

1 STATE OF MISSOURI

2 PUBLIC SERVICE COMMISSION

3
4 TRANSCRIPT OF PROCEEDINGS

5 Public Hearing

6
7 March 30, 2006

8 Harrisonville, Missouri

9 Volume 3

10
11 In the matter of the Application)
12 of Aquila, Inc., for permission)
13 and Approval and a Certificate)
14 of Public Convenience and) CASE NUMBER
15 Necessity Authorizing it to) EA-2006-0309
16 Acquire, Construct, Install,)
17 Own, Operate, Maintain, and)
18 otherwise Control and Manage)
19 Electrical Production and)
20 Related Facilities in)
21 Unincorporated Areas of Cass)
22 County, Missouri near the town)
23 of Peculiar.)

18 STEVEN C. REED, Presiding
19 Regulatory Law Judge
20 STEVE GAW,
21 CONNIE MURRAY,
22 LINWARD "LIN" APPLING,
23 Commissioners

1 A-P-P-E-A-R-A-N-C-E-S

2 For Cass County: MS. DEBRA L. MOORE-SETTLE

3 Cass County Counselor

4 102 E. Wall

5 Harrisonville, MO 64701

6 and

7 MS. CINDY REAMS-MARTIN

8 Attorney at Law

9 408 SE Douglas

10 Lee's Summit, MO 64086

11

12 For Stopaquila: MR. GERALD D. EFTINK

13 VanHooser, Olsen & Eftink

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15 Raymore, MO 64083

16

17 For Aquila: MR. JAMES C. SWEARENGEN

18 Brydon, Swearengen

19 and England

20 312 E. Capitol Avenue

21 Jefferson City, MO 65102

22 and

23 MS. JANET E. WHEELER

24 312 E. Capitol Avenue

25 Jefferson City, MO 65102

1 A-P-P-E-A-R-A-N-C-E-S continuing

2

3 For Neighbors: MR. JOHN B. COFFMAN

4 871 Tuxedo Blvd.

5 St. Louis, MO 63119

6

7 For Sedalia MR. STUART CONRAD

8 Industrial 3100 Broadway

9 Energy Users: Kansas City, MO 64111

10

11 For the office of MR. MARK D. WHEATLEY

12 Public Counsel: Office of Public Counsel

13 200 Madison Street

14 Jefferson City, MO 65102

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16 For the Staff of MS. LERA SHEMWELL

17 the PSC: Missouri Public

18 Service Commission

19 200 Madison Street

20 Jefferson City, MO 65102

21

22

23

24

25

1 P R O C E E D I N G S

2 (Hearing commenced at 5:45 p.m.)

3

4 JUDGE REED: Good evening
5 everybody, I hope you can all hear me, if you
6 cannot raise your hand. Can you hear me back
7 there? Very good. Thank you. I will look
8 for you guys to tell me if my voice falls,
9 thank you.

10 Ladies and gentlemen, we're on the
11 record here this evening in case number
12 EA-2006-0309 in which Aquila seeks Commission
13 approval for its South Harper plant.

14 My name is Steve Reed, I'm the
15 regulatory law judge assigned to preside over
16 this hearing this evening. This is a hearing
17 held at Harrisonville, Missouri where public
18 comment about this case is sought.

19 The Commission, the Missouri Public
20 Service Commission is made up of five
21 commissioners appointed by the governor and
22 confirmed by the Missouri Senate.

23 I have two commissioners here with me
24 this evening in person. To my right is
25 Commissioner Connie Murray and to my left is

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1 Commissioner Lin Appling. We also have
2 Commissioner Steve Gaw with us this evening
3 by video conference. He does appear there.
4 Commissioner Gaw, can you hear me?

5 COMMISSIONER GAW: Yes. Can you
6 hear me?

7 JUDGE REED: Yes, we can hear
8 you fine.

9 The Commission employs a staff of
10 engineers, accountants, attorneys and other
11 specialists in the field of utility
12 regulation. The Commission regulates the
13 rates charged by investor owned utilities to
14 ensure that those rates are just and
15 reasonable. It also regulates the quality of
16 service and safety issues among other things.

17 There is an evidentiary hearing in this
18 case, this Aquila case, set for April 26th to
19 the 28th and also May 1st through May 5th,
20 2006 at the Commission offices in Jefferson
21 City in the Governor Office Building there.

22 There the parties will present evidence
23 on behalf of and against Aquila's
24 application.

25 As many of you know, many of you may

1 have attended a local public hearing on March
2 20th, 2006 at the Cass County Justice Center.
3 It's our understanding that there were some
4 people who were denied access to the justice
5 center that evening and were not able to
6 participate in the public hearing that
7 evening. The Commission has returned this
8 evening to hold another local public hearing.
9 We want to make sure that anyone who wants to
10 participate in the local public hearing
11 process is allowed to do so.

12 Now, some of you may have testified at
13 that public hearing on March 20th, if you did
14 so your comments are part of the official
15 record. The transcripts have been prepared.
16 So I have volume one and two of those
17 transcripts. Your testimony is in the
18 record. So if you returned this evening to
19 testify again we ask that you testify only to
20 something that's new or additional to that
21 previous testimony.

22 If you do plan to testify this evening
23 you will have signed the sign-up sheet which
24 is in the back. When I call your name to
25 testify please approach the microphone, give

1 us your name. I will ask you to raise your
2 right hand and take the oath, you will
3 testify under oath. I will ask that you
4 spell your name for the court reporter. I
5 will ask you a few preliminary questions then
6 you can make your statement.

7 There may be some questions from the
8 Commissioners after you testify so please
9 wait until I excuse you before you leave the
10 microphone.

11 The purpose of this hearing this evening
12 is for you, the public, to testify to make
13 comment about this case. The company,
14 Aquila, and the Commissioners will not be
15 answering questions this evening.

16 This is a contested case and the
17 evidentiary hearing is set for a later date
18 as I mentioned.

19 Are there any questions from the
20 audience about the procedure this evening?

21 Can you all still hear me back there?
22 Very good.

23 The attorneys will be allowed to ask
24 clarifying questions as you were on March
25 20th at the last local public hearing. At

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1 this time let's have entries of appearance
2 from the attorneys who represent the
3 respective parties, starting with Aquila,
4 please.

5 MR. SWEARENGEN: Thank you,
6 Judge. James C. Swearngen and Janet Wheeler
7 with the firm Brydon, Swearngen & England.
8 Our address is 312 East Capitol Avenue,
9 Jefferson City, Missouri and we are appearing
10 on behalf of Aquila, Inc. Thank you. I also
11 have some representatives of the company with
12 me tonight, I would ask the Commission for
13 permission just to let them stand and state
14 their name and position with the company.

15 JUDGE REED: That would be fine,
16 please speak up.

17 MR. REED: Rick Reed, CEO of
18 Aquila.

19 MR. EPSON: John Epson, Senior
20 Vice-President of Regulated Operations.

21 MR. STAMM: Keith Stamm, Chief
22 Operating Officer.

23 MS. DUNN: Norma Dunn, Senior
24 Vice-president of Communications.

25 JUDGE REED: Thank you, ma'am.

1 MR. SWEARENGEN: Thank you,
2 Judge.

3 JUDGE REED: Thank you. All
4 right, let's turn to Staff of the Commission.

5 MS. SHEMWELL: Lera Shemwell,
6 representing the Staff of the Missouri Public
7 Service Commission, Post Office Box 360,
8 Jefferson City, Missouri 65102.

9 JUDGE REED: Thank you. The
10 Office of Public Counsel.

11 MR. WHEATLEY: Yes, sir. My name
12 is Mark Wheatley, I'm representing the Office
13 of Public Counsel. Our address is Post
14 Office Box 2230, Jefferson City, Missouri
15 65102.

16 JUDGE REED: Thank you. And for
17 StopAquila.

18 MR. EFTINK: Gerry Eftink of for
19 stopaquila.org. My address is 704 West
20 Foxwood Drive, Raymore, Missouri 64083.

21 JUDGE REED: Thank you. For Cass
22 County.

23 MS. REAMS-MARTIN: Thank you.
24 My name is Cindy Reams-Martin I'm outside
25 counsel for Cass County. My address is 408

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1 Southeast Douglas, Lee's Summit, Missouri.

2 MS. MOORE: Debra Moore, county
3 counselor for Cass County. My address is 102
4 East Wall, Harrisonville, Missouri 64701.

5 JUDGE REED: Thank you. Anyone
6 else for Cass County?

7 (No response.)

8 JUDGE REED: All right. Sedalia
9 Area Industrial Energy Users.

10 THE WITNESS: I will try, Judge.
11 For the Sedalia Energy -- Sedalia Industrial
12 Energy Users Association, Stuart Conrad, of
13 the law firm of Finnegan, Conrad and
14 Peterson, 3100 Broadway, Kansas City,
15 Missouri 64111. Thank you.

16 JUDGE REED: Thank you, Mr.
17 Conrad. The attorneys for Frank Dillon,
18 Kimberly Miller, James Doll.

19 MR. COFFMAN: Appearing on
20 behalf of those residents who live closest to
21 the plant, Mr. Dillon, Ms. Miller and Mr.
22 Doll, my name is John B. Coffman, 871 Tuxedo
23 Boulevard, St. Louis, Missouri, 63119.

24 JUDGE REED: Thank you. Are
25 there any other attorneys wishing to enter an

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1 appearance here to intervene? All right, I
2 don't see anyone.

3 MR. COFFMAN: Judge, could I ask
4 a couple of clarifying questions?

5 JUDGE REED: Sure.

6 MR. COFFMAN: With regards to
7 procedure.

8 JUDGE REED: Yes.

9 MR. COFFMAN: If I understand
10 your earlier statement that if you had
11 testified at the earlier hearing there is no
12 prohibition against you testifying here
13 tonight?

14 JUDGE REED: As of -- did you
15 hear the question? The question is, is there
16 a prohibition if you testified previously.
17 The list at present is short, and I see there
18 maybe one or two who testified previously.
19 I'm going to ask they limit their remarks to
20 something new. If that, however, prompts a
21 long list of people who want to make
22 additional remarks I may have revisit that
23 decision. Does that make sense?

24 MR. COFFMAN: The other question
25 I had relates to these large items, large

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1 poster boards that are here before us. They
2 were at the earlier hearing. I believe they
3 were noted, I'm not sure if they were marked
4 as exhibits. I ask that they be -- that they
5 be marked but not entered into the record
6 until there was an opportunity, perhaps at
7 the evidentiary hearing later to cross
8 examine based on them. I wanted to make
9 sure.

10 JUDGE REED: Yes.

11 MR. COFFMAN: I'm not sure if
12 they, looking in the transcript if they have
13 ever been noted or marked for purposes of
14 identification although they were used a few
15 times.

16 JUDGE REED: All right. They
17 were referred to in the earlier hearing I
18 think.

19 MR. COFFMAN: There were some
20 clarifications also based on the markings
21 which showed certain diameter markings,
22 clarifying that, that if you -- that that's a
23 diameter not a radius. So for instance as I
24 understand if you were at the one mile
25 diameter mark you would actually be one half

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1 of a mile from the power plant.

2 JUDGE REED: Whose exhibits are
3 the two large blowups?

4 MR. SWEARENGEN: They were
5 prepared on behalf of company. I think they
6 were at the first hearing for illustrative
7 purposes only. There was some reference made
8 to them by several of the witnesses. I recall
9 though that there was another map that was I
10 think entered into evidence that people also
11 referred to, but if the Commission desires we
12 can certainly have these marked and find some
13 way to put them in later on it if that's the
14 desire of the Commission.

15 JUDGE REED: What I'd like to do
16 is at least identify them as one and two for
17 this evening's hearing.

18 MR. SWEARENGEN: That would be
19 fine.

20 JUDGE REED: And they could be
21 referred to for the record. I think that's
22 as far as we'll take those exhibits at this
23 time.

24 MR. SWEARENGEN: That's fine,
25 thank you.

1 JUDGE REED: So what I'm going
2 to do is, we have two photographs, the larger
3 of the two I'm going to identify as Exhibit
4 1. The smaller to my right, which is also an
5 aerial photograph I take it; is that correct
6 an aerial?

7 MR. SWEARENGEN: Yes.

8 JUDGE REED: Is Exhibit 2.

9
10 (Certain aerial photographs were
11 marked Exhibit Numbers 1 and 2 for
12 identification by the Judge.)
13

14 JUDGE REED: Anything else about
15 those two exhibits? (No response.) Okay.

16 I have the witness list here, it looks
17 like there are five signed up. Before I
18 begin with the witnesses, are there any
19 opening remarks from the Commissioners this
20 evening? Commission Murray, do you wish to
21 say anything?

22 COMMISSIONER MURRAY: The only
23 thing I wish to say is that we apologize for
24 the fact some people were apparently
25 inadvertently not allowed into the building

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1 the last time. That was purely a mistake in
2 the instructions, and we apologize for any
3 inconvenience that may have created.

4 JUDGE REED: Commissioner Gaw.

5 COMMISSIONER GAW: Yes. Thank
6 you. I just want to welcome everyone who is
7 here and look forward to the testimony.
8 Thank you all very much.

9 JUDGE REED: Commissioner
10 Appling.

11 COMMISSIONER APPLING: Thank you
12 for coming out tonight. It is a little wet
13 out there this evening, but that's okay.
14 Thank you for coming.

15 JUDGE REED: Okay. The first
16 witness on the list is George Pruitt. Please
17 approach the microphone. Mr. Pruitt, would
18 you raise your right hand, please.

19
20 GEORGE PRUITT
21 a witness herein, being first duly sworn by
22 the Judge, testified on his oath as follows:

23
24 JUDGE REED: Please spell your
25 name for us and give us your address.

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1 THE WITNESS: George Pruitt,
2 P-r-u-i-t-t, 25803 Lakeview Drive, Lake
3 Annette, Missouri 64746.

4 JUDGE REED: Mr. Pruitt, are you
5 a customer of Aquila?

6 THE WITNESS: No, I'm not.

7 JUDGE REED: You go ahead and
8 make your statement, please.

9 THE WITNESS: Okay. I am mayor
10 of Lake Annette, and I represent the Board of
11 Aldermen who early on in this Aquila project
12 we voted, our board voted to support Aquila
13 in any way we could. I called all the
14 aldermen this morning and reaffirmed that,
15 that they are still in support of Aquila.

16 I was at the first hearing and I heard
17 some untruths and it bothered me so I go to
18 the source and I try to find -- to get the
19 truth about this project. Some people saying
20 this plant is still running. It's not.

21 I have a letter from Tom Miller stating
22 when the plant was shut down. It was shut
23 off -- last operated December 6th. He also
24 states that Southern Star pipeline who
25 supplies gas to the plant closed their valve

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1 on January 24th. Panhandle Eastern who also
2 has a pipeline to the plant shut their valve
3 off on January 30th. And I think that should
4 pretty much verify that this plant has not
5 run.

6 In your previous hearing, I have an
7 exempt from some testimony given under oath
8 by a person, I will not give his name, and
9 it's -- it will be brief here, but I will
10 just read some of this. I believe this is
11 Commissioner Gaw asked the question.

12 Have you heard this plant running in the
13 last few weeks?

14 Like I said, I'm in the morning
15 outdoors. I've heard it run at least three
16 to four days out of the week. I don't have
17 to go outdoors to hear it. I know when it --
18 I know when I turn on my water and run it
19 because I have to run the water for a certain
20 time for a certain amount of time, but the
21 chlorine in that water is atrocious.

22 Can you give me a time perspective on
23 the last time that you heard the plant
24 running that you believe it was running?

25 A week ago Friday it woke me up about

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1 two thirty in the morning.

2 Okay. And how did you know how long you
3 heard it, heard something?

4 It was running at four o'clock and I
5 didn't pay any attention after that.

6 I skipped some of this. Question by Mr.
7 Gaw.

8 JUDGE REED: Mr. Pruitt, we do
9 have that testimony with us.

10 THE WITNESS: Okay. But I just
11 want to bring this to your attention. If this
12 person will do this under oath what are they
13 doing in the neighborhood talking to their
14 neighbors. They must have this thing blown
15 up, so far out of proportion that this is
16 what caused all this commotion. They take a
17 story and they exaggerate it until it's an
18 outright lie. And this person does this
19 under oath. I just want to bring that to
20 your attention.

21 I also have a letter from the water
22 district that states there's no way that the
23 water can be affected by that water plant.
24 If I could, could I ask the counsel for the
25 county some questions?

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1 JUDGE REED: We're not going to
2 have questions this evening, Mr. Pruitt, I'm
3 sorry.

4 THE WITNESS: Well, if the
5 county didn't want this plant why did they
6 issue permits? They issued permits. I will
7 list only ones from the county there are
8 others from DNR and so forth.

9 Cass County confirming that a grading
10 permit was not required. Cass County issued a
11 driveway permit December of '04. Missouri
12 DNR permit commonly known as the air
13 emissions permit.

14 Cass County power plant service building
15 foundation construction permit. Cass County
16 substation control enclosure construction
17 permit, February '05. Cass County equipment
18 building construction permit. Cass County
19 temporary construction power permits. Cass
20 County temporary work enclosure construction
21 permit, January '05. Cass County sewer
22 sanitary wastewater sewage lagoon, February
23 '05. Cass County curb and service building
24 construction permit, March '05. Cass County
25 flammable materials storage building

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1 construction permit, September '05. Cass
2 County sound wall foundation construction
3 permit, October '05.

4 If the county is so set against this and
5 has been all along I ask, why did they issue
6 all these permits? I know you can't give me
7 an answer, but I would certainly like to know
8 from the county get with Gary Mallory and the
9 council sometime.

10 They made a mistake. They, Aquila, made
11 a big mistake. They have admitted it.
12 They're bending over backwards to correct it.
13 They made a mistake to build this plant, it
14 would be a bigger mistake to make them tear
15 it down, and I would hate to see that done.
16 That's all I have to say.

17 JUDGE REED: Thank you, Mr.
18 Pruitt. Please wait there a second there may
19 be questions from the Commissioners. We'll
20 start with Commissioner Murray.

21 COMMISSIONER MURRAY: Thank you,
22 Mr. Pruitt. You said you were mayor of what?

23 THE WITNESS: Lake Annette, it's
24 small town about two miles south of the power
25 plant.

1 COMMISSIONER MURRAY: Are you a
2 customer?

3 THE WITNESS: No.

4 COMMISSIONER MURRAY: And the
5 Board of Aldermen is what?

6 THE WITNESS: City council.
7 We're a fourth class city. City council.

8 COMMISSIONER MURRAY: You said
9 you did confirm, re-confirm this morning
10 that --

11 THE WITNESS: All the board
12 members are still in support of Aquila. Early
13 on we thought possibly we could annex them
14 into our city or something to accommodate
15 them. We found out that would be impossible
16 to do, but we are still in support of them
17 for reasons that we know what they bring into
18 the communities and help they do give to the
19 communities.

20 COMMISSIONER MURRAY: Thank you.
21 That's all I have, Judge.

22 JUDGE REED: Commissioner Gaw, do
23 you have any questions?

24 COMMISSIONER GAW: No questions,
25 thank you.

1 JUDGE REED: All right, thank
2 you. Commissioner Appling.

3 COMMISSIONER APPLING: Mayor
4 Pruitt, how far do you live away from the
5 plant itself?

6 THE WITNESS: About two and a
7 half miles, less than two miles.

8 COMMISSIONER APPLING: Are you
9 telling me tonight that the list of permits
10 that you read off was issued by the county?

11 THE WITNESS: That's the way I
12 understand it.

13 COMMISSIONER APPLING: Are you
14 absolutely sure about that?

15 THE WITNESS: Well, this is --

16 COMMISSIONER APPLING: I'm just
17 asking I'm not questioning.

18 THE WITNESS: No, I'm not sure
19 of this. This is stuff I've read in the paper
20 and it was put out by Aquila. I'm sure it can
21 be confirmed through the county zoning
22 department. Why would they lead them on to
23 keep giving them permits on this. I mean,
24 the dates are here, I'm sure it can be
25 confirmed. Why would they lead them on and

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1 keep giving them permits? Was it for the
2 money? I'd just like to ask the county
3 commissioners or the zoning.

4 COMMISSIONER APPLING: Thank
5 you, Mayor, and thank you for coming out.

6 JUDGE REED: Thank you. Mr.
7 Pruitt, one moment, please.

8 THE WITNESS: Yes.

9 JUDGE REED: If counsel has
10 clarifying questions without the traditional
11 cross examination, are there any questions to
12 clarify? Yes, ma'am.

13 MS. SHEMWELL: Mr. Pruitt, is
14 Lake Annette in Cass County?

15 THE WITNESS: Yes.

16

17 Q (BY MS. SHEMWELL CONTINUING) But you are not
18 customers? Lake Annette is customers of
19 Osage?

20 A No. We're Osage Valley, yes.

21 Q And do you have documents that you want to
22 enter into evidence tonight?

23 A Yes, if I could enter these two letters from
24 the water district stating there's no way the
25 water can be affected by any one customer.

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1 Also the letter from Tom Miller stating the
2 date the plant last operated.

3 MS. SHEMWELL: That's all I
4 have, thank you.

5 JUDGE REED: Two letters?

6 THE WITNESS: Yes.

7 JUDGE REED: I have -- Mr.
8 Pruitt, could you step back to the microphone
9 I want to talk to you about these letters for
10 just a moment. You have a letter here dated
11 March 30th, 2006 on Aquila letterhead,
12 correct.

13 THE WITNESS: Yes.

14 JUDGE REED: Appears to be
15 signed by Thomas Miller. I'm going to
16 identify that as Exhibit Number 3.

17
18 (A certain document was marked Exhibit
19 Number 3 & 4 for identification by the
20 Judge.)

21
22 JUDGE REED: And you also have
23 a letter on letterhead that says, Public
24 Water Supply District Number 7, Cass County,
25 Missouri. That's a letter addressed to you

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1 from Leonard Whiting, correct?

2 THE WITNESS: Yes. They supply
3 the water to the power plant, too.

4 JUDGE REED: I'm going to make
5 these letters part of the record for this
6 evening's hearing.

7 Is there anything from counsel on the
8 two letters? Yes, ma'am.

9 MS. REAMS-MARTIN: Not on the
10 two letters. Clarification with respect to
11 other testimony.

12 JUDGE REED: Yes, ma'am, go
13 ahead.

14 MS. REAMS-MARTIN: Mr. Pruitt, my
15 name is Cindy Reams-Martin, I represent Cass
16 County. I had just a couple questions with
17 respect to your testimony.

18 Lake Annette has at some point in this
19 whole ordeal actually had discussions with
20 Aquila with respect to possible annexation of
21 land owned by Aquila; is that correct?

22 THE WITNESS: Yes.

23

24 Q (BY MS. REAMS-MARTIN CONTINUING:) So Lake
25 Annette had an interest at one point in

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1 actually working out a business arrangement
2 with Aquila where Lake Annette would actually
3 be the jurisdiction where this plant is
4 located; is that correct?

5 A Yes.

6 Q In addition, I know you mentioned these
7 permits. You are of course familiar with the
8 injunction that was issued by Judge Dandurand
9 in early January of 2005 with respect to this
10 plant; is that correct?

11 A I was at that hearing, yes.

12 Q And you understand that the injunction was
13 sought by the county because Aquila never
14 applied for zoning; is that correct?

15 A Right, yes.

16 Q You also understood that the terms of that
17 injunction were stayed pending the appeal of
18 that case; is that correct?

19 A Yes.

20 Q And as a result of that stay you understood
21 Aquila was allowed to proceed with
22 construction of the plant over the county's
23 objection, you understood that; is that
24 correct?

25 A Oh, yes.

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1 Q You also then appreciate that these permits
2 that you have described are permits that were
3 issued after that point; is that correct?

4 A I believe so, yes.

5 Q And you also understand that they are permits
6 that Aquila applied for? In other words,
7 subjecting itself to the jurisdiction of the
8 county; you do understand that?

9 A Yes.

10 Q Thank you very much.

11

12 JUDGE REED: Counsel, anything
13 else? (No response.) Anything from the
14 commissioners? (No response.) Mr. Pruitt,
15 thank you, we appreciate it.

16 THE WITNESS: Thank you.

17 JUDGE REED: The next witness I
18 have is Phillip Moore. Mr. Moore.

19

20 PHILLIP MOORE
21 a witness herein, being first duly sworn by
22 the Judge, testified on his oath as follows:

23

24 JUDGE REED: State your name and
25 your address, please.

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1 THE WITNESS: My name is Phillip
2 Moore, I live at it 28801 East 219th Street,
3 Pleasant Hill, Missouri 64080.

4 JUDGE REED: Are you a customer
5 of Aquila?

6 THE WITNESS: Yes, I am.

7 JUDGE REED: All right, very
8 good. Would you please make your statement.

9 THE WITNESS: Yes, thank you. I
10 don't know why I should be involved here
11 except that I am a customer of Aquila, I'm a
12 landowner here in the county. I own in excess
13 of 500 acres, so I'm interested in eminent
14 domain activities. But I'm also a past
15 shareholder of Aquila and Utilicorp stock.

16 So I don't believe I'm in anyone's camp
17 because I attended a shareholders' meeting at
18 Starlite Theater several years ago for
19 Utilicorp and was assured that stock that had
20 been at the high 30s I believe was 15
21 something then was in good stead and that was
22 wrong so.

23 But I have land within, I believe, two
24 miles of the Aries plant and I don't see that
25 as any problem whatsoever.

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1 I believe that at this point in time
2 Aquila certainly didn't gamble that they
3 would get recognition for this plant. You
4 know, they believed that this was going to be
5 correctly put in operation, because this is a
6 lot of money involved. So if this amount of
7 money is lost we as past shareholders, we as
8 customers and Aquila are going to lose a
9 great deal of money. It looks like there
10 should be a cheaper way to redress those
11 people that feel like they have been injured.

12 I tried to establish how much it would
13 cost and how much money would be lost to tear
14 down the plant; I don't think that can be
15 done at this time. So I'm expressing a
16 personal opinion that it looks like there out
17 to be a cheaper way out of this than destroy
18 the plant.

19 JUDGE REED: Thank you, Mr.
20 Moore. Could you wait a second.

21 THE WITNESS: Commissioner
22 Murray, do you have any questions of Mr.
23 Moore?

24 COMMISSIONER MURRAY: I don't
25 believe I do, thank you.

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1 JUDGE REED: Commissioner Gaw.

2 COMMISSIONER GAW: No questions.

3 Thank you for very much for coming, sir.

4 JUDGE REED: Commissioner
5 Applying.

6 COMMISSIONER APPLING: No
7 questions, thank you for coming.

8 JUDGE REED: Anything from
9 counsel to clarify? Mr. Coffman.

10 MR. COFFMAN: Mr. Moore, if I
11 understand your opinion a little better, is
12 it your opinion that anyone who has an issue
13 about land use and zoning with their property
14 should they generally all be treated the same
15 as to what procedures they have to go
16 through, as a general --

17 THE WITNESS: I don't believe I
18 understand your question.

19

20 Q (BY MR. COFFMAN CONTINUING:) Should everyone
21 have to seek a zoning change with their
22 property or should some individuals or
23 businesses be given an exception from having
24 to go through the normal zoning procedures?

25 A I believe you're trying to say that this

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1 wasn't properly zoned for a utility plant.

2 I'm sure that that was the case, you know.

3 I'm not an expert. It's the people next door
4 that are affected by the zoning that you're
5 trying to address I believe.

6 Q Is it your opinion that the land is currently
7 zoned for the uses of the power plant?

8 A That would be my opinion, yes.

9 Q So generally, you think that the zoning laws
10 should be applied equally to individuals and
11 businesses as a general rule?

12 A Yes.

13 Q You don't think any exceptions should be made
14 for power plants, power utilities?

15 A Well, I think we all like electricity and it
16 has to be in somebody's backyard. It's
17 denial to say that it can't be in my backyard
18 for everyone.

19 Q You think that it would be too onerous for
20 Aquila to go through the process even after
21 the fact of applying for whatever zoning
22 authority might be necessary?

23 A You're asking questions that I don't have an
24 understanding of.

25 Q You did say that you thought there would be

1 perhaps a way for individuals who lived near
2 the power plant and who were impacted to be
3 compensated?

4 A There should be a way that's less expensive
5 to all of us, because those people's gain
6 will be my loss as a customer and as former
7 shareholder.

8 Q Do you have any idea of what might be a fair
9 way to compensate those individuals who have
10 been impacted?

11 A I don't think -- I'm a person that sees some
12 of these lawsuits and sees some of these
13 ridiculous amounts of money that people are
14 giving, you know, so I would never be on a
15 jury because I wouldn't be somebody that you
16 as a lawyer would be happy with.

17 Q You did express a concern for eminent domain
18 in your testimony?

19 A Yes, I am a landowner, and I believe it
20 should be for the public good and shouldn't
21 be for a -- like in the Connecticut case, I
22 don't believe that was correct.

23 Q So you're opposed to eminent domain for
24 purposes of helping private companies?

25 A I don't see a utility as being exactly like a

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1 Lowe's hardware store, because we're all
2 going to benefit from the use of electricity.

3 Q But individuals who are damaged you think
4 should be able to receive something?

5 A They should be reasonably redressed, yes.

6 Q Thank you.

7

8 JUDGE REED: Thank you. Does
9 that prompt any other questions, clarifying
10 questions or questions from the
11 Commissioners? (No response.) Mr. Moore,
12 thank you very much.

13 Jennifer Bailey.

14

15 JUDGE REED: Miss Bailey, before
16 we begin I see you did testify at the hearing
17 March 20th; is that correct?

18 THE WITNESS: Yes, I did.

19 JUDGE REED: Do you have
20 something new or in addition to that
21 testimony.

22 THE WITNESS: I do.

23

24 JENNIFER BAILEY

25 a witness herein, being first duly sworn by

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1 the Judge, testified on her oath as follows:

2 MS. JENNIFER REED: Your
3 name and address, please.

4 THE WITNESS: Jennifer Bailey,
5 23505 South Lucille Lane, Peculiar, Missouri
6 640078.

7 JUDGE REED: Go ahead.

8 THE WITNESS: Honorable
9 Commission, thank you for this opportunity.
10 I have been asked to stand in front of you
11 today and speak on behalf of the Aquila
12 supporters. As a group we met and decided
13 it would be best to have just one person
14 stand before you and voice the opinion of our
15 group.

16 If it pleases the Commission, I would
17 like to ask everyone in the audience who is
18 here in support of Aquila to stand or raise
19 their hands to show their support.

20

21 (People raised hands.)

22

23 THE WITNESS: Thank you. As a
24 group we wish to take no more of your time,
25 we understand your time is precious as is

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1 ours. We have all taken extra time today to
2 attend this last hearing just to let you know
3 a few things.

4 We did have a supporters meeting and at
5 the last meeting there were 44 attendees. We
6 met as a group and decided the plant is
7 necessary. It would be a waste to tear it
8 down. We cannot hear the plant when it is
9 running and several of us live within a mile
10 or two miles of the plant.

11 We understand things could have been
12 done differently in the beginning, even then
13 there would have been two different opinions.
14 Aquila is and has been a good neighbor and we
15 believe they will continue to be good
16 neighbors.

17 We also like would like you to know that
18 we have only met as a supporters group three
19 times. All of these meetings were held at
20 the plant with the permission of Aquila. We
21 wish to hide nothing.

22 There have been several community
23 improvement meetings that started in July of
24 2005, those meeting included invitations to
25 all residents within a several mile radius of

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1 the plant. Even some of the stopAquila
2 people attended and voiced their opinions on
3 the community improvements. I'm proud to say
4 most of the projects we voted on have been
5 completed to improve the surrounding
6 community.

7 You heard earlier our property values
8 are improving. We believe they will continue
9 to do so as improvements are made to our
10 community. And we are not just speaking
11 about the improvements that Aquila has
12 already made. With the plant in place there
13 will be more amenities to the surrounding
14 area of Cass County. With the plant in place
15 there will be sufficient power to provide to
16 new businesses and residents.

17 Again, thank you for your time and
18 please consider all the facts and know that
19 there are supporters out there, most of them
20 have been scared to speak up. After the last
21 meeting on the 20th I went home there were
22 stopAquila signs put in my yard. I have been
23 intimidated. I have been called own the
24 phone, and I won't go any further with that.

25 I have 14 additional letters to submit,

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1 if it pleases the Commission, for your review
2 in addition to the 192 we submitted earlier
3 on March 20th. And that's all I have.

4 JUDGE REED: Miss Bailey, with
5 the 14 additional letters, can you identify
6 the top letter for me in some fashion with a
7 date or a --

8 THE WITNESS: It is dated March
9 9th. I just received it in the mail and it
10 is from an Aquila customer. It just says that
11 they are in support of the South Harper
12 peaking facility.

13 JUDGE REED: Rather than go
14 through those, there are 14 pages, correct?

15 THE WITNESS: There are 14.

16 JUDGE REED: Is there a name on
17 the --

18 THE WITNESS: Sure. This one is
19 Peggy King, she lives in Peculiar.

20 JUDGE REED: Okay. I just wanted
21 to make sure for identification purposes we
22 have the right set of documents here.

23 THE WITNESS: Thank you. They
24 have addresses and their names and they have
25 signed them.

1 JUDGE REED: I'm going to mark
2 the entire package as Exhibit Number 5.

3
4 (Certain documents were marked Exhibit
5 Number 5 for identification by the
6 Judge.)

7
8 JUDGE REED: Are there any
9 questions from the Commissioners?
10 Commissioner Murray?

11 COMMISSIONER MURRAY: Miss
12 Bailey, I read the transcripts from the last
13 hearing and I particularly noted your
14 testimony as I read it because I was a little
15 disturbed to hear that if what you say is
16 true, and I would assume that it is, that
17 there are intimidation tactics being used to
18 stop the supporters.

19 THE WITNESS: Yes, ma'am.

20 COMMISSIONER MURRAY: From what
21 I am hearing you say this evening that is
22 still the case.

23 THE WITNESS: That is still the
24 case.

25 COMMISSIONER MURRAY: And the

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1 latest thing you cited was the stopaquila.org
2 signs being placed --

3 THE WITNESS: Being placed in my
4 yard, crossing into -- on to my property.
5 And I received phone calls that evening. I
6 don't have caller ID so I can't tell you who
7 it was. I don't have caller ID at home, I do
8 on my cell but.

9 COMMISSIONER MURRAY: Were you
10 receiving threatening calls or calls --

11 THE WITNESS: Just phone calls
12 stating that I am hurting the stopAquila
13 lawsuit. And I need to stop hurting my
14 neighbors.

15 COMMISSIONER MURRAY: In other
16 words, stop expressing your opinion?

17 THE WITNESS: Exactly.

18 COMMISSIONER MURRAY: Well,
19 thank you very much for being here.

20 JUDGE REED: Commission Gaw, do
21 you have any questions?

22 COMMISSIONER GAW: I think that
23 my early question was answered. I thought
24 this was the same individual that had already
25 testified the last time. I guess my question

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1 then would be following that, of the
2 individuals that are there that she alluded
3 to I'd like anyone identified that was unable
4 to get into the last meeting because of doors
5 were locked.

6 JUDGE REED: Oh, I see, yes
7 Commissioner. Of all of you who stood up
8 earlier when Miss Bailey asked who is here in
9 support, were there any of you who were
10 unable to get into the justice center March
11 20th? If you were, raise your hand please.
12 I see no hands.

13 COMMISSIONER GAW: Thank you,
14 Judge, I don't have any other questions.

15 JUDGE REED: All right.
16 Commissioner Appling.

17 COMMISSIONER APPLING: No
18 questions.

19 JUDGE REED: Any questions from
20 counsel to clarify the testimony? Yes, Mr.
21 Eftink

22
23 MR. EFTINK: I can't remember so
24 I need to ask you, how far away do you live
25 from the power plant?

1 THE WITNESS: Approximately a
2 mile and a half if you drive on the road,
3 approximately a mile if you walk straight to
4 the plant.

5

6 Q (BY MR. EFTINK CONTINUING:) Have you received
7 any consideration from Aquila?

8 A No, sir, none whatsoever.

9 Q Have they done any work around your house for
10 you?

11 A No, sir.

12 Q Have they done any landscaping around your
13 house?

14 A No, sir.

15 Q Has Aquila planted any trees for you?

16 A No, sir. I've received nothing from Aquila,
17 not one dime, not one tree, not a piece of
18 gravel.

19 Q You said that you're with some civic
20 organization that received some money from
21 Aquila?

22 A No, I'm not with a civic organization. We
23 have community meetings at the plant and
24 everybody is invited to attend even
25 stopAquila people were in attendance.

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1 Q When was the last meeting?

2 A I believe the last meeting we had would have
3 been in December.

4 Q Did you go to a meeting Tuesday night?

5 A I don't know if I was at the February
6 meeting. A February meeting.

7

8 JUDGE REED: Mr. Eftink, I want
9 you to be real careful about cross examining
10 the witness versus asking clarifying
11 questions. If you want to cross-examine the
12 witness you can issue a subpoena go into the
13 evidentiary hearing, all right?

14

15 Q (BY MR. EFTINK CONTINUING:) Now, you said you
16 felt you were intimidated?

17 A Yes, sir. I spoke with you on the phone. I
18 made a call to you, and I asked your opinion
19 and asked that you would please voice to your
20 clients that they should stop placing the
21 signs in my yard. I do believe that your
22 comment was, don't you think that would
23 provoke them more.

24 Q Ma'am, I didn't say that.

25 A That was verbatim, sir.

1 Q That's not true. Anyway could you give us
2 the names of any of these people that you
3 feel have intimidated you?

4 A Absolutely. Della January.

5 Q Who else?

6 A I don't have a caller ID so I don't know who
7 the last two phone calls were from after that
8 meeting. I do not know who were placing the
9 signs in my yard. I do have the signs if you
10 would like to fingerprint them.

11 Q Those signs say stopAquila?

12 A Yes, sir.

13 Q Now of the people who came here tonight, Your
14 Honor, if I could ask a show of hands how
15 many of these people that are with you live
16 within one mile of the plant.

17 A I do not know that answer.

18

19 MR. EFTINK: Your Honor, could I
20 ask them, anybody who stood up a minute ago
21 that lives within one mile if they'd kindly
22 raise their hands.

23 JUDGE REED: Let me ask the
24 question. Any of you who stood up earlier,
25 does anybody live within one mile of the

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1 plant? If you do, raise your hand. I see no
2 hands.

3 THE WITNESS: A mile is pretty
4 close to the plant if you drive there. I'm
5 within a mile and a half. I'm in the
6 subdivision actually just north of there.

7 MR. EFTINK: Thank you.

8 JUDGE REED: Anything else to
9 clarify? All right. Does that prompt any
10 further questions from the bench?
11 Commissioner Gaw?

12 COMMISSIONER GAW: No questions,
13 thank you.

14 JUDGE REED: Miss Bailey, thank
15 you.

16 THE WITNESS: Thank you, sir.

17 JUDGE REED: Frank Dillon.

18 Mr. Dillon, before we begin, I see your
19 name on the sign-up list for the previous
20 hearing but you were not there, were you?

21 THE WITNESS: I was not there,
22 no.

23 JUDGE REED: Okay, I just want
24 to clarify that. I think your son had come;
25 is that correct?

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1 THE WITNESS: That's correct.

2 JUDGE REED: All right. Please
3 raise your right hand.

4

5 FRANK DILLON

6 a witness herein, being first duly sworn by
7 the Judge, testified on his oath as follows:

8

9 JUDGE REED: State your name and
10 your address, please.

11 THE WITNESS: Frank Dillon, 24211
12 South Harper Road, Peculiar, Missouri 64078.

13 JUDGE REED: Are you a customer
14 of Aquila, Mr. Dillon?

15 THE WITNESS: No, I am not.

16 JUDGE REED: Go ahead.

17 THE WITNESS: First of all I'd
18 like to provide a frame of reference to where
19 my property is in relation to the power
20 plant. I printed out part of Aquila's web
21 page, and could I approach and give this to
22 you? I mean it's across the road from me.

23 JUDGE REED: Yes. Approach and
24 step back to the mike and I will ask you a
25 couple questions about it, okay.

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1 Mr. Dillon, you have handed me what
2 appears to be a printout of a computer
3 screen; is that correct?

4 THE WITNESS: Right. It's
5 Aquila's website.

6 JUDGE REED: All right. I'm
7 looking for any date that may appear on this.

8 THE WITNESS: I think it's down
9 at the bottom.

10 JUDGE REED: I see 8:39 p.m. it
11 appears to be a picture of the Aquila
12 facility, correct?

13 THE WITNESS: Correct.

14 JUDGE REED: You have drawn on
15 here in black marker the area where your
16 property lies.

17 THE WITNESS: Right. The roof
18 of my house can be seen directly below Tom
19 Miller's picture. Kind of have to look hard.

20 JUDGE REED: Directly below the
21 gentleman's picture on here?

22 THE WITNESS: Right.

23 JUDGE REED: The gentleman with
24 the beard?

25 THE WITNESS: Right.

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1 JUDGE REED: All right. I'm
2 going to mark this exhibit as Number 6.

3
4 (A certain document was marked Exhibit
5 Number 6 for identification by the
6 Judge.)

7
8 JUDGE REED: Mr. Dillon, go
9 ahead.

10 THE WITNESS: This night marks
11 the point in time I began construction of my
12 house 18 years ago. Like a lot of other baby
13 boomers and even my kids today I did not fair
14 well with my father in my teen years,
15 however, the building of my house prompted my
16 dad to take four months out of his life to
17 help me build my house.

18 At that time he lived 380 miles away
19 from me. He hung sheetrock, cut and put up
20 trim, put the floor down, etcetera. My dad
21 devoted himself to the building of my house,
22 and it was a time of bonding for us that
23 would not have occurred otherwise. My father
24 remains a part of my home even though he
25 passed 13 years ago.

1 Christmas 1990 saw the availability of
2 funds to build a barn on my property. My
3 older son along with the son of the man who
4 built my house built the barn over the
5 holidays. Those remain some of the most
6 important days of my life.

7 1993 transpired with the divorce from my
8 children's mother and left me strapped for
9 cash. The house payment, utility payments,
10 basic kind of stuff one has to pay left me
11 about three hundred bucks short a month.
12 Still had to eat and buy gas and get to work
13 on top of that.

14 Wisdom told me the intelligent thing to
15 do was to sell out and find an apartment or
16 something. But the ancestral heritage that I
17 was born with and a statement my dad made
18 years ago which was, you can't leave your
19 kids, determined me to hang on long as I
20 could.

21 My intent was for my children to have a
22 point of stability in their lives, a place
23 that would always be home. No matter in my
24 failures in life this is one area I have not
25 failed.

1 September of 2004 I became aware that
2 Aquila was attempting to purchase property
3 directly across from me from the peaking
4 facility. I naively had no concern at the
5 time. I expected due process and felt it was
6 not a done deal by any means. I'm only asking
7 for due process that the local zoning
8 authority has the opportunity to review the
9 plan. No other entity has circumvented
10 county authority.

11 The PSC does not have the authority to
12 engage in zoning and take away the local
13 review. If the PSC preempts the local
14 authority it will be an affront to peoples
15 expectations for due process and their
16 property rights. The PSC would essentially be
17 engaging in eminent domain.

18 October 13th, 2004 was the date the
19 public informational meeting concerned the
20 South Parker power plant, which I attended.

21 October 14th, upon my return from work I
22 found a letter stuck in my front door
23 announcing the construction would begin the
24 next day. I have that very letter here.
25 Would you like it?

1 JUDGE REED: If you want to
2 offer that into the record.

3 THE WITNESS: Sure.

4 JUDGE REED: I'm sorry to
5 interrupt, what you were saying that this is
6 a letter on Aquila letterhead dated October
7 14th, 2004 apparently signed by Terry
8 Hedrick; correct?

9 THE WITNESS: Correct.

10 JUDGE REED: This will be
11 identified as Exhibit Number 7.

12
13 (A certain document was marked
14 Exhibit Number 7 for identification
15 by the Judge.)
16

17 JUDGE REED: Go ahead, Mr.
18 Dillon.

19 THE WITNESS: The construction
20 did begin, such a flurry of activity I've
21 never witnessed in my life except in the Viet
22 Nam war. The letter stated that work would
23 be conducted from 7:00 a.m. to 7:00 p.m.,
24 however the traffic began some days as early
25 as 5:00 a.m. and hammering and breaking up

1 rock continued all night on occasion. The
2 construction of South Harper included an
3 immense amount of traffic with the dust so
4 thick I could not see the road from my living
5 room window.

6 The dust gathered in my water tank for
7 my horses making it mandatory to dump the mud
8 out daily and provide fresh water for them.

9 Aquila hired a security patrol which
10 passed my house at 10 miles an hour every
11 thirty minutes 24 hours a day. It was
12 harassing, annoying and totally unnecessary.
13 I saw them stop in front of my house to see
14 what I was doing in my yard. I saw them stop
15 and back up to see what I was doing in my
16 yard.

17 On one occasion shortly before they
18 ceased their monkey patrol, pardon my
19 sarcasm, I met the patrol wagon on my way
20 home and they turned around and followed me
21 home. We played cat and mouse for upwards to
22 an hour.

23 Directly across from my property is a
24 signed that states Aquila property is under
25 recorded electronic surveillance. I have to

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1 wonder if my property is also under
2 surveillance. If so, it is an invasion of my
3 privacy and is unacceptable to me. I feel my
4 property is being stolen from me and that I
5 have no recourse. Not only do I feel my
6 property is being stolen, I feel emotional
7 pain that home is not home any more and the
8 heritage value of my property is being
9 scorned.

10 During construction I observed
11 suspicious activity, such as vehicles moving
12 slowly down the road and parking when
13 construction had ceased for the day. And
14 that has not stopped to this day. 4:00 p.m.
15 this afternoon a car drove slowly by my
16 house, turned around at 241st street and
17 stopped in front of my house for not long, a
18 couple minutes. I don't appreciate that.

19 I saw a person in a stopped vehicle
20 taking video of my property one day and I
21 followed him all the way to Raytown and
22 provided their license plate number to the
23 authorities. During all the time I followed
24 them I was on my cell phone with 911 telling
25 them what I was doing.

1 Some of which I've said relates to the
2 construction activities. To move on to the
3 affects I've experienced after they began
4 operation, the noise is absolutely
5 unacceptable. One cannot carry on a normal
6 conversation outside. It is so irritating
7 that we do not want to be outside. We can
8 hear them start up in our bedroom on the back
9 side of our home. We must keep the windows
10 closed to keep out the noise. With all three
11 turbines running the C weighted (phonetic)
12 sound level is 70DB just outside my garage.
13 I would point that their, whatever the
14 exhibit is, shows 51DB, and that's probably a
15 A weighted, which is doesn't pick up all the
16 frequencies.

17 I would expect the sound study by Adco
18 of Canada to somewhat substantiate my claim.
19 They conducted their study when the plant was
20 not in operation for the most part. I know
21 this because I arrived home August 26, 2005
22 to find a microphone set up on a tripod with
23 recorder attached. I have no issue with that
24 as representatives of Aquila had asked
25 permission to be on my property for their

1 sound study, and I appreciate that they did
2 care enough to do a sound study.

3 I read the testimony by Block Andrews
4 filed with the PSC where he refers to my
5 claim that the heat from the plant increased
6 the air temperature 15 degrees from 102 to
7 117 degrees on my property.

8 Mr. Andrews stated that my thermometer
9 is not calibrated, which it isn't. My
10 thermometer is in the sun and so forth. The
11 day before and day after my thermometer
12 registered the same temperature as the
13 meteorologist on the internet.

14 Block Andrews was not on my property
15 that day to the best of my knowledge. Anyone
16 would have been able to distinguish the
17 change in air temperature between my house
18 and 150 yards north of my house. This is
19 somewhat of an anomaly as there was
20 absolutely no wind on that day. So if the
21 exhaust temperatures coming out of the stacks
22 is 900 degrees and there is no breeze where
23 does all that heat go?.

24 I know pollution has been addressed by
25 others at hearings previous to this. I have

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1 a more immediate concern in as much as my
2 property is so close to the offender. The
3 publicized amount of pollution is 550 tons
4 per year. I've heard that -- and this is
5 second hand information, but I have heard
6 Aquila stated that most of the pollution will
7 fall within the confines of their property.
8 The nearness begs me to believe that a
9 substantial amount of the 550 tons of
10 pollution will end up on my property.

11 I have a pond stocked with fish and am
12 hesitant about eating them with so much
13 pollution being generated 600 feet away from
14 the pond water. I'm also concerned about my
15 horses and the affects it may have on them.
16 When the plant is operating nearly half of my
17 property is avoided by the horses. They get
18 as far away as they can from the plant. I've
19 seen pollution drifting across my property
20 and have tasted it in my mouth.

21 My property is my property and from the
22 earthly physical boundaries and reaches up
23 vertically to the heavens. Aquila has
24 infringed upon my personal property and
25 ruined the heritage value of my property and

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1 created a lot of the extreme stress in our
2 lives.

3 What has been done is unlawful and
4 unnecessary. At this very moment there's 900
5 megawatts of idle generating capacity in Cass
6 County and no one is without electricity.
7 That's enough for 900,000 homes.

8 The capacity in the southwest power pool
9 is between 45 and 46,000 megawatts to serve a
10 little under 40,000 megawatts of peak demand.
11 That is above the regions required 12 percent
12 minimum capacity requirement.

13 In addition there is seven to 8,000
14 megawatts of existing uncommitted resources
15 which may or may not be deliverable to serve
16 load in their footprint.

17 I'm not asking the PSC to settle this
18 issue, I only ask the ability of due process
19 with the county and that an exception from
20 the law is not granted that no one else has
21 ever received.

22 JUDGE REED: Thank you, Mr.
23 Dillon. Questions from Commissioner Murray.

24 COMMISSIONER MURRAY: I have a
25 couple, thank you.

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1 Mr. Dillon, you indicated you were
2 talking about the noise being so irritating
3 that you couldn't be outside. When was the
4 last time you experienced that noise?

5 THE WITNESS: The irritating
6 noise probably been before they were ordered
7 to shut it down. I did hear it running or
8 heard it start up a couple of weeks ago. I
9 don't think it ran very long. I don't know,
10 it was shortly after 7:00 a.m. when I heard
11 it start up. I have a job so -- I expect they
12 didn't run it long. I don't think it was.
13 My feeling is it was a maintenance kind of
14 thing.

15 COMMISSIONER MURRAY: And the
16 temperature increase, was there any
17 explanation about anything that could be done
18 to alleviate any temperature change that you
19 would had experienced?

20 THE WITNESS: No.

21 COMMISSIONER MURRAY: Did you
22 speak to anyone at Aquila about that
23 specifically?

24 THE WITNESS: I sent an e-mail.
25 I don't remember if I actually spoke with

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1 anyone. I know Norma Dunn responded and
2 spoke with me. I don't know if we actually
3 addressed the temperature or not.

4 COMMISSIONER MURRAY: You don't
5 know if there's anything that they could do
6 to mitigate that.

7 THE WITNESS: It would have to
8 be an awful big fan. I mean it was a one day
9 deal. There was no breeze in the air. You
10 know, most of the time the wind comes out of
11 the southwest and blows the heat away so it
12 is not an issue. This is a one time
13 happening.

14 COMMISSIONER MURRAY: You
15 mentioned your horses avoid almost half of
16 your property when the plant is running, do
17 you think that's because of the noise?

18 THE WITNESS: Oh, absolutely.

19 COMMISSIONER MURRAY: The
20 statistics you quoted about the capacity and
21 peak demand and those types of statistics,
22 are you saying that you think that there is
23 no need for the generation?

24 THE WITNESS: That's exactly
25 what I'm saying.

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1 COMMISSIONER MURRAY: So your
2 proposal would be to remove it and not to
3 replace it with any plant anywhere.

4 THE WITNESS: Exactly.

5 COMMISSIONER MURRAY: Thank you,
6 I think that's all I have.

7 JUDGE REED: Commissioner Gaw,
8 do you have any questions?

9 COMMISSIONER GAW: No, thank you
10 very much for coming.

11 JUDGE REED: Commissioner
12 Appling.

13 COMMISSIONER APPLING: No
14 questions. I thank you for coming in.

15 JUDGE REED: Anything from
16 counsel? Miss Shemwell.

17 MS. SHEMWELL: Yes, thank you.

18
19 Q (BY MS. SHEMWELL:) Good evening, Mr. Dillon,
20 I'm Lera Shemwell, I represent the Staff of
21 the Public Service Commission. Mr. Binder
22 and I did drive by today. This is Leon
23 Binder of the Staff. We came in I believe
24 here and turned north, went across here and
25 up Lucille and we did stop. Is this your

1 home?

2 A It is.

3 Q We did stop because we were trying to see
4 where the neighbors would particularly
5 intervene where -- just to familiarize
6 ourselves with the area, and I'm sorry if I
7 caused you any additional stress, that wasn't
8 our intent.

9 A No. It wasn't stress. It's almost like a
10 freak show out there any more. You know,
11 something comes out in the paper again and
12 there's a lot of cars, one every minute or
13 two minutes coming by. They'll turn around
14 and stop. They don't usually stop in front
15 of my house that's the only reason they're
16 out there because they turn around leave.

17 Q The silver car that was running kind of
18 rough?

19 A Yeah. I don't know if it was running rough,
20 it was you that I saw.

21 Q This is Southern Star's property; is that
22 correct? I'm pointing to an area north.

23 A That is correct.

24 Q Right across the street. And then Aquila's
25 property starts in here somewhere; is that

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1 correct?

2 A Yes.

3 Q So this is yours. All right. Again, if we
4 caused you any concern I'm sorry.

5 A No, I'm getting used to it. I don't like it
6 but I'm getting used it.

7

8 JUDGE REED: Anything else from
9 counsel?

10 MR. SWEARENGEN: I'm James
11 Swearengen, I represent Aquila. Are you
12 involved in any litigation with Aquila?

13 THE WITNESS: I am.

14

15 Q (BY MR. SWEARENGEN CONTINUING:) Could you
16 just briefly describe that for the
17 Commissioners, please?

18 A I filed a civil lawsuit against them.

19 Q What is the -- what are you seeking in that
20 lawsuit, can you tell us?

21 A My attorney could probably address that
22 better than I.

23 Q And who would that be?

24 A John Coffman.

25 Q All right. Thank you.

1

2

JUDGE REED: Mr. Eftink.

3

4 Q

(BY MR. EFTINK:) Just one clarifying question. If it was consistent with due process would you care if the peaking plant was put somewhere else? I understand you don't want it close to your property.

9 A

I'm not sure I exactly understand your question, but due process should be due process no matter what. It doesn't make any difference if they put across the street from me or put it anywhere, you know, people that are affected have the right to due process.

15 Q

Thank you.

16

17

JUDGE REED: Mr. Dillon, thank you. I'm sorry, Miss Shemwell, did you have something else?

20

21

22

23

24

25

MS. SHEMWELL: I'm sorry, I just want to clarify that this was Exhibit Number 1 that I was referring to. And I was referring to the white area in the middle of the smallest circle. And I have one more question.

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1 Sir, when you started building your
2 property was this already here or did this
3 come afterwards?

4 THE WITNESS: The gas company
5 were already there.

6

7 Q (BY MS. SHEMWELL CONTINUING:) But Southern
8 Star was there?

9 A Right. And I'd like to add to that. I've
10 heard and read comments about well, Southern
11 Star is over there and they make a lot of
12 racket. I've been there for 18 years, for
13 the most part until probably the last year
14 you didn't hear anything out of that gas
15 plant unless it was below zero. You know,
16 there has not been a day below zero I don't
17 think this year. I think they upgraded their
18 plant to service the Aries plant, so on
19 occasion you will hear them running over
20 there, but you really have to -- if I'm
21 outside I have to strain to hear them
22 running.

23 They have done some obnoxious things, I
24 mean lightening struck one night and there
25 was a gas flame going up in the air it kicked

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1 off one of their relief valves. That was
2 about four thirty in the morning. For the
3 most part I have no issue with them.

4
5 JUDGE REED: All right. Mr.
6 Dillon, thank you very much.

7 The next witness I have on the list is
8 Deb Murry. Ms. Murry, please raise your
9 right-hand.

10
11 DEB MURRY
12 a witness herein, being first duly sworn by
13 the Judge, testified on her oath as follows:

14
15 JUDGE REED: Your name and
16 address, please.

17 THE WITNESS: My name is Deb,
18 D-e-b Murry, M-u-r-r-y. My address is 23503
19 South Southwest Run, Peculiar, Missouri.
20 64078.

21 My husband and I built our dream home
22 starting in January of '04. We started to
23 move in beginning of August of '04 because we
24 thought it had passed inspection, but come to
25 find out we needed extended lateral fields.

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1 In the meantime I already made arrangements
2 for our furniture to be delivered, everything
3 to be delivered. Did we move in? No. Reason
4 being, it was going to be against the law.

5 So we waited, paid another three weeks
6 rent where we were at, went out there every
7 day picked up stuff we needed to do, but we
8 never stayed there because we could not
9 because we could not basically live in our
10 house until we got the final approval, which
11 we got at the end of August.

12 Come October of '04 we find out the City
13 of Peculiar and Aquila have created some kind
14 of a deal, which kind of surprised me because
15 where this land was at was not within the
16 city limits of Peculiar nor was it in an
17 industrial area.

18 When that didn't fly for Aquila they
19 said okay, fine. They get an old rule that's
20 older than any of the commissioners and says
21 we're going to build and still built the
22 plant based on this old ruling of 1938. So
23 what do they do? They built their plant.

24 They disregard -- they don't follow the
25 zoning rules, they don't follow a time, they

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1 don't file for a permit like I had to. I'm
2 going what's wrong with this picture.

3 Yes, I joined stopAquila organization.
4 And the reason I did that more than anything
5 else is because they broke the law. I guess,
6 you know, the hearings have gone on with the
7 various court hearings that have gone on. I
8 personally feel that if this Commission --
9 and now Aquila has gone and said, oh, wait a
10 minute now we better go back. They have
11 applied in January of this year for the
12 permit to get their -- to get in line. Well,
13 isn't that the cart before the horse. What's
14 wrong with this picture.

15 I believe if this Commission allows
16 Aquila to keep their plant or slap them on
17 the hands and give them a fine, which is
18 probably what they're going to expect you all
19 to do, so they can go on their merry way and
20 keep their plant and be happy, then the law
21 is still broken. They still failed to follow
22 the laws of the County of Cass. That is they
23 should have applied for a zoning permit, they
24 should have applied for a building permit.

25 And I know that the county has addressed

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1 the issues regarding the permits, but my
2 particular is that I am a consumer, I'm a
3 resident of the State of Missouri, I follow
4 the laws. When I go up and down the highways
5 I follow the laws. Did Aquila? No. And I
6 personally feel that if this Commission
7 allows them to keep this plant then they are
8 breaking the law and they're no better than
9 Aquila.

10 I guess I would be sorry to say I'm a
11 Missourian and I'm sorry to say that I live
12 in this state, if that's really the way the
13 Commission is going to rule, because in my
14 personal opinion that needs to come down.
15 They broke the law. They old saying from
16 Baretta movies, don't do the crime if you
17 can't do the time. Well, Aquila you shouldn't
18 have built the plant before you got the
19 permission for everything you needed to do.
20 That's all I have to say.

21 JUDGE REED: Thank you.

22 Commissioner Murray, do you have anything?

23 COMMISSIONER MURRAY: Yes. You
24 are -- is it correct that you are not a
25 customer of Aquila?

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1 THE WITNESS: No, I am not.

2 COMMISSIONER MURRAY: So you
3 don't rely on them for your power.

4 THE WITNESS: No, I do not. My
5 mother does but not me.

6 COMMISSIONER MURRAY: Just
7 hypothetically, because this is a very
8 difficult decision that this Commission is
9 going to be faced with, but hypothetically if
10 doing as you suggested and requiring removal
11 of the plant were to actually harm Aquila
12 customers, do you believe that there is some
13 other method perhaps than to go to that
14 degree, which is the basically it's one
15 extreme?

16 THE WITNESS: I believe that
17 building this plant has already harmed the
18 Aquila customers because their rate increases
19 are going up. Like I said, my mother is an
20 Aquila customer and she's a widow living on a
21 pension. I think that Aquila should have
22 gotten their ducks in a row but they didn't.
23 I think the plant needs to come down.

24 I think that this Commission needs to
25 set a precedent that the utility companies,

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1 that power companies, the water companies,
2 the telecommunication companies, the mobile
3 homes and the gas companies that this
4 Commission is supposed to regulate needs to
5 keep a firm hand and say, okay, enough is
6 enough. This is not going to happen again.
7 I can guarantee you probably in fifty years
8 it's going to happen. We may not be around
9 here but somebody else will use this as a
10 precedent and say, well hey, Aquila got by
11 with it why can't I. I can see Ameron UE
12 doing it, I can see KCP&L doing it. I can see
13 the various water companies trying to do it.
14 If you set a precedent I think it's going to
15 come back and haunt this Commission in my
16 opinion.

17 COMMISSIONER MURRAY: Thank you.

18 JUDGE REED: Commissioner Gaw,
19 do you have any questions?

20 COMMISSIONER GAW: No. Thank
21 you very much.

22 JUDGE REED: Commissioner
23 Appling?

24 THE WITNESS: No questions,
25 ma'am, thank you for coming in.

1 JUDGE REED: One moment, Ms.
2 Murry. Anything from counsel? No. Thank
3 you very much, you're excused. Terry Mulch.

4
5 TERRY MULCH
6 a witness herein, being first duly sworn by
7 the Judge, testified on her oath as follows:

8
9 JUDGE REED: Your name spelled,
10 please, and your address.

11 THE WITNESS: Terry Mulch,
12 M-u-l-c-h 23200 South Harper Road, Peculiar,
13 Missouri 64078.

14 JUDGE REED: Are you a customer
15 of Aquila, ma'am?

16 THE WITNESS: I am a customer of
17 Osage Valley which they do not produce their
18 own electricity so in a round about way we do
19 get our electricity from Aquila.

20 JUDGE REED: Go ahead, ma'am,
21 with your statement.

22 THE WITNESS: Dear
23 Commissioners: I am a long time resident of
24 Cass County and live one and a half miles
25 north of the Aquila power plant on Harper

1 road. I have heard a lot of people say this
2 is the country they have taken that away from
3 us, but that's simply not true and for those
4 of us who were really raised in the country
5 on farms know that.

6 My grandparents bought 80 acres 50 years
7 ago. My parents have lived here on that
8 acreage for 44 years. When my siblings and I
9 grew up -- when we were growing up if we seen
10 five cars a day go down our gravel road that
11 was a lot and we walked up and down our road
12 unafraid of traffic. My parents were the
13 only house between 227th and 235th for four
14 years before they got a neighbor closer than
15 a mile. We grew up with cistern water which
16 was delivered once a week and when that ran
17 out you waited until the next delivery. We
18 also had ten party phone lines so you had to
19 wait to use the phone.

20 We were three miles from Peculiar city
21 limits and a few years ago we are now only a
22 half a mile. We now have chip and seal roads
23 that at least ten cars and not all of it from
24 Aquila, an hour go by most of them exceeding
25 the 35 mile per hour speed limit. So we

1 don't even walk on our road.

2 I grew up riding horses on our country
3 roads to Freeman and on property which are
4 now subdivisions. I also grew up hunting
5 where there are now subdivisions. When I was
6 in high school Casey's came to town that was
7 a big deal. This community started changing
8 20 years ago and more progressively the past
9 five years. We have approximately 15 new
10 housing subdivisions or additions going on in
11 town and numerous subdivisions popping up in
12 the county. We have new businesses in town
13 like a cabinet shop, furniture warehouse, Sue
14 Chief doubled in size and two Casey's now and
15 more businesses looking at our community.

16 For those of us who were born and raised
17 here we did not want Miller's point, Harris
18 Place or any other subdivisions. But that is
19 progress and you accept it or you move. They
20 say they are in the country and show a
21 picture of a field in their backyard. When
22 all we are now is a suburb of Kansas City.
23 An urban area with houses on three to five
24 acre lots instead of 80 plus acre farms.

25 These people moved out here and built by

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1 a natural gas plant that has been there for
2 over 50 years and are mad about a power plant
3 that is providing their homes with
4 electricity. They say it is no -- they say it
5 is so loud and even sounding like a jet
6 engine and that is simply not true. Even
7 Mrs. McCord said the noise really didn't
8 bother her.

9 I have talked to people in our area that
10 say the four wheelers in our area going up
11 and down the road are much louder and more
12 annoying than the power plant. We can hear
13 the constant hum of 71 Highway, but are they
14 going to rip that road up. To tear this plant
15 down would be ludicrous especially when we
16 need the power.

17 I enjoy the rural water and private
18 phone lines. I also enjoy air conditioning
19 in summer and heat in the winter. There are
20 many silent supporters of Aquila and we
21 welcome them to our urban community. Please
22 think about your decision when you turn out
23 your lights tonight and get into bed. Thank
24 you.

25 JUDGE REED: Thank you.

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1 Commissioner Murray any questions?

2 COMMISSIONER MURRAY: I don't
3 believe I do, thank you.

4 JUDGE REED: Commissioner Gaw,
5 do you have any questions?

6 COMMISSIONER GAW: Just a couple
7 I think. Thank you for coming, ma'am.

8 I guess my first question is, if the
9 witness remembers when zoning was adopted in
10 Cass County?

11 THE WITNESS: No, I don't. I
12 know growing up they had a 40 acre rule. If
13 you owned more than 40 acres you did not need
14 a permit.

15 COMMISSIONER GAW: You still
16 live in unincorporated Cass County, do you
17 have zoning laws that apply to you?

18 THE WITNESS: Yes, we do.

19 COMMISSIONER GAW: Do you also
20 have restrictions on what can be built next
21 to you or your property because of zoning
22 laws?

23 THE WITNESS: Yes, we do, but if
24 the gentleman that was here a while ago he
25 said that if they broke the law they should

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1 just tear it down. And the woman that just
2 spoke said the same thing. But I beg to
3 differ there because we all try to obey the
4 law, but if you get a speeding ticket do you
5 get hauled straight to jail? You get just a
6 fine.

7 COMMISSIONER GAW: If someone --
8 if you built something on your property that
9 wasn't allowed by the zoning laws do you know
10 what the ramifications of that would be to
11 you?

12 THE WITNESS: No, I don't.

13 COMMISSIONER GAW: I don't think
14 I have any other questions. Thank you very
15 much, ma'am.

16 JUDGE REED: Commissioner
17 Appling.

18 COMMISSIONER APPLING: What I
19 understand is you recommend that we leave
20 this plant in place?

21 THE WITNESS: Yes, I do.

22 COMMISSIONER APPLING: Thank
23 you, ma'am.

24 JUDGE REED: Anything to clarify
25 from counsel? Mr. Eftink.

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1 MR. EFTINK: Do you have any
2 family members that work for the City of
3 Peculiar?

4 THE WITNESS: Yes, I do, my
5 father does.

6 MR. EFTINK: What about your
7 husband?

8 THE WITNESS: No, my husband does
9 not.

10 MR. EFTINK: Thank you.

11 JUDGE REED: All right, ma'am,
12 thank you.

13 THE WITNESS: Thank you.

14 JUDGE REED: Kendra Cooper.

15

16 KENDRA COOPER

17 a witness herein, being first duly sworn by
18 the Judge, testified on her oath as follows:

19

20 JUDGE REED: Your name, spell it
21 please and address.

22 THE WITNESS: Kendra,
23 K-e-n-d-r-a C-o-o-p-e-r. My address is 23903
24 South Harper Road, Peculiar, Missouri 64078.

25 JUDGE REED: Go ahead, ma'am.

1 THE WITNESS: I'd like to thank
2 the Commission for allowing us to come back
3 the last meeting I was unable to attend. If
4 I went down I wouldn't have got in anyway.

5 I live a half mile from the plant. I can
6 see the stacks from my front yard. I can see
7 them if I look out my front window. Initially
8 I said let's see what's going on find out
9 about it. I'm a Lee's Summit police officer.
10 I went out to the Greenwood plant looked at
11 it, said okay it's hidden by trees. I wasn't
12 real concerned until I got information that
13 Aquila didn't want to do three stacks they
14 wanted to do six stacks. The more I read and
15 the more I've read I don't understand the
16 necessity. And I know that's what you're
17 looking at is necessity.

18 If there is such a necessity why is
19 Greenwood from what I told not running, or if
20 it is it's minimal. Aries was built to help
21 with the power of the county and the other
22 communities surrounding and it was only at 20
23 percent because of whatever reason.

24 Aquila's in financial problems we all
25 know that. Their stock is not doing very

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1 well. They have a lot of issues going on
2 because of bad management practices. If you
3 and I do that management we have
4 consequences. It's not any fault they can't
5 manage their company. It's not your fault
6 they can't manage their company. They fly
7 briefcases to New York for \$2,000 on a plane.
8 They have champagne glasses on their plane at
9 \$250 a piece. That's waste to me. That's my
10 tax dollars. It's your tax dollars.
11 Paying -- and our bills are being paid for
12 whatever reason.

13 And that's neither here nor there. They
14 need to get rid of the turbines. They need
15 to find a way to deal with them. The only
16 way to do it with was to build a plant,
17 whether they need it or not. I don't think
18 they do just because of the waste we've got
19 of two plants setting 30 minutes from my
20 house.

21 No, I'm not on Aquila I'm on Osage
22 Valley. I've been on Aquila before. The
23 other thing is they talked about the good
24 neighbor. They want to be a good neighbor
25 now. When they first came out the trucks

1 hauling the rock and taking everything in and
2 out would try to run people off the road.
3 They'd run up on the back end of your car.
4 They try to meet you in the middle of the
5 road to force you off on the side of road by
6 the ditch. They tried it to me until I got
7 out of my car, and I had my police officer's
8 uniform on. The guy slowed down and waved.
9 The only reason he did that is because I had
10 on a law enforcement uniform.

11 What about the other people that don't
12 know how to take care of themselves. They
13 were intimidated, they were threatened, they
14 felt insecure.

15 I'm not against growth. I'm not -- I
16 lived in the country like the lady that just
17 spoke I grew up on a farm of five or six
18 hundred acres around me. I know you have to
19 grow, but just like Miss Murry said, I have
20 to follow zoning just like anybody else. I
21 can't build a barn on my ten acres unless I
22 go to the county and get zoning. If I build
23 a barn without zoning approval and paying my
24 permits they will make me tear it down or
25 they'll fine me so extensively I will lose

1 everything I have.

2 On the other part of the good neighbor,
3 if I went in and burglarized your house, I
4 car jacked you, I robbed you and I went to
5 the court and I said, you know, they come up
6 to me and said it was just a mistake I'm
7 sorry. I didn't mean anything by it. Am I
8 going to trust that person? Am I going to
9 want them as my neighbor? I don't think so.
10 They lied from the beginning, the City of
11 Peculiar and Aquila went behind our backs.
12 They never came out to us. They never
13 notified me when they were going to test like
14 they said they were supposed to. They were
15 supposed to come to each house within that
16 half mile range and tell us when they were
17 going to test the equipment. I was never
18 notified. Nobody came to me. My daughter is
19 home every day during that time period,
20 nobody came to the house. There wasn't a
21 note in my mail box. There was nothing.

22 Can you hear it running when it is
23 running? Yes, you can, even my house with
24 the windows closed. After so long of it
25 running you just kind of ignore it just like

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1 my sweeper running in the back bedroom all
2 day long just kind of keep running just kind
3 of a humming noise.

4 Frank's called me several times about
5 people driving by stopping by his house and I
6 told him just to keep track of the license
7 plate numbers or anything, if he had any
8 problem let me know and I'd call the county
9 for him and make some contacts.

10 I'm not intimidated by them basically
11 because of what I do and how I am trained,
12 but people that are not in my profession or
13 my husband's profession they're very easily
14 intimidated.

15 The other thing, the bottom line is they
16 violated the law. They built something
17 without zoning, taking a gamble. They
18 gambled like going to Vegas. I go to Vegas
19 and I put money out on the table it is a
20 gamble as to whether I win it back or not.
21 They gambled. They thought they could beat
22 us. They thought we'd back off. They bought
23 out some of the people to get them to be
24 quiet and it still hasn't stopped.

25 Like I said, I'm not against progress.

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1 I know we need power, I know we need
2 electricity. They went about it wrong, they
3 violated zoning laws. I fail to see the
4 necessity at this time.

5 I think that's basically all I have to
6 say. I appreciate your time and letting me
7 speak. Thank you very much.

8 JUDGE REED: Thank you Miss
9 Cooper. Commissioner Murray any questions?

10 COMMISSIONER MURRAY: Just a
11 couple, thank you. Miss Cooper, I think your
12 testimony, I think your proposal is a little
13 different from the gentleman who spoke
14 earlier and said that he thought the plant
15 should come down and there was no need to
16 replace it.

17 THE WITNESS: I think it needs
18 to come down. I would have to tear my barn
19 down if I built a barn that didn't have
20 zoning.

21 COMMISSIONER MURRAY: I'm asking
22 about the other part. You think there is a
23 need for power, the power; is that correct?

24 THE WITNESS: I think the plants
25 are already there to provide the power we

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1 need, they're not even being utilized. Aries
2 was at 20 percent usage, you know, why we
3 built -- the county granted zoning and
4 allowed them to build this big plant in
5 Pleasant Hill why aren't we using it to
6 capacity if we're in that dire need of more
7 power. Yes, I know we're growing. Why let
8 it shut down and then have to file bankruptcy
9 and then to go out for them to run a peak
10 plant?

11 COMMISSIONER MURRAY: I think
12 the storm is keeping this microphone --

13 THE WITNESS: I can't hardly
14 hear you.

15 COMMISSIONER MURRAY: Can you
16 hear me now?

17 THE WITNESS: A little better.

18 COMMISSIONER MURRAY: You said
19 you were at first in favor of the plant or
20 not, I was undecided. I'm a real big fact
21 finder. I go out and investigate things,
22 it's just my nature, and I wasn't for or
23 against it I wanted more information. The
24 more information I got the less I liked what
25 was going on and what it was about. I don't

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1 like lies and deceptions. I have to uphold
2 the law. I have to enforce the law. There's
3 an ethics and a value system here, and how
4 can I go to my children or my children's
5 children and say you have to obey by the law
6 but if you have got enough money and enough
7 power you don't have to. How do you teach a
8 value system to your children if large
9 companies can go do whatever they want to.
10 Look at Enron, look at their management style
11 and what happened to them.

12 COMMISSIONER MURRAY: I asked
13 you a question about the -- Is this picking
14 up now?

15 THE WITNESS: A little better.

16 COMMISSIONER MURRAY: You
17 indicated that there are vehicles that seem
18 to be doing surveillance or something of that
19 nature?

20 THE WITNESS: That was when it
21 first -- when they had the security company
22 and stuff was out there. After they got rid
23 of the security company, once they got their
24 gates across where it was secure and nobody
25 could get in.

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1 COMMISSIONER MURRAY: You made
2 reference to a man who had talked you about
3 some cars that were appearing --

4 THE WITNESS: Mr. Dillon.

5 COMMISSIONER MURRAY: And you
6 said you told him to keep track of the
7 license plates numbers?

8 THE WITNESS: In case something
9 happened so he could report it to the county
10 sheriff's department.

11 COMMISSIONER MURRAY: Have you
12 got reports of any license plate numbers?

13 THE WITNESS: Have I?

14 COMMISSIONER MURRAY: Yes.

15 THE WITNESS: I have some, but
16 I'm not allowed by law to release them to
17 anybody, but I keep a file just in case
18 anything would happen I would turn it over to
19 the sheriff's department.

20 COMMISSIONER MURRAY: So some
21 neighbors have actually given you license
22 numbers?

23 THE WITNESS: I said if you see
24 anything strange let me know and I'll report
25 it to who I need to report it to and that's

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1 what I do. There's not been anything that's
2 been -- that I've been concerned about that
3 point.

4 COMMISSIONER MURRAY: I just
5 want to be clear on this. You have not
6 received anything in response to telling the
7 neighbors that they should keep track of
8 license plates?

9 THE WITNESS: I have told them.

10 JUDGE REED: Miss Cooper speak
11 into the microphone.

12 THE WITNESS: I had told them,
13 sorry, to keep track of the license plates.
14 I said write them down. It's a security thing
15 we do anytime we go into a neighborhood for
16 neighborhood watches that type of thing. If
17 you see something suspicious you feel
18 uncomfortable with it you write down the
19 license plate number, keep track of those
20 things and have them so you can provide them
21 to local law enforcement agency so that they
22 can, you know, see if something is wrong. If
23 you report any kind of criminal activity or
24 you feel you're being threatened or harassed
25 give that information to that law enforcement

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1 agency.

2 COMMISSIONER MURRAY: And that's
3 what you have told your neighbors who have
4 had concerns to do?

5 THE WITNESS: Yes. They need to
6 report it their local law enforcement agency.

7 COMMISSIONER MURRAY: Do you
8 know if that has happened?

9 THE WITNESS: Not for sure.

10 COMMISSIONER MURRAY: Thank you.

11 THE WITNESS: I did call a couple
12 times have them come out and check the road
13 because I got a call that there was some cars
14 in the neighborhood that none of us
15 recognized, but I don't know what they found
16 out or didn't find out.

17 JUDGE REED: Commissioner Gaw if
18 you can hear me, do you have any questions?

19 COMMISSIONER GAW: No, no more
20 questions, thank you.

21 JUDGE REED: Commissioner
22 Applling.

23 COMMISSIONER APPLING: No
24 questions, ma'am, thank you.

25 JUDGE REED: Anything from

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1 counsel? (No response.) I see no questions.

2 All right. Miss Cooper, thank you.

3 Ladies and gentlemen that's the last
4 witness I have signed up to testify this
5 evening, we thank you very much.

6 Information we had is there's a tornado
7 on the ground in Cass County but we don't
8 know exactly where; is that right? Just for
9 your information if you want to further
10 investigate.

11 All right. Folks, we have two more
12 witnesses who have signed up we want to go
13 ahead and get through these. I see that one
14 is Della January. Miss January, I believe you
15 did testify March 20th, correct?

16 THE WITNESS: I did.

17 JUDGE REED: Do you have
18 something new and in addition to that
19 testimony?

20 THE WITNESS: I do.

21 JUDGE REED: All right. Please
22 raise your right hand.

23

24 DELLA JANUARY

25 a witness herein, being first duly sworn by

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1 the Judge, testified on her oath as follows:

2 JUDGE REED: Your name?

3 THE WITNESS: My name is Della
4 January, J-a-n-u-a-r-y. My address is 23811
5 South Lucille, Peculiar, Missouri.

6 JUDGE REED: Yes, ma'am, go
7 ahead.

8 THE WITNESS: There's several
9 things I wanted to talk about tonight. The
10 first is I have to address some of the things
11 Miss Bailey said earlier about intimidation
12 and the actions of stopAquila. I will tell
13 you that I did call Jenny one time I believe
14 it was probably in December, and I will tell
15 you I've known Jennifer since our kids began
16 playing football and baseball together when
17 they were probably in kindergarten or maybe
18 the first grade.

19 Jenny lived down the street from me. As
20 this Aquila thing began I went to her house
21 several times and asked her to become
22 involved. She did not. However at one
23 meeting at the plant a year or more after it
24 had began, she was there and began to tell a
25 group of stopAquila people to pretty much --

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1 I don't know exactly what her words were but
2 kind of that we needed to quiet down because
3 how this came about was neither here nor
4 there. They were here and they appeared to
5 be willing to listen. It did make me angry
6 and I did yell at her.

7 I did call her after that to apologize.
8 I did ask her if she could help me understand
9 the position she had taken on the plant.
10 This was after she had posted a letter of
11 support on the Aquila web page.

12 She said I don't owe you an explanation,
13 which I agree, you're right, you don't. I'm
14 calling you because we are neighbors and we
15 have been friends for many years, and I would
16 like to understand why you feel the way you
17 do in support of Aquila.

18 We had a long conversation. I can
19 assure you that I went to great lengths to be
20 as calm as I could be and as nice and as
21 considerate as I could be during that
22 conversation, because I did feel bad and did
23 apologize for yelling at her that it was -- I
24 shouldn't have lost my temper and I did. I
25 did that in front of a group of people.

1 She has accused me of saying things
2 there's no possible way that I did say to
3 her, it doesn't matter. But that was the
4 extent of my communication with Jennifer
5 Bailey or the communication of any member of
6 stopAquila that I'm aware of.

7 One sign was placed in her yard a week
8 ago last Saturday by a stopAquila member who
9 I asked to put out signs. She lives on the
10 corner of the street. It was placed on the
11 corner. He didn't know her position, who she
12 was, where she lived or why that was -- why
13 we stopped doing that. I personally have the
14 bulk of the signs. There are only two other
15 stopAquila members to my knowledge that even
16 have a supply of signs, they're both present
17 here and neither one of them put signs in
18 Jenny's yard.

19 We don't have a lot of signs, they cost
20 money, we don't have them to waste. I
21 personally have put out I think every
22 stopAquila sign prior to last Saturday for
23 the past several months, probably six months
24 or more, and I have never put a sign in her
25 yard since it became clear to me how she felt

1 about the plant. Nor have I called her
2 except for the one time, nor any other
3 stopAquila member that I'm aware of. And I
4 did after she contacted her attorney the
5 morning after the last hearing, I did reach
6 out to any of the stopAquila members that I
7 knew might be inclined to do something like
8 that and asked them and each one has denied
9 it.

10 I know that that night it was near
11 eleven o'clock when I arrived home. It was
12 very cold and rainy. I drove by her house and
13 the one sign that had been placed there over
14 the weekend was still there in the corner I
15 believe, but I saw no other signs and I would
16 have noticed. I noticed the one sign.

17 It would be hard for me to believe that
18 anyone would venture out after eleven o'clock
19 at night when we left the hearing in the cold
20 rain for the singular purpose of intimidating
21 Jenny. I don't think any of us care that
22 much about it.

23 I'm happy to answer any questions you
24 may have for me on that, but I really have
25 tried to not dedicate my time or resources to

1 that. I know the reasons that I'm opposing
2 this plant and that's what I hoped to speak
3 to you again about tonight.

4 I've spoke to this Commission, I think
5 this is probably my fourth time, and each of
6 those times I've talked about Aquila's
7 conduct and what I believe that their
8 experiences are, their purposes in building
9 this plant. What I have not discussed with
10 the Commission is my reasons for opposing it
11 so strongly other than the fact that it's
12 illegal and it's wrong.

13 I hear the plant from any yard. Aquila
14 knows I do because when it first came on line
15 I contacted Aquila and I'd been told
16 throughout our opposition, you won't hear it
17 I promise you won't hear it. And I believed
18 them, I thought to myself I hear the cows moo
19 that graze on the land where the plant will
20 be build I assume I will hear the plant, but
21 I believed them. As soon as the plant came
22 on line I walked out of my kitchen one night
23 to grill dinner, and I stood there and I
24 thought, oh, what is that. I went got my
25 husband and said, you've got to come out

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1 here. I could not believe this noise. We
2 got in our car drove to the plant. And we're
3 like, it's the plant. The next morning I
4 fired off an e-mail and that was and angry
5 e-mail. I have it if you want it. To Al
6 Butkus (phonetic) saying I can hear the plant
7 you said I couldn't blah, blah, blah. That's
8 when Norma Dunn responded and I think that
9 was her first contact with the neighbors near
10 the plant. She had been newly employed by
11 Aquila. And that began this series of
12 events.

13 Subsequent to that we allowed Aquila to
14 place microphones in our yard to leave them
15 over a period of time to measure the noise
16 both with or without the plant. Those tests
17 did show that the plant was audible from my
18 home. It did show that there was a reading
19 high enough that in an octave level that is
20 annoying to the human ear because we do get a
21 high pitched whine. My husband and I after
22 that accompanied Miss Dunn and some of her
23 representatives and the sound analyst back
24 down to the plant, walked around, listened to
25 the plant operating to compare the noises

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1 that we were hearing at our home to what we
2 were hearing at the plant and to help them
3 determine the source of that noise was the
4 air intake valves.

5 They have made some improvements to the
6 noise, that is not one of the improvements
7 they've made yet. They have taken the stance
8 at this point that they made the improvements
9 they will make for now and then if they plant
10 stays they'll continue to make additional
11 improvements to reduce noise.

12 I have to tell if I was Aquila right now
13 I wouldn't be saying let me stay then I will
14 make improvements, I'd be making improvements
15 trying to solve problems with people like me.
16 Norma Dunn has not responded to an e-mail
17 I've sent to her in October. That's been the
18 last communication.

19 The first time I met her I told her I
20 couldn't be bought. Well, she asked how can
21 we make this better? I said, are you asking
22 me if I can be bought? I was offended by
23 that. I made it clear that I couldn't be and
24 I think that's kind of the last time we had
25 anything to talk about.

1 So that addresses the noise concerns
2 that some of the people have said. Again my
3 house is a half mile from the plant. Our
4 house was under construction when we first
5 learned about this. My husband built it
6 himself as the general contractor and doing a
7 lot of the work himself. It took us ten
8 years to save the money, three years to find
9 the land and two years to build the house.
10 He and his father did all kinds of work,
11 plumbing, handrails, tile everything like
12 that. Again this was us out there with
13 hammers and everything else working on this
14 home. It's truly our dream home.

15 We were almost finished with it when I
16 heard on the radio one night when I was
17 coming home that Aquila was going to build a
18 plant in Peculiar. I came home and kind of
19 joked to my husband, yeah, they're going to
20 build a power plant, they will probably put
21 it right out here by us and we laughed and
22 joked. The very next morning it was in the
23 paper and that was true.

24 Of course this was first week in October
25 and Aquila had been in negotiations with the

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1 City of Peculiar since June at least of that
2 year. They intentionally I think failed to
3 disclose that from the public.

4 We have this dream home and we do feel
5 that it impacts our property values. That
6 won't be told until we see how properties --
7 what they sell for. The prices that they
8 fetch. We've heard of all kinds of people
9 come up with different appraisal numbers. I
10 know my mortgage banker tells me he can get
11 an appraisal put down anything he wants.
12 That's how they do it when they finance
13 properties. But the real thing comes down to
14 what properties sell for.

15 I will tell you that I have a copy of
16 two papers here that I would like to submit
17 into evidence, and they're the Reece Nichols
18 listing of a property across the street from
19 the plant that Aquila now owns. The first
20 one was printed off and the dates at the
21 bottom in December of 2005 prior to Aquila
22 purchasing the property and the listing price
23 is \$300,900. Aquila purchased the property
24 that month. They've also done extensive
25 landscaping and work I think to the outside

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1 and the inside of the property. It's
2 currently listed for \$305,000. So even after
3 Aquila made substantial investments in this
4 property in the course of month it alone
5 dropped by \$5,000. And I like to submit this
6 into evidence.

7 JUDGE REED: Do you have other
8 exhibits as well, Miss January or just the
9 one?

10 THE WITNESS: No, not unless you
11 want the e-mail that I sent to Al Butkus.

12 JUDGE REED: That's two?

13 THE WITNESS: That's the
14 property listing.

15 JUDGE REED: Would you step back
16 to the microphone, please.

17 THE WITNESS: Can I see the back
18 of that. I wrote all over the back of it. I
19 got a little carried away.

20 JUDGE REED: Miss January there
21 appear to be two documents here stapled
22 together each are several pages and at the
23 top it says Reece and Nichols, correct?

24 THE WITNESS: Correct.

25 JUDGE REED: I'm going to mark

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1 these as exhibits eight and nine.

2 (Certain documents were marked Exhibit
3 Numbers 8 and 9 for identification by
4 the Judge.)

5

6 THE WITNESS: So at this point
7 we have got -- you know, we have had real
8 estate experts tell us the loss of our
9 property value, well it graduates as you move
10 away from the plant, but even for people that
11 live as far as way as mile or Jenny at the
12 end of the street at 10 percent loss of
13 value. That's a most moderate, conservative
14 estimate, but surely we didn't know what the
15 impact will be to our property until we see
16 how it plays out. Right now there's a
17 considerable number of homes for sale in our
18 neighborhood, and I know that the experiences
19 have been that people have already testified
20 what their experience have been trying to
21 sell their properties and the responses they
22 have gotten from the community.

23 Commissioner, you mentioned earlier what
24 alternatives we think there are to this
25 plant. The plants is built illegally. It

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1 was not built because there was a need for
2 capacity. It's stated purpose is to replace
3 the power that they're getting from the Aries
4 facility. So if the stated purpose in their
5 application to this Commission for approval
6 is to replace the purchase power agreements
7 of the Aries facility that's only less than
8 20 miles away, how can that demonstrate a
9 need for capacity? Clearly the capacity is
10 there. You're replacing the power you're
11 getting from somewhere else, somewhere that
12 was built and backed by county bonds with
13 county approvals and the support of the
14 community.

15 This power plant is not about a need for
16 power. It is not about this is the best site
17 for it, this is all about what fits best into
18 their corporate strategic model and their
19 profit plan and that's it. I think it's easy
20 for anybody to step back and oh, we need the
21 power, we need the power, we need the power.
22 I use power just like everybody else. All
23 growth is not good, and if you're going to
24 let people break the law and allow people to
25 just randomly build anything anywhere they

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1 want then all you're going to have is chaos.
2 You're going to have no orderly growth or any
3 planning by the local communities or counties
4 of how that growth appears. You will end up
5 with Gotham city. It's just scattered. And
6 for people to step back and state their
7 support that's fine, it doesn't bother me
8 everyone is entitled to their opinion. This
9 organization isn't about excluding people or
10 intimidating people. Nothing that I or
11 anyone else that I know of would participate
12 in.

13 That's all I have.

14 JUDGE REED: Thank you, ma'am.
15 Any questions from Commissioner Murray?

16 COMMISSIONER MURRAY: Thank you.
17 I wanted to ask you, would you consider
18 yourself the founder or the original
19 organizer of stopaquila.org?

20 THE WITNESS: No, I wouldn't. I
21 think that right now -- we of course no one
22 has the title. I think right now I'm
23 probably referred to as the leader but that's
24 only after -- I think our prior leaders
25 everyone would agree by consensus were Scott

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1 and Nancy Manning and Aquila purchased their
2 property and they left.

3 I helped Nancy a lot so it kind of by
4 default came to me. As far as the
5 originating person there was -- there were a
6 number of people that came together and we
7 just met and it just gelled. People just
8 volunteering to contribute either their time,
9 their resources or their money, their
10 expertise and just came together.

11 COMMISSIONER MURRAY: My
12 question actually was more geared to the
13 present. I should have asked you, do you
14 consider yourself a leader which I believe
15 you said you do currently, the leader of the
16 organization. As such you're saying that you
17 have asked the members and encouraged the
18 members to engage in no intimidation tactics;
19 is that correct?

20 THE WITNESS: Of course we have
21 it at times through different things that
22 have happened had members here or there on
23 occasion get angry and fire off an e-mail
24 that was inappropriate. And in each
25 occurrence of any kind of behavior like that

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1 we have discouraged it. We've always
2 insisted that we take the high road. There
3 was never -- I've never even heard anyone
4 mention the possibility of trying to
5 intimidate Jenny Bailey or anyone else. Yes,
6 we don't like George Lewis. He's not -- the
7 Peculiar Mayor.

8 I will tell you intimidation, if I walk
9 into a restaurant or public building where he
10 is he will yell across the room to me. I
11 hear -- people contact me and talk to me all
12 the time pro and against the plant because I
13 put my name out there. And that goes along
14 when you put your name out on the internet
15 taking a stance on a position you can expect
16 that people may call you, people may approach
17 you at the grocery store. And they do me all
18 the time and that's fine, by putting my name
19 out there and associating myself with this
20 stand I opened myself up to that and I've
21 agreed to accept it one way or the other. And
22 it happens to me all the time.

23 If someone saw Jenny Bailey's name on
24 the Aquila website and picked up the phone
25 and called them I'm not aware of it, and

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1 there's no active member of stopAquila -- I
2 don't believe any member of stopAquila did
3 that. I think at one point we were told
4 there were tape recordings, I'd love to hear
5 them. If there are signs I'd love it see
6 them. I don't believe it.

7 COMMISSIONER MURRAY: I'm just
8 trying to clarify from you, it is your
9 position that that should not be done; is
10 that correct?

11 THE WITNESS: Of course, under
12 any circumstances.

13 JUDGE REED: Commissioner Gaw, do
14 you have any questions?

15 COMMISSIONER GAW: No questions,
16 thank you.

17 JUDGE REED: Commissioner
18 Appling.

19 COMMISSIONER APPLING: No
20 questions.

21 JUDGE REED: Counsel. (No
22 response.) All right. Thank you, Miss
23 January.

24 THE WITNESS: You're welcome. Oh,
25 I have one more thing I wanted to say, I'm

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1 sorry, is that okay?

2 JUDGE REED: Can you be very
3 brief?

4 THE WITNESS: I can. I'm sorry.
5 I also want to say, well maybe I shouldn't.
6 Can I say that prior to my and Jennifer's
7 testimony last week that she approached my
8 husband and I said, look no hard feelings. I
9 was, yes, thank you that's very gracious of
10 you to say that. We laughed and joked about
11 our kids who are now 16 and then she began
12 this again. So I just wanted to say that we
13 have even at that point I thought had a good
14 relationship until she testified.

15 JUDGE REED: Thank you, Miss
16 January.

17 THE WITNESS: You're welcome.

18 JUDGE REED: Julie Noonan. If
19 you have testified you're not going to get to
20 testify again. Julie Noonan. Ms. Noonan you
21 have testified previously as well, correct?

22 THE WITNESS: Yes. This is
23 different information and is in fact
24 information that the Commissioners expressed
25 interest in --

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1 JUDGE REED: All right.

2 THE WITNESS: -- the last time,
3 but I didn't have it to put my hands on.

4

5 JULIE NOONAN

6 a witness herein, being first duly sworn by
7 the Judge, testified on her oath as follows:

8

9 JUDGE REED: Your name. Spell
10 it.

11 THE WITNESS: Julie Noonan,
12 N-o-o-n-a-n. I live at 23719 South Lucille
13 Lane. And the last time I testified that I
14 lived within one mile of the power plant and
15 I found out that I actually live right about
16 a half a mile. I'm actually just two doors
17 north of Della.

18 One of the things that has been a topic
19 of discussion and the Commissioners expressed
20 interested in hearing more statistics or fact
21 based information about what is impact on
22 property values. One of the documents was
23 prepared in November of '04 by a licensed
24 professional real estate agent and presented
25 to the Missouri Department of Natural

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1 Resources. During that hearing when we
2 didn't understand that they were going to
3 limit their scope solely and completely to
4 compliance with pollution and that type of
5 thing.

6 He did some really good research I'd
7 like to share that with you, understanding it
8 was done in November of '04. Property values
9 and neighborhood analysis. An analysis was
10 conducted --

11 COMMISSIONER APPLING: Can't
12 hear you, ma'am.

13 THE WITNESS: I beg your pardon.

14 COMMISSIONER APPLING: Can't hear
15 you.

16 THE WITNESS: An analysis -- can
17 you hear me now? An analysis was conducted
18 of a two mile area from the center of the
19 proposed, what was a proposed peaking plant.
20 And in November of 2004 is what we're talking
21 about the boundaries included properties from
22 227th street on the north to 264th street on
23 the south and Hunter road on the west to
24 Copper road on the east. In order to come up
25 with a meaningful figure for property values

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1 for the area Cass County tax appraisals were
2 obtained from Hartland MLS.

3 A general rule of thumb is that the
4 county appraisals are approximately two
5 thirds of the market value of the given
6 property. These figures do not take into
7 account new housing in the area so should be
8 considered conservative.

9 In this area there are or were 469
10 separate properties. These have a total
11 market value of \$79,812,362 with a tax
12 assessment of \$664,505. Taxes are assessed
13 on the type of property, residential,
14 agricultural, commercial or a combination
15 thereof. Of these properties 365 properties
16 have a tax base of residential only, that
17 would be 77.83 percent, an additional 90 had
18 a tax base residential and agricultural which
19 would have been 19.19 percent. Nine is
20 agricultural only, which would be 1.92
21 percent. Three as commercial, which is less
22 than one percent, .64 percent, and two were
23 unclassified or .43 percent.

24 With over 75 percent of the properties
25 being classified as residential only it is

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1 abundantly clear that it is a residential
2 area.

3 Property forecasts. Forecast information
4 was provided by the Mid-American Regional
5 Council. Information is based on census
6 tract 610. This area ranges from 203rd
7 street on the north to 251st street on the
8 south and from Wheeler road on the east to
9 Mullen road on the west. This forecast
10 indicates a projected population growth for
11 the area from 8,858 in 2000 to 13,154 in 2030
12 or an increase of 4,296 people.

13 Households are expected to increase from
14 3,131 to 5,106 or 1,975 households.

15 According to the Missouri Office of
16 Business Administration in its 2003 report
17 the ten fastest growing counties in
18 percentage terms are Lincoln at 13.5,
19 Christian at 13.4, Pulaski at 9.9, St.
20 Charles at 9.7, Warren 9.5, Cass 8.2 and I
21 won't read the rest of them. We know just
22 from recent press within the last couple of
23 weeks that Cass' percentage of growth has
24 increased tremendously just since November of
25 2004.

1 Negative impacts on properties. In the
2 study of a proposed peaking plant in
3 Illinois, Doctor George Tolley, Professor of
4 Economics at the University of Chicago used
5 the Blomquist analysis of property values and
6 reached the following conclusions.

7 From zero to one half mile, 7.875
8 percent property value loss. From .5 or a
9 half a mile to one mile, 5.625 property value
10 loss. From one mile to 1.5 miles, 3.375
11 property value loss. From 1.5 miles to two
12 miles, 1.124 property value loss. At two
13 miles no effect on property values.

14 Using the total property value in a two
15 miles radius of seventy nine million eight
16 twelve three sixty two at the lowest loss
17 expectation of 1.124 percent the resultant
18 loss of property values would be \$870,091.
19 If you use an average 3.375 percent this
20 figure increases to two million six ninety
21 three six sixty seven. With an expected
22 increase of 63 percent of households in this
23 area by 2030 the expected loss in property
24 values would reach \$4,390,667.

25 Potential impact would undoubtedly slow

1 the growth of the area as well.

2 Summation. The data shows three major
3 areas of impact. First is the effected area
4 is primarily residential and is valued as
5 such. Second is the area is expected to have
6 major growth over the next 30 years. And
7 third, is the negative impact would result in
8 significant property value and tax loss. The
9 community would be best served by
10 constructing a facility in a nonresidential
11 area. That was previously submitted by
12 William H. Yates III, real estate broker
13 State of Missouri.

14 So that is some what I would consider
15 factual, statistical information not only
16 about our area, although it be a little bit
17 old, but also about studies done by
18 professionals who know about this type of
19 thing.

20 What you can't quantify is what I've
21 already experienced, if I can't sell my house
22 because the power plant is there I can't tell
23 you what my loss is except for that I've lost
24 opportunity and undoubtedly it is a loss of
25 my property.

1 Thugs bully, thugs steal, when they do
2 so I have not ever seen any court of law
3 suggest that they be allowed to keep the
4 spoils of their behavior. I think you have
5 heard a lot of testimony, I think even more
6 testimony has been submitted. I believe that
7 the laws are clear, and I believe everyone
8 knows what the intents were.

9 One of the things I don't think I've
10 heard a lot of but I think you all should
11 understand is there are a lot of people who
12 have lost a lot and a lot more than just
13 property over this. There is no reason why
14 Della January or myself or anyone else should
15 have to be this familiar with the laws.
16 Should have to spend as much time as we have
17 had to research and to try to assert that our
18 rights under the law be protected. We have
19 had the courts affirm what the appropriate
20 interpretation of Aquila's activities in
21 building this plant were. It's been affirmed
22 three times they did not build legally. For
23 them at this point in time to come and ask
24 for permission to build -- when I ask
25 permission to do something, if I were to ask

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1 permission to Cass County to build that would
2 mean that I hadn't already done so. So in my
3 mind just the certificate, just the
4 application itself can't possibly be valid
5 the way the laws are stated.

6 I guess I'd like for us to understand
7 that there has been significant loss, and I
8 know that sometimes companies that have
9 activities that are displeasing to the locale
10 are encouraged to go out and make friends and
11 be neighbors and buy folks off. Not only was
12 it way too little way too late and most of us
13 would not be bought for any amount of money,
14 but the fact that they finally did start the
15 activity and that they pursued it in ways
16 they have have actually even further
17 decreased the satisfaction and the enjoyment
18 and the peace that most of us experienced in
19 our neighborhood.

20 There's neighbors turned against
21 neighbors. It's really silly and it's
22 totally inappropriate. I primarily wanted to
23 share with you some factual information that
24 at the last hearing you expressed interest
25 in, but I also wanted you to know that the

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1 impacts of this is very far reaching not only
2 for each of us personally but for what you
3 may or may not by your actions and by your
4 orders invite as further corporate behavior
5 in this state.

6 Thank you very much for your time.

7 JUDGE REED: Thank you, ma'am.
8 Commissioner Murray, any questions?

9 COMMISSIONER MURRAY: I don't
10 believe so, thank you.

11 JUDGE REED: Commissioner Gaw,
12 do you have any questions for the witness?

13 COMMISSIONER GAW: No, thank you
14 very much for coming.

15 JUDGE REED: Commissioner
16 Applling.

17 COMMISSIONER APPLING: No
18 questions, ma'am, thank you.

19 JUDGE REED: Anything from
20 counsel? (No response.) All right. Thank
21 you, Miss Noonan.

22 THE WITNESS: Thank you.

23 JUDGE REED: Ladies and
24 gentlemen those are all the witnesses that
25 have signed up this evening to testify. At

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1 this time I'd like to ask the Commissioners
2 if they have any remarks before we close this
3 hearing this evening. We'll start with
4 Commissioner Murray.

5 Ma'am, do you have a question?

6 THE WITNESS: Is it too late to
7 sign up?

8 JUDGE REED: Have you testified
9 previously?

10 THE WITNESS: No.

11 JUDGE REED: We'll take a break.
12 Why don't you come forward and sign the list.

13

14 (Off the record.)

15 (Back on the record.)

16

17 JUDGE REED: Ladies and
18 gentlemen, we're going to get started. I
19 hope you can hear me back there. Can you hear
20 me up high? There we go. Now we have
21 microphones. If everybody could take a seat,
22 please, we're going to get started. All
23 right. The next witness on the list is Mary
24 Lewis.

25

1

2

MARY LEWIS

3

a witness herein, being first duly sworn by

4

the Judge, testified on her oath as follows:

5

6

JUDGE REED: State your name

7

and spell it.

8

THE WITNESS: Mary Lewis. I

9

live at 812 Peculiar Drive, Peculiar,

10

Missouri.

11

JUDGE REED: Go ahead, ma'am.

12

THE WITNESS: My husband is

13

George Lewis the mayor of Peculiar, and I

14

have tried through this whole ordeal to be

15

quiet and not say a whole lot. I've read

16

letters to the editor, I've listened to all

17

kinds of things, and I've tried to be quiet,

18

but I to not I could no longer be quiet. When

19

Della January said my husband yells at her

20

across the restaurant that was the final

21

straw. Della, you called our house one night

22

several years ago --

23

JUDGE REED: Ma'am, we went a

24

little bit too far down that road for talking

25

to each other about that sort of thing. If

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1 you want to say something about --

2 THE WITNESS: All right. I just
3 wanted to say that. Okay.

4 JUDGE REED: All right.

5 THE WITNESS: I made some notes
6 here. First of all, I don't understand why
7 any reasonable person would not understand
8 that a person or a business, a utility
9 company is not going to go out and spend 155
10 million dollars to build something if they
11 didn't need it. The county is growing like
12 crazy. In Peculiar alone there are 22
13 hundred new homes going up, all of them will
14 have central air conditioning, everybody's
15 going want to turn that air to on when they
16 need it.

17 We have heard the stopAquila people go
18 on and on and on about the Aries plant, they
19 don't need it they have the Aries plant.
20 I've been in several meeting where Tom
21 Miller, is that who it is, has explained
22 about the Aries plant that when they need
23 peak power they need it right now and the
24 Aries plant takes ten, fifteen hours, several
25 hours, I'm not sure the amount of time but it

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1 doesn't fire up right away. When they need
2 the peak power they need it now not five
3 hours down the road.

4 The Aquila plant does. It's a peaking
5 plant it doesn't run all the time. My husband
6 and I were out there numerous -- we were one
7 of those terrible cars driving out there last
8 summer when that plant was running right
9 there by it and could not hear a thing, not
10 hear a thing.

11 They have talked about that they weren't
12 told about it. There were articles in the
13 paper in the Raymore Journal and the Belton
14 paper about the plans to build this plant
15 long before it ever got built. Aquila did
16 have meetings. I was at a meeting at the
17 Peculiar Lion's Club where they had all kinds
18 of Aquila officials there who tried to
19 explain what they were going to do, answer
20 all kinds of questions. The people were so
21 rude to them and shouted them down and yelled
22 at them. They didn't have a chance to answer
23 anything. They didn't give them a chance to
24 explain anything or answer anything.

25 By the way, the man Scott whoever,

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1 Manning their house has sold. The value of
2 the property is so terrible out there the
3 house that Aquila bought from the Mannings it
4 has already sold. If you go out there
5 there's a sold sign on it in what, two
6 months, probably two months maybe three. I
7 think -- I don't understand, and I -- why
8 some people say it is so terrible. They hear
9 it's so horrible and then people two doors
10 down don't hear it at all. Something isn't
11 right here. Either everybody out there ought
12 to hear it or nobody should hear it.

13 Many -- and all those people and this
14 has been mentioned before, built their homes
15 out there. Frank Dillon built his home with
16 a gas plant right across the street from it.
17 That gas plant didn't bother him.

18 By the way, talk about intimidation, I
19 came home one today had a message on the
20 answering machine it was Frank Dillon left a
21 nice message on our answering machine at home
22 used every swear word you could possibly
23 think of. And I was so thankful I didn't
24 have my five year old grandson there with me
25 when I listened to that message because it

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1 was pretty bad. My husband did call him and
2 tried to talk with him. He started ripping
3 on him again with foul language, and he said
4 if you tone it down I'll talk to you and he
5 finally was able to talk to him.

6 Della mentioned or somebody mentioned
7 about Aquila why don't they put up the sound
8 barriers, why are they waiting. Why should
9 they put up anything else in that plant only
10 to have to tear it down. They can't turn it
11 on to see if the sound barriers would work.
12 So there wouldn't be any sense in them
13 putting it up.

14 Just last week or two weeks ago I
15 received in the mail a notice from a real
16 estate company about the property value in
17 Peculiar going up, wanted to know if I wanted
18 to sell my home. I don't know what real
19 estate company it was. I didn't keep it
20 because I thought -- I didn't know this
21 hearing was going to go on tonight or I would
22 have kept it.

23 I think that's about all I have, but I
24 think that the growth in the county is there.
25 Aquila needs to be able to supply its

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1 customers with peak power when it's needed.

2 I think Aquila believed that they had the
3 authority to do it when they first began. I
4 think they believed they had the authority to
5 do it. That's all I have to say.

6 JUDGE REED: Thank you, ma'am.
7 Commissioner Murray any questions?

8 COMMISSIONER MURRAY: No
9 questions, thank you.

10 JUDGE REED: Commissioner Gaw, do
11 you have any questions for Ms. Lewis?

12 COMMISSIONER APPLING: I think
13 he's gone.

14 JUDGE REED: Is Commissioner Gaw
15 still with us?

16 COMMISSIONER GAW: No, I don't
17 have any questions, thank you.

18 JUDGE REED: Commissioner
19 Appling.

20 COMMISSIONER APPLING: I have no
21 questions, thank you for coming out, ma'am.

22 JUDGE REED: Anything from
23 counsel? All right. Thank you, Ms. Lewis.

24 THE WITNESS: Thank you very
25 much.

1 JUDGE REED: Terry Mulch, could
2 you approach the microphone please. Miss
3 Mulch, during the recess you had approached
4 the Commission here and said that you had an
5 exhibit that you wanted to offer as part of
6 your testimony but you had forgotten to do
7 so; is that correct?

8 THE WITNESS: Yes, I do. The
9 statement is just what I read earlier, and
10 then I've also been given one of the forms
11 that were filled out to hand to you.

12 JUDGE REED: With public comment
13 on it?

14 THE WITNESS: Yes.

15 JUDGE REED: Okay. Let's take a
16 look at your letter first while you're
17 standing at the microphone. It is a
18 statement that you wrote, correct?

19 THE WITNESS: Yes, it's what I
20 read earlier.

21 JUDGE REED: It's what you read
22 earlier?

23 THE WITNESS: Yes.

24 JUDGE REED: Okay. I'm going to
25 mark that as Exhibit Number 10.

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(A certain document was marked Exhibit
Number 10 for identification by the
Judge.)

JUDGE REED: You said you also
have a comment?

THE WITNESS: Just the forms you
handed out at the last meeting one of those
is filled out.

JUDGE REED: Okay. Whose name is
on it, please?

THE WITNESS: Jennifer Bailey.

JUDGE REED: Jennifer Bailey.
Okay, thank you. You can approach and I will
take those.

THE WITNESS: Thank you for your
time.

JUDGE REED: Thank you, Miss
Mulch.

JUDGE REED: The public comment
form I think this needs to be filed and I'm
not going to mark this as an exhibit for this
evening for purpose of this evening. We'll
file it with the other public comments that

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1 have been filed.

2 Mr. Ocho (phonetic), is there anyone
3 else?

4 THE WITNESS: No.

5 JUDGE REED: I saw somebody in
6 the back was writing something maybe that was
7 the public comment, will you check just to
8 make sure.

9 THE WITNESS: I think that was
10 me.

11 JUDGE REED: Have you testified
12 earlier?

13 THE WITNESS: This would
14 actually be something new.

15 JUDGE REED: Is there a form
16 there? Cindy Mayer or Meyer?

17 THE WITNESS: Mayer.

18
19 CINDY MAYER
20 a witness herein, being first duly sworn by
21 the Judge, testified on her oath as follows:
22

23 JUDGE REED: State your name and
24 spell it.

25 THE WITNESS: Cindy Mayer,

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1 M-a-y-e-r. I live at 10501 East 251st street,
2 Peculiar, Missouri.

3 JUDGE REED: Yes, ma'am.

4 THE WITNESS: Basically one of
5 the things I wanted to bring up is a lot of
6 people talk about this plant and they go,
7 well it's just a peaking plant. I've had
8 numerous people say that to me, why are you
9 upset it's just a peaking plant. Quite
10 honestly I went and looked at peaking plants
11 in Independence owned by Independence Power
12 and Light and Aquila was using them to show
13 that houses built up around them to show it
14 doesn't do any damage to property value.

15 Well, I went and looked at these peaking
16 plants and they're incredibly small. I mean
17 incredibly small. I looked them up on the
18 website. I got up on the Independence Power
19 and Light website. These peaking plants
20 produce 18,000 kilowatts. The South Harper
21 plant produces 315 megawatts, that's
22 considerably larger. After looking at these
23 little peaking plants with stacks maybe 15
24 feet high, two of them they'll have two
25 stacks and there's three peaking plants that

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1 I looked at it scared me even worse than I am
2 scared with this plant being here. This plant
3 seems huge, absolutely huge compared, you
4 know, compared to these little bitty plants.

5 If this plant was perhaps that size then
6 I could accept someone saying it's just a
7 peaking plant. There's a complete
8 difference. It's scary. It is truly scary.
9 And that's really all I want to say. People
10 keep saying, well it's just a peaking plant,
11 it is not it's huge.

12 JUDGE REED: Thank you, ma'am.
13 Any questions Commissioner Murray?

14 COMMISSIONER MURRAY: No
15 questions, thank you.

16 JUDGE REED: Commissioner Gaw,
17 do you have any questions for Miss Mayer?

18 COMMISSIONER GAW: No, thank you
19 for coming out.

20 JUDGE REED: Commissioner
21 Applling.

22 COMMISSIONER APPLING: No
23 questions, ma'am, thank you for coming in.

24 JUDGE REED: Anything from
25 counsel? (No response.) Thank you.

1 THE WITNESS: Thank you for
2 staying and listening to us.

3 JUDGE REED: Those are all the
4 witnesses that signed up, thank you. Now
5 what we're going to do is I'm going to ask
6 the Commissioners if they have any closing
7 remarks this evening and before we finish.
8 Commissioner Murray?

9 COMMISSIONER MURRAY: I don't
10 really have much to say except thank you for
11 being here. I realize there are a lot of
12 people who feel very strongly on both sides
13 of this issue, and I know it takes courage to
14 come out and express your opinion especially
15 when it is about something in which emotions
16 run so high as they do in this one. So we
17 appreciate everyone's courage for being here
18 and speaking up.

19 JUDGE REED: Commissioner Gaw,
20 do you have any closing remarks?

21 COMMISSIONER GAW: Other than
22 just saying thank you again for everyone
23 being here, and I know a number of those that
24 are here this evening and have been in other
25 hearings and taken a lot of time out of their

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1 lives to try to make an impact on the outcome
2 of this. It is a significant statement to me
3 that they're willing to do that. So I thank
4 you very much for your time and appreciate
5 it.

6 JUDGE REED: Commissioner
7 Applling.

8 COMMISSIONER APPLING: I just I
9 think echo what my two colleagues have said
10 and thank you for coming out. I reckon it
11 shows my commitment because this is the third
12 time I've been up to look at you all. I
13 appreciate your courage and thank you for
14 coming out tonight.

15 JUDGE REED: Thank you all very
16 much. We're adjourned.

17
18 (Hearing adjourned at 8:10 p.m.)
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NUMBER

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MARKED

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Letter Thomas Miller

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