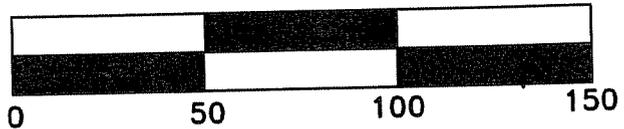
CLASS A SURVEY  
 I HEREBY CERTIFY THAT THIS PLAT DEPICTS A SURVEY, MADE  
 BY ME, BY THE METHOD OF RANDOM TRAVERSE. THE  
 BEARINGS SHOWN HEREON HAVE NOT BEEN ADJUSTED FOR  
 CLOSURE. THIS SURVEY AND PLAT MEETS OR EXCEEDS  
 THE MINIMUM STANDARDS OF GOVERNING AUTHORITIES.  
 THE UNADJUSTED ERROR OF CLOSURE WAS 1 IN 20100  
 LIABILITY FOR WORK PERFORMED HEREON SHALL NOT  
 EXCEED THE AMOUNT PAID FOR THESE SERVICES.

*James W. Caudill* 2259 9-16-08  
 JAMES W. CAUDILL LS # DATE



VICINITY MAP NOT TO SCALE

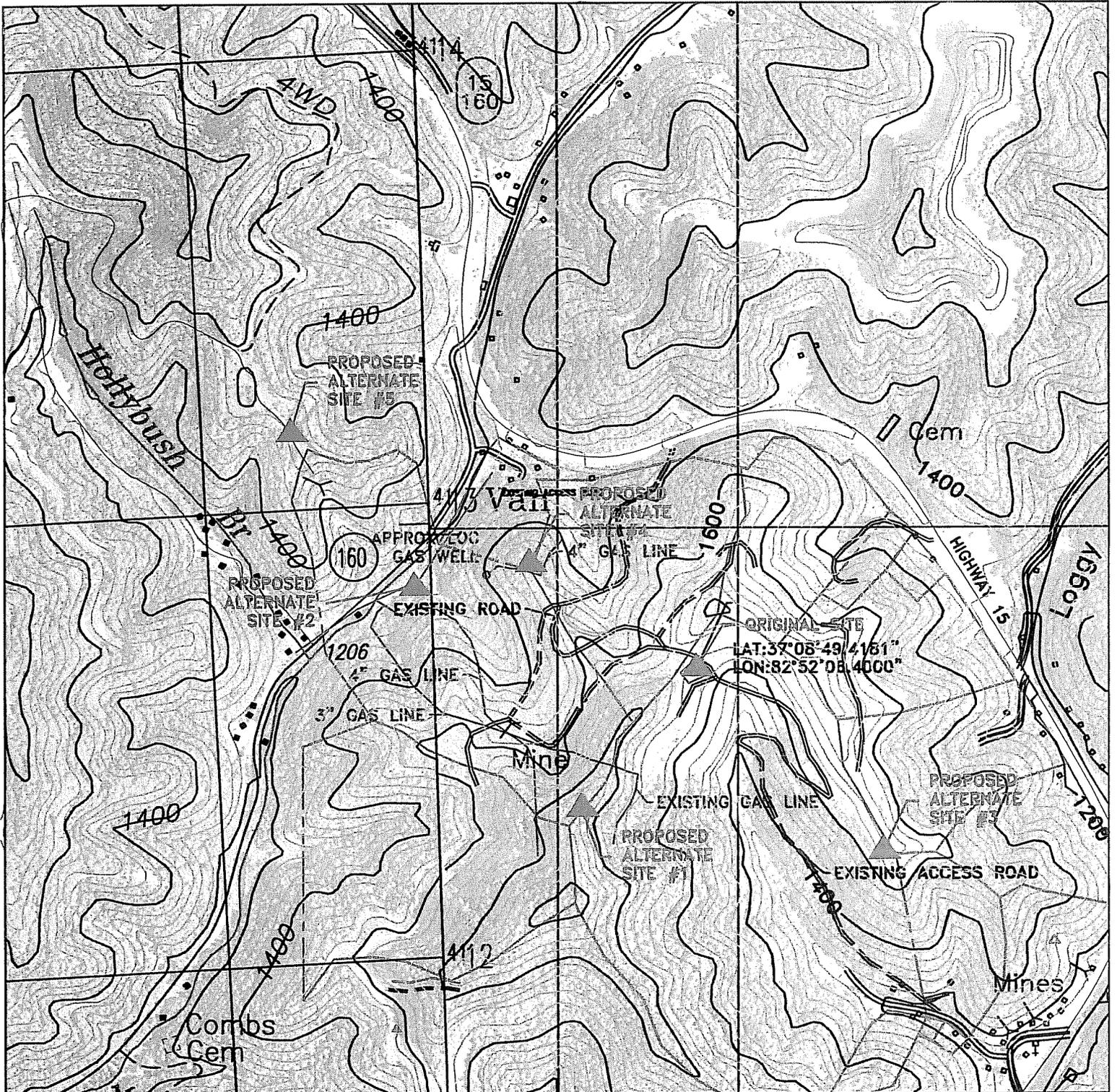
GRAPHIC SCALE



PLAT OF SURVEY

SURVEY DATE		SUB DIVISION PROPERTY OF CONNIE STURGILL-DALE RAY BROWN RAYMOND & BERYLE BROWN 309 RAYMOND'S BR. ROAD WHITESBURG, KY 41858 NEAR VAN IN LETCHER CO DEED BOOK 394 PAGE 614
09/16/2008		
DRAWING DATE		
09/16/2008		SURVEYED BY 2999 AL PH
SHEET		
50'	1 OF 1	

EXHIBIT  
 36  
 PENGID-Bayonne, N. 1



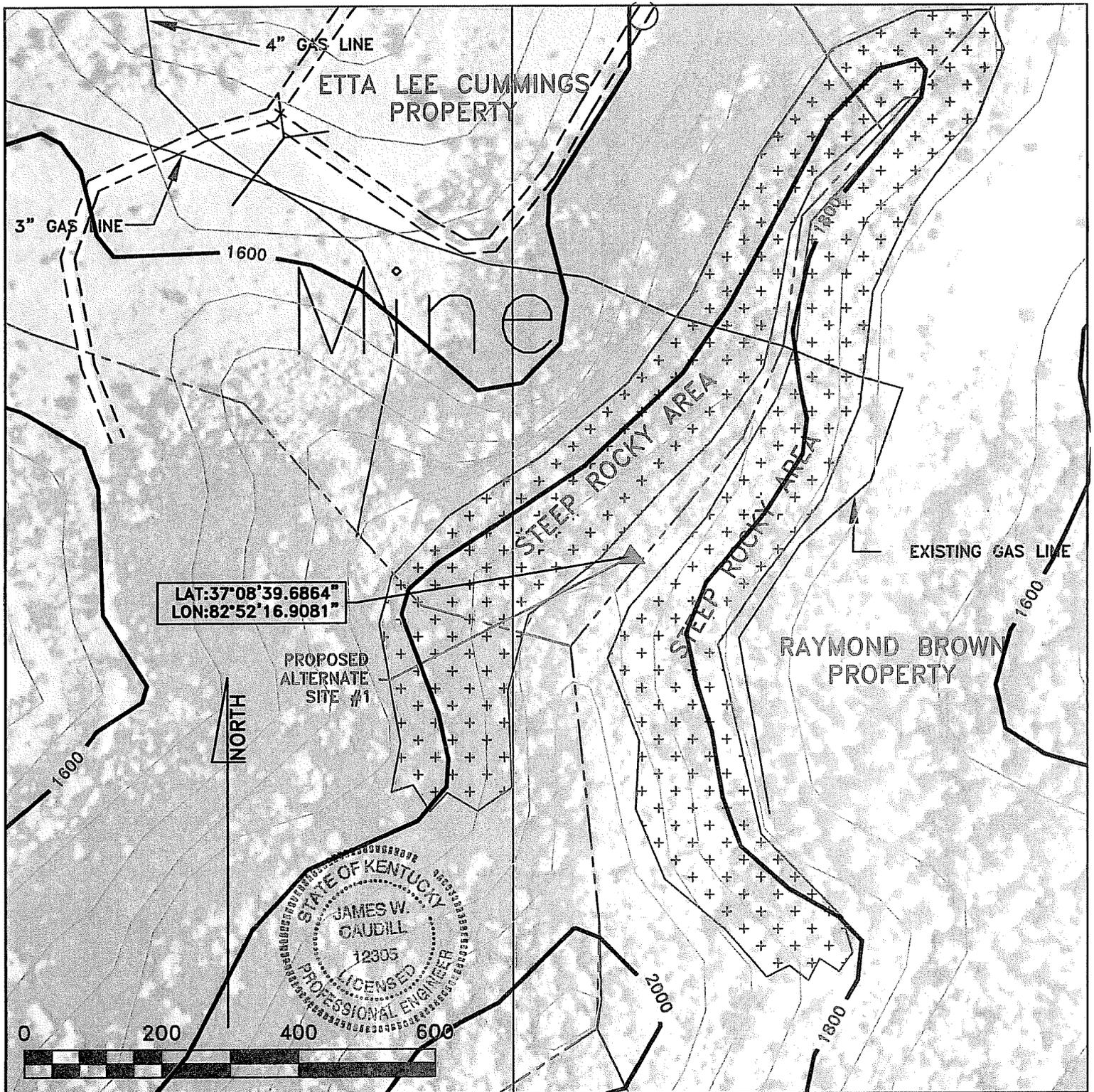
# APPALACHIAN WIRELESS

101 TECHNOLOGY DRIVE  
IVEL, KY 41642

<b>DRAWN</b> JWC	<b>DATE</b> 6/2/09	DRYFORK TOWER SITE ALTERNATE LOCATIONS SITE #1 - #5 LOCATION MAP CASE No.
<b>APPROVED</b>	<b>DATE</b>	
<b>SCALE</b> 1" = 1000'	<b>SHEET</b> 1 OF 6	<b>PROJECT</b> BROWNA

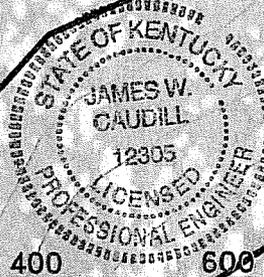
PENGAD-Bayonne, N. J.  
**EXHIBIT**  
4a





LAT:37°08'39.6864"  
 LON:82°52'16.9081"

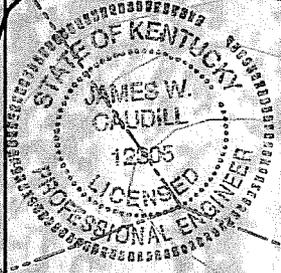
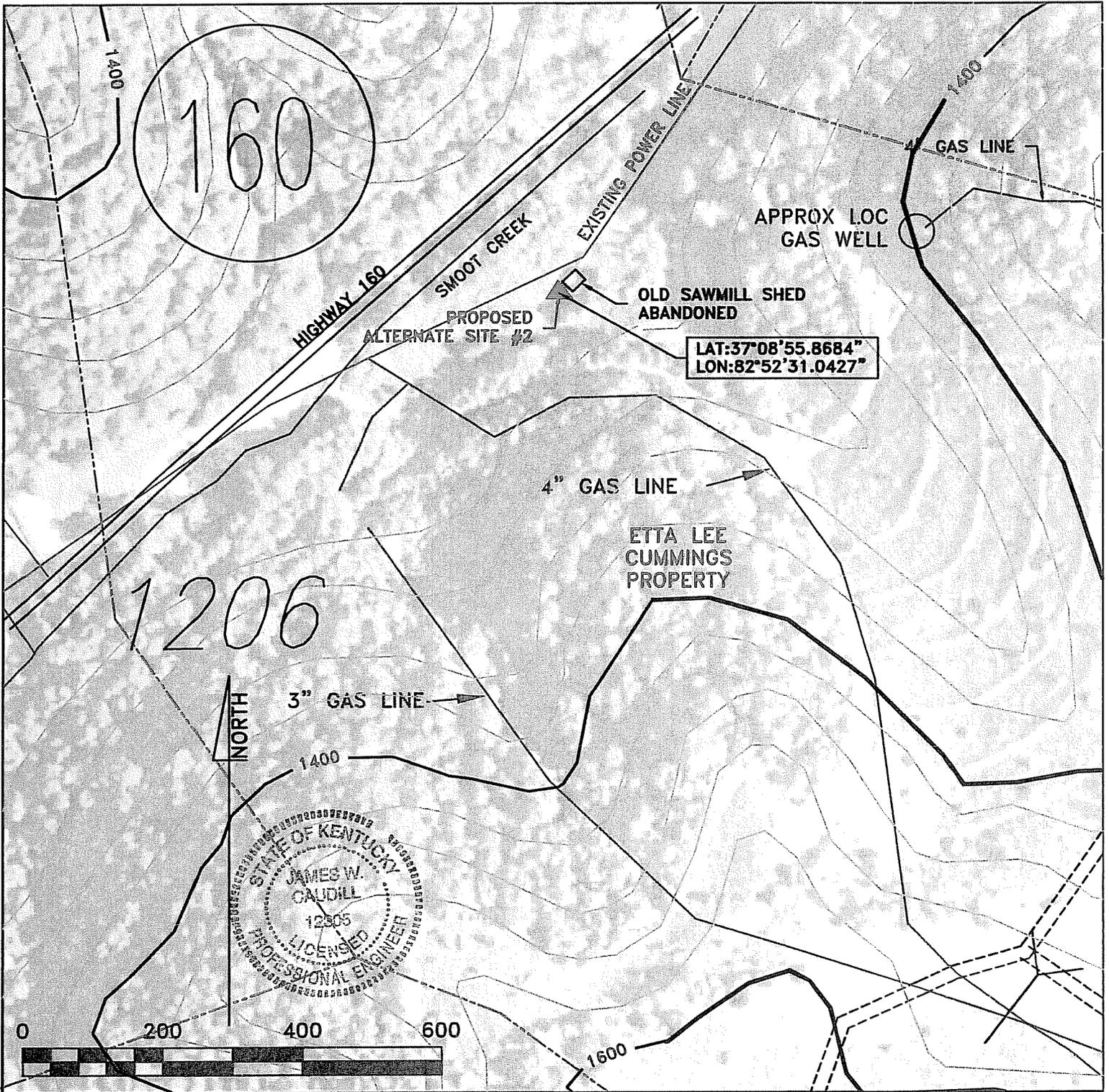
PROPOSED  
 ALTERNATE  
 SITE #1



**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 *James W. Caudill*  
 FROM DOWNLOADED IMAGES AND CONTOURS FROM  
 KYMARTIAN WEB SITE ALONG WITH INFORMATION FRM  
 PVA MAPS AND PRELIMINARY DGPS SITE SURVEY.

<b>APPALACHIAN WIRELESS</b>		
101 TECHNOLOGY DRIVE IVEL, KY 41642		
<b>DRAWN</b> JWC	<b>DATE</b> 6/2/09	DRYFORK TOWER SITE ALTERNATE LOCATION #1 SITE INSPECTION
<b>APPROVED</b>	<b>DATE</b>	
<b>SCALE</b> 1" = 200'	<b>SHEET</b> 2 OF 6	CASE No
		PROJECT BROWNA

EXHIBIT  
 46



**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.

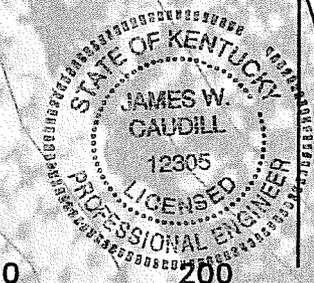
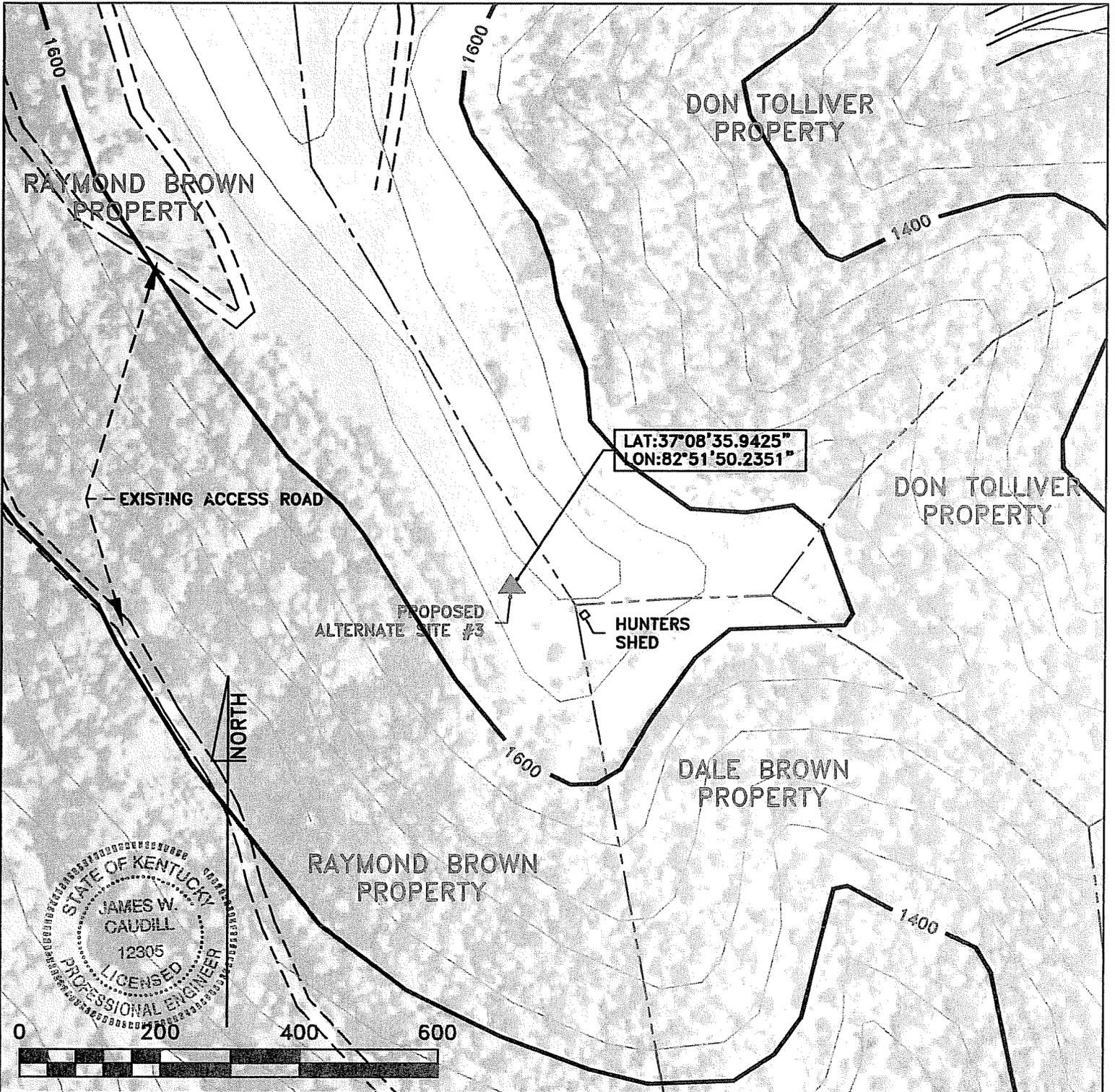
PREPARED BY *James W. Caudill*  
 FROM DOWNLOADED IMAGES AND CONTOURS FROM  
 KYMARTIAN WEB SITE ALONG WITH INFORMATION FRM  
 PVA MAPS AND PRELIMINARY DGPS SITE SURVEY.

## APPALACHIAN WIRELESS

101 TECHNOLOGY DRIVE  
 IVEL, KY 41642

<b>DRAWN</b> JWC	<b>DATE</b> 6/2/09	DRYFORK TOWER SITE ALTERNATE LOCATION #2 SITE INSPECTION
<b>APPROVED</b>	<b>DATE</b>	
<b>SCALE</b> 1" = 200'	<b>SHEET</b> 3 OF 6	CASE No
		PROJECT BROWNA

EXHIBIT  
 4c



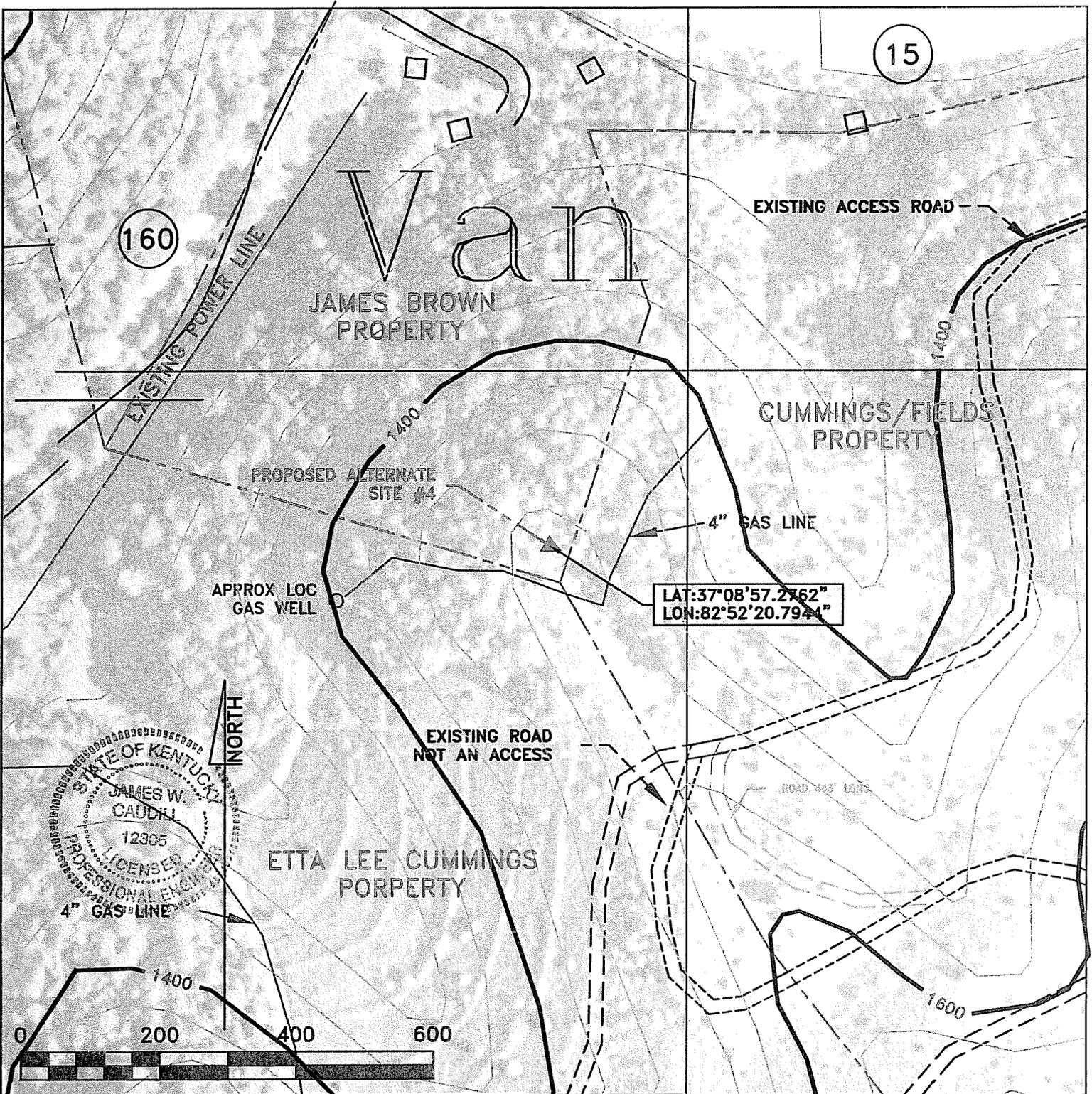
**SITE INSPECTION**  
 06/02/09  
 BY J.W. CAUDILL WITH MARTY THACKER PRESENT  
 DGPS LOC NAD83 STATE PLANE KY SOUTH ZONE  
 N-1948168', E-2481479, EL 1624' MSL  
 SITUATED ON RIDGE NORTH OF DRY FORK MARKET  
 & HIGHWAY 15 ON RECLAIMED SURFACE MINE AREA

CONCERNS—  
 LOCATED AWAY FROM SMOOT CREEK AREA AND THE  
 NORTHERLY SECTION OF HIGHWAY 15.

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

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

EXHIBIT  
 4d

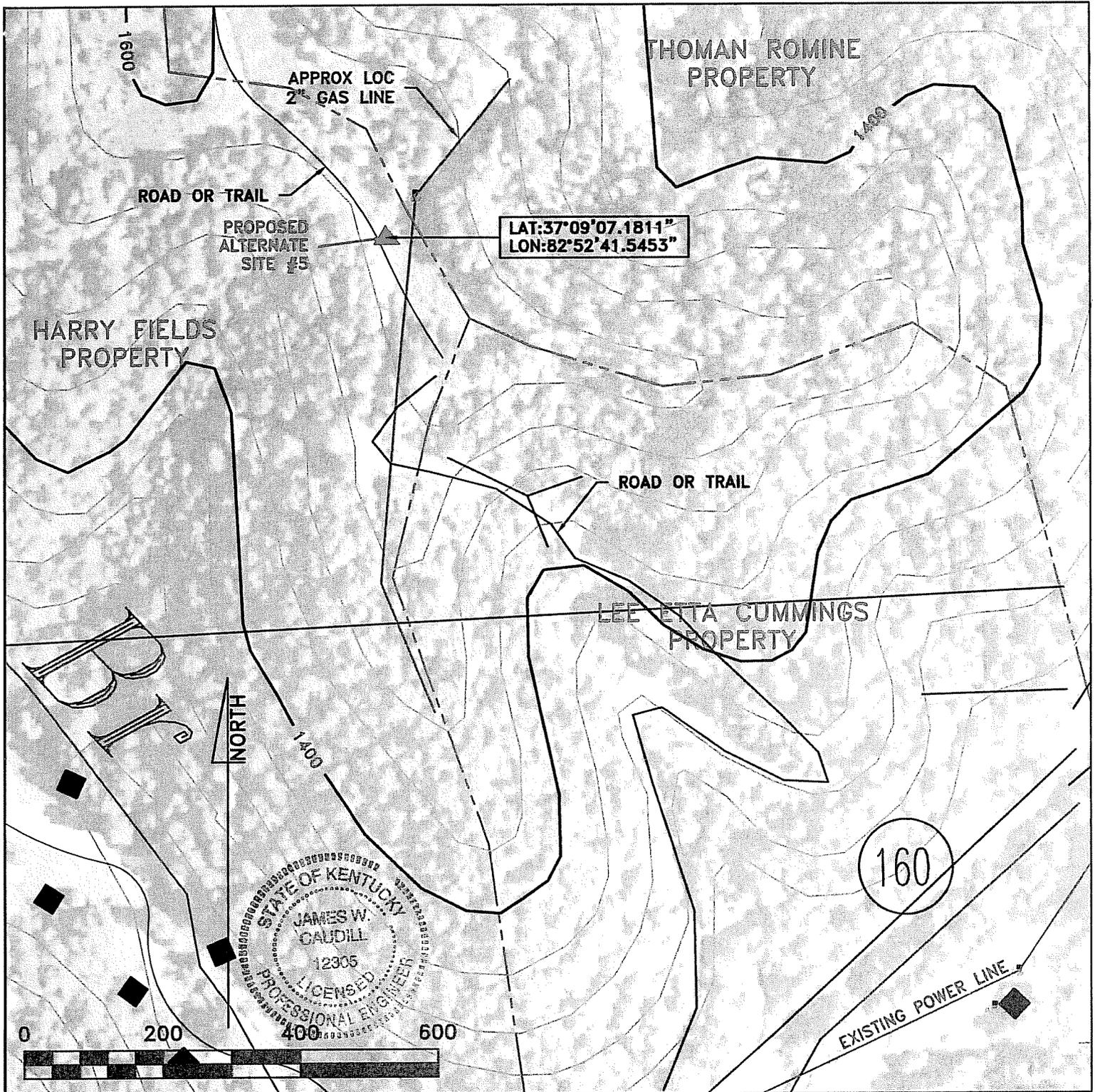


**SITE INSPECTION**  
 06/02/09  
 BY J.W. CAUDILL WITH MARTY THACKER PRESENT  
 DGPS LOC NAD83 STATE PLANE KY SOUTH ZONE  
 N-1950248', E-2478940, EL 1550' MSL  
 SITUATED ON LOW POINT ON SMOOT CRK NEAR  
 INT OF HIGHWAYS 15 & 160 AT LOWER EDGE OF  
 OLD SURFACE MINING AREA NEAR ORIGINAL GROUND

**CONCERNS-**  
 PROXIMITY TO 4" GAS LINE, LOW ELEV,  
 MULTIPLE PROPERTY OWNERS FOR SITE  
 CONSTRUCTION AND ACCESS,  
 LOCATED AWAY FROM DRY FORK AREA.  
 PREPARED BY *James W. Caudill*  
 FROM DOWNLOADED IMAGES AND CONTOURS FROM  
 KYMARTIAN WEB SITE ALONG WITH INFORMATION FRM  
 PVA MAPS AND PRELIMINARY DGPS SITE SURVEY.

<b>APPALACHIAN WIRELESS</b>		
101 TECHNOLOGY DRIVE IVEL, KY 41642		
<b>DRAWN</b> JWC	<b>DATE</b> 6/2/09	DRYFORK TOWER SITE ALTERNATE LOCATION #4 SITE INSPECTION
<b>APPROVED</b>	<b>DATE</b>	
<b>SCALE</b> 1" = 200'	<b>SHEET</b> 5 OF 6	CASE NO. <b>EXHIBIT</b> <u>4e</u>
		PROJECT <b>BROWN</b>

PERIGAD-Bayonne, N. J.



**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 *James W. Caudill*  
 FROM DOWNLOADED IMAGES AND CONTOURS FROM  
 KYMARTIAN WEB SITE ALONG WITH INFORMATION FRM  
 PVA MAPS AND PRELIMINARY DGPS SITE SURVEY.

<b>APPALACHIAN WIRELESS</b>		
101 TECHNOLOGY DRIVE IVEL, KY 41642		
<b>DRAWN</b> JWC	<b>DATE</b> 6/2/09	DRYFORK TOWER SITE ALTERNATE LOCATION #5 SITE INSPECTION
<b>APPROVED</b>	<b>DATE</b>	
<b>SCALE</b> 1" = 200'	<b>SHEET</b> 6 OF 6	CASE No
		PROJECT BROWNA

EXHIBIT  
 4F

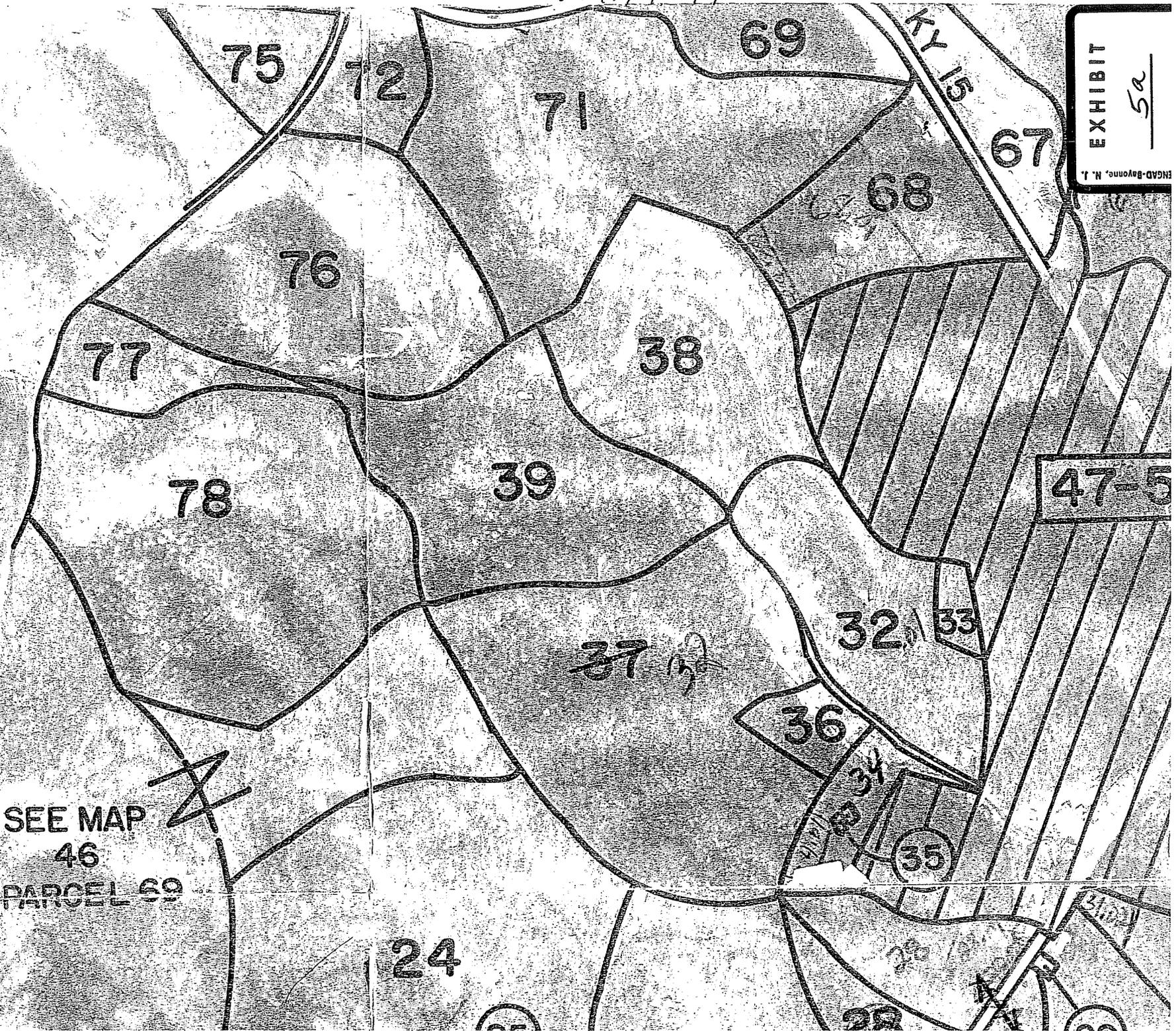
MAP 41

EXHIBIT  
5a

MAP 46

SEE MAP  
46  
PARCEL 69

Comm Book 10  
236



47-5

24

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KY 15

1"=660'

