

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

In the Matter of:

THE APPLICATION OF KENTUCKY)	
MOUNTAIN POWER, LLC /)	
ENVIROPOWER, LLC FOR A)	CASE NO. 2002-00149
MERCHANT POWER PLANT)	
CONSTRUCTION CERTIFICATE IN)	
KNOTT COUNTY, KENTUCKY)	
NEAR TALCUM)	

KENTUCKY MOUNTAIN POWER, LLC'S RESPONSE
TO BOARD STAFF'S FIRST DATA REQUEST

COMES NOW Kentucky Mountain Power, LLC ("KMP") and responds to the Kentucky State Board on Electrical Generation and Transmission Siting Board Staff's ("Board") First Data Request ("Request") as follows:

OBJECTIONS

KMP objects to the instructions for filing of its response to the Request as being unduly burdensome. KMP is not aware of any legislation governing discovery in Board proceedings. KMP shall provide its response to each individual request following the applicable question and all documents provided in response to the Request shall be forwarded to the Board in the same format in which such documents are kept by KMP in its ordinary course of business, with an index indicating which documents are responsive to which individual request. Further, KMP was not served with the Request until June 27, 2002, six days prior to the date indicated by the Board that the response to the Request was due. KMP will provide as much information in response to the Request as it is reasonably able to do within that time period.

KMP objects to the Request to the extent it calls for information which is outside the scope of the information the Board is entitled to request under the applicable section of KRS Chapter 278 governing the Board as such information is irrelevant to these proceedings.

KMP objects to any request for proprietary information. Since KMP's response to the Request shall be available for review by the general public, KMP will only submit proprietary and confidential information to the Board under a protective order issued by an applicable governing authority that will protect the disclosure of such information.

KMP objects to the Request as duplicative to the extent it asks for information previously submitted to the Board in KMP's application for certificate to construct filed on June 7, 2002 ("Application").

KMP objects to listing a responsible party for each response as being unduly burdensome. Randy Bird, Robin Morecroft and Peter Brown are the responsible parties for the information contained herein and can be contacted through KMP's corporate offices in Lexington, Kentucky.

RESPONSE

1. Provide a land use map and aerial photograph depicting current land uses within a five-mile radius of the proposed site.

Response: KMP does not have any documents responsive to this Request.

2. Provide a description of the nearest property not permitted for mining purposes. Provide information about the current ownership and use of that property.

Response: KMP does not have any documents or any other information responsive to this Request.

3. Provide the name, location, size, and population of the residential development closest to the proposed facility.

Response: Upon information and belief, the community of Ary is the nearest residential development. KMP is not aware of the exact distance or population of Ary, however the proposed facility is approximately 46,000 feet from the United States Post Office servicing Ary, which the same reports that it delivers mail to approximately 250 homes in the area, which includes Ball Creek, Troublesome and Pigeon Roost as well.

4. What is the rationale for the proposed methods of controlling access to the site? Include in your response any security assessment the company may have conducted and any standard corporate security policies.

Response: KMP objects to this request as duplicative (see above Objection). KMP has not conducted any security assessments and it intends to hire a third party operator for the facility, which will operate under its own set of corporate security policies, which will conform with industry standards.

5. What are the design standards for the access road from Route 80 and for the internal access roads?

Response: The proposed access road is being constructed by the Kentucky Department of Transportation as per KYDOT standards. Upon information and belief, the road will be built as heavy duty industrial with a 7% grade. The road will be three lanes at the intersection with Route 80 and two lanes thereafter with a maximum speed limit of 35 mph. The internal roads of the facility will be designed as per that required of the air permit. See Application, § 8.7, ¶ 6.

6. What are the estimated peak and average daily traffic volumes on the access and internal roads during construction and operation of the proposed facility? Classify your response by type of vehicle.

Response: See Application, § 8.7, ¶ 7.

7. Provide information regarding the frequency and duration of any anticipated road closures along Route 80 or KY 1087 due to oversize load movements during the construction of the proposed facility.

Response: Upon information and belief, the construction of the facility will only require 4 oversize loads requiring special handling equipment to be moved across Route 80 or KY 1087, none of which is larger than the typical size of ½ of a double wide mobile home. KMP does not anticipate any road closure to accommodate the transportation of these oversized loads.

8. Provide documentation of any utility service agreements with US Filter and Equitable Energy, LLC.

Response: KMP objects to this request as the information is irrelevant and outside the scope of these proceedings. See above Objection. KMP does have an agreement with US Filter Operating Services for the construction of a water line to bring water from the North Fork of the Kentucky River to a reservoir located adjacent to the facility and to transport and treat the water from the reservoir to the facility, which has been reviewed by the engineering consultants engaged by the Board. KMP also has an agreement for US Filter to operate the above water line and treatment systems. KMP has no knowledge of Equitable Energy, LLC.

9. Provide any additional information on the manner in which wastewater disposal will be handled. Include in your response a copy of the NPDES permit dated

October 17, 2001 and a copy of the coal combustion waste disposal permit dated June 29, 2001.

Response: The wastewater shall be disposed of as per the requirements of the KPDES Permit No. 4213. A copy of this permit has been provided to the engineering consultants engaged by the Board during their visit to KMP's corporate headquarters in Lexington, Kentucky. Further, KMP anticipates using certain streams of wastewater in its ash disposal system.

10. Provide information on background noise levels at the site at the edge of the property, and at the nearest residence before and after construction and operation of the power plant.

Response: KMP has never conducted an analysis of the background noise levels at the facility site, as there are no active operations or residents of any type located thereon. With the only noise being the sounds of nature, KMP would anticipate that any such study conducted would yield a negligible background noise level at the facility site. KMP objects to the request for the background noise level at the nearest residence prior to construction as such information is irrelevant. See above objection. For estimated noise levels after construction, see Application, § 8.6. Upon information and belief, noise levels peak in the surrounding area in excess of 128 db from mine blasting.

11. Provide any information gathered or developed by KMP regarding the potential changes in property values for property owners within a five-mile radius resulting from siting, construction, and operation of the power plant.

Response: KMP objects to this request as being irrelevant with regard to the five-mile radius. See above Objection. The only adjoining landowner to the facility site

is Appalachian Realty Company and all such adjoining property is under a long-term lease to KMP. Property value information concerning this property owner has been provided to the Board in the Application at § 8.5.

12. What is the current land use of the properties adjacent to the KMP leasehold boundary? Use the Land-Based Classification Standards Level 4 approved by the American Planning Association to answer the question.

Response: KMP objects to this request as being irrelevant. See objection in response to Request No. 11. Notwithstanding the above objection, KMP is aware that Starfire Mining is operating a mineworks on the eastern portion of the leased premises. Upon information and belief, the remaining property surrounding KMP's leased premises is not currently being used for any specific purpose. KMP is not aware of the Level 4 Land-Based Classification Standards approved by the American Planning Association rating applicable to any of the property surrounding KMP's leased premises.

13. Provide a copy of the option to purchase 1,993 acres from Appalachian Realty, and a map of the property.

Response: KMP objects to the request for a copy of the option to purchase certain portions of the leased premises as being irrelevant. See above Objection. KMP maintains its site control through a long-term lease with Appalachian Realty Company. A general map of the facility site and surrounding areas, with the associated facilities demarcated, was submitted with the Application at § 8.9, ¶ A.

14. Provide a copy of the option to purchase 62 acres from Vera Salyer, and a map of the property.

Response: See Response to Request No. 13.

15. Is construction of the reservoir to accommodate 1.4 billion gallons of water dependent upon the option to purchase the 62 acres from Vera Salyer?

Response: See Response to Request No. 13.

16. Are there any legal impediments to the enlargement of the site boundary to include additional areas within the leased boundary?

Response: KMP objects to this Request as it calls for a legal conclusion. Further, KMP does not understand the nature of the request as it relates to the “site boundary”. The facility site is part of the leased premises and is only considered a separate and distinct tract for purposes of the Application. Regardless of the above, KMP would have to know the purpose any “additional areas within the leased boundary” would be added to the “site boundary” before it would be able to answer this Request. Also, certain portions of the leased premises are anticipated to be purchased and transferred to the Commonwealth of Kentucky for the development of an industrial park. Other property within the leased premises is anticipated to be subleased to the Commonwealth for the development of a golf course. See Application, § 6.8, ¶ A for the location of these properties. These properties cannot be included within the facility site.

17. Provide any documents or correspondence related to the proposed industrial park that will be transferred to Knott County Development Authority.

Response: See Memorandum of Agreement, dated October 16, 2000 between Commonwealth of Kentucky, Appalachian Realty Company and EnviroPower, LLC (“MOA”). The Commonwealth and KMP are in the process of revising the MOA but it has not been completed yet.

18. Provide any documents or correspondence related to the proposed golf course that will be transferred to the Commonwealth of Kentucky.

Response: See Response to Request No. 17. The MOA did not include a provision for the golf course, however the Commonwealth and KMP have since agreed to the same and anticipate that it will be included within the amendment to the MOA. See Report submitted in the Application at § 6.5 and the attachments thereto.

19. Provide a map of the proposed tracts and describe what their ownership or lease status will be when the plant becomes operational. Include all areas within the current lease boundary.

Response: KMP object to this Request as ambiguous as to the use of the term “proposed tracts”. Which tracts is the Board referring to? All of the tracts of real property identified in the Application, § 8.9, ¶ B, except the golf course will be owned by KMP when the facility becomes operational. The golf course, along with the remaining leased premises, will be owned by Appalachian Realty Company and leased to KMP, with the golf course being subleased to the Commonwealth of Kentucky, or its assignee.

20. The land within the current lease boundary and the land adjacent to the leased area are part of the Addington Enterprises Wildlife Management Area.

a. Provide copies of any agreements with Kentucky Fish & Wildlife Department concerning the proposed site, leasehold area, and areas adjacent to the current lease boundary.

b. How will the construction and operation of the proposed power plant affect existing agreements with Kentucky Fish & Wildlife Department?

Response: KMP does not have any documents responsive to this Request.

21. What water systems will be in place when the power plant becomes operational? Include in your response map(s) at 1:24,000 or better showing water lines,

intake structures, the water treatment plant, pumping stations, pumps, water tanks/towers, and meter stations.

Response: KMP objects to this Request to the extent it requires information for any systems outside the facility site. Notwithstanding the foregoing objection, see map of the proposed water system included with this Response.

22. Does the operation of the plant require the use of water that meets drinking water standards?

Response: A small portion of the water consumption of the facility requires the use of water that meets Kentucky drinking water standards.

23. What company or companies will be responsible for financing and constructing the water supply system for the plant?

Response: KMP. KMP has contracted with US Filter Operating Services to construct the water supply system.

24. Provide documentation of any negotiations for a long-term water facilities agreement or any current contractual agreement with US Filter and Equitable Energy, LLC for water and wastewater facilities.

Response: KMP objects to this Request as irrelevant. See above Objection. See response to Request No. 8.

25. Will KMP use public financing in the construction of the water and wastewater plant? If so, describe the agencies involved and supply any supporting documentation.

Response: No.

26. Provide documentation of any meetings (minutes, letters) with the Kentucky Infrastructure Authority or the local Water Management Council or the

Kentucky River Area Development District, concerning water and/or wastewater services.

Response: KMP objects to this Request as irrelevant. See above Objection. KMP has no documents responsive to this Request. Upon information and belief, US Filter has met with the Kentucky River Authority, the Kentucky River Area Development District and the Water Management Council all last year, and met with the Kentucky Infrastructure Authority and Rural Development just last week. The meetings were for information purposes only to advise them about the project to build a power plant. No minutes were kept.

27. Describe how the water and wastewater utilities will be organized when the power plant is operational.

Response: The operation of the facility will not involve any water or wastewater utilities.

28. Will the utility be a PSC-regulated entity? If yes, when will KMP apply for a Certificate of Public Convenience and Necessity for construction and finance?

Response: KMP objects to this request as ambiguous as to the term “utility”. What utility is the Board referring to?

29. What state and local agencies outside of those listed in Section 10 of the application will need to approve the location and construction of water and wastewater utility facilities?

Response: KMP has received all of the permits necessary for the construction of the water system. KMP will not construct any water and wastewater utility facilities. US Filter Operating Services will obtain final construction permits for the wastewater facilities once design is complete and submitted to the Division of Water for approval.

30. With regard to the water storage reservoir with storage capacity of 1.4 billion gallons, how long can the plant remain operational during a dry spell if KMP could not obtain water from North Fork?

Response: 8-9 months depending upon the operations of the facility.

31. Will KMP need additional permits for construction or enlargement of the reservoir? Will the reservoir be filled to capacity when the plant opens? If not, why not?

Response: No additional permits are needed. KMP anticipates the reservoir to be at full capacity at the time the facility achieves commercial operation.

32. Provide copies of permits related to the water and wastewater utilities. Include any NPDES permits, water withdrawal permits, or USACE permits. Include with the NPDES permit a map of the location of the wastewater pipe and its discharge point into surface waters.

Response: KMP does not have any permits relating to water and wastewater utilities. KMP does have several permits relating to its water system. These permits are a matter of public record and are available from the Kentucky Division of Water. The Board is welcome to copy any of KMP's permits from its business files in KMP's corporate offices in Lexington, Kentucky, some of which have already been provided to the Board engineering consultants.

33. When will KMP make an application for the Wastewater Facility Construction Permit?

Response: See Response to Request No. 29. KMP is only constructing a package wastewater plant. The majority of waste (cooling tower) water will not be treated, but will be reused in back end scrubber (NIDS) and the ash disposal system. KMP's NPDES permit reflects the reuse.

34. There are a number of Equitable companies that operate in Kentucky dealing with natural gas, including Equitable Energy LLC, Equitable Production, and Equitable Gas Company. Distinguish these companies in answering the following questions:

a. What company is going to build the 6-inch line that will be constructed from a major gas transmission line to the plant? Who will own the line once it is built?

b. What will be the operating pressure of the 6-inch gas line?

c. Is any public financing involved in the construction of the gas transmission line to the plant? If so, name the public agency, and supply supporting documentation.

d. Will this pipeline be regulated by the PSC? Will KMP need to apply for a Certificate of Public Convenience and Necessity for construction?

e. What company will be responsible for working with the United States Department of Transportation Office of Pipeline Safety or the PSC on the safety aspects of the construction and operation of the 6-inch gas line?

f. What company will be responsible for regulatory, construction, and financial issues related to the installation of the 6-inch gas line?

Response: KMP objects to this Request as irrelevant to the extent it requires KMP to distinguish between the various Equitable companies listed. See above Objection. Notwithstanding the foregoing objection, KMP anticipates interconnection with the Equitable Resources natural gas pipeline system at the Southeast leased premises boundary. The pressure of the natural gas service required at KMP is 15 psi. KMP has no knowledge concerning what monies Equitable will use to construct the

natural gas transmission pipeline going to KMP other than KMP will be required to pay an upfront interconnection fee. KMP will neither own nor operate the natural gas transmission pipeline and has no knowledge as to whether it will be regulated by the Kentucky Public Service Commission. Upon information and belief, Equitable Resources will own, construct and operate the natural gas transmission pipeline.

35. Provide map(s) at 1:24,000 or better showing the location of the 6-inch gas line from its point of origin at the major gas transmission line to the KMP site and any compressors or other gas facilities located along the line. Locate the intersection with the major gas transmission pipeline, name the owner of the major gas transmission pipeline, and the diameter of the major gas transmission line at the point of intersection.

Response: KMP objects to this Request as irrelevant. See above objection. Notwithstanding the foregoing objection, see map in Application at § 8.2.

36. Where will natural gas be used in the production of electricity and how much will be used annually?

Response: KMP will use natural gas for facility “black” startup and for drying the limestone that will be used in the facility’s boilers. KMP anticipates annual natural gas usage of 200-400 M²CF.

37. Provide evidence that the site of the proposed plant is the site of a former coal processing plant to justify the application of Senate Bill No. 257, Section 3(5), to the setback requirements.

Response: KMP is not aware that the facility site is the site of a former coal processing plant. Several active and inactive coal handling/processing facilities, however, are located on the leased premises adjacent to the facility site.

38. Evaluate the scenic compatibility of the power plant with the area of the proposed industrial park that will be transferred to Knott County Development Authority.

Response: KMP objects to this Request as irrelevant as no industrial park currently exist nor is KMP aware of any plans as to how such an industrial park may be developed, what it would look like, or what industries it may include. Further, the industrial park will only be developed, if ever, on land deeded to the Commonwealth by KMP and is dependent upon the construction of the proposed water system to provide potable water, which construction will only occur if the facility is constructed.

39. Evaluate the scenic compatibility of the power plant with the area of the proposed golf course that will be transferred to the Commonwealth of Kentucky.

Response: See response to Request No. 38.

40. Refer to Section 8.5.0 of the Site Assessment Report in the application. Does the property appraisal of the Spruce Pine Tract take into account the location of an operating power plant in the immediate vicinity? More specifically, does it take into account the effect of truck traffic, noise, and scenic compatibility with the proposed Business Park and golf course? If it does not, how does this affect the appraisal of the Spruce Pine Tract?

Response: The appraisal report was provided in the Application at Section 8.5. All of the known assumptions of the appraiser are contained therein. KMP does not have any independent knowledge concerning the fair market value of the leased premises.

41. Provide information regarding the electrical output for each proposed generating unit.

Response: 591,600 KW @ 22kv @ 90% power factor

42. Provide information regarding the location and voltage of each proposed transmission interconnection.

Response: KMP will interconnect with AEP at the new talcum switching substation 2,000' from the main building. The voltage is 138 kv.

43. Identify the location and magnitude of the load that the applicant intends to serve, and provide copies of any contracts for the output of the proposed generating unit.

Response: KMP objects to this Request as irrelevant and duplicative. See above Objections. Notwithstanding the foregoing objections, see Interconnection Agreement with Kentucky Power Company in the Application at § 5.5.

44. Provide a transmission study that consists of short circuit/fault duty, steady state (thermal and voltage), and stability analyses. Include in your response:

a. All data files for the electric analysis flow model used to create the transmission study and data files used to prepare applications for transmission interconnection, in a format acceptable for Federal Energy Regulatory Commission ("FERC") Form 715 filing requirements.

b. A statement regarding conditions and assumptions made in the transmission study, such as load balancing assumptions, and explain why these are reasonable assumptions.

c. Any other information necessary to reproduce the results of the transmission study.

Response: KMP objects to this Request as duplicative. See above Objection. KMP already provided all of the transmission studies it received from AEP in the Application at §§ 5.2, 5.3 and 5.4. KMP has no further information responsive to this

Request. At the request of the Board, KMP requested a copy of any electronic data files AEP may have regarding the information set forth in this Request, however AEP indicated that no such electronic files currently exist.

45. Provide a copy of all transmission studies conducted by the transmission owner(s) and/or regional transmission organization(s) for interconnection for this project that have not already been provided. Include in your response:

a. All data files for the electric analysis flow model used to create the transmission study and any data files used to prepare applications for transmission interconnection, in a format acceptable for FERC Form 715 filing requirements.

b. A statement of conditions and assumptions made in the transmission study, such as load balancing assumptions.

c. KMP's of the reasonableness of the conditions and assumptions in 45(b).

d. Any other information necessary to reproduce the results of the transmission study.

Response: See Response to Request No. 44.

46. Provide a copy of all applications for transmission interconnection for the proposed generating facility and any transmission service requests made for the proposed generator.

Response: KMP has no further information responsive to this Request.

47. Provide a statement certifying that all transmission studies filed with the Board have been sent to each transmission owner and regional transmission organization operating in Kentucky. It is not necessary to provide studies to a

transmission owner or a regional transmission organization if it was the original source of the study.

Response: KMP has no documents responsive to this Request. The responsibility for the provision of such studies to other transmission owners and RTOs lies with AEP.

48. The facilities study for the new generators on the American Electric Power transmission network indicates a total estimated cost of \$33,030,000 for transmission upgrades. However, page 56 of Appendix E of the interconnection and operation agreement indicates a total estimated cost of \$17,373,400. Explain this discrepancy.

Response: The Interconnection Agreement with Kentucky Power Company indicates estimate cost for total system upgrades at \$2,200,000. The total cost of interconnection with Kentucky Power Company is estimated at \$33,000,000. AEP is only responsible for a portion of the construction of the interconnection facilities, which it estimates will cost \$17,000,000. Davis H. Elliot Company, Inc will construct the remainder of the interconnection facilities as set forth in the attached appendices.

49. How many of the 400-600 workers employed during the construction phase of the project will remain employed when the plant becomes operational?

Response: KMP will hire approximately 55 operating personnel during construction that will work with the contractors to operate the facility during testing and startup. This personnel will serve as the permanent operators after commercial operation of the facility.

50. Has KMP measured the impact the proposed plant will have on current levels of airborne mercury? If yes, provide supporting documentation.

Response: KMP objects to this Request as irrelevant. See above Objection.

CERTIFICATION

Peter C. Brown, being attorney of record for Kentucky Mountain Power, LLC, certifies that the above responses to the Kentucky State Board on Electrical Generation and Transmission Siting Board Staff's First Data Request are true and accurate as stated.



Peter C. Brown
Attorney of Record
Kentucky Mountain Power, LLC
2810 Lexington Financial Center
Lexington, Kentucky 40507

COMMONWEALTH OF KENTUCKY

COUNTY OF FAYETTE

The foregoing instrument was subscribed, sworn, to and acknowledged before me this 13th day of July, 2002, by **PETER C. BROWN** as **Attorney of Record** for **Kentucky Mountain Power, LLC**, a Kentucky limited liability company, for and on behalf of said company.



NOTARY PUBLIC

My Commission Expires: 5/7/04

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement ("Agreement") is entered into this 16TH day of 10/16/00, 2000, by and among the Commonwealth of Kentucky (hereinafter "Commonwealth") and Appalachian Realty, Inc., a Kentucky corporation with an address of 1500 North Big Run Road, Ashland, Kentucky 41102 (hereinafter "Appalachian"), and EnviroPower LLC, a Kentucky limited liability company, with offices at 2700 Lexington Financial Center, 250 West Main Street, Lexington, Kentucky 40507 (hereinafter "EnviroPower"). The Commonwealth, Appalachian and EnviroPower may be referred to collectively throughout the body of this Agreement as the "Parties."

WITNESSETH:

WHEREAS, the Commonwealth, Appalachian and EnviroPower desire to enter into this Agreement; and,

WHEREAS, Appalachian possesses land in Knott County, Kentucky, that is appropriate and suited for the construction and development of an industrial/business park (hereinafter "Park"); and,

WHEREAS, EnviroPower plans to construct an electric generating power plant on property adjacent to land Appalachian wishes to convey to the Commonwealth for the development of a Park;

WHEREAS, Appalachian acknowledges that the construction of the bridge and access road by the Commonwealth could enhance the fair market value of Appalachian's property that is adjacent to the property it will convey to the Commonwealth or to any public entity designated by the Commonwealth;

NOW THEREFORE, in consideration of the promises, covenants, terms and conditions contained herein, the Parties HEREBY AGREE as follows:

GRANT OF LAND FOR INDUSTRIAL/BUSINESS PARK

1. Appalachian shall grant to the Commonwealth or to a public entity designated by the Commonwealth all its rights, title and interest in approximately eight hundred-eighty six (886) acres of its Starfire property for a proposed industrial/business Park, the approximate location of which is shown on a schematic map prepared by Carman and Associates architects, which schematic map is attached hereto and made a part of this Agreement, and labeled "Exhibit A."

2. It is understood by the Parties hereto that in order to secure an adequate supply of raw water for the needs of EnviroPower's new generating facility that EnviroPower shall contract with a third party for the design, construction and operation of a water treatment plant and sewage disposal system, complete with interconnecting pipeline and pumping facilities, and it is the understanding and agreement of the Parties that these water and sewage facilities shall be designed and constructed so as to facilitate their expansion and enlargement to serve other industrial facilities which may be located at the Park in the future. Said water and sewage system will be constructed in accordance with all state and federal requirements.

3. There is to be reserved by Appalachian for the benefit of EnviroPower in the grant of lands to the Commonwealth an easement for right-of-way for the location and construction of utility lines as are necessary to service the needs of the electric power plant as well as the industrial/business Park, including electricity, natural or methane gas,

fuel oil, fly ash and coal and water supplies and sewage treatment. The location of all such easements for any coal haul access roads which may be necessary for the benefit of EnviroPower will be agreed to at a later date by the Parties. All Parties agree that such locations will enhance and not hinder the development or use of the industrial/business Park property.

4. It is understood and agreed by the Parties that the lands which are the subject of this Agreement are mountain lands, which have been surface mined for coal, that various parts of the surface may be permitted by the Kentucky Department for Surface Mining, Reclamation and Enforcement, and in varying stages of reclamation; it is further understood and agreed by the Parties that all reclamation requirements with respect to the properties shall be the continuing obligation of Appalachian's lessees or assignees, and that, in order to accommodate this Agreement to the statutory requirements of the Surface Mining Act (KRS Chapter 350), Appalachian, its lessees, assignees and contractors, shall retain in easement of ingress and egress to, over and across the lands for the purpose of conducting the reclamation required by applicable permits and law.

5. The Parties hereby agree to the following milestones for completion of the conveyance of property and other critical steps in furtherance of this Agreement:

(a) January 1, 2001 – Conveyance to the Commonwealth of Appalachian's properties for construction of road and all properties needed for the proposed industrial/business Park

(b) The Transportation Cabinet shall begin acquisition of all necessary

private property for construction of bridge across Upper Troublesome Creek and access road to Starfire site as soon as the Starfire property is conveyed to the Commonwealth.

(c) September 1, 2001 --- The Parties shall have jointly agreed upon and located all necessary and appropriate right of way easements to service the power plant and industrial/business park;

(d) Bridge Completion -- May 31, 2002

(e) Road Completion --- October 1, 2002

CONSTRUCTION OF BRIDGE AND ACCESS ROAD

6. The Commonwealth will, through its Transportation Cabinet, construct a bridge from State Route 80 across Upper Troublesome Creek near the proposed industrial site. This construction may be done via any appropriate and lawful method available to the Transportation Cabinet.

7. EnviroPower will finish to grade, to be ready for gravel and aggregate surfacing, an access road to and through the proposed industrial/business Park, or Starfire site, to the beginning of the power plant site. "Finish to Grade" will be to standards as prescribed by the Transportation Cabinet for an industrial haul road. This access road will extend from the bridge to be constructed to the proposed site of the Kentucky Mountain Power facility connector road that will be located atop Potato Knob. The Commonwealth will be responsible for final construction of this access road to and through the proposed industrial/business Park, or Starfire site, unto the beginning of the power plant site connector road, to include gravel and aggregate surfacing in accordance with the standards of the Kentucky Transportation Cabinet necessary to handle industrial haul traffic.

8. Acquisition of any necessary right-of-way for this access road will be made by the Commonwealth. Appalachian and EnviroPower will aid and assist the Commonwealth in identifying any properties through which right-of-way acquisition may be necessary and in negotiating with such private property owners for the necessary rights-of-way. Appalachian will convey all of its rights, title and interest to any property necessary for construction of the access road to and through the proposed Starfire industrial site prior to the Transportation Cabinet commencing negotiation for any additional private property necessary for construction of the road.

GENERAL AGREEMENTS

9. The Commonwealth and Appalachian agree that the provisions of KRS 416.670 and KRS 154.50-323 are not applicable to the transfer of property as contemplated by this Agreement.

10. In carrying out any part of this Agreement, or exercising any power or authority granted to them by or within the scope of this Agreement, no liability shall be imposed upon the Governor of the Commonwealth of Kentucky, the Secretary of the Transportation Cabinet, or any other authorized state representative, agent, or official, or their successors or assigns. In all such matters, these persons are acting solely as agents and representatives of the Commonwealth.

11. Appalachian and EnviroPower agree to maintain all records associated with this Agreement for a period of at least fifteen (15) years in a readily accessible format and location and to share with each other and the Commonwealth all records, unless protected from disclosure by the Open Records Law, KRS 61.879 *et seq*, the attorney-client privilege or the attorney work-product privilege.

12. The Parties understand and agree that Appalachian shall convey to the Commonwealth or to any public entity designated by the Commonwealth all of its right, title and interest in and to the property granted, or otherwise conveyed. Appalachian agrees to make available to the Commonwealth, concurrently with the execution of this Agreement, accurate legal descriptions and all records in its possession relating to the property being made available by Appalachian for transfer hereunder.

13. This Agreement constitutes the final understanding of the parties and may be amended only upon the written mutual Agreement of the Parties.

14. The provisions of this Agreement are hereby declared to be severable and if any section, phrase, provision or paragraph shall for any reason, be declared invalid, such declaration of invalidity shall not affect the remainder of this Agreement.

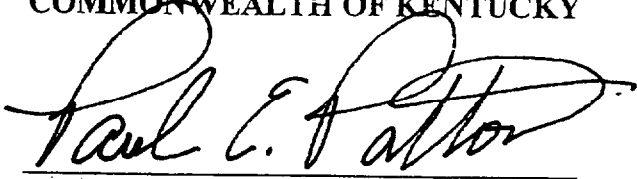
15. The Parties each agree and acknowledge receipt of a full and complete copy of this instrument and declare that it embodies the entire agreement among them, and no promises, terms, conditions, representations, or warranties, other than those contained herein, have been made or were relied upon.

16. This Agreement shall be interpreted and enforced pursuant to the laws of the Commonwealth of Kentucky.

17. This Agreement shall be in full force and effect from the date of the last signature hereon. This Agreement, its obligations and covenants, shall be binding upon and inure to the benefit of each Party, their legal representatives, heirs, assigns, devisees, grantees, and any other successors in interest.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the day, month and year first written above.

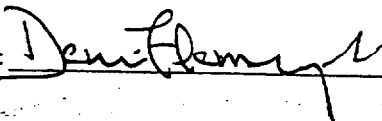
COMMONWEALTH OF KENTUCKY



PAUL E. PATTON, GOVERNOR

Date: 10/14/00

Approved as to Form and Legality

By: 

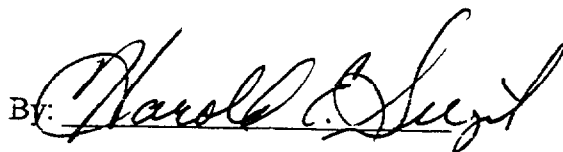
APPALACHIAN REALTY, INC.

By: 

Title: Vice President

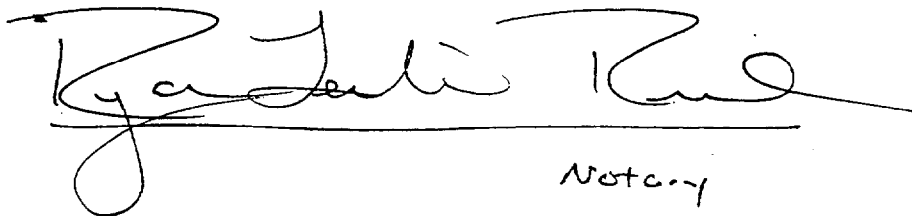
Date: 10/16/00

ENVIROPOWER, LLC

By: 

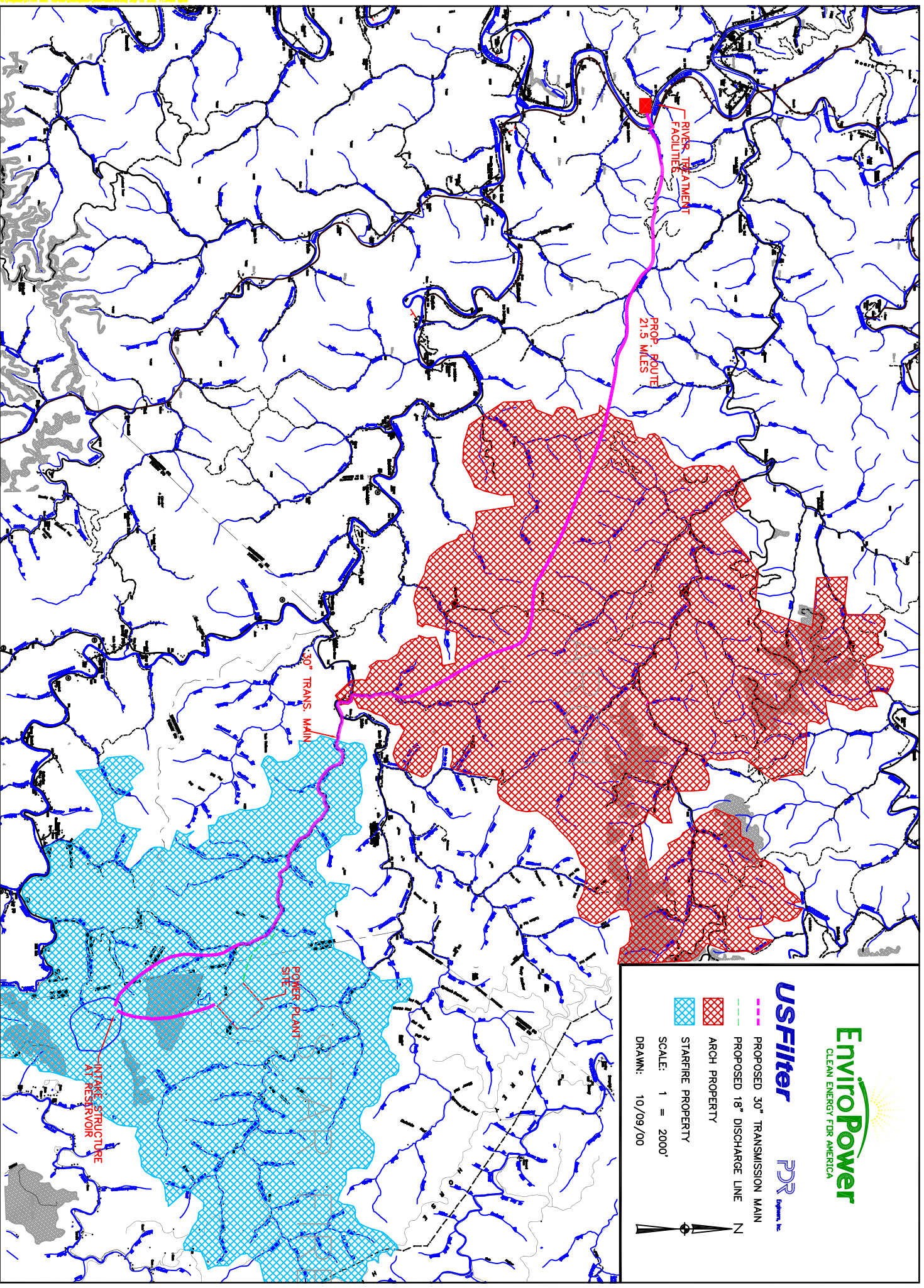
Title: Pres/CEO

Date: 10/16/00



Notary





my commission expires
June 2004



EnviroPower
CLEAN ENERGY FOR AMERICA

USFilter

PRR
Solutions, Inc.

-  PROPOSED 30" TRANSMISSION MAIN
-  PROPOSED 18" DISCHARGE LINE
-  ARCH PROPERTY
-  STARFIRE PROPERTY
- SCALE: 1" = 2000'
- DRAWN: 10/09/00



RIVER TREATMENT FACILITIES

PROP. ROUTE
21.5 MILES

30" TRANS. MAIN

POWER PLANT SITE

INTAKE STRUCTURE AT RESERVOIR