

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

In the Matter of: )  
 )  
 Columbia Gas of Kentucky, Inc. )  
 )  
 Complainant )  
 )  
 v. )  
 )  
 Natural Energy Utility Corporation )  
 )  
 Defendant )

APR 26 2010

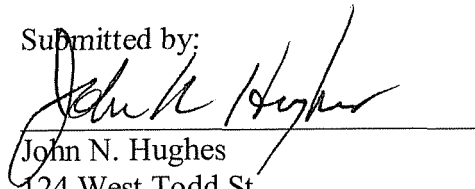
PUBLIC SERVICE COMMISSION

Case No. 2009-00340

**NATURAL ENERGY UTILITY CORPORATION'S RESPONSES TO SECOND DATA REQUEST OF COLUMBIA GAS COMPANY**

Natural Energy Utility Corporation ("NEUC"), by counsel, provides the following responses to Columbia's second data request.

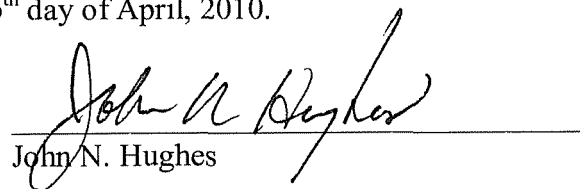
Submitted by:



John N. Hughes  
124 West Todd St.  
Frankfort, KY 40601  
Attorney for NEUC

**CERTIFICATE OF SERVICE**

I certify that a copy of these Responses was served on Steve Seiple and Brooke Leslie, Box 117, Columbus, OH, 43216-0117 and Richard Taylor, 225 Capital Ave., Frankfort, KY 40601 first class mail this 26<sup>th</sup> day of April, 2010.



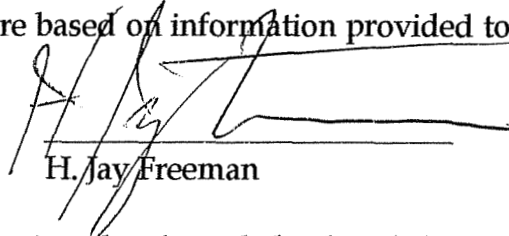
John N. Hughes

AFFIDAVIT

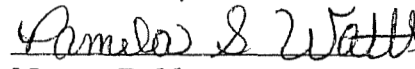
COMMONWEALTH OF KENTUCKY

COUNTY OF BOYD

Affiant, H. Jay Freeman, after being first sworn, deposes and says that he is the President of Natural Energy Utility Corporation, that he is authorized to submit this Response and that the information contained in the Response is true and accurate to the best of his knowledge, information and belief, after a reasonable inquiry, and as to those matters that are based on information provided to him, he believes to be true and correct.

  
H. Jay Freeman

This instrument was produced, signed, acknowledged and declared by H. Jay Freeman to be his act and deed the 22 day of April, 2010.

  
Notary Public

My Commission expires: 4/06/2013

1. NEUC's response to PSC Data Request 3(a) identifies #432 on map attached as Exhibit 1 to NEUC's Answer as the "Wells" property. In response to CKY's Data Request 2, Mr. Freeman identifies two properties, one being "Alf Large, 2337 Oakview Rd, Ashland KY." Is this property the same property identified as the "Wells" property in response to PSC Data Request 3(a)?

Witness: Freeman

Response: No

2. In response to CKY Data Request 3, Mr. Freeman identifies Patrick Watson as a customer who requested to relocate an existing gas main in June 2007. In response to PSC Data Request 7, Mr. Freeman asserts that NEUC replaced an existing portion of steel pipeline for Patrick Watson in August 2009. Please explain the delay between Mr. Watson's request in 2007 and the actual work performed in 2009.

Witness: Freeman

Response: See PSC response 3a

3. Please identify by name, location, and date customers who have initiated service with NEUC in the Ashland area in the past 5 years.

Witness: Freeman

Response:       Lloyd Vaughn  
                  833 McCullough St  
                  March 9, 2006

                  Alf Lange  
                  2337 Oakview Rd  
                  May 9, 2005

                  Edward Sparks  
                  2500 Nolte St  
                  October 29, 2008

4. Have any customers in the past 5 years requested service from NEUC, but NEUC refused service? If yes, identify by date and location and include an explanation as to why service was refused.

Witness: Freeman

Response: It is not unusual for NEUC to get four to five calls a week from Columbia customers wanting to switch service. NEUC has refused to connect those Columbia customers pursuant to its understanding that the companies will not solicit the other's customers.

5 In response to CKY Data Request 9, Mr. Freeman indicates that NEUC received verbal authorization from the property owner, Mr. Watson to run its facilities on his property. In exchange for authorization, did NEUC offer Mr. Watson a discounted or special rate?

Witness: Freeman

Response: No

6. Does NEUC run any main lines, service lines or another facility through the property at 1200 Bryan Street? If yes, does NEUC have an easement from the property owner of 1200 Bryan Street? If yes, what is the date of the easement? Please provide a copy of said easement.

Witness: Freeman

Response: See attached easements



## RIGHT OF WAY AND EASEMENT AGREEMENT

THIS RIGHT OF WAY AND EASEMENT AGREEMENT is entered into this 19<sup>th</sup> day of April, 2010 by and between ZTB ENTERPRISES, LLC, a Kentucky limited liability company, 5048 Banbury Road, Ashland, Kentucky 41101 ("Grantor"), and NATURAL ENERGY UTILITY CORPORATION, a Sub-S Kentucky Corporation, 2560 Hoods Creek Pike, Ashland, Kentucky 41102 ("Grantee").

For and in consideration of the sum of One Dollar (\$1.00), the receipt of which is hereby acknowledged, Grantor does give, grant and convey, with covenant of General Warranty, unto the Grantee, its successors and assigns, a perpetual right of way and easement to lay, maintain, operate, renew, alter, improve, protect, repair and remove a pipeline for the transportation of any and all liquids, gases, solids, or any combination thereof, together with all necessary or convenient equipment and appurtenances thereto including, but not limited to, devices for control of pipeline corrosion and appropriate markers, together with the further right and easement to use the area covered by the easement granted hereunder for the purpose of access to the adjoining tracts of land, over, upon and across the following lands of the Grantor lying and being in Boyd County, State of Kentucky and being more fully described as follows:

The Grantor's land being owned by ZTB Enterprises, LLC and described and shown on the drawing attached hereto as Exhibit A and as described in a certain deed recorded in the Boyd County Court Clerk's Office at Deed Book 697, Page 640.

The Grantee shall have the right to maintain said Right of Way by removing, mowing, cutting all trees, limbs, weeds, undergrowth and rush which, in the reasonable judgment of the Grantee, interferes with the use of said easement. Grantee shall maintain and operate said pipeline in accordance with all applicable law and reasonable industry standards.

The Grantor further grants and conveys unto the Grantee, its successors and assigns, the right of ingress and egress to and from said right of way and easement, for the purpose of doing any and all things that may be requisite for the enjoyment of the rights herein granted. Insofar as the Grantor has the right to do so, there is further granted unto Grantee, its successors and assigns, for the purposes hereinbefore set out, the right to lay, construct, operate, maintain, renew, alter, protect, repair and remove pipelines along or under the roads, streets, highways and streams adjoining or adjacent to said lands.

No building or permanent structure shall be erected or maintained by the Grantor, his successors or assigns, within a distance of Five (5) feet from the pipeline constructed hereunder.

This Agreement shall insure to the benefit of and be binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

It is hereby understood that no agreement or representation concerning this easement shall be binding on the Grantee unless expressed in a writing signed by Grantee.

In the event Grantee receives a request from Grantor to relocate the line that is to be laid under the terms of this agreement, the line shall be relocated one time each fifteen (15) years by Grantee at its expense to a location supplied by Grantor. Grantor agrees that Grantee may abandon the line in place in the event of a request to relocate the line by Grantor.

The line that is to be laid under the terms of this agreement shall be at a depth of not less than three (3) feet under the surface.


Grantee agrees to indemnify, hold harmless and defend Grantor from and against any and all actions or causes of action, claims, demands, liabilities, loss, damage or expense of whatsoever kind and nature, including reasonable attorney's fees, which Grantor may suffer or incur by reason of property damages, including loss of use thereof, or bodily injury, arising out of or in any manner connected with the

exercise of the rights herein granted to Grantee, or which Grantor may sustain or incur in connection with any litigation, investigation, or other expenditures incident thereto, due in whole or part to any act, omission, or negligence of Grantee or any of its representatives.

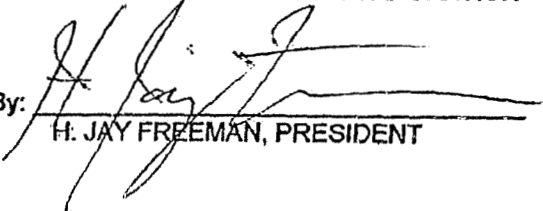
TO HAVE AND TO HOLD the said right of way and easement unto said Grantee, its successors and assigns.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seal this the 19<sup>th</sup> day of April, 2010.

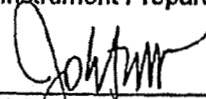
ZTB ENTERPRISES, LLC

BY:   
JAMES G. GIBBS, MANAGER

NATURAL ENERGY UTILITY CORPORATION

By:   
H. JAY FREEMAN, PRESIDENT

This Instrument Prepared by:

  
\_\_\_\_\_  
JOHN A. WEBB  
McKENZIE, WOOLERY & WEBB, P.S.C.  
1932 Carter Avenue  
P.O. Box 1554  
Ashland, KY 41105-1554  
606-324-7147  
606-329-0858 facsimile



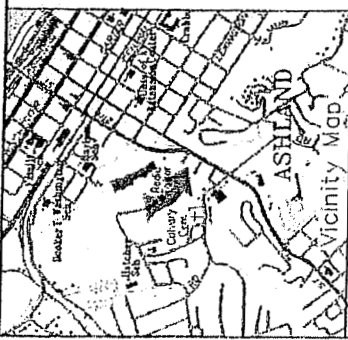
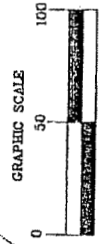
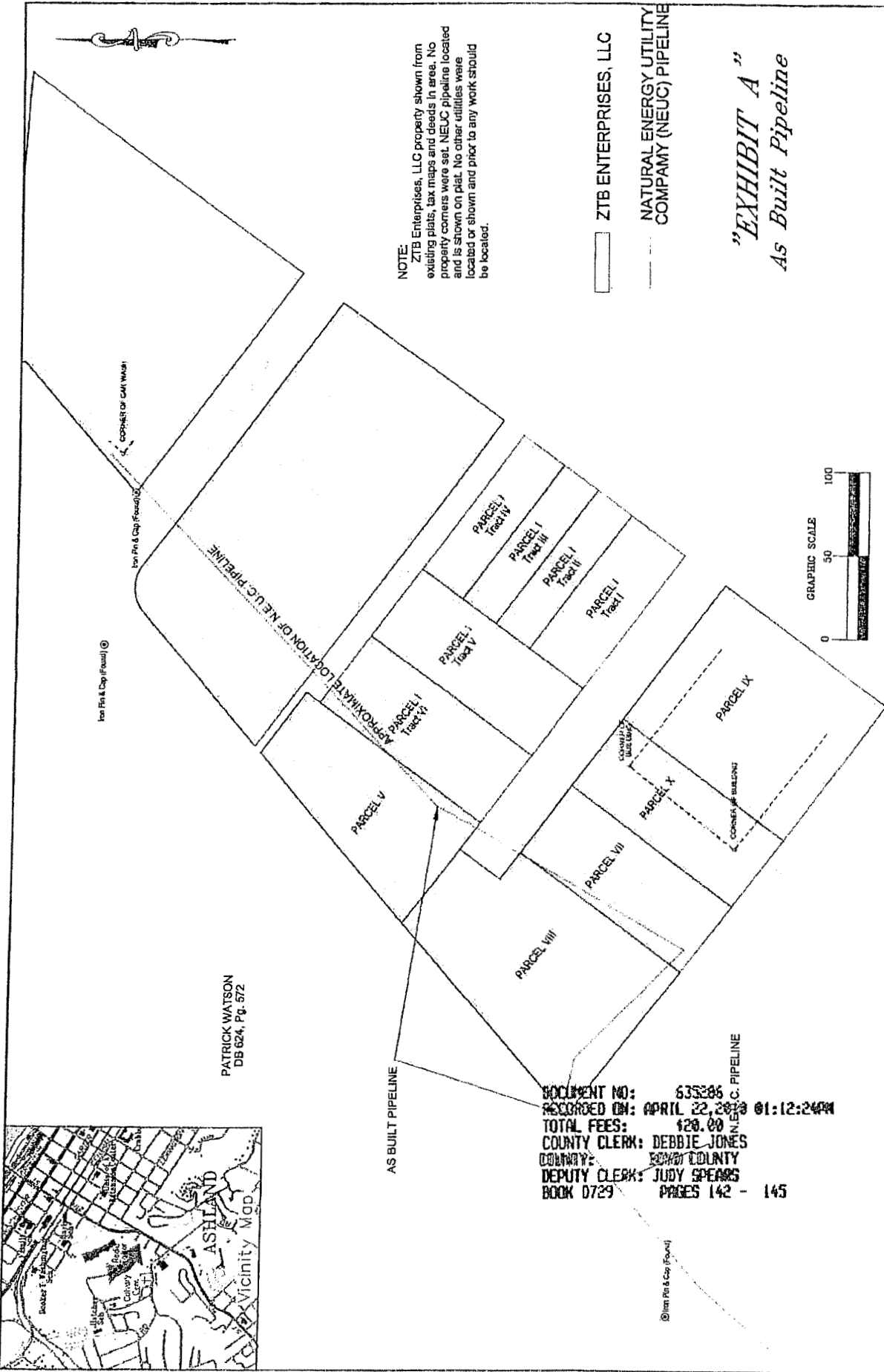


NOTE:  
 ZTB Enterprises, LLC property shown from existing plats, tax maps and deeds in area. No property corners were set. NEUC pipeline located and is shown on plat. No other utilities were located or shown and prior to any work should be located.

□ ZTB ENTERPRISES, LLC

— NATURAL ENERGY UTILITY COMPANY (NEUC) PIPELINE

**"EXHIBIT A"**  
*As Built Pipeline*



PATRICK WATSON  
 DB 024, Pg. 572

AS BUILT PIPELINE

DOCUMENT NO: 635266  
 RECORDED ON: APRIL 22, 2013 01:12:24PM  
 TOTAL FEES: \$20.00  
 COUNTY CLERK: DEBBIE JONES  
 COUNTY: BOYD COUNTY  
 DEPUTY CLERK: JUDY SPEARS  
 BOOK 0729 PAGES 142 - 145

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DEBBIE JONES, BOYD COUNTY CLERK  
P.O. BOX 523  
CATLETTSBURG KY 41129

RCPT# 97825 REG # 13  
CLERK JUDY SPEARS

DATE : 4/22/2010

TIME : 1:13 PM

1 x RIGHT OF WAY EA \$20.00  
4 PAGES  
ZTB ENTERPRISES LLC /0635286  
BK: D729 PG: 142 - 145

	TOTAL	\$20.00
CHARGE	PAYMENT OF	\$20.00
	CHANGE DUE	\$0.00

CHARGE ACCT #MWE

PHONE (606) 739-5116  
ARE YOU REGISTERED TO  
VOTE? ELECTION DAY MAY 18

## RIGHT OF WAY AND EASEMENT AGREEMENT

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For and in consideration of the sum of One Dollar (\$1.00), the receipt of which is hereby acknowledged, Grantor does give, grant and convey, with covenant of General Warranty, unto the Grantee, its successors and assigns, a perpetual right of way and easement to lay, maintain, operate, renew, alter, improve, protect, repair and remove a pipeline for the transportation of any and all liquids, gases, solids, or any combination thereof, together with all necessary or convenient equipment and appurtenances thereto including, but not limited to, devices for control of pipeline corrosion and appropriate markers, together with the further right and easement to use the area covered by the easement granted hereunder for the purpose of access to the adjoining tracts of land, over, upon and across the following lands of the Grantor lying and being in Boyd County, State of Kentucky and being more fully described as follows:

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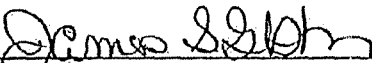
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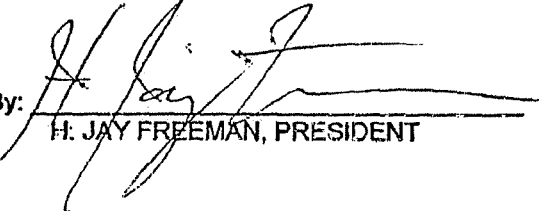
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NATURAL ENERGY UTILITY CORPORATION

By:   
H. JAY FREEMAN, PRESIDENT

This Instrument Prepared by:

  
JOHN A. WEBB  
McKENZIE, WOOLERY & WEBB, P.S.C.  
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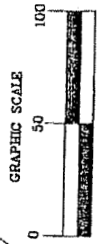
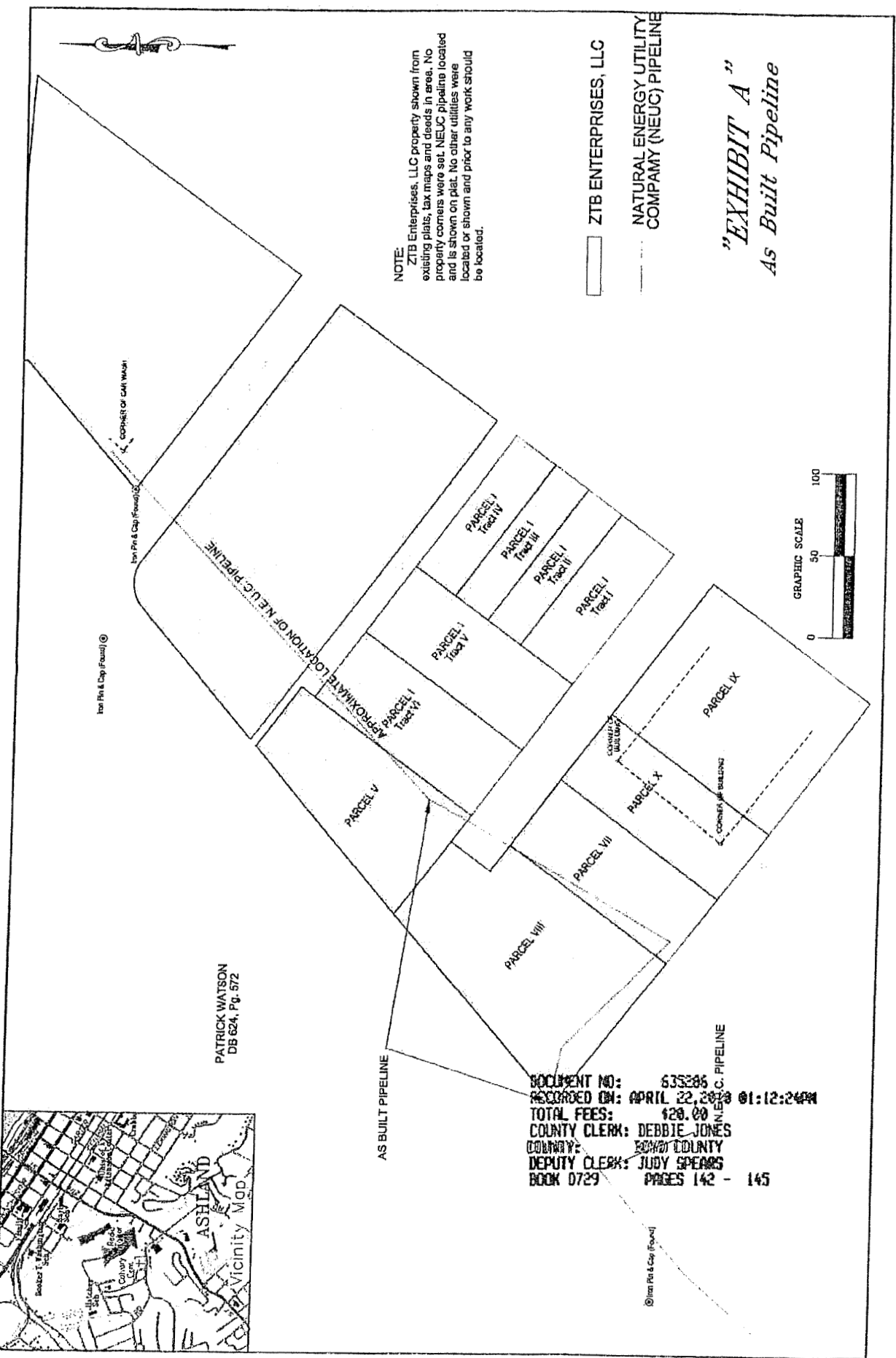




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**"EXHIBIT A"**  
*As Built Pipeline*



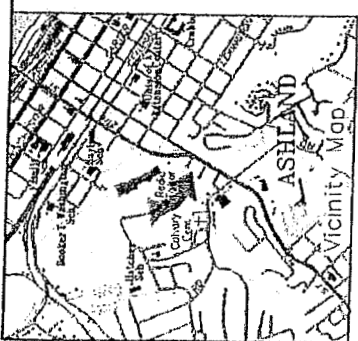
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PATRICK WATSON  
 DB 624, Pg. 572

AS BUILT PIPELINE

DOCUMENT NO: 635286  
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 COUNTY: BOYD COUNTY  
 DEPUTY CLERK: JUDY SPEARS  
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1 x RIGHT OF WAY EA \$20.00  
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ZTB ENTERPRISES, LLC

BY: James G. Gibbs  
JAMES G. GIBBS, MANAGER

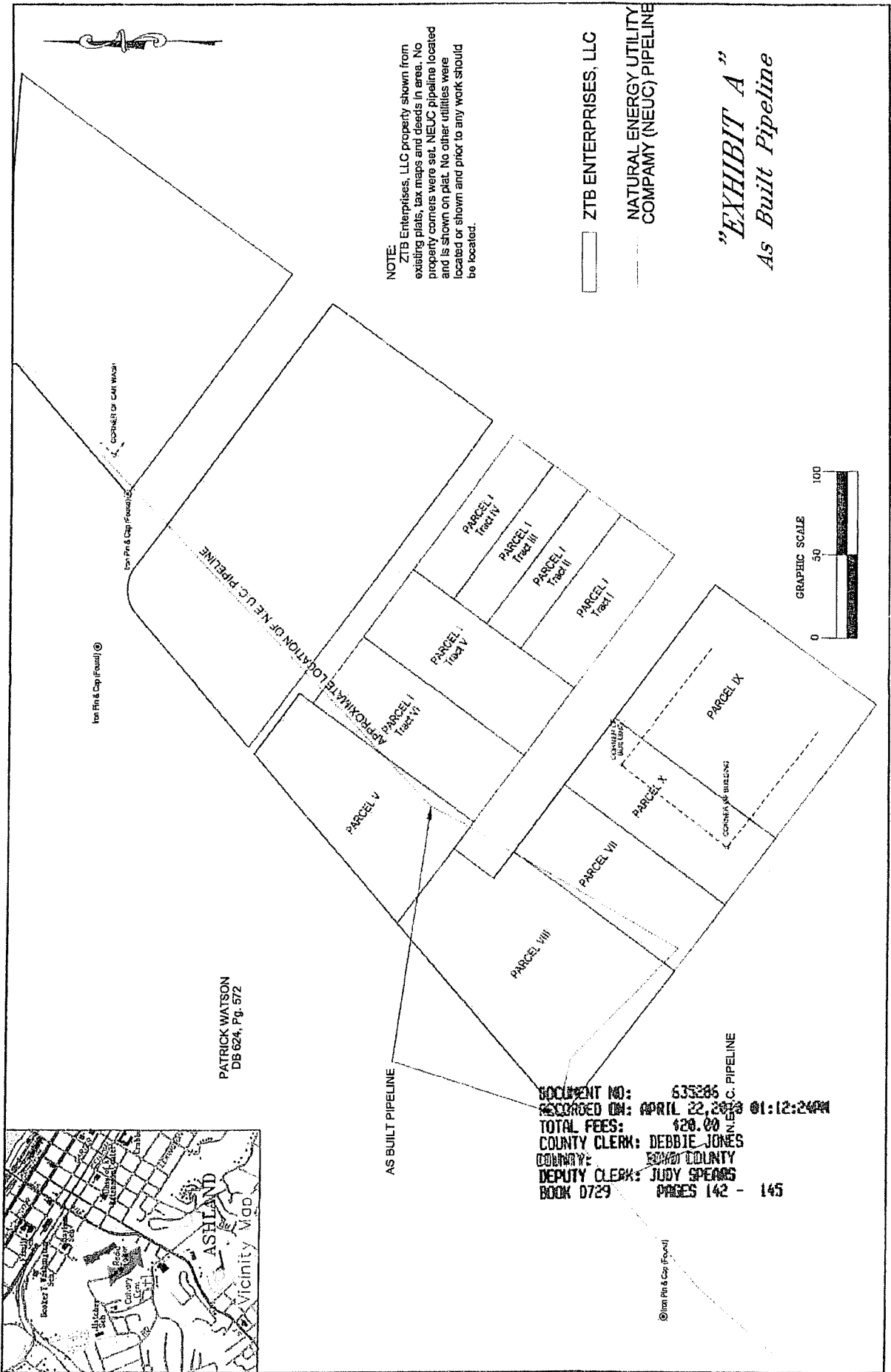
NATURAL ENERGY UTILITY CORPORATION

By: H. Jay Freeman  
H. JAY FREEMAN, PRESIDENT

This Instrument Prepared by:

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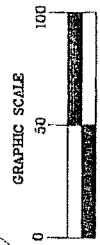




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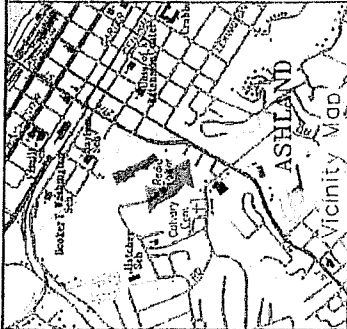
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*As Built Pipeline*



PATRICK WATSON  
 DB 624, Pg. 572

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1 x RIGHT OF WAY EA \$20.00  
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	TOTAL	
CHARGE	PAYMENT OF	\$20.00
	CHANGE DUE	\$0.00

CHARGE ACCT #NWE

PHONE (606) 739-5116  
ARE YOU REGISTERED TO  
VOTE? ELECTION DAY MAY 18

7. In response to CKY Data Request 13, Mr. Freeman indicates that it had an existing easement for the steel pipeline across the mall property. When was the easement obtained? Why are there no documents to reflect this easement?

Witness: Freeman

Response: The easement has been in place since the installation of the pipeline, believed to be 1929. The predecessor companies to NEUC owned and operated that line since its installation. NEUC acquired all easements and rights of way from the prior owners. No written easement can be found.