



August 14, 2002

Jim Morris  
Horizon Natural Resources, Inc.  
2000 Ashland Drive  
Ashland, Kentucky 41101

Re: Waiver of Objection to Kentucky Siting Board Setback Requirement

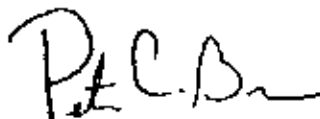
Dear Jim:

Pursuant to our recent conversation, I am sending you this letter setting forth the requirements of Kentucky Senate Bill 257 (the "Bill") with regard to power plant setbacks and requesting your waiver of any objection to Kentucky Mountain Power, LLC's ("KMP") request for deviation from the same. The Bill created the Kentucky State Board on Electric Generation and Transmission Siting (the "Board"), which now governs the issuance of certificates to construct merchant power plants in the Commonwealth of Kentucky. The Bill requires that the exhaust stack of any such plant be located "at least one thousand (1,000) feet from the property boundary of any adjoining property owner and two thousand (2,000) feet from any residential neighborhood, school, hospital, or nursing home facility." KMP's application to the Board identified the 195 acre portion of KMP's leasehold with your subsidiary, Appalachian Realty Company ("APR"), generally known as Potato Knob. KMP's exhaust stack will be well beyond 2,000 feet from any residential or other dwelling, but will be less than 1,000 feet from the closest adjoining landowner, APR. The distance from the exhaust stack to KMP's lease boundary will always be in excess of 1,000 feet.

KMP has requested a deviation of the setback requirement from the Board, as needed, based upon the physical dimensions of KMP's facility site (Potato Knob). Since APR is the only adjacent landowner within a 1,000 feet of KMP's exhaust stack, KMP is requesting your waiver of any objection APR may have as to the location of the exhaust stack and the definition of KMP's facility site as identified in KMP's application to the Board and as set forth in this letter. Your execution of this letter will signify APR's waiver

of objection. Thank you for your cooperation. If you have any questions concerning this matter, please don't hesitate to contact me at either (859) 422-5562 or (859) 492-2323.

Sincerely,



Peter C. Brown  
Director of Contract Administration  
EnviroPower, LLC

Agreed to and accepted by:



Title: President

on behalf of Appalachian Realty Company

cc: CK Lane  
Robin Morcroft  
Randy Bird

294-KMP-Horizon-Waiver-Selback-Requirement-Letter